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SENATE—*Friday, November 16, 1973*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend, Edward L. R. Elson, D.D., offered the following prayer:

"O Thou by whom we come to God—
The life, the truth, the way—
The path of prayer Thyself hast trod,
Lord, teach us how to pray."
—JAMES MONTGOMERY.

Direct us, O Lord, in all our doings, with Thy most gracious favor, and further us with Thy continual help; that in all our works begun, continued, and ended in Thee, we may glorify Thy holy name, and finally, by Thy mercy, obtain everlasting life; through Jesus Christ our Lord. Amen. [Common Prayer.]

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, November 15, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE YEAR OF EUROPE THAT WASN'T

Mr. MANSFIELD. Mr. President, one of the most qualified reporters in the Nation is Mr. Joseph R. L. Sterne, chief editorial writer of the Baltimore Sun.

Mr. Sterne spent a number of years in Europe on assignment as correspondent for that outstanding newspaper. If anyone knows the situation in Europe, Joe Sterne does. We differ on the question of troop withdrawals, I believe, but, nevertheless, I recognize a man of integrity and skill when I see one, especially when I know him.

Mr. President, I ask unanimous consent to have printed in the RECORD a commentary by Mr. Sterne entitled "The Year of Europe That Wasn't," published in the Baltimore Sun on November 16, 1973.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATLANTIC RIFT WIDENS: THE YEAR OF EUROPE THAT WASN'T

(By Joseph R. L. Sterne)

At one o'clock in the morning of October 24, a reporter and a photographer from the Bremerhaven newspaper, *Nordseezeitung*, made an unexpected appearance in their hometown port.

Their goal was a picture-story on the loading of U.S. military hardware aboard an Israeli freighter. Instead, the newsmen were taken into custody by American M.P.'s who turned them over to German police a half hour later.

The result was a diplomatic uproar that chillingly illustrated the cleavage that developed between the United States and Western Europe on fundamental approaches to the Middle East crisis.

The Bonn government, in a position paper mistakenly issued as an official pronouncement, said it "could not allow delivery of arms from American depots in the federal republic to one of the belligerent parties."

Two days later, U.S. Defense Secretary James R. Schlesinger said this reaction in Bonn would cause Washington to question whether the Germans shared the view that U.S. forces were in their country "to enhance the readiness of their forces."

In the predictable patching-up efforts that followed, both governments tried to repair the special relationship that is crucial to both of them.

It was agreed that in the future ships or planes of a belligerent outside the NATO area would not be used for the transport of U.S. war materiel. It was also agreed that both Bonn and Washington had overreacted.

But had they?

American officials let it be known there was an unwritten understanding that the U.S. reserved to itself authority to move men and equipment from bases in Germany to any destination it wished.

German sources did not dispute or confirm this. They merely expressed a conviction that both sides would know better how to handle a matter of this kind in the future. Americans would be expected to be more discreet, to use their own carriers and to mesh any extraordinary transport operations into the very active normal routine.

As long ago as 1958, Konrad Adenauer protested the shifting of Germany-based U.S. troops to Lebanon. And during the "black September" conflict between Syria and Jordan in 1970, virtually the entire Seventh Army in Germany was put on a massive alert that just could not be disguised.

What this signifies is that U.S. forces in Europe really have two missions.

One is the overt mission, sanctified in the NATO treaty, to defend Western European nations from Soviet bloc attack. The other is an unwritten, uncodified mission to defend American interests in areas closer to Europe than to the continental United States.

The Middle East is the key target region for this second mission, but it is not the only one. Had the Congo situation precipitated a big-power confrontation in 1960, U.S. bases in Europe would have been highly important.

The dual purpose of U.S. forces assigned to NATO is not something western governments like to talk about even though the British, too, reserve the right to use their Army of the Rhine units in Northern Ireland.

To Western Europeans, as the latest crisis graphically illustrated, the second mission of U.S. forces carries with it the danger of involving London or Paris, Rome or the Hague, in U.S. conflicts where European interests dictate noninvolvement as the better course.

Yet, as is often the case in Atlantic relationships, there are ambiguities.

Europeans, for example, consider the U.S. Sixth Fleet in the Mediterranean vital to the defense of their southern flank even though they know its primary role is in the Middle East.

They profess support for the whole détente process but quaver when this leads to American-Soviet confrontations or accords that presume superpower life-and-death decisions on the fates of other countries.

These are the kinds of contradictions that have made a shambles of the much-heralded Nixon-Kissinger "Year of Europe."

It has been a "Year of Europe" all right, but hardly the one envisaged by the President or his Secretary of State last January.

The Kissinger "new Atlantic Charter" speech last April was widely received in Europe as a presumptuous U.S. attempt to make its continued military presence dependent on European cooperation in political and economic matters.

The Nixon-Brezhnev declaration on nuclear weapons last June was regarded as a sign that in basic strategic matters Washington would deal over European heads.

Then, finally, came the Mideast crisis. The United States, which still can survive without Arab oil, honored its commitment to Israel and expected that its allies, at the least, would not hinder this decision.

Western European nations, in contrast, decided they could not survive without Arab oil—and acted accordingly.

Even the Netherlands, which had suffered an Arab oil embargo in retaliation for its pro-Israeli sentiments, eagerly signed a European Community proclamation calling on Israel to give up all of the territory it took in 1967.

Next month, when NATO ministers assemble for their annual meeting in Brussels, efforts will be made to paper over the squabbles or to make them sound like a healthy airing of grievances.

Which, of course, will be so much poppycock.

NATO is in disarray, and will remain so no matter what sweet-talk communiques or lofty declarations may say.

It is in disarray moreover, because the alliance is still burdened by the rhetoric and assumptions of twenty years ago.

Europeans have not adjusted to the necessity of the Washington-Moscow strategic relationship just as Americans have not perceived new European political and economic necessities.

Until inevitable conflicts of interest between the United States and Europe are accepted as undeniable facts of life; until both routine and crisis-management policies recognize these realities; until the alliance is not constantly doomed to failure because of make-believe goals—until these and other adjustments are made the Atlantic Alliance will remain a troubled one.

THE ENERGY CRISIS

Mr. MANSFIELD. Mr. President, from an article in the Baltimore Sun, written by Adam Clymer, on its front page, entitled "Fuel Crisis Long Term, Nixon Says," I read the following:

> President Nixon warned yesterday that there was nothing temporary about the energy crisis and that an end to the Arab oil embargo would not mean an end to the problem.
>
> Saying it was serious before the Mideast crisis, he criticized Congress for not passing the legislation he had requested.

Incidentally, I do not think he should criticize Congress, because it has been the administration which has been derelict in its duty in facing up to this problem. Rhetoric will not cope with it. Legislation will. That is what Congress—especially the Senate—has been attempting to do down through the past year and more.

Continuing to read from the article:

> The energy problem is even more serious now, he said, with the only long-term solution being an effort to achieve self-sufficiency in energy, which he said could be achieved by 1980.

Mr. President, the energy crisis which confronts the Nation today is the No. 1 domestic problem confronting us. First, let me say that I am disappointed that the Senate did not adopt the Haskell amendment on yesterday which would have paved the way for the introduction of rationing gasoline around the first of next year. We better face up to the fact that we are going to have rationing of gasoline whether we like it or not and, may I say in this respect that the President already has the authority to impose rationing of gasoline if he wants to. The alternative floating around is high prices on gasoline which are going to result under any circumstances or, as some of the administration people have been hinting, indicating, and stating, an increase in the Federal gas tax from 4 cents at present to 30 or 40 cents. This would be an outrageous way of handling a shortage because, once again, the imposition of a 30 to 40 cents increase per gallon added on to the 4 cents present gasoline tax now in existence would mean that the present national sales tax would be increased by anywhere from six to eight times if such a proposal is advanced. May I say that, in my opinion, Congress would not vote for such a tax.

Reducing the temperature to 68 degrees and reducing highway speed limits to 50 miles per hour are not the answer to the question confronting us. The real concern is that a shortage in fuel will bring about an economic slowdown of serious proportions. It will bring about shortages in other areas. It will bring about high prices. It will increase unemployment and will lay the groundwork for a recession next year.

Energy is of such vital significance that practically all industry will be affected by the shortage and it will mean major reductions and slowdowns in various businesses—automobiles, consumer goods, plastics, steel, and the like. And, I may say, it will affect the farm economy, as well.

Unless something is done now—not next week—not next month—not next year—prices are going to go up and, if they go up, labor will demand higher wages, and the result will be a significant increase beyond the 8-percent inflation which affects us in this calendar year. We are dilly-dallying while the economy burns.

Mr. HANSEN. Mr. President, I am privileged to be here, opposite my very good friend and nationally admired colleague from Montana, the distinguished majority leader (Mr. MANSFIELD).

Let me say, first of all, that the majority leader has not been alone in criticizing the administration. I think I have a pretty good record of doing the same thing myself. In many respects, I agree with him completely with respect to the inadequate answers and the failure on the part of the administration to take actions that, I think, could have been helpful long ago in resolving the energy crisis.

The fact is that the administration, all too often, has carried on in the tradition of the Kennedy administration and the Johnson administration in failing to take action to increase supplies. Despite all the rationing we may vote for in the Halls of Congress, despite the actions that may be taken by various Governors throughout the United States, the facts remain just as the distinguished majority leader has stated them. We are in deep trouble if we do not do something about energy. I am disturbed because we have not done more about energy than we have done.

With the exception of the Alaskan pipeline bill, which will be signed later this morning by the President of the United States, we really have not done very much about coming to grips with the problem of supply. Most of the measures that have been talked about here have been directed to rationing and, very properly, to conservation and eliminating waste and unnecessary uses of fuel. I am for converting to the use of fuels that are in plentiful supply, when we have them; and coal is certainly one fuel that is in plentiful supply.

I think the President is entirely right in ordering that all plants that can be converted from the use of natural gas to the use of coal should be converted and given the few qualifications that he has spelled out.

There is no question that prices will rise. The distinguished Senator from Montana, the majority leader, is precisely right. They are going to rise no matter what America does. The fact is that today, what little trickle of oil is still coming in by boat to American ports sells, on the average, for twice as much as American crude oil is selling.

For those who seek to point the finger of blame at the industry, I can only say, "Read the record and see what industry has been doing for the last half dozen years." I am not one to claim that industry is without blame, either; but I would say that neither Congress nor any other legislative body in this land—nor can any Governor in this land—long hold in abeyance the laws of supply and demand.

The fact is that this Nation is an energy incentive Nation, and our jobs depend upon energy more than is true in any other country on the surface of the earth.

So what we are faced with is precisely this fact. Rationing is not enough. I happen to be glad that the Haskell amendment was not agreed to, because had it been adopted yesterday, we would have been in this situation: We would have given the American people a false reason to believe that we had gone a long way in settling the problem, and we have not settled the problem. It is going to be severe and it is going to be critical this winter. There will be cold homes. Very likely, schools will be closed. There is no question that many plants that employ many, many Americans will be shut down.

So I say it is no answer at all to the problem by passing a law that will authorize the President to impose rationing.

I voted for the fuels allocation bills that have come before this body. I do not know how I will vote on this particular bill. But we are fooling ourselves if we think we are solving America's critical problem simply by trying to spread the misery around. There is altogether too much misery to spread around on that basis.

The PRESIDENT pro tempore. Under the previous order, the Senator from Montana (Mr. MANSFIELD) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I will take only a short portion of the time allocated to me.

First, I want to say that I was very pleased to hear the remarks of the distinguished Senator from Wyoming, even though I disagree with him completely on the question of rationing. May I say, now that the manager of the bill, the distinguished Senator from Washington (Mr. JACKSON), is on the floor, that it is my understanding that the President has the right to impose rationing at this time if he so desires.

Is that correct?

Mr. JACKSON. The Senator is correct. Under the Defense Production Act of 1950, which is still the law, he can invoke it at any time. We have gone a step further to strengthen his hand, even though the amendment, which I thought was a wise one—the majority leader did, also—was voted down yesterday.

Mr. MANSFIELD. May I say that even though that amendment was voted down, the danger flags are waving. I would suggest to the administration that it take heed of his problem and that the President, in the meantime, use his power, the power he has under the Defense Production Act of 1950. He ought to start the presses rolling so far as coupons for rationing are concerned, and he ought to set up an embryo agency to carry out this most difficult of assignments.

Mr. President, one thing I did not mention in my earlier remarks is that if a gasoline tax of the kind advocated, mentioned, stated, implied by members of the administration is instituted—an increase of 30 to 40 cents over the present 4-cent Federal sales tax on gasoline the people who will be hit the hardest, as always, are those in the lowest income and, next, those in the middle income groups. So far as the rest of us are concerned, there will really be very little in the way of hardship. But it is the same old story: The people who have to shoulder the greatest burden and pay the most in cost are the people who get the least in the way of salaries and wages. There are no loopholes for them. They pay their taxes on the basis, usually, of what comes out of their monthly paychecks.

I agree with the distinguished Senator from Wyoming, that this is one instance, in my opinion, in which the oil companies are not to blame. They have to be blamed for many things which have occurred in the past, but I think they have been carrying on a good educational campaign, trying to point out to the people of this Nation and to this administration and to Congress the difficulties which confront us; but we have not eyes to see nor ears to hear. Now it is upon us.

May I say, Mr. President, that the important facts to remember are that it is going to mean a shutdown in industries, it is going to mean a curtailment of farm production, it is going to mean unemployment, it is going to mean demands for higher wages, and it is going to mean increased inflation. Unless something is done—mark my words—it will mean a recession in 1974.

Mr. HANSEN. Mr. President, let me seize this opportunity to join my good friend, the Senator from Montana, in saying that I will stand squarely with him in opposing the imposition of any additional tax on gasoline, gas, fuel oil, or anything else. The fact is that we do not need an extra tax on something that is in short supply.

I know that there are some in the administration—not everyone down there—who think we should have a tax. Herb Stein made clear yesterday that he opposes the tax. He says, and I agree with him, that what we need is to give industry the incentive and the encouragement to get out and spend more money to drill deeper wells, more costly wells, to catch up with the amount of fuel and energy we are consuming as we increase supply.

So I think the Senator from Montana is precisely right in railing against any tax on gasoline, on fuel oil, or anything else. I agree with him 100 percent. I hope that, with what little assistance I can give him, we will be able to keep the Senate of the United States from authorizing any tax increase by the Federal Government in this sector.

The fact is that the independent oilmen, the kind of operators that Senator MANSFIELD and I know in our States of Montana and Wyoming, have not made the windfall profits most people attribute to everybdoy in the oil business. The year before last was not a very good year. Many properties were expropriated in the Middle East. So when an oil company, a major company, says that it has had an increase in profits in the proportion of a 91-percent increase from the year before, it sounds as though everybody is rolling in wealth.

Well, that is not necessarily so. It is not necessarily so because what really needs to be done is to look back at the previous year and see how well any one company did that year. Then, one is better able to frame an honest, objective judgment as to the excessiveness, if there be any, of profits by the oil companies.

But to refer again to the independent, the kind of man who does not have the money to go out and drill the wells, that man has to go out to a lot of different people to get the money to drill the well. The average well today is twice as deep as it was 10 or 15 years ago and it costs more per foot to drill. If we compare drilling activity in 1956 with the drilling activity in 1972, we find that there were roughly about one-half as many wells completed in 1972 as there were in 1956. At the same time, if we look at the consumption of energy in the United States, we find that for this same period it has practically doubled.

In effect what I am saying is that if we had kept up with the exploratory activity which is basic to our domestic petroleum and natural gas supplies in the United States, we would have been required to drill four times as many wells in 1972 as we did drill.

I agree with the Senator from Montana (Mr. MANSFIELD). We should not impose a tax on gasoline and petroleum products, but rather we should let some of that money go back into the industry so that the independents, the people who last year made on the average 3.5 to 6.5 percent on their overall investment, can get a little better break. Unless they have that bettter break, there will not be enough wells drilled and that is exactly where we are today. So I agree with my good friend, the majority leader. I will do everything I can to see that we do not impose a tax on gasoline or petroleum products of any kind.

Mr. MANSFIELD. May I say I hope the administration is getting the smoke signals which are emanating from the Senate today. I agree with the distinguished Senator from Wyoming relative to independent oil producers. If my memory serves me correctly, I think about 1 hole produces for every 13 holes drilled. That would not apply to the overseas oil companies which have on too many occasions used all the loopholes applicable and, in some instances, have been able to get out of paying their fair share of the taxes as are paid by people in the lower income groups and the middle income group, who have no loopholes, who have to pay through the nose, whose taxes to this Government keep it functioning. These are the people who will be hit the hardest if anything in the way of a tax increase on gasoline is put into effect.

So I hope this body will follow the lead of the distinguished Senator from Washington and face up to its responsibilities at this time and recognize the pitfalls and the dangers which lie ahead of us in cutdowns, slowdowns, unemployment, increased demands for wages, increased inflation, and a recession next year if something is not done.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 475 and Calendar Order No. 487.

The PRESIDENT pro tempore. Without objection, it is so ordered.

JUDICIAL REVIEW OF DECISIONS OF THE INTERSTATE COMMERCE COMMISSION

The Senate proceeded to consider the bill (S. 663) to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes which had been reported from the Committee on the Judiciary with amendments on page 2, in line 5, after "(a)", strike out:

"(a) Except as otherwise provided by law, venue in any civil action to enforce, enjoin, or suspend, in whole or in part, an order of the Interstate Commerce Commission for the payment of money or the collection of fines, penalties, and forfeitures is in the judicial district in which the petitioner resides or has its principal office"; and insert "Except as otherwise provided by law, a civil action brought under section 1336(a) of this title shall be brought only in a judicial district in which any of the parties bringing the action resides or has its principal office";

On page 3, after line 4, strike out:

"SEC. 5. Section 2343 of title 28, United States Code, is amended to read:

" 'The venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or, except for a proceeding under paragraph (5) of section 2342 of this title, in the United States Court of Appeals for the District of Columbia Circuit.' "

At the beginning of line 12, change the section number from "6" to "5"; on page 4, after line 8, strike out:

"SEC. 7. Section 2324 of title 28, United States Code, is amended—

"(1) by striking after the word 'enjoin' the words 'set aside, annul', and

"(2) by inserting after the word 'Commission' the words 'for the payment of money or the collection of fines, penalties, and forfeitures.' "

At the beginning of line 16, change the section number from "8" to "6"; at the top of page 5, strike out:

"SEC. 9. Section 2325 of title 28, United States Code, is hereby repealed."

And, in lieu thereof, insert:

"SEC. 7. Sections 2324 and 2325 of title 28, United States Code, are hereby repealed."

At the beginning of line 5, change the section number from "10" to "8"; in the material following line 8, strike out "2324. Stay of Commission's order."."; at the beginning of line 9, change the section number from "11" to "9"; and at the beginning of line 18, change the section number from "12" to "10", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1336(a) of title 28, United States Code is amended to read as follows:

"(a) Except as otherwise provided by Act of Congress, the district courts shall have jurisdiction of any civil action to enforce, in whole or in part, any order of the Interstate Commerce Commission, and to enjoin or suspend, in whole or in part, any order of the Interstate Commerce Commission for the payment of money or the collection of fines, penalties, and forfeitures."

SEC. 2. 1398(a) of title 28, United States Code, is amended to read as follows:

"(a) Except as otherwise provided by law, a civil action brought under section 1336 (a) of this title shall be brought only in a judicial district in which any of the parties bringing the action resides or has its principal office.

SEC. 3. Section 2341(3)(A) of title 28, United States Code, is amended by inserting following "Federal Maritime Commission," the words "the Interstate Commerce Commission,".

SEC. 4. Section 2342 of title 28, United States Code, is amended as follows:

(a) In the paragraph designated "(3)", following the semicolon, strike "and";

(b) In the paragraph designated "(4)", strike the period and insert in lieu thereof a semicolon followed by the word "and";

(c) Add a new paragraph "(5)" as follows:

"(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title."

SEC. 5. Section 2321 of title 23, United States Code, is amended to read:

"§ 2321. Judicial review of Commission's orders and decisions; procedure generally; process

"(a) Except as otherwise provided by an Act of Congress, a proceeding to enjoin or suspend, in whole or in part, a rule, regulation, or order of the Interstate Commerce Commission shall be brought in the court of appeals as provided by and in the manner prescribed in chapter 158 of this title.

"(b) The procedure in the district courts in actions to enforce, in whole or in part, any order of the Interstate Commerce Commission other than for payment of money or the collection of fines, penalties and forfeitures, shall be as provided in this chapter.

"(c) The orders, writs, and process of the district courts may, in the cases specified in subsection (b) and in the cases and proceedings under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43) run, be served and be returnable anywhere in the United States."

SEC. 6. The first paragraph of section 2323 of title 28, United States Code, is amended to read as follows:

"The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)."

Sec. 7. Sections 2324 and 2325 of title 28, United States Code, are hereby repealed.

SEC. 8. The table of sections of chapter 157 of title 28, United States Code, is amended to read:

"Chapter 157.—INTERSTATE COMMERCE COMMISSION ORDERS; ENFORCEMENT AND REVIEW

"Sec.
"2321. Judicial review of Commission's orders and decisions; procedure generally; process.
"2322. United States as party.
"2323. Duties of Attorney General; intervenors.

SEC. 9. The proviso in section 205(h) of the Motor Carrier Act, as amended (49 Stat. 550; 49 U.S.C. 305(g)), is amended by striking "file a bill of complaint with the appropriate District Court of the United States, convened under section 2284 of title 28" and inserting in lieu thereof "commence appropriate judicial proceedings in a court of the United States under those provisions of law applicable in the case of proceedings to enjoin or suspend rules, regulations, or orders of the Commission."

SEC. 10. This Act shall not apply to any action commenced on or before the last day of the first month beginning after the date of enactment. However, actions to enjoy or suspend orders of the Interstate Commerce Commission which are pending when this Act becomes effective shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WATER CARRIER BARGE MIXING RULE LEGISLATION OF 1973

The bill (S. 2267) to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303(b) of the Interstate Commerce Act as amended (49 U.S.C. 903(b)), is amended to read as follows:

"(b) Nothing in this part shall appy to the transportation by a water carrier of commodities in bulk. This subsection shall apply only in the case of commodities in bulk which are (in accordance with the existing custom of the trade in the handling and transportation of such commodities as of June 1, 1939) loaded and carried without wrappers or containers and received and delivered by the carrier without transportation mark or count. This subsection shall not apply to transportation subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended.".

SEC. 2. Sections 2 and 3 of the Act of December 28, 1970, (84 Stat. 1587) are hereby repealed.

AMENDMENT OF TITLE 38 OF THE UNITED STATES CODE—DISABILITY AND DEATH PENSIONS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9474.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the bill (H.R. 9474) to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes, which were in lieu of the matter proposed to be inserted by the Senate engrossed amendment to the text of the bill, insert:

That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $143. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,300, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,200, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,200 up to and including $2,500, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,500 up to and including $2,600, the monthly rate shall be reduced 8 cents. No pension shall be paid if annual income exceeds $2,600.".

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $154 for a veteran and one dependent, $159 for a veteran and two dependents, and $164 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,600, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,600 up to and including $3,200, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $3,200 up to and including $3,700, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,700 up to and including $3,800, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $3,800.".

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $96. For each $1 of annual income in excess of $300 up to and including $600, the monthly rate shall be reduced 1 cents; for each $1 of annual income in excess of $600 up to and including $1,400, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,400 up to and including $2,600, the monthly rate shall be reduced 4 cents. No pension shall be paid if annual income exceeds $2,600.".

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $114. For each $1 of annual income in excess of $700 up to and including $1,100, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,100 up to and including $2,500, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $2,500 up to and including $3,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,400 up to and including $3,800, the monthly rate shall be reduced 4 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $3,800.".

Sec. 2. Section 541(d) of title 38, United States Code, is amended by striking "17" and substituting in lieu thereof "18".

Sec. 3. (a) Section 542(a) of title 38, United States Code, is amended by striking the figures "42" and "17" respectively, and substituting in lieu thereof the figures "44" and "18", respectively.

Sec. 4. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b) (1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less, the monthly rate of dependency and indemnity compensation shall be $110. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,100 up to and including $1,500, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,500 up to and including $1,700, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,700 up to and including $2,000, the monthly rate shall be reduced 6 cents for each $1 for annual income in excess of $2,000 up to and including $2,300, the monthly rate shall be reduced 7 cents; and for each $1 annual income in excess of $2,300 up to and including $2,600, the monthly rate shall be reduced 8 cents. No dependency and indemnity compensation shall be paid if annual income exceeds $2,600.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.".

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $77. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,100 up to and including $1,400, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,400 up to and including $2,300, the monthly rate shall be reduced 4 cents; and for each $1 of annual income in excess of $2,300 up to and including $2,600, the monthly rate shall be reduced 5 cents. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $2,600.".

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $74. For each $1 of annual income in excess of $1,000 up to and including $1,200, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,200 up to and including $2,900, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $2,900 up to and including $3,800, the monthly rate shall be reduced 3 cents. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $3,800.".

Sec. 5. Section 3203(a)(1) of title 38, United States Code, is amended by striking out "30" and inserting in lieu thereof "50".

Sec. 6. (a) Subsection (b) of section 3010 of title 38, United States Code, is amended by inserting "(1)" immediately after "(b)", and by adding at the end of said subsection the following new paragraph:

"(2) The effective date of an award of disability pension to a veteran shall be the date of application or the date on which the veteran became permanently and totally disabled, if an application therefor is received within one year from such date, whichever is to the advantage of the veteran.".

(b) Subsection (a) of this section shall apply to applications filed after its effective date, but in no event shall an award made thereafter be effective prior to such effective date.

Sec. 7. (a) Any veteran who was dishonorably discharged from the United States Army as the result of an incident that occurred in Brownsville, Texas, on August 13, 1906, and who was not subsequently ruled eligible for reenlistment in the Army by a special Army tribunal decision dated April 6, 1910, shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $25,000.

(b) Any unremarried widow of any veterans described in subsection (a) of this section shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $10,000 if such veteran died prior to the date of enactment of this Act or if such veterans failed to make application for payment under subsection (a) after such date of enactment and prior to his death.

(c) Payment authorized to be made under this section in the case of any veteran or widow shall be made by Secretary of the Army out of funds available for the payment of retired pay to Army personnel, upon certification by the Administrator of Veterans' Affairs of the entitlement of such veteran or widow to receive such payment. In no case may any payment be made to any veteran or widow under this section unless application for such payment is made within five years after the date of enactment of this Act.

Sec. 8. This Act shall take effect on January 1, 1974.

In lieu of matter proposed by the Senate amendment, insert: "An Act to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemity compensation, and for other purposes."

Mr. HANSEN. Mr. President, this bill, H.R. 9474, passed the House of Representatives in July and was referred to the Senate Veterans' Affairs Committee where it was amended and passed the Senate on August 2, 1973, substituting the text of S. 275. Now the measure has been further amended by the House and referred to this body by action taken on November 13, 1973.

This veterans' pension measure, in its present form, does not do everything that some would desire, yet it will provide the necessary equity to offset problems created by the social security benefits increase of 1972. This bill will provide increases from 10 percent to 20 percent in pensions payments to both the veteran and his dependents.

Certainly H.R. 9474 is not a cure-all measure, nor should we consider it as such. We must continue to look carefully into these matters in the months ahead. This is particularly important, I believe, in light of the recent committee action to increase social security benefits.

I am advised that additional pension reform measures will be taken up early in the 2d session of the 93d Congress in 1974.

With this in mind, I support this bill and ask that my distinguished colleagues approve its passage.

Mr. THURMOND. Mr. President, I am pleased to rise in support of H.R. 9474, the veterans pension legislation of 1973.

At the outset, Mr. President, let me express my belief that the action which we take today is only a temporary solution for the millions of pensioners who seek relief in a time of increasing costs.

Essentially, this bill merely provides a cost-of-living increase for our veterans who must rely on pensions, and it also includes a provision for the payment of compensation to the last surviving member and survivors of the so-called Brownsville incident.

S. 275, in the nature of a substitute for H.R. 9474, differed sharply from the House bill. After 3½ months of discussions with the House, it became apparent that two differences would not be reconciled. First, the House insisted that a limitation be placed on the earned income of a veteran's spouse in computing income for pension purposes. Second, the Senate was insistent that its provision for a $400 increase in income limitations be included in the final version of the bill.

At the suggestion of Senator HARTKE, both provisions can be deferred for intensive study and consideration when the Senate committee considers pension reform in the next session. The House made a similar decision on Thursday, when it passed this legislation. In the spirit of making sure that Congress provides a necessary cost-of-living increase before the session ends, it is my hope that the Senate will pass this bill expeditiously, and that the President will see his way clear to sign it.

Mr. President, original efforts to write the pension bill which we are now considering began in the 92d Congress. At that time, I was pleased to join with Senator HARTKE, the Chairman, and other members of the Veterans' Affairs Committee in sponsoring S. 4006. S. 4006 passed the Senate unanimously on October 11, 1972, but the House was unable to act before adjournment. Therefore, on January 9, 1973, I was pleased to join again as cosponsor of the veterans' pension bill, S. 275, in the 93d Congress.

The amended version of the bill which passed the House on Thursday, and which is recommended to the Senate by the Veterans' Affairs Committee, includes compromise language which reflects the problems which have arisen in the complex area of the pension law.

Mr. President, to be candid about the situation, our veterans will not be fully satisfied with this legislation. Neither will the budget analysts who seek ways to cut spending on various veterans' programs. The first year cost impact of this bill alone will be well over $240 million.

Second, I am not fully satisfied with this legislation, and I am sure I speak for my colleagues on the committee. However, we all recognize the limitations within which we must work before tackling the more complex issue of analyzing the entire pension system. At the same time, this bill represents an equitable cost of living increase for our pensioners and provides temporary relief.

All of us agree that our veterans pension system needs thorough study. As usual, differing views are set forth on the subject. However, the many complexities which we have encountered in working out a pension bill this year have reinforced my conviction that a full-fledged examination of the veterans pension program is necessary.

President Nixon has called for pension reform, and many others have called for changes in the pension system. I am therefore hopeful that Senate hearings on this matter will be a first order of business in the next session.

I look forward to hearing what the Administration witnesses propose, as well as to the recommendations of the various veterans' service organizations. Furthermore, I am hopeful that veterans themselves will write to us and let us know their thoughts on changes in the pension program.

Mr. President, I stated that I was not fully satisfied with this legislation, because it is not a panacea for the problems in the veterans pension law. I am encouraged, however, with it as a temporary solution, and am hopeful that it will prove to be a catalyst for prompt consideration of methods to improve the veterans pension system.

After all, all veterans programs exist for the benefit of the veteran, and it is his interest that we are charged with protecting.

Accordingly, Mr. President, I urge the Senate to pass this legislation, but with the full understanding that all aspects of pension legislation will be analyzed and considered by the Veterans' Affairs Committee in the next session.

Mr. HARTKE. Mr. President, I urge the Senate to support H.R. 9474, as amended, the compromise non-service-connected pension bill for veterans and their survivors. While I am disappointed that the amended bill before you does not contain all the provisions of S. 275, which the Senate approved without a dissenting voice earlier this year, I believe approval of H.R. 9474 by this body is warranted today, particularly in light of House, Senate, and administration commitments to general pension reform legislation in 1974.

Senators will recall that following hearings of the Subcommittee on Compensation and Pensions, so ably presided over by the senior Senator from Georgia (Mr. TALMADGE), the full Committee on Veterans' Affairs, of which I am privileged to be chairman, unanimously ordered my bill (S. 275) reported to the Senate. On August 2, the full Senate unanimously approved S. 275 as an amendment in the nature of a substitute to H.R. 9474 which three days prior to that time had cleared the House of Representatives.

As passed by the Senate, S. 275 provided first, for a 10-percent increase across the board in pension rates together with a $400 increase in the maximum annual income limitations for eligible veterans and their survivors. Second, a similar 10-percent increase in rates plus a $400 increase in maximum annual income limitations was provided to parents receiving dependency and indemnity compensation. Third, a $400 increase in the maximum annual income limitations was authorized for all "old law" pensioners. Fourth, the bill amended the law to provide an increase in the amount of pension paid to a veteran with neither wife nor child who is receiving hospital treatment from $30 to $50 a month. Fifth, the bill amended the law with respect to the effective dates of pension awards to provide that the effective date shall be the date of application or the date on which the veteran became totally and permanently disabled whichever is to the advantage of the veteran. Sixth, the bill provided for compensatory payments of $25,000 to any veteran or $10,000 to any unremarried widow of the Brownsville incident of 1906.

Following Senate action, extensive discussions were undertaken by the committees in an attempt to reconcile differences between the House and Senate versions of H.R. 9474. There was no dispute as to increased pensions for hospitalized veterans, or to new effective date provisions since both bills contained identical measures. Following resolution of jurisdictional questions, the House agreed to the Brownsville compensatory provisions of the Senate bill. The House also agreed basically with the Senate bill's 10 percent rate increase formula with some technical modifications which have been incorporated into the bill before you today.

Two major points of contention remained, however. These were the issues of increases in the maximum annual income limitations and a limitation on wives' earned income. Both have been the subject of extended discussions. With regard to maximum annual income limitations, the law currently provides that no pension will be paid if a single veteran's countable income exceeds $2,600, or if a married veteran's accountable income exceeds $3,800. My colleagues will recall that the Senate, consistent with past practice, increased the maximum annual income limitations by $400 which represented the approximate average of social security increases passed last year. A corresponding $400 increase was provided for "old law" pensioners. The House, which had not provided for any increase in the maximum annual income limitations remained quite adamant in its position that it did not believe, at least without further intensive study, that an increase in the maximum annual income limitations was presently warranted. Their position was perhaps best summed up in a letter to me from the distinguished chairman of the House Subcommittee on Compensation and Pensions, Mr. TEAGUE, who said:

> It is the position of the House that the present income limits are already so high as to reflect unfavorably when compared to the service-connected compensation program. A further increase would distort in an unacceptable fashion the relationship between non-service-connected pension and service-connected compensation.

He further added:

> We do not expect to alter the House position of the remaining areas of difference which relates to income limits.

This position was strongly supported by the administration. It was the position of the Senate committee that if pension rate increases were justified by increases in the cost of living then at a minimum it was logically consistent to increase the veteran's or his survivor's income ceiling to adjust for the effects of inflation. In our discussions we also could not fail to take cognizance of the strong sentiment expressed earlier this year by many Members of the House and Senate for a complete "passthrough" of social security benefits as it applies to veteran pensioners. The additional cost attributable to a $400 increase in income limits as originally provided for by the Senate would only have been $26.4 million for the first full fiscal year.

At the same time to the extent that the current pension system does contain a number of "inconsistencies, inequities, and anomalies" as the VA testified earlier this year, then it follows that any increase in annual income limitations or rates exaggerates and perpetuates those problems which do exist. Thus, it is understable that some Members of Congress would prefer to consider the issue of increased income ceilings in the context of overall pension reform legislation to be considered in 1974. Given the strong feeling of some House Members together with their positive assurances that they will consider this issue in the next session, the Senate committee reluctantly agreed to drop its provisions providing a $400 increase in the maximum annual income limitations.

The final issue in dispute concerned wives' earned income. Currently, in determining the pension to which a veteran may be entitled, his wife's earned income is not counted. In its budget submission this year, the administration proposed to count all such income in determining what, if any, pension would be paid to a veteran. The fiscal year 1974 budget estimated pension reduction of $225 million for the first year if this proposal were adopted. H.R. 9474 as originally passed by the House would have exempted wives' income up to $3,600 but would have counted any earned income in excess of that amount. Adoption of this proposal would have effected pension reductions of $43.3 million in the first full fiscal year.

While the Senate Committee is not philosophically opposed to a reasonable limitation on wives' earned income for the purposes of determining the amount of pension to which a veteran is entitled, it was and continues to be the committee's position that it currently lacks sufficient information upon which to reach an equitable limitation. Adoption of any limitation on wives' earned income without adequate information as to its precise effect could work hardship on thousands of pension recipients. Given the foregoing, the Senate Committee believes that further study in the context of overall pension review in 1974 is called for. The House concurs and accordingly agreed to drop its provisions with the explicit understanding that the issue of wives' earned income would be considered together with the issue of increases in income limitations during overall pension review this coming year.

Finally, a question has been raised concerning the prospective increases in social security presently being considered by Congress to take effect sometime in 1974. The American Legion in a letter to me has expressed deep concern that the Veterans' Administration might depart from past practice and attempt to incorporate the prospective social security increases—assuming it knew the precise increase and effective date—in determining the amount of pension that a veteran or a survivor will receive during 1974. The Senate committee strongly believes that there should be no departure from the traditional interpretation of the end of the year rule contained in section 3012(b)(4) of title 38, United States Code, and the consistent past practice by the Veterans' Administration since that provision was enacted in 1968. Any departure from the standard interpretation would also seriously undermine assurances made on the floor of the House and the Senate during consideration of social security increases in July. It was our understanding then as it is now that any social security increases effective next year will not affect the amount of pension that a veteran or his survivor received during the 1974 calendar year.

In conclusion, the bill before you today does less than I had hoped. Nevertheless, it is important to remember that this is a temporary interim measure which we move forward to consider overall pension legislation in the coming session. During 1974, while we consider veterans' pension legislation, this legislation will provide an additional $239.6 million to the present pension budget of approximately $2.660 billion for some 2½ million pensioners.

As such, I would urge its immediate approval so that we may provide needed relief to our Nation's veterans and survivors as we proceed next year to consider more fundamental changes in the veterans' pension system.

Mr. President, I ask unanimous consent that a section-by-section analysis of the compromise bill together with representative tables showing current and new pension rates payable under this bill and detailed cost estimates be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF H.R. 9474, COMPROMISE VERSION

SECTION 1

Subsection (a) would increase the rates of pension and the annual income limitation for unmarried veterans under subsection 521(b). Currently, a veteran with no dependents receives a maximum monthly pension of $130 if his annual income is $300 or less, decreasing on a graduated basis to $22 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $143 with an annual income of $300 or less, down to $28 for an annual income of $2,600.

Subsection (b) would increase the rates of pension and the annual income limitation for a married veteran under subsection 521 (c). Currently, the maximum monthly pension payable to a veteran with one dependent is $140, with two dependents $145, and with three or more dependents $150, based on an annual income of $500 or less. This decreases on a graduated basis down to $33, $38, or $43, respectively, with an annual income of $3,800. As amended, this subsection would provide a veteran with one dependent $154, with two dependents $159, and with three or more dependents $164, based on an annual income of $500 or less, ranging down to $39, $44, or $49, respectively, with an annual income of $3,800.

Subsection (c) would increase the rates of pension and the annual income limitation for the widow without child under subsection 541(b). Currently, a widow without child receives a maximum monthly pension of $87 if her annual income is $300 or less, decreasing on a graduated basis to $17 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $96 with an annual income of $300 or less, down to $21 with an annual income of $2,600.

Subsection (d) would increase the rates of pension and the annual income limitations for a widow with one child under subsection 541(c). Currently, a widow with one child receives a maximum monthly pension of $104 if her annual income is $600 or less, decreasing on a graduated basis to $42 with an annual income of $3,800. As amended, this subsection would provide a maximum monthly rate of $114 with an annual income of $700 or less, down to $44 with an annual income of $3,800.

SECTION 2

This section would increase the rates of pension payable to a widow with more than one child under subsection 541(d). Currently, a widow receives $17 per month for each additional child. As amended, this subsection would provide a monthly rate of $18.

SECTION 3

This section would increase the rates of pension for children alone receiving death pension under section 542(a). Currently, pension is paid at a rate of $42 per month for one child and $17 for each additional child. As amended, this subsection would provide a monthly rate of $44 for the first child and $18 for each additional child.

SECTION 4

Subsection (a) would increase the rates of dependency and indemnity compensation (DIC) and annual income limitations for a sole surviving parent under subsection 415 (b). Currently, a sole surviving parent receives a maximum monthly DIC payment of $100 if his annual income is $800 or less, decreasing on a graduated basis to $10 with an annual income of $2,600. As amended, this subsection would provide for a maximum monthly rate of $110 with an annual income of $800 or less, down to $12 for an annual income of $2,600.

Subsection (b) would increase the rates of dependency and indemnity compensation and annual income limitations for two parents not living together under subsection 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $70 if annual income is $800 or less, decreasing on a graduated basis to $10 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $77 with an annual income of $800 or less, down to $11 for an annual income of $2,600.

Subsection (c) would increase the rates of dependency and indemnity compensation and annual income limitations payable under subsection 415(d). Currently, if there are two parents who are living together, or if a parent is remarried and is living with his spouse, each parent receives a maximum monthly DIC payment of $67 if an annual income is $1,000 or less, decreasing on a graduated basis to $10 with an annual income of $3,800. This subsection would provide a maximum monthly rate of $74 with an annual income of $1,000 or less, down to $11 for an annual income of $3,800.

SECTION 5

This section would increase the amount of pension paid to a veteran, with neither wife nor child, who is being furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration under section 3203(a)(1). Currently, such a veteran may receive $30 per month. As amended, this subsection would provide a maximum of $50 per month.

SECTION 6

This section amends the law as to the effective dates for pension awards under subsection 3010(b). Currently, the effective date of pension awards is the date of application. As amended, this subsection would provide the effective date to be the date of application, or the date on which the veteran became totally and permanently disabled (if an application therefore is received within one year from the date of disability) whichever is to the advantage of the veteran.

SECTION 7

Subsection (a) provides for the payment of $25,000 upon application of any surviving veteran of the Brownsville incident of August 13, 1906 whose discharge was not subsequently ruled eligible for reenlistment by a special Army tribunal decision of April 6, 1910.

Subsection (b) provides for the payment of $25,000 upon application to the unremarried widow of any veteran so described in subsection (a). If following enactment a veteran makes application pursuant to subsection (a) but dies prior to payment, the widow or his estate shall be entitled to $25,000 rather than $10,000.

Subsection (c) directs that payment to the applicable veteran or widow shall be made by the Secretary of the Army upon certification by the Administrator of Veterans' Affairs of the entitlement of such veteran or widow to receive such payment.

SECTION 8

This section provides that the provisions of the bill shall be effective on January 1, 1974.

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee, based on information supplied by the Veterans' Administration estimates that the Fiscal Year 1974 cost to be $112.1 million increasing to $217.2 million at the end of five years. An itemized breakdown of the cost of H.R. 9474 Compromise Version by categories of beneficiaries, and in total for the first five years is shown in the following table:

5-YEAR COST OF H.R. 9474 COMPROMISE VERSION

Year	Cases	Cost (millions)
I. Current law, 10-percent increase:		
1974	1,917,000	112.1
1975	2,020,000	221.1
1976	2,133,000	218.5
1977	2,250,000	212.6
1978	2,383,000	217.2
II. DIC parents, 10-percent increase:		
1974	71,665	2.4
1975	71,457	4.0
1976	71,249	4.0
1977	71,042	3.9
1978	70,834	3.9
III. Increase in children's rates:		
1974	321,000	4.2
1975	323,000	11.0
1976	318,000	10.8
1977	303,000	10.3
1978	278,000	9.4
Iv. Increased assistance for hospitalized veteran:		
1974	18,500	1.4
1975	11,000	2.8
1976	11,000	2.8
1977	11,000	2.8
1978	11,000	2.8
v. Total cost:		
1974	1,995,173	120.1
1975	2,097,347	238.9
1976	2,209,580	236.1
1977	2,325,867	229.6
1978	2,458,201	233.3

Note: Jan. 1, 1974 effective date for all provisions.

VETERAN ALONE

	Current rate	H.R. 9474, compromise
Income not over—		
$300	$130	$143
$400	127	140
$500	124	137
$600	121	134
$700	118	131
$800	115	128
$900	112	124
$1,000	109	120
$1,100	105	116
$1,200	101	112
$1,300	97	108
$1,400	93	103
$1,500	89	98
$1,600	84	93
$1,700	79	87
$1,800	74	81
$1,900	68	75
$2,000	62	69
$2,100	56	63
$2,200	50	57
$2,300	43	50
$2,400	36	43
$2,500	29	36
$2,600	22	28

VETERAN WITH DEPENDENT

	Current rate	H.R. 9474, compromise
$300	$140	$154
$400	140	154
$500	140	154
$600	138	152
$700	136	150
$800	134	148
$900	132	145
$1,000	129	142
$1,100	126	139
$1,200	123	136
$1,300	120	133
$1,400	117	130
$1,500	114	127
$1,600	111	124
$1,700	108	121
$1,800	105	118
$1,900	102	115
$2,000	99	112
$2,100	96	109
$2,200	93	106
$2,300	90	103
$2,400	87	100
$2,500	84	97
$2,600	81	94
$2,700	78	90
$2,800	$75	$86
$2,900	72	82
$3,000	69	78
$3,100	66	74
$3,200	63	70
$3,300	58	65
$3,400	53	60
$3,500	48	55
$3,600	43	50
$3,700	38	45
$3,800	33	39

WIDOW ALONE

$300	$87	$96
$400	86	95
$500	85	94
$600	84	93
$700	81	90
$800	78	87
$900	75	84
$1,000	72	81
$1,100	69	78
$1,200	66	75
$1,300	63	72
$1,400	60	69
$1,500	57	65
$1,600	54	61
$1,700	51	57
$1,800	48	53
$1,900	45	49
$2,000	41	45
$2,100	37	41
$2,200	33	37
$2,300	29	33
$2,400	25	29
$2,500	21	25
$2,600	17	21

WIDOW WITH 1 DEPENDENT

$300	$104	$114
$400	104	114
$500	104	114
$600	104	114
$700	103	113
$800	102	112
$900	101	111
$1,000	100	110
$1,100	99	108
$1,200	98	106
$1,300	97	104
$1,400	96	102
$1,500	94	100
$1,600	92	98
$1,700	90	96
$1,800	88	94
$1,900	86	92
$2,000	84	90
$2,100	82	88
$2,200	80	86
$2,300	78	84
$2,400	76	82
$2,500	74	79
$2,600	72	76
$2,700	70	73
$2,800	67	70
$2,900	64	67
$3,000	61	64
$3,100	58	61
$3,200	55	58
$3,300	52	55
$3,400	49	51
$3,500	46	47
$3,600	43	44
$3,700	42	44
$3,800	42	44

1 PARENT

$800	$100	$110
$900	97	107
$1,000	94	104
$1,100	91	101
$1,200	88	97
$1,300	84	93
$1,400	80	89
$1,500	76	85
$1,600	72	80
$1,700	67	75
$1,800	62	69
$1,900	57	63
$2,000	51	57
$2,100	45	50
$2,200	38	43
$2,300	31	36
$2,400	24	28
$2,500	17	20
$2,600	10	12

2 PARENTS NOT TOGETHER

$800	$70	$77
$900	68	75
$1,000	66	73
$1,100	64	71
$1,200	61	68
$1,300	58	65
$1,400	55	62
$1,500	52	58
$1,600	49	54
$1,700	46	50
$1,800	42	46
$1,900	38	42
$2,000	34	38
$2,100	30	34
$2,200	26	30
$2,300	22	26
$2,400	18	21
$2,500	14	16
$2,600	10	11

2 PARENTS TOGETHER

$800	$67	$74
$900	67	74
$1,000	67	74
$1,100	66	73
$1,200	65	72
$1,300	64	70
$1,400	62	68
$1,500	60	66
$1,600	58	64
$1,700	56	62
$1,800	54	60
$1,900	52	58
$2,000	50	56
$2,100	48	54
$2,200	47	52
$2,300	44	50
$2,400	42	48
$2,500	40	46
$2,600	38	44
$2,700	36	42
$2,800	34	40
$2,900	32	38
$3,000	30	35
$3,100	28	32
$3,200	26	29
$3,300	24	26
$3,400	22	23
$3,500	19	20
$3,600	16	17
$3,700	13	14
$3,800	10	11

Mr. **MANSFIELD**. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services with an amendment:

S. 1038. A bill to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave (Rept. No. 93–523).

By Mr. PELL, from the Committee on Labor and Public Welfare, with amendments:

S.J. Res. 40. A joint resolution to authorize and request the President to call a White House Conference on Library and Information Sciences in 1976 (Rept. No. 93–521).

By Mr. CANNON, from the Committee on Rules and Administration:

S. Con. Res. 58. An original concurrent resolution authorizing the printing of additional copies of the Report of the Commission on the Bankruptcy Laws of the United States for the use of the Senate Committee on the Judiciary (Rept. No. 93–522).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

H.R. 6334. A bill to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System (Rept. No. 93–525).

By Mr. McGEE, from the Committee on

Post Office and Civil Service, with an amendment:

S. 2548. A bill to amend title 5, United States Code, to provide for additional positions in grades GS-16, GS-17, and GS-18 (Rept. No. 93-524).

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary, without amendment:

H.R. 10937. A bill to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia (Rept. No. 93-527).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 97. A bill for the relief of Jose A. Seradilla (Rept. No. 93-528);

S. 1673. A bill for the relief of Mrs. Zosima Telebanco Van Zanten (Rept. No. 93-259);

H.R. 1353. A bill for the relief of Toy Louie Lin Heong (Rept. No. 93-530);

H.R. 1356. A bill for the relief of Ann E. Shepherd (Rept. No. 93-531);

H.R. 1367. A bill for the relief of Bertha Alicia Sierra (Rept. No. 93-532);

H.R. 1463. A bill for the relief of Emilia Majowicz (Rept. No. 93-533);

H.R. 1696. A bill for the relief of Sun Hwa Koo Kim (Rept. No. 93-534);

H.R. 1955. A bill for the relief of Rosa Ines D'Elia (Rept. No. 93-535);

H.R. 2513. A bill for the relief of Jose Carlos Recalde Martorella (Rept. No. 93-536);

H.R. 2628. A bill for the relief of Anka Kosanovic (Rept. No. 93-537);

H.R. 3207. A bill for the relief of Mrs. Enid R. Pope (Rept. No. 93-538);

H.R. 3754. A bill for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni (Rept. No. 93-539);

H.R. 6828. A bill for the relief of Edith E. Carrera (Rept. No. 93-540); and

H.R. 6829. A bill for the relief of Mr. Jose Antonio Trias (Rept. No. 93-541).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 1206. A bill for the relief of Concepcion Velasquez Rivas (Rept. No. 93-542);

H.R. 3334. A bill for the relief of Maria Lourdes Rios (Rept. No. 93-543); and

H.R. 3758. A bill for the relief of Isabel Eugenia Serrane Macias Ferrier (Rept. No. 93-544).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 2112. A bill for the relief of Vo Thi Suong (Nini Ann Hoyt) (Rept. No. 93-545); and

H.R. 2533. A bill for the relief of Raphael Johnson (Rept. No. 93-546).

By Mr. WILLIAMS, from the Committee on Banking, Housing and Urban Affairs, with amendments:

H.R. 10511. A bill to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements (Rept. No. 93-547).

REPORT ENTITLED "ANTITRUST AND MONOPOLY ACTIVITIES 1972"—REPORT OF A COMMITTEE—(S. REPT. NO. 93-520)

Mr. HART, from the Committee on the Judiciary, submitted, pursuant to Senate Resolution 256, section 4, 92d Congress, 2d session, a report entitled "Antitrust and Monopoly Activities 1972," which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. HART (for himself and Mr. Cook):

S. 2717. A bill to amend the Interstate Commerce Act to provide improved enforcement of motor carrier safety regulations; to protect motor carrier employees against discrimination for reporting violations of such regulations; and for other purposes. Referred to the Committee on Commerce.

By Mr. PELL:

S. 2718. A bill to provide for the financing of Federal election campaigns and for other purposes. Referred to the Committee on Rules and Administration.

By Mr. McGOVERN:

S. 2719. A bill to direct the President to halt all exports of crude oil, gasoline, No. 2 fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; and

S. 2720. A bill to amend the Defense Production Act of 1950 to require certain Presidential certifications of need for the allocation of petroleum products to the Department of Defense. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MATHIAS:

S. 2721. A bill for the relief of Canicie Labbe; and

S. 2722. A bill for the relief of Pilar Hilario Tagala. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself and Mr. Cook):

S. 2717. A bill to amend the Interstate Commerce Act to provide improved enforcement of motor carrier safety regulations; to protect motor carrier employees against discrimination for reporting violations of such regulations; and for other purposes. Referred to the Committee on Commerce.

INTERSTATE CARRIER SAFETY ENFORCEMENT ACT OF 1973

Mr. HART. Mr. President, Senator Cook and I introduce the Interstate Carrier Safety Enforcement Act of 1973. This legislation would amend the Interstate Commerce Act to give the Department of Transportation authority to enforce existing safety regulations covering persons operating motor vehicles in interstate commerce. This act would also protect motor carrier employees from employer recrimination.

From 1935 until the Department of Transportation was established in 1967, the Interstate Commerce Commission regulated all operational phases of "common carriers by motor vehicles," including the "qualifications and maximum hours of service of employees, and safety of operation and equipment." In 1966, however, the Congress relieved the ICC of its authority as to "safety appliances methods and systems," as to "investigation of vehicle sizes, weights, and service of employees," and as to driver "qualifications, maximum hours of service, and safety operation and equipment." That authority was vested with the Secretary of Transportation, and is currently delegated to the Bureau of Motor Carrier Safety—BMCS. The transfer of functions, however, was not followed by a transfer of enforcement authority. In fact, the Secretary of Transportation was left with very limited authority.

Chief among these is the power to conduct investigations and to recommend to the Department of Justice that violators be prosecuted under 49 U.S.C. section 322(a), which makes it a crime "knowingly and willfully violate" is a safety regulation. While there is some judicial precedent for injunctive relief against parties perpetually violating the ICC's economic regulations, such relief has not been sought against violators of safety regulations. Further, as a practical matter, only a small handful of the violators are ever prosecuted because the burden of evidence is so great in criminal cases. For example, in 1971, the BMCS referred only 216 cases to Justice for prosecution; Justice declined to handle 10 cases and the courts have generally assessed guilty parties the minimum fine of $100 per count. Also there is the usual plea bargaining which results in dismissal of nearly half the counts filed against the violators. When considering these numbers, one should remember that approximately 3.5 million drivers and motor vehicles fall under BMCS's jurisdiction.

Another reason the number of cases brought to trial is small is because the BMCS has only 103 investigators on its staff of 203. By comparison, the Federal Aviation Administration, which performs a similar function for air transportation, has 52,000 employees.

BMCS has two other methods for penalizing violators of safety regulations. Under 49 U.S.C. section 322(h), it may assess up to $500 in civil forfeiture for a violation of various safety recordkeeping requirements, such as refusing to file accident reports and refusing to retain vehicle condition reports. If the party against whom civil forfeiture is sought refuses to pay, the BMCS may either negotiate a settlement or refer the case to Justice for collection through a judicial action. In 1971 the civil forfeiture authority was utilized in only 74 cases.

The other procedure involves an administrative hearing on a carrier's violations. In such a case, the hearing officer has the authority to issue a cease-and-desist order together with an order that affirmative action be undertaken to comply in the future. The hearing officer does not have any authority, however, to penalize the guilty party in any way.

There is still another reason why effective enforcement of the BMCS safety regulations is impossible. Virtually all economic incentives in the surface transportation industry favor violation of the regulations. Unlike the aviation industry, where pilots are paid a salary based upon the maximum number of hours in the air permitted by the FAA, drivers for interstate carriers are compensated on an hourly basis for the number of hours they work, together with a premium for the number of miles they drive. It is to a driver's advantage to spend as much time as he possibly can behind the wheel traveling as fast as he can. Since interstate carriers are exempt from the Fair Labor Standards Act and are not required to pay their drivers time and one-half for more than 8 hours worked in a day, or for more than 40 hours worked in a week, too many carriers retain the smallest number of drivers on the payroll and push them the maximum number of hours permitted by the BMCS or beyond. The result has been that 40 percent of commercial drivers fatalities occur in "ran-off-roadway" accidents. Of those accidents in which the driver's physical condition was involved, an estimated 76 percent resulted from fatigue.

Another major factor in accidents involving interstate carriers is the condition of the vehicle. As DOT recently acknowledged, "the driver is one of the best sources of information about the mechanical performance of vehicles," yet carriers frequently "exhibit indifference to drivers' reports of unsafe mechanical conditions." The result has been a steady increase in the percent of vehicles which DOT officials have found to have serious defects during roadside inspections. In the first half of 1971, 24.2 percent of property-carrying vehicles inspected at various checkpoints were found to be so unsafe that they were declared out of service by the inspector. These vehicles could not even be driven to the nearest service station for repairs.

The National Safety Council has reported steadily declining accident rates for all motor vehicles over the past several years, and yet Department of Transportation statistics have shown the contrary for commercial vehicles. Between 1969 and 1970, while the accident rate for all vehicles dropped 2 percent, the rate for trucks increased 12.5 percent, and for buses, 14.3 percent. While the fatality rate per 100 million miles was 4.91 for all motor vehicles during 1970, it was 9.09 for buses and 11.10 for trucks. Also while the major interstate truck companies accounted for only 1 percent of the total milage driven by all motor vehicles during 1970, their vehicles were involved in 2.5 percent of all fatalities. These statistics indicate that DOT has been unable to enforce safety regulations effectively.

Unfortunately, the driver, DOT's natural ally, is frequently intimated by his employer into violating reguations or, at the very least, remaining silent and refusing to cooperate with Government investigators. When ordered to drive excessive hours or to operate unsafe equipment, the driver must choose between violating the DOT regulations or complying with the regulations and losing his job. Since the more immediate and serious financial threat is loss of employment, the driver in nearly every case complies with his employer's instructions, for even if he were prosecuted and fined, the loss would be vastly smaller than the loss of income. Moreover, on some occasions drivers have been unsuccessful in finding new employment after the circumstances of their discharge became known to other carriers. The result is that the driver may be exiled from his profession for complying with the law, and he has no legal protection against such recrimination.

Through the years, Congress has enacted bills making it unlawful for the employer to discriminate or discharge the employee for seeking enforcement of legislation or for cooperating with the Government. While one of those laws, the Occupational Safety and Health Act, appears to reach all working places and to protect all workers, it has not been applied to drivers for interstate carriers because another Federal agency—BMCS—is supposed to enforce the industry's safety regulations. As a result, drivers are denied the protection against employer recrimination for their attempts to secure safe working conditions. It remains with Congress to do so.

PROPOSED LEGISLATIVE SOLUTION

The bill we introduced seeks to correct these shortcomings:

It gives motor carrier employees the same right to request investigations of violations of DOT safety regulations that all other employees may presenting exercise under the Occupational Safety and Health Act;

It gives the DOT the authority to issue citations assessing civil forfeitures against violators following an investigation whether requested by an employee or conducted on its own initiative;

It requires the DOT to serve the citation upon the alleged violator who is given 15 days in which to notify the DOT of this intent to contest the citation;

It authorizes an administrative adjudicatory hearing before the National Transportation Safety Board in cases of contested citations;

It provides for judicial review and enforcement of National Transportation Safety Board decisions and orders.

It authorizes the DOT in extreme cases to order a carrier to cease and desist temporarily from engaging in all or a specified portion of its operations where no other means would be adequate to protect public safety.

It protects motor carrier employees from discharge or discrimination, because of their having filed complaints concerning violations of safety regulations or because of their refusing to violate the regulations by driving imminently dangerous equipment or by driving excessive hours.

Mr. President, I ask unanimous consent that the text of the proposed legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That part II of the Interstate Commerce Act is amended by adding at the end thereof the following new section:

"SPECIAL PROVISIONS FOR ENFORCEMENT OF MOTOR CARRIER SAFETY REGULATIONS

"SEC. 229. (a) (1) Any employee, or employee representative, who believes that his employer or agent is violating, or has violated within the preceding thirty days, as a safety regulation issued under this part or under section 834 of title 18, United States Code, may request an investigation by giving notice to the Secretary of such violation. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee, or employee representative, and if the Secretary determines there are no reasonable grounds to believe that a violation exists or has occurred, he shall notify the employee, or employee representative, in writing of such determination. If, upon receipt of such notification, the Secretary determines there are reasonable grounds to believe that such violation exists or has occurred, he shall make a special investigation as soon as practicable and without notice to the alleged violator (unless such notice is deemed necessary by the Secretary), to determine if such violation exists or has occurred; the Secretary shall notify the employee or employee representative in writing of his disposition of the investigation.

"(2) If, upon investigation, conducted pursuant to this part or sections 834 and 835 of title 18, United States Code, the Secretary finds that a violation exists or has occurred, he shall with reasonable promptness issue a citation to the violator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the regulation alleged to have been violated. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety and with respect to violations where the Secretary determines the violation was isolated, was promptly corrected, and would be unlikely to recur. Each citation shall include an assessment of a civil penalty by the Secretary of not less than $250 nor more than $1,000 for the first violation and not less than $500 nor more than $2,500 for any subsequent violation. Each day of such violation shall constitute a separate offense. The Secretary may require the alleged violator to post any citation or notice issued by the Secretary under this paragraph at such place or places as the Secretary may deem appropriate to aid in the enforcement of the regulations.

"(3) If, after investigation, the Secretary issues a citation under this subsection, he shall with reasonable promptness serve a copy upon the violator either by certified or registered mail or by personal service, together with notice that he has fifteen working days within which to notify the Secretary that he wishes to contest the citation. If within fifteen working days from the receipt of the notice issued by the Secretary the violator fails to notify the Secretary that he intends to contest the citation, the citation shall be deemed a final order of the Secretary and not subject to review by any court or agency.

"(4) If a violator notifies the Secretary that he intends to contest a citation issued under this subsection, the Secretary shall immediately advise the National Transportation Safety Board (hereafter in this subsection referred to as the 'Board') of such notification, and the Board shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such section). The Board shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation, or directing other appropriate relief, and such order shall become final thirty days after its issuance. The rules of procedure prescribed by the Board shall provide affected employees or employee representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

"(5) Any person adversely affected or aggrieved by an order of the Board issued under this subsection may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the violator has his principal place of business, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within thirty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board and to the other parties, and thereupon the Board shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it dems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Board and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Board. No objection that has not been urged before the Board shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, the court may order such additional evidence to be taken before the Board and to be made a part of the record. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"The Secretary may also obtain enforcement of any final order of the Board or any uncontested citation by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the violator has its principal place of business. If no petition for review, as provided in paragraph 5 of this subsection, has been filed within thirty days of service of the Board's order, the Board's finding of fact or order shall be conclusive in connection with any petition for enforcement.

"(b) In carrying out the provisions of this part relating to qualifications and maximum hours of service of employees and safety of operation and equipment, and the provision of section 834 of title 18, United States Code, relating to regulations for the safe transportation of explosives and other dangerous articles, the Secretary may order any common, contract, or private carrier to cease and desist from engaging in all or a specified portion of its operation of motor vehicles in interstate commerce for not more than sixty days when the Secretary, for good cause, finds that the carrier's operations will create an unreasonable risk of accident, injury, or death to persons or damage to property. Before issuing a cease and desist order authorized by this subsection, the Secretary shall (1) determine that the application of other available sanctions would be impracticable, unduly time consuming, or inadequate to protect the public health and safety; and (2) give the carrier written notice of his intention to issue a cease and desist order, identifying the portion of the carrier's operations that would be affected by the order and setting forth the reasons why he intends to issue it. If the carrier is operating under a certificate or permit issued by the Commission, the Commission may, upon petition of the Secretary and after notice and hearing, revoke or further suspend the carrier's operating authority in whole or in part upon determining that revocation or further suspension will protect the public safety. An order of the Secretary issued under this subsection is reviewable in accordance with chapter 7 of title 5, United States Code. The provisions of title 28, United States Code, respecting three-judge district courts, do not apply to a proceeding to review an order of the Secretary issued under this subsection.

"(c)(1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to motor carrier safety regulations issued under this part, or under section 834 of title 18, United States Code, or has testified or is about to testify, or has participated in any way, in any such proceeding.

"(2) No person shall discharge or in any manner discriminate against any employee for refusing to operate equipment subject to motor carrier safety regulations issued under this part or under section 834 of title 18, United States Code, because of his apprehension of death or serious injury to himself or to the public due to the unsafe condition of such equipmenut. The unsafe condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury. In order to qualify for protection under this paragraph, the employee must have sought from his employer, and been unable to obtain, a correction of the unsafe condition.

"(3) No person shall discharge or in any manner discriminate against any employee for refusing to operate equipment in violation of regulations issued under this part respecting hours of service.

"(4) Any employee who is discharged or discriminated against in violation of this subsection shall be entitled—

"(A) to reinstatement in his employment or employment status,

"(B) to be made whole for his losses due to such discharge or discrimination, including interest at the rate of 6 per centum from the date moneys would have been payable to the date of payment,

"(C) to exemplary damages in the amount of twice the sum of (B) above, and

"(D) to costs of suit and reasonable attorneys' fees.

"(5) Suits under this subsection may be brought in any court of competent jurisdiction including the United States district court for the district in which the defendant is located or any United States district court for the district within which the employee received notice of discharge. No suit may be instituted under this subsection more than six months after notice of discharge is received by the employee concerned, or after the discriminatory practices have been discontinued.

"(d) Nothing in this section shall be construed to limit the authority of the Secretary to conduct an investigation, on his own initiative, in connection with the issuance or enforcement of motor carrier safety regulations under this part or under section 834 of title 18, United States Code.

"(e) The foregoing provisions of this section shall be in addition to any other procedure available to the Secretary under this part, or under any other provision of law, for the enforcement of motor carrier safety regulations issued by him under this part or under section 834 of title 18, United States Code."

By Mr. PELL:

S. 2718. A bill to provide for the financing of Federal election campaigns and for other purposes. Referred to the Committee on Rules and Administration.

FEDERAL ELECTION FINANCING ACT

Mr. PELL. Mr. President, I introduce for appropriate reference a bill to provide for the public financing of Federal election campaigns.

The Subcommittee on Privileges and Elections, of the Committee on Rules and Administration, held hearings on various legislative proposals to finance Federal elections.

Those hearings, held on the 18th, 19th, 20th, and 21st of September of this year, elicited oral and written testimony from more than 40 witnesses who represent the White House, the Department of Justice, the Congress, the General Accounting Office, private industry, labor, political scientists, and others expert or knowledgeable in the field of Federal elections.

The testimony was overwhelmingly in favor of the public financing of elections. But there was no consensus concerning the offices which should be covered, or the elections, primary, runoff, and general, which should be included, or the manner in which public financing should be provided.

This bill represents my efforts, as chairman of the subcommittee, to consolidate many views and several proposals. The bill covers all Federal elective offices. It includes Presidential and congressional primary elections and general elections.

This proposal would require each candidate to demonstrate that he is a bona-fide office seeker with substantial public support. Before becoming eligible for Federal matching funds, a candidate for the House would be required to raise $10,000; a candidate for the Senate must raise $25,000; and a candidate for the Presidency must raise $100,000. Those amounts must be raised from individual contributors who may not give more than $250 to any candidate for each election in which he is involved.

Once having reached the $10,000, $25,000 or $100,000 base amount, the candidate would be entitled to receive an equal amount from the Treasury, and thereafter for each dollar raised from private sources, the candidate would receive $3 from the Treasury up to the limitation imposed upon him by the bill.

The limitations are the same in this bill as those which were approved by the Senate when it passed S. 372, the Federal Elections Campaign Act Amendments of 1973. In a primary election, the candidate could spend an amount to be obtained by multiplying 10 cents by the voting age population of the geographic area in which the election is to be held, and for the general election, the candidate's limit would be the amount obtained by multiplying 15 cents by the voting age population.

Money would be raised for the Treasury by changing the Presidential Election Campaign Fund to a Federal Election Campaign Fund and increasing the amount of tax liability each taxpayer could designate for the election campaign fund from $1 to $2.

This bill retains the principal provisions of the Federal Election Campaign Act amendments as they appear in the bill, S. 372.

An independent Federal Election Commission would oversee the receipts and expenditures of each candidate. Central campaign committees and depositories would insure thorough and accurate accounts of both public and private funds. Detailed reports and statements of receipts and expenditures would be required by the Commission from every candidate.

Figures and provisions of this bill may be varied when the bill is studied in committee. I make no claim to perfection in this bill, but this proposal is an honest attempt to correlate the many different suggestions which have been offered during this session of the 93d Congress.

Mr. President, there can be no doubt of the need for basic revision of the manner in which Federal election campaigns are financed. The scandalous revelations during the past 12 months of gross abuses in the financing of the 1972 Presidential campaign cry out for reform. The public, with a steady diet of campaign financing abuses, is fed up and is demanding reform.

Public trust in the integrity of government must be restored. I can think of no action we in the Congress can take that would do more to restore public trust than to guarantee that elections will not be distorted or subverted by private political fund-raising activities.

As chairman of the Subcommittee on Privileges and Elections, I will make every effort to see that a sound, well-considered public campaign financing bill is presented to the Senate at the earliest possible time. Introduction of this bill today is a part of that effort.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Election Financing Act".

SEC. 2. (a) The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new title:

"TITLE V—PUBLIC FINANCING OF FEDERAL ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. When used in this title—

"(1) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, (B) received contributions or made expenditures, or (C) given his consent for any other person to receive contributions or make expenditures for the purpose of bringing about his nomination for election, or election, to such office;

"(2) 'Commission' means the Federal Election Commission established under section 502;

"(3) 'contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or as a Presidential or Vice-Presidential elector; or

"(ii) influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

"(C) means a transfer of funds between political committees; and

"(D) means the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; but

"(E) does not include—

"(i) (except as provided in subparagraph (D)) the value of personal services rendered to or for the benefit of the candidate by an individual who receives no compensation for rendering any service to the candidate; or

"(ii) payments under section 511; "(4) 'expenditure' means—

(A) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office, or as a Presidential and Vice-Presidential elector;

"(ii) influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President; or

"(iii) influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(B) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure; and

"(C) a transfer of funds between political committee; "(5) 'Federal office' means the office of President or Vice President of the United States, or of Senator or Representative in the Congress of the United States;

"(6) 'general election' means any election, including special elections, held for the election of a candidate to Federal office;

"(7) 'political committee' means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal office;

"(8) 'primary election' means (A) an election, including a run-off election, held for the nomination of a candidate for election to Federal office, (B) a convention or caucus of a political party held for the nomination of such a candidate, (C) an election held for the election of delegates to a national nominating convention of a political party, and (D) an election held for the expression of a preference for the nomination of persons for election to the office of President;

"(9) 'Representative' includes Delegates or Resident Commissioners to the Congress of the United States; and

"(10) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"FEDERAL ELECTION COMMISSION

"SEC. 502. (a) (1) There is established, as an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission.

"(2) The Commission shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. Of the seven members—

"(A) two shall be chosen from among individuals recommended by the President pro tempore of the Senate, upon the recommendations of the majority leader of the Senate and the minority leader of the Senate; and

"(B) two shall be chosen from among individuals recommended by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House. The two members appointed under subparagraph (A) shall not be affiliated with the same political party; nor shall the two members appointed under subparagraph (B). Of the three members not appointed under such subparagraphs, two shall not be affiliated with the same political party.

"(3) Members of the Commission shall serve for terms of seven years, except that, of the members first appointed—

"(A) two of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for terms ending on the April thirtieth first occurring more than six months after the date on which they are appointed;

"(B) one of the members appointed under paragraph (2) (A) shall be appointed for a term ending one year after the April thirtieth on which the term of the member referred to in subparagraph (A) of this paragraph ends;

"(C) one of the members appointed under paragraph (2) (B) shall be appointed for a term ending two years thereafter;

"(D) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending three years thereafter;

"(E) one of the members appointed under paragraph (2) (A) shall be appointed for a term ending four years thereafter; and

"(F) one of the members appointed under paragraph (2) (B) shall be appointed for a term ending five years thereafter.

"(4) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment. A member may be reappointed to the Commission only once.

"(5) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the office of member of the Commission shall be filled in the manner in which that office was originally filled.

"(6) The Commission shall elect a Chairman and a Vice Chairman from among its members for a term of two years. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Com-
constitute a quorum.
mission and four members thereof shall

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

"(e) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers in any State.

"(f) The Commission shall appoint a General Counsel and an Executive Director to serve at the pleasure of the Commission. The General Counsel shall be the chief legal officer of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. The Commission shall not delegate the making of regulations regarding elections to the Executive Director.

"(g) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(h) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(i) The provisions of section 7324 of title 5, United States Code, shall apply to members of the Commission notwithstanding the provisions of subsection (d)(3) of such section.

"(j) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation requested by the Congress or by any Member of Congress to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"POWERS OF COMMISSION

"SEC. 503. (a) The Commission shall have the power—

"(1) to require, by special or general orders, any person to submit in writing reports and answers to questions the Commission may prescribe; and those reports and answers shall be submitted to the Commission within such reasonable period and under oath or otherwise as the Commission may determine;

"(2) to administer oaths;

"(3) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation to order testimony to be taken by deposition before any person designated by the Commission who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to initiate, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of this title and of title III through its General Counsel; and

"(7) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission.

"(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d) Upon application made by any individual holding Federal office, any candidate, or any political committee, the Commission, through its General Counsel, shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title.

"CENTRAL CAMPAIGN COMMITTEES

"SEC. 504. (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for the office of President, may also designate one political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made in writing, and a copy of the designation, together with any information the Commission may require, shall be filed with the Commission upon the designation of any such committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate. The central campaign committee, and each State campaign committee, designated by a candidate nominated by a political party for election to the office of President shall be the central campaign committee, and the State campaign committees, of the candidate nominated by that party for election to the office of Vice President.

"(c)(1) No political committee may accept contributions or make expenditures in connection with a campaign of a candidate unless that candidate designates that committee as one of his authorized political committees. The designtaion shall be made in writing and a copy of the designation, together with any information the Commission may require, shall be filed with the Commission at the time of such designation.

"(2) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination for election, or for election, which is not a central campaign committee or a State campaign committee, shall furnish each report required of it under section 304 (other than reports required under the last sentence of section 304(a) and under section 505(b)) to that candidate's central campaign committee at the time it would, but for this subsection, be required to furnish that report to the Commission. Any report properly furnished to a central campaign committee under this subsection shall be, for purposes of title III and this title, held and considered to have been furnished to the Commission at the time at which it was furnished to such central campaign committee.

"(3) The Commission may, by regulation, require any political committee receiving contributions or making expenditures in a State on behalf of a candidate who, under subsection (a), has designated a State campaign committee for that State, to furnish its reports to that State campaign committee instead of furnishing such reports to the central campaign committee of that candidate.

"(4) The Commission may require any political committee to furnish any report directly to the Commission.

"(d) Each political committee which is a central campaign committee or a State campaign committee shall receive all reports filed with or furnished to it by other political committees, and consolidate and furnish the reports to the Commission, together with its own reports and statements, in accordance with the provisions of title III, this title, and regulations prescribed by the Commission.

"CAMPAIGN DEPOSITORIES

"SEC. 505. (a) (1) Except as provided in subsection (c), each candidate shall designate one National or State bank as his campaign depository. The candidate and his central campaign committee, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain one checking account at the depository so designated by the candidate and shall deposit any contributions received by that candidate and such committees into that account. No expenditure may be made by any such candidate or committees on behalf of the candidate, or to influence his election, except by check drawn on that account upon written order of the candidate or the written order of another person authorized in writing by the candidate to make such expenditures, other than petty cash expenditures as provided in subsection (b).

"(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one National or State bank as the campaign depository of that committee, and shall maintain one chceking account for the committee at that depository. All contributions received by that committee shall be deposited in that account. No expenditure may be made by that committee except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission. Statements and reports of petty cash disbursements shall be furnished to the Commission whenever they are requested by the Commission.

"(c) A candidate for the office of President may establish one campaign depository in each State, which shall be considered by his State campaign committee for that State and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in that State, under regulations prescribed by the Commission, as his single campaign depository. The campaign depository of the candidate of a political party for election to the office of Vice President shall be the campaign depository designated by the candidate of that party for election to the office of President.

"ELIGIBILITY FOR PAYMENTS

"SEC. 506. (a) Every candidate shall—

"(1) agree to obtain and to furnish to the Commission any evidence it may request about his campaign expenses and contributions;

"(2) agree to keep and to furnish to the Commission any records, books, and other information it may request;

"(3) agree to an audit and examination by the Commission under section 512 and to pay any amounts required under section 512; and

"(4) agree to furnish statements of campaign expenses and proposed campaign expenses required under section 513. "(b) Every candidate shall certify to the Commission that—

"(1) the candidate and his authorized committees will not incur campaign expenses greater than the limitations in section 508; and

"(2) no contributions greater than the limitations on individual contributions in section 509 have been or will be accepted by the candidate or his authorized committees.

"(c) To be eligible to receive any payments under section 511, a candidate must certify to the Commission that—

"(1) the candidate is seeking nomination for election, or election, to the House of Representatives and has a campaign fund of more than $10,000;

"(2) the candidate is seeking nomination for election, or election, to the Senate and has a campaign fund of more than $25,000 ($10,000 in any State from which only one Representative is elected); or

"(3) the candidate is seeking nomination for election, or election, to be President of the United States and has a campaign fund of more than $100,000, regardless of the number of primary elections for which he receives payments under section 511.

"(d) Agreements and certifications under this section shall be filed with the Commission before the date of the relevant election at the time required by the Commission.

"ENTITLEMENT TO PAYMENTS

"SEC. 507. (a) Every candidate who is eligible to receive payments under section 506 is entitled to payments under section 511 in an amount which is equal to the sum of—

"(1) the amount of the campaign fund the candidate is required to raise by contributions under section 506(c), and

"(2) an amount equal to three times the total amount of contributions received by that candidate in excess of the amount of the campaign fund required under section 506(c). "(b) Notwithstanding the provisions of subsection (a), no candidate is entitled to the payment of any amount under this section which, when added to the total amount of contributions received by him in connection with his campaign, exceed the amount of the expenditure limitation applicable to him for that campaign under section 508.

"EXPENDITURE LIMITATIONS

"SEC. 508. (a) (1) Except to the extent that such amounts are increased under subsection (d) (2), no candidate (other than a candidate for nomination for election to the office of President) may make expenditures in connection with his primary election campaign in excess of the greater of—

"(A) 10 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election for such nomination is held, or

"(B) (i) $125,000, if the Federal office sought is that of Senator, or Representative from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative for a State which is entitled to more than one Representative.

"(2) Except to the extent that such amounts are increased under subsection (d) (2), no candidate (other than a candidate for election to the office of President) may make expenditures in connection with his general election campaign in excess of the greater of—

"(A) 15 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election is held, or

"(B) (i) $175,000, if the Federal office sought is that of Senator, or Representative from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(b) (1) No candidate for nomination for election to the office of President may make expenditures in any State in connection with his campaign for such nomination in excess of the amount which a candidate for nomination for election to the office of Senator from that State (or for nomination for election to the office of Delegate, in the case of the District of Columbia) may spend within the State in connection with his campaign for that nomination. For purposes of this subsection, an individual is a candidate for nomination for election to the office of President if he makes (or any other person makes on his behalf) an expenditure on behalf of his candidacy for any political party's nomination for election to the office of President.

"(2) No candidate for election to the office of President may make expenditures in any State in connection with his campaign for election to such office in excess of the amount which a candidate for election to the office of Senator (or for election to the office of Delegate, in the case of the District of Columbia) may spend within the State in connection with his campaign for election to that office.

"(c) A candidate who is unopposed in his primary election shall have an expenditure limitation which is ten percent of the limitation in subsections (a) (1) or (b) (1) of this section, as applicable.

"(d) (1) Expenditures made on behalf of any candidate shall, for the purpose of this section, be deemed to have been made by such candidate.

"(2) Expenditures made by or on behalf of any candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been made by the candidate for the office of President of the United States with whom he is running.

"(3) For purposes of this subsection, an expenditure shall be held and considered to have been made on behalf of a candidate if it was made by—

"(A) an agent of the candidate for the purposes of making any campaign expenditure, or

"(B) any person authorized or requested by the candidate to make expenditures on his behalf.

"(e) (1) For purposes of paragraph (2)—

"(A) 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(B) 'base period' means the calendar year 1970.

"(2) At the beginning of each calendar year (commencing in 1974), as there become available necessary date from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Federal Election Commission and publish in the Federal Register the percentage difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) shall be increased by such percentage difference. Each amount so increased shall be the amount in effect for such calendar year.

"(f) During the first week of January, 1974, and every subsequent year, the Secretary of Commerce shall certify to the Federal Election Commission and publish in the Federal Register an estimate of the voting age population of each State and congressional district as of the first day of July next preceding the date of certification.

"(g) The Federal Election Commission shall prescribe regulations under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached. by such expenditure.

"INDIVIDUAL CONTRIBUTION LIMITATON

"SEC. 509. (a) No person may make a contribution on behalf of a candidate for use in connection with that candidate's campaign for nomination for election, or election, which, when added to all other contributions made by that person on behalf of the candidate during the twelve month period ending with the month during which the contribution is made, equals an amount in excess of $250. This $250 limitation applies separately to contributions made in connection with a campaign for nomination for election, a campaign for election, and any campaign made necessary by a run-off election.

"(b) No candidate may knowingly receive contributions from any person which, when added to all other contributions received from that person during the twelve month period ending with the month during which the contribution is received, equals an amount in excess of $250. This $250 limitation applies separately to contributions received in connection with a campaign for nomination for election, a campaign for election, and any campaign made necessary by a run-off election. For purposes of this subsection, a contribution received by any political committee which makes substantial expenditures in connection with a candidate's campaign for nomination for election, or for election, shall be considered to be received by that candidate.

"CERTIFICATIONS BY COMMISSION

"SEC. 510. (a) On the basis of the evidence, books, records, and information furnished by each candidate eligible, under section 506, to receive payments under section 511, and prior to examination and audit under section 512, the Commission shall certify from time to time to the Secretary of the Treasury for payment to each candidate under section 511 the amount to which that candidate is entitled under section 507.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this title, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 512 and judicial review under section 516.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 511. (a) There is established within the Treasury a trust fund to be known as the Federal Election Campaign Fund. There is authorized to be appropriated to the fund for each fiscal year an amount equal to the sum of the amounts designated for payment into the fund under section 6096 of the Internal Revenue Code of 1954 for taxable years ending during that fiscal year. The fund shall remain available without fiscal year limitation. Any money in the fund not needed for current operation shall be invested in bonds or other obligations of, or guaranteed by, the United States.

"(b) On the day after the date of enactment of this Act, the Secretary of the Treasury shall transfer to the fund any moneys in the Presidential Election Campaign Fund established under section 9006 of the Internal Revenue Code of 1954.

"(c) Upon receipt of a certification from the Commission under section 510, the Secretary of the Treasury shall transfer from the fund to the account in the campaign depository, as designated by the candidate under section 505, the amount certified by the Commission.

"(d) (1) If the Secretary of the Treasury determines that the moneys in the fund are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible under section 506 to receive payments, he shall reduce the amount to which each candidate is entitled under section 507 by a percentage equal to the percentage obtained by dividing (1) the amount of money remaining in the fund at the time of such determination by (2) the total amount which all candidates eligible under section 506 to receive payments are entitled to receive under section 507. If additional candidates become eligible under section 506 after the Secretary determines there are insufficient moneys in the fund, he shall make such further reductions in the amounts payable to all eligible candidates as may be necessary to carry out the purposes of this subsection. The Secretary shall notify the Commission and each eligible candidate by registered mail of the reduction in the amount to which that candidate is entitled under section 507.

"(2) If, as a result of a reduction under this subsection in the amount to which an eligible candidate is entitled under section 507, payments have been made under this section in excess of the amount to which such candidate is entitled, that candidate is liable for repayment to the fund of the excess under such procedures as the Commission may prescribe by regulation.

"EXAMINATIONS AND AUDITS: REPAYMENTS

"Sec. 512. (a) After each Federal election, the Commission shall conduct a thorough examination and audit of the campaign expenses of all candidates for Federal office.

"(b)(1) If the Commission determines that any portion of the payments made to an eligible candidate under section 511 was in excess of the aggregate amount of the payments to which the candidate was entitled under section 507, it shall so notify that candidate, and he shall pay to the Secretary of the Treasury an amount equal to the excess amount.

"(2) If the Commission determines that any amount of any payment made to a candidate under section 511 was used for any purpose other than—

"(A) to defray campaign expenses, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray campaign expenses which were received and expended) which were used, to defray campaign expenses,

it shall notify the candidate of the amount so used, and the candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) No payment shall be required from a candidate under this subsection in excess of the total amount of all payments received by the candidate under section 511 in connection with the campaign with respect to which the event occurred which caused the candidate to have to make a payment under this subsection.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a Federal election more than three years after the day of the election.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the fund.

"INFORMATION ON PROPOSED EXPENSES

"Sec. 513. (a) Every candidate shall, from time to time as the Commission may require, furnish to the Commission a detailed statement, in the form the Commission may prescribe, of—

"(1) the campaign expenses incurred by him and his authorized committees prior to the date of the statement (whether or not evidence of campaign expenses has been furnished for purposes of section 510), and

"(2) the campaign expenses which he and his authorized committees propose to incur on or after the date of the statement.

The Commission shall require a statement under this subsection from each candidate at least once each week during the second, third, and fourth weeks preceding the day of any Federal election in which he is a candidate and at least twice during the week preceding election day.

"(b) The Commission shall, as soon as possible after it receives a statement under subsection (a), prepare and publish a summary of the statement, together with any other data or information which it deems advisable, in the Federal Register.

"REPORTS TO CONGRESS; REGULATIONS

"Sec. 514. (a) The Commission shall, as soon as practicable after each Federal election, submit a full report to the Senate and House of Representatives setting forth—

"(1) the campaign expenses incurred by each candidate, and his authorized committees, who received a payment under section 511 in connection with that election;

"(2) the amounts certified by it under section 510 for payment to that candidate; and

"(3) the amount of payments, if any, required from that candidate under section 512, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission is authorized to prescribe rules and regulations, to conduct examinations and audits (in addition to the examinations and audits under sections 510 and 512), to conduct investigations, and to require the keeping and submission of any books, records, and information, necessary to carry out the functions and duties imposed on it by this title.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"Sec. 515. The Commission may initiate civil proceedings in any district court of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of examination and audit made pursuant to section 513.

"JUDICIAL REVIEW

"Sec. 516. (a) Any agency action by the Commission made under the provisions of this title or title III shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the agency action by the Commission for which review is sought.

"(b) The Commission, the national committee of any political party, and individuals eligible to vote in an election for Federal office, are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement any provision of this title.

"(c) The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551 of title 5, United States Code, by the Commission.

"PENALTY FOR VIOLATIONS

"Sec. 517. Violation of any provision of this title is punishable by a fine of not more than $50,000, or imprisonment for not more than 5 years, or both.

"RELATIONSHIP TO OTHER FEDERAL ELECTION LAWS

"Sec. 518. The Commission shall consult from time to time with the Secretary of the Senate, the Clerk of the House of Representatives, the Federal Communications Commission, and with other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of those other laws as the provisions of this title permit. The Commission shall use the same or comparable data as that used in the administration of such other election laws whenever possible.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 519. There are authorized to be appropriated to the Commission, for the purpose of carrying out its functions under this title, such funds as are necessary for the fiscal year ending July 30, 1974, and each fiscal year thereafter.".

(b) The Federal Election Campaign Act of 1971 is amended by—

(1) adding at the end of section 104 (a) (relating to limitations on expenditures for use of communications media) the following new paragraph:

"(8) All expenditures for use of communications media are subject to the campaign expenditure limitations in section 508.";

(2) striking out "Comptroller General" in sections 104 (a) (3), (4), and (5) and inserting "Federal Election Commission";

(3) striking out "Comptroller General" in section 105 and inserting "Federal Election Commission";

(4) amending section 301 (g) (relating to definitions) to read as follows:

"(g) 'Commission' means the Federal Election Commission;";

(5) striking out "supervisory officer" in section 302 (d) (relating to organization of political committees) and inserting "Commission";

(6) amending section 302 (f) by—

(A) striking out "appropriate supervisory officer" in the quoted matter appearing in paragraph (1) and inserting "Federal Election Commission";

(B) striking out "supervisory officer" in subparagraphs (A) and (B) of paragraph (2) and inserting "Commission"; and

(C) striking out "which has filed a report with him" in paragraph (2) (A) and inserting "which has filed a report with it";

(7) amending section 303 (relating to registration of political committees; statements) by—

(A) striking out "supervisory officer" each time it appears and inserting "Commission"; and

(B) striking out "he" in the second sentence of subsection (a) and inserting "it";

(8) amending section 304 (relating to reports by political committees and candidates) by—

(A) striking out "appropriate supervisory officer" and "him" in the first sentence of subsection (a), and inserting "Commission" and "it", respectively;

(B) striking out "supervisory officer" where it appears in the second sentence of subsection (a) and in paragraphs (12) and (13) of subsection (b), and inserting "Commission"; and

(C) striking out everything after "filing" in the second sentence of subsection (a) and inserting a period;

(9) striking out "supervisory officer" each place it appears in section 305 (relating to reports by other than political committees) and section 306 (relating to formal requirements respecting reports and statements) and inserting "Commission";

(10) striking out "Comptroller General of the United States" and "he" in section 307 (relating to reports on convention financing) and inserting "Federal Election Commission" and "it", respectively;

(11) striking out "SUPERVISORY OFFICER" in the caption of section 308 (relating to duties of the supervisory officer) and inserting "COMMISSION";

(12) striking out "supervisory officer" in the first sentences of subsections 308(a) and 308(b) and inserting "Commission";

(13) amending section 308(a) by—

(A) striking out "him" in paragraphs (1) and (4) and inserting "it"; and

(B) striking out "he" each place it appears in paragraphs (7) and (9) and inserting "it";

(14) amending subsection (c) of section 308 by—

(A) striking out "Comptroller General" each place it appears therein and inserting "Commission", and striking out "his" in the second sentence of such subsection and inserting "its"; and

(B) striking out the last sentence thereof;

(15) amending subsection (d)(1) of section 308 by—

(A) striking out "supervisory officer" each place it appears therein and inserting "Commission";

(B) striking out "he" the first place it appears in the second sentence and inserting "it"; and

(C) striking out "The Attorney General on behalf of the United States" and inserting "The Commission or the Attorney General on behalf of the United States";

(16) striking out "a supervisory officer" in section 309 (relating to statements filed with State officers) and inserting "the Commission".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following paragraph:

"(60) Members, Federal Election Commission (7).";

(2) Section 5316 of such title is amended by redesignating the second paragraph (133) as (134), and by adding at the end thereof the following paragraphs:

"(135) General Counsel, Federal Election Commsision.

"(136) Executive Director, Federal Election Commission.".

(d) Until the appointment of all of the members of the Federal Election Commission and its General Counsel and until the transfer provided for in this subsection, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to carry out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as those titles existed on the day before the date of enactment of this Act. Upon the appointment of all the members of the Commission and its General Counsel, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within thirty days after the date on which all such members are appointed, of all records, documents, memorandums, and other papers associated with carrying out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as it existed on the day before the date of enactment of this Act.

SEC. 3. Section 603 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on candidate contributions

"(a) No candidate for Federal office may make expenditures or contributions from his personal funds in connection with his campaign for nomination for election, or for election, in excess of $250.

"(b) No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of subsection (a).

"(c) Violation of the provisions of this section is punishable by a fine not to exceed $50,000, or imprisonment not to exceed 5 years, or both.".

SEC. 4. (a) Section 6096 (a) of the Internal Revenue Code of 1954 (relating to designation of income tax payments to the Presidential Election Campaign Fund) is amended to read as follows:

"(a) In General.—Each individual (other than a nonresident alien) whose income tax liability for any taxable year is $2 or more shall, for purposes of section 511 of the Federal Election Campaign Act of 1971, be considered to have designated that $2 of his income tax is to be paid over to the Federal Election Campaign Fund unless he designates that no part of his tax is to be paid over to that Fund. In the case of a joint return of tax by a husband and wife whose income tax liability for any taxable year is $4 or more, each spouse shall be considered, for purposes of such section 511, to have designated that $2 of his tax is to be paid over to that Fund unless he designates that such amount is not to be paid over to the Fund.".

(b)(1) The caption of part VIII of subchapter A of chapter 61 of the Internal Revenue Code of 1954 is amended to read as follows:

"PART VIII.—DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND".

(2) The table of parts for subchapter A of chapter 61 of the Code is amended to read as follows:

"PART VIII. DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND.".

(c) Subtitle H (Financing of Presidential Election Campaigns) of the Internal Revenue Code of 1954 (relating to financing of Presidential election campaigns) is repealed.

(d) The amendments made by this section apply with respect to taxable years beginning December 31, 1973.

By Mr. McGOVERN:

S. 2719. A bill to direct the President to halt all exports of crude oil, gasoline, No. 2 fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; and

S. 2720. A bill to amend the Defense Production Act of 1950 to require certain Presidential certifications of need for the allocation of petroleum products to the Department of Defense. Referred to the Committee on Banking, Housing and Urban Affairs.

NO UNESSENTIAL MILITARY FUEL

Mr. McGOVERN. Mr. President, I introduce for appropriate reference two bills bearing on the current fuel emergency.

It has been well established in the past few months and particularly the last few days that our Nation is faced with an energy crisis of unprecedented proportions.

In his televised message to the country, the President outlined a number of steps the country can take to cut back on our consumption of valuable fuel products. Among these were lowered thermostats—in the oval office as well as in all Government offices—reduced speed limits, a return to daylight saving time, and a restructuring of the school year, to name a few.

I think Mr. Nixon is right. We must all share in the burden of cutting back on our energy use. His pledge to go beyond the earlier commitment he made to cut back on Government use by 7 percent is perhaps the most important step of all. If the Congress and the administration expect the people to pitch in and make some fairly substantial sacrifices in their style of life, it is only right that we should lead the way.

For that reason, I was somewhat distressed by a press release put out last week by the Department of Interior announcing that the Department of Defense has been accorded a special priority for the purchase of petroleum products from U.S. suppliers under the terms of the Defense Production Act of 1950. The Office of Oil and Gas is now authorized to issue written directives to suppliers requiring them, regardless of other existing contracts and orders, to furnish petroleum products specified by the Defense Fuels Supply Center of DOD.

The meaning of this ruling is undeniably clear. At a time when we are experiencing an estimated shortage of millions of barrels of oil per day—at a time when the rationing of oil products is being actively considered and everyone from the White House down to the households in rural America are hoping and praying for a mild winter—the Department of Defense is being handed a blank check that will allow military supply officials to approach any fuel supplier in the country and take whatever they need right off the top.

When the legislation I introduce today was being prepared, we had no idea that the provisions of the Defense Production Act would be put into effect in the near future. Yesterday it was announced that the military will be taking 300,000 barrels per day from our domestic supply. That is 1.7 percent of the total 17.9 million barrels of oil consumed daily in the United States. The current shortage is estimated to be in the area of 10 to 17 percent. Taking the low figure of 10 percent, that cuts down our actual daily supply to 16.1 million barrels of oil per day and increases the percentage taken by the military to 1.9 percent.

The picture becomes even more bleak in light of the importance Mr. Nixon placed on the reserves available at the Elk Hills Naval Reserve Field. During his address to the Nation, he singled out this reserve as a safety valve for depleted domestic supplies. Now there is a good chance that the oil from Elk Hills will all go to the military—a total of 167,000 barrels per day. That means we have lost our safety valve and still come up with the military taking 123,000 barrels per day from the domestic supply.

I have no disagreement with insuring that our military forces have the fuel they need to maintain a vigilant defense posture. But it is also essential that we convince every person in this country that the Federal Government will share the burden of necessary cutbacks across the board.

I have been approached countless times in recent months by South Dakotans expressing concern for the great amount of fuel consumed by the military. Young people fresh out of the Navy have confronted me with stories of how fighter planes based on large aircraft carriers must dump fuel from their tanks before landing. All too often that involves dumping better than 50 percent of their tank capacity. That sort of information is a little hard to swallow for someone who finds they may not be able to keep a small business open for the winter because of a fuel shortage. And that threat is very real to South Dakotans already. In the past few days alone, my office has handled a half a dozen hardship cases in South Dakota—a florist shop in Aberdeen that will close in 10 days without an additional supply of propane; an elderly lady in Cresbard who depends on a kerosene stove for heat and cannot find the kerosene; a manufacturing plant in Sioux Falls that will put 200 people out of work if they do not receive additional supplies of propane to back up their interruptible heating system. If this is the case in early November, it is a little frightening to think what it might be like in January and February.

I was also distressed by the recently published reports showing that the United States is exporting 53.3 million gallons of middle distillate fuel during

1973. That includes a considerable amount of No. 2 heating oil.

It has got to make some people wonder—particularly people who have been told that they cannot get as much No. 2 oil this winter as they did last winter. The entire country is in the midst of what can only be termed a crisis situation and yet we continue to export a product that we are known to be short of to the tune of over a million barrels per day.

More than anything else, Mr. President, we need to take every step we can to assure people that their Government is not wasting fuel during an energy shortage.

For that reason, I am today introducing two bills. The first is an amendment to the Defense Production Act of 1950. My amendment will not take away the priority status afforded the Department of Defense. Nor is it intended in any way to hamper the effectiveness of our defense forces. It will simply require that the President insure that the military be as prudent in their use of valuable fuel supplies as he has asked the rest of us to be.

The amendment calls on the President to certify that any excess quantity of fuel requisitioned under the provisions of the Defense Production Act must be absolutely essential for the security of the United States. He must further certify that such excess quantities are not to be used for training or testing programs that could be postponed or modified without affecting our defense capabilities, and, finally, that no other source of supply normally available to the Department of Defense is available to meet the need of such excess quantity.

The second bill simply directs the President to halt all exports of crude oil, gasoline, No. 2 heating oil, and propane gas until such time as he determines that a shortage no longer exists.

I ask unanimous consent that the text of the two bills be printed in the Record following my remarks.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that there is a national shortage of crude oil, gasoline, number 2 fuel oil, and propane gas in the United States and directs the President to halt all exports of crude oil, gasoline, number 2 fuel oil, and propane gas until such time as he determines that such a shortage no longer exists.

S. 2720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Defense Production Act is amended by adding at the end thereof the following new section:

"Sec. 105. The authority conferred by this title may not be exercised to make available to the Department of Defense a quantity of petroleum products in excess of that quantity of such products which is allocated to the Department of Defense under the Economic Stabilization Act of 1970 or under any other program for the allocation of petroleum products unless the President certifies—

"(1) that such excess quantity is absolutely essential for the security of the United States;

"(2) that the need for such excess quantity cannot be alleviated by the postponement or modification of training or testing programs being carried out by the Department of Defense; and

"(3) that no other source of supply normally available to the Department of Defense, including existing supplies maintained by the Department, is available to meet the need for such excess quantity."

ADDITIONAL COSPONSORS OF BILLS

S. 1326

At the request of Mr. Williams, the Senator from Indiana (Mr. Bayh), the Senator from Kansas (Mr. Dole), and the Senator from Georgia (Mr. Nunn) were added as cosponsors of S. 1326, the Hemophilia Act of 1973.

S. 2062

At the request of Mr. Hatfield, the Senator from Wyoming (Mr. McGee) and the Senator from Montana (Mr. Metcalf) were added as cosponsors of S. 2062, the Nonreturnable Beverage Container Prohibition Act.

S. 2513

At the request of Mr. Ribicoff, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 2513, the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973.

SENATE CONCURRENT RESOLUTION 58—ORIGINAL CONCURRENT RESOLUTION REPORTED AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE REPORT OF THE COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

(Placed on calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original concurrent resolution:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary one thousand additional copies each of parts I and II of the Report of the Commission on the Bankruptcy Laws of the United States (House Document 93-137).

NATIONAL ENERGY EMERGENCY ACT OF 1973—AMENDMENTS

AMENDMENT NO. 678

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. Kennedy, Mr. McIntyre, and Mr. Weicker) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

AMENDMENT NO. 679

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY (for himself, Mr. Javits, Mr. Eagleton, Mr. Hart, Mr. Ribicoff, Mr. Stevenson, Mr. Cranston, Mr. Case, Mr. Weicker, and Mr. Kennedy) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589), supra.

AMENDMENT NO. 680

(Ordered to be printed and to lie on the table.)

Mr. CLARK (for himself and Mr. Eagleton) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589), supra.

AMENDMENT NO. 681

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to the bill (S. 2589), supra.

AMENDMENT NO. 682

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted an amendment intended to be proposed by him to the bill (S. 2589), supra.

AMENDMENT NO. 683

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to the bill (S. 2589), supra.

AMENDMENT NO. 684

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to the bill (S. 2589), supra.

AMENDMENT NO. 685

(Ordered to be printed and to lie on the table.)

Mr. JACKSON (for himself, Mr. Hart, Mr. Fannin, and Mr. Buckley) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589), supra.

AMENDMENT NO. 686

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself and Mr. Ervin) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589), supra.

AMENDMENT NO. 687

(Ordered to be printed and to lie on the table.)

AMENDMENT TO S. 2589 TO REQUIRE EXPORT CONTROLS ON CERTAIN OIL PRODUCTS

Mr. HARTKE. Mr. President, the administration has called on the American people to conserve energy by asking millions to suffer inconvenience and economic distress in order to conserve energy sources. Americans understand that the Federal Government demands that our thermostats be turned down, that our cars be driven slower and less frequently, that our schools and factories and farms be operated shorter hours. What they do not understand is the fact that the Federal Government continues to permit the export of vital domestic supplies of fuel oil, coal, natural gas, and propane.

The amendment that I am offering today would correct this error of judgment on the part of our Government. The purpose of this legislation is to stop all unnecessary exports of No. 2 fuel and heating oil, coal, propane, and natural gas. I believe that there is no excuse for our Government permitting the export of these scarce energy resources during a time of domestic energy shortage.

EXPORTS OF NO. 2 FUEL AND HEATING OIL

The Cost of Living Council projects that 53.3 million gallons or 1.5 million barrels of heating oil will be exported from the United States during 1973. This represents a 284-percent increase in heating oil exports over those of 1972.

Last month alone, exports of this heating oil increased by a whopping 350 percent over the previous month. Heating oil exports climbed from 200,000 barrels in August, to 642,000 barrels in September. The largest shipments during September were to Great Britain, The Netherlands, and Venezuela.

The 642,000 barrels exported in September received a payment of $7.28 per barrel. This represents a 158 percent increase in the average price per barrel over last year's price. If the heating oil had been sold domestically, it would have brought only $6.50 a barrel.

Apparently the lure of bigger profits abroad is persuading the major oil companies to export desperately needed heating oil despite the shortage.

EXPORTS OF COAL

While coal exports this year are just slightly less than in 1972, the significance of these exports now is much greater because we are now reconverting our electrical generating plants from oil to coal. This will mean increased American production of coal which is possible.

The problem is that most of our coal is already tied up in long-term export contracts with the Japanese and Canadian steel industries. The result will be a continued shortage of a commodity of which we have rich and plentiful sources, if we do not pass this export control legislation.

Bituminous coal accounted for 98 percent of total coal exports in 1972. In 1972, Japan and Canada received 64 percent of the total bituminous coal exports, and Canada received about 64 percent of the total anthracite coal exports.

EXPORTS OF NATURAL GAS AND PROPANE

In the first 10-month period of 1973, our exports of natural gas have increased almost 20 percent over the same period in 1972. By September 1973, we had already exported 67.2 billion cubic feet compared with 57 billion cubic feet for the same period in 1972.

Natural gas is the cleanest form of energy that the United States produces. I see no reason for shipping such large amounts abroad without some kind of surveillance which these controls would provide.

Canada, Mexico, and Japan are our major export markets for natural gas. Canada and Mexico received natural gas via pipeline transmission, while Japan, starting in 1969, received liquefied natural gas shipments from Alaska. Japan was our largest export market in 1972, receiving over 50 percent of our total natural gas exports.

The export of propane is also up over the 1972 figures. By September we had exported over 2.5 million barrels of this commodity which is in great demand in our country. Over the same period in 1972, we exported 2.3 million barrels.

The Midwest farmers are absolutely dependent upon this source of energy. If exports increase, we may have crop shortages. The American plywood industry has already begun to shut down many of its plants because it cannot get this precious commodity to dry its wood.

FLEXIBILITY OF THE HARTKE APPROACH

The export controls which I advocate would not disrupt the international market and therefore would not invite retaliation. They are designed, however, to protect our own national interests.

I would have the Secretary of Commerce estimate the domestic production of fuel oil, coal, propane, and natural gas quarterly, in case of emergencies or shortages. He would then determine those amounts necessary for domestic consumption in the United States including a reasonable amount for a carryover to build up U.S. stocks and the remainder would be allocated for export to foreign countries.

The Secretary of Commerce then would allocate such exports among countries on a quota system, based upon past exports and such other criteria as are necessary to produce a fair and equitable quota.

Based upon what is available for export, the Secretary would set up a system for the sale of export licenses through an auction system. Licenses would be sold to the highest responsible bidders with special exceptions for the developing countries. the fees collected would be used to set up a trust fund for the research and development of present and new sources of energy.

The Secretary would be able to lift this licensing system on any of the above energy fuels that he determines is produced in sufficient quantities to meet both U.S. demand and normal world requirements from the United States, without any quota system.

Exception to this quota system is any shipment of these energy fuels for temporary export for processing abroad and reshipment back to the United States. This is necessary because some high sulfur content fuel oil is sent abroad to be mixed with less polluting low sulfur oil and then shipped back to the United States.

CONCLUSION

In a time of nationwide emergency, we cannot countenance the export of these vital and essential energy resources. Without legislation these exports could increase. Their absolute amounts may not be gigantic, but they are in dire need in this country and should be utilized here in keeping our factories and schools in operation and our homes heated.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 687

On page 26, between lines 19 and 20, insert the following:

TITLE III—EXPORT CONTROLS

SEC. 301. Definitions.—As used in this title—

(1) "Secretary" means the Secretary of Commerce; and

(2) "energy producing commodity" means coal, fuel oil number 2, propane gas, and methane gas.

SEC. 302. Determinations of Quality.—(a) At least quarterly during any period of nationwide energy emergency, and at least annually during any other period, the Secretary shall determine the quantity of each energy producing commodity, if any, that will be available for export during the succeeding quarter or year, as the case may be, and shall cause such determination to be published in the Federal Register.

(b) Such determination shall be made by estimating the total quantity of domestic production of each energy producing commodity and subtracting from each such quantity—

(1) the quantity of each such commodity the Secretary estimates will be necessary to meet domestic needs; and

(2) the quantity of each such commodity the Secretary estimates will be necessary for a reasonable carryover, taking into account any current or possible future national and international emergencies and the need to maintain adequate inventories.

The quantity of any such commodity which remains, if any, shall be the quantity available for export.

SEC. 303. Licensing and Allocation of Export Authority.—(a) No energy producing commodity may be exported to any foreign country unless the exporter has been issued a license by the Secretary for the export of a quantity of such commodity to such country, or unless such export is exempt under the provisions of section 306, or section 307 (3).

(b) The quantity of any commodity available for export shall be allocated among foreign countries by the Secretary on the basis of—

(1) the quantity of such commodity exported to such country during a representative base period; and

(2) such other factors as the Secretary determines to be fair, equitable, and sufficient to protect the interests of traditionally trading partners of the United States.

SEC. 304. Issuance of Licenses.—(a) Upon establishing allocations under section 303, the Secretary shall publicly announce such allocations, and shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodities to specified countries.

(b) Licenses shall be issued under this section to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among the bidders.

SEC. 305. Administrative Adjustments.—The Secretary may make adjustments in quantities determined under section 302 and of allocations determined under section 303 if he determines on the basis of new information that original determinations were erroneous.

SEC. 306. Exemptions.—(a) The Secretary may exempt from payment of any license fee an export which he determines involves—

(1) the export of an energy producing commodity to a developing foreign country with a serious need for such commodity; and

(2) such action would be in the best interests of the foreign relations of the United States and would not have an adverse effect on the energy needs of the United States and the program provided for under this title.

(b) The Secretary may exempt from the application of this title or any requirement under this title the export of any energy producing commodity which he determines—

(1) involves a temporary export for processing purposes to a foreign country and will result in a subsequent import of such commodity to the United States; or

(2) such export will be offset by a subsequent import of another energy producing commodity or other matter essential to the energy needs of the United States.

SEC. 307. Administration.—The Secretary is authorized to issue such rules and regulations as may be necessary including rules and regulations—

(1) providing for the reduction, suspension, or termination of the allocation of any commodity made under this title to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this title;

(2) limiting or prohibiting the sale or transfer after issuance of export licenses issued under this title if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this title; and

(3) exempting from application of this Act any commodity the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

SEC. 308. Use of Funds.—Fees received by the Secretary under section 304 shall be deposited in a special account in the Treasury and shall be available without fiscal year limitation for the purpose of conducting research with respect to the more efficient use of existing energy sources and the development of new energy sources.

Redesignate title III as title IV, and redesignate sections 301 through 315 and all cross-references thereto in the bill as sections 401 through 415. Redesignate subsequent title and sections accordingly.

AMENDMENT NO. 689

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed by him to the bill (S. 2589), supra.

AMENDMENTS NOS. 690 THROUGH NO. 693

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted four amendments intended to be proposed by him to the bill (S. 2589), supra.

AMENDMENT NO. 695

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (S. 2589), supra.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973—AMENDMENT

AMENDMENT NO. 688

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. HART (for himself, Mr. ERVIN, Mr. KENNEDY, Mr. BAYH, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. TUNNEY, and Mr. MATHIAS) submitted an amendment intended to be proposed by them to the bill (S. 2611) to insure the enforcement of the criminal laws and the due administration of justice; establish an independent special prosecutor.

YEAR-ROUND DAYLIGHT SAVING TIME—AMENDMENT

AMENDMENT NO. 694

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. HELMS, Mr. THURMOND, and Mr. HUGH SCOTT) submitted an amendment intended to be proposed by them jointly to the bill (S. 2702) to provide that daylight saving time shall be observed on a year-round basis.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 645

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of amendment 645 to H.R. 3153, to extend to certain recipients of annuity or pension under the Railroad Retirement Act the treatment accorded to certain social security recipients under section 249E of the Social Security Amendments of 1972, as amended.

AMENDMENT NO. 651

At the request of Mr. ROBERT C. BYRD, the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Jersey (Mr. CASE), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of amendment No. 651, intended to be proposed to the bill (H.R. 11104), to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974.

ANNOUNCEMENT OF HEARINGS ON ENERGY APPROPRIATIONS AND RELATED SUPPLEMENTAL BUDGET ESTIMATES

Mr. BIBLE. Mr. President, I wish to announce the Appropriations Subcommittee on the Department of the Interior and Related Agencies will hold hearings November 19 and 20 on a number of supplemental items, including energy programs. Hearings will begin at 10 a.m. Monday in room 1114 of the Dirksen Office Building.

Fiscal year 1974 supplemental budget estimates before the subcommittee to date total $77,307,000 in new budget authority. Additionally, the subcommittee will hear the full $7,100,000 budget request of the American Revolution Bicentennial Commission. This item was passed over in the regular appropriation for lack of authorization. Legislation authorizing a revamped American Revolution Bicentennial Administration is expected to pass Congress shortly.

The bulk of the supplemental estimates deals with accelerated energy research, development, and conservation. They involve the Alaska pipeline, coal research, fuel allocations, energy leasing, and new energy offices within the Department of the Interior.

Among other items is a request of nearly $7 million from the Forest Service to increase timber sales.

The hearings will begin with the Forest Service and go immediately to the energy items.

Mr. President, I ask unanimous consent to print in the RECORD at this point the subcommittee's hearing schedule, which will be subject to revision based on the progress of the hearings.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE ON THE DEPARTMENT OF INTERIOR AND RELATED AGENCIES

MONDAY, NOVEMBER 19

Forest Service: Forest Protection and Utilization; Forest Roads and Trails.

Office of the Secretary—Salaries and Expenses: Office of Energy Conservation; Office of Energy Data and Analysis; Office of Research and Development.

Geological Survey: Surveys, Investigations and Research.

Bureau of Mines: Mines and Minerals.

Office of Coal Research: Salaries and Expenses.

Office of Oil and Gas: Salaries and Expenses.

Bureau of Land Management: Management of Lands and Resources.

TUESDAY, NOVEMBER 20

Bureau of Sport Fisheries and Wildlife: Resource Management.

Office of the Secretary: Salaries and Expenses; Departmental Operations.

Office of Territories: Trust Territories of the Pacific Islands.

National Council on Indian Opportunity: Salaries and Expenses.

Pennsylvania Avenue Development Corporation: Salaries and Expenses.

American Revolution Bicentennial Commission: Salaries and Expenses.

ADDITIONAL STATEMENTS

THE JAPANESE SUPERSTATE

Mr. FANNIN. Mr. President, there are some experts who believe that the United States is in rapid decline and that Japan will be the dominant world power by the beginning of the next century.

It is amazing that the Japanese have been able to borrow so liberally from our technology, and use our own concepts to outproduce us in the world marketplace.

I do not believe it is inevitable that the United States lose its position as a superpower, but I do believe that it will happen if we do not have some change in the attitudes of Americans and American leaders in Government, labor, and industry.

Japan went to school on the United States and rose rapidly from the ashes of World War II to become a first-rank industrial power; now it is time for us to take a few lessons from Japan.

Recently I received a magazine, United States/Japan Outlook, which included an article by S. I. Hayakawa entitled, "2001: The Japanese Superstate?" I am especially interested in the description of labor-management relations in Japan as compared with the United States. This may well be the real key to survival—or destruction—of our economy.

Mr. President, I ask unanimous consent that this article be printed in the RECORD for the benefit of my colleagues who are concerned about this vital matter.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

2001: THE JAPANESE SUPERSTATE?

(By S. I. Hayakawa)

Do you remember the feverish building of fallout shelters in 1961 in anticipation of a Soviet nuclear attack? Do you remember people storing cases of food and bottled water?

Herman Kahn, who wrote his terrifying book, "Our Thermonuclear War," in 1960, contributed much to our panic of that period. He insisted on "thinking the unthinkable." What would war with hydrogen bombs actually be like? I denounced the book at the time, but in retrospect I must admit that someone had to write it.

Hence I am a little puzzled that Herman Kahn's book, "The Emerging Japanese Superstate: Challenge and Response" has created so little stir in the U.S. In it, Kahn predicts that by the year 2000 Japan will in all likelihood be the world's leading economic power, and that the 21st century will be the "Japanese century."

Since Japan decided in 1868 to open its doors to the world, the national goal of the Japanese people has been to catch up with the West. Having by this time caught up in most respects, their next goal is to surpass the West. How are they doing?

Well, Japan has recently surpassed England, France and Germany and is behind only the U.S. and the Soviet Union. Japanese technological capabilities are now fully competitive with those of the West and the objective of surpassing the West, says Kahn, is now in sight. By the end of this century or early in the next, Japan will be foremost, economically and technologically.

The reasons for this tremendous success since the devastation of World War II lie in the Japanese character, says Kahn. "The Japanese see themselves not as a society of individuals, but as a national family in which all people and all companies cooperate to make the nation stronger."

The key to "Japan, Inc." is growth. The keys to growth are unity and loyalty. The Japanese watch growth rates the way Americans watch baseball standings. In his comments on Japanese character, Kahn often sounds like Ruth Benedict, to whose great study of Japanese culture, "The Chrysanthemum and the Sword" (1946), he makes grateful acknowledgement.

In Japan no one would criticize such a statement as "What's good for General Motors is good for the country." What's good for Iwata Steel or Nissan Motors is assumed to be good for Japan, because it is Japan against the rest of the world. Everybody—management, labor and the general public—identifies the success of Japanese business with the success of the nation—and individual success.

This unity is revealed in the close cooperation which flows among Japanese firms. Of course, employees and executives try as hard as possible to further the interests of their own companies, but everyone takes pleasure in any Japanese success. Thus there exists a kind of open society within business circles in which competitors share information which would be considered secret in the West.

Members of Japan, Inc. are loyal. When a man signs a contract to work for a company it is like entering marriage. It is for life. There are rights and duties on each side to be honored. Employees know that they will never be fired. The company is a family which takes care of everyone, in return for devotion. It can afford to do so because high growth rates permit so much expansion that there is always a place for everyone.

Loyalty is not something to hide, but something to celebrate. Every morning, workers at Matsushita Electric, as in hundreds of other companies, sing their company song before beginning work. They sing with an enthusiasm and gusto which Americans would find embarrassing, if not ridiculous.

Even unions in Japan are loyal to business. They lobby and apply pressure to obtain demands they consider fair and reasonable. But they would never go so far as to let their companies be hurt. Most American unions assume an adversary relationship between employers and employees—and proceed on that assumption. Unions rarely work with corporations, but organize against them.

Because of the loyalty of Japanese workers, their unity and willingness to work long hours and to sacrifice present consumption in favor of capital investment, the Japanese economy is growing at a rate exceeding 10 per cent a year, or about twice that of U.S. economic growth. Moreover, the U.S. is increasingly finding itself clobbered in world markets.

I wonder if American union leadership worries about problems such as these? What good does it do to get wage increases for union members from $3 an hour to $7, from $7 to $15, from $15 to $22, if as a result the company transfers its operation to West Germany or Taiwan—or goes out of business altogether?

The question is not hypothetical. It's been happening for years. Herman Kahn is persuaded that Japan may very well come out the winner as a result.

LONG-RANGE STUDY AND HEARINGS ON FOREIGN INVESTMENT IN THE UNITED STATES

Mr. STEVENSON. Mr. President, dramatic changes are occurring in foreign investment in the United States. Its slow but steady growth over the last two decades has increased significanly during the past year, and it has begun to penetrate a wide spectrum of American industry. It now extends to mining, manufacturing, lumbering, and farming. All indications are that substantially accelerated expansion can be expected in the future.

Japanese interests recently bought almost 200 acres of land in New York for a steel mill. In California, they are assembling television sets and expanding into picture tube production. In Wisconsin, a major Japanese firm has just completed a $6 million soy sauce plant on a former cornfield. Japanese interests have acquired timberland in the West and coal mines in West Virginia and have made bids to acquire controlling interests in one of the Nation's largest industrial companies, American Metal Climax. Real estate speculation and land for farm production are being eyed with increasing interest.

The Japanese are far from alone. The British, who already account for the greatest proportion of foreign investment here, are expanding their U.S. investments rapidly. One indication is the recent takeover of Gimbels, a well-known department store, by the American branch of British American Tobacco. Earlier, another British company acquired Franklin Stores, a well-known discount house.

West German investment, already substantial, is also expanding rapidly. The French are close behind. Michelin is building two tire plants in South Carolina valued at more than $200 million. Volvo of Sweden has just announced plans to build an auto assembly plant in Virginia, and the Canadians have made a bid to take over the Texasgulf Co. Foreign banks, as well, are aggressively expanding their U.S. operations. The recent agreement of Britain's Floyd's Bank to acquire First Western Bank & Trust Co. of California is but one example.

The upshot is that foreign investment in the United States now stands at close to $15 billion. Just a little over 10 years ago it stood at only about half that level. Over the past two decades it has averaged a healthy 7-percent increase per year. Today, it is growing at an accelerating rate.

Many factors contribute to the trend. Large dollar holdings in Europe, Japan, and the oil-producing countries provide a ready pool of resources. The weakened state of the dollar makes it a less attractive currency to hold. A logical outlet is investment in the United States. At the same time, other currencies have increased in value against the dollar as a result of successive dollar devaluations. As a consequence, the deutsche mark, the yen, and other foreign currencies now go considerably further in the United States.

Declines in the stock market have stretched those currencies even further. Many U.S. stocks are now available at relatively low prices. Low U.S. price-earnings ratios contrast favorably with higher price-earnings ratios in Europe. Record high interest rates also increase the appeal of U.S. debt instruments.

Dollar devaluation also means that goods from abroad now cost more in the United States. Higher prices mean lower sales for foreign manufacturers. Foreign corporations see direct U.S. operations as a way to offset reduced sales.

Direct U.S. operations also eliminate transportation costs and put foreign competitors in closer touch with the huge American market. In addition, the traditional advantage of operations abroad due to lower labor costs is rapidly vanishing since European and Japanese wage rates have recently increased dramatically.

A further factor undoubtedly is a desire to develop protected sources of raw materials and other supplies. Food and energy shortages are a worldwide phenomenon, and aggressive attempts to acquire and control assured sources of supply can be expected. Agricultural land could well become a prime target.

At this point the dimensions of foreign investment in the United States are not well understood. The data base is sketchy at best and measurement presents difficult statistical problems. More important, little, if any, consensus exists on the long-range impact on vital U.S. interests.

From a balance-of-payments standpoint, the initial effect is favorable. Over time, the favorable effect will continue so long as inflows exceed outflows. Foreign direct investment can also result in increased job opportunities and produce fresh injections of new technology. In addition, new markets may be opened, old markets rejuvenated, and competition stimulated. All these are benefits to the American economy.

On the other hand, potentially adverse consequences cannot be ignored.

Foreign purchases of already scare resources increase the pressures on prices. Land costs in many areas are already at levels which put intolerable strains on housing costs. Increased prices for agricultural land will increase the cost of agricultural production and eventually the price of food. Foreign ownership of natural resources such as coal mines, timber, and farmlands may mean diversion of critically needed raw materials to foreign markets. Not to be overlooked is the possibility that control of U.S. corporations in essential industries such as steel, oil, coal, and electronics, to name but a few, may interfere with national and foreign policy on resource use and industrial development.

Monetary control, as well, may be affected. Expanded foreign bank operations here have an impact on the ability of the banking system to respond to changes in monetary policy. In addition, they may present serious competitive problems for U.S. banks which are geographically restricted in their operations while their foreign competitors are not.

Serious as these domestic consequences may be, they cannot be considered in isolation. Foreign investment in the United States has significant implications for the United States in the international community. Until now, for the United States, international investment has largely been a one-way street. Americans have traditionally looked upon the rest of the world as the arena for expansion. Now the advanced countries of the world are beginning to look on the United States in a similar light.

The United States can no longer think of itself as an economic fortress. If present trends continue, foreign direct investment here may grow to over $35 billion during the next 10 years—more than double its present level. Foreign companies may soon become as familiar here as American companies abroad. We will thus grow increasingly interdependent, and the attitude of the United States toward foreign investors will affect the attitude of the rest of the world toward U.S. investors.

To date, the United States has no coherent policy on foreign investment in this country. Indeed, except in some very limited instances such as restraints on foreign holdings in atomic energy projects, communications systems, and the use of public lands, the United States has no policy at all.

In the absence of a national policy, many States have acted. Most have aggressively sought foreign investment, but some have imposed restraints. In banking there have been several significant developments recently. The California Legislature has just considered a bill to prohibit further charters and new branches to foreign banks unless foreign countries grant reciprocal rights to California banks. A new Illinois law permits foreign banks to open downtown Chicago branches only if Chicago banks are accorded reciprocal rights. In these and other areas, further State efforts to deal with foreign commercial interests can be expected.

We cannot permit so serious a matter as this to be regulated by 50 different jurisdictions. We also cannot permit a national policy to develop by default. Other nations have long had controls on foreign investments, and many are taking further steps in light of worldwide shortages of essential productive sources. At this point we do not know whether we need controls or, if needed, what they might be.

More significant is the absence of any internationally agreed-upon rules relating to international investment. Trade and monetary matters have long been subject to international rules. In addition, through GATT and the International Monetary Fund, there is a forum for raising and resolving issues of common concern in these areas. Yet for foreign investment, each nation is left to develop its policies in isolation. The development of international rules and a forum to deal with common investment questions needs to be explored.

The benefit to U.S. companies investing and operating overseas can be significant. United States investment abroad far outstrips foreign investment in the United States. Yet, U.S. companies abroad face growing discrimination. United States companies, therefore, have much to gain from an international investment climate which favors reciprocity, as well as stability.

I believe we must take steps now to develop the facts and determine our policy objectives. We cannot wait until we are faced with a crisis of foreign control, interference with critical national interests, a web of inconsistent statutes and regulations, or a breakdown in the international investment climate. Nor can we act on a piecemeal basis.

Accordingly the Senate Subcommittee on International Finance is beginning a study of the nature and extent of foreign investment in this country and its implications for national policy. We need a firm understanding of the facts and a thorough appreciation of their implications. In the course of our study, we will explore the relation of U.S. policy to the prospects for U.S. investment abroad and the overall climate for international investment. In that context we will examine the prospects for multilateral arrangements to deal with common investment questions. Our objective is to identify the issues and explore all policy alternatives.

Initial hearings of the Subcommittee on International Finance will be held shortly after the first of the year. The exact dates will be announced in the near future. All interested persons should contact Stanley J. Marcuss, the International Finance Subcommittee Counsel, in room 5300, Dirksen Senate Office Building—225-7391.

LEGISLATIVE ACTIVITIES OF SENATOR HUGH SCOTT

Mr. HUGH SCOTT. Mr. President, over the years I have made it a practice to insert in the CONGRESSIONAL RECORD a categorical breakdown of my legislative activities. I ask unanimous consent to include in the RECORD at this point a further listing of my bills and votes.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE ACTIVITIES OF SENATOR HUGH SCOTT

AMERICAN BUSINESS—93D CONGRESS

Legislation

S. 804—To further improve federal assistance to small business concerns in financing, structural, operational or other changes to meet standards required pursuant to law.

S. 1415—To assist in the financing of small business concerns which are disadvantaged because of certain social or economic considerations not generally applicable to other business enterprises.

S. 2136—To extend the St. Lawrence Seaway—Great Lakes navigational season demonstration program for another 2½ years.

S. Con. Res. 11—To express a national policy with respect to support of the United States fishing industry.

Votes

Voted for the Energy Policy Act of 1973.

Voted for the Management Relations Act Amendments.

Voted for the Small Business Act Amendments.

Voted for the Emergency Petroleum Allocation Act of 1973.

92D CONGRESS

Legislation

S. 3452—To amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees.

S. 3708—To amend the tariff and trade laws of the U.S. and for other purposes.

S. 3891—To amend the Small Business Act to assist in the financing of small businesses which are disadvantaged because of certain social or economic considerations not generally applicable to other business enterprises.

Amend #1392 to H.R. 15692—To amend the Small Business Act to reduce the interest rate on Small Business Administration disaster loans.

CIVIL RIGHTS—93D CONGRESS

Legislation

S.J. Res. 10—To provide for voluntary nondenominational prayer in public schools.

S.J. Res. 20—To designate January 15 of each year as "Martin Luther King Day."

92D CONGRESS

Legislation

S. 1664—To authorize additional appropriations for the U.S. Commission on Civil Rights.

S. 1769—To establish a Legal Services Corporation and for other purposes.

S. 2515—A bill to further promote equal employment opportunities for American workers.

S. 3025—To prohibit records of deeds from giving implicit recognition to racially restrictive covenants.

S. 3121—To extend the U.S. Commission on Civil Rights for five years, to expand jurisdiction of the Commission to include discrimination or because of sex, to authorize additional appropriations for the Commission.

S.J. Res. 7—To amend the Constitution of the United States extending the right to vote to citizens 18 years of age or older.

S.J. Res. 79—To amend the Constitution of the United States, relative to equal rights for men and women.

Amend. to H.R. 9272—To restore the full

amount of the funds cut by the House from the fiscal year 1972 Budget for the Equal Employment Opportunity Commission.

Votes

Voted for the proposed constitutional amendment extending the right to vote to citizens aged 18 or older.

Voted for Emergency School Aid and Quality Integrated Education Act of 1971.

Voted to establish an independent Office of General Counsel within the Equal Employment Opportunity Commission.

Voted for the Equal Employment Opportunities Enforcement Act of 1972.

Voted for proposed constitutional amendment for equal rights for men and women.

Voted for Economic Opportunity Amendments of 1972.

91ST CONGRESS

Votes

Voted to prohibit assistance to school districts which transferred property or services to nonpublic schools practicing racial discrimination.

Voted for an additional $150 million for emergency school assistance for desegregating local educational agencies.

Voted to give the Equal Employment Opportunity Commission the power to issue cease-and-desist orders.

Voted for the Equal Employment Opportunities Enforcement Act of 1970.

Voted for the proposed constitutional amendment granting equal rights for men and women.

CONSUMER—93D CONGRESS

Legislation

S. 607—To strengthen the Lead Based Paint Poisoning Prevention Act.

S. 1082—To repeal the bread tax.

S. 1451—To require the disclosure of ingredients on the labels of all foods.

Votes

Voted for the State and Federal Meat and Poultry Inspection Act Amendments.

92D CONGRESS

Legislation

S. 4004—To prohibit the transportation or shipment within the U.S. of gas cylinders not inspected in the U.S.

Votes

Voted for Lead-Based Paint Poisoning Prevention Act Amendments of 1972.

Voted for Food, Drug, and Consumer Product Safety Act of 1972.

Voted to authorize continuation of consumer action and cooperative demonstration programs with O.E.O.

DEFENSE—93D CONGRESS

Legislation

S. 440—To make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

S. Res. 115—To pay tribute to members of the Armed Forces who are missing in action in Indochina.

S. Res. 117—To commemorate the loss and suffering of the dead and wounded members of the Armed Forces occasioned by the war in Vietnam.

92D CONGRESS

Legislation

S. 3416—To authorize members of the armed forces who are in a missing status to accumulate leave without limitations.

S. Res. 202—To revitalize the North Atlantic Treaty Organization and to seek mutual force reductions in Europe.

S.J. Res. 242—To approve the acceptance by the President for the U.S. of the interim agreement between the U.S. and the U.S.S.R. on certain measures with respect to the limitation of strategic offensive arms.

Votes

Voted for Seabed Arms Control Treaty.

Voted for a joint resolution to urge the President to seek a future strategic weapons limitation treaty which would not limit the U.S. to levels of intercontinental strategic forces inferior to limits provided for the Soviet Union.

EDUCATION—93D CONGRESS

Votes

Voted for the National Foundation on the Arts and the Humanities Amendment of 1973.

92D CONGRESS

Legislation

Amend. #923 to S. 659—To permit limited busing for legitimate, educational purposes.

Amend. #947 to S. 659—To prohibit a teacher-student assignment to overcome racial imbalance.

Votes

Voted for Education Amendments of 1972.

Voted for Comprehensive Headstart Child Development and Family Service Act of 1972.

ENVIRONMENT AND CONSERVATION—93D CONGRESS

Legislation

S. 173—To authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

S.J. Res. 24—To ask the President to declare the fourth Saturday of each September as "National Hunting and Fishing Day."

Votes

Voted for the Convention with Japan for the Protection of Birds and their environment.

92D CONGRESS

Legislation

S. 3595—To authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

S. 4112—To designate certain lands as wildernesses.

S.J. Res. 158—To declare a "Clean-up America Day," and urge the participation of all Americans.

Votes

Voted for Toxic Substances Control Act.

Voted for the withholding of the Land Use Policy and Assistance Funds from any state after 5 years if its program was not in compliance with certain Federal Pollution guidelines.

Voted to assure that public and private developments under the Land Use Policy and Planning Assistance Act would conform to the Clean Air Act and the Water Pollution Control Act.

Voted for the Environmental Noise Control Act of 1972.

FEDERAL ELECTIONS—93D CONGRESS

Legislation

S. 1094—To improve the regulation of Federal election campaign activities through the creation of an independent Federal Election Commission to monitor and enforce the law.

S. 1095—To suspend the "equal time" provision of the broadcasting law for all candidates for federal office.

S. 1096—To provide for a campaign mail privilege at reduced rates, for qualified candidates for Federal office.

S. 1097—To provide that political contribution are not subject to the gift tax.

S. 2297—To provide public financing of Senate and House elections, and to bar the option of private financing for major party candidates in all Federal elections.

S.J. Res. 110—To establish a nonpartisan commission of federal election reform.

Votes

Voted for the Federal Election Campaign Act Amendments of 1973.

Voted to create a nonpartisan commission on federal election reform.

92D CONGRESS

Legislation

S.J. Res. 245—To authorize the President to designate the calendar month of September 1972 as "National Voter Registration Month."

Votes

Voted to prohibit any political committee not authorized with respect to a candidate for President or Vice President from contributing more than $1,000 in his behalf.

Voted for Revenue Act of 1971 which included the financing of Presidential Elections through a check-off system for income taxes.

FOREIGN AFFAIRS—93D CONGRESS

Legislation

S. 440—To make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Votes

Voted for the United States Information Agency Authorization Act of 1973.

92D CONGRESS

Legislation

S. 3708—The Fair International Trade Act of 1972.

S. 4012—To make additional visas available for immigrants from certain foreign countries.

S. Res. 202—To revitalize the North Atlantic Treaty Organization and to seek mutual force reductions in Europe.

S.J. Res. 242—A joint resolution approving the acceptance by the President for the U.S. of the interim agreement between the U.S.A. and the U.S.S.R. on certain measures with respect to the limitation of strategic offensive arms.

Votes

Voted for Equal Export Opportunity Act and International Economic Policy Act of 1972.

Voted for Interim agreement between the U.S. and the U.S.S.R. on limitation of strategic offensive weapons.

HEALTH—93D CONGRESS

Legislation

S. 667—To provide for the protection of the public health from unnecessary medical exposure to ionizing radiation.

S.J. Res. 80—To authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

Votes

Voted for the Public Health Service Act Extension of 1973.

Voted for Health Maintenance Organization and Resources Development Act of 1973.

Voted for Emergency Medical Services Systems Development Act of 1973.

92D CONGRESS

Legislation

S.J. Res. 180—To authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

S. 3136—To regulate the amount of lead and cadmium which may be released from glazed, ceramic, or enamel dinnerware.

Votes

Voted for Drug Abuse Office and Treatment Act of 1972.

Voted for medical research into causes and cure of sudden infant death syndrome.

Voted for Food, Drug and Consumer Product Safety Act of 1972.

Voted for Child Nutrition Act of 1972.

Voted for Narcotic Addict Rehabilitation Amendments of 1972.

Voted to make maintenance drugs available under Medicare.

Voted to require that States not reduce medical services they currently provide.

HUMAN NEEDS—93D CONGRESS

Legislation

S. 136—To authorize financial assistance for Opportunities Industrialization Centers.

S. 478—To provide for the striking of medals in commemoration of Roberto Clemente (proceeds from which to be used for recreation facilities for youth).

S. 753—To amend the Disaster Relief Act of 1970 with respect to eligibility for relocation assistance.

S. 798—To reduce the number of criminal repeaters by providing community-centered programs of supervision and services for persons charged with offenses against the United States.

S. 1144—To establish a national program of Federal insurance against catastrophic disasters (retroactive to cover Hurricane Agnes).

S. 1431—To provide for the continuation of programs authorized under the Vocational Rehabilitation Act.

S. 1434—To disregard children's benefits received by an individual under the Social Security Act in determining whether that individual is a dependent of a taxpayer.

Votes

Voted for the Flood Control Act of 1973.

Voted for Vocational Rehabilitation Act of 1972.

92D CONGRESS

Legislation

S. 3136—To regulate the amount of lead and cadmium which may be released from glazed ceramic, or enamel dinnerware.

S. 3142—To provide $85 million for assistance to Soviet Jewish refugees in Israel.

S. 3795.—To provide additional relief to victims of Hurricanes and Tropical Storm Agnes.

S. 3971—To exclude from gross income amounts of disaster relief loans cancelled pursuant to existing disaster aid laws.

S. 4001—To provide for the liberalization and automatic adjustment (in accordance with rising wage levels) of the earnings test under Social Security provisions which allow for deductions in monthly benefits on account of excess earnings.

S. 4050—To revise and simplify the Federal disaster relief program and to assure adequate funding for such programs.

S. Con. Res. 91—To designate "National Gospel Rescue Month."

S.J. Res. 126—To authorize the President to proclaim the month of January of each year as "National Volunteer Blood Donor Month."

S.J. Res. 246—To authorize the President to proclaim the first Sunday of December as "National Fellowship Day."

Amend. #923 to S. 659—To permit limited, legitimate busing of school children.

Amend. #1393 to H.R. 15692—To provide disaster aid to nonprofit educational institutions.

Amend. #1392 to H.R. 15692—To reduce the interest rate on Small Business Administration disaster loans.

Votes

Voted for Comprehensive Headstart, Child Development and Family Service Act of 1972.

Voted for Drug Abuse Office and Treatment Act of 1972.

Voted for Food, Drug, and Consumer Product Safety Act of 1972.

Voted for Child Nutrition Act.

Voted for Health Maintenance Organization and Resources Development Act of 1972.

Voted for maintenance drugs to be available under medicare.

Voted to require that States not reduce medical services they currently provide.

Voted to provide additional legal services for the elderly poor.

Voted for the Economic Opportunity Amendments of 1972.

Voted for the Older Americans Community Service Employment Act.

JOB OPPORTUNITIES AND REGIONAL DEVELOPMENT—93D CONGRESS

Legislation

S. 1475—To allow a double investment credit for certain property placed in service in rural areas which will assist in providing new employment opportunities.

Votes

Voted for the Public Works and Economic Development Act Amendments of 1973.

Voted for the Rural Electrification Act Amendments.

92D CONGRESS

Legislation

S. 2981—To provide for environmental improvements in Rural America.

S. 3497—To authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area.

S. 3595—To authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

S. 3651—To provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes.

S. 3795—To provide additional relief to victims of Hurricane and Tropical Storm Agnes.

Amend. to S. 4018—To authorize $2.4 million for Tamaqua Flood protection on Wabash Creek, Pa.

Votes

Voted to require that laborers employed in construction work financed from revenue-sharing funds be paid at prevailing wage rates.

Voted for State and Local Fiscal Assistance (Revenue Sharing) Act of 1972.

Voted to assure nondiscrimination on account of age in government employment.

Voted for Older Americans Community Service Employment Act.

LAW ENFORCEMENT—93D CONGRESS

Legislation

S. Res. 106—To urge the Attorney General to appoint a special prosecutor in connection with the Presidential election of 1972 (Watergate).

Votes

Voted for the Victims of Crime Act of 1973.

92D CONGRESS

Legislation

S. 3182—To implement the Convention on the Prevention and Punishment of the crime of Genocide.

S. 3833—To limit the use of the writ of habeas corpus.

S.J. Res. 228—To pay tribute to law enforcement officers of this country on Law Day, May 1, 1973.

Votes

Voted for Drug Abuse Office and Treatment Act of 1971.

Voted for ratification of Convention to Prevent and Punish Acts of Terrorism.

Voted for Handgun Control Act of 1972.

Voted for Omnibus Crime Control and Safe Streets Act Amendments.

Voted for Anti-Hijacking Act of 1972.

MONETARY AND FISCAL POLICY—93D CONGRESS

Votes

Voted for Economic Stabilization Act of 1973.

Voted for the Federal Impoundment Control Procedure Act (S. 373).

92D CONGRESS

Legislation

S. 1323—To impose a statutory limit on Federal expenditures and net lending during the fiscal year 1973.

S. 3651—To provide payments to localities for high-priority expenditures, to encourage States to supplement their revenue sources, and to authorize Federal collection of State individuals income taxes.

Votes

Voted to repeal the 10% manufacturers' excise tax on local transit system bases.

SENIOR CITIZENS—93D CONGRESS

Legislation

S. 582—To provide social services for the aged.

S. 1684—To provide that a finding of permanent and total disability under social security or railroad retirement will be considered as a finding of disabiity under any similar program.

Votes

Voted for Older Americans Comprehensive Services Amendments of 1973.

92D CONGRESS

Votes

Voted to allow persons 65 years of ago or older a phased, annual tax credit of up to $300 for property taxes or rent paid on residence.

Voted to increase from 20 to 30 percent across-the-board social security benefits.

TRANSPORTATION—93D CONGRESS

Legislation

S. 679—To improve the efficiency of the Nation's highway system by allowing States and localities more flexibility in utilizing highway funds.

S. 768—To provide improved high-speed rail passenger service between Boston and Washington, through Philadelphia, by 1976.

Amend. to S. 502—To designate Route I–70 in Pennsylvania as the Dwight D. Eisenhower Highway.

Votes

Voted for the Airport Development Acceleration Act of 1973.

Voted for the Aerial Hijacking Federal Aviation Act Amendments.

92D CONGRESS

Legislation

S. 3232—To provide more effective means for protecting the public in disputes involving the transportation industry.

S. 3782—To authorize Federal financial assistance to restore or replace essential railroad facilities and equipment lost or destroyed as the result of natural disasters which occurred during the month of June, 1972.

S. 3796—Highway Emergency Relief funds for Hurricane Agnes.

S. 3825—To improve the efficiency of the national highway system.

S.J. Res. 225—To prevent abandonment of railroad lines.

Amend. #1059 to S. 2760—To provide that any railroad employee eligible to receive free or reduced rate transportation by railroad will be eligible to receive free or reduced-rate transportation on any inter-city rail passenger service.

Votes

Voted for Airport Development Acceleration Act of 1972.

Voted to authorize subsidies for mass transportation operating expenses.

Voted for Anti-Hijacking Act of 1972.

VETERANS—93D CONGRESS

Legislation

S. 176—To provide for a special addition to the pension of veterans, widows and children of World War I.

Votes

Voted for the Veteran's Health Care Expansion Act of 1973.

Voted for the Veteran's Drug and Alcohol Treatment and Rehabilitation Act of 1973.

92D CONGRESS

S. 908—To exempt from induction and training under the Selective Service Act, the surviving sons of a family which has lost two or more members as the result of military services.

Votes

Voted for Vietnam Era Veterans Readjustment Assistant Act of 1972.

Supported amendment to give social security child benefits to veterans between ages 18 through 22.

NORTH CAROLINA HONORS SENATOR SAM J. ERVIN, JR.

Mr. ALLEN. Mr. President, on October 17, 1973, the North Carolina Awards Commission bestowed the North Carolina Award upon five North Carolinians. They were Helen Smith Bevington, who received a North Carolina Award in Literature for her notable career as poet and author; Ellis Brevier Cowling, who received a North Carolina Award in Science for his distinguished research at North Carolina State University in plant pathology; Burke Davis, who received a North Carolina Award in Literature as a native of North Carolina living in Virginia; Kenneth Ness, who received a North Carolina Award in the Fine Arts for his notable contributions as artist and teacher at the University of North Carolina at Chapel Hill; and our colleague, Senator SAM J. ERVIN, JR., who received a North Carolina Award for distinguished public service as State legislator, superior and supreme court judge, U.S. Congressman and Senator, champion of civil liberties and dedicated defender of the U.S. Constitution.

I ask unanimous consent that the citation accompanying the North Carolina Award to our colleague, Senator ERVIN, be printed at this point in the body of the RECORD.

There being no objection, the citation was ordered printed as follows:

NORTH CAROLINA HONORS SENATOR SAM J. ERVIN, JR.

"Sam J. Ervin receives a North Carolina Award for distinguished public service as state legislator, Superior and Supreme Court judge, U.S. Congressman and Senator, champion of civil liberties and dedicated defender of the United States Constitution. Born in Morganton in 1896, graduated from the University of North Carolina at Chapel Hill and the Harvard Law School, he combines erudition with wit, mountain independence and calvinist conviction with the love of hard work and rock-ribbed integrity. Twice wounded in World War I, twice cited for gallantry in action and awarded the French Fourragere, the Silver Star and the Distinguished Service Cross, he has risen to national and international eminence without once forgetting the Tar Heel motto: "To Be Rather Than To Seem." Endowed with the 18th Century Scotch-Irish settlers' love of "book learning", nourished on the King James Bible and full of the mountain storytelling genius of the Blue Ridge foothills, he has served his state with exceptional ability, then moved in mid-flight to the U.S. Congress where his qualities as scholar and stateman have pushed him to the forefront in a time of national crisis. The nation has discovered Senator Ervin in 1973, but his fellow Tar Heels remember his courage and wisdom from a long way back. As a young state representative from Burke County in 1925 he played a leadership role in helping defeat a "monkey bill" which would have made North Carolina's public schools a laughing stock. From the time of his appointment to the U.S. Senate when he became a member of an earlier select committee involving civil liberties to his more recent role as chairman of another select committee probing election politics and procedures, Senator Ervin has never forgotten the admonition of Thomas Jefferson that "no government ought to be without censors and where the press is free, no one ever will." His defense of constitutional principles has been consistently courageous, always more concerned with issues rather than individuals and everlastingly dedicated to the conviction that "in the end it is the individual—not society and not any group—that is the basic unit of value."

NEWS MEDIA AND THE PRESIDENT

Mr. FANNIN. Mr. President, after President Nixon dismissed Special Prosecutor Archibald Cox there was a flood of mail and telegrams calling for the resignation of or the impeachment of our President.

Much of this emotional response was created by the sound and fury employed by the news media in reporting the Cox dismissal.

Now the impeachment mail has subsided, and I am starting to receive messages from people who are greatly distressed by the manner in which the television networks and some of the national press have acted.

It has become very clear to the discerning citizen that certain elements of the media are carrying on a vendetta against President Nixon, and their hatred for President Nixon was masked very thinly during recent months.

Many people—including some of the most prominent people in journalism and publishing—are asking just what role and responsibilities the press has.

Does the press have the right to pass judgment on a President and then hound him out of office?

That, in my estimation, is exactly what some journalists in both the print and electronic media believe their job to be.

Certain reporters and columnists seem to be trying to set themselves up as a fourth branch of government, superior to the other three, with the power to judge, convict, and punish anyone in or out of government who contradicts their values. Dictatorship by the press is no more appealing to me than any other form of dictatorship.

Mr. President, I believe that the press have an important role in our society. My concern today is as much for the future of this precious institution as it is for the future of our President and our Nation.

Perhaps the best illustration I can give is to put in the RECORD a letter I received this week from a couple in Sun City, Ariz. I ask unanimous consent to have this letter printed at this point:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SUN CITY, ARIZ., *November 5, 1973.*

Hon. PAUL FANNIN,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR FANNIN: We retired last year and have had time to listen to a few more television programs. We feel that the commentators, following speeches and press conferences are extremely biased against the President and do not give correct summations. We, with most of our neighbors, feel that this is a dangerous situation. It seems this is an inexcusable hurt to our President and should be corrected. He doesn't have a chance with such vicious actions.

We hope that some of the Arizona Congressmen will do something to make a balance of truth for the television audience, if it is not already too late.

The televised Watergate hearings were ridiculous and a great waste of tax payers money. It appeared to be just campaigning by the Congressmen involved.

We trust that you will help right this unnecessary wrong.

Sincerely,

Mr. and Mrs. K. N. KEMPER.

Mr. FANNIN. Mr. President, I offer the letter from Mr. and Mrs. Kemper because it states so clearly and simply how many Americans feel about the propagandizing that they are being subjected to on teleivsion news from Washington.

Another letter which may be of interest came to me from a woman who identifies herself as "An Outraged American Lady." I request that her letter and essay be printed in the RECORD at this time.

There being no objection, the letter and essay is ordered to be printed in the RECORD, as follows:

TEMPE, ARIZ., *November 7, 1973.*

To: All Members of the U.S. Senate.
All Members of the U.S. House of Representatives.

DEAR SIR: I am attempting to launch an appeal and plea to my fellow Americans and our representatives with the hope of curtailing the unorthodox behavior of our national networks and news media toward all of our elected officials.

This is also an appeal to the people to help strip away the gags imposed upon our representative bodies and grant them the freedom of speech they are entitled to, by law, without the threat of personal harassment by these news media so that they may function in their proper capacities.

I do not presume to set myself up as judge or jury but must allow my thoughts and hopes for our great country to be counted.

With these aims in mind, I shall continue to direct letters such as the one herewith enclosed for your perusal.

Thank you for your valuable time.

An outraged American lady.

Helen F. Drake.

America, Wake Up!

Shame on you, America, for allowing yourselves to become the pawns of the American Press, and in particular, the T.V. Networks. If this media has become so powerful as to be able to turn tens of millions of Americans against their duly elected President within a matter of weeks, it would seem, to this American, that possibly we are voting for the President of the wrong organization! Should we not, in fact, be voting for the President of the national networks and their board of directors? One would wonder if a similar amount of intensive investigation were directed toward these "gentlemen of the Press", and their motives, how well they would fare. Has anyone yet attempted to investigate the investigators?

Tell me, Mr. and Mrs. America, have you not listened night after night to the opening statement of your favorite newsman (and I quote) "It has been reported", or , "Reports from (this or that) agency", and don't forget, "according to reliable sources". These are the cliches of our guardians of the Press as they begin to sow the seeds of suspicion and doubt so as to hold your attention and keep the fever pitch high while, in reality, very little of what he has to report is factual, except the fact that it may have been said—but, by whom?—Where? And, are these people or agencies qualified to give out such information?

Moreover, why does the T.V. News Media assume the American people are so stupid that they are unable to evaluate or understand the message brought to us by our elected representatives? Why must we continue to endure commentary footnotes, quite frequently taken out of context and hurled into our homes like the onslaughts of a raging river by commentators whose only purpose is to startle and shock us enough to hold our attention until 6 o'clock tomorrow night when they will again appear at their respective work tables only to repeat the same procedure.

We have priests and ministers, movie stars and talk show hosts who have at their fingertips the privilege of the use of these T.V. networks. Surely these are not all qualified political advisors, and yet they are given the opportunity, hour after hour, to sway an enormous amount of public opinion politically. It is this American's opinion that they should stick to their own field.

Please, my fellow Americans, stop and *think* before you hasten to condemn!! Let us take a good strong look—and evaluate and equate for ourselves.

Can the T.V. and News Media of America deliberately and willfully destroy a President of these United States because of a personal vendetta, or for any other reason for that matter? For if we allow it done to one President, it can be done to any President, or company, or corporation, or individual, and God Help Us, our vote may become only as purposeful then as the networks will allow.

The outraged American lady.

Helen F. Drake.

Mr. FANNIN. Mr. President, there are hundreds of good newspapers and thousands of good journalists in the United States.

A newspaper does not have to be gigantic to have publishers or editors or reporters who are perceptive and wise. The smallest daily newspaper in Arizona is put out in the border town of Nogales. The editorial which it carried last Monday is evidence of what I have just said. I ask unanimous consent that this editorial from the Nogales Herald be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Media Hounds

Only one President in our history has taken the abuse that Richard Nixon has.

And he was Abraham Lincoln.

In Lincoln's Day, the Press bore down so hard that they even took his looks to task! Similar punishment is seen in today's Nixon editorial cartoons.

President Nixon is spared one thing, however. The Press hasn't gone after his wife, like they did against Mary Todd Lincoln.

President Nixon, even for his faults in naming aides that betrayed him, still has the respect and admiration of The Nogales Daily Herald.

If President Nixon did only one thing (and his successful efforts have been many) was to end the dreadful Vietnam war, which under President Kennedy and Johnson resulted in huge loss of life and which will have cost the nation an estimated $639 billion, when the last pensioned soldier dies sometime in the next century.

Have all forgotten the thrill of seeing the POW's return as President Nixon said: 'On their feet, not their knees."

President Nixon's opening up of vast new trade markets with China and Russia has eased world tensions.

His handling of the Middle East situation has been sparkling.

President Nixon should not—and will not resign.

To do so, would open the way for press abuse on future Presidents, "who should not be open game."

President Nixon has three years remaining in office.

The media hounds should be called off!

Mr. FANNIN. Mr. President, I might add that this editorial was brought to my attention by a citizen of Mexico who mailed it to me with notations indicating he thinks that President Nixon has been receiving pretty shabby treatment in our press.

Another article I received this week, and I believe many other Members of Congress received, is a reprint of a letter to the editor from a gentleman in Cincinnati who identified himself as a Democrat.

The notation on this reprint indicated that it appeared November 2, 1973, in the Cincinnati Enquirer. I unanimously ask consent that it be printed in the Record at this point:

There being no objection, the letter was ordered to be printed in the Record, as follows:

To All Congressmen: This Democrat knows whereof he speaks. His letter has given me a broader view of what is going on. You too can learn from it. James A. Gardner. Cincinnati, Ohio November 10, 1973.

Reader's Views: The Media's Vendetta

To The Editor: For many months the national television networks—mainly National Broadcasting Co. (NBC) and Columbia Broadcasting System (CBS)—have waged all-out war against the person and office of President Richard Nixon. In recent weeks the attacks have become increasingly vituperative, shrill and personal.

Six years ago another U.S. President, Lyndon Johnson, was undergoing the same kind of assault by the same networks. Their efforts bore fruit: Lyndon Johnson was driven from the White House, and his political scalp hangs today among the trophies of NBC and CBS.

Just how, one might ask, could two men so dissimilar—the one a liberal Democrat, the other a conservative Republican—have aroused in equal measure the vengeful wrath of the mighty television medium? What did these Presidents have in common? Perhaps a review of recent history will yield an answer.

Lyndon Johnson, as President and commander in chief, used U.S. military power to block the Communist conquest of South Vietnam. Although he eventually accepted a kind of stalemate, he resisted all pressures from the networks, various journalists, politicians, etc., to withdraw U.S. troops and to concede victory to Hanoi.

President Nixon, who inherited this most unwelcome war from Mr. Johnson, tried to end it quickly and without dishonor to the United States, but was frustrated again and again by the intransigence and treachery of the Communists. He, too, rejected demands for a pullout of U.S. forces; and finally, amid the frantic screams of the networks, he used U.S. airpower to force North Vietnam to release American prisoners and to end the war.

The determined use of U.S. military strength to oppose Communist aggression in Vietnam is the common denominator shared by Lyndon Johnson and Richard Nixon. Their action was supported by many Americans, deplored by many others. But it brought upon both Presidents the eternal hatred of U.S. leftists of all hues from pink to blood red and, in my belief, the continuing vengeance of the networks whose demands both had disregarded. This, as I see it, is why Lyndon Johnson was attacked with such power and venom during the latter part of his presidency; and this, I think, is why Richard Nixon is now besieged, beleaguered and bedeviled to the very limits of human endurance. Some will scoff at this notion—some will cry "Watergate!"—but Lyndon Johnson had no Watergate, yet had to suffer the same crucifixion.

I have not arrived hastily at these disturbing conclusions. During 44 months in Vietnam as a civilian employee of the U.S. government (March, 1967 to November, 1970) I listened nightly to the NBC, CBS and other broadcasts and telecasts as relayed by the military network. Often, it seemed to me at that time, the broadcasts might have originated in Hanoi or Peking, rather than New York and Washington. I came to believe that the news of the Vietnam War, as selected and presented by the networks to the American people, was sure to produce the worst possible impression of the U.S. war effort. Every U.S. setback, blunder or misdeed, it appeared to me, was magnified and emphasized; U.S. and South Vietnamese successes were minimized; the daily atrocities of the Communist Viet Cong were largely ignored, and the deeds of gallantry and real heroism by U.S. soldiers—numbered in the thousands—were apparently not considered newsworthy. I formed the opinion then, which I still hold, that the gentlemen of NBC and CBS loved America less than they hated the President of the United States.

I am a lifelong Democract, and I do not regard Richard Nixon as either St. Anthony or Sir Galahad. I do see him as an extremely intelligent, tough-minded, realistic and competent chief of state, and what is more important, an absolutely loyal American. I see no one among his political rivals who can match his qualifications to be President. I hope and believe that when the news sources become less polluted, and truth more discernible, the majority of American citizens will be able to judge this man objectively and honestly on the basis of his stewardship as chief executive of the United States.

Terence A. Coyne.

Mr. FANNIN. Mr. President, I also have just received a tearsheet from the October 28, 1973, Los Angeles Times. It was mailed to me by a constitutent in Mesa, Ariz. I ask unanimous consent that the text from this full-page advertisement be printed in the Record:

There being no objection, the advertisement was ordered to be printed in the Record, as follows:

We (a Husband and Wife) Would Like to Say a Few Words for the President

HE IS GOVERNING OUR COUNTRY WELL

1. He has correctly assessed our primary problems of foreign policy and inflation.

2. In foreign affairs, he is succeeding nobly in crisis after crisis. None could do as well.

3. He and a group of the most able men in the field, with the cooperation of the Congress, are doing their best to control inflation. The results may seem dim, but none has offered a better solution.

4. Otherwise, life in these United States is good. We pursue our happiness in peace and safety. All the numerous branches of our government, except the special prosecutors branch of the Attorney General's office, are functioning well.

BUT THE MEDIA ARE A PAIR OF JACKALS AROUND HIM

They are: (1) controlling too much of his time, (2) Turning the American people against him, and (3) Degrading him and his high office.

(1) They control his time, by publicizing a stream of innuendos, rumors, reports, charges against him. If ignored, they attain, particularly in this Watergate setting, the force of fact, so he must constantly deal with them.

(2) They turn the country against him by constantly slanting the news. Recent example: The 9 A.M. October 23rd NBC summary of the then just concluded vital one-hour telecast of former Attorney General Richardson's news conference was completely one sided, mentioning not one of the several things there said in the President's favor. We submit that a major reason the conference did not take the heat off the President was because NBC *said* it didn't.

(3) They degrade him and his office in ways both subtle and obvious, too numerous to specify.

THEY HAVE IMMUNIZED THEMSELVES AGAINST ALL FEELINGS OF LOYALTY AND ARE SPREADING THE IMMUNITY

Every president's right to our loyalty is non-forfeitable. Whether we voted for him or not, he is entitled to it for as long as he discharges the awesome responsibility of that office, regardless of the charges against him. So, we say to NBC, CBS, ABC, and some of the radio stations and publications: Go see The Caine Mutiny again, for if there was ever anyone who deserved the scathing, contemptuous rebuke the Defense Attorney gave the junior officers as they were crowing about the broken captain they had destroyed, you deserve it.

IS THE POT CALLING THE KETTLE BLACK?

And what's it all about? The President's supporters illegally spied on the Democratic Headquarters. They obtained nothing of value and the incident had no bearing on the election. Then, they tried illegally to cover it up, influenced somewhat by a climate toward that for which the President, long ago, admitted responsibility. Yet, the same Media who insist on fanning and decrying this forever, claim the right to do the same themselves: To have spies in places of trust who dishonorably leak to their Reporters confidential information, with them covering up the source. They, with others, insist the President bare his confidential files and proceedings, yet refuse to bare their source of many reports they publish.

SO, HANG IN THERE, MR. PRESIDENT

You have already, with dignity, lasted more rounds than anyone should ask of you, and have suffered punishment far beyond that which would be reasonable for any mistakes you might have made. And remember, two of your highest and most vocal critics, Senators Kennedy and Muskie, did not even survive their opening bells. So who do they want for President—Daniel Ellsberg?

Bert and Melba Lewis.

Those who agree please send your own thoughts, or a copy of this ad, to the President, your Senators and Congressman, and a few friends outside Los Angeles with a request that they do the same.

Mr. FANNIN. Mr. President, the final article which I would like to insert in the Record was mailed to me from Maryland. It is an article from the November 1, 1973, Maryland News/Monitor. I ask unanimous consent that it be printed in the Record at this point:

There being no objection, the article was ordered to be printed in the Record, as follows:

National News Media and Congressional Liberals Continue To Hunt the American President

National TV and some of the printed media along with the liberals in the Congress continue their hunt for the political destruction of President Nixon.

News favorable to Nixon is played down. News hostile to Nixon is played up, and some anti-Nixon news is even fabricated.

The great Washington Post in its Monday edition, after carrying a front page article the Kennedy-backer Cox was supporting Kennedy-friend Bayh's Bill for a new prosecutor apparently ran out of hot editorial copy adverse to the President and so produced a lead editorial demanding a change in the "Presidential style of life." While much of what the Post editorial advanced seems proper, the subject matters they complained of have been practiced by several recent Presidents and did not then or do not now seem to be high crimes leading to impeachment.

The Associated Press distributed the news that the impeachment protests have been small. However, none of the large metropolitan papers that we are able to read carried that news item which is next quoted as it appeared on the front page of the Frederick Post issue of Monday, October 29.

IMPEACHMENT PROTESTS SMALL

New York.—"Drives urging the impeachment of President Nixon have failed to arouse the massive protest displays that characterized the antiwar movement at its height when demonstrators numbered in the hundreds of thousands. Scattered anti-Nixon rallies that have taken place since special Watergate prosecutor Archibald Cox was fired rarely have drown more than a few hundred participants. The White House said Saturday it had received over 3,000 telegrams and thousands of telephone calls, most of them supporting the President, following Nixon's televised news conference on Friday."

The Associated Press report is as we find the local citizens sentiment for impeachment. Nearly 80% of the people we talked with or who talk to us are opposed to the announced purpose of the liberal Democrats, Mr. Meany, and the giant news media to impeach the President.

Mr. FANNIN. Mr. President, this is a sampling of some of the sentiment from across the Nation which has come into my office this week, all of it unsolicited and as far as I can tell not part of any organized campaign. Obviously, many people feel strongly that the President is being treated unfairly. It appears that those who seem so determined to totally destroy President Nixon's credibility are themselves losing credibility with a large segment of the American people.

MIKE HANCOCK, WASHINGTON REDSKIN

Mr. CHURCH. Mr. President, Washington, D.C., has a great number of transplants from Idaho. Some of us work in this town but take every opportunity to get back to our beloved State. Others are permanent residents who have found a chosen endeavor which brought them to the Nation's Capital. In either case, we Idahoans were delighted to learn earlier this year that the Washington Redskins had chosen its only rookie on the active roster from one of our universities. Mike Hancock, a graduate of Idaho State University, is a team member of last year's NFL championship team. He has already distinguished himself as a member of that team.

The Washington Post has run a feature article on Mike Hancock and I ask unanimous consent that the Post article appear at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Close Up, Hancock Scores

(By Kenneth Denlinger)

If Mike Hancock is the youngest, lowest paid and least known of the 40 active Redskins, he also is among the most efficient. Two passes have been directed his way this season and he has caught both for touchdowns. Three for three will be tough.

"You get one and everyone figures it's luck," said Hancock, the other tight end in short-yardage and goal-line situations. "You get two and suddenly they take notice, 'Hey, maybe that guy might be a player.'

"I'm sure the other teams were so worried about Jerry Smith that they forgot about me. Both passes (for a total of three yards) were delays, where I sort of get lost among the blocking and then drift into the end zone."

Hancock was unguarded on each touchdown catch, although the plays were not the same, one calling for him to cut left, and the other right, after he cleared the line of scrimmage.

Film-watching Baltimore Colts undoubtedly have spied the man who wears No. 84 dashing downfield with the other special-teams headhunters in addition to an occasional stint with the offense. He was drafted on the eighth round this year, and is the Redskins' only first-year rookie active at this point in time.

Word of Redskin coach George Allen's distaste for rookies had not reached the Hancock household in Pocatello, Idaho, until a few hours after the draft.

"People would come up and say things like, 'What's it feel like to be drafted by someone who's gonna cut you right away?' " said Hancock, fair-skinned and more angular than the tight ends the NFL computers usually spew out.

"The reporters were the first ones who told me he didn't like rookies, and for three days I was a little worried. Then I figured I might as well get picked by a good team and that if I tried hard enough he'd see something he liked."

The coaches liked his hands and his flair on the special teams, and his stock shot skyward even quicker when Smith was seriously injured in the first exhibition game.

"I'd never really done much special-teams stuff and it's scary," he admitted. 'It's five or six seconds of the roughest, fastest action you can imagine, people flying all around you while you're trying to find the guy who's supposed to block you and also the ball carrier, and also keeping an eye on that wedge."

Hancock was inactive, with a bruised foot, the four weeks after the season opener against San Diego. Then the week of the Cardinal rematch Allen summoned him and literally said there was some good news and some bad news.

The bad news was Alvin Reed's knee injury, the good news Hancock's reactivation. The rookie was so excited he went out and got himself a Lick of the Week, the distinction for the toughest hit in a game by a special-teams player. The reward is two cases of beer.

Hancock, who regularly sees duty on kickoff coverage and punt returns in addition to filling in when someone like Ted Vactor is injured, picked up "the knack" during the exhibition season. He blocked a punt against the Bears. But for every knack, there are a dozen knocks.

"On the first kickoff of the first exhibition (against the Lions), I got knocked sideways but got up before the wedge came," he said. "I thought about diving in, like you're supposed to do, but I saw this hole and waited for the runner. I got him, but he got me."

Hancock has been bounced regularly since, but the blocked punt against the Bears was an absolute gift. The snap was low and nobody touched him, Hancock said. What else is a guy to do but smother the ball?

CREATION OF OFFICE OF SPECIAL PROSECUTOR

Mr. COOK. Mr. President, on behalf of Senator Percy, I ask unanimous consent to have printed in the Record certain materials relative to his testimony yesterday before the Senate Judiciary Committee. His appearance before the Judiciary Committee was in support of S. 2616. This legislation which provides for the creation of an independent Office of Special Prosecutor was introduced October 30 by Senator Percy, and was cosponsored by Senators Baker, Brock, and myself.

As most Senators are well aware, there have been two approaches which have most often been advocated for the creation of an independent Office of Special Prosecutor. The first provides for the appointment of an independent special prosecutor by the Chief Judge of the U.S. District Court for the District of Columbia, pursuant to the so-called authority in article II, section 2 of the Constitution. The second approach, which I have been advocating along with Senator Percy and other Senators, provides for the nomination of an independent special prosecutor by the President with the advice and consent of the Senate a necessary prerequisite for final confirmation. In addition, this approach calls for stringent limitations upon the power of the President to dismiss the special prosecutor.

Mr. President, since it appears that in the near future the Senate will be asked to decide which of these two proposals is most feasible, I would like to bring to the attention of my colleagues the last paragraph of yesterday's decision by U.S. District Court Judge Gerhart S. Gesell in which he declared the dismissal of Special Prosecutor Cox to be illegal. In addressing himself to the issue of a court-appointed special prosecutor, Judge Gesell said:

> The Court recognizes that this case emanates in part from congressional concern as to how best prevent future Executive interference with the Watergate investigation. Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court. As Judge Learned Hand warned in *United States* v. *Marzano*, 149 F. 2d 923, 926 (1945): "Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."

Mr. President, I would only add that, according to newspaper reports, Judge John J. Sirica, the individual who would be given the power of appointment of the special prosecutor under S. 2616, the Bayh-Hart bill, has endorsed Judge Gesell's position on this issue.

Mr. President, I ask unanimous consent that the testimony I mentioned earlier be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Percy Testimony Before Senate Judiciary Committee on S. 2612 To Establish An Independent Office for a Special Prosecutor

Mr. President, I had the privilege of testifying before the Senate Judiciary Committee yesterday on the legislation, S. 2616, which I introduced to create an independent office for a Special Prosecutor.

It is obvious that many members of the Committee are concerned about the section of my bill which limits the power of the President to dismiss the Special Prosecutor. Therefore, I would like to review, with appropriate references to the testimony of others who have appeared before the Committee, the legal background of Sections 12(a) and 12(b) of the legislation.

The *Myers* case has been severely limited by the subsequent cases of *Humphrey's* and *Wiener*. In those two later cases, where the need for *independence* was made clear by Congress, the Court affirmed the right of the Congress to limit the ability of the President to summarily dismiss even Executive branch employees. I note that Professor Cox, on page 138 of the hearings transcript, said that in those two cases—

"The Court stresses that where there was a particular need for independence from Executive pressures in the office, that then the Congress could put restrictions on the President's power to remove, and it seems to me that there is a clear need of justification of that kind here, and I would regard these cases as pretty plainly governing, although not always right on these questions."

This same point was made by Elliot Richardson on pages 493 and 494 of the hearings transcript:

"There may be some qualifications on the power to discharge where the officer exercises some function of an independent kind as later cases indicate with respect to members of regulatory missions, for example, and I think you can make an argument here that the independence of the role of the Special Prosecutor would justify some restrictions on the power of removal, and I think that some restrictions on the power of removal could be written into the statute creating the job and making it subject to confirmation."

He specifically commented on the *Myers* case in answer to a question of Senator Tunney's on page 537 of the transcript:

"Well, I would rely essentially on the authority of the case of *Humphrey's Executor*, which deals with the appointment of an FTC Commissioner for the proposition that there can be qualifications under the power of removal where there is a sufficiently strong basis for this . . . But, I would argue by analogy that where a Special Prosecutor is created in order to exercise independent authority to investigate actions of the Executive branch, including those of the President himself, that it is then appropriate for the Congress to attach some restrictions to his removal and that this is simply a practical result that the Constitution is flexible enough to accommodate.

In any event, the questions of the constitutionality of the removal provision would not affect the constitutionality of the actions of the individual. So any doubt on this constitutional issue does not create the same problems that doubts of the constitutionality of an appointment by the court would create.

"So besides that, if you put into the statute some restrictions on the power of removal, and they are not observed, then you would have, if not a legal issue affecting the tenure of the Special Prosecutor, you would have a very important public issue by which to judge the actions of the President. So it seems to me, therefore, a reasonable practical thing to put these limitations into the statute."

Professor Kurland, of the University of Chicago Law School, was also very emphatic on that point in a dialogue with Senator Fong on page 654 of the transcript where the Professor specifically said that Congress could limit the power of the President in discharging based on the *Humphrey's* and *Wiener* cases:

Fong. "If the Congress says that he is not to be discharged unless consented to by the Congress, would that be unconstitutional under the *Myers* case?"

Kurland. "No, sir."

Fong. "It wouldn't be unconstitutional?"

Kurland. "Not in the reading that has been given to the *Myers* case by the Supreme Court in *Humphrey's* and *Wiener*."

Fong. "You think then the Congress could limit the power of the President in discharging?"

Kurland. "Yes, sir."

Fong. "You base that on the *Humphrey's* case?"

Kurland. "*Humphrey's* and *Wiener*, yes . . . where Congress is specific as to the grounds for removal, they can bind the President to that specific grounds for removal."

Other pertinent parts of Professor Kurland's testimony are as follows:

"The important propositions that I derive as the guiding law from *Wiener* are three: First, where, as here, independence from the President is necessary to the proper performance of the Special Prosecutor's duties, the power of removal does not rest with the President. Second, that the question of the terms and conditions on which an appointee's tenure depends is within the power of Congress to define. Congress will have defined it in S. 2611 so as to remove any of the doubts that might have been derived from congressional silence as in the *Humphrey's* and *Wiener* cases. Third, even had Congress remained silent as to who should have the power of discharge, the necessity for independence would prohibit the President from discharging a Special Prosecutor whose office was created by Congress except on grounds specified in the law. (page 631)

The case (*Wiener*), puts to rest once and for all the broad reading of *Myers* that was offered by the Chief Justice in the *Myers* case. And I think that quite clearly we have come much closer to Justice Holmes' and Mr. Justice Brandeis' dissent in that case as to the law. (page 635)

I would certainly have to be honest with you and say there is less question raised by the Presidential appointment subject to limited power of removal as in the *Humphrey's* case and the *Wiener* case than the court-appointed prosecutor." (page 659)

Professor Paul Freund of Harvard Law School gave his opinion that *Myers* was not applicable where, on page 684 of the transcript, he said that the *Myers* decision, "applies only to offices where Presidential supervision is appropriate. Where independence is appropriate, the provision for removal can be more flexible. This is the principle of the later cases dealing with removal of members of administrative commissions."

Professor Freund concluded, on page 686 of the transcript, that—

"The escape from (the *Myers* decision problems) is to take the position that the prosecutor is not a purely executive officer and that is my position. . . ."

So, I believe that the testimony before this Committee has already made it clear that the *Myers* case, when viewed in the light of *Humphrey's* and *Wiener* is no impediment to my legislation since the crux of my legislation is the need for the independence of the Special Prosecutor, and thus Congress can restrict the President's ability to remove him.

Mr. President, I ask unanimous consent that my testimony be printed in full at this point in the RECORD, and that the text of S. 2616 also be printed for the convenience of all of my colleagues.

TESTIMONY OF SENATOR CHARLES H. PERCY, BEFORE THE SENATE JUDICIARY COMMITTEE, NOVEMBER 14, 1973

Mr. Chairman and members of the Committee, I appreciate this opportunity to appear before you today to discuss the important question of legislation to establish the office of an Independent Special Prosecutor.

There can be little doubt that the vast majority of the American people want the Congress to act to establish an independent office of Special Prosecutor. I can say this as one who knows that some questioned the concept last May when I introduced the Senate Resolution which called upon the President to appoint a Special Prosecutor. Now, however, I think it fair to conclude that the people, and indeed the Congress, are nearly unanimous in their desire to achieve a common goal. Where the difficulties arise is *how* to do it. I submit that S.2616, the legislation that I introduced along with Senators Baker, Brock, and Cook achieve that goal in the most practical and effective manner.

In reviewing the testimony before this Committee, I note that it has dealt mainly with S. 2611, the Hart-Bayh bill which directs the Chief Judge of the District Court for the District of Columbia to appoint a Special Prosecutor. Despite the fact that it has 55 co-sponsors, some very serious constitutional questions have been raised about the bill. It is something over which reasonable men can and do differ. I will not review those questions for they have been thoroughly explored, and both sides of this complex issue have been persuasively presented to the Committee. Frankly, I do not know whether or not that bill is constitutional, and I dare say that none of us will know for certain unless and until the Supreme Court tells us.

The fact is that a court challenge is unavoidable if S. 2611 is enacted. The question it raises is a threshold question, and although you may decide to write into the legislation a provision similar to that in the Voting Rights Act of 1965 to allow an immediate court test, there is no guarantee that the issue could be resolved in anything less than several months. I do not believe it is wise to enact legislation which invites months of legal conflict over a collateral issue—an issue which would have little or no relevance to the ultimate questions we all want resolved as expeditiously as possible. I believe this would be an unnecessary and unwise exercise.

The President has already appointed Leon Jaworski to be Special Prosecutor. Mr. Jaworski has assumed the responsibility of Archibald Cox. While the validity of a judicially-appointed bill is being hammered out in the courts, he will probably already have obtained indictments, yet without the cloak of complete credibility he needs. Congress' efforts would appear to have contributed only to confusion and delay. I do not see what we would gain, in balance, by passing legislation that calls upon Judge Sirica to appoint a special prosecutor, with all the potential problems and delays that could entail, when there is perhaps a more efficient way of doing it.

I believe that my legislation, S. 2616, is a more appropriate vehicle than S. 2611. Whereas S. 2611 raises an immediate threshold question which will necessitate a court test, S. 2616 does not raise any threshold questions and thus avoids the built-in delays present in the Hart-Bayh bill. As soon as S. 2616 is enacted into law, the Special Prosecutor's work goes forward without everyone waiting for months to see if it is constitutional.

My legislation would direct the President to appoint a Special Prosecutor, within seven days of enactment, by and with the advice and consent of the Senate. Constitutionally, there is no doubt that Congress can create an office, direct the President to nominate the head of it, subject the nominee to the advice and consent procedure of the Senate, and assign this individual very specific duties.

However, there have been some questions raised by Section 12(a) and (b) of the legislation I have proposed. These sections provide that the Special Prosecutor can be dismissed by the President only for malfeasance in office, neglect of duty or violation of the statute which created the Special Prosecutor's office. Should the President determine that one or more of these causes existed, he would then notify the Congress of his intent to dismiss the Special Prosecutor. If neither House of Congress acted within 30 days, by passing a simple resolution of disapproval, then the dismissal would become effective. But, if either the House or the Senate passed such a resolution, then the Special Prosecutor's dismissal by the President would not become effective, and he would continue in office.

The first and most important objection raised to this dismissal section is the Supreme Court case of *Myers v. United States*, 272 U.S. 52 (1926). In that case, the Court affirmed the power of the President to summarily dismiss a postmaster from office, despite the fact that the statute in question stated that such officials could be removed from office only with the advice and consent of the Senate.

The opinion of Chief Justice Taft, himself a former President, sketched a very broad inherent constitutional power of the President to remove Executive branch employees, notwithstanding the limitations which Congress may have imposed regarding the nature of their tenure. However, even at the time of this decision, the wisdom of the approach was severely questioned. Justice Holmes, in dissent, declared that, "I have little trouble in accepting . . . (Congress') power to prolong the tenure of an incumbent until Congress or the Senate shall have assented to his removal." 272 U.S. at 177.

Justice Brandeis, also in dissent, discussed the President's power of removal, saying that, like the power of appointment, it comes immediately from Congress. "But the Constitution has confessedly granted to Congress the legislative power to create offices, and to prescribe the tenure thereof; and it has not in terms denied to Congress the power to control removals." 272 U.S. at 245.

Brandeis, however, was willing to draw a dividing line between those whom the President could dismiss at his whim, calling them "high political officers," and those whom Congress could statutorily protect from such groundless dismissal. 272 U.S. at 247.

The dissent in the *Myers* case was implicitly echoed by a majority of the Supreme Court in the later case of *Humphrey's Executor* v. *U.S.*, 295 U.S. 602 (1934). That case involved the dismissal for political reasons of a member of the Federal Trade Commission, despite the fact that Congress had limited the grounds on which a Commissioner could be dismissed. The Court specifically limited *Myers*, saying that "the necessary reach of the decision (in *Myers*) goes far enough to include all *purely executive officers*. It goes no farther . . ." 295 U.S. at 627–628 (emphasis added). Having so limited the *Myers* decision, the Court stated its holding:

"Whether the power of the President to remove an officer shall prevail over the authority of Congress to condition the power by fixing a definite term and precluding a removal except for causes, will depend upon *the character of the office*." (Emphasis added.)

In *Wiener* v. *U.S.*, 357 U.S. 349 (1958), though the members of the War Claims Commission were to serve on the Commission until it expired, and no removal power was given to the President by Congress, a member of the Commission was fired for political reasons. Justice Frankfurter, speaking for a unanimous Court, denied the power of the President to summarily remove the Commissioner, saying:

"The assumption was short-lived that the *Myers* case recognized the President's inherent constitutional power to remove officials, no matter what the relation of the executive to the discharge of their duties and no matter what restrictions Congress may have imposed regarding the nature of their tenure." 357 U.S. at 352.

Justice Frankfurter then went on to examine *Humphrey's*, saying that the ability of the President to fire at his whim, and the ability of Congress to restrict that power, "derives from the difference in functions between those whose tasks are part of the Executive establishment and those whose tasks require absolute freedom from Executive interference." He quoted two significant parts of the *Humphrey's* case:

"(*Humphrey's*) drew a sharp line of cleavage between officials who were a part of the Executive establishment and were thus removable by virtue of the President's constitutional power, and those who are members of a body *'to exercise its judgment without the leave or hindrance of any other official or any department of the government.'* 295 U.S. at 625–626. (Emphasis added.)

"For it is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will." 295 U.S. at 629.

Thus, *Myers* was severely limited by the Supreme Court. The Court decided that whether or not an officer appointed by the President could be protected from Presidential removal depended on the *degree of independence necessary* to enable the officer to perform his duty as Congress intended. In the *Humphrey's* and *Wiener* cases, the officers were quasi-judicial in nature. However, I submit that these cases did not hinge on the quasi-judicial nature of their offices, but rather on the *need* for independence. That is the constant theme that runs through these decisions.

In those instances where *independence* is absolutely required, *Humphrey's* and *Wiener* clearly limit *Myers* and allow Congress the power to put restrictions on the ability of the President to dismiss an Executive branch employee whose function requires freedom from Executive interference, and thus who is not a "purely executive officer."

Therefore, just as Congress could limit the ability of the President to dismiss an FTC Commissioner for specific cause, (as made clear in *Humphrey's*), and just as Congress could prohibit the President from dismissing a War Claims Commissioner who had a set term of office, (as made clear in *Wiener*), then just as clearly can Congress restrict the power of the President to dismiss the Special Prosecutor to three grounds: *neglect of duty, malfeasance in office,* and *violation of the statute which created the office.* In all three cases, the need for insulating certain executive officers from political interference, and the absolute requirement of independence, is basic to the nature of the offices created.

That still leaves the question of Section 12(b) of the bill, which provides the procedure for Congress to stop a dismissal from becoming effective. In *Wiener*, Justice Frankfurter made it clear that the *intent* of Congress to insulate the Commissioner was to guide the Court. Since that intent was clear, and since Wiener's term of office was to be co-terminus with the life of the Commission, the Court said that the President could not remove Wiener. The Justice went on to say that, "if, as one must take for granted, the War Claims Act precluded the President from influencing the Commission in passing on a particular claim, *a fortiori* must it be inferred that Congress did not wish to have hung over the Commission the Damocles' sword of removal by the President for no reason other than that he preferred to have on that Commission men of his own choosing."

Once one concedes that the President does *not* have an absolute inherent power to fire everyone in the Executive branch of government, and once one concedes that Congress can give or refuse to give to the President whatever powers of dismissal it, in its own judgment, considers appropriate, then logic suggests the validity of providing a mechanism whereby the Congress can act to prevent a President from dismissing the Special Prosecutor if it feels that such dismissal was unwarranted.

Indeed the Congress seems to have gone even farther in creating the General Accounting Office and providing for a Comptroller General of the United States. 31 U.S.C. 42, 42a, 43. Under the statute, the President appoints the Comptroller General with the advice and consent of the Senate, but he can only be removed prior to the expiration of his term for specific causes and only by a joint resolution of the Congress, or by impeachment.

I suggest that we also examine the practicality of my legislation. As I said earlier, it raises no threshold legal question. As soon as it is estimated, and the Senate confirms the President's nominee, the work can continue, with no collateral attacks on the validity of the Special Prosecutor's authority. In fact, the only way that the validity of Section 12 can be raised is for the Special Prosecutor to be nominated by the President, confirmed by the Senate, and then dismissed by the President, with the Congress blocking the dismissal. I doubt that these series of events would ever occur taking into account the representations made by the President and the public reaction to the recent firing of the Special Prosecutor, and, therefore, it would most likely never be challenged. But, if it were, the resolution of that question would in no way affect the validity of the indictments the Special Prosecutor had obtained, or any convictions which may have resulted.

Realistically, I cannot imagine that the President would again risk perhaps his office itself by firing the Special Prosecutor. But if he did, he would do so in the knowledge that it would not necessarily be as final as his dismissal of Prosecutor Cox. He would know that in addition to the public outcry and the congressional reaction, he might be faced with yet another court suit as he tried to get rid of the Special Prosecutor. I think he would be reluctant to take that risk.

S. 2616 also avoids the problem of having a judicially-appointed Special Prosecutor competing with Mr. Jaworski. I feel certain that were this legislation enacted, the President would nominate Mr. Jaworski. Thus, we could avoid a needless institutional conflict, and we could work with the President, taking his nominee, subjecting him to Senate hearings on his confirmation, and if confirmed, then wrapping him in a cocoon of independence. I believe that this is the responsible and most effective way of avoiding more constitutional crises. It is a way of getting on with the prosecution of the Watergate-related crimes in a manner that would give the people confidence that Congress had acted to insure fair, full, and impartial justice.

Mr. Chairman, finally I would like to indicate that I intend to introduce two amendments to my own legislation. First, I would suggest that if the President did not appoint a Special Prosecutor within seven days, as provided in the legislation, then there would be a vacancy in the office, and the court should be allowed to appoint an interim Special Prosecutor, until such time as the President made his nomination. This would be along the lines of 28 U.S.C. 546 which permits the court to fill vacancies in the office of U.S. Attorney.

My second change would be for only the Senate to have the power of disapproving the dismissal of the Special Prosecutor. Not only would this be less cumbersome, but since the Senate would have originally confirmed the nominee, it is the body which should have the power to advise and consent to his dismissal.

Mr. Chairman, the President's statements concerning Mr. Jaworski's power, authority and jurisdiction have been most encouraging. However, they are no substitute for Senate confirmation and statutory independence.

His agreement that the Special Prosecutor would only be dismissed after the President had received the consensus of the congressional leaders is very similar in principle to my proposal. But I would suggest that this would be a matter not just for congressional leaders to agree upon. Instead, it would be a matter which the Congress, or at least the entire Senate, would need to consider and give its advice and consent to.

Mr. Chairman, I urge the members of this Committee, after weighing the many factors which have been set out by all of the witnesses, to act expeditiously and act decisively. We in the Congress have a responsibility to restore the faith of the American people in the viability of their governmental institutions. I believe that it would be a mistake to pass legislation which casts the shadow of continued court battles on collateral issues. The country should not be subjected indefinitely to a withering barrage of court tests between the Congress and the Executive while the national nightmare we call Watergate goes unresolved.

If we can pass legislation enabling the Senate to confirm a Special Prosecutor, and simultaneously protect him from arbitrary dismissal, then he can get on with his vital work, and the rest of us in government can get back to ours.

Because, today, realistically, the nation has only two alternatives. Either the prosecution of the Watergate will go forward under the jurisdiction of a prosceutor appointed unilaterally by the President, or the prosecution will halt while the courts determine the validity of legislation which poses instant, serious constitutional questions.

Perhaps the single most important quality of the legislation we offer is in its appeal for a compromise within the framework of the tradition of the Constitution.

S. 2616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the Independent Special Prosecutor Act of 1973".

SEC. 2. The Congress hereby finds and declares—

(a) alleged crimes arising out of the Presidential campaign and election of 1972 have raised serious questions in the minds of all Americans of whether a full and complete investigation and prosecution of those crimes will proceed absent any partisanship or favor;

(b) Although the Justice Department is composed of men and women of the highest integrity and ability capable of conducting a fair, full, and impartial investigation and prosecution of these alleged crimes, a significant doubt still remains as to whether the public need for the appearance as well as the fact of justice would be satisfied;

(c) the appointment of a Special Prosecution Force in the executive branch of Government on May 24, 1973, following upon the adoption of Senate Resolution 105, had begun the process of restoring the faith of the American people in the integrity of this administration and in particular in the belief that the ends of justice were to be served;

(d) the dismissal of the Special Prosecutor on the direct order of the President of the United States on October 20, 1973, undermined this growing faith, and has plunged the country into a crisis of confidence in its Government and in those who have been elected to lead the Government;

(e) in order to restore the public confidence, the investigation and prosecution of any offense arising out of the Presidential campaign and election of 1972 should be returned to an independent prosecutorial force.

SEC. 3. There is hereby established an Independent Special Prosecution Office, which will have the responsibility for investigating and initiating prosecution of all offenses arising out of the Presidential election of 1972 and matters related thereto and arising therefrom, including all matters which were under investigation by the Special Prosecutor force prior to October 19, 1973, pursuant to the agreement made between the former Special Prosecutor and the Attorney General designate on May 19, 1973.

SEC. 4. The President of the United States is hereby authorized and directed to appoint (within seven days of the enactment of this legislation) a Special Prosecutor and a Deputy Special Prosecutor, by and with the advice and consent of the Senate.

SEC. 5. The Special Prosecutor is authorized and directed and shall have exclusive jurisdiction, to investigate, as he deems appropriate, and prosecute against and in the name of the United States—

(a) offenses arising out of the unauthorized entry into Democratic National Committee headquarters at the Watergate;

(b) other offenses arising out of the 1972 Presidential election;

(c) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election;

(d) all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973); and

(e) offenses relating to or arising out of any such matters.

SEC. 6. The Special Prosecutor shall have full power and authority with respect to the matters set forth in section 5 of the Act—

(a) to conduct proceedings before grand

juries and other investigations he deems necessary;

(b) to review all documentary evidence available from any source;

(c) to determine whether or not to contest the assertion of executive privilege or any other testimonial privilege.

(d) to receive appropriate national security clearance and review all evidence sought to be withheld on grounds of national security and if necessary contest in court, including where appropriate through participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

(e) to make application to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders;

(f) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations, and handle all aspects of any cases over which he has jurisdiction under this Act, in the name of the United States; and

(g) notwithstanding any other provision of law, to exercise all other powers as to the conduct of criminal investigations and prosecutions within his jurisdiction which would otherwise be vested in the Attorney General and the United States attorney under the provisions of chapters 31 and 35 of title 28, United States Code, and the provisions of 26 C.F.R. 301.6103(a)-1(q), and act as the attorney for the Government in such investigations and prosecutions under the Federal Rules of Criminal Procedure.

Sec. 7. (a) All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties enumerated in section 5 hereof, tangible or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation by the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) All investigations, prosecutions, cases, litigation, and grand jury or other proceedings initiated by the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be continued, as the Special Prosecutor deems appropriate, by him, and he shall become successor counsel for the United States in all such proceedings, notwithstanding any substitution of counsel made after October 20, 1973.

Sec. 8. The Special Prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provision of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. The Special Prosecutor is authorized to request any officer of the Department of Justice, or any other department or agency of the Federal or District of Columbia government, to provide on a reimbursable basis such assistance as he deems necessary, and any such officer shall comply with such request. Assistance by the Department of Justice shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation: *Provided*, That only the Special Prosecutor and the Deputy Special Prosecutor shall have access to confidential or classified documents, records, files, or other such materials unless otherwise waived by the Attorney General or any other head of an appropriate agency.

Sec. 9. The Administrator of General Services shall furnish the Special Prosecutor with such offices, equipment, supplies, and services as are authorized to be furnished to any other agency or instrumentality of the United States.

Sec. 10. Notwithstanding any other provisions of law, the Special Prosecutor shall submit to the Congress directly requests for such funds, facilities, and legislation as he shall consider necessary to carry out his responsibilities under this Act, and such request shall receive priority consideration by the Congress.

Sec. 11. The Special Prosecutor shall carry out his duties under this Act within two years, except as necessary to complete trial or appellate action on indictments then pending.

Sec. 12. (a) The Special Prosecutor and the Deputy Special Prosecutor may be removed by the President for neglect of duty, malfeasance in office, or violation of this Act, but for no other cause.

(b) When the President believes such violations have occurred, he shall prepare a notice of dismissal. Such notice of dismissal shall be delivered to both Houses of Congress, stating the reasons for such. The dismissal shall become effective at the end of the first period of thirty calendar days of continuous session of Congress after the date on which the notice is delivered to it unless between the date of transmittal and the end of the thirty-day period either House passed a resolution rejecting such dismissal.

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

Sec. 13. If any part of this Act is held invalid, the remainder of the Act shall not be affected thereby. The provisions of any part of this Act, or the application thereof to any person or circumstance if held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

THE PRESIDENT AND THE NEWS MEDIA

Mr. ALLEN. Mr. President, on November 11, 1973, the lead editorial in the Birmingham News was an editorial written by James R. McAdory, Jr., editorial page editor of the News, entitled "Time To Move Ahead." This thought-provoking editorial carries words of wisdom which, if heeded by my colleagues, will benefit all of us but, more importantly, will be of inestimable benefit to the Nation.

Sometimes news media closer to the scene of events project a distorted view of the happenings and probable results of momentous events and make ill-advised recommendations as to the proper course to pursue, while news media "back home" are able to analyze the events and put them in better focus and sharper perspective and better predict the probable results of such happenings. Reports from the "grassroots" sometimes are at sharp variance with shrill analyses and demands of the national news media.

I ask unanimous consent that a copy of this editorial containing advice from the grassroots be inserted at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Time To Move Ahead

Two questions dominate the aftermath of the Watergate affair and assorted other charges and innuendoes which have been made against President Nixon:

(1) Should the President be impeached?

(2) Should he resign?

The answer, as seen from this perspective, is "No" to both questions.

To say that Mr. Nixon should be impeached is to say that proof exists that he is indictable for "treason, bribery or other high crimes and misdemeanors" as defined as grounds in the Constitution.

No such proof exists.

Admittedly, the President suffers a loss of credibility in some quarters and enjoys low political esteem in a considerable portion of the electorate.

But only one man has attempted to show that the President was directly connected with wrongdoing by his subordinates, and that testimony was replete with hearsay and conjecture. The investigation goes on. If in the future it is established that the President personally broke the law, then and only then would be an appropriate time to consider impeachment—but that time is not now.

The fault with Mr. Nixon's accusers—and the weakness of their case—is that the charges against him have never been defined. Unproved charges may be an effective political weapon to be used against the President. It is also easy enough to make vague innuendoes having to do with his "state of mind." But let a prosecutor use such tactics in court and see how fast his case gets thrown out.

It will be the task of the House Judiciary Committee to attempt to draw up a bill of particulars in considering resolutions of impeachment which have been offered. If it conducts its impeachment inquiry in the same loose manner in which statements have been bounced around by critics of the administration and the media, then it will have failed in its responsibility.

However unpopular the President may be to some people, unpopularity in itself is not an impeachable offense. It would be a dangerous precedent for an out-of-power majority in Congress to attempt to use its voting power to void a presidential election strictly because it has the votes to do so. The charges in an impeachment process must be solid and defined. So far the case against Mr. Nixon, even though strongly emotional, is undefined and soft as mush with unprovable assertions.

Some also have argued that Mr. Nixon ought to be thrown out of office on grounds that he has lost the ability to govern effectively. Such an argument—that he has lost the ability to govern—is highly subjective and impossible to prove one way or the other. But even if the argument could be made convincingly against Mr. Nixon, the mere loss of effectiveness, again, is not an impeachable offense.

It is obvious by now that the President was wrong in his selection of key staff members who, in turn, made further poor personnel choices. It might also be argued that if Mr. Nixon were a personnel manager of a corporation with such a record he would be fired. But Mr. Nixon is not a personnel manager. And error, again, is not grounds for impeachment.

An unsuccesful impeachment would needlessly drag the nation through more cliff-hanging suspense about the future leadership of the country. It could in the end have the effect of vindicating the President and perhaps deflating some of the controversy. But it would be grievously damaging.

However much Mr. Nixon's enemies would like to see him thrown out of office, a successful impeachment attempt is only a remote possibility.

A lot of people—those who bitterly have opposed Mr. Nixon all along—would like nothing better than to see him resign.

Some may argue that the President, by resigning, would spare the country more painful division. But would the country rally around a Carl Albert or a Gerald Ford? Hardly. Congress would have a field day with a figurehead in office—but it would enjoy its power at the expense of the country's loss of presidential leadership.

People may argue all they want to about resignation, but that is one decision which is strictly up to the President himself. He has said emphatically that he has no intention of walking away from the office, an office he has spent the better part of a lifetime working to attain. And it would be out of character for him to resign, having refused to be swayed so far by constant criticism and even mass demonstrations against his policies.

The present situation is an unhappy one. Certainly the country has been hurt both at home and abroad by the scandal.

But it is a situation that Mr. Nixon's critics can help to ameliorate if they choose, if they have the foresight to see that impeachment is a very long shot at best and that absolutely no chance exists for his resignation, they could help begin the process of trying to put the national nightmare behind us.

The country has suffered long and agonizingly as a result of the sordid events of the 1972 campaign. But sooner or later there comes a time for congressional Democrats and the media to accept the election as final and to discontinue the rehashing of events. The sooner that time comes, the better for everyone.

CIVIC-MINDED INDUSTRIAL COMPANY

Mr. DOMENICI. Mr. President, I commend a far-sighted community in my good State of New Mexico and a civic-minded industrial company which found a way of helping a community while filling its own needs. The town of Carrizozo had been searching for some time for an industry to employ the unskilled and semiskilled people of Lincoln County. They found Scott Industries, Inc., a manufacturer of portable arc welders, formerly located in Irving, Tex. On Friday, November 30, there will be a dedication ceremony at the new Scott Industries plant in Carrizozo. This New Mexican owned company says its decision to move to Carrizozo was a direct result of the efforts by the town. In fact, the company is thanking the townspeople for bringing them back to New Mexico.

Mr. President, I am proud of the people of Carrizozo; I am proud of what they have done; and I am proud, most of all, of the spirit they displayed, a spirit which once characterized America and particularly the West. It is a spirit that says that we are not going to wait around for someone to help us when we have a problem. We can still help ourselves. That is what the people of Carrizozo did, and I think it could well serve as an example for many communities across this Nation. There is still the option of helping oneself.

NOMINATION OF WILLIAM H. DONALDSON TO BE UNDER SECRETARY OF STATE FOR COORDINATING SECURITY ASSISTANCE PROGRAMS

Mr. PELL. Mr. President, I am delighted that the name of Mr. William H. Donaldson, of New York, is before the Senate for confirmation as Under Secretary of State for Coordinating Security Assistance Programs. I warmly support his confirmation for a key position that is being enlarged to include important new responsibilities including energy and scientific matters.

I have the greatest respect and admiration for Mr. Donaldson, not only for his professional competence and innate ability, but also for his solid character traits of integrity, candor, and dedication to the public good. He will thus bring to the administration sorely needed qualities, the absence of which has been the cause of such unhappy events.

I am sure, too, that he will prove a valuable addition to the State Department team in support of the tireless and effective efforts of our new Secretary of State. Under Dr. Kissinger's leadership, the State Department is resuming its appropriate role in the conduct of foreign affairs, especially in seeking national security in the establishment of a peaceful world order. Mr. Donaldson, I am sure, will make a distinguished contribution to the accomplishment of these crucial tasks.

COURT-APPOINTED SPECIAL PROSECUTOR

Mr. HUGH SCOTT. Mr. President, for the information and interest of my colleagues, I ask unanimous consent that the text of a letter from John J. Sirica, chief judge of the U.S. district court to the distinguished Senator from Mississippi (Mr. EASTLAND) be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA,
November 15, 1973.

Hon. JAMES O. EASTLAND,
U.S. Senate, Committee on the Judiciary, Washington, D.C.
D.C.

DEAR SENATOR EASTLAND: I have received your letter dated November 15th concerning a question a quotation attributed to me in the *Washington Post* newspaper. I have read the *Post* article you referred to and find it substantially accurate insofar as it refers to my statements. Shortly after Judge Gesell of this Court released his opinion in the case of *Nader v. Bork*, I was visited in my chambers by several reporters who asked whether I agreed with the paragraph of that opinion in which Judge Gesell notes his opposition, and the reasons therefor, to a court-appointed special prosecutor. I responded that personally, I am in full agreement with Judge Gesell's statement. I also mentioned that I had been informed that several other active judges, members of this court, were of the same opinion.

I might mention that shortly before receiving your letter this afternoon, I had lunch with eight of our judges, each of whom remarked that he disapproves of a procedure that would require this court to appoint a special prosecutor.

Thank you for your letter and interest in this matter.

With kindest regards,
Sincerely yours,
JOHN J. SIRICA.

DWELLINGS BY DEFAULT

Mr. BIDEN. Mr. President, Writing in the September 29 issue of Barron's, a Dow-Jones publication, Eric Aiken painted a rosy picture of the future of investment and growth in the mobile home industry. He states:

> Few, if any, manufacturing groups enjoy more favorable and well-defined prospects for the longer haul. Quite simply, mobile homes represent about the only source of reasonably priced shelter for low and moderate income families.

In his analysis, Mr. Aiken makes note of the rate of increase in profits—in excess of 20 percent in each of the past 5 years—which has tripled earnings in the business since 1968. It was that year that, acting on the President's imperative of "a decent home in a suitable environment for all American families," that this body passed the Housing and Urban Development Act of 1968, calling for construction of 26 million new or renovated structures to provide for the Nation's millions of victims of substandard housing within a decade. The fact of the boom in the fabrication and sales of mobile homes, catering as they primarily do to a market of marginally subsistent purchasers, is a profoundly unsatisfactory comment on the success of the Department of Housing and Urban Development in carrying out its Presidential and congressional mandate. The families least able to afford the payments on a safe home in a desirable location have, by virtue of the HUD moratorium on the construction of federally funded residences for lower- and middle-income households, and the skyrocketing ceiling rates on conventional mortgage interest charges with the consequent credit crunch, been left with two options, investing in a mobile home or "slumming it."

As Mr. Aiken notes:

> With the median price of a new house (excluding land) near $27,000, mobile home makers, whose typical unit has a price tag of under $7,000 have come to dominate the low end (20,000 dollars and under) of the shelter market. Demographic trends are enlarging the mobile home makers key markets . . . a survey by the Department of Housing and Urban Development reveals that 20% of the heads of mobile home households are 55 or older. Fully half of the heads of households occupying mobile homes are 35 or younger. The 35 and under bracket is the fastest growing age group in the domestic population. Meanwhile, the ranks of the retired (55 and over) are being swelled by the people leaving their jobs earlier. Together these two age groups account for roughly 60% of the

> mobile home demand. Even above the poverty level, more than 40% of all U.S. families and a far larger percentage of new households that are formed earn less than $8,000 a year. This income level effectively disqualifies them from purchasing a home costing much more than $20,000, or renting an apartment where the monthly outlay exceeds $150. As it happens, studies by the Census Bureau and the National Association of Real Estate Boards indicate that only 20% of the conventional housing starts and about 25% of existing houses and apartments coming back on the market in any given year meet these criteria. Mobile homes are virtually the only kind of low-cost housing that's available to the working poor.

Mr. President, the success of the mobile home industry in the last decade is incontestable. By 1980, the annual rate of trailer deliveries, excluding those sold directly to the Government at low profit for disaster relief purposes—more than 14,000 in 1972—will have gone from 576,000 units last year, worth over $4 billion, to 800,000 annually. This output accounted for an excess of 40 percent of the new single family dwellings sold and more than one-fifth of the total construction starts in 1972, a boom year for the housing industry.

Mr. Aiken catalogs one advantage of the mobile home:

> Mobile homes in the main are taxed as personal, rather than real, property, and rate schedules are consideraly lower . . .

I quote from the concluding passages of Mr. Aiken's article:

> With an unintended assist from the Federal government, the mobile home industry has come a long way from the scuffy trailer parks which blighted the landscape during and after World War II. While other sectors of the shelter business benefited from direct and indirect handouts, the unsubsidized mobile home makers profited from the mismanagement of the economy during the Vietnam war that put conventional housing beyond the reach of all but the relatively affluent.

In my own experience, as recently as 1 year ago as a county councilman in Delaware, a State with 26,000 substandard dwellings, I have seen first hand the problems created for citizen and government alike by the inaccessibility of conventional housing. But there are problems. Buyers of mobile homes see their investment decrease by 65–80 percent of its original value within 15 years of purchase, rather than appreciate with time as do most conventional dwellings. And local officials confront the difficulties inherent in planning for permanent and paced growth for a mode of shelter whose hallmark is its mobility, by throwing up their hands in all too many instances.

Mobile home residents may respond to social and economic discrimination arising from homeowners and local revenuers by flocking to unincorporated areas with insufficient environmental support for such a buildup, as exemplified by the unbounded growth in the coastal areas of Delaware's Atlantic shore.

At this point in my remarks, Mr. President, I ask unanimous consent that Eric Aiken's instructive article entitled "For the Long Haul Mobile Homes are the Likeliest Form of Middle-Income Shelter," be inserted in the Record at this point in my remarks:

There being no objection, the article was ordered to be printed in the Record, as follows:

For the Long Haul Mobile Homes Are the Likeliest Form of Middle-Income Shelter

(By Eric Aiken)

When the Mobile Home Manufacturers Association closes the books on 1973, it may be tempted to borrow a phrase from Charles Dickens: ". . . the best of years . . . the worst of years." The industry will have recorded its usual annual gain in unit volume. But owing to high interest rates, volatile raw materials costs, consumerism, temporary excess capacity, ill-considered diversification and even inclement weather, only a handful of producers will show higher earnings.

Few, if any, manufacturing groups enjoy more favorable and well-defined prospects for the longer haul than mobile home makers. Quite simply, mobile homes represent about the only source of reasonably priced shelter for low- and moderate-income families. And the evidence suggests that such difficulties as exist for those in the business are strictly short-term.

NATIONAL GOALS

Beset by high mortgage rates, spiraling costs and shortages of skilled labor, conventional homebuilders will be hard put to meet the national goals set by the Housing and Urban Development Act of 1968. This omnibus bill calls for 26 million new or rehabilitated dwelling units in the U.S. by 1978. Achievement of this ambitious objective with site-built units would require new starts to average over 2.6 million annually—a level that was not approached even in the boom year 1972. Accordingly, mass-production techniques seem to offer the most promising and practical solution to the problem of assuring an adequate domestic housing stock.

Mobile home makers have stepped into this breach, and, like the Pilgrims, done well by doing good. Last year, 350 domestic manufacturers shipped about 576,000 units worth over $4 billion. In 1973, the industry confidently expects to chalk up its twelfth record year in the last 13, with deliveries in the neighborhood of 625,000 units. (The data do not include low-profit direct purchases by federal, state and local agencies, which use mobile homes to shelter victims of such natural disasters as floods and hurricanes. In 1972, over 14,000 units were bought for such purposes.) During the 1972–80 period, according to Commerce Department projections, mobile home shipments will grow by close to 5% a year. By the turn of the decade, it is expected the industry will be delivering over 800,000 units annually.

Last year, mobile homes accounted for over 40% of the new single-family dwellings sold in the U.S. and more than 20% of total housing starts. This remarkable market penetration is largely a matter of dollars and cents. Construction costs for conventional housing now average over $16 a square foot. Factory-built mobile homes, which include furniture, appliances and amenities like carpeting and drapes, can be turned out for just over $8 per square foot. With the median price of a new house (excluding land) near $27,000, mobile home markers, whose typical unit has a price tag of under $7,000, dominate the low end ($20,000 and under). Mobile homes' square-footage costs have been kept relatively stable in recent years by comparatively low labor expenses and mass-production techniques.

For his money, the average buyer gets 700 or more square feet of living space. Those whose requirements are greater can purchase so-called doublewides or other oversized and expandable models for commensurately higher prices, ranging up to $20,000 and over for deluxe units.

Periods when money is tight and/or dear do not exert as adverse an effect upon mobile homes as on conventional housing. Year-to-year gains in shipments do moderate, because dealers cannot afford to finance sizable inventories. Beyond the middlemen, however, there are no real difficulties. Most purchasers of mobile homes, financed with chattel mortgage loans—the kind offered car buyers. Effective interest rates of 12% to 18%, against a 9% top on conventional mortgages, plus generally short maturities, make mobile home paper attractive to lenders. Normally, a steady stream of funds is available in bad times as well as good.

INTEREST CEILINGS

As a result of the 1968 Housing Act, conventional mortgages insured by the Federal Housing Administration and Veterans Administration are theoretically available for commercial banks and savings and loan associations. But probably fewer than 20,000 government-backed loans are on the books, largely because federal insurance programs have interest ceilings.

Consumer-advocate groups like the Rural Housing Alliance and Ralph Nader's Center for Auto Safety make an issue of the high interest rates on mobile home loans. The fact of the matter is, however, that buyers don't seem to mind very much. Low- and middle-income customers are typically more concerned with the size of their monthly payment than their interest bill. In addition, many are attracted by the low (5% to 20%) down payment requirements.

At worst, a purchaser must shell out $1,500 for a $7,500 unit. The minimum down payment on standard housing is around 25% with conventional financing. Thus, a $20,000 dwelling would require a $5,000 ante. The differential can prove decisive to cash-strapped families looking for a home.

Mobile home owners monthly costs are generally lower than those of their conventionally housed counterparts. The average unit with a bit over 700 square feet of living space can be carried for about $150 a month: $75 for the loan, $50 for lot rental and $25 for utilities Depending on location, comparable quarters in an apartment or single-family dwelling runs upwards of $200 a month. There are tax advantages as well. Mobile homes in the main are taxed as personal, rather than real property, and rate schedules are considerably lower.

On the other side of the coin, mobile homes, unlike most houses, do not appreciate in value. After 6½ years, according to a study by the First National City Bank of New York, a mobile home has a market value only about half its original price. After 15 years, it may be sold for 20% to 35% of its original cost, generally as a second home in some rural areas or as a hunting or fishing cabin.

About eight million Americans currently live in the 3.4 million mobile homes that are used as primary year-round dwellings. While it's generally supposed the elderly and retired constitute the principal market, a survey by the Department of Housing and Urban Development reveals that barely 20% of the heads of mobile home households are 55 or older. Fully half the heads of households occupying new mobile homes are 35 or younger. Another study notes that, aside from cost considerations, mobile home dwellers prefer the life style of such units in much the same way other individuals prefer apartments to houses. And according to an Owens Corning report, two-thirds of the young marrieds who originally bought mobile homes as a stop gap measure until they could afford conventional housing indicate they'll spend the rest of their lives in such units.

EARNINGS OF SELECTED MOBILE HOME MAKERS

Company (fiscal year ends)	Per share			Interim results through
	Fiscal, 1972–73	1973	1972	
Champion Home Builders (Feb. 28, 1973)	$0.47	$0.23	$0.28	August.
Commodore Corp. (June 30, 1973)	.35	.42	.19	September.
Conchemco (Oct. 31, 1972)	1.53	1.15	.90	July.
Fleetwood Enterprises (Apr. 30, 1973)	1.21	.31	.38	July.
Mobile Home Industries (Aug. 31, 1973)	1.15	.26	.38	August.
Redman Industries (Mar. 31, 1973)	$1.21	$0.36	$0.43	June.
Shelter Resources (Dec. 31, 1972)	1.03	.58	.42	June.
Skyline Corp. (May 31, 1973)	1.59	.32	.56	August.
Town & Country (Oct. 31, 1972)	.66	.30	.36	July.
Zimmer Homes (Dec. 31, 1972)	.30	.32	.22	September

KEY MARKETS

Demographic trends are enlarging mobile home makers' key markets. To illustrate, the 35 and under bracket is the fastest growing age group in the domestic population. Meanwhile the ranks of the retired (55 and over) are being swelled by people leaving their jobs earlier with far better pension and Social Security benefits than their predecessors. Together, these two age groups account for roughly 60% of mobile home demand.

Even above the poverty level, more than 40% of all U.S. families and a far larger percentage of the new households that are formed earn less than $8,000 a year. This income level effectively disqualifies them from purchasing a home costing much more than $20,000 or renting an apartment where the monthly outlay exceeds $150. As it happens, studies by the Census Bureau and the National Association of Real Estate Boards indicate that only 20% of all conventional housing starts and about 25% of existing homes and apartments coming back on the market in any given year meet these criteria. Mobile homes are virtually the only kind of low-cost housing that's readily available to the working poor.

Over the past five years, the mobile home business has grown at a better than 20% annual clip. While it's unlikely this pace can be matched during the period ahead, owing to the now sizable sales base, the industry can reasonably be expected to sustain revenues growth approximately 10% a year in the foreseeable future. The fresh sales and earnings gains compiled by mobile home makers have lured many large concerns into the field. Among them: Boise Cascade Corp., City Investing Co., Fuqua Industries Inc., Kaufman & Broad Inc., National Gypsum Co., National Homes Corp., U.S. Industries Inc. and Wickes Corp.

Mobile home operations do not generally make or break the performance of the diversified giants. But they loom large in the fortunes of the publicly-held independents. Their ranks include Champion Home Builders Co., Conchemco Inc., Commodore Corp., Fleetwood Enterprises Inc., Mobile Home Industries Inc., Redman Industries Inc., Skyline Corp., Shelter Resources Corp., Town & Country Mobile Homes Inc., and Zimmer Homes Corp.

As can be seen in the accompanying table, the industry's earnings picture is well scrambled. Champion, for example, though highly integrated has been caught in at least a temporary cost-price squeeze; it must hustle to exceed last year's net of 47 cents a share. Conchemco, by contrast, probably netted a record $1.95 a share in the fiscal year ended October 31. The company, which derives about 60% of its revenues from mobile homes (the rest comes from paints and industrial lines), could achieve roughly a 20% earnings gain in the fiscal year just getting under way. Commodore, however, which had been making a nice comeback, fell deeply into the red during the first quarter of fiscal '74. Although some stringent remedial measures have been taken, the company will do well to break even this year.

Fleetwood got off to a poor start in fiscal '73. Moreover, it faces a nonrecurring charge of 21 cents a share against income in the October quarter as a result of real estate writeoffs. Chances are, therefore, an eight-year skein of earnings gains will be broken. All things considered, the company's net could dip below $1 per share. Back on the sunny side of the street. Mobile Homes Industries, primarily a retailer of its own and other producers' units, eked out its seventh earnings gain in a row in the fiscal year ended August 31. Though fourth-quarter results were below year-earlier levels, full-year profits were $1.15 a share, against $1.12 in fiscal '72. Earnings could rise to $1.40 a share this year. Operationally, Redman Industries is in pretty fair shape so far as mobile homes and recreational vehicles are concerned. But its fans are sweating out a sizable deficit resulting from real estate activities in the September quarter. For the full year, earnings could wind up below $1 a share.

Skyline Corp., the leading producer of mobile homes, recently suffered its fourth consecutive down quarter, at least partly because it has voluntarily sought third-party inspection of its output in response to mounting pressures by consumer groups. The company is in a better spot than most to weather any industry storms, but fiscal 1972 looks like another off year, with earnings estimated at around $1.30 a share for its part. Shelter Resources is enjoying its second straight good year after incurring a sizable deficit in 1971. For all of '73 the company, which has built up a network of 50 retail centers which generate close to 20% of total revenues, could net $1.40 a share. Further gains are likely in 1974.

STORMY WEATHER

Another company building up a string of retail lots, Town & Country, ran into difficulties in getting two storm-damaged plants back into production. As a result, fiscal 1973 earnings probably fell a nickel or so below a year earlier results. A recovery to 75 cents per share appears in sight for fiscal year 1974. So far this year, Zimmer Homes has enjoyed an excellent recovery. The company, which also is active in vacation retreats and development of mobile home communities, could net 40 cents or more a share in 1973.

With an unintended assist from the federal government, the mobile home industry has come a long way from the scruffy trailer parks which blighted the landscape during and after World War II. While other sectors of the shelter business benefited from direct and indirect handouts, unsubsidized mobile home makers profited from the mismanagement of the economy during the Vietnam War that put conventional housing beyond the reach of all but the relatively affluent. Through the five years ending in 1972, producers were able to approximately triple their sales volume.

Meanwhile, output of bigger units with lusher margins rises apace. In 1972, for example, units with 14-foot widths (as opposed to the standard 12) captured an 18% share of market, up from 16% in '71. Thirty-six states now permits the so-called 14-wides to be trucked on their highways; more are expected to follow suit. Expandables and double-wide (mobile homes with two sections combined horizontally at a site which retain their individual chassis for possible future movement and use) also are coming on strong. The former category doubled its share of market last year to 2%; the other moved up from 12% to 15%. Additional gains are being scored this year; the growing popularity of the jumbos strongly suggests that mobile homes may be poaching further on the preserves of conventional housing.

EXCESS ENTHUSIASM

In an excess of enthusiasm for their prospects, mobile home makers have been on an expansion binge. Industry capacity now stands at around 750,000 units—well above this year's anticipated delivery level. At the same time, manufacturers' margins have been crimped by rising prices for such raw materials as lumber, plywood, plastics, steel and aluminum siding. There's little doubt that demand sooner or later will overtake supply, and the industry has become demonstrably more circumspect about adding facilities. Indeed, Commodore suspended operations at three plants after its first-quarter loss. Owing to cutbacks in conventional housing, lumber and plywood quotes have come down sharply, easing the cost-price squeeze.

Additional, if unwelcome, evidence of maturity as an industry is attention from Ralph Nader, self-styled saviour of consumer interests. His Center for Auto Safety later this year will issue what's heralded as a sharp critique of mobile homes. As it happens, however, manufacturers and trade groups have beaten Nader to the punch. State legislatures have been encouraged to adopt stiff safety codes; 36 have legislated the requirements of the American National Standard Institute.

Most mobile home makers support pending federal legislation that would establish national construction and safety standards. Skyline has gone so far as to complete Underwriters' Laboratories certification of its mobile homes and recreational vehicles on a national basis. The program, which involved some nonrecurring costs and disruption of production schedules, reportedly is proving a sales success. Along similar lines, Champion has extended its warranties from 90 days to one year from date of delivery to the retail purchaser. Others are following suit.

The mobile home business is unique among big-ticket industries in that manufacturers for the most part have not established exclusive dealership networks.

"It's easier to sell two units each to 10 dealers than to push 20 on one guy when times are tough," explains one sales executive. "When things are going well, everyone will take whatever you can turn out." Another marketing man points out that mobile home buyers are now shopping price as well as quality. "So you want your units on as many lots as possible," he says. While manufacturers are relieved of such burdens as advertising, service financing and insurance, which are traditionally handled by or through dealers, there are certain disadvantages in the free-wheeling relationship. The big risk is that during periods when money is tight, dealers routinely cut back on their inventories to avoid onerous carrying charges.

PARKING LOTS

Perhaps half of all the mobile homes in use are located on individually owned property in rural or small-town areas. But the big new market lies in and around urban or suburban areas. Zoning and planning officials have banished mobile homes to the outskirts on the grounds residents would overburden municipal services without contributing commensurately to the tax base. Court cases and the efforts of manufacturers and others in mobile home community development have eased the situation to a great extent. Commodore, Fleetwood, Mobile Home Industries, Redman and Zimmer all have dabbled in real estate with varying degrees of success. Redman and Fleetwood, among the majors, came a cropper, writing off huge sums and leaving the field.

Many mobile home manufacturers have diversified into such allied fields as modular housing and recreational vehicles. Modular housing looked great on paper, but that's about as far as it went. A welter of local building codes and production snags made profits elusive; most participants have bowed gracefully out of the business with greater damage to their egos than their pocketbooks.

Rec vehicles, notably motor homes and travel trailers, are another story. Champion, Commodore, Fleetwood, Redman and Skyline, among other mobile home makers, are committed to their manufacture. Once again, this was a business that looked like an endless summer. But the industry, which racked up a compound annual growth rate of better than 30% in the seven years through 1972, has come back to earth. This year's gain may be 15% to 20%; over the longer run, producers are expected to sustain growth on the order of 10% to 15% a year.

The reasons for the braking of this once heady pace are several. For one thing, the ubiquitous Ralph Nader has made rec vehicles a target. For another, consumers seem to be deferring purchases until fears of a gasoline shortage are allayed. Finally, the industry, which had concentrated its output in the luxury range ($12,000 and over), is adjusting to the realities of the marketplace and producing models with more popular prices.

In the final analysis, there's far more right than wrong with the mobile home industry. Mobile homes have become as noted, the nation's principal source of low-cost shelter. As the industry matures, a substantial replacement market, currently estimated at 100,000 units a year, is building up. Moreover, there are still some untapped outlets. As zoning barriers are broken and local governments appreciate the advantages of mobile home living, it seems probable that more low income groups will be housed in such units. Mobile homes also are being used increasingly as second or vacation homes, a trend which promises to gather momentum in the years ahead.

AD HOC ADVISORY GROUP ON PUERTO RICO

Mr. COOK. Mr. President, I have the great honor of serving as cochairman of the Ad Hoc Advisory Group on Puerto Rico. The advisory group, appointed by President Richard M. Nixon and Gov. Rafael Hernandez Colon, held its first public meeting at the Capitol Building of the Commonwealth, in San Juan, P.R., on November 11, 1973. The seven Puerto Rican members submitted a proposal concerning the main objectives to be served. That proposal, reproduced here in full, was received and accepted by the whole group as its first working paper and basic agenda. Public hearings on the specific items included in the proposal will be held in Puerto Rico during the next meeting of the committee on December 7, 8, and 9, 1973.

I ask unanimous consent that the proposal submitted by the Puerto Rican members of the advisory group be included in the Record.

There being no objection, the proposal was ordered to be printed in the Record, as follows:

Puerto Rico's Proposal

The Joint Advisory Group on the further development of Commonwealth status, appointed by President Richard M. Nixon and Governor Rafael Hernandez Colón, held its first public meeting at the Capitol Building of the Commonwealth, in San Juan, Puerto Rico, on November 11, 1973. The seven Puerto Rican members submitted a proposal concerning the main objectives to be served. That proposal, reproduced here in full, was received and accepted by the whole Group as its first working paper and basic agenda. Public hearings on the specific items included in the proposal will be held in Puerto Rico during the next meeting of the Committee on December 7, 8 and 9, 1973.

The Puerto Rican members of this Advisory Group wish to identify for their United States colleagues the matters they feel deserve the main attention of the Joint Advisory Committee. It is hoped that once a consensus on such matters has been reached—both as to their nature and as to the general perspective—we may jointly agree on an expeditious and satisfactory *modus operandi* to guide our deliberations, studies, and recommendations.

The Charter of this Committee declares that:

The President of the United States and the Governor of Puerto Rico, "in order to implement the will of the people of Puerto Rico freely expressed in the plebiscite of 1967" appointed seven (7) members each to constitute the Advisory Group. That plebiscite held on July 23, 1967, pursuant to P. R. Law No. 1, December 23, 1966 submitted to the Puerto Rican electorate the status alternatives of Commonwealth, Statehood and Independence, the electorate decided, "to develop the Commonwealth in accordance to its fundamental principles to a maximum of self-government and self-determination within the framework of Commonwealth."

The Commonwealth slot in the ballot defined the framework of association or union between Puerto Rico and the United States as: "a common defense, a common market, a common currency, and the indissoluble link of United States citizenship."

Notice that the Charter of the Ad Hoc Committee reproduces the exact language of the plebiscitary mandate. The recommendation on holding a plebiscite to determine the will of the Puerto Rican people has historic roots in our tradition. It was originally proposed — unsuccessfully — to adjudicate the questions resulting from the Hispanic American War raised by Article 9 of the Treaty of Paris: "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."

Before and after the ratification of the Treaty, Eugenio María de Hostos, an illustrious Puerto Rican patriot, recommended a plebiscite on status to President McKinley. The Unionist Party, the dominant Puerto Rican party from 1904 to 1924, adopted a plebiscite resolution on September 1914. The Speaker of the Puerto Rico House of Delegates, José de Diego, was its leading proponent. The plebiscite proposal remained dormant after the Organic Act of 1917 and De Diego's death in 1918.

Following an extensive process of democratic consultation Commonwealth status for Puerto Rico was established on the 25th July 1952. That process involved on Puerto Rico's side the status program submitted in the general elections of 1948 by the Popular Party, a referendum in 1951 approving Public Law No. 600, the election of a Constitutional Convention and the final ratification of the Constitution and of the whole process in a second referendum. On the Federal side it included two congressional enactments, both of them subject upon approval by Puerto Rico, so as to take effect.

However, the subsistence in the Puerto Rican Federal Relations Act of what were called "colonial vestiges" and the continued claim of minority groups for Statehood and for Independence led the then Governor of Puerto Rico, Luis Muñoz Marin and the late President John F. Kennedy "both as a matter of fairness to all concerned and of establishing an unequivocal record" to recommend a further examination of the United States-Commonwealth relationship. The final outcome of that interchange was the creation of the U.S.-Puerto Rico Commission on the Status of Puerto Rico. This Commission also arises on the basis of legislation approved parallel in Congress and the Legislature of the Commonwealth. (Public Law 88-271, February 20, 1964 and Law No. 9, April 13, 1964.)

After two years of extensive studies, researches and hearings the Status Commission renewed the plebiscite recommendation reporting that—

"The Commission's major conclusion is that all three forms of political status—the Commonwealth, Statehood, and Independence—are valid and confer upon the people of Puerto Rico equal dignity with equality of status and of national citizenship. Any choice among them is to be made by the people of Puerto Rico, and the economic, social, cultural, and security arrangements which would need to be made under each of the three status alternatives will require the mutual agreement and full cooperation of the Government of the United States. A first step toward any change in political status must be taken by the Puerto Rican people acting through constitutional processes."

Its final recommendation followed:

"If the people of Puerto Rico should by plebiscite indicate their desire for Statehood or Independence, a joint advisory group or groups would be constituted to consider appropriate transition measures. If the people of Puerto Rico should maintain their desire for the further growth of the Commonwealth along the lines of the Commonwealth Legislative Assembly's Resolution No. 1 of December 2, 1962, or through other measures that may be conducive to Commonwealth growth, a joint advisory group or groups would be convened to consider these proposals."

II.

In the light of the above summary as well as of the terms of its own Charter, the task of this Advisory Group centers on the further development of Commonwealth. *The Estado Libre Asociado de Puerto Rico*, to use the Spanish designation which seems more precise for our present purposes reflects a creative effort to establish a free permanent relationship voluntarily entered into between Puerto Rico and the United States that is mutually satisfactory and whereby the social and political freedoms inherent in the fundamental values of democracy, citizenship and the cultural identity of Puerto Rico can be effectively enjoyed by our people. The Preamble of the Constitution of the Free Associated State summarizes its purposes:

"We, the people of Puerto Rico, in order to organize ourselves politically on a fully democratic basis, to promote the general welfare, and to secure for ourselves and our posterity the complete employment of human rights, placing our trust in Almighty God, do ordain and establish this Constitution for the Commonwealth which, in the exercise of our natural rights, we now create within our union with the United States of America.

"In so doing, we declare:

"The democratic system is fundamental to the life of the Puerto Rican community:

"We understand that the democratic system of government is one in which the will of the people is the source of public power, the political order is subordinate to the rights of man, and the free participation of the citizen in collective decisions is assured:

"We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges; our loyalty to the principles of the Federal Constitution; the coexistence in Puerto Rico of the two great cultures of the American Hemisphere; our fervor for education; our faith in justice; our devotion to the courageous, industrious, and peaceful way of life; our fidelity to individual human values above and beyond social position, racial differences, and economic interests; and our hope for a better world based on these principles."

Article I of the Constitution entitled "Commonwealth" reads:

"Section 1. The Commonwealth of Puerto Rico is hereby constituted. Its political power emanates from the people and shall be exercised in accordance with their will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America.

"Section 2. The government of the Commonwealth of Puerto Rico shall be republican in form and its legislative, judicial and executive branches as established by this Constitution, shall be equally subordinate to the sovereignty of the people of Puerto Rico."

The plebiscite mandate of 1967 reaffirms the existence of a distinct body politic—The Free Associated State of Puerto Rico.

This mandate and the considerations expressed above call for the following criteria to serve as guiding principles in our task.

1. Commonwealth status should be developed within its own framework to the maximum of self-government and self-determination compatible with a common defense, a common market, a common currency, and the indissoluble link of United States citizenship.

2. The government of the United States should exercise with reference to Puerto Rico such powers as are essential to the basic elements of the permanent union between the United States and Puerto Rico.

3. As respects such powers as will be exercised by the United States under (2) above, alternate forms of participation in federal decisions affecting Puerto Rico ought to be considered together with the Presidential Vote recommended by the first Ad Hoc Advisory Group.

4. The principles of self-determination, self-government and government by specific consent of the governed.

The Puerto Rico Federal Relations Act and related legislation are not an adequate embodiment of the constitutional relationship between Puerto Rico and the United States. Together with very many desirable and essential provisions pertaining to the meaning and purposes of The Free Associated State, the Federal Relations Act retains anachronic, deleterious, and confusing expressions held over from the Foraker Act of 1900 and the Jones Act of 1917, as amended. Such expressions have no place in a declaration of permanent union or association.

In order to reduce the proposals under consideration to the bare minimum, Public Law 600 limited itself to preserve the basic scheme of relationship via retaining the old section numbers under the new generic title *Puerto Rico Federal Relations Act*. Under this arrangement several indispensable provisions remain intertwined with thoroughly objectionable expressions.

A few instances serve to illustrate the point:

The Puerto Rico Federal Relations Act retains the initial clause of the Organic Act of 1917. It declares: "That the provisions of this Act shall apply to the island of Puerto Rico and to the adjacent islands *belonging to the United States*, and waters of those islands." The underscored clause is, of course, objectionable and has been used over and over again at the United Nations and elsewhere to argue that Puerto Rico "is a colony of the United States".

Section 10 provides, "That all judicial processes shall run in the name of United States of America, as, the President of the United States." This provision completely lacks use or justification.

Other provisions go beyond questions of form. Outstanding among them is Section 9, which includes a double negative which has been the source of many legal perplexities and confusions. It provides, "That the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States, except the internal revenue laws." Besides engendering a multiplicity of doubts concerning which of the statutory laws of the United States are actually in force in Puerto Rico and to what extent; it is essentially incompatible with the norm pertaining to a maximum of self-government.

In keeping with the charge that, "The Advisory Group will inquire into and report and recommend on the extent to which of the statuory laws . . . of the United States should apply in Puerto Rico", it will be indispensable for the whole Puerto Rico Federal Relations Act to be reexamined and rewritten. This will be necessary not only to strike out surplusages and to bring it up to date, but also to clarify the basic nature of the relationship between Puerto Rico and the United States.

This involves the elimination of provisions that impinge on self-government as well as the inclusion of such language as may be necessary to safeguard the basic framework of the Free Associated State relationship. It will be necessary also to explore diverse ways of participation on matters pertaining to that basic framework of union with the United States as defined both in the plebiscite and in the Charter of the Committee. In short, that the Federal Relations Act in its present form does not constitute a truly organic body of law governing the terms of Puerto Rico's free association to the United States. On the contrary, there are many other provisions of law governing such relationship. The Act must be revised so that, at least, the basic outline of the relationship be established in a single and coherent statute that replaces the Federal Relations Act and related legislation in harmony with present realities, and the plebiscitary mandate.

The end result of this task will naturally have to reflect recommendations obtained in connection with other matters which the Advisory Group from time to time may decide to consider. Initially, we recommend among other matters it ought to examine the following:

1. Revision of the Federal Relations Statute.
2. Acquisition, retention and disposition of federal property in Puerto Rico.
3. Common defense.
4. Ways in which Puerto Rico may participate in federal decisions affecting the Island and the applicability of federal laws to Puerto Rico.
5. Immigration of aliens.
6. Navigable waters.
7. Coastwise shipping laws.
8. Minimum wage and other labor matters.
9. Tariff policy and external trade matters.
10. Financial laws.
11. Laws relating to ecological matters.
12. Laws relating to planning.
13. Laws relating to communications.
14. Transportation matters.
15. New forms of federalism or association. Participation of the Associated Free State of Puerto Rico in international affairs in ways compatible with its permanent union or association to the United States.

San Juan, Puerto Rico, November 11, 1973.

Hon. Luis Muñoz Marín, former Governor of Puerto Rico, Co-Chairman.

Hon. Jaime Benítez, Resident Commissioner from Puerto Rico to the United States.

Hon. Juan Cancel Ríos, President of the Senate of Puerto Rico.

Hon. Justo Méndez, Member of the Senate of Puerto Rico.

Hon. Víctor M. Pons, Jr., Secretary of State for Puerto Rico.

Hon. Luis Ernesto Ramos Yordán, Speaker of the House of Representatives of Puerto Rico.

Mr. Angel Rivera, President of Banco Crédito y Ahorro Ponceño.

COMMUNITY COLLEGE SOCIAL SCIENCE ASSOCIATION

Mr. GRAVEL. Mr. President, I recently had the honor of addressing the third annual convention of the Community College Social Science Association, and I want to take this opportunity to commend the noble purpose and lofty achievements of this organization to the attention of the Senate. An effective voice for educational reform, the Community College Social Science Association has led the fight for quality education in America. Inspired by high ideals and selfless dedication, it has pioneered innovations at the college level. Founded 3 years ago, it has made great strides in upgrading the quality of community college instruction. Moreover, it has given renewed hope to the promise of America's schools. Thanks to the visionary efforts of its leaders, Profs. Gerald Baydo, Don Shannon, Jim Peters, D. Lee Roper, and Jeffrey M. Elliott, it has rekindled the flame of reform, and demonstrated to the Nation, the importance of the community college movement.

GOLD AND ARTHUR BURNS

Mr. PERCY. Mr. President, earlier this week, Arthur Burns, Chairman of the Federal Reserve Board, announced that the United States and six other major Western countries have agreed to end the two-tier gold system. This means that the United States will be able to sell gold at world market prices, rather than an artificially low-pegged price.

The two-tier gold system came into existence in March 1968, when speculators were buying gold in massive amounts from central banks in anticipation of weakness of the dollar forcing a devaluation of the dollar in the form of an increase in gold's official price. At that time, central banks agreed that they would no longer sell gold in the open market, but would deal among themselves at the official price of gold. Only private gold holdings would be allowed to be bought and sold at free-market prices.

In announcing the decision, Arthur Burns explained that conditions have changed dramatically since 1968. Among other things, the U.S. balance of payments is improving substantially and the U.S. dollar is much stronger on world currency markets. Thus, Mr. Burns thinks it is a good time for "a decent burial" for the two-tier gold system.

One of the expected results of this decision is heavy downward pressure on the price of gold, since central banks are now free to sell large amounts of gold in world markets. Further, it may add strength to the dollar in world currency markets as speculators moving out of gold may move into dollars.

Mr. President, on June 6 of this year, in a floor colloquy with Senator JAVITS, I suggested that the United States should sell some of its gold stock at world prices in the free market. As I said at that time:

> But could anyone imagine that the free price would stay at $120 an ounce for more than a couple of minutes if it were anticipated that the United States might sell any part of its gold in the free market? . . . We should break the backs of the gold speculators by selling some of our gold stock. These need be only small amounts, because the free gold market is so thin and volatile.

Mr. President, I agree with Arthur Burns in this decision and agree with him that the 1968 agreement "no longer has any relevance to the actual world." This step means that we have increased our range of policy options. We can sell our gold, if we choose, in such amounts as we wish, and without violating the two-tier agreement. The expectation that we may sell gold has already had the market effect many of us anticipated. This step also means that we have placed a realistic value on our own gold reserves. I applaud this decision as another sign that the U.S. position in world monetary markets is improving and that we are taking the steps to reflect these improvements. I ask unanimous consent that an article in the November 14 Wall Street Journal describing the new agreement be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOLD CUT LOOSE FROM AGREEMENT ON TWO-TIER PRICING—MAJOR CENTRAL BANKS DROP 1968 PACT, FREEING THEM TO SELL METAL ON OPEN MARKET

WASHINGTON.—Arthur Burns, Federal Reserve Board chairman, said major central banks agreed to terminate the March 1968 two-tier gold agreement, leaving the banks free to sell gold on the open market.

The action, expected to have major repercussions in free-market gold trading, officially terminates the two-tier system under which central banks dealt in gold at the "official" price, currently $42.22 an ounce, while supply and demand forces determined the free-market price. Recently, the free-market price of gold has been about $100 an ounce. The metal hit a record $127 an ounce on the London market last July 6.

Mr. Burns, stating the U.S. view of the termination of the agreement, said the U.S. doesn't intend to buy gold on the open market but "we consider ourselves free to sell gold."

He refused to discuss "whether, when, in what amounts or in what ways" gold might be sold by the U.S. The government's actual sales policy will be determined later, he said.

The fact that the central banks of seven major nations are free to sell gold on the open market is expected to put heavy downward pressure on the metal's price, because speculators face possible massive sales by the banks.

While the decision is expected to be a depressant on the price of gold, it may add further strength to the dollar in foreign-exchange trading. Historically, gold's price has soared when the dollar has sustained speculative weakness; now, speculators moving out of gold may rush to buy dollars instead.

The U.S. has a gold stockpile of $11.65 billion, an amount that was recently raised $1.1 billion when the government formally took into account the 10% dollar devaluation of last February that boosted the official gold price to $42.22 an ounce from $38.

Mr. Burns, in disclosing the action late last evening at Federal Reserve headquarters, issued this one-sentence statement:

"The governors of the central banks of Belgium, Germany, Italy, the Netherlands, Switzerland, the United Kingdom and the U.S., at the November meeting held in Basel, Switzerland, discussed the agreement with regard to official gold transactions reached in Washington on March 17, 1968, and decided that that agreement should be terminated."

The March 1968 gold agreement was born amid crisis in the Federal Reserve headquarters building where Mr. Burns last night conducted what he called "a decent burial" for it. Officials of seven nations that had been trying to stabilize gold's market price at about the then-official price of $35 an ounce met in Washington to find some solution to the speculative upward pressure on the metal's price.

Speculators were rushing to buy gold from the central banks in the belief that weakness in the dollar might produce a devaluation in the form of an increase in gold's official price. The central bankers met that crisis by declaring that, henceforth, they would stop selling gold in the open market and deal among themselves at the official price. The free-market price was left to rise or fall without government intervention.

Explaining the decision, Mr. Burns noted that the economic and monetary conditions that prompted the central banks to ban gold sales in 1968 have changed sharply. He said that in 1968 there was "great uncertainty" over deterioration in the U.S. balance of payments, "gold was flowing out to the private market in massive volume and central bankers felt that their reserves were being depleted." And, he added, the 1968 agreement was intended to "lock up gold."

The 1968 agreement "no longer has any relevance to the actual world," Mr. Burns said. He noted that, in effect, the "official" market for gold ended on Aug. 15, 1971, when the U.S. suspended the convertibility of the dollar into gold.

The termination of the gold agreement "isn't intended by the U.S. or by any other of the central banks to prejudice any ultimate decisions concerning international monetary reform," Mr. Burns stressed. He said the central bankers didn't intend to prejudge the ultimate decision on the role gold will play in the restructured international monetary system, which is being negotiated in the International Monetary Fund.

Mr. Burns declined to speculate on how the action will affect the free-market price of gold. He also said he couldn't speak for the European central banks as to their intent to buy or sell gold in light of the ban's termination.

The Fed chairman also said that the central banks' decision doesn't affect in any way the U.S. law that prohibits private citizens from buying, selling or holding gold as an investment.

UNITED NATIONS ROLE IN MIDEAST

Mr. McGEE. Mr. President, as we prepare to debate S. 1868, a bill which would place the United States back in compliance with United Nations sanctions against Southern Rhodesia, I believe it particularly noteworthy to offer an objective assessment of the role the U.N. played in the current Middle East crisis.

In yesterday's, November 15, edition of the Washington Post, there appeared an excellent analytical piece by Anthony Astrachan. Mr. Astrachan opened his article with the following quote:

> "You can't do much to stop a war using the United Nations," said a neutral diplomat, "but you can't do anything without it."

I believe this to be the predominant view of the international community. The role the U.N. has played in the latest Middle East crisis is ample evidence of this fact.

Regrettably, the debate on the Rhodesian chrome issue will be an attempt on the part of opponents of the U.N. to obscure the real issues involved in this question. I am prepared to respond in a positive manner. However, if there is a feeling within this body that somehow we lack sufficient information about the U.N., I would point out such information does exist in the form of hearings on authorization and appropriations requests to fund our participation in the United Nations. At least I have followed these hearings very closely and have made it a special point to study the hearing record and the committee reports. It is on the basis of the wealth of information available to me, and a close and continuous scrutiny of this information, that I judge not only the United Nations, but also the need for our participation in that organization. I also make it a point to attend hearings and to express my views on the U.N. I believe these hearings also offer me the opportunity to ask questions about our participation in the U.N. which trouble me from time to time. I find I am in no way restricted either in my attendance at the hearings or my access to any information concerning the United Nations.

Mr. President, what I am suggesting is this: The opportunity to debate the merits and all aspects of the U.N. is continually present.

However, I would like to get back to the issue at hand. In assessing the performance of the U.N. during the latest Middle East crisis, I believe the following developments to be particularly noteworthy.

First. For the first time in the history of the U.N., the United States and the Soviet Union cosponsored a resolution calling for the cessation of hostilities in a major conflict in the world.

Second. As noted in Mr. Astrachan's article, the eight nonalined members of the Security Council produced the idea of a U.N. Emergency Force to be sent to the Middle East. Mr. Astrachan wrote:

> They wanted both to enforce the cease-fire and to make it harder for the greater powers to act alone in the Middle East.

I find the decision to be a particularly wise one—and all this from nations who were not among the original 51 signatories of the Charter.

Third. For the first time in the 25-year history of the Israeli-Arab confrontation, a truce agreement under the auspices of the United Nations was signed.

What would have happened had we not had the United Nations when we needed it? We would have had a United States-Soviet confrontation in the Middle East which could have led to a nuclear confrontation. Our experience in Vietnam is also ample evidence of the tremendous price a major power pays, both in monetary and human terms, when forced to act unilaterally. Therefore, it is only sensible to conclude that the role the

U.N. played—and continues to play—in the Middle East has paid for our 28-year investment in that organization many times over.

I would hope the opponents of the U.N. did not want to see a United States-Soviet showdown in the Middle East because their dream of dismantling the U.N. was a reality. From the remarks which have appeared from time to time in the RECORD, I think it is all too clear the opponents of the U.N. have nothing to offer in its place. I wonder where they would have had us turn during this latest crisis?

At the same time, I do not want to minimize the role Secretary of State Henry Kissinger and the administration played in this crisis. In my estimation, Dr. Kissinger was brilliant in his exercise of diplomacy, skillfully blending bilateral negotiations with multilateral action. Dr. Kissinger fully realizes the strengths and weaknesses of the U.N. system; but, as a man who has assumed a position of vital responsibility for the welfare of this Nation, he wisely chose to exploit the strengths of the U.N.—and herein lies a major difference: Dr. Kissinger and the President have to bear the responsibility for their decisions.

It would seem the Congress would have a special appreciation for the United Nations since both bodies are similar in many ways. The distinguished senior Senator from Kansas (Mr. PEARSON) and I noted this fact in our report to the Foreign Relations Committee on our service as delegates to the 27th General Assembly. Much of what is said at the U.N. is done for the benefit of a particular constituency back home. Many times the rhetoric is irresponsible because of this fact. Thus, both the Congress and the U.N. are alike in this regard.

There is an additional issue I would like to touch upon briefly. I take considerable pride in our system of government and the ideals for which our Nation has represented throughout its history. I do not particularly care what nation does, or does not, pay its assessment to the U.N. I do not particularly care what nation does, or does not, allow covert violations of the sanctions. I do not believe our Founding Fathers conceived of a system of government which would be measured by the standards of other nations. I do not believe our traditions have been based upon this assumption. I believe too strongly in what the United States represents to denigrate our Nation by urging that our standard of behavior be set by other nations. Maybe it is the old-fashioned patriotism coming out in me. We have always held ourselves to higher standards than other nations in the world. This requires us to exercise a higher responsibility than other nations. If we do things better than other nations, then this is consistent with our heritage. Yet, we are being asked to accept a lower standard—a standard set by other nations based upon their values, not upon our own. I would hope my colleagues would give serious thought to this issue. I would hope they would choose the higher standard consistent with our heritage and our tradition. To do less would do violence to our ideals.

I ask unanimous consent that Mr. Astrachan's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 15, 1973]

A LOOK AT U.N. ROLE IN MIDEAST

(By Anthony Astrachan)

UNITED NATIONS, Nov. 14.—"You can't do much to stop a war using the United Nations," said a neutral diplomat "but you can't do anything without it."

His comment summed up both the importance and the limits of the U.N. role in ending the Middle East war.

Even the troubles implementing the cease-fire agreement on the Cairo-Suez road showed that importance and those limits. "Suppose," he said, "it had been Egyptians and Israelis quarreling instead of U.N. Finns and Israelis. Rat-a-tat-tat!" He moved his hands in a machine gun gesture.

In the first week of the war, the Security Council met four times and did nothing because neither the great powers nor the combatants were ready to have it act.

By the third week of fighting, the great powers and at least one combatant, Egypt, invoked U.N. procedures. On one level, they wanted a cease-fire that would be politically acceptable to everyone. On another level, they wanted to add the color of U.N. legitimacy to their own purposes.

The United Nations may have surprised them by making it possible to realize other purposes as well.

The eight nonaligned members of the Security Council, for instance, produced the idea of a U.N. Emergency Force. They wanted both to enforce the cease-fire and to make it harder for the greater powers to act alone in the Middle East.

Originally Washington and Moscow mistrusted the idea just because they thought it might inhibit their dominance.

Overnight on Oct. 24–25, while President Nixon and Soviet leader Brezhnev were exchanging "firm" notes, the United States realized that the proposal for UNEF, if amended to bar the five permanent council members from participating, would become a device to keep Soviet troops out of the Middle East. The United States embraced the idea of a modified UNEF and the council adopted it.

In private Security Council consultations, the United States defeated Soviet efforts to change a few words and phrases in a report by Secretary General Kurt Waldheim and give the Security Council—where Moscow has a veto—tighter control over peacekeeping operations.

But the Soviets won the contest over Warsaw Pact membership in UNEF: Poland is sharing the logistics function with the Canadians despite U.S. efforts to exclude it.

Nonaligned demands for equitable geographical representation helped make this possible, so it could be said that the U.N. machinery enabled the world to prevent first the Soviets and then the Americans from achieving a policy goal.

To make peace the fighting has to stop first. The Security Council decisions did that with the help of the first contingents of UNEF.

U.N. Under Secretary Roberto Guyer is trying to win some agreements between Israel and Syria in these areas. Waldheim and Maj. Gen. Ensio Silasvuo, the Finnish commander of UNEF, tried to do the same between Egypt and Israel and failed for lack of political leverage.

Secretary of State Henry Kissinger stepped into the breach and achieved a cease-fire agreement deliberately cloaked in ambiguity because one that was too explicit would not have been accepted. He still needed UNEF to be what one U.N. official called "the executing agent" of the agreement.

Silasvuo arranged the Egyptian-Israeli signing of the agreement Sunday. He also played a role in getting the Israelis to allow the establishment of U.S. checkpoints on the Cairo-Suez road.

But the cease-fire agreement was deliberately framed to omit any mention of the long-range peace talks that the Security Council had said should be "immediate and concurrent" with the cease-fire.

This seemed to diplomats here to exclude the United Nations from anything more than a symbolic "umbrella" role in the long-range negotiations.

That would be consistent with the historic function of the United Nations in the Middle East. In 1949, in 1956 and in 1967 it arranged cease-fires, but it never got real peace talks moving. The parties weren't ready.

CHICAGO

Mr. PERCY. Mr. President, the October issue of Trans World Airlines' magazine, Ambassador, is devoted to a subject close to my heart—the glories of the city of Chicago.

I read recently that Americans take Chicago for granted; that it often does not seem special, but rather like a second home for everyone. There is certainly truth in that statement, but there is much more to the story than just that. If Chicago seems like a second home to all Americans, the familiarity one feels toward it does not in any way diminish its appeal.

Sandburg called it the city of the big shoulders, and indelibly described its vitality. Although the physical characteristics of Chicago have changed since Sandburg's time, the spirit he described has not. Chicago has life. The sense of strength embodied in the city and the undercurrent of urgency in everything the city does are as clear to the convention visitor as they are to the city's residents.

Chicago has a sense of humor about itself and about life in general. Chicagoans recognize problems, but they are not defeated by them. True, there are no fewer issues to tackle in Chicago than there are in other major cities, but what marks the difference is the feeling one has that Chicago and Chicagoans can lick the problems. Nothing is insurmountable: in these times of flight to the suburbs, Chicago is determined to make itself more appealing.

The "Magnificent Mile," Michigan Avenue, is growing more beautiful every year with the addition of new stores and sidewalk gardens. In a time of deteriorating community spirit, the old neighborhoods of Chicago are bastions of friendship and genuine neighborliness. You can still count on your neighbors in Chicago and you can respect diversity, as well.

I think hardly a day goes by without some kind of parade through the Loop. People from nearly every imaginable ethnic background celebrate something from their past, and, at the same time, contribute to the community feeling by inviting others to remember that while their backgrounds are different, their futures lie in their common dedication to improving American life.

Mr. President, I know that every Member of this body feels a special affection for his home State. Our roots are in our respective cities and States; we know the particular strengths of our native soil. But even acknowledging that, I stand here unabashedly before you and say that Chicago is special. People do not live in Chicago; they are Chicago. And they are proud of it. Chicago is not a second-rate anything. It sprang up out of the prairie on its own strength and merit. One of its great charms is that it emulates nothing.

The Ambassador magazine has focused on two of the things that capture the essential spirit of Chicago—its continuing growth as symbolized by the new, giant Sears Tower, and another true Chicago landmark, Irving Kupcinet, the famous "Kup," columnist and television host extraordinaire.

Mr. President, I ask unanimous consent that these selections from Ambassador magazine be included in the Record at this point so that my colleagues can also enjoy them.

There being no objection, the material was ordered to be printed in the Record, as follows:

Super Structure: The Sears Tower, Standing in at 1,454 Feet, is the New Champion in the Tall Building Sweepstakes

(By Joe Soucheray)

When top management officials of Sears, Roebuck and Company set out in 1967 to plan new corporate headquarters for their giant merchandising firm, they really didn't intend to end up with the world's tallest building.

It just happened.

And corporate managers didn't really know that their building, the recently topped-out 110-story Sears Tower, would become the show-stopper of the Chicago, Illinois, loop. That, too, just happened.

Sears needed a building befitting the world's largest retailer. Height, they insisted, was always secondary to safety, comfort and convenience. They wanted and got a building that resists fire, withstands wind and moves people fast and safely through all 110 floors.

Bringing the world's tallest building championship from New York to Chicago is an honor that some Chicagoans consider dubious at best. But Sears points with pride to their new edifice, and hails it as the finest chunk of mechanical and architectural splendor since Frank Lloyd Wright picked up a pencil and slide rule and baffled people with his futuristic but highly utilitarian homes and buildings.

The "Tower," as it has become known to Chicago residents, now dwarfs the deposed kings of Chicago's skyline—Big John (John Hancock Building) and Big Stan (Standard Oil Building, officially the Amoco Building). The Sears Tower stands a dizzying 1,454 feet, straight up. Its closest in-town rival, the 100-story Hancock Building, rises only 1,127 feet but it has additional height from twin TV antennas. Big Stan goes 1,136 feet. Sears also tops the twin towers of New York's 110-story, 1,350-foot World Trade Center.

The Empire State Building, for decades the sky-high benchmark, suddenly has been lost in the upward shuffle, hanging in there at 1,250 feet.

Future superscraper builders will have to go some to top the Sears Tower, not only in height, but in statistical magnitude. The building's master plan resembles that of a medium-sized city more than a single office building. Before the more-than-$150 million Tower could even begin its ascent, some 180,000 cubic yards of earth had to be carted from the worksite to create a 100-foot-deep hole for the foundation. The building and its plaza are supported by nearly 200 caissons.

As the world's largest private office complex, the structure contains 4.5 million square feet, or 101 acres, of floor space. Only the Pentagon, with 6.5 million square feet, has more office space within a single structure. The base of the Sears Tower spreads over three acres of prime downtown Chicago real estate bounded by Adams and Franklin Streets, Jackson Boulevard and Wacker Drive. Above the street, all the way up to the Tower's 103rd-floor observation level, the view of Lake Michigan and environs is commanding.

The Tower's structural steel frame (enough steel to make 50,000 automobiles) is clad in a black aluminum skin and bronze-tinted, glare-reducing glass. Below the Tower's granite-surfaced plaza are three full levels that include a 150-car parking garage, tenant storage space and a loading dock that can handle 17 large trucks simultaneously. Concourse levels of the Tower will contain commercial areas and restaurants.

Inside the massive Tower, people will work in the tallest all-electrical structure in the world. A unique heat-salvage system has been designed to utilize by-product heat, and to use that heat to circulate enough water to service about 1,000 average-sized homes. More than 17,200 tons of refrigeration keep the premises at a year-round 72 degrees. There is enough electrical wiring in the Tower to stretch a power line to New York and back again. The Tower also boasts a utility transmission substation with four 50,000-kilowatt transformers installed in below-ground levels of the building—enough electrical oomph to strengthen the electrical system now feeding the city's central area.

Visitors in search of a public telephone in the Tower can keep this in mind: The Tower will have 350 pay telephones, as many pay telephones as Downers Grove, Illinois.

When finally open to tenants early in 1974, the Sears Tower will be the sixth Chicago location for the firm. The company has been a Chicago tradition since 1887, when Richard W. Sears moved his retail watch business to the city from Minnesota.

The company first located on Dearborn Street, then moved to other rented locations as the firm grew. In 1906, firmly entrenched in the Chicago business community, Sears moved to its own headquarters on the city's west side. As Sears expanded, so did the west-side facilities.

Clearly, the company has outgrown all existing space available to it in its present headquarters. In July 1970, Sears announced its intentions to build new headquarters to house national staff employees now scattered in nine locations in the Chicago area.

Sidewalk environmentalists attacked the Tower, saying it would add to the congestion of Chicago's loop. "Why does it have to be *that* big?" they cried.

Here's why: The interior space planning firm of Saphier, Lerner, Schindler, Inc., confirmed to Sears management that by the year 2000 Sears would need that gargantuan 4.5 million square feet to house national buying and staff departments. The Tower, like all Sears buildings throughout the country, was designed from the inside out.

Further studies indicated that an urban location was best. And urban building sites usually mean upward construction, not outward. A suburban location would have increased transportation problems for employees. The urban location provides easy access to all forms of Chicago transportation. Projected plans even call for a subway station on the Franklin Street side.

One of the early plans for the new headquarters called for a building only 60 stories high with 70,000 square feet per floor, or 70 stories high with 60,000 square feet per floor. But real-estate consultants warned Sears that it would virtually be impossible to rent such large barn-sized floor areas to prospective tenants. In order to provide more accommodating office areas, the Tower's architects, Skidmore, Owings and Merrill, pushed space upwards with a resulting "bundled tube" look that gives the Tower its visual dominance.

From the Tower's plaza through the 49th floor, the basic structure consists of nine column-free squares. At the 50th floor, the northwest and southeast column-free squares stop, creating the building's first step-back as the Tower rises in a "Z" floor arrangement through the 65th floor. The second step-back occurs at the 66th floor, when the northeast and southwest column-free squares end. The Tower rises to the 89th floor in a "cruciform" floor arrangement. A 20-story rectangular tower tops off the building.

The step-backs will help reduce wind sway in the Tower by breaking the flow of wind against the superscraper. Skidmore, Owings and Merrill designed the building to withstand 36 inches of lateral sway at the top.

Because of the size of the Tower, and because of increasingly alarming reports about trouble in other giant skyscrapers (window breakage from wind, fires, sway), Sears insisted on the building being equipped with the finest life-safety system ever designed.

Major safety features include:

More than 40,000 sprinkler heads throughout the building.

A computer-operated system that detects smoke anywhere in the building, cuts off the flow of fresh air to that area and signals an exhaust system to discharge smoke out of the building.

A complete communications system for emergency messages.

An around-the-clock computerized security system to guard against internal and external dangers.

A complete high-speed elevator system that is as much safety as necessary. There are 103 elevator cabs, 14 double-deck cabs and a freight elevator reserved for fire-fighting equipment. It takes only 45 seconds for an express elevator at the 103rd observation floor to reach street level. All elevators can be controlled from the security control system on the 33rd floor.

Auxiliary generators provide the Tower its own source of energy in emergencies.

The population of this city-within-a-city will be 16,500—including 7,000 Sears employees, 8,000 tenants and 1,500 commercial, public or building service employees. Among the corporate tenants already in the fold are Goldman, Sachs and Company, Northwest Industries and Schiff, Hardin, Waite, Dorschel & Britton, one of the nation's leading law firms.

Sears people will occupy the first 50 floors of their new home. There appears to be plenty of room—until the year 2000 at least.

Kup—Ex-Quarterback and Ex-Sportswriter Irving Kupcinet Reigns as Chicago's Top Columnist/TV Host

Chicago landmarks?

Let's see . . . there's the new Sears Tower. The twin cones of Marina City. Big John, the John Hancock Center. Big Stan, the Amoco Building. Mayor Richard J. Daley. *Playboy's* Hugh Hefner. The Water Tower.

And Kup.

Kup, of course, is Irving Kupcinet, popularly known as "Mr. Chicago," the respected journalist and television host whose column is carried in 90 newspapers and whose TV show is seen in 13 markets, including New York. Kup has been Chicago's most prominent eyewitness for more than three decades.

The only thing that's been a local landmark longer than Kup is the Water Tower, which survived the Chicago Fire of 1871.

"Mr. Chicago" could easily be called "The Last Buffalo," or "Irving The Invincible."

"Irving the Invincible," because the Windy City's three other newspapers have never been able to eclipse the popularity of the *Chicago Sun-Times'* most celebrated staffer. In the last decade alone they've thrown 10 contenders at him. Their names, faded in journalistic memory, have become little more than Who, What, Where, When, and Whatever-Became-Of.

"The Last Buffalo," because Kup is one of the few survivors of a vanishing breed—the nationally syndicated gossip columnist.

To understand who Kup is and what he is, one must first understand a little about how the role of Town Crier has changed in the last 30 years, and how Kup implemented many of those changes.

The late Walter Winchell was the first three-dot columnist, taking short, snappy items and putting them in a daily column separated by three (. . .) dots. In those early days, a three-dot columnist was the royalty of the Fourth Estate, often ruling like a feudal lord. His coat of arms was an Eye Peering Through a Keyhole on a Field of Rumors.

"Kup's Column," inaugurated in 1943, was one of the first to change that image. For openers, Kup preferred to celebrate accomplishment rather than the latest mishaps of Hollywood stars and starlets. He stressed achievement, and skipped innuendo.

A writer for *Holiday* magazine once described Kup as a "gossip columnist who . . . doesn't make sneak attacks, indulge in grudges or print things he knows to be untrue.

"He runs probably the fewest press-agent handouts of any daily itemizer . . . the quaint habit of digging for news and checking handouts remains unbreakable with him."

Kup became the first to give the three-dot form more scope, making his column a cornucopia of capsule bulletins starring the day's news-makers.

"When I started in the field," explains the veterans scribe, "my instinct was to develop Washington sources, and broaden the column so it wouldn't be limited just to show business. I wanted to cover sports and broadcasting and business and politics as well, and give it a much wider range."

Today, of the early three-dottists, a handful of columnists of national consequence remain—writers such as Earl Wilson, Leonard Lyons and Ed Sullivan out of New York, and San Francisco's inimitable Herb Caen. Practitioners of a nearly bygone art, they enjoy as much celebrity status as many of those they write about.

Part of Kup's influence stems from his television program, "Kup's Show," whose impact extends far beyond the borders of the Windy City. A weekly gabfest somewhat in the same entertainment mold as the Johnny Carson, Dick Cavett and Jack Paar shows, "Kup's Show" also demonstrates the newsmaking ability of a *Meet the Press* or *Face the Nation*. Format of the 2½-hour program is divided between show-biz personalities and powerbrokers, and the latter divulge scoops of worldwide interest.

For instance, it was on "Kup's Show" that President Harry S. Truman first explained why he canned General Douglas MacArthur, adding: "I wish I had fired him two years earlier!"

Vice President Hubert Humphrey also opened up, letting slip that there was fighting along the Russo-Chinese border. Revolutionary Malcolm X admitted, just a few weeks before his murder, that he knew he was going to be killed.

And Vice President Spiro Agnew used the show as a forum for his controversial suggestion that government officials maybe should start interviewing newscasters!

Impressive as these headline-making stories were, it has been the show's consistent high quality that has garnered citations, including 11 local Emmys and a prestigious Peabody Award for "distinguished achievement." Now in its 15th year, and the longest continually running program with a talk-show format, "Kup's Show" uses 10 guests per program, ranging from authors to politicians to celebs to educators to whoever-is-in-the-news. The topics covered are equally wide-ranging. Lively discussion flows in abundance.

The show and the column means a 16-hour workday, seven days a week. Each is more than a full-time job. Combined, they're Kup's way of life.

"I spend about 60 per cent of the time on the column," says Kup, who starts tracking down items at 8:30 every morning in his newspaper office. Two phones are constantly busy, serving as his pipelines to the world.

After selecting the best stories from the calls, his notes from the night before, and the morning's mail, he completes the 1,000-word column by 1 p.m. Then it's time for lunch at the Pump Room, or Maxim's, Mike Fish's, Club on 39, or any of a half-dozeh other spots.

The afternoons are spent chasing more items, checking proofs on the column and making last-minute changes and additions, consulting with his TV producer, Paul Frumkin, about winnowing the week's 10 guests from the 500 offered, and discussing subjects to be covered. On Thursday or Friday nights, and always on Saturday nights, Kup tapes his TV program for Sunday-night showing.

At 6:30 on other nights, it's usually dinner at home with his attractive wife of 34 years, Essee (the former Esther Solomon). They are often joined by close personal friends, or their son, Jerry, 28, a commercial photographer and stage manager at WLS–TV (ABC), his wife, Sue, and the grandchild, Karyn Ann, 2. (Irv and Essee also had a daughter, Karyn, who was strangled in her Hollywood apartment 10 years ago. The murder was never solved.)

By 10, Kup is ready to leave his posh high-rise apartment on Lake Shore Drive to make the rounds—hitting night-club-opening nights, civic affairs, charity gatherings, the "in" spas—anywhere and everywhere he can dig for news. Essee usually accompanies him. And, since Essee thinks Irv is a lousy driver, she drives.

Kup usually returns home by 1:30 a.m., with dozens of notes taken, and having made enough phone calls to make Ma Bell tingle with delight. Then it's an hour of reading, catching up on magazines and books.

At 6:30 a.m., Kup rises, and his schedule starts all over again.

Irving Kupcinet always has been used to little sleep and lots of work. "I got my stamina from my parents," says the 6–1, 208-pound Boswell-of-Chicago. "Good peasant stock." He was born 61 years ago, the last of Max and Anna Kupcinet's four children. His father was a bakery truck driver.

Kup attended Northwestern University for two years, then transferred to the University of North Dakota, starring in football, and graduating in 1934. He played on the 1935 College All-Star team, and turned pro later that year, quarterbacking the Philadelphia Eagles. A broken shoulder in an early game ended his athletic career.

He immediately joined the Chicago Times (later the Sun-Times) as a copy reader on the sports desk. He quickly moved up to sportswriting, and then became a sports columnist, and finally launched "Kup's Column."

Initially, there was a they-laughed-when-I-sat-down-at-the-piano reaction. Kup sat at a typewriter, not a piano, but it did seem a little silly—an ex-footballer trying to be a gossip-columnist, a snitch and a snoop.

Under Kup's direction, the three-dot column has never been the same since, and people stopped laughing long ago.

Which is as it should be . . . when you're a landmark.

TOLL-FREE GOVERNMENT PHONE NUMBERS FOR DELAWAREANS

Mr. BIDEN. Mr. President, as our country and our Government continues to increase in size, there have been questions raised concerning the ability of our Government agencies to positively interact with the people of our Nation. It is, therefore, encouraging to note that several agencies of the Federal Government have established toll-free telephone numbers in order to be more responsive to the wants and needs of our citizens.

Under the new procedure, anyone in the State of Delaware is able to call a participating agency free of charge and register complaints or ask questions concerning the Government-administered programs. By simply calling the toll-free number, Delawareans are guaranteed an immediate response to their inquiry from the agencies' personnel.

As the toll-free system is enlarged, it seems apparent that the communication level between Government agencies and American citizens will improve considerably. The General Service Administration and the Federal Information Center should be commended for instituting the toll-free telephone numbers, and I hope that many other Federal agencies will quickly enter the program.

Mr. President, I am pleased with this display of governmental responsibility, and I ask unanimous consent that a listing of the toll-free numbers for Delawareans be printed in the Record, at this point in my remarks:

There being no objection, the matter was ordered to be printed in the Record, as follows:

Toll-Free Government Numbers—Telephone Numbers for Delaware Residents

Civil Service Commission: In Wilmington, 658–6911, extension 540. In all other locations, 1–800–292–9560; Federal jobs—what is available, qualifications, and how to apply

Action: 1–800–424–8580; information on Foster Grandparents, etc.

HUD: 1–800–424–8590; to report housing discrimination.

Air Force Recruiting: 1–800–447–4700; recruiting information.

Air Force Reserve Recruiting: 1–800–525–9984; reserve recruiting information.

Center for Disease Control: "Operation Venus" 1–800–523–1885; confidential information concerning venereal disease.

Justice Dept.: "Heroin Hotline" 1–800–368–5363; where people can call to anonymously report drug pushers/abusers.

Internal Revenue Service: In Wilmington, 652–3411. In all other locations, 1–800–292–9575; Federal Income Tax information

LATVIAN INDEPENDENCE

Mr. PERCY. Mr. President, the 55th anniversary of Latvian independence will be observed on November 18, 1973, providing an opportunity for us all to reflect on the state of the world in which fundamental human rights and freedom are denied to so many people. It is an occasion on which we should rededicate ourselves to the proposition that all peoples should be free to govern themselves and to determine their own destinies.

During an observance of Latvian Independence Day 2 years ago, Dr. Anatol Dinbergs, the Latvian Chargé d'Affaires in Washington, said:

> The desire for a free and independent existence has always been a cherished ideal of our people, and is even more so today. I therefore believe that . . . commemorating

Latvia's Independence Day, as well as similar events throughout this country and elsewhere in the free world, will serve as a source of strength and encouragement to the Latvian people at home.

Dr. Dinbergs' remarks were carried on the Voice of America to assure the people of Latvia that their interests and aspirations are not forgotten in the West. In my own State, the Chicago Latvian Association, led by Viktors Kiksnins, and the United Latvian Associations of Chicago, led by Rolands Kirsteins, work continuously to keep this message alive and to rally public support for the legitimate cause of all the Baltic States.

On this occasion, I would like to share with my colleagues in the U.S. Senate the words of the Latvian national anthem, deep with meaning and emotionally proclaiming the free spirit of the Latvian people, as follows:

God, bless free Latvian Land,
Guard well my Fatherland,
Thus pray my heart and mind;
God, save Latvia!

Let there sound free my voice,
Daughters and sons rejoice!
Let there be a happy choice!
God, bless Latvia!

May all who revere the heart and mind and spirit of free Latvia know that we share their long-held aspirations for freedom, security, and peace.

TRAFFIC SAFETY, ENERGY CONSERVATION, AND ENVIRONMENTAL PROTECTION

Mr. RIBICOFFF. Mr. President, the growing national concern for environmental protection and energy conservation have helped cause an increase in the demand for smaller cars. This year compacts, subcompacts, and imports have captured almost 40 percent of the new car market. By 1980, industry and Government analysts predict this figure may reach 50 percent.

These cars require fewer raw materials and consume less fuel than larger cars. Today's standard-size American car weighs about 4,400 pounds and gets about 11 to 12 miles per gallon. But the average foreign car weighs only about 3,000 pounds less and gets nearly 18 miles per gallon.

The Environmental Protection Agency has found that weight is the single most important factor in determining miles per gallon, and a U.S. Army study estimated that fuel consumption could be reduced 30 percent by a shift to smaller size cars.

But how safe are these smaller cars? Last year, the Insurance Institute for Highway Safety staged a series of 40- to 50-miles-per-hour collisions between standard-size American cars and domestic subcompacts such as the Pinto and Vega. Life-size dummies were placed in all cars to determine potential injuries. In every crash the subcompact suffered much more severe damage than the standard-size cars. The institute concluded that the occupants of the subcompact cars would have been seriously injured or killed in the crashes.

Another study, conducted by the New York State Department of Motor Vehicles, found that the chances of avoiding death or serious injury are twice as great in a standard-size car as in a subcompact.

These results do not mean that vehicle safety must be sacrificed for environmental protection and energy conservation. But they do show that both Government and industry must make greater efforts to improve the safety of small cars. For there will be no national benefit in saving our natural resources at a cost of increased deaths and injuries on our highways.

The small car safety problem can be solved. Calspan Corp.—formerly the highly respected Cornell Aeronautical Laboratory—has conducted experiments with modified Vegas and Datsuns which have shown that major gains in crash safety are possible and practical. In addition, Volkswagen has demonstrated a safety vehicle which is virtually injury proof in a 50-mile-per-hour frontal collision.

We have the technology to improve occupant protection through better seat-belt restraint systems, fire resistant gas tanks and collapsible front suspensions which will dissipate crash energy before it can cause serious injury. This equipment can substantially reduce the number of deaths and injuries from highway accidents.

Environmental protection and energy conservation are important national goals. But we also have a commitment to improve traffic safety. Progress on one front must not be made by retreating in other areas. Advances in all three can go hand-in-hand. It is the responsibility of the Government and the auto industry to assure that this is achieved.

HON. CHARLES H. SILVER'S ADDRESS TO THE ANNUAL ALFRED E. SMITH MEMORIAL FOUNDATION DINNER

Mr. BUCKLEY. Mr. President, one of the great occurrences on the New York City calendar is the Annual Alfred E. Smith Memorial Foundation Dinner. Over the years, the foundation's chairman, the Honorable Charles H. Silver, has delivered remarks notable for their wisdom and brevity.

I ask unanimous consent that Mr. Silver's remarks at this year's dinner be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address Delivered by the Hon. Charles H. Silver

In looking forward to this 28th Annual Dinner, it was impossible to resist the temptation of also looking back over those historic years of constant devotion to a cause so dear to the heart of our beloved guide and inspired leader, His Eminence Terence Cardinal Cooke.

He has continued the compassionate and humanitarian pattern of sacred purposes first charted by their inspired architect, Francis Cardinal Spellman.

In these uneasy hours, so bereft of faith, so burdened with distrust, it is good to join with such notable men and women as those who enhance our dais and fill this room.

Our Chief of State—unable to be with us in these times of international stress—has paid us the supreme compliment of dispatching one of the world's most charming ministers "without portfolio" . . . his beautiful daughter Mrs. Edward Cox.

To serve as chairman of this magnificent dinner is an extremely responsible task—but it has a number of gratifying rewards.

One of these that I most enjoy is the privilege of working closely with our deeply cherished friend His Eminence Cardinal Cooke.

I think you know how much it means to me to do my share on behalf of this remarkable charity with which I have had the honor of being affiliated for nearly three decades.

Today, my pleasure is vastly increased by the presence of the distinguished member of Congress—who served brilliantly for eight years as minority leader in the House of Representatives.

He has been called, with considerable popular acclaim, to fill the second highest federal office in our land. We greet—among our many esteemed guests—the Vice-Presidential designate, Gerald R. Ford.

In this good company we can rejoice that our heritage of valor and wisdom as a great people will ultimately overcome the forces of despair.

Democracy is its own most powerful weapon.

It has served us well . . . and it always will.

We will be led in this struggle by the presence of such servants of God and of man as His Eminence—by the example of ideals and courage which is the legacy of that "happy warrior" in whose honored memory we meet—and by such apostles of justice as that profound scholar, teacher and living symbol of law, our honored guest tonight, Judge William Hughes Mulligan.

Not everything we view from the tall intellectual watchtower of this convocation inspires confidence in our legal process or in human judgement.

Even on the highest levels of Constitutional law, I find it incredible for any court to determine that this nation should seek to legislate God out of the minds and hearts of our children!

And can you believe that we could decree such cruelty as to heartlessly deprive parochial school children of millions of dollars worth of classroom supplies and instructional equipment? These are tools of learning they desperately need.

I think it is time we put a stop to such petty politics on the pretext that a touch of faith might contaminate our schools.

How can we ruthlessly tear out of the hands of these children the help without which their education will not be.

And this should be plain and obvious: If the schools do not survive—nothing else will. . . .

The man whose memory means so much to us had a favorite phrase: "Let's look at the record". But just looking is not enough. We need doers and dreamers who will turn tarnished yesterdays into a better tomorrow. We need movers and changers who will fight to keep democracy alive today.

We need men and women of integrity and devotion—resolved to set the record right—to inscribe upon the pages of the future such words as these of His Eminence—I quote our Cardinal:

"This day is precisely the kind of moment in history that calls for the faith and courage which was found in the lives of our dedicated forebears.

"We see gravely threatened an institution which has contributed immeasurably to the strength of this nation and to the quality of life . . . a spirit that goes beyond the natural, that goes beyond the purely secular and rings out with the very principles our forefathers enshrined."

Those are the words of our honored host, that prince of the church and guardian of the conscience of mankind.

They are words by which to steer our ship of state.

They are words to save it. . . .

They ring with the same majesty as that immortal phrase—"In God We Trust"—which was the guiding precept of those who established this republic in an inspired yesterday.

We could use a little more of trust—today—and a lot more of God.

I am no moralist, no sage and certainly no soothsayer—but I am aware of the horror in the daily headlines—the widening gap in our homes—and the crime in our streets.

In my own simple terms, I am trying to say what I know must be in the hearts of all whose love and loyalty give strength to this Foundation.

I call upon you to gaze again at that "Great Seal" of our republic with its mystic unfinished pyramid representing our ever growing union.

Note, that at its peak, the all-seeing eye of God probes the innermost heart of all mankind.

If it is, indeed, "In God We Trust", let us bring honor and order to the ages yet to come and to all our national endeavor.

Perhaps, then, with the faith and hope and truth which has created and preserved us . . . and with that great sense of glory which moves all men who place their trust in God . . . we may make ourselves worthy enough to restore His trust in us.

NAVY DESTROYER POWERED WITH OIL FROM COAL IS SUCCESSFUL—SENATOR RANDOLPH FLEW IN AIRPLANE FUELED WITH GASOLINE FROM COAL 30 YEARS AGO

Mr. HOLLINGS. Mr. President, the present shortage of fuel supplies has sharpened our awareness of the need to develop new sources of energy. The crisis situation that exists also is stimulating a resurgence of research and development efforts to provide new fuels in quantity and at a reasonable cost.

The Armed Forces of the United States have a significant stake in the availability of fuels. Recently the Navy has been involved in the development of alternative fuel sources, including the conversion of coal to oil. An important test of the feasibility of this practice was carried out yesterday when the Navy sent a World War II destroyer to sea powered by oil made from coal. The preliminary indications are that the test was successful and that this fuel can be a viable alternative to oil from traditional sources.

The cruise yesterday came just over 30 years after a similar demonstration showed that airplanes can be operated on gasoline made from coal. Our colleague, Senator Jennings Randolph, recently recalled the anniversary of that flight when he flew from Morgantown, W. Va., to Washington in a plane fueled by gasoline extracted from coal. The pilot on that journey was Arthur C. Hyde. This fall the anniversary of that historic 175-mile flight, was observed in a ceremony at the Morgantown airport. At that time, a plaque was erected at the airport which read:

In commemoration of the flight by Jennings Randolph, Member of Congress, and Arthur C. Hyde, pilot, on November 6, 1943, from Morgantown, West Virginia to Washington, D.C., in the first U.S. airplane powered by gasoline made from coal.

Both the airplane flight on November 6, 1943, and the destroyer cruise of November 15, 1973, are evidence that our most abundant domestic fuel source can be adapted to meet a variety of contemporary needs. Accelerated research and development programs can lead to the commercial application of technology permitting coal to make up the deficits we face in other fuels.

Mr. President, I ask unanimous consent that a New York Times article on the Navy experiment be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Nov. 16, 1973]

Navy Tests Destroyer Powered by a Liquid Derived from Coal

(By Wayne King)

Philadelphia, November 15.—A World War II Navy destroyer, the U.S.S. Johnston, steamed out of port here today to become the first ship in history to use coal-derived oil to power its engines.

Beyond its historical import, the short one-day cruise of the Johnston, both military and civilian officials said, will likely have great practical significance to an increasingly fuel-starved nation.

Initial impressions indicated that the pilot test of the fuel to fire the steam generating boilers of the Johnston was a success, although a detailed analysis has yet be completed. More important, Government officials predicted that, with Congressional approval of the large outlays needed for construction of coal-conversion plants to produce the fuel, fairly widespread use of it as a petroleum substitute may be only a few years away.

For more than a year, the Navy has been working with the Department of the Interior to develop a clean-burning, economical substitute for the petroleum-based fuels that the Navy consumes at the rate of 42 million gallons a year.

If all goes as planned, the coal-derived oil will begin replacing petroleum fuels in Navy vessels in about three years, and will ultimately—within a decade—account for about half of the fleet's total consumption.

Beyond that, the Department of the Interior's Office of Coal Research—an agency that began 12 years ago with a relatively meager $1-million budget and will spend $122-million this year—already has in operation a pilot coal liquefication plant in Princeton, N.J., with another under construction in Tacoma, Wash. Two pilot plants to convert coal to gas are also in operation, with a third being built.

COAL-CONVERSION PLANTS

Within a decade, said Paul R. Jordan of the Office of Coal Research, the Interior Department hopes to have assisted in development of a number of privately owned and operated coal conversion plants, each capable of producing 250 million cubic feet of gas a day—enough for a city of a half a million people—and 60,000 to 100,000 barrels of synthetic fuel oil a day.

Although the Navy today became the first to make use of the new fuel, both naval and other officials said its development was keyed heavily to civilian use.

Though the coal gasification and liquidification propect has been under way for almost 10 years, the recently developed fuel crisis has given it new and accelerated emphasis.

The Navy, according to Rear Adm. Randolph W. King, who answered questions at a news conference at the Philadelphia Naval Base prior to the sailing of the Johnston, is interested in the coal liquidification process as a means of guaranteeing an uninterrupted fuel supply regardless of the political situation in the Middle East or other oil-producing areas.

At present, he said, coal supplies in the United States are adequate for at least another 100 years. Other estimates have ranged up to 500 years and more.

Moreover, both Admiral King and the Interior Department sources said the ultimate projected cost of producing of the synthetic fuel oil would average $4.50 to $5 a barrel, compared to $5.25 a barrel for the fuel now used. This estimate, however, takes into consideration the selling of byproducts from the liquidification process to reduce the over-all cost.

Moreover, Mr. Jordan of the Coal Research Office projected capital outlays for construction of coal conversion plants at $5-billion over the next decade or so. Present plans call for a joint effort by the Federal Government and private industry, with the process ultimately to become entirely private enterprise.

Actual plant construction beyond the pilot stage, however, would require Congressional appropriations.

Both naval and Interior Department officials were optimistic about the prospects for large-scale coal conversion in the relatively near future, however. Although officials could not come up with a specific figure, the coal derived fuel that powered the Johnston without incident today ferrying newsmen on the first leg of her pilot cruise, cost many times the $4 to $5 figure that the Government ultimately hopes to attain for coal-derived fuel oil—which can be used in almost identical form to heat homes and a somewhat more refined version to fuel jet aircraft.

The economic success of the project rests on the economies of extremely large-scale production in plants that were estimated to cost from one-third to three-quarters of a billion dollars each to construct.

It was not made clear whether the Government's per-barrel cost estimates for the synthetic fuel included the initial costs of plant construction.

The coal-derived fuel itself should be acceptable to environmentalists, officials said, as it is of very low sulphur content, and will burn cleaner than the fuels used now by the Navy.

It is also possible to distill the synthetic oil in much the same manner as petroleum crude oil and thus convert it to higher grades, including gasoline.

CONVERSION PROCESS

The synthetic oil is obtained by a process called pyrolsis, in which the coal is crushed and then decomposed by use of heat, pressure and catalysts. This is followed by hydrogen treatment that alters the substance chemically to produce a snythetic oil-like fuel.

The process requires roughly a ton of coal to produce one barrel of oil. However, also produced is some 12,000 pounds of char, which can be further processed for extraction of fuels, and over 8,000 cubic feet of gas.

In general, officials at the news conference said, the coal fields of the Midwest and West produce the best type of coal for this process, a fact that is not expected to gain a warm reception in coal-rich Eastern states like Pennsylvania and West Virginia that are searching for ways to again utilize largely abandoned coal fields.

Renewed efforts to make extensive use of coal is expected to run into stiff resistence by environmentalists who oppose the ravages of strip mining, still the most economic method of mining coal in most cases.

Samples of the coal-derived fuel oil passed out to reporters appeared roughly the color and consistency of crankcase motor oil at about the time it badly needs changing. Its odor was somewhat sweetish, with the rather sharp, astringent cast of a disinfectant.

Early tests, indicated a strong coal-tar odor when the substance was burned, suggesting it might prove too offensive for boiler room personnel.

A seaman in the engine room today said, however, that the odor was acceptable and that the fuel seemed to perform in a manner indistinguishable from the usual petroleum oil, except for what appeared to be a slightly brighter flame.

The fuel is thicker than others used by the Navy, however, and cannot be poured at temperatures below 60 degrees Fahrenheit, a problem in some situations. Further processing may improve this, however, officials said.

THE ROLE OF LABOR IN POLITICS

Mr. BAYH. Mr. President, one of the lessons of Watergate, and the whole range of scandals that have rocked Washington in recent months, is the insidious influence of big money in politics. That influence is obviously at its worse when it is used to buy access to the political system and when there is a quid pro quo associated with a campaign contribution.

One approach to solving this problem would be the public financing of all campaigns. This would remove the potential for serious abuse by large contributors, as would other proposals to limit the size of campaign contributions.

However we deal with the question of campaign financing, we should also seek another solution in encouraging and welcoming wider public participation in the political process.

Joseph A. Beirne, the president of the Communication Workers of America and a respected national labor leader, has written an insightful article on this subject for the Washington Post. President Beirne makes a number of points well worth the attention and consideration of the Senate and I request unanimous consent to include the article by Mr. Beirne in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ROLE OF LABOR IN POLITICS

(By Joseph A. Beirne)

If there is one positive contribution to the American way of life that the current administration has made, it has been to focus our attention on money in politics with crystal clarity.

Never before have we been treated to such a blatant exhibition of governmental favoritism to those who came up with the money at the right time. Corporate antitrust problems can apparently be solved by doling out a little cash. The only problem is that the assessments are being made by political parties in the form of contributions and not by courts in the form of fines. Ambassadorships also have taken a more dominant position in the marketplace. The most disgusting aspect of this practice is that in the eyes of the world we reduce our highest ranking diplomatic envoys to little more than a pack of rich kids. They may not know much about world affairs, but rest assured that they won't be caught eating steak with their salad fork at state dinners.

So, in the light of Watergate and related money-oriented scandals, Congress is beginning to discuss some type of reform of our campaign and election practices. The natural goal of any such reform would be to end the concept of "politicians for rent to the highest contributor," as AFL-CIO Legislative Director Andrew Biemiller put it in recent testimony before the Senate Privileges and Elections Subcommittee. To do this, we must commit ourselves to a system of publicly financed elections. Anything else would continue to perpetuate the election of wealthy candidates at the expense of truly representative legislative bodies.

Reform must go beyond giving a reasonable opportunity to all who wish to run for public office. The amount of money spent on political campaign is virtually out of control. In 1972, the amount spent by candidates seeking office is estimated in the neighborhood of $400 million. There is little hope to bring this spending under control through our current system. CWA Secretary-Treasurer, Glenn E. Watts, said out in testimony before the aforementioned Subcommittee that "at the current rate of inflation and with the built-in increases in campaign costs, campaign spending by the year 1984 could reach an estimated $1 billion." If $400 million can get us Watergate, $1 billion should be sufficient to guarantee the repeal of the Bill of Rights. In the midst of all reform talk there are healthy doses of finger pointing and hand washing. Just as I think the primary villains have been the corporate campaign financiers, others cite labor's political contributions. If you are expecting me to say that we don't contribute, forget it. We most definitely contribute voluntary dollars to candidates who support the views of millions of working men and women. There is an important difference here and it involves people.

Labor unions are about the only major organizations that represent large numbers of working people and are in a position to speak out on their behalf. Whether it be in regard to legislation or political contributions, labor must view itself as a spokesman for these workers and as an alternative sounding board to corporate interest and their trade associations. In the contribution of political funds, the AFL-CIO has long depended on the Committee on Political Education (COPE). The money that COPE dispenses goes to candidates of labor's choosing, who are supportive of the views of working people. There are no "bag men" for COPE money, and there are no Mexican laundromats necessary. Our contributions are above board, and they are made with the consent of our membership.

Within CWA, we have taken steps to insure full membership participation in dispensing of political contributions. Advice from lower echelon officials is sought before contributions are made which would effect the political status in their districts or states. Only if we operate in a democratic manner internally can we hope that our efforts will insure the democratic process externally.

The participation of our membership in political matters is crucial. Recent legislative failures have demonstrated that. If our political contributions are so effective, why couldn't labor muster enough support to guarantee a new minimum wage bill. Why couldn't we swing enough support to disaster relief and health care. Our answer lies in increasing membership activity in politics. Quite simply, we are committed to the inclusion of people in politics—not only dollars. These initiatives are paying off. In the recent Democratic Telethon II, a request for volunteers brought over 10,000 CWA members to answer telephones throughout the country. And I don't believe that will be their final effort.

In the future, when reform does come to campaigning, I for one will be happy to see labor conform to all money control regulations. But labor's members, the people, will never abandon participation in the political process. They will always be active and their voice will always be heard. Failure to keep people involved would result in turning campaigns back over to money barons and thus leave our democratic system twisting slowly . . . slowly in the wind.

PROTECTING THE SPECIAL PROSECUTOR

Mr. TAFT. Mr. President, an editorial in this morning's Washington Post provides an interesting analysis of an opinion handed down by Judge Gesell of the U.S. District Court for the District of Columbia this week. Judge Gesell's opinion, as many Senators are aware, suggested that it would be unwise to enact legislation authorizing the appointment of a special prosecutor in the judiciary. While I am not certain that I agree with all of the Post's interpretations regarding limitations on the President's removal power, I do believe the editorial does contain extremely sound advice with regard to enactment of special prosecutor legislation. The Post states it is neither necessary nor desirable for the Congress to adopt legislation that would permit appointment of a special prosecutor by the judiciary. As I stated yesterday on the floor, I am hopeful that many of my colleagues currently supporting the court appointment approach will reconsider their position in light of the Gesell opinion and carefully examine this issue anew. It also must be emphasized that not only has Judge Gesell stated objections to the court appointment approach, but Chief Judge John J. Sirica of the U.S. District Court for the District of Columbia, has also stated similar concerns. Considering these objections by judges of the very court that would be authorized to appoint such a special prosecutor, Senators must question whether the U.S. District Court for the District of Columbia would exercise such power even if the Bayh-Hart approach were enacted. I think that the answer may be that they would not, as judges like Senators take an oath to uphold the Constitution and such an approach would, in my opinion, clearly violate this oath of office.

I ask unanimous consent that the editorial entitled, "Protecting the Special Prosecutor," from the Washington Post of November 16, 1973, be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROTECTING THE SPECIAL PROSECUTOR

"Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court."

The quotation comes from U.S. District Judge Gerhard A. Gesell's memorandum explaining his decision in an important Watergate-related case the other day. Judge Gesell made his observation in the course of declaring that Acting Attorney General Robert H. Bork had acted illegally in firing Special Watergate Prosecutor Archibald Cox on October 20. Taken together Judge Gesell's admonitions concerning the proper role of the courts and his interpretation of the law as it concerns the Special Prosecutor's tenure seem to us to argue forcefully against legislation now pending that would authorize the appointment of a Special Prosecutor by the U.S. District Court. The question is whether such legislation is either necessary or desirable, and we believe the answer on each count is, no.

The purpose of the congressmen and senators who are supporting the creation of a court-appointed prosecutor is admirable: it is to guarantee an independent, impartial, pressure-free prosecutor's office, one that is not subject to the will, whim or threat of those under investigation. And, not incidentally, it is to assure that the appearance of all this will be equal to the reality, so that people will be able to have confidence in the integrity of the prosecutor's office. However, we believe that this purpose would best be satisfied by other means—specifically by the enactment of legislation requiring Senate confirmation of the administration-appointed Special Prosecutor and also giving even firmer statutory basis to the office of the Special Prosecutor.

Judge Gesell's reading of the law is relevant here. He did not find that Acting Attorney General Bork had acted illegally in firing Mr. Cox by reason of any breach of the commitments given the Senate by Elliot Richardson concerning Mr. Cox's position. Those commitments, Judge Gesell said—whatever the "moral or political" implications of abandoning them—"had no legal effect." Rather, he found the illegality to reside in Mr. Bork's violation of a Justice Department regulation authorized by statute and setting forth the conditions governing the Special Prosecutor's job. Those conditions, as Judge Gesell observed, included the following: "He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that "The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.' "

What is particularly interesting and apt about this judgment is that the Justice Department regulation, which Judge Gesell sees as having had "the force and effect of law" and which he also sees as preventing the President himself from dismissing a Special Prosecutor, is back in effect. In other words, its terms extend to and protect Leon Jaworski, the new Special Prosecutor who has just been named to the job by Acting Attorney General Bork. It seems to us that an administration-appointed Special Prosecutor whose views and purposes had been examined by the Senate in confirmation hearings, whose subsequent confirmation made him in some appreciable degree answerable to Congress and whose job security had been enhanced by strengthening of the statutory basis of his office would be as free of administration pressure and dictation as could be guaranteed by any process—including the process of having him appointed by and answerable to the U.S. District Court.

We would argue that such a prosecutor would have another special advantage: it is the likelihood that any findings he made or charges he brought against the President of the United States would be credited by the public. Here we find ourselves taking an entirely opposite view from those who hold that a court-appointed prosecutor would enjoy more public confidence than anyone—Mr. Jaworski included—who owed his appointment to the Nixon administration. On the contrary, it seems to us that his appointment by the administration would at once oblige him to demonstrate his prosecutorial independence and give particular force to his position, especially as he pursued investigations of those intimately connected with the administration. It is important now that people believe in the integrity of the Special Prosecutor. But it is not nearly as important as it will be if and when the Prosecutor comes into direct conflict with Mr. Nixon, as Mr. Cox did, or actually implicates him in criminal activites.

These are essentially political considerations, and it seems to us that they weigh equally in the scale when you are thinking about the Special Prosecutor's freedom to pursue the work Mr. Cox began. High among those considerations we would list a new political restraint on Mr. Nixon: at what cost could he repeat his performance of the weekend of October 20? The President is only now recovering—and just barely—from the repercussions of that event and to the extent that he is recovering at all, he owes everything to a hasty retreat from his position on releasing the subpoenaed tapes and on abolishing Mr. Cox's office along with Mr. Cox's appointment.

What with the Ervin Committee, the House Judiciary Committee and the Special Prosecutor's office already in existence, it seems to us that the addition of a court-appointed prosecutor would only dissipate energy and promote confusion in the task of bringing the Watergate offenses to light and the Watergate offenders to justice. There is, in fact, too much confusion, distraction and overlap now. We think the center of action should be the Special Prosecutor's office. And we think the tools are at hand for Congress to guarantee that this is so.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, virtually every day the Senate was in session during the past 5 years, I have urged this body to take action on ratification of the genocide and other human rights conventions. With respect to the Genocide Convention, there has been widespread support for ratification in this administration, in previous administrations, among many of the most prominent members of the bar, among the press, and among many of my constituents.

In March of this year, a subcommittee of the Committee on Foreign Relations again reported favorably on ratification of the Genocide Convention. Indeed, much of the original opposition to the Genocide Convention has abated in the last 20 years.

I genuinely believe that this lessening of resistance is attributable to the broader and deeper understanding of the provisions of this convention. It is a tribute to our deliberations in the Senate that an exhaustive analysis has been made of the many questions and issues raised by the convention. Eminent scholars, members of the bar, officials of the administration, and representatives from the United Nations have all demonstrated that those questions should be resolved in favor of ratification.

Mr. President, I urge this body to act on ratification during the current Congress.

PRESIDENT SHOULD NOT RESIGN; NO GROUNDS TO DATE FOR IMPEACHMENT

Mr. FONG. Mr. President, throughout the Watergate revelations, I have seldom spoken out publicly.

My position from the beginning has been that it is my duty as a U.S. Senator not to make any final judgment until all the evidence is in.

Judges and juries do not render a verdict until after the prosecution and the defense complete their cases.

As a Member of the U.S. Congress, I believe the only fair and the only responsible course for me is to do the same.

After reading some 500 communications I have received from my State of Hawaii and additional communications from the mainland on Watergate and related issues, it is obvious some of my constituents and some other Americans have already tried and convicted the President.

I believe that final judgment at this time is premature.

Night before last, I was one of a group of Senators who met with the President at the White House. The President answered all of our questions frankly and openly. He revealed facts that have not been made public to date. I hope that these and any other pertinent facts will be made known to the American people by the President just as soon as possible.

Meantime, the American people should understand that in struggling to uphold the right of a President's executive privilege, a right that was similarly claimed by many former Presidents, Mr. Nixon actually hurt himself. For he was unable to disclose tapes and other Presidential documents which he believes would support his statements that he did not have prior knowledge of Watergate and that he did not participate in or condone a coverup of Watergate.

Now, however, against developments that included: First, District Court Judge Sirica's ruling rejecting the President's broad claim of executive privilege and demanding the subpenaed tapes for the judge's use in camera; second, the court of appeals memorandum urging a compromise between the President and the special prosecutor on the tapes; third, the struggle over the compromise itself; fourth, the ruling of the court of appeals upholding the district court ruling; fifth, the agreement to turn over the available tapes to Judge Sirica; and sixth, Judge Sirica's statement that he has no objection to release of the tapes and documents, President Nixon is in a position where he can make the appropriate disclosure that he has promised.

In accord with the American tradition of fair play and in accord with the fundamental tenet of our system of jurisprudence that every person is presumed innocent until proven guilty, all Americans should withhold final judgment until the President makes this disclosure and all the evidence is in.

The President of the United States is just as entitled to the presumption of innocence as any other American citizen. It is our birthright as Americans.

While I have not made a final judgment at this time, I can say that I strongly believe the President should not resign. In addition, based on the evidence adduced before the Senate Watergate Committee, I believe there are no valid grounds for impeachment.

CONCERN WITH WATERGATE

This is not to say that I am not deeply concerned by the Watergate break-in, by the dirty tricks played during the campaign, and by other acts of wrongdoing that have come to light. I am concerned and I have been from the very beginning. Last year during the Presidential campaign I stated that I deplored the Watergate break-in and that I believed anyone on the White House staff, and on the Committee To Reelect the President, and anyone else guilty of illegal acts should be punished. I repeated this belief in August this year, after the first phase of the Senate Watergate hearings.

I still believe this.

At the same time, I do not believe it is my prerogative to pronounce anyone involved innocent or guilty. That is the duty of the juries and the judges, and they are proceeding vigorously to carry out their duty.

As for the President, under our Constitution a President can only be removed in an impeachment proceeding initiated by the House of Representatives and only after conviction by the Senate for "treason, bribery, or other high crimes and misdemeanors."

NO GROUNDS NOW FOR IMPEACHMENT OF PRESIDENT NIXON

On impeachment, the assistant counsel to the Senate Watergate Committee who had previously worked for a number of years for the chairman of that committee, appeared on a radio network panel program a few weeks ago and was quoted as saying:

> I agree with Senator Curtis entirely that there's not been any evidence whatsoever to link the President with any of these doings. It's not credible evidence . . . and, as a lawyer, I agree, too, that no court in the land would admit an iota of it.

Of the more than 60 witnesses called to testify before the Senate Watergate Committee, only one, Mr. John Dean, challenged the President's statement that he had no prior knowledge of the Watergate break-in. Mr. Dean offered no evidence to back up his testimony except his own personal impressions. Such impressions would not be admissible evidence in any court in America.

Furthermore, there were a number of witnesses who contradicted Mr. Dean, including Mr. Richard Moore, a special counsel to the President, who is untainted by Watergate and unlike Dean had no need to ask for immunity from prosecution.

Concerning a March 20 meeting this year with President Nixon and Mr. Dean, Mr. Moore told the Senate Watergate Committee as follows:

> As I sat through the meeting . . . I came to the conclusion in my own mind that the President could not be aware of the things that Dean was worried about or had been hinting at to me, let alone Howard Hunt's blackmail demand. Indeed, as the President talked about getting the whole story out—as he had done repeatedly in the recent meetings—it seemed crystal clear to me that he knew nothing that was inconsistent with the previously stated conclusion that the White House was uninvolved in the Watergate affair, before or after the event.

Mr. Moore went on to say:

> As we closed the door of the oval office and turned into the hall, I decided to raise the issue directly with Mr. Dean. I said that I had the feeling that the President had no knowledge of the things that were worrying Dean. I asked Dean whether he had ever told the President about them. Dean replied that he had not, and I asked whether anyone else had. Dean said he didn't think so. I said, "Then the President isn't being served, he is reaching a point where he is going to have to make critical decisions, and he simply has to know all the facts. I think you should go in and tell him what you know. You will feel better, it will be right for him and it will be good for the country."

Mr. Moore further related:

> The next day, March 21, Mr. Dean told me that he had indeed met with the President at 10 o'clock and had talked with him for two hours and had "let it all out." I said, "Did you tell him about the Howard Hunt business." Dean replied that he had told the President everything. I asked if the President had been surprised and he said yes.

Mr. Moore concluded his prepared statement before the committee as follows:

> It is my deep conviction—as one who has known the President over the years and has had many private conversations with him—that the critical facts about the Watergate did not reach the President until the events that began when John Dean met with him on March 21, 1973.

On October 28, after considerably more testimony had been taken by the Senate Watergate Committee, one of the leading newspapers in the Nation's Capital editorialized as follows:

> But insofar as we are aware, Mr. Nixon has broken no law, defied no court, padlocked no legislature, muzzled no member of the press. * * * He has yet to be found guilty of anything other than having underlings and associates accused and some guilty of misdeeds.

Since October 28, there have been further developments and more testimony before the Senate Watergate Committee.

Yet, here is what one member of the Senate Watergate Committee—a Democrat member, the distinguished Senator from Georgia (Mr. TALMADGE)—said 2 days ago, according to the Washington Post yesterday:

> Talmadge, a member of the Senate Watergate committee, told a Chicago press conference he had "serious doubt . . . that there is sufficient evidence to warrant impeachment of the President at the present time."
>
> He said the only evidence against the President came from former White House counsel John W. Dean III, adding that "Mr. Dean himself is a co-conspirator, and I don't think that would be sufficient evidence to remove the presumption of innocence."

PRESIDENT HAS NOT DEFIED THE COURTS

Charges that the President defied the courts will not hold up as grounds for impeachment.

On the contrary, the President waived executive privilege for all of his aides—Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, Mr. Mitchell, and all the rest. The only executive privilege he claimed is for himself in regard to confidential Presidential conversations, tapes, documents, and other papers which, based on precedent, he believes under or constitutional separation of powers cannot be demanded of any President by either the courts or the Congress.

Because President Nixon appealed the decision of the Federal district court judge to the court of apeals certainly does not constitute defiance of the courts. As a matter of fact, the President could have taken the issue of executive privilege to the Supreme Court. When a person has the right of appeal to a higher court and exercises that right, he cannot be acused of being in defiance of a lower court.

Instead of pursuing the issue to the Supreme Court, however, President Nixon endeavored to attain a workable resolution of the issue. He offered a compromise with summaries of the requested tapes to be submitted to the Senate Watergate Committee after these summaries had been verified for accuracy by Senator JOHN STENNIS, who was to be permitted to hear the tapes.

But as we all know, the compromise fell through when Special Prosecutor Archibald Cox refused to agree to the compromise and threatened to ask the court to issue a subpoena against the President to release the tapes to him.

Thereupon, the President ordered Mr. Cox fired, Attorney General Richardson resigned, Deputy Attorney General Ruckelshaus was dismissed, and the President directed that a procedure be worked out that would produce the tapes for the court in compliance with the earlier order of the District Court and that would permit Federal District Judge Sirica to hear the tapes in his chambers.

PRESIDENT NIXON AND THE SENATE WATERGATE INQUIRY

In the case of Congress, President Nixon has cooperated in furnishing information to the Senate Watergate Committee and waiving executive privilege, allowing his former aides to testify.

But the President followed a long line of precedents in refusing to appear before the Senate Watergate Committee and in refusing to grant the committee access to Presidential files. In the President's view, this would violate his "constitutional responsibility to defend the office of the Presidency against encroachment by other Branches."

Nowhere was this concept better expressed than in a letter which the late President Harry S. Truman wrote to a committee of the House of Representatives on November 12, 1953, in response to a subpoena issued by the Committee for him to testify.

In declining to appear even though he had already left the Presidency, Mr. Truman wrote that:

> In doing so, I am carrying out the provisions of the Constitution of the United States; and am following a long line of precedents, commencing with George Washington himself in 1796. Since his day, Presidents

> Jefferson, Monroe, Jackson, Tyler, Polk, Fillmore, Buchanan, Lincoln, Grant, Hayes, Cleveland, Theodore Roosevelt, Coolidge, Hoover and Franklin D. Roosevelt have declined to respond to subpoenas or demands for information of various kinds by Congress.

Mr. Truman also cited a report of the House Judiciary Committee in 1879, in which the Committee said:

> The Executive is as independent of either house of Congress as either house of Congress is independent of him, and they cannot call for records of his actions, or the action of his officers against his consent, any more than he can call for any of the journals or records of the House or Senate.

Further, Mr. Truman went on to say in his own words:

> It must be obvious to you that if the doctrine of separation of powers and the independence of the Presidency is to have any validity at all, it must be equally applicable to a President after his term of office has expired when he is sought to be examined with respect to any acts occurring while he is President.
>
> The doctrine would be shattered, and the President, contrary to our fundamental theory of constitutional government, would become a mere arm of the Legislative Branch of the Government if he would feel during his term of office that his every act might be subject to official inquiry and possible distortion for political purposes.

So President Truman declined to honor a subpena issued by a committee of Congress even after he had left the Office of President. Yet, Mr. Truman was not deemed in contempt of Congress for this action, nor was he pilloried and condemned.

Presidents Kennedy and Johnson both invoked executive privilege from time to time. Yet they were not threatened with impeachment or contempt charges.

POLICY DISAGREEMENTS NO GROUNDS FOR IMPEACHMENT

There are some who contend President Nixon should be impeached because of his Vietnam policy and his conduct of the war and the efforts to bring our prisoners of war home.

Some critics made similar charges against President Abraham Lincoln, who was criticized, reviled, hated and hounded during his tenure for his policies opposing slavery and for his conduct of the Civil War. In 1864, a group of prominent Republicans organized a "Lincoln withdrawal" movement. Critics in Congress even set up a committee of House and Senate Members to take over the conduct of the war from the President.

President Nixon is in much the same situation as the beleaguered Lincoln, who said:

> I do the very best I know how—the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference.

If we impeached our Presidents every time a strong minority or even a majority may disagree with some policy or other, probably every President we have would be impeached during his term of office. Every President has to make some decisions that are unpopular, just as governors, mayors, and other government leaders have to make unpopular decisions from time to time.

NEED FOR PRESIDENT TO DISCLOSE

Nevertheless, the long court battle over executive privilege, an issue not fully understood, coupled with some serious mistakes in White House handling of the Wategate matter, have rightly or wrongly raised grave questions of the President's credibility and integrity, as he well recognizes. I am hopeful that he will soon divulge to the American people information which will help restore his credibility and integrity.

Meanwhile, I call on all Americans to withhold their final judgment until after the President makes his case and until after all the evidence is in.

REJECT CALLS FOR RESIGNATION

With impeachment groundless as of today, there are those who are calling on the President to resign.

I strongly believe the President should not resign and I told him so only 2 days ago.

First of all, resignation would be universally interpreted as a confession of guilt.

Second, resignation at this time of Middle East turmoil and Hanoi's buildup in Southeast Asia could well trigger actions not in America's best interest by governments moving to take advantage of a precipitate change in command and all the attendant uncertainties that go with such a change.

Third, resignation would establish a very dangerous and unsettling precedent. America is the oldest republic in the world and we have enjoyed a stability in Government which few nations have enjoyer because our Presidents have served out their 4-year terms.

America should never be in the precarious position of having its Presidents rise or fall depending upon the ups and downs of their popularity.

If a President is forced to resign because of a wave of emotionalism or mass hysteria or because opinion polls show his popularity at a low ebb, then should Governors, mayors, county executives also resign during a wave of emotionalism or mass hysteria or low popularity at some point in their tenure?

It is easy to perceive the chaos and upheaval that could result under such a concept.

Once America embarks on a policy where administrations can be toppled at any time when they do not enjoy widespread confidence of the electorate, we will weaken the very fabric of our Government. Ours is not a parliamentary system and deliberately so.

We certainly would not want the experience that some European governments have had. France had 27 changes in government in the 14 years from 1944 to 1958 under its Fourth Republic, an average of almost two new governments each year. Italy has had 35 changes in the 27 years since 1946.

Resignation of President Nixon would subject America to an unwarranted disruption in Government. It would involve not only a change in the Office of President, but changes in many Federal Departments and agencies as the new President selected his own top aides. This could involve nomination of new Cabinet Secretaries and hearings and confirmation proceedings in the Senate.

Meantime, important decisions would be postponed. Delay could work hardship on individuals and on organizations in our economy, which is going to be strained as it is in the coming 2 years by the energy crisis. There would be a period of uncertainty which would affect our economy and possibly jobs for America's working men and women.

Our Constitution provides for an orderly transition from one administration to another, and the incoming administration has time between the November election and the January inauguration to prepare to take the reins of Government. Even at best, however, there is a period of marking time after inauguration before the new administration can get into full swing.

In this day and age, when push-button war is a reality and when hot spots are festering in the world, a changeover in our Government could embolden certain other governments to take actions that would be contrary to America's best interests, possibly jeopardizing our national security.

It would not be the first time in history that America's intentions and capabilities had been miscalculated, with dire consequences. The attack on Pearl Harbor and the invasion of South Korea are two such tragic miscalculations. Possibly the ominous movement of Soviet troops in the Middle East crisis a few weeks ago was the result of similar miscalculation.

It is a tribute to President Nixon's courage and skill that—despite the Watergate furor—he did a magnificent job of defusing a highly inflammatory situation in the Middle East. To achieve a cease-fire agreement in such a brief time is a tribute to his outstanding leadership and to the diplomatic talents of Secretary of State Kissinger. The world can breathe easier now because of their brilliant conduct of our foreign relations.

Still, the Middle East remains a touchy situation, and the decades of grievances are not likely to be settled overnight. All the more reason why Americans should take care to do nothing and say nothing that would jeopardize the cease-fire and undercut the President's efforts toward lasting peace in the Middle East.

In short, I believe it is time for a cease-fire here at home.

As I have maintained from the beginning of the Watergate disclosures, these are matters for the courts to try and to decide. In our courts, the rights of accused will be protected and the rules of evidence will be followed. Here is the proper arena for the determination of guilt or innocence.

The President has declared he will rebut the charges against him on Watergate, ITT, the milk fund, income taxes, and other issues.

Let us have enough respect for the Office of President, enough love for the American tradition of fair play, enough concern for America's domestic well-being, and enough realization of the international risks involved in undercutting the Presidency to forgo emotionalism and to lower our voices.

After all, this is not the first time America has had scandals in high office. Honest as the late President Truman was, he had widespread problems with wrongdoers, even on his own White House staff—his appointments secretary and his military aide, for example. The Nation's tax collecting agency, the Internal Revenue Service, was riddled with corruption, and high officials were tried and convicted of bribery and other serious charges. The Federal Housing Administration and the Reconstruction Finance Corporation were likewise riddled with corruption. This was the hey-day of the 5 percenters and the influence peddlers.

Oh, no, the Nixon administration is not the first administration where subordinates went wrong. The late President Johnson had his Bobby Baker and his Walter Jenkins, a top White House staffer.

I bring up past history, not to justify wrongdoing in this administration, but to give us some perspective on the present.

Just as America survived those traumatic days under the Truman administration and the Johnson administration, I believe America will indeed survive these traumatic days.

Our system of government is both viable and strong. Our courts are functioning vigorously. Indictments have been obtained and there have been convictions already. Two Federal grand juries are continuing their work and so is the new Watergate special prosecutor.

Congress is asserting its prerogative to investigate wrongdoing and at the same time it is acting on other important matters of concern to the American people.

The executive branch is moving decisively on foreign policy and on such high-priority problems as the energy crisis and inflation.

Our Government has not been paralyzed, although an inordinate amount of time and energy has been consumed by Watergate matters.

Out of all this, I believe will come real campaign reforms and a new standard of ethics in government.

Out of all this, I believe will come a stronger America.

So as we approach Thanksgiving Day, we can be especially thankful that our system has the ability to cleanse itself and to take corrective measures.

We can be thankful that, in spite of Watergate, our economy is booming, employment is the highest in history, and unemployment is the lowest in any peacetime year of the past 16 years.

We can be thankful that America is at peace, that no Americans are being killed, wounded, or captured in battle, and that no Americans are being drafted. We can be thankful our POW's are home.

We can be thankful that America's relations with the People's Republic of China have taken a turn for the better and that we have avoided a military confrontation with the Soviet Union.

We can be thankful that the shooting has stopped in the Middle East, that prisoners of war are being exchanged, and that the Israelis and the Egyptians are going to sit down and start work on a peace settlement.

So let us count our blessings and let us give credit to President Nixon where it is due and give him the courtesy of awaiting his disclosures where he has been accused.

UNITED STATES OF AMERICA INTRODUCES RATIONING

Mr. FANNIN. Mr. President, I have in my hand an article from the November 1973 issue of the highly respected British publication Petroleum Press Service. From their viewpoint, these Britishers attribute the necessity for rationing in this country to "a decade of inept Government policies, guided by short-term expediency rather than long-term planning." In particular, the article lays the blame for our current energy dilemma in large part to Federal regulation of oil imports and of natural gas production.

I would hope that my colleagues would take note of these comments, for they speak exceptionally well to the issues we face in considering S. 2589. I have already expressed my disappointment that the Interior Committee failed to report out a bill addressing the long-term problem of energy supplies. I have already indicated my concern over the manner in which this bill multiplies the scope of Federal regulation of both energy production and consumption.

I can only ask my fellow Senators to carefully consider the thoughtful insights into our energy situation which this article affords. I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA INTRODUCES RATIONING

Even before the outbreak of the fourth Arab-Israeli war, the near certainty of a shortage of heating oil and other middle distillates in the USA this winter had led the Federal Government to impose oil rationing for the first time in American peacetime history, the last occasion being during the Second World War. The first product to be brought under a mandatory allocation system, effective 2nd October, was propane, followed later in the month by the announcement of another allocation programme for distillates, including No. 2 fuel oil, diesel oil, jet fuel and kerosene, which came into effect on 1st November.

The effect of supply shortages of crude oil as a result of hostilities in the Middle East and the decision by the Arab governments to cut back production as a means of political blackmail is as yet incalculable, but it could mean an extension of rationing to other products. U.S. crude imports from the Arab nations have been growing steadily (see Table I) with a levelling off in supplies from the Western Hemisphere (mainly Venezuela and Canada) which until 1970 had provided more than 80 per cent of U.S. imports. Under normal circumstances, crude oil imports from North Africa and the Middle East, including Iran, would have risen even more rapidly in future, possibly reaching 8 million barrels a day by 1980 out of total imports of some 12 million b/d to meet a projected domestic product demand of 24 million b/d.

For the first six months of this year the USA was dependent on Arab oil for less than 5 per cent of total demand and for some 26 per cent of imported crude (see Table II). Imports have increased over the past four months, and currently Arab oil is accounting for nearly 1 million b/d of total crude imports of around 3.5 million b/d. To this should be added a proportion of refined product imports made from crude originating in the Middle East, an amount difficult to estimate but possibly as much again. Although the USA is much less dependent than Western Europe and Japan on oil from Arab sources, it will inevitably be affected by the reduction in the total volume of oil moving in world trade—not to mention specific bans on shipments to the USA. However, the immediate cause for rationing is not a lack of crude oil supplies as such but natural gas shortages and insufficient refining capacity to meet product demand.

TABLE I.—U.S. CRUDE OIL IMPORTS FROM ARAB STATES

[In barrels per day]

	1971	1972	1st half 1973
Abu Dhabi	79,523	73,624	72,011
Algeria	12,835	86,994	153,756
Egypt	18,969	8,468	16,066
Iraq	10,772	3,602	1,696
Kuwait	29,178	36,178	44,574
Libya	52,321	109,778	143,044
Qatar		3,460	506
Saudi Arabia	114,989	174,317	349,320
Tunisia	3,284	6,904	19,226
Total	322,771	503,325	799,199

TABLE II.—U.S. SUPPLY AND DEMAND

[In barrels per day]

	1971	1972	1st half 1973
Domestic product demand	15,213,000	16,399,000	17,284,000
Domestic production	11,155,000	11,211,000	10,972,000
Total imports	3,926,000	4,754,000	6,003,000
Crude oil	1,681,000	2,225,000	3,043,000
Products and unfinished oils	662,000	786,000	1,068,000
Residual	1,583,000	1,743,000	1,892,000
Total exports	224,500	222,500	235,500
Crude oil	1,500	500	500
Refined products	223,000	222,000	235,000

Source: Petroleum Press Service, November 1973.

PROPANE RATIONING

The Federal Power Commission recently announced that there would be a shortfall of 630 billion cubic feet of natural gas during the coming winter, with projected cuts falling heavily upon the industrial sector of the Appalachian region. Natural gas suppliers have not been able to meet all demands because of the reduction over the past few years in the discovery of new reserves. This has been due largely to the lack of exploration incentive which itself was the result of the government controls on wellhead gas prices (also having the effect of increasing demand). Industrial users have turned to alternative fuels but problems have arisen because of federal and state government environmental restrictions on the use of oil and coal with a high sulphur content, thus limiting the availability of suitable supplies Meanwhile, one substitute that did not involve a pollution problem was propane, accounting for no more than some 4 per cent of total petroleum supply but an important traditional product in rural areas, particularly used by farmers for such purposes as fueling the furnaces that dry grain.

In view of the increased demand for propane by industry and gas utilities, prices rose steeply, and an estimated 10 to 20 per cent of supply was diverted from former markets, directly threatening food production. It was because of this situation that the Administration was compelled to introduce a form of indirect rationing: suppliers are now required to meet the needs of priority customers first, before selling to non-priority customers, and to distribute supplies in the same proportion to individual customers as during the year ended 30th April 1973. Priority customers are those who use propane, where no feasible alternative fuel is available, for such purposes as residential use, agricultural production, food processing, buildings primarily utilized for housing medical and nursing patients, essential government services such as fire and police use, oil and gas well drilling, and peak shaving (the use of propane-air mixtures to supplement normal supplies of pipeline gas) limited to those volumes contracted for or purchased for delivery from 1st September 1972 to 30th April 1973. No priority will be granted to a gas utility as long as it continues gas service to interruptible industrial customers or those who can use alternative fuels, other than natural gas

REFINING CAPACITY

The natural gas and propane shortage has also had a direct bearing on the distillate market, where refiners are in any event unable to meet domestic requirements in full because of a lack of refining capacity. Wtih the exception of residual fuel oil—requirements of which have, historically, been covered mainly by imports because it was unprofitable to make in domestic refineries—the USA has until recently maintained sufficient refining capacity to meet requirements of products. However, due to the ambiguities and confusion of the former oil import programme, refinery construction slowed to a halt in 1972. Present operable capacity is estimated by the American Petroleum Institute to be about 13.6 million b/d, compared wtih a current domestic product demand of some 17.2 million b/d (of which 1.8 million b/d is accounted for by residual fuel oil imports). Even at maximum operating capacity, which could not be sustained for any lengthy period (recent runs have been up to 95 per cent), this leaves a gap of over 2 million b/d to be met by imports—if they are available in the right quantity and quality and at the right time.

The lifting of import restrictions in April of this year led to announcements of new capacity additions by refiners which currently total some 2.1 million b/d, with an addtiional 1.6 million b/d of capacity under consideration. But a number of important projects are being held up because of objections on environmental grounds, and in any case there will be a time lag before significant additions begins to come on stream in 1975.

A winter shortage of middle distillates, including No. 2 heating oil and diesel oil, was predicted in a recent Interior Department survey which looked ahead over the period 1st October 1973 to 31st March 1974. Under normal weather conditions, total domestic demand for distillate products during that period is expected to reach an average of 4,052,000 barrels daily, an increase of about 10 per cent over the same period last year. Based on a predicted domestic refining operation at 91.7 per cent of capacity, and distillate yields of 22.4 per cent on average runs of 12,590,000 b/d, refinery production would amount to 2,873,000 b/d. Allowing for 524,000 b/d taken from stocks, imports of some 655,000 b/d would be required to make up the balance. Distillate imports during the first quarter of 1973 averaged 530,000 b/d, with all import restrictions removed. It was not considered likely that more than 550,000 b/d would be available from foreign markets in the current year, and even this may now be optimistic depending on the effects of the Arab cut-back in crude oil production and embargoes on oil exports to the USA. A warm winter and higher than anticipated refinery operating rates might reduce import requirements to 450,000 b/d. In the event of a cold winter, or the breakdown of a large refinery, or the inability to import enough crude oil, either low-sulphur or otherwise, import requirements might reach 850,000 b/d or more. This is considered an impossible level, especially if Europe should experience a cold winter as well.

Compromise with sulphur content specifications could release additional distillate supply. Because refineries use distillate as a blending stock to reduce the sulphur content of residual fuel oil, a relaxation of sulphur restrictions on residual consumed by the large consuming areas of the Northeast would allow this distillate to enter the market as heating oil. It is estimated that an additional 75 000 to 200 000 b/d of residuals might be available from the Caribbean refineries alone and as much as 200 000 b/d more—assuming the crude oil could be provided—from spare refining capacity in Italy where increased operations are hampered by sulphur limitations on products made for the USA. But to have any major effect, such relaxations would have to originate with the individual states which have imposed stringent sulphur regulations. It would take at least two months from the time of such measures being put into effect for increased volumes of oil to be refined, transported, and made available to the consumer.

MANDATORY ALLOCATIONS

It is against this background that the Administration has set up a mandatory allocation programme covering middle distillates, including heating oil, diesel oil, jet fuel and kerosine. There are no priority customers, as in the case of propane, but at the wholesale level within the oil industry suppliers are obliged to distribute all the fuel they have available in proportion to month-by-month sales to customers during the calendar year 1972. Purchasers who were not in business during the base period, or whose requirements have risen substantially, will be able to petition the Interior Department's Office of Oil and Gas for an allocation. In addition to the federal programme, hardship boards will be set up in each state to hear complaints and to redirect up to 10 per cent of supplies if necessary for emergency reasons.

The effects of the mandatory allocation programme will not be clear for some weeks. Already, some airlines have foreseen possible reductions in their flights of up to 10 per cent. In the meantime, further possible emergency measures have been announced, to take effect should the Middle East situation deteriorate and supplies become even tighter. A staff study by the Oil Policy Committee has estimated that a maximum saving of 2.7 million b/d over a year could be achieved by conservation methods and eliminating wasteful consumption without severe economic consequences. These include a three-degree sustained lowering of thermostats controlling room temperatures, which would reduce the amount of distillate oil used for space heating by more than 12 per cent (550 000 b/d) and natural gas by nearly 14 per cent; improved efficiency of energy use in industry (280 000 b/d) and commercial buildings (400 000 b/d); a reduction in speed limits for cars to 50 miles per hour (250 000 b/d); the wider use of car pools to increase the average number of people conveyed from 1.3 to 2.3 (780 000 b/d); and an increase in the load factors of aircraft from 50 per cent to 70 per cent (120 000 b/d).

The Administration has directed each executive department and agency to participate in a programme to reduce federal energy consumption by 7 per cent (the Federal Government consumes nearly 3 per cent of total US energy) and the Office of Energy Conservation is promoting a voluntary 5 per cent energy-use reduction programme throughout the nation. Meanwhile, both the Senate and the House have passed Bills calling for even more stringent mandatory allocation schemes, including crude oil and gasoline as well as other products, but President Nixon is at present opposed to taking such a step, preferring the less drastic programme which has been introduced for certain products.

AUTO REPAIR

Mr. HARTKE. Mr. President, there is a growing realization in this country that the people who repair our automobiles should be placed under some sort of Government supervision. Cars are vital to American society and it is essential that they be kept in proper repair. This is all the more important when we realize that much of the carnage which takes place on our Nation's highways results from cars which are not in proper repair.

I have offered S. 1950, the Motor Vehicle Repair Industry Licensing Act to enable States to license motor vehicle repair shops. It is my hope that the Commerce Committee will conduct hearings on this bill early next year.

To demonstrate that this is a subject of great importance to each of the State legislatures, I ask unanimous consent that a recent report on auto repair licensing bills in State legislatures prepared by the Automotive Information Council be printed in the Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

Status Report on State Legislations Licensing Automotive Repair Shops and/or Mechanics, September 1973

(Prepared by: Automotive Information Council, New York, N.Y.)

(Note.—Listing by State, bill number, and status.)

ALASKA

H–165: Establishes a State Board of Automobile Mechanic Examiners. Pending in House Committee.

H–373: Calls for the licensing of all motor vehicle repair shops. Pending House Committee. Both awaiting action in '74 session.

ARIZONA

S–1114: Provides for the licensing of automotive repair dealers and requires full repair disclosure, estimates, and return of all parts replaced. Established an Automotive Repair Dealer's Advisory Board. Died in Committee.

CALIFORNIA

S–1331: Authorizes the Bureau of Automotive Repair to issue regulations covering certification of automotive mechanics. It would also have allowed passage of the National Institute for Automotive Service Excellence (NIASE) as evidence of compliance with the rules. Passed both houses but Governor Reagan refused to sign it. Sponsor is now pushing a mechanics licensing bill.

H–1539: Requires dealers to include with written estimate a statement listing any automotive repair service which will be done by someone other than him or his employees. Bars any such service without consent of customer, unless he *cannot reasonably* be notified. Favorably reported out of Committee.

S–133: Requires applicants for license as lamp or brake adjuster or motor vehicle pollution control device installer to show experience and qualifications in accordance with standards and examinations as prescribed by Director of Consumer Affairs. Pending in Committee—both houses.

COLORADO

H–1601: Would have established a committee to promulgate standards for the motor vehicle repair industry. Died in Committee.

H–1335: Would have required repair shops to give written estimated price for labor and parts, service or diagnosis. Bar charges for labor performed or parts installed which cost 10% more than the written estimate, without oral or wrtiten consent of the customer. Died in Committee.

CONNECTICUT

H–5300: To establish a Bureau of Automotive Repairs, requiring all firms which repair, maintain or diagnose car trouble to register and provide written estimates for labor and parts. Pending Before Committee.

H–5491: Requires the Commissioner of Motor Vehicles to set standards of competence for the service and repair of motor vehicles and included in licensing requirements for repairers. Pending.

H–7910: To require licensing of all state automobile mechanics. Pending.

H–8907: Same. Pending.

H–8943: Would establish a Bureau of Automotive Repairs in the Department of Consumer Protection. Set rules requiring itemized estimates. Pending.

H–9270: Would authorize the Commissioner of Motor Vehicles to establish a procedure and standards for examination and annual licensing of motor vehicle mechanics. Pending.

S–2187: To require written estimates by repairers and provides for a Division of Auto Repair in the Department of Consumer Protection. Pending.

DELAWARE

H–528: Requires licensing of mechanics and repair dealers. Pending.

FLORIDA

H–94: Requires registration of all automotive repair dealers. Pending, House Committee.

H–247: Requires licensing of automotive repair shop operators and provides for a voluntary certification program for mechanics. Pending.

H–827: Same as H–94. Pending in Committee—Both Houses.

GEORGIA

SR–68: To establish an Automobile Repair Services Study Committee. Pending—Awaits '74 session action.

HAWAII

H–77: To require registration of automotive repair shop operators. Pending.

H–1131: To require licensing of motor vehicles repair dealers and motor vehicle mechanics. Pending action in '74.

H–235: Licensing of dealers and mechanics; would require written estimates for labor and parts and prohibit charges in excess of the estimate without the oral or written permission of the customer. Pending.

H–1150: Requires the licensing of motor vehicle repair dealers. Pending.

S–719: Requires licensing of motor vehicle mechanics (virtually identical to H–235). Pending.

H–1971: Requires the registering and licensing of motor vehicle repair shops. Pending.

S–335: Establishes a Motor Vehicle Repair Industry Board, to set licensing procedures. Pending.

ILLINOIS

H–758: To authorize each municipality to license and regulate motor vehicle service and repair establishments and their owners. Pending.

H–1394: To require licensing of repair shops and mechanics; establish a Board of Motor Vehicle Service and Repair; provide for repair disclosure and repair estimates. Killed in Committee.

S–845: Same as H–1394. Killed in Committee.

INDIANA

S–214: To create a Division of Automotive Repair within the Bureau of Motor Vehicles to handle registration of repair dealers; calls for full report/estimate disclosure. Killed in Committee.

KANSAS

H–1458: To require written estimates for labor and parts. Prohibits charges in excess of the estimated price without oral or written consent of the customer. Pending in Committee. Awaiting 1974 session.

MARYLAND

H–1005 and H–1642: Licensing of motor vehicle repair establishments. Killed in Committee.

S–28: Would have required mechanic licensing under a Motor Vehicle Mechanic Commission. Killed.

S–839: Licensing of both repair dealers and mechanics. Killed.

MASSACHUSETTS

H–3289: Combining more than 20 separate bills, this calls for licensing of automobile repair shops and mechanics, and provides for a series of classifications and license fees ranging from service stations to garages. The mechanics licensing fees would be according to scale, ranging from apprentice to master mechanic with rules set by a Bureau of Automotive Repair in the Executive Office of Consumer Affairs. Unanimously approved by Joint Committee on Gov't Regulations, now pending before House Ways & Means Committee.

MICHIGAN

H–4902: Provides for registration and regulation of automotive repair dealers. Pending.

S–687: Provides for registration of automotive repair dealers and licensing of mechanics. Pending.

S–726: Same as S–687. Pending.

MINNESOTA

S–846: Registration of automotive repair dealers; requires written estimates for labor and parts with no extra work or changes without the oral or written consent of the customer. Pending in Committee.

NEVADA

H–296: Prohibits unauthorized motor vehicle repair and requires cost estimates and statements of charges. Died.

H–538: Authorizes municipal governing bodies to regulate automobile mechanics, set qualifications and provide a board of examiners to test the qualifications and fitness. Died.

H–785: Requires the Department of Motor Vehicles to issue and enforce regulations covering licensing of motor vehicle repair shops. Would have required a written estimate and customer authorization for extra work/charges. Died.

S–388: Licensing of automotive repair shops. Died.

S–501: Registering of motor vehicle repair shops. Died.

NEW JERSEY

H–2189: The regulation and registration of automotive repair dealers under a Bureau of Automotive Repairs. Bi-annual fee of $40.00 for each firm. Routine work and maintenance would be exempt from coverage under the bill. Pending in Committee.

H–2435: Regulation of automotive repair dealers by the Division of Consumer Affairs in the Department of Law and Public Safety. Pending before Committee.

NEW MEXICO

S–315: Would have required written estimates on all work in excess of $25. Died.

NEW YORK

S–406–A: Provides for a procedure by which automotive repair mechanics could voluntarily seek and obtain certification by a special board. Vetoed as too weak by Gov. Rockefeller.

S–407A and S–408A: Licensing of mechanics and repair shops, respectively. Passed Senate; pending before House Ways and Means Committee.

S–4351A: Registration of vehicle repair shops. Same.

More then a dozen similar bills are pending; will likely be included in above Bills.

OHIO

S–50: Registration of automotive repair dealers and the certification of automotive mechanics; written estimates; full invoices. Pending before Committee.

OREGON

H–3114: Registration of automotive repair dealers. Pending Before Committee.

S–847: Registration of repair shops and certification of mechanics. Pending before Committee.

PENNSYLVANIA

H–121: Licensing of repair shop operators. Pending.

H–801 and S–174: Licensing of automobile repair shops; forbids repairs without written authorization when cost exceeds $100. Pending.

H–808 and S–347: Registration of automotive repair dealers; written estimates; no excess work or charges without customer consent. Pending.

RHODE ISLAND

H–5524: Licensing of repair shop operators. Pending action in '74 session.

H–5742 and S–440: Licensing of repair shops; written estimates; forbids extra work without customer consent. Pending Committee action in both houses in '74 session.

SOUTH CAROLINA

H–1650: Registration of repair shops; written estimates; no extra work without consent. Pending before Committee.

TEXAS

H–781: Licensing of repair dealers; written consent for work beyond estimate. Died.

UTAH

H–135: Create an Automotive Service Advisory Board to regulate and control service and repairs. Pending action in '74 session.

VERMONT

H–179: Licensing of motor vehicle mechanics. Pending action in '74 session.

VIRGINIA

SJR–89: Authorizes study report by Administrator of Consumer Affairs on the need for legislation to certify mechanics. Adopted.

WASHINGTON

H–684 and S–2565: Licensing of service dealers and mechanics. Requires written consent on added charges. Pending before Committee.

WISCONSIN

H–848 and S–456: Licensing of repair dealers under an Automotive Repair Council in the Department of Transportation; written estimates required; permission must be obtained for all work exceeding 10% of estimate. Pending before Committees. Senate hearings already held.

WASHINGTON, D.C.

It is a catch-all including TV repairmen, etc. It stipulates that at least one employee in each repair shop should be certified so he can act as an overseer. Legislation calls for a 5-member board . . . nominated by the mayor and confirmed by the Council. Should be resolved by the end of September.

The following State legislative sessions have adjourned on the dates indicated:

Alabama, September 13, 1973.

Alaska, April 7, 1973.

American Samoa (1st Session), February 17, 1973.

American Samoa (2nd Session), August 20, 1973.

Arizona, May 9, 1973.
Colorado, June 29, 1973.
Connecticut, June 1, 1973.
Florida, June 6, 1973.
Georgia, March 16, 1973.
Hawaii, April 12, 1973.
Idaho, March 13, 1973.
Indiana, April 19, 1973.
Iowa, June 24, 1973.
Kansas, April 26, 1973.
Louisiana, June 12, 1973.
Maine, July 4, 1973.
Maryland, April 9, 1973.
Minnesota, May 21, 1973.
Mississippi, April 1, 1973.
Missouri, June 30, 1973.
Montana, March 10, 1973.
Nebraska, June 1, 1973.
Nevada, April 26, 1973.
New Hampshire, June 30, 1973.
New Mexico, March 17, 1973.
New York, May 28, 1973.
North Carolina, May 24, 1973.
North Dakota, March 16, 1973.
Oklahoma, May 17, 1973.
Oregon, July 6, 1973.
Rhode Island, May 4, 1973.
South Carolina, July 6, 1973.
South Dakota, March 16, 1973.
Texas, May 28, 1973.
Utah, March 9, 1973.
Vermont, April 14, 1973.
Virginia, February 24, 1973.
Washington, March 8, 1973.
West Virginia, April 17, 1973.
Wyoming, February 24, 1973.

SPECIAL SESSION

Alabama, May 18, 1973.
American Samoa, March 15, 1973.
American Samoa, September 20, 1973.
Maryland, August 23, 1973.
Montana, March 24, 1973.
Washington, April 16, 1973.
Washington (2nd Special), September 15, 1973.

A HIGHER FEDERAL TAX ON GASOLINE? NO.

Mr. ROBERT C. BYRD. Mr. President, 1 year ago, on November 16, 1972, I addressed a meeting of Rotarians in Mercer County, W. Va. The theme of my speech was the then impending shortage of energy fuels, and the steps that this Nation would have to take if we hoped to soften the impact of the shortages on our everyday lives.

In my speech I stated that unless plans were formulated to combat a shortage of oil and natural gas, our domestic supplies of energy would be insufficient to offset any cutoff or reduction in supplies from foreign sources. At that time, although I did not visualize the recent Arab-Israeli war, and its serious effect on our current energy supply situation, I expressed concern that a number of possible events abroad could very well affect the capability of the United States to meet our domestic energy requirements.

I further expressed disappointment that research and development in coal technology had been largely ignored for so many years, despite our almost limitless reserves of that energy fuel, and the very substantial moneys that had been spent on development for other, largely unproved sources of energy. On this score, I was able to add the sum of $42 million to the appropriation for fiscal year 1974, to the Office of Coal Research and the Bureau of Mines, for coal research and mine safety. Though I was unsuccessful in retaining the full $42 million in conference, the sum of $39.3 million was agreed to, and the appropriation is now law. There is little doubt that the utilization of coal, so long neglected in the national energy fuels picture, will be dramatically increased in the future, and that the technology for producing gas and liquid fuels from coal will be given a much needed boost by the funds added by my amendment.

It has been obvious for some time that despite the urgings of the Congress, critical energy issues were not being given the attention they deserved at the highest levels of Government. As I warned in my speech last November, and as Members of Congress pointed out as long as 3 years ago, the Nation's energy problems were serious. We were sliding into a dangerous dependence on overseas supplies of crude oil and petroleum products. We know now just how serious that slide was, but regrets and recriminations will be of very little use. What this country must do—and do immediately—is to lay down a program that will assure us of self-sufficiency in energy fuels and sources at the earliest possible time. We have the potential resources; we have the technology; we have the money to finance the necessary research; all we need is the will and the dedication to make this a reality.

There has been no lack of Congressional initiative. Already the Congress has completed action on legislation this year to authorize construction of the Alaska pipeline, and to authorize the implementation of a mandatory allocation program for crude oil and petroleum products. The Congress gave the President discretionary authority in April of 1973 to allocate scarce fuels. The Congress has taken the initiative, in the National Energy Emergency Act, to direct executive branch action to deal with unprecedented fuel shortages. The suddenness with which our energy shortages have been visited upon the American people, and the sacrifices that are now being asked of them, cannot be laid at the door of Congressional inaction or lack of foresight. On the contrary, had the recommendations of the Congress been listened to, and acted upon when they were made, the current energy crisis, and the self-denial that will be necessary on the part of the citizens of this Nation, could have been substantially alleviated.

Mr. President, we continue to hear rumors and to read news reports of possible proposals by the administration for heavy increases in the Federal tax on gasoline as a means of discouraging and reducing its use. These proposed increases, which would be in addition to the high Federal and State taxes already imposed on automobile fuel, range up to as much as 50 or 60 cents in some instances. Talk of dollar-a-gallon gasoline has become commonplace.

Mr. President, I am opposed to an increase in the Federal tax on gasoline. As desirable as it may be to reduce the consumption of gasoline in the present energy crisis—and I am well aware that it is not only desirable but necessary to reduce gasoline consumption—increasing the tax that Americans have to pay for their basic transportation is not the way to do it.

Increasing the tax on gasoline would work the greatest hardship on those least able to afford it. Such a move would be regressive in the extreme. The fact is that the workers in the middle and lower income brackets would be hit and hit hard.

Average Americans use their cars to get to work and to buy the family groceries. With all the talk that has gone on in recent years about the desirability of utilizing public transportation instead of private automobiles, the fact is that in most places adequate public transportation simply does not exist. The family car is a necessity. It is no longer primarily a luxury for the average family. Dollar-a-gallon gasoline—or even 65 or 75 cents-a-gallon gasoline—could quickly become an intolerable burden for the American who works for a living, as most Americans do.

The price of gasoline has gone up enough already, and it probably will go up more. The government should not add another tax to the burden that citizens already have to bear in this respect. A heavy tax increase could be the straw that breaks the camel's back for low- and middle-income families.

Not only would low-income citizens be badly hurt by a steep gas tax increase, but small businessmen, contractors, salesmen, and all who must use their cars and trucks for necessity would also be hurt. Public transportation would be hurt as well. The Government's policy in this situation should be to insure that all who need gasoline for necessary driving get their equitable and fair share of what is available.

The guiding principle in what the Government does to deal with the energy shortage must be fairness. The Government must not place an added and unfair burden on citizens on the low end of the economic totem pole. An ill-conceived additional high tax on gasoline would discriminate against low- and middle-income Americans, small businessmen, and others for whom transportation is essential for their economic survival.

No one should now be in any doubt that an energy fuels crisis is indeed upon us. It is past time that the Government faced up to the realities of the situation, and announced contingency plans for the allocation and rationing of scarce fuels. When sacrifice and self-denial are the only means of overcoming a dangerous situation in our national life, I am sure that the American people will respond. They can be assured that their representatives in the Congress will continue to discharge their responsibilities in the coming months, or years, or our travail, as they have done in the years in which our present troubles were looming.

I commend the chairmen and the members of the Committees on Interior Commerce, Public Works, and the Joint Committee on Atomic Energy for their vigorous leadership in the efforts of the Congress to soften the impact on the American people of an energy shortage that Congress has been warning could come.

ENERGY SHORTAGES

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an advertisement dealing with energy shortages that the United States will face this winter, published in today's Washington Post.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

Because of Embargoes on Petroleum Exports From the Middle East, North Africa, and Europe to the United States America Faces Serious Energy Shortages This Winter

CONCERNED CITIZENS: Conoco believes it has a responsibility to find and develop energy resources, and when we foresee a serious change in the overall energy situation, to alert you to the facts.

We sounded a call to action last November in an advertisement titled "Energy & America", in which we analyzed the short and long-term energy needs of our country and advocated a program of action.

Now the situation has grown far worse. The reasons include embargoes of petroleum exports to the U.S., increasing demand for energy, and mounting problems in the production of domestic supplies of energy. We do not see how this country can avoid a national fuel emergency this winter and for the next several years.

It is more important than ever today that America develop a firm and responsible national energy policy, based on a goal of near self-sufficiency in domestic energy supplies. In the long term, only an all-out effort to expand domestic energy resources can keep us from a continuing crisis.

We endorse President Nixon's emergency energy program and strongly urge all Americans to support it.

Here are the facts, and a call for action.

JOHN G. MCLEAN,
Chairman and Chief Executive Officer, Continental Oil Co.

WE'LL ALL FEEL THE PINCH

No matter where you live, and no matter what business you're in, most Americans will be affected this winter by our country's critical shortage of natural gas, heating oil and other forms of energy.

Because it's a situation that probably will get worse before it gets better, you should know what the facts are and what can and cannot be done about this problem.

At the outset of the heating season, the number of days' supply of petroleum inventories is even lower than at the same time last year when shortages developed in several parts of the country.

Even if our industry had more adequate inventories on hand, and a steady, dependable supply from abroad—even if we could be certain of normal winter weather and no refinery or transportation failures—it is doubtful that we would be able to meet mounting demands from home owners, industry, electrical utilities and transportation.

WE NEED MORE ENERGY

Total energy demand has increased 4% in the past year. There are 1,600,000 more Americans; 6,000,000 additional vehicles; 1,000,000 more dwelling units; all consuming more energy.

Refining capacity hasn't been sufficient to fill the additional needs. New refinery capacity has been delayed principally because of environmental restraints and uncertainties regarding the availability of crude oil supply.

Production of coal in many areas has actually declined, due to work stoppages and more stringent mining regulations. Coal production is running 7,000,000 tons behind last year's rate.

Natural gas production is declining.

Domestic crude oil production has been declining and construction of the Alaskan pipe line has been unduly delayed.

Nuclear power programs are far behind schedule.

BUT WE'RE GETTING LESS

Middle East and North African nations have curtailed or completely shut off supplies of crude oil to the U.S. as well as to European and Caribbean refineries that supply petroleum products to America.

To conserve its own supply, Canada is now restricting oil exports to the U.S.

The overall reduction of crude oil and products in the U.S. is estimated at some 2,700,000 barrels per day, or 15% of total requirements.

Supply reductions will hit some areas harder than others. For example, the East Coast is dependent on imports to meet 57% of its petroleum needs. With more than half of this foreign supply now cut off, this region will have to seek other sources within the U.S. This will create nearly impossible demands on pipelines, tankers and the railroads.

The full impact of the Middle East crude oil cutbacks will be brought home to us all in another 30 to 60 days, when oil in transit at the time of the embargo will have been delivered. While no one can determine the extent of the disruptions now, some plants will be shut down. Jobs will have to be cut back. Some schools may close. Mass transit facilities will be strained and personal travel will be curtailed.

TIME HAS RUN OUT

Long lead times—often five to eight years—are required for the development of major new energy supplies. Here are the estimated time spans from beginning of construction to delivery of commercial energy for each type of facility, *after* all environmental permits and plans are approved.

Nuclear electric generating plants, 8 years.
Fossil fuel electric generating plants, 5 years.
New oil/gas production, 3 to 8 years.
Shale oil mine/retort, 4 years.
Coal gasification, 4 years.
Alaskan pipeline, 3 to 4 years.
Refinery construction, 3 years.
Underground coal mines, 3 to 4 years.
Surface coal mines, 2 to 3 years.

Because of the long lead time, we should begin work immediately on ways of solving our long-term energy needs. Our objective should be to regain our position of near self-sufficiency in energy supplies as rapidly as possible. The U.S. has an adequate resource base. We need a vigorous research and development program to utilize fully our potential resources. It is up to industry to work hand-in-hand with the government to develop the technology and know-how for some of our more promising energy sources of the future.

A Call to Action

1. Every American must understand the serious nature of our energy shortages and make a personal commitment to an immediate and vigorous campaign to conserve energy.

Government at all levels should establish necessary regulations for conservation programs.

Industry should introduce crash programs to reduce fuel consumption, through increased efficiency and major readjustments of operations.

Every American can help by keeping nonessential use of his car to a minimum and by driving at moderate speeds; by using public transportation and participating in car pools; by maintaining homes and offices at lower temperatures; by seeing that his energy-using equipment is operating efficiently; by supporting daylight-saving on a year-round basis; by installing weather-stripping, storm windows and insulation.

2. Joint government/industry action should determine national energy priorities and programs. Pooling and sharing limited energy resources should be encouraged and coordinated. Major airlines are reducing excessive flight schedules to conserve jet fuel supplies. Utilities have also increased pooling of regional electrical output.

3. Rationing of scarce fuels should be undertaken by the Federal government. We are concerned that voluntary action alone will be inadequate. Such a program should allocate scarce fuels to priority uses having a minimum impact on the economy and the least hardship to the public.

4. A sensible balance must be established between environmental goals and energy needs. The Federal government and states should reexamine environmental standards. Where public health is not involved, changes should be made to encourage development of our domestic resources.

5. Automotive emission standards should be temporarily held at present levels to preclude the need for unleaded gasoline, which requires more crude oil to manufacture, and to prevent further adverse effects on gasoline mileage.

6. Federal and state regulations which have sharply reduced coal production without improving mine safety should be revised. Surface mining of coal should not be prohibited by unrealistic legislation. Large scale investments for new coal mines require practical and predictable environmental regulations.

7. Industrial use of natural gas should be restricted to priority purposes. New plants should not be permitted to use natural gas under boilers. Wherever possible industry should be required to convert over a period of time to other boiler fuels.

8. Economic incentives should be provided to encourage conservation of energy, to achieve more efficient use of fuels, to accelerate growth of mass transit, and to develop additional sources of conventional and synthetic fuels.

9. And finally, the U.S. should make every effort to establish world relations which will permit full and unrestricted trade in energy supplies.

THERE IS AN ANSWER

The public, government and industry must move forward together to meet this problem. Responsive, meaningful programs will demand sacrifices and greater effort from all of us. At this crucial period in our nation's history, it is essential that we develop a cooperative, bipartisan energy program balancing the needs of all segments of society.

CONTINENTAL OIL CO.,
Stamford, Conn.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate resumed the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the unfinished business, S. 2589, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 652 by the Senator from New Hampshire (Mr. MCINTYRE).

Mr. JACKSON. Mr. President, I ask unanimous consent that the McIntyre amendment be temporarily laid aside in order to take up an amendment by the distinguished Senator from Louisiana (Mr. JOHNSTON).

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment offered by Mr. JOHNSTON is as follows:

On page 17, before line 19, insert the following:

"*Provided*, That fuels not subject to regulation or allocation under this act shall not be considered in determining the fuel needs or supplies, of geographic areas or States of the United States."

Mr. JOHNSTON. Mr. President, yesterday the distinguished Senator from Missouri (Mr. EAGLETON) offered an amendment providing for the equitable allocation of petroleum products and fuel around the regions of the country and the States of the country. This was clearly explained by the Senator from Missouri as not amending or not modifying that requirement of the petroleum allocation bill which also provided for equitable allocation according to need, such as the need of schools, transportation, and other priority needs.

The Senator from Missouri also stated that there was no intent to regulate any fuels that were not otherwise regulated within the four corners of S. 2589, the bill under consideration. However, there was some ambiguity left, and this amendment is simply to clear up that ambiguity, in that those fuels which are not regulated are not to be considered in determining the needs of each State and each region of the country. Examples are intrastate gas not otherwise regulated, and timber, which can be considered as a fuel. This was specifically stated on yesterday.

The amendment has been cleared with the distinguished Senator from Missouri (Mr. EAGLETON), as well as the majority and minority, and I ask for adoption of the amendment.

The PRESIDING OFFICER (Mr. HART). The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senate will now return to the McIntyre amendment. The question is on the McIntyre amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that the McIntyre amendment be deferred momentarily in order that the amendment to be offered by the distinguished junior Senator from Georgia (Mr. NUNN) may be presented at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I offer my amendments identified as No. 659, as modified, on behalf of myself, Mr. MCINTYRE, Mr. NELSON, and Mr. JAVITS, and ask unanimous consent that the name of the Senator from Ohio (Mr. TAFT) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 659), as modified, are as follows:

AMENDMENTS NO. 659

On page 29, after line 21, insert the following as new subsections (b) and (c):

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of this Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by title II.

"(b) In order to carry out the policy stated in subsection (a)—

"(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in title II which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in title II which have particularly affected such enterprises;

"(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in title II and in administering such programs; and

"(3) in administering the programs provided for in title II, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises."

Mr. NUNN. Mr. President, this amendment is being proposed on behalf of myself and Senators MCINTYRE, NELSON, JAVITS, and TAFT as expressing the sense of the Congress that small business concerns which would be directly affected by this legislation in many ways be treated equitably. This amendment does not suggest exemptions for small business, but contemplates that they should do their fair share in return for being treated fairly.

WHY THIS AMENDMENT IS NECESSARY

Secretary of Commerce Frederick B. Dent predicted this week that some businesses will be forced into failure because of current energy shortages. The National Emergency Petroleum Act of 1973 (S. 2589) is one attempt to minimize the impact of these shortages. It declares a "national petroleum emergency" and authorizes conservation measures to be taken on the national, State, and local levels. It will affect small businesses directly in at least four areas:

First. The emergency rationing and conservation program under section 203 will have a direct impact on every small business, as decisions must be made as to which business functions are "vital services," that will be maintained; and which will be classified as "unnecessary energy consumption" that will be curtailed.

Second. The reduction of energy consumption by 10–25 percent by way of such measures as limitations on operating hours of commercial establishments and temperature restrictions on wholesale and retail businesses, also under section 203.

Third. The modification of transportation carriers routes, rates, and level of operations under section 204.

Fourth. The authority to adjust the mix of products of domestic refineries under section 207.

As the act goes into operation, it is likely that a series of problems will develop for small firms under these and other provisions.

For information, there are reported to be 8½ million operating full-time commercial businesses, and a total of 12 million business enterprises in the country. About 97½ percent of this total are small business.

These small companies, partnerships, and individual proprietorships are the foundation of the economy—particularly in smaller towns—providing approximately one-half of all employment nationally, and somewhere around 40 percent of the gross national product. They also provide vital goods and services to many public and private institutions.

Because of the variety of economic functions performed by these firms, a large number of them will, almost by definition, present individual cases under any national control program of this kind.

Accordingly, Senators MCINTYRE, NELSON, JAVITS, TAFT, and I, and other Members, feel that it is important to recognize these small business difficulties early before it is too late for thousands of firms.

WHAT THE AMENDMENT WOULD DO

Our amendment would express the sense of Congress that the "varied needs of small business be considered by all levels of Government in the implementation of the energy conservation program.

In order to carry out this policy, the amendment recommends that "to the maximum extent feasible" governmental bodies seek the views of small business in adopting the regulations under the act and also administering them. The amendment also urges that small business applications or appeals be given "expeditious handling."

Finally, the amendment would have the Small Business Administration become knowledgeable about these programs so that the agency will be in the position to help the small business community comply with them.

FORM OF THE PROPOSAL

The basic framework of the amendment is taken directly from section 214 of the Economic Stabilization Act—Public Law 92-210, December 22, 1971—with a few modifications. The format of both is a sense of Congress declaration, because both economic controls and the energy controls are so far reaching that precision at the beginning is impractical. The problem at the outset is to raise small business problems to the level of visability.

Our amendment does not suggest exemptions for small business, but contemplates that they should do their fair share in return for being fairly treated. In our opinion they should not be asked to do more than their fair share.

Our amendment adds the suggestion that SBA monitor and report on the effect of these emergency measures on small business in its annual report which is presently submitted to the Congress. This would give Members of the House and Senate needed information on how these programs are affecting their constituents, in order to identify what statutory or administrative changes may be called for. Our amendment parallels the prior law by providing a focus at the Small Business Administration so that a small businessman is not helpless and has somewhere to go in Washington if he is about to be put out of business by imbalances in the program.

We know that the energy conservation programs contained in this act will be applied very rapidly. We believe that there must be some small business consciousness and input at an early stage before the rules are set in concrete to the disadvantage of many small firms.

The press has reported that this may be "Energy Week" on Capitol Hill. I believe that the energy problems will be with us for many weeks, months, and even years. I feel that Congress must be careful in considering emergency action so that we do not destroy gains that small business has painfully won over many years, thereby reducing competition in our Nation.

The amendment we propose today would thus give statutory recognition to small business—to the contributions they can make to the success of energy conservation and the individual problems which they will surely face as our Nation moves decisively to deal with the present energy crisis. Later this month, I plan to hold public hearings to gain an early assessment of how these many programs are affecting the small business community.

I now ask unanimous consent that an article from the Washington Star-News illustrating the seriousness of this crisis for business firms be printed following my remarks for the information of all concerned.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star-News, Nov. 13, 1973]

Dent Expects Oil Pinch To Close Some Businesses

Commerce Secretary Frederick B. Dent said today he expects some companies will be forced out of business because of the impact of energy shortages.

"We know that within our competitive system there will be those companies that will flourish despite the shortage, despite the—fuel allocations while other will fail because of their impact," Dent told the Greater Boston Chamber of Commerce. A text of his remarks was released here.

Dent urging corporations to begin energy conservation programs, declared that the fuel shortages "will be quite unlike any we have seen before in scope or duration."

He continued, "I cannot state emphatically enough that there will be shortages, not only this winter, but for quite some time into the foreseeable future. So what we are talking about is a business' ability to remain functioning in the face of potential plant shutdown and massive employe layoffs."

Dent said that currently there are some companies that are "thriving" while they face scarce fuel supplies because they have begun "sound energy management techniques."

He cites one manufacturer that has increased its production 20 percent in the last two years even though its energy consumption hasn't increased.

Mr. McINTYRE. I am pleased to join with the Senator from Georgia (Mr. Nunn) in supporting a small business amendment to the pending bill.

Senator Nunn has identified the major problem of small businesses this winter, and possibly for a long time to come. All business firms use petroleum products, both as fuels and as raw materials. They are vitally affected by the measures proposed by this bill.

The amendment perceives, I believe, the most serious problem of small business under these programs and any other emergency machinery of this kind—the smaller firms tend to get lost in the rush. This amendment aims at raising small business difficulties, in all their variety, to the level of visability of Federal, State, and local governmental authorities.

The proposal is patterned after a provision of the economic stabilization legislation which I offered in the Senate Banking Committee, and which subsequently became section 214 of the Economic Stabilization Act—Public Law 92-219. This provision has worked in a satisfactory manner, and I believe has been helpful to small business under price and wage controls. For this reason I joined as a cosponsor of Senator Nunn's amendment.

Accordingly, I commend the Senator from Georgia for putting forward this amendment, and urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendments, as modified.

The amendments (No. 659), as modified, were agreed to.

The PRESIDING OFFICER. The Senate will now return to the McIntyre amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the pending McIntyre amendment be set aside at this time and that we proceed to consider another amendment.

Mr. JACKSON. Mr. President, I do not know whether we have any more right now.

Very well; the Senator can take up his other amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that my pending amendment be set aside and that we may proceed to another amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I call up for consideration an unprinted amendment to S. 2589. This amendment would add a new section to the bill.

The PRESIDING OFFICER. Would the Senator send his amendment to the desk in order that we may have it read?

The clerk will now report the amendment.

The legislative clerk read the amendment, as follows:

At the end of the bill, add the following new section:

"Sec. . Nothing contained in this Act shall be interpreted or construed as repealing or amending the authority contained under the Emergency Petroleum Allocation Act of 1973 (Con. Rept. No. 93-628, Nov. 10, 1973)."

Mr. McINTYRE. Mr. President, this amendment would add a new section to the bill making it clear that nothing contained in the National Emergency Energy Act of 1973 shall be construed as repealing or amending the Emergency Petroleum Allocation Act of 1973 which was cleared by the Senate yesterday and sent to the President.

As we all know, the Senate passed this bill initially on June 5 of this year. Under the leadership of the floor manager, Senator Jackson, the mandatory allocation bill was an early recognition of the situation in which we now find ourselves and strengthened considerably the initial language that Senator Eagleton and I included in the Economic Stabilization Act providing Presidential allocation authority for petroleum products.

My concern is that the bill presently before us is so broad and far reaching that it should be made clear that Congress' intent is that the Emergency Energy Act is supplemental to, rather than superseding, the mandatory petroleum allocation bill.

This amendment would simply make that intent of Congress clear.

Mr. JACKSON. Mr. President, may I respond to my good friend by saying that there is no need for the amendment. The mandatory allocations bill, which was sent to the President day before yesterday, completely covers this problem.

Second, there is nothing in the pending measure that modifies, repeals, or otherwise changes anything in the Mandatory Allocations Act bearing on the amendment offered by the Senator.

I wish to give that assurance and make it a part of the legislative history of the pending measure.

Mr. McINTYRE. It is my understanding, then, that the manager, and the Senator who is most familiar with the terms of the Mandatory Allocation Act, can assure me that there is nothing in the bill that we are presently considering that will repeal or amend our action and that it will stand on its own two feet.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. HANSEN. I subscribe to the statement just made by the distinguished Senator from Washington. It is my understanding that the bill as was approved yesterday does do all the things the Senator from Washington attributes to it.

Mr. McINTYRE. Then, Mr. President, with the strong asurances from both the minority manager and the majority manager of the bill, I withdraw my amendment at this time and ask unanimous consent to do so.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. McINTYRE. Mr. President, I have a further amendment to offer at this time, and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the amendment, as follows:

> On page 12, line 13, after the word "by" insert the following: "insufficient domestic refining capacity,".

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the amendment.

Mr. McINTYRE. Mr. President, this is a very simple amendment. It would add to the section of the bill stating Congress findings that shortages were caused not only by those factors enumerated in the bill but also included insufficient domestic refining capacity.

As we know, this country is using approximately 17 million barrels a day of crude oil while, at the same time, we only have the capacity to refine 12.5 million barrels of product.

I feel that it is important for Congress to include in its findings on the shortages of oil that insufficient domestic refining capacity also exists and that this has contributed to the present situation.

Mr. JACKSON. Mr. President, this is a clarifying amendment. It is a helpful amendment. I commend the Senator for offering it.

I am very pleased, Mr. President, on behalf of the majority and minority sides to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. [Putting the question.] Without objection, the amendment is agreed to. The Senate will now return to the consideration of the original language.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTES TO FORMER REPRESENTATIVE CARL VINSON ON HIS 90TH BIRTHDAY

Mr. NUNN. Mr. President, on Sunday, November 18, 1973, distinguished leaders, friends, and relatives from throughout the State of Georgia and throughout the Nation will gather at Mercer University in Macon, Ga., to pay tribute to the Honorable Carl Vinson on his 90th birthday.

Members of the Senate well know that Carl Vinson's name is one that will live long in the annals of this Nation. A man of tremendous ability, prophetic foresight, and unique dedication, Carl Vinson is one of the greatest Americans to ever serve in the U.S. Congress.

Born in Baldwin County, Ga., Carl Vinson attended Georgia Military College in Milledgeville and graduated from Mercer Law School in 1902. In 1905 he began his long and distinguished career in public office when he was appointed county prosecutor for his home county. After serving in the Georgia Legislature for 4 years and as a county judge, Carl Vinson was elected to the U.S. House of Representatives in 1914, a position he held until his retirement in 1965. His more than 50 years of dedicated service in the House constitutes a record never previously achieved by any man in our history, and one that will likely stand through the ages.

Nine Presidents, over 40 Secretaries of the Armed Services and of the Cabinet, and more than 50 members of the Joint Chiefs of Staff sought advice from this man during his tenure in the Congress, and even today our national leaders frequently travel to Milledgeville to seek his sage counsel.

In 1930 Carl Vinson became chairman of the old Naval Affairs Committee, and in this capacity he led the legislative effort for the development of the two-ocean Navy—a Navy "second to none."

Then in 1949, Carl Vinson became chairman of the recently created Armed Services Committee. At its helm, this distinguished legislator dedicated his service to the establishment of an unassailable national defense. Over a period of almost two decades he became known as "the principal architect of American defense policy."

To his unending sacrifices and tireless efforts we owe the strong military posture we enjoy today. No man, either living or dead, has exercised so great an influence on the defense policy of the United States.

Though thousands have called him Uncle Carl, I have always been doubly proud to claim him as my real Uncle Carl since this distinguished American is my grandmother's brother.

Though a dedicated and loyal Democrat, Uncle Carl always placed national security and the welfare of this Nation above partisan politics. Under his leadership, the House Committee on Armed Services achieved an enviable, possibly unparalleled, reputation for nonpartisan deliberation.

During one of the most inspiring years of my life, from 1962 to 1963, I served on the legal staff of the House Armed Services Committee. This stimulating and productive year played a significant role in shaping my own political and personal philosophy.

As many of my colleagues know, the late President Lyndon Johnson served part of his House apprenticeship under Carl Vinson, and was fond of saying that he was a "graduate of Vinson College." Other present and former Senators such as HENRY JACKSON and Margaret Chase Smith also are proud graduates of the same school. And while my own professional association with Carl Vinson was somewhat more limited, it was no less inspiring.

Of the many lessons I have learned from him over the years, none has served me better than his constant reminder that the essential quality of a statesman is his willingness and fortitude to take a stand in the best interests of America, even if such a position may, in the short run, prove politically detrimental.

I also remember his warning on many occasions, not only to me, but to many aspiring young politicians, that the U.S. Congress has always had a substantial representation of Members who cling too closely to the immediate interests of their constituents, while America has always been in need of leaders who place the overall good of the Nation at the top of their priority list.

Carl Vinson's service to the Nation, in this respect and many others, has been unequaled. He is beloved by the people of Georgia and by those who served in the Congress and in top leadership roles in our Government during his many years in the House of Representatives.

Today, as he approaches his 90th birthday, he is still vigorous, and strong of body and mind. And his days continue to be so full and active that they put younger men to shame. In both his active career and his life in retirement, he has created a model of perfection that few will ever achieve but to which all men, and particularly all politicians, should aspire.

I know that my colleagues in both Houses of the Congress will want to join with me in saying, "Happy Birthday, Uncle Carl; and may the Nation enjoy the benefit of your wisdom for many more years."

Mr. President, I would like to share with my colleague a poem, a lovely and beautiful tribute to Carl Vinson. The poem was written by Mattie Richards Tyler, an award-winning poet-editor. The poem, "The Defender," is dedicated to the Honorable Carl Vinson on his 90th birthday.

I ask unanimous consent that the poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

The Defender Honorable Carl Vinson

(On his ninetieth birthday)

Within our Nation's Capitol you served
For fifty fruitful dedicated years!
Your impeccable course of honor never swerved,
Your faith in God and country held no fears.
You were magnificent when war prevailed!
With pride, you watched the fleet sail bravely by;
You suffered with our troops; you never failed
To bid Godspeed to pilots in the sky.

Within your heart a deep conviction burned
That strong defense remain intact, "a must!"
We carry on your torch . . . and are concerned
To hold America's Defense in trust.
By land, by sea, by air we send today
Our gratitude—because you passed this way.

Mattie Richards Tyler.

Mr. JACKSON. Mr. President, if the Senator will yield, when I first came to Congress I had the good fortune of getting to know Carl Vinson.

I must say that his contributions to the Nation are not fully understood by many Americans. Carl Vinson was really the father of the American Navy, the modern Navy.

We have been talking about an energy bill at great length. One of the things we have looked at, of course, is the possible use of the naval petroleum reserves as a means of helping out in this emergency. It is interesting to note that the father of those reserves was that perceptive man from Georgia, former Representative Carl Vinson.

Many years ago, he authored a bill setting up the system of naval petroleum reserves. In this year of 1973 we find that that foresight of Carl Vinson may well save the day in connection with some of the vital energy needs we have in our country.

Mr. President, no one in the House of Representatives was more helpful to me as a youthful Representative than Carl Vinson. He was a compassionate, understanding man who was deeply interested and concerned with the problems of all Members of the House on both sides of the aisle. The results of his interest in the well being of our Nation and of the free world will live on long after he has passed on.

In honoring this great American I join, I am sure, with all of our colleagues as well as with one of the distinguished relatives of Carl Vinson, our esteemed colleague the junior Senator from Georgia (Mr. Nunn), who is carrying on in the Carl Vinson tradition, an honorable, noble tradition that makes us all proud to be Americans.

Mr. NUNN. Mr. President, I thank the Senator from Washington for his statement. I have talked with Uncle Carl many times about the distinguished Senator from Washington. He has the greatest admiration and respect for the abilities and capabilities of the distinguished Senator from Washington. He considers the Senator from Washington to be one of the graduates of what has been known over the years as the Carl Vinson school. I think he takes great pride in the prowess the Senator from Washington displays in the fields of national defense and national energy and many other fields. He will appreciate the comments of the Senator from Washington.

Mr. JACKSON. Mr. President, in a lighter vein, I would like to mention that Carl Vinson was chairman of the Naval Affairs Committee for many years. When the Military Affairs Committee and the Naval Affairs Committee were merged into the Armed Services Committee, he became chairman of the Armed Services Committee.

We used to kid him when he would bring up a bill for consideration on the floor and ask him: "Are you wearing the flag of the admiral of the fleet or of the general of the armies or of the general of the air force today?"

We had that fine way of handling conflicts in the services which helped to bring about the first uniformity of the armed services of the United States.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate continued with the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Paul Haygood, of my staff, be given the privilege of the floor during the consideration and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It is my understanding that the McIntyre amendment is pending.

Mr. JACKSON. Mr. President, I ask unanimous consent that the distinguished Senator from Texas (Mr. Bentsen) may offer his amendment at this time and that the McIntyre amendment be temporarily laid aside for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

On page 30, line 26, after "code" insert the following: "Notwithstanding the provisions of this subsection no program shall in any event be implemented upon less than five days notice to permit receipt of written or oral comment on the proposed program."

On page 31, strike lines 1 through 12 and insert the following: "Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recision of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section."

Mr. BENTSEN. Mr. President, this amendment makes two very specific changes in the language of the bill concerning the administrative procedures to be followed under the act.

The first is an amendment to section 309(a) of the bill which would add an additional sentence requiring that no program be implemented without giving at least 5 days notice to permit written or oral comment. The bill as presently written retains the notice and rulemaking language of the Administrative Procedure Act but there is an exception clause in that act, 5 U.S.C. 553(d)(3), which would allow the agency to implement rules without giving any notice at all. This clause has been invoked a number of times by the Cost of Living Council in its procedures and the results have invariably been disruptive. It seems to me an elementary consideration of fairness to allow an affected party to learn above a Government decision before it is implemented and to have an opportunity to comment if he so desires.

The 5-day notice, which would be required by this amendment, should give an interested party time to make his objections known to a decision while at the same time allowing the Government to move with necessary speed. It is important that a balance between these two needs be maintained and that is the reason for my amendment.

The second part of my amendment also deals with the administrative procedures proscribed under this bill. It would amend section 309(b) by requiring the agency implementing rules under the act to observe certain rules of fairness and equal burden sharing in its program. In the long run, and these programs may well have a life beyond 1 year, the energy programs we are authorizing today will only be acceptable to the public if they are designed and carried out in a manner that is fair and which results in an even sharing of the burden by us all.

The amendment I am proposing would require the rulemaking agency to make adjustments in its programs to avoid special hardships, inequity, or an unfair distribution of the burdens imposed by the act. At the present time, there is no language requiring the consideration of such equity issues and I feel that unless we place such a requirement in the statute itself we run the risk of establishing an arbitrary rulemaking agency that ignores elementary issues of fairness and seriously undermines the public support for this program.

I support the purposes of this emergency energy bill and I think the Senator from Washington has done a tremendous job in bringing it before us in such a short time. I feel this amendment will strengthen the act in its administrative procedures and I urge adoption by the Senate.

Mr. JOHNSTON. Mr. President, we support the amendment of the Senator from Texas and congratulate him for significantly improving the bill which has been written for the purpose of dealing with an emergency measure of this type under the demands of time, without the time to put the machinery together with the kind of consideration that is clearly needed. It is entirely possible that we will have inequities and difficult situations arise which must be adjusted.

What this amendment does is allow time to adjust those differences, allowing 5 day's time to comment on regulations before they are promulgated, and allowing for adjustments in the event of extraordinarily difficult situations.

We think it significantly improves the bill, and we congratulate the Senator from Texas and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

AMENDMENT NO. 652

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment (No. 652) of the Senator from New Hampshire (Mr. McIntyre). The Senator from New Hampshire is recognized.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I send to the desk a modification of my amendment (No. 652) offered yesterday, and ask that it be stated.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

> At the end of Section 207 add the new subsection:
>
> (f) Pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in Section 3(2)(A) of such Act), the President is authorized to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product to achieve the purposes of this Act.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. McINTYRE. Mr. President, as a result of conversations held with minority members, the Senator from Arizona (Mr. Fannin), and associates, we have decided that this modification will accomplish the result that I intend.

I would just like to say, in support of it:

First. The legislation that we are amending, the National Emergency Energy Act of 1973, is only in effect for 1 year.

Second. The amendment gives the President authority to halt exports; it does not require him to do so.

Third. The President himself has informed Congress that under the Export Administration Act that he does not have the flexibility he needs to deal with the export of scarce commodities and has requested amending language to that act to give him greater flexibility.

Fourth. Yesterday, Senator Fannin indicated his concern that this amendment might be used by the President to cut off oil products that we supply to Mexico and to some of our other friends. I should like to point out, as I just said, that this amendment only provides the President with the authority to control exports. More importantly, however, is that section 202(b) authorizes the President to enter into understandings, arrangements, and agreements with foreign countries with respect to trade in fossil fuels and that any formal agreement entered into would be submitted to the Senate for approval but during that time the agreement would remain operative. My amendment, combined with section 202(b) of the bill should give the President the flexibility to handle individual cases such as that Senator Fannin pointed out with Mexico.

Fifth. I would like to make it clear what the real intent of this amendment is. Apparently, beginning this summer, a few oil companies having refineries in the United States realized a way to get out from under the Cost of Living Council's price rules on petroleum products. This was done by shipping overseas a tankerload of product on which there are presently no export controls and then reshipping either that same product or a like amount back into the United States free of export controls.

I have written to Secretary Morton asking that I be supplied with a list of the companies exporting distillate but, as yet, have not received a response. The primary purpose of my amendment is to give the President the authority to step in and stop exports of finished product whose purpose is primarily to avoid domestic price controls.

This morning's paper has a headline on the front page entitled "Fuel Experts Cite Danger of 1974 Recession." I simply cannot accept a continuation of exports of finished products out of this country whose primary purpose is to avoid Federal pricing policies.

This is the thrust of my amendment and, as I said earlier, section 202(b) of the bill should clearly give the President the authority to deal with situations such as that described by Senator Fannin. The situation is critical. This bill provides for rationing and conservation measures, the purpose of which is to cut consumption of energy in this country by 25 percent 4 weeks after passage.

If we are to ask the American people to cut one-fourth of their energy use, then I think it is incumbent upon us to also make sure that loopholes do not remain whereby a few unscrupulous oil companies can use a provision in the Cost of Living Council's price regulations to export domestically refined finished product and then import that same product at a substantial price increase to be borne by the American public.

This is grossly unfair and should be stopped immediately.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire, as modified.

Mr. JACKSON. Mr. President, I want to commend the Senator from New Hampshire for modifying the amendment. I think we can all agree that in the area of trade we can run into some very complex problems. The last thing that we want to do is include any language in an amendment that would be cause for retaliation on the part of friendly countries. I just want to say—and I shall file a more detailed statement later—that the pending amendment, in my judgment, will not cause that kind of development.

It has come to our attention that there have been some abuses in the process of the export of petroleum products, in which some firm or firms may have taken advantage of the relative price situations here and abroad to the detriment of a critically short fuel market in the United States and that those who will suffer as a result. This amendment, if I understand my good friend from New Hampshire's intent will deal with those bad practices. It is not intended in any way to cause an adverse situation to devleop in our good relations with friendly countries.

I therefore am pleased to accept the Senator's amendment, and I commend him for the modification that he has made in order to resolve some ambiguities that might be misinterpreted.

I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the distinguished chairman of the committee.

With further regard to my yesterday's remarks about the dangers of export controls, I would like to make the following points:

First. The United States imports far more petroleum than it exports. During 1972 the United States imported approximately 4.7 million barrels per day. During this same period the United States exported approximately 222,000 barrels daily of petroleum products, of which 38 percent was petroleum coke which was surplus to the U.S. needs. Also included were substantial quantities of lubricating oils—18.4 percent—which are high value products contributing positively to the balance of trade. The remaining exports represent a variety of products including residual fuel oil to be used as fuel, to the extent of about 31,000 barrels per day—14.8 percent—which was exported primarily to Mexico and Canada in cross border trading. Each of these countries are substantial exporters to the United States. This movement of required petroleum and petroleum products across borders provides an economical method of supplying demand with product from the nearest refining center.

The United States is seeking to import larger and larger quantities of petroleum and petroleum products. It has been estimated that approximately 45–50 percent of petroleum used in the United States will be imported by 1980. Very substantial exports are required during the short term. It is not anticipated that exports will change significantly. The differential in prices between the United States and the rest of the world now encourage exports of petroleum products. This situation is not expected to continue over the long term. If prices are at a parity it can be anticipated that only products surplus to the United States will be exported.

To place export controls on petroleum and its products in order to serve a short term purpose would make the United States vulnerable to the possibility other foreign refining centers would justify retaliatory action based upon this action by the United States. It would be difficult to urge other nations to increase exports to the United States while we at the same time were imposing export restrictions.

The primary moving force to impose restrictions upon petroleum and its products is recent shipments of distillates at a time when the United States is short of distillates. A substantial volume of these exports were to the Netherlands Antilles and Venezuela. These distillates were used to facilitate movement of products to the east coast of the United States. The only shipments not in the normal pattern of trade were the shipments to European countries. These shipments probably would not have occurred except for the price differential, however, the shipments represent less than approximately one-half of 1 percent of the total U.S. requirement for distillate. Exports of this magnitude are not a threat to U.S. supply.

Second. The United States generally has advocated expansion of foreign trade and has only with reluctance adopted import or export controls. The authority for such controls exists in the Export Control Act of 1969. Not only would it be contrary to an existing long-term policy to impose export controls, but it would also be redundant in that the authority to do so already exists. It is our understanding that there are many other products other than petroleum products that are pressing continuously for invocation of the act in order to protect those products. It would be difficult to avoid similar legislation for other products moving farther away from the concept of free trade.

By way of further background material, I ask unanimous consent to have printed in the Record at this point chapter 1 of a recent NPC report.

There being no objection, the material was ordered to be printed in the Record, as follows:

Predenial Outlook

Prior to the resumption of the Middle East conflict in early October 1973, it had been anticipated that petroleum supply and demand in the United States would be in very tenuous balance during the first quarter of 1974. Despite the forecasted dampening in economic activity, product demands, particularly distillate and residual fuel oils, were expected to continue their vigorous expansion of the past several years. With domestic production of petroleum liquids declining slightly, the pre-denial supply/demand balance required the scheduling of sharply increased imports of crude oil and refined products. A comparison of the principal predenial supply/demand components for the first quarters of 1973 and 1974 is shown in Table 1.

TABLE 1.—PREDENIAL U.S. PETROLEUM DEMAND AND SUPPLY

Item	1st quarter			
	1973 actual, MB/D	1974 pre-denial, MB/D	1974–73	
			MB/D	Percent
Total demand	18,488	19,774	+1,286	+7
Inventory change	−795	−1,040	−245	+31
Required supply	17,693	18,734	+1,041	+6
Domestic production	10,957	10,853	−104	−1
Imports:				
Crude	2,924	3,672	748	+26
Products, etc	3,325	3,699	374	+11
Total imports	6,249	7,371	+1,122	+18
Other supply [1]	487	510	+23	+5
Imports as a percent of required supply	35	39		

[1] Processing gain, other hydrocarbons, etc.

Total demand in the first quarter of 1974, projected at 19.8 million barrels per day, would be 1.3 million barrels per day or 7 percent greater than one year earlier. Inventory drawdown, a seasonal occurrence during the first quarter, was projected to be 245 thousand barrels per day greater than in 1973. With required supply increasing at 1.0 million barrels per day and domestic production declining at 0.1 million barrels per day, total required imports, after accounting for processing gain, were placed at 7.4 million barrels per day, an increase of 1.1 million barrels per day or 18 percent over the 1973 first quarter level. Thus, imports as a percent of total required supply would have reached 39 percent.

SOURCE OF IMPORTS

Crude oil imports into the United States during the first 7 months of 1973 are shown in Table. Imports from Organization of Arab Petroleum and Exporting Countries (OAPEC) were in the order of 800 thousand barrels per day during this period, the remaining requirements being made up primarily from Canada, Venezuela, Nigeria, Iran and Indonesia. However, incremental crude oil to accommodate rapidly escalating import requirements during the third quarter had to be scheduled largely from the Persian Gulf. For November 1973 imports from OAPEC nations were originally scheduled to have been about 1.2 million barrels per day.

Product imports during the first half of 1973 are shown in Table 3. During that period, total product imports were in the order of 3.0 million barrels per day, consisting primarily of residual and distillate fuel oil received from Venezuela and the Caribbean area. In the third quarter, product imports likewise expanded very rapidly with increasing amounts, including gasoline, coming from Western Europe refineries. For the first quarter of 1974, required product imports were estimated to reach 3.7 million barrels per day.

OIL IMPORT DENIAL SITUATION

In mid-October 1973, the Arab nations announced a series of cutbacks of oil exports to the United States and to countries supplying refined products to the United States. The initial effect of these denials is expected to be an imports reduction of about 2.0 million barrels per day from pre-denial levels, consisting of 1.2 million barrels per day of crude oil and 0.8 million barrels per day of products. The impact of U.S. import receipts will be delayed about 30 to 35 days from the date of denial, because of the one-way sailing time for tank ships carrying crude oil from Middle East loading ports.

TABLE 2.—U.S. IMPORTS OF FOREIGN CRUDE OIL

[In millions of barrels per day]

Origin of imports	July 1973	January–July 1973
Canada	959	1,042
Mexico		1
Total, North America	959	1,043
Colombia		2
Ecuador	39	46
Trinidad	31	57
Venezuela	392	290
Total, Central and South America	462	395
	1,421	1,438
OAPEC nations:		
Libya	116	142
Algeria	149	150
Saudi Arabia	644	392
Abu Dhabi and Dubai	102	76
Other OAPEC	36	59
Total, OAPEC	1,047	819
Angola	60	36
Nigeria	481	431
Tunisia	7	17
Total, other Africa	548	484
Israel		2
Iran	229	171
Indonesia	256	195
Malaysia		1
Total, Eastern Hemisphere	2,080	1,672
Total, World	3,501	3,110

Source: U.S. Bureau of Mines.

TABLE 3.—U.S. IMPORTS OF REFINED PRODUCTS, JANUARY–JUNE 1973

[In millions of barrels per day]

Area of origin	Motor gasoline	Fuel oil		Other oils	Total products
		Distillate	Residual		
North America	14	10	93	232	349
Central and South America	63	240	1,589	288	2,180
Total, Western Hemisphere	77	250	1,682	520	2,529
Western Europe	11	122	141	8	282
OAPEC nations	2	11	45	29	87
Other Middle East	4			6	10
Other Africa			17		17
Far East, etc			7	29	36
Total, Eastern Hemisphere	17	133	210	72	432
Total, World	94	383	1,892	592	2,961

Announcements of additional Arab production cutback plus the secondary effects of those cutbacks on the supply situation in other nations lead the Committee to believe that the United States will be denied approximately 3 million barrels per day by the end of the year. This denial is considered to be 1.8 million barrels per day of crude oil and 1.2 million barrels per day of refined products. As noted earlier, the reality of the current denial closely parallels the theoretical denial situation postulated in the Secretary of the Interior's original request to the National Petroleum Council's Committee on Emergency Preparedness.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 652) of the Senator from New Hampshire (Mr. McIntyre), as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I call up my amendment on unemployment insurance, which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. Jackson's amendment is as follows:

Add a new title IV, "Assistance to Persons Adversely Affected By This Act," as follows:

Sec. 401. Assistance to Persons Unemployed as a Result of This Act.—(a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance to a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) (1) Food Stamps.—Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food, the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households, to which assistance is made available under this section..

(3) Nothing in this subsection shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 as amended, except as they relate to the availability of food stamps in such an employment loss.

(c) Reemployment Assistance.—The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(d) Small Business Loans.—(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participation in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(e) Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(f) Report To Congress.—The Secretary shall report to the Congress on the implementation of this section not later than six months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

Mr. JACKSON. Mr. President, I ask unanimous consent that the vote on this amendment occur at 11:15 a.m. today.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment.

There was not a sufficient second.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I shall be very brief in my opening remarks. May I say, first, that a number of members of the Committee on Interior and Insular Affairs will be at the White House at 10:30 a.m. today for the signing of the Alaska pipeline bill. It is for that reason we have tried to set a specific time, which we have done, for the rollcall vote on the pending amendment.

Mr. President, the amendment, in essence, is identical to the amendment offered by Senator Randolph and adopted by the Senate in connection with the so-called surface mining bill. I know that the Senator from West Virginia strongly supports the objectives of this amendment to lessen the adverse impact of the National Energy Emergency Act on employees in the industries and businesses that will be affected. I commend our colleague from West Virginia (Mr. Randolph) for first stressing the importance of this type of provision during consideration of the surface mining bill.

The purpose of the amendment is to provide unemployment insurance benefits and assistance to persons adversely affected by actions taken in compliance with this act.

I think that the statements made this morning and yesterday by the able majority leader dramatize the serious economic problem facing the Nation. We have heard so much about shortages of gasoline, shortages of heating and fuel oil, that we have neglected to call attention to the collateral impact of the energy shortage.

In fact, Mr. President, the collateral impact economically can be far more serious than the direct impact of energy fuel shortages, as has been described here during the course of debate on this bill and on the other energy bills.

There is a duty on the part of the Federal Government to provide assistance to the States in order that the States can meet their obligations in connection with any possible economic crisis that may develop as a result of the ongoing shortages.

We hope that there will not be need for it. On the other hand, I think it is well to be prepared, and adequately prepared, to deal with all aspects of economic adjustments growing out of this crisis.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. AIKEN. Mr. President, will the Senator from Washington yield for a question?

Mr. JACKSON. I yield.

Mr. AIKEN. I have not had a chance to read the whole amendment, but I notice it applies to those who become involuntarily unemployed because of the act which we may pass within the next 2 or 3 weeks.

What about the person who can still be employed but because of the additional costs imposed, would bring his income down to half what it would be if he could get the gas necessary to reach his normal place of employment, which may be 20, 30, 40 miles away?

Is there a provision in the amendment which would enable the States, through their allocation from the Federal Government, to make up for this loss of salary. He might want to continue to work; they might want him to continue to work. But he might be put in a worse position than if he were unemployed.

Mr. JACKSON. Mr. President, I do not know how one would cover the difficult question posed by the distinguished Senator from Vermont. The amendment does provide for assistance, through the Small Business Administration. It is found on page 3 of the amendment, paragraph (1):

> is directed to make loans to aid in financing any project in the United States for the conduct of activities . . . or the acquisition, construction, or alteration of facilities.

In other words, we are trying here to cover, first, those directly unemployed. Second, we are trying to cover businesses, especially small businesses, that are adversely affected.

We provide for food stamps for those who would not be eligible because they have other resources—say, unemployment insurance—or they are not qualified for unemployment insurance, but they would be eligible for food stamps.

We are trying to cover all these fringe areas, but I do not know how you cover a man, for example, who has been partially affected in an adverse way. It is a most difficult thing to define.

Mr. AIKEN. I think there must be a very large number of them. I have specific cases in mind—for example, where the employer needs the employee so badly that he will not discharge him. But, at the same time, the employee is in a worse position if he keeps on with his employment. I think there must be many of them, particularly since we have encouraged people to go out of the cities and live in the rural areas, where they perhaps produce food or raise a few head of beef cattle, and then get their main source of income from some industry located in town. I think they are going to be in the worst shape. I hope some way can be devised to cover them. That is a situation in which the employer needs the person so badly that he will not fire him, and he is not unemployed.

Mr. JACKSON. The Senator, as always, is an able interrogator, and he can pose some very difficult problems. Frankly and candidly, I do not have an answer to the question.

Mr. President, I have a constituency in western Washington, that is not dissimilar in many ways, from that of the Senator from Vermont. We have many people who live out in what we call the "Logoff area." We call them "stump ranchers." They fend for themselves. They work part time. They will have problems in getting the necessary fuel. One of the problems as to whether eligibility on unemployment insurance could be established is whether or not it is caused by this act.

In other words, as the lawyers say, you have the legal doctrine of proximate cause. You have to show that there is a causal connection between what the person is applying for and what happened under this act.

All I can say is that we are going to do our best. It seems to me that this is the minimum, that we should do, in light of the notice we have received of adverse developments economically.

Mr. AIKEN. I thank the Senator from Washington. I appreciate the position in which the chairman finds himself. We all find ourselves in a similar position from time to time.

When the news media ask me if I mind a few questions, I always tell them the questions do not bother me in the least; it is just the answers. Apparently, it is just the answer that bothers the Senator from Washington at this point.

Mr. JACKSON. I thank the Senator from Vermont.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, it is a privilege to support the amendment of the able Senator from Washington (Mr. JACKSON) with whom I have had the privilege of working closely on the National Energy Emergency Act. I am appreciative of Senator JACKSON's earlier remarks indicating my involvement in this type of legislation.

We are all striving diligently and expeditiously to secure a solution to our energy crisis. However, as we move forward we cannot overlook adverse effects of the fuels and energy conservation and redistribution authorities in this bill on our citizenry. Workers who lose their jobs as a result of this legislative activity must be protected. These individuals and their families cannot be neglected.

I recognize that S. 2589 contains a declaration of purpose calling for the minimizing of adverse effects of fuel shortages and dislocations on the economy and industrial capacity of our Nation. Additionally, the legislation directs that the President shall take into consideration and minimize to the maximum extent practicable any adverse impact upon employment and directs also that all agencies of the Federal Government shall cooperate within their existing statutory authorities to achieve this objective. However, I share the firm conviction of the Senator from Washington (Mr. JACKSON) that there must be more substantial provisions in this bill to insure that there is assistance to persons who are affected adversely by actions under this measure.

The pending amendment would provide direct economic assistance, reemployment service, food coupon allotments, surplus commodities and small business assistance. This would certainly lessen the possible hardships over which the affected workers and families would have no control.

I urge Senators to support this vital amendment.

ENROLLED BILL SIGNED

The enrolled bill (H.R. 9295) to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University, signed on November 15, 1973, by Speaker of the House of Representatives, was signed today by the President pro tempore.

RECESS

Mr. MOSS. Mr. President, because of the signing of the Alaskan pipeline bill, the manager of the bill that is now before the Senate (Mr. JACKSON) and other Senators who are members of the Committee on Interior and Insular Affairs have departed for the White House to take part in that ceremony. For that reason, it will be necessary that we have a suspension of the proceedings, so I move that the Senate stand in recess until 10:45 a.m. today.

The motion was agreed to; and at 10:17 a.m. the Senate took a recess until 10:45 a.m. today; whereupon, the Senate reconvened when called to order by the Presiding Officer (Mr. ALLEN).

Mr. MOSS. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is the amendment by the Senator from Washington (Mr. JACKSON), on which a vote at 11:15 a.m. has been ordered.

QUORUM CALL

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that despite the previous unanimous-consent order, it be in order for the Senator from Utah to offer an amendment at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MOSS. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 23, line 7, insert the following:
>
> (f) the President shall organize and cooperate with the advertising industry and advertisers in developing a national energy conservation advertising program and in promoting educational programs to foster public acceptance of energy conservation needs and opportunities.

Mr. MOSS. Mr. President, very simply, this amendment would add one more provision to the section of the bill entitled "Federal Action for Fuel Conservation." This new action would be a Presidentially organized advertising program designed to promote energy conservation and to make the public aware of the need for and opportunities for such conservation.

The noted advertising authority, E. B. Weiss, commented just 7 weeks ago that we have taught the public through advertising of cheap, plentiful energy, and now is the time to teach, through advertising, the need for energy conservation.

Mr. President, I ask unanimous consent that the E. B. Weiss article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WANTED: ONE BILLION DOLLAR AD BUDGET TO SELL ENERGY CONSERVATION TO PUBLIC, INDUSTRY

(By E. B. Weiss)

A $1 billion advertising budget to persuade the American public—and industry—that energy conservation is a long-term imperative? A cool billion?

Well, about $200,000,000 will be spent for energy conservation advertising in 1973. By the major oil producers. By the public utilities. By miscellaneous manufacturers and retailers (Montgomery Ward spent about $1,000,000-plus for an energy conservation program).

And practically nothing by government—although the federal government alone will invest over $100,000,000 for other advertising in 1973, some of it for objectives that are insignificant when compared with the enormous dimensions of the energy problem.

Moreover, much of the current advertising is totally impracticable (urging the public to cut car speed to 50 miles per hour on highways where that is the minimum speed and a statistically-proved driving hazard).

CURRENT ADS: IMPRACTICAL, FACE-SAVING

Much of it is merely a face-saving gesture—public utilities urging the public to buy air conditioners (including wasteful high-energy consuming conditioners) and simultaneously suggesting minimum use.

Much of it is by advertisers themselves, extravagantly wasteful in their own use of energy—industry's score card on energy conservation is at least as low as that of the public (with government not far behind).

And all of it totally lacking in a fundamental theme so emotionally, so factually persuasive as to move toward conservation a nation completely conditioned (a) to waste, (b) to a land of plenty, (c) to the conviction that technology can and will solve the problem in ample time, and (d) to the conviction that energy is a short-term problem that will be solved very shortly by the Alaska pipeline, by off-shore drilling, by atomic power plants.

$1 BILLION AD DRIVE ON UNCLE SAM

Moreover, the public particularly clings to the conviction that a "national energy policy and program" will bring the energy situation under complete control—and since the administration has made major announcements to this end, why worry? How could a project with such a noble title possibly fail?

Yet, George A. Lincoln, chairman of the President's Joint Board, which coordinates the federal response to potential fuel and energy crises, said: "I see only five principal sources for dealing with our energy problem. The first four are the great energy fuels—oil, gas, coal and nuclear power. *The fifth and perhaps the most important is the relatively unexplored sources of energy conservation.*"

What I am suggesting is a $1 billion paid advertising drive, financed by the federal government. (I would expect *another* coordinated $1 billion donated by industry, media, state governments, etc.)

The potential for reducing the demand for energy by means of more efficient use of energy resources, by energy conservation, is sizable—some projections estimate a possible savings of 25%. If the savings were only of a size each year to counterbalance the basic annual trend toward increased use of energy, the energy problem would be substantially lessened. But it will take at least $1 billion in coordinated, brilliantly themed advertising to bring about even that degree of energy conservation.

TRADITIONAL ATTITUDES HINDER CHANGE

One reason that not much has happened in conservation to date is that energy has been so cheap for so many decades (and presumably inexhaustible). But with gasoline climbing toward $6 a barrel, energy costs of all types of energy are in a long-term uptrend.

Even in cost-conscious industry, traditional attitudes toward the cost of energy are difficult to change. For example, consider the economics of building construction which traditionally rated financing costs much higher than energy costs. The cost of heating and cooling a large office building runs about 30c per sq. ft. Lighting, about 60c a sq. ft. But the financing costs run over $2 per sq. ft! So the need to conserve energy—until recently—has not been a major cost consideration.

PUBLIC IS STILL INDIFFERENT

In brief, we have not provided industry (or the public) with a real sense of our national needs, the options ahead, and their cost.

Public concern is minimal. Industry's concern is only slightly higher. And government's response, down at the consumer level, is optimistically described in AD AGE (July 26) this way:

"The government is shifting into high gear on new regulations aimed at channeling consumer demand toward the cars and appliances with the best ratings as energy savers. The result may well be, in terms now widely used in Washington, an era of 'truth in energy'." I submit that this is not even remotely a "shift into high gear"—to the contrary, it represents the very *minimum* of a "truth in energy" program.

After President Nixon delivered his energy message last April, critics complained that administration plans lacked the sense of urgency that the growing energy crisis clearly demands. In July, the President sought to change that situation. In a message to Congress, the President announced what amounts to a Phase 2 for energy. Between 1973 and 1980, Nixon proposes $10 billion of federal funds to be spent on research and development aimed at providing the U.S. (through technology) with energy resources ample for the foreseeable future.

But that program at best could make only small step-by-step improvements in our energy situation for 15 years. I suggest a $1 billion energy conservation advertising program that would leave such an *indelible* impression on industry and the public as to make each of the technological innovations created under that $10 billion program doubly and more promptly effective.

FOCUS FRAGMENTED ENERGY EFFORTS

Commenting on that federal technological program, *Time* (July 9, 1973) stated: "The message was clear: The administration now puts a top priority on its energy program. Besides the massive new expenditures, Nixon's thrust is to re-organize and focus now fragmented federal energy efforts. In an important move, Nixon announced the appointment of Colorado Gov. John A. Love to head a new energy office 'that will be responsible for formulating and coordinating energy policies at the Presidential level.'

"To help accomplish his goals, Nixon announced three related steps:

1. "He ordered Dixy Lee Ray, chairman of the Atomic Energy Commission, to review all existing public and private research and development activities so they might be shaped into an integrated national program.

2. "He will establish an Energy Research and Development Council, made up of leading private experts, to provide technical advice on the direction and substance of the federal program.

3. "He urged the creation of a federal Energy Research and Development Administration. Its main asset would be the AEC's technical expertise and facilities. Beyond that, the agency would collect in one place the federal research efforts now scattered among the AEC (nuclear power), the Interior Dept. (coal) and the Bureau of Mines (coal, oil and gas), thus streamlining the federal bureaucracy.

"He instructed the federal government to set 'an example for all consumers by cutting its energy use by 7% within the next year. By reducing air-conditioning levels in federal buildings, for instance, 113,000,000 kilowatt-hours of electricity (equivalent to 270,000 bbls. of oil per year) would be conserved. Similarly, the number of trips by federal officials, who now travel some 250,000,000 miles a year, could be cut by 10%, saving about 1,700,000 gallons of gasoline'."

FEDERAL ENERGY CUT? NO WAY

I suggest the federal government will consume *more* energy in 1974 than in 1973—not 7% less. So will industry. So will the public.

Not one of these programs will add energy resources equal to our annually increasing consumption—not for at least 15 years at our present rate of increasing consumption of energy. And in 15 years, at our present rate of increase in energy consumption, total energy consumed will have increased by about 80%.

There is not a solitary reason to justify the conclusion that the required degree of conservation will be even remotely approached unless industry and the public have been persuaded to conserve energy by the most powerful, the most dramatic, the most unified communication program ever launched in this nation—far exceeding in dimensions and drama the nation-rallying programs typical in time of war.

And it is, indeed, a war that is imperative—a war against waste of energy resources. All great nations, in modern times, usually in time of war, have been unified by previously unmatched propaganda programs. In World War II, the totals spent for propaganda by the major involved nations ran into multi-billion-dollar programs—perhaps $50 billion would be a minimum estimate!

Again, I contend that a war against energy waste in this country, particularly since it lacks the drama of a military conflict, compels an enormously powerful advertising drive, if a total society, totally conditioned to waste as an inalienable, if not divine, right, is to be turned around toward conservation of energy.

Americans now account for one-third of the world's energy consumption. U.S. energy use has doubled in 20 years, and current predictions are that it will double again in less than 20 years. Simultaneously, the other advanced nations will be increasing their consumption of energy at least as rapidly as we in the U.S.

And to compound the problem, the less advanced nations (Spain, for example) and the underdeveloped nations will increase their energy consumption at a rate that will *dwarf* our own rate of increase.

Some of the underdeveloped nations—Brazil, Indonesia—will develop their own energy resources. But they will tend to require every additional kilowatt of energy for domestic use as their economies expand.

"HAVE NOT'S" INTEND TO "HAVE"

Americans consume about four times more energy per capita than the Japanese, and two and a half times more than West Germans. It is estimated that 500,000,000 people, consuming at the typical U.S. rate, would require all of the resources, including energy, produced by the entire world! (Europe, the U.S., Japan, with a total population somewhat over 600,000,000, probably consume, right now, well over 90% of all the resources produced by the rest of the world's population of several billion, including China's one billion.) Those several billion are just now talking (and even demanding) more nearly equal rights, with respect to the consumption of resources, including all forms of energy.

The "have nots" firmly intend to "have"—and to have American style!

We will not come down to their present living standard—they may not, for generations, achieve our present living standards—but energy consumption rights will now tend toward a closer balance over larger areas of the globe, particularly in the Third World.

No longer will 80% of the world's population accept energy deprivation while 20% wallow in conspicuous consumption of energy.

That is precisely why, in a speech to the American Petroleum Institute, Secretary Peter G. Peterson concluded: "We are moving into an era in which every energy option will have a cost. It may be a balance of payments cost, an environmental cost, a competitiveness cost, a discomfort cost, or all of these costs. But the cost will always be there. The era of low-cost, clean energy sources is almost dead."

ENERGY CUTS: NEW WAY OF LIFE

A few months ago, the head of one of the nation's major suppliers of energy—John E. Swearingen, chairman of Standard Oil of Indiana—rapped "business-as-usual advertising" by the energy industries in the midst of growing shortages. He said, "Energy conservation is going to have to become a way of life."

But it will not become an American way of life in the time available or to the required degree of energy conservation unless and until the American public and industry have been energized into the required dramatic response.

Yet in the fall of 1973 there is a total lack of a cohesive massive program with a powerful unifying appeal that would rally industry and the public.

I am suggesting a $1 billion advertising program with the knowledge that energy conservation could save billions in rising costs of energy, as well as decelerate the deterioration in our quality of life. A $10 billion annual savings in conserved energy achieved through a $1 billion advertising program figures out as a 10% advertising budget. Since we have product classifications where 20% advertising budgets are typical, a 10% budget does not appear excessive.

As I write this—in mid-September, 1973—President Nixon has decided, as a direct consequence of the acute shortage of heating oil, to curtail existing air pollution law and regulation. There may have been no other option, but with one stroke, this nation's air may become more fouled in the winter of 1973 than it ever has been.

I am not contending that a $1 billion advertising program could have averted this situation. But what I am suggesting is that a part of that $1 billion budget, focused on and dramatizing this national tragedy, would have shocked the American public into the necessary degree of alarm to bring about a public demand for energy conservation, rather than the existing passivity.

AUTO GAS $1 A GALLON

Because when the public becomes convinced that its personal welfare is being challenged, the public is quite capable of what almost appears to be a meticulously coordinated response. A dramatic current example of this involves the auto industry.

Without waiting for gasoline to reach $1 a gallon—as may happen—the public has clearly veered sharply away from the larger cars and towards the compacts and subcompacts. By 1975, perhaps 70% of all cars sold in the U.S. will be compacts and subcompacts!

Reporting on this situation, the *Wall Street Journal* (July 11, 1973) stated: "U.S. auto makers and their dealers can only improvise defensive tactics to meet the public preference for small cars.

"'We're in trouble, and there's no quick way to cure it,' says James Kussman, owner of Glenview (Ill.) Chrysler-Plymouth. 'It all happened so fast.'

"Mr. Kussman, for a while, tried to overcome the objections of mileage-conscious customers by 'guaranteeing' x miles to the gallon for the first 10,000 miles on the big Chryslers he sells. 'I knew I was going to pay,' he says, 'because 99% of these cars won't get more than 10.' His guarantee amounted to a price cut; Mr. Kussman said he gave five customers about $100 each in cash in advance to pay off the guarantee. 'That's five more than I probably would have sold otherwise," he says.

"James Cadillac Co., Woodbridge, Conn., is guaranteeing a supply of gas, instead. William F. James, president, says he has signed a contract with a nearby Mobil station so that owners of Cadillacs with a special James Cadillac sticker can get a full tank of gas even if it's rationed to other customers . . .

"Last month, Detroit's sales of compact and subcompact cars rose 28% from a year earlier, while deliveries of standard-size models fell 13%."

Yet, in 1973, the family's car driving budget had not been seriously dented by rising prices for gasoline (gas moved up much less than most commodities), and actual shortages were scattered. However, a total of perhaps $200,000,000 spent for advertising in 1973 by small-car producers obviously convinced a receptive and perceptive public that the small car made sense.

WHITHER ENERGY PRICES? UP

I suggest that $1 billion spent for the larger objective—nationwide conservation of energy—would be equally effective, particularly if it featured the constantly rising high cost to industry and the public of wasted energy.

Certainly energy prices will move—for at least 15 years—in only one direction: Up, up, up.

What is more, the cost of energy is a cost factor in everything the public and industry buys. *Everything!* Because almost everything that is consumed requires energy for production, distribution, etc.

The total cost of energy as a part of the family budget traditionally had seldom been considered by the general public—it was not all that important as a part of the family budget. But now the public will have constant (and painful) daily reminders of the constantly accelerating rise in the cost of energy and its mounting impact on balancing the family budget.

Of and by itself, this will be painful. But coming, as it does, at the precise time when the percentage of the family budget spent for food is increasing (reversing a downtrend of 50 years) the combination is sure to stir the public.

ELECTRIC KNIFE, ANYONE?

A most effective stimulant for energy conservation will be higher energy prices (visible and invisible)—*especially if $1 billion in advertising drums home the point.*

Home Furnishings Daily underscored the underlying change in public attitude toward the energy problem—a change that $1 billion in advertising could fan to fever pitch—in the following report:

"Could someone introduce an electric knife today and get away with it? Even an electric can opener?

"And which is better for America, a slow cooker which consumes little electricity over a long period of time, or a fast cooker, even a microwave oven, which consumes more electricity over a shorter period of time?

"Obviously, we're going to see more and more products criticized for their value and necessity with relation to their consumption of electricity.

"And not just by the government and the Ralph Naders—but by many consumers, especially younger ones.

"What about electric shavers? Will the wet-blade people launch an anti-American, pro-conservation campaign against them? And surely wet-shave people will have to give up hot lather dispensers.

"And will we be forced to return to towel-drying our hair, and put an end to the senseless wattage race in hair dryers?

"Pity the poor clock makers who have spent all that money convincing us we need an electric clock in every room as well as the patio.

"Consumers, of course, will decide the value of products that now exist and what will come into the market, but they are going to be influenced more and more by constant emphasis on conservation."

Add $1 billion for advertising, and energy conservation could become a way of life—as it must.

REVERSE HORSEPOWER RACE

The hand-held electric hair dryer industry has been engaged in 1973, in a shameful exhibition of conspicuous consumption of energy. But Sunbeam sees the energy crisis bringing the wattage race in hand-held dryers to a halt and even a "reverse horsepower race" developing in electric housewares. Sunbeam said the government's proposed program for the voluntary listing of the amount of energy consumed by major appliances could conceivably be extended to portables. If this is adopted, Sunbeam said it is not with a form of reverse horsepower contest. This may cause a drastic change in design work.

Nearly one-quarter of all electricity is used for lighting. The illumination levels recommended in commercial buildings have more than tripled in the last 15 years. There is now considerable disagreement whether such high illumination is necessary or desirable. It has been estimated that a 4% savings in total electricity use could be achieved by reducing excess lighting in existing buildings and by more effective use in new buildings.

This is merely one example of an opportunity for advertising to be put to work to conserve energy in the construction industry.

AD DRIVE FOR BETTER INSULATION

Another example of a construction industry energy conservation innovation that advertising could broaden to national dimensions comes out of Michigan. The state of Michigan is prodding gas utilities to stretch limited gas supplies by underwriting gas-saving insulation of residential users' homes. And the state's biggest natural gas distributor, the Michigan Consolidated Gas Co. has pledged to lead the effort.

Backers of the plan envision economies in gas consumption of up to 17% in poorly insulated homes. They believe that fuel consumption could be reduced by 10% in many other partially insulated houses.

Reported the *New York Times* (Aug. 25, 1973): "The concept represents a new departure in regulatory thinking. "We've got now what is a psychology of waste,' explained William G. Rosenberg, chairman of the Michigan Public Service Commission. 'We've got to change to a psychology of conservation and efficiency.' [Which is precisely why I want that $1 billion advertising fund!]

"In brief, Mr. Rosenberg has designed a plan in which a gas-using householder can cut his fuel bill—nominally, at least—by consenting to improve the heating efficiency in his home. This would be done by upgrading insulation in the ceiling to a depth of six inches, the cost to be financed by the gas company. The gas utility would recover charges for insulating its customers' houses by adding a modest insulating financing charge to the monthly bill.

"I actually believe that, on the inefficiently heated, poorly insulated home, the savings on fuel costs from proper ceiling insulation will exceed the cost of insulating,' Mr. Rosenberg said.

"Incredible though it may seem, it is possible that the Detroit householder who subscribes to the home insulation treatment being studied by Michigan Con might immediately gain a reduction in his monthly gas bill —despite billing for the insulation work.'

"Hugh C. Daly, Michigan Con president, said house owners would be encouraged to install ceiling installation on a do-it-yourself basis. Where a contract installation job was desired, Mr. Daly said, Michigan Con was prepared to pay the contractor—with the assurance of a monthly check-off guarantee against the consumer.

"Under Mr. Daly's proposal, the utility would be authorized to levy a 1% per month finance charge on the unpaid balance due—not for profit, but to guarantee financing cost and to protect against loss."

Put variations of that plan to work nationwide—backed by some millions in advertising from the $1 billion fund I am proposing—and a wave of energy conservation would sweep this nation.

Moreover, with the public and industry working toward an identical end—energy conservation—there might even come about a reversal in the current almost terrifying expansion of industry's public credibility gap.

CENTRAL ENERGY PLANT FOR HOUSING

I contemplate spending $100,000,000 of that $1 billion ad budget in the trade, technical, professional press because the energy savings here could be enormous. That $100,000,000 advertising program in the technical and professional press might include an energy conservation program being suggested for New York City. On July 7, the *New York Times* reported the project this way:

"Because of the increasing problems of providing large blocks of electricity and steam for the city, major housing developments and other large projects are being invited to 'explore the possibility of a total energy plant' to be included in their developments. A total energy plant is one that provides onsite generation as well as steam for heating and air conditioning."

In the November issue, *Professional Builder* (devoted almost entirely to the energy situation) will tell the builder, in one article, how he can merchandise "energy conservation homes" to make them extremely saleable . . . a better value to the buyer . . . and why it's a matter of self-preservation for the builder and good economics for his customer.

In addition, there will be a special section of the issue that will show and describe products and appliances that can help in planning the "energy conservation house." Ten thousand copies of this section will be reprinted for distribution to home manufacturers, giant builders, etc.

Energy conservation will be a major topic of the Industrialized Building Exposition and Congress '73. There will be two major seminars on the subject, in addition to the "big name" overview speech on energy. Also, INBEX is creating an Energy Conservation Center that will take up several thousand sq. ft. at the show. Every INBEX exhibitor who has an energy conservation product will be given a space in this educational area to illustrate how his products can be used in helping to create "energy conservation houses" and apartments. (I can see a slice of the $100,000,000 professional-technical press ad budget being allotted to this program.)

STUDY ENERGY CUTS IN MODEL BUILDING

A model building for studying energy conservation techniques will be built by the federal government. The General Services Administration (GSA) announced the proposal at a two-day meeting in 1973 on energy conservation sponsored jointly by GSA and the National Bureau of Standards (NBS). The building would contain at least 100,000 sq. ft. and be five to ten stories high.

The building will be used as any conventional federal office, but it will be extensively instrumented to measure the effectiveness of various design and equipment features aimed at reducing energy consumption.

What advertising man would not welcome an opportunity to use this project as an advertising springboard?

Another facet of the energy problem that will require heavy advertising is the enormous future capital requirements of the energy-producing industries. Kenneth E. Hill, exec vp of Eastman Dillon, Union Securities & Co., offers these awesome statistics:

"The capital requirements of the energy industry in 1970, the last full year for which data are available, were already quite large and steadily growing. The petroleum industry alone spent over $20 billion in the free world, of which 40%, or $8 billion, was allocated to the U.S. The public utility industry expended about $15 billion in the U.S. during 1970, while coal accounted for another several hundred million or so. This total of about $23 billion for the year was barely sufficient to supply today's energy needs. But even larger annual sums will be required for the estimated future growth in domestic energy requirements, which will nearly double from 1971 to 1985.

"Because of inadequate return on capital, the necessity for obtaining funds from outside the industry was becoming painful. The utility industry is now procuring about two thirds of its funds externally, and the petroleum industry about 25%—both nearly twice the level of the 1960s. But the frightening fact is that even these enormous sums were quite inadequate to maintain any excess energy capacity, and electricity brownouts and natural gas shortages are to be expected in the years ahead unless, of course, the growth rate of energy consumption is dampened.

"During the period through 1985, capital requirements for energy must continue to grow, and at rates greater than 4%, to provide some excess energy availability as well as large sums for environmental protection. Thus, total capital expenditures for energy during the year 1985 could well exceed $40 billion, compared to $23 billion in 1970. A conservative estimate of total outlays during the period, derived from many sources, would total $475 billion, as shown in the following table:

Capital Expenditures—U.S. Energy Industry—Period 1971–1985

	Estimated expenditures
Petroleum	$160 billion
Public utility	300 billion
Coal	15 billion
Total	475 billion

"The $300 billion for the public utility industry includes $50 billion for nuclear generating plants and $5 billion for coal gasification plants.

"Total money requirements could probably reach between $550 and $600 billion during the period 1971 and 1985 for the domestic energy industry. But the U.S. will then be relying on foreign sources for at least 50% of its oil and gas requirements. If this dependency on uncertain foreign sources of oil is deemed by our government as not in the national interest and proves to be economically difficult because of balance of payments problems, greater North American supplies will be encouraged. In this event, domestic capital expenditures must be greater than estimated above."

Now, if a $1 billion advertising program for energy conservation seems reasonable, how do we get it off the ground?

I suggest that the Advertising Council, of course (if the program is within its function , or any of its constituent organizations, or any of the advertising/marketing associations, might take on the selecting of a task force composed of representatives of government, the public, industry, the professions, the media advertising, agencies and public relations. This task force would hammer out the first skeleton outline of a program.

Take it away Energy Conservation Task Force I.

Mr. MOSS. Just this week, Advertising Age, the noted trade journal of the industry, editorialized on the need for a massive redirection of advertising budgets toward energy conservation activities. I believe that this is a most necessary effort for us to undertake if we are to get through this severe shortage period.

Mr. President, what we really need now is to redirect the ethic we have had of using energy widely, because it is so cheap, to where we consider very carefully what we use our energy for—use it for necessities, but not wastefully.

I have discussed this matter with the minority members of the committee, and I think the amendment is acceptable to them. I have discussed it with the manager of the bill, and I ask for the adoption of the amendment.

Mr. JACKSON. Mr. President, we are prepared to accept the amendment. It is a proposal for an educational program. I think it could be helpful in a national energy conservation program. I commend the Senator from Utah for offering the amendment, and we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I have long been one of the leading proponents in the Senate of programs to assure adequate nutrition for the people of this country. As ranking Republican on the Select Committee on Nutrition and Human Needs, I have worked to improve and expand the food stamp program, the school lunch and breakfast programs, supplemental food program, and nutrition for the elderly. In addition, I have worked to consolidate all the child nutrition programs to assure more effective use of Federal dollars in providing better nutrition for our children.

I feel constrained today, however, to vote against the Jackson amendment to the national energy emergency bill pending before the Senate. The amendment would have allowed people, not otherwise eligible, to receive food stamps and unemployment compensation if they were adversely affected by the fuel crisis or by Federal actions taken to solve that crisis.

My initial objections to the amendment are that we have had no hearings on the proposal and that there was only cursory debate on the floor of the Senate. Furthermore, we cannot estimate what the cost of implementing this amendment might be to the Federal Government and, ultimately, to the taxpayers. I am always reluctant to take action on a bill or on an amendment without knowing what the costs associated with that action will be. That is why passage of the congressional budget bill, recently reported 13–0 by the Senate Government Operations Committee, is so crucial. Enactment of this bill would require cost information before any bill could be passed in the future.

I also object to this amendment because it would set up separate eligibility standards for food stamps for a certain category of individuals. It does not seem to me that people suffering hardship because of fuel shortages should be treated differently from those suffering hardship from other causes. Eligibility standards for food stamps should be uniformly applied and should not depend on the cause of the hardship.

The eligibility standards for food stamps are clearly spelled out by law, and the Department of Agriculture uniformly applies these standards across the country. All Americans who meet the requirements of monthly income, assets, and other provisions for eligibility can receive food stamps. There are no spending limits on the food stamp programs; whoever applies and is found eligible will receive assistance. If the fuel crisis adds large numbers of Americans to the ranks of those eligible for food stamps, they are already assured of participation in the program.

Therefore, Mr. President, not knowing its impact in terms of numbers of people affected, or cost, and not wanting to discriminate among different categories of people, I voted against Senator JACKSON's amendment to the National Energy Emergency Act. My action in this matter should in no way be interpreted to mean that I am unconcerned about the welfare of those Americans who may suffer adverse economic effects because of the energy crisis. I am concerned, but solutions proposed by Congress should reflect careful thought and detailed planning and must apply equally to all Americans.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Georgia (Mr. TALMADGE), and the Senator from Maine (Mr. MUSKIE) are absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Idaho (Mr. MCCLURE), and the Senators from Ohio (Mr. TAFT and Mr. SAXBE) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "yea."

The result was announced—yeas 73, nays 12, as follows:

[No. 488 Leg.]

YEAS—73

Abourezk
Aiken
Allen
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fong
Fulbright
Gravel
Griffin
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

NAYS—12

Bartlett
Buckley
Fannin
Goldwater
Hansen
Helms
Hruska
Percy
Roth
Scott,
  William L.
Thurmond
Tower

NOT VOTING—15

Baker
Cranston
Curtis
Huddleston
Humphrey
Inouye
Kennedy
McClure
Muskie
Nelson
Saxbe
Sparkman
Stennis
Taft
Talmadge

So Mr. JACKSON's amendment was agreed to.

Mr. TUNNEY. It would appear that even under the most optimal conditions, it will take in the nature of 60 days to implement the emergency measures called for in S. 1570 and S. 2589 once they were enacted. Given the normal difficulties to be expected in meshing these two complex pieces of legislation, and the possibilities of delays, what recourse will communities have to obtain relief if they are faced with imminent emergencies within this initial period?

Mr. JACKSON. Pending full implementation of the programs provided for in S. 1570 and S. 2589, the only direct programs now in effect are the current administration propane and middle distillate allocation programs and such measures as the individual States may have adopted. The President does, however, have authority under the Defense Production Act of 1950 to take a wide variety of emergency actions when fuel shortages affect national defense. It is for that reason that we must pass this legislation without delay. As the Senator undoubtedly knows, many State and local governments have already acted to minimize the extent of the emergency and its impact. Some are well along in this area. They deserve the timely support that early passage of S. 2589 would grant them.

Mr. TUNNEY. Is Federal approval required of all actions contemplated by this act that are undertaken by State and local agencies?

Mr. JACKSON. Federal approval is required only for those State programs developed in response to the requirements of section 203(c).

Mr. TUNNEY. Will the State and local agencies set up under this act have any authority with respect to the establishment of priorities of fuel usage under the act? For example, if it is determined essential at the local level to divert certain fuel supplies to hospitals, or industries, or to some other vital use, does the flexibility exist under the bill to reallocate supplies to those priorities as called for within section 203, even though these priorities are not set forth specifically in section 102 of the bill?

I ask these questions, because it will not be possible or practical on a case-by-case basis to seek determinations such as these when a difference of days or hours might spell severe hardship for many people.

Mr. JACKSON. On the question of the establishment of priorities, section 203 requires that State and major metropolitan governments develop emergency energy conservation and contingency programs. It specifies that such plans shall include an established priority system. Thus, the question of relative priorities will be determined by State and local governments, and the degree of flexibility will be for them to decide.

Mr. TUNNEY. I am somewhat troubled by the provision in section 204(a) which states:

> The President shall require that fossil fuel fired electrical power plants now in the planning process be designed and constructed so as to have the capability of rapid conversion to burn coal.

Given the plentiful supply of coal in many regions of the country, I am aware of the desirability of such conversion. I would want to point out, however, that California is not primarily a coal-producing State, and fossil-fuel fired baseload electrical powerplants in California do not have the capacities at present to undergo such conversion. Furthermore, combustion turbines would as I understand, find it technically unfeasible to make such turnovers to coal utilization.

But I want to stress another point, and that is namely the extremely adverse climatical and meteorological conditions which produce heavy and dangerous smog in parts of California. Coal burning would seriously aggravate such conditions and pose unwarranted threat to health. I, therefore, would hope that the application of any measures mandating use of coal take into consideration the peculiar environmental conditions that prevail in different regions of the country.

My question, Senator, is how do you construe the application of section 204 (a) in this bill to the situation in California and other States with similar interests?

Mr. JACKSON. As concerns the design and construction of future stationary powerplants, it is imperative that we insure that hereafter we are not single-fuel dependent; that we have the flexibility to use such fuels as might be available to us. At present we are in a minority among industrial nations in not being able to do so. S. 2652, the coal conversion bill which Senator RANDOLPH and I introduced on November 2, will address this need in detail. I welcome the Senator's interest in this area and would hope that he will offer his views and suggestions on the coal conversion bill for the committee's use in the consideration and markup of the bill.

The reference to future plants in this bill serves to provide notice of the direction in which we are moving in this area. As the Senator notes, it is obvious that coal in its natural state may not be used as fuel in a gas turbine. I doubt that anyone will try. Also, in building new plants with a coal capability, this capability must include the ability to do so within the requirements of the Clean Air Act.

Finally, I would think that there is a minimum plant size below which we would not wish to mandate convertibility. In drafting S. 2652, 100 million Btu per hour was taken as an initial minimum figure with which the committee could begin to work.

The Senator speaks of "all of our eggs in one basket." That is where we are now. That is a significant factor in the current emergency. It is precisely for that reason that we must act now to assure future flexibility.

ORDER FOR YEAS AND NAYS ON PROTOCOL AMENDING THE 1928 CONVENTION CONCERNING INTERNATIONAL EXPOSITIONS—EXECUTIVE N—AND PROTOCOL TO THE INTERNATIONAL CIVIL AVIATION CONVENTION—EXECUTIVE Q

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that it may be in order at any time to order the yeas and nays on two treaties, Executive N and Executive Q, with one show of hands.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that there be a yea-and-nay vote on the two treaties, Executive N and Executive Q, the vote not to occur today.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills and concurrent resolutions in which it requests the concurrence of the Senate:

H.R. 6642. An act to suspend the duties of certain bicycle parts and accessories until the close of December 31, 1976;

H.R. 7780. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yards of silk;

H.R. 11333. An act to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes;

H. Con. Res. 88. A concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs;

H. Con. Res. 369. A concurrent resolution to print as a House document House committee print on impeachment, selected materials; and

H. Con. Res. 375. A concurrent resolution providing for the printing as a House document the booklet entitled "The Supreme Court of the United States."

HOUSE BILLS AND CONCURRENT RESOLUTIONS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on Finance:

H.R. 6642. An act to suspend the duties of certain bicycle parts and accessories until the close of December 31, 1976;

H.R. 7780. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yards of silk; and

H.R. 11333. An act to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes.

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 88. A concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs;

H. Con. Res. 369. A concurrent resolution to print as a House document House committee print on impeachment, selected materials; and

H. Con. Res. 375. A concurrent resolution providing for the printing as a House document the booklet entitled "The Supreme Court of the United States".

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate continued with the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. JACKSON. Mr. President, I yield for a unanimous consent request to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Edward Merlis and Henry Lippek of the Commerce Committee staff, be given the privilege of the floor during the further consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that Margaret Lane of my staff be accorded the privileges of the floor during the debate on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Dr. Arlon Tussing be granted the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I send an amendment to the desk on behalf of my colleague, Senator BIBLE, and myself, and ask that it be stated.

The PRESIDING OFFICER (Mr. EAGLETON). The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

The PRESIDING OFFICER. May we have order in the Senate. Will all Senators please retire to their seats and will members of the staff take seats at the rear of the Chamber. May we have quiet so that the reading of the amendment can be heard and comprehended.

The clerk will start to read the amendment afresh.

Mr. CANNON. Mr. President, this amendment is a very short one. I ask that the clerk read the amendment in full. It is completely self-explanatory.

The legislative clerk read as follows:

On page 18, line 9, add the following new sentence:

"In developing the Federal program and requirements for State programs the President shall insure that the provisions for specific energy conservation and contingency measures are sufficiently flexible so that the desired reductions in energy consumption may be achieved with the minimum adverse impact on local, State and regional economies and employment levels."

Mr. CANNON. Mr. President, as the distinguished Senator from Washington so ably pointed out, our Nation is facing very difficult days due to the deepening energy crisis.

The Congress must take immediate, responsible steps to reduce petroleum consumption and insure the continuation of vital public services throughout this emergency.

This is what this bill, the National Emergency Petroleum Act of 1973, is all about, and I am pleased to join you as sponsor.

On behalf of myself and Senator BIBLE,

I would like to clarify some points of the bill so that all Americans will know how they will be affected by this program.

As you know, the economies of many States, including my own State of Nevada, depend upon tourism. Without visitors such as the 25 million who visited last year from outside of our State, Nevada's economy would wither and eventually die.

We are a State in which our hotels and resorts are our principal industry accounting for a majority of our jobs and half of our tax base. Naturally, any special penalties directed at hotels would cause chaos in Nevada in terms of employment and necessary revenue for the operation of our cities and the State itself.

Section 203(b) of the bill includes provisions for limiting operating hours of commercial establishments.

For purposes of this bill, does the term "commercial establishments" include hotels and resorts?

Mr. JACKSON. I would interpret section 203(b) to include hotels and resorts as commercial establishments. These provisions pertaining to commercial establishments were proposed by the administration and accepted by the committee. While it is my understanding that the executive branch had looked to the mercantile sectors as the principal source of savings, the whole commercial area is included.

Mr. CANNON. What does this provision mean for hotels and resorts which must operate at all hours for the safety and convenience of their guests?

Mr. JACKSON. It would mean that hotels and resorts would be called upon to bear an equitable part of the burden that all Americans will be called upon to share. In their conservation of energy, I would assume that hotels and resorts would assure the safety of their guests and call upon them to accept minor inconveniences.

Mr. CANNON. In Nevada tourist areas there are many hotels in process of completion and wings to existing hotels which are not yet in operation. How would the requirements affect the plans of these new facilities to serve our visitors?

Mr. JACKSON. In the case of facilities which are in the process of completion or expansion, we have a situation which is analogous to the "new market entry" question which the Senate addressed in the passage of the Mandatory Allocation Act (S. 1570).

It is imperative that we strive to curtail energy consumption in order that we may live within our means in terms of available fuels. However, it is not the intent of the committee that in doing so we take any action that would needlessly impair the economic growth of any State or region.

Each State will be called upon to reduce its energy consumption by first 10 percent and then 25 percent. In my judgment it is the State who must determine the most equitable allocation of reduced energy totals between old and new businesses.

Mr. CANNON. If a State draws up a plan to meet the 25-percent reduction level without adopting each and every provision outlined in the bill, and the plan is accepted by the White House, would this be acceptable in terms of fulfilling the requirements of the bill?

So in other words the Governor can mold the energy conservation program in accordance with the specific needs of his State as he sees them in a manner which would be in the best interest of the State.

Mr. JACKSON. Yes, if the reduction level can be achieved by the State, the Federal Government would not impose its own alternative to a State's conservation program. The legislation recognizes that what may be unnecessary usage of energy in one State's economy, may be vital to another State's economy. Therefore, if the State can achieve a 25-percent reduction I would see no reason to restrict hours of operation or demand closure of sections of an industry vital to the economy of that State, such as Nevada's tourism industry.

Mr. CANNON. In order to clarify this provision of the bill, I would like to introduce, on behalf of myself and Senator BIBLE, an amendment to S. 2589 which would affirm the flexibility feature of the energy conservation program, so that the desired reductions in energy consumption may be achieved with the minimum adverse impact on local, State, and regional economies and employment levels. I have discussed this with the distinguished floor manager of the bill and it is my understanding that he finds the amendment acceptable.

Mr. JACKSON. Mr. President, I believe that this amendment, which the Senators from Nevada offer, helps to clarify the intent of the bill and I urge its adoption.

Mr. CANNON. Mr. President, the amendment is self-explanatory. It simply writes language into the bill to make sure that the Governors and the State plans have flexibility in meeting the desired reduction requirement so that it will have a minimum impact on the local industries and the local economies of a particular State and area involved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JACKSON. Mr. President, I think the amendment is a helpful one. I have discussed the amendment with the ranking minority member, the Senator from Arizona (Mr. FANNIN). I think the language should be helpful in the administration of the program. I have no objection to the amendment.

Mr. FANNIN. Mr. President, I have no objection to the amendment. I feel that the amendment will be helpful.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MONDALE. Mr. President, I send an amendment to the desk on behalf of myself, the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Wisconsin (Mr. PROXMIRE), and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 16, between lines 2 and 3, insert the following new subsection (c) and renumber all succeeding subsections accordingly:

(c)(1) The President is authorized and directed to convene negotiations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through agreements covering trade in petroleum and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistent with the interests of both nations.

(2) The President shall report to the Congress, on an interim basis, on the progress of such negotiations as may be undertaken pursuant to this subsection, within forty-five days of passage of this Act.

(3) The President shall issue a final report to the Congress on the results of such negotiations as may be undertaken pursuant to this subsection, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

Mr. MONDALE. Mr. President, this amendment is directed to the special problem of our relationships with Canada as they apply to the energy crisis.

The Canadians have reduced their exports of crude oil into the United States by about 300,000 barrels a day. And all of the States across the northern tier of our country—in the West, Northwest, Midwest, and the East—are going to be very seriously harmed by this development.

It is my opinion that our relationships with Canada are not nearly as good as they should be. This amendment is designed to authorize and direct our Government to begin immediate, emergency consultations with the Canadian Government for the development of a joint energy approach by means of which we could work together in trying to solve our problems.

Mr. PASTORE. Mr. President, this is an important amendment. We cannot hear the Senator's speech. Senators are not in their seats. Everyone is carrying on a conversation. I think that we ought to have order in the Senate.

The PRESIDING OFFICER. The Senator from Rhode Island is eminently correct. Will each Senator please take his seat. And may we have quiet on the floor of the Senate so that we can hear the Senator from Minnesota.

The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, in the emphasis that we place in our debate on what the Mideast does in terms of exporting oil to the United States, we forget that we get 2½ times more oil from Canada now than we do from the Mideast.

Canada is the biggest source of our imported oil at the present time. In light of the new policies of Canada which have resulted during the past 6 months in a nearly 23-percent cutback in the export of their oil to our country, and which could result in even a lower amount of exports from Canada to the United States, and the new export tax which they have added, I think that we should move immediately to try to develop these high-level negotiations for the mutual benefit of both the United States and Canada.

Mr. President, the immediate crisis which has worsened our present energy emergency has been brought about by an unconscionable embargo of Arab oil to the United States and certain other nations.

Yet the roots of this crisis lie much deeper. They lie in government policies planned more to increase the profits of the major oil companies than to promote the national interest. They lie in actions by these oil companies, which have revised their statistics and changed their predictions whenever it suited their corporate outlooks. And it lies in certain of our foreign policy dealings with nations friendly to the United States, nations which we often seem to have taken for granted.

There is no better case of this failure to conduct constructive energy consultation with our friends than recent relationships with the government of Canada.

With all the attention being given to our supply problems with the Middle East, far too little has been paid to our neighbors to the North. In fact, Canada exports more crude oil and refined products to this country than does any other single nation. In the second quarter of 1973, government figures show that almost 24 percent of our total imports of crude oil and refined oil products came from Canada. This was 2½ times the amount we imported from the Middle East and 50 percent more than we imported from Venezuela.

And, in the area of crude oil alone, we imported almost 33 percent of our total foreign oil in the second quarter of this year from Canada.

Yet in spite of our reliance on Canada in oil and oil products, we have too often regarded Canada as a steady source of high levels of these vitally needed commodities. We have seemed to assume—until very recently—that Canadian production woud inevitably serve American refineries, making Canada our most secure source of foreign oil.

Recent events have indicated that these assumptions may no longer be true. The Mideast oil embargo is but the latest and most dramatic of a series of events which have brought about significant changes in Canadian oil policy, changes which have serious implications for our ability to meet domestic demand during this winter and beyond.

These changes may have profound implications on the energy supply situation in the United States, and in particular on the Middle Western and Eastern States.

We have long enjoyed a large and flourishing trade between our two countries in petroleum and finished petroleum products, and the States in the Midwest and East have used Canadian oil to compensate for their lack of proximity to large crude oil reserves within the United States.

We must recognize that this trade is important for both nations, and that Canadian crude plays a vital role in insuring adequate supplies of oil to large sections of our Nation. Yet, if the actions of the Canadian Government in recent months indicate the beginnings of a long-term policy, there is good reason to believe that the Midwest and the East may be denied access to all or significant parts of Canadian oil production or face the imposition of stiff export taxes, as Canada begins to retain domestic production for her own use and heavily tax that portion of such production which is exported.

I firmly believe that a wiser U.S. policy on the question of a pipeline from Prudhoe Bay in Alaska to the lower 48 States could have averted a good deal of the difficulty in which we now find ourselves. As I have stated before, I believe we have treated the Canadian Government rather poorly on this question, and the current friction on some aspects of energy policy between our two countries may result from the unwise past policies of our Government on the Canadian pipeline question.

A Canadian pipeline would have been and still would be an excellent vehicle for cooperation between two friendly governments, and would give the entire Nation access to the Alaskan oil we desperately need.

This is only one of the reasons why I have argued for a trans-Canadian alternative to the proposed Alaskan pipeline. However, it now appears that such an alternative may be some distance in the future.

The history of Canadian-American relations on this matter, however, redoubles the need for the initiation of intensive discussions with the Canadian Government to work out a policy on trade in oil and petroleum products between our countries. For if we do not deal wisely and swiftly with the changes in Canadian policy which have recently become evident, we once again run the risk—as occurred with the Alaskan pipeline—of damaging relations between two nations whose mutual interests are far stronger than the differences which may at times separate them.

And there can be little doubt that Canadian policy is changing.

This past March, the Canadian Government began a system of crude oil export controls and denied applications for increases in exports of Canadian crude oil.

This was the first of a number of actions taken in recent months.

In June, new Canadian controls halted the exports of heating oil and gasoline into the United States, under what was described as a "temporary" policy which could last up to 18 months.

And on September 13, the Canadian Government announced that it would impose immediately a 40-cents per barrel export tax on crude oil, to reflect rising prices on the world oil markets. In late October, that tax was suddenly raised from 40 cents to $1.90 per barrel, thereby adding an additional $2 million per day to the cost of the crude oil we import from Canada.

Early in September, the Government announced that it would seek price readjustments before granting export licenses for the month of October.

Most recently, Canada announced that it would reduce shipments of crude oil from a level of slightly over 1.1 million barrels per day in October to 1 million barrels in November. In contrast, last April Canadian exports to the United States reached a peak of almost 1.3 million barrels per day. And, the outlook for months beyond November is cloudy.

In short, in the period since April, Canada has reduced her exports to the United States by 300,000 barrels per day, or about 15 percent of the estimated daily shortage of crude oil we now face in this country.

Perhaps most significantly, however, in early September the government of Canada also indicated that it was pursuing the construction of a pipeline to run from Ontario to Montreal to carry oil from Western Canadian oil fields into Eastern Canada. At present, Canada exports over 700,000 barrels per day of oil from Western fields into the Middle West and Eastern United States, and imports a significant amount into the Eastern part of Canada through pipelines originating in the State of Maine.

If an addition to the present pipelines linking Western Canada to Ontario were constructed, and if the supply of crude oil now being exported to the United States were stopped, it would come as a grave blow to the oil-poor regions in the Midwest and East which are now so heavily dependent on this Canadian oil.

The Canadian Government has gone through a difficult period in its own energy affairs, and many of the recent actions which she has taken have been in response to world events beyond her control.

Yet, unless we undertake intensive consultations immediately and sincerely, we will continue to be a prisoner of events rather than attempting to shape them constructively for the benefit of both our nations.

The United States and Canada are and have always been close allies and friends, sharing the longest common undefended border in the world.

We can and must preserve that friendship, to the mutual benefits of both nations. But we must also recognize that this friendship may be strained in the future, and that only continuing and high-level contacts between governments on the issue most pressing to both nations at this time—energy policy—will insure that policy will be made on the basis of mutual understanding, and not as a result of a failure of communication.

Mr. President, the bill as reported from the Interior Committee does contain a provision granting the President general authority to undertake negotiations and adjust or allocate imports of oil.

The amendment I am proposing, along with Senators EAGLETON, HUMPHREY, and PROXMIRE, will strengthen this provision. It directs the President, rather than simply giving him authority, to undertake emergency consultations with Canada to arrive at an oil policy which will benefit both nations during this period of difficulty.

In addition, my amendment would require the President to report back to the Congress on an interim basis within 45 days, and on a final basis within 90 days, so that we can all know the progress which has been made in the course of these consultations.

Within the past 2 months, the White House Energy Adviser, John Love, has traveled to Canada for informal conversations on energy matters, and some new discussions may be underway. However, more is needed, and it is needed now. We desperately need high-level emergency consultations between our two governments to assure that we work together in weathering the present emergency. If we do not, we could witness a continued deterioration in American-Canadian relations over energy, which could deprive us of the single largest source of oil we currently possess.

Hopefully, these consultations would be the first step in a continuing series of negotiations on energy matters between the United States and Canada. I would hope, for example, that negotiations provided for under S. 1081 could begin at an early date to reach agreements through which oil from Alaska's North Slope can be routed through Canada to the lower 48 States. We do not yet know whether there will be enough proven reserves on privately held land to accommodate a second pipeline from the Arctic, but we do have information which indicates that Naval Petroleum Reserve No. 4—on Alaska's North Slope—may contain as much as 30 billion barrels of oil, or more than three times the proven reserves of the present North Slope fields. These resources should all be explored, to help maximize energy delivery to the United States from the North Slope. And, with approval of the trans-Alaska pipeline now near, we should give first priority to bringing additional Alaskan oil and gas through Canada to the lower 48 States.

These negotiations with Canada on energy matters will not be easy. In particular, they have not been made any easier by the treatment of the Canadian Government which we have sometimes engaged in on energy affairs in recent years. Yet these negotiations are essential, and must be undertaken as early as possible.

Mr. President, I believe that emergency consultations between our Government and the Government of Canada are vitally needed at this time. We must make progress in achieving the type of energy relations with our neighbor to the north which recognizes the need for cooperation in a time of difficulty. And, we must do this now, before a lasting deterioration of American-Canadian energy relations sets in and imperils a major source of our ever-expanding need for petroleum and petroleum products.

Mr. JAVITS. Mr. President, would the Senator yield?

Mr. AIKEN. Mr. President, would the Senator yield?

Mr. MONDALE. Mr. President, I will yield first to the Senator from New York and then to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I have just asked the Secretary of State to do exactly that. And I believe that the minute he comes back to our country he will give the matter his early attention. I am very pleased that the Senator from Minnesota and other Senators have joined in this endeavor. I believe, considering the close relationships between our country and Canada that we should handle this matter in a most intimate way.

Mr. MONDALE. I yield to the Senator from Vermont.

Mr. AIKEN. What I was going to say is that if I read the news correctly, Canada has already asked us to meet with them and decide just what we want them to do with what oil and other material, gasoline and so forth, they have to export. I think Canada is in about the same boat that we are, not only on exports but on everything else. But I read somewhere yesterday that they have already asked us to meet with them and reach some understanding. I think that would be a good thing, and we should do it without delay.

Mr. MONDALE. Yes. This must be a top priority matter in the weeks ahead.

Mr. AIKEN. And that would also apply to gas?

Mr. MONDALE. Yes, it would. The common energy program.

Mr. MAGNUSON. That is the question I was going to ask.

Mr. MONDALE. I am glad to yield to the Senator from Washington.

Mr. MAGNUSON. In the Pacific Northwest we are dependent on that gas. That is why this amendment is particularly appropriate at this time in the gas field, let alone the oil, which is another story. On gas, Canada has been threatening to raise the prices and void the contracts, and we in the Pacific Northwest are very dependent upon importation of gas from Canada.

Mr. MONDALE. I think it is very important for that reason also. The upper Midwest, all of these so-called Northern tier refineries, all the way east to Buffalo, N.Y., depend upon Canadian crude, and I think this amendment might tend to bring it up in priority.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, the amendment in substantial form reiterates the language in connection with the consultation with the Canadians contained in the Alaska pipeline bill, which was signed into law today. I think it is a helpful amendment, and we are prepared to accept it.

Mr. MONDALE. Mr. President, I make certain technical modifications at this point, placing the amendment under title V and renumbering the sections; and, in the light of the suggestions of the Senator from Washington (Mr. MAGNUSON) to include natural gas in the coverage. I would not think that changes the substance of the amendment, and I modify the amendment accordingly.

The PRESIDING OFFICER. Will the Senator send his modifications to the desk?

Mr. MONDALE. Yes.

Mr. MONDALE'S amendment (No. 654), as modified, is as follows:

On page 16, between lines 2 and 3, insert the following new subsection (c) and renumber all succeeding subsections accordingly:

TITLE V—MISCELLANEOUS

SEC. 501. (a) The President is authorized and directed to convene consultations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through consultations covering trade in natural gas, petroleum, and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistent with the interests of both nations.

(b) The President shall report to the Congress, on an interim basis, on the progress of such consultations as may be undertaken pursuant to this subsection, within forty-five days of passage of this Act.

(c) The President shall issue a final report to the Congress on the results of such consultations as may be undertaken pursuant to this subsection, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. HANSEN. Mr. President, I do not speak against the amendment at all, but I hope we will all understand that the very thing the amendment calls for is already in progress.

As the Senator from New York has pointed out, he himself has talked with the Secretary of State, and he will shortly be going to Canada.

I am struck with the type of amendments that we are having presented to us. Yesterday we had one that would have permitted the President to move in and shut off exports. If a person does not know very much about the energy situation, it is very easy to think that that is a simple answer, or at least a partial answer, to the problem. But the facts are that we are far more dependent upon imports than we are hurt by the exports that leave this country.

I just want to say that what the Senator calls for in this amendment has already been going on. It has been going on for several years. There is no question at all but that we will be doing that.

We can add more and more things, and I guess we could think of all sorts of amendments that would sound good to our constituents—and I do not mean to imply that that is the motivation that prompts the Senator from Minnesota to put in this amendment—but the fact is that this is an ongoing program. The same language is in the Alaskan pipeline bill, despite the fact that it was not required there.

I would hope that we do not delude ourselves into thinking that up until the time that this amendment was proposed no one had thought about doing what it calls for.

I thank my colleague from Minnesota.

Mr. MONDALE. I certainly thank the

Senator from Wyoming for that comment. In my opinion, having studied the matter, I think the amendment is needed. It goes beyond the language in the Alaskan pipeline bill by stressing the emergency nature of these consultations. If the Senator is correct, I say, "Glory, hallelujah." I see no partisan advantage to be gained from this, but coming from a State that is terribly dependent on Canadian oil, in my judgment Congress would do well in supporting this amendment to give it the highest priority.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. PASTORE. The real purpose of this amendment is that of an expression of the Senate——

Mr. HANSEN. Mr. President, we cannot hear the Senator.

Mr. PASTORE. I must say it is not very often that the Senator from Rhode Island cannot be heard.

The PRESIDING OFFICER. Will the Senator from Rhode Island speak up so we can hear him? [Laughter.]

Mr. PASTORE. The real efficacy of this amendment lies in the fact that it is an expression of Congress. It shows a spirit of cooperation, and I think it would be very effective in making our friends in Canada realize that we in Congress are concerned; and even though negotiations have been going on, the fact still remains that we are a party to the welfare of the American people.

Therefore, I do not see any harm to it, and I think it fortifies whatever negotiations are going on.

I quite agree that we should not delude ourselves that this is an original idea. The Senator from Minnesota never suggested it was. All he said was that because of the situations and the need for this oil and the continued importations from Canada, we ought to go on with our negotiations.

Mr. HANSEN. Mr. President, if the Senator from Minnesota will yield further, just let me observe that I shall support the amendment. I am fully aware that my State of Wyoming ships a lot of crude to the Middle West that winds up in the States of Minnesota, Iowa, Illinois, Indiana, and all through there. I realize, too, that natural gas goes there from Oklahoma. It went there last winter. Despite the fact that they had to close schools in the State of Oklahoma, they got the gas up in the Great Lakes area, and I am proud of that. I would hope no one would think that because we happen to come from an energy sufficient area, we are immune to the concerns and welfare of people in other parts of the country.

I am pleased also to support the amendment because it is not often in these days that we find Congress so eager to admit that what the administration is doing is very much in the public interest.

Mr. MONDALE. I do not want to admit that, but I would like a vote on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 654), as modified, of the Senator from Minnesota.

The amendment, as modified, was agreed to.

AMENDMENT NO. 666

Mr. BARTLETT. Mr. President, I call up my amendment No. 666, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BARTLETT's amendment (No. 666) is as follows:

(f) (1) The President shall make appropriate adjustments (at any point in the distribution chain) in the maximum price which may be changed under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive order implementing the Economic Stabilization Act for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity as to which the Director of the Energy Policy Office certifies to the President that the supply of the commodity or product has been or will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(2) The President is directed to implement policies under this Act which are designed to encourage the domestic energy industry to produce to its full capabilities during periods of short supply to assure American consumers and industries with an adequate supply of fuel and energy resources at fair and reasonable prices.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I would like to modify the amendment as follows: On the second page, line 1——

The PRESIDING OFFICER. Is the Senator asking unanimous consent to modify his amendment?

Mr. BARTLETT. It is my understanding that I can modify my amendment.

The PRESIDING OFFICER. Not after the yeas and nays have been ordered.

Mr. BARTLETT. I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I modify the amendment, on page 2, line 1, by striking the words "Director of the Energy Policy Office" and substituting the words "Secretary of the Interior."

At the bottom of page 2, below line 11, I add another subsection, or add a paragraph (3) to the subsection, which would read as follows:

(3) The provisions of this subsection shall not apply to natural gas.

The PRESIDING OFFICER. Will the Senator send his modifications to the desk?

Mr. BARTLETT. I think they have them, but I am happy to supply another set.

Mr. BARTLETT's amendment No. 666 (as modified) is as follows:

On page 26 between lines 12 and 13 insert a new subsection as follows:

(f) (1) The President shall make appropriate adjustments (at any point in the distribution chain) in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive order implementing the Economic Stabilization Act for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity as to which the Secretary of the Interior certifies to the President that the supply of the commodity or product has been or will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(2) The President is directed to implement policies under this Act which are designed to encourage the domestic energy industry to produce to its full capabilities during periods of short supply to assure American consumers and industries with an adequate supply of fuel and energy resources at fair and reasonable prices.

(3) The provisions of this subsection shall not apply to natural gas.

Mr. BARTLETT. Mr. President, this amendment is very simple, and I would like to read it once again. It says:

(f) (1) The President shall make appropriate adjustments (at any point in the distribution chain) in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive order implementing the Economic Stabilization Act for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity as to which the Secretary of the Interior certifies to the President that the supply of the commodity or product has been or will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

Mr. President, this is following a precedent that Congress followed this year in adding section 815 to the Agricultural Act. Section (b) of section 815 reads almost identical with this and provides that when the Secretary of Agriculture certifies there is an unacceptably low level of a certain commodity, that the price control or freeze order is responsible for that shortage, then the President shall make appropriate adjustments in the maximum price.

There has been much talk on the floor about the fact that this emergency bill has not given the usual emergency responsibilities to the President to make such adjustments. This amendment does not affect natural gas but would affect other fuels. It would also affect steel which is vital to the increase of production of supplies of oil, coal, and other fuels.

We have had testimony before the Committee on Interior and Insular Affairs that the energy crisis is much more severe than that of World War II. S. 2589, as reported from the Interior and Insular Affairs Committee, does no more than demonstrate again our reluctance to face the real problem; namely, how to stimulate the development of sufficient domestic energy supplies.

Again, Congress answer to balancing supply and demand seems to be only that "demand must be lowered." Certainly I agree that it should be lowered but I believe also that supplies must be increased.

It is a delusion for anyone to believe that S. 2589 will solve the energy supply problem. The people are suffering and will suffer even more because Congress refuses to take action to increase our energy supplies. I would hope that S. 2589 would become a package to deal with both the supply and demand aspects of our energy crisis. Instead, the people of the United States are being asked to sacrifice, with no assurance that their sacrifices will be temporary, and that, as soon as possible, increased supplies of energy will make further sacrifices unnecessary. Quite the contrary, this legislation virtually locks in shortages indefinitely by slowing the entire economy.

This Nation, in the past, has used its plentiful supplies of energy to expand greatly its productivity. This productivity, in turn, has brought about high employment, a high standard of living, good health care, improved environment, and expensive and numerous special programs—a record not matched by any nation.

Our shortage of energy means a reduction in productivity, a reduction in jobs, our standard of living, health care, environmental progress, and social reform.

We cannot increase productivity at prices that produce shortages of oil and gas, of steel, and other strategic commodities. The oil and gas industry is like a grocery store which has been selling items off the shelf at less than replacement prices.

STEEL

Mr. President, there has been debate on this floor about the steel problem. With the revaluation of the dollar, we have seen the importation of cheap foreign steel stocks, and the exportation of our new chief American steel products exported to other nations. Also, we are witnessing an oil shortage as well as a shortage of many other products. Until the price of steel is placed at a proper level, we will not have ample production of raw steel, or investment in new rolling mills to produce new tubular goods so that we will have ample steel to be able to drill the wells that are necessary.

I should like to point out that about 20 years ago the rate of drilling wells was twice what it is today. The demand today for oil products is double that of 20 years ago. So, to have the same rate of drilling compared to demand, we would have to increase four times our drilling rate of 1972.

I should also like to point out that the level of increased drilling this year is up over last year, due to increases in the price of oil. But it is only 13 percent. That is not enough to get the job done. In fact, that is just barely a start. Our first goal should be to at least double the number of wells drilled in 1972. That will not be enough, but at least that is the goal we should achieve right away. It will take much more in the way of tubular drilling pipe, and drilling rigs, in order to do it.

Mr. President, to my mind, the American people do not mind sacrificing to correct our energy shortage, but they do not want sacrifices guaranteed only to continue the shortage. Americans deserve a workable plan to increase supplies while we ration short supplies. To do less is to insult the intelligence of our citizens—and shortchange them in the process. Americans are willing to pay higher prices when it means getting something for this sacrifice.

For those who would be unable to pay higher prices, certainly this body could take steps to remedy that.

The program provided in S. 2589 promises the American people a rough ride in a stormy sea. The American people do not mind roughing it, but they want more than a rudderless ship without an engine. They do not want to continue with the storm as it develops into a hurricane. They want direction. They want to get somewhere. They do not want to sacrifice for naught.

S. 2589 is sacrifice with little hope.

Mr. President, there have been a number of articles in the newspapers in recent days, and today, pointing out, for example, in Newsweek of November 15, 1973:

> Running Out of Everything . . .
>
> Major companies in nearly every industrial sector—from steel, autos, and rubber to petrochemicals, paper and plastics—are unable to get sorely needed goods from their suppliers or to supply their own customers in the quantities they seek. . . .
>
> A dearth of supplies has forced plants to close and put some small companies out of business, sharply increasing unemployment in some areas.

In the Washington Star-News of November 15, 1973, it says:

> 1.6 Million Job Loss Seen.
>
> A plastics industry executive today predicted a . . . $65 billion production drop by the end of the year as a result of petrochemical shortages.

The Wall Street Journal from November 15, 1973, says:

> Rationing of Gasoline, Home-Oil Supply Asked Now by Advisory Panel.
>
> The Committee on Emergency Preparedness of the National Petroleum Council said, ". . . although the effects of such (energy) shortages are difficult to determine, they could result in an annual loss to the U.S. economy of some $48 billion . . . ".

Newsweek magazine for November 19, 1973, says, on page 110:

> Facing Up to Cold Reality.
>
> According to the prestigious consulting firm of Arthur D. Little & Co., the oil squeeze could cause a 2% drop in the real gross national product—in other words, a recession. And that, the firm estimates, would push unemployment from the current 4.5% of the labor force to as high as 7%.
>
> One government source sketched an even gloomier "worst case" scenario for Newsweek's Rich Thomas. He speculated that unemployment rates could briefly reach 10 per cent or more. . . . For all that, says one official, "the outlook is grimmer than anyone so far has been letting on."

Then on agriculture, the Wall Street Journal said, November 15, 1973:

> "It is simple economics," an Agriculture Department official says. "Any cutback in fuel means a cutback in production, and that means less food for the market place."
>
> The Department says the agriculture complex—fertilizer makers, farmers, food processors, and others—account for nearly 30 percent of the annual fuel in the United States.

Higher prices, of course, require a sacrifice, too, but promise more energy for the effort.

With forced rationing, controlled low prices must be controlled by force because the two are incompatible.

S. 2589, in its present form, may serve in some people's minds as a solution to the real problem of increasing supplies of energy, but in reality is a camouflage for no action.

This amendment would remedy that situation by giving the Secretary of the Interior the charge of certifying shortages that result from low prices, and then Congress is charging the President to make adjustments, so that the commodities of energy other than natural gas and related commodities, such as steel, can be increased where necessary.

We have a very recent example of one type of emergency action which can lead to increased production of commodities in short supply. In June of this year, when the Senate considered and passed the Agriculture and Consumer Protection Act of 1973, the Nation was experiencing severe shortages of meat, eggs, feed grains, and other agriculture commodities. In order to provide emergency machinery to stimulate production of commodities in short supply, which was lagging because of artificially low prices imposed by the Cost of Living Council, Congress adopted an amendment to the bill directing the President to make adjustments in the maximum price which could be charged for commodities under certain emergency conditions.

We must now take the same emergency action to stimulate production of energy commodities in short supply.

The amendment to S. 2589 which I offer will provide the same emergency measure adopted for agriculture products. This amendment will stimulate increased production of energy products—other than natural gas—and related products such as steel pipe—tubular goods and steel goods for the various energy industries—which are essential to the production and delivery of critically short energy products.

I have furnished each Senator with a copy of my amendment and a copy of the emergency agricultural provision for comparison. It is working well in the agriculture bill, and I trust that it will do so here.

I believe that the crisis we have in energy is even more far-reaching than that of agriculture, because it affects agriculture directly and it affects directly employment and all manufacturing. It affects every citizen in a very direct and intimate way.

Certainly, if our economy is going to keep moving and progressing and providing jobs and providing the fuel for social programs, for a better standard of living, for better health care, then we will have to have sufficient energy.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. HANSEN. Mr. President, I thank the distinguished junior Senator from Oklahoma for yielding to me.

I rise to support his amendment, because I am impressed with his logic, with the good commonsense that is inherent in the approach he takes.

The Senator from Oklahoma referred to the situation in the steel industry, the difficulty in trying to get certain kinds of material that are essential and critical to the oil industry. Yesterday, I read a letter from a lawyer in Chicago who represents a group of drillers engaged in the Houston-Fort Worth area of Texas and other places.

I should like to read again what Mr. Andrew W. Brainerd had to say.

> Would you believe, however, that although we have located drilling contractors to drill the well, we cannot begin to do so because of a drastic scarcity of pipe and oil field steel casing essential to the drilling and completion of any oil or gas well? As far away as Houston and Fort Worth, all of the oil field supply companies are simply out of stock, with none of them giving an assurance of when or how much they will receive in the future! At an auction in Houston last week, details of which I would be pleased to provide you, 27,000 feet of used 5½" steel casing were purchased by the highest bidder, Texaco, Inc., at a price of $4.40 per foot. The normal price, new, for such pipe, has been $2.80.
>
> All of the oil field supply companies we have contacted have given as a reason for this shortage the fact that the price of pipe and casing has been so limited by the Cost of Living Council that none of the steel companies is willing to produce it.

This is the story that is going to be repeated time after time after time.

But the amendment that has been offered by the distinguished Senator from Oklahoma strikes at a more basic problem that must concern everyone in America today: Companies and individuals engaged in business are going to be guided and directed in what they do by the profit motive. If one has an opportunity to make a dime, he likely will become interested; and if he cannot, he will not be.

As the Senator from Oklahoma has pointed out, on many occasions because of the price we have imposed or the price limits that have been imposed in one fashion or another on the petroleum industry over the last 15 years or so, sufficient incentive has not been given that industry to go out and find the oil and gas that help make this country run.

Earlier today, the Senator from Oklahoma and I, in the company of other Senators on the floor, were at the White House, where we witnessed the signing of the bill authorizing the construction of the Alaska pipeline. Present to witness that ceremony was the widow of Dr. William Pecora. Dr. William Pecora is a name that is well known in the oil industry. He was the head and Director of the U.S. Geological Survey for many years; and later, early in the Nixon years, he became Under Secretary of the Interior. The President gave one of the pens he used in signing that historic document to Mrs. Pecora, because he wanted to focus attention on the fact that Dr. Pecora had been calling for an increase in the supply of petroleum and natural gas in this country.

Dr. Pecora, before his death, made one other utterance that I think is particularly timely to recall now. He was a distinguished scientist, one of the most revered men in the membership of the American Association of Petroleum Geologists, without any question. About a year and a half ago, he said that in his judgment there was probably as much as 100 times the amount of oil and gas we consumed in the entire United States in the year 1971 still to be found in the continental United States and on the continental shelves around this country.

Yet, what are we doing about supply? With the exception of the Alaska pipeline bill, we have not done anything to speak of about supply.

We talk in our myopic fashion, as we look at the energy crisis, only about spreading the misery around. We talk about seeing to it that everybody suffers a little bit and no one too much. I wish I could be confident that all of us will suffer only a little bit, but we are going to suffer more than a little bit because the cutoff in petroleum supplies is significant. It is about 17 percent of the total amount of oil and gas we use. When one stops to think that 78 percent of the energy we use in the United States comes from oil or gas, it can be understood by looking at the facts why the amendment proposed by the distinguished Senator from Oklahoma is so timely and so important right now. The amendment will do something about increasing supplies, and that is exactly what we need to do.

There are those who will say, "Gee, if the lid is taken off of prices and the price of oil, gas, and heating oil goes up, what will the poor people do?"

I do not minimize at all what higher prices will mean to Americans, but that is the best alternative we have now. There is one thing worse than higher prices and the ability to pay higher prices, and that is having higher prices and having no jobs. So far we have not done anything to increase the oil and natural gas in this country. If we can do that and do it quickly, and this amendment will help to do it quickly, we will have taken a major step to insure that there will be jobs for all Americans insofar as we are able to perform now in Congress to obtain that goal, and that is important.

Mr. President, you cannot buy very much if you have to make your purchases with welfare checks and food stamps. There is no doubt in my mind how the 78 or 80 million Americans who now have jobs would answer if they were asked, "Do you prefer higher prices for energy with reasonable assurances you will have a job this winter, or would you like to keep the prices of oil and petroleum products where they are now and run the risk that your plant may be one of the many plants in America that may be shut down because of insufficient supplies of energy this winter?"

I think it would be found that almost to a man Americans now gainfully employed would say, "We do not want higher prices, but if that is what we will have to do to guarantee our jobs, we will accept that."

That is the thrust of the Bartlett amendment. It is realistic. We cannot snap our fingers and have this problem go away. It will take the investment of more dollars to drill deeper wells at a higher cost per foot to find the oil and gas to keep this country going.

I suspect this amendment will not carry because I know that the manager of the bill intends to speak against it. He will have his own words, and certainly I shall not attempt to speak for him on this or any other issue. But I observe that in all likelihood this amendment will be rejected, and if it is rejected and if some of the predictions of the Senator from Oklahoma, the Senator from Wyoming, economists, people in the oil industry and in the business community and others have made, come true, I hope we will put the blame where it belongs.

We do have a chance here now if we support the Bartlett amendment to do something about our supply; and if we choose to let this opportunity now escape our grasp and take no action to improve supply, then I say we have at least been forewarned.

I thank my distinguished colleague from Oklahoma for yielding.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. BARTLETT. I shall yield to the Senator from Arizona in just a moment. First, I would like to point out what this bill does. It calls on the President to give the people the bad news and tell them of the sacrifices they are going to have to make, to require them to cut back, to reduce their driving, to lower the thermostat, to advise them there will be greater unemployment in this country. My amendment does also give him the emergency powers to deal with the other side, the supply side of the supply-demand problem, and it gives him the opportunity to increase supplies, if certified by the Secretary of the Interior that the reduced supplies are occasioned by low prices, occasioned by price controls.

Members of this body and the other body have voted in recent years for increases in the price of milk because they felt in their minds that it was important that there be an increase. This matter of energy is much more important than just one commodity because we believe it is associated with virtually every part of our enterprise system in this country and every commodity.

It is most vital that we have the opportunity in this emergency bill to deal with the supply problem so that the President can take steps that will help relieve the shortage of supplies.

I yield to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished Senator from Oklahoma. If the Senator will permit me, the Senator from Louisiana has a question that he would like to pose at this time.

Mr. BARTLETT. I yield for a question.

Mr. JOHNSTON. In the amendment it is stated that the President "shall make apropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 or any subsequent Executive Order implementing the Economic Stabilization Act."

My question is: Under the mandatory allocation bill which either has been signed or will be signed in the next day or so, the President is charged with the duty of fixing prices on petroleum products, or crude.

Would the Senator's amendment also exempt the President from the mandatory duty of fixing prices under the mandatory allocation bill?

Mr. BARTLETT. This amendment would direct the President to adjust prices after the certification that there is a shortage resulting from low prices, that controlled prices caused the shortage and created an unacceptably low amount for a product, in the production, distribution, or marketing, on finding an emergency.

This directs the President and charges him with the responsibility of making adjustments in the price where needed in order to compensate for the low supplies that result from too low prices.

I think the Senator from Louisiana will agree, with his knowledge in the energy industry in his own State, that the free market that has existed, for example, in natural gas, which this amendment does not affect, and he is cognizant of the fact that ample prices in a free market result in an increase in energy being available in Louisiana, Texas, Oklahoma, and other States.

Mr. JOHNSTON. My question does not go to whether the amendment is good or bad but whether it will accomplish what the Senator intends to do. Personally, I have sympathy for what the Senator is trying to do, but I wonder if the Senator has made provision for the mandatory allocation bill and the exemptions from it.

Mr. BARTLETT. An amendment is needed in this regard. I would certainly appreciate the counsel of my good friend from Louisiana, and I believe this will provide the vehicle for the President to make adjustments in the prices, as directed by the Secretary of the Interior.

I will yield for a question to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished Senator from Oklahoma. I agree with him, and I am very pleased that he and the distinguished Senator from Wyoming have explained just exactly what is involved in his amendment and the benefits which could accrue from it.

I would like to give support to him and bring to the attention of the Senate the precarious position we are in today.

Mr. President, I present for inclusion in the Record an article entitled "Consumers Brace for Severe Shortages," which contains a succinct and perceptive account of the Arab oil cutoff and some hard facts about its consequences. Since early in November the Arab "oil weapon" has proven effective indeed, and the cracks in the armor of we oil-consuming nations are widening. Even the other members of the European Economic Community opposed the pleas of the Dutch—who are now subject to an embargo of oil shipments from the Arabs—for a common market approach to the oil crisis in Europe. Energy-saving programs are being put into effect in countries from France to the Philippines, and rationing in the United States appears no further away than the new year.

We have been told a hard winter lies ahead, and we can expect little support from our allies around the globe in terms of additional energy supplies. They just do not have any. Accordingly, it would appear that now is the time to turn our attentions and our resources to stimulating increases in our domestic supply of energy.

I ask unanimous consent that this well-reasoned article be included in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Oil and Gas Journal, Nov. 12, 1973]

Consumers Brace for Severe Shortages

The consuming nations of the world began laying plans for a long hard winter last week due to Arab oil cutoffs.

Much of the world was functioning under normal supply patterns early last week, but by midweek emergency plans began to surface in Europe, Japan, and the U.S. as an acute oil shortage loomed closer.

In the U.S., President Nixon went on nationwide television to warn the country of impending shortages and to recommend solutions that will change the flow and patterns of energy use sharply in the U.S.

On the eve of the President's message, oilmen dealing with Mideast affairs were acutely aware of the severity of the Arabs' move to dry up supplies moving into U.S. markets.

"There is just no spare crude to make up for the loss of Persian Gulf crude," a spokesman for one international major said.

And another warned the U.S. will begin to suffer badly by Dec. 1 as result of Arab oil embargoes and shutdowns. He declared gasoline rationing is a must.

"It (rationing) is necessary today," he said. "But politically it won't happen. It will be pushed off. It is inevitable we will be short of oil this winter, and part of this will be reflected in a gasoline shortage. But the Government won't bite the bullet and do it."

EEC INACTION

Holland discovered last week that she has few friends in the European Economic Community when it comes to oil problems with the Arabs.

The EEC meeting in Brussels on Nov. 5–6 labored mightily but produced nothing more than a rehash of earlier United Nations resolutions calling for Israeli withdrawal from the occupied territories.

Those countries on the Arabs' "friendly countries" list—notably Britain and France—openly opposed the Dutch plea for a common-market approach to the oil basis in Europe.

The EEC communique following the meeting made no mention at all of such an approach. In fact, the only mention of oil came in its final paragraph, which said: "The council, conscious of the interdependence of the economies of the member states of the European communities, has asked the commission and the committee of permanent representatives to continue to follow attentively the situation resulting from the shortage of crude oil and to report to the council."

There was some hope at press time, however, that a solution of the oil crisis may be at hand. Reports from Cairo following the meeting between Dr. Henry Kissinger, U.S. Secretary of State, and Egyptian President Sadat said both agreed that some progress toward peace had been made, and that a resumption of diplomatic relations between Egypt and the U.S., disrupted in 1967, was definitely possible.

Earlier encouragement had come in a little-publicized announcement from Cairo that normal oil output would be resumed when the U.S. indicated that it would pursue a more even-handed policy in the Middle East. Originally, the cutoffs of oil were declared aimed at total Israeli withdrawal from the occupied territories and restoration of "Palestinian rights."

ARABS SHARPEN CUTS

The oil ministers of the Arab states met again in Kuwait on Nov. 4th to take stock of the success of the oil weapon and to assess the general supply situation.

The ministers left the meeting convinced that the oil weapon was indeed proving effective in their economic battle, and they decided to turn the weapon in the wound by ordering an immediate minimum cut in oil output of 25% based on September figures. Basing the cuts on September, usually a low-volume shipping month, made their effects even more lethal.

At midweek, Saudi Arabian oil production was down by nearly 38% to only 5.2 million b/d. Kuwait was down by 31% (compared to September) to 2.3 million b/d.

Overall, Arab oil output was off about 5.7 million b/d.

The enormous decline in Saudi output resulted from the original 10% cut, the embargoes against Holland and the U.S., and suspension of shipments to Caribbean, Pacific, and Canadian refineries that ship products to the U.S.

The Saudi action has brought to a complete standstill a major expansion program Arabian American Oil Co. (Aramco) has been developing. At the beginning of 1973, Aramco's production capacity was 6.55 million b/d. Production was up to 8.3 million b/d in September. The company had a production target of 11.6 million b/d by 1975, but no new work has been authorized by the Saudis since Oct. 17.

The Nov. 4 Oapec meeting further warned the world that in the future, mere neutrality would not be enough to prevent an embargo against a consuming country. The Arabs want some positive actions by consuming countries to demonstrate support for their cause.

To insure such actions, Oapec dispatched Saudi Oil Minister Yamani and Algerian Oil Minister Abdesselam on a tour of European states to obtain promises of positive actions in exchange for guaranteed oil flows. The two ministers were further charged with seeing to it that any cooperative action by the EEC did not circumvent the Arab embargo on Holland.

The Arabs are convinced that their actions have had more telling effects on the U.S. than is acknowledged in Washington. They point to the Kissinger mission to the Middle East as evidence of this.

Meanwhile, Arab chiefs of state were keeping the roads hot between their respective capitals, as preparations began for a full-scale Arab summit conference, probably in Algiers, later this month.

Kuwait, Libya, and Algeria sponsored the call for the meeting. Its goal is to arrive at a common strategy in dealing with the Middle East peace maneuvers.

Mr. FANNIN. Mr. President, if we are going to ask the oil industry and the energy industry to produce under very adverse circumstances, often at great additional cost, I think we should provide them with the instruments to carry on these programs. I think that is what the Senator from Oklahoma is doing in his amendment by stating:

> The President shall make appropriate adjustments . . . in the maximum price which may be charged . . . for any energy commodity or product or any product or commodity essential to the development, production, or delivery of any energy commodity . . .

This is something that has been done before. The Senator from Oklahoma gave several illustrations of precedents for this particular action.

I know I can cite an example from my own State of Arizona. We happen to grow long staple cotton in our State. At one time we were very much in short supply of cotton and cotton was needed very badly. It was at that time utilized for the manufacture of tires. It was so badly needed that the Federal Government guaranteed a price for the commodity, and they were able to encourage plantings that otherwise never would have been made.

This is one illustration of what has been done, which proves the worth of the amendment of the Senator from Oklahoma. I know that he has several other examples he used to illustrate this point.

Mr. BARTLETT. Mr. President, I certainly thank the Senator from Arizona, and I am happy to have him provide for the record the other examples of the precedents for this particular approach to the problem. This approach, or a similar approach, was used during World War II, and then the Congress, in its wisdom, saw fit this summer to provide such a provision in the new Agriculture Act because of the shortages of various grains and food products. This is a provision of the present agricultural law that is in effect today. I think we have ample precedent for it.

I believe we would be very shortsighted if we did not provide responsibility for the President in dealing with the total problem of supply and demand. To saddle him only with the demand side to the exclusion of the supply side is not fair to the people of the Nation. I think they are entitled to know that when we make these sacrifices, a point is made with respect to supply, so that the situation will be as short-term as possible. Otherwise, the people will think only of the continuing and expanding shortages that now exist.

Mr. FANNIN. The Senator from Oklahoma realizes, as I do, that in the petroleum industry we have seen higher prices paid for products imported than for the products we are producing in this country. In fact, both the Senator from Wyoming and the Senator from Oklahoma have illustrated that we are paying premium prices for imports. We might take imported natural gas as an illustration. We are paying five times as much for imported gas as we are allowing natural gas to be sold in interstate commerce. This is a policy that certainly is to the detriment of the Nation. It costs the country heavily.

I am not saying that the amendment applies to that particular problem, but certainly it is an illustration of what has happened, and it makes it all the more important that we adopt the amendment of the Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Arizona. I appreciate his willingness to seek to provide more energy for the Nation.

I thank the Senator from Wyoming (Mr. HANSEN) for the many times he has expressed the point of doing something to increase our supply of energy so that we will not find ourselves in this mess again. We must increase our supply of domestic energy both for the long term as well as for the short term.

Mr. President, I ask unanimous consent that my amendment be modified, following the suggestion of the Senator from Louisiana (Mr. JOHNSTON), on page 6, after the word "act," to insert "or any other Federal law."

The PRESIDING OFFICER. Will the Senator send his modification to the desk, please?

Mr. BARTLETT. Yes. I have another amendment, on page 1, line 6, after the word "delivery," to add the words "or use."

This amendment was suggested by the staff of the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection to making such modifications? The Chair hears none and the amendment is so modified.

Mr. BARTLETT. Finally, I wish to say that I believe this rounds out and provides for the other side of the coin with respect to S. 2589. It provides emergency powers for the President: For the exercise, where needed or necessary, to increase the supply by adjustment as well as to have emergency powers to decrease the demand by other controls. I believe that this would provide a balanced approach, so that the people, while they are sacrificing by turning their thermostats down and driving their cars on a stricter basis, will know that there is an opportunity to work ourselves out of this problem by providing ourselves with more energy.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the role.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Mississippi (Mr. STENNIS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. TALMADGE), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Massachusetts (Mr. KENNEDY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. McCLURE), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "yea."

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The result was announced—yeas 35, nays 47, as follows:

[No. 489 Leg.]

YEAS—35

Bartlett
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd, Robert C.
Cook
Dole
Dominick
Eastland
Fannin
Gravel
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hruska
Johnston
Long
Nunn
Pearson
Percy
Proxmire
Randolph
Roth
Scott, William L.
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—47

Abourezk
Aiken
Bayh
Beall
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Church
Clark
Eagleton
Ervin
Fong
Hart
Haskell
Hathaway
Hollings
Hughes
Inouye
Jackson
Javits
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Packwood
Pastore
Pell
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Tunney
Williams

NOT VOTING—18

Allen
Baker
Cotton
Cranston
Curtis
Domenici
Fulbright
Goldwater
Huddleston
Humphrey
Kennedy
McClure
Muskie
Nelson
Saxbe
Sparkman
Stennis
Talmadge

So Mr. BARTLETT's amendment was rejected.

AMENDMENT NO. 660

Mr. STEVENSON. Mr. President, I call up my amendment No. 660, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I make some technical modifications in the amendment and send them to the desk.

The PRESIDING OFFICER (Mr. HUGHES). The amendment is so modified.

The modified amendment is as follows:

Add a new section to title V as follows:

"SEC. 308. National Energy Emergency Disaster Assistance Plan. (a) Where, in the determination of the President, the national energy emergency is, or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of State, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such a severe emergency exists or threatens to exist certifies the need for Federal disaster assistance under the Disaster Relief Act of 1970, as amended, and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such emergency, the President may designate one or more major disaster areas under the terms of the Disaster Relief Act of 1970, as amended.

"(b) The President shall require the Federal Disaster Assistance Administration to promulgate, not later than 15 days after the date of enactment of this act, a nationwide contingency plan for insuring the availability of federal disaster assistance to families, individuals and communities that qualify for such assistance as a result of the nationwide energy emergency. Such plan shall include, but not be limited to, specific procedures for;

"(1) coordinating activities of all federal, state and local disaster relief and civil defense officials for the purpose of establishing neighborhood centers to provide emergency heat, food and shelter for individuals and families who, as a result of the energy emergency, require such assistance;

"(2) distribution of surplus food commodities by the Secretary of Agriculture pursuant to the Food Stamp Act of 1964 and the provisions of Section 203 of the Disaster Relief Act of 1970, when the President determines that, as a result of unemployment caused by industrial or commercial energy shortages, households are unable to purchase adequate amounts of nutritious foods; and

"(3) provision of the necessary emergency personnel, equipment, supplies, facilities and other resources in accordance with the authority granted under the Disaster Relief Act of 1970, necessary to help in alleviating the damage, loss, hardship or suffering caused by the national energy emergency."

On Page 29, Line 22, delete "308" between "Sec. and National" and add "309."

On Page 30, Line 21, delete "309" between "Sec. and Administrative" and add "310."

On Page 31, Line 20, delete "312" between "and" and before "of this Act" and add "313."

On page 31, Line 21, delete "310" between "Sec. and Judicial" and add "311."

On Page 33, Line 3, delete "311" between "Sec. and Materials" and add "312."

On Page 33, Line 9, delete "312" between "Sec. and Grants" and add "313."

On page 33, line 18, delete "313" between "SEC. and Study" and add "314".

On page 34, line 3, delete "314" between "SEC. and Authorizations" and add "315".

On page 34, line 6, delete "315" between "SEC. and Separability" and add "316".

Mr. STEVENSON. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, the National Energy Emergency Act of 1973 is a tribute to the vision and work of the entire Interior Committee and especially its chairman, the distinguished Senator from Washington. This bill is clear proof of the Senate's ability to respond positively and speedily at a time of national crisis.

Our best hope this winter lies in energy conservation and an equitable allocation of available fuel supplies.

The Nation is now facing a 10- to 17-percent petroleum deficit this winter That means cold homes, unemployed workers, and severe economic dislocations.

They cannot now be prevented. They can be minimized through energy conservation as S. 2589 proposes.

But S. 2589 would not be complete without a provision to allevate the human suffering which will probably result in some areas this winter from energy shortages.

This is a disagreeable prospect, and a hard one to face in a nation accustomed to so much abundance, but it is far better now to face the prospect of human suffering, when we can do something about it, than later when we cannot.

This amendment requires the Federal Disaster Assistance Administration to develop comprehensive disaster relief programs for those families, individuals, and communities denied adequate food and shelter because of fuel shortages. When it is 10 degrees outside and homes are out of fuel oil, it will be too late to start planning for neighborhood centers where all can be assured of a warm place to eat and sleep. When factories have been closed for several months, it will be too late to start planning how the unemployed are going to feed their families.

For every million barrels of petroleum products per day the Nation is short, about 1¼ million people will be put out of work. When the last Mideast oil tanker reaches our shores in the coming weeks, we will be faced with a 3-million barrel per day shortage. That would mean a doubling of the unemployment rate to over 9 percent, and a 7-percent reduction in gross national product.

These figures are national averages. Hardships do not fall evenly on all sections of the country or on all individuals. A shortage of 3 million barrels per day could drive unemployment among minority workers as high as 30 or 40 percent. Human suffering, severe economic dislocations, even social disorders are threatened.

If conservation efforts, including the most essential, gasoline rationing, are successful, the assistance offered by this amendment will not be needed. But nothing will be lost by it. And it is more likely that the assistance will be needed. At least, we cannot take the risk of being unprepared to relieve human suffering. If the energy crisis teaches us anything—it is the need for advance planning.

Now is the time to develop contingency plans for the human suffering that may lie ahead. The administration has recently disbanded the official disaster assistance agency—the Office of Emergency Preparedness. Thus, this amendment requires that the new Disaster Assistance Administration in the Department of Housing and Urban Development promulgate within 15 days after enactment, a comprehensive contingency plan for coordinating Federal, State and local disaster relief efforts. The amendment gives the President the authority to designate as disaster areas those areas stricken by energy shortages. Such areas would then be eligible for Federal assistance under the Disaster Relief Act. The required contingency plan is intended to assure that the assistance actually reaches the eligible recipients.

The Nation is faced with a national energy emergency of unprecedented proportions. Conservation and allocation of fuel provide the tools to control available supply. This amendment offers relief to those who will suffer even with energy conservation proposed by S. 2589.

The conservation and allocation of fuel provide the tools to control available supply. This amendment will offer relief to those who will suffer even with the energy conservation as proposed by S. 2589 and with the allocation programs already approved by Congress.

Mr. President, I urge adoption of my amendment.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NUNN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the committee will agree to this amendment. We believe it is needed and is a forward step in case the unexpected or the worst happens. If there are disaster areas caused by the energy crisis, then we believe that this amendment is appropriate and a needed response to that need.

We congratulate the distinguished Senator from Illinois for offering this amendment.

Mr. LONG. Mr. President, might I ask, if the leadership and the manager of the bill were to take it, that we vacate the order for the yeas and nays?

Mr. STEVENSON. I was about to do that. If there is no objection to this amendment, Mr. President, and I hear none, I would ask unanimous consent that the order for the yeas and nays on this amendment be vacated and that we agree to the amendment.

The PRESIDENT OFFICER. Without objection, the yeas and nays are vacated.

Mr. JOHNSTON. No, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on my Amendment No. 660.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON), No. 660.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE), the Senator from Maine (Mr. MUSKIE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Kentucky (Mr. HUDDLESTON) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. MCCLURE) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 62, nays 17, as follows:

[No. 490 Leg.]

YEAS—62

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Dole
Eagleton
Eastland
Ervin
Gravel
Gurney
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Montoya
Moss
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—17

Bartlett
Bellmon
Bennett
Brock
Buckley
Cook
Dominick
Fannin
Fong
Griffin
Hansen
Helms
Hruska
Roth
Scott, William L.
Thurmond
Tower

NOT VOTING—21

Allen
Baker
Cotton
Cranston
Curtis
Domenici
Fulbright
Goldwater
Hart
Huddleston
Humphrey
Kennedy
McClure
McGovern
Mondale
Muskie
Nelson
Saxbe
Sparkman
Stennis
Talmadge

So Mr. STEVENSON'S amendment (No. 660 was agreed to.

NO PIPELINE JOBS AVAILABLE IN ALASKA NOW

Mr. STEVENS. Mr. President, the recent passage of the trans-Alaska pipeline bill in Congress, and the President's signature of the bill this morning will unfortunately be a false message to many American workers that they can find wealth and prosperity by coming to Alaska to seek employment on the pipeline construction project.

Americans who unfortunately make the long and expensive journey to Alaska to find employment will find only severe hardship and unemployment.

My office has already received many inquiries from job hopefuls, and officials in Alaska report many jobless workers coming north with little more than high hopes to last them through the severe winter.

In previous statements I have warned that there are no pipeline jobs in Alaska yet. I am using this means to plead with Members of Congress to tell their constituents not to go to Alaska looking for pipeline jobs.

There are no pipeline construction jobs in Alaska. Permits have not been issued, contracts have not been awarded and construction will not begin for at least 6 months. Even then, the employment outlook for people coming north will be doubtful, since we will give priority to Alaskan natives on the pipeline jobs.

This is extremely serious. Officials in Alaska inform me that the Anchorage welfare office has recently received more than 200 applications this week from people who came to Alaska looking for work on the pipeline.

Unemployment is not the only hardship. Along with subzero temperatures, job seekers will find fuel shortages—many heating oil distributors are unable to take on new customers due to industry rationing—living costs are from 25 to 75 percent higher than in the lower 48 States, little or no available housing and relief agencies are absolutely overloaded.

When the Senate and House passed pipeline bills this summer, Anchorage and Fairbanks reported an influx of people arriving for jobs they mistakenly thought would be waiting for them there. Now that the conference report has been adopted and the bill signed into law, the same thing is happening again. Our State just cannot take care of the new people, and there are certainly no jobs available.

There is just no way I can overemphasize the importance of this problem to Alaska. People coming to Alaska looking for a job this winter will be in for the worst time of their lives—no job, no money, no shelter, and no way to get home.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate continued with the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I send to the desk two amendments of a technical and conforming nature and I ask for the immediate consideration of the amendments. They were unanimously adopted on November 14 by the Committee on Public Works. I understand they are acceptable to the manager of the bill.

The PRESIDING OFFICER. Does the Senator ask that the amendments be considered en bloc?

Mr. BUCKLEY. I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

On page 23, line 10, delete "variance" and insert "suspension".

On page 19, strike the second sentence of Section 204 and insert in lieu thereof the following:

"Any installation so converted may be permitted to continue to use such fuel for more than one year, subject to the provisions of the Clean Air Act, as amended (42 USC 1857 et seq.)"

Mr. BUCKLEY. Mr. President, one amendment changes the word "variance" to "suspension" on line 10, page 23 when referring to any departure from any emission standard in effect under existing State air quality implementation plans. "Suspension" is a term of art under the Clean Air Act; "variances" is not.

The second amendment conforms the language of the bill to the intention of the committee in its deliberation of section 204 (a) of the pending bill. By an inadvertance, the word "will" was printed as it appeared in committee print No. 4 of S. 2589 before we agreed in the final markup to make discretionary, rather than mandatory, the authority of the President under section 204 (a) to allow conversions to alternative fuels to continue for more than 1 year. The intention of the committee is made clear on page 20 of the Report of the committee on S. 2589, which contains the section-by-section analysis of 204 (a), and states that the conversion may be allowed for a period longer than 1 year, subject, as provided, to the provisions of the Clean Air Act, as amended.

Mr. JOHNSTON. Mr. President, the committee has no objection to these conforming amendments. They are required technically. I urge the adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

NOTICE TO SENATORS OF PROPOSED UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I would hope that the two respective cloakrooms would put out a notice to Senators that at the conclusion of the next rollcall vote the leadership will attempt to propose an agreement with respect to the pending bill, and Senators should be on notice in that regard.

Mr. PASTORE. Could we have a hint on what the agreement is all about?

Mr. ROBERT C. BYRD. Yes; does the Senator wish me to state what my proposal will be?

Mr. PASTORE. Yes.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I have counted 23 amendments at the desk. The 23 amendments would be proposed by 14 Senators.

I, or the majority leader, would be prepared to propound an agreement as follows: That at the hour of 2 p.m. next Tuesday a rollcall vote occur on the pending bill and that no amendments that have not been voted on prior to that time be in order. That is it.

Mr. DOLE. Mr. President, reserving the right to object, if an amendment would be——

The PRESIDING OFFICER. The request has not been made. The Chair does not understand the request to have been made.

Mr. ROBERT C. BYRD. No; no request has been made.

It would mean any Senator who had an amendment at that hour would not be allowed to propose it. Heretofore amendments have been in order in agreements of almost similar nature, and could be voted on, but without any debate thereon; but this agreement would rule out any amendment being offered at that time.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. But we are coming in early Monday.

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. And if there are a number of amendments, we could stay late Monday.

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. In other words, comfortably we could conclude by 2 o'clock.

Mr. ROBERT C. BYRD. Conclude by 2 o'clock on Tuesday.

Mr. PASTORE. That is what I wanted to know.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. As I understand the Senator from Rhode Island and the Senator from West Virginia, a number of Senators are working on what we think are important amendments. They may be accepted, they may be withdrawn, but every effort will be made at least to work on those amendments.

Mr. ROBERT C. BYRD. Yes. The Senate could continue to work today. It could continue to work on Monday. Senators could call up their amendments as they desire. There would be no time limitation on any amendment. In other words, Senators could call up amendments, and if Senators felt so disposed, they could discuss any one amendment from now until the hour of 2 o'clock on Tuesday afternoon. We hope that does not occur, but the only agreement that seems possible at this time is one that would provide for a definite hour at which to vote on final passage and would provide that when that hour arrives, no amendment would be in order other than the amendment that was pending at that time.

A Senator has just made a comment, and I ask him, does he mean to say that if a Senator called up an amendment at 4 o'clock on Monday afternoon and the hour of 2 o'clock on Tuesday arrived, the Senate would vote on the bill and not on the Senator's amendment pending at that time? I have never known of such an agreement.

The Senate could agree by unanimous consent on almost anything, however. I would hope the cloakrooms would send an urgent message to all Senators so that they could enter into discussion of an agreement after the next rollcall vote.

Mr. HANSEN. Mr. President, will the distinguished majority whip yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. I would like to say, as distinguished majority whip has indicated, those were the terms that were tentatively agreed upon by some members of the Interior and Insular Affairs Committee. It may seem that this is a pretty harsh rule to lay down, but I would observe that the Interior and Insular Affairs Committee worked long and hard on this bill. Countless amendments could be proposed. It was indicated that if we could bring this bill to a vote, those would be the terms under which it could be accomplished.

I think I have accurately interpreted what was agreed to by the Interior and Insular Affairs Committee.

Mr. ROBERT C. BYRD. Mr. President, I would ask the acting floor manager if he will respond.

Mr. JOHNSTON. Mr. President, that is right. The reason for this is not that we do not want all pending amendments to be considered, but rather, there are certain matters—for example, deregulation of gas, regulation of intrastate gas, and other matters—that are of such an acute nature to some Members of the Senate that they simply could not be allowed to be voted on without extended debate. We do not expect those matters to be brought up, but the only way these Senators felt they could be protected was, frankly, to have the ability to have extended debate on those matters if they were brought up.

We believe that there is at least tentative agreement that what might be called incendiary matters will not be brought up.

Mr. CHILES. Mr. President, will the acting majority leader yield?

Mr. ROBERT C. BYRD. If the Senator from Illinois will allow me, I yield.

Mr. CHILES. As I understand it, the greement was to allow an automatic vote as of 2 o'clock Tuesday. As I understand it further, if some Senator wanted to start a filibuster, if the agreement was entered into, he could do so and we would automatically vote at 2 o'clock Tuesday and none of the amendments at the desk would be considered.

Mr. ROBERT C. BYRD. That is correct.

Mr. CHILES. I think the Senator might save time, if he is going to send a message to Senators, because I will object to the Senator's proposed unanimous-consent agreement.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. Inasmuch as we are not going to have these incendiary amendments the Senator mentioned, could we not have a limitation of debate on the amendments? What is wrong with that? There is not an amendment up at the desk that one could not explain in 15 minutes. I suppose we are all intelligent enough to understand the English language. It strikes me that there is no cause that cannot be explained in 15 or 20 minutes.

Mr. JOHNSTON. Mr. President, if the Senator will yield, that possibility has been discussed and that proposal would be objected to by some of those Senators who feel that they must protect some of the issues referred to.

Mr. ROBERT C. BYRD. Mr. President, I think Senators have some idea of what the problem is. After the next rollcall, the majority leader, if he is on the floor, can seek unanimous consent for an agreement of some kind; and if he is not here, I will do so.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate continued with the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

AMENDMENT NO. 661

Mr. STEVENSON. Mr. President, I call up my amendment No. 661.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 26, after line 12, insert the following new paragraph:

(f) Order production, as soon as practical and in any event within one year after the date of enactment of this Act, from all Federal oil and gas leases that, on November 1, 1973, were classified as producing, shut-in by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of enactment of this Act shall result in forfeiture of such acreage classified producing, shut-in: *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, finds in writing that production from such acreage would result in economic costs exceeding economic benefits to the Nation.

Mr. STEVENSON. Mr. President, I make technical modifications in the amendment and I send them to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The Senator will send the modification to the desk.

The amendment as modified is as follows:

Add a new section to Title V as follows:

"SEC. 504. The President shall order production, as soon as practical and in any event within one year after the date of enactment of this Act, from all Federal oil and gas leases that, on November 1, 1973, were classified as producting, shut-in by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of enactment of this Act shall result in forfeiture of such acreage classified producing, shut-in: *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, finds in writing that production from such acreage would result in economic costs exceeding economic benefits to the Nation."

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, 838,000 acres on Federal lands that have been leased for gas and oil production are currently classified as "producing but shut-in." This figure represents over 10 percent of all presently leased Federal lands on the outer continental shelf.

These are lands which were leased by the Federal Government with the expectation that they would be put into oil and gas production, but they have not been. They are capable of commercial production, but they are not producing.

Testimony before the Antitrust and Monopoly Subcommittee and the Commerce Committee indicates that the major oil companies are speculating in the nonproduction of these precious public resources, holding back production in anticipation of higher prices. These oil companies have performed the bare minimum required to retain the leases under current Department of the Interior guidelines. They recognize that the oil and gas under these lands will be more valuable next year than this year. Their self-interest in withholding production from these public lands is contrary to the public interest in full production in these times of scarce supply.

This amendment would require lessees of Federal oil and gas rights to put existing wells into production within 1 year unless the Secretary of the Interior finds in writing that the out-of-pocket costs are not justified by the economic benefits of production to the Nation.

The Nation is in the midst of an oil crisis and it is necessary to put every available resource into production. If a lessee of Federal oil and gas rights is unwilling to put an existing producible well into production, then he should be required to relinquish his rights in this public resource. That is what this amendment would do. It would require production or forfeiture. That has been the intention of the Congress, but it is not being carried out.

Mr. President, the lights are going dim, homes are growing cold, factories are closing, but 1,000 commercial wells in the Gulf of Mexico alone, all on public property, are shut in. This amendment would put them in production.

I urge its adoption.

Mr. HANSEN. Mr. President, I would like, first of all, to read from part I of the hearings before the Committee on Interior and Insular Affairs, U.S. Senate, pursuant to Senate Resolution 45, the National Fuels and Energy Policy Study on S. 2589. This particular document is dated November 8, 1973.

The chairman recognized Secretary Wakefield who in response to a question proposed by the junior Senator from Wyoming replied as follows:

> Senator Hansen, I first came to Washington in February 1970 with the Federal Power Commission and the very first day I was on the job, I was in a hearing in which accusations were made that the industry was shutting-in natural gas supplies to raise the price of natural gas.
>
> It is now almost 4 years later and I have yet to hear any evidence pointing to a specific instance where that was happening. It is always this broad innuendo that there are a number of gas wells shut-in. We know how many there are, we keep records in the Geological Survey, but in every instance, we have the reason and it is usually because of problems with the well or inadequate pipeline facilities.
>
> But, I would hope that if there are any instances where gas is deliberately being withheld from the market for the purposes of withholding shortages or driving up prices if we can see some specific evidence of that so it would be useful.

Mr. President, the fact is that in anticipation of the consideration by the Senate of the Stevenson amendment, earlier this forenoon we called the U.S. Geological Survey to get brought up to date in order better to understand what the facts are with respect to this amendment.

If, as Secretary Wakefield observed this month, this was a bugaboo or a specter that really did not exist or if there was indeed some reason to be concerned with the charges that have been made and which now have been formalized by the amendment offered by the distinguished Senator from Illinois, the U.S. Geological Survey, that arm of the Federal Government that ought to know most about what the facts are with respect to the charges that have been made concerning shut-in wells, gives this information:

> Regarding onshore leases—

And that of course would refer to inland oil wells—

> a lot of stripper wells are coming back into production. And this amendment would frustrate what is already coming to pass under the operation of the marketplace.

I am sure that the distinguished Senator from Illinois knows that there are roughly about 350,000 stripper wells in the United States. Each well in time becomes a stripper well as its production drops. As the cost of pumping fluctuates or increases—and it has not fluctuated downward; it has been on a steady increase—the time comes with every well when the cost of raising the oil equals the value of the oil. And when that time comes about, the well is stopped from further production. It is not economic to continue it in operation when it does not make a penny for them. So any operator is going to close down a well when that time comes. As the marketplace has responded to the demand pull—and that is what has been raising prices, it is the fact that more people want more oil than has been available—prices have gone up as a consequence.

This is, in effect, a resolution in support of stripper wells being continued in operation longer than it would take for the remainder to be pumped out, because it would become unprofitable to pump the oil out of the ground.

I point out, parenthetically, that stripper wells are a significant part of the total oil resources in the United States. It has been estimated by some to constitute one-tenth of our total reserves. If our total reserves are in the amount of, say, 40 billion barrels of oil, then we are talking about, with respect to stripper wells, some 4 billion barrels of oil. So stripper wells are not insignificant. Yet it has been made profitable, over the months, to operate stripper wells whose operation otherwise would have been stopped due to the price not being increased.

One of the men at the Geological Survey told us, with regard to offshore wells, that most of them that can produce, are producing. The few that are not producing are not doing so because of several factors, especially a shortage of materials.

I read earlier today a letter that I read yesterday from an oil company that is unable to buy steel casing because of the steel casing being subjected, as it is, to the orders and regulations promulgated by the Cost of Living Council. It was found that they can put their steelmaking materials to more profitable advantage in producing products other than oil steel casing. As a consequence, despite the fact that new oil well casing, when it was available, generally was selling for about $2.80 a foot, used casing, 5½ inches in diameter, is selling for $4.40 a foot now.

So this is a basic reason, I say to the Senator from Illinois (Mr. STEVENSON), why some of the wells are shut-in wells. There is not enough casing and tubing material to get the oil from the wells to the onshore refineries.

There is a shortage of materials to build platforms. It takes a lot of steel to do the job that is required to explore the Outer Continental Shelf or the Continental Shelf when drilling is being done in waters of the Gulf of Mexico or whereever the building is taking place.

There is a shortage of drilling rigs. I have already mentioned the fact that drilling pipe is in short supply. Pipelines connecting the rigs with onshore refineries have not yet been built in many cases.

Because of the Arab oil cutoff, oil companies are operating to the maximum extent possible to get into production. They realize full well that we are in short supply, and they know full well that sooner or later oil will be very greatly needed by the economy.

Thus this amendment, I think, would cause slowdowns and uncertainties in our already all-out effort by the energy industry to try to meet this crisis and this challenge which is so much in the mind of every American.

Third, and a very important point, the amendment would constitute a taking of private property. This could well result in Federal liability to the lessees to the extent of billions of dollars, while frustrating the expansion of the oil supply.

Furthermore, this amendment creates the impression that there are many unnecessarily shut-in wells. That is not true. The number of shut-in wells, according to the information we have from the U.S. Geological Survey, is less than 10 percent of all wells. In nearly every case that has been examined into, there are justifiable reasons, such as those I have already alluded to earlier, why that is the case.

I feel that the facts we have learned from the U.S. Geological Survey should be buttressed with hearings. If a case can be demonstrated, if proof can be presented to substantiate the allegations made by the distinguished Senator from Illinois, I think the people most concerned ought to have an opportunity to be heard in hearings before committees of Congress, the Senate Committee on Interior and Insular Affairs on this side, and I would welcome those hearings if there is any question in the minds of Senators that this is the case.

So before we take a step like this, before we blacken the name of the industry to the extent that this amendment would, I think at the very least we ought to hold hearings. From the evidence and the information we have obtained from the U.S. Geological Survey, there are good and sufficient reasons in nearly every instance to explain why a well is shut-in, and I would hope we would take the time to learn what the facts are before we agree to an amendment such as this.

There are also, as Senators know, ecological considerations that have hampered the ability of the industry to respond as it otherwise would like to. I spoke earlier this morning about the Belle Fourche pipeline in the Western United States, the pipeline that goes into North and South Dakota, as I understand, and into Wyoming—it may not yet be into North Dakota, though I think it is—where, in order to tie into the pipeline, it is necessary to cross the national grasslands area up there. Before that pipeline can be built, the owners of the pipeline have been informed that it will be necessary to file an environmental impact statement because the proposed route of that line would cross about 20 miles of national grasslands.

I note that the distinguished Senator from North Dakota (Mr. BURDICK) is present, and I am sure he has heard about this situation also.

The fact is that in order to cross that national grassland, it will require a delay that will make it at least next summer before they can even get the environmental impact statement made. Because of that fact, I would hope that Senators will understand that if you look into the specific examples, invariably you will find reasons why this amendment should not be acted upon and approved at this time.

Additionally, in the case of the outer continental shelf, should the leaseholder hold onto his lease without attempting to develop it, he forfeits it automatically under a present statutory requirement of the Outer Continental Shelf Act. It would seem to me, Mr. President, that when you consider the cost, the bonuses that have been paid by leaseholders for these leases, we could be assured that no one who has a lease out there is going to be willing, after putting out the millions of dollars required to get a lease in the first place and to develop that lease, to keep his well shut in one day longer than is absolutely necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

Mr. STEVENSON. Mr. President, I ask unanimous consent to modify my amendment on page 2, line 3, after "would", by inserting "be impossible because of shortages of essential materials or." I send that modification to the desk.

The PRESIDING OFFICER. There is no page 2 of the amendment now.

Mr. STEVENSON. It is a printed amendment.

The PRESIDING OFFICER. Page 2 purports to be an explanation.

Mr. STEVENSON. No, it is a printed amendment, Mr. President.

The PRESIDING OFFICER. The printed amendment is not being considered. We have been considering the modification, which was a total reprint.

Mr. STEVENSON. Well, whatever we are considering, Mr. President, I ask that the modification apply to it.

Mr. HANSEN. Mr. President, is this a unanimous-consent request?

The PRESIDING OFFICER. The Senator is modifying his amendment, which he has a right to do.

Mr. HANSEN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HANSEN. Then it cannot be modified without unanimous consent; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HANSEN. Then I object.

Mr. STEVENSON. Mr. President, I think I have the floor.

Mr. HANSEN. Yes, the Senator does.

Mr. STEVENSON. I was trying to be helpful to the distinguished Senator from Wyoming. He mentioned that it might be impossible in some cases to put wells into production because of shortages of essential materials. I was simply modifying the amendment to make it clear that such wells would not have to go into production, if there were shortages of essential materials. I think even without that modification the Department of Interior would have sufficient authority to permit the continued shutting in of wells for all such legitimate reasons. It surprises me that if that is one of the concerns of the Senator from Wyoming, he would not be the first to support that modification.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from Wyoming.

Mr. HANSEN. The reason I objected, Mr. President, was to demonstrate that the amendment was not thought through sufficiently. There seems to be an unawareness of some of the facts that are very relevant to this amendment, and when the Senator was not sure which amendment was before the body, it further demonstrated the very fact that I was trying to bring out. I gathered that perhaps the Senator was not quite sure which specific amendment he was talking about, and for us to vote on an amendment that even he is not certain which one he is talking about seems to me to be the very essence of irresponsibility.

I say that in all sincerity, because I do not object at all to his concern, but what I am concerned about is that we have had all sorts of amendments that propose to address the energy crisis in America. We even had one to shut off all exports. I have obtained some information on exports, and when you look at the figures you will see that is the last thing America wants to do. If we literally want to cut our throats, let us shut off all exports, because if we do that, the countries exporting to us would cut off their exports to the United States, and I can assure you we would wind up in a very critical situation, far more serious than now.

So I say to my good friend from Illinois that I am perfectly willing that we look at the facts. I would be pleased to have hearings scheduled, to hear from the industry and to develop what the facts are, but I do not think Senators have the facts before them now, and until we are better informed, it would seem to me to be very irresponsible to adopt an amendment that is as poorly understood as I believe this one is.

Mr. STEVENSON. Mr. President, I believe I have the floor.

First of all, there is no confusion about which amendment we are talking about. There is only one amendment. The only question is whether it was a printed or an unprinted amendment. That is a red herring, if I may say so.

Second, hearings have been held on this question. They have been held in the Committee on Commerce. I presided over those hearings, and if the Senator from Wyoming had seen fit, he could have come and participated in those hearings. Testimony has been taken——

Mr. HANSEN. That is not——

The PRESIDING OFFICER (Mr. CHILES). The Senator from Illinois has the floor.

Mr. STEVENSON. Testimony has been taken not only in the Commerce Committee but also in the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary on this question.

If there are wells that are shut in on these public properties for legitimate reasons, this amendment would permit the Secretary of the Interior to continue that shut-in producing classification. What I am saying in this amendment is, first of all, that some 60 percent of the Nation's oil and gas resources are within the public domain—some 60 percent. It could be as high as 75 percent. Of all these public resources, only 2 percent are now leased. Of the 2 percent leased, we find that 10 percent are not producing. In the Gulf of Mexico alone, there are over 1,000 oil and gas wells at this moment, commercial wells, and not producing.

If there is some legitimate reason for keeping them shut in, in this time of national emergency, then the Department of the Interior can keep them shut in. But I am suggesting to the distinguished Senator from Wyoming (Mr. Hansen) that there is every economic incentive on the part of the producers to keep them shut in because they can expect higher prices, whether it is natural gas or oil, in the future. The higher prices in the future will more than cover the carrying costs of the shut in wells. They have every economic incentive to keep the wells shut in. That is exactly what they are doing. That is exactly what the testimony in the Commerce Committee and in the Judiciary Committee indicated they are doing; for economic reasons they would let the people of this country go cold in order to make greater profits down the road.

If there is some legitimate reason, then let them shut them in. That is what this amendment proposes. If there is not a legitimate reason for keeping them shut in, then let the owners of the wells give the public the benefit of them. They can either produce them or forfeit them.

Mr. HANSEN. Mr. President, the distinguished Senator from Illinois suggested that if I had been there I might have testified before his committee.

I should like to remind the distinguished Senator that I did. Indeed, I testified before his subcommittee, at length.

Mr. STEVENSON. That is not what I said. First of all, it is not my subcommittee. It is the full Commerce Committee. I said that if the Senator had been interested in this issue, he could have come and participated in the hearings on this issue, after the Senator from Wyoming had said there had been no hearings and that we had not studied the issue.

Mr. HANSEN. I said, or if I misspoke myself, let me correct myself now, but I am not saying I did misspeak myself—but it seems to me proper to hold the hearings before the Committee on Interior and Insular Affairs. The Committee on Interior and Insular Affairs has jurisdiction of the public lands of the United States. It has jurisdiction over the Continental Shelf, insofar as sanctions here go.

It would be entirely appropriate that that committee, under the able chairmanship of the distinguished Senator from Washington (Mr. Jackson), should hold the hearings.

I did testify before the Commerce subcommittee, or the full committee—I am not sure which—at length. There were some others who testified at that subcommittee hearing. I think the testimony we had was pretty relevant to the issue that is addressed by the Stevenson amendment.

The Senator from Illinois points out that only 2 percent of the—did he say the total area of the Continental Shelf was leased—was that the Senator's figure, 2 percent of the total land?

Mr. STEVENSON. The figure I used was 2 percent of the total lands with oil and gas, on and off-shore, public lands.

Mr. HANSEN. If that is a fact, and I am not prepared to challenge it, I should like to say that I think that, insofar as oil prospects inland go within the continental area of the United States, there is now, or there was at one time, a rather large amount of the land leased. I do not have what the figures are, but in the public lands of the States, I know that it has been a significant amount of the total area that has been leased at one time or another, and for good and sufficient reason. Companies having those leases either drilled them or decided they did not any longer want to pay on the leases.

With respect to the Outer Continental Shelf, I have contended for a long time that the United States should speed up the availability of the Outer Continental Shelf. Senator Fannin and I went up to Massachusetts and testified in order that we hoped to be able to encourage CEO to recommend that those areas be drilled. The President has called for the drilling of the Outer Continental Shelf. I just think that this Senator cannot be blamed for the fact that there is not more of that leasing. There should be more of that leasing. I am disappointed that some of the New England States have been as adamant as they have been in objecting to drilling of the Outer Continental Shelf and as insistent, on the other hand, as they have been, saying, "Send us your oil from the Southwest and from the Gulf States."

I point out again, Mr. President, that this amendment should be examined by constitutional lawyers to see whether, indeed, it might not try to give legislative sanction to a constitutional taking of property.

In my mind and in my judgment, I think that that is a very relevant question to be asked and answered. I suspect, written as the amendment is, it could indeed result, if it were to be put into operation, in the taking of private property.

Mr. TUNNEY. Mr. President, will the Senator from Illinois yield for a question?

The PRESIDING OFFICER (Mr. Helms). Does the Senator from Illinois yield to the Senator from California?

Mr. STEVENSON. Mr. President, first, I thank the distingiushed Senator from Wyoming (Mr. Hansen) for clarification of some of the points raised in this debate. I want to assure him that I sympathize completely with his desire to see greater development of the lands within the public domain. That, though, is not the issue here. It is the leasing of these properties and they are not developed. That is what the issue is. Some 2 percent of the total land onshore and offshore is leased and on that 2 percent, we find, once developed, and the wells have been drilled, that they are shut in.

If there is some legitimate reason for that, alright; but, if there is no legitimate reason for it, they should be producing.

That is the purpose of this amendment.

Now I am happy to yield to the Senator from California.

Mr. TUNNEY. Mr. President, I notice by the Senator's amendment that, in all probability, the Senator would apply the language to the Santa Barbara Channel. I am wondering whether that is the intention of the author of the amendment and if that is going to mean they will have to start producing wells in the Santa Barbara Channel or risk forfeiture of the leases?

Mr. STEVENSON. That is not the intention of the Senator from Illinois. It was a concern to us in the drafting of the amendment, but we concluded that the economic costs of putting the wells on production would be exceeded by the economic losses to the Nation.

The proviso in the amendment would exclude the wells in the Santa Barbara Channel. They would not have to be put into production as a result of this amendment. That is our intention. I think the intention is made clear in the language of the proviso, beginning on line 6.

Mr. TUNNEY. One of the problems we ran into in the Santa Barbara Channel was that this was a unique area insofar as environment quality was concerned. There were many people who thought that the oil spills we had, particularly the major spill several years ago, had a substantial impact in denigrating the quality of the environment, and they were opposed to drilling not because of the economic costs of the clean up but because of the denigration to the quality of the environment.

I would suggest that perhaps the Santa Barbara situation falls outside the proviso that the Senator has in his amendment.

Mr. STEVENSON. Our feeling was that the economic benefits and the environmental benefits are associated with one another. Environmental degradation is an economic cost and, that being the case, it was my feeling, and still is, that the proviso which requires economic benefits to outweigh economic burdens would exempt the kind of environmental damage which might occur in the Santa Barbara Channel.

Mr. TUNNEY. I am pleased to note from the amendment that the Senator does not intend to include the Santa Barbara Channel, that the legislative history of the amendment is such that the Santa Barbara Channel is excluded from the amendment. I must say that I personally still have trouble with the language itself, but I am pleased that the author of the amendment suggests this does not include the Santa Barbara Channel.

Mr. STEVENSON. If there is any trouble with the language, I think we have eliminated it in the legislative history.

Mr. President, I did not intend by this amendment, as the Senator from Wyoming indicated, to blacken the name of the oil and gas industry; but I would be quite prepared to do so if it meant keeping one family warm this winter or one factory open this winter. That is the purpose of this amendment.

Mr. JOHNSTON. Mr. President, in its present form, the Committee on Interior and Insular Affairs would oppose this amendment. We believe that the amendment is needed, to the extent that it would require the producing of shut-in wells that are economically or geologically producible, technically producible, and to the extent that it would not result in an unconstitutional taking of property in violation of the fifth amendment. We think it presents those problems in its present form.

I am authorized to say, on behalf of the Committee on Interior and Insular Affairs, that we will have hearings on this problem and, hopefully, will arrive at a position that will serve the ends that this amendment is intended to serve. However, we believe that at the present time and in the present form, the amendment is not practical.

For example, the amendment would require that the President order the production of all Federal oil and gas leases, even though with respect to some there may be no pipeline capacity and no refining capacity may be available at the time and at the place the oil is brought in. There may be no tankers to transport it, to the extent that there is no pipeline capacity.

The economic cost cannot be measured in terms of the benefit to the Nation. The benefit to the Nation cannot be quantified as a measure to offset the economic cost of the drilling, and to that extent it may well be a violation of the taking provision of the fifth amendment.

As I say, the committee is entirely in sympathy with the need to produce oil, with respect to economically and geologically producible wells in the gulf. However, we believe that in the present form, the amendment should not be adopted.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. BARTLETT. I should like to make one brief remark. It is my understanding that the Federal leases provide that if reserves are not developed and marketed in a prudent manner, the lease may be canceled. I believe that applies in this case.

Mr. STEVENSON. That is the point of the amendment—the regulations and the law are not being carried out. This is intended to carry it out. These wells are capable of production. They should be producing. If there are any of the problems mentioned by the Senator from Louisiana, including the economic costs associated with production, then they would not have to be placed in production.

Mr. BARTLETT. I think that as the amendment is written, it would require the Santa Barbara wells to be produced and perhaps would also require the production from Elk Hills Naval Reserves.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, as modified.

Mr. STEVENSON. Mr. President, I ask unanimous consent, once more, to modify this amendment; and if unanimous consent is not forthcoming, I will offer another.

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENSON. Mr. President, I ask unanimous consent to withdraw the amendment, and I will send another amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Illinois, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from California (Mr. Cranston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), the Senator from Arkansas (Mr. Fulbright), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Muskie), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Tennessee (Mr. Baker), the Senator from Kentucky (Mr. Cook), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 32, nays 48, as follows:

[No. 491 Leg.]

YEAS—32

Abourezk
Bayh
Biden
Byrd, Robert C.
Cannon
Case
Church
Clark
Dole
Eagleton
Ervin
Hart
Hartke
Hathaway
Hollings
Hughes
Inouye
Jackson
Javits
Mansfield
McGovern
McIntyre
Moss
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Stevenson
Symington
Williams

NAYS—48

Aiken
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Chiles
Dominick
Eastland
Fannin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Haskell
Helms
Hruska
Johnston
Long
Magnuson
Mathias
McClellan
McGee
Metcalf
Montoya
Nunn
Packwood
Percy
Randolph
Roth
Scott, Hugh
Scott,
William L.
Stafford
Stevens
Taft
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—20

Allen
Baker
Cook
Cotton
Cranston
Curtis
Domenici
Fulbright
Hatfield
Huddleston
Humphrey
Kennedy
McClure
Mondale
Muskie
Nelson
Saxbe
Sparkman
Stennis
Talmadge

So Mr. Stevenson's amendment (No. 661), as modified, was rejected.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, if I may have the attention of Senators, I ask unanimous consent that the Senate proceed to a vote on final passage of S. 2589 at 5 p.m. on Monday, November 19, 1973; provided, that no amendment shall be in order if it relates directly or indirectly to the regulation of intrastate natural gas or to the regulation of natural gas presently subject to regulation by the Federal Power Commission, and that rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, the vote, as I understand it, would then occur at 5 o'clock.

Mr. MANSFIELD. On final passage.

Mr. MATHIAS. On final passage.

Mr. MANSFIELD. Yes.

Mr. MATHIAS. I have pending an amendment which affects procedures which might be followed. It is an amendment which grows out of our observations of the misfortunes that have been encountered in wage price controls as administered by the Cost of Living Council. I think we ought to take advantage of that experience, and I would not like to have that amendment so restricted in the time available for it that it could not be properly considered.

Mr. MANSFIELD. Does the Senator have a suggestion?

Mr. MATHIAS. We could proceed with it perhaps first thing Monday morning.

Mr. JACKSON. Mr. President, it would be fine with me to take it up the first thing, Monday at 9 o'clock. We would want to vote on the amendment relating to an antitrust provision, which is very complicated, and which we have worked out with the minority, the majority, and the administration, so that we could take it up first thing at 9 o'clock. We have an agreement on the antitrust matter. We could take up the amendment first thing, at 9 o'clock Monday morning.

Mr. MATHIAS. That would be agreeable to me, and have a vote on it at the end of the time.

Mr. JACKSON. Could the Senator reserve the first 10 minutes for the Senator from Colorado? He did have a colloquy he wanted to have with me, I believe.

Mr. ROBERT C. BYRD. Mr. President, could we have order? There are many Senators at their seats who cannot hear the colloquy going on in the well.

The PRESIDING OFFICER. The Senate will be in order.

Mr. JACKSON. Mr. President, I ask unanimous consent that on Monday morning the first order of business be a colloquy of not to exceed 10 minutes with the Senator from Colorado—I think we might be able to handle it within that much time—and that immediately thereafter we take up the Mathias amendment.

Mr. JAVITS. Mr. President, may I have a 10-minute colloquy? I have something involving power for New York State.

Mr. JACKSON. Would it follow the Mathias amendment?

Mr. JAVITS. Yes.

Mr. LONG. Mr. President, reserving the right to object, I do not know what is in it, but I assume it does not relate to these two situations, to deregulation or regulation by the Federal Power Commission.

Mr. MANSFIELD. No.

Mr. JACKSON. Mr. President, any unanimous-consent request I may make shall be consistent with the unanimous-consent request propounded by the majority leader.

Mr. JAVITS. Mr. President, what does the unanimous consent do about amendments to the bill?

Mr. JACKSON. All amendments are in order excepting an amendment in connection with intrastate or interstate natural gas or deregulation of natural gas now subject to the jurisdiction of the Federal Power Commission.

Mr. JAVITS. But there is no limitation of time, so that amendments may be caught in the crack at the end and may be voted on without debate. Is that correct?

Mr. MANSFIELD. That is correct. That could happen under this proposal if we agreed to a final vote at 5 p.m. on Monday next.

Mr. JAVITS. May we do this? We have done it before. I am not going to object to this, but I am raising it because I think it is only fair—that there be a gentlemen's understanding in the Senate that Senators will have an opportunity, if we can manage it, and that takes cooperation, if Senators do have amendments of substance, to at least have some small chance to debate them, rather than go to the very end and be caught in this crack?

Mr. MANSFIELD. We will do the very best we can. I will say to the distinguished Senator from New York, and I will change the unanimous-consent request to make it not later than 5 o'clock.

Mr. JACKSON. Mr. President, I will make the same point. I will do everything I can, because I have tried, in managing this bill on the floor, working with the Senator from Arizona (Mr. FANNIN), to see that all of our colleagues get an equitable proportion of the time, including the proposal by the Senator from North Carolina, with which I disagree.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, this does not interfere with rollcalls votes, even though 5 o'clock has come?

Mr. JACKSON. The Senator is correct.

Mr. JAVITS. In other words, rollcalls may go on until a later hour, until we vote on the bill, but every amendment will be voted on if Senators wish?

Mr. JACKSON. The Senator is correct.

Mr. MANSFIELD. May I say we have a lot of time this afternoon. This is early in the afternoon. We could have our colloquies this afternoon. We could consider amendments this afternoon. As long as we are here, we may as well use the time to good advantage and not wait until Monday and pile everything up—that is, if this proposal is agreed to.

The PRESIDING OFFICER. Will the Senator repeat his unanimous consent request? Not later than 5 o'clock Monday?

Mr. MANSFIELD. Not later than 5 p.m. on Monday, November 19, 1973, and that rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. METCALF. Mr. President——

The PRESIDING OFFICER. The Senator from Montana.

Mr. METCALF. Mr. President, reserving the right to object, I would like to have my distinguished colleague explain why rule XII should be waived.

Mr. MANSFIELD. It is the usual procedure, so that we can keep amendments within the germane area, and it refers to a quorum call, too.

Mr. METCALF. It does not necessarily mean that we waive the right to rollcalls?

Mr. MANSFIELD. It does not.

Mr. METCALF. Because rule XII is the rule that provides for rollcalls, and so forth, and we are not waiving that provision of the rule?

Mr. MANSFIELD. We are waiving the quorum call before the unanimous consent so that Members will be on notice, but that would not preclude us from putting in a brief quorum call to notify Members of the Senate.

Mr. METCALF. I understand.

The PRESIDING OFFICER. The Chair will read the provision of the rule, paragraph 3:

> No request by a Senator for unanimous consent for the taking of a final vote on a specified date upon the passage of a bill or joint resolution shall be submitted to the Senate for agreement thereto until, upon a rollcall ordered for the purpose by the Presiding Officer, it shall be disclosed that a quorum of the Senate is present. . . .

Mr. METCALF. The Senator is not asking for a waiver of all of rule XII?

Mr. MANSFIELD. No; just this one part.

Mr. METCALF. Just paragraph 3?

Mr. MANSFIELD. That is right.

Mr. METCALF. I withhold my objection.

Mr. JAVITS. Mr. President, if the Senator will yield, on the "not later than 5," it means that if we go to third reading before 5 o'clock we will have a vote, but if we have not gone to third reading by 5 o'clock, then the procedure will start, and each amendment will be acted on, but without debate?

The PRESIDING OFFICER. Senators will have until 5 o'clock to speak if they seek recognition and desire to speak, unless otherwise ordered, and they cannot be cut off.

Mr. PERCY. Mr. President, could the floor manager of the bill explain to the Senate what the intention would be so far as this afternoon is concerned? Is there going to be a time certain beyond which there will not be rollcall votes?

Mr. JACKSON. Mr. President, if we could get this agreement, and only if we could get this agreement, I would propose, if it is agreeable, a unanimous-consent request that on controversial amendments we take up the amendments this afternoon and have back-to-back rollcall votes on those amendments immediately after the accomplishment of the three unanimous-consent agreements on Monday.

Mr. MANSFIELD. Mr. President, are there any amendments to be offered this afternoon on which there may be rollcall votes?

Mr. PROXMIRE. I have one.

Mr. METCALF. Mr. President, I believe that we want a rollcall vote.

Mr. STEVENSON. Mr. President, I do not know whether a rollcall vote would be required on my amendment. It is my hope that the manager of the bill would agree to accept the amendment. And if so, we could dispose of it without a rollcall vote.

Mr. MANSFIELD. As I understand it then, as far as we can see, there will be two amendments and maybe three this afternoon.

Mr. JAVITS. Mr. President, I could offer mine if the distinguished majority leader would like.

Mr. JACKSON. Mr. President, we could have back-to-back votes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. GOLDWATER. Mr. President, reserving the right to object, and I do not think I will, I would like to ask the Senator——

SEVERAL SENATORS. We cannot hear the Senator.

Mr. ROBERT C. BYRD. Mr. President, we cannot even see the Senator, much less hear him. Would the Chair have Senators take their seats?

Mr. GOLDWATER. Mr. President, I do not trust microphones or tapes.

Mr. MANSFIELD. We could not see the Senator.

Mr. ROBERT C. BYRD. Mr. President, would the Chair please get order before the Senator proceeds?

The PRESIDING OFFICER. The Senate will be in order [rapping for order].

Mr. ROBERT C. BYRD. Mr. President, There is only one way to get order, and that is the right way.

The PRESIDING OFFICER. The Senator from Arizona may proceed.

Mr. GOLDWATER. Mr. President, I want to inquire of the Senator from North Carolina what his intentions are as to his amendment which pertains to busing.

Mr. HELMS. Mr. President, I did talk with the distinguished Senator earlier today when I discussed with the distinguished assistant majority leader a time limitation to which I agreed, and I suppose that is still in effect. It is for 40 minutes, 20 minutes to the side.

I would inquire of the distinguished Senator from West Virginia if that is correct.

Mr. ROBERT C. BYRD. Mr. President, the Senator accurately states his conversation with me earlier today. He suggested 40 minutes to be equally divided on his amendment. This agreement which we have been discussing here does not provide for any time limitation on any amendment.

I did mention to the Senators in the cloakroom back here when we were discussing the possibility of this agreement that the Senator from North Carolina had made that request. I saw the Senator on the floor just now and I thought he could raise the question himself and object to the request. Consequently, I said nothing.

Mr. MANSFIELD. Mr. President, the Senator can be assured of the 40 minutes to be equally divided that he desires.

Mr. HELMS. Mr. President, I thank the majority leader. That is all I ask. I probably will not take that long.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

There is another unanimous consent request pending, a request by the Senator from Montana. Would the Senator from Montana restate his unanimous consent request?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the amendment offered by the distinguished Senator from North Carolina (Mr. HELMS) is called up, there be a time limitation of 40 minutes, the time to be equally divided between the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from Washington (Mr. JACKSON).

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the amendment of the distinguished Senator from Wisconsin (Mr. PROXMIRE) is called up, there be a time limitation of 30 minutes, the time to be equally divided between the Senator from Wisconsin (Mr. PROXMIRE) and the manager of the bill.

Mr. PROXMIRE. Mr. President, I do have a modification of my amendment. And I would like to make that modification now so that I do not have to ask for unanimous consent once the agreement takes effect.

Mr. MANSFIELD. That would be all right.

Mr. PROXMIRE. I ask unanimous consent that there be 20 minutes, 10 minutes to the side. That is with respect to the modified amendment I have at the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator from North Carolina indicate when he would call up his amendment?

Mr. HELMS. Mr. President, I was about to ask unanimous consent, if I might do so, that my amendment follow the amendment of the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. That would be on Monday.

Mr. HELMS. Very well.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

Mr. JAVITS. Mr. President, we have not got unanimous consent as yet on the order of progression, as I understand it, that the Senator from Washington proposed.

Mr. JACKSON. Mr. President, I thought we had.

The PRESIDING OFFICER. We did not.

Mr. FANNIN. Mr. President, it is my understanding that we have not as yet agreed upon any time limitation or any time certain.

ORDER FOR ADJOURNMENT TO 9 A.M. ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent, if it is agreeable with the leadership, that when the Senate adjourn today, it come in at 9 o'clock on Monday morning.

Mr. MANSFIELD. That is all right.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

ORDER FOR TIME LIMITATION ON COLLOQUY MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that the first 10 minutes on Monday next be made available for a colloquy between the junior Senator from Washington and the junior Senator from Colorado in connection with the pending bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I think as a matter of fact that it will be less than 10 minutes, maybe 3 or 4. However, we will work that out.

ORDER FOR LIMITATION OF TIME ON MATHIAS AMENDMENT ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that immediately thereafter the Mathias amendment be considered for not more than 30 minutes, with 15 minutes to a side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

ORDER FOR LIMITATION OF TIME ON JAVITS AMENDMENT OR COLLOQUY ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that immediately thereafter, the Javits amendment or colloquy take place.

Mr. JAVITS. Ten minutes to the side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. AIKEN. Mr. President, there is a continuing reference to the colloquy between the Senator from Washington and the Senator from Colorado. If it is important, why do we not have it now, if it will only take a few minutes, and find out what it is.

Mr. JACKSON. Mr. President, a number of other things will be coming up.

Mr. MANSFIELD. Mr. President, it looks like there will be three amendments.

Mr. JACKSON. Mr. President, there are three amendments.

Mr. AIKEN. Mr. President, we have already spent enough time to have that colloquy three times over.

ORDER FOR BACK-TO-BACK ROLLCALL VOTES ON MONDAY NEXT

Mr. JACKSON. Mr. President, I ask unanimous consent that, if there are to be rollcall votes on an amendment or amendments offered this afternoon, those rollcall votes come back to back immediately after the disposition of the Javits colloquy or amendment on Monday next.

Mr. GOLDWATER. Mr. President, if the Senator will yield, I wonder if we could find out now if there will be rollcall votes. A number of Senators possibly have engagements.

Mr. MANSFIELD. There are possibilities, and I do not think we ought to put them off until Monday. We ought to dispose of them this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I feel an obligation to call to the attention of the Senator from North Carolina (Mr. HELMS) the request he made earlier that immediately following the disposition of the amendment or colloquy by the Senator from New York (Mr. JAVITS), whichever there may be, the distinguished Senator from North Carolina (Mr. HELMS) may then be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

Mr. HELMS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Was not the unanimous-consent agreement that the Senator from North Carolina (Mr. HELMS) have his amendment considered immediately after the amendment or colloquy of the Senator from New York (Mr. JAVITS)?

Mr. HELMS. Yes, but on what date?

Mr. MANSFIELD. Monday.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. HANSEN. Mr. President, I should like to ask the majority leader if he would agree to arranging some time for me to present an amendment that I shall offer on Monday next, with 10 minutes on either side set aside for it. I do not think it will take that long.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 20-minute limitation on this matter, to be equally divided between the sponsor of the amendment and the manager of the bill, immediately following the Helm amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Mr. FANNIN. Mr. President, if I may have the attention of the majority leader, we have five administration amendments.

Mr. MANSFIELD. Yes. Mr. President, I ask unanimous consent that the five administration amendments to be offered by the distinguished Senator from Arizona, the ranking minority member on the committee on the co-manager of the bill, immediately follow the amendment to be offered by the distinguished Senator from Wyoming (Mr. HANSEN), and that those five amendments have a time limitation of 10 minutes each, to be equally divided between the sponsor of the amendments and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, will the Senator from Arizona yield to me very briefly?

Mr. HANSEN. I yield.

Mr. GRIFFIN. Mr. President, I wonder if I might inquire of the distinguished majority leader, on behalf of the Senators who are here, now that we have accomplished what seemed to be impossible in achieving that agreement to vote at 5 o'clock on Monday, could he give us some indication of what he expects on Tuesday and Wednesday?

Mr. MANSFIELD. Oh, yes. I hope we will have the military construction appropriation bill, which will be marked up on Monday and brought before the full committee on Tuesday. That might be controversial. We hope to have some conference reports ready; and as of now, it looks as though we will be until the close of business, whenever that may be, on Wednesday the 21st, but we will have a day off in the meantime, Friday.

Mr. GRIFFIN. Does the Senator from West Virginia have anything to add to this? I thank the distinguished majority leader.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

What is the will of the Senate?

Mr. STEVENSON and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President will the Chair recognize the Senator from Illinois? Then I ask him to yield to me.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. I yield to the Senator from West Virginia. May I also ask the Senator from West Virginia when the daylight saving matter will be before the Senate?

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair is attempting to achieve it. The Senate will be in order. Senators will please take their seats.

Mr. ROBERT C. BYRD. Mr. President, as I understand the distinguished majority leader, the military construction appropriations bill will likely come before the Senate on Tuesday.

Mr. MANSFIELD. Yes. To repeat, a meeting has been called for the subcommittee, of which I happen to be chairman, on Monday morning. We hope to take it up in the full Appropriations Committee Monday afternoon, and bring it to the floor, hopefully, unless there is objection, on Tuesday.

Mr. ROBERT C. BYRD. Now, Mr. President, may I ask the distinguished majority leader, not having had an opportunity to do this heretofore, whether or not it would be his intention to operate on a double track on Tuesday, with the appropriation bill on one track and the Rhodesian chrome bill on a second track? I know the Senator from Wyoming (Mr. MCGEE) would want to propound that question if he were in the Chamber.

Mr. MANSFIELD. We will do our best, because a commitment has been made, and we will make every effort to honor it.

ORDER FOR CONSIDERATION OF TWO TREATIES AND VICE-PRESIDENTIAL NOMINATION

Mr. ROBERT C. BYRD. Very well. Now, Mr. President, I ask unanimous consent—and this has been cleared with the distinguished majority leader, the distinguished Republican leader, the distinguished assistant Republican leader, and the distinguished chairman of the Committee on Rules (Mr. CANNON)—that on Monday following Thanksgiving, November 26, upon the return of the Senate, the Senate proceed immediately after routine morning business to go into executive session to consider two treaties on the Executive Calendar, which are noncontroversial, Executive N and Executive Q, and that upon the disposition of those two treaties the Senate proceed, in executive session, to consider the nomination of Mr. FORD to be Vice President of the United States.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, it seems to me——

Mr. ROBERT C. BYRD. What I think the Senator from New York has in mind—and that is probably why he is raising the question—is that I forgot to say: Provided, on Tuesday next, the Committee on Rules and Administration has reported the nomination to the floor of the Senate.

Mr. JAVITS. The difficulty is in getting Senators back here on the first day following the recess. We are practically inviting debate, and it will take us overnight. I do not think that is fair to JERRY FORD. If the nomination is considered as a separate unit on Tuesday immediately following Thanksgiving, we can be pretty certain to have maximum attendance.

Mr. ROBERT C. BYRD. Mr. President, may I, therefore, divide my unanimous consent request as follows: I ask unanimous consent that on Monday, upon our return following Thanksgiving, the Senate proceed, after the conclusion of routine morning business, to go into executive session to consider two treaties on the Executive Calendar, Executive N and Executive Q.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I now ask unanimous consent that on the Tuesday following the Monday of the return of the Senate after the Thanksgiving recess, and after the morning business has been concluded, the Senate go into executive session to consider the nomination of Mr. FORD to be Vice President of the United States, provided the Committee on Rules and Administration has favorably reported the nomination on Tuesday of next week.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

DAYLIGHT SAVING TIME

Mr. STEVENSON. Mr. President, will the distinguished majority leader yield for a question?

Mr. MANSFIELD. Surely.

Mr. STEVENSON. What are the intentions of the leadership with respect to the bill providing for year-round daylight saving time?

Mr. MANSFIELD. We had hoped to get to that bill next week.

There are several holds on both sides of the aisle on the District of Columbia home rule bill, which is now on the calendar; but it looks as though our best chance would be on either Tuesday or Wednesday of next week, if we can get to it on either of those days.

Mr. STEVENSON. I thank the distinguished majority leader.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate continued with the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. STEVENSON. I had intended at this time to offer an amendment requiring the production of certain oil and gas wells that have been shut in. On further consideration, I have decided to take additional time to study the language. I intend to call up that amendment on Monday.

AMENDMENT NO. 650

Mr. PROXMIRE. Mr. President, I send my amendment No. 650 to the desk and ask that it be stated.

The legislative clerk read as follows:

AMENDMENT NO. 650

At the proper place insert the following new section:

SEC. —. (a) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of passenger motor vehicles (other than passenger motor vehicles of the types generally available in motor pools of Government agencies on the date of the enactment of this Act) or for the salaries or expenses of chauffeurs or drivers to operate passenger motor vehicles.

(b) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of any passenger motor vehicle for the transportation of any Government officer or employee between his dwelling and his place of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in fieldwork in remote areas, the character of whose duties make such transportation necessary, and only when such exceptions are approved by the head of the department concerned.

(c) Subsections (a) and (b) shall not apply with respect to the purchase, hire, operation, and maintenance of (1) one passenger motor vehicle for use by the President, or (2) of passenger motor vehicles operated to provide regularly scheduled service on fixed routes.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. I understand that by unanimous consent a limitation has been agreed to on this amendment, and that we have 10 minutes to a side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, the amendment is offered on behalf of myself and the distinguished Senator from North Carolina (Mr. HELMS).

This amendment would outlaw the purchase, hire, maintenance or operation of limousines, heavy and medium sedans and for the salaries and expenses of the chauffeurs to drive them.

This amendment does two or three very simple things.

First, no funds can be spent for limousines, heavy and medium sedans. These are the big gas-guzzlers.

Second, no funds can be spent for the salaries and expenses of the drivers and chauffeurs to drive them.

Third, no car, large or small, can be used to drive officials to and from their homes and their offices.

The only exceptions to these blanket restrictions are that we retain one limousine each for the President of the United States, the Chief Justice, each member of the President's Cabinet, and the elected leaders of the Congress, Government doctors on outpatient service and those officials engaged in field work can use their cars to go to and from home, and the salaries for drivers are not cut off when they operate passenger motor vehicles over regularly scheduled routes or for shuttle service.

I have modified my amendment from its original form which prohibited limousines for everyone except the President. I realized that was too far-reaching and I have modified the amendment accordingly.

WHAT AMENDMENT MEANS

What this means is that every official but the President, the Chief Justice, the Members of the Cabinet and the elected leaders of the Congress will have to drive himself to and from home in his own car. Hopefully, he will join a motor pool with his colleagues who also previously were driven around town in the big cars.

It also means that when any official of the Government, except the President, needs a car for official business, he goes to his agency motor pool and gets an ordinary light car. This should save heavily on gasoline consumption.

It also means that the official will drive that car himself. There is no reason why he should not do that. Everybody else does. Further, it will save on the average about $14,000 to $17,000 a year for each chauffeur's salary. While there are still no adequate figures, my belief is that about 800 officials will be affected by this amendment.

WHY WE SHOULD DO THIS

There are dozens of reasons why we should take this action. We have an energy shortage. Gasoline for the cars of working men and women, for housewives, and for Americans who find driving a necessity, may soon be rationed. It is impossible to justify having several hundred—probably several thousand—Government officials squired around in huge chauffeured limousines while we ration gasoline for the public. That just will not "fly."

WRONG PRIORITIES

How can any responsible Government official in good conscience insist on being driven around Washington in gas guzzling monsters when this Nation needs every gallon of gasoline it can get for essential purposes?

How confused can our priorities be when Government officials call on the people to surrender our hard-earned clean air because fuel is short and then show their selfish contempt by insisting on having the last word in personal custom-designed gas-wasting limousines?

It will be argued that the amount of gasoline saved would be relatively small, and that is true. But the example given by Federal officials who make the decisions that impose sacrifices on all the American people are of the greatest importance.

What irony it is to see minor officials at the White House, the Interior Department, and in the energy-related agencies being driven around Washington in gas guzzling chauffeured monsters at the moment they are making the decisions to deprive their fellow Americans of gasoline to drive their cars and of fuel oil to heat their homes.

In my view most public officials should already have given up the snobbish symbol of arrogance that the chauffeured limousine has become, if for no other reason than out of compassion for our long suffering taxpayers.

One of the worst offenders, but by no means the only offender in providing an excessive number of chauffeured cars and limousines, is the Pentagon. At the present time the Department of Defense has authorized—I believe clearly in violation of the statutes—transportation between their office and home of dozens of officials. It includes not only the Secretary of Defense but the Deputies, the Assistant Secretaries, the counsels, the vice chiefs, all four-star generals and admirals, and even the U.S. Representative to the Advisory Committee on the Ryukyu Islands. One should also note the category entitled "Such other officials as may be subsequently designated."

I ask unanimous consent that a list provided by the Comptroller General to the Ad Hoc Committee on limousines of DOD officials who are provided such transportation be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE OFFICIALS AUTHORIZED TRANSPORTATION BETWEEN DOMICILE AND PLACE OF EMPLOYMENT AS HEADS OF EXECUTIVE DEPARTMENTS AND PRINCIPAL DIPLOMATIC OFFICIALS

1. The Secretary of Defense.
2. The Deputy Secretary of Defense.
3. Secretaries of the Army, Navy, and Air Force.
4. Chairman, Joint Chiefs of Staff.
5. Chiefs of Staff of the Army and Air Force, Chief of Naval Operations and Commandant of the Marine Corps.
6. Director of Defense Research and Engineering.
7. Assistant Secretaries of Defense and the General Counsel of the Department of Defense.
8. Under Secretaries of the Army, Navy, and Air Force.
9. Vice Chiefs of Staff of the Army and Air Force, Vice Chief of Naval Operations, and Assistant Commandant of the Marine Corps.
10. Assistant Secretaries of the Army, Navy, and Air Force and the Director, Office of Civil Defense.
11. All other four-star generals and admirals.
12. Chairman, Military Liaison Committee to the Atomic Energy Commission.
13. U.S. Representative to the Advisory Committee on the Ryukyu Islands.
14. Director, Joint Staff.
15. Director, National Security Agency.
16. Such other officials as may be subsequently designated.

ASSIGNMENT OF LIMOUSINES AND MEDIUM SEDANS WITHIN THE DEPARTMENT OF DEFENSE

PART I—LIMOUSINES

A. OSD/JCS Defense Agencies

Secretary of Defense.
Deputy Secretary of Defense.
Chairman, Joint Chiefs of Staff.

B. Army

Secretary of the Army.
Chief of Staff, U.S. Army.

C. Navy

Secretary of the Navy.
Chief of Naval Operations.
Commandant, U.S. Marine Corps.

D. Air Force

Secretary of the Air Force.
Chief of Staff, U.S. Air Force.

PART II—MEDIUM SEDANS

A. OSD/JCS and Defense Agencies

Director, Defense Research and Engineering.
Assistant Secretaries of Defense (9).
General Counsel.
Director, Civil Preparedness Agency.

B. Army

Under Sec. of Army.
Vice Chief of Staff, U.S. Army.
Asst. Sec. of Army (I&L).
Asst. Sec. of Army (R&D).
Asst. Sec. of Army (FM).
Asst. Sec. of Army (CW).
Asst. Sec. of Army (M&RA).
CG, USAMC.
Sp. Adv. to the Pres. on ManP. Mob.
CG, I Corps.
CG, USARADCOM.
CG, 1st US Army.
CG, 3d US Army.
CG, XVIII Abn Corps.
CG, III Corps & Proj Dir, Project MASSTER.
CG, 5th US Army.
CG, 6th US Army.
CINC US Southern Command.
CINCUSARPAC.
Dep CINC & C/S USARPAC.
COMUSMACV & CG USARV.
Dep COMUSMACV.
Dep CG, USARV.

CG, USCONARC.
CG, 8th US Army & CINCUNC/COMUSFK.
Dep CG, 8th US Army.
C/S UNCOM/USFK.
CG, USARJIS/IX Corps.
SACEUR, SHAPE/CINCEUR.
Chief of Staff, SHAPE.
Dep CINCEUR.
Chief of Staff, USEUCOM.
CINCUSAREUR.
Dep CINCUSAREUR.
CG, TASCOM USAREUR.
CG, V Corps.
CG, VII Corps.
US Rep–NATO Mil Com.
Def Adv, US Mission to NATO.
Dep Dir Gen, NICSMA.

C. Navy

Under Sec of the Navy.
Asst Sec of the Navy (M&RA).
Asst Sec of the Navy (I&L).
Asst Sec of the Navy (FM).
Asst Sec of the Navy (R&D).
CINC Allied Force, Southern Europe.
CINCPAC.
Chief of Naval Material.
CINCLANT/CINCLANT FLEET.
CINCPAC FLEET.
Vice Chief of Naval Operations.
CINC Naval Forces, Europe.
Cdr, Second Fleet.
Cdr, Amphibious Force, LANT FLEET.
Cdr, First Fleet.
C/S, CGUSAE, AFSE.
Cdr, Taiwan Defense Cmd.
Cdr, Naval Air Force, PAC FLEET.
Cdr, Submarine Force, LANT FLEET.
Cdr, Eastern Sea Frontier.
DEP CINCPAC FLEET.
Cdr, Antisubmarine Warfare Force, PAC FLEET.
Cdr, Antisubmarine Warfare Force, LANT FLEET.
Cdr, Seventh Fleet.
Cdr, Amphibious Force, PAC FLEET.
Cdr, Sixth Fleet.
Cdr, Naval Air Force, LANT FLEET.
CINCPAC, Chief of Staff.

D. Marine Corps

Asst Commandant, US Marine Corps.
Commanding General, Fleet Marine Force, LANT.
Commanding General, Fleet Marine Force, PAC.

E. Air Force

Under Sec of the Air Force.
Asst Sec of the Air Force (M&RA).
Asst Sec of the Air Force (I&L).
Asst Sec of the Air Force (R&D).
Asst Sec of the Air Force (FM).
Vice C/S US Air Force.
CINC SAC (Specified).
CINC PACAF.
CINC USAFE.
COMs TAC, AFSC, AFLC, MAC, ADC, ATC.
CINC Alaskan Cmd (Unified).
CINC NORAD (Unified).
COM Strike (Unified).
COMS 2d, 5th, 7th, 8th, 13th, and 15th AFs (6)
V/CINC EUR AF.
V/CINC PAC AF.
Cdr. Allied Air Forces, Southern Europe.
US Rep—CENTO Perm Mil Deputies Gp.

Mr. PROXMIRE. Mr. President, but only yesterday the Defense Department invoked a 23-year-old law giving them priority for fuel. Also, they started saving fuel by slowing down the speed of our ships at sea, cutting training flights, slowing down aircraft speeds, and the like. I think we all commend them.

But in these circumstances surely it is proper to restrict the gas guzzling limousines and the number of chauffeured officials as my amendment does. Are we to slow down our ships at sea so that the U.S. Representative to the Advisory Committee on the Ryukyu Islands can be chauffeured home at night?

CONGRESSIONAL STUDY

It will be argued that we have a congressional study on limousines underway and that we should wait until the committee reports and action is taken. I am well aware of that. I am a member of that particular committee and I appreciate that the chairman of the Appropriations Committee appointed it.

That report is going forward now and the preliminary work of the GAO is first rate. My staff have been consulting with them as have the staff of the committee.

But that report is several months away. The GAO study will not be finished until March or April. Then the committee will have to determine what it should do.

Then, of course, it is up for debate in the Senate and then it would go to the House. We would not act on this from 3 to 6 months, or even longer, in Congress on any energy shortage that plagues us now.

My view is that we should knock out these limousines now. The energy crisis calls out for that action. Meanwhile the study should go on because we still do not know how many limousines are in the Government, the extent of the abuses connected with them, and the amount of money which we can save. That factual study is important. And if after March or April anyone really believes that we should once again go back to the practice of having every Tom, Dick, and Harry have his own limousine, then Congress can change what I am proposing we do today.

The argument that "now is not the time" is the enemy of more good proposals then any stock argument I can think of. But now is the time and we should act, now.

With the grave threat of gasoline and fuel oil shortages, with the sacrifices we are calling on the American people to make, and with the need of officialdom to set an example and not continue with a double standard, this action is the least that we can take. The time to abandon the luxury of Government limousines has come.

I urge the Senate to adopt our amendment.

Mr. BIDEN. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. I have very little time. Suppose the acting leader presents his position now and then, if there is any time left, I will be happy to yield to the Senator from Delaware.

Mr. JOHNSTON. Mr. President, this is a drastic step. Some may say it is a cruel step, that it will mark a drastic departure from the usual practice in Washington, the practice that so many have gotten so graciously accustomed to, of being driven around in large, polished limousines with uniformed drivers.

Well, Mr. President, it is time to take that drastic step, or to take that cruel step, if you will.

As this Nation girds for what may well be one of the most serious crises in its history, if it is cruel, or if it is drastic, we support it.

Mr. BIDEN. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. BIDEN. Is it intentional or unintentional that the Senator from Wisconsin left out the Vice President? Is that because we have no Vice President?

Mr. PROXMIRE. No, because the Vice President would be covered as an elected official of Congress. The Vice President is the President of the Senate, of course——

Mr. BIDEN. So that he would have his limousine.

Mr. PROXMIRE. He would have a limousine. He is an elected official of Congress, as is the majority leader, and so forth.

Mr. BIDEN. I was just curious. I thank the Senator very much.

Mr. FANNIN. Mr. President, I could not disagree with the Senator's intent, but I feel this is something that should be given more consideration than 5 minutes.

How can the President operate his office and meet visiting dignitaries from all over the world? The President has certain special obligations he has to meet and which we certainly want him to perform. I wonder whether this is a fair way to handle our obligations to the President. Would the Senator want to comment on why he would want to limit the President to just one passenger motor vehicle?

Mr. PROXMIRE. What the amendment does is to prevent limousines from being available which have been available to particular officials in the past. It does not touch the pool of cars available for purposes of trips by officials. As I pointed out, he could use it for official business, as can the Chief Justice, and so forth. Dignitaries would certainly be taken care of by being driven in pool cars.

Mr. FANNIN. I understand that such action would not apply to purchase, hire, or operation and maintenance of passenger motor vehicles, but when we start talking about one passenger vehicle for the President of the United States, I just wonder if we are not placing the President—and that would be any President—in a position far beneath the obligations we have to——

Mr. PROXMIRE. It does not demean the President in any way at all. The Senator appreciates that the one exception I have made to begin with is with the President, to be given a limousine. That has been broadened and applies to his Cabinet, as well as to the Chief Justice and the elected leaders of Congress. As an example, the leaders of this Government should certainly be willing to make this kind of sacrifice.

Mr. FANNIN. I do not disagree with that goal, but I question——

Mr. PROXMIRE. The Senator also asked for figures. The Ad Hoc Limousine Committee, of which Senator PASTORE is the chairman, is studying that. We have had difficulty finding out the number of cars, how much the gasoline is costing, and so forth. We did go into great detail when the Senate voted 82 to 4 to knock out all limousines for HUD, Space, Veterans' Administration, and other agencies.

We do not have the comprehensive figures because we have not had a chance to get testimony on it.

Mr. FANNIN. I would not oppose a provision as to the proper procedure to follow in the allocation of motor vehicles to the officials of our country after we have the information. I am wondering what modifications were made in the amendment.

Mr. PROXMIRE. The modification is on page 2, line 15, after "President." I added "and one each by the Chief Justice, members of the President's Cabinet, and the elected leaders of the Congress."

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. BENNETT. Would this knock out all other cars at the White House? No car would be available to the White House to take anybody in or out in an emergency?

Mr. PROXMIRE. No. This knocks out the cars assigned to particular officials. The pool is still available. The carpool is still available, as it has been in the past. As a matter of fact, the suggestion I made in my presentation was that this could be available to other officials for official business. It would be available to visiting dignitaries and persons of that stature.

Mr. BENNETT. And the same is true as to all Cabinet agencies—cars, with chauffeurs to drive the cars?

Mr. PROXMIRE. They are there, so far as the carpool is concerned. But the suggestion I have made—and the amendment would have that force—is that it would provide that the chauffeurs would not be available.

Mr. JAVITS. That seems to me why I would vote against it. We would have to hire a chauffeur ourselves just to avoid all the parking problems. Does the Senator want these fellows to spend an hour or two trying to find a place to park? Every pool I know of in my State and in the city has chauffeurs or drivers. I do not care whether they are called chauffeurs or drivers. If the Senator is going to make it that tight, it is counterproductive. The Senator might as well tell us to prepare our own lunch.

Mr. FANNIN. Where does the Senator exempt the pool? I am looking at the amendment.

Mr. PROXMIRE. On page 1, lines 3 and 4, after the word "vehicles": "(other than passenger motor vehicles of the types generally available in motor pools of Government agencies on the date of enactment of this Act)".

That is the exemption for the pool.

Mr. FANNIN. That is not a very specific explanation.

Mr. PROXMIRE. There are 70,000 of them, and we have gone through this rather carefully. The Senate adopted a similar amendment on the appropriation with respect to HUD and the other agencies. At that time, it was debated on the floor. We had extensive testimony for several weeks, testimony on the number of limousines involved and what would happen if the limousines were not permitted. So we have a record on this.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. BROCK. I am a little amused and somewhat chagrined. Yesterday, the Senator from Wisconsin stood up and argued vehemently against an amendment I had offered with the Senator from New York because there were no hearings on the amendment, but all of a sudden this is all right.

Mr. PROXMIRE. May I reply to the distinguished Senator from Tennessee?

Mr. BROCK. As soon as I finish.

It also seems to me rather ridiculous to talk about consuming energy, when the biggest problem we have is in trying to administer this program thoroughly, trying to get enough people into the various agencies of government that are managing the problem, to manage it competently, trying to find enough time to put a program of this magnitude into effect. Here we are again reducing the time that is available to the managers of the program, in requiring them not only to drive their own cars, which is a pretty good time for study, but also to find time for parking and to spend all the extra effort that requires. If they do not have a car, they will have to go out and buy another automobile, which would result in another car being put on the road, to compound the energy crisis.

It seems to me that that is exactly what is happening to this bill. We are offering some of the most far-fetched amendments I can imagine, just because it happens to be a nice Christmas tree to which we can append any amendment that suits our fancy at the moment.

Mr. PROXMIRE. If I may reply to the Senator, the answer is that yesterday if the Buckley amendment passed it would have abolished the Wage Stabilization Act entirely, without any hearings, with an unprinted amendment. But on this limousine issue we have had hearings on this particular subject, weeks of hearings before the committee. So this amendment has been printed and has been available at the desk for a couple of days.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FANNIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. JOHNSTON. Mr. President, I should like to propound a question to the distinguished Senator from Wisconsin.

Is it his intention to do away with drivers in car pools?

Mr. PROXMIRE. The intention of the amendment is that the drivers not be used exclusively for a particular individual, with the exceptions I have given—that is, the President, the Vice President, Cabinet officers, and so forth. But the drivers in the carpools would be permitted on a specific assignment basis, for a particular trip.

Mr. JAVITS. The Senator would have to say that.

Mr. PROXMIRE. I would be happy to modify the amendment to that extent. Does the Senator from New York have such an amendment in mind?

Mr. JAVITS. We both have.

Mr. JOHNSTON. Mr. President, on behalf of myself and the distinguished Senator from New York, I propose that on page 2, line 2, the period be changed to a comma and that the following words be added: "except in carpools."

Mr. PROXMIRE. I am happy to accept it.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, does the Senator from Wisconsin want any more time?

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Wisconsin has no time.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. JOHNSTON. The distinguished Senator from Virginia has requested 1 minute, after which I will yield 1 minute to the distinguished Senator from Oklahoma.

Mr. WILLIAM L. SCOTT. Mr. President, I asked for the time only to inquire of the Senator from Wisconsin whether or not this would prevent the President from having more than one car for his exclusive use and more than one chauffeur. He might be traveling and might need a car and a chauffeur in the city; and then when he goes somewhere else, outside of the Capital, he would need another. I am prepared to vote in favor of the Senator's amendment in the event the President of the United States could be eliminated from the restrictions contained in the amendment.

Mr. PROXMIRE. I see the point. What concerns this Senator is that one of the problems has been with so many people in the White House. I think we might conceivably make some argument for something additional for the President, but we do not want to open this up so that we would have a situation in which you would continue to have chauffeur-driven limousines for a number of assistant White House aides. I see the Senator's point.

I am happy, so long as we can make that kind of legislative history, to provide a further modification—I think this is something the Senator from Arizona properly argued—as follows: On page 2, line 15, delete the word "one" and add an "s" after "vehicle," so that it would read as follows:

> Shall not apply with respect to the purchase, hire, operation, and maintenance of passenger motor vehicles for use by the President, and one each—

So that the number "one" is deleted.

Is that satisfactory?

Mr. WILLIAM L. SCOTT. That is entirely satisfactory.

Mr. PROXMIRE. I ask unanimous consent to modify my amendment accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I should like to pose one question to the Senator from Wisconsin.

I understand that this would not give the Vice President a car.

Mr. PROXMIRE. Yes, it would.

Mr. FANNIN. I would like to have an explanation, because I was just told that this would not apply.

The PRESIDING OFFICER. The Senator from Louisiana has the floor. Does the Senator yield?

Mr. JOHNSTON. I previously yielded 1 minute to the Senator from Virginia, following which I was going to yield 1 minute to the Senator from Oklahoma.

Mr. PROXMIRE. It is my interpretation that the Vice President is an elected leader of Congress. He is the President of the Senate, the Vice President of the United States, and he has a constitutional position, so it is clear that he would be an elected official of Congress.

Mr. BARTLETT. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. BARTLETT. As I understand the modification of the Senator's amendment, he has eliminated the President from the limitation. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. BARTLETT. I wish to commend the Senator for this. Those charged with guarding the life of the President have to use several cars in accomplishing this purpose, which I assume to be called presidential cars.

Mr. PROXMIRE. The Senator is correct.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Wisconsin, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD (when his name was called). Present.

Mr. GRIFFIN (when his name was called). Present.

Mr. MANSFIELD (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Washington (Mr. Jackson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississipi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Muskie), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), the Senator from Rhode Island (Mr. Pastore), the Senator from Arkansas (Mr. Fulbright), the Senator from Georgia (Mr. Talmadge), and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Tennessee (Mr. Baker), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Hruska), the Senator from Idaho (Mr. McClure), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

Also, the Senator from Oklahoma (Mr. Bellmon), the Senator from Kentucky (Mr. Cook), and the Senator from Pennsylvania (Mr. Hugh Scott) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 53, nays 16, answered "present" 3, as follows:

[No. 492 Leg.]

YEAS—53

Abourezk
Aiken
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Church
Clark
Dole
Eagleton
Gurney
Hart
Hartke
Haskell
Hathaway
Helms
Hollings
Hughes
Javits
Johnston
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Montoya
Moss
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Roth
Schweiker
Scott, William L.
Stafford
Stevenson
Symington
Taft
Thurmond
Tunney
Weicker
Williams
Young

NAYS—16

Bennett
Brock
Brooke
Dominick
Ervin
Fannin
Fong
Goldwater
Gravel
Hansen
Inouye
Long
McClellan
Randolph
Stevens
Tower

ANSWERED "PRESENT"—3

Byrd, Robert C.
Griffin
Mansfield

NOT VOTING—28

Allen
Baker
Bellmon
Cook
Cotton
Cranston
Curtis
Domenici
Eastland
Fulbright
Hatfield
Hruska
Huddleston
Humphrey
Jackson
Kennedy
McClure
McGee
Mondale
Muskie
Nelson
Pastore
Ribicoff
Saxbe
Scott, Hugh
Sparkman
Stennis
Talmadge

So Mr. Proxmire's amendment No. 650, as modified, was agreed to.

NO FURTHER YEA-AND-NAY VOTES TODAY

Mr. ROBERT C. BYRD. Mr. President, for the convenience of some Senators on both sides of the aisle who may have appointments elsewhere, may I ask whether or not any Senator intends to call up an amendment this afternoon and ask for the yeas and nays on such amendment? I see no Senator so indicating, so I think I can state to the Senate that there will be no more yea-and-nay votes today.

PROTECTION OF THE HEALTH AND SAFETY OF EMPLOYEES

Mr. JACKSON. Mr. President, the able Senator from New Jersey (Mr. Williams) and the Senator from West Virginia (Mr. Randolph) earlier this week expressed concern to me that the pending measure might be construed to give the President the authority to relax, suspend, eliminate, or modify provisions of Federal and State laws designed to protect the health and safety of employees.

As Senators know, the Senator from New Jersey (Mr. Williams) is chairman of the Labor and Public Welfare Committee and the Senator from West Virginia (Mr. Randolph) is the ranking majority member of the Committee which has jurisdiction for laws designed to insure the health and safety of employees. Both of them have been active in the development of such vital legislation.

They had initially intended to introduce an amendment to S. 2589 to provide that no provisions of this act would be interpreted to permit or require any relaxation or modification of any provision of Federal or State law designed to protect the health and safety of employees. After extensive discussion, Senators Williams and Randolph agreed that they would not pursue their amendment. However, they have directed a letter to me outlining their concerns and requesting my response. I have assured Senators Williams and Randolph that there is absolutely no provision in S. 2589 which authorizes a relaxation, suspension, elimination, or modification of any provision of Federal or State law designed to protect the health and safety of employees. Mr. President, I ask unanimous consent that this exchange of correspondence be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 16, 1973.
Hon. Henry Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This communication is to request your assurance that nothing in the National Energy Emergency Act can be construed to authorize a relaxation, suspension, elimination, or modification of any provision of Federal or State law designed to protect the health and safety of employees. It would seem clear from the language of the bill that the authors of this legislation have no intention of authorizing such actions and we know full well their commitment to the health and safety of America's workers. Indeed, it was with great pleasure that we welcomed your cosponsorship of S. 2117, the proposed Federal Mine Safety and Health Amendments of 1973.

Our concern may be considered far-fetched in the minds of persons who have knowledge of the National Energy Emergency Act. Nevertheless, we must recognize that the Congress, through this measure, is vesting the President with extraordinary powers and responsibilities. As in any measure there can be varying interpretations of legislative language. It is our purpose to insure that none of the language in S. 2589 can be interpreted to give the President the power to relax the provisions of the Federal Coal Mine Health and Safety Act, the Occupational Safety and Health Act, and other worker health and safety laws, and the regulations promulgated under these measures for the protection of the health and safety of employees.

For example, there are provisions in the pending measure which give authority to the President to approve measures enacted by the State legislatures for the conservation and rationing of energy.

We want to make certain that no State legislature would move to relax health and safety laws and then the President, under the broad grant of authority, approve such measures of the legislatures.

Additionally, this measure provides that "no State Law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of the Act or any program issued pursuant thereto except insofar as such State Law or Program is inconsistent with the provisions of this Act." Here again we want to insure that the actions taken under State Laws and Federal activities under this measure will not be interpreted as authority to relax Health and Safety Laws to conserve energy.

In a more specific example it is possible that on a reading of the language of Section 203 of S. 2589 the energy requirements of such equipment as exhaust fans, elevators, and trolleys, and the utilization of rock dust (which is an energy related material) might be reduced based upon the finding that these activities are not essential activities and reduction of them would provide an additional means of conserving energy.

We need to be assured that reductions of available electrical energy cannot be ordered where the effect of such an order would be to create a conflict with the requirements of health and safety on the job site. For example, ventilation requirements have direct health and safety implications in many industrial settings.

Another example which is currently a critical problem in the coal mine industry is the use of roof bolts to support the mine roof. At present these are in short supply and suggestions have been made that the industry be allowed to return to increased use of timbers for support of the mine roof. While the Mining Enforcement and Safety Administration has very strongly indicated that there will be no relaxation we would again want to insure that as we move to conserve energy and produce additional coal, pressures are not brought to bear upon MESA to relax in any way its roof support requirements. This is an absolutely critical issue to the health and safety of miners since more miners are killed by roof falls than any other type of accident in a mine.

We believe that it is essential that we have the absolute assurance that laws for the protection of the health and safety of employees are not adversely impacted by S. 2589. There must be no threat to the well-being of our Nation's coal miners and workers in other industries.

We are intensely aware of your personal view on these issues but feel constrained to ask these questions so that the legislative record can be free from any ambiguity.

Your attention to this matter will be genuinely appreciated.

With warm personal regards.

Sincerely,

JENNINGS RANDOLPH,
Ranking Majority Member.
HARRISON A. WILLIAMS, Jr.,
Chairman.

HON. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter, cosigned by Senator Randolph, concerning the impact of S. 2589 on Federal and State laws designed to protect the health and safety of employees. I appreciate your raising this issue and by doing so, giving me an opportunity to express my absolute agreement with the Senator.

There is absolutely nothing in the provisions of this legislation which authorizes a relaxation, suspension, elimination, or modification of any provision of Federal or State law designed to protect the health and safety of employees. No administrator under this law would be empowered in any way to require or permit an employer to take any action which would contravene those health and safety laws. Indeed, no one subject to Federal or State health and safety laws, in my judgment, can use any of the provisions of this Act or orders issued pursuant thereto as justification for violation of any Federal or State law designed to protect the health and safety of employees.

Based upon the concerns expressed by you and Senator Randolph earlier this week, I was aware of the specific examples you mentioned in your letter and I am in total agreement with you that the health and safety laws will govern the responsibility of employers in instances such as these.

With kind regards.

Sincerely,

HENRY JACKSON,
Chairman.

ENERGY FOR NORTHEAST STATES

Mr. JAVITS. Mr. President, I shall be just a minute. I have a colloquy to engage in. I would like to ask the manager of the bill this question:

I bring to his attention a major potential source of energy for New York State and for the other States in the Northeast power grid and to inquire whether any provision of this bill will help to accelerate the construction of this energy source.

The Power Authority of the State of New York presently has pending before the Federal Power Commission an application for a Presidential Permit pursuant to Executive Order 10485 of September 3, 1953. The permit would authorize the power authority to construct, operate, and maintain, at the New York-Canadian border, facilities for the interconnection of the Province of Quebec electric powerlines with those of New York State. The connection would result in the importation of 800 megawatts of hydroelectric power produced in Canada. It is expected that approximately 3 billion kilowatt hours of electric energy will be imported through the border connection annually. This imported electric energy will displace an equivalent amount of electric energy which would otherwise have to be generated within the United States in fossil fuel electric generating plants. It is obvious, therefore, that the acceleration of authority to construct the connection will conserve substantial amounts of fossil fuel resources, thereby making those precious resources available for other necessary uses.

With this in mind, I ask the distinguished Senator from Washington whether any provision in this bill would authorize the Federal Power Commission to expedite applications such as these, which would yield a significant contribution toward increasing our energy supplies. I think it should be made clear to the Federal Power Commission that the Congress expects it to take all possible action, consistent with its legislative mandate and the National Environmental Policy Act, which would result in increased energy supplies.

I would like to point out that section 204(e) directs all Federal agencies to report to the President and Congress within 30 days of enactment on all activities over which they have jurisdiction that could result in increased energy supplies. Because of this important provision, I do not think any specific amendment directed at Federal Power Commission authority is necessary. But I do want to emphasize that it is my understanding, and I will ask the Senator from Washington to explain further, that the Congress expects Federal agencies, such as the Federal Power Commission, to make thorough and comprehensive reviews of its pending applications and its procedures, so that the Congress may be quickly informed of any necessary changes in the regulatory structure that would result in significant energy supply benefits.

Mr. JOHNSTON. Mr. President, there is no specific provision in the bill which deals with this precise question.

However, the President is delegated authority in the bill over all fuels except those limited fuels which are exempted specifically in the bill. The President would therefore have the power to delegate his power under the bill to the Federal Power Commission, and the commission in turn would then be exempted from the provisions of the Administrative Procedure Act to the extent provided in section 309 of the bill. Section 309 of the bill is intended to shortcut the rather extensive, time-consuming hearings under the Administrative Procedure Act to provide for a somewhat truncated procedure.

So, the President would have the authority to do that and to delegate the authority to the Federal Power Commission.

Mr. JAVITS. Mr. President, I thank my colleague.

Mr. President, I have one other ancillary point, and that is to inquire whether the Senator agrees with me that under section 204(e) we are entitled to receive from the Federal Power Commission and all other agencies all other information including a review of the pending applications so that we may be advised and the President can be advised of what we can do to accelerate new power sources.

Mr. JOHNSTON. Yes, I would agree with the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, would the Senator yield?

Mr. BARTLETT. I yield.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's yielding to me. I was on my feet attempting to be recognized.

I share the concern that each of the Members of this body has with regard to our energy shortage. However, I have reservations as to whether this is the bill or the proper approach in which to resolve the energy crisis. And I would like to pose a number of questions to the Senator from Arizona (Mr. FANNIN), with the indulgence of the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I yield for that purpose.

Mr. WILLIAM L. SCOTT. Mr. President, I wonder if the Senator from

Arizona might refer to the additional minority views in the back of the committee report. There are a number of questions or reservations there. I have read them. It is indicated there that there is much regret that the workings of the marketplace are not utilized in this bill to stimulate and increase the supplies in the marketplace.

I am concerned that we do not have an adequate supply of energy. Does this bill stimulate an increase in the overall supply, or are we just sharing the scarcity?

Mr. FANNIN. Mr. President, I would say to the distinguished Senator from Virginia that the amendments offered by several of his colleagues on the Republican side did try to accomplish more to that end than this bill presently does. I feel that without some of those proposed provisions the bill does not accomplish our objectives with respect to increasing supplies.

In this legislation, the national energy emergency bill, we should take into consideration what could be done to produce more energy. There are incorporated in the bill encouraging provisions concerning coal.

We were unable to incorporate in the legislation some provisions that would assist greatly in the free marketing of natural gas and in the free marketing of our petroleum products. We were not successful in achieving this goal.

Amendments have been offered on the floor of the Senate that would have accomplished the Senator's objectives.

Mr. WILLIAM L. SCOTT. Mr. President, is the Senator saying that those amendments were not agreed to?

Mr. FANNIN. Those amendments, regrettably, were defeated. There will be other amendments that I am sure will be offered today or on Monday that could result in increased supplies of energy.

I agree with the distinguished Senator from Virginia that in order to produce a true national energy emergency bill, we must deal also with the matter of increasing supply.

I hope that we will be able to do so before the bill is finally passed.

Mr. WILLIAM L. SCOTT. Mr. President, I notice, continuing on in the report, that it refers to the gap between supply and demand, and it indicates that in order for exploration to be conducted in a high risk investment there must be some price adjustment. I wonder if the distinguished Senator would comment on that.

Mr. FANNIN. Mr. President, I think the distinguished Senator from Virginia is familiar with the controls on interstate shipment of natural gas. They have been recognized as a great barrier to increased production. More wells drilled to greater depths, offshore drilling, and many other costly endeavors would assist in making this product available. Unfortunately, the price of interstate gas is regulated at such a low level that the companies do not realize enough profit to drill these deep wells. For many companies the cost of producing gas exceeds the price at which they can sell it in interstate commerce. We will not accomplish the objective of increasing gas supplies unless that situation is changed.

Mr. WILLIAM L. SCOTT. Mr. President, is the Senator saying that this bill does not encompass offshore drilling and the obtaining of gas from the wells that might be available if there were a sufficient price incentive?

Mr. FANNIN. Mr. President, during the consideration of the bill in the committee these measures were defeated. Consequently they were not included in the legislation as it came to the Senate floor. Attempts have been made to include such provisions in the bill. However, they have not been successful. So, I must respond to the Senator from Virginia by saying that as the bill now stands, it does not encourage additional supplies of fuel.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator from Arizona will refer again to the report, I notice that there have been several bills reported by the Committee on Interior and Insular Affairs this calendar year that have to do with energy.

The report indicates that those bills have something in common, a philosophical bent toward an increase in Federal regulation, whether in the area of energy-producing or energy-consuming activities.

Are we giving the Federal Government the authority to make more and more regulations which may actually have a detrimental effect on our supply?

Mr. FANNIN. Mr. President, I think the Senator realizes from his work in the House of Representatives and in the Senate that we have repeatedly over the past few years placed restrictions on the production of coal, oil, and gas. We have legislated stringent NEPA procedures which have resulted in the conversion of plants from utilization of coal to cleaner fuels such as natural gas and low-sulfur oil. This has been very costly.

Now we are faced with incentives for switching back to burning coal in as many plants as this can be accomplished.

This country has become dependent upon foreign supplies. We are importing over 30 percent of our petroleum products, and with the world situation as it is, this becomes a very serious matter.

Mr. WILLIAM L. SCOTT. Mr. President, the Senator is not suggesting that 30 percent of our petroleum products come from the Mideastern area of the world, the Arab States? We do import substantial amounts from other areas.

Mr. FANNIN. Our total imports amount to about 6 million barrels of oil a day, whereas we consume about 17 million barrels of oil a day.

Mr. WILLIAM L. SCOTT. Mr. President, I notice that after talking about the increase in Federal regulation the report says that these provisions are likely to repeat the mistakes made in the Federal regulation of natural gas production and in the imposition of oil import quotas.

My thought is, with this in mind, are we actually getting at the crux of the problem of obtaining more energy or a larger supply of energy through the use of this bill?

Mr. FANNIN. No. The United States has not developed its own abundant natural resources. It has allowed itself to become critically dependent on imports. Domestic fuel production continues to decline, and natural gas production has peaked out. Because of the NEPA restrictions and other delays, nuclear plants are not being completed as rapidly as anticipated. The use of coal has been limited for environmental and other reasons. At this time we are experiencing a shortage of coal supplies. Oil and gas discovered off the North Slope of Alaska and off the coast of California in recent years are still undeveloped.

Congress did complete the Alaskan pipeline bill and the President has signed it.

I know the Senator realizes that we have many so called exotic ways of developing energy—solar energy, geothermal steam, and others—but the fact remains that we are dependent on our petroleum resources to a great extent. Unfortunately this bill does not include proper incentives for increased production of those fuels.

Mr. WILLIAM L. SCOTT. I am sure the distinguished Senator would agree that this is a very far-reaching bill. Could the Senator indicate how much time the committee spent in the consideration of this legislation?

Mr. FANNIN. Yes. The committee held 2 days of open preliminary hearings and 2 days of open executive hearings.

Mr. WILLIAM L. SCOTT. A total of 4 days?

Mr. FANNIN. Yes, 4 days of extensive hearings. One lasted until 8:30 one evening. In addition, some parts of the bill were sent to other committees for their suggestions and even for specific language. It was developed with the hope that we could include the most helpful recommendations of members of both the Interior Committee and the Committee on Public Works.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. FANNIN. Yes, I will be glad to yield.

Mr. JOHNSTON. If the Senator will permit me to make a unanimous consent request, I think it would be useful to the Senate to put the legislative history of this bill into the RECORD at this point. It discloses, of course, that not only did we have the four days of hearings referred to by the Senator from Arizona, but hearings that lasted many months on the question of energy, which of course bear on the bill itself. So, Mr. President, I ask unanimous consent that the legislative history as revealed in the committee report accompanying this bill, commencing at page 14, be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I would ask that that be placed at the end of the colloquy.

Mr. JOHNSTON. I modify my request to that extent.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FANNIN. To add to what the distinguished Senator from Louisiana has stated, we began some of these hearings in December of 1972. Consequently, they did extend over a long period of time.

Mr. WILLIAM L. SCOTT. Mr. President, I know this is a very far-reaching bill, and I note, on page 54 of the report, the statement:

> We fear, however, that excessive hasty action could result in horrendous and unintended calamity for the people and institutions of this country. Accordingly, we feel that it is incumbent upon us to tailor the emergency authority to the fuels shortages problem in order to avoid both delegation of excessively sweeping emergency authority and delegation of inadequate emergency authority.

I wonder if the distinguished Senator would say whether or not, in his opinion, this bill does set a course of national action which might not be in the best interests of the country over the long run.

Mr. FANNIN. Mr. President, in answering the distinguished Senator, I would say that much of the legislative content in this bill was requested by the President of the United States. We did work very closely with Administration officials. In my opinion it was neither the shortage of time nor the amount of endeavor put forth that contributed to any of the bill's shortcomings. Any such shortcomings that I might mention were included in order to satisfy groups which objected to the immediate progress on strip mining or offshore drilling or on other endeavors that I think are very essential to the solution of our energy crisis.

Mr. WILLIAM L. SCOTT. Of course, Mr. President, I do not serve on the Interior Committee, but I have been reviewing the report, and I have reviewed it in some detail. It would appear to me that this bill would result in additional Federal regulation of both production and consumption of energy. It just seems to me that the ultimate answer to our energy problem is increasing our supply of energy of all kinds. I wonder if the distinguished Senator from Arizona would comment on that.

Mr. FANNIN. I certainly agree. We do have programs going forward. We have a new energy research and development bill—S. 1283—that we have been working on for many months.

Mr. WILLIAM L. SCOTT. What is the status of that, if the distinguished Senator knows?

Mr. FANNIN. I believe we will be able to report out that bill within the next 2 weeks.

Mr. WILLIAM L. SCOTT. Mr. President, on the way to the Capitol today, I had my automobile radio turned on, and I heard the statement made that we had a 2 months supply of oil in reserve. Is this the understanding of the Senator from Arizona? Would that be a fair comment?

Mr. FANNIN. I would say to the distinguished Senator that I do not think we have 2 months of stored oil in reserve. We operate from the point of production and from the point of import directly to the consumer.

Mr. WILLIAM L. SCOTT. Do we have in our national strategic materials stockpile any great amount of petroleum that might be utilized?

Mr. FANNIN. Yes; we have four naval petroleum reserves. No. 1 is of some magnitude. Nos. 2 and 3 are not large; but No. 4, in Alaska, is a great reserve which is not fully developed.

Mr. WILLIAM L. SCOTT. I wonder whether, actually, there would be an alternative to the passage of such a sweeping bill under which we could get through this winter and then enact legislation that would increase the amount of energy available to us without taking some of the drastic steps that are in this bill. Four or 5 months remain before winter is over and I wonder whether there are other sources of energy available to which we might turn such as coal, electricity, or other sources.

Mr. FANNIN. Our position this winter depends both on the weather and on how much oil we are able to import. Both are difficult to predict, so I cannot give an answer at this time. But I will say that the research and development legislation I have mentioned will be helpful in devising a long-range program.

The Senator knows that coal is the greatest source of energy we have in this country. Forty-five percent of our proven reserves are coal. We also have geothermal energy which we are hoping to develop.

At Geyserville near San Francisco geothermal steam powers a plant producing 400,000 megawatts of electricity, which is one-half the consumption of the city of San Francisco.

Mr. WILLIAM L. SCOTT. Is there offshore oil that might be made available, or oil shale?

Mr. FANNIN. We are working on oil shale and many other energy sources.

Price is the factor. Price will produce the energy.

From the very beginning, I have tried to emphasize that if we freed up the price of natural gas, there would be more gas. If we increased the price of oil, there would be more oil. That applies to all our energy resources.

It is expensive to get oil from shale. It has been proven that it can be done, but at a price. With the increased price of imported oil, we may reach that point soon where it will be advantageous to develop oil shale.

Coal gasification is a possibility. But when we switch to different processes like coal gasification and liquefaction, we lose a great deal of the energy involved. Changing from one source to another source is always an expensive process. Therefore those are sources for the future. As far as immediate results are concerned—especially this winter—we know that is hopeless.

We do have some sources that we can develop rapidly. Deregulation of natural gas would lead to expanded supplies.

However, conservation is how we are going to get our immediate results.

Mr. WILLIAM L. SCOTT. I appreciate the ranking Republican member of the committee responding to this series of questions. I am trying to make up my own mind as to how to vote on the final passage of the bill. We all know we have a serious energy problem, and I do not like to see us stay on a course of action which will result in further Federal regulation and a further breakdown in the American system of the law of supply and demand in the operation of the free market.

I simply wonder whether the emergency is of such a nature that we have to jeopardize the operation of the free market, so that it will perhaps be years before we have an adequate level of supply and demand; whether we are actually slowing down the process of obtaining adequate energy to meet the needs of the Nation by enacting this legislation. Will the Senator comment on the long-range effect of the bill?

Mr. FANNIN. The bill is for a 1-year period, but we are hoping that programs will be started that will continue. I certainly agree that a free market would be a better answer than the one we have provided in many places in the bill. But we have not been able to have such provisions added to the bill.

We must tie this program into R. & D. and other long-range legislation.

Mr. WILLIAM L. SCOTT. When the Senator speaks of conservation, he is speaking of the insulation of homes, the reduction in the speeds of automobiles, turning down thermostats, and perhaps burning wood in fireplaces, if there are fireplaces in the homes, and other such measures?

Mr. FANNIN. The Senator is correct.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's responding to these questions, and I also appreciate the courtesy of the Senator from Oklahoma (Mr. BARTLETT) for yielding time.

Mr. FANNIN. I appreciate the great interest of the Senator from Virginia.

EXHIBIT 1

V. LEGISLATIVE HISTORY

S. 2589 was introduced on October 18, 1973, as a measure to prepare the Nation for severe impending fuel shortages. After the bill was introduced, the severity of the energy emergency was greatly increased by the actions of the Mideast-producing countries to reduce production and embargo shipments of oil to "unfriendly" nations.

The members and staff of the Senate Committee on Interior and Insular Affairs have been working closely together with the Committees on Commerce, Public Works, and Judiciary, and with the administration to expedite the adoption of this bill.

Two closed hearings were held with Governor Love and other administration officials on October 24 and November 1 to hear their views and suggestions for amendments to the bill. Following these hearings, extensive consultations were held with representatives of the administration to solicit their views on this legislation. Thus, although the administration did not formally submit to the committee suggestions for a draft bill, administration participation in the drafting of S. 2589, as reported, was such that the present bill is a composite of the S. 2589 as introduced, and suggested amendments proposed by the administration.

A public hearing was held on Thursday, November 8. The hearing began at 9:30 a.m. and adjourned at 8:30 p.m. Witnesses in the morning were representatives of the administration:

Hon. John A. Love, Director, Energy Policy Office.

Hon. John N. Nassikas, Chairman, Federal Power Commission.

Hon. John A. Busterud, Acting Chairman, Council on Environmental Quality.

Hon. Kenneth H. Tuggle, Acting Chairman, Interstate Commerce Commission.

Hon. Stephen A. Wakefield, Assistant Secretary for Energy and Minerals, Department of the Interior.

Mr. Thomas Heye, Administrative Assistant to the Chairman, Civil Aeronautics Board.

Mr. Julius Katz, Deputy Assistant Secretary for International Resources and Food Policy, Department of State.

Mr. Hugh Witt, Deputy Assistant Secretary for Installations and Logistics, Department of Defense.

Industry representatives and public witnesses were heard in the afternoon.

Mr. Richard Ayers, Attorney, National Resources Defense Council.

Mr. Carl E. Bagge, President, National Coal Association.

Mr. W. Donham Crawford, President, National Association of Manufacturers.

Mr. P. N. Gammelgard, Senior Vice President for Environmental and Public Affairs, American Petroleum Institute.

Mr. David Hawkins, Friends of the Earth.

Mr. Douglas E. Kenna, President, National Association of Manufacturers.

Mr. John C. Miller, President, Independent Petroleum Association of America.

Mr. Lawrence I. Moss, President, Sierra Club.

Hon. Lee C. White, Chairman, Energy Policy Task Force, Consumer Federation of America.

Public markup sessions on the bill were held on Friday, November 8, and Monday, November 11, with representatives of the administration present to respond to questions concerning the administration's position on the bill and proposed amendments.

Mr. BARTLETT. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 17, line 15: Strike the words "operating hours" and substitute the words "energy consumption."

Mr. BARTLETT. Mr. President, the present language in S. 2589 gives authority to the President to place limitations on the operating hours of commercial establishments in public service as well as in schools.

My amendment would change the authority to place limitations on the operating hours to limitations on energy consumption, which is certainly the goal of the bill.

Having limitations on operating hours could result in a real inconvenience to patrons of commercial establishments which are open at night and which operate for the convenience of customers at night.

Also, if the President placed limitations on the operating hours of public schools, that could cause a definite inconvenience to students and to parents, as well.

The real intent of the provision is to have the reduction on the basis of energy, with limitations to be fixed by the President, designating the amounts of energy to be used by commercial establishments and public institutions such as the public schools.

I believe this is a good amendment. I understand that it is acceptable. I call upon Senators to support it.

Mr. JOHNSTON. Mr. President, the amendment is agreeable to the committee. I think it marks a needed flexibility in the bill. As originally drafted, the bill required that the President limit operating hours of commercial establishments. This change requires that he provide for energy conservation, which in turn will give some needed freedom to the owners of commercial establishments as to how they can conserve.

The President can mandate, for example, a 25 percent conservation of energy based on a base period and require that the owner of the store, or whatever the establishment is, come up with his own plan. The conservation would not be voluntary. The conservation would be mandatory, but the means by which the conservation was affected would be at the discretion of the store owner—subject, of course, to the fact that if the store owner or establishment owner failed to come up with a voluntary plan, it would be implicit in the Senator's amendment that the President have the power to dictate the terms by which the conservation should take place—that is to say, if the owner, himself, would not come up with a voluntary plan.

Do I correctly understand the Senator's amendment?

Mr. BARTLETT. The Senator certainly does understand it correctly.

I should like to add that I have been informed by operators of commercial establishments that operating at night does not require any more energy than operating in the daytime. They would be willing to adjust their hours as they would have to adjust them, but they would have the discretion as to when they would be open, so that they could provide as much service as they possibly could to the customers they now have. This amendment would give them flexibility but still would enable them to operate in such a way as to save energy and at the same time offer a good service to the customers.

Mr. JOHNSTON. I congratulate the distinguished Senator from Oklahoma for offering the amendment. We have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 669

Mr. FANNIN. Mr. President, I call up my Amendment No. 669.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 29, insert the following new section after line 7, and renumber subsequent sections accordingly:

SEC. 306. INJUNCTIVE RELIEF.—The United States district courts for the districts in which a violation of this Act or regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

Mr. FANNIN. Mr. President, this is an injunctive relief amendment. It would be inserted on page 29, after line 7. It would be numbered section 306, and the numbers of the following sections would be changed accordingly.

The amendment provides that the U.S. district courts for the districts in which a violation of this act or the regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

The amendment would provide relief where it is required prior to an actual violation. I think it is necessary in order that the proper procedures can be followed. The Government might be aware of an intended violation and could act accordingly.

I hope the distinguished manager of the bill will accept the amendment.

Mr. JOHNSTON. Mr. President, as we understand the amendment, it would give additional remedies to the President—the power to seek temporary or permanent injunctive relief. It is not in lieu of criminal penalties; it is not in lieu of other sanctions provided in the act, but is in addition thereto.

Is that correct?

Mr. FANNIN. The Senator is correct.

Mr. JOHNSTON. With that understanding, we enthusiastically support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that an antitrust amendment submitted today by Senator JACKSON and supported by the committee be considered on Monday; that the amendment be limited to 40 minutes, to be equally divided; that the amendment be considered immediately after the last matter for which time has previously been set or limited; that no amendments to the amendment be in order; and that the amendment be laid before the Senate as the pending business at the close of business today.

Mr. FANNIN. Mr. President, I ask unanimous consent that the name of the Senator from New York (Mr. BUCKLEY) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the unanimous-consent request of the Senator from Louisiana?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—I do not intend to object, of course—I just want to make sure that Senators understand what the distinguished Senator from Louisiana has said. He incorporated in his request that no amendment to the amendment would be in order.

I thank the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the Johnston amendment was adopted earlier today.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 30, line 3, strike the word "fifteen" and insert in lieu thereof: "twenty".

On page 30, line 5, after the word "including" insert: "but not limited to independent".

On page 30, line 6, after the word "and" insert: "wholesale and retail".

Mr. DOLE. Mr. President, let me say at the outset that this amendment has been discussed with the majority and minority floor managers and with the distinguished junior Senator from Montana, who is the original sponsor of section 308.

Mr. President, any legislation which has the effect of placing governmental constraints on the free workings of our economy is bound to produce disruption, dislocation, and frequent unfairness in various sectors of that economy. The Emergency Energy Act, S. 2589, will if enacted establish perhaps the most extreme example of such governmental constraints in our history.

To some extent, the bill demonstrates a recognition of these potential effects by establishing a National Energy Emergency Advisory Committee in section 308. This committee would serve to advise the President "with respect to all aspects of implementation" of the act and its programs. The White House Energy Adviser would chair the committee, the other members of which are intended to represent the broad spectrum of those in Government and the private sector who are concerned with energy in America.

I feel this committee is a worthwhile and constructive attempt to establish a regular framework for receiving suggestions and criticisms directed at making a very difficult and complex program work as well, as effectively, and as fairly as possible.

However, the provision establishing the committee shows a rather important omission which I feel should be corrected. Quite correctly, the energy industry is specified for representation on the committee, including, to quote the bill, "producers, refiners, transporters, and marketers." And while I agree that these elements of the industry should be included, I feel the bill's language raises the possibility that an important sector of the energy industry might be overlooked or excluded from representation.

When we say energy industry many may think only of the great multibillion dollar integrated oil companies which receive such a large share of the attention and publicity surrounding energy issues today. But the fact is that the energy industry is composed of two chief categories of enterprises: the majors and the independents, and while not so widely known or large as the majors, these independents form a significant part of America's energy industry.

These two sectors are both highly concerned with the energy crisis and steps to deal with it, but they do have different viewpoints and face different circumstances in the conduct of their operations. Frankly, there are some areas where there is some conflict and disagreement between the two sectors, and it would seem highly inadvisable to run the risk of denying one the opportunity to see that its interests are at least aired before the committee and the President.

Both the majors and the independents would bring a great deal of knowledge, expertise, and ability to the committee. There is no question that majors should sit on the committee, but I believe it would be in the national interest to assure that independent producers, refiners, transporters, and marketers, both on the wholesale and retail levels, are not excluded from membership on the National Energy Emergency Advisory Committee.

Therefore, I offer an amendment to section 308 to specify that these independent sectors of the energy industry be represented on the committee and that its membership be increased to reflect such additional representation.

I ask unanimous consent that the full text of section 308 as amended by my amendment be printed in the Record at this point.

There being no objection, the section was ordered to be printed in the Record, as follows:

Sec. 308. National Energy Emergency Advisory Committee.—(a) There is hereby created a National Energy Emergency Advisory Committee which shall advise the President with respect to all aspects of implementation of this Act. The chairman of the committee shall be the Director of the Office of Energy Policy. In addition to the chairman, the committee shall consist of twenty members appointed by the President, who shall represent the following interests: energy industry, including but not limited to independent producers, refiners, transporters, and wholesale and retail marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions;

(1) the executive departments as defined in section 101 of title 5, United States Code;
(2) Interstate Commerce Commission;
(3) Atomic Energy Commission;
(4) Federal Power Commission;
(5) Federal Trade Commission;
(6) Civil Aeronautics Board; and the
(7) Federal Maritime Commission.

Mr. JOHNSTON. Mr. President, the amendment is acceptable to the committee, and we support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 1, line 16, immediately before "and", insert a comma and the following: "that under any such fuel rationing plan or program, handicapped persons dependent upon private transportation by reason of their handicapped condition shall receive an adequate supply of fuel to meet their business and essential personal activities needs,".

On page 16, line 17, immediately after the period add the following: "As used in the preceding sentence, an individual shall be deemed to be handicapped if he suffers from a medically determinable physical, mental, or developmental condition, by reason of which he is precluded, as a practical matter, from utilizing local public transportation facilities.".

Mr. DOLE. Mr. President, on behalf of myself and the Senator from New York (Mr. Javits), we have been discussing, of course, many aspects of the national energy emergency and the pros and cons of the bill before the Senate. I recognize the difficulty in trying to make special provisions for those who may be handicapped, the elderly, or those who for one reason or another deserve some special classification.

As is well known, many handicapped individuals do not have access to public transportation. The obstacle a bus or train represents to a person bound to a wheelchair, for example, is obvious and needs no elaboration. The need for barrier-free public transportation for the handicapped has been a subject of many discussions. Although progress is being made in this direction, the need exists to insure that during this period of fuel shortage, handicapped people who are unable to use public transportation will receive sufficient fuel to continue using the private transportation necessary for their essential activities.

Furthermore, the lack of fuel for private transportation could represent an undue hardship for many handicapped persons who do not necessarily find barriers in public transportation. An inadequate allotment of fuel could force amputees and similarly handicapped people to walk distances which, though short for able-bodied people, could be impossibly long for the disabled. Handicapped workers hold many important jobs. We must insure that they have sufficient fuel for the transportation necessary in the conduct of their businesses or to get to their places of work.

Handicapped persons also depend upon private transportation more than other people in the conduct of their essential personal affairs. To deny them this conveyance would be an unfair discrimination.

Mr. President, I proposed an amendment to the National Emergency Energy Act of 1973 to insure that under any fuel rationing program, handicapped persons dependent upon private transportation receive an adequate supply of fuel for business and essential personal activities.

Mr. President, I have discussed the amendment with the managers of the bill on both sides. I understand it might not be practical from the standpoint of legislation but I think there is agreement that this group might have special consideration in those plans.

Mr. JOHNSTON. Mr. President, the Senator is correct. It is the intention and the wish of the Committee on Interior and Insular Affairs that handicapped people be granted the highest priority under any rationing system. We did not include it in the legislation because we thought this discussion could be presented to the President, and that we would not try to set out a schedule of priorities of who would be treated in a schedule of priorities in the legislation itself. We suggest that the matter be referred to the President with our very strong request that handicapped people be given the kind of priority that is proposed in the amendment of the Senator from Kansas.

The PRESIDING OFFICER. Is the amendment withdrawn

Mr. DOLE. Yes; Mr. President, with that assurance and, I assume, with the same assurance from the ranking minority member, I withdraw the amendment.

Mr. FANNIN. I am pleased to give that assurance.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. FANNIN. I thank the distinguished Senator from Kansas.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FANNIN. Mr. President, I call up my amendment No. 668.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 20, line 4, insert the following after the word "coal.": "In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal."

Mr. FANNIN. Mr. President, this particular amendment provides that:

In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal.

The reason for the amendment is that combustion turbines cannot be constructed and designed so as to be capable of rapid conversion to burn coal. There is no reason to provide for something that cannot be done in accordance with the goals of this particular legislation, which is an emergency energy bill.

I do feel we must move to coal as rapidly as possible. I feel the amendment is beneficial so far as the legislation is concerned. It is a clarifying amendment which would make it possible to accomplish the objectives that are involved in the provision preceding the amendment.

I trust the manager of the bill will be willing to accept the amendment.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

Mr. FANNIN. I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I also send to the desk for inclusion in the RECORD at this point an appendix describing the contents of the amendment which I have just sent to the desk and which I think will be helpful to the Senate in reviewing this amendment which is currently scheduled to be the first one considered by the Senate on Monday morning. In essence, the amendment is the amendment I offered several days ago with some modifications which make it more consistent with the thrust of the bill as it presently stands.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTENTS OF MATHIAS-ERVIN AMENDMENT IN THE FORM OF A SUBSTITUTE TO SECTION 309 OF S. 2589

1. This amendment would continue to apply the requirements of Section 553 of Title V of the United States Code: the provision of the Administrative Procedures Act governing rulemaking, but would restrict the discretion of the authority implementing the Act to waive those provisions. One of the chief difficulties of our current experience with Section 553 of the Administrative Procedures Act is the wide latitude available for waiving its requirements. Subsection (b) (1) of my proposed amendment would require a minimum of 5 days notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the Act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the Program and those findings would have to be set out in detail. Too often, Federal agencies employ boiler-plate language to waive the requirements of Section 553 of the Administrative Procedures Act because to do so is more convenient. Convenience would not be an adequate standard under my amendment.

2. This amendment provides a mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the state level can be disseminated at that level. While the proposal is unusual in Federal legislation, it is common to many state laws and is, in my judgment, necessary in this case since states and metropolitan areas will be called upon to implement the Federal program.

3. This amendment contains additional hearing requirements not imposed by Section 553 of the Administrative Procedures Act. Subsection (b) (3) of the amendment would require a public hearing on rules, regulations or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

Such hearings would, to the maximum extent practicable, be held prior to the implementation of any rule, regulation, or order. However, where this is not possible, but where the statutory criteria are met, the amendment provides that hearings shall be held no later than sixty (60) days after the implementation of any such rule, regulation, or order. The premise is that review, even after the program is underway, is better than no review at all. This provides a mechanism for modifying measures which may have been taken under emergency circumstances and an opportunity to re-evaluate as soon as possible thereafter. Since the actions that could be taken under the authority of this Act could cause great hardship and destroy businesses, any delay beyond sixty (60) days is not justified.

4. Subsection (c) (1) of the proposed amendment establishes certain requirements suggested by my review of the Cost of Living Council. One of the chief difficulties with the wage/price program is the public's inability to obtain information on the activities of the Cost of Living Council. Similar difficulties can be anticipated with the agencies administering the Energy Act. Subsection (c) requires the publication of all internal rules and guidelines which may form the basis in whole or in part for any rule, regulation or order and prevents the Agency from relying upon or using any such internal rule or guideline that has not been published in support of its action. I believe that the public should be fully apprised of the criteria upon which decisions are being reached and that all such information must be made widely available. Without such a provision, parties who think they might be entitled to an exception or an exemption are at a total loss in reaching their determination about whether to apply. They can have no confidence about the information they submit in support of their petition or in the result of the process, a grant or denial.

Similarly, the Agency should be required to set forth written opinions in support of its grant or denial of petitions in a form that will give them precedential value to apprise the regulated of their rights and obligations, to ensure consistency of decisions, and to limit unfettered Agency discretion.

Subsection (c) (2) adopts the Bentsen Amendment to subsection (b) of Section 309 of the bill as reported. The Bentsen Amendment has been accepted by the Senate.

5. Subsection (d) (1) of my amendment would require findings of fact and a specific statement explaining the rationale for each provision of plans or programs set forth

under the authority granted by this Act. The Government has an obligation to explain the basis of its actions.

6. Subsection (d) (2) of my amendment looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose. The time to begin planning for the future is now and Subsection (d) (2) would build this planning into the current process.

7. Subsection (d) (3) of my amendment would require the preparation of a schedule for implementing the requirements of Section 552 of Title 5 of the United States Code at the outset. Without rapid implementation of these requirements, the Program could quickly become unmanageable. Section 552 is one of the chief vehicles for disseminating information to the public and, in a program as vast in scope as that proposed in S. 2589, the implementation of those provisions deserves special attention.

8. Subsection (d) (4) would require the immediate preparation and publication of definitions of terms used in the Act. Such definitions will be helpful in giving meaning to any terms used in the Act.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF MEASURES ON CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders: Nos. 482, 483, 484, 485, 486, 489, 490, 491 and 493.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTRIBUTIONS TO FEDERAL EMPLOYEES HEALTH INSURANCE

The Senate proceeded to consider the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes, which had been reported from the Committee on Post Office and Civil Service with amendments on page 2, in line 14, strike out "55" and insert in lieu thereof "50"; in line 15, after the word "commencing", strike out "in 1973" and insert "January 1, 1974"; at the end of line 15, strike out "60" and insert "and 55"; in line 16, after the word "Commencing", strike out "in 1974;" and insert in lieu thereof "January 1, 1975."; in line 17, strike out "65 percent for applicable pay periods commencing in 1975; 70 percent for applicable pay periods commencing in 1976; and 75 percent for applicable pay periods commencing in 1977 and in each year thereafter."

On page 4, beginning in line 3, add the following language:

Sec. 4. Section 8901(5) of title 5, United States Code, is amended by striking out "or such an unmarried child regardless of age who is incapable of self-support because of mental or physical disability which existed before age 22;" and inserting in lieu thereof the following: "or such an unmarried child regardless of age, who—

"(i) is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution and receives more than half his support from the employee or annuitant; or

"(ii) is incapable of self-support because of mental or physical disability which existed before age 22.".

On page 4, in line 17, strike out "4" and insert in lieu thereof "5"; in line 19, after the word "after" strike out "the thirtieth day following the date of enactment"; and at the end of line 20, insert "January 1, 1974."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

NOMINATIONS BY DELEGATES FROM GUAM AND THE VIRGIN ISLANDS TO THE SERVICE ACADEMIES

The bill (H.R. 7582) to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies, was considered, ordered to a third reading, read the third time, and passed.

REMOVAL OF ACTIVE DUTY TIME FOR OFFICERS OF THE ARMY AND AIR FORCE FOR TRAINING AT AN EDUCATIONAL INSTITUTION

The bill (H.R. 10366) to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution, was considered, ordered to a third reading, read the third time, and passed.

TRAVEL EXPENSES FOR CERTAIN CREWMEMBERS

The bill (H.R. 10369) to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port, whose dependents are residing at the home port, was considered, ordered to a third reading, read the third time, and passed.

ATTENDANCE OF TWO IRANIAN CITIZENS AT THE U.S. NAVAL ACADEMY

The joint resolution (H.J. Res. 735) authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran, was considered, ordered to a third reading, read the third time, and passed.

FEMALE PARTICIPATION IN THE JUNIOR RESERVE OFFICER TRAINING CORPS PROGRAM

The bill (H.R. 8187) to amend section 2031(b)(1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students, was considered, ordered to a third reading, read the third time, and passed.

INCREASE IN INTEREST ON PERMANENT FUND OF THE U.S. SOLDIERS' AND AIRMEN'S HOME

The Senate proceeded to consider the bill (H.R. 8528) to provide for increasing the amount of interest paid on the permanent fund of the U.S. Soldiers' and Airmen's Home which had been reported from the Committee on Armed Services with an amendment, on page 1, in line 4, strike out "of 3" and insert in lieu thereof "the rate of 3".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

COST-OF-LIVING INCREASES IN PAY AND ALLOWANCES OF CERTAIN OFFICERS OF THE ARMED FORCES AND CERTAIN EMPLOYEES OF THE CENTRAL INTELLIGENCE AGENCY

The bill (S. 2714) to amend section 219(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increase, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) is further amended—

(1) by renumbering paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4) respectively; and

(2) by inserting the following new paragraph (1):

(1) An annuity (except a discontinued service benefit under section 234 (a)) which—

"(i) is payable from the fund to a participant who retires, or to the widow or widower of a deceased participant; and

"(ii) has a commencing date after the effective date of the then last preceding annuity increase under section 291(a);

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under section 291(a). In the administration of this paragraph, a participant or deceased participant shall be deemed, for the purposes of section 221(h), to have to his credit, on the effective date of the then last preceding annuity increase under section 291 (a), a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the Agency.".

(b) The amendments made by subsection (a) shall apply only with respect to annuities which commence on or after July 2, 1973.

SEC. 2. (a) Notwithstanding any other provision of law, effective on the date of enactment of this Act, the pay and allowances of members of the Armed Forces to whom this Act applies shall be increased to amounts equal to the amounts such pay and allowances would have been increased if the pay and allowances of such members had been increased, under section 1401a(b) of title 10, United States Code, by the same percentage rates, consecutively compounded, that the retired pay or retainer pay of members and former members of the Armed Forces entitled to retired pay or retainer pay since October 1, 1967, has been increased, and such member shall, on and after the date of enactment of this Act, have his pay and allowances increased effective the same day and by the same percentage rate that the retired pay or retainer pay of members and former members of the Armed Forces is increased under such section 1401a(b).

(b) This section applies to members of the Armed Forces entitled to pay and allowances under either of the following provisions of law:

(1) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

(2) The Act of September 18, 1950, chapter 952 (64 Stat. A224).

(c) No amounts shall be paid, as the result of the enactment of this section, for any period prior to the date of enactment of this section.

PROGRAM INFORMATION ACT

The bill (S. 928) to create a catalog of Federal assistance program, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Program Information Act".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(a) The term "Federal domestic assistance program" means any activity of a Federal agency which provides assistance or benefits, whether in the United States or abroad, that can be requested or applied for by a State or local government, or any instrumentality thereof, any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government.

(b) A "Federal domestic assistance program" may in practice be called a program, an activity, a service, a project, or some other name regardless of whether it is identified as a separate program by statute or regulation. A program shall be identified in terms of differing legal authority, administering office, funding, financial outlays, purpose, benefits, and beneficiaries.

(c) "Assistance or benefits" includes but is not limited to grants, loans, loan guarantees, scholarships, mortgage loans and insurance, or other types of financial assistance; assistance in the form of provision of Federal facilities, goods, or services; donation or provision of surplus real and personal property; technical assistance and counseling; statistical and other expert information; and service activities of regulatory agencies. "Assistance or benefits" does not include conventional public information services.

(d) "Requested or applied for" means that the potential applicant or beneficiary must initiate the process which will eventually result in the provision of assistance or benefits.

(e) "Administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

EXCLUSION

SEC. 3. This Act does not apply to information specifically required by law or Executive order to be kept secret in the interest of national defense or foreign policy.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM

SEC. 4. The President shall transmit to Congress no later than May 1 of each regular session a catalog of Federal domestic assistance programs, referred to in this Act as "the catalog", in accordance with this Act.

PURPOSE OF CATALOG

SEC. 5. The catalog shall be designed to assist the potential beneficiary to identify all existing Federal domestic assistance programs wherever administered, and shall supply information for each program so that the potential beneficiary can determine whether particular assistance or benefits might be available to him for the purposes he wishes.

REQUIRED PROGRAM INFORMATION

SEC. 6. For each Federal domestic assistance program, the catalog shall—

(1) identify the program, including the name of the program, the authorizing statute, the specific administering office, and a brief description of the program and its objectives;

(2) describe the program structure, including eligibility requirements, formulas governing the distribution of funds, types of assistance or benefits, uses and restrictions on the use of assistance or benefits and obligations and duties of recipients or beneficiaries;

(3) provide financial information, including current authorizations and appropriations of funds, the obligations incurred for past years, the current amount of unobligated balances, and other pertinent financial information;

(4) identify the appropriate administering office to contact, both in central and field offices, including address and telephone number;

(5) provide a general description of the application requirements, processing time requirements, and other pertinent procedural explanations; and

(6) identify closely related programs.

FORM OF CATALOG

SEC. 7. (a) The program information may be set forth in such form as the President may determine, and the catalog may include such other program information and data as in his opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

(b) The catalog shall contain a detailed index designed to assist the potential beneficiary to identify all Federal domestic assistance programs related to a particular need.

(c) The catalog shall be in all respects concise, clear, understandable, and such that it can be easily understood by the potential beneficiary.

QUARTERLY REVISION

SEC. 8. The President shall revise the catalog at no less than quarterly intervals. Each revision—

(1) shall reflect any changes in the program information listed in section 6;

(2) shall further reflect the addition, consolidation, reorganization, or cessation of Federal domestic assistance programs;

(3) shall include such other program information as will provide the most current information on changes in financial information, on changes in organizations administering the Federal domestic assistance programs, and on other changes of direct, immediate relevance to potential program beneficiaries as will most accurately reflect the full scope of Federal domestic assistance programs;

(4) may include such other program information and data as in the President's opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

PUBLICATION AND DISTRIBUTION OF THE CATALOG

SEC. 9. (a) The President (or an official to whom such function is delegated pursuant to section 10 of this Act) shall prepare, publish, and maintain the catalog and shall make such catalog and revisions thereof available to the public at prices approximately equal to the cost in quantities adequate to meet public demand.

(b) There is authorized to be distributed without cost to Members of Congress and Resident Commissioners not to exceed five thousand copies of catalogs and revisions.

(c) There is authorized to be distributed without cost to Federal agencies, State and local repositories not to exceed thirty-five thousand copies of catalogs and revisions as determined by the President or his delegated representative.

(d) The catalog shall be the single authoritative, Government-wide compendium of Federal domestic assistance program information produced by the Government. Specialized catalogs for specific ad hoc purposes may be developed within the framework of, or as a supplement to, the Government-wide compendium and shall be allowed only when specifically authorized and developed within guidelines and criteria to be determined by the President. Federal departments or agencies shall not reprint or reproduce for distribution portions of the catalog without specific permission from the President or his delegate.

(e) Any existing provisions of law requiring the preparation or publication of catalogs are superseded to the extent they may be in conflict with the provisions of this Act.

DELEGATION OF FUNCTIONS

SEC. 10. The President may delegate any function conferred upon him by this Act, including preparation and distribution of the catalog, to the head of any Federal agency, with authority for redelegation as he may deem appropriate.

REQUIREMENT THAT REPRODUCTIONS AND IMITATIONS OF COINS AND POLITICAL ITEMS BE MARKED AS COPIES OR WITH DATE OF MANUFACTURE—H.R. 5777

Mr. ROBERT C. BYRD. Mr. President, I am informed by the distinguished majority leader that the following matter has been cleared on both sides.

I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5777.

The PRESIDING OFFICER (Mr. BENNETT) laid before the Senate the following message:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 5777) entitled "An Act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate recede from its amendments.

The motion was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate resumed the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. TAFT. Mr. President, I offer an amendment to section 303 of the bill, as amended by the Nunn amendment. I call up my amendment No. 663, as modified for consideration.

Mr. ROBERT C. BYRD. Mr. President, what was that request?

The PRESIDING OFFICER. Is this an amendment to the pending measure or to one of the bills we have just passed?

Mr. TAFT. Mr. President, it is an amendment to the pending measure.

The PRESIDING OFFICER. The amendment as modified will be stated.

The second assistant legislative clerk read as follows:

> After section 302(d) add the following:
>
> (D) any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

Mr. TAFT. Mr. President, this amendment I think is a noncontroversial one. It simply expresses a general direction with respect to the small business and retail establishments insofar as the pending bill is concerned.

The PRESIDING OFFICER. The Chair will interrupt the Senator to state that since this is an amendment to an amendment that has already been agreed to, the Senator must have unanimous consent to consider the modification at this time.

Mr. TAFT. Mr. President, I ask unanimous consent that I be permitted to have my amendment considered at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no desire to object but I inquire as to whose amendment this would amend.

Mr. TAFT. This amendment would amend the amendment of the Senator from Georgia (Mr. NUNN).

I also ask unanimous consent that the name of the Senator from Georgia (Mr. NUNN) be listed as a cosponsor of the modification.

Mr. ROBERT C. BYRD. Mr. President, continuing to reserve the right to object, may I ask the distinguished sponsor of the amendment if this request has been cleared with the distinguished junior Senator from Georgia?

Mr. TAFT. The Senator from Georgia requested that he be listed as a cosponsor, and the request has been cleared with the Senator.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, this amendment would add to subsection b. a clause 4. saying: "any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act."

The National Energy Emergency Act of 1973 provides that the rationing and conservation program provided for shall include measures capable of reducing energy consumption in the affected areas by no less than 10 percent within 10 days and by no less than 25 percent within 4 weeks after implementation. Several examples are mentioned, including lighted advertising, and limitations on operating hours of commercial establishments.

In passing judgment on this legislation, it is recognized that there may be hardships during this energy emergency, but with the proper cooperation of State and local governments and the public, hopefully no one sector of the economy will bear a disproportional share of the burden.

The suggestion in this legislation that limitations may be placed on the operating hours of commercial establishments, has caused concern among many owners of small shops and businesses, such as neighborhood grocery stores, which depend largely upon after-hour trade for survival.

The purpose of my amendment, therefore, is to insure that these small businesses be given equal consideration in implementation and administration of the conservation measures to reach our goals. This is not to say that anyone should be totally exempted from cooperation in saving our energy, for we all must work together. However, in implementing the act, it would seem to be possible to avoid causing undue hardship to any one sector of the economy.

This same provision of the bill, cutting back energy consumption by 25 percent within 4 weeks after implementation, raises another question.

Would this provision mean that on-premise identification signs which are electrically lighted would be curtailed by 25 percent? As I understand it, there are two kinds of signs involved in this category. These are fluorescent signs, which are illuminated by fluorescent tubes, similar to those in our offices, and neon signs fed througn current reducing transformers. These signs are important to the retail merchants who are highly dependent upon them. In some cases they take the place of store windows. In others, they identify the location to a motorist moving at 25 or 50 miles an hour on the street or highway. In any event, they are valuable to the storeowners who would be severely hurt if their use were to be curtailed.

I urge that efforts be made in implementation so that the small firm will not bear the burden or discriminatory brunt of the necessary controls on energy usage. In addition, measures should be taken so that possible materials shortages resulting from energy shortages are not proportionately greater for small firms.

Mr. JOHNSTON. Mr. President, I think this is an excellent amendment that significantly improves the bill, and the committee supports the bill.

Mr. FANNIN. Mr. President, I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment as modified is agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. BENNETT). In accordance with the previous order, the Chair now lays before the Senate the amendment of the Senator from Washington (Mr. JACKSON), No. 685, without objection, the text of the amendment will be printed in the RECORD.

The amendment reads as follows:

AMENDMENT NO. 685

Add a new Section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency."

Add a new Section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution and marketing of energy resources."

Add a new Section 312 after line 8, at page 33, as follows, and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement

existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the nation's petroleum system.

(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, defining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

(h) The President is authorized to delegate the authority provided for in section 312(c) and (d) (1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312 (c) and (d).

(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section or (3) subsequent to its expiration or repeal.

(m) (1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to Section 312 to determine compliance with the purposes of Sections 101(h) and 102 (h) of this Act.

(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to implementation of any plan of action voluntary agreement, regulation or order approved under this Act.

(3) Persons implementing any program, plan of action, voluntary agreement, regulation or order approved under this Act will maintain these records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

(n) The exercise of the authority provided in Section 204(b) (1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

ORDER ON SEQUENCE OF VOTES ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any rollcall votes demanded on Monday next, prior to the hour of 1 p.m., not occur until the hour of 1 p.m., and that, beginning at the hour of 1 p.m., any amendments on which yea-and-nay votes have been demanded, and for which demands have been sustained, then he voted on in sequence, back to back, in the order in which the amendments were called up; and that time on any rollcall vote after the first rollcall vote on Monday be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet on Monday at 9 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Colorado (Mr. HASKELL) will be recognized for a colloquy between himself and the distinguished manager of the bill (Mr. JACKSON). There is a 10-minute limitation on that colloquy by virtue of the order previously entered.

Following that, the distinguished Senator from Maryland (Mr. MATHIAS) will call up an amendment upon which there is a 30-minute limitation, upon the disposition of which the distinguished senior Senator from New York (Mr. JAVITS) will call up an amendment on which there is a 20-minute limitation, following which the distinguished Senator from North Carolina (Mr. HELMS) will call up an amendment on which there is a 40-minute limitation, after which the distinguished Senator from Wyoming (Mr. HANSEN) will call up an amendment upon which there is a 20-minute limitation, after which, under the order previously entered, the distinguished Senator from Arizona (Mr. FANNIN) may call up as many as five amendments with a 10-minute limitation on each.

May I ask the Senator if either of the amendments he called up this afternoon was from that block of five amendments?

Mr. FANNIN. No. To explain it, I talked with the majority leader and told him they were not. It was his understanding and my understanding that they would not count against the five.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. If I may proceed shortly, I shall be delighted to yield.

Following the amendments to be called up by Mr. FANNIN on Monday, the antitrust amendment, which is to be the pending amendment at the close of business today, will again be placed before the Senate, and action thereon will be resumed, with a time limitation thereon of 40 minutes. A vote will occur on the bill at no later than 5 p.m. on Monday.

I now yield to the able Senator from Indiana.

Mr. BAYH. Mr. President, I would like to ask my good friend from West Virginia if it would be possible for the Senator from Indiana to have his name added to the pecking order the Senator has just stated, to call up an amendment which he has just introduced, with a 20-minute time limitation thereon.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Arizona, one of the managers of the bill, may wish to speak to this request.

Mr. FANNIN. Is the Senator just requesting that his name be added as a cosponsor?

Mr. ROBERT C. BYRD. No, the Senator from Indiana is requesting that on Monday he be permitted to call up an amendment following the antitrust amendment, and that there be a time limitation thereon of 20 minutes.

Mr. FANNIN. If that is possible, we will certainly attempt to accommodate the distinguished Senator from Indiana. As the distinguished assistant majority leader knows, we do have a number of amendments, with the time for the vote set. So as far as the time is concerned, I do not want to speak on that, but the Senator may certainly call up an amendment as far as the Senator from Arizona is concerned.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on disposition of the antitrust amendment on Monday next, the distinguished Senator from Indiana (Mr. BAYH) be recognized to call up an amendment, which he has just discussed with the manager of the bill on the other side of the aisle, the Senator from Arizona (Mr. FANNIN), and that there be a time limitation thereon of 10 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in summation, there will be several yea-and-nay votes on Monday. The Senate will complete action on the energy bill on Monday.

On Tuesday, the distinguished majority leader has already indicated that the military construction appropriation bill will be called up. Undoubtedly there will be a yea-and-nay vote on the passage of that bill, with rollcall votes occurring on amendments thereto.

Conference reports, being privileged matters, may be called up at any time. Other measures on the calendar cleared for action may also be called up, and votes could occur thereon.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 9 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. on Monday next.

The motion was agreed to, and, at 5:05 p.m., the Senate adjourned until Monday, November 19, 1973, at 9 a.m.

EXTENSIONS OF REMARKS

MOUNTAIN HOME POLICE COOPERATE

HON. FRANK CHURCH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Friday, November 16, 1973

Mr. CHURCH. Mr. President, although we had known that we were facing an energy shortage this winter, we had little advance warning that events would make that shortage as severe as what we now face.

As Americans, we have had to look hastily toward emergency measures which conserve energy and might, in turn, help us through the winter. This Nation has seen other shortages and other crises. It is clear that America is again ready to meet the challenge—individually and collectively—of the energy crisis.

I know, through my mail and through phone calls and telegrams to my office, that the citizens of Idaho are willing to do our share in the conservation of scarce energy supplies.

While we in Congress are working on programs to reduce the Nation's energy demand, I think it is fitting to note that many Americans have already taken steps to conserve available supplies.

Mr. President, I recently received a letter from Mr. Nelson H. Olds, Jr., chief of police at Mountain Home, Idaho. In his letter, Chief Olds described a directive issued to all members of the Mountain Home Police Department which is aimed at meeting the energy challenge. That directive graphically illustrates what can be done by individuals and small groups to help conserve energy. The directive also addresses itself to the importance of smaller groups in our total energy conservation plan.

Mr. President, I ask unanimous consent that Chief Olds' letter and a copy of his directive be inserted in the Extensions of Remarks.

There being no objection, the letter and directive were ordered to be printed in the RECORD, as follows:

MOUNTAIN HOME, IDAHO,
November 8, 1973.

FRANK CHURCH,
Senate Office Building,
Washington, D.C.

SIR: Enclosed is a copy of the directive issued in this Department in compliance with the energy cutback, requested by the President in his address to the Nation of November 7, 1973.

Although, as stated in the directive, we are but a small part of this Nation, we believe every little bit helps.

In support of the request we wish to take this opportunity to request your legislative support.

Very truly yours,
NELSON H. OLDS, Jr.
Chief of Police.

MOUNTAIN HOME, IDAHO,
November 8, 1973.

To All Police Personnel.
From Chief of Police.
Re Cut back in energy.

Beginning today the Police Department will honor President Nixon's request for the reduction in the use of electric lights—heat and a reduction in speed in the use of city vehicles.

It is ordered that all areas not being used will have the lights turned off except for a minimum of lighting for travel throughout the building. All external doors are to be kept closed. When coming into and from the building the front main entrance or rear entrance will be used. No further travel will be permitted through the garage overhead door except in cases of transporting prisoners or vehicle maintainance.

When the need arises for a city vehicle to leave the city on approved transportation, the speed will not exceed fifty (50) miles per hour, other than in the cases of emergencies.

We are but a small part of this Nation, however we shall do our part. Your cooperation is necessary and greatly appreciated.

FUEL CONSERVATION POLICY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. ASPIN. Mr. Speaker, as everyone is aware, all Americans have been asked to do their share to help alleviate our current energy crisis. A high school in my congressional district, Union High School, enacted their own fuel conservation policy even before the President requested the Nation to join in this effort. I think that they have drawn up a very practical and easily implemented plan. I would like to share this plan with my colleagues in the hope that it may serve as a model for schools all over the country:

FUEL CONSERVATION POLICY

Every responsible authority indicates that the shortage of heating oil during the 1973-74 heating season will reach crisis proportions. In order that available supplies of fuel may be conserved to provide adequate heat to fulfill the primary function of the school, the Union High School Board of Education considers the following steps essential:

(a) Immediately:

1. Reduce the average temperature in the building by 4°.

2. Eliminate as much nonschool and nonessential use of the building during the evening and weekend periods as possible.

3. Maintain and keep clean to the greatest

extent possible the heating and ventilating equipment.

4. Close and seal, wherever possible, windows, doors, ventilators, etc. which may be a source either of cold air entry or heat loss.

5. Have Johnson Control service and repair heat control units to assure maximum efficiency.

(b) Beginning January 1, 1974:

1. Reduce night and weekend temperatures by 5° to 8° when not being used for scheduled school activities.

2. Eliminate all nonschool and nonessential use of the building after 4:00 P.M. each school day.

3. Eliminate all nonschool and nonessential use of the building on weekends and during vacation periods. Use of the building may be permitted to nonschool groups during these times if they are willing to use it at the reduced temperatures prevailing.

4. Keep outside doors and windows closed as much as possible.

(c) Additional steps as may be dictated by the fuel supply situation:

1. Eliminate all use of the building after 6:00 P.M.

2. Eliminate all after school use of the building.

MAKE 911 NATIONAL EMERGENCY TELEPHONE NUMBER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, many of us under one form of duress or another have tried to dial a telephone number only to find that our fingers or our memory would not cooperate.

This affliction although momentary can be of critical importance if we are trying to summon a doctor or the police because of an emergency.

I have yet to find a convincing argument against making the No. 911 an emergency telephone number, throughout the Nation.

Many communities now use 911 as a central number for police, fire, and hospital calls.

It has the convenience of being only three digits instead of seven, easily remembered, and in the case of a blind person, easily dialed because of the digital placement on the dialing mechanism.

One of the very first bills I introduced this session was H.R. 1308, a bill to make 911 the central emergency dialing number for the entire country.

KDKA-TV in Pittsburgh recently editorialized about the virtue of creating such a system. I include that editorial in the RECROD at this time for the information of my colleagues.

The editorial follows:

BROADCAST

For many years agencies concerned with public safety in this country have seen the need for one single, common emergency phone number. Slightly over five years ago, local phone companies suggested that one, easy-to-remember number could be established throughout the country. All *emergency* calls for police, fire or ambulance service, it was then decided, would be reached by dialing nine-one-one.

Nine-one-one has been adopted in many regions of the nation. About one-eighth of our total population is now being served by this emergency number. In Pittsburgh, we are not.

London, England, one of the world's largest cities has had such a three digit number for many, many years. It has worked very well. In this country, cities like New York, Boston and Washington, D.C., have adopted nine-one-one as their emergency number—and it has saved lives. The California state legislature has passed a law which requires all telephones in that state to be served with the emergency number by 1982.

The Allegheny County Commissioners have unanimously agreed to investigate the practicality of using nine-one-one here. It sometimes seems to take an incredibly long time in Pittsburgh to study things and get moving. We hope this will not be the case in this instance. Many people do not know it, but Tarentum, in the north-east corner of the county, and eight adjoining communities as well, already have the nine-one-one system. Butler to the north, is also using it.

We recognize that there may be equipment and cost problems, but the phone company assures us that these can be solved. The only major problem that may be time consuming is cooperation, getting the more than 100 separate municipalities in this area to work together. This *should* not be a problem; and it won't be if the public—meaning *you*—really sees the need for such an emergency number—and requests local officials to adopt nine-one-one.

JAMES J. ROWLEY RETIRES AFTER 35 YEARS OF SERVICE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. CONTE. Mr. Speaker, throughout my 15 years as a Member of Congress, I have met many capable and hard-working Federal officials. It is rare good fortune, however, when the Government secures the remarkable talents and outstanding ability of a man of as high a caliber as James J. Rowley, who has recently retired as Director of the U.S. Secret Service.

Jim Rowley, who carried his star-shaped badge for more than 35 years, possessed a matchless capacity for dynamic and creative leadership. He demonstrated a unique combination of professional excellence, selfless dedication, and overwhelming competence. His grasp of the complexities of the difficult tasks which confront and challenge the Secret Service on a daily basis was all-inclusive. His departure from Federal services leaves a void which will be hard to fill.

Jim joined the Secret Service in 1938, after serving as a special agent in the FBI for a year. After serving a year in the New York office, his skill and good judgment earned him a transfer to the most prestigious and most crucial duty performed by the Secret Service—the protection of the President.

Throughout World War II, Jim Rowley's responsibilities included not only the protection of President Roosevelt during his numerous trips in this country, but also involved the painstaking security precautions necessary for the President's trips to Casablanca, Tunis, Cairo, Tehran, and Yalta. These trips, which were necessary for the safety of the world, were also fraught with danger for the President, whose life it was Jim Rowley's duty to protect.

Having fulfilled these responsibilities with such distinction for 8 years, Jim Rowley was named special agent in charge of the protection of the President in 1947. Under President Truman, Jim was in charge of the advance detail which made arrangements for the President's Potsdam Conference. He was also responsible for the President's life that day in 1950 when an assassination attempt was made at Blair House by a small group of Puerto Rican nationalists. In addition, Jim accompanied Dwight Eisenhower on his trip to Korea.

On September 1, 1961, Jim Rowley was named by President Kennedy to be Director of the Secret Service. Following the death of the President 2 years later, Jim initiated an extensive reorganization program and greatly expanded the role of the Secret Service. Now, in addition to protecting the President, Vice President, and their families, the Secret Service also protects foreign dignitaries and Presidential candidates as well as continuing to seek out counterfeiters of currency and forgers of Government securities. As Director, Jim was instrumental in the creation of a consolidated Federal Law Enforcement Training Center, and he established the Executive Protective Service.

In 1963, Jim was recognized by the National Civil Service League as the Outstanding Federal Government Employee, and in 1968, he received both the U.S. Treasury Exceptional Service Award and the Presidential Distinguished Federal Civilian Service Award. This recognition was greatly deserved.

In my years on the Treasury and Post Office Appropriations Subcommittee, I was privileged to work closely with Jim Rowley.

It is with deep regret that I see Jim Rowley step down as Director of the Secret Service. It was a post which he filled under six Presidents with distinction and honor. I wish him the best of luck as he leaves the service of our Government.

HOUSE RESOLUTION 11459

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. NIX. Mr. Speaker, I wish to have the RECORD show that I would not make a statement on the above-mentioned legislation in view of the statement that the Honorable ROBERT SIKES made during the debate. That statement in essence, assured the members of the Philadelphia delegation that he would recommend that a new look be given to the proposal to remove the installation from Philadelphia to Albany, Ga.

Because of my reliance on that statement, I refrained from making any remarks on that statement:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 15, 1973.

Re Hon. Barrett's amendment to H.R. 11459.

HON. ROBERT F. L. SIKES,

Chairman, Subcommittee on Military Construction, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: As you know, I supported and voted for the above mentioned Amendment offered by my colleague and friend Bill Barrett.

I would have taken the Floor in support of this Amendment but refrained from doing so after listening to your statement in answer to the initial presentation by Congressman Barrett in which you stated, among other things, that your Committee would take another look at the facts and figures offered in support of the proposed removal of the installation from Philadelphia to Albany, Georgia.

I have checked the Congressional Record and I find that the language to which I refer has been deleted, but I am confident that you will remember the statement referred to.

It would be very much appreciated if you would set a time and place so that Congressman Barrett and the other area Congressmen may have an opportunity to sit down and talk this matter over.

On this occasion, I will be particularly anxious to furnish actual proof that will controvert the assertions made by the Army.

Cordially yours,

Robert N. C. Nix,
Member of Congress.

U.S.S. "TICONDEROGA"

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BOB WILSON. Mr. Speaker, tomorrow the U.S.S. *Ticonderoga,* the antisubmarine warfare aircraft carrier, will be decommissioned in San Diego ending nearly 30 years of dedicated service. Her years of duty to America ranged from distinguished action in the Pacific theater of World War II to the recovery of Apollo 17 astronauts last December. Thousands of Americans have valiantly served aboard this proud aircraft carrier throughout her years and today I ask that all of us take a moment to recognize their service to country in this final tribute to a great ship.

Commanded by Capt. George W. Bruce, who began his naval career in San Diego in 1952, the *Ticonderoga* has carried on the finest traditions of the U.S. Navy. Its name is a richly historical one and I include the following history of *Ticonderoga* in the Record, which I know our colleagues will find of interest:

History of Ticonderoga

The name Ticonderoga is richly steeped in American history. Long before the American Revolutionary War, French and English pioneers penetrated the wilderness of what is now upper New York State. They discovered an excellent portage between Lake George and Lake Champlain. Iroquois Indians had named the spot Ticonderoga, which means "place where the lake shuts itself." French forces in 1757 built a fort there because it offered an ideal strategic spot from which to control the surrounding waterways. They called it Carillion.

In 1759, the British captured the fort from the French and renamed it Ticonderoga. In 1775, during the Revolutionary War, Ethan Allen, Benedict Arnold and 83 Green Mountain Boys surprised the defending British garrison and captured Fort Ticonderoga in the name of the "Great Jehova and the Continental Congress." The guns, ammunition and heavy cannon which they captured assisted the American Army at the siege of Boston.

The first American ship to be named *Ticonderoga* was a 120-foot schooner built in 1814. Purchased for $12,000 by the Navy for the War of 1812, the vessel participated in the Battle of Lake Champlain on September 11, 1814. With her guns and 100 officers and men she aided in the defeat of the British Sloop *Finch*.

The second *Ticonderoga* was a barkentine-rigged steam-powered sloop-of-war. She was commissioned on May 12, 1863 and served the Union during and after the war. Her contributions included the protection of commerce in the Caribbean Sea, the bombardment of Fort Fisher in North Carolina, and the protection of American fishing rights off the New England coast. After the war, *Ticonderoga* became the first American steam-powered warship to circumnavigate the globe. The voyage lasted from December 1878 to August 1881. Afterwards she was decommissioned and sold. The second *Ticonderoga* was 237 feet long and was armed with 14 various sized guns.

The third American ship to be named after the fort was the interned German freighter SS *Camilla Rickmers*. She was outfitted, manned by a Navy crew, renamed *Ticonderoga,* and on January 5, 1918, was commissioned. She was used in convoys running supplies to France for World War I troops. On her fourth crossing she was attacked by the German Submarine U-152. She finally succumbed to shelling and torpedoing on September 30, 1918. Only 16 persons survived. She was 401 feet long and had two medium sized guns for protection.

The aircraft carrier is the most recent in the *Ticonderoga* line. She was the tenth *Essex* Class Carrier built. Her keel was laid February 1, 1943, in Newport News, Va., and she was first commissioned on May 8, 1944.

Ticonderoga steamed into the Pacific Theater of World War II and for three months was highly active in the destruction of Japanese ships and airfields in and around the Philippines. Then on January 21, 1945, in the South China Sea, while enroute to attack Formosa, *Ticonderoga* was attacked without warning by a suicide plane that dove out of the sun and clouds. The kamikaze crashed into the ship's flight deck aft of her Number 1 elevator and the bomb it carried went off just above the hangar deck, setting fire to many planes as well as killing and wounding about 100 men. Though many were trapped and seriously burned in the galley deck spaces, all the pilots were safely evacuated without casualties.

Ticonderoga flaming and with smoke rising hundreds of feet high, was apparently considered an easy target as suicide planes attacked in succession. Three were downed by the carrier's gunners, but despite their defense, a second kamikaze, hit many times in the air, struck the carrier on the side of the island structure starting several fires. The second plane's bomb exploded just inboard of the island, fired planes, ripped holes in the flight deck and killed or wounded some 100 men. Captain Dixie Kiefer, though wounded, remained on the bridge until he was sure all injured men had been cared for. He would not be evacuated to sickbay until twelve hours after the attack.

After two months of extensive repairs, *Ticonderoga* was back in action for the remaining five months of the war. She was kept busy attacking Japanese held islands, supporting Allied forces ashore, and destroying enemy shipping.

The fighting "T" ended her Pacific campaigning in World War II with an outstanding array of awards. She received five Battle Stars for the Western Caroline Islands, Leyte, Luzon and Okinawa operations, and for the Third Fleet Operations against Japan. In addition, she won the Navy Occupation Medal (Asia) and the Philippine Republic Presidential Unit Badge.

For five months after the war, *Ticonderoga* was one of the ships used to return veterans to the United States from Pacific battlegrounds as part of the transportation service known as the "Magic Carpet" Operation.

In January 1947, she was placed in the Bremerton Group of Inactive Reserve Ships. Brought out of the reserve in 1952, *Ticonderoga* was placed in reduced commission for conversion that included steam driven catapults to launch modern jet aircraft, a nylon barricade, a deck edge elevator, a streamline island, and the latest in electronic and fire control equipment.

After two years in the yards, *Ticonderoga* was recommissioned in 1954, and then participated in fleet exercises along the East Coast and in the Mediterranean. She returned from the Mediterranean in August 1956, and entered the Norfolk Naval Shipyard for conversion that included installation of an angled deck and enclosed hurricane bow. After her yard work was completed, *Ticonderoga* again headed for the Pacific.

During five peace-time cruises to the Far East the ship earned the Battle Efficiency "E" for 1960, 1961, and 1962. She also received Efficiency Awards for her outstanding performance in the Communications, Operations, Weapons and Engineering Departments.

In August 1964, during her sixth Far East deployment, *Ticonderoga* sent air support to the USS *Maddox* and the USS *C. Turner Joy* which were under attack by North Vietnamese torpedo boats in the Gulf of Tonkin. Shortly afterwards, *Ticonderoga* began the first strikes against bases in North Vietnam. For fast action support of the *Maddox* and *C. Turner Joy, Ticonderoga* received the Navy Unit Commendation.

Ticonderoga finished her 1964 deployment and returned to San Francisco Naval Shipyard for repairs. In September 1965, she sailed for combat operations in the Tonkin Gulf. During five at-sea periods on the line in six months, she did not miss one day of scheduled operations. Her aircraft destroyed or severely damaged more than 2,000 military and logistic structures and 35 major bridges. She returned from the Western Pacific in May 1966.

Ticondeoga's next deployment lasted from October 1966 to May 1967. She won a second Navy Unit Commendation for the high performance of her crew under combat conditions. During four combat periods on the line in six months her pilots destroyed 1,300 strategic military targets in North Vietnam. These included major attacks on the Haiphong thermal-power and cement plants. After she returned to San Diego, she received orders to Bremerton, Washington for yard work. *Ticonderoga* embarked hundreds of members of the crew's families for the *"Tico Trek,"* a three-day trip to Bremerton.

When the yard work and refresher training were completed, *Ticonderoga* again deployed to the Far East in December 1967. During this deployment *Ticonderoga* and the embarked Carrier Air Wing achieved a number of firsts. She made more than 16,500 launches with her catapults in 120 days of action. This is a record for *Ticonderoga* performances On two days she launched more than 170 aircraft with a record of 175. Once she hurled 20 A-4 attack jets from her deck in under eight minutes. This averages six seconds per shot faster than what is considered outstanding. Commander Samuel Chessman became the holder of the record of the most combat strikes flown over North Vietnam when he flew his 30th. Lieutenant Commander John Nichols became the first and only *Ticonderoga* pilot to shoot down an enemy MIG fighter plane.

Pilots of the Air Wing dropped 9,600 tons of ordnance which topped the previous deployment by 300 tons. The bombs destroyed or damaged 119 bridges, 118 truck parks, 424 barges, 28 radar sites, and many other targets. For this fourth combat mission to Vietnam, *Ticonderoga* was awarded a third Naval Unit Commendation.

On August 17, 1968 *Ticonderoga* returned to her homeport of San Diego. One week later she sailed for Long Beach, California for two months of repairs and refurbishing before returning to San Diego for refresher training.

On February 1, 1969, *Ticonderoga* left San Diego for her tenth Western Pacific deployment. In early March her Air Wing pilots began flying strikes in support of friendly forces in the Republic of Vietnam. Prior to starting her third line period on Yankee Station the ship celebrated her 25th year with the fleet on May 8th while in Subic Bay, Republic of the Philippines. Upon her return to the U.S., the Secretary of the Navy awarded the veteran the Meritorious Unit Commendation.

In mid-October, the carrier shifted her homeport from San Diego to Long Beach. At the same time, *Ticonderoga* was designated an Anti-Submarine Warfare Support (ASW) carrier. Upon arrival in Long Beach she entered the Naval Shipyard there and began an eight-month yard period for regular overhaul and physical conversion to an ASW carrier.

On April 1, 1970 it was announced by the CNO that *Ticonderoga* would shift her homeport from Long Beach to San Diego in July 1970. After changing homeports in July, *Ticonderoga* began underway training in preparation for still another proposed WESTPAC cruise for 1971. In January, *Ticonderoga* deployed for one month to Hawaii to participate in a Pacific training exercise.

In March 1971, she began a four-month deployment which would take her to the Indian Ocean, Tonkin Gulf, Philippine Sea and Sea of Japan to test anti-submarine warfare equipment and techniques. In the Sea of Japan, she participated in anti-submarine exercises with the Japanese Maritime Self Defense Force, then returned to San Diego in early July.

Ticonderoga then resumed training exercises in the Eastern and mid-Pacific areas which included a major ASW exercise with Canadian, Australian and New Zealand naval units in the Hawaiian area. This exercise was called RIMPAC 71.

On March 23, 1972 *Ticonderoga* sailed for the South Pacific as the Prime Recovery Ship for the Apollo 16 Lunar Landing Mission. Weeks of intensive preparation resulted in one of the most accurate and quickest recoveries in the history of the space program. On April 27, Astronaut John W. Young, Thomas K. Mattingly and Charles M. Duke, Jr. were brought safely aboard *Ticonderoga* after their historic 11 day journey to the moon.

Ticonderoga arrived back in San Diego on May 5. Twelve days later she was departing for another cruise—this time to the Western Pacific for anti-submarine warfare support operations in Southeast Asia. During her overseas deployment *Ticonderoga* made brief stops at Hawaii and Guam before visiting Subic Bay in the Philippines, Sasebo and Yokosuka, Japan.

On July 31, *Ticonderoga* pulled into San Diego harbor from her 2½ month WestPac deployment. One month later *Ticonderoga* again headed west for a unique trip to Hawaii. Exercise RIMPAC 72, an international anti-submarine warfare exercise with the Navies of Australia, Canada and New Zealand was conducted during September.

The cruise was unique in that guests of the ship's crew were allowed to make the journey to Hawaii. Fifty-five guests were instructed in shipboard routine and drills, and witnessed air operations, gunnery and replenishment evolutions.

Ticonderoga returned to her homeport on September 26th to spend a month in preparation for another ASW exercise, UPTIDE IIIB,, and the recovery of the Apollo 17 Astronauts in December.

UPTIDE IIIB, a ten day ASW exercise with units of the Pacific Fleet was held in Southern California waters from October 30–November 8. On 24 November, *Ticonderoga* sailed for Hawaii and then the American Samoan recovery area of the Apollo 17 Lunar Mission. On December 19th, she added another page to her long history by recovering Astronauts Eugene V. Cernan, Ronald E. Evans, and Harrison H. Schmitt, Americans final scheduled mission to the moon.

The first three months of 1973 again found *TICO* providing the needed deck time for carrier qualifications. During the ten day at sea periods each month, *TICO* logged 3,985 arrested landings, while working with 397 pilots from over 23 squadrons with eight different types of aircraft. In March it was announced *Ticonderoga* had won the Battle "E" for the first time since converting to a CVS in 1969.

In early January 1973, the Chief of Naval Operations announced that *Ticonderoga* would be decommissioned. Before that fateful event however, she was tasked as the first Primary Recovery Ship of America's newest space exploration series . . . SKYLAB . . . which she accomplished by retrieving the SKYLAB II Astronauts Conrad, Kerwin, and Weitz from the Pacific Ocean on 22 June 1973, 750 miles Southwest of San Diego. Upon her return to San Diego on 24 June 1973, she began preparations for decommissioning; a major task with a reduced crew, which is finalized with this ceremony today.

A ship that has known the inflictions of war and the glory of victory is being laid to rest with the dignity and honor which she so justly deserves for her three decades of service. She was born of metal with the efforts and sweat of man but never knew defeat at the hands of man; only at the hands of time and strenuous service.

COMMUNITY MENTAL HEALTH AMENDMENTS OF 1973 INTRODUCED

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. HEINZ. Mr. Speaker, today, with my colleague and distinguished chairman of the House Public Health Subcommittee, Paul Rogers, I am sponsoring legislation to revise and extend a highly successful Federal program—the Community Mental Health Centers Act.

As my colleagues are of course aware, the administration is proposing to terminate the Federal CMHC program, as well as many other health care programs, on the assumption that the Federal Government can no longer afford to foot the bill. Last June the Congress extended the CMHC act for 1 year, along with many other health programs to give us time to examine these programs carefully and determine the best course of action. This bill is a result of a careful look at the CMHC program and I believe when the facts are examined closely my colleagues will agree with me that we cannot afford not to foot the bill for community mental health centers.

The CMHC program has resulted in the establishment of 392 fully operational community mental health centers which provide comprehensive mental health services to a specified geographic area, termed catchment area. Another 48 agencies have received Federal grants under the program, but are not yet operational. Under the original CMHC act, seed money has been made available for a 8-year period to enable centers to get off the ground. Our experience with the program indicates that many centers can become fully self-supporting at the end of this 8-year period, but that many others cannot unless they were to cut back on services to their community.

Community care for the mentally ill has proved highly successful. The population in our large—often dingy and outdated—State mental hospitals has been cut in half since 1957, largely as a result of the Federal program. There is example after example that in an area served by a federally funded center operating for 3 or more years, the number of persons admitted to a State mental hospital is dramatically lower than in other areas. In those areas served by a Federal CMHC treatment is always readily available close to the patient's home. The great majority of CMHC patients can continue to work and be productive members of society while under care. This not only saves the tax payer money; but makes rehabilitation that much easier.

Indeed in proposing the termination of Federal support the administration has stressed the success of community care, and the need to continue community mental health centers. The administration views the CMHC program as a demonstration of the effectiveness and workability of community mental health care, yet now proposes to abandon the roughly 900 catchment areas in the country which have no federally funded CMHC. Administration officials have even called the program "inequitable" because "people served by the federally funded centers receive better care than the rest of the Nation."

At the very same time, however, the administration is proposing that we begin to initiate a system of national health insurance to provide every American with the resources to enable him to receive all necessary health care regardless of cost. Although there are many different proposals in the Congress on how to finance and operate such a system they all share one common problem—they will be highly inflationary if we do not build in assurances that the most economical and effective treatment is available. We are all too familiar with the problems which have arisen in the medicare program, where costs to the Federal Government have escalated, but older Americans still pay about the same percentage of their income for health care as they did prior to enactment of the program. In enacting national health insurance we must learn from this experience. We need a system of care before we invest more private and Federal dollars in health delivery services.

This bill is designed to do two things. First, it would improve the Federal CMHC program by making very specific requirements of all centers, which I will explain in more detail shortly. Second, it is designed specifically to insure that once a system of national health insurance is available, we will have in the mental health area a fully comprehensive system of care with built-in cost and quality control mechanisms, with a full range of services readily accessible to all which is linked—to the maximum extent possible—with other health and social service agencies in the community, and which offers both active treatment and preventive services. In this way, I believe we can build a cost-efficient mental health care system, which is responsive to our needs and which provides the most effective treatment to all our citizens.

We have examined the operation of the CMHC program very closely. Although the system is, as the administration has stated, workable and effective, there are clearly some areas which need improvement. Some centers have been more innovative than others, some provide far more comprehensive services, some have made great efforts to integrate their program with the existing State mental hospital system and other health care agencies; some have not.

The bill we are introducing today, then, builds upon the experience gained in these centers over the last 10 years or so, to insure that centers funded from now on will be as good as we can make them.

First, the bill defines for the first time in very specific language what a community mental health center should be. It requires a program responsive to the community's needs, a system for peer review, coordination with the State mental hospital system, health maintenance organizations, the courts, the police department and other health and social services agencies and much more.

Second, to agencies which meet the required definitions in the bill short-term Federal operating support—5 years for most centers, and 8 years for centers serving poverty areas—that is initial operation grants, would be available. These grants are seed money, to assist the centers in their first years of operation, before they can generate significant revenue from other sources, particularly third party payments and fees. It is anticipated that many, perhaps most, of these centers could become fully self-supporting even without a system of national health insurance.

Third, Federal financial assistance would be available for acquisition and renovation of facilities. Previously, the law provided funds for construction of facilities, but we believe that most centers could make more use of existing facilities in their area.

Some centers have made a point of acquiring existing buildings in their community—store fronts and other highly visible facilities. This is both far less expensive, and often less forbidding to the patient than a large brand new building. This bill, based on the experience of these centers, requires all centers to acquire existing facilities, rather than build new facilities wherever feasible. In those areas where the Secretary determines there is no alternative, new construction would still be funded under this bill.

Fourth, the bill requires all CMHCs to provide specialized and comprehensive programs for children, the elderly, alcoholics and drug addicts in order to receive any support under the operational grant program. Under the current law these programs are encouraged through special categorial grants. Once again, some centers have made great efforts to provide such services, but many are falling short in one or more of these areas. This bill could very significantly improve services to these groups and particularly to children and elderly persons, while reducing large amounts of costly red tape.

Fifth, a program of Federal capitation support and matching for fees received for consultation and education programs is included. Each CMHC which has received a Federal operating grant under this bill or staffing grant under the current law would be eligible beginning in the last year of their grant for a capitation payment for consultation and education services. In addition, an incentive grant would provide matching for revenue from consultation and education services which the center is able to generate by selling its C&E services to other agencies in the community. These programs reach into the school systems, the courts, the police departments and other agencies which have contact with members of the public in order to enable agency personnel to identify and better handle mental health problems themselves, and to educate them about the CMHC's services. These are a vital part of the CMHC program, and one which it is hard for the center to finance from non-Federal services.

Sixth, for already existing centers which are unable to continue to provide comprehensive services without Federal assistance, the bill provides for special financial distress grants. We feel that it is imperative to keep these centers operating, and providing all of the services needed by their community, until such time as a system of national health insurance becomes operational. There are a number of existing centers—most in poverty areas—which would not be able to continue were Federal support to be cut off completely. We cannot afford to be so shortsighted as to let this happen. Despite HEW assurances there is simply no evidence to support their contention that States and localities will provide the necessary funding in all the necessary instances.

In conclusion, I want to stress that this bill is not merely a continuation of an existing categorical grant program which has had limited success. The CMHC Act has been amazingly successful. It is encouraging a comprehensive system of care for the mentally ill—an essential first step before we provide national health insurance. It has resulted in highly innovative and very successful programs which, as can be clearly demonstrated, have saved the tax payer money. We simply cannot afford to toss the program aside and turn the clock back more than a decade in the hopes that states and localities will now support the development of CMHCs. The ten percent of our population estimated to be in need of mental health care in any one year deserve better than that. It is my hope that the bill we have introduced today will meet the aspirations of the American people for a responsible approach to public health, and that, building upon the experience of the past, we can construct a sounder, better managed and superior community mental health program for all Americans.

ANOTHER VIEW ON METRIC CONVERSION

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. HANNA. Mr. Speaker, presently pending before the Rules Committee is a bill dealing with conversion to the metric system of measurement by the United States. Many voices have been raised in opposition to this measure because of the costs seen to be involved in conversion, especially for the laborer.

However, the thrust of the bill is to encourage on a voluntary basis what must ultimately happen if we are to move forcefully into the world market. As our participation in the world marketplace expands, the need for standardization of measurements will become more and more necessary. The early need for such a move on our part should not be underestimated.

Following is an article which appeared in the November/December issue of Pacific Business which indicates there are certain immediate economic benefits which may result from conversion that should be considered. I commend the article to my colleagues:

METRIC SYSTEM—MINIMIZING THE COST OF CONVERSION

(By John Nast)

A major problem confronting many American industries as the United States prepares to go metric is how can the cost of the metric conversion be minimized? British experience clearly indicates that more than enough dollars can be saved by taking full advantage of the opportunities of metrication to offset the direct cost of conversion.

The official policy of the British program on cost conversion was to "let costs lie where they fall." A most surprising fact is that most cost studies of company conversion programs demonstrated a significant savings within five to ten years of the changeover. The inherent opportunities of metric conversion were plainly set forth in a paper presented by L. Summer to the American Ordinance Association, Engineering Data Management Section, May, 1971. Mr. Sumner was then Deputy Director of Standardization for the British Ministry of Defense. He cited examples where application of the principles of standardization and an industrial engineering approach known as Group Technology provided significant increases in productivity. In some cases, the increases were as much as 400 to 500%.

Many British advocate the philosophy that metrication offers the best opportunity since the industrial revolution to review industrial practices and standards and make a fresh start. The disruption caused by changing standards and introducing new products provides an opportunity to streamline procedures and implement cost savings throughout industry.

One area of greatest potential savings is standardization itself. This includes consideration of the application of standardization principles to product design and changes of engineering standards.

PRODUCT DESIGN STANDARDIZATION

Among the fundamental principles of standardization is variety reduction or rationalization. It is also known as the "mini-max" approach to product design, or the minimum number of variations to fulfill the maximum number of applications. The product should be designed and broken down into its elemental components or assemblies such that there is maximum possibility of multiple use of components and assemblies and maximum flexibility in meeting consumer requirements or future requirements.

Modular design, design for multiple applications, design of composite parts, and application of the Renard series of preferred numbers are some of the standardization techniques used by design to reduce the number of parts introduced into new designs.

In one company applying these principles, two series of diaphragm valves were designed with a 60% reduction of parts. Six cores and eleven bodies were used for one line of eleven sizes. By adding four extra bodies, the range of sizes was expanded to include valves able to compete in a totally different market. In a recent program to design new engines to power ships of the British Navy, it was determined that only three sizes of engines were necessary since they could be used in various combinations to power any type of ship in the fleet. Other studies have shown a reduction of 15 to 30% in the number of parts used in a product and a reduction of 40 to 75% in the number of different fasteners.

The effect of these economies is more far reaching than generaly understood. A savings in the number of different parts reduces the cost of design, manufacturing planning, tool engineering, setup time, inventory control storage and maintenance. A greater quantity of each part required by multiple use establishes a larger number of parts to write off one-time engineering and tooling costs and often can establish a large enough quantity to justify the use of lower-cost, high production techniques. Fewer purchases of greater quantities of parts also adds to dollar savings.

CHANGE OF ENGINEERING STANDARDS

Metrication not only involves changing inches and pounds to millimeters and kilograms but also includes developing and adopting an entirely new system of engineering standards which should also be internationally-recognized standards. A company must know what standards are involved and what American policy is in regard to their adoption.

The main priority involving metrication on a national level is the revision of all measurement sensitive standards to use metric units. This is being accomplished now by many who are applying the most appropriate of four approaches to their operations. The approaches are: soft conversion (changing inch dimensions to millimeter equivalents or adding millimeter equivalents), adopting ISO (International Organization for Standardization) or IEC (International Electro-technical Commission) standards, modifying ISO or IEC standards (usually by deletion of non-preferred sizes), or generating totally new standards based on the most up-to-date technology.

Many inch-based designs in areas of technology dominated by Great Britain or the United States have been converted to metric units and adopted as international standards. Among these are standards for oil drilling and refining equipment, electronic design and components and automobile tires. Among the metric standards used in the United States are some which have been converted to inch dimensions, such as ball bearings, without many users being aware that they are metric designs. Standards within these categories need only to be redimensioned for use in a Metric America.

One caution has been repeated throughout Great Britain during its metric conversion which American industry would be wise to remember. Avoid changing standards unless the new standard is technologically superior or unless it offers significant improvements in international acceptance and is at least technologically equivalent. This has been illustrated by the threaded-fastener controversy. The ISO Metric Thread is considered inferior by many to the Unified Inch Thread which is also an ISO standard. So rather than adopt an inferior standard, the Industrial Fastener Institute developed an Optimum Metric Thread.

U.S. PARTICIPATION ESSENTIAL

For some time, some industrialists in the United States have felt that the ISO and IEC do not reflect American practices. This feeling exists mainly because American industry has complacently ignored the need to take part in international standardization because of a superior attitude resulting from American domination of world trade. Recent losses in export markets, however, suggest that this domination is no longer true. Mr. Olle Sturen, Secretary General of ISO and several staff engineers of IEC have stated that American participation in the metric conversion is not only desired but essential to faciliating world trade.

FUEL/ENERGY CRISIS: THE IMPORTANCE OF THE NATION'S INLAND WATER TRANSPORT INDUSTRY

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mrs. SULLIVAN. Mr. Speaker, as chairman of the Merchant Marine and Fisheries Committee, I feel it is incumbent upon me to speak out on one aspect of the Nation's energy/fuel shortage, which I believe unfortunately has been too long ignored in the mounting dialog on this subject. We hear almost daily of the impact of the impending fuel shortages on various segments of the economy and various transportation modes. I believe, however, not enough has been said concerning the all-important role played in the fuel/energy crisis by our vital and growing inland water transport industry, which serves essentially the great heartland of the Nation, the Midwest.

Last winter inland water carrier companies operating in the Midwest began to experience ever increasing difficulties in securing adequate supplies of fuel. Principally they used No. 2 fuel oil; this is the very same middle distillate that is used to heat homes and is used by other vital public service institutions. As early as the spring of this year, water carrier industry spokesmen were urging the administration, and the Congress, to take more forceful action in this area. They contended that good public policy required that the decisionmaking in the important area of allocation not be left to the whims of the individual oil company suppliers, but the Government should play an appropriate role in the protection of the public interest. Consistently, the inland water carriers urged a course of action which could have established a priority system or an allocation of production program for the various petroleum fuels.

As we begin the winter season this year, the situation has worsened considerably; prices for fuel have gone up weekly and suppliers, responding to the Government's belated action taken just 2 weeks ago, have advised carriers that they will now be limited to 60 to 70 percent of the supplies of fuel they received in calendar year 1972.

Little or no provision has been made for fuel oil users who were not in business in 1972. Additionally, there is a totally inadequate and highly questionable formula for those users who have new equipment to operate. This weak feature of the administration's program will work a particular hardship on the inland water carriers since they have experienced and are continuing to experience massive growth. New and important towing companies have been formed since 1972 and highly valued old line firms are monthly adding new and more efficient equipment. As an example, both the Valley Line Co. and Federal Barge Lines, Inc., of my city of St. Louis, will shortly add to their existing fleet brand new 10,000-horsepower towing vessels. There is absolutely no adequate provision in the administration's announced program for providing fuel for this valued new and more efficient equipment.

The shortages that occurred last year caused tie-ups in several of our major inland port cities and on the waterways vital to such important manufacturing centers as St. Louis, Chicago, Pittsburgh, and Detroit. It must be remembered that these towns are providing energy resources and their stoppage or delay in route further contributes to the shortages felt throughout all affected segments of the economy. Petroleum and its various derivatives, as well as coal, rank 1 and 3 respectively among the most significant bulk cargoes moved by water transport on the inland waterway system. Any curtailments in the full flow of these commodities result in a multiplier-like effect which can not only impair basic manufacturing and electric power generation, but also other essential modes of transportation which serve the Nation's needs. Thus, the availability of fuel to power vessels of our vital inland water transport industry is of paramount important to the entire national transportation picture.

The water transportation industry presently carries some 16 percent of the Nation's freight expressed in terms of ton miles of cargo transported. It performs this feat at a cost of less than 2 percent of the Nation's freight bill. For this reason alone, it would appear imperative to maintain water transportation at its maximum output to sustain a healthy economy. Examination of the fuel usage of all transportation shows that the energy crisis will be magnified and intensified if water transportation suffers any loss of fuel needed to perform its task.

A recent study by the Rand Corp. clearly shows that water transportation is the most efficient method for moving freight when conservation of energy is the prime consideration. The study shows that water transportation utilizes only two-thirds as much energy per ton mile as the next most efficient means, rail transportation. The following energy expenditures per ton mile are revealed: Water—500 Btu's; rail—750 Btu's; pipeline—1,850 Btu's; truck—2,400 Btu's; and air—6,300 Btu's.

About 96 percent of all transportation energy comes from petroleum products which are in critically short supply. If we apply the above figures to the Nation's freight movements, the importance of the water segment becomes apparent.

INTERCITY U.S. FREIGHT MOVEMENTS

	Percent of total freight moved	Ton miles, billions	Ton miles, per gallon	Gallons[1] of fuel used, billions	Percent of total fuel
Water	15.9	302	274	1.10	6.07
Rail	41.0	780	183	4.26	23.48
Pipeline	21.6	411	74	5.55	30.60
Truck	21.3	404	57	7.09	39.05
Air	.2	3	22	.15	.80
Total	100.0	1,900	105	18.15	100.00

[1] Expressed as equivalent gallons of No. 2 diesel fuel.

The above comparisons show that water transportation moves its 16 percent of the Nation's freight while burning only 6 percent of the total fuel supply. The water mode is about three times as frugal in energy use as the rest of the freight transportation group combined. Significantly, it is interesting to note that a water shipment uses only 27 percent of the fuel per ton mile that a pipeline does. Clearly this kind of analysis is vital when considering the energy cost of transportation in the situation facing the Nation. Moreover, recognizing that over 60 percent of all movements on the inland waterway system are directly involved in the production of energy, it becomes even more shortsighted to hamper or restrict the water transport industry's fuel supply.

Of almost equal significance is the relationship of inland water transport's energy efficiency to the quality of our environment. The environmental/energy conservation implications of water transport are most interesting. By burning less fuel per ton mile in areas normally far removed from dense populations, air and noise pollution is virtually eliminated. Since water transportation consumes only one third as much energy per ton-mile as all other transport methods combined, it is logical to assume that it pollutes less. Actually, since most water freight is moved by vessels propelled by large diesel engines with low specific pollution levels, the picture is much better than would be expected and water transportation's emission total is far lower than one-third that of the rest of the transportation industry.

Summing up, Mr. Speaker, our towboats and ships must have the fuel needed to keep this most vital industry operating. The Nation will suffer with higher costs, more air pollution and a greater fuel shortage if water transportation is curtailed in any way. The message is clearer; if we are to avoid higher transportation costs, greater air pollution and an intensified fuel crunch, the country will have to assure itself that its vessels keep operating. The only way this can be done is with an adequate supply of fuel.

NATION SAFEST WHEN MEDIA ON THE JOB

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, nothing is more disconcerting than to read the few letters which have arrived in my office claiming that all of the President's troubles can be attributed to the Nation's media.

This is a self-serving false accusation embellished by the President's own statements and those of his closest advisers.

Yet many Americans are willing to believe that there would be no Watergate, no ITT or milk dealers gifts, no impoundments, "plumbers," and that we would still have Spiro Agnew in the White House if the Nation's electronic and writing news people would only shut up.

Any intelligent individual knows this is not the case and in fact the needs of our democracy are best served by an aggressive news media. It was no accident that the first amendment to the Constitution preserved the right of free speech. The Founding Fathers of our country knew the importance of this basic freedom to speak and write one's will.

In this regard, I would like to put into the RECORD at this time, a column by Henry J. Taylor which recently appeared in the Pittsburgh Press. I am sure my colleagues will agree with Mr. Taylor's sentiments concerning a free press.

The article follows:

WHEN PUBLIC INFORMED, NATION SAFE

(By Henry J. Taylor)

Countless millions agree with President Nixon's press conference criticism of television and the press. Obvious, many in the media are out to get him.

But a truism still applies:

If the media grow weak or soft, or supinely patronize any government in power, the public is imperiled.

Facts affecting the public interest seldom speak for themselves. They must be sought. Let the public know the truth and the country is safe.

The Behistun Rock on the road to Babylon carries an inscription: "The Reign of the Lie." It was inscribed by Darius the Great.

Darius asserted he had destroyed the lie. He hadn't and doing so remains the task of the media today.

But this is not easy. And it is certainly not a question of Democrats or Republicans.

Once the politician's cap fits a man in public office he usually wears it in his special way—never quite free, never entirely open, never quite what you expect him to be.

Most politicians know that, especially through the power of TV, people can hold a fantasy so stubbornly that it becomes a reality. Many politicians pay more attention to their "image making" than to the realities.

With their intensified manipulation of TV they create their image and contrive the public's favor. Their actual lack of wisdom, substance and integrity hardly emerges.

They grow abstracted into some private world of their own where the end justifies the means and where the word "lie" stops being a lie.

Usually when a politician has something self-serving to say he will telephone newsmen even in the middle of the night—ready and eager to talk.

With this goes the newsman's acceptance of the "leak." It lays some unstated obligation on the reporter. It is, of course, never put in so many words. But there it is just the same.

But if that politician has something to hide the newsmen can't find him with a brace of bloodhounds.

The whole subject inevitably involves—or is made to involve—the right of privacy. And Richard M. Nixon himself had a ringside seat in a U.S. Supreme Court decision regarding it.

Mr. Nixon appeared before the Supreme Court only once. The case (Hills vs. Time, Inc.) dealt with what Justices Louis D. Brandeis and Samuel Warren called in 1890 the individual's "right to be let alone"

Mr. Nixon argued the case with great skill, but he lost the case. It was a benchmark decision.

The Supreme Court extended the power of the press, which absolved Time, Inc., and diminished the right of privacy.

Democracy is difficult to maintain because it requires the active participation—abundantly—of able and selfless public servants, and there are seldom enough for that.

Naturally there is a dark side to the American dream.

Millions despair of the Washington political scene because of the opportunism it entails, the hypocrisy it contains, the nonsense we have to absorb and attempt to decode, the imponderable question of real personalities as against the public "images," the mediocrity of the alternatives offered—the improbability of anything that could honestly be called inspiring coming to pass.

There may be ahead a period of enforced patience while the slow process of revival takes over its part in the transformation. We need a full amount of stoicism to meet today's general decays head-on.

It calls for creative rejuvenation.

But, happily, we can take heart. This has a long, inspiring history of occurring again and again in the United States.

OIL SHORTAGE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MOAKLEY. Mr. Speaker, I am deeply disturbed by the peculiar route by which this Nation has been brought to the brink of disaster. The energy crisis, for most people, is a rather new thing. There had been little discussion of the problems facing us until this year, yet it is now clear that we have been moving steadily toward this day since the American oil industry decided 10 years ago to stop building refineries in the United States.

The American consumer has been told that he is the principal cause of the energy crisis. The President has told us so; the oil companies are spending a fortune on an advertising program that tells us so. But the story simply does not wash. The individual consumer is directly responsible for a third of the Nation's energy consumption; even a massive 25 percent reduction in consumer consumption can have only an 8 percent impact on total national consumption.

Now certainly, in a crisis, this opportunity for savings cannot be overlooked, but much more must be done.

In recent days, Congress has taken important steps to deal with the crisis. The Emergency Petroleum Allocation Act of 1973, produced by the Subcommittee on Communications and Power, chaired by my distinguished colleague from Massachusetts, Mr. MACDONALD, is now on the President's desk.

The necessary legislation to enable construction to begin on the Alaskan pipeline is also on the President's desk. And now we are preparing legislation to meet his request for emergency powers to deal with the crisis.

Given that there is an energy crisis, none of the actions we have taken could be considered an inappropriate response, but I think fair questions could be made about the amount of coordination involved and grave questions exist in regards to the wholesale surrender of legislative responsibilities to a President who has failed to demonstrate the wisdom or sense of fairness to use these powers for the good of the Nation.

NATIONAL ENERGY POLICY

In order to control runaway inflation, this Congress gave to the President broad, comprehensive powers to impose economic controls. The President has used this power in a sporadic flurry of "on again-off again" controls which selectively ignored or treated more leniently the three most serious inflationary pressures: food, rents, and interest.

In this period, American industry has reaped record profits while the individual consumer still totters on the edge of bankruptcy.

There are already firm indications that the President will equally abuse the powers we are now considering. It is simply not consistent with the record to assume that allocations will be made until the dog-eared list of contributors to the Finance Committee to Re-Elect the President is carefully reread.

In the best of circumstances, under a President who enjoyed the confidence of Congress and voters alike, a wholesale unchecked transfer of legislative authority to the Executive would be constitutionally unsound. In the present circumstances, it would be a violation of the trust our constituents have placed in us.

This is not an objection to the legislation before us. I accept the energy crisis as an existing fact with which the Congress must deal promptly. And it is necessary in the current situation to afford the President a wide range of powers to implement a national energy policy. But it is Congress which must establish that policy. And this we have not yet done.

In this regard, I will soon introduce legislation to create a Select Committee on Energy Policy which would be charged with thoroughly investigating the energy needs of this country and recommending to Congress a comprehensive policy. However, I would be pleased to defer this legislation if the Subcommittee on Communications and Power, which has already undertaken some work in this area, wishes to undertake hearings at which the opinions of the administration, the power industry, oil refiners, consumer groups, and environmentalists could be heard.

Regardless of who undertakes the investigation, such hearings could result in a clear statement of national policy which verifies and estimates the extent of the energy crisis and which proposes long-range solutions and interim priorities. Such a statement of policy would give proper balance to serious concerns regarding employment, the environment, and the energy needs of all segments of the society and the economy.

THE OIL INDUSTRY

An area of serious concern is the role this administration and the oil industry itself have played in the onset of this energy crisis. The crisis has been such a bonanza for industry that many of us are inclined to view the entire matter with some cynicism.

This crisis has proven to be the crowbar with which industry is attempting to dislodge a generation of consumer and environmental progress. The long fight for clean air is to be given up. Governor Love has indicated that the administration wishes to relax such long-standing safeguards as conflict of interest and antitrust laws. Oil prices have been allowed to increase without any proof of increasing costs. Suddenly, in a matter of weeks, industry and the oil companies in particular get everything they have clamored for without success for years.

We must face the serious possibility that this situation exists because of manipulation of supplies by the oil companies.

As a representative of hard-pressed New England, I am particularly grateful for recent legislation which will assure Massachusetts of equitable treatment in meeting its proportionally higher energy demands.

The President already has certain powers under the Economic Stabilization Act to allocate fuels and has simply not used those powers. Even new legislation will come to nothing unless Congress is prepared to force the President to act in the Nation's best interests.

Perhaps one of the most important steps we could take would be to provide for an open market system for the supply of crude oil. A group of oil companies have a virtual stranglehold on this Nation's energy supply. Twenty firms control 94 percent of our oil reserves, 86 percent of our refining capacity and 79 percent of all gasoline sales. I recently contacted every service station in my district and learned that, in the Boston area, major firms account for 97 percent of sales.

This control of a single important product through the entire marketing process is unparalleled. This cartel of oil companies controls our oil supply from the well to your gas tanks and offers unique opportunities for ruthless manipulation of supplies. Many experts have pointed out that we may be dealing with a situation deliberately contrived by the major oil producers.

I am afraid that the only way to open up this market system is to require oil refiners to divest themselves of all oil extraction interests. I am today introducing legislation which requires all refiners to divest themselves of such interest over a 3-year period. This will require refineries to obtain crude oil on a free open market far less subject to manipulation. This is not a harsh law; most manufacturers buy their raw materials on a free market and this has worked to their benefit and the benefit of consumers. This bill will be referred to the Judiciary Committee for their consideration as an antitrust measure.

EMPLOYMENT

Along with other members of the New England Congressional Caucus, I have written to President Nixon asking that he direct the Council of Economic Advisers, the Treasury Department, and the Bureau of Labor Statistics to prepare a comprehensive report on the Nation's industrial energy needs and to submit this report to the Congress for legislative action.

In this trying period we must do all we can to insure that our fragile economy is not further harmed by administration mismanagement. To the extent we are unable to prevent economic dislocations, we must be prepared to offer legislative remedies to economic hardships resulting from the oil shortage.

We are awaiting a reply from the President and I urge other Members of Congress to join us in this request to provide information which will be needed to deal with the legislation that will come before Congress.

INTERNATIONAL TRADE

For many years, while the energy crisis continued to develop, this Nation maintained tight oil import quotas. In response to the danger of shortages, Mr. BURKE of Massachusetts and I introduced legislation to require suspension of oil import quotas. We acted at the opening of this session, but the President did not comply until the situation became critical.

If the President had responded faster, our present situation would be far less critical. But we are continuing to ship petroleum products overseas even while we reduce speed limits and discuss rationing. I am therefore introducing legislation to prohibit the export of petroleum products during the present crisis.

The Arab nations have seriously aggravated the present crisis worldwide by using their supplies as a form of blackmail. In May, I joined with Mr. YOUNG of Alaska in proposing that the President attempt to form an international bargaining conference of oil consuming nations to deal—through a united front—with the block of Arab oil producing nations. The economic survival of the Middle East is dependent on the sale of oil to an even greater extent than we are dependent on their supplies.

Yet this great Nation cowers before

their threats, as though we were in the weaker position, because the President puts more emphasis on détente than he does on heating Boston homes.

FUEL ECONOMIES

The central issue before us now is congressional response to the President's energy message. I think that Congress is going to have to exercise the leadership the President is unwilling or unable to provide.

When the Nation needs leadership on the entire energy question, the President goes on nationwide TV and offers a batch of remedies anyone of us could have sat down at the kitchen table and come up with a year ago. His message communicated none of the bold initiatives that the times demand.

Even while 50-mile-per-hour road signs go up on our Nation's highways, Detroit is continuing to build cars that can't go 10 miles on a gallon of gasoline. No proposal has been made to encourage the building of more economical cars.

TRANSPORTATION

Perhaps the most dramatic area for potential reductions in gasoline consumption is through mass transportation. The automobile is routinely used for travel when public transportation is available. This is true for commuting and for leisure travel.

It is in response to this wastefulness that the administration's record is most dismal. The President would be unable to point to a single important action his administration has taken to encourage Americans to use alternatives to the auto.

I am planning action on several fronts to deal with this problem.

We must stabilize and, in many cases, reduce the cost of mass transit and railroads to encourage rail commutation and intercity travel. We must expand and improve service to encourage people to use mass transportation facilities.

In this regard, we must be prepared to undertake a virtual Marshall plan to salvage public transportation which has been allowed to fall into utter neglect. Our grandparents had a wider choice of trains than we do. This trend must be arrested and reversed. It will be expensive but we cannot afford inaction.

I will also introduce legislation to provide tax incentives to offset additional costs that travelers and commuters incur as a result of leaving their car in the garage to take a train.

And, as a member of the Subcommittee on Urban Mass Transportation, I will support legislation to improve in-city transportation, and to freeze fares on urban mass transit systems and to provide any needed subsidies.

It is possible that all of us in Congress have faced no greater challenge than that now before us. The wisdom and fairness with which we accept that responsibility will pay an important role in determining the quality of the life we make for our children.

ENERGY—WHITHER GOEST US?

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Ms. ABZUG. Mr. Speaker, it now appears that the Congress and the public have begun to accept the idea that the quantities of energy apparently going to be available over the next few years will be insufficient. It will take more than this perception, however, and more than the current flurry of emergency legislation now before us, if we are going to have ecologically sound and inexpensive sources of energy. It will also take more than the present rather limited dialogue, involving little more than the Nixon administration, the oil companies, and certain other vested interests like the Atomic Energy Commission.

Energy is an extremely complex subject spilling across a wide variety of disciplines in the physical, natural and social sciences. It is also an extremely political subject in which many conflicting interests are at stake. Despite these problems both the Congress and the public must address this issue forthwith, for we are rushing toward long term choices which are socially and economically dangerous if not disasterous. Evident at the onset is that we simply do not have enough concrete information. Evident also is that there is only beginning to be serious analysis and articulation of what really constitutes the public interest.

Typical of our present dialog is the current state of our thinking about the future benefits and costs of nuclear energy. The GAO has just come out with a study quietly suggesting a major dilemma we will soon face: "Improvements Needed in The Program for the Protection of Special Nuclear Material" (B164105)—the Ford Foundation's Washington-based energy policy project will soon come out with a far longer, more definitive study. Its conclusions, as suggested in an article by Roger Rapoport in the New Times, November 16, 1973, are appealing. Consider "The Deadliest Heist," which is printed at this point:

THE DEADLIEST HEIST

(By Roger Rapoport)

The 87,000 men and women who work in America's burgeoning nuclear-energy empire are expected to live by one dominant rule: don't trust a soul. They are repeatedly warned there is no way to be completely sure of anyone. This message was clearly emphasized during the summer of 1972 when the Atomic Energy Commission (AEC) was suddenly forced to retire its 52-year-old security director, William T. Riley. It seems that during his five years as chief of security for the super-secret agency, Mr. Riley managed to borrow $239,000 from 59 employees of the AEC and its contractors. Of that amount $161,104 had not been repaid. An investigation subsequently revealed that the security chief had spent a substantial portion of the money gambling at Washington-area racetracks.

Although Mr. Riley's departure has attracted little attention in the national media, it does raise an important question among those familiar with the incredible theft and sabotage dangers associated with nuclear weapons, power plants and processing facilities: Just who is protecting the nation's immense plutonium/uranium inventory from atomic-age terrorists, saboteurs and black marketeers?

The answer, in many crucial instances, is no one, according to a frightening new report by the Ford Foundation's Washington-based Energy Policy Project. The 550-page study, *Nuclear Diversion: Risks and Safeguards*, which will doubtless make headlines upon official publication next January, warns: "It seems only a question of time before some terrorist group exploits the possibilities for coercion which are latent in nuclear fuel."

Although the Ford study will not be officially released until 1974, New Times has obtained a draft version independently. The document shows how conspirators could easily steal fissionable material sufficient to produce nuclear devices capable of killing hundreds of thousands of people and causing billions in property damage.

"It is all too easy to imagine innumerable possibilities for nuclear diversion—a parade of horribles," write Mason Willrich and Theodore B. Taylor, co-authors of the Ford report. One of their many scenarios tells how an atom bomb planted beneath an office complex could lethally irradiate 50,000 people. Another scenario does in 100,000 football fans with a midfield detonation at halftime. A third converts a commercial airliner into a nuclear bomber suitable for attacking an entire city. Among the protagonists in these well-documented diversion scenarios are truck drivers, airline pilots, soldiers, guards, guerrillas, scientists and industrialists, as well as managers of nuclear-power plants, fuel-fabrication facilities, reprocessing plants and research reactors.

For years, would-be terrorists familiar with the relatively simple process of manufacturing a nuclear bomb have been thwarted by the unavailability of requisite fissionable material. But there has been a proliferation of nuclear installations in recent years, and with lax security or no security at many key points in the nuclear-fuel cycle, terrorists suddenly find themselves blessed with numerous opportunities to divert fissionable material suitable for building their own nuclear arsenals. Non-nuclear powers now have access to raw materials and relatively inexpensive assembly techniques that can give them atomic might. Uranium and plutonium, nicknamed "nuke," seem destined to take their place alongside coke, smack and speed in the pusher's inventory. With just a little help from black-market friends and access to an encyclopedia, maniacs could join the United States, Russia, Britain, France and China as nuclear powers.

The complete document is so unnerving that top AEC officials who've had an advance look would like to burn it. Because it is written by two of the nation's leading experts in nuclear weaponry and disarmament, the Ford analysis is hard to refute. Willrich, now director of the University of Virginia's Center for the Study of Science, Technology and Public Policy, has served as assistant general counsel of the U.S. Arms Control and Disarmament Agency. He is presently a consultant to that organization and has also been a delegate to the Geneva disarmament conference. Taylor, now president of the Washington-based International Research and Technology Corporation, has dealt with nuclear weapons in various AEC and Pentagon positions for nearly 25 years. From 1964 to 1967 he was deputy director of the Pentagon's Defense Atomic Support Agency (now the Defense Nuclear Agency), which manages America's nuclear-weapons stockpile.

In their Ford study Willrich and Taylor find present AEC safeguards protecting nuclear weapons materials about as tight as security at the 1972 Munich Olympics. Among the gaping loopholes are:

No "specific physical protection requirements for less than two kilograms of plutonium, even though a small fraction of that amount . . . is enough to make a radiation weapon capable of mass destruction."

"No specific U.S. safeguard requirements . . ." for "physical protection of nuclear-weapon material at nuclear-power plants."

"No specific physical protection requirements for shipment of low-enriched uranium (fuel for most of America's 30 reactors) regardless of the amount shipped."

No night-security guards watching the enormous uranium/plutonium inventory at the nation's sole nuclear fuel-reprocessing plant in West Valley, New York.

No "requirement for the presence of armed guards" during highly vulnerable intervehicle transfers or temporary storage of nuclear-weapons material. Also "armed guards are not necessarily required as part of the (nuclear) plant-security force."

No physical protection standards for "nuclear-weapon materiels exported from the U.S. to foreign countries."

The Ford analysis suggests this kind of laxity is an AEC tradition. Through the early '60s this agency erroneously assumed that Plutonium 240, an isotope typically produced in nuclear-power operations, could not be used for explosives. It also mistakenly believed a nuclear-weapons program was beyond the capability of all but the major industrially advanced countries. Soon materiels-accountancy regulations began proving inadequate. In 1965 a private fuel-fabricating plant operator reported unaccountable losses of 100 kilograms of over-90-percent-enriched uranium—enough to make five Hiroshima-size atom bombs. And beginning in 1969 the potential diversion of nuclear materiels during transit became clear when several shipments were lost due to misrouting.

Mismanagement of this kind makes it easy for Willrich and Taylor to suggest dozens of credible diversion scenarios in their new report. For example a devious nuclear-power-plant employee could easily "fake an accident . . . which requires immediate evacuation of all persons from the facility . . . (This) thief might then be able to make off with a significant quantity of (nuclear) material through the emergency-safety exits."

Truck drivers who do not have to pass any specific security-clearance procedures to handle atomic fuel pose another threat. A profit-oriented criminal group might also hijack shipments and manufacture weapons for extortion plots or self-protection.

Black-market potential seems limitless. A loosely affiliated international ring of thieves could target vulnerable nuclear-fuel supplies throughout the world. Do-it-yourself customers would purchase raw nuclear material and the rest would pay a premium for fabricated weapons.

The Ford study is confident that "An initial sale or two of nuclear weapons to petty dictators with dreams of glory might enable" black-market operators "to play on the fears of more responsible leaders." Not knowing which nations have secret nuclear-weapons stockpiles, these leaders would be compelled to buy in self-defense.

Nations that refused to acquire atomic weapons could be in trouble. By 1980, 24 countries presently lacking nuclear bombs will have atomic-power stations. An insurgent political faction might be able to talk a sympathetic nuclear-plant owner or manager into slipping them fissionable bomb material. Alternatively, they might persuade a rebel army unit to help them seize the necessary uranium or plutonium.

Obviously many governments lacking atomic weapons could fight back by diverting nuclear materials from their own atomic-power plants. Cooperative plant managers "might be rewarded by the assurance of favorable future treatment with respect to their business operations." In a pinch they might even be able to borrow a little plutonium from friendly plant managers in other countries.

Another source of weapons fuel is the research reactor found at universities and technical centers throughout the world. Typical models operating in Israel and India produce enough plutonium for at least one nuclear weapon per year. Countries like Argentina and Italy could divert plutonium from pilot nuclear-fuel reprocessing plants. Spain could divert low-enriched reactor fuel into a small gascentrifuge plant capable of producing high-enriched uranium for weapons. Japan and Germany can acquire bomb fuel from their extensive civilian nuclear industry in numerous ways.

Such prospects lead Ford to conclude that nuclear diversion is now a major worldwide peril: "The widespread use of nuclear energy seems to necessitate the rapid development of near-perfect social institutions. If we fail in this regard, the societies that are now the most advanced may well disintegrate."

Certainly the greatest risk is here in America where more than 800 nuclear plants are expected to be in operation by the year 2000. By 1980 tens of thousands of kilograms of nuclear weapon materials will be part of the U.S. atomic-power industry. Just one reprocessing plant set to open in 1975 at Barnwell, S.C. will handle 8,100 kilograms of plutonium annually. Roughly 129 shipments will move in and out of the facility each year. Terrorists seizing just one container will have enough plutonium to make nine Nagasaki-size atom bombs.

IN DEFENSE OF THE PRESIDENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. DERWINSKI. Mr. Speaker, the treatment of the President by the media has, in itself, been a source of great controversy. When the President criticized certain members of the media in his press conference, it stirred up a hornet's nest of commentary from all segments of the media. Therefore, I found it of special significance that the outstanding Polish-American publication, the Polish Daily Zagoda of Chicago, published an extraordinary front page editorial in its Saturday, November 10, edition, in defense of the President.

The Polish Daily Zgoda is published by a subsidiary of the Polish National Alliance of America. I believe the editorial commentary of this publication in defense of the President to be an accurate reflection of the Polish-American community throughout this country.

The editorial follows:

In Defense of the President

(A translation of the Polish editorial in today's issue)

The word "impeachment," like a course, has been viewed with apprehension by citizens conscious of their responsibilities. Historians are agreed that the one vote in the Senate, cast over one hundred years ago to save the presidency of Andrew Johnson was, in fact, a blessing as it sustained the balance between three branches of the government, thus saving American Democracy from degradation and collapse.

When several years ago the extreme right John Birch Society vociferously demanded removal of the Chief Justice of the Supreme Court, Earl Warren, the meaning of the word "impeachment" was brought to low levels. It was then held up to ridicule and mass communications media concluded that the demands that the Chief Justice be removed were a vicious joke perpetrated by the extremist of the right who demonstrated the lack of clear thinking.

Those very same mass communications media are reacting in an entirely different manner now, when radical and leftist-liberal elements, claiming monopoly of ideological purity, demand that hated by them Nixon be impeached or forced to resignation. They were successful in political assassination of President Johnson, but they failed in their campaign against Nixon, who through landslide victory frustrated the plans of rabid leftist doctrinairies and many dictators of the press and television. Therefore, a decision was made to ruin him even at the cost of the fundamental interests of the land.

No crime was proved against President Nixon. In accordance with the law and American tradition, he is innocent until proven otherwise by the court. Mass communications media are very diligent in proclaiming that the doctrine "innocent until proven guilty" is applied to even most inhuman murderers, but they deny the same doctrine to the President elected by a decisive majority of the nation, because they hate Nixon. What is more, many television and press commentators who do not have any authority derived from the fundamentals of our political system, arrogate to themselves the power of an investigative body, prosecution and a court pronouncing sentences on the basis of unproved testimonies, insinuations and gossips.

Vociferous demands for "impeachment" of President Nixon rose almost five years ago, shortly after he took office. The list of "crimes" supposedly justifying his removal from the White House is growing longer almost every day, which includes amongst others the bombardment of North Viet Nam, the "invasion" of Cambodia, aid for South Viet Nam, appointment of judges not approved by the liberal-leftist coterie, and, lastly, removal of the Special Prosecutor Archibald Cox. These certainly are not justifications for their cry of impeachment.

If the President entrusted Cox with a position, he had the right to dismiss him. This logical principle, however, is denied Mr. Nixon. He should be forbidden to remove the "saint" of the liberals, a Professor of the University of Harvard, no less.

Shortly after the removal of Cox, it became evident that he was not entirely "saintly", as he disclosed certain secrets of the investigation to the Senators most strongly opposed to Mr. Nixon. Mr. Cox was given immediate absolution for this "ordinary human error" and the "confessors" from mass media did not even assign any penance to him.

However, Mr. Nixon is not allowed to make any "ordinary human errors". According to the views of many leftist-liberal media, everything that he does is a premeditated transgression.

Hatred is blinding. Those who demand that Mr. Nixon be removed from the White House do not realize (or do not want to realize) the catastrophic consequences it would bring upon the nation to satisfy their hatred. The United States would be deprived of the Chief Executive elected by the people and the free world would be deprived of a leader who knows the imperialistic designs of Communism, who effectively work for peace, can make unpopular decision and execute excellent moves in international politics.

The fact that we do not have a Vice President, adds to the critcal situation. The position of Mr. Nixon would be taken over by

House Speaker Carl Albert, a Democrat from Oklahoma, who does not have administrative or diplomatic experience. Even his political friends do not hesitate to state that he is not of the caliber to be the head of the state and the chief of the government of the most powerful nation in the world, facing extremely critical situation.

Therefore, we most emphatically reject the irresponsible propaganda campaign directed not only against the President, but also against the Presidency itself.

Radio publicist, Maria Gifford, broadcasting from stations KEEL and KMBQ in Louisiana, rightly describes the anti-Nixon campaign as designs for "the killing of the Presidency". It is an exceptionally accurate evaluation which forebodes ill for the well being of the Republic and for the future of our land.

This publicist does not hesitate to state that the campaign of humilitation and slander against the office of the Presidency is nothing other than "killing the Presidency just as bullets killed John F. Kennedy".

Therefore, it is high time to protest with determination and rectitude against amost criminal machinations of a few who constitute a minute minority in our society, but who have influences at their disposal and are able to manipulate them dishonorably. Everything that we presently witness in this area is undoubtedly a kangaroo court against Mr. Nixon, who devastated them in last year's election. It is at the same time, a classical example "of the killing of the Presidency".

American political system place in the Presidency most enduring and most solid principles. If they are to be destroyed, our glorious Republic born of freedom, will be destroyed. We cannot let freedom be transformed into an anarchy, which would undercut the stability of the state and its capacity to govern the land in justice and order.

Should the Presidency be destroyed, all other institutions of the American political system which not only safeguard our internal life but guarantee for the United States the position of world leadership, would disintegrate. Is this what is wanted by the vociferous minority blinded by the hatred toward President Nixon?

It is not an exaggeration to state the current crisis in our political life is a terrible threat for the Republic. The entire nation must cooperate in overcoming this crisis by firm declarations against the designs and manipulations of those who seek revenge for the defeat in the 1972 election.

Since they are hiding behind the mask of idealism, assuring us that they are motivated by desire for justice and clean politics, not only many of the more naive, but some patriots as well are caught in the trap. The patriots, absorbed by every day problems, do not have time to delve into complicated legal and political problems, and some Congressmen and Senators seem unable to oppose the pressures of the mass communications media.

When Mr. Nixon's enemies found out that there were no reasons for impeachment, they changed tactics and now they are importunately demanding his resignation. It remains to be stated unequivocally that as there are no reasons for impeachment, there are also no reasons for resignation. In both instances the outcome would be the same:—America's inertia at the time dangerous for the world and for freedom.

Therefore, citizens who were not misled by the anti-President propaganda, and who want to secure a better future for the Republic, based on truly American ideological and political principles, are obligated to close ranks behind the President.

We have to destroy the misconception that a propaganda-created uproar represents the true attitudes of the society.

The time has come to courageously support the President, who in his address to the nation last week firmly and justly stated that he "will not walk away from the job to which he was elected".

EXPORTS OF IRON AND STEEL SCRAP

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. ASHLEY. Mr. Speaker, among the industries that are basic to the domestic economy of the United States are the foundry industry and the steel industry. This is self-evident when we consider how many iron and steel castings are integral parts of the machines that we use on farms, in industry, in transportation, and in the home, as well as the steel plate, sheet, and bar shapes that are used in the same machinery. Other steel products that are essential in virtually every construction job are reinforcing bars.

Almost all of our ferrous foundry industry and a significant part of the domestic steel industry use scrap iron and steel as their primary raw material. Those steel works that use scrap rather than iron ore as a raw material are referred to as "cold metal shops." These cold metal shops produce approximately 20 percent of the raw steel that is made in the United States and include the so-called mini-mills, the medium-sized steel companies, and various operations of some of our largest steel corporations. Obviously, the availability of scrap iron and steel is vital to the foundry industry and to these steel producers.

The scrap iron and steel industry consists of many scrap dealers who gather, sort and prepare scrap into numerous grades that differ either by chemistry or physical size. Scrap brokers work with many scrap dealers and usually with several scrap buyers. There are some scrap dealers who are also brokers. The scrap gathered by the dealers and brokers each year is either sold to domestic consumers or exported. In the last 5 years the average total of exports and domestic consumption has been 43 million tons. Twice during this period we have experienced sharp price increases which reflected supply-demand imbalances. These imbalances occurred whenever the annual total of exports and domestic purchases exceeded 45 million tons. During the past 5 years, on the basis of Department of Commerce calculations, this total has not exceeded 46 million tons in any one year.

In the latter part of 1972, scrap exports and domestic purchases climbed to a point where the supply-demand relationship was again strained. In late December the price of No. 1 heavy melting scrap increased sharply. By March the situation was such that the Subcommittee on International Trade of the Committee on Banking and Currency held public hearings on the short supply of scrap iron and steel, as it related to the Export Administration Act of 1969, and my proposed amendments to that act. By June the short supply of scrap iron and steel had become more acute. In our supplemental views accompanying the report of the Committee on Banking and Currency on H.R. 8547 Congresswoman SULLIVAN and I concluded our joint statement with the following:

> It is our view that the situation in recent months with respect to the uncontrolled export of ferrous scrap and the prospective imposition of export controls is one in which the policy criteria set forth in the 1969 Act are met, and that the imposition of export constraints in recent months has been warranted.

Naturally I was pleased to read the statement of the Secretary of Commerce of July 2 in which he stated, regarding scrap exports and domestic supply, that:

> I have determined that the criteria set forth in the Export Administration Act have been met for this commodity.

I know that I was not alone in the expectation then that effective scrap export restrictions would be forthcoming. Unfortunately, such has not been the case. In the months that have followed, scrap exports continued almost unrestricted. The third quarter of 1973 was the first time in many years that scrap exports had been controlled. The third quarter of 1973 also established a new alltime quarterly record for the greatest amount of scrap iron and steel to go into export.

In 1973 the domestic foundry and steel industries have been consuming scrap at a rate well in excess of anything this Nation has ever experienced. Simultaneously, we have been exporting scrap at record levels that are 50 percent higher than the average of the last 5 years. Our current rate of domestic consumption and our rate of scrap exports, if continued for the last 2 months of this year, will produce an annual total of approximately 56 million tons. This would be 10 million tons, or about 22 percent, more than this Nation has ever produced even under the stimulus of the high prices of 1969 and 1970. Late in September the price of No. 1 heavy melting scrap increased by $13 per ton. It appears that we have been consuming inventories for months, and are now getting perilously close to the crisis point. On Monday, November 12, the Wall Street Journal reported that No. 1 grades of scrap were selling for $86 per ton, in comparison with $38 per ton a year ago. Some scrap is currently moving at prices well above the $86 figure.

So now we are faced with the very real possibility of production curtailments in these two basic industries. Alarm is now being sounded in the construction industry about shortages of steel reinforcing bars, traceable to the scrap metal problem. A principal producer of silos for the storage of agricultural products advised me on November 7 that under existing conditions the silo industry will only be able to construct 5,000 silos during 1974, in contrast to the industry's capacity of 13,000 units, due to a shortage of scrap for the manufacture of nine-sixteenth-inch round steel for the construction of domestic silos. This could not come at a less fortunate time, when substantial new acreage is being planted to help restore a world supply demand balance for feed grains and other commodities.

Last week a steel castings company in Detroit, Mich., wired the Department of

Commerce that it was down to its last 3 days of supply of scrap metal, could obtain no more scrap metal, and if something was not done, would shut down. The administration reportedly contacted the Institute of Scrap Iron and Steel, which in turn contacted the original dealer who then offered only 25 tons of ferrous scrap to the castings firm at a price of $115 per ton. Hence, newspaper quotations of composite steel scrap prices of $86 per ton would even appear to understate the current situation in certain cases.

One foundry in Indiana reports that it has been forced to shut down two full scheduled days due to a lack of cast metal scrap. They are apparently operating on a day-to-day basis.

Another firm in Illinois telegraphs, "Presently unable to procure ferrous scrap at any price for our foundry consumption. Have curtailed operations. Shutdown is imminent if no scrap is received." I have not yet been advised whether scrap dealers, acting at the urging the administration, have moved to cover this foundry's needs.

Still another midwestern foundry reports a 16-percent reduction in operations due to inability to purchase ferrous scrap, and with an inventory of only a few days, shutdown may be imminent.

A Texas firm reports imminent shutdown of two of its foundries employing 400 people in Pennsylvania and New Jersey because no adequate scrap is available at any price.

If these basic industries, iron and steel, reduce schedules because of raw material shortages, the ripple effect into other industries will quickly follow.

This happens to be just the type of situation that the Export Administration Act of 1969 was designed to prevent. That act reads in part as follows:

> SEC. 3 (2) It is the policy of the United States to use export controls . . . to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand. . . .".

On July 2, the Secretary of Commerce recognized that—

> The criteria set forth in the Export Administration Act have been met for this commodity.

Why, then, has action to control scrap iron and steel exports been ineffective? Why in light of the July 2 finding, have scrap exports in the third quarter of 1973 been permitted to exceed those for any quarter in our history?

Price increases for ferrous scrap of the magnitude we are witnessing have been increasing by about $1 billion the cost of operations of foundries and cold metal shops which, I should add, use only one-fifth as much of our scarce energy supply to produce a ton of steel as do ore users. Ultimately, the American consumer pays for these increases.

The Constitution of the United States gives the Congress the authority to regulate foreign commerce. All of us know that the Congress can do this only in a broad way and is in no position to regulate all detailed aspects of our foreign commerce. This approach to policymaking is reflected in the legislation of which I was a principal author, the Export Administration Act of 1969. It was not the intent of Congress to prescribe in the law what commodities would receive export controls, how stringent the controls would be, or the exact time at which they would be applied. The language indicated clearly, however, that should a situation develop, such as we now find in scrap iron and steel, effective export controls should be promptly invoked. As this has not been done, and as the potential adverse economic consequences grow more severe with each passing week, it has now become evident that the Congress should take corrective action immediately.

Mr. Speaker, to ease the present critical short supply problem, I am introducing legislation today to limit exports of iron and steel scrap to 600,000 net tons per month for the remainder of fiscal year 1974.

COLLAPSE OF HIGHRISE CONDOMINUM UNDER CONSTRUCTION

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, one of the worst disasters ever to occur in northern Virginia, the collapse of a highrise condominium under construction at Bailey's Crossroads, Va., resulted in the untimely death of a truly outstanding young man, Michael James Frye of Arlington, Va.

Michael's father, Mr. James H. Frye has written a statement concerning the tragedy and its aftermath which he would like to have known to our colleagues and all who are concerned with occupational safety. As I believe many points made by Mr. Frye deserve attention, I insert his statement at this point in the RECORD:

STATEMENT FOR THE CONGRESSIONAL RECORD

PART 1. MICHAEL JAMES FRYE

I wish that all the Members of Congress and others could know and feel the great loss suffered by me, my family, Michael's many friends (young and old), the faculty and students at Madison College, and all the future children and young people that would have been touched and guided by his greatness. Michael had completed his student teaching in early December 1972 and was looking forward to teaching elementary school in September 1973 and he was an excellent teacher. He had worked beginning in High School whenever he had the opportunity to help me with the support of a large wonderful family (seven sisters and one brother). This is why he went to work in early December as soon as he had completed his college program. The statements below are a tribute and attest to the great character and integrity of Michael James Frye.

APRIL 3, 1973.

DEAR MR. AND MRS. FRYE: All of us at Madison College were shocked and saddened at the loss of our dear friend and fellow student, Mike. He had the respect of his fellow students, his teachers and the administration. I met Mike when I first came to Madison, saw him develop into an extremely sensitive, fine young man, and knew that he was looking forward to a career of teaching. So all of us feel a deep, personal loss, but we also feel that the teaching profession lost a young man who was genuinely interested in other young people as human beings.

Mike was to receive his diploma on May 12, and we would like very much to present that diploma to you. If it is possible for you to be with us on graduation day, I would like to give you the diploma which Mike so richly deserved.

I know that words are inadequate to replace a son, but for whatever consolation it may be, Mike was a very fine young man and we are proud to have had him as one of our students.

My thoughts and prayers are extended to you during this time of sorrow.

With warmest regards,

Sincerely Yours,

RONALD E. CARRIER,
President, Madison College.

STATEMENT FOR MIKE'S GRADUATION MAY 12, 1973

Mr. President, Members of the Faculty, Graduates and Friends—I feel mighty proud with a deep personal obligation to receive this diploma for my son, Michael. Mike was one of the greatest individuals that I have ever known. His integrity and respect for the feeling and rights of others was truly outstanding. This integrity and respect was equally the same for all ages (young and old). Everyone who knew him should be inspired and guided by the principles and moral code of values that Mike so sincerely practiced every day of his life.

I can truly say that Mike never disappointed me with his decisions or actions. I am so very very proud to be his father. Thank You.

JAMES H. FRYE.

MAY 28, 1973.

DEAR MR. FRYE: I know your sorrow is deep from the loss of Mike. I hope you realize the great respect Mike's classmates had for him.

Your statement about Mike was certainly an accurate reflection of his integrity and respect for others.

My God bless you and your family.

With warm regards,

RON CARRIER.

MARCH 23, 1973.

DEAR MR. AND MRS. FRYE: Mike participated in some of my sociology classes. It was a pleasure to know and learn from a young man such as he.

Sincerely,

DR. BARBARA N. STONE,
Chairman, Department of Sociology, Madison College.

APRIL 2, 1973.

DEAR MR. AND MRS. FRYE: I would like to express my sympathy in your great loss. Mike was always a source of encouragement and inspiration to me.

Through the urging of my sister, Fran, and with the cheerful guidance of Mike, I was introduced to the sport of soccer. Soccer has been a great source of pleasure for me. It is an activity through which I have been able to meet many new friends and to experience the joy of competition and accomplishment. I owe so much to Mike for his interest in helping me begin. Above this, Mike was a good friend. I will always remember his warm gregarious nature, the gratifying friendship for everyone who knew him.

Again, I wish to convey my sympathy for your great loss.

Sincerely,

JOHN OLSEN,
William and Mary College.

[Soccer Newsletter Edition No. 4—Page 2]

OCTOBER 22, 1972.

. . . We expect a big boost in the game as our "old pro" Senior Lineman Mike Frye is expected to be ready to play following two weeks' layoff due to a leg injury . . .

Sincerely,

Coach VANDERWARKER.

[Hand written note]

We need big Red in there for us. He's a great player and a fine young man. More important, he does a fantastic job in his student teaching . . . Best Regards.

[Soccer Newsletter No. 6—Page 2]

NOVEMBER 8, 1972.

. . . Then, as if written by Hollywood, our "old man", Mike Frye playing in his final regular season game, scored on a fine head ball off Fedorowicz's cross . . .

Very Sincerely,

Coach BOB VANDERWARKER.

[Hand written note]

Mike is just a fantastic person. I'm so glad he has been able to enjoy being with us in soccer along with all his other responsibilities this fall. He sure was a happy guy when he scored that goal and we were indeed happy for him.

PART 2. SKYLINE COLLAPSE, RESCUE AND COVERUP

The Skyline collapsed at approximately 2:15 p.m. March 2, 1973. Mike's body was reported found (not rescued) on March 15, 1973. Since my efforts to obtain information and facts were futile, I am including below, information as reported in the newspapers—that I believe to be basically correct.

[Editorial—from The Globe, Mar. 8, 1973; entitled "Tamper, Indeed"]

Fairfax County officials were indignant this week at the suggestion that local, state, and federal government investigators should not have exclusive right to public records relating to the collapsed high rise at Skyline Center. Fairfax County Attorney M. Langhorne Keith took what perhaps was the most supercilious position when he said the impounded inspection records was necessary to prevent their being "tampered with". Possibly, what he was trying to convey was the fact that when the county, as well as the builder, might be found negligent the government rightly perceives that the press becomes dangerous—for the government. Hence, lock up the records, point to that slice of Swiss cheese called the Virginia Freedom of Information Act for your justification, and say "trust us". We would be happy to, except that a 24-story building collapsed practically under the noses of county inspectors, and one is loathe to place trust in any organization with a track record like that. Regardless, of the circumstances, why is the government asking us to trust it? Why does the government suddenly lose its belief in open inquiry? In effect, the provisions of the Freedom of Information Act give the government a crucial degree of latitude in defining when a document is a matter of public record. Let's assume that the county inspectors dept., ever vigilant, had found persistent widespread violations in the construction of the Skyline Center prior to the disaster, had shut down the job, and instituted criminal proceedings against the builder. Would the county then embargo the records? Naturally not. They would have nothing to fear. Multiple copies of inspection records are filled. Additional copies could be made. County personnel were doing their job, following the rules, and would have nothing to lose from public scrutiny of their work as they prepared to go into court fighting the good fight. The county government is concerned with tampering of the records in this case, and naturally we are, too. The best way to keep every one honest is to keep public record public.

[Editorial—The Globe Mar. 15, 1973; entitled "Keeping it Muddled"]

While the Skyline Center Disaster throws into question the adequacy of county building inspection procedures and codes, it also highlights a lack of agreement over what agencies have overall authority to supervise rescue and investigation. The U.S. Dept. of Labor's Occupational Health and Safety Administration has denied it has authority to investigate safety compliance. Instead, there seems to have arisen a vague coalition of state and local authorities plus private construction and demolition companies, supposedly being coordinated by Acting Fairfax County Executive Robert W. Wilson, to handle the delicate and crucial question of cause. To allow so many interests, often competing ones, to take an active role in deciding life and death questions—such as, should the building be searched for survivors before being demolished—as well as questions of fact and procedures on how to investigate such an incident is irresponsible. Furthermore, if federal authorities are taking a back seat on the safety procedures at the disaster site, are they doing the same at other buildings currently under construction? Acting County Executive Wilson says he is pursuing the difficult job of coordinating often "overlapping" jurisdictions in investigating Skyline. Yet, state officials pass the buck concerning jurisdiction to the federal level; and federal officials pass it right back again. It seems to us that, under the circumstances Wilson is somewhat exaggerating, if not misrepresenting, the nature of his role. On the other hand, Wilson is the employee of the board of supervisors which itself has shown seriously bad judgment in this affair through such tactics as calling for an in-house investigation of the county inspections department. At this point, we can only conclude that officials have agreed the best approach is to keep things muddled. Only the dead are beyond confusion.

[Editorial—The Globe Mar. 22, 1973 "The Ripples Are Spreading"]

Particles of the rubble which flew from the collapsed Skyline Plaza highrise at Bailey's Crossroads are continuing to land in many heretofore placid pools of institutional indifference and irresponsibility, and the ripples are providing a good indication that the problem of the collapsed building is more than one of "finding the culprits". One question that must be raised is the genuineness of the Fairfax County Supervisors' avowed commitment to represent and defend the public interest. The disclosure that Supervisor Moore's request for an investigation conducted independently of the government was met with vociferous opposition by her colleagues behind closed doors is important, but the consternation created by that request in the public session beforehand was plain to everyone. The speed with which they retreated to a bogus session was indication enough of their position that the best thing to do is to do nothing at all. Now that Commonwealth Attorney Robert F. Horan, Jr. has made a preliminary presentation to the supervisors on the results of his investigation, it is practically a sure bet that the supervisors will try to keep the inspections records under wraps as long as possible. For surely they now know, as virtually every homeowner and aware citizen already knows, that the county building inspections department is a mere shell.

After trying to get information and waiting six months for some of the government officials or businesses involved to come forward without any results, I made inquiries of several government officials and agencies, still, without any results. Some of my inquiries were as follows:

AUGUST, 31, 1973.

Mr. ALEXANDER G. GILLIAM,
Special Assistant to Governor.

DEAR MR. GILLIAM: Is there no human decency left in the Commonwealth of Virginia? My son Michael James Frye was killed in the Skyline building collapse at Baileys Crossroads, Va. on Mar. 2, 1973. Mike's body was found (not rescued) on March 15, 1973. To this date, none of the government or company officials involved in this outrageous tragedy have offered any condolence or expressed any sorrow to myself or my wife. As a matter of fact, in our inquiries for facts and information we have been treated terrible.

The builder was not issued a "stop work order"; I was forbidden to search for my son; and government officials did little or nothing to direct and supervise a disaster rescue operation. It was reported that the builder voluntarily stopped work on the site 17 days after the collapse.

Several weeks later, the builder was allowed to meet secretly with the Fairfax Bd. of Supervisors and was given permission to resume work at the site of the collapse, yet at the same time I am forbidden to see the police file on the finding (not rescue) of my son's body.

It was reported that the builder was given permission to resume work because he was losing money. My son had just completed college and was assisting me with the support of a large wonderful family. The government has not shown any interest in my financial loss.

The state of Virginia and America does not need more luxury condominium apartments but they are in need of young men such as MICHAEL JAMES FRYE. The moral decay and lack of integrity is running rampant through America and only young men and women such as Mike can reverse the trend.

It is respectfully requested that this letter be given to the Governor and someone contact me, because in desperation, I need answers to the following questions. 1. What does the state of Virginia intend to do about this terrible tragedy? 2. Does the state of Virginia intend to meet its obligations to the families involved? 3. Does the state of Virginia intend to search, find and punish those responsible for this great tragic loss of human life? 4. Does the state of Virginia intend to do anything about the conduct and behavior of government officials concerning the collapse and rescue?

JAMES H. FRYE.

SEPTEMBER 24, 1973.

DEAR GOVERNOR HOLTON: On September the 5, 1973, I mailed a package of material to Mr. Gilliam. At the same time I mailed copies to Congressman Broyhill and Senator Byrd. I have had two responders from Congressman Broyhill and one from Senator Byrd. To this date I have not had any response from Mr. Gilliam or anyone in your office. Am I to assume that no response is forthcoming?

Very truly yours,

JAMES H. FRYE.

OCTOBER 6, 1973.

DEAR MR. GILLIAM, Jr.: Enclosed you will find a copy of a letter I sent you over a month ago. I also sent a copy to Governor Holton September 24, 1973. I sent copies to several other people and some of these people have responded two or three times. I assume after 30 days that you and the state of Va. have no intentions of responding to my letter and other material. Therefore, I am returning Michael's refund check for 1972 and the company's withholding for 1973 state income taxes withheld in Jan. and Feb. 1973. The state of Virginia can just keep the money.

Sincerely,

JAMES H. FRYE.

The above type of information has been requested from the following without any meaningful results to date. 1. OSHA; 2. Federal Safety Council; 3. The Arlington County Board, in regards to collapse at Crystal City (same builder as skyline), and others. I have not received any answer at all from the Governor of Virginia's Office.

At Skyline Mike was operating a concrete grinding machine that stirs up a lot of concrete dust and also makes a lot of noise. He was one of a few that was trusted to work alone without any supervision and as working alone on the 14th floor when the collapse occurred. To my knowledge no attempt was made to warn him of the danger. This was his reward for being an excellent and trustful worker. Is this a true example of the rewards for honesty and integrity in the American system? Do truly great people such as Michael go unrecognized and doomed?

It is immoral, wrong and sometimes illegal for individuals and small business men to do certain things but moral, right and legal for government officials and big business men to do the same things—a conflicting core of values—A system such as this is destined to destroy itself Skyline construction could only begin with the permission of the government, it would only continue with inspection approval and permission of the government, a builder could only continue with the permission of the government to work at a site with human beings buried under tons of concrete and steel. These are the facts dictated by the nature of government we have. *I sincerely hope that each member of Congress will take a stand against this enslavement by government, corruption in government, deficit spending and the general decay in the morals of our society that led to the collapse of skyline and will lead to many other disasters that will come in many different ways.*

I have had chronic osteomyelitis since I was fifteen years old and go to Richmond every four weeks for medical care. Michael drove me when he could and had driven each month since he had completed his college program—this trip, every four weeks, for the past seven months has been torture for me an now no one in the Governor's office will even acknowledge my letters to them. My Doctor in Richmond has been quite upset over this terrible tragedy, also—he was 81 years old in September 1973 (Dr. Thomas F. Wheeldon, 114 North Mulberry St., Richmond, Va. 23220—A truly Great Man).

An engineering study to determine the strength of A–5 was performed prior to an August 6, 1973 secret executive session of the Fairfax Board. As a result of this study, the Supervisors approved completion of the building. The partially-built A–5 is located next to highrise, A–4 that collapsed March 2, 1973. Consulting engineers retained by both Skyline developers and Fairfax County to perform the study failed to uncover the fact that a structural column was 12 inches off the center of the concrete pier beneath it. The technical report did recommend he repair of this column and others which were found weak after sonic test. The error was found when workmen accidently broke through the concrete slab which separates the column and the pier, only to find the column was off center. The builder elected to raze the building, rather than wait for the extensive structural analysis needed to correct the error.

And so the tragedy of errors and coverup goes on.

PART 3. A LACK OF PROTECTION OF WORKMEN AND THEIR FAMILIES UNDER THE DOCTRINE OF SOVEREIGN OR GOVERNMENTAL IMMUNITY AND THE WORKMENS COMPENSATION LAWS OF VIRGINIA

The doctrine of sovereign immunity as it presently exists in the Commonwealth of Virginia has been derived solely from judicial interpretation of obsolesent English law. Where sovereign immunity is allowed to stand, we have a conflicting code of values. Therefore, a man injured or killed through wrongful acts or negligence of a state or its damages while a man injured or killed by a private party may recover compensation. If, in fact a culpable injury has been done and goes unchastised by the law because of the doctrine of sovereign immunity, that doctrine protects injustice for no better reason than its source is the state. And the concept becomes this: "The king can do no wrong." In the first suit concerning the Skyline collapse, the Judge dismissed Fairfax County. The Board of Supervisors and The State of Virginia based on "The king can do no wrong".

The Virginia Workmen's Compensation Act, denies an employee the right to recover damages which he may have "against any other party" unless the latter is not "employed in the work" in which the employer of the injured employee is engaged. Additionally, if the work being performed by the injured employee's employer is part of the trade, business or occupation of an owner, that owner is likewise immune from common law negligence claim. Therefore, the Virginia Workmen's Compensation Act is unjust, unfair, and deprives citizens of due process and the right to file suit under common law. Therefore, the Act protects government officials and businessmen against any acts of negligence, intentional or not, from liability and discriminates against the individual workman to the extent of encroachment upon any civil rights and, in effect, enslaves him. This inequitable situation is in contradication with the standard of equal protection of the laws enunciated in the Fourteenth Amendment to the Constituion of he United States.

I would like to know, why Fairfax City Government employees are apparently covered by the D.C. Workmen's Compensation Act (underwritten by the Hartfort Co.)? Why aren't other companies employees working in Fairfax City, Virginia covered by the D.C. Act? The benefits are much greater in the District of Columbia (which is governed by the Longshoreman and Harbor Workers Compensation Act) vs. the State of Virginia.

Public Law 91–596, 91st Congress, S. 2193, December 29, 1970; Sec. 27—Provided for a "National Commission on State Workmen's Compensation Laws." This Commission was to study and make recommendations to correct inequities in the laws. What has happened concerning this provision of this Public Law?

PART 4. REQUEST FOR CONGRESSIONAL INVESTIGATION

It is respectfully requested that the Congress investigate the Tragic Skyline collapse and the lack of protection under current laws (State and Federal) afforded workmen and their families who are injured or killed in such a careless and useless tragic event such as the Skyline collapse.

The Watergate investigation and political contributions and payoffs bu builders and developers are of prime interest to the Congress and the public at the present time. Therefore, the Congress should investigate for itself, the Skyline collapse, the rescue and the lockup of vital important records and facts, to determine the following:

(1) Did political contributions or payoffs influence the start of construction, the continuation of construction and the eventual collapse?

(2) Are building standards and codes, at the Federal and State levels, adequate and safe an are Feeral and State Agencies capable of policing and enforcing the standards and codes?

(3) What was the responsibility of OSHA in the establishment of safety procedures and inspection of the construction at the Skyline complex? And how did they satisfy these responsibilities?

(4) Did improper collusion between Representatives of liability insurance carriers and government officials take place after the collapse?

I ask one question—If a builder, a construction Company and other related firms can "cut corners", utilize inferior materials and violate safety and building codes, which result in huge profits, and only be fined a few hundred or thousand dollars—Then where is the force to correct this terrible situation which lead to this terrible tragedy?

In addition, Congress should investigate, for itself, the inequities against the workmen that have been highlighted by the Skyline collapse, and take action, as soon as possible, to correct any inequities that currently exist.

In conclusion, I ask all those involved in the Skyline collapse to come and tell us who and what they are.

(1) Are they politicians asking what their country can do for them, or (2) zelaous ones promoting good will and integrity among men.

If they are the first, then they are parasites; if the second, then they are like an oasis in the desert.

(3) Are they Business men utilizing the need of society for a place to shelter itself, for coercive monopoly (collusion with government officials) and exorbitant profit?, or (4) sincere, hardworking and diligent men facilitating the exchange between the supplier and the consume· and charging a reasonable profit as middlemen between supply and demand?

If they are the third, then they are criminals whether they live in a palace or a prison. If they are the fourth, then they are men of integrity whether they are thanked or denounced by the people.

I sincerely request that the Congress make every effort to determine—*who and what they are?*

MORE MEDICAL TREATMENT FACILITIES NEEDED

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. ASPIN. Mr. Speaker, Mr. John J. Byrnes, an attorney from Elkhorn, Wis., has brought to my attention a disturbing fact which I would like to share with my colleagues. Mr. Byrnes' letter follows:

ELKHORN, WIS.,
November 2, 1973.

Hon. LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR LES: I wrote recently to Mayo Clinic for a routine examination in response to which I received a post card giving me an appointment for December 10, 1974. Copy of the card is enclosed herewith.

This points up the disturbing shortage of medical treatment facilities we seem to have in the country—at least good medical treatment facilities—and particularly, doctors.

It would seem that through the help of the federal government we should be able to set up more training and treatment facilities. Anything you can do along that line would be appreciated by the folks in this area, I am sure.

Best wishes,

JOHN J. BYRNES.

Upon reading this letter, I think we all are aware of the conclusion to be drawn. National priorities should reflect a concern for the health and welfare of every American citizen and I feel Mr. Byrnes' letter clearly illustrates an area urgently in need of reform.

INEQUITY OF TITLE I ESEA PROVISION REQUIRED RECOMMITTAL OF H.R. 8877

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. EILBERG. Mr. Speaker, on Tuesday of this week I voted with 271 of our colleagues to recommit the report on H.R. 8877, the Labor-HEW appropriations bill for fiscal year 1974, to the Committee on Conference. I did this because the formula according to which title I—ESEA money was to be distributed was clearly inequitable. I had hoped to have the opportunity to specifically instruct the conferees that the language in amendment 32 of the conference report be deleted and that a revised report be returned to the House giving local school districts 90 percent of the amount they received in 1973 and permitting local agencies to receive as much funding as they are entitled to, providing that States, in the aggregate, not receive more that 120 percent of the amounts they received in 1973.

The proposed change in the formula of distribution would have permitted shifts in population which have occurred since 1960 to be more accurately reflected both between and within States. Simply put, the revised formula, providing for use of the latest census data available to us, would have been more equitable. The result of the inequity in the conference committee report would have been felt most severely in those States and cities where the need for assistance is greatest. In my own State of Pennsylvania adoption of Congressman Quie's "revision" formula would mean $77,997,749.78 during the present fiscal year, whereas retention of the existing distribution plan would provide $74,747,843.47.

The disparity is even more striking in the case of my constituency of Philadelphia which has been so heavily burdened in recent years with the most difficult of financial problems in keeping its schools open. Enactment of the conference report for H.R. 8877, as presented, would have provided the city of brotherly love with $23,865,296.98 whereas the Quie formula would provide $31,375,928.09 in sorely needed money.

Now I want it clearly understood that I make no apology for presenting Philadelphia's brief in this matter. As I see it, that is what I am here for. But, I want it understood that the point before us is chiefly one of equity. With the needs of constituencies such as my own being so manifest, how can this House seriously entertain the idea of basing the distribution of almost $2 billion in Federal money on patently outdated census figures?

Regrettably, the Chair did not consider the motion, with instructions, offered by the gentleman from Minnesota, Mr. Quie, to be in order. However, an overwhelming majority of this body—272–139—then voted to recommit without instructions. Thus, I call upon my good friends who will be this House's Representatives to the conference committee to work expeditiously in making the appropriate changes in amendment No. 32 so that fairness may be done for the children of this land.

PITTSBURGH LABOR LEADERS LEAVE CITY: ONE RETIRES; ONE PROMOTED

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, two of my very best friends in the Pittsburgh labor movement will leave our city soon, for different reasons.

Joe Sabel, former president of Food Employees Local 590, has retired and will move to Florida.

I have known Joe Sabel for years. He has merged his strain of strong trade unionism with an equal quantity of community spirit to give the Pittsburgh area, not to mention the men he lead, one of the most politically and civically active men our area ever has known.

Another union man, just as devoted to the public will as well as the interests of the union movement, is Anthony "Bud" Lutty.

Bud Lutty will go onto St. Louis to become director of the Amalgamated Meatcutters Union, whose Pittsburgh Local 590 he headed after succeeding Joe Sabel.

My sincere best wishes go to both these men and while I hope their respective days are nothing but productive happy ones, I cannot help but wish they could stay on in Pittsburgh and continue their exemplary service in the Steel City.

Ed Verlich, labor editor of the Pittsburgh Press, has written an article on the careers of Joe Sabel and Bud Lutty. I would like to put that article in the Record at this time:

Labor Report: Sabel Retiring, Lutty Moves; It Is a Loss of Top-Notchers

(By Edward Verlich)

One of the Pittsburgh area's outstanding labor leaders, Joseph H. Sabel, will be leaving the district soon for a deserved Florida retirement.

Mr. Sabel, former president of Food Employees Local 590, is proof that nice guys don't finish last, because a nicer guy you just can't find.

His credits over a 30-year labor career are varied and many, from state deputy labor secretary to one of the Top 10 Press Old Newsboys who carried the ball for Children's Hospital.

There are a lot of solid points to talk about in reviewing his performance.

Mr. Sabel, first of all, was a strong local union president who dealt from a position of strength and not weakness. He knew his union and its industry of chain food stores. His members fared well under his guiding hand.

Among his proudest accomplishments were the pension and health and welfare funds for the 10,000-member local union that grew under his guidance.

Conscious of the community, he always helped in labor disputes whenever he could—whether or not his own union was involved.

Deeply involved in politics in a period running from Gov. George M. Leader to Sen. Edmund S. Muskie, "Joe" served as director of the Allegheny County Labor Council's Committee on Political Education.

While there may have been later misgivings, he also was the labor chairman for the initial election of Mayor Pete Flaherty.

Another loss on the labor scene here is the departure of a close associate of Mr. Sabel, Anthony "Bud" Lutty, who went to St. Louis last week to become director there for their parent union, the Amalgamated Meatcutters.

Mr. Lutty leaves here at a time when, as president of the Allegheny County Labor Council, he had the labor movement on the way back into the mainstream of the community.

While in a position of leadership, Mr. Lutty started some positive efforts, such as the Greater Pittsburgh Labor-Management Advisory Council. His efforts should be continued by his successors.

To Mr. Sabel, a well deserved retirement, and to Mr. Lutty, keep up the good work. You two gentlemen are what the labor movement is all about.

PROTECTING THE SPECIAL PROSECUTOR

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. HOGAN. Mr. Speaker, there is unanimity among the American people that everyone engaged in wrongdoing in connection with Watergate and its fallout extensions should be brought to justice. There is also agreement that there should be a special prosecutor to pursue these matters without interference.

There has been controversy on whether or not the special prosecutor should be appointed by the judicial or executive branch. An editorial appeared in today's Washington Post which I would like to insert in the Record at this point for the benefit of my colleagues.

In addition to its views on the administration-appointed special prosecutor, the Post "argues forcefully against legislation now pending that would authorize the appointment of a special prosecutor by the U.S. District Court."

There are constitutional risks inherent in the bill reported out by the House Judiciary Committee. We should, therefore, avoid the possibility of a court battle as it would only prolong the continuation of the Watergate investigation.

The editorial follows:

Protecting the Special Prosecutor

("Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court.")

The quotation comes from U.S. District Judge Gerhard A. Gesell's memorandum explaining his decision in an important Watergate-related case the other day. Judge Gesell made his observation in the course of declaring that Acting Attorney General Robert H. Bork had acted illegally in firing Special Watergate Prosecutor Archibald Cox on October 20. Taken together, Judge Gesell's admonitions concerning the proper role of the courts and his interpretation of the law as it concerns the Special Prosecutor's tenure seem to us to argue forcefully against legislation now pending that would authorize the appointment of a Special Prosecutor by the U.S. District Court. The question is whether such legislation is either necessary or desirable, and we believe the answer on each count is, no.

The purpose of the congressmen and senators who are supporting the creation of a court-appointed prosecutor is admirable: it is to guarantee an independent, impartial, pressure-free prosecutor's office, one that is not subject to the will, whim or threat of those under investigation. And, not incidentally, it is to assure that the appearance of all this will be equal to the reality, so that people will be able to have confidence in the integrity of the prosecutor's office. However, we believe that this purpose would best be satisfied by other means—specifically by the enactment of legislation requiring Senate confirmation of the administration-appointed Special Prosecutor and also giving even firmer statutory basis to the office of the Special Prosecutor.

Judge Gesell's reading of the law is relevant here. He did not find that Acting Attorney General Bork had acted illegally in firing Mr. Cox by reason of any breach of the commitments given the Senate by Elliot Richardson concerning Mr. Cox's position. Those commitments, Judge Gesell said—whatever the "moral of political" implications of abandoning them—"had no legal effect." Rather, he found the illegality to reside in Mr. Bork's violation of a Justice Department regulation authorized by statute and setting forth the conditions governing the Special Prosectuor's job. Those conditions, as Judge Gesell observed, included the following: "He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that 'The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.' "

What is particularly interesting and apt about this judgment is that the Justice Department regulation, which Judge Gessell sees as having had "the force and effect of law" and which he also sees as preventing the President himself from dismissing a Special Prosecutor, is back in effect. In other words, its terms extend to and protect Leon Jaworski, the new Special Prosecutor who has just been named to the job by Acting Attorney General Bork. It seems to us that an administration-appointed Special Prosecutor whose views and purposes had been examined by the Senate in confirmation hearings, whose subsequent confirmation made him in some appreciable degree answerable to Congress and whose job security had been enhanced by strengthening of the statutory basis of his office would be as free of administration pressure and dictation as could be guaranteed by any process—including the process of having him appointed by and answerable to the U.S. District Court.

We would argue that such a prosecutor would have another special advantage: it is the likelihood that any findings he made or charges he brought against the President of the United States would be credited by the public. Here we find ourselves taking an entirely opposite view from those who hold that a court-appointed prosecutor would enjoy more public confidence than anyone—Mr. Jaworski included—who owed his appointment to the Nixon administration. On the contrary, it seems to us that his appointment by the administration would at once oblige him to demonstrate his prosecutorial independence and give particular force to his position, especially as he pursued investigations of those intimately connected with the administration. It is important now that people believe in the integrity of the Special Prosecutor. But it is not nearly as important as it will be if and when the Prosecuor comes into direct conflict with Mr. Nixon, as Mr. Cox did, or actually implicates him in criminal activities.

These are essentially political considerations, and it seems to us that they weigh equally in the scale when you are thinking about the Special Prosecutor's freedom to pursue the work Mr. Cox began. High among those considerations we would list a new political restraint on Mr. Nixon's: at what cost could he repeat his performance of the weekend of Otcober 20? The President is only now recovering—and just barely—from the repercussions of that event and to the extent that he is recovering at all, he owes everything to a hasty retreat from his position on releasing the subpoenaed tapes and on abolishing Mr. Cox's office along with Mr. Cox's appointment.

What with the Ervin Committee, the House Judiciary Committee and the Special Prosecutor's office already in existence, it seems to us that the addition of a court-appointed prosecutor would only dissipate energy and promote confusion in the task of bringing the Watergate offenses to light and the Watergate offenders to justice. There is, in fact, too much confusion, distraction and overlap now. We think the center of action should be the Special Prosecutor's office. And we think the tools are at hand for Congress to guarantee that this is so.

YEAR-ROUND DAYLIGHT SAVING TIME

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. COLLIER. Mr. Speaker, as a sponsor of H.R. 11233, I commend the Interstate and Foreign Commerce Committee for taking prompt action this week in reporting legislation providing for daylight saving time on a year-round basis. I do so because it is of vital importance to assist in easing the severe energy crisis facing our country.

The extra hour of sunlight each day that would result from passage of this bill would make a substantial contribution toward reducing our consumption of electrical energy.

According to the Department of Transportation, year-round daylight saving time would result in a net savings of between 1 and 2 percent of our nationwide demand for electrical power. While the 1 to 2 percent savings might sound small, we have reached the point where small economies must be added together to make a large difference—the difference between minor inconvenience and major disruption of our economy and standard of living.

Based on figures in the 24th annual electric industrial forecast, a 2 percent net saving on the estimated total electrical output of the United States this year would have amounted to about 40 billion kilowatts.

Because the concept of year-round daylight saving time has been proposed in the past—before the energy crunch developed to its present emergency level—several Federal agencies have commented on other pros and cons of the idea. In my opinion, the favorable aspects of their reports far outweigh the inconveniences mentioned.

For example, according to the Department of Agriculture, there would be no significant effect on farm production from a scientific standpoint. There might be varying effects in individual cases, according to the Department, but one shift to year-round daylight time would put an end to the problems caused by the twice-yearly change which occurs with our present April to October system.

No hard statistics are available on the effect of daylight time on the incidence of crime, according to the Justice Department. However, estimates are that the change would greatly reduce the number of murders and muggings which occur during the hours from 5 p.m. to nightfall.

In the area of traffic safety, the Department of Transportation does not have conclusive statistics relating the frequency of automobile accidents during daylight and standard time. Available information indicates that with year-round daylight time, evening rush hour accidents would decline, but this reduction would be partially offset by an increase in morning accidents.

Another frequently mentioned potential problem concerns schoolchildren traveling to classes in early morning darkness during the winter months. The Department of Health, Education and Welfare suggests that in areas where this would be a definite problem, perhaps school starting times could be postponed to overcome the difficulty.

I feel it is indeed reassuring that these Federal agencies indicate many possible benefits from year-round daylight saving time, but the overriding concern facing us now is to conserve energy so we can avoid major disruption of our economy and way of life.

As a sponsor of legislation to institute year-round daylight saving time as one way of easing our energy crisis, I respectfully urge my colleagues to give prompt and favorable consideration to the Interstate and Foreign Commerce Committee's bill when it reaches the floor for action.

THE FATHER OF THE BLUES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 16, 1973

Mr. RANGEL. Mr. Speaker, today is the 100th anniversary of the birth of William Christopher Handy the "Father of the Blues." Throughout America cities, universities, community groups, periodicals, and individual citizens are honoring W. C. Handy for creating a brilliant and poetic musical idiom. An idiom that Handy wanted to convey the bitter impact of slavery on black America. It was created to express his feelings about growing up in America in the late 19th century, but it still expresses the lingering impact of slavery in the late 20th century.

Mr. Speaker, I think it is quite fitting that Congress honor W. C. Handy today. To that end I place in the Congressional Record articles on Mr. Handy from three newspapers: the New York Amsterdam News November 17, 1973, the Christian Science Monitor November 15, 1973, the Washington Post November 16, 1973.

[From the New York Amsterdam News, Nov. 17, 1973]

A Devoted Family of Blues Lovers—Honors Its Revered "Father"

Few American musicians have become more famous than William Christopher Handy, the "Father of the Blues."

He made Memphis famous, put St. Louis in song and gave the whole world a new form of music, but he belongs to Florence, Alabama.

On Sunday, November 18, Florence will honor its most famous native son with the second W. C. Handy Music Festival. The Sunday Night concert will conclude a week-long celebration featuring open house at Handy's restored, log-cabin birthplace and the W. C. Handy Museum, a festive parade through downtown Florence, a special jazz fest at halftime of the Florence State-Jacksonville football game and a reception for members of the late composer's family.

Born to former slaves on November 16, 1873 in Florence, Handy achieved worldwide fame as a composer, bandmaster, cornetist and music publisher before his death in New York City on March 28, 1958.

As a struggling, young musician, Handy traveled throughout the nation with a ministrel band playing for dances and parades. He was often abused by whites and condemned by many blacks who claimed, "show folks ain't nothing but dirt," and his minister father who called Handy's first horn "the devil's plaything."

But during his lifetime, he would be recognized as a true American musical genius and wined and dined by the cream of American society. "I have always felt that the miseries of my early life bore fruit in song—Yes, music cheered me on and played an accompaniment to my hard knocks," Handy said.

On his way to being rightfully acclaimed "Father of the Blues," Handy composed some of the greatest blues works, including "St. Louis Blues," "Beale Street Blues" and "Memphis Blues."

"Handy did more to bring the blues into the mainstream of world music than any other man," says the biographical dictionary of the American Society of Composers, Authors and Publishers.

The American Record Guide says, "W. C. Handy was responsible for the popularization of the blues and for giving the blues real status as a recognized music form." Handy's influence left its mark on the world of both popular and serious music, starting with its influence on George Gershwin and going back to William Grant Still, considered America's first black composer of serious music.

The "Father of the Blues" not only composed some of the world's greatest blues work, he was the first to put blues on paper and he preserved for America's musical heritage the "blues folk songs" of countless, unknown originators who preceded him.

The song often referred to as Handy's masterpiece "St. Louis Blues," is an enduring classic of American popular music and has been performed in an endless variety of arrangements and on every conceivable musical instrument.

The U.S. Postal Service honored him with a six-cent stamp, his life was brought to the screen in "St. Louis Blues" in which the late, great Nat King Cole played the role of Handy. Called "The Dean of American Music," and "Tin Pan Alley's Grand Old Man," Handy's fame spread in his latter years. Vincent Lopez performed his "Evolution of the Blues" at the Metropolitan Opera House. He twice led his own band at Carnegie Hall, Memphis dedicated a park to him and re-named Beale Street to Handy Street.

Florence named a school, a housing project, a recreation center and more recently an American Legion post to him in addition to restoring his home and building a museum to house his famous golden trumpet, piano and hundreds of other personal articles.

But perhaps the greatest of all tributes to Handy is the annual W. C. Handy Music Festival staged each year in the town of his birth and sponsored by the Florence Chamber of Commerce. The first festival was held in 1970 when the Handy Home and Museum were dedicated and Florence Chamber of Commerce has decided to make it an annual affair beginning this year.

Some of the nation's top entertainers in the blues and jazz field will perform during this year's festival. The world-famous Olympia Brass Band, just back from a tour of Europe; The Ronnie Kole Trio; Blanche Thomas, "Queen of the Blues," who has starred at New Orleans' Heritage Hall for almost 50 years; Louis Cottrell and his All-Stars from New Orleans; Eubie Blake, Handy's contemporary composer who recently appeared on "Evening at Pops"; Maxine Sullivan, film and singing star who sang "St. Louis Blues" in the movie version, and others.

Many of the musicians from New Orleans and New York will participate in a parade Saturday, November 17 at 10:00 a.m. and at halftime of the Florence State-Jacksonville game that afternoon. The reception for the Handy Family will be held Sunday Afternoon.

"I don't know how we're going to top the first festival, but now that we have his home restored and the museum open, we also want to have a commemorative celebration that will do justice to the memory of W. C. Handy and all he meant to the world of music," said Jim Odum, Executive Director of the Florence Chamber of Commerce.

Reports pouring in from across the country confirm that the centennial of the birth of W. C. Handy is being honored in ceremonies, festivals, concerts and exhibits in at least six states and the District of Columbia. Handy, internationally hailed as Father of the Blues and a distinguished member of the American Society of Composers, Authors and Publishers since 1924, was born in a Florence, Alabama log cabin on November 16, 1873. Son of former slaves, he died in New York City on March 29, 1958.

The governor of Alabama is designating November 16th W. C. Handy Day, and so are the mayors of St. Louis, Memphis, New Orleans and Florence. This is hardly surprising for Handy's most successful song was the "St. Louis Blues" and his other big hits include "Memphis Blues" and "Beale Street Blues"—the latter celebrating a street in Memphis, New Orleans Mayor Moon Landrieu is recognizing Handy's lasting contribution to the blues-jazz heritage which still thrives, and Florence is honoring its most famous native son.

Memphis and Florence will have week-long celebrations, including street parades and concerts by nationally known musicians and singers. Florence's galaxy will include Eubic Blake, Maxine Sullivan and the Olympia Jazz Band of New Orleans. The Yale University School of Music has scheduled a concert of Handy's spirituals and hymns, and Howard University in the District of Columbia is planning a two-day concert program honoring Handy and the Blues. Rutgers University's Institute of Jazz Studies in Newark has announced a Handy exhibit, and the Music Division of he Library of the Performing Arts at Lincoln Center is collecting memorabilia for a Handy show set for January.

The Voice of America is going to tape the Memphis and Florence festivals for overseas broadcast, and the news departments of two major TV networks are planning vedeo reports on the centennial. Many colleges and two professional fooball teams will feature Handy medlies in their half-time entertainment on Nov. 17th and 18th.

It isn't surprising that Bill Handy should have such a big birthday party," said ASCAP President Stanley Adams who knew Handy for many years. "He was a big talent and a big man, and he has left a big mark. All of his 21,000 colleagues in ASCAP join in this celebration, proud that he lives on in his music "

[From the Christian Science Monitor, Nov. 15, 1973]

W. C. Handy's America: Land of the Red, White, and Blues

(By Amy Lee)

"I hate to see de evenin' sun go down. . . ."

Does anyone need to be told who wrote that American classic?

Tomorrow is the 100th anniversary of the birth of "St. Louis Blues"—composer William Christopher Handy, and his birthplace, Florence, Ala., will be celebrating. So will other cities—Memphis, New Orleans, Washington among them—in kickoff events for ongoing observances throughout this Handy 100th Anniversary Year.

Florence has declared Nov. 16 as W. C. Handy Day and has scheduled three major events for this weekend: a parade through downtown Florence on Saturday afternoon, Nov. 17, and in the evening a special half-time show at the football game between Florence State University and Jacksonville State at Braly Stadium. On Sunday, Nov. 18, there will be a W. C. Handy Music Festival Concert at Florence State's Norton Auditorium.

According to Wyer Owens Handy, of Handy Brothers Music Company in New York, who is W. C. Handy's only living son, the festival concert will feature "some of the finest talent from New Orleans," such as the Olympia Brass Band and other groups who took part in dedicating the restoration of the Handy Home (the original log cabin where the composer was born) and Museum. Ragtime pianist Eubie Blake and singer Maxine Sullivan have been invited to perform.

BIG EVENTS

"We are confident that this 1973 Handy Music Festival will be America's greatest jazz and blues event," said Jim Odum, of the Florence Chamber of Commerce. Proceeds from the festival will be used to perpetuate the memory of W. C. Handy.

On and on the blues will roll in every possible interpretation! Arthur Fiedler will feature a performance of "St. Louis Blues March" Nov. 24 in Baltimore. And in New York on Nov. 26 at the Overseas Press Club, Gregg Buchanan of the United States Navy Band will play "St. Louis Blues" on the harp.

During December and January, the New York Public Library at Lincoln Center will feature an exhibit of Handy's music and memorabilia, and slated for release this month is a special album of W. C. Handy's music by Earl "Fatha" Hines on Audiophile Records called "Hines Comes in Handy."

SACRED MUSIC

But overshadowed by his vast reputation as "Father of the Blues" is the fact that W. C Handy had a deep interest in sacred music particularly his beloved Negro spirituals. In his Author's Note in W. C. Handy's Second Collection of 37 Spirituals he wrote: "Masterful choral or symphonic arrangements [of the spirituals] may probe deep into my emotions, but none can supersede that happy feeling of possession which is mine when, closing my eyes, I can become transplanted once again to my own native Florence, Alabama, and the African Methodist Episcopal Church, first to be built by my grandfather [William Wise Handy, first ordained minister of the first black church in North Alabama] and from whose pulpit my father [Charles Bernard Handy] preached many a sermon . . . Florence's First Baptist Church . . . taught me many of the Spirituals I have learned. . . ." Handy arranged nearly 40 spirituals for mixed voices, male voices, and vocal solos with piano accompaniment.

Recently, Wyer Handy and his sister, Katherine Handy Lewis (only living daughter of W. C. Handy), and her son Homer D. Lewis, Jr., recalled their father's love of hymns:

"He was prolific in the field of sacred music," they noted. "He wrote the anthem 'They That Sow in Tears' [based on Psalm 126, verses 5–6, 1–2] and hundreds of other sacred compositions."

Wyer has sent letters to over 1,000 churches throughout the country, reminding them of his father's roots in the church and the spirituals, and inviting their participation in the anniversary celebration. Several colleges and universities, he said, are planning band concerts and classroom study programs of W. C. Handy's music, and tributes during televised valves of football games. Copies of Handy band music have gone out to 300 colleges and universities.

CITIES SALUTE HANDY

As the city memorialized in two Handy classics—"Memphis Blues" and "Beale Street Blues"—Memphis has special reason to salute the memory of the composer-band-leader-trumpet player who spent some of his most fruitful years there. It started its Handy celebrations on Nov. 12 with a program of band arrangements of Handy compositions by the Memphis State University Band, and through the week is staging parades, performances by high school bands, and football half-time programs featuring Handy's blues.

In Washington, D.C., the Department of Afro-American Studies and the Institute of Arts and Humanities of Howard University have planned a two-day festival: "Homage to Handy and the Blues," to be held at Howard Nov. 16 and 17. It will include music and drama from Howard, and bands and music from other universities and high schools in the Washington area. Plans also include performances by Washington church choirs of spirituals and gospel hymns, which have contributed so much to the rich variety of blues and jazz music. Scholars of the blues will be invited to read from their works and discuss the role W. C. Handy played as source for today's proliferating rural and urban blues.

Dr. Stephen Henderson of the Howard faculty is organizer of the festival and is himself completing a book on the blues. It is expected that Walter Washington, mayor of the nation's capitol, will issue a proclamation to honor the memory of W. C. Handy and his contribution to blues and the world music.

New Haven, Conn., jumps on the Handy anniversary bandwagon with a special concert event, Professor Willie Ruff of Yale, bassist member of the former Willie Ruff-Dwike Mitchell Duo that made history as the first modern jazzman to play in the Soviet Union (1959), has transcribed 12 of W. C. Handy's choral arrangements of spirituals for symphony orchestra and chorus and several of his blues for performance Nov. 17 by the Yale University Orchestra, featuring Marian Williams, gospel singer, with the 75-voice Gibson Chorale.

[From the Washington Post, Nov. 16, 1973]

THE MAN WHO MADE THE BLUES

(By Joel Dreyfuss)

W. C. Handy, who was born 100 years ago today, listened to music in his father's church, to the work songs in Alabama fields and the lament of black singers, and made the "blues" a part of the American vocabulary.

Best-known as the composer of "St. Louis Blues," he is the subject of a two-day tribute which begins today at Howard University and will retrace his contributions as a band-leader, arranger and popularizer of the blues.

"A Tribute to W. C. Handy and the Blues Tradition" is sponsored by the university's Institute for the Arts and the Humanities and will feature workshops, concerts and a film biography of Handy, who died in 1958.

"A Howard alumnus came to us with the idea," said Jeanne-Marie Miller, assistant director of the Institute "and we took it from there."

George Starkes, Howard's ethnomusicologist in residence, helped plan the festival.

"His 'Memphis Blues' was the first published blues that gained any degree of popularity," said Starkes. "Up until Handy's time, the blues had primarily been the province of black people. Handy made whites aware of that tradition.

"He did the same thing with blues that Scott Joplin did with ragtime."

While Handy has been called the "father of the blues," he also had a deep interest in church music and arranged nearly 40 spirituals for a variety of voices and musical instruments.

Born in Florence, Ala., in 1873, Handy left home at 18 because his father, a minister, objected to a musical career. One day Handy had brought a guitar home and was ordered by his father to exchange the "devilish instrument" for his dictionary.

He eventually obtained a battered cornet and began his career in music by playing in a minstrel show at the 1896 Chicago World's Fair. For seven years he was a wandering musician.

"In the days when I had to sleep on the levees and cobblestones I heard the roustabouts singing on the steamboats and it hung in my ears," he once recalled.

"Memphis Blues," which raised him to prominence, was originally written as a campaign song for E. H. Crump, who was running for mayor of Memphis in 1909. Among his other successful songs were "Beale Street Blues" and "Yellow Dog Blues."

Some musicologists have dismissed Handy as a commercializer who contributed to the dilution of the blues but Starkes does not agree.

"This was music that had never been notated until his time," said Starkes. "When music is put down on paper, something is invariably lost. One important thing was that Handy drew upon his heritage."

Handy went to New York in 1918 and formed a music company, Handy Bros. Music Co., still operated by his children, who recall both good and bad times, according to Starkes.

Other festivals are scheduled in his hometown this weekend, in Memphis, New Orleans and other cities.

The Howard programs begin at 10 a.m. today with tributes by poet Sterling Brown, author John O. Killens, playwright Clay Goss and others.

Jazz trumpeter Clark Terry will lead a workshop on jazz improvisation at 1:30 p.m. and will participate in an evening concert featuring traditional singer Mabel Hillery, bluesman Eugene "Buddy" Moss, the Billy Roberts Big Band and the Howard University Jazz Orchestra.

The 1958 Paramount biography of Handy, "St. Louis Blues," starring Nat King Cole, will be shown on Saturday afternoon and the program will conclude with another concert on Saturday night featuring Flora Moulton, Louise Robinson, Greg Buchanan and the Howard Chorale.

ENERGY CRISIS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. ROSENTHAL. Mr. Speaker, I am pleased to learn the President has finally recognized that we are in the midst of an energy crisis. The cutoff of oil by the Arab States came as no surprise and has only hastened the shortage that had been forecast years ago. We must, of course, take decisive steps to conserve fuel to the maximum feasible extent, and we must do everything possible to keep the price of energy low and prevent windfall profits to the oil companies. We must also begin a crash research program to develop alternative sources of energy.

The President complained in his November 7 television speech that the Congress has done little about the energy crisis. The record shows just the opposite—the Congress has done more about energy than the administration and has been calling on the President for more than 2 years to show some leadership in solving the problem.

But throughout the developing energy crisis Mr. Nixon has shown more concern for the profits and prerogatives of the giant oil companies than for the energy needs of the American people. All the energy-conserving measures asked for by the President should have been requested a year ago when the shortages were already a palpable threat. In fact, many of his latest proposals could have been implemented as much as 2 years ago by the simple stroke of the Presidential pen.

The President has had authority since 1969 to restrict oil exports, but he is permitting three times as much fuel to be sent out of the United States this year as was exported in 1972. He did not even ask the oil companies voluntarily to stop exports of precious crude oil. The President has constantly opposed abolition of the oil import quota law even though such a move would have permitted the United States to increase its supply of oil prior to the Arab oil embargo.

Congress recognized the impending crisis by authorizing the President last April to institute mandatory fuel allocations. He not only opted for a voluntary program that quickly failed, his spokesmen deliberately stalled legislation requiring a mandatory program. This week the Congress passed and sent to the President legislation requiring him to allocate crude oil and refined petroleum products, including gasoline, in an effort to distribute equitably all fuels in short supply.

Last July 10, when service stations all over the Nation had begun to close, the administration said it was prepared to announce a comprehensive energy plan within a week. No such plan was ever forthcoming.

Even to this day the administration does not have a basic energy policy nor does it have the basic decisionmaking machinery necessary to deal with the energy crisis—all it really has is a public relations operation.

The Congress will act on the President's proposals where we agree that the power is necessary and will be used wisely, but we will not be rushed into precipitous action simply because the President claims he needs special authority in order to act.

There is no evidence that any of the seven pieces of legislation which he recommended in April would have better enabled the Nation to survive the shortages which are undoubtedly in store for us this winter. For example, he asked for deregulation of the price of natural gas at the wellhead. This would not produce any more energy for this Nation, in my opinion, but it would send prices for consumers soaring. The President also has asked the Congress to roll back a decade of environmental protection legislation.

The Congress has acted decisively on the energy issue independent of the White House. It is nearing completion on legislation to establish year-round daylight savings time; this was begun long before the President endorsed the move. The Congress also has voted operating subsidies for mass transit systems in an effort to get people out of their cars and into public facilities in an effort to cut pollution and save gas. The President has threatened to veto this legislation. Oil prices are soaring and so are the profits of the oil producers, but the President continues to oppose an excess profits tax. He has failed to confront the problem of continued production by Detroit of high-horsepower gas-guzzling cars.

Cutting speed limits to conserve gasoline will be helpful, but it appears we are heading for rationing of higher gasoline taxes in order to cut fuel consumption significantly. Higher gasoline prices alone are, in my opinion, inequitable and constitute a regressive tax that most directly hurts working people because so many depend on their cars for their livelihood. A slight increase in the Federal gasoline tax, however, when tied to an excess profits tax on the oil companies would be helpful in financing the Government's cost of development of new energy resources, new technologies and mass transit. In place of the higher gasoline tax, however, I would favor tying the excess profits tax to rationing in an effort to be sure that consumers who need gas the most can get it, and those who do not need it, regardless of their wealth, would have to do without.

I regret that the President has done what he always has—come down hard on the common man, the average hard-working consumer and allowed the rich corporations to escape their responsibilities in this grave crisis. The Congress and the American people must not tolerate such an approach.

IN MEMORIAM: BRIG. GEN. BONNER FRANK FELLERS, 1896–1973

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. DORN. Mr. Speaker, our dear and respected friend, Brig. Gen. Bonner Frank Fellers, who passed away on October 7, 1973, will long be remembered by many of us here in the Congress. General Fellers served our Nation with a sense of loyalty and dedication rarely seen. General Fellers had an outstanding loyalty to General MacArthur, whom he served, and General Fellers was right about the Far East. He shared friendships with many of us here in the Congress. It is my honor to say I knew and worked with this fine gentleman and his devotion and service to our Nation, to the world community, and his lifelong desire and efforts for world peace will be a lasting tribute to his memory.

Mr. Speaker, I extend my deepest sympathy to General Fellers' family. To his widow, Dorothy; his daughter, Nancy; and the four grandchildren, Amy, Mary, Georgianna, and Dorothy Lear. We all share in their loss.

Mr. Speaker, I commend to the attention of my colleagues and to the American people the official Army biography of the late Gen. Bonner Frank Fellers:

AS OF NOVEMBER 12, 1973: RÉSUMÉ OF SERVICE CAREER OF BONNER FRANK FELLERS, BRIGADIER GENERAL, [redacted]

Date and place of birth: 7 February 1896, Ridgefarm, Illinois.

Years of active service: Over 28.

Present assignment: Retired 30 November 1946. Died 7 October 1973.

Military schools attended: United States Military Academy, Army War College, Command and General Staff School, Artillery School, Basic Course, and Chemical Warfare School, Field Officers Course.

Educational degrees: United States Military Academy—BS Degree.

Major permanent duty assignments (last 10 years):

Assistant Military Advisor, Commonwealth of Philippine Islands, Manila, Philippine Islands, from February 1936 to December 1937.

Liaison Officer to Commonwealth Government of Philippine Islands, Manila, Philippine Islands, from January 1938 to May 1938.

Student, Army War College, Fort Humphreys, D.C. from July 1938 to June 1939.

Assistant Professor, United States Military Academy, West Point, New York, from July 1939 to August 1940.

Assistant Military Attache, Defense Attache Office, Madrid, Spain later Cairo, Egypt, from September 1940 to June 1942.

Assigned Military Intelligence Department, War Department General Staff, Washington, D.C., from July 1942 to October 1942.

Junior Army Member, Planning Group, Office of Strategic Services, Washington, D.C., from January 1943 to October 1943.

Chief, G–3 Planning Section later Assistant Chief, G–1, Headquarters Southwest Pacific Area, from October 1943 to November 1944.

Military Secretary to the Commander-in-Chief, General Headquarters, Southwest Pacific Area later United States Army Forces, Pacific, from November 1944 to December 1945.

Secretary General, Allied Council, General Headquarters, United States Army Forces, Pacific, from February 1946 to June 1946.

Assigned Separation Center, Fort George G. Meade, Maryland (for record purposes only), from August 1946 to November 1946.

Retired in grade of Colonel 30 November 1946; Advanced to grade of Brigadier General on the USA Retired List, 16 August 1948.

DATES OF APPOINTMENTS

Promotions, temporary, and permanent

Second Lieutenant, 1 November 1918.

First Lieutenant, 1 October 1919.

Captain, 3 December 1934.

Major, 1 July 1940.

Lieutenant Colonel, 15 September 1941, 11 December 1942.

Colonel, 15 October 1941.

Brigadier General, 11 December 1942 (terminated 31 January 1946).

Lieutenant Colonel, 1 February 1946.

Colonel, 1 February 1946.

Brigadier General, 29 June 1948 (advanced on USA Retired List).

Medals and awards: Distinguished Service Medal (with Oak Leaf Cluster) and Legion of Merit.

Source of commission: USMA.

TRIBUTE TO DR. VINCENT FONTANA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BIAGGI. Mr. Speaker, today it is my distinct honor to pay tribute to Dr. Vincent Fontana, a man who has been the leader in the fight to rid this country of the evil scourge known as child abuse and neglect. In the words of Dr. Milton Halpern, Chief Medical Examiner of the city of New York—

> Dr. Fontana is without doubt the most knowledgable, articulate, and effective spokesman on the shocking subject of child abuse, neglect, and maltreatment.

Dr. Fontana and I share one fundamental thing in common. We both recognized the need for strong Federal legislation to deal with this problem long before it became fashionable. While I am proud to be known as the father of child abuse prevention legislation in the Congress, I remain appalled that no legislation including my own Child Abuse Act—H.R. 10968—has yet to be acted upon by the Congress.

Dr. Fontana has dedicated his career toward eliminating the problem of child maltreatment in our society. He published the first major work in this field in 1964, and since that time has served in various capacities all aimed at providing research into and solutions to child abuse.

Some of his more prestigious positions include chairman of the mayor's task force on child abuse and neglect for the city of New York, director of pediatrics at St. Vincent's Hospital in New York as well as professor of clinical pediatrics at New York University Medical Center. I am also happy to report that effective January 1, 1974, Dr. Fontana will assume the full time medical directorship of New York Foundling

Hospital as well as a special assistant for medical affairs to the Foundling Hospital's executive director Sister Marion Cecilia Schneider.

I have had the pleasure of working closely with Dr. Fontana for many years, and can assure you of his intense interest in this area. During the 5 years in Congress when I have been working with the issue, I owe Vincent Fontana a tremendous amount of gratitude and thanks for the inspiration he has provided in the formulation of my Child Abuse Prevention Act. His expertise in the field is unquestioned and can best be illustrated in his newest book, "Somewhere a Child Is Crying" a gripping exposé which discusses some of the more blatant cases of child abuse in this country.

What is central to both Dr. Fontana's and my thinking is the overwhelming need for Federal intervention in the area of child abuse prevention. Yet, there are still those on the State and Federal level who insist on playing politics in the formulation of effective legislation to curb this problem; yet while they play politics, more and more children are being maimed and killed daily by depraved parents.

As Dr. Fontana so eloquently observed in his testimony given during the recent hearings on my child abuse prevention bill:

> It is time for us to pour some of the natural outrage we seem to have reserved for such questions as Watergate, into a crusade for the rights of children to live and be cared for. I find it very strange that we continue to virtually ignore the great crippler and killer of children, child abuse and neglect.

It is time for the long and tedious efforts undertaken by Dr. Fontana to be translated into meaningful and effective legislation to curb this outrage of child abuse. The passage of H.R. 10968 would represent an important first step, and above all would be a fitting tribute to this great man, humanitarian, and friend, Dr. Vincent Fontana.

PSRO BLASTED BY MEDICAL DOCTORS AS AN UNWORKABLE SYSTEM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. RARICK. Mr. Speaker, as the January 1, 1974, implementation date of professional standards review organizations draws closer, many medical doctors are expressing their concern over the "deep repercussions" that will occur if this radical procedure goes into operation.

Medical people, as well as a growing number of patients, see an inherent danger in PSRO in that the quality of medical care will actually suffer as a result of this new level of bureaucratic intervention in medical practice.

PSRO will result in higher medical costs to those paying patients not covered by the various Government-sponsored health programs. Patient treatment will suffer, because doctors will become encumbered by additional, time-consuming Government redtape. Unfortunately, PSRO will limit the medical activity of qualified personnel, rather than combat quackery or lower the cost of medical care to the average American consumer.

My bill H.R. 9375 has gathered additional House support from across the country. This bill will simply repeal the PSRO section of Public Law 92-603, a section of the Social Security Act that was added by the other body.

In order that our colleagues can better understand the objections voiced by many doctors in this country to PSRO, I insert the related letters at this point:

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., October 22, 1973.

Hon. JOHN RARICK,
House of Representatives,
Washington, D.C.

DEAR MR. RARICK: In the October issue of *Physician's Management*, I noticed a statement that you are seeking support for a proposal which might strike out the P.S.R.O. requirements from SSA Title XI.

As Chief of Staff of a large University Hospital, I would like to pass along to you several opinions since we have been working hard to obey the provisions of the law. The purpose of P.S.R.O. is, of course, cost containment of hospitalization costs. As we have been tooling up to implement P.S.R.O. provisions, I am afraid it is going to add to hospital costs, not reduce them. First of all, from a personal standpoint: the amount of committee work, consulting with others and the like has seen my time cut in half and I have had to give up the acceptance of any new patients. This is costing me circa $10-15,000 per year and at age 63, it simply is not prudent for me to continue as Chief of Staff for the sake of my family and retirement. Last week I formally requested that (1) my salary be augmented accordingly and, (2) that I be furnished with a secretary, file cabinets, etc. and, (3) a modest support budget. Lacking this type of support, I simply cannot continue as Chief of Staff. However, the point of this is that these requests will result in increased costs and they can only come from hospital charges to patients. In addition, members of the medical staff and others are spending literally hundreds of hours in committee meetings to plan and implement the P.S.R.O. requirements. I cannot estimate the dollars cost of this but it is substantial. In addition, committee work takes time from patient care and the teaching of medical students.

If I was convinced that P.S.R.O. represents a likely way of reducing hospital costs (and without reducing quality of care) I would support it, but I am deeply concerned that it will have the opposite effect. I am also very much concerned that P.S.R.O. implementation may adversely affect patient care by locking physicians into an unworkable system.

In short, I would vote strongly to rescind P.S.R.O. requirements. Since no one can state with certainty that P.S.R.O. will reduce or raise hospital costs, the obvious approach would be to obtain some hard data by several well-planned pilot projects financed by HEW (so that sick people would not have to pay for it). It seems to me fool-hardy to launch an essentially untried scheme upon the country without having some firm data that the scheme has within it the elements of success; i.e., to reduce hospital costs without sacrificing quality of medical care.

Most sincerely,
DONALD W. HASTINGS, M.D.

OHIO STATE UNIVERSITY HOSPITALS,
Columbus, Ohio, September 28, 1973

OPHTHALMOLOGY STAFF MEETING

Present: James Andrew, M.D.; Morris Battles, M.D.; William Biersdorf, Ph.D.; Mr. Joe Bitonte; Elson Craig, M.D.; William Havener, M.D.; Fred Kapetansky, M.D.; Robert Magnuson, M.D.; T. A. Makley, Jr., M.D.; Robert O'Dair, M.D.; Richard Olson, M.D.; Ted Suie, Ph.D.; and Joel Wachtel, M.D.

Professional standards review was the subject of the September meeting of the Department of Ophthalmology. This subject is of enormous importance to every physician, legislator, sick person, potentially sick person, and taxpayer in the U.S.A. In short, PSR is enormously important to everyone.

As a starting point, we discussed frankly the question of the quality of eye care rendered within our own hospital. We consider this care to approximate the best currently achievable. It isn't perfect. Dozens of minor mistakes occur in the hospital daily—late medicine, misplaced paper work, even wrong drops. Most of these minor errors do not matter for the simple reason that the procedure itself has little if any correlation with the final outcome of the eye problem. For example, cryoextraction of cataract works just as well whether or not preoperative atropine is used. (We do not want to encourage a cavalier attitude towards the carrying out of medical orders—while an occasional error may not really count, the sum total of many errors is uniformly disastrous and an occasional critical error may be overwhelming by itself).

Large mistakes *rarely* occur, but they do happen. They are as easy to recognize afterwards as is the error of an intercepted pass leading to a critical touchdown. Unfortunately, the medical judgment or the quarterback decision is not quite so obvious at the instant of necessity. The conditioned responses of long training and anticipation of possible choices under various circumstances usually enable us to perform reliably, but cannot meet all contingencies.

We considered the factors responsible for good care to be the environment and the individual. Our environment is the togetherness of enough capable ophthalmologists to permit easy exchange of information. Both Staff and residents participate in this exchange. The individual is a rigidly selected, supertrained, and highly motivated physician. By normal standards, he could only be described as compulsive and obsessed by a need for perfection in his own performance standards.

Does formal internal review of performance contribute to better medical care in such a group of physicians? Would check-off criteria lists or regulations improve the health outcome of our patients? It is quite apparent to us that spontaneous and voluntary group interactions constantly update and improve our performance. It is equally apparent that a group-developed protocol on cataract extraction, for instance, would not improve our patient care. That a Washington-originated protocol would do so is even more unlikely.

As presently proposed, the PSRO concept assumes that computer evaluation of some type of data would improve our medical performance. This hypothesis is inherently attractive and plausible. However, critical consideration of the preceding paragraphs will reveal that we concluded the PSRO approach will be of no value in improving patient care and will actually be counter productive because of the inherent wastefulness of a regulatory system. This conclusion was not emotional or intuitive, but represented the unanimous reasoned judgment of a group of mature individuals with a combined experience of several hundreds of years of delivery of medical care.

We know that our expression of doubt as to the wisdom of PSRO mechanisms will generate more heat than light and will be discounted as invalid. Since the published word enjoys more credibility, we cite The New England Journal of Medicine 288: 1323, June 21, 1973, "Quality-of-Care Assessment: Choosing a Method for Peer Review", by Robert H. Brook and Francis A. Appel and also the editorial on p. 1352, "Evaluating the Quality of Medical Care".

Originating from the Johns Hopkins University (certainly a center that should receive credit for delivering acceptable care) this paper studied the care delivered to 296 patients, making the evaluations by 5 different methods of peer review criteria.

One method of evaluation established by group agreement was a list of predetermined criteria that were considered essential to the delivery of care of acceptable quality. This method was used twice, different sets of criteria being generated by different physician groups. Incidentally, this is the approach generally considered by computer-oriented people and by the Medical Advances Institute here in Ohio. Judged by these criteria, 4 of the 296 patients (1.4%) received acceptable care when evaluated by one list of criteria and 6 of the 296 (2%) received acceptable care when evaluated by the other list.

Another method of evaluation relied upon the subjective opinion of an expert physician reading the case summary—no predetermined criteria were used. By this method only 23% of patients were judged to have received adequate management.

The outcome of a case, rather than the documented management, might be considered a better criterion of adequacy of care. Expert judgment of the outcome indicated this to be of acceptable quality in only 63% of patients. Evaluation of outcome by predetermined criteria indicated acceptable care in only 40% of patients.

What does this mean? Critics of our health care system will infer these statistics condemn the system, just as they have said. A more valid conclusion would be that none of the evaluation systems (or at least most of them) are of any accuracy. A student whose examination paper received grades ranging from 1.4% to 63% when scored by different professors would understand and sympathize with this point of veiw.

The authors emphasized that the patient records subjected to this study originated from a teaching center observing the highest standards of care and completeness of evaluation and recording. They predicted that successful compliance with the method of evaluation requiring predetermined criteria would have required tripling the amount of physician and laboratory effort.

What would be the effect upon our medical care system of requiring nationwide a workup three times as complete as the Johns Hopkins current methods? We don't think anyone would benefit from such a computerized disaster. The quality of documentation is not the same as the quality of care.

In Ophthalmology, we don't believe it is possible for the computer to tell whether a knife entered an eye correctly or incorrectly, at the right or the wrong time.

A negative attitude, without useful suggestions, is not very helpful. We deplore the lack of teeth in our Medical Board (which is more the fault of society than of the Board). The performance of medical acts by nonphysicians is generally considered to be acceptable. Quackery by licensed physicians is impossible to combat. Attempts to limit medical activity to qualified personnel are generally considered to be "restraint of trade". If quality of care is a significant concern, then the Medical Board needs more teeth. This is the only constructive way we can suggest to eliminate gross incompetence, but we doubt its feasibility in the present political climate.

The cost of medical care is a legitimate concern but is not synonymous with the quality of care. Establishment of a base price reimbursable to the patient for a given disease by the insurer would be an effective method of limiting costs. The principle of assessing extra costs to the patient is necessary to secure his participation in reducing cost. A full pay system will always be abused by the patient. Again, this may not be politically acceptable.

In summary, we predict the computer will fail to improve the health of the nation and will do so expensively.

Quality of care is an educational rather than a regulatory process. You can't legislate a physician to deliver better care than he knows how to give.

TRIAD SUBMITS PLAN TO TURN RIVERS INTO RECREATIONAL PARKS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, Arthur Harris, president of the Three Rivers Improvement and Development Corporation—TRIAD—has spearheaded a campaign to turn Pittsburgh's riverbanks and waterways into usable public facilities.

TRIAD has done research, commissioned studies, organized seminars and water programs, all with an eye toward making people in Allegheny County and western Pennsylvania aware that we have wonderous opportunities to turn the Allegheny, Monongahela, and Ohio rivers and their banks, into valuable recreation, housing, and public facility realities.

TRIAD's most recent effort is a 74-page report to the public with suggestions for developing 10 riverside parks and for putting Pittsburgh proposed Convention Center on the riverfront.

I would like to include in the RECORD at this time, for the information of my colleagues, a recent Pittsburgh Post-Gazette editorial and a news article from the Pittsburgh Press, on the efforts of TRIAD and its president, my good friend. Art Harris:

[From the Pittsburgh Post-Gazette, Nov. 12, 1973]

DON'T MISS BOAT ON OUR RIVERS

The rivers were the historic and commercial reason for Pittsburgh. Now to many they seem a polluted blight and a nuisance in constricting traffic to crowded bridge crossings.

Yet the three rivers are the key to Pittsburgh's future in terms of that elusive element called "quality of life."

That's the significance of the proposal by the Three Rivers Improvement and Development Corp. (TRIAD), calling for 10 riverside recreation parks along our rivers. Nine would be park sites or boat-launching facilities along the Allegheny and the 10th would be a combination boat-launch and park facility at Sewickley on the Ohio.

Arthur V. Harris, TRIAD president, said the 74-page report was made to present the public "with ideas." TRIAD also stands ready to help obtain private or public funds. The County Commissioners were enthusiastic about the plans, but wary of promising funds. They said they'd help in seeking federal and state grants.

Planners at the Southwestern Pennsylvania Regional Planning Commission (SPRPC) say that as leisure time grows and as we clean up air and water pollution in this area, our three rivers will become greater assets. Even our dilapidated mill towns, now a liability, may become assets as riverfront sites are cleared. Residents of those towns—whose vision of the rivers literally has been cut off by plants and smokestacks—may no longer turn their backs to their rivers, but, instead, claim them as a pride and joy.

This, we hope, will be true even along the Monongahela which, it should be noted, had no sites in the TRIAD survey.

But for this promise to be fulfilled, two things must happen. One, we must continue to clean up our rivers and our air. The recreation possibilities in a sewer-like stream under a smoggy sky are nil.

Secondly, we must acquire and safeguard for the public promising recreation sites along the rivers before they become too high priced or are taken permanently out of the public domain. If we the public do not appreciate the potential, private enterprise services will, and they may build "fences" in such a way that the general public is forever shut out.

The TRIAD proposals give us an excellent place to start. Let public agencies not be afraid to use tax funds and let private foundations and corporations help in insuring that our children and their children have this "quality of life" for Pittsburgh which its unique river system can provide.

If we don't, our descendants may hark back to this TRIAD report of 1973 and wonder why we missed the boat.

[From the Pittsburgh Press, Oct. 9, 1973]

FOURTEEN MILE ISLAND TO BECOME HUCK FINN DREAM

It's a throwback to the days of Huckleberry Finn.

That's how officials characterize plans to convert Fourteen Mile Island into a first-rate campground for kids.

The scenic Allegheny River island is slated to become a summertime paradise for city youngsters.

$58,000 FOR PROJECT

If all goes well, there'll be sleeping shelters and a dining pavilion on the 25-acre island by next summer—an arrangement that will make it easier to accommodate thousands of kids who attend day camp and stay overnight at the recreation center.

It'll cost $58,000 to provide all the necessary facilities for the would-be Huck Finns and Tom Sawyers.

They're mostly youngsters from Pittsburgh ghettos. Perhaps few of them have ever had a chance to wet a fishin' line or skip a rock off the surface of the placid river.

The price tag for putting the island into shape for visits by 4,000 youths per season was calculated by the Allegheny County Planning Commission, which is cooperating with the Three Rivers Improvement and Development Corp. (TRIAD) in the blueprinting of improvements.

It'll be up to TRIAD, which leases the island from the Western Pennsylvania Conservancy, to implement the plan.

14 MILES FROM POINT

The island is situated 14 miles up the Allegheny River from "The Point," hence its name. Harmar Twp. lies to the north of the island and Plum Borough is to the immediate south.

Thomas Vogel, TRIAD staffer, said his organization is now lining up funds, materials and aid to carry out the proposed improvements.

Army Reserve units in the Pittsburgh area have agreed to help with construction chores.

"For relatively modest sums of money, we can install fire circles so day campers and overnight guests can heat up victuals the old-fashioned way," he said.

That means opening cans of baked beans and heating them hobo style over red-hot coals.

There'll be nature trails through the thick stands of willow that envelop the island.

Marine cables already have been placed in the riverbed to supply electricity. But the lines have not yet been energized. So there still is no way to run the motors on the pumps in wells used for the island's drinking water supplies.

"We need electricity for refrigerators and for equipment in the dining hall and to illuminate all our proposed facilities," said Vogel.

PROGRAM ON 4 YEARS

TRIAD has conducted a summertime recreation program the past four years on the island for underprivileged children.

But the major focus has been on day camp activities. Overnight stays have been available only for youngsters who have a pup tent or camping gear.

Youngsters who visit the island while away their time fishing and wading along the shore of the river. A TRIAD-owned boat serves as a ferry and sightseeing vessel.

Biggest feature of all, however, is escape from the city's noisy, teeming streets.

"Many of the youngsters have never been on the river before or slept out overnight," said Vogel.

The emphasis of the TRIAD program is on simple pleasures.

Like sitting under a willow tree and watching the blue-green river slide by.

LATVIAN INDEPENDENCE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. PEYSER. Mr. Speaker, I would like to call your attention to the fact that November 18 marks the 55th anniversary of the Latvian declaration of independence. It is time for us to give pause and remember that there are still millions of people throughout the world who do not enjoy the fruits of freedom and self-government.

When the Latvian people finally became independent in 1918 it was the result of centuries of struggle. There followed a period of economic and cultural growth unparalleled in their history. Their record of growth still has not been equalled today. Instead, due to the Russian invasion and occupation in 1940, "suppression of human rights and fundamental freedoms and terrorism are the marks of the Soviet occupation in Latvia." The Latvian people, 23 years after the occupation of their country, are still paying the price of colonization and domination by a foreign government.

This is a sad reminder to us all in the United States that we must continue to insist on the right to self-government for all. Latvia and its citizens are proud of their heritage and culture; they look to the day when they will be able to celebrate them.

FEDERAL EMPLOYEE UNJUSTLY ACCUSED

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, recently a career Federal employee was unjustly accused in a Washington Post news item of using an alleged relationship with a Member of Congress to obtain a promotion. The newspaper falsely states the relationship as a fact in spite of advance information to the contrary and infers that the employee would not have been promoted on a merit basis.

I insert a letter I wrote to the editor of the Post in an effort to set the record straight. Inasmuch as the news item has been reprinted in the CONGRESSIONAL RECORD, I hope my insertion will set that record straight:

OCTOBER 31, 1973.

Mr. BENJAMIN BRADLEE,
Editor, The Washington Post,
Washington, D.C.

DEAR MR. BRADLEE: Recently, in a story entitled "Political Abuses Cited in CSA Hiring" you printed false information about my connection with one individual after your reporter was twice informed of the error in fact.

The story refers to one person receiving a promotion at GSA as a "former sister-in-law" of mine and infers that she was given favoritism treatment because I had improperly used by influence in behalf of a relative.

Your reporter first discussed this story with two members of my staff on the evening before the story was printed. Both of these staff members told the reporter that they did not believe there was a former sister-in-law by that name. One of my aides specifically urged your reporter to call the person involved to inquire about this relationship question and also recommended that the reporter call me with the same question.

Your reporter did call me at my home that evening and I told him that I did not know of any relative by that name.

In spite of these two conversations the false information and the unfair insinuation were not changed in the story. Please advise me if it is your policy to print information known to be false just for the purpose of dramatizing your news articles. I realize that a newspaper increases circulation and thus increases income when news stories are of greater interest. I certainly hope, however, the profit making motive does not put lies in your news items.

Inasmuch as your reporter called after office hours it was not possible to give him a specific answer regarding whether or not I had sought to help the alleged "former sister-in-law." I have now had the opportunity to check my files and find that I did not take any action in her behalf in this or any other matter.

The Post has done harm to the reputation of this career Federal employee and has failed to meet the obligation of accuracy that goes hand-in-hand as an obligation to match the freedom of the press. I suggest you print this letter with your apology to the GSA employee.

I do want you to know that had the person in question called, written or visited to ask me or any member of my staff for assistance she would have received help in full measure. I believe every citizen has a right to expect assistance from his representative in transactions with their government. I am proud of my service in this aspect of my Congressional duties and I intend to continue helping my constituents to the best of my ability.

With best wishes, I am
Sincerely,
JOEL T. BROYHILL,
Member of Congress.

SENATE—*Monday, November 19, 1973*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father God, we lift our morning prayer to Thee for strength and wisdom beyond our own. We thank Thee for every human endowment of intellect, reason, and emotion, and we pray that to these gifts Thou wouldst add the gift of Thy presence and power. Amid the darkness of these disturbing days make us grateful for the shining light of Thy presence, for the reality of things that cannot be shaken, for beauty and truth, for goodness and love, for all in this earthly life which speaks of the eternal. Make us to know that though we work as citizens of this land, we are also citizens of a higher order, the maker of which is God, the law of which is love, the judgments of which are pure and righteous. And to Thee shall be all the praise and glory forever. Amen.

COMMITTEE REPORT SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of November 15, 1973, Mr. MAGNUSON, from the Committee on Commerce, on Friday, November 16, 1973, submitted a report on the bill (S. 2176) to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes (Rept. No. 93–526), which was ordered to be printed.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, November 16, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 480, 494, and 496 as a starter.

The PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT FUNDING SIMPLIFICATION ACT OF 1973

The Senate proceeded to consider the bill (S. 2299) to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify, requirements for operation of those projects, and for other purposes, which had been reported from the Committee on Government Operations with amendments on page 5, in line 2, after the word "sections" insert "6"; and on page 8, in line 12, strike out "advanced" and insert in lieu thereof "transferred" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Funding Simplification Act of 1973".

PURPOSE

Sec. 2. The purpose of this Act is to enable States, local governments, and other public or private organizations and agencies to use Federal assistance more effectively and efficiently, to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this Act to encourage Federal-State arrangements under which local governments and other public or private organizations and agencies may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments, agencies, and organizations concerned.

BASIC RESPONSIBILITIES OF THE HEADS OF FEDERAL AGENCIES

Sec. 3. (a) Subject to such regulations as the President may prescribe, the heads of Federal agencies may take actions, by internal agency order or interagency agreement, including but not limited to:

(1) identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects;

(2) development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs;

(3) review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects and the extent to which these may be appropriately modified, and making modifications accordingly;

(4) establishment of common technical or administrative rules among related programs to assist in the joint use of funds in the support of specific projects or classes of projects; and

(5) creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(b) The head of each Federal agency shall be responsible for taking actions, to the maximum extent feasible under applicable law, which will further the purpose of this Act with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this Act with respect to Federal assistance programs of different agencies which may be used together or jointly in support of projects undertaken by State or local governments or other public or private agencies and organizations.

APPLICATION PROCESSING

Sec. 4. Actions taken by Federal agencies pursuant to this Act which relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to his application and of any special problems or impediments which may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or actions of another Federal agency which could better and more appropriately be secured through direct communication among the Federal agencies involved.

SPECIAL AUTHORITIES—BASIC CONDITIONS

Sec. 5. Where appropriate to further the purposes of this Act, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 6, 7, and 8 (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this Act or other applicable law, that they are applied only as necessary to promote expeditious processing or effective and efficient administration, and that they are applied consistent with the protection of the Federal interest and with program purposes or statutory requirements of a substantive nature.

ESTABLISHMENT OF UNIFORM TECHNICAL OR ADMINISTRATIVE REQUIREMENTS

Sec. 6. (a) In order to provide for projects which would otherwise be subject to varying or conflicting technical or administrative provisions of law, the heads of Federal agencies may adopt uniform provisions respecting:

(1) inconsistent or conflicting requirements relating to financial administration, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 8;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant;

(4) inconsistent or conflicting requirements relating to accountability for, or the disposition of, property or structures acquired or constructed with Federal assistance where common rules are to be established for the project as a whole; and

(5) other inconsistent or conflicting requirements of an administrative or technical nature, as defined in regulations of the President and subject to such conditions as he may prescribe.

(b) In order to permit processing of applications in accordance with the purposes of this Act, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees when such review would otherwise be required by law.

(c) In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies which he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned.

DELEGATION OF POWERS

Sec. 7. With the approval of the President, agency heads may delegate to other Federal agencies any powers relating to the approval, under this Act, of projects or classes of projects under a program if such delegation will promote the purposes of that program. Agency heads may also delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects subject to this Act. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies.

FUNDING ARRANGEMENTS AND PROCEDURES

Sec. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established joint management funds with respect to such projects. The total amount approved for such a project may be accounted for through a joint management fund as if the funds had been derived from a single Federal assistance program or appropriation. There will be transferred to the joint management fund from each affected appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any amounts remaining in the hands of the grantee at the completion of the project shall be returned to the joint management fund.

(b) Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable for the total amount provided for the purposes of each account established in the fund; and may include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, for returning that excess to the participating Federal agencies in accordance with a formula mutually acceptable as providing an equitable distribution, and for effecting returns accordingly to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) For each project financed through a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(c) In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of those programs.

AUXILIARY PROVISIONS

Sec. 9. (a) Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint or common funding involving that program and any other Federal assistance program.

(b) Personnel of any Federal agency may be detailed from time to time to other agencies as necessary or appropriate to facilitate the processing of applications under this Act or the administration of approved projects.

FEDERAL-STATE ASSISTANCE AND AGREEMENTS

Sec. 10. Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States or State agencies as appropriate to extend the benefits of this Act to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

AUTHORITY OF THE PRESIDENT

Sec. 11. In addition to powers and authority otherwise conferred upon him by this Act or other law, the President may take such action, prescribe such procedures, and promulgate such rules as may be necessary or appropriate to assure that this Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects under this Act make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, including units of general government, and (2) to resolve questions of common interest to those agencies prior to submission of any application. The President shall also, from time to time, make reports to the Congress on actions taken under this Act and make such recommendations for additional legislative action as he may deem appropriate, including recommendations for the consolidation, simplification, and coordination of Federal assistance programs.

DEFINITIONS

Sec. 12. As used in this Act—

(1) "Federal assistance programs" are programs that provide assistance through grant or contractual arrangements, and include technical assistance programs or programs providing assistance in the form of loans, loan guarantees or insurance;

(2) "applicant" includes one or more State or local governments or other public or private agencies or organizations acting separately or together in seeking assistance with respect to a single project;

(3) "project" includes any undertaking, however characterized and whether of a temporary or continuing nature, which includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) "Federal agency" includes any agency in the executive branch of the Government; and

(5) "State" means one of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

EFFECTIVE DATE AND EXPIRATION

Sec. 13. This Act shall become effective sixty days following the date of enactment.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

The bill (S. 2176), to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes, was announced as next in order.

The PRESIDIENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute and from the Committee on Commerce with amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that passage of Calendar No. 494, S. 2176 which the Senate passed a few moments ago, be vacated and that the bill be returned to the Calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE REPORT OF THE COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

The concurrent resolution (S. Con. Res. 58), authorizing the printing of additional copies of the report of the Commission on the Bankruptcy Laws of the United States for the use of the Senate Committee on the Judiciary, was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary one thousand additional copies each of parts I and II of the Report of the Commission on the Bankruptcy Laws of the United States (House Document 93–137).

Mr. MANSFIELD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the remainder of the calendar, beginning with No. 500, but excluding the last one on the calendar, No. 520.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF LIFE OF JUNE 5, 1972, GRAND JURY OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

The bill (H.R. 10937) to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia was considered, ordered to a third reading, read the third time, and passed.

JOSE A. SERADILLA

The bill (S. 97) for the relief of Jose A. Seradilla was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jose A. Seradilla shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

MRS. ZOSIMA TELEBANCO VAN ZANTEN

The bill (S. 1673) for the relief of Mrs. Zosima Telebanco Van Zanten was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mrs. Zosima Telebanco Van Zanten, the widow of Sergeant San J. Van Zanten, Junior, a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of the said Act shall not be applicable in this case.

TOY LOUIE LIN HEONG

The bill (H.R. 1353) for the relief of Toy Loui Heong was considered, ordered to a third reading, read the third time, and passed.

ANN E. SHEPHERD

The bill (H.R. 1356) for the relief of Ann E. Shepherd was considered, ordered to a third reading, read the third time, and passed.

BERTHA ALICIA SIERRA

The bill (H.R. 1367) for the relief of Bertha Alicia Sierra was considered, ordered to a third reading, read the third time, and passed.

EMILIA MAJOWICZ

The bill (H.R. 1463) for the relief of Emilia Majowicz was considered, ordered to a third reading, read the third time, and passed.

SUN HWA KOO KIM

The bill (H.R. 1696) for the relief of Sun Hwa Koo Kim was considered, ordered to a third reading, read the third time, and passed.

ROSA INES D'ELIA

The bill (H.R. 1955) for the relief of Rosa Ines D'Elia was considered, ordered to a third reading, read the third time, and passed.

JOSE CARLOS RECALDE MARTORELLA

The bill (H.R. 2513) for the relief of Jose Carlos Recalde Martorella was considered, ordered to a third reading, read the third time, and passed.

ANKA KOSANOVIC

The bill (H.R. 2628) for the relief of Anka Kosanovic was considered, ordered to a third reading, read the third time, and passed.

MRS. ENID R. POPE

The bill (H.R. 3207) for the relief of Mrs. Enid R. Pope was considered, ordered to a third reading, read the third time, and passed.

MRS. BRUNA TURNI, GRAZIELLA TURNI, AND ANTONELLO TURNI

The bill (H.R. 3754) for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni was considered, ordered to a third reading, read the third time, and passed.

EDITH E. CARRERA

The bill (H.R. 6828) for the relief of Edith E. Carrera was considered, ordered to a third reading, read the third time, and passed.

MR. JOSE ANTONIO TRIAS

The bill (H.R. 6829) for the relief of Mr. Jose Antonio Trias was considered, ordered to a third reading, read the third time, and passed.

CONCEPCION VELASQUEZ RIVAS

The Senate proceeded to consider the bill (S. 1206) for the relief of Concepcion Velasquez Rivas which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Concepcion Velasquez Rivas shall be held and considered to be within the purview of the first proviso of section 312(1) of that Act and may be naturalized upon compliance with all of the other requirements of title III of that Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARIA LOURDES RIOS

The Senate proceeded to consider the bill (H.R. 3334) for the relief of Maria Lourdes Rios which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 5, strike out the word "unlawfully" and insert in lieu thereof the word "lawfully."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ISABEL EUGENIA SERRANE MACIAS FERRIER

The Senate proceeded to consider the bill (H.R. 3758) for the relief of Isabel Eugenia Serrane Macias Ferrier which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Isabel Eugenia Serrane Macias Ferrier shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act: *Provided,* That the parents, brothers, or sisters of the said Isabel Eugenia Serrane Macias Ferrier shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

VO THI SUONG (NINI ANN HOYT)

The Senate proceeded to consider the bill (S. 2112) for the relief of Vo Thi Suong (Nini Ann Hoyt) which had been reported from the Committee on the Judiciary with amendments. On page 1, in line 4, strike out "(Nini Ann Hoyt)" and insert in lieu thereof "(Nini Anne Hoyt)".

On page 1, line 7, strike out "Major and Mrs. Max B. Hoyt", and insert in lieu thereof "Lieutenant Colonel and Mrs. Max B. Hoyt".

On page 1, line 10, strike the word "natural", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Vo Thi Suong (Nini Anne Hoyt) may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Lieutenant Colonel and Mrs. Max B. Hoyt, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Vo Thi Suong (Nini Anne Hoyt)".

RAPHAEL JOHNSON

The Senate proceeded to consider the bill (H.R. 2533) for the relief of Raphael Johnson which had been reported from the Committee on the Judiciary with amendments on page 1, in line 8, strike out "natural parents or".

On page 1, line 9, strike out "Gidharry" and insert in lieu thereof "Johnson".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, I yield back my time under the standing order.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 2408. An act to authorize certain construction at military installations, and for other purposes;

S. 2681. An act to authorize appropriations for the U.S. Information Agency.

H.R. 5777. An act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture;

H.R. 7582. An act to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies;

H.R. 8187. An act to amend section 2031 (b)(1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 10366. An act to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port; and

H.J. Res. 735. A joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2589, which the clerk will state.

The second assistant legislative clerk read as follows:

S. 2589, to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore (Mr. Metcalf). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, 10 minutes will now be given to colloquy between the Senator from Washington (Mr. Jackson) and the Senator from Colorado (Mr. Haskell).

Mr. HASKELL. Mr. President, I should like to discuss two matters relating to S. 2589 with the distinguished Chairman of the Committee on Interior and Insular Affairs.

The first one appears on page 19 of the bill. Section 204(a) states that the President, in accordance with the rationing and conservation program required by section 203, after balancing on a plant-by-plant basis the environmental effects of a conversion, may order an oil or a gas burning installation to convert to coal.

I should like to ask the chairman of my committee, the distinguished floor manager of the bill, whether, as he understands it, this conversion would be subject to the overall plan of conversion and therefore the public health requirements of section 203(b)(1) would apply.

Would this be the Senator's understanding?

Mr. JACKSON. The Senator is correct. That is an accurate conclusion, based on the language of the statute, and it is my understanding.

Mr. HASKELL. And our intent.

Mr. JACKSON. Yes. My understanding and the intent of the sponsors of the measure.

Mr. HASKELL. The other matter to which I invite the distinguished Senator's attention appears on page 17 of the bill, on line 13. Among other actions that the President may direct to conserve energy is "a ban on all advertising encouraging increased energy consumption."

It seems to me that, on the one hand, this could be taken as intending to ban advertising of anything that happens to consume energy. That is not our intention. On the other extreme, it certainly could and should be taken as intending to ban advertising to convert your home to totally electrically heated and operated homes. The cases between the two extremes will have to be taken care of by regulation and on a case-by-case basis.

Would the Senator agree that I have stated to the two extremes properly?

Mr. JACKSON. The able Senator from Colorado has stated it well.

The first amendment, of course, still applies. We have not done anything to that. In between, it is an obvious area in which I think the Government can lay down certain requirements. This to avoid the possibility of a course of conduct that will result in such a profligate use of energy that it is against the public interest to do so.

Mr. HASKELL. I agree with the Senator.

I assume the Senator might concur with me that it would be very unwise for us to try to spell out in the statute all the gradations between those two cases.

Mr. JACKSON. The Senator is correct. I believe this can be handled by sensible rules and regulations. I hope that commonsense will be the guiding light of those who promulgate the rules.

What we intend is clear. We are trying to call upon all our citizens to follow a course of conduct that will lead to a reduction in the use of energy. Our emphasis is on that course of conduct which would indicate that there is a careless disregard for obvious rules of conservation. I believe that some of these things should have been put into effect even if we had not been confronted with the immediate crisis.

There is a great need in this country, Mr. President, to get off the energy binge. I am told that the two big Trade Towers in downtown Manhattan, with their lights on all night, consume as much energy as is consumed by the entire city of Syracuse. This does not make sense. I just cite that as an illustration. All these huge, new skscrapers that are going up, permitting their lights to operate 24 hours a day do not make sense, at a time when our citizens, regardless of what some are saying, are going to face rationing.

It is this sort of thing, it seems to me, that we must deal with, and deal with promptly. I am sure that my colleague and good friend, the Senator from Colorado, would agree with that general conclusion.

Mr. HASKELL. I agree heartily.

I thank the Senator, and I yield back the remainder of my time.

Mr. JACKSON. I thank the Senator. I think his questions should be helpful in clarifying the record, and I appreciate his putting these questions to the Senate.

AMENDMENT NO. 686

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendment by the Senator from Maryland (Mr. Mathias), on which debate is limited to 30 minutes, to be equally divided and controlled.

Which amendment is the Senator calling up?

Mr. MATHIAS. I call up my amendment No. 686.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 30, beginning with line 21, strike out all through line 20 on page 31, and insert in lieu thereof the following:

Sec. 309. Administrative Procedure in Order To Insure Accountability and Due Process.—(a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal

Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 312 of this Act shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or orders with a written opinion setting forth its findings of fact and conclusions of law in support of such grant or denial. Such opinions shall be published with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recision of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program,

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code, and

(4) administrative definitions of the terms use in this Act.

The ACTING PRESIDENT pro tempore. How much time does the Senator from Maryland yield?

Mr. MATHIAS. I yield myself 10 minutes, to start with.

Mr. President, I should first like to express my personal appreciation to the distinguished Senator from Washington for the leadership he has shown over the problem of energy. As the Senator from Washington well knows, the problem of energy is not something which has suddenly burst upon us. It is a problem which has been developing; it is a problem which has been perceptible; it is a problem in which Members of Congress have exhibited concern and interest.

Among the agencies of Government that have been charting the development of this problem is the Atomic Energy Commission, and they have made very clear projections of the growing shortage of energy in relation to the growing demand for energy. I think the Senator from Washington, as well as other Members of both the Senate and other body have exhibited constructive interest in this problem, and I only regret that it took the convulsion in the Middle East to dramatize it to the point that we now have the sufficient focus of attention that we can do something about it. I wish there had been a greater interest on the part of other centers of influence in the country, a greater interest in resolving the problem, before we got to the point at which we are now.

To cite one example, I have been very disappointed that we have heard so little from Detroit during this debate. It would be very heartening to me if we had reports from the leaders of the automobile industry that an efficient, economic small car was about to be produced in America—the best in the world. I hope that is the case. I hope we will get some assurances from the leaders of the automobile industry in Detroit that America, instead of building bigger automobiles that consume more gas per mile, will soon be building the most efficient automobiles and giving the Americans the greatest mileage per gallon.

I do not know whether the Senator from Washington has had any assurances of that sort with which he can encourage the Senate this morning.

Mr. JACKSON. The Senator is referring to——

Mr. MATHIAS. Plans of the automobile industry for more efficient automobiles; plans that give us some hope for the future that Americans could have the most efficient automobiles in the world—which I believe American automotive genius is capable of.

Yet I have seen very little evidence of that rapidly evolving. I think the silence from Detroit has been deafening during the past month or so.

Mr. JACKSON. The Committee on Interior and Insular Affairs has reported a conservation bill calling on the Department of Transportation to come up with a program which will result in two things: Clean air and better gasoline mileage. How they do that is up to them. There have been many arguments about horsepower: that we ought to reduce the size of automobiles, reduce the horsepower, which I certainly think is a necessity. Others say we can still have a larger automobile and save fuel.

One mistake we have made that we should recognize, is that in our quest to get clean air we ignore the price we are paying in the consumption of gasoline. The result has been that we are getting cleaner air as a result of a greater consumption of gasoline.

No attention was paid to the conservation problem when we were looking at the clean air problem. This means that at the present time we face the obvious problem of having to do both.

It seems to me that the industry can do a lot better. I notice that the Japanese have been able to come up with an engine that really does something about pollution and at the same time provides good mileage. Those are the twin objectives. We were on a single purpose objective before.

I submit we now have to move on the dual purpose. The bill reported was cleared by both of the committees, and it is now on the calendar. So we will be voting on that whenever we get through with some of these other matters.

Mr. MATHIAS. I agree with the Senator from Washington that we have to face in a comprehensive fashion the problems that are involved. I think it is a great pity that mileage, miles per gallon in modern automobiles, is so much less than those automobiles of 10 and 20 years ago. The problem of the antipollution devices is not the sole reason for this. But during the past weekend the blame has been lack of leadership. I believe we would be better off if everyone who has a position of responsibility would begin to exercise that leadership.

Mr. President, I would like to offer my amendment. It is designed to insure that two principles basic to the fair administration of law are made an integral part of the bill. Accountability for action taken or not taken and due process for all are the cornerstones of our Government.

Insuring that these principles guide the administration's efforts to deal with present and future energy shortages is of special importance at this time. All Government, no matter what level, has suffered a severe crisis of confidence in recent months.

The tragic events of Watergate demonstrate that abuses of the public trust will occur when individuals believe that power is unchecked and that public officials will not be held accountable for their actions.

S. 2589 grants wide authority to the executive branch and consequently there exists an inherent danger that the discretion will be abused. Section 203 of the bill authorizes the President to establish a rationing and conservation program which will have the most profound effect upon American life. Decisions will have to be made as to what are nonessential uses. Little guidance is provided for making those decisions. Maybe we can agree upon certain types of outdoor advertising and recreational activities to be banned, but I assure Senators that even in this area there are types of outdoor advertising and recreational activities of great importance to the people of this Nation. When choices are made, they will be difficult choices.

Bureaucrats will be making decisions on matters going to the very heart of our national life. Can we make a proper choice between indoor tennis and Monday night football; can we make a proper choice between bowling and car racing?

Choices will have to be made in other matters as well. Matters which will affect whole regions of the country, entire industries and the jobs of many Americans. When the President is asked to ban all advertising encouraging increased energy consumption, he is again faced with difficult, if not impossible, choices. Certainly there are ads which, all of us can agree, are out of step with the times. Advertisements which blatantly encourage the purchase or use of new energy wasteful gimmicks must be eliminated. But does this include one man's hi-fi set or another man's TV dinner? What about car advertisements? Should they all be banned? Is it appropriate to make a distinction between large and small cars; between cars using a lot of gasoline and cars which are designed to conserve gas? How will the rationing system deal with the rental car business; the taxicab industry; cities where commuting distances are great and mass transit inadequate versus those areas blessed with short commutes and good mass transit? Beyond these decisions lies the specter of regional conflict. Entire value systems will be placed in doubt.

By the terms of this bill, all the Federal agencies with any responsibilities over energy policy are mandated to take emergency measures to relieve the crisis. It is appropriate at this point to note that the Federal Government has over 50 offices, agencies, bureaus, and councils actively engaged in energy policy and that coordination in the past has been a severe handicap. The President has long advocated the consolidation of these various instrumentalities concerned with energy policies and I have supported him. Nevertheless, we have failed to act and little Federal coordination exists in this area. Maybe this Nation can survive such coordination problems when we operate at a normal pace. It goes without saying that the actions we take in the coming days and months to relieve our energy shortage will not be taken at that pace. The consensus in this body, in the other body, in the executive, and across the Nation is that "business as usual" in the energy field is no longer acceptable. I am concerned that this acceleration will exacerbate the lack of coordination at the Federal level to the point where the cure which we propose today will be worse than our illness.

Over the years, the Interstate Commerce Comission, the Civil Aeronautics Board, and the Federal Maritime Commission have established a body of case law which, to a significant degree, insures a consistent and fair approach to regulation. S. 2589 could permit a great deal of that case law to be discarded. Energy may be the most pervasive influence upon our society today. We will by this bill create a code word to be used at all hearings before those agencies so long as the provisions of S. 2589 remain in force. The code word is "energy" and when it is spoken we can, as coaches, often remark "throw out the record book."

The Congress should be guided by our Nation's history. We have faced emergencies before and I predict we will face them again. Unfortunately, it is human nature when an emergency arises to underestimate the importance of the process created to solve the emergency. Contingency planning becomes the order of the day. Unfortunately, such plans cancel, contradict, and reinforce each other by accident. Few are logically related to one another, and none to any overall image of what the future should be.

The scope of the problem we face today is not unprecedented. But to a great extent the solution we propose is without precedent. Our grant of authority to the Executive is virtually unlimited. The closest peacetime parallel which comes to mind is the grant of authority to the Cost of Living Council under the Economic Stabilization Act.

On October 9 and 10, I chaired hearings in the Subcommittee on Separation of Powers of the Judiciary Committee on procedural and due process problems that have arisen with the implementation of the wage/price program. Those hearings were prompted by an increasing outcry from the public that the program was not working and from those directly regulated complaining of the procedures employed by the Cost of Living Council.

During our hearings, we explored a number of these complaints which included the inadequacy of notice of actions being taken by the agency, the general unavailability of the guidelines and standards upon which the agency was basing its rulings, the lack of clear-cut precedential value of agency actions, the inconsistencies in agency decisions, the failure of the agency to consider factors that might have been taken into account with proper opportunity for input to the agency, and the unconscionable delays associated with agency actions.

During those hearings, we heard from witnesses who were representative of a broad cross section of the American public. We saw one of the more rare events on Capitol Hill: almost total agreement between a spokesman from Ralph Nader's organization and a spokesman from the prestigious law firm of Covington and Burling about the difficulties of the manner in which the program is being implemented. Not only is such an event rare, it is a cause for great concern because it is evidence of the almost universal unhappiness with the way in which the cost of living program is being run. A statement I made in announcing the hearings on the cost of living program bears repeating in the current context:

> This much seems clear—no program will long retain, or deserve, popular support if its decisions are not arrived at by a process that appears open, fair, consistent, thorough, rational, enforceable, and necessary.

I offer my amendment because I am concerned that we are about to travel the same rough road with respect to energy policy that we have already trod with respect to economic policy. My concern is heightened by the fact that the bill as reported by committee contains a section, section 309, which addresses itself to the procedures to be employed by the new authority administering the act. This section is virtually identical to section 207 of the Economic Stabilization Act, which has already proven itself inadequate in its current trial and gives no promise of any better result when applied to the comparable problems presented by the program we are undertaking today.

I should add that section 207 of the Economic Stabilization Act was itself a vast improvement over the original authority to control wages and prices which had no procedural safeguards. I note this not only by way of commending the members of the Senate Committee on Banking and Currency, which added section 207 to an act that had previously been totally devoid of any procedural safeguards, but to indicate the extent to which Congress is feeling its way along in uncharted waters.

Authority as broad and extensive as was provided in the Economic Stabilization Act, and as proposed in the bill before us today, raises questions that go beyond those normally raised by the administrative process. The amendment I propose today I believe to be a further step in the safeguarding of procedural rights. I believe that experience has shown that we must go beyond the model provided by the current Economic Stabilization Act and add additional safeguards and requirements to any authority that we delegate to S. 2589.

In the context of today's debate, the question which logically flows from our experience with the Cost of Living Council is whether the energy program will be better. I am pessimistic. In the past 2 months, I have written to Robert Plett, Administrator of the Mandatory Oil Allocation Program, Office of Oil and Gas, Department of the Interior, on five occasions and requested information on the application of regulations to various Maryland constituents: what steps were to be taken to insure petroleum products for the taxi industry; the diesel fuel shortage on the Eastern Shore of my State; whether the mandatory allocation system is to include foreign-based distributors; what steps were being taken to insure heating oil for Maryland school systems; and the continuing difficulties of small Maryland companies in getting their allotted quota of diesel fuel. I have received neither an acknowledgement nor a response to any of the inquiries, the most recent of which was October 25.

Members of my staff have called the Office of Oil and Gas on probably 15 occasions. They have talked to caseworkers, to the General Counsel, to congressional liaison personnel, and to the Regional Administrator, region III in Philadelphia.

Oil and Gas staff seem to agree on one thing, and that is that they do not know in what direction they are going. When asked specific questions, such as the ones outlined above, the response was, "We don't know." By their own admission, region III of the Office of Oil and Gas admitted that they did not know how the allocation program was supposed to work; that their concern as of November 8 was only those people who had no oil at all on that day. In other words, they had no plans that extended beyond 24 hours. The fact which stands out is that no one can give an answer to any sort of specific inquiry, despite the fact that there is in existence a mandatory allocation system.

My amendment is in the form of a substitute to section 309 of S. 2589. It would strengthen the committee version of that section in a number of specific instances.

The days ahead will be difficult; difficult for the Congress and difficult for those who must administer the final version of the legislation we pass today. This Nation's economy has been built on waste and we now realize that this cannot continue. In the past, oil has been considered a cheap commodity and consequently inefficient uses of it have proliferated. American cars are world leaders in inefficient gasoline consumption. The Europeans and the Japanese, for many years closer to the razor edge of oil scarcity, have produced more efficient, smaller cars to meet their people's needs. I can assure Senators that over-large, gasoline-guzzling automobiles continue to roll down the assembly lines in Detroit. They were produced yesterday; they are produced today, and I am afraid that they will be produced tomorrow. S. 2589 sets our course and I am concerned that it is the wrong course. We rely in the first instance on a voluntary effort with all the drawbacks long associated with volunteerism. Waiting in the wings is a mandatory rationing program. We are asking the rationing program to deflect demands of the marketplace to efficient energy use and abstention. We may ask the impossible. The unseen hand of the marketplace is a powerful force; far more powerful than the regulatory framework that we can provide. Regulation only has a chance of success if we move quickly to enact the tough measures that will force the auto industry and the buying public towards producing and using smaller and lighter cars. We must consider whether a tax on high horsepower cars or indeed a tax upon gasoline itself may provide relief to the regulatory framework which we now propose. Over the past months Congress has received a number of proposed solutions to the short term aspects of the energy crisis. They can be divided into two categories—taxes or regulation. We now propose to regulate. We owe it to the American people to keep our minds open; to not chart an irrevisable course. Our efforts cannot end with the passage of S. 2589. We must view the entire breadth of the economy to find the disincentives to conserve.

So, I think it especially important, Mr. President, that at this particular point in time we insure that the bill we pass will provide accountability and due process. John Buchan once said:

> The hasty reformer who does not remember the past will find himself condemned to repeat it.

I have stated my doubts as to whether this program will work and I consequently feel that it is imperative that we enact measures that will insure that the results of administrative action are laid before the Congress in the near future. This kind of responsive accounting will do much to restore faith in government. It has been my experience through hearings held by the Subcommittee on Separation of Powers of the Judiciary Committee that if you expect to get hard information on the success or failure of an emergency program, you had better ask for it from the start and my amendment makes that request.

In order to make the amendment totally clear to Members of the Senate, I would at this time offer for the RECORD an appendix which is a summary of the provisions of the bill, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

APPENDIX.—CONTENTS OF MATHIAS-ERVIN AMENDMENT IN THE FORM OF A SUBSTITUTE TO SECTION 309 OF S. 2589

1. This amendment would continue to apply the requirements of Section 553 of Title V of the United States Code: the provision of the Administrative Procedures Act governing rulemaking, but would restrict the discretion of the authority implementing the Act to waive those provisions. One of the chief difficulties of our current experience with Section 553 of the Administrative Procedures Act is the wide latitude available for waiving its requirements. Subsection (b)(1) of my proposed amendment would require a minimum of 5 days' notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the Act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the Program and those findings would have to be set out in detail. Too often, Federal agencies employ boilerplate language to waive the requirements of Section 553 of the Administrative Procedures Act because to do so is more convenient. Convenience would not be an adequate standard under my amendment.

2. This amendment provides a mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the state level can be disseminated at that level. While the proposal is unusual in Federal legislation, it is common to many state laws and is, in my judgment, necessary in this case since states and metropolitan areas will be called upon to implement the Federal program.

3. This amendment contains additional hearing requirements not imposed by Section 553 of the Administrative Procedures Act. Subsection (b)(3) of the amendment would require a public hearing on rules, regulations or orders which are likely to have a substantial impact upon the Nation's economy or larger numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

Such hearings would, to the maximum extent practicable, be held prior to the implementation of any rule, regulation, or order However, where this is not possible, but where the statutory criteria are met, the amendment provides that hearings shall be held no later than sixty (60) days after the implementation of any such rule, regulation, or order. The premise is that review, even after the program is underway, is better than no review at all. This provides a mechanism for modifying measures which may have been taken under emergency circumstances and an opportunity to re-evaluate as soon as possible thereafter. Since the actions that could be taken under the authority of this Act could cause great hardship and destroy businesses, any delay beyond sixty (60) days is not justified.

4. Subsection (c)(1) of the proposed amendment establishes certain requirements suggested by my review of the Cost of Living Council. One of the chief difficulties with the wage/price program is the public's inability to obtain information on the activities of the Cost of Living Council. Similar difficulties can be anticipated with the agencies administering the Energy Act. Subsection (c) requires the publication of all internal rules and guidelines which may form the basis in whole or in part for any rule, regulation or order and prevents the Agency from relying upon or using any such internal rule or guideline that has not been published in support of its action. I believe that the public should be fully apprised of the criteria upon which decisions are being reached and that all such information must be made widely available. Without such a provision, parties who think they might be entitled to an exception or an exemption are at a total loss in reaching their determination about whether to apply. They can have no confidence about the information they submit in support of their petition or in the result of the process, a grant or denial.

Similarly, the Agency should be required to set forth written opinions in support of its grant or denial of petitions in a form that will give them precedential value to apprise the regulated of their rights and obligations, to ensure consistency of decisions, and to limit unfettered Agency discretion.

Subsection (c)(2) adopts the Bentsen Amendment to subsection (b) of Section 309 of the bill as reported. The Bentsen Amendment has been accepted by the Senate.

5. Subsection (d)(1) of my amendment would require findings of fact and a specific statement explaining the rationale for each provision of plans or programs set forth under the authority granted by this Act. The Government has an obligation to explain the basis of its actions.

6. Subsection (d)(2) of my amendment looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose. The time to begin planning for the future is now and subsection (d)(2) would build this planning into the current process.

7. Subsection (d)(3) of my amendment would require the preparation of a schedule for implementing the requirements of Section 552 of Title 5 of the United States Code at the outset. Without rapid implementation of these requirements, the Program could quickly become unmanageable. Section 552 is one of the chief vehicles for disseminating information to the public and, in a program as vast in scope as that proposed in S. 2589, the implementation of those provisions deserves special attention.

8. Subsection (d)(4) would require the immediate preparation and publication of definitions of terms used in the Act. Such definitions will be helpful in giving meaning to many terms used in the Act.

Mr. MATHIAS. I repeat that this amendment arises from some of the disappointment, some of the frustration; some of the difficulties we have observed in the operation of the Cost of Living

Council, as it administers wage and price controls.

As I indicated the Subcommittee on Separation of Powers of the Committee on the Judiciary, of which the distinguished Senator from North Carolina (Mr. ERVIN), a cosponsor of this amendment, is chairman. We held hearings on the Cost of Living Council, and we found very substantial difficulties facing business, the consumer, labor, and in fact, plaguing the whole economic scene. It is the result of that observation which leads us to offer this amendment this morning.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. MATHIAS. Mr. President, I yield myself an additional 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. JACKSON. Mr. President, I would like to ask the Senator a question. I will give the Senator as much time as he desires. I think the Senate would like to have a better picture of the basic changes that will be made by his amendment of the rules that now apply under the Administrative Procedure Act. I think that would be helpful. We all want to provide proper notice of hearings. What we do not want to create is a situation in which the rules are going to bog down the emergency administration of the act.

I appreciate deeply what the Senator is endeavoring to do, and I think it would help all of us if we could get a more specific picture of what the changes would be. Some changes in the Administrative Procedure Act are necessary if we are going to get this job done. At an appropriate time when the Senator has an opportunity, I would like to be enlightened on it because, frankly, I am not too familiar with all the details of the Administrative Procedure Act.

Mr. MATHIAS. I think this is the best time to go into the points you raise.

This amendment deals with section 309 of the bill, as amended by the distinguished Senator from Texas (Mr. BENTSEN). Under section 309, the safeguards of section 553 of the Administrative Procedure Act can be waived. This is exactly the problem which we focused on with the Cost of Living Council and wage and price controls.

As I indicated, one of the chief difficulties of our current experience with section 553 is the wide latitude available for waiving its requirements. Subsection (b)(1) of the pending amendment would require a minimum of 5 days notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the program and those findings would have to be set out in detail.

This addresses itself precisely and exactly to the problems which the business community and the consumer are having under wage price controls.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I yield to the Senator from Maryland from my time such time as he may desire.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized for as much time as he desires to consume up to 17 minutes.

Mr. MATHIAS. I thank the Senator.

Mr. President, this exactly addresses itself both to the problems of the business community and the consumer. Their problems arise because they cannot find out the basis for decisions that are being made. For example, they cannot find out the statistical background against which the decisions are being made. They have no ability to project decisions into the future because the information upon those decisions were based is not available.

So what we are suggesting here are some safeguards so that information can be made available as we go along and so that the public can understand what is happening as it is happening.

The amendment further provides the mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the State level can be disseminated at that level.

We understand this is unusual in Federal legislation. It is, however, a common provision in State law and I think it is necessary in this case since States and metropolitan areas will be called upon to implement the Federal program. We already have statements on the part of Governors and other State officials with respect to their intentions.

The amendment contains additional requirements which are not imposed by section 553 of the Administrative Procedure Act. Section (b)3 of the amendment would require hearings on rules, regulations, or orders which are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

I think this gives to the Senator from Washington some sense of what the authors of the amendment propose and of the safeguards it will provide for the American public. I think that without it, the public will again be subjected to the dangers of widespread executive authority which, exercised through bureaucratic agencies, can tend to become arbitrary and authoritarian. Unless the public has access to information, records, and decisions, and unless decisions are arrived at openly, we may have petty tyranny which is characteristic of unchecked control.

I would further observe, in response to the question of the Senator from Washington, that section (b)1 would require findings of fact and a specific statement explaining the rationale for each provision of the plans or programs that are set forth under the authority granted by the act.

As it exists at present, the Government has the obligation to explain the basis of its actions in order to get the confidence of the people. The confidence of the people is absolutely necessary and essential if a program of this sort is to be successful.

Section (d)(2) is a program that looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose.

The time for planning for the future is now.

Section (b)(3) would require the preparation of a schedule for the implementation of title V at the outset.

In S. 2589, the implementation of these provisions, I think, deserves special attention. Subsection (d)(4) would require the immediate preparation of the publication of definition of terms used in the act. I think that such definition will be helpful in giving meaning to many of the terms used.

Again, referring to the experience we had in the oversight hearings into the operation of the Cost of Living Council, I would observe that this much seems clear: That no program will be successful if such definitions are not provided.

The purpose of the amendment is to provide procedures which will convince the public what is being done under the program is rational and necessary. I believe that the procedures we outline here will help to make it so.

Mr. JACKSON. Mr. President, will the Senator yield? I shall be happy to speak on my own time.

Mr. MATHIAS. I yield.

Mr. JACKSON. I am in sympathy with what the able Senator from Maryland is trying to do. Very candidly, my problem, I think, is that I am not certain just exactly what we are doing. To put it in another way, I am not sure how much litigation we are going to get under the proposal. We have the Administrative Procedure Act, which does need some adjustment in section 309. On Friday, we adopted a part of the Senator's suggestion. I believe that that amendment was offered by the Senator from Texas (Mr. BENTSEN). It provides 5 days notice of rulemaking. It is a good amendment. The procedure would require, as the Senator from Maryland's does, that the State give notice of publication of whatever rule is made, and that is good. I go for that. I am concerned about the date and the proposal. All of these are variances from the Administrative Procedure Act. There is one that requires a public hearing on regulation B, even after it has been adopted. I suppose there is no harm in it, but I am just wondering how big a snarl we are going to get into.

I see no problem on the next item, that requires the publication of internal guidelines. I do not see any harm in that provision.

I guess what I am worried about is whether someone can come along and, in the midst of a very important conservation effort, get tied up in endless litigation, which will take long enough so as to do violence to the objectives of the act. That is what troubles me.

If there were some cutoff on litigation, especially on the injunctive process, that might not be so objectionable. But an injunction might be obtained under this particular amendment that could tie us up for weeks. That is my concern.

Mr. MATHIAS. I understand the Senator's concern.

Mr. JACKSON. I am wondering if we could not have a short recess, to see if we could make some changes that might be acceptable. If we could have a quorum call, we could then see if we could try to make some adjustment. I know of the Senator's concern. I am as deeply concerned as he is, when we consider what has grown out of the experience in the Cost of Living Council. There have been a number of real snafus.

Mr. MATHIAS. I think that a lack of confidence in the Cost of Living Council has cost the Nation much more than whatever time may have been invested in orderly procedure. It seems to me that the greater the emergency, the more the necessity for proper administrative procedure.

But I would welcome the Senator's suggestion and would agree to a quorum call.

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a quorum call. Despite the previously entered unanimous-consent arrangement, I ask that the time for the quorum call not be charged to the time previously agreed to on the Mathias amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Mathias amendment be temporarily laid aside. I think we are in the process of working out a satisfactory substitute, and in the meantime I ask unanimous consent that the order previously entered for the recognition of the Senator from New York (Mr. JAVITS) for 20 minutes now be in effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 683

Mr. JAVITS. Mr. President, it is my intention to call up two amendments at this time. One is No. 683, which I would like to have considered first.

The ACTING PRESIDENT pro tempore. Amendment 683 will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS' amendment (No. 683) is as follows:

On page 16 between lines 2 and 3 add the following new section:

(d) It is the sense of the Congress that since the present energy crisis is very much an international problem which calls for an international as well as domestic response, therefore the United States should endeavor to conclude an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, or so many as may be agreed upon in such agreement, relative to the supplies of energy available to the industrialized nations of the free world and with special reference to joint or cooperative research and development for alternative sources of energy.

The ACTING PRESIDENT pro tempore. How much time does the Senator wish to use?

Mr. JAVITS. I yield myself 4 minutes.

Mr. President, this amendment proposes a finding in section 202, which is headed "Presidential authorization," and adds a new subsection (d), stating that it is the sense of Congress that we should enter into negotiations for an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, that is, the other 20 nations, which include three European neutrals and Japan, or as many as may be agreed upon in such agreement—and I shall explain that in a moment—relative to the supplies of energy available to the industrialized nations of the free world, and with special reference to joint or cooperative research and development for alternative sources of energy.

Mr. President, the reason for this amendment is as follows:

First, in explanation of the words "or so many as may be agreed upon in such agreement": Every international agreement generally calls for a certain number of nations to enter into it before the agreement becomes binding, and as that is a matter of negotiation, it cannot be concluded in this amendment.

But my reason for offering the amendment—and I compliment Senator JACKSON and Senator FANNIN on the drafting of section 202, headed "Presidential authorization"; I would not have offered the amendent at all if I felt that that covered it, because I think that, on the whole, they have foreseen most contingencies. The difficulty with the section as it stands, insofar as what I am proposing is concerned, is the use of the word "imports" on line 20 and the use of the word "trade" on line 21.

I am trying to reach yet another problem, which is the complete unpreparedness of the industrialized countries of Western Europe, of which I am especially conscious because I have just headed a major committee which has made a rather historic study on the subject in respect to finding alternative sources of energy and cooperating in the research, for which there may be a bill of billions of dollars for various types of research in which they could engage.

I am troubled that the use of these rather restrictive words "imports" and "trade" may not cover that particular thing. Also, Mr. President, as our European allies are constantly complaining about "consultation," it seems to me that it would be highly desirable to put Congress on record as saying, "By all means, gentlemen, we want to consult, and we want to consult to good effect, we offer you this opportunity." That is by virtue of the views of Congress. I have made it expressly a sense resolution because I did not wish to bind the committee or to bind the country.

Mr. JACKSON. I want to compliment the Senator from New York for offering the amendment. I am sure he had the opportunity to discuss the matter with some of the OECD people when they were here several months ago. May I say to him, I met with Dr. Spaak, the son of the famous Prime Minister and former Secretary General of NATO, when he was here and I mentioned at that time the urgency of the situation; I suggested, too, that there was an area of cooperation which would be mutually beneficial to our friends in the Atlantic community. Specifically in the area of research and development, we could all profit by the kind of thing that the able Senator from New York is endeavoring to do. I compliment him for it. My only regret is that there has been no movement.

Mr. JAVITS. Exactly.

Mr. JACKSON. I pointed out last spring, or whenever the group was here, that time was running out and that we did not have a contingency plan in the Atlantic community to deal with a cutoff in the Middle East.

I have felt for a long time that that was going to happen and that is why I wrote the President in June of 1972 suggesting that we get our foreign policy priorities in order. This particular part of it is the most important. In fact, priority No. 1 in the energy business from the beginning has been foreign policy and how we deal with the problems of imports at a time when our Nation is importing this year probably 35 percent of all its petroleum products.

I am very pleased to accept the amendment. I think it could be very helpful.

Mr. JAVITS. I thank my colleague. I now yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the Senator from New York. I concur with the manager of the bill and feel that this amendment is necessary. In fact, it is long overdue. We must work together with the other OECD countries, or suffer further blackmail by the Arab countries. I am more disappointed that the OECD countries have not been willing to work with us to a greater extent for the benefit of the free nations of the world. I am hopeful that this amendment will be helpful in explaining the intent of this legislation.

Mr. JAVITS. I thank my colleague. Congress can express itself in a way to enable it to hold the administration to account for progress in this field. I am very grateful to the manager of the bill, and the manager of the bill on the part of the minority, for being willing to take the amendment.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. May I reserve the remainder of my time and yet have this amendment voted on at this time?

The ACTING PRESIDENT pro tempore. By unanimous consent.

Mr. JAVITS. Mr. President, I ask unanimous consent that this amendment may be voted on at this time and to reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 653

Mr. JAVITS. Mr. President, I call up my amendment No. 653 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

In section 202(c), following the word "appropriate." add: "If, at any time following receipt and consideration of the aforementioned interim report, the Congress agrees to a concurrent resolution terminating the action taken pursuant to the declared nationwide energy emergency, all authority granted by this Act shall expire thirty days after the passage of such concurrent resolution.".

Mr. JAVITS. Mr. President, I join in this amendment with the Senator from Oregon (Mr. HATFIELD). It is intended to give Congress the option to terminate the program which we are legislating here at the end of a 6-month period in which the President is required to submit to Congress an interim report on the implementation of the act, together with such recommendations for amending or extending the Act as he deems appropriate.

Many Members are concerned about the enormous grant of power which is here given to the President. By turning down the rationing, which was a very close question—I voted against immediate rationing—I have since talked with Senator JACKSON and told him about my own disquiet if we get into a situation where the President does not want rationing. I want to give him an opportunity to do it without holding a stick over his head and the situation gets not discriminatory or unequal so far as the American people are concerned.

Therefore, Mr. President, although the legislation does not say so, the President can terminate it simply by virtue of the fact that he has the authority to put it into effect. So I think we, too, should have that option. If at the end of 6 months we are not satisfied this has gone the way we want it to go in this amendment which I have proposed, it would give us that authority by concurrent resolution. The concurrent resolution technique is always a matter of discussion and challenge. In this case, it is uniquely appropriate because the granting of authority is given to the President by this legislation. Therefore, we can terminate that authority sooner if we wish than the letter of the statute absent this provision would otherwise allow us to do by virtue of the expiration of the authority. But if we do not give the expiration of the authority, the matter is out of our hands for a full year. Considering the emergency and speed with which this matter moves, it is an elementary precaution that Congress should take.

Mr. JACKSON. Mr. President, speaking only for myself, I want to say that I think the amendment proposed by the Senator from New York is a very helpful one and gives Congress rightful control over the situation. It does not impede the work that is necessary under the provisions of the act. I think that Congress should retain the authority to pass such a concurrent resolution.

Mr. JAVITS. I thank my colleague and I yield to the Senator from Arizona.

Mr. FANNIN. I should like to say to the distinguished Senator from New York that we discussed this matter with Senator Hatfield. I am not sure we had a vote on this amendment, but this matter could cause uncertainty for anyone preparing for an emergency.

The ACTING PRESIDENT pro tempore. The time of the Senator from New York has expired.

Mr. JAVITS. The other side has time on this.

Mr. FANNIN. The amendment could raise doubts about the wording of the proposed regulations. I understand the intent of the Senator from New York, and I compliment him for attempting to accomplish the objectives he sees necessary. However, I am not in favor of the amendment, because it fails to provide groups taking emergency actions the assurance of a definite time period for followthrough.

Mr. JAVITS. Would the Senator allow me to explain?

Mr. FANNIN. I would appreciate it very much.

Mr. JAVITS. I think that this amendment, Senator FANNIN, who knows that we can vote on it at a later time——

Mr. FANNIN. Yes.

Mr. JAVITS. Does exactly what Senator FANNIN himself has mentioned for the following reasons: One, it is operative only at the end of 6 months. In other words, everything required to be done under the act, putting the plans into effect, the State plans, and so forth, will have been done, and only after the first report, which is 6 months. So that is point No. 1.

Second, the President himself could eliminate the program at any time. All we are doing is giving ourselves the authority, too. So that the element of uncertainty, if there be uncertainty, is just as great. If the President can do it, we can do it, except we yield the authority for a year to the President.

I do not know what the committee discussed by way of giving Congress the power to terminate, but this is only operative at the end of 6 months.

I think that is very clear from the text, if the Senator will follow me. The report is due within 6 months. My amendment says that only after the report is submitted may Congress terminate the authority, and the termination—because you have to make it effective—would be effective 30 days thereafter.

In short, it does not impede or put people in any more doubt than the President's authority does. For the first 6 months, it is absolutely solid: We join with the President in saying, "OK."

Mr. FANNIN. I understand. This matter was brought up during the hearings, and at one time we did specify 6 months. Then in the interest of remaining consistent we provided for the 1-year period.

Mr. JAVITS. Mr. President, I understand that the practice, if we are to have a rollcall—and I would seek a rollcall—would be to put this amendment over for the vote until 1 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I ask unanimous consent, then, that the vote on this amendment may take place at 1 p.m., following other amendments that may be similarly situated.

Mr. JACKSON. There is no other amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have no further business. I yield back the remainder of my time.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I believe that the next item, under the unanimous-consent agreement, would be the Helms amendment.

The PRESIDING OFFICER. The Senator is correct.

The Senator from North Carolina is recognized.

AMENDMENT NO. 656

Mr. HELMS. Mr. President, I call up my amendment No. 656, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place at the end of section 203(b)(2) in title II, insert the following: "limitations on the transportation of students enrolled in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence".

Mr. HELMS. Mr. President, I have no desire to consume unduly the time of the Senate in a lengthy discussion of my amendment. If ever this Senate was presented with a clear-cut, straightforward proposition, this is it.

Every Senator, without exception, has sincerely declared his desire to conserve our Nation's energy supply in this time of great crisis. The purpose of this amendment is, and the immediate result of its enactment will be, an enormous saving of gasoline that is now being literally wasted.

I will not repeat the detailed remarks that I made in this Chamber on last Wednesday at the time I submitted this amendment. For the purposes of emphasis, I will reiterate that during the process of drafting this amendment, I spot checked four school districts in my State. I obtained the exact statistics of gasoline consumption by public schoolbuses in these four districts for the 12-month period before compulsory school busing was ordered. Then I compared that total with the gasoline consumption by public schoolbuses—in these very same four districts—for the following year, when additional thousands of children were being hauled against their will across cities and counties.

Now, Mr. President, let me emphasize: the statistics I am about to relate cover only four of the school districts in my State. There are 151 school administrative units in North Carolina.

Prior to the imposition of forced busing, the schoolbuses of these four districts consumed 943,463 gallons of gasoline.

The year after forced busing was imposed, Mr. President, the consumption of gasoline by the public school buses in these four districts had increased by 218 percent.

Let me repeat, Mr. President: The increase was 218 percent—for a nonessential, undesirable and often destructive exercise in futility by Federal bureaucrats, or Federal judges, or a combination of the two.

This 218 percent increase, Mr. President, represents a virtual waste of 1,118,908 gallons of gasoline in 1 year—and in just four school districts of my State. Projected estimates for my entire State, Mr. President, set the total of this nonessential use of gasoline as high as 30 million gallons a year.

Senators can project this waste on a national basis to suit themselves. Any project is bound to disclose an enormous waste of gasoline.

If we in this Senate are really serious, Mr. President, about our often proclaimed desire to relieve the energy crisis, the simple arithmetic of my amendment demonstrates that my proposal is sound, that it can have almost immediate application upon enactment, and that there will be wholesome benefits to the children of this country.

Let no Senator suppose that the farmers of America, who will be sorely needing every gallon of gasoline they can get to operate their tractors and other equipment, will not be bitterly resentful if they are deprived of badly needed gasoline in order that their children may continue to be subjected to compulsory busing to some distant school.

Yes, sir, Mr. President, the farmer is watching this Senate on this vote. The workingman is watching this Senate. The mothers of America are watching this Senate.

Now, Mr. President, a distressing report reached me over the weekend—a report which I refuse to believe until I see it happen. I have been told that a plan was agreed upon at a caucus of Senators from the other side of the aisle to kill my amendment by tabling it. I have been told that some Senators do not want my amendment to come to a vote.

I repeat, Mr. President, I cannot believe this report. I just do not believe Senators are afraid to face up to the question raised by my amendment. And I shall not believe it unless and until I see it happen. Surely, Mr. President, my amendment is not a partisan issue. Surely, Mr. President, there will not be an effort to table this question.

But in the event that it should happen, Mr. President, let the record be clear, so that everyone can understand where each Senator stood.

In the event, Mr. President, that there is indeed a motion to table, I shall call for a rollcall.

And then, let no one misunderstand what will be disclosed.

Senators who vote to table my amendment will be voting to continue to waste gasoline—enormous amounts of gasoline, millions of gallons of gasoline—on compulsory, nonessential, undesirable busing of little children.

And Senators who vote against tabling my amendment will be saying: "I'm willing to stand up and be counted."

I would reiterate, Mr. President, that I cannot believe that there will be an effort to table my amendment. But if there is such an effort, the record will be nonetheless clear.

In the interest of time, I have attempted to anticipate objections that may be raised concerning my amendment. And I have prepared a response to each such objection that came to mind. Let me quickly run down the list:

LIST OF OBJECTIONS

OBJECTION

The Helms amendment is an "extraneous amendment" that has nothing to do with solving the energy crisis.

ANSWER

On the contrary, the Helms amendment proposes exactly the same sort of energy conservation measures as S. 2589 proposes. In the very same section, Section 203, S. 2589 calls upon the President to implement transportation control plans. Now I don't know what a transportation control plan is. It sounds to me as though measures would be taken to restrict transportation. My amendment merely makes it clear that such transportation control plans would include restricting the unnecessary transportation of school children in buses. I don't see how this is extraneous at all.

A little farther down, I see the bill proposes another measure capable of reducing energy consumption. It reads as follows: "limitations on operating hours of commercial establishments and public service, such as schools." My amendment also deals with schools. If we are going to have to close schools, as the committee bill requires, whether for part of the day or for whole days at a time, I believe that it is appropriate to take less stringent measures which might allow the schools to stay open. What is more important, to bus children extravagant distances to schools that have to close early in order to save on heating fuel, or to keep the schools open and let the children walk? I think it is ridiculous to keep busing plans in effect, but to close the schools.

Moreover, as I have pointed out, the saving in gasoline by cutting back on busing is enormous. In my home town of Raleigh, they are using eight times more gasoline since compulsory busing was introduced.

OBJECTION

The Helms amendment is "not an act of responsibility."

ANSWER

I assumed that this bill was introduced only because we are in a drastic situation of emergency. Indeed, the findings of the bill say that fuel shortages "have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services." I believe that it is responsible to address the problem of the curtailment of vital public services. That is the issue which my amendment addresses.

I read in the next paragraph of the findings that these shortages "jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government." And a little bit later on, Congress determines that these disruptions "pose a serious risk to national security, economic well-being, and health and welfare of the American people."

The distinguished Senator from Washington evidently supports these findings. We are in an emergency situation. We must act wherever we can. I note that the distinguished Senator has moved with dispatch. Hearings were called on this bill with scarcely twenty-four hours' notice. The mark-up on the bill was uncommonly swift. It was brought to the Floor on Wednesday of last week at the same moment that copies of the bill and the report became generally available. I know that the chairman felt that this speed was the responsible reaction to an emergency situation.

Now this bill proposes many drastic solutions to the emergency situation we are in. It is an understatement to say that no one really knows how these solutions will work out. My amendment, however, is far less drastic. It merely suggests a return to the status quo ante. We know what the situation was before compulsory busing was introduced. We know that the neighborhood school system was an efficient and effective method of education. We also know what happened to school bus gasoline consumption when massive busing was introduced. I think that the responsible thing to do in an emergency situation is to stop waste and go back to proven methods.

OBJECTION

The Helms amendment is unconstitutional.

ANSWER

This is a topic which I touched upon in my remarks last Wednesday. First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the *Swann* v. *Charlotte/Mecklenburg County Board of Education* case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decision were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the court's order. But widespread busing is no longer available, because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that court said, in *Swann:* The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedial measures courts of equity have traditionally employed.

My amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its non-availability has come about through circumstance.

Mr. HELMS. Mr. President, I have received countless expressions of support for my amendment. These have come from all over the country. Typical of these expressions is one received from Hon. George C. Wallace, Governor of Alabama. I ask unanimous consent that the text of Governor Wallace's telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MONTGOMERY, ALA., *November 15, 1973.*

Hon. JESSE HELMS,
U.S. Senator, Dirksen Building, Washington, D.C.

DEAR SENATOR HELMS: I would like to congratulate you on your amendment 658 to S. 2589 which would conserve fuel in this time of energy crisis by limiting the public transportation of schoolchildren to the school nearest their homes. Many school systems in Alabama are experiencing extreme difficulty in obtaining sufficient fuel to transport schoolchildren to their presently assigned schools. Unless they are allowed to attend the school nearest their home, many schoolchildren in our State and other States face the probability of being denied the continuance of a public school education solely because of a lack of fuel to transport them.

You are proposing a practical and workable approach which will be of material help in meeting the energy crisis and could render more drastic measures unnecessary.

With best wishes, I am
Sincerely yours,
GEORGE C. WALLACE,
Governor of Alabama.

Mr. HELMS. Also, Mr. President, I would call my colleagues' attention to a newspaper article published Friday, November 16, in the Washington Post. This article points out that the school buses in Prince Georges County, Md., are consuming an enormous amount of additional gasoline as a result of forced busing. The Federal court order affecting that county, Mr. President, is responsible for the wasting of 750,000 gallons of gasoline per year, if I understand the situation correctly. Of course, Mr. President, I cannot vouch for anything I read in the Washington Post, but based on my findings as they relate to school districts in my own State, the Washington Post's report concerning Prince Georges County appears to be in line with what I know to be the situation in North Carolina.

In any event, Mr. President. I ask unanimous consent that the aforementioned article from the Washington Post be printed in the RECORD for the information of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COUNTY TO REQUEST PUPIL BUSING CURB

Prince George's County Executive William W. Gullett has asked federal District Judge Frank A. Kaufman not to order any further busing of school children in the county in order to conserve the fuel that would be burned by the buses.

Gullett said in a letter to Kaufman yesterday that the county must purchase 750,000 gallons of gasoline this fiscal year for the 3½ million additional miles of travel required by Kaufman's decision last year to order large-scale busing for racial balance in the county.

School public relations officer Robert Litman said that on Sept. 28, 1972, before Kaufman's order took effect, the county bused 78,364 children, or 48.5 per cent of the school population. Today, Litman said, the county buses 89,900 students, or 58.3 per cent of the total.

"We're more concerned about fuel oil to heat our buildings than we are about gas to run the buses," Litman said.

Gullett aide Jay F. Morris said the executive also asked the county attorney to determine whether the change in the oil situation constitutes a legal basis for rearguing the busing decision.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, will the Senator yield me a minute or two in opposition to this amendment?

Mr. JACKSON. I yield.

Mr. JAVITS. Mr. President, the real problem with this amendment—and perhaps the Senator would define its limitations—it seems to me, is that it puts in jeopardy the whole problem of bus transportation in aid of desegregation plans.

We have been extremely fortunate in having a time of quietude respecting the whole civil rights struggle, which involves equal opportunity for education. It has been good for the country. Lord knows, we have enough to upset America. Now, though the end of saving fuel is eminently desirable, it seems to me, in the interests of the country's tranquillity, that it would be most unwise to make this regressive step rather than to limit pleasure driving, for example.

This is really striking at a very key element in what has become a relatively tranquil situation. It is like people sitting in a tight place in a train or a bus—you gradually get your way into it, and you are kind of comfortable. It is the same with the American people on the busing question, which was so very hotly debated.

I speak as the ranking member of the Committee on Labor and Public Welfare, which handles education. We have been up and down the hill in this battle for years now, and it seems to me that to make this kind of move at this time, under the element of saving fuel, when there are so many other areas in which fuel could be saved by the American people, far beyond even the need to save it without the very real social danger which is involved here, makes it most inadvisable.

I hope very much that the Senate will agree to the motion to table, which I understand will be made—or if it is not made by anyone else, I will make it—respecting this amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. At what point will a motion to table this amendment be in order?

The PRESIDING OFFICER. After the time on the amendment has been used or yielded back.

Mr. JAVITS. If the yeas and nays are ordered, that vote would not come until 1 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, the distinguished Senator from New York knows of my respect for him and his diligence in all matters.

I would comment in the form of a question. Why keep busing in effect when we are talking about closing schools or limiting the hours of schools?

Furthermore, the Senator mentioned the words "rather than limit pleasure driving." I would suggest that it is not an either/or proposition. We may have to do both, this energy crisis is that serious.

I know that the Senator from New York is sincere, and I trust that he accords me the same sincerity in my position.

I reserve the remainder of my time.

Mr. JAVITS. Mr. President, may I have a minute or two of the opposition's time?

Mr. FANNIN. I yield.

Mr. JAVITS. In answer to the questions, may I say that I base my argument upon the fact that we will inevitably be making certain regulations respecting national priorities. Indeed, the President has the power to do that under this bill; and if the President chooses to exercise that power in respect of school busing, I must take that risk, because we are giving him that authority. But for us to do it is our picking the priority.

I thoroughly respect the sincerity of Senator HELMS. Indeed, I have probably been as ardent an advocate of equal opportunity in education and civil rights generally as any Member of the Senate, and I have always respected the sincerity of our colleagues from the part of the country where this has been part of the social order. I have not used that phrase in years, which shows how the issue has gradually been refined, and much of it has been settled. It was a very much used phrase when the venerated and distinguished Senator Russell of Georgia was carrying the laboring oar for this point of view.

Mr. President, we should not risk the social disorder, the protests, the outrage in a situation which has now, generally speaking, quieted down—certainly very much in the minds of 10 percent of the population. This quieting down may be deceptive; many people think that—that the black community of the United States is by no means satisfied with the way in which its future has gone under the Constitution.

But we are legislators, and we are pragmatic men. My real argument is, "Let well enough alone. Do not stir it up now." Of all times not to stir it up, this is the time not to do so.

I am not arguing the affirmative. I am only arguing the negative. If it is found that this is the way to save fuel and that the risk is closing hospitals or schools, or some other really basic national priority, OK; the President can do it. We will have to live with that. But let us not direct it, which is the purpose of this amendment.

That is the answer to the Senator's question. It is based upon the tranquillity which now exists in the field which at one point in our history, in the middle sixties, threatened revolution in this country, and I do not want to stir it up again.

Mr. HELMS. Mr. President, no one could disagree with the Senator's hypothesis. But it is hypothetical, after all, and I am persuaded that the Senator from New York badly misreads the sentiments of the vast majority of the American people. Black and white, they are fed up to their teeth with forced busing of their children.

The Senator is absolutely correct. If the situation were as he describes it, it would be well worthy of consideration to evaluate the eloquent statement he has just made, which is so typical of him. However, there have been repeated polls among the blacks of this country which show that 80 percent of the blacks resent their children being hauled across the country, just as is true of the parents of children of other races.

I wish to give an example to which I alluded on Wednesday of last week. Forced busing of schoolchildren has reached the point of absurdity throughout the country, not only in the South but also in States in the Midwest and the North, and other sections of the country. In the Charlotte-Mecklenburg area of my State there is a case which illustrates how far we have gone with this absurdity. There is an instance there of a junior high school student who is hauled 22 miles from his home to school in the morning and 22 miles home in the afternoon, and he is the sole passenger on the bus—one bus, one driver, and one student.

If this Senate is going to stand for absurdities like that, I think the Senate should have its head examined.

As I stated previously, we have examined 3 school districts in my State, 3 out of 151 school districts. We discovered that over 1.1 million gallons of gasoline are wasted each year on forced busing in just those three school districts alone.

If we are really serious about wanting to conserve fuel in this country, this is the way to do it. I have given the Senate the arithmetic of it and I stand by the proposition that parents and children of this Nation really do not want forced busing.

I suppose one could call this my "right to walk" amendment. I think the children have a right to walk to their neighborhood schools. I stand by the proposition that this is a profligacy our Nation can ill afford at this time of a fuel crisis.

Mr. President, I reserve the remainder of my time.

Mr. FANNIN. Mr. President, will the Senator yield? The Senator from Washington (Mr. JACKSON), who is the chairman and ranking member of the committee, controls the time on the other side. I am not yielding my time because I support the amendment. I ask for a couple of minutes from the distinguished Senator.

Mr. HELMS. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, we have several decisions to make with respect to the conservation of fuel. Some of them may not appeal to all Members of Congress; in fact, very few of them will.

It is regrettable that it is necessary to bus children across town; and in many instances, as the Senator from North Carolina explained, with few passengers on the bus.

The polls still show, as the Senator from North Carolina explained, that there is great opposition to busing for racial balance.

It is true that this amendment will necessitate some changes, but I stated as we began debate on this legislation that we must recognize that changes—some of them troublesome—will be necessary. But I do not believe that we will be taking any action that is adverse to the best interests of the students. Consequently, I do support the amendment.

Mr. JAVITS. Mr. President, I would like to have a little time in opposition. Will Senator yield to me 2 minutes in opposition

Mr. FANNIN. I am glad to yield to the Senator from New York.

Mr. JAVITS. Mr. President, for a long time the effort was to break the back of school desegregation through prohibiting busing. I was right in the middle of that debate as the ranking minority member of the Committee on Labor and Public Welfare when under the rubric of neighborhood schools, and now it is economy in gasoline—and we will find others—efforts were made to break down the requirements of the courts.

There is no question of racial balance being involved because we prohibited busing for racial balance. The only busing we are talking about is court-ordered busing or pursuant to a plan agreed on with HEW to carry out the mandate of the Constitution. It is significant that even in the wording of this amendment the whole ball game is given away on page 2, lines 1 and 2, where we find the language "transported through public means of conveyance no further than to the appropriate school nearest their residences." That is the old neighborhood school concept which the courts struck down when it was the segregated school concept.

It was pointed out, and this is really going back to ancient history, that children in the South and other parts of the country were being bussed 20 and 30 years ago before the decision in Brown against the Board of Education, passing white school after white school on the way to get to a black school.

Now, the matter is to be played in reverse under the cover of our shortage of gasoline. If that is the reason for it the President can do it, but the social disorder which will result from regressing to a system of segregation, aided by busing or not busing, which has been present in this country for years, for decades, is something we simply cannot and should not accept.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, would the Senator yield to me for 1 additional minute?

Mr. HASKELL. I yield to the Senator from New York.

Mr. JAVITS. As to the black families who do not want their childred bused, certainly no one want his children bused. But the question is would they rather have their children bused and get a decent education, or not bused and get a second-class education. That has been dealt with by the Supreme Court. There have been many arguments and cases about these facts which the Senator from North Carolina gave us for this very reason. The question was not and/or question—just "do you like your children bused?" Of course, they do not; no one does. They have long experience with busing, but that is no reason why, in the interest of the Nation, we should throw out what took so long to get recognition of, and that is what this amendment would do.

I say to the constitutionalists that this would cancel out in one amendment of a few lines every court decree based on school desegregation which deals with the busing question as an aid to enforcing the law.

What is the busing clout? It is only to make them obey the law. It is done to obey the law. Yet we would throw it out because we, not the President, decide the places where we are going to save on gas. It is most improvident, and I hope the Senate will reject it.

Mr. HASKELL. Mr. President, I yield myself 1 minute in opposition.

Mr. HELMS. Mr. President, will the Senator yield to me for the purpose of getting the yeas and nays ordered?

Mr. HASKELL. Certainly.

Mr. President, a parliamentary inquiry. Is that in order under the unanimous-consent request?

The PRESIDING OFFICER. Under the order, the yeas and the nays will not occur until 1 p.m.

Mr. HASKELL. I yield.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HASKELL. I yield.

Mr. JAVITS. May I address a question to the Senator from Arizona (Mr. FANNIN)? Do I understand the minority is now prepared to accept amendment No. 653, which I propose?

Mr. FANNIN. That is correct.

Mr. JAVITS. Very well. I will do that when we are through. I thank the Senator very much.

Mr. HASKELL. Mr. President, I yield myself 1 minute in behalf of the opposition. I oppose, and I think I do so also on behalf of the floor manager of the bill, the Senator from Washington, the pending amendment. My opposition to the amendment is based primarily on the proportion that it is not germane to the emergency situation. I happen to feel that forced busing is counterproductive; that it does not improve racial relations, but rather that it has the opposite effect. But I think the Senator from New York is quite correct in his opposition to the amendment when he says that this is not the time or place for such an explosive issue. Therefore, I hope, when the motion to table is made, the Senate will table the amendment.

Mr. HELMS. Mr. President, first, in response to my friend the distinguished Senator from New York, I would reiterate, as to his suggestion of unconstitutionality, what I have already said. I touched on it this morning. I touched on it last Wednesday.

First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the Swann versus Charlotte-Mecklenburg County Board of Education case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decisions were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the Court's order. But widespread busing is no longer available because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that Court said, in Swann:

> The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedial measures courts of equity have traditionally employed.

Let me emphasize again, my amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage, you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must at best be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its nonavailability has come about through the circumstances of fuel shortage.

As to the comments by my distinguished friend from Colorado, I do not know how any issue could be more germane than the arithmetical total of how much gasoline is being wasted in the United States this very day for the purpose of hauling students who do not want to be hauled across cities and counties. It has been estimated that 30 million gallons a year of gasoline are being wasted each year in my State alone, that we know of. You can project that any way you want, but it still comes to an arithmetical fact.

I would hope that the Senate, on this question, would face up to the amendment itself, and not through the device of a tabling motion, because we have a germane amendment before us and it would be logical to vote on the amendment itself. I do hope Senators will at least and at least face up to an issue that has already been delayed in the committee, and not try to avoid this issue through the process of a tabling motion.

I reserve the remainder of my time.

Mr. BROCK. Mr. President, will the Senator yield me 2 minutes?

Mr. HELMS. I am happy to yield my friend from Tennessee 2 minutes.

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Tennessee is recognized for 2 minutes.

Mr. BROCK. Mr. President, the Senator has eloquently spoken to his own amendment. I am a cosponsor of this amendment for a very simple reason. busing. We have won some and some we have lost, but the fact remains it still continues. This amendment does not really deal with the basic, fundamental question; it simply says that in the allocation of our limited resources at this point in time, those resources shall not be allocated on a priority basis for the compulsion of racial balance.

As the Senator from North Carolina has said, I cannot for the life of me understand why anybody would oppose this kind of amendment. It is certainly germane for us to say where the priorities lie, and it is incredible for me to believe that anyone would consider compulsion as a priority when we are faced with this problem. There are so many reasons why children have been damaged by this process. We do not need to get into that. We are simply talking about allocation of resources.

It seems to me we should face this question by a vote on the amendment of the Senator from North Carolina, and do it directly and forthrightly. This question has been before the Senate time and time again. It has refused to face it. We cannot get the measure before the Senate for a vote. The Senate has not been able to get the constitutional amendment before it, and it has been in the committee for 2 years.

Now it seems to me we have a chance to show a little bit of character and responsiveness to the American people at least in the sense of saying we shall not place a priority on compulsion through busing for the purpose of this device, whether it be racial balance or some other reason.

I am glad the Senator from North Carolina has offered the amendment. It at least gives us a chance to face our constituents on this and offer a response to their pleas for assistance on this question.

Mr. CANNON. Mr. President, will the Senator from Colorado yield to me very briefly?

Mr. HASKELL. I yield.

SALARY INCREASES FOR MEMBERS OF THE POLICE FORCE OF THE LIBRARY OF CONGRESS

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 10840.

The Chair laid before the Senate H.R. 10840, to amend the Act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress, which was read twice by title.

Mr. CANNON. Mr. President, the Senate has passed a similar bill. We are willing to accept the House bill. I ask that the bill be accepted.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to be read a third time, was read the third time and passed.

Mr. CANNON. Mr. President, I thank the Senator for yielding to me.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate resumed the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. HASKELL. Mr. President, I am sorry. I did not hear the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. HELMS. Mr. President, I yield to the Senator from Wyoming such time as he may require.

Mr. HASKELL. Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. How much time does the Senator from North Carolina yield to the Senator from Wyoming?

Mr. HELMS. As much time as he requires.

Mr. HANSEN. Mr. President, I would like 1 minute. I thank my distinguished colleague from North Carolina.

It is my intention to support this amendment. I think we do have to establish some priorities. It seems clear to me that this is an area where a significant amount of fuel could be saved.

And I have in mind also the impressive statistics presented by the distinguished Senator from North Carolina in that the Americans without regard to color or background or religious beliefs or any other criteria as far as I know have indicated clearly that they do not favor forced busing for purposes of achieving racial integration. And with that thought in mind, it would be my intention to support the amendment of the distinguished Senator from North Carolina.

Mr. JAVITS. Mr. President, is there any further time in opposition?

The PRESIDING OFFICER. Nine minutes remain in opposition.

Mr. JAVITS. Mr. President, will the Senator from Colorado yield me 2 minutes?

Mr. HASKELL. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I had understood that a motion would be made to table the amendment, and that the motion would be made by the Senator from Washington. I will be perfectly happy to make the motion when the time expires.

Mr. JACKSON. Mr. President, I did not understand the Senator.

Mr. JAVITS. Mr. President, I had understood that the manager of the bill would move to table the amendment. However, I would be glad to make the motion if the manager of the bill wishes me to.

Mr. JACKSON. That would be all right, if the Senator wishes to make it.

Mr. JAVITS. It would be more appropriate if the manager of the bill were to make it.

Mr. JACKSON. It would be all right with me if the Senator were to make it.

Mr. JAVITS. Mr. President, I think that the Senator from Washington should make it.

Mr. JACKSON. The Senator from North Carolina has asked for a vote up or down on the amendment. If he wants it that way, I will not object.

Mr. JAVITS. Except for this fact, if the Senator would yield me the time, that the motion up or down does not raise the issue of whether we want to tack this particular amendment on this particular bill. And that is, I think, an important issue to raise. Therefore I shall move at the appropriate time to table the amendment. And if my motion fails, I shall move to amend the amendment. And I wish to inform the Senate that I will move to amend. Am I correct in understanding that there would then be no debate on the amendment to the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I shall move to insert the words, after the word "residence" in this amendment, which appears at the end of the amendment, the words "except where constitutionally required."

The purpose of that amendment to the amendment would be to save the orders of the court which have already been entered and future orders which may be entered in connection with the constitutional right to an equal opportunity for education.

Mr. President, I do not want to go over these amendments again. However, I deeply believe that it would be most improvident to abort the process of Presidential determination respecting priorities which would be involved, especially after the Congress had tried to pass on these authorities if Congress promulgates the risk of the tremendous unsettlement, to say the least, which would arise if we tried to invalidate by this rather neat amendment under the cover of an energy crisis, the action of the court and local educational districts and communities which have been fought over for literally at least 19 years, since the Brown case.

I think it would be most improvident to do so. Hence, I feel it my duty to raise both issues by the motion to table—whether we want to have this in this bill at all and by the motion to amend whether we intend to throw out the enormous labors of the courts and communities on this very vexing question.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, may I have 2 additional minutes?

Mr. JACKSON. Mr. President, I yield 2 additional minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 additional minutes.

Mr. JAVITS. Mr. President, may I point out finally that there is no question of racial imbalance. It is prohibited by law. And we passed that provision a number of times. It is the law today in a number of bills, including the Higher Education Act.

Further, there is no question of quotas. Therefore, the citation from the Mecklenburg case respecting the quotas is not germane to this debate because there is no question of how or when the courts could decide on busing. The question is on eliminating it on the ground of the energy shortage. We should leave that priority to the President, along with the other priorities, and not leave that particular question of eliminating what has been fought over for so long to the Congress.

Mr. BARTLETT. Mr. President, would the Senator yield me 2 minutes?

Mr. HELMS. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. BARTLETT. Mr. President, I would like to point out that Oklahoma City is a city according to the last population census of 366,600 inhabitants. The Oklahoma City School District either owns or leases 295 buses. These 295 buses use 3,600 gallons of gasoline daily. Dr. Lillard, the superintendent of schools, estimates that 55 percent of the gasoline used goes for mandatory crosstown busing. This means that the Oklahoma City School District uses 1,980 gallons of gasoline daily, or 350,460 gallons of gasoline annually for the purpose of transporting students to crosstown schools.

I cite those figures, Mr. President, to show the large amount of gasoline used for busing.

Mr. THURMOND. Mr. President, it is my pleasure to rise in support of the amendment offered by my distinguished colleague from North Carolina. There is no question that extensive busing of schoolchildren solely to achieve a racial balance consumes an enormous amount of fuel. Forced busing, which is so obviously unpopular with the vast majority of American citizens—both black and white—becomes even more absurd in view of the very grave energy crisis now facing our country.

I urge all of my colleagues to join in bipartisan support of this very necessary and practical amendment, and I was pleased to join the able Senator from North Carolina in sponsoring it.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute remaining.

Mr. HELMS. Mr. President, if the Senator from Colorado is willing to yield back the remainder of his time, I will yield back the remainder of my time.

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Did the Senator from New York make a motion to table?

The PRESIDING OFFICER. The Senator from New York has not made a motion to table.

Mr. JAVITS. Mr. President, has all time expired?

The PRESIDING OFFICER. The time has not expired.

Mr. HASKELL. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All the time has expired.

Mr. JAVITS. Mr. President, I move to table the amendment of the Senator from North Carolina and I ask the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the question will have to be voted on at 1 o'clock.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, should the motion be rejected, would an amendment to the amendment be in order without debate?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 653

Mr. JAVITS. Mr. President, if the Senator will yield further, I suggest that by unanimous consent we can dispose of amendment No. 653.

Will the manager of the bill yield to me?

Mr. JACKSON. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that the vote may now occur on amendment No. 653, which I raised before.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 653 offered by the Senator from New York (putting the question).

The amendment was agreed to.

AMENDMENT NO. 678

Mr. JACKSON. Mr. President, I ask unanimous consent that, despite the previous unanimous-consent order, it be in order to consider the Ribicoff amendment at the present time.

The PRESIDING OFFICER. Without any prejudice to priorities?

Mr. JACKSON. Without any prejudice to priorities.

The PRESIDING OFFICER. Is there a time limitation?

Mr. JACKSON. A time limitation of 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

On page 29, after line 20, insert the following new section:

SEC. 308. OFFICE OF EMERGENCY FUEL ALLOCATION.—The President shall establish a special office to receive complaints and emer-

> gency requests from officers of State and local governmental units who cannot obtain adequate supplies of gasoline or fuel oil. The office shall be authorized to act upon requests from appropriate State and local officers in situations where communities are threatened with the disruption of public services such as health, education, police, fire, and sanitation. The office shall be empowered to order that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Mr. RIBICOFF. Mr. President, the amendment I call up today to the National Energy Emergency Act of 1973 is designed to insure that cities and towns in every State will be able to get enough gasoline and fuel oil to provide essential services to their citizens. This is intended to keep schools, hospitals, and nursing homes warm this winter, and fire, police, sanitation, ambulance, and other emergency vehicles running.

No allocation or conservation program, no matter how skillfully constructed, will be able to take care of all the emergency situations which will inevitably arise when town councils, city managers, or mayors are unable to obtain heating oil or gasoline.

New England in particular is being warned of severe fuel shortages. People must be reassured that in such a situation they can expect their children at school will not be cold or those lying ill in hospitals will be warm. Already many cities, towns, and counties are finding it difficult to secure dependable sources of fuel for their municipal vehicles and buildings.

My amendment is similar to the one I introduced to S. 1570, the Emergency Petroleum Act of 1973. This amendment was approved by the Senate by a vote of 56 to 0. It creates a new Office of Emergency Fuel Allocation to assist State, municipal and county officials who cannot obtain enough fuel to provide essential services to their communities.

Every Senator already has his own share of horror stories created by the current fuel shortages in his State. One of my most recent instances concerned the town of Plainfield, Conn. The mayor of Plainfield sent me the following telegram:

> Imminent gas emergency exists in the Town of Plainfield. 15 vehicles including police vehicles now operating on supply in ground tanks only. Supplier unable to deliver since October 25. Request immediate assistance in securing procedure for uninterrupted supply to insure health and safety of townspeople. Problem to be seriously compounded during winter months unless continuous supply guaranteed.

Fortunately, a temporary solution was found to this problem before the police cars in Plainfield stopped running. But we will undoubtedly see this situation magnified hundreds and even thousands of times across the country unless practical steps are taken now to prevent future occurrences.

Clearly there has to be some unit established to take care of these situations with an emphasis on speed and simplicity.

My amendment calls for the establishment of a special office to receive complaints from State and municipal officials whose governmental units cannot obtain sufficient supplies of gasoline or fuel oil.

Where communities are thus threatened with the disruption of essential public services, this office will be empowered to order that adequate fuel supplies be made available.

No matter what the reasons are for the present shortages, we simply cannot permit schools and hospitals to go without heat, and ambulances and firetrucks to have empty gas tanks. This office should be able to bypass the inevitable redtape and bureaucratic delays which the implementation of any overall allocation or rationing programs will inevitably produce.

I am particularly pleased that the distinguished chairman of the Interior Committee has indicated to me his support of my amendment. His leadership and guidance in all facets of the energy crisis is worthy of the highest commendation, and I know that the entire Nation owes him a debt of gratitude for his efforts.

I urge all of my colleagues to support this much needed amendment, which will be of great benefit to the people of the cities and towns in their own States.

Mr. JACKSON. Mr. President, if the Senator will yield, the Senator from Arizona has suggested a modification as follows:

> On line 4, page 2 of the amendment, after the word "that" insert the following: "priority be given to provide that . . ." so that that sentence would read:
>
> The office shall be empowered to order that priority be given to provide that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Mr. FANNIN. Mr. President, I support the distinguished Senator from Washington on the modification.

Mr. RIBICOFF. I am agreeable to that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. JACKSON. Mr. President, I support the amendment. I think it is a good amendment, and very helpful, and I trust the Senate will approve it.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment be voted upon after 1 o'clock under the previous order, and that it be in order to order the yeas and nays on the Ribicoff amendment at that time or at any time prior thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the Senator from Wyoming (Mr. HANSEN) is recognized to call up his amendment, on which there is a 20-minute time limitation.

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request; without it being charged against his time?

Mr. HANSEN. I yield.

Mr. FANNIN. Mr. President, on behalf of the Senator from Oklahoma (Mr. BELLMON) I ask unanimous consent that, following the disposition of the Bayh amendment today, he be recognized for 10 minutes on each of two amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FANNIN. I thank the Senator.

AMENDMENT NO. 682 (AS MODIFIED)

Mr. HANSEN. Mr. President, I call up my amendment No. 682, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 26, line 10, insert the following words after "leasing:", "but exclusive of oil shale." and strike the remainder of lines 10 through 12.

Mr. HANSEN. Mr. President, the effect of my amendment would be to subject Federal lease sales of energy resources to the same streamlined NEPA requirements as all other sections included in the bill.

What the amendment does not do is to exempt any lease sale from the full-blown NEPA requirements which take place beyond 1 year after enactment. What my amendment does not do is to repeal NEPA. What my amendment does not do is to remove from existing environmental regulations drilling and other developmental activities which take place pursuant to lease sales conducted within the next year. All such drilling and developmental activities will be subject to existing law and regulations designed to protect the environment.

Let me say, however, that this amendment is necessary. It will save time in the start-up of new Federal actions designed to increase domestic energy supplies.

As many of us have argued for several years, unless we increase energy supplies, all we will be able to do is to spread shortages around.

Thus, this amendment, offered in a bipartisan spirit, with the support of the administration, will indeed help to increase domestic energy supplies.

I might observe that this amendment was before the full Committee on Interior and Insular Affairs and lost on a 7-to-7 tie vote.

I would also call attention to the fact that the northeastern part of the United States, as I feel certain most people will agree, is likely to feel the most critical diminution in supplies of energy this year. This amendment would do something now to make oil and natural gas available even this winter for those areas of the country that otherwise might be very critically hurt by the energy crisis.

Mr. President, my amendment is a simple one and would restore the original intent of section 206 to all Federal actions intended to increase available domestic petroleum supplies listed under section 207. Section 206 exempts for 1 year under certain conditions the lengthy environmental impact statement process required by the National Environmental Policy Act.

All Federal actions which section 207 authorizes the President to take to supplement domestic energy supplies for the duration of the emergency are exempt except section (e) which reads:

Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: *Provided*, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(e).

My amendment will strike: "Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(e)." That stipulation has the effect of nullifying the section as far as any real "acceleration of lease sales" is concerned.

Section 206 is the only section of this act which addresses itself to emergency measures to increase domestic supply and, in my opinion, the quickest possible way to get new supplies is to drill more oil and gas wells.

One of the most promising areas for such exploration and drilling is off the Atlantic coast, according to the U.S. Geological Survey, and the eastern seaboard is the area most dependent on imported oil.

When the last ship carrying Middle East oil arrives in port probably this week, the effects of the Arab oil cutoff will hit the east coast hardest. Even if Texas and Louisiana oil fields were able to produce the oil, and they are not, the logistics problem alone of getting the oil up here could cause considerable hardship.

And if you think we have problems now, wait until the first real cold spell hits.

Hollis Dole who was Assistant Secretary of the Interior for Mineral Resources and himself a geologist said in 1971, and I quote:

> But the relatively comfortable balance we now happen to enjoy between energy supply and demand is, I submit, both ephemeral and illusory, and my concern is that having warned the public of an energy crisis that has not yet materialized, those who did so may now be accused of crying wolf. The wolf was indeed at the door earlier this winter; he has merely gone away for a time. But he will surely be back, and he may well bring the whole pack with him.

And you can bet that the whole wolf pack is now at the door.

This is an emergency bill which in the short run can do little but spread the misery around.

But in taking what action we can now to increase domestic supply—and you can be sure the situation will be with us for several years even should we do everything possible—we can at least say to the American people that we are doing something more than just dividing up the shortage.

If we can amend the National Environmental Policy Act to ease restrictions on sulfur emissions at the very least we can certainly apply the same exemption to section 206(e) as is applied by this act to all other sections of 206(e).

A report on the study now being conducted by the Council on Environmental Quality of whether submerged lands off our Atlantic coast should be opened to exploration for oil and gas will not be completed before next April. Following the report, there will undoubtedly be a decisionmaking process which will take another year or two to be followed by environmental impact statements, more hearings, and so forth, before any lease offering can be made even if the decision should be to go ahead.

There are those who say we should conduct more studies to be sure that there will be no blowouts or any damage to the environment.

But drilling off the Atlantic coast can certainly pose no more hazards than drilling off the Pacific coast, the Alaska coast or in the Gulf of Mexico, or the North Sea, one of the worst weather areas in the world. More than 16,000 wells have already been drilled offshore, and there have been only three major oil spills.

Certainly the States of the Northeast cannot continue to oppose refineries, deepwater ports, powerplants, and offshore drilling if they expect to have the energy to keep warm and to have jobs.

In the period of time it will take to develop our coal resources into clean-burning fuels, find a feasible process of recovering oil from shale and multiply our nuclear power capabilities, there is no other source of fuel for the economy we are committed to other than oil and gas.

And if it is there, as the geologists believe it is, we would better be getting it out as fast as possible.

I would like to be able to tell people when rationing starts and as prices rise, and as factories shut down, that we are trying now to do what we should have done several years ago—develop new supplies.

I would hate to try to explain to them that while we probably have enough oil and gas to get us over the hump until these new energy sources can be developed, they will just have to wait until we go through the same processes we did on the Alaska pipeline. Only after 5 years did the Congress finally bypass further delay to get the pipeline started. And there will be no oil from it for another 3 years.

I am just afraid most people will not understand. And I just do not believe they will be satisfied with unemployment compensation, food stamps, and the welfare checks this bill would provide them when their plant closes.

Mr. JACKSON. Mr. President, I am sympathetic to what the able Senator from Wyoming is endeavoring to do. I think it would be a mistake, without hearings, to waive the provisions of the National Environmental Policy Act. Perhaps there is a way in which we can speed up the adjudicatory process; but I would object at the present time to waiving the provisions of the National Environmental Policy Act as it relates to the Outer Continental Shelf. I think that to do that would be a mistake. We have some serious problems in connection with certain areas of the Outer Continental Shelf as they pertain to the adjoining area.

On the other hand, I think it is clear that we should expedite the process by which leases are arranged. We do provide for the expeditious treatment of the Outer Continental Shelf program as it pertains to the provisions of the National Environmental Policy Act.

I mention the importance of the National Environmental Policy Act as it relates to the environmental program in connection with the States. I would hope there would be an orderly procedure upon which to proceed, a procedure which would be handled on the basis of proper hearings and notice, but expedited.

Mr. HASKELL. Mr. President, is it correct to assume that at some point the distinguished Senator from Washington (Mr. JACKSON), the manager of the bill, intends to offer an amendment to delete sections (d)(1) and (2), on pages 25 and 26 of the bill, pertaining to naval petroleum reserves, and to take them up at a later time?

Mr. JACKSON. Yes, it is my intention to move to delete from the bill provision concerning the Elk Hills Petroleum Reserve. The reason is severalfold. The Committee on Armed Services has not considered this proposal.

I spoke with former Representative Vinson on Saturday evening, who celebrated his 90th birthday yesterday. He has strong objections to contemplating such a program and he said he wanted to talk to me about it. I therefore believe that under all circumstances, especially in connection with the dispute regarding the contract the Navy has at the present time with some of the oil companies for the management and related matters at Elk Hills, it would be unwise to include it in the pending measure. So I will move to strike that provision.

Mr. HASKELL. I thank the Senator. May I make one comment. I think the Senator from Wyoming's point is that if NEPA applies, as it does in the bill, to long-term leasing sales on public lands, it should also apply in the case of naval petroleum reserves.

Mr. HANSEN. Mr. President, I should like to say by way of response to the observation made by the Senator from Washington, that if he is to move forward and delete the sections in 207 that deal with making naval petroleum oil available, there is all the more reason to adopt the amendment which I now offer at this time, because part of the shortfall the Senator from Washington has pointed out that could be made up under the bill comes from naval petroleum reserves. So that if the land and the oil from it are not going to be available, that is all the more reason to get on with the job of leasing those lands both within the continental area of the United States and on the Continental Shelf. This is not anything we have not been doing. We have been leasing lands for a long time. I would point out to Senators that we have drilled in excess of 16,000 wells on the Continental Shelf, in the water, and we have had only three serious oil spills from all those wells. The oil pollution that has occurred in the ocean has been contributed to by oil spills from offshore drilling and production only to the extent of 1.5 percent in the year 1972 as compared to about 30 percent that comes from crankcase drainings going into sewers.

So it seems very important to me that we take this step.

I will bet you, Mr. President, that the people in New England are not going to be half so concerned with the environmental statements on an oil well that may be 15 or 20 miles off their coast as they will be from having no heat this winter. I would hope that Senators would consider that fact.

I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum and that the time not be taken out of any existing time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Hansen amendment be temporarily laid aside so that the Senator from Arkansas (Mr. McClellan) may be given the opportunity to offer his amendment No. 662 and that there be a 3-minute limitation thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 662

Mr. McCLELLAN. Mr. President, I send to the desk amendment No. 662, cosponsored by a number of Senators whose names appear on the amendment, and ask for its immediate consideration.

I ask unanimous consent that the amendment may be modified as indicated.

The PRESIDING OFFICER. The amendment as modified will be stated.

The legislative clerk read as follows:

SEC. 311. MATERIALS AND FUELS ALLOCATION.—To achieve the purposes of this Act, the President shall take such action as may be necessary to allocate supplies of materials, equipment, and fuels associated with exploration, production, refining, and required transportation of energy supplies to the extent necessary to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Mr. McCLELLAN. Mr. President, this amendment simply provides that the President shall insure that all equipment and fuels necessary to maintain and increase energy exploration, production, refining, and transportation will be provided to the energy industry.

We will not work our way out of the economic crisis we have entered unless and until we increase our available, reliable energy supplies. The fuel allocation program currently in effect has allowed oil rigs to shut down. Fuel has not been allocated to barges to move other fuel to electric utilities in critical fuel supply positions. I am sure that every Member of the Senate has had called to his attention such misallocations.

My amendment would give a first priority to the energy industry, premised on the fact that the energy industry is the only industry that is more than 100 percent efficient in terms of energy output versus energy input. Every gallon of fuel allocated to energy exploration, production, processing, and transportation results in more than a gallon of fuel for other purposes.

I fear that without this amendment the administrators of our allocation program will allow other fuel uses that are wholly consumptive or less than 100 percent efficient to siphon off supplies which should be allocated on an absolute first priority to a use which will increase our total energy supply, and deliver energy supplies once they are available.

Mr. President, I wish to emphasize the fact that this amendment includes such things as drilling pipe, energy pipelines, refinery construction materials, machinery to operate drilling rigs, and the transportation of personnel necessary to produce, process, and transport energy supplies.

Mr. President, the amendment which I have offered, and cosponsored by the Senators whose names appear on the amendment, is necessary in order for the proper exploration, development, and refinement of oil and gas to continue. I have submitted the amendment to the leadership on both sides of the aisle and I understand there is no objection to it.

I, therefore, trust that the amendment will be agreed to.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment. It is a helpful and clarifying amendment.

Mr. FANNIN. Mr. President, I, too, support the amendment. It will be helpful and should be agreed to.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senators from Washington and Arizona.

Mr. JACKSON. Mr. President, I yield back my time.

Mr. McCLELLAN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Arkansas (No. 662) as modified.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum and that the time not be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Biden). Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I would like to say that I am willing to further amend amendment No. 682 to exclude the Atlantic coastline from the tip of Florida north, all up along the Atlantic seaboard as far as the State of Maine, and the Continental Shelf area along the State of Alaska. Other Continental Shelf areas have been drilled and subject to lease. I do not want to deny leasing and exploration of those areas.

I would ask my distinguished colleague from Washington if that sort of an amendment would be acceptable to him.

Mr. JACKSON. No, I could not go along with the amendment because we do have NEPA requirements to deal with, especially in Oregon and Washington where we have a very large fishery operation. We have some serious problems in California areas of the Outer Continental Shelf that are highly fragile.

I suggest we have a hearing on this particular point. I have no evidence there is a holdup on the granting of Outer Continental Shelf leases by reason of NEPA.

Mr. President, I am speaking on my own time. I will give the Senator all of my time. Retroactively, may the time be adjusted so that it includes all of my speech and the remarks of the Senator from Wyoming earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. The real point at issue here is whether NEPA is holding up the leases. The facts are that in the gulf area there has been no real problem. They have to prepare their environmental impact statement, but it has not held up the program.

What it boils down to is that on the Atlantic coast and in other areas the Bureau of Land Management has not moved expeditiously to get the lease program underway. They argue that it takes 4 or 5 months to finish the impact statements. I think they should take that time to deal with the environmental program. Had they started a year or two ago on this, they would be well along. But the facts are that the national environmental policy requirements have not held up the granting of leases.

In addition, in Alaska we have almost one-half of the potential Outer Continental Shelf areas subject to leasing. This area must be carefully reviewed.

I want to see a leasing program get underway, but I do not want to simply waive the requirements of the National Environmental Policy Act unless and until there is some showing it is really and truly tying up the leasing program.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield on my time. Take it all from my time.

Mr. HANSEN. I thank the Senator. There has been delay in the leasing of the public lands. I would point out to my distinguished colleague that under NEPA regulations usually about 3 months are required to prepare and circulate the environmental impact statement. Second, public hearings require another 3 months. So on the average it takes 6 months.

I am sorry the distinguished Senator from Washington would not accept my offer to exclude the Atlantic coastline and the Alaskan coastline, so I will be forced to keep my amendment just as it has been submitted at the desk.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second at this time.

Mr. HANSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JACKSON. Out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Hansen amendment be temporarily laid aside in order to consider the Hathaway amendment, which we will be able to accept.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I ask that my unprinted amendment which is at the desk be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 26, after line 19, insert the following:

SEC. 209. Development of Additional Electric Power Resources.—Not later than 90 days after the date of enactment of this Act, the President shall promulgate a plan for the development of the hydroelectric power resources of the Nation. Such program shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Mr. HATHAWAY. Mr. President, this amendment requires the President to report on a plan for development of hydroelectric power resources, some of which have been authorized by Congress, and others have not, but have been noted as possible projects for the future.

The President's message on energy does not mention our hydroelectric resources and this amendment covers a gaping hole in his recommendation to Congress.

I understand that both the manager of the bill and the ranking minority member have no objection to the amendment.

Mr. JACKSON. Mr. President, I think this is a helpful amendment. Obviously our hydroelectric resources are very important. We have a number of generators that can be added in the Pacific Northwest that would help to meet the power supply problem in the Northwest. Also we are interconnected with the Southwest so it will be of great help to all the Western part of the United States. There are other areas, the State of Maine included, that have hydroelectric potential, on which we should have the basic information so we can determine whether or not certain programs should be undertaken.

I support the amendment.

Mr. HATHAWAY. I thank the Senator.

Mr. FANNIN. Mr. President, I am pleased to concur with the statement of the Senator from Washington, the manager of the bill. I agree that this amendment is helpful. We should strive in every way possible to develop additional electric power resources.

I am especially pleased with his reference to utilizing available hydroelectric power resources. In many instances across the country hydroelectric projects have not been approved. Many of these decisions should be reconsidered.

I also commend him for including tidal power. That possibility should be thoroughly studied. Whether it can be utilized has not been determined, but we should try in every way possible to explore the possibility.

Mr. HATHAWAY. I thank the Senators from Arizona and Washington.

Mr. President, in conclusion, the amendment would require the President to promulgate a plan, within 90 days of enactment of this act, for the development of the hydroelectric power resources of this Nation. Those resources are vast, according to official estimates of the Federal Power Commission.

The 1972 figures, put out by the FPC, estimate the total conventional hydroelectric power capacity of the United States to be 178.6 million kilowatts, capable of generating an average of 702 billion kilowatt-hours annually. Only about 30 percent of that total has been developed to date.

About 70 percent of our hydroelectric power potential sits undeveloped, as we face the prospect of a winter of heat-less homes, work-less factories and offices, children-less schools, gas-less cars, and light-less streets. That statistic represents an incredible waste of nature's power and a situation which must be remedied.

My amendment further requires that the President provide for the expeditious completion of hydroelectric projects already authorized, as well as for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Among the authorized projects, the Dickey Lincoln School project located in northern Maine would provide much-needed, reliable, and pollution-free power to the Northeastern United States, a region more adversely affected by the present and projected shortage of energy than any other part of the country.

The Dickey project would provide for the comprehensive development of the water and power resources of the St. John River. Electric power will constitute the major benefit from the project, with onsite annual power generation of 1.2 billion kilowatt hours, and additional power benefits will be realized at downstream Canadian powerplants.

The most current Corps of Engineers' estimate of Dickey's cost is about $273 million. To date $2.1 million has been appropriated for preconstruction planning on the project. We must move quickly to complete the project and realize our investment in the vast power potential of the St. John River.

The Passamaquoddy Tidal project started by Franklin Roosevelt in the late 1930's but discontinued because of lack of appropriations has renewed significance because of the energy crisis and because of a comparable operating tidal project in France.

Dickey and Passamaquoddy are but two of many undeveloped hydroelectric resources in this Nation—resources that are both nonpolluting and renewable. The development of our waterpower resource must be a high priority, for it can significantly help offset the power supply deficit we are facing.

Mr. HANSEN. Mr. President, if the Senator from Maine will yield to me briefly, I would like to join in saying I think he has offered a good amendment. I hope it will be adopted. I understand it is agreeable to both sides.

Would the Senator permit me to make a unanimous-consent request?

Mr. HATHAWAY. Mr. President, I am glad to yield for that purpose.

Mr. HANSEN. Mr. President, I ask unanimous consent that it shall be in order for me to request the yeas and nays on my amendment at an appropriate time, when there are enough Senators on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATHAWAY. I thank the Senator for his comments on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The Senate will now return to the consideration of the amendment of the Senator from Wyoming (Mr. HANSEN).

Mr. JACKSON. Mr. President, I think we can yield back the remainder of the time.

Mr. HANSEN. Mr. President, I am glad to yield back my time.

Mr. JACKSON. As I understand it, it is in order that the request for the yeas and nays may occur any time between now and the time when the amendment is called up, pursuant to the previous unanimous-consent agreement.

The PRESIDING OFFICER. That is correct, and that the amendment will be put aside until that time.

The Senate will now proceed to the consideration of the amendment of the Senator from Arizona.

Mr. FANNIN. Mr. President, I call up my amendment No. 690 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

On page 25, strike subsection (b) of section 207 and redesignate the succeeding subsections accordingly.

Mr. FANNIN. Mr. President, this amendment deletes the section of the bill which grants authority to the President to require production beyond MER of oilfields on Federal lands.

The administration does not wish to be granted such authority. I do not believe such authority is necessary or wise. In fact, if this authority is granted and exercised, great injustices could result. Requiring production beyond MER would result in a taking of private property prohibited by the Constitution without compensation. Such taking would result in the Federal Government's becoming liable for compensation of uncounted billions of dollars.

Further, it could result in great waste.

In summary, this authority—that is, subsection 207(b)—is not needed. The administration does not wish to be given the authority, as I stated. If it were given the authority and exercised it, the Government would be liable for billions of dollars in judgments against it.

I think we should take into consideration just what is involved. People with expertise in this field have made a judgment regarding the pumping of these wells. Production should proceed on an orderly basis. Production at the maximum efficiency rate yields more oil than if we produced beyond the MER. The oil that is left in the ground as a result of mishandling perhaps could never be recovered.

So I feel that this amendment is necessary and that nothing would be gained if section 207(b) were left in the bill.

Mr. JACKSON. Mr. President, I shall be very brief. This is not a mandatory authority for the President. It simply means that if we find ourselves in an emergency—and I can contemplate a number of examples that I shall come to in a moment—the President will have the authority to go beyond the MER, which means the maximum efficient rate of production—in other words, a temporary surge and stepup.

The President is not obligated to do so unless he, in his judgment, finds it necessary. For example, suppose we were getting a million barrels of oil a day from Canada and there should be a sudden, drastic cutback. I do not think we appreciate that the largest single source of our imports happens to be Canada. The Canadians are finding themselves in a very difficult situation. I could cite other examples where we could have a sudden cutback.

I believe the President ought to have discretionary authority to order a stepup in production of existing oil wells and oilfields in order to meet an immediate emergency.

I emphasize that it is not a mandatory obligation on the part of the President, but I cannot understand why the President should not have this authority, this option, this tool available to him in order to act expeditiously.

Mr. FANNIN. Here we are threatening to disturb the flow of oil from the well by overpumping and by not using good practices.

I feel that the administration would be pressured to exceed the MER if this provision were left in the bill. The administration feels section 207(b) would be almost unworkable.

I hope the distinguished floor manager of the bill will accept this amendment.

Mr. JACKSON. Well, Mr. President, I regret that I cannot accept the amendment. We are in a serious emergency, and I want to make sure that the President has available to him this option. It is discretionary; it is not mandatory.

Mr. FANNIN. I recognize that we are in a serious position as far as the amount of available domestic oil is concerned. Accordingly, I want to protect the amount of oil that we do have available. I certainly do not want to sacrifice it by taking actions that are considered unwise by people who have expertise in this field.

I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I think the amendment by the distinguished Senator from Arizona is a very timely one. If we stop to analyze, as indeed all Americans must, what sort of winter we are facing and what the years are likely to be in the time ahead, we are not looking at an energy crisis that has any indication at all of evaporating in 30 or 60 or 90 days.

People are concerned about employment in this country. I see where David Rockefeller and two Senators, and the distinguished Senator from Wisconsin (Mr. PROXMIRE), are concerned about what a cutoff in energy will do insofar as loss of jobs is concerned. So it makes very good sense not to exceed the maximum efficient rate at which any oil well can be produced.

Why do I say that? I say it because it makes sense that America save every drop of oil she has. And we will not save oil any time we exceed the maximum efficient rate. We are going to waste oil and leave the ground oil that cannot be recovered. I would point out that we do not have any to waste.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. JACKSON. Mr. President, do I have any remaining time?

The PRESIDING OFFICER. The Senator from Washington has 2 minutes remaining.

Mr. JACKSON. Mr. President, in response to the statement of my colleague, I point out that the interim report of the National Petroleum Council of July 1973 and the one of November 15, 1973, has said that this can be done. The National Petroleum Council is, of course, an industry group. They say that it can be handled without doing violence to conservation measures.

Mr. President, this is a very interesting report from an industry group.

Mr. FANNIN. Mr. President, at an appropriate time and when we have a sufficient number of Senators on the floor, I would like to ask for the yeas and nays on this amendment if the Senator is agreeable.

Mr. JACKSON. Absolutely. Mr. President, again I ask unanimous consent that it be in order to ask for the yeas and nays at any time from now until the amendments are voted on in sequential order pursuant to the unanimous consent agreement of Friday.

The PRESIDING OFFICER. And that the amendment be set aside in the meantime?

Mr. JACKSON. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that my 2 minutes remaining——

The PRESIDING OFFICER. The Senator's time has now expired.

Mr. JACKSON. Mr. President, I ask unanimous consent, despite the previous unanimous-consent agreement, that the Senator from Oklahoma have 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I thank the distinguished chairman of the committee very much.

I think it is important to understand what is involved within the MER and the maximum efficient rate of production.

Most petroleum reservoirs consist of gas sand on top, with oil sand in the middle, and water sand on the bottom. When the oil is produced to the point of depletion, there is still a considerable amount of oil left, 20 percent or sometimes higher, in the gas sand. There is a very small amount of oil in the water sand. However, it is less than the minimum level after the depletion of the oil sand.

So, if the oil is produced too rapidly, it is very apt to force the oil into the water sand or into the gas sand and it will be lost forever. It would fill up the other sands after the depletion of the oil sands.

So I think it is most important that we strike this section, because this is a bill designed to create conservation throughout the land in the use of our energy. For us to have as part of this bill a measure designed to waste energy and to cause more energy to be lost forever makes no sense. Certainly we have to use every safeguard and every proper method of producting our energy so that we do conserve it.

The original idea of a regulatory agency and the idea of MER was to adopt conservation measures for the best use of our natural resources.

I for one would strongly urge my colleagues to support this measure and strike the provision which would permit a waste of the energy which it would be possible to produce, but which would be lost forever if this provision were not struck.

Mr. JACKSON. Mr. President, despite the previous unanimous-consent agreement, I ask unanimous consent that an amendment to be offered by the Senator from Texas be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I thank the Senator for his courtesy in permitting me to offer my amendment at this time. It is an amendment that I think will make a significant contribution to the bill.

Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 33, between lines 8 and 9 insert a new paragraph as follows:

"The President shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil and other fuels. The results of this review shall be submitted to the Congress within 30 days of the date of enactment of this Act."

Mr. BENTSEN. Mr. President, the committee has included in this bill section 311, authorizing the President of the United States to take such action as may be necessary to allocate supplies of materials and equipment associated with production of coal, crude oil, and other fuels. I applaud the committee's action.

The shortage of drilling pipe, casing, and other tubular products essential for domestic exploration and production is severe. I have been contacted by many producers who could begin wells tomorrow if they could obtain the necessary supplies. I am aware of one producer who has been trying to find drilling pipe for the last 60 days to drill two wells in Oklahoma in an area where wells are producing 2 million cubic feet of natural gas a day. Mr. President, we need that gas.

During the Korean war, the Department of Commerce, working closely with the Department of the Interior, administered a very effective program to assure immediate deliveries of material to oil and gas producers. These deliveries were made from "set aside" inventories held by private suppliers. This program worked very smoothly and with a minimum of Government involvement. I have written both Commerce Secretary Dent and Interior Secretary Morton and requested that preparations begin at once so that such a program can be reinstituted immediately upon enactment of this bill.

However, my amendment is directed at another aspect of the material and equipment shortage. I have received a number of reports that the 2- to 2.4-percent increase granted for sheet steel on October 1 by the Cost of Living Council has placed oilfield products at a disadvantage in competing for our limited steel capacity. Another price increase for sheet steel is to be effective on January 1. No such increases have been granted for tubular products, and even some steel company officials admit this is having an impact on the production of pipe. In addition to the impact on production, I have received reports of growing exports of tubular products in order to take advantage of world prices higher than those being allowed in the domestic market under cost-of-living guidelines.

Mr. President, I believe that the energy shortage is such that we can ill afford distortions such as these. Indeed, if the administration of controls is contributing to the shortage, then that administration is even having a counterproductive effort on inflation. I am aware of some oil and gas producers presently paying more for used pipe than they would ordinarily pay for new pipe—when they are lucky enough to find used pipe available.

My amendment would require that the President conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if those rulings and regulations are contributing to the shortage. If such regulations are contributing to the unavailability of these products, I believe we would all expect those regulations to be revised.

I am also writing Mr. Dunlop, Director of the Cost of Living Council, requesting that this inquiry begin at once and it not await final passage of this measure. But, a congressionally mandated review to be submitted to us within 30 days will insure my request receives the serious attention it deserves.

I urge the adoption of my amendment and request that the letters to Mr. Dunlop, Secretary Dent, and Secretary Morton be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 19, 1973.
Hon. Frederick B. Dent,
Secretary, Department of Commerce,
Washington, D.C.

Dear Mr. Secretary: The Senate expects to complete action today on legislation which includes a provision allowing "the President to allocate supplies of materials associated with production of energy supplies and equipment to the extent necessary to maintain and increase the production of coal, crude oil, and other fuels." Final Congressional approval of this legislation is expected shortly.

There is a critical shortage of tubular products necessary for petroleum exploration and production. I have heard from many producers who are delaying the drilling of new wells and, in some cases, are losing production from old ones, because of the unavailability of tubular products. While overall supplies are tight, there still appears to be substantial amounts of tubular products in inventories. Unfortunately, these conditions have occurred before when steel production reached capacity. During such periods, the Department of Commerce has been instrumental in assuring the availability of drilling supplies to those members of the industry prepared to put them to immediate use.

Acting under the Defense Production Act of 1950 during the Korean war, your Department, working with the Department of the Interior and the Petroleum Administration for Defense, carried out a very effective "set-aside" program for tubular products. Under this program, private suppliers earmarked 5% of the available stock in each warehouse to be used on an immediate needs basis. Orders for drilling pipe were not made until drilling was to begin and tubing for completion was not ordered until production was obtained. This provided the most efficient utilization of available stock but was only possible because delivery was assured. All reports on the program which I have received indicate it provided rapid delivery with a minimum of government involvement.

I understand there is some question as to whether a similar program could be instituted under the existing authority of the Defense Production Act. However, I believe your Department should begin planning now to reinstate a similar program under the new Congressional authority which we expect will receive final approval shortly.

I am not urging the unnecessary involvement of the government in the allocation of steel. However, this program of a "set-aside" by private suppliers has worked in the past, and I believe a similar one could be extremely beneficial again in the effort which must be made to satisfy the nation's energy needs.

Sincerely,

Lloyd Bentsen.

U.S. Senate,
Washington, November 19, 1973.
Hon. Rogers Morton,
Secretary, Department of the Interior, Washington, D.C.

My Dear Mr. Secretary: The Senate expects to complete action today on legislation which includes a provision allowing "the President to allocate supplies of materials associated with production of energy supplies and equipment to the extent necessary to maintain and increase the production of coal, crude oil, and other fuels." Final Congressional approval of this legislation is expected shortly.

There is a critical shortage of tubular products necessary for petroleum exploration and production. I have heard from many producers who are delaying the drilling of new wells, and in some cases are losing production from old ones, because of the unavailability of tubular products. While overall supplies are tight, there still appears to be substantial amounts of tubular products in inventories. Unfortunately, these conditions have occurred before when steel production reached capacity. During such periods, the Department of Interior has been instrumental in assuring the availability of drilling supplies to those members of the industry prepared to put them to immediate use.

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I am not urging the unnecessary involvement of the government in the allocation of steel. However, this program of a "set-aside" by private suppliers has worked in the past and I believe a similar one could be extremely beneficial again in the effort which must be made to satisfy the Nation's energy needs.

Sincerely,

Lloyd Bentsen.

U.S. Senate,
Washington, D.C., November 19, 1973.
Hon. John T. Dunlop,
Director, Cost of Living Council,
Washington, D.C.

Dear Mr. Dunlop: A critical shortage of tubular products used in the exploration and production of petroleum has developed during the last several months.

It appears that the shortage is due in part to the 13% increase in drilling activity over the last year and a general reduction in excess steel producing capacity. However, in addition to these normal supply and demand factors. I have received reports that the 2 to 2.4% price increase on sheet steel granted by the Cost of Living Council on October 1 of this year has placed oil field products at a disadvantage in competing for what little capacity is available. While sheet steel cannot be produced in a rolled steel plant, it is clearly possible to use a greater portion of the limited supply of scrap steel and other raw materials in activities which are earning the greatest return. Indeed, with material and labor costs rising, stockholders have every right to expect management to shift the emphasis in production to lines with better price treatment.

In addition, I have received reports of large overseas shipments of tubular products in order to obtain world prices substantially higher than those allowed in domestic markets. The result has been some oil and gas producers are being forced to purchase used pipe at prices in excess of what they usually pay for new pipe.

In view of the importance of increasing domestic production of oil and gas, I request a complete review of all rulings and regulations under the Economic Stabilization Act which could be adversely affecting the production of materials and equipment used in energy production.

Your consideration is most appreciated.

Sincerely,

LLOYD BENTSEN.

Mr. JACKSON. Mr. President, I think this is a useful and helpful amendment. This kind of review could certainly be the kind of thing that should be done in any event. Therefore, the amendment offered by the distinguished Senator from Texas will have our support. It helps in what we are trying to do here.

I am therefore pleased to accept the amendment.

Mr. FANNIN. Mr. President, I support the amendment of the Senator from Texas. I feel that it will be very helpful, as a review is very much in order. I hope the amendment is adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas (putting the question).

The amendment was agreed to.

Mr. FANNIN. Mr. President, I call up amendment No. 691 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section as follows:

SEC. . If the Secretary of Commerce determines that United States flag vessels are not available in sufficient numbers at reasonable rates for the transport of energy-related products in United States domestic trade for the purpose of equitable distribution of fuels pursuant to the requirements of this Act, he may then waive any statutory requirements that such trade be restricted to United States flag vessels.

Mr. FANNIN. Mr. President, the justification for the amendment is, I think, very important because the current shortages of petroleum products in certain areas—particularly the Northeast, that has been heavily dependent on imports—presents a problem of movement of oil among regions that cannot be handled by available pipelines, or other land-based transport system. The remaining alternative is to use ships—for example to move oil from the gulf coast to the Northeast. And this has been discussed continuously in the last few weeks. It is quite a problem.

Unfortunately, there are not enough U.S.-flag ships available to handle the expected requirements. The Jones Act restrictions prohibit the use of foreign-flag ships for purposes such as this expected movement. Authority for an exemption from the Jones Act is necessary during the energy emergency.

The proposed amendment would accomplish this purpose. When Mideast oil supplies are again available, this Nation will want to replenish its stock of petroleum as quickly as possible, and using foreign-flag ships on a temporary basis at that time would be helpful. I trust that the distinguished manager of the bill will be willing to accept this amendment.

Mr. JACKSON. Mr. President, do I correctly understand that this would be an exemption to the Jones Act?

Mr. FANNIN. This would be an exemption to the Jones Act for only the period of the emergency, and it would permit the furnishing of fuel—one example would be the transfer of products from the areas on the Gulf of Mexico, in Texas and Louisiana to the Atlantic coast and other areas that would otherwise be destitute for product.

Mr. JACKSON. May I ask, Did the administration request this, or approve it?

Mr. FANNIN. This is an administration amendment.

Mr. JACKSON. It is an administration request?

Mr. FANNIN. It is an administration request.

Mr. JACKSON. They are asking for a waiver of the Jones Act. Mr. President, this was not brought up in our hearings. I must say that I would not want to move in support of it until I had something back from the Committee on Commerce, within whose jurisdiction it falls.

We do provide in the bill, of course, for the requisitioning of surplus Government vessels for supply and logistical purposes. But I would have to oppose this amendment.

Mr. FANNIN. Mr. President, before the distinguished Senator confirms his opposition to the amendment, I would just like to read the language to him:

> If the Secretary of Commerce determines that United States flag vessels are not available in sufficient numbers at reasonable rates for the transport of energy-related products in United States domestic trade for the purpose of equitable distribution of fuels pursuant to the requirements of this Act, he may then waive any statutory requirements that such trade be restricted to United States flag vessels.

I feel that we have discussed this matter indirectly in the hearings. We have heard continuously about the problems we have had with the shortage of supplies on the Atlantic coast, and that we would need to have vessels to carry produce from the areas where it would be available. If the Senator will recall, we even talked about taking some vessels out of mothballs, where that could be done.

Mr. JACKSON. Yes. Of course, we were referring in that discussion to American-flag vessels.

Mr. FANNIN. American vessels that could be taken out of mothballs.

Mr. JACKSON. We are now talking about putting foreign-flag vessels on coastal or intercoastal operations, which is prohibited under the Jones Act, which has been in effect, I think, since about 1920.

Mr. FANNIN. That is correct.

Mr. JACKSON. Mr. President, we may well have to do that. But I would want some hearings, at least some time——

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. JACKSON. Mr. President, I yield him such time as I may have.

Mr. FANNIN. Senators will understand that this will occur only if the Secretary of Commerce determines that U.S.-flag vessels are not available. So if the ones to come out of mothballs are available, they would be utilized, and this would not curtail that source of shipping.

Mr. JACKSON. If the Commerce Committee would offer this amendment, or state their concurrence I would agree to it. But this involves such a fundamental departure from long-established policy, Mr. President, that I do not see how I could accept the amendment under these circumstances.

I must say I do not necessarily disagree with its intent; I think we may well find ourselves in a position where something such as it proposes will be required, but we will have time to act on the question of using foreign-flag vessels in the coastal trade before they are needed. The biggest problem that we will face, Mr. President, as far as the eastern seaboard is concerned, is how to move the petroleum from the gulf coast from Texas and Louisiana, to the east coast. The east coast has been getting about 70 percent of its petroleum from overseas, and this does pose a serious problem.

My main concern is that there has been no consultation with the Commerce Committee. If that committee would offer the amendment, I would be glad to go along with it, but we have not raised this question with them. We did not have a request at the hearings for it, and I would hope that it could be deferred.

Mr. FANNIN. Mr. President, I certainly understand the feelings of the floor manager of the bill. It is regrettable that we did not have this discussion some time ago. I agree that the Commerce Committee should have a voice in what is done in this regard; but I do know that the Commerce Committee members will have an opportunity to examine the amendment, and with the emergency that exists, I am hopeful that the chairman of the Commerce Committee will support the legislation.

I just want to say to the Senator from Washington that the administration wishes to have this amendment adopted, and so I feel it essential that we have a vote, with the hope that the members of the Commerce Committee will support the legislation, at the proper time I shall ask the floor manager of the bill if he would be willing to ask for the yeas and nays.

Mr. MAGNUSON. This amendment raises serious policy questions which have been a matter of U.S. law since 1789.

We have had laws protecting our transportation industry—air, rail, highway, and water since the founding of this Nation.

This matter cannot be brought up in this context without hearings and careful consideration.

Never in the entire discussion of energy shortages has any mention of a lack of transportation capacity been mentioned. No suggestion has yet been made that sufficient U.S.-flag tonnage does not exist.

Many American flag tankers are now employed in the foreign trades. If they were not so occupied, that tonnage would be laid up.

What has the Maritime Administration of the Department of Commerce said about this effort to shortcut existing legal means to obtain Jones Act waivers?

What evidence has been presented in support of the proposition that a shortage of U.S.-flag tonnage exists?

What administrative procedure safeguards exist to determine shortage of capacity?

What procedure to permit the use of individual vessels?

Protection of U.S. policy which dates back to 1789 demands answers to these questions.

At a time when we are trying to build in protection for the environment such as the Ports and Waterways Act and the application of rigid construction standards for vessels engaged in our coastal trades we cannot open the flood gates to foreign-flag tonnage which are not now covered by such requirements

The trans-Alaska pipeline bill requires that tankers engaged in the domestic commerce of the United States must comply with the more rigid construction standards by July 1, 1974. This accelerates such requirements in order to protect our valuable coastal areas.

Mr. JACKSON. Mr. President, I think we have finished our discussion on this amendment, and I would ask that the amendment be laid aside until such time as a request may be made for the yeas and nays pursuant to the previous unanimous consent agreement.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that notwithstanding the previous order, the able Senator from Texas (Mr. BENTSEN) be recognized to offer an amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I thank the distinguished Senator from Washington.

Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN's amendments as follows:

> On page 34, between lines 2 and 3 insert a new Section 314 as follows and re-number all subsequent sections:
>
> "EMERGENCY ENERGY IMPACT STUDY
>
> "SEC. 314(a) The Council of Economic Advisors, in cooperation with other agencies and departments, shall submit an Emergency Economic Impact Report to the Congress. Such report shall include, but not be limited to the following assessments—
>
> (1) Impact of energy shortage on employment loss and job dislocations; on agriculture planting and harvesting, including the impact on food and fiber prices; and on the various industries, factories, and flow of commerce and business.
>
> (2) Impact of energy shortage on public service, including but not limited to hospitals, health care, public safety, and transportation.
>
> (b) The above assessments shall include projections as to the impact on the economy during the first quarter of 1974 as well as the full calendar year.
>
> (c) The report shall also include specific recommendations as to how the problems so identified can be minimized so as to reduce population hardship.
>
> (d) A preliminary report is to be filed not later than thirty days after enactment of this Act and a final report not later than sixty days after enactment."

Mr. BENTSEN. Mr. President, we have heard all sorts of comments and predictions as to how this energy shortage will affect this country, what it will do to jobs, what it will do to inflation, and what it will do to the distribution of our supplies. I think it is time that we have a study made by the Council of Economic Advisers. I think such a study should already have been made, but I am urging that it be done now, and that an immediate report be furnished to Congress, so that we can bring about appropriate legislation to try to take corrective measures. Therefore, this amendment directs the Council of Economic Advisors in cooperation with other departments and agencies to submit a report to the Congress concerning the impact of the energy crisis on the economy of the United States. The admendment requires a preliminary report within 30 days following enactment, and a final report 60 days after enactment.

For the last few months, Mr. President, all of us have read newspaper stories about the disruptions in our standard of living attributed to energy shortages. Lower speed limits, less heat, and gasoline limitations are but a few of these disruptions.

For the near future, there are, however, signs of increasing hardships. A special forecast by the Wharton School of the University of Pennsylvania concludes that—

> The 1973 United States economy is now vulnerable to a recession and may quickly succumb to the effects of the growing fuel crunch.

In addition, a report by the National Petroleum Council says that anticipated fuel shortages will cause "an annual loss of $48 billion" from the gross national product in 1974.

If that is correct, what it really would lead to is factories being closed.

What this translates into, Mr. President, is factories will be forced to close; persons without jobs, being forced on unemployment compensation; families unable to pay the bills, transit systems without adequate fuel, brownouts and blackouts because utilities will be unable to produce sufficient electricity.

The list is seemingly endless.

And, without trying to sound like an alarmist, it would seem prudent for the Government to move now to assess the impact of the energy crisis on the economy, to gauge the kinds and types of economic dislocations probable in the months ahead, and to formulate policy recommendations to deal with those dislocations.

I recognize, of course, that various figures exist as to the degree of the energy shortage. Estimates have run from a low of 10 percent to a high of 35 percent shortage. Adding to the uncertainty, I recognize that no agency can predict with accuracy what foreign supplies will do in the future. By necessity then, it would seem to me that the Council would have to work with different intervals of shortages, and make the best judgments possible on the basis of data and projections available.

I think we need to know, at a minimum, will there be a recession because of energy shortages? If so, how severe will it be? And, what can be done to head it off?

We need to know how many persons will be without jobs? What level of unemployment will be reached? Where will those job losses occur? Will an expanded public service program be necessary?

We need to know what will happen to the price of goods and services because of the energy shortage? What will be the impact of the fuel shortage on inflation? How much will prices increase for living essentials—food, clothing, transportation, and shelter?

We need to know also what industries will be affected? And, what can be done to assist those industries and their employees that suffer the brunt of the energy shortage?

It is not difficult to specify other questions in which we need to have data—how for example, will the energy crisis affect hospitals and health care, public schools, agriculture harvest and food costs?

Indeed, I would hope that in the conduct of this study the Council would cast its net as broad as possible.

Regardless, the compelling fact is that hard answers are needed to these difficult questions. Without these kinds of answers, we will continue to meet the energy crisis as a crisis—with short-term measures, without comprehensive policies, and without a clear assurance to the American people that their jobs and families will be safe.

Let us face it, Mr. President, too much of the talk surrounding the energy crisis is that of blame seeking.

The Nixon administration says it sent an energy message to Congress but that Congress did not act. The Congress says that the Nixon administration had all the power and authority it needed under the Economic Stabilization Act to begin emergency measures or start comprehensive energy policy planning but failed to do so because of bureaucratic infighting and the preoccupation of the administration with other matters.

But, Mr. President, a person without a

job because of the energy shortage is not interested in political wrangles over who is to blame. What that person wants to know is what is going to happen to him and his family. Where will another job be found? What kind of assistance can Government provide—after all, he says, "I've worked hard and paid my taxes." And, finally, that person wants to know why can not more be expected from his Government than political rhetoric.

That is why we must begin now to develop the data and information and the programs to answer these extremely difficult problems of job dislocations, increasing inflation, and industrial closings caused by the energy shortage.

Mr. President, my amendment will lay the ground work for the development of policies and programs directed toward alleviating these programs. It will provide the Congress and the administration with a basis for rational program initiation. And, it will tell the people of the United States that their Government is thinking about them and their immediate problems, and how they can be assisted in coping with the energy crisis.

Mr. President, I believe this amendment will be a contribution to the bill and a contribution to understanding what the problem is.

Mr. JACKSON. Mr. President, once again it is the able Senator from Texas (Mr. BENTSEN), a profound student of business economics, who has put his finger on what I think is the crucial problem facing us in the energy crisis. It relates to the economic impact of the cutbacks which we are already experiencing in the energy area as it relates to the production of goods and services in the economy.

It is clear that there have already been rough estimates that the gross national product, at best, may well remain a constant with no increase, so that with inflation, and so forth, we would encounter effectively, a decline. Therefore, we should know what the full impact will be. This is something the Council of Economic Advisers should be undertaking at the present time. The amendment will be a burr under their saddle so that they will move without delay. It expresses the deep concern of Congress as to the urgency of getting some early economic forecasts and projections, if they are possible, as a result of the cutbacks in energy.

I commend the Senator from Texas for his amendment.

Mr. BENTSEN. Mr. President, I want to add my voice to the many that have thanked the distinguished Senator from Washington (Mr. JACKSON) for the leadership he has shown in meeting this crisis and moving forward with remedial legislation to see that we can help do something about it.

Mr. FANNIN. Mr. President, I am very much pleased to concur with the remarks of the Senator from Washington, the manager of the bill, and to commend the Senator from Texas for offering his amendment, which I think is beneficial and will assist us greatly in knowing exactly what path we are traveling.

I am very pleased to support the amendment.

Mr. BENTSEN. I thank the distinguished Senator from Arizona. I appreciate his immense experience, background, and understanding of the energy source, supplies, and the utilization of them when it comes to the question of resolving this problem.

Mr. President, I urge acceptance of my amendment by the Senate.

The PRESIDING OFFICER (Mr. NUNN). The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

AMENDMENT NO. 692

Mr. FANNIN. Mr. President, I call up my amendment No. 692 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 22, lines 7 through 18, delete subsection 204(c) in its entirety and insert in lieu thereof:

"(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems for the duration of the energy emergency.".

Mr. FANNIN. Mr. President, this amendment replaces section 204(c) of the bill with new language. The new language would provide for incentives to, but not additional subsidies for, mass transit. This is an important amendment and is designed to assist mass transit without legislating new programs for mass transit. The Interior Committee has no business legislating about mass transit.

Thus, I hope that this amendment will be accepted in the bipartisan spirit in which it is intended.

The type of a subsidy called for in the bill will not solve the basic problem, which is overuse of the automobile. The solution to this problem requires local and State action affecting automobile use including priority lanes for transit, other traffic regulations affecting the choice of mode, land use controls, pricing, and supply of parking facilities, and the formulation of institutions able to deal effectively with these problems at the local level. All these are totally outside the purview of Federal responsibility and clearly require local solutions tailored to local problems.

The availability of Federal funds for operating subsidies would weaken the incentives currently felt by local officials and transit management to improve their operations and hold down operating costs.

A Federal subsidy for reduced fares would constitute a windfall bonanza for cities with large transit companies and would benefit many middle- and upper-class suburban commuters who have no need for, nor right to, such a subsidy. In short, we would be diluting scarce Federal funds in a manner which will not strengthen or expand mass transit and which will unfairly benefit many of those who need it the least.

What needs to be done is to intensify our Federal efforts to provide funds for capital investment in mass transit. This is a proper Federal role which the Congress recognized as it passed the Federal-Aid Highway Act of 1973, which permits State and local communities to use some of their highway program funds for mass transit capital purposes such as the purchase of buses.

I trust that the floor manager will accept the amendment.

Mr. JACKSON. Mr. President, I regret that I cannot accept the amendment. I would certainly go along with it if it were in addition to the provisions in subsection (c). But this is in lieu of the direct Federal subsidy that we have provided to bring about reduced fares and to encourage the use of mass transit systems. If the Senator would offer his amendment not in lieu of, but in addition to, the present provisions of this bill I could go along with it because it is in the area where one ought to encourage and provide those incentives that the Senator has referred to. But I would not want to accept it in lieu of the committee's approach to the question.

The Senator knows that we worked out the language in the bill with the Senator from West Virginia (Mr. RANDOLPH), chairman of the Committee on Public Works. I do not feel that I am in a position to accept the amendment under those circumstances.

Mr. FANNIN. I understand the Senator's position. I know that at the time we discussed the amendment in committee, I proposed the amendment. There was a vote which was favorable to the amendment. But I do not feel we should have it as an open ended program. I do not think the Senator had a figure at that time—I do not know whether he has a figure at this time—as to what the subsidy would be. Can the distinguished Senator from Washington tell me how much this will cost or give an estimate of what it will cost?

Mr. JACKSON. I really do not know that anyone can give an estimate until we know how bad the crisis will be. This will be a matter for the Committee on Appropriations to work out. They will be able to obtain better estimates after we have passed this bill and then give us the appropriate amount. Congress will retain its authority.

Mr. FANNIN. Does the Senator feel that this is just an emergency measure; that as soon as a period of 1 year has elapsed, these proposals will be dropped?

Mr. JACKSON. I am speaking only for myself. This is solely for the emergency. The help in connection with mass transit will be tied to the provisions of the highway trust fund, as included in the act that was passed as a compromise a few weeks ago.

Mr. FANNIN. As far as I know, there is no formula that can be used beneficially to be sure that we provide equal treatment for all the people who are going to be riding the buses, or even assuring increased utilization of the buses. I think an estimate has been given that it would be very small, as far as fares are concerned. In the overall, it could be very expensive. With respect to a 50-cent charge, I do not know whether the Senator has an idea as to whether the subsidy would be 10 cents or what amount would be involved.

Is any formula included in this particular provision?

Mr. JACKSON. We have not endeavored to spell out the formula. This is, again, a matter in which we would hope the administration would come forth with some recommended guidelines when they request the funds for this purpose from the Appropriations Committee. Frankly, I do not know how we can work out guidelines until we have a better idea where we are going to be a few weeks hence.

Mr. FANNIN. That is what I am afraid of. I do not think we know where we are going as far as this provision is concerned, so I will request a rollcall vote.

Mr. JACKSON. This is an emergency bill.

Mr. President, I ask unanimous consent that the vote on the Fannin amendment as it relates to mass transit be deferred until after 1 o'clock, at which time a request will be made for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Or it may be offered earlier.

AMENDMENT NO. 693

Mr. FANNIN. Mr. President, I call up amendment No. 693.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 27, line 1, strike the words "The Con-", and delete lines 2 through 5.

Mr. FANNIN. Mr. President, this amendment would delete the final portion of section 301. Its effect would be to remove the section which gives Congress the opportunity to veto all or part of any program or proposal the President initiates under this act. Such a power would only cause confusion.

Further, in light of the Javits amendment, which was adopted this morning, Congress could veto the entire program within 6 months. Thus, in light of the adoption of the Javits amendment, the last sentence of section 301 is not necessary. If it were left in, it would only maximize uncertainty.

This is an emergency act, and we must grant the President emergency power, without trying to look over his shoulder and second-guess him on part or all of every program he initiates under this act.

For these reasons, I ask that my amendment be adopted. I trust that the floor manager of the bill will accept it. It is my understanding that a partial veto would be unconstitutional.

Mr. JACKSON. Mr. President, I regret that I will have to oppose this amendment.

There is a need to have some kind of congressional oversight and overview of this program. It would be a mistake to take away the authority of Congress to take appropriate action to reject the proposal in a given situation where, in the judgment of Congress, the President has exceeded the authority or, in the judgment of Congress, the President has offered a proposal that is contrary to the judgment of Congress.

The Senator from Arizona does raise a question that is a tough one—it has never been resolved—and that is the question of an item veto. I think there is a constitutional question. We have never resolved it. I am being very candid about it. I would hope that that aspect of it could be resolved in conference. But I regret that I will have to oppose the amendment, and I assume the Senator will want a rollcall vote.

Mr. FANNIN. Yes. The administration desires this amendment. I would appreciate a rollcall vote on this amendment.

Mr. HRUSKA. Mr. President, I rise in support of amendment No. 693 proposed by the Senator from Arizona and directed against the so-called congressional item veto contained in section 301 of the bill.

Section 301 reads as follows:

> SEC. 301. CONGRESSIONAL APPROVAL.—Within 2 weeks after the date of enactment of this Act, the President will submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove all or part of the program or proposal.

This provision, to the extent that it provides for an item veto of provisions of the President's emergency proposals, raises a serious issue involving the Constitutional doctrine of separation of powers. Furthermore, it could effectively impede the effectuation of urgent emergency actions, under this and other legislation, to cope with the energy crisis that this legislation is designed to ameliorate.

Section 301 requires the President to submit to the Congress emergency contingency proposals for dealing with the energy crisis within 2 weeks after the enactment of this act.

This is an unrealistically short time for such a complex undertaking. Furthermore, the concept of a single set of contingency proposals to deal with energy crisis is even more unrealistic. Demand and supply conditions change. For example, the Arab Nations have relented, at least temporarily, on shipments of petroleum to Europe. They could continue that policy indefinitely or cut-off supplies overnight. They could relent, in whole or in part, on shipments to the United States. Weather could be mild or it could be severe. Consequently, any contingency plans must be flexible. If the Congress were to approve a set of contingency proposals as prescribed by section 301, flexibility, in all likelihood, would be lost since changes in those plans would almost assuredly be subject to congressional review. Changes in those plans, based upon sensitive secret negotiations with foreign nations, would be effectively precluded if the Congress had to approve each such change and the reasons for the changes had to be spread upon the records of the Congress.

Therefore, it is urged that section 301 be omitted from this legislation. The executive branch is, and has been, developing contingency plans to deal with the situation and will continue to do so. The Congress will, of necessity, be kept fully informed of those plans.

Clearly the function of preparing the emergency contingency proposals under section 301 is, by the terms of that section, an Executive function. Under the separation of powers concept of the Constitution, the Congress cannot participate in the performance of Executive functions. Yet that is precisely what it would be doing if it could disapprove a part of the President's contingency proposals and allow others to become effective. Those disapproval provisions cannot be considered to be an exercise of legislative powers of the Congress because it would permit the Congress, in effect, to enact a part of the President's proposals without affording him any opportunity to approve or veto the truncated package.

The proposed amendment should be approved.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Fannin amendment, No. 693, go over until after 1 o'clock, at which time it will be in order to ask for the yeas and nays on the Fannin amendment.

Mr. FANNIN. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 671

Mr. FANNIN. Mr. President, I call up amendment No. 671.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 20, strike all of lines 5 through 24, and on page 21, strike all of lines 1 through 5, and insert in lieu thereof:
>
> (b)(1) The Interstate Commerce Commission, with respect to carriers subject to regulation under parts I, II, and III of the Interstate Commerce Act, the Civil Aeronautics Board with respect to air carriers engaged in interstate, overseas, and foreign air transportation, and the Federal Maritime Commission, with respect to carriers subject to its jurisdiction for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, after consultation with the Secretary of Transportation and any other interested Federal agencies, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. This authority includes but is not limited to adjusting the level of operations, altering points served, shortening distances traveled, and reviewing or adjusting rates accordingly. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

Mr. FANNIN. Mr. President, all this amendment does is require that actions taken pursuant to this bill by the ICC, the CAB, and the FMC be coordinated with the Department of Transportation. During this energy emergency, such consultation and coordination are entirely necessary in order to avoid confusion among transportation agencies in their trying to implement this act. Thus, I urge the adoption of this amendment.

Mr. JACKSON. Mr. President, we worked this out with the Committee on Commerce previously, and the language contained in this section was agreeable to the Commerce Committee. They have jurisdiction in this area. I feel obliged to oppose the amendment. This is a jurisdictional problem, basically. I therefore abide by the understanding we had with the Commerce Committee.

Mr. FANNIN. Mr. President, the administration is anxious to have this amendment, since they feel that it is essential that these various agencies coordinate their efforts with the Department of Transportation.

I ask the distinguished Senator from Washington that we have a rollcall vote on this amendment and that the yeas and nays be ordered at the appropriate time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Fannin amendment No. 671 go over until after the hour of 1 p.m., at which time it will be in order to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The Senator had five amendments.

Mr. FANNIN. I ask unanimous consent that I be able to submit this amendment. I think the Senator understands.

Mr. JACKSON. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill add a new title as follows:

TITLE V—ESTABLISHMENT OF ENERGY POLICY OFFICE

ORGANIZATION

SEC. 501. (a) The office in the Executive Office of the President created under Executive Order No. 11726, dated June 29, 1973, and known as the Energy Policy Office (hereinafter in this Title referred to as the "Office") is hereby continued.

(b) The Office shall be headed by a Director of Energy Policy (hereinafter in this Title referred to as the "Director"), who shall be appointed by the President by and with the advice and consent of the Senate.

(c) (1) The functions and powers of the Office shall be vested in the Director.

(2) The Director may from time to time delegate such of his functions as he deems appropriate.

(3) The Director shall exercise all executive and administrative functions of the Office.

(d) There shall be in the Office two Deputy Directors each of whom shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Directors shall perform such functions and duties and exercise such powers as the Director may prescribe.

(e) There shall be in the Office a General Counsel, appointed by the President. The General Counsel shall be the chief legal officer of the Office, and shall perform such functions and duties as the Director may prescribe.

(f) There shall be in the Office not to exceed five Associate Directors, and not to exceed five Assistant Directors, each of whom shall be appointed by the Director. The associate Directors and the Assistant Directors shall perform such functions and duties as the Director may prescribe.

(g) The Director shall designate the order in which Deputy Directors and other officials shall act for and perform the functions of the Director during his absence and disability or in the event of a vacancy in his Office.

FUNCTIONS OF OFFICE

SEC. 502. (a) Under the direction of the President, the Director shall be the chief policy officer of the Executive Branch with respect to energy matters, and shall be the President's principal adviser concerning those matters.

(b) The functions of the Director shall include, but not be limited to, the following:

(1) identify major problems, present and prospective, in the energy area;

(2) review in consultation with departments, agencies and outside groups, policy alternatives with respect to energy matters;

(3) assure that Executive departments and agencies develop short and long-range plans and programs to provide:

(i) adequate and dependable supplies of,

(ii) prudent use and conservation of, and

(iii) fair and equitable allocation of, national energy resources;

(4) assure monitoring of the implementation of approved energy policies, plans and programs;

(5) identify the need for energy statistics and data and assure that this information is being collected and analyzed as the basis for policy decisions; and,

(6) facilitate the coordination of energy activities of the Federal Government and provide leadership to State and local governments and others involved in energy activities.

ADMINISTRATION

SEC. 503. The Director is authorized, in carrying out his functions under this Title, to:

(a) Without regard to civil service and classification laws appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and prescribe their authority and duties; except that such officers and employees shall be compensated at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code;

(b) employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5, United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day they are so employed (including travel time) and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(c) appoint advisory committees composed of such private citizens or officials of Federal, State, and local governments as he deems desirable to advise him, and compensate such persons other than those employed by the Federal Government at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day they are engaged in the actual performance of their duties (including travel time) as members of a committee and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(d) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him and delegate authority for the performance of any such function to any officer or employee under his direction and supervision;

(e) utilize, with their consent, the services, personnel, and facilities of Federal, State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and transfer funds made available under this Title to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, and facilities;

(f) accept voluntary and uncompensated services, except where such services involve administrative proceedings, investigations, or enforcement powers notwithstanding the provisions of section 3679 of the Revised Statutes;

(g) adopt an official seal, which shall be judicially noticed. The provisions of section 709 of title 18, United States Code, shall apply to the use of the seal, after its adoption and publication in the Federal Register, except as authorized under rules or regulations issued by the Director;

(h) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible except that the acceptance of donations of services shall be subject to the provisions of paragraph (f) of this section;

(i) subject to appropriation Acts, enter into and perform contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution; and

(j) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

COMPENSATION

SEC. 504. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(22) Director of Energy Policy."

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(62) Deputy Directors, Energy Policy Office (2)."

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(99) Associate Directors, Energy Policy Office (5)."

"(100) General Counsel, Energy Policy Office."

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(132) Assistant Directors, Energy Policy Office (5)."

APPROPRIATIONS

SEC. 505. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. FANNIN. Mr. President, this is an amendment to create an Energy Policy Office in the Executive Office of the President.

At this time, I should like to read a

letter that was sent to the chairman, Senator JACKSON with a copy to me:

NOVEMBER 19, 1973.

DEAR SENATOR JACKSON: Enclosed for your consideration as an amendment to S. 2589 is a proposal for establishment of the Energy Policy Office in the Executive Office of the President on a statutory basis.

As you know, the Energy Policy Office was created by Executive Order last June. Subsequent aggravation of the Nation's energy problems and the rapid growth in the workload associated with the planning, formulation, and coordination of energy policy and its implementation require a more permanent, statutory basis upon which the Office could expand its staff commensurate with the workload and develop its own budget requests within the Executive Office for appropriate Presidential and Congressional review and action.

The Office of Management and Budget advises that the proposed amendment to S. 2589 is consistent with the President's program.

Sincerely,

JOHN A. LOVE,
Assistant to the President.

Mr. President, this letter was sent to the Senator from Washington (Mr. JACKSON) with a copy to me. I would like to have the Senator's thoughts on the matter.

Mr. JACKSON. Mr. President, I just learned of the letter when I received, first, a call from Governor Love, and the letter arrived a few moments ago. As the Senator mentioned, the matter was not brought to our attention during the course of the hearings.

The amendment is rather lengthy and I would respectfully request that the amendment be deferred so that we can have a hearing as soon after Thanksgiving as possible to pass on the specific legislative request. I would point out that we do have a number of urgent energy bills, the $20 million research and development program, and one or two other measures. Then, we will get right to this matter. This is an urgent matter and I would not hesitate if we had had some hearings or previous notice, but the matter is complicated.

The amendment runs many pages and it would necessitate some detailed explanation. I would, therefore, respectfully request that the matter be deferred, with the understanding I just mentioned.

Mr. FANNIN. I understand the feelings of the distinguished Senator, the manager of the bill. I agree with him that we did not receive this in time for full consideration. I think the Senator has made a fair proposal; that we will have early hearings on the amendment. With the workload we have before us I feel it should have priority and I trust he will make every endeavor to see that we get early consideration.

Mr. JACKSON. I certainly will, and I will coordinate with the ranking minority member. The Senator knows the problem in connection with the heavy legislative schedule we have in our committee, which is the heaviest, I believe, of any committee in the Senate. But we will not waste any time.

Mr. FANNIN. I appreciate the manner in which the distinguished Senator is willing to go forward on this very important matter. With that understanding, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Under the previous order, following disposition of the amendment by the Senator from Arizona (Mr. FANNIN), the Senate will proceed to consideration of the amendment by the Senator from Washington (Mr. JACKSON), amendment No. 68, on which there shall be 40 minutes of debate.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

Add a new section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency,"

Add a new section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources."

Add a new section 312 after line 8, at page 33, as follows: and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' includes—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These groups of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

"(d)(1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

"(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

"(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

"(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

"(g)(1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

"(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g)(1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

"(h) The President is authorized to delegate the authority provided for in section 312(c) and (d)(1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312(c) and (d).

"(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93–628, November 10, 1973).

"(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93–628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

"(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

"(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

"(m)(1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 312 to determine compliance with the purposes of section 101(h) and 102(h) of this Act.

"(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

"(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

"(n) The exercise of the authority provided in section 204(b)(1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after provding an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, the time to be charged to my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent, despite the unanimous consent agreement previously entered into, that an amendment to be offered by the Senator from Kansas (Mr. Dole) be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 26, between lines 19 and 20, add the following new subsection:

"Sec. 209. The Secretary of the Interior and the Secretary of Commerce are hereby directed to prepare a comprehensive review of export policies for petroleum and other energy sources to determine the consistency or lack thereof of the Nation's energy trade policy with domestic fuel conservation efforts. Such report shall be submitted to Congress within 30 days after the enactment of this Act."

Mr. DOLE. Mr. President, great concern has recently been expressed over America's full exports policies. Figures have been cited to show that even in this crtical period of fuel shortages fuels are being sent outside the country.

On Friday the Senate adopted an amendment to grant the President authority to limit fuel exports.

As the McIntyre amendment was debated, and as discussion of whether exports are actually helping or hurting us, I have been struck by the scarcity of solid information and lack of real facts on this question. We have some general figures about petroleum exports and imports, but there is little specific information on which Congress can base a judgment about these matters.

For this reason, I am proposing an amendment ordering the Secretary of the Interior and the Secretary of Commerce to make a comprehensive report to Congress on our fuel export policies to determine whether our energy trade policy is in step with our domestic fuel conservation efforts.

The study should include an analysis of the current trade agreements involving the exporting and importing of fuels to see what might be done to adjust the trade relations in such a way that the energy needs of the country are better served. New import sources and potentials should be investigated and identified. The distillation of crude oil into those products for which there is the greatest domestic need should be examined. For example, the major petroleum products exported from this country are petroleum coke, greases, and lubricants. If proper incentives were available, possibly the distilling process would be adjusted to produce more of the low-grade heating fuels which are so much in domestic demand and less of the products which are utilized for export.

I agree with the purpose of the amendment offered Friday by the senior Senator from New Hampshire to provide the President with authority to control fuel and other petroleum exports. I feel that, and as the Senator from Arizona (Mr. Fannin) indicated, increased domestic fuels supplies might not be attained by a strict embargo at this time. By stopping the export of fuels we would retain all of our present domestic supplies, but the important question that must be asked at this time is what effect would a freeze on export have on our attempt to increase the amount of imported fuels that will be available. In other words, would a halt of fuel exports mean a decrease in fuel imports and an overall decrease in net supplies? I am not saying that this would happen, but it might, and I feel caution should prevail while we are attempting to carve out a policy that will protect domestic supplies and at the same time insure that our overall supplies from both domestic and imported sources are not inadvertently restricted.

The international market is too complex and we are too dependent on foreign fuel sources to take drastic and uninformed action. But at the same time, we cannot stand idly by and let fuels we so desperately need here at home be exported to foreign countries if such exports are harmful to our overall energy posture.

This amendment would provide the Congress and the Nation with much needed information about a critical area of concern to us all. And this information can serve as the basis for any specific legislative measures which might be required to assure, to the utmost possible extent, that Americans are not deprived of necessary fuels because of unwise export policies and loopholes.

Mr. President, I have discussed with the Senator from Washington, the Senator from Arizona, and the Senator from Wyoming. It does provide for a study on our export policy by the Secretary of the Interior and the Secretary of Commerce. I think the amendment is acceptable to the manager of the bill.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment. This is an area that does require careful study. There has been little study on the question of exports heretofore when we have been focusing our attention on oil imports.

I commend the Senator from Kansas for offering the amendment, and I am prepared to accept it.

Mr. FANNIN. Mr. President, I am very pleased to accept the amendment of the Senator from Kansas. I think it helps clarify exactly the situation that exists. It is a good amendment, and I support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I believe the pending amendment is the antitrust amendment. Is that correct?

The PRESIDING OFFICER. The pending amendment is amendment No. 685.

Mr. JACKSON. I call up that amendment.

The PRESIDING OFFICER. Amendment No. 685 is the pending business. It has been reported.

Mr. JACKSON. Mr. President, dealing

with the shortages facing the Nation will require the effective implementation of both S. 1570, the Mandatory Fuel Allocation Act which the Congress adopted last week, and S. 2589, the National Energy Emergency Act of 1973. Implementation of these measures will require the full support and cooperation of all segments of the petroleum industry.

Representatives of the companies which comprise this industry will have to meet with Federal officials and be kept currently informed of national priorities and plans for dealing with regional, State and local shortages. In many cases, the companies—under direct Federal supervision—will have to implement the national decisions concerning allocations to end users and in the movement of crude oil and refined products from areas of surplus to areas of need.

It will be necessary for company representatives to meet, communicate, and, in some cases, to undertake joint courses of action if the purposes of this Act and the Mandatory Allocation Act are to be achieved. Obviously, these meetings, conferences and joint causes of action could constitute violations of the antitrust laws.

To the extent that this is the case, it is anticipated that the companies will be very reluctant to fully cooperate, because by doing so they may be subject to civil and criminal actions under the antitrust laws.

To deal with this problem in connection with S. 1570, the Mandatory Allocation Act, the Congress adopted section 6(c), which provided the companies with a very limited "defense" to such actions so long as any such meetings of joint courses of action were required to achieve the purposes of that act, were monitored by the Attorney General and undertaken at the express request of the Federal Government.

During the committee's consideration of S. 2589, the committee recognized that legitimate corporate concern about antitrust problems could be a constraint to achieving the purposes of this emergency legislation.

During markup, an amendment to deal with this problem was rejected by the committee because it did not provide adequate safeguards. The amendment rejected by the committee reads as follows:

Sec. 305. If the President makes a finding that voluntary agreements or programs which involve joint government-industry coordination with respect to the conservation, allocation, or distribution of energy supplies are necessary in order to protect the public interest by contributing either to national defense or to public health, safety, or welfare, the provisions of section 708 of the Defense Production Act of 1950 (50 App. U.S.C. 2158) shall apply, notwithstanding any other provision of law which may otherwise relate to the formulation and implementation of such voluntary agreements or programs.

The administration proposed a somewhat more limited amendment which was discussed but not adopted. The amendment reads as follows:

Sec. —. In carrying out the provisions of this Act, Section 203 (a) (3) of the Economic Stabilization Act of 1970, as amended, and the (S. 1570), the President or his designee, may exercise the authority, relating to voluntary agreements, conferred upon him by Section 708 of the Defense Production Act of 1950, as amended, subject to the terms, procedures. and limitations specified in that section. Acts or omissions to act which occur pursuant to voluntary agreements approved pursuant to this section shall enjoy antitrust immunity as provided in Section 708.

The committee ordered S. 2589 favorably reported to the Senate with the understanding that committee staff would meet with administration representatives and representatives of other committees to develop an agreed-upon amendment that all parties could support. A number of meetings were held on this subject, and an amendment was agreed upon. I introduced this amendment on Friday. It is the amendment pending now before the Senate.

Mr. President, the amendment provides, I believe, an excellent resolution of this problem. It protects the public interest in the integrity of the antitrust laws and, at the same time, provides a limited defense to actions under the antitrust laws where the person or company is acting solely in compliance with Federal directives designed to achieve the purposes of this act.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the Record.

There being no objection, amendments No. 685 were ordered to be printed in the Record, as follows:

Amendment No. 685

Add a new section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency."

Add a new section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources."

Add a new section 312 after line 8, at page 33, as follows, and redesignate the remaining sections:

"Sec. 312. Antitrust Provisions.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' includes—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

"(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

"(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

"(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

"(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

"(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

"(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

"(h) The President is authorized to delegate the authority provided for in section 312 (c) and (d) (1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312 (c) and (d).

"(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93–628, November 10, 1973).

"(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93–628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

"(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

"(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

"(m) (1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 312 to determine compliance with the purposes of sections 101(h) and 102(h) of this Act.

"(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

"(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

"(n) The exercise of the authority provided in section 204(b) (1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

Mr. FANNIN. Mr. President, I support the amendment, which, I would like to indicate for the record, was carefully prepared, as the distinguished Senator from Washington said, after consultations with the administration, the staff of the Senate Subcommittee on Antitrust and Monopoly, and the Senate Interior and Insular Affairs Committee staff. I received a letter from Governor Love asking that this amendment be supported.

For the record, however, I would like to note that this amendment gives the administration the flexibility to rely on section 708 of the Defense Production Act in lieu of the provisions of this act if he can make the defense Nexus required to implement the Defense Production Act.

Further, I would like to compliment the Senator from New York (Mr. BUCKLEY) for his leadership in first proposing in committee the amendment which has evolved into amendment No. 685, of which he is a cosponsor and which is being now considered.

The junior Senator from New York deserves credit for his leadership in this area. He devoted a great deal of time, attention, and study to just what is involved. He was the author of some of the stipulations in the amendment; he supports the amendment and urges that it be adopted.

Mr. HART. Mr. President, first of all, I might as well confess my initial concerns. This bill was introduced in an aura of press reports that the oil industry was seeking total antitrust exemption. Looking at the situation—faced with, to paraphrase, "the people who brought you the oil import quotas," which may very well have contributed to the situation we are in—I had a sinking feeling in my stomach.

Fortunately, it did not work out that way.

At the suggestion of Senator JACKSON, the majority and minority staffs of the Antitrust and Monopoly Subcommittee and the Interior Committee, and representatives of the administration and of the Federal Trade Commission, met extensively this week to sort out the myths from the realities. All were cognizant of the urgent need to accommodate the extraordinary circumstances of the energy crisis. At the same time, all agreed that only the minimum necessary antitrust ihroads should be made—and then only with adequate safeguards and procedural monitoring.

The lesson learned in the National Recovery Administration in 1933 was one that guided. Then too we were determined to solve a national crisis. But in solving it—in a method 2 years later declared unconstitutional by the Supreme Court—we found that anticompetitive practices had begun which we yet today are not shed of.

Frankly, I would like to see more antitrust safeguards in this bill. But honest negotiation could not produce them and concessions had to be made on both sides. All parties have agreed on the need for and purpose of these provisions. And, on balance, I think that the public interest—as far as antitrust is concerned—is reasonably well protected.

Therefore, I urge my colleagues to support these provisions and the bill.

For the record, let me explain the antitrust amendments:

The act provides no general immunity from the antitrust laws. A limited defense only is created under section 312 (f) and (k). Additionally, procedural and monitoring mechanisms are adopted to protect the public interest. The antitrust provisions adopted by both the Senate and the House in S. 1570—the Emergency Petroleum Allocation Act of 1973—are tailored to provide more flexibility and greater safeguards against abuse. And, the section 312 provisions shall supersede and apply to that act notwithstanding any inconsistent provisions in section 6(c) of that act. Competitive values are made a watchword in section 101(h) and 102 (h) for guidance in carrying out the act's purposes.

To carry out the act's purposes, certain authority is conferred upon the President which he may delegate as specifically provided. But, authority respecting antitrust and competitive matters and advice is vested exclusively with the Department of Justice and the Federal Trade Commission.

Because of the elaborate mechanism to protect the public interest incorporated in section 312, subsection (i) is designed to assure that the section's important safeguards and procedures incorporated as a condition for the granting of a limited antitrust defense and to protect the public interest are not bypassed. Thus, subsection 708 of the Defense Production Act cannot be invoked with respect to any activity which is authorized to be taken under this act or the Emergency Petroleum Allocation Act of 1973, whether or not such activity is also authorized or implemented under the Defense Production Act.

It is recognized that during the emergency, plans of action, voluntary agreements and the establishment of advisory and interagency committees may be necessary to effectuate the purposes of the act. Although these activities in and of themselves may not necessarily amount to violations of the antitrust laws, they present circumstances which increase the possibility of abuse. Thus, under subsections (c) and (d), the President may set these activities in motion if necessary to achieve the purpose of the act.

To protect against abuse and to insure compliance with the purposes of fostering competition and preventing anticompetitive effects, advisory committees are made subject to the Federal Advisory Committee Act of 1972 and may not be chaired by a person who is not in the ordinary course a full-time regular employee of the Federal Government. With respect to any advisory or interagency committee meeting, the Attorney General and the Federal Trade Commission must have advance notice and may have an official representative attend and participate. Also, a full and complete verbatim transcript of advisory committee meetings must be kept, together with any resulting agreement, which shall be deposited with the Attorney General and the Federal Trade Commission where it shall be made available for public inspection. National security and proprietary information, as defined by present law, may be excised therefrom by the Federal Trade Commission and the Attorney General before making it available to the public. In sum, it is intended that such meetings be held in a fish bowl atmosphere.

Subsection (g) provides a degree of flexibility so that the "fish bowl" atmosphere will not become unnecessarily burdensome. Under (g) (1) the Attorney General is authorized to exempt advisory committee meetings from certain requirements of subsection (d) when they are ministerial in nature and are solely for the purpose of carrying out and implementing a plan of agreement which has already been approved. However, (g) (2) requires the promulgation of regulations which would assure adequate records in the form of logs or memoranda, so that the monitoring function could be performed. This provision is not intended to limit the more general authority given to the Attorney General and the Federal Trade Commission in subsection (m).

Subsection (n) provides that the purposes of the act in the regulated sector of common carriers will be effectuated with as little loss to competition as possible. To this end the two authorities charged with responsibility for the enforcement of the antitrust laws are required to assess the competitive impact of any actions taken in this sector before exercise of the authority provided in section 204(b)(1). The scope of their participation should be viewed in its broadest sense in keeping with the intent of these provisions. It is expected that, if necessary, the Department of Justice and Federal Trade Commission will propose alternative actions that would effectuate the purposes of this act with as little loss to competitive values as possible.

Subsection (e) specifically and affirmatively involves both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this act.

The thrust of this subsection not only is constant vigilance by the Attorney General and the Federal Trade Commission, but also mandates their active participation and input from the very beginning into any plans of action or voluntary agreements. They are required to propose alternatives to avoid or overcome to the greatest extent practical any anticompetitive effects.

Additionally, at any time the Attorney General or the Federal Trade Commission may amend, modify or disapprove any plan of action or voluntary agreement if they find such plan of action or voluntary agreement is either contrary to the purposes of this section or not necessary to achieve the purposes of the act or not the approach which minimizes anticompetitive effects.

Similarly, they may review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement that has already been implemented.

In addition to the protection of the public interest in the foregoing manner, specific requirements, procedures, and monitoring are included as conditions to obtaining the limited immunity conferred. Section 312(b) defines antitrust laws and section 312(a) provides for such limited immunity in accordance with the provisions of subsections (f) and (k).

Subsection (f) limits the possible immunity conferred by subsection (k) to designated persons engaged in certain aspects of the petroleum business provided the enumerated activity was conducted solely for the purposes of achieving the objectives of this act and the persons are in compliance with the procedural and other safeguards and requirements of this section.

Subsection (k) confers the limited antitrust defense provided the activity was—

First, held or made in compliance with the protective, monitoring, and other provisions of this section; and

Second, solely for the purpose of carrying out an approved plan of action or voluntary agreement; or

Third, undertaken solely to comply with the requirements of this section.

Any actions or effects having any other purpose are not provided with antitrust immunity. This can be best illustrated by some simple examples. If several firms agree to allocate petroleum products among their customers in furtherance of the objectives of this act, but the purpose of the particular method used actually was the elimination of a competitor, that conduct would not be accorded antitrust protection. Also, a voluntary agreement among competitors to share crude reserves and transporting facilities for the purpose of efficiently allocating resources can be protected. If the parties to the agreement, however, implement its provisions in a predatory manner for the purpose of excluding unnecessarily smaller competitors from crude supplies or transportation services, this is not protected.

Subsection (1) makes clear that this act does not affect in any way any pending or possible antitrust cases regarding the petroleum industry. Nor does this act affect or limit any judgment or order that can be entered in such cases. Likewise, this act does not immunize any conduct which would occur subsequent to expiration or repeal of this act.

Subsection (m) provides the Department of Justice and the Federal Trade Commission with authority to police, quickly and efficiently, the activities carried out in furtherance of this Act. Accordingly, subsection (m)(2) directs the Attorney General and the Federal Trade Commission to promulgate regulations concerning the retention of records which are believed necessary or appropriate to evaluate possible anticompetitive activities and effects. Thus, the antitrust authorities will be in a position to continually assess and monitor activities taken under this act and whether immunity under subsection (k) is appropriate.

Nothing in subsection (m) is intended to limit other powers granted the Attorney General and the Federal Trade Commission under any other statute.

Mr. JACKSON. Mr. President, I ask unanimous consent that the vote on this amendment go over until after 1 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all amendments that have been put over until 1 o'clock by one show of hands when the time comes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. And that applies, of course, to the pending amendment.

The PRESIDING OFFICER. Is time yielded back on the pending amendment?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

Mr. FANNIN. Mr. President, before the quorum call goes into effect, I would just like to ask the Senator from Washington whether amendments Nos. 690, 691, 692, 693, and 671 were included in the request he made.

Mr. JACKSON. Oh, yes. Let me just explain. I now have, at this tally a request for nine rollcalls. The first one is the Helms amendment, then the Ribicoff amendment, then the Hansen amendment——

The PRESIDING OFFICER. The Chair understands that the order for the yeas and nays is as follows: The Ribicoff amendment No. 678, the Hansen amendment No. 682, the Fannin amendments Nos. 690, 691, 692, 693, and 671, the Jackson amendment No. 685.

Mr. JACKSON. Is that nine?

The PRESIDING OFFICER. The Chair counts eight.

Mr. JACKSON. What about the Helms amendment?

The PRESIDING OFFICER. The yeas and nays have already been ordered on that amendment, and on the tabling motion.

Mr. JACKSON Is it nine without the Helms amendment? That is, nine plus the Helms amendment?

The PRESIDING OFFICER. And the motion to table. The Senator is correct.

Mr. JACKSON. So we are talking about 10 votes. I think all Senators should be on notice that starting at 1 o'clock we will have a minimum of 10 rollcalls back to back.

The PRESIDING OFFICER. With 15 minutes on the first vote and 10 minutes thereafter.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Under the previous order, following the disposition of the amendment of the Senator from Washington, the Senate will proceed to the consideration of the amendment by the Senator from Indiana (Mr. BAYH), on which there is 10 minutes of debate.

AMENDMENT NO. 684

Mr. JACKSON. Mr. President, I ask unanimous consent that the Bayh amendment be temporarily laid aside and that it be in order to call up amendment No. 684.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered. The Clerk will state the amendment.

The assistant legislative clerk read as follows:

> On page 25, lines 18 to 25, and page 26, lines 1 to 6, insert the following: Delete all of subsection 207(d) and redesignate (e) as "(d)".

Mr. JACKSON. Mr. President, this amendment would strike the provision from the bill which relates to the utilization on an emergency basis by the President of the naval oil reserve in California known as Elk Hill.

After careful consideration, I have come to the conclusion that due to certain outstanding contracts between the Government and the oil companies we are not in a position to authorize the President to take the emergency steps contemplated by this particular provision in the act.

Mr. President, in addition I would point out that the Department of Defense raises a question about this with regard to the position of the Joint Chiefs of Staff on the question.

On Saturday evening I had an opportunity to talk by telephone to the great statesman from Georgia, former Representative Carl Vinson, who celebrated on yesterday his 91st birthday.

During the course of that discussion I discussed with him the question of Elk Hill. As we all know, former Representative Vinson was the author of the naval petroleum reserve bill, I believe way back in 1914 or 1916. He is the father of the legislation.

Carl Vinson feels very strongly that it would be a mistake to deviate from the present provisions of the law as it pertains to this question.

Mr. President, this amendment would delete from S. 2859 subsection 207(d) which requires the production of oil and gas from the naval petroleum reserves and expedite the exploration and development of those reserves.

In my view the naval petroleum reserves have very real potential for lessening U.S. dependence on imported oil. This potential is largely undeveloped. It is for that reason that S. 1586, the Petroleum Reserves and Import Policy Act of 1973, which I introduced on April 16, provides for the expedited exploration of these reserves.

In the current energy emergency, the naval petroleum reserves could within 3 months add 160,000 barrels a day to domestic crude oil production. I favor producing from the reserves. For that reason, in drafting S. 2589, I included section 207(d) which requires production of oil and gas from the reserves. As my colleagues know, title 10, United States Code, section 7422 authorizes the Secretary of the Navy to explore and develop the naval petroleum reserves. However, it specifies that to place the reserves in production, the Secretary with the approval of the President must find that production is needed for national defense and the production must be authorized by a joint resolution of Congress.

In my view there is a National Defense need for production as evidenced by the fact that nonavailability of petroleum products to the Armed Forces has already necessitated the priority allocation of such products to the Department of Defense under the terms of the Defense Production Act.

However, there are serious legal problems related to placing the naval reserves in production, particularly the one at Elk Hills in California. Some of these problems are detailed on pages 25 and 26 of the committee report on S. 2589. Subsequent to the committee's action in reporting the bill, the administration requested two further amendments to this section of the bill. The purpose of these amendments was to avoid a situation where a windfall profit could accrue to oil companies as a result of a breach by the Federal Government of unit plan contracts covering the Elk Hills Reserve.

Committee counsel's review of these amendments and the contracts disclosed a number of legal problems which require further hearings and investigations to insure that the public interest is properly protected. It is for these reasons that I move to delete section 207(d).

On November 7, the President sent to the House of Representatives and Senate a request for a joint resolution approving production of the reserves in accordance with title 10, United States Code.

I ask unanimous consent that a copy of that request be printed in the RECORD at the conclusion of my remarks, along with certain correspondence.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. I would urge the Armed Services Committee to take up this matter as soon as possible and to approve the President's request.

I shall work to insure that S. 1586 will be reported from the Interior Committee with provision for expedited exploration of the reserves.

Mr. President, I do not rule out the possibility of using Elk Hill in an emergency. I do feel that we do not have adequate and sufficient information regarding several matters that must be resolved before we authorize this kind of emergency action.

I therefore offer this amendment to strike that provision from the bill. We may well get into the question very shortly again. That may depend upon the necessary clarifications we need to receive before proceeding further.

EXHIBIT 1

THE WHITE HOUSE,
Washington, November 7, 1973.

Hon. JAMES O. EASTAND,
President pro tempore of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a letter from the Acting Secretary of the Navy which provides his finding of the need for increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes. I approve his findings and conclusions and urge adoption of the enclosed proposed joint resolution which would give the approval of the Congress as required by Chapter 641 of Title 10, United States Code.

I request that the Congress act upon this resolution at the earliest possible time.

Sincerely,

RICHARD NIXON.

DEPARTMENT OF THE NAVY,
Washington, D.C. November 6, 1973.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: In accordance with the provisions of Chapter 641 of Title 10, United States Code, there is enclosed my finding that production of petroleum from the Elk Hills Naval Petroleum Reserve is needed for the National Defense, and a proposed joint resolution by which the Congress would give its approval so that production may begin.

I hereby request that you approve my finding and transmit the proposed joint resolution to the Congress.

Sincerely,

JACK L. BOWERS,
Acting Secretary of the Navy.

DEPARTMENT OF THE NAVY,
Washington, D.C.

SECRETARIAL DETERMINATION OF NEED WITH RESPECT TO NAVAL PETROLEUM RESERVE NO. 1

Whereas, chapter 641 of title 10, United States Code, authorizes the Secretary of the Navy to determine that the production of naval petroleum reserves is needed for national defense; and

Whereas, the Armed Services of the United States are currently unable to procure on the open market necessary petroleum products to maintain the desired military readiness posture. Present supplies of petroleum are not sufficient, even through mandatory allocation, to meet both the needs of military readiness and essential civilian needs, including those vital to defense. As a consequence, adequate petroleum to meet defense needs cannot be assured from normal sources of supply. In addition and contributing more seriously to the growing deficit in sources of military petroleum supply, certain international events have led to reduced availability from sources outside of the domestic United States. Since the Armed Services normally procure 50% of their needs from these international sources, the military petroleum shortage is even more critical.

Now, therefore, I find that the production of Naval Petroleum Reserve No. 1 is needed for national defense.

In order to authorize production of an amount which will help to insure that the needs of national defense are met, yet not seriously deplete the reserve, it is concluded that the production should be at a rate not to exceed maximum efficient rate in accordance with sound engineering and economic principles. Further, since it is anticipated that other Government agencies will be working aggressively to solve the current problems of energy shortage, the production should continue for a period of one year only. In order to provide for an initial period during which the full production rate can be established, the one year production span should commence 45 days following approval of this Determination of Need by the President and joint resolution of the Congress.

Noting that the Naval Petroleum Reserves are still not fully explored and developed, with the most valuable resources in Naval Petroleum Reserve Number Four almost wholly unexplored, it is further determined that it will be in the interest of the United States to take aggressive action toward such exploration. The Department of the Navy completed a plan in April of 1973 to guide such exploration and development and it is proposed that the first step in implementing this plan be taken concurrently with production of Naval Reserve Number One. To implement this action most directly, it is proposed that the Congress, by the same resolution with which it orders production, order that funds derived from the sale of Naval Petroleum Reserve Number One oil be made available for such exploration and development. All funds received would be applied to this purpose after having first provided for the operations at Naval Petroleum Reserve Number One during the one-year period and providing for facilities necessary to that production and delivery of oil. By this action the Congress can, without using other sources of funds, greatly enhance the capacity and readiness of the Naval Petroleum and Oil Shale Reserves to respond in the future.

JACK L. BOWERS,
Acting Secretary of the Navy.

Dated: November 6, 1973.

JOINT RESOLUTION

Whereas chapter 641 of title 10, United States Code, directs the Secretary of the Navy, among other things, to use and operate all properties within the naval petroleum reserves as are or may become subject to the control and use by the United States for production of petroleum whenever and to the extent the Secretary, with the approval of the President, finds such production required for the national defense: *Provided, however,* that no petroleum shall be produced pursuant to such a finding unless authorized by the Congress by joint resolution; and Whereas such a finding of the necessity for such production to the extent herein authorized has been made by the Secretary of the Navy in his action dated 6 November 1973 which finding has been approved by the President:

Therefore be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORITY FOR PRODUCTION

That the production of petroleum (including crude oil and associated gas and other hydrocarbons) from Naval Petroleum Reserve No. 1 is hereby authorized at a rate to help ensure that the needs of national defense are met, but not to exceed the maximum efficient rate in accordance with sound engineering and economic principles. Such production (to the extent in excess of that otherwise authorized by chapter 641 of title 10, United States Code) is to commence within forty-five days after the effective date of this Resolution, and to continue for a period of not more than one year after production commences.

DISPOSITION OF PRODUCTION

SEC. 2. The Secretary of the Navy shall dispose of the production herein authorized as provided in chapter 641 of title 10, United States Code, by means of sales, uses, or exchanges effected, determined, or agreed upon after the effective date of this Resolution. As required by said United States Code, all sales shall be effected by competitive bid. The terms of the dispositions shall be so arranged as to give full and equal opportunity for acquisition of the oil by all interested companies, including major and independent oil refineries alike.

DISPOSITION OF RECEIPTS

SEC. 3. (a) There is hereby established on the books of the Treasury Department the Naval Petroleum Reserve Account. This account shall be administered by the Secretary of the Navy under such regulations as the Secretary of Defense may prescribe. Into such account there shall be transferred or credited during the period of increased production authorized by this Act or as may be hereafter authorized (1) unobligated balances of appropriations made available to the Department of the Navy for fiscal year 1974, for exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves, (2) all proceeds realized (i) under chapter 641 of title 10, United States Code, from the sale of petroleum or refined products, oil and gas products, including royalty products, and (ii) the net proceeds realized from sales within the Department of Defense of refined petroleum products accruing to the benefit of the Department of Defense as the result of exchanges, and, (3) such funds as may be appropriated for the Naval Petroleum Reserve Account, to remain available until expended.

(b) Funds available in the Naval Petroleum Reserve Account shall be available for the expenses of: (1) production, including preparation for production, as authorized by this resolution and as may hereafter be authorized, (2) all capital costs necessary for facilities both within and outside the reserve incident to production and delivery of crude petroleum, and (3) exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves as authorized by chapter 641 of title 10, United States Code.

Mr. FANNIN. I support the amendment of the Senator from Washington. I concur in the statement that this is a necessary step to take. We will go forward and determine the proper action with regard to Elk Hill, but the Jackson amendment is essential at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington. [Putting the question.]

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the Bayh amendment which was temporarily set aside.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask that it be stated.

Mr. JACKSON. Mr. President, I ask unanimous consent that the pending amendment, the Bayh amendment, be temporarily laid aside so that the Senator from Louisiana may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the Johnston amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in full in the RECORD.

The amendment is as follows:

On page 34, after line 2, insert the following new section:

GUARANTEE OF LOANS TO INDEPENDENT REFINERS FOR NEW OR EXPANDED FACILITIES

SEC. 314. (a) Subject to the provisions of this section, the Secretary of the Interior (hereafter in this section referred to as the "Secretary") is authorized to guarantee the repayment of the principal and interest of loans made to independent refiners to enable them to construct or acquire new refining facilities or expanded refining facilities.

(b) For purposes of this section, the term "independent refiner" means a refiner who (1) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to the date of enactment of this Act, more than 70 per centum of his refinery input of domestic crude oil (or 70 per centum of his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner, and (2) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or nonbranded independent marketers. Such term also means a person who does not have any refining facilities, and who (3) does not control, is not controlled by, or under common control with any producer or producers of crude oil, and (4) establishes to the satisfaction of the Secretary that a substantial volume of petroleum products refined by him will be marketed or distributed through branded independent marketers or nonbranded independent marketers. For purposes of this subsection, the terms "branded independent marketers" and "nonbranded independent marketers" have the meanings assigned to them by section 3 of the Emergency Petroleum Allocation Act of 1973.

(c) Subject to the provisions of this section and to such other terms and conditions as the Secretary may prescribe, upon application made by an independent refiner, the Secretary is authorized to guarantee repayment of all or any portion of the principal and interest on a loan to be made to such independent refiner the proceeds of which are to be used for the construction or acquisition of new refining facilties, including the expansion of existing refining facilities. In order to qualify for such guarantee, an applicant must establish to the satisfaction of the Secretary that—

(1) the new refining facilities will increase his refining capacity and will not replace existing refining facilities of another refiner, and

(2) the applicant has been unable, after reasonable good faith efforts, to obtain assurance of supplies of crude oil sufficient to utilize the full capacity of the new refining facilities, together with his existing refining facilities (if any).

Any guarantee under this subsection shall apply only with respect to defaults in payment of principal or interest which are attributable, as specified by the Secretary at the time of making the guarantee, to the inability of the applicant to obtain supplies of crude oil sufficient to utilize 50% of the full capacity of the new refining facilities, together with his existing refining facilities (if any).

(d) No guarantee shall be made under this section unless the Secretary has determined that the facilities involved represent an acceptable financial risk to the United Sattes, taking into consideration (1) the financial and security interests of the United States, and (2) the public purposes of this section.

(e) The Secretary shall take such steps as he considers reasonable to assure that loans guaranteed under this section will—

(1) be made by investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary,

(2) bear interest at a rate satisfactory to the Secretary,

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary, and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United Sates, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, or other matters.

(f) The total liability of the United States on loans which the Secretary may guarantee under this section shall not exceed $1,000,000,000. Within such total amount, the

Secretary shall guarantee loans under this section so as to—

(1) provide the maximum amount of energy by new or expanded refining facilities of independent refiners,

(2) achieve equitable distribution of such new refining facilities among the various geographic regions of the United States, and

(3) limit the liability of the United States with respect to each loan guaranteed pursuant hereto to 10 per centum of the principal amount of each such loan.

Renumber the succeeding sections in title III.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that my amendment be voted on immediately prior to the vote on the bill at 5 o'clock.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment addresses a very serious problem that we have in the United States today—that is, lack of refining capacity.

As all of the commentators and all of the experts in the energy field have stated, we have had very little—indeed, virtually no construction and no planning—of new refining capacity in this country in the last 5 or 6 years.

At present the United States is trying to encourage the building of additional refineries. However, the difficulty is that new refineries cannot be assured of a source of crude oil. The domestic supplies of crude oil are extremely limited. Most of the domestic crude supplies are already under contract to the big oil companies. As a result, it is very difficult, if not impossible, for an independent refiner to be sufficiently assured of a source of crude oil so that he can proceed to invest the major amounts of money that it takes to build or expand refineries.

During the debate and consideration of the mandatory allocation bill, attempts were made to put in the bill a provision to guarantee that new refineries would be allocated a sufficient amount of crude oil on a mandatory basis so as to allow them to have the capacity to operate profitably. However, there was objection to such a mandatory allocation of crude oil. As some owners of crude oil and refiners of crude oil pointed out, in order to mandate an allocation of crude oil to a new refiner, it would have been necessary that crude oil be taken from somebody who already had that crude oil—something that in the view of many was totally unfair.

Accordingly, there is no way, under the present law, that a prospective refiner can be assured of a source of crude oil adequate to insure that a refinery could be built and operate at a profit.

What this amendment, therefore, would do is provide that, with respect to independent refiners—not the huge conglomerates, but independent refiners, which are carefully defined in my amendment to include only those refiners who do not have a source of crude oil themselves—that the Secretary may guarantee, subject to conditions that protect the rights of the Federal Government up to 10 percent of the amount of the loan that is required in order to build a new or expanded refinery, if it appears to the Secretary's satisfaction that such a refiner is unable to obtain assurances of an adequate supply of crude oil. In the event a refiner obtains a guaranteed loan and he then is unable, in due course, to obtain at least 50 percent of the capacity of his refinery, the guarantee becomes operative to the extent necessary to cover principal and interest attributable to the period in which the refiner is unable to obtain crude sufficient to meet 50 percent of the refinery's capacity. In no event may such principal and interest payments exceed 10 percent of the principal amount of the loan, however.

Mr. President, I submit that this amendment is greatly needed as a method to encourage the building of expanded and new refineries. The idea for this amendment, quite frankly, came from the experience that a prospective refiner is having in Louisiana. With plans all laid to build a refinery, the prospective refiner found, on account of the Middle Eastern cutoff, that it was totally impossible to get any assurance of any supply of crude oil. In order to proceed with construction of this much-needed refinery, the prospective refiner either had to contract to spend tremendous sums of money without any assurance at all of a source of crude, or stop the building of the refinery and thus lose the right to take delivery of equipment that will take a substantial period of time to obtain if it must be reordered.

This amendment is in response to that kind of situation—a situation involving the independent refiner, which is the only real sources of gasoline and other products to the independent distributor.

Mr. President, I submit that this approach contained in my amendment is badly needed in order to insure the building of new refineries by independent refiners.

The PRESIDING OFFICER (Mr. NUNN). The Senate will be in order. The Senator is entitled to be heard.

Mr. JOHNSTON. Mr. President, I shall be available for any questions on this amendment this afternoon. It will come up for a vote immediately prior to the 5 o'clock vote.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 686 AS MODIFIED

Mr. MATHIAS. Mr. President, I ask unanimous consent that amendment No. 686, which was the subject of debate this morning, may be modified at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I send to the desk the modified amendment.

Mr. MATHIAS amendment (No. 686), as modified, is as follows:

On page 30, beginning with line 21, strike out all through line 20 on page 31, and insert in lieu thereof the following:

ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS

SEC. 309. (a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555(c) and (e), and 702 and exception as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 312 of this Act shall hold public hearings on those rules, regulations, or orders which the agency determines in its discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under the Freedom of Information Act. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The

agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program, and

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code.

Mr. MATHIAS. I ask for the yeas and nays on the amendment as modified.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I asked unanimous consent previously that it be in order, prior to the voting, to order the yeas and nays on all amendments for which there has been a request for the yeas and nays. I ask unanimous consent that it now be in order to order the yeas and nays on all amendments previously submitted and for which the yeas and nays have been requested.

The PRESIDING OFFICER. That unanimous consent has already been granted.

Mr. JACKSON. I ask for the yeas and nays.

The yeas and nays were ordered on the several amendments, as previously agreed to by unanimous consent.

Mr. MANSFIELD. Mr. President, as I understand, the first vote will take the usual 15 minutes, but all votes thereafter will be accomplished in 10 minutes?

The PRESIDING OFFICER. The Senator is correct; there is an order to that effect.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. Is amendment 678 included in that order for the yeas and nays?

The PRESIDING OFFICER. Amendment 678 is included.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Bayh amendment be set aside until after the completion of the rollcall votes, and that it be the pending order of business immediately thereafter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. BARTLETT. I would like to ask the distinguished Senator from Louisiana concerning the amendment he just presented, am I correct in understanding that this country imports about 3 million more barrels of crude oil than we have refinery capacity to refine?

Mr. JOHNSTON. That is correct.

Mr. BARTLETT. And am I also correct that we have had this same problem for a long time that the Senator's amendment proposes to remedy, of not having an assured supply of crude oil, that even though we had an abundance of crude oil there was no way that a refiner could be satisfied of knowing that he would have sufficient throughput through his refinery to keep the refinery fully busy, so that he could amortize his investment? Is that correct?

Mr. JOHNSTON. That is correct. It is also correct that the National Petroleum Council has estimated that by 1975 we will require increased refinery capacity of 4.8 million barrels per day to meet our domestic needs. In other words, by 1975 we will need additional refineries, which we do not now have, capable of refining 4.8 million barrels per day. It is imperative that we do something now to deal with what is obviously going to be an even more serious refinery shortage just a few years from now. My amendment would, I believe, provide significant assistance in solving that problem.

Mr. BARTLETT. Am I also correct that this will be beneficial to the entire country, and not necessarily just to one geographical region of the country?

Mr. JOHNSTON. Unquestionably that is true. As a matter of fact, it will probably be more helpful outside our section of the country, because Louisiana and Texas right now are the leading refining States of the country. Refining capacity in the Northeast is virtually nonexistent. At least, I would say, in the last 5 or 6 years not a single new refinery has been started in the Northeast, and this country badly needs new refineries in those areas in order to meet the energy demands of the 1970's and thereafter.

Mr. BARTLETT. Mr. President, I congratulate the distinguished Senator from Louisiana for this farsighted amendment. I support it, and urge our colleagues to do likewise.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. GRIFFIN. Mr. President, because of the unusual nature of the voting that will take place, with 9 or 10 votes to occur and only 10 minutes per vote, I wonder, for the benefit of Senators who have not been in the Chamber, if there could be stated now the order in which these votes will occur, and what the questions will be.

The PRESIDING OFFICER (Mr. NUNN). The first question will be on the motion to table amendment No. 656, the Helms amendment. If that fails, the next vote will be on the amendment itself. Then there will be a vote on the Ribicoff amendment (No. 678). Next there will be a vote on the Hansen amendment (No. 682), followed by Fannin amendments (Nos. 690, 691, 692, 693, and 671), followed by a vote on the Jackson amendment (No. 685).

Mr. GRIFFIN. Will the Chair read more slowly?

The PRESIDING OFFICER. Would the Senator like the Chair to start over?

Mr. GRIFFIN. Yes.

The PRESIDING OFFICER. First the motion to table the Helms amendment (No. 656). Then if that fails, the vote on the amendment itself. Second, the Ribicoff amendment (No. 678). That could be the third vote, depending on the outcome of the motion to table the Helms amendment.

Next would be the Hansen amendment (No. 682).

Next would be five amendments by Senator FANNIN, as follows: Amendments Nos. 690, 691, 692, 693, and 671.

Next would be a vote on the Jackson amendment (No. 685) to be followed by the vote on the Mathias amendment (No. 686) as modified.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, the Senate will now proceed to vote on the motion to table amendment No. 656 of the Senator from North Carolina (Mr. HELMS).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

I further announce that, if present and voting the Senator from Alabama (Mr. ALLEN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 48, nays 39, as follows:

[No. 493 Leg.]

YEAS—48

Abourezk
Bayh
Bellmon
Biden
Brooke
Burdick
Cannon
Case
Church
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—39

Aiken
Bartlett
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Johnston
Long
McClellan
Metcalf
Nunn
Proxmire
Roth
Saxbe
Scott,
  William L.
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Allen
Baker
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So the motion to table Mr. HELMS' amendment (No. 656) was agreed to.

The PRESIDING OFFICER. Under the previous order, the question occurs on the amendment by the Senator from Connecticut (Mr. RIBICOFF). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 73, nays 13, as follows:

[No. 494 Leg.]

YEAS—73

Abourezk
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams
Young

NAYS—13

Aiken
Bartlett
Bellmon
Bennett
Brock
Fannin
Goldwater
Helms
Hruska
Scott,
  William L.
Stevens
Thurmond
Tower

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. RIBICOFF's amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment No. 682, offered by the Senator from Wyoming (Mr. HANSEN). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) and the Senator from Massachusetts (Mr. KENNEDY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 64, as follows:

[No. 495 Leg.]

YEAS—21

Bartlett
Bellmon
Bennett
Brock
Cook
Dominick
Eastland
Fannin
Goldwater
Griffin
Hansen
Helms
Hruska
Johnston
Long
McClellan
Scott,
  William L.
Stevens
Thurmond
Tower
Young

NAYS—64

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Eagleton
Ervin
Gravel
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Stafford
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—15

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis
Stevenson

So Mr. HANSEN's amendment (No. 682) was rejected.

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the amendment of the Senator from Arizona (Mr. FANNIN) No. 690. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts) (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 25, nays 61, as follows:

[No. 496 Leg.]

YEAS—25

Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Dole
Domenici
Eastland
Fannin
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hruska
Long
McClellan
Pearson
Saxbe
Stevens
Thurmond
Tower
Weicker

NAYS—61

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dominick
Eagleton
Ervin

Gravel
Hart
Hartke
Haskell
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevenson
Symington
Taft
Talmadge
Tunney
Williams
Young

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. Fannin's amendment was rejected.

The PRESIDING OFFICER (Mr. Johnston). Under the previous order, the question is on agreeing to the amendment No. 691 of the Senator from Arizona (Mr. Fannin). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 27, nays 60, as follows:

[No. 497 Leg.]

YEAS—27

Bartlett
Bellmon
Bennett
Biden
Brock
Buckley
Clark
Domenici
Fannin
Griffin
Gurney
Hansen
Haskell
Hathaway
Helms
Hruska
McIntyre
Proxmire
Roth
Saxbe
Scott, William L.
Stafford
Taft
Thurmond
Tower
Weicker
Young

NAYS—60

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cranston
Dole
Dominick
Eagleton
Eastland
Ervin
Goldwater
Gravel
Hart
Hartke
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—13

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman

So Mr. Fannin's amendment (No. 691) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Helms). Under the previous order, the question now occurs on agreeing to amendment No. 692 of the Senator from Arizona (Mr. Fannin).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 24, nays 63, as follows:

[No. 498 Leg.]

YEAS—24

Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Church
Domenici
Fannin
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hruska
McClellan
Roth
Saxbe
Scott, William L.
Stevens
Thurmond
Tower
Young

NAYS—63

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Dole
Dominick
Eagleton
Eastland
Ervin
Gravel
Hart
Hartke
Haskell
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stennis
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—13

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman

So Mr. Fannin's amendment (No. 692) was rejected.

The PRESIDING OFFICER. Under the previous order, the question now is on the amendment of the Senator from Arizona, amendment No. 693. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "nay."

The result was announced—yeas 17, nays 69, as follows:

[No. 499 Leg.]

YEAS—17

Bartlett
Bellmon
Bennett
Brock
Dominick
Eastland
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Saxbe
Scott, William L.
Thurmond
Tower

NAYS—69

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case

Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Ervin
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams
Young

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. FANNIN's amendment (No. 693) was rejected.

Mr. MOSS. Mr. President, I ask unanimous consent that Michael Pertschuk may have the privilege of the floor during the debate on S. 2589 and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I make the same request for Carl Lester.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order the question now occurs on amendment No. 671 of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 27, nays 59, as follows:

[No. 500 Leg.]

YEAS—27

Bartlett
Beall
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Dole
Domenici
Dominick
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Javits
Mathias
Muskie
Pearson
Roth
Saxbe
Stevenson
Taft
Thurmond
Tower

NAYS—59

Abourezk
Aiken
Bayh
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Eastland
Ervin
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Johnston
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Symington
Talmadge
Tunney
Weicker
Williams
Young

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
Long
McClure
Mondale
Nelson
Percy
Sparkman

So Mr. FANNIN's amendment (No. 671) was rejected.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 685 by the Senator from Washington. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON), is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 85, nays 1, as follows:

[No. 501 Leg.]

YEAS—85

Abourezk
Aiken
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

McIntyre

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. JACKSON's amendment (No. 685) was agreed to.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the question occurs on the amendment of the Senator from Maryland, amendment No. 686, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 79, nays 7, as follows:

[No. 502 Leg.]

YEAS—79

Abourezk
Aiken
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Dominick
Eagleton

Eastland
Ervin
Fannin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—7

Bellmon
Bennett
Brock
Dole
Goldwater
Hruska
Scott, William L.

NOT VOTING—14

Allen
Baker
Cotton
Curtis
Fong
Fulbright
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. Mathias' amendment (No. 686), as modified, was agreed to.

AMENDMENT NO. 689

The PRESIDING OFFICER (Mr. Helms). Pursuant to the previous order, the question is on agreeing to the amendment (No. 689) of the Senator from Indiana (Mr. Bayh), which the clerk will state.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. What is the time limitation?

The PRESIDING OFFICER. 10 minutes, 5 minutes on each side.

Mr. BAYH. Mr. President, I think perhaps that the most efficient way to discuss the thrust of my amendment is just to read it. Normally we ask the clerk to dispense with the reading of the amendment, but I would like to read it to the Senate because it makes very clear what we are trying to do:

On page 17, line 18,—

Which is immediately following the reference to speed limits—

change the period at the end thereof to a colon and add the following: "*Provided, however*, That any such reduction shall not be recommended or made effective for commercial motor vehicles operating in interstate commerce except upon the basis of a finding by the Secretary of Transportation that such reduction will in fact lead to fuel savings for specific classes and weights of vehicles, and that the savings to be realized therefrom will, in the judgment of the Secretary of Transportation that such reduction will in fact lead to fuel savings for specific classes and weights of vehicles, and that the savings to be realized therefrom will, in the judgment of the Secretary, be of sufficient magnitude to compensate for the economic disruption attendant upon changes in routing, scheduling, and working conditions necessitated by the imposition of a lower speed limit".

We have heard and read a great deal about inconvenience because of certain laws relative to the amount of time people can drive commercial vehicles, the scheduling and routing, and that kind of business.

This amendment goes primarily to the whole thrust of the bill: Will lowering the speed limit result in a lesser consumption of fuel?

It ought to be relatively simple for the Secretary to make an assessment, either by looking at studies that have already been made or by making one on his own. If lowering the speed of a certain commercial vehicle will indeed result in less consumption of gasoline, then lower it. If not, why go through the cosmetics and the inconvenience which will result if that is not the case?

I had hoped I could prevail on my distinguished colleague the floor manager of the bill (Mr. Jackson) to accept the amendment, but after discussing it with him and his staff, I think that is perhaps too optimistic a conclusion to reach at this time.

Mr. JACKSON. Mr. President, I regret that I cannot agree with my colleague. I would like to accept the amendment, but we would be making a specific exemption here in connection with commercial trucks.

I point out that a farmer who operates a truck across State lines for his own purposes certainly would not have a commercial truck, and I would prefer that this sort of thing be handled by regulation.

On page 18 of the committee report accompanying this measure, we recognize this need with some explanatory language. Let me read the following:

> The committee recognizes that certain conservation measures may affect various sectors of the economy in different ways. For speed limit reductions may affect commercial trucking more seriously than private commuters.

I recognize that fact.

Continuing reading:

> These factors should be taken into account in developing programs pursuant to this Act. However, such inconveniences must be weighed against the fuel savings to be gained. A reduction of maximum driving speeds to 50 miles per hour, for example, would result in fuel savings equivalent to 250,000 barrels per day.

Now, Mr. President, the sole question for the Senate to decide is whether we want to spring out of that limitation which we ask the President to impose and say that for commercial motor vehicles—that is the exact language—we will make an exception. It seems to me this matter should be left to regulation. We do have serious transportation problems in the trucking area. I would hope they can work it out. But I would hate to turn around and make a specific exemption for this particular mode of transportation. I would prefer that the matter be left to the executive branch to work out the details.

There are other situations that will arise where there is probably justification for going beyond 50 miles an hour. In the trucking industry there is a special problem, but I would not want to make a statutory exemption there.

Mr. CASE. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. CASE. Is not the safety problem also involved here?

Mr. JACKSON. The Senator is correct.

Mr. CASE. That is a serious matter which suggests that it should be left to the discretion of the administration.

Mr. JACKSON. In Germany, by the way—not that that is a precedent—they have just reduced their speed limit on trucks over there, my staff informs me, and as a result the accident rate has been reduced by 30 percent.

We had this matter up in committee. An amendment was offered in committee. It was voted down. It is up to the Senate to decide whether we will start springing out areas for exemption. I would rather delegate this broad authority to the executive branch to work out what modes of transportation should be given a different speed limit than others, if it can be justified. But my own feeling is, I do not have the expertise in this area. I would oppose the amendment.

Mr. BAYH. I should like to make it very clear that we are not asking for an exemption—not at all. What we are saying is that the purpose of the bill is to conserve fuel, so that if there are certain classes of vehicles which because of size, gear ratio, and so forth, can operate more efficiently and use less fuel at 55 miles an hour than at 50 miles an hour, why not let them operate at 55 miles an hour? Why make them operate at 50 miles an hour. I do not have the expertise to make that judgment. I am willing to let the Secretary make that judgment, but before he does so, I want Congress to say that he has to make a finding of fact that we are actually saving fuel. I expect that we will find we will save. But I do not know. There have been some studies made about some vehicles, which would lead one to believe that 55 miles or 60 miles an hour will save fuel rather than going down to 50 miles an hour.

I say, let us find out the facts before we go through and lower the speed limit.

Mr. FANNIN. Mr. President, some buses traveling 50 miles an hour would use more gas than they would at a speed of 60 miles an hour in accordance with a report I have from a very reliable source; namely, the Greyhound Bus Co. This is the best illustration I can give—their buses do not even go into high gear until 48 to 52 miles an hour, so it would be difficult for them to travel in a lower gear. It would be self-defeating to say that a large bus or a large truck must travel at speeds of no more than 50 miles an hour.

Some people have suggested that the transmission should be altered, but that seems like a very complex matter. I think that the Senator from Indiana (Mr. Bayh) has made a very good proposal. It would require that a study and a determination be made, which seems very vital to what we are trying to do here. If a bus can be more efficient at 60 miles an hour, it should be permitted to travel 60 miles an hour. Concerning safety, they have one of the finest safety records in the country. In fact, professional drivers have the best safety records of any drivers in the country.

Mr. President, as I just pointed out, authorities on bus transportation have informed me that a 50-mile-per-hour speed limit will be self-defeating in trying to relieve the energy shortage.

A bus traveling at 50 miles per hour is actually burning fuel at a higher rate than a bus going 60 miles per hour.

At the lower speed of just under 50 a bus is still in third gear. It does not go into high gear until it is going 50 to 55 mi/h. so at the slower speed the motor is lugging and operating inefficiently.

Some people have suggested that the buses could be altered. The problem here, as I understand it, is that this would require changing the rear axle ratios in every bus. This would be expensive and, I am told, it would be impossible because there are not enough parts available to make a modification. At any rate, that is not the answer.

The immediate problem of the bus companies is one of scheduling and capacity.

At least one State already has lowered the speed limit on its major highway and others appear ready to do the same.

Suddenly bus schedules are thrown out of kilter. Bus riders will find that they can no longer make acceptable connections with other buses or other transportation at a given destination. In short, there will be chaos for those who rely on bus transportation.

The bus companies face a tremendous manpower problem. They cannot possibly make all the adjustments in working schedules if buses are required to run at slower speeds.

Another problem is the obvious fact than if buses have to run at slower speeds it will require more buses on the road to meet the demand. This means additional fuel consumption—not less.

Some authorities are suggesting that perhaps buses and trucks which operate efficiently only at higher speeds be allowed to travel faster. This might encourage some motorists in cars to take buses and thus arrive quicker at their destinations.

A recent study indicated that buses get 85 passenger miles per gallon of fuel and therefore are the most efficient of all means of transportation.

It appears to me that we really should take a close look at the idea of reducing speed limits. The arguments that I have heard concerning commercial vehicles—trucks and buses—make it appear that this would cause serious problems and may result in higher fuel consumption rather than reduced consumption in the shipment of goods and people.

Mr. JACKSON. Mr. President, I shall be very brief. The bill of course does not state a 50-mile-an-hour speed limit. It gives authority to the President, through the appropriate agencies, of course, to set the speed limits. I would want to make that very clear.

Let me ask a simple question: What about a man in the contract business who has trucks of his own in connection with his work? He is not covered by this exemption because it is not a commercial vehicle in interstate commerce. Are we going to say here that because he is moving equipment, he will be at a different speed than someone who is in the interstate business?

This is full of holes and trouble. I would prefer to have that authority delegated so that there can be a sensible set of guidelines worked out.

I would hope that this matter would not be brought to a rollcall vote now, since we would get into another area which will consume more time of the Senate. But, I deeply appreciate the Senator's position, and I understand what he is trying to do. I merely point out the pitfalls involved when we try to make such exemptions.

Mr. BAYH. Mr. President, I want to stress the fact that some people in the trucking industry and in the bus industry say we should exempt them completely, that we should write into the law not 50 miles an hour or 55 miles an hour but 60 miles an hour, which I think would be totally responsible. I appreciate the fact that the committee, under the leadership of the distinguished Senator from Washington (Mr. JACKSON) has resisted that, but I believe, if we are going to lower the speed limit on any vehicle, we should first have finding of fact.

We have had enough studies on cars to show that when we lower the speed to 50 miles an hour we do save fuel, but we do not have it on other kinds of vehicles. That is what I am asking.

Mr. JACKSON. I assume that they will make that finding in every area. I would not expect they would come up with speed limits not related to savings in gasoline. It should apply to all the areas and to all the categories that will be affected.

The PRESIDING OFFICER (Mr. HELMS). All time on this amendment has now expired.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 25, nays 63, as follows:

[No. 503 Leg.]

YEAS—25

Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Brock
Brooke
Cannon
Dominick
Fannin
Fulbright
Gravel
Griffin
Hansen
Hartke
Helms
Hruska
Inouye
Montoya
Randolph
Stevens
Talmadge
Thurmond
Tower

NAYS—63

Abourezk
Aiken
Bennett
Biden
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Goldwater
Gurney
Hart
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Stennis
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—12

Allen
Baker
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman

So Mr. BAYH'S amendment was rejected.

The PRESIDING OFFICER. The Senator from Oklahoma (Mr. BELLMON) is recognized under the previous order to call up two amendments, on each of which there is a 10-minute time limitation, with 5 minutes on a side.

Mr. BELLMON. Mr. President, I call up my amendment, No. 674, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of section 207, page 26, between lines 12 and 13, insert the following new subsection:

( ) (1) The antitrust laws, as defined in section 1 of the Act of October 15, 1914 (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et esq.) shall not apply to any joint agreement by or among persons engaged in the production or development of energy resources, including but not limited to secondary and tertiary recovery of crude oil and gas and extraction of sulfur from coal, natural gas, and crude oil, if such agreement is solely for the purpose of carrying out research to improve such production or development.

(2) As used in this section "person" means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.

(3) Nothing in this section shall affect any cause of action existing on the date of enactment of this section.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, will the Senator yield for 30 seconds?

Mr. BELLMON. I yield.

Mr. HATHAWAY. I wish to direct a question to the junior Senator from Missouri on the amendment the Senator offered which provides for criminal penalties in the bill. Does that amendment apply to all sections of the bill as it has been amended, and all known amendments we have at the desk?

Mr. EAGLETON. The Senator is correct. It does so apply.

Mr. HATHAWAY. I thank the Senator.

Mr. BELLMON. Mr. President, the purpose of the amendment is to make it possible for companies involved in the energy business to be exempt from the antitrust laws so far as research and development is concerned.

I wish to give a brief report of where we stand so far as the recovery of crude oil is concerned. These figures relate to other types of energy, as well.

I have before me a paper prepared by the Department of the Interior in which they report that their current total recovery of crude is about 31 percent of the oil that has been discovered to date. That means that 69 percent of all the oil remains in the ground, in spite of the best efforts to recover it. It further states that the rate of improvement appears to be diminishing. This was reported in the first annual report to Congress under the Mining and Mineral Policy Act of 1970 by the Secretary of the Interior. The Secretary stated:

> The rate of improvement in recovery efficiency appears to be diminishing rapidly, however. The fact that an average of only one-third of the discovered oil in the ground is being recovered currently, and that significant oil deposits are becoming more difficult to find, emphasizes the need for continuing research effort in these areas.

Much of the production capacity that has been added in recent years has been obtained through technologic advances, but further dramatic increases are generally not anticipated at current costs and price levels. Yet, the potential for stimulation is great. An increase of only 1 percent of the average recovery of oil in place would yield approximately 4.3 billion barrels, or 2 million barrels per day for 12 years.

We recognize we are in an energy crisis, yet just beyond our reach is the possibility of adding 2 million barrels a day to this Nation's oil supply, as we take steps to encourage the research and development.

An article from the Oil and Gas Journal, which is the bible of the oil industry, stated on May 8, 1972, at page 21:

> . . . There is no breakthrough in sight which would permit the industry to recover a significantly larger percentage of oil it now must leave behind. And there is no buildup in spending toward achieving such a breakthrough . . .

The same Journal stated in the same issue at page 22:

> . . . The principal hope . . . appears to be cooperative effort and sharing of recovery research data with competitors . . . Most companies, fearing possible anti-trust actions, have to clear participation . . . through their legal departments . . .

To me, Mr. President, this is ridiculous. Here are energy companies that want to work together to improve methods to be used in recovering oil that we desperately need and yet they are limited by ridiculous or over-restrictive antitrust requirements.

Despite the benefits to be derived from research, proprietary interests and antitrust restrictions tend to restrict the transfer of technology between companies. Even if results are released in a timely fashion through publication, the complexity of modern petroleum technology is such that years are required for use by the thousands of smaller firms who constitute a major segment of the oil industry. If advanced technology is to provide short-run benefits to this Nation, a mechanism must be found to increase the rate of technologic transfer.

Mr. President, to sum up, the amount of oil we are dealing with here is immense. It is estimated 160-billion barrels of oil could be recovered and 300 trillion cubic-feet of natural gas could be recovered. That is enough crude oil to last 25 years and enough gas to last 15 years.

Mr. JACKSON. Mr. President, I would like to yield 1 minute to the Senator from Tennessee on another matter and then I shall respond to the question raised by the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AN AMENDMENT INTENDED TO BE PROPOSED

Mr. BROCK. Mr. President, I ask unanimous consent to have printed in the RECORD an amendment I intended to propose.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 30, insert the following between line 18 and 19:
>
> SEC. 308(c) (1) In carrying out the provisions of this Act, Section 203(a) (3) of the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973, the President, or his designee, may employ persons of outstanding experience and ability with or without compensation.
>
> (2) The President may exempt any person employed pursuant to subsection (c) (1) of this section from the provisions of sections 203, 205, 208 and 209 of title 18 of the United States Code if the public interest so requires, except that—
>
> (i) exemption hereunder shall not extend to the negotiation or execution, by such person, of Government contracts with the private employer of such person or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the person has any direct or indirect interest;
>
> (ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of such person or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the person has any direct or indirect interest;
>
> (iii) exemption hereunder shall not extend to the prosecution by such person, or participation by the person in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the person had any responsibility during his Government service under this section, during the period of such service; and
>
> (iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with such person's Government service hereunder from any source other than the private employer of the person during Government service.

Mr. BROCK. Mr. President, the reason I submit the amendment for printing in the RECORD is to draw attention to the critical need for more expertise in the implementation of mandatory programs. We do not have enough manpower and more importantly we do not have enough qualified manpower. One of the first things we should do is to direct our attention to this desperate need and try to encourage industry, where possible, to donate voluntarily such management personnel to help out with the program.

Mr. JACKSON. Mr. President, I am in sympathy with the amendment. As a matter of fact, we are going to have to proceed at an appropriate time to bring in people as we did in World War II and the Korean war who are familiar with the business operation. We did not have a chance to go into this matter. It involves many conflict-of-interest statutes. We will take this matter up when we take up the question of the establishment of the office that Governor Love requested in his letter to us today with an appropriate amendment.

I assure him that we will give this matter priority so we can get moving on it.

Mr. BROCK. I am very grateful to the Senator. I think it deserves it. We cannot implement this program without it.

Mr. JACKSON. I agree with the Senator.

Mr. President, the Senator from Michigan wishes to respond to this amendment. I want to take 30 seconds, and I will yield the remainder of the time to the Senator from Michigan, who is chairman of the Antitrust and Monopoly Subcommittee.

I would point out that there have been no hearings on this question and we have the antitrust statutes and the Trade Commission Act regarding this particular proposal. I do think the Senator from Oklahoma has raised a question on which there should be some kind of record with appropriate legislation to encourage research and development on a joint venture basis. However, I will have to oppose the amendment because we have not gone into it, we have not had hearings, and it is within the jurisdiction of the Judiciary Committee, particularly the subcommittee headed by the Senator from Michigan.

I yield the remainder of my time to him.

Mr. HART. Mr. President, I would be more comfortable, as would the Senator from Washington, if we had had some hearings on this matter. I confess to having a kind of instinctive reaction to any kind of proposal, I suppose by anyone, but particularly by those who can be fairly designated as giants of the industry, that they be given some kind of exemption from the antitrust laws.

I can, in opposing this amendment, simply say that no safeguards are proposed in the amendment before us; not even is it required that there be a scrap of paper about someone entering the agreement or who shall or shall not be denied access to the fruits.

Solely to do research sounds great. That is what the auto companies said they were doing when they were discussing modifications of engines with respect to California air requirements.

I hope very much that, under the admitted crisis situation that confronts us, we will not, with the very few moments of attention we are permitted to pay to it now, undertake to create an exemption for firms whose track record with respect to antitrust is less than perfect.

The PRESIDING OFFICER. The time on the amendment has expired.

AMENDMENT NO. 674

Mr. BELLMON. Mr. President, I had 5 minutes on another amendment, No. 675. I ask unanimous consent that two of those minutes may be used on amendment 674.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the statement has been made that no hearings have been held on this proposition. This is part of S. 1162 that was introduced by the Senator from Oklahoma on March 12. So it is not a surprise we are springing here today. This is a matter of much importance. The Senate has adopted amendment No. 685 by Senators Jackson, Hart, Fannin, and Buckley which deals with many other areas and gives the industry exemption from the antitrust laws or regulations. I am simply trying to add the immensely important area of research and development to the areas that have already been exempted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 31, nays 57, as follows:

[No. 504 Leg.]

YEAS—31

Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Dole
Domenici
Dominick
Eastland
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Helms
Hruska
Long
McClellan
Montoya
Nunn
Pearson
Saxbe
Scott, William L.
Stevens
Talmadge
Thurmond
Tower
Young

NAYS—57

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Ervin
Fulbright
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—12

Allen
Baker
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman

So Mr. Bellmon's amendment (No. 674) was rejected.

AMENDMENT NO. 675

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I call up my amendment No. 675.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. Bellmon's amendment is as follows:

On page 26, between lines 12 and 13, add the following new subsection:

( ) (1) Not withstanding any provision of law to the contrary, the Secretary of the Interior shall determine and put into effect, not later than ninety days after the date of enactment of this Act, with respect to mineral leases entered into or renewed thereafter, in addition to the present system of leasing, a system of payments for mineral leases on offshore Federal lands which is based on the amount of production under such leases, and which includes work performance requirements determined by the Secretary.

(2) Leases issued or renewed after enactment of this Act shall not be transferable nor may lessor acquire partners without the express consent of the Secretary of the Interior.

The PRESIDING OFFICER. The Senator has 4 minutes on this amendment.

Mr. BELLMON. Mr. President, I will take very little time. The purpose of the amendment is very simple. At the present time, when Federal leases are opened up for development, it is always done on the basis of competitive bids, and the leases go to the highest bidder. I have in my hand a chart showing the amount of dollars paid for lease bonuses since 1958, and the sum is several billion dollars.

What this amendment would do is take that many dollars out of the exploration and development funds the industry has to spend and put them into the Federal Treasury, which is a fine objective, but the problem is that with the prices we now have, in my opinion, these funds would be better invested in actual drilling of wells than in paying lease bonuses. My amendment would simply make it possible for the Secretary of the Interior to work out other means of making these tracts available and getting a larger percentage of production into the Federal Treasury. The Federal Treasury would get the same amount of money, but would get it as oil was produced, and we are now interested in getting maximum production domestically from Federal acreage, where most of the reserves are now located.

That is the purpose of the amendment.

Mr. JACKSON. Mr. President, I regret that I will have to oppose the amendment. The Outer Continental Shelf Act does have the flexibility to permit a variety of methods of payment. The Secretary of the Interior has been making extensive studies in this area. Certainly the Committee on Interior and Insular Affairs should consider any amendment of the Outer Continental Shelf Act.

The Department, as I understand it, presently collects royalties on all production, and has development requirements in the lease. The amendment would not have any impact in the short-term energy crisis. Modification of the basic leasing law requires careful review and hearings.

So I would hope that this amendment could be considered in the committee, in connection with the Outer Continental Shelf Act, and that we would not attempt to make changes in the leasing law without having heard from the Secretary of the Interior and without having the benefit of the Secretary's views.

It is my understanding that the Department has not made any request along this line, and I would hesitate to interfere in the management of the OCS Act in the absence of hearings that would give us a chance to get all points of view.

I will certainly be glad to get into the matter as soon as we can in connection with consideration of the Outer Continental Shelf Act.

I am prepared to yield back the remainder of my time.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back the remainder of his time?

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr.

Helms). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 29, nays 59, as follows:

[No. 505 Leg.]

YEAS—29

Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Cook
Dole
Domenici
Dominick
Eastland
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Helms
Hruska
Long
Moss
Pearson
Saxbe
Scott, William L.
Stevens
Taft
Thurmond
Tower
Young

NAYS—59

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Ervin
Fulbright
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Montoya
Muskie
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevenson
Symington
Talmadge
Tunney
Weicker
Williams

NOT VOTING—12

Allen
Baker
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman

So Mr. Bellmon's amendment (No. 675) was rejected.

AMENDMENT NO. 679

Mr. TUNNEY. Mr. President, I call up my amendment No. 679 and send to the desk a substitute for it and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Helms). The clerk will first state the amendment as modified.

The assistant legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. RANDOLPH. Mr. President, will the Senator from California yield for a question?

Mr. TUNNEY. I yield.

The PRESIDING OFFICER. The Chair would inquire if it is the Senator's intention to consider his amendment as a modification or a substitute.

Mr. TUNNEY. As a modification.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. RANDOLPH. Mr. President, I appreciate the opportunity to ask this question of the able Senator from California: What time is he indicating should be allotted to his amendment, because there are those of us who will want to speak against it?

Mr. TUNNEY. The Senator from New York (Mr. Javits) is the prime cosponsor. I understand he feels he needs about 5 minutes. Would the Senator from New York indicate how much time he wants?

Mr. JAVITS. Not over 5 minutes.

Mr. TUNNEY. I would like to have 5 minutes. That would be 10 minutes. Perhaps another 3 or 4 minutes for anyone else that wanted to speak to it. So that would be, roughly speaking, 14 or 15 minutes.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. COOK. Has the Chair ruled on the unanimous-consent request made by the Senator from California (Mr. Tunney) that the reading of his modification be dispensed with?

The PRESIDING OFFICER. The Chair has not.

Mr. COOK. Then I would object to dispensing with the reading of the modification and would ask that it be read in full.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

On page 22, after line 18, add the following new material and renumber the remaining subsections accordingly:

(d) For the duration of the energy emergency, and notwithstanding any other provision of Federal law, Highway Trust Fund sums authorized pursuant to section 104(a)(2) of the Federal-Aid Highway Act of 1973 shall be available for implementation of paragraph (c) of this section and for implementation of transportation control plans developed pursuant to subsection 203(b)(2) of this act to finance public mass transit projects involving the purchase of passenger equipment, including rolling stock for any mode of mass transit, the operation and maintenance of mass transit facilities, the construction of fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the construction of preferential bus lanes on existing roadways, and the facilitation of commuter car pools.

The PRESIDING OFFICER. The Senator from California has asked for the yeas and nays. Is there a sufficient second?

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. RANDOLPH. What is the division of time on this amendment?

The PRESIDING OFFICER. There is no time limitation.

Mr. TUNNEY. Would 15 minutes on each side be satisfactory?

Mr. RANDOLPH. I thought, in the interest of attempting to accommodate Senators who have thought in terms of another amendment or two, that 30 minutes would be agreeable, with 15 minutes to be controlled by the Senator from California proposing the amendment and, if agreeable to the manager of the bill, 15 minutes be given to me to oppose the amendment. A portion of that time would be taken by the Senator from Texas (Mr. Bentsen).

The PRESIDING OFFICER. The Chair would state that the only time limitation, as of now, is on final passage of the bill, which will occur not later than 5 p.m. today.

Mr. RANDOLPH. It is agreeable to me to debate the matter for 15 minutes. I am prepared to do that but perhaps we had better let it go. I was trying to be helpful.

Mr. FANNIN. Mr. President, we have not had any requests for that much time all day long. The usual limit has been 5 minutes to a side. I would therefore hope that we could be consistent. There are other Senators who have amendments. Would 10 minutes be sufficient, if the manager of the bill would permit that?

Mr. TUNNEY. It would be satisfactory to me.

Mr. JACKSON. Yes. Mr. President, I want to support what the distinguished Senator from Arizona had to say. We have tried to hold down the time limitation on amendments. I will not take any time. I will be glad to make time available to the Senator.

Mr. TUNNEY. Ten minutes to a side.

Mr. JACKSON. Mr. President, I ask unanimous consent that the time on this amendment be limited to a total of 20 minutes, equally divided.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the consideration of this amendment, the following staff members of the Committee on Public Works be given the privilege of the floor: Barry Meyer, Bailey Guard, Leon Billings, John Yago, Ron Katz, Jacqueline Schafer; and Stephen Paradise of the staff of the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. BROOKE) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I would think that this amendment would be supported by any Senator who is interested in jobs, who is interested in heating homes this winter, who is interested in having adequate fuel for electric power generating plants, and who is interested in having sufficient heating fuel for homes and industrial fuel.

The reason I say this is that this amendment would make moneys available from the highway trust fund—specifically, $1.07 billion—for the purpose of supporting mass transit systems in this country. In addition, it would make money available for the promotion of car pooling and the building of parking lots near the terminals for mass transit.

In other words, what we are attempting to do is to get people out of private passenger automobiles into carpools and onto mass transit facilities. This amendment would provide adequate funding to do these things. There would be no need to go through the appropriation process because up to $1.07 billion in highway trust fund moneys would be available at the discretion of the President.

The amendment also provides that the President can make highway trust fund money available to implement transportation control plans prepared under section 203(b) (2) of S. 2589.

The authorization in the amendment is for the duration of the emergency, which is 1 year.

I can say from experience that San Diego, Calif., where a local subsidy was provided for operation and maintenance of mass transit facilities, and fares were subsidized to the tune of 25 cents per passenger, no matter how long the ride, the use of that mass transit facility increased by 100 percent in a period of 2 years.

The reason why I say we are going to be able to have more fuel available to power electric generating plants and for industry if this amendment is adopted and if the moneys are utilized is simply that, at the present time, middle distillate fuels only comprise about 18 percent of the total production of refineries. There is no question that present technology can increase that 18 percent up to about 26 percent. Middle distillates are used by electric power generating plants and by industry for the purpose of firing their boilers. If we are going to be able to use our refinery capacity for middle distillates and increase middle distillate production, we will have to cut back on gasoline production, which means that we will have to cut back on the number of passenger miles traveled in passenger vehicles, which consume 24.4 percent of the total energy used by this country.

This amendment would provide adequate funding now to shift precious energy resources currently being consumed by automobiles away from the highways and toward the homes and industries which must be heated and operated through this coming winter, if we are to avoid disastrous economic consequences. A reduction in gasoline consumption is possible only if there are viable mass transit alternatives. Mass transit alternatives—such things as keeping old buses in service, creating preferential bus lanes, reducing fares—can be developed only if urban areas have available moneys necessary to expand and operate their mass transit systems.

The Congress has agreed to make use of the highway trust fund for the purpose of financing the purchase of buses—but not rail transit—commencing in July 1975. No money will be available for operating subsidies. I submit that the current energy emergency makes that agreement sorely inadequate.

We are not talking here about stopping any highway projects; the amendment would not have any long-range effect on the trust fund's ability to meet all current and projected highway plans. We are not talking about any disruption in the national transportation system: It is the President who would have authority to make funds available to implement this and other sections of the act.

Nothing else could more directly save gasoline, maintain employment and essential services. The trust fund revenues are projected to be at least $12 billion for the next 3 years, with obligations of only $7 billion. Moreover, urban areas provide 50 percent of the trust fund revenues—clearly sufficient justification to entitle them to needed mass transit financing which they have sought for so many years.

The moneys which would be made available by this amendment are required by urban areas to meet the energy emergency during the next year. First, mass transit moneys and funding mechanisms now available pursuant to the Highway Act and Urban Mass Transit Act are insufficient to meet the crisis. Second, even though existing capacity to manufacture and assemble buses in almost fully utilized, some expansion can take place quickly. Third and most important, such things as retaining old buses in service, subsidizing fares and building preferential bus lanes can be accomplished immediately, and, according to reports, can increase mass transit ridership by an average of 20 percent. This means a savings of billions of gallons of gasoline.

In 1970, the automobile consumed 24.4 percent of the total energy used by this country. In terms of the distribution of energy within the transportation sector alone, the automobile consumed 55.3 percent, and buses and trains combined consumed slightly over 3 percent. At a time when we face a potential energy shortage of 40 percent in some areas of the country, this situation is intolerable.

Let me add that nothing in this amendment affects, in any way, the labor protection provisions in title 23 or in S. 2589. Those protections apply to the use of any funds pursuant to this amendment.

The amendment we offer would go a long way to implement—and not just to propose—a meaningful solution.

I yield to the senior Senator from New York.

Mr. CHILES. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. I should like to yield first to the Senator from New York, and then I will accept a question.

Mr. JAVITS. Mr. President, I join the Senator from California in this amendment. It is very understandable that the great States with the massive populations should join in this amendment. It is well known that this represents an element of a struggle which has been going on for a long time in the tremendous waste which is involved in favoring highway transportation as against urban mass transit in respect of the law. Certainly, there is the least possible reason for making this distinction when we are dealing with an emergency in which it is essential that all must sacrifice.

This amendment is not, as some would argue, a breaking open of the Highway Trust Fund for mass transit purposes. It is a limited and essential measure that would make available the funding needed to implement the fuel conservation plans already provided for in this bill. It would fund only those projects the President deems necessary to alleviate the energy emergency.

We have been debating now for 3 days the methods by which we are going to meet the energy emergency we face. It is clear from this debate, from the Interior Committee hearings and from all available evidence, that one of the surest means of conserving energy is by drastically limiting the use of the private automobile. No one doubts that some such measures must be reckoned with, and without further delay.

Within several months, it is likely that private automobile use will be significantly curtailed; hopefully we will not have to ration gasoline, but whether by emergency transportation control plans developed by the States and cities, or by rationing, drastic curtailments will be necessary.

Yet the bill as written provides no funding for alternatives to private automobile use. Certainly, funding for those alternatives may be forthcoming, but it is agreed by all that we have no time to waste.

When significant transportation control plans are implemented, millions of our citizens will be faced with severe transportation problems. Will they be able to drive to work, drive their children to school, drive to the market to shop, or drive to the doctor's office? Americans depend on the use of the private automobile to a degree not matched by any other nation in the world. When significant limitations are imposed, trauma and chaos could result.

But, it will be argued, that this bill provides for alternatives so that our citizens will not be stranded. It does, and necessarily so. The President, under section 204(c), must develop incentives for mass transit, including the possibility of emergency operating subsidies.

Yet even with these movements toward alternatives, there is not one word in the bill as to how these alternatives are to be funded. A plan will do in normal times, but these are not normal times; immediate implementation of these plans is critical to avoid catastrophic disruptions in the daily life of the public.

The amendment before us would not mandate that any funds be used for mass transit purposes, nor would it even allow that any rural funds or any Interstate System funds be used for mass transit. It is limited to urban funds, most of which are already available for mass transit capital projects if the State and local officials opt to use them for those purposes.

The major thrust of the amendment is to give the President an immediate method for funding the emergency mass transit incentives he develops under section 204(c). Such funds, whether used for immediate capital improvements or operating subsidies, could have a major and immediate beneficial effect upon mass transit ridership, an effect that must not be delayed if we are to provide realistic alternatives to the private automobile.

These urban funds could only be expended for these purposes for Presidentially developed plans under section 204 (c) or Presidentially approved plans under section 203(b). Thus, only those mass transit projects or subsidies specifically approved by the President could be funded with highway trust fund moneys.

It is important to note that this amendment in no way changes the allocations or procedures of the highway trust fund. It amends only the emergency energy bill, the authority under which will only last for the duration of the emergency. No permanent change in the highway trust fund is affected.

Mr. President, these are emergency times and we must take emergency measures. Section 204(c), a necessary and important section of the bill, must be given the chance to have immediate beneficial effects. Without this amendment, that section can have no immediate effect, and it could be many months before any mass transit alternatives are provided.

I ask the Senate not to let this opportunity slip by. Talking about the energy emergency will not help our citizens meet the problems they confront because of it, nor help them conserve the fuel that must be preserved. This legislation must provide for the means as well as ends; this amendment would do just that. I urge adoption of this amendment.

Probably the greatest single conservation that can be engaged in is this one. The bill recognizes that, because it says in the section sought to be amended, section 204(c):

> The President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems.

Here are the key words.

> And Federal subsidies for reduced fares and additional expenses incurred because of increased service for the duration of the energy emergency.

The difficulty with this section is that it starts with, "The President shall develop and implement." That is not an authorization for money, notwithstanding the fact that later it says that he shall develop and implement Federal subsidies. But he is not given any money.

What the amendment proposed by the Senator from California seeks to do is to give the President some money authority in a manner which the Senate has passed before, precisely because the Senate was forehanded in understanding the dangers of the situation. In the highway bill, the conference report of which was held up for weeks and weeks based upon this very struggle between the Senate conferees and the House conferees, we finally compromised on a very small increment for urban mass transit. But that was permanent legislation, not designed to meet a given emergency and where the forces alined toward the integrity of the highway trust fund strictly for highway purposes did not run up against the national need which is represented by this crisis in respect of energy.

The 1-year provision which has been proposed by the Senator from California, and which I strongly support, would endeavor to give the President some resources with which to implement the declared policy of the act, which no one has amended and no one has sought to challenge. It seems to me that where you have, therefore, a pattern of emergency, a pattern of use, which is 10-to-1, according to the figures—that is, you get 200 miles per passenger out of a gallon of gasoline used in a bus and only roughly 13 miles in a similar gallon used in a private car mostly occupied by one person—it seems to me that, under the emergency, the Senate at least ought to reiterate its position respecting the highway trust fund, this time standing with it, because it is fully justified on an emergency basis; and the Senate should not yield on the ground that it wants a highway bill on a permanent basis, where we have made a compromise very much against our own interest.

The Senator from New Jersey (Mr. WILLIAMS) was the original author—and I joined him—of almost this measure, in the same words, in the Senate. It passed the Senate, but we could not make it stick because we needed a highway bill, and we yielded to the House. Now we are in a great emergency, and the House ought to yield to us, and the Senate ought to reassert its position in the way argued by the Senator from California.

Mr. TUNNEY. Mr. President, one point I should like to add to the very lucid remarks of the Senator is that in this amendment we have a provision for the funding of carpooling schemes. If we do not have support for such schemes, it could mean that in the very near future, when we have gas rationing, housewives will not be able to move from their homes to the shopping centers, because the entire fuel allotment of their family will be taken up by their husbands going to and from work.

I do not know what it is like in New York, but in California, where we have many people living in surburban areas, in tract homes, they cannot walk from their homes to the shopping centers. They will need their cars to do that. If we do not have carpool arrangements to move wage earners from their homes to their jobs and from their jobs to their homes, there will be a great hardship for many millions of people.

Mr. JAVITS. The Senator is correct. We find that 26 of the 50 States are sparsely settled and have the same problems as the State of California. The 7.5 million people living outside the metropolitan area of New York, and even in suburban counties, have the same problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, is it the parliamentary procedure that the Chair will agree that I can yield to Members on the floor while holding the floor?

The PRESIDING OFFICER. The Chair is advised that it would require unanimous consent for the Senator to hold the floor and parcel out time. The Senator can yield only for a question.

Mr. GOLDWATER. There is nothing unusual about that.

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. So the Senator can proceed in the normal channels.

The PRESIDING OFFICER. If there is no objection, the Senator may proceed.

Mr. JAVITS. Mr. President, what is the unanimous-consent request? The Chair said, "If there is no objection."

Mr. RANDOLPH. The Senator from California has been yielding to Senators.

Mr. JAVITS. Has the Senator made a unanimous-consent request?

Mr. RANDOLPH. I will make one now.

Mr. JAVITS. Mr. President, I reserve the right to object for this reason. I know the Senator from West Virginia well, and I would not object, but I do not get the exact request, which is that he hold the floor until when?

The PRESIDING OFFICER. The Senator can hold the floor only until 5 p.m.

Mr. JAVITS. That is correct, and that means some Senators who want to speak may be shut out. I will agree if the Senator will first limit the time.

Mr. RANDOLPH. I tried to do that earlier in the day.

Mr. JAVITS. I did not understand it. May we know how much time the Senator wants? I have no desire to object, but I think we should be fair to others.

Mr. GOLDWATER. Mr. President, on this business of time, I ask if the Senator from West Virginia will yield to me. I am perfectly willing to wait until he finishes and get the floor under my own power. But I have been listening to debate here for many years, and we ask regularly if we might yield without losing our right to the floor, and I do not think I have ever heard that courtesy denied.

Mr. JAVITS. May I ask the Senator about the time question? Would he want to hold the floor until 5 p.m.?

Mr. GOLDWATER. The Senator knows me better than that.

Mr. JAVITS. Of course, I do. But that is the point.

Mr. GOLDWATER. This is an important amendment and it is a dangerous amendment. I might feel like talking if

I am prompted to do so, but right now I do not feel that strong urge; but I could if the Senator from New York wants to make a point of it.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. What time has now run with the Senator from California who proposes the amendment? What time has been consumed already? I am attempting to find an equitable basis. How much time has been used?

The PRESIDING OFFICER. The Senator began at 4:04 p.m. The time consumed is 19 minutes, to respond to the Senator's question.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the opposition to the amendment may have 25 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Reserving the right to object, I understand there are other cosponsors of the amendment who wish to be heard, so we are going now into a roundabout way of getting controlled time, which I have objected to. Why do we not allow this to go along on its normal basis?

The PRESIDING OFFICER. Is there objection to the request?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, after reading the amendment offered by the Senator from California (Mr. TUNNEY), for himself and others, I really had to remind myself that the legislation of today attempts to cope with emergency measures for the energy crisis. Otherwise I might be persuaded, and this has been indicated already by the Senator from New York (Mr. JAVITS), that the Federal Aid to Highways Act of 1973 was before this body. The amendment is very much like some offered to the Highway Act, which were rejected by the Senate, as the rollcalls will show.

I really cannot consider it a serious attempt to accommodate ourselves, I say with courtesy to the Senator from California, with the shortage of fuel, it is, indeed, an effort to rewrite the Highway Act, over which we labored for a year and a half in this body.

Furthermore, the provisions of this amendment would not accomplish what it purports to do. It is largely unnecessary and redundant.

There are several deficiencies in the amendment offered by the Senator from California. In the first place, most of the options that this amendment attempts to give local officials are already available within the context of the total highway program.

We labored long and hard on this issue, and there was an inability by Congress to enact the highway bill in 1972. The Senate-House conferees came back in 1973. We met on 29 occasions for approximately 125 hours. The vast majority of this time was devoted to finding reasonable and workable answers to the mass transit problem. I disagree with the Senator from New York when he indicated that the Senate gave in to the House in that conference.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. The Senator may proceed.

Mr. RANDOLPH. Rather than giving in to the House, I say to the Senator from New York that the House really gave in to us. That is the result of the conference.

Final resolution of this question is one which I believe equitable and reasonably focuses both the highway program and the mass transit program on the needs of contemporary urban transportation.

I hope colleagues in the Chamber will have the opportunity to read the statement I have placed on the desk of each Senator. I hope Senators will do that before voting on the amendment.

In January 1974, up to $200 million in urban highway funds will be available for the purchase of transit buses. The provisions of the amendment before the Senate could not make funds available any more rapidly. In January 1975, the full $800 million authorized for urban highways that year can be utilized for the acquisition of both buses and fixed rail transmit equipment in addition to a variety of other transit-related activities.

Mr. President, I repeat that the authority to use highway funds for mass transit exists and is supplemental to Federal aid provided under the urban mass transit program. This year's Highway Act also increased authorizations for the urban mass transit program by $3 billion.

Even though I might disagree with other Members who I know will not support the Tunney amendment, I voted for mass transit, I remind the Senator from New York and the Senator from California, in the amounts of, first, $3 billion and then another $3 billion.

So the Senator from West Virginia, now speaking against this amendment, cannot be accused in any wise of having failed to support mass transit through the programs that have been presented.

Funds from both highway and mass transit programs are, and will, shortly be available to expand and improve transit systems. There are questions, however, that these resources can soon be expended. The fact is that the industries that build buses and rail cars and other transit equipment simply do not have the capacity to fill large new orders at once. If, as I believe we must, the United States is to exercise its new commitment to mass transit, a period of time is required to translate this commitment into hardware.

During development of the 1973 Highway Act I cautioned that use of highway funds for transit would not suddenly loosen a flood of cash in the direction of transit agencies. Since passage of the Highway Act, the executive branch has once again restricted spending under this program. The act authorizes approximately $5.8 billion for the highway program in fiscal year 1974. The administration, however, has impounded a substantial portion of the obligational authority provided by the bill. Only $4.4 billion is being released for obligation this year and similar restrictions doubtless will be imposed in the next two fiscal years also covered by the act. Of the funds released, $700 million can be utilized only for noninterstate projects in urbanized areas.

The 1973 Highway Act was designed to provide maximum flexibility to respond to the wide variety of transportation needs that exist in our country. This flexibility has taken on new importance with development of the acute energy crisis that today threatens to restrict personal automobile use.

With respect to the urging of car pools to reduce energy consumption, this provision of the amendment also is unnecessary. Without being referred to specifically, car pooling activities probably already are legitimate functions of the highway program in the general category of traffic operations improvement.

In any event, the Committee on Public Works now has before it a bill introduced by Senator DOMENICI (S. 2598), with my cosponsorship, which deals specifically with car pooling. We anticipate offering this bill as an amendment to the Fuels and Energy Conservation Act (S. 2176) when that measure comes before the Senate.

Mr. President, I must call attention to one other proposal in the amendment which could substantially endanger the success of the total bill. I refer to the provision authorizing "the operation and maintenance of mass transit facilities." The administration remains adamantly opposed to any Federal operating assistance for mass transit. As we worked on the highway bill we were told in no uncertain terms that inclusion of operating funds would stimulate a veto of the bill even though it contained other provisions urgently desired by the administration.

I am informed that the Department of Transportation opposes this amendment. I have a letter from the Secretary of Transportation stating its opposition.

There are also substantial reasons why this is a poor time and this emergency act is a poor vehicle for trying to resolve the operating subsidies question. While the Senate this year and last year voted to amend the Urban Mass Transit Act to provide for operating subsidies, there are many unanswered questions about the implementation and impact of Federal subsidy payments. I, personally, believe that operating subsidies are essential, not only to the continuing viability of transit systems, but also to any long term effort that increases ridership and thereby curtails private car usage and urban conjestion.

The amendment before us, Mr. President, simply authorizes highway trust funds to be used for subsidies. There are no safeguards that they will be used to meet legitimate needs. We cannot be sure that these funds will simply be expended to compensate for the inefficient operation of local bus and rail systems.

Furthermore, there is a great difference of opinion on the needs of transit systems to cover legitimate operating deficiencies. Most studies, however, show that subsidy requirements are far too large to be effected by any funds that might be provided as a result of this amendment.

No subsidy program can be truly effective without local involvement. Mass transit is very much a local issue and until we know to what extent communities are able or willing to provide subsidies, Federal entry into this field would be premature. Finally, the question of operating subsidies is already addressed in the bill before us. Section 204(c) directs the President to develop and implement federally sponsored incentives for the use of public transportation including "Federal subsidies for reduced fares and additional expenses incurred because of increased service—." This evidence leads inevitibly to the conclusion that the amendment is not intended to alleviate the fuel shortage so much as it is to raid the highway trust fund.

Mass transit and related issues are of particular concern to the Senator from New Jersey (Mr. WILLIAMS). He worked closely with us last year and earlier this year when these matters were considered in connection with the Highway Act.

Senator WILLIAMS has worked hard to initiate a demonstration program to find answers to many of the unknown quantities about transit subsidies. Only when these answers are provided and supported by factual information can a workable subsidy program have a chance of success. The amendment before the Senate does not address needs and it does not provide for any examination of its ramifications or workability.

I cannot but view this amendment as a backdoor attempt to undo that which we so laboriously affected in the Highway Act earlier this year. It is, simply, a cosmetic proposal of no substance and with virtually no impact on the energy crisis.

The Congress has made its commitment to mass transit. It has reaffirmed with substantial monetary backing that the highway and mass transit programs are closely related. What we must do today is concentrate our attention on workable solutions to the energy crisis. We can best do this by rejecting amendments like that before us.

I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I rise to oppose the Tunney amendment.

The Tunney amendment represents an attempt to reopen an issue that this body debated at considerable length last March and again in August.

The Federal Aid Highway Act of 1973 was one of the most thoroughly debated measures in the 93d Congress. After the Senate passed its bill, which contained a provision allowing urban system trust funds to be used for mass transit, the House followed with a bill that prohibited any use of the trust fund for the same purposes.

That left us at an impasse, an impasse that took 2½ months and thousands of man-hours of discussion in one of the lengthiest conferences the Congress has seen. When it was over, the conferees emerged with a bill that preserved the essence of the Senate position and won the praise of many Senators and commentators who believed that such a result was unlikely, if not impossible.

The conference report was supported by the Senator from California and passed by a lopsided margin of 91 to 5.

To briefly review, the major elements of the compromise on mass transit: we provided no funds for this fiscal year from the trust fund for rails and buses, $200 million from the trust fund in fiscal 1975 for buses, and the full amount of urban system trust funds, at local option, for any form of mass transit in fiscal 1976, some $800 million.

The National Journal termed the final bill "one of the best examples of the role of conference committees in forging compromise legislation."

Mr. President, in 45 days, trust fund moneys will begin to be available to the cities for the purchase of buses. That is during the course of this national emergency. But the Highway Act of 1973 does more for mass transit than simply invade the urban system trust funds for rails or buses.

It provides some $3 billion in capital expenditures over the next 3 years for all forms of mass transit under the Urban Mass Transportation Act.

It provides an increase of over 800 percent in urban system funds, which have a new flexibility in use.

It provides that funds from the highway trust fund can be used in urban areas for the construction of exclusive bus lanes, exclusive or preferential truck and emergency vehicle routes or lanes, traffic control devices, and facilities. Many of these same provisions are also in the Tunney amendment, but they are already in the law as written.

I mention these facts, Mr. President, because I want to emphasize that the legislation that we passed was a transportation bill that appealed to all segments of our population. The Institute for Rapid Transit, in the latest addition of its Executive Digest, says, that—

> The act gives the state and local governments the option of doing just about anything to improve their transportation situation . . .

President Nixon, who fought hard for a total transportation bill, said that the Federal Aid Highway Act of 1973 was—

> The only significant legislative breakthrough of the 93d Congress.

All of these sources, who had taken hard positions on mass transit, approved the final bill.

Now, what about the Tunney amendment? Does it accomplish anything or simply provoke a confrontation with the House after several months of hard and sensitive bargaining? I submit that it is clearly counterproductive.

It may be argued that our situation is different today than it was some 3 months ago when we passed this conference report with the support of the Senator from California. I profoundly disagree. The conferees were fully aware of the impending energy crisis when we held our discussions, even if the administration was tardy in announcing an energy policy. In fact, I have been warning about our overreliance on foreign oil since I came to the Senate in 1971. Senator RANDOLPH has been talking about it since the fifties. The Middle East war only dramatized a problem that was very much with us in August of this year.

Will the Senator's amendment accomplish his goals? I suggest that it will not. We will begin using trust fund moneys for the purchase of buses within 2 months.

We have provided ways for interstate funds for controversial interstate segments to be exchanged for funds to build any form of mass transit as early as this fiscal year. The cities do not have to wait until 1976.

The Senator's amendment provides subsidies for the operation and maintenance of mass transit facilities. We passed such a bill a short time ago, and it was vetoed. In addition to that, our subsidy bill had safeguards to assure that funds would not be spent to reward inefficiencies in publicly operated transit systems. There are no such safeguards in the Tunney amendment.

The fringe and corridor parking, the construction of exclusive bus lanes, are already in the Federal Aid Highway Act of 1973. There is no need to repeat language on that subject in this amendment, for it has already been done.

So, Mr. President, I would point out that the Public Works Committee has not evaded these issues in the highway bill; we have dealt with them.

And the Tunney amendment does not result in any substantial gain for mass transit. Buses can be purchased in 2 months under the highway act, and they are already being purchased under the Urban Mass Transportation act. Any form of mass transit can now be supported under the highway act, since a city has an option to trade its trust fund moneys in for general fund money to purchase any kind of mass transit equipment it desires. The mechanisms are already in place: if the administration wishes to support mass transit, it can do so under present law.

Let me reiterate—the highway act is a transportation act, hammered out over many months in very difficult and sensitive negotiations. The essence of the Senate view was preserved. Our energy needs were fully taken into account.

Now to undo all of that work for no practical reason seems imminently unwise. A vote against the Tunney amendment is not a vote against mass transit. It is a vote to implement a forward-looking highway act, which already gives us the tools we need.

I urge the rejection of the Tunney amendment.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I just want to say that the Senator from Texas states the issue very well. I have taken the position that we should not, in this emergency bill, which runs for only a year, attempt to pass permanent legislation. We have made provision here for a subsidy, an operating subsidy, in connection with local mass transit, in order to encourage lower fares, to bring about the kind of services and savings of fuel that we all seek. I think the Senate should realize this. The last thing I want to face—and I have great respect for the Senator from California, and I voted, as the Senator knows, for the use of highway funds for mass transit—when we go to conference week after next is a situation in which we will be locked in for an indefinite period, over the single issue of mass transit at the expense of clearing the bill. That is the problem we face.

Mr. BENTSEN. Let me say to the Senator from Washington and the Senator from California that that is exactly what we will be facing in the House. It took 2½ months to bring out what, I think, is a very comprehensive bill.

Mr. JACKSON. If the Senator will yield again, I opposed amending the provisions of the law relating to the Outer Continental Shelf for the some reason. This is permanent legislation. Amendment after amendment which would allow a change in the permanent law has been offered. We opposed them because we are dealing here with an immediate emergency. We are staying in session to get the bill through. I hope we will be able to have it in the hands of the President next week. It is an emergency and requires expeditious measures.

Let me say to the Senator I shall be glad to support, at another time, a bill dealing with specific help in this area.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. JACKSON. I do not have the floor.

Mr. BENTSEN. I think I still have the floor.

I would say along the lines of what the Senator from Washington has stated that I joined with him in the idea of not trying to establish permanent legislation in this emergency bill. The Senator knows how strongly I feel about regulations on the deregulation of gas. However, I joined in the unanimous consent request that the matter not be considered in this bill.

Mr. JACKSON. The Senator is correct. I did have an understanding with the Public Works Committee that on the issue of air quality standards, the matter would be handled by the Public Works Committee, and on the consideration of subsidies in mass transit that the matter would be handled by the Public Works Committee.

I carried out that understanding. And, of course, I will keep the agreement that I made with the chairman of the committee, the distinguished Senator from West Virginia.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I yield.

Mr. TUNNEY. Mr. President, the Senator from Washington and the Senator from Texas are talking in terms of an amendment to permanent legislation. The amendment which the Senator from New York (Mr. JAVITS) and I have introduced is not an amendment to any permanent legislation. This is an amendment to the emergency energy bill (S. 2589) for the duration of the energy emergency of 1 year. There is no change in the Federal Aid Highway Act whatever by virtue of this amendment.

Another point that I would like to clarify concerns the statement of the Senator from Texas regarding moneys being available in the very near future for mass transit. No Federal money is presently available for carpooling. No Federal money is presently available for the operation and maintenance of mass transportation.

This is a critically important matter. It will be of critical importance in the future. We are talking in terms of having 10-percent or 15-percent unemployment in the future. It will not do anyone any good to have highways and an automobile if he does not have a job.

We must provide funds for car pooling money and for the operation and maintenance of mass transit. Only in these ways can we conserve scarce gasoline resources and allow more production of middle distillates by our refineries and more oil for the public utilities so that there will be more jobs.

Mr. BENTSEN. Mr. President, the Senator from California asked me to yield for a question.

Mr. President, I yield to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I ask the Senator from Texas if it is not true under an amendment to the Federal Aid Highway Act of 1973 that car pooling is provided for.

Mr. BENTSEN. The Senator is correct. Under the TOPICS program, carpooling could be supported. The Senator asked a question and answered it before I had an opportunity to do so.

I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I know that my distinguished colleague from Arizona is seeking the floor. And I believe that he has a proper use for it.

I merely want to state my opposition to the amendment. I think it is another attempt to get highway funds which some people think are inexhaustible. I would remind the Senate that we have been at this the better part of the week. We have had, I think, 13 votes today. And I have been sitting here waiting for someone to suggest how we might solve the problem of limited fuel and oil. More trucks and buses are being built. Somehow we have to find some more oil and domestic oil within the domestic limits of this country.

I hope that before we get through with the bill it is clearly spelled out that once again American industry is free to go about this without the constant harassment they have had over the past 30 or 40 years. That is the problem. It is not a lot of the extraneous things that have been mentioned. I even hear that someone wants to change to daylight saving time. That is something that we do not want. My farmers in Arizona and the farmers all over America are suffering because they cannot get enough gasoline to harvest their crops. Because of the heavy rains they asked our farmers to plant more cotton. They had to have 20 percent more cotton, and they have 80 percent of the gas they formerly had to harvest that cotton.

We are not demanding the rationing of aviation fuel. If it were not for the fact that American airlines are now on strike, I am sure that we would now be asking for the rationing of aviation fuel.

What we are doing with this amendment is saying that we need more buses. I do not know how they can put more buses on the streets of Washington, D.C. I do not know of anything that fouls up the air more than the buses do. I do not know of anything that throws into the air more black smoke than the trucks on the highways.

In closing, I suggest that we ought to be encouraging the scientists to find something to replace gasoline and other fuel.

I hope that in the future my grandchildren will not have to stop every so often for gasoline. I hope that they can put something in their cars, boats, planes, or any other transportation vehicle that might take them to their destination.

I oppose the amendment. I think it is a bad place in which to bring it up.

I hope that the amendment will be roundly defeated.

Mr. FANNIN. Mr. President, we have spent almost 45 minutes on the amendment. Other Senators have amendments to offer, which they should have an opportunity to explain.

I move to table the Tunney amendment No. 679, as modified.

Mr. MAGNUSON. Mr. President, will the Senator from Arizona yield 10 seconds of his time?

The PRESIDING OFFICER. The Chair would ask the Senator from Arizona to yield back the remainder of his time before making his motion.

Mr. FANNIN. I can withdraw the motion.

The PRESIDING OFFICER. Otherwise, the motion may not be offered.

Mr. FANNIN. Mr. President, I ask unanimous consent that I may withhold my motion for 10 seconds.

Mr. MAGNUSON. Mr. President, 10 seconds would allow the Senator from Nevada to send an amendment to the desk. That is all that is desired.

Mr. FANNIN. I would be pleased to yield for that purpose.

Mr. CANNON. Mr. President, I send that amendment to the desk.

The PRESIDING OFFICER. That requires unanimous consent.

Mr. TUNNEY. Mr. President, reserving the right to object——

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Mr. President, is this an amendment to the amendment?

Mr. MAGNUSON. It is not. It is merely an amendment to the bill. The Senator from Nevada merely wants a chance to lay it on the desk.

The PRESIDING OFFICER. Is the Senator calling it up?

Mr. CANNON. I am not calling it up.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CANNON. Mr. President, I ask unanimous consent that I be permitted to call up the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TUNNEY. Mr. President, reserving the right to object, does this amendment affect the amendment pending before the Senate?

Mr. CANNON. It does not affect the pending amendment.

Mr. FANNIN. Mr. President, the Senator from Nevada sent an amendment to the desk which I understand will be considered before the final vote.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUCKLEY. Mr. President, I wish to express my opposition to the amendment proposed by the distinguished Senator from California (Mr. TUNNEY). While I have supported efforts to allow greater use of highway trust funds for use on urban mass-transit systems, I believe that this amendment is both unwise and largely unnecessary at this time.

Earlier this year, the Congress adopted major changes in the scope of the highway trust fund. Under language that is now a part of section 142 of title 23 of the Code, moneys authorized for the Federal-aid urban systems will be available for urban mass transit purposes.

Under the terms of Public Law 93-87—the Federal-Aid Highway Act of 1973—States may utilize up to $200,000,000 of these urban funds for the purchase of buses during fiscal year 1975. As a practical matter, I believe that this is all that can be reasonably accomplished within this tight time period. Then in fiscal year 1976, the act allows the full $800,000,000 authorized for the Federal-aid urban system to be available for mass transit purposes, including new subway systems and rolling stock for subways.

I should point out that the fiscal year 1975 funds will be apportioned next month, so that the cities may begin within weeks to contract for the acquisition of buses to improve their mass transit systems.

In addition, the law created a mechanism for switching moneys now dedicated to various urban segments on the Interstate Highway system to local mass-transit construction, if the affected city and State can agree and if the change is approved by the Department of Transportation.

These two options, in conjunction with funds available under the Urban Mass Transportation Act, will provide local agencies with the flexibility they must have to effectively meet the mass transit needs of our cities.

In addition, Mr. President, most of the items specified in the amendment—such as fringe parking lots, preferential bus lanes—are now permitted under existing law.

I should note that the most significant effect of this amendment is that it authorizes the use of urban system funds for mass transit operating and fare subsidies. As my colleagues know, the Senate and the House have passed bills authorizing operating subsidies. This bill is now in conference. That is where this issue should be resolved, and not in emergency legislation hastily papered together. Money authorized for improvements to urban mass transit should not be diverted to operating subsidies by floor amendment while the issue is now being more appropriately handled in conference.

Mr. President, I commend the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH) for his position on this amendment.

I shall, therefore, oppose this bill.

Mr. FANNIN. Mr. President, I move to table the Tunney amendment No. 679, as modified.

Mr. JACKSON. Mr. President, may I restate a unanimous-consent request?

The PRESIDING OFFICER. The Chair would rule that debate is not in order. A motion to table is not debatable.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second (putting the question). There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Tunney amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Masachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 60, nays 27, as follows:

[No. 506 Leg.]

YEAS—60

Aiken
Bartlett
Bayh
Bellmon
Bennett
Bentsen
Bible
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Hughes
Humphrey
Jackson
Johnston
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Montoya
Nunn
Pearson
Randolph
Roth
Saxbe
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Young

NAYS—27

Abourezk
Beall
Biden
Brooke
Case
Clark
Cranston
Eagleton
Hart
Hathaway
Inouye
Javits
Mathias
Metcalf
Moss
Muskie
Packwood
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Stevenson
Taft
Tunney
Weicker
Williams

NOT VOTING—13

Allen
Baker
Brock
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman

So the motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I call up my unprinted amendment and ask for its immediate consideration. Mr. President——

The PRESIDING OFFICER (Mr. NUNN). The Chair is advised that no further debate is in order but the amendment can be called up and stated.

Mr. HANSEN. Mr. President, I ask unanimous consent——

Mr. JACKSON. Mr. President, I am prepared to accept the amendment.

Mr. LONG. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

Mr. JAVITS. Mr. President, may we have order in the Senate? We will not be able to hear anything unless we can hear what is being read.

The PRESIDING OFFICER. The Senate will please be in order. Will Senators please take their seats.

The legislative clerk read as follows:

S. 2589

To add a new section to Title 5:

"Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction and processing of, minerals, and for required transportation related thereto."

Mr. JACKSON. Voice vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HUMPHREY. Mr. President, I suggest that the clerk need not read it. I have discussed this with the distinguished chairman.

Mr. LONG. Mr. President, I object.

Mr. HUMPHREY. I want to state what it is, if I may, very briefly.

The PRESIDING OFFICER. The Chair

is advised that it will take unanimous consent for that, otherwise the clerk must report the amendment.

Mr. JACKSON. Mr. President, a voice vote on this.

SEVERAL SENATORS. Read it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In title V add a new subsection as follows:

"The Secretary of Transportation shall encourage the creation and expansion of the use of car pools as a viable component of our nationwide transportation system. It is the intent of this subsection to maximize the level of car-pool participation in America.

The Secretary of the U.S. Department of Transportation is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

responding to any and all requests for information and technical assistance on car pooling and car pooling systems from units of State and local governments and private groups and employees.

promoting greater participation in car pooling through public information and the preparation of such materials for use by State and local governments.

encouraging and promoting private organizations to organize and operate car-pool systems for employees.

promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of car-pool systems.

other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of car-pool ridership.

The Secretary of Transportation is directed to allocate the funds appropriated pursuant to this Subsection according to the following distribution between the Federal and State or local units of government:

(a) The initial planning process—up to 100% Federal.

(b) The systems design process—up to 100% Federal.

(c) The initial start-up and operation of a given system—60% Federal and 40% State or local with the Federal portion not to exceed one year.

Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all its activities and expenditures pursuant to this Subsection. This shall include any recommendations as to future legislation concerning car-pooling.

The sum of $25 million is authorized to be appropriated for the conduct of programs designed to achieve the goals of this subsection, such authorization to remain available for two years.

Mr. HUMPHREY. Mr. President——

Mr. JACKSON. Mr. President, a voice vote on this.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

Those who favor the amendment will say "aye." Opposed, "no."

Several Senators called for a division.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Minnesota.

As many as favor the amendment will say "aye." Opposed, "no."

Several Senators called for a division.

The PRESIDING OFFICER. A division is called for. On a division, the amendment was agreed to.

Several Senators addressed the Chair.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays on this matter.

SEVERAL SENATORS. It is too late—too late.

The PRESIDING OFFICER (Mr. TUNNEY). The vote has already been announced.

Mr. STEVENSON. Mr. President, I call up my modified amendment No. 695 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 26, after line 12, insert the following new paragraph:

(f) Order production from all Federal oil and gas leases that, on November 1, 1973, were classified as "producing, shut-in" by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of such order shall result in forfeiture of such acreage classified "producing, shut-in": *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, determines that production from such acreage is not technically, geologically, and economically feasible or would violate any applicable environmental requirement imposed by law or regulation: *Provided further*, That this subsection (f) shall not apply to the extent it results in a violation of the fifth amendment to the United States Constitution.

Several Senators addressed the Chair.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona will state it.

Mr. GOLDWATER. Do I understand correctly that debate is not in order now?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Mr. President, we have voted on this once before. Why should we vote on it again?

Mr. HANSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

The ayes appear to have it.

Mr. JACKSON. I ask for a division, Mr. President.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON), is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 49, nays 37, as follows:

[No. 507 Leg.]

YEAS—49

Aiken
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Buckley
Byrd,
  Harry F., Jr.
Cannon
Cook
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Long
Mathias
McClellan
Montoya
Nunn
Packwood
Pearson
Roth
Saxbe
Scott, Hugh
Scott,
  William L.
Stafford
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NAYS—37

Abourezk
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Eagleton
Hart
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Stevenson
Symington
Williams

NOT VOTING—14

Allen
Baker
Brock
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. HANSEN'S motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I call up my amendment which is at the desk, entitled "Dealers Day in Court." The amendment is on the desk of each Senator, as well as a summary.

Mr. President, I ask unanimous consent that the amendment not be read.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. I object.

The PRESIDING OFFICER. Objection is heard. The amendment will be read.

The legislative clerk read as follows:

SEC. 209. (a) As used in this section—

(1) "Distributor" means an oil company engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) "Franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) "Petroleum product" means any liquid refined from oil and useable as a fuel.

(5) "Refiner" means an oil company engaged in the refinery or importing of petroleum products.

(6) "Retailer" means an oil company engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b) (1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnished prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

Mr. ROBERT C. BYRD. Mr. President, Senators asked that the clerk read the amendment. There should be order in the Chamber so Senators may hear it read.

The PRESIDING OFFICER. The Senate will be in order. The well will be cleared.

The clerk may proceed.

The legislative clerk resumed and concluded the reading of the amendment as follows:

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c) (1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such a refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise.

A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. The court may also grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent to submit for the RECORD a written statement on the amendment which has been passed overwhelmingly by the Senate before.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. MOSS

The pending amendment is to provide to the people who distribute and sell refined petroleum products insurance that their leases will not be arbitrarily cancelled, terminated, or otherwise renewed.

When we consider S. 1570, the Emergency Fuel Allocation Bill, I was joined as a cosponsor in this amendment by Senators Magnuson, Pastore, Cannon, Stevenson, Kennedy, Ribicoff, and Saxbe. Unfortunately, for reasons which I cannot fathom, the Senate conferees receded from this provision without discussion, even though it had passed the Senate by an overwhelming vote on June 1. The language of the amendment is identical to the portion of S. 1570 providing for "Dealer Day in Court," and this language was accepted by the distinguished leader of the present bill when he said:

"It does get at a very serious problem, and it strengthens the bill, the basic problem being discrimination in the area of supply and price. It helps to protect the branded dealer as well as the independent dealer. I believe that it makes a lot of sense, and I think it should help to bring us through a very difficult period. . . ."

The amendment provides protection for branded dealers from arbitrary termination, cancellation, or failure to renew their leases or franchise agreements. Similar protection was provided to automobile dealers more than sixteen years ago with the passage by the Congress of Automobile Dealers' Day in Court legislation. The amendment provides that petroleum distributors and petroleum refiners may not arbitrarily cancel, fail to renew, or terminate a franchise unless several conditions are met. These are: first, that the franchisee failed to comply substantially with the essential and reasonable requirements of the franchise; second, that the franchisee failed to act in good faith in carrying out the terms of the franchise; and third, that the franchisor no longer is engaged in the sale of the products in question for resale.

The amendment is not designed, however, to insulate franchises in perpetuity. There are set forth appropriate defenses which will permit the franchisor to terminate the agreement when there is just cause.

Mr. President, the protection which this amendment provides is necessary. The hearing record of the Senate Anti-Trust and Monopoly Subcommittee and the Commerce Committee is replete with examples of arbitrary cut-offs, unilateral price increases, and termination of franchises. These problems, at a time of shortage, further compound the problems of the user and make a difficult situation even worse.

Testimony was received concerning the plight of the branded independent marketer. Eight jobbers in the Chicago area told of how they had been cut off from their supplies. This represented 58,600,000 gallons of gasoline in their marketing area, or 600,000 gallons of diesel, and 9,700,000 gallons of fuel oil. These jobbers represented more than 100 years of service in the area, 77 service stations, 275 commercial accounts, 611 farm accounts, and 3,500 residential accounts. Every one of these would be out of business and, along with them, 286 families directly working for or supplied by these jobbers would be unemployed. Not only would the toll of hardship upon the affected jobbers be substantial, but the disruption of service patterns which had been established over a long period of years would be thrown totally awry, in a period in which stability and a history of service are particularly necessary in order that each consumer has a continuing source of supply, even if the quantity must be reduced.

The toll in hardship and unemployment which would result were the amendment not to be adopted is of great magnitude. A review of the litigation which has been brought under the "Automobile Dealers' Day in Court" legislation which the Congress passed 16 years ago would be helpful to understand why the amendment which I put forth would not be burdensome upon the courts. The National Automobile Dealers' Association reports that, on the average, 25 cases are reported each year. Considering that there are more than 30,000 auto dealers to whom this legislation applies, it appears that action has been taken only one-tenth of one percent of the eligible cases. This kind of record over a long period of time demonstrates that the remedies proposed in the amendment will not present any burden on the court.

Mr. President, a vote for this amendment is a vote for a continued source of supply for the small businessman, and it is a vote against discrimination in the marketplace.

Mr. President, I was informed last week that the Mobil Oil Corporation has terminated the lease of every single branded independent gasoline retailer in the state of Connecticut that it supplies. Additionally, Mobil has told other leasees whose leases are becoming due that they will not renew any leases, and that Mobil will resort to the dealer/manager system rather than the dealer/owner system. Hundreds of branded independent retailers, who have spent years in developing their facilities, are being cast out, without any remuneration for years of service, improvements in the facility, or their goodwill. If this trend continues, and there is no reason to believe that it will not, we may face the day soon when 225,000 independent branded retailers of gasoline and home heating oil are unemployed, and have lost their equity.

When we think of pyramid sales frauds and some of the unfortunate deals in which we know our constituents have found themselves, we see consistently an attempt by the small-time entrepreneur to make a quick buck. The branded independent retailer is not opting to make a quick buck. He is attempting to provide an important service, and the benevolence of his oil company supplier must certainly be questioned if this wholesale termination of leases takes place. It is critical that we act today on this emergency legislation to stop these arbitrary termination practices.

Mr. JACKSON. Mr. President, I am prepared to accept the amendment. Just a voice vote is sufficient.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York proposes an amendment on page 34, between lines 2 and 3, insert a new section 314.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Does this amend the Jones Act that we previously voted on?

Mr. BUCKLEY. In a different manner. It provides for a case-by-case consideration. It does not provide for any blanket waiver.

Mr. JAVITS. Mr. President, what is the text of the amendment?

The PRESIDING OFFICER. The amendment will be read by text.

The legislative clerk read as follows:

On page 34, between lines 2 and 3, insert the following:

SUSPENSION OF CERTAIN COASTWISE SHIPPING RESTRICTIONS

SEC. 314. Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), or any other provisions of law to the contrary, the President may authorize on a case-by-case basis the transportation in vessels of foreign registry between particular points in the United States (including Puerto Rico and the possessions) of any product or material necessary for the production of heat or energy, upon determining (1) that there is a critical shortage of such product or material, dangerous to the public health and welfare, in the area of the point of delivery of such product or material, and (2) that United States vessels are not available to provide the necessary transportation of such product or material between such points.

On page 34, line 3, in lieu of "SEC. 314." insert "SEC. 315".

On page 34, line 6, in lieu of "SEC. 315." insert "SEC. 316".

Mr. JACKSON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, the Senate, by an overwhelming rollcall vote, rejected an amendment which would waive the provisions of the Jones Act of 1920, referred to. The act provides that only American-flag vessels can operate in coastal and intercoastal waters. This amendment does the same thing in a different way. It occurs to me that we already have voted on it.

Mr. BUCKLEY. Mr. President, The Northeastern States are likely to experience a serious shortage of home heating oil this winter, with shortfalls reaching 40 percent or better in parts of New York and New England. The severity of the shortage will depend in no small part on our ability to transport oil from the Gulf States to the Northeast. It is my understanding, however, that there is an insufficient supply of American-flag shipping potentially available for this purpose. This situation is rendered doubly problematic by the provisions of the Jones Act which require that all shipping between American ports be conducted in U.S.-flag vessels.

The purpose of my amendment is to authorize the President to waive the Jones Act on a case-by-case basis, after a finding first, that there exists a critical shortage of energy products, dangerous to the health and welfare of a particular region; and second, that there are no American flag vessels in the coastwise trade available to transport these products from one American port to another. This amendment will not affect American jobs, but it may heat American houses.

Mr. JACKSON. I was just trying to make the point of order. This is Monday.

The PRESIDING OFFICER. The Chair has not had a chance to compare it with the other amendment.

Mr. JACKSON. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment [putting the question].

The motion to lay on the table is agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the amendment, as follows:

At the end of title 5 add a new section as follows:

"Sec. 302. The President shall report to the Congress every 60 days, beginning December 1, 1973, on the administration of this Act and the Emergency Petroleum Allocation Act of 1973, and each report shall include specific information, nationally and by region and state, concerning staffing and other administrative arrangements taken to carry out programs under these Acts, together with specific budget estimates for such programs."

Mr. CLARK. Mr. President, I want to commend the distinguished Senator from Washington for his foresight in initiating this legislation 4 weeks ago, and I want to commend him and his colleagues on the Interior Committee, and members of the administration, for their diligence in welding this legislation into final form over the past 6 days, so that this Nation can deal with the current emergency as effectively and as soon as possible.

The bill is a testament to what is possible when a sincere, cooperative, bipartisan effort is put forth.

I feel that I must call attention, however, to what I consider a shortcoming in this legislation—the absence of a sufficiently specific mandate to the administration to report to the Congress its intentions for implementing the legislation's emergency programs.

This is not a major flaw, but it could have serious shortcomings—as I will discuss in a moment—and, since it can be easily corrected, I wish at this time to offer an amendment designed to accomplish that end.

It is not my intention to slow passage of the bill, or to burden it with unnecessary baggage. I simply wish to make sure that we are fully exercising our responsibility to the American public and that the potential of this bill is realized to its fullest.

As currently written, in referring to the administration's requirements for reporting its intentions back to the Congress, the bill merely states that "within 2 weeks after the date of enactment of this act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this act, and proposals for implementing such programs."

The amendment I am proposing would add a new section 302 of the bill—to require that the President include in his report to Congress specific information on the budget, numbers of staff and distribution of staff required to implement both the National Energy Emergency Act and the Emergency Petroleum Allocation Act.

I feel this greater specificity of language is necessary for two reasons.

First, because of the broad, sweeping nature of the powers being given to the President in this bill, it seems essential that Congress do everything it can to assure that it will be able to exercise its responsibilities for oversight of the implementation of the bill to the fullest possible extent.

A specific mandate for specific proposals and specific plans will go much farther towards providing such an assurance than the present language of the bill.

We must frankly recognize that this kind of extension of power to the President carries some disturbing possibilities and that have an obligation to build adequate safeguards into this or any other legislation affecting the scope and power of any branch of government.

And, if nothing else, we should recognize that by requiring greater specificity from the administration as to its plans and proposals we are merely offering an opportunity for a greater degree of input on these plans and proposals—for a greater scrutiny that can only help guarantee the highest possible quality for the product we are trying to produce.

That is my second reason for asking that we require the administration to give us a more detailed accounting of what it plans to do and how it plans to do it—if this administration's track record in implementing its mandatory allocation plans for propane gas and heating oil is any indication, its plan and proposals for implementing the emergency programs of this bill are going to need a lot of input and a lot of scrutiny.

Simply put, from everything I can determine, the administration's propane and heating oil mandatory allocation plans have so far been pathetic and ineffective flops.

The office of oil and gas, which has been charged with making the plans work, is—by its own admission—woefully understaffed, with only about one-fourth of the personnel it needs for the project, both in Washington, and in its regional offices.

Requests for assistance are apparently backlogged to the ceilings, little or no cooperation is apparently being received from the oil companies, and no muscle is being applied to make them cooperate.

One regional officer, who is attempting to serve four States with a total of three staff members and four phones, has told my office, for example, that "I do not even know where to turn anymore."

Things are apparently so bad that the Washington office is even having trouble getting through to its own regional offices by phone because the lines are so jammed up.

It is being stated that all of this is the fault of Congress—that Congress has failed so far to act on the supplemental appropriations bill which will provide additional funds for additional staff and equipment.

It is true that this appropriations bill is still in the House, and that perhaps Congress has been remiss in not pulling the appropriation for the Department of Oil and Gas out of the bill and speeding it through separately. I urge that this be done as soon as possible, so that we can get this thing working the way it should.

But it is not true that this situation is the fault of Congress—rather it is the direct result of the administration's own failure to request adequate funding at the proper time.

Congress, in fact, has been urging the administration to ask for more funds for the Office of Oil and Gas since last April, and the administration has fumbled or thrown the ball away at every step.

In April, the House Appropriations Committee told the administration that the $1 million appropriation it was seeking for the Office of Oil and Gas was not enough—the administration said it was.

Then, during markup of the Interior Department appropriations in June, the administration appeared with a request for $14.6 million, but it could give no clear indication of exactly what it would be used for. The committee agreed that appropriations should be increased, but said it was too late to include the increase in the bill, and the administration would have to ask for a supplemental appropriation.

This supplemental appropriation request was not submitted to Congress until October 18—16 days after the administration announced that it was beginning to implement a mandatory allocation plan for home heating oil in the next several weeks. And when this request was finally made, it was only for $10 million.

Currently, although administration officials have acknowledged that the Office of Oil and Gas needs $20 million, as a result of the worsening shortages caused by the cutoff of Arab oil, they have not increased the amount of their request.

Now, I do not see how any of this is Congress' fault. The administration can be excused for not asking for the sum it needs now back in January when the need was less clear, but it cannot be excused for failing to request the sums in a responsible way until more than 2 weeks after the plans were announced.

Perhaps this kind of bumbling is unique to this particular situation, but I am not sure it is. And I, for one, do not think we can afford to have it continue with the allocation program or happen again with this bill, during this winter, and in the midst of this kind of crisis of supply.

I do not think it is too much to ask that we take what steps we can to see that it does not continue, and I therefore urge your support of my amendment.

Mr. EAGLETON. Mr. President, I want to commend the junior Senator from Iowa (Mr. CLARK) for offering this important amendment and I am pleased to be a cosponsor.

No fuel rationing or conservation program established by this or any other bill will mean a thing unless it is adequately administered. Based on experience with fuel programs up to now, I don't think we have much cause for optimism.

At the present time, the Office of Oil and Gas is attempting to administer a mandatory propane and heating oil system and a voluntary gasoline allocation program with about 250 people, most of them detailed from other Federal agencies with no background in the work they are being asked to perform. Until very recently, the Kansas City, Mo., field office which handles all complaints and appeals from four Midwest States was staffed by only three people. I understand that may have been increased to six people in the last week.

Even so, it is virtually impossible to get any one in that office on the telephone, let alone to get action on a problem. Even the forms required to file an official complaint are unavailable.

I have one constituent who operates a fuel distribution company in a rural area of Missouri, serving mostly farm families. He has been refused any heating oil by his former supplier even though the mandatory heating oil regulations say he is entitled to it. On November 1, he filed an official complaint with the Kansas City office and he has yet to receive an answer. In the meantime, temperatures are regularly below freezing and his customers are running out of heating oil.

Nor does it do much good for a Senator or Congressman to try to bring such emergency situations to the attention of the Washington office. Last May 29, I brought an urgent problem involving a shortage of gasoline for farmers to the attention of Mr. Robert E. Plett, Administrator of the Office of Oil and Gas' voluntary petroleum allocation program. On August 3, more than 2 months later, my letter was acknowledged as follows:

> I apologize for the inordinate delay in answering your letter, but we have been literally swamped with letters and telephone inquiries since the inception of the petroleum allocation program.

That was no exception. It has become standard operating procedure in all of the programs now being administered. Now, I do not blame the Office of Oil and Gas because it is trying to work with the lick and the promise given to it by the administration.

I do fault the attitude prevalent in this administration that the energy emergency can be handled with a minimum of staff and effort. I think it is ludicrous for one of the administration's top energy advisors—Mr. Charles DiBona—to express more concern about "an expanding bureaucracy" than with the fuel problems that bureaucracy is trying to cope with.

There is no way that we can effectively meet these problems and see to it that the vital fuel needs of all Americans are met unless we have a functioning program. If that means hiring more people, if it means printing up forms, if it means opening up new offices and putting in new telephones, so be it. It must be done.

So I am happy to cosponsor and support the pending amendment which would require the administration to advise the Congress on a regular basis what it is doing to administer the fuel programs and what it needs to do a better job. I urge its adoption.

Mr. JACKSON. Mr. President, I am prepared to accept the amendment. It is just a reporting amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CANNON. Mr. President, I call up a technical amendment which I offer on behalf of the Committee on Commerce, which would condition the authority conferred upon the Civil Aeronautics Board in section 204 of this bill.

Mr. LONG. Mr. President, I ask unanimous consent that there be 10 minutes, equally divided, to discuss this amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that be done. I was going to do it anyway. In view of the fact that we got an agreement Friday, it would be time well spent.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. That is, the time to be divided between the sponsor of the amendment and the Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment. Will the Senator from Nevada send his amendment to the desk?

Mr. CANNON. It is already at the desk.

The legislative clerk read the amendment, as follows:

At page 20, line 8, strike out the words "the Civil Aeronautics Board".

At page 21, line 6, add a new paragraph as follows:

(2) (A) The Civil Aeronautics Board is authorized, subject to subparagraph (C), for the duration of the energy emergency, to review and make reasonable adjustments to the operating authority of air carriers authorized to engage in air transportation pursuant to section 401 of the Federal Aviation Act in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such air carriers with regard to frequency or level of service and points served and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law after hearings in accordance with section 553 of title 5 of the United States Code.

(B) Certificated carriers are directed to immediately implement programs either unilaterally, or with Civil Aeronautics Board review and approval, multilaterally, aimed at reducing unnecessary flight frequencies and wasteful capacity, consistent with the requirements and obligations of their certificates, in order to conserve fuel.

(C) The Board's authority to make adjustments and rationalizations of frequencies and levels of service contained in this paragraph shall not be exercised unless a finding is made, upon notice and hearing, that the air carriers, acting on their own initiative, are unable or unwilling to take adequate actions to conserve fuel. Any person adversely affected by an action under paragraph (2) shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

Renumber the remaining paragraphs appropriately.

Mr. CANNON. Mr. President, while I generally support and applaud the provisions of S. 2589, there is one provision of this bill which deeply troubles me and a majority of the members of the committee on commerce. The provision, in section 204(b)(1), grants the Civil Aeronautics Board unprecedented and extraordinary authority to intervene in airline operations.

The fact that our committee is opposed to this authority for the Civil Aeronautics Board is not an indication that the Nation's airlines should not be forced to make sacrifices and cutbacks in order to save fuel. On the contrary, the airlines, as well as other common carriers, must cut back their flights, increase their productivity, and eliminate wasteful operations in order to conserve fuel. Presently there exists significant overcapacity in the Nation's scheduled airline system and this overcapacity exacerbates an already serious fuel shortage in the airline industry.

The air carriers and the CAB, recognizing the severity of the problem, have already taken action, unprecedented in the past, to reduce flight operations, curtail unnecessary frequencies and change operating procedures to meet the situation. In the past 30 days alone, the carriers, acting on their own initiative, have reduced operations by about 10 percent with a savings in fuel of about 800 million gallons on an annual basis.

More savings, however, are undoubtedly to be required and the carriers must continue to review their operations and cut wasteful and excessive capacity further. I and the members of my committee feel the carriers, acting with CAB guidance, can and will affect such cutbacks.

Given this background, we were strongly disturbed by the provision in this bill which in effect suspends the carefully written provisions of the Federal Aviation Act and allows the CAB to step in and virtually take over the management perogatives of the airline industry without any showing whatsoever that such authority is needed to deal with the emergency. Most troubling was the provision which, in effect, gave the board authority, under abbreviated administrative safeguards, to tamper with airline schedules. This authority, since 1938, has been carefully reserved to carrier management on the theory that airline management, rather than the CAB, has the expertise and know-how to schedule its flights to meet the public convenience and necessity.

In a spirit of cooperation and accommodation the Commerce Committee worked out with the managers of the bill a compromise on this question which is embodied in the amendment I have just offered.

Essentially, my amendment confers on the CAB the authority to step in and direct that changes be made in airline frequencies and levels of service consistent with the provisions of the Jackson bill as reported. However, my amendment would require that, before the board exercises this authority, the carriers must be given an opportunity on their own initiative to make needed changes, adjustments, and cutbacks adequate for the purposes of the maximum conservation of fuel. My amendment directs the carriers to do so, either unilaterally or, if the board approves, multilaterally. If, but only if, the carriers are unwilling or unable to affect the necessary changes or reductions would the CAB be authorized to direct such changes.

While I do not feel that such authority is called for or is necessary, I am willing to grant the authority contingent on a finding that airline management cannot do the job itself.

Mr. President, while this amendment does not reflect the position taken by my committee and I support it only reluctantly, it is offered in the spirit of compromise and expedition and is a way around a very difficult dilemma.

The Committee on Commerce has sole and exclusive jurisdiction over the transportation regulatory agencies and the statutes which govern their operation and authority. While we would have preferred to consider this bill in our committee, we waived our jurisdiction in order to expedite the process because of the national emergency. Nonetheless, we cannot abdicate our responsibility for oversight of the regulated transportation industry.

Mr. President, I am hopeful that the manager of the bill will accept this amendment and that the Senate will give it speedy approval.

Mr. LONG. Mr. President, I serve on the Commerce Committee. This amendment strikes me as one which favors vested interests and takes the attitude that the public be damned. I will explain why.

I never could understand why some airlines fly at such inconvenient times. For example, coming from Hawaii this way, the only way one can get to Washington seems to be by flying at night. If one tries to find out why he cannot leave there at 9 a.m. and come here during the day, they will find that the airlines can use their equipment more efficiently the way they do. They will fly at times most convenient to them, so they schedule their flights to leave here in the morning and one has to take the "Redeye" flights to come back.

The reason for that is that the CAB has no right to fix those schedules. I was surprised to find that out. That same principle is being offered in this amendment.

This bill provides that, when airlines wanted to discontinue flights, the Civil Aeronautics Board would have something to say about it. Everybody knows the airlines make their money on the nonstop flights. The airlines make more money by flying nonstop, with a load of people, from here to Los Angeles than they would if they stopped five times between those two locations.

If we let the airlines decide on the flights, without having the CAB in position to decide which flights should continue or be discontinued, it would be to the advantage of the airlines to discontinue local stops and carry fully loaded planes on nonstop flights.

It is more inconvenient to me, but I would rather stop three times between here and New Orleans than to let the people of Charlotte, Birmingham, and Durham be denied adequate airline service.

The Interior and Insular Affairs Committee decided, quite correctly, I think, that the CAB ought to have some say, in the public interest, about which flights ought to be discontinued, because anybody knows it would be to the advantage of the airlines to continue fully loaded nonstop flights and discontinue milk run flights. But if we are going to serve the public interest, we ought to look and see how the public interest is affected.

As a member of the Committee on Commerce, I objected to this amendment. It makes it possible for the airlines to maximize their profits at the expense of the traveling public.

In a period of shortages, somebody ought to be concerned about the public interest. In this case, it ought to be the CAB. That is what the bill recommends. That is what the Interior and Insular Affairs Committee recommended. There is a substantial minority in the Commerce Committee which thought the CAB ought to have power to protect the public interest in the way I have suggested.

If the Senate votes for the Cannon amendment, Senators will have to go home and try to explain to the people there why, when they had three local flights before, they now have only one. That is what this amendment would allow.

Why would the airlines prefer to do away with local flights rather than long-distance nonstop flights? Because they will make more money by maintaining the nonstop flights and discontinuing local flights. I think somebody ought to protect the public interest. It ought to be the CAB. The Interior and Insular Affairs Committee recommended this provision.

This amendment was not presented until about some 5 minutes before the limitation on debate went into effect. I am not making a claim that it should not have been presented that way, but we have not had an adequate chance to debate it. However, it makes it possible for the airlines to discontinue two or three local service flights, or even the only flight, without any government authority having the authority to protect the public interest. I think the amendment should be disagreed to.

Mr. CANNON. Mr. President, I would simply point out to my colleagues that what the Senator from Louisiana says could not be further from the truth. The Civil Aeronautics Board has at the present time the authority to protect the public interest, to see that flight schedules are maintained, and flight service from point A to point B, or from point A to point C, is maintained. That power is given to the board at the present time.

Congress has consistently over the years refused to grant the CAB the authority to handle the scheduling of the airlines. That is exactly what the bill would do if it stands as it is. We simply say that the board cannot schedule airline service. They have never been in the business of doing it before. They have never had that authority. We would continue it as it is now.

I direct the attention of my colleagues to the amendment. The amendment gives the board the authority, for the duration of the emergency, to review and make reasonable adjustments to the operating authority of air carriers authorized to engage in air transportation.

We want to cooperate. We want the board to have authority but we do not want them to have the authority to go out and intervene in a matter relating to decisions as between various points to be served in the United States.

The board has the authority and it is charged with the responsibility of protecting essential service. That is required throughout the country. That is exactly where we want to leave it—to follow the provisions of the Civil Aeronautics Act, and not to change the provisions of that act in an entirely unrelated matter or a distantly related matter, under the guise of energy conservation.

I yield to the distinguished chairman of the committee.

Mr. MAGNUSON. Mr. President, I do not like to disagree with my friend from Louisiana, but I do not care what time an airplane leaves or takes off—somebody does not like that hour. Somebody does like it; somebody does not.

All we are trying to say is that we should not take it to the CAB. The basic part of the act was established many years ago. We exempted all the other independent agencies here today by some of the Fannin amendments.

The ICC does not tell the railroad what hours the trains should run. They say they have to run trains between here and there. It does not tell railroads when the freight cars should go. Nor does the Maritime Board tell the shipping lines what time they have to leave on their tours of berth-to-berth operations.

All we are saying here is that this is an energy measure. Someone may not like the schedules. However, I do not care whether they leave at 1 o'clock, 6 o'clock, or at midnight. They still have 10,000 gallons of gasoline. In other words, before the airline may abandon a line, they have to go to the CAB.

I do not believe this belongs in this bill. I agree with the Senator from Louisiana. We all get a little disturbed once in awhile. All the airlines seem to leave from 4 to 8, and in the morning they come in at the same time. However, if they did not do that, they would not be able to accommodate most of the people who travel. They do not go out and say, "We are not going to accommodate the schedule for the people who travel."

I do not think this belongs in the bill. I think that the Commerce Committee ought to have some hearings on the matter the Senator from Louisiana talks about. And we will. However, we would have to have 10,000 people in the CAB to hear all of the complaints about a plane leaving at 1 o'clock instead of 2 o'clock, and 2 o'clock instead of 3 o'clock.

These are matters that they cannot do any more than the ICC can with respect to freight cars. It is impossbile. The Maritime Board cannot take care of these matters either.

The PRESIDING OFFICER. All of the time of the Senator has expired.

Mr. MAGNUSON. Mr. President, I hope the amendment will carry.

Mr. LONG. Mr. President, I ask for the yeas and nays.

Mr. MAGNUSON. I am sorry, I had my back turned.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second [putting the question]? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Stennis), and the Senator from Idaho (Mr. Church) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. Huddleston) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Illinois (Mr. Percy) would each vote "nay."

The result was announced—yeas 36, nays 49, as follows:

[No. 508 Leg.]

YEAS—36

Bartlett
Bayh
Bellmon
Bennett
Bible
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Domenici
Dominick
Eastland
Ervin
Goldwater
Gravel
Griffin
Gurney
Hart
Hartke
Helms
Hollings
Magnuson
McGee
McIntyre
Metcalf
Pearson
Pell
Randolph
Saxbe
Stevens
Stevenson
Symington
Tower
Tunney
Weicker
Young

NAYS—49

Abourezk
Aiken
Beall
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Clark
Cook
Cranston
Dole
Eagleton
Fannin
Fulbright
Hansen
Haskell
Hatfield
Hathaway
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McGovern
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Taft
Talmadge
Thurmond
Williams

NOT VOTING—15

Allen
Baker
Brock
Church
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So Mr. Cannon's amendment was rejected.

Mr. BARTLETT. Mr. President, I call up my amendment which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 28, line 14, insert the following: after the word "energy" insert: "and an analysis of the effects of such actions, if implemented, upon increasing energy supplies."

Mr. JACKSON. Mr. President, I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the amendment of the Senator from Louisiana (Mr. Johnston) considered earlier in the day.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to withdraw the amendment. This is a far-reaching amendment that we will consider in committee next week. I think it will be considered favorably by the committee, but I think it more appropriate that it not be acted upon at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered. The amendment is withdrawn.

If there be no further amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill (S. 2589) was ordered to be engrossed for a third reading and was read the third time.

INTENT OF COAL CONVERSION—SECTION 204(a)

Mr. JAVITS. Mr. President, it is my understanding and I wish to clarify this point with the Senator from Washington that the purposes of S. 2589 are to meet the short term needs of the Nation during the emergency period which is defined as being 1 year. In particular any conversion to coal or other fuels authorized or permitted by section 204(a) of this act shall be permitted for the purpose of reducing or eliminating the emergency declared by this act. Further, in directing a conversion to the burning of coal or other fuels which fuels I assume can include high sulfur oil under the Clean Air Act amendment, the President can only direct such action to meet the energy needs during this emergency period. And it is with this immediate energy situation in mind that appropriate action will be taken on the part of the Environmental Protection Agency. I had wanted to offer a short clarifying amendment to make these points explicit but I have been assured that this is the interpretation of the act shared by the Senator from Washington and that there was no need for an amendment on these points. Is my understanding correct?

Mr. JACKSON. The Senator is correct. Section 204(a) is a short-term provision designed to deal with the critical shortages we now face. The committee is, however, considering S. 2652, the National Coal Conversion Act, which would establish a long-term policy for substituting coal as a primary energy source for electrical powerplants and large industrial energy users.

Mr. INOUYE. Section 203 of the legislation states that the rationing and conservation program which the President is to promulgate 15 days after the date of enactment of the act shall include "a ban on all advertising encouraging increased energy consumption." I am concerned that this provision could mean a ban on tourism advertising. Although this is apparently not the intention of the bill, the statutory language is broad enough to be so construed. I would appreciate it if in a colloquy on the floor you might clarify just what the intention of this provision is.

Mr. JACKSON. The intent of the committee in including the language you refer to was to end advertisements encouraging wasteful and unnecessary energy consumption. It is my clear understanding that travel advertisements represent a legitimate and necessary business activity on the part of the tourism industry, and would not be included in the kinds of ads to be banned.

Mr. GOLDWATER. Mr. President, when this bill was first introduced to the floor, I thought it had merit and I intended to vote for it, but during the days of debate and amendments, and particularly this last day when the bill was so changed, emasculated and affected by amendments offered and accepted without debate, I must register my protest. In the nearly 18 years I have served in this body, I do not believe I have ever seen the Senate worse than it was today. We have passed an action that will not contribute one bit to the solution of the problem which is an inadequacy of fuel. We have added amendments, many of which, in effect would circumvent existing law, existing agencies, and will play havoc with our free markets. For these and other reasons I will vote against the bill.

Mr. DOLE. Mr. President, the Emergency Energy Act is a broad and sweeping proposal. It attempts to deal with a significant problem in America by granting extraordinary powers to the President, curtailing the application of several major laws and generally opening the door to an unprecedented Federal program for limiting energy consumption in the United States.

Of course, these are critical times. No responsible public official or informed leader disputes the fact that this country is facing the most serious energy supply situation in its history. No one yet knows or can know how serious it will be, but forecasts range from isolated personal inconvenience and annoyance to widespread economic hardship and suffering.

The problem boils down to two major factors: First, we have not developed our vast domestic energy sources—including oil, natural gas and nuclear generating plants—as fully as we should have, so second, we have become overly and dangerously dependent on foreign sources.

RECORD OF ACTION AND INACTION

As we attempt to formulate a policy and a program to deal with the crisis, attempts to place blame or responsibility are of little use, and I will not do so. But it may be instructive to look back just a bit to see what has been done as well as what has not been done—to forestall or prevent the situation we are facing now.

The following statement is significant:

> For most of our history, a plentiful supply of energy is something the American people have taken very much for granted. In the past twenty years alone, we have been able to double our consumption of energy without exhausting the supply. But the assumption that sufficient energy will always be readily available has been brought sharply into question within the last year. The brownouts that have affected some areas of our country, the possible shortages of fuel that were threatened last fall, the sharp increases in certain fuel prices and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

Those were the opening words of the first Presidential message on energy ever sent to the Congress. It was submitted by President Nixon more than 30 months ago.

This message contained a 14-point program for the development of new and better energy sources and the conservation of the energy used by all consumers. That message was submitted on June 4, 1971.

On December 1, 1969, the following vote was taken in the Senate:

I ask unanimous consent to have the analysis of Senate vote No. 141, 91st Congress, first session, printed in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

TAX REFORM ACT OF 1969

Subject: Tax Reform Act of 1969 (H.R. 13270). Ellender-Stevens amendment to retain the 27½-percent depletion allowance for oil and gas (instead of cutting it to 23 percent as in the committee bill).

Action: The amendment was rejected.

The result was announced—Yeas 30, Nays 62, as follows:

YEAS—30

Allott, Bellmon, Bennett, Bible, Burdick, Cotton, Curtis, Dole, Dominick, Eastland.

Ellender, Fannin, Fulbright, Gurney, Hansen, Harris, Hruska, Long, Mansfield, McClellan.

McGee, Montoya, Murphy, Pearson, Stennis, Stevens, Thurmond, Tower, Yarborough, Young, N. Dak.

NAYS—62

Aiken, Allen, Baker, Bayh, Boggs, Brooke, Byrd, Va., Byrd, W. Va., Cannon, Case, Church, Cook, Cooper, Cranston, Dodd, Eagleton, Ervin, Fong, Goodell, Gore, Griffin.

Hart, Hartke, Hatfield, Holland, Hughes, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Magnuson, Mathias, McCarthy, McGovern, McIntyre, Metcalf, Miller, Mondale, Moss, Muskie.

Nelson, Packwood, Pastore, Pell, Prouty, Proxmire, Randolph, Ribicoff, Russell, Saxbe, Schweiker, Scott, Smith, Maine, Sparkman, Spong, Talmadge, Tydings, Williams, N.J., Williams, Del., Young, Ohio.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Gravel, for.

NOT VOTING—7

Anderson, Goldwater, Hollings, Mundt, Percy, Smith, Ill., Symington.

Mr. DOLE. Now, I am sure that other statements, messages, and votes could be produced to support one shade of opinion or another. But the record should show—and it does—that some have recognized, for many years, the vital importance of this country being sufficient in its energy supplies, while others have not.

I cite these points from the public record, not in an effort to blame anyone for anything, but only to show that if certain actions had not been taken several years ago or if others had been taken at the time they were suggested, we might not be here today trying to decide how best to deal with an energy emergency.

If the depletion allowance had not been cut we might have had enough exploration in the country to reverse the trend of declining new discoveries. If some of the President's proposals—including the conservation measures—had been followed—we might not be so concerned today about where our next drops of heating oil, gasoline, and LP gas are coming from.

So I believe it is important to keep these points in mind as we consider the emergency energy act and all its ramifications.

A STRONG MEASURE

Let me say, quite frankly, that it is a strong bill. It grants the President immense power over the use, production and conservation of energy in our country. And these powers will touch every citizen. It provides for mandatory rationing, one of the strongest steps that can be taken to deal with any supply problem. It provides for heavy penalties for violating the act's programs. It contains authority for widespread governmental interference with the workings of business and industry by regulatory agencies. It carves out exceptions in the environmental structures of the Clean Air Act and the National Environmental Policy Act.

I would say to those who are in a rather constant state of alarm about the erosion of congressional power and the growth of Presidential power that they know what they are voting for. It is a strong bill. But it is no Gulf of Tonkin resolution. Everyone knows what the bill is and what it will do.

So let those who vote for the bill do so, but when these powers and provisions are put into effect, let them not go about the press gallery complaining and wailing about a President—any President—becoming a dictator. The Congress knows what it is doing and should accept responsiblity for it.

SUPPORT FOR ACT

Let me say in conclusion that I do support the bill—with some regret, however, that such a measure has been forced upon us by decades of wastefulness in the use of energy, years of ill-advised energy-related policies, and too many examples of short-sighted thinking by industry, Congress, the executive branch and the general public.

Perhaps some good will come out of the whole situation. Perhaps, since the Arab oil cutoff came this year, rather than next year or 5 years ahead, we will be able to avoid becoming intolerably dependent on foreign energy sources while there is still time to reestablish our self-sufficiency.

The President's call for a project of independence to meet our energy needs here at home by 1980 is one to which every American should respond.

We may face a difficult period until the job is done, but the requirement to do so is clear and we must unite in the effort. I believe America is capable of meeting the challenge—as it has done on so many other occasions in the past.

And I am hopeful that the Emergency Energy Act will prove to be a useful—if not entirely pleasant—step toward securing the energy resource future of our Nation.

I ask unanimous consent that the full text of the President's June 4, 1971, energy message be printed in the Record at this point.

There being no objection, the message was ordered to be printed in the Record, as follows:

ENERGY RESOURCES—THE PRESIDENT'S MESSAGE TO THE CONGRESS, JUNE 4, 1971

To the Congress of the United States:

For most of our history, a plentiful supply of energy is something the American people have taken very much for granted. In the past twenty years alone, we have been able to double our consumption of energy without exhausting the supply. But the assumption that sufficient energy will always be readily available has been brought sharply into question within the last year. The brownouts that have affected some areas of our country, the possible shortages of fuel that were threatened last fall, the sharp increases in certain fuel prices and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

A sufficient supply of clean energy is essential if we are to sustain healthy economic growth and improve the quality of our national life. I am therefore announcing today a broad range of actions to ensure an adequate supply of clean energy for the years ahead. Private industry, of course, will still play the major role in providing our energy, but government can do a great deal to help in meeting this challenge.

My program includes the following elements:

To Facilitate Research and Development for Clean Energy:

A commitment to complete the successful demonstration of the liquid metal fast breeder reactor by 1980.

More than twice as much Federal support for sulfur oxide control demonstration projects in Fiscal Year 1972.

An expanded program to convert coal into a clean gaseous fuel.

Support for a variety of other energy research projects in fields such as fusion power, magnetohydrodynamic power cycles, and underground electric transmission.

To Make Available the Energy Resources on Federal Lands:

Acceleration of oil and gas lease sales on the Outer Continental Shelf, along with stringent controls to protect the environment.

A leasing program to develop our vast oil shale resources, provided that environmental questions can be satisfactorily resolved.

Development of a geothermal leasing program beginning this fall.

To Assure a Timely Supply of Nuclear Fuels:

Begin work to modernize and expand our uranium enrichment capacity.

To Use Our Energy More Wisely:

A New Federal Housing Administration standard requiring additional institution in new federally insured homes.

Development and publication of additional information on how consumers can use energy more efficiently.

Other efforts to encourage energy conservation.

To Balance Environmental and Energy Needs:

A system of long-range open planning of electric power plant sites and transmission line routes with approval by a State or regional agency before construction.

An incentive charge to reduce sulfur oxide emissions and to support further research.

To Organize Federal Efforts More Effectively:

A single structure within the Department of Natural Resources uniting all important energy resource development programs.

THE NATURE OF THE CURRENT PROBLEM

A major cause of our recent energy problems has been the sharp increase in demand that began about 1967. For decades, energy consumption had generally grown at a slower rate than the national output of goods and services. But in the last four years it has been growing at a faster pace and forecasts of energy demand a decade from now have been undergoing significant upward revisions.

This accelerated growth in demand results partly from the fact that energy has been relatively inexpensive in this country. During the last decade, the prices of oil, coal, natural gas and electricity have increased at a much slower rate than consumer prices as a whole. Energy has been an attractive bargain in this country—and demand has responded accordingly.

In the years ahead, the needs of a growing economy will further stimulate this demand. And the new emphasis on environmental protection means that the demand for cleaner fuels will be especially acute. The primary cause of air pollution, for example, is the burning of fossil fuels in homes, in cars, in factories and in power plants. If we are to meet our new national air quality standards, it will be essential for us to use stack gas cleaning systems in our large power and other industrial plants and to use cleaner fuels in virtually all of our new residential, commercial and industrial facilities, and in some of our older facilities as well.

Together, these two factors—growing demand for energy and growing emphasis on cleaner fuels—will create an extraordinary pressure on our fuel supplies.

The task of providing sufficient clean energy is made especially difficult by the long lead times required to increase energy supply. To move from geological exploration to oil and gas well production now takes from 3 to 7 years. New coal mines typically require 3 to 5 years to reach the production stage and it takes 5 to 7 years to complete a large steam power plant. The development of the new technology required to minimize environmental damage can further delay the provision of additional energy. If we are to take full advantage of our enormous coal resources, for example, we will need mining systems that do not impair the health and safety of miners or degrade the landscape and combustion systems that do not emit harmful quantities of sulfur oxides, other noxious gases, and particulates into the atmosphere. But such systems may take several years to reach satisfactory performance. That is why our efforts to expand the supply of clean energy in America must immediately be stepped up.

1. Research and development goals for clean energy

Our past research in this critical field has produced many promising leads. Now we must move quickly to demonstrate the best of these new concepts on a commercial scale. Industry should play the major role in this area, but government can help by providing technical leadership and by sharing a portion of the risk for costly demonstration plants. The time has now come for government and industry to commit themselves to a joint effort to achieve commercial scale demonstrations in the most crucial and most promising clean energy development areas—the fast breeder reactor, sulfur oxide control technology and coal gasification.

a. *Sulfur Oxide Control Technology.*

A major bottleneck in our clean energy program is the fact that we cannot now burn coal or oil without discharging its sulfur content into the air. We need new technology which will make it possible to remove the sulfur before it is emitted to the air.

Working together, industry and government have developed a variety of approaches to this problem. However, the new air quality standards promulgated under the Clean Air Amendments of 1970 require an even more rapid development of a suitable range of stack gas cleaning techniques for removing sulfur oxides. I have therefore requested funds in my 1972 budget to permit the Environmental Protection Agency to devote an additional $15 million to this area, more than doubling the level of our previous efforts. This expansion means that a total of six different techniques can be demonstrated in partnership with industry during the next three or four years.

b. *Nuclear Breeder Reactor.*

Our best hope today for meeting the Nation's growing demand for economical clean energy lies with the fast breeder reactor. Because of its highly efficient use of nuclear fuel, the breeder reactor could extend the life of our natural uranium fuel supply from decades to centuries, with far less impact on the environment than the power plants which are operating today.

For several years, the Atomic Energy Commission has placed the highest priority on developing the liquid metal fast breeder. Now this project is ready to move out of the laboratory and into the demonstration phase with a commercial size plant. But there still are major technical and financial obstacles to the construction of a demonstration plant of some 300 to 500 megawatts. I am therefore requesting an additional $27 million in Fiscal Year 1972 for the Atomic Energy Commission's liquid metal fast breeder reactor program—and for related technological and safety programs—so that the necessary engineering groundwork for demonstration plants can soon be laid.

What about the environmental impact of such plants? It is reassuring to know that the releases of radioactivity from current nuclear reactors are well within the national safety standards. Nevertheless, we will make every effort to see that these new breeder reactors emit even less radioactivity to the environment than the commercial light water reactors which are now in use.

I am therefore directing the Atomic Energy Commission to ensure that the new breeder plants be designed in a way which inherently prevents discharge to the environment from the plant's radioactive effluent systems. The Atomic Energy Commission should also take advantage of the increased efficiency of these breeder plants, designing them to minimize waste heat discharges. Thermal pollution from nuclear power plants can be materially reduced in the more efficient breeder reactors.

We have very high hopes that the breeder reactor will soon become a key element in the national fight against air and water pollution. In order further to inform the interested agencies and the public about the opportunities in this area, I have requested the early preparation and review by all appropriate agencies of a draft envrionmental impact statement for the breeder demonstration plant in accordance with Section 102 of the National Environmental Policy Act. This procedure will ensure compliance with all environmental quality standards before plant construction begins.

In a related area, it is also pertinent to observe that the safety record of civilian power reactors in this country is extraordinary in the history of technological advances. For more than a quarter century—since the first nuclear chain reaction took place—no member of the public has been injured by the failure of a reactor or by an accidental release of radioactivity. I am confident that this record can be maintained. The Atomic Energy Commission is giving top priority to safety considerations in the basic design of the breeder reactor and this design will also be subject to a thorough review by the independent Advisory Committee on Reactor Safeguards, which will publish the results of its investigation.

I believe it important to the Nation that the commercial demonstration of a breeder reactor be completed by 1980. To help achieve that goal, I am requesting an additional $50 million in Federal funds for the demonstration plant. We expect industry—the utilities and manufacturers—to contribute the major share of the plant's total cost, since they have a large and obvious stake in this new technology. But we also recognize that only if government and industry work closely together can we maximize our progress in this vital field and thus introduce a new era in the production of energy for the people of our land.

c. *Coal Gasification.*

As we carry on our search for cleaner fuels, we think immediately of the cleanest fossil fuel—natural gas. But our reserves of natural gas are quite limited in comparison with our reserves of coal.

Fortunately, however, it is technically feasible to convert coal into a clean gas which can be transported through pipelines. The Department of the Interior has been working with the natural gas and coal industries on research to advance our coal gasification efforts and a number of possible methods for accomplishing this conversion are under development. A few, in fact, are now in the pilot plant stage.

We are determined to bring greater focus and urgency to this effort. We have therefore initiated a cooperative program with industry to expand the number of pilot plants, making it possible to test new methods more expeditiously so that the appropriate technology can soon be selected for a large-scale demonstration plant.

The Federal expenditure for this cooperative program will be expanded to $20 million a year. Industry has agreed to provide $10 million a year for this effort. In general, we expect that the Government will continue to finance the larger share of pilot plants and that industry will finance the larger share of the demonstration plants. But again, the important point is that both the Government and industry are now strongly committed to move ahead together as promptly as possible to make coal gasification a commercial reality.

d. *Other Research and Development Efforts.*

The fast breeder reactor, sulfur oxide controls and coal gasification represent our highest priority research and development projects in the clean energy field. But they are not our only efforts. Other ongoing projects include:

Coal Mine Health and Safety Research. In response to a growing concern for the health and safety of the men who mine the Nation's coal and in accordance with the Federal Coal Mine Health and Safety Act of 1969, the Bureau of Mines research effort has been increased from a level of $2 million in Fiscal Year 1969 to $30 million in Fiscal Year 1972.

Controlled Thermonuclear Fusion Research. For nearly two decades the Government has been funding a sizeable research effort designed to harness the almost limitless energy of nuclear fusion for peaceful purposes. Recent progress suggests that the scientific feasibility of such projects may be demonstrated in the 1970s and we have therefore requested an additional $2 million to supplement the budget in this field for Fiscal Year 1972. We hope that work in this promising area will continue to be expanded as scientific progress justifies larger scale programs.

Coal Liquefaction. In addition to its coal gasification work, the Department of the Interior has underway a major pilot plant program directed toward converting coal into cleaner liquid fuels.

Magnetohydrodynamic Power Cycles. MUD is a new and more efficient method of converting coal and other fossil fuels into electric energy by burning the fuel and passing the combustion products through a magnetic field at very high temperatures. In partnership with the electric power industry, we have been working to develop this new system of electric power generation.

Underground Electric Transmission. Objections have been growing to the overhead placement of high voltage power lines, especially in areas of scenic beauty or near centers of population. Again in cooperation with industry, the Government is funding a research program to develop new and less expensive techniques for burying high voltage electric transmission lines.

Nuclear Reactor Safety and Supporting Technology. The general research and development work for today's commercial nuclear reactors was completed several years ago, but we must continue to fund safety-related efforts in order to ensure the continuance of the excellent safety record in this field. An additional $3 million has recently been requested for this purpose to supplement the budget in Fiscal Year 1972.

Advanced Reactor Concepts. The liquid metal fast breeder is the priority breeder reactor concept under development, but the Atomic Energy Commission is also supporting limited alternate reactor programs involving gas cooled reactors, molten salt reactors and light water breeders.

Solar Energy. The sun offers an almost unlimited supply of energy if we can learn to use it economically. The National Aeronautics and Space Administration and the National Science Foundation are currently reexamining their efforts in this area and we expect to give greater attention to solar energy in the future.

The key to meeting our twin goals of supplying adequate energy and protecting the environment in the decades ahead will be a balanced and imaginative research and development program. I have therefore asked my Science Adviser, with the cooperation of the Council on Environmental Quality and the interested agencies, to make a detailed assessment of all of the technological opportunities in this area and to recommend additional projects which should receive priority attention.

2. *Making Available the Energy Resources of Federal Lands*

Over half of our Nation's remaining oil and gas resources, about 40 percent of our coal and uranium, 80 percent of our oil shale, and some 60 percent of our geothermal energy sources are now located on Federal lands. Programs to make these resources available to meet the growing energy requirements of the Nation are therefore essential if shortages are to be averted. Through appropriate leasing programs, the Government should be able to recover the fair market value of these resources, while requiring developers to comply with requirements that will adequately protect the environment.

To supplement the efforts already underway to develop the fuel resources of the lower 48 States and Alaska. I am announcing today the following new programs:

a. *Leasing on the Outer Continental Shelf—An Accelerated Program.*

The Outer Continental Shelf has proved to be a prolific source of oil and gas, but it has also been the source of troublesome oil spills in recent years. Our ability to tap the great potential of offshore areas has been seriously hampered by these environmental problems.

The Department of the Interior has significantly strengthened the environmental protection requirements controlling offshore drilling and we will continue to enforce these requirements very strictly. As a prerequisite to Federal lease sales, environmental assessments will be made in accordance with Section 102 of the National Environmental Policy Act of 1969.

Within these clear limits, we will accelerate our efforts to utilize this rich source of fuel. In order to expand productive possibilities as rapidly as possible, the accelerated program should include the sale of new leases not only in the highly productive Gulf of Mexico, but also some other promising areas. I am therefore directing the Secretary of the Interior to increase the offerings of oil and gas leases and to publish a schedule for lease offerings on the Outer Continental Shelf during the next five years, beginning with a general lease sale and a drainage sale this year.

b. *Oil Shale—A Program for Orderly Development.*

At a time when we are facing possible energy shortages, it is reassuring to know that there exists in the United States an untapped shale oil resource containing some 600 billion barrels in high grade deposits. At current consumption rates, this resource represents 150 years supply. About 80 billion barrels of this shale oil are particularly rich and well situated for early development. This huge resource of very low sulfur oil is located in the Rocky Mountain area, primarily on Federal land.

At present there is no commercial production of shale oil. A mixture of problems—environmental, technical and economic—have combined to thwart past efforts at development.

I believe the time has come to begin the orderly formulation of a shale oil policy—not by any headlong rush toward development but rather by a well considered program in which both environmental protection and the recovery of a fair return to the Government are cardinal principles under which any leasing takes place. I am therefore requesting the Secretary of the Interior to expedite the development of an oil shale leasing program including the preparation of an environmental impact statement. If after reviewing this statement and comments he finds that environmental concerns can be satisfied, he shall then proceed with the detailed planning. This work would also involve the States of Wyoming, Colorado and Utah and the first test lease would be scheduled for next year.

c. *Geothermal Energy.*

There is a vast quantity of heat stored in the earth itself. Where this energy source is close to the surface, as it is in the Western States, it can readily be tapped to generate electricity, to heat homes, and to meet other energy requirements. Again, this resource is located primarily on Federal lands.

Legislation enacted in recent months permits the Federal Government, for the first time, to prepare for a leasing program in the field of geothermal energy. Classification of the lands involved is already underway in the Department of the Interior. I am requesting the Secretary of the Interior to expedite a final decision on whether the first competitive lease sale should be scheduled for this fall—taking into account, of course, his evaluation of the environmental impact statement.

3. Natural gas supply

For the past 25 years, natural gas has supplied much of the increase in the energy supply of the United States. Now the relatively clean form of energy is in even greater demand to help satisfy air quality standards. Our present supply of natural gas is limited, however, and we are beginning to face shortages which could intensify as we move to implement the air quality standards. Additional supplies of gas will therefore be one of our most urgent energy needs in the next few years.

Federal efforts to augment the available supplies of natural gas include:

Accelerated leasing on Federal lands to speed discovery and development of new natural gas fields.

Moving ahead with a demonstration project to gasify coal.

Recent actions by the Federal Power Commission providing greater incentives for industry to increase its search for new sources of natural gas and to commit its discoveries to the interstate market.

Facilitating imports of both natural and liquefied gas from Canada and from other nations.

Progress in nuclear stimulation experiments which seek to produce natural gas from tight geologic formations which cannot presently be utilized in ways which are economically and environmentally acceptable.

This administration is keenly aware of the need to take every reasonable action to enlarge the supply of clean gaseous fuels. We intend to take such action and we expect to get good results.

4. Imports from Canada

Over the years, the United States and Canada have steadily increased their trade in energy. The United States exports some coal to Canada, but the major items of trade are oil and gas which are surplus to Canadian needs but which find a ready market in the United States.

The time has come to develop further this mutually advantageous trading relationship. The United States is therefore prepared to move promptly to permit Canadian crude oil to enter this country, free of any quantitative restraints, upon agreement as to measures needed to prevent citizens of both our countries from being subjected to oil shortages, or threats of shortages. We are ready to proceed with negotiations and we look to an early conclusion.

5. Timely Supplies of Nuclear Fuels

The Nation's nuclear fuel supply is in a state of transition. Military needs are now relatively small but civilian needs are growing rapidly and will be our dominant need for nuclear fuel in the future. With the exception of uranium enrichment, the nuclear energy industry is now in private hands.

I expect that private enterprise will eventually assume the responsibility for uranium enrichment as well, but in the meantime the Government must carry out its responsibility to ensure that our enrichment capacity expands at a rate consistent with expected demands.

There is currently no shortage of enriched uranium or enriching capacity. In fact, the Atomic Energy Commission has substantial stocks of enriched uranium which have already been produced for later use. However, plant expansions are required so that we can meet the growing demands for nuclear fuel in the late 1970s—both in the United States and in other nations for which this country is now the principal supplier.

The most economical means presently available for expanding our capacity in this field appears to be the modernization of existing gaseous diffusion plants at Oak Ridge, Tennessee; Portsmouth, Ohio; and Paducah, Kentucky—through a Cascade Improvement Program. This program will take a number of years to complete and we therefore believe that it is prudent to initiate the program at this time rather than run the risk of shortages at a later date. I am therefore releasing $16 million to start the Cascade Improvement Program in Fiscal Year 1972. The pace of the improvement program will be tailored to fit the demands for enriched uranium in the United States and in other countries.

6. Using Our Energy More Wisely

We need new sources of energy in this country, but we also need to use existing energy as efficiently as possible. I believe we can achieve the ends we desire—homes warm in winter and cool in summer, rapid transportation, plentiful energy for industrial production and home appliances—and still place less of a strain on our overtaxed resources.

Historically, we have converted fuels into electricity and have used other sources of energy with ever increasing efficiency. Recent data suggest, however, that this trend may be reversing—thus adding to the drain on available resources. We must get back on the road of increasing efficiency—both at the point of production and at the point of consumption, where the consumer himself can do a great deal to achieve considerable savings in his energy bills.

We believe that part of the answer lies in pricing energy on the basis of its full costs to society. One reason we use energy so lavishly today is that the price of energy does not include all of the social costs of producing it. The costs incurred in protecting the environment and the health and safety of workers, for example, are part of the real cost of producing energy—but they are not now all included in the price of the product. If they were added to that price, we could expect that some of the waste in the use of energy would be eliminated. At the same time, by expanding clean fuel supplies, we will be working to keep the overall cost of energy as low as possible.

It is also important that the individual consumer be fully aware of what his energy will cost if he buys a particular home or appliance. The efficiency of home heating or cooling systems and of other energy intensive equipment are determined by builders and manufacturers who may be concerned more with the initial cost of the equipment than with the operating costs which will come afterward. For example, better thermal insulation in a home or office building may save the consumer large sums in the long run—and conserve energy as well—but for the builder it merely represents an added expense.

To help meet one manifestation of this problem, I am directing the Secretary of Housing and Urban Development to issue revised standards for insulation applied in new federally insured homes. The new Federal Housing Administration standards will require sufficient insulation to reduce the maximum permissible heat loss by about one-third for a typical 1200 square foot home—and by even more for larger homes. It is estimated that the fuel savings which will result each year from the application of these new standards will, in an average climate, equal the cost of the additional insulation required.

While the Federal Government can take some actions to conserve energy through such regulations, the consumer who seeks the most for his energy dollar in the marketplace is the one who can have the most profound influence. I am therefore asking my Special Assistant for Consumer Affairs—in cooperation with industry and appropriate Government agencies—to gather and publish additional information in this field to help consumers focus on the operating costs as well as the initial cost of energy intensive equipment.

In addition, I would note that the Joint Board on Fuel Supply and Fuel Transport chaired by the Director of the Office of Emergency Preparedness is developing energy conservation measures for industry, government, and the general public to help reduce energy use in times of particular shortage and during pollution crises.

7. Power Plant Siting

If we are to meet growing demands for electricity in the years ahead, we cannot ignore the need for many new power plants. These plants and their associated transmission lines must be located and built so as to avoid major damage to the environment, but they must also be completed on time so as to avoid power shortages. These demands are difficult to reconcile—and often they are not reconciled well. In my judgment the lesson of the recent power shortages and of the continuing disputes over power plant siting and transmission line routes is that the existing institutions for making decisions in this area are not adequate for the job. In my Special Message to the Congress on the Environment last February, I proposed legislation which would help to alleviate these problems through longer range planning by the utilities and through the establishment of State or regional agencies to license new bulk power facilities prior to their construction.

Hearings are now being held by the Interstate and Foreign Commerce Committee of the House of Representatives concerning these proposals and other measures which would provide an open planning and decision-making capacity for dealing with these matters. Under the administration bill, long-range expansion plans would be presented by the utilities ten years before construction was scheduled to begin, individual alternative power plant sites would be identified five years ahead, and detailed design and location of specific plants and transmission lines would be considered two years in advance of construction. Public hearings would be held far enough ahead of construction so that they could influence the siting decision, helping to avoid environmental problems without causing undue construction delays. I urge the Congress to take prompt and favorable action on this important legislative proposal. At the same time steps will be taken to ensure that Federal licenses and permits are handled as expeditiously as possible.

8. The Role of the Sulfur Oxides Emissions Charge

In my environmental message last February I also proposed the establishment of a sulfur oxides emissions charge. The emissions charge would have the effect of building the cost of sulfur oxide pollution into the price of energy. It would also provide a strong economic incentive for achieving the necessary performance to meet sulfur oxide standards.

The funds generated by the emissions charge would be used by the Federal Government to expand its program to improve environmental quality, with special emphasis on the development of adequate supplies of clean energy.

9. Government Reorganization—An Energy Administration

But new programs alone will not be enough. We must also consider how we can make these programs do what we intend them to do. One important way of fostering effective performance is to place responsibility for energy questions in a single agency which can execute and modify policies in a comprehensive and unified manner.

The Nation has been without an integrated energy policy in the past. One reason for this situation is that energy responsibilities are fragmented among several agencies. Often authority is divided according to types and uses of energy. Coal, for example, is handled in one place, nuclear energy in another—but responsibility for considering the impact of one on the other is not assigned to any single authority. Nor is there any single agency responsible for developing new energy sources such as solar energy or new conversion systems such as the fuel cell. New concerns—such as conserving our fossil fuels for non-fuel uses—cannot receive the thorough and thoughtful attention they deserve under present arrangements.

The reason for all these deficiencies is that each existing program was set up to meet a specific problem of the past. As a result, our present structure is not equipped to handle the relationships between these problems and the emergence of new concerns.

The need to remedy these problems becomes more pressing every day. For example, the energy industries presently account for some 20 percent of our investment in new plant and equipment. This means the inefficiencies resulting from uncoordinated government programs can be very costly to our economy. It is also true that energy sources are becoming increasingly interchangeable. Coal can be converted to gas, for example, and even to synthetic crude oil. If the Government is to perform adequately in the energy field, then it must act through an agency which has sufficient strength and breadth of responsibility.

Accordingly, I have proposed that all of our important Federal energy resource development programs be consolidated within the new Department of Natural Resources.

The single energy authority which would thus be created would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the executive branch could be harmonized and rationalized.

One of the major advantages of consolidating energy responsibilities would be the broader scope and greater balance this would give to research and development work in the energy field. The Atomic Energy Commission, for instance, has been successful in its mission of advancing civilian nuclear power, but this field is now intimately interrelated with coal, oil and gas, and Federal electric power programs with which the Atomic Energy Commission now has very little to do. We believe that the planning and funding of civilian nuclear energy activities should now be consolidated with other energy efforts in an agency charged with the mission of insuring that the total energy resources of the Nation are effectively utilized. The Atomic Energy Commission would still remain intact, in order to execute the nuclear programs and any related energy research which may be appropriate as part of the overall energy program of the Department of Natural Resources.

Until such time as this new Department comes into being, I will continue to look to the Energy Subcommittee of the Domestic Council for leadership in analyzing and coordinating overall energy policy questions for the executive branch.

CONCLUSION

The program I have set forth today provides the basic ingredients for a new effort to meet our clean energy needs in the years ahead.

The success of this effort will require the cooperation of the Congress and of the State and local governments. It will also depend on the willingness of industry to meet its responsibilities in serving customers and in making necessary capital investments to meet anticipated growth. Consumers, too, will have a key role to play as they learn to conserve energy and as they come to understand that the cost of environmental protection must, to a major extent, be reflected in consumer prices.

I am confident that the various elements of our society will be able to work together to meet our clean energy needs. And I am confident that we can therefore continue to know the blessings of both a high-energy civilization and a beautiful and healthy environment.

RICHARD NIXON.

THE WHITE HOUSE, *June 4, 1971*

Mr. FULBRIGHT. Mr. President, I am impressed by the views of the Senior Senator from Oregon, a member of the Committee on Interior and Insular Affairs. He is correct when he says in his minority views:

> No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems. . . . The Administration should suggest specific programs rather than seek a blank check. Congress should consider specific measures, not grant carte blanche authority.

Mr. President, this bill was brought to the floor after an absolute minimum of hearings and consideration on one of the most complex matters ever facing this country. This bill gives direct control to the President or his agents of every sector of the economic life of this country.

This bill will create a bureaucratic nightmare, the like of which this country has never seen.

I am unable to accept responsibility for the creation of such a nightmare.

We are confronted with two prospects, the short term and the long term.

In the short term, 3 to 5 years, there is no satisfactory alternative to the lifting of the embargo on oil from the Arab States.

To achieve this, we need to impress upon the Israeli Government the necessity of negotiating a settlement of the Middle East problem in accordance with the principles of the Security Council Resolution 242 of 1967. If such a settlement is brought about within the next 4 months and the embargo is lifted, the existing allocation authority would see us through unless we should have an unusually severe winter, in which case a limited rationing of fuel oil might be necessary. In any case, a resumption of access to Persian Gulf and African oil would make our problem manageable.

For the long term beyond 5 years, we can look to Alaskan oil, increased domestic production, and the utilization of our coal reserves for relief. These programs should proceed in any case because of balance-of-payments considerations. I believe there is no serious difference of opinions on this aspect of our problem.

The seriousness of the short-term crisis cannot be overstated. If this bill is enacted and as a result we are lulled into the attitude that we have taken significant action to solve our near-term problems, and therefore do not insist upon a settlement of the Arab-Israeli conflict, as a result of which the embargo is not lifted, it is more than probable that we shall have a serious disruption of our entire economy, with all the attendant hardship and disaffection which will further weaken the faith and confidence of our people in our political and economic systems.

Mr. BUCKLEY. Mr. President, no one questions the imperative need to authorize certain extraordinary measures if we are to cope with the current emergency. No one questions the fact that we must spread the impact of shortages in fuel oil and other petroleum products as equitably as possible through some method of allocation, or that we must immediately institute nondiscriminatory energy conservation measures so that we may stretch out our limited supplies.

Having said all this, I will vote against the National Energy Emergency Act as it has been reported out by the Interior Committee and further modified through floor amendments. I will do so because it is the only way I can underscore the dangers and shortcomings of this otherwise essential legislation. If enough of my colleagues will signal their concerns by joining me in a negative vote, we may encourage the House to strike those provisions that vest unnecessary or harmful authority in the Executive.

As I see them, the following are the principal shortcomings of this legislation:

I fear that Congress will lull itself into a mistaken belief that the passage of this emergency authority will somehow absolve it from the responsibility to see that that emergency is of the shortest duration possible. The Congress has not yet acknowledged that the shortages of natural gas and refineries are in fact the result of interferences by Government in the marketplace. Nor does it cope with the shortages in refinery products and oilfield drilling equipment caused by the economic stabilization program. This bill fails to deal with the Federal Power Commission's regulation of the wellhead price of natural gas, a mistaken Federal energy policy which long ago destroyed adequate incentives to search for gas for commitment to interstate pipelines. The Senate has rejected amendments that sought to lift the economic controls that stultify the search for development of new sources of energy.

In the absence of such fundamental changes in Federal policy toward energy pricing, we are destined to see the current energy emergency develop into a chronic one on the basis of which Congress will be asked to institutionalize the extraordinary and dangerous delegation of power that S. 2589 bestows upon the Presidency.

Surely, if the price of scarce fuels and energy is permitted to rise, in response to market forces, rather than held down by Government regulation, industrial users and utilities will be forced to institute process changes which will conserve the use of energy; likewise, the ultimate consumer will begin to make choices based on the amount of energy which went into the products he buys, or on how he heats his home or how he chooses to travel.

In the short term, a system for allocating certain fuels will be required, for it takes time to augment our energy reserves under the stimulus of higher prices. But in the longer term, the best way to deal with a shortage is not to distribute the shortage among buyers, but to increase the supply by allowing consumers to communicate their wishes to producers through changes in prices in the marketplace. Congress and others responsible for the development of Federal energy policy must recognize this economic fact of life and respond accordingly.

In addition to tremendous risks inherent in the bestowal of wholesale authority to allocate goods, the bill contains several specific provisions which, in my opinion, go beyond the requirements of emergency legislation, provisions adopted without adequate hearings or thought that seem determined to live on long after the emergency has disappeared.

For example, section 204(c), in attempting to encourage the use of mass transit in preference for private automobiles, puts the Federal Government into the business of subsidizing reduced fares for mass transit, a response to the energy crisis, that, once initiated, would predictably become institutionalized. No hearings were held on this measure, nor were alternative incentives considered.

I am also concerned over the sections of the bill that legislate exceptions to the National Environmental Policy Act. I believe this approach to laws defining fundamental policy is unwise. If NEPA is judged to be inadequate to deal with short-term emergencies, the act itself should be amended to explicitly provide for such exceptions in an orderly fashion. To do otherwise simply invites a case-by-case attack on NEPA, with special interests seeking exemptions. Thus, rather than having a national environmental policy, we will have a policy which is applied only to the politically most vulnerable sectors of our society, and not to our society as a whole.

My own reading of the statute suggests that NEPA is sufficiently resilient to deal with the pending energy emergency. Federal agencies are required to file environmental impact statements prior to taking any action significantly affecting the environment "to the fullest extent possible."

Court decisions under NEPA have indicated that where a distinct emergency need exists, the mandate under section 102 can be fulfilled by expedited procedures tailored to the specific emergency measure.

Section 206 of the National Energy Emergency Act open NEPA up again to a new series of decisions. It certainly will not be clear in some instances whether actions which seek exemption from NEPA can be identified as being taken under the National Energy Emergency Act.

But even if I am in error in my analysis, the existence of NEPA cannot impede the kind of immediate, emergency action that is the sole justification of S. 2589. I speak of the authority to allocate scarce commodities and to institute conservation measures—action that must be taken immediately if we are to conserve our energy sources. Surely we could have considered in separate legislation any needs for streamlining NEPA procedures.

Section 203 of the bill also implies a judgment as to which uses of fuels or energy are "nonessential," and singles out specific enterprises, such as recreational activities, as being nonessential. I believe this provision to be discriminatory, for it gives the President the authority to determine on a class-by-class basis which uses of energy ought to be restricted. The hardships of the energy crisis could thereby fall disproportionately upon certain categories of businesses without adequate legislative consideration or procedural safeguards. It would be far better to limit the energy conservation measures to those which would apply broadly, such as temperature restrictions or reductions in speed limits. I, of course, realize that even this type of use restriction will inevitably result in inequities.

Several amendments were adopted during the debate on this bill on the Senate floor which extend the reach of existing Federal authority for providing unemployment insurance and disaster assistance relief to any individuals adversely affected by the energy crisis. Apart from the enormous bureaucratic problem of distinguishing between those who are adversely affected by the energy crisis and those who are adversely affected for other reasons, the Federal assistance provisions will not only become an enormous burden on the taxpayer, they will create precedents that will seek to have the Federal Government shield every one of its citizens against every conceivable hazard. This is something not even the United States can afford.

In short, the emergency energy bill grants excessive authority while failing to adopt measures best designed to bring the emergency to an early end.

Mr. BELLMON. Mr. President, while I recognize the emergency nature of the energy crisis currently facing the Nation, I cannot in good conscience support S. 2589 in its present form. The reason is simple. This bill attempts to deal superficially with the symptoms of a major problem which the Nation must someday face and solve. It does nothing to provide a solution to the basic problem. I refer to the unrealistic economic conditions facing the energy industry.

The energy crisis is no sudden development. This Nation has had a multitude of warnings from responsible and knowledgeable persons over the last decade that this condition was rapidly approaching. While demand for energy has been rising annually by some 600,000 barrels of crude oil per day the drilling of new wells has actually been declining each year until recently. The recent upturn is due to realistic, intrastate prices for gas and to the uncontrolled prices of new oil.

In the face of this decline, Congress added to the tax load of the petroleum industry. Also the administration has enforced harsh and unrealistic price controls. The result has been a low level of domestic oil activity causing a decline in petroleum reserves and a rapidly growing dependence upon imports from insecure sources.

Many Members of the Senate have warned repeatedly that this day would come. Numerous bills have been introduced by concerned Senators to help assure development of this Nation's abundant fossil fuel resources. I have introduced eight bills to help avoid this crisis. They are as follows:

In the 91st Congress: February 20, 1970, S. 3486—To establish a Commission on Oil Imports to impose quotas on petroleum and petroleum products.

In the 92d Congress:

February 25, 1971, Senate Joint Resolution 58—To establish a Joint Committee on Energy.

November 17, 1971, Senate Resolution 196—Commending the Federal Power Commission for permitting price increases.

March 20, 1972, S. 3376—To deregulate natural gas.

April 20, 1972, S. 3516—To establish a Joint Committee on Energy.

In the 93d Congress:

March 12, 1973, S. 1162—The National Energy Resources Development Act.

July 11, 1973, S. 2143—To exempt small natural gas producers from FPC price control.

September 11, 1973, S. 2400—To freeze 1974 vehicle emission standards until a complete review is conducted of standards and their impact upon U.S. economy and energy supplies.

Of these proposals, the National Energy Resources Development Act is the most comprehensive, containing the following provisions:

First, expands Joint Committee on Atomic Energy into Joint Committee on Energy;

Second, establishes the Office of Under Secretary of the Interior for Energy and Mineral Resources;

Third, establishes production payment and work performance guildelines for mineral leases;

Fourth, expands present lease offerings fivefold;

Fifth, establishes a Commission on Energy Utilization and Logistics;

Sixth, terminate FPC authority to regulate wellhead gas prices—new, immediately; old, over 3 years;

Seventh, provides for 1-percent increase in depletion allowance for each 5 percent of increased domestic production up to 10-percent increase in depletion;

Eighth, terminates foreign depletion allowance over a 3-year period;

Ninth, exempts energy companies from antitrust laws for purposes of conducting research; and

Tenth, authorizes the Secretary of Defense to purchase hydrocarbon products produced from coal or oil shale.

Unfortunately, none of these bills nor others with similar intent have ever seen the light of day. Rather they have languished in committee.

In the Interior appropriations bill, I was successful in obtaining an increase in research funds for secondary and tertiary recovery of oil and gas, but the Senate-House conferees reduced this amount which I am hopeful to restore in the supplemental appropriations legislation we are now considering.

Mr. President, there is no excuse for years of congressional and administration inaction. Nor is there any excuse now to bring before the Senate S. 2589 without including provisions aimed at permanently solving our energy problem. This bill will simply help preserve the status quo of energy starvation for the Nation. Its passageway only furthers the lethargy with which Congress has treated the Nation's energy malady. The time has come to face our energy problem squarely and begin working our way back to self-sufficiency.

Passage of this bill will delay action on legislation desperately needed to bring a lasting solution to the Nation's energy problem. It will postpone the deregulation of natural gas and crude oil prices, the gasification and liquefaction of coal, the development of oil and gas production on the Outer Continental Shelf, the production of known oil reserves through secondary and tertiary techniques and other essential basic steps to domestic energy self-sufficiency.

In an effort to strengthen S. 2589 so that the bill will not only deal with immediate energy emergencies at hand, but also to assure that this country will achieve a national self-sufficiency in energy, I have proposed a series of amendments.

One amendment would strengthen the language of section 207 by adding that the President is directed to increase energy supplies, not just for the duration of the emergency but also for the express purpose of achieving national self-sufficiency in energy.

I further propose to amend section 207 by placing in the hands of the States the responsibility to determine which oilfields can in fact be produced at maximum efficiency rate, rather than as the bill now stipulates that it be carried out by the Secretary of the Interior.

Also, the requirement that certain oilfields be produced above the maximum efficient rate of production. I feel, is very unwise and would jeopardize the long-range recovery potential of these fields and, therefore, I move to strike that section from the bill.

Additional amendments call for the establishment of production payments and work performance guidelines for mineral leases. This would encourage greater exploration activities by deferring lease payments until production is achieved, but nevertheless requiring a certain work performance so that leased land cannot be left idle.

Another amendment provides exemption of energy companies from antitrust laws for purposes of conducting research. Another provides for a 1-percent increase in the depletion allowance for each 5 percent of increased domestic production up to 10-percent increase in depletion, and termination of the foreign depletion allowance over a 3-year period. Finally, an amendment I have offered deals with the President's exercise of authority with respect to his control of domestic crude oil. It would prohibit the establishment of a price level which is below the price level of comparable imported crude oil. It further directs that the President shall permit the passthrough of increases in crude oil costs incurred to the retail level.

Mr. President, I feel that the adoption of these measures would greatly strengthen S. 2589 and would help to achieve the desired goal of dealing with an immediate emergency and at the same time provide for the kinds of mechanisms that will help this Nation achieve the goal the President has set, of achieving national self-sufficiency in energy.

The provisions of S. 2589 combined with measures to correct the unjust and impractical economic conditions which have brought on the present crisis would have merit. As presently written, containing as it does only emergency measures, passage of S. 2589 will only relieve the present pressures and postpone the solution of the basic causes of the Nation's energy problem. When the next crisis comes it will likely find the Nation even less prepared.

Once the present emergency is past, as it may be when Middle East oil again begins to flow, Congress and the country may again lapse back into its old energy lethargy. I urge the Senate to act in concert to solve both the Nation's present and long-range energy problems by defeating this measure and acting upon proposed legislation to deregulate natural gas and crude oil prices, assure production of oil and gas from coal and take other basic steps toward a lasting solution.

Mr. HATFIELD. Mr. President, I will not repeat my comments of last Thursday of why I oppose this bill. I only will note that we are abdicating our responsibilities to try and seek legislative solutions to our energy problems. When we in Congress get into a crunch, as we are, all the rhetoric about "congressional responsibility" seems to go out the window in our eagerness to pass the ball to the President. Congress need not become an administrative agency, but it should set policies. As a member of this committee, I know just how sweeping the powers are that we grant under the bill to one man—the President—or his agents.

We, the Congress, should wrestle with these tough policy decisions. We should hold hearings to gather public input—another fault in this grant of power to bureaucrats who can alter drastically the way we work and live without public input.

I believe many of those supporting this bill will have occasion to review their position, and to wish we had kept this authority to make decisions here in Congress.

Mr. President, I ask unanimous consent that my earlier floor remarks of last Thursday, which begin with my minority report on the bill and then go on to supplementary material, might appear at this point in the Record.

There being no objection, the remarks and material were ordered to be printed in the Record, as follows:

THE NATIONAL ENERGY EMERGENCY ACT—UNWISE LEGISLATION

When Congress first passed the Economic Stabilization Act, we told the President, in effect, "You solve the economic problems of the country." That legislation gave us Phases I through IV, with Pay Boards, Price Commissions, and Cost of Living Councils, prescribing controls, freezes and complex formulas, resulting in severe economic dislocations that have worked hardships on nearly every segment of American society—all without addressing the fundamental causes of our economic ills.

It is a simple truth that wage and price controls, in all their phases, have not worked. In approving that grant of power, Congress challenged the President to take such steps. This push from Congress, coupled with a favorable attitude fo the public, combined to produce an executive policy that has failed miserably.

But Congress has begun to grasp the magnitude of its abdication to the Executive branch. We struggle to reassert ourselves in the budgetary process, in confirmation powers and as initiators of—not just reactors to—policy and programs. Why then, in one sweeping gesture, by giving the President the authority to impose vast new controls, is Congress again willing to give away its responsibility and power over more of Federal government policy which affects so much of

American life? An examination of this bill shows we are ready to abdicate great responsibility for the manner in which the country will deal with another critical problem, our immediate energy situation.

As I said to my fellow Interior Committee members, if you liked the Economic Stabilization Act, you will love this emergency energy bill. I cannot think of a single sector of our economic life that will not be under the direct control of the President or his agents. Drastic alterations of people's personal and business lives can be implemented at the stroke of a pen.

No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems.

I will not enumerate here the positive steps the Congress and the Interior Committee have taken, in spite of a reluctant Administration, on energy issues. As the Ranking Republican on the Appropriations Subcommittee on the Public Works and AEC budgets, I have cited impoundment after impoundment of energy-related funds.

The Administration should suggest specific programs, rather than seek a blank check. Congress should consider specific measures, not grant carte blanche authority.

In seeking solutions to our energy problems, Congress should continue to exercise its constitutional role in the Federal system. We can expect that after this bill is signed into law and soon after the first exercise of the enormous powers granted under this legislation, our legislative hoppers will be filled with bills to correct the new problems that the Executive's energy regulations are sure to bring. They will be sponsored by Members who will cite "Congressional responsibility."

The preference of Congress to centralize power further in the Executive is a factor that has brought this country to its present political crisis. This is the very psychology Congress should reject. The distribution of powers between Congress and the Executive is well summarized in this quotation from Justice Brandeis:

"Separation of powers was adopted by the convention in 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but by means of inevitable friction incident to the distribution of governmental powers among three departments, to save the country from autocracy."

Approval of this legislation transforms the phrase "Energy Czar" from a simple cliche to a chilling reality. Heating our homes through this winter need not be done at the cost of further entrenching Executive autocracy.

Supplemental floor remarks, not in minority views:

In granting such sweeping powers in S. 2589 to the President, Congress ignores an energy record of which it can be proud. One myth that should be set aside is that Congress is unable to deal with such issues as the energy shortage. We have had before us recently two examples that show just the opposite. I refer to the Alaska pipeline bill, technically the Federal Right-of-Way-Act, and the mandatory fuel allocation bill, S. 1570. The pipeline bill is on its way to the White House, and the mandatory allocation bill was passed yesterday by the Senate and it, too, is on its way to the White House. As a Senate conferee on both these bills, I believe they offer evidence that Congress is acting in a responsible manner to solve the energy crisis. The bills provide answers to both long-term and short-range problems. The pipeline bill deals with long-range problems of meeting energy needs, while the emergency fuel allocation bill addresses the current crisis. These represent legislated solutions that are constructive and forward-looking. Members of this body may disagree with certain provisions of one bill or the other, yet I think we should recognize that actions such as this provide evidence that we can buckle down and provide some solutions to energy problems. We should not be on the defensive about what some claim to be "inaction" or "unresponsiveness" of Congress. That just is not the case.

Other Senate Committees have worked on energy legislation, but I would repeat here what significant measures our Interior Committee has taken, in addition to the two mentioned above. During 1973, the Senate Interior Committee has reported four other major bills affecting energy. They are: S. 268, the land use bill; S. 245, the surfacing bill; S. 2176, the energy conservation bill, and S. 2589, the bill before us now. In addition, the energy research and development bill is at the mark-up stage. Hearings have been held and progress made on the deepwater ports bill, the strategic reesrves bill, and the new geothermal bill.

As I mentioned earlier in these remarks, I know of energy-related funds approved by Congress and currently under the thumb of OMB and unspent to meet energy needs. An examination of this list offers further evidence that Congress has been moving ahead in providing funding for projects already authorized, only to see the funds impounded. On our Appropriations Subcommittee where I serve as Ranking Republican—on Public Works and the AEC—our acting chairman, Mr. Bible, provided leadership in helping shape a bill that beefed up energy aspects of it, while cutting other segments of the Administration budget request. The appropriations bill signed into law was below the Administration's own budget request. This removes the charge from OMB that our subcommittee was in some way "budget busting."

When the list is examined, it shows OMB is sitting on some $20 million in energy-related funds. One portion already has been put in "budgetary reserve"—OMB jargon for impoundment. Other funds have been scheduled for "tentative 4th quarter apportionment." Money in this class has a habit of dropping through the cracks into the next fiscal year, and represents funds that could be spent now.

This list shows we have been acting on energy issues. The impounded funds include:

	Millions
Geothermal research	$4.7
Solar research	.6
Gas stimulation (Plowshare)	.8
Molten salt reactor	2.0
Fusion research	4.5
Los Alamos resources study center	.35
Pre-financing of above 3 AEC projects	4.3

The list of tentative spending raises special hackles for me for it includes $3 million in funds desperately needed to begin construction of a second powerhouse at Bonneville Dam, on the Columbia River. A group of thirteen other Western Senators joined me in a strong letter to Roy Ash, of OMB, urging immediate release of these funds, but they have not been spent. Funding of $900,000 for added power units at Little Goose and Lower Granite Dams on the lower Snake River also have not been released. I also know from service on the Interior Appropriations Subcommittee that OMB is holding up $1.5 million for a pilot plant for hydrogenation—turning wood waste into low-sulphur oil. Even if we recovered only 10% of the waste left in the woods in logging or at the mills, studies show we could produce enough oil to equal the amount of heating oil sold in my State of Oregon.

At a time of eroding trust in all government, I also question the wisdom of providing such carte blanche powers as are in this bill to one person, and providing for no citizen input in formulation of these far-reaching policies. The President, or his agents, will determine *if* certain steps are to be taken, *how* the steps should be taken, what priorities should be given—and the results could affect drastically the way we work and live. Under this legislation, these decisions are likely to be made behind closed doors, without public participation. Congressional review of specific energy proposals, however, allows such citizen input. The public would know it was their elected officials, and not some bureaucrats, that were shaping the legislation. I would add I am not suggesting that Congress should turn into an administrative agency handling the daily problems. In setting basic policies, we should give direction to those policies and shape the programs. These then could be administered by the various agencies and departments.

This lack of citizen input and the resulting isolation from the decision-making process touches upon another aspect of the problems between the Congress and the Executive. I need not belabor the obvious: the Administration is operating under a cloud resulting from Watergate-related incidents. I respectfully raise the question of whether it is wise to add this additional burden on the Executive branch at this time. When public acceptance of what may be severe alterations in their life styles is so critical, I do not believe this burden should be borne by the Executive branch, which is suffering so deeply from a crisis of public confidence and trust.

In conclusion, I believe the thrust of this bill to be in error. We are abdicating our responsibility. Congress should consider legislation in these various areas; we should review past and new Administration energy proposals; we should listen to citizen views. We—the Congress—should shoulder the responsibility for formulating short-term solutions to the energy crisis and continue our leadership role in devising long-range answers. I will repeat that a result of passage of this bill provides further entrenchment of executive autocracy.

Mr. HATFIELD. Mr. President, I would like to point out again one aspect of the committee report accompanying this bill, and highlight its importance. During our markup, I raised the possibility that emergency powers granted to the Civil Aeronautics Board under the bill might be used by the airlines to try and abandon service to the smaller cities across the country.

I need not point out to my colleagues what I am sure is true in most of our States. The airlines want to abandon those unprofitable or less profitable routes and strictly fly the "gravy routes"—where they can be assured a peak load-factor. I also have heard that, in my State, some of their actions remind me of what the railroads did to almost try to lose passengers. I have heard of schedule problems, publicity lags, and a general lack of interest in serving the smaller towns of my State. Conversations I hear in the cloakrooms indicates many other States have this same problem.

I call attention, therefore, to the language we included in the report, and ask unanimous consent that the key sentence appear at this point in the Record:

> The Committee intended by this provision to allow reasonable measures to be taken for emergency fuel conservation, but to preclude carriers from using the opportunity so presented to drop nonprofitable or less profitable routes, points served, or serv-

ice areas, in a manner inconsistent with the public interest.

I also hope, Mr. President, that the CAB will monitor the airlines profit picture closely. If windfall profits develop because of the cutback in the number of flights, fare reductions would appear to be in order. As I said at the markup, I would hope that if it does appear the airlines are making huge profits from the greatly increased load factors, I hope the CAB will initiate proceedings to lower the fares. I do recognize, however, the airlines may well be paying more for fuel, and this may offset any increased revenues.

RECREATIONAL USE OF ENERGY

Mr. President, section 203(b)(2) says the President must come up with measures to reduce energy consumption that shall include restrictions on such "nonessential" uses as recreational activities. I would like to point out that recreation has generally been considered a basic public service, and as such it is covered elsewhere in section 203. Commercial recreational facilities need not be singled out, either, because they would also fall elsewhere in section 203 as "commercial establishments."

Besides this, however, I would like to ask my colleagues just what is a "recreational activity?" I submit it is a park playground for inner-city youth; it is a community and family recreation center; it is a publicly or privately sponsored program for the elderly or the handicapped; it is a youth or teen center; it is a library. It is often the only program or facility capable of providing meaningful activity for many citizens with more discretionary time on their hands than ever before. It can be the only program or facility which provides meaningful outlets for young people. For the elderly, it can be the difference between involvement and companionship and isolation and loneliness.

And where will these people go? They can go to the bars and taverns which may not be affected. They can hang around the drive-ins and hamburger stands which may not be affected. They can go to the late-hour stores. They can go to countless less essential establishments than recreational facilities.

We are talking about reducing work hours, redistributing schools hours, and rationing gasoline. People are not only going to have more discretionary time but will also be confined to services and activities close to home. Local recreational outlets and facilities will be expected to meet the increased demand. And yet section 203 singles them out as "nonessential."

All elements of both the public and private sector will be called upon to make sacrifices. This should probably include recreation; but recreation should not be singled out as a "nonessential use."

Mr. JACKSON. Mr. President, first, I should like to thank the Senator for raising this issue, one that should be clarified. I do not interpret section 203 to single out all recreation as nonessential. In my view the intent is to direct that such recreational activities as may be deemed nonessential by State and local governments be curtailed. This curtailment is one part of their program to meet the goals for reduction in energy consumption set forth in the bill.

The distinguished Senator from Oregon has set forth eloquently the need for public recreation. I concur in the observations he has made. I would suggest that, as provided for in the bill, the final determination on what curtailments of energy be made in the area of recreation is one which can best be made by the individual community.

THE MUSKIE AMENDMENT

Mr. CRANSTON. Mr. President, I would like to ask the distinguished Senator from Maine (Mr. MUSKIE) if he would agree that his amendment from the Public Works Committee, adopted last Thursday, was intended to insure that any conversion to coal or other fuels authorized or permitted by this act shall be permitted only to the extent necessary to reduce or eliminate the emergency declared by this act.

Mr. MUSKIE. Yes.

Mr. JACKSON. I concur in that understanding.

ADVERTISING

Mr. HARRY F. BYRD, JR. Mr. President, subsection 203(b)(2) of the pending legislation—on page 17, lines 13 and 14—states that one of the measures which the President must include in the rationing and conservation program is:

> A ban on all advertising encouraging increased energy consumption. . . .

I believe this language is subject to a variety of interpretations.

In some quarters—specifically the Virginia Travel Council—the fear has been expressed that it could result in a ban of travel advertising.

I wonder if the chairman would give the Senate the benefit of his interpretation of the intent of this language.

Mr. JACKSON. I agree with the Senator that it is important to be specific. At the same time, it is important to remember that we are indeed faced with a serious emergency and are attempting in S. 2589 to provide the President with the authority needed to issue more precisely drawn programs, accompanied by carefully and narrowly drawn regulations and guidelines, aimed at curtailing wasteful and nonessential uses of fuel and energy. The committee intends that the burdens of curtailing energy use be equitably distributed among all sectors of the economy and the population. This means that plans called for in S. 2589 must embody as many possible remedies for our energy and fuel shortage as possible.

A factor in the development of this emergency has been advertisments promoting wasteful and nonessential energy consumption. The committee has heard testimony that some utilities and other energy producers have in the past engaged in widespread advertising designed for no other purpose but to increase consumption of energy and fuel. This is the type of advertising the committee thinks should cease.

Travel advertisement is not directed toward an effort to create in the consumer a desire to waste energy. It is a legitimate sales effort by merchants to sell their services. Again, I feel that it falls into the right of a merchant to communicate in a responsible way with his customers and potential customers. I see nothing in such advertisement to incite wasteful consumption of energy.

THE IMPORTANCE OF SUBSECTION 202(C)

Mr. CHURCH. Mr. President, I call to the attention of the Senate an important subsection of S. 2589, the energy emergency bill. Subsection 202(c) terminates the declared nationwide energy emergency and the authority granted by the act 1 year after its date of enactment. The subsection also requires an interim report by the President to Congress 6 months after implementation of the act. The provision reads as follows:

> The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate.

My intention, as sponsor of this provision, and the intention of the committee in adopting it, was to avoid an open-ended delegation of the authority contained in the bill, and of the actions taken pursuant thereto.

If enacted into law, this subsection will alter an old congressional habit of giving extraordinary power to Presidents to meet particular crises, either foreign or domestic, without reserving the means to retrieve the power. Especially since 1933, it has been Congress habit to delegate extensive emergency authority and not to set a terminating date. Consequently, the United States now has on the books at least 470 significant emergency powers statutes without time limitations. These statutes delegate to the President extensive discretionary powers, ordinarily exercised by the Congress, which affect the lives of American citizens in a host of all-encompassing ways. This vast range of powers, taken together, confer enough authority to rule this country without reference to normal constitutional processes. These laws make no provision for congressional oversight nor do they reserve to Congress a means for terminating the "temporary" emergencies which trigger them into use.

These emergency powers statutes are invoked by a Presidential declaration of a state of national emergency. The United States has been in such a state of declared national emergency since March 9, 1933. In fact, there are now in effect four Presidentially proclaimed states of national emergency. In addition to the national emergency declared by President Roosevelt, there is also the national emergency proclaimed by President Truman on December 16, 1950, during the Korean conflict, plus the states of national emergency declared by President Nixon on March 23, 1970, and August 15, 1971. When the energy emergency before us, declared by Congress, becomes law, it will be a fifth emergency, added on top of the four now in existence.

Along with my distinguished colleague from Maryland (Mr. Mathias), pursuant to Senate Resolution 9, I cochair the Special Senate Committee on the Termination of the National Emergency which has been studying and investigating the states of national emergency in which we now find ourselves and the plethora of emergency powers that Congress has passed over the years.

The Special Committee on the Termination of the National Emergency was created to examine the consequences of terminating the declared states of national emergency that now prevail; to recommend what steps the Congress should take to insure that the termination can be accomplished without adverse effect upon the necessary tasks of governing; and, also, to recommend ways in which the United States can meet future emergency situations with speed and effectiveness but without relinquishment of congressional oversight and control.

In accordance with this mandate, the special committee—in conjunction with the executive branch, expert constitutional authorities, as well as former high officials of this Government—is now engaged in a detailed study to determine the most reasonable ways to restore normalcy to the operations of our Government.

Our work to date has influenced the inclusion of subsection 202(c) in the energy emergency bill. If it becomes law, I hope it means that Congress has kicked at last its bad habit of delegating without retrieving. I hope the precedent will help turn the tide back toward the legislative branch where it belongs. For, unless Congress takes such steps to strengthen its capacity to make the laws through the representative political process as the Constitution intended, then the unmistakable flow toward one-man government will continue.

Mr. President, I ask unanimous consent that two essays prepared by the able staff of the Special Committee on the Termination of the National Emergency be inserted in the Record. These essays are part of a publication put out by the special committee earlier this autumn, entitled "Emergency Powers Statutes," a compilation of provisions of Federal laws delegating to the Executive extraordinary authority in time of national emergency.

There being no objection, the essays were ordered to be printed in the Record, as follows:

Essays on Emergency Powers

A—A BRIEF HISTORICAL SKETCH OF THE ORIGINS OF EMERGENCY POWERS NOW IN FORCE

A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency. The problem of how a constitutional democracy reacts to great crises, however, far antedates the Great Depression. As a philosophical issue, its origins reach back to the Greek city-states and the Roman Republic. And, in the United States, actions taken by the Government in times of great crises have—from, at least, the Civil War—in important ways shaped the present phenomenon of a permanent state of national emergency.

American political theory of emergency government was derived and enlarged from John Locke, the English political-philosopher whose thought influenced the authors of the Constitution. Locke argued that the threat of national crisis—unforeseen, sudden, and potentially catastrophic—required the creation of broad executive emergency powers to be exercised by the Chief Executive in situations where the legislative authority has not provided a means or procedure of remedy. Referring to emergency power in the 14th chapter of his *Second Treatise on Civil Government* as "prerogative," Locke suggested that it:

"... should be left to the discretion of him that has the executive power ... since in some governments the lawmaking power is not always in being and is usually too numerous, and so too slow for the dispatch requisite to executions, and because, also it is impossible to foresee and so by laws to provide for all accidents and necessities that may concern the public, or make such laws as will do no harm, if they are executed with an inflexible rigour on all occasions and upon all persons that may come in their way, therefore there is a latitude left to the executive power to do many things of choice which the laws do not prescribe."

To what extent the Founding Fathers adhered to this view of the executive role in emergencies is a much disputed issue. Whatever their conceptions of this role, its development in practice has been based largely on the manner in which individual Presidents have viewed their office and its functions. Presidents Theodore Roosevelt and William Howard Taft argued the proper role of the President and, perhaps, their debate best expounds diametrically opposed philosophies of the presidency. In his *Autobiography,* Roosevelt asserted his "stewardship theory":

"My view was that every Executive officer ... was a steward of the people bound actively and affirmatively to do all he could for the people and not to content himself with the negative merit of keeping his talents undamaged in a napkin ... My belief was that it was not only [the President's] right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of departments. I did not usurp power but I did greatly broaden the use of executive power. In other words, I acted for the common well being of all our people whenever and whatever measure was necessary, unless prevented by direct constitutional or legislative prohibition."

Roosevelt compared this principle of "stewardship" to what he called the Jackson-Lincoln theory, and contrasted it to the theory ascribed to William Howard Taft.

Roosevelt's ideas on the ambit of presidential authority and responsibility were vigorously disputed by Taft. In lectures on the presidency—delivered at Columbia University in 1915–1916—Taft responded that: "... the wide field of action that this would give to the Executive one can hardly limit. A President can exercise no power which cannot fairly and reasonably be traced to some specific grant of power." And he cautioned that: "... such specific grants must be either in the Federal Constitution, or in any Act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest."

In recent years, most scholars have interpreted the Roosevelt-Taft dispute in Roosevelt's favor. In the prevailing academic view, Roosevelt is described as "active," "expansionist," and "strong." The historical reality, in fact, does not afford such a sharp distinction either between the actions of these two Presidents, or between their analysis of the problem of emergency powers. Taft, in his concluding remarks to his Columbia lectures, said: "Executive power is limited, so far as it is possible to limit such a power consistent with that discretion and promptness of action that are essential to preserve the interests of the public in times of emergency or legislative neglect or inaction." Thus, even Taft was disposed to employ emergency power when the need arose, but, he did not wish to go beyond his own narrower, conservative conception of what was meant by constitutional and legal bounds. Thus, the dispute was over where those bounds lay, rather than the nature of the office itself.

Taft's successor, Woodrow Wilson, was no less zealous in observing what he thought the Constitution demanded. Faced with the exigencies of World War I, Wilson found it necessary to expand executive emergency powers enormously. In many respects, this expansion of powers in wartime was based on precedents set by Lincoln decades earlier. Unlike Lincoln, however, Wilson relied heavily on Congress for official delegations of authority no matter how broadly these might be.

Wilson's exercise of power in the First World War provided a model for future Presidents and their advisors. During the preparedness period of 1915–1916, the submarine crisis in the opening months of 1917, and the period of direct involvement of U.S. armed forces from April 1917 to November 1918, Wilson utilized powers as sweeping as Lincoln's. Because governmental agencies were more highly organized and their jurisdictions wider, presidential powers were considerably more effective than ever before. Yet, perhaps, because of Wilson's scrupulous attention to obtaining prior congressional concurrence, there was only one significant congressional challenge to Wilson's wartime measures.

That challenge came in February-March 1917, following the severance of diplomatic relations with Germany. A group of Senators successfully filibustered a bill authorizing the arming of American merchant ships. In response—records American historian Frank Freidel in his book *Roosevelt: the Apprenticeship*—Assistant Secretary of the Navy Franklin D. Roosevelt found an old statute under which the President could proceed without fresh authorization from Congress. Roosevelt, impatient for action, was irritated because Wilson waited a few days before implementing the statute.

Lincoln had drawn most heavily upon his power as Commander-in-Chief; Wilson exercised emergency power on the basis of old statutes and sweeping new legislation—thus drawing on congressional delegation as a source of authority. The most significant Wilsonian innovations were economic, including a wide array of defense and war agencies, modeled to some extent upon British wartime precedents. In August 1916 just prior to United States entry into the war, Congress at Wilson's behest established a Council of National Defense—primarily advisory. In 1917, a War Industries Board, also relatively weak, began operating. The ineffectiveness of the economic mobilization led Republicans in Congress—in the winter of 1917–1918—to demand a coalition War Cabinet similar to that in England. Wilson forestalled Congress by proposing legislation delegating him almost total economic power and, even before legislative approval, authorized the War Industries Board to exercise extensive powers. Subsequently Congress enacted Wilson's measure, the Overman Act, in April 1918. Other legislation extended the economic authority of the Government in numerous directions.

Following the Allied victory, Wilson relinquished his wartime authority and asked Congress to repeal the emergency statutes, enacted to fight more effectively the war. Only a food-control measure and the 1917 Trading With the Enemy Act were retained. This procedure of terminating emergency powers when the particular emergency itself has, in fact, ended has not been consistently followed by his successors.

The next major development in the use of executive emergency powers came under Franklin D. Roosevelt. The Great Depression had already overtaken the country by the time of Roosevelt's inauguration and confronted him with a totally different crisis. This emergency, unlike those of the past, presented a nonmilitary threat. The Roosevelt administration, however, conceived the economic crisis to be a calamity equally as great as a war and employed the metaphor of war to emphasize the depression's severity. In his inaugural address, Roosevelt said: "I shall ask the Congress for the one remaining instrument to meet the crisis—broad executive power to wage a war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe."

Many of the members of the Roosevelt administration, including F.D.R. himself, were veterans of the economic mobilization of World War I and drew upon their experiences to combat the new situation. The first New Deal agencies, indeed, bore strong resemblance to wartime agencies and many had the term "emergency" in their titles—such as the Federal Emergency Relief Administration and the National Emergency Council.

In his first important official act, Roosevelt proclaimed a National Bank Holiday on the basis of the 1917 Trading With the Enemy Act—itself a wartime delegation of power. New Deal historian William E. Leuchtenburg writes:

"When he sent his banking bill to Congress, the House received it with much the same ardor as it had greeted Woodrow Wilson's war legislation. Speaker Rainey said the situation reminded him of the late war when "on both sides of this Chamber the great war measures suggested by the administration were supported with practical unanimity. . . . Today we are engaged in another war, more serious even in its character and presenting greater dangers to the Republic." After only 38 minutes debate, the House passed the administration's banking bill, sight unseen."

The Trading With the Enemy Act had, however, been specifically designed by its originators to meet only *wartime* exigencies. By employing it to meet the demands of the depression, Roosevelt greatly extended the concept of "emergencies" to which expansion of executive powers might be applied. And in so doing, he established a pattern that was followed frequently: In time of crisis the President should utilize any statutory authority readily at hand, regardless of its original purposes, with the firm expectation of *ex post facto* congressional concurrence.

Beginning with F.D.R., then, extensive use of delegated powers exercised under an aura of crisis has become a dominant aspect of the presidency. Concomitant with this development has been a demeaning of the significance of "emergency." It became a term used to evoke public and congressional approbation, often bearing little actual relation to events. Roosevelt brain-truster, Rexford G. Tugwell, has described the manner in which Roosevelt used declarations of different degrees of emergency:

"The 'limited emergency' was a creature of Roosevelt's imagination, used to make it seem that he was doing less than he was. He did not want to create any more furor than was necessary. The qualifying adjective had no limiting force. It was purely for public effect. But the finding that an emergency existed opened a whole armory of powers to the Commander-in-Chief, far more than Wilson had had."

Roosevelt and his successor, Harry S. Truman, invoked formal states of emergency to justify extensive delegations of authority during actual times of war. The Korean war, however, by the fact of its never having been officially declared a "war" as such by Congress, further diluted the concept of what constituted circumstances sufficiently critical to warrant the delegation of extraordinary authority to the President.

At the end of the Korean war, moreover, the official state of emergency was not terminated. It is not yet terminated. This may be primarily attributed to the continuance of the Cold War atmosphere which, until recent years, made the imminent threat of hostilities an accepted fact of everyday life, with "emergency" the normal state of affairs. In this, what is for all practical purposes, permanent state of emergency, Presidents have exercised numerous powers—most notably under the Trading With the Enemy Act—legitimated by that ongoing state of national emergency. Hundreds of others have lain fallow, there to be exercised at any time, requiring only an order from the President.

Besides the 1933 and Korean war emergencies, two other states of declared national emergency remain in existence. On March 23, 1970, confronted by a strike of Postal Service employees, President Nixon declared a national emergency. The following year, on August 15, 1971, Nixon proclaimed another emergency, under which he imposed stringent import controls in order to meet an international monetary crisis. Because of its general language, however, that proclamation could serve as sufficient authority to use a substantial proportion of all the emergency statutes now on the books.

Over the course of at least the last 40 years, then, Presidents have had available an enormous—seemingly expanding and never-ending—range of emergency powers. Indeed, at their fullest extent and during the height of a crisis, these "prerogative" powers appear to be virtually unlimited, confirming Locke's perceptions. Because Congress and the public are unaware of the extent of emergency powers, there has never been any notable congressional or public objection made to this state of affairs. Nor have the courts imposed significant limitations.

During the New Deal, the Supreme Court initially struck down much of Roosevelt's emergency economic legislation (*Schechter* v. *United States,* 295 U.S. 495). However, political pressures, a change in personnel, and presidential threats of court-packing, soon altered this course of decisions (*NLRB* v. *Jones & Laughlin Steel Corp.,* 301 U.S. 1). Since 1937, the Court has been extremely reluctant to invalidate any congressional delegation of economic powers to the President. It appears that this will not change in the foreseeable future.

In a significant case directly confronting the issue of wartime emergency powers, *Youngstown Sheet & Tube Co.* v. *Sawyer* (343 U.S. 579), the Court refused to allow the President to rely upon *implied* constitutional powers during a crisis The action at issue involved presidential seizure of steel plants in a manner apparently directly at odds with congressional policy. Justice Black's plurality opinion specifically acknowledges that if Congress delegates powers to the President for use during an emergency, those powers are absolutely valid within constitutional restraints on Congress' *own* power to do so. Concurring opinions appear to agree on this point. It should be noted, therefore, that *all statutes* in this compilation are precisely these kinds of specific congressional delegations of power.

The 2,000-year-old problem of how a legislative body in a democratic republic may extend extraordinary powers for use by the executive during times of great crisis and dire emergency—but do so in ways assuring both that such necessary powers will be terminated immediately when the emergency has ended and that normal processes will be resumed—has not yet been resolved in this country. Too few are aware of the existence of emergency powers and their extent, and the problem has never been squarely faced.

B—SUMMARY VIEWS OF THE PRESENT STATUS OF EMERGENCY POWERS STATUTES

A review of the laws passed since the first state of national emergency was declared in 1933, reveals a consistent pattern of lawmaking. It is a pattern showing that the Congress, through its own actions, transferred awesome magnitudes of power to the executive ostensibly to meet the problems of governing effectively in times of great crisis. Since 1933, Congress has passed or recodified over 470 significant statutes delegating to the President powers that had been the prerogative and responsibility of the Congress since the beginning of the Republic. No charge can be sustained that the Executive branch has usurped powers belonging to the Legislative branch; on the contrary, the transfer of power has been in accord with due process of normal legislative procedures.

It is fortunate that at this time that, when the fears and tensions of the cold war are giving way to relative peace and détente is now national policy, Congress can assess the nature, quality, and effect of what has become known as emergency powers legislation. Emergency powers make up a relatively small but important body of statutes—some 470 significant provisions of law out of the total of tens of thousands that have been passed or recodified since 1933. But emergency powers laws are of such significance to civil liberties, to the operation of domestic and foreign commerce, and the general functioning of the U.S. Government, that, in microcosm, they reflect dominant trends in the political, economic, and judicial life in the United States.

A number of conclusions can be drawn from the Special Committee's study and analysis of emergency powers laws now in effect. Congress has in most important respects, except for the final action of floor debate and the formal passage of bills, permitted the Executive branch to draft and in large measure "make the laws." This has occurred despite the constitutional responsibility conferred on Congress by Article I Section 8 of the Constitution which states that it is Congress that "makes all Laws . . ."

Most of the statutes pertaining to emergency powers were passed in times of extreme crisis. Bills drafted in the Executive branch were sent to Congress by the President and, in the case of the most significant laws that are on the books, were approved with only the most perfunctory committee review and virtually no consideration of their effect on civil liberties or the delicate structure of the U.S. Government of divided powers. For example, the economic measures that were passed in 1933 pursuant to the proclamation of March 5, 1933, by President Roosevelt, asserting that a state of national emergency now existed, were enacted in the most turbulent circumstances. There was a total of only 8 hours of debate in both houses. There were no committee reports; indeed, only one copy of the bill was available on the floor.

This pattern of hasty and inadequate consideration was repeated during World War II when another group of laws with vitally significant and far reaching implications was passed. It was repeated during the Korean war and, again, in most recent memory, during the debate on the Tonkin Gulf Resolution passed on August 6, 1964.

On occasion, legislative history shows that during the limited debates that did take place, a few, but very few, objections were raised by Senators and Congressmen that expressed serious concerns about the lack of provision for congressional oversight. Their speeches raised great doubts about the wisdom of giving such open-ended authority to the President, with no practical procedural means to withdraw that authoritly once the time of emergency had passed.

For example, one of the very first provisions passed in 1933 was the Emergency Banking Act based upon Section 5(b) of the Trading With the Enemy Act of 1917. The provisions gave to President Roosevelt, with the full approval of the Congress, the authority to control major aspects of the economy, an authority which had formerly been reserved to the Congress. A portion of that provision, still in force, is quoted here to illustrate the kind of open-ended authority Congress has given to the President during the past 40 years:

"(b)(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

"(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

"(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

"(2) Any payment, conveyance, transfer, assignment or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rules, regulation, instruction, or direction issued hereunder shall be to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder."

To cite two further examples:

In the context of the war powers issue and the long debate of the past decade over national commitments, 10 U.S.C. 712 is of importance:

"10 U.S.C. 712. Foreign governments: detail to assist.

"(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Forces, and Marine Corps to assist in military matters—

"(1) any republic in North America, Central America, or South America;

"(2) the Republic of Cuba, Haiti, or Santo Domingo and

"(3) during a war or a declared national emergency, any other country that he considers it advisable to assist in the interest of national defense.

"(b) Subject to the prior approval of the Secretary of the military department concerned, a member detailed under this section may accept any office from the country to which he is detailed. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States. Arrangements may be made by the President, with countries to which such members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions."

The Defense Department, in answer to inquiries by the Special Committee concerning this provision, has stated that it has only been used with regard to Latin America, Liberia and Iran, and interprets its applicability as being limited to noncombatant advisers. However, the language of Section 712 is wide open to other interpretations. It could be construed as a way of extending considerable military assistance to any foreign country. Since Congress has delegated this power, arguments could be made against the need for further congressional concurrence in a time of national emergency.

The repeal of almost all of the Emergency Detention Act of 1950 was a constructive and necessary step, but the following provision remains:

"18 U.S.C. 1383. Restrictions in military areas and zones.

"Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than $5,000 or imprisoned not more than one year, or both."

18 U.S.C. 1383 does not appear on its face to be an emergency power. It was used as the basis for internment of Japanese-Americans in World War II. Although it seems to be cast as a permanent power, the legislative history of the section shows that the statute was intended as a World War II emergency power only, and was not to apply in "normal" peacetime circumstances. Two years ago, the Emergency Detention Act was repealed, yet 18 U.S.C. 1383 has almost the same effect.

Another pertinent question among many, that the Special Committee's work has revealed, concerns the statutory authority for domestic surveillance by the FBI. According to some experts, the authority for domestic surveillance appears to be based upon an Executive Order issued by President Roosevelt during an emergency period. If it is correct that no firm statutory authority exists, then it is reasonable to suggest that the appropriate committees enact proper statutory authority for the FBI with adequate provision for oversight by Congress.

What these examples suggest and what the magnitude of emergency powers affirm is that most of these laws do not provide for congressional oversight or termination. There are two reasons which can be adduced as to why this is so. First, few, if any, foresaw that the temporary states of emergency declared in 1933, 1939, 1941, 1950, 1970, and 1971 would become what are now regarded collectively as virtually permanent states of emergency (the 1939 and 1941 emergencies were terminated in 1952). Forty years can, in no way, be defined as a temporary emergency. Second, the various administrations who drafted these laws for a variety of reasons were understandably not concerned about providing for congressional review, oversight, or termination of these delegated powers which gave the President enormous powers and flexibility to use those powers.

The intense anxiety and sense of crisis was contained in the rhetoric of Truman's 1950 proclamation:

"Whereas recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

"Whereas world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

"Whereas, if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech, including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

"Whereas, the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

"Now, therefore, I, Harry S. Truman, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

"I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

"I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

"I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

"I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

"I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

"I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

"In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

"Done at the City of Washington this 16th day of December (10:20 a.m.) in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

"HARRY S. TRUMAN.

"[Seal]

"By the President:

"DEAN ACHESON,
"Secretary of State."

The heightened sense of crisis of the cold war so evident in Truman's proclamation has fortunately eased. The legislative shortcomings contained in this body of laws can be corrected on the basis of rational study and inquiry.

In the view of the Special Committee, an emergency does not now exist. Congress, therefore, should act in the near future to terminate officially the states of national emergency now in effect.

At the same time, the Special Committee is of the view that it is essential to provide the means for the Executive to act effectively in an emergency. It is reasonable to have a body of laws in readiness to delegate to the President extraordinary powers to use in times of real national emergency. The portion of the concurring opinion given by Justice Jackson in the *Youngstown Steel* case with regard to emergency powers provides sound and pertinent guidelines for the maintenance of such a body of emergency laws kept in readiness to be used in times of extreme crisis. Justice Jackson, supporting the majority opinion that the "President's power must stem either from an act of Congress or from the Constitution itself" wrote:

"The appeal, however, that we declare the existence of inherent powers *ex necessitate* to meet an emergency asks us to do what many think would be wise, although it is something the forefathers omitted. They knew what emergencies were, knew the pressures they engender for authoritative action, knew, too, how they afford a ready pretext for usurpation. We may also suspect that they suspected that emergency powers would tend to kindle emergencies. Aside from suspension of the privilege of the writ of habeas corpus in time of rebellion or invasion, when the public safety may require it, they made no express provision for exercise of extraordinary authority because of a crisis. I do not think we rightfully may so amend their work, and, if we could, I am not convinced it would be wise to do so, although many modern nations have forthrightly recognized that war and economic crises may upset the normal balance between liberty and authority Their experience with emergency powers may not be irrelevant to the argument here that we should say that the Executive, of his own volition, can invest himself with undefined emergency powers.

"Germany, after the First World War, framed the Weimar Constitution, designed to secure her liberties in the Western tradition. However, the President of the Republic, without concurrence of the Reichstag, was empowered temporarily to suspend any or all individual rights if public safety and order were seriously disturbed or endangered. This proved a temptation to every government, whatever its shade of opinion, and in 13 years suspension of rights was invoked on more than 250 occasions. Finally, Hitler persuaded President Von Hindenburg to suspend all such rights, and they were never restored.

"The French Republic provided for a very different kind of emergency government known as the "state of seige." It differed from the German emergency dictatorship particularly in that emergency powers could not be assumed at will by the Executive but could only be granted as a parliamentary measure. And it did not, as in Germany, result in a suspension or abrogation of law but was a legal institution governed by special legal rules and terminable by parliamentary authority.

"Great Britain also has fought both World Wars under a sort of temporary dictatorship created by legislation. As Parliament is not bound by written constitutional limitations, it established a crisis government simply by delegation to its Ministers of a larger measure than usual of its own unlimited power, which is exercised under its supervision by Ministers whom it may dismiss. This has been called the "high-water mark in the voluntary surrender of liberty," but, as Churchill put it, "Parliament stands custodian of these surrendered liberties, and its most sacred duty will be to restore them in their fullness when victory has crowned our exertions and our perseverance." Thus, parliamentary controls made emergency powers compatible with freedom.

"This contemporary foreign experience may be inconclusive as to the wisdom of lodging emergency powers somewere in a modern government. But it suggests that emergency powers are consistent with free government only when their control is lodged elsewhere than in the Executive who exercises them. That is the safeguard that would be nullified by our adoption of the "inherent powers" formula. Nothing in my experience convinces me that such risks are warranted by any real necessity, although such powers would, of course, be an executive convenience.

"In the practical working of our Government we already have evolved a technique within the framework of the Constitution by which normal executive powers may be considerably expanded to meet an emergency. Congress may and has granted extraordinary authorities which lie dormant in normal times but may be called into play by the Executive in war or upon proclamation of a national emergency. In 1939, upon congressional request, the Attorney General listed ninety-nine such separate statutory grants by Congress of emergency or wartime executive powers. They were invoked from time to time as need appeared. Under this procedure we retain Government by law—special, temporary law, perhaps, but law nonetheless. The public may know the extent and limitations of the powers that can be asserted, and persons affected may be informed from the statute of their rights and duties.

"In view of the ease, expedition and safety with which Congress can grant and has granted large emergency powers, certainly ample to embrace this crisis, I am quite unimpressed with the argument that we should affirm possession of them without statute. Such power either has no beginning or it has no end. If it exists, it need submit to no legal restraint. I am not alarmed that it would plunge us straightway into dictatorship, but it is at least a step in that wrong direction.

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"But I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. A crisis that challenges the President equally, or perhaps primarily, challenges Congress. If not good law, there was worldly wisdom in the maxim attributed to Napoleon that "The tools belong to the man who can use them." We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

"The essence of our free Government is "leave to live by no man's leave, underneath the law"—to be governed by those impersonal forces which we call law. Our Government is fashioned to fulfill this concept so far as humanly possible. The Executive, except for recommendation and veto, has no legislative power. The executive action we have here originates in the individual will of the President and represents an exercise of authority without law. No one, perhaps not even the President, knows the limits of the power he may seek to exert in this instance and the parties affected cannot learn the limit of their rights. We do not know today what powers over labor or property would be claimed to flow from Government possession if we should legalize it, what rights to compensation would be claimed or recognized, or on what contingency it would end. With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

"Such institutions may be destined to pass away. But it is the duty of the Court to be last, not first, to give them up."

With these guidelines and against the background of experience of the last 40 years, the task that remains for the Special Committee is to determine—in close cooperation with all the Standing Committees of the Senate and all Departments, Commissions, and Agencies of the Executive branch—which of the laws now in force might be of use in a future emergency. Most important, a legislative formula needs to be devised which will provide a regular and consistent procedure by which any emergency provisions are called into force. It will also be necessary to establish a means by which Congress can exercise effective emergency power as well as providing a regular and consistent procedure for the termination of such grants of authority.

SACRIFICE

Mr. MONTOYA. Mr. President, the philosophy behind S. 2589 is a philosophy of sacrifice, and the sooner all our people realize that, the better it will be.

This bill means that all of us, and I want to emphasize all, shall have to begin immediately using less electricity, driving fewer miles and wearing warmer clothes. It means that we are going to have to give up the luxury of going to a supermarket at any hour of the night or day in favor of going during the day. It means that we should drive more slowly when we drive and that we should consider measures, such as those proposed by the New Mexico State Board of Education, to lengthen Christmas vacations and extend the school year. This bill, in short, says to the American people that there are going to have to be changes made in everyone's way of life. We are not going to get by this crisis if everyone continues to use energy as he has in the past. That must be understood, and that is what this bill says.

With each passing day, the specter of the energy shortage grows larger and larger. At the end of the summer it was estimated that our fuel shortfall for the year would range between 100,000 and 250,000 barrels per day. On October 12, the estimate of our fuel shortfall was 1.2 million barrels per day. On October 30 it was 2 to 2.5 million barrels per day. Now there are estimates of shortages of 6 million barrels per day. It seems that the earlier estimates were too small because they failed to take into consideration the increase in demand which has taken place along with the decrease in supply. So the crisis is very real and no one need believe any longer that it is just a hoax perpetrated by the oil companies in an effort to raise prices.

The bill before us represents one side of a two-sided approach to the energy crisis. This bill is concerned with the demand side. It is an attempt to restrain demand. Several Senators have pointed out that this bill is not the whole solution. They say that more needs to be done to increase supply, and that is correct. But we do not need to fool ourselves. There is not going to be any quick increase in supply. The most recent "Weekly Energy Report" points out that the best that can be hoped for in terms of increased supply is an increase of 500,000 barrels a day from the oil fields in my part of the country—New Mexico, Oklahoma, Texas, Louisiana. One can add to that 160,000 barrels per day from the Elk Hill Naval Reserve, but that is only 660,000 barrels total. That is only 10 to 20 percent of our shortages, depending on whose estimates you believe as to the size of the shortage. So this bill, in requiring—and it does require—a careful husbanding of our fuel, is a good bill and a needed bill.

With regard to the other side of the problem, increasing the supply of energy, the Congress, and especially the Senate Interior Committee, has been doing an admirable job. The Interior Committee has under consideration S. 1283, a bill establishing a $20 billion program for research, development, and demonstration of fuels and energy technology. I hope we can pass this bill before the Thanksgiving recess, because we need that kind of a program.

The administration has proposed a special energy program, too, but it is inadequate. The administration is asking for $10 billion, it says. But of the $10 billion, $7.5 billion is old money. Only $2.5 billion is new money, and that $2.5 billion, spread out over the 5-year life of the administration program, is only $500 million a year. That is no crash program. That is no project independence; that is project blackout and project mislead.

Mr. President, I have come to believe that the administration does not have the vaguest idea of what it wants. OMB is still trying to decide how to spend $115 million which the President committed to energy research last summer. Months go by, lights dim, homes grow cold, and still OMB cannot allocate $115 million. How are they going to spend $10 billion? I worry about that, and I worry about how they will spend the $20 billion we are going to give them. I hope they can do it, but I am beginning to lose faith in this administration's commitment to energy research and in its ability to carry it out.

In saying that, I want to say it is OMB where I have my problem. Dixy Lee Ray has done an outstanding job at the AEC. She has worked hard and has beaten deadlines by months. So she is to be commended.

A final point I want to make concerns those provisions in this bill making this delegation of powers to the President a temporary delegation and requiring a report to the Congress after 6 months. I do not think we are giving away any of our power by this bill. It is obvious that the Congress cannot administer a rationing program. It cannot police a program of conservation. That is appropriately a function of the Executive. The Congress is asserting itself by directing that this program of rationing and conservation go into effect. So one may say that this is Congress program. In requiring a 6 months' report and the opportunity to kill or extend the legislation at the end of the year, we are going to keep control over this program. I think we should serve notice right now that we are going to monitor this program—our constituents will see to that—and we will require modifications where they are needed. We have learned something from the time the Gulf of Tonkin Resolution was passed to the time we overrode the veto of the War Powers Act. We learned that we should not give away our powers in vague fashion and that we should monitor the delegations of power which we do make.

Mr. President, that is all I have to say. I wanted to point out to the people that the crisis that is on us is severe, and that it will require sacrifice and no one should entertain the slightest doubt otherwise. I also wanted to say that on this problem, Congress has done its work well. We are going to be able to pass this bill today because the Interior Committee has been studying the issue for several years and was ready to meet the crisis when it came. It is too bad the same thing cannot be said of the administration.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. TUNNEY). The bill having been read the third time, the question is, Shall it pass?

On the question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FULBRIGHT (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Idaho (Mr. CHURCH). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Mississippi (Mr. STENNIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 78, nays 6, as follows:

[No. 509 Leg.]

YEAS—78

Abourezk
Aiken
Bayh
Beall
Bennett
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hathaway
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—6

Bartlett
Bellmon
Buckley
Goldwater
Hatfield
Helms

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, against.

NOT VOTING—15

Allen
Baker
Brock
Church
Cotton
Curtis
Fong
Huddleston
Kennedy
McClure
Mondale
Nelson
Percy
Sparkman
Stennis

So the bill (S. 2589) was passed, as follows:

S. 2589

An act to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Energy Emergency Act of 1973".

TITLE I—STATEMENT OF FINDINGS AND PURPOSES

SEC. 101. FINDINGS.—The Congress hereby determines that—

(a) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(b) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

(c) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(d) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(e) interruptions of energy supplies, both in the near term and in the future, will require emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for equitable distribution of available supplies to all Americans;

(f) the development of a comprehensive energy policy to serve all of the people of the United States necessitates the regulation of intrastate delivery and use of energy resources, other than natural gas, in order to insure the effective regulation of interstate and foreign commerce in energy;

(g) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act.

(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

SEC. 102. PURPOSES.—The purpose of this Act is to—

(a) declare by Act of Congress an energy emergency;

(b) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels, or dislocations in their national distribution system;

(c) provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State, and local governments;

(d) protect the public health, safety, and welfare and the national security, and to assure the continuation of vital public services and maximum employment in the face of critical energy shortages;

(e) minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation;

(f) insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live; and

(g) direct the President and State and local governments to develop contingency plans which shall have the practical capability for reducing energy consumption by no less than 10 per centum within ten days and by no less than 25 per centum within four weeks of any interruption of normal supply.

(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources.

TITLE II—EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

SEC. 201. DECLARATION OF EMERGENCY.—The Congress hereby declares that current and imminent fuel shortages have created a nationwide energy emergency.

SEC. 202. PRESIDENTIAL AUTHORIZATION.—(a) The President is hereby authorized and directed to implement emergency fuel shortage contingency programs as provided for in this title.

(b) For the duration of the energy emergency, the President is further authorized to enter into appropriate understandings, arrangements, or agreements with foreign states, or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act. Any such formal agreement shall be submitted to the Senate of the United States, and shall be operative, but shall not become final until the Senate has had fifteen days, no less than seven of which shall be legislative days, to disapprove of such agreement.

(c) It is the sense of the Congress that since the present energy crisis is very much an international problem which calls for an international as well as domestic response, therefor the United States should endeavor to conclude an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, or so many as may be agreed upon in such agreement, relative to the supplies of energy available to the industrialized nations of the free world and with special reference to joint or cooperative research and development for alternative sources of energy.

(d) The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate. If, at any time following receipt and consideration of the aforementioned interim report, the Congress agrees to a concurrent resolution terminating the action taken pursuant to the declared nationwide energy emergency, all authority granted by this Act shall expire thirty days after the passage of such concurrent resolution.

SEC. 203. EMERGENCY SHORTAGE CONTINGENCY PLANS.—(a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide emergency energy rationing and conservation program. Such program shall assure, insofar as is practicable, that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

(b) The rationing and conservation program provided for in subsection (a) shall include the following:

(1) an established priority system and plan, including a program to be implemented without delay, for rationing of scarce fuels quantitatively and qualitatively among distributors and consumers for the duration of the emergency. To the extent practicable such priority and rationing program shall include, but not be limited to, measures adequate to insure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impacts on public health; and

(2) measures capable of reducing energy consumption in the affected area by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation. Such measures shall include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for nonessential uses such as lighted advertising and recreational activities; a ban on all advertising encouraging increased energy consumption; limitations on energy consumption of commercial establishments and public service, such as schools; temperature restrictions in office and public buildings, including wholesale and retail business establishments; and reductions in speed limits:

Provided, That fuels not subject to regulation or allocation under this Act shall not be considered in determining the fuel needs or supplies or geographic areas or States of the United States.

(c) Not later than fifteen days after the date of enactment of this Act, the President shall take such action as may be necessary to determine the fuel needs among the major geographic regions of the United States and shall promulgate a plan which will assure an equitable distribution of available fuel supplies among such major geographic regions of the United States based upon their respective relative needs, including the respective relative needs of each of the several States within any such region. Such plan shall include such allocation of available transport facilities as may be necessary to assure the equitable distribution which is required under such plan. Plans prepared pursuant to this subsection shall be implemented within thirty days of their promulgation.

(d) Within two weeks of the date of enactment of this Act, the President shall also promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government, to implement the Federal program described in subsection (a) above. Such programs, which must be developed within eight weeks after the date of enactment of this Act and submitted for approval to the President, shall include at a minimum the provisions set forth in subsection (b) above. The President shall approve and direct the States to implement those State plans or portions thereof which he determines meet the requirements of this section for emergency energy conservation and contingency programs and which are necessary to deal with the energy shortage conditions facing the Nation. In developing the Federal program and requirements for State programs the President shall insure that the provisions for specific energy conservation and contingency measures are sufficiently flexible so that the denied reductions in energy consumption may be achieved with the minimum adverse impacts on local, State and regional economies and employment levels.

(e) In the event that a State or major metropolitan government fails to design and implement a contingency program as provided for in subsection (d), the Federal program implemented pursuant to subsection (a) above, shall remain in effect for such State or metropolitan government.

(f) The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act.

(g) In exercising the authority provided for in this Act, the Emergency Petroleum Allocation Act of 1973, the Economic Stabilization Act of 1970, as amended, and the Defense Production Act of 1950, as amended, the President shall strive to insure that all regions and all States of the Nation share available fuels in an equitable manner. The President shall give special consideration to those States and those regions of the country which are depressed economically, experiencing high unemployment, or which lack ready access to energy transportation facilities adequate to meet their essential requirements.

(h) Nothing contained in this Act shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission, except for the purpose of prohibiting the burning of gas for decorative purposes and except as provided in section 204(a) of this Act: *Provided, however,* That State regulatory bodies having jurisdiction over such natural gas shall cooperate with the President to achieve the conservation objectives of this Act.

SEC. 204. FEDERAL ACTION FOR FUEL CONSERVATION.—Notwithstanding any action taken on the part of State or local governments pursuant to the rationing and conservation programs required by section 203:

(a) the President may, in accordance with the rationing and conservation program required by section 203, require, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of this Act, that any major fossil fuel burning installations, including existing electric generating plants, which now burn petroleum or natural gas and which have the ready capability and necessary plant equipment to burn coal or other fuels, to convert to burning coal or other fuels as their primary energy source. Any installation so converted may be permitted to continue to use such fuel for more than one year, subject to the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). Insofar as practicable, conversions shall first be required for those plants where the use of coal or other fuels will have the least adverse environmental impact. Such conversions shall be carried out contingent upon the availability of coal, and the maintenance of reliability of service in a given service area. The President shall require that fossil fuel fired electrical powerplants now in the planning process be designed and constructed so as to have the capability of rapid conversion to burn coal. In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal.

(b)(1) the Interstate Commerce Commission, with respect to carriers subject to regulation under sections 1(1) and 304(a)(1) of title 49, United States Code (49 U.S.C. 1(1), 304(1)(a)), the Civil Aeronautics Board, and the Federal Maritime Commission, with respect to carriers operating in the domestic trades of the United States including its territories and possessions, for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such carriers with regard to frequency of service, points served, scheduling to prevent duplication of service and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

(2) within fifteen days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the energy emergency while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to conserve fuel while providing for the public convenience and necessity.

(3) the regulatory agencies subject to this subsection (b) may, where appropriate, consult with departments or agencies of the Federal Government having expertise or jurisdiction over the modes of transportation involved.

(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fares and additional expenses incurred because of increased service, for the duration of the energy emergency. For the purposes of this section, paragraph (3) of subsection (e) of section 142 of title 23, United States Code, is amended as follows: strike the period at the end of the paragraph and add the following: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

(d) the President shall solicit recommendations from the Secretary of the Department of Transportation as to changes in Federal and State policies relating to motorized transport on the interstate highway system which would result in significant savings of fuel.

(e) all Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President, within thirty days of enactment of this Act, specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(f) the President shall organize and cooperate with the advertising industry and advertisers in developing a national energy conservation advertising program and in promoting educational programs to foster public acceptance of energy conservation needs and opportunities.

SEC. 205. AIR QUALITY REQUIREMENTS.—Should a Presidential order to change fuels pursuant to subsection 204(a) result in a violation of an air quality implementation plan, a suspension may be granted in accordance with the provisions of the Clean Air Act, as amended.

SEC. 206. ENVIRONMENTAL IMPACT STATEMENTS.—No major action taken under this Act shall, for a period of one year after initiation of such action, be deemed a major Federal action significantly affecting the quality of human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, prior to taking any such major action that has a significant impact on the environment, if practicable, or in any event within sixty days of taking such action, an environmental evaluation, with analysis equivalent to that required under section 102 (2)(C) of the National Environmental Policy Act of 1969, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Enviornmental Policy Act of 1969 by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one-year period, or any action to extend an action taken under this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act of 1969 notwithstanding any other provision of this Act.

SEC. 207. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.—The President is authorized to initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(a) Require on a mandatory basis the production of designated existing domestic oilfields at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields.

(b) Require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands, under their respective jurisdiction shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery.

(c) Require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the priorities established in accordance with section 203.

(d) Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(d).

(e) Pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product to achieve the purposes of this Act.

Sec. 208. Adverse Impact on Employment.—In carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

Sec. 209. Amendment of Internal Revenue Code to Allow Deductions for Energy-Conserving Alterations of Taxpayers Residences.—(a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220, and by inserting after section 218 the following new section:

"Sec. 219. Energy-conserving improvements of taxpayer's residence.

"(a) In General.—A taxpayer may elect to treat energy-conserving residential improvement expenses paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction for that taxable year. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulation.

"(b) Limitation.—The deduction allowed a taxpayer under this section for any taxable year shall not exceed $1,000.

"(c) Definition.—For purposes of this section, the term 'energy-conserving residential improvement expense' means any ordinary or necessary expense paid or incurred during the taxable year for repairs or improvements, designed to reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence, and includes, without being limited to, the installation of insulation, storm windows, caulking, humidifiers, other efforts designed for energy conservation, and any device or system designed to utilize solar energy to provide heating or cooling which meets performance criteria established by the National Bureau of Standards."

(b) The table of sections for such part VII is amended by striking out

"Sec. 219. Cross reference."

and inserting in lieu thereof

"Sec. 219. Repair or improvement of taxpayer's residence.
"Sec. 220. Cross references."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following paragraph:

"(10) Energy-conserving improvements of taxpayer's residence.—The deduction allowed by section 219."

(d) The amendments made by this section shall apply with respect to taxable years ending after the date of the enactment of this Act, and shall expire upon the termination of this Act.

Sec. 210. Development of Additional Electric Power Resources.—Not later than ninety days after the date of enactment of this Act, the President shall promulgate a plan for the development of the hydroelectric power resources of the Nation. Such program shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Sec. 211. Comprehensive Review of Export Policies.—The Secretary of the Interior and the Secretary of Commerce are hereby directed to prepare a comprehensive review of export policies for petroleum and other energy sources to determine the consistency or lack thereof of the Nation's energy trade policy with domestic fuel conservation efforts. Such report shall be submitted to Congress within thirty days after the enactment of this Act.

TITLE III—ADMINISTRATION AND AUTHORIZATIONS

Sec. 301. Congressional Approval.—Within two weeks after the date of enactment of this Act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrrent resolution specifically disapprove of all or part of the program or proposal.

Sec. 302. (a) Local Administration.—The President may, in the implementation of any nationwide energy emergency rationing and conservation program, utilize a system of State and local offices as provided in this section.

(b) State Agencies.—The President is authorized to permit appropriate State agencies to operate the program within each State through local boards or other local agencies, including appeal agencies, as may be necessary to insure that the nationwide program is implemented within each State in a manner responsive to the immediate needs of the locality and, consistent with the nationwide energy emergency rationing and conservation program. The State agencies are authorized and may be directed to consult with the elected officials of each locality when appointing the officials of such local agencies.

(c) Additional Functions.—The legislature of any State may in the development of any program of energy rationing or conservation, authorize the State agency to perform additional functions under State law: *Provided*, That the President may, by regulation, require such additional functions to be approved prior to their being implemented by the State agency.

Sec. 303. Economic Incentives.—The Secretary of the Treasury and the Director of the Cost of Living Council are hereby authorized and directed to study and recommend to the Congress specific incentives to increase energy supply, reduce demand, and to encourage private industry and individual persons to subscribe to the goals of this Act and to comply with the requirements of programs developed and implemented pursuant to this Act. The study and recommendations required by this section shall include an analysis of the actions required to implement the principle that the producers and users of energy should pay the full long-run incremental cost of obtaining incremental supplies of energy and an analysis of the effects of such actions, if implemented, upon increasing energy supplies.

Sec. 304. State Laws.—No State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any program issued pursuant thereto except insofar as such State law or program is inconsistent with the provisions of this Act.

Sec. 305. Federal Facilities.—Whenever practicable, and for purposes of facilitating the transportation and storage of fuel during the effective period of this Act, agencies or departments of the Federal Government are authorized to enter into arrangements for use by domestic public entities and private industries of equipment or facilities which are in idle status or otherwise excess to the short-term needs of such agency: *Provided, however*, That such arrangements shall be made at fair-market prices and only after a finding by the agency of nonavailability of suitable equipment or facilities within private industry in the region of need.

Sec. 306. Injunctive Relief.—The United States district courts for the districts in which a violation of this Act or regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

Sec. 307. Sanctions.—Any person who—

(a) Willfully violates any order or regulations issued pursuant to this Act shall be fined not more than $5,000 for each violation.

(b) Violates any order or regulation issued pursuant to this Act shall be subject to a civil penalty of not more than $2,500 for each day he is in violation of this Act, for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having previously been subjected to a civil penalty for a prior violation of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

Sec. 308. Loans to Homeowners and Small Businesses.—(a) The Federal Housing Administration and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units.

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of this Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by title II.

(c) In order to carry out the policy stated in subsection (b)—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in title II which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in title II which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in title II and in administering such programs; and

(3) in administering the programs provided for in title II, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

(d) Any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

Sec. 309. Office of Emergency Fuel Allocation.—The President shall establish a special office to receive complaints and emergency requests from officers of State and local governmental units who cannot obtain adequate supplies of gasoline or fuel oil. The office shall be authorized to act upon requests from appropriate State and local officers in situations where communities are threatened with the disruption of public services such as health, education, police, fire, and sanitation. The office shall be empowered to order that priority be given to provide that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

SEC. 310. NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE.—(a) There is hereby created a National Energy Emergency Advisory Committee which shall advise the President with respect to all aspects of implementation of this Act. The chairman of the committee shall be the Director of the Office of Energy Policy. In addition to the chairman, the committee shall consist of twenty members appointed by the President, who shall represent the following interests: energy industry, including but not limited to independent producers, refiners, transporters, and wholesale and retail marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions;

(1) the executive departments as defined in section 101 of title 5, United States Code;

(2) Interstate Commerce Commission;

(3) Atomic Energy Commission;

(4) Federal Power Commission;

(5) Federal Trade Commission;

(6) Civil Aeronautics Board; and the

(7) Federal Maritime Commission.

SEC. 311. ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS.—(a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of section 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following—

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 315 of this Act shall hold public hearings on those rules, regulations, or orders which the agency determines in its discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order with such modifications as the necessary to insure confidentiality protected under the Freedom of Information Act. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recision of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program, and

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code.

SEC. 312. JUDICIAL REVIEW.—Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases of controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

SEC. 313. MATERIALS AND FUELS ALLOCATION.—To achieve the purposes of this Act, the President shall take such action as may be necessary to allocate supplies of materials, equipment, and fuels associated with exploration, production, refining, and required transportation of energy supplies to the extent necessary to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

The President shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

SEC. 314. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

(d)(1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 310 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

(g)(1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d)(1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g)(1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

(h) The President is authorized to delegate the authority provided for in section 314(c) and (d)(1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 314(c) and (d).

(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

(j) This section 314 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement this section.

(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

(m)(1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 314 to determine compliance with the purposes of section 101(h) and 102(h) of this Act.

(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission wil promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

(n) The exercise of the authority provided in section 204(b)(1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportuntiy for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

SEC. 315. GRANTS TO STATES.—The President is hereby authorized to make grants to any State or major metropolitan government, in accordance with, but not limited to, section 302 for the purpose of assisting such State or local government in developing, administering, and enforcing emergency fuel shortage contingency plans under this Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, Nov. 10, 1973).

SEC. 316. STUDY OF HEALTH EFFECTS OF SULFUR OXIDE EMISSION.—In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 204(a) the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $5,000,000 is authorized to be appropriated for such a study.

SEC. 317. EMERGENCY ENERGY ECONOMIC IMPACT STUDY.—(a) The Council of Economic Advisors, in cooperation with other agencies and departments, shall submit an Emergency Energy Economic Impact Report to the Congress. Such report shall include, but not be limited to the following assessments:

(1) Impact of energy shortage on employment loss and job dislocations; on agriculture planting and harvesting, including the impact on food and fiber prices; and on the various industries, factories, and flow of commerce and business.

(2) Impact of energy shortage on public services, including but not limited to hospitals, health care, public safety, and transportation.

(b) The above assessments shall include projections as to the impact on the economy during the first quarter of 1974 as well as the full calendar year.

(c) The report shall also include specific recommendations as to how the problems so identified can be minimized so as to reduce population hardship.

(d) A preliminary report is to be filed not later than thirty days after enactment of this Act and a final report not later than sixty days after enactment.

SEC. 318. AUTHORIZATIONS.—There are hereby authorized to be appropriated such funds as are necessary for the purposes of this Act.

SEC. 319. SEPARABILITY.—If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

TITLE IV—CLEAN AIR ACT AMENDMENTS

SEC. 401. Section 110 of the Clean Air Act, as amended (84 Stat. 1683), is amended by adding the following new subsection:

"(g)(1) During the period commencing November 15, 1973, and ending August 15, 1974, the Administrator is authorized to temporarily suspend any emission limitation related to control of pollutants resulting from fuel burning, or schedule or timetable for compliance with such emission limitation contained in any Federal, State, or local law, regulation, or requirement adopted under this Act as to any presently operating fuel burning stationary sources which is or would be in violation of such requirement due to actions ordered by the President under the National Energy Emergency Act of 1973, unless the Administrator determines that such suspension will present an imminent and substantial endangerment to the health of persons: *Provided*, That no such requirement may be suspended by the Administrator, unless the Administrator determines, (i) that such suspension is essential to enable redistribution of fuels to avoid or minimize violations of primary ambient air quality standards in another locality, or (ii) that the source does not or is not likely to have available, after implementation of all practicable measures in sections 203 and 204 of the National Energy Emergency Act of 1973, fuel which can be burned in compliance with such requirement. No suspension granted under this subsection shall extend beyond the period of unavailability of complying fuel and in no event beyond November 1, 1974.

"(2) To obtain a suspension pursuant to this subsection, the owner or operator of such a source shall submit to the Administrator an application for a suspension of the applicable requirement which demonstrates the need for the suspension, and which establishes that the applicant will maintain where practicable during the period of the suspension an emergency supply of fuel which complies with applicable requirements, in order to avoid presenting an imminent and substantial endangerment to the health of persons during periods of air stagnation. The Administrator on his own motion or at the request of the Governor of an affected State may initiate such a suspension for area sources.

"(3) In granting suspensions pursuant to this subsection the Administrator is authorized to reduce to ten days any Federal, State, or local time limits required for hearing procedures. In case of extreme emergency and with the concurrence of the Governor, such hearings may be waived. In all instances, he shall notify the Governor of the State, and the chief executive officer of the local government entity in which the affected source or sources are located and, to the extent practicable, the public.

"(4) Except as specified herein, any suspensions given under this subsection shall be exempted from any procedural requirements set forth in this Act or any other provision of local, State or Federal law, and the granting of such suspension shall not be subject to judicial review under section 307 nor to any proceeding under section 304 of this Act. Nothing in this subsection shall affect the power of the Administrator to deal with sources presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act."

Sec. 402. Subsection (a) of section 110 of the Clean Air Act, as amended (84 Stat. 1681), is amended by adding the following new paragraphs:

"(5)(A) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard within the deadlines established pursuant in this Act. In making such determination the Administrator shall consider any current or anticipated suspension under subsection (g) and any projected shortages of fuels or emission reduction systems. Upon making a determination the Administrator shall notify the State and require revisions of the applicable plan or portion thereof. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision is disapproved the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan not later than November 1, 1974.

"(B) The owner or operator of any fuel burning stationary source may request a revision of the implementation plan with respect to such source. The Administrator shall approve such revised plan, after public notice and opportunity for hearing, but within sixty days of such request, if he determines (i) that the owner or operator of such source is able to enter into a contractual obligation to obtain a continuous emission reduction system which the Administrator determines has been adequately demonstrated, or into a long term contract to acquire fuel of sufficiently low sulfur content to implement applicable air quality standards, and (ii) that modifications with respect to such source are consistent with the implementation plan for the attainment of ambient air quality standards and are in accordance with the provisions of subparagraph (D) of this paragraph: *Provided*, That the approval of the Administrator shall be contingent upon the owner or operator of such source entering into such a contractual obligation or long-term contract. Any such revision shall be incorporated into any plan revised pursuant to subparagraph (A) of this paragraph.

"(C) Notwithstanding subparagraph (a)(2)(11) of this section, a State may initiate a revision of its implementation plan consistent with the provisions of subparagraph (D) of this paragraph. The Administrator shall approve or disapprove such a revised plan within one hundred and twenty days after submission.

"(D) Such revised plans shall include legally enforceable compliance schedules for such fuel burning stationary source or sources, which schedules shall specify continuous emission reduction measures to be used to achieve compliance, interim steps of progress, and alternate interim control measures to minimize the emissions of pollutants pending final compliance with applicable emission limitations. Actions taken under this paragraph shall be taken in accordance with procedures prescribed in this Act and shall be subject to judicial review in accordance with the Act: *Provided, however,* That the final date for compliance for sources regulated under this section may not extend beyond July 1, 1977, except in the case of extensions granted pursuant to subsection (f) of this section.

"(E) The Administrator shall report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of this paragraph.

"(6) In order to minimize the need for suspensions under subsection (g) of this section and to provide for interim compliance under paragraph (5)(D) of this subsection, the Administrator is authorized and directed to redistribute within an area designated pursuant to section 203(b)(1) of the National Energy Emergency Act, after consultation with the Secretary of the Interior, allocated fuels on a sulfur content basis to insure, to the maximum extent practicable, that such fuels are utilized in a manner that will minimize adverse effects on health.

"(7) The Administrator may take such actions as are necessary to assure that emission reduction systems are first provided to users in air quality control regions with the most severe air pollution except that no such action shall affect existing contracts."

TITLE V—ASSISTANCE TO PERSONS ADVERSELY AFFECTED BY THIS ACT

Sec. 501. Assistance to Persons Unemployed as a Result of This Act.—(a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) Food Stamps.—(1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food, the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(c) Reemployment Assistance.—The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(d) Small Business Loans.—(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(e) Appropriation.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(f) Report to Congress.—The Secretary shall report to the Congress on the implementation of this section not later than six months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

TITLE VI—MISCELLANEOUS

Sec. 601. Consultations With Canada.—(a) The President is authorized and directed to convene consultations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through consultations covering trade in natural gas, petroleum, and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistant with the interests of both nations.

(b) The President shall report to the Congress, on an interim basis, on the progress of such consultations as may be undertaken pursuant to this section, within forty-five days of passage of this Act.

(c) The President shall issue a final report to the Congress on the results of such consultations as may be undertaken pursuant to this section, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

SEC. 602. NATIONAL ENERGY EMERGENCY DISASTER ASSISTANCE PLAN.—(a) Where, in the determination of the President, the national energy emergency is, or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of State, local governments, and relief organizations in alleviating the damage, loss, hardships, or suffering caused thereby, and with respect to which the Governor of any State in which such a severe emergency exists or threatens to exist certifies the need for Federal disaster assistance under the Disaster Relief Act of 1970, as amended, and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from such emergency, the President may designate one or more major disaster areas under the terms of the Disaster Relief Act of 1970, as amended.

(b) The President shall require the Federal Disaster Assistance Administration to promulgate, not later than fifteen days after the date of enactment of this Act, a nationwide contingency plan for insuring the availability of Federal disaster assistance to families, individuals and communities that qualify for such assistance as a result of the nationwide energy emergency. Such plan shall include, but not be limited to, specific procedures for:

(1) coordinating activities of all Federal, State and local disaster relief and civil defense officials for the purpose of establishing neighborhood centers to provide emergency heat, food and shelter for individuals and families who, as a result of the energy emergency, require such assistance;

(2) distribution of surplus food commodities by the Secretary of Agriculture pursuant to the Food Stamp Act of 1964 and the provisions of section 203 of the Disaster Relief Act of 1970, when the President determines that, as a result of unemployment caused by industrial or commercial energy shortages, households are unable to purchase adequate amounts of nutritious foods; and

(3) provision of the necessary emergency personnel, equipment, supplies, facilities and other resources in accordance with the authority granted under the Disaster Relief Act of 1970, necessary to help in alleviating the damage, loss, hardship or suffering caused by the national energy emergency.

SEC. 603. PROHIBITION OF FUNDS FOR PURCHASE, HIRE, OR OPERATION AND MAINTENANCE OF PASSENGER MOTOR VEHICLES.—(a) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of passenger motor vehicles (other than passenger motor vehicles of the types generally available in motor pools of Government agencies on the date of enactment of this Act) or for the salaries or expenses of chauffeurs or drivers to operate passenger motor vehicles, except in carpools.

(b) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of any passenger motor vehicle for the transportation of any Government officer or employee between his dwelling and his place of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in fieldwork in remote areas, the character of whose duties make such transportation necessary and only when such exceptions are approved by the head of the department concerned.

(c) Subsections (a) and (b) shall not apply with respect to the purchase, hire, operation, and maintenance of (1) passenger motor vehicles for use by the President; and one each by the Chief Justice, members of the President's Cabinet, and the elected leaders of the Congress; or (2) of passenger motor vehicles operated to provide regularly scheduled service on fixed routes.

SEC. 604. REPORTS OF THE PRESIDENT TO CONGRESS.—The President shall report to the Congress every sixty days, beginning December 1, 1973, on the administration of this Act and the Emergency Petroleum Allocation Act of 1973, and each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts, together with specific budget estimates for such programs.

SEC. 605. USE OF CARPOOLS.—(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this subsection to maximize the level of carpool participation in America.

(b) The Secretary of the United States Department of Transportation is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of carpool ridership.

(d) The Secretary of Transportation is directed to allocate the funds appropriated pursuant to this subsection according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial start-up and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed one year.

(e) Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all its activities and expenditures pursuant to this subsection. This shall include any recommendation as to future legislation concerning carpooling.

(f) The sum of $25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this subsection, such authorization to remain available for two years.

SEC. 606. PETROLEUM ALLOCATION FOR MINERAL PRODUCTION.—The President is authorized to allocate residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction and processing of, minerals, and for required transportation related thereto.

SEC. 607. PROTECTION OF FRANCHISED DEALERS.—(a) As used in this section—

(1) "Distributor" means an oil company engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) "Franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) "Petroleum product" means any liquid refined from oil and useable as a fuel.

(5) "Refiner" means an oil company engaged in the refining or importing of petroleum products.

(6) "Retailer" means an oil company engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist, including declaratory judgment and mandatory or prohibitive injurctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. The court may also grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

The title was amended so as to read:

"A bill to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes."

Mr. JACKSON. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of the bill, to make certain technical and clerical corrections.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I simply wish to take this opportunity to extend my gratitude and the gratitude of the entire Senate to the Senator from Washington (Mr. JACKSON). His able handling of this emergency energy proposal reflects well upon each and every Member of this body. With the passage of this proposal goes the clear message that the Senate of the United States has initiated action to meet the Nation's energy crisis while the executive branch and its so-called experts have failed to provide any measures to offset our current difficulties. I congratulate Senator JACKSON. I congratulate the Senate.

Mr. FANNIN. Mr. President, let me take this opportunity to compliment my many colleagues who worked so diligently on this bill, S. 2589. Particularly let me commend the chairman of the Interior Committee, Senator JACKSON, for his fair and impartial handling of this most important legislation. Also, I want to recognize the hard work of the Senator from Wyoming (Mr. HANSEN) for his untiring efforts to fashion a bill that will accomplish the many essentials necessary to meet this energy crisis.

Mr. President, I thank also Mr. Harrison Loesch, Interior Committee minority counsel; Mr. David Stang, deputy counsel for the minority on energy and fuels; and Mr. Fred Craft, deputy minority counsel for the Interior Committee, for their long hours and expertise on this bill, which saw 17 rollcall votes today. Let me thank also Mr. Bill Van Ness, majority counsel, and Mr. Mike Harvey, special counsel, for their many contributions.

Mr. President, with further regard to our distinguished chairman, I commend him again on his leadership as floor manager of this bill. The President called for early action on his emergency energy legislation, and Senator JACKSON indeed responded with early hearings and prompt committee action on this bill. Although the general spirit of cooperation on this bill was basically nonpartisan throughout, I was somewhat disappointed that each of the amendments the administration requested on this bill—specifically my amendments Nos. 690, 691, 692, 693, and 671, and Senator HANSEN's amendment No. 682—were opposed by the manager of the bill and, as a result of his opposition, defeated.

Mr. President, this bill entailed a tremendous amount of work. I am very pleased that we have had the full cooperation of the people I have mentioned.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, to keep the regular procedure in its correct stance, I ask unanimous consent that there now be a period for the conduct of morning business with a time limit of 3 minutes attached thereto for each speaker.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. HELMS) laid before the Senate a message from the President of the United States submitting the nomination of Raymond C. Anderson, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission, which was referred to the Committee on Public Works.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

ANNUAL REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting, pursuant to law, the annual report on the state of the finances of the United States Government for the fiscal year ended June 30, 1972 (with an accompanying report). Referred to the Committee on Finance.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers). Referred to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY THE JUDICIAL CONFERENCE

A letter from the Director of the Judicial Conference of the United States transmitting a draft of proposed legislation to enlarge the trial jurisdiction of United States magistrates to encompass additional misdemeanors (with accompanying papers). Referred to the Committee on the Judiciary.

DEPARTMENT OF DEFENSE ENERGY CONSUMPTION

A letter from the Assistant Secretary of Defense for Legislative Affairs transmitting, for the information of the Senate, material showing the energy consumption of the Department of Defense (with accompanying papers). Ordered to lie on the table.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the Senate of the Commonwealth of Massachusetts. Ordered to lie on the table:

"RESOLUTIONS

"Memorializing the Congress of the United States to enact legislation permitting year-round daylight saving time

"Whereas, Daylight saving time, in effect for only half of the year in many states of the United States, including Massachusetts, is greeted with enthusiasm as a means of lengthening daylight hours; and

"Whereas, In these critical days of fuel shortages and energy crises, especially in New England, longer daylight hours would help alleviate the necessity for increased fuel consumption; and

"Whereas, Oil, heat and fuel have become an open instrument of Arab and Soviet Military and foreign policy; the conservation of United States oil resources through the extension of daylight saving time will help relieve international pressures of the oil blackmail cartel; and

"Whereas, Additional daylight hours would provide several other advantages to the citizens of the Commonwealth, such as fewer traffic accidents, less incidence of crime and the opportunity for increased outdoor leisure activities; now, therefore, be it

"*Resolved,* That the Massachusetts Senate memorializes the Congress of the United States to enact legislation amending the present daylight saving time statute to enable the Commonwealth of Massachusetts and other states to adopt year-round daylight saving time; and be it further

"*Resolved,* That copies of these resolutions be sent forthwith by the Senate Clerk and Parliamentarian to the presiding officer of each branch of the Congress of the United States and to each member thereof from the Commonwealth.

"Senate, adopted, November 6, 1973."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD, from the Committee on Appropriations, with amendments:

H.R. 11459. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-548).

By Mr. CANNON, from the Committee on Rules and Administration:

S. Res. 204. An original resolution to pay a gratuity to Emiko Kuraoka.

REPORT ENTITLED "EMERGENCY POWERS STATUTES: PROVISIONS OF FEDERAL LAW NOW IN EFFECT DELEGATING TO THE EXECUTIVE EXTRAORDINARY AUTHORITY IN TIME OF NATIONAL EMERGENCY"—REPORT OF A COMMITTEE—(S. REPT. NO. 93-549)

Mr. MATHIAS, from the Special Committee on the Termination of the National Emergency, submitted, pursuant to Senate Resolution 9, 93d Congress, 1st session, a report entitled "Emergency Powers Statutes: Provisions of Federal Law Now in Effect Delegating to the Executive Extraordinary Authority in Time of National Emergency," which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert J. Roth, of Kansas, to be U.S. attorney for the district of Kansas.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MOSS:

S. 2723. A bill for the relief of Hector Alejandro Pedrella. Referred to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 2724. A bill to establish a Federal Radiation Protection Agency, to transfer certain functions of the Atomic Energy Commission and other departments and agencies to such Agency, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. BEALL:

S. 2725. A bill to provide for the establishment of a national cemetery in the State of Maryland. Referred to the Committee on Veterans' Affairs.

By Mr. TAFT (for himself and Mr. McINTYRE):

S. 2726. A bill to authorize the Secretary of Housing and Urban Development to make disaster grants necessary to meet essential needs of disasters victims. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMINICK (for himself, Mr. TAFT, and Mr. BEALL):

S. 2727. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes. Read the first time; second reading objected to; and ordered to lie over one day.

By Mr. DOMINICK:

S.J. Res. 173. A joint resolution to authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and its Consequences to be charged with the responsibility of developing a National Plan for the Control of Epilepsy and its Consequences. Referred to the Committee on Labor and Public Welfare.

By Mr. ABOUREZK (for himself, Mr. McGOVERN, Mr. YOUNG, Mr. MONDALE, Mr. HUMPHREY, Mr. HUGHES, Mr. MANSFIELD, Mr. METCALF, Mr. BAYH, and Mr. BURDICK):

S.J. Res. 174. A joint resolution to direct the Interstate Commerce Commission to provide an equitable formula for the distribution of grain cars. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TAFT (for himself and Mr. McINTYRE):

S. 2726. A bill to authorize the Secretary of Housing and Urban Development to make disaster grants necessary to meet essential needs of disaster victims. Referred to the Committee on Banking, Housing and Urban Affairs.

EMERGENCY DISASTER RECOVERY ACT OF 1973

Mr. TAFT. Mr. President, for myself and the distinguished Senator from New Hampshire (Mr. McINTYRE), I am introducing the Emergency Disaster Recovery Act of 1973.

I use the term "emergency" because the present level of assistance for Americans whose homes and personal property are severely damaged by floods or other natural disasters is cleary inadequate. As a result of legislation which Congress passed last spring, even a homeless low or moderate income family with a sizable mortgage on a residence that has been destroyed completely can receive only a 5-percent loan from the Federal Government. This meager level of assistance seems all the more unreasonable when one reflects that less than 10 days after the bill passed which eliminated disaster "forgiveness" grants, the President asked for as much money as necessary to help victims of the Nicaraguan earthquake.

Earlier this session I offered an amendment to S. 1672, the Small Business Act, amendments, which would have remedied this situation by allowing disaster victims up to $2,500 in forgiveness grants depending on their incomes. Provisions were added in the Senate which raised the maximum forgiveness amount and in conference the proposed interest rate was lowered from 5 percent to 3 percent, or 1 percent if a person chose not to take any forgiveness. The sliding scale I had proposed, which related benefits to income, was dropped in conference because of claimed technical objections raised by the Treasury Department. The President then vetoed the bill largely on cost grounds, and because it made the same maximum grant and interest terms available to all disaster victims regardless of need.

I am aware that the administration has major disaster assistance legislation pending which transfers many disaster relief functions from the Federal Government to the States. Although there are some constructive ideas proposed in this legislation, frankly I am not convinced enough that this bill would be a major improvement over our present disaster relief program to press for its immediate enactment. In any event, the Banking, Housing and Urban Affairs Committee has a busy schedule and the committee does not seem disposed to take up this bill in the near future. Meanwhile, the need for restoring adequate assistance for disaster victims continues.

The legislation which I am introducing is quite a different approach from loan forgiveness. It is tailored to individual needs, thus meeting one of the administration's main objections to the Small Business Act amendments. In addition, it provides grant relief only for repair or replacement of noncommercial property, retains the 5-perent interest rate rather than lowering it as Congress proposed this summer. Both of these provisions will limit its cost considerably. My proposal also increases State and local disaster relief involvement as the administration has advocated.

Basically, my proposed legislation would allow the Federal Disaster Assistance Administration in the Department of Housing and Urban Development to make grants which cover essential expenses relating to the repair or replacement of housing and other personal noncommercial property. Grant amounts would be limited to expenses which could not be covered through other means, including the Federal 5-percent disaster relief loans, without causing the family affected by the disaster to incur financial hardship. These amounts would be determined on a case-by-case basis, but the total appropriation for grants per disaster could not exceed $2,500 multiplied by HUD's estimate of the number of families in need of grant assistance.

The casework involved would be done by the American National Red Cross or other public or private nonprofit agencies or organizations with whom HUD contracts, or by HUD in areas without suitable agencies or organizations. The suggested amount per family would be certified by such groups to any "local citizens' review board", recognized by either the State or the local, Government as, HUD deems appropriate and designated to review such certifications and possibly make alterations. HUD could supply a grant amount to an affected family which differs from the amount certified, as altered by any local citizens' review board, only if the reasons for so doing were stated in writing. The certifying groups could also submit evidence to be considered by HUD when making its determination of the aggregate appropriation for grants related to a given disaster, as explained in the above paragraph.

My legislation does not affect the pending flood insurance legislation. It also leaves intact the provision of present law—effective December 31, 1973—which prohibits use of any Federal disaster assistance, including that proposed under this Act, for repair or replacement of property which could have been covered by flood insurance in areas where flood insurance has been available for more than 1 year.

The American National Red Cross, which determined grant amounts for disaster victims under a system similar to my proposal for years, strongly supports this bill. I hope that other affected groups and individuals will supply their comments quickly, because I may offer my proposal as an amendment to upcoming legislation. Such an amendment would at least put the proposal into effect for a trial period long enough to be sufficient for evaluation purposes.

We have been lucky enough to escape any major natural disasters since the enactment of the legislation which repealed forgiveness grants. Nevertheless, I am convinced that the next time one occurs, the importance of early action on legislation such as this will become quite clear. I hope that we do not discover this fact the hard way.

I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Emergency Disaster Recovery Act of 1973."

AUTHORITY

Sec. 2. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized upon such terms and conditions as he may prescribe to make grants to families for the purpose of covering essential unmet expenses relating to the repair, rehabilitation, or replacement of residential and personal property which are necessitated by any major disaster, natural disaster, or disaster determined by the President, the Secretary of Agriculture, the Administrator of the Small Business Administration, or the Secretary, as the case may be.

LIMITATION

Sec. 3. The aggregate amount expended for grants under section 2 in connection with any disaster may not exceed an amount equal to $2,500 multiplied by the Secretary's estimate of the number of families affected by the disaster who will need such grants. Such estimate shall take into account evidence submitted by those private nonprofit organizations, public agencies or local citizens' review panels which take part in the process of certifying grant amounts for families pursuant to the provisions of Section 4, and by such other sources as the Secretary deems appropriate.

ADMINISTRATION

Sec. 4. (a) (1) The Secretary is authorized to enter into contracts or other arrangements with the American National Red Cross, or with any other private nonprofit relief and disaster assistance organization or any State or local public agency which he determines has the capacity to assist him effectively in carrying out the provisions of this act. Such contracts or other arrangements shall provide that such organizations or agencies shall serve as a contact for families in need of assistance in a disaster area and establish and certify to a local citizens' review panel, or in the absence of such a panel, to the Secretary, the amount of the essential expenses of each such family relating to the repair, rehabilitation, or replacement of residential and personal property which each such family cannot meet through personal financial resources and assistance from other public or private sources without incurring financial hardship. The Secretary may make such certifications in any disaster area where he determines that no agency or organization exists which meets the criterion established by this paragraph.

(2) For the purpose of this subsection, a local citizens' review panel is any board, commission, organization, or agency which the Secretary determines—

(A) is established or designated for the purpose of reviewing certifications under this subsection and recommending to the Secretary adjustments in amounts certified;

(B) is recognized for such purpose by either the unit of general purpose local government or the government of the State in which the disaster area is located, as the Secretary deems appropriate; and (C) is representative of the citizens of the disaster, including persons affected by the disaster.

(b) The Secretary shall accept any certification or recommendation made pursuant to subsection (a) (1) and make a grant in the amount certified or recommended unless he determines—

(1) that such amount is inadequate or in excess of the amount necessary to meet the criterion established in subsection (a) (1); or

(2) that such amount will result in aggregate grants in excess of the limitation contained in section 3; in which cases he shall supply a written explanation of the basis for such a determination.

(c) The provisions of sections 3679(b) and 3709 of the Revised Statutes (31 U.S.C. 665 (b) and 41 U.S.C. 5) do not apply in the administration of this Act.

(d) The functions conferred on the Secretary by this Act shall be carried out through the Federal Disaster Assistance Administration

AUTHORIZATION OF APPROPRIATIONS

Sec. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DOMINICK:

S.J. Res. 173. A joint resolution to authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and its Consequences to be charged with the responsibility of developing a national plan for the control of epilepsy and its consequences. Referred to the Committee on Labor and Public Welfare.

Mr. DOMINICK. Mr. President, I introduce for appropriate reference a Senate joint resolution expressing the sense of Congress that the President should appoint a National Commission for the Control of Epilepsy and its Consequences. The Commission would have the responsibility of developing a national plan for the control of epilepsy and its consequences.

As most of my colleagues are aware, the month of November has been designated by the President of the United States as "National Epilepsy Month." This is indicative of the recent growing awareness that epilepsy is a problem of national magnitude. Epilepsy is indeed a major national health problem—both in terms of cost and suffering. It touches the lives of more than 4 million Americans at the present time, and thousands of additional cases arise each year as the result of head trauma alone. The total cost to society from this debilitating neurological disorder is estimated at $7 billion annually.

Epilepsy strikes all age groups, but particularly the young. For example, more than 670,000 elementary school children and more than 300,000 secondary pupils, are afflicted with epilepsy. If left untreated, it creates severe learning barriers, deters social development, and prevents its victims from achieving self-sufficiency. With proper treatment, epilepsy can usually be controlled and its victims can live productive lives—providing they are among the lucky ones with access to adequate treatment and the resources to pay for it.

One of the most difficult barriers to adequate treatment of epilepsy victims—and one of the most challenging problems facing the new National Commission for the Control of Epilepsy and its Consequences—is public ignorance about this widely misunderstood disorder. With reference to epilepsy, Hipprocrates said:

> It is thus with the disease called Sacred: it appears to me to be nowise more divine nor more sacred than other diseases, but has a natural cause from which it originates like other afflictions. Men regard its nature and cause as divine from ignorance and wonder, because it is not at all like other diseases.

Hipprocrates, who lived in the fourth century before Christ, had seen epilepsy, but unlike most who lived during his time, thought it had natural causes, rather than being the result of demonic possession or other supernatural forces. Today, modern science has proven him right. Yet some 2,400 years after Hipprocrates' time, all our modern knowledge has led neither to adequate care, nor to widespread understanding.

If epilepsy were contagious, perhaps a Jonas Salk would have attacked it. National attention and resources would have been focused on the problem of stopping an epidemic of such magnitude. But epilepsy is not contagious, and it is usually not fatal. Nevertheless, it is extremely destructive.

So, Mr. President, I believe it is time to begin to focus more national attention and resources on the problem of epilepsy. This resolution is intended to accomplish that.

The National Commission which the President is called upon to appoint will have an enormous task before it. Charged with developing a national plan for the control of epilepsy and its consequences, it must incorporate into its membership representatives of the many organizations, agencies, societies and expert individuals concerned with the medical, social and educational aspects of epilepsy management. Under the coordinating umbrella of the Epilepsy Foundation of America, these groups will act and speak as one in surveying resources, identifying gaps in available modalities, and developing the comprehensive plan.

Paul E. Funk, executive vice president of the Epilepsy Foundation of America, has said:

Epilepsy creates the *most complex* set of problems confronting our society. Solutions will require the person with epilepsy to join in his own fight to focus attention on the unwarranted problems he faces. But this is only a beginning. The *total society* must involve itself to end the suffering, the inhumanity, the waste and the indignity of epilepsy.

As a member of the honorary board of directors of the Epilepsy Foundation of America, I am pleased to introduce this resolution. I hope my colleagues share my conviction that the focusing of national attention on the problem of epilepsy is long overdue, and that they will therefore act quickly on this resolution.

Mr. President, I ask unanimous consent that the text of Senate Joint Resolution 173 be printed in the Record at the conclusion of my remarks, along with excerpts from a 1973 publication of the Epilepsy Foundation of America entitled, "The Cost of the Epilepsies—To Individuals, Families and to the Nation."

There being no objertion, the joint resolution and excerpts were ordered to be printed in the Record, as follows:

S.J. Res. 173

To authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and its Consequences to be charged with the responsibility of developing a National Plan for the Control of Epilepsy and its Consequences

Whereas there are approximately four million Americans with the neurological disorder known as epilepsy, and thousands of additional cases arise each year as the result of head trauma alone; and

Whereas epilepsy is a major health problem for which no satisfactory solution has been developed, placing an insufferable economic, social and psychological burden upon individuals, families, and the nation as a whole; and

Whereas a problem of this magnitude affects our entire society, even though the social stigma associated with epilepsy encourages its victims to conceal their affliction; and

Whereas medical knowledge and technical methodologies now available are not being applied to this problem on a broad scale, with balanced interdisciplinary action; and

Whereas effective management of epilepsy demands the concerted attention of many disciplines—medicine and health education, as well as rehabilitation services and public assistance; and

Whereas the determination and ability to mobilize expert resources within these disciplines to seek solutions to this massive public health problem have been demonstrated by the Epilepsy Foundation of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized and requested to appoint a National Commission for the Control of Epilepsy and its Consequences; and that such Commission be charged with the responsibility of developing a National Plan for the Control of Epilepsy and its Consequences. The Commission shall consist of not more than 15 members, who shall be appointed from persons who by reason of experience or training in the medical, social or educational aspects of the epilepsies, including consumers of services, are specially qualified to serve on such Commission.

(b) The duties of such Commission shall be to—

(1) call together a National Conference of Concerned Organizations, under the coordinating arm of the Epilepsy Foundation of America, with the purpose of stating the problems and defining the gaps in and barriers to existing health care delivery systems;

(2) designate representatives to a Medical Advisory Panel, a Psycho-Social Advisory Panel, and an Information and Education Advisory Panel, which panels shall provide reports to and assist the Commission in making a comprehensive study of the state-of-the-art of medical and social management of the epilepsies in the United States;

(3) investigate and make recommendations concerning the proper roles of the Federal and State Governments, and national and local public and private agencies in research, prevention, identification, treatment, and rehabilitation of persons with epilepsy;

(4) develop a comprehensive National Plan for the Control of Epilepsy and its Consequences based on the most thorough, complete, and accurate data and information available on the disorder; and

(5) transmit to the President and the Congress no later than one year after the National Conference of Concerned Organizations is convened, a report detailing the findings and conclusions of the Commission, together with such recommendations, including recommendations for legislation and appropriations, as it deems advisable.

(c)(1) Any member of the Commission who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(2) Members of the Commission other than those referred to in paragraph (1) shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties including traveltime and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(d) Such Commission shall cease to exist ninety days after the submission of the final report required by subsection (b)(5).

(e) There is authorized to be appropriated to carry out this joint resolution $200,000.

The Cost of the Epilepsies to Individuals, Families and to the Nation

FOREWORD

The total cost of the epilepsies to individuals, to families and to the nation is—literally—incalculable whether in economic terms of human suffering and tragedies.

Estimates of that cost—in dollars alone—range up to as much as $7 billion and that figure may well be a reasonably accurate one.

In this particular study, however, the aim of the Epilepsy Foundation of America in assembling data has been to utilize only those figures *readily verifiable*. Most of these come from official Federal government sources. The data indicates an annual cost of at least $4.247 billion.

Whatever the actual figure, it is all too clear that the epilepsies pose *a major national health problem* and one to which the nation should address itself in meaningful fashion as rapidly as possible.

I. HISTORY

In 1945, the seventy-ninth Congress heard the testimony of Dr. William Lennox before the Subcommittee on Aid to the Physically Handicapped pursuant to "a resolution authorizing the Committee on Labor to conduct an investigation of the extent and character of aid now given by the federal state, and local governments and private agencies to the physically handicapped." [1] On behalf of persons with epilepsy, Dr. Lennox appealed for a shifting of priorities, stating that if one cent of every dollar which epilepsy costs the patient and the public were spent for research, probably something like a million dollars would be available annually.[2] Twenty-eight years ago, the affliction of epilepsy cost the nation an estimated $100,000,000 annually.

Two other estimates of the cost of epilepsy to the United States shed additional light on the extent of the problem. The National Epilepsy League stated in 1955 that a conservative estimate of the cost of epilepsy in the United States ranged upwards to $80,000,000 annually. NEL added that the cost of lost man hours to industry is beyond calculation.[3] In a look at limited aspects of the public costs of epilepsy, Winston and Chillman found that in 1963 public assistance agencies paid $38.7 million to recipients with a diagnosis of epilepsy and an additional $9.4 million for medical supplies and services, a total of over $48 million in direct public assistance expenditures for persons with epilepsy. In addition to these estimates, the authors extrapolated from "incomplete data" that the cost of the care of persons with a primary diagnosis of epilepsy and other convulsive disorders in mental hospitals and institutions for the mentally retarded was about $55 million in 1962.[4]

In 1972, the National Institute of Nuerological Diseases and Stroke (NINDS) of the National Institutes of Health increased their estimate of the prevalence of epilepsy from their 1971 estimate of 2,000,000 persons to 4,000,000 persons. Logically, this would also double their earlier cost of care, making the figure $4 billion in 1972.[5] This figure was described as "an educated guess" by NINDS, and was comprised of costs calculated on the assumptions per year for maintenance: a) that the partially disabled individual spends approximately $500 per year on drugs, physicians' fees and special management; b) that the cost of care for the totally disabled individual in the home is approximately $2,000 annually; and (e) that the cost of one year's maintenance of the totally disabled individual in a public or private institution is between $2,500 and $7,500.[6]

These figures are staggering, but they reveal only part of the cost. Measurements of "wasted human potential", the trauma of social alienation, the psychological effects of economic dependence and depreciation ot self-worth cannot be extracted from statistical tables and data charts. In this sense, there is a realization that any estimation of the cost of an illness to the nation is a mechanized conjecture, and the task of accounting for the tolls upon human life is rife with paradox.

The purpose of this report is to view epilepsy in economic terms. The cost of adequate medical care, ameliorate social services, economic assistance and the conglomerate of necessary educational, vocational and psychological service programs that are used in the treatment of any developmental disability provide a general understanding of the economics of the disorder. Complicating the effort to calculate the monetary costs are such factors as "hidden costs"—those imposed by arrested education or vocational opportunities, the lack of statistical data on epilepsy as a secondary or tertiary disability, and the scarcity of specific tabulated data for public assistance populations.

The methodology utilized to arrive at the estimates provided in the report was essentially the itemization of identifiable cost

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Footnotes at end of article.

factors, assisted by extrapolation in many instances. The following cost factors are included: physician fees, anticonvulsant medications, the cost of institutionalization, special education, vocational rehabilitation, various public assistance programs, medical and social research, unemployment wages and hour loss, and veterans' benefits.

One of the major variables in this and other cost studies is the approximation of the number of persons with epilepsy, a highly disputable factor in any analysis of the disorder. There are no accurate statistics on the prevalence or incidence of epilepsy. The social stigmas associated with publicly-held superstitions concerning epilepsy pose a difficulty in "counting heads" of persons with epilepsy. Furthermore, epilepsy is not required to be reported by a physician to his state health department in most states.

The National Institute of Neurological Diseases and Stroke estimates the number of epilepsy-affected persons in the U.S. to be between 2 and 4 million, a prevalence rate of between 1 and 2%. However, Dr. J. Kiffin Penry, Head, Section on Epilepsy, NINDS, has stated that "for each patient with epilepsy who seeks medical care, there are others who go undiagnosed and still others who hide their disorder."[7] Drs. Penry and Coatsworth also stated that:

"Accurate incidence of the epilepsies is not truly known. . . . Any number cited only approximates the real incidence, and this incidence in any event, is high enough to constitute a great problem. . . . It is not likely that more intensive studies of the incidence or prevalence of either the acute or chronic epilepsies will bring forth their true cause or improve methods of therapy. They can, however, bring to public attention the seriousness of these disorders, pointing out the cost of caring for the epileptic patient as well as need for further research.[7,8]

In an effort to realistically assess the rate of prevalence, the Professional Advisory Board of the Epilepsy Foundation of America has stated that at least two percent of the population, or approximately four million persons in the United States, have a convulsive disorder. This prevalence rate is used in this report.

This report first examines the public costs of epilepsy as involved in federal assistance programs and ends with a statement of private costs.

XI. SPECIAL EDUCATION

Rapid advances have been made in the past ten to fifteen years in moving the majority of children with epilepsy into the regular school system. There are indications, however, that many children with epilepsy have problems entering and remaining in school. A survey of educational policy toward school children with epilepsy in this country revealed that school policy and admissions procedures were set by State or local departments of education and administered by school personnel, generally without medical and social work consultation.[9]

Unimpaired education is essential to the realization of full autonomy and economic independence for the handicapped. The Illinois State Department of Public Instruction, in an attempt to assess the value of special education, stated that "If we had to compute a return on our investment, in terms of dollars and cents, we estimate the return has been at least ten to one for every dollar invested."[10]

Costs of these programs vary widely, not only within the range of provider institutions. Expenditures vary not only from state the decentralization of educational jurisdictions. Expenditures vary not only from state to state, but within the states, from district to district. They are influenced by the willingness of voters to support mileage proposals and the variant costs of living and subsequent wage differentials.

Estimates of the specific costs of educating the child with epilepsy are subject to the difficulties imposed by inadequate epidemiological studies. Utilizing the 2% prevalence rate accepted by the Epilepsy Foundation of America, it can be estimated that in 1971 there are approximately 973,800 school children afflicted with epilepsy in the United States. Table X-1 provides an analysis of the numbers of school children with epilepsy.

TABLE XI-1.—*Schoolchildren with epilepsy, 1971*

Number of elementary children	33, 507, 000
Number of elementary children with epilepsy (2 percent)	670, 140
Number of elementary children with epilepsy requiring special education (30 percent)	201, 042
Number of secondary pupils	15, 183, 000
Number of secondary pupils with epilepsy (2 percent)	303, 660
Number of secondary pupils with epilepsy requiring special education (30 percent)	91, 098

Source: Extrapolated from Statistical Abstract of U.S. 1972, 102.

There is no standard method of determining whether a child requires attention in a specialized classroom, hospital or other institutional facility. One of the assumptions which can be utilized to arrive at approximate data regarding special education costs is the factor of extent of seizure control. While it is supposed that a child with controlled seizures would be integrated into the regular classroom setting at no additional cost to the school system, it is possible that the child with seizure control might be subject to emotional disorders and behavioral problems which so often accompany the affliction. These associative difficulties need not be byproducts of the affliction in a physiological sense; often societal attitudes and restraints are attributed with affecting personality development.

In Michigan, the Detroit School System established a special program for epileptic children in 1935. Data were reviewed for the 765 pupils who attended the special school from January 1935 to June 1947. This review indicated that a) most of the children with epilepsy may be educated in the schools normally provided in any community; b) approximately 10% of epileptic children may need some special consideration and services in school if they are to receive an education in accordance with their aptitudes; c) institutional or custodial care will be needed by some children with seizures but usually for those with mental and orthopedic defects rather than epilepsy; d) adequate medical services for diagnosis and treatment are prerequisites to educational services for epileptic children; e) all levels of intelligence are presented in a cross section of epileptic chilren; f) epilepsy may be expected to have some negative influence on the educational process of children but may be minimized by early medical care and appropriate educational services; g) a special program for the education of epileptic children is considerably more expensive than the education of normal children; and h) education of the public about epilepsy should be more vigorously promoted.[11]

"At one time children with epilepsy were excused from public schools; today's educators have recognized that all educable children, including those who have epilepsy, deserve a chance to learn. Each year more and more children with epilepsy are enrolled in public schools, and their teachers are learning that seizures, when they do occur, do not in any way impede learning ability."[12] This statement is an encouraging advance, despite a 1958–59 survey of one hundred and six cities representing 29.4 per cent of the total U.S. population and 28.4 per cent of the 5–17 year olds. At that time, twenty-two school system (22.4%) reported that they did not admit epileptics to public schools.[13] Although there is no uniform policy, Court rulings in Pennsylvania and the District of Columbia have upheld the right of handicapped children to public education.[14] Although there is no uniform policy, individual states are taking action to provide education for handicapped children. For example, Indiana recently passed a bill (HB 4156) which requires school districts to pay up to $2,000 tuition for a severely handicapped child to attend non-public or special classes.

With increasing enrollment of children with epilepsy in the public school systems, and considering the numbers of multi-handicapped children who experience seizures, it will be estimated that 30% of the children with epilepsy require special education.[15] Unfortunately there are no current figures on the cost of special education versus regular education. The cost estimates used in this report are the averages of expenditures for education in nine Pennsylvania counties in 1970, as reported by Maddock.[16] The average cost for a child in elementary school was $307.56 for regular classroom instruction and $615.48 for special education classes. The cost difference of educating an elementary child in a special classroom is $306.92 more than in a regular classroom. For secondary education students, the cost of regular classroom instruction was $412.26 as compared to $675.11 for special education classes. The cost differential for secondary education is $262.85 for special education.[17] Based on the need of 30% of the 670,130 elementary children who have epilepsy for services of specialized instruction, it can be determined that some 201,000 children cost the public school systems approximately $61,690,920.00 in *additional* expenditures annually. The 91,000 (approximate) secondary students educated in special classrooms tax the systems an estimated $23,919,350.00.

SUMMARY

Total number of children with epilepsy, 973,800.

Percent of epileptic children requiring special education, 35 percent.

Cost of special education for 201,000 elementary children with epilepsy, at the extra cost of $306.92 each, $61,690,920.00.

Cost of special education for 91,000 secondary students with epilepsy, at the extra cost of $262.85 each, $23,919,350.00.

Total annual cost, $85,610,270.00.

XIII. UNEMPLOYMENT WAGE AND HOUR LOSS

Schlesinger[18] and others have noted that the exact nature of the association between epilepsy and unemployment is difficult to ascertain, especially since epilepsy does not always interfere with vocational skills. Yet available data strongly indicate that many persons with epilepsy are unemployed.

Statistics vary as to the extent of this percentage; from 60 to 90 percent of persons with epilepsy have been estimated to realize their employment potential. The Epilepsy Foundation of America has determined that approximately 22% of the patients afflicted with the disorder are unemployed annually.[19] This is consistent with the view of the late Dr. William B. Lennox, who supported the estimate that 75% are able, public prejudice permitting, to live as well people do, except for certain safeguards and regular contact wth medical advisors.[20]

A number of factors can be identified that tend to place persons with epilepsy in the unemployed category. The major factor is the occurrence of epileptic seizures. Many employers feel that the possibility of seizures would be too disruptive to other workers. Other negative factors are listed below.

1. Epilepsy is a condition that does place barriers to employment by limiting a person's ability to function in some kinds of work as a result of seizures, physical and in-

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Footnotes at end of article.

tellectual deficits, or effects of anticonvulsant medication.

2. Emotional problems are frequently noted by rehabilitation and employment workers as characteristic of unemployed persons with epilepsy. These personality characteristics have been assumed to result from attempts to cope with seizures, family experiences, peer rejection, employment rebuffs.

3. Inability of the person with epilepsy to obtain adequate education and training may result in deficiencies in skill and learned ability. Educational advancement may have been hampered by school policies or by the inability of educational diagnostic and remedial facilities to meet the specific problems of particular children.

4. Unemployment may also result from the prejudice, based partly on reality factors and partly on lack of proper information shown by employers, coworkers and company policies.

5. Services and programs for persons with epilepsy are generally acknowledged to be lagging behind the growth of programs for other disability groups.[21]

Table XIII–I provides an analysis of the American labor force. The total number of persons in the labor market is estimated using the percentage breakdown for each age group in the job market, and from this figure, it is projected that 1,793,057 people with epilepsy are in the employable ages between 15 and 65. The unemployment rate of people with epilepsy is rather high, about 22%. In 1972, an estimated 396,000 people with epilepsy were unemployed.

There is no data available as to what percent of this group is single or supports a family. If each unemployed person with epilepsy earned the average American single income of $4334.00,[22] $1,720,224,000.00 in wages were lost in 1972. The productivity loss to the nation remains incalculable.

TABLE XIII-1.—ANALYSIS OF LABOR POPULATION WITH EPILEPSY

Age group	1970 population[1] (in thousands)	Percent of population w/epilepsy (2 percent)	Percent of population in labor force[2]	Labor force w/epilepsy
15 to 19	19, 285	385, 700	50. 1	192, 850
29 to 24	17, 176	343, 520	70. 4	240, 394
25 to 34	25, 278	505, 560	70. 3	353, 892
35 to 44	23, 088	461, 760	73. 4	337, 085
45 to 54	23, 222	464, 440	73. 2	379, 041
55 to 64	18, 590	371, 800	61. 6	230, 516
Over 64	12, 435	248, 700	16. 8	59, 279
Total				1, 793, 057

[1] "Statistical Abstract of the United States," 1972, p. 31.
[2] Ibid., p. 217, average of male and female.

SUMMARY

Total number of persons of employable age afflicted with epilepsy, 1,793,057.

Percentage of persons unemployed who are epilepsy patients, 22 percent.

Total number of persons with epilepsy unemployed, 396,000.

Estimated income loss of families whose primary means of support is a person afflicted with epilespy (annual for 1970), $1,720,224,000.00.

SUMMARY OF DATA

	Annual cost for epilepsy
Aid to the permanently and totally disabled	$70, 266, 690. 00
Aid to the blind	420, 423. 20
Aid to families with dependent children	53, 172, 876. 00
Vocational rehabilitation	9, 648, 134. 00
Social security disability benefits	65, 038, 880. 00
Crippled children's program	4, 700, 000. 00
Medicaid	31, 300, 000. 00
Medicare	125, 300. 00
Veterans' Administration	89, 430, 210. 00
Special education	85, 610, 270. 00
Institutionalization	231, 649, 000. 00
Unemployment wage and hour loss	1, 720, 224, 000. 00
Private medical costs	1, 879, 945, 000. 00
Research	5, 895, 252. 00
Total	4, 247, 426, 035. 20

SUMMARY

The estimated cost of the epilepsies, $4.25 billion, is an awesome figure. Fortunately, this tremendous cost need not continue or be increased. The main vehicles of change are rehabilitation and research.

Of the $4.25 billion total cost, $2.4 billion is directly expended for the maintenance and care of persons unable to meet their own needs through the present economic system. Employment in American life is the major common denominator for all people. One's job is a source of personal satisfactions—feelings of independence, self-expression, and accomplishment—and places one within the larger social order. A positive social value is given those who contribute to the economic system, while a negative value is given those who do not contribute to the system or subtract from it.

It has been estimated that for each $1.00 spent for rehabilitation, $8.00 is returned in increased lifetime earnings.[23] Obviously, the long-range returns greatly outweigh the immediate costs. Increased participation in the economic order would be paralleled by heightened personal satisfactions.

The other key area for reducing the cost of the epilepsies is research. Only $5 million was spent on research on the epilepsies in 1972, while $1.9 billion was expended for private medical costs. If more were known about the causes and nature of epilepsy and new, more effective anticonvulsant drugs developed, epilepsy would no longer possess its disabling qualities. Those with epilepsy would no longer be forced outside the economic order and dehumanized by strong social stigma.

Although not included as a cost in this report, the Epilepsy Foundation of America and affiliates expended $4 million in 1972 in its efforts to represent four million Americans with epilepsy. In addition to the money contributed by almost 966,000 people, many other thousands volunteered their time to provide services to people with epilepsy and to promote public education about epilepsy. These efforts to improve the lives of persons with epilepsy also serve to ultimately reduce the cost of epilepsy to the nation.

FOOTNOTES

[1] U.S. Congress, House, Commtitee on Labor, Subcommittee on Aid to Physically Handicapped, *Epilepsy*. 79th Congress, 1st Session, May 24–25, 1945.

[2] Ibid.

[3] *Neurological Disorders and Industry: Tapping a New Source of Manpower*, The National Epilepsy League (Chicago, 1955), 38.

[4] Ellen Winston and Catherine S. Chillman, "Epilepsy: Some Social, Psychological, Educational, Economic and Legal Aspects," *Welfare in Review*, 2, #2 (December, 1964), 1–9.

[5] *NINDS Research Profiles 1972*, DHEW Publication No. (NIH) 72–323. National Institutes of Health (Washington, 1972).

[6] Unpublished data from National Institute of Neurological Diseases and Stroke, National Institutes of Health.

[7] James J. Coatsworth and J. Kiffin Penry, "Clinical Efficacy and Use," 87–96 in Dixon Woodbury et al. (eds.). *Anti-Epileptic Drugs* (New York, Raven, 1972).

[8] Ibid.

[9] Winston and Chillman.

[10] Illinois State Department of Public Information.

[11] James J. Cereghino and Clifford H. Cole, *A Multidisciplinary Approach to Services for the Epileptic*. HSMHA Health Reports, Vol. 86. No. 4 (April 1971) 355–371.

[12] *Neurological Disorders and Industry*, 23–24.

[13] Cereghino and Cole.

[14] *Pennsylvania Association for Retarded Children, Nancy Beth Bowman, et al.* v. *Commonwealth of Pennsylvania, David H. Kurtzman et al*, 334 F. Suppl. 1257 (3-Judge Court, E. D. Pennsylvania, 1971); *Mills* v. *Board of Education of the District of Columbia*, Civil Action No. 1969071 (Decided by U.S. District Court Judge Joseph C. Waddy, August 1, 1972).

[15] A. D. Gregoriades, "A Medical and Social Survey of 231 Children with Seizures". *Epilepsia* 13: 13–20.

[16] Ernest Maddock. "Identification of Special Education Expenditure". *Training School Bulletin* 66 (1970): 137–162.

[17] Ibid.

[18] L. Schlesinger. "Epilepsy, Unemployment and Rehabilitation". *Rehabilitation Literature*. 27, #4, (April, 1966), 98–105.

[19] Estimates on unemployment for epileptics range from 12–15%, with most estimates being in the 20's. The estimate of 22% was taken as the median estimate.

[20] William Lennox, 1960.

[21] Ibid.

[22] Based on a 5% increase above 1971 average personal income of $4,138 listed in *Statistical Abstract of the United States 1972*, 319.

[23] Ronald W. Conley, "A Benefit-Cost Analysis of the Vocational Rehabilitation Program," *The Journal of Human Resources*, IV, 2, (1969) 226–252.

By Mr. ABOUREZK (for himself, Mr. McGOVERN, Mr. YOUNG, Mr. MONDALE, Mr. HUMPHREY, Mr. HUGHES, Mr. MANSFIELD, Mr. METCALF, Mr. BAYH, and Mr. BURDICK):

S.J. Res. 174. A joint resolution to direct the Interstate Commerce Commission to provide an equitable formula for the distribution of grain cars. Referred to the Committee on Commerce.

Mr. ABOUREZK. Mr. President, the grain producing States of the Great Plains have been historically affected by shortages of grain cars at harvest time. In fact, the very first case to be held before the Interstate Commerce Commission—docket No. 1–1887—was a petition by farmers in the Dakota territory complaining of inadequate boxcar supply.

In recent years this problem has been getting worse, not better. The serious shortage of railroad freight cars for the movement of agricultural commodities now threatens severe hardships for both farmers and consumers.

The Senate has passed legislation that would seek to expand the supply of available grain cars. However, the sad fact is that no new equipment will be quickly available to deal with the situation as it now faces us.

This means that we must make sure that the equipment that we do have is utilized effectively and fairly.

That is the purpose of the resolution I am introducing.

It directs the ICC to investigate the grain car distribution practices by railroads and to make changes and adjustments in ICC rules to correct any defects that are found. It further directs the ICC to make sure that distribution practices are fair, reasonable, and nondiscriminatory.

As long as we are faced with a shortage of grain cars, we must make sure that those that are available are distributed fairly. Small elevators must be assured that they will receive a share of the available transportation.

I ask unanimous consent that the text of this resolution be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 174

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas a serious shortage of railroad freight cars for the movement of agricultural commodities and food supplies is creating a year-round crisis for both farmers and consumers, and

Whereas agricultural producers are continually thwarted by inadequate supplies of boxcars, grain hoppers, and other types of equipment so that chaotic marketing conditions and increased costs of distribution are created, and

Whereas additional equipment to meet this shortage will not be quickly available so that more effective and equitable distribution of existing equipment must be implemented, and

Whereas the Interstate Commerce Commission has authority under Section 1(13) of the Interstate Commerce Act to require any or all railroads to file their rules and regulations with respect to car service and may direct that such rules and regulations shall be incorporated in their tariffs, and

Whereas under Section 1(14) of the Interstate Commerce Act the Interstate Commerce Commission may, after hearings, establish reasonable rules, regulations, and practices with respect to car service for application by the railroads: Now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to assure a fair and equitable distribution of rail cars available for grain shipment, the Interstate Commerce Commission is directed to make an investigation of the grain car distribution practices by railroads subject to the Interstate Commerce Act in order to determine to what extent and in what manner existing practices may be unjust, unreasonable, discriminatory or unduly preferential; thereby imposing undue burdens or giving undue advantages as between the various grain shippers and localities and to make in accordance with the law such changes and adjustments of rules as may be found necessary to correct any defects so found to exist.

Sec. 2. In making any such changes or adjustments, the ICC shall give due consideration to the desirability as a means of removing undue prejudice or unjust discrimination of requiring carriers to provide specifically in their tariffs the terms under which, during any period of time when the supply of cars available for grain gathering does not equal the requirements, all shippers may demand and secure upon even terms the use of cars employed upon the lines of any railroad.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1414

At the request of Mr. Chiles, the Senator from New York (Mr. Javits), the Senator from Tennessee (Mr. Brock), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Nunn), and the Senator from Minnesota (Mr. Mondale) were added as cosponsors of S. 1414, a bill to strengthen congressional control in determining the priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and program steps.

S. 1541

At the request of Mr. Ervin, the Senator from Alabama (Mr. Allen), the Senator from Florida (Mr. Gurney), the Senator from New York (Mr. Javits), and the Senator from Connecticut (Mr. Ribicoff) were added as cosponsors of S. 1541, the Federal Act to Control Expenditures and Establish National Priorities.

S. 1604

At the request of Mr. Brock, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 1604, a bill to prevent discrimination on the basis of sex in housing, the Fair Housing Opportunity Act.

SENATE RESOLUTION 204—ORIGINAL RESOLUTION REPORTED—TO PAY A GRATUITY

(Placed on Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 204

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Emiko Kuraoka, widow of Matsuo Kuraoka, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 205—SUBMISSION OF A RESOLUTION DESIGNATING IN THE CAPITOL THE ALBEN W. BARKLEY ROOM

(Referred to the Committee on Rules and Administration.)

RECOGNITION OF ALBEN W. BARKLEY

Mr. MOSS. Mr. President, as a country we are often slow to acknowledge the work of the great leaders who have presided over the destiny of this Nation. By the time we give proper recognition, it is frequently the case that those who best knew the man to be honored, have passed away and cannot enjoy the act of memorializing the contribution of their friend.

I am today submitting a resolution to designate a specific physical memorial in remembrance of the accomplishments and contributions of the great majority leader of the Senate and Vice President of the United States, Alben W. Barkley. Few men can match his place in history, and none have surpassed his zest for life and his deep feeling for humanity. He served his country for 51 years in public, life, 44 of those in the Nation's Capital. His dedication took him through the position of judge, Member of the U.S. House of Representatives, Member of the U.S. Senate, and Vice President. He was a man of compassion, and vision. He always fought for progress, and one of his favorite comments was "We are not beginning a crusade. We are continuing a crusade." One of the old-fashioned orators, he was a master storyteller who could keep audiences spellbound. As an early advocate of the creation of the United Nations, and as a president of the American delegation to the Interparliamentary Union, he saw the need for an international perspective and the important role to be played by the United States in world affairs.

Alben was a firm-handed majority leader of the U.S. Senate, guiding many pieces of landmark legislation through the U.S. Congress on behalf of the President and the Nation.

He was a compassionate man. He quietly cared for his first wife as she became an invalid during the final years of her life, and did so with few knowing the sacrifice he made. He cheerfully crisscrossed the country giving speeches in evenings and on weekends to raise the money to pay her medical expenses. Few knew of the effort he was making in his personal life, while at the same time, fighting the daily struggle on the Senate floor to defend and implement President Roosevelt's programs.

And he never lost his vigor. He put meaning and importance into the office of the Vice Presidency. After 6 months in office he had traveled further and spoken more often than any other Vice President in history—and he did this at the age of 71. He seized the role as mediator between the Senate and President Truman, and devoted hours as the senior party diplomat to heal the wounds within his beloved Democratic Party.

Alben Barkley left this world while vigorously discussing the things he had fought for and believed in during a lifetime of service. To quote the Louisville Courier-Journal of May 2, 1956:

> A master story teller, an elder statesman, a political craftsman and the possessor of a quick and cheerful wit, Mr. Barkley was enjoying himself keynoting the mock Democratic Convention at Washington and Lee University. He told the students, "I'd rather be a servant in the house of the Lord than sit in the seat of the mighty," and collapsed and died. This is surely as he would have had it, for he left in the vigor of life, with no regrets.

Alben Barkley was a truly remarkable person, in many respects. He was a reformer, of the old Teddy Roosevelt-Woodrow Wilson school. Indeed, he once observed that Woodrow Wilson was the dominating intellectual influence of his life. And yet it can be said without fear of contradiction that no reformer in the history of Congress ever had so many friends in the ranks of the conservative. Because, when all was said and done, the kind of reform favored by Alben Barkley was generally satisfactory in the eyes of the conservatives. That is to say, he had a way of bridging the gap between the cautious people and the dreamers, and of proposing compromise satisfactory to the majority.

Born on a farm near the town of Lowes, in Graves County, Ky., in 1877, Alben Barkley grew to manhood in the midst of economic turmoil. The eldest of eight children, he was required to work in the tobacco fields on his father's farm, until the farm was lost in the national panic of 1893. Thereafter, he did odd jobs, obtaining a bachelor's degree with the assistance of wages earned in the capacity of a janitor. Following graduation he secured a position as court reporter, at $50 a month, which alone provided the means of financing his studies at the University of Virginia Law School. In the year 1901 Alben Barkley was admitted to the bar of the State of Kentucky.

Four years later, in 1905, at the age of 28, Alben conducted a muleback campaign for the office of prosecuting attorney for McCracken County. He was elected, and by the time his 4-year term expired he was already well established as an outstanding spokesman of law and order. Elected in 1909 to the bench of the McCracken County Court, he once again had the opportunity to display his deep and abiding understanding of the law. In the congressional election campaign of 1912 he was nominated by his party to run for the office of Representative of the Kentucky First District, and in the subsequent canvass he was elected.

Alben entered the Halls of Congress on the same day as Sam Rayburn, and their careers were to be forever entwined. Entering Congress in 1913, under the first Wilson administration, Alben Barkley pitched right in, working in the interest of Wilsonian reforms. He worked for the passage of Wilson's Good Roads Act, and of the Farm Credit Act which created Federal land banks to relieve the plight of farmers. In 1920 he sought to put through the Railroad Act, which could not pass without Republican support. Already friendly with many Republican Members, Alben Barkley was in the forefront of political negotiations leading to the passage of the act. An ardent prohibitionist at the time, he favored adoption of the prohibition amendment and the Volstead Act.

Alben Barkley was on the way, and everybody knew it. He was brilliant, he was friendly, he was warm. He was also full of ideas and ambitious. Consequently, he had many friends who, by 1919, owed him many favors. In that year Alben was named chairman of the Kentucky Democratic Convention, and in 1920 he served as delegate at large to the Democratic National Convention at San Francisco, his first appearance on the countrywide political scene.

In 1923 he sought his party's nomination of Governor of Kentucky on a platform demanding a tonnage tax on coal and repeal of the State's parimutual betting law. For taking such a position, Barkley was fiercely opposed by the whisky, horse racing, and coal mining interests, all of whom centered their support on a rival nominee, and Barkley was defeated. This was, however, the only campaign he ever was to lose in Kentucky. Reversing his stand on the tonnage tax, he won the senatorial election in 1926, and took his seat the following year.

Reelected to the Senate in 1932, Barkley soon became a spokesman for the Roosevelt New Deal, and one of the ablest, beyond question. Not all of Alben Barkley's energy was directed to attacking the Republicans because the New Deal had enemies within the Democratic ranks as well. One of the loudest of the anti-New Deal Democrats was Senator Huey Long, the "Kingfish" of Louisiana—who was given to engaging in filibusters in the hope of breaking the force of the New Deal juggernaut. On one occasion, in the midst of a "Kingfish" filibuster of unusually great length, Long announced that he had done and said everything, and that he could think of nothing else to do. Senator Barkley intervened to ask: "Why don't you sing?" Long replied that if he did sing his voice would sound a great deal better than that of the Senator from Kentucky. Long, looking for a fight, invited Barkley into the midst of his filibuster, and Barkley obliged, delivering a furious defense of all the Roosevelt policies, from A to Z.

As a political act—a political performance—Barkley's joust with Senator Long was brilliant, for it transformed the critic of policy into the object of criticism, and the show stealer into somebody who had allowed his own scene to be stolen, right out from under his nose. After several battles of this kind, Senator Barkley became a favorite of President Roosevelt who, in 1937 helped his friend secure election as Senate majority leader.

Re-elected to the Senate in 1938, Barkley became, over the next few years, one of the chief sponsors of proposals bearing on national defense and war preparations. He guided the lend-lease bill through the Senate. He also worked to lessen the restrictions of the Neutrality Act, in the interest of embattled England.

Throughout the war years, Senator Barkley was an outstanding supporter of all administration policy decisions excepting only the Presidential veto of the tax bill of 1944. Angered by the veto, Senator Barkley resigned as majority leader. In a short time the rift between Barkley and Roosevelt was over, and Barkley returned to his leadership role. It was he, incidentally, who nominated Roosevelt for a fourth term at the Democratic National Convention of 1944. There are many who believe, however, that this one instance of political rebellion of Barkley's part cost him the Presidency. For at the 1944 National Convention he was passed over as a Vice-Presidential possibility, in favor of Harry S Truman, who subsequently replaced President Roosevelt in the White House.

In the postwar period, Senator Barkley continued his battling ways. In 1946 he fought against the end of wartime price controls, struggled fiercly in behalf of a proposal for the creation of a Federal Fair Employment Practices Commission; worked for an increase in the national minimum wage; and sponsored an antipoll tax cloture petition.

When the Republicans took control of the Senate in the 80th Congress, Senator Barkley assumed the role of minority leader, in which capacity he also excelled.

At the Democratic National Convention of 1948 Alben Barkley was nominated for Vice President on the same ticket with Harry Truman, and when the Democrats scored their surprise victory that year, he was one of the chief beneficiaries of the result.

As Vice President he served, of course, as President of the Senate, and no one in that position is remembered as having done a better job. His charm, his decorum, his legal mind, and knowledge of parliamentary forms rendered his magnificence in this role. It was then, as Vice President, that he became famous as the "Veep." It was also then that his charming romance began with the former Mrs. Carleton S. Hadley, whom he married in 1949, at the age of 72. Mrs. Barkley later set forth the delightful story of their "affair of the heart" in her bestselling book, "I married the Veep."

It was Alben Barkley's desire to run for President in 1952, but on this occasion he was opposed by certain leaders of organized labor. Nothing could have been more absurd, because Alben Barkley was a great friend of organized labor. At the last minute, when it was too late, picturesque old John L. Lewis of the United Mine Workers, came forward to praise Barkley and to castigate the labor spokesmen who turned their backs on him, in ignorance. But to no avail. Defeated in his bid for the highest post in the land, Alben Barkley returned to congressional combat, winning reelection in 1954 to the Senate, where he served until death, in 1956.

In the final stage of life, as always before, Alben Barkley remained the best of all possible people, in the personal sense, and a political force of great magnitude—a man to admire, whether or not you agreed with him.

Throughout the full course of his political career, no American political leader was more delightful, dramatic, entertaining, and magnificent than that great and good man from Kentucky: the late Alben W. Barkley, Congressman, U.S. Senator, Vice President, and Presidential aspirant extraordinare. There was a man who, regardless of political complexion, was worthy of attention, respect, friendship and honor; and these he received in plentitude from colleagues on both sides of the aisle, so long as he graced the halls of Congress with his presence.

I believe that it is important that we move at the earliest opportunity to establish a memorial for Alben W. Barkley to commemorate the contributions he has made to this Nation and the world. For that reason, I introduce and send to the desk a Senate resolution to designate room S-120 in the Senate wing of the U.S. Capitol Building, the Alben W. Barkley Room in permanent recognition of the leadership of this great man.

I ask unanimous consent that at this point Alben Barkley's biography from the National Cyclopaedia of American Biography be printed in the RECORD so that an official biography might be available to the Senate, together with the text of the resolution.

There being no objection, the biography and resolution were ordered to be printed in the RECORD, as follows:

THE NATIONAL CYCLOPAEDIA OF AMERICAN BIOGRAPHY—BEING THE HISTORY OF THE UNITED STATES

Barkley, Alben William, Vice-President of the United Sates and senator, was born in Lowes, Ky., Nov. 24, 1877, son of John Wilson and Eliza Electra (Smith) Barkley. His father was a tobacco farmer. Alben W. Barkley worked in the tobacco fields while attending local district schools and also aided in supporting himself while attending Marvin College, Clinton, Ky., where he was graduated

A.B. in 1897. He then did a year of graduate work in liberal arts at Emory College (later Emory University) and returned to Marvin College to teach.

Soon, however, he abandoned teaching for the legal profession and for a time studied law at the University of Virginia and then in Paducah, Ky., with Charles W. Wheeler and John K. Hendrick, both congressmen, and William S. Bishop a judge. He was admitted to the Kentucky bar in 1901 and in that year began the practice of his profession in Paducah. Soon becoming a prominent member of the bar and noted for his talents in debate and oratory, in 1905 he was elected prosecuting attorney of McCracken County for a four-year term.

Following his tenure in this office he served as county judge until he was elected to the U.S. Congress in 1912. Entering the House of Representatives in the 63d Congress, he served in that body through the 69th Congress which adjourned in March, 1927.

As a congressman he was a staunch supporter of all measures of the administrations of Woodrow Wilson (q.v.), including the Federal Reserve Act, the Farm Loan Act, antitrust laws, and the laws proposed or enacted generally for the benefit of labor and agriculture as well as those for the encouragement of the commercial interests of the country.

In 1926 he was elected to the U.S. Senate from Kentucky for the term beginning March, 1927, and was re-elected for three succeeding terms, his last election being for the term ending in January, 1951, the 81st Congress.

Barkley was elected majority leader of the Senate in 1937 to succeed Joseph T. Robinson (q.v.) and served until Jan. 3, 1947, at which time he was elected minority leader.

Among his outstanding contributions during his terms as a senator was his aid in writing the 21st Amendment to the U.S. Constitution, the Prohibition Repeal Amendment, which passed into law in 1933. During his years of service in the Senate he served on its committees on foreign relations, banking and currency, finance, and interstate commerce.

He was one of the major spokesmen in Congress for New Deal policies of Franklin D. Roosevelt (q.v.), and before the entry of this country into the Second World War he supported Roosevelt's foreign policy, repeal of the Neutrality Act and the arms embargo, compulsory military training, and the extension of National Guard service outside of the United States.

He sponsored the Lend-Lease Bill in 1941, aided in defeating legislation that would have limited service in the Army under conscription to one additional year, and fought for passage of the bill to arm American ships, as well as supporting all legislation Roosevelt requested in connection with carrying out American war aims. Meanwhile, Barkley had become interested in Democratic Party politics, having been chairman of the 1919 and 1924 Kentucky State Democratic Conventions.

He was a delegate-at-large to the party's national conventions in San Francisco in 1920, New York city in 1924, Houston in 1928, Chicago in 1932, and Philadelphia in 1936, being temporary chairman of the last two.

In Chicago in 1940 he was permanent chairman of the Democratic National Convention and in 1944 placed before the convention the name of Franklin D. Roosevelt for his fourth nomination for the presidency.

Four years later in Philadelphia he was temporary chairman of the convention and made the keynote address, and here he was nominated as running mate with Harry S Truman (q.v.) in the successful Democratic campaign in that year. Alben W. Barkley was inaugurated Vice-President of the United States in January, 1949. In addition to his duties as Vice-President, he served as president of The Interparliamentary Union, a member of the board of regents of the Smithsonian Institution, and a member of the National Security Council.

Playing an active part in the Truman administration, he toured throughout the country making speeches on the vital issues facing the government.

Upon leaving the office of Vice-President he became commentator on a television program entitled "Meet the Veep," an allusion to the nickname by which he was known throughout the country, continuing thus from February to August, 1953.

In the following year he was again successful candidate for the U.S. Senate from Kentucky, and he was serving as a senator in the 84th Congress at the time of his death.

In his last term as senator he was reassigned to the committees on foreign relations and finance. His book, "That Reminds Me," was published in 1954. Barkley was awarded honorary LL.D degrees at the University of Louisville, University of Kentucky, Centre College, National University, Emory University, Kentucky Wesleyan College, Michigan State College, DePaul University, Westminster College and Rider College; honorary L.H.D. degrees at the University of Florida and The Dropsie College for Hebrew and Cognate Learning; and an honorary M.S. in Business Administration at Bryant College.

Among other citations he received the Collier's Award for Distinguished Congressional Service (1947), the Franklin D. Roosevelt Four Freedoms Award (1949), and the Algernon Sydney Sullivan Award by the University of Kentucky (1949).

He was a member of the American, Kentucky and McCracken County bar associations, Paducah Board of Trade, IOOF, BPOE, Woodmen of the World, Delta Tau Delta and Phi Alpha Delta, and he was an honorary member of Phi Beta Kappa. His religious affiliation was with the Methodist church. Barkley was a collector of antiques and a prolific reader in the fields of history and biography.

He was married twice: (1) in Tiptonville, Tenn., June 23, 1903, to Dorothy, daughter of Charles Brower of Paducah, a salesman, and had three children: David Murrell; Marian Frances, who married Max O'Rell Truitt; and Laura Louise, who married Douglas MacArthur II; his first wife died in 1947; (2) in St. Louis, Mo., Nov. 1949, to Jane (Rucker) Hadley, daughter of Roy Waller Rucker of Kansas City, Mo., a lawyer, and widow of Carleton Sturtevant Hadley. Alben W. Barkley died in Lexington, Va., Apr. 30, 1956.

S. Res. 205

Resolved, That the room located in the United States Capitol and designed as number S–120 is designated, and shall be known, as the "Alben W. Barkley Room".

Sec. 2. (a) Any rule, regulation, document, or record of the Senate, in which reference is made to the room referred to in the first section of this resolution, shall be held and considered to be a reference to the "Alben W. Barkley Room".

(b) The Committee on Rules and Administration shall place an appropriate marker or inscription at any suitable location with respect to such room to commemorate and designate such room as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

REVISED HOUSING ACT OF 1973—AMENDMENT

AMENDMENT NO. 696

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 2182) to consolidate, simplify, and improve laws relative to housing and housing assistance, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 651

Mr. CRANSTON. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment that will be proposed to H.R. 11104; a bill to provide for a temporary increase of $13,000,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974: Senators Eagleton, Fulbright, Humphrey, and Williams.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, there is now a total of 31 sponsors of this amendment. I ask unanimous consent that the names of the 31 sponsors of the amendment appear in the Record at this point, with the names of the nine Senators who originally submitted the amendment appearing first.

There being no objection, the names were ordered to be printed in the Record, as follows:

Mr. Cranston
Mr. Hart
Mr. Kennedy
Mr. Mathias
Mr. Mondale
Mr Schweiker
Mr. Scott of Pennsylvania
Mr. Stafford
Mr. Stevenson
Mr. Mansfield
Mr. Young
Mr. Abourezk
Mr. Bayh
Mr. Biden
Mr. Case
Mr. Chiles
Mr. Clark
Mr. Fulbright
Mr. Gravel
Mr. Hartke
Mr. Hughes
Mr. Humphrey
Mr. Jackson
Mr. Javits
Mr. McGee
Mr. McIntyre
Mr. Moss
Mr. Randolph
Mr. Ribicoff
Mr. Tunney
Mr. Williams

AMENDMENT NO. 656

At the request of Mr. Helms, the Senator from Tennessee (Mr. Brock) was added as a cosponsor of amendment No. 656 intended to be proposed to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Walter W. Burns, Jr., of Virginia, to Examiner-in-Chief of the U.S. Patent Office, vice Don D. Andrews, resigned

Roger L. Campbell, of Virginia, to be Examiner-in-Chief of the U.S. Patent Office, vice John Stevens Lieb, resigned

William H. Stafford, Jr., of Florida, to be U.S. attorney for the northern district of Florida for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, November 26, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON NO-FAULT INSURANCE BILL

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for December 4, 5, 6 and 12, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the bill S. 354, "National No-Fault Motor Vehicle Insurance Act."

This hearing will be before the full committee.

ANNOUNCEMENT OF HEARINGS BY THE SUBCOMMITTEE ON INTEGRATED OIL OPERATIONS

Mr. HASKELL. Mr. President, on November 28 and 29, 1973, The Special Subcommittee on Integrated Oil Operations of the Committee on Interior and Insular Affairs will hold open public hearings on competition in the petroleum industry. They will be convened in room 3110 of the Dirksen Senate Office Building at 10 a.m.

The principal issue for the November 28 hearing will be: Is the current energy crisis in some significant way at least partially attributable to a lack of adequate competitive performance in the petroleum industry? Witnesses expected to appear at this hearing are: The Honorable Rogers Morton, Secretary of the Interior; Mr. David Freeman, director of the Ford Foundation Energy Policy Project; Prof. John Blair, University of South Florida; Mr. Lee White, chairman of the Energy Policy Task Force, Consumer Federation of America; Prof. Alfred E. Kahn, Cornell University; and Mr. Rawleigh Warner, president of Mobil Oil and chairman of the board of the American Petroleum Institute.

The principal issue for the November 29 hearing will be: Has antitrust enforcement in the petroleum industry been adequate in the past, and is there a need for vigorous antitrust prosecution at the present time? Witnesses expected to appear at this hearing are: The Honorable John Love, Director of the Energy Policy Office; Attorneys General Killian of Connecticut and Shevin of Florida; Mr. James Halverson, Director of the Bureau of Competition, Federal Trade Commission; Mr. Mark Green, Corporate Accountability Research Group; Attorney General Thomas Kauper, Antitrust Division, U.S. Department of Justice; Dr. H. Michael Mann, Boston University; and Prof. Stephen Breyer, Harvard Law School.

Interested or affected parties desiring to file statements for the record are requested to transmit their submissions to the Interior Committee staff. Additional hearings by the special subcommittee will be announced in the future.

ADDITIONAL STATEMENTS

BRIEF FOR THE PRESIDENT

Mr. HUGH SCOTT. Mr. President, Friday's New York Times carried an eloquent and accurate accounting of the current state of the Presidency by Herb Klein, former White House Director of Communications. Mr. Klein has addressed himself most importantly to the questions of resignation and impeachment. I believe my colleagues will find this article enlightening and informative and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRIEF FOR THE PRESIDENT

(By Herbert G. Klein)

LOS ANGELES.—When one looks at the public reports on the question of resignation, it would seem that the ayes have it. Yet, this is not borne out by most polls, and I frankly doubt if it reflects a cross section of opinion. Most newspapers which have urged resignation or impeachment report readers disagreed.

There is no question that public confidence in the Presidency—indeed the Government—has been badly shaken by an incredible series of events in recent weeks. But, when one reads some of the arguments for resignation or impeachment, the impression is that public confidence would suddenly be restored in Government if the President of the United States were removed from office.

There is nothing on record to support this thesis. Rather, there is more to support the opposite.

The removal of the President would hinder our international relationships and peace efforts. Inevitably, there would be new probes to test the strength of a new President. The personal relationships built by President Nixon with such leaders as Chou En-lai, Leonid Brezhnev and Mrs. Golda Meir would be shattered. It would mean stepping back two or three years at a time of critical problems and major opportunities.

Despite weeks of probing by prosecutors, grand juries and the varied legislative committees, no one has come up with solid evidence to contradict the President's most recent statement: "I have not violated the trust placed in me when they elected me as President of the United States."

I believe there are real doubts in the public mind, but the President deserves the opportunity he asked for to "do everything that I can to see that any doubts as to the integrity of the man who occupies the highest office in this land—to remove those doubts where they exist."

He is moving to do so.

Certainly the public is not going to stand for an impeachment effort based on partisan charges regarding the use of Presidential power, impoundment of funds, or the use of war power in Indochina. Impeachment will take solid negative Watergate evidence.

The issues are whether the President can be believed and whether he can effectively govern the nation. That he still is able to govern effectively today is most dramatically apparent in the Middle East.

In my opinion, he will continue to govern effectively unless the shouts of the critics finally produce a completely negative response to his achievements. But we do see this mounting negative campaign, some of it voiced by sincere, well-meaning critics, some vocalized by ideological opponents who smell fresh blood. The battle has shaped up to be one more of opinion than fact, but the critics have used the media effectively and the question is how long will the turmoil continue?

What is the record?

On the negative side, it is clear there has been deplorable and probably illegal abuse of power by some, and lack of candidness by the White House in handling the whole affair. One also can be rightly critical of some Presidential appointments.

On the other side, despite the pressures, the President has carried out his stated objectives, particularly in the foreign policy field where there is less dependence on Congressional support. His achievements, treading through the mine fields of diplomacy, have been unprecedented.

A year ago the American voters made a clear-cut decision on the Presidency, a decision based on issues, not personality. The President didn't win in a landslide because of his public smile or TV image, but because of policies where the differences were clear-cut. Unfortunately, the critics would like to ignore this.

Some are worried because the President showed hostility to the press at his news conference. I think that was a mistake, but, again, I think the hostility shown by the press was equally bad. The vendetta helps neither the Government nor the press. More so, it does not help the nation at this critical time. It is time for a truce.

The press corps, which conducted itself generally fairly with little partisan emotion in 1972 and 1968, suddenly is caught in an emotion-filled swirl of leaks, rumors and articulate Presidential critics. The balance in 1972 has not been apparent in 1973, and emotion too often clouds reporter judgment. The fault is not entirely press-manufactured. The Administration has not been fully forthcoming and some of the normal spokesmen have been hiding. The hate syndrome is there, too.

What is needed is more humility on both sides—Presidential and press. The street is not one way.

The final question pertinent to the debate is can the President stand the pressure?

Those who have been in personal contact with the President find him remarkably well, both physically and mentally. Like any man, he has his moods, but his strong mental discipline has stood up against critical battering before. Crisis is a part of life for him.

To those close to him he appears analytical, calm, and more than anything determined to overcome all odds in pursuit of what he believes is the national interest.

Those who agree that it is time to move ahead with the nation's business will find that neither resignation or impeachment will accomplish that.

KEEP UP THE SEARCH FOR OUR MIA'S

Mr. CHURCH. Mr. President, news stories have appeared in several newspapers around the country that the Department of Defense may decide to stop its search for Americans missing in action in Indochina because of difficulties encountered to date. If this collection of stories is accurate, then the Nixon administration is being derelict in its duty to continue doing everything possible—for as long as it takes—in tracking down and hopefully finding the whereabouts or remains of some 1,300 of our men who still remain unaccounted for.

I, for one, am dismayed. Although I opposed our war policy in Vietnam because I believed our Nation's security was not involved, I always supported our military men once ordered into battle.

I still support them, including those somewhere in the jungles of Laos, North Vietnam and South Vietnam, who remain unaccounted for. If the news stories are true, then I urge the Nixon administration to make an immediate about-face. I urge the Pentagon to say publicly, not only to the families of those still missing in action, but to the people as a whole, that we will continue our search for these Americans for as long as it takes. The families of those men still missing have endured untold anguish over recent years and they deserve nothing less than the most determined and sustained effort possible to account for all MIA's. "Keep up the search!" is an appropriate motto; efforts to find our 1,300 missing-in-action must go on.

I ask unanimous consent that three articles concerning the fate of our MIA's be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 24, 1973]

HUNT FOR MISSING GI'S MAY HAVE TO END THIS YEAR

(By Arnold R. Isaacs)

NAKHON PHANOM, THAILAND.—Ground searches for missing Americans in Indochina may have to be suspended before the end of the year.

Because there has been no agreement between United States and Communist negotiators on procedures, American investigators are unable to carry out operations in North Vietnam, Laos, Cambodia or Communist-held portions of South Vietnam.

They can search only in government-held South Vietnamese territory, and there, American teams have nearly run through the whole list of possible investigations.

The teams have visited 21 aircraft-crash sites and 9 graves. According to Col. Vincent A. DiMauro, deputy commander of the Joint Casualty Resolution Center, there are only two more sites to be investigated, and both probably will be done in the dry months between now and the end of December.

SEARCH SITES LIMITED

This does not mean that all Americans missing in the South will then be accounted for, since a search can be carried out only where the location of a crash or a grave is fairly well pinpointed. Other sites may be found in the future if, for example, they are reported by local residents.

But if no new site information is developed and there is no negotiating breakthrough to permit searches in Communist-controlled areas, by the end of the year the casualty resolution field teams might have nothing to do.

The situation is deeply frustrating to many of the team members, who hoped and expected to help end the anguish for the families of the missing.

"I came here to run missions and I'm sorry I haven't run more," Capt. Paul W. Brown, of Cresaptown, Md., a Special Forces officer who commands one of the center's 11 five-member field teams, said. "It's a long time between missions—I ran one in July and did nothing but train until September."

The investigations involve two categories: about 1,300 Americans listed as missing in action and about 1,100 others known as "KIA-BNR" for "killed in action—body not recovered."

Only about 5 per cent of all the cases are in South Vietnamese territory that is accessible to the search teams.

CASE DATA COMPILED

The casualty resolution center has compiled all available information on each case and has made findings on some based not on ground searches but on analyses of other data, such as interviews with returned war prisoners.

There are a handful of cases in which men were believed at one time to be alive and in Communist hands but were not accounted for during the prisoner of war exchange after the cease-fire. Informed sources say, however, that the analyses carried out by the casualty center have produced no fresh evidence that any of the missing may be alive.

If ground searches are halted, the process of analyzing other information will continue.

So far, the center had made recommendations on about 150 cases, the majority based on indirect information rather than physical investigations.

The recommendations are forwarded to the Army, Navy, and Air Force secretaries, who are empowered to reclassify a missing-in-action serviceman as killed-in-action.

NEAR NORTH VIETNAM

About 150 persons are assigned directly to the Joint Casualty Resolution Center and another 70 work in the central identification laboratory at Samae San, near the Utapao Air Force Base south of Bangkok, Thailand. If the physical searches are halted, however, the casualty center strength may be reduced from 11 field teams to 4 or 5.

The casualty center operates at Nakhon Phanom Air Base in Northeast Thailand, the new U.S. headquarters in Southeast Asia. Lying on the Mekong River opposite Laos, it is only about 70 air miles from North Vietnam.

Colonel DiMauro and Captain Brown were interviewed not on the base which is closed to reporters except for rare group tours, but in the town. Across the river, the jagged mountains rising in the Laotian panhandle served as a vivid reminder that even if the diplomatic obstacles are overcome, the job of locating and identifying the remains of shotdown fliers will still be difficult and time consuming.

Captain Brown was the leader of the center's most successful search so far, which located a crashed American helicopter and recovered the remains of seven missing-in-action troops.

The mission illustrated the awesome difficulties of operating in the Indochinese hinterland. The site had been found by Montagnard hunters in thick jungle near the coastal city of Nha Trang, and reported first to Vietnamese authorities and then to American officials.

Captain Brown and his team flew over the area, then landed at the closest point where a helicopter could touch down. It took them 13 hours to march to the crash site, and two more days—while a tropical storm sent winds up to 80 knots—to cut away a big enough clearing for helicopters to hover overhead and winch down supplies and additional help.

"That canopy was so thick we couldn't even get a radio signal out to 30 miles away," Captain Brown recalled. When the laboratory specialists arrived, "everyone got down on their hands and knees with a light and a knife and we had to go over the ground inch by inch."

The wreckage was identified as that of an American helicopter that vanished in November 1969. It took nearly a week for the team to gather up the remains and ship them out to Samae San, and another month of laboratory work before positive identifications were made.

[From the New York Times Nov. 11, 1973]

PENTAGON MAY END SEARCH FOR MISSING IN INDOCHINA

WASHINGTON, November 10.—The search for Americans missing in Indochina is slowing, and Pentagon officials say it may be cut short in a few months.

There has been no decision to stop looking for the remains of 1,233 servicemen still carried as missing in the Indochina fighting, which officially ended in January. But elements contributing to doubts that more remains will be found and identified include an impasse in negotiations with the North Vietnamese and continued heavy fighting in South Vietnam and Cambodia.

So far Brig. Gen. Robert C. Kingston, chief of the Joint Casualty Resolution Center at Nakhon Phanom, Thailand, has located and positively identified the remains of nine missing men. The remains of six or seven others are undergoing laboratory examination.

ONLY IN UNCONTESTED AREAS

The 150-man staff has been limited to uncontested areas of South Vietnam, although the cease-fire agreement calls on South Vietnam, North Vietnam, Cambodia and Laos to exchange information about missing soldiers.

Pentagon officials report that only a handful of sites in uncontested territory remained to be explored in the two months before the rainy season begins. They are described as much less likely to yield remains than the 20 explored so far.

In other parts of South Vietnam, where there are 250 possible sites, any search must await the end of repeated cease-fire violations. Recent reports of heavy North Vietnamese troop build-ups and sharp fighting in the Central Highlands make the opening of new search areas unlikely for at least several months.

Last spring the Hanoi Government allowed the Four-Party Joint Military Commission, including American members, to view two cemeteries outside Hanoi where the North Vietnamese said about 50 American prisoners of war were buried. At one the North Vietnamese pointed to mounds and said they contained the ashes of prisoners.

Since that visit the North Vietnamese have declined numerous requests to turn over the remains in the two cemeteries. At twice-weekly meetings of the commission in Saigon, the North Vietnamese have turned aside requests from the Americans for discussion of the remains in the North Vietnamese cemeteries of access to possible sites of aircraft crashes.

In Laos, also the site of American aircraft losses, any search must await negotiations between the Pathet Lao and the Government in Vientiane. Indications are, Pentagon sources say, that any exchange of information, including the location of downed American pilots, is months away.

One ranking Pentagon official, discussing the chances of finding the remains of the missing men, said: "It becomes more remote as time goes on."

[From the Christian Science Monitor, Nov. 15, 1973]

TRIP TO LAOS PROVES FRUITLESS—RELATIVES HUNT MISSING U.S. GI'S

(By Diane Casselberry)

VIENTIANE, LAOS.—"MIAs—I want them accounted for" urged the bold red luggage stickers and lapel buttons of the 53 disembarking Americans.

Parents, wives, brothers, sisters, and children of U.S. service men reported missing in action (MIA) in Southeast Asia had flown halfway around the world for one purpose: to see a list of names of men who had died in captivity or were still held prisoner by opposing forces in Laos.

When it became apparent that the list, guaranteed in protocols for the new Laos coalition government, would not soon be made public, the families took to the dusty streets of Vientiane in search of information about their missing.

KNOCKING ON DOORS

They knocked on whitewashed embassy doors, and also made the rounds of rumor-filled sidewalk cafes. Some flew over rugged jungle terrain to look at reported crash sites, while other jeeped into refugee villages to listen to often-conflicting stories of Caucasians sighted in isolated mountain areas.

Two parents flew to Udorn Air Force Base in nearby Thailand to see where their son had lived, and to talk to men who had flown with him.

The families left Laos at the end of their seven-day visa without the anticipated list of names, but with somewhat buoyed spirits.

"We realized before coming that there could be no assurance of success," said spokesman George L. Brooks. "Still, it was another step we could take to find out about our missing—and to keep the MIA issue before the public.

"We keep hearing that the war (in Southeast Asia) is over and that all our POWs are home," Mr. Brooks continued. "But that's not true. The war isn't over until all of the MIAs have been accounted for."

A LONG WAIT

Mr. Brooks and the other 3,100 members of the National League of Families of American Prisoners and Missing In Action in Southeast Asia have been waiting years—some for eight and nine years—for word of their missing.

During that time, they have confronted North Vietnamese representatives at the Paris peace talks, and met with national and state officials at home. They have marched in Washington, spoken at schools, written letters, and posted billboards—all in an effort to keep the MIA issue burning.

"I can't forget, nor can any of the other families," says Mr. Brooks, who is vice-chairman of the board of directors of the league. "But we're beginning to think that the [Nixon] administration isn't doing anything of substance to resolve the situation. And although I've always felt that we should keep the league a strictly family operation, divorced from government, I see now that it's hard to do so and get results."

PRESSURE TACTICS

Mrs. Earlyne Thompson, also on the board of directors, agrees with Mr. Brooks. "We've got to be more forceful as an organization, and show the government that we can control a sizable pressure group," she says.

Mr. Brooks sees the recent trip to Laos—the first officially organized, large-scale trip by league members to Southeast Asia—as a first step in a new, more vocal direction.

There will be more and bigger trips, he says, within six months. Many members have already indicated that they would again borrow money to pay the $2,000 round-trip cost.

OIL PROFITS NOT HIGH ENOUGH, BUT THEY MUST BE SPENT WISELY

Mr. FANNIN. Mr. President, I call my colleagues' attention to an editorial appearing in the November 12 Oil & Gas Journal. The article makes some points it would be well for us to consider.

A Chase Manhattan Bank study has revealed that in order to supply the country's future energy demands our Nation's oil industry must spend $600 billion between 1970 and 1985 on capital outlays and exploration. Such expenditures will require twice the income gains registered in the past decade—recently reported large industry profits are still not high enough to achieve those goals.

Second, the article emphasizes—as I have here on many occasions—the need for increasing the supply of energy, in this case through expanded investment. The warning that "oil companies can make higher profits palatable to the public and Government only as they translate them into investments that will produce more fuel" is entirely correct.

I see the industry as ready to meet this responsibility. I deeply regret that S. 2589 does not address itself to providing the incentives necessary to induce such additional energy supplies.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Oil Profits Not High Enough, But They Must Be Spent Wisely

Americans need to realize one fact about the substantial third-quarter profits being reported by the nation's oil companies. While the gains are significantly higher than a year ago, actual earnings are not high enough yet.

The profits still represent a growth rate and a return on investment below levels needed to generate funds for the tremendous expansions required to supply the country's future energy demand.

The average American, plagued by rising personal costs, is more apt to think current profits make oil companies the sleekest of the fat cats. Any idea that oil returns still are not high enough only evokes cynicism.

There's too little realization of how desperately the oil industry needs improved profits and needs them consistently over a long period of years. A financial study made by Chase Manhattan Bank leaves little doubt about the outlook. It calculates the industry should spend $600 billion between 1970 and 1985 in capital outlays and exploration. But to do so, income growth must be twice the the 8-percent-a-year gains made over the last 10 years.

This means that profit gains such as those being shown this year must become commonplace. And that's a tough assignment. Current profits stem from some unusual factors: A flat-out operating rate for all segments of the industry resulting in peak efficiency. A higher, more stable products market. And increased business abroad which when translated in devalued U.S. dollars may show illusory profit gains. In addition, the new Middle East oil squeeze will force the industry soon to start operating at below capacity with skyrocketing costs that will limit earnings.

Some observers fear the spending level charted by Chase Manhattan may be impossible to attain due to profit realities, competition from others for available capital, and shortages of equipment and supplies.

The improved profits, however, impose new obligations on the oil industry. It can't wait for ideal conditions. It must move now. And current profits should be sufficient incentive to encourage companies to step up capital spending significantly.

And at this point the industry should observe a caution: New spending must be carefully channeled into projects that will increase the nation's fuel supply. Intense exploration for new reserves. New recovery techniques. More refining capacity. Greater transportation facilities.

This single-minded attention to increasing supply has even penetrated governmental thinking. U.S. Treasury officials recently advised against huge investments in emergency standby storage. Instead, they urged the oil industry to concentrate its investments on increasing its supply potential.

More supply is the watchword. And oil companies can make higher profits palatable to the public and Government only as they translate them into investments that will produce more fuels.

COLLEGE OF THE ATLANTIC

Mr. MUSKIE. Mr. President, a recent issue of the Harvard Bulletin contained an interesting and informative article about the College of the Atlantic, a college of Human Ecology in Bar Harbor, Maine.

This young institution of higher learning, under the direction of Edward G. Kaelber, has taken a novel approach to liberal education. As the college's 1972 catalog described it:

> A college of human ecology cannot be an isolated academic enclave; we hope to reduce the distinction between "college" and the "outside world" as much as possible. College of the Atlantic began as a community effort and will remain an integral part of the community within which it grew.

Mr. President, to share with my colleagues the hopes and goals of this experiment in education, I ask unanimous consent that the text of the Bulletin article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

How To Start a College Whose Ultimate Goal Is To Render Itself Obsolete

(By Samuel A. Eliot)

One afternoon in early April, 1969, I took a walk through Harvard Yard. There were dogs, and babies in perambulators, and people throwing frisbees. University Hall had been occupied since morning by an unlikely assortment of radicals, curiosity-seekers, and hangers-on. The Yard police were locking the gates as I headed for home, a graduate student in the 333rd year of Harvard's history, secure in the knowledge that nothing untoward would happen in the night. I was wrong.

Months later, on a September morning, I attended convocation ceremonies at Reed College. Reed was reputed to have the kind of flexibility and innovativeness that had emerged as ideals at Harvard, following the University Hall bust and subsequent strike. In fact, the president was alluding to that very flexibility (a myth, as it turned out) when he observed that at Reed one should expect the unexpected. Moments later he was struck by a pie thrown by one of four students carrying the NLF flag. That chilling symbolic assassination spoke more eloquently of where Reed really was than anything the president had said.

A year later, I was teaching English in a small private secondary school in Monterey. This school was truly innovative and flexible. I was encouraged to develop my own curriculum, and so I asked the junior class if they would like their English studies to have a central focus—the theme of the relationship between people and their environment. To put it another way, were they interested in combining English with the study of ecology? All but three said no.

By early 1971, then, after Harvard, Reed, and York School, I was pretty discouraged, partly by the aims and methods of higher education; partly by the increasing deterioration not only of the "environment," but of our ability to see ourselves as organic parts of a whole working system. At that point I was offered a job at College of the Atlantic, a nonexistent institution on Mt. Desert Island, Maine. I accepted.

College of the Atlantic can trace its beginnings back to 1947, when a disastrous fire destroyed many of the summer cottages in Bar Harbor, ending a way of life that many of the islanders had come to depend on. Over the next two decades, there were several attempts to start a school or college—regarded by many as a "non-polluting industry," and a much-needed economic boost. Others were attracted by the intellectual and cultural diversity a college would bring to the island's year-round population of 8,000. One such attempt, led by a Roman

Catholic priest and a Bar Harbor businessman, succeeded.

One of the future college's trustees, the Reverend Arthur C. McGiffert '13, proposed human econogy as the focus for the yet-to-be-devised curriculum, suggesting that the term be used in its broadest meaning: study of the different relationships between people and their environment. College of the Atalntic was incorporated in July 1969 as a private, coeducational college of human ecology. With some seed money, a focus, a 21-acre leased shorefront campus, and a vast amount of enthusiasm, the trustees began to do something that none of them had ever tried. In the fall of 1969, while I was being hastily disillusioned in Oregon, the board members began to make a college.

Edward G. Kaelber '48 began his duties as College of the Atlantic's first president the following January. A man who describes himself as fond of challenges, Kaelber had been a dean at Harvard's Graduate School of Education from 1960 to 1968, before taking on the development of a large secondary school in western Nigeria.

In Bar Harbor he found himself with a couple of drafty buildings, a secretary, a few inquiring letters (mostly of the "what the hell are you up to?" variety, including one such from me), and several pressing questions. Where's the money to come from? Who will teach here? What will they teach? What about students? What are the real goals and philosophy of the college? Why start a small private college when literally hundreds are folding each year? What the hell *are* you up to, anyway?

During the next eighteen months, Ed Kaelber looked for answers to these questions. He persuaded several prominent scientists and educators to join the board of trustees. Among them, from the Harvard School of Education, were Theodore Sizer Jr., Ph. D. '62, and Dana Cotton, Ed. M. '43, Melville Cote, a young doctoral candidate at the Ed School, was persuaded to provide help with student recruitment and general planning. That winter of 1970–71 was one of the longest and harshest in Maine history. After it was over, my wife and I headed east from California to see what was going on, to see if we could help. This story is about (some of) what we found, and what has happened since.

"Our purpose as an academic community will be to study the various relationships which exist between man and his environment, including both the natural world which supports his existence and the society and institutions which he created." From the 1971 Catalog.[1]

My wife and I had a chance for some first-hand study of "the various relationships" while we more or less camped out on the third floor of the college's main building. Most of the time, we were on the receiving end. As assistant to the president (read utility infielder), my academic/administrative responsibilities were supplemented by various chores of a housekeeping nature. The college's roof leaked—in my office, in Ed Kaelber's office, in the library (where part of the ceiling actually collapsed). In November, the boiler developed a penchant for midnight shutdowns. And with the onset of December's storms, the half-gone skylight in our bathroom provided us with ankle-deep ice water on more mornings than I care to remember.

And into the natural world which supports our existence (in this case, Frenchman's Bay), every flush of a college toilet deposited a burden of raw sewage. And still does. We haven't quite reconciled ourselves to the fact that Maine's college of human ecology is a polluter (and consumer) of natural resources. The best of intentions, and most ecological of attitudes, don't change the economic constraints that have thus far kept us from installing our own adequate sewage-treatment system.

"We are determined not to spawn another second-rate liberal arts college. We will make no compromise with quality." E. G. Kaelber, early in 1970, and many times thereafter.

"Quality" is a tough word. Most measurements of it are highly subjective. We had some interesting ideas about education, and some firm convictions about the types of people we needed. But to combine people with ideas, to create a college that is in fact of high quality, you need something more tangible than good intentions. Money.

Ed Kaelber is fond of saying, "The omens are good." He's been saying it for three years, with a regularity that's saved from being monotonous only because it seems to be truer with each utterance. At the beginning, in 1970, omens were about all he had to go on.

Despite the fact that Mount Desert Island is the summer home of some of the world's wealthiest people—with all its concomitant temptations to charge ahead saying "College of the Atlantic is the answer! Support us!"—Kaelber proceeded with caution. He describes early fund-raising efforts as "rifle shot, rather than shotgun." Instead of making a general appeal for funds, he identified people who might, by nature or inclination, be interested in supporting a college of human ecology. The fact that we're here today attests to his success, both in raising money and in persuading people with serious financial clout to join the board of trustees. With the exception of two grants (a planning grant from the National Endowment for the Humanities and a scholarship grant from the Jesse Smith Noyes Foundation), our support has come from private individuals and family foundations.

I'm told that when the decision to hire me was made in January 1971, a collection had to be taken in order to buy the postage stamp for my letter of appointment. I suspect (though I'm not positive) that this is apocryphal. In any case, since then we've raised close to $1.5 million. We may never be perfectly secure financially, but we're a lot less shaky than we were last year, and the omens are (forgive me, Ed) definitely good.

"We are looking for students who are prepared to benefit from the unique curriculum offered here. Maturity, self-direction, responsibility, imagination, and resilience are among the personal qualities we consider most important." 1971 student recruitment brochure.

Perhaps we should have said "most necessary," since we were inviting students to come to a college that would begin to exist only upon their arrival. Mel Cote and I visited dozens of schools during the fall of 1971. We wrote a catalog, complete with descriptions of projected course offerings, and designed a set of application forms. We made plans for a series of weekend applicant visits.

Early in 1972 the applications, and the applicants, began to arrive. We conducted individual interviews and informal get-togethers, and, weather permitting hiked around Acadia National Park. Of the 32 students who decided to join us (out of 40 we'd accepted from 85 applications), 29 had spent at least two days and nights at the college. They knew that "unique" actually meant that the 1972–73 curriculum hadn't been fully devised yet, and that they were to have an important role in its creation and development.

They came in September 1972—sixteen men, sixteen women (age range 16–25; fourteen of them with previous experience at places like Reed, Whitman, Denison, Williams, Amherst, Middlebury, and Yale. A few have left; most have stayed. The quotation from the 1972 catalog still holds, but now we *know* it's true. At a recent conference I was asked, "Besides academic ability and a commitment to ecology, what do you consider most important?"

My answer was "Guts."

"A college of human ecology cannot be an isolated academic enclave; we hope to reduce the distinction between "college" and the "outside world" as much as possible. College of the Atlantic began as a community effort and will remain an integral part of the community within which it grew." From the 1972 catalog.

Easier said than done. The "outside world," including Mt. Desert Island, was highly skeptical about the college's chances for success. After coming up with more than $50,000 in initial pledges, the islanders for the most part sat back with a wait-and-see attitude. The school had begun as a community effort, but it was rapidly being taken over by people from "away." When I joined in 1971, there were unfounded rumors about a Harvard Ed School plot. The real test of our 1971 rhetoric began when the school opened in September 1972. How would the town of Bar Harbor react to the presence of our 32 students? And how would the students feel about spending the winter in a small town that can fairly be called, November to April, isolated and remote? Today the college is a part of Bar Harbor (and Mt. Desert Island), not because of any administrative programs or "town-gown" strategy, but because the students have initiated and developed so many points of contact within the town that the distinction, though it inevitably remains, is truly blurred. Community service, environmental education programs in elementary schools, singing in the island's churches, sponsoring regional art exhibits . . . there is a steadily growing interface between college and community, not because we said there would be, but because the students and the townspeople made it so.

"Our curriculum is based on a conviction that bodies of knowledge are interdependent, and may in fact be regarded as a working system in which all parts complement and reinforce one another. There is no departmental structure, and people with different backgrounds, disciplines, and experience work together." 1972 catalog.

In the 1971 catalog we listed courses alphabetically, by title; now we list them according to the term in which they're offered. That's probably as far as we'll go, at least in the foreseeable future.

The college's curriculum was initially the responsibility of a trustees' curriculum committee, who recognized early on that they couldn't do much substantive planning without a faculty. So we appointed a faculty (five words to tell what took more than two years to do, appointing three men and a woman from a group of about 1,800 applicants),[2] and the curriculum began to take shape in the spring of 1972: Literature and Ecology; Environmental Law; Cultural Ecology; Human Effects on Natural Systems.

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[1] We've learned that at College of the Atlantic, one does not refer to "man" and "his" environment. One indirect outgrowth of our first catalog is the current development of a new vocabulary that deals with "people" and "humans" rather than "men."

[2] From the University of Chicago, where he had been an assistant professor of English for five years, came William Carpenter, Dartmouth '62, Ph. D. Minnesota '67. Daniel Kane, Yale '62, J.D. Harvard '66, had been a practicing lawyer in San Francisco, and a part-time teacher of environmental law at San Jose State. Steven Katona '65, Ph. D. '71, had been teaching at California Institute of the Arts. Linda Swartz, Vanderbilt '64, Ph. D. Texas '73, was completing her doctorate in anthropology at Texas.

Three more faculty members join us this summer. Richard Davis, Yale '62, Ph. D. Washington U. '71, has been teaching philosophy at Tennessee. Carl Ketchum, Bates '62, Ph. D. M.I.T. '68, has been teaching oceanography and mathematics at SUNY, Albany. Frederick Olday, Penn State '63, A.M. Harvard '65, Ph. D. U. Mass. '73, has been completing his doctorate in biology at Massachusetts.

We had to plan not only the courses themselves, but the interfaces between them; from the start, we wanted to explore the 'organic' connections linking the great whales. Thoreau, oil spills, and Buckminster Fuller. In most cases, courses were meant to complement other courses: Maine Coastal Culture and Open Space—Maine Coastal Architecture; Human Effects on Natural Systems—Government Regulation of HEONS. Later workshops, such as Native Americans: Philosophy, Culture, and Law, are team-taught and interdisciplinary within themselves.

To that beginning we've added visual arts, physics, philosophy, botany, math, and biochemistry. And the curriculum planning goes on, based on regular evaluations and assessments of what we need and what we're trying to do: develop a problem-oriented interdisciplinary curriculum in human ecology (for all practical purposes we've retained Reverend McGiffert's working definition). What follows are descriptions of three "learning experiences" that took place during 1972–73, reflecting faculty/student goals and aspirations, telling a little of what we know and showing how much more we have to learn.

Much as we would like to, we can no longer prepare students for life in "tomorrow's world." We can barely conceive of tomorrow's world. With the increasing pace of social and technological change, we can hope only to prepare students to recognize the nature of change and to acquire the skills and attitudes that will enable them to deal courageously and responsibly with the problems associated with change.

The Great Heath is a 5,720-acre sphagnum bog in Washington County, on the mainland, north of the college. It is, as the largest sphagnum moss bog in Maine, an ecologically unique area. Right beside it is Pleasant River, which supports one of the few remaining Atlantic salmon runs on the eastern seaboard. Late in our first term, most of the students spent a day on the Great Heath, led by two faculty members: environmental lawyer Daniel Kane, and biologist/ecologist Steven Katona.

Dan Kane, who was then teaching a course called Law, Government, and the Biosphere, and Steve Katona, whose Ecology of the Natural Systems was the college's one required course, had more in mind than a fine late-fall outing. Northeast Peat Moss, Inc. had filed an application with Maine's Land Use Regulation Commission to extract peat moss from the Great Heath. As a practical exercise in interdisciplinary problem-solving, the Great Heath seemed tailor-made; the good guys (the environmenatlly aware COA students) versus the bad guys (the peat-mining company, out to make a buck by destroying 1,500 acres of the heath). But it was by no means that simple.

On January 22, the commission and the Department of Environmental Protection held a joint hearing in Columbia, attended by local residents, representatives of the peat-mining company, and several righteous members of the college's environmental law class. Standing up to speak against the mining company's application, the students were shocked to discover that many of the residents of the area opposed not the mining company but the college. In an economically depressed area, "a traumatic incision and incursion upon the health' did not seem as important as the number of potential new jobs offered by Northeast Peat Moss, Inc.

I missed the hearing itself, but was on hand when some of the students returned, late at night, from Columbia. "How did it go?" I asked one of them. He paused, at a loss for words. "Was it a good hearing?" Craig, one of the eighteen students who came to us without previous college experience, said "Good? Christ, I don't know. It sure wasn't what we expected." Then, walking tiredly away, "But I guess it was one hell of a learning experience."

Subsequently, Dan Kane's law class submitted a twenty-item legal brief to the commission, strongly opposing the peat-mining application on legal, ecological, and aesthetic grounds. The brief was picked up and carried by the local newspapers, which also carried the early March news that the commission had in fact denied the application. And many of the reasons upon which the commission based its decision were taken directly from student testimony at the hearing, and the legal brief. The Bar Harbor Times editorial that week was headlined, "COA on the winning team."

A potential source of employment in Washington County has been blocked. The Great Heath, for the time being at least, is safe. It was an ecological victory, in which the commission agreed with the environmental law class that the uniqueness of the Great Heath outweighed the economic benefits to the area. Early on, we began establishing our credentials as an activist institution for "a bunch of damned troublemakers," depending on how you felt about it). We were instrumental in preserving Maine's largest sphagnum moss bog. But we also cost some people some jobs.

Craig was right. It was one hell of a learning experience.

An examination of ecological problems—the interrelationship of man and environment—has been chosen as the core of the curriculum not only because of the urgency of these problems (which makes them "relevant" in the narrow sense), but because their very complexities provide the means for developing habits of thought, action, and feeling necessary for coping with a changing world.

Steve Katona came to Bar Harbor from California about a year after I did. He's a biologist; I am, as they say, "in" literature. We hit it off, not only because the chemistry was good, but because we share a common interest: endangered species. So we decided to set up a workshop. (The primary objectives of the workshops are to work toward understanding the complexities of specific environmental problems; and to provide a medium for interaction and synergism between perspectives and disciplines), and called it "Humans and the Great Whales." At the beginning of the first term, twelve students signed on.

Things started off well. In mid-September, cruising on a Coast Guard tug, we encountered at least eight fifty-foot finback whales, feeding in leisurely circles around the ship, and the excitement of that afternoon seemed to promise that the workshop could be nothing less than an unqualified success. Back on land, we tackled such topics as cetacean evolution, biology and morphology; the history of whaling; whales in mythology, folklore, and art. We read Moby Dick, and had a special screening of the film, at which we served grog. We began to realize how very little is really known or understood about the marine mammals we were studying.

By midwinter we were in a semi-crisis state. Seven students had left the workshop. We'd been back on land too long. Steve and I, the originators of the workshop, tried to inject some life into it by assigning some readings, and were politely but firmly reminded that, as all participants in a workshop are equal, we were in no position to tell anyone to do anything. The future of "Humans and the Great Whales" looked grim. We understood the complexities, we had the interaction, but we weren't getting anywhere.

At about that time, when we needed it most, we found a handle. The International Whaling Commission, the regulatory body for world-wide commercial whaling had at its 1972 meeting defeated a proposal for a 10-year moratorium on all commercial whaling, despite the fact that several of its member nations had supported such a proposal at the U.N. Environmental Conference in Stockholm. Why? Although IWC regulations prohibit the taking of several endangered species, such as blues, humpbacks, and Pacific grays, a moratorium seems in order if only because we know so little about the creatures (beings?) we're slaughtering. We made an attempt to persuade all the IWC member nations to support the moratorium at the June 1973 meeting. It was another learning experience. We got into economics, law, politics, and international relations. And we were advised that, should the IWC vote in favor of a moratorium, two member nations (Japan and Russia, the two countries that do most of the world's commercial whaling) would probably drop out, freeing themselves from any regulations on either numbers or species of catch.

Meanwhile, with the cooperation of the Coast Guard, we began setting up a regional whale watch, using the Mount Desert Rock light station as a base of operations for monitoring the migratory and feeding habits of any cetaceans that might pass within 21 miles of Mount Desert Island during the summer. We started hunting up photographic and acoustical equipment, and commenced the search for a vessel suitable for taking our research even further out of the classroom than Mount Desert Rock. (Secondary objectives include group organization, the establishment of priorities for gathering and analyzing data, and the development of skills of communication and advocacy.)

Subsequent personal encounters with cetaceans have not been wholly satisfactory. One morning in late March, Steve left for Ohio. That afternoon I flew to Washington. That evening a ten-foot pilot whale stranded itself and died (or was killed) on tidal flats not far from the college. One workshop member was on the Olympic peninsula, another was in Austria. Those remaining did a partial dissection, and brought back samples for lab study. Then in April, Steve spent three weeks in Alaska with a team of scientists, studying the spring migration of the nearly-extinct bowhead whale. "Belugas, blizzards, and birds," Steve said upon his return. "The expedition was a great success. But I personally didn't see one single damn bowhead."

And that's how things have been going in the whole workshop.

Problems in human ecology require perspectives difficult to acquire within the confines of traditional academic and professional specialization. Parts need to be continually related to wholes. Analysis and synthesis become alternating emphases in a single continuing learning experience. The aim of this kind of education is not the acquisition of a particular body of knowledge by itself, but—as Alfred North Whitehead expressed it—"the acquisition of the art of utilization of knowledge."

Initial plans for the college called for an eventual enrollment of 600, and it seemed clear (to most of us, anyway) that our present location is too small to accommodate that many people without resorting to high-rise buildings and parking garages. Through late 1975 we have a lease on 21 acres of shorefront property, formerly the Oblate Seminary, and before that one of Bar Harbor's most sumptuous summer cottages. The one huge building houses all our classrooms, offices, labs, library, dining facilities, and so on. The grounds are strikingly beautiful, and the soil (as the abundance of riches from my quarter-acre garden can attest) is black, rich, and fertile.

No matter. In the fall of 1971, still proceeding on the 600-student track, we decided to purchase sixty acres atop Strawberry Hill just south of town, and about two miles from the college. Swept by the 1947 fire, the hill is mostly rock ledge and blueberry patches, with a couple of crumbling foundations and a lot of young birch trees. A donation of twenty adjoining acres gave us eighty acres to work with, two hilltops and the saddle between, commanding a superb view of Frenchman's Bay and the mountains of Acadia National Park. The new campus came with a couple of serious built-in flaws. First, as a tax-exempt, nonprofit organization, we were removing eighty acres from the town's tax base. Second, the technical and logistical problems of sewage and utilities were, to most of us, mind-boggling.

We obtained the services of an architect to devise an initial master plan for the campus. Edward Larrabee Barnes '38, M.Arch. '42 is a summer resident of Somesville, a few miles from Bar Harbor, and his convictions, from the beginning, matched ours. Not only must we avoid wreaking ecological havoc on Strawberry Hill, but we must create a campus that is aesthetically pleasing from within, from the top of Cadillac Mountain, and from the waters of Frenchman's Bay. Also it must be functional, non-polluting, easily accessible (the hill is quite steep), and energy-conserving. And economical, both to build and to maintain.

Early in 1973, in a prime example of spontaneous generation, the Strawberry Hill Workshop came into being, composed of a disparate group of students and teachers who wanted to make sure that the campus master plan was a true reflection of the college's aims and ideals. (We consider workshops to be the core of the curriculum: they are interdisciplinary, problem-oriented, and designed to minimize the traditional student-teacher roles.) In many ways, the Strawberry Hill Workshop itself reflected not only our aims and ideals, but the confusion and frustration that come from tackling a large problem head-on. Perhaps more than any other single course or workshop, it demonstrated why we don't have requirements at the college. In confronting a problem (in this case, the creation of an eighty-acre college campus on a granite fire-scarred hilltop), students soon discover what we meant in the catalog when we said "complexities." If a student learns statistics, it's because the problem can't be solved without statistics, not because someone said, "Learn statistics!"

The Woodshop's central focus was Barnes' master plan, with special emphasis on interior design, environmental impact, and alternative energy sources. The preliminary master plan was modified, after submission of a twelve-page workshop "findings sheet," to include at least two windmills, less parking space, and more cohesion between academic-administrative-living areas. Undoubtedly there will be more findings and more modifications. We want to be able to say of our campus, when it's finished, that it embodies the philosophy and goals of our college. Thanks to Barnes and the Strawberry Hill Workshop, it appears that we will be able to say it, and mean it.

It's 1973, and we're still working on answers for many of 1970's questions. Perhaps we'll find the answers. Perhaps College of the Atlantic will make a significant contribution to higher education, or to the restoration of ecological balance, or both. In a sense, our ultimate goal is to render ourselves obsolete; ideally, "environmental education" will begin in infancy, and the need for a college of Human Ecology will cease to exist. In the meantime, however, we are concerned with survival, with the survival of the species, and the planet, and with the survival of intellectual curiosity, those "habits of thought and feeling necessary for coping with a changing world."

I tried out that bit of rhetoric (it's honest, it's sincere, but it *is* rhetoric) on a recent environmental conference, and was immediately hit with the question "But what will your students *do* when they graduate, and what will they have gained that they couldn't have gained somewhere else?" The first part of my answer was—and still has to be—"we don't know yet." We haven't any graduates. We can guess, having been told that job employment in a broad field labeled "environmental protection" will quadruple between now and 1980, what there will be for many of our graduates. Also, as we expand our curriculum and develop resource-sharing ties,[3] we expect our students to meet the entrance requirements of most graduate schools in the country. Our confidence is apparently shared by the Maine state legislature, which has given us the legal authority to grant degrees, by the regional accrediting agency and by the U.S. Office of Education.

The second part of the answer has to do with what's different about the college. ("Different" doesn't mean "better," but "better" often means "different.") Mostly, that's what this story is about. Mel Cote says there hasn't been a new idea since the Greeks. We're trying new combinations of old methods, building on the mistakes and successes of other educational innovators. We have the advantage of starting from scratch, with no establishment to fight and no existing structures to struggle within. Our college community is governed by a system of committees on which students are equal members. During the third term, faculty meetings were chaired by a student. We have a working responsibility/accountability system. Beyond that, the traditional administrator-faculty-student distinctions are breaking down, and the results of that breakdown are not chaos and anarchy but openness, communication, and increasing willingness to accept responsibility not only for one's own actions, but for the continued growth and well-being of the college.

I'm still asked, in Bar Harbor, Boston, St. Louis, and Santa Barbara, just what the hell I'm up to. Me, personally? Despite the nice-sounding title, I'm still what I was originally hired to be: utility infielder. What that means, in effect, is doing whatever needs to be done. I do some administrating; I do some teaching. Sometimes I go for long walks in the woods and mountains of Acadia; summers I tend my garden. It's an idyllic life. I've developed a duodenal ulcer.

Charles W. Eliot, president of Harvard from 1869 to 1909, was one of the first people to build a summer home at Northeast Harbor. He loved Mount Desert Island, and helped create what became Acadia National Park. Early in the 1900's, he led an unsuccessful attempt to ban all automobile traffic from the island. Today, on this glacier-riven piece of granite and spruce, there are about 8,000 year-round inhabitants. In the summers, across that bridge, in their campers and trailers, and Winnebagos, come 2.5 million people. The big money now is in land speculation and motels; the summer air is filled with the cries of herring gulls and the smell of automobile exhaust.

Eliot was right. I can't help thinking that he would approve of what we're trying to do here. He had, and we share, a commitment to higher education and a concern for the environment. If College of the Atlantic succeeds, it will be because of that commitment and that concern. We don't have all the answers. But we are learning what some of the important questions are, and how to ask them.

A RETURN TO PHASE ZERO

Mr. BROCK. Mr. President, again we find ourselves in a situation of a worsening economy. Inflation is growing, and there appears to be no end in sight.

Repeatedly, I have called for a return to phase zero. We must realize that controls, any controls, on the marketplace, simply have an adverse effect.

If we are to throttle this cancerous inflation, we must allow the marketplace to respond with greater supply, and not continue to place depressive impediments upon it.

Perhaps we should take time to look back over the past months and be shocked into the reality of what has happened. Each time a phase has been implemented, exactly the opposite of what was intended has occurred.

And still, prices continue to rise, and the controls record continues to worsen. Why not? It was predictable when men decided they could substitute their judgment for that of the marketplace.

Recently, the Wall Street Journal published an excellent editorial on the dismal record of those controls, and I would ask unanimous consent that this article be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Oct. 10, 1973]

Since the imposition of controls, inflation has turned not better but worse.

The six-month moving average of the consumer price index turned down in early 1970, and continued down until controls were imposed in August 1971. It turned back up in mid-1972, in the midst of "tough" Phase 2 controls. Since then it has ascended to heights far above those reached in any recent non-controls atmosphere. Little wonder that the U.S. Chamber of Commerce and the National Association of Manufacturers have—somewhat belatedly it seems to us—joined the AFL–CIO in calling for prompt and complete termination of controls.

Purely on the basis of the record, one would have to conclude that far from extinguishing inflation, price controls fuel it. That conclusion is overly simple, of course, because since mid-1972 many other powerful inflationary pressures have been at work. The money supply has been expanding rapidly, 7.4% between the fourth quarters of 1971 and 1972. The government budget has been in deficit, and economic growth has been straining the economy's capacity.

"Even at that, though, the inflation has been more rapid than any usual economic view would predict. In trying to explain it, economists are looking toward international economic developments. Perhaps the impact of the dollar's devaluation was more inflationary than most theories predict. Or perhaps as First National City Bank and Argus Research Corp. argue attempts by European central banks to maintain fixed exchange rates by buying dollars swelled European banking reserves and money supplies, leading to a worldwide inflation that spills back into the U.S. economy.

"Price controls presumably were intended to stop the increase in prices in the face of these powerful domestic and international forces. This was a pipe dream, as nearly everyone now recognizes. We would go a bit further, to argue that in a couple of respects controls did indeed cause higher prices.

"For one thing, there is the effect on the psychology of the Federal Reserve Board. Even those skeptical about the real effect of controls—and it is by no means clear that this description applies to everyone at the Fed—would probably feel some influence from the announcement that some other part of government was going to take over the inflation problem. So if there had been no controls the money supply probably would not have expanded as rapidly, and prices would not have risen quite so sharply.

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[3] We currently have affiliations with Habitat, in Belmont, Mass.; the University of Maine at Orono; and San Jose (California) State College.

"Beyond that is the problem of shortages. The diehard supporters of controls ignore this problem when they contend that their policies have not failed but were never tried. It is of course quite true that the biggest price jumps have occurred during the more relaxed phases of the controls program. Usually these apologists blame the relaxation on George Shultz' association with the University of Chicago, but those who look not at personalities but events will find the following cycle:

"Tight controls are imposed. Shortages and dislocations start to develop. Because of the shortages and dislocations, controls have to be relaxed. Then you get all the price increases you would have had during the tight-controls period, plus those caused by the controls-induced shortages, and probably some more by businesses trying to get ahead of the next period of tight controls.

"No group of controllers will be able to avoid this cycle, for none of them can possibly be smart enough to foresee the secondary and tertiary effects of their actions, especially in an increasingly integrated global economy. They learn too late that if they fiddle with gasoline prices and supplies they may end up with a fuel oil shortage. After setting U.S. prices for fertilizer or cotton they suddenly learn that world prices are higher and foreigners are buying so much of the supply there isn't enough left for Americans. And if they achieve really efficient enforcement with an army of bureaucrats, they will drive down investment and plant expansion and end up with shortages of everything.

"So we very much doubt that the dismal record of controls have much to do with any particular set of men or philosophy of controls. The problem is something far more basic, the limits of human intelligence. And the sooner we recognize that controls are doomed by facts of simply physiology the sooner we will be able to start rebuilding a healthy economy."

WRINKLES, BIRTHDAYS, AND OTHER FABLES

Mr. CHURCH. Mr. President, community-supported, public television is performing many worthwhile services for our Nation.

One recent production of special interest to me, as chairman of the Senate Special Committee on Aging, was an hour-long special called "Wrinkles, Birthdays, and Other Fables."

Comedian Flip Wilson served as host in an entertainment format which—while enjoyable—nevertheless managed to provide a great deal of useful information about the 21 million Americans who are so often called senior citizens.

Produced by public television station KCET in Los Angeles, the special was shown on public service stations throughout the Nation. On many stations, a local public discussion show followed. It was my pleasure, for example, to participate in a follow-up panel which discussed issues in Idaho.

Together, the Flip Wilson special and the discussion provided a major contribution to more widespread understanding of what aging means, not only to those now old, but to everyone who will become old over the next few decades.

The Flip Wilson segment, in fact, was designated by its producers and writers to appeal to those persons in the 35- to 55-year-old age range. One purpose was to reach people who want to forget that they, too, are approaching the so-called "golden years."

Through light sketches, commentary, and musical numbers, the cast exploded myths and stereotypes associated with age and growing old. PBS has performed a very useful service by reminding all of us that aging is everybody's business, and community-supported television again deserves our thanks.

DEATH OF HOWARD P. JONES

Mr. BROCK. Mr. President, last month, a distinguished public servant of this country passed away. He was Howard P. Jones, who held a number of important positions in many levels of government, but is best remembered for his memorable tenure as Ambassador to Indonesia from 1958 to 1965.

When Secretary of State John Foster Dulles spoke at Jones' swearing-in ceremony for that job, he warned the new Ambassador that he was taking on a tough assignment, one that would require "a great effort of statesmanship."

Jones proved equal to the task, and it is in no small measure due to his effective diplomacy that relations between the two nations have shown marked improvement since 1958.

Indonesia was in a virtual state of civil war in 1958. Communist influence within the country was growing and there were conflicts between Indonesia and the Netherlands that might have escalated into open warfare, particularly over the West Irian question.

To the task of improving things, Jones brought great good humor, boundless energy and a considerable skill at diplomacy. Convinced that America and Indonesia were, in his words, "bound together by belief in God, love of liberty and respect for the rights of the individual," he worked tirelessly and creatively to create a stable relationship between the two.

Ambassador Jones' early career was in journalism. After graduation from Columbia University, he worked for the United Press, and then became editor of the Evansville Press, and later became a partner in a chain of nine small newspapers in Michigan.

His interest in matters of public policy led him to return to school, where he studied public administration, public finance and public law, subsequently being named public relations secretary for the National Municipal League, and later becoming that organization's executive director.

He sought elective office only once, losing a bid for a seat in the New York General Assembly, which campaign, however, brought him to the attention of Gov. Herbert Lehman, who appointed him to the State civil service commission.

He had a distinguished career in the Army during World War II, completing service as a colonel attached to General Eisenhower's Supreme Headquarters staff. Following the war, he played a key role in German rehabilitation before joining the Foreign Service in 1948.

He served in Berlin, Taipei, and Jakarta before being recalled, in 1955, to Washington to take the post of Deputy Assistant Secretary of State for Far Eastern Economic Affairs, the post he held until being named Ambassador to Indonesia.

His distinguished public career thus spanned three decades, and every American can be proud of the quality of the service he rendered.

Saddened now by his death at the age of 74, a grateful Nation owes his memory the respect due a diplomat of the first rank and a public servant of immense ability and integrity.

I ask unanimous consent that the attached biography and article by Jean Hailey be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOWARD P. JONES, AMBASSADOR TO INDONESIA IN 1958–65, DIES

(By Jean R. Hailey)

Howard P. Jones, 74, U.S. ambassador to Indonesia from 1958 to 1965, died Tuesday at his home in Atherton, Calif.

Mr. Jones had served as this country's envoy to Indonesia during troubled times that saw a steady downward trend in U.S.-Indonesian relations despite his close personal relationship with President Sukarno.

He retired from his post and the U.S. Foreign Service in 1965 to become chancellor of the East-West Center at the University of Hawaii.

Later he served as chairman of the board of trustees of the Christian Science Publishing Society, which publishes the Christian Science Monitor.

At the time of his death, Mr. Jones was a senior research fellow at Stanford University's Hoover Institution on War, Revolution and Peace.

When he was named ambassador to Indonesia in 1958, Mr. Jones was warned by the late Secretary of State John Foster Dulles that he was stepping into a "tough spot" because a revolt was in progress in Indonesia.

That country was battling with the Netherlands over the ownership of West New Guinea. The Communists in Jakarta were challenging the Indonesian government and the United States was being accused of meddling in Indonesian affairs.

At the same time, this country was criticized as being too cool to the government of Sukarno. With the appointment of Mr. Jones, this government's policy changed.

Mr. Jones was an outgoing person who worked hard but believed in "soft-sell" diplomacy. As he tackled his task with vigor, participating in Indonesian song and folk dances, he became a popular figure in that country to all but the Communists.

"When Howard Jones became ambassador to Jakarta, the United States didn't have much of a policy—except for the Jones smile and the Jones personality," was once said of him.

Gradually the United States replaced its policy of coolness to one of friendliness and cautious support of the Indonesian Army against growing Communist strength.

Despite Mr. Jones' ever optimistic view that the ties between his country and Indonesia would continue to improve, and despite his frequent meetings with President Sukarno both on a diplomatic and social basis, relations worsened.

United States Information Service libraries in Indonesia were sacked. At one point, 500 students stormed through the ambassador's home, smashing furniture and setting fires. At the time, Mr. Jones and his family were on vacation at a resort outside Jakarta.

Apologies from Indonesian officials, including Sukarno, were profuse. Mr. Jones accepted them and continued to carry on his own type of diplomacy.

Even at the time of his retirement in 1965, he expressed confidence that relations between the two countries would improve. In a farewell statement, he said both countries "should be able to disagree without dislodging the basic foundation of understanding between us."

Mr. Jones had begun his career as a journalist. Born in Chicago, he studied at the University of Wisconsin and received a bachelor's degree from Columbia University.

He worked for the old United Press, edited a newspaper in Evansville, Ind., and then taught journalism at the University of Michigan. He also was a professor at the Columbia University School of Journalism.

In 1939, Mr. Jones was appointed to the New York State Civil Service Commission. Later he became a deputy state comptroller.

During World War II, he served overseas in the U.S. Army and in 1947 went to Berlin to take charge of economic affairs for the United States High Commission.

In 1948, Mr. Jones joined the Foreign Service as first secretary in Berlin. He was assigned to Taipei as counselor of the U.S. Embassy in 1951 and received the State Department's Meritorious Service Award.

Mr. Jones was named director of the Foreign Operations Mission in Indonesia in 1954 and a year later was appointed deputy assistant secretary of state for Far Eastern affairs, the position he held at the time he was named an ambassador.

He is survived by his wife, Mary, of Atherton, and two granddaughters.

Jones, Howard P(alfrey), Jan. 2, 1899— United States Ambassador to Indonesia.

Address: b. United States Embassy, Djakarta, Indonesia; h. 6629 Elgin Lane, Bethesda 14, Md.

A diplomat in the true sense of the term, the United States Ambassador to the Republic of Indonesia, Howard P. Jones, can claim much credit for the atmosphere of mutual trust that prevails between Indonesia and the United States. A former journalist and university professor, Jones joined the United States Foreign Service in 1948, and he played an important role in rehabilitating postwar Germany. Transferred to the Far East in 1952, he served in Formosa and Indonesia, then was recalled to Washington to become Deputy Assistant Secretary of State for Far Eastern economic affairs. His appointment to succeed John M. Allison as Ambassador to Indonesia in early 1958 came at a time when relations between Indonesia and the United States threatened to become strained. In the spring of 1962 Jones helped to bring about a settlement of the Dutch-Indonesian dispute over Western New Guinea. A year later he took part in negotiations involving the eventual nationalization of foreign oil companies by the Indonesian government.

Howard Palfrey Jones was born on January 2, 1899 in Chicago to William Cadwallader and Ida May (Noble) Jones. Early in life he decided upon a career in journalism. After graduating from high school, he attended the University of Wisconsin from 1917 to 1920 and then went on to Columbia University, which granted him the Litt.B. degree in 1921. Jones began his career with the New York bureau of the United Press and soon became known as a "boy wonder" of the newspaper world. At the age of twenty-four he was managing editor of a Scripps-Howard newspaper, the Evansville, Indiana, *Press*, and within a few years he became editor-in-chief and a partner in a chain of nine small newspapers in Michigan.

Although Jones had no intention of leaving newspaper work, his interest in the problems of local government led him to return to school and undertake graduate studies in public finance, public administration, and public law. He attended the University of Michigan from 1925 until 1927 and Columbia University in 1929 and 1930. During this period he also taught journalism at both universities. In 1929 Jones obtained a job as public relations secretary with the National Municipal League, a research and educational organization in New York City concerned with problems of state and local government. From 1933 to 1939 he served as executive director of the league and as editor of its organ, the *National Municipal Review*.

In addition to his work with the National Municipal League, Jones was a consultant to the Virginia Commission on County Government in 1931 and a delegate representing the United States Department of State at the International Union of Cities at Lyons, France in 1934. In the latter year he obtained a fellowship from the Oberlaender Trust of the Carl Schurz Memorial Foundation to study public administration in Germany. From 1933 to 1940 he was a member of the governing board of the United States Public Administration Service, and from 1936 to 1938 he was director of research for the New York State Commission on Revision of Tax Laws, which was engaged in an overhaul of the state's tax structure. He also served as a consultant to the Governor's Commission on the New York State Constitutional Convention of 1938.

Having decided to become active in politics, in 1938 Jones ran for the state assembly seat in Rockland County, New York, on the Republican ticket. Although he lost the election, he won the respect of New York Governor Herbert H. Lehman, who in 1939 appointed him to the Civil Service Commission to help develop an expanded state civil service program. Jones remained a commissioner until 1943, when Governor Thomas E. Dewey appointed him deputy comptroller of the state of New York.

A member of the United States Army from 1943 to 1947, Jones served as a major, and later as a colonel, with the staff of the Supreme Headquarters, Allied Expeditionary Forces, under General Dwight D. Eisenhower. He served with the Ninth Army during its advance into Germany and took part in the mission that helped to re-establish the Belgian government after the German occupation. After the war Jones played a key role in German rehabilitation. He helped to set up the German Ministry of Finance, the Bank for Reconstruction, and other financial agencies. In 1948 he joined the United States Foreign Service, and from 1949 to 1951 he was deputy director of the Berlin office of the United States High Commissioner for Germany and Berlin representative of the Economic Co-operation Administration's special mission to Germany. In July 1951 he became director of the Berlin element of the United States High Commissioner's office. For his important role in helping to revive the economy of West Berlin after the Russian blockade in 1948–49, Jones received the State Department's Meritorious Service Award in 1952.

In 1952 the State Department reassigned Jones from Germany to the Far East. His first post was in Taipei, Formosa as counselor of embassy and deputy chief of mission. Two years later, in 1954, he became director of the United States Operations Mission to the Republic of Indonesia in Djakarta, with responsibility for implementing the American program of technical co-operation and economic assistance.

Recalled to Washington in 1955, Jones was appointed Deputy Assistant Secretary of State for Far Eastern economic affairs, and in this position he kept up his friendships with President Sukarno and other Indonesian officials. An advocate of the policy of keeping Asia free for Asians, Jones urged more United States technical assistance and the investment of private capital in countries like Indonesia, as an antidote to Communism. In 1955 Jones was a member of the United States delegation to the Colombo Plan conference at Singapore, and in 1956 he was chairman of the United States delegation to the United Nations Economic Commission for Asia and the Far East, at Bangalore, India.

In December 1957 Jones had been named to succeed Karl L. Rankin as United States Ambassador to Nationalist China, but owing to a last-minute change in administration plans he was appointed in January 1958 as Ambassador to Indonesia, succeeding John M. Allison. Reportedy Allison disagreed with State Department policy toward that country. The change in plans was believed to have resulted from the critical situation in Indonesia following the seizure of a number of Dutch companies, and the challenge of the central government in Djakarta by an anti-Communist rebel group in Central Sumatra. Although United States policy toward Indonesia had been officially neutral, State Department spokesmen had on occasion criticized Sukarno's policy of "guided democracy" and Communist influences in the Indonesian government. These comments, in turn, led Indonesians to charge the United States with interference in Indonesian affairs.

When Jones was sworn in as Ambassador to Indonesia on February 21, 1958, Secretary of State John Foster Dulles warned him that he was taking on a tough assignment and one that required "a great effort of statesmanship." On March 10, 1958 Jones presented his credentials to Sukarno, who asked for a greater understanding of his country's problems by the United States. In his speech Jones declared that the two countries were bound together by "belief in God, love of liberty, and respect for the rights of the individual."

Shortly after Jones arrived in Indonesia, fighting resumed between government forces and the rebels on the island of Sumatra, on which are located the multimillion-dollar oil fields of the California-Texas Oil Company and of other American concerns. The rebels asserted their independence from the central government after their demands for greater local autonomy, economic freedom, and the elimination of Communist influences from the government had been ignored. Jones's statement, after his arrival, that the United States had no intention of interfering in Indonesian internal affairs, was viewed as a clear refutation of charges that the United States was supporting the rebels. When an American flyer in the service of the rebels was captured by government forces a few months later, Jones officially expressed regret "that a private American citizen has been involved as a paid soldier of fortune serving with the rebel forces."

After the victory of the central government over the rebels, military leaders took advantage of their increased power and prestige by ordering an end to anti-American demonstrations. The United States reciprocated by starting a program of military and economic aid to Indonesia as a countermeasure to aid from the Soviet Union. Early in 1959 Jones informed Indonesian Foreign Minister Subandrio that $10,000,000 in military aid had been approved by the Eisenhower administration. The move was hailed as proof of United States confidence in Indonesia and paved the way for increased mutual trust between the two nations.

Meanwhile, friction between Indonesia and the Netherlands was mounting over the disputed territory of West Irian (the Indonesian name for the western half of the island of New Guinea). By late 1961 the prospect of war between the two countries was imminent, for President Sukarno threatened the use of force, if necessary, to win the territory from the Dutch. Using his "softsell" diplomacy, Jones played a key role in persuading the countries to negotiate. In the process he aroused the indignation of the

Dutch for reportedly having shouted the word "merdeka" (freedom) at an Indonesian rally. (He later explained that the word was used by Indonesians as a greeting, with no political implications.) In May 1962 a peaceful solution was reached through the United Nations, whereby Indonesia would eventually take over the territory after a temporary U.N. administration.

Following the settlement of the West Irian problem, Jones presented the Indonesia government with a plan devised by an economic survey team for the growth and development of Indonesia. The plan, involving aid of between $325,000,000 and $390,000,000, included provisions for education and training, transportation expansion, machinery replacement, replenishment of vital material imports, acceleration of rubber and tin production, improvements in the production and distribution of food, improved electric power distribution, and surveys of natural resources. In May 1963 Jones took part in negotiations leading to an agreement between the Indonesian government and foreign oil companies under which the facilities of the companies are to be nationalized within fifteen years, with due compensation to the owners.

Howard P. Jones was married to Mary Rendall on October 22, 1921. The couple had one daughter, Patricia Ann, who is deceased. Their two granddaughters are living in Indonesia. An informal and friendly man, Jones is easily persuaded to entertain at social functions. He has been called "Smiling Jones" by the Indonesian leftist press.

THE STEPS WE NEED TO TAKE NOW TO MEET THE ENERGY CRISIS—TESTIMONY OF S. DAVID FREEMAN BEFORE THE JOINT ECONOMIC COMMITTEE

Mr. PROXMIRE. Mr. President, today the Joint Economic Committee's Subcommittee on Consumer Economics, chaired by the distinguished Senator from Minnesota (Mr. HUMPHREY), heard a series of witnesses on the energy crisis and what we should do about it.

S. David Freeman is director of the Energy Policy Project for the Ford Foundation.

Mr. Freeman called for mandatory action by the State and Federal Government. Voluntary actions are not enough.

He called for rationing of gasoline, just as soon as the coupons can be printed.

He told us that if we do not act now we will have a crisis early in the year whether the Arab boycott continues or not.

And he also spelled out ways by which we could meet our energy shortage without violating the consumer protection measures for clean air and clean water and without making the consumer pay through the nose for the inactions of others.

Mr. Freeman's case was extraordinarily well reasoned and persuasive.

I ask unanimous consent that this very excellent testimony be printed in the RECORD. I commend it to Senators and to the public.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF S. DAVID FREEMAN

Mr. Chairman and members of the committee: I was pleased to accept your invitation because I think it vital that everyone acquainted with the energy situation do everything they can to make energy conservation a quick reality in this country. We need to enlist the support and participation of the American people and we need action by all levels of government to develop an energy conservation ethic in this country.

Mr. Chairman, the views I express this morning are strictly personal and are not presented on behalf of the Ford Foundation's Energy Policy Project which I am directing. That particular study of national energy policy is one we hope to complete in the coming year. My views today reflect my own involvement with energy policy over the last decade, first at the Federal Power Commission, later as an energy policy official in the Executive Office of the President and more recently as an interested citizen. I hope they will be of some value to the Committee.

The crisis that is upon us need not paralyze the nation or cause widespread hardship. Ironically, the fact that we waste so much energy in driving cars and overheating buildings makes it easier to weather this crisis. Japan and Western Europe for example use more of their crude oil for industrial purposes than we do. If the United States can quickly make the necessary readjustments in our wasteful patterns of consumption there need not be any serious dislocation in the American economy. The adjustments could in time even lead to a pace and quality of life that in many ways could be superior to the big car, glass house, suburban sprawl, energy and pollution intensive ways of life that we have built for ourselves in recent decades. But the worst mistake we could make would be to fail to face up to the very real shortages that exist.

The shortage of fuel we face this year, next year and for the foreseeable future is not going to be filled by just giving lip service to conservation and trying to continue business as usual in our traveling, heating, and industrial consumption habits. It is going to require mandatory actions by state and federal governments to assure that everyone does their part to make conservation happen. Without effective action now, including some form of rationing, the energy shortages could trigger a domino effect throughout the economy that could move this country into a recession or even a depression. Of course, we are in a very real sense guessing at what might happen. The federal government has detailed contingency plans for going to war but no such plans for this energy crisis that has been developing for many years.

For several years many of us have been calling attention to the fact that America has been a society of energy gluttons. Now that it has become imperative to go on an energy diet it is most important that the diet be effective and that the measures taken provide the greatest savings with the least disruption. Perhaps most important of all is to be sure that our efforts are not just a one shot proposition. We need to shift to a more efficient pattern of growth so that conservation becomes an integral part of the design for America's future, a future that can be better and more satisfying than the recent past. But first we must cope with the existing emergency.

The nation's energy budget is badly in the red. The available supply of oil is going to be somewhere between 10 to 25 percent short of the potential demand in the months ahead if we continue a business as usual pattern of consumption. There is no way to close that kind of gap by increasing supply as long as the Arab boycott continues.

It is important to understand that the United States has no stockpiles, little or no excess production capacity and only one defense department reserve that could, if produced, add some 150,000 barrels/day as compared to a potential shortage of 2 to 4 million barrels of oil a day. And there is not much "dirty" energy readily available to fill the gap either. Peeling off the layers of environmental protection isn't going to help much in keeping us warm and could really hurt in keeping us well in the years to come. The only answer is to cut back on energy consumption at once and by everyone, or many people and businesses will run out altogether, because we cannot burn what we do not have.

I have great faith in the ability and willingness of the American people to respond to the situation that we now face provided their leaders take decisive action that requires everyone to share in the inconvenience. Some people will turn down their thermostats and stop joyriding voluntarily but there are too many questions in the minds of people about whether the crisis is real, whether everyone is sharing equally and about which measures are really effective and which are not, to expect the degree of conservation required from a voluntary program.

The danger increases each day we continue heating buildings, driving cars and operating industrial establishments as though the shortage did not exist. Actions are needed immediately . . . not in January or February. It is a matter of simple arithmetic that the longer we delay beginning a program of rationing in one way or another the greater the risk of shortages that will cause unemployment, as well as seriously disrupting the lives of our citizens.

As we consider which actions to take it is important to distinguish between measures that will reduce demand and really help right away from those measures taken in the name of the energy crisis that will do little or no good now and could cause great harm in the future.

We dare not enact a national energy policy to shape America's future in an atmosphere of fear and near panic. If we don't stop to think there is the danger of approving any action that promises more energy in the future without weighing the cost to the consumer or the environment. A national energy policy must find a way to implement our environmental goals, not abandon them. Such a policy should protect the consumer against windfall profits, and not make soaking the consumer somehow seem like a virtue. We must be sure that consumer protection and environmental protection do not become the first victims of the energy crunch.

No one, least of all myself, would question the need to develop a coherent line of policy to balance our energy budget in the years ahead. My plea is that we do so with an understanding that the nation must reconcile a number of very basic yet conflicting values, and that we are still very low in the learning curve of just how to do so.

If we face the reality that some array of governmental mandatory actions are needed to cope with the immediate emergency there are three categories to consider:

(1) Requiring specific actions or inactions, designed to save lots of energy at minimum inconvenience. For example, it could be required by law that thermostats in commercial and industrial buildings be set at 68°.

(2) Rationing available supplies to the ultimate consumer, leaving the choice to each citizen or business as to how to balance his energy budget.

(3) Increasing prices (through taxes) to the level at which the higher prices would cause people to cut back on consumption enough to balance with the supply.

It seems to me that an optimum program of action could well draw on all three categories of action. The most pressing need is to take action—including rationing—to reduce demand immediately. No one looks forward to rationing with any glee or enthusiasm but we must understand that the issue is not whether to ration or not; it is a question of whether the government will ration or whether the rationing will be left up to the oil companies. In ordinary circumstances the market place does the job better. But with a shortage of heating oil and gasoline that could be as high as 20 to 25 percent of potential demand, we would be taking a tremendous gamble with the welfare of the people and the economy if we permitted nature to take its course.

As I shall explain in a moment I believe there is a role that market forces can play to help ration gasoline and other scarce fuels. But the idea of just letting the oil companies charge what the traffic might bear in a period of acute shortage would result in a multi-billion dollar windfall. The price increases won't even help cure the immediate cause of the shortage, since making the oil companies super-rich isn't likely to persuade the Arabs to stop the boycott.

The higher prices of 20 to 30 cents per gallon would, of course, price gasoline out of reach for many trips and thus reduce demand. But in the sad state of public transportation in this country there are certain minimum needs for gasoline that simply can't be cut out—needs like getting to work. The working poor would thus be hurt badly by a purely market oriented solution. And the oil companies—who must share the blame with government for our energy unpreparedness—would profit handsomely on the adversity of the nation.

Raising the price of gasoline by imposing a large new federal tax of say 30 cents a gallon is certainly a better idea than permitting the oil companies to pocket such huge sums. And it would no doubt cut out lots of driving. But a pure tax approach would still soak the working poor and consumer generally who must use gasoline for getting to work, shopping, and other essentials.

A purely market-oriented approach with a price increase large enough to eliminate the shortage this year therefore is a cruel idea for almost everyone but rich people and the oil companies.

At the other extreme is to consider rationing as requiring a detailed comprehensive system which attempts to identify the needs of every class of retail consumer, divide the available supply equitably among them, and provide appeal boards for hardship cases. Such a system in a peacetime economy would require a government bureaucracy that is not yet organized. They would need to make a lot of tough decisions on where joyriding stopped and where necessary travel began. By the time it got organized and working we would most likely have run completely out of gas.

There is no really good way to ration but in the circumstances there is no alternative. And the country really can't afford a long debate over how to do it. The greatest danger by far is to drift ahead hoping that the problem will somehow go away.

I happen to think that a basic rationing system for gasoline could be quickly implemented. In the interests of facilitating public discussion I'd like to outline an approach that would not involve a complicated bureaucracy and would call on market forces for help without placing a burden on the consumer. I offer these personal thoughts knowing they are incomplete and could be improved with the hope that they might spur quick action by the federal government.

Gasoline could be rationed by estimating the assured supply from domestic production and imports that we know will continue and issuing free coupons to each licensed car owner for an equal share of most of what would be available. This basic ration would amount to about 10 gallons per car per week if the Arab boycott continues. These coupons should be made freely negotiable to encourage car owners to pool their coupons and form car pools or drive less and sell them to people who need or want more gas.

In addition, a small fraction of the coupons would be sold by the government each month on a first come, first served basis, at say 30 cents a gallon, with the price and number of coupons available adjusted each month in light of supply and demand. An alternative to the government selling ration tickets would be to impose a tax of say 30 cents per gallon, while also issuing coupons as described above and providing that the coupons would entitle the holder to gasoline without paying the extra tax.

The government would, in effect, be using the market place instead of appeal boards to allocate a small portion of the gas. The money from the sales of these coupons or the tax should be used to buy new buses and otherwise improve public transportation systems. Service stations would be able to obtain replacement gasoline only in an exchange for the coupons they collected from their customers. An integral part of any such rationing plan would be to impose price controls on the scare energy that would ensure that the energy companies do not reap windfall profits.

The reasons for earmarking some of the gasoline for a market determined allocation is that in a peace-time economy it would be hard for a rationing board to decide on who should get a priority. Furthermore, it is important for customers to think in terms of gasoline being worth, say 30 cents a gallon more, and making their decisions accordingly. Otherwise the pressure on the rationing system will be great and the danger of black-market operations that much greater.

Mr. Chairman, I present these thoughts, not as a definitive plan, but as a basis for proceeding at once. If hardships or inequities result, exceptions could be added. But in the current circumstances the longer we delay the tougher and more complicated the job will become.

It is important that we also give high priority to measures that will save energy, not only this year, but every year in the future. Actions in this category would include:

(1) Federal low-cost loan programs or tax incentives to facilitate more insulation, storm windows, and other investments in existing buildings to save energy automatically each year.

(2) Large-scale federal support for public mass transportation. On the average in the city you can get where you're going on a bus with one-third the fuel required than if you drive your car.

(3) Federal funding for the construction of bicycle paths on an urgent basis. There were more bicycles than cars sold in the U.S. last year and people will ride them much more if they can do so without the danger of injury and pollution on the city streets.

(4) Taxes or performance standards that would result in new cars being built that have much better mileage. More cars that get 20 miles per gallon rather than 10 can be built in the coming year and a family car that does 35 miles per gallon is entirely feasible in the future.

(5) Enactment of a stiff tax on the use of scare natural gas and oil as fuel by industrial plants. This would encourage greater efficiency and switching to domestic coal in the years to come.

There is not time to discuss all the energy conservation actions that could be initiated. Most of the discussion has centered on houses, office buildings and transportation. But industry can save energy too without cutting down on industrial production if they have sufficient time and incentive to adjust. We must distinguish between a sudden unexpected shortage which could cause unemployment from a future in which industry can adjust to the fact that energy is a scarcer and more expensive item. In the current emergency keeping production and employment going should have a very high priority—wearing a sweater at home cannot be compared with the loss of a paycheck. But in the future, industry can expand and employment grow with a slower rate of growth in energy consumption than in the past.

Mr. Chairman, the word crisis in the Chinese language consists of two symbols, one meaning danger, the other opportunity. We know the danger but there is also a great opportunity. The coming months can be a time when America looks in the mirror and sees what a mess it has made of its cities, and how we have permitted the surrounding countryside to be covered by unplanned circles of growth.

We have created an America in which people live and work in buildings constructed and operated with no concern for saving energy: an America where people on the average live further and further away from their work and spend more and more time in cars that get fewer and fewer miles per gallon; an America where industrial establishments have paid no more attention to the efficiency with which they use energy than the average household. There is little doubt that we have created the most wasteful society on earth in the use of energy and material resources. With 6% of the world's population we consume 35% of the world energy. Our appetite for energy has grown much faster than our ability to produce, extending our energy lifeline half way around the world to the large oil wells in the Middle East.

In a way this nation is very fortunate that the boycott has occurred now. For what it does do is telescope the future and show us that the path along which we were sliding is a dead-end. Even if the Arab-Israeli dispute did not exist, it is not in the cards for America to continue a gluttonous way of life in a world where most of the people live in a perpetual energy blackout.

We are witnessing the end of an era. As much as we hate to face up to it the joy ride is really over. But that does not mean that we are on the road to a Spartan life, nor does it mean that we cannot in the coming years develop transportation systems, cities and indeed life styles that are superior to what we must leave behind. To fashion a new America will involve a whole lot more than an energy policy. But since energy is the life blood of modern society it might provide the focal point.

If we could develop an energy conservation ethic it could lead us to solutions to a great many of the ills that beset America today. Modern mass transportations, new cities, either within existing communities or elsewhere, and planned growth in knowledge-intensive industries, are all needed to meet basic needs of society as well as to balance the nation's energy budget. Growth in these areas that have suffered from too little growth in the past could reshape the GNP in a way that could provide more of the goods and services that America really needs and cut out much of the wasteful use of energy that is a root cause of our current problem.

If the current crisis could wake us up to the need for embarking on a sounder and saner pattern of growth it could turn out to be the luckiest thing that could ever happen to us.

Mr. Chairman, in conclusion it is important that we do not permit the current crisis to give conservation a false blackeye. We are in trouble because we were trying to consume too much, not too little. The Arab boycott may be the proximate cause but if there is hardship and unemployment it has its roots in a decade of government policy which encouraged the energy companies to push their products with green stamps and promotional rates. Rationing is a by-product of the policy of promotion and the failure to take actions that can save energy, save money, save the environment, and improve the quality of our lives in the process. The answer to this winter's problem is not to give up on the future but rather move to a pattern of growth and sources of supply more in keeping with a durable society on a planet of limited resources.

MINORITY SMALL BUSINESS ENTERPRISE

Mr. JAVITS. Mr. President, much has been said about the role our minority citizens are beginning to play in our Nation's economy. We are beginning to appreciate that the talent and opportunities within the minority community are as varied as the communities themselves. Frequently the Government has played the precedent setting role in aiding minority entrepreneurs to begin to enter the mainstream of our economy.

Mr. President, I ask unanimous consent to have printed in the RECORD a press release I received from Afro-American Service, Inc., a minority owned firm in the food services industry which not only continues to have great success in serving the U.S. Merchant Marine Academy but in addition and due in part to the opportunity to prove their skills provided by the food service contract with the Government has recently become one of, if not the first, black-owned firm to acquire a food service contract with a major airline.

On November 15 Afro-American Services, as an expression of the Academy's gratitude, arranged for a special banquet at the Merchant Marine Academy in New York. Both John Matlock, the famous Mets pitcher and Monte Irvin, recently inducted into the Baseball Hall of Fame, saw fit to share this occasion with the cadets.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

AFRO-AMERICAN SERVICES, INC., A MINORITY FOOD AND MESS ATTENDANT FIRM

Afro-American Services, Inc., a minority food and mess attendant firm, was incorporated in 1970 in Delaware.

Its purpose was to meet the requirements for minorities to participate in the $100 billion dollar a year food service industry through the S.B.A. 8(a) program, as authorized by the President's executive order.

Having qualified and been certified as required, it was not until January 1st, 1973, that we were awarded our first food service contract at the United States Merchant Marine Academy at Kings Point, New York. The initial contract was for a six months trial period. We were contracted to do the total food service, serving three meals per day to 850 midshipmen.

At the end of the trial period, we received an extension for an additional year.

This is the largest and the only contract of this type serviced by a totally owned black corporation.

As a result of our effectiveness, we were awarded the mess attendant's contract at the Naval Support System, Brooklyn Navy Yard.

Our administrative and labor force is thoroughly integrated, employing some fifty persons of all ethnic backgrounds. Recently we began hiring Vietnam veterans to train them for application in all levels of the industry. Our aim is to build a black-owned food conglomerate, though integrated, that in the foreseeable future will be competitive within this segment of the economy and to become economically and financially viable.

As a result of our professionalism, we have succeeded in obtaining a commitment with American Airlines to place food items on their flight menus. Barbecued spare ribs and Texas style chili.

Lloyd von Blaine is chairman and chief executive officer.

Address—527 Madison Avenue, New York, New York 10022. Projected sales for 1973–74: $1,500,000.00.

Mr. JAVITS. This is just one of the splendid examples of the role Government can play in giving minority business, be it black, brown, red or yellow, an opportunity to prove the ability of its personnel.

It is important that such program consist of action and not mere rhetoric. As part of the continuing effort to insure that each of the Federal agencies continue their efforts to do business with minority entrepreneurs, each Cabinet officer has recently received from the White House the following letter which I ask unanimous consent to printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., October 3, 1973.

DEAR MR. SECRETARY: During my first term, one of the actions of which I am particularly proud was the creation of the Office of Minority Business Enterprise within the Department of Commerce. This program helps to stimulate and assist minority entrepreneurs in owning their own businesses and thereby participating more fully in the mainstream of American economic life.

The success of this program has been due in large measure to the cooperation and support extended to it by other Departments in the Federal Government. As we now have a new Cabinet team, it seems appropriate for me to reemphasize to each Cabinet member my personal interest in OMBE and to ask that you and your Department do everything possible to assist in the growth of minority enterprises.

I understand from Secretary Dent that your support of the OMBE Inter-agency Council would be particularly helpful.

I know I can count on your continued backing of the minority enterprise program.

With warm regards,

Sincerely,

RICHARD NIXON.

WAR IN VIETNAM GOES ON

Mr. CHURCH. Mr. President, the Vietnam war goes, on entering into its third phase. America's direct military intervention does not. The fighting between the Vietnamese appears to be on the upswing again with a buildup of North Vietnamese forces in South Vietnam. This is Vietnam's business, it is, as Henry Kissinger has said, a civil war.

While the war may be reescalating, the United States may not legally partake in the military hostilities, without the express authorization of Congress. Only by congressional consent can U.S. forces join in the fighting again on the ground, in the skies, or from off the shores of the Indochina peninsula.

It appears, however, that certain top officials in our country are overlooking the legal prohibition against further American military involvement. Veiled threats have been made. For instance, Air Force Gen. John Vogt recently spoke of a resumption of the bombing of North Vietnam in the event of Communist "aggression." A State Department official talked obscurely about North Vietnam's past "serious miscalculations about the U.S. response to such moves." There is, too, a story that appeared in the November 12 issue of the respected Far Eastern Economic Review out of Hong Kong that the resumption of punitive U.S. bombing was seriously considered by President Nixon in September.

Such speculation within the Executive Departments raises sombre questions as to whether the law of the land is to be ignored. I remind these Executive decisionmakers that the modified Case-Church amendment, passed by both bodies on June 30 and signed into law by the President, is still in effect. A resumption of American bombing without prior, explicit congressional approval, would constitute a presumptive case for impeachment.

I ask unanimous consent that four recent articles on renewed fighting in Vietnam be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Post, Nov. 13, 1973]

WAR IS ESCALATING AGAIN IN VIETNAM

(By R. Pierre-Paringaux)

SAIGON.—With world attention focused on the Middle East conflict, Vietnam today seems heading for a new all out war amid almost total international indifference.

During the last week South Vietnam escalated from guerrilla warfare and harassment to the stage of violent reprisals.

The recent Communist rocket attack on the major Bien Hoa airbase, near Saigon, and the South Vietnam air force attack on the provisional revolutionary government (PRG) capital of Loc Ninh, the old plantation town near the Cambodian border, are seen by both sides as the curtain raiser to an offensive.

NO CONTROL

Each side has had nine months to rebuild its divisions with men and material.

This threat of a new full-scale war comes at a time when the International Control Commission (Hungary, Poland, Indonesia and Iran) is ready to operate after being paralyzed for more than four months.

But the commission was unable to control the cease fire violations during the first five months after the Paris agreement, when chances of negotiating a political settlement appeared far better than they do today.

For several days now, however, the commission has been trying to establish contacts with civilian and military officials on both sides. The aim is to enable the commission to play its role and also to prevent the military situation reaching the point of no return.

Yet there are factors in Vietnam which militate against a general offensive. For one, the attitude of the U.S.—new air intervention or not—remains a mystery.

TRUMP CARDS

On the military level, each side holds trump cards which would neutralize each other in the event of an offensive.

South Vietnam has a powerful force of hundreds of fighter-bombers but it seems that this "air superiority" would be reduced by the many anti-aircraft batteries, and even SAM–2 missiles, which have been established in the PRG zones since January.

Many observers, therefore, believe that neither side is ready for a new total war. They believe the clashes of the dry season will be localized offensives and reprisals. And this situation could continue.

[From the Far Eastern Economic Review, Nov. 12, 1973]

TEMPTING THE PRESIDENT

Only a handful of people know how tempted President Nixon was to order the resumption of limited, punitive bombing of North Vietnam in early September. This action was under consideration in Washington because Hanoi had not responded to Nixon's demand to dismantle Soviet-built SAM-2 missile sites at Khe Sanh. Before taking the bombing step, however, Nixon turned to Moscow. Under strong Soviet pressure, the North Vietnamese agreed to dismantle the sites in South Vietnam and move them back to a position just north of the 17th Parallel, where the Americans were prepared to accept Hanoi's argument that they serve as defensive weapons.

[From Far Eastern Economic Review, Nov. 12, 1973]

Vietnam: Here We Go Again

(By Hai Au)

SAIGON

Government circles here believe the early communist offensive they expected has begun. Certainly post-cease fire fighting has reached unprecedented proportions. Both sides have considerable firepower and the world appears otherwise engaged. The question, therefore, is whether the Vietnam war is back in full swing.

With American reporters gone with their troops and local authorities not terribly enthusiastic about frontline coverage, first-hand reports are hard to come by. Whatever information is available comes from official sources.

According to Saigon, two North Vietnamese regiments spearheaded by scores of Russian-built T-54 tanks made a lightning assault on two government outposts in Quang Duc Province, about 200 kilometers northeast of Saigon on the Cambodian border. The attack was described as the biggest battle since the ceasefire came into effect last January. In a tactical pattern that has now become customary since the first South Vietnamese stronghold at Le Minh in the Central Highlands fell in the post-ceasefire war in late September, the two regional forces and armoured positions at Quang Duc were overrun by the communists after ten hours of fierce fighting.

The 130-mm guns in the outposts remained helplessly silent and reportedly had to be destroyed before the tactical withdrawal. Reports on the fate of the 300-man garrison are still sketchy. The bloody action in Quang Duc was followed by an orgy of shelling and guerrilla-style attacks in other provinces.

Early on Tuesday morning, November 6, Bien Hoa airbase 25 kilometres northeast of Saigon and nearby ARVN positions received a heavy barrage of 120-mm rockets. Four F-5 fighter aircraft were destroyed. The communists also initiated ground attacks at the same time in the Mekong Delta, and the coastal provinces in central Vietnam. A South Vietnamese Army spokesman said every effort was being made to prevent the communist forces from shelling Saigon and other major cities.

Early in October when an ARVN outpost located halfway between Hue and Da Nang was captured by the communists, military authorities in Saigon speculated that it signaled the other side's effort to seize two of the northernmost provinces of the republic to create a physical and coherent state under the control of the Provisional Revolutionary Government. But early this month, with the fresh influx of NVA troops from Cambodia into the so-called iron triangle just north of Saigon, President Nguyen Van Thieu warned that the communists were preparing for a major offensive to turn Tay Ninh and Binh Duong provinces west and northwest of Saigon into NFL-controlled territory and then drop the word provisional and make the PRG a more permanent, de facto second government in South Vietnam. Whatever their designs and intentions might be, the North Vietnamese and their allies in the South must be considering the next round of armed offensive as a decisive strike.

From a close look at South Vietnam's present strategic map and a study of the pattern of North Vietnamese recent strikes and movements, it appears that the communists' territorial ambitions may be aimed at carving out for the PRG the Central Highlands portion of Military Region 2 and stretching it down to meet their stronghold in Binh Long and Phuoc Long in Military Region 3 north of Saigon.

Action in the Mekong Delta and elsewhere including harassment and shelling of populous centers are only diversionary tactics aimed at tying down the South Vietnamese forces locally and disrupting the normal functions of the economy.

In Saigon and elsewhere recently there have been hints that US air power may be reintroduced. But it is believed that if a more equitable balance of power can be established between the two warring sides in South Vietnam wtihout further outside armed intervention, the chances of a peaceful political settlement in accordance with the Paris Agreement might come closer to reality.

[From the New Republic, Nov. 17, 1973]

We Aren't Out of Vietnam

(By Stanley Karnow)

In contrast to Secretary of State Henry Kissinger, who jubilantly accepted the Nobel Prize the other day as recognition of the Nixon administration's contribution to "a lasting peace," chief North Vietnamese diplomat Le Duc Tho displayed considerable realism in rejecting the award on the grounds that "peace has not been really restored" in Vietnam. Bolstered by extravagant amounts of US weaponry, South Vietnamese President Nguyen Van Thieu has stubbornly resisted a settlement of the kind envisaged in the Paris agreement, and the Communists, their hopes of making gains by political means frustrated, have gradually resumed military action. As a consequence the conflict that was never ended by the case-fire accord signed last January now appears to be spreading. Familiar places are again in the news in reports of battles in Binh Dinh and Chau Doc and in the Central Highlands near Pleiku, and, in the estimation of most specialists, these clashes portend widened hostilities. The key uncertainty is when the larger outbreak will come. Some expect a full-scale war to erupt in the approaching dry season; others forecast it for late next year. Only unalloyed optimists still cling to the hope that a compromise can be achieved, perhaps through the sort of international diplomatic maneuvers now being carried out by Kissinger in the Middle East.

An escalation of the fighting in Vietnam would hand President Nixon one more difficult predicament. Defense Secretary Schlesinger has bluntly warned that the US would resume its bombing in the area in the event of Communist "aggression," and his threat was echoed a couple of weeks ago by General John Vogt, commander of the American forces based in Thailand. However Congress has specifically denied Mr. Nixon the funds to commit the US to combat activities "in or over" Indochina, and thus he cannot legally fulfill his pledge to those of his subordinates to defend the Saigon regime by renewed air strikes without violating his promise to comply with the law—a violation that would further weaken his already frayed relationship with the legislature. Congress' vote last week overriding his veto of the war powers bill dramatically illustrates the extent to which his influence in Congress, particularly on the subject of foreign affairs, has declined. The President could, alternately, request fresh authorzation from Congress to undertake military action, but present public attitudes toward Vietnam suggest that such an appeal would touch off angry debate and rekindle all those hot passions that have cooled since the US withdrawal. The skepticism aroused by his alert over the Middle East last month shows plainly that Nixon's credibility has dipped to an all-time low, and that distrust of his motives, indeed his judgment, would inevitably impair his capacity to react forcibly in Vietnam.

Kissinger recently noted that "one cannot have a crisis of authority in a society for a period of months without paying a price somewhere along the line," and that "somewhere" might turn out to be Vietnam. Judging from their current behavior, the North Vietnamese seem to believe that this is an opportune time to take advantage of Mr. Nixon's troubles at home and advance their own aims. Hanoi publicists have been stressing that the US, enfeebled by what they call the Watergate "deluge," can no longer police the world as it did in decades past. Therefore, they imply, the administration's ability to respond to a flare-up in Vietnam is limited. These commentaries coincide with orders to Communist troops to "strike back at the enemy," and they have been matched by evidence of a massive build-up of North Vietnamese and Vietcong strength in the South. According to reliable intelligence sources in Washington, the insurgent force in the South has increased from about 150,000 in January to nearly 200,000 at present, with almost one-quarter deployed in the region around Saigon, where government units are said to be weakest. The North Vietnamese also have heavy artilllery, surface-to-air missiles and some 700 tanks in the South, and they have renovated airfields, constructed all-weather roads, erected immense storage facilities, and refurbished the port of Dong Ha in order to move in supplies by sea. Some analysts submit that they might use aircraft for the first time, if they launch a major offensive.

Hanoi's military build-up was designed at the outset to give the Communists parity with the South Vietnamese government, whose forces numbers more than a million men armed with first-rate US equipment. One of Thieu's main objectives in delaying the cease-fire agreement in October 1972 was to gain the time in which to acquire weapons, and the US obliged him with a crash program of supplies valued at nearly a billion dollars. In addition to four regiments of M-48 tanks, three frigates and thousands of tons of ammunition, Thieu received 300 Chinook and Huey helicopters, 36 C-136 transport aircraft and 200 F-5A fighter airplanes, making his air force the third largest in the world.

Under Article 7 of the Paris agreement, both the Saigon regime and its enemies are permitted to replace materiel on a piece-for-piece basis. The International Commission of Control and Supervision, which comprises Indonesian, Iranian, Hungarian and Polish representatives, is charged with keeping track of these replacements, but in fact the flow of equipment goes unchecked, essentially because ambiguity suits the two sides. As a result the US is now planning to replace Saigon's F-5As with F-5Es, a superior model that might have been designated differently had not the Pentagon considered it expedient, for Vietnam purposes, to put a similar number on the airplane. Despite efforts by congressmen and journalists including myself to determine what other equipment is being sent to Vietnam, neither the Defense nor State Departments has been forthcoming, though such information is supposed to be public. Along with this secrecy there are hints of abuses. South Vietnamese troops reportedly sell their weapons to the Cambodian army and put in claims for new ones, and an official US audit last spring discovered that Saigon had trumped up a request for nine tanks.

The status of the American civilian technicans assigned to Vietnam is equally cloudy. Members of the Senate Foreign Relations

Committee staff were told in April that the number of U.S. private contract employees would be reduced to fewer than 2,000 by the end of this year and to approximately 500 "very soon thereafter." Official figures show that the number still exceeds 3,500 more than half of them working for Lear Siegler on aircraft maintenance.

Any estimate of the Saigon government's strength must also take into account the U.S. presence in Thailand and Guam, and on aircraft carriers off the South Vietnamese coast. In Thailand, where the U.S. deploys 700 B–52s and fighter bombers on seven airfields, plans to cut down the force of 38,500 American troops were suspended early last month as signs of possible hostilities in Vietnam multiplied.

Despite a cease-fire agreement on Laos, there are few indications that the U.S. intends to pull completely out of that land. On the contrary the administration appears to be transferring its Laotian establishment across the Mekong River to northeastern Thailand, as it did when it was constrained after 1962 to respect Laotian neutrality. Since then the sector of Thailand adjacent to Laos has become the site of a wide variety of logistical installations operated by both the Pentagon and the Central Intelligence Agency. The U.S. presence in Cambodia also continues in the form of a military mission that is legally barred from doing more than delivering equipment but, according to a recent General Accounting Office study, flaunts the law by advising the Cambodian army. The President is currently seeking $200 million in aid for Cambodia in addition to more than a billion dollars to keep the Saigon government army operative.

The Communists could have probably tolerated the combination of the Saigon regime's harder muscle and continuing U.S. support, since they were matching it with their own military build-up. But what apparently led them to edge toward their present level of violence—and may spark a bigger explosion—was their incapacity to make any political headway in the face of Thieu's intransigence. They signed the Paris agreement in the expectation that it would improve their political chances inside the South in three important respects. In the first place, the cease-fire brought the withdrawal of U.S. forces from Vietnam, and that was Hanoi's initial priority. Secondly, they calculated that it would give them the opportunity to consolidate their position in the territories they held, and thus enhance the Vietcong's stature as a government parallel to the Saigon regime. And finally, they anticipated that the Council of National Reconciliation and Concord to be established through negotiations with Thieu would eventually open the way to the creation of coalition rule in Saigon. For these reasons they welcomed the Paris accord, urging their supporters to observe it; follow it faithfully, and exhorting them, as one of their directives at the time said, to "eradicate hatred and heal the wounds of war . . . by placing national interests above all." In short the Communists perceived the truce as an opportunity to lower their military profile and concentrate on political action to reach their long-range goal: control of Saigon and reunification of Vietnam.

But the reasons that made the Paris agreement acceptable to the Communists made it anathema to Thieu. Unwilling to accede to the notion that the Vietcong represented a rival government, he systematically harassed its representatives as well as those of Hanoi, refusing them diplomatic privileges, locking them into guarded compounds and even inspiring attacks against them by "spontaneous" mobs. He repressed press and political freedom in Saigon more than ever, and although his prisons are estimated to hold at least 40,000 political captives, he admitted to only about 5000, thus resisting a provision of the Paris agreement that calls for an exchange of civilian prisoners who, if freed, would reinforce the opposition to his government. Consistent with his view of himself as the sole ruler of South Vietnam, Thieu has rebuffed Communist demands that a constituent assembly be elected to write a new constitution and has insisted instead that elections be held under his own auspices. As D. Gareth Porter has pointed out, the US was prepared to exert pressure on Thieu to sign the Paris agreement, but it has done little since to persuade him to honor its terms. The result, which is taking shape at the moment, will be a return by the Communists to arms; Kissinger, now en route to Peking, will doubtless ask the Chinese to persuade Hanoi to abandon a military approach and go back to political struggle. The secretary of State probably plans to make the same request of the Russians, and he may figure that both they and the Chinese can curb the North Vietnamese by cutting back on supplies to Hanoi, as they did prior to the settlement last year. But the international situation has altered somewhat since, and Kissinger's expectations of big power cooperation may prove illusory. The North Vietnamese have been observing the Middle East crisis closely, and they can argue persuasively with the Kremlin that they deserve at least as much support as the Soviet Union gave to the Arabs. In addition they can certainly explain that, with the Nixon administration in disarray, their chances of escalating the war in relative safety are greatly improved. Moreover, with the dispute between Moscow and Peking continuing unabated, Hanoi can play the Russians and Chinese against each other, in their own favor.

But even without either Soviet or Chinese backing, the North Vietnamese are believed to have the means to sustain an offensive for six months, and unless new elements intervene to give them political potential in the South, the battlefield appears to be their only option. Mr. Nixon may be tempted to view a renewal of the war as a distraction from the woes of Watergate. But there is another side to that: a recrudescence of fighting in Vietnam will show his much-vaunted "peace with honor" to have been another exercise in public relations.

EMERGENCY LOCATOR BEACONS ON ALL PRIVATE AIRCRAFT

Mr. DOMINICK. Mr. President, as part of the Occupational Health Safety Act, an amendment sponsored by me was adopted requiring the installation of emergency locator beacons on all private aircraft, with certain exceptions, on or before January 1, 1974.

Having been a pilot since 1935 and still flying, I know full well that most pilots are optimists, and most pilots feel that if there is an accident, it will happen to someone else who does not fly as well as they. Many have written about the expense of an ELT and others have written saying that no one is listening so the signal will not be heard, or that it goes off prematurely and clogs the airways with unnecessary emergency calls. All of these arguments, if true, would militate against the law.

However, very few of these statements can stand up under close scrutiny. As far as expense is concerned, the price of an ELT runs between $50 and $700 with the average most commonly used being about $200. I know as I just installed one in the Beechcraft Baron, which I bought. Most flyers, if they can afford to fly a plane at all, can afford this kind of expense and in fact, it may be the cheapest insurance they ever bought.

Insofar as listening devices are concerned, this is now somewhat of a problem. It would be relatively simple for all airliners, which crisscross the country to keep one of their receivers on 121.5, the emergency frequency, and to install a small light in the cockpit which would flash amber whenever a signal was encountered. Some airlines have indicated they are willing to try this if the others would do so, but some of the major airlines have been worried over expense and have declined to do so. I am exploring this further. The FAA has installed direction finding devices in their aircraft and monitor 121.5. The other frequency used by an E.L.T. is 243 and this is continuously monitored by the military. It is my hope that other aircraft with two radios will keep one keyed to 121.5 to pick up signals at any time when they do not need both for instrument flying. In addition, there have been proposals for a search-and-rescue band on a satellite, which would pick up the signals and transmit the signal location to a central station whenever it is triggered. All of this activity augurs well for the future.

Mr. President, recently two good friends of mine, who were very helpful in developing the ELT concept—Mr. Larry Ulrich and Mr. Dexter Cox, both highly experienced and capable pilots, were flying to Colorado from California. Mr. Cox keeps a transceiver open on 121.5 at all times, and over Yosemite Park, they picked up a signal. With no directional needle, they did a "lost-range" procedure and radioed to the FSS Center the approximate location. This resulted in a dramatic rescue, probably saving the lives of two downed and injured persons, just before a cold front rolled over the area. It is heartwarming indeed to see this system work and work well, and it is my belief that as we go into 1974, the ELT will be far more widely used, that we will not only save lives and anguish for those awaiting word, but will also save millions of tax dollars now used up by "search-and-try-to-see" methods.

Mr. President, I ask unanimous consent that a letter I recently received from Larry Ulrich briefly describing this rescue and an article on the ELT system previously published be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMBS GATES DENVER, INC.,
Denver, Colo., October 24, 1973.

Senator PETER H. DOMINICK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMINICK: While en route to Denver from San Francisco last week-end, we decided to circle Half Dome at Yosemite for a little sightseeing. As we approached the Yosemite area we picked up a weak ELT signal on 121.5. It has become Dexter Cox's practice to leave his #2 comm tuned to 121.5 with the volume all the way up while flying cross-country. He has been doing this for the past four months but has never before picked up a signal. Therefore, we were all surprised to hear the telltale and unmistakable sounds of an ELT as we approach closer to Yosemite.

We flew a triangulation on the signal, fading it in each direction and pinpointing its approximate location 5 E/NE of Half Dome in Yosemite. We then reported this to the local center frequency and transponded the exact location.

The next day we called Fresno Center from Denver to determine what they had found out. They advised us that an accident had occurred east of Half Dome with two serious injuries; the aircraft had been located as presumably, a result of our report and other reports, and a ground party had been dispatched. A cold Pacific front rolled into the area the next day, and there is no question in my mind that the injured people would have died of exposure if it hadn't been for their ELT and our listening ears.

Because of your tremendous contribution and your principal role in pushing the legislation through which requires the installation of these devices, I thought you would find the above incident gratifying and rewarding.

Very truly yours,

L. A. Ulrich,
Executive Vice President.

Lost or Found

(By L. A. Ulrich)

The fact that aviation accidents are still front-page news attests to their rarity in an age when thousands die each year on the highways. In fact, the safety record general aviation has achieved is on a par with the outstanding safety record established by the airlines in recent years.

Nevertheless, the handful of aircraft accidents which occur tend to attract considerable attention, especially when an aircraft is missing for any length of time.

Nowadays there's absolutely no reason why any aircraft should remain missing for more than a few hours. We live in a wonderful electronic age. Out of this technology we have developed a system for *immediately* locating downed aircraft through simple, proven, electronic devices which are now being widely used in Viet Nam to locate and rescue our downed pilots within a few hours.

Yet general aviation continues to rely on the same old search methods we've been using since before World War I! We spend countless hours and millions of dollars each year flying (weather permitting) over the approximate area in which the aircraft is presumed to be missing, looking down at mile after mile of brush, timber, swamp, or rough terrain hoping to catch a "glimpse" of "something."

This procedure is not only absurdly ineffective as a means of finding survivors in time to save them from exposure or starvation but in many cases it has completely failed to turn up any trace of the airplane, even after years of searching!

Survivors of such accidents usually live for at least 24 hours before succumbing to exposure or injuries. After the first 48 hours the chances of their continued survival are less than 25%! If time is ever "of-the-essence," it's during the crucial hours immediatey following a forced landing. Our experience with quick medical evacuation in Viet Nam has proven time and time again that quick evacuation is the difference between life and death.

In 1966 of 143 crashes in the U.S., involving a search, at least 109 occupants survived the first 24 hours period. Many of these later perished from injuries, hunger, or cold before they were found, yet, if they'd been located within 24 hours nearly all of them might have lived.

Most of the inexpensive locator beacons currently available could have pinpointed the exact location of each of these down aircraft *within two to three hours* by utilizing 3 or 4 search planes *flying safely above the terrain* and *over the weather.*

Compare this with our present visual search methods which, according to Gloria Heath of the Guggeinheim Aviation Safety Center at Cornell University, (in a report to be published soon) require an average of *171 flight hours per down aircraft!* These are depressing statistics when help is usually needed within 24 hours to survive! Moreover, the longer the search extends, the more difficult it becomes to find the missing aircraft due to successive snow cover, etc.

Paradoxically, the adverse weather which often causes an accident frequently prevents a visual search from beginning until it's too late. By contrast, *one plane flying 240 miles per hour at 25,000 feet can search 200 square miles every minute provided the downed aircraft is using a locator beacon!* This means, an area the size of the entire state of California can be searched completely by only 5 airplanes in less than three hours! Modern electronic search techniques permit the entire search to be conducted above the weather or at night (as was the case in a recent crash near Stampede Pass in central Washington). The missing aircraft was located electronically at night by a search aircraft flying on top of an overcast. The crash was never seen by the searching aircraft but its location was pinpointed and its victim was evacuated within a few hours from a wilderness area in sub-zero temperatures. He was wearing tennis shoes and levis but he lived thanks to the modern miracle of electronically locating a downed aircraft.

By contrast, we're all familiar with the tragic story of the Oien family who lived in the wreckage of their airplane in northern California for several weeks before finally succumbing to starvation. Although it was impossible to spot their wreckage from the air, dozens of airplanes flew overhead each day, any one of which *could* have received an emergency beacon signal on their regular comm. transceiver.

At the AOPA, RTCA, FAA sponsored National Conference on Locator Beacon Implementation, which was held this April 3rd and 4th in Washington D.C., many excellent low-cost emergency radio beacons were displayed.

These beacons ranged in price from $50 to $700 (with an *average* cost of around $200) *and they work!* Viet Nam has proven their amazing reliability and value as a means of saving lives.

Many of these beacons have been available to general aviation for years but their manufacturers complain that they just don't sell (except in Viet Nam) for the same reason that most people didn't *voluntarily* install seat belts in their cars until Ralph Nader and federal legislation came along. It's our belief that it will take similar legislation to overcome the "it can't happen to me" attitude of most pilots. The FAA has "actively encouraged" the "Voluntary" use of these devices since 1964 (FAA AC–170–4) with *noticeable lack of success* which should provide ample evidence that extensive voluntary use is unlikely. Safety legislation requiring the use of these proven life-saving devices is needed if such devices are ever to be widely utilized. The FAA has taken preliminary steps towards such legislation in their advanced notice of proposed rule making docket No. 8744, notice No. 68–4 which was issued March 1, 1968.

The proposed legislation would "require that a crash locator beacon be carried on general aviation aircraft when operating over large bodies of water, mountainous terrain, or remote and sparsely populated areas."

The FAA seems to be suggesting either a beacon rental system or limited installation based on geographic location which, when applied to anything as *mobile* as an airplane, just isn't realistic.

As commendable as the proposed regulation is, ***we do not feel it is sufficiently broad, or enforceable, in its present form, to solve the problem. Yet ONLY the FAA*** has the full legislative authority to take *whatever* steps are necessary to alleviate this needless problem, by modernizing our search technology.

Rental beacons aren't the answer because pilots wouldn't be anymore inclined to rent these than they are to rent maps, first aid kits, or parachutes! Ask any fixed base operator how successful he's been renting any of the foregoing items. What's more, to be fully effective the beacon must be permanently or semi-permanently affixed to the aircraft in such a way that it will survive and be impact actuated by a crash. Such special installations don't lend themselves to rental.

Limiting beacon installations to certain geographic areas is also an idealistic (and probably unenforceable) half-way solution to a problem that gets worse each year as the general aviation fleet grows. For example in 1965, 27 planes were lost which have never been found, in 1966 an additional 31 aircraft disappeared.

The distribution of these missing planes is NOT limited to "mountainous terrain" and "sparsely populated areas" as can be seen from the map which was compiled with great dedication by Colorado's Senator Peter H. Dominick, who strongly supports any legislation which will contribute to the elimination of this tragic (and now-a-days needless) problem. The miniature airplanes indicate the approximate area and date in which 56 airplanes (some of them missing since 1959) are presumed to be located. None of these have ever been found. Note how evenly these missing aircraft are distributed across the country with aircraft permanently missing in such flat or well populated states as Missouri, Kentucky, Ohio, Michigan, Arizona, Texas, New York state, and Massachusetts. By contrast there are none permanently missing in Idaho, Utah, and Montana! This problem is clearly NOT limited to "mountainous" or "sparsely populated areas."

We should not lose sight of the fact that most people buy and use airplanes to go places. Thus, an Iowa *based* plane will likely fly regularly over the barren badlands of the Dakotas, the wilderness of northeastern Minnesota, or the Rockies enroute to California or Las Vegas. Similarly, a plane *based* in Atlanta is most likely operated by someone who travels frequently over Alabama, Mississippi, or Louisiana (4 planes missing) the Carolinas (9 planes missing) or Fla. (8 planes missing). It's noteworthy that the populous northeast has more than its share of missing planes, several of which have gone down in dense population areas (like the plane that was finally found within the sight of the Conn. turnpike 6 days and 55 search missions later).

In how many of these accidents would quick location of the aircraft have saved lives? There is considerably evidence that *many* survive the crash only to succumb later to starvation, injuries and exposure.

Even in those accidents which are immediately fatal, the emergency locator beacon would save lives . . . *those of searchers* whose lives have all too frequently been lost while conducting low level "needle in the haystack" visual searches. Six CAP searchers were killed in 1962 and 1963 alone. Some of these volunteer searchers have never been found such as the CAP pilot who's been missing since 1959 in Colorado. Flying very low and very slow over hazardous terrain and in the marginal weather often associated with aircraft accidents inevitably results in additional tragedies.

In addition to the human lives *needlessly lost* through our failure to institute modern search methods, tremendous amounts of money are squandered each year conducting dangerous and inefficient "needle-in-the-haystack" visual searches. The CAP alone has flown 104,175 hours in a 5 year period from Feb. '61 to Jan. '67 Air Force, Coast Guard, and FAA Search and Rescue costs amounted to a staggering 59 million dollars in fiscal 1966 alone! Despite this tremendous expenditure of time, money, and human effort an uncomfortable high percentage of the airplanes which were being searched for have never been found.

The foregoing facts clearly indicate that a voluntary locator beacon system *or a system based on limited geographical application will fail to provide the desired results.*

It has been suggested that certain types of aircraft (such as training planes) don't need beacons. This argument is based on the popular misconception that such planes don't ever get far enough from an airport to need such a device. The fact is that sooner or later most training ships are flown cross-country by inexperienced pilots. Such pilots are the very ones *most likely to get lost*. Even where an aircraft is flown within eyesight of its airport it can become lost, like the Ohio Cessna 150 which crashed in trees 4 miles from its airport while in a local "touch-and-go" pattern. This plane wasn't found for two days in spite of extensive search efforts.

Similar accidents have occurred in many parts of the country. A letter which appeared recently in Aero West Magazine read, "You can remove my husband's name from your mailing list. He was killed in 1965. I note in your editorial that it would be possible to install an electronic marker beacon in the tail of every plane. If such equipment is available . . . it is unthinkable that it should not be required. Such equipment could have saved a week of fruitless searching for the plane in which my husband crashed with three passengers. The crash occurred only about 33 miles from our home airport . . . Searchers estimated they flew over the spot at least 20 times, but could not see a sign of the plane . . . Even when ground vehicles pointed out the crash after it had been discovered, air searchers could not see it."

However, one could logically ask, "If I put an emergency locator beacon in my airplane, will anybody be listening for its distress signal?"

Many of the beacons currently available transmit a dual signal simultaneously on both 121.5 and 243. 243 mhz is monitored constantly by all military aircraft. This roving fleet of military aircraft literally provides a listening umbrella over our heads.

Further, if emergency beacons become widely used, the FAA has offered to broadcast a "downed aircraft notam" every 30 minutes on its regular weather broadcast, advising pilots in the vicinity to monitor 121.5. Any aircraft with a standard VHF receiver can receive a locator beacon distress signal.

Many airlines have indicated a willingness to extend a helping hand when needed by establishing a listening watch on 121.5 while flying over an area in which an aircraft is known to be down.

Ideally, airliners, gen. aviation aircraft, and military planes should all be equipped with a simple one-channel (121.5) full-time emergency beacon receiver operating a single indicator light which would be activated whenever an emergency signal was received. A simple position report or "ident" is all that would be required to report an emergency signal when received.

However, waiting until such receivers are installed would waste valuable time and fail to provide an *immediate* solution to the problem. Even without this ideal full-time "listening watch" we already possess enough elements to constitute a successful *systems approach*. Our present gen. aviation and airline receivers can be tuned to 121.5 when an aircraft is known (via a flight plan) to be missing.

Thus our roving fleet of gen. aviation aircraft and airlines crisscrossing the country already provide the immediate capability for establishing a 24 hour all-weather listening watch over a given area, when a plane equipped with an emergency beacon is reported missing.

All Air Force Search and Rescue (SAR) planes and many FAA planes are equipped with VHF homers and have pledged their full and immediate support. Within minutes after an emergency beacon signal is reported by any passing aircraft an SAR or FAA plane equipped with VHF homer, would be dispatched to "home-in" on the distress signal and to provide immediate aid via paradrop, helicopter evacuation, or whatever else may be required. Even without a VHF homer a simple audio homing technique can be followed by any plane with a standard VHF receiver.

Finally, in discussions of emergency locator beacons the author inevitably hears non-pilots (and even a few pilots) and local newspapers conjecture that "if the missing aircraft were on a flight plan it could have been located!" This is a misleading oversimplification as is proven by the fact that of the 56 planes missing nationwide many were on flight plans (yet they've never been found). In 1966 alone of the 137 planes which were missing for more than 24 hours, *81 were on flight plans!*

Although flight plans provide an invaluable means for alerting the FAA that an aircraft *is* missing, they usually prove inadequate as a means for pinpointing the exact location of the missing aircraft.

After all, an aircraft can be missing anywhere along the approximate route of its flight plan or, if weather or mechanical problems arise, the aircraft is often forced to deviate substantially from its presumed course. Thus a flight plan can (and has) actually sidetracked searchers in some cases.

Further, there is, *at best, a 3 to 12 hour delay before a search is begun* once an aircraft fails to complete its flight plan. If the weather is adverse or if no flight plan was filed, a search may be delayed even longer.

By comparison, the search for an emergency locator beacon can begin immediately, even at night or in bad weather as previously illustrated.

The flight plans' value as a means of sounding the alarm is unquestioned—this valuable (and free) service should be fully utilized, but its function should not be confused with that of the locator beacon. *It should be used in addition to. Not instead of updating our search and rescue techniques thru the utilization of sophisticated devices such as emergency locator beacons which enable us to take full advantage of our modern technology.*

Why can't a pilot use the radios in his downed aircraft as a locator beacon? Aside from the obvious answer that aircraft avionics are relatively fragile and not designed to be crash resistant, there's the addtional problem that most aircraft transmitters have power requirements which can't be supported for long without the aircraft alternator or generator operating. An electrical short anywhere in the aircraft's system (which is very likely following a forced landing) will sever or drain off what little battery power remains. Thus, even if the radios survive the G loads normally associated with a hard forced landing, sustained transmission is most unlikely.

In addition, the survivors of an accident are often incoherent. Most passengers don't know how to operate aircraft radios and even if they could, an intermittent voice transmission is not as easily heard (nor can it be homed in on as readily) as the steady distress signal emitted by an emergency locator beacon.

A properly designed emergency locator beacon system would operate regardless of the condition of the pilots and passengers. Such units are built to withstand the high G loads associated with forced landings, and crashes. They are designed to transmit efficiently with very low power requirements over a protracted period of time and in such a manner that their signal can easily be homed in on by other aircraft.

However, such devices must be built to very high standards which should be immediately established by the FAA to meet the dual objectives of *low cost and high reliability*. A beacon which fails to function when needed could in some cases prove worse than no beacon at all and thus it is strongly recommended . . . that the FAA require all beacons to meet the following requirements:

A. Simple impact *and* manual actuation.

B. A minimum of 48 hours broadcasting life at 0 degrees fahreheit.

C. A minimum of ¼ watt power.

D. Impervious to the high summertime temperatures encountered inside aircraft and on the ramp.

E. Designed to withstand the high impact "G" loads associated with accidents and forced landings.

Many manufacturers currently offer beacons which meet most of the properties listed above. Among these Magnavox, Micro Electronics, Mar Tech, Garrett, ACR, and many others have done extensive research and are now manufacturing products which are immediately available. Many other manufacturers have shown interest in designing and building such devices if pilots will buy them in quantity.

If our present fleet of over 107,000 active general aviation aircraft were equipped with these devices the cost per unit could be lowered to a fraction of their $200/300 average price.

Widespread installation of these beacons would soon save the government substantial sums of money which are currently being expended through thousands of inefficient and costly hours of visual searching each year.

It would seem therefore, that a portion of the cost to install these beacons in our present gen. aviation fleet might conceivably be borne by the government out of its search and rescue fund because quickly implementing this program is as much to the government's advantage (from a cost standpoint) as it is advantageous to the individual aircraft owner, from a safety standpoint.

With these basic economics in mind, it is our proposal that a portion of the cost to equip all *existing* general aviation aircraft with these devices be borne by the government. Their installation would become mandatory for aircraft manufactured after a certain date and their cost after that date would be included in the basic purchase price of the airplane (just as seatbelts and other safety equipment is now included in the standard price of each new plane). Subsidy of this program would be limited to all aircraft manufactured before the stated date for required installation. By the time this date is attained the cost per unit will be significantly lower due to the widespread installation of these units in existing aircraft. This cost should, therefore, result in an almost negligible increase in the basic price of new airplanes.

However, even if the government is unwilling or unable to subsidize a portion of the cost of these devices, they could well be the cheapest life insurance one might buy and a necessary consideration which all pilots, aircraft owners, and corporations owe to themselves and their passengers now that such proven devices are available to civilian pilots at reasonable prices.

There are currently 56 aircraft missing somewhere in the United States (not including Alaska) with 98 souls on board. Millions have been spent looking for them. *If* the beacon had been available, and *if* their planes had been so equipped, our experience with missing planes in Viet Nam suggests that many would not have perished. Can it happen to you? Is there a better way?

If you think our present horse-and-buggy search methods are good enough no further action is needed. But if you think there's a better, more modern way to conduct our searches for downed aircraft and to rescue their survivors, your comments directed to the FAA will help bring about such a system. Paragraph 3 of the FAA Advance Notice and Proposed Rule Making states "interested persons are invited to participate in the making of the proposed rule." Write FAA Office of the general counsel, attention rules docket GC–24, docket #8744, Notice #68–4, 800 Independence Ave. SW, Washington, D.C. 20590, Attention Gen. William F. McKee or Mr. Dave Thomas.

GROWING SUPPORT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the support for ratification of the Genocide Convention is well-founded. The basic principles behind our Declaration of Independence and Constitution are the same as those which inspired men of our time to draft this human rights treaty. Our entire American legal system seeks to protect the rights of the individual and to shield him from the arbitrary powers of government. This human rights treaty attempts to accomplish the same purpose.

This convention has received the support of hundreds of groups around the country. Religious organizations of every persuasion, consecutive administrations and even the American Civil Liberties Union finds no inconsistency between this treaty and our constitutional protections.

I urge this body to lend its support to the growing chorus of American support for this important document. This was the first human rights document to be approved by the General Assembly of the United Nations and it deserves our wholehearted support.

WAGE-PRICE CONTROLS

Mr. DOMINICK. Mr. President, on November 1, I joined with 14 other Senators in sending a telegram to President Nixon on phase IV controls on prices of steel and asking for removal of such controls on that product as it is associated with the production of energy.

This problem is yet another example of the results of phase IV and the dislocations caused by wage and price controls. So far this year, I have asked for relief of one kind or another from phase III and IV for gasoline retailers, for beef producers, for farmers, for shippers, for hospitals, and the list goes on. Consumers in my State have seen beef grow short on the meat markets, have been told they could not get more gasoline because costs were frozen, and now must wonder where the next shortage will arise.

The complexities of wage and price controls are described in reams of articles and so far as I can tell, Mr. President, have misled the American people. The time has come to rid this country of them and, therefore, I joined in cosponsoring S. 2599, a bill that would do just that by repealing the Economic Stazilization Act of 1970.

We have heard and read much recently about the need to return to what is basic and fundamental in this country, and certainly freedom in the marketplace is high on the list. I have not and will not endorse controls as a permanent way of life, and when one looks at the record for 1973, I think it is obvious that continuation of them will continue to cause further problems. Right now, the inflation rate of 7 to 8 percent annually is higher than the 6 percent rate prevailing in August of 1971.

The phenomenon of wage-price controls is not new, nor are their results unpredictable over the long run especially in a peacetime economy. Recently, in the Wall Street Journal, an interesting article by William H. Peterson appeared outlining the experience of ancient Rome. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the end of my remarks and would urge all of my colleagues to give it and the relevance it has today careful scrutiny. Certainly, as I have watched the recent attempts of the Cost of Living Council to deal with petroleum, the relevance of this article is all the more obvious.

Mr. President, the question of whether or not controls have worked in the past 2 years must give way to where we are heading with continued use of controls. I am convinced that we are going further into a labyrinth of schedules and exceptions from which we will have greater and greater difficulties emerging. I have maintained staunch support for a balanced budget and a curb on congressional spending as the key to counteracting inflation. I believe the time has come for us to face the responsibility of delivering that balanced budget, rather than relying on controls which historically have proved themselves harmful when their "temporariness" emerges into permanency.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SAD SAGA OF DIOCLETIAN

(By William H. Peterson)

Many phases and freezes ago, long before Santayana observed that those who don't know history will be condemned to repeat it, long before Ricardo (and much more recently Milton Friedman) propounded the quantity theory of money—namely, that as the volume of money expands faster than production, prices tend to rise—Rome fought inflation. Not wisely but hard. And long. Finally, in 301 A.D. came the famous price-fixing Edict of Diocletian.

The background of the Edict points to the recurrent patterns of history. In 357 B.C. Rome set the maximum interest rate at 8⅓%. In 342 B.C. interest was abolished to favor debtors. In 90–86 B.C. the currency was devalued and debts were scaled down 75%. In 63–61 B.C. loans were called and there was a flight of gold, which was finally stopped by an embargo on gold exports. In 49–44 B.C. Julius Caesar cut the relief rolls from 320,000 to 150,000 by a means test. In 2 B.C. Augustus cut the relief rolls (which had grown again) from 320,000 to 200,000. In 91 A.D. Domitian created the equivalent of a government "soil bank" which wiped out half of the provincial vineyards to check overproduction of wine. In 274 A.D. Aurelian made the right to relief hereditary, with bread substituted for wheat and with free pork, olive oil and salt added.

This pattern of the welfare-interventionist state is perhaps better observed in the deterioration of the purchasing power of the Roman coin of denomination, the denarius. For although good price records and price indexes are not available, we know Rome underwent persistent and cruel inflation and did so through the rapid expansion of the money supply (our old friend, the quantity theory of money.) Pre-Gutenberg and the printing press, the money supply mainly was ballooned via debasement, through alloying base metal into precious. The following table traces the deterioration of the denarius after Augustus whose coin, save for a hardening agent, was practically pure silver:

Issuer:	*Percent silver*
Nero, 54 A.D	94
Vitellius, 68 A.D	81
Domitian, 81 A.D	92
Trajan, 98 A.D	93
Hadrian, 117 A.D	87
Antoninus Pius, 138 A.D	75
Marcus Aurelius, 161 A.D	68
Septimius Severus 193 A.D	50
Elagabalus, 218 A.D	43
Alexander Severus, 222 A.D	35
Gordian, 238 A.D	28
Philip, 244 A.D	0.5
Claudius Victorinus, 268 A.D	0.02

Into this inflationary, welfare-interventionist milieu came Emperor Diocletian, determined to stop inflation by law, by his Edict of 301 A.D. His Edict complained of such "unprincipled greed" that prices of foodstuffs had recently mounted "fourfold and eightfold."

The preamble continued: "For who is so insensitive and so devoid of human feeling that he cannot know, or rather has not perceived, that in the commerce carried on in the markets or involved in the daily life of cities, immoderate prices are so widespread that the uncurbed passion for gain is lessened neither by abundant supplies nor by fruitful years, so that without a doubt men who are busied in these affairs constantly plan to actually control the very winds and weather."

The Edict "commanded cheapness," covered some 800 different goods and recognized the cost-push side of inflation—spelling out wage limits for teachers, writers, lawyers, doctors, bricklayers, tailors, virtually every calling—but, of course, forgot all about the demand-pull side, stemming from the continuing debasement of the currency. The teeth in the law were very sharp. The penalty for an offense was death. The complexity of the Edict can be seen in the hundreds of wage and price schedules:

Products:	*No. of schedules*
Foods	222
Hides and leather	87
Timber and wood products	94
Textiles and clothing	385
Wicker and grass products	32
Cosmetics, ointments, incense	53
Precious metals	17

There are 76 different wage schedules, broen down into skilled and unskilled categories. In the silk-weaving and embroidery trades there were 13 different schedules; wool weavers were broken down into six wage categories and fullers had 26 different authorized pay schedules.

The Edict, of course, failed. In 314 A.D. Lactantius, a contemporary historian, wrote of Diocletian and his grand plan as follows:

"After the many oppressions which he put in practice had brought a general dearth upon the empire, he then set himself to reglate the prices of all vendible things. There was much blood shed upon very slight and trifling accounts; and the people brought provisions no more to markets, since they could not get a reasonable price for them; and this increased the dearth so much that at last after many had died by it, the law itself was laid aside."

SEATO

Mr. CHURCH. Mr. President, the Senate recently passed a resolution—Senate Resolution 174—calling on the Committee on Foreign Relations to explore America's treaty requirements to SEATO and to make a complete review of American participation in SEATO and the treaty organization. This is taking place.

An excellent account of the SEATO treaty by America's foremost scholar on Southeast Asia, George McT. Kahin of Cornell University, appeared in the October 13 issue of the New Republic, and I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Cutting the United States Out of SEATO

(By George McT. Kahin)

Continuing American participation in the Southeast Asia Treaty Organization (SEATO) militates against prospects for any effective reassertion by Congress of its foreign policy role in Southeast Asia. Yet the Senate still displays a remarkable complacency toward the survival of SEATO. Though recently dormant, that old treaty is still alive, operative and available as an instrument for further presidentially initiated intervention. Indeed it provides an assertive President with one of his strongest cards in dealing with Congress, should he wish to create a new or expanded military role in Indochina, Thailand or the Philippines.

In the euphoria that surrounds repeal of the Tonkin Gulf resolution, many seemed to forget that Tonkin provided the principal rationale for the Johnson administration's Vietnam intervention for only a year. By early March 1966, in the face of mounting Senate criticism, the administration felt the need for greater authority if its Indochina venture was to be continued and escalated. Thereupon it shifted its emphasis from Tonkin Gulf to SEATO as the major public justification for our Vietnam policy, with Arthur Krock noting in his column of March 6, 1966 that Dean Rusk had moved to cite that treaty as "the fundamental source of President Johnson's authority to commit the United States to whatever expenditure of manpower and treasure he deems necessary to sustain the war in Vietnam."

As endorsed by the Senate 18 years ago, SEATO did not authorize US military intervention in situations such as the one that developed in South Vietnam; nevertheless later Congresses permitted Presidents Kennedy, Johnson and Nixon to use SEATO as authority for our intervention. They did so by acquiescing to White House assertions that the Vietnam conflict was an instance of outside aggression, rather than a locally rooted insurgency and civil war.

To understand how this happened and to appreciate why the survival of SEATO makes it difficult for Congress to restrain further presidentially initiated military adventures in Southeast Asia, it is necessary to look carefully at the actual nature of our SEATO commitment. The treaty's two principal prongs are addressed to outside aggression and to internal insurrection, or "subversion" as it was originally termed. Only in cases of outside aggression can its language be construed as providing scope for anything like a direct and unilateral response by a signatory. With respect to insurrection, the treaty is susceptible to no such interpretation. In such instances it stipulates only that the "parties shall consult immediately in order to agree on the measures which should be taken for the common defense." *Consultation* among the SEATO signatories, then, and *not action*—either collective or unilateral—is all that it provides for in cases of insurgency. If this consultation should lead to a sufficient consensus, recommendations to the several signatory governments might result.

Indeed the Senate agreed to SEATO on the clear understanding that in situations other than open and armed attack from outside the treaty area, there would be no obligation to act. Despite an unqualified statement to this effect from Secretary Dulles during the hearings, several senators remained apprehensive over the insurgency or "subversion" clause in the treaty (Paragraph 2 of Article 4). They wanted to be sure that it could not be employed to draw the United States into the support of unpopular governments against broadly based political opposition, pointing out that this would hardly be compatible with America's own revolutionary heritage. To assure them on this point Dulles pledged: "If there is a revolutionary movement in Vietnam or Thailand we [the SEATO] allies would consult together as to what to do about it . . . but we have no undertaking to put it down; all we have is an undertaking to consult together as to what to do about it."

But the senators had not reckoned with the power of a President to define insurgency as outside aggression. In case of outside aggression the clause of SEATO that could be invoked (Paragraph 1 of Article 4) called not for mere *consultation* but for *action* on the part of the United States or any other party to the treaty, albeit action in accordance with the country's "constitutional progresses." Although this clause could not legitimately be construed as authorizing American intervention against insurgencies, it could be so utilized by a President willing to certify that the insurgency in question is in fact basically outside aggression. For such casuistry to succeed all that is required is an apathetic and poorly informed Congress. As the history of our Indochina involvement so eloquently testifies, the means of making an on-the-ground determination are almost exclusively in the hands of the President. It is *for* him as well as to him—not Congress—that the Foreign Service and CIA report, and it is unusual for them to provide him with reports that do not justify a course of action they know he is already determined to take. Unless Congress secures considerably greater help from outside sources than is normally the case (or provides itself with much more substantial means of its own) it will always find it difficult to contest assessments made by the executive branch.

President Nixon's recent statements warning Hanoi to refrain from aggressive military activity in Cambodia or else court "appropriate action" by the United States are, of course, addressed to an American as well as Vietnamese audience and must be regarded as an attempt to keep that option open.

It is not clear whether in order to shift public attention away from Watergate Mr. Nixon would welcome a well publicized confrontation with Congress over an issue of foreign policy such as would be presented by renewed bombing of Cambodia. But the fact remains that his own prestige in the conduct of international affairs is probably more immediately at hazard over Cambodia than with regard to any other country. Although Congress has hamstrung the President by denying him funds for any renewal of American bombing or ground action in Cambodia, it has not deprived him of whatever legitimacy SEATO can bestow on such a venture. The fact that he has not yet invoked the rationale of SEATO in Cambodia does not mean that he is not keeping it in reserve.

The protocol of the SEATO treaty covers Cambodia quite as much as it ever covered the southern half of Vietnam, and there is nothing to prevent the present Phnompenh regime from repudiating Sihanouk's renunciation of SEATO's protection for Cambodia and requesting US intervention. If President Nixon chose to grant the request he would need only to interpret the situation in Cambodia as one of "outside aggression" by the North Vietnamese in order to invoke SEATO. Would Congress then insist, as it has never done previously, that SEATO's stipulation that this be done by the United States "in accordance with its constitutional processes" obliges the President to secure the approval of a majority of the Senate, or would it simply, as in the past, be content with his consulting some of its members?

Because of the mounting strength of the Cambodian insurgents, President Nixon might well prefer to avoid a showdown with Congress over a resumption of bombing. For he must realize that whatever he does, there is a strong likelihood that the Phnompenh regime will fall by the end of the next dry season. Thus unless it should appear that divisions among the insurgents or other unforeseen factors seriouly impair the rebels' effectiveness and prospects, he may conclude that resumption of the bombing would be quite as futile at it was before. He might then prefer to sit back and accuse Congress of "losing Cambodia." But if factors internal to Cambodia should incline him to gamble upon a reentry of US military power, Congress is encouraging such a move by leaving the SEATO rationale available to him as justification. This danger should be reason enough for Congress to take prompt action to end our participation in that treaty.

Less minatory in an immediate sense, but equally worrisome in the longer term, is the possibility of the United States' being drawn via SEATO into a military intervention against an insurgency in Thailand. The US has been committed much more deeply to Thailand's defense against both outside powers and internal insurgency than many congressmen and the general public are aware. This commitment is ultimately tied to and crucially dependent upon a special reinterpretation of SEATO by executive action in the Kennedy administration that was never submitted to Congress for approval and that considerably increases the possibility for triggering American involvement. A joint communiqué by Secretary of State Rusk and Thailand's Foreign Minister Thanat Khoman on March 6, 1962, in effect "bilateralized" the SEATO agreement, asserting that there was an American obligation to come to Thailand's support, even if other SEATO signatories refused to go along.

The Nixon administration has been quite aware that Congress would probably balk at any attempt to conclude a normal bilateral defense treaty with Thailand. But so long as the United States remains in SEATO, the issue does not have to be so raised. Indeed it is in order to have in hand advance authorization for American assistance to Thailand against both external attack and local insurgency that the present administration is primarily interested in hanging on to SEATO.

Whether, as Nixon administration spokesmen have argued, the Rusk-Thanat agreement did not depart from the SEATO accord as originally understood, Bangkok clearly thinks it did and regards it as having added significantly to the American commitment. Thus early in the Nixon administration (May 21, 1969) Thanat Khoman, still Thailand's foreign minister, explained to his Thai audience that although according to the original SEATO charter "all decisions must be taken by unanimity," under his 1962 understanding with Secretary Rusk "even if the decision is not endorsed by all, any individual country or countries may take action even though there is no consensus. . . ."

If one yields to the administration's claim that a bilateralization of SEATO is not inconsistent with its actual terms, then it must be emphasized that this separate American-Thai interpretation could conceivably apply only to the section of the treaty pertaining to outside aggression. The SEATO language dealing with insurgency and subversion is too explicit to permit any such interpretation, for there the parties are called upon simply to *consult* "in order to agree on the measures which should be taken for the common defense." One would assume that anything so clearly collective could not be bilateralized. Yet the Rusk-Thanat communique of March 6, 1962 employs language, apparently lost on all but a few members of Congress, that Thai leaders believe does provide the basis for active US military support against any major insurgency in Thailand, as well as against outside aggression. The communique cites the case of Vietnam as an appropriate example of how under SEATO Thailand could rely on United States support against the threat of insurgency. This was certainly the interpretation of the Thai prime minister, Field Marshal Sarit, who announced just after the communique was signed that the United States had pledged aid to Thailand against indirect aggression—subversion or infiltration—"the same way it is doing in South Vietnam now." If members of Congress are confused by the seeming ambiguity of the American defense commitment to Thailand, *that* country's leaders are not.

Bangkok's initial anxiety after the President's enunciation of the Nixon Doctrine was quickly put to rest by his public statement in Bangkok on July 28, 1969. Pledging to maintain all existing American commitments to Thailand, Mr. Nixon went on to say, "The United States will stand proudly with Thailand against all of those who might threaten it from abroad, *or from within.*"

The Thai leaders were delighted. Their sentiments were echoed by the *Bangkok World* which promptly observed: "The inclusion of threats from 'within' is seen as a startling vote of confidence to a Thai nation cautious over the prospects of American involvement in future Southeast Asian problems," and later concluded in its lead editorial: "Mr. Nixon's statement . . . came as a surprise to Thai leaders fearing that his mission here was only to prepare the nation for the eventuality of the American disengagement . . . The Thai-U.S. relationship is . . . stronger now than at any time in days past." As was made evident by Vice President Agnew during his visit to Bangkok on May 17, 1972, the Nixon administration indicated no subsequent reservations about this pledge. By emphasizing that the United States "reaffirmed its willingness to honor its commitments" to Thailand under SEATO and under the Rusk-Thanat communiqué "as well as the assurances given by President Nixon," Agnew reinforced the Thai leadership's conviction that if any of their insurgencies become a serious threat they can count upon the United States to come to their rescue.

During the 11 years since the Rusk-Thanat communiqué was signed, Bangkok has been given abundant evidence of Washington's willingness to meet the expectations that it raised among the Thai leadership; even that part of the record disclosed in the heavily expurgated published hearings of the 1969 Symington committee makes this clear. Shortly before the 1962 communiqué was announced, the Kennedy administration made a commitment to Thailand's air defense by stationing a detachment of interceptor aircraft at Bangkok's Don Muong airport. In the spring of 1962, at a time of growing Thai concern over the situation in Laos, President Kennedy established a Military Assistance Command for Thailand, MACTHAI, and sent 10,000 marines and other ground personnel to Thailand to ensure fulfillment of U.S. obligations under SEATO and "to help ensure the territorial integrity of Thailand." (The move was also regarded by the Kennedy administration as useful in providing the U.S. with additional bargaining power in the ongoing international negotiations over Laos.) In 1964 the U.S. general commanding MACTHAI worked out contingency plans with the Bangkok government for American participation in Thailand's defense which were updated by further negotiations in August 1969. It has never been publicly divulged whether these plans center on countering a major insurgency, but presumably they do.

In any case, even the published parts of the Symington hearings disclose that by March 1966 the United States was directly involved in supporting Thai efforts to put down an insurgency. Though this dissident activity in northeastern Thailand was actually modest in scale, Bangkok appeared to be having difficulty in coping with it, and U.S. Ambassador Graham Martin requested Washington to send in helicopters. According to him, the 25 helicopters of the U.S. 606th Air Commando Squadron were under orders not to fire at the insurgents; but they were certainly intimately involved in Bangkok's efforts to suppress the rebels—ferrying Thai military personnel right up to the combat areas. This operation went on until late January 1967, at which time, Ambassador Martin states, Thai pilots took over the operation.

There have been no new Senate hearings on U.S. military support to Thailand comparable to those held by Senator Symington's subcommittee in November 1969, and thus relatively little has been made public concerning the Nixon administration's activities there. U.S. military advisers are now reported to total around 1,000, and U.S. Special Forces and CIA personnel (numbers not disclosed) are still engaged in helping the Thai army and police cope with insurgent activities, apparently with limited success.

As during Johnson's term, there has been a continuing campaign to depict all kinds of insurgent activities—even cattle rustling—as part of a Communist campaign directed and nourished by Hanoi, the Pathet Lao or Peking. But it remains clear that outside support is of marginal importance, and that the insurgencies are basically locally rooted and locally fueled. The minority peoples have real and serious grievances, and it has been Bangkok's discriminatory and often heavy-handed treatment of them that has been primarily responsible for provoking them into resistance. During the last few years insurgent activity among the Meo in the north and the Malays in the south has apparently become stronger, considerably greater than the older movement mounted in Northeast Thailand by dissident Thai. Bangkok has not been effective in its efforts to deal militarily with the insurgencies among the Meo and Malays, nor has it taken the political and economic measures necessary to placate these people. (Repeated military defeats in the north at the hands of the Meo and other minority tribal groups brought Bangkok in the fall of 1970 to turn over the policing and administration of extensive hill areas there to Chinese nationalist [Kuomintang] troops—remnants and offspring of forces that fled China two decades ago. This arrangement, endorsed by the United States government, has not been very effective. Most of the Chinese troops have been more interested in the opium trade than fighting the Meo, and when they have chosen to fight have usually fared poorly.)

In the meantime the United States during the past three administrations has built up a substantial vested interest in a massive complex of air bases in Thailand—an investment which ran to over $800 million in 1969 and probably totals well over $1 billion today. Despite an announced token withdrawal of United States personnel from Thailand, some 30,000 to 40,000 still remain.

Thus far insurgents in Thailand—though increasing in power and in the size of the areas they control—do not endanger the Bangkok government, nor have they yet seriously threatened our air bases or our personnel stationed in Thailand. But what if either or both of these situations should arise? On the basis of his past record what should one expect Richard Nixon to do? Will he assert that we have a clear-cut case of outside aggression and invoke the SEATO pact as justification for American intervention—at first presumably with the less controversial dimension of additional military advisers and special forces along with tactical air powers? Or will he simply repair to that formula that served him so well during the last years of United States military intervention in Vietnam—the duty of the President to protect American military personnel abroad? Or to strengthen his case in the face of probable congressional opposition will he do both?

SEATO, especially as permissive Congresses have allowed the executive branch to interpret that treaty, leaves the gate open for the President to launch military interventions in Thailand and Cambodia, and even in the Philippines. If Congress is serious about reasserting its responsibilities in foreign policy it must take preemptive action to deny the President scope for such initiatives by bringing American participation in SEATO to an end.

COSTLY CRISIS

Mr. FANNIN. Mr. President, I submit for the Record an article from a Wall Street Journal of last week entitled "Costly Crisis: Energy Lack Threatens Disruption, Slowdowns in American Economy." It points out very effectively that the implications of our energy crisis are serious and far-reaching. The Arab oil cutoff and the resultant shortage of oil and other fuels are predicted to initiate some nerve-racking readjustments in our economy. Scarcities will impact on the chemical, paper, aluminum, copper, and steel industries, on trucking concerns, on the automobile industry, on appliance makers, recreational vehicle manufacturers, and an extensive list of other concerns. Resulting financial effects stand to be considerable.

This article indicates that our economy is so interrelated that any new development is likely to affect multiple sectors like the first domino in a line toppling the entire row. When every provision of a bill such as S. 2589 will have such far reaching effects, how can we rush into approving them without giving ourselves the opportunity to thoroughly examine each one? The article to which I have been referring merely demonstrates the dimensions of our responsibility to the American people in insuring their economic future by providing them with a well thought out emergency bill. I urge my colleagues to give it their careful consideration, and ask unanimous consent that the article be printed in the Record.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

Costly Crisis: Energy Lack Threatens Disruption, Slowdowns in American Economy

(By Charles J. Elia)

The country's energy shortage may have been only dimly perceived by most investors before the Middle East crisis erupted, but the cutoff of Arab oil to the United States is abruptly bringing the stock market face-to-face with future shock.

The full dimensions of what President Nixon officially labeled the "energy crisis" Wednesday night are still only roughly measurable, but the situation is bound to have a great impact on the economy.

"We are going to slow down the rate of economic growth in the U.S., period," asserts Pierre Rinfret, an economist who heads the New York consulting firm of Rinfret-Boston Associates. "There is an almost perfect correlation between available energy per capita, industrial production and the standard of living."

The Arab oil cutoff didn't produce the U.S. energy shortage; the shortage already existed. Indeed, it might have seemed to most investors that Arab oil wasn't so vital, since it accounted for only about 5% of the nation's total energy use.

But the Middle East—including non-Arab Iran, which hasn't joined the embargo of the U.S.—has been the only major source of the additional oil needed here to meet expanding energy requirements in recent years.

WHEN THE TANKERS STOP

So "the major impact (of the Arab oil cutoff) will be on growth," says Alan Greenspan of Townsend-Greenspan & Co., another economic consulting firm here. "What hasn't been recognized widely even now," Mr. Greenspan says, "is that the worst of the crunch hasn't happened yet. We'll feel that when the tankers carrying the oil stop arriving in the next several weeks."

Many economists aren't so gloomy. Some foresee, at most, a temporary slowdown. But many other analysts say that the implications for the economy are serious enough to shake many of the assumptions underlying stock-market investments. The way investors think about everything from roadside hamburger stands and amusement parks to basic industries, particularly automobiles, may be in for radical change, these analysts say.

Some analysts believe that the first stirrings of reappraisal appeared in the sharp stockmarket decline that began early last week. The Dow Jones industrial average, which had climbed to 987.06 from the 1973 low of 851.90 reached on Aug. 22, began a 73.98-point descent nine trading sessions ago, and stocks of such oil-dependent industries as the chemicals were among the biggest casualties. (Then came two days of gains, and the average closed yesterday at 932.65.)

SURPRISES LIKELY

The course of the stock market is expected by analysts to enter some surprising, if not downright nerve-racking, turns as the Arabs tighten the vise and the economy adjusts to shortages. Some companies, notably those connected with coal, nuclear power and oil outside the Arab lands, may benefit from the crisis. Here are some of the major negative considerations being pondered by securities analysts:

The Arab oil moves, if prolonged, could cause a recession in the U.S., according to a study by researchers at Arthur D. Little & Co., the Cambridge, Mass., consulting firm. The embargo, coupled with the indirect impact of the Arabs cutback on over-all oil production, could cause the gross national product of the U.S. to drop as much as 2% in real terms next year, the consulting firm estimates. The possible 2% drop contrasts with economists' earlier forecasts of a 2.5% real gain next year. The Little firm says a 2% decline in the GNP "could result in an unemployment rate of 6% to 7%." The unemployment rate last month was 4.5%.

Rising costs of all energy, particularly oil, are already filtering through the economy. Roy Moor, economist at A. G. Becker & Co., a Chicago securities firm, estimates that the consumer price index could rise 7% next year, rather than the 6% generally expected. "Oil gets into consumer prices in a whale of a way," he says, "and this practically guarantees a continued high inflation rate."

The implications of the Arab cutbacks for Japan and Western Europe, which are more dependent on crude-oil imports than the U.S. is, are "so horrendous that some resolution by early 1974 is essential," says Mr. Greenspan of Townsend-Greenspan. The Arthur Little study indicates that economic growth in those areas could fall to zero in 1974, from estimated 5% to 7% rates of growth. This could spell serious trouble for U.S. exports and for foreign earnings of multinational U.S. companies.

SCARCITIES ACCELERATED

In the United States, the Arab action and the fuel-conservation measures proposed by the President are intensifying pressures that were already under way, some analysts believe. Shortages of refined products (gasoline, heating oils, etc.) "now appear inevitable," says Charles T. Maxwell, energy specialist at Cyrus J. Lawrence & Co., New York securities firm. "They would probably have been evident in any case even without the cutoff of Arab oil," Mr. Maxwell says. "The Middle East crisis has acted to accelerate developments and bring about scarcities faster than would have otherwise occurred."

Such basic sectors as the chemical, paper, aluminum, copper and steel industries have been operating at full capacity this year and demand for their products continues to outstrip supply. Energy-related scarcities could disrupt their operations, some analysts say.

Chemicals, particularly dependent on refinery output for their raw materials, are among the most energy-intensive industries, and analysts expect them to be heavily affected by the present squeeze. Synthetic-fiber expansion planned by some of the major companies, for example, was predicated on refinery expansion by several major oil companies, and these plans, in turn, were based on expanded crude output expected from Arab producers. Such expansion plans now are threatened with indefinite delay, analysts say.

Industries heavily dependent on natural gas are already in a bind. With both fuel oil and natural gas in short supply, the copper industry "could experience significant production losses" if this winter is severe, says Peter Merner, analyst at the New York securities firm of L. F. Rothschild & Co. Many natural-gas supply contracts are "interruptible," he says, and even if oil is available, a switch from gas would sharply increase production costs because oil is more expensive.

Similarly, Mr. Merner says there is "a real question" about continued availability of natural gas to aluminum producers. Cost increases related to a force conversion from natural gas to other sources of power "could be dramatic," he adds. He believes that the aluminum industry could lose as much as 10% of its monthly production because of the energy problem.

Trucking, another industry heavily dependent on oil and gasoline, is one of the biggest imponderables for analysts. Trucking companies have been scrambling lately to assure a continued flow of fuel. Ryder System announced Wednesday that it had bought a small oil refinery. On the other hand, this scrambling may not succeed, in which case many shippers may switch to the railroads, which can carry more freight per unit of energy expended.

While the ultimate impact of fuel-conservation efforts isn't clear, analysts think that a radical change in the life styles and spending patterns is ahead in an economy that now envisions, among other things, curtailed business hours, lighting and gasoline consumption.

BLOW TO INDUSTRY?

The automobile industry may feel one of the more lasting blows, according to Al Nelson, analyst at Cyrus J. Lawrence & Co., the same firm where Mr. Maxwell has been predicting, Arabs or no, that gasoline rationing is highly likely by year's end or next spring. The two analysts believe that gasoline, which competes with heating oils and other products for its cut of each barrel of crude oil, will remain in short supply into 1976.

Mr. Maxwell sees some improvement after 1976 from a buildup of refinery capacity and development of nonpetroleum energy sources but doesn't expect supply and demand to approach balance until possibly 1980.

"This thing (the energy crisis) is of such massive proportions that it's out of the hands of the auto companies," Mr. Nelson says. "Spending patterns on automobiles will alter. Consumers' efforts to obtain better mileage will have the effect of reducing average weights of new cars sold in future years. This implies an accelerated move to smaller and lower-priced cars, as well as reductions in installation of optional devices."

Mr. Nelson estimates that a 50-m.p.h. speed limit as proposed by President Nixon, might improve mileage per gallon of gasoline by 5.5% but says that attempts to regulate speeds may not fully achieve the desired effect. "We think the gasoline situation will be at its worst in 1975–76 and we think auto stocks will remain unattractive," Mr. Nelson says.

The fuel-saving effort now under way could have implications for the stock market that go well beyond the impact of gasoline shortages on the auto makers. Here are some of the trends that could develop, in the opinion of the Lawrence analysts and others:

Major U.S. auto makers may be slow in meeting the demand for smaller, lighter cars as the consumer attempts to maintain his motoring patterns. Foreign car makers are expected to step up assembly and sale of their small cars in the U.S.

Domestic tire companies and auto-parts makers serving the new-car market will be hurt if the energy crisis brings fewer, smaller cars traveling fewer miles at lower speeds.

Fewer, shorter auto trips imply lower rates of growth for companies in some of the "growth" industries for whose stocks investors have been willing to pay a premium in recent years. These include motel and restaurant chains that have units on the interstate highway system or that otherwise depend on auto traffic; shopping centers, and the retail chains that are heavily represented in them; fast-food chains, and amusement parks and zoos.

Even where the actual earnings slowdown isn't dramatic, says one analyst, the lid on growth could reduce the price-to-earnings multiple that investors are willing to accord such companies. Car-leasing companies also could be adversely affected by changes in travel patterns.

Such leisure-time pursuits as boating, the use of recreational vehicles and the use of private aircraft might be curtailed by gasoline scarcity, with a dampening effect on the manufacturers.

Electric utility companies using natural gas as an energy source, along with utilities that don't have built-in rate increases to offset rising fuel costs, could face profit problems.

Appliance makers, already facing the prospect of reduced sales next year because of a drop in housing starts, could find demand for their products further squeezed. If households use less power, families may put off purchases of such nonessential appliances as airconditioners and clothes driers.

The jolt to household budgets resulting from higher energy costs and other inflationary pressures could mean reduced spending for such luxuries as air travel, cosmetics and personal services.

JUST A STRETCH-OUT?

Among those who don't believe that the implications of the energy crisis are so far-reaching is Mr. Moor of A. B. Becker. "If we have a bad winter and demand stays high," he says, "we could have a slowdown in the rate of growth of industrial production, but I think it can be said that a slowdown would be temporary. It would just stretch out production. In a way I think that's favorable because it would give us stronger production in late 1974."

Meanwhile, the energy crisis and the Arab actions have spurred plans for faster development of alternative sources of power, even though they may not be of great immediate help in alleviating shortages.

This could prove a boon to oil, steel, copper and coal companies, which own large reserves of coal in the U.S. Analysts also expect makers of coal-mining equipment and earthmoving machinery to benefit, as well as coal-burner manufacturers, coal-hauling railroads and rail-equipment makers, And companies with uranium reserves have again become attractive to crisis-minded investors as the nation seeks to speed development of nuclear power systems.

The most notable market beneficiaries of the energy crisis, even before the Arab action, continue to be favored by analysts for future growth. These include oil and gas companies with domestic reserves or reserves in areas untouched by oil politics, such as the North Sea and Alaska.

The market has also favored, and analysts expect continued interest in, stocks of offshore drillers, oil service and equipment companies, pipeline builders, compressor and pump makers, engineering firms connected with oil development, and refinery builders.

ERIC SEVAREID ON THE FUEL SHORTAGE

Mr. BROCK. Mr. President, we have an energy crisis upon us, one that could ultimately prove to be a problem as large as any to face us in the past 30 years. As we discuss cutting back on our consumption of energy, a move that at this moment, appears to be a necessity, we must also consider the effects of such actions on the total economy. What I am really trying to say is the rationing may create a new monster, similar to the economic controls which have been placed on the American people.

Recently, Eric Sevareid of CBS, in his commentary of Monday, November 12, 1973, took this point for consideration, and I would ask that those comments, by unanimous consent be printed in the Record.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

Eric Sevareid on the Energy Shortage

The ramifications of the energy shortage are just beginning to seep through, and it's like the weather, politics and television. Every person has his own notions about what should have been done, what should now be done, who's to blame, what will happen. Everybody's an expert, which means nobody is, this reporter included. So, what follows are purely personal conjectures, haphazard and disjointed.

Yesterday we drove along Maryland and Viriginia highways at the President's requested 50-mile-an-hour maximum. A good 85 percent of the traffic whizzed by us. At a guess, two things were going through the drivers' heads: (a) Let the other fellow save the gas; (b) I'll slow down when the pinch gets real. And, because of this, the pinch will get real that much sooner and last that much longer. Conclusion: volunteerism will help a little, but just a little; only law enforced will do what has to be done. This seems to be confirmed by a three-months' effort in the state of Oregon. Where the state government had direct power over its own cars, buildings and facilities, energy savings were fairly substantial. Savings in the areas of volunteer sacrifice by the public were scant.

The American people seem to be in the state of mind of soldiers headed for war. Each one thinks he won't be hit. Maybe this is nature's secret device for perpetuation of the species. It is also, at bottom, why people let wars happen. It's also why we're likely to have a social war of the fiercest acrimony this winter, especially if the winter is cold. People will move from blaming the Arabs to blaming the oil companies to blaming the power companies, then the guy down the street, then ultimately of course, the government, until Watergate could become one of the President's minor problems. Because what's now involved is not just a sacrifice of some pleasure and comforts, but the most radical readjustment of social thought and behavior since the big war.

The American economy is not a piece of architecture. You can't close off one part of it, leaving the others untouched. It's a closely knitted garment. Skip one stitch or pull one out, and a big part of the whole garment starts to unravel. Energy is basic. A cutback in energy means cutbacks in production, in sales, in services, in jobs, in personal and corporate income, in tax collections, a rise in welfare payments, rise in government deficits. In other words, recession, and at a very high-cost-of-living level.

The challenge facing Nixon at the end of '73 is not as dramatically stark as the challenge that faced Roosevelt at the end of '41, but it looks to be the closest thing to it that we've seen. It will be relieved to the extent that new laws and regulations are enforced and to the extent that every single citizen tightens his own belt.

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL HONORS SENATOR SAM J. ERVIN, JR.

Mr. MANSFIELD. Mr. President, on October 12, 1973, his alma mater, the University of North Carolina at Chapel Hill, honored our colleague, Senator Sam J. Ervin, Jr., by bestowing upon him its Distinguished Alumnus Award in recognition of his outstanding contributions to mankind through the field of public service.

I ask unanimous consent that a copy of this award and the citation accompanying it be printed in the Record.

There being no objection, the citation and award were ordered to be printed in the Record, as follows:

The University of North Carolina at Chapel Hill in recognition of outstanding contributions to mankind through the field of public service the faculty and trustees of the University are honored to bestow the Distinguished Alumnus Award upon Samuel James Ervin, Jr.

October 12, 1973.

Henry A. Foscue,
Chairman of the Board of Trustees.
N. Ferebee Taylor,
Chancellor.
Henry C. Boren,
Secretary of the Faculty.

CITATION

Samuel James Ervin, Jr., is a "country lawyer" who has become one of the most respected United States Senators. He took his A.B. degree here in 1917. He served in the United States Army in Europe in the First World War, where he was twice wounded, twice cited for gallantry, and several times decorated. In 1922 he was graduated from the Harvard Law School, entered law practice in Morganton, and was elected to his first term in the North Carolina General Assembly. He became a County Court judge in 1935 and Superior Court judge in 1937. In 1948 he was named Associate Justice of the North Carolina Supreme Court. Appointed to the United States Senate in 1954 by Governor William B. Umstead, he has been returned to the post in four subsequent elections by the people of North Carolina. Senator Ervin has earned a reputation in the Congress as an indefatigable defender of individual rights and of the Bill of Rights itself. Former Senator B. Everett Jordan has called him "the constitutional conscience of the Senate." He himself once said, "I think all freedom is always in danger." As chairman of the Senate Select Committee, he has recently become a kind of folk hero. It seems certain that any political structure which turns up a "Senator Sam" is bound to be sound. This University conferred upon Senator Ervin an honorary degree in 1951 and is pleased to honor him again in 1973 with this Distinguished Alumnus Award.

Mr. MANSFIELD. Mr. President, this award was made to Senator Ervin and four other alumni of the University of North Carolina at Chapel Hill on University Day, October 12, 1973, when the University celebrated the 180th anniversary of the laying of the cornerstone of the Old East Building, the first building erected upon its campus.

At that time, Senator Ervin delivered an address entitled "Light and Liberty," which is the motto appearing upon the corporate seal of the University of North Carolina at Chapel Hill.

I ask unanimous consent that a copy of this address be printed at this point in the body of the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Light and Liberty

One hundred and eighty years ago, i.e., on October 12, 1793, a goodly group of dedicated North Carolinians gathered near this spot to witness the formal creation of the University of North Carolina at Chapel Hill.

They saw the Grand Lodge of Freemasons of North Carolina led by their handsome Grand Master, William Richardson Davie, lay the cornerstone of the University's first building, Old East, and heard the eloquent orator of the day, Dr. Samuel E. McCorkle, head of the famous Zion-Parnassus School near Salisbury, predict that the University would be a citadel of learning and liberty.

Those of us who are privileged to call her Alma Mater believe that in an institutional sense The University of North Carolina at Chapel Hill is a composite of the minds, the hearts, and the spirits of all those who brought her into being and all those who have loved, nourished, or served her during the ensuing generations.

The appointed and accepted mission of the University is of transcendent importance. Her mission harmonizes with the ideal expressed in the Latin phrase, "Lux et Libertas," which adorns her corporate seal. Stated simply, her mission is to diffuse light and proclaim liberty.

It is not strange that this should be so. Before she came into being as a living reality the University was a dream in the minds and the hearts of North Carolinians who entertaned the abiding conviction that light and liberty are inseparable.

The dream was in the minds and the hearts of the representatives of the freedom of North Carolina who assembled in convention at Halifax in December, 1776, and promulgated a Constitution securing to the free people of North Carolina the great rights wrung by lovers of liberty from arbitrary power in a contest of ages and pledging that the newly born State would encourage and promote "all useful learning * * * in one or more universities."

The dream was in the minds and the hearts of the delegates who met in convention at Hillsboro in July, 1788, and resolved that North Carolina should not ratify the Constitution of the United States until she was assured that a bill of rights would be added to that instrument "asserting and securing against encroachment the great principles of civil and religious liberty, and the unalienable rights of the people."

The dream was in the minds and the hearts of the legislators of North Carolina who granted to the University on December 11, 1789, a charter empowering her to teach the arts and the sciences as the State's own institution of higher learning.

Furthermore, the dream was in the minds and the hearts of the fathers and mothers of North Carolina who craved for their sons the opportunity of making of themselves everything God gave them the possibility of becoming.

When he and the University were being attacked by some of the clergy and laity of the State because he had courageously and successfully opposed their demand that the North Carolina General Assembly of 1925 enact a statute outlawing the teaching of evolution in state-supported schools, Dr. Harry Woodburn Chase, President of the University, made a statement to University faculty and students which Dr. Louis Round Wilson rightly esteems one of the great papers of the University.

Dr. Chase stated at that time that "when men have attempted to curtail thought to hold it in bondage to authority, they have achieved only sterility and stagnation"; that "if men are to be educated men, they must learn to look the world squarely in the face, to respect facts, to weigh evidence, to follow truth wherever it may lead"; and that in consequence the University owes to its students and its public an unending obligation to be intellectually free and intellectually honest and to teach what is known and to explore what is unknown.

The University diffuses light by teaching these things in one way or another to those who come to her in quest of an education.

You must learn always. Man has made this inquiry in all ages: What personal attainment should I make my chief goal in life? The Bible answers this question in this way: "Wisdom is the principal thing: therefore get wisdom: and with all the getting get understanding." When the Lord appeared to Solomon in a dream by night at Gibeon and told Solomon that he could have whatever he most desired, Solomon did not choose fame or gold or pleasure or power. He begged God for an understanding heart and thereby proved himself to be earth's wisest son.

The assertion that God made man just a little lower than the angels finds vindication in the facts that God gave man a brain and placed him in surroundings whose mysteries present a constant challenge to the unceasing employment of that brain. No man can truly claim that he has as certain possession of learning as of a book or other article of personal property. The world of the mind is an illimitable land whose boundaries are as vast as the universe itself, and thought is calling us at all times to the undiscovered countries lying beyond the next visible range of mountains.

The soothsayers of ancient India exalted an unending search for knowledge in this cryptic phrase: When thou attainest an hundred years, cease to learn. The psalmist of old prayed: "So teach us to number our days that we may apply our hearts unto wisdom."

Let nothing on this side of the grave put an end to your pursuit of learning. Fortunate, indeed, will you be if you will fondly embrace the belief that knowledge is the most lasting wealth and if you will woo her with such constancy that you will be able to say in modesty and in truth at sunset each day: I am wiser today than I was yesterday. While you may fear that knowledge will become proud because she learns so much, you may be sure that wisdom will always remain humble because she knows so little.

Let books be your friends, for, by so doing, you can summon to your fireside in seasons of loneliness the choice spirits of all the ages. Observe mankind through the eyes of charity, for, by so doing, you will discover anew the oft forgotten fact that earth is peopled with many gallant souls. Study nature, and walk at times in solitude beneath the starry heavens, for, by so doing, you will absorb the great lesson that God is infinite and that your life is just a little beat within the heart of time. Cling to the ancient landmarks of truth, but be ever ready to test the soundness of a new idea. Accept whatever your mind finds to be true, and whatever your conscience determines to be right, and whatever your heart declares to be noble, even though your act in so doing may drive a hoary prejudice from its throne. And, above all things, meditate often upon the words and deeds of Him who died on Calvary for, by so doing, "ye shall know the truth, and the truth shall make you free."

Let your life forever harbor at least an echo of Ulysses' inspiring challenge:

"Come, my friends,
'Tis not too late to seek a newer world.
Push off, and sitting well in order smite
The sounding furrows: for my purpose holds
To sail beyond the sunset, and the paths
Of all the western stars, until I die."

The University proclaims these things in respect to liberty: Life's most precious value, liberty, was bought for us by the blood, sweat, tears, and prayers of multitudes of men and women.

While it is an indivisible whole, liberty does reveal itself in a fourfold guise as political liberty, economic liberty, religious liberty, and intellectual liberty.

The men and women who made America believed that governments derive their just powers from the consent of the governed. Moreover, they had absorbed the lessons taught by the history of the struggle of the people against arbitrary power for the right to be free from tyranny. Hence, they comprehended some eternal truths respecting men and government.

They knew that those who are entrusted with powers of government are susceptible to the disease of tyrants, which George Washington rightly diagnosed in his Farewell Address as "the love of power and proneness to abuse it." For this reason, they realized that the powers of public officers should be defined by laws which they as well as the people are obligated to obey.

They also knew the truth subsequently embodied by Daniel Webster in his aphorism: "Whatever government is not a government of laws is despotism, let it be called what it may."

For this reason, they realized that liberty cannot exist except under a government of laws, that is, a government in which the conduct of the people is controlled by certain, constant, and uniform laws rather than by the arbitrary, uncertain, and inconstant wills of men, and in which the laws accord to the people as much liberty as the commonweal permits.

They likewise knew that Thomas Hobbs had proclaimed an unalterable principle when he said: "Freedom is political power divided into small fragments."

For this reason, they believed that the powers of government should be divided between the federal government and the states, and that the powers of the federal government should be diffused among its legislative, executive, and judicial branches.

To preserve for themselves and their posterity the blessings of liberty, they framed a Constitution which created a government of laws conforming to these eternal truths, and which they intended to last for the ages and to constitute a law for rulers and people alike at all times and under all circumstances.

The men and women who made America did not learn economics sitting at the feet of those who promise "abundance for all by robbing selected Peter to pay collective Paul."

They acquire their knowledge in the hard school of experience, which is the most dependable of teachers. As a consequence, they had the hardihood to accept the economic truths plainly visible to all human beings who possess both the capacity and the willingness to accept reality.

They knew that earth yields nothing to man except the product of his own labor. They knew that Adam's curse is an unchanging and unchangeable law of life: "In the sweat of thy face shalt thou eat bread til thou return unto the ground."

They knew that man has but one choice in respect to this immutable economic law, and that such choice is simply this: Whether the bread which he must eat in the sweat of his face shall be the bread of freedom or the bread of bondage.

They knew this unalterable decree of the Creator of the universe: Free men cannot be induced to produce goods or services of value unless they are permitted to retain a fair share of the fruits of their labor for themselves, their families, and the causes they hold dear.

They knew, moreover, that man can be free only if he is willing to accept responsibility for his own life.

They also knew the truth embodied in Michelangelo's assertion: "It is only well with me when I have a chisel in my hand."

As a consequence of these things, the valiant folk who made America realized not only that economic liberty is an absolutely necessary attribute of a free society, but also that it most effectively encourages them to make of themselves everything God gave them any possibility of becoming.

The most heart-rending story of history is that of man's struggle against civil and ecclesiastical tyranny for the simple privilege of bowing his own knees before his own God in his own way. As Chief Justice Walter P. Stacy of the North Carolina Supreme Court so well declared in one of the great judicial opinions of all time, "men contend more furiously over the road to heaven, which they cannot see, than over their visible walks on earth," and history records "the tragic fact that men have gone to war and cut each other's throats because they could not agree as to what was to become of them after their throats were cut."

The men and women who gave freedom to America were devout souls. They had learned some of the sorrowful facts of the spiritual life of man in the bitter crucible of experience. Most of them dissented from the doctrines and usages of the churches established by law in the lands of their origins. They were denied the right to worship God in their own ways. They were compelled to pay tithes for the support and propagation of religious opinions which they disbelieved. They had their marriages annulled and their children adjudged illegitimate for daring to speak their marriage vows before ministers of their own faiths rather than before clergymen of the established churches.

But these cruel oppressions merely steeled their convictions that religion is a private matter between man and his God; that no human authority should undertake to control or interfere with the rights of conscience; and that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical."

For these reasons, our ancestors staked the very existence of America as a free nation upon the principle that "all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences," and the corollary that this natural and unalienable right can be secured only if church and state are kept separate.

While I divide freedom into parts for ease of discussion, the indivisibleness of freedom becomes manifest when we realize that intellectual freedom is inextricably intertwined with political and religious freedom, and that the full enjoyment of political, religious and intellectual freedom is dependent upon economic freedom.

The greatest exponent of intellectual freedom among the men and women who made America a living reality was Thomas Jefferson, who said: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

His contemporaries shared Jefferson's abhorrence of tyranny over the mind, and for this reason they adopted the First Amendment. When this amendment is read in conjunction with the Due Process Clause of the Fourteenth Amendment, it compels the governments of the states as well as the federal government to extend to every human being within our borders these intellectual, political, and religious freedoms:

1. Freedom to think whatever he pleases.
2. Freedom to speak and publish his thoughts with impunity, provided what he says or publishes is not obscene and does not falsely slander or libel another, or tend to obstruct the courts in their administration of justice, or create a clear and present danger that it will incite others to commit crimes.
3. Freedom to associate with others to accomplish any lawful objective.
4. Freedom to meet peaceably with others for consultation and protest, and to petition those invested with powers of government for redress of grievances, real or imagined.
5. Freedom to entertain such religious beliefs as appeal to his conscience, to practice his religious beliefs in any form of worship not injurious to the rights of others, to endeavor by peaceful persuasion to convert others to his religious beliefs, and to be exempt from taxation for the support of any institution which teaches religion of any character.

These freedoms are exercisable by fools as well as by wise men, by agnostics or atheists as well as by the devout, by those who defy our Constitution and laws as well as by those who conform to them, and by those who hate our country as well as by those who love it. We cannot overmagnify the value of these freedoms. This is so because they are the fundamental freedoms which make it possible for America to endure as a free society.

To be sure, the exercise of these freedoms may require us to put up with a lot of intellectual rubbish. But our country has nothing to fear from them, however much they may be abused, as long as it leaves truth free to combat error.

Liberty is hard to win, but easy to lose. She stands in constant peril at the hands of those who doubt the wisdom of America's commitment to liberty and who fear the exercise of liberty by others.

If we are to keep liberty we must remember that the price of her keeping is eternal vigilance, and that God grants liberty only to those who love her and are always ready to guard and defend her.

I love the University. I love the University because she is my Alma Mater. I love the University because she taught me much beauty and truth in the days of my youth. Over and above these things, however, I love the University because she has diffused light and proclaimed liberty to her students and her state throughout the generations.

I close with this prayer: May she continue to do so as long as time lasts.

GENERAL AVIATION FACT SHEET ON THE NATIONWIDE FUEL CRISIS

Mr. DOMINICK. Mr. President, general aviation is fulfilling an ever-increasing transportation role in both this country and worldwide. Thousands of communities lack adequate transportation service by any method; air, rail or road. There exists in these communities a priority need for the continual availability of the readily convenient transportation service to the rest of the Nation, which general aviation provides.

General aviation public air transportation is expanding at an unprecedented rate. Charter and air taxi flying is increasing substantially. In 1972 the number of persons using the commuter airlines increased by 12 percent, and cargo use by 18 percent. An estimated 70 million people are carried in intercity travel, and 60 percent of those carried are between airports without airline service.

The U.S. Postal Service has recognized the flexibility of general aviation in transporting the mail at convenient times and outside areas not served by the scheduled carriers. As a result, Post Office Department use of general aviation has increased 40 percent.

The legislative action to authorize the President to immediately undertake specific action to conserve fuel will require a number of energy exercises and the development of contingency plans for equitable fuel distribution. Of particular concern is that proper attention be given to general aviation in this nationwide crisis.

As part of the total air transportation network, general aviation plays an important role. Seventy percent of general aviation flying is for business and commercial purposes. This includes business flying, agricultural flying, emergency, commuter and air taxi, law enforcement, and other industrial and commercial applications. A recent survey by the National Business Aircraft Association showed 20 percent of business flying connects with scheduled airlines.

General aviation will obviously be affected by fuel shortages. Stringent conservation measures are being and must be taken by the industry. General aviation balances the air transportation system by serving all of the Nation's airports, including 95 percent which do not have scheduled airlines service. General aviation's vital role must be preserved in the allocation formulas under this bill. It is my fervent hope that the fine work carried out by general aviation be fully recognized.

Mr. President, I ask for unanimous consent that a summary sheet supplied to me by representatives of general aviation be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

The general aviation industry associations are vigorously formulating voluntary energy conservation measures to assist in alleviating the nationwide fuel shortage. This includes encouraging people to use scheduled airline service when the trip can be made as conveniently. However, general aviation fulfills a vital transportation role and meets an important need not provided by scheduled carriers. This transportation function must be considered in any allocation program.

70% of general aviation flying is for business and commercial purposes.

General aviation carries an estimated one-third (70 million) of the inter-city passengers in air transportation.

60% of general aviation passengers are between airports with no airline service.

General aviation forms a flexible transportation system serving all the nation's 12,000 airports, and is important in balancing the nation's transportation needs.

In addition, we are also presenting these facts about general aviation's actual fuel consumption based on 1972 figures from the American Petroleum Institute:

General aviation consumes .7 of 1% of fuel used in transportation.

Total gasoline consumption in the United States averaged 6,400,000 barrels per day. General aviation consumed .4 of 1%.

Total daily consumption of aviation kerosene—airline, general aviation, and military—is 1,045,000 barrels per day; the general aviation share is only 37,000 barrels per day, or 3.7%.

I trust that full consideration will be given to these factors.

NEEDED ECONOMY IN DEFENSE SPENDING

Mr. CRANSTON. Mr. President, the Senate passed in October a $20.9 billion authorization bill for military weapons procurement, research, and development that is $1 billion less than the amount President Nixon requested.

But if a majority of the Senate had gone along with five commendable economy amendments that were proposed during debate, the total cost would have been cut $2.7 billion more.

The Senate also passed a $1.2 billion foreign assistance bill this week. It was the lowest authorization for foreign aid in U.S. history, and $250 million under what the White House asked.

But once again if a minority of the Senate had voted the right way, still another $217 million would have been slashed from the bill.

Those additional cuts—13 percent in weapons and 18 percent in foreign economic aid—would have helped curb domestic inflation, strengthened our economy, and enhanced our ability to defend ourselves and our allies.

Only three economy measures succeeded in getting Senate approval.

One of them was an amendment to the military authorization bill that I introduced with Senator Hubert H. Humphrey. It calls for the withdrawal of 110,000 U.S. troops from foreign soil by December 31, 1975, 40,000 of whom must be returned to this country by next June 30.

I estimate that the troop pullback will cut $1.1 billion from our balance-of-payments deficit. Some $4.9 billion of our present deficit is already directly linked to U.S. military spending abroad.

It also will substantially reduce the $30 billion a year we currently spend to support 564,000 U.S. troops in 1,963 military bases and installations in 34 foreign countries around the world.

Our allies are far, far more capable of defending themselves now than they were at the close of World War II—thanks in no small part to our help.

The gross national product of the European NATO countries now totals $831.9 billion compared with $46.9 billion in 1951. Around the world, the United States has spent more than $108 billion in foreign economic aid programs just since 1946.

These hard economic facts of life were faced up to by the amendment introduced by Senators Henry Jackson and Sam Nunn, both members of the Armed Services Committee. Senator Jackson is chairman of two important subcommittees.

Under their amendment, our NATO allies will have to pick up a larger share of the cost of their defense or we will reduce our forces in Europe to offset our balance of payments deficit.

The only economy amendment we successfully attached to the foreign aid bill was introduced by Senator Frank Church. It would return to the U.S. Treasury more than $250 million a year in repayments on foreign loans made by the Agency for International Development. At present these repayments go into a revolving fund and are used to make additional loans.

I also supported two other economy amendments on foreign aid. One called for a flat cut of $217 million; the other, for a cut of $134 million. Both failed.

Like most Senators, I voted for final passage of both the military procurement and foreign assistance measures even though some of the economy amendments I favored were not added.

This foreign aid bill mandates new procedures that hopefully will insure that aid really reaches the people who need help. If the hunger and poverty in the world are not dealt with, worldwide chaos may be the all-too-likely consequence. A sound, sensible foreign aid program is not only humane, but a matter of our own self-interest.

I also obviously was not about to vote against all weapons procurement and against all military research and development even though some of the programs are unnecessary or unnecessarily costly. I certainly do not favor unilateral disarmament.

Indeed, I support a theory enunciated by Defense Secretary James Schlesinger for greater military mobility in transporting troops. And I favor continued weaponry research and development and the maintenance of a strong three-pronged, nuclear defense—underground missiles, manned bombers—including the B–1 program—and Poseidon-equipped submarines—so that we can defend ourselves and our allies in the event of attack.

My concern for a properly balanced defense posture also led me to vote for an amendment that increased the authorization for the F–14 Navy fighter. The amendment was introduced by Senator Howard Cannon, chairman of the Armed Services Subcommittee on Tactical Air Power. It restored $495.5 million to the F–14 development program that had been deleted pending contract negotiations. The negotiations now appear to be nearing settlement.

Here is a rundown of the economy amendments that would have cut another $2,688,600,000 from the Senate-passed bill had they also been approved:

A flat reduction of $500 million. A $500 million reduction would have brought the total authorization figure down to $20.4 billion—the amount originally recommended by the Armed Services Committee.

Elimination of $657 million for another nuclear-powered aircraft carrier—CVN–70. We already have three nuclear-powered carriers; the Soviet Union and China have none. Even after we retire four of our outdated conventional carriers, we will have 12 fully modern attack carriers—far and away the most formidable carrier fleet in the world. The estimated price tag for the fourth CVN–70 is $972 million, which will make it the most expensive ship ever built. The cutback amendment was introduced by Senator Dick Clark.

Elimination of $885.4 million which the administration requested to speed development of the Trident nuclear missile submarine as a replacement for the present Polaris-Poseidon system. The Trident is proceeding on an orderly construction schedule calling for $614.6 million this fiscal year. There is no sound economic or military reason to rush into spending still another $885.4 million this year. The antispeedup amendment had been introduced by Senator Thomas J. McIntyre, chairman of the Armed Services Subcommittee on Research and Development.

Elimination of $194.2 million for the SAM–D, a new surface-to-air missile system. The proposed antiaircraft system is seven times more expensive than the improved Hawk missile which it is designed to replace. It is so unnecessary that even our European allies, whom the new system is supposed to defend, say it is much too sophisticated and expensive. Every time a SAM–D fires a missile it will cost $1.3 million. The economy amendment had been introduced by Senator Birch Bayh.

Elimination of $452 million in military aid for South Vietnam and Laos. There would still have been $500 million left in the budget for military aid to those two governments. After all the billions we have already given them, that would have been enough in my opinion; way more than enough.

The $2.7 billion that will be spent unnecessarily on these projects will add little to our real security. But apparently we cannot get out of the habit of spending money as though we are still the world's policeman. We are not. We probably never should have tried to play that game.

Vietnam should have taught us that playing world policeman is too costly—too costly in lives and too costly in money. Besides, it does not work. No single nation can, or should try, to do it.

NUCLEAR POWER: BETTER TO SPLIT BORON THAN URANIUM

Mr. GRAVEL. Mr. President, on November 1, the AEC's Lawrence Livermore Laboratory announced the possibility of splitting light boron atoms instead of heavy uranium and plutonium atoms to release energy. The process—using techniques of both fission and fusion technologies—would produce about 100,000 times fewer radioactive poisons than today's nuclear powerplants or the liquid metal fast breeder.

Before the Senate authorizes another 5 billion tax dollars for filthy nuclear fission, we should insist on examining clean nuclear energy technologies and safe, certain-to-work, solar energy conversion.

Mr. President, I ask unanimous consent that excerpts from the Livermore announcement be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Energy From Boron

(By Jeffrey Garberson, Lawrence Livermore Lab, Nov. 1, 1973)

A surprising nuclear reaction, a fundamental departure from conventional concepts of fission and fusion, which produces virtually no lingering radioactivity and thus could be the basis for eventual "super-clean" power plants, was reported today.

The new reaction is the proton fissioning of boron-11, the most common form of the light element, with the release of copious energy. It was described by Thomas A. Weaver, a physicist at the Lawrence Livermore Laboratory in California, to a meeting of the American Physical Society this morning in Philadelphia.

The reaction contradicts the widespread belief that fission releases energy only in heavy elements like uranium and plutonium, and in this sense is radically new.

It is "super-clean" in that the products of the fission are three non-radioactive, electrically charged particles (helium nuclei) more than 99.9 percent of the time, according to Weaver. Total energy of the particles is 8.68 million electron volts (MeV).

In principle, power plants based on the boron fission have the potential to operate with 100,000 times fewer radioactive byproducts than conventional fission plants, he said.

Conceptually, the reaction could be triggered in tiny droplets of boron-hydrogen fuel squeezed and heated enormously (to temperatures of 3 billion ° C.) by powerful beams of laser light.

This is significantly hotter than required for less "exotic" reactions and therefore more difficult to achieve. Weaver said it appears that the fuel would have to be compressed to ultra-high density and that major advances in technology would be necessary to do this.

"The difficulty of utilizing this reaction in a power plant should not be minimized," he said, "but the almost total absence of radioactive byproducts makes it potentially so attractive that the challenge is worth pursuing."

Another attraction, he said, is the virtual inexhaustibility of boron-11, which occurs abundantly in the ocean and is found in dry lake beds as borax.

The reaction was proposed as a basis for harnessing nuclear energy by Lowell L. Wood, Lawrence Livermore Laboratory physicist, 1½ years ago.

Colleagues with Weaver and Wood in the theoretical and experimental efforts have been G. B. Zimmerman, H. F. Lutz, I. D. Procter and W. Bartolini at Livermore and T. A. Tombrello and M. Dwarkanath at Cal Tech.

FISSION OR FUSION?

The proton-boron-11 reaction has been dubbed "thermonuclear fission"—a solecism—because it so closely resembles the thermonuclear processes in which light elements are fused and release energy.

Although it is generally true that when light nuclei are fused an excess of energy is released from the resulting heavier nucleus, there are exceptions. These have to do with the tendency of the helium nucleus—also called an alpha particle, consisting of two protons and two neutrons—to act as a nuclear building block.

In light nuclei that are one proton shy of consisting of integral numbers of helium nuclei, the interaction of a proton at the proper energy causes the original to split energetically into its building blocks, the several helium nuclei.

Light nuclei having this characteristic include lithium-7 (proton fissions into two helium nuclei), boron-11 (fissions to three heliums), nitrogen-15 (four heliums) and fluorine-19 (five). Of these, boron-11 produces the highest net energy output under projected reactor conditions.

Depending on the configuration of a hypothetical "thermonuclear fission" reactor, this energy could be converted directly to electricity by catching the charged particles on electrodes, setting up an electrical potential, or through magnetohydrodynamics (MHD), Weaver said.

Using MHD, a pulse of energy from a reacting droplet of proton-boron fuel would expand a pre-existing magnetic field across a carefully designed electrical conductor. It is a fundamental principle of physics that the moving field will induce an electrical current in the conductor. The field will collapse back across the conductor when the pulse has passed, generating a current in the opposite direction (i.e., alternating current) and preparing for the next pulse.

MHD techniques have been experimentally demonstrated on a small scale, but have not been developed to the point of large scale practicality.

LASERS

The laser concept for initiating the thermonuclear fission reaction has derived from relatively recent research, conducted principally in this country under the auspices of the Atomic Energy Commission at Livermore and at the Los Alamos Scientific Laboratory.

Multiple beams of extremely powerful laser light (hundreds of millions of times more intense than the light at the surface of the sun) would focus simultaneously on a falling droplet or frozen pellet of fuel. The superheated surface would ablate, or burn off, at speeds of thousands of miles per second. It can be envisioned as a spherical rocket with the "exhaust" burning outwards and the equal and opposite reaction imploding or squeezing the fuel to a density and pressure sufficient for thermonuclear burn.

The concept is in the early stage of exploration. Its achievement is an enormous technical and scientific challenge. If it proves feasible, lasers to be used in a reactor would require a combination of characteristics well beyond present capabilities.

The laser was invented in 1960. Today, two kinds of lasers are considered candidates to eventually test laser implosion theories: The glass disc laser (under development in this country principally at Livermore) and the carbon dioxide laser (Los Alamos).

A prototype design for a neodymium glass laser system to test the implosion concept was derived using the giant computational facility at Livermore and announced last June. The Laboratory has begun work on a facility to build and house the system, which would consist of twelve 1,000 joule lasers each about 40 yards long. A joule of energy will lift one pound almost one foot; in the case of this laser, however, this energy is released in less than one thousandth of a millionth of a second.

Expressed another way, 10 such lasers would focus 100 million megawatts of energy on a tiny pellet of thermonuclear fuel—more energy, during the brief laser pulses, than the world's installed power supply.

CATASTROPHIC ILLNESS AND S. 444

Mr. HARTKE. Mr. President, one major illness can bankrupt almost any family. Hospital and doctor costs are high, and the costs of recovering from a serious illness are astronomical. The result can be financial and emotional disaster to any family forced to pay the costs of major illness.

All of this is supported by a study released this past August by Cancer Care, Inc., and the National Cancer Foundation. Earlier this year, I introduced the Health Care Insurance Act (S. 444). One of the major proposals of that bill is to provide every American with adequate insurance protection against the costs of catastrophic illnesses.

Mr. President, I ask unanimous consent that an article from the New York Times which discusses the financial tragedy of catastrophic illness be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 15, 1973]

WHEN SEVERE ILLNESS LEAVES FAMILY LIFE IN SHAMBLES

(By Enid Nemy)

A catastrophic illness can reduce a middle-income family to poverty in less than two years, according to a study released today by Cancer Care, Inc., and the National Cancer Foundation, Inc.

The study, based on questionnaires completed by 115 families, comprising 448 individuals, all living within a 50-mile radius of New York City, indicated that the average cost of such an illness was $21,718.

Eighty-four percent of the families reported costs exceeding $10,000 and 30 percent had expenses between $25,000 and $50,000. Only 39 percent of the respondents received medical or health insurance payments in excess of $10,000. The period between the onset of illness and death was less than two years in almost half the cases studied.

With median income reported at $8,000, most families attempted to pay additional costs with family savings, life insurance, Social Security, pensions, gifts from relatives, loans, dividends, mortgages and sales of assets. Some were driven to the verge of bankruptcy.

The report, entitled The Impact, Costs and Consequences of Catastrophic Illness on Patients and Families, is careful to note that its information relates only to persons suffering from advanced cancer. However, it adds, "the overall impact of all illnesses appropriately described as catastrophic may be similar in kind, regardless of the disease."

STUDY'S PURPOSES

One of the purposes of the study, which was conducted within the last year, was to document the need to include coverage of such unexpected and burdensome costs in national health insurance plans, such as those proposed in Congress in recent years. It was also hoped that the study would encourage organizations and individuals to consider insurance provisions that would offset some of the financial drain.

The report notes, as well, that there are few social agencies in the country that financially aid the middle-income group, and that this group does not qualify for assistance from public or governmentally supported agencies.

The items of cost—among them drugs, patient transportation, medical homemaker, nurse, equipment, laboratory tests, surgical dressings, transfusions—varied between families. Hospital, doctor and burial expenses were, however, reported by all and the three totaled 71 per cent of over-all costs. In one case, hospital charges soared to $45,000, and 73 per cent of the families had hospital bills exceeding $5,000.

LIST OF HARDSHIPS

The illness, and its attendant costs, affected the lives of every member of the family. Among the hardships were houses sold and life-time savings depleted, early retirement, change of career and loss of promotional opportunities for immediate family members, many of whom were forced to rearrange hours to help care for the stricken person.

Most families reported cutbacks in food, clothing and health care for adults and children and elimination of vacations, children's camps and plans for purchases such as cars.

Emotional, psychiatric and adjustment problems were faced by 76 per cent of the families. The effects of close contact by children with the sick person were often described as "devastating." The children became confused by changes in personality, frightened by physical deterioration and insecure about their own lives and relations with other people.

Sometimes children became resentful toward an ill father and jealous because the mother spent so much time with him. In a number of cases, schoolwork suffered, with formerly good students making failing grades. Some refused to go to school and became recluses, staying in their rooms alone as much as possible. Others clung to the well parent, frightened of being alone. Some children became compulsive eaters and others began delinquent acts, with thefts at school and drinking.

Some adults expressed a feeling of guilt at being uncomfortable in the sick room. Some were torn between giving major attention to the sick spouse or to the children and feared that both were neglected. There was resentment that a hopeless, killing disease should last so long, with no way to release the patient from pain and the family from the strain of watching a slow death.

"A time of horror and helplessness" was the description used by one family. Another said simply, "it was a very real experience in hell."

SIGNIFICANT ENERGY RESOURCE: WINDPOWER

Mr. GRAVEL. Mr. President, to make clean nuclear energy with fusion or boron fission, and to achieve a net energy gain in the process, will require some technical breakthroughs and therefore some time.

By contrast, there are some simple techniques for converting solar energy to useful fuel and power which we could start using now.

The conversion of windpower to electricity is one solar energy technology which could be producing significant quantities of clean energy at competitive prices within 4 years, according to recent papers by civil engineering Prof. William Heronemus at the University of Massachusetts, Amherst 01002. Others doing windpower work are Professor Sweeney at Princeton, Professor Hewson at Oregon State University, Grumman Aerospace, and NASA.

To those who believe that windpower is a trivial source of energy, Professor Heronemus points out that the total energy available to this country from the winds via practical windpower systems could total at least 1 trillion kilowatt-hours per year. That amount represents two-thirds of our total 1970 electric power consumption, and about one-quarter of our total alleged requirements for electric power even in 1985.

States like Montana, the Dakotas, Wyoming, Kansas, and Oklahoma, says Professor Heronemus, could even produce more wind-generated electricity than they need locally, and they could export that clean energy to Chicago, for instance.

DOING THE WHOLE JOB WITH WIND

In October 1973 Professor Heronemus prepared a paper for the Wisconsin State Senate, in particular, Senator Douglas LaFollette. In it, he proposed a windpower system for Wisconsin, complete with hydrogen storage subsystems, which could take care of all the projected electric power growth between now and 1990 in the eastern 60 percent of the State, known as power supply area 13 in the 1970 National Power Survey.

Because the paper is 45 pages in length, I can touch on only the highlights.

The system could provide 65 billion kilowatt-hours per year by extracting about one-quarter of 1 percent of the constantly renewed kinetic energy in the Wisconsin wind.

Some of the wind stations would be on land, and others floating in Lake Michigan or Superior. Some would be as large as 7 megawatts and others as small as 20 kilowatts, supplying power to a home or school directly. The smaller units could be erected:

> In pastures or even tilled fields, their space requirement at ground level making almost no demand upon the primary use of the land.

He said:

> The smaller stations could be erected along fence rows. The larger units could have their towers configured to straddle secondary roads.
>
> Then there are the larger arrays carrying as many as fifty of the 20-kilowatt units in structural grids, riding on turntable or carousel foundations.
>
> The most productive large wind stations will be of two types. One is long, tall, double-banked systems comprising very large num- rotatable subassemblies in kingpost and wire
>
> bers of small wind generators carried on
>
> rope suspension systems. The concept is very similar to a continuing suspension bridge, towers at one-half mile intervals rising to a peak height of 800 feet above the ground. The twelves subassemblies of 20 wind generators each, carried in each one-half mile bank of this system, are driven in train so that the wheels always face the prevailing wind . . . The kingposts can be designed to straddle a typical secondary road.
>
> The second type would be very tall floating stations comprising large numbers of small wind generators, 20-kilowatts or somewhat larger, carried in an open structural grid which rises up from a semi-submerged afloat platform . . . The afloat station is anchored with an energy transmitting umbilical, and the energy is sent via collecting cable to the shore . . .

THE NEED FOR MASS-PRODUCTION

As for costs, Professor Heronemus points out that mass-production and automation have made it possible to sell automobile engines for $3 per kilowatt, and that every part of a windpower system is suitable for assembly-line and automated production, too. He makes his cost-assumptions explicit:

> There is a very excellent probability that three-bladed 20-kilowatt wind generators should be able to be sold for about $110 per kilowatt/electrical, 1972 dollars, including a 15% profit, when produced by the tens or hundreds of thousands of units which would be required for meaningful wind-power systems. And there is excellent reason to believe that U.S. manufacturing ingenuity and 1973 materials and technology plus competition could reduce that $110 per kWe substantially. The most perfectly shaped blades imaginable for these machines should be producible in matched die molding operations that would move their life expectancy up over 40 years and their cost down, way down . . .
>
> The cost of motors and generators [for alternating current] are estimated conservatively at $20 per kilowatt; large motors and generators cost as little as $16 per kilowatt.
>
> The electrolyzer is costed at $25 per kilowatt input. Electrolyzers purchased today would cost at least $50 per kWe in. It will require at least 3 years of development and several millions of dollars to achieve both the $25 per kW and the 18.6 kilowatt-hours in per-pound hydrogen out which is needed here, but the goal-numbers are easily defended by those competent in this technology.
>
> The cost of supports, towers, and structures are all based on very careful and detailed design of those features required for the Off Shore Windpower System . . . —See "Power from the Offshore Winds" by William Heronemus, September 1972; Proceedings of the 8th Annual Conference of the Marine Technology Society, Washington, D.C.

Hydrogen-air fuel cells are costed at $100 per kWe output; for this, large but entirely feasible development programs are required.

CLEAN ELECTRIC POWER AT 3½ CENTS PER KILOWATT-HOUR

For one station, located 25 miles offshore in Lake Michigan, and producing 9.8 million kilowatt hours of delivered electricity per year an average transmission distance of 200 miles, Heronemus' calculations are as follows:

200 20-kilowatt generators	$440,000
Floating supports, tower, tether, anchor	200,000
Motors, 2167 kW at $20	43,340
Generators, 2167 kW at $20	43,340
Fuel-cells, 2167 kW at $100	216,700
Pressure-balanced underwater storage, hydrogen, 1,092,000 kWh at $0.22	240,240
Electrolyzers, (4000–630) at $25	84,250
Total cost	1,268,000

Note: Peak load=2167 kilowatts.

Heronemus assigns a fixed charge rate of 15.5 percent, the sum of the following:

	Percent
Cost of money	8.50
Depreciation	0.95
Interim replacement	0.50
Insurance	0.25
Total taxes	5.30
	15.50

Revenue required per kilowatt hour delivered on demand from that station would be 34.6 mills, or $0.0346, calculated as follows and assuming 98 percent of all wind generators will be operable whenever the wind blows:

(a) Fixed charges, generation:

$$\frac{(15.5\%)\ (\$1{,}268{,}000)}{(0.98)\ (9{,}854{,}000\ \mathrm{kWh})} = \$0.0203 \text{ or } 20.3 \text{ mills/kWh}$$

(b) Additional cost per kWh to bring each of those kWh out of the Lake to the overhead hi line, an average distance of 25 miles. (This is estimated to be 15 times as great as the cost would be for overhead hvdc transmission: =2.5 mills/kWh.

(c) Additional cost for owning the hydrogen pipe line joining the Storage Site S–1 to the fuel cell reconversion station =0.4 mills/kWh.

(d) Additional cost for owning the 20 mile long kWh underwater cable tying Point de Tour to Door County =0.2 mills/kWh.

(e) Operation & Maintenance, Generation 1.0 mills/kWh.

(f) Total average cost of a kWh at the entrance to the transmission system =24.4 mills/kWh.

(g) Cost for an average of 100 miles transmission via overhead hvdc line, all new: 0.2 mills/kWh.

(h) Total average cost per kWh delivered to any Wisconsin Distribution Yard, on demand, =24.6 mills/kWh.

(i) Average additional cost for distribution, G&A profit =10.0 mills/kWh.

(j) Total average revenue required per kWh delivered on demand: 34.6 mills/kWh.

If the hydrogen were sold for direct use as a fuel, instead of converting it back to electricity via fuel-cells, Heronemus has calculated that wind-generated hydrogen would be competitive in the Great Lakes market when home heating oil costs 28 cents per gallon, which might happen this winter, or when natural gas sells for $3.36 per million British thermal units, perhaps as early as 1975.

WHO WILL BREAK THE VICIOUS CIRCLE?

I would like to quote also from the concluding remarks of the same paper and from the covering letter with which it was sent to the Wisconsin Senate:

> There is good reason to believe that as many as 238 billion kilowatt hours per year of kinetic energy could be extracted from the winds over Wisconsin and parts of Lake Superior and Lake Michigan via wind generators without modifying weather. If about one-fourth of that amount were extracted, 65.2 billion kWh per year by 1990, it would suffice for the entire 1975 to 1990 projected growth in electricity demand in that portion

of Wisconsin included in Power Supply Area 13.

65.2 billion kWh per year of electricity is a prodigious amount of electricity. The projected total 1990 market of 91.3 billion kWh per year in Area 13 is almost four times today's consumption. Exactly where all this additional electricity is to be consumed in an area of which the great majority is rural or near-wilderness is not clearly understood by the man-in-the-street, or perhaps better, the man-in-the-woods.

The inhabitants of Power Supply Area 13 have a revolutionary change in their way of life projected for them by the year 1990; it is perhaps a question worth asking as to how many of them have any understanding of all this at all, let alone a *desire* for all of this to happen to them.

But be that as it may, *all* of that electricity could be provided from solar energy via the natural collection processes which create and sustain the winds. There need be *no* additional fossil-fuel fired, or uranium fueled, central power plants constructed for Power Supply Area 13 beyond 1978 if the consumers wanted it that way.

The cost of wind-power produced electricity is dominated by fixed charges associated primarily with cost of capital and taxes. The costs estimated herein were based on a fixed charge rate of 15.5%, higher than customarily found in Wisconsin. The great magic of paying full market cost for capital to permit private ownership of electrical utilities, then levying significant taxes on them in attempt to take away much of their gain, is not understood by all men. . . .

If the proposed wind-power system were to be created and operated by the citizen-owned Wisconsin State Power Authority, the fixed charge rate could probably be 9% or 9.5%, and the estimated cost of electricity would drop from the weighted average value of 31.33 mills per kWh down to about 25 mills per kWh on demand. . . .

Wisconsin is blessed with a remarkably huge natural resource, wind-power. Wisconsin could also be amongst the first to make a genuine and self-helping contribution to the change-over to solar energy processes, the ultimate need of man if he is to survive on this planet.

I can point out what could be accomplished with solar driven wind-power systems, but I can do nothing toward making the promise come true. There is no wind-power industry to which I can direct you. There is scarcely any funded R&D effort whose results can help you. And there will be neither unless there is a strong statement of support backed by voter power.

My cost estimates are based on what I know could happen if there were a large-scale windpower industry—and those estimates require a large market if they are to be true. No electric utility has yet shown the desire to use windpower; therefore no possible market for hardware exists. Until there is at least a good prospective market, the industry will not be created. . . .

But if the voters of Wisconsin insist on adoption of windpower and other solar energy processes, then the things I have reported can be possible.

Mr. President, I refuse to believe that Americans will sit passively through a 10-year energy shortage while clean, safe solar-energy technologies like windpower are ignored by the powers that be.

AMERICAN VETERANS COMMITTEE

Mr. HARTKE. Mr. President, the American Veterans Committee held its 29th National Convention last June in Atlantic City. The American Veterans Committee has been very concerned about assisting all veterans to be completely reintegrated into civilian life had has vigorously labored for the enactment of legislation to provide educational and health benefits for veterans.

As chairman of the Veterans' Affairs Committee, I am honored that this organization presented me with its 1973 Service to Veterans Award. I wish to acknowledge that the legislative accomplishments of the committee in aiding America's veterans are largely because of the full cooperation and assistance I have always received from my distinguished colleagues on that committee.

Among the many resolutions passed by the delegates were a number specifically addressed to meeting the needs of our Nation's 29 million veterans and their 66 million dependents.

Mr. President, I believe their resolutions will be of interest to my colleagues and ask unanimous consent that these resolutions be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record as follows:

Platform of the American Veterans Committee

VETERANS AND ARMED FORCES AFFAIRS

The American Veterans Committee has constantly reiterated, since its founding, its fundamental belief that rehabilitation and integration of veterans into the community is the proper scope and purpose of a veterans program. The achievement of economic security for veterans through sound economic planning for all citizens rather than through special grants or favors to veterans is basic AVC policy.

1. Compensation

For many years, AVC has pointed out the need for a thorough review and reappraisal of this Nation's policies on veterans as follows:

1. We oppose bonuses and general pensions as being class legislation and unrelated to the real needs of individual veterans and tending to set veterans apart from their fellow citizens.

In the matter of benefits, two basic standards should be applied.

a) For death or disability incurred in military service: Are the benefits sufficient to provide a decent standard of living for the veteran, his family or survivors?

b) For all veterans: Are the benefits so designed as to enable a readjustment from military service to civilian life with a minimum economic loss?

Since benefits are a Federal responsibility, uniform standards of administration and compensation should be applied nationally without regard to race, creed, color, sex, or national origin.

2. Reserve programs

The world we live in, with its emphasis on speed of operation and technical superiority, demands standing Armed Forces of sufficient size, training and equipment and organization to be effective immediately for defense and counter attack. It is apparent that the Regular Armed Forces must remain our first line of defense. They must be of sufficient size and mobility for deployment anywhere on the globe within a minimum of time so that we may continue to provide, when necessary, those forces needed for collective security under our international obligation in peripheral conflicts occurring in the strategic localities of the world.

AVC believes that the National Guard is ill-fitted to serve both roles which it is currently called upon to play. One role is that of assisting civil authorities in the United States in peace-time. Forces suited for that role should primarily consist of military police, possible infantry, with some supporting units (medical, signal, QM, etc.). The other role is that of forming a part of our highly complex and sophisticated Armed Forces with guided missiles, high mobility, heavy weapons and requirements for intensive technical training.

AVC regrets that the steps taken to integrate the National Guard have, so far, been far from adequate. While an office has been established in the National Guard Bureau to deal with equal opportunities, neither the staff nor the influence of that office are sufficient for the purpose.

Regrettably, while the percentage of minority group members in the regular Armed Forces is and remains relatively high, the percentage in the National Guard is low and has remained low despite certain recruiting efforts. We cannot afford to have a polarization within the Armed Forces as between the National Guard on one hand and the Regulars on the other. While the domestic peace-time tasks which the National Guard is called upon to perform tend to involve minority group civilian populations, the troops involved should not present the appearance of an army of occupation.

While a National Guard remains a part of the structure of our Armed Forces, incentives should be provided so that a larger number of minority group personnel with active duty experience will choose to enter and remain in the National Guard.

AVC is opposed to any policy whereby the Armed Forces award discharges other than honorable to reserve personnel based upon the political or other activities in which these individuals may participate following separation from active service under the draft.

We believe that the conditions of discharge should be based solely upon the military activity and efficiency of the reservists.

3. Benefit dollar

AVC believes that provision should be made to maintain automatically the purchasing power of the benefit dollar and upward adjustments be made annually in accordance with the Bureau of Labor Statistics, Consumer Price Index.

4. Civil service

AVC believes that veterans point preference in the civil service be limited to the initial appointment only, and that no person should receive a position unless fully qualified to perform the duties involved.

We oppose the principle of granting absolute preference to veterans in state and local civil service.

5. GI bill

AVC applauds the passage of a permanent G.I. Bill of Rights as a responsible means of enabling servicemen and women to return to civilian life with facility and ease at the end of their service and become useful and productive members of their communities. We also applaud the recent passage of legislation improving the benefits provided through the G.I. Bill of Rights.

However, we feel that benefits are not yet in line with the World War II and Korean War G.I. Bills and the current cost of living. Unfortunately, many existing programs remain unavailable to veterans because of the financial stress they now entail, or are available only at great sacrifice. This is particularly true in the area of educational programs.

AVC urges the Congress to further adjust benefits to match current costs of living and education.

The G.I. Bill of Rights should be administered in such manner as to guarantee the absence of discrimination.

6. VA hospitalization

AVC urges that treatment of nonservice-connected disabilities in VA hospitals be continued on a space-available basis, but that such treatment be charged at the full cost, if a patient has the means to pay for such service; certificates that a veteran is unable to pay should be investigated thoroughly to determine the true ability to meet the cost of hospitalization. Further that terms of coverage of all prepaid medical associations, plans and companies be amended by action of the legislatures, supervisory bodies or membership, so as to provide payment to VA hospitals for nonservice-connected treatment on the same basis as payment to private voluntary and public hospitals.

7. Unification

AVC notes with satisfaction that the process of unification of the Armed Forces has been making progress. AVC commends the actions hitherto taken in this regard and urges that the Department of Defense continue these efforts vigorously.

8. Discrimination—foreign and domestic

We maintain that no assignment of any military personnel should be made whether within the United States or overseas, for consideration on grounds of color, religion, ancestry or national origin.

Our goal is to insure that no member or employee of the Armed Forces, and no dependents of such person shall be subject to discriminatory treatment, on or off base within the United States or outside the United States, on the grounds of color, religion, ancestry or national origin, and that the power, including the economic power, of the United States be consciously used to further this objective.

9. Information service

We believe that the service orintation programs should be made adequate to fully acquaint every person entering armed services of all the rights, privileges, and benefits he and his family are entitled to as a result of his service in the Armed Forces.

10. Jurisdiction over ex-servicemen and civilians accompanying the Armed Forces overseas

We believe that the ex-servicemen, military dependents, and civilians accompanying the armed forces abroad should not escape punishment for serious offenses committed while in such status.

11. Naturalization of military personnel

AVC notes that legislation has been enacted which expedites the naturalization process of servicemen and exservicemen and which allows noncitizen widows of servicemen who die while on active duty to be naturalized without penalizing them for the death of their husbands.

The problem of aliens in the armed services being sent overseas before their naturalization is complete, even though no prior period of residence is required, persists. AVC urges that, either, following the precedent set in former Section 702 of the Nationality Act of 1940, provision be made for such persons to be naturalized while outside the United States, or that the services adopt a ruling whereby service personnel in process of Naturalization, who are not themselves contributing to the delays involved, will not be sent overseas until the naturalization process is complete.

RESOLUTION ON THE DRAFT

AVC feels that at the age of 18 everyone, male and female, be required to register with his or her local draft board to fulfill a 6-year military or alternate obligation subject to current classification and exemptions that are now being carried out by the draft board and that AVC during the coming year work on a plan of how this can be implemented.

RESOLUTION ON MILITARY EXPENDITURES AND DOMESTIC NEEDS

It is well established that the needs of our domestic economy are so critical that they cannot be met at the existing level of federal expenditures. The problems of pollution, hunger, poverty, living conditions in our cities and rural areas, public safety, and other domestic needs, require massive infusion of federal funds not available in the present budget.

Our inflated military budget has taken badly needed public funds from our domestic programs. AVC believes that the present military establishment can be cut, especially our Forces stationed in Bases throughout the world, without sacrificing our National Security, and that the requirements of domestic programs should have at least as high a priority as our military requirements.

We therefore urge:

That the military budget be substantially cut and such funds be used in domestic programs.

That any savings from a cut-back in Vietnam expenditures be used for domestic rather than be transferred to other military purposes.

That we actively pursue the SALT talks and any savings resulting from an arms limitation treaty be diverted to domestic needs.

That a more effective scrutiny be given new and untried weapons systems which would put a heavy financial strain on the defense budget in future years, and that funds not be used to bail out defense contractors facing insolvency.

That significant cuts be made in the size of our armed forces and supporting civilian personnel especially in our forces stationed in bases throughout the world without impairing our national security.

RESOLUTION ON MILITARY JUSTICE

AVC favors revision of the Uniform Code of Military Justice to take the court-martial system out of the line of command. AVC generally favors such legislation.

RESOLUTION ON ADMINISTRATIVE DISCHARGES

AVC is gravely concerned for the thousands of ex-servicemen who have been and who continue to be returned to civilian life, stigmatized by less than honorable discharges.

AVC believes that a study should be instituted to determine whether the present discharge categories (Honorable, General, Undesirable, Bad Conduct and Dishonorable) should be retained.

Under the current system, AVC strongly urges that before an individual is given an Undesirable discharge, he be awarded full legal assistance and complete constitutional protections.

AVC urged DoD to adopt regulations and policies and, if necessary, to seek legislation to strengthen and improve the Discharge Review Boards and the Boards for the Correction of Military Records, which changes should be directed toward simplifying and expediting the review process.

Under current law, ex-servicemen who have obtained Honorable or General Discharges are eligible for all VA benefits, and those who have obtained Dishonorable Discharges are not so eligible. Those who have obtained Undesirable or Bad Conduct Discharges may or may not obtain such benefits, depending upon an administrative decision by the Veterans Administration. AVC has found that the Veterans Administration has exercised its discretion in an exceedingly narrow and restrictive manner, thus depriving many ex-servicemen of benefits for which they would otherwise be eligible. AVC calls for greater understanding and compassion on the part of those charged with exercising the Administrator's discretion, and for interpretations which will exclude only the most heinous cases from veterans benefits. If the VA persists in such practices, then AVC calls for corrective congressional action to redefine the V.A.'s discretionary powers.

In the meantime, AVC calls classification of the "General Discharge under Honorable Conditions" as the mildest form of punitive discharge, not to be awarded except after hearing, rather than as an alternative form of Honorable Discharge, within the discretion of the authority responsible for discharging the individual concerned. The Department of Defense's contention that the possession of a General Discharge does not handicap an individual has not been borne out by the facts.

RESOLUTION ON LEGAL ASSISTANCE PROGRAM FOR MILITARY PERSONNEL

Whereas the 1971 and 1972 National Conventions of the American Veterans Committee have endorsed the Pilot Legal Assistance Program of the Armed Forces, whereby Judge Advocate General Officers may undertake to represent lower-ranking enlisted personnel in civilian legal matters arising in the courts of the communities in which such enlisted personnel are stationed.

Whereas the Armed Services are continuing the Legal Assistance Program on an expanded test basis.

Now therefore the 1973 Convention of the American Veterans Committee continues to support and to endorse the expanded test program for Legal Assistance being conducted by the Armed Forces.

RESOLUTION ON ATROCITIES

AVC deeply and strongly feels that indiscriminate bombing in Cambodia comes under the heading of "atrocities" as against legitimate warfare necessity.

RESOLUTION ON RELIGIOUS FREEDOM

AVC supports the principle of freedom of religion in the armed forces. Religious observance should be neither denied nor compelled, nor exploited for non-religious purposes.

AVC recognizes the propriety of providing chaplains and chapels, because military personnel who desire to worship may not otherwise have the opportunity to do so.

AVC hails the Supreme Court ruling prohibiting compulsory chapel attendance at the service academies and continues to oppose the use of chaplains to indoctrinate service personnel on military, political, "moral," and religious matters.

RESOLUTION ON CIVIL RIGHTS AND EQUAL OPPORTUNITY IN THE ARMED FORCES

The American Veterans Committee has a record unique among veterans organizations, of concern for racial justice and equal opportunity in the armed forces, a record which has extended from early support for President Truman's orders to integrate the regular Army in the late 1940's to early and public support for the use of the off-limits

AVC has watched, with growing concern, as racial polarization, reflected in the reports of the Render mission to Europe in the Report of the Task Force on the Administration of Military Justice in the Armed Forces, dated Novermber 30, 1972, and in the racial incidents reported aboard certain ships of the Navy, has apparently greatly increased in the past few years.

AVC is aware of the efforts which have been made by successive incumbents in the position of Deputy Assistant Secretary of Defense for Equal Opportunity, in their respective brief incumbencies, to stem the tide and to create a real equality of opportunity. Unfortunately, AVC is also aware of the degree to which the staff of that office is few in number and overworked and of its relative lack of "clout."

AVC is also aware of the efforts which have recently been made by the Department of Defense, including the creation of a Race Relations Institute and increasing counseling efforts throughout the military services. AVC regrets that these efforts are not yet sufficiently well funded or effective.

AVC believes that the following portions of prior resolutions on this subject are still applicable today:

1. AVC reminds those concerned with military-related costs that the cost of racial friction (lost man-hours, reduced combat effectiveness, added cost of burdens on the military justice and military confinement systems, lower efficiency by those alienated) is many times greater than the cost of a Civil Rights staff large enough, well funded enough, and sufficiently well backed to do an effective job.

2. Urges the Secretary of Defense to strengthen the Office of Civil Rights, Department of Defense, in personnel and in funds to the point at which it will have a real impact.

3. Points out that among reserve and National Guard personnel with the obligation or the opportunity to serve short tours of active duty, are many with particular expertise in the civil rights area and urges that these skills be better utilized.

4. Recalls, that AVC has, throughout its history, worked closely with the Department of Defense in the civil rights area, on projects such as the tour of Southern military bases by AVC leaders in 1960 and the Audit of the National Guard undertaken in 1963.

5. Offers whatever services it can render in this area to the Department of Defense.

Following meetings with the staff of the Office of the Deputy Assistant Secretary of Defense for Equal Opportunity, AVC has certain suggestions to offer. These include:

1. That the racial/ethnic statistics being gathered by that Office utilize categories which are compatible with the racial/ethnic statistics being gathered by civil rights/equal opportunity staffs of other agencies of government.

2. That liaison between the DoD open housing effort and the efforts of HUD to enforce the open housing provisions of Title VIII of the Civil Rights Act of 1968 be improved, so that housing discrimination against military personnel can be effectively eliminated.

3. On June 10, 1968, DoD decided that, whereas payments to military personnel under CHAMPUS were not covered by Title VI of the Civil Rights Act of 1964, CHAMPUS payments would not be made for medical services rendered by medical facilities which discriminated. AVC urges DoD to consider anew whether similar reasoning cannot be applied to the housing allowances currently paid to military personnel—not to pay such allowances where the benefits will flow to landlords who discriminate in violation of Title VIII of the Civil Rights Act of 1968.

RESOLUTION ON NAMING OF VA HOSPITAL

AVC supports the bill introduced by Congressman Bingham to rename the VA Hospital in Jackson, Mississippi as the Medgar Evers Hospital.

RESOLUTION ON NONRECRUITING IN THE MILITARY MEDICARE PROGRAM

While AVC was greatly encouraged by the decision of June 10, 1968 of the Department of Defense to coordinate its efforts in achieving non-discrimination in the Military Medicare (CHAMPUS) Program with the Title VI enforcement effort in medical facilities being conducted by the Office of Civil Rights at HEW.

AVC regrets that the plans for coordination have not been implemented (except for barring CHAMPUS payments to some eight hospitals for so long as they had been cut off from Medicare programs because of Title VI of the Civil Rights Act), due to the failure of the Department of Defense to authorize a very minor item of reimbursement to HEW, and

Calls upon the Department of Defense to implement its policy and to launch coordination effort so long delayed.

We regret that, despite the passage of *five* years since the decision of 1968, the policy has not been implemented.

We call on the Secretary of Defense to inform us by when we can expect progress in this area.

RESOLUTION ON ABORTION IN MILITARY HOSPITALS

The Supreme Court of the United States has recently enunciated criteria for determining constitutionally protected abortions. AVC urges that therapeutic abortions be permitted in all United States military hospitals consistent with those standards and without regard to any variations in applicable state laws. The rights of persons in military service and their families should be uniform.

We further endorse the principle that abortion should be a matter strictly between the woman patient and her physician. Any other position denies women the right to control their own bodies and physicians the right to practice medicine according to their professional standards.

RESOLUTION ON BETTER COORDINATION BETWEEN THE VA AND OTHER GOVERNMENT HOSPITAL SYSTEMS

The United State Government currently operates six separate hospital systems: Army, Navy and Air Force (operated by Department of Defense), Public Health Service and Indian (operated by DHEW) and the Veterans Administration.

AVC has a long history of favoring rationalization of government processes. AVC believes that federal decisions to build hospitals, to open and close its hospitals, and to set up specialized medical, surgical and psychiatric programs should not be made system-by-system. While we do not, at present, insist on unifying all hospital systems, there should be comprehensive planning, much more cross-utilization and rationalization.

In addition we ask that the secretaries responsible for these systems undertake studies on the feasibility of contracting with civilian hospitals for services to selected beneficiaries.

RESOLUTION ON THE MILITARY AND THE EQUAL RIGHTS OF WOMEN

AVC strongly supports adoption of the Equal Rights Amendment.

AVC calls for the immediate elimination of all customs, regulations, practices and policies in the military departments which perpetrate discrimination based upon sex.

RESOLUTION ON VETERANS BENEFITS AMENDMENTS

AVC favors the following amendments to Veterans Benefit legislation:

(1) An increase in education benefits to parity, in terms of 1972 cost-of-living and cost-of-education dollars, with the benefits given World War II veterans;

(2) Permanent legislation providing for automatic cost-of-living and cost-of-education adjustments, with a formula similar to that which adjusts military and civil service retirement pay;

(3) Strengthening the PREP program, and overcoming the particular hurdles faced by servicemen's participation therein;

(4) Making it possible for veterans to attend college-preparatory or remedial programs without reducing the duration of their entitlement, and without requiring 25 clock hours a week;

(5) Initiating a VA work-study program which would allow veterans to be hired at prevailing wages;

(6) Tightening standards for approval of correspondence schools, including requiring equitable tuition refund policies;

(7) Reducing clock-hour requirements for attendance at non-profit community and vocational schools;

(8) Making NSLI Trust Funds available as a revolving fund to finance veterans educational loans;

(9) Veterans educational assistance allowance should be amended to provide a system of direct payments to institutions of higher education for costs of tuition, books, and fees to supplement the subsistence allowance of veterans.

(10) Expanding outreach programs on a contract basis, with adequate safeguards against boondoggles.

(11) Entitlement provision for veterans benefits should be extended beyond the present 36 months of entitlement.

(12) The period of entitlement be extended beyond the present limit of 8 years.

(13) A provision for prompt payment of educational benefits be enacted.

(14) The General Accounting Office (GAO) commence an immediate review of the following areas:

(a) vocational and technical schools

(b) correspondence schools

(c) VA Housing loan programs and policies, and

(d) VA outreach and work-study programs in order to assist the VA and Congress toward improving services for the Vietnam Era veterans.

RESOLUTION ON YOUNGER MILITARY RETIREES

AVC is concerned about personnel retired from the armed forces after 20 years' service, but below age 60. After a score of years of service—active and reserve—such individuals are placed in limbo until they reach age of 60, at which time their pension begins, and they acquire the privileges which are usually associated with retired military status. AVC believes that the honorable completion of 20 years of service should entitle these younger retirees at least to an I.D. card which would authorize them the same 'fringe benefits' (PX, commissary, travel, etc.) at minimal expense to the government, as older retirees.

RESOLUTION ON DRUGS IN THE MILITARY

AVC is concerned about the problem of drug abuse by servicemen and veterans. Estimates of the seriousness of the problem vary, but we cannot be sanguine about any amount of drug abuse. Drug use and abuse involve medical, psychiatric and social issues as well as issues of military management, morale, and discipline but do not constitute legitimate acts of individual social or political protest. A rational approach to the drug issue requires distinctions between addiction and experimental or occasional use and intermediate degrees of drug abuse; distinction between hard and soft drug use; and determinations of need for separation and type of separation on an individual basis.

AVC favors treatment for servicemen using drugs while on active duty. In many cases, servicemen, if treated promptly, can be returned to useful service with their units. Those who are discharged with a drug problem should have medical help, from both the Veterans Administration and private agencies contracted for by the Veterans Administration.

AVC favors imaginative programs and research and the use of non-military and non-governmental agencies for treatment of veterans whenever needed.

AVC opposes automatic less-than-honorable discharges for drug use. In each individual case, careful consideration should be given to the serviceman's actual contributions to his service versus his actions to the detriment of that service. Also, the discharge review process should determine whether adequate treatment and rehabilitation have been accomplished.

AVC opposes the use of information obtained from servicemen who have volunteered for treatment against those very servicemen.

AVC opposes misuse of medical records and unreasonable breach of medical confidentiality.

AVC believes the United States must insist on cooperation by foreign powers to control drug production, transport, and sale.

AVC continues to support legislation to

provide adequate drug abuse treatment and rehabilitation resources and hails the passage of the Drug Rehabilitation Act.

SENSE RESOLUTION ON SPN CODES

AVC supports legislation that would remove the Separation Program Numbers (SPN) from the separation paper DD214. AVC believes that such numbers on the DD214 are the private information of the veteran and should not be available to anyone who requests to see the DD214.

SENSE RESOLUTION ON JUDICIAL REVIEW OF VA DECISIONS

AVC strongly supports repeal of the law which prohibits judicial review of decisions by the Veterans Administration relating to the granting or denial of benefits.

RESOLUTION ON VETERANS BENEFITS FOR CONSCIENTIOUS OBJECTORS WHO PERFORMED ALTERNATE SERVICE

AVC supports the recent court decision (in Boston) providing for veterans benefits for individuals who performed alternative service.

RESOLUTION ON VETERANS AFFAIRS COMMISSION

I AVC urges the Federal government to provide the Vietnam era veteran a significant role in the planning and implementation of all programs, policies and agency actions affecting the Vietnam era veteran.

II AVC urges the federal government to provide follow-up psychological readjustment assistance to and for the Vietnam era veteran and his immediate family.

SENSE RESOLUTION ON LIMITATION ON ATTORNEY'S FEES

AVC urges that a full review be made of the current $10 limitation on the fee which a lawyer may charge a veteran for representation before the Veterans Administration seeking benefits. AVC believes that although lawyers should not be permitted to extract exorbitant fees, thus reducing the amount of benefits a veteran ultimately receives, the present limitation may be effectively depriving veterans of any benefits.

PERMANENT EMERGENCY

Mr. CHURCH. Mr. President, an excellent editorial on the state of national emergency in which the United States finds itself appeared in the Nation of October 8. I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Permanent Emergency

The United States, by law, has been in a constant state of emergency since 1917. Congress then gave the President broad powers under the Trading with the Enemy Act, and it has never taken them back. Over the years since, Congress has added to the President's extraordinary powers with almost 600 separate bills broadening his right to rule the country, if he so wishes, without regard to normal constitutional processes. Under these various laws, the President "may seize properties, mobilize production, seize commodities, institute martial law, seize control of all transportation and communications, regulate private capital, restrict travel and, in a host of other ways, control the activities of all American citizens."

The words are those of Senators Frank Church (D., Idaho) and Charles Mathias (R., Md.), who this year have been investigating the nation's emergency laws. Their findings are frightening. According to what their Special Committee on the Termination of a National Emergency has dug up, it is at least possible that a President, if he thought he was about to be impeached, could use his emergency powers to remain in office and, after legally declaring a new emergency, impose martial law upon the country. The Church-Mathias committee is about to publicize 470 of the more significant emergency statutes, and then we should have a better understanding of how far Congress has evaded its responsibilities. The irony is that during present Congressional debates and proposals on the subject, almost no Congressmen appreciate the extent of the emergency powers which the President now holds; even if some of the current measures limiting executive authority over spending and military action were enacted, the President would still retain his emergency powers and could do just about everything, quite legally, that the new laws would seek to prevent.

One effect of the emergency statutes is that the government continues to demand that a citizen obey orders which by no stretch of the imagination can be related to the state of affairs which allegedly justifies them. Thus in 1970, a federal Court of Appeals upheld the Cuban Assets Control Regulations on authority of the Korean War emergency delcared by President Truman twenty years earlier.

Two years ago, Congress repealed the World War II Emergency Detention Act, and civil libertarians sighed in relief. But remaining on the federal law books is a provision designed as a World War II power and headed "Restrictions in Military Areas and Zones." In essence, it gives any military commander the right to put a citizen in jail after a President legally declares a new national emergency. Another "emergency" statute gives the President power "upon application of the country concerned [to] detail members of the Army, Navy, Air Force and Marine Corps to assist in military matters (1) any republic in North America, Central America or South America; (2) the Republic of Cuba, Haiti or Santo Domingo; and (3) during a war or declared national emergency any other country that he considers it advisable to assist in the interest of national defense." The President, if he wished, could today find it legally simple to send the boys back into Vietnam.

The Church-Mathias committee has found that some of the emergency statutes have become part of everyday activities of the federal government; some deal with export control, international investments, tariffs and certain contract bidding practices. Thus it will not do simply to revoke the basic emergency laws tied to the Great Depression and the World Wars, since that would wipe out some statutes which should be recast in the form of permanent law. The Church-Mathias staff is expected to suggest which of the emergency laws should be enacted into permanent legislation and which can be scrapped when an end to emergencies is declared by Congressional revocation. The staff is also expected to recommend enforced, permanent Congressional supervision of any national emergency legislation which might remain or be newly enacted. It seems sensible to suggest that no Presidential emergency authority be permitted to run beyond a specified period without Congressional re-enactment.

But can Congress act responsibly and swiftly in a national emergency, or does the modern age dictate that the Chief Executive always retains broad powers to put the country into an emergency and to give the executive branch wide control of human and economic activity? The answer is that Congress can act if it wants to. Emergencies seldom befall us overnight, the war in Vietnam certainly did not, and any one able to read should have seen the dangers in allowing the dollar drain to continue for years. Prof. Gerhard Casper of the University of Chicago told the Church-Mathias committee: "While kings, even Presidents, may abdicate, Congress has no constitutional right to do so. Emergency powers are among the most serious dangers to democracy. All that is doubtful is whether members of Congress have the will to abide by their constitutional oath of office."

INTERSTATE LAND SALES

Mr. HARTKE. Mr. President, 5 years ago, the Congress enacted the Interstate Land Sales Act. This act was designed to combat the widespread abuses which occur all too often in the interstate sale of land. In spite of this law, these abuses still continue, depriving many persons of their hard-earned savings when their purchases turn out to be utterly worthless parcels of real estate. It is for this reason that I have introduced S. 1753, the Interstate Land Sales Act amendments. The bill requires Federal licensing of all interstate land sales dealers.

Mr. President, a recent article in Consumer Reports brings into a clearer focus the dangers of the interstate purchase of land. I ask unanimous consent that this article from Consumer Reports be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Land Sales Boom—Let the Buyer Beware

Land sales are booming and so are consumer complaints about the companies doing the selling. Since the Federal Government got into the business of regulating interstate land sales back in 1969, it has received some 5000 complaints covering a wide range of abuses. Despite scant public knowledge of the existence of a Federal land-sales agency, the flow of complaints against land development companies has swelled to 50 a week.

The complaints come from consumers who have bought undeveloped land for vacation homes, for retirement living, or simply for speculation. Typically, the operation that has enticed them into purchasing works like this. The promoter buys—often with little money down—a large section of raw, undeveloped land at a very low price, perhaps in Florida, the Southwest or, more recently, in potential recreation areas near large urban centers. The land is then plotted into acre or residential-sized lots. Perhaps the promoter puts in a road or two and a few buildings.

A team of master salesmen then goes to work selling the land, or installment contracts to buy the land, as quickly as possible and at prices many times over the developer's purchase price. The skill of this special breed of salesmen is illustrated by the fact they have been able to sell totally undeveloped land in Florida at about $4000 an acre when much of the property is under water during rainy seasons; costs for draining the land and building and maintaining roads are the obligation of the buyer.

The come-ons of the salesmen typically include free motel dinners, free plane flights to Florida or Southwest, or a wide variety of gifts for "just visiting" the development.

The result is that many consumers buy promotional land on impulse at sales dinners or other presentations where the pitchmen whip up excitement over the prospect of high profits buyers will make. Later many buyers find, to their regret, that the salesman's glowing prediction of rapidly rising land prices simply doesn't materialize.

In a story earlier this year, The Wall Street Journal quoted a salesman for GAC Corporation's River Ranch Shores development in Florida as predicting that the property is "sure to go up 20 per cent a year." In addition to its being against Florida law for salesmen to predict precise increases in value, the Journal noted that a 20 per cent increase is a long way from what has happened to prices in some other Florida developments.

"GAC's own study," the Journal said,

"shows that sales prices on land at its Cape Coral development have risen only around 10 per cent in 10 years. Some local real estate dealers paint an even bleaker picture. One says that some Cape Coral lots for which buyers paid $3180 in 1960, 12 years ago, won't fetch $2400 now. And if you bought a Cape Coral lot now at the asking price and sold a year from now, he contends, 'you'd lose your shirt.'"

Horizon Corporation, another of the nation' largest land promoters, is selling land in its development 20 miles south of Albuquerque, N.M., at a minimum markup of 22 times the price it paid for 46,800 acres of semi-arid ranch land back in 1968.

Tucson real estate dealer William B. Franklin, who is chairman of a group called "Citizens for the Preservation of Santa Cruz County," questions whether investors in Arizona promotional land developments are making a wise choice. In a series of articles on land sales in the Troy (Ohio) Daily News, Franklin gave this assessment of GAC Corp.'s Rio Rico development: "Rio Rico is terribly overpriced. You can buy a choice one-acre lot in the Catalina Foothills of Tucson, where I live, for $7,500 right now. That price includes paved streets, power and water. At Rico Rico you pay $4000 or $5000 [for less than an acre] and it may be 10 years before utilities are brought to your property."

How should you evaluate an investment in land? Roy P. Drachman, an experienced Tucson real estate dealer and president of the research-oriented Urban Land Institute, estimates that money invested in unimproved land must *double* in approximately five years *just to* meet the carrying costs. These costs include such items as rate of interest used to buy the land, real estate taxes, care-taking (trips to inspect the property, for example), insurance and inflation. Any profits to be realized must be *in addition* to these carrying costs. Drachman added that his estimate does not include selling costs such as a broker's commission, lawyers' fees and capital gains taxes.

Furthermore, vacant land produces no current returns and the investor is giving up his chances for dividends and capital gains on other possible investments, or the interest on an equal amount put into savings. Money in insured bank savings at six per cent compounded annually, for example, will double in 12 years, with no risk.

Aside from the doubtful value of such investments, what are some of the specific problems and pitfalls consumers are discovering in buying land? Federal officials charged with the duty of overseeing interstate land sales report that, in addition to objections over misrepresentations about how much property will increase in value or the improvements that will be made on it, complaints fall into these categories:

PROPERTY REPORT

Federal law requires that the developer furnish the potential buyer with a factual report on the property. The report, in question and answer form, covers important facts buyers should know about the land and includes such information as: name and location of developer and subdivision; effective date of the report; road distances to nearby communities; financial terms and refund policies, if any; mortgages and liens; protection, if any, afforded the buyer in case of financial default of the developer; leasing arrangements; taxes and special assessments to be paid by the buyer; escrow and title arrangements, plus any restrictions, easements, covenants and their effect on the buyer; recreational facilities available and expected dates of completion of proposed ones; availability or lack of utilities and services such as trash collection, sewers, water supply; any need for drainage and fill before the land can be used for building; presence of schools, medical facilities, shopping and transportation or proposed dates of availability of such services; number of homes now occupied; accessibility of lots by roads.

But officials say sellers frequently fail to provide a copy to the buyer or an opportunity for the buyer to read it carefully and understand it. And even when a report is provided it may not reveal the facts that "lake access," for example, does not mean lake shore property, that roads may turn into mud holes too steep and narrow for fire trucks or school buses to maneuver, that planned canals for sailing boats right up to property lines may contain only a foot of water at high tide.

REFUND POLICIES

Here the problems are misrepresentation of the refund policy by company personnel, failure to provide refunds when requested, and misunderstandings by the buyer of what he must do to obtain the refund. One typical example is the provision that a buyer must travel to the property site—at his expense—in order to obtain the refund.

BAIT AND SWITCH

Officials say complaints in this category fall into two types: "on the spot" in which salesmen tell the buyer that the advertised lot has been sold and then attempt to switch him to a more expensive parcel, and "delayed bait and switch," when the buyer visits the property for the first time months or years after the initial sale and discovers that it is underwater, inaccessible or not what he was led to believe. The company then attempts to "placate" the buyer by selling him (or "switching" him to) a better, higher-priced lot. The company credits the consumer with only the equity he has built up (not total payments) in the first lot toward purchase of the higher-priced one.

OWNERSHIP RIGHTS

These relate to the consumer's discovering that he doesn't "own" the land subject to a typical home mortgage. Unless he paid the full asking price at the time of the sale, the consumer has precious few legal rights to the land. Chances are he does not have a deed at all, but merely an agreement with the company to furnish a deed years later after he pays off an installment sales contract for the lot. Should he fail to make any payment on the contract—for any reason—the company can declare him in default, take back the property and keep all the money the consumer has paid.

WHAT PROTECTION DO BUYERS HAVE?

In an attempt to provide consumers with some protection against these and other abuses in land sales, Congress in 1968 passed the Interstate Land Sales Disclosure Act, which became effective April 28, 1969. Administration of the law is in the hands of the Office of Interstate Land Sales Registration (OILSR), part of the Department of Housing and Urban Development.

The agency can require disclosure of important facts about land developments and suspend any company from engaging in interstate sales. It can also ask the Justice Department to bring criminal charges against violators of provisions of the Act, which provides for fines up to $5,000 and jail sentences of up to five years.

The Act also requires that owners of developments involving 50 or more unimproved lots for sale in interstate commerce register with OILSR, and that each buyer be given a detailed, written property report, described earlier. If the seller fails to furnish such a report, the buyer can cancel the deal at any time and have his money refunded. If a seller furnishes a property report to the buyer less than 48 hours before signing the contract, the buyer has 48 hours in which to cancel and get a refund.

If a seller fails to comply with any provision of the Act, or has committed fraud, the buyer may sue for damages up to the purchase price of the lot, plus any improvements and reasonable court costs.

The law has many sound consumer protection provisions and sufficient teeth for enforcement. Why, then, are there continuing abuses and a rapidly growing number of complaints?

The answer appears to be a familiar one for consumers; it takes more than a good law to solve the problem—it requires strong enforcement. During its first years, OILSR was buried under layers of officialdom in HUD.

For nearly three years the office was administered by subordinates reporting to Eugene Gulledge, an assistant secretary of HUD and Commissioner of the Federal Housing Administration. Gulledge, a former construction executive from Greensboro, N.C., was president of the National Association of Home Builders when he went to HUD in 1969. Gulledge's first administrator of OILSR, Alfred J. Lehtonen, resigned last year to join Horizon Land Corp.

As of May 31, 1972, the office had obtained only four indictments, all involving relatively small operators, and only one conviction also of a small development. Sales at only 18 locations had been suspended by OILSR for any reason.

Testimony as to the agency's lack of regard for consumer complaints was documented at hearings in Washington on May 31 and June 1, 1972, when witnesses told of waiting for as long as two years without getting any substantive response. Others said they had encountered outright hostility.

But more recently there have been some hopeful signs that the agency may be acquiring a stronger sense of responsibility. On March 1, HUD Secretary George Romney shifted OILSR to his direct control and appointed a new administrator, George K. Bernstein, to run it. Bernstein has announced a "get tough" policy, including a series of public hearings throughout the country at which consumers can report their experiences with—and complaints about—promotional land sales.

Whether or not the agency's new energy will lead to long-range correction of land sales abuses or is merely election-year rhetoric remains to be seen.

Meanwhile, consumers should not be lulled into any sense of security about buying undeveloped promotional land simply because of the existence of Federal and state regulatory laws and agencies. Thirty-five states now have some requirements for registering land sales, but there is little actual supervision of land developments in most states. The OILSR staff itself numbers only about 50, and when Bernstein took over the office there were only two investigators. He has increased the force to 10, which still seems hardly adequate to investigate some 50 complaints a week.

Despite attempts at consumer protection, sharp salesmen have been known to turn the requirement for government registration around to their favor by telling consumers that their development "has been approved by the Government," which is never the case.

At the outset, those who are determined to buy promotional land should write to OILSR (Dept. of Housing & Urban Development, Washington, D.C. 20411) and ask if the company selling the land is registered.

One should, of course, never buy without seeing the land. But even this good advice can be misleading, for just looking at a chunk of undeveloped desert, swamp, or woodland tells the buyer nothing about possible legal encumbrances on the title, or easements or rights of way that may run across the land and impair its use as a homesite or for commercial development. Nor does on-site inspection reveal its potential for resale at a profit.

Since most promotional land is sold on installment contract over a period of years, just seeing the land doesn't explain anything about second mortgages, mechanic's liens, or tax liens, all of which take precedence over your claims to the land if the developer runs into financial problems, which government officials say is not at all unusual. And, if the promoter declares bankruptcy, it could be years before buyers could recoup their losses, if there's any money left.

In short, there are many compelling reasons why consumers should pass up the "free" dinner and vacation offer from the promotional land development companies. A far more rational approach to buying retirement, vacation or investment land is to visit the area, talk with a number of real estate brokers and sign nothing until you are fully convinced that you have a sound investment which has been thoroughly reviewed by your own lawyer.

SOME PERILS IN A LAND SALES CONTRACT

Many land sales contracts give the seller advantages rarely explained by salesmen, and the consumer precious few rights. For example, we reviewed a promotional land sales contract that a Florida company used in selling a Yonkers, N.Y., widow one acre of undeveloped land near Palm Beach. The widow said she did not see—and has never seen—the property since she signed the papers for it in 1969.

She did not remember having read the property report, which was included a large kit of company promotional materials and she was unaware that the report indicated the land would have to be drained before it would be usable. She bought the land on the advice of her brother-in-law who had bought three acres and said it "looked like a good deal." She signed a contract to pay $3,890 for the acre and paid $1,000 down, leaving a balance of $2,890 to be paid in $36 monthly installments. She did not know how many installments there were. She also said that, since the company did not send her any annual statements, she had no idea how much interest she was paying. She thought that she did not have to pay any real estate tax on the land. She was also equally unaware of any of a number of provisions contained in small print on the back of the contract.

For example, she thought she had a deed to the property, but the official-looking document she received from the company is only an "Agreement for Deed," in reality an installment sales contract. If she misses one payment—for any reason—the company can declare the contract in default, take back the lot and keep all the money she has paid to date. She is not even permitted to sell her interest in the lot unless the company approves the sale and all of its terms and conditions.

Although the property report spells out a detailed company policy which provides for refunds under certain conditions, the contract—which is the sole controlling legal instrument—contains this clause: "There are no refund privileges under ths contract."

She has absolutely no rights to any oil or minerals that might be discovered on the property.

The company will put in graded—not paved—roads and arrange for drainage, but she will be assessed for these improvements. The contract includes estimates of $220 an acre for drainage, but the company is not bound by that figure, which could be considerably higher.

She has absolutely no rights of possession in the property until delivery of the deed. And before she can obtain the deed, she must pay the company for all the taxes it has paid on the lot over the length of the contract, plus interest at 6 per cent. Before she gets her deed she will also be required to pay off any levies and property assessments which may have been paid by the company during the term of the contracts, plus interest. The contract is written in such a was as to make all these sums—taxes, assessments, levies and interest—payable as a final payment before the contract is satisfied. So, instead of a final payment of $36, she may face a "balloon" payment of several hundred dollars that, if not paid on time, could result in default and forfeiture of all the money she has paid during the life of the contract.

THOSE WHO SHOULD HAVE SEEN THE OIL SHORTAGE COMING DID NOT—OR WOULD NOT

Mr. McINTYRE. Mr. President, I rise today to ask some questions in behalf of the American people.

I want to ask these questions before truth and perspective about the cause of the fuels crisis are swept under the rug in the headlong rush to solve it. And I want to ask these questions before I turn down the thermostat on my anger and outrage.

Today our people are being called upon to sacrifice comfort, convenience, pleasure, yes, and in some instances their means of earning a living or their facilities for getting an education in order to get us through an emergency that was not of their making.

I do not minimize the seriousness of the situation, Mr. President.

Nor do I challenge the need for self-sacrifice.

We are in a state of crisis, and it will take self-sacrifice and a united effort to get us through it.

But how do we get it? How do we develop the kind of public understanding that can kindle a spirit of self-sacrifice and unity?

I say the only way we can do it is through a full and frank disclosure of the facts. Including, Mr. President, a full and frank disclosure of the mistakes in judgment, the miscalculations, and the stubborn refusal to recognize the abundant danger signs that led us into this sorry situation.

Surely we should have learned in the past 17 months that nothing is more disenchanting, nothing more divisive, nothing more damaging to the American spirit than ignoring the people's questions in a time when ongoing revelations are changing denial of blame to admission of wrong in instance after instance after instance.

I use this example deliberately, Mr. President, because I see in the development of the energy crisis and the attempt to cover it up until it exploded in the administration's face a pattern disturbingly familiar.

First, the repeated denials by the administration and the major oil companies that a petroleum shortage was looming, denials repudiated by last winter's minicrisis in heating oil.

Then, last spring, reluctantly acknowledging that further shortages might be expected, but shrugging these off as potentially no worse than a 1- to 2-percent inconvenience.

Now, face to face with an undeniable shortfall of 18 to 20 percent or more, conceding no lack of foresight, admitting no error, offering no apology, pointing the finger of blame at the affluent greed of the consuming public, the Arab oil embargo, the Congress of the United States—everywhere but where a big part of it belongs.

Mr. President, I ask my colleagues to check Mr. Nixon's energy message, check it word for word. I ask my colleagues to check the newspaper advertisements and the television and radio commercials pushed at us night and day by the major oil companies.

I ask them to find, if they can, the slightest hint in any of these messages that the administration or the industry is even remotely responsible for even part of the crisis.

I can spare my colleagues the effort. There is none.

Nor, Mr. President, is there the slightest hint that those Americans most responsible for the fuels shortage are those Americans who are profiting most from it.

For while the crisis is hurting—or threatening—a spectrum that takes in the homeowner, the commuter, the farmer, the plastic products manufacturer, the airlines, the trucking industry, mass transit, schools, colleges, tourism, the stock market, and clean air standards, the major oil companies are reaping windfall profits of hostorical dimension.

I ask my colleagues to consider the fact that third-quarter earnings by 10 major oil companies were up an average of 52.1 percent. To consider the fact that Gulf, Exxon, and Mobil reported gains of 91, 80, and 64.1 percent, respectively, during the third quarter and that Occidental reported a 7,153-percent increase over 1972. To consider the fact that in dollar terms Exxon's net income for the first 9 months of this year was $1,660,000,000; Mobil's $571,200,000; Gulf's $570,000,000; Standard of Indiana's $389,800,000; Shell's $253,300,000; Continental's $153,400,000; and Phillips' $143,700,000.

Mr. President, this bitter irony is not lost upon the people. One poll I saw indicated that 70 percent of those questioned believe the shortage was rigged to boost oil company profits. Nor should it be lost upon the oil tycoons themselves. One, at least, had the decency to say: "I think we all might have been better off in the longrun if we could have reported a decline in profits."

But there was not a decline, Mr. President. There was a breathtaking leap upward on the strength of sharply higher crude oil and product sales volumes, higher domestic and European product prices, higher volume and profit margins on plastics and petrochemicals, and record prices for oil tanker charters.

So while the people turn down their thermostats, call off their vacation trips, car pool, wear sweaters in their homes and offices, and anticipate winter closings of their children's schools, the major oil companies keep warm ringing their cash registers and hauling record profits to the banks.

Mr. President, let no one mistake what I am saying. This is not the perennial protest of the professional populist. This is the outraged cry of one middle-of-the-road U.S. Senator who believes in the capitalistic free enterprise system but who also believes that the major oil companies of America have betrayed the trust of the American people.

And let us get this on the record right now: The major oil companies are in no way the rugged individualists they would have the people believe they are.

It was not a populist, not a liberal, not a Democrat who said, "Few industries sing the praises of free enterprise more loudly than the oil industry. Yet few industries rely so heavily on special Government favors." The man who said that was Milton Friedman, the conservative economist whose column appears in Newsweek magazine.

And those special Government favors, Mr. President, have cost the American people in artificially high prices for petroleum products and in the higher taxes they must pay to make up for the tax breaks accorded industry. For 14 years the mandatory oil import quota system alone cost American oil consumers upward of $5 billion a year more than they would have been paying if competitively priced foreign oil had been allowed to come into this country in more than a trickle.

And heaven knows what the oil depletion allowance, intangible drilling cost tax breaks, foreign investment tax credits and all the rest have cost the American taxpayer.

But Mr. President, except for an exercise in hindsight judgment, this is really beside the point.

For the truth is that those privileges were once deemed necessary enough to enact them into law. And the truth is that no amount of consumer-taxpayer protest over the years has been powerful enough to overcome "Big Oil's" political clout and get them off the books.

The natural question is "Why?" Why has public indignation over big oil's special privilege never really crested?

The answer to that touches the heart of the indictment against big oil.

Those privileges stayed on the law books, Mr. President, because enough rank and file citizens, enough businessmen, enough industrialists accepted the major oil companies' word that tax breaks and protection against imports were indispensable to continued domestic oil exploration, drilling, and refining and in exchange for those privileges the follow-on assurances of adequate supplies in peace and in war.

Now I want my colleagues and my constituents to know that I shared that faith. For a long, long time I believed that the quid pro quo of privilege in exchange for the assurance of adequate oil supply was valid and justified.

And though time, events, and my own personal experience—which I will spell out in a minute—have eroded that faith, I still cannot find it in me to believe that the industry contrived the oil shortage to drive prices up.

Nevertheless, Mr. President, I can find it in me to believe that today's fuels crisis—which even the administration now concedes would have happened without the Arab oil embargo—can be laid directly to the betrayal of the public trust by the major American oil companies.

I am not charging deliberate betrayal. But I am indicting these giants of the industry with gross incompetence, with stubborn blindness, with selfishness, and with a lack of foresight that seems totally incredible in the light of today's developments. And I am indicting this administration with being a willing accessory to this betrayal by its unquestioning acceptance of the industry's word that no significant shortage was imminent—and by its notorious reluctance to move against the wishes of the industry, even when the public interest clearly dictated such a move.

The reluctance to buck the industry is not unique to this administration, Mr. President. Let us be fair about that. Big oil's political influence, as we all know, cuts across party lines and has been equally effective in Democratic as well as Republican administrations.

But the hesitance to take the public's side in the face of our first peacetime energy crisis is unique to this administration, Mr. President, and that hesitance is as reprehensible as it was irresponsible.

What I cannot understand—and what our sacrificing people must be told—is why the signs of an impending emergency were denied by the industry and ignored by the administration until only weeks before consumers were being asked to cut back on fuel and energy use, rationing was being seriously considered, and the Congress of the United States was being asked to give the President unprecedented authority to meet a crisis the heedlessness of the oil industry and its administration handmaid itself precipitated?

Why was it, Mr. President, that a handful of Senators and Congressman—using the petroleum industry's own figures—could see this coming a year or more ago?

Where was the vaunted expertise of the industry giants?

Where was the administration's concern for the public then?

Mr. President, on behalf of Americans everywhere who are sick and tired of deception, evasion, and public relations "snow jobs" I pose the following questions—some of which I have asked time and again over the last 5 years, some of which are relatively new, all of which deserve answers:

How, in good conscience, could the major oil companies simultaneously hide the mistake they made in overestimating the reserves in America's two largest oil fields, oppose repeal of oil import quotas for 14 long years, yet continue to exhort the consuming public to use more and more fuel and more and more energy?

How could the major oil companies fail to foresee and provide for the galloping increase in world and domestic demand for refined petroleum products?

Specifically, how could the oil industry allow the number of domestic refineries in the last 10 years—and only 5 of these major refineries—and have no new refineries under construction as late as the beginning of this year?

What did the oil industry do with all the money it saved through tax subsidies and import protection? That money was supposed to be used for exploring, drilling, and producing enough to sustain us. How much of it was spent for that purpose? How much of it was spent elsewhere for other purposes?

Mr. President, the industry has offered some answers to these questions, but let us examine them for a minute.

Uncertainty over oil import policy has been offered as one explanation of why so few new refineries have been built in recent years.

This is an intriguing answer, Mr. President. If, as all evidence indicates, oil import policy has been dictated by the industry itself, then this means it was the industry that was uncertain—not the Government.

And recent chronology would seem to bear this out. For how can the industry explain its mystifying turnabout on import policy?

For 14 years the major oil companies fought tooth, nail, and influence to keep foreign oil out of this country. Yet, during those 14 years there was a net loss of 39 American refineries. Thirty-six were built. But 75 were shut down.

Yet the minute import quotas were lifted last April, these same companies fell all over themselves announcing great new refining expansion plans. And now—with the Arab countries cutting off supply—those announcements are being called back as inoperative.

Mr. President, one cannot help but wonder why these major oil companies—knowing as they did that their domestic fields were failing—opposed letting in foreign oil they could have had in abundance and at bargain prices until the very year they could not get it.

It does not say much for big business foresight and acumen.

And now let me turn to the other stock answer the oil companies give when they are asked why they did not increase refining capacity.

They blame the environmentalists.

Well, Mr. President, all I can say to that is they had plenty of time to increase refineries before Earth Day came to stay. And they did not. In the 10 years before April, 1970, 30 refineries were built—and 66 closed down. A net loss of 36.

Moreover, on September 17 Mr. Nixon himself forwarded a report to the Congress which said that in more recent years environmental protection measures were topped by four other factors—including the oil industry's own lack of foresight—as being influential in delaying refinery construction and expansion.

So much for industry explanations.

And now, Mr. President, before I ask specific questions of the Nixon administration about its adamant refusal to act to head off the crisis until now, I would put to the administration the same quesion I asked of the Johnson administration:

Why was the mandatory oil import quota system kept in effect long past the time when there was any justification whatsoever for it?

Years ago it was already apparent that the quota system was not encouraging the major oil companies to explore and drill new wells.

Years ago it was equally apparent that the quota system did nothing more than pick the consumers pocket while it lined the oil industry's pocket with the profits reaped from a price structure insulated from any effective competition.

Yet the Johnson administration refused to lift it. And the Nixon administration failed to lift it until April of this year. And then only because the oil industry suddenly realized how badly it needed the foreign crude oil it had so long despised.

But why did the Nixon administration have to wait until the oil industry changed its mind about import quotas before it lifted them?

Why did Mr. Nixon not heed the advice of his own Cabinet Task Force on Oil Import Controls when it advised him to phase out the quota system 3 years before he finally acted?

Does this or does this not raise the obvious question of who has more influence with this administration. The President's own Cabinet? Or the oil industry?

A year ago September, Mr. President, my staff and I surveyed oil supply-and-demand figures and concluded that New England and other parts of the country were facing a possible home heating oil shortage because of a shortfall in heating oil refining that summer.

It seemed apparent to us that the August 1971 price freeze applying to gasoline prices at a seasonal high and heating oil prices at a seasonal low, had resulted in what we feared—overconcentration on gasoline refining in the summer of 1972 at the obvious risk of refining too little heating oil.

I called hearings in September of last year to look into this situation, and what I heard in testimony confirmed my initial suspicions.

I saw only one recourse. An immediate relaxation of oil import quotas. I wrote to the President asking him to do this in behalf of my own region and any others that faced a similar threat. I sent him telegrams as the weeks went on. Finally, the entire New England congressional delegation—Republicans as well as Democrats—signed a united appeal to the President to take this action.

He did not. Until it was too late to avoid a pinch that could have become a major crisis if the winter had been more severe.

I have never had an adequate answer to why the administration delayed in taking this action. And I seek it yet in the name of the people of New Hampshire, the people of Minnesota, the people of Colorado, whose homes, schools, farms, and factories ran out of oil last winter.

In his energy message of last week, Mr. Nixon implied that the Congress was to blame for inaction on the fuels and energy front, but in this instance and those I will now describe, the President already had authority to act and did not.

The lesson of last winter learned, Mr. President, the distinguished junior Senator from Missouri and I introduced in February an amendment to the Economic Stabilization Act that gave the President authority to impose mandatory fuel allocations. That amendment became law in April, in time for it to have been used to head off or at least ease a situation that saw a gasoline shortage develop in many areas and saw the forcing out of business of hundreds and hundreds of independent gasoline marketers who were cut off from their usual supply by the major oil companies.

Other Senators and I tried to tell the administration that the voluntary allocation program it invoked in May was not enough—that only mandatory allocation could guarantee equity not only in the distribution of available supplies but applied at the refining level could help avert another heating oil shortage by requiring a switchover to refining that product no later than August 1.

We pressed our argument again and again, until finally, on June 28, the able chairman of the President's Oil Policy Committee, William Simon, notified me that he agreed that the voluntary allocation program was not working as effectively as it should and that a mandatory program to take its place was being drafted.

My momentary euphoria was no more than momentary, Mr. President, because the day after Mr. Simon's letter arrived on my desk Mr. Nixon appointed a national energy czar whose very first public pronouncement rejected the concept of mandatory allocations.

At the time I wondered—and still wonder—how the parents of children whose schools were closed last winter in Governor Love's home State of Colorado felt about that.

This difference in views on mandatory allocations points up one of the big reasons why this administration has been so ineffective on energy matters, Mr. President.

Titles, offices, figureheads there may be. But the truth is that there is still no truly authoritative policymaking body, nor even a consensus.

Think back a year ago. Remember Gen. George A. Lincoln, the director of the Office of Emergency Preparedness? He was the President's first energy expert. He was the fellow who told us that the major oil companies had assured him there would be no shortages last winter.

Well, the shortages came. And General Lincoln went. And so did the Office of Emergency Preparedness.

Meanwhile, the White House had raided the State Department to get James Akins' energy expertise. Mr. Akins offered his advice, and some of it was pretty good advice. But it went into the waste basket, and Mr. Akins went off to Saudi Arabia.

The new chairman of the President's Oil Policy Committee, William Simon, an able man, began saying things that had to be said and soon found himself outflanked by an energy policy triumvirate made up of Treasury Secretary Schultz, Dr. Henry Kissinger, and John Ehrlichman. Well, Dr. Kissinger went to the State Department. Mr. Ehrlichman went to court. Secretary Schultz was to go to extremes in denouncing rationing. And whatever policy there was went to pot.

And then, all at once, it seemed as if Mr. Simon finally had the President's ear. But when he boldly ventured such unpleasantries as "mandatory allocations," the President quickly brought in new energy czar John Love to whisper the sweet nothings he seemed to want to hear.

Now Interior Secretary Morton gets into this musical chairs game from time to time, too, so we really never know which administration spokesman is going to be left standing when the music stops.

Mr. President, the net result of all this has been more than confusion. It has been paralysis in the face of crisis.

So when I took this floor on September 7 to present what I called a "Blueprint for a Heating Oil Crisis," I did so in frustration and with a sense of what is the use. Nevertheless, I felt I had to make it as emphatic as I could that while we were preparing to enter the 1973–74 heating season with the same level of short supplies we had the previous fall, and 24 million barrels of fuel oil less than we had on hand in the fall of 1971, the Nixon administration was still refusing to take any affirmative action.

At that time I said the administration "has refused to adopt mandatory allocations; it has exhibited an apparent inability to increase supplies; it has threatened the existence of the small business marketing segment of the oil industry; but it has assured the big multinational oil companies record profits."

And I asked, then, as I must ask again today: What is the real concern of this administration? Adequate supplies for the consumer? Or bigger profits for the major oil companies?

Because now it is mid-November, and the administration is still refusing to do what the situation demands be done.

On November 1, a mandatory allocation program was, indeed, finally imposed. But what kind of a mandatory allocation program is this, that exempts gasoline and does not apply at the refinery level? At best, a toothless tiger with tender gums. At worst, an inadvertent mockery of an administration that has the gall to criticize the Congress for timidity and procrastination.

So I ask in the name of the people, Mr. President, why this administration failed to use the tools the Congress provided it last spring. Why it failed to invoke the authority the Congress had already given it to allocate supplies and direct refining with the kind of firm dispatch that the situation demanded months and months ago.

If that had been done, Mr. President, the gasoline shortage of last summer could have been borne more equitably; hundreds of small marketers might still be in business; and a mandated early switch to refining heating oil would have eased the supply crunch.

The people deserve answers, Mr. President.

They do not deserve to be mislead any more about who is to blame.

They do not deserve the gratuitous insult that it was their greed for comfort and convenience that brought on the emergency.

They did not deserve the cold notice that they must pay more for fuel and sacrifice comfort, convenience, and environment without an explanation.

The people will do what they are asked to do to get us through this emergency.

Historically they always have.

But they want to know why, Mr. President. They want to know how we got into this situation, before they are told how we are going to get out of it.

They have a right to ask those questions.

They have a right to have those questions answered.

THE FUEL CRISIS AND THE ECONOMY

Mr. MOSS. Mr. President, the energy crisis is on everyone's mind these days, and we have been working continuously in the Congress to meet the shortages that have come upon us. In fact, we have been busy now for more than 2 years in preparation of legislation to avert immediate shortages and to stimulate long-range production of additional energy.

In Sunday's Washington Post, Hobart Rowen submitted a very thoughtful article on the "Fuel Crisis and the Economy." I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 18, 1973]

Fuel Crisis and the Economy

(By Hobart Rowen)

Former Economic Council Chairman Walter W. Heller wisely observed in a special article for the Wall Street Journal last week that because of the oil crunch, all forecasts for inflation in 1974 are now "subject to change without notice." Let's go one step beyond that: all forecasts of any kind are useless.

The only realistic assumption that can be made is that the economy will be in some sort of recession next year and will continue to be depressed while the Arab oil embargo lasts.

Just how bad the economic slide here will be depends on a number of unknown factors, including the duration of the embargo and the wisdom of U.S. leaders in handling the shortage problem.

So far, there is little reason to be optimistic on either score: the Arabs seem interested in limiting their production and maximizing profits (already huge) regardless of the outcome of the Egyptian-Israeli negotiations; and the Watergated Nixon administration once again appears to be bungling an economic management job.

The clear need at the moment is to install a gasoline rationing program that would sharply cut pleasure driving, so that energy resources still available can be husbanded for essential industry.

But administration spokesmen are all over the lot on this issue, some trying to sweep the urgency of the problem under the rug. Others talk wistfully of a "free market" approach, letting prices skyrocket in order to create new production incentives as well as to diminish consumption.

The trouble with letting prices shoot up should be obvious. Not only would that mean the well-to-do could use and waste resources at will while people of modest means suffer, but such a "solution" would raise unholy hell with the economy.

Heller points out that fuel prices had been soaring even before the "sheik-down." Thus, the price index of fuels, related products and power (representing 7 per cent of the wholesale price index) had risen 20 per cent from September, 1972, to September, 1973. Refined petroleum products rose 35 per cent in that period.

Further price increases are certain. But unless rationing and price controls are made effective, costs will go out of sight.

Some administration officials, notably Economic Council Chairman Herbert Stein and Treasury Secretary George Shultz—who fear any kind of controls—would opt for a surtax system to reduce consumption of gasoline.

But Treasury experts admit that each penny of additional tax sucks $1 billion out of total purchasing power. If—as Gov. John Love suggested—the country needs a 30-cent tax to cut consumption of gasoline by 20 per cent or so, that would pull $30 billion out of individual's pockets and into the Treasury.

Even if a chunk of that were rebated in various ways, it would be likely to throw the economy into a serious recession.

In any event, the administration has badly failed the nation in assessing and coming to grips with the energy problem. The most compelling energy statistic I've seen comes from Deputy Treasury Secretary William E. Simon:

Prior to the Middle East crisis, the administration's expectation was that energy consumption in the United States would increase by 4 per cent a year, doubling 1970's needs by about 1980.

And how did we plan to get that increased energy supply? From the Middle East, because oil there was cheap. The idea of considering national security in economic terms apparently never occurred to the administration. Now, Mr. Nixon talks of "independence" by 1980.

Back in April, the President sent a message to Congress in which he referred to an energy "challenge"—he wouldn't even use the word "crisis". Five years too late, Mr. Nixon abandoned oil quotas. Yet, there was no recognition that oil was an international problem, and that some day we would have to come to grips with an international cartel with a stranglehold on key supplies.

Meanwhile, the domestic oil industry, fat and comfortable, wasn't anxious to add to refinery capacity or to prove out new reserves. Some oil industry leaders confess they badly underestimated how fast demand would rise, but most tend to blame the conservationists for holding back new exploration.

Early this year, former Commerce Secretary Peter G. Peterson came back from a trip around the world and reported to the President that energy would be the United States' overwhelming problem for the next decade, but he was politely ignored.

Peterson tried to get Henry Kissinger's attention focussed on the problem, but Kissinger was too preoccupied.

In his report, Peterson sharply highlighted U.S. dependence on Middle East oil for the projected growth of the economy through the 1970s and early 1980s. In an interview with him published in the Washington Post on July 9, 1973, I reported:

"Peterson's figures assume that the Middle East countries will continue to be attracted by higher prices, increase their production and sell the West all the oil it wants to buy.

"But the Middle East countries, knowing that their oil resources are finite, may decide not to increase production so rapidly. And in any event, the Middle East countries broadly suggest that unless there is a solution to the Arab-Israeli conflict more satisfactory to them, they may not cooperate with the West at all."

The administration wasn't listening.

Around mid-year, Mr. Nixon appointed Love to head an Energy Policy Office, but a sense of urgency didn't emerge until the shock of the oil embargo that accompanied the outbreak of the war in the Middle East.

Mostly, the past few months have been a time of fumble and stumble. Mandatory allocation of propane and middle distillate fuels was put in, but gasoline and electricity consumption are still subject to only voluntary restraint.

Above all else, the administration needs to act at once to put a mandatory rationing system in effect for private transportation and home heating oils.

At the same time, it must address itself to developing new sources of energy for the long haul, and to working with other Western nations in the short run to find ways of persuading the Arabs to lift their embargo.

There is no reason why the Western nations should not consider economic counter-sanctions, from food shipments to sales of manufactured products (including aircraft and arms) to technical aid and know-how. A retaliatory embargo, of course, would require the Western World to act together. Given the Arabs' success in forcing Britain and France to make the right anti-Israeli noises, and the possibility of similar successful blackmail against Japan, prospects for the success of such a concerted drive look dim indeed.

SOCIAL SECURITY AND VETERANS PENSIONS

Mr. HARTKE. Mr. President, last Friday the Senate sent to the President H.R. 9474, the compromise veterans' pension bill which provides a 10-percent increase in non-service-connected disability pension for veterans and their survivors. At that time I addressed myself to the question as to how the Veterans' Administration will define the impact of the Social Security increase presently under consideration by Congress to take effect in 1974. As I indicated the American Legion and others expressed concern over reports that the Veterans' Administration might depart from past practice and attempt to incorporate the prospective Social Security increase in determining the amount of pension which will be paid to a veteran or his survivor in 1974. During consideration of the compromise bill, I said that the VA should not depart from the "end of the year" rule contained in section 3012(b) (4) of title 38, United States Code.

Following my remarks I received a memorandum from the Office of the General Counsel of the Veterans' Administration which contains their final legal opinion concerning the treatment of the social security increase for pension purposes for 1974. The General Counsel states in the memorandum that:

> We find no legal basis for adjusting the pension rate in 1974 based upon increased social security payments expected later that year.

This decision also affects dependency and indemnity payments for parents. Thus I am pleased that I can fully assure my colleagues that no pensioner will have his pension cut in 1974 because of the currently proposed 11 percent social security increase.

Mr. President, I ask unanimous consent that the memorandum be printed in the Record.

There being no objection, the memorandum was ordered printed as follows:

November 16, 1973.

To: Chief Benefits Director (21).
From: General Counsel (02).
Subject: Determining income in 1974 for pension and dependency and indemnity compensation.

1. In your memorandum of November 12, 1973, you request my opinion on the following question based on an assumption that the rates of pension and dependency and indemnity compensation for parents would be increased effective January 1, 1974:

"In determining the annual income of pensioners and DIC parents for 1974 and in establishing the payment rates under the formula in the new legislative increase, does the law require that the social security increases expected in 1974 be counted?"

2. As stated in our memorandum of September 17, 1973, to which you refer, "notwithstanding notice of an increase in retirement prior to the deadline for reporting anticipated income for a forthcoming year, the end-of-the-year rule of [38 U.S.C.] 3012(b)(4) would still apply." This memorandum, as does our earlier opinion of January 26, 1968, adopted by the Administrator in his report of February 5, 1968, on H.R. 12555, 90th Congress, deals solely with the computation of income and is not related to the rate of pension payable, except to the extent that once income is determined, the rate payable for such income can be ascertained.

3. We find no legal basis for adjusting the pension rate in 1974 based upon increased social security payments expected later that year. Counting the 1974 social security increases in determining income would result in reducing the pension otherwise payable under the assumed increased rates. To do so, as suggested in the third paragraph of your memorandum, would be violative of section 3012(b)(4) as interpreted in the mentioned opinions.

4. Pension payable for 1974 should be based on the actual social security income received in 1973 in line with the aforementioned opinions. As previously indicated, the rate of pension has no bearing on the method of computing income. Once income is determined, the amount of pension to be paid would, of course, be fixed according to the rates then in effect.

5. The statutory method for determining the income of parents for the purposes of receiving dependency and indemnity compensation is similar to that of computing income for pension purposes. Section 3012(b)(4) is also applicable to reductions of such compensation. Therefore, the views expressed above with respect to pension apply equally to dependency and indemnity compensation.

6. It follows that your question, as set forth in the first paragraph, must be answered in the negative.

John J. Corcoran.

Mr. HARTKE. As the ranking minority member of the Veterans' Affairs Committee, Mr. Hansen, the distinguished Senator from South Carolina (Mr. Thurmond), and I all mentioned during consideration of the bill on Friday, the Veterans' Affairs Committee now turns to overall review of the non-service-connected pension program. It is our intention that this reform will be accomplished prior to January 1, 1975, when any possible adjustments in a veterans pension would occur because of the increased social security benefits now under consideration.

CARMINE S. BELLINO

Mr. ERVIN. Mr. President, as chairman of the Senate Select Committee on Presidential Campaign Activities, I received a request from various Senators that the Senate select committee investigate the question whether Carmine Bellino, one of its employees, participated in the electronic surveillance of Republican campaign officials during the Nixon-Kennedy election of 1960. This request was based upon certain affidavits mentioned by the Honorable George Bush, chairman of the Republican National Committee, in a press conference.

I thereupon appointed Senator Talmadge of Georgia, Senator Inouye of Hawaii, and Senator Gurney of Florida, members of the Senate select committee, as a subcommittee, and requested them to investigate this matter and make a report to the full committee as to their findings and conclusions.

I made this request of these three members of the select committee by letter dated August 6, 1973, and ask unanimous consent that a copy of this letter be printed at this point in the body of the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 6, 1973.

Hon. Herman E. Talmadge,
U.S. Senate,
Washington, D.C.

Dear Herman: Carmine Bellino, who is a certified public accountant, and who served for many years on the Senate Permanent Subcommittee on Investigations, was employed by the Senate Select Committee on Presidential Campaign Activities at my instance to collect and analyze campaign contributions and other financial matters relating to the presidential election of 1972.

Senator Hugh Scott and others have requested the Senate Select Committee to investigate the question whether Carmine Bellino participated in the electronic surveillance of Republican Campaign officials during the Nixon-Kennedy election of 1960. The request is based upon three affidavits discussed by the Honorable George Bush, Chairman of the Republican National Committee, which were made by John W. Leon, who has since died, Ed Jones, and Joseph Shimon. Mr. Bellino has supplied me with a copy of an affidavit made by Mr. Oliver William Angelone, and what he claims to be a correct analysis of the three affidavits mentioned by Mr. Bush, and the Angelone affidavit.

Manifestly, the Committee has no authority as a committee to investigate this matter as a part of the Watergate affair, but it does have the authority to investigate the qualifications of any of its employees.

To this end, I am requesting you, as Chairman of a subcommittee of the Senate Select Committee on Presidential Campaign Activities, and Senator's Inouye and Gurney, as members of such special committee, to investigate this matter and make a report to the full committee as to your findings and conclusions.

I might state that upon receipt of the complaint, Senator Baker and I interviewed Carmine Bellino, who denied categorically that he participated either directly or indirectly in any electronic survelliance of Republican Campaign officials in 1960. He stated to us that anti-Catholic literature was being prepared and circulated by a certain individual and that this individual was placed under mere physical survelliance to ascertain whether or not he was connected with the Republican Campaign officials.

I am taking the liberty of sending to each of you copies of the affidavits involved and a copy of the analysis of those affidavits submitted to me in behalf of Carmine Bellino.

Sincerely yours,
Sam J. Ervin, Jr., *Chairman.*

Mr. ERVIN. In consequence of my request, the subcommittee considered the affidavits originally obtained by agents of the Republican National Committee and all other available evidence bearing upon the charge against Mr. Bellino. A majority of the subcommittee; namely, Senators Talmadge and Inouye, made findings of fact based on evidence considered by the subcommittee, and reached the conclusion after—

> an extensive investigation * * * that there is no direct, competent or credible evidence to sustain the charges against Bellino that he participated in electronic eavesdropping or in the planning of electronic eavesdropping in connection with the 1960 Presidential campaign of John F. Kennedy against Richard M. Nixon.

I ask unanimous consent that a copy of the report of the subcommittee be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report of Subcommittee To Investigate Allegations Against Carmine S. Bellino

I. CONCLUSION

Following a public announcement by Republican National Chairman George Bush and the release of a letter signed by 22 United States Senators calling for an investigation to determine the fitness of Carmine S. Bellino, Chief Investigator of the Select Committee to continue in his position as Chief Investigator, a Subcommittee consisting of Senators Talmadge, Inouye and Gurney was appointed on August 3, 1973 to investigate the charges against Mr. Bellino.

Based upon an extensive investigation, it is the Subcommittee's conclusion that there is no direct, competent or credible evidence to sustain the charges against Bellino that he participated in electronic eavesdropping or in the planning of electronic eavesdropping in connection with the 1960 Presidential campaign of John F. Kennedy against Richard M. Nixon. Consequently, the Subcommittee finds no basis for discharging Mr. Bellino.

II. REPORT

A. Predicate

On July 24, 1973, Chairman George Bush of the Republican National Committee made a public announcement and released three affidavits which he said raised "very serious questions about Mr. Carmine Bellino, Chief Investigator of the Senate Watergate Committee." Mr. Bush said that a few weeks earlier he had received information which led him to believe that the Republican National Committee and certain Republican party and Presidential campaign officials had been spied upon during the 1960 Presidential campaign. He said there was a strong indication that the spying included the use of electronic devices, and possibly even electronic surveillance of hotel space in which then Vice-President Nixon prepared for television debates with then Senator John F. Kennedy. Mr. Bush added that there was a strong indication that the spying and surveillance had been ordered by a key aid of the Kennedy campaign manager, who is identified by the affidavits as Bellino.

Mr. Bush expressed the view that serious violations of the public trust transpired before Watergate, and that it is a gross distortion to ignore what has been done in other campaigns. He said the Senate should conduct an investigation of the "charges contained in the attached affidavits."

By letter of July 27, 1973, twenty-two Republican United States Senators urged Chairman Sam Ervin to investigate the allegations in the affidavits released by Chairman Bush. The letter noted that the affidavits alleged that Bellino was "deeply involved in illegal bugging of the Presidential campaign of 1960."

On August 3, 1973, Senator Ervin appointed a subcommittee to investigate the charges. The Subcommittee consists of Senator Herman F. Talmadge, Chairman; Senator Daniel K. Inouye, and Senator Edward J. Gurney.

In the past two and one-half months the Subcommittee has conducted an extensive investigation into the allegations. More than 25 witnesses were interviewed; sworn testimony was taken from some witnesses; tests were performed to assess the likelihood that certain of the allegations might have taken place.

B. Identities of affiants

John Wolf Leon: a private investigator doing business in the District of Columbia under the name of Allied Investigating Services with offices in the Dupont Circle Building. Leon's affidavit of June 8, 1973, states he had been an investigator for more than 15 years. He died on July 13, 1973.

Joseph W. Shimon: an officer of the Washington, D.C. police force until 1962, retiring with the rank of inspector. Shimon's affidavit of June 25, 1973, states he has been a private investigator in Washington for more than ten years.

Edward Murray Jones: an investigator for a Senate Committee from 1957 to 1960. His assignments included working under supervision of Bellino in Detroit in investigating Hoffa. During the 1960 Presidential campaign, he was employed by the Kennedy Committee for three or four months, generally supervised by Bellino. Since 1967, Jones has been in charge of the U.S. Immigration Office in the Philippines.

C. Identities of other principals

Carmine S. Bellino: Served in the FBI from 1934 to 1945. Thereafter, he operated his own accounting office; his clients, for the most part, were Congressional committees and governmental agencies, under contract. During the period from 1957 to 1960, Bellino Associates, Inc., had a business relationship with Leon's firm with regard to delinquent accounts of Remington. When the Senate Labor investigation was completed in 1959, Robert Kennedy asked Bellino if he would be of assistance in the campaign if John Kennedy decided to run for President. Bellino states he first became involved in the 1960 Presidential campaign in September of 1960.

Oliver William Angelone: a Special Agent of the FBI from 1951 to 1954. He was a self-employed private investigator in Washington, D.C., from 1959 to 1964. Thereafter, he became Deputy Field Director of Investigations, New York Region of GSA, and for the last two years he has been Director.

John Joseph Frank: former FBI and CIA agent. In 1960, he was a lawyer in Washington, D.C. located in a suite in which Angelone also had space.

D. Summary of allegations contained in the affidavits of Leon, Shimon, and Jones

The allegations are divisible as follows:

1. Electronic surveillance of Republican officials and campaign activities in 1960.
2. Physical surveillance of Republican officials and campaign activities in 1960.

The first category of allegation is obviously the more serious, more directly relevant to the principal jurisdiction of the Select Committee and to the focus of criticism directed against the Republican Party in 1972, and more easily definable as a possible basis for disqualifying Bellino for employment with the Committee if proven. There was no allegation that illegal means were employed in physical surveillance.

E. Allegations of electronic surveillance of Republican officials and campaign activity in 1960.

1. Allegations by Leon

Leon's affidavit states that on the morning following the Kennedy-Nixon television "debate" (Leon's reference here is in the singular, and it is not clear to which debate he refers), Angelone said, "Jonesy really did his job well this time." Leon says that Frank and a third man were present in Leon's office at the time of this remark. Leon says he is "confident that Ed Jones and Oliver Angelone successfully bugged the Nixon space or tapped his phones prior to the television debate." Leon states that Leon and Jones did other surveillances (non-electronic) of Republican officials for Bellino, and that Jones told him that Jones could not spend much time with Leon on surveillance because he had "several good wiretaps going for Bellino". Leon recounted that Jones told him that he had tapped the telephones of three ministers in the Mayflower Hotel in the fall of 1960. According to Jones, Bellino suspected that these ministers were responsible for some of the anti-Catholic anti-Kennedy literature that was distributed during the 1960 campaign.

With respect to Angelone, Leon said, he "possessed sophisticated bugging and wiretapping equipment, and had the nerve needed to tackle eavesdropping activity. He also had master keys to hotels in Washington, D.C., including the Carlton and Mayflower.[1]

2. Allegations by Shimon

Shimon's affidavit states that Angelone told Shimon "he was doing some work for Carmine S. Bellino, who was supervising investigative activity" for the Kennedy Committee. Shimon says Angelone told him that Republicans campaigning for Nixon planned to occupy the top two floors of the Wardman Park Hotel (Wardman became Sheraton in 1957, but some continue to call it by the previous name); that Angelone planned to install eavesdropping devices in that space and solicited Shimon's assistance to gain access to the floors; that Angelone suggested keys be obtained and the security force "taken care of"; and that Angelone requested Shimon's participation as a member of the bugging team. Shimon stated he declined to participate.[2]

3. Investigation

In his sworn testimony before the Committee, Shimon essentially reiterated the account in his affidavit and added that Angelone identified Bellino as a man who worked for Robert Kennedy; that Kennedy thought a lot of Bellino and Bellino would head the FBI if John Kennedy were elected; that Robert Kennedy wanted a technical surveillance on suites that would be occupied by the Republican party on the top floor of the Wardman Park Hotel; that Angelone said that Bellino had asked him to have the job done "for Bobby"; that the purpose of the installation was to find out what was going on in the Republican campaign; that operating expenses were to be kept to a minimum; and that Angelone, as a contribution to the Democratic Party, would not charge any fee. In addition, Shimon testified that Leon had told him that he had actually assisted Jones on the wiretaps, rather than had merely been told about them by Jonas, as indicated in Leon's affidavit. Shimon advised the Committee that when Leon had mentioned participating Jones on the wiretapping, there had never been any references to Bellino.[3]

Angelone also testified under oath. He stated that he never was requested by Bellino or anyone else to engage in any electronic surveillance during the 1960 campaign, that he did not engage in such activities, that he never asked Shimon to participate, and that he has no information that Bellino participated in or asked anyone else to participate in electronic surveillance in that campaign. In sum, Angelone denied having had the conversation described by Shimon or the conversation with Bellino which Shimon said Angelone described to him. Angelone further denied making the statement about "Jonesy" attributed to him by Leon; Angelone testified that at that time he did not even know Jones.[4] Concerning Leon's statement that he possessed "sophisticated bugging and wiretapping equipment" and had master keys to hotels in Washington, D.C., Angelone said he had no such equipment or expertise in the use of such equipment or keys but would turn to Shimon if and when he needed them.[5]

Frank appeared for an interview at the Committee offices. He stated that he had no knowledge of electronic eavesdropping of any kind during the 1960 campaign. He further stated that he never heard a comment to the effect that Jones really did his job well this time and did not recall being in Leon's office the morning after one of the Nixon-Kennedy debates.

In Jones' affidavit submitted to the Committee by Chairman Bush as part of the original allegation, Jones denied any participation in or knowledge of electronic eavesdropping of Republican officials or anyone else in the 1960 campaign.

Jones reiterated this position in a telephone interview conducted of him in the Philippines and specifically denied Leon's purported quotation about his having good wiretaps for Bellino and being the world's greatest wiretapper.[6] He also denied having any expertise in the field of electronic eavesdropping. Jones said that he worked for several months in the 1960 campaign, that he was paid something over $100 per week, and that his principal duties involved searching names in the library for biographical data and checking phones of one or two Democratic officials to insure they were not tapped.

Harry Thompson, an investigator for Leon identified himself as the third man present on the occasion of the alleged remark by Angelone. He says someone commented to the effect that with Jones' help the debate was easier for Kennedy. He cannot recall who said this, but the same person also said that Thompson and Jones "did a beautiful job." Thompson does not recall any statement to the effect that Kennedy had the debate all wrapped up. Thompson presumed that remarks referred to a physical surveillance Thompson and Jones conducted for Leon to identify the source of anti-Catholic literature. Thompson told the Committee staff that Leon described Jones to him as the top "bugging" man in the country.

Bellino, during the 1960 campaign, was in charge of tracing anti-Catholic literature. He volunteered his services to the campaign and received no compensation. In both an interview and affidavit Bellino denied participation in wiretapping or other electronic surveillance in the 1960 Presidential campaign. (A copy of Bellino's affidavit is attached hereto.)

Bellino's affidavit includes the following statement:

"I categorically and unequivocally deny that I have ever ordered, requested, directed or participated in any electronic surveillance whatsoever in connection with any political campaign, nor have I any knowledge of such activities in any campaign with which I was associated."

Theodore C. Sorensen, who served as Senator Kennedy's principal aide in the 1960 campaign, has furnished an affidavit denying any knowledge of electronic surveillance of Republican space, or that Bellino ever engaged in any illegal activities in the campaign. Sorensen said that he prepared or supervised the preparation of every piece of information transmitted to Kennedy in preparation for debate and saw no evidence of electronic surveillance.

Leonard W. *Hall* and Robert C. *Finch*, Campaign Chairman and Campaign Director, respectively, of the 1960 Republican campaign have advised the Committee that they saw no evidence of any electronic surveillance

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Footnotes at end of article.

of space occupied by them during the campaign. Both said that they believed that the campaign space was periodically checked for any electronic surveillance installations, and none was ever located.

Most of the persons who worked for Leon in his office during 1960 have been interviewed. No one interviewed has any knowledge of any electronic surveillance for political purposes. One employee of Leon in 1960, Lloyd H. Wise, refused to be interviewed. Wise claimed that he could not furnish any useful information, but acknowledged that he is acquainted with Bellino.

Although there was no allegation that electronic eavesdropping equipment was actually installed at the Wardman Park, the investigation sought to establish whether the Republican campaign, in fact, occupied space in 1960, particularly during the late summer or early fall, which is when Shimon said that Angelone spoke to him about eavesdropping. It appears that while individual Republican officials may have taken rooms for use as residence at the hotel during the late summer or early fall of 1960, there is no evidence that the campaign leased such space. The present management at the hotel has advised us that records more than seven years old have been destroyed. Interviews with Hall and Finch, two of the top campaign officials in the 1960 Republican campaign, as well as with other individuals indicated that during the months of August through the election the campaign was housed at 1145 19th Street, N.W. The Republican National Committee Headquarters was at 1625 I Street, N.W., throughout 1960. Earlier in 1960, although no later than May or June, according to Finch and Hall—well before the Convention in late July and the television debates in late September and October—the Republicans occupied a portion of the eighth floor of the Wardman Park, about six rooms at the end of one of the wings. In addition, Hall, who had his office in the 19th Street Headquarters, and Arthur Sommerfield, a campaign official, lived at the Wardman Park and Cliff Folger, active in the finance area, occasionally utilized space at the hotel.

F. ALLEGATIONS OF PHYSICAL SURVEILLANCE OF REPUBLICAN OFFICIALS AND CAMPAIGN ACTIVITIES IN 1960

1. Allegations by Leon

Leon's affidavit states that during the 1960 campaign he was retained by Bellino "to infiltrate the operations" of Albert B. Hermann, an official of the Republican National Committee that; "following an unsuccessful attempt to penetrate the office operations of the Republican National Committee, I was instructed by Carmine Bellino to place 'Ab' Hermann under physical surveillance, and to observe the activities of and visitors to Mr. Hermann's office, utilizing field glasses from my office, a nearby vantage point. Additionally I attempted to pick up conversation in Mr. Hermann's office, utilizing an electronic device known as 'the big ear,' aimed at Mr. Hermann's window from a nearby vantage point." Leon said this activity occurred for five or six days in September or October of 1960, and the results were reported to Bellino, who was assisting Robert Kennedy. Leon also said that Frank and Jones assisted him in surveilling Hermann on two or three nights each, the services of Jones being made available to him by Bellino. Leon's affidavit states that during the 1960 campaign, Bellino was also directing Frank, Angelone, and Jones in efforts to obtain information concerning Nixon's activities and strategy.

2. Allegations by Jones

Jones' affidavit, in addition to denying knowledge of electronic eavesdropping, reflects that Jones participated in two surveillance efforts during the 1960 campaign. Two or three teams and cars were used in the surveillances. Although he could not identify the subjects, he assumes that they were Republican officials or supporters. One surveillance took place at National Airport from where they attempted to follow an individual coming to Washington and the other involved an individual with offices in the vicinity of 19th and M Streets, N.W., Washington, D.C. Jones recalled that Bellino was present at one or both surveillances.

3. Investigation

In a telephone interview Jones reiterated the contents of his affidavit. With respect to the surveillance at National Airport, Jones said that the man they were supposed to follow was not located. As to the other surveillance, Jones said that he accompanied another person in the latter's car. Jones stated that he didn't know if Leon was involved in either of these surveillance efforts. He repeated that these were the only surveillances in which he participated and said he had no knowledge of "Ab" Hermann or any surveillance of him that involved observing him with field glasses or a "big ear".

During a staff interview, *Bellino* acknowledged that Jones may have been used once on a physical surveillance. Bellino explained this as being related to an expected meeting of ministers and the distribution of anti-Catholic literature. Bellino was asked to see if the organizer of the meetings, former Republican Congressman O. K. Armstrong, would be in touch with Republican leaders. Bellino sent several persons to the Washington Airport to watch for the arrival of Armstrong. He thinks his two sons were on the team, and perhaps Jones, although he did not go himself. Bellino has no recollection of what occurred at the airport, but states that at the time of a meeting of anti-Kennedy ministers in the Mayflower Hotel, he was in the lobby to observe if any Republican officials were participating. Bellino has no recollection of another surveillance in the business district of Washington. He cannot recall that he asked Leon to do any work for him in connection with the 1960 Presidential campaign. Further, Bellino stated that he didn't know of or authorize any surveillance of Hermann during the 1960 campaign and, specifically, had no knowledge of the surveillance of Hermann as described in Leon's affidavit.

Armstrong denies that he was an organizer of the Mayflower Hotel meeting. He states that he was an invitee to a meeting of churchmen, as well as some laymen, in Washington to pledge support for the election of Nixon. He denies that the meeting was anti-Catholic and he states that Dr. Peale made no remarks at the meeting which could be considered anti-Catholic. Armstrong told the staff that Dr. Peale spoke extemporaneously. He also said that during one of the speeches at the Hotel meeting, someone drew back the stage curtain and discovered a man with a tape recorder. Armstrong attributes verbatim media accounts of Dr. Peale's speech to this recording.[7] During Armstrong's visit to Washington on this occasion, he went to the offices of Hermann to talk about prospective speaking engagements.

Angelone denies he engaged in any surveillance for Bellino; he stated that he attempted to locate a hotel registration for Bellino. He believes Bellino may have told him the person for whom he was checking was a clergyman, and Angelone thinks he established that this person was staying or had stayed at the Wardman Park. Angelone has a recollection of asking Shimon to assist him in securing the registration card of this person, but cannot recall any report from Shimon and cannot recall what, if anything, was reported to Bellino.[8] Angelone believes the record check related to Bellino's effort to trace anti-Catholic literature. Angelone says he never heard of Ab Hermann until he read of him in the newspaper recently. Angelone thinks some mention may have been made to him, perhaps by Bellino, of a check to see if a printing firm on 7th Street had made anti-Kennedy leaflets.

In an interview *Frank* stated that on one or two occasions in the early 1960's he assisted Angelone. One time he went with Angelone to National Airport on a surveillance detail. Frank also remembered riding in a car with Leon when Leon stopped and went into the Mayflower Hotel while Frank stayed in the car. Leon returned and said that the person they were supposed to follow was not there. Frank thinks Leon told him that this was in connection with the campaign, but he cannot definitely recall.

Thompson, Leon's investigator, reported that Leon had a "big ear" in the back of his car which he showed to Thompson in the fall of 1960. It was from 24 to 36 inches in diameter. Leon told Thompson that he had it for a "particular job."

Thompson advises that he was instructed by Leon to work with Jones on a physical surveillance. Leon told Thompson that Jones was the top "bugging" man in the country. Thompson's instruction was to place a vehicle under surveillance and to observe whether or not its occupants picked up or distributed anti-Catholic literature. Thompson and Jones located a panel truck which was at a church on East Capitol Street. They surveilled it to an alley between 19th and 20th between M Street and Dupont Circle. They observed literature being loaded into the truck, and then followed it to the alley behind the Sheraton. The surveillance was discontinued when the driver apparently became suspicious and left without unloading. Thompson said that he thinks Jones identified the source of the material, a printing company. The next day, Thompson and Jones returned to the Sheraton where Jones said they were waiting for some ministers.[9]

Albert B. "Ab" Hermann, the alleged subject of Leon's surveillance was interviewed. Leon's affidavit states that he was retained by Bellino to place Hermann under physical surveillance. Leon reported the results of his efforts to Bellino.

Mr. *Hermann* advised members of the staff that during the 1960 campaign he was Executive Assistant to the Chairman of the Republican National Committee and Campaign Director of the Republican National Committee. He said, however, that he had very little to do with the Presidential Campaign, but was involved instead with working with State organizations. During this period Mr. Hermann worked out of two offices: the Republican National Committee offices at 1625 I Street, N.W., or the campaign headquarters located at 1145 19th Street, N.W., near M Street.[10]

FOOTNOTES

[1] The staff obtained a letter from Leon addressed to a Washington, D.C. attorney dated October 5, 1967, in which he recited much of the material contained in his affidavit, including his surveillance of Albert B. "Ab" Hermann, a Republican official in 1960, and Jones' statement to him that he was tapping telephones of ministers at the Mayflower. However, this letter makes no reference to Bellino. In addition, Leon said that Angelone and Frank told him that they had been recruited by the Democrats to do electronic eavesdropping work in the 1960 campaign. Some of these statements turn up as early as December 21, 1965, when Leon was interviewed by Bernard Fensterwald, who was then Counsel to the Subcommittee and Administrative Practice and Procedure of the Committee on the Judiciary of the Senate. Fensterwald has some recollection that Leon may have told him that Bellino asked Leon to do political surveillance, that Leon said he would do physical surveillance but could not handle electronic work and that Jones undertook the electronic work.

In addition, in August the staff made an

Footnotes at end of article.

appointment to see Buckley concerning his investigation, including his interview of Leon (now deceased), in view of the fact that the latter's affidavit is unclear in certain areas. Although certain notes of interviews conducted by Buckley were furnished by Jerris Leonard, the attorney who supervised the investigation that led to Chairman Bush's allegations, Buckley was not made available for interview until October 8. At that time he produced handwritten notes of his interviews as well as additional notes of Leonard. The notes and Buckley's recollection were substantially in accord with the language used by Leon in his affidavit.

[2] Shimon's affidavit states that this conversation in part took place in Angelone's office on Jefferson Place. Angelone informed the Committee that he did not occupy space on Jefferson Place until 1961. Frank, however, told the Committee that he and Angelone shared space on Jefferson Place beginning in June or July of 1960.

[3] Shimon also testified that in 1960, soon after his conversation with Angelone, he related this conversation to the late Senator Bridges, for whom Shimon had been assigned to do investigative work, and Philip Guarino, a restaurateur and a Washington, D.C., city official and now an official with the Republican National Committee. Guarino was interviewed with respect to this conversation and stated that he recalled being told by Shimon in 1960 that Angelone talked with Shimon to solicit Shimon's help in "getting the goods on Nixon". This was in the context of installing a tap or bug. Guarino said that Shimon mentioned about five names to him, including Bellino, but he could not recall the context in which Bellino's name came up. Guarino could not recall whether Robert F. Kennedy's name was mentioned by Shimon.

[4] Buckley's notes of his interview with Angelone contain the following statement: "He (Angelone) said it was subsequently reported to him that eavesdropping devices were installed in the quarters of Protestant ministers at the Wardman Park Hotel, Washington, D.C. He cited Mr. Bellino as the source of this information." Buckley reiterated this in an interview on October 9, 1973. Angelone, however, stated that he never made this remark to Buckley. During the staff's interview of Buckley, he acknowledged that he had not asked Angelone for an affidavit, saying that Angelone had provided him with "nothing of significance."

[5] Shimon confirmed that he possessed the equipment and keys and said that Leon was in error when he attributed possession of these items to Angelone. Buckley's notes of his interview with Leon indicate, however, that Leon said that it was Bellino who possessed the sophisticated bugging and tapping equipment. Bellino denies having owned this type of equipment in that period.

[6] Jones voluntarily submitted to a lie detector test administered in the law offices of Jerris Leonard in connection with Leonard's interview of Jones. Jones was asked a series of questions as to whether he participated in or had knowledge of any taps or bugs against Republican figures in the 1960 campaign. The examiner concluded he was truthful in denying any such participation of knowledge. The examiner, however, concluded that there were signs of deception when Jones denied telling anyone that he was the world's greatest wiretapper or that he had tapped Hoffa's phones.

[7] Bellino advised the staff that he had been provided with a copy of a draft of Dr. Peale's speech from an individual whose identity he cannot recall who told him that he had recovered the draft from a wastepaper basket. There is no testimony that Bellino was involved in or aware of this recording of Dr. Peale's speech.

[8] Shimon has no recollection of this incident.

[9] Thompson said that in the fall of 1960, Leon complained that he did not make any money on the Wardman (Sheraton) surveillance. Leon complained that Angelone "made all the money". Ruth Dice, Leon's receptionist, advised that staff that she recalled a surveillance at the Wardman in late 1960 and that Angelone talked about it and appeared to be very much involved in it. She also said that Leon had complained that Angelone received most of the money from the case and that Leon received little. Angelone denied receiving any compensation for work in the campaign and no other evidence was developed that Angelone, in fact, received compensation. Buckley advised the staff that Leon was bitter toward Angelone because of his belief that Angelone profited from the 1960 campaign.

[10] While Hermann's window at his 19th Street office was not visible from Leon's office window at 525 Dupont Circle Building, it was visible from a window opposite his office in the hallway, from which Leon told Buckley he observed "all coming and going" from Hermann's office. However, it was difficult, although not impossible, to see into Hermann's window which was three blocks away, even using field glasses of 15 power, as evidenced by photographs taken by the Committee staff.

Mr. ERVIN. The third member of the subcommittee, namely, Senator Gurney, dissented from the report of the majority of the subcommittee.

I ask unanimous consent that a copy of Senator Gurney's dissent be printed in the Record.

There being no objection, the dissent was ordered printed in the Record, as follows:

Subcommittee To Investigate Allegations Against Carmine S. Bellino—Minority View

Senators Talmadge and Inouye have concluded that "there is no direct, competent, or credible evidence to maintain the charges against Bellino that he participated in electronic eavesdropping or in the planning of electronic eavesdropping in connection with the 1960 Presidential Campaign. . . ." Because I do not think that this conclusion fully reflects the evidence disclosed by the investigation and because there is omission of the aspect of physical surveillance. I wish to append this Minority view to the Subcommittee's report to the full Committee.

The findings of fact agreed upon by Subcommittee Counsel are also to be submitted to the full Committee. These findings illustrate the complexity and difficulty of proof in relation to the charges. They reveal upon examination that the charges are not unfounded. Corroboration exists in many respects. But what is meant by the term "charges"?

Presumably, the Majority use of the term "charges" refers to allegations in affidavits which were the basis for the announcement by George Bush. The distillation of the allegations is that Bellino (and those acting in association with him) was responsible in 1960 for planning or executing electronic surveillance of Republican Campaign quarters, for physical surveillance of Republican officials, and for electronic surevillance of ministers suspected of distributing anti-Catholic literature. The Majority conclusion deals only with the first allegation and seems to disregard the testimonial nature of the affidavits themselves. The affidavits are more than charges; they can constitute credible evidence. Nevertheless, the investigation has developed considerable corroboration in addition to the affidavits.

Substantial and material portions of testimony by various witnesses are in conflict. I will not lengthen this document by an exhaustive analysis. But hard decisions are required where witnesses dispute key elements. How can we resolve the questions?

Shimon testified in detail about Angelone's contact with him concerning the desire of Robert Kennedy and Carmine Bellino to eavesdrop by electronic means on space to be occupied by the 1960 Republican Campaign. Angelone and Bellino make denials of this.

Consideration then must be given to the question of whether any evidence is available to persuade one to believe Shimon or to disbelieve him, or to believe or disbelieve Angelone, or Bellino.

Although not conclusive, it would be some corroboration if Shimon repeated to someone else what was said to him by Angelone immediately after hearing it. Our interview with Phillip Guarino reveals Shimon did this.

A close examination of the sworn testimony of Angelone reveals several contradictions with the accounts of a number of other persons. Though no one of these would be sufficiently material in itself, taken together they derogate to the veracity of Angelone. Thus, his denial of complicity in a material issue becomes suspect.

1. Angelone denied he performed any duty for Kennedy in the West Virginia primary campaign.

Frank told us that Angelone said he had gone to West Virginia with the Kennedy's.

Quistort, an employee of Leon, told us that Angelone worked for Kennedy in West Virginia.

Mrs. Dice, Leon's receptionist, stated that Angelone had traveled with the Kennedy Campaign.

2. Angelone denied participation in any political surveillance in the 1960 Campaign.

In addition to the affidavit of Leon, Leon's letter of October 5, 1967 to his attorney states that Angelone (and Frank) were recruited for the Kennedy Campaign to "black bag" (enter surreptitiously) rooms in the Mayflower Hotel.

Fensterwald's March 15, 1966 notes of interview with Frank state "1960 Campaign . . . Angelone does surveillance around Mayflower." Mrs. Dice told us that Angelone talked about a late 1960 physical surveillance at the Wardman Park and appeared to be very much involved in it.

3. Angelone denied he assisted in the protection of Mrs. Kennedy during a 1960 Campaign event in Washington, D.C.

Thompson, an employee of Leon, told us that Thompson, Angelone, and others were sent to assist in protecting Mrs. Kennedy at a meeting just before the Election.

4. Angelone denied that he occupied space on Jefferson Place in 1960, with regard to an averment in the affidavit of Shimon. Angelone said he shared space with Leon.

Shimon stated that Angelone had space on Jefferson Place.

Frank said that he and Angelone shared space on Jefferson Place in 1960.

Thompson and Dice told us that Angelone did not have office space with Leon in 1960.

5. Angelone averred that he received no compensation for the only work he did in the 1960 Campaign, to wit: check a hotel registration at the request of Bellino.

Thompson told us that Leon complained that Angelone made all the money on the Wardman surveillance.

Mrs. Dice said that it was her impression that Angelone received most of the money that came out of the Wardman Park case.

6. Angelone denied any knowledge of electronic surveillance in the 1960 Presidential Campaign.

Buckley states that Angelone told him of eavesdropping devices on ministers at the Wardman Park and that Bellino was the source.

Thus, Shimon is not the only person with whose testimony Angelone's testimony is in conflict. This, then, leads an observer to give greater credence to Shimon's statements than to Angelone's.

Jones has denied statements attributed to him by Leon concerning wiretaps on ministers at the request of Bellino. Is Jones to be believed or Leon?

The conclusion of a lie detector examination to which Jones submitted was that he showed signs of deception when he denied telling anyone he had tapped Hoffa's telephone, and when he denied describing himself as the "world's greatest wiretapper." Although it was concluded he was being truthful when he denied having knowledge of any bug or wiretaps on a Republican official in the 1960 Campaign, he was not asked if he tapped the ministers, if he participated in any surveillance of Hermann, or if he was involved in any plan to install a bug or tap in Republican quarters.

Moreover, there is a good measure of corroboration to Leon's affidavit in that he made similar statements concerning Jones to Shimon in 1962, to Fensterwald in 1965–1966, and to his attorney in 1967.

The following additional facts are worthy of mention:

1. Mrs. Leon recalls her husband was hired by Bellino in 1962; she believes he was hired to locate the source of anti-Catholic literature; and she believes her husband may have mentioned Ab Hermann to her in 1960 (Bellino has no recollection of any of the things Leon says concerning Hermann.).

2. Leon and Angelone each received letters of appreciation from Robert Kennedy in November 1960 for their help in the Campaign.

3. Any documentation of remuneration, if of significant amount, would tend to show more than casual or an isolated instance of assistance to the Kennedy Campaign. Angelone has said he has no records pertaining to the 1960 period. Bellino has searched without success for any documents, including tax or payroll records, in his possession relating to September or October of 1960.

Bellino's own denial must be weighed in the balance. Are his assertions of impartiality credible? In addition to the partisan nature of his physical surveillance work on behalf of the Kennedy Campaign, we must take cognizance of a full-page ad in the Elizabeth, New Jersey *Daily Journal* on October 29, 1968 which was paid for by "Carmine S. Bellino." The ad attacks then Vice President Nixon for "Hoffa's Delay in Prosecution" and for obtaining Hoffa's support, and urges readers to vote for Humphrey and Muskie.

On the whole, while there is some credible evidence that Angelone was asked by Bellino to do preliminary work for the installation of eavesdropping derives in space which it was thought would be occupied by the Republican Campaign, there is no credible evidence that such was ever effected. The weight of the evidence pertaining to the preliminary work, however, is not sufficient to establish culpability beyond a reasonable doubt.

I do not think that a decision to discharge an employee must necessarily be predicated on clear, convincing, and uncontrovertible proof. Bellino's long record of service to the Government works in his favor and imposes a heavier burden of proof. This is rightly so. The evidence of electronic surveillance of Republican officials leaves a lingering doubt, but is not sufficient to require discharge. Nor is the sworn statement of Leon (since deceased) that Jones (in the employ of Bellino) tapped phones of ministers suspected of anti-Catholic literature of sufficient weight to require discharge. Jones and Bellino each deny tapping the ministers.

Bellino's complicity in physical surveillance is well-established. Bellino admits involvement in a physical surveillance at the airport in the 1960 political campaign. He relates this to his effort for Kennedy to locate the source of anti-Catholic literature and to ascertain any connection with Republican Campaign officials. He makes denial of any specific surveillance of Ab Hermann. Leon's affidavit gives us direct, first-hand evidence that he was instructed by Bellino to surveil Ab Hermann. One of Leon's investigators, Harry Thompson, tells us that he and Jones surveilled to truck which picked up literature, probably from a printing company, but the surveillance did not establish to whom it was to be delivered. Jones acknowledges participation on behalf of Bellino in surveillances at the airport and in the business district of Washington, D.C. He cannot recall the details. Frank said he may have participated in one or two physical surveillances while working for Bellino in the 1960 Campaign. Angelone admits searching for hotel registration for Bellino, but denies surveillance activities. Angelone said he received no compensation, but two of Leon's employees tell us that Leon complained that Angelone got all the money on the Wardman surveillance case. Without question, there was a physical surveillance activity by Bellino directed toward establishing the source of anti-Catholic literature. Undoubtedly, he thought it had relationship to the Republican Campaign.* The only remaining question is whether he directly surveilled Republican figures for this or any other purpose, or whether surveillance instituted to trace the dissemination of literature tangentially involved Republican figures. Jones assumes one or both of the surveillances in which he participated were to follow Republican figures. Leon states that Ab Hermann, a Republican official, was his specific assignment.

In conclusion, the Minority summarizes its report as follows:

1. There is agreement with the Majority report that there is no direct evidence to sustain the charges of electronic surveillance by Bellino.

2. There is, however, some credible evidence of contemplated electronic surveillance, although there is much conflicting testimony.

3. There is some evidence which derogates to the credibility of witnesses who deny planning of electronic surveillance on the part of Bellino.

4. The charges pertaining to physical surveillance have indeed been proven.

5. Since Mr. Bellino is a member of the Majority Staff, the Minority does not feel it is appropriate on the basis of the evidence developed to voice its position on whether his employment should be continued.

Senator EDWARD J. GURNEY.

NOVEMBER 13, 1973.

Mr. ERVIN. I am constrained to state that I concur fully in the report of a majority of the subcommittee. Indeed I am constrained to say that if the charge against Mr. Bellino had been made in a court of law, the court would have had to reject the charge on the ground that there was not a scintilla of competent or credible evidence to sustain it.

I became a member of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations shortly after I became a Member of the Senate some 19 years ago. Mr. Bellino was employed by such subcommittee at that time. He was employed by the Senate Select Committee on Presidential Campaign Activities at my instance because I had high admiration for his ability to investigate and analyze financial data, and because I had complete confidence in his integrity. In my judgment, he is a faithful public servant of exemplary character.

THE ROLE OF THE FEDERAL GOVERNMENT IN HIGHER EDUCATION

Mr. FANNIN. Mr. President, the Chronicle of Higher Education recently published the recommendations of the Newman Committee on the role of the Federal Government in higher education. This report is both significant and controversial in terms of the direction it advocates for Federal support of postsecondary education. In this context, this report should be widely disseminated for comment and criticism with the expectation that such views will be reflected in the continuing congressional debate over the extent and scope of the Federal participation in education.

Mr. President, I ask unanimous consent that this article from the Chronicle be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET COLLEGES VIE FOR STUDENTS, UNITED STATES IS URGED

(By Cheryl M. Fields)

WASHINGTON.—The controversial task force on higher education headed by Frank Newman of Stanford University has issued a final general report calling for vastly increased flexibility in access, financing, and accreditation of postsecondary education in America.

Established to advise the Department of Health, Education, and Welfare on the future direction of federal support for post-high-school education, the eight-member task force urged federal planners to "choose forms of assistance which maximize the incentives for institutions to compete for students, and minimize the risks of deliberate or inadvertent federal intrusion into institutional operations."

The task force asserted that competition, rather than federal regulation or more state control "is a more desirable means of achieving public accountability" and fulfilling social goals.

LISTS THREE FEDERAL ROLES

Mr. Newman, the task-force chairman, is director of university relations at Stanford University.

In its final report, the group recommended that the federal government should concentrate on the "effective exercise" of three specific responsibilities:

"The responsibility to preserve an open society and the conditions necessary for a free competition of ideas."

"The responsibility to overcome inequities facing specific individuals and groups."

"The responsibility to support research, development, and other 'strategic interventions' necessary for effective service which no other level of government can make," particularly information collection and policy analysis.

As private colleges and universities find it increasingly hard to compete with lower-priced public institutions, the report suggested that "the federal government should give priority to strategies of postsecondary finance, particularly revision of its programs of student aid, which would narrow the tuition differential between public and private institutions without compromising the autonomy or independence of either."

STUDENT AID STRESSED

A member of the task force said, however, that this recommendation was not meant as support for recent—and controversial—proposals that tuition at public institutions be raised to correspond with the much higher rates at most private institutions.

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*No evidence has been developed showing the Republican Campaign was in any way responsible for the 1960 literature described as anti-Catholic.

Rather, he said, the task force meant that serious consideration should be given to such programs as one included in the 1972 higher education legislation which would give federal matching grants of up to 50 per cent to states which allocate increased funds for student scholarships.

Most of the recommendations in the task force's new study mirrored those in its first report, issued early in 1971.

The latest document, however, included somewhat more detail on how the task force's recommendations could be carried out.

It also offered more of a philosophical framework for such recommendations as:

Funneling aid primarily through students, rather than giving it to institutions.

Establishing new, more pragmatic kinds of postsecondary education which fit student needs, rather than trying to fit all students into current institutions.

Attempting to achieve efficiency "through concentration on effectiveness rather than cost."

Reversing the trend toward "centralization of educational decision-making."

Separating the determination of an institution's eligibility for federal funds from the traditional academic accrediting process.

OTHER REPORTS DUE

Within the next month or so, the task force expects to issue separate special reports on accreditation, educational technology, and the regional examining universities that it has proposed to examine individuals and to give them academic credit and even to grant them degrees for "skills and knowledge acquired in a variety of ways."

Other special reports may be issued on teacher education and the role of women in postsecondary education, although a final decision has not been made.

New institutions and increased possibilities for "recurrent" education must be formulated, the task force said, to make the goal of equal access to postsecondary education a realistic goal. Obviously, not all students will function well in the current lecture-hall, term-paper format, the task force said, and institutions must begin to be judged on "the educational value added."

"A community college which helps bring about significant changes in students of lower initial skills should be judged more effective than a prestigious university which does little more than admit able students and graduate them undamaged four years later," the task force said.

UNDEREMPLOYMENT OF GRADUATES

While fully backing the goal of equal access and opportunities for lifelong learning, the task force noted that current projections indicated there would continue to be a "general underemployment" of many college graduates throughout the 1970's, at least in terms of the "traditional expectations" of higher social status and income related to college attendance.

"At current levels of college attendance," for example, the task force said, "each year the economy must absorb new entrants to the job market in approximately twice the proportion as currently exist in the total work force and, in even larger proportion, new entrants who have attended college but are not graduates."

"Compared to other sophisticated societies in the developed world, such as West Germany, Sweden, or Japan, the American economy already absorbs at least twice the percentage of college graduates as the next nation, and again an even larger share of non-graduate college attendees," the task force noted.

While the academic community has always argued that a college education is valuable for both society and the student, the task force said, "behind that rhetorical front there has been a quiet argument for a second value—that of a college credential as a guarantee of a good job, high income and social status," a guarantee that now seems to be disappearing.

A REAL CHOICE

"The fundamental values of a general education have been put forward as useful preparation for a productive life, for social responsibility and for personal fulfillment," the report said. "But if these values are to be the yardstick, then it is essential to insure that academic programs do indeed provide an education that is effective for these purposes. A re-examination and renewal of all of postsecondary education and particularly of liberal education may therefore be the most important agenda item of the 1970's."

Whatever renewal is necessary, the task force appears confident that if students are provided with adequate information and enough financial aid to let them make a real choice, they will be more responsive to economic and social realities than institutions have proved themselves to be.

AVOID INSTITUTIONAL AID

For these and other reasons, the task force sticks to its controversial position that, whenever possible, aid should go to students, rather than to institutions.

The National Board on Graduate Education last June sharply criticized the task force's special report on graduate education, saying its proposal to channel most aid through graduate students overlooked the relationship of graduate education to research, public service, and overall university "vitality."

"We believe both policy and operational considerations indicate that the federal government should stay away from general institutional aid or broad attempts at regulation in postsecondary education," the Newman report said. "If past experience is any guide, either is likely to generate a chain of events capable of inflicting major damage on the educational community."

Copies of the task force's latest report, combined with its original 1971 report, will be available Jan. 2 from the Massachusetts Institute of Technology Press.

Agenda for Reform: HEW Task Force Recommendations

WASHINGTON.—Following is the section of the report, "National Policy and Higher Education," that contains the chief recommendations of the special task force established by the Department of Health, Education, and Welfare that was headed by Frank Newman, director of university relations at Stanford University.

We believe there must be a new concern on the part of the federal government for the effectiveness of American postsecondary education. Throughout this report, we have tried to describe what that can mean in educational terms. In summary, we believe that greater effectiveness in postsecondary education requires moving toward the following:

More conscious and deliberate choices by young people as to whether to go to college, when to go, and what kind of institution or program to attend—aided by the widespread availability of information about the nature of programs and institutions.

Greater opportunity for individuals to return on a recurrent basis to a full range of educational programs.

More focused and more responsive institutions, each of which has a clear purpose and mission—all of which compete for students and resources on the basis of the effectiveness of their educational programs.

A deepening of the effort to translate into educational reality the social commitment that higher education in all its facets is to be available to and effective for all segments of the population—specifically minorities, women, students beyond the traditional college age, and students of limited income.

Increased recognition of and legitimacy for the role proprietary, industrial, cultural, and community organizations can play in providing postsecondary education.

More resources for new educational enterprises and more flexible accrediting so that those with promise will have an opportunity to prove themselves—and more emphasis on the flow of public resources on a competitive basis so that ineffective institutions, public or private, may face the eventuality of demise.

More serious effort to improve the effectiveness of every type of program from liberal arts to vocational training through the clarification of institutional objectives, the development of realistic means to assess achievement of objectives, and better ways to relate the resources used to the objectives attained.

A more open system of education and only such restrictions on the entry to careers based on educational credentials as are needed to ensure the protection of society.

A CONSCIOUS ROLE

We believe the federal government should play a conscious role in helping to achieve these educational objectives. The approach it takes in doing this is critical. Throughout the report, and often in greater detail in the various position papers of the task force, we have proposed specific federal policies, programs, and actions. While each proposal deserves its own careful analysis and detailed description, in summary we propose that the federal government should consider the following recommendations:

In allocating future increases of support to postsecondary education, the federal government should choose forms of assistance which maximize the incentives for institutions to compete for students, and minimize the risks of deliberate or inadvertent federal intrusion into institutional operations. To the extent appropriate in each program, the question "Who gets what?" should be determined by student choice rather than legislative formulas or administrative decisions; therefore we recommend that, wherever feasible federal support for postsecondary education flow to students rather than to institutions.

We believe that greater exposure of students to the productive activities of society outside schooling would help make college opportunities more valued and increase the ability of students to profit from the classroom experience. Accordingly, we recommend that the federal government place increasing emphasis on work-study and internship forms of student aid funding, and undertake new efforts to upgrade the jobs in these programs into significant productive experiences. Specifically, we recommend that 20 per cent of work-study funds be allocated on an incentive basis to institutions willing to upgrade the work component into a significant learning experience.

We further recommend new federal legislation, a "G.I. Bill for Community Service," designed to legitimate breaking the educational lockstep for a period of service in selected national, regional, or local community programs. The benefits, like those of the G.I. Bill, would accrue during the period of service and could be used later whenever the volunteer chose to enroll at a postsecondary educational institution. This program would supplement existing federal student assistance, and extend the concept of service, in addition to need and academic ability, as a legitimate basis for the award of federal student aid.

The issue in graduate education today is not growth, but reform; not the shortage of needed manpower in various fields, but the need for improved training in certain fields. The problems of the 1970's include the under-representation of minorities, the growth of new programs in institutions reaching for "university status" while institutions of acknowledged excellence decline in enrollments, and the lack of innovation and responsiveness throughout graduate education to major social needs. Federal concern, therefore, should shift from the quantity of manpower in various fields to the kind and quality of this manpower.

The interest of students in entering fields of greatest career opportunity, in attending programs of high quality, and in preparing themselves to meet real social needs is substantially congruent with the national interest in reform. Accordingly, we recommend that basic federal support for graduate education shift from fellowship and traineeship funds provided to institutions to portable fellowships, allocated directly to students, together with companion grants to those institutions which students choose to attend.

We also propose that graduate fellowship recipients be selected on broader criteria than grades and tests, criteria which will be indicative of the contribution the student will make to society after graduation. We further propose the use of project grants to assist in the development of more effective graduate programs in social service fields and new areas of concern.

For all students and all types of institutions, there is a need to know if the educational process is effective. In addition, the key to overcoming many of the obstacles to equity, social mobility, and cost effectiveness in postsecondary education lies in the standards and processes by which institutions assess individual progress and award credentials. Present testing and grading methods fail to identify talent beyond the purely academic, and predict mainly how well a student will perform at the next level of schooling—not his performance or contribution to society after graduation. Since the institutionalization of the credit hour as the basic unit of education, the processes of assessment and credentialing have been related more to time than performance.

To meet new needs for equity and excellence, we recommend:

(1) Long-term support for the development of ways, going beyond paper-and-pencil examinations, to evaluate mastery of proficiencies needed for success in various fields of endeavor, and

(2) Support of start-up costs for the establishment of examining agencies capable of awarding credentials on the basis of proficiencies individuals have achieved, regardless of how or where these proficiencies were acquired.

Increasing public and governmental pressure for performance and accountability in higher education has produced some new concern for efficiency in recent years, but has not arrested rising educational costs. Now, colleges and universities face the unpleasant spectre of imposed management controls, such as uniform cost-accounting procedures, which symbolize efficiency but bear little relationship to real increases in educational effectiveness. On the contrary, if such controls introduce rigidities into institutional resource allocation, they can easily impede progress toward increased eduactional effectiveness.

This situation has come about, in part, because of the reluctance of faculty and administrators to recognize its urgency, but also because there is little helpful research on cost effectiveness in higher education. Economists have tended to focus on cost factors, assuming that degrees awarded or incomes after degrees measure the results of education. Psychologists, sociologists, and others interested in personal development have only recently begun to compare the effects of alternative structures and environments on student learning, but rarely in terms of the resources utilized.

Therefore, we recommend that the federal agencies engaged in research and demonstration grant funding such as the National Institute of Education undertake experimental, inter-disciplinary research in cost effectiveness as one of its major higher education initiatives.

Standards of training and competency in many occupations are essential for consumer protection. All too often, however, such standards become the means for limiting entry to careers. To remove unjust and artificial barriers to entering careers, and to the pursuit of recurrent patterns of education and work, we recommend that the federal government adopt a more vigilant anti-trust posture relative to the activities of the organized professions.

As first steps toward a new federal policy, we recommend:

(1) A clarification of federal law and regulatory responsibility as between the Department of Justice, the Federal Trade Commission, and the mission-oriented domestic agencies relative to the activities of non-profit professional groups, and

(2) A thorough investigation, by responsible federal agencies, of (a) requirements for graduation from professionally-accredited institutions as a prerequisite for admission to certifying and licensing examinations, and (b) examination requirements unrelated to the proficiencies needed to protect consumers and successfully practice one's profession.

In many programs, the federal government has delegated its responsibility for determining eligibility of institutions for federal funds to accrediting agencies, which render judgments on the basis of interests and standards which often differ from those appropriate to the national interest. In order to adopt a more neutral and equitable national posture regarding the range and type of institutions and programs capable of providing postsecondary education, and in order to clarify the roles and interests of all parties engaged in evaluating institutions—including the academic professions, regional collections of academic institutions, the states, and the federal government—we recommend that the process of determining eligibility for federal funds be clearly distinguished and separated from the process by which accrediting agencies judge institutional performance.

To this end, we propose a national procedure for determining eligibility based primarily on an institutional disclosure statement that provides more useful information for the potential student and the general public and an administrative judgment that an institution has the capacity to perform its stated mission.

There still remains the important traditional role of the accrediting agencies in assisting institutions to determine how well they are performing their missions. To help develop new skills in this area, we recommend federal support for research and development of performance criteria and new assessment techniques.

To develop the data and analysis needed for informed policy making, we recommend creating a new statistical agency and an upgraded analysis and data collection policy for the Education Division of the Department of Health, Education, and Welfare. Collection of information was the first role assigned to the Office of Education, but today the resources, capabilities, and the support for this task fall far short of comparable federal efforts to generate information for policymaking in economic policy, employment or science. The new statistical agency, designed to establish a new leadership role of the federal government in the collection of educational data, should integrate the policy analysis and data collection functions, now performed by separate units. A revised data-collection policy should include an expansion of the universe of educating agencies on which data is collected and a greatly increased emphasis on longitudinal studies of the effect of different educational environments on students.

In the last two decades, the federal government has spent billions of dollars on efforts to bring educational technology into useful services. Unfortunately, the vast majority of projects has failed to produce lasting applications, despite the generally accepted belief that communications technology should be capable of providing workable solutions to many of the problems that beset education.

We believe the reasons for this failure can be traced to an inadequate understanding of the conditions necessary for the successful application of technology to education; and we propose a set of standards which we believe federal agencies would be wise to use in assessing future projects that envision the use of technology for educational purposes.

The guidelines are:

(1) Educational programs must be planned for specific target audiences;

(2) Educational objectives that are relevant to the needs and interests of a target audience must be clearly understood and agreed upon;

(3) A systematic multi-media approach must be used in which both knowledge and media specialists are employed in the production of materials;

(4) Persons who are capable of learning to use the instructional characteristics of various media must be available or be trained to staff the effort;

(5) Clear and careful provisions for significant personal interaction (both student-student and student-faculty) must be made; and

(6) Evaluation and feedback arrangements must be used to monitor audience reactions and to change the instructional materials to suit learner needs.

Where these standards have been met in the past, projects have been substantially more likely to succeed.

Federal incentives and funding have played a major role in the opening of postsecondary education to minority students. Substantial problems remain, however, and there are indicators that the public commitment is waning. We believe that this country should recommit itself to educational opportunity for minorities.

Specifically we believe the federal government should:

(1) Develop a program of national fellowships at the graduate level with criteria for selection that will aid, among others, many of the talented minority students now completing their undergraduate training; and

(2) Continue the support for black and other ethnic colleges which play a critical role far beyond the numbers they educate, but insure that this funding is focused as an incentive toward helping these institutions achieve a viable and competitive role in postsecondary education without the need for permanent federal support.

Three types of barriers continue to block women from full participation in higher education and the life of society: overt discrimination by admissions officers, employers, and others; institutional barriers, such as rigid residency requirements or inflexible personnel policies; and ingrained assumptions about the role of women in society.

In recent years, the federal government has employed its regulatory powers toward ending overt discrimination. We believe it should continue to do so until such discrimination is eliminated. But continued progress will necessitate greater reliance on financial assistance programs (*e.g.*, work study, co-operative education, graduate fellowships and internships) which can open access to new careers and professions, and incentive grant programs which can overcome institutional rigidities which discourage participation.

Finally, the federal government has various impacts on the role conceptions of men and women. Its significance as an exemplary employer is widely recognized. Less recognized, but also important, is its role as an investor in training, education, and service programs which help establish the values and attitudes society considers important.

For example, if programs in professional education and the social services were to recognize the importance of affective values and attitudes, these services would improve.

Since there is a widespread association of women with many of these values, the role of women would also be held in higher esteem. We recommended, therefore, that the federal government review existing programs of support for training and professional education to consider whether they really prepare individual professionals who are simultaneously skilled, effective, and oriented to the service of others.

There is widespread agreement that the encouragement of recurrent patterns of education should become a new national priority. Yet few agree on what strategies should be employed to finance access to postsecondary education on a life-long basis. Many employers have some provision for financing recurrent opportunities for their employees. The Social Security system, pension funds, unemployment compensation, federal student-assistance programs, and new concepts such as the creation of an educational trust fund have all been put forward in recent years, each with a different set of training, educational, and "quality of life" purposes in mind, and each affecting different constituencies. Accordingly, we recommend that the Secretary of Health, Education, and Welfare commission a comprehensive analysis of these financing strategies, develop a forum for the public discussion of the competing priorities and diverse interests involved, and develop an effective program of financing of students during recurrent periods of education.

We recommend that the federal government initiate a new policy of encouraging states to develop strategies for accountability which rely more on competitive forces and incentive approaches rather than on direct and detailed management of institutions from the level of state systems or statewide agencies. We propose that where both state multi-campus systems and statewide coordinating agencies exist, federal policy distinguish clearly between the two. Specifically, we propose three initiatives:

(1) Federal matching grants to states which undertake student-aid programs which provide funds directly to the student assisting the student to attend any postsecondary institution of his choice to which be can gain admission;

(2) Federal support on a matching basis for state competitive grant foundations, equal to perhaps 1 per cent of the state's annual budget for postsecondary education, designed to provide incentives to institutions and faculties for program development and innovative approaches along lines determined to be in the state interest;

(3) Federal project grants to states for planning and demonstrations of different governance structures and accountability procedures, including experiments in budgeting and institutional evaluation.

Rather than simply funding the establishment of uniformly constituted 1202 Commissions, we recommend selective, demonstration-grant funding for different approaches to the state planning role.

The existence of public and private institutions, competing for students on the basis of the effectiveness of their educational programs, improves the whole of postsecondary education. To preserve the conditions necessary for this competition to continue, the federal government should give priority to strategies of postsecondary finance, particularly revision of its programs of student aid, which would narrow the tuition differential between public and private institutions without compromising the autonomy or independence of either. The vitality of both public and private campuses, their ability to differentiate themselves and the possibilities for creation of new educational enterprises are importantly affected by funds from private donors and foundations. In the reexamination of federal tax policies care should be taken to enhance this flow of funds and encourage a broader participation of the public in educational philanthropy.

Since World War II, federal support has created a vast reward system of resources, legitimacy, visibility, and prestige for institutions and faculties engaged in academic research. We recommend that the federal government now consciously address itself to the creation of comparable incentives and rewards for those concerned with teaching and learning and with the establishment of new educational enterprises. Existing agencies such as the National Science Foundation or the National Endowment for the Humanities should be sources for the expansion of the federal government in this area, as should the activities of two new agencies, the National Institute for Education and the Fund for the Improvement of Post-Secondary Education.

TASK FORCE "GUIDES FOR FEDERAL ACTION"

WASHINGTON.—Following is the section entitled "Guides for Federal Action," from the report of the special task force established by the Department of Health, Education, and Welfare.

On all fronts, not just in post-secondary education, the federal government has found itself dealing with problems of ever-greater subtlety as the role of government has become more extensive and society has become more complex. Determining the effectiveness of a given federal program is becoming harder and harder.

For example, it is more difficult to understand how effective federal aid has been in supporting the evolution of the black college, or what changes have occurred in student life experiences through the University Year for Action, than it was to measure the results of programs of a decade ago aimed at stepping up the construction of new buildings or doubling the annual number of Ph. D.'s graduating in physics.

Yet despite this greater complexity, there is a growing demand on all levels of government for evidence that programs are, in fact, producing useful results, that they are not producing undesirable side effects, and that they are doing this at a cost which makes the investment worthwhile. Failure to demonstrate such results quickly can lead to disenchantment and to demands for more regulations, which, in turn, often leads to larger bureaucracies—a seemingly inexorable and counter-productive cycle.

IMPORTANT STAKES

Both the agencies of the federal government and the beneficiaries of its programs have important stakes in developing more effective means of evaluating program results. It is simply no longer acceptable for those involved to say either, "Leave it to us, we know what we're doing," or "Education is so complex it can't be measured." The process of education *is* complex, but it is possible to generate useful measures. Far too often, the goals of a program are not defined realistically and when they are, frequently *no* attempt is made to measure the results against them.

We do not mean that federal agencies should become mechanistic in their approach to accountability, routinely applying standardized evaluation procedures to each program. In responding to the pressures for measuring results, there should be a healthy skepticism in the application of quantitative analysis to the evaluation process. There is a recurring tendency among those concerned with program evaluation to emphasize those things that can be counted most easily. These measures in turn become normative both for the programs and ultimately for the educational process.

Education lends itself poorly to this approach. There is no single "objective" measure of educational success comparable to return on investment as used by the businessman to measure disparate enterprises on a common scale. There is a great need for evaluation of the effectiveness of federal programs in education, but much to learn about how to accomplish it.

DANGER IN CONSOLIDATION

What the federal government has done best in postsecondary education is to establish programs of student aid and programs of competitively awarded grants such as those for university-based research. For effectiveness and equity in such efforts, the most functional and adaptive system of federal involvement requires a plurality of federal agencies and programs. Our national penchant for simplified organizational structure makes the preservation of such pluralism difficult. It seems so sensible to place all research in the National Science Foundation, all student aid in the Office of Education, and so on.

But there is a danger inherent in bureaucratic consolidation. If all research were centralized at the National Science Foundation, one view of priorities for research might well come to dominate, one set of contacts with researchers could become all-important. It might become harder for certain types of new ideas and new researchers to have a fair hearing.

ANTICIPATION DIFFICULT

It is difficult for any one group to anticipate all of the new avenues to the solution of a problem. Federal roles (and national interests) often conflict with each other. All too frequently the attempt is made to solve all problems with one program.

Instead, there is a need for many focused programs, each effective in its own way, the sum of which matches our national requirements. There are unquestionably too many federal programs in too many federal agencies affecting postsecondary education today. In the drive to reduce the overlap, the needed degree of pluralism must be preserved.

When other federal approaches are employed, such as discretionary grants or regulation, care must be taken to limit the expectations aroused in the Congress, the Administration, and the nation at large. Many times the results are far from those intended. When government regulates, for instance, the regulated often gain control of the regulatory process. Regulation is best used sparingly and reserved for those circumstances where no other means to insure goals of equity is available. The federal bureaucracy is a clumsy and blunt instrument for social action, not readily adapted to delicate adjustments in the education community.

Before action is taken, there is a need for the gathering of information, for analysis, and for debate. For the segment of society supposedly devoted to the practice of scholarship, the statistical data on higher education and the related research studies necessary for planning are embarrassingly thin. Some of the most significant federal programs in higher education have been instituted with little or none of the careful analysis necessary to determine what unexpected consequences might result.

Too often, the organized higher education community itself has stifled debate, preferring the appearance of unanimity to the benefit of open consideration of alternatives. In many areas of postsecondary education, it helps to try out new programs on an experimental basis before support is provided on a widespread national basis. This is true not only for support of new types of institutions now seeking federal aid, such as open universities, but also for system-changing programs which can be tried out on a regional or local basis first. And, as federal programs shift from concern with expanding access to support of experimentation and innovation, there must be an expectation within government of occasional failure.

We believe the federal government is most effective when it uses incentive as opposed to regulatory methods, and specifically that it has been most effective through programs of student aid and programs of competitive research grants. Further, we believe both policy and operational considerations indicate that the federal government should stay away from general institutional aid or broad attempts at regulation in postsecondary education. If past experience is any guide, either is likely to generate a chain of events capable of inflicting major damage on the educational community.

Newman Panel on the Federal Role in Higher Education

Washington.—Following is a portion of "National Policy and Higher Education," the report of a special task force established by the Department of Health, Education, and Welfare and headed by Frank Newman, director of university relations at Stanford University. This section deals with the federal role in higher education.

Federal influence has grown steadily in the post-war period. Both the state and federal share of expenditures have grown until they each now represent about 30 per cent of the total. Any thoughtful analysis of the federal role must, therefore, take into account the role of the states. Theirs antedates the federal role, tracing a lineage all the way back to support for the first American college by the Massachusetts Bay Colony in 1636.

But, historically, the state and federal roles have been very different. Basically state governments have been operators of certain of the institutions of higher education and the federal government has been a funding agency for special concerns.

There has not, however, been a single federal-state division of labor. In university-based research, for instance, the federal is dominant in funding, planning and evaluation, while states pay a supporting role only. In the field of civil rights, federal regulatory powers are used to force institutions and states to alter policies of racial discrimination. In the heyday of construction support, the federal government served as a supplementary funding agency, helping to support hardpressed institutional or state capital budgets.

We believe there should be consciously different federal and state roles and that the relationship should vary depending in the objectives. There are some aspects of postsecondary education where the federal government is the only agency of government charged with the responsibility for action (as in Affirmative Action or R.O.T.C. and others (such as research) where it is the most logical. But there are also roles that we believe to be inappropriate—for example extending its role as a direct operator or as a general patron of institutions.

The federal government should not operate as a 51st state. As federal agencies become more deeply involved in postsecondary education, there is a natural temptation for them to slide into regulation of the organization and operation of institutions (in response to the frustrations felt within the federal government) or into general subsidies (in response to pressures from the colleges and universities). We believe this would be both ineffective and dangerous.

For the public institutions this would mean that federal funds would to a large extent substitute for state funds and the institutions would be left to cope with the regulations of one on top of the other. For private institutions it would mean a diminution of autonomy and an increasing tendency to turn toward the federal government rather than the education marketplace for direction. For the federal government it would mean the need to develop federal standards defining eligibility (with the need for a federally defined credit hour of standard of enrollment) as well as a diversion of its attention and resources from its appropriate roles.

Because American society is dynamic, the federal role in postsecondary education must continue to evolve. More problems are becoming national rather than local or regional as society becomes more complex and Americans more mobile. Federal involvement will likely continue to increase. In light of the changing nature of the problems, it is important that there be a federal role that is effective without imposing a new level of bureaucracy on the American educational community.

THREE RESPONSIBILITIES

The foundation for a new federal role in postsecondary education exists in the more effective exercise of three responsibilities:

The responsibility to preserve an open society and the conditions necessary for a free competition of ideas.

The responsibility to overcome inequities facing specific individuals and groups.

The responsibility to support research, development, and other "strategic interventions" necessary for effective service which no other level of government can make.

ROLE NO. 1: GUARANTEEING OPENNESS AND COMPETITION

The federal government has historically and for most sectors of society established the ground rules designed to preserve options for individuals and competitive conditions for institutions. Thus, in regulating relations among private economic groups, the federal government plays the leading role in restraining monopolies which threaten to destroy the competitive conditions of the marketplace. On behalf of minorities and, more recently, women, the federal government has intervened to begin to lessen discrimination in all facets of our society.

Now, in education, new expectations and changing conditions have given rise to a new set of issues. Financial, legal, and academic barriers continue to restrict the movement of individuals from institution to institution. Many of these, including admissions policies, non-transferability of credits, and lack of articulation, are beyond the pale of legitimate federal regulatory action, though they may be subject to federal incentives. Others, such as tuition requirements for out-of-state students, are matters with which the courts are now struggling to define appropriate roles and responsibilities.

But some restrictions, including many of the limitations on where and when students may use federal student assistance, are federally imposed and can and should be removed forthrightly. In most instances, the direction of movement is toward openness.

In the case of movement from education into productive roles in society, however, things seem to be becoming more restricted. The trend, shaped largely by the roles which self-governing professions and occupations play in establishing certification requirements in various fields, is toward arbitrary increases in the number of years of schooling required for entry into a career. Here, therefore, we believe there is a need for a more vigorous federal role with regard to the activities of accrediting and licensing groups.

CONDITIONS CHANGING

The conditions under which institutions can compete on the basis of the effectiveness of their educational offerings are also changing rapidly. Two primary trends emerge. First, private institutions are rapidly losing the capacity to compete with the lower-priced public institutions. Second, the new powers of higher education—the multi-campus systems and the statewide coordinating and governing boards—are, without necessarily intending it, reducing the degree to which public institutions compete with one another and with private institutions.

The federal government, we believe, has an important role to play in all of this. It should help, not in supporting private institutions as institutions, but in preserving conditions under which they can compete effectively with public institutions, for the good of the entire educational community. Similarly, in view of the expanding domain of postsecondary education, the federal government should be concerned with establishing ground rules for fair competition so that the process of education is not needlessly confined to a single class of institution.

With regard to the development of multi-campus systems, the federal government faces new and untried issues.

AN ANTI-TRUST AGENT

In a number of states, the consolidation of public campus control and the competitive pressures on private institutions may soon create a new problem. Is there a danger that they will become higher education monopolies? Should nonprofit conglomerates which provide social services be treated differently from profit-making conglomerates providing goods and services in the market economy?

We believe that the federal government will have an increasingly important role to play as an agency of anti-trust in education. A philosophy of anti-trust need not mean that the federal government confronts such issues on narrow legal grounds, or that its approach toward state agencies be a negative one based primarily on regulatory remedies. Rather, in its posture toward federal-state relations, we believe the federal government should assume a new role—that of creating incentives which will encourage state agencies toward openness, flexibility and competition *within* their systems.

Too often in establishing procedures for interacting with the states, federal attention has been devoted primarily to organizational tidiness and bureaucratic convenience. The federal government has attempted to insure that there are state agencies to administer federal programs, representation from all segments of higher education, a state plan for postsecondary education, and lately "comprehensive" state planning.

Little attention has been focused on the impact these decisions have on the educational community, on whether the state planning that has resulted matches federal objectives, or whether it results in more effective education for the student. Attempts to control state action through mandated planning often result in a planning process that becomes primarily a vehicle for capturing a larger amount of federal grants rather than serving as a true measure of educational needs. Programs tend to become uncoupled from the reality of the campus, resulting in such problems as the recent overbuilding of dormitory space.

OPPORTUNITIES FOR FEDERAL PROGRAMS

Yet there are opportunities for federal programs that both aid state agencies and encourage institutional and individual autonomy. For example, it is possible to devise programs which help separate the management role for the multi-campus system from the coordinating and planning role of state coordinating agencies. The latter need real powers to influence institutional behavior without becoming another layer of institutional management concerned primarily with the organizational or financial problems of the institutions. Potential federal approaches include funding incentives that encourage a coordinating agency focus on the student's and the state's needs for education, such as:

Matching federal funds for state scholarship and fellowship programs.

Partial federal support for a state fund for project grants to support innovative educational programs in public or private institutions (equal perhaps to 1 per cent of the state's budget for postsecondary education).

We also believe that federal programs that fund students directly should take into account some part of the difference in institutional charges so as to allow students a greater choice, encouraging responsiveness to public need by the individual campus, whether public or private, with less need for central direction.

ROLE NO. 2: EFFORTS TO EQUALIZE OPPORTUNITIES

The federal government has played a major role in equalizing opportunities.

Federal student aid has assisted millions of students from low-income families. Federal regulatory efforts have been employed against the discrimination against minorities and women. Programs such as Upward Bound, Talent Search, and Special Services for the Disadvantaged support efforts to recruit educationally disadvantaged students to college and then help them adjust to college environments. Direct institutional assistance, such as the Developing Institutions Program, provides additional resources to institutions serving high proportions of minority students.

Nevertheless, the principal thrust of these programs remains that of a strategy of access supplemented by a strategy for changing the attitudes and skills of the incoming students to increase their chances of survival in the institutions they attend. Even taking into account special programs such as veterans' early entry, black studies and other cultural-awareness programs, or special tutorial and support services, it remains an inescapable fact that the basic forms and process of postsecondary education have changed little to meet the needs of these new student populations.

STUDENTS ADJUST TO COLLEGE

With a few notable exceptions the students have been expected to adjust to the college rather than the colleges changing in fundamental ways to accommodate to the needs of the student.

While many students will continue to benefit from existing federal policies and programs, the limits of this approach must now be recognized, and more basic structural innovations undertaken in behalf of new categories of students.

For capable but "non-academic" students more concrete, task-oriented modes of learning must replace the passive, abstract style currently institutionalized in most colleges and universities.

For students who are talented but not at ease with the dominant culture and the institutions which transmit that culture, as for example many native Americans or inner-city blacks, new institutions must be developed which will turn the students' cultural traditions into an educational advantage.

For the many talented women students who are barred from effective opportunities by the time and place requirements of contemporary education, alternative structures and new means of finance must be devised.

Thus, we believe there should be a new federal role in supporting a second generation of effort in providing opportunities to American citizens, just as once, 110 years ago, the federal government provided the incentives for the creation of the land-grant colleges to meet the needs of a new student population.

ROLE NO. 3: STRATEGIC INTERVENTIONS FOR EDUCATIONAL EFFECTIVENESS

Some tasks are best accomplished *nationally*, through federal action, because no other level of government has the perspective, capacity, or leverage to perform them.

Information collection, policy analysis, and program evaluation are all tasks which call for increased and much improved federal action. As to information-gathering, it is easy to forget that from 1867 to the late 1950's the principal role of the Office of Education was "to collect such statistics and facts as should show the condition and progress of education." Congress strongly reaffirmed that role in the 1972 legislation but at the same time the budget for statistical work was cut without a clear appraisal of the need for adequate information for policymaking.

We believe that in examining the "condition and progress" of post-secondary education, the range of programs that should be included, the depth of analysis required and the scope of debate needed far surpass the historical and current role of the Office of Education.

In research and development, another traditional federal role, past federal efforts have been slender and not always focused on key problems. Information is needed on almost every pedagogical and management issue—how do students learn, why and under what conditions; what result does learning have on their future or society's progress; how are resources used and to what effect—a lengthy and urgent list. This deficiency has now been recognized and a new initiative has been undertaken with the establishment of the National Institute of Education.

Experimentation and demonstration, as well as funding of new ideas and practices, are also tasks which the federal government is often uniquely able to perform. National perspectives are often needed in the evaluation of projects; national as against regional or local competition is often required for proposals of high quality; and national incentives are required for investments in many areas. Thus, breakthroughs in effectiveness—including new measures of assessing student performance—are tasks which will require, in our judgment, greater federal initiative.

SENSE OF LEGITIMACY

Finally, while not often the direct and explicit purpose of federal programs, the power of the federal government to attract attention to an issue or to provide a sense of legitimacy for ideas or institutions cannot be overlooked. The public statements of federal officials, the debates of Congress, or the reports of federal commissions create issues for the entire country to consider. Federal operations, such as conferences, consultantships, and other forms of involvement, confer status and rewards so that a federal concern for effectiveness in teaching will help to reinforce growing campus efforts to create a reward system for teaching excellence. Even low-budget federal programs, such as the program for language and area studies, can legitimate, as no other social force can, the importance of certain issues with a multiplier effect throughout the nation.

The federal government can be a catalyst and a source of leadership for reform and innovation, or it can be a powerful force for negativism and retrenchment.

MAJOR SOURCES OF INCOME FOR COLLEGES, UNIVERSITIES, AND PROPRIETARY EDUCATIONAL INSTITUTIONS, 1971–72

[In billions]

Sources of income	Institutional support	Student aid	Total support	Percent of total
Student payments for tuition and other fees	$10.6	$(4.2)	$6.2	20.8
State and local government	8.8	.3	9.1	30.5
Federal Government	4.6	3.7	8.3	27.9
Gifts and endowment earnings	2.5	.2	2.7	9.1
Auxiliary enterprises and other activities	3.5		3.5	11.7
Total	29.8		29.8	100.0

Source: Data of the National Commission on the Financing of Post-Secondary Education as published in "National Policy and Higher Education," the report of a special task force established by the Department of Health, Education, and Welfare.

ADDRESS BY CARMEN R. MAYMI, DIRECTOR, WOMEN'S BUREAU, U.S. DEPARTMENT OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION, BEFORE THE FIRST SOUTHWEST REGIONAL BUSINESSWOMEN'S CONFERENCE

Mr. DOMENICI. Mr. President, on November 2, I was honored with an invitation to attend the first meeting of the Southwest Regional Businesswomen's Conference in Albuquerque. At that meeting, Ms. Carmen R. Maymi, Director of the Women's Bureau within the Department of Labor, gave some remarks which impressed me very much. I believe the remarks indicate progress but also indicate that we as a Nation must move ahead faster and with confidence that our women can have the right to contribute as business people.

Mr. President, for the past few years, a movement has swept the country—a movement which demands that we all redefine our attitudes regarding sex roles in our society. No longer are irrational myths to be used as an excuse for sexual discrimination. One battlefield on which the old myths are losing the fight is in the business arena. Economic equality surely heads the list of possible arenas where myths should die and it was to this end that Ms. Maymi spoke.

Statistics show that women have been discriminated against in the business world, but women wishing to become independent businesswomen face unique difficulties and hurdles. These difficulties only begin with bank loan privileges, as attitudes of fellow businessmen and employees also act as unnecessary stumbling blocks to success.

Ms. Maymi's remarks outlining the difficult areas and possible roads to success acted as an inspiration to me. I feel that all my colleagues will benefit from her views.

There being no objection, the speech was ordered to be printed in the RECORD as follows:

ADDRESS BY CARMEN R. MAYMI

I am most gratified that you have asked me to address this conference which focuses on women as business operators and owners. The Women's Bureau, as you may know, is concerned primarily with the welfare of wage and salary workers under a Mandate from Congress. However, we in the Bureau sometimes receive letters from women who have businesses of their own or who want to start their own businesses and we find that many of their problems are similar to those of women employees.

The common denominator is sex discrimination, for the same factors that keep women out of business enterprises also keep them out of the top jobs that lead to ownership or proprietorship. The same myths about women in the world of work, whether they work for themselves or others, serve as barriers to their economic progress.

The simple fact is that society has not faced up, realistically, to the fact that women are enlarging their role in the economic life of the nation and they have come to a point where they realize their potential and demand equal rights and responsibilities in commerce and industry, in politics and government, and in social and cultural development.

The first hurdle women have to face is a matter of attitudes. Many men and even some women still feel that women's place is in the home. That is a lost cause. In April 1973 there were some 32 million employed women in the Nation, and of those, 368,000 were self-employed managers and administrators. This last figure probably does not tell the whole story but the Bureau of the Census is planning a survey of self-employed women that will give us a more accurate picture by 1974. But the figures indicate how many women have moved out of the home and into the market place. The fact remains that more than 44 percent of all women 16 years and older are in the work force. This percentage is up from 33 percent in 1960 and it is expected to reach 46 percent by 1985. So women workers are here to stay.

The trouble is that most wage earning women are concentrated in low skilled, low paid jobs. Few advance to top management jobs that might prepare them to go into business for themselves or advance to head the firms in which they are salaried employees.

Here again attitudes are a factor. Employers still complain that women are not as capable as men and they are afraid to advance them into executive positions. Similarly, many banks, loan agencies, wholesalers and others with whom business women must deal, are not convinced that women are capable of running a business and they are afraid to loan them money or extend credit to them.

Actually, studies have shown little difference in the capabilities of men and women. A survey by the Johnson O'Connor Research Foundation, for instance, revealed that of the 22 aptitude and knowledge areas measured, there were no sex differences in 14; women excellent in 6 (finger dexterity, accounting aptitude, persuasion and verbal fluency, observation, silograms, and abstract visualization); men excelled in 2 (grips and structural visualization.)

Another myth all women who work have to contend with is the idea that men don't like to work for women and that business men, clients and customers object to dealing with women. There are no solid facts to prove such contentions but there are studies that indicate quite the opposite.

Women have another handicap in that few have had the kind of education that prepares them for excutive and managerial work, whether for themselves or an employer.

In the 1973 Economic Report of the President, where there is for the first time in history a chapter on the Economic Role of Women, we find some significant data on the trends in the education of women. In 1971, for instance, 50 percent of all high school graduates were women, as were 45 percent of all first year college students. In the same year, 44 percent of all bachelor's degrees, 40 percent of the master degrees and 14 percent of the doctorates went to women.

However, women tended to major in English, languages, and fine arts rather than in subjects geared to business and the professions. In 1970, women earned only slightly more than 9 percent of the baccalaureates in business and just under 4 percent of the master's in business. Only 8.5 percent of the M.D.'s and about 6 percent of the law degrees went to women.

So you see, few women come out of school prepared for a career in business. Some, lacking an educational background in business management turn to continuing education programs to get the training and know-how they need. Most community colleges as well as universities and business schools offer courses that would be useful to someone planning a career in business. Many such courses are scheduled at night or on Saturdays when women workers or homemakers can attend.

Experience is, of course, a great teacher and some women who go into business for themselves can fall back on years of experience as salaried workers during which they learned the business from the ground up but never had the opportunity to advance to head of the firm unless they inherited it from a father or husband.

One type of self employment that appeals to large numbers of women is that carried on in the home. Often little is needed except a specialized skill or aptitude. Sewing, typing, cooking and baking, and handicrafts all lend themselves to this type of operation. Sometimes small beginnings lead, eventually, to a large scale business. These kinds of enterprises appeal particularly to women with small children and to older women living on small pensions who find it difficult to work outside the home.

They sometimes write to the Women's Bureau for information and we have prepared a simple fact sheet on "What You Should Know About Offerings to Make Money At Home." We are particularly careful to warn them that many "make money at home schemes" are fraudulent and should be checked out with chambers of commerce, better business bureaus or similar sources. We also send them bibliographies available from the Small Business Administration and refer them to that agency.

Actually, employed women have more legal protections against sex discrimination than women in business do. The Equal Pay Act assures that they get the same pay that men do if they perform substantially the same work. Title VII protects women against discrimination in employment because of sex, and Executive Order 11246 As Amended prohibits sex discrimination in employment under Federal contracts and subcontracts. Revised Order Number 4, issued by the Secretary of Labor to implement Executive Order 11246 requires employers to establish affirmative action programs, including goals and timetables for recruiting, hiring, training and promoting women. This last Order is the most likely to benefit women who want to go into business for themselves, for it means opportunities for training and advancement to executive positions are opened to them so they can gain the experience they need to operate a business of their own.

A major piece of legislation that would benefit both employed women and independent business women is the pending Equal Rights Amendment to the Constitution. It states simply that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

One reason the Amendment is particularly important to women who want to go into business for themselves is that it would nullify State laws that require married women but not married men to go through a formal procedure and obtain court approval before they may engage in an independent business. State laws placing special restrictions on the legal capacity of married women or on their right to establish legal domicile also would be unconstitutional.

The Amendment has been approved by Congress and ratified by 38 States. We still need ratification in 8 more States before the Amendment becomes law.

The woman's movement as a social force to achieve economic, social, civil and political equality for women is having a terrific impact on our society. More and more opportunities are being opened to women and they are being given a voice in policy making in business, community life and government.

Of course, discrimination against women still exists. And minority women are the victims of double discrimination—because they are women and because they are minorities; sometimes a language barrier subjects them to a third kind of discrimination.

I know your program includes speakers and resource people from the Office of Minority Business Enterprise and I will leave to them the subject of what government is doing in an effort to help minority business women. The Women's Bureau is focusing many of its programs on improving the status of minority women workers and I am sure that our efforts will be reflected in improvements in the status of minority business women.

However, government cannot solve the whole problem. Women must help each other. That is why conferences such as this one are so important. Many women here have achieved success as business women. Other women look to them as role models, as teachers and advisers.

Women who are successful have a responsibility to the women who are on their way up the ladder. They should stretch out a helping hand to those who hope to be independent business women, like themselves, but they should also remember the women who work for wages—perhaps their own employees.

We tend to think of men employers as the chief exploiters of women workers. But I wonder if all women employers are careful to see that the women who work for them have equal opportunity for training, and advancement—equal pay and equal benefits.

I wonder, too, how many successful business women take the time to serve on boards, commissions, and other policy making bodies in the community. How many run for public office? How many let their State legislators and Congressional representatives know how they feel on women's issues.

What I am saying is—we are all in this together. We must work together as women—business women, legislators, salaried employees and home makers to give greater visibility to the needs and rights of women and to give concerted, powerful support to measures to correct the inequities.

TAX INCENTIVE TO HOMEOWNERS WHO INVEST IN ENERGY-SAVING HOME IMPROVEMENTS

Mr. HUMPHREY. Mr. President, last week I was absent on official business as a congressional adviser to the U.S. delegation to the biennial Conference of the U.N. Food and Agriculture Organization. Therefore, I was unable to voice my strong endorsement of Senator Moss' amendment—No. 649—to S. 2589 the energy conservation bill. This amendment would provide a financial incentive for private homeowners who invest in any of a wide variety of energy-saving home improvements.

Before my departure, I had seriously

considered introducing similar legislation. I wholeheartedly endorse the Moss amendment and feel it will be an effective incentive toward energy conservation in the home.

Today, the Consumer Economics Subcommittee of the Joint Economic Committee, which I chair, heard testimony reinforcing the desirability of such an incentive system and specifying the energy savings that would occur.

One industry witness noted that 50 percent of our existing homes waste one-third of their fuel supply simply because of inadequate insulation in our homes. Certainly the incentives called for in amendment No. 649 to S. 2589 must be enacted and the big fuel savings that are possible, realized.

I ask unanimous consent that today's testimony of Mr. George J. Haufler before the Consumer Economics Subcommittee, be printed in its entirety in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

INSULATION AND THE ENERGY CRISIS

Gentlemen, during the past several months, the people of this nation have been told they may not have enough fuel for their homes and cars, and to support our industries and jobs. We have been warned that we may have to pay exorbitant prices for those fuel supplies which do exist. We have been instructed to drive less, to heat less, and to air-condition less. We have been threatened with school closings for lack of heating fuel and plant slowdowns to conserve energy. We have heard of a "fuel gap"—the difference between our production and our needs.

In short, the specter of potential shortage threatens to affect every aspect of our daily lives.

Virtually all of the programs proposed to reduce our fuel consumption have one thing in common . . . sacrifice. Yet, there are other actions that *can* be taken which do not compromise our standard of living and still enable the ordinary citizen to help ease the Energy Crisis: I refer to energy conservation.

I suggest that, while asking our citizens to cut down on such essential uses as home heat, we focus at the same time on more efficient uses of the fuel which is available. Today I am going to address myself specifically to the question of fuel used for home comfort.

(Incidentally, for simplicity of presentation, I have followed several ground rules. While I make reference to total fuel consumption, the detailed statistics have been related to the heating side of residential fuel usage, since this is the preponderant consumption portion, and is our immediate winter concern. Air-conditioning energy impact is similar and has been included into the summary totals. Secondly, all energy units are expressed in oil equivalents. Thirdly, since insulation is the greatest contributor to fuel conservation, we have confined the savings discussed to those from added insulation. Double glazing, storm windows, storm doors, and weatherstripping can also make a beneficial contribution to reduced fuel usage. These, in combination, can save as much as ⅓ more. Statistics on these savings are shown in a separate exhibit which is available for your information.)

In 1970, 14% of our energy was consumed within the home . . . and over ¾ of this was used for space heating and air conditioning. By 1985, the total fuel consumption in the United States will have doubled, and at current rates, the home comfort uses will have increased by at least 50%.

This increase in usage will certainly keep pace with—and very probably exceed—any increase in fuel supplies. However, it *is* possible today to cut fuel usage without reducing comfort, and to do this at a minimal cost in both energy and dollars.

INSULATION REDUCES HOME FUEL CONSUMPTION

Most of our homes are heat sieves.

A vast amount of the heat generated immediately leaks out through the walls and roof and is lost. Our furnaces work overtime to produce warmth which largely rises to—and out from—our attics. More heat can be saved by proper insulation than by any reduction in thermostat setting that people will tolerate. A fully insulated house can be kept at a comfortable 72°F with no more fuel expenditure than is required to keep a poorly insulated house at a chilly 61°F!

Fifty percent of our existing homes waste one-third the fuel supplied to them just because they are uninsulated. Although the remaining residences have varying degrees of insulation, added together we are needlessly squandering over 20% of the total fuel supplied for home heating—because of lack of proper insulation.

Although FHA insulating requirements have recently improved and are moving toward fully adequate standards, most of today's existing homes and a vast majority of new homes now under construction fall far short of those levels.

I know you are concerned above about quantities, so let me break this down another way. The average uninsulated house of 1,600 sq. ft. of space wastes 700 gallons of fuel oil each year. While partial insulation helps, some 200 gallons of fuel oil or more will still be wasted because of the lack of full insulation.

INSULATION PAYS FOR ITSELF

The dollar cost to the homeowner for insulation is quickly paid back in fuel savings. A typical four-bedroom house, with 1600 sq. ft. of living space, can have the ceilings and walls fully insulated while under construction for $325.00 and generate a payback in two years! A handy homeowner who wants to add insulation in the attic of his existing house can do it in one afternoon for $100 to $200, armed only with a sharp knife and the sure knowledge that his fuel bills will go down. An insulating contractor can do the same job of saving energy and money for the homeowner—for about 50% more—still a reasonable sum when the work pays for itself in two to five years. These savings statistics are for a home in the geographic center of population in the United States. In colder climates like Minnesota, this payback would be as quickly as one year.

The contrast between existing waste and potential savings is startling. That typical 1,600 sq. ft. single family home is consuming 50% more fuel than it would if only 6" of attic insulation were added! A professional insulation contractor or a do-it-yourself homeowner can install 6" of attic insulation in an existing home in one day. This single change not only pays for itself in fuel savings in a short period, but if implemented promptly on a broad scale, would bring about a large reduction in the "fuel gap" in a relatively short period of time.

Adding attic insulation to our existing homes is especially attractive because:

A. The attic is the most accessible space; easiest to insulate.

B. It produces the greatest savings effect, typically over 2/3 of the total savings that can be achieved by insulation.

C. The number of existing homes is so high.

D. Payback to the homeowner is so attractive.

FUEL ALLOCATION CAN WASTE FUEL

All of these energy savings are available only if sufficient quantities of insulation continue to be available . . . a situation which is now seriously jeopardized by the scarcity of fuel and fuel derivations employed in the insulation manufacturing process.

The Federal Government is currently implementing a fuel allocation program to all American industries, including the insulation industry, which threatens to worsen the Energy Crisis almost immediately by shutting down insulation plants.

The insulation industry is unique, in that it is a net *energy conserving* industry, rather than an energy consuming industry. A properly insulated house saves in each and every year of the building's life, *twenty times the amount of energy required to manufacture the insulation.*

In just eighteen days, the energy investment by the nation to provide insulation is paid in full: In thirty years the savings mount to a phenomenal 600 times the original energy manufacturing expenditure! Can you name any other investment which guarantees a 5% return per day *each day* for thirty years or more?

While this payback itself should clearly demonstrate the necessity to keep our insulation plants running, fuel curtailments, and particularly interruptions, make the problem even worse by multiplying the energy wasting impact. To show the critical nature of uninterrupted energy supply, let me explain to you how insulation is made.

The manufacture of insulation, like that of steel, is a high temperature furnace process, but carried on continuously at 2700°F, seven days a week, 24-hours a day. There is no way, with current technology, that insulation can be made in furnaces operating at below the required process temperature. Under certain curtailment circumstances, furnaces would be "banked" to an intermediate temperature of 2100°F, and then have to be idled hot for enough days out of every month to achieve the mandated fuel savings. To stop the furnaces entirely would mean that the materials inside them would harden into glass, and the furnaces would have to be stripped down and laboriously cleaned before they could be restarted.

In moving to "hot idle," temperatures must be reduced gradually, and 50% down to 30% of full fuel input is required. This fuel is completely wasted. Additionally, the time for cool-down and start-up amounts to six days.

Cooling the furnace down completely from 2700°F takes even more time: seven days to cool down and nine days to heat up; a loss of sixteen days.

A sudden curtailment of fuel would destroy the furnace from thermal shock. Eight months of production time would be lost to secure the materials and reconstruct the furnace.

For small reductions in energy, there is a disproportionately larger loss in insulation capacity. For instance, a 10% reduction in energy would result in 15% reduction in output; a 20% reduction in energy would mean a 30% reduction in output . . . and with 30% reduction in energy, insulation production is stopped completely in gas and oil fired furnaces.

This is not a 1975 or 1985 question. A fuel curtailment today would start a perpetual 5% daily drain on the nation's energy bank this December which is compounded daily thereafter.

ALLOCATION MUST RECOGNIZE THE NATIONAL NEED

Let's look at national needs.

This nation will be adequately housed, and construction will continue regardless of the availability of insulation. Family formations alone demand 2,000,000 new units a year.

What happens if insulation production for these new units is reduced so there is not enough insulation to go around? Simply, these new houses, instead of being fully insulated, will be underinsulated—and, in some cases, inaccessible spaces will remain uninsulated forever.

Instead of returning 5% a day to the nation's energy bank, as insulated homes, they will be withdrawing 5% a day from the bank, as uninsulated homes.

With such a large potential of waste that can result from the unavailability of sufficient insulation, I must ask you for relief from fuel restrictions which will be counterproductive when placed on the insulation industry. Such restrictions, in our opinion, would be a penny-wise/pound-foolish policy guaranteed to *increase* energy shortages. While I recognize that energy regulation is a new undertaking, to date the necessity of energy conservation through continued insulation production has not been given any recognition in the allocation of energy supply.

CORPORATE ACTION FOR ENERGY CONSERVATION

Certainly energy conservation is everybody's business, and our own experience indicates that industry can make a significant contribution. We believe this starts at the top by adopting a Corporate policy to stimulate energy conservation within the company. We did this at Certain-teed many months ago, and our internal program consists of three major elements.

1. A specialized management and technical effort directed toward fuel conservation and efficiency improvement programs at the plants and headquarters.
2. The enlistment of broad-based employee support for suggestions and cooperation in implementing job-related energy conservation activities.
3. An educational program for our employees to stress conservation activities in their personal lives and influencing others within their communities.

Following the first phase technical effort, we developed the "Certain-teed Energy Savers Group" to involve all our employees and make each of them an activist Energy Saver at work, at home, in transit, and in the community. This phase of the program is now being implemented in all of our plants to involve over 10,000 employees in such programs as:

Displaying energy-saving bumper stickers, window decals, buttons, and other local promotion material provided;

Savings bonds awards for outstanding energy-saving performance and ideas;

Magazines and a monthly newsletter about the Energy Savers activities throughout the company—and the nation.

A key executive was appointed whose sole responsibility is to coordinate the Energy Savers Program, and outside consultants were engaged.

We have set an objective of 15% reduction in our energy consumption. While this is greater than the national business objective, I am convinced that with this concerted effort, we will achieve at least that goal.

INSULATION CAN OFFSET THE ENERGY SHORTAGE

Now let us examine the quantitative national effect of inadequate insulation versus upgraded and full insulation on the demand for residential energy a few years hence.

As soon as we can add attic insulation to most of our existing housing inventory, 600,000 barrels daily can be conserved. Upgrading to full insulation in new houses to be built in 1974 alone can conserve about 65,000 barrels of oil per day. Each year a similar number of new homes constructed will add similar savings. Starting from the 1973 savings of 65,000 barrels per day, by 1983 the savings in this housing sector will amount to over 600,000 barrels per day.

The balance sheets looks like this:

Existing homes without insulation will require 2.7 million barrels of oil per day. With beefed-up attic insulation, this requirement is reduced to 2.1 million barrels per day.

New homes built after 1973 using current insulation practices will require 1.7 million barrels per day. New homes with full insulation will require only 1.1 million barrels per day.

Total residential heating requirements as they stand now can be as high as 4.4 million barrels per day, but with upgraded conservation efforts, this figure can be reduced to 3.2 million barrels per day, a savings of over 25% of our sizeable residential needs.

Estimated dollar savings to homeowners for heating alone during the decade would total up to $40 billion. So the sooner we move, the closer we approach this goal.

At this point we can add energy savings on air conditioning that result from these same insulation practices. Conservatively, over 200,000 additional barrels per day will be saved for a grand total reduction of 1.4 million barrels daily.

HOMEOWNER AWARENESS AND ASSISTANCE

I have asked you for relief from fuel restrictions to the insulation industry. Now I would like to ask you to consider assistance or incentives for the already overburdened homeowner.

It has long been national policy to encourage businesses to invest in the future of America: I am urging a policy which will encourage American homeowners and builders to make the same kind of investment.

Today, if a man chooses to insulate his new or existing house, he faces financial problems because of increased initial costs. True, he will recoup his investment in fuel savings during the next few years—but today is when dollars are tight and today is when he must spend the money, and today is when he must begin paying interest if he borrows the money, as so many are forced to do. And today is when he may be rewarded by his state and local government by having his house reassessed upwards and seeing his taxes go up—all because he tried to do his bit toward easing our critical energy shortage.

May I suggest a program of incentives enabling American homeowners to make this necessary investment in America's energy future. Such a program might include:

1. Tax credits for a portion of the interest payments on home improvement loans for this worthwhile purpose;
2. Federally guaranteed low-interest loans, fully subordinated to the principal mortgage;
3. Tax investment credit for all or part of the cost of the insulation.

In addition to these incentives, mandatory Federal and State standards requiring full insulation for all new construction are necessary to replace present standards which apply only to FHA financed housing.

Federally funded broad-scale consumer awareness programs to alert homeowners, builders, and others to the energy and cost savings associated with proper insulation, double glazing, storm windows and doors, and weatherstripping are also necessary.

These are a few possible suggestions; you Gentlemen of the Congress will certainly have others.

The cost to our Government would be minimal; the benefits, enormous . . . It would reduce our peak as well as our average energy demands; reduce and help to eventually eliminate our dependence on foreign sources for fuel, and of course, benefit the balance of payments problem which concerns us all.

And, not to be forgotten, is the benefit to our environment. Energy conservation pays a big dividend in helping to clean up our environment by reducing the total consumption of polluting fuels.

CONCLUSION

In the interest of time and clarity, I have focused on residential requirements and have not discussed the similar energy savings from proper insulation in the nonresidential sector. Because of the greater diversity of energy uses within the mechanical systems and structures of commercial and industrial buildings, as well as in piping of the process and utility industries, this potential savings is much more difficult to quantify, but an extremely conservative estimate is that it is 50% or more of the residential savings already outlined.

The total energy savings available simply through good insulation practices is over 2 million barrels per day. Since this represents a significant percentage of our total energy requirements and a much larger percentage of the total energy gap . . . and as a frame of reference is greater than our current total dependence on Middle East oil . . . these programs must be aggressively pursued.

We need not wait for new technology; there is no hardship or sacrifice; and the effect can generate nothing but the many favorable benefits outlined.

Gentlemen, to achieve all of these benefits, it is imperative that:

1. Insulation as an energy conservation industry be guaranteed the necessary supply of fuel and fuel derivatives to remain operative.
2. The programs for awareness and support by the Public Sector be encouraged by your leadership and direction.

I thank you for your attention, and of course, I am available to you now and at any time in the future to help answer questions and provide research information on these matters.

RECOGNITION OF THE ACHIEVEMENTS OF NEW MEXICO 4-H'ERS

Mr. DOMENICI. Mr. President, I am most pleased to print for the RECORD the New Mexico winners named in 24 national 4-H awards programs. Winners, judged on the basis of their achievement, leadership, and personal development in 4-H, were awarded prizes ranging from trips to the National 4-H Club Congress in Chicago this month to savings bonds, radios, certificates, and chances to compete with winners from other States for prizes. Prizes were provided by individuals, private business, and industry and were given to both individual 4-H members and 4-H clubs.

It is my feeling that youth programs such as 4-H illustrate what fine results can be achieved by young people when they are properly motivated and what strong character can be built when youngsters are encouraged to participate in home, school, and community programs. It is my pleasure to congratulate the following individual 4-H winners:

Bernalillo: Darrell Brown and Connie Rein; Catron: Gwynet Hollimon; Curry: Ozena Crosswhite and Bill Locknane; DeBaca: Richard Vaughan; Dona Ana: Elizabeth Cosimati and Becky Jameson; Eddy: Mike Prude, Janet Kemp, and Jackie White; Hidalgo: Loretta Payne; Lea: Jack Duffey and Emma Johnson; Otero; G. B. Oliver III; Quay: Sharon Block, Katherine Hudson, and Tamara Curtis; Rio Arriba: Orlando Sanchez and David Redman; San Juan: Darren Bell, Todd Offerle, Connie Oldfield, Dinna Sheppard, David Woodall, and Tara Harper; Santa Fe: Dean Slade Amiday and Arthur Roybal; Torrance: Amy Bigbee and Diane Bigbee; Union: Owida Crites; Valencia: Marlene Reid.

PUBLIC BROADCASTING IMPROVES AMERICA'S HEALTH

Mr. HUMPHREY. Mr. President, each year, thousands of Americans die needlessly. They die because they do not know what to do to prevent disease. They die because they do not spot early warning signals and do not seek medical attention until it is too late. They die because they do not know where to go for treatment or because their hospitals and clinics are not equipped to give them the kind of treatment they need.

Tonight, public television is beginning a major new health series that I believe will help prevent many of these needless deaths.

The series is called "The Killers." But it is not about dying. It is about living and staying healthy. The five 90-minute documentaries in the series examine the medical conditions that cause three out of every four deaths in the United States today. Tonight's program covers heart disease. Subsequent programs will examine genetic defects, pulmonary disease, trauma, and cancer.

The programs, I am told, will explain how to avoid disease, what danger signals to look for, what kinds of treatment are available, and what researchers and doctors are developing for the future.

Significantly, there will be an English and a Spanish language version of each of the five programs.

Following each documentary, public television stations in communities across the Nation will broadcast their own "follow-up" programs. The local programs are designed to answer viewer questions, examine local health services, and help community groups launch health projects.

I understand that this remarkable effort is the largest television health project ever attempted in the United States. More than 100 national organizations—ranging from the AFL–CIO to the American Heart Association are supporting the project. Across the country, nearly 1,000 professionals and 75,000 volunteers will take part, according to David Prowitt, executive producer of the series. Bristol-Myers Co. made a grant of $675,000 to make the series possible, and the WNET Science Program Group in New York City produced the programs.

Mr. President, "The Killers" is an excellent example of what public broadcasting is capable of doing. In the past, public broadcasting projects have helped Americans understand drug abuse and veneral disease. And now "The Killers" is helping Americans learn the things they need to know to live longer and healthier lives.

ELIGIBILITY OF SENATOR SAXBE TO BE ATTORNEY GENERAL

Mr. HRUSKA. Mr. President, the bill (S. 2673) relating to the salary of the Attorney General after being reported favorably by the Committee on Post Office and Civil Service, was referred to the Committee on the Judiciary. That reference was for the purpose of receiving testimony on constitutional points involved.

Assistant Attorney General Robert G. Dixon, Jr., prepared for presentation to the committee a splendid analysis of the history of the constitutional provision involved—article I, section 6, clause 2, He dealt with the terms of the bill, and also with the effect of its enactment.

His conclusion is that enactment of the bill and thus repealing the increased compensation for the Attorney General that became effective in 1969, would have the result of avoiding the problem raised by the constitutional provision referred to. The purpose of that provision would be satisfied and achieved.

The principles and precedents cited and discussed by Mr. Dixon's statement are of high usefulness and current interest to Congress and the public.

Mr. President, I ask unanimous consent that the text of Mr. Dixon's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

S. 2673—Relating to the Salary of the Attorney General

(Statement prepared by Robert G. Dixon, Jr., Assistant Attorney General, Nov. 19, 1973)

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to appear to give the Department of Justice views on the constitutional aspects of S. 2673, a bill which would reinstate the compensation and other emoluments attached to the Office of Attorney General that were in effect on January 1, 1969.

As you know, the President has announced his intention to nominate Senator William B. Saxbe to be Attorney General of the United States Senator Saxbe began his term of office on January 3, 1969. On that date the statutory salary for the Office of Attorney General was $35,000. During the Senator's term, which does not end until January 3, 1975, the compensation was increased to $60,000 pursuant to Public Law 90–206. This increase became effective in February, 1969.

The salary increase brings into play Article I, Section 6, Clause 2 of the Constitution. That clause, (hereinafter the Ineligibility Clause), provides that:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States shall be a Member of either House during his Continuance in Office.

In my opinion S. 2673, by repealing the increased compensation and emoluments for the Attorney General that became effective during the term for which Senator Saxbe was elected, avoids the problem raised by the Ineligibility Clause by satisfying the purpose of the Clause.

I

Before presenting my views as to why S. 2673 meets the rationale of Article I, Section 6, Clause 2, I shall explain why S. 2673 must be enacted prior to the submission of Senator Saxbe's nomination.

As an original matter I would have read Article I, Section 6, Clause 2 as meaning only that an ineligible Senator or Representative could not be appointed to office—that is, that his commission could not be signed—but that nomination and even confirmation could proceed pending removal of the disqualification.

However, as the President indicated in his November 1973 letter to Senator McGee, our Constitutional practice beginning with President Washington, who presided over the Constitutional Convention, has been otherwise. On February 28, 1973, President Washington withdrew the nomination of William Paterson of New Jersey to be Associate Justice of the Supreme Court on the ground that Mr. Paterson "was a member of the Senate when the law creating the office was passed, and that the time for which he was elected is not yet expired. I think it my duty therefor to decree that I deem the nomination to have been nulled by the Constitution."

In 1883 an opinion of Attorney General Benjamin Harris Brewster advised that "only such persons as are qualified to hold office" may be nominated so that "the nomination and confirmation of an ineligible person must be treated as null, and not as acts upon which an appointment of the person may be afterwards made when his disqualification ceases." *17 Opinions of the Attorney General of the United States* 522.

In light of this constitutional practice, Senator Saxbe cannot be nominated until legislation removing his disqualification has been passed. The President has stated in his letter to Senator McGee that Senator Saxbe will be nominated immediately following passage of such legislation.

II

An examination of the history of the Ineligibility Clause reveals that the purposes of the Clause will be fully satisfied if Senator Saxbe is appointed to the Office of Attorney General following the enactment of S. 2673. Early drafts of the Constitution provided that Members of Congress would be ineligible for any state or federal office during their term of service, and, with respect to federal offices, for an additional year, whether or not there had been an increase in an emolument. An extensive debate on the merits of that provision was held during the early days of the Convention. Farrand, *Records of the Federal Convention* (hereafter referred to as "Farrand"), Vol. I, pp. 379–382; 386–390.

Some members strongly favored this prohibition in order to avoid the "corruption" of British political life which resulted from the appointment by the Crown of members of Parliament to lucrative offices. Others felt that the proposal contained dangers which outweighed its benefits. In particular, it was feared that such a broad prohibition would discourage talented citizens from seeking election to Congress. See, *e.g.*, James Wilson, Farrand, Vol. I, pp. 379–380.

Alexander Hamilton believed that the need to attract able persons to legislative office required that the Inteligibility Clause should provide only that a member of Congress could not simultaneously hold any other office. Farrand, Vol. I, pp. 381–382.

During these discussions, James Madison analyzed what he considered to be the essence of the danger inherent in the appointment of a Member of Congress to an office in the Executive or Judicial branches and proposed a formula which, at a later date, was accepted by the Convention. He epitomized the problem as follows:

"Some gentlemen give too much weight and others too little to this subject. If you have no exclusive clause, there may be danger of creating offices or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature." Farrand, Vol. I, p. 380.

The following day he made the following proposal:

"Mr. M(adison) renewed his motion yesterday made & waved to render the members of the 1st. branch 'ineligible during their term of service, & for one year after—to such offices only as should be established, or the emoluments thereof, augmented by the Legislature of the U. States during the time of their being members.' He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, & that if the door was shut agst. them, it might properly be left open for the appointt. of members to other offices as an encouragement. to the Legislative service." Farrand, Vol. I, p. 386.

At that time, however, James Madison's proposal was rejected. Farrand, Vol. I, p. 390.

Despite this rejection, the problem of Congressional Ineligibility was kept alive throughout the remainder of the Convention. On August 14, 1787, Mr. Pinkney made the argument that Congressional Ineligibility was "*inconvenient* because the Senate might be supposed to contain the fittest men. He hoped to see that body become a School of Public Ministers, a nursery of Statesmen." Farrand, Vol. II, p. 283.

The matter came to a head again when the Committee of Eleven submitted the following new draft of the Ineligibility Clause:

"The Members of each House shall be ineligible to any civil Office under the authority of the United States during the time for which they shall respectively be elected—And no Person holding any office under the United States shall be a Member of either House during his continuance in office." Farrand, Vol. II, p. 483.

Two days later (September 3, 1787), Mr. Pinkney urged consideration of the following language:

"The members of each House shall be incapable of holdings any office under the U— S— for which they or any other for their benefit, receive any salary, fees or emoluments of any kind, and the acceptance of such office shall vacate their seats respectively. He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honorable offices of Government, as resembling the policy of the Romans, in making the temple of virtue the road to the temple of fame." Farrand, Vol. II, pp. 489–490.

After this motion failed:

"Mr. King moved to insert the word 'created' before the word 'during' in the Report of the Committee. This he said would exclude the members of the first Legislature under the Constitution, as most of the Offices wd. then be created." Farrand, Vol. II, p. 490.

This, of course, involved the serious problem that the members of the First Congress would be ineligible to appointment to the federal offices created by it. As Mr. Pinkney stated:

"The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the Report of the Committee or even the amendment be agreed to, The great offices, even those of the Judiciary Department which are to continue for life, must be filled whilst those most capable of filling them will be under a disqualification." Farrand, Vol. II, p. 491.

As an aside we may note that William Paterson, who had been elected to the Senate for a four-year term beginning in 1789, and who had resigned in November 1790, after having been elected Governor of New Jersey, could not be nominated to the Supreme Court prior to March 4, 1793. President Washington, indeed, withdrew Paterson's nomination which had been submitted in February 1793. The nomination of Mr. Justice Paterson referred to above is an example of this difficulty.

After Mr. King's motion failed, Mr. Williamson resurrected James Madison's formula, which was then adopted by the Convention. Farrand, Vol. II, p. 492.

A major purpose of the Ineligibility Clause according to its originator is the prevention of the evils which would arise if legislators could benefit from the creation of new offices or increase in the emoluments of existing ones. There is a concurrent consideration noted above by Mr. Pinkney, and also by Mr. Madison and Mr. Wilson,[1] and one perhaps more relevant to the present-day than the question of improper motivation for salary increases. Neither the public, the Executive branch, nor the Legislative branch is well-served by a prohibition so broad that it overcorrects and needlessly deprives members of Congress of opportunities for public service in appointive civil offices. S. 2673 would overcome the former evil regarding emoluments by preventing Senator Saxbe from obtaining the benefit of the 1969 salary increase and any other emoluments, without wastefully barring him from offering his services to the country in an appointive office.

Nothing in the history of the Ineligibility Clause suggests that a strict literal interpretation should be adopted in cases where the action in question is totally consistent with the purpose of the Clause.

III

In addition to the history of the Clause, several telling precedents support our view that enactment of S. 2673 would remove any constitutional bar to Senator Saxbe's appointment. The first involved the appointment of Senator Lot M. Morrill as Secretary of the Treasury. Senator Morrill was elected to the Senate in 1871 for a term ending in 1877. In 1873, cabinet officers' salaries were raised from $8,000 to $10,000 but returned in 1874 to $8,000. Nevertheless, Senator Morrill's nomination in 1876 was confirmed by the Senate, without any challenge based on the Ineligibility Clause.

The second involved the appointment by President Taft of Senator Philander Knox as Secretary of State. A measure with the same purpose as the bill under consideration today was passed by the Congress in February 1909 in order to permit Senator Knox's appointment in March to the incoming administration of President Taft without offending the purpose of the Ineligibility Clause (35 Stat. 626). Senator Knox had been elected in 1905 for a term expiring on March 3, 1911. In 1907 the compensation of the Secretary of State had been increased from $8,000 to $12,000. The bill passed the Senate without debate (43 Cong. Rec. 2205), although debated at some length in the House (43 Cong. Rec. 2390–2402, 2403, 2408–2415). An unofficial opinion of Assistant Attorney General Russell (commenting on the bill reducing the Secretary of State's compensation to $8,000) reasoned that because the sole purpose of the prohibition was to destroy the expectation a Representative or Senator might have that he would enjoy the newly increased emolument, that purpose would be fully satisfied. He argued that, "if the increase is made . . . and then unmade, he cannot get, or hope for, anything more than if there had been no such increase." 43 Cong. Rec. 2403. This reasoning prevailed. After passage of the remedial legislation, Senator Knox was nominated and confirmed as Secretary of State.

Finally, the precedent established by the appointment of Senator Hugo Black to the Supreme Court is worthy of some consideration. During Senator Black's term of office, Congress strengthened the retirement benefit of Supreme Court Justices. During that same term, the Senator was nominated to the Court. At the time, there was considerable discussion whether that increase in retirement benefits constituted an increase in the emoluments of that office within the scope of the Ineligibility Clause. The Senate confirmed the nomination, apparently agreeing with the Attorney General that Senator Black was nevertheless eligible because the purpose of the Clause was served since "inasmuch as Mr. Black was only fifty-one years old at the time and so would be ineligible for the 'increased emolument' for nineteen years, it was not *as to him* an increased emolument." See Corwin, Annotated Constitution at 133, N.Y. Times, Aug. 14, 1937, p. 1, col. 3.

These precedents support an interpretation of the Ineligibility Clause, which, consistent with the intention of the framers, permits a Member of Congress who dos not receive any prohibited benefits to accept an office in the United States.

IV

Arguments may be advanced in favor of a strict or literal construction of the Ineligibility Clause which would bar Senator Saxbe's appointment. Thus, for example, it could be argued that if the Founding Fathers had intended that the Clause be avoided by eliminating a salary increase or other emolument enacted during a member of Congress' term of office, they would have specifically so provided. The difficulty with such an argument is that it assumes that the Constitution was written in the same manner as a detailed statute. Moreover, it leads to a result inconsistent with the dual results of the Ineligibility Clause as set forth in the previous sections (to prevent corruption in the appointment process without unduly restricting the availability of members of Congress for other posiitons in the public service).

It is true that the Supreme Court has on occasion extolled the virtues of strict interpretation of constitutional provision. In *Lake County* v. *Rollins*, 130 U.S. 662 (1889), a diversity action involving no question of federal law, the Court had occasion to interpret a detailed debt limit provision in a state constitution. The Court stressed the need to construe unambiguous provisions within the bounds of the document. However, the Court prefaced its words on construction by stressing the all important role of the intent or purpose of a constitutional provision: "The object of construction, applied to a constitution, is to give effect to the intent of its framers, and of the people in adopting it." 130 U.S. at 670.

Chief Justice John Marshall was well aware that many federal constitutional provisions do not spell out contingencies in great detail, requiring that a court deduce or infer a great deal from the general object of the provisions. In McCulloch v. Maryland, 17 U.S. 316, 406 (1819), Marshall wrote:

A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires, that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced, from the nature of the objects themselves . . . [W]e must never forget that it is a constitution we are expounding. *McCulloch* v. *Maryland,* 17 U.S. 316, 406 (1819).[2]

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[1] In discussing the Ineligibility Clause during debate in the Virginia Convention, Madison noted:

"It is impolitic to exclude from the service of his country, in any office, the man who may be most capable of discharging its duties, when they are most wanting." Farrand, Vol. III, p. 315.

Mr. Wilson also noted during the Constitutional Convention that the Constitution ought to hold forth "every honorable inducement for men of abilities" to enter the public service. Ferrand, Vol. I, pp. 379–380.

The Chief Justice went on to state that a strict literal interpretation of the Constitution would lead to such pernicious results that the Supreme Court would be compelled to disregard such an approach. 17 U.S. at 415. The same thought was expressed in the *Legal Tender Cases,* 12 Wall. 457, 531 (1871), where the Supreme Court stated:

"Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered."

The decisions of the Supreme Court contain numerous examples of interpretations of constitutional provisions which go beyond the literal implication of the language in order to reach a result consistent with the intent of the framers. Recently in *Walz* v. *Tax Commission,* 397 U.S. 664 (1970), the Court was confronted with an argument based on the Establishment Clause of the First Amendment ["Congress shall make no law respecting an establishment of religion. . . ."] It was argued that the clause, read literally, barred a municipal grant of an exemption to church property.

In rejecting this contention, and upholding the church tax exemption, the Court stressed the purpose rather than the literal meaning of the language: "The sweep of the absolute prohibitions in the Religion Clauses may have been calculated; but the *purpose was to state an objective, not to write a statute.*" 397 U.S. at 668. (Emphasis added.)

The Fifth Amendment contains several clauses which have been subject to extensive interpretation by the courts. The final clause of that Amendment provides that "private property . . . [shall not] be taken for public use without just compensation." The literal language of this clause does not put the reader on notice of the many nuances which have been read into the language by court decisions. Thus, under existing case law the damage caused by aircraft fling at a low level directly over private property constitutes "taking" [*Griggs* v. *Allegheny County,* 369 U.S. 84 (1962); *United States* v. *Causby,* 328 U.S. 256 (1956)], but a low level flight causing similar damage to property not directly under the flight path is not a "taking" [*Batten* v. *United States,* 306 F.2d 580 (10th Cit. 1962), *cert. denied,* 371 U.S. 955 (1963)]. And, under the threat of imminent invasion by foreign troops, the ourtright destruction of an oil refinery by United States forces does not constitute a "talking." [*United States* v. *Caltex,* 344 U.S. 919 (1952).]

Perhaps an even more striking example of a non-literal approach to a constitutional provision is the so-called self-incrimination clause of the Fifth Amendment. It reads:

> No person . . . shall be compelled in any criminal case to be a witness against himself. . . .

Read literally the clause would apply only to a "criminal case," and not to questions of compulsory self-incrimination arising in civil cases, in administrative proceedings, in congressional investigations. And yet the Supreme Court consistently has interpreted the clause to apply to all federal official proceedings, [*Hoffman* v. *United States,* 341 U.S. 479 (1951)], and to official state proceedings too via the process of incorporation into the due process of law clause of the Fourteenth Amendment. [*Malloy* v. *Hogan,* 378 U.S. 1 (1964)].

Even more significant, by looking at the purpose and the function of the clause, the Supreme Court has validated what are known as immunity statutes (or compulsory testimony laws) in a consistent line of interpretation beginning with *Brown* v. *Walker,* 161 U.S. 591 (1896) and reiterated as recently as 1972 in *Kastigar* v. *United States,* 406 U.S. 441 (1972).

What is the function and effect of this Fifth Amendment clause, standing alone? It is to bar the government from obtaining testimony and personal documents from a witness when the witness interposes a proper plea of the Fifth Amendment. And indeed, in keeping with a functional approach to this clause, the Court has aided the witness and broadened the protection by developing the doctrine that a mere showing of a tendency to incrimination is sufficient to protect the witness from compulsion to produce the desired information. [*Hoffman* v. *United States,* 341 U.S. 479 (1951)].

How, it may be asked, can an immunity statute make it possible to compel the witness to produce the information desired by the government? This effect is made consistent with the constitutional protection by providing, in the immunity statute, that no compelled information or any derivative fruits thereof can be used against the witness in any proceeding which could subject him to a criminal penalty; it cannot furnish any basis for a conviction. It is only looking at the Fifth Amendment clause in broad, functional context that this effect of an immunity statute can be said to be consistent with the clause.

The immunity statutes upheld by the Court provide a close parallel to S. 2673 in that, while both might be said to permit action not in literal compliance with the constitutional provisions involved, it is evident that the purposes of those provisions are fully satisfied by such action. Moreover, both the immunity statutes and legislative provisions in the nature of S. 2673 have a long history, further strengthening the presumption of constitutionality.

▼

It is our conclusion that an interpretation of the Ineligibility Clause which permits the nomination and appointment of Senator Saxbe following the enactment of S. 2673 is consistent with, indeed, required by, the relevant principles of constitutional interpretation. Any other result would, in our view, conflict with the clear purposes of the Founding Fathers in including this provision in the Constitution. Consequently, I urge the early consideration of S. 2673 by this Committee and prompt enactment by the Senate in order to facilitate consideration of Senator Saxbe.

COMMUNITY LEVEL ENERGY CONSERVATION PROGRAMS CAN WORK—THE ST. CLOUD, MINN., MODEL

Mr. HUMPHREY. Mr. President, we have heard a great deal of talk in the last few months about the need to conserve energy. We are all rapidly becoming experts in the statistics of scarcity and waste and with the gallons that can be saved by taking any one of a wide range of energy conservation suggestions.

Yet most observers agree that little progress has actually occurred, nationwide, in significantly reducing energy consumption. Perhaps we have not succeeded because we have not promoted local, community-based programs to the extent necessary.

Today, the Consumer Economics Subcommittee heard Mr. William J. Ball, of the St. Cloud, Minn., energy commission, describe his communities energy conservation program. I asked Mr. Ball to talk with us because I have seen the St. Cloud program and am extremely impressed with it. I compliment the mayor, the city council, the chamber of commerce, and others.

I am convinced that it can be a model for communities throughout the Nation. I suggest that the Office of Energy Conservation in the Department of the Interior would be well advised to use the St. Cloud program as a working example of local government fuel conservation.

I compliment the people of St. Cloud for their creative leadership and ask unanimous consent that Mr. Ball's statement be printed in its entirety in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ST. CLOUD, MINN., ENERGY CONSERVATION PROGRAMS

(By William J. Ball, Chairman, Public Awareness Committee, St. Cloud Energy Commission, Nov. 19, 1973)

The St. Cloud energy situation became a matter of vital concern in December 1972 when St. Cloud heating oil reserves reached a dangerously low level. An area wide crisis was averted only because of unusually mild temperatures during January and February. Fuel problems arose again in May 1973 when the St. Cloud Airport was threatened with the cutoff of their aviation gas when a major fuel supplier withdrew from the St. Cloud area. As the result of these two events, St. Cloud Mayor Alcuin G. Loehr organized an energy study commission in May 1973 to assess the fuel and energy situation in the St. Cloud area. Gordon Haglund, President of Consolidated Oil Company, a major St. Cloud fuel distributor, was named chairman of the group which soon became the St. Cloud Energy Commission. Mr. Haglund along with other members of the community including energy suppliers, large industrial energy users, the St. Cloud Defense Department and St. Cloud area citizens together outlined a program to identify the St. Cloud energy situation and to inform residents of the St. Cloud and national outlook.

As a member of the Energy Commission representing a large industrial user, I was named to head a Public Awareness Committee whose objectives were identified as follows:

1. To create an awareness of the local and national energy situation.
2. To gain support for current and proposed energy conservation programs.
3. To encourage participation by St. Cloud area businesses and residents in energy conservation programs.
4. To prepare citizens of the St. Cloud area for possible mandatory conservation or allocation programs in the future.

In order to accomplish these objectives, the Public Awareness Committee was divided into three subcommittees, each with a specific assignment relating to overall objectives. A Public Relations Subcommittee was established with responsibility for transmitting energy related information to the public through the news media. A second subcommittee was established as a speakers bureau to provide both qualified speakers and source information for direct communication to the St. Cloud community through school groups, business meetings, service clubs, churches, and other citizen groups. The third Public Awareness Subcommittee was assigned the responsibility for planning and implementing an Energy Week promotion to focus public attention on the energy situation and to encourage community wide participation in energy conservation programs.

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[2] In accord with Chief Justice Marshall's purposive approach to interpreting the Constitution, the Supreme Court only two years after *McCulloch* held that Congress had the constitutional power, notwithstanding the lack of any express provision in this respect, summarily to punish by contempt persons disobedient to lawful Congressional commands. *Anderson* v. *Dunn,* 19 U.S. 204 (1821). A wholly literal approach to interpreting the Constitution would have led to the opposite conclusion.

It was decided that a Fall date would provide the right setting for Energy Week. During late October and early November, Minnesota residents begin to prepare for a long winter that normally includes 2 or 3 weeks of sub-zero temperatures. And, since a late October chill in the air can usually be relied on to provide a preview of Winter, it was decided that this would be the best time for Energy Week. Residents would be thinking about heating their homes and would be much more receptive to conservation programs at a time when the threat and problems of a fuel shortage could easily be seen. Therefore, Energy Week was proclaimed by the Mayor of St. Cloud for the week of October 29th through November 2, 1973.

Preparations for Energy Week included a comprehensive program to involve all aspects of the St. Cloud community in Energy Week activities. Literally every sector of the community was involved in energy programs either through the publicity given Energy Week activities or through their own direct participation. The Energy Week Subcommittee was expanded to include members of the St. Cloud School Systems, local merchants, local manufacturers and processors, local churches, the news media, energy suppliers, service clubs and individual citizens.

It was decided very early in the planning stage that Energy Week needed a focal point in order to center public attention on a key event related to the energy situation. Because of his active leadership in energy conservation programs, Senator Hubert Humphrey was invited to address an Energy Luncheon for business and civic leaders of the St. Cloud community. Other speakers invited to participate in the Energy Luncheon program included St. Cloud Mayor Alcuin G. Loehr, St. Cloud Energy Commission, Chairman, Gordon Haglund, and Minnesota Civil Defense Director, James Erchul.

At this point, I would like to introduce another celebrity. This is "Little Quintus", a citizen of St. Cloud who symbolizes our interest in the wise use of energy. Quintus was created by the St. Cloud Energy Week Committee to serve as a visual reminder of energy conservation programs throughout the community. The name given our friend and the Roman numeral 5 on his shield reminds St. Cloud citizens to turn their thermostats down 5 degrees. To emphasize that point, a thermometer replaces the more traditional sword in his right hand. Our friend Quintus became our mascot, our leader and our energy ambassador by providing a central theme and symbol to be used in all Energy Week advertising and promotional programs.

These Energy Week programs included a variety of activities planned to emphasize energy conservation throughout the community. Examples include:

"Little Quintus" energy reminder stickers were distributed to area businesses including merchants for their use as bag stuffers.

Manufacturing plants held employee meetings to emphasize energy conservation measures within their operations and in the homes of employees.

Free bus service on two days of Energy Week was arranged with the Metropolitan Transit Commission to encourage the use of public transportation rather than private automobiles.

An energy conservation poster contest was conducted in St. Cloud area schools with prizes for the most original presentation of energy conservation ideas.

Area merchants promoted Energy week through advertising and special sales on energy conserving products such as sweaters and furnace filters.

The local news media provided extensive publicity describing Energy Week activities including both news reports and the presentation of energy conservation tips.

A city wide energy saving contest was conducted with prizes for the best energy conservation suggestions.

Energy Commission members appeared on local radio stations and television programs to discuss Energy Week and other energy topics.

In total, energy conservation became a known and popular subject throughout the community. The major energy speech given by Senator Humphrey at the Energy Luncheon indicated the importance of St. Cloud Energy Week activities. The extensive press coverage provided by the local and regional press indicated acute interest on the part of area citizens and provided them with further information on the energy situation. In total, interest and cooperation on the part of every segment of the community proved the timeliness of this program and the interest and support provided by an informed public.

A more concrete indication of the success of St. Cloud Energy Week can be seen in the follow-up and continuing programs undertaken throughout the community. I would like to give you a few examples of these independent actions taken voluntarily on the part of members of our community:

Merchants associations throughout the St. Cloud area have proposed plans for drastically reducing or eliminating Christmas lighting displays. Merchants have also turned out advertising signs and cut down on the use of display lights. They have reduced their thermostats to 68° and are now considering a reduction in store hours during the coldest winter months to conserve on fuel and electricity.

The St. Cloud Area Chamber of Commerce assumed a major role in continuing energy conservation programs by organizing task forces for all Chamber divisions. These groups will visit and provide energy advice to all area businesses to insure that St. Cloud fuel shortages have a minimum effect on the local economy.

Many St. Cloud manufacturers and processers have taken independent decisive actions to conserve energy. Holes-Webway Company, a manufacturer of photo albums, has adopted a four day work week by eliminating Friday operations through the winter.

Our company, DeZURIK, a manufacturer of industrial valves and related process control equipment, has adopted a number of energy conservation programs including a night blackout of all except emergency lighting and a reduction in temperatures throughout the building. We are also actively seeking a means of using heat generated in the foundry to heat our building. During Energy Week, we conducted an energy contest with prizes for the best employee suggestions for conserving energy. Those suggestions relating to plant operations are currently being studied by our Engineering Department.

St. Regis Paper Company in Sartell, Minnesota is emphasizing the conservation of plant services including steam, compressed air, electricity and water.

The most important contribution of Turbodyne, a manufacturer of gas turbines for electrical generating plants, is an around the clock work schedule in order to meet utility plant construction requirements.

The City of St. Cloud has reduced electricity consumption by cutting out unnecessary lights and lowering the wattage of bulbs in halls and other non-critical areas. The police department has been instructed not to leave patrol cars idling unnecessarily and the fire department is keeping its main doors closed. Studies have been undertaken to inpect all public buildings and assure the efficiency of insulation and heating systems.

Churches throughout the community have emphasized energy conservation through programs in their own buildings. More important, however, the local Ministerial Association has gotten together to encourage members to preach energy conservation sermons emphasizing both the social and moral requirements to use this natural resource wisely.

St. Cloud area schools are incorporating a variety of energy conservation programs including reductions in lighting and of building temperatures. The Sauk Rapids, Minnesota School System has taken measures to control the cold air intake on furnaces.

Since all schools have interruptable fuel contracts, schools throughout the St. Cloud area have made plans to schedule make-up school days during warmer spring months in the event of closure due to fuel shortages.

Perhaps most important of all conservation programs are the actions taken by individual citizens to conserve energy in their homes and in their private automobiles. At present the St. Cloud Energy Commission Public Awareness Committee is outlining a program to study the effect of Energy Week and the degree of participation by individual citizens in energy conservation programs. It is apparent, however, that many of these measures have been put into practice already. A reduction in highway speed around the St. Cloud area can readily be seen. Many individual citizens have reported on energy conservation measures in their homes including turning down of their thermostats, the checking and improvement of insulation in their homes and a conscious effort to cut out unnecessary lights. The St. Cloud Jaycees' annual Christmas home decorating contest this year will give prizes not for lighting but for displays which do not use energy.

Members of the St. Cloud Energy Commission feel that Energy Week was a major success in the St. Cloud area. Cooperation with Energy Week activities indicated the acceptance of Energy Commission programs by all segments of the community. More importantly, voluntary actions taken by individual citizens and businesses have demonstrated the success of public awareness programs which brought the facts of the energy crisis to citizens of St. Cloud, Minnesota in a believeable and meaningful way.

Most important of all however, are the follow-on programs now underway in both the public and private sectors of the community "Energy Week" by itself would mean nothing if it did not result in concrete actions by public officials, business groups, school officials and individual citizens. The task force approach is designed to achieve positive and unified action throughout all segments of the community. We believe that these local programs combined with leadership initiatives at the state and national level can result in an energy conservation plan which will have the backing of the people of this nation. And if the people are behind it, the plan cannot help but succeed.

SENATOR RANDOLPH REEMPHASIZES CRITICAL COAL MINING SUPPLY PROBLEM IN TIME OF ENERGY NEED

Mr. RANDOLPH. Mr. President, 40 days ago I introduced an amendment to the Surface Mining Reclamation Act of 1973, which passed the Senate. This amendment urged the Department of the Interior, the Cost of Living Council, the Office of Preparedness, and the Office of Energy Policy to take immediate action to increase the supply of steel available for the manufacture of coal mine roof bolts and roof plates essential to maintaining the safe operation of coal mines. The amendment expressed the sense of Congress that if necessary, increases in the price of mine roof bolt stock should be granted to a level which would insure the manufacture of sufficient supplies of roof bolts and roof plates, needed to support and secure the walls and ceilings in underground mines.

Since that time the Interior Department's Mining Enforcement and Safety Administration has informed me that at least 11 coal mines have been temporarily closed due to a lack of roof bolts and plates. By temporarily closed I mean that production shifts or production days were missed. These mines range from 6 men and 150 tons of coal per shift to 106 men and 1,000 tons of coal per shift. These 11 mines total 189 men and 2,865 tons of coal per shift—every 8 hours.

Friday, for the first time in over 5 weeks, I was optimistic over possible action within the Cost of Living Council to relieve the severe scarcity of mine roof bolts. The Cost of Living Council advised me that a request for reasonable price increases will be handled expeditiously.

As an example of the need for action by the Cost of Living Council, Steel Service Co. in Nashville, Tenn., which owns Knoxville Iron Works in Knoxville, a rod producer, informs me that if a requested price increase is granted, the company would increase production by 2,000 tons of steel rods a month, an increase of 24,000 tons of steel rods a year, accounting for about 12 percent of the U.S. market. This would amount to almost 75 percent of the total rods needed by Birmingham Bolt Co. for roof bolt production. Birmingham Bolt provides roof bolts to coal mining operations in Pennsylvania, West Virginia, Virginia, Kentucky, Illinois, Tennessee, and Colorado. This is by no means a solution to the complete problem, but it could save many coal mines from discontinuing mining operations. Birmingham Bolt manufactures 25 percent of the roof bolts in this country. Since the market for mine roof bolt stock has been about 300,000 tons a year, an increase in production of 24,000 tons should help alleviate some of the shortage.

Additionally, one major steel company has submitted a price exception to the Cost of Living Council for its roof bolt product. This company manufactures the steel rods and the roof bolt. It is my understanding that as soon as sufficient information has been submitted to the Council, a quick decision will be forthcoming.

Mr. President, Mining Enforcement and Safety Administration and the Department of Commerce's Capital Equipment Division worked closely with my staff in the submission of a report on November 9 to the Cost of Living Council by the Department of the Interior in behalf of those companies producing or capable of producing steel bar stock or other components meeting specifications commonly used in the production of mine roof bolts. This report is to assist the Cost of Living Council in the expeditious processing of urgent requests for price relief.

Mr. President, I am gratified that based upon my recommendation, the Interior Committee included in S. 2589, the pending measure, a provision authorizing the President to take such action as may be necessary to allocate necessary supplies of materials to maintain and increase the production of coal. In section 303 the Director of the Cost of Living Council is authorized to study and recommend to the Congress specific incentives to increase the energy supply. These are vital parts of the legislation and, if enacted into law, will be effective in assuring supplies of roof bolts.

This Nation will soon be engaged in converting facilities to coal and in more efficient uses of fuel production. Yet the industry which must produce the coal cannot secure an adequate supply of mine roof bolts—usually a 90-cent item—which accounts for less than 1 percent of this country's total steel production. By 1985 our country's coal production must increase by about 2.85 its present production—1.3 billion tons of coal. It is estimated that within 2 years, roof bolt consumption in coal mining alone will increase over 15 percent.

As I indicated, Mr. President, the Cost of Living Council advised me that top priority will be given to individual producers of the mine roof bolt stock—the steel rods needed for the roof bolt manufacturing—that submit reasonable price requests to the Council. It is my genuine hope that the Council will follow through on this vital matter.

Mr. President, I ask unanimous consent that the following materials be printed in the Record: My letter of September 26 to the President and his domestic adviser's response and also a reply from John Love of Office of Energy Policy; a letter to the Director of the Cost of Living Council from the Acting Secretary of the Interior and Mr. Dunlop's response; my letter to Mr. Dunlop and his response; a press release by the Mining Enforcement and Safety Administration mentioning no relaxation of mining regulations; a news article about this shortage; excerpts from the Interior Department's submission to the Cost of Living Council; and selected communications from coal suppliers and users.

There being no objection, the material was ordered to be printed in the Record, as follows:

September 26, 1973.

The President,
The White House.

Dear Mr. President: I have been informed by reliable sources in the coal industry—and the information has been confirmed by the Bureau of Mines, Department of the Interior—that a critical shortage of coal mine roof bolts and roof bolt plates is developing with rapidity. This creates a dangerous condition in that it involves possible unsafe working conditions for men in underground mines; and it means that more and more coal mines will have to cease production.

Cessation of production of coal in underground mines at this time and immediately ahead, when heating oil shortages are additional threats, would further complicate already serious energy supply deficiencies. And the steel industry would itself be jeopardized by lack of vital metallurgical coal.

This condition, if permitted to grow in seriousness, could virtually destroy much underground coal mining, would hamper steel producing, and would obviate much of the electricity generating in our country. Without adequate supplies of roof bolts and plates adequate maintenance, as well as operations, would be impossible. Millions of dollars of capital investments in coal mines would be in jeopardy.

Mr. President, I urge that you have the conditions to which I refer checked into with care and dispatch by the appropriate departments and agencies of the Executive Branch. And I urge further that you especially have your energy and Office of Emergency Preparedness people work with the coal and steel industries and the Bureau of Mines to effectuate alleviation of the coal mine roof bolt and plate shortages in order to help restore normal and, where possible, accelerated coal production. Corrective actions should be taken with promptness.

I assure you that if new legislation is needed, and if the area of deficiency in the statute is delineated, I will work aggressively for the legislation that would provide the authority for the Executive Branch to use where, when, and however needed.

Truly,

Jennings Randolph,
U.S. Senator.

The White House,
Washington, October 16, 1973.

Hon. Jennings Randolph,
U.S. Senate,
Washington, D.C.

Dear Senator Randolph: Thank you for your timely letter of September 26 concerning the shortage of mine roof bolts and mine roof bolt plates. We agree that a shortage of the bolts and plates could aggravate the energy situation this winter and seriously hamper mine safety programs.

At this time I would like to assure you that members of the Executive Branch, particularly those in the Departments of Commerce and the Interior have been apprised of the potential seriousness of the problem.

Since late last week members of both these Departments have been gathering information on the situation. Initially, it appears that there is a shortage of suitable steels to be used in fabricating the bolts and plates. Appropriate agencies are trying to find alternate sources of supply at this time. These corrective efforts have been made difficult because of an overall tight supply situation in steel.

As soon as the appropriate agencies are able to provide us with a siuation report we will advise your office of its content.

Sincerely,

Kenneth R. Cole, Jr.,
Director, Domestic Council.

The White House,
Washington, October 9, 1973.

Hon. Jennings Randolph,
U.S. Senate,
Committee on Public Works,
Washington, D.C.

Dear Senator Randolph: Thank you for the copy of your letter to President Nixon.

You may be sure that this information will become an integral part of the evaluation process as we seek best possible answers to our energy problems.

Sincerely,

John A. Love,
Assistant to the President.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 12, 1973.
Hon. JOHN T. DUNLOP,
Director, Cost of Living Council,
Washington, D.C.

DEAR MR. DUNLOP: A recent departmental survey led by the Mining Enforcement and Safety Administration (MESA) discloses that there is a continuing and worsening shortage of roof bolts. The survey indicates that roof bolt production could fall 30 percent by January 1, 1974. As a result of this shortage, we have been receiving an unprecedented number of requests to modify or relax MESA approved roof control plans.

Despite a significant reduction in the number of roof fall fatalities in the last two years, roof falls continue to be a leading cause of death in underground coal mines. Hence, we cannot relax our roof bolting requirements because of a shortage. Ancillary to the health and safety factor, the lack of roof bolts could very well cause a number of coal mines to shut down, further aggravating the energy crisis.

Our information indicates that this shortage stems basically from a shortage of the suitable steel stocks (9/16" bar and ¼" x 6" plate) used in fabricating these products, which in turn is related to overall industry pricing and production capacity problems.

We have been advised that the Cost of Living Council is considering permitting upward price adjustments for those industries operating at or near capacity. Further, several major producers have indicated that some price relief would have a salutary effect, and they intend to file for appropriate relief.

If the Council corroborates our findings, we urge that it take all steps necessary to expedite the processing and granting of such price relief requests related to the roof bolt shortages.

Sincerely yours,
JOHN C. WHITAKER,
Acting Secretary of the Interior.

COST OF LIVING COUNCIL,
Washington, D.C., October 25, 1973.
Hon. JOHN WHITAKER,
Acting Secretary of Interior,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. WHITAKER: Thank you for your letter of October 12 regarding the shortage of roof bolts in the coal mining industry. We are pleased to have such situations brought to our attention.

As you know, a number of materials and specific products have been in increasingly short supply in recent months. The strong gain in output that took place in late 1972 and early 1973 moved many industries close to full utilization of capacity. Steel was, of course, one of these. Current production problems in the steel industry mean that in many instances delivery dates have been stretched out, and some products have sometimes been unavailable in quantity at the time they are needed.

Granting additional price relief at this time would not automatically or necessarily generate an increase in the supply of particular steel products. Prior to this summer's price freeze, steel producers could increase prices without prenotification to the Cost of Living Council, and prices of various products were increased. The wholesale price index for various categories of steel bar and plate rose by 3 to 10 percent between December 1972 and June 1973.

As you undoubtedly know, a price increase for flat-rolled steel products went into effect early this month, and a further increase will be effective next January 1. Increases in prices of other steel products were not requested by most steel companies at that time and the Council decided that permitting increased prices for flat-rolled steel products of the magnitude requested would have an impact on the economy of such a magnitude as to be inconsistent with the goals of the Program. Beginning December 1, however, firms can prenotify price increases on other steel products. If the lack of availability of roof bolts is a consequence of a cost squeeze in this product line, firms in the steel industry may be able to support price increases, and these products may then be more readily available. Discussions between my staff and some firms in the industry indicate that exception requests are being filed in those cases where there is insufficient cost justification. Once these exception requests are received we will proceed to review them expeditiously and take appropriate action.

The problem of roof bolt availability is one aspect of the general problem of insufficient production capacity to fill recent high demands on steel and other basic materials producing industries. A prospective reduction in the pace of demand along with some possible price relief for particular products should help to alleviate these supply shortages.

Sincerely,
JOHN T. DUNLOP,
Director.

OCTOBER 29, 1973.
Hon. JOHN T. DUNLOP,
Director, Cost of Living Council, Washington, D.C.

DEAR MR. DUNLOP: The serious shortage of coal mine roof bolts and plates continues to impact the operations of our nation's coal mines. I understand that the Department of Interior, the Office of Energy Policy, and several steel firms have contacted the Cost of Living Council concerning adjustments in pricing for these products. Some coal mines in West Virginia are operating on a day to day search for these roofing materials which are essential to the health and safety conditions within a mine.

Enclosed is a copy of my remarks in the Senate on an amendment, passed unanimously, to the recent Surface Mining legislation stressing the urgency of this situation. Also enclosed is a copy of my letter to the President urging him to have the appropriate departments and agencies take corrective actions.

I urge your full cooperation in the efforts to secure an adequate supply of steel roof bolts and plates. If this affirmative action is not taken to alleviate this critical shortage, there undoubtedly will be a worsening of this winter's energy shortage but also the health and safety of our country's underground coal miners will be jeopardized.

Your prompt and careful consideration of this vital matter will be appreciated.

With sincere thanks and with best wishes, I am

Truly,
JENNINGS RANDOLPH.

COST OF LIVING COUNCIL,
Washington, D.C., November 14, 1973.
Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for your letter of October 29th on behalf of the mining industry regarding the shortage of roof bolts and plates.

The Cost of Living Council is aware of the serious nature of the roof bolt problem. We are currently engaged in an in-depth study of this situation, and discussions with the various manufacturers of this product. Since roof bolts and plates have historically been low profit items, steel companies have tended to concentrate production on other, higher profit, products.

Our regulations provide that firms may increase prices based upon increased costs as long as profit margins are not exceeded as a result of the increased prices. Firms with annual revenues of over $100 million must prenotify to the Council before increasing prices, even if they are based upon allowable costs.

Bethlehem Steel Company has requested an exception to the regulations to raise the prices on its roof bolts and accessories. We have requested clarification of certain facts from the firm, and will process this case as soon as the requested information is received.

Thank you for your expression of concern with this issue. We will certainly notify you of any further developments in this area.

Sincerely,
JOHN T. DUNLOP,
Director.

[News release from the Department of the Interior, Oct. 15, 1973]

MESA ADMINISTRATOR ORDERS "STRICT ENFORCEMENT" OF SAFETY REGULATIONS IN CITING ROOF BOLT SHORTAGE

Mining Enforcement and Safety Administrator James M. Day has notified Federal mine inspectors, coal mine operators and labor unions that despite a reported critical shortage of roof bolts, used to support mine roofs, there will be no relaxation of strict enforcement of approved roof control plans or standards, the Interior Department announced today.

Day's memorandum to all MESA inspection personnel—in both coal mines and in metal and nonmetallic mines—advised them of the shortage, and instructed them directly:

"It is important that mine inspection personnel pay particular attention to operator compliance with approved roof control plans and maintain strict enforcement. Operator roof control procedures that include dependence on roof bolts must be closely inspected to insure that safety is not being sacrificed as a result of this shortage."

In letters to Arnold Miller, President, United Mine Workers of America, and to I. W. Abel, President, United Steelworkers of America, Administrator Day asked for the leaders' assistance in "putting the power of the unions to work to call on the steel industry to make necessary materials available."

The new MESA Administrator corresponded with many of the major coal mine operators asking for their cooperation "in helping to maintain a high level of safety throughout the shortage."

Other action taken by MESA included opening lines of communication with all manufacturing parties to find out what steps can be taken to ameliorate the roof bolt shortage situation. Day stated that the Secretary of the Interior, Rogers C. B. Morton has requested the Cost of Living Council to react favorably to any requests from roof bolt manufacturers or steel suppliers to price adjustments or relief.

A letter to that effect was delivered October 12 to the CLC, signed by Acting Secretary John C. Whitaker.

[From Metalworking News, Oct. 16, 1973]

MINE ROOF BOLT BUSINESS MAY YIELD TO STEEL CRISIS

(By Debra Patton)

NEW YORK.—A shortage of steel is threatening to close down producers of mine roof bolts and cause a 25 to 40 percent drop in underground mine production.

"The supply situation is extremely critical." James Earl, production manager of H. K. Porter Co., Inc., Huntington, W. Va., said Friday. "If we don't receive a supply of rod stock in ten days, we'll have to close the plant."

Earl said his plant is already "operating at well below 50 percent capacity."

He added that the steel used for making the bolts is just not available. "We are actively spending a lot of time looking for steel," he said.

Earl said his company has not yet used imported steel. "As an American company, the thought of imports is distasteful."

Claude White, president of Birmingham Bolt Co., Birmingham, Ala., said the steel shortage is "very bad." Birmingham, which is the largest American producer of mine roof bolts, has two of its plants temporarily out of production. "We are picking over the scrap piles, but by the end of the next week our production will pick up again," White said.

White said the steel shortage at his plant was caused by the fact that one of his suppliers is on strike and said there were delays in deliveries from other mills.

"For the fourth quarter we are short several-thousand-tons of steel," he said. The company uses 5,000 tons of steel a month to produce over 2-million roof bolts.

White said several mills furnishing steel rods have quit rolling metal for bolts "because they can sell it for more profit as sheets, structurals and so on."

White said his company has not bought foreign steel yet. "We were offered some earlier at a price which I thought was fantastically high. Now that price looks pretty good," he said.

"We're going to see dozens of mines being shut down or hamstrung (because of the bolt shortage) that will cost millions of dollars," he said.

Harmony Industries, Inc., Mingo Junction, Ohio, is another large manufacturer of mine roof bolts. Ross Seese, president, said his company is experiencing a two-thirds drop in production because of the steel shortage.

He said mills are making more money from billet formed steel and other products. "The mills are slowly cutting back on the quantity they are shipping," he said.

His company, which makes other mining products also, used to get 2,500 tons of steel a month. Now they receive only 850 tons a month, he said.

William A. Keller, general superintendent of Pattin Manufacturing Co., Marietta, Ohio, a division of Eastern Co., said his company's steel inventory is in good shape, "but it won't last. The steel mills are not rolling rods used to manufacture bolts because it's not profitable," Keller said.

Keller said he could see the steel shortage coming. "Lead-time had stretched out and the mills began to cut back on the amount of tonnage you could buy," he said.

A spokesman for Consolidation Coal, Pittsburgh, the second largest American producer of coal, said his company is currently not seeing any effects of the mine roof bolt shortage. "But in a few days the shortage will affect the industry drastically," he said.

The bolt shortage has "slipped up on the coal industry," he said. Consolidation has a vast inventory of the bolts, but is facing problems getting "the right bolts to the right location at the right time," he said.

Trying to get imported bolts is also a problem, the spokesman said. There is a lead-time of six months in Japan and three months in Canada, he said.

The shortage will "create severe hazards because the men can't work on mines without proper roof support," he said.

A spokesman for Peabody Coal, the largest domestic coal producer, said, "We've been getting enough bolts to operate. But if we don't get a continuation of delivery the problem will be serious."

A government spokesman from the Federal Mining Enforcement & Safety Administration, Washington, estimated that if the steel shortage continues, a 25 percent to 40 percent drop in underground mine production will result by the end of the quarter.

Had mine roof bolt production remained at its former level, about 90-million bolts a year would be produced, he said.

"The shortage is creating a dangerous condition," he commented. "The mines can't go below minimum supportive standards. Some mines are beginning to cut back to minimum standards already," he said. "Roof falls are the number one cause of death in underground mines."

Senator Jennings Randolph of West Virginia is also concerned about the mine roof bolt shortage. Last week he tacked on a resolution to the surface Mining Reclamation measure of 1973 (S. 425) which called for immediate action to end the shortage.

In part it said: "It is the sense of the Congress that the Department of the Interior, the Cost of Living Council, the Office of Preparedness and the Office of Energy Policy shall take immediate action to increase the supply of fabricated steel available for the manufacture of coal mine roof bolts and roof plates essential to maintaining the operations of coal mines at the level necessary to provide adequate supplies of coal in the immediate future. If necessary, such action shall include granting increases in the price of fabricated steel to a level which will insure the manufacture of sufficient supplies of roof bolts and roof plates."

The bill passed unanimously by voice vote and now must go before the House.

An aide for Senator Randolph said the Senator will be meeting with government officials this week in order to try to get prompt action.

SUBMISSION OF THE INTERIOR DEPARTMENT TO THE COST OF LIVING COUNCIL

This submission is made pursuant to 6 CFR 155.41 (et seq.) by the U.S. Department of the Interior in behalf of those companies producing or currently capable of producing steel bar stock or other components meeting those specifications set forth in 30 CFR 75.200–7(a)(1) (by reference) commonly used in the production of mine roof bolts in order to assist the cost of living counsel in the expeditious processing of such requests for relief as are described below:

SUMMARY

As more fully set forth below, this submission shall set forth; (1) that an already critical and worsening shortage of roof bolts currently exists; (2) that such bolts are necessary and indispensible materials used in the mining industry; (3) that the availability of such bolts has a direct impact on both the safety of miners employed at underground mines and the ability of the Nation to meet its short and long term energy needs; (4) that both of these areas of impact fall within the purview of the statutory responsibilities of the Department of the Interior, and (5) that the granting of the requested relief is the most expeditious method of alleviating the shortage and thence safeguarding overall national interests.

STATEMENT

Recent surveys done by the Mining Enforcement and Safety Administration (MESA) have disclosed that there is a worsening shortage of mine roof bolts. Based on a survey of major bolt fabricators, it is projected that a production drop off of between 25% and 40% could occur by the end of this year. (See Exhibits 1 and 2) This fact alone may not be alarming to those unfamiliar with mining technology. The plain fact is, however, that roof bolts now constitute the sole means of roof support in developing areas of most of the Nation's underground coal mines and an integral part of the roof support system of almost all the rest. Since the early post World War II period, the majority of the Nation's mines have shifted their roof support systems from primary reliance on timbers to primary reliance on roof bolts. This was done for quite a number of reasons. By far the overriding consideration in such a shift was safety, which in this case was closely tied to productivity. As mining became increasingly more mechanized and mining equipment became more and more mobile, the need was felt for a dependable means of roof support which could not be dislodged by mobile equipment. Roof bolts filled that need. In fact, the use of roof bolts became so widespread that by 1970 it was estimated that some 70,000,000 roof bolts were consumed and by 1973 this figure could grow to 90,000,000.

This product is currently produced by a number of companies only a very few of which are "integrated producers" in that they make the entire product from beginning to end. Rather, the majority of finished roof bolts are manufactured by companies which buy stock items which they then custom finish and fabricate into the product itself. At present, available fabricating facilities are standing unused due to apparent unavailability of certain key components used in the finished product.

As can be ascertained from Exhibits 1 and 2, the shortage of these components has already had a significant impact on the roof bolt fabricating industry. It has also had a significant impact on the coal mining industry itself. An informal survey done November 5, 1973, by MESA's Coal Mine Health and Safety Office, showed the following information:

With the exception of the anthracite industry, coal mines all over the country are reporting lowered inventories of roof bolts and a general inability to obtain roof bolts on a regular, predictable basis, with some companies describing their situation as "critical". As a result, no large mining operations are known to have actually ceased production at this time. However, they are obtaining roof bolts only on a "hand to mouth" basis and it appears as though any further decrease in availability could make major mine closures quite likely.

With this growing shortage in mind, it is important to note that the Department, through MESA, is responsible for safeguarding working conditions in these mines through the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801 et seq.). Regulations promulgated pursuant to this Act (see 30 C.F.R. 75.200 et seq.) specify minimum roof support criteria while the Act itself (supra. sec. 104) grants authority for MESA to close those mines not meeting those criteria. Inasmuch as the criteria specify minimum support, MESA has historically urged that more support be used when possible.

As the supply of bolts diminishes, many mines may no longer be physically able to exceed or even meet the minima criteria. When this occurs on a widespread basis, a significant increase in roof fall injuries and fatalities can be expected. Inasmuch as roof falls already constitute the leading cause of death and injury in coal mines, this situation can be allowed to develop.

Mines in several areas of the country have begun applying for modification of their roof control plans permitting increased use of timbering as well as recovery of old roof bolts from abandoned areas or abandoned mines. Also, we have received some reports of temporary closures of small mines in the Western United States and in North Eastern Kentucky.

It should be noted that, while applications have been made for modifications of roof control plans and recovery of roof bolts, both of these courses of action could lead to significant increases in mining accidents. Timbering, the only viable alternative to roof bolts is, in itself, significantly hazardous in that timbers are easily dislodged and are also a fire hazard. MESA has gone on record as opposing such modifications where the sole reason for making them is the shortage of bolts.

Recognizing that the health and safety of the Nation's miners is jeopardized by this shortage is justification enough for this submission. The impact of this shortage on the ability of the Nation to meet its energy needs must also be made clear. Within the next two years it is estimated that roof bolt consumption in coal mining alone will increase over 15%. While this figure does not take into account roof bolt consumption in the non-coal industries, it does point up the fact that expansion in bolt production capacity will play a major role in insuring an adequate supply of coal and hence electric power in the future. (See Exhibit 3)

After investigating the situation, extensive informal discussions were held with both the bolt manufacturers and many of the component suppliers. Several of the parties involved indicated that they could and would increase production of the needed components if given certain price relief. While the Department is not prepared at this time to make any specific requests for particular or class relief, we submit this statement and attached information to you in support of those requests you have received or will receive which are conditioned on the expansion of production of the concerned goods. We urge again that the Cost of Living Council expedite and grant all reasonable requests made pursuant to or in concert with this submission upon the corroboration of the involved data.

(NOTE: Due to the urgency of this situation, the submission is being made in advance of receiving some information that had been requested previously. It will be forwarded to you immediately following receipt by us along with any further material you might request.)

[Telegram]

CLEVELAND, OHIO,
September 21, 1973.

Senator JENNINGS RANDOLPH,
U.S. Senate,
Capitol Hill, D.C.:

Strongly suggest an immediate investigation of critical roof bolt and roof bolt plate shortage at West Virginia coal mines, Valley Camp 331 and Alexander mines. Suppliers of coal to Ohio Edison and Ohio power companies will shut down Sept. 26 for lack of bolts and plates. Valley Camp, other mines, suppliers of coal to Appalachian Power Co., Dayton Power and Light, Philadelphia Electric, and other electric utilities will close soon after unless immediate action corrects this shortage.

HERBERT S. RICHEY,
President, the Valley Camp Coal Co.

ROCHESTER & PITTSBURGH COAL CO.
Indiana, Pa., November 5, 1973.

Mr. MARK SAVIT,
Information Specialist, Department of the Interior, Washington, D.C.

DEAR MR. SAVIT: I am writing to advise you of the critical shortage of roof bolts which we are experiencing in our Company. We operate four large underground mines which supply coal directly by belt to two of the largest mine-mouth generating stations in the United States, namely, the Keystone and Homer City Electric Generating Stations.

We use a total of 90,000 roof bolts per month of assorted sizes.

We had three sources of supply for roof bolts: Republic Steel Company, Bethlehem Steel Company and Penn-Birmingham Bolt Company, Inc. Republic Steel Company discontinued making roof bolts in June of this year and the Penn-Birmingham Bolt Company advised us about a month ago that Jones & Laughlin Steel who supplied their roof bolt rods were discontinuing shipment to them because they could make more money on other materials. I confirmed this by talking on the telephone with Mr. William Roesch, President of Jones & Laughlin Steel Company about a week ago. I have also discussed the situation with the Bethlehem Steel people who advise us that they have asked for a 22% increase in the price of roof bolts in order to keep the business alive. Penn-Birmingham have made no promise of delivery beyond November 8 and Bethlehem Steel beyond December 31, 1973.

We presently have on hand and promised about a one-month supply of bolts but we have been unable to get a supply of bolts lined up after January 1. If we run out of roof bolts, we will have to shut down our mines which in turn will shut down the mine-mouth power generating stations who are major suppliers to the PJM System which includes Washington, D.C. I have been advised by the Generating Companies that this would cause a major power shortage in the East.

We have been picking up roof bolts wherever we can find them, including Canada and we are reconditioning scrap bolts in an effort to keep our head above water. We have also notified the owners of the two power stations which we serve of the seriousness of the situation and we have recommended that they get in touch with you immediately.

If there is any further information which we can give, please advise. My telephone number is (412) 465-5621.

Yours very truly,

GILBERT P. REMEY.

POTOMAC ELECTRIC POWER CO.,
Washington, D.C., November 7, 1973.

Mr. MARK SAVIT,
Information Specialist, Interior Department, Washington, D.C.

DEAR MR. SAVIT: This is to call to your attention a very critical situation which we hope can be resolved within the next few days. Fortunately, the problem does not appear to have a difficult solution and has probably not received the response from the Cost of Living Council because of the heavy work load that their office is subjected to at this time.

The situation is grave as it directly affects the electric power supply to the east central area of the United States in the immediate future and could encompass the rest of the country within a matter of weeks.

The problem is that the coal supply to major mine-mouth power plants may become dramatically curtailed because of the lack of roof bolts which are required by law for the normal operation of coal mines.

Roof bolts are under price controls regulations by the Cost of Living Council and we have been informed by a major user that, unless the controls are lifted and the allowed selling price increased, steel companies will continue to curtail their manufacture because the present price results in a loss.

It should be recognized that power generation obtained from coal is less expensive than that obtained from other fuels and, also, that coal usage greatly relieves the already severely limited fuel oil resources.

Any action you can initiate to alleviate this critical condition will be greatly appreciated.

Very truly yours,

J. C. HERBERT,
Vice President,
Purchasing and General Services.

[Telegram]

ROCHESTER & PITTSBURGH COAL CO.,
Indiana, Pa., October 7, 1973.

MARK SAVIT,
Information Specialist, Department of Interior, Washington, D.C.:

Roof bolt supply at our mines is at emergency level. We have only 2 weeks' usage, the lowest inventory in our history. No relief anticipated from our suppliers in the near future. Our mines provide employment for 1,400 people and I urge you to pull out all stops to keep these mines working, particularly during the Nation's energy crunch.

ROBERT I. BILLINGS,
Vice President, Operations.

ROBINSON-PHILLIPS COAL CO.,
Pineville, W. Va., November 8, 1973.

Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: We are writing you to call to your attention the critical shortage of steel used in the manufacture of mine roof bolts and shells and to ask for your help in any way that you can to eliminate the roof bolt shortage.

We are now operating five coal mines in southern West Virginia and employ approximately 250 employees.

In order to operate and mine the coal which is vital to the economy in this state and essential in face of the continuing fuel shortage in this country, we have to use roof bolts and shells to support the roof in the mines while the coal is being extracted.

Our suppliers of these roof bolts and shells have notified us that the steel companies who have been supplying the steel for these bolts and shells have notified them that they can no longer supply the steel requirements necessary in the manufacture of these bolts and shells.

We have been informed that the reason for the shortage of this particular type of steel is that the price is too low for the manufacturers to realize a profit and therefore are using the steel for other purposes.

The Cost of Living Council has rejected any price increases on the grounds that it isn't necessary.

Thank you in advance for your cooperation in this matter.

Yours very truly,

CLAUDE PHILLIPS,
President.

LETTER DICTATED OVER THE TELEPHONE TO MARK N. SAVIT, FROM MR. BOBLICK, OF MONTEREY COAL CO., NOVEMBER 8, 1973

(Confirmation to follow)

Monterey Coal Company has one underground mine located in Carlinville, Illinois. This is a new mine which started production in 1970. During 1972, the mine produced 1,974,000 tons and it is expected that the mine will produce 2,800,000 tons in 1973, at a rate of over 11,000 tons per day.

Monterey Coal Company continued its annual requirement for new roof bolts by blanket order. All of the 1972 bolt requirements were completed by Republic Steel Company, deliveries were filled promptly from their stock at Marion, Illinois. This order expired on January 31, 1973; at the same time, Republic Steel discontinued its production of mine roof bolts and discontinued fabricating machinery because of reported low cost profitability. It then became necessary to find a new source of supply and all 1973 requirements were contracted to Kentucky-Birmingham Bolt Company, Birmingham, Alabama, with delivery to be made from their Madisonville, Kentucky fabricating plant. Deliveries during the period of February to May, 1973, were made promptly within 2 or 3 days from date of our purchase order.

Commencing June, 1973, Birmingham delivery schedule began to deteriorate and delay in our shipment order has gone from 2 weeks in June to 3 weeks in September. In late September, delivery stopped altogether. At the present time, we have 5 Open Releases to Birmingham Bolt Company that date back eight weeks to September 6, 1973. We depleted our stock of 48" bolts on October 29, 1973 and have been forced to use 72" length bolts requiring much more labor for drilling the roof and paying a premium of 45% additional cost for these bolts. Weekly and recently, bi-weekly, expediting has been done with Birmingham in order to get some of these orders filled. Their Sales Manager, repeatedly has informed us that they are out of bar steel and that they don't know when a supply can be expected but will make every effort to give us a load as soon as a steel supply arrives at their plant.

In order to fill Monterey's back orders, Birmingham needs 450 tons of steel bar stock. This is 56% of the tonnage they expect to receive during November. To meet all of their customer commitments, Birmingham requires 1,200 tons of bar stock. In November, they expect to receive only 800 tons (⅔ of amount requested) and 600 tons (1½ of amount requested) in December 1973.

Monterey has on hand a ten week supply of 30″ bolts but only one week supply of high usage of 72″ bolts which are being used as a substitute for 48″ bolt requirements. We are taking delivery on another 17 week supply of 30″ bolts purchased in September from a secondary source. Marion Mine Supply Company, Marion, Illinois has insurance against our depletion in the event of a prolonged steel shortage. This provides us with a 27 week supply of 30″ bolts which can be used only in 25% of our working units; 75% or our current requirements are for 48″ and 72″ bolts and if we fail to secure delivery within the next week, it will be necessary to curtail our production 75% or a reduction of about 9,000 tons (1½ units trains) per day. As of yesterday, Birmingham advised us that they were out of bar stock and expected to receive only 25 tons the rest of the week and could make no definite delivery promise. In the past few months, all other known potential suppliers of roof bolts have been contacted by our purchasing personnel without success. All these other suppliers informed us that they were not receiving enough steel to satisfy their present commitments and therefore cannot accommodate any new business.

Delivery problems were discussed at length with the President, Birmingham Bolt Company, and he stated that since June 1 of this year, mill rolling and delivery of bar stock has worsened progressively by the week. He stated that in his opinion, the shortage of bar steel is because of controlled pricing during 1972 and prior years. Birmingham purchased bar stock from six steel companies: Phoenix Manufacturing, Joliet, Illinois; Knoxville Iron, Knoxville, Tennessee; Jones and Laughlin; Georgetown Steel Company; Laclede Steel, St. Louis, Missouri; and U.S. Steel Company. All except two of these companies (Phoenix and U.S. Steel) have discontinued rolling of bar stock for roof bolt fabrication because of reported low profitability.

We would appreciate any assistance that you may give the coal industry to alleviate this critical roof bolt shortage.

PROGRAM FOR TOMORROW

Mr. HUGH SCOTT. Mr. President, I rise for the purpose of inquiring how many more votes we have for tonight.

Mr. MANSFIELD. No more.

Mr. HUGH SCOTT. What will happen tomorrow? We had 17 votes today, I believe, so it has been a good day.

Mr. MANSFIELD. Yes.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS DOMENICI, TAFT, DOMINICK, AND ROBERT C. BYRD TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leaders or their designees have been recognized under the standing order tomorrow, the distinguished Senator from New Mexico (Mr. Domenici), the distinguished Senator from Ohio (Mr. Taft), the distinguished Senator from Colorado (Mr. Dominick), and the distinguished Senator from West Virginia (Mr. Robert C. Byrd) be recognized for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROPRIATIONS FOR MILITARY CONSTRUCTION, FISCAL YEAR 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 11459, the military construction appropriation bill for 1974, be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> H.R. 11459, authorizing appropriations for military construction for fiscal year 1974.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President following consideration of the military construction appropriation bill tomorrow, it is the intention of the leadership to proceed to the consideration of Calendar No. 388, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome, and so forth.

Other unobjected-to items that are on the calendar will be called up tomorrow also.

PROGRAM FOR NEXT WEEK

Mr. MANSFIELD. Mr. President, on Monday, November 26, 1973, there will be two treaties on which there will be a vote. Continuation of the Rhodesian chrome bill and other matters will be the pending business.

On Tuesday the Senate will take up the Ford nomination, if everything goes according to Hoyle.

Following that, the daylight saving bill, Calendar No. 479, S. 2702, will be taken up.

I ask unanimous consent, if this meets with the approval of the distinguished Senators from New Hampshire (Mr. Cotton), Kentucky (Mr. Cook), and Washington (Mr. Magnuson) that there be a time limitation of 3 hours on the daylight saving bill.

Mr. DOMINICK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, we are trying to get through the administration's energy program. We had hoped to bring up the daylight saving bill now.

Mr. DOMINICK. I should like to explain, if the Senator will yield.

Mr. MANSFIELD. I yield.

Mr. DOMINICK. At the moment, we have every plan of putting a minimum wage bill on as an amendment, and we cannot do it if there is unanimous consent as to nongermane amendments, which is why I objected.

Mr. MANSFIELD. I understand. But I want the Record to show that, so far as the leadership was concerned—and I think I speak for the joint leadership—we were prepared to go ahead with another specific in the administration's energy program.

The Senator may recall that the President has accused Congress of being derelict in its responsibilities in facing up to this type of legislation, when exactly the opposite is true.

I must say, in all honesty, that we have been ahead of the administration, and Congress in general, but the Senate especially—both Democrats and Republicans are to be commended. I do not know what the situation will be on the daylight saving bill now.

Mr. HUGH SCOTT. If the Senator will yield, I had agreed with the proposal on the assumption as he has stated, that the distinguished Senator from New Hampshire (Mr. Cotton) has been notified and is satisfied, and I understand we have that assurance from the distinguished Senator from Kentucky (Mr. Cook).

Mr. MANSFIELD. That is right.

Mr. HUGH SCOTT. So that at that time I had no information of any objection.

I would hope that we could act as soon as possible on the daylight saving bill in order to accomplish the purposes of that bill.

Mr. MANSFIELD. Then we have Calendar No. 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964. There will be some discussion on that.

Then we have Calendar No. 481, S. 2705, a bill to provide for the disposition of abandoned money orders and travelers checks; Calendar No. 488, S. 2551, a bill to authorize the disposal of molybdenum from the national stockpile; Calendar No. 492, Senate Concurrent Resolution 57, dealing with housing; Calendar No. 498, S. 2548, a bill to amend title 5, United States Code; Calendar No. 499, H.R. 6334, to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code; Calendar No. 497, S. 1038, to amend title 37, United States Code; Calendar No. 520, H.R. 10511, to amend section 164 of the Federal-Aid Highway Act of 1973.

So we have a pretty tough schedule ahead of us. That is about all I can say as to what the calendar contains.

Mr. HUGH SCOTT. I do not believe the majority leader has mentioned the possible program for Wednesday of this week.

Mr. MANSFIELD. What does the Senator think I was reeling off?

Mr. HUGH SCOTT. I assume that we will have work to do if we have people to do it on Wednesday.

Mr. MANSFIELD. If we have work to do—and I think we will—I want to assure the distinguished Senator and the Senate that we will be in session. But if it is a case of marking time, we will just have a pro forma session. We will try to give as much notice in advance as possible, so that Members can take advantage of a little additional time, if it is possible.

Mr. HUGH SCOTT. Should the Senate Judiciary Committee, which is meeting tomorrow, report the emoluments bill in accordance with its instructions, without amendment, is it possible to consider that bill before the recess?

Mr. MANSFIELD. Personally, I would like to, but, practically, I do not think it will be possible, because, on the basis of what I have been hearing and reading, it seems that a grave constitutional question has arisen, and I would assume that there would be considerable debate on that matter. So we will have to wait and play it by ear.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

Mr. MANSFIELD. I thank the distinguished Senator from Colorado for telling the joint leadership what he intends to do. We had no idea it was in the offing.

Mr. DOMINICK. I understand.

FAIR LABOR STANDARDS AMENDMENTS OF 1973—INTRODUCTION OF A BILL

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. TAFT, and Mr. BEALL, I send to the desk a bill to amend the Fair Labor Standards Act (S. 2727) to provide for increased minimum wage rates, and for other purposes.

I ask unanimous consent that the bill be considered as having been read twice and that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAMS. Mr. President, rather than go into a great deal of discussion, the Senator from Colorado knew that Senator Javits and I were going to object to that procedure, and I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the first time by title.

Mr. DOMINICK. I also ask unanimous consent that the text of the bill be printed in the RECORD, to be followed by a section-by-section analysis and a cost impact chart prepared by the Labor Department.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2727) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

The PRESIDING OFFICER. Is there objection to the second reading?

Mr. WILLIAMS. That was the objection.

The PRESIDING OFFICER. Objection is heard.

The bill will go over 1 day before it has its second reading.

EXHIBIT 1

S. 2727

A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (d)) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State, and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended by adding at the end thereof the following: "In the case of any individual employed by the United States, 'employee' means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (v) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e) (1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(f) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(20) any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (E) in the Library of Congress; and any employee employed by any State or a political subdivision of any State and any agency or instrumentality thereof or interstate governmental agency."

INCREASE IN MINIMUM WAGE

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1) (A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $2 an hour during the second year from the effective date of such amendments, "(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"(E) not less than $2.30 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, not less than $1.90 an hour during the third year from the effective date of such amendments, and not less than $2 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 4. Section 6(a) of the Fair Labor Standards Act of 1933 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $ .60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) are amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rates or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A) increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

PROOF OF AGE REQUIREMENT

SEC. 6. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulations require employers to obtain from any employee proof of age."

CHILD LABOR IN AGRICULTURE

SEC. 7. (a) Section 13(c)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parents, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.".

(b) Section 13(d) of such Act is amended to read as follows:

"(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH: SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student (i) is employed by the educational institution at which he is enrolled, or (ii) is employed during a school vacation in a retail or service establishment or in agriculture.

"(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period."

CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged; or

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (48 Stat. 582)."

PENALTIES

SEC. 10. (a) The first three sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows:

"The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

(b) Section 11 of the Portal-to-Portal Pay Act of 1947 is amended by deleting "(b)" after "section 16".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 11. (a) (1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, a section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15 (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from non-appropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriated remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and (appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

(2) "consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age in a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

EXEMPTION REVIEW

SEC. 12. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

SEC. 13. (a) The Secretary shall contract for a study to determine the extent, if any, of the impact on employment of the increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by each of sections 3 and 5 of this Act, and to develop statistical information and techniques designed to predict the probable impact, if any, on employment of future increases in minimum wages. Each such study shall contain statistical information with respect to such impact on categories of employment and unemployment including but not limited to age, sex, occupation, education, ethnic origin, size, and business of employer, and geographic area, including Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

(b) The Secretary shall prepare and furnish the Congress on an annual basis, beginning nine months after the effective date of the Fair Labor Standards amendments of 1973, with reports on the interim findings of each such study, and with a final report on the findings of each such study within twenty-one months after the highest minimum wage rate prescribed by each of said sections shall have become effective.

(c) Ninety days prior to the effective date of each increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by sections 3 and 5 of this Act, the Secretary shall provide the Congress with an employment impact statement establishing category of employment of each such prospective increase, together with a summary of the basis for each statement.

TECHNICAL AMENDMENTS

SEC. 14. (a) Section 6(c) (2) (C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b) (1) Section 6(c) (3) of such Act is repealed.

(2) Section 6(c) (4) of such Act is redesignated as 6c(3).

(c) (1) Section 7(a) (1) of such Act is redesignated as 7(a).

(2) Section 7(a) (2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a) (6)", and by striking out "section 7(a) (1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 15. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

EXHIBIT 2

SECTION BY SECTION ANALYSIS OF S. 2727

SECTION 2

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the

United States and any state or political subdivision of a state. This would extend minimum wage coverage to an estimated 5 million federal, state and local government employees (1.7 million federal, 3.3 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and Vista, would not be included in the extension of coverage, nor would elected officials or their personal staff. (conforms with S. 1861, except that minimum wage coverage only—not overtime—is extended to such employees.)

Also amends section 3(m), under which tips, up to 50 percent of the applicable minimum wage rate, may be included for purposes of computing wages paid employees. New requirement added, that in order for employer to qualify for tip credit, employees must be informed of the law, and must actually retain all tips received. (Conforms with section 2(d) of S. 1861.)

SECTION 3

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date, and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, $1.90 an hour during the third year, and $2.00 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act. (Conforms with section 5 of S. 1861.)

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act, which relates to child labor in agriculture, to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents, or on farms where their parents are employed. (Conforms with section 6(c) of S. 1881.)

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers. Does not create a new minimum wage or overtime exemption.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job, except that they could work full-time during school vacations at jobs in retail-service industries or agriculture.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act. Conforms with section 9 of S. 1861.)

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts. (Conforms with section 8(b) of S. 1861.)

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90–202) to extend its coverage to federal, state and local government employees. (Conforms with section 12 of S. 1861.)

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Directs the Secretary of Labor to contract for a study estimating the impact which the minimum wage increases provided for in this bill will have on employment among various categories of workers. The study will also develop the methodology necessary to predict the employment effects of future minimum wage increases.

SECTION 14

Technical amendments.

SECTION 15

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of Labor to promulgate regulations necessary to carry out such amendments.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. — (DOMINICK-TAFT AND BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1974[1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	1,965	3.8	$539	0.1	51,980	$383,890
Employees presently subject to the minimum wage	1,894	4.0	489	.1	46,950	341,549
Employees subject to the minimum wage prior to 1966 amendments to $1.80	636	1.8	517	.1	35,159	276,531
Employees subject to the minimum wage as a result of 1966 amendments	1,258	10.7	332	.5	11,791	65,018
Federal employees—wage board and nonappropriated fund to $1.80	30	4.7	7	.1	636	5,462
State and local government to $1.80	286	10.2	70	.5	2,817	14,896
Other private nonfarm employees to $1.80	878	11.2	241	.6	7,853	43,058
Farmworkers to $1.50	64	13.2	14	.9	485	1,602
Employees subject to the minimum wage as a result of 1973 amendments	71	1.4	50	.1	5,030	42,341
Federal employees to $1.80					1,697	15,625
State and local government to $1.80	71	2.1	50	.2	3,333	26,716

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1974, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. —— (DOMINICK-TAFT-BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1975 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2, 890	5. 6	$920	0. 2	51, 980	$403, 333
Employees presently subject to the minimum wage	2, 787	5. 9	886	. 2	46, 950	358, 839
Employees subject to the minimum wage prior to 1966 amendments to $2	1, 027	2. 9	324	. 1	35, 159	290, 405
Employees subject to the minimun. wage as a result of 1966 amendments	1, 760	14. 9	562	. 8	11, 791	68, 434
Federal employees—wage board and nonappropriated fund to $2	40	6. 3	12	. 2	636	5, 739
State and local government to $2	394	14. 0	116	. 7	2, 817	15, 674
Other private nonfarm employees to $2	1, 235	15. 7	411	. 9	7, 853	45, 331
Farmworkers to $1.70	91	18. 8	23	1. 4	485	1, 690
Employees subject to the minimum wage as a result of 1973 amendments	103	2. 0	34	. 1	5, 030	44, 494
Federal employees to $2					1, 697	16, 406
State and local government to $2	103	3. 1	34	. 1	3, 333	28, 088

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1975, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. —— (DOMINICK-TAFT & BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1976 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2, 917	5. 6	$574	0. 1	51, 980	$423, 975
Employees presently subject to the minimum wage	2, 814	6. 0	553	. 1	46, 950	377, 240
Employees subject to the minimum wage prior to 1966 amendments to $2.10	1, 027	2. 9	205	. 1	35, 159	305, 075
Employees subject to the minimum wage as a result of 1966 amendments	1, 787	15. 2	348	. 5	11, 791	72, 165
Federal employees—wage board and nonappropriated fund to $2.10	40	6. 3	7	. 1	636	6, 033
State and local government to $2.10	394	14. 0	67	. 4	2, 817	16, 523
Other private nonfarm employees to $2.10	1, 235	15. 7	243	. 5	7, 853	47, 821
Farmworkers to $1.90	118	24. 3	31	1. 7	485	1, 788
Employees subject to the minimum wage as a result of 1973 amendments	103	2. 0	21	(2)	5, 030	46, 735
Federal employees to $2.10					1, 697	17, 227
State and local government to $2.10	103	3. 1	21	. 1	3, 333	29, 508

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1976, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. —— (DOMINICK-TAFT AND BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1977 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2, 918	5. 6	$561	0. 1	51, 980	$445, 227
Employees presently subject to the minimum wage	2, 815	6. 0	540	. 1	46, 950	396, 156
Employees subject to the minimum wage prior to 1966 amendments to $2.20	1, 027	2. 9	205	. 1	35, 159	320, 337
Employees subject to the minimum wage as a result of 1966 amendments	1, 788	15. 2	335	. 4	11, 791	75, 819
Federal employees—wage board and nonappropriated fund to $2.20	40	6. 3	7	. 1	636	6, 335
State and local government to $2.20	394	14. 0	67	. 4	2, 817	17, 355
Other private nonfarm employees to $2.20	1, 235	15. 7	243	. 5	7, 853	50, 235
Farmworkers to $2	119	24. 5	18	1. 0	485	1, 894
Employees subject to the minimum wage as a result of 1973 amendments	103	2. 0	21	(2)	5, 030	49, 071
Federal employees to $2.20					1, 697	18, 088
State and local government to $2.20	103	3. 1	21	. 1	3, 333	30, 983

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1977, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S.——(DOMINICK-TAFT AND BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1978[1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,799	5.4	$543	0.1	51,980	$467,489
Employees presently subject to the minimum wage	2,696	5.7	522	.1	46,950	415,966
Employees subject to the minimum wage prior to 1966 amendments to $2.30	1,027	2.9	205	.1	35,159	336,349
Employees subject to the minimum wage as a result of 1966 amendments	1,669	14.2	317	.4	11,791	79,617
Federal employees—wage board and nonappropriated fund to $2.30	40	6.3	7	.1	636	6,652
State and local government to $2.30	394	14.0	67	.4	2,817	18,223
Other private nonfarm employees to $2.30	1,235	15.7	243	.5	7,853	52,750
Farmworkers at $2 since Jan. 1, 1977					485	1,992
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	51,532
Federal employees to $2.30					1,697	18,992
State and local government to $2.30	103	3.1	21	.1	3,333	32,531

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1978, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973

THE ENERGY CRISIS

Mr. MANSFIELD. Mr. President, on November 7, 1973—and we are still in the month of November—the President addressed the Nation, outlining the steps to deal with energy emergency. In his address, he said:

> That is why it is time to act now on vital energy legislation that will affect our daily lives, not just this year, but for years to come.
>
> We must have the legislation now which will authorize construction of the Alaska pipeline—legislation which is not burdened with irrelevant and unnecessary provisions.
>
> We must have legislative authority to encourage production of our vast quantities of natural gas, one of the cleanest and best sources of energy.
>
> We must have the legal ability to set reasonable standards for the surface mining of coal.
>
> And we must have the organizational structures to meet and administer our energy programs.
>
> And therefore, tonight, as I did this morning in meeting with the Congressional leaders, I again urge the Congress to give its attention to the initiatives I recommended 6 months ago to meet these needs that I have described.
>
> Finally, I have stressed repeatedly the necessity of increasing our energy research and development efforts. Last June, I announced a 5-year, $10 billion program to develop better ways of using energy and to explore and develop new energy sources. Last month I announced plans for an immediate acceleration of that program.

Mr. President, action taken on energy legislation recommended by the President is as follows:

Alaska pipeline (S. 1081)—passed by both houses of Congress and signed into law (Public Law 93-153) by the President on November 16, 1973.

Surface mining reclamation legislation (S. 425)—passed the Senate October 9, 1973. Minerals Subcommittee in the House Interior Committee has completed markup and has introduced a clean bill.

Energy research and development bill (S. 1283)—the administration opposes the bill. It does not want a law; they want only appropriations. Open hearings by the full committee on June 21 and June 22; July 11 and July 12. Full committee markup session October 23, October 31, and November 2. Markup scheduled for November 16 had to be postponed because of floor debate on S. 2589. One more day will be needed to complete markup.

Outer Continental Shelf leases in Santa Barbara channel (S. 1951)—open hearings held by Minerals Subcommittee on November 13, 1973. Administration withdrew bill.

Deepwater Ports Facilities (S. 1751)—joint hearings by Interior, Public Works and Commerce Committees—July 23, 24, and 25, August 1, October 2, October 3, 1973. Ready for markup after Thanksgiving.

Deregulation of gas (S. 2506 and S. 2048)—before Committee on Commerce in the Senate. Open hearings held October 10, 11, 24 and 25, and November 7 and 8. Additional open hearings will be held but not yet scheduled.

Department of Energy and Natural Resources (S. 2135)—pending before Senate Government Operations Committee. Open hearings held July 31 and August 1 and September 28. Additional open hearings planned after Thanksgiving.

This is what the Senate has done:

Emergency bill (S. 2589)—final passage at 6 p.m. today.

Allocation bill (S. 1570)—on the President's desk.

Strategic Petroleum Reserves (S. 1586)—ready for mark-up.

Conservation Policy for Energy (S. 2176)—on the Senate Calendar; reported by the committee.

Coal Conversion Act (S. 2652)—hearings in December.

I think the record will speak for itself. Again I want to say, as I have many times, that I think the Senate is to be commended for the outstanding job it has done. I include both Democrats and Republicans in my commendation. They are to be commended for the cooperation, interest, and energy they have shown in bringing out energy legislation. The Senate is to be commended as a whole not only for having considered the legislation but having passed it, as well. The record of the Senate will speak for itself, and the Senate has not confined itself to rhetoric or to messages, but has acted on the basis of a cooperative attitude and the best interests of the Nation as a whole.

Mr. FANNIN. Mr. President, I thank the distinguished majority leader for his comments on what the Senate has been able to accomplish. We all realize that the Committee on Interior and Insular Affairs has been very busy.

Mr. MANSFIELD. Absolutely, it has done a remarkable job.

Mr. FANNIN. I certainly pay tribute to the chairman of the committee, the Senator from Washington (Mr. JACKSON) and the members of the committee. I am very proud that the Republican members of the committee have been so faithful in making quorums and working on the legislation.

I join the majority leader in praising the Senate, but I also am very pleased to commend President Nixon for the position he has taken and for his dedication to accomplishing the objectives we all share. He has proclaimed a goal of self subsistance to be reached by 1980, one that will require a great deal of effort to reach.

I also commend the Secretary of the Interior, Rogers Morton, because as we all realize he has been very diligent in his efforts in this area.

We have a serious problem. We are experiencing shortages because we are using much more energy than ever before. We are unfortunate in that respect; but we have the capacity because of the natural resources in this country to achieve the goals the President has set.

Fortunately, we have almost one-half of the known coal reserves in the world. The Senator from Montana is very fortunate to have in his own State a vast amount of coal.

So we have many reasons to be hopeful, in spite of the shortages that have resulted from the way in which we have depleted our energy resources.

I feel the programs we are carrying forward do not address all the issues with which we must deal. We should emphasize increasing our supply of fuels to a much greater extent than is now the case. The President has recommended that we go forward at a faster pace. The chairman of the Committee on Interior and Insular Affairs has advocated spending vast sums of money for research and development programs. On these we are working with the House, and with the Executive Department.

The administration, is dedicated to the same end and I feel that we must approach this matter on a bipartisan basis. This has been true all through the hearings we have held. I do want my colleagues to realize that the Republicans are dedicated, just as the Democrats are dedicated, to reaching this goal.

I again express my appreciation to the distinguished majority leader for bringing this legislation up at this time.

Mr. MANSFIELD. I thank the distinguished senior Senator from Arizona for his gracious and kind remarks.

As far as the Senate is concerned we will be prepared all year to cooperate and to go half way and more than half way if need be to cooperate with the administration to carry out the business of the Nation.

Again I want to say, as I have said many times, I have never been more proud of the Senate in my many years down here than I have this year.

Mr. HANSEN. Mr. President, I regret that this bill does not address the overriding issue of energy supply. Unfortunately, the Senate refused to face up to this critical problem. On many occasions the Senate displayed a greater anxiety over the popular issue of a pollution-free environment than was reflected a clear understanding of the significance of an adequate energy supply to keep America warm, jobs assured, and to provide the security that goes with having America's industrial, domestic, and military needs guaranteed reasonable fulfillment as only domestic energy resources can do.

Whether we like it or not, neither Executive order nor legislative action can long suspend the laws of supply and demand. Whether we like it or not, petroleum and natural gas costs will rise. World demand and the supply situation assures that.

Sooner or later America will take steps—must take steps—to make domestic reserves of oil and gas more plentiful.

When homes are cold, jobs shut down, schools are closed, and industry is slowed, there will be a clearer understanding by Members for the need to increase supply.

The danger is that Americans may blame industry; buy the phony line that Government management of this complicated industry is the solution to their problems.

I hope that in conference a better bill might result.

Time is running out.

Thus, with misgiving I voted for the bill. I pay tribute to my colleagues on both sides of the aisle for their diligent attention to their task. I pay tribute to the staffs on both sides of the aisle for the long hours in perfecting the bill, the time they spent on weekends trying to pull together the recommendations that were made by both the majority and minority members of the committee. It has been a joint effort, and despite my disappointment in the final result, I must say that it has been a real privilege to work with such fine, dedicated people, both on the committee itself and on the staff.

Mr. GRIFFIN. Mr. President, since this seems to be a time for taking stock and looking at the ledger, insofar as the energy problem is concerned, let me say, not necessarily to take issue with the distinguished majority leader, but so we may put the record in some perspective, that it was in June of 1971 when President Nixon delivered the first energy message delivered by any President of the United States, calling the attention of the country and the Congress to the developing problems in the energy field.

And while I share the sense of pride and the admiration for particular Senators and for particular committees that have done a good job in this field. I think it is still in order to point out that, as far as Congress as a whole is concerned, it is still a fact that until the final adoption of the conference report on the trans-Alaska pipeline bill, which was adopted very, very recently, none of the major legislation requested by President Nixon had theretofore been delivered to his desk.

I might just point out that, while it is true that various committees are working on other pieces of legislation, the fact is that Congress as a whole had not delivered on legislation requested having to do with deepwater ports so that supertankers can deliver oil to the eastern coast. It is still a fact that Congress as a whole has not delivered on the electric power siting legislation requested by the President, which is desperately needed to produce more power. And it is still a fact that Congress as a whole—in fact, neither House of Congress—has delivered on the legislation having to do with the regulation of natural gas. It is still a fact that Congress has not delivered on legislation setting up a Department of Energy and Natural Resources.

So I merely make these points to keep the record in some perspective—yes, to give credit where credit is due, and there is a lot of that can be passed out, but beginning in June of 1971 and various messages thereafter, President Nixon has called attention to this problem and has requested specific legislation to be enacted by the Congress, and the fact still is that Congress has delivered precious little in terms of actual enactment of bills.

I want to associate myself with the remarks made by the distinguished Senator from Wyoming (Mr. HANSEN) when he points out that this legislation today does little more than provide a vehicle for allocating the shortages. It does nothing to increase the production of energy resources. And one of the major things that Congress has to turn its attention to is passing those legislative items that are going to produce more oil, are going to produce more coal, are going to produce more electric energy, because only through more production and providing a way of being self-sufficient in the energy field are we as a nation going to have the answer that we really need and must achieve.

Mr. MANSFIELD. Mr. President, I, too, want to put things in perspective, and I thought I did, and I am not speaking for the Senate, and when I say the Senate, I mean the whole Senate.

The distinguished acting minority leader states that in 1971 the President sent his first message. May I say that on July 16, 1970, Senator JENNINGS RANDOLPH introduced legislation, cosponsored by Senators of both parties, to establish a National Commission on Fuels and Energy. This was to be a joint executive-legislative body to make a comprehensive study of the Nation's energy needs and how best to meet them.

May I point out also, once again, that of the seven proposals sent to the Congress by the President, the Senate had passed the Alaska pipeline bill. The Senate has passed the surface mining reclamation bill. The administration does not want legislation on energy research and development. All it wants is money, and it opposes the bill before the Interior and Insular Affairs Committee.

With respect to the Outer Continental Shelf leases in the Santa Barbara Channel, the administration has withdrawn the bill.

The deepwater ports facilities bills, which the distinguished Senator from Michigan has mentioned, are ready, as far as the Senate is concerned, for markup, which will occur after Thansksgiving.

On the deregulation of gas bills—No. 6—hearings have been held beginning in October, and we anticipate they will be ready to be reported out of the Commerce Committee soon.

As far as the bill relating to the establishment of a Department of Energy and Natural Resources is concerned, that is now pending before the Senate Government Operations Committee, and additional hearings will be held after Thanksgiving.

But what the President did not send up, and what the Senate has done, is S. 2589, the emergency bill passed this evening; S. 1570, the allocation bill, now on the Presidents' desk; S. 1586, the strategic petroleum reserves, ready for markup; S. 2176, conservation policy for energy, on the Senate Calendar; S. 2652, the Coal Conversion Act, hearings on which are to be held in December.

I think we have done a pretty good job up here, and again I want to say that, as far as the Senate is concerned, the President will not lack in cooperation in this or any other field, because I think the record of this institution will prove itself on that basis today, and I have every confidence it will in the future.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 19, 1973, he presented to the President of the United States the enrolled bill (S. 2408) to authorize certain construction at military installations, and for other purposes and the enrolled bill (S. 2681), to authorize appropriations for the U.S. Information Agency.

ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:39 p.m. the Senate adjourned until tomorrow, Tuesday, November 20, 1973, at 10 a.m.

NOMINATION

Executive nomination received by the Senate November 19, 1973:

Upper Great Lakes Regional Commission

Raymond C. Anderson, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission, vice Thomas F. Schweigert.

EXTENSIONS OF REMARKS

PUBLIC FINANCING FOR PRESIDENTIAL PRIMARIES

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, November 19, 1973

Mr. SCHWEIKER. Mr. President, last week I joined with my colleague from Minnesota, Mr. MONDALE, in testimony on public financing of Presidential primary elections.

Provisions of our bill, S. 2238, the Presidential Campaign Financing Act, dealing with public financing of Presidential general and primary elections, have been included in a comprehensive public campaign financing amendment we introduced last Tuesday to the debt ceiling bill, H.R. 11104.

Because of the crisis in confidence in our Government today, it is essential for Congress to exercise dramatic leadership in reforming our campaign processes to help recover from the scandals of Watergate and the gross improprieties and violations of law that surrounded financing of the Presidential elections in 1972. The debt ceiling extension bill will be acted upon this month. I can think of no single step that can provide greater assurance to the people of our country that Congress can, and will, provide necessary reform legislation than for us to endorse public financing as an amendment to this bill.

Mr. President, I request unanimous consent that the joint statement of Senator MONDALE and myself that was presented to the Senate Finance Committee be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATORS WALTER F. MONDALE AND RICHARD S. SCHWEIKER

Mr. Chairman: We appreciate the opportunity to appear jointly before this distinguished committee this morning to emphasize the urgency of Congressional action this year on campaign reform and public financing of campaigns.

Elected officials, public commentators, and the American citizenry alike are gravely alarmed by today's on-going crises of confidence in government.

Two important points must remain clear to everyone: (1) First, it was Watergate that brought about this crisis of confidence.

(2) Second, it was the existence of unlimited campaign money that brought about Watergate.

The seemingly endless unravelling of the Watergate affair has testified more eloquently than we ever could to the need for public financing of campaigns. Unless the present system of financing campaigns with large, special-interest, private contributions is ended, it could ruin our democracy. It is no less serious than that.

Public financing of campaigns can cleanse our election process, and restore public trust and confidence in government. There can be no more essential business than this before the Congress. As Lincoln once said: "With public sentiment, nothing can fail. Without it, nothing can succeed."

At the outset, we would like to emphasize again what a great debt all of us who favor public financing owe to the distinguished Chairman of this Committee. It is his leadership, imagination, and farsightedness that has made the $1 check-off plan for financing Presidential general elections a part of our law, and paved the way for the further steps that we bring before you today. Russell Long is in every sense the father of public financing.

This committee has before it Amendment 651, a comprehensive proposal for public financing of Presidential and Congressional campaigns. We are proud to co-sponsor this bipartisan amendment with seven other Senators. It is similar to the provisions of the "Statement of Principles" on campaign financing that has been signed by 40 Senators.

The system of public financing of Presidential primaries which the Joint Amendment would establish is taken largely from the Mondale-Schweiker Presidential Campaign Financing Act (S. 2238). Each candidate who is able to raise $100,000 in contributions of 100 or less would receive matching payments from the Treasury for those contributions, and for additional contributions of tion of $100 or less would receive matching payments from the Treasury for those contributions, and for additional contributions of $100 or less.

Total Treasury matching payments to any candidate in the primaries would be limited to $7 million, and total primary spending per candidate would be limited to $15 million. Only $100 of any individual's contribution or aggregate contributions would be $100 or less.

Total individual contributions to primary candidates would be subject to the $3000 limits in S. 372, the campaign finance reform bill passed by the Senate earlier this year.

To encourage small private contributions to candidates in the primaries (and through parties in general elections), the Joint Amendment doubles the existing tax credit and deduction for political contributions.

Our own bill deals exclusively with Presidential elections. However, the other cosponsors of the Joint Amendment, Senators Cranston, Hart, Kennedy, Mathias, Hugh Scott, Stafford and Stevenson, all have introduced bills dealing with other aspects of public financing, particularly Senate and House races. We are privileged to work together with these Senators, to combine our various bills, and to introduce this comprehensive package for public financing of **federal** elections.

We urge the Committee to accept this amendment to the Debt Ceiling bill. It is vital that we act now, while the terrible abuses of Watergate are fresh in our minds. The opportunity for fundamental reform comes so rarely and fleetingly that we must seize it quickly, or it is gone.

TRIBUTES TO CONGRESSMAN LESLIE ARENDS

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MINSHALL of Ohio. Mr. Speaker, all of us in this Chamber were saddened when our dear friend and very distinguished colleague LES ARENDS announced that he will retire at the close of the present Congress.

It is difficult to imagine the House of Representatives without LES ARENDS, and difficult for us Republicans to imagine the loss of LES as minority whip.

The quiet announcement of his plans, made without fanfare or advance notice, brought tears to the eyes of many of us, on both sides of the aisle, and moved the Speaker of the House to say—

> That applause would be substituted with tears if we were to express the emotions we feel about his departure.

It is a true measure of the stature of LES ARENDS, as statesman and as a leading partisan leader in the House, that he inspires this affection and this strong regret at his announcement not only among his fellow Republicans but among the leaders of the opposition party.

When LES leaves Capitol Hill, he will have served 40 years as a Member of Congress, three decades of that time as our Republican whip. Few Members have ever captured and held the respect and affection of so many of his colleagues for so long a time. I have served just half as long as LES. When I first came here as a freshman Congressman from Ohio, I quickly learned to turn to the gentleman from Illinois for sound advice and for absolutely selfless help in learning the ropes. I have had the privilege of working with LES on matters of the greatest importance to our Nation's defense, he as a ranking member of the House Committee on Armed Services, I as a member of the Defense Appropriations Subcommittee. I have been impressed and inspired by his indominatable courage when the going got rough, his unflinching determination to see that our country has a strong national security system.

For many of us Les Arends has always personified the ideal Member of Congress: distinguished in appearance, absolutely dedicated to his constituency and his country, a resoundingly successful spokesman for our party, yet liked and admired by Members of the opposition. Throughout his years of service, Les has truly been a man for all seasons. I am sorry he has chosen to retire, for so many of us will deeply miss him and his lovely Betty, but I am glad to have this opportunity to let him know a little of the great affection and respect I, and countless others, feel for him both as a colleague and a friend.

TOLL-FREE CALLS TO GOVERNMENT AGENCIES FOR KANSAS RESIDENTS

HON. ROBERT DOLE

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Monday, November 19, 1973

Mr. DOLE. Mr. President, remoteness and unresponsiveness are some of the biggest complaints I hear about government from my constituents. People—particularly in rural areas—often have a hard time just getting basic information about government programs, services and benefits.

But it is encouraging to note that several agencies of the Federal Government have set up special toll-free telephone numbers for the public's use.

Under the system, if a citizen has questions or complaints about a program run by one of the participating agencies, he or she can get an immediate response by simply calling the toll-free number.

The toll-free system is particularly helpful to citizens in Kansas who are some 1,500 or more miles away from some Government agencies in Washington, D.C.

This is a most worthwhile effort to bring the Federal Government closer to the people, and I would hope that more agencies will establish toll-free numbers in the near future.

I ask unanimous consent that a listing of the toll-free numbers for Kansas resident be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Kansas Toll-Free Numbers

Civil Service Commission (Federal Job Information Center)—Wichita: 267-6361 (ext. 106). In other Kansas locations: 800-362-2693. Federal jobs: what's available, what qualifications, how to apply, etc.

Internal Revenue Service—Kansas City: 374-4324: Topeka 234-8661: Wichita 263-2161. In other Kansas locations: 800-362-2191. Tax information and assistance.

ACTION—800-424-8580. Information on Action programs (Peace Corps, Vista, Score, Ace, Foster Grandparents, etc.)

Housing and Urban Development—800-424-8590. To complain about housing discrimination.

Air Force Recruiting—800-447-4700.

Air Force Reserve Recruiting—800-525-9984.

Justice Department "Heroin Hotline"—800-368-5363. A place where people can call to anonymously report drug pushers.

Mr. DOLE. Mr. President, I would also note that my offices in Kansas City, Kans., and Washington, D.C., are always ready to respond when citizens are in need of information or assistance. These offices do not have toll-free numbers, but they are available to anyone.

In Washington the number is (202)-225-6521.

In Kansas City the number is (913)-342-4525.

REPORT FROM WASHINGTON

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Ms. HOLTZMAN. Mr. Speaker, recent events in Washington have generated an unprecedented outpouring of public concern about the crises facing our National Government today. This week I am sending out my third newsletter to my constituents to report on some of these issues and on federally related local issues in which I have been involved. In addition, this newsletter contains the response of my district to the Watergate questionnaire sent out in my last newsletter, which I think will be of particular interest to my colleagues in the House.

At this time I would like to insert the full text of my newsletter:

Congresswoman Liz Holtzman Reports From Washington

November, 1973.

Dear Friend: Since my last report, grave events have shaken our country.

Your letters have been very helpful to me, and I hope you continue to let me know how you feel. Meanwhile, I will try to bring you up-to-date, although events move so swiftly that reports today become outdated tomorrow.

THE CONSTITUTIONAL CRISIS

Being a member of the Judiciary Committee at this time is a grave responsibility. The Committee will be making recommendations to the House on impeachment, an independent special prosecutor, and the nomination of a Vice President.

I believe that the President's actions have been serious enough for an investigation into whether he has committed impeachable offenses. I will be studying the law and the evidence very carefully before deciding this historic question. It is crucial that we be fair, honest and just—so that whatever action we take will have the people's confidence.

My Judiciary Committee Subcommittee has drafted legislation to create an independent Special Prosecutor appointed by a Federal court and free from White House intimidation.

The Judiciary Committee will also be considering the nomination of Gerald Ford for the Vice Presidency. The resignation of Vice President Agnew demonstrated the need for careful scrutiny. With the cloud hanging over the presidency, we cannot risk a repetition of scandal in the Vice Presidency.

ISRAEL'S FIGHT FOR SURVIVAL

On November 2, I had the great privilege of meeting with Prime Minister Golda Meir in the company of the Speaker of the House and eight congressional leaders. The Prime Minister spoke movingly of Israel's will to survive and received assurances of continuing U.S. support.

I have been working closely with other Members of Congress to ensure that the U.S. provides Israel with full military assistance and with financial aid to help her recovery from the war's burden. In that connection, I co-sponsored H. Res. 613 which accelerated delivery of military equipment, and I intend to support the proposed $2.2 billion in additional U.S. aid.

I will continue to do everything in my power to ensure Israel's survival. There is a hopeful possibility of a real peace in the Middle East, but we must realize the enormous suffering Israel bore as a result of the unprovoked and treacherous Arab attack. We must also guard against anyone's bargaining away defensible borders for Israel, or Jerusalem, in the cause of a detente with Russia.

HOUSE PASSES HOLTZMAN SUBWAY SAFETY AMENDMENT

There were 7 serious subway accidents this year. In August one man died and more than 1,000 people were trapped more than an hour in heavy smoke and 115 degree heat. In October, an accident at the Eastern Parkway station of the IRS Utica line injured four people.

I am therefore pleased to report that on October 3 the House passed my Subway Safety Amendment as part of the Urban Mass Transit Act of 1973. Under my Amendment the Secretary of Transportation will no longer be able to refuse to investigate subway accidents and hazardous subway conditions. He will be required to do so.

My Amendment will also force the MTA to improve dangerous subway conditions or face the loss of federal funds for equipment and operations.

Within the next few weeks a Senate-House conference committee will recommend the final version of the Urban Mass Transit Act, and I am hopeful that my Amendment will be retained. This legislation—which will bring $100 million in federal subsidies to New York subways—must not be vetoed by President Nixon.

DISTRICT RESPONSES TO WATERGATE QUESTIONNAIRE

	Yes	No	Undecided
1. Do you feel that President Nixon—			
a. Had prior knowledge of the Watergate break-in	1,709	653	459
b. Participated in the Watergate coverup	2,180	384	169
2. Do you feel that President Nixon should be impeached—			
a. If investigation reveals he had prior knowledge of the Watergate break-in	1,958	546	147
b. If investigation reveals he participated in the Watergate coverup	1,799	603	175
c. Because of the alleged illegal spying, wiretapping, and other activities of his staff	1,418	873	203
3. Do you think President Nixon should resign?	1,779	750	215
4. Do you think that the media is paying too much attention to the Watergate investigation?	554	2,250	167

Note: My last newsletter contained a Watergate questionnaire. I know you are interested in the results.

DISTRICT OFFICE REMINDER

Address: 1452 Flatbush Avenue (between Glenwood & Farragut).

Phone: 859-9111 (answered 24 hours a day).

Because of current events my schedule may change on short notice. Please check with my office before coming in for my open Sunday office hours.

BUSTING OF A DRUG HANGOUT

After receiving complaints that a Parkside Avenue candy store was an addicts hangout, I notified Cpt. Basso of the 71st Precinct who sent in undercover agents. In August the police made arrests. Cpt. Basso has promised that if the addicts return, he will send in officers again. So far the community has been well rid of a drug hangout.

HELPING THE COMMUNITY

It is gratifying that we have assisted so many of you with community problems. We are not always successful but we exert every effort possible to help. Some recent examples of what we can accomplish:

Two additional summer bus excursions for senior citizens at the East Flatbush-Rugby YMHA.

Commitment for better lighting at Vanderveer Houses.

Extra police scooter patrol for Kings Highway and Nostrand Avenue which had become a meeting place for noisy groups.

Traffic lights at Fillmore and Kimball Streets; Avenue W and Bragg Street.

Cleaning vacant lot behind Sears-Roebuck.

One way to help me help you is to send me the name, address, and telephone number of your community or block association so we can be in touch about local issues.

VISITING THE HIGH SCHOOLS

Last Spring I addressed students at high school serving our district, including some yeshivas and parochial schools.

I wanted to show our young people that public officials *can* respond to their ideas—honestly and sincerely.

I found that young people in our District care about our society. If we can channel their idealism and energies in participation in our government, we will have come a long way toward improving the quality of political life.

MAJOR VOTES IN CONGRESS

Override presidential vetoes on limiting President's war-making powers, on emergency medical services and minimum wage—Yes.

Restrict President's authority to impound funds appropriated by Congress—Yes.

Improved medical care and other benefits for veterans—Yes.

Unlimited entertainment expense account for the White House—No.

Drug Abuse Education Act—Yes.

Limit Farm Subsidies—Yes.

Allow House to consider further military aid for Israel—Yes.

Environmental Education Act—Yes.

Program to control lead poisoning—Yes.

Prohibit television blackouts of sporting events sold out 72 hours in advance—Yes.

Hold G. Gordon Liddy in contempt of Congress—Yes.

Regulate toxic chemical substances—Yes.

Prohibit U.S. subsidy of future wheat deals to Russia and China—Yes.

YOU CAN HELP

Recent events have reinforced the need for honesty in government. We all recognize that large contributions and conflicts of interest undermine the integrity of public officials.

I gave up my law practice because I felt strongly about this problem. My sole income, except for a few speaking dates, is my congressional salary. Yet, few people realize the expenses of being a Congresswoman. I can report that if you have no outside income but are doing a full-time honest job, the expenses are almost greater than the salary. (Congress reimburses us for only a fraction of the expenses of weekly trips to and from Washington and for running the District Office.)

It costs more than $1,200 to address and print each issue of the newsletter. Over the year the cost of sending you newsletters on a regular basis can amount to almost $10,000.

For this reason I would be greateful for any help you could give me with the publication of this newsletter. A dollar or two would go a long way to help me with this effort. Every penny will go toward the newsletter and will be accounted for by a non-political committee established for this purpose. Copies of the Committee's year-end financial report will be made public and available to anyone who requests it.

Yes, I would like to help. I am enclosing $1 --; $2 --; $5 --; Other.

Name ----------------------------------
Address ----------------------------------
Telephone ----------------------------------

Please make checks payable to: The Elizabeth Holtzman Newsletter Committee. Cut along broken lines and mail to: The Elizabeth Holtzman Newsletter Committee, P.O. Box 187, Ryder Station, Brooklyn, New York 11234.

I hope you will continue to write, call and visit. I look forward to being in touch with you in my next report.

Sincerely,

ELIZABETH HOLTZMAN,
Member of Congress.

SAN BERNARDINO JAYCEES POINT THE WAY FOR THE NATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BROWN of California. Mr. Speaker, as an ex-Jaycee—more years ago than I like to think about—I take particular pleasure in calling to the attention of this body a decision which was made last month by the board of directors of the San Bernardino, Calif., Jaycees. I am sure that most of us here are familiar with the local, State, and National "Outstanding Young Man of the Year" awards given out by the Jaycees every year. The recipients of these awards are justifiably proud of their selection by their peers as deserving of special recognition because of their distinguished service to their communities.

Unfortunately, as San Bernardino Jaycee Robert L. Pasterski pointed out to the chapter board of directors last month, limiting the potential award-winners to young men has the effect of eliminating some of the most civic-minded and deserving people around—since there are an awful lot of young women serving their communities as well.

Mr. Speaker, I could not provide a better description of the decision made by the San Bernardino chapter board than the one written by Carl Yetzer, a reporter for the San Bernardino Sun-Telegram. At this point, therefore, I would like simply to read his article, which appeared in the Sun of November 9.

JAYCEES AWARD CONTEST YIELDS TO WOMEN'S LIB

(By Carl Yetzer)

SAN BERNARDINO.—When the San Bernardino Jaycees announce the winner of their "Outstanding Young Man of the Year" award next January, the recipient may well be wearing a dress.

In a surprising and somewhat controversial move last month, the Jaycees board of directors voted to open the competition for this year's "Distinguished Service Award" (DSA) to women—the first chapter in the country to do so.

The idea originated with Jaycee Robert L. Pasterski, chairman of the awards contest, who says he couldn't understand why the award should recognize only the achievements of young men.

"The reasoning behind it seemed to me to be something straight out of the 1950s," he said. "The award is supposed to recognize outstanding service to the community, and no one can deny that there are a lot of young women out there who are performing valuable community services as well.

"The thought occurred to me last year when I was working on the DSA awards, and when they asked me to be the chairman of the project again this year I decided to go before the board of directors."

Pasterski admits that he purposely "dropped the idea on them cold" before any organized opposition could assemble. But, he says, he was surprised by the board's unanimous acceptance of the idea.

"I didn't have the problems I thought I was going to have," he says. "There were some people who had questions about it, but there was no out-and-out opposition to the idea."

One of those with questions was Lab Blumberg, a member who says he just happened to attend that particular board meeting.

"My concern was, and still is, that once we select our winner, then he goes into competition at the state and national levels" he said. "And while the state and national bylaws do not specifically exclude women, they do state that the recipient be an outstanding 'young man.'

"I'm not against women, and I'm not against equal opportunities for women," Blumberg says. "And I do think that it makes sense to honor the community-service achievements of women. But until the national bylaws are changed by the organization as a whole, it's going to damage our chances of having a state or national winner. And I think those kinds of changes are still a long time in coming."

Pasterski admits that if a woman is selected as this year's winner, the chances are slim of having her go on to state or national competitions. But, he says, such an occurrence could be a significant force in getting the national organization to change its view point.

"We've also eliminated another qualification for nominees this year," Pasterski says. "We've struck out a section which says that the nominee must not be a Communist or have 'Communist leanings' . . . whatever that means.

"Now, I'm sure that there are some chapters in the South who still tell their members to check for Communists under their beds at night. But by and large this is a holdover from the witch hunts of the McCarthy era and doesn't really belong there. And it's simply going to take the actions of a lot of chapters to change it . . . and it's the same with the ideas about women."

Pasterski discounts the possibility of the San Bernardino chapter's losing its charter over the two changes, although several Jaycee chapters were disaffiliated last year when they voted to accept women as members.

"We don't have to give the award to anybody," he says. "It's strictly a voluntary thing. It's our chapter's award, and we can set the qualifications for it."

Pasterski does feel, however, that the inclusion of women in the competition should stimulate more interest in the awards this year. In previous contests, he said, there have been as many as 35 to 40 nominations for the award. In recent years, however, the number of nominees has been closer to 15 or 20.

"Anyone can submit a person's name into nomination," he said. "You don't have to be a Jaycee to nominate someone, or to be a nominee. Anyone interested in nominating an outstanding young man or women should write to me, and send it to my home at 5988 Wadsworth Ave., Highland, 92346.

"The names will be reviewed by a panel of judges, and one will probably be a woman this year. The judges will select three or four finalists, and the winner will be announced at the annual Distinguished Service Awards Dinner at the Castaway Restaurant, Jan. 15, 1974."

Robert Pasterski and his colleagues in the San Bernardino Jaycees certainly deserve our respect for their decision to value justice over tradition. Regardless of whether January's "Distinguished Service Award" recipient is male or female, the San Bernardino Jaycees will have the satisfaction of knowing that last month's decision blazed a trail for the entire national organization, for it is inevitable that eventually the majority will come around.

THE ENERGY REPORT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. ASPIN. Mr. Speaker, if the United States suffers an exceptionally cold winter the oil shortage could be as high as 35 percent according to a Library of Congress study which I publicly released on Sunday.

This report is a real shocker. Apparently this Nation could be headed for a major economic nose dive if this winter is very cold.

The study concludes that:

> While 35 percent is the worst possible case it is unlikely that even an end to the Arab oil embargo and a relatively mild winter could reduce the shortage to 20 percent or less.

Nixon administration officials have talked of a 10- to 17-percent shortage this winter. This report raises the possibility that the Nixon administration may have underestimated the impact of the shortage. In any case, even a 20-percent shortfall could spell real economic distress for this country.

Mr. Speaker, I am including in the RECORD part I of this report. Part II will be included in tomorrow's RECORD.

Part I of the report follows:

I. INTRODUCTION

The United States has been concerned over the possibility of a winter fuel crisis for the past year. Rising demand and falling supply have created a situation in which a shortage was extremely likely. The Arab oil cutoff has made that shortage inevitable and threatens to produce economic dislocations as well as personal inconvenience and discomfort. The factors behind the shortage, its impact on the Nation, and possible corrective measures are complex and subject to extensive analysis. This report, however, is a brief overview which is intended to place these actions and reactions in perspective.

II. DOMESTIC DEMAND

For the past several years, shortages of fuel oil have occurred during the winter months. Part of the recent shortages can be attributed to the appearance of new users who were unable to obtain natural gas because of curtailments starting in 1971 and were not permitted to burn high-sulfur fuels because of air-quality regulations. The shortage was particularly acute during last winter (1972-1973) because demand rose much more rapidly than did supply. The shortage could have been much worse, however, had it not been for the unusually mild weather experienced by many parts of the country.

Fuel oil demand for the winter of 1973-1974 is expected to be higher than for last year. The Department of the Interior has estimated that distillate demand this winter will increase 10.4% over last year (4,048,000 b/d in 1973/1974 compared to 3,668,000 b/d in 1972/1973).[1] If temperatures are colder than normal and increase demand by 3.9%, an extra 120,000 b/d would be required to prevent a shortage.[2] The effect of cold weather on the demand for distillate fuel oil can be seen in Table 1.

TABLE 1.—MONTHLY CONSUMPTION OF DISTILLATE FUEL OIL UNDER DIFFERENT ASSUMPTIONS OF WINTER WEATHER

[Consumption in millions of barrels]

	October	November	December	January	February	March
Case A. 6-percent increase over last winter	87.2	102.0	131.3	132.0	115.6	109.7
Case B. Warm winter	75.2	87.0	115.6	118.1	101.1	97.0
Case C. Cold winter	89.9	110.3	148.1	153.7	131.1	119.5
Case D. Warm early/cold late winter	79.6	93.9	126.8	144.4	121.7	113.0
Case E. Increase over last winter	90.5	105.9	136.3	137.0	120.0	113.8

Source: Winter Heating Outlook, P. K. Verleger, Jr., and S. Haltmaier, "DRI Review," Oct. 10, 1973, p. 3.

In addition to the normal growth rate in heating oil demand and the possible effects of unseasonably cold weather, an increase of 130,000 b/d may result from the curtailment of natural gas sales because of shortages.[3] The combined total of these demand factors indicates a distillate demand of 4,048,000 b/d over last year's figure of 3,668,000 b/d. This increase of 380,000 b/d, shown in Table 2, does not include crude oil or other refined products which would increase the total demand to over 17,000,000 b/d.

TABLE 2.—U.S. DISTILLATE DEMAND BY QUARTERS AND WINTER SEASON, 1971 THROUGH 1974

[Millions of barrels daily]

	1971	1972	1973	1974
1st quarter	3.695	3,788	3,885	4.570
2d quarter	2,258	2.406	[1] 2.500	2.630
3d quarter	1.866	2.011	[2] 2.150	2.264
4th quarter	2.955	3.458	3.538	3.680

Winter season	Millions of barrels daily	Percent increase
1971-72	3.369	3.7
1972-73	3.668	8.9
1973-74	4.048	10.4

[1] Estimated.

[2] Forecast thereafter.

Source: The Distillate Fuel Oil Situation Winter 1973-74, Department of the Interior, Sept. 15, 1973.

The U.S. demand for petroleum products of all types is estimated by the Bureau of Mines at 17,455,000 b/d in 1973. The demand in 1974 is predicted by the Independent Petroleum Association of America (IPAA) to rise to 18,525,000 b/d.[4] Much of this increase can be attributed to the greater use of fuel oil, but demand for other petroleum derivatives is also expected to grow at comparable rates. The requirements for gasoline, propane, and petrochemical feedstocks are unprecedented, and shortages are likely to recur for those products as well as for fuel oil.

III. DOMESTIC SUPPLY

The United States currently produces less than 70% of the petroleum it needs to meet domestic demands. With the exception of the addition of the Alaskan North Slope fields, productive capacity has been dropping as has actual production. During the shortage of last winter, it was apparent that the oil industry no longer had the capability of increasing production to match the peak demand.

This trend is likely to continue indefinitely. Domestic production of petroleum for 1973 has been estimated by the Bureau of Mines to be 10,961,000 b/d, compared to a demand of 17,455,000 b/d. Of the 6,494,000 b/d shortfall between domestic demand and supply, 6,251,000 b/d were expected to be made up by imports, leaving a shortage of 223,000 b/d. The IPAA predicted that domestic production would drop to 10,788,000 b/d, even though demand is likely to rise over 1,000,000 b/d compared to last year.[5] Of the 7, 737,000 b/d deficit forecast between supply and demand, 7,435,000 b/d were expected, before the Arab oil cutoff, to be made up with imported oil, leaving a net shortage of 302,000 b/d.

The most immediate supply problem is for fuel oil because of the onset of the heating season. Stocks of distillate fuel in November (203,656,000 bbl) are only slightly higher than they were a year ago (197,750,000 bbl).[6] The gain in supply (3%) has been more than offset by incerased demand (10%) with the net effect being a shortage of 7% worse than last year.

The shortage of residual fuel oil, which is used primarily by electric utilities and heavy industry as a boiler fuel, is even more acute. Stocks of residual fuel oil on Oct. 26, 1973 were only 56,891,000 bbl, in contrast with 63,990,000 bbl, a year ago.[7] With greatly increased demand pressures and lower stocks, a serious residual shortage appears inevitable. A further complication is that most of the residual fuel oil used in the U.S. is imported, and reductions in foreign production may worsen the supply situation here.

IV. IMPORTS

A. Requirements

As has already been indicated, imports figure prominently in the supply/demand situation for petroleum. U.S. dependence on foreign sources of oil has grown rapidly in recent years, and it would now be impossible to prevent severe shortages without substantial imports. In 1972 imports accounted for 18.8% of the U.S. crude oil supply (see Table 3).[8] Imports now constitute over one-third of our petroleum consumption, and the trend is toward even greater dependence on foreign producers. By 1980 the U.S. may be importing over 50% of its oil. Most of that increase was expected to come from the Middle East because of its extensive reserves. The supply of some products such as residual fuel oil is already dependent on foreign production. The demand for residual oil in 1972, for example, was 925,647,000 bbl. Of this, 637,401,000 bbl. was imported, amounting to over two-thirds of the total.[9]

Because of the drop in domestic production and the increase in demand for petroleum products, an estimated 640 million barrels of crude oil will have to be imported during the last quarter of 1973 and the first quarter of 1974 to avert a serious shortage.[10] If available on the world market, this much oil would represent an increase of 50% over 1972

Footnotes at end of article.

U.S. imports. The Middle East is currently the only producing area in the world that has the proven reserves and productive capacity to meet those increasing requirements. The added cost of the incremental imports over last year's total would depend upon the price per barrel, which is rapidly escalating upward, but would probably be near $8 billion.[11]

TABLE 3.—CRUDE OIL IMPORTS INTO THE UNITED STATES

Country of origin	Annual total for 1972 (in 42-gallon barrels)	Posted price per barrel, Oct. 1, 1973	Posted price per barrel, Oct. 31, 1973	U.S. export embargo (percent)	Middle East monthly production cut (percent)
Canada	312,440,000				
Colombia	1,695,000				
Ecuador	5,331,000	3.600	5.250		
Venezuela	93,300,000	4.610			
Algeria	31,753,000	5.000	7.000	100	10
Egypt	3,091,000			100	5
Libya	40,069,000	4.604	8.925	100	5
Nigeria	88,887,000	5.000	5.000		
United Arab Emirates	26,873,000	3.110	5.538	100	5
Iran	49,700,000	2.995	5.091		
Iraq	1,315,000			100	10
Kuwait	13,205,000	2.884	4.903	100	10
Qatar	1,263,000	3.143	5.343		
Saudi Arabia	63,626,000	2.884	4.903	100	10
Indonesia	59,633,000	5.000	5.000	100	10
Others	18,954,000				
Combined total	81,135,000				

Note: Total does not include indirect imports of refined products made from Middle Eastern crude.

Source: API Annual Statistical Review, April 1973, pp. 9–10; Oi. and Gas Journal, Oct. 29, 1973, p. 50; Oil Daily, Oct. 26, 1973, p. 6.

The level of imports needed to meet the demand for distillate fuel oil also will be substantial. The Department of Interior has estimated that if domestic refinery capacity is to be used as expected and inventories are to be maintained at a level of 100,000,000 barrels or above, then imports of distillate must average more than 650,000 b/d.[12] If the weather is exceptionally cold, imports of 800,000 b/d may be needed during the cold spells. Even in normal circumstances such quantities may not be available for the United States on world markets. During the shortage last winter, for example, distillates were imported at an average rate of 400,000 b/d. Most of that distillate (80 to 85%) came from refineries in the Caribbean, with the remainder imported from Europe. Most of the European distillate and a substantial amount of the Caribbean distillate was made from Middle Eastern crude oil.

It is unlikely that as much distillate fuel oil will be available from Europe as that obtained last winter. Europe imports more distillate than it exports, and was able to provide extra distillate last year only because of mild weather. The largest quantity of distillate that the U.S. could reasonably expect to obtain from Europe this season is 165,000 b/d.[13] A cold winter would reduce that amount considerably.

B. THE OIL PRODUCER'S BOYCOTT

The availability of oil to import into the United States has been drastically reduced as a result of renewed hostilities in the Middle East. The Arab countries that export oil have agreed to boycott the U.S. market in an attempt to influence U.S. policy towards Israel and generally to modify its Middle-Eastern policy. The use of oil as an instrument of diplomacy is not new, but it has never been applied as effectively or on as large a scale as at present. The U.S. has been wholly cutoff from Middle Eastern oil, as has the Netherlands, because of its pro-Israeli policies. Canada has also been denied Arab oil for fear that it would send part of it to the U.S.. The Arab states have also reduced production 10 percent initially for European customers and plan to cut it 5–10 percent each month thereafter. Additional cuts have been threatened and may be implemented. These actions are of vital concern to Europe and Japan where imports from the Middle East comprise 85 percent of their petroleum supply (Fig. 1).

The Arab oil cutoff is certain to have a serious impact on the Nation's petroleum supply and upon the winter distillate inventories in particular. As Table 4 indicates, the 1972 shipments to the United States totaled 687,900 b/d, which amounted to 5 percent of the U.S. demand of 16,300,000 b/d. The level of imports in 1973, prior to the war, was much higher with Saudi Arabia exporting in July as much crude oil as all the Arab countries combined had exported in July of 1972. As Table 4 shows, imports of Arab crude oil in July were 2½ times the rate a year earlier.

TABLE 4.—U.S. IMPORTS OF ARAB CRUDE OIL, JULY 1973 VERSUS JUNE 1973

[Barrels per month]

Producing country	Crude shipments to United States	
	June 1972	July 1973
Algeria	2,380,000	4,595,000
Egypt		653,000
Iraq		
Kuwait	1,012,000	482,000
Libya	3,192,000	3,599,000
Qatar		185,000
Saudi Arabia	5,145,000	19,958,000
Tunisia		205,000
United Arab Emirates	1,452,000	3,169,000
Total	13,181,000	32,661,000

Source: "Oil and Gas Journal," Oct. 15, 1973, p. 40.

FOOTNOTES

[1] The Distillate Fuel Oil Situation, Winter 1973–74, Dept. of the Interior, Sept. 15, 1973, p. 3.

[2] *Ibid.*, p. 4

[3] The Distillate Fuel Oil Situation, p. 4.

[4] Report of the Supply and Demand Committee, IPAA Houston Meeting, Oct. 21–23, 1973, p. 7.

[5] Report of the Supply and Demand Committee, p. 7.

[6] API Weekly Statistical Bulletin, Oct. 26, 1973, p. 2.

[7] *Ibid.*, p. 2.

[8] The Distillate Fuel Oil Situation, p. 4.

[9] API Annual Statistical Review, April 1973, p. 45.

[10] Winter Heating Outlook, P. K. Verleger, Jr., and S. Haltmaier, *DRI Review*, Oct. 10, 1973, p. 6.

[11] *Ibid.*, p. 6.

[12] The Distillate Fuel Oil Situation, p. 1.

[13] *Ibid.*, p. 12.

HEARINGS ON REAL ESTATE SETTLEMENT COSTS

HON. WILLIAM A. BARRETT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BARRETT. Mr. Speaker, the Subcommittee on Housing will hold 2 days of public hearings on the bill, H.R. 9989, a bill to further the national housing goal of encouraging homeownership by regulating certain lending practices and closing and settlement procedures in federally related mortgage transactions to the end that unnecessary costs and difficulties of purchasing housing are minimized, and for other purposes, on December 4 and 5, 1973, in room 2128 in the Rayburn House Office Building.

Mr. Speaker, the matter of whether the Federal Government should be involved in the setting of certain standards and charges in a real estate transaction is a matter that was considered by the Housing Subcommittee and the full Committee on Banking and Currency during its consideration of the 1972 housing and urban development bill. Since the 1972 housing and urban development bill, H.R. 16704, was not granted a rule, this matter was not brought to a resolution. I believe it is necessary at this time that we reconsider this whole matter before the Subcommittee on Housing commences its markup early next year on housing and community development legislation.

Our distinguished member of the Subcommittee on Housing, Mr. STEPHENS, of Georgia, has introduced a real estate settlement cost bill for himself and 18 other members on the Committee on Banking and Currency. This bill is basically the same provision that was contained in chapter IX of the committee-reported bill, H.R. 16704, which was last year's omnibus housing and urban development bill.

Since the subcommittee is limited in the amount of time it can hold on this set of hearings, we only have 2 days available for witnesses to testify. Anyone interested in testifying before the subcommittee can contact the staff of the Housing Subcommittee on 225–7054 in room 2129 of the Rayburn House Office Building.

TRIBUTE TO LES ARENDS FROM CONGRESSMAN EARL F. LANDGREBE

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. LANDGREBE. Mr. Speaker, it has been my great personal privilege to serve in the U.S. House of Representatives for almost 5 years with the dynamic gentleman, Les Arends.

During those 5 years Les has been known as our Republican whip, a title he has held for some 30 years. While I am sure he has experienced great satisfaction as he so skillfully carried out the duties of this leadership position, I am quite familiar with the heartache and disappointment he has suffered as he has gone about the task of trying to solidify the minority side of the House on a vast range of important issues.

Not only has he displayed at all times a total dedication to our Republican Party, but has been in my opinion, a faithful, patriotic American unwavering in his dedication to a strong free America. Because of his loyal and uncompromised support of President Nixon in his foreign and domestic policies, he has truly stood out amongst his Republican colleagues.

In conclusion, I extend to Les and Mrs. Arends my most humble and sincere thanks and appreciation for their many years of dedicated service to our great nation, and pray that God will continue to shed his blessings upon them.

ADM. ERNEST M. ELLER WRITES ON SEAPOWER

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. HOSMER. Mr. Speaker, Rear Adm. Ernest McNeill Eller, former Director of the Naval History Division, retired from the Navy in 1970, ending a distinguished 48-year career. Currently he is serving his second year as National Historian of the Navy League. He is author of the book "The Soviet Challenge" and has been an anxious observer of the Soviet Union's expanding military might, especially in the oceans of the world. There follows Admiral Eller's views on seapower as carried in the November issue of the magazine Seapower:

Sea Power: The Anchor of Freedom Threatened by Soviet Drive for Oceanic Supremacy

(By Ernest M. Eller)

Some three years ago, shortly before his death, Mendel Rivers gravely warned Congress: "All Americans have been given the blessed and priceless heritage of freedom—a freedom which . . . is in terrible jeopardy. The Soviet Union is now one of the world's two leading sea powers . . . possibly the leading power . . . I can only warn the members of this House that we are on the brink of disaster and I have never before been as concerned in all the years I have served in the Congress."

Conditions have worsened dreadfully since then. In the face of phenomenal Soviet gains at sea that some observers, such as Captain John Moore, editor of "Jane's Fighting Ships," believe make the USSR the number one sea power in the world, and despite the fact the gap between Soviet and U.S. strength widens daily, the United States continues to cut back its defense spending. In late August the Navy Department announced it would slash deep into muscle once again, dropping the fleet to 518 active ships by the end of the fiscal year.

The United States is already weaker, in a relative sense, than in 1939 when unpreparedness in the West helped bring on the catastrophe of World War II. Friend and foe recognize this. Consequently, the latest shift of the balance of power at sea to the USSR has already brought her far-reaching political gains which highlight with frightening import the deterioration of U.S. influence abroad following her decline afloat.

Today the shadow of the Bear looms over the Caribbean, no longer a safe sea frontier. Cuba, long considered critical to U.S. security, becomes, despite occasional signs of independence, more and more a Soviet political and military outpost. According to underground reports Cienfuegos is not the only Cuban port under development as a potential Soviet naval base, and the Kremlin continues to add guided missile vessels to the Cuban fleet.

Communist agents fan out from Cuba throughout Latin America, where in recent years leftist parties have increased in numbers and aggressiveness. When they gain power—as they had in Chile (once, like Cuba, a close friend of the United States)—they scream "Yankee go home," confiscate American property, and embrace the Soviets.

FROM ICELAND TO EGYPT

Iceland, a keystone of North Atlantic defense, tells a similar sad story. Her present government is seeking withdrawal of American forces—primarily U.S. Navy aviation units conducting surveillance flights over the adjacent waters through which the Soviet submarine fleet debouches into the Atlantic. Nor are her relations with her NATO neighbor to the south more harmonious. For several months Iceland and Britain have been engaged in a "Cod War" over fishing rights. If the dispute is not resolved to Iceland's liking, it will not be surprising if she moves further from the Western alliance.

The Sixth Fleet once defended freedom uncontested in the Mediterranean. Now the Soviet "Sixth Fleet" often outnumbers it. Most of North Africa leans toward Muscovy and is closed to visiting American warships. Where once the Stars and Stripes waved, the hammer and sickle dominates. As one example of what this change means, Libya last summer expropriated all foreign oil corporations, taking majority ownership. Most of the oil and natural gas for an energy-hungry world that would founder without it lies in Muslim North Africa and the Middle East. The leaders there well know this, as does the USSR, now the leading "outside" power in that part of the world.

The eastern Mediterranean south of Turkey is almost a Soviet lake. Seeing which way the wind blows, Turkey also has made accommodations with Moscow. Long under British protection, Egypt now welcomes Soviet assistance. Because of internal intrigue, President Sadat in July 1972 ordered Soviet "advisers" and troops to leave the country. But this was only a temporary squall, no doubt in part for political effect. Egypt is still in the Bear's claws, as October's events made clear, and depends on the USSR for arms, economic strength, and her own military viability. The Kremlin has gained what Peter the Great vigorously sought long ago, a foothold in the Middle East.

Just as the Russian Bear has the Suez Canal within reach, so does he grasp for control of the southern approaches to the Red Sea. Britain's departure from Aden left a vacuum the Soviets eagerly filled. Through military and economic aid they have gained predominance in countries on both flanks of the Gulf of Aden. They seek the same influence in the Persian Gulf area, from which an ever-increasing stream of tankers flows to feed the insatiable economies of the West and Japan. For centuries the tsars sought control of the Middle East. Now, almost overnight, it seems, Soviet influence flows by air and sea through this area of overwhelming economic and strategic value.

THE LOST VACUUM

Perceptive men long ago urged the United States to increase her own small Middle East Force to fill the Indian Ocean vacuum—a vacuum which, of course, no longer exists. When England began to withdraw her forces from east of Suez, the United States dallied, and Soviet warships sailed in. Besides their own Indian Ocean fleet, USSR combatants serve in India's Navy, and the Kremlin has helped "neutral" India build a submarine base. In summer 1971 Moscow and Delhi signed a mutual assistance security pact. It seems to some observers no coincidence that not long afterwards Indian troops invaded East Pakistan to "liberate" the natives. Russian backing of the venture may well have prompted India's attack; gifts of Russian arms undoubtedly insured its success. With fleets in the Mediterranean and Indian Ocean, and with the mounting dependence of many nations upon Iron Curtain aid, the USSR has become the leading force in the whole seething area.

Admiral Sergei Gorshkov, Commander-in-Chief of the Soviet Navy, and members of the Politburo have heeded facts that America has ignored. Perceiving the immense gains resulting from deployment of their fleets around the world, Soviet leaders continue to expand their worldwide capabilities. The recent addition of aircraft carriers to the Soviet fleet is only a small part of the buildup, but indicates how the Soviets have learned their lessons.

Yet, even as the USSR builds carriers in her furious expansion of sea power, the U.S. fleet dwindles. In fiscal year 1974 scheduled slashes will drop the U.S. Navy to 518 ships, some 45 per cent less than in January 1969. Even the infamous attack on Pearl Harbor did not reduce the U.S. fleet to the low levels now projected.

Had a powerful foe decimated America's naval strength in battle, the nation would have risen in a frenzy of anger and fear. Instead, Americans, heedless that national survival is at stake, complacently accept their Navy's new status as number two sea power. There are those who rationalize, saying the addition of new ships gives the smaller fleet a lower average age with more modern equipment. This is true. The fleet will be younger—but still much older than the Soviet fleet.

But these sophists are playing ostrich. The Navy was stretched to the elastic limit in 1968 trying to carry out her world duties. Except for the Vietnam war (in which many smaller vessels were deployed), obligations have not lessened. Furthermore, if, as has actually happened, an opponent openly bent on outdistancing the United States adds two or three new ships for every new ship built for the dwindling U.S. Navy, whose annual losses (through retirement of older ships) have consistently outnumbered gains in recent years, there is no way the U.S. fleet could be growing stronger in comparison with the Soviet Navy.

Nearly two years ago, Admiral Elmo R.

Zumwalt, Jr., Chief of Naval Operations, responding to a question from Congress, spelled it out quite clearly: "The U.S. Navy has lost strength in the last year both absolutely and relatively to the Soviet Union." His warning was unheeded. At the close of 1973, Admiral Zumwalt's assessment of the military situation would have to be: "We have disastrously lost more ground at a faster pace. The Soviets have passed the U.S. Navy in strength—and continue to build furiously to widen the lead."

THE LIFE PRESERVER

U.S. naval strength has declined, moreover, despite constant proof that maritime strategy is a sure preserver of democracy. America grew to greatness under the umbrella of *Pax Britannica*, which allowed other nations to prosper under the various forms of government they preferred. Then, with uncontested superiority afloat after VJ Day, the United States carried on this live-and-let-live policy, helping less fortunate peoples to resist aggression in Korea, in Vietnam, and in the Middle East. Today, in 1973, however, the short-lived *Pax Americana* swiftly wanes, and is being succeeded by the graveyard peace of *Pax Sovietica*.

There never, at any time in world history, has been peace without strength. Nor is there any reason to believe the present generation can reverse this iron rule of history. America's present relative weakness at sea may very well encourage the Soviets to act more boldly. It certainly weakens the resolution of America's friends and, if unchecked, will inevitably undermine U.S. will and wisdom in foreign policy decisions—if it has not done so already. It could, in short, lead to another Munich with loud proclamation of "Peace in our time."

U.S. weakness at sea also could lead to another Korea, because lack of power might once again result in America's drawing a perimeter of defense, as in 1950, that clearly left defenseless a people threatened by communist aggression. The United States still, of course, has a vast reservoir of goodwill in South Korea, whose people understand the sacrifices this country made in order that they might have control of their own destiny and attain the peace denied for generations by aggressive neighbors. On that beleaguered Asian peninsula, as elsewhere, the United States alone of the great powers has given much of herself and asked for nothing in return.

GENERATION GAP

But the record of the past generation notwithstanding, there are today some Korean leaders in the South who fear the United States will not, for lack of capability if not for lack of will, be as strong an ally in the future, and for this reason have reluctantly assented to the recent unification talks with North Korea. Their fears may be well-founded. For the next confrontation between East and West could very well be set in a climate of nuclear blackmail, making it impossible for America's inferior naval strength to be stretched to a foreign shore.

History's bitter lesson, repeated time after time throughout the ages, is that it costs far less to prevent war by keeping strong than to fight it. And the reason the lesson is so often repeated is that it is apparently a most difficult lesson for good men to learn—they either never learn it at all, or they quickly forget it.

Tens of thousands of American servicemen gave their lives in the grim hills of Korea. The money "saved" by the budget cuts of the late 1940s was exacted a thousandfold. The United States managed to ultimately save South Korea but only because no Russian navy of consequence then existed. Would the outcome be the same today? Could the other dozens of brilliant U.S. peacekeeping operations—Lebanon and the Cuban missile crisis, to cite two examples—be repeated in the 1970s?

Future generations will wonder how the American public could shut its eyes to history's warnings on unilateral disarmament. No weapons race in itself causes war; a one-country "race" by an aggressor, with the peaceseeker idly watching, does. Such a race is taking place today, and the consequences are frightening to contemplate. The fearful shift in relative maritime strength to the Soviet Union, if unchecked, could mean an early eclipse of the United States as world leader.

The richest nation, the most generous, idealistic, and philanthropic, the leader of freedom—but a freedom which depends irrevocably upon superior sea power—seems prepared, in short, to abandon her leadership. America's friends throughout the world, and they are still quite numerous, are puzzled. They ask if a nation much less capable than the United States, under tyranny and with half the U.S. economic capability, can make such great gains, what is wrong with the American system? Why cannot Americans understand that when an expanding empire gains control of the oceans it also gains control of nations which border those oceans? Surely, it would seem, if a weaker government can concentrate resources to dominate the great waters that join all shores, the United States should be able to mount wisdom and resolution enough to match the effort. And surely some luxuries and domestic social experiments, however desirable in themselves, could be postponed for essentials to save the future.

Every American may well heed the words of former Representative Durward Hall of the House Armed Services Committee: "I'm scared to death. . . . The Soviets will have a military force, and particularly strategic forces, strong enough . . . to checkmate the United States. . . . The crucial question is what the American people will do when the communists say: 'We've got you checkmated. Now dance to our tune.' "

There may still be time for the United States to reverse the downward trend, but the opportunity is fading more swiftly than the setting sun. In the English-French wars of the 18th century the sea-girt isles did reverse their decline in naval strength in time to meet Napoleon's threat. Thus, possibly, history might be saying, the United States has a chance. Even the term "possibly" may be too hopeful, however, because the point of no return may already have passed. Today's margin for action, and for error, is but a slim fraction of what it was two centuries ago when men did not have to deal with aircraft, ICBMs, submarine missiles streaking over the horizon bearing nuclear warheads. There will be no time this time to rebuild neglected strength. Today's warships take years to construct, but only minutes to destroy—by enemy action or, more often, by legislative fiat.

LATE MEANS NEVER

If the United States is not ready at sea when the crisis comes, there will not be time to get ready. U.S. military forces are far weaker, compared to the forces of the Soviet Union, than at any time since the Bolsheviks came to power. Already the U.S. Navy faces an almost impossible job of coping with the huge Russian submarine force. As the Soviets achieve superiority in the number of nuclear ballistic missiles deployed in submarines (and that superiority is inevitable, given the present shipbuilding programs of the two countries) nuclear blackmail of the most vicious type would be easy to contemplate.

To illustrate: in one not altogether fanciful scenario suggested by think-tank strategists, whose job it is to think the unthinkable, Moscow would once again—as she apparently started to do in late October—dispatch air, ground, and naval forces to intervene in the Middle East. Simultaneously, a "hands off" ultimatum would flash from the Kremlin. With it would come notice that Soviet submarine missiles and ICBMs were zeroed in on U.S. cities, and any move to intervene would trigger them. The United States would not, it is generally believed, initiate a nuclear exchange. Indeed, the real question is whether she would even risk the possibility of such an exchange, even though much of the future of the Free World depends upon the Middle East.

American idealists, and there are many of them, scoff at such a possibility. The reasoning seems to be that, because the United States would not resort to such blackmail, neither would the enemies of the United States. This is much like saying that because good citizens would not break the law, neither would criminals. It is extremely important to recognize the fallacy of such idealistic and well intentioned theories. Because, unless the United States acts promptly and with vigor to reverse course, the possibility for such blackmail, which already exists, will become almost irresistible.

The Soviets drive with unmistakable purpose to achieve ascendancy at sea; peaceful reversal will require "blood, sweat, and tears" from the American people, and a high order of leadership on the part of the President as well as Congress. Each day a solution to the problem becomes more difficult. Unless the United States quickly goes beyond the steps now underway—which are in the right direction, but halting and slow—she soon will have passed the last turning point.

Survival of the American way of life depends upon the will of the American people to preserve it. It depends upon the wisdom and integrity of national political leaders. Preservation demands superior strength, especially at sea. There is no alternative, and "detente" is no substitute.

Man has moved far since few were masters and most were slaves. He has farther yet to go if the United States and allies have but the sagacity to choose the right course and the fortitude to steer it. Charts marking the course clearly read: "Be strong at sea or die."

SPECIAL PROSECUTOR

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Ms. HOLTZMAN. Mr. Speaker, I want to commend my colleagues on the Judiciary Committee and the Subcommittee on Criminal Justice, chaired by Representative HUNGATE, for their action in reporting favorably H.R. 11401, the Special Prosecutor Act of 1973.

I urge your support for this bill when it comes before us after the Thanksgiving recess. The need for legislation has been made clear, I feel, by the unprecedented outpouring of concern we have all witnessed over the firing of Prosecutor Cox. The countless telephone calls, letters, and personal visits to our offices by citizens deeply troubled by the President's actions should signal a clear message that the public is not going to accept a solution that does not guarantee total independence for the new special prosecutor.

The problems inherent in having a Presidentially appointed prosecutor were well documented in the testimony before our subcommittee. Mr. Bork acknowledged that the White House staff actively participated in the selection of Mr. Jaworski. Mr. Jaworski himself testified that General Haig had initiated the conversations leading to his selection and that he had met with a number of the White House staff members and had extensive discussions with General Haig. While I do not mean to suggest that any improper agreements were struck, I think total independence—the kind of independence that will restore the already badly shaken confidence of the American public—necessarily requires that the recruitment and appointment of the special prosecutor should be free of any White House participation.

Furthermore, real independence must be founded on more than palliative assurances of "total cooperation." It must include the freedom to pursue all necessary documents, tapes, notes, and so forth, without the intimidating specter of removal hanging over the prosecutor's head. We know there are no such guarantees in writing. And Mr. Jaworski admitted to the committee that he never asked the White House the crucial question of whether continued pursuit of Presidential documents would result in his removal. If anyone needed more proof of the history of noncooperation by the White House, it can be found in Professor Cox's startling revelations this week that President Nixon had specifically ordered him to stay away from the Ellsberg and milk deal matters.

The committee bill, H.R. 11401, solves these questions by vesting the appointive and removal powers in the hands of a special three-judge panel composed of members of the District Court for the District of Columbia. Removal will be permitted only for gross dereliction of duty, gross impropriety, or physical inability. The bill provides for full prosecutorial and investigative powers and assures adequate funding and staffing.

Finally, let me add that there is no doubt in my mind that this bill as drafted will withstand constitutional attack. The overwhelming weight of opinion received from the legal community agreed that the bill was on sound constitutional footing. In fact only one of the many constitutional scholars that testified argued that the bill was unconstitutional, and he acknowledged that he thought it was a close question. The text of the Constitution explictly grants Congress the power to confer the appointive powers on the Federal courts:

> . . . the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments. (Art. II, Sec. 2).

In addition, there is considerable case law that has upheld the power of Congress to confer in the courts power of appointment in a number of areas: the temporary appointment of U.S. attorneys—who perform prosecutorial functions—election supervisors, and school board officials.

At one time or another, virtually every member of the committee expressed support for a guarantee of independence for the new special prosecutor. The Federal court ruling yesterday that the firing of Professor Cox was illegal underscores the need for legislation that will take both legal and actual power of control out of the executive branch.

Failure to enact this bill will be more than just another example of a Congress too timid to challenge the executive branch. It would be an implicit sanction of the President's abuse of power in firing Professor Cox and a betrayal of our own responsibilities to preserve in actuality and appearance the fairness, impartiality, and thoroughness of the administration of justice in this country.

TRIBUTE TO THE HONORABLE LESLIE ARENDS

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. HUDNUT. Mr. Speaker, I want to join my colleagues in paying tribute to our distinguished minority whip, the Honorable LESLIE C. ARENDS, who has announced his retirement from the Congress at the conclusion of the 93d Congress.

Those of us who are newcomers to the House of Representatives will forever appreciate the time and counsel which LES ARENDS gave to make our job easier. I met him when I first came to Congress last January and called upon him with reference to my choice of a committee assignment. He was very gracious and I continue to appreciate his advice and counsel. The people of Illinois and throughout the entire Nation are losing an effective and influential statesman. The Congress will miss him, but above all America will miss him.

I extend to LES ARENDS and to his lovely wife my sincere best wishes for all the good things of life in their retirement.

AY, THERE'S THE RUB

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BROWN of California. Mr. Speaker, as a member of the Science and Astronautics Subcommittee on Energy, I have been very interested in America's response to the President's energy message of last week. One of the most frequently voiced criticisms I have heard is the complaint that Mr. Nixon is asking the average citizen to turn her thermostat down 6 degrees, cut driving speeds, and make various other sacrifices; while he uses immense quantities of energy himself for such purposes as flying about the country to examine the various real estate holdings which the American people have so generously improved for him.

In the interest of fairness, however, I must admit that this is not a universal complaint. In the letters to the editor column of the San Bernardino, Calif., Sun of November 10 there appears a letter from a Mr. Riley Miller, who expressed the following dissenting view:

LETTER TO THE EDITOR

NOVEMBER 10, 1973.

As a taxpayer I don't really mind sharing the expense of the President's frequent flights to San Clemente and Key Biscayne. It's the cost of those continuing return flights to Washington that I object to.

Sincerely,

RILEY MILLER.

NEWS MEDIA AND THE PRESIDENT

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Monday, November 19, 1973

Mr. FANNIN. Mr. President, last Friday I inserted in the RECORD a number of letters, articles, and editorials I have received from around the country in support of President Nixon. I would like to add to that sampling a resolution which I received from a Republican precinct committeemen meeting in my State. I ask unanimous consent to have it printed in the RECORD:

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Resolved that we as precinct committeemen of District 18 in Maricopa County, Arizona do hereby unanimously express our support of President Richard M. Nixon.

We recognize and gratefully acknowledge that President Nixon has done more for the cause of world peace than any other President in history. We particularly appreciate that he has achieved peace with honor in Vietnam.

We pray that our President will retain his basic faith in himself and also in the long-range sense of justice that exists in the average American. We further ask that the news media will soon come to the realization that Mr. Nixon has not even been accused, much less found guilty, of any crime.

We hereby further resolve and affirm that it is our conviction that if President Nixon is allowed to freely exercise his rightful position as the leader of our country, that his past and future accomplishments will ultimately brand him as one of the truly great presidents in the history of America.

SENATE—*Tuesday, November 20, 1973*

The Senate met at 10 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, the giver of all good, and source of all blessings, we give thanks to Thee for Thy mercies which are new every morning, fresh every moment, and more than we can number.

We thank Thee for seedtime and harvest, summer and winter, nights and days throughout the year; for food and clothing and for shelter; for health and reason; for childhood and age, youth and manhood; for Thy fatherly hand upon us in sickness and in health, in life and in death; for friends, kindred, and benefactors; for home and for a nation dedicated to freedom and justice under Thy rule.

As we enter the Thanksgiving season there is nothing for which we may not bless and thank Thee—even for lessons learned in failure, for dividends from difficulties, for turbulence and contention which lead to reconciliation and renewal.

Accept our thanksgiving and make us fit to serve Thee in the days which lie before us.

Through Him who is Lord of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 20, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 19, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 488, 495, 497, 499, 520, and 521.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISPOSAL OF MOLYBDENUM FROM THE NATIONAL STOCKPILE

The bill (S. 2551) to authorize the disposal of molybdenum from the national stockpile, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately thirty-six million five hundred thousand pounds (molybdenum disulphide equivalent) of molybdenum now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

WHITE HOUSE CONFERENCE ON THE LIBRARY AND INFORMATION SCIENCES

The Senate proceeded to consider the joint resolution (S.J. Res. 40) to authorize and request the President to call a White House Conference on Library and Information Sciences in 1976, which had been reported from the Committee on Labor and Public Welfare with an amendment in the nature of a substitute.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was amended and agreed to.

The joint resolution, as amended, with its amended preamble, reads as follows:

Whereas access to information and ideas is indispensable to the development of human potential, the advancement of civilization, and the continuance of enlightened self-government; and

Whereas the preservation and the dissemination of information and ideas are the primary purpose and function of libraries and information centers; and

Whereas the growth and augmentation of the Nation's libraries and information centers are essential if all Americans are to have reasonable access to adequate services of libraries and information centers; and

Whereas new achievements in technology offer a potential for enabling libraries and information centers to serve the public more fully, expeditiously, and economically; and

Whereas maximum realization of the potential inherent in the use of advanced technology by libaries and information centers requires cooperation through planning for, and coordination of, the services of libraries and information centers; and

Whereas the National Commission on Libraries and Information Science is developing plans for meeting national needs for library and information services and for coordinating activities to meet those needs; and

Whereas productive recommendations for expanding access to libraries and information services will require public understanding and support as well as that of public and private libraries and information centers: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to call a White House Conference on Library and Information Services in 1976.

(b)(1) The purpose of the White House Conference on Library and Information Services (hereinafter referred to as the "Conference") shall be to develop recommendations for the further improvement of the Nation's libraries and information centers and their use by the public, in accordance with the policies set forth in the preamble to this joint resolution.

(2) The conference shall be composed of, and bring together—

(A) representatives of local, statewide, regional, and national institutions, agencies, organizations, and associations which provide library and information services to the public;

(B) representatives of educational institutions, agencies, organizations, and associations (including professional and scholarly associations for the advancement of education and research);

(C) persons with special knowledge of, and special competence in, technology as it may be used for the improvement of library and information services; and

(D) representatives of the general public.

(c)(1) The conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science (hereinafter referred to as the "Commission").

(2) In administering this joint resolution, the Commission shall—

(A) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(B) make technical and financial assistance (by grant, contract, or otherwise) available to the States to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference; and

(C) prepare and make available background materials for the use of delegates to the Conference and associated State conferences, and prepare and distribute such reports of the Conference and associated State conferences as may be appropriate.

(3)(A) Each Federal department and agency is authorized and directed to cooperate with, and provide assistance to, the Commission upon its request under clause (A) of paragraph (2); and, for that purpose, each Federal department and agency is authorized to provide personnel to the Commission in accordance with section 3341 of title 5, United States Code. For the purposes of such section 3341 and this paragraph, the Commission shall be deemed to be a part of any executive or military department of which a request is made under clause (A) of paragraph (2).

(B) The Librarian of Congress is authorized to detail personnel to the Commission, upon request, to enable the Commission to carry out its functions under this joint resolution.

(4) In carrying out the provisions of this joint resolution, the Commission is authorized to engage such personnel as may be necessary, without regard for the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard for chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(5) The Commission is authorized to publish and distribute for the Conference the

reports authorized under this joint resolution without regard for section 501 of title 44, United States Code.

(6) Members of the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed travel expenses, including per diem in lieu of subsistence, as may be allowed under section 5703 of title 5, United States Code, for persons serving without pay. Such expenses may be paid by way of advances, reimbursement, or in installments as the Commission may determine.

(d) A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than one hundred and twenty days following the close of the Conference, which final report shall be made public and, within ninety days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the President's recommendations with respect to such report.

(e) (1) There is hereby established a twenty-eight-member advisory committee to the Conference composed of (A) at least three members of the Commission designated by the Chairman thereof; (B) two persons designated by the Speaker of the House of Representatives; (C) two persons designated by the President pro tempore of the Senate; and (D) not more than twenty-one persons appointed by the President. Such advisory committee shall assist and advise the Commission in planning and conducting the Conference. The Chairman of the Commission shall serve as Chairman of the Conference.

(2) The Chairman of the Commission is authorized, in his discretion, to establish, prescribe functions for, and appoint members to such advisory and technical committees as may be necessary to assist and advise the Conference in carrying out its functions.

(3) Members of any committee established under this subsection who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation therefor at a rate fixed by the President but not exceeding the rate of pay specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime. Such members may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) The Commission shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Commission in furtherance of the Conference. Such grants, gifts, or bequests offered the Commission shall be paid by the donor or his representative to the Treasurer of the United States, whose receipts shall be their acquittance. The Treasurer of the United States shall enter such grants, gifts, and bequests in a special account to the credit of the Commission for the purposes of this joint resolution.

(g) For the purpose of this joint resolution, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(h) There are authorized to be appropriated without fiscal year limitations such sums, but not to exceed $10,000,000, as may be necessary to carry out this joint resolution. Such sums shall remain available for obligation until expended.

The title was amended so as to read: "Joint resolution to authorize and request the President to call a White House Conference on Library and Information Services in 1973."

TRAVEL AND TRANSPORTATION ALLOWANCES TO CERTAIN MEMBERS OF THE UNIFORMED SERVICES

The Senate proceeded to consider the bill (S. 1038) to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave, which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert:

That chapter 7 of title 37, United States Code, is amended:

(1) By inserting the following new section:

"§ 411b. Travel and transportation allowances: travel performed in connection with certain leave

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the forty-eight contiguous States and the District of Columbia who is ordered to make a change of permanent station to another duty station outside the forty-eight contiguous States and the District of Columbia may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned, or his designee, or to a place no farther distant than his home of record if he is a member without dependents, and from that place to his designated post of duty, if either his last duty station or his designated post of duty is a restricted area in which dependents are not authorized.

"(b) The allowances prescribed under this section may not exceed the rate authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status.".

(2) By inserting the following new item in the analysis:

"411b. Travel and transportation allowances: travel performed in connection with certain leave."

immediately below

"411a. Travel and transportation allowances: travel performed in connection with convalescent leave.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PAY AND POSITION CLASSIFICATION FOR THE SELECTIVE SERVICE SYSTEM

The bill (H.R. 6334) to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System, was considered, ordered to a third reading, read the third time, and passed.

URBAN MASS TRANSPORTATION ACT OF 1964

The Senate proceeded to consider the bill (H.R. 10511) to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements, which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment to strike out all after the enacting clause and insert:

That (a) section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(f) No federal financial assistance under this Act may be provided for the purchase of buses unless as a condition of such assistance the applicant or any public body receiving assistance for the purchase of buses under this Act or any publicly owned operator receiving such assistance shall as a condition of such assistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for the public body, shall not engage in charter bus operations outside of the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such operators are willing and able to provide such service. In addition to any other remedies specified in the agreements, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of the agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.".

(b) (1) The first sentence of section 164 (a) of Public Law 93–87, approved August 13, 1973, is amended—

(1) by inserting "or" before "(2)"; and

(2) by striking out "or (3) the Urban Mass Transportation Act of 1964,".

(2) The second sentence of such section 164(a) is amended by striking out ", (2), and (3)" and inserting in lieu thereof "and (2)".

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendment be agreed to and that the bill as thus amended be considered as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with, and that the amendment be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment ordered to be printed in the Record is as follows:

At the end of the bill insert the following:

Section 164(a) of the Federal-Aid Highway Act is amended by striking out all after the word "operations" in the first sentence and all of the second sentence, and inserting in lieu thereof "outside of the urban area(s) within which it provides regularly scheduled mass transportation service except as provided in an agreement authorized and required by Section 3(f) of the Urban Mass Transportation Act of 1964, which subsection shall apply to Federal financial assistance for the purchase of buses under this Act."

Mr. BENTSEN. Mr. President, H.R. 10511, as reported by the Committee on Banking, Housing and Urban Affairs, partially corrects a difficult situation created by section 164 of the Federal-Aid Highway Act of 1973. I commend the Banking Committee, and particularly the distinguished Senator from New Jersey (Mr. WILLIAMS) for his work on this amendment.

The Federal-Aid Highway Act, of which I was the principal sponsor, contained language in section 164 which would have prohibited any applicant for assistance under the Urban Mass Transportation Act or other Federal acts; including the Highway Act, from receiving funds for the purchase of buses unless the applicant first agreed not to engage in charter bus activities in competition with private bus carriers outside of the area in which the applicant provided regularly scheduled mass transportation service.

The practical effect of this language was to foreclose many public bus companies from significant charter activities, which stimulate revenue for them. In my own State, for example, the city of Corpus Christi noted that their charter business, which largely serves local schools, is the only profitable part of their transit operation, and the revenues from that service are used to subsidize other parts of their operation that regularly lose money.

The language of the Federal-Aid Highway Act was undoubtedly too severe. In its place, the Banking Committee has wisely inserted language which requires public companies operating charters to enter into an agreement with the Secretary to assure that the public companies do not foreclose private operators from operating charter buses if the private companies are willing to do so. In my view, this accomplishes the goals we originally had in the Senate version of the highway bill.

My amendment would extend the principle established in the bill under consideration to assure that the same test which applies to buses purchased under the Urban Mass Transportation Act also applies to buses purchased with highway trust funds.

In the words of John Barnum, Acting Secretary of Transportation—

> We think the parity between the two programs is essential if the localities are to have the genuine flexibility in the use of mass transportation funds which are a central achievement of the Federal-Aid Highway Act of 173.

My amendment, then, treats buses purchased with trust fund moneys the same as buses purchased with UMTA funds. I believe it is necessary, since we do not want to create different conditions for the purchase of buses under the two programs.

I have discussed the amendment with the manager of the bill (Mr. WILLIAMS), and I am hopeful that he and his colleague on the minority side (Mr. TOWER) can accept the amendment.

Mr. WILLIAMS. Mr. President, section 164 of the Federal-Aid Highway Act (Public Law 93–87) enacted on August 13 of this year contained a provision forbidding Federal assistance for the purchase of buses under the Urban Mass Transit Act or the highway trust fund unless the applicant agrees not to engage in certain types of charter bus services. Under the provisions of this section, applicants for urban mass transit funds would be prohibited from engaging in the charter bus business in competition with private operators outside the area within which they provide regularly scheduled mass transportation services. The provisions of this section were never considered by the Senate but were contained in the House-passed version of the bill and later adopted by the conference committee.

If these provisions were enforced, almost half of the publicly owned bus companies in the United States would have to choose between giving up their charter services, which is the most lucrative part of their operations, or foregoing Federal mass transportation assistance. In New Jersey alone, section 164 has jeopardized the application for a grant of $31 million to purchase 1,200 buses for Transport of New Jersey—our State's largest transportation system.

Obviously, this section of the Highway Act is inconsistent with our national objective of encouraging urban mass transportation—an objective which has become our No. 1 domestic goal as a result of the energy crisis.

H.R. 10511 will help us to achieve this goal and alleviate the problems caused by section 164 of the Highway Act. It will allow Federal urban mass transit assistance where the recipient of such assistance enters into fair and equitable arrangements with the Department of Transportation to assure that Federal funding will not foreclose private operators—who are not recipients of such assistance—from engaging in the intercity charter bus business when these operators are willing and able to provide this service.

Under the provisions of H.R. 10511, private charter bus operators can not be put out of business because of competitive advantages enjoyed by companies receiving Federal assistance. On the other hand, the much needed revenues emanating from charter operations will not be lost by recipients of Federal mass transit assistance nor will they be prohibited from offering charter bus service to the public if they do not through the use of unfair or destructive competition drive private operators out of the charter bus business.

The intent of this amendment is to rectify the problems caused by section 164 of the Federal Aid Highway Act. The sponsors of this legislation, therefore, hope that the Secretary of Transportation will exercise his authority to revise the terms and conditions of any grants entered into pursuant to that act so as to reflect the new standards set forth in H.R. 10511.

Mr. President, this legislation is, in my opinion, fair and equitable to all parties concerned. It is endorsed by the U.S. Department of Transportation, The National Association of Motor Bus Owners—representing the private bus operators—the American Transit Association, the Institute for Rapid Transit, and the National League of Cities Conference of Mayors. These groups represent a broad spectrum of all parties engaged in urban mass transportation and the charter bus business. With this totality of support, I hope that the House of Representatives will adopt the Senate amendments to H.R. 10511 within the very near future and alleviate the need for a House-Senate conference. In this manner, the barriers to Federal urban mass transportation assistance will be expeditiously removed and we will take one step toward the alleviation of the energy crisis.

The amendment, offered by the distinguished Senator from Texas, takes the provisions which are applicable to the Urban Mass Transit Act and makes them equally applicable to the provisions of the Highway Act which effect urban mass transportation. I certainly feel that this amendment is essential if mass transit is to be treated equally under both acts.

Mr. DOMENICI. Mr. President, I wish to state my strong support for the amendment offered by the distinguished Senator from Texas (Mr. BENTSEN). As Senator BENTSEN has stated, this amendment would assure equal treatment for a community seeking Federal support for the purchase of mass-transit buses, whether it seeks support under the Urban Mass Transportation Act or under the Federal-aid urban highway system.

As Senator BENTSEN has stated, this amendment will conform the language under title 23 of the Code with the UMTA language in the reported bill. Such conformity is important to the effective implementation of both laws.

My Senate colleagues are well aware of the important changes made earlier this year in Public Law 93–87 to broaden the scope of the Federal-aid highway program. For the first time, money out of the highway trust fund can be used for various mass transit purposes. Such new initiative, designed to make our highways and our transit systems more effective, are particularly significant now, when we confront an energy shortage.

It would be most unfortunate if we were to undercut this opportunity by establishing a double standard that would make it difficult for a local agency to use its highway funds to purchase buses.

It was the intent of the earlier act to conform criteria for mass-transit projects either out of highway or UMTA funds in order not to preclude one choice or the other. To make the program effective, we must have identical criteria.

Public Law 93–87 recognized the need to have a parallel test for the two acts. Section 142(j) of title 23 of the Code added this year, states that "the provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply" in implementing sections of title 23 that permit the acquisition of buses and subway systems. Senator BENTSEN's amendment would assure a continuation of this conformity.

I do not believe there is any opposition to this effort to conform the two acts. The language, I understand, was drawn up with the support of the National Association of Motor Bus operators. This language has the strong support of the administration.

Mr. President, I would like to commend the distinguished Senator from New Jersey (Mr. WILLIAMS) for his leadership in developing this bill. It is an important contribution to the implementation of an effective, national program for urban mass transit.

I have two questions that I should like to propound to the Senator from New Jersey. I do not think they will take much time. I propose to propound them as a member of the minority on the Committee on Public Works.

We wholeheartedly support the amendment, but I wish to ask the manager of the bill, the Senator from New Jersey, this question: First, is it his understanding that this language makes—as I believe it does—an identical charter-bus test under both the UMTA and the Federal-aid highway program?

Mr. WILLIAMS. The answer is "Yes." It is an identical test under both programs.

Mr. DOMENICI. My second question is this: Is my understanding correct that the committee welcomes this amendment and that the committee would have written such an amendment itself if it had not been for the questions relating to the committee jurisdiction, and that the Senator from New Jersey expects the Senate conferees to insist upon the inclusion of Senator BENTSEN's amendment in the conference report with the House?

Mr. WILLIAMS. The answer to that is also in the affirmative. We would have considered it in our committee if we had jurisdiction. We did not. The Committee on Public Works had jurisdiction since it is part of the Highway Act. In conference, we will certainly insist upon agreement to the Bentsen amendment.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. TOWER. Mr. President, on behalf of the minority, we concur in the amendment offered by the distinguished Senator from Texas (Mr. BENTSEN) and are prepared to accept it.

Mr. BENTSEN. I thank the Senator from Texas and the Senator from New Jersey.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. STEVENSON. Mr. President, I submit an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask that the further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 5 after line 3, add the following new section:

"SEC. 2. The Secretary shall amend any agreements entered into pursuant to Section 164a of the Federal-Aid Highway Act of 1973, P.L. 93–87, to conform to the requirements of Section 1 of this Act. The effective date of such conformed agreements shall be the effective date of the original agreements entered into pursuant to Section 164a."

Mr. STEVENSON. Mr. President, the amendment simply gives H.R. 10511 some retroactivity. Restrictive agreements, already entered into by applicants and the Urban Mass Transit Authority, as required by section 164(a), could with this amendment be renegotiated to conform with the more liberal requirements of the bill.

Certain localities have already entered into agreements with UMTA in conformity with the Highway Act as it was passed last August. There may be more agreements entered before this bill becomes effective.

The Banking Committee was somewhat aware of this problem and did take some cognizance of it in its report language. I am not sure, however, that report language is enough to give this bill retroactivity.

This amendment simply assures that communities with restrictive agreements or charter bus service will not be discriminated against. That is the intent of the Banking Committee. The administration supports it.

I hope the distinguished floor manager of this bill will be able to accept the amendment.

The amendment simply assures that communities with restrictive agreements on chartered bus service will not be discriminated against. That is the intent of the Committee on Banking, Housing and Urban Affairs.

I am told that the Mass Transit Authority supports this amendment, and I am hopeful that the distinguished floor manager of the bill and the ranking minority member would see fit to accept the amendment.

Mr. TOWER. Mr. President, if the Senator will yield, I am aware that this amendment is supported by the Urban Mass Transit Authority; and the minority certainly has no objection to it and is prepared to accept it.

Mr. STEVENSON. I thank the Senator.

Mr. WILLIAMS. Mr. President, our committee thought that the purpose of the amendment would have been met by the language of the committee report. But if there is any question, this amendment certainly clarifies it, and we support the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 10511) was read the third time, and passed.

The title was amended so as to read: "An Act to amend the Urban Mass Transportation Act of 1964 to permit financial assistance to be furnished under that Act for the acquisition of certain equipment which may be used for charter service in a manner which does not foreclose private operators from furnishing such service, and for other purposes."

EMIKO KURAOKA

The resolution (S. Res. 204) to pay a gratuity to Emiko Kuraoka was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Emiko Kuraoka, widow of Matsuo Kuraoka, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

BILL INDEFINITELY POSTPONED—S. 2466, PUBLIC HEALTH SERVICE HOSPITALS

Mr. MANSFIELD. Mr. President, the President yesterday signed the military procurement authorization bill. The subject matter listed under Calendar No. 386, S. 2466, having been included in that legislation, agreed to by both Houses and signed by the President, I ask unanimous consent that S. 2466 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

JOHN FITZGERALD KENNEDY—A REMEMBRANCE

Mr. MANSFIELD. Mr. President, whether or not the Senate will be in session tomorrow is undetermined at this time. But the day after tomorrow—on Thanksgiving, of all days—marks the 10th anniversary of the assassination of our late and beloved President, John F. Kennedy.

What is 10 years remembered:
Is it shots of infamy in a Dallas street?
A clinical report of a murder.
Is it a dress dark-splotched with blood?
The swollen faces of grief.
Is it a rain-filled sky over Washington?
A silent throng under the Capitol's dome.

Is it two children and a child's single cry?
A riderless horse.
An intonation in a cathedral.
The flickering of a flame.

What is 10 years remembered:

How much rain beating on a gravesite?
How much snow falling and filtered sunlight?
How many mind-flashes of a man?
Of his humor and humanity.
Of his sense and sensitivity.

Ten years after, it is all remembered and more:

An assertion of human decency
A trust of freedom.
A confidence in reason
A love of country
A kindled hope for the Nation.
This was John Fitzgerald Kennedy.
This is John Fitzgerald Kennedy.
Ten years after.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire to be recognized?

Mr. TOWER. I do not seek recognition.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized for not to exceed 15 minutes.

PERSPECTIVE ON THE SOVIET GRAIN SALE

Mr. DOMENICI. Mr. President, I speak today on what I call the perspective on the Soviet grain transaction.

What did the big sale of U.S. grain to the Soviet Union really mean to the United States? Probably it has meant less than most consumers think to our food prices. And I firmly believe it has meant more to the economy of rural America than most of us appreciate.

The big grain sale ranks as one of the really large transactions in agricultural trade history—and coming during a Presidential election year it was almost certain to become a center of political controversy.

That is unfortunate—because I think the American people deserve an objective and dispassionate look at this transaction, at its costs and benefits, and its implications for the future. That is why I have taken some time recently to examine the sale and its effects carefully.

IMPACT ON FOOD COSTS

The Russian grain sale should not be played—as it has been in too many recent headlines—as the major factor behind the sharp increases in U.S. food prices.

At least three other factors have had more important impact on our food prices for the last year and a half.

First—and very likely foremost—has been the impact of devaluing the dollar. The dollar has devalued against the currencies of West Germany and Japan by about one-third in this period. This meant they could buy one-third more of our grains for the same number of yen or deutschemarks—a real bargain. The United States had to devalue, and in the long run we will benefit from more realistic monetary rates. In the short run, however, it has meant our consumers have had to bid against foreign buyers with "discount coupons" for shopping in the United States.

The second major factor in food cost increases has been bad weather in a number of major grain production areas—including both the United States and Russia. The Russian crop failure in 1972 was followed by the failure of the monsoon rains and poor rice crops in India and Southeast Asia; drought in India and Africa cut peanut production; Australia lost half her grain crop to drought last fall, and South Africa could not even plant her corn crop because it was so dry. The United States, on the other hand was too wet; we lost millions of bushels of corn and soybeans that we could not get out of the fields, and the wet weather and flooding delayed planting again this spring. Peru was not able to catch anchovies for her fishmeal industry, and it now looks as though the fishmeal will not be back in volume before 1975. All of these shortfalls boosted food prices around the world.

The third major factor has been the growing affluence of consumers in other countries. Real incomes have been growing 3 to 4 percent per year in both the developed and developing countries—adjusted for both population growth and inflation. Five countries have more than doubled their real per capita output since 1960—including Spain, Greece, Korea, Taiwan, and Japan. Thus, more people are bidding for better diets today from a relatively fixed number of farming acres.

These factors have all had more impact on our food prices than the Russian grain sale. By itself, the Russian sale would have added less than a cent to the price of a loaf of bread, and would have had very little impact on our prices for meat and other items.

BENEFITS OF THE SOVIET GRAIN SALE

The United States has gained some very real and important benefits from our farm product sales.

Many people in this country—even some from important agricultural States—seem to have forgotten that agriculture is still America's largest and most important industry. It employs more people, occupies more of our capital, and contributes more of our export earnings than any other single industry in the country. When our agriculture is healthy, our whole economy benefits.

For nearly 40 years, though, American agriculture has been limping along at three-quarter speed. We have been wasting a major portion of our farming resources because we could not find markets for all of our productive potential, and we have been subsidizing that waste at a substantial cost to all taxpayers. The Nation and our farmers have been poorer as a result.

Today, partly as a result of the Soviet grain sale, American agriculture is beginning to operate at full speed. Farmers are turning out record crops, buying record amounts of product, generating new jobs and contributing more to the economy than they ever have before in history.

For 5 years, the administration has been making a concerted effort to use our comparative advantage in agriculture more effectively for the benefit of the whole Nation. We have been encouraging other countries to rely more heavily on the efficient American farmer—in order to provide more export earnings for the Nation and more jobs and more income for Americans on and off the farm.

We had been eyeing the big Russian market for several years. The Soviet Union does have, after all, the second-largest economy in the world. It has a population larger than our own, with rising incomes, and a hunger for a better diet. Russia also has a great deal of land, but because of a severe climate she is already pushing her grain production to the limits of her capability. If the Russians are going to eat better they will likely have to import farm products, especially feeds like corn and soybeans.

The Soviets bought some feed last year, along with the wheat. This year the Russians were back for more feed grain, and they have indicated that they will continue to be regular buyers for livestock feed. They also say they will buy wheat when it is needed to supplement their own production.

Our agricultural sales to Russia could well be the beginning of a very important and mutually beneficial trade relationship between the two countries. Russia is immensely rich in natural resources—including oil, natural gas, and minerals. It could be a very good thing to have the Russians looking at the United States as a source of farm products and a buyer of Russian energy and raw materials, instead of as simply a rival for world power.

FOR RURAL AMERICA

The growing demand for farm products, in Russia, in India, in Korea, in dozens of countries around the globe, has tremendous importance for America and particularly for rural America.

Agriculture is still the primary economic base for most of our rural areas. For decades, however, this economic base has been losing jobs, as technology replaced manpower faster than the markets for farm products expanded. Farms have gotten bigger and fewer. Small towns have withered.

For years, we have been holding back our agriculture, wasting part of the productivity of men and acres and machines.

Now, we see an opportunity to gear up American agriculture for full output. As more people around the world get more money, bid for better diets, eat more livestock products that require more grain—we hope that our farms can consistently run at full speed.

That will mean more dollars in farm income, more farming jobs, more opportunity for the man who wants to get into farming or farm as a sideline, and better wages for hired farm workers. It will mean more jobs off our farms and ranches too—more trucks carrying farm products, more people handling them at elevators and processing plants, more workers in expanded fertilizer and chemical plants.

Cash is already flowing into farmers' hands—and back into the economy. All over rural America this year, houses are being repainted, plumbing improved, shingles replaced—because farmers are making more money. Dealers are selling more trucks, tractors, home appliances, and farm buildings.

It has been 40 years since this Nation has seen its agriculture operating at full speed in peacetime—and I think we will all be startled by the impact of the economic benefits. Rural America will feel these benefits most keenly. The exodus from our farms and small towns will be slowed, perhaps even stopped, the extra incomes generated by farming will provide a stronger economic base—perhaps a water or sewer system that will help attract new industries to enhance the town's future.

This strengthening of rural America's future need not mean higher food costs for our consumers either. On the contrary, farmers will be able to use all of their land, labor and capital more efficiently than they could before—and this will help keep per-unit costs of production lower than they would be otherwise—at least hopefully when the supply more closely reaches the demand.

The demand surge came very fast, and it has taken some time for our farmers to gear up. However, we have now eliminated all restrictions on production of our major crops. Farmers are producing records crops of wheat, feed grains, and soybeans this year, and will increase their production still further for next year. U.S. farmers have the capacity to supply our own food needs at reasonable prices, and still provide increased amounts of farm products for exports.

As our additional production comes from the fields, I fully expect that Americans in the years ahead can be confident that American food costs will resume their long-term decline. By that I mean that food costs will continue to take a smaller and smaller proportion of our take-home pay, even as our diets include more meat and other preferred foods. This year, 1973, is the first year in 15 that our food costs have not declined in those terms, and I think we will find it only a temporary interruption of the long-term trend.

The Federal Government's budget picture has also been drastically improved by the improvement in our agriculture—and again we can credit part of this to the Soviet grain sale. The result is a financial benefit for every taxpayer.

Farm program costs have been slashed amazingly. Since 1933 farm programs have cost $85 billion, and in recent years, they had been running between $3 and $4 billion per year. For the next 2 years, our costs will be almost nothing. The demand for farm products, including the demand from Russia, not only eliminated the heavy surpluses of U.S. wheat that were building up in early 1972, they have given encouragement to a very different type of farm program. The Agriculture and Consumer Protection Act of 1973 costs the taxpayer nothing at all when farm prices are strong. I doubt that Congress and U.S. farmers would have had the courage to try this type of program until now and the taxpayers will get a $6 to $8 billion break over the next 3 years because of it.

The Federal budget has also gained new tax revenue from the increased income generated by our farm sales throughout the economy. Farmers alone will contribute an extra $750 million in income taxes in 1972 and 1973 due to their increased income.

A great deal has been made of the fact that the U.S. Government paid about $160 million in export subsidies on the grain sale to the Soviet Union. Even there, the Government made a "profit" in the sense that the subsidy was more than offset by immediate savings in farm program payments, grain storage costs and other items.

One of the most important benefits of our agricultural sales has been on our national balance of payments. We could not maintain our current standard of living without the imports of fuels, raw materials, and low-cost manufactured goods we get from other countries.

Our farm exports are helping to keep the dollar strong enough to pay for these things, and the Russian grain sale in 1972 generated well over $1 billion in foreign earnings.

Overall, in 1973, farm exports brought back home nearly $13 billion of our dollars, and the total for 1974 may be as high as $20 billion.

Our balance of trade deficit was only $141 million in the first three quarters of this year, compared with $5 billion a year ago. The major reason for the improvement was a $4.3 billion increase in farm exports.

U.S. farmers are bailing out the dollar and the Nation.

As the export demand for farm products continues in the future, and permits our agriculture to run efficiently at top speed, we can expect an even greater contribution to the strength of the dollar and to the standard of living of every American.

Finally, I think we must be aware of the important role that American food is playing in world peace. Our agricultural abundance became an important factor in winding down the war in Viet Nam. It has been important in establishing the détente with Russia, and the rapprochement with the Chinese. If nations can meet their legitimate needs effectively through trade, they have less incentive to resort to violence. Furthermore, strong trading relationships can help a great deal in times of stress.

PROBLEMS WITH THE RUSSIAN GRAIN SALE

I conclude by saying that some aspects of the transaction need to be considered because many problems have been generated by the enormity of the transaction.

I do not want to defend every aspect of the Soviet grain sale, of course. There are legitimate questions to be asked about some important parts of the sale.

One of the biggest problems is how a market-oriented economy like ours deals effectively with a large centrally planned buyer like the U.S.S.R. The gyrations of the commodity futures markets alone this year are enough to indicate that we had a difficult time with the sale.

We need futures markets for farm products, to help farmers hedge their risks, and to help set forward price signals. They are also important in helping processors of farm products hedge their inventories and keep processing margins low. However, we must ask now whether the current regulations under which futures trading is operated are strong enough. We must examine the roles of floor traders and others involved in the trading.

The Russian sale revealed some serious weaknesses in our wheat export subsidy system; in fact, it raised the question whether we should have such an export subsidy at all.

The U.S. Government provided $500 million in credit for the Soviets. We have been doing the same for other commercial customers. Is this a proper role for government?

All of these questions need to be seriously examined and I hope to participate in that examination, carefully and in an unemotional atmosphere.

However, I think there is little question that our current farm policy is right. We are seeking maximum markets for our farm exports year in and year out, so that our farmers and rural people get better incomes and contribute a larger effort to the entire economy.

I believe the policy is working; that it can be made to work even better. It is producing major benefits for all, not only for the farmer. Grain sales to the Soviet Union are a small part of this, but they are part and parcel of a larger American policy.

Mr. President, if I have any remaining time I yield back that time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio (Mr. TAFT) is recognized for not to exceed 15 minutes.

THE FEDERAL MINIMUM WAGE

Mr. TAFT. Mr. President, earlier this year numerous arguments were advanced in the Senate regarding the necessity of increasing the Federal minimum wage. The Senator from New Jersey (Mr. WILLIAMS), the distinguished chairman of the Labor and Public Welfare Committee, stated on the floor, in referring to the necessity of enacting minimum wage legislation:

> I would say again that the basic issue which Congress must face now is whether we are going to provide an adequate wage level for millions of low-wage workers now—not in 1974, 1975, or 1976, but now.

The distinguished ranking minority member of the Labor and Public Welfare Committee, the Senator from New York (Mr. Javits), stated on the floor:

> The issue before the Senate is not whether the minimum wage should be raised—most agree that an increase is warranted—but rather how much and how soon it should be raised. Even the most cursory glance at the cost of living figures shows that the increases provided for in S. 1861 are, at most, barely adequate to compensate how income workers for inflation since 1966, the last time minimum wage legislation was enacted.

The Senators from Colorado and Maryland and I agree that an increase in the Federal minimum wage is necessary and should be acted upon in this session of the Congress. Regrettably, a constructive compromise was not reached earlier this year and the President was presented with no other responsible option but to veto the legislation forwarded to him. As we all know, the House upheld that veto.

Millions of working Americans thus have not received a much-needed increase in their wages, and developments to date have not provided encouragement for congressional action to correct this situation. No committee meetings have been held or scheduled to consider areas of compromise and no other movement has been made to push for consideration of this most vital issue. Informal efforts to try to get a compromise with those who have been interested unfortunately have been unavailing.

One reason that has been suggested for lack of action on this issue is that the leadership of the pertinent committees in the House and Senate do not seem interested in further consideration the issue in this session. This is bread-and-butter legislation important to so many Americans; but certain labor leaders, fixed in their position on certain details of this issue, seem to prefer to have no legislation than any compromise proposals. But I am sure that most Senators, and especially the ranking members of the Labor and Public Welfare Committee, have not lost interest in the problem. While the Watergate affair and related developments do merit attention, this attention should not develop into complete obsession at the expense of other concerns of the people. Our governmental system must continue to operate and attend to the many important issues facing this country.

I cannot believe the suggestion that organized labor is completely opposed to any consideration of this legislation at this time. If true, it would be especially unfortunate. Labor leadership is well aware that give and take are very important in the legislative process and, in fact, has stressed the necessity of constructive compromise over the years in dealing with matters of national importance. It is very difficult for me to believe that knowledgeable labor leaders, such as Mr. Meany, would block legislation of such importance as minimum wage, just because every word of every section of a proposal is not exactly what organized labor has requested.

The best course of action to take on this matter is to proceed forward as soon as possible on legislation to constructively increase the Federal minimum wage. Senators Dominick, Beall, and myself offered legislation earlier this year which would have established a $2.30 minimum with reasonably adjusted steps, strengthened the child labor laws, mandated a review of existing exemptions, and created a special youth differential to decrease youth unemployment. Extensive hearings were held on our proposal and others to increase the minimum wage. Extensive debate has been conducted on our proposal. The time has come to move on this issue.

I, therefore, intend to join with Senator Dominick at the appropriate time and ask for immediate consideration of our bill—under Senate rule XIV—to increase the Federal minimum wage. Leadership of the Labor and Public Welfare Committee, and of the Senate, have been so advised of our intentions, and if objection is made to immediate consideration of this important issue, I feel it is incumbent on those objecting to present their own proposal on this subject and begin to move on legislative compromises to increase the minimum wage.

Of course, realistically, I am sure the Senator from Colorado and I recognize that it is unlikely the bill will be called up on the calendar. Of course, as we have alread pointed out, there are undoubtedly a number of other measures that are going to be considered before the end of the year and, where appropriate, we intend to try to bring up this issue, by way of amendment, in the exact terms of the bill introduced yesterday by the Senator from Colorado (Mr. Dominick) as S. 2727.

I would also call attention to the fact that at page 37697 of the Congressional Record for yesterday, which is available today, there is set out the details of that bill and a summary of the bill itself. I do not think it is necessary to review at this time the exact provision.

It provides an area of coverage for public employees under the minimum wage. It provides for application of tip credit. It provides for an increase in the minimum wage rate in five steps over a 4-year period, up to $2.30, starting at $1.80, and increasing to $2, $2.10, $2.20, and up to a maximum of $2.30.

For agricultural employees it provides an increase up to $2 an hour over the same period, with the differential being maintained.

It also provides—and we think this is extremely important—a youth differential at an 85 percent rate, and also provides for full-time students. For those who are not students, it would protect them in that the lower rate would apply only to the first 6 months of this employment.

I believe this issue is one of the early business of the Senate. I believe it should be acted upon before we go home this year. We have waited too long to act on minimum wage legislation. We have allowed ourselves to become bogged down by what are political aspects, losing a view of legislation that is of real importance to the United States—that of bringing the minimum wage legislation up to the current cost-of-living situation and the changes that have occurred in the economy of the United States since the last enactment of such legislation.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado (Mr. Dominick) is recognized for not to exceed 15 minutes.

FAIR LABOR STANDARDS ACT AMENDMENTS OF 1973

Mr. DOMINICK. Mr. President, I have been listening with care to my friend, the Senator from New Mexico, talk about the detail which I thought was extremely interesting because we brought out a lot of factors not recognized in the public media.

I have also been listening to my friend, the Senator from Ohio, who has been, of course, so closely associated with the Senator from Maryland (Mr. Beall) and me with regard to minimum wage legislation. I think he gave us a fine definition of the problem we faced.

Mr. President, yesterday, on behalf of myself, Mr. Taft and Mr. Beall, I introduced a bill, S. 2727, to amend the Fair Labor Standards Act to provide for increased minimum wage rates, and for other purposes. I asked unanimous consent that it be placed on the calendar for immediate consideration. That procedure was objected to, quite properly, by the Senator from New Jersey (Mr. Williams). It is my hope that after the second reading of the bill today, it will be placed on the calendar, and that there will be no objection to its consideration in the near future. If there is, I intend to offer it as a floor amendment to another bill which is before the Senate for debate—possibly the daylight saving bill, which is scheduled to be called up next week.

It was for that reason that I objected to the proposed time limitation on the daylight savings bill, proposed last night, because under the standard unanimous-consent request for time limitations so-called nongermane amendments would not have been allowed. Consequently, in order to preserve the possibility of offering this proposal as an amendment to the bill, I had to object. I told the Senator from Montana at that point why I was doing it.

This bill is substantially the same as one we offered as a substitute for the minimum wage bill reported by the Labor and Public Welfare Committee earlier this year. It provides for increasing the minimum wage for all covered nonfarm workers to $2.30 an hour over a 4-year period. The rate for covered farmworkers would be increased from its present level of $1.30 an hour to $2 an hour over a 3-year period.

To avoid worsening the high teenage unemployment rate—14 percent for white teenagers; 31 percent for nonwhites—the bill provides for a youth differential rate of 85 percent of the new rates. I call this Job Opportunities for Youth, for which JOY is an acronym. And I think that we ought to look at it that way if we are to get young people into the working scales so that they can handle themselves and take care of their responsibilities which would bring them into a production status as rapidly as possible.

This youth differential would apply to youths under 18 only during their first 6 months on a job, and to full-time students working in part-time jobs. Employers could use the youth differential rate only in accordance with Department of Labor regulations insuring that adult workers would not be displaced. Thereby we get around the universal problem we have faced.

The bill provides for extending minimum wage coverage to the remaining Federal, State, and local government employees not covered by the 1966 amendments. No exemptions would be repealed, but the Labor Department would be directed to undertake a comprehensive study of the 36 or more existing minimum wage and overtime exemptions, and submit to Congress a report containing recommendations as to whether each should be retained, repealed, or modified.

We introduced this bill because all of us strongly support a substantial increase in the minimum wage this year. I thought the substitute bill Senator Taft and I offered earlier was a realistic and substantial compromise, and I am strengthened in that belief by subsequent events—particularly the House's action in sustaining the President's veto.

I endorse 100 percent the reasons set out by the President as the basis for his veto. By contributing to inflation and unemployment, the vetoed bill would have hurt the disadvantaged—the very people minimum wage legislation is supposed to help. I ask unanimous consent that the veto message be printed in the Record at this point.

There being no objection, the veto message was ordered to be printed in the Record, as follows:

To the House of Representatives:

I am returning today, without my approval H.R. 7935, a bill which would make major changes in the Fair Standards Act.

This bill flows from the best of intentions. Its stated purpose is to benefit the working man and woman by raising the minimum wage. The minimum wage for most workers has not been adjusted for five years and in the interim, as sponsors of this bill recognize, rising prices have seriously eroded the purchasing power of those who are still paid at the lowest end of the wage scale.

There can be no doubt about the need for a higher minimum wage. Both fairness and decency require that we act now—this year—to raise the minimum wage rate. We cannot allow millions of America's low-income families to become the prime casualties of inflation.

Yet in carrying out our good intentions, we must also be sure that we do not penalize the very people who need help most. The legislation which my Administration has actively and consistently supported would ultimately raise the minimum wage to higher levels than the bill that I am today vetoing, but would do so in stages over a longer period of time and thereby protect employment opportunities for low wage earners and the unemployed.

H.R. 7935, on the other hand, would unfortunately do far more harm than good. It would cause unemployment. It is inflationary. And it hurts those who can least afford it. For all of these reasons, I am compelled to return it without my approval.

ADVERSE EFFECT ON EMPLOYMENT

H.R. 7935 would raise the wage rate to $2.00 for most non-farm workers on November 1 and 8 months later, would increase it to $2.20. Thus in less than a year, employers would be faced with a 37.5 percent increase in the minimum wage date.

No one knows precisely what impact such sharp and dramatic increases would have upon employment, but my economic advisors inform me that there would probably be a significant decrease in employment opportunities for those affected. When faced with the decision to increase their pay rates by more than a third within a year or to lay off their workers, many employers will be forced to cut back jobs and hours. And the worker will be the first victim.

The solution to this problem is to raise the minimum wage floor more gradually, permitting employers to absorb the higher labor costs over time and minimizing the adverse effects of cutting back on employment. This is why I favor legislation which would raise the floor to a higher level than H.R. 7935 but would do so over a longer period of time. The bill supported by the Administration would raise the minimum wage for most non-farm workers from $1.60 to $1.90, effective immediately, and then over the next three years, would raise it to $2.30. I believe this is a much more prudent and helpful approach.

INCREASING INFLATION

Sharp increases in the minimum wage rate are also inflationary. Frequently workers paid more than the minimum gauge their wages relative to it. That is especially true of those workers who are paid by the hour. An increase in the minimum therefore increases their demands for higher wages—in order to maintain their place in the structure of wages. And when the increase is as sharp as it is in H.R. 7935, the result is sure to be a fresh surge of inflation.

Once again, prudence dictates a more gradual increase in the wage rate, so that the economy can more easily absorb the impact.

HURTING THE DISADVANTAGED

Changes in the minimum wage law as required by H.R. 7935 would also hurt those who need help most. The ones who would be the first to lose their jobs because of a sharp increase in the minimum wage rate would frequently be those who traditionally have had the most trouble in finding new employment—the young, members of racial and ethnic minority groups, the elderly, and women who need work to support their families.

Three groups would be especially hard hit by special provisions in this bill:

Youth: One major reason for low earnings among the young is that their employment has a considerable element of on-the-job training. Low earnings can be accepted during the training period in expectation of substantially higher earnings after the training is completed. That is why the Administration has urged the Congress to establish a modest short-term differential in minimum wages for teenagers, coupled with protections against using teenagers to substitute for adults in jobs. H.R. 7935, however, includes no meaningful youth differential of this kind. It does provide marginal improvement in the special wage for students working part-time, but these are the young people whose continuing education is improving their employability anyway; the bill makes no provision at all for the millions of nonstudent teenagers who need jobs most.

Unemployment rates for the young are already far too high, recently averaging three to four times the overall national unemployment rate. H.R. 7935 would only drive that rate higher, especially for young people from minority groups or disadvantaged backgrounds. It thus would cut their current income, delay—or even prevent—their start toward economic improvement, and create greater demoralization for the age group which should be most enthusiastically involved in America's world of work.

Domestic household workers: H.R. 7935 would extend minimum wage coverage to domestic household workers for the first time. This would be a backward step. H.R. 7935 abruptly requires that they be paid the same wages as workers who have been covered for several years. The likely effect would be a substantial decrease in the employment and hours of work of current household workers. This view is generally supported by several recent economic laws in a consistent and equitable manner.

Extension of Federal minimum wage and overtime standards to State and local government employees is an unwarranted interference with State prerogatives and has been opposed by the Advisory Commission on Intergovernmental Relations.

NEED FOR BALANCE AND MODERATION

In sum, while I support the objective of increasing the minimum wage, I cannot agree to doing so in a manner which would substantially curtail employment of the least experienced and least skilled of our people and which would weaken our efforts to achieve full employment and price stability. It is to forestall these unacceptable effects that I am vetoing H.R. 7935.

I call upon the Congress to enact in its place a moderate and balanced set of amendments to the Fair Labor Standards Act which would be consistent with the Nation's economic stabilization objectives and which would protect employment opportunities for low wage earners and the unemployed and especially nonstudent teenagers who have the most severe unemployment problems. To the millions of working Americans who would benefit from sound and carefully drawn legislation to raise the minimum wage, I pledge the Administration's cooperation with the House and Senate in moving such a measure speedily onto the statute books.

Richard Nixon.

The White House, *September 6, 1973.*

Mr. DOMINICK. Mr. President, the message concludes by pledging the administration's full support for a minimum wage bill which is "moderate and balanced." Although the bill I introduced yesterday has not been endorsed by the administration, I believe it is moderate and balanced, and will therefore have the administration's support. In other words, it would not have been vetoed.

It provides for a substantial increase in minimum wage rates—from $1.60 to $1.80 immediately for most workers, and ultimately to $2.30. The important point is that these increases would be stretched out over a 4-year period in order to minimize the inflationary and unemployment effects. The vetoed bill would have increased the minimum wage to $2 immediately, and to $2.20 on July 1 next year, forcing the economy to absorb this 37.5 percent increase in 8 months. The longer a minimum wage adjustment is postponed, the greater will be the pressure for large increases over a short period of time, thus maximizing the inflationary and unemployment effects.

Again, I believe this bill represents a good compromise in its present form. But I am not approaching this on an all or none basis. I am willing to consider changes in order to reach a compromise which is satisfactory to everyone. I am afraid, however, that some of the other proponents of a minimum wage increase do not approach it with the same spirit of compromise. Shortly after the President's veto was sustained, Senator TAFT and I attempted to initiate discussions regarding the possibility of a compromise. The response was negative. We were told that such discussions would "serve no useful purpose at this time."

It would appear that some would rather have a campaign issue next year than a minimum wage increase this year. The only way a minimum wage increase can be achieved during the 93d Congress is through a compromise bill. Preserving the status quo for political reasons is, of course, one of the options they are free to pursue. It should be pointed out, however, that the only ones hurt by that approach are the lowest paid workers. Moreover, this no-compromise approach casts doubt on the sincerity of the rhetoric heard during floor debate earlier this year about the "urgent need" for a minimum wage increase to "improve the lot of the working poor," whose purchasing power has been eroded by inflation since the last increase more than 5 years ago.

I am confident that most of my colleagues do not want to postpone a minimum wage increase for another year, and therefore will not object to the early consideration of this bill. To refer this bill to committee again would be a useless exercise. The committee and the full Senate have acted on two almost identical minimum wage bills over the past 18 months. We all know the issues. Going back through the committee process again will not resolve the impasse. I hope my colleagues will help resolve it by acting on this bill during this session of the 93d Congress.

Mr. President, I ask unanimous consent that the text of S. 2727 be printed at the conclusion of my remarks, to be followed by a section-by-section analysis, a chart prepared by the Department of Labor showing its estimated cost impact, and a chart comparing the new minimum wage rates it proposes with those of the other major proposals this year and during the 92d Congress.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMINICK. Mr. President, I just want to say that in going over this chart on the wage rate, the one thing this bill does which no other bill does is to retain the parity of wages between those who were covered prior to 1966 and those who were covered after 1966. All the other bills, including the bill that was vetoed, all of a sudden changed this ratio so that a person who was in the wage scale at the low minimum, was covered by the minimum wage requirements prior to 1966 and then became even with those covered by the 1966 amendments is suddenly finding himself in a superior position again.

That does not, to me, make any sense whatsoever. So Senator TAFT and I have kept them together without any change whatsoever, which I think is a far more equitable method of treating this particular situation.

Mr. President, I yield back the remainder of my time.

EXHIBIT 1

S. 2727

A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (d)) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State, and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended by adding at the end thereof the following: "In the case of any individual employed by the United States, 'employee' means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (v) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e) (1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(f) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(20) any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (E) in the Library of Congress; and any employee employed by any State or a political subdivision of any State and any agency or instrumentality thereof or interstate governmental agency."

INCREASE IN MINIMUM WAGE

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1) (A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $2 an hour during the second year from the effective date of such amendments,

"(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"(E) not less than $2.30 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, not less than $1.90 an hour during the third year from the effective date of such amendments, and not less than $2 an hour thereafter."

(c) (1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 4. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or," and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $1.60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) are amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A) increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

PROOF OF AGE REQUIREMENT

SEC. 6. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulations require employers to obtain from any employee proof of age."

CHILD LABOR IN AGRICULTURE

SEC. 7. (a) Section 13(c)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parents, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.".

(b) Section 13(d) of such Act is amended to read as follows:

"(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH: SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student (i) is employed by the educational institution at which he is enrolled, or (ii) is employed during a school vacation in a retail or service establishment or in agriculture.

"(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that a such special minimum wage rate for expenses in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period."

CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the people charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged; or

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (48 Stat. 582)."

PENALTIES

SEC. 10. (a) The first three sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows:

"The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

(b) Section 11 of the Portal-to-Portal Pay Act of 1947 is amended by deleting "(b)" after "section 16".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 11. (a) (1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or any agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking figure "$3,000,000", and inserting in lieu thereof, $5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, a section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15 (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from non-appropriated funds), in the United States Postal Service and the Postal Rates Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriated remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and (appropriate to carry out its responsibilities under this section). The Civil Service Commission shall—

(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

(2) "consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age in a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

EXEMPTION REVIEW

SEC. 12. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

SEC. 13. (a) The Secretary shall contract for a study to determine the extent, if any, of the impact on employment of the increase in minimum wages prescribed pursuant to the amendment made to the Fair Labor Standards Act of 1938 by each of sections 3 and 5 of this Act, and to develop statistical information and techniques designed to predict the probable impact, if any, on employment of future increases in minimum wages. Each such study shall contain statistical information with respect to such impact on categories of employment and unemployment including but not limited to age, sex, occupation, education, ethnic origin, size, and business of employer, and geographic area, including Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

(b) The Secretary shall prepare and furnish the Congress on an annual basis, beginning nine months after the effective date of the Fair Labor Standards amendments of 1973, with reports on the interim findings of each such study, and with a final report on the findings of each such study within twenty-one months after the highest minimum wage rate prescribed by each of said sections shall have become effective.

(c) Ninety days prior to the effective date of each increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by sections 3 and 5 of this Act, the Secretary shall provide the Congress with an employment impact statement establishing category of employment of each such prospective increase, together with a summary of the basis for each statement.

TECHNICAL AMENDMENTS

SEC. 14. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b) (1) Section 6(c)(3) of such Act is repealed.

(2) Section 6(c)(4) of such Act is redesignated as 6c(3).

(c) (1) Section 7(a)(1) of such Act is redesignated as 7(a).

(2) Section 7(a)(2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a)(6)", and by striking out "section 7(a)(1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 15. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

SECTION-BY-SECTION ANALYSIS OF S. 2727

SECTION 2

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the United States and any state or political subdiivsion of a state. This would extend minimum wage coverage to an estimated 5 million federal, state and local government employees (1.7 million federal, 3.3 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and Vista, would not be included in the extension of coverage, nor would elected officials or their personal staff. (Conforms with S. 1861, except that minimum wage coverage only—not overtime—is extended to such employees.)

Also amends section 3(m), under which tips, up to 50 percent of the applicable minimum wage rate, may be included for purposes of computing wages paid employees. New requirement added, that in order for employer to qualify for tip credit, employees must be informed of the law, and must actually retain all tips received. (Conforms with section 2(d) of S. 1661.)

SECTION 3

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date, and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, $1.90 an hour during the third year, and $2.00 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act. (Conforms with section 5 of S. 1861.)

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act, which relates to child labor in agriculture, to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents, or on farms where their parents are employed. (Conforms with section 6(c) of S. 1861.)

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers. Does not create a new minimum wage or overtime exemption.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage of $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "Youth differential" rate only during their first 6 months on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job, except that they could work full-time during school vacations at jobs in retail-service industries or agriculture.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act. (Conforms with section 9 of S. 1861.)

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts. (Conforms with section 8(b) of S. 1861.)

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90-202) to extend its coverage to federal, state and local government employees. (Conforms with section 12 of S. 1861.)

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Directs the Secretary of Labor to contract for a study estimating the impact which the minimum wage increases provided for in this bill will have on employment among various categories of workers. The study will also develop the methodology necessary to predict the employment effects of future minimum wage increases.

SECTION 14

Technical amendments.

SECTION 15

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of Labor to promulgate regulations necessary to carry out such amendments.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 2727 (DOMINICK-TAFT BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1974[1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	1,965	3.8	$539	0.1	51,980	$383,890
Employees presently subject to the minimum wage	1,894	4.0	489	.1	46,950	341,549
Employees subject to the minimum wage prior to 1966 amendments to $1.80	636	1.8	157	.1	35,159	276,531
Employees subject to the minimum wage as a result of 1966 amendments	1,258	10.7	332	.5	11,791	65,018
Federal employees—wage board and nonappropriated fund to $1.80	30	4.7	7	.1	636	5,462
State and local government to $1.80	286	10.2	70	.5	2,817	14,896
Other private nonfarm employees to $1.80	878	11.2	241	.6	7,853	43,058
Farmworkers to $1.50	64	13.2	14	.9	485	1,602
Employees subject to the minimum wage as a result of 1973 amendments	71	1.4	50	.1	5,030	42,341
Federal employees to $1.80					1,697	15,625
State and local government to $1.80	71	2.1	50	.2	3,333	26,716

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1974, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 2727 (DOMINICK-TAFT BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1974[1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,890	5.6	$920	0.2	51,980	$403,333
Employees presently subject to the minimum wage	2,787	5.9	886	.2	46,950	358,839
Employees subject to the minimum wage prior to 1966 amendments to $2	1,027	2.9	324	.1	35,159	390,405
Employees subject to the minimum wage as a result of 1966 amendments	1,760	14.9	562	.8	11,791	68,434
Federal employees—wage board and nonappropriated fund to $2	40	6.3	12	.2	636	5,739
State and local government to $2	394	14.0	116	.7	2,817	15,674
Other private nonfarm employees to $2	1,235	15.7	411	.9	7,853	45,331
Farmworkers to $1.70	91	18.8	23	1.4	485	1,690
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	34	.1	5,030	44,494
Federal employees to $2					1,697	16,406
State and local government to $2	103	3.1	34	.1	3,333	28,088

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1975, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 2727 (DOMINICK-TAFT BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1976 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,917	5.6	$574	0.1	51,980	$423,975
Employees presently subject to the minimum wage	2,814	6.0	553	.1	46,950	377,240
Employees subject to the minimum wage prior to 1966 amendments to $2.10	1,027	2.9	205	.1	35,159	305,075
Employees subject to the minimum wage as a result of 1966 amendments	1,787	15.2	348	.5	11,791	72,165
Federal employees—wage board and nonappropriated fund to $2.10	40	6.3	7	.1	636	6,033
State and local government to $2.10	394	14.0	67	.4	2,817	16,523
Other private nonfarm employees to $2.10	1,235	15.7	243	.5	7,853	47,821
Farmworkers to $1.90	118	24.3	31	1.7	485	1,788
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	46,735
Federal employees to $2.10					1,697	17,227
State and local government to $2.10	103	3.1	21	.1	3,333	29,508

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1976, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 2727 (DOMINICK-TAFT BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1974 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,918	5.6	$561	0.1	51,980	$445,227
Employees presently subject to the minimum wage	2,815	6.0	540	.1	46,950	396,156
Employees subject to the minimum wage prior to 1966 amendments to $2.20	1,027	2.9	205	.1	35,159	320,337
Employees subject to the minimum wage as a result of 1966 amendments	1,788	15.2	335	.4	11,791	75,819
Federal employees—wage board and nonappropriated fund to $2.20	40	6.3	7	.1	636	6,335
State and local government to $2.20	394	14.0	67	.4	2,817	17,355
Other private nonfarm employees to $2.20	1,235	15.7	243	.5	7,853	50,235
Farmworkers to $2	119	24.5	18	1.0	485	1,894
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	49,071
Federal employees to $2.20					1,697	18,088
State and local government to $2.20	103	3.1	21	.1	3,333	30,983

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1977, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 2727 (DOMINICK-TAFT BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1978 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,799	5.4	$543	0.1	51,980	$467,489
Employees presently subject to the minimum wage	2,696	5.7	522	.1	46,950	415,966
Employees subject to the minimum wage prior to 1966 amendments to $2.30	1,027	2.9	205	.1	35,159	336,349
Employees subject to the minimum wage as a result of 1966 amendments	1,669	14.2	317	.4	11,791	79,617
Federal employees—wage board and nonappropriated fund to $2.30	40	6.3	7	.1	636	6,652
State and local government to $2.30	394	14.0	67	.4	2,817	18,223
Other private nonfarm employees to $2.30	1,135	15.7	243	.5	7,853	52,750
Farmworkers at $2 since Jan. 1, 1977					485	1,992
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	51,523
Federal employees to $2.30					1,697	18,992
State and local government to $2.30	103	3.1	21	.1	3,333	32,531

[1] Estimates are based on employment in September 1972 and earnings levels projected to January 1, 1978, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

MINIMUM WAGE PROPOSALS

WAGE RATES (92D CONGRESS)

Erlenborn-Quie (H.R. 7130):	
Nonagriculture pre 1966	$1.80; $2.00.
1966	$1.70; $1.80; $2.00 (2 yrs later).
Agriculture	$1.50; $1.70.
Williams-Javits (S. 1861):	
Nonagriculture pre 1966	$2.00; $2.20 (2 yrs later).
1966	$1.80; $2.00; $2.20 (2 yrs ater).
Agriculture	$1.60; $1.80; $2.00; $2.20.
Dominick-Taft (A.M. No. 1204):	
Nonagriculture pre 1966	$1.80; $2.00.
1966	$1.70; $1.80; $2.00.
Agriculture	$1.50; $1.70.

WAGE RATES (93D CONGRESS)

	1973	1974	1975	1976	1977
Administration:					
Nonagriculture pre:					
1966	$1.90	$2.10	$2.20	$2.30	------
1966	1.80	2.00	2.10	2.20	$2.30
Agriculture	1.50	1.70	1.85	2.00	------
Vetoed bill (H.R. 7935):					
Nonagriculture pre:					
1966	2.00	2.20	----------------		
1966	1.80	2.00	2.20	----------	
Agriculture	1.60	1.80	2.00	2.20	------
Dominick-Taft (S. 2727):					
Nonagriculture pre:					
1966	1.80	2.00	2.10	2.20	2.30
1966	1.80	2.00	2.10	2.20	2.30
Agriculture	1.50	1.70	1.90	2.00	------

WAGE RATES (92D CONGRESS)

	1973 1974 1975 1976 1977
Erlenborn (H.R. 7130):	
Nonagriculture pre 1966	$1.80; $2.00.
1966	$1.70; $1.80; $2.00 (2 yr later).
Agriculture	$1.50; $1.70.
Williams-Javits (S. 1861):	
Nonagriculture pre 1966	$2.00; $2.00 (2 yr later).
1966	$1.80; $2.00; $2.20 (2 yr later).
Agriculture	$1.60; $1.80; $2.00; $2.20.
Dominick-Taft (AM. No. 1204):	
Nonagriculture pre 1966	$1.80; $2.00.
1966	$1.70; $1.80; $2.00.
Agriculture	$1.50; $1.70.

WAGE RATES (93D CONGRESS)

	1973	1974	1975	1976	1977
Administration:					
Nonagriculture pre:					
1966	$1.90	$2.10	$2.20	$2.30	------
1966	1.80	2.00	2.10	2.20	$2.30
Agriculture	1.50	1.70	1.85	2.00	------
Vetoed bill (H.R. 7935):					
Nonagriculture pre:					
1966	$2.00	$2.20	------	------	------
1966	1.80	2.00	$2.20	------	------
Agriculture	1.60	1.80	2.00	$2.20	------
Dominick-Taft (S. 2727):					
Nonagriculture pre:					
1966	1.80	2.00	2.10	2.20	$2.30
1966	1.80	2.00	2.10	2.20	2.30
Agriculture	1.50	1.70	1.90	2.00	------

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. TOWER. Mr. President, I withdraw that.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. TOWER. I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. NUNN). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

FAIR LABOR STANDARDS ACT AMENDMENTS OF 1973

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate S. 2727, for its second reading.

The bill was read the second time, as follows:

A bill (S. 2727) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

Mr. DOMINICK. Mr. President, I object to any further consideration of the bill.

The ACTING PRESIDENT pro tempore. Under rule XIV, paragraph 4, the bill will be placed on the calendar.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there further morning business?

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive N (93d Cong., 1st sess.) and Executive Q (93d Cong., 1st sess.).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROTOCOL AMENDING THE 1928 CONVENTION ON INTERNATIONAL EXPOSITIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive N, 93d Congress, first session.

There being no objection, the Senate, as in committee of the whole, proceeded to consider Executive N, 93d Congress, first session, the protocol amending the 1928 Convention on International Expositions, which was read the second time, as follows:

[Translation]

PROTOCOL AMENDING THE CONVENTION SIGNED AT PARIS ON NOVEMBER 22, 1928, CONCERNING INTERNATIONAL EXPOSITIONS

The Parties to this Convention,

Considering that the rules and procedures established by the Convention concerning international expositions, which was signed at Paris on November 22, 1928, as amended and supplemented by the Protocols of May 10, 1948 and November 16, 1966, have proved useful and necessary for the organizers of such expositions and for the participating States;

Desiring to adapt to the conditions of modern endeavor the aforesaid rules and procedures, as well as those concerning the organization responsible for their application, and to bring together those provisions in a single instrument replacing the 1928 Convention;

Have agreed as follows:

ARTICLE I

The purpose of this Protocol is:

(a) To amend the rules and procedures relating to international expositions;

(b) To amend the provisions concerning the activities of the International Expositions Bureau.

AMENDMENT—ARTICLE II

The 1928 Convention is again amended by this Protocol in accordance with the objectives set forth in Article I. The text of the Convention thus amended is contained in the Appendix to this Protocol of which it constitutes an integral part.

ARTICLE III

(1) This Protocol shall be open for signature by the Parties to the 1928 Convention, at Paris, from November 30, 1972, to November 30, 1973, and shall remain open thereafter for accession by those Parties.

(2) The Parties to the 1928 Convention may become Parties to this Protocol by:

(a) Signature without reservation of ratification, acceptance, or approval;

(b) Signature with reservation of ratification, acceptance, or approval, followed by ratification, acceptance, or approval;

(c) Accession.

(3) Instruments of ratifiation, acceptance, approval, or accession shall be deposited with the Government of the French Republic.

ARTICLE IV

This Protocol shall enter into force on the date on which 29 States have become Parties hereto as provided in Article III.

ARTICLE V

The provisions of this Protocol shall not apply to the registration of an exposition for which a date has already been approved by the International Expositions Bureau up to and including the meeting of the Administrative Council immediately preceding the entry into force of this Protocol, in accordance with Article IV hereinabove.

ARTICLE VI

The Government of the French Republic shall notify the Governments of the Contracting Parties and the International Expositions Bureau of:

(a) Signatures, ratifications, approvals, acceptances, and accessions in accordance with Article III;

(b) The date on which this Protocol shall enter into force in accordance with Article IV.

ARTICLE VII

Upon the entry into force of this Protocol, the Government of the French Republic shall have it registered with the United Nations Secretariat, pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorized for that purpose, have signed this Protocol.

DONE at Paris, November 30, 1972, in the French language in a single original that shall be kept in the archives of the Government of the French Republic, which shall issue certified copies to the Governments of all the Parties to the 1928 Convention.

APPENDIX

Convention concerning International Expositions, signed at Paris on November 22, 1928, amended and supplemented by the Protocols of May 10, 1948, November 16, 1966, and November 30, 1972.

SECTION I

Definitions and purposes

Article 1

(1) An exposition is an event which, whatever its title, has as its principal purpose the education of the public by taking stock of the means available to man for meeting the needs of civilization and demonstrating the progress achieved in one or more branches of human endeavor or the prospects for the future.

(2) An exposition is international when more than one State participates therein.

(3) The participants in an international exposition are, on the one hand, exhibitors of States officially represented grouped in national sections and, on the other hand, international organizations or exhibitors who are nationals of States not officially represented, and, lastly, those who are authorized under the regulations of the exposition to engage in another activity, in particular concessionaires.

Article 2

This Convention shall apply to all international expositions except:

(a) Expositions having a duration of less than three weeks;

(b) Fine arts expositions;

(c) Essentially commercial expositions.

Article 3

(1) Regardless of the title that may be given to an exposition by its organizers, this Convention makes a distinction between universal expositions and specialized expositions.

(2) An exposition is universal when it takes stock of the means employed and the progress achieved or to be achieved in several branches of human endeavor, as defined in the classification provided for in Article 30(2)(a) of this Convention.

(3) An exposition is specialized when it is devoted to only one branch of human endeavor, as that branch is defined in the classification.

SECTION II

Duration and frequency of expositions

Article 4

(1) The duration of an exposition shall not exceed six months.

(2) The opening and closing dates of an exposition shall be fixed at the time of its registration and may not be changed except in case of *force majeure* and with the consent of the International Expositions Bureau (hereinafter called the Bureau) referred to in Section V of this Convention. Nevertheless, the total duration of the exposition shall not exceed six months.

Article 5

(1) The frequency of the expositions to which this Convention applies shall be regulated as follows:

(a) In the same State, a minimum interval of 20 years must elapse between two universal expositions; a minimum interval of five years must elapse between a universal exposition and a specialized exposition;

(b) In different States, a minimum interval of 10 years must elapse between two universal expositions;

(c) In the same State, a minimum interval of 10 years must elapse between specialized expositions of the same kind; a minimum interval of five years must elapse between two specialized compositions of a different kind;

(d) In different States, a minimum interval of five years must elapse between two specialized expositions of the same kind; a minimum interval of two years must elpase between two specialized expositions of a different kind.

(2) Notwithstanding the provisions of paragraph (1) above, the Bureau may, in exceptional circumstances and under the conditions set forth in Article 28(3)(f), shorten the aforementioned intervals for the benefit of specialized expositions, on the one hand, and to a minimum of seven years for the benefit of universal expositions held in different States, on the other hand.

(3) The intervals that must be elapse between registered expositions shall run from the opening date of the expositions.

SECTION III

Registration

Article 6

(1) The Government of a Contracting Party in whose territory it is proposed to hold an exposition (hereinafter called the inviting Government) must send the Bureau an application for its registration, stating the legislative, regulatory, or financial measures that it plans to take in connection with the exposition. The Government of a non-Contracting State desiring to obtain registration of an exposition may also apply to the Bureau, provided that it undertakes to comply, for the exposition, with the provisions of Sections I, II, III, and IV of this Convention and the regulations issued for their implementation.

(2) Application for registration must be made by the Government responsible for the international relations of the place where the proposed exposition is to be held (hereinafter called the inviting Government), even if that Government is not the organizer of the exposition.

(3) The Bureau shall establish in its mandatory regulations the maximum time limit for setting the date of an exposition and the minimum time limit for filing an application for registration; it shall stipulate the documents that must accompany an application. It may also fix by mandatory regulations the amount of the contributions required to cover the cost of examining the application.

(4) Registration shall be granted only if the exposition meets the conditions laid down in this Convention and the regulations issued by the Bureau.

Article 7

(1) When two or more States are competing for registration of an exposition and do not succeed in agreeing among themselves, they shall refer the matter to the General Assembly of the Bureau, which shall decide taking into account the considerations submitted and particularly special reasons of a historic or moral nature, the period that has elapsed since the last exposition, and the number of events already held by the competing States.

(2) Except in exceptional circumstances, the Bureau shall give preference to an exposition to be held in the territory of a Contracting Party.

Article 8

Except as provided for in Article 4(2), a State that has obtained registration of an exposition shall forfeit the rights inherent in such registration if it changes the date by which it stated it would abide. If it intends to organize the exposition at another date, it must file a new application and, if applicable, comply with the procedure established in Article 7, which any competition entails.

Article 9

(1) The Contracting Parties shall withhold their participation and sponsorship, as well as any subsidies, from any exposition that has not been registered.

(2) The Contracting Parties are entirely free not to participate in a registered exposition.

(3) Each Contracting Party will take whatever measures appear to be most appropriate under its own laws to proceed against the promoters of fictitious expositions or expositions to which participants may be fraudulently attracted by misleading promises, announcements, or advertising.

SECTION IV

Obligations of organizers of registered expositions and of participating States

Article 10

(1) The inviting Government shall ensure compliance with the provisions of this Convention and the regulations issued for its implementation.

(2) If that Government itself does not organize the exposition, the juristic person organizing it must be officially recognized for that purpose by the Government, which shall guarantee the fulfillment of the obligations of the juristic person.

Article 11

(1) All invitations to participate in an exposition, whether addressed to Contracting Parties or to non-member States, must be sent through the diplomatic channel by only the Government of the inviting State to only the Government of the invited State, on its own behalf and on behalf of the other natural or juristic persons under its jurisdiction. The replies shall be sent via the same channel to the inviting Government, as well as the expression of desire to participate by uninvited natural or juristic persons. Invitations shall be issued bearing in mind the time limits stipulated by the Bureau. Invitations to international organizations shall be sent direct to them.

(2) No Contracting Party may organize or sponsor participating in an international exposition if the aforesaid invitations have not been sent in accordance with the provisions of this Convention.

(3) The Contracting Parties undertake not to issue or accept any invitation to participate in an exposition, whether or not it is to be held in the territory of a Contracting Party or that of a non-member State, if the invitation does not refer to the registration granted in accordance with the provisions of this Convention.

(4) Any Contracting Party may require the organizers to refrain from sending it invitations other than the one intended for it. It may also refrain from forwarding invitations or the expression of desire to participate by uninvited natural or juristic persons.

Article 12

The inviting Government shall appoint a Commissioner General of the exposition to represent it for all purposes of this Convention and in all matters concerning the exposition.

Article 13

The Government of any State participating in an exposition shall appoint a Section Commissioner General to serve as its representative to the inviting Government. The Section Commissioner General alone shall be responsible for the organization of his national display. He shall inform the Commissioner General of the exposition of the composition of that display and see that the rights and obligations of exhibitors are respected.

Article 14

(1) In the event that universal expositions include national pavilions, all the participating Governments shall build their pavilions at their own expense. Nonetheless, with the prior approval of the Bureau, the organizers of universal expositions may, as an exception, construct sites for rental to Governments that are not able to build national pavilions.

(2) In the case of specialized expositions, the construction of the buildings shall be incumbent on the organizers.

Article 15

In a universal exposition, no rent or fixed fee may be charged by the inviting Government, the local authorities, or the exposition organizers for space allotted to participating Governments (except for rental for sites built under the exception provided for in Art. 14(1)). If a real-property tax is payable under the law of the inviting State, it shall be borne by the organizers. Payment may be made only for services actually rendered in application of the regulations approved by the Bureau.

Article 16

The customs regime of expositions is fixed in the Annex to this Convention, of which the Annex is an integral part.

Article 17

Only those sections in an exposition that are established under the authority of Commissioners General appointed as provided in Article 13 by the Governments of the participating States shall be considered national sections and may therefore be designated as such. A national section shall comprise all the exhibitors of the State concerned, but not the concessionaires.

Article 18

(1) In an exposition no geographical designation relating to a Contracting Party may be used to designate a participant or group of participants except with the authorization of the Section Commissioner General representing the Government of the aforesaid Party.

(2) If a Contracting Party does not participate in an exposition, the Commissioner General of that exposition shall ensure compliance with the protection referred to in the preceding paragraph insofar as that Contracting Party is concerned.

Article 19

(1) Products displayed in the national section of a participating State must bear a close relationship to that State (for example, articles originating in its territory or products created by its nationals).

(2) However, with the consent of the Commissioners General of the other States involved, other articles or products may be included provided that they only serve to supplement the display.

(3) In the event of a dispute between participating States in the cases provided for in paragraphs (1) and (2), it shall be arbitrated by the Section Commissioners General acting as a body, by decision of the majority of Commissioners present. The decision shall be final.

Article 20

(1) Except as otherwise provided in the laws of the inviting State, no monopolies of any kind whatsoever shall be granted unless, in the case of public utilities, permission is granted by the Bureau at the time of registration. In that case, the organizers must undertake to:

(a) Indicate the existence of the monopoly or monopolies in the general exposition regulations and the participation contract;

(b) Ensure that participants are allowed to use the monopoly utilities under the conditions customarily applied in the State;

(c) In no case, to limit the powers of the Commissioners General in their respective sections.

(2) The Commissioner General of the exposition shall take all steps to ensure that the rates charged the participating States are no higher than those charged the exposition organizers and in any event that they are no higher than the normal rates for the locality.

Article 21

The Commissioner General of the exposition shall take all possible steps to ensure the efficient operation of the public utility services inside the exposition.

Article 22

The inviting Government shall endeavor to facilitate the organization of the participation of States and their nationals, particularly with respect to transportation rates and conditions for the admission of persons and goods.

Article 23

(1) The general regulations of an exposition must indicate whether, independently of the certificates of participation which may be accorded, awards will or will not be granted to participants. In cases where awards are provided for, they may be limited to certain categories.

(2) Before the opening of an exposition, any participant may declare that it does not wish to receive awards.

Article 24

The International Expositions Bureau referred to in the next Section may establish regulations setting the general conditions for the composition and operation of juries and determining the method of granting awards.

SECTION V

Institutional provisions

Article 25

(1) An international organization, called the International Expositions Bureau is hereby created for the purpose of ensuring and providing for the application of this Convention. Its members shall be the Governments of the Contracting Parties. The headquarters of the Bureau shall be at Paris.

(2) The Bureau shall have legal personality, in particular the ability to conclude contracts, to buy and sell movable and real property, as well as to be a party to legal proceedings.

(3) The Bureau shall be competent to conclude agreements, in particular in the matter of privileges and immunities with States and international organizations for the performance of the duties assigned to it under this Convention.

(4) The Bureau shall consist of a general assembly, a president, an executive committee, specialized committees, as many vice presidents as there are committees, and a secretariat placed under the authority of a secretary general.

Article 26

The General Assembly of the Bureau shall be composed of delegates appointed by the Governments of the Contracting Parties, each Party having the right to appoint one to three delegates.

Article 27

The General Assembly shall hold regular sessions and may also hold special sessions. It shall rule on all questions that this Convention places under the jurisdiction of the Bureau, of which it is the highest authority, and, in particular:

(a) It shall discuss, adopt, and publish regulations governing the registration, classification, and organization of international expositions and the operation of the Bureau.

Within the limits of the provisions of this Convention, it may establish mandatory regulations. It may also establish model regulations that shall serve as guidelines for the organization of expositions;

(b) It shall prepare the budget, and audit and approve the accounts of the Bureau;

(c) It shall approve the reports of the Secretary General;

(d) It shall establish any committees that it considers appropriate, choose the members of the Executive Committee and the other committees, and establish the length of their term of office;

(e) It shall approve any draft international agreement referred to in Article 25(3) of this Convention;

(f) It shall adopt the draft amendments referred to in Article 33;

(g) It shall appoint the Secretary General

Article 28

(1) The Government of each Contracting Party, whatever the number of its delegates, shall have one vote in the General Assembly. However, its voting right shall be suspended if the total amount of contributions owed by it under Article 32 hereof exceeds the total amount of its contributions for the current year and the preceding year.

(2) The General Assembly shall be considered to have a quorum when the number of delegations present at the meeting and entitled to vote is at least two-thirds the number of Contracting Parties entitled to vote. If that quorum is not reached, the General Assembly shall be reconvened to consider the same agenda no less than one month later. In such case, the required quorum shall be lowered to one-half the number of Contracting Parties entitled to vote.

(3) Decisions shall require a majority of the delegations present and voting. However, in the following cases a two-thirds majority shall be required:

(a) Adoption of draft amendments to this Convention;

(b) Establishment and amendment of the regulations;

(c) Adoption of the budget and approval of the amount of the annual contributions of the Contracting Parties;

(d) Authorization to change the opening or closing dates of an exposition as provided in Article 4 hereinabove;

(e) Registration of an exposition in the territory of a non-member State in the event of competition with an exposition in the territory of a Contracting Party;

(f) Reduction of the intervals specified in Article 5 of this Convention;

(g) Acceptance of reservations relating to an amendment presented by a Contracting Party, such amendment to be adopted, in accordance with Article 33, by a four-fifths majority or unanimously, as the case may be;

(h) Approval of any draft international agreement;

(i) Appointment of the Secretary General.

Article 29

(1) The President shall be elected by the General Assembly by secret ballot for a term of two years from among the delegates of the Governments of the Contracting Parties, but he shall no longer represent the State of which he is a national during his term of office. He may be re-elected.

(2) The President shall call and chair the meetings of the General Assembly and shall ensure the proper operation of the Bureau. In his absence, his duties shall be performed by the Vice President who is serving as chairman of the Executive Committee or, in the latter's absence, by one of the other Vice Presidents, in the order of their election.

(3) The Vice Presidents shall be elected from among the delegates of the Governments of the Contracting Parties by the General Assembly, which shall determine the nature and term of their service and, in particular, specify the committee to be headed by them.

Article 30

(1) The Executive Committee shall be composed of the delegates of the Governments of 12 Contracting Parties, each Government having one delegate.

(2) The Executive Committee shall:

(a) Prepare and keep up to date a classification of the human endeavors that may be included in an exposition;

(b) Consider all applications for the registration of an exposition and submit them, with its opinion, to the General Assembly for approval;

(c) Perform the tasks assigned to it by the General Assembly;

(d) It may request the opinion of the other committees.

Article 31

(1) The Secretary General, chosen in accordance with Article 28 of this Convention, must be a national of one of the Contracting Parties.

(2) The Secretary General shall be responsible for managing the day-to-day affairs of the Bureau in accordance with the instructions of the General Assembly and the Executive Committee. He shall prepare the draft budget, submit the accounts, and report to the General Assembly on his activities. He shall represent the Bureau, in particular in legal matters.

(3) The General Assembly shall determine the other duties and obligations of the Secretary General, as well as his status.

Article 32

The annual budget of the Bureau shall be fixed by the General Assembly as provided in Article 28(3). It shall take into account the financial reserves of the Bureau and receipts of all kinds as well as the debit and credit balances shown in previous years. The expenditures of the Bureau shall be covered by those sources and by the contributions of the Contracting Parties in accordance with the number of shares assigned to each of them pursuant to the decisions of the General Assembly.

Article 33

(1) Any Contracting Party may propose a draft amendment to this Convention. The text of the aforesaid draft and the reasons for it shall be addressed to the Secretary General who shall communicate them, as soon as possible, to the other Contracting Parties.

(2) The proposed draft amendment shall be included on the agenda of the regular session or a special session of the General Assembly that shall be held at least three months after the date of its transmittal by the Secretary General.

(3) Any draft amendment adopted by the General Assembly under the conditions prescribed in the preceding paragraph and in Article 28 shall be submitted by the Government of the French Republic to all the Contracting Parties for acceptance. It shall enter into force for all the Contracting Parties on the date on which four-fifths of them have notified the Government of the French Republic of their acceptance. However, notwithstanding the foregoing provisions, no draft amendment to this paragraph, to Article 16 relating to the customs regime, or to the Annex provided for in that Article, shall enter into force until the date on which all the Contracting Parties have notified the Government of the French Republic of their acceptance.

(4) Any Contracting Party that wishes to express a reservation regarding its acceptance of an amendment shall inform the Bureau of the terms of the proposed reservation. The General Assembly shall rule on the admissibility of such reservation. The General Assembly must allow reservations designed to safeguard established positions in the field of expositions and reject those that would result in the creation of privileged positions. If the reservation is accepted, the Party that presented it shall be listed among those counted as having agreed to the amendment for purposes of calculating the aforementioned four-fifths majority. If the reservation is rejected, the Party that presented it shall choose between refusing the amendment or accepting it without reservation.

(5) Once an amendment enters into force under the conditions set forth in the third paragraph of this Article, any Contracting Party that refused to accept it may, if it deems appropriate, invoke the provisions of Article 37 below.

Article 34

(1) Any dispute between two or more Contracting Parties with respect to the implementation or interpretation of this Convention that cannot be settled by the authorities vested with decision-making powers under this Convention shall be the subject of negotiations between the parties to the dispute.

(2) If those negotiations do not produce an agreement within a short period of time, one of the parties shall refer the matter to the President of the Bureau and ask him to appoint a conciliator. If the conciliator cannot reach an agreement between the parties to the dispute regarding a solution thereto, he shall so find and define in his report to the President the nature and extent of the dispute.

(3) When a disagreement has thus been found to exist, the dispute shall be put to arbitration. For this purpose, one of the parties shall submit a request for arbitration to the Secretary General of the Bureau, naming the arbitrator it has chosen, within two months following the transmittal of the report to the parties to the dispute. The other party or parties to the dispute shall each appoint their respective arbitrator within two months. Failing that, one of the parties shall ask the President of the International Court of Justice to appoint an arbitrator or arbitrators.

When several parties make common cause, they shall count as only one party for purposes of applying the provisions of the preceding paragraph. In case of doubt, the Secretary General shall decide.

The arbitrators in turn shall designate an umpire. If the arbitrators cannot agree on a choice within two months, the President of the International Court of Justice shall do so at the request of one of the parties.

(4) The arbitration panel shall rule by a majority of its members, and the umpire shall cast the deciding vote in case of a tie. The arbitration award shall be binding on all the parties to the dispute and shall be final and unappealable.

(5) At the time it signs or ratifies this Convention or accedes to it, any State may declare that it does not consider itself bound by the provisions of paragraphs (3) and (4) above. The other Contracting Parties shall not be bound by those provisions in respect of any State that has formulated such a reservation.

(6) Any Contracting Party that formulated a reservation in accordance with the provisions of the preceding paragraph may at any time cancel that reservation by notification addressed to the depositary Government.

Article 35

This Convention shall be open for accession by any State, whether or not a member of the United Nations, that is a party to the Statute of the International Court of Justice or a member of a specialized agency of the United Nations or a member of the International Atomic Energy Agency, and by any other State whose request for accession is approved by a two-thirds majority of the Contracting Parties entitled to vote in the General Assembly of the Bureau. Instruments of accession shall be deposited with the Government of the French Republic and shall take effect on the date of their deposit.

Article 36

The Government of the French Republic shall notify the Governments of the State Parties to this Convention, as well as the International Expositions Bureau, of:

(a) The entry into force of amendments, pursuant to Article 33;

(b) Accessions, pursuant to Article 35;

(c) Denunciations, pursuant to Article 37;

(d) Reservations expressed under the terms of Article 34(5);

(e) The expiration of the Convention, if applicable.

Article 37

(1) Any Contracting Party may denounce this Convention by written notice to the Government of the French Republic.

(2) Such denunciation shall take effect one year after the date of receipt of the notification.

(3) This Convention shall expire if, by reason of denunciations, the number of Contracting Parties is reduced to less than seven.

Subject to any agreement that may be concluded between the Contracting Parties concerning the dissolution of the Bureau, the Secretary General shall be entrusted with liquidation matters. The assets shall be divided among the Contracting Parties in proportion to the contributions paid by them since they became Parties to this Convention. If there are liabilities, they shall be assumed by the aforesaid Parties in proportion to the contributions fixed for the fiscal year then in progress.

Done at Paris, November 30, 1972.

ANNEX

To the Convention signed at Paris on November 22, 1928, concerning International Expositions, as amended and supplemented by the Protocols of May 10, 1948, November 16, 1966, and November 30, 1972.

Customs Regime

For the importation of goods by participants in international expositions.

Article 1—Definitions

For purposes of this Annex:

(a) The term "import duties" means customs duties and all other duties and taxes payable on, or in connection with, importation and shall include all internal taxes and excise duties chargeable on imported goods, but shall not include fees and charges which are limited in amount to the approximate cost of services rendered and do not represent indirect protection to domestic products or a taxation of imports for fiscal purposes.

(b) The term "temporary admission" means temporary importation free of import duties and free of import prohibitions or restrictions, subject to re-exportation.

Article 2

Temporary admission shall be granted to:

(a) Goods intended for display or demonstration at an exposition;

(b) Goods intended for use in connection with the display of foreign products, including:

(i) Goods necessary for the purpose of demonstrating foreign machinery or apparatus to be displayed.

(ii) Construction material, even in a raw state, decoration material and furnishings, and electrical fittings for foreign pavilions and stands at an exposition, as well as for the premises assigned to the Section Commissioner General of a participating foreign country;

(iii) Construction tools and equipment and transport needed for the works at the exposition;

(iv) Advertising and demonstration material which is obviously publicity material for the foreign goods displayed at the exposition, for example, sound recordings, films and lantern slides, as well as apparatus for use therewith;

(c) Equipment including interpretation apparatus, sound recording apparatus, and film of an educational, scientific, or cultural character intended for use at the exposition.

Article 3

The facilities referred to in Article 2 of this Annex shall be granted provided that:

(a) The goods can be identified when they are re-exported;

(b) The Section Commissioner General of the participating country guarantees, without a deposit of funds, payment of the import duties on any goods that are not re-exported after the close of the exposition within the period of time stipulated; other guarantees provided for in the legislation of the inviting country may be accepted at the request of exhibitors (for example, the A.T.A. carnet established under the Convention of December 6, 1961 of the Customs Cooperation Council);

(c) The customs authorities of the country of temporary importation believe that the conditions stipulated by this Annex have been met.

Article 4

Unless the national laws and regulations of the country of temporary importation so permit, goods granted temporary admission shall not, whilst they are the subject of the facilities granted under this Annex, be loaned, or used in any way for hire or reward, or be removed from the place of the exposition. They shall be re-exported as promptly as possible and at the latest within three months of the closing of the exposition. For valid reasons the customs authorities may extend that period within the limits laid down by the laws and regulations of the country of temporary importation.

Article 5

(a) Notwithstanding the requirement of re-exportation laid down in Article 4, the re-exportation of badly damaged goods, goods of little value and perishable goods, shall not be required provided that the goods:

(i) Are subjected to the import duties to which they are liable; or

(ii) Are abandoned free of all expense to the Exchequer of the country into which they were temporarily imported; or

(iii) Are destroyed, under official supervision, without expense to the Exchequer of the country into which they were temporarily imported; as the customs authorities may require.

However, the obligation of re-exportation shall not apply to any goods whose destruction, required by the Section Commissioner General concerned, is effected under official supervision without expense to the Exchequer of the country into which they were temporarily imported;

(b) Goods granted temporary admission may be disposed of otherwise than by re-exportation, and in particular may be taken into home use, subject to compliance with the conditions and formalities applicable under the laws and regulations of the country of temporary importation in respect of such goods imported directly from abroad.

Article 6

Products obtained incidentally in the course of the exposition from goods imported temporarily in connection with the demonstration of machinery or apparatus exhibited shall be subject to the provisions of Articles 4 and 5 of this Annex as though they had been granted temporary admission, subject to the provisions of Article 1 hereinbelow.

Article 7

Import duties shall not be levied and import prohibitions and restrictions shall be waived, and where temporary admission has been granted re-exportation shall not be required, in the following cases, provided that the aggregate value and quantity of the goods are, in the opinion of the customs authorities of the country of importation, reasonable having regard to the nature of the exposition, the number of visitors to it and the extent of the exhibitor's participation therein:

(a) Small samples (other than alcoholic beverages, tobacco, and fuels) which are representative of the foreign goods displayed at the exposition, including such samples of foods and beverages, either imported in the form of such samples or produced from imported bulk materials at the exposition, provided that:

(i) They are supplied free of charge from abroad and are used solely for distribution free of charge to the visiting public at the exposition for individual use or consumption by the persons to whom they are distributed;

(ii) They are identifiable as advertising samples and are individually of little value;

(iii) They are unsuitable for commercial purposes and are, where appropriate, packed in quantities appreciably smaller than the smallest retail package;

(iv) Samples of foods and beverages which are not distributed in packs as provided for in (ii) above are consumed at the exposition.

(b) Imported samples that are used or consumed by the members of the exposition juries to appraise and judge the articles exhibited, subject to the production of a certificate by the Section Commission General indicating the nature and quantity of the articles consumed during such appraisal and judging.

(c) Goods imported solely for demonstration or for the purpose of demonstrating a foreign machine or apparatus displayed at the exposition and consumed or destroyed in the course of such demonstration.

(d) Printed matter, catalogues, trade notices, price lists, advertising posters, calendars, whether or not illustrated, and unframed photographs, which are obviously publicity material for the foreign goods displayed at the exposition, provided that they are supplied free of charge from abroad and are used solely for distribution free of charge to the visting public at the exposition.

Article 8

Import duties shall not be levied and import prohibitions and restrictions shall be waived, and where temporary admission has been granted re-exportation shall not be required, in respect of the following goods:

(a) Products that are imported and used up in the construction, furnishing, decoration, enhancement, and environment of foreign displays at the exposition, such as paint, varnish, wallpaper, spray liquids, articles for fireworks, seeds or seedlings, etc.;

(b) Catalogues, brochures, posters, and other official printed matter, whether or not illustrated, published by the countries participating in the exposition;

(c) Plans, designs, records, files, forms, and other documents intended for use as such at the exposition.

Article 9

(a) Customs examination and clearance on the importation and reexportation of goods which are to be, or have been displayed or used at an exposition shall, whenever possible and appropriate, be effected at that exposition.

(b) Each Contracting Party shall endeavor, wherever it deems it appropriate in view of the importance and size of the exposition, to establish a customs office for a reasonable period within the premises of the exposition held within its territory.

(c) Goods granted temporary admission may be re-exported in one or several consignments and through any customs office open for such operations, and such re-exportation shall not be confined to the customs office of importation, except in cases where, with a view to benefiting from a simplified procedure, the importer undertakes to re-export his goods through the customs office of importation.

Article 10

The foregoing provisions shall not preclude the application of:

(a) Greater facilities that certain Contracting Parties grant or may grant either through unilateral provisions or under bilateral or multilateral agreements.

(b) National or conventional regulations not of a customs nature concerning the organization of the exposition;

(c) Prohibitions or restrictions imposed under national laws and regulations on grounds of public morality or order, public security, public hygiene or health, or for veterinary or phytopathological considerations, or relating to the protection of patents, trade marks, and copyrights.

Article 11

For purposes of this Annex, the territories of the Contracting Parties that form a customs or economic union may be considered as a single territory.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pertinent parts of the committee report on the protocol amending the 1928 Convention on International Expositions be printed in the RECORD at this point.

There being no objection, the excerpt from the report (Executive 93–24) was ordered to be printed in the RECORD, as follows:

PURPOSE

The Protocol revises and modernizes the 1928 Convention on International Expositions, which is aimed at providing an orderly and equitable method of regulating the frequency of international expositions around the world. In 1968 when the Senate approved the 1928 Convention, the Committee noted that the Convention was wordy and that its revision and modernization was underway. The most important features of the new convention as embodied in the Protocol are the reduction in the frequency of international expositions and the simplification of categories.

PROVISIONS

Section I of the Appendix to the Protocol, which is the text of the revised convention, contains definitions. It specifically excludes fine arts and commercial exhibitions and all expositions of less than three weeks' duration. Expositions to which the convention applies are classed as "universal" if they relate to several branches of human endeavor and "specialized" if they related to only one branch.

Section II limits the duration of all expositions to 6 months and the elapsed time between them as follows:

BUREAU OF INTERNATIONAL EXPOSITIONS REGULATIONS' 1972

Nature of the exhibition	Interval that should separate 2 exhibitions[1]	
	When organized in different countries	When organized in the same country
Universal	10(6) yr	20(15) yr.[2]
Specialized:		
Same kind	5(4) yr	10(10) yr.
Different kind	2(2) yr	5(10) yr.

[1] Existing limits in parentheses.

[2] An interval of 5 yr must pass between a universal and a specialized exposition in the same country.

Section III provides for the registration of international expositions and prohibits the contracting parties from participating in or supporting any exposition that has not been registered. On the other hand, the convention does not obligate the parties to participate in any or all registered expositions.

Section IV deals with the obligations of organizers of registered expositions and of participating states and Section V with institutional provisions. The latter continues in existence the Bureau of International Expositions (BIE) as the administrative agency for the convention. It does not give the BIE the authority to register or not to register expositions. Such decisions are made by the General Assembly made up of the contracting parties to the treaty, presently 36.

Annexed to the Convention is a Customs Regime for the importation of goods by participants in International Expositions.

A detailed explanation of the revised convention is contained in the letter of submittal by Secretary of State William P. Rogers, which is printed as Appendix I to this report.

RESERVATION

The State Department recommends that approval of this Protocol be subject to the following reservation:

Subject to the reservation with respect to paragraph (2) of Article 10 of the Convention appended to the Protocol that the obligation of the United States thereunder will be to guarantee fufillment of its own obligations and, with respect to juristic persons officially recognized by it for the purpose of organizing expositions to make every reasonable effort to ensure the fulfillment by them of their obligations.

According to the Department, the "reservation reflects the situation prevailing in the States where most expositions are organized primarily by private enterprise, as distinguished from the government sponsored expositions held in most other countries."

COSTS

The cost of U.S. membership in the BIE for fiscal years 1973 and 1974 has been $7,800 annually and amounts to 12.05% of the BIE budget. Approval of the Protocol will make no significant changes in the U.S. assessment in the foreseeable future.

COMMITTEE ACTION AND RECOMMENDATION

The Protocol was submitted to the Senate and referred to Committee on Foreign Relations on July 19, 1973. At a public hearing on October 9, the Committee heard J. William Nelson, Director, U.S. Expositions Staff, Department of Commerce, who was accompanied by William W. Phillips. During further discussion on October 11, and November 1, additional information was requested, which is printed as Appendix II. On November 8, the Committee voted without objection to report the Protocol favorably to the Senate.

The Committee is in agreement with the

objectives of the Protocol. Indeed, the Committee played a role in the United States becoming a party to the earlier convention, over which the Protocol is an improvement and a clarification. The Committee shares the view of the President that by "limiting the frequency of expositions, the new Protocol should reduce the financial demands on participating countries."

The Committee therefore urges the Senate to give its advice and consent to the ratification of the Protocol amending the 1928 Convention concerning International Expositions, with the reservation noted above.

The ACTING PRESIDENT pro tempore. If there be no objection, Executive N, 93d Congress, 1st session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol amending the Convention signed at Paris on November 22, 1928, concerning International Expositions, signed at Paris on November 30, 1972, by the United States and 22 other nations party to the 1928 Convention, subject to the reservation with respect to paragraph (2) of Article 10 of the Convention appended to the Protocol that the obligation of the United States thereunder will be to guarantee fulfillment of its own obligations and, with respect to juristic persons officially recognized by it for the purpose of organizing expositions to make every reasonable effort to ensure the fulfillment by them of their obligations. (Ex. N, 93–1)

PROTOCOL TO THE INTERNATIONAL CIVIL AVIATION CONVENTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive Q, 93d Congress 1st session.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive Q, 93d Congress, 1st session, relating to an amendment to article 56 of the Convention on International Civil Aviation, which was read the second time, as follows:

PROTOCOL RELATING TO AN AMENDMENT TO ARTICLE 56 OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The assembly of the International Civil Aviation Organization *having met* in its Eighteenth Session, at Vienna, on the fifth day of July 1971,

Having noted that it is the general desire of Contracting States to enlarge the membership of the Air Navigation Commission,

Having considered it proper to increase the membership of that body from twelve to fifteen, and

Having considered it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

(1) *Approved*, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention: "In Article 56 of the Convention the expression 'twelve members' shall be replaced by 'fifteen members',"

(2) *Specified*, pursuant to the provisions of the said Article 94(a) of the said Convention, eighty as the number of Contracting States upon whose ratification the aforesaid amendment shall come into force, and

(3) *Resolved* that the Secretary General of the International Civil Aviation Organization shall draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matters hereinafter appearing:

(*a*) The Protocol shall be signed by the President of the Assembly and its Secretary General.

(*b*) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force, in respect of the States which have ratified it, on the date on which the eightieth instrument of ratification is so deposited;

The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties to the said Convention of the date on which this Protocol comes into force;

With respect to any Contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

In witness whereof, the President and the Secretary General of the Eighteenth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

Done at Vienna on the seventh day of July of the year one thousand nine hundred and seventy-one, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

Certified to be a true and complete copy.

GERALD F. FITZGERALD,
Legal Bureau, International Civil Aviation Organization.
DR. KARL FISCHER,
President of the Assembly.
DR. ASSAD KOTAITE,
Secretary General of the Assembly.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pertinent parts of the committee report on the amendment to the International Civil Aviation Convention be printed in the RECORD at this point.

There being no objection, the excerpt from the report (Executive 93–25) was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the protocol is to increase the size of the Air Navigation Commission of the International Civil Aviation Organization (ICAO) from 12 to 15 members.

BACKGROUND

The Air Navigation Commission is appointed by the ICAO Council from among persons, nominated by member states, who have suitable qualifications and experience in the science and practice of aeronautics. It is a technical advisory body which deals with such matters as air worthiness, navigation aids, pilot licensing, meteorology, and noise and environmental factors.

The size of this commission has not increased since the ICAO convention was signed in 1944. In recent years, the number of nominations has exceeded the available positions. This, together with the facts that the Soviet Union has adhered to the ICAO convention and that wider regional representation was deemed desirable, led to the proposal to increase the size of the Commission.

COMMITTEE ACTION AND RECOMMENDATION

The protocol, dated July 7, 1971, was transmitted to the Senate on September 12, 1973. A public hearing was held on October 9 and the statement of the principal witness, Mr. John S. Meadows, Director, Office of Aviation, Department of State, is appended to the report.

On October 11, the Committee in executive session ordered the protocol favorably reported to the Senate.

While admittedly this is a minor matter, it is an amendment to a convention previously ratified by the Senate and it is therefore entirely proper that the Senate should be involved in approving this modification.

The Committee on Foreign Relations recommends that the Senate advise and consent to the ratification of the protocol.

The ACTING PRESIDENT pro tempore. If there be no objection, Executive Q, 93d Congress, 1st session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol, dated at Vienna July 7, 1971, relating to an amendment to Article 56 of the Conventional on International Civil Aviation (Ex. Q, 93–1).

Mr. MANSFIELD. Mr. President, there will be a rollcall vote on these two treaties on Monday next, as previously announced to the Senate.

Following disposal of those treaties, we will turn to some other business on the calendar.

On Tuesday next, all things going according to Hoyle, the Senate will take up the nomination of Representative GERALD FORD to be Vice President of the United States.

Mr. TOWER. Mr. President, if the distinguished majority leader will yield, I understand that the time has not been fixed for the vote on the two treaties. I should like to suggest to the majority leader that there be no votes prior to 1 p.m.

Mr. MANSFIELD. Well, suppose we set the time at 1: 30?

Mr. TOWER. I would tentatively agree to that, but I have got to consult with the other leadership before I do that.

Mr. MANSFIELD. OK.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Nunn):

The petition of Victor Sharrow, Crompound, N.Y., praying for a redress of grievances. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the Committee on Government Operation, with an amendment:

S. 1541. A bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional office of the budget; and for other purposes.

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 9575. An act to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes (Rept. No. 93–550).

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary, without amendment, for further action, without recommendation:

S. 2673. A bill to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

By Mr. PERCY, from the Committee on Government Operations, without amendment:

S. 1106. A bill to amend the Federal Reports Act to avoid undue delays in the collection of information by Government agencies (Rept. No. 93–551).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Gerald R. Ford, of Michigan, to be Vice President of the United States.

Mr. CANNON. Mr. President, the resignation of former Vice President Spiro T. Agnew and the nomination by President Richard M. Nixon of Representative Gerald R. Ford, of Michigan, to fill the vacancy in the office of Vice President, initiated a chain of events unprecedented in the history of the United States.

Section 2 of the 25th amendment to the Constitution provides that—

> Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

That amendment was certified on February 23, 1967, over 7 years ago.

When the nomination was received by the Senate on October 13, 1973, an inquiry of historic proportions was commenced into the qualifications of Representative Ford to hold the second highest elective office in the Nation.

The committee was fully aware of the implications of this nomination; that among those implications was the very real possibility that the nominee could become the President of the United States.

Further, the committee was cognizant of a duty beyond its obligations to the Senate—a duty owed to the citizens of the United States to answer as fully as possible their questions relative to the qualifications of Gerald Ford to be their Vice President since they were not privileged to vote for or against him at the polls.

The committee assumed this heavy responsibility and acted promptly and prudently to activate a comprehensive investigation into the public and private life of the nominee—public, with respect to the Congressman, his voting record, his campaign finances, his financial disclosures, and all other activities of a public figure; private, with respect to his outside income, his assets, his taxes, and other data bearing upon his fitness for high office.

The committee perceived and appreciated the public need for a symbol of government in whom they could place their confidence and who would help to restore their faith in the Government and its leaders.

Accordingly the investigation which was ordered to begin on October 13, 1973, with the eyes and the ears of the Nation focused upon it, was launched with a note of urgency commensurate with the compelling obligation to perform a thorough, detailed, accurate, and just examination of the nominee's qualifications for the office of Vice President.

Mr. President, today I am filing the report of the Committee on Rules and Administration with the Senate. The Senate will not act today on the confirmation of Representative Ford, and before it does act, I earnestly ask all of my colleagues in this body to study the report and the printed hearings in order to comprehend completely the scope, depth, and complexity of this inquiry.

The committee believes that it has met the mandate of the Senate; that it has exhausted all of the many avenues of inquiry into the nominee's qualifications; and that its report contains sound and sufficient findings for the Senate to exercise its judgment.

Mr. President, I now report the nomination that was referred to the committee; and I ask unanimous consent that the committee have until 12 midnight, Friday, November 23, 1973, to file the report to accompany this nomination.

The PRESIDING OFFICER (Mr. Clark). Without objection, as in executive session, the request is granted.

Mr. MAGNUSON. As in executive session, from the Committee on Commerce, I report favorably sundry nominations in the National Oceanic and Atmospheric Administration which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations ordered to lie on the desk are as follows:

Kenneth E. Lilly, Jr., and sundry other officers for promotion in the National Oceanic and Atmospheric Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TALMADGE (for himself and Mr. Burdick):

S. 2728. A bill to provide for the control and eradication of noxious weeds, and the regulation of the movement in interstate or foreign commerce of noxious weeds and potential carriers thereof, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. MANSFIELD (for Mr. Jackson and Mr. Fannin) (by request):

S. 2729. A bill to repeal the laws concerning the development of a Hudson River Basin Compact. Referred to the Committee on Interior and Insular Affairs.

By Mr. EAGLETON (for himself, Mr. Mathias, Mr. Bartlett, Mr. Bible, Mr. Brooke, Mr. Domenici, Mr. Inouye, Mr. Stevenson, and Mr. Tunney):

S. 2730. A bill to extend for 3 years the District of Columbia Medical and Dental Manpower Act of 1970. Referred to the Committee on the District of Columbia.

By Mr. BENTSEN (for himself, Mr. Humphrey, Mr. Jackson, and Mr. Tower):

S. 2731. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel. Referred to the Committee on Finance.

By Mr. TAFT:

S. 2732. A bill to amend title 10 of the United States Code to provide that educational institutions receive a reimbursement for each student commissioned through the Reserve Officer Training Corps (ROTC) program at the institutions. Referred to the Committee on Armed Services.

By Mr. HARTKE:

S. 2733. A bill to provide for paper money of the United States to be embossed to indicate the denomination thereon. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PERCY and Mr. BAKER (for themselves and Mr. Brock, Mr. Cook, and Mr. Young):

S. 2734. A bill to establish an independent Special Prosecution Office, as an independent agency of the United States, and for other purposes. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (for himself and Mr. Burdick):

S. 2728. A bill to provide for the control and eradication of noxious weeds, and the regulation of the movement in interstate or foreign commerce of noxious weeds and potential carriers thereof, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. TALMADGE. Mr. President, I am today introducing legislation to fill a serious gap in current law. Although we currently have strong Federal and State laws which control the movement of diseases and insects into this country and in interstate commerce, there is no Federal law to prohibit, regulate and restrict the importation or interstate movement of noxious weeds.

My friends in the Weed Science Society of America estimate that weeds cost us $5 billion each year in this country. They point out that many of these weeds are introduced from other parts of the world, including the recent example of hydrilla in Florida and witchweed in the Carolinas.

No one knows the exact number of weed species that populate the earth. However, it is estimated that there are more than 30,000 which are known to have wide distribution. About 1,800 of these cause serious annual losses to man. Most of our major cultivated crops are subject to infestation by as many as 200 species. Between 20 and 30 cause serious yield reduction in our crops, and must be controlled by cultivation and the use of chemicals each year.

In addition to reducing crop yields and lowering the quality of crops and livestock, weeds are harmful to man in several other respects. They impair human health and reduce the efficiency of labor. Poisonous weeds infect nearly 2 million persons each year with skin poisoning or other skin irritations which cause an annual loss of 333,000 working days. Weeds harbor insect vectors of human, plant, and animal diseases and serve as a reservoir for disease-producing organisms. They also ruin lakes, ponds, waterways, parks, and other recreational areas.

Of course, it is not possible to exterminate the harmful weeds which are already entrenched in this country. Farmers and others who are faced with weed problems will continue to be faced with the annual problem of controlling undesirable weeds. However, we can take positive action to prevent the introduction of new species of noxious weeds into the United States and the spread of these weeds among the several States.

The bill I am introducing today has already been introduced in the House of Representatives by Congressman Frey. It would give the Secretary of Agriculture the needed legal authority to both control the importation and interstate transportation of noxious weeds and to enter into cooperative weed control programs with the States, individuals, and the Governments of Canada and Mexico. Under the legislation the Secretary would be authorized to designate as noxious weeds those weeds which are new to or not widely prevalent or distributed throughout the United States and which may be injurious to crops or other useful plants, livestock, or poultry as well as other interests of agriculture, including irrigation or navigation or public health. The act would authorize the Secretary to promulgate quarantines and to issue regulations requiring inspection of products and articles moving in interstate commerce in such manner as he deems necessary to prevent the spread of noxious weeds in the United States.

In cases of an emergency, the Secretary would have authority to seize, quarantine, treat, destroy, or otherwise dispose of articles which are infested by noxious weeds. The Secretary could also order the owner of such products to treat, destroy, or make other disposal of a product. Also the legislation gives the owner of a product the right to sue the United States and receive just compensation if the owner's property is destroyed in a manner not consistent with the law.

Before a noxious weed can be imported into the country or moved in interstate commerce a permit must be secured from the Secretary of Agriculture.

The Secretary is authorized under the legislation to cooperate with Canada and Mexico in measures to control and impede the spread of noxious weeds from those countries into the United States. Also the Secretary is authorized to cooperate with other Federal agencies, States, territories, farmers associations, and individuals in performing the operations that are authorized under the act.

Mr. President, at a time when we are urging farmers to go all out to maximize agricultural production in order to meet the demands for food and fiber, both at home and abroad, it would behoove us to take steps to prevent the introduction into this country and the dissemination throughout the country of harmful weeds which reduce agricultural production and make production more expensive. I hope that the Congress can take prompt action on this legislation.

By Mr. MANSFIELD (for Mr. Jackson and Mr. Fannin) (by request):

S. 2729. A bill to repeal the laws concerning the development of a Hudson River Basin compact. Referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, in connection with the introduction of S. 2729, on behalf of the distinguished Senator from Washington (Mr. Jackson), I ask unanimous consent to have printed in the Record by him certain material which he asks to have included as a part of his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement and certain material follows:

Statement by Senator Jackson

By request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. Fannin) a bill to repeal the laws concerning the development of a Hudson River Basin Compact.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication and other matter accompanying the proposal from the Secretary of the Interior be printed in the Record at this point in my remarks.

U.S. Department of the Interior,
Washington, D.C.,

The President,
The White House,
Washington, D.C.

Dear Mr. President: I am pleased to submit this report on the status of negotiations to establish a Federal-Interstate Compact for the Hudson River Basin in accordance with Section 3 of Public Law 89–605 as amended by Public Law 91–242.

Section 3 of Public Law 89–605 granted congressional consent to the States of New York and New Jersey, and if they wished to participate, Connecticut, Massachusetts, and Vermont to negotiate with each other and with the United States concerning a compact to protect and enhance the natural, scenic, historic, and recreational resources of the Hudson River Basin. The law designated the Secretary of the Interior as the representative of the United States in such negotiations and directed him to report to the President of the United States by July 1, 1968, on the progress of the negotiations. Public Law 91–242 amended the earlier Act to require the Secretary to report to the President annually on July 1, on the status of negotiations with the concerned States.

During the past year meetings have been held at the staff level with the States of New York and New Jersey which resulted in the general agreement that the proposed compact concept was not an appropriate vehicle for resolving remaining basin-wide resource concerns. It was agreed that existing Federal, interstate and local agencies appear to be the most appropriate institutional arrangement for the management of the resources of the Hudson River Basin.

The report of July 1972 indicated that since enactment of the Hudson River Basin Compact Act, context for continued negotiations for a Federal-Interstate Compact had substantially changed due to recent developments at the Federal level and reorganization and new legislative authorities at the State levels, namely:

(1) The Federal Government has accepted the responsibility for interstate water standards through P.L. 91–224 (The Federal Water Pollution Control Act, as amended) and has substantially increased its responsibility in the area of air quality control through P.L. 91–604 (The Clean Air Act, as amended). Also, P.L. 91–190 (The National Environmental Policy Act), firmly declares a national policy for encouraging and promoting the widest range of beneficial uses of the environment. Additionally, proposed land use policy legislation and its provisions, if enacted, will have far reaching effects on the resources of the Hudson River Basin and, therefore, must be anticipated and considered.

(2) The authorities of two interstate agencies have been greatly expanded to systematically resolve environmental concern within their jurisdiction:

(a) The Tri-State Regional Commission has expanded authority to implement broad programs for regional resource planning, transportation development and comprehensive studies of resource uses in the New York, New Jersey, Connecticut area, including the Hudson River Basin. The Commission representatives from Federal, State and local Governments review water supply, highway development, law enforcement, health and other resource/social programs. The Commission also has the responsibility for coordination of State and local area planning activities to encourage public and private beneficial long-range uses of area resources.

(b) The Interstate Sanitation Commission, whose jurisdiction includes the Hudson River Basin, has the responsibility to establish the necessary rules, regulations and orders for water pollution abatement and may resort to the courts for enforcement.

Working with the respective State agencies, the Commission determines the adequacy of sewage treatment costs within its districts. Also, the Commission is the official planning and coordinating agency for air quality control in the tri-state region (New York, New Jersey and Connecticut.)

(3) Each State has undergone reorganization and consolidation to expand the authorities for environmental responsibilities and control within newly created environmental resources agencies.

(a) New York has consolidated several planning and resources agencies into the Department of Environmental Conservation to fulfill its responsibilities for appropriate environmental management. Established in 1970, the Department has broad responsibilities for all environmental quality programs related to water, air, land and wildlife resources. These responsibilities include maintenance of water quality, fishing resources, solid waste control, and air quality standards. Environmental impact analysis activities, hearings and permit procedures at the State level have been consolidated under the jurisdiction of the Department of Environmental Conservation. Also, procedures for the siting of power plants and the approval of electric transmission lines consistent with the environmental standards and criteria have been consolidated under the jurisdiction of the Department.

(b) New Jersey, similarly, has combined their Departments of Health, Conservation, and Economic Development into the Department of Environmental Protection to promote efforts which will prevent damage to the environment and which will stimulate man's welfare. The Department goals are:

1. Achieve the highest air quality attainable;
2. Assure water supply of a quantity and quality sufficient to meet legitimate needs and the achievement of the highest maximum multiple beneficial uses to the public;
3. Dispose of used natural resources and synthetic materials in such a way as to conserve nonrenewable resources and avoid harmful environmental impact;
4. Match land use with available environmental resources by changing the pattern of land use management to make it reflect environmental considerations;
5. Reduce injury and property damage due to flooding and erosion on our flood plains and beachfronts;
6. Manage and protect the renewable resources of the State for the benefit of current and future generations;
1. Achieve the public acquisition of lands most deserving of protection for conservation and recreation; and,
8. Expand outdoor recreation opportunities throughout the State, including the cities, for the enjoyment and welfare of the people.

(4) The States of New York and New Jersey have enacted significant legislation which affects the compatible use of basin resources:

(a) New York State's adoption of a private land-use plan for the Adirondacks in 1973 provides development density controls and a strict project approval mechanism for the Upper Hudson Basin which lies within the Adirondack Park.

The Agricultural Districting Act of 1971 provides for the preservation of viable agricultural areas throughout the State. Several Hudson Valley counties are already extensively proceeding in the program. In 1972, the voters of New York approved a $1.5 billion bond issue to provide for a continued State share in water pollution programs to aid localities in overcoming air pollution from public sources, to aid localities in the purchase of sound freight disposal and recovery systems and to acquire and restore viable wetland areas.

In 1973, the Department of Environmental Conservation was given authority to promulgate and enforce strong State-wide policy and regulations over management of solid waste disposal systems.

New York has brought regulatory authority over discharge of hazardous substances to the environment in addition to water quality regulations. The State regulates the transportation, distribution, storage, sales and use of pesticides. Under the authority granted in 1972, a schedule of additional hazardous substances is now being prepared to regulate a number of substances such as heavy metals and chemicals.

The 1973 legislation authorized the Commission on Environmental Conservation to establish land use control regulations on the use of tidal wetlands and to complete an inventory of wetlands. In addition, New York requires permits for the filling or dredging of tidal or fresh water wetland adjacent or contiguous to navigable waters.

(b) The State of New Jersey has enacted a series of statutes which affect the quality of water standards, land use, and air and noise controls which establishes a formidable program to ensure the quality of the environment, namely:

(1) Water Conservation Funds, Loans for Sewage Treatment Plants (A786—Chapter 26 PL 1970).

(2) Solid Waste Management Act (S745 O Chapter 39 PL 1970).

(3) Penalties for Water Pollution Violations (A794—Chapter 90 PL 1970).

(4) Penalties for Industrial Waste Water Pollution (A795 O Chapter 91 PL 1970).

(5) Appropriations for Purchase of Water Supply Facilities (R519—Chapter 147 PL 1970).

(6) The Wetlands Act (A505 O Chapter 272 PL 1970).

(7) Green Acres Open Space Land Acquisition Program (A155—Chapter 165 PL 1970).

(8) Pesticides Control Act (A1386—Chapter 176 PL 1971).

(9) New Jersey Quality Improvement Act (S928—Chapter 173 PL 1971).

(10) The Clean Ocean Act (A2417—Chapter 177 PL 1971).

(11) Environmental Quality Education Act (A1092—Chapter 279 PL 1971).

(12) Noise Control Act (A2181).

As a result of this positive initiative on the part of the States and the Federal Establishment, it was mutually agreed that in view of these many developments and actions, that a Federal-Interstate Compact was not an appropriate vehicle for the management and resolution of remaining basin-wide resources concerns. Based on the discussions held during the past year, representatives to the negotiations concluded that their assessment of environmental concerns of the Hudson River Basin are largely local zoning problems or interstate in nature and best resolved at the local level; within the individual States, or by agreement among the several States. The representatives of the three parties are convinced that in view of substantial Federal and State actions taken and anticipated it is unnecessary to continue negotiations for a Federal-Interstate Compact.

Therefore, we are recommending discontinuance of negotiations for a Federal-Interstate Compact and suggesting the repeal by Congress of Public Law 89-605 as amended by Public Law 91-242 (Hudson River Basin Compact Act).

Respectfully,

ROG MORTON,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Briefly, Public Law 89-605 granted congressional consent to the States of New York, New Jersey, and if they wished to participate, Connecticut, Massachusetts, and Vermont to negotiate with each other and with the United States concerning a compact to protect and enhance the natural, scenic, historic, and recreational resources of the Hudson River Basin.

Pursuant to Section 3 of Public Law 89-605, as amended, the Secretary of the Interior is required to submit to you annually a report on the status of negotiations and that you transmit this report to Congress with such recommendations as you may deem appropriate.

In accordance with these authorities, the report of July 1972, indicated that the context for continued negotiations had substantially changed due to recent developments at the Federal level and reorganization and legislative authorities at the State levels, namely:

(1) The authorities of two interstate agencies have been greatly expanded: The Tri-State Planning Commission (New York, New Jersey, and Connecticut) has had its authority for comprehensive region-wide planning broadened, and the authority of the Interstate Sanitation Commission has been broadened to include development and enforcement of air quality standards;

(2) The States, New York and New Jersey, have undergone major reorganization and consolidation to expand the authorities for environmental responsibilities and control within newly created environmental resources agencies;

(3) The States, New York and New Jersey, have enacted significant legislation which affects the resources of the basin. For example, New Jersey's Wetlands Act authorizes a vehicle to protect and conserve the unique resource value of the State's wetlands; New York has enacted the Agricultural Districting Law for the protection and preservation of the State's farmlands; the Wild and Scenic Rivers Act to preserve that State's remaining natural free-flowing streams and has established the Adirondack Park Agency with the authority for project review and veto power over environmentally adverse project proposals in its areas of jurisdiction; and

(4) The Federal Government has accepted the responsibility for approval of interstate water standards (P.L. 91-224: The Federal Water Pollution Control Act, as amended); and substantially increased its concern in the area of air quality control (P.L. 91-604 Clean Air Act, as amended). Also, the National Environmental Policy Act of 1969 firmly declares a national policy for encouraging and promoting the widest range of beneficial uses of the environment. Proposed national land use policy legislation and its effect on the resources of the Hudson River Basin must be anticipated and considered.

Subsequent to the 1972 report, several meetings were held to discuss the proposed compact and appropriate alternatives. It was mutually agreed, in view of the many developments including additional laws and organizational changes, that:

(1) A Federal Interstate Compact is not an appropriate vehicle for resolving remaining basin-wide resource concerns;

(2) Existing Federal, interstate and local agencies can resolve remaining resource concerns.

Therefore, we mutually recommend discontinuance of negotiations for a Federal Interstate Compact and suggest repeal by Congress of Public Law 89-605 as amended by Public Law 91-242 (Hudson River Basin Compact Act).

Respectfully,
NELSON A. ROCKEFELLER,
Governor, State of New York.
ROGERS C. B. MORTON,
Secretary of the Interior.
WILLIAM T. CAHILL,
Governor, State of New Jersey.

By Mr. BENTSEN (for himself, Mr. HUMPHREY, Mr. JACKSON, and Mr. TOWER):

S. 2731. A bill to amend the tariff schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel. Referred to the Committee on Finance.

Mr. BENTSEN. Mr. President, this past week the Senate passed legislation to allocate and conserve fuels. Today, I introduce a measure which will increase the supply of fuel available to U.S. markets in the years ahead.

This proposal will increase the supply of available fuel in the United States by removing a protective tariff from methyl alcohol or methanol which is imported solely for the purpose of converting it into synthetic natural gas or for burning it directly as a fuel. It would retain the tariff on methanol imported for any other use.

This measure will take several years before having a significant impact. But, Mr. President, the reason our country confronts an energy shortage of such alarming dimensions today is because we have not looked ahead. We are consuming twice as much energy per capita as we did in 1940, but we have not developed new sources of energy to sustain this astounding growth in consumption. Since 1968, we have been using natural gas in the lower 48 States twice as fast as we have been finding it. Daily deliverability as well as total reserves are, therefore, in sharp decline. As we have turned to other sources of fuel, we have found these other sources likewise to be insufficient to serve even our traditional demand and much of our new needs. Within recent weeks, Government officials have warned of critical shortages of all forms of heating fuels during this coming winter, and we have been forced to adopt a nationwide allocation plan.

A great deal of our current difficulties have arisen from the shortage of clean burning natural gas. This has placed pressures on other energy sources such as oil. We no longer have sufficient domestic production to meet our needs. Until the embargo, we were importing more than one-third of our oil requirements; some experts were telling us that by 1980, we would have to import more than half our crude oil and refined products.

There are many areas of the world where oil production is increasing. In most of these areas, natural gas is produced in association with the oil. Because the markets for the gas are remote from the wells, a large and growing volume of gas is being flared and wasted. This is the case in Saudi Arabia, where more than 4 billion cubic feet of gas are burned in the open air every day. Natural gas associated with oil production is being flared in producing areas in Iran, Nigeria, and Indonesia, and as close as Venezuela. This waste of natural resources is a great problem for these countries, but it offers an opportunity to use American technology in alleviating our fuel shortage.

The growing demand of the world for oil will inevitably cause, in those producing areas, an increase in the amount of associated natural gas that is produced and flared. Whether oil from the Arabian Gulf and Indonesia is sold to Japan, to Europe, or to the United States, this waste of valuable natural resources will continue unless the natural gas is put to use.

Until recently, many of us thought that the only practical way of moving natural gas from the remote producing areas of the world to markets was by liquefying it through refrigeration. We have read much in recent years of elaborate and highly expensive schemes for the installation of LNG plants and the construction of huge cryogenic tankers. More recently, it has become widely known that natural gas can also be chemically converted into methanol, with a much lower overall expenditure of capital dollars and with far greater ease of transport and handling.

Methanol is formed by combining natural gas with steam and passing it over catalysts. The product is a liquid at atmospheric pressures and at ordinary temperatures. It can be transported or stored in any tanker or vessel in which water or gasoline could be transported or stored.

Methanol is freely substitutable for natural gas as a fuel, requiring only modification of the burners to accommodate the liquid fuel. It is clean burning without air pollution. Furthermore, where necessary, it can be converted into synthetic natural gas and used as a direct supplement to the supply of gas available in a natural gas distribution system. Since methanol is water soluble, a spill at sea would quickly dissipate, leaving our beaches and harbors free of damage.

One of the reasons why industry has not converted flared foreign gas into methanol in the past for importation as fuel into the United States is a protective tariff first imposed in 1958. Today, this tariff is 7.6 cents per gallon—which is the equivalent of about $1.25 per million Btu—too high to permit the economic use of methanol as fuel. This bill would eliminate the duty on methanol imported for the production of synthetic natural gas or for use as a fuel, while retaining the duty on methanol imported for any other purpose. It would not deprive the Treasury of any revenue since methanol is not now being imported and is unlikely to be so long as this tariff is imposed. It would enable the supplementation of our energy supplies by valuable substances which are now being wasted, but in no way would it impair the protection of our domestic chemical industry. The beneficiary of this legislation is the American consumer, who will then have at his command a new source of fuel, unburdened by prohibitive and unnecessary cost.

Several American companies are now working on proposals to acquire foreign supplies of associated gas, finance and construct methanol plants and tankers, and arrange for importation into this country. At least two of these companies have announced preliminary agreements with the producing countries. These proposals will not be economically feasible and cannot be financed unless Congress takes prompt and favorable action on this legislation. Methanol technology is now well established and well known. Both Japanese and European firms are in active competition for methanol from the same areas where, at this time, American companies have established a footing. The need for prompt action is apparent.

By Mr. TAFT:

S. 2732. A bill to amend title 10 of the United States Code to provide that educational institutions receive a reimbursement for each student commissioned through the Reserve Officer Training Corps—ROTC—program at the institutions. Referred to the Committee on Armed Services.

Mr. TAFT. Mr. President, I introduce a bill to reimburse each educational institution having an ROTC program $500 per commissioned officer graduate.

One of the most vital elements in any military service is the leadership provided by officers. In particular, the junior officers are absolutely crucial. Their position makes them of key importance both on the level of dealing with the troops and in terms of providing the necessary information for decisions at higher levels.

There are, traditionally, three routes a man can take to become an officer: West Point, Officer Candidate School, and the Reserve Officer Training Corps. The latter has been especially valuable in giving our services some of their best junior officers. Most of the graduates of the ROTC program do not become career officers, but the years that they do devote to their country's service are of great value to the Nation, especially in light of the comparatively low cost of training a man in the ROTC program. It costs at least six times as much to the taxpayers to commission an officer at the service academies as it does through ROTC programs at college and universities.

Very importantly, the ROTC officers bring to the military a liberal arts background and an academic training that the services badly need. All military services, in all nations, tend to solidify around old ideas and resist new concepts. The ROTC program insures a flow of new ideas and perspectives into the officer corps.

At present, the universities and colleges which sponsor ROTC programs must bear some of the costs of those programs. In particular, they must all furnish office space and clerical help, paid for out of their own pockets. The scholarship programs sponsored by several of the services help the students, but of course make no difference in terms of the amount of money coming in to the university.

The value of the ROTC programs to the Nation is such that sponsoring colleges and universities should not have to bear these costs; they should be borne by the Nation. This bill will be an important step in that direction.

By Mr. HARTKE:

S. 2733. A bill to provide for paper money of the United States to be embossed to indicate the denomination thereon. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. HARTKE. Mr. President, since becoming a Member of the Senate, it has been my pleasure to have introduced many bills which have become law enabling blind people to lead a more normal life. The blind people of the world have asked for very little from those of us with sight, but what they do ask for is not pity or recognition as being different; they merely ask for the opportunity to live without being continually at the mercy of those with sight.

The bill I am introducing today goes a long way toward restoring respectability and equality of the blind in the world of consumerism and business. I am calling upon the Secretary of the Treasury to implement regulations which would establish an embossing of the denominations in the four corners of all flat money.

Mr. President, I have endeavored to give a voice to the hopes and aspirations of blind Americans—to the difficulties and disadvantages experienced by blind men and women as they strive to live and work in a world of sight. I intend to continue my efforts on behalf of all sightless Americans so long as I remain in the Senate, for I believe that no other separate group of our people has tried to do more to help themselves, and no other group has accomplished more through its own efforts to achieve restoration to self-supporting status than have the blind of this Nation.

Because blind Americans have tried so determinedly to help themselves, I believe we should take the extra step and create the opportunity for the blind to exist on equal terms in the monetary world. I am sure that all of my colleagues have experienced doing business with a blind person operating the vending establishments within many of the Federal buildings throughout the United States. They have always been courteous, efficient, and affable in their business endeavors.

The Randolph-Sheppard Act of 1936 began the integration of blind people into the business community by giving priority to the blind in the operation of vending stands on federally controlled property. In a report to the Subcommittee on the Handicapped, Committee on Labor and Public Welfare of the U.S. Senate by the Comptroller General of the United States, it was pointed out that over the past 20 years the number of blind-vendor stands on Federal and non-Federal property has increased from 1,543 to 3,229. The gross sales over the same period rose from $20.6 million to $109.8 million, while the average annual net earnings have grown from $2,209 to $6,996 for each stand or a total of $22.4 million. The report went on to point out the blind participants in the operation could double by 1980. I highly commend the success of the program so far, and encourage its continued support and enlargement.

Mr. President, I had the great pleasure of meeting with Miss Jean Kim Wickes, a blind girl with bachelor and master degrees from Indiana University, presently studying in Vienna, Austria, on a Fulbright scholarship toward her doctorate degree in voice. The radiation of enthusiasm and excitement from this brilliant person touched one profoundly. She asked, though, that one more step be taken by our Government toward equalizing the opportunity for blind persons in the commercial world by making an embossed identification on paper money for the blind. That is the objective of the bill I introduce today.

A similar bill was introduced in the House of Representatives by Congressman JOHN R. RARICK (H.R. 10851) on October 10, 1973. Though our bills differ as to the distinctive marking, they are alike in that both afford the blind the opportunity to engage in normal commercial life without being singled out as a subgroup in the group of human beings.

Mr. President, the core of what must be the direction of legislation for the blind is threefold.

First, an extensive education program for those who become blind, or are born blind. That educative process must look to normalizing life for the blind.

Second, the public should be educated to accept the blind as human beings; with the capability of engaging in commercial transactions and the arts and sciences similar to those with sight.

Finally, our programs and legislation should recognize the blind not as any particular group, but as a people that desire to have a voice in the direction of their future. Unless the blind are given that voice in their destiny, their future will be clouded by an otherwise inexperienced body.

This bill that I introduce today takes an important step in normalizing life for the blind. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) the numerical value appearing in the four corners on the face of all paper money of the United States which is printed after January 1, 1975, shall be embossed indicating the denomination thereof.

(b) The Secretary of the Treasury shall carry out the provisions of this Act, and for such purpose he may establish such rules and regulations as he determines appropriate.

By Mr. PERCY and Mr. BAKER
(for themselves and Mr. BROCK,
Mr. COOK, and Mr. YOUNG):

S. 2734. A bill to establish an independent Special Prosecution office, as an independent agency of the United States, and for other purposes. Referred to the Committee on the Judiciary.

Mr. PERCY. Mr. President, Senator BAKER and I are today introducing, along with Senators BROCK, COOK, and YOUNG, legislation to establish an independent Office of Special Prosecutor.

The Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. BAYH), and other Senators have introduced legislation to have the court appoint a special prosecutor. However, now that Judge Gesell and Judge Sirica have spoken on that subject and have indicated that such a course of action would be unwise, I would certainly hope that our colleagues would reconsider their position because many of us have an identical objective, but have taken a somewhat different route to achieve the objectives.

We want to be certain we exercise our responsibility in that phenomena that goes under the name of Watergate.

The Senator from Illinois has not leveled any charges against anyone. I do not presume that I have the right to do that. Nor is it my responsibility. However, I do believe that it is my responsibility to help pass a law that will enable us to feel in good conscience that the Constitution is being followed and that a special prosecutor is being established by statute in a proper manner.

When the special prosecutor feels that someone against whom charges have been made is guiltless he should be able to say, "In my judgment, this man or woman is innocent of such charges." His authority must be such that Congress and the country will accept such a finding. However, if, on the other hand, evidence indicates that the prosecutor should move foward, there should also be confidence on the part of the country that he was acting impartially and in accordance with the facts as he sees them.

Therefore, I send to the desk on behalf of the Senator from Tennessee (Mr. BAKER) and myself, joined by Senators COOK, BROCK, and YOUNG, a new bill, similar to S. 2616 which I introduced earlier in this session of the Congress to establish the independent office of special prosecutor. It is also similar to S. 2631 introduced by Senator BAKER.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, I would like to summarize very briefly the provisions of this particular bill. I believe it reflects the desires of those of us who are sponsoring differing pieces of legislation on this issue. I believe that it would be sustained constitutionally and that it will fulfill our expectations and the hopes of the American people that the Senate and the House of Representatives are acting in such a way as to assure that the prosecution of the Watergate matter can be carried forward and that it can be left to the courts for resolution. When we resolve this question by the vehicle proposed in this legislation, it will be done in a just and fair manner.

The bill we are introducing would provide that the President nominate a Special Prosecutor within 7 days. If this were not done in 7 days, then there would be a vacancy in that office, and the office would be filled in accordance with section 12(e) of our bill. If the President does nominate someone within 7 days, then the Special Prosecutor, Mr. Jaworski, appointed by the Attorney General on November 1, would act as Special Prosecutor pending the Senate's confirmation or rejection of the nomination.

This particular provision was put in so that there could be an uninterrupted flow of work. There could be continuity which, I believe from my discussions with the President, he feels to be essential. I would hope that we can move forward with dispatch so that there will be no undue delay in any of these proceedings. If the Senate refuses to confirm the nominee of the President, then again section 12(e) would be in effect, and the vacancy would be filled by the court on an interim basis in accordance with that provision.

The Office of Special Prosecutor would be created as an independent agency within the executive branch of government.

The Office would terminate at the end of 2 years except for pending indictments, court cases, or appeals. Removal would be only for neglect of duty, malfeasance in office, or for violation of the act creating the office; but for no other cause.

If the President chose to dismiss the special prosecutor, such dismissal would become effective only after 30 days, which would provide ample time should the special prosecutor determine to appeal the decision of the President. If at the end of 30 days, the court has not taken any action relative to the legality of the dismissal, then the dismissal would become effective.

The court can, of course, fill any vacancy on an interim basis, and the court could even fill a vacancy, if it so decided, with the individual dismissed by the President.

I believe that in this legislation we have met the constitutional requirements imposed upon us. It is simple and straightforward. It provides continuity. However, I think the most important thing is that it preserves the right of the President to get the executive branch of the Government functioning. But it does so in such a way that the American people will be reassured that we would not have the recurrence of the chain of events we had several weekends ago that caused such a collapse of confidence in the President.

I wish, before closing, to commend also the distinguished Senator from Ohio (Mr. TAFT), who has worked for the same objective, attempting to find the best possible procedure with which to approach this problem. We have had some variances. However, on some points we concur wholly, and in principle I think we have no difference of opinion.

We must establish the Office of Special Prosecutor by statute that would be beyond reproach and beyond any question. This is the expectation and the hope of the American people. I feel that is the objective of all of us here whether sponsors of the Hart-Bayh approach or any other legislation. We all have the same objective.

I hope that the Judiciary Committee, in their wisdom, will reach a decision in their meeting tomorrow, and that we will be able to have this matter placed as swiftly as possible on the floor of the Senate, so that we can resolve the matter.

EXHIBIT 1

S. 2734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the Independent Special Prosecutor Act of 1973

SEC. 2. The Congress hereby finds and declares—

(a) Alleged crimes arising out of the Presidential campaign and election of 1972 have raised serious questions whether a full and complete investigation and prosecution of such charges will proceed without partisanship or favor;

(b) Although the Justice Department is composed of men and women of the highest integrity and ability capable of conducting a fair, full and impartial investigation and prosecution of these alleged crimes, a significant doubt still remains as to whether the public need for the appearance as well as the fact of justice would be satisfied;

(c) The appointment of a Special Prosecution Force in the Executive branch of government on May 24, 1973 had begun the process of restoring the faith of the American people in the integrity of this Administration and in particular in the belief that the ends of justice were to be served;

(d) The dismissal of the Special Prosecutor on the direct order of the President of the United States on October 20, 1973, undermined this growing faith, and has further eroded the American peoples' confidence in its government and in those who have been elected to lead the government;

(e) In order to restore the public confidence, the investigation and prosecution of any offense arising out of the Presidential campaign and election of 1972 should be in an independent prosecutorial force.

SEC. 3. There is hereby established an Independent Special Prosecution Office, responsible for investigating and initiating prosecution of all offenses arising out of the Presidential election of 1972 and matters related thereto and arising therefrom, including all matters which were under investigation by the Special Prosecutor force prior to October 19, 1973, pursuant to the agreement made between the former Special Prosecutor and the Attorney General Designate on May 19, 1973.

SEC. 4. (a) The President of the United States is hereby authorized and directed to appoint (within seven days of the enactment of this act) a Special Prosecutor, by and with the advice and consent of the Senate.

(b) Upon the expiration of seven days from the enactment of this Act, if the President has not submitted a nomination to the Senate for its advice and consent, there shall be a vacancy in the office of the Special Prosecutor, which shall be filled pursuant to Sec. 12(e) of this Act.

(c) Upon the expiration of seven days from the enactment of this Act, if the President has submitted to the Senate a nomination to the office of Special Prosecutor, the Director of the Office of Watergate Special Prosecution Force, appointed by the Acting Attorney General on November 1, 1973, shall assume the duties and powers of the Special Prosecutor under this Act until the Senate exercises its power of advice and consent with respect to the nominee of the President. If the Senate refuses to confirm the nominee of the President, then there shall be a vacancy in the office of Special Prosecutor, which shall be filled pursuant to Sec. 12(e) of this Act.

SEC. 5. (a) The Special Prosecutor is authorized and directed to investigate, as he deems appropriate, and prosecute on behalf of the United States—

(1) offenses arising out of the unauthorized entry into Democratic National Committee headquarters at the Watergate;

(2) other offenses arising out of the 1972 Presidential election;

(3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election;

(4) all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. sec. 0.37, 0.38) rescinded October 24, 1973; and

(5) offenses relating to or arising out of any such matters.

(b) The Special Prosecutor shall have primary jurisdiction over any of the offenses or matters enumerated in subsection (a) of this section. However, he may waive jurisdiction when he determines that such jurisdiction is not necessary for the proper performance of his duties under this Act.

(c) The Deputy Special Prosecutor shall assist the Special Prosecutor as the Special Prosecutor shall direct in the performance of his duties, and, in the event of the disability of the Special Prosecutor or vacancy in the Office of Special Prosecutor, shall act as Special Prosecutor until his successor is appointed in accordance with section 12(e) of this Act.

SEC. 6. The Special Prosecutor shall have full power and authority in carrying out his duties and responsibilities under this Act—

(a) To conduct proceedings before grand juries and other investigations he deems necessary;

(b) To review all documentary evidence available from any source;

(c) To determine whether or not to contest the assertion and scope of "Executive Privilege" or any other testimonial privilege;

(d) To receive appropriate national security clearance and review all evidence sought to be withheld on grounds of national security and if necessary contest in court, including where appropriate through participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

(e) To make application to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders;

(f) To initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations, and handle all aspects of any cases over which he has jurisdiction under this Act, in the name of the United States, and

(g) Notwithstanding any other provision of law, to exercise all other powers as to the conduct or criminal investigations and prosecutions within its jurisdiction which would otherwise be vested in the Attorney General and the United States attorneys under the provisions of chapters 31 and 35 of title 28, United States Code, and the provisions of 26 C.F.R. 301.6103 (a)–1(q), and act as the attorney for the Government in such investigations and prosecutions under the Federal Rules of Criminal Procedure.

SEC. 7(a) All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties and responsibilities of the Special Prosecutor under this Act, tangible or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation by the Attorney General (28 C.F.R., Sec. 0.37, rescinded October 24, 1973), or his successors shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) All investigations, prosecutions, cases, litigation, and grand jury or other proceedings initiated by the former Special Prosecutor or by his successors pursuant to regulations of the Attoney General (28 C.F.R., Sec. 0.37, rescinded October 24, 1973), shall be continued, as the Special Prosecutor deems appropriate, by him, and he shall become successor counsel for the United States in all such proceedings, notwithstanding any substitution of counsel made after October 20, 1973.

SEC. 8 (a) The Special Prosecutor shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. The Deputy Special Prosecutor shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

(b) The Special Prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provision of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. The Special Prosecutor is authorized to request any officer of the Department of Justice, or any other Department of Justice, or any other Department or agency of the Federal or District of Columbia government, to provide on a reimbursable basis such assistance as he deems necessary, and any such officer shall comply with such request to the fullest extent practicable. Assistance by the Department of Justice shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation, provided that only the Special Prosecutor and the Deputy Special Prosecutor shall have access to confidential or classified documents, records, files, or other such materials unless otherwise waived by the Attorney General or any other head of an appropriate agency.

(c) The Special Prosecutor shall appoint a Deputy Special Prosecutor who shall assist the Special Prosecutor as the Special Prosecutor shall direct in the performance of his duties, and, in the event of the disability of the Special Prosecutor or vacancy in the Office of Special Prosecutor, shall act as Special Prosecutor until his successor is appointed in accordance with section 12(e) of this Act.

SEC. 9. The Administrator of General Services shall furnish the Special Prosecutor with such offices, equipment, supplies, and services as are authorized to be furnished to any other agency or instrumentality of the United States.

SEC. 10. Notwithstanding any other provisions of law, the Special Prosecutor shall submit directly to the Congress requests for such funds, facilities, and legislation as he shall consider necessary to carry out his responsibilities under this Act, and such requests shall receive priority consideration by the Congress.

SEC. 11. The Special Prosecutor shall carry out his duties under this Act within two years, except as necessary to complete trial or appellate action on indictments then pending.

SEC. 12. (a) The Special Prosecutor may be removed by the President for neglect of duty, malfeasance in office, or violation of this Act, but for no other cause.

(b) When the President believes such violations have occurred, he shall prepare a notice of dismissal. Such notice of dismissal shall be delivered to both Houses of Congress, stating the reasons for such. The dismissal shall become effective at the end of the first period of thirty calendar days of continuous session of Congress after the date on which the notice is delivered to it.

(c) For the purpose of subsection (b) of this section—

(1) Continuity of session is broken only by an adjournment of Congress sine die; and,

(2) The days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty day period.

(d) The district courts shall have original jurisdiction of any action brought by the Special Prosecutor with respect to his removal or attempted removal under subsection (a) of this section. Upon a finding of removal in violation of subsection (a), the district court shall grant a temporary restraining order, preliminary injunction order compelling forthwith the reinstatement of the Special Prosecutor or such other relief as it deems appropriate. Any district court in which a proceeding is instituted under this section shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

(e) In the case of the disability of the Special Prosecutor or the vacancy of such office, the President shall appoint a successor. The United States District Court for the District of Columbia may appoint an interim Special Prosecutor to serve in the event of the disability or the vacancy of the office of Special Prosecutor until such time as the President shall appoint a successor in accordance with subsection (d) of this section.

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 14. If any part of this Act is held invalid, the remainder of the Act shall not be affected thereby. The provisions of any part of this Act, or the application thereof to any person or circumstance if held invalid, shall not affect the provisions of other parts and their application to other persons or circumstances.

Mr. HARRY F. BYRD, JR. May I say I like the approach of the able Senator from Illinois.

Mr. TAFT. I want to commend the Senator from Illinois also for his very strenuous and very intelligent efforts in moving on this difficult problem.

A couple of weeks ago I myself testified before the Judiciary Committee of the Senate on this subject, and at that time introduced a bill which took a slightly different approach. Many of the provisions, however, of the bill introduced by the distinguished Senator from Illinois are very similar to my provisions. His basic premise, with which I strongly agree, that a court appointed special prosecutor raises serious constitutional questions, has now, as we all know, been further underlined by the decision in the Bork case by Judge Gesell, and also, I think, by a statement sent to the chairman of the Judiciary Committee by Judge Sirica, in which apparently other members of the court here in the District of Columbia concurred.

I do, however, have one reservation to bring out at this time, because I think this is a most serious matter, and one on which there should be a great deal of study as to the law in the interim period that we may have before we act on this matter on the Senate floor. That question relates to the power of removal.

The difficulty is that the Meyers case in the U.S. Supreme Court appears to me to stand unequivocally unless modified or later overruled in some way for the proposition that the power of the President to remove in the case of an appointment which he makes and which is confirmed by the Senate must be an absolute power, that this is essential, particularly when the office involved, as here, is an executive type of office. There are other opinions in addition to that one that indicate that a prosecutor, and the prosecutorial function in government, is by its very elements an executive function, and the Meyers case seems controlling to me. Although there are other cases that distinguish it as to quasi-judicial and quasi-legislative offices, such as the Humphrey case, nevertheless I think they do not stand to overrule the Meyers case decision with respect to a prosecutor in the position in which we have this prosecutor.

So the provision of this bill which relates to the removal power, and says the special prosecutor may be removed by the President for neglect of duty, for malfeasance in office, or for violation of this act, but for no other cause, gives me great trouble; and it is for that reason that I have not been able to go along with this approach to this particular problem.

I hope that eventually, before the measure comes to the floor, if this indeed is the form of measure that comes to us here on the floor, there can be further study of the matter, and hopefully some resolution of it. But on the basis of the current authorities as I see them, I foresee no resolution of it. For that reason, the bill that I proposed, with various modifications, substitutes, and other approaches we have attempted to work out between us, took a different tack of having the appointment made by the Attorney General.

If we have the appointment made by the Attorney General under article II, section 2 of the Constitution, relating to appointments to inferior offices, it seems relatively clear that even though we are dealing in the executive branch or with an executive function, nevertheless we may limit the power of removal of the prosecutor. That seems to be the whole thing insofar as the Cox case is concerned, and the recent decisions holding the power binding on the Attorney General to remove in that particular case.

I do not take any credit for any exclusive approach to this problem. As I say, I hope the matter can be resolved. I do not know what way the Judiciary Committee will go on it, but I am sure of this, and the Senator from Illinois is certainly to be commended for it: I am sure we have had sufficient discussion and review so that I believe most of the questions related to the matter have now been called to the attention of the Judiciary Committee, and I hope they will be able to work out something on it.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. TAFT. I am happy to yield to the distinguished Senator from Illinois.

Mr. PERCY. As the Senator knows, I did appear before the Judiciary Committee and give testimony, and that testimony has been inserted in the RECORD.

For those Senators interested in it—and I have given the Senator from Ohio a copy—the Meyers case involves the dismissal of a postmaster. The Post Office Department was, at that time, clearly a department of the Federal Government and the executive branch subject to the control of the President. The court clearly determined that the President had a right to dismiss him.

However, in subsequent cases, which are, it seems to me, more germane, the rulings have been different. In the Humphrey case, a case in which President Franklin Roosevelt attempted to dismiss a Federal Trade Commissioner, the court ruled, and I think quite properly, that this was not in the same category as an employee of a department of the executive branch. In its wisdom, Congress has always set out a separate relationship for those whose independence from Executive interference is vital to the performance of their duties. They are appointed by law, and there are confirmation proceedings, and they, whose independence is so vital, are to be protected from being summarily dismissed. The Humphrey case clearly covered that.

There was also the Wiener case, which involved the dismissal by President Eisenhower of an appointee of President Truman. The Supreme Court clearly held that the War Claims Commissioner involved was not removable simply because President Eisenhower did not feel an inclination to retain him.

I point these matters out so that Senators who are interested in the legal aspects—and I am interested in both the legal aspects, and also what appears to be the right thing to do—may have reference to them.

I think these various points have been answered and that where independence is key, Meyers is not applicable. The distinguished Senator from Ohio is a distinguished lawyer. I am not a lawyer, but I have read the cases as I would read the English language, and I have had sound advice in the matter. Our position appears to be backed very strongly by such distinguished lawyers as former Attorney General Elliot Richardson, and also by other eminent constitutional lawyers.

I thank the distinguished Senator from Ohio for yielding to me on this point.

Mr. TAFT. I thank the distinguished Senator from Illinois. I do not wish to prolong the debate. I am sure we will get into it on a broader scope at a later time. My question is whether these cases relate to judicial or quasi-judicial power. The argument seems to turn on whether Congress can deal with something over which it has no power.

So far as election commissioners and other cases which I cited to give some distinguishing characteristics are concerned, other than the legislative power in article I, in this area, this is a power to be exercised. But with respect to the power of removal, insofar as prosecutions are concerned, there is no power, excluding the solely Executive functions set forth in article II of the Constitution. The problem really turns on that particular point.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1541

At his own request, the Senator from Montana (Mr. MANSFIELD) was added as a cosponsor of S. 1541, a bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measure, to provide ceilings on Federal expenditures and the national debt, to create a Budget Committee in each House, to create a Congressional Office of the Budget, and for other purposes.

S. 1541

At the request of Mr. ERVIN, the Senator from Ohio (Mr. SAXBE) was added as a cosponsor of S. 1541, supra.

S. 2505

At the request of Mr. METCALF, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2505, a bill to provide for additional Federal financial participation in expenses incurred in providing benefits to Indians, Aleuts, native Hawaiians, and other aboriginal persons, under certain State public assistance programs established pursuant to the Social Security Act.

S. 2711

At the request of Mr. INOUYE, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2711, a bill to allow an additional income tax exemption for a taxpayer or his spouse who is deaf or deaf-blind.

SENATE JOINT RESOLUTION 165

At the request of Mr. DOMENICI, the Senator from North Dakota (Mr. YOUNG) and the Senator from New York (Mr. JAVITS) were added as cosponsors of Senate Joint Resolution 165, the Vocation Education and Vocation Industrial Clubs of America Week.

MIDWEST AND NORTHEAST RAIL SYSTEM DEVELOPMENT ACT—AMENDMENTS

AMENDMENT NOS. 697, 698, AND 699

(Amendment No. 697 was ordered to be printed and referred to the Committee on Commerce.)

(Amendment Nos. 698 and 699 were ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, I am submitting three amendments today along with Senator PELL to each of the major pieces of legislation before the Senate concerned with the reorganization of the Northeast railroads.

These bills are S. 2188, the Midwest and Northeast Rail System Development Act introduced by Senator HARTKE, which I have cosponsored, amendment 456 to that bill, the Pearson-Beall substitute, and H.R. 9142, the Shoup-Adams bill.

The Senate Commerce Committee is holding hearings tomorrow and Friday on these measures and final action by the committee is suggested shortly.

While all of these measures include some recognition of the special nature of the Northeast rail corridor, I believe that a clear statement of direction is called for to insure that the final product of our efforts includes the upgrading and modernizing and development of high-speed rail passenger service in the Northeast corridor.

Since 1971, we have delayed implementing the recommendations of the Northeast corridor study report submitted to the Congress by the Department of Transportation on September 15, 1971. That report demonstrated not only the financial and technological feasibility of high speed ground transportation along the Washington-Boston corridor but the desirability for such action as well.

The current energy crisis is only a further example of the reason why the full implementation of that project is required. We simply can no longer afford to waste energy as we have been doing in the past. The failure to fully develop railroad passenger service in the corridor has merely added to the current energy crisis as well as the crisis in transportation.

G. A. Lincoln, former Chief of the U.S. Office of Emergency Preparedness has compared the average passenger miles per gallon of fuel. The cross-country passenger train is nearly 3 times more efficient than the automobile, and 4 times more efficient than the jet plane. The commuter rail system is nearly 7 times more efficient than the auto.

As to pollutants, the U.S. Department of Transportation shows that commercial jets emit 2.7 times as many pounds of pollutants per million passenger miles as high speed trains, buses 21.8 times, and private autos 27.3 times.

The Metroliners already have shown their attraction to passengers with the Washington to New York route increasing its ridership some 18 percent a year ago and increasing its share of the combined air and rail ridership from 25 to 27 percent. At the same time, the Metroliner routes have been showing a profit.

Nor should this be unexpected. The recommendations of the Department of Transportation report would upgrade the system sufficiently to provide 2-hour service from Washington to New York and 2¾-hour service between New York and Boston. The increasing ridership would not only be paying off the cost of the original capital improvements but ultimately would more than pay for itself. By 1985, the high speed corridor route would be pumping an estimated $40 million in net revenues into Amtrak coffers.

I believe we would be doing ourselves a major disservice if we did not utilize the opportunity presented by the need for revamp of the rail industry in the Northeast to produce not only improved freight service but improved passenger service as well.

I would add that proposal has the full support of the New England Governor's Conference.

The amendments I am introducing would require that plans for implementing the Northeast corridor report would have to be included in both the preliminary and final plans called for under the bills before the committee.

The amendment to the Shoup-Adams bill would merely require that the provision now in the bill for the acquisition of the corridor lines by the new Federal Railroad Association would be expanded to include the implementation of the Northeast corridor recommendation for high-speed rail passenger service.

My introduction of these amendments is to insure that any legislative vehicle adopted by the committee to meet the Northeast rail crisis will include high-speed rail passenger in the Northeast.

Mr. PELL. Mr. President, I am pleased to be a cosponsor of three amendments relating to today's continuing crisis facing our Nation's railroads in the Northeast section of our country.

The amendments are introduced by the distinguished senior Senator from Massachusetts (Mr. Kennedy).

These amendments are concerned with three legislative proposals currently before the Congress—S. 2188, introduced by Senator Hartke, amendment 456 to S. 2188 introduced by Senators Beall and Pearson, and H.R. 9142. As we deliberate how best to resolve the railroad crisis in the Northeast it seems likely that these three pieces of legislation will have our closest attention and that one will provide the ultimate legislative vehicle for final Senate action.

Essentially, the three amendments emphasize the need for improved railroad passenger service in the Northeast. This is an area with which I have been concerned for more than 11 years. In June of 1962, I introduced Senate Joint Resolution 194 to establish a multistate authority in the Northeast region for the improvement of rail passenger service. This concept led to the establishment 2 years later of the Northeast corridor transportation project in the Department of Commerce, to comprehensive studies and eventually to the High-Speed Ground Transportation Act of 1965 and to the inauguration of today's Metroliners and TurboTrains.

I believe we are all fully aware of the critical problems facing our Northeast railroads at this moment, of the bankruptcies which have occurred, of the desperate plight of our Nation's largest railroad, the Penn Central. In my own State of Rhode Island, this railroad, according to statistics supplied by its senior executive representative for New England, Mr. William Tucker, employs 1,165 individuals in Rhode Island, spends annually almost $8.5 million in wages and salary payments, and invests $550,000 in industrial development within the State.

I believe that it is of the greatest importance that we maintain these services, not only to meet urgent transportation and economic needs for Rhode Island, but as these apply to the Northeast and as they affect the rest of the Nation.

It is not enough, however, to maintain existing services. It is of vital importance to improve them, so that they may become economically viable on their own.

In June of this year I introduced S. 2080, a bill to improve rail passenger services and to provide needed funding for the bankrupt railroads involved. At that time, I stressed that studies made by the Department of Transportation showed that a realistic investment in capital improvements for rail passenger service in the Northeast region would be paid for in the form of increased revenues and would provide benefits to our travelers and to our economy.

I said that an investment of $700 million over a 5-year span could provide 5-stop rail passenger service in 2½ hours between Washington and New York and 4-stop service in 3 hours between New York and Boston, with Providence in my home State being a focal point in this service. I further pointed out that with this kind of investment, we could look forward to increased revenues, so that by 1985 the revenue surplus over operating costs and annualized expenses for the capital improvements would be approximately $40 million per year and that over 30 years that surplus would approximate $75 million per year.

It is because of my conviction that rail passenger service can become self-sustaining that I am acting today as a cosponsor of these amendments.

The amendments recognize the importance of the lengthy and comprehensive studies undertaken to date by the Department of Transportation and emphasize that the recommendations they contain be implemented.

With the threat today of gasoline rationing as a result of the energy crisis we face, it would seem obvious that increasing numbers of our people will be dependent upon public transportation for intercity and more localized travel. An electrically powered passenger train consumes less than half the energy per seat mile as a passenger automobile, and less than one-fourth of the energy involved in air travel per seat mile.

Furthermore, studies by the Transportation Department show that commercial passenger aircraft emit 2.7 times as many pounds of pollutants per million passenger miles as high-speed trains, buses 21.8 times as many pounds of pollutants, and private autos 27.3 times as many pounds of pollutants as high-speed trains.

Especially at a time when the energy crisis and the protecting of our environment are major concerns, let us give our most careful consideration to the vital role which improved and economically sound rail passenger service can have for the immediate and more distant future.

AMENDMENT OF SOCIAL SECURITY ACT—AMENDMENT

AMENDMENT NO. 700

(Ordered to be printed and to lie on the table.)

MINIMUM TAX

Mr. KENNEDY. Mr. President, I send to the desk an amendment to H.R. 3153, the social security bill. The purpose of the amendment is to strengthen the minimum tax by eliminating the so-called deduction for taxes paid, which has become one of the largest, most notorious, and least justified loopholes in the Federal income tax laws.

On the basis of estimates for calendar year 1972, the amendment will generate increased tax revenues totaling $580 million, including a $330 million increase in individual income tax liability and a $250 million increase in corporate income tax liability.

The deduction for taxes paid entered the revenue laws as an 11th hour Senate floor amendment on the Tax Reform Act of 1969. At the time, the Committee on Finance had reported a minimum tax of 5 percent to the Senate, without any deduction for taxes paid. During the floor debate in December 1969, Senator Miller, of Iowa, offered an amendment to raise the rate to 10 percent and to add the deduction for taxes paid. The revenue effect of that amendment was negligible, but the tax equity effects were enormous. I led the opposition to the amendment at the time, but it was accepted by the Senate and was signed into law as part of the Revenue Code, where it has been a continuing source of tax injustice ever since.

Subsequently, the inequity was compounded by another floor amendment offered by Senator Miller in 1970, which allowed a 7-year carry-forward of the deduction for taxes paid.

Thus, under the minimum tax in present law, a person is taxed at the rate of 10 percent on the source of his income from tax preferences, which include most but not all of the major tax loopholes, less a $10,000 exemption and less the amount of regular income taxes owed, including the carry-forward. As an attachment of this statement, I have included a more detailed summary of the operation of the minimum tax.

Last June, I offered this identical reform, on behalf of Senators Bayh, Muskie, Nelson, and myself, as a Senate floor amendment to the Debt Ceiling Act. The proposal was tabled by the narrow margin of 49 to 47, but I believe a majority of the Senate now supports this reform, and I hope that it will be approved as an amendment to H.R. 3153.

Earlier this month, in the House of Representatives, a much more comprehensive reform of the minimum tax, proposed as a floor amendment to the Debt Ceiling Act, was defeated by a substantial margin. In addition to eliminating the deduction for taxes paid, the House amendment contained two other principal provisions: It would have reduced the $30,000 exemption currently allowed to $10,000, and it would have increased the rate of the minimum tax from its present flat rate of 10% to a progressive rate schedule equal to one-half the tax rates on ordinary income. The House amendment would have produced a revenue gain of $3 billion.

I support the provisions of the House proposal, and, in S. 2520, I have introduced separate legislation in this Congress to accomplish such changes.

As I have indicated, however, the amendment I am now offering is much narrower in scope. It deals only with the deduction for taxes paid, and it does not affect either the $30,000 exemption or the rate of the minimum tax. As noted, its revenue gain is $580 million, compared to a gain of $3 billion for the House proposal.

Thus, the amendment I am proposing is a modest reform in the minimum tax. It is a reform that can and should be accomplished now, as a symbol of our commitment to tax reform and as a downpayment on the more comprehensive reform that I hope will be a high priority of the second session of the Congress.

In substantial measure, the amendment will help restore the minimum tax to its true and intended function. The minimum tax is the imaginative technique enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that all citizens with substantial income would pay at least some tax on their income, thereby ending the gross tax inequity by which thousands of wealthy taxpayers were able to use the loopholes in existing law to avoid large amounts of taxes they ought to pay, or even to avoid taxes altogether.

In effect, the minimum tax is supposed to be a "bucket under a sieve." It is designed to impose a modest tax on all income that slips otherwise untaxed through many loopholes in the existing Revenue Code. If the minimum tax fulfills its function, no one with substantial income would be able to avoid paying a fair share of taxes on his income.

Unfortunately, the minimum tax does not adequately fulfill its function. In 1970, the first full year of operation, the revenue yield was a paltry $117 million, compared to an anticipated yield of $290 million when it was enacted in 1969. In 1971, the yield was little better.

Thanks to the exemptions and deductions written in at the beginning and in subsequent years, the minimum tax is itself a loophole-ridden tax—minimum in impact as well as name. As such, the minimum tax is the most patly named provision in the tax laws. Instead of being a "bucket under a sieve," it is, instead, simply another sieve under the existing sieve.

I call this particular deduction—the deduction for regular taxes paid—the "Executive Suite" loophole, because it allows highly paid executives to use their large salaries to shelter large amounts of tax preference income against the minimum tax. Simply because a wealthy individual pays taxes on his salary just like everybody else, it does not follow that the taxes he pays should give him free entry to the "loophole club," by allowing him to amass large amounts of sheltered income, not only from the regular tax, but from the minimum tax as well.

For 1971, the most recent year for which figures are available, $162 million in minimum tax was paid by individuals on total reported tax preference income of $6.1 billion, yielding an average effective minimum tax rate of only 2.63 percent, even though the statutory rate is 10 percent.

Further, of the 98,000 individuals who reported tax preferences, 74,000 paid no minimum tax at all, even though they had tax preference income of nearly $4 billion. And, of the remaining 24,000 individuals who actually paid some minimum tax on their preferences totaling more than $2 billion, the minimum tax they paid was at an effective rate of only 4.1 percent. Thus, 75 percent of the individuals, with 36 percent of the total reported tax preference income, escaped the minimum tax altogether.

In large part, the source of this enormous avoidance of the minimum tax is the deduction allowed for regular taxes paid. Thus, the minimum tax works reasonably well in the case of individuals who pay little or no regular taxes, but it contains a gaping loophole in the case of individuals who pay substantial regular taxes. To me, there is no justification for allowing this loophole in the minimum tax to remain open. Simple tax justice requires that the minimum tax be applied even-handedly to all tax preference income. The amendment I am proposing today will achieve that result by eliminating the deduction for taxes paid, and I urge the Senate to approve it.

Mr. President, I ask unanimous consent that the text of the amendment and an analysis of its provisions be printed in the RECORD.

There being no objection, the amendment and analysis were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 700

At the end of the bill insert the following new section:

SEC. . (a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $30,000."; and

(2) by striking out subsection (c).

(b) The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENT TO H.R. 3153, THE SOCIAL SECURITY BILL

Purpose: Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid.

Explanation: The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to guarantee that persons with substantial amounts of untaxed income would pay at least a modest tax on that income. As reported by the Finance Committee in 1969, a 5% tax would be paid on income from tax preferences. A floor amendment raised the rate to 10% and added a deduction for regular taxes paid. A 1970 Senate floor amendment allowed a 7-year carry over of the deduction. Under the minimum tax in present law, a person is taxed at the rate of 10% on the sum of his income from tax preferences, less a $30,000 exclusion and less the amount of regular income tax owed, including the carry over.

The current amendment would eliminate the deduction and carry over for taxes paid, which has allowed large numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax loopholes. In practice, the current deduction is an "Executive Suite" loophole, since one of its principal effects is to allow high salaried executives to use the large amount of regular taxes they pay as an offset against income they receive from tax loopholes. The following two examples illustrate the point:

In dollars

	A	B
Loophole income	100,000	100,000
Regular tax on salary	100,000	0
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences and pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid gives A an unfair benefit over B, the proposed amendment would equalize the two cases by insuring that A pays a minimum tax on his loophole income. In effect, the amendment requires equal treatment of the rich.

Current Operation of the Minimum Tax: Individuals—In 1971, 24,000 individuals paid $163 million in minimum tax on loophole income of $3.9 billion, for an effective tax rate of 4.1%.

But, 74,000 other individuals paid no minimum tax at all on loophole income of $2.2 billion. Thus, the overall effective rate of the minimum tax on individuals is 2.6%, compared to the statutory rate of 10%.

Corporations—(less precise data available)—In 1970, 6,000 corporations paid $280 million in minimum tax on loophole income of $4.1 billion, for an effective rate of 6.7%. But 75,000 corporations paid no minimum tax at all on loophole income of $1.6 billion. Thus, the overall effective rate of the minimum tax on corporations is about 4.8%.

Revenue Gain from the proposed amendment (1972 figures): $580 million ($330 million from individuals; $250 million from corporations). The distribution of the revenue gain from individuals is:

Adjusted gross income	Number of returns affected	Increased tax
0 to $5,000		
$5,000 to $10,000		
$10,000 to $20,000		
$20,000 to $50,000	11,000	$4,000,000
$50,000 to $100,000	22,000	28,000,000
$100,000 and over	30,000	299,000,000
Total	63,000	330,000,000

Major Tax Preferences Subject to Minimum Tax—Excess investment interest, accelerated depreciation on real property, accelerated depreciation on personal property subject to a net least, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

Major Tax Preferences Not Subject to Minimum Tax—Interest on state and local government bonds, intangible drilling and development expenses, interest and taxes during construction period of real estate, investment credit, gain on property transferred at death, gain on appreciated property given to charity.

(Note.—The proposed amendment makes no change in the tax preferences subject to the minimum tax, in the current 10% rate of the minimum tax, or in the $30,000 exemption currently allowed against the minimum tax.)

Summary—The deduction for taxes paid was added by a Senate floor amendment in 1969, and it is appropriate that it now be repealed by a Senate floor amendment. Previous minimum tax amendments defeated on the Senate floor have also included changes in the tax preferences, in the $30,000 exemption, and in the rate of the minimum tax.

The proposed amendment would affect only the deduction for taxes paid, the most flagrant and least justifiable loophole in the minimum tax. The tax has worked reasonably well in the case of persons who pay little or no regular tax, and the Senate should now close the loophole that allows those already paying regular taxes to escape the minimum tax.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 565 TO S. 1724

At the request of Mr. Tunney, the Senator from Illinois (Mr. Percy) was added as a cosponsor of amendment No. 565, intended to be proposed to S. 1724, a bill to amend title 28, United States Code, to provide more effectively for bilingual proceedings in certain district courts of the United States, and for other purposes.

AMENDMENT NO. 640 TO H.R. 3153

At the request of Mr. Harry F. Byrd, Jr., (for Mr. Muskie), the Senators from Delaware (Mr. Biden), Massachusetts (Mr. Brooke), Nevada (Mr. Cannon), Alaska (Mr. Gravel), West Virginia (Mr. Randolph), and Vermont (Mr. Stafford) were added as cosponsors of amendment No. 640 intended to be proposed to H.R. 3153, an act to amend the Social Security Act to make certain technical and conforming changes.

RURAL DEVELOPMENT HEARING POSTPONED UNTIL JANUARY

Mr. CLARK. Mr. President, earlier I had announced that my Subcommittee on Rural Development would be holding its third oversight hearing on the implementation of the Rural Development Act of 1972 during this month.

Unfortunately, Secretary Butz and I have been unable to coordinate our schedules so that a date could be set.

Therefore, the hearing will have to be postponed until after the first of the year.

However, it is my intention to work with the Department of Agriculture, the Library of Congress, and others to prepare a subcommittee print which can be used as a guide for those who are interested in putting the Rural Development Act to work. This report should go to press within the next 3 weeks.

ADVISORY COMMITTEE OVERSIGHT HEARINGS

Mr. METCALF. Mr. President, on Thursday, November 29, the Government Operations Subcommittee on Budgeting, Management, and Expenditures will begin oversight hearings on Public Law 92-463, the Federal Advisory Committee Act.

This law, overwhelmingly approved by the 92d Congress, was signed into law on October 6, 1972 and became effective on January 5, 1973.

The act sets forth certain rules for operation of advisory committees. These rules deal with advance notice of meetings, balanced representation of membership, open meetings, meaningful minutes or transcripts, the justification or discontinuance of advisory committees now in existence, nonestablishment of new advisory committees if an existing Federal agency or advisory committee can do the job, and limitation of these committees to advice, rather than policy decisionmaking and implementation.

Advisory committees are also subject to interim guidelines, issued jointly by the Office of Management and Budget and the Department of Justice pursuant to Public Law 92-463.

The hearings beginning next week will provide an opportunity to assess adherence to the law and guidelines by agencies and advisory committees and to evaluate the law and the redraft of the guidelines.

Witnesses at the oversight hearing next Thursday will be:

Representative David Obey of Wisconsin; and

Prof. Richard Wolf, deputy director, Institute for Public Interest Representation, Georgetown University School of Law, accompanied by staff attorney Cathleen Douglas.

The hearing will begin at 10 a.m., November 29, in room 3302, Dirksen Senate Office Building.

Persons or organizations who wish to submit material for the hearing record, or testify at future hearings, should get in touch with the Subcommittee on Budgeting, Management, and Expenditures, room 161, Russell Senate Office Building, Washington, D.C. 20510, phone 202—225-1474.

The following background materials are available from the subcommittee:

Hearings during the 91st and 92d Congress on advisory committees;

The Federal Advisory Committee Act;

My July 16 interim report on the new law—Congressional Record, July 16, 1973; and

The first court decision under the act—Maragaret Gates, et al., against James R. Schlesinger, et al., by District Court Judge Aubrey E. Robinson in the U.S. District Court for the District of Columbia—which Congressman Obey inserted in the October 16 Congressional Record.

A limited supply of the President's annual report on Federal Advisory Committees is also available. This report, including details on advisory committees and their members, has been published as a committee print by the Senate Committee on Government Operations. An index to this four-volume committee print will be available next month.

Mr. President, I wish to insert at this point in the Record two additional items which are pertinent to the oversight process.

One is the November 7 letter I have received from Fred J. Emery, director of the Federal Register. In it he states that, effective this week, the "Reminders" section of the Federal Register will list all advisory committees scheduled to meet the following week. This feature will be similar to the "Congressional Program Ahead" published at the end of each week in the Congressional Record. It will facilitate participation in and monitoring of advisory committees.

The other is the November 9 memorandum opinion and order of Judge June L. Green, in Civil Action No. 769-73, Ralph Nader, et al., against John Dunlop, in U.S. District Court for the District of Columbia.

I ask unanimous consent that these two documents be inserted at this point in the Record.

There being no objection, the documents were ordered to be printed in the Record, as follows:

General Services Administration,
Washington, D.C., November 7, 1973.

Hon. Lee Metcalf,
U.S. Senate,
Washington, D.C.

Dear Senator Metcalf: Thank you for your letter complimenting the recent improvements in the *Federal Register*. It is very satisfying to effect improved services to the public and even more satisfying to receive such recognition as you accorded our efforts in your letter of November 1, 1973.

Your suggestion that we include in the weekly "Reminders" a listing of advisory committee meetings scheduled for the following week is a good one and accords with the purposes of the "Reminders" section. We are adopting your suggestion and the first weekly listing of advisory committee meetings will appear in the "Reminders" which will be published in the *Federal Register* for November 21, 1973.

Again, thanks for your letter and your suggestion. If I can be of any further assistance to you, please do not hesitate to call on me.

Sincerely,

Fred J. Emery,
Director of the Federal Register.

[U.S. District Court for the District of Columbia]

Order

Ralph Nader, et al., Plaintiffs, vs. John Dunlop, et al., Defendants. Civil Action No. 769-73.

Upon consideration of the Cross Motions for Summary Judgment, is by the Court this 9th day of November 1973,

Ordered that plaintiffs' Motion for Summary Judgment be and hereby is granted; and it is

Further ordered that the defendants, their agents and employees, shall hold all future meetings of their advisory committees open to public access except to the extent that there is a specific finding made by the Director of the Cost of Living Council that the meeting, or a portion thereof, is to discuss a document which is specifically exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. § 522(b).

June L. Green,
U.S. District Judge.

[U.S. District Court for the District of Columbia]

MEMORANDUM OPINION

Ralph Nader, et al., Plaintiffs, vs. John Dunlop, et al., Defendants. Civil Action No. 769–73.

This matter is before the Court on cross motions for summary judgment. At issue is the exclusion of the public from the meetings of the advisory committees serving the Cost of Living Council. Plaintiffs contend that the Federal Advisory Committee Act (5 U.S.C. App. I, P.L. 92–463) requires that the various advisory committee meetings (those committees are: the Food Industry Advisory Committee; the Food Industry Wage & Salary Committee; and the Health Advisory Committee) be open to the public. The defendants argue that the meetings are being closed under authority of § 10(d) of the Act and the applicable guidelines (38 F.R. 2306, January 23, 1973), which provide that a meeting may be closed when it is determined by the Agency head that such meeting will involve matters listed in 5 U.S.C. § 552(b), the Freedom of Information Act.

More specifically, the defendants contend that the meetings were closed because they "would consist of an exchange of opinions and that the discussion, if written, would fall within exemption 5 of U.S.C. 552(b) and that it was essential to close such meetings to protect the free exchange of internal views and to avoid undue interference with committee operations." (Section 10a(3)(c) of the Joint Memorandum of the Office of the Budget and the Department of Justice, 38 F.R. 2309, 2310, as cited in defendants' Motion to Dismiss at 4.) Plaintiff agrees that in certain situations, the § 5 exemption may be invoked to close or partially close a meeting to the public. However, plaintiff contends that § 5 should not apply to protect all internal deliberations of the advisory committees, and that the § 5 exemption should not be applied in an automatic, blanket manner. (Only one portion of one advisory committee meeting has been open to the public, the remaining meetings were closed on the basis of § 5.) (Plaintiffs' Proposed Findings . . . nos. 3, 4.)

The Court believes that defendants' broad application of the § 5 exemption to include all deliberative conversations of the committee meetings is clearly contrary to Congressional intent and the policy of the Act. As stated by Senator Percy, "the second major element of the bill is its provisions for opening up advisory committees to public scrutiny".[1] Concern was expressed that in too many instances, advisory committees were consulting with government offices on important policies and decisions without an adequate guarantee that the public interest was being served.[2] The legislative history further demonstrates that Congress rejected contentions that public participation would destroy the advisory process.[3]

In a recent decision of this Court, Judge Aubrey E. Robinson, Jr. analyzed the § 5 exemption as applied to the meetings of the Defense Advisory Committee on Women in the Services. He found "exemption 5 inapplicable by its terms and irreconcilable by result with the very purpose of the Federal Advisory Committee Act." *Gates* v. *Schlesinger*, —— F. Supp. ——— (D.D.C. decides October 10, 1973) (slip opinion at 5). This Court, too, finds the express Congressional intent to provide public access to Advisory Committee meetings irreconcilable in this case with the defendants' expansive reading of the § 5 exemption.

While the defendants contend that they have not adopted "such an expansive construction" as would close all advisory committee meetings, (Defendants' Motion to Dismiss, p. 23) it appears that such has been the case. This Circuit has recently criticized the broadbased, conclusory assertions often made by the Government to invoke Freedom of Information Act protections. *Vaughn* v. *Rosen*, No. 73–1039 (D.C. Cir. August 20, 1973). Thus, said the Court of Appeals, "the agency may not sweep a document under a general allegation of exemption, even if that general allegation is correct with regard to part of the information". [footnote omitted]. *Vaughn*, supra at 11–12. Here, the defendants are sweeping entire advisory committee meetings under the general allegation of a § 5 exemption. The defendants have not offered any specific reasons for closings the meetings.[4] Although the Advisory Committee Act does not contain the same express provisions as the Freedom of Information Act which places the burden of proof on the agency to sustain its action, this Court would agree with Judge Robinson in *Gates* v. *Schlesinger*, *supra*, at 5–6 that the underlying policy consideration are identical and that the burden of proof should be comparable. The defendants should, at a minimum, provide "a relatively detailed analysis" of the bases for closing various portions of the meetings. *Vaughn* v. *Rosen*, *supra*, at 14.

The Freedom of Information Act, as interpreted by case law, also requires that where portions of some documents (or, in this case, meetings) may be exempt from disclosure, the non-exempt (i.e. purely factual material) portions are to be disclosed. *Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 138 U.S. App. D.C. 147, 425 F.2d 578 (D.C. Cir. 1970); *Environmental Protection Agency* v. *Mink*, 410 U.S. 73 (1973). The burden of showing that it would be impossible or unfeasible to sever and release such nonexempt material is on the government. By analogy to the present problem, the defendants should bear the burden of showing specifically that all *portions* of all meetings should be closed.

The importance of the Federal Advisory Committee Act is epitomized by Senator Metcalf who handled the legislation in the Senate.

"What we are dealing with here goes to the bedrock of government decision making. Information is an important commodity in this Capital.

Those who get information to policymakers, or information for them, can benefit their cause whatever it may be. Outsiders can be adversely and unknowingly affected. And decisionmakers who get information from special interest groups who are not subject to rebuttal because opposing interests do not know about the meetings—and could not get in the door if they did—may not make tempered judgments." Cong. Rec., vol. 118, pt. 24, pp. 31224–25.

This Court will not allow the door to close on these meetings when Congress has expressly ordered the door be open except on the rarest occasions.

JUNE L. GREEN,
U.S. District Judge.

Dated: November 9, 1973.

ADDITIONAL STATEMENTS

THANKSGIVING

Mr. THURMOND. Mr. President, I rise today on the eve of our Nation's Thanksgiving observance to express our gratitude for all the blessings of America. We in this country have much for which to give thanks. The very freedom we enjoy as a fundamental part of our national heritage is foremost among our blessings.

As citizens of the United States we are the beneficiaries of the most plenteous Nation on earth. The opportunities inherent in the economic system which makes possible our bounty and the political system which insures the liberties of individual initiative are, indeed, blessings to all of us.

Mr. President, all Americans can be thankful for the establishment of this Nation which guarantees freedom of speech and freedom of religion as basic to our many rights as citizens. For nearly 200 years this country has been the envy of people around the world because of these tenets of freedom and opportunity.

As we observe this Thanksgiving season of 1973 we also are grateful for the cease fire which was achieved in Southeast Asia. The result of this achievement was to bring home all of our military forces from Vietnam and conclude, with honor, the fighting in which we had been engaged for a decade. This is, in fact, the first Thanksgiving in a dozen years that U.S. troops have not been under fire on foreign soil. For this, Mr. President, and for the honorable way in which this situation was brought about we can give thanks as a nation.

We also can express our gratitude for the personal benefits of high employment throughout the land. At the same time unemployment has dropped to its lowest level in years, the gross national product is, by far, the greatest in the world and our total economy is the strongest anywhere. In my own State of South Carolina, for example, jobs are plentiful and opportunity is at an all time high.

Thanksgiving can surely be given for the virtual absence of street demonstrations and riots which characterized much of the unrest created in the 1960's. We can be grateful that our system allows redress of grievances and opportunities for legitimate expression without resort to violence or intimidation.

Mr. President, no one would suggest that there are no problems in this Nation or that individual troubles cannot be found. Compared to the blessings which are part of our national birthright the problems are few and where they exist, so, too, do the remedies.

The precious freedoms of the United States of America are the greatest bequest we can make to future generations. It is a system which sets no bounds to both individual and national progress.

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[1] Cong. Rec., vol. 118, pt. 23, p. 30269 (Remarks of Senator Percy).

[2] *Id.*

[3] Cong. Rec., vol. 118, pt. 9, pp. 16296–16308, pt. 24, pp. 30952, 31224–25, 31420–21; H.R. Rep. No. 1017, 92d Cong., 2d Sess (1972).

[4] Those notices which have appeared in the Federal Register announcing—and closing—the meetings of the advisory committees have stated: "The Director of the Cost of Living Council has determined that the meeting will consist of exchanges of opinions; the discussions, if written, would fall within exemption 5 of 5 U.S.C. § 552(b); and it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with the operation of the committee."

Mr. President, for this national inheritance which has been handed to us by our forefathers and for the current blessings of our national life, we can humbly give thanks.

QUALITY, COST, AND UTILIZATION CONTROLS CONTAINED IN THE LONG-RIBICOFF BILL

Mr. RIBICOFF. Mr. President, S. 2513, the Catastrophic Health Insurance and Medical Assistance Reform Act, sponsored by Senators LONG and myself, along with 22 other Senators, contains a series of quality, cost, and utilization controls which would be applied to health services reimbursable under the program.

The bill would incorporate all of the medicare quality, cost and utilization controls, including all of the additional controls contained in Public Law 92-603, which was signed into law last year.

Taken as a whole, these quality, cost and utilization controls touch on nearly every aspect of the health delivery system. In addition, S. 2513 would guarantee that rather than having separate quality and cost controls as we do now in many cases, under medicare and the State-administered medicaid programs, there would be one set of controls applicable to medicare, the catastrophic program and the new medical assistance program.

QUALITY CONTROLS—FACILITIES

S. 2513 incorporates the standards relating to health, safety and service which hospitals, skilled nursing facilities, intermediate care facilities, home health agencies and clinical laboratories must meet under the current medicare and medicaid programs.

Under medicare and medicaid, participating hospitals must meet standards developed by the U.S. Public Health Service or, alternatively, they must be accredited by the Joint Commission on Accreditation of Hospitals. Compliance with the standards is monitored by State health department licensure personnel in the case of facilities participating under the PHS standards, or by a team from the JCAH for those institutions which are JCAH accredited. Two significant changes were made in these procedures by Public Law 92-603. First, the Secretary was given the authority to set standards which may be higher than JCAH standards which would be applied to JCAH accredited hospitals, and he was given authority to monitor the JCAH survey process. Another provision of last year's law requires that the findings of the surveys performed by State health agencies be made readily available to the general public who, thus, are now in a position to directly ascertain the extent of a facility's compliance with standards of care and safety.

Under the medicare and medicaid programs, as modified by Public Law 92-603, skilled nursing facilities participating in the programs must meet a single set of standards developed by the U.S. Public Health Service and applied by State health agency licensure personnel. Similarly, intermediate care facilities, home health agencies and clinical laboratories must meet standards established by HEW and compliance with these standards is also monitored by State health agency personnel. These survey results would also be available to the public.

All of these standards and procedures would be applied under S. 2513.

QUALITY CONTROLS—REVIEW OF CARE PROVIDED

S. 2513 incorporates all of the provisions of the current medicare and medicaid programs as amended by Public Law 92-603, which relate to the review of care provided through the programs. The major review mechanisms for the current health programs and for services provided through S. 2513 will be the Professional Standards Review Organizations established under Public Law 92-603. These organizations, composed of physicians and operating on a publicly accountable basis, at local levels throughout the United States, are responsible for reviewing all services provided to see that they meet proper quality standards. Regional norms and criteria for services are utilized in each area of the country. Prototype review organizations, such as the medical care foundations which exist in many areas of the country, have had significant results in upgrading the quality of care provided in these areas, and in moderating underutilization and overutilization of services, both of which are incompatible with medical care of proper quality.

It should be noted that, prior to passage of the PSRO provision by the Congress last year, the Federal Government had never really established a mechanism to comprehensively review the quality of services provided by the Federal health programs.

COST CONTROLS—GENERAL

S. 2513 would incorporate all of the medicare cost control mechanisms, including those established under Public Law 92-603.

There are a number of approaches to controlling the costs of health care services. In a predominantly fee-for-service and cost reimbursement delivery system, both the unit cost of services and the utilization of these services must be subject to controls if overall cost control is to be achieved. S. 2513 would incorporate both unit cost and charge controls and utilization controls.

S. 2513 also includes a number of other approaches toward controlling health care costs. For example, the bill by reference contains provisions for health maintenance organizations—HMO's—provisions for prospective reimbursement on a demonstration basis, and provisions for the control of capital expenditures of health facilities.

COST CONTROLS—UNIT COSTS AND CHARGES

S. 2513 would incorporate the controls on unit costs and charges which were contained in Public Law 92-603.

The first of these provisions established a limitation on the costs which will be recognized as reasonable for reimbursement of institutional care. Under medicare, facilities are reimbursed on a reasonable cost basis but, with passage of Public Law 92-603 limitations were placed on what would be considered reasonable costs. These limitations are based on a comparison between the costs of similar facilities providing comparable services in the same area. Under these limitations, a facility's costs could not substantially exceed the costs of similar facilities in an area.

The second of these provisions established a limitation on the extent to which increases in prevailing charges for physicians' services will be recognized for purposes of medicare reimbursement. Under medicare, physician reimbursement is based upon the lower of the physicians' customary charge or the prevailing charge in the community for the specific service. The provision in Public Law 92-603 limits the extent to which prevailing charge increases would be recognized from year to year. Under this limitation, prevailing charges could increase only by a factor related to changes in the costs of practice and earnings levels in the area.

COST CONTROLS—CONTROLS ON UTILIZATION

S. 2513 incorporates all of the medicare and medicaid utilization review provisions and also incorporates the PSRO provisions contained in Public Law 92-603.

Medicare and medicaid both require participating hospitals and skilled nursing facilities to have utilization review committees established by the medical staffs and responsible for reviewing the necessity and appropriateness of services rendered within the institution.

The carriers and intermediaries, in the case of medicare, also have responsibilities for reviewing the utilization of both outpatient and inpatient services.

S. 2513 will include both these institutional review committees and the review activities of the carriers and intermediaries.

Under Public Law 92-603 and under S. 2513, PSRO's will assume the major responsibility for reviewing whether services are necessary and appropriate. Both the current medicare program and the programs established under S. 2513 will rely on the other medicare review mechanisms, in tandem with PSRO review, until PSRO review is established as effective.

PSRO's are required to apply norms and criteria to the utilization of services and to maintain profiles of provider, practitioner and patient patterns.

COST CONTROLS—OTHER PROVISIONS

The unit cost and utilization of services controls described above are designed to deal with the fee-for-service and cost reimbursement systems which are most prevalent throughout the United States. S. 2513 would, however, include other cost control mechanisms.

For example, some maintain that capitation payments through health maintenance organizations are an effective way to control the costs of medical care. S. 2513 contains provisions under which arrangements could be made to capitate with qualified HMO's, where they exist, and thus take advantage of their possible cost containment virtues.

Additionally, some maintain that prospective reimbursement for institutional care offers better chances of cost containment than attempting to put controls onto a cost-based reimbursement system. S. 2513 includes the broad authority given the Secretary under Public Law 92–603 to experiment with and demonstrate various mechanisms of prospective reimbursement.

One other item which has been responsible for part of the increased costs of health care is capital expenditures. Under S. 2513, capital expenditures by participating facilities would be subject to the same controls instituted for the medicare program by Public Law 92–603. Under these provisions, costs associated with capital expenditures which are disapproved by appropriate health planning agencies would not be reimbursable under the medicare program. In the same fashion these costs would not be reimbursable under S. 2513.

Mr. President, I ask unanimous consent to have the cosponsors of S. 2513 printed in the Record.

There being no objection, the cosponsors, were ordered to be printed in the Record, as follows:

List of Cosponsors of S. 2513

Russell B. Long (D-Louisiana) **
Abraham Ribicoff (D-Connecticut) *
Herman E. Talmadge (D-Georgia) *
Gaylord Nelson (D-Wisconsin) *
Lloyd Bentsen (D-Texas) *
Clifford P. Hansen (R-Wyoming) *
Robert Dole (R-Kansas) *
William V. Roth, Jr. (R-Delaware) *
Hugh Scott (R-Pennsylvania)
Charles H. Percy (R-Illinois)
William B. Saxbe (R-Ohio)
George McGovern (D-South Dakota)
James Abourezk (D-South Dakota)
Joseph M. Montoya (D-New Mexico)
Gale McGee (D-Wyoming)
Lawton Chiles (D-Florida)
Floyd Haskell (D-Colorado)
Milton Young (R-North Dakota)
Daniel Inouye (D-Hawaii)
Alan Bible (D-Nevada)
Howard W. Cannon (D-Nevada)
Edward J. Gurney (R-Florida)
Jennings Randolph (D-W. Va.)
Ernest Hollings (D-S.C.)

*Member of the Senate Finance Committee.

**Chairman of the Senate Finance Committee.

SENATOR AIKEN AND PETE'S ADVICE—AS SEEN BY NICK THIMMESCH

Mr. HATFIELD. Mr. President, the syndicated columnist Nick Thimmesch, has exhibited the ability to set out clearly in his articles and columns what are very complex issues. He also often is able to get behind the issue and demonstrate what human feelings are involved.

This ability to capture the human aspect of politics—which I believe to be what this business is all about—was shown in a recent column about the Republican dean of the Senate, George Aiken. Nick Thimmisch is talking about the issue of impeachment and resignation—a topic on the minds of many in this town. In his column, however, what comes through is a picture of George Aiken and those qualities that have earned him the respect of all in this body.

I ask unanimous consent that this column be printed in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

Senator Aiken and Pete's Advice: Impeach Him or Get Off His Back

(By Nick Thimmesch)

Washington.—In this confused city, mean with rancor, the best heads seem fogged these days. The question of the Nixon Presidency is that perplexing. Then pow, along comes Sen. George Aiken to clear the air by quoting a Vermont constituent named Pete who wrote: "Either impeach him or get off his back."

I'll bet that single expression reflects the sentiment of a majority of Americans, and we are indebted to Sen. Aiken, the honest old (81) Yankee, for supplying it. But then he's the man who suggested several years ago, "Let's declare a victory in Vietnam and get out."

Sen. Aiken rarely speaks out, and last week's statement is his first on Watergate. He got big response. "I don't have a talkative husband," says his wife, Lola, who serves as his unsalaried assistant, "so I don't know what the other senators said to him. But the mail is tremendous, and all those phone calls—people agree with what he said, and they're not necessarily for Nixon. They just want this thing to end."

Sen. Aiken voiced his fear about the danger of the destruction of the third Presidency in a row. One Presidency was destroyed by an assassin's bullet, another by a bitter, divisive war, Aiken said. "To destroy the third in a row through the politics of righteous indignation cannot possibly restore confidence either at home or abroad," he stated.

His analysis is that the Nixon White House has handled its domestic problems with "such relentless incompetence" that those who want to help are almost helpless. He sees the cry for resignation as reflecting "a veritable epidemic of emotionalism," and that "many prominent Americans, who ought to know better, find the task of holding the President accountable as just too difficult."

Aiken says it makes no sense "to ask the President to prosecute himself yet any special prosecutor in the Justice Department will find himself in that ridiculous position. Nor does it make sense to me for the Congress to act as the judicial branch to create a special prosecutor.

"Of course, if the President resigns, we will be relieved of our duty. But I fail to see any great act of patriotism in such a drama. On the contrary, it is the President's duty to his country not to resign."

So Aiken reminds us that it is the House's duty to impeach and the Senate's duty to judge. "Since I would be a juror in such a trial," he said, "I intend to say nothing in advance about any possible indictment or any possible verdict. Politicians I have known are no greater or lesser sinners than the average person listed in the telephone book."

Aiken then made the excellent point that he is bothered by those righteous souls who claim President Nixon and his associates are alone in corrupting America. The politics of moral aggression in foreign policy has been cited by Aiken before regarding Vietnam and the Middle East. He finds "moral aggression here at home" as hardly less dangerous than in those two examples.

Clearly, what Sen. Aiken is trying to say is that it is wrong and unfair to assign all evil to communism, the Arabs or Richard Nixon, as various moralists have done at various junctures in recent history. That's Aiken's clear-headed, honest thinking.

"I tend to explode the way the public does when something dramatic happens," Mrs. Lola Aiken says. "It feels better that way. But George is remarkable. He holds back, and then he comes up with something more reasonable. He waits and then speaks."

Aiken mulled Watergate a long time before speaking last week. When the resignation talk began to fill the air, particularly after Sen. Edward Brooke (R–Mass.) advocated that course for President Nixon on national television, Aiken sat down to put his own thoughts on paper.

"He looked over the speech when he finished," says Mrs. Aiken, "and told me it needed something else. Then he remembered that letter from Pete, whom he had known many years, and he put Pete's brief advice in there."

"Either impeach him or get off his back" is what Pete and Sen. Aiken said. I think that most Americans would say the same thing to the people in this town who vengefully want to make this an agonized Presidency. The Nixon-haters are as bad as the technocrats who got Mr. Nixon into such deep trouble through their total lack of public responsibility.

Mr. Nixon's back carries more than his own weight. It also carries the nation, and we all have a stake in that.

OPERATION CANDOR

Mr. HUGHES. Mr. President, I ask unanimous consent that the following articles be printed in the Record: The Washington Post editorial of November 20, 1973, "Operation Disney World (I)"; the New York Times editorial of the same date, "The Traveling Witness"; and the James M. Naughton article in that issue of the Times entitled "Nixon Statements and the Record."

Mr. President, I ask that these articles be printed because I feel my colleagues should be aware that "Operation Candor" by President Nixon, rather than restoring confidence as is so desperately needed, seems only to be further wrecking the Presidential credibility.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Operation Disney World (I)

Working our way laboriously through the transcript of President Nixon's extraordinary performance last Saturday night before the Associated Press Managing Editors at Disney World, it struck us with increasing force that on a number of specific points the President is not exactly clearing up the record on Watergate and related matters. Rather, he seems determined to add to the public's confusion at almost every turn. The President would have us believe, of course, that with Operation Candor (as the White House has called it) he is at long last setting out to sweep away public misapprehensions—that he is helping us to get to the bottom of the Watergate affair, once and for all. Yet, picking and choosing almost at random, one finds disturbing distortions of the record and misrepresentations of the facts. By way of a beginning effort to set the record straight, we would deal today with the President's misuse of two of his predecessors in office—Thomas Jefferson and Lyndon Johnson—in attempting to defend actions of his own.

Mr. Nixon's persistent use of the "Jefferson rule," as he called it in his Saturday night appearance, is startling. This is the second time in a month that the President has distorted the facts regarding the issuance of a subpoena to President Jefferson by way of justifying his own performance in the matter of the Watergate tapes. In his press conference on October 26, Mr. Nixon said that the court had subpoenaed a letter which President Jefferson had written and Mr. Jefferson had refused to comply, but rather had compromised by producing for the court a summary of the contents of the letter. Saturday night, he went further. He began his answer to a question having to do with executive privilege with the astonishing assertion that, "I, of course, voluntarily waived privilege with regard to turning over the tapes." This is a curious way to describe his ultimate decision to obey an order of the Federal District Court—an order which he first appealed to the U.S. Court of Appeals. Having lost the appeal he then tried to compromise the issue with the famous Stennis proposal which cost him the resignation of his Attorney General and his Deputy Attorney General in the course of his efforts to fire the Watergate Special Prosecutor who had originally requested the tapes. Having rewritten this recent history, the President went on to elaborate on the "Jefferson Rule" and to rewrite some more. He repeated his version of the Jefferson case which he had given us in October and went on to say that John Marshall, sitting as Chief Justice, had ruled in favor of the Jefferson "compromise."

In just about every important aspect, it simply didn't happen that way. To begin with the letter was not written *by* President Jefferson. It was written *to* him. What is more, Mr. Jefferson agreed to testify in the case under oath (although he wanted to do so in Washington, rather than journey to the court in Richmond). And he sent the entire letter—not a mere summary—to the U.S. Attorney who in turn offered it to the court and authorized the court to use those portions "which had relation to the cause." Chief Justice Marshall, moreover, never ruled in his capacity as Chief Justice on any such compromise; he ruled as a trial judge in a lower court. So much for the misuses of Mr. Jefferson.

Now for President Johnson and Mr. Nixon's taxes. The first thing to be said is that the President was offered a specific opportunity to deny published reports that on a total income of $400,000 for the years 1970 and 1971 that he paid only $1,670 in income taxes. He did not deny it, but rather admitted that he had paid "nominal" taxes for those years. He then said that the fact that his taxes were nominal was not a result of "a cattle ranch or *interest* or all of these gimmicks . . ." Perhaps so. But it would be somewhat surprising if Mr. Nixon did not deduct interest from his gross income for those years. The figures the White House has put out concerning the transactions by which he acquired his Key Biscayne and San Clemente homes indicate that he paid substantial sums in interest in those years, and it is hard to figure out any other way he could have arrived at such a "nominal" obligation.

His own explanation for that "nominal" obligation was that President Johnson told him shortly after he became President in January, 1969, that he ought to donate his vice presidential papers and take a deduction for them. There are two things puzzling about the idea that Mr. Nixon was merely taking his cue from his predecessor. One is the inference conveyed by Mr. Nixon that all this was new to him; in fact, he had made such a donation of some of his official papers in 1968, prior to taking office as President. The second, and far more important thing that is puzzling about Mr. Nixon's story is his suggestion that Mr. Johnson had established the precedent and that both men followed the same general policy in their handling of the tax aspects of their official papers. Prior to 1969, they apparently did just that. But in 1969, Mr. Johnson made a careful decision not to do what President Nixon did, for very precise reasons having to do with propriety.

The facts of this matter are that in 1969 Congress was debating a significant change in the Internal Revenue Code which might have precluded anyone from taking such a deduction from this sort of gift of papers or documents. Both Mr. Johnson and Mr. Nixon expressed their opposition to this change in the tax rules but until late in the year it was unclear which way Congress would resolve the issue—or when any change would become effective. Under the circumstances, Mr. Johnson decided that it would be unseemly for a former President to attempt to make such a gift in an effort to beat a congressional deadline and so he did not do so—reportedly at a cost of millions of dollars to his heirs. Mr. Nixon, by contrast, made a gift that year of papers valued at more than $500,000 and took what he claimed to be the appropriate deduction.

So much for the inference that Mr. Nixon was only following President Johnson's lead. Beyond that, there is an even larger question—not specifically raised by the editors and consequently ignored by Mr. Nixon on Saturday night—as to whether what he did in 1969 with respect to his gift of papers and claimed tax deduction was in accordance with the requirements of law—quite apart from its propriety in the context of the congressional debate and the likelihood of an imminent change in the rules. Speaking of his predecessor, Mr. Nixon said that Mr. Johnson "had done exactly what the law required." What remains to be seen, as we have noted repeatedly in this space, is whether Mr. Nixon, in this particular instance, can make that same claim for himself.

We do not mean to say that the President does not have a cogent defense of his tax deductions, or of his policy toward the release of his tapes—or of any of a number of other charges and allegations that have been raised in connection with his performance in the broad category of matters which come under the broad misnomer of Watergate. We would simply argue (and we will be returning to the argument in this space) that the President is unlikely to clear the air and resolve public confusion in any conclusive way by the sort of muddying of history and misrepresentation of facts which characterized so much of his appearance before the managing editors on Saturday night in Disney World.

The Traveling Witness

President Nixon has become a traveling witness in his own behalf. After addressing all the Republican members and a few of the Democratic members of the House and Senate in six large groups at the White House last week, Mr. Nixon journeyed to Florida for a press conference, to Georgia for a speech and to Tennessee for a meeting with the Republican Governors.

This political barnstorming might be effective if Mr. Nixon were caught up in a controversy over public policy. But Watergate is a shorthand expression not only for actions of doubtful constitutionality but also for specific crimes and conspiracies to commit crimes.

The issues cannot be resolved with a broad brush treatment, with rambling monologues over scrambled eggs to forty or fifty Congressmen, or with self-serving, incomplete and contradictory answers at a news conference. After the applause has died away and the television lights have been turned off, the stark questions return. Who lied? Who was responsible? What is the evidence and what does it show?

Mr. Nixon's embarrassing and depressing performance before the Associated Press managing editors on Saturday evening demonstrated that from a serious evidentiary standpoint, this public relations blitz is useless. With regard to the tapes of his Watergate-related conversations, for example, Mr. Nixon told the editors that he first knew that two of the nine tapes were missing on Sept. 29 or 30 and that this fact was "finally determined" on Oct. 26. Why would it take 27 days to trace two missing tapes? Why was an inventory of the tapes not made in July when Special Prosecutor Archibald Cox first requested them?

The President assured his audience that the tapes would clear him and once again expressed the wistful hope that everyone could hear them. Judge Sirica ruled last week that the President could, of course, at any time waive executive privilege and release any or all of the tapes if he wished to do so. Nothing stands in the way of full disclosure.

In answering a question about his astonishingly small income-tax payments in 1970 and 1971, Mr. Nixon stated: "It wasn't because of the deductions for, shall we say, a cattle ranch or interest, or, you know all these gimmicks."

On the contrary, Mr. Nixon must have claimed a huge deduction for interest payments. The deduction for the gift of his Vice-Presidential papers to the National Archives, a gift whose legal status is decidedly in doubt, was limited by law to 50 per cent of his income. He therefore could not possibly have reduced the tax on his $200,000 salary to less than $800 if he did not avail himself of deductions for interest payments or some other "gimmick."

Mr. Nixon made a brazen attempt to shift the responsibility for the dairy price support scandal to Congress. According to Mr. Nixon, he raised the dairy price supports in 1971 because if he had not done so, the Democrats would have enacted a law requiring him to raise them even higher. The dairy lobby's promise of $2 million in campaign contributions, he insists, had nothing to do with his decision. But when he acted, a dairy bill had not cleared a committee in either house, much less reached his desk. If such a bill had passed, he could have vetoed it and been reasonably certain his veto would be upheld as most of his other vetoes have been.

There are other contradictions, misleading statements, and unexplained gaps in Mr. Nixon's answers at this Saturday news conference. Moreover, information filtering out from last week's meetings of the President and members of Congress is equally disturbing. With regard to the I.T.T. antitrust settlement, Mr. Nixon reportedly contradicted sworn testimony last year by former Attorney General John N. Mitchell. With regard to the firing of the special prosecutor, he contradicted the testimony of former Attorney General Elliot Richardson, of Mr. Cox and of the documentary evidence.

Speeches, news conferences and meetings with Governors all have their usefulness in many situations. But Watergate is not a normal situation. If Mr. Nixon wants to bear witness in his own behalf, he may testify under oath in the only appropriate forums—a court of law, the Senate Watergate Committee, or an impeachment trial by the Senate.

Nixon Statement and the Record

(By James M. Naughton)

WASHINGTON, November 19.—President Nixon declared Saturday that he "wanted the facts out" about the Watergate scandals "because the facts will prove that the President is telling the truth." But Mr. Nixon's latest explanations of the events that have plagued his Administration appear to be incomplete—and, in some instances, to conflict with public records and testimony about the Watergate case and its offspring.

The President gave his version of Watergate at a convention of The Associated Press Managing Editors Association at Walt Disney World, near Orlando, Fla. He answered 17 questions on the subject, raising one of them himself. What follows is a point-by-point comparison of Mr. Nixon's statements and details previously on the public record, as well as a discussion of some questions raised by the President's answers:

THE MISSING TAPES

Mr. Nixon said that he was informed on Sept. 29 or 30 that tape recordings "might not exist" of a June 20, 1972, telephone conversation with former Attorney General John N. Mitchell and an April 15, 1973, meeting with John W. Dean 3d, the dismissed White House counsel. Mr. Nixon said that it was not "finally determined" until around Oct. 27 that the White House could not comply with subponeas for the tapes of the two conversations.

Charles Alan Wright, Mr. Nixon's consultant on the Watergate tapes case, told United States District Judge John J. Sirica on Oct. 23, however, that the President had decided to "comply in all respects" with the subpoena. Mr. Nixon did not say why Mr. Wright was not informed, until Oct. 31, the day it was announced in open court, that two tapes might not exist.

Henry E. Petersen, the Assistant Attorney General who directed the Watergate investigation until last April, testified to the Senate Watergate committee in August that the President offered earlier to play the April 15 tape for him.

Mr. Petersen told the Senate panel that he and the President disagreed about whether Mr. Dean had obtained a grant of immunity from prosecution for his part in the Watergate cover-up, and that Mr. Nixon told him, "Well, you know, I have it on tape if you want to hear it." The President did not refer to Mr. Petersen's testimony on Saturday.

Officials of the Senate Watergate committee have said privately that Stephen B. Bull, a White House Assistant, had described a request by the President last summer to have the April 15 tape flown to his San Clemente, Calif., home. According to the account, Mr. Bull arranged instead to have the tape played here for Fred J. Buzhardt, Jr., the White House lawyer on Watergate matters, and that Mr. Buzhardt briefed Mr. Nixon by telephone.

Mr. Bull testified in Judge Sirica's courtroom earlier this month that he had told the Watergate committee staff it was the April 15 tape Mr. Nixon wanted shipped to San Clemente. But Mr. Bull said later that he apparently was mistaken about the date of the recording.

THE EQUIPMENT

According to Mr. Nixon's explanation at Disney World, the recording system installed in the White House in 1971 was "not a sophisticated system." He said that it consisted of "a little Sony" recorder and a series of "lapel mikes in my desks."

When the existence of the system was disclosed to the Senate committee on July 16, however, Alexander P. Butterfield, the former White House assistant who had supervised the installation, described an elaborate arrangement to assure that the conversations were recorded in four Nixon offices and on three telephones used by the President. Later that month, H. R. Haldeman, the former White House chief of staff, told the committee that the system used large reels of tape, recording at the slowest possible speed, so that several could be retained on a single reel. A "little Sony," of the type commonly used by journalists and students, records at a single speed on cassette with a maximum time of 120 minutes.

THE UNCOVER-UP

Asked to assess the damage done to his credibility by the disclosure that two tapes did not exist, Mr. Nixon expressed "very great disappointment, because I wanted the evidence out."

From the time the taping system was first disclosed until Oct. 23, Mr. Nixon's representatives argued in the Federal courts that it would do irreparable harm to the principle of Presidential confidentiality to require that he release the tapes and other subpoenaed material. The President refused, on similar grounds of executive privilege, to permit officials of the Secret Service—which supervised the recording system—to testify about it to the Senate Watergte committee.

Later in the meeting with the editors Saturday, Mr. Nixon asserted that he had "of course voluntarily waived privilege with regard to turning over the tapes and so forth."

Mr. Nixon did so, however, only after Judge Sirica ruled against his position and was sustained by the United States Court of Appeals for the District of Columbia Circuit. As Representative Jack Brooks, Democrat of Texas, observed then, "when two Federal courts order you to do something, they don't give you Brownie points for doing it."

The President repeated Saturday his contention that he was following in the tapes case, a precedent established by Thomas Jefferson, referring to a Government trial of Vice President Aaron Burr. Mr. Nixon said that President Jefferson had refused to turn over to the court a pertinent letter in the White House files. He said President Jefferson instead provided a "summary of the correspondence" and that Chief Justice John Marshall of the Supreme Court had "ruled for the President."

Some historians have concluded that President Jefferson was permitted to give the court a summary of the letter. But others have contended that the letter was in fact submitted to Chief Justice Marshall in private so that the court could determine relevant portions—the same process outlined in Judge Sirica's ruling. In any event, there is no indication that, as Mr. Nixon said, "Marshall, sitting as Chief Justice, ruled for the President." Justice Marshall heard the case as a trial judge and never issued a Supreme Court ruling.

THE ELLSBERG CASE

On Saturday, Mr. Nixon acknowledged that he had instructed Mr. Petersen to confine the Government investigation to Watergate alone and to avoid such "highly sensitive" national security matters as the 1971 burglary of the office of a California psychiatrist who had formerly treated Dr. Daniel Ellsberg. The President said he had never talked to Archibald Cox, the dismissed special Watergate prosecutor, but "would have said the same thing to Mr. Cox."

The President did not mention Saturday reports that he told two groups of Senators last week that Elliot L. Richardson, the former Attorney General who resigned Oct. 20 rather than carry out an order to fire Mr. Cox, had originated proposals for such limitations on Mr. Cox's investigation. In a May 22 letter to Senator Alan Cranston, Democrat of California, Mr. Richardson said Mr. Cox was free to investigate "the Government's behavior with regard to the Ellsberg case, especially the events and actions leading up to the dismissal of the case."

INDEPENDENT PROSECUTOR

As one indication of his willingness to permit the new special prosecutor, Leon Jaworski to pursue any matters Mr. Jaworski chooses and obtain necessary White House material, Mr. Nixon noted his pledge not to dismiss Mr. Jaworski without the consent of bipartisan leaders of Congress.

ONLY NINE INVOLVED

Mr. Nixon said any dismissal would require "a consensus" among the following 10 officials: the House Speaker, Senate president pro tem, Senate majority leader, House majority leader and chairman of the Senate and House Judiciary Committees, all Democrats; and the Senate and House minority leaders and ranking minority members of the Senate and House Judiciary Committees, all Republicans. He said it was apparent that this would require "a very substantial majority as far as the Democrats are concerned."

Actually, only nine individuals are involved. Senator James O. Eastland, Democrat of Mississippi, is both president pro tem of the Senate and chairman of Judiciary. He also has been among the most staunch defenders of Mr. Nixon. Thus it is possible that the President could obtain a "consensus" of the nine without too much difficulty.

SPEEDING UP

The President recalled Saturday that Mr. Petersen told the Senate Watergate committee in August that "the case was 90 per cent ready" when Mr. Cox assumed direction of it. Mr. Nixon said there had been "six months of delay" under Mr. Cox, however, and that "it's time the case be brought to a conclusion."

What Mr. Nixon omitted was that Mr. Petersen had concentrated solely on the Watergate burglary and cover-up, whereas Mr. Cox was also investigating the Ellsberg case, alleged improprieties in the Government handling of antitrust action against the International Telephone and Telegraph Corporation. The increase last year of Government milk price supports, 1972 campaign financing violations, and suggestions of improprieties in Mr. Nixon's personal finances.

Moreover, the existence of the White House tapes became known after Mr. Cox assumed direction of the investigation, and White House objections to the release of the Watergate tapes delayed that case.

ASSUMPTIONS

An editor of The Des Moines Register and Tribune in Iowa asked Mr. Nixon if he had discussed "legality or illegality" when he gave Egil Krogh Jr., a former White House assistant who supervised the special investigations unit, "approval for the Dr. Ellsberg project."

Mr. Nixon never answered the question. Instead, he told the editor, Ed Hines, that the question contained an "assumption" that the President "specifically approved or ordered the entrance into Dr. Ellberg's psychiatrist's office." The President added that he learned of the burglary only on March 17.

The President has already acknowledged giving approval for an investigation of Dr. Ellsberg, although not for the burglary. But he did not say whether he had ever discussed illegal means. Two of his senior former assistants—Mr. Haldeman and John D. Ehrlichman—contended last summer that Mr. Nixon had the authority to order such means in national security matters.

INCOME TAXES

At Disney World, Mr. Nixon conceded that he paid "nominal amounts" of Federal income taxes on his $200,000 salary in 1970 and 1971, but did not confirm a published account that the payments for both years totaled $1,670.

He said that President Johnson counseled him, soon after the 1968 election, to make a deduction for a gift of Mr. Nixon's Vice-Presidential papers to the National Archives. He also said that in 1969 he paid $79,000 in taxes.

Altogether, the comments raised new questions about the propriety of Mr. Nixon's deductions.

Thomas F. Field, executive director of Tax Analysts and Advocates, a research group here, said that the tax law would have limited Mr. Nixon's deduction for the gift of his papers to 50 per cent of his adjusted gross income. Thus, Mr. Field said, Mr. Nixon would still have been required to pay taxes on some $200,000 of income if the gift of the papers was his only large deduction, and the tax would have been around $45,000.

CHALLENGED ON SEVERAL POINTS

Mr. Nixon also said Saturday that he had not used what he called "gimmicks" to reduce his taxes and said specifically that he had not had deductions for "shall we say, a cattle ranch or interest." But an audit he released earlier this year of financial transactions in connection with his real estate holdings in California and Florida showed a number of sizable interest payments that would presumably be entirely legal deductions.

The deduction for the gift of the papers has been challenged, conversely, on several grounds, including the absence of a signed deed and other documents showing that the gift was made before the law was changed in mid-1969 to bar such deductions.

Sheldon S. Cohen, who was President Johnson's Commissioner of Internal Revenue, disputed the President's version of the meeting at which Mr. Johnson was said to have advised Mr. Nixon.

According to Mr. Cohen, following a meeting while Mr. Johnson was still President, Mr. Nixon sent two of his partners from his former New York law firm to see Mr. Cohen. They discussed the tax aspects of gifts of Presidential papers, Mr. Cohen said, but neither President Johnson nor Mr. Cohen could have said anything about donating Vice-Presidential papers ahead of the deadline because no one knew until several months later that the law governing such gifts would be changed.

Mr. Nixon also said Saturday that he had "disclosed my personal finances," when asked whether he thought all public officials should be required to do so. The President suggested that the questioner had been "too busy" to see the material.

NOT A FULL ACCOUNTING

But all that Mr. Nixon had disclosed was an abridged audit relating to his real estate transactions, not a full accounting of all his personal finances as implied in the question.

F. DONALD NIXON

Mr. Nixon, asked if he had ordered the Secret Service to conduct electronic surveillance on his brother, F. Donald Nixon, a California businessman, replied that the Secret Service had done so "for security reasons" and that "my brother was aware of it."

But another questioner followed up and asked if Donald Nixon knew of the telephone tap before or after it was conducted. Then the President said that "he was aware of it during the fact, because he asked about it and he was told about it, and he approved of it."

There was no explanation, however, for the reason why the tap was undertaken, apart from Mr. Nixon's contention that it bore on possible efforts from someone "in a foreign country" to seek "improper influence" through his brother. Moreover, the President did not say why the Secret Service conducted the wiretap, rather than the Federal Bureau of Investigation, or what legal authority the agency had for engaging in wiretapping.

CAMPAIGN SPENDING

Mr. Nixon said Saturday that the Democratic opponent in the 1972 Presidential campaign Senator George McGovern of South Dakota, had "raised $36-million and some of that, like some of ours, came from corporate sources and was illegal because the law had been changed and apparently people didn't know."

There has been no evidence produced to suggest that the McGovern campaign accepted any corporate contributions, however, and the law barring them has been in effect since the nineteen-twenties.

MILK FUND

The President insisted, after no one had raised the issue in the scheduled 60-minute televised session, on asking about allegations that he had ordered an increase in Federal milk price supports as a quid pro quo for campaign contributions. He said that actually "Congress put a gun to our head" and insisted that the price support figure be increased, so he raised it to a figure below what the Democrats in Congress had proposed.

SUCCESSFULLY NEGATED

Mr. Nixon's explanation did not suggest why he might have been more concerned about Congressional action on that issue than in several others in which he successfully negated legislation by vetoing it or threatening to veto it. Mike Mansfield, the Senate Democratic leader, said yesterday it was curious that Mr. Nixon would yield on the milk issue when his record showed no eagerness to yield on others.

Furthermore, Mr. Nixon invoked executive privilege in September, refusing to turn over White House recordings and documents to a Federal court in connection with a lawsuit filed by Ralph Nader's Public Citizen Inc. to challenge the milk support increase. Among the subpoenaed material was the presumed recording of a meeting on March 23, 1971, of Mr. Nixon and officials of three dairy cooperatives. Two days after the meeting, the Agriculture Department reversed its position and announced the price support increase.

RETIREMENT OF REAR ADM. ALEXANDER JACKSON, JR., OF ROA

Mr. THURMOND. Mr. President, a distinguished patriot, Rear Adm. Alexander Jackson, Jr., U.S.. Navy, retired, recently concluded his service as deputy executive director of the Reserve Officers Association.

In October of 1959 Admiral Jackson retired from active military service after a distinguished military career highlighted by service in World War II. During this period he was awarded the Legion of Merit and the Bronze Star Medals, each with the combat V. Toward the end of his career he served as Assistant Chief of Naval Personnel for Naval Reserve and after a 5-year retirement he was appointed deputy executive director of the ROA. Since 1964 he has served with distinction in that capacity.

Admiral Jackson enjoyed the admiration and respect of the entire Reserve community and was particularly admired by many members of Congress. His succinct, yet thorough way of presenting various issues and the depth of his understanding of military matters made his voice one which was heard in the highest councils of our Government.

In the November 1973 issue of the Officer magazine, published by the ROA, there appears an article announcing Admiral Jackson's retirement. Also, his biography was published by the ROA during his tenure as deputy executive director.

Mr. President, in closing I ask unanimous consent that the article in the Officer magazine and his biography be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From Officer magazine, November 1973]

Admiral Jackson Retires as Deputy Executive Director, ROA, Succeeded by Colonel Haywood

RADM Alexander Jackson, Jr., USN (ret.) the wise and soft-spoken Deputy Executive Director and Director of Retirement Affairs for the Reserve Officers Association, has retired. He has been succeeded by Col. Floyd H. Haywood, Jr., who had been Director of Administration.

Affectionately known to his associates as the "Gray Fox," or simply "Alex," he has been with the Headquarters Staff of ROA since 1959 and in his present capacity for nearly a decade. He brought with him years of valuable experience both in naval matters and in the far less precise science of working with people.

The quietly witty native of Alabama was appointed to the Naval Academy from that state and graduated in 1925 with a BS degree. His first duty was aboard the battleship *West Virginia*.

During World War II he commanded at various times several destroyers on escort duty in the Caribbean, Atlantic and Pacific Oceans, including service in the Aleutians. When Hunter Killer Groups were established in the Pacific, he served as screen commander of Task Group 30.7 while commanding Destroyer Escort Division 72.

This group provided anti-submarine protection to the Third and Fifth Fleets and was credited with the destruction of six enemy submarines. Admiral Jackson was awarded the Legion of Merit and the Bronze Star Medals, each with the Combat V.

COMMANDED DESTROYER SQUADRON

After the war he served in the Eighth and Thirteenth Naval Districts as director of Naval Reserve programs. Following subsequent sea duty, including the command of a destroyer squadron in the Atlantic, he was ordered to the Bureau of Naval Personnel and assigned as Director of the Naval Reserve Division. In 1956 he became Assistant Chief of Naval Personnel for Naval Reserve.

In the four years preceding his retirement from the service, Admiral Jackson had a great deal of contact with ROA and as well commenced to accumulate his storehouse of knowledge of the legislative workings of 'the Hill.'

He joined the National Staff of ROA upon his retirement as Director of Naval, Marine and Coast Guard Affairs. "Alex" will continue to live in his farm in Orange County near Charlottesville, Va.

Col. Haywood, native of Charleston, Ark., flew 50 combat missions in World War II as a bomber pilot. Commissioned in the regular AF after World War II, he held command and staff positions both in this country and overseas. Most of his experience was in SAC where his last assignment was as Wing Commander of a Strategic Aerospace Wing.

He came to Washington in 1965 and served with the Joint Chiefs of Staff, managing the National Military Command Center, controlling our military the world over. He was Deputy Chief of Staff Materiel Headquarters Command, USAF, just before his retirement in 1971. He joined ROA that year.

Washington, D.C.

Biography of Rear Adm. Alexander Jackson, Jr., U.S. Navy, Retired, Deputy Executive Director, Reserve Officers Association of the United States

Rear Admiral Alexander Jackson, Jr., a native of Alabama, was appointed to the Naval Academy from that state and graduated in 1925 with a BS degree. He was commissioned an ensign in the Navy upon graduation and his first duty assignment was to the USS West Virginia.

During World War II he commanded the USS PC 494, USS Doherty, USS Snowden, USS Kyne, and the USS Greer engaged in escort duty in the Caribbean, the Aleutians, Atlantic and Pacific Oceans. When Hunter Killer Groups were established in the Pacific he served as screen commander of Task Group 30.7 while commanding Destroyer Escort Division 72. This Task Group provided antisubmarine protection to the Third and Fifth Fleets and was credited with the destruction of six enemy submarines. Admiral Jackson was awarded the Legion of Merit and the Bronze Star Medals, each with the Combat V.

After the war he served in the Eighth and Thirteenth Naval Districts while on shore duty as director of the Naval Reserve programs in those Districts and commanded the USS Cahaba, fleet oiler on the China Station, and the USS Vermilion an attack cargo ship attached to the Amphibious Force, Atlantic Fleet during his tours at sea.

In 1954–1955 he commanded Destroyer Squadron Ten in the Atlantic Fleet and upon completion of that tour was ordered to the Bureau of Naval Personnel and assigned as Director of the Naval Reserve Division. In 1956 he relieved Rear Admiral Charles Weakley as Assistant Chief of Naval Personnel for Naval Reserve and served on that position until his retirement on 1 October 1959.

Upon his retirement, he joined the National Staff of the Reserve Officers Association of the United States as Director of Naval, Marine Corps and Coast Guard Affairs. In 1964 he was appointed Deputy Executive Director while retaining his duties with the Navy, Marine Corps and Coast Guard.

ACTION NEEDED TO AUTHORIZE READJUSTMENT MEDICAL COUNSELING FOR VIETNAM-ERA VETERANS

Mr. CRANSTON. Mr. President, an October 1, 1973, letter I received from the Administrator of Veterans' Affairs has reinforced my conviction that the difficulties many Vietnam-era veterans have faced in readjusting to civilian life are of such severity that legislation is urgently needed to authorize the special assistance they need.

This letter cites those factors that had led officials of the VA to the conclusion that "up to 20 percent of Vietnam-era veterans may be facing significant adjustment problems."

These factors include the substantial representation of minority groups among returning servicemen; the high percentage of veterans who were high school dropouts or whose test scores were comparable to dropouts; the low proportion of disadvantaged veterans using educational benefits; a followup study of Vietnam-era drug users, indicating that 18 percent of all veterans in the study were unemployed 6 months or more after discharge; as well as a VA mental health professional estimate that up to 5 percent of Vietnam-era veterans who had been exposed to combat may be facing serious psychological consequences from those traumatic experiences.

As a consequence of these data, an internal memo was developed within the VA outlining a legislative proposal to authorize provision of mental health services to assist Vietnam-era veterans in the process of transition from military to civilian status.

The justification for this proposal states an even higher incidence of serious readjustment difficulties. The memo states:

> Reliable surveys and studies conducted by the military and by VA indicate serious and prolonged readjustment problems exist in approximately one out of five new veterans but, to a lesser degree, were experienced by all.

The report goes on to state the problem as follows:

> Since current statutory provisions governing DM&S health care services are tied to an illness rather than preventative health model, only a small proportion of veterans have sought or received these critically needed mental health psychosocial readjustment services. The consequence includes major economic and social cost to society stemming from the failure of these veterans to make effective readjustments, as well as the personal adverse psychological effects on the veterans and their families who served their country during a long and difficult conflict.

Mr. President, the proposal provides clear support for the need for legislation I authored—originally in S. 2108 passed by the Senate in September of 1972—and which has passed the Senate in S. 284 last March, providing for readjustment medical counseling for returning veterans in VA facilities.

The bill is now pending before the House Committee on Veterans' Affairs, specifically the Subcommittee on Health and Hospitals. The subcommittee chairman (Mr. SATTERFIELD) has assured me that he will hold hearings shortly.

The VA internal memo proposes:

> That a law be enacted by which the VA Department of Medicine and Surgery is authorized to provide, during a period of up to one year from the date of discharge from military service, mental health services as required to assist Vietnam veterans in the process of transition from military to civilian status. Also, where warranted, Vietnam veterans already out of service [should] be entitled to such services for a period of one year after the law is enacted.

I am delighted that there is recognition of the need for this authority within the Veterans' Administration. I hope this recognition will spread to the officials at the OMB, as well.

Mr. President, while previous wars have had their psychiatric casualties, the so-called "post-Vietnam syndrome" may well be more pronounced and more frequent in its incidence. And the time lag seems unprecedented. This pattern was first dramatized, insofar as I am aware, at oversight hearings I held in 1969 and 1970 as chairman of the Subcommittee on Veterans' Affairs of the Labor and Public Welfare Committee, and in the last 2 years as chairman of the Subcommittee on Health and Hospitals of the Veterans' Affairs Committee.

As a result of these hearings, I first introduced legislation on June 17, 1971—then included in S. 2091 in the 92d Congress—to make these returning veterans eligible for readjustment medical counselling in Veterans' Administration facilities.

This provision was also included in legislation, called the "Veterans Drug and Alcohol Treatment and Rehabilitation Act," twice passed by the Senate—in S. 2108 last Congress and in S. 284 passed this session on March 6, 1973, by an 87-to-2 vote. More specifically, it would authorize the Veterans' Administration to provide readjustment medical counseling and appropriate followup care to each Vietnam era veteran with other than a dishonorable discharge upon the veteran's request. The purpose of this provision is to make fully available—and to encourage and facilitate the use of—the full resources of the VA's medical services to those returning veterans who feel the need for professional counseling to help them in their readjustment to civilian life.

Mr. President, I believe that in the sensitive field of psychological or psychiatric counseling, availability and ease of access to such services must be emphasized and all necessary barriers removed. A recently returned veteran should know that help is available, and that if he asks for it his request will be speedily and compassionately honored.

Under present VA law and regulations, a veteran is not eligible for outpatient care unless it is established that he is suffering from a service-connected condition or is in need of hopsitalization. Under this new provision, all VA facilities which can assist in readjustment will be made more visible and accessible. The provision of readjustment counseling in all VA facilities under the general direction of the VA Department of Medicine and Surgery—taking full advantage of its skilled staff consisting of some 961 psychologists, 304 pyschologists attendants and technicians, 707 psychology trainees, 2,198 social workers, 335 social worker associates, and 479 social work trainees—can be of significant assistance to the successful readjustment of large numbers of recently discharged veterans.

Recent discussions with professionals acquainted with the VA hospital system illustrate that the cost of such a provision can be severely reduced without a loss in quality by the use of trained volunteers and skilled paraprofessional workers in providing the readjustment counseling and screening.

In addition, current law in title 38, United States Code, provides a presumption of service connection for an active psychosis developed within 2 years of discharge from service. The Senate has twice passed my amendment—also included in S. 2108 and S. 284—to extend this period to 3 years after discharge and to make it applicable to any psychosis rather than only an active psychosis.

Mr. President, I ask unanimous consent that the pertinent provisions from S. 284 be printed in the RECORD, along with explanatory material from the committee report (No. 93–56) following the VA memo and letter to which I referred earlier in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ADMINISTRATION OF
VETERANS' AFFAIRS,
Washington, D.C., October 1, 1973.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your letter of August 13 in which you request copies of the memorandum and studies referred to in the recent series of articles on the Vietnam Era veteran by Mr. Michael Satchell in the Washintgon Star-News.

A copy of the memorandum is enclosed. It was prepared as a working document by the Mental Health and Behavioral Sciences Service of the Department of Medicine and Surgery in response to an internal request for suggestions concerning possible areas of need for additional legislation not fully met by existing statutory provisions.

The proposal was based on the general principle that any transition period imposes a variety of stressful adjustment problems on those involved and on the assumption that, while this has occurred after every period of service, reentry may be a more difficult process for the Vietnam Era veterans because they are younger as a group, issues surrounding the Vietnam Conflict are more complex, and our society is changing at a more rapid pace.

The proposal also reflected the judgment that veterans who had experienced pre-service adjustment problems, such as those common to minority groups and high school dropouts, face more serious reentry difficulties, as well as those traumatized by exposure to the death and destruction of war. Rather than a special study as Mr. Satchell erroneously reported, the conclusion that up to 20% of Vietnam Era veterans may be facing significant adjustment problems was based on the following information:

Approximately 20% of Vietnam veterans and servicemen are from minority groups. (DoD and VA estimates);

Approximately 16% of Vietnam Era veterans and servicemen are high school dropouts and approximately 30% of Vietnam servicemen with high school diplomas had armed forces test scores comparable to dropouts. (Report of President's Committee on the Vietnam Veteran, 1970);

Smaller proportions of disadvantaged veterans are using educational benefits (approximately one out of four in contrast to nearly half of non-disadvantaged veterans). (VA DVB Information Bulletin 24–73–3);

Survey conducted for VA by Louis Harris and Associates indicated alienation is particularly evident among non-white and those with less than high school education. (A Study of the Problems Facing Vietnam Era Veterans: Their Readjustment to Civilian Life, October 1971);

Follow-up study of Vietnam drug users, sponsored by the Special Action Office for Drug Abuse Prevention in cooperation with the Department of Defense, Department of Labor, National Institute of Mental Health, and the Veterans Administration, indicating that 18% of all randomly selected Vietnam veterans in the study period were still unemployed six months or more after discharge. The rate was much higher for educationally or culturally disadvantaged veterans. (SAODAP Monograph, Series A, Number 1, April 1973, Executive Office of the President)

A paper presented by Dr. Jonathan Borus, Research Psychiatrist, Walter Reed General Hospital, indicating that returnees from overseas duty who were still in military service were showing significant reentry problems and that this was greater for those who had not completed high school and/or had pre-service adjustment problems as well as those who had seen extensive combat (American Journal of Psychiatry, August 1973)

I would like to point out that Mr. Satchell apparently confused the estimate that 20% of Vietnam veteran population may have serious reentry problems with the entirely separate estimate by VA mental health professionals that up to 5% of those Vietnam Era veterans who had been exposed to combat may be facing serious psychological consepuences from those traumatic experiences

Thank you for the opportunity to look into this matter for you.

Sincerely,

DONALD E. JOHNSON,
Administrator.

[Proposed legislation, July 1973, Mental Health and Behavioral Sciences Service]

TRANSITIONAL PREVENTIVE MENTAL HEALTH SERVICES FOR NEW VETERANS

INTRODUCTION

After every war the great majority of veterans are young adults who must go through a critical period of transition from military to civilian life. The *impact* of absence from home, of exposure to different living conditions, life styles, and cultures, and of personal physical and psychological trauma, is such that readjustment is a highly complex process. The difficulty of this process has been markedly greater for the Vietnam veteran because of the controversial nature of the Vietnam Conflict and of the rapid social-economic changes that occurred in his absence. Reliable surveys and studies conducted by the military and by VA indicate serious and prolonged readjustment problems exist in approximately one out of five new veterans but, to a lesser degree, were experienced by all.

Since current statutory provisions governing DM&S health care services are tied to an illness rather than preventive health model, only a small proportion of veterans have sought or received these critically needed mental health psychosocial readjustment services. The consequence includes major economic and social cost to society stemming from the failure of these veterans to make effective readjustments, as well as the personal adverse psychological effects on the veterans and their families who served their country during a long and difficult conflict.

PROPOSAL

That a law be enacted by which the VA Department of Medicine and Surgery is authorized to provide, during a period of up to one year from the date of discharge from military service, mental health services are required to assist Vietnam veterans in the process of transition from military to civilian status. Also, where warranted Vietnam veterans already out of service be entitled to such services for a period of one year after the law is enacted.

COMMENT

Since approximately 6½ million Vietnam veterans are already out of service, the major demand would stem from the 2 million still in service. It is anticipated that this process would involve from four to six individual therapeutic sessions and be requested by 25% of the eligible veterans.

COST

$30,000,000 based on a maximum of six therapeutic sessions for 500,000 Vietnam veterans.

S. 284

A bill to amend chapter 17 of title 38, United States Code, to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Veterans Drug and Alcohol Treatment and Rehabilitation act of 1973".

SEC. 3. Section 602 of title 38, United States Code, is amended by—

(1) striking out "an active" and inserting in lieu thereof "a"; and

(2) striking out "two years" both times it appears therein and inserting in lieu thereof "three years".

SEC. 4. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding after section 612 a new section as follows:

"§ 612A. Eligibility for readjustment medical counseling

"The Administrator, subject to the provisions of section 3103 of this title and within the limits of Veterans' Administration facilities, shall furnish readjustment medical counseling and appropriate followup care and treatment under this subchapter to any person who served in the active military naval, or air service during the Vietnam era and was discharged or released therefrom with other than a dishonorable discharge and who requests such counseling in order to assist such person in readjusting to civilian life following his discharge or release from the Armed Forces. The Administrator, in cooperation with the Secretary of Defense, shall take appropriate action, as provided in section 241 of this title, to insure that all veterans eligible for assistance under this section are advised of their eligibility for such assistance and are encouraged to take full advantage thereof."

(b) The table of sections at the beginning of chapter 17 of such title is amended by inserting immediately below

"612. Eligibility for medical treatment."

the following:

"612A. Eligibility for readjustment medical counseling."

PSYCHIATRIC CARE AND READJUSTMENT MEDICAL COUNSELING

The Committee was convinced by extensive testimony developed at hearings on veterans readjustment conducted by the Subcommittee on Veterans Affairs at the end of the 91st Congress and hearings on this legislation in the 92d Congress and by medical evidence that significant numbers of Vietnam era veterans who are not addicts have nevertheless suffered severe psychiatric problems. These problems are frequently of a subtle nature and do not always manifest themselves soon after discharge. Therefore, the reported bill provides that a psychosis which arises within three years after discharge, rather than an active psychosis which arises within two such years (as at present), will be presumed to be service-connected. The effect of this is to authorize the provision of unlimited outpatient care for veterans meeting these criteria of disability.

In 1951, section 602, containing the original active psychosis presumption, was added to title 38 by Public Law 82–239. The House-passed bill—H.R. 320—had included a three-year period for active psychosis and the Senate reduced it to two years—(S. Rept. No. 749, 82d Cong., 1st Sess. 1951).

The Committee is of the view that the same justification underlying the original provision for active psychoses arising from World War II and the Korean conflict should be applied to the types of psychiatric conditions which seem to characterize the Indo-China War. The purpose and rationale of section 602 were described in the 1951 House and Senate committee reports as follows:

"The Committee is of the opinion that the bill is fully justified in view of the difficulty medical science has in tracing the exact causes of psychoses. The additional presumptive period would authorize service connection in many meritorious cases which are barred under existing law. The presumption is of course rebuttable when there is affirmative evidence to the contrary . . . (H.R. Rept. No. 239, 82 Cong., 1st Sess. 2 (1951)).

"It is generally recognized that the disease of psychoses is not only an individual problem but involves broad social aspects as well. It is urgent that those who suffer from this unfortunate malady should receive prompt and complete institutional care and treatment. Although war veterans are now entitled to hospitalization by the Veterans' Administration for non-service-connected psychosis, their admission is subject to availability of beds and their inability to defray the expenses. . . . "(S. Rept. No. 749, 82d Cong., 1st Sess. 2 (1951)).

Of greater significance, the reported bill directs the Administrator to provide readjustment medical counseling and appropriate follow-up care to Vietnam era veterans with other than a dishonorable discharge (or a discharge barred under section 3103 of title 38) upon the veteran's request. The purpose of this provision is to make fully available—and to encourage and facilitate the use of—the full resources of the VA's medical services to those returning veterans who feel the need for professional counseling to help them in their readjustment to civilian life.

In the sensitive field of psychological or psychiatric counseling, the Committee believes that availability and ease of access to such services must be emphasized and all unnecessary barriers removed. A recently returned veteran should know that help is available, and that if he asks for it his request will be speedily honored.

Under present VA law and regulation, a veteran is not eligible for outpatient care unless it is established that he is suffering from a service-connected condition or is in need of hospitalization. Under this new provision, all VA facilities which can assist in readjustment will be made more visible and accessible.

The Committee believes that the provision in the reported bill to provide readjustment counseling in all VA facilities under the general direction of the Department of Medicine and Surgery—taking full advantage of its 961 psychologists, 304 psychologists' attendants and technicians, 707 psychology trainees, 2198 social workers, 335 social worker associates, and 479 social work trainees—can be of significant assistance to the successful readjustment of large numbers of recently discharged veterans, both addict and nonaddict.

DEA BARBITURATE REGULATIONS NEED MUSCLE BEHIND THEM

Mr. RIBICOFF. Mr. President, the Drug Enforcement Administration—DEA—has issued regulations to curtail production of the three most abused barbiturate drugs—amobarbital, secobarbital, and pentobarbital. The new regulations place these drugs in the second most dangerous category under the Controlled Substances Act of 1970, right behind such illegal drugs as heroin and cocaine.

This action represents an important first step by DEA to respond to the growing peril of barbiturate abuse, which is part of a polydrug epidemic involving the illicit use of billions of legally manufactured pills.

I call it a "first step" because, despite the estabishment of DEA in July in a major reorganization and consolidation of Federal drug enforcement agencies, there is no evidence yet that the new streamlined structure is any more prepared to deal with the Nation's pill problem than was the old balky apparatus. In fact, there are early indications that the new agency is less prepared to deal with the burgeoning illicit traffic in pills than were its predecessor agencies.

My Government Operations Subcommittee held a series of field hearings to consider Reorganization Plan No. 2 of 1973, which established the DEA. We travelled to 8 cities to explore the nature of the drug problem in the nation, evaluate the effectiveness of Federal drug enforcement and make recommendations on the structuring of the DEA. A total of 180 witnesses were heard in 11 hearings.

After listening to Federal, States, and local law enforcement officials, drug treatment prevention and education specialists, and ex-addicts the principal finding in the subcommittee's report (No. 93–469) was that Federal drug enforcement efforts have failed to come to grips with the Nation's polydrug problem—especially in combatting the pill traffic in our schools.

The General Accounting Office has estimated that 90 percent of the pills used illicitly are of legitimate origin. A recent survey of the National Commission on Marijuana and Drug Abuse found that the illicit use of pills involves 17 times as many Americans as use heroin. Yet, we found that Federal enforcement priorities and strategies are overwhelmingly weighted toward suppression of heroin. At issue is not whether Federal law enforcement should abandon the war against heroin traffickers, but to what extent law enforcement efforts should reflect the actual degree of danger from all forms of drug abuse.

A 9-month investigation of drug law enforcement by my subcommittee found the old Bureau of Narcotics and Dangerous Drugs—BNDD—sorely lacking in this respects. For example, we found that BNDD had assigned only 240 of its 1,600 agents to full-time duty in combating the diversion of legally manufactured pills into the illicit market. An oversight inquiry now being conducted by the subcommittee indicates that the new DEA is also not being structured to stress enforcement efforts against the illicit traffic in pills. In fact, the enforcement situation at DEA may be even worse than it was at BNDD.

The Compliance Division, which is responsible for preventing the diversion of legally produced pills into the illicit traffic, has the same number of agents it did in BNDD—240. But the reorganization of BNDD and customs has increased the total number of narcotics agents in DEA from 1,600 to 2,200. The net results is that Compliance Division agents are now outmanned by about 8 to 1 in DEA, compared with slightly more than 5 to 1 in BNDD.

Obviously, the issuance of regulations to cut back on the production of three heavily abused barbiturate drugs will serve little purpose if there is not the muscle needed to enforce these regulations. During the course of my subcommittee investigation, a BNDD official conceded that an earlier cutback in production quotas of amphetamines was considered "self-enforcing" because the manpower shortage in the Compliance Division required BNDD to rely heavily on voluntary compliance by drug manufacturers and wholesalers.

The Compliance Division is responsible for monitoring and investigating 450,000 drug handlers in the United States, through whom flow 8 billion doses of stimulants and depressants annually. But its lack of manpower has forced it to focus attention on the Nation's approximately 2,000 manufacturers and 4,000 wholesale distributors of drugs. These firms are reached on an average of only once every 3 years for in-depth investigations, with little opportunity for followup. In addition to understaffing its own efforts against drug companies and wholesale distributors, DEA continues BNDD's practice of delegating enforcement efforts against the Nation's 51,000 pharmacies to even more severely understaffed State and local agencies.

The net result appears to be a "business as usual" attitude by DEA in virtually ignoring pills, despite a grudging admission by DEA officials that polydrug abuse is more of a problem today than it ever was.

The new DEA regulations, in addition to authorizing production quotas on the three barbiturate drugs, also ban the use of refillable prescriptions and require the use of import and export permits and Federal order forms to facilitate monitoring by DEA. Behind these regulations is a medical finding by the Department of Health, Education, and Welfare that abuse of these drugs leads to severe physical and psychological dependence, often resulting in withdrawal symptoms and other side effects more severe than those of heroin. Six other barbiturate drugs are being closely watched by HEW and DEA to determine whether their potential for abuse is as high and whether they should be placed under the same strict regulations.

All of this monitoring of drug abuse trends and issuing of regulations will be a cruel hoax on the public unless they are backed up by stepped-up enforcement against illicit trafficking in legally produced substances. Preventing the diversion of billions of pills into hands of the pushers is a difficult and often dangerous business. It deserves a higher enforcement priority than the DEA seems willing to give it.

I ask unanimous consent that a copy of the new regulations and of a Washington Post story of November 14 describing their issuance be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Federal Register, Nov. 13, 1973]

Title 21—Food and Drugs—Chapter II—Drug Enforcement Administration, Department of Justice—Part 1308—Schedules of Controlled Substances—Schedule II—Control of Amobarbital, Pentobarbital, Secobarbital and Their Salts

A notice dated May 25, 1973, and published in the Federal Register on May 31, 1973 (38 FR 14289), proposed the transfer of nine derivatives of barbituric acid and their salts from Schedule III to Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513). The notice stated that the proposal was "based upon the investigation of the Bureau of Narcotics and Dangerous Drugs and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare secured pursuant to section 201(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970." All interested persons were given until June 29, 1973, to submit their objections, comments or requests for hearings.

By notice dated July 6, 1973, and published in the FEDERAL REGISTER on July 11, 1973 (38 FR 18469), all interested persons were given an extension of time until July 18, 1973, to submit their objections, comments or request for hearing on the above proposal.

No objections or requests presenting reasonable grounds for a hearing were received regarding the proposed order transferring amobarbital, secobarbital, pentobarbital, cyclobarbital, heptabarbital, probarbital, talbutal, vinbarbital and their salts from Schedule III to Schedule II.

On June 29, 1973, Covington and Burling, Counsel for McNeil Laboratories, Inc. (McNeil) a principal manufacturer and distributor of sodium butabarbital, a salt of butabarbital, under the trade name "Butisol Sodium," filed comments and requested a hearing concerning the proposed transfer of butabarbital and its salts from Schedule III to Schedule II.

Following establishment of the Drug Enforcement Administration on July 1, 1973 (38 FR 18380), a new and thorough review was made of the situation involving the derivatives of barbituric acid. As a result of that review the Administrator of the Drug Enforcement Administration has determined that amobarbital, secobarbital, and pentobarbital should be transferred promptly into Schedule II.

It has further been determined, on the basis of all relevant factors, that additional study and monitoring of cyclobarbital, heptabarbital, probarbital, talbutal, vinbarbital, butabarbital and their salts are required before a final decision on the transfer of these drugs is reached.

The Administrator, Drug Enforcement Administration finds that amobarbital, secobarbital, and pentobarbital and their salts:

(1) Have a high potential for abuse;

(2) Have a currently accepted medical use in treatment in the United States; and

(3) May, when abused, lead to severe physical and psychological dependence.

Therefore, under the authority vested in the Attorney General by Section 201(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, it is hereby ordered that:

1. Section 1308.12 of Title 21 of the Code of Federal Regulations be amended by adding new paragraph (e)(2), (3) and (4) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(e) * * *

(2) Amobarbital	2125
(3) Secobarbital	2315
(4) Pentobarbital	2270

2. Section 1308.13(c) of Title 21 of the Code of Federal Regulations be amended to read as follows:

§ 1308.14 Schedule III.

* * * * *

(c) *Depressants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing ambarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule	2351
(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository	2100
(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof	2100
(4) Chlorhexadol	2510
(5) Glutethimide	2550
(6) Lysergic acid	7300
(7) Lysergic acid amide	7310
(8) Methyprylon	2575
(9) Phencyclidine	7471
(10) Sulfondiethylmethane	2600
(11) Sulfonethylmethant	2605
(12) Sulfonmethane	2610

The requirements imposed upon the substances controlled by this order shall become effective as follows:

1. *Registration*. Any registrant presently authorized to manufacture, distribute, engage in research, import or export any of these substances should apply pursuant to 21 CFR 1301.61 to modify their registration to authorize the handling of such controlled substances in Schedule II on or before December 17, 1973.

Any person presently not authorized to handle such controlled substances and who proposes to engage in the manufacture, distribution, importation, or exportation of, or research with, any of these substances, shall obtain a registration to conduct his proposed activity pursuant to sections 302 and 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 822, 823).

2. *Security*. These substances must be manufactured, distributed, and stored in accordance with 21 CFR 1301.71, 1301.72(a), 1301.73, 1301.74(a), 1301.75, and 1301.76 on or before May 13, 1974. Provided, that upon application and approval by the Drug Enforcement Administration, those parenteral dosage forms containing amobarbital, or secobarbital, or pentobarbital or any salt of any of these drugs which are required by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.) or regulations promulgated thereunder to be kept in storage under refrigeration may be stored in compliance with the Schedule III security regulations set forth in 21 CFR 1301.71–1301.76. In the event that any security requirement imposes special hardship, the drug Enforcement Administration will entertain any justified requests for an extension of time.

3. *Labeling and packaging*. All labels on commercial containers of, and all labeling of, any of, these substances which are packaged after May 13, 1973, shall comply with the requirements of 21 CFR 1302.03–1302.05, 1302.07 and 1302.08. In the event this effective date imposes special hardships on any "manufacturer", as defined in Section 102 (14) of the Controlled Substances Act, 21 U.S.C. 802(14), the Drug Enforcement Administration will entertain any justified requests for extension of time.

4. *Quotas*. Interim quotas and these substances will be established to take effect on January 1, 1974, to be adjusted on or before July 1, 1974. All interested persons required to obtain quotas shall submit applications pursuant to 21 CFR 1303.12 or 1303.22 on or before December 3, 1974.

5. *Inventory*. Every registrant required to keep records who possesses any quantity of any of these substances shall take an inventory pursuant to 21 CFR 1304.11–1304.19, of all stocks of those substances on hand on January 1, 1974.

6. *Records*. All registrants required to keep records pursuant to 21 CFR 1304.21–1307.27 shall maintain such records on these substances commencing on the date on which the inventory of those substances is taken.

7. *Reports*. All registrants required to file reports with the Drug Enforcement Administration pursuant to 21 CFR 1304.37–1304.41 shall report on the inventory taken under paragraph five (above) and on all subsequent transactions.

8. *Order forms*. Each distribution of any of these on or after January 1, 1974, shall utilize an order form pursuant to 21 CFR Part 1305 except as permitted in § 1305.03 of that title.

9. *Prescriptions*. All prescriptions for the above controlled substances shall comply with 21 CFR 1306.01–1306.15 on or before December 17, 1973. Any prescriptions for the above controlled substances, which are entitled to be refilled under 21 CFR 1306.22 shall not be entitled to such refill in accordance with 21 CFR 1306.12 on and after December 17, 1973.

10. *Excepted substances*. This order does not amend 21 CFR 1308.32. Those combination products containing amobarbital, secobarbital, pentobarbital or any salt thereof currently excepted under § 1308.32 will remain excepted. The Drug Enforcement Administration recognizes that certain combination drugs containing amobarbital, secobarbital, pentobarbital or any salts thereof and excepted under the Drug Abust Control Amendments of 1965 have not been excepted under § 1308.32. As a matter of policy, those substances shall be deemed excepted under § 1308.32 pending further action by the Drug Enforcement Administration.

11. *Importation and exportation*. All importation and exportation of any of the substances on and after January 1, 1974, shall be in compliance with 21 CFR Part 1312.

12. *Criminal liability*. Any activity with amobarbital, or secobarbital, or pentobarbital or any salt of any of these drugs not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act (Public Law 91–513) shall continue to be unlawful under the provisions of the two Acts applicable to a nonnarcotic drug in Schedule III until December 17, 1973. On or after December 17, 1973, any activity with amobarbital, or secobarbital, or pentobarbital or any salt of any of these drugs not authorized by, or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act (Public Law 91–513), shall be unlawful under the provisions of those two Acts applicable to a nonnarcotic drug in Schedule II.

13. *Other*. In all other respects, this order is effective on the date of publication.

Dated: November 8, 1973.

JOHN R. BARTELS, Jr.,
Administrator, Drug Enforcement Administration, U.S. Department of Justice.

[FR Doc. 73-24304 Filed 11-12-73 8:45 am]

[From the Washington Post, Nov. 14, 1973]

UNITED STATES CURTAILS BARBITURATES' AVAILABILITY

(By John P. MacKenzie)

The Justice Department moved yesterday to curtail sharply the availability of three of the most widely used depressant drugs.

Rigid security and production safeguards were placed on amobarbital, secobarbital and pentobarbital, drugs that are frequently used to relieve tension. The department said it had found a "high potential for abuse" of the three barbiturates.

John R. Bartels Jr., head of the Drug Enforcement Administration, said that while the depressants meet a medical need, studies show that when abused they lead to severe physical and psychological dependence, often producing withdrawal symptoms more severe than those of heroin.

The drugs were placed under the same controls—including a ban on refillable prescriptions, strict quotas on production, importing and exporting and federal order forms for sales—that are now in effect for narcotics and drugs such as cocaine, morphine, codeine, methadone, methamphetamine, amphetamine and methaqualone.

The newly classified barbiturates carry the trade names of Seconal, Tuinal and Amytal, all manufactured by the Eli Lilly Co., and Nembutal which is produced by Abbott Laboratories.

Yesterday's action was part of a program of drug review under the 1970 Federal Controlled Substances Act. The program calls for medical evaluations by the Department of Health, Education and Welfare and final decision by the Justice Department on the degree of control required for a variety of drugs.

HEW officials concurred in the barbiturate decision according to Peter B. Hutt, general counsel of the Food and Drug Administration.

Hutt said other barbiturates also had been candidates for the tighter controls but officials found that, at least for the present, the drugs had only a potential for abuse whereas the three reclassified drugs had a history of abuse.

The Drug Enforcement Administration, an arm of the Justice Department, reported last year that there were 1,771 barbiturate suicides and deaths and 3,475 overdose and injury cases in 32 states during a recent 17-month period.

URBAN HOMESTEADING

Mr. BIDEN. Mr. President, on November 9, 1973, I introduced the National Urban Homestead Act of 1973. This legislation would authorize the Secretary of Housing and Urban Development to assist local housing agencies in disposing of city-owned houses and transfer title of federally owned houses which are suitable for homestead program to local housing agencies.

Statistics revealing the number of vacant federally owned houses in major cities are important for determining both needs and impact for the program exists in various cities. The Department of Housing and Urban Development publishes a monthly analysis of acquired home mortgage properties, showing the number of homes to which HUD has acquired title through default. These homes, with the exception of those used for emergency relief purposes are vacant, and can be considered as part of the inventory for an urban homesteading program.

For the benefit of my colleagues, I ask unanimous consent that the statistics taken from the "Analysis of HUD-Acquired Home Mortgage Properties" for August 1973, be printed in the Record.

There being no objection, the statistics were ordered to be printed in the Record, as follows:

Statistics

Region I.—Hartford, 58; Bangor, 8; Boston, 438; Manchester, 3; Providence, 12; and Burlington, 3.

Region II.—Camden, 500; Newark, 1,306; Albany, 37; Buffalo, 131; Hempstead, 3,032; New York, figures unavailable; and San Juan, 50.

Region III.—Wilmington, 314; Washington, 182; Baltimore, 189; Philadelphia, 3,414; Pittsburgh, 382; Richmond, 141; Charleston, 68.

Region IV.—Birmingham, 559; Jacksonville, 459; Miami, 137; Tampa, 602; Atlanta, 3,165; Louisville, 237; Jackson, 848; Greensboro, 322; Columbia, 1643; Knoxville, 262; Memphis, 197; and Nashville, 136.

Region V.—Chicago, 2,484; Springfield, 313; Indianapolis, 1,935; Detroit, 15,552; Grand Rapids, 597; Minneapolis, 437; Cincinnati, 950; Cleveland, 922; Columbus, 678; and Milwaukee, 414.

Region VI—Little Rock, 335; New Orleans, 575; Shreveport, 659; Albuquerque, 296; Oklahoma City, 445; Tulsa, 520; Dallas, 3,715; Fort Worth, 1,120; Houston, 1,053; Lubbock, 891; and San Antonio, 1,027.

Region VII.—Des Moines, 279; Kansas City, 1,106; Topeka, 344; St. Louis, 648; and Omaha, 196.

Region VIII.—Denver, 64; Helena, 18; Fargo, 6; Sioux Falls, 4; Salt Lake City, 13; and Casper, 18.

Region IX.—Phoenix, 520; Los Angeles, 5,113; Sacramento, 636; San Diego, 187; San Francisco, 1,287; Santa Ana, 1,356; Honolulu, figures unavailable; and Reno, 459.

Region X.—Anchorage, 14; Boise, 6; Portland, 273; Seattle, 7,003; and Spokane, 133.

U.S. total—73,446.

RESERVATIONS ABOUT NATIONAL ENERGY EMERGENCY ACT

Mr. PERCY. Mr. President, I have reluctantly supported S. 2589, the "National Energy Emergency Act," because it is evident that some additional legislative authorities are needed in order for the Government to effectively cope with potentially severe fuel shortages. However, I have serious reservations about the wisdom of enacting such sweeping emergency powers as this bill contains.

Under S. 2589, the Congress would declare a nationwide energy emergency. The emergency would terminate in 1 year unless extended by Congress.

The President would be directed to prepare a national rationing and conservation program within 15 days after enactment. The plan must include a priority system for rationing scarce fuels, and mandatory conservation measures capable of reducing energy consumption by 10 percent in 10 days and 25 percent in 4 weeks. Included in the mandatory conservation plan would be: transportation controls; restrictions on energy use for "nonessential uses such as lighted advertising and recreational activities"; a ban on advertising encouraging energy consumption; limitations on energy consumption of commercial establishments and public buildings; temperature restrictions in public and commercial buildings; and, reductions in speed limits.

The President would be granted full authority to implement these and other measures at the Federal level, or to direct the States to implement them, as he determines necessary to meet the emergency, unless all or part of his plan is specifically disapproved by concurrent resolution of the Congress.

All actions taken under the bill would be exempt from the National Environmental Policy Act for 1 year.

To meet the anticipated fuel shortage, it is apparent that some new authorities are needed. This bill, however, does not spell out what authorities are needed. It simply gives emergency powers to the President to deal with the fuel situation in much the same way as he would be enabled to deal with a war mobilization.

I am concerned that S. 2589 represents another massive grant of authority to the President for instituting Federal controls, which the Congress and the public may regret for years to come.

In many respects, this bill is similar to the Economic Stabilization Act, which began as a grant of broad, temporary, emergency powers, but which has become a part of our national life. With all the distortions and confusion that price controls have brought, they will not go away.

In other respects, this bill could be compared to the Defense Production Act, which is still around after more than 20 years of temporary, emergency powers, or even the Gulf of Tonkin Resolution.

In a year in which Congress is attempting to reassert its constitutional responsibilities over war-making and fiscal policy, long abdicated to the executive branch, it is certainly inconsistent for Congress to be turning over to the President much of its constitutional power to regulate commerce.

An example of congressional ambivalence on this bill, was the 40 to 48 vote against imposing mandatory gasoline rationing by January 15. While the Senate was unwilling to require rationing itself to meet a declared energy emergency, it is fully willing to let the President impose mandatory rationing whenever he decides it is needed.

S. 2589 was rushed to the floor of the Senate with only 2 days of hearings and 2 days of markup. Yet its effect on the economy could be massive and totally unpredictable. It is no coincidence that the Dow Jones Industrial Average has fallen 124 points since rationing began to be seriously discussed in the Government.

The committee report on the bill expresses the expectation that the "rationing and conservation programs will be designed and implemented after proper deliberation in a manner that is neither arbitrary nor capricious." Yet the bill gives the administration only 15 days to design and promulgate the entire nationwide program.

Economists are now furiously revising their economic forecasts for the coming year as a result of the fuel shortage and the potential effects of Government controls. The forecasts range all the way from growth to depression. Surely if there is any chance that this legislation might bring on a serious recession, it should be given more careful consideration than it has been.

History may demonstrate that the Senate acted too hastily in passing S. 2589. I certainly hope that before the bill is sent to the President for signature, it will be given more hearings, more careful thought, much more specific language, and more time for implementation.

THE 10TH ANNIVERSARY OF THE DEATH OF PRESIDENT JOHN F. KENNEDY

Mr. RIBICOFF. Mr. President, Thursday marks the 10th anniversary of the death of President John F. Kennedy.

The tumultuous events of the past decade have greatly changed our Nation, but President Kennedy's courage and vision shine as brightly today as they did that clear cold inaugural day in 1960. The hallmarks of his administration were competence, integrity, and idealism. He inspired the Nation with his confidence in the future of America.

President Kennedy had a commitment to excellence in all its forms and challenged the people to achieve the high goals he set for our country. He showed us how to think afresh.

President Kennedy did not live to see his initiative in foreign and domestic policy realized, but he charted a course for us. As one commentator recently said:

> He did not solve the problems of war and peace. But he created the conviction that they could be solved. He did not end the problems of racial discrimination, the problems of poverty in the world, the problems of governance. But he inspired the hope that they could be solved.

For his was the promise of power to be wisely used for the benefit of the Nation and for all mankind. His tragic death prevented the fulfillment of that promise. But he has left us an enduring legacy of hope. His life and works will serve as a beacon to guide future generations of Americans.

SOVIET ECONOMIC PROBLEMS TOUGHER

Mr. PROXMIRE. Mr. President, earlier this year it was my privilege to chair Joint Economic Committee hearings on the Soviet economic outlook. Obviously, this is a subject that assumes increasing importance for the United States as our commercial relations expand.

I was delighted to see that the U.S. News & World Report in its last issue contains a very interesting discussion of our study as it throws light on the problem of the Soviet consumer. Our study and hearings pointed up the problems that the Soviet Union faces in deciding priorities as between its very burdensome military machinery and its rising consumer expectations. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, Nov. 19, 1973]

PRICE OF AIDING ARABS—HOW "THE GOOD LIFE" ELUDES THE RUSSIANS

Add one more victim of the latest Middle East conflict: The Russian consumer, who yearns for the kind of good life found in the West.

Even before the Arab-Israeli war broke out, there were strong indications that the Soviet economy was in deeper trouble than anyone had expected. And then—

The war, after three weeks, had cost the Soviet Union between 5 and 10 billion dollars in equipment to replace Arab losses, plus spending on transporting it by sea and air. Part of that bill will be paid by cutbacks in Soviet investment in industries producing for consumers.

Damage to the Nixon-Brezhnev policy of *détente*, experts say, will find Americans less eager to export their technology and equipment to the Soviet Union. Moscow had counted on such imports to inject fresh energy into an already ailing economy.

Odds grew that the U.S. Congress will reject legislation granting Russia trade benefits and easing the way for U.S. Government-supported loans to help finance development of Russia's huge natural resources. The Administration's request for such legislation is scheduled to come before the House this month.

It all added up to further setbacks and delays for the U.S.S.R.'s long-touted effort to raise living standards for its citizens to equal those in the U.S.

BUMPER CROP, BUT—

Not all the news for Russian consumers is bad. Soviet Communist Party chief Leonid Brezhnev announced in late October that the country's grain harvest in 1973 would reach a record high—about 215 million tons. That is roughly 35 million tons more than the disastrous 1972 crop that forced Moscow to buy 1 billion dollars' worth of grains from the U.S.

The new crop will probably mean extra bread and meat for Russia households in 1974. But even as Russians got the good news, a crackdown was in full stride on "economic crimes"—most of them involved with the popular and widespread "black markets." These provide much of the food eaten by city workers, as well as other scarce consumer items, and even the products that many factories require to keep their wheels turning.

Courts began imposing the death penalty on those convicted of stealing state property, usually people connected with trade and industry.

Among those shot by firing squads were farm officials and salesmen, store managers, bank clerks.

The executions do not appear to have been on a massive scale. But the message that came through to the Russian people was clear:

Remember that "crime" against the state does not pay.

It was not just ordinary theft for private gain that was involved. One man was executed for providing a collective farm with building materials he had obtained by bribing officers of a plant manufacturing the materials. The Soviet distribution system had broken down, and the only way the collective could get a supply of the scarce items was through bribery.

For all the problems that centralized and bureaucratic controls are bringing to the economy, experts note that the Soviet Union seems to be heading for even more of the same.

WARNING FROM UNITED STATES

It is against this background that a huge new study of Russia's outlook, submitted to the Joint Economic Committee of the U.S. Congress, takes on new significance. In the 776-page report—"Soviet Economic Prospects for the Seventies"—top American experts on Russia warn the Kremlin not to depend on help from the U.S. and other Western nations to bring prosperity to the people it rules. Instead, the Russian leaders must buckle down and do the job themselves.

The survey makes these points:

To build a modern economy for their country, Russians must revise their rigid system of planning and management. They cannot depend upon trade and technological help from the West to stimulate the economy.

Russia, nevertheless, is reluctant to carry out needed reforms. As a result, the country continues to fall short of its economic goals. Said the report: "The political costs for improved economic performance might be high, perhaps too high."

Massive defense spending has lifted Soviet military power to "approximate parity" with the U.S.—but largely at expense of the Russian civilian. Strategic Arms Limitation Talks with the U.S. and moves to reduce East-West troop strength in Europe could shift Moscow's priorities from the military to the civilian sector. But past actions by Russian leaders suggest they will attempt to "muddle through" without revamping present policies.

The exhaustive study given Congress contains 30 separate papers examining a wide scope of Soviet problems, ranging from housing to foreign trade. It was written by Central Intelligence Agency analysts, experts from the State and Commerce Departments, university professors and other American authorities on Russia.

THE CROP DISASTER

Russia's economic record in 1972, the report shows, was one of the worst in the nation's history—largely because of a major "disaster" in agriculture.

The study stresses that bad weather is not the sole cause of Russia's poor agricultural showing over the years. Inefficient farming methods also are at fault, and, despite the big crop in prospect for 1973, they will hamper the Soviet Union in the future.

For instance, 31 per cent of Russia's labor force is engaged in agriculture, against 4 per cent in the U.S. Yet the average American farmer produces about $7,750 worth of foodstuffs each year, compared with $834 turned out by his Soviet counterpart. One American farmer produces enough to feed 46 of his countrymen. In Russia, the ratio is 1 to 7.

The report is not entirely grim, however, and it paints a picture of impressive gains in some areas. As one analyst puts it, there is "no economic recession, much less a depression."

But this same expert adds: ". . . If the present situation persists, the Soviet Union will be falling ever further behind the West economically."

PRAISE FOR PARTY CHIEF

Communist Party leader Brezhnev is given good marks for his efforts to provide for his people. According to the survey:

"Under Brezhnev's leadership, the average level of living in the U.S.S.R. has risen yearly by amounts that most Westerners would consider exceptional.

"Diets have improved—more meat and other quality food and fewer starches are on the nation's tables. Consumer durables are found in more homes. . . . Russian dress has improved."

Per capita income in real terms has risen an average 6.9 per cent a year under Brezhnev. Under former Premier Nikita Khrushchev, the increase was only 5.2 per cent.

STILL A BIG GAP

Yet the study notes that the gap in living standards between Russia and the

West—or even some other countries in the Soviet bloc—remains wide.

Incomes are rising faster than the supply of goods and services. And the problems of inadequate supply and poor quality that vexed Russians years ago still plague shoppers today.

By Western standards, the Soviet citizen is not well housed. At the present rate of building, at least six more years will be needed to give each family its own housing unit.

It is estimated that more than half the dwellings in the cities and rural regions lack running water and sewage-disposal facilities. Useful space available per person has increased from about 96 square feet to 118 over the last 10 years—a little more than half the norm in western Europe.

Russia also is pushing auto production with a crash program aimed at increasing the output of passenger cars from 344,000 in 1970 to 1,260,000 in 1975. But prices of the new models are high—about $7,400 for a Zhiguli, nearly two years' total earnings for a family with two breadwinners.

Auto servicing is another big problem. There are 800,000 privately owned cars in Russia today, but only 370 garages—one for each 2,200 vehicles. Additionally, 60 per cent of the country's limited highway system is made up of dirt roads that are impassable for ordinary traffic in wet weather.

THE NATION'S CHOICES

Noting that Soviet defense spending has stunted economic growth, one study in the survey raises the possibility that the Kremlin may be forced to choose between two "unacceptables"—acknowledging its failure to meet the production goals or demobilizing a significant portion of Russia's 3,375,000-man armed forces.

Another analyst disagrees, however, and makes this point:

"The Soviet regime is highly conservative and not inclined to change its institutions. . . . Nor should one expect a major shift of resources from defense to civilian economy. The country's leaders wish to negotiate from a position of strength and feel duty-bound to prepare for dangers that might arise in years to come."

American authorities say there are prospects for "substantially expanded trade" between the United States and Russia. But they caution that Moscow may have trouble acquiring funds needed to pay for imports.

The Soviet Union has been unable to expand its sales to the hard-currency countries rapidly enough to pay for its swelling imports.

Consequently, the Soviet trade balance with these nations had an average deficit of 270 million dollars a year from 1960 through 1971. In 1972, because of large grain imports from the West, foreign trade was at least 600 million dollars in the red.

The study contends that this shortage of hard currency explains the eagerness of Soviet leaders to enter into production arrangements with Western firms.

"Without massive East-West joint ventures," the report says, "prospects for increased petroleum and natural-gas exports seem dim in view of Soviet production problems and increasing domestic and European demand."

BASIS FOR IMPROVEMENT

Summing up the state of the Soviet economy, one U.S. expert lists what he calls three major "prescriptions for improved economic performance" by Russia:

Reduce military demands on national resources.

Streamline economic-planning institutions and management techniques.

Expand trade with developed countries to gain industrial know-how.

Authorities who made the study doubt, however, that Russia will make the necessary changes.

"In order to meet the above prescription," they conclude, "the Soviet leadership may have to be far more flexible in their policies than history suggests is likely."

RUSSIA TRAILS FAR BEHIND UNITED STATES IN CONSUMER GOODS

Units owned in 1972

Automobiles—In Russia: 1 for every 100 people; in U.S.: 1 for every 2.

TV sets.—In Russia: 1 for every 5 people; in U.S.: 1 for every 2.

Radios.—In Russia: 1 for every 4 people; in U.S.: 1 for every person.

Refrigerators.—In Russia: 1 for every 8 people; in U.S.: 1 for every 3.

Washington Machines.—In Russia: 1 for every 6 people; in U.S.: 1 for every 3.

Vacuum Cleaners.—In Russia: 1 for every 25 people; in U.S.: 1 for every 3.

Sewing Machines.—In Russia: 1 for every 7 people; in U.S.: 1 for every 6.

FARM-CITY WEEK

Mr. DOLE. Mr. President, a few minutes of the Senate's attention should be devoted to Farm-City Week. In view of developments in the farm-city relationship during the past year, this week is certainly worthy of that attention.

In recent months, farmers have experienced shortages of fertilizer, fuel, farm equipment and other essential farm inputs. Some customers have found food prices to be shockingly high. Yet the relationship between farmers and city dwellers remains one of mutual dependence. And it is important that the relationship be understood.

President Nixon has proclaimed November 16–22 as Farm-City Week. This annual event once again will focus the attention of the Nation on the problems, goals, programs and aspirations of American agriculture. It will culminate in a national day of thanksgiving for the abundance that farmers provide for the enjoyment of all our citizens.

Farm-City Week is both a noble and a practical idea. It should bring city and rural people to a better understanding of each other. Our economic system in America is not perfect as shortages, inflation rates and other problems have shown. But it is the best system yet developed for satisfying the needs and desires of people.

American agriculture has advanced more in the past 50 years than in all the prior years of our history. Yet Farm-City Week should help us understand that agriculture no longer is just simply living on a farm and producing crops. Agriculture today encompasses farming and ranching, but it also includes our vast and complex system of marketing, processing, distribution, and merchandising.

Agriculture today depends on more than just the men and women living on farms. It depends on the 8 to 10 million people who store, process, and sell farm products. It depends on the 2 million people who provide the supplies that farmers use. These people live and work and prosper in cities and small towns.

Farmers depend on the people who make and sell farm machinery—the workers in the factory, the managers and supervisors that keep the plants running, and the sales force that supplies the finished product to farmers.

Farmers depend on people who explore, develop, refine, and deliver oil and gas, and other fuels and lubricants, to the farm or ranch. They depend on the chemical companies for the plant food, the pesticides and insecticides without which it would be impossible to produce the immense quantities and the high quality grain and fruit and vegetables, and the beef and pork and poultry that will grace our table Thanksgiving Day, and throughout the year.

Agriculture depends on the transportation industry. Thousands of giant, covered hopper cars are being added to the rail fleets of Americans to carry the produce of our farms to market, to terminal storage, and to seaports for export.

Agriculture relies heavily on banks and other sources of credit. The national production plant for agriculture today is a $339 billion investment. Its value has doubled in the past 20 years.

Farmers have had difficulties in nearly every one of these areas. Credit rates have soared sky-high so that it seems nearly prohibitive to finance the tremendous amount of capital a modern farmer needs for his operation.

Many grain elevators have no room to store recently harvested grain due to a lack of boxcars. Continued feed grain harvest and wheat sowing operators during this crucial fall period have been threatened by the fuel shortage. The shipment of vital fertilizer stocks to overseas buyers prior to the lifting of price controls by the Cost of Living Council has deprived American agriculture of great quantities of vital crop nutrient. It seems that even the export of farm machinery has made it difficult to purchase essential tractors and implements.

These shortages have understandably led many farmers to suspect that they are being sacrificed for the welfare of urban people. But such treatment of agriculture could hardly be the case. Depriving farmers of their essential needs cannot be a basis for the farm-city relationship. It is a two-way street. The prosperity of cities and small towns also depends on the well being of agriculture. Farmers are the main source of income for the stores and shops that line main streets in thousands of American towns and cities.

Last year, farmers' net income totaled $19.7 billion. This year it will reach $24 billion, according to estimates from the Department of Agriculture. This is money that farm families will spend on things they want and desire. But it comes on top of the expenditures that are part of the farming operation itself. A more meaningful figure would be the $86 billion gross income which farmers have to spend.

Altogether, the agricultural plant in the United States, and the people who live in towns and cities whose employment depends on agriculture, account for 20 percent of total American employment. These people are a major source of tax revenues to run the Nation. They are farmers, businessmen, housewives, laborers, professional men, salesmen, and schoolteachers. They are America.

Recently we have seen these Americans divide over issues such as food costs, environmental safety, fuel allocations, transportation delays, inflation, and others. Voices have been raised in frustration and anger. Ears have been stopped and the doors of understanding shut to facts and reason.

Farm-City Week is a national call for all of us to sit down and talk quietly with each other. By getting together, people with differing points of view can get new perspective on problems. By pooling our resources and initiative we can lick those problems.

Let us take up the concept of Farm-City Week and nurture and encourage its growth and acceptance among all our citizens until finally it becames not just 1 week in 52, but a year-round endeavor. Every week should be Farm-City Week. Every day should be a day of thanksgiving.

CONNECTICUT INSURANCE COMPANIES CONSERVE ENERGY

Mr RIBICOFF. Mr. President, Roger Dove, the executive director of the Insurance Association of Connecticut, has sent me details of what Connecticut insurance companies are doing to cooperate in conserving energy.

These efforts are indeed praiseworthy, and Connecticut-based insurance companies hope to save as much as 25 percent of their power and fuel consumption this winter. The insurance companies will also be seeking public voluntary compliance with lowered speed limits and home temperatures.

It is through efforts such as these that Connecticut and the rest of the country will be meeting the problems posed by the current fuel shortages head-on. These efforts, plus legislation just passed by the Senate, the National Energy Emergency Act of 1973, are but two of the many steps needed to solve the energy crisis.

I ask unanimous consent that the release of the Insurance Association of Connecticut, outlining its conservation measures, be printed in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

Conserves Energy

Hartford.—In response to Government requests to conserve energy, Connecticut's home-based insurance companies reported today that they will cut back on power and fuel consumption by as much as 25 percent this winter, with the heating oil reduction of one company alone amounting to an estimated 100,000 gallons.

The insurance companies also announced that they will spearhead a statewide campaign to seek voluntary compliance with the 50-mile-an-hour speed limit and 68-degree home temperature called for by President Nixon and Governor Thomas J. Meskill. This drive will be built around a mass distribution of pledge cards to be sent to state and federal official and a "my limits" automobile sticker will carry the slogan: "50 mph—my limits—68°."

"The aim of this campaign will be to seek the participation and personal commitment of the individual Connecticut citizen," spokesman for the Insurance Association of Connecticut pointed out. "If a driver puts a 'my limits' sticker on his car or signs a pledge card, he will drive at 50 and he will keep his home thermostat at 68." The bumper stickers and pledge cards will be available in quantity to the public starting late next week.

Governor Meskill gave his enthusiastic backing to the insurance industry program. He said he will direct that the new bumper sticker be displayed on all of the 3,500 state government cars, and he will urge the 38,000 state employees to become personally involved in the campaign.

"If the nearly two million Connecticut drivers observe the 50-mile-an-hour speed limit," he said, "Connecticut could save up to 200 million gallons of gasoline a year. The savings in lives and money would be ample reward for the effort required. The personal commitment from individuals that this campaign seeks could produce unprecedented results."

The Connecticut insurance industry, the state's second largest private employer, also is urging its 35,000 employees to participate in a mailing of pledge cards to the Governor, members of the Legislature and the Connecticut Congressional delegation in Washington. The cards state that the signer plans to limit his speed to 50, his home temperature to 68 and will support the public official to whom the card is addressed in his efforts to conserve energy during the present emergency. Space is provided for additional comments.

The companies began distributing the cards to their employees today and will set up mail drops for use as long as they are needed. Distribution of bumper stickers to insurance company employees will start next week. Each company explained the new program in a personal message from its president to its employees.

Drivers of the 10,000 motor vehicles operated by the state insurance companies, both in Connecticut and throughout the nation, have been directed to observe the 50-mile-an-hour limit. All of these vehicles also will carry the new bumper sticker.

Both the bumper stickers and pledge cards will be made available without charge to insurance agents, the State Grange, labor organizations schools, automobile clubs, service clubs, civic and fraternal groups and others interested. Other industries will be urged to participate in the program. Additional promotional plans for the campaign are being developed and will be announced shortly.

The insurance companies, in summarizing their plans to significantly reduce fuel and power consumption, noted that major cuts in Christmas lighting will be one of the first visible signs of the cutback. The more extensive reductions, however, will come in the areas of heating and permanent lighting. The use of elevators is being reduced during non-peak hours. In addition to directing that company cars be driven at lower speeds, the use of car pools and mass transit facilities is being urged.

Aetna Life & Casualty thermostats have been reduced to 63 degrees during working hours and 65 degrees each night and on Sundays. The annual savings for Aetna Life alone are estimated at 100,000 gallons of heating oil or about 15 percent of annual consumption. In addition, elevator and escalator service is being reduced by 50 percent at non-peak hours. The company's fleet of 3,500 cars is being switched to compact models, saving 1.5 million gallons of gasoline a year. These cars have been ordered to be driven at no more than 50 miles per hour.

Connecticut General Life Insurance Co. has determined that it can reduce electric power as much as 25 percent. Lighting will also be reduced in the cafeteria, lounges, corridors and in the 1,800-car parking garage. During the evening, the cleaning personnel will be turning out lights as soon as the areas are cleaned. There will be no decorative lighting used for the Christmas season. Thermostats will be reduced to 68 degrees during working hours and below 68 degrees during the evenings, weekends and holidays. The Bloomfield home office will operate on shutdown or standby basis during weekends and holidays. Elevator and escalator usage will be cut down during non-peak hours. Office business machines will be shut down when not in use. All home office and field office cars are to be driven at 50 m.p.h. or less. Car pools are being encouraged and a special service will be made available to help employees organize car pools. Commuter buses are also being encouraged and the company will urge increasing the number of these buses if the demand supports it.

Connecticut Mutual Life Insurance Co. is eliminating Christmas lighting. Other selected lighting will also be reduced, saving about five percent of the company's lighting energy. Cleaning personnel will also be turning out lights as soon as they complete their tasks in each working area. Average temperatures will be reduced to 68 degrees cutting down its 50,000-gallon heating oil consumption for the winter season by 10 percent.

Since January of this year, a consulting engineer has been working with The Travelers Insurance Cos. and has made recommendations to cut down energy consumption. Some of these plans have already been implemented and others are being studied. Heating and air conditioning needs are being balanced to use the least amount of energy. Nighttime lighting has been reduced 50 percent since last January. Spotlighting on the outside of the building has been eliminated. Water fountains, which use considerable amounts of motor power, have been shut off. And certain elevators have been shut down during non-peak hours. Some 3,200 fleet cars and trucks have been directed to observe a 50 m.p.h. limit on highways. The intensity of tower lights is being cut back two-thirds.

At Phoenix Mutual Life Insurance Co., holiday lighting has been eliminated including the "Noel" display. Heat has been reduced to 68 degrees and the personnel department is encouraging and aiding voluntary car pooling. Over 3,000 lamps totaling 95,000 watts have been removed and escalators have been turned off except for lunch periods. More sophisticated heating and cooling controls have been installed resulting in significant energy savings. All personnel have been instructed to turn off lights when the working area is not occupied and night cleaning personnel are required to turn off lights as soon as an area has been cleaned. The company estimates a saving of 15 to 20 percent in energy needs. The cuts will include a savings of seven million pounds of steam, one million kilowatt hours and 17 tons of chilled water.

The Hartford Insurance Group has also installed a sophisticated system of time clocks to shut off fans and power units and lighting when the buildings are closed. Temperatures will be held at a maximum of 68 degrees. A measure of The Hartford program showed a 40 percent reduction in energy consumption for October of 1973 compared to October of 1972. Although October of 1973 was warmer than the average October, the reduction was still considered significant. The company has also directed its 2,450 company cars to cut down their speed to 50 m.p.h. maximum. New car purchases will be compact models. Christmas lighting has also been eliminated.

Other insurance companies also have begun similar energy conservation plans. They include Aetna Insurance Co., Connecticut

Commercial Travelers Mutual Insurance Co., the Covenant group, General Reassurance Corp., Hartford Steam Boiler Inspection and Insurance Co., Litchfield Mutual Fire Insurance Co., Middlesex Mutual Assurance Co., National Fire Insurance Co., New London County Mutual Insurance Co., Patrons Mutual Insurance Co., Safeguard Insurance Co., Security-Connecticut Life Insurance Co. and Security Insurance Group.

COURAGEOUS STAND ON CONSUMERISM BY THE CHAMBER OF COMMERCE PRESIDENT

Mr. PERCY. Mr. President, one of the priorities facing the Congress this year is to afford 200 million American consumers improved protection against unworthy goods and services through the creation of a Consumer Protection Agency. An attitude of "let the buyer beware" undermines confidence in business. The consumer movement aims to eliminate the deceptive, unfair, and unsafe practices in which only a small minority of firms persist.

In this connection, Edward Rust, president of the U.S. Chamber of Commerce and an outstanding member of the business community for over 33 years, has taken a courageous and progressive stand.

In a Chicago speech to the National Association of Life Underwriters on September 18, 1973, Mr. Rust affirmed that "quality of product or service is a social responsibility."

He emphasized the need for business-consumer cooperation and understanding:

> It is more sensible for the consumer to expect perfection in everything he buys than it is for business to expect consumer acquiescence to all its shortcomings.

Most controversially, Mr. Rust invited American businessmen—

> To look with fresh eyes at Ralph Nader and the kind of consumerism he represents. The whole point of Nader—so obvious that it is often overlooked—is his single-minded dedication to making the free enterprise system work as it is supposed to—to make marketplace realities of the very virtues that businessmen ascribe to the system. That—suggests a considerable degree of faith in the system and sharply contrasts with the revolutionary who would tear it down.

On that point, the U.S. Chamber of Commerce decided to leave their president adrift. It was made perfectly clear that—

> The Chamber does not, and would not, have a policy with respect to Mr. Nader or his organization and thus Mr. Rust's endorsement of Mr. Nader is his personal opinion.

Mr. Rust, as an individual business leader, deserves to be commended for his willingness to stick his neck out—way out—on the topic of Mr. Nader, whose popularity in some portions of the business community is about at the same level as Attila the Hun. I concur wholly in Mr. Rust's added observation that:

> When business sees consumerism and its spokesman as enemies of the—free enterprise—systems, then business is demonstrating its own failure to understand the healthy tensions and competing pressures that must be always present in that system, if it is to survive.

Because of the importance of Mr. Rust's remarks to consumers, businessmen, and to my colleagues in this Chamber, I ask unanimous consent that excerpts of his statement be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

ADDRESS BY EDWARD B. RUST

We are all aware of the many problems that beset us today as a people—the energy crisis, environmental pollution, inflation, foreign trade deficits, and so on. It is not to dismiss these problems lightly that I say they are, to a degree, transient. They will pass in time, and others of equal urgency will arise to take their place. But there is another problem that, in my view, transcends all of these others. It is suggested by the phrase "credibility gap," which I suppose is just another way of saying we don't believe each other any more. We don't believe the businessman, we don't believe the political candidate or the office-holder or the government agency or the newspaper or the news broadcaster.

Why?

Why has this essential confidence that we need to have—must have—in our institutions eroded so much in the last few years? This is not supposition on my part. It is measurable erosion, and the measurement has been made by the Louis Harris polling organization. The Harris pollsters sought to gauge public confidence in various public institutions and organizations over a recent five-year period.

At the beginning of that period, of those queried, 55% said they had "a great deal" of respect for major companies. Five years later that figure had been halved to 27%. Moreover, three times as many respondents reported they had "hardly any" respect for major companies as said so five years earlier.

And it was not just business that suffered this damaging decline in the public's esteem. The survey also turned up a steep slide in the public's confidence in the military, scientists, educators, doctors and the press.

These are portentous findings, indeed. How can the society, we must ask, function if this decline continues? Can the trend be reversed?

I don't pretend to have the scientific background that would enable me to analyze for you the complex socio-psychological factors that underlie the declining confidence that more and more Americans seem to have in the many institutions that together make up our society. I can only offer the personal observations of an American businessman.

I would agree with Alexander Hamilton, who once said, "The vast majority of mankind is entirely biased by motives of self-interest." I don't know if Mr. Hamilton found that distressing. I do not. But the real problem arises in defining where our self-interests truly lie.

The answer to that question frequently depends upon how far into the future we are willing to look. If as businessmen we look only at tomorrow's profits, then self-interest will dictate that we act one way. But if our focus instead is on the long-range survival of the business enterprise, then we will act in quite another way.

There seems to be some confusion over the role of business in today's society. There is much talk these days about the social responsibilities of business and the need for involvement in social programs. And perhaps we should be doing more of this. But I personally feel that the first order of business is the competent management of business and that management's first priority should be the quality of the product or service it provides.

Please understand that I'm not suggesting we turn away from our obligations to the environment or from any of our social responsibilities. I am only reminding you that quality of product or service is itself a social responsibility with social implications far beyond profit and loss.

It seems appropriate to emphasize that point here today, at your Public Service Award luncheon. The public service program of the National Association of Life Underwriters has, over the years, contributed in countless ways to the well-being of America's communities, and it is vitally important that you continue this work in the future. But it is equally important to understand that the way we conduct our business also measures our sense of social responsibility. The professional life underwriter knows that, but elsewhere in the business community "social responsibility" and "public service" are sometimes discussed as if they were separate and remote from day-to-day business activities.

As businessmen, our focus must always be on the quality of the service or product we offer, simply because this is the first expectation people have of us. The manufacturer that landscapes the factory site but hedges the obligations in his product warranty has a misplaced sense of priorities. It's at this basic level that we must begin to rebuild faith in the institution of business. We need to regenerate a dedication to quality, to value and to service.

We need a commitment to excellence first of all in those things in which we are best equipped to excel. The business manager may need instruction in some of the new social roles that are being urged upon him—but he should need no instruction at all in bringing to the marketplace a product or service that meets whatever claims he is willing to make for it.

Above all else, he should know how to do that!

This, I believe, is what Ralph Nader and other consumerists are saying, and I find it hard to disagree with them on that point. You will notice that you rarely find consumerists criticizing a business for its failure to involve itself in social programs on the periphery of that business. Mr. Nader's focus is usually on the first business of business—its products and services. His primary insistence is on products that perform as they are supposed to, on warranties that protect the buyer at least as much as the seller, on services that genuinely serve.

In accepting the Chamber presidency, I expressed my belief that intelligent men of good will abound in all of our institutions, and that it doesn't make sense that we sit in our respective enclaves of business, labor or government and scream imprecations at one another across barriers of misunderstanding. I also said that most of us share a commitment to the welfare of our nation and of its people, and that we differ only in our perceptions of how to meet that commitment, and that as Chamber president I would focus on those things that bind us together rather than on our differences. It is in that spirit that I invite American business to look with fresh eyes at Ralph Nader and the kind of consumerism that he represents.

He has been described in some quarters as "an enemy of the system," but if we are willing to look objectively at his activities, I think we are forced to the conclusion that his commitment is to make the system work. I believe that it was inevitable that sooner or later someone like Ralph Nader would arise to focus and articulate the dissatisfactions and the frustrations that are widespread among American consumers. And so in him we see not an individual expressing his personal biases, but instead a man who is singularly sensitive to the mood of the public and who is unusually well-equipped to symbolize and express that mood.

Given the wide base of public appeal that Mr. Nader obviously has, I think it is unrealistic to come to any other conclusion. I think it is imperative that American business look calmly and realistically at what consumerism is and what it is not, as represented by Mr. Nader.

I hope you will understand that, as a businessman, I would hardly be siding with Mr. Nader against business. Rather, I simply insist that he is not on "the other side." If we look at the record, I think we will see a clear community of interest that Nader has with American business. The whole point of Nader—so obvious that it is often overlooked—is his single-minded dedication to making the free-enterprise system work as it's supposed to—to make marketplace realities of the very virtues that businessmen ascribe to the system.

It is not his style to mount street demonstrations, but it is his style to insist that products live up to their advertising and to buyers' reasonable expectation of them—and when they don't, to go to the regulatory authorities and say, "Look here. Now regulate."

That kind of activity suggests a considerable degree of faith in the system, and contrasts sharply with the revolutionary who would tear it down.

But if you would say that he sometimes exaggerates, that he overdramatizes, that he is shrill, then I would have to agree—at the same time pointing out that this is the traditional way to gain attention in the clamorous and free American marketplace, as we who advertise our products and services should be well aware.

We in business sometimes complain that the public—and our young in particular—don't understand or appreciate the free enterprise system. But I must observe that when business sees consumerism and its spokesmen as enemies of that system, then business is demonstrating its own failure to understand the healthy tensions and competing pressures that must always be present in that system, if it is to survive.

The consumerist does not demand perfection of American business. I believe he perceives it as a human institution, susceptible to error. But he understands the difference between honest mistakes and deliberate deception—a distinction Nader is able to make with considerable force.

This brings me to a matter that I think is part of this problem of credibility—our self-perceptions. We need always to be aware of our humanity, and that awareness should produce enough honest humility within us to admit that we will make mistakes.

It should be part of the manager's overview of his job to expect mistakes. When he has that view, then he will also have his organization geared to deal with them efficiently and equitably.

It's an exercise in corporate egotism to pretend or assume that mistakes aren't made—to attempt to present to the public an image of godlike perfection, which no one can rightly expect of himself or of the institution he manages. That kind of attitude shows a lack of faith in the American people's capacity to understand that mistakes will be made and their readiness to forgive those who move promptly to correct them.

I think that these attitudes come about as an indirect result of the "giantizing" of our business institutions, to borrow a term from the sociologists. The small businessman cannot isolate himself from his customers, no matter how much he might wish to. But it is possible for the managers of big business to remove themselves from the abrasions of the marketplace.

The tendency is to encapsulate oneself in corporate limousines and executive suites and paneled boardrooms—an environment that in the long run will distort management's view of reality. It's entirely human and understandable, I suspect, that most of us seek to make our lives more comfortable, to escape in some measure the harsh realities of human existence.

But I suggest to you that it is an inescapable part of the businessman's job to maintain direct personal touch with the realities of the marketplace. Market research is fine and necessary—but those neat charts and graphs can never give you the feel of product and user that you get from a direct confrontation with an angry or happy customer.

I was in an office conference the other day in Bloomington, Illinois, when a customer of ours in Houston got me on the telephone. He had a problem that I was able to help him with. When our telephone conversation concluded, one of the people in my office commented that an efficiency expert would be appalled that I would interrupt an important meeting to involve myself in the problems of one of our 20 million policyholders. It would strike him as an inefficient use of executive time. My response was—and I deeply believe this—that the day I refuse calls from customers is the day I should resign as head of the companies, because that is the day I will have begun to lose contact with the real world in which we operate.

Share this little fantasy with me—

Suppose every American product has a sticker on it, right up there where everyone could see it—smack in the middle of the car's dashboard, right on the side of the toaster, or in big letters by the dial of the TV set, and it read:

"If this thing doesn't work like we said it would, call our president," followed by his name and telephone number.

It's hard to imagine the impact this would have, but I can tell you a couple of things that would happen. Those consumer complaint statistics that come up in orderly columns from the computers would suddenly come very much alive, bristling with humanity, and in a very short span of time, the corporation president would acquire a very sure sense of reality—as well as an unlisted phone number.

You see, my name is on about 20 million insurance policies. If our service to our insured breaks down—as it sometimes does—or if misunderstandings arise that aren't cleared up elsewhere in the organization, the policyholder will sometimes look at the bottom line of the last page of his insurance contract, see my name and call me. And if he doesn't get me, he gets one of my assistants.

Quite often, he is irate and frustrated and has carefully marshaled the arguments he is sure he will need. But when I listen to his complaint, and if it's clear to me that he has not received what he has a right to expect from us, I apologize to our customer and tell him what I'm going to do to get things back on track for him. At that point, there is often stunned silence on the customer's end of the phone line, and I sometimes have to say "hello" two or three times to awaken him from shock.

Why should candor and a desire to correct error be such a startling experience for an American consumer to encounter in American business?

I have been told that these observations may make of me something of a pariah in the American business community, but I'll take that risk because I have great faith in the reason and good sense of most business leaders and managers.

But just as business must be willing to calmly assess what consumerism is really trying to achieve—must be willing to distinguish between honest criticism and unproductive enmity—so do I believe that it is fair to ask the American consumer to look at business realistically. It is no more sensible for the consumer to expect perfection in everything he buys than it is for business to expect consumer acquiesence to all its shortcomings.

I sense a kind of perfectionist mood in some quarters of the society, an irascible intolerance for error of any kind. This is probably a by-product of our technology and our advertising. Too often, the latter leads people to expect what no product or service can possible deliver. (I've yet to see the marriage that was saved by changing brands of coffee.)

Our technology presents us with a more subtle problem. We've all heard the nostalgic comment, "They sure don't build them like they used to," and in some instances, this may be true.

But there's another side to that coin. Not too many years ago the fairly affluent American home could count no more than a half-dozen electrical appliances. Today, an inventory of electrical devices in most American homes would total in the dozens—electric razors, his and hers; electric toothbrushes, mixers, blenders, fry pans and broilers; electric can openers; electric knives.

If the average appliance—when there were only six in the home—operated six years without needing repair, the customer was going to the serviceman on the average of once a year. But if you have three dozen appliances in your home—and many homes would have at least a dozen more—then you are getting something repaired on the average of once every 60 days. In other words, even if the level of quality is the same, your service problems have increased six-fold, which is a pain in the budget and elsewhere.

Inflation, as well, heightens our expectations of products and services; the more you pay for something, the more you demand of of it.

I think all of us—businessmen and their customers (and many of us are both)—need to abandon the cliches we too often use in talking and thinking about this thing we call "the system." The businessman sometimes behaves as if he were its sole proprietor, and the customer sometimes expects more of it than it can possibly deliver.

At best, perhaps the system can only be an uneasy partnership, out of which the consumer can expect reasonable satisfaction and out of which the businessman can expect reasonable profits.

I think most reasonable people would settle for that.

And I believe that reasonable people can make it happen just that way.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, we have waited over a quarter of a century since the Genocide Convention has been in force among signatory nations. And still the United States has failed to ratify the treaty.

Twenty-five years is a long time. Long enough for arguments to be heard, problems explored, objections to be met. We have indeed heard the arguments. The Senate Foreign Relations Committee has issued several favorable reports on the Genocide Convention, meeting the objections of opponents to the convention and showing many of their fears to be groundless.

Mr. President, it is time for the Senate to take up this important human rights document.

I urge ratification of the United Nations Convention on the Prevention and

Punishment of the Crime of Genocide without further delay. A nation founded on the highest principles of human rights cannot waiver any longer in its support of the most basic of such rights: the right to life itself.

CURTAILING SENSELESS HIGHWAY SLAUGHTER—PART II

Mr. PERCY. Mr. President, as I have mentioned in previous remarks in the RECORD, a contributing factor to the carnage and loss of life on our Nation's highways is dangerously high speedometer calibrations on automobiles. Maximum indications of 120, 140 and even 160 miles per hour defy drivers to accelerate beyond safe and lawful speeds. Last year alone, 56,000 Americans were killed in motor vehicle accidents, 2.1 million were injured and $19 billion in damages were reported. Most importantly, speed was a factor in approximately 16,000 of the 48,000 fatal accidents that occurred in 1972.

Prompt action is needed to curtail excessive speeding on our highways. Several weeks ago I proposed a first and logical step—that maximum speedometer calibrations be restricted to 85–90 miles per hour with a red-lettered "extreme hazard" zone above that. Because this solution is moderate and inexpensive, immediate implementation is within our grasp. More than a few lives would be saved.

On October 2, 1973, I entered into the RECORD two letters dated September 26, 1973, to Lewis Engman, Chairman of the Federal Trade Commission, and to James Gregory, Administrator of the National Highway Safety Administration, requesting consideration of my proposal. In response, Mr. Engman has informed me that FTC's Bureau of Consumer Protection is conducting a review of the matter. Specific recommendations are forthcoming with all due speed. Mr. Gregory pledged to take a "personal and priority interest" in the proposal. And, in a subsequent phone call to my office, NHTSA has indicated that action is imminent—a move I applaud.

I have also written to the top-ranking executives of the four major automobile companies. It was my hope that responsible leaders in the industry would voluntarily implement the proposed change. Such action would eliminate costly administrative and judicial proceedings and symbolize the companies' concern for the consumer.

Though encouraging for the most part, their replies contain no immediate plans for implementation.

Lee Iacocca, president of Ford Motor Co., commended the proposal's "obvious merit." He expressed the company's intention to pursue a detailed examination of the matter.

From General Motors, President Edward Cole informs me that top speedometer markings on a number of 1974 passenger cars have been lowered to 100 miles per hour. However the letter's implication is that only a few models have been affected. The move is a step in the right direction—just not far enough.

S. L. Terry, vice president of environmental and safety regulations at the Chrysler Corp. replied:

> We are looking into the competitive and sales implications of the speedometer change you suggest along with various ways of accomplishing it. We will keep you informed as to the action we take.

I am certain that when Chrysler looks more closely at the safety implications of the proposal it will see the unassailable need for constructive action.

And, William Luneburg, president of American Motors indicated that his company would "cooperate with the appropriate Federal agency or agencies for the purpose of examining in detail this proposal." Again, action rather than study seems called for.

The news and broadcast media are more cognizant of the potential and real danger of speedometers calibrated to hazardous and unlawful speeds.

A Chicago Tribune editorial—October 11, 1973—recounts a dramatic case in point:

> His (Percy's) contention is borne out by the experience of a youthful friend of ours who nearly killed himself on the Florida Turnpike trying to photograph a speedometer of 110 miles per hour.

The Trib added:

> Unless it is to sell cars by convincing car buyers that they are getting a monstrously powerful, four-wheeled jungle cat speedster (as so much advertising seems designed to do) the three-digit speedometer has no purpose.

The Kansas City Times poignantly admonished:

> Excessive speed is no private matter. It involves the right of other motorists to share the road and live.

Focusing on an immediate solution, the Times declared:

> The Percy proposal deserves a good and prompt look by government and the automobile industry.

WQUA Radio in Moline, Illinois, took the proposal one step further. The station advocates 80 miles per hour as the cut-off calibration.

Radio Station WBBM in Chicago concluded:

> We think Percy is right on target. Further delay can only lead to more senseless slaughter on our highways.

And, WRAU, the ABC radio affiliate in St. Creve Couer, Ill., reasons:

> The fact that 56,000 Americans are killed every year on the nation's highways dictates that those of us that are still living must do everything we can to reduce this slaughter. Channel 19 agrees with Percy's recommendation.

Claud R. McCamment, director of highway safety in Kansas, has endorsed the proposal. He also offered to testify in support of restricted calibrations. He writes:

> I have seen reports of thousands of horribly injured persons from the actual traffic wreck reports that go across my desk . . . the larger percentage of those had as their primary cause speed, and extreme speed has been the factor in the mutilations that occurred.

Most recently, the Federation of Insurance Counsel has recommended to the Department of Transportation that maximum speedometer calibration be limited not to 85 or 90, but to 70 miles per hour by September 1, 1975. In a letter to me, Mr. Bernard Bertrand, Chairman of the FIC's Highway Safety Committee, cited a staff report of the U.S. Department of Transportation—maximum speeds for motor vehicles, January 31, 1969. This study estimates that highway fatalities could be reduced up to 8 percent if drivers refrained from exceeding a maximum speed of 70 miles per hour. Approximately 4,000 lives could be saved each year.

My mail has indicated that far and away most motorists favor the proposal. One letter in particular, was especially on point. I think it worth sharing with my colleagues:

> OCTOBER 31, 1973.
>
> Hon. CHARLES PERCY,
> *Washington, D.C.*
>
> HONORABLE SIR: Your proposal to enforce safer automobile speedometers is commendable.
>
> I wish to offer a suggestion for a speedometer which would tend to discourage rather than encourage excessive speeds:
>
> When the speed reaches 60 miles per hour, a yellow light would appear.
>
> At 75 miles per hour, a red light would appear.
>
> At 90 miles per hour, a little cuckoo bird would jump out and sing, "Nearer, my God to thee."
>
> Yours truly,
> STANLEY MCAULEY.

Dangerous speedometer calibration is only one of a multiplicity of consumer protection issues that now confront the Nation. Misleading advertising, empty warranties and guarantees, deceptive packaging, anticompetitive conduct, unfair pricing, bait-and-switch merchandising all must be repudiated. The protracted, inefficient process by which consumer problems are now resolved—or more often not resolved—must be made expeditious and more effective.

A solution is currently before the Senate. Senators RIBICOFF, JAVITS, and I have introduced legislation proposing the creation of a Consumer Protection Agency. The CPA would serve as a voice for consumers in situations where they previously have been voiceless. Its primary responsibilities would be to represent the interests of the consumer in deliberations before Government agencies and the courts.

A functional abyss has existed in our Government for too long. It is now imperative that we take decisive steps to guarantee adequate protection to 200 million American consumers.

Mr. President, in closing, I ask unanimous consent to have printed in the RECORD with my remarks the complete texts of the letters and editorials referred to above.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> FEDERAL TRADE COMMISSION,
> *Washington, D.C., October 18, 1793.*
> Hon. CHARLES H. PERCY,
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR SENATOR PERCY: Thank you for your letter of September 26 in which you propose that the Federal Trade Commission initiate action which would impose limitations on the calibration of automobile speedometers.

I share your deep concern regarding the problems of automotive safety and appreciate your suggestions for possible areas of constructive action by the Federal Trade Commission.

Due to the complexity of this matter, I have asked the Bureau of Consumer Protection to expeditiously review your proposal and to provide the Commission with specific recommendations.

I am advised that you also have directed a similar request to the National Highway Traffic Safety Administration which has specific authority to set safety standards for automobiles. It is our intention to consult closely with that agency to determine its interest in this area.

We will respond to you in detail on this matter upon the completion of our staff's analysis of your recommendation.

Sincerely yours,

LEWIS A. ENGMAN,
Chairman.

WASHINGTON, D.C., *October 5, 1973.*

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of September 26 and comments relating to high motor vehicle speed.

In the interest of improving motor vehicle safety, the National Highway Traffic Safety Administration issued in November 1970 a Notice of Proposed Rulemaking on High Speed Warning and Control, a copy of which is enclosed. You will note that this proposal included your suggestion for limiting speedometer calibrations. Private and public response to this notice was tremendous, over 24,000 replies. In light of the comments received, a number of changes were found to be necessary. We are presently considering what is the best course of action with this subject and whether a new rulemaking proposal should be issued.

Again, thank you for your letter. Your continued interest in motor vehicle safety is appreciated.

Sincerely,

JAMES B. GREGORY,
Administrator.

WASHINGTON, D.C., *October 18, 1973.*

Hon. JAMES B. GREGORY,
Administrator, National Highway Traffic Safety Administration, Washington, D.C.

DEAR DR. GREGORY: Your letter of October 5, 1973 has just come to my attention. I appreciate very much your added note to the effect that you will be taking a personal and priority interest in the matter of limiting speedometer calibrations on automobiles produced for use on the Nation's highways.

I was troubled, however, by the body of your letter referring to the NHTSA's earlier Notice of Proposed Rulemaking in which the idea of constraints on speedometer markings was advanced. I was familiar with that proposal when I wrote to you, and was acutely aware of the fact that it was promulgated in November of 1970. It was to have taken effect, by its terms, on October 1, 1972.

It is now three years from the date of the original proposal and one year from the date it was to have taken effect. Yet, in response to what seems an obvious and easily remedied risk to safety, I am told of 24,000 replies to the proposed rulemaking. If those replies were timely, they were received prior to March 1971. So, for 2½ years NHTSA has sat on them. Now I am informed that NHTSA is considering "whether a new rulemaking proposal should be issued." It is inconceivable to me that another such proposal in this regard is needed. The time is past due to quit making proposals and to issue instead a final regulation which will achieve the end which I believe you and I both seek.

Having read NHTSA's 1970 proposed rulemaking, I would guess that most of the 24,000 replies have to do with sections other than S 4.3.2 dealing with speedometer calibrations. For my own edification, however, I would like to see, and therefore request, copies of all responses having to do with that particular section. Undoubtedly, most responses were directed at the far more controversial requirements of the proposed rulemaking such as limiting maximum engine speeds to 95 miles per hour. However worthy that recommendation, and I believe it is, there is no need to further delay implementation of the calibration proposal while awaiting a consensus on maximum speeds.

Finally, I note that a proposal was originally promulgated in October, 1967, to deal with the problem of maximum speed controls on automotive vehicles. In the past, the Congress has been accused, and rightly so, of acting too slowly. But surely NHTSA does not need six years, or even three, to regulate out of existence so senseless a hazard as this.

Since you are a new arrival on the scene, the faults and delays of the past ought not be placed on your shoulders. But I do believe that you have it within your power now to assure a halt to such callous disregard of the public interest by ordering prompt action in this matter.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

FORD MOTOR CO.,
Dearborn, Mich., October 19, 1973.

Hon. CHARLES H. PERCY,
US. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Just prior to leaving on a business trip to the Far East, I want to thank you for your suggestion on speedometer calibration, which certainly has obvious merit. I have asked our technical and safety people to get into this for a more detailed response to you, which I'll provide on my return.

Incidentally, Mr. Mecke mentioned to me your interest in our Mustang II and the possibility that you may purchase one. This is indeed a high compliment.

With best personal wishes.

Sincerely yours,

LEE IACOCCA.

GENERAL MOTORS CORP.,
Detroit, Mich., November 7, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of October 8, regarding your proposal to limit automobile speedometer calibrations to 90 miles per hour, and for the copy of your recent Senate statement on this subject.

As you may know, the top speedometer marking on a number of 1974 General Motors passenger car models has been lowered to 100 miles per hour. Moreover, it is our intention to increase the number of models with a reduced top speed indication in the coming model year. As to whether a reduction in the indicated speed to either 100 or 90 would have the desired psychological effect, or whether 90 would be better than 100, we have in fact no hard information.

Thus, despite the voluntary action on our part, we are not confident that a reduction in the top speed indication will result in fewer highway deaths and injuries.

There would seem to be little doubt that very high speed driving can be potentially dangerous and most people would agree. Nevertheless, there are drivers who will operate their cars, in any speed range, at speeds above either posted speed limits or what prevailing conditions would dictate as appropriate. In other words, it seems likely that those few drivers who now drive at excessive speeds would not be deterred by any warning admonition.

I believe you would also agree that depending on road conditions, the hour of the day, the amount of traffic and a variety of other factors—including the condition of the driver—even 30 or 40 miles per hour can be excessive and extremely dangerous as well.

With alcohol playing so large a role in fatal accidents, it is possible that many of those who drive at excessive speeds have been drinking. We would have to question whether these drivers will be deterred from doing so by a speedometer top speed indication of 90 or 100 miles per hour.

While the steps we are taking may not meet entirely your objective, we trust you will accept this action on our part as within the spirit of your proposal. Should accident data be developed to indicate the need to further reduce speedometer calibrations, you can be assured we will do so without any hesitation.

I appreciate your writing and trust that you will get in touch with me if you feel we can provide any further information.

Sincerely,

E. N. COLE.

CHRYSLER CORP.,
November 7, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: In your letter of October 8 addressed to our president, Mr. John Riccardo, you suggested that we limit miles-per-hour speed shown on our speedometers to 90 miles per hour or less. We understand the reasons for your feelings on this matter, and we are looking into ways and means of accomplishing such a change.

We should point out that our studies of traffic accidents indicate that less than three per cent of the fatalities would be prevented even if we could insure that speeds would be held under 90 miles per hour by means of some speed-limiting device. Unfortunately, all of the speed-limiting devices we know of are subject to tampering, and those few who insist on the option of speeding faster than 90 miles per hour would in all probability not be deterred either by speed-limiting devices or by different markings on a speedometer.

We do appreciate your writing us your feelings on this matter. We are looking into the competitive and sales implications of the speedometer change you suggest along with various ways of accomplishing it. We will keep you informed as to the action we take.

Thank you for your interest.

Sincerely your,

S. L. TERRY.

AMERICAN MOTORS CORP.,
Detroit, Mich., October 23, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of October 8, 1973, and the excerpt from the Congressional Record of October 2, 1973, which contained your statement on the Senate floor concerning automobile speedometers. I believe that there is merit in your thinking on this subject.

We at American Motors would be pleased to cooperate with the appropriate Federal agency or agencies for the purpose of examining in detail the proposal you have made.

Sincerely,

WILLIAM V. LUNEBURG.

[From the Chicago Tribune, Oct. 11, 1973]

VEHICULAR 'MACHISMO'

Sen. Charles Percy has proposed that the Federal Trade Commission and the National Highway Traffic Safety Administration consider a ban on automobile speedometer markings that exceed 90 miles an hour.

Mr. Percy contends that speedometers with markings indicating 110 miles an hour, 120 miles an hour, and beyond serve only to induce some drivers to try to approach such insane speeds—that they appeal to a "vehicular machismo" that is likely to have fatal consequences. His contention is borne out by the experience of a youthful acquaintance of ours who nearly killed himself on the Florida Turnpike trying to photograph a speedometer reading of 110 miles an hour.

Unless it is to sell cars by convincing prospective car buyers that they are getting a monstrously powerful, four-wheeled jungle cat speedster (as so much car advertising seems designed to do), the three-digit speedometer has no purpose. We know of no place in the country where you can legally drive in excess of 100 miles an hour, and very few where speeds exceeding even 80 miles an hour are tolerated. Some foreign imports have 100-mile-an-hour speedometers but would have difficulty traveling 80 miles an hour downhill.

We're not sure that we need the government telling us how high speedometers should read. But given the volume of traffic fatalities and the need to conserve fuel, the auto industry itself might well consider Mr. Percy's complaint.

[From the Kansas City Times, Oct. 11, 1973]

PAST 90 M.P.H. SPEED—WHO NEED IT?

It has been an abiding curiosity of the mechanical age that automobile manufacturers, appealing frankly to all that is least responsible in human nature, have persisted in building cars capable of traveling half again faster than they can safely be operated on any public road.

"Laid her on the peg"—that's the favorite boast of the juvenile (in age or judgment) anxious to impress with his derring-do behind the steering wheel. The "peg," is the upper limit of the speedometer dial. And on the run-of-the-mill U.S. model, that means 120 per.

In a letter to federal trade and highway safety officials, Sen. Charles H. Percy (R–Ill.) has suggested a limit of 90 miles an hour on the speedometers of new passenger cars. Beyond 90 would be an unnumbered zone with the caution "Extreme Hazard" lettered in red.

There can be expected a plaint from some drivers and possibly from the manufacturers as well that such a restriction would be improper federal intrusion into the rights of the consumer. Certainly it is less an intrusion than the present and future legal and mechanical inducements to fastening seat belts. In any case excessive speed on the highway is no private matter. It involved the right—a more basic right—of other motorists to share the road and live.

Any driver who would insist on the satisfaction of knowing when he has gotten his machine up past 90 on the open highway is one who has no business with a license to drive at any speed. The Percy proposal deserves a good and prompt look by government and the automobile industry.

WQUH RADIO EDITORIAL, OCTOBER 3, 1973

Senator Charles Percy of Illinois has come up with a proposal we think makes sense. He's called upon two federal regulatory agencies to require auto manufacturers to cease and desist the practice of calibrating speedometers to reach hazardous and unlawful speeds.

What the senator has in mind is limiting calibrations to no more than 90 miles per hour, with a red lettered "EXTREME HAZARD" area above that. In his letters to the Federal Trade Commission chairman and National Highway Traffic Safety Administrator Percy says "this built-up inducement to bravado subtly but surely encourages automobile owners to drive at dangerous speeds."

Currently the practice of manufacturers is to calibrate speedometers up to 120, 140, even 160 miles per hour. There are only a handful of states where it's legal to drive over 70 miles an hour. Iowa allows 75 during the day, and Kansas and Nevada allow higher figures, but in all other areas it's illegal to be driying over 70 miles an hour . . . regardless of the circumstances.

Considering this, we'd take Percy's proposal even a step further and suggest making 80 the cutoff figure. Let the highway patrol and state police advise motorists how far over that figure they may have strayed. The speedometer would still tell them what they need to know . . . they're over the posted limit and traveling at an extremely hazardous rate for a public highway.

The highway toll of some 56-thousand deaths annually has reached too high to pass up any opportunity of doing something to help save lives and reduce the tragic toll.

WBBM NEWSRAD EDITORIAL, OCTOBER 23, 1973

The speed limits on most of the nation's highways do not exceed 70 miles per hour. Yet, as Senator Percy recently pointed out, most automobile speedometers in this country are marked for maximum speeds of 120, 140 or 160 miles per hour.

And that, according to Percy, doesn't make sense. What's more, it's dangerous. The Illinois Senater believes the present practice of calibrating speedometers "is an invitation to recklessness, to hit-and-run accidents and to vehicular homicide." It "psychologically encourages people—youngsters especially—to drive faster" than is safe or lawful. He also believes it "was one cause contributing to the 56,000 deaths and 2.1 million injuries on the nation's highways in 1972."

We think Percy is on target. And if you think so, too—you can do something about it. You can write the automobile manufacturers and urge them to implement the Senator's suggestion to limit speedometer markings to no more than 90 miles per hour.

You can also write the National Highway Traffic Safety Administration and the Federal Trade Commission in Washington.

We urge you to do it now—because as Senator Percy said: "Further delay can only lead to more senseless slaughter on our highways."

WRAU EDITORIAL, OCTOBER 20, AND 21, 1973

Senator Percy has focused national attention on the excessive speed of cars. Percy is calling for restrictions on the calibrations above 90 miles an hour. The Senator wants to limit speedometer calibrations to 90 miles per hour with a red lettered "extreme hazard" area above that.

Channel 19 agrees with Percy's recommendation. The fact that 56-thousand Americans are killed every year on the nation's highways dictates that those of us still living must do everything we can to reduce this slaughter. The more than two-million persons injured every year undoubtedly will endorse attempts to improve highway safety.

This station has taken strong stands with respect to the drunk driver who is considered the number one reason for the high fatality rate. The number two explanation is speed, and I don't mean drugs.

While it would be more realistic to establish mechanical governors to restrict the speed of vehicles, this might take many years to accomplish. What Senator Percy is suggesting could be achieved within one year at no expense.

We endorse it. How do you feel?

ROBERT E. RICE,
Executive Vice President and General Manager.

STATE HIGHWAY COMMISSION OF KANSAS,
Topeka, Kans., October 19, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I have seen reports of thousands of horribly injured people from the actual traffic wreck reports that go across my desk, as we have the Central Accident Records Bureau and have had it since 1939. The larger percentage of those had as their primary cause speed and extreme speed has been the factor in the mutilations that occurred.

I have just had an opportunity to read an article that was in one of our local papers in regards to a letter that you have directed to the Department of Transportation relative to a matter that has been in my mind for many years, that is, why do we have speedometers or odometers on motor vehicles that show speeds over 90 m.p.h. or even over 80 m.p.h.

Since all racing units are timed electronically and since no racing vehicle on any recognized track would have any value from a speedometer or odometer that would be at least 10 to 15 miles off at the higher speed; I sincerely agree with you that to challenge each car owner with the speedometer that runs up to 130 and 160 m.p.h. is certainly stupid.

There are few vehicles both American and foreign that could go as high as 180 yet on some of our vehicles the odometer goes to 180 m.p.h. Now where in this country would there be any roadway that would be safe for the driver or their vehicle to travel at such speeds. The vehicle itself is not constructed for this type of speed in mind and the test drivers never attempt to reach such speeds on the very best test tracks of the manufacturers!

You are certainly to be complimented on your recommendation relative to this matter as the temptation especially for the younger driver is extremely prevalent when he sees such an odometer in his vehicle. No matter what the weather may be or what the conditions may be, it gives him a false feeling that he must sometime try the vehicle out.

We had one this past week where the officers estimated that the driver was doing 127 m.p.h. because his vehicle turned over fifteen times. He was 15 years old and he was plenty dead even though he was retained by a seat belt.

I hope that even your severest critic can see some real reasoning and hope that the law or restriction or standard whatever it might be will go through. Even if it is a matter of regulation that no odometer can be sold even for replacement that goes over the 90 m.p.h.

I would be happy to testify in support of such a restriction. Thank you for your real interest in such needed regulations.

Cordially yours,
CLAUD R. MCCAMMENT,
Director of Highway Safety.

FEDERATION OF INSURANCE COUNSEL,
November 6, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I have read with interest your comments relating to the need to reduce the calibrations on vehicle speedometers. I agree with the intent of your proposals; however, upon careful consideration, I am of the view that the speed you recommended is too high.

In addition to my personal views, our organization has given some study to this issue and has recommended to the Department of Transportation that the maximum speed be set at seventy miles per hour. Available statistics indicate that only a minority of drivers exceed this speed, even on the interstate system, and that a reduction to 70 m.p.h. could have significant benefits both in highway safety and in a lessening of the energy crisis.

I hope that you and members of your staff will take the opportunity to review various arguments made in the following portions of this letter, with the view of urging upon the Department of Transportation consideration of the F.I.C 's position in this matter.

The U.S. Department of Transportation, for over six years, has been considering the issuance of a standard relating to a maximum speed control of passenger cars and other motor vehicles.

Among the various standards proposed have been a 95 m.p.h. built-in speed limit, installation of a device which would activate the horn and lights when the vehicle exceeded a certain speed, or installation of a buzzer which would provide a warning in the interior of the car when a certain specified speed was exceeded.

The Federation of Insurance Counsel, having carefully reviewed these proposals, is concerned that the federal government will issue a standard which will add to the increasing cost of automobiles and other vehicles but will not accomplish its intended purpose. If a standard is to be issued, the F.I.C. believes it should be practical, based on sound evidence and strong enough to be effective; otherwise, any compulsory but ineffective equipment on motor vehicles is a fraud upon the consumer, who eventually has to pay for it.

The F.I.C., therefore, has proposed to the U.S Department of Transportation that any motor vehicle standard relating to maximum speed control should contain the following provisions:

1. That no passenger car, multipurpose passenger vehicle, truck, bus or motorcycle, manufactured or assembled on or after September 1, 1975, shall be equipped with a speedometer or other speed measuring device which is capable of indicating a speed in excess of 70 m.p.h.

2. That each passenger car, multipurpose passenger vehicle, truck, bus, or motorcycle, manufactured or assembled on or after September 1, 1975, shall be equipped with a speed limiting device which shall prevent such vehicle from exceeding a speed of 70 m.p.h. unless the manufacturer has certified in writing to the Secretary of Transportation that the vehicle, with or without factory options, cannot exceed such speed.

3. That the Secretary of Transportation shall have the authority to exempt any vehicle or class of vehicle from the standard for reasons of public health or safety.

In addition, the federal government or the states should enact legislation making it unlawful to alter or change any vehicle covered by the provisions of this standard in a way that would permit such vehicle to be operated at speeds in excess of 70 m.p.h.

Stringent and tough regulations? Perhaps so, but necessary for reasons of safety and conservation of our natural resources.

On its face, it is ridiculous to have a vehicle speedometer indicate a top speed of 120 m.p.h., as most foreign and domestic vehicles do, when the maximum speed limit in most states is some 40 to 50 m.p.h. less.

A staff report of the U.S. Department of Transportation (Maximum Safe Speeds for Motor Vehicles, January 31, 1969) pointed out that fatalities might be reduced in the order of 13% if the speed maximum were set as low as 60 m.p.h.; with a 70 m.p.h. maximum, an 8% drop in fatalities might be achieved. An 8% reduction in fatalities would mean approximately 4,000 lives saved, as well as reducing thousands of injuries per year.

The consumption of gasoline by motor vehicles has resulted, according to claims by the petroleum industry itself, in an energy shortage unparalleled in this country, a shortage which has been predicted to last for several years to come. It has been pointed out that this vehicle-oriented energy shortage has affected availability of fuel for home heating, industrial production, and is even playing a role in our country's foreign policies.

A number of claims have been made about the amount of fuel which can be conserved by lowering speed limits; however, no definitive study on the subject has been produced. Those available also usually concern themselves with speeds under 70 m.p.h., so specific data on fuel consumption at higher speeds is lacking. One point, however, does stand out consistently in the available data—that fuel economy drops rapidly at higher speeds. Controlling the maximum speed of vehicles by speed limiting devices or engine modification has an integral place in the overall program of conservation of our energy resources.

The argument undoubtedly will be raised that limiting of such speeds would create substantial inconvenience to the motoring public. In fact, the vast majority of vehicle use is under 70 m.p.h. A Federal Highway Administration report, "1972 Traffic Speed Trends" (October 1972), noted that the average speed on main rural roads was 60.6 m.p.h. Even on level, straight sections of the rural interstate system, the average speed was 64.7 m.p.h. There are, however, numbers of vehicles operated at speeds in excess of 70 m.p.h. The report showed that 14% of the vehicles operated on level, straight sections of main rural roads, including the interstate, were being operated at speeds in excess of 70 m.p.h. It is this 14% that would be most affected by the F.I.C.'s maximum speed control proposals.

In analyzing the relationships between speed, vehicle and driver capabilities and economy, one researcher concluded:

"Under the present driver-vehicle-roadway configuration, operating speeds above 70 m.p.h. are not desirable. Incremental increases in speed above 70 m.p.h. experience large increases in accident severity potential, while, in the same range, accident occurence potential and vehicle operating costs are on the increase and travel time for particular trip length is decreasing relatively slowly. In addition, speeds above 70 m.p.h. create situations which heavily tax vehicle stability and driver capability. Unless widespread technological breakthroughs can be accomplished, especially in the reduction of accident severity potential, speeds above 70 m.p.h. do not represent an optimum balance between road-user benefits derived and resources spent." (Glennon, John C., Texas Transportation Researcher, October 1970)

Although the available evidence strongly suggests that larger safety benefits would accrue and increased energy savings could be realized if the maximum speed limits were set in a 50–60 m.p.h. range, the F.I.C. does not believe that such limits would receive the necessary public acceptance.

We view our proposals as practical; and if implemented, we believe they would provide an increased margin of safety and a reduction in the utilization of natural resources, without any substantive reduction in personal mobility.

Your interest in this subject is sincerely appreciated. Hopefully, the Department of Transportation will move a little swifter on this issue than it has in the past, since the issue is being regarded by the people and their representatives with increasing concern.

Very truly yours,

BERNARD H. BERTRAND,

Chairman, Highway Safety Committee.

THE CASE FOR GASOLINE RATIONING

Mr. STEVENSON. Mr. President, the last tankers to arrive from the Middle East are only days away.

In the coming weeks, the Nation faces a petroleum shortage ranging from 10 percent to 35 percent. Unemployment could range from 6 percent to 10 percent by early next year. Minority unemployment could skyrocket to 35 percent. The gross national product could fall by 7 percent. Clearly it is time for action. The production of essential fuels for industry, agriculture and homes must be increased. The only way to do so significantly is by decreasing the consumption of gasoline. Every day the Government waits, it insures greater industrial shortages and tens of thousands more unemployed.

Yesterday, with 24 of my colleagues, I sent a letter to President Nixon urging him to immediately maximize the production of fuel oil distillates by reducing the refining of gasoline, and also to initiate a program of consumer-level gasoline rationing.

Mr. President, I ask unanimous consent that the full text of the letter be printed at the conclusion of my remarks.

The case for gas rationing has been recognized by leaders in industry, energy experts and Government officials. It is well put in a column by Hobart Rowen which appeared in the Washington Post last Sunday. I ask unanimous consent that this column also be printed in the RECORD at the conclusion of these remarks.

When the shortages are upon us, the homes cold, and the factories closed, it will be too late. I urge the President to act now.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 19, 1973.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are deeply troubled by your unwillingness to increase the supply of fuels for essential purposes by limiting the production and consumption of gasoline. We believe the time has come for resolute action.

For every million barrels of petroleum products the nation is short per day, about one and one-quarter million people will be put out of work. When the last Mid-East oil tanker reaches our shores in coming days, the nation may be faced with a three million barrel per day shortage. That would mean almost a doubling of the unemployment rate to over nine percent and a seven-percent reduction in gross national product.

These figures are national averages. Hardships do not fall evenly on all sections of the country or all individuals. Suburban residents heavily dependent on the automobile could be severely inconvenienced by the fuel shortage. A shortage of three million barrels a day could drive unemployment among minority workers as high as thirty or forty percent. Human suffering, severe economic dislocations, even social disorders are threatened. These effects of the fuel shortage could be felt by the first of the year. To minimize them, we first urge you to increase the production of essential industrial, agricultural and home heating fuels, like fuel oil, by decreasing the production and consumption of non-essential fuels.

A fourteen percent reduction in the refinery yield of gasoline could mean as much as a thirty percent increase in the supply of fuel oil. But the nation's 252 refineries are not maximizing their production of fuel oil at the expense of gasoline. Currently the refineries are turning only twenty-three percent of every barrel of crude oil into distillates, and fifty-one percent into gasoline. They could be turning thirty percent of every barrel into distillates if gasoline yields were reduced to forty-four percent. They could make this changeover in less than one week. Every day they wait, we lose another opportunity to reduce a growing industrial and home heating fuel oil shortage that may go as high as twenty-five percent of total demand.

By reducing gasoline production and consumption, you could keep America's factories and industries open this winter. To assure that non-essential gasoline consumption is reduced, and available supplies allocated fairly, we also urge you to ration gasoline.

Mr. President, we request that you exercise your authority to allocate scarce petroleum products under the Economic Stabilization Act Amendments of 1973 and the Emergency Defense Act of 1950 by immediately initiating the following two-part program:

1. Require all American refineries to immediately maximize their production of fuel oil distillates, reducing gasoline production to whatever extent necessary to accomplish this goal. Stringent monitoring of refinery performance in this regard is essential.

2. Initiate a program of consumer level gasoline rationing for the purpose of establishing an equitable distribution of reduced gasoline supplies.

A decrease in gasoline consumption can come out of non-essential fuel uses and create the necessary fuel for essential uses. Administration spokesmen, energy experts and industry leaders have acknowledged that limitations on gasoline production and consumption will be adopted sooner or later. We respectfully suggest that the nation has already waited too long. Every day the government waits, it insures tens of thousands more unemployed. Every day it waits, it increases the chances of social disorders and economic chaos.

The stakes are simply too high to wait a day longer. The personal sacrifices associated with limiting gasoline production and gasoline rationing are small when compared to the havoc and hardship resulting from shortages of home heating and industrial fuel oil and gasoline for essential uses.

We urge you to act now.

Sincerely,

SENATORS SIGNING LETTER TO THE PRESIDENT

Stevenson, Jackson, Ribicoff, Burdick, Cranston, Eagleton, Metcalf, Hughes, Muskie.

Haskell, Moss, Chiles, McIntyre, Hathaway, Hart, Abourezk, Proxmire, McGee.

Mansfield, McGovern, Randolph, Williams, Humphrey, Symington, Inouye, Kennedy.

FUEL CRISIS AND THE ECONOMY

(By Hobart Rowen)

Former Economic Council Chairman Walter W. Heller wisely observed in a special article for the Wall Street Journal last week that because of the oil crunch, all forecasts for inflation in 1974 are now "subject to change without notice." Let's go one step beyond that: all forecasts of any kind are useless.

The only realistic assumption that can be made is that the economy will be in some sort of recession next year and will continue to be depressed while the Arab oil embargo lasts.

Just how bad the economic slide here will be depends on a number of unknown factors, including the duration of the embargo and the wisdom of U.S. leaders in handling the shortage problem.

So far, there is little reason to be optimistic on either score: the Arabs seem interested in limiting their production and maximizing profits (already huge) regardless of the outcome of the Egyptian-Israeli negotiations; and the Watergated Nixon administration once again appears to be bungling an economic management job.

The clear need at the moment is to install a gasoline rationing program that would sharply cut pleasure driving, so that energy resources still available can be husbanded for essential industry.

But administration spokesmen are all over the lot on this issue, some trying to sweep the urgency of the problem under the rug. Others talk wistfully of a "free market" approach, letting prices skyrocket in order to create new production incentives as well as to diminish consumption.

The trouble with letting prices shoot up should be obvious. Not only would that mean the well-to-do could use and waste resources at will while people of modest means suffer, but such a "solution" would raise unholy hell with the economy.

Heller points out that fuel prices had been soaring even before the "sheik-down." Thus, the price index of fuels, related products and power (representing 7 per cent of the wholesale price index) had risen 20 per cent from September, 1972, to September, 1973. Refined petroleum products rose 35 per cent in that period.

Further price increases are certain. But unless rationing and price controls are made effective, costs will go out of sight.

Some administration officials, notably Economic Council Chairman Herbert Stein and Treasury Secretary George Shultz—who fear any kind of controls—would opt for a surtax system to reduce consumption of gasoline.

But Treasury experts admit that each penny of additional tax sucks $1 billion out of total purchasing power. If—as Gov. John Love suggested—the country needs a 30-cent tax to cut consumption of gasoline by 20 per cent or so, that would pull $30 billion out of individuals' pockets and into the Treasury.

Even if a chunk of that were rebated in various ways, it would be likely to throw the economy into a serious recession.

In any event, the administration has badly failed the nation in assessing and coming to grips with the energy problem. The most compelling energy statistic I've seen comes from Deputy Treasury Secretary William E. Simon:

Prior to the Middle East crisis, the administration's expectation was that energy consumption in the United States would increase by 4 per cent a year, doubling 1970's needs by about 1980.

And how did we plan to get that increased energy supply? From the Middle East, because oil there was cheap. The idea of considering national security in economic terms apparently never occurred to the administration. Now, Mr. Nixon talks of "independence" by 1980.

Back in April, the President sent a message to Congress in which he referred to an energy "challenge"—he wouldn't even use the word "crisis". Five years too late, Mr. Nixon abandoned oil quotas. Yet, there was no recognition that oil was an international problem, and that some day we would have to come to grips with an international cartel with a stranglehold on key supplies.

Meanwhile, the domestic oil industry, fat and comfortable, wasn't anxious to add to refinery capacity or to prove out new reserves. Some oil industry leaders confess they badly underestimated how fast demand would rise, but most tend to blame the conservationists for holding back new exploration.

Early this year, former Commerce Secretary Peter G. Peterson came back from a trip around the world and reported to the President that energy would be the United States' overwhelming problem for the next decade, but he was politely ignored.

Peterson tried to get Henry Kissinger's attention focussed on the problem, but Kissinger was too preoccupied.

In his report, Peterson sharply highlighted U.S. dependence on Middle East oil for the projected growth of the economy through the 1970s and early 1980s. In an interview with him published in the Washington Post on July 9, 1973, I reported:

"Peterson's figures assume that the Middle East countries will continue to be attracted by higher prices, increase their production and sell the West all the oil it wants to buy.

"But the Middle East countries, knowing that their oil resources are finite, may decide not to increase production so rapidly. And in any event, the Middle East countries broadly suggest that unless there is a solution to the Arab-Israeli conflict more satisfactory to them, they may not cooperate with the West at all."

The administration wasn't listening.

Around mid-year, Mr. Nixon appointed Love to head an Energy Policy Office, but a sense of urgency didn't emerge until the shock of the oil embargo that accompanied the outbreak of war in the Middle East.

Mostly, the past few months have been a time of fumble and stumble. Mandatory allocation of propane and middle distillate fuels was put in, but gasoline and electricity consumption are still subject to only voluntary restraint.

Above all else, the administration needs to act at once to put a mandatory rationing system in effect for private transportation and home heating oils.

At the same time, it must address itself to developing new sources of energy for the long haul, and to working with other Western nations in the short run to find ways of persuading the Arabs to lift their embargo.

There is no reason why the Western nations should not consider economic countersanctions, from food shipments to sales of manufactured products (including aircraft and arms) to technical aid and knowhow. A retaliatory embargo, of course, would require the Western World to act together. Given the Arabs' success in forcing Britain and France to make the right anti-Israeli noises, and the possibility of similar successful blackmail against Japan, prospects for the success of such a concerted drive look dim indeed.

NATIONAL KIDNEY FOUNDATION

Mr. THURMOND. Mr. President, the National Kidney Foundation is a major voluntary health organization that is working very hard to find the answers to kidney diseases. It has increased public awareness of the disease and raised money to support research in this area. Even though the foundation has made much progress, there is still a great deal to be done.

One reason for the difficulty in this area is that kidney disease is a "silent" killer. By this I mean that public awareness of this catastrophic disease is so low that attempts to eradicate it have been seriously hampered, in spite of its high mortality rate. Furthermore, this disease is such that it may inflict irreparable damage to the victim's vital organs before he or she is aware that anything is seriously wrong.

Mr. President, the statistics of the disease are astounding. There are over 8 million people in this country who suffer from some type of kidney disease, and 60,000 of them will die from it this year. Dialysis is one answer to this problem, but it is costly, time-consuming and noncurative. The better solution is transplantation, but this technique is not fully utilized because of the shortage of kidney donors, facilities, and trained personnel. Out of the 6,000 to 8,000 "ideal candidates" for transplantation this year, 4,000 to 6,000 will be left to die because of these shortages.

The disease also has a great impact on the business community. Statistics compiled by the National Health Survey and reported by the National Kidney Foundation in 1965 reveal that the principal causes of workloss among American women are kidney-related diseases of the genitourinary system. The same diseases are the second highest cause of workloss in the United States for the population under 25. Furthermore, kidney-related diseases are the fourth highest cause of workloss for the population over 25.

Despite the magnitude of this problem, our scientists working in this area and on the verge of exciting new discoveries often find that many of these lifesaving investigations cannot be pursued due to the lack of funds.

Mr. President, kidney disease is the fourth leading health problem in America, but we will not be able to eradicate it without total commitment to a program of detection, research and prevention. For these reasons, I urge my colleagues to support the National Kidney Foundation and legislation which would help bring an end to this terrible and tragic illness.

A RESOLUTION ADOPTED BY THE SOUTH CAROLINA FEDERATION OF REPUBLICAN WOMEN

Mr. THURMOND. Mr. President, on November 10, 1973, the South Carolina Federation of Republican Women, meeting in Spartanburg, S.C., adopted a resolution calling for the immediate confirmation of the Honorable GERALD FORD as Vice President of the United States.

The resolution notes GERALD FORD's well-known reputation for integrity, forthrightness and courage, and further notes that there are many other pressing matters which demand the immediate and full attention of this Congress.

Mr. President, I join the South Carolina Federation of Republican Women in urging the immediate confirmation of GERALD FORD, and I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

The South Carolina Federation of Republican Women, in Convention assembled in Spartanburg, S.C. on November 10, 1973 adopted the following resolution:

Whereas the South Carolina Federation of Republican Women urges you most strongly to confirm the appointment of Gerald Ford as Vice-President of the United States at once, and

Whereas Mr. Ford has worked hard and long in the House of Representatives and is well known by all for his integrity, forthrightness and courage; therefore, that any long, drawn-out investigation gives the impression of extreme partisanship and/or possible retaliation against the President, and

Whereas there is urgent business, namely the long-delayed action on the energy crisis, the oil shortage, and the need for an oil pipeline to Alaska; that the war in the Mid-East is a matter which should claim your attention and your immediate action, therefore

Be it resolved that the South Carolina Federation of Republican Women urges the confirmation of Gerald Ford and the immediate return to the business for which the members of Congress were elected to perform.

OUR FAILURE TO PLAN FOR OUR NATION'S GROWTH

Mr. STEVENSON. Mr. President, the energy crisis now presented to Americans need not have been a surprise—it could have been predicted and at least partially alleviated by adequate planning. And the pressures which have led to the energy crisis—mounting demands for the use of finite resources—threaten a crisis in many other aspects of American life. Just as in the special case of our energy, only comprehensive planning can prepare us for the pressures of growth.

My colleague from Maine, Senator MUSKIE, spoke about the need for planning growth in a speech to the Planning and Conservation League, in Anaheim, Calif., on November 17. He dramatized the need for planning by pointing out that in each of the next three decades new urban growth will absorb an area greater than the entire State of New Jersey, generating tremendous demands for housing, highways, and essential services. But he explained that current planning mechanisms are woefully inadequate to deal with this growth: They tend to be negative rather than positive, localized rather than region- or statewide, single purpose, and without means for implementation.

Senator MUSKIE concludes that only a national growth and land-use policy, including all levels of government, can provide for the planning our Nation will need to guard its scarce resources.

Mr. President, I ask unanimous consent that Senator MUSKIE's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

I

America is awakening to a new age. I wish I could say it was an age of abundance and unlimited prosperity. It is not.

It is an age when we in America finally realize that our world is not a cornucopia. There are limits to its resources, limits to its air, water and land, limits to its ability to sustain human life.

Many Americans discovered only two weeks ago that there is an energy crisis. Most of us here in this room know that this energy crisis was the result of poor planning or worse, no planning at all, on the part of the Nation's energy companies.

We are reacting to the energy crisis with some long overdue energy conservation measures—too many of which are voluntary; with a vigorous Federal commitment to energy policy and planning—which will not show results until the end of the decade; and with a massive effort to increase the supplies—which will not be available to relieve our shortages for some time.

Most Americans don't realize that there is also a critical shortage of land in many parts of this country, and that the shortage is getting worse. Let us all hope that it will not take the kind of crisis we face in our energy supply to do something about it.

II

There are some encouraging signs of a growing awareness of the limited nature of our natural resources.

In just a few years, public concern has led to the enactment of effective Federal legislation to control the pollution of our air and water—legislation which requires land use decisions for the maintenance and improvement of environmental quality. The Federal awareness of environmental interests and issues has increased vastly.

At the State and local level this new awareness is also apparent and pervasive. In no fewer than nine States, statewide movements exist for protecting scenic areas, preventing over-growth, and slowing development processes that threaten to degrade the environment.

Last year in California this mood exhibited its political viability as well as its grass roots energy in several areas:

Passage of proposition 20, the coastline initiative;

Passage of height limitations for new buildings in Santa Barbara and San Diego;

Approval of open space purchases in San Mateo, Santa Clara and Marin counties;

And, rejections by citizens of the San Francisco Bay area of State highway efforts to construct a new bridge between Oakland and San Francisco.

The new mood indicates that this Nation has begun to realize how far its environment has deteriorated. But stronger efforts to retard future deterioration and to begin to improve the existing environment are urgently needed.

III

It is unfortunate that Americans have waited so long to recognize the relationship between urban growth and pollution. Twenty years ago all levels of Government could have established patterns to accommodate and guide urban growth in ways which would have minimized the harsh effects on the environment and the severe strain on our natural resources.

But the growth syndrome—not the adverse impact of that growth—dominated governmental decisions. A nation growing out of war and depression was not concerned with the by-products of exponential expansion. As with so many other crises, this country has waited and reacted to environmental deterioration when it could have anticipated and planned sensibly to avoid it.

IV

What we must now do is to take those steps necessary to repair the damage inflicted by this neglect and to make constructive plans to avoid future crises. Although our recently enacted Federal laws on air and water pollution have moved boldly in this direction, much remains to be done to control the most important causes of environmental deterioration—population expansion and urban growth.

V

With few exceptions, the varied and complex land use controls in use today by some 10,000 local governments are little more than refinements upon the land use controls developed and validated in the first third of this century.

They have enabled local governments for

the first time to place significant restrictions on private land use to protect the larger public interest. Yet, in keeping with the traditional concept of land, the larger public interest was—and still is—interpreted to be protection of property values and the economic value of land. Freely translated, protection of the public interest in land use has been and is protection of the private interest. The dependency of cities on property taxes reinforces this prevailing purpose of land use decisions.

VI

Despite refinements in the last 40 years, planning and regulatory controls have failed to address the pressures accompanying urban growth.

These inadequacies have left four areas where present land use controls and policies need major improvements.

First, to protect property values and to maximize their tax bases, local governments have taken an essentially negative approach to land use. They employ their land use controls simply to prohibit what they view as undesirable uses of land. Most cities have treated these negative local land use regulations as though they represented all the land use planning necessary. Thus, rather than guiding planned development, existing land use controls have protected development while neglecting more comprehensive planning on a metropolitan-wide basis.

Second, States, with few exceptions, have failed to accept responsibiltity for overseeing local land use planning. The regulations and development they themselves control too often fail to promote the public interest of the local community, and existing plans of local governments too often adversely affect the public interest of larger areas such as the region or the State as a whole.

Third, where planning has been conducted, it has too frequently served single missions or purposes. Planning of this nature has seldom related specific missions or purposes to a balanced range of regional, State or national goals.

Planning for particular kinds of activities has left the planner and the citizen with narrow "either-or" decisions, often on a haphazard case-by-case basis.

Consideration of long-term alternative uses of the land is seldom mandated and even less often achieved in single-purpose planning.

The highway planning of the recent past provides an excellent example of the failure of single purpose planning. Planners have routed highways through parks—where land is invaluable for recreation but cheap for roadbuilding. They have carved up low income districts with commuter access roads. They have poured additional highway lanes into cities unable to cope with more automobile traffic and air pollution. And they have sited major interchanges without regard to the unplanned and often unanticipated growth centers which they generate.

Fourth, many municipalities have land use plans but have failed to provide for their implementation. Throughout the country, in the smallest towns and the largest cities, plans lay collecting dust—mute testimony to the inability of planning alone to achieve land use goals.

VII

Let me give you an example of these shortcomings. A short time ago I received a detailed and elaborate brochure from a small community near Los Angeles which had acquired a large tract of cleared, undeveloped land. This suburb had devised a plan for the development of its new land. It designed the tract to be a congenial mix of houses, parks, lakes, schools and light industry. The new community promised to be very pleasant indeed.

Upon more careful analysis, however, I noted that there was no provision within the plan for disposal of solid waste, or for waste treatment facilities.

Consequently, all of the increased burdens generated by the growth of the new community would fall on existing facilities beyond its bounds.

Some other community must provide a landfill site; or perhaps some coastal town must tolerate the dumping of wastes in its estuary or off its beaches. Neighboring municipal treatment plants must bear an increased burden until the growing new community realizes the need for its own facility.

In a similar way, the new city would produce an increased localized demand for electric power, which must be generated elsewhere. Provision of water for the new community would mean renewed demands on the Colorado River, or the Sacramento, or any of a number of already hard-pressed sources.

Finally, the community plan had little provision for population growth. With the light industry projected, the number of housing lots will be just about adequate for the present decade.

But what thought has been given to the next decade, or the next after that?

This well-intended scheme does not, then, really represent an adequate plan for land use. Its local design was impeccable. But it failed to consider the broader impact to its own development on neighboring communities, neighboring states, and the nation as a whole. And it failed to include a policy for its own future development.

VIII

Perhaps, more than any other factor, the failure to provide implementation of land use plans illustrates the greatest weakness in our present land use practices.

This failure has one cause: no level of government is willing to accept the responsibility to plan comprehensively and to put those plans into effect by regulating the way private landowners use their land.

Courts never have to concern themselves with comprehensive planning in the nuisance and trespass cases which they decide.

States abdicated their responsibilities for this task when they delegated their powers to municipalities.

And cities avoid the problem by not planning on a comprehensive level or failing to provide the necessary implementation mechanisms.

IX

These kinds of responses are clearly inadequate. Sobering statistics suggest that unless our land use decisionmaking processes are vastly improved at all levels of government, the United States will be faced with a truly National land use crisis.

Over the next 30 years, the pressures upon our finite land resources will result in the dedication of an additional 18 million acres—28 thousand square miles—of undeveloped land to urban use.

Urban sprawl will consume an area of land approximately equal to all the urbanized land now within the 228 standard metropolitan statistical areas—the equivalent of the total areas of the States of New Hampshire, Vermont, Massachusetts, and Rhode Island. Each decade, new urban growth will absorb an area greater than the entire State of New Jersey.

The equivalent of 2¼ times the housing in the Oakland-San Francisco metropolitan region must be built each year to meet the Nation's housing goals.

By 1990, according to estimates of the Department of Transportation, an additional 18,000 miles of freeways and expressways will be required within the boundaries of just the urbanized areas—more than double the total mileage existing in 1968.

Vast areas of land are required to meet plans for industrial expansion. In the next two decades, the electrical power industry alone will need three million acres of new rights-of-way—and more than 140,000 acres of potential prime industrial land for more than two hundred new major generating stations.

Not included here is the amount of land to be consumed by mining for resources—rights-of-way for gas and oil transmission—and land for second home and private home and private recreational development.

Moreover, there is no way to measure the severe effects and conflicts that will develop at the local, State and national levels from this rapid depletion of our land resources.

X

The enormity of these demands makes it mandatory that we begin a new phase of land use management—a phase that corrects failures of the present approach to land use planning and its regulatory mechanisms.

We need policies and programs that treat land use as a resource to be managed, and not a commodity to be exploited.

Realizing this great need, some States have already commenced such programs.

The State of Maine established the land use regulation commission in 1969 to zone and control development in the unorganized townships of the State, 49% of Maine's total land area amounting to more than ten million acres.

Coupled with the site selection permit program administered by the State's board of environmental protection, the land use regulations commission has provided the people of Maine an opportunity to protect their public property rights against private waste.

Likewise, California voters in 1972 approved a citizens' initiative creating the California coastal zone conservation commission with a carefully designed permit program to regulate changes in land use on the California coast.

Federal legislation concerning land use should encourage and, if necessary, require States to adopt regulatory programs similar to these. While the Federal Government may not be the best administering authority for such programs, Federal law should specify the criteria against which land use decisions should be made at the State and local level.

XI

I have proposed Federal criteria which the States should consider, although policies may vary from one part of the country to another.

These include:

Prohibition of public or private development which will result in violation of emission or effluent limitation, standards or other requirements of the Clean Air Act or the Federal Water Pollution Control Act.

Prohibition of residential, commercial, or industrial development on flood plains.

A requirement that major residential developments provide open space areas sufficient for recreation.

A requirement that utilities maximize multiple usages of utility rights-of-way.

Restriction of industrial, residential, or commercial development on agricultural land of high productivity.

Prohibition of industrial, residential, or commercial development which will exceed the capacity of existing systems for power and water supply, waste water collection and treatment, solid waste disposal, and transportation.

XII

In addition to this, however, we need a *national* growth policy and a Federal land use policy that would guide the management of our land resources in conformity with the national growth policy. This Nation, and the world, continue to grow at exponential rates. If the present population expands at its present rate, the world's population in the year 2000 will be double the 1970 population. Furthermore, there appears to be little possibility of leveling off global population growth before the year 2000 because most of the prospective parents of that year have already been born.

The demands of this population on the earth's resources will undoubtedly produce serious social, economic, political, and environmental conflicts here in America as elsewhere. While we in America may take some satisfaction in the stabilization of our population, we should recognize that our own leveling off will only minimally affect world population totals and the demands of that population on world resources.

Despite the enormous efforts which will be required to meet known demands, and the consequent strains on our human activity, even this Nation has no present policy for directing its growth either to avert such crises or to mitigate the impact.

What we need and do not have is a national growth policy to guide and effectuate economic development, population control, housing distribution, the use of natural resources, the protection of the environment, and the location of government and private development. In short, we must face the larger question of how large and in what directions this Nation should grow.

All levels of government should begin to ask the questions which they have postponed for so many years. Where are we, and where are we headed? The answers will necessitate consideration of major changes in life styles and institutions. They will certainly necessitate changes in our attitudes toward land and land ownership.

Rights of land ownership can no longer be treated as absolute—rather they must be modified by society's larger needs.

The lesson is obvious—and is dramatized by the energy crisis. If finite resources are to serve the needs of more and more people, their use must be planned to insure that the available supply serves the best uses our common wisdom can identify, and those uses must serve the equities of a free society dedicated to the welfare of all its citizens. And that will not just happen.

THE NOMINATION OF GERALD R. FORD

Mr. PERCY. Mr. President, in the early days of our Nation, the first Vice President, John Adams, philosophized about his job this way:

> In this job I am nothing, but I may become everything.

For years the office of Vice President was, indeed, considered "nothing," but history and a succession of Presidents who realized the importance of the position have changed our view of the office. We all realize now exactly how essential the Vice President is to this country.

We are aware that the Vice President is more than the oft-quoted "one heartbeat away" from the highest office in the land; we have come to see the Vice President as a molder of public opinion, an effective spokesman for our Nation around the world, and a proponent of domestic policy. Even more than that, the Vice President has the opportunity to work closely with the President in reflecting public opinion and being the President's "eyes and ears" as he travels around the country.

We are living in unprecedented times. For the first time in our Nation's history, we will utilize the 25th amendment to the Constitution which calls upon the President to nominate a new Vice President in case of a vacancy in the office. For the first time in our history a Vice President was forced to resign from office. It was a confidence-shattering experience for the American people.

For these reasons, Mr. President, I want to commend President Nixon on his selection of Gerald Ford as the Vice Presidential nominee. He will be responsive to the American people's feelings and needs. He will restore integrity and confidence to the second highest office in the land.

Mr. President, when I first met Jerry Ford a quarter of a century ago, he had already been elected to Congress for his first term, and I was in my first year as president of Bell & Howell. We were gathered in Peoria, Ill., where he was to receive the Junior Chamber of Commerce's award as "One of the Ten Outstanding Young Men in the Nation." I was impressed with Jerry Ford's gracious open manner and his straightforwardness. I have continued to be even more impressed over the years as I have seen him work.

Even as he has risen through the ranks in the House of Representatives and his scope of interest has naturally broadened, Jerry Ford has not lost sight of his first obligation—representing the people of the Fifth Congressional District of Michigan. Even as he became a national leader of the Republican Party, he never failed to put the views of his constituents before any other consideration.

Jerry Ford is a man of character and integrity. I am confident that he will take to heart the views of all Americans as easily and sincerely as he has the views of the people he represents in Michigan. I believe he will be as responsive to all Americans as he has been to the people of Michigan.

It was imperative that the Senate Rules Committee investigate Representative Ford's background closely. The American people deserved that and Jerry Ford deserved a thorough investigation so that any questions of misconduct might be dispelled before he assumed high office.

I was impressed with his performance before the committee. His candor and sincerity during the questioning only furthered my notion of what a good Vice President he will be. I believe that all Americans were reassured when, asked to define his concept of the Presidency, Congressman Ford replied:

> I think the President has to be a person of great truth, and the American people have to believe that he is truthful. I think that the President has to lead by example, displaying the standards, morally, ethically and otherwise, by which most Americans live their lives.

I expect that Jerry Ford, in his capacity as Vice President, will live up to the high standards he sets for the Presidency. He will, I expect, be all that the American people would hope their Vice President would be.

SENATOR KENNEDY ON ISRAEL

Mr. RIBICOFF. Mr. President, earlier this month the American Committee for the Weizmann Institute of Science was privileged to be addressed by Senator Edward Kennedy.

Speaking in the aftermath of the Yom Kippur war, Senator Kennedy noted the sacrifices made by Israel and eloquently underscored the need for American military and diplomatic support for Israel.

He also reminded the Soviet Union that—

> While America is willing to work for détente, there are limits beyond which we will never go.

Senator Kennedy warned that our Nation's desire to maintain détente must not prevent us from recognizing the perils as well as the promise of détente.

Now that Egyptian and Israeli commanders are meeting to work out the truce arrangements, it would be well to keep in mind Senator Kennedy's words that "the major powers must not seek to impose that peace" and that only by direct face-to-face negotiations between Arabs and Israelis can any genuine peace be achieved.

I ask unanimous consent that the text of Senator Kennedy's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address of Senator Edward M. Kennedy to The Annual Dinner of The American Committee for the Weizmann Institute of Science, New York City

I am pleased and honored to have the opportunity to join with you this evening at the annual dinner sponsored by the American Committee for the Weizmann Institute of Science.

I want to express my special appreciation to Arthur Krim for his kind introduction. Let me thank Abraham Feinberg, your Board Chairman, for this invitation and let me express my congratulations to your newly elected President, Morris Levinson.

In a very real sense, I feel a part of the Weizmann Institute, a part of its history and hopefully a part of its future. My brothers both knew Chaim Weizmann as a man of the highest political ideals, a man who had dedicated his life and energies to the dream of Eretz Israel.

Several years ago, when I visited the Weizmann Institute, I was deeply moved by the memorial to President Kennedy. The memorial Menorah stands as a beacon of hope and life, the burning bush a symbol of everlasting faith, faith in God and faith in man.

It is equally fitting that Dewey Stone, Harry Levine, Meyer Weisgal and so many of you here tonight understood the belief in youth and the passion for excellence that President Kennedy cherished and established a fellowship program in his name that continues today.

As I speak to you tonight, it is not Israel alone which faces a severe test in the days ahead. Our nation faces its own test, its own challenge. It is a challenge whether we can restore confidence at home and overseas in America's leadership and America's government. It is a challenge whether we can convince our own people that the laws of our land apply to all. It is a challenge whether our Constitution and our institutions of government are capable of correcting the abuses which have distorted the purposes and the ends of democratic government. I have faith that we will meet and overcome these challenges just as I have faith that the people of Israel will meet and overcome the challenge now facing them.

And I come here tonight with the belief that the Weizmann Institute is one of the reasons why the people of Israel will not falter, because they are a people who already have overcome more challenges in the past 25 years than most nations endure in 200 years.

For more than a quarter century, the Weizmann Institute has sought to fulfill the promise of its founder, the promise "that science will bring to this land both peace and a renewal of its youth, creating here the springs of a new spiritual and material life."

Part of that promise has been achieved. Research underway at Rehovot spans the most advanced frontiers of experimentation in understanding and combating cancer. It spans the development and demonstration of high-yield wheat to meet the peculiar problems of Israel and other semi-arid climates. It spans the discovery of derivatives to break the web of drug addiction.

But the sad truth today is that experiments are halted. Laboratories are closed. Classrooms are empty.

The one part of the promise held out to the people of Israel by Chaim Weizmann that has not yet been fulfilled is the promise of peace.

For the Weizmann Institute, as for the rest of Israel, the savage violation of the Yom Kippur peace by Egypt and Syria meant a call to arms, a call to turn reluctantly from the pursuit of knowledge to the defense of Israel.

Over half of the scientists, over half of the faculty, over half of the students were mobilized. And those who remained, mobilized themselves. On the farms of nearby Kibbutzim, in the hospitals and in the plants, the scientists and scholars of yesterday became the harvesters, the aides and the factory workers of today.

Now, we have learned that at least four of the Weizmann Institute's family will never return to their laboratories.

We mourn tonight for Meir Ben-Ari, for Yaakov Leshem, for Yaakov London, and for Gad Reshef.

Their loss is a tragedy for Israeli and Arab alike. For the work left undone is not the work of any one nation, but the work of all mankind. It is the attempt to expand the limits of human knowledge. It is the attempt to shed light into the darkness. It is the attempt to discover new answers for a world where three-quarters of the inhabitants still awake each dawn to hunger, disease and despair.

That enterprise can begin anew only when peace returns to the Holy Land.

Three days ago, I met with Prime Minister Golda Meir in Washington. No man can come away from that meeting without a new understanding of what it means to say the words—Am Israel Chai—the people of Israel live.

Once again, she told me, the attackers have been driven back.

Once again, she told me, the spirit of freedom is alive.

Once again, she told me, the dream of Chaim Weizmann has been preserved by the courage and sacrifice of the people of Israel.

But the burden and the cost have been enormous. The vast loss of life, the thousands of wounded, the prisoners who remain under enemy control, the families who wait for word whether their sons are alive or dead—how does one measure that cost to a nation? she asked.

Yet through it all, the people of Israel showed the same heroism, the same courage, the same spirit that have become the birthright of the State of Israel.

Their heroism on the battlefield, Mrs. Meir said, was matched by the heroism at home. Those in the factories and shops worked twice as hard to make up for those who were on the front. And throughout the land, the people of Israel pledged a month's pay to a reconstruction loan fund to repair the damage of the conflict.

It was the continuing evidence of a readiness to sacrifice by a people whose history has been marked by sacrifice. It was the continuing evidence of faith by a people whose destiny has depended on faith.

No symbol of that faith is as forceful as the sight of Soviet Jews landing at Lod airport throughout the past month. Those new arrivals had a choice between staying in Europe or continuing on their journey to a nation at war. Not one held back. Not one remained behind. All chose to become new olim, new immigrants, new citizens.

All chose to become part of the biblical prophecy, the prophecy that "I will bring them out from the peoples and gather them from the countries and will bring them again into their own land."

For free men around the world, the spirit at work in Israel is the spirit of hope and the spirit of life. And none who cherish the ideals of freedom and justice can turn their back on her destiny.

For Israel is not only a firm friend of the United States; Israel is also the continuing embodiment of the ideals of democracy and the ideals of freedom. Israel is not only a force for stability; Israel is also a nation of hope to millions of oppressed people around the world; Israel is not only a center of science and development; Israel is also the haven of the survivors of the Nazi holocaust.

The American people have not yielded in the past to demands that they forsake the cause of Israel and I am convinced that neither the sword rattling of the Soviet Union nor the oil boycott of the Arab nations will alter that commitment.

At a moment when armies stand poised on the edge of a fragile ceasefire, no man can predict whether we are on the road toward a permanent peace or merely experiencing the brief respite before new and more tragic violence. But there is much that we can do to reaffirm our commitment to peace and to reaffirm our commitment to the security of Israel?

First, we must join with the people of Israel in demanding that all prisoners of war be returned at once and that the provisions of the Geneva Convention be respected and adhered to. Israel has turned over the list of Arab prisoners. But where are the lists of Israeli prisoners?

Israel has given safe conduct to the Red Cross. But where are the safe conduct slips for the Red Cross to visit Israeli prisoners?

The full moral force of the United States must be exerted in public and in private to achieve the immediate release of all prisoners and the return of all prisoners to their homes. Our voices must be raised to protest an attempt to hold prisoners of war hostage to territorial concessions.

Second, we must demand an end to the blockade of the Bab El Mandeb straits that has closed the international waters of the Red Sea. The United Nations ceasefire resolution contains an unambiguous mandate for an immediate end to all military activity. And it is part of our responsibility to make clear to the United Nations and to all the parties that the resolution must be fully respected.

Third, we must insure that Israel continues to have the means to defend herself. For crucial days following the attack on Israel, the United States hesitated. For crucial days, the Soviet airlift went on unbalanced. And today, the Soviet pipeline still pours missiles and weapons into Egyptian and Syrian airfields and seaports.

A short time ago, I joined with 67 of my colleagues in introducing a resolution urging immediate resupply of arms to Israel. At the same time, the Administration responded with a request for emergency assistance for Israel.

I pledge to you my full and complete support for that measure.

I pledge to you that the Congress will act swiftly on that measure.

I pledge to you as well that the assistance in material and equipment that Israel needs to maintain its ability to defend itself will be forthcoming.

Fourth, we must not allow the legitimate desire to maintain a strategic detente with the Soviet Union, a goal in the interests of all mankind, from preventing us from recognizing the perils as well as the promise of detente.

Although the Soviet Union finally joined in the ceasefire resolution, its actions in the Middle East have been designed to increase its influence rather than to promote peace. It must now recognize the profound risks in seeking to use detente as a weapon of national advantage, risks that cannot be taken by responsible men in a nuclear era.

For while America is willing to work for detente, there are limits beyond which we will never go.

We are not willing to pay a price that jeopardizes the lives of the people of Israel.

We are not willing to pay a price that jeopardizes the rights of Soviet Jews to live without fear in the Soviet Union and to emigrate without opposition from the Soviet Union.

We are not willing to pay a price that jeopardizes human rights and individual liberties.

Finally, we must stand for immediate direct negotiations between Israel and the Arab nations to secure an end to the current confrontation and to begin the journey that leads to a permanent peace, a signed peace, a peace that guarantees the security of Israel and its neighbors forever.

The major powers must not seek to impose that peace. As concerned governments, we can and should play a role in assisting those negotiations, in helping them reach fruition. One can only wait and watch the results of Secretary Kissinger's efforts this past weekend and pray for the success of the mission that begins today. For only when nations talk with one another is it likely that they will understand and learn to live with one another.

Eight days ago, two rival generals met face to face in the desert night. It was the first official contact in more than 15 years between Egypt and Israel. It can mark the beginning of a new bond of communication and negotiation. Or it can mark the end of a brief moment of reconciliation.

There is a choice to be made, a choice of whether the people of the Arab lands and the people of Israel will spend the next generation as they have the last, waiting for their sons to be called, waiting for the sound of battle to be heard, or whether they will commit themselves to finding peace.

Hopefully, the day will come when all Arab leaders will accept the existence of Israel and the future of Israel as part of their own future.

Hopefully, the day will come when Arab leaders will recognize fully the tragedy that for the fourth time in 25 years has befallen their own people as well as the people of Israel.

Hopefully, the day will come when Arab leaders will share a desire that all nations may live "each beneath its vine and fig-tree with none to make them afraid."

For peace is all that Israel seeks. Peace to make the desert bloom again. Peace to permit the young to live without fear, peace to turn the energies of man and the resources of a nation to building life anew.

That was the belief of Chaim Weizmann 25 years ago when he was inaugurated as President of this Institute and when he was inaugurated as President of the State of Israel. It was the same belief that Ephraim Katzir brought with him when he left the Institute to become the fourth President of the State of Israel.

It was the belief that "There are . . . sublime values and that only through them shall we cure the ills of mankind—values of righteousness and justice and peace and brotherhood."

Like a surging river of life, those values course through the history and heritage of the State of Israel. They are the values of humanity. They are the values of civilization. They are the values we must preserve for ourselves, for our children and for our children's children. They are the values that we must seal in the book of life forever.

REFORM OF CONGRESSIONAL PROCEDURES

Mr. ROTH. Mr. President, as the report on S. 1541 from the Government Operations Committee goes to press. I want to voice my concern that we are sending to the floor legislation which has, in my opinion, some serious loopholes.

The reporting of this bill represents the culmination of many thousands of hours of work by members of this committee and a very diligent staff. For me, it goes well beyond the intense congressional interest in the issue of budget reform this year. It represents the most concrete evidence toward major accomplishment of a goal I have sought since I first joined Congress in the House of Representatives in 1967.

It has become a well-documented fact that Congress has rarely, if ever, considered the President's budget with a comprehensive meaningful debate. We have worked in a piecemeal fashion, turning our attentions one day to the procurement of military arms, and the next, coping with the nagging problems of poverty through various social programs. We have often been surprised, and perhaps some even embarrassed, by the overall results of our many hundreds of separate decisions.

Last year, for example, the Congress authorized a debt limit of $465 billion, consistent with some $250 billion in Federal outlays for fiscal year 1973. Yet we simultaneously authorized spending of more than $260 billion, in apparent contradiction of our earlier economic directions. The ambiguity of our position and a period of intense inflationary pressure, caused the President to act unilaterally to impound more than $12 billion in funds for the past fiscal year.

I have argued consistently that this step, though by no means the most desired ultimate course of action, was in the short term a necessary remedy. Though Congress has authorized a joint committee to study and report on our economic well-being, its reports have no force of legislation. And though individual Members have from time to time decried the relative ranking of our Nation's priorities, Congress has never been faced with a full fledged debate to determine its collective preferences. The President, therefore, has acted because of a congressional vacuum rather than in spite of an orderly budget process.

It is this systematic consideration of national priorities and available resources to meet them that this bill seeks to establish. We have called for a new Congressional Office of the Budget to provide skillful, impartial analyses of the financial impact of existing and proposed legislation. We have all too often awakened to major cost escalations or overruns after the die has been cast. An office of this sort will be able to provide Congress with the professional scrutiny of spending plans that we so badly need. Its Director and personnel will be expected to perform their duties with the highest degree of professional integrity, and we can all look forward, I am sure, to the enormous benefit of this newly created resource.

Second, this committee has wrestled with the very complex problems of a new congressional timetable for budget consideration. The recent increase in the number and size of continuing resolutions is a certain barometer that the present time frame simply does not conform to legislative realities.

On July 1 of this year, none of the 13 regular appropriation bills for fiscal year 1974 had been enacted into law. Many agencies and their constituencies have come to expect government by procrastination—a sorry commentary on Congress inability to cope with its yearly responsibility.

I fully agree that Congress should be under new constraints to complete action on authorizing bills by a date certain. This added discipline, set in the context of a change in the fiscal year to October 1, should help to steer the Congress through an expeditious, but thoughtful consideration of authorization bills and subsequent appropriations.

And lastly, I heartily applaud the concept of an overall budget resolution in which Congress attempts to assign meaningful parameters to various legislative measures. A congressional budget resolution would seek to spell out limits on spending and debt, as well as drawing attention to needed changes in the sources and/or amounts of Federal revenues. It is this concurrent resolution which is supposed to bring the many parties at interest into direct contact with each other—the crucible in which current congressional thinking is forged.

But I take strong exception to the committee's decision to have this resolution only a target, rather than a firm restraint. This bill establishes a procedure under which total spending and revenues are tacitly agreed upon in Congress by July 1 of each year. But nowhere does the bill require that Congress enact new tax legislation if it is called for. Nor does it place a meaningful lid on Federal spending.

When Congress settles on total spending figures, it is free to exercise its will on subsequent spending bills without regard to any serious threat of curtailment. This is precisely the methodology we use today. Granted, Congress can attempt to rescind spending which exceeds the total set in the first concurrent resolution, but is that honestly a realistic assumption?

The bill calls for all authorization bills to be completed by May 31 each year, and assumes that all spending measures—both appropriations bills and "backdoor" spending authority—will be completed by September 30 in time for the beginning of the new fiscal year. Even though there is a proscription against appropriating funds before the first concurrent resolution is adopted, if spending decisions have been made throughout the summer, will Congress realistically rescind part of them later in the fall?

I cannot accept this scenario as a realistic political outcome. Even though the committee bill places all spending bills in escrow, awaiting the trigger mechanism of the ceiling enforcement bill, the American people will have been notified that Congress has acted by voting a certain level of spending for any given program. If the appropriation has been signed by the President, Congress need only to vote to raise its overall spending in order to accommodate the results of yet another string of separate spending decisions.

The fact that this supposed rescission process will coincide with the election season every 2 years makes me all the more incredulous. If Congress, in an early display of discipline, voted to keep outlays within revenues, but exceeded its initial spending ceiling, can we really expect the entire House and one-third of the Senate to vote for retroactive cuts on the eve of their election? Will favored programs simply not burgeon as they do now? Can we not just look forward to a perfunctory process later in the fall when Congress reconciles spending excesses by adopting a new resolution consistent with the sum total of its earlier spending bills?

If this proves to be the case, the earlier debate on priorities will lose much, if not all, of its meaning. Will Senators and Congressmen fight hard for their share of the budget if they know a subsequent resolution will simply confirm their future spending excesses? Will the integrity of the first resolution not be meaningless if it is always changed a second or even a third time? Will the new congressional office of the budget be performing difficult cost analyses and scorekeeping just to have the discipline of this new information waved aside in last minute appeals to emotion rather than good economic judgment? And will Congress not have created an admittedly cumbersome and somewhat torturous process to confuse the public and tempt them into believing the essence of the spending process has really changed?

I raise these questions only because history provides a good analogy. The public debt limit was first conceived as means of exercising spending control. But our frequent increases in this ceiling clearly demonstrate that Congress will accede to the reality of its earlier spending decisions.

I have often posed several alternatives to this committee language which seem to me to offer a greater prospect for a meaningful debate on priorities and more sincere resolutions to hold spending within an economically feasible limit. Should Congress really desire that extra spending increment, let them say so by adopting a second resolution with a two-thirds vote. Or let them call for an automatic increase in taxes to pay for the added programs. Or if developments subsequent to the first resolution make increases in one area necessary, let Congress decide where compensating cuts can be made in others. True national emergencies could always be handled by a suspension of these rules pursuant to a declaration by the President and endorsement by a sense of the Congress.

It would be inaccurate for me to endorse this legislation with an unqualified vote of approval; I have emphasized my strong commitment to many of its provisions, but feel equally strong in my opposition to others. It is my intention to offer amending language to those sections of the bill when most appropriate.

RESOLVING WATERGATE: AN INDEPENDENT SPECIAL PROSECUTOR, AND THE POSSIBILITY OF IMPEACHMENT

Mr. STEVENSON. Mr. President, in a speech to the University of Nevada on November 16, my colleague from Maine, Senator Edmund S. Muskie, delivered a thoughtful analysis of the crisis of confidence posed to the Nation by Watergate. Taking note of developments since the President fired Special Prosecutor Cox October 20, Senator Muskie pointed out that:

> The prospect of full disclosure is yet only a hope, and without more assurance than the President has given us so far, we cannot have the necessary confidence that all the facts of Watergate will be laid bare, and that all Watergate wrongdoers will be brought to justice.

Mr. Muskie pointed out that a special prosecutor who was made truly independent, by legislation now pending to vest his appointment and dismissal in the Federal District Court of the District of Columbia, might suceed in providing the exposition of Watergate that the American people demand. And he added that if a special prosecutor failed to uncover all the facts of Watergate, and if the facts show that the President "may have violated the trust of his office," impeachment of the President might be appropriate.

Mr. Muskie concluded with a careful analysis of the Founding Fathers' decision to establish the impeachment process in the Constitution, and the application of that decision to our current situation. He expressed faith that if impeachment became necessary today, it would see the triumph of principle over partisanship.

Mr. President, I commend Senator Muskie's speech to my colleagues, and ask unanimous consent that it be printed in the Record, together with an article in the Las Vegas Sun of November 17 summarizing Senator Muskie's speech.

There being no objection, the material was ordered to be printed in the Record, as follows:

Speech by Senator Edmund S. Muskie

I.

The two issues I want to deal with are the need, in my view, to establish by law an independent prosecution of the Watergate scandals and the requirement that the House of Representatives continue the process it has now begun to inquire into the possibility of impeaching the President.

Four weeks have passed since the traumatic events of October 19 and 20—when President Nixon announced his original decision not to comply with or appeal the order of the United States Court of Appeals to produce Presidential documents in answer to a subpoena, and shocked the Nation by dismissing Special Prosecutor Cox.

Those events brought to a climax a whole series of actions, charges, and statements which had weakened Americans' confidence in the integrity of the Presidency. And those events finally confronted us with the question—regrettable but unavoidable—of the President's fitness to remain in office. For whatever one's party, and whatever one's answer to that question at this time, there is no doubt that it is now a question foremost on the minds of Americans.

II.

Beginning with the firing of Special Prosecutor Cox, recent developments in the Watergate case have returned us again to the question of whether there will be a full investigation, in which the American people could have confidence, of the complex of corruption identified by the term Watergate. Three days after the Cox firing, the President announced his decision to comply with the Court of Appeal's order, and to submit to Judge Sirica the subpoenaed tapes and documents.

That decision was demanded by the American people with almost unanimous voice. That it was even in doubt demonstrates the gravity of the crisis the President has created—that there was even a question of whether the President would disobey the law in such a clear confrontation—proved to Americans that the fundamental principles of our government of laws were truly being challenged.

By his decision to comply, the President avoided one confrontation, and by his subsequent moves toward cooperating with the Watergate investigation he has partially revived the hope that the rule of law will bring us the entire truth of Watergate. But the prospect of a full disclosure is yet only a hope, and without more assurance than the President has given us so far, we cannot have the necessary confidence that all the facts of Watergate will be laid bare, and that all Watergte wrongdoers will be brought to justice.

We had once before been given such assurances by the President. In his public statement of May 22, 1973, the President said: "Executive privilege will not be invoked as to any testimony concerning possible criminal conduct or discussions of possible criminal conduct, in the matters presently under investigation, including the Watergate affair and the alleged cover-up."

Yet it was the President's claim of Executive privilege, to avoid providing full disclosure which led to the tapes decision, and the dismissal of the special prosecutor.

III.

The President's offense of firing Special Prosecutor Cox has still not been corrected. This act, and the resignations of the Attorney General and Deputy Attorney General, violated the understanding of the American people that there would be no interference with the Watergate investigation.

And now a Federal district court has told us that this act was illegal. But the court decision makes it seem that the President can legally rescind any regulations he chooses, including the new ones that supposedly protect Mr. Jaworski's independence. So the new prosecutor is still not safe in his job—not yet certain that the President has finally bound himself to observe fixed rules for the inevitable contest between the investigations and the White House.

Congress is now considering legislation to insure that the special Watergate prosecutor is made genuinely independent by being appointed and subject to removal only by the Federal district court. This procedure is well within our constitutional framework. Indeed, the possibility is given express sanction by the language of the Constitution, which provides that "Congress may by law vest the appointment of such inferior officials, as they think proper, . . . in the courts of law. . . ."

I hope that Congress will shortly pass this measure, and that the President will accept it in the spirit of accommodation he has so recently adopted. It would give the American people added confidence that the true facts of wrongdoing in Watergate will be exposed to public scrutiny.

For despite the President's new disclosure policy, the American people continue to demand a full and thorough exposition of those facts.

Missing and nonexistent tape recordings, and lax control of evidence held by the President, raise increasing doubts that any disclosure controlled by his discretion will ever be satisfactory.

It is not enough for the President to engage in private conversations, at his pleasure and in his domain, with Members of Congress.

For the American people have had enough of political maneuvering behind closed doors. Only an independent and open investigation process can provide the exposition they demand. An independent special prosecutor, or the Watergate committee, may provide that forum.

And if they fail—or if they uncover facts which suggest that the President, in fact, may have violated the trust of his office—our Nation has an ultimate forum: an impeachment by the House of Representatives, and a trial in the Senate, to give us a final resolution of accusations against the President.

IV.

For the charges which raise the question of the President's fitness to remain in office involve acts which challenge the fundamental nature of our democracy. To the list of charges and suspicions has been added the question of the integrity of evidence in the President's possession. But the list, extending backward in time, already includes charges of an unparalleled conspiracy to defraud the people of their rights to an honest election, to independent and thorough criminal justice, to constitutionally guaranteed civil liberties, and to an impartial and fair administration of public affairs, the list includes:

Charges that burglaries committed against a private doctor's office and a political party's headquarters were officially authorized.

Charges that suspects and key witnesses were offered bribes to keep them silent or promises to encourage them to lie.

Charges that journalists, Government officials, and private citizens illegally lost their privacy to official wiretappers, acting without court warrant.

Charges that independent Government agencies were pressured to abandon their impartial responsibilities in order to harass and intimidate critics of the administration and to show favoritism to friends.

Charges that the head of the F.B.I. was ordered to destroy evidence.

Charges that top officials of the C.I.A. were ordered to violate their agency's charter against interference in internal affairs.

Charges that a Federal judge was offered promotion while presiding over a crucial and controversial case.

And charges that a secret police agency was established in the White House with authority to break the law in order, supposedly, to protect national security .

Some of these acts allegedly involved the direct participation and decision of the President. Most of them involved men in the White House acting with what they took to be Presidential authority and approval, much of their behavior appears grossly improper and some of it, in the preliminary judgment of grand juries, was illegal.

V.

But the overriding concern about all these actual and suspected breaches of law is the degree to which they were proper or improper exercises of Presidential authority.

These questions are among those which the full investigation of Watergate will explore. And while we withhold our judgments of them as that exploration proceeds, preparations for impeachment are going forward in the House of Representatives. But no decision has been made to proceed with a vote on impeachment.

Hopefully, that decision will never be necessary. But the possibility that it will requires that we consider carefully exactly what we mean by the impeachment process, and when and how it might reach culmination and the removal of the President.

VI.

Impeachment itself is no more than a majority vote by the House of Representatives that a trial should be held on removing the President from office. A House decision to impeach—in effect—to indict the President on specific charges—would lead to a trial in the Senate, with the Chief Justice of the United States presiding, requiring, a two-thirds majority vote to convict the President and dismiss him from office.

This process of impeachment by the House and trial by the Senate is no more and no less than a means for making a final judgment on whether official conduct by a Chief Executive violates fundamental rules evolved in our system for setting limits on the conduct of public officials.

Our founding fathers' decision to include in our Constitution this process for making such judgments helps us understand the prospect of impeachment today. They knew the dangers of providing for removal of the Chief Executive, but they agreed that the possibility of Government lawlessness required a remedy.

VII.

The authors of the Constitution first considered the basic question of whether the President should be impeachable at all. In creating the office, they attempted to strike a balance between independence of Executive action, and the separation and checks of powers among our three branches of Government. With sophistication and understanding they decided that the President should be subject to the ultimate check, removal from office, outside the normal electoral procedure.

In this decision they had in mind the experience of British history, especially the British people's actions in the preceding century against oppressive monarchs and corrupt officials. They knew that during the 17th century impeachment had been used as an important tool for removing chief ministers of the king. There had been more than 50 impeachments in Britain in the past two centuries to reflect upon.

VIII.

With this history behind them, and the outlines of the United States Government before them, the framers decided for two basic reasons to adopt the principle that the President should be removeable through impeachment.

First, they felt that impeachment and removal was necessary to check abuses of the President's power.

For instance, James Madison, according to the records of the convention debates, "Thought it indispensable that some provision should be made for defending the Constitution against the incapacity, negligence, and perfidy of the Chief Magistrate. The limitations of the period of his services was not a sufficient security." In short, they wanted a means to put the President out of office in order to protect the Nation from the consequences of his wrongful actions.

And a second reason for including impeachment in the Constitution was to furnish a procedure for passing judgment on the President's conduct. Aside from stopping any abuses, the procedure would allow the Nation to affirm the high standards of official conduct it expected.

Elbridge Gerry of Massachusetts expressed the hope of the Founders that "the maxim would never be adopted here that a Chief Magistrate could do no wrong." George Mason of Virginia declared that when great crimes were committed he was for punishing the principal as well as the accomplices. Edmund Randolph of Virginia declared that guilt, wherever found out, should be punished.

We hear this sentiment echoed everywhere today—that high officials, including the President, should not—because of their office—escape judgment for wrongs they commit.

Ben Franklin, drawing on his European experience, told the Philadelphia Convention of a Dutch prince suspected of treachery:

"Yet as he could not be impeached and no regular examination took place, he remained in his office, and strengthening his own party, as the party opposed to him became formidable, he gave birth to the most violent animosities and contentions. Had he been impeachable, a regular and peaceable inquiry would have taken place and he would, if guilty, have been duly punished, if innocent restored to the confidence of the public." Franklin concluded that: "It would be the best way therefore to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it, and for his honorable acquitial when he should be unjustly accused." The impeachment and removal process thus was seen as a mechanism for resolving a national crisis of confidence.

So the Convention voted to make the President impeachable, and subject to removal from office. It was on another day, six weeks later, that the convention made the final decision on exactly how that process of impeachment and removal should operate.

Again, the Framers drew on British practice—impeachment by the House of Commons, and conviction by the House of Lords, on broad categories of charges, such a subversion of the Constitution, betrayal of trust, negligence of duty, corruption, and encroachment on the prerogatives of parliament.

X.

The Framers established three classes of offenses as a standard for impeachment and conviction: treason, bribery, and high crimes and misdemeanors. Treason was defined in the Constitution; bribery was defined by common law. And by high crimes and misdemeanors the Convention consciously and specifically referred to the categories of political offenses, against the State, which had already been given meaning by the British experience.

The category of offenses embraced by the term high crimes and misdemeanors, according to that British experience and to our own limited history of impeachments, covers far more than acts which might be indictable under normal criminal law. The category includes political crimes—offenses which amount to a violation of the trust of the office.

James Madison gave one example of such an offense when he argued that a President, having the sole authority to dismiss subordinate executive officials, would also be accountable for their actions in office. The President's authority over his appointees. Madison said, "will make him . . . responsible for their conduct and subject him to impeachment, if he suffers them to perpetrate with impunity high crimes and misdemeanors against the United States or neglects to superintend their conduct so as to check their excesses."

XI.

These and other political crimes violate the trust of office because they offend the political compact essential to the grant of high Government office.

This compact includes understanding that citizens shall obey the acts of Government reached through due process, and that the Government shall respect the rights of the people expressed in our laws and Constitution. And fundamental to this compact is the principle that the men who occupy high office shall also respect these standards—both as men subject to the law and the Constitution, and as representatives of the Government to which the law and Constitution also apply. Violating those standards—or negligently allowing them to be violated—destroys the understanding that permit a free government to operate.

The Framers thus established that a political transgression against the American people—violations of the trust of office in the form of treason, bribery, or high crimes and misdemeanors—should be met by the impeachment and removal process, so that through the Congress the American people could protect against abuses in office, and so that the highest standards of political conduct, and the political compact, could be affirmed.

This is the process to which we may be forced to turn. But that course will never be enforced on us blindly, and we must judge whether the dangers of partisanship and division in that process could be more harmful than the evil it would correct.

XII

The framers knew that allowing judgment on the most fundamental of political questions through the impeachment and conviction process raised the danger that partisanship would overwhelm philosophy. But they provided us the option of impeachment in the hope that principle would transcend partisanship.

We had an experience with a partisan impeachment in the case of President Andrew Johnson. Attacked by the reconstruction Congress, and trapped into disobeying a tenure of office act which most now agree was itself unconstitutional, the Johnson impeachment lasted three full months in the spring of 1868. Of that time, seven weeks were taken up by a trial in the Senate on the impeachment charges. And at the conclusion of that trial, the Senate declined to give in to partisanship and acquitted the President.

I do not believe it likely that the partisanship of the process will ever be repeated. I have faith that an impeachment proceeding today—although it may have its partisan elements—would see the triumph of principle. I believe that it could grant us a resolution of the lack of confidence throughout the Nation in the adherence of the Presidency to the rule of law.

The American people demand and deserve a resolution of this crisis of confidence. It could result in a President vindicated—perhaps with the country still debating his policies, but with the trust of his office intact.

Or it could end in the departure of the

President from office—to be succeeded by a new Vice President confirmed under the 25th amendment, or by a special election to be established by law.

The process of impeachment offers us a means to resolve the drama of Watergate. We may be spared that prospect. But we must be prepared to face it if necessary to preserve the integrity of our constitutional system.

[From the Las Vegas Sun, Nov. 17, 1973]

Impeachment May Be Best: Muskie

Sen. Edmund S. Muskie (D-Maine) said last night the American people "demand and deserve" an end to the Watergate drama and impeachment of President Nixon may be the only answer.

He stopped short of calling for impeachment but said the events of recent weeks and months have "confronted us with the question—regrettable but unavoidable—of the President's fitness to remain in office."

His remarks were made in a speech at the University of Nevada, Las Vegas.

"The American people demand and deserve a resolution of this crisis of confidence," Muskie said. "It could result in a President vindicated—perhaps with the country still debating his policies, but with the trust of his office intact.

"Or it could end in the departure of the President from office—to be succeeded by a new Vice President confirmed under the 25th Amendment—or by a special election to be established by law.

"The process of impeachment offers us a means to resolve the drama of Watergate. We may be spared that prospect, but we must be prepared to face it if necessary to preserve the integrity of our constitutional systems."

He said "the gravity of the crisis the President has created" is such that it cannot be resolved solely by Nixon's current efforts to take his case to Congress and the people.

"The prospect of full disclosure is yet only a hope, and without more assurance than the President has given us so far, we cannot have the necessary confidence that all the facts of Watergate will be laid bare, and that all Watergate wrongdoers will be brought to justice," he said.

"For despite the President's new disclosure policy, the American people continue to demand a full and thorough exposition of those facts. Missing and non-existent tape recordings and lax control of evidence held by the President raise increasing doubts that any disclosure controlled by his discretion will ever be satisfactory.

"It is not enough for the President to engage in private conversations, at his pleasure and in his domain, with members of Congress. For the American people have had enough of political maneuvering behind closed doors."

Only impeachment, he said, "could bring us a final resolution of accusations against the President" if investigation of the scandal fails or if facts suggest Nixon has violated the trust of his office.

AUTO SAFETY

Mr. HARTKE. Mr. President, on October 3, 1973, my colleague from Kentucky (Mr. Cook) and I introduced legislation (S. 2530) which would prohibit the removal or rendering inoperative of safety related equipment on motor vehicles required by Federal motor vehicle safety standards. I introduced that legislation because it made little sense to me for the Federal Government to require the installation of safety systems on motor vehicles and for those systems to be defeated at will. As I pointed out when I introduced this bill, the Clean Air Act contains similar prohibition against modification of emission control devices.

Mr. President, I ask unanimous consent to print in the Record a copy of an ad which appeared in the Berne Witness of September 26, 1973. It is a clear example of the urgent need for this legislation.

There being no objection, the ad was ordered to be printed in the Record, as follows:

Wanted

Owners of 1974 Ford products unhappy with buzzers and interlocks. For a safe and quick removal, call 334–5655.

WEST VIRGINIA AGAIN LEADS NATION IN REHABILITATION

Mr. RANDOLPH. Mr. President, during fiscal year 1973, the West Virginia Division of Vocational Rehabilitation regained its first-place ranking among the 50 States in the number of persons rehabilitated per 100,000 population. As a West Virginian, and as chairman of the Senate Subcommittee on the Handicapped, I am understandably proud of this achievement. Final reports for the fiscal year show that 483 persons per 100,000 population and 648 per 10,000 disabled population were restored to employment and productive lives. A total of 27,932 persons were referred to the West Virginia agency during the year, and 19,510 were provided one or more rehabilitation services. Both are new highs for the agency.

In addition to cases served by the field program, the division disability determination section processed 17,950 cases, and 9,500 were allowed social security benefits. A total of 30,294 beneficiaries received $7 million monthly in benefits during the year.

The division's black lung section received 42,634 applications and processed 35,536. There were 14,224 cases allowed benefits. During fiscal year 1973, a total of 38,240 black lung beneficiaries received $8,481,000 monthly. Since the beginning of the program, in January of 1970, a total of $242,128,000 has been paid to black lung beneficiaries.

Mr. President, these are programs that work. Diligent efforts to maximize the State and Federal rehabilitation dollars that actually go into the hands of the needy and the helpless make rehabilitation one of the best services government can offer. The aim to restore those who are handicapped or who suffer job-related illness to tax-paying, self-sufficiency is the best social and economic investment we can make.

The accomplishments of the West Virginia Division of Vocational Rehabilitation are the result of much hard work, of pride in the program, and teamwork on the part of every dedicated staff member throughout the State. I congratulate Division Director Thorold S. Funk and each member of his staff on their achievements. They have developed close working relationship with sister agencies in behalf of persons for whom there is shared concern, to assure that no person in need of services shall be overlooked.

THE NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT

Mr. PELL. Mr. President, as the ranking Democratic member of the Senate Rules Committee, I voted today to recommend approval by the Senate of the nomination of Representative Ford to be Vice President of the United States.

With the other members of the Senate Rules Committee, I have conducted a searching inquiry into Representative Ford's public and private record. I am satisfied based upon the inquiry and my own interrogation of Representative Ford that he is a man of integrity, character and probity, and one who will not abuse the powers and prerogatives of his public office.

And I would add that integrity—basic honesty—is a quality in very high demand in the highest reaches of our Government these days.

I have some very basic philosophical differences with Representative Ford on Government policies. But I also believe that the President of the United States, elected by the majority of the people, has a right under the 25th amendment to the Constitution, to nominate a Vice President who is in agreement with him on basic policies.

In recommending approval of the nomination, therefore, I am supporting the nomination of a man of integrity and am respecting the wishes of the people as expressed in the 1972 national election, but I am not endorsing what I consider to be Mr. Ford's conservative philosophy of Government.

THE ENERGY CRISIS AND THE ENVIRONMENT

Mr. STEVENSON. Mr. President, at the University of California-Riverside on November 15, our colleague from Maine, Senator Edmund S. Muskie, delivered a speech putting in perspective the relationship of the energy crisis and the environment. Senator Muskie's expertise on environmental matters is well known to us all. His work on environmental legislation has helped convince the Nation that we must place a high priority on protecting the resources of the world in which we live. But he also displayed an understanding that environmental considerations are not absolute, but must be measured against other needs.

Senator Muskie brought this same approach of balancing environmental against other needs to his analysis of the relationship between the energy crisis and the environment. But he concluded in his recent speech that—

> With wise use of wasted energy and improved conversion efficiencies, the standard of living of our country need not be reduced and the environment need not suffer.

Senator Muskie's analysis of our national "energy budget," points out that energy used in transportation, for instance, is 85 percent wasted, and that current American construction practices lead to unnecessary overuses of energy.

A comprehensive national energy

conservation program—including direct Government action, and research—may meet our energy needs. But Senator MUSKIE warns us that if we ignore the need for Federal leadership, and "if we sacrifice environmental standards as the first offering to our energy appetite, we will soon pay a much higher tribute in the form of damaged public health, destroyed water quality, more noise and congestion and, inevitably, an energy crisis worsened by neglect of its basic causes."

Mr. President, I ask unanimous consent that Senator MUSKIE's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

I

A recent study by the Stanford Research Institute ominously predicts that a mishandling of our energy crisis could yield an economic slow-down to a growth rate of 1.6% per year in the next few years. No unemployment prediction is made, but the conclusion is obvious: Jobs and income would shrink.

This report is even more shocking because it appeared months before the Middle East war and the cut-off of Arab oil.

II

We are facing an intense period of adjustment, and though we act under the cloud of crisis and rhetoric, we must recognize the deep societal shifts that are impending in changing our models of energy allocation and consumption.

We must ask ourselves some very difficult questions, the first of which is: How do we provide for the growing needs of society when that growth requires more energy than the available resources will provide? How can we best reevaluate our definition of needs and our allocation priorities?

In the past, the economics of scarcity have created great wealth and great poverty. For thousands of years slavery sustained the ruling class. Slavery was displaced by low cost labor. And low cost labor has been in large measure replaced by low cost energy.

We are entering a period in which there appears to be no readily available next step to sustain the economic growth and the equities of our society. We will be forced to rely on technologies not yet invented. To survive until then, we will need to discipline our profligate use of energy.

Our failure to make decision in this half of this decade may well result in catastrophe in the next decade.

It is easy to be overwhelmed by the irony of our plight. We cannot just turn off our economy—we cannot even reverse present trends without generating uncertainty and recession.

So we build and sell cars which get less than 15 miles per gallon where we should require 20 miles per gallon as a minimum.

We build highways for cars to travel 70 miles per hour when every responsible person suggests that wisdom dictates a rational 50 miles per hour.

We de-emphasize public transit even though most of our current energy crisis could be resolved if we relied on the efficiencies of buses and trains rather than the waste associated with private cars.

It is obvious that some in America would use the energy crisis to delay and or even the environmental standards developed in the past three years. For more than a year the energy companies, in anticipation of their failure to meet our energy needs, have been building a case against pollution control.

I have confidence that the American people will see past this shabby attempt to create a scapegoat for failure. No amount of relaxation of pollution controls will invent new oil or new natural gas. Relaxation would only dangerously delay addressing the real changes we must make to protect our health and our environment.

If we sacrifice environmental standards as the first offering to our energy appetite, we will soon pay a much higher tribute in the form of damaged public health, destroyed water quality, more noise and congestion and, inevitably, an energy crisis worsened by neglect of its basic causes.

III

We are faced today with an immediate energy crisis in the winter ahead—and we as a people will be forced to make painful adjustments in our pattern of energy consumption to permit us to get through this period with minimum damage to our economy. In the long term, our energy problems may be solved by new energy sources such as solar energy, nuclear fusion, coal gasification and the like.

I want to talk to you tonight not about the immediate crisis we face in the months ahead, nor about long-term prospects for exotic new sources of energy. I want to talk instead about the conservation of energy which is now an urgent requirement that will be with us in the immediate future and for at least two decades to come.

In the short, medium, and long-run, we need to do all that we can to stop the accelerating growth in energy consumption in the country. This winter we will "conserve," which may mean deprivation. But for the immediate future, we must end waste. It is this process and this process alone which will permit economic stability.

Unless we can curtail the 4.5% annual overall energy consumption growth rate now in process and the 7% growth rate in electrical use, we will create impossible conflicts in many parts of our society.

IV

A recent article in Science magazine revealed that 60% of all energy is now wasted. For example, the average rate of energy conversion in coal fired thermal electric power plants is less than 40%. In nuclear plants the conversion rate is even less. We can obviously make substantial improvements. If we were merely wasting 10% to 20% of our energy, the task should be much more difficult. But 60% waste means we have tremendous options available through improved technology. With wise use of wasted energy and improved conversion efficiencies, the standard of living of our country need not be reduced and the environment need not suffer.

The energy budget is composed of many small areas of impact, and the only way to make substantial gains is to seek improvements in a wide range of activities.

V

The transportation sector is the worst offender in energy consumption. It is only appropriate that we begin our conservation measures there. Transportation activities waste 85% of the energy they consume. Only 15% actually goes to turning tires, grinding wheels, or spinning propellors. And the trend for many decades has been in the wrong direction.

We have moved from energy-lean transportation modes to energy-fat vehicles. Airplanes are eight times worse than railroads in energy consumption for every passenger mile traveled. Automobiles are more than three times as wasteful as rail transportation. Yet we have been moving steadily and rapidly towards increased air and automobile travel. And the auto itself has become increasingly energy fat. For example, a 50% reduction in automobile weight could yield a 100% increase in fuel economy.

If Americans purchase lighter weight cars this year in greater numbers than anticipated, we will all receive immediate benefit from such action, for lighter cars consume considerably less gasoline than their bulky counterparts.

Think about this: If the average weight of automobiles purchased today were to drop to a level of 2,500 pounds, total gasoline consumption in 1985 would be reduced to the level we now project for 1975!

If this goal was realized, crude oil imports could be reduced by 2.1 million barrels per day in 1985. The balance of payments savings would be $2.3 billion annually in current prices.

Governmental efforts to shift to other travel modes have been meager and infrequent. Amtrak is really little more than a gleam in the public eye when compared with the massive public investments we have made in highways and airline subsidies. We can make substantial energy gains in the near term by making sizable shifts in transportation emphasis. A number of these changes could be made quickly without capital investment, because most of our public transportation systems run below capacity.

Disincentives for personal transportation such as limits on parking or higher priced gasoline and fare-free transit could cause an immediate shift.

Simple operating subsidies and reduced fares would have immediate impact.

Even where capital investments are required, much could be done in one to three years—in the acquisition of buses and rolling stock to use existing roads and rights-of-way—and could have substantial impact before the end of this decade. And the savings in energy and consumer dollars would, of course, be even greater by the year 1985.

We could save significant energy resources if we were only to reverse the shifts that have occurred in travel patterns and move back to lean energy travel modes. If that shift occurred at the same rate as has been occurring in the opposite direction in the last twenty years, we could, according to a Senate report, save 1.3 million barrels of oil per day by 1985. Such a shift would reduce by one-tenth the projected need for crude oil imports in 1985.

VI

Changes in the building and construction sector of our economy can yield substantial savings. Lighting accounts for 24% of all the electricity sold in the United States. A number of engineers have indicated that adequate lighting in commercial buildings could be reached at only about 50% of current lighting standards by using less lighting, changing to fluorescent lights, and spacing lights more appropriately. If this is coupled with other design changes, electrical consumption in commercial buildings could be cut to less than half the present level.

If construction concepts were adopted that matched the pilot project now being conducted by H.U.D. wherein materials and energy are recycled in development complexes, an estimated 40 percent energy saving could be attained over present practices with significant reductions in solid waste and in air and water pollution. In this project, the waste heat—a byproduct of energy production which is now emitted into the atmosphere or discharged into water—is used for space heat and hot water heating.

Similar kinds of conservation and recycling activities could apply to other industrial and residential developments. Such ideas do not imply drawing board experiments; in 1972, there were 22 plants in America using waste heat from electrical power generation for hot water and space heating. The idea is available now. To the extent that it is applied in new construction activities, it could drastically reduce the capital investment for environmental controls imposed on new power plants.

VII

Many of the steps needed require direct action by government. Let me use the utility industry and electricity as an example. We are not talking about a new governmental presence here, for government has traditionally been part of the rate-making process. We are simply speaking of changes the government can require through that presence.

Under present regulatory actions, a utility company's profits or earnings will be determined by the investment made in plant and equipment. Therefore, no matter what environmental constraints are imposed, it makes economic sense for the company to seek growth in customers and in the amount of use per customer.

The companies are trapped by the system. The utilities cannot be expected to behave differently unless fundamental changes occur in their rate structure. Electric rates must be based on higher prices for higher consumption. Not only will this protect people who consume little, but it will encourage large consumers to be more conservative. Rates must become a function of something other than capital investment in plants.

VIII

I must emphasize that to be successful, an energy conservation program must be comprehensive. An attempt to save energy in one sector without counterbalancing action in a competing energy-use sector would simply shift consumption rather than yield net energy savings.

Even-handed pressure across the board is an absolute necessity if energy conservation goals are to be attained. It is for just this reason that substantial attention to medium-range energy conservation activities is necessary. Otherwise, short-term energy fixes are likely to yield the same kind of chaos that has accompanied the uneven application of economic controls under phase I, II, III, and IV.

IX

Finally, U.S. energy policy must encourage a more equitable distribution of the worldwide consumption of available energy.

We can do this by fostering technology that develops energy resources that are publicly available on a worldwide basis. Solar energy, geothermal resources, ocean tides, and fuels for fusion power can be distributed in a much more equitable pattern. Not only are these resources renewable, but they aren't susceptible to traditional patterns of ownership.

We can help other countries develop these sources of energy through investment in new technology. To pretend that such aid is not needed is to perpetuate an inherently unstable situation that may send severe shock waves through this country when the quake of readjustment occurs. How long can one nation use one-third of the world's energy—especially when that consumption level can only be sustained by use of imported fuel?

For a few more years, perhaps. But we would be ill-advised to wait until the end of that period before we seek readjustment.

We need cleaner and more abundant sources of energy. They will not come by writing a blank check to the oil industry or destroying the environment. They will only come if the Federal Government takes the leadership in developing energy sources as it did in the moon program to put man on the moon. A research and development effort with an Apollo-type commitment can get the job done. And if we set deadlines and mount the intensive effort that is needed it can get done in time, especially if we take the conservation measures that I have discussed today.

X

You in this audience are living in a laboratory example of what our civilization faces as a result of unrestrained and undisciplined growth. In southern California, you have a transportation system designed to facilitate the freedom of movement of the people who came to the West to escape the confines of the overcrowded East. But the by-product of that system is an environment which is increasingly unliveable for its growing population.

The people of Califorinia had an early opportunity to learn about the meaning of limited resources. Nearly two decades ago, political leaders in this State began to recognize that supplies of fresh water were not adequate to serve the population growth.

Your leaders chose to find new water supplies—to develop a *water import program* for southern California.

Todays dilemma is a limited air resource. The existing quantity has been exhausted and present quality is unacceptable. Unfortunately, we lack the technology of air reuse. And, there isn't any air to import from anywhere else.

The response to this crisis cannot be the engineering of new works or the application of new inventions. The solution lies in change in activities, lifestyle and the patterns of growth. One such area of change is in personal transportation.

Unfortunately, Detroit appears to be unable at this time to build an automobile that will meet the criteria which the Congress proposed as necessary to protect the public health.

They argue that the capability to reduce pollutants in cars is limited by present engine technology and by limitations on the supply of available energy to power cars.

Thus, if an adequate, viable economic base is to be maintained, this region is going to have to develop alternative strategies to move people about.

And if you doubt the necessity of this proposition, let me cite for you an interesting fact: Even if every single automobile on the road today in California, and in the future, met the purportedly impossible clean Air Act standards for clean cars, this basin would still require a 50% reduction in vehicle miles traveled.

So I repeat, the question is not *if*, but at *what cost* and *how long?*

XI

And while this decision is being made, two other realities must be considered: The limitations on the available land and the limitations on available energy.

The energy crisis and environmental crisis are interrelated. The tremendous increase in demand for energy has a significant adverse impact on the quality of air and water.

Energy use is a direct measure of our growth, and air and water pollution are a direct by-product of that growth. What appears to be less well understood is that the shortage of energy and the shortage of air, water and land are not in conflict but rather are reflections on the finite nature of the resources which support human activity.

But fossil fuels, like land, water and air, are not being manufactured anymore.

The finite nature of these resources forces us to become reliant on ingenuity. We must assume that invention like consumption will grow at exponential rates—a nice but risky assumption. It is this kind of risky assumption which has created our present dilemma.

Thus, the people of these United States have to make some hard decisions. We may have time even in the hysteria of the current crisis to make decisions which will minimize disruption, maximize the availability of limited resources and maintain an economic system which supports our population in a reasonably prosperous manner.

This will not occur in the kind of climate that exists today. We have to come to grips with scarcity and the need to distribute limited resources equitably.

We need to alter our transportation patterns to rely on public mass transportation where that is a viable alternative in order to assure the availability of personal transportation where there are no options.

We must recognize the limits on growth and expansion and begin to consider our communities in terms of capability to assure essential transportation, communication, educational and environmental services to our citizens.

The crucial challenge laid down for man in the last quarter of this century was aptly stated by Dr. George Woodwell of Brookhaven National Laboratory in hearings I chaired this year.

"We are the richest nation and we should at the moment be building the capacity to address correctly the questions of how to reconcile the needs of 20th century man with the facts of a living but finite earth.

"Instead we are watching the dismantling of science. We would be terrified, if we were thoughtful."

I concur.

EIGHTH ANNIVERSARY OF THE SECOND REPUBLIC OF ZAIRE

Mr. HARTKE. Mr. President, today marks the eighth anniversary of the Second Republic of Zaire. This huge African country, formerly known as the Belgian Congo and more recently the Democratic Republic of the Congo, has made enormous progress toward achieving the good life for all its citizens.

Since its most difficult beginnings in 1960, the Republic of Zaire has achieved political and economic stability under President Mobutu and has taken its place as one of the leading nations of Africa.

For over 13 years Zaire has been a staunch friend of the United States. Recognizing the need for foreign investment to bring about the full realization of its economic potential, President Mobutu has made a special effort to attract U.S. business to Zaire.

At the luncheon held on October 3, 1973, in New York, hosted by chairman Wriston, of the First National City Bank of New York, President Mobutu Sese Seko addressed U.S. business leaders and once again invited the participation of the U.S. private sector in Zaire's development.

Zaire's progress in the past 8 years is a significant achievement. I am confident that Zaire's development will continue.

NATIONAL ENERGY EMERGENCY ACT OF 1973

Mr. KENNEDY. Mr. President, I was unable to attend the session of the Senate yesterday in which the National Energy Emergency Act of 1973 was approved. As a cosponsor of that legislation, I previously had indicated my full support for that measure and was recorded as being in favor of its timely passage, in support of amendments which sought to strengthen that measure and in opposition to proposals to dilute its effectiveness.

I ask unanimous consent that the statement I had intended to give in support of that measure be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR KENNEDY ON S. 2589

I rise in support of the legislation now before the Senate, the National Energy Emergency Act of 1973.

This legislation is critically needed today in the United States. Only through immediate implementation of energy conservation measures that mandate a reduction in the consumption of energy will we be able to maintain an adequate supply to priority needs during this winter.

Although events in the Middle East have dramatized the situation, the shortage that we are now facing was anticipated as long ago as last January when Massachusetts was forced by a shortage of low sulfur fuel to dilute some of the Clean Air Act air quality standards.

It was anticipated when the Congress gave the President authority last April to allocate the supply shortage among different regions and to priority customers. It was anticipated when I and other Senators introduced legislation in May to mandate a sharing of the short supply of fuel among regions, priority customers and between major oil companies and independents. It was anticipated when the Senate in early June passed the Mandatory Allocation bill. It was anticipated throughout the summer as witness after witness told of the failure of the voluntary system the Administration had set up and called instead for mandatory action. It was anticipated throughout the summer as the Administration blocked action in the House of Representatives on a mandatory system.

Not until November 1, after 10 consecutive weeks in which distillate fuel stocks were below the level of 1971, did the Administration put into effect a mandatory allocation system. Even then it was not fully adequate, not fully staffed and not fully prepared.

Throughout this period, the Administration stuck with the major oil companies in rejecting a mandatory allocation system and watched as they forced the disappearance of independent gasoline stations, watched as they denied fuel oil supplies to independent wholesalers, and watched as they raked in the highest profits in more than a decade. In that regard, I would note that the Gulf Oil Company reported a third quarter profit rise of 91 percent, Exxon, 80 percent and Mobil 64 percent. I ask unanimous consent that a table showing the profits of major oil companies in the third quarter and over the past 9 months be placed in the Record.

Nor did the predictions of serious shortfalls in New England, the Midwest and other regions of the country convince the Administration to undertake any steps for the conservation of energy.

Only last week was there an expression of dawning recognition by the President that the situation was critical and that homes might go cold, businesses might close, schools might suspend, and the entire economies of whole regions of the nation might suffer severely.

According to testimony before the Senate Interior Committee, the nationwide shortage of petroleum is expected to reach over 20 percent of our requirements during the next 6 months, reaching close to 3 million barrels per day. In some regions, such as New England, the impact of the shortage will be far more severe.

In New England, for heating oil alone, the most optimistic estimate has been that we will be short some 600 million gallons of home heating oil. The most pessimistic estimates are nearly double that figure. The impact of that shortage can be best understood when that figure of 600 million gallons is related to use. That quantity of home heating oil would provide sufficient fuel oil to heat 345,000 homes for a full year. Thus, we are facing a crisis of immense proportions in New England, one which requires emergency measures even to alleviate the situation.

The legislation now before the Senate is such an emergency measure. I would hope it would be treated as such by the members and that we could move to final passage of this measure today.

I want to commend the chairman and the entire membership of the Senate Interior Committee for the diligence with which this legislation, which I am pleased to cosponsor, has been brought before the full Senate for final action.

I also am pleased that amendments I suggested in testimony before the Committee have been included.

The legislation now directs the President to implement emergency fuel storage contingency programs instead of merely authorizing him to take such action.

It provides for the reduction in the original time period for development of those plans.

And it provides for assistance in the form of low interest loans to homeowners and small businessmen to instill storm windows, insulation and other methods of reducing energy consumption for heating purposes.

I believe these changes in the bill are refinements that increase the likelihood that its purposes will be achieved.

The critical elements of the bill are the requirement placed on the President to devise and implement a plan for a nationwide emergency energy rationing and conservation program within 15 days after the act becomes law.

This two-pronged plan first must provide for a priority system and plan for rationing scarce fuels with a particular emphasis on the distribution of low sulfur fuels to those sections of the country where a health hazard would exist in the absence of such fuels. With sharp divergences between the available supplies of fuels in different sections of the country and the level of need in those regions, a national plan to insure an equitable sharing of the current shortage is essential.

The second prong of the plan must provide for energy conservation measures designed to reduce the level of consumption by 10 percent within 10 days and 25 percent within four weeks. The bill provides for a series of conservation measures but does not limit the President's authority to order additional measures into effect.

Other provisions of the bill are also vital including the increased assistance to mass transit, raising the federal share under the Highway Trust Fund to 80 percent, and directing the President to develop and implement incentives for public transportation including operating subsidies to provide for reduced fares.

We know that the largest energy burner is the automobile, accounting for 55 percent of all energy used for transportation. And we know the automobile is less efficient than railroads or buses as a way of moving people. Thus, all measures to transfer passengers from the automobile to mass transit will produce substantial energy savings.

Finally, the bill both authorizes the President to bring into production the Naval Petroleum Reserves and to direct private refineries to adjust their output to maximize the production of scarce fuels. Both measures hopefully will mean additional supplies vitally needed if we are to meet the crisis facing the nation.

The earliest possible implementation of this measure is crucial if we are to act to prevent the full severity of the current shortage from hitting during the coldest part of the winter. Only by conserving energy today and only by rationing supplies today are we going to be able to find sufficient supplies to heat our homes, our schools, our hospitals and our businesses in January and February.

I urge my colleagues to give their support to prompt passage of this measure.

THE QUALITY OF MEDICAL DEVICES

Mr. HATHAWAY. Mr. President, legislation giving the Federal Government authority to regulate the quality of medical devices—authority which it does not have—is currently pending before the Senate Labor and Public Welfare Committee and the House Subcommittee on Public Health and Environment.

A major concern is the extent to which medical devices shall be required to be pretested, or scientifically reviewed, before they are marketed.

A bill introduced by Senator NELSON, the Medical Device Safety Act (S. 1337) would require "premarket testing" of devices that are implanted or that emit various kinds of energy, which contacts the human body.

A bill introduced by Senator KENNEDY, S. 2368, would require "scientific review" for devices "intended for use in life threatening situations."

An article in Science magazine, November 9, 1973, clarifies some of the differences in the bills pending before the committees.

It also describes the extent of problems that have occurred with medical devices in recent years, as reported by the Food and Drug Administration.

I ask unanimous consent that the article by Barbara Culliton be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEDICAL DEVICES: SHOULD THEY BE CLEARED BEFORE MARKETING?

There are an estimated 12 million medical devices on the market in the United States. A lot of them don't work.

As things stand now, there is nothing much the government can do to protect the public from defective devices until after they have appeared on the market and injured unsuspecting patients. For several years, there has been legislation before Congress to remedy the situation, but it has never gotten very far. This year, however, it looks as if a medical device bill will get through, once congressmen work out their disagreements over what the bill should say and how tough it should be.

It is impossible to produce accurate records of how many devices are faulty and how much injury they have caused—there is no requirement for reporting and, therefore, no way of knowing how many device accidents are covered up. Nevertheless, there are some figures on the subject and they are disconcerting, to say the least. For example, a Food and Drug Administration (FDA) survey of the literature from 1963 through 1970 revealed that there had been 676 reported deaths and more than 10,000 injuries from medical devices. The data included these specifics: 512 deaths and 300 injuries associated with artificial heart valves—

89 deaths and 186 injuries from cardiac pacemakers.

More than 8000 injuries associated with intrauterine devices.

A glance at the list of medical devices that have been subject to FDA recall once defects had been spotted is also revealing. One brand of oxygen cylinder was recalled for leaking. A portable cardiac defibrillator was recalled for what the FDA describes as a "self-discharge hazard." Even tongue depressors made the recall list; one brand was cited for "suspected bacterial contamination."

Medical devices are big business. According to FDA estimates, retail sales—to hospitals, physicians, and directly to individuals—total more than $3 billion a year and are expected to double by 1981. There are approximately 5000 different types of devices, ranging from highly sophisticated equipment employing ionizing radiation to routine operating-room machines to contact lenses to simple steel pins.

There seems to be a consensus among FDA, congressional, and industry people that regulations governing medical devices must be flexible for a couple of reasons. One is that different classes of devices should be treated differently; procedures covering steel pins should not be as complex as those applying to nuclear powered, fully implantable pacemakers. Another reason is a desire not to cut off research in the field, much of which is conducted by relatively small companies that, theoretically, would go out of business were the government to subject their products to months or years of delay while forms are filled out and passed around bureaucratic channels. But how one creates regulations that are both flexible and yet worthwhile as far as protecting the public interest is concerned has yet to be demonstrated.

THE KENNEDY, ROGERS BILL

The bills that are receiving the most attention in Congress at the moment are two nearly identical pieces of legislation that have been introduced by Edward M. Kennedy (D-Mass.) in the Senate and Paul G. Rogers (D-Fla.) in the House. [An administration bill, introduced by Senator Jacob Javits (R-N.Y.), is also receiving consideration by the Congress.] Apparently, the FDA, which will have to administer the medical device law once it is passed, can live with the provisions in these bills. In fact, sources on Capitol Hill claim that Peter B. Hutt, chief counsel of the FDA, had a hand in drafting the Kennedy legislation—an allegation he emphatically denies. Of course, as a member of the Administration, he was involved in preparation of the bill Javits introduced.

The basic argument surrounding the various device bills has to do with the matter of premarket clearance and the presumption that legislation which does not require FDA approval of certain categories of devices before they are marketed is soft on industry. In the Senate, Gaylord Nelson (D-Wisc.), who has been introducing medical service legislation since 1969, is adamant about premarket clearance and intends to fight to get some of his language in the Kennedy bill when it is taken up by the Labor and Public Welfare Committee.

Nelson wants the law to require premarket clearance of any medical device that:

"(A) is intended to be secured or otherwise placed, in whole or in part, within the human body on into a body cavity, or directly in contact with the mucuous membrane, and is intended to be left in the body or such cavity, or in such direct contact, permanently, indefinitely, or for a substantial period or periods (as determined in accordance with regulations issued after notice and opportunity to present views), or (B) is intended to be used for subjecting the human body to ionizing radiation, electromagnetic, electric, or magnetic energy (including, but not limited to, diathermy, laser, defibrillator, and electroshock instrumentation), or heat, cold, or physical or ultrasonic energy, or is intended for physical or radio or electronic or electric communication in either direction with any part of the human body or with a device placed within or connected with the human body."

Thus Nelson, who has the support of several consumer groups in this matter, is explicit about what he wants to be subject to premarket clearance—virtually any device that touches the body or emits energy. In testimony before the health subcommittee, he explained how his premarket clearance proposal varies from those in the Kennedy, Rogers (by implication), and Administration bills. "The Kennedy and Administration bills require 'scientific review' [which amounts to premarket clearance], but with restrictive caveats," Nelson said. "In the Kennedy bill, only those devices which the Secretary [of Health, Education, and Welfare] determines pose 'unreasonable risk of illness or injury' would have to have 'scientific review.' In the Administration bill, only those 'intended for use in life threatening situations' would require such review." Nelson does not want to leave that much up to the discretion of the Secretary or the FDA.

Dissatisfaction with the premarket clearance provisions of the Kennedy and Administrations bills was also expressed in testimony before the health subcommittee by Sidney M. Wolfe, an M.D. with the Health Research Group, in Washington, D.C., consumer organization. He claims what the Kennedy bill calls scientific review of a product can only be initiated after an outside panel of experts meets and decides that a certain product should be cleared before marketing and after a further determination by FDA that scientific review is really necessary. Said Wolfe, "These determinations could be made by FDA only if it had extensive evidence about the device. But it could not have extensive evidence about the device unless testing had already been conducted. This is the Kennedy bill Catch-22." And he argues that the scientific review panels "cannot make recommendations for premarket testing because there is no mechanism to call their attention to the existence of recently developed or developing devices before they are in the market." Wolfe calls premarket clearance "an elementary mark of human decency."

The Kennedy and Administration bills emphasize standard setting as the primary means of regulating medical devices. A major issue here arises over the question of who should set standards—Nelson wants the bill to state that persons who have financial interests in medical devices are excluded from standard-setting panels—and whether standard-setting itself is reasonable in a field in which technology is rapidly changing. The inevitably cumbersome procedures, involving scientific panels and committees for establishing standards, could not possibly keep up with device technology, it is argued. Standards could be out of date before they are set.

Therefore, Nelson is adamant about wanting premarket clearance, although he is willing to leave the details of its implementation to the discretion of the FDA, largely to allow for the measure of flexibility that is said to be essential to workable device legislation. Indeed, none of the bills spells out just what premarket clearance should be, in contrast to the Food, Drug, and Cosmetic Act, which is quite explicit in setting forth requirements for new drugs.

FDA lawyer Hutt is not sympathetic to the scope of Nelson's premarket clearance amendment. "If it comes down to whether we should do premarket testing on all dental devices marketed during the last 50 years, or on all implantable steel pins, rather than on more sophisticated devices," Hutt says, "it is not hard to imagine where I stand." The FDA, he believes, simply is not able to undertake such a massive venture. Nor does he believe it necessary.

Whatever the final nature of the legislation, FDA will have to gear up in order to even attempt to implement it and forecasts of what will be required in terms of manpower and money have already been made. FDA figures it will have to take on 330 people and have a device budget of more than $12 million in 1975. By 1979, the agency anticipates needing 500 people and $15 million to carry out the medical device law.

—BARBARA J. CULLITON.

THE PROPOSED SPECIAL ELECTION FOR PRESIDENT AND VICE PRESIDENT

Mr. PELL. Mr. President, the Congress is now in the process of implementing, for the first time, the provisions of the 25th amendment to the Constitution, to fill a vacancy in the office of Vice President of the United States.

One of the more troubling potential problems posed during public debate over this process has been the possibility that a Vice President, not elected but appointed, could succeed to the Presidency, and in turn, nominate a new Vice President.

There is a strongly held opinion, with which I agree, that the office of President should not long be held by a person who was elected by the people to neither the Presidency nor the Vice Presidency, but who rose to the office through an appointive process.

My senior colleague, the distinguished senior Senator from Rhode Island, last week introduced a proposed constitutional amendment, Senate Joint Resolution 172, providing a solution to this problem.

Under his proposal, a special election for President and Vice President would be held in the event that a Vice President, appointed under the 25th amendment, succeeded to the Presidency with more than 12 months of the Presidential term remaining.

Mr. President, I believe Senator PASTORE's proposal is excellent and important improvement in our electoral, democratic system of government. It is a proposal that could well avert a future constitutional crisis. The proposal has my full support, and I hope it will receive early and favorable attention by the Senate.

AUTO REPAIR

Mr. HARTKE. Mr. President, on several occasions during the past 2 years, I have spoken of the need for Congress to enact auto repair legislation. Earlier this year, I introduced S. 1950, the Motor Vehicle Repair Industry Licensing Act, which encourages States to adopt a licensing system for auto repair shops. That legislation is now pending in the Commerce Committee, and I expect to have hearings on it early next year.

Recently, WMAL–TV did an extensive survey of repair shops in the Washington metropolitan area. They took a car in perfectly good condition, then made one minor adjustment which created a defect which could have been repaired at very little cost. The car was then taken around to several different repair shops. By the time WMAL was finished, the repair bill on a car with only a minor defect came to over $1,000. It is interesting to note that the car came out of this experience in worse condition than it began.

Mr. President, I ask unanimous consent that the text of an article which appeared recently in the Washington Post describing the WMAL–TV survey be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Car Repair Ripoff

(By William Raspberry)

Now and then, television will do very well what television does better than any other medium. Which is by way of belated commendation to WMAL–TV's Jim Clarke for his recent series, the Auto Repair Go-Round.

The basic premise wasn't new. It involved taking a used car (this one a 1970 Ford Maverick), having top-flight mechanics put it in A–1 condition, then taking it to various garages to have it checked out. The expectation, naturally, was that an awful lot of mechanics would replace things that didn't need replacing, charge for new parts that weren't installed and in general take advantage of a supposedly naive motorist.

And, naturally, the expectation was amply fulfilled.

The difference between this series and others of the ilk was that the Clarke crew made no attempt to shield the garages that made the unnecessary repairs. While the team was careful to provide the opportunity for responsible spokesmen to offer their own explanations, Channel 7 viewers knew at every moment who it was that appeared to be doing the ripping.

Pat Goss, a nationally recognized mechanical expert who some viewers may have remembered from a similar report on the CBS "Sixty Minutes," was the Channel 7 expert who put the blue Maverick in near-perfect shape. Then he put on a pair of rusty but new front shock absorbers and took it to a Firestone store in Fairfax. The driver said he was going on vacation and wanted a front-end and brake check.

Goss said he wasn't surprised when the garage replaced not only the shocks but a left-side upper ball joint. The bill was $65.10, not including the brake job the service manager said the car needed.

That's how it went for the first week of the series: Call Carl rotated and balanced the tires, gave the car its second alignment in two days, installed eight new brake liners and two front wheel cylinders (also charging for overhauling two rear cylinders although Goss says the work wasn't done). The bill came to $149.63.

MEMCO in Fairfax got $79.60 for a front-end alignment and tire balancing, new shock absorbers and tie-rod end bushings which, according to Goss, not only were unnecessary but could conceivably have been dangerous.

The next day, a Firestone garage in Riverdale performed $201.75 worth of work, including, naturally, new shock absorbers and a front-end alignment, in addition to new tie rod ends and tie rod sleeves.

In nine days and five visits to repair shops the WMAL team counted up a total bill of $519, including four front-end alignments, ten shock absorbers, eight brake shoes, two brake drums, two brake cylinders, new tie-rod ends and sleeves and new wiper blades. All of it, according to expert Pat Goss, was unnecessary.

The total climbed past $1,000 by the time the team made some other garage visits after deliberately disabling the car—disconnecting a wire or bending a connector out of shape.

Said Clarke: "Representatives of all the companies visited by our car told us the policy is not to sell the customer anything he doesn't need. We accept those claims in good faith. However, our test car was sold hundreds of dollars worth of parts and labor it did not need.

Sad to say, hardly anyone was surprised. Sadder, it's hard for an individual car-owner to know what to do with the knowledge that he's likely to be ripped off. Surely not every mechanic at every garage routinely does unnecessary work. Further, there can be some question as to whether work is necessary or not; for instance, should brake shoes be replaced when they are 50 per cent worn? 60 per cent? And while it's true you shouldn't have to pay more than a nominal fee for having a loose wire reconnected, what about the time it takes the mechanic to find that loose wire in the first place?

To be forewarned, then, is not necessarily to be forearmed.

But the story isn't totally sad. Because the station had the guts to name names and point fingers, it already has triggered some reactions.

Firestone initially complained that its garages had been unfairly singled out but later requested a video tape of the series to show at a meeting of regional and district managers. Ford wanted to use it for an "internal session" with its top executives. Call Carl dismissed some employees who had worked on the car and also instituted a policy of returning the customer's used parts in a plastic bag.

And, coincidentally or otherwise, Jim Clarke got a tire slashed.

GOVERNMENT, BUSINESS, AND THE CONSUMER: A MUTUALITY OF INTERESTS

Mr. PERCY. Mr. President, it gives me great pleasure to take note of the new more open attitude of some of the Nation's business leaders toward government involvement in the area of consumer affairs and of consumerism in general.

A growing percentage of businessmen have come to the realization that it is in their short-term and long-term interest to cooperate with the various public efforts currently being made to regulate a wide variety of industry products and practices. As Edward S. Donnell, the president of Montgomery Ward, stated in an address to the 38th annual meeting of the American Retail Federation last May:

> For business to always oppose whatever consumers or their representatives propose, strains the credibility of our public statements that for us the consumer always comes first. Selective, well reasoned support for certain consumer legislation proposals, even if not ideal, will do much to enhance our prospects for fair and reasonable government regulations during the rest of the 70's, as well as the prospects for eliminating altogether the need for further regulations in certain areas.

In line with this sentiment, many business leaders now take an expansion view of which proposals they can and should endorse. Support has been forthcoming for such reasonable consumer legislation as a Consumer Protection Agency bill, truth-in-lending, warranty/guarantee legislation, and the Uniform Consumer Credit Code. I applaud these efforts by responsible leaders in the business community and am confident that they will attract increasing support in the future.

Let me also take this opportunity to call attention to the fact that the parent company of Montgomery Ward, Marcor, Inc., has recently reiterated its strong support and endorsement of the Consumer Protection Agency legislation now before the Congress. In testimony before a House Government Operations Subcommittee, Patrick J. Head, vice president, said:

> We supported the creation of the CPA and re-affirm that position today, because we believe that consumers who don't feel so suspicious of business and government—who don't feel shut out and unrepresented in government proceedings which affect the pocketbooks, their well-being and the quality of their lives—will be better customers of ours and other businesses which are in fact trying to serve them well.

A revised CPA bill will shortly be reported out of the Senate Subcommittee on Reorganization, Research, and International Organizations. That bill will reflect the various discussions which we have held with the administration and which should result in endorsement by the Wnite House of this legislation in the very near future.

Mr. President, I ask unanimous consent to print in the Record excerpts from Mr. Head's testimony as reprinted on the Washington Post editorial page Monday, November 5, 1973. I also request that excerpts from Mr. Donnell's thoughtful remarks be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Consumer Protection

From testimony before a House Government Operations subcommittee by Patrick J. Head, vice president of Marcor, Inc., on Oct. 10:

There is far more self-policing in business today than there was 30 years ago. By improving the quality of its products, by better training of its personnel, by management policies insisting that the customer be satisfied, business is becoming increasingly responsive to consumer demands.

Yet there is no doubt that consumer skepticism toward business persists. One reason, as I have suggested, is the sometimes impersonal nature of selling, credit arrangements, and customer service, which is a byproduct of computerization and of modern urban life itself. Another is the all-pervasive presence of advertising, some of it exaggerated, or inadequately informative.

A third reason, more relevant here, is the great number of government decisions in which business and consumers each have a stake, but in which consumers feel they have an inadequate voice. In truth, as members of this committee know, each of the federal regulatory agencies has as a prime responsibility the protection of the general public's interests, and most have counsel whose principal job is to speak for that public. Yet the problem, is not simply one of what is, but what appears to be. And it often appears to consumers that no one is looking after their particular interest in decisions wherein other interests are well represented.

It seemed to Marcor that the presence of a consumer advocate in government decision-making processes might reduce this cause of consumer skepticism. We recognized that many businesses felt sufficiently challenged and investigated today to require no further intervention by government-sponsored parties in their affairs. We knew that a Consumer Protection Administration, if created by loosely drafted legislation could become, not just an advocate, but a possible source of harassment to legitimate business which outweighed its service to consumers.

Yet we supported the creation of the CPA and re-affirm that position today, because we believe that consumers who don't feel so suspicious of business and government—who don't feel shut out and unrepresented in government proceedings which affect the pocketbooks, their well-being and the quality of their lives—will be better customers of ours and of other businesses which are in fact trying to serve them well.

RETAILING AND GOVERNMENT IN THE 1970's

(By Edward S. Donnell)

As we entered the late sixties, we suddenly found people's expectations were exceeding our performance capability. The consumer bill of rights—to be informed—to be safe—to choose and to be heard—became a reality.

Most of us became fully aware that our business can only be as good as the environment in which we operate, and I mean total environment—economic, social, and political as well as physical and ecological.

With regard to consumerism and the explosion of government legislation, regulation, investigation and litigation that has hit us to date, if past is prologue, we're in trouble for rest of the 70's.

And past is prologue and we are in trouble for the rest of the 70's. However, the quantity and quality of that trouble, and the degree to which we can convert trouble into opportunity will be largely up to us.

The April issue of Fortune indicates the depth of the problem in an article entitled "The Legal Explosion Has Left Business Shell-Shocked." This article covers the geometrically exploding, often conflicting, state, county and municipal regulations we all must comply with. It also covers the resulting rapid rise in litigation that has driven legal expenses and exposures right through the ceiling.

In the Securities regulation field, lawsuits filed in the past 6 years in Federal district courts have increased 400%, reaching 2,000 in 1972 alone. During the 70's we may expect that security regulation standards will be more demanding and that legal expenses for compliance, and damages and other penalties for non-compliance will be more costly.

Lawsuits on environmental issues have doubled in the recent past to 268 cases in 1972. In our industry the International Council of Shopping Centers recently called a special session to discuss possible effects of pollution controls on future expansions.

Lawsuits on Fair Employment practices have begun to mushroom—over 1,000 in 1972 alone. Settlements with the Equal Opportunity Commission in cases charging discrimination against women and minorities has important implications for retailing in the 70's. It is a fact that labor intensive retailing has historically been one of the better providers of job opportunities, training and advancement for minorities and other disadvantaged persons. Despite this I can offer no more useful advice to anyone tonight than to make certain that our own houses are completely in order. Equal employment opportunity for all Americans is so vitally important to our achieving a cohesive society that we must give this matter the highest priority.

Truth in Lending legislation and regulations put us all on one fair and reasonable standard in keeping our customers accurately informed as to the terms of consumer credit.

I can only hope that those few states which have imposed credit rate ceilings below the roughly break-even monthly service charge rate of 1½% will soon realize that to drive credit rates to an uneconomic level makes it very difficult to extend credit to those who need it most. In addition, it often forces retailers to raise the cash price of some merchandise to help absorb credit costs, an increase which hurts all citizens in those states. We expect consumer credit issues will continue with us on the Federal and State level the remainder of the 70's.

Product safety is now covered in a new Federal law and the new commission and staff are a reality. Thus, greater effective emphasis will be put on product safety for the rest of the 70's.

Advertising substantiation has become a major focus of consumerism in the recent past and will be receiving even greater attention during the rest of the decade. Growing emphasis on warranties-guarantees indicates this activity also is likely to be the subject of required, fuller, more uniform disclosure in the near future.

If we can take a leaf from Europe's recent experience, perhaps the most important change we will see during the next 8 years will be the extent to which government tries to impose rising standards of clear information disclosure on product performance, product life and even product content.

How, the nature, extent and fairness to all concerned of these rising standards of consumer service is in significant part up to us. Past is prologue in this realm, too. We have learned that where we simply oppose in toto a new consumer bill or regulation our impact on its final content, its degree of reasonableness for all concerned, its degree of practicality, is usually very limited.

For business to always oppose whatever consumers or their representatives propose, strains the credibility of our public statements that for us the consumer always comes first. Selective, well reasoned support for certain consumer legislation proposals, even if not ideal, will do much to enhance our prospects for fair and reasonable government regulations during the rest of the 70's, as well as the prospects for eliminating altogether the need for further regulations in certain areas.

All of us here tonight have been and can increasingly become consumer advocates. For 32 years in retailing I've regarded the customer as my real "boss," and I know you feel you have the same boss. Or, here in Washington, we might say the same constituency.

We are a highly competitive industry. All of us have been observing and evaluating the same trends, the same forces, in the same marketplace. Consequently, I know we agree that in this fast-moving industry, the retailer who is not a sincere practitioner of consumerism simply is not going to survive. We are the most knowledgeable and demanding customers in history. In fact all of us here tonight have had a great deal to do with educating them and raising their expectations over the years.

If you will forgive one note of American History close to home, it was, I believe, the need for consumer protection that prompted Aaron Montgomery Ward, a century ago, to break the back of "Caveat Emptor"—"Buyer Beware"—with his new promise to America's consumers—"Satisfaction Guaranteed or Your Money Back." Today, you can see consumer advocacy in action as American retailers and our suppliers expend billions of dollars in market research, product development, quality control, product safety, protective packaging, informative labeling and computerized merchandising distribution systems. We are providing the American Public with the most efficient, responsible and protective marketing system in the world.

Yet, we believe it can be further improved.

Because of this belief we have supported such consumer legislation, as the Consumer Protection Agency Bill, truth-in-lending, Warranty/Guarantee, and, of course, The Uniform Consumer Credit Code which we all support.

But far more important than this is retailing's overall commitment to the protection of the rights of the consumer to be informed, to be safe, to choose and to be heard through our industry's support of the President's National Business Council for Consumer Affairs.

The Council, chaired and co-chaired by Robert E. Brooker, Chairman of Montgomery Ward's Executive Committee and Don Perkins of Jewel Companies has been the work of over 100 Chief Executive officers of the nation's leading companies. Their unstinting dedication has produced council guidelines covering these key areas—Packaging and Labeling, Product Safety, Advertising and Promotion, Guarantees and Warranties, Tire Inflation and the Consumer, Credit and Related Terms of Sale, and Consumer Complaints and Remedies.

The guidelines are tough, but we all can and should live by them because they encompass the specific consumer protection principles to which we all subscribe.

However, because voluntary guidelines can be, and sometimes are, ignored by a few companies to the detriment of all the others, there is a move afoot to recommend that the Federal Trade Commission hold public hearings on those parts of the guidelines which are suitable as substantive rules. This would be a prelude to their adoption—after all the responsible inputs have been received—as official FTC standards. Such standards will be more comprehensive, effective, and fair and reasonable to all concerned, than many government regulations currently in effect or under consideration.

Moreover, they will give the force of law to the voluntary product of thoughtful and committed business, government and consumer leaders at a time when our nation badly needs to develop a positive consensus for the benefit of all our people. We therefore support this move.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

MILITARY CONSTRUCTION APPROPRIATIONS, 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, Calendar No. 522, H.R. 11459, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, reported with amendments.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. MANSFIELD. Mr. President, I present today for the consideration of the Senate—and, incidentally, there will be a rollcall vote on final passage—H.R. 11459, together with the report from the Appropriations Committee, No. 93-548, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The Military Construction Subcommittee of the Appropriations Committee held joint hearings again this year with the Military Construction Subcommittee of the Armed Services Committee, chaired by the able Senator from Missouri (Mr. SYMINGTON). These joint hearings were most productive in saving time for Senators and the witnesses from the Department of Defense. Additional hearings by the Appropriations Subcommittee were held to hear testimony on items in the bill which were from previous years' authorizations and other important matters.

It is not my intention in presenting the bill to give detailed figures concerning each line item. The line item breakdown and explanation are contained in the report which has been placed on each Senator's desk.

Before going into the recommendations of the Appropriations Committee, I would briefly like to summarize the pertinent facts pertaining to the bill.

The fiscal year 1974 budget estimates as submitted to the Congress for military construction last January were $2,944,090,000 broken down as follows: Army, $664,900,000; Navy, $685,400,000; Air Force, $291,900,000; Defense agencies, $19,100,000; Army National Guard, $35,200,000; Naval Reserve, $20,300,000; Air National Guard, $20,000,000; Air Reserve, $10,000,000; Army Reserve, $40,700,000; family housing, $1,150,400,000; and homeowners' assistance fund, $7,000,000.

The total of the military construction appropriations bill as reported by the Committee on Appropriations is $2,670,972,000. This is an increase of $61,882,000 over the $2,609,090,000 provided by the House. The total bill as reported to the Senate is $273,928,000 under the budget estimate or $2,944,900,000, or somewhere between 9 or 10 percent below the request of the administration.

ARMY

The major thrust of the Army portion of this bill is in support of soldier-oriented facilities. Bachelor housing, primary medical facilities, and community support facilities total about $456.2 million. This continues the emphasis begun in last year's bill and the committee supports this effort.

The bill includes construction of 23,425 new barracks spaces and 185 new bachelor officer spaces, mostly at permanent installations in the United States. Of the total, 380 enlisted spaces are for isolated locations overseas. Additionally, the committee allowed funds to modernize 45,188 enlisted spaces and 528 officer spaces to bring these existing facilities up to present-day standards. The Army continues their program to eliminate the old World War II woodframe mobilization structures built in the early forties and now long beyond their economical life. Concurrently, maximum effort is being made to modernize and extend the useful life of existing permanent housing facilities.

The committee allowed $39.6 million for medical facilities. The major facilities are a 100-bed hospital at the U.S. Military Academy and an addition to the hospital at Fort Lee, Va. A significant item, although not actually for a medical facility, is the approval of $10.8 million for the underground parking facility at Walter Reed Army Medical Center in the District of Columbia. This parking structure is an integral part of the 1,280-bed hospital and was authorized in Public Law 92-145, fiscal year 1972. As part of the sequential development of the new hospital center, construction of the parking structure is scheduled to begin this summer.

The particular medical facilities plus additional planning and design funds in this bill mark the beginning of a multiyear defense program to improve service medical facilities.

The committee has approved all pollution abatement projects requested by the Army and authorized by Congress. This includes $7.3 million for air pollution abatement projects and $7.1 million for water pollution abatement control. The Army program is smaller than in recent years but significant increases are anticipated in future requests to meet the requirements of the Federal Water Pollution Control Act Amendments of 1972.

The committee continues to be a strong supporter of the U.S. Military Academy expansion plan and is pleased that the Army is following a viable and realistic program. Three projects totaling approximately $25.1 million were approved, the major item being the new hospital previously mentioned. The committee recognizes the need for and strongly endorses early construction of this new medical facility. Despite commendable Army efforts to reduce costs, the committee feels there is potential room for further reduction. Therefore, the Army request of $25 million for the hospital was reduced by $5 million. The committee will expect the Army to construct the hospital within the $20 million approved.

The committee approved $20 million in new obligational authority for NATO infrastructure support. This is a reduction of $20 million from the service request and the amount approved by the House. The committee concurred with the House in approving the transfer of $35.65 million in unobligated prior year Safeguard funds to NATO Infrastructure toward meeting unbudgeted costs stemming from recent dollar devaluations.

Approval has been given to the Army for $56 million for general authorization which includes: $39 million for planning and design; $15 million for urgent minor construction; and, $2 million for access roads.

Included in this bill are $40.7 million for the Army Reserve facilities and $35.2 million for the Army National Guard. This is consistent with the Army's continuing recognition of the need to provide adequate facilities for the effective training and improved readiness of its Reserve components. The committee agrees with this approach.

NAVY

The portion of the military construction budget proposed for the active forces of the Department of the Navy was $685,400,000. The committee approved for the Navy $608,467,000, which is $20,826,000 greater than the amount allowed by the House and a decrease of $76,533,000 from the budget estimate of $685,400,000.

I will discuss in the following broad categories since that is how the Navy presented its program this year. These are: strategic forces, all-volunteer forces, major weapons systems, pollution abatement, new technology—research, development test and evaluation—and training facilities

Under "Strategic forces," the committee approved $112 million for the initiation of construction of a Trident submarine refit complex and facilities for flight testing the Trident missile The facilities approved are essential this year for meeting the initial operational capability date of late calendar year 1978 for this weapons system.

Projects that will assist the Navy in achieving and maintaining the all-volunteer force are for bachelor housing, community support, medical, and cold iron facilities. Cold iron facilities are shore utilities which enable a ship in port to shut down its boiler plant and electrical generation equipment. Projects approved for the all-volunteer force are approximately one-fourth of the total.

This year $66 million was approved for bachelor housing and messing facilities. This is a reduction from last year's appropriations for bachelor housing, but still a substantial program with bachelor housing constituting about 11 percent of this year's appropriations.

The committee approved $13 million for community support facilities which have received a minimum of funding the last several years.

The medical program approved in the amount of $38 million is a slight reduction from the program for which funds were appropriated last year.

The cold iron program is directed toward reducing watch standing requirements when a ship is in port in order to increase the amount of time ships' personnel may spend with their families. The availability of utilities from the shore also provides benefits in shipboard equipment maintenance and fleet readiness and conserves scarce petroleum resources. This year $26 million was appropriated for cold iron facilities.

Ten million dollars has been provided for major weapons systems, excluding Trident. This year's appropriation for major weapons systems is slightly less than the $11 million appropriated last year.

The Navy is concerned with the prevention of environmental pollution and actively seeks to: First, control and abate emissions of pollutants from Navy sources; second, design and construct facilities to meet recent environmental quality standards; and third, cooperate with local, State, and Federal agencies.

The present energy crisis, which may result in the temporary lowering of pollution standards, does not reduce the need for the Navy air pollution abatement facilities.

The total pollution abatement program approved for the Navy is $82.7 million.

Four percent of the appropriation is for projects in support of research, development, and test and evaluation associated with underwater acoustic surveillance, communications, manned underwater systems and coastal region warfare.

The Navy is taking several concurrent actions to strengthen, modernize and vitalize its training programs. One action was the recent establishment of the Chief of Naval Training Office with the responsibility of overseeing and managing all Navy academic, applied, shipboard, aircraft, and submarine training. The committee supports this endeavor and has provided $62 million for training facilities. Appropriations of $12 million were added for this category to match the amount authorized for the relocation of the Atlantic Fleet Weapons Range from Culebra.

Funding in the amount of $51 million was approved for the Marine Corps facilities. As in last year's program, major emphasis was placed on personnel support facilities, which comprise 54 percent of the Marine Corps program. The provision of adequate bachelor housing is a high priority requirement. The committee fully supported the bachelor housing program of the Marine Corps.

The committee allowed $20,300,000 for Naval Reserve facilities, the amount of the Navy request.

The committee placed the Navy request under especially careful scrutiny. The major new considerations posed by the base realinements announced by the Secretary of Defense in April of this year, the effects of inflation on construction costs, the beginning of shore support facilities for the new Trident submarine system, and the first year of implementation of the All-Volunteer Force—all these impacted heavily on committee discussion and decisions.

AIR FORCE

The Air Force portion of the bill provides $291,198,000 which includes $249,452,000 for projects in fiscal year 1974 and $41,746,000 for planning and design, minor construction, and projects authorized but unfunded in fiscal year 1973. There has also been a reduction of $1,800,000 to compensate for the fact that this amount is available in Air Force prior year appropriations for Southeast Asia that can be applied against fiscal year 1974 requirements elsewhere. The committee's total reduction from the original request of $321,900,000 is $30,702,000.

The bill covers essential facility projects for the Air Force and a few others where national policy, such as in the case of pollution abatement, other strong cases of economy, and projects with a potential for energy conservation.

A case of the latter point is the aircraft engine component research facility at Wright-Patterson Air Force Base, Ohio. The prime purpose of this item is to test and provide data and knowledge to prevent compressor "instability" in aircraft gas turbine engines especially under transient conditions. Presently, this test capability does not exist in the military or civilian aircraft community. This facility will process data 3,000 to 6,000 times faster than existing facilities by utilizing computer control of the test article, the test facility and the data acquisition system. By locating the facility at Wright-Patterson Air Force Base, Ohio, it is possible to utilize a complete precision controlled 30,000 horsepower drive unit already in place and thereby save from $12 to $15 million that would be required to locate the facility elsewhere. Finally, by determining transient effects to be avoided during engine operation as much as a 15- to 20-percent improvement in fuel economy can be realized and the knowledge gained can be made available to the entire aircraft industry. The avoidance of just one engine compressor development problem would result in savings that would amortize the cost of this facility investment.

The largest portion of Air Force funds is for urgent operational facilities. They consist of airfield pavements, aircraft fueling and support facilities, flight operations buildings, communications facilities and navigational aids. They total $52.4 million or 18 percent of the recommended amount. Important items approved by the committee are: $11 million for a second increment of the technical intelligence operations facility at Wright-Patterson Air Force Base, $13.5 million for special aircraft support facilities at Andrews Air Force Base, and $4.5 million for a station composite support facility at Cape Newenham Air Force Station, Alaska.

The second largest portion of the bill provides for bachelor housing. This category totals $40 million and is viewed as a priority objective by the Air Force. This is 13.7 percent of the amount recommended by the committee and will provide for the construction of 3,524 new dormitory spaces at a cost of $25.7 million, and 60 new officers' quarters at a cost of $1.2 million. The Air Force will also modernize 4,757 existing dormitory spaces for $11.3 million. Included in the program are a student housing composite building at Keesler Air Force Base, Miss., and a composite recruit training and housing facility at Lackland Air Force Base, Tex. Buildings of these types provided in earlier programs have proven to be very effective.

The third largest portion of the bill, $31 million, is for maintenance facilities, predominantly for aircraft maintenance. Included are 10 projects comprising another increment for modernization of the Air Force Logistics Command's depot overhaul facilities. This category also provides various maintenance and storage facilities for short-range attack missiles at two locations for $1 million.

Another large portion of the recommended amount is directed toward expansion, alteration and replacement of medical facilities to provide proper clinical and dental care within a regionalized framework. Projects of this type have been supported by the committee in recent fiscal year programs and as far back as fiscal year 1965. In the current bill, the committee is supporting 12 health care facility projects. Two of the projects involve total replacement of the aged, professionally obsolete, composite medical facilities at F. E. Warren Air Force Base, Wyo., and Laughlin Air Force Base, Tex. These facilities have been in use for 86 years and 18 years, respectively. For the other items approved by the committee, work involves additions and alterations principally addressing the problem of inadequate space for outpatients in the clinics, pharmacies, laboratories, X-ray departments, and other areas servicing these patients.

The construction proposed by the Air Force to support the Air Force R. & D. program is $10 million, of which $4.9 million failed to survive the authorization reviews. However, that which remains is essential to a vigorous R. & D. effort as an investment in our future security. Earlier the committee discussed at some length an aircraft engine component research facility at Wright-Patterson Air Force Base, Ohio. Other R. & D. projects are: expansion of a human impact laboratory, a weapons guidance test facility, and alteration of a rocket propulsion research laboratory.

Other significant amounts are recommended for facilities in support of training, supply, administration, community and support facilities. In this latter category, the committee is providing $35 million, of which $18 million is for the design of facilities in this and future programs, $15 million to fund minor construction projects that are to be individually determined to be urgent by the Secretary of Defense or the service Secretaries, and $2 million is provided for access roads.

Approval is also recommended for $20 million for the Air National Guard and $10 million for the Air Force Reserve by the committee.

DEFENSE AGENCIES

For the Department of Defense agencies, the committee recommends an appropriation of $12,000,000. This is $7,100,000 below the budget estimate of $19,100,000 and is $12,000,000 above the House allowance. It is $24,704,000 below the appropriation for fiscal year 1973.

The program breakdown is as follows: Defense Nuclear Agency, $574,000; Defense Supply Agency, $8,370,000; National Security Agency, $8,156,000; general support programs, $2,000,000.

A wide range of project is encompassed in the approved program. The Defense Nuclear Agency has received approval for two projects at Kirtland Air Force Base, N. Mex., and at the Atomic Energy Commission Nevada Test Site. The Defense Supply Agency has received approval for 15 projects at 9 installations. The National Security Agency has received approval for four projects at Fort Meade, Md.

The Department of Defense indicated a program, or anticipated requirement, in the amount of $30,000,000 for projects which would qualify for funding under DOD emergency construction authority. The Department further indicated that no additional funds were required for this purpose on the basis that unobligated prior year funds were considered adequate to finance fiscal year 1974 requirements. The unobligated balance in the Secretary's emergency fund totaled $54,429,500 as of June 30, 1973.

The program approved by the committee, as tabulated above, provides for essential facilities of the agencies listed. The committee's allowance of $12,000,000 is the maximum possible in view of action by the House and Senate Armed Services Committees which gave their approval for the full program requested for the agencies, but made a general reduction of $7,100,000 in the authorization for appropriation. This action has the effect of applying additional prior year unobligated emergency construction funds to partially finance the fiscal year 1974 program.

The House has recommended a further reduction of $12,000,000, which deletes funding in the amount of $3,529,000 for a logistic support facility at Fort George G. Meade, Md., and provides that the balance of the program be financed entirely from unobligated prior year funds. The committee does not agree with the House action, and recommends approval of the Defense agencies program as submitted, subject only to funding constraints resulting from the Armed Services Committee's actions.

FAMILY HOUSING

The committee has approved $1,188,539,000 in new appropriated funds for the fiscal year 1974 military family housing program. This amount comprises approximately 44 percent of the entire funds appropriated in this bill and is $93,128,000 lower than the revised defense budget request for family housing.

To provide maintenance and operation funds for defense housing, approval has been given in the authorized amount of $622,913,000 to maintain and operate an estimated 380,006 housing units during fiscal year 1974. In addition, the committee has approved $44,703,000 for leasing of 10,000 domestic and 7,262 foreign family housing units for assignment as public quarters.

The committee has recommended a $381,603,000 family housing construction program. The approved program will provide for the construction of 10,541 new permanent units, which is 1,147 units less than requested. New construction approved includes 5,369 units at 12 Army installations, 3,460 units at 11 Navy and Marine Corps bases, 1,700 units at 8 Air Force bases and 12 units for the Defense Intelligence Agency. The committee did not approve the 150-unit Navy project authorized for construction at Iceland because of questions remaining in the need for the project. A total of $309,733,000 is required for the approved new construction program. Other construction approved by the committee includes $5,700,000 for mobile home facilities; $240,000 for acquisition and connection of a utility system serving Wherry housing, $62,510,000 for improvements to family quarters, $2,720,000 for minor construction and $700,000 for planning. The committee recommends that $361,746,000 in new appropriations be provided for this construction program and that the balance of the program amounting to $19,857,000 be financed from savings. Savings are available in funds appropriated in prior years but not needed because of project cancellations due to base closures, realinements or other changes in requirements. Sufficient funds remain to provide adequate construction for the valid fiscal year 1972 and 1973 housing projects.

The funding allowed by the committee for debt payment is the budget estimate of $159,177,000. This includes $100,167,000 for the payment of debt principal amount owed on Capehart, Wherry, and Commodity Credit-financed housing. In addition, $53,024,000 is approved for the payment of interest on mortgage indebtedness on Capehart and Wherry housing and for other expenses relating to the construction and acquisition of these houses in prior years. The committee approved $5,986,000 for payment to the Federal Housing Administration, for premiums on Capehart and Wherry housing mortgage insurance and for the payment of premiums on insurance provided by the FHA for mortgages assumed by active military personnel for houses purchased by them.

With respect to the inadequate quarters legislations, section 508 of Public Law 92-545, which authorized the designation as inadequate of not more than 20,000 family housing units, in addition to inadequate units already in the inventory, Defense reported that the services and the Defense Supply Agency had designated 19,282 units as inadequate as of July 1, 1973, and had placed them on a rental basis at fair rental values, not to exceed 75 percent of the occupant's basic allowance for quarters.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

The base realinements announced April 17, 1973, are of such magnitude that resources in the homeowners assistance fund will be insufficient to take care of the requirements of the homeowners assistance program in fiscal year 1974. Accordingly, Defense requested an additional $7 million in appropriations for the program. This amount will also provide a modest expansion of the program to cover certain personnel not now covered by the program because of statutory technicalities, but who suffer the same losses in disposing of their homes as the personnel covered by the program at the same installation.

The committee has approved the revised request for funds in the amount of $7 million. Spending of agency debt receipts, authorized in permanent legislation, will provide an additional $17,443,000.

Mr. President, I ask unanimous consent that the committee amendments to the pending bill be considered and agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point or order shall be considered to have been waived by reason of agreement to the order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendments, agreed to en bloc, are as follows:

The amendments agreed to en bloc are as follows:

On page 2, at the beginning of line 4, strike out "$551,575,000" and insert "$567,735,000".

On page 2, line 14, after the word "appropriation", strike out "$587,641,000" and insert "$608,467,000".

On page 2, at the beginning of line 22, strike out "$239,702,000" and insert "$261,198,000".

On page 3, at the beginning of line 6, insert "$12,000,000"; and, in the same line, after the word "expended", insert "and in addition".

On page 4, at the beginning of line 17, strike out "$22,900,000" and insert "$20,300,000".

On page 5, line 8, after the word "law", strike out "$1,194,539,000" and insert "$1,188,539,000".

On page 5, line 15, after the word "Construction", strike out "$103,947,000" and insert "$97,947,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a comparative statement of the appropriations for fiscal year 1973 and the estimates and amounts recommended in the bill for fiscal 1974.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1973 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1974

[In dollars]

Item (1)	New budget (obligational) authority, fiscal year 1973 (2)	Budget estimates of new (obligational) authority, fiscal year 1974 (3)	New budget (obligational) authority, recommended in the House bill (4)	Amount recommended by Senate committee (5)	Senate committee bill compared with— New budget (obligational) authority, fiscal year 1973 (6)	Senate committee bill compared with— Budget estimates of new (obligational) authority, fiscal year 1974 (7)	Senate committee bill compared with— House allowance (8)
Military construction, Army	413,955,000	[1] 664,900,000	551,575,000	567,735,000	+153,780,000	−97,165,000	+16,160,000
Military construction, Navy	517,830,000	685,400,000	587,641,000	608,467,000	+90,637,000	−76,933,000	+20,826,000
Military construction, Air Force	265,552,000	291,900,000	239,702,000	261,198,000	−4,354,000	−30,702,000	+21,496,000
Military construction, Defense agencies	36,704,000	19,100,000	0	12,000,000	−24,704,000	−7,100,000	+12,000,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)			
Military construction, Army National Guard	40,000,000	35,200,000	35,200,000	35,200,000	−4,800,000		
Military construction, Air National Guard	16,100,000	20,000,000	20,000,000	20,000,000	+3,900,000		
Military construction, Army Reserve	38,200,000	40,700,000	40,700,000	40,700,000	+2,500,000		
Military construction, Naval Reserve	20,500,000	20,300,000	22,900,000	20,300,000	−200,000		−2,600,000
Military construction, Air Force Reserve	7,000,000	10,000,000	10,000,000	10,000,000	+3,000,000		
Total military construction	1,355,841,000	1,787,500,000	1,507,718,000	1,575,600,000	+219,759,000	−211,900,000	+67,882,000
Family housing defense	1,064,046,000	[2] 1,250,567,000	1,194,539,000	1,188,539,000	+124,493,000	−62,028,000	−6,000,000
Portion applied to debt reduction	−96,666,000	−100,167,000	−100,167,000	−100,167,000	−3,501,000		
Subtotal, family housing	967,380,000	1,150,400,000	1,094,372,000	1,088,372,000	+120,992,000	−62,028,000	−6,000,000
Homeowners assistance fund, Defense		[3] 7,000,000	7,000,000	7,000,000	+7,000,000		
Grand total, new budget (obligational) authority	2,323,221,000	2,944,900,000	2,609,090,000	2,670,972,000	+347,751,000	−273,928,000	+61,882,000

[1] Due to lack of authorization does not include additional $4,300,000 requested in H. Doc. 93–155.

[2] Due to lack of authorization, does not include additional $31,100,000 requested in H. Doc. 93–155.

[3] Includes $7,000,000 requested in H. Doc. 93–155.

Mr. MANSFIELD. Mr. President, I want to say that I am indebted to the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for his cooperation, for his understanding, for his dedication to duty, and for the tremendous assistance he has rendered the subcommittee and the whole committee in the hearings under this legislation, and in being responsible in large part for such a tremendous reduction.

I have an idea that the bill may well signify the deepest cut of any, so far as appropriation measures are concerned, as related to any of the other appropriation measures which have come before Congress to this date.

Mr. President, again I want to say how much I am indebted to the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for his cooperation and understanding.

Mr. President, now I yield to the distinguished Senator from Pennsylvania, the ranking Republican member of the subcommittee.

Mr. SCHWEIKER. Mr. President, I should like to add my remarks to the statement of the distinguished majority leader concerning the Military Construction bill for fiscal year 1974.

Although this bill is $61.8 million greater than the House bill, it is significantly below the budget estimate of $273,928,000.

In this day of budgetary and monetary crisis, it is important, as the majority leader just underscored, that the committee was able to stick well below the budget estimate. I commend the majority leader for his work and leadership in this area.

Mr. President, the bill provides more funds for the respective Services than was provided in the fiscal year 1973 program. In some cases, this increase reflects the fact of inflation. In other cases, it reflects new facilities provided to support justified requirements. A portion of the additional requirements and recommended appropriations support the respective Services attempt to attract sufficient volunteers to satisfy manpower goals without the draft. These requirements involve new barracks for men and women, family housing, and work facilities.

I commend the Defense Department in its efforts to implement all-volunteer Armed Force.

Mr. President, contained in this appropriations for military construction is $5.2 million for the construction of administrative facilities to accommodate the transfer of the Marine Corps Supply Activity, Philadelphia, Pa. to Albany, Ga. I oppose this specific appropriation on the basis that adequate justification for the transfer of this facility was not provided to the committee.

Although the record of the two hearings on this item, both of which I chaired, contain some questions regarding the correctness of an appropriation of $5.2 million to meet the cost of construction for a facility at Albany, Ga., the basis of the computation using the standard Department of Defense space and construction criteria seem to provide a realistic cost estimate.

However, whether the cost estimates regarding the savings to be realized as a result of this transfer are accurate or realistic is for me the central issue. It was suggested to the committee during the hearing's that it's concern with the relocation of the supply activity should relate primarily to the question of whether or not the relocation will result in a savings of Federal dollars, and whether or not such a move will improve the efficiency of the Marine Corps supply system.

Mr. President, the primary savings to be realized from the transfer according to the Department of Defense is the cost avoidance of approximately $4.6 million programed for installation of air-conditioning at the Philadelphia facility over the next 4 fiscal years.

In my judgment that is not a credible justification. It seems questionable that $4.6 million for air-conditioning could be legitimately claimed as a cost avoidance since this item has never been incorporated into the military construction budget for the Marine Corps Supply Activity, Philadelphia.

In fact, the Commandant of the Marine Corps in a letter dated August 3, 1972, published his "Guidance for Facility Planning and Programing," in which he stated he was providing a 6-year dollar control for each facility and command with a single year limitation. His letter stated:

> It should be noted that, for purposes of flexibility, the total of these controls is in excess of the amount that can be anticipated for the next 6 years. Therefore, to assure that limited construction dollars are expended on the most urgent requirements, the controls should not be exceeded.

For the Marine Corps Supply Activity, Philadelphia, the 6-year dollar control—fiscal year 1974 through 1979—was $2 million. No funds were projected for fiscal year 1974.

Nevertheless, the Department of Defense cites a cost avoidance of $4.9 million as a justification for this transfer. I seriously question how bona fide is this claimed cost avoidance.

Mr. President, the Defense Department has indicated that the transfer will permit a functional consolidation in the personnel administration procurement, comptrollership, civilian and military personnel administration procurement and personnel services. The annual savings claimed by Defense Department in operating costs is projected at $2.6 million. However, in order to do this, DOD plans to reduce its civilian manpower in Philadelphia by 184 positions and its military personnel by 50. This is in addition to a total reduction of 205 military and 2,894 civilian positions in Philadelphia.

The Philadelphia area impact from these base closings is approximately a loss of 8,000 jobs. Most of these are civilian jobs and most are being transferred to other areas. The immediate impact will be on those whose jobs are abolished and on those who cannot or choose not to transfer.

The indirect impact from those who are transferred, is the loss of payroll. This, of course, impacts on the entire Philadelphia area economy, and if one estimates an average annual salary per position of $8,000 or $10,000, the annual payroll loss may come to $60 or $80 million.

In outlining this personnel cost having the Department of Defense failed to adequately take into account the costs to the Government of the retirement expenditures to these affected employees. In fact, the $2.6 million savings does not include the increased costs of early retirements. Thus the $2.6 million should be reduced by the retirement costs of the people no longer on the payroll. In addition, $708,000 in the cost of severance pay should also be deducted. The Defense Department stated that by 1978 the saving would be $2.6 million since by then "these other factors of changeover have been taken up or assumed in this period, have been amortized." Mr. President, that strikes me as awfully vague.

In October, 1970, a study was prepared by the Marine Corps as an internal study within the Supply Department, Headquarters, U.S. Marine Corps, to analyze a conceptual plan for the relocation of the Marine Corps Supply Activity, Philadelphia, to Albany, Ga. Although the Marine Corps claims the study was never approved by the Quartermaster General, it concluded, in part, "within the parameters addressed by the study panel, the benefits to be potentially derived do not warrant incurring the risks involved." Also, the study stated:

> Some benefits will accrue from the increased computer utilization and a more efficient working environment, but no beneficial factors concerning operational performance will be realized which will overcome the retardation of progress towards attainment of a fully operationally effective Material Management System.

The panel report was dated November 10, 1970, and recommended "that the relocation of the Inventory Control Point from Philadelphia to Albany not be initiated at this time."

Mr. President, if the Marine Corps disavows this study it seems to me it was incumbent on the Marine Corps to make available to the committee the study used as the basis for its decision to move the supply activity from Philadelphia to Albany, Ga.

Mr. President, I do not feel the Department of Defense has adequately made its case and I am opposed to this transfer. Overlooked in the planned transfer is the affect it will have on the people involved, the employees of the facility. Spokesmen for the employees testified at the hearing conducted by the Appropriations Subcommittee on Military Construction and I ask that the statements submitted by Royal L. Sims, national vice president, and Forrest Sellers, president, Local 89, American Federation of Government Employees, be inserted at this point in the Record. Also, Mr. President, I ask that a letter from my distinguished colleague from Pennsylvania, Hugh Scott, be inserted in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Royal L. Sims, National Vice President and Forrest Sellers, President, Local 89 American Federation of Government Employees Before the Subcommittee on Military Construction of the Senate Committee on Appropriations, October 9, 1973

I am Royal L. Sims, National Vice President, Third District, American Federation of Government Employees; I am accompanied this morning by Mr. Forrest Sellers, the President of American Federation of Government Employees Local 89, which directly speaks for the civilian Federal employees directly affected by the issue you are deliberating today.

We are most grateful to the Subcommittee for the opportunity to appear before you in opposition to the proposed transfer of the Marine Corps Supply Activity, Philadelphia, to the Marine Corps Supply Center, Albany, Georgia. In presenting our opposition, we are speaking, in the first instance, on behalf of the civilian employees of the Philadelphia Marine Corps Supply Activity, whom we represent both through our American Federation of Government Employees Local 89 and through our AFGE Third National District. Additionally, we are speaking as taxpayers who are concerned about the expenditure of Federal tax revenues for a transfer which is both unwarranted and unjustifiable. Finally, we speak for those residents of Philadelphia and its suburbs, who will suffer serious economic and social consequences as a result of this unnecessary and imprudent action by the Marine Corps.

The principal argument proferred by the Marine Corps for this questionable undertaking is budgetary. Among the arguments which have been developed in support of this action, it is alleged that by 1978, that is, five years from now, the cumulative savings resulting from this action will overtake the additional costs of transferring this facility. In other words, the Marine Corps concedes that for the next five budgetary years, the U.S. government will have to spend more for these services by the transfer to Albany, Georgia, than maintaining the facility at Philadelphia.

What are the other risks of undertaking this transfer? In a letter to Mr. Forrest W. Sellers, July 19, 1973, Assistant Secretary of the Navy (Installations and Logistics) Jack L. Bowers conceded that there are serious risks to the national security involved. He stated:

"It has always been recognized that in accomplishing this consolidation a risk of temporary degradation of supply support to the Fleet Marine Forces could be encountered. During the Southeast Asia conflict, this risk was unacceptable. Now, with the culmination of the conflict and the drastic realignment of operating forces, it is mandatory that the costs to maintain the Marine Corps support establishment be reduced."

I believe anyone reading the papers today must realize that the world situation is potentially just as explosive now as it has been in the past several years during the Southeast Asia conflict. Our nation is already concerned about the oil fuels shortage we are already threatened with rationing of heating oils and gasoline. The conflict in the Middle East has already resulted in major naval forces realignment and alerts. It is an imprudent and irresponsible act, therefore, to experiment with transferring such an essential and efficient facility as the Marine Corps Supply Activity on the hypothesis that fives years later there may be, perhaps, some savings in budgetary costs.

Assistant Secretary Bowers concedes further difficulties which have not been properly reflected in the planning estimates—costs of recruiting employees. He wrote as follows to Mr. Sellers:

"The Marine Corps realizes that it may not be an easy task to recruit and train people to replace those current employees who choose not to exercise their right to transfer with their functions to the consolidated activity at Albany. However, it is believed that this difficulty will be minimized by the long lead time allowed for recruiting and training; i.e., from the present to January 1976 and the availability of required skills through the Department of Defense Priority Placement Program. In this regard, the Marine Corps is currently developing a time-phased plan for the consolidation of the Marine Corps Supply Activity at Albany. Requirements for recruiting and training will be an integral part of this plan."

But Assistant Secretary Bowers makes no provision for such contingencies as the current conflict in the Middle East. The availability of civilian employees is much, much greater in such a large community as Philadelphia, a major international seaport and airport as well as a major industrial and commercial center, than in Albany, Georgia. But what would happen if the Marine Corps Supply Activity would have to expand rapidly, as it was required to do so during the height of the Southeast Asia conflict. In brief, we believe that Philadelphia can afford a much better employee environment both during periods of rapid expansion and during periods of de-employment than a small community such as Albany, Georgia.

The foregoing considerations apply to the basic problem, seen from the standpoint of the national interest. As taxpayers and citizens we are concerned with that issue. We are also concerned with the issue of the impact of this action on the human beings directly affected—residents and citizens of Philadelphia and its environs.

According to the Marine Corps, on December 4, 1972, there were 1,132 employees of the installation. It is claimed that, after transfer to Albany, Georgia, and consolidation, there will be a need for only 948 of these employees, with 184 positions being reduced. Let us take these figures at face value, even though there are many reasons to believe they are inaccurate and overstate the reductions in force that will take place solely because of the geographical transfer of the activity.

Taken at face value, 948 employees are confronted today with serious problems of livelihood, uprooting, and expenses incidental to transfer. To what end? Supposedly, because five years from now the transfer allegedly will begin to save the United States money.

Moreover, the greater part of these savings comes from the alleged reduction in personnel costs arising from the firing of 184 employees. These are hypothetical savings, reflecting only alleged presumptive payroll costs. They leave out of account the costs of recruiting of new personnel; their training; travel and per diem for training and orientation; problems arising if the facility suddenly has to expand to meet a national emergency; and the host of other contingent costs, both in dollars and in human welfare, following such a transfer.

The transfer of this facility can be defended only if one takes a short-sighted and narrow view of costs. Even then, it can be scarcely justified, except by taking the further risk of assuming that the Supply Activity will be faced only with a diminishing program, based on demobilizing the American military forces. It can be defended only if one takes a naive attitude that we have the end of all crises in the world and from now on the future is only one of coasting along.

Who is to pay the price for this attitude. First, the American people and taxpayer. Secondly, immediately and personally, the 184 employees who will be reduced in force and the 948 other employees who will be faced with problems just as great, perhaps greater, than those who were fired. These 948 employees must face the fact of being uprooted, dislocated, removed from the community where they now live and integrated into a community much smaller and less able to provide them with housing, schools, and other facilities available in Philadelphia.

In short, it is not 184 employees who are being reduced in force. There are 948 other employees who will have the order and rhythm of their homes and families disrupted, solely to carry out the alleged, unproven saving of money five years from today. The social costs are alienation, poor education, family disruption, reduced efficiency of the work force. In short, the costs are much greater to the United States than any potential savings, five years hence, which the Marine Corps can allege.

For these reasons, we earnestly ask your Committee to deny the Marine Corps the funds, which were generated out of the taxes of the American people, including the taxes of these employees, to carry out this imprudent and unwise experiment in budgetary planning. The American people can use those $5.2 million to better advantage. Put them into schools; put them into social security benefits for the aged; put them into urban renewal; put them in cleaning up our air and water. Do not waste them on an unnecessary transfer of any activity which may not save any money in the future despite allegations of economy and will divert funds today from an efficient, proven facility.

Our nation must preserve its human, natural and fiscal resources. We cannot afford to squander any of these as we have done in the past. For this reason, we urge that the Marine Corps Supply Activity remain in Philadelphia, both in the national interest and in the interest of the community which has supplied its personnel for many years and which has built up a viable resource around it for our nation.

Statement of Forrest W. Sellers

I am Forrest W. Sellers, President, Local 89, American Federation of Government Employees, which represents the civilian employees of the Marine Corps Supply Activity under the provisions of E.O. 11491. On behalf of these employees I should like to submit to you testimony which analyzes the alleged savings the Marine Corps claims will arise from this transfer. As you will recognize from this analysis, these savings are illusory and are predicated on assumptions which are invalid.

Mr. Sims has already indicated to you some of the considerations, including national security, why this transfer should not be authorized. Besides challenging the costs figures, I shall concentrate my summary on the impact this transfer will have on human beings.

4.9 MILLION "COST AVOIDANCE" FIGURE: IS THIS AN ACCURATE PROJECTION?

The 4.9 million dollar "cost avoidance" figure includes the following:

1. $191,000 for a standby generator for Data Processing equipment.
2. $67,000 for a sprinkler system.
3. 4.66 million dollars for air conditioning various buildings.

It appears questionable that 4.9 million dollars could be legitimately claimed as a cost avoidance when 4.6 million for air conditioning has never been incorporated into the military construction budget. Only funds for a sprinkler system and a standby generator are incorporated into the budget. One wonders if the air conditioning would ever have been assigned high enough priority to be incorporated in the military construction budget if the cost avoidance factor would not have been conducive to the proposed relocation. The Department of the Navy stated MCSA is old and in need of a modernization program. In 1965 MCSA said the Philadelphia building is structurally sound and sufficient. The aforementioned statement was made in a letter written by General Butcher, Commanding General of the MCA and is contained in the Congressional Record, in 1965. Secondly, extensive modernization has been made to MCSA since that time. The modernization included but is not limited to: installation of new elevators, new lighting, tile flooring, new roofing, and new windows; painting and pointing of various buildings, relocation and renovation of bathrooms, and other modernization. Thirdly, Inspectors of the Northern Division, Naval Facilities Engineering Command, and Headquarters, Marine Corps make periodic inspection of the buildings at MCSA. I am advised that the 1972 report of NFEC listed only two principal items: the installation of the standby generator for data processing equipment and installation of a sprinkler system. As stated in the above paragraph, the projected cost to install these two items is only 258,000 dollars.

It is noted that Marine Corps Headquarters used as a justification for not effecting the program request for air conditioning the fact that there were higher Marine Corps priorities stemming from operational requirements and personnel facility requirements associated with Zero Draft/Project Volunteer. It should be noted of course that to attempt to justify the expenditure of more than 5.2 million dollars for construction in Albany, Georgia, the Department of the Navy uses this as cost avoidance.

The Acting Assistant Secretary of the Navy has stated that activities are curtailed or completely closed down during the summer months because of the lack of air conditioning in most areas. It should be noted that the times it has been necessary for employees to go home because of humidity/heat were *relatively few*, and at no time is the activity completely closed down due to lack of air conditioning in the building. However, I am advised that the conditions in Albany, Ga., in the nontemperature controlled warehouses and in the non-office space in the repair division, make it necessary that the employees be allowed to go home at various times because the temperature/humidity reaches a high proportion. It has also been stated by the Acting Assistant Secretary of the Navy that the efficiency of the employees drops during periods of high heat and humidity because of the lack of air conditioning. It is noteworthy that MCSA was given an award for efficient operation by Headquarters Unit from the Secretary of the Navy for exceptional meritorious achievement; this in itself shows the efficiency of the employees has remained high.

5.2 MILLION COSTS FOR CONSTRUCTION OF NEW BUILDING: IS THIS ACCURATE?

Based on our research, the figure of 5.2 million dollars to construct a building in Albany, Georgia is exceedingly low. If the building is constructed in 1974 or 1975, we project that figure could go as high as *8 million dollars*.

OPERATIONAL COSTS: ARE THESE ACCURATE?

In reference to overall costs of operations in Philadelphia, there has already been a sizeable drop in cost as a result of the reduction in workload because of the cessation of hostilities in the Southeast Asia area. Twenty-six civilian billets have already been eliminated at a cost of 10.5 thousand dollars each and this will amount to more than 260,000 dollars. We anticipate there will be additional billets in the Philadelphia employment as a result of new program changes that will be eliminated and this will increase this figure to over ½ million dollars.

EMPLOYEES: WHAT HAPPENS TO THEM?

Mr. Chairman, we would be remiss if we did not bring up the most important project in running this operation and that is the people. Here we have some 1100 employees well trained, well equipped to meet all of the operational needs. Some have worked in this one building for more than 30 years. The tremendous impact which will occur on the lives of these people by relocating this activity unnecessarily to Albany, Georgia should not be expected by those who have contributed dedicated, unselfish service to the United States Government in carrying out its mission. Sufficient employees will not be able to be secured in Albany to carry on this function and even if they could secure employees, it will take a considerable number of months to train them to work efficiently.

HOUSING: WILL IT BE AVAILABLE?

The average grade of the civilian employee at MCSA is 7.94 and as such they could not afford a three bedroom house in Albany as such house in the spring of 1973 was selling between $29,000 and $35,000. It is noted that 70% of MCSA employees are GS–9 and below and couldn't afford to purchase such a house. In fact, Mr. Chairman, there is insufficient low income housing to meet the needs. Although the average earnings are $10,000, I would like to bring to your attention some statistics in terms of lower grade employees:

Grade, Number of people:	Salary
GS–2, 25	$5,432
GS–3, 68	6,128
GS–4, 97	6,882
GS–5, 107	7,694
GS–6, 38	8,572
GS–7, 112	9,520
GS–8, 3	10,528
GS–9, 242	11,046

It appears as a result of conditions that will exist there so far as living some 800 of the 1118 employees on the rolls will not be able to transfer. Therefore it will cost the U.S. Government multiple hundreds of thousands of dollars in severance pay; when we add to that early retirement, the cost will run in the millions. None of this shows up in the budget project submitted by the Marine Corp, even though these are real cost which the American taxpayer will have to bear.

Statement of Forrest Sellers, President, Local 89 American Federation of Government Employees to the Subcommittee on Military Construction of the Senate Committee on Appropriations

I am Forrest Sellers, President, Local 89, American Federation of Government Employees, which represents the civilian employees of the Marine Corps Supply Activity, Philadelphia, Pennsylvania, under the provisions of Executive Order 11491.

I am most grateful to the Subcommittee for the opportunity of appearing before you on October 9, 1973 to express my opposition to the proposed transfer of the Marine Corps Supply Activity to the Marine Corps Supply Center, Albany, Georgia. I submit the following statement to you primarily to provide (1) written responses to questions regarding my statement of October 9th, (2) additions to comment upon data made available to me at and after the hearing of October 9th and (3) amplification of several of my remarks. Secondly, for purposes of simplicity and convenience, I have incorporated into this statement the substance of my previous statement. My sentiments, therefore, can be secured solely by reviewing this statement. I respectfully request that this statement be inserted into the record of these hearings.

On behalf of the employees at the Marine Corps Supply Activity I should like to submit to you testimony which analyzes the alleged cost and the alleged savings the Department of the Defense (DoD) claims will arise from the proposed relocation. As you will recognize from this analysis (1) the alleged savings have decreased significantly, (2) the alleged costs have increased significantly and (3) several assertions of DoD are in error.

TOTAL ESTIMATED COST, UP, UP!

The Fact Sheet which DoD distributed to interested Congressmen/individuals lists under "Funding Impact" cost of 5.2 million dollars in military construction (MILCON) funds required to relocate the Marine Corps Supply Activity. The Hon. Jack L. Bowers, Assistant Secretary of the Navy for Installation and Logistics, in an enclosure to a letter written on 29 June 1973 to Mr. Royal L. Sims, National Vice-President of the American Federation of Government Employees, listed costs of 9,748,000 dollars to relocate the Marine Corps Supply Activity. The total estimated cost consisted of 5,204,000 dollars in MILCON funds and 4,544,000 dollars in Operations and Maintenance, Marine Corps (O&M, MC) funds. A preliminary report of a Marine Corps Task Group dated 22 June 1973 listed under Section IV total O&M, MC costs of 5,719,000 dollars—$1,175,000 more than listed in Assistant Secretary Bowers' letter of June 29th. The Hon. John W. Warner, Secretary of the Navy, in his letter of October 2, 1973 to Senator Richard S. Schweiker listed total estimated cost to relocate the Marine Corps Supply Activity as 11.0 million dollars. The cost consisted of 5.2 million dollars in MILCON funds and 5.8 million dollars in O&M, MC funds. The report of the Marine Corps Task Group and Secretary Warner's letter show, therefore, that (1) cost as listed by DoD officials in the Fact Sheet has increased 5,719,000 dollars and (2) cost as listed by DoD officials in Assistant Secretary Bowers' letter of 29 June has increased 1,175,000 dollars.

ARE DOD ESTIMATES OF TOTAL COST COMPLETE?

Notwithstanding the fact that DoD estimates of total cost have increased a minimum of 1,175,000 dollars, it appears that several indirect costs to the Federal government and to the taxpayers have been *excluded* from the cost estimates. Where in the estimates are the costs to the Federal government resulting from the early retirement of employees who would not transfer if the relocation is consummated? Where in the estimates are the costs to the Federal government for economic adjustment assistance rendered to the adversely affected community by the President's Inter-Agency Economic Adjustment Committee? Where in the estimates are the costs to the Federal government for displaced employees who would be eligible for unemployment benefits? Where in the estimates are costs to the Federal government to retrain employees who will be placed in new occupations in other agencies in the government?

5.2 MILLION DOLLARS COST FOR CONSTRUCTION OF NEW BUILDING: IS THIS ACCURATE?

The Marine Corps estimates that the cost to construct the proposed building at Albany will be 5,204,000 dollars. Several knowledgeable persons have advised me that the estimate is exceedingly low. First of all, I have been advised that labor and material in the construction industry are increasing a minimum of eight to ten percent per year. Assuming that the Marine Corps' estimate of 5,204,000 dollars is accurate, the cost to construct the proposed building in 1974 considering labor and material increases would be between $5,620,320 and $5,724,400. If the proposed building was constructed in 1975, the cost would be between $6,036,640 and $6,244,800.

Secondly, I have been advised that it appears the cost estimate does not contain any allowances for probable cost over-runs, modifications and other contingencies. I was advised, further, that considering cost overruns, modifications and contingencies, the cost of the building might go as high as 8,000,000 dollars.

WHAT IS THE TRUE COST OF THE PROPOSED RELOCATION?

Why was not the total estimated cost of 11.0 million dollars contained in Secretary Warner's letter not contained in the Fact Sheet which was initially distributed to interested congressmen and individuals? Why have several indirect costs to the Federal government been excluded from the cost estimates? DoD has increased the cost estimates by a minimum of 1,175,000 dollars. Will DoD increase the cost estimates again? What is the true cost of the proposed relocation?

ESTIMATED SAVINGS DOWN

DoD officials have stated in a number of letters and documents that the proposed relocation would result in estimated annual savings of 2,610,000 dollars.

The Installation Facility Data, attached as an enclosure to Assistant Secretary Bowers' letter of June 29th, shows that 804,000 dollars of the alleged savings would result from a reduction in military pay, and the remaining 1,806,000 dollars of the alleged savings would result from a reduction in *civilian pay/other O&M, MC areas*. Secretary Warner shows in the aforementioned letter that the alleged savings would result solely from reductions in personnel. Sources of the alleged savings as depicted in the two preceding references are not in agreement. One wonders, therefore, how reliable are the estimates of alleged savings. Secondly, the civilian and military billets alleged to be eliminated have not been identified by DoD officials. I have been advised, moreover, that the Table of Organization (T/O), which would reflect reductions resulting from the proposed relocation has not been completed to date.

Thirdly, the Fact Sheet cites that the alleged personnel savings are predicated upon the following reductions in the T/O in effect on December 4, 1972: civilian billets being reduced from 1132 to 948 and military billets being reduced from 431 to 381. Fourteen civilian and six military billets have been eliminated already. This reduction—resulting in estimated savings of 210,000 dollars—is documented in the Civilian-Military Complement Record of the Marine Corps Supply Activity. An additional twenty military billets are scheduled to be eliminated in the Data Processing Division of the Marine Corps Supply Activity during the next two years. These reductions of 40 billets would result in total estimated savings of 420,000 dollars. It is to be emphasized that this savings of 420,000 dollars would occur before the time of the proposed relocation and is not related in any way to the proposed relocation. These savings would reduce the alleged savings resulting from the proposed relocation.

Fourthly, a preliminary report of an onsite manpower survey team from Headquarters, Marine Corps recommended several months ago that thirty-one civilian and military billets in addition to the forty civilian and military billets cited in the above paragraph be eliminated. If the latter mentioned thirty-one billets are eliminated, DoD alleged savings of 2,610,000 dollars resulting from the proposed relocation would be reduced by 745,500 dollars.

Finally, it is anticipated that there will be additional personnel reductions at the Marine Corps Supply Activity not related to the proposed relocation because of reduction in workload due to the cessation of hostilities in the Southeast Asia area.

$4.9 MILLION "COST AVOIDANCE" FIGURE: IS THIS A LEGITIMATE CLAIM?

DoD Officials stated in a number of letters and documents that military construction at the Marine Corps Supply Activity totaling 4,924,000 dollars could be avoided if the proposed relocation is accomplished. The 4.9 million dollar "cost avoidance" figure includes the following items:

a. 191,000 dollars for a standby generator for data processing equipment.

b. 176,000 dollars for a sprinkler system. The original estimated cost of this project was 67,000 dollars.

c. 4.6 million dollars for air conditioning various buildings.

Mr. Witt stated in his letter of June 12, 1973 to Senator Schweiker that air conditioning of the Marine Corps Supply Activity "has not been effected up to now because of higher Marine Corps priorities stemming from operational requirements and personnel facility requirements associated with Zero Draft/Project Volunteer".

It is questionable that 4.9 million dollars could be legitimately claimed as a cost avoidance when 4.6 million dollars for air conditioning has never been incorporated into the military construction budget. Only funds for a sprinkler system and a standby generator have ever been incorporated into the budget. One wonders if the air conditioning would ever have been assigned high enough priority to be incorporated in the military construction budget if the cost avoidance factor would not have been conducive to the proposed relocation.

Secondly, enclosure (2) to the Commandant of the Marine Corps letter of August 3, 1972 (Subj: Guidance for Facility Planning and Programming) stated that the six-year dollar limitation for military construction at the Marine Corps Supply Activity for Fiscal Years 1974 through 1979 would be $2.0 million. The aforementioned limitation renders it impossible to install air conditioning at the Marine Corps Supply Activity during the six-year period. The Director of MCSA Office of Supporting Services letter of 13 September 1972 to MCSA Chief of Staff collaborated the situation.

The Hon. Edward J. Sheridan, Deputy Assistant Secretary of Defense, stated in his letter of 14 June 1973 to Senator Richard S. Schweiker that the Marine Corps Supply Activity is old and desperately in need of a major modernization program.

Marine Corps Major General J. O. Butcher, Commanding General of the Marine Corps Supply Activity in 1965, stated in a letter that "the present permanent buildings at 1100 South Broad Street (Marine Corps Supply Activity) are structurally sound and are sufficient for orderly satisfaction of all anticipated requirements with remaining space still available for possible additional expansion."

The opinion expressed by General Butcher was subsequently incorporated into the Congressional Record.

Secondly, extensive modernization has been made to MCSA since that time. The modernization included but is not limited to: installation of new elevators, new lighting, tile flooring, new roofing, and new windows; painting and pointing of various buildings, relocation and renovation of bathrooms, and other modernization.

Thirdly, Inspectors of the Northern Division, Naval Facilities Engineering Command, and Headquarters, Marine Corps make periodic inspection of the buildings at MCSA. I am advised that the 1972 report of NFEC listed only two principal items: the installation of the standby generator for data processing equipment and installation of a sprinkler system. As stated in the above paragraph, the projected cost to install these two items is only 367,000 dollars.

Fourthly, if General Butcher's statements were accurate, it must be concluded that the buildings at MCSA are structurally sound and sufficient today because the buildings are in better condition today than they were in 1965.

HEAT/HUMIDITY DOES NOT COMPLETELY CLOSE DOWN MCSA

Deputy Assistant Secretary of Defense Sheridan in his aforementioned letter stated also that many of the supply operations at the Marine Corps Supply Activity are curtailed or completely closed down during the summer months because of the lack of air conditioning in most of the office spaces.

It should be noted that the times it has been necessary for employees to be released early because of the heat/humidity have been relatively few and at no time has the Activity been completely closed down due to lack of air conditioning in the buildings. Approximately 40 percent of the office/conference room spaces at the Marine Corps Supply Activity are air conditioned. Air conditioned spaces include the following offices: The Commading General, the Chief of Staff, the Deputy Chief of Staff, all division directors, and various other offices in each division. Persons in air conditioned spaces are not released early due to heat/humidity—only persons in non-air conditioned space are released. Thus, at no time is the entire Activity completely closed down due to heat/humidity.

Secondly, when management deems it prudent to release employees in non-air conditioned spaces, divisions normally retain one or more key employees in each branch—including persons in non-air conditioned space—to process emergency/priority work.

EMPLOYEES AT MCSA ARE EFFICIENT

Former Acting Assistant Secretary of the Navy Hugh Witt stated in his letter of 12 June 1973 to Senator Schweiker that the efficiency of the employees drops during periods of high heat and humidity because of the lack of air conditioning. It is noteworthy that the Marine Corps Supply Activity was awarded a unit citation from the Secretary of the Navy on June 15, 1968 for "Exceptionally meritorious achievement in the performance of outstanding service in carrying out assigned duties . . .". The award substantiates that the efficiency of the employees at the Marine Corps Supply Activity is high.

ARE SUFFICIENTLY TRAINED PERSONNEL AVAILABLE IN ALBANY?

Deputy Assistant Secretary of Defense Edward J. Sheridan in his letter of 14 June to Senator Richard S. Schweiker stated the possible loss of specific talents possessed by employees who cannot relocate was recognized as a major problem in the relocation.

Assistant Secretary of the Navy Bowers stated in his letter of 19 July 1973 to me:

> The Marine Corps realizes that it may not be an easy task to recruit and train people to replace those current employees who chose not to exercise their right to transfer with their function . . .

A Marine Corps Task Group in a preliminary report of June 22, 1972:

> "Certain critical functions most seriously affected by the non-relocation of key civilian personel require augmentation by military personnel in order to ensure a reasonable degree of continuity."

Why is the military augmentation required if there are sufficiently trained personnel in Albany?

In the event that the proposed relocation is consummated, who will staff the positions if it becomes necessary to pull out the military personnel in an emergency?

Is it not true also that a number of previous Marine Corps studies—including the Dillard Study of 1970–71—recommended against the proposed relocation because of the lack of sufficiently trained personnel?

IS THERE ENOUGH LOW INCOME HOUSING IN ALBANY?

Former Acting Assistant Secretary of the Navy Witt stated also in his letter of June 12th, that the cost of three bedroom homes in Albany in the Spring of 1973 ranged between $29,000 and $35,000. As shown below, more than 70 percent of the employees at the Marine Corps Supply Activity are GS–9 (or equivalent) and below:

Grade, number of people,[1] and salary

GS–2	25	$5, 682
GS–3	68	6, 408
GS–4	97	7, 198
GS–5	107	8, 055
GS–6	38	8, 977
GS–7	112	9, 969
GS–8	3	11, 029
GS–9	242	12, 167
Wage grade	69	------

[1] Employees on board as of 30 May 1973.

These 771 employees normally would not secure or support a $29,000 to $35,000 mortgage based upon their income. Mr. Witt stated also that the cost of four bedroom homes in Albany in the Spring of 1973 ranged between $35,000 and $42,000. Four bedroom homes would, therefore, be limited to the select group of employees equivalent to GS–12 and above. Most of MCSA employees who lack sufficient income to purchase a $29,000 to $42,000 home in Albany now live in decent adequate row/semi-detached homes in Philadelphia and vicinity ranging between $12,000 and $22,000.

EMPLOYEES—WHAT HAPPENS TO THEM?

Mr. Chairman, we would be remiss if we did not bring up the most important project in running this operation, and that is the people. Here we have some 1100 employees well trained, well equipped to meet all of the operational needs. Some have worked in this one building for more than 30 years. The tremendous impact which will occur on the lives of these people by relocating this activity unnecessarily to Albany, Georgia should not be *expected* by those who have contributed dedicated, unselfish service to the United States Government in carrying out its mission.

In closing, I wish to reiterate that it is apparent that the rationale advanced by DoD officials to support the proposed relocation contains a number of defects. The major defect is that alleged savings of 2,610,000 dollars have decreased significantly, while total estimated cost has increased significantly. Another major defect is that several costs have been excluded from the estimates. A third major defect is that there are official documents to prove that the alleged cost avoidance of 4,924,000 dollars is invalid because Headquarters, Marine Corps was not going to allocate MCSA sufficient funds during Fiscal Years 1974 thru 1979 to air condition the buildings. A fourth major defect is that it is questionable that adequately trained civilian personnel are available to staff the proposed transferred positions.

I wish to emphasize that the above-mentioned statements are not made to be critical of any individual or agency, and identification of individuals and/or various agencies was for purpose of required documentation. I served as a Budget Analyst and a Budget/Accounting Analyst for the Federal government for eight years, and I know the difficulty in compiling meaningful estimates three years in advance. In my opinion, however, it would not be prudent or in the best interest of the Federal government, the taxpayers or MCSA employees to recommend appropriation of the 5.2 million dollars based upon data presented by DoD to date. I respectfully request, therefore, that you, the members of the Military Construction Subcommittee, recommend disapproval of the proposed appropriation.

U.S. SENATE,
Washington, D.C., November 1, 1973.

Hon. RICHARD S. SCHWEIKER,
Ranking Minority Member, Senate Appropriations Committee on Military Construction, Dirksen Senate Office Building, Washington, D.C.

DEAR DICK: I am writing to let you know of my concern for the proposed appropriation of $5.2 million to relocate the Marine Corps supply activity from Philadelphia, Pennsylvania to Albany, Georgia.

As you know, the $5.2 million is needed to construct administrative facilities to adequately house Marine Corps supply activity personnel to be moved to Albany, Georgia. Reliable witnesses have appeared before your Committee to refute the overall estimates of cost and savings attributed to the move as presented to your Committee by the Department of Navy. This testimony shows the overall cost to the government, maintenance, construction, relocation, etc., will be less if the facility remains in Philadelphia.

Specifically, the $5.2 million cost of the needed renovation at Albany, Georgia, could go as high as $8 million when the construction is completed in 1974–75. Also, the Department of the Navy does estimate it will save $4.9 million in "cost avoidance" by moving the supply operation. $4.6 million of this estimate is for air conditioning—a cost never incorporated into the military construction budget.

Therefore, in view of the above, and other questions raised in the testimony, I respectfully request that the $5.2 million not be appropriated until it is clearly shown to be in the best interest of the Government.

With kind regard,
Sincerely,

HUGH SCOTT,
U.S. Senator.

Mr. SCHWEIKER. Mr. President, I am not satisfied that the Department of Defense has properly evaluated this proposal and I regret that funds are provided in this bill which will begin the transfer. As the ranking Republican on the Appropriations Subcommittee on Military Construction I conducted hearings on this important subject. Also, I was able to have this specific appropriation item deferred to the full Appropriation Committee for consideration. I felt that the full committee should have the opportunity to evaluate and consider the necessity for the transfer and thus the need for $5.2 million to begin construction of a facility in Albany, Ga. During the Appropriations Committee deliberations on this bill, I presented the various issues involved including the points of view of the employees, the content of the Dillard study I mentioned earlier, and the testimony presented at the hearings which I chaired. I requested a vote on this specific item and was disappointed that the committee by a vote of 10 to 6 failed to adopt my recommendation that the funds be deleted from the bill.

Mr. President, I repeat, this appropriation item is unnecessary, unjustified and will result in severe hardships for the city of Philadelphia and particularly for the many employees whose loyal service to the Federal Government is being overlooked for no good reason.

Mr. GOLDWATER. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. GOLDWATER. Mr. President, it has been my pleasure and privilege to serve on the Board of Visitors of the Military Academy, which we call West Point. I want to express my appreciation to the committee for having included $20 million to commence the building of a new hospital. This is very badly needed. The present hospital has been there since 1923. It has been enlarged sort of piecemeal from time to time, and I know that this is not a satisfactory way to produce the proper kind of hospital.

I speak with some experience in this matter, because I have been a member of the board of three hospitals in this country. I know the per-square-foot cost to be very high in their construction. I know that at West Point the per-square-foot cost to build anything is ridiculously high, because we have never been able to acquire the proper construction facilities, unions, and so forth, in the close proximity of the academy.

Mr. President, while $20 million will not exactly finish this hospital, it will get it started. I am very gratified, and I know that I speak the gratification of the entire Board of Visitors and the staff of West Point when I express thanks to the committee for this fine job.

Mr. MANSFIELD. Mr. President, I wish to express the thanks of the committee, to the distinguished Senator from Arizona, who has been leading the fight for this item for more months than, frankly, I care to remember. I think he and the Academy have achieved success. We have been assured by the Army that this will be sufficient to take care of its needs. They are very much pleased with the proposal, and we hope that the House will agree in conference.

May I say that the Senate figure, despite its almost 10 percent cut from the administration's request, is $61 million above that of the House. But of that $61 million, more than half is the result of new items—the $20 million for the hospital at the Military Academy at West Point and $12 million for Culebra, off Puerto Rico, by means of which a pledge given by three Secretaries of Defense is being honored. This matter, we hope, now is on the way to a final solution.

Other islands, uninhabited, have been found to carry out the gunnery practice and the like which the Navy considers desirable. It is our hope that the House will agree with what the Senate will do in the case of Culebra, that a commitment will be honored, and that this difficult situation finally will be brought to a head.

It was interesting to note that the chairman of the House Appropriations Subcommittee, Representative ROBERT L. F. SIKES, of Florida, stated that he would give the matter all consideration and keep an open mind if it was put into the Senate bill. He explained that he could not do anything because he had received no communication from the Navy. We did. This committee did receive a communication from the Navy. This request now has been honored and is in the bill. There, again, I want to say that a great deal of credit goes to the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), who, along with me, is managing the bill at this time on the floor.

Mr. SCHWEIKER. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. I yield.

Mr. SCHWEIKER. I certainly agree with the distinguished majority leader's point on Culebra. I had the opportunity during World War II to serve on an aircraft carrier operating off Culebra, and we were using the island for bombing practice.

I also had the misfortune to see a very serious accident occur during World War II, when pilots from our carrier, by mistake, in bad weather conditions, bombed the observation tower, killing a number of men on the island of Culebra. This event did not receive wide publicity at the time because of war conditions. It did receive a Navy board of inquiry.

It seems to me that this is good, graphic proof of what can happen when somebody makes a mistake and you are near a population area. Fortunately, this did not affect civilians; but the fact that we bombed our own observation post, killing a number of officers and enlisted men at the time, shows how a bombing incident near civilians endangers civilian population.

I can well understand that the people who live there are concerned about it. So I am glad that we have bitten the bullet, and that we have, in fact, set a target date for phasing out the bombing operation there.

I hope, as the distinguished majority leader has said, that the House will listen to our point and will agree that this is a better way to proceed. I think it is only fair to the people of Culebra; and it is also a very good index of what we ought to be doing.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, because there will be a yea-and-nay vote. The bill is of sizable proportions. I think we ought to help some of our Members to be recorded.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, because of the fact that certain committees are holding important hearings this morning, I ask unanimous consent that the vote on the military construction appropriation bill occur at 12:15 p.m. today.

The ACTING PRESIDENT pro tempore. Does the majority leader ask that the provisions of rule XII be waived?

Mr. MANSFIELD. Yes.

The ACTING PRESIDENT pro tempore. Without objection, the appropriate section of rule XII will be waived.

Without objection, the vote will occur at 12:15 p.m. today.

Mr. THURMOND. Mr. President, the pending bill, which would provide $2,670,972,000 in appropriations for the fiscal year 1974 military construction program, deserves favorable consideration by the Senate.

This bill represents an increase of approximately $61 million over that approved by the House Appropriations Committee earlier this month but is nearly $300 million under the budget request.

It was pleasing to me that the Senate Committee approved a $1.3 million project at the Naval Station in Charleston, S.C., for a communication facility badly needed by naval forces there.

This facility would provide fleet broadcast communications and improve harbor control. The present transmitter buildings are overcrowded and in poor condition.

Mr. President, unfortunately the Senate committee did not approve about $6 million for enlisted and bachelor officer housing in Iceland. This request was taken out because the United States is presently negotiating for an agreement to insure retention of our forces there. While this money could be used only if suitable agreements are reached, it nevertheless would appear wise to provide the funds in the event a suitable agreement is reached.

Iceland is a very isolated area and our personnel there remain indoors most of the time. The present facilities are totally inadequate and if this funding is not restored and an agreement is reached, our servicemen will have to wait an extra year to receive suitable housing.

Mr. President, overall the committee has done an outstanding job on this bill. However, I hope the conferees will give serious consideration to the House position of leaving the Iceland projects in the bill, on the proviso that a suitable agreement might be reached.

Mr. BAKER. Mr. President, I wish to commend the chairmen and members of the Senate Armed Services and Appropriations Committees for providing $12 million in the military construction appropriations bill, presently pending before the Senate, to effect the transfer of the Atlantic Fleet Weapons Range from the inhabited island of Culebra to the two uninhabited islands of Desecheo and Monito.

This transfer was ordered by the Secretary of Defense on May 24, 1973, and it represents the fruition of efforts by many to end the Navy's use of this tiny island east of Puerto Rico as a target for naval weapons. For years, the Navy claimed that Culebra was essential to the national security as a target for ship-to-shore and aerial bombardment until 1972, when two studies conducted by DOD concluded that there were other islands in the general vicinity that were uninhabited and that would serve the same purpose. Thus, Senator HUMPHREY and I introduced legislation, cosponsored by 38 Members of this body, to force the Navy to move elsewhere for their target practice; and I was very pleased to see Elliot Richardson, in his last action as Secretary of Defense, order the Navy to complete such a transfer by July 1, 1975.

The questions of how to effect the transfer and how to protect Culebra's unique environment from uncontrolled development remain to be answered. However, I am confident that the Department of the Interior, the Navy, and the Government of the Commonwealth of Puerto Rico can work out these details in the near future and that the transfer can be brought about as quickly and smoothly as possible.

The funds in the military constructions approprition bill are essential to this purpose and I wish to thank once again the Senate Appropriations Committee for following through on this important matter.

ANNOUNCEMENT OF POSITION ON HELMS AMENDMENT RELATING TO BUSING

Mr. ALLEN. Mr. President, yesterday, November 19, 1973, it was necessary in the performance of my duties as U.S. Senator from Alabama to be absent from the session of the Senate. On that date, Hon. Howard H. Callaway, Secretary of the Army made an official inspection tour of Fort McClellan, one of the Nation's great military bases, near Anniston, Ala., as part of a survey that is being made by the Defense Department to determine the future mission of Fort McClellan and other military bases throughout the country. Along with Congressman BILL NICHOLS of the Third Congressional District of Alabama, I accompanied Secretary Callaway on his inspection trip to Fort McClellan to be of such assistance as I could in assisting the Secretary in arriving at a decision that would make the best possible use of Fort McClellan and its facilities and would best serve the national interest.

I regret that my necessary absence from the Senate yesterday caused me to miss the further deliberations of the Senate on the energy bill as well as the votes that were taken on amendments and on final passage.

I might state specifically as to the Helms amendment, which would have prevented the forced busing of schoolchildren and the use of gasoline for that purpose, I am a cosponsor of the amendment and had I been present in the Senate when the amendment was called up and the motion to table was made I would have voted against the motion to table in order that we might have then moved on to voting in favor of the Helms amendment.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

ORDER FOR PRINTING OF S. 2589, AS PASSED

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 2589 be printed as it passed the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:10 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at the hour of 11:50 a.m., the Senate took a recess until 12:10 p.m., whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. METCALF).

AUTHORITY FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE A REPORT NOT LATER THAN MIDNIGHT, NOVEMBER 28, 1973

Mr. ERVIN. Mr. President, I ask unanimous consent that the Committee on Government Operations be permitted to file its report on S. 1541 no later than midnight, November 28, 1973.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on H.R. 11459.

Mr. MANSFIELD. Mr. President, this is the appropriation bill for military construction?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi (Mr. STENNIS) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), and the Senator from Hawaii (Mr. FONG) would each vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 510 Leg.]

YEAS—88

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Bennett
Brock
Church
Cotton
Curtis
Fong
Haskell
McClure
Mondale
Montoya
Nelson
Stennis

So the bill (H.R. 11459) was passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill (H.R. 11459) was passed.

Mr. CANNON and Mr. ROBERT C. BYRD moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I move that the Senate insist on its amendments and requests a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MANSFIELD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. MCCLELLAN, Mr. SYMINGTON, Mr. CANNON, Mr. SCHWEIKER, Mr. MATHIAS, Mr. BELLMON, Mr. YOUNG, and Mr. TOWER conferees on the part of the Senate.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar No. 388, S. 1868.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

There being no objection, the Senate proceeded to consider the bill.

Mr. HUMPHREY obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senater yield to me briefly, without losing his right to the floor?

Mr. HUMPHREY. I yield.

PROGRAM

Mr. MANSFIELD. Mr. President, whether or not there will be any more votes this afternoon, I cannot say at this time. It is possible that there may be, so I would urge Senators to stay very close to the Chamber. There will be some matters taken up relative to the executive calendar, on which we are awaiting further information.

As the Senate knows, the two treaties which were reported by the Foreign Relations Committee unanimously will be voted on Monday. Again, we are awaiting word as to what time that vote will occur.

On the basis of the report made by the distinguished chairman of the Committee on Rules and Administration today concerning the nomination of GERALD FORD to be Vice President of the United States—and that nomination was reported unanimously, and debate on that nomination will begin immediately after the disposition of the two treaties on Monday next—the vote on the confirmation will not occur on Monday. Hopefully it will occur some time on Tuesday. The debate will not be too lengthy.

It is the present intention of the leadership, following the disposal of the nomination of GERALD FORD to be Vice President of the United States, to call up S. 2673, the so-called Saxbe pay bill.

That is the situation, as I see it, at the present time. As of now it does not look as if there will be any votes tomorrow. There will be a session, though.

I would hope that we could clean the calendar a little more today. I would hope it would be possible to dispose of the executive calendar. However, as I have indicated, that is a matter of waiting on events, and if an agreement is reached, announcement will be made as expeditiously thereafter as possible.

UNANIMOUS-CONSENT AGREEMENT TO TEMPORARILY LAY ASIDE PENDING BUSINESS AT ANY TIME

Mr. MANSFIELD. In view of the circumstances I ask unanimous consent that as the need arises—and the agreement will not be treated cavalierly—it be possible to lay aside temporarily the pending business at any time.

Mr. HUMPHREY. We understand that.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The Senate continued with the consideration of the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Don Henderson, of the Foreign Relations staff, Mr. Spiegel and Miss Albertson of my staff be allowed the privilege of the floor during the consideration of S. 1868.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, the pending business relating to the restoration of the United States sanctions against Rhodesia as one of the important items of international policy, particularly at this critical time when we need to look towards the Continents of Asia and Africa for not only their cooperation but also, may I say, in terms of many of their resources.

Mr. President, U.S. violation of international sanctions against Rhodesia has seriously undermined some of our most fundamental foreign policy goals:

The United States is committed to the rule of law throughout the world and to upholding international treaty obligations. At a time when we are seeking binding international agreements in many areas—from international monetary reform to strategic arms limitations—we must do everything possible to make our own commitment to treaty obligations credible and to strengthen the international legal system.

Yet in violating sanctions we are breaking a treaty obligation to the United Nations and refusing to comply with international law. Article 25 of the U.N. Charter states that all member states are legally bound to comply with sanctions. The United States is a member state, and in fact we were the leading force in bringing about the United Nations and in securing the adoption of the charter. Section 5(a) of the United Nations Participation Act of 1945 gave the President express authority to implement sanctions when imposed by the United Nations.

The United States strongly supported the imposition of sanctions against Rhodesia in the Security Council—both in 1966 when the Security Council voted unanimously to impose partial mandatory sanctions and in 1968 when it voted unanimously to impose full mandatory sanctions.

So there it is, Mr. President, the law of the land. And a treaty is regarded as the supreme law of the land, just as is our Constitution. We are the only nation in the world to first support sanctions then pass a law requiring that we violate them.

This action can only weaken the international legal framework.

It should be clearly understood that the United States has more at stake in complying with international law than almost any other country in the world. For us to violate the law and abrogate international law in defiance of our treaty obligations is to invite international disorder and catastrophe.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. HUMPHREY. I would like to make my statement first. Afterward, I shall yield for a question.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator from Minnesota would yield very briefly, my only inquiry is whether the Senator from Minnesota intends to ask for a vote on this bill today.

Mr. HUMPHREY. No, I do not.

Mr. WILLIAM L. SCOTT. Mr. President, I thank the Senator from Minnesota very much.

Mr. HUMPHREY. Mr. President, I thank the Senator from Virginia.

We have the power to veto any United Nations resolution. When we refuse to comply with U.N. policy, we are setting a bad example for nations which do not even have a vote in the Security Council.

Our violation of international law has not gone unnoticed in the United Nations. The General Assembly has passed four resolutions calling on the United States not to implement the legislation which requires our violation of sanctions. One resolution has been passed calling on us to repeal this legislation.

I am not arguing that the United States should allow the United Nations—even the international community as a whole—to determine our foreign policy. That is our prerogative. And in the sanctions on Rhodesia, we did determine our foreign policy under the terms of the United Nations Charter and under the United Nations Participation Act and by the vote in the Security Council. We must always have the courage to stand up for what we believe is right against international pressure.

But on this issue we have believed from the beginning that the international community was right, that sanctions should be imposed and made as effective as possible.

Mr. President, we must choose carefully the issues over which we are willing to run the risk of weakening international law and undermining the credibility of our treaty obligations. We must not run this risk to violate a policy which we have always believed in and participated in forming.

The United States is committed to the principles of human rights, racial equality and self-determination. These principles are basic to our philosophy of government. We believe we uphold them more rigorously than many other nations. We also believe that these principles have no boundaries—that human rights should be recognized by all nations.

As one of the world's largest multiracial states—with a black population second in size only to Nigeria's—we have a special obligation to promote racial equality both at home and abroad. The nonwhite nations watch our actions carefully to determine whether we are serious in our commitment to human rights and racial equality. If we do not uphold this commitment, we cannot expect these nations to trust our assertions that we are willing to work with them as equal partners in solving common problems.

By violating international sanctions against Rhodesia, we have seriously undermined the attempt of the world community to promote human rights, self-determination and racial equality in Rhodesia. Sanctions were imposed when the 5 percent of the Rhodesian population that is white declared independence from Great Britain for the purpose of maintaining and extending white supremacy. The United States now stands with South Africa and Portugal as the only three U.N. member states to openly and formally violate sanctions against this illegal minority regime.

We have given Ian Smith, the Rhodesian Prime Minister, considerable moral and economic support in his resistance to international pressure and in his determination to continue and strengthen white supremacy in Rhodesia. This is support he does not deserve, and surely it ought not to come from a nation that has committed itself in behalf of human equality and equal opportunity—"one man, one vote."

I understand the concern of those who argue that Rhodesia is being treated unfairly, not because the world should tolerate the denial of human rights, but because there are many other nations which deny these rights to their citizens and which are not subject to sanctions.

I want to explain what it is that makes the Rhodesian situation unique and why the United Nations, with the full support of the United States, decided to impose sanctions.

First, the world community is prevented from intervening where human rights are being denied in most nations, because of the principles of national sovereignty. The United Nations must be very careful about interfering in the internal affairs of sovereign states if it is to continue as an effective organization.

Rhodesia, however, is not a sovereign state. It has not been recognized by any nation in the world. It is still legally under the sovereignty of Great Britain—and Great Britain has come to the United Nations asking assistance in solving the Rhodesia problem.

Second, the United Nations has a special responsibility to promote human rights and self-determination in Rhodesia. One of the original purposes of the United Nations was to see that the transition from colonial rule to genuine self-determination be made as soon and as peacefully as possible. Because Great Britain could not bring about an end to colonial rule and assure self-determination for the people of Rhodesia without the use of force, she has asked the international community for support in fulfilling her obligation. Sanctions are the most powerful nonviolent weapon the U.N. has to perform this task.

Third, while it is true that human rights are violated throughout the world, racial domination is a particularly abhorrent form of oppression that has almost disappeared from the face of the Earth. The southern African States stand out as a tragic anachronism in a world that has recognized the injustices of racial domination and is committed to replacing it with self-determination.

It is true that in many African States rule by a white elite has been replaced with rule by an African elite. But nowhere in black-ruled Africa is a person prevented from entering the highest positions in government, because of the color of his skin. In the vast majority of African States, the farmers and the laborers exercise considerable power. Labor unions are especially strong in these states—while in Rhodesia those unions which are allowed to exist are rendered ineffective by harsh labor laws. Finally, nowhere in black Africa do elites have such a complete monopoly on power as do the Rhodesian whites; nor do black African elites exercise their power to enforce separate sets of laws for different racial or ethnic groups.

Mr. President, at a time when we badly need the cooperation of nonwhite states in resolving worldwide economic and political problems, we cannot afford to relax our position on racial equality and human rights. If, as Secretary of State Kissinger has stated, we want to build an effective world community, we must stand with the other states in the defense of these principles.

By the way, Mr. President, our distinguished colleague the Senator from Wyoming (Mr. McGEE), who has served as a delegate to the United Nations and has worked very closely with many of the member states, particularly those from Africa and Asia, has told the Senate time and again that our position at the United Nations is slowly being eroded and destroyed, because of our violation of the U.N.-imposed sanctions on Rhodesia. Time and again we need the vote of an African State or an Asian State, and time and again we are reminded that we are in violation of international law and sanctions as imposed unanimously by the Security Council of the United Nations.

The United States is committed to encouraging international cooperation in bringing about the peaceful resolution of conflict. We have learned that violent conflict anywhere in the world can easily grow to involve the United States and other major powers. We have learned that conflict can be avoided or minimized through cooperation and negotiation with other countries.

The Vietnam experience has taught us that it is crucial that international negotiations be as effective as possible—and that the international peacekeeping function of the United Nations be strengthened. And might I add, Mr. President, at this very time when we are seeking cooperation from member states of the United Nations in the peaceful settlement of the critical and dangerous problems of the Middle East, it is ever more important that we manifest by our actions a respect for and an obligation to the United Nations Security Council position.

Yet, in violating sanctions, we are undermining the international community's attempt to bring about a peaceful resolution of conflict.

Sanctions were imposed on Rhodesia, because it was recognized that the attempts of the white minority there to govern the black majority by force posed a serious threat to international peace and stability.

Since that time, violence in Rhodesia has been steadily growing and has spread to surrounding states.

The minority regime in Rhodesia has used increasingly oppressive means to govern the majority. All avenues for the peaceful expression of political opinion have been closed to the Africans. Many have turned to violence as the only means left to win some part in governing their country. The liberation movements are growing daily more powerful. Killings of whites by liberation movements and Government killings of blacks in retaliation have increased markedly in the past few months.

For the first time, liberation movements are striking from within Rhodesia rather than from across her borders. They are receiving assistance from the African farmers and recruiting new members.

This struggle is not now contained within Rhodesia and has increasingly involved surrounding states. Land mines along the Zambia border have killed many Zambian civilians. Land mines along the Rhodesian side of this border have killed Rhodesian soldiers. South Africa has sent troops to Rhodesia. In the last few months we have read reports of Rhodesian soldiers crossing the border into Mozambique and killing villagers there.

If sanctions fail to bring about a peaceful negotiated settlement to this conflict, the violence is certain to grow; and the threat to international peace and stability will become far greater.

But there is also more hope now than ever before that sanctions will bring about a negotiated settlement in Rhodesia.

Pressure is mounting within Rhodesia for a settlement. In the past year, a new African political party has won broad popular support in Rhodesia. This party, headed by Bishop Abel Muzorewan, is committed to nonviolence and a gradual transition to majority rule with minority rights.

International economic pressure is also growing. Although sanctions have not been entirely successful, they have resulted in economic stagnation for a country that was growing rapidly before they went into effect. The recent closing of the Zambia border, and the halting of all Zambian goods through Rhodesia, have significantly increased the economic pressure on the minority regime to negotiate.

International economic pressure is certain to become even greater in the future. On May 22, the Security Council passed a resolution calling for a strengthening of the sanctions program. The member states expressed a desire to make their own sanctions policies more effective; and the methods adopted to detect the shipment of Rhodesian products through other African countries should close the biggest gaps in the sanctions program.

The United States can now either join the other nations in the U.N. in the effort to make sanctions more effective—or become increasingly isolated as an importer of Rhodesian goods.

We can either continue to give moral and economic support to the minority regime's efforts to hold out against all pressure, or we can make that pressure more effective by depriving the regime of one of its few "allies." We can either contribute to this major international effort to bring about a peaceful resolution of conflict, or contribute to the growing violence.

A return to sanctions will not bring a negotiated settlement in Rhodesia overnight. But it will help. Our own violation of sanctions has convinced Ian Smith that the international community is not serious about sanctions. He hopes that eventually the other nations will follow the U.S. lead and abandon sanctions entirely. A return to sanctions by the United States will help convince him that the rest of the world is indeed serious in its commitment to bring about an end to force-imposed white supremacy in Rhodesia.

We have argued consistently for a peaceful transition to majority rule in southern Africa. We could much more effectively convince others to support this policy—rather than calling for a violent solution to the problem—if we were doing everything in our power to make sanctions work.

Finally, we have developed an effective system for keeping out those Rhodesian products still covered by sanctions. We could convince others to use these same methods in making international sanctions more effective if we did not have such a big hole in our own sanctions policy.

Mr. President, we cannot afford now to undermine one of our most important foreign policy objectives: International cooperation in bringing about negotiated settlements to conflicts.

I have just left a meeting of the Committee on Foreign Relations and have heard the distinguished, capable, and talented Secretary of State Kissinger remind every member of that committee of the great importance of international cooperation in bringing about a negotiated settlement in the Middle East. The United States is appealing to the whole world to help bring about a settlement based on the United Nations cease-fire and the United Nations resolutions relating to the Middle East.

This is no time for us to be a violator of the United Nations Security Council resolutions at the very time the safety of this country depends on the peaceful settlement of the dangerous and continuing problems in the Middle East.

We have committed our country to a course of negotiation and of peaceful conduct, in the hope of being able to bring about a just and enduring peace in the Middle East. We are using the United Nations, working through it, and backing it up; yet, in the instance of Rhodesia, we scorn the United Nations. We pass laws ordering the Government to violate the treaty obligations of this country, which is like passing a law to violate the Constitution of the United States.

Violation of sanctions has not brought the national security and economic benefits its proponents assumed it would.

Many believed that compliance with sanctions against Rhodesia made the United States dangerously dependent on the Soviet Union for a "strategic material"—chrome ore. Yet, violation of sanctions has not decreased our use of Soviet chrome. In 1972, the Soviet Union accounted for 58 percent of our chrome imports and in the first 5 months of 1973 it accounted for 53 percent of our imports—the same share it had during sanctions. The greatest decrease in our chrome imports has come in our imports from Turkey—a NATO ally. Rhodesia has accounted for only 12 percent of our imports of chrome in 1972 and 3 percent in the first 5 months of 1973.

So, the argument; namely, that we had to get chrome from Rhodesia or we would have to buy it from Russia has proved to be fallacious, misleading, and not supported at all by the facts. What is more, we are looking for ways and means to do business with Russia. If we can find a way now to buy a product from the Soviet Union which this Nation needs—namely, chrome ore—and a product that is vital to our own national security, it seems to me it is rather foolish to argue that our purpose should be to exclude Soviet ore from our boundaries.

The national security argument for violation of sanctions is dubious in light of the overabundance of chrome in our national stockpiles. The administration stockpile release plan calls for the release of about 3 million tons of metallurgical grade chrome ore. In other words, we have more than we need. Mr. Peter Flanigan, head of the Council for International Economic Policy, stated:

> Access to Rhodesian chrome and other minerals is not an important element in U.S. security or our overall foreign economic policy given: (1) the substantial excess of our stockpile resources, and (2) the comparatively minor amounts we actually import from Rhodesia.

At a time when the United States is expanding trade with the Soviet Union on all fronts—and when the Soviet Union relies primarily on the United States for a "strategic material," aluminum oxide—this argument that sanctions will result in a dangerous dependence on the Soviet Union for chrome seems anachronistic indeed.

The economic benefits violation of sanctions was to have brought were lower prices for chrome ore and the preservation of jobs in the U.S. ferrochrome industry which processes chrome for use in the manufacture of stainless steel. That was the argument heard on the Senate floor.

In its "Statement for Relief from Excessive Imports" of this year the Ferroalloys Association wrote:

> The problem of domestic ferrochrome production is now critical. Imports of low carbon ferrochrome and chromium metal in 1972 captured 56 and 59 percent respectively of the domestic market. . . . Unless aid is forthcoming soon it will only be a matter of time until almost all domestic production of ferrochrome and chromium metal will cease and the bulk of our country's requirements will be supplied from and dependent on foreign production.

So what this means is that we are in a sense killing off our own ferrochrome industry to follow a policy that is a violation of international law. On the one hand we commit a crime against the world by violating international law and, second, we do grave injustice to workers, investors, and people in the ferrochrome industry in the United States, because we import rather than develop our own chrome processing industry.

Foote Minerals and Ohio Ferroalloys have announced the closing of ferrochrome plants in Ohio, both citing competition with imported ferrochrome as a major reason. Since Rhodesia accounts for 46 percent of the high carbon ferrochrome imported by the United States, it has played no small part in this threat to the domestic ferrochrome industry.

Those who argued that sanctions brought a rise in chrome ore prices failed to mention that the period when sanctions were in effect was also the period of highest world demand for chrome ore. All who have studied chrome prices during sanctions agree that world supply and demand, not sanctions, was the primary force determining chrome prices.

We have heard testimony from members of industry, from the U.S. Steel Workers of America, who work in these factories, and not one supports the argument that sanctions were responsible for the high price of chrome.

Some are now arguing that the loss of Rhodesia as a source of chrome ore will result in a 20-percent rise in prices. It is hard to conceive of this great a change in prices resulting from the loss of the source of only 3 to 4 percent of our chrome ore, especially when Turkey is anxious to sell more chrome to the United States and could easily replace the Rhodesian exports.

In other words, here is an ally, to whom we have given much, that would like to be able to sell us something and, therefore, earn its way—anxious to export to us under legitimate procedures, in full compliance with international law and, instead, the United States says, "No, we want you to violate the law. We want you to ignore our allies." We tell the Turkish Government, "We do not need your ore. We prefer to buy from Rhodesia," violating international law and lending our name to white supremacy, turning our back on a faithful ally, Great Britain, and doing it all in the name of, what?—so-called national security; which, in this instance, may I say, is stretching that concept about as far as we are doing in other matters on the domestic scene.

Some will argue, as I said, that the price will go up. My answer to the argument, which is supported by so many in the committee, is that the available supply of chrome ore that can be brought into this country is more than enough to offset any loss that would come from our imposing sanctions once again on Rhodesia.

Those who once argued that inexpensive Rhodesian chrome was crucial in keeping the domestic ferrochrome industry alive are now arguing that the domestic ferrochrome industry is doomed to extinction. They hold that inexpensive Rhodesian ferrochrome is essential to keep the domestic stainless steel industry alive.

In other words, one argument ran out because it had no truth. Now we pick up another argument.

In evaluating this new set of predictions that compliance with sanctions will be extremely costly, it is important to keep several things in mind.

First, past economic arguments for violating sanctions involved equally dire predictions about the costs of maintaining sanctions and turned out to be totally false. This new set of arguments is as exaggerated and speculative as were the first arguments.

They assume that the United States cannot do what our stainless steel competitors—Japan and Germany—are doing successfully: Keep the domestic ferrochrome industry alive by investing in technological innovation and in foreign chrome ore production.

May I add that the Japanese and the Germans are not exactly incompetent in the industrial field, and the Japanese and the German stainless competitors are giving the American industry a run for its life. Japan and Germany invest in their plants, in technological innovation. Japan and Germany are able to find chrome ore within the framework of international law, in Turkey, Brazil, and elsewhere.

Second, we must remember that these arguments are being made by a very few companies with their own interests in mind. Union Carbide, which has substantial investments in Rhodesian chrome mining and ferrochrome processing, is the only American ferrochrome producer which will benefit from the continued importation of Rhodesian ferrochrome and the continued export of American jobs to Rhodesia.

I did not get elected to the U.S. Senate to be a special representative of Union Carbide. Only one American company benefits from our violation of an international law and of a treaty, and that is Union Carbide. In the process of Union Carbide getting profits from cheap Rhodesian chrome, they are taking jobs away from American workers who are the victims of inflation and who need work to pay their bills. Is it any wonder that the United Steelworkers of America—the union, if you please, that represents this great industry—has testified again and again in support of the measure that is before the Senate and has worked that the United States comply with the UN sanctions?

Speaking again of the American company, Union Carbide, a great company, a good company, but following a bad policy internationally, it is also the only ferrochrome producer advocating the continued violation of sanctions against Rhodesia.

The stainless steel industry is fearful that shifting from Rhodesia to other sources of ferrochrome might have some effect on the cost of this material.

We cannot allow a few industries to determine U.S. foreign policy, whether it is in ferrochrome or in oil. We have much more at stake here than the slight rise in ferrochrome prices that might result from a return to sanctions.

Third, the United Steelworkers, who represent workers in the stainless steel industry, are confident in their testimony that the cost of sanctions to their industry will be nil or minimal and that no jobs will be lost if sanctions are resumed.

No one is more concerned about jobs than the unions, and the United Steelworkers of America has said to the Senate of the United States:

> If you want to help us with some jobs, abide by international law and abide by the sanctions against Rhodesia.

But one company comes in here and says, "No, we would like to get this cheap ore in violation of the law," even though they could get the ore from Turkey or from the Soviet Union or some out of the U.S. stockpiles.

Believing that, as I. W. Abel, president of the U.S. Steelworkers, has stated, "the price of human dignity cannot be measured in terms of the cost of chrome in the U.S. market," the Steelworkers resent the use of this exaggerated argument about their jobs to continue violation of sanctions. They want no part of it; and I have been authorized by their representatives to say to this body that the United Steel Workers of America are unalterably opposed to the law that is on the books today which directs our Government to violate U.N. sanctions, and the United Steel Workers of America want S. 1868 passed.

Fourth, the specialty steel industry's arguments that they will not be able to obtain ferrochrome elsewhere once the Rhodesian source is gone are entirely false.

A major source of ferrochrome, now threatened by competition from Rhodesia, is our own ferrochrome industry. The stainless steel industry argues that it cannot buy domestically produced ferrochrome and continue to compete with German and Japanese stainless. Yet the Germans and Japanese not only use their own "high-cost" ferrochrome in the production of stainless steel—they export 108,000 tons ferrochrome each year.

My colleagues who are so concerned about a reliable source of chrome for the production of stainless steel for national security reasons must realize the strategic importance of maintaining a viable domestic ferrochrome industry. If this industry were not so threatened by competition from Rhodesia, where extremely low wages prevail, they would be free to invest in the new ferrochrome technology which could make them more competitive.

Let us just summarize then, Mr. President, on the argument about the competition from the Germans and the Japanese. The Germans and the Japanese have a domestic ferrochrome industry. As I have said, they not only use their own "high cost" ferrochrome in the production of stainless steel—but also, they export to the rest of the world 108,000 tons of ferrochrome from their respective countries each year.

Also, if we are unable to meet all our ferrochrome requirements through domestic production, we could import large amounts of ferrochrome from exporters other than Rhodesia.

For example, Japan, Norway, West Germany, and Yugoslavia export large quantities of ferrochrome. The first three export 100,000 tons each year, and the United States imports only about one-fifth of that. We happen to have good relationships with Japan, Norway, and West Germany. All three are democratic societies, with elections and parliamentary government: One man, one vote. Each of these three countries exports more than 100,000 tons of ferrochrome per year.

But what is the United States doing? Because of this business we have violated the U.N. sanctions. We buy one-fifth of their exports and we go around and buy a good deal from Rhodesia.

Finland produces 35,000 tons annually at prices lower than Rhodesia's, and Finland has always paid its bills. Turkey this year added 50,000 tons to its ferrochrome capacity. Brazil, India, and South Africa are all rapidly increasing their ferrochrome production.

I must say most respectfully that if we are going to take a look at the possibility of production, we have to look to the Ferro Alloys Association and our Government to get statistical information. The association says and our Government says there is no problem of a world shortage of ferrochrome production capacity. Our own Government wants to sell from its strategic stockpile substantial amounts of ferrochrome. Indeed, they argue that the increase in ferrochrome production throughout the world has led to an oversupply.

There you have it, Mr. President, we have an ȯversupply of ferrochrome, and we had an argument here, in this Chamber, that the reason we have to remove the sanctions is we have to be able to get the ferrochrome we need because of the short supply. The truth is there is an overproduction of ferrochrome today and it appears there will be for some time in the foreseeable future.

Mr. President, the United States imports large quantities of Rhodesian ferrochrome not because it is the only source in the world, nor even because it is the least expensive source—but because a U.S. corporation, Union Carbide, has invested heavily in chrome mining and ferrochrome production in Rhodesia. In so doing, they have chosen to take advantage of the low wages that have resulted from the very conditions at which sanctions are aimed. And they have sacrificed the domestic ferrochrome industry and imports of ferrochrome from allies in the process.

But even worse than the economic factors involved, the involvement of one great American company, and it is a huge company, the important thing is that what we are doing is violating international law at a time when we are appealing to the whole world to live by law. What we are doing is putting our blessing upon a political system where 5 percent of the population rules the other 95 percent. What we are doing is putting our blessing upon white supremacy in black Africa. What we are doing is literally telling our allies, for example, a country like Great Britain, that we are going our own way to make an extra buck, regardless of the morality of the issue or the rule of law which has been an important part, I thought, of our heritage.

It must be remembered that the domestic stainless steel industry is protected against foreign competition in ways far more effective than the violation of sanctions. The Voluntary Restraint Agreement on stainless steel imports has, according to the steelworkers, more than adequately protected the steel industry against any adverse effects sanctions might have had on its ability to compete with foreign producers.

I had a little something to do with working out that agreement when I was Vice President. The Voluntary Restraint Agreement on Iron and Steel Imports, and representatives of the steel industry testified, as did the steelworkers, that they were very appreciative of the effort that was made. Now, we have given protection to the industry. It is time now that we give some protection to the rule of law.

The devaluations of the dollar—by 48 percent vis-a-vis the deutsche mark and by 36 percent vis-a-vis the yen—have greatly increased the United States stainless steel industry's ability to compete with the other two major producers. If the U.S. stainless steel industry needs more effective protection than it now has against foreign competition, there are much better, more direct, and more predictably beneficial ways of protecting it than continuing to violate sanctions against Rhodesia, imposed by our vote under the terms of the charter of the United Nations in the Security Council, sanctions against Rhodesia.

Mr. President, we have violated sanctions against Rhodesia in order to gain economic and national security advantages that have not materialized. We are now being asked to continue violating sanctions—in spite of the detrimental effects this policy has had on the domestic ferrochrome industry—for reasons as dubious as those which were first put forth put forth when we passed a law that ordered our Government to be a law-breaker.

And for these limited economic benefits, if there are any benefits at all, we are being asked to sacrifice some of our most fundamental foreign policy goals.

To maintain the credibility of our commitment to the rule of law throughout the world and to our international treaty obligations.

To prove our willingness to stand with the rest of the international community in the defense of human rights, racial equality and self-determination.

To further the goal of international cooperation in the peaceful resolution of conflict.

To keep the trust of the black-ruled states of Africa—and of all countries that abhor racial domination,

The bill before us, S. 1868, has as its purpose to restore U.S. compliance with international sanctions against Rhodesia. But even more importantly, it has as its purpose for the United States to once again live by its commitment, honor its treaties, fulfill its obligations under the charter of the United Nations, and stand with decency and dignity before mankind, knowing and practicing human equality, equal opportunity, believing in the principle of democratic rule, of one-man, one-vote, and believing in the principles of international cooperation.

RHODESIAN CHROME ORE AND REPEAL OF THE BYRD AMENDMENT

Mr. McGEE. Mr. President, in the 22 months since the U.S. Congress voted to violate U.N. economic sanctions against Rhodesia, significant events have occurred which make it vital for this Nation to be placed back into compliance with the sanctions.

It is for these reasons that I, and 29 of my colleagues, have introduced legislation which would place us back in compliance with the sanctions.

The decision of the U.S. Congress to place this Nation in violation of the sanctions has been the subject of intense study on the part of many organizations and groups. Two of the most outstanding analyses of the ramifications of U.S. violation of the sanctions are to be found in a United Nations Association of the U.S.A. study compiled by the student and young adult division, which was released this last spring, and an interim report just recently released by the Carnegie Endowment for International Peace. We believe these studies to be extremely helpful in defining the issues involved in the sanctions questions; and therefore, we will have both reports published as a part of the hearing record.

The basic underlying concerns of our effort to restore U.S. compliance with sanctions against Rhodesia remain the same as they were 2 years ago. Our unilateral and formal violation of sanctions has seriously damaged our long-time support for human rights and self-determination, and the peaceful resolution of international conflicts. We stand in violation of a treaty commitment, and this fact has seriously tarnished our credibility within the international community. In effect, we have broken our word—a fact which is not taken lightly around the world.

The United States has long supported nonviolent resolution of conflicts. We supported U.N. economic sanctions against Rhodesia as an alternative to a violent solution and as a form of pressure on the Ian Smith regime to negotiate a new basis for independence from Great Britain.

Thus, our first concern deals with the international ramifications of our violation of the sanctions. Today, Rhodesia is not only closer to open and protracted warfare, but also, the whole of southern Africa could be drawn into racial conflict unless the Rhodesian question is resolved.

If Rhodesia does become the scene of violent racial conflict, there is little hope that violence will be contained. There have already been border skirmishes between Zambia and Rhodesia, the movement of the Republic of South African police into Rhodesia to help maintain order, an increased incidence of liberation movement activity, and government retaliation in the British colony. In effect, the action by the U.S. Congress in the past 2 years has served to impede efforts of both moderate blacks and whites to achieve an equitable settlement. Therefore, we believe that a congressional restoration of the sanctions and our backing of U.N. efforts to enforce more strictly existing sanctions is crucial, at this time, to tip the scales in favor of a peaceful settlement.

Second, although there have been covert violations of the sanctions against Rhodesia since they were implemented, the United States remains the only nation in the world to agree to compliance first, and then formally and unilaterally to break with the international community on this question. This factor has been detrimental to our credibility within the international community.

If U.S. domestic industries paid a marginal price for our compliance with sanctions, while other nations allowed their industries to purchase Rhodesian chrome covertly, then it is entirely within our tradition and heritage as a nation. We hold ourselves to be the world's leading democracy and to maintain that position means that we must exercise responsible leadership both domestically and internationally.

Third, 2 years ago, proponents of our violation of the sanctions claimed that Great Britain would pull the rug out from under the United States by calling upon the U.N. to withdraw the sanctions resolution. Yet, the direct opposite has occurred. Not only has Great Britain called upon the international community to cooperate in a more stringent enforcement of the sanctions, but it also has upped the ante for independence by requiring the Smith regime to come to terms with the Rhodesian blacks, who comprise 95 percent of the population, before a settlement can be achieved.

Fourth, according to published accounts, even the business community within Rhodesia is becoming increasingly concerned over the continued isolation of the Smith government from the international community. The continued U.S. violation of the sanctions remains the only leverage the Smith regime holds at this time and affords him the weapon to resist efforts from moderate whites within his own country to liberalize his policies. The U.S. violation of the sanctions has stymied the forces of moderation by bringing some relief to what has become a serious foreign exchange earnings problem for Rhodesia.

It was Smith's belief that the U.S. violation of the sanctions would have a snowballing effect and it would be just a matter of time before other nations would follow suit. Quite the contrary has occurred. This spring, the United Nations Security Council took the added step of tightening the sanctions program against Rhodesia. As a consequence, the U.S. international position has become increasingly embarrassing.

Fifth, one of the principal arguments in favor of our violation of the sanctions focused on our alleged reliance upon Soviet Russia—a potential enemy—for a critical and strategic material, chrome. Yet, in spite of our importation of chrome from Rhodesia for a period of 20 months, our imports from Soviet Russia have not decreased 1 ton, but rather have increased. On the other hand, imports from our other principal supplier of chrome, Turkey which is an ally, have decreased substantially.

On June 26, 1973, Mr. Peter M. Flanigan, Assistant to the President for International Economic Affairs, belittled the national security argument by pointing out:

> Access to Rhodesian chrome and other minerals is not an important element in U.S. Security or our overall economic policy given: (1) the substanial excess of our stockpile resources and (2) the comparatively minor amounts we actually import from Rhodesia.

Further, the assertion we are fully dependent upon foreign sources for a very vital metal is also misleading. We presently have some 5.3 million tons of metallurgical grade chrome in our strategic stockpile. The administration has already announced there is no longer a need for maintaining such huge amounts of strategic metals in the national stockpile and has offered legislation which would release all but 500,000 tons from the stockpile. In addition, some 900,000 tons of metallurgical grade chrome have been sitting in our national stockpile looking for a buyer for 2 years.

A further refutation of the national security argument came in the form of a letter from W. P. Clements, Jr., Deputy Secretary of Defense, who, on July 20, 1973, pointed out:

> . . . the metallurgical grade chromite needed by industry to support the Defense Department's steel requirement during the first year of a war amounts to 128,300 short tons, or 2.3% of the quantity held in the inventory as of 31 December 1972. Thus, it can be seen that the Defense requirement for metallurgical grade chromite is relatively small, and that the bulk of the stockpile inventory would be used by the non-defense industry in the event of an emergency.

Sixth, it has been claimed that Rhodesian ore is considered to be of the highest quality available by those who support continued violation of the sanctions. However, our own Government experts state that by any standard, be it chrome ore deposit formation, chrome ore content, or availability on short notice, Rhodesian chrome is inferior to Soviet Russian and, in many cases, Turkish ore. The best proof of this is the continued increase of American industrial consumption of Soviet chrome ore.

Seventh, it has been alleged that Russian chrome, which has been imported into the United States, is nothing more than Rhodesian chrome transshipped. The basis of this claim was a test conducted by the Crucible Steel Division of Colt Industries. The Colt analysis utilized an electron microprobe in search of titanium content in the chromite. Colt claimed that low titanium content—a Rhodesian chrome ore characteristic—had also been found in Soviet Russian ore being imported into the United States, leading them to conclude Russian ore was nothing more than Rhodesian ore transshipped.

However, the U.S. Geological Survey refuted the claim 2 years ago, even though Colt still advances this argument. USGS scientists stated that titanium content alone was not the basis for determining the origin of the ore. According to the USGS, such a determination is based upon a combination of physical characteristics, content of chromium and iron oxides, commercial value of the ores, records of production from Rhodesian mines, and the geology of Russian chromite deposits.

The USGS also noted the ore that Colt Industries claimed to be transshipped Rhodesian ore contained only an average of 38 percent chromium oxide—"far below that of the Rhodesian ore that is supplied to the world market." For these reasons, the USGS stated unequivocally that Rhodesian ore was not being transshipped through Russia to the United States. Further, the USGS stated that Russian ore with similar titanium content as Rhodesian ore actually comes from the Urals and is known as Saranovskaya ores, or low-grade Russian ore.

In light of this refutation by the U.S. Geological Survey of Colt's claim that Rhodesian ore was being transshipped through Russia, we are now being confronted with rumors that Soviet Russia is buying Rhodesian chrome for their own use and selling us Russian chrome. Again, no evidence has been offered to substantiate this claim. While the United Nations has been able to target those nations who are covertly violating sanctions against Rhodesia, there is no evidence the Soviets are doing so. Thus, once again, we are confronted with allegations and rumors which are not based upon fact. We are confronted with misrepresentations in an effort to coerce the Congress of the United States into continuing this Nation's violation of U.N. sanctions against Rhodesia.

Eighth, proponents of our violation of the sanctions, for the past 2 years, have also stressed the economic consequences of continued compliance with the sanctions. We were told that the price of metallurgical grade chrome had risen substantially since the embargo in 1968; and the Russians, in particular, were able to inflate their prices because Rhodesian chrome was not available to U.S. buyers.

However, a study recently completed by an analyst in the Foreign Affairs Division of the Congressional Research Service, Library of Congress, noted the price of chrome, including that of Rhodesian chrome, had increased in recent years. The analyst pointed out the increase was due as much to an increase in demand for chrome and the general upward shift in the price of raw materials, as to the effects of economic sanctions. The study noted the rise in world chrome prices began in 1964, before the imposition of the sanctions. This was attributed to the fact that in the 1950's, large U.S. stockpile purchases, primarily from Turkey, inflated the chrome prices. When these purchases ceased in 1958, prices began to rise as the ore surplus was being depleted. At the same time, world production of stainless steel began to increase at a rapid rate, especially in Japan and West Germany. According to the study, it was this new demand for chrome ore which also contributed to the upward trend in prices.

The study continued:

> These factors, which began pushing ore prices upward in 1965, have continued through 1972.

The price U.S. industry pays for chromium imports is a very complex system. It depends upon the method of computation as to whether the prices for the imports are quoted prices or actual prices paid. However, for present purposes, we will utilize data obtained from the U.S. Department of Commerce's monthly publication entitled: "Imports, Commodity by Country." The Department of Commerce computes the average price figure which is obtained by dividing the value of imports by their quantity. Later on in our statement, we will include an analysis of the pricing system as compiled by the Carnegie endowment.

We have attached an appendix to our statement which is a series of tables compiled from Department of Commerce data showing imports of chrome and ferrochrome prior to our violation of the sanctions, 1971; and after our violation of the sanctions, 1972. Tables A, B, and C deal with imports of metallurgical, chemical, and refractory grade chrome, in that order. Table D deals with imports of low-carbon content ferrochrome and table E with imports of high-carbon content ferrochrome.

In looking at table A, we found that in 1971, the price of metallurgical grade chrome from the Soviet Union averaged $76.93 per ton; from Turkey, $79.93 per ton; and from Pakistan, $67.60 per ton. In 1972, the first year of U.S. violation of the sanctions, we found the cost of metallurgical grade chrome from Soviet Russia averaged $73 per ton; from Turkey, $60.35 per ton; from Pakistan, $77.75 per ton. Rhodesia averaged $67.09 per ton. However, the Rhodesian price average is somewhat misleading. For example, our initial shipment of Rhodesian chrome came in March 1972, at a price of $49.48 per ton. Yet, just 2 months later, we paid $83.65 per ton, and in December of 1972, we again purchased Rhodesian chrome for $83.65 a ton. Again, in looking at table A, for the first quarter of 1973, we paid Russia $48.16 a ton for metallurgical grade chrome; Turkey $93.7 per ton; and Rhodesia $62.38 per ton.

Thus, the evidence seems very clear that the rule of supply and demand plays the overriding role in the price of chrome as it does with any other metal.

The Library of Congress study noted:

> The price of Soviet chrome increased 188 percent between 1965 and 1970. However, the Soviet Union produces the highest grade chrome available. Lower quality chromite from other areas of the world also has increased in price more or less proportionately to that for Soviet ore.

The Carnegie study, on page 19, pointed out:

> . . . because Russian ore is of a generally higher chromic oxide content than either Rhodesian, South African, or Turkish ore, it merits a somewhat higher price per ton. Similarly, because South Africa's metallurgical grade chromite is generally of lower quality, it is priced lower than that of our other major foreign suppliers.

So, the past 2 years we have had supporters of our violation of the sanctions playing the number game. We heard claims that the Russians were gouging us on chrome prices because of the sanctions against Rhodesia. However, these same individuals made no mention of the fact that in 1965, we were paying around $40 a ton for metallurgical grade chromite from Rhodesia, while in 1972, we paid $67 a ton. This represents a 168-percent increase. Again, the basis of this comparison can be found in U.S. Department of Commerce data.

To give a further example of how misleading the numbers game is, let us take a look at chemical grade chrome, which is a middle grade. In 1968, Rhodesia sold us chemical grade chrome for $30.51 per ton. However, in 1972, the Rhodesians were charging us $83.25 per ton—see table B—for chemical grade chromite. This represented an increase of nearly 287 percent in just a 4-year period.

According to U.S. Department of Commerce data, the price of Rhodesian chrome for all grades from 1961 until 1968 was consistently higher per ton than the Soviet Russian chrome.

Contrary to claims that the sanctions were making the United States increasingly reliant upon a potential enemy—Russia—for a strategic metal, chrome, the surge in Russian imports came long before sanctions were implemented. Again, using the U.S. Department of Commerce as our source, we found that in 1961, we imported only 4.7 percent of our chrome from Soviet Russian while Rhodesia had 47.2 percent of our market. In 1963, the Soviet Russian imports jumped to 38.3 percent, while imports from Rhodesia decreased to 39.7 percent. By 1967, the year before sanctions, our imports from Soviet Russia had increased to 58 percent, while imports from Rhodesia had declined to 17.6 percent. Thus, the upsurge in imports from Soviet Russia cannot be attributed to the sanctions against Rhodesia, but rather to what the Library of Congress study pointed out:

> . . . the Soviet Union produces the highest grade chrome available.

As we indicated earlier in our statement, the price U.S. industries must pay for chrome imports depends upon the method of computation. According to the Carnegie study, it is difficult to compare Soviet chrome ore prices before and after 1971.

The study noted:

> First of all, the quoted price has been changed from a "delivered price" (including transportation charges) used up to 1971, to a "shipping point price" (where transportation costs are not included in the quotation) starting in 1971. Secondly, the guaranteed chromic oxide content of the ore has been altered in the 1965–1971 period. For example, in 1965 the USSR price was for 55 percent chromic oxide ore; in 1971, however, the guaranteed chromic oxide content was only 48%. Consequently, no accurate comparison can be made of Russian quoted prices without taking these significant differences into account: we will therefore only present a general comparison here. In 1965, the quoted price for Soviet chrome ore—55% chromic oxide, delivered to U.S. Atlantic ports—was $30.50-$33 per long ton. In 1971, the price was $51.50-$55 per ton with the important differences that 1) the tons were not metric; 2) the chrome ore was only guaranteed 48 percent chromic oxide and, 3) the price did not include shipping costs. According to John Morning of the U.S. Bureau of Mines the 1971 Russian price would have been about $70 per long ton if calculated in 1965 terms. Similarly, the 1972 quoted prices, which decreased to $45-$46.50 per ton, would be about $60 per ton in 1965 terms.

Ninth, it was claimed by supporters of the sanctions violation that countries like Japan and West Germany were covertly violating the sanctions. As a consequence, they were using cheap Rhodesian chrome to make their own cheap ferrochrome and stainless steel industries.

We will now take a look at the domestic ferrochrome industry since the sanctions violation went into effect.

Foote Mineral Co., a principal lobbyist in 1971 for breaking the sanctions against Rhodesia, was the first to feel the detrimental impact of the new law. On December 13, 1972, it announced it was closing the plant in Steubenville, Ohio, which had received one of the first shipments of Rhodesian chrome ore. Foote gave the following reason for the closure:

> The domestic ferrochrome industry has been forced to reduce selling prices in order to combat the low-priced imports which have taken as much as 50 percent of the domestic low-carbon ferrochrome market this year.

In the December 18, 1972, issue of Metals Week, it was pointed out that Foote had decided to shut down two additional plants and go out of the ferrochrome business completely. One plant is in Wenatchee, Wash., and the other in Kemballton, Va. The three plants accounted for 24 percent of Foote's total business for 1972.

Metals Week went on to point out:

> Steubenville's problems were compounded by rising power costs and power outages. But, despite a recent interest expressed by the firm in producing charge chrome, the cutthroat competition in ferrochrome pricing undoubtedly played as significant a role in Foote's decision as did the troubles at the plant. Low-priced imports, primarily from South Africa, have been at an all-time high this year—estimated at some 50% of U.S. consumption. Imported prices are reportedly even below U.S. production costs in certain cases, making it increasingly difficult for the domestic industry to compete. The competition has been intensified by a change in emphasis away from low-carbon products and into high-carbon and low-carbon charge chrome—the result of mounting South African production and stainless steel technology which permits the use of lower-grade material.

Metals Week noted this interesting development:

> One highly placed source believes the problem lies deeper, however, originating with a "considerable dislocation of the historical patterns of ferrochrome." Until last year, this expert reasons, the U.S. maintained a strict adherence to the U.N. sanctions against Rhodesia, making the Rhodesians very selective and independent about selling ore. At the same time, Rhodesia and South Africa—which have maintained a traditional strong bond, accessing low-cost and high-grade ore sources to both—are now seeking to produce and sell chrome alloys rather than ore. As a result, South African ferrochrome production has expanded to an estimated 500,000 tons per year by yearend and Rhodesia is slated to triple its own capacity in the next 18 months to 400,000 tpy.

Foote was not alone, as America's fourth largest producer of ferrochrome—behind Airco Alloys, Union Carbide, and Foote—Ohio Ferroalloys, cited severe price erosion and loss of its profits in its decision to suspend ferrochrome operations "until such time as the market price on this product might return to a reasonable level that would allow a profit." This announcement was made in September 1972, but by the year's end, the temporary suspension had become a permanent decision. Ohio Ferroalloys then announced it would produce materials "more profitable than ferrochrome" at its plant in Brilliant, Ohio. In the words of the company's president, R. L. Cunningham:

> We are closing down because we could not compete with prices quoted by the South African and Rhodesian exporters.

As a result, the Carnegie study pointed out:

> This surge of low-cost imports of ferrochrome from Rhodesia has done more harm to American industry than any of the chrome ore-related hardships—real and imagined—that occurred during the period of the sanctions.

Carnegie said the closing of the Foote meant the loss of 313 American jobs.

Thus, 20 months after congressional approval of the sanctions violation went into effect, the American ferrochrome industry has lost two of its four principal producers. In this connection, the Ferroalloys Association filed a petition before the Tariff Commission in May of this year asking for relief from imports including ferrochrome. The petition emphasized that:

> Unless aid is forthcoming soon it will only be a matter of time until almost all domestic production of ferrochrome and chromium metal will cease and the bulk of our country's requirements will be supplied from and dependent on foreign production.

Once again, let us take a look at U.S. Department of Commerce data. In 1971—see table D—U.S. imports of ferrochrome containing not over 3 percent carbon totaled 58 million pounds. In 1972, when the United States was in violation of the sanctions, imports of low carbon ferrochrome increased by 42.9 million pounds or 73.8 percent. The major increases came from South Africa, 9.2 million pounds, and Japan, 10 million pounds. Yet, Rhodesia contributed more than 4.4 million pounds of low-carbon ferrochrome imports to this in 1973.

A look at table E reveals that ferrochromium imports of more than 3 percent carbon increased by 36.7 percent in 1972 over 1971. The Republic of South Africa contributed more than 24 million pounds to this increase. In 1972, we imported 13.6 million pounds from Rhodesia. In the first quarter of 1973, we imported 50 million pounds of high carbon ferrochrome—only 10 million pounds less than our total for all of 1971—with Rhodesia alone accounting for m than 35 percent of these imports.

The Carnegie study notes:

> Together, Rhodesian and South African low-cost ferrochrome has provided 77% of U.S. imports of high-carbon ferrochrome in 1973.

Thus, while the violation of the sanctions brought a flood of ferrochrome imports into the United States, we only imported 12 percent of our total chrome imports in 1972 from Rhodesia.

Once again, quoting from the Carnegie study:

> It is important to remember in all this just why Rhodesian and South African ferrochrome is so much cheaper. Not only are the lack of pollution controls and the proximity to the raw material—chrome—important in keeping costs low in southern Africa. Equally important is the fact that labor unions are almost unheard of and the mostly-African labor force in both countries are paid very low wages for their work in the mines and the ferrochrome processing plants. It is the apartheid and cheap labor systems which allow companies like Union Carbide to produce ferrochrome so much more cheaply in southern Africa.

Another interesting point made by the Carnegie study is the following:

> If companies like Foote Mineral and Ohio Ferroalloys were oblivious to the potential impact of the amendment (to violate sanctions), the Rhodesian regime could not have been. From their perspective, it is much more attractive to sell ferrochrome to the American market than raw chrome ore; the return on ferrochrome is about five times that for chrome ore. For instance, according to the U.S. Treasury Department, the U.S. imported about 92,000 tons of chrome ore worth $2,822,930 from Southern Rhodesia from January 24, 1972, to January 11, 1973. At the same time, we imported just over 18,000 tons of finished high-carbon ferrochrome from Rhodesia worth almost exactly the same amount—$2,990,713.

In this connection, Mr. Fred O'Mara of Union Carbide, who will be testifying before our subcommittee today, observed in the July 14, 1973, issue of Business Week that:

> Inevitably, Carbide will be forced to move its ferrochrome production in order to compete.

The Carnegie study went on to point out:

> Union Carbide owns not only chrome mines in Rhodesia, but also a large ferrochrome processing operation there called Union Carbide Rhomet—which provides jobs to 717 employes. In addition, the company is reportedly exploring possibilities of investing in South African ferrochrome facilities. Thus, unlike other smaller American firms which produce ferrochrome, Carbide may not lose out in the long run as the domestic ferrochrome industry suffers.

Thus, we have the present situation whereby two of the top four ferrochromium producers in this Nation are going out of the business of ferrochromium production. A third, Union Carbide, says it is going to have to close down domestic production and move its ferrochrome production overseas. We are seeing the export of American jobs overseas.

Tenth involves the claim on the part of industry spokesmen that they needed access to metallurgical grade Rhodesian chrome, since the principal world sources were Rhodesia and Russia—who was allegedly gouging us because of the sanctions.

However, the Carnegie study once again notes:

> Until recently the stainless steel industry has consumed primarily low-carbon ferrochrome. However, a new orgon-oxygen decarburization process (AOD) has resulted in a shift to lower priced, high carbon or "charge" ferrochrome, since more carbon can be removed in the steelmaking process itself with AOD. Industry officials estimate that low-carbon ferrochrome will be used less and less in the future.

The Finnish experience is the most striking in this regard. According to the United Nations Association study, prior to 1969, Finland was a chromium and ferrochromium importing nation. However, in 1965, the Finns decided to apply their technology to production of metallurgical grade chromite from their domestic low-grade ores which amounted to 37 million tons. As a consequence, we now see Finland as a major exporter of ferrochromium (see table E). In 1971, the United States imported nearly 11 million pounds of high carbon ferrochromium and over 7.2 million in 1972. The prices to U.S. industrial users of ferrochrome for the Finnish product was the lowest in the world. In 1972, the Finns undercut the Rhodesians by 25 percent in price.

It is estimated, according to the UNA study, to be nearly 3 billion tons of chromite deposits in the world, with 500 million tons considered to be of metalluriical grade. The point is, with new technology, access to Rhodesian chrome is not a necessary element in the health of the U.S. stainless steel industry, but it has been detrimental to our domestic ferrochromium industry.

It must also be noted at this point that the credit for the upturn in the competitiveness of the American steel industry are due primarily to the new set of voluntary restraint agreements negotiated in 1971—the 1968 agreements had only limited tons of steel thus causing foreign producers to shift to stainless steel exports—and the late 1971 devaluation of the dollar which made foreign steel more expensive.

Eleventh, before closing this rather lengthy statement, it is important to make one additional observation. Our violation of the sanctions has become a major point of controversy with the nations of Africa, particularly the black African countries. At first glance, this may not seem to be very vital in the short run, but it is going to become increasingly apparent in the long run. We are in the process of alienating an area of the world in which we are going to become increasingly reliant upon as a source of raw materials. With our oil problems in the Middle East, we cannot afford to alienate Nigeria which has just recently surpassed Venezuela as a supplier to the U.S. market. At a time when we are confronted with dwindling natural resources—resources vitally needed to keep our industrial capacity running—sub-Sahara Africa represents a resource potential of significant magnitude. To put it bluntly, the United States could be locked out of access not only to export markets, but also the resources of this area of the world.

At present, the less developed nations of the world account for 30 percent of our exports and are the only areas where we have favorable trade balances. We have more than $3.5 billion in private investments in sub-Sahara Africa. The market potential for U.S. exports and investment is virtually untapped.

Thus, we must begin to demonstrate a more enlightened sensitivity to the aspirations and concerns of this part of the world. A return to compliance with U.N. sanctions against Rhodesia would be a manifestation of our sensitivity. We have much to gain, and nothing to lose by such a step.

In conclusion, we feel the detrimental ramifications of our violation of U.N. sanctions against Rhodesia far outweigh whatever economic benefits might accrue to a particular industrial sector of our Nation. The economic arguments in favor of a continued violation of sanctions appear to be fallacious in light of the plight of our ferrochromium industry. It is for these reasons we have introduced this legislation, and it is our hope that Congress will agree with us and act favorably.

Mr. President, I ask unanimous consent that the tables to which I have referred be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Table A

U.S. imports of metallurgical grade chrome ore—1971 quantities and prices by major country of origin (quantity in content tons of chromic oxide; price in dollars per content ton):

	Quantity	*Price*
U.S.S.R.	134,442	$76.93
Turkey	76,152	79.53
Pakistan	14,984	67.60
South Africa	57,741	33.96
Average		68.62

U.S. imports of metallurgical grade chrome ore—1972 quantities and prices by major country of origin (quantity in content tons of chromic oxide; price in dollars per content ton):

	Quantity	*Price*
U.S.S.R.	180,080	$73.00
Turkey	29,889	60.35
Pakistan	11,696	77.75
South Africa	45,608	35.05
Rhodesia	27,955	67.09
Average		65.29

U.S. imports of metallurgical grade chrome ore—1st quarter 1973 quantities and prices by major country of origin (quantity in content tons of chromic oxide; price in dollars per content ton):

	Quantity	*Price*
U.S.S.R.	9,939	$48.16
Turkey	9,019	93.17
Pakistan	4,528	92.22
Rhodesia	1,082	62.38

NOTE.—1. Price is computed average figure obtained by dividing value of imports by their quantity.

Metallurgical grade chromite is defined as chrome ore with 46 per cent and over chromic oxide.

Source: U.S. Commerce Department monthly publication entitled: *Imports, commodity by country.*

Table B

U.S. imports of chemical grade chrome ore—1971 quantities and prices by major country of origin (quantity in content tons of chromic oxide; price in dollars per content ton):

	Quantity	*Price*
Turkey	29,080	$79.54
Philippines	4,840	63.43
South Africa	107,103	29.10
Average		40.40

U.S. imports of chemical grade chrome ore—1972:

	Quantity	*Price*
Turkey	5,228	$70.42
South Africa	54,926	29.29
Iran	5,544	62.50
Rhodesia	10,521	83.25
Average		42.19

NOTE:—1. Price is computed average figure obtained by dividing value of imports by their quantity.

2. Chemical grade chromite is defined as chrome ore with between 40 and 46 per cent chromic oxide.

Source: U.S. Commerce Department monthly publication entitled: *Imports, commodity by country.*

Table C

U.S. imports of refractory grade chrome ore—1971 quantities and prices by major country of origin (quantity in content tons of chromic oxide; price in dollars per content ton):

	Quantity	*Price*
U.S.S.R.	11,268	$71.32
Turkey	28,914	65.50
Philippines	42,860	71.28
South Africa	3,861	43.68
Average		67.74

U.S. imports of refractory grade chrome ore—1972:

	Quantity	*Price*
U.S.S.R.	21,149	$42.99
Turkey	13,232	56.08
Philippines	35,351	80.19
South Africa	------	-----
Malagasy Republic	3,840	101.56
Average		66.28

NOTE: 1. Price is computed average figure obtained by dividing value of imports by their quantity.

2. Refractory grade chromite is defined as chrome ore with under 40 percent chromic oxide.

Source: U.S. Commerce Department monthly publication entitled: *Imports, commodity by country.*

U.S. imports of ferrochrome containing not over 3 percent carbon—1971 quantities and prices by major country of origin (quantity in pounds; price in cents per pound):

	Quantity	*Price in cents*
Sweden	8,481,536	31.3
Norway	5,803,052	30.6
West Germany	8,191,815	31.2
Japan	9,970,976	30.2
South Africa	19,076,917	20.0
Turkey	1,488,128	25.8
Average		26.6

U.S. imports of ferrochrome containing not over 3 percent carbon—1972:

	Quantity	*Price in cents*
Sweden	13,815,481	27.6
Norway	8,927,456	26.6
West Germany	4,260,161	27.9
Japan	19,232,118	28.4
South Africa	28,310,349	20.7
Turkey	9,405,326	24.6
Rhodesia	4,362,308	25.5
Average		25.2

U.S. imports of ferrochrome containing not over 3 percent carbon increased by more than 42.9 million pounds in 1972 from 58,069,696 in 1971 to 90,915,142 in 1972. This represented about a 73.8 percent increase from 1971.

Source: U.S. Commerce Department monthly publication entitled: *Imports, commodity by country.*

NOTE.—According to the same source, U.S. imports of ferrochrome containing not over 3 percent carbon amounted to 30.1 million pounds in the first quarter of 1973, with Rhodesia accounting for 7.1 million pounds of the total.

Table E

U.S. imports of ferrochrome containing over 3 per cent carbon—1971 quantities and prices by major country of origin (quantity in pounds; price in cents per pound):

	Quantity	*Price In cents*
Finland	11,542,995	9.9
France	5,826,136	19.2
West Germany	10,914,567	18.1
Japan	16,724,730	17.5
South Africa	10,283,580	12.0
Average		15.4

U.S. imports of ferrochrome containing over 3 percent carbon—1972:

	Quantity	*Price In cents*
Finland	7,224,752	9.4
France (not a major supplier in 1972)		
West Germany	1,988,071	16.5
Yugoslavia	6,352,388	10.2
Japan	4,533,488	16.2
South Africa	34,315,754	13.0
Rhodesia	13,590,092	11.4
Average		12.7

U.S. imports of ferrochrome containing over 3 percent carbon increased by almost 22.5 million pounds in 1972 from 60,272,586 in 1971 to 82,708,007 in 1972. This represented about a 36.7 percent increase over 1971.

Source: U.S. Commerce Department monthly publication entitled: *Imports, commodity by country.*

NOTE: According to the same source, ferrochrome imports containing over 3 percent carbon amounted to nearly 50 million pounds in the first quarter of 1973 alone, with Rhodesia accounting for more than 17.6 million pounds of the total.

ORDER FOR VOTES ON TWO TREATIES ON MONDAY, NOVEMBER, 26, 1973

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the first vote on the first of the two treaties to be voted on on Monday next occur at the hour of 2:30 p.m., and that the second vote occur immediately after the first vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF NOMINATION OF MR. GERALD FORD FOR THE OFFICE OF VICE PRESIDENT ON MONDAY, NOVEMBER 26, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the two treaties on Monday next, the Senate proceed to the consideration of the nomination of Mr. GERALD FORD for the office of Vice President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. tomorrow.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield. Mr. President, I withhold that request.

Mr. HUMPHREY. Did I understand there will be a session tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. HUMPHREY. I was of the opinion the majority leader said something else. I was mistaken.

Mr. ROBERT C. BYRD. The leadership feels the Senate should come in tomorrow. If Senators wish to discuss the pending legislation, they may, or the Senate may take up other measures. There may be business on the calendar that could be cleared for action by unanimous consent.

Mr. HUMPHREY. I understood there would not be any rollcall votes tomorrow.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HUMPHREY. I noted that the former occupant of the chair (Mr. HARRY F. BYRD, JR.) was somewhat concerned about the Senator's statement, and I was trying to get a clear understanding until the distinguished Senator from Virginia could get here to deliver what I know will be a speech to try to set the record straight, as he sees it.

(At this point Senator ALLEN assumed the Chair.)

Mr. HARRY F. BYRD, JR. I was just going to thank the able Senator from Minnesota for permitting me to get out of the Chair before the majority whip put in his unanimous-consent request.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the distinguished leaders or their designees are recognized on tomorrow under the standing order, the distinguished senior Senator from West Virginia (Mr. RANDOLPH) be recognized for not to exceed 15 minutes; that he be followed by the distinguished Senator from California (Mr. CRANSTON) for not to exceed 15 minutes; that he be followed by the distinguished Senator from Minnesota (Mr. HUMPHREY) for not to exceed 15 minutes; after which I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators under the order previously entered, there be a period for the transaction of routine morning business on tomorrow of not to exceed 15 minutes, with a limitation on statements therein of 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, NOVEMBER 26

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the recognition of Senators under any orders that may have been previously entered, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION ON MONDAY OF TREATIES AND OF NOMINATION OF GERALD FORD TO BE VICE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if there is no legislative business following the transaction of routine morning business on Monday next, the Senate, upon the completion of routine morning business, proceed to the consideration of the nomination of Mr. GERALD FORD for the office of Vice President of the United States; with the understanding that at the hour of 2:30 p.m. votes will occur on two treaties, back to back, the first to occur at 2:30 p.m.; after which the Senate will resume the consideration of the FORD nomination.

I make this request as in executive session.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the executive calendar, beginning with Calendar No. 379.

There being no objection, the Senate proceeded to the consideration of executive business.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

The second assistant legislative clerk read the nomination of Fred B. Ugast, of Maryland, to be an associate judge, of the Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

The second assistant legislative clerk read the nomination of William R. Stratton, of the District of Columbia, to be a member of the Public Service Commission of the District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of Helmut Sonnenfeldt, of Maryland, to be Under Secretary of the Treasury.

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request.

I ask unanimous consent that the nomination now called up go over until December 10 and that at that time there be a time allocation of 2 hours to the distinguished Senator from Virginia Mr. HARRY F. BYRD, JR.), one-half hour to the distinguished Senator from North Carolina (Mr. HELMS), and 1½ hours to the distingiushed Senator from Louisiana (Mr. LONG), chairman of the Committee on Finance.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, does this shut everybody else out?

Mr. MANSFIELD. I am sure that there will be time out of the time allocated.

Mr. LONG. The Senator can have some of my time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana? The Chairs hears none, and it is so ordered.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of O. Rudolph Aggrey, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Gambia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Arms Control and Disarmament Agency.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The second assistant legislative clerk read the nomination of Donley L. Brady, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

ACTION AGENCY

The second assistant legislative clerk read the nomination of Nicholas W. Craw, of the District of Columbia, to be an Associate Director of the ACTION Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

FEDERAL MARITIME COMMISSION

The second assistant legislative clerk read the nomination of George Henry Hearn, of New York, to be a Federal Maritime Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

FEDERAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of Mary Elizabeth Hanford, of North Carolina, to be a Federal Trade Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

SECURITIES INVESTOR PROTECTION CORPORATION

The second assistant legislative clerk proceeded to read sundry nominations in the Securities Investor Protection Corporation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of Eugene E. Berg, of Minnesota, to be an Assistant Secretary of the Army.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Maj. Gen. Ernest C. Hardin, Jr., U.S. Air Force, to be a lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk read the nomination of Col. Leonard F. Stegman, U.S. Army, to be a brigadier general.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDING OFFICER. The nomination will go over.

COUNCIL ON ENVIRONMENTAL QUALITY

The second assistant legislative clerk read the nomination of Russell W. Peterson of Delaware, to be a member of the Council on Environmental Quality.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

CIVIL AERONAUTICS BOARD

The second assistant legislative clerk proceeded to read nundry nominations to the Civil Aeronautics Board.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk read the nomination of Vice Adm. Means Johnston, Jr., U.S. Navy, to be Admiral.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of Maj. Jack R. Lousma, U.S. Marine Corps., to be a lieutenant colonel.

Mr. MANSFIELD. Mr. President, I assume that Major Lousma is one of the astronauts who made the voyage preceding the one now under way. He is an outstanding marine and has made a good reputation. I am delighted to see him getting this promotion.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Robert L. Roth, of Kansas, to be U.S. Attorney for the District of Kansas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Navy, the Air Force, the Diplomatic and Foreign Service, and the Coast Guard which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

HOUSING ASSISTANCE AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 492, Senate Concurrent Resolution 57.

The PRESIDING OFFICER (Mr. HANSEN). The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 57) expressing the sense of the Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 57) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Concurrent resolution expressing the sense of the Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs

Whereas the Congress has found and declared that the general welfare and security of the Nation require the realization as soon as feasible of the goal of a decent home and suitable living environment for every American family;

Whereas the Congress has authorized and appropriated funds for housing, housing assistance, and community development programs to promote the attainment of the national goal;

Whereas proposals for new and experimental housing and community development programs have been submitted to the Congress by the President and others, and the Congress is at the present time reviewing these proposals;

Whereas the need to continue housing, housing assistance, and community development programs authorized by the Congress will not abate during consideration of new legislative proposals; and

Whereas the Congress has not suspended or terminated any of the housing, housing assistance, or community development programs which were authorized as of December 31, 1972: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that funds authorized and appropriated for the purpose of carrying out the housing, housing assistance, and community development programs administered by the Secretary of Housing and Urban Development and the housing and housing assistance programs administered by the Secretary of Agriculture should be obligated or expended (to the extent current appropriations or other obligational authority permit) at rates which are not less than the rates at which funds were obligated or expended for such programs during calendar year 1972, until such time as these programs are terminated by the Congress or new housing and community development programs are enacted by the Congress.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Housing and Urban Development and a copy to the Secretary of Agriculture.

PROGRAM FOR NEXT WEEK

Mr. MANSFIELD. Mr. President, I understand that an agreement has been reached for the two treaties on the calendar to be voted on back-to-back beginning at 2:30 p.m. on Monday next.

To reiterate, the two treaties will be followed with the beginning of the debate on the nomination of GERALD FORD to be Vice President of the United States, which was reported unanimously by the Committee on Rules and Administration today. That debate will continue on Tuesday and, hopefully, we will be able to arrive at a decision some time that day.

That will be followed, in turn, by S. 2673, the so-called Saxbe pay bill, which I understand was reported by the Committee on the Judiciary today without recommendation.

Mr. ROBERT C. BYRD. That is correct.

Mr. MANSFIELD. So there will be no votes today and no votes tomorrow.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

Mr. HARRY F. BYRD, JR. I note that the Senator from Montana mentioned that the first vote on the treaties would be at 2:30 p.m. on Monday. I am wondering if the Senator would be in a position to make that vote for 1:30 p.m. Would that be a complicated problem?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant leigslative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in addition to the two treaties next week, the nomination of Vice-President-designate GERALD FORD, and the so-called Saxbe pay bill, it is my understanding that the debt limit bill is to be reported today from the Committee on Finance and it, likewise, would come up next week because I understand it expires on the last day of this month.

So for next week a pretty heavy schedule is indicated for the Senate, and I hope that when the membership comes back, it will come back refreshed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON VOTES ON TREATIES MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that there be one rollcall on the adoption of the two conventions, Calendar Orders Nos. 22 and 23 on the Executive Calendar, Executive N and Executive Q, respectively, on Monday next beginning at the hour of 2 p.m. I ask unanimous consent that 30 minutes be allowed for that rollcall and that the RECORD show a rollcall on each of the two treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Ordinarily, Mr. President, as Senators know, 15 minutes are allowed for each rollcall vote. So, actually, what we are doing is combining the two 15-minute periods for the two votes which would otherwise occur on the two treaties, and we are consolidating them into one vote and into one 30-minute period for that one vote, which will account for two.

UNANIMOUS-CONSENT AGREEMENT ON VOTE ON NOMINATION OF HELMUT SONNENFELDT TO BE UNDER SECRETARY OF THE TREASURY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I also ask unanimous consent that on December 10, at the expiration of the time allotted under the unanimous-consent agreement previously entered into, at the request of the distinguished majority leader, on the nomination of Mr. Sonnenfeldt for the office of Under Secretary of the Treasury, there be a vote on the confirmation of the nomination.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I renew my request with regard to the vote on the Sonnenfeldt nomination, with the proviso that any motion which would otherwise be in order would not be precluded.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. As in executive session, without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Virginia for his usual courtesy in yielding to me.

SENATOR MANSFIELD ON "MEET THE PRESS" PROGRAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the transcript of the television program, "Meet the

Press," of last Sunday, November 18, 1973, be printed in the Record. On that program, I was the guest of the NBC panel. The moderator was Bill Monroe of NBC News, and the panel consisted of David S. Broder of the Washington Post, Peter Lisagor of the Chicago Daily News, Jack W. Germond of the Gannett News Service, and Paul Duke of NBC News.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

"Meet the Press"

(Produced by Lawrence E. Spivak,
Sunday, Nov. 18, 1973)

Guest: Senator Mike Mansfield.
Narrator: Bill Monroe, NBC News.
Panel:
David S. Broder, The Washington Post.
Peter Lisagor, Chicago Daily News.
Jack W. Germond, Gannett News Service.
Paul Duke, NBC News.

Mr. Monroe. Our guest today on Meet the Press is Senator Mike Mansfield of Montana, the Majority Leader of the U.S. Senate.

We will have the first questions now from Paul Duke of NBC News.

Mr. Duke. Senator Mansfield, the President has now launched a major counter-offensive against the charges growing out of Watergate and last night at his news conference again proclaimed his innocence saying he is not a crook. Do you believe the President?

Senator Mansfield. Yes, I believe the President on the basis that any citizen of the country, whether he is a President or a plumber, is entitled to be presumed innocent until proven guilty.

Mr. Duke. Then you disagree with Senator Buckley, Senator Brooke and some others who suggest that this scandal has now gone on so long, that it is up to the President to establish that he is innocent by providing all the evidence?

Senator Mansfield. I would say it is up to the Ervin Subcommittee, a special committee; I would say it is up to the court and special prosecutor and it is up to the American people.

Mr. Duke. Well, what more do you think that the President must do to regain credibility with the people? He has had this series of meetings with Republicans last week; he had the news conference last night. What additional steps would you advocate?

Senator Mansfield. Lay it all out on the table.

Mr. Duke. In what fashion, Senator?

Senator Mansfield. All the facts relative to the tapes, the so-called dictabelts and the insinuations, allegations and implications relative to those people who worked in the White House and who are now before grand juries, before the Ervin Committee, or who have been indicted.

Mr. Duke. Do you support Senator Ervin in his demand that the President meet with the entire Watergate Committee and not just with Senators Ervin and Baker?

Senator Mansfield. I do.

Mr. Duke. And suppose, Senator, that in laying it all out, suppose Mr. Nixon still cannot re-establish his credibility, would you then advocate his impeachment or his resignation?

Senator Mansfield. As a member of the Senate, I could not discuss the question of impeachment one way or the other because there are resolutions of inquiry now being gone into by the House Judiciary Committee and if anything comes out of that and an impeachment is voted, then it will mean that the Senate will have to sit as judge and jury. So I feel the best thing I can do in view of the constitution situation is to make no comment at this time. Let the people speak.

Mr. Lisagor. Senator Mansfield, in the light of your last answer to Mr. Duke about being a potential juror, would you agree with the House Majority Leader, Mr. O'Neill, who says that by inviting House Members to the White House last week the President was improperly influencing potential Grand Jurors?

Senator Mansfield. Not necessarily. I think the President has the right to call down Members of his own party to discuss matters of mutual interest. I also think he has the right to call down the seven Democratic Senators from the South which he did, and the 30 or 40 Democratic Congressmen.

I suppose that is part of his counter offensive going public, but I see nothing unethical about it.

Mr. Lisagor. Senator, the President last night blamed the Congress for the delay in meeting the energy crisis. He said he sent up a message two years ago and you people never did anything about. How do you respond to that?

Senator Mansfield. Well, he is wrong. He is great on messages, he is great on rhetoric, telling the nation what he has proposed, but when it comes to legislation, he is wanting. I would point out that it was Senator Jennings Randolph and Henry Jackson who in February 1970 made the first move toward facing up to the present energy crisis and the present energy bill now under consideration was brought up by Senator Jackson and his committee. The Administration has been very backward in doing anything about the emergency crisis which confronts this country today and the Administration knows it.

Mr. Lisagor. Senator Mansfield, how do you explain what seems to be the paradox in this new energy bill that is under consideration in giving to a President who is alleged to have abused his power and who has supposedly weakened such powers as you give him in this bill, sweeping powers that some people believe make him into a mere dictator in the area of energy?

Senator Mansfield. Well, it gives him considerable power, that is true, but the present bill is of 12 months' duration and you have to place the power somewhere because the Congress cannot execute what it passes and I think it is all right.

Mr. Lisagor. Why has the Senate so far shrunk from mandatory gas rationing inasmuch as you have said if you don't get at gas rationing pretty quickly we are going to have an economic recession next year?

Senator Mansfield. I can't understand it. We had a vote this past week on the question of rationing. We lost by 48 to 40 and I think that the American people have to face up to the possibility of either rationing or, as some in the Administration say, an added gasoline tax, federal gasoline tax, up 30 or 40 cents, and that would be added on to the four cents federal tax, which is now being paid. That is a sales tax in the first place and this would be tripling, quadrupling the tax, depending on the amount added to it and it would fall most on the poor and the lower income middle-class groups.

Mr. Germond. Senator, you said a few moments ago that you saw nothing unethical in the President's counter-offensive insofar as it extended to meetings with Congressmen.

Let me ask you a different question about this: All the meetings he had last week were with Republican members of the House and Senate and a few Democrats, largely those who are known to be sympathetic to him. Do you think the President is putting a partisan cast on his defense?

Senator Mansfield. No, but the Administration has been trying to create a degree of partisanship which does not exist and may I say that I am very proud of the way the Senate has conducted itself in this troubled year and that applies to both Democrats and Republicans. We have carried out our responsibility; the wheels of government are functioning as far as we are concerned, and we are going to continue to act as a constructive, responsible body and politics will have little, if anything, to do with what we do.

Mr. Germond. Last night the President said that the explanation for one of the allegations, actions in one of the particulars of Watergate, the 1971 decision on dairy price supports, was a result of Democratic pressure. Do you consider that partisan?

Senator Mansfield. I do. I think that is a statement which will not hold water. After all, I would point out that in the great majority of his vetoes he has been upheld. This year I think our score is one override of nine vetoes and it is the first instance I know of where this president has indicated that he has done something because of pressure from the Congress. It is usually the other way around.

Mr. Germond. Do you recall what happened exactly in 1971 on that dairy decision?

Senator Mansfield. Frankly, I do not.

Mr. Broder. I would like to go back to the energy question for just a moment, Senator. You say that Mr. Nixon is wrong in his charge against the Congress. As I recall, he said that he had sent up several specific pieces of legislation, of which he has received back only one. Is he incorrect about that?

Senator Mansfield. No, but I don't recall that he sent up seven specific pieces of legislation. I will answer that with my fingers crossed. I do not know. But I do know that all the legislation which has come out of the Senate has been generated in the Senate, drawn up in the Senate and passed by the Senate.

Mr. Broder. If you believe, as I gather from your earlier answer, that rationing is really the way we ought to go—

Senator Mansfield. The only way that I can see it, hard though it may be.

Mr. Broder. Then why is the Congress not ready to take that responsibility on itself? Why does it always seem to pass the buck for these tough decisions to the President?

Senator Mansfield. I don't know, but I would point out that the President has power under the Emergency Defense Act of 1950, I believe, to impose rationing if he wants to do so, but he doesn't want to do it. He will—as he said last night, he will consider it only as a last resort, but in the meantime the economy will burn and people will freeze and industries will close down, unemployment will increase, inflation will go up and we are just paving the way to a recession next year.

Mr. Broder. Senator, do you think the change in the energy situation is going to cause the United States to bring a great amount of additional pressure on the state of Israel to accept those U.N. directives about going back to the pre-1967 borders?

Senator Mansfield. That I couldn't say, but I would assume that that is a topic of discussion as far as this Administration is concerned, and I think rightly so.

Mr. Broder. Do you sense any change in sentiment on that subject among your colleagues, say, on the Foreign Relations Committee?

Senator Mansfield. No.

Mr. Duke. Senator, there is now a new controversy involving the events leading up to the firing of Archibald Cox and the resignation of Elliot Richardson. The President and Alexander Haig, his chief aide, saying that Richardson had supported a plan to limit Mr. Cox's actions. Now, this contradicts the sworn testimony of Mr. Richardson to the Senate Judiciary Committee. Do you feel, in the light of this, that Mr. Haig should be called as a witness to clarify this?

Senator MANSFIELD. I certainly do and I don't think executive privilege should apply and I think also Mr. Richardson and Mr. Cox should also be called before the Judiciary Committee pronto.

Mr. DUKE. You would like them called back?

Senator MANSFIELD. Yes indeed.

Mr. DUKE. Senator, the President acknowledged last night that he paid only nominal income tax payments in 1970 and 1971, under a law that permitted deductions for official papers that were turned over to the government. There is, however, some question about the validity of the way this was done since the law had expired. Would you like to see Congress investigate this?

Senator MANSFIELD. No. That would be the responsibility of the Internal Revenue Service, which I understand did lay down a ruling which legitimized what the President was doing. It has been done by many people before his time; it was a legitimate deduction until former Senator John J. Williams of Delaware introduced an amendment to a debt ceiling bill, I believe, several years ago, which made that illegal.

Mr. DUKE. Senator, the President implied last night that Congress is now foot-dragging on legislation to clean up the election process to prevent future Watergates. Is this valid criticism?

Senator MANSFIELD. Not as far as the Senate is concerned.

Mr. DUKE. Well, what is the prospect? You don't see any legislation this year, do you?

Senator MANSFIELD. Well, we still have two, three or four weeks to go and I would hope that something would come out of the House because, as you will recall, Mr. Duke, it was some months ago that the Senate passed a good elections bill which has received no action so far in the other body.

Mr. LISAGOR. Senator Mansfield, to clarify an earlier answer, why shouldn't the Democrats have been invited down to the White House to hear the President's explanation on Watergate?

Senator MANSFIELD. Well, it would have been nice, but that is up to the President. After all, he is the occupant of the mansion.

Mr. LISAGOR. Doesn't that tend to give it a partisan cast, as Mr. Germond suggested?

Senator MANSFIELD. That is a good assumption.

Mr. LISAGOR. Could I turn you now to the European part of this Middle East situation? Our European allies apparently were hardly stalwart during the Arab-Israeli War and I would like to know whether that strengthens your somewhat perennial effort to reduce our forces in Europe?

Senator MANSFIELD. I think it did on the basis of rhetoric from the Administration for a couple of days, but now they are back in the same old groove and as far as what our allies in Europe did in relation to the Mid-East situation, that I think was an area outside NATO's responsibility, and those allies of ours are sovereign nations and they have to do what they think is best in their own interests, not what we would like them to do or not do.

Mr. LISAGOR. Do you think then that they had a legitimate complaint about our failures to communicate with them about what we were doing in the Middle East, the prospect of dragging them along?

Senator MANSFIELD. I think events happened so fast that we couldn't communicate fast enough, but it is my understanding that Secretary of State Kissinger did communicate with them as soon as he could after this thing began to level off.

Mr. LISAGOR. Senator, you are a member of the Foreign Relations Committee and Secretary Kissinger has promised to keep you thoroughly informed. I would like to give you a kind of multiple choice question. Has that consultation been thorough, full, adequate or inadequate?

Senator MANSFIELD. I think it has been adequate.

Mr. MONROE. Senator, do you look on the support of European nations for the Arab countries in the last few weeks as stemming from the Arab threat to cut off oil?

Senator MANSFIELD. Yes, I do.

Mr. MONROE. Do you deplore that in that respect?

Senator MANSFIELD. Well, I guess they haven't much in the way of a choice. Either they are going to get the oil or they are going to go down the drain physically, industrially, economically and otherwise and I think before we criticize our friends and allies that we ought to give consideration to the difficulties in which they find themselves.

Mr. GERMOND. Senator, I would like to ask you a couple of questions about, I guess, the ancillary effects of Watergate, the continuing effects. Aside from what you said about energy, energy policy, have you seen other examples this year where the legislative process, the White House cooperation, the White House impetus to legislative action has been affected by Watergate?

Senator MANSFIELD. No, I have not. I think the President has been functioning as he should. I don't think his power has been diluted, and as far as the Senate is concerned, we have been willing to meet him half way and more to make sure that this republic continues to operate on a reasonably level basis.

Mr. GERMOND. Have you seen any indication in any of the votes, for example on overriding the veto on war powers, that the President's political weakness in—his credibility weakness is affecting Republican voting in the Senate?

Senator MANSFIELD. No, because prior to that veto, Mr. Germond, you will recall there were eight other vetoes which were upheld by the Congress in support of the President.

Mr. GERMOND. One further question on this: If, given the fact that he has been able to sustain vetoes, do you think there is any realistic chance for Congressional action on a special prosecutor actually being approved and upheld?

Senator MANSFIELD. It is going to be difficult, but I think we need a special prosecutor independent of the Executive and the Legislative Branches of government and we are going to go ahead and try and get one. Of course what has happened on the basis of the rulings laid down by Judges Gesell and Sirica is going to make it more difficult because they in effect came out against such a prosecutor.

Mr. GERMOND. Your counterparts in the House give you optimistic or pessimistic reports for the prospects of that legislation there?

Senator MANSFIELD. No reports.

Mr. BRODER. Senator, I would like to ask you about the two major confirmations that are awaiting action in the Senate, first Mr. Ford for the Vice Presidency—that I gather will come up next week?

Senator MANSFIELD. We anticipate it will come up before the Rules Committee on Tuesday. If it is reported out, it will come up the following Tuesday.

Mr. BRODER. And at this point do you see any problems of a vote for him in so far as the Senate is concerned?

Senator MANSFIELD. I do not.

Mr. BRODER. Do you think the Senators are aware, or operating on the assumption that Mr. Ford quite possibly could become President as a result of their action?

Senator MANSFIELD. I wouldn't think so, but I dare say it is in the back of the minds of some of them.

Mr. BRODER. From what you have seen of his performance before the Rules Committee, do you have any reservations yourself about the possibility of his becoming President?

Senator MANSFIELD. None.

Mr. BRODER. Let me ask you about Senator Saxbe's appointment for the Attorney Generalship. That requires, as I understand it, first that some legislation be cleared by the Congress.

Senator MANSFIELD. Yes, by the Post Office and Civil Service and the Judiciary Committees, having to do with the constitutional problem of the reduction in pay.

Mr. BRODER. Are you willing to set aside that constitutional provision yourself in order to accommodate the President on this particular choice?

Senator MANSFIELD. I think I am, but I will wait and see what the Judiciary Committee reports.

Mr. BRODER. On the matter of Mr. Saxbe's own appointment, assuming this problem is taken care of then, are you willing to have him confirmed without securing a special prosecutor outside of the Executive Branch as part of that package?

Senator MANSFIELD. Yes.

Mr. DUKE. I'd like to turn now to the matter of Democratic Presidential politics, Senator. Who do you regard as the leading prospects for the Democratic nomination in 1976?

Senator MANSFIELD. I think we have three good men, Senator Mondale of Minnesota, Senator Bentsen of Texas and Governor Askew of Florida. They are new faces, they are young, politically speaking. They have all made good reputations, good record, and any of them I think would be an asset to the party and would be welcomed by the voters.

Mr. DUKE. What about Senator Kennedy?

Senator MANSFIELD. I would hope Senator Kennedy would not run because there has been too much tragedy in his family. I worry more about Senator Kennedy himself than I do about the Presidency.

However, if he wanted the Presidency, I dare say that he could just about have it for the asking.

Mr. DUKE. Have you personally urged him not to run?

Senator MANSFIELD. I have not.

Mr. DUKE. Many of your colleagues in the Senate seem to feel that Senator Jackson is now making significant headway in his campaign.

Senator MANSFIELD. Yes, I forgot to mention Jackson. He is making headway in his campaign. He has advanced considerably since the last campaign. He has become better known, he has taken the lead in the field of energy, which is most important, and, of course, he is pretty close to being the number one man in the Senate as far as defense is concerned.

Mr. MONROE. Senator, you said Senator Kennedy could have the Presidency for the asking. Did you mean the nomination?

Senator MANSFIELD. No, no, the nomination. Nobody can be sure of how a Presidential election will turn out. I am glad you corrected me.

Mr. DUKE. What about three of your older colleagues, Senators Humphrey, Muskie and McGovern?

Senator MANSFIELD. I think Muskie has indicated he might be interested. McGovern I think has indicated that he might not be interested, and Senator Humphrey, I believe, has indicated he would be interested in others such as Senators Mondale and Bentsen.

Mr. DUKE. But you don't give them much of a chance?

Senator MANSFIELD. It is up to them; if they want to run, it is fine with me.

Mr. DUKE. As far as getting the nomination is concerned?

Senator MANSFIELD. It will be difficult.

Mr. LISAGOR. Senator Mansfield, Mr. Meany of the AFL–CIO has begun to publish a list of 19 alleged impeachable offenses against the President starting last week. Is Mr. Meany and his associates being unfair?

Senator Mansfield. Well, I would say if he has any allegations he ought to do what Assistant Attorney General Henry Peterson said when he appeared before the Ervin Subcommittee. He ought to waltz it over to the House of Representatives.

Mr. Lisagor. Well, this is obviously a public campaign he is conducting to convince his people and he has started out with the charge that the President conducted his own secret police violating the rights of many Americans under the guise of national security. Do you think that is a fair charge?

Senator Mansfield. There have been allegations to that effect connected with a man by the name of Houston, I believe, who set out a set of rules, and also with the so-called plumbers' group, which is now being considered by the Grand Jury in Los Angeles, I believe.

Mr. Lisagor. On the question of campaign contribution laws, Senator Mansfield, if the old laws were not enforced, as they were not, what makes you or anyone else think that any new laws will be enforced?

Senator Mansfield. Well, I think we are going to learn a lesson from Watergate. I think the American people are going to look more closely at the matter of financial contributions. I think that labor unions and corporations are going to be more careful and I think that candidates are going to be scrutinized more closely.

Mr. Monroe. Gentlemen, we have about two minutes.

Mr. Germond. Senator, you speak of learning a lesson from Watergate. What do you think is the lesson for the Democratic party in Watergate in terms of the qualities they should seek in a candidate in 1976?

Senator Mansfield. Well, the best man we can get in view of the circumstances, considering that he has to appeal to a diverse electorate.

Mr. Germond. You frequently mention—it seems every time you are asked this question you mention Governor Askew of Florida. Why do you have this special fondness for Governor Askew?

Senator Mansfield. Well, I know Governor Askew. I know what he has done in Florida. I have watched him most closely and I think he is an extraordinarily effective political man who would appeal to all segments of the population.

Mr. Broder. Senator, at the beginning of the year you and every other Democratic leader said that Congress had to put its own house in order on budget reform, the way in which it handles budgets. We are coming to the end of the year without that having been done. Why is that?

Senator Mansfield. Well, I believe that a bill of that nature has just been reported out of the Government Operations Committee. It is not on the calendar yet, but if it is we will try and get action on it this year and, if not, we will try to get action on it as early as possible next year. We have been a little late on it.

Mr. Duke. From time to time, Senator, there are reports that you are getting tired of your job and plan to give it up. Do you now have any plans to do so?

Senator Mansfield. No.

Mr. Duke. Another issue to follow up, what Mr. Broder was indicating a moment ago that seems to have died on the vine is health insurance. Is there any prospect for that this year or next year?

Senator Mansfield. This year, no, but I would hope that something can be done to reach a compromise between the Kennedy and other proposals which call for too much in the way of expenditures, and Nixon's proposal—President Nixon's proposal, which calls for too little. I think a balance has to be found, a start has to be made because hospital care, medical care, is going through the ceiling and the American people just can't afford it. It ought to be paid for.

Mr. Monroe. I am sorry to interrupt, but our time is up. Thank you, Senator Mansfield, for being with us today on "Meet the Press."

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The Senate resumed the consideration of the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Mr. John I. Brooks and Mr. David G. Fiske of my staff be granted the privilege of the floor during the consideration of S. 1868.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, the pending legislation, introduced by the distinguished Senator from Minnesota (Mr. Humphrey), would repeal legislation enacted by Congress 2 years ago.

The legislation that the proposal of the Senator from Minnesota would repeal says that the President may not prohibit the importation of a strategic material from a non-Communist country if such material is imported from a Communist-dominated country.

What is the matter with that proposal? The United States is not required to import a strategic material from Rhodesia. However, the legislation which Congress passed said that the importation of a strategic material from a free world country may not be prohibited if that same material is being imported from a Communist-dominated country.

The Senator from Virginia had the privilege of presiding over the Senate when the able Senator from Minnesota (Mr. Humphrey) was presenting his views on S. 1868. As the days go by I will comment in more detail.

However, today I just want to mention a few points brought out by the Senator from Minnesota in behalf of his proposal. I made quick notes as he was speaking. I have not had the opportunity as yet to read or study his remarks.

Let me say first that the number of this legislation is S. 1868. We can be thankful, or at least I can be thankful as a Member of the Senate, that the number of the legislation is not S. 1776, because it was in 1776 that the United States of America or what was to become the United States of America took the same action that Rhodesia took in 1966; namely, to declare her independence of Great Britain.

The United States is going to celebrate the 200th anniversary of the Declaration of Independence less than 3 years from now. And yet our representatives in the United Nations have acquiesced in a proposal to put sanctions on a peaceful country, because it is seeking its independence from Great Britain, the same thing the United States did almost 200 years ago.

Now let us look at the title of this legislation. Here it is:

> S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

How could any Member of the Senate sign a statement like that—a statement saying that the United States is not a law-abiding member of the international community?

Why do they claim that it is not a law-abiding member of the international community? The original sanctions against Rhodesia were voted by the United Nations in 1966 and 1967. Those sanctions were put into effect unilaterally by the President of the United States.

They were never submitted to Congress. They were put into effect unilaterally by the President. Two years ago, Congress decided to do something about this as it affects one strategic material, namely, chrome.

Congress passed legislation saying that this sanction on trade with Rhodesia in regard to a strategic material; namely, chrome, shall not apply if the same strategic material is being imported from a Communist-dominated country.

That legislation, Mr. President, was passed by the Senate. It was passed by the House of Representatives. It went through a committee of conference. It was signed by the President. Finally, it was upheld by the courts of the United States.

Yet this measure, S. 1868, says that because of that action by the Senate, by the House of Representatives, by the President, and by the courts, the United States stands in violation of international law.

I say that is not only erroneous, but absurd.

Are we going to give away to an international body the right to legislate for the people of the United States? Are we going to do that?

I do not concede at all that what Congress did, what the President did, and what the courts of the United States did is in violation of international law.

If we concede that point, then we as legislators are at the mercy of the United Nations.

I say again, the Congress of the United States did not vote to apply sanctions against Rhodesia. It was done unilaterally by the President, who at that time was the late Lyndon B. Johnson, at the request of the United Nations.

The able Senator from Minnesota, in his comments, said that by trading with Rhodesia insofar as importing chrome is concerned, we are "putting our blessing on a government where 5 percent rule 95 percent."

Those who are advocating the legislation now pending favor trading with Communist Russia, where only 1 percent or less than 1 percent control and dominate the other 99 percent. Many of the countries the United States deals with are ruled by a government dominated by a very small group. Perhaps one would say most of the countries today are in that category, unfortunately.

So I say to those who contend, as do the sponsors of this legislation, that we should not trade with Rhodesia, because it is putting our blessing on a government where 5 percent rule 95 percent, that that is the case with many countries throughout the world with which the United States is trading and has been trading.

None of the sponsors of this legislation lay any claim to wanting to outlaw trading with Communist Russia, and yet we all know that that is the tightest dictatorship in the world. In no other nation of the world, except China, do so few rule so many.

The able Senator from Minnesota, in his opening remarks, mentioned that chrome can be obtained from places other than Rhodesia, and that is correct. He mentioned the Soviet Union and Turkey. The one country he did not mention is South Africa.

The facts are that the three countries of the world which produce the bulk of the world's chrome, metallurgic chrome, chromite, or whatever term you want to use, are Rhodesia, South Africa, and Russia.

If we are going to eliminate trade with Rhodesia—and one of the reasons that the sponsors of this bill give that we should eliminate trade with Rhodesia is because the white minority dominates the black majority—why would we then not advocate sanctions against South Africa?

As a matter of fact, to show the hypocrisy of this whole argument, the Ambassador to the United Nations, Mr. Scali, vetoed proposed sanctions against South Africa.

I think he should have done that, and I commend him for it; but if it is contended that the black majority of Rhodesians is not being treated properly by the minority whites, then how can one contend that the situation is any better in South Africa? To be logical, the sponsors of the pending legislation should amend it to include South Africa. Then Russia would have an almost total monopoly, on the strategic material. If we eliminate South Africa and Rhodesia, that leaves us with only the U.S.S.R. with any substantial supply of an important and strategic metal.

Now, in his opening remarks, the able Senator from Minnesota said that Germany and Japan are complying with sanctions against Rhodesia.

Well, I have talked with a good many people who have been to Rhodesia, and they tell me that there are all sorts of Japanese-imported items for sale in the stores in Rhodesia, that there are Japanese automobiles all over the streets of Rhodesia. One cannot hide an automobile, and they are everywhere there, plus radios, cameras, and so forth.

I say it is a lot of bunk that Japan is complying with sanctions. They are not complying at all. Neither is Germany. Few countries in the world are complying with sanctions against Rhodesia except Great Britain and the United States. The only aspect in which the United States is not complying is in chrome.

In his opening remarks, the able Senator from Minnesota also stated that Germany and Japan are not relying on cheap Rhodesian chrome in the manufacture of the products which require chrome.

That may or may not be the case. Frankly, I do not know. But I do know that Germany and Japan, particularly Japan, are relying on cheap labor. That is why they can compete with the United States so much, because of cheap labor. We do not want that in our country. We want to maintain high wage rates.

Now, as to the strategic stockpile which the able Senator from Minnesota mentioned, I will not attempt to get into that aspect of it. The expert in the Senate on the matter of the strategic stockpile is the able Senator from Nevada (Mr. Cannon). He is the chairman of the Stockpile Subcommittee of the Armed Services Committee. He has gone into this matter in great detail. He is strongly opposed to S. 1868. He is a strong advocate of the legislation which Congress enacted several years ago.

Now if, indeed, the United States is in violation of international law—and, of course, it is not—but if, indeed, it is, then the President of the United States can solve that problem tonight—tomorrow—this afternoon. Under the legislation which Congress passed the President has two options. If he does not want to relax the sanctions against Rhodesia, he can do two things. One is to eliminate from the list of strategic materials chrome, metallurgical chrome, chromite, et cetera.

If he takes them off the strategic list, then the so-called Byrd amendment which Congress enacted several years ago would not apply. But, he has not done that. He has not done that, and very logically so, because metallurgical chrome is a strategic material and a vitally important material. It is essential to many of our military weapons systems and to our domestic industry. The President knows that. Congress knows that. The fact is that the vast bulk of this chrome can come from only one of three sources; namely, from South Africa, Rhodesia, the Soviet Union.

The other thing the President can do if he so desires is to cease importation of chrome from Communist Russia. If he does that, then the legislation enacted by Congress 2 years ago would not become operative—or would cease to become operative.

So there are two ways, if the President decides it is necessary to have a complete embargo on trade with Rhodesia, two steps that he can take and no legislation is necessary.

The Humphrey proposal would repeal what was done only 2 years ago, legislation passed by the Senate and passed by the House of Representatives and signed by the President.

I might say, in that connection, that I hold in my hand a letter from those who favor the pending legislation and are very strongly opposed to what was done 2 years ago. The letter is signed by Representatives Diggs, Chisholm, Dellums, Stokes, Mitchell, Dingell, Conyers, and Burke. In that letter it says this:

> In August 1972, just a year ago, the attempt to repeal the Byrd amendment in the House failed by a staggering 253–140 votes.

As the opponents of the Byrd amendment point out in this letter, the House failed by a staggering 253 to 140 vote to repeal this legislation just a year ago.

While I am against the proposed legislation, S. 1868, it is not, in my judgment, an unmixed blessing that it should be brought before the Senate.

I believe that the proposal gives the Senate a good opportunity to consider many important matters that need to be considered, not only in connection with the sanctions against Rhodesia but also in regard to the United Nations itself.

First, I think there should be full discussion as to whether it is wise to repeal legislation which Congress enacted two years ago, legislation which had the support and the affirmative votes of representatives from 46 of the 50 States.

Yes, Mr. President, when the vote was taken in the Senate and the House of Representatives, representatives from 46 of the 50 States supported the legislation which Congress enacted 2 years ago—the so-called Byrd amendment. That, I think, Mr. President, is a significant point. It was not a regional vote. It was a nationwide vote. Representatives from 46 of the 50 States supported that legislation.

Now the legislation offered by the able Senator from Minnesota (Mr. Humphrey) would amend the United Nations Participation Act. That brings up the question of what other amendments should be presented at this time to an act which was passed 28 years ago. That is a long time. The Senate, I should think, would want to consider in some detail the entire question of the United Nations Participation Act and undoubtedly Senators will want to present amendments thereto.

Mr. President, third, during consideration of the proposed legislation, namely, S. 1868, the Senate, I should think, would want a full discussion of the United Nations itself.

The membership of the United Nations has changed drastically since the Senate authorized participation in 1945. At that time there were 51 member nations. There are now 135 member nations.

Mr. President, I might say that I returned from Okinawa as a naval officer at the same time that the United Nations was being formed in San Francisco. I thought at that time that it was very important that we have a world organization which would hopefully make it unnecessary for American citizens to participate in future wars.

It was my hope that a world organization such as the United Nations would be an instrument for achieving and maintaining peace throughout the world.

Since that time I have felt a rapport with the United Nations since I happened to be in San Francisco at the time it was formed.

I must point out, however, that there has been a very drastic and radical change in the membership of the United Nations since that time. As I mentioned earlier, there were 51 nations, and all of those nations had a history of established government.

There are now 135 nations. Most of them are new nations. Most of them have had very little opportunity for self-government, and thus very little experience in self-government.

We have got an entirely different situation today. And I guess that I should be frank enough to say that even though I am an advocate of the United Nations, it has been a disappointment in what it has been able to accomplish. So, I think it would be important, since it has been 28 years since there has been a debate with regard to the United Nations, that there be a full discussion of how the United Nations Participation Act might best be changed to both protect the United States and to make the United Nations a more effective world organization.

I think it has an important role to play. It is a forum for many governments. That is desirable.

One aspect that I cannot accept, however, is that actions taken by the United Nations should be binding on the U.S. Congress. I cannot approve that principle. If the principle contained in the Humphrey bill is sustained, then we would be accepting the principle I have just mentioned—namely, that action taken by the United Nations Security Council, implemented unilaterally by a President of the United States, would be binding on Congress. I do not believe in that.

Fourth, I believe that the Senate will wish to discuss the background of the United Nations sanctions against Rhodesia.

It would be of interest, I think, to inquire as to how a small, land-locked African nation, which has attacked no one, is officially declared by the United Nations Security Council and found to be "a threat to the peace." Incidentally, no such action was taken against North Vietnam during its long aggression against Southeast Asia, or against the Soviet Union. No such action was taken against the Warsaw Pact nations at the time of their invasion of Czechoslovakia.

I again cite that to show the hypocrisy of the whole matter. By no conceivable stretch of the imagination can Rhodesia be considered a threat to world peace. Yet that is what the United Nations Security Council declared. It did so in 1966 and 1967, at the height of the Vietnamese war, but said nothing whatsoever about the aggression by North Vietnam.

One year later, the invasion of Czechoslovakia took place. It was a brutal invasion of Czechoslovakia; but no effort was made to apply sanctions because of that aggression.

Fifth, I would hope that the managers of the bill introduced by the Senator from Minnesota (Mr. Humphrey) would be prepared to dicuss in some detail the governments and potential contributions of the new members, namely, those acquiring membership after the original 51 nations. The Senate and the Nation would, I believe, be interested in knowing just what types of governments the new United Nations members have.

Sixth, I should think the Senate and the people of our Nation would have great interest in the financial aspects of the United Nations. This is a good time to bring out those facts. Most certainly we should know, and the consideration of the proposed legislation would present a good opportunity to get a full accounting, just how much money the United States has contributed to the United Nations since it was organized in 1945. We need to know not only the regular assessments—the dollar amounts, percentages, and so forth; we also need to know the voluntary contributions, with percentages.

Undoubtedly, many Senators will have many other areas to be explored during the consideration of the proposed legislation. It has been many years since there has been a full discussion in Congress of the role of the United Nations and its many ramifications. Now, I think, would be a good time to give consideration to the various matters I have heretofore mentioned.

I might say again that the legislation proposed by the distinguished Senator from Minnesota (Mr. Humphrey) would repeal the legislation enacted two years ago.

The legislation that Senator Humphrey's proposal would repeal is this: The President cannot prohibit the importation of a strategic material from a non-Communist country if such material is imported from a Communist-dominated country. Except for the fact that the United Nations does not like it and Russia does not like it, what is the matter with existing legislation, passed by Congress, signed by the President, and upheld by the courts?

If the principle of the Humphrey legislation is accepted by Congress, then what it would be saying is that as to any action taken by the American Ambassador to the United Nations in the Security Council, and then put into effect by the President of the United States unilaterally, Congress has no recourse and must accept whatever is done, even though Congress had not approved or had no opportunity to express its viewpoint.

It would be putting Congress in a straitjacket. It would make Congress, in the field of foreign affairs, subservient to and completely under the domination of the Ambassador to the United Nations and the President of the United States. I, for one, could not accept such a proposal.

Mr. President, I am about to suggest the absence of a quorum, but prior to doing that I ask unanimous consent that I may yield to the Senator from New York (Mr. Javits) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, with reference to this matter, on which I have heard most of the remarks of the Senator from Virginia with great interest, I believe that the points which need to be emphasized very strongly are, first, the self-interest of the United States, and second, the economic situation which affects this particular type of import.

First as to the self-interest of the United States: We constantly hear argument that the United Nations is powerless, that it cannot do what it was supposed to do originally, which is to have a material effect on maintaining the peace.

But, Mr. President, where it seeks to exercise some authority, if we frustrate it, we are only tearing down the very instrument which we ourselves are saying is not adequate to the task; and where the United Nations, as in this case, has girded up its loins and voted sanctions, for us to dismantle them seems to me for us to be acting very strongly against our own interests.

Let us understand, Mr. President, that the legislation which was nullified by the so-called Byrd amendment, that is, the amendment of the Senator from Virginia, was a grant of authority to the President of the United States to enable him to carry out the support of the United Nations sanctions. That was the policy of our country, and we carved out an exception from that by adopting the amendment of the Senator from Virginia.

It will be noted, incidentally, that this affects quite a range of minerals aside from chrome, though chrome is the principal item. The report of the Foreign Relations Committee says, at page 2:

> This legislation actually made it possible for the United States to import as many as 72 commodities, most notably nickel, chrome ore and ferrochrome.

So it did have a fairly broad range.

The other point that impressed me very much, Mr. President, and to which I would like to call attention, is the statement of the distinguished Senator from Virginia, which is answered by the committee, that this has some relevance and comparability to the struggle for independence of our own country in 1776 from the same power, to wit, Great Britain.

I would like to read what the committee says also on page 2 of its report:

> Any fancied resemblance to our own action of 1776 could only be thought relevant if the American colonists had been less than a five percent minority of this country's population and had denied valid political representation to the vast majority of another race or color to the East of the Appalachians.

The issue which is here at stake is not the effort to make Rhodesia subservient, a colony, or a possession of Britain. Britain has not recognized Rhodesia's independence. But there is nothing the United Nations is trying to do about forcing Rhodesia back into Britain's hands. The real issue is, are the rights which are undertaken under the United Nations Charter, which are basic human rights, being violated by the form of government which has been set up in the name of independence in Rhodesia? They are. That is the finding of the United Nations.

Now, Mr. President, I should like to testify to a personal experience on this score because I think it is very important. I have returned but a few weeks ago from attending a conference on "World Peace Through Law" at Abidjan on the Ivory Coast, where a very great company of lawyers and judges from practically all the countries on Earth were present to discuss how the world could be brought to a resort to law instead of resort to force in dealings among nations.

While there, I visited a number of other countries in Africa, including the Upper Volta, one of the drought-stricken countries of the Sahel region of West Africa, and Nigeria, the most populous country in Africa.

Based on this experience, I testified before the subcommittee considering this matter of Rhodesian chrome ore. I testified to the fact that probably the single leading problem in our relations with all of these African countries which are struggling to be free and to have democratic societies—obviously, not always with success, but still struggling in that direction—is what they consider the ambivalence of the U.S. position respecting a number of issues on their continent which deeply affect their own freedom.

Among these, of course, are apartheid in South Africa, the situation of Portugal with respect to Angola and Mozambique, and the situation of U.S. cancellation, through act of Congress, of its participation in sanctions against Rhodesia.

Now, Mr. President, everything in international affairs is a tradeoff. We cannot always do what we want to do. We cannot always pursue the purest line which principle would invite us to pursue and which we would like to pursue. But here, in the case of Rhodesia, we can do something about one thing that troubles our relations with the African countries because the world, through the United Nations, has acted on it affirmatively, and it has the broad support of various countries in the world. Indeed, we are the only nation that has adopted this official cancellation of the sanctions. Therefore, we should reverse this situation and avoid what the African nations feel very deeply about: the fact we are the only member state of the United Nations which has openly, publicly, and by law declared that we will not observe United Nations sanctions against Rhodesia.

Mr. President, we have so much reason to call on other nations to respect their commitments to the principles of the United Nations embodied in the Charter that it seems to me most embarrassing, and unnecessarily embarrassing, for our country to be put in this position respecting this particular matter.

Now, Mr. President, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) spoke of the Soviet Union. Certainly the Soviet Union is an iron dictatorship. There is no question about that. But, Mr. President, the Soviet Union was not the subject of collective world action. I do not condone it at all. It probably deserves it as much as Rhodesia. But, nonetheless, it was not. Actually, it has not been picked out as an object of United Nations action. So, therefore, as the matter stands now, it is within, not outside, the law, and the support of the establishment of law in the world. The support of even the modest efforts which the United Nations may be brought to make, in this case by unanimous vote of the Security Council, to right some of these human wrongs which are contrary to the United Nations Charter, should be backed by us, even though we cannot have it all the way, the way it should be in principle.

It is somewhat analogous to the fact that because we cannot catch every miscreant in the country who holds up gas stations or robs people's homes, that does not mean we should turn loose those we do catch. So, when we have the opportunity to uphold the rule of law with tremendous international backing, we should join in it and not expressly and by law defy it.

One last point, and that is the economic point. By now—and I think the report of the committee on this is extremely valid—any concept that this is a good economic decision has certainly been shown to be unwarranted both in the price at which chrome can be bought and in the fact that, as the matter is now turning into another processed commodity which is being bought very largely in place of the raw material which it was originally thought would be the principal item of commerce with Rhodesia, American workers are now complaining about losing their jobs because of what we are buying.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the testimony of John J. Sheehan, legislative director of the United Steel Workers of America.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

"Since other nations were violating the embargo, albeit covertly, foreign ferrochromium producers were obtaining lower-priced Rhodesian ore." (Ferrochromium is the major product into which chrome ore is processed. The ferrochromium is then used as a major component of specialty steels.) As a result, foreign specialty steel producers were operating at lower cost, making our domestic specialty steels less competitive. The final culmination of these allegations was that American steelworkers were losing their jobs.

"From the first time that this jobs issue arose, the United Steelworkers of America has vigorously denied its validity. I would like to mention at this point that appended to my statement is a compendium of letters and telegrams which or Union's president I. W. Abel, and I have sent to Members of Congress on this point since 1971. Also included are Legislative Appeals and a Legislative Newsletter which we have distributed on the subject.

"Now that we have had some experience with re-opened trade with Rhodesia, what has happened? In short, the results anticipated by the advocates of lifting the embargo have not been achieved. In some cases, the results could not be achieved because the problems themselves were not truly related to the Rhodesian embargo. Here I speak primarily on the job-loss issue, but also of the reliance-on-Russia issue and, to a degree, the issue of high Russian prices. In another case, the "problem" has proven not to be a problem at all; i.e., the national security issue. Furthermore, the breaking of the embargo has indeed had results quite unexpected by its sponsors; namely, vast imports of Rhodesian ferrochromium rather than chrome ore, with a direct relationship to the loss of American steelworkers' jobs rather than to their preservation.

"The import situation has been increasingly damaging to the domestic ferrochrome industry over past years, and the infusion of Rhodesian products since 1972 has certainly aided in bringing it to a critical point. On May 4, 1973, the Ferroalloys Association filed for relief from imports before the U.S. Tariff Commission. Subsequently, the petition was withdrawn as a result of the boom currently being experienced in the steel and supporting industries. Despite its current increase in profitability, however, the domestic ferrochromium industry's share of the market continues to erode, and it stands on very shaky ground.

"The impact already is very real for some of our members. Late in 1972 two domestic producers announced that they were shutting down their ferrochrome facilities, and both listed imports as a major reason. Ohio Ferroalloys in Brilliant, Ohio, has already shutdown its ferrochromium process, switching instead to silicon processes exclusively. Foote Mineral is planning on completely closing its Steubenville, Ohio, plant by the end of this year. The result of the Foote Mineral closing will be 313 lost jobs.

"I have dwelt on this matter not because we view the reimposition of the Rhodesian embargo as a job protection measure—there are far more appropriate methods for achieving that; namely, legislated import quotas, and we have long sought them. Rather, I have felt this to be an important topic because it demonstrates that the lifting of the embargo has had effects exactly opposite of its sponsors' intentions."

Mr. JAVITS. Mr. President, in addition to a revised view as to what can come out of the strategic stockpile of the United States, the pattern of price, insofar as sales from the Soviet Union are concerned in these particular commodities, all go to sustain rather than to invalidate the fact that even on economic grounds we would not find it unwise or even inconvenient to join in the action of the United Nations in applying these sanctions.

Mr. President, I should like to close these brief remarks as I began by saying that the central issue is: Can this international organization have some real weight? It certainly has great usefulness, as we see now in the Middle East crisis where a United Nations force is, and is likely to continue to be, the buffer between the contesting parties and to be of great aid in bringing about a ceasefire and, hopefully, in bringing about some kind of negotiated peace.

So, Mr. President, when the United Nations finally does get itself together and does something, as it did with respect to the matter of Rhodesian chrome, our objective should be to help it and not to defy it. That is true on grounds of statesmanship. That is true on grounds of our national interest. The United Nations can contribute so much to a peaceful world, as it can find ways and means to show some strength and some decisiveness and some unity of decision on the part of its members.

Now, again, Mr. President, I heard, of course, with interest, the charge made that lots of trade goes on with Rhodesia and that the sanctions are not particularly effective. I am sure of that. I am sure there is a lot of cutting and trimming. But, Mr. President, the cutting and trimming which goes on in every great enterprise is no match for open, public defiance by law in which we say, "We will not do it." That, I think, goes really a very long way toward invalidating the strengthening of an organization which we have a great interest to build up, as we desire nothing, we have no imperialistic ambitions. We seek only a peaceful world in which to live and reduce the burden of armaments together with others. So, it is an extremely prudent matter, therefore, for the United States to uphold the hand of the United Nations with respect to this matter rather than to defy it.

For all those reasons, Mr. President—and those are essentially the reasons given by the Committee on Foreign Relations, of which I am a member, for reporting this bill—the bill is deserving, is greatly in the national interest of the United States, and should be passed.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HARRY F. BYRD, JR. The Senator from New York said that the basic issue is whether human rights are being violated in Rhodesia. Does the Senator from New York feel that basic human rights are being violated in the Soviet Union?

Mr. JAVITS. Of course. I said that. I said they are being violated.

Mr. HARRY F. BYRD, JR. One additional question, then. Would the Senator from New York favor economic sanctions by the United Nations against Russia?

Mr. JAVITS. I would certainly favor their consideration. I do not know what the considerations might be which might induce the U.N. to believe, on balance, that it is unwise or wise. That depends on the particular case.

But I am not begging the question as to the Soviet Union. I just point out that because they are getting away with it—and maybe there is no other way, for many reasons, including their power and their position in the world—that is no excuse for letting Rhodesia get away with it, when the United Nations has at long last acted. That is my argument.

Mr. HARRY F. BYRD, JR. The Senator from New York has been to many African countries. I am not speaking of South Africa or Rhodesia, but the other African countries. Does he feel that all those nations are without sin in abrogating basic human rights?

Mr. JAVITS. Not at all, not any more than we are. We have had a lot of sins, too, in Vietnam and elsewhere. Again, that does not mean that when we see a good objective, we should not get aboard it. That is what I am arguing here.

Mr. HARRY F. BYRD, JR. Does the Senator from New York agree or disagree with the veto in the Security Council by the American Ambassador of proposed sanctions against South Africa?

Mr. JAVITS. Personally, I am unaware, I am sorry to say, of the reason which motivated it, but I believe that that was unwise. Just without knowing all the ramified details and with the absolute privilege of having a different view if, as, and when I do, my surface impression is that, again, deep injustice is being perpetrated in South Africa, against which we have protested, against which I protest, and which I believe deserves the attention of the world, in the U.N. with a view toward some kind of international discipline on that score.

But I repeat to my colleague—I understand the difference between us, but I repeat—there is a great deal of injustice in the world, but that does not equate with allowing it to continue where we have an opportunity, as we have here, to do something about it.

Mr. HARRY F. BYRD, JR. I thank the Senator.

I yield to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Virginia for yielding to me. I apologize to my colleagues for speaking at a time when I have laryngitis and possibly cannot be heard as well as I would like to be heard.

I admire the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) for the leadership he is displaying in supporting the position in which Congress, through his efforts, some 2 years ago, placed non-Communist nations on the same basis with Communist nations in the matter of the right of this country to purchase strategic materials from such non-Communist nations.

The amendment which the distinguished Senator from Virginia sponsored and pressed to ultimate passage and approval by the President provides that the President cannot forbid the purchase from a non-Communist nation of strategic materials where the purchase of such materials is permitted from a Communist nation. Certainly, the existing provision of law, the so-called—and properly so-called—Byrd amendment, is the law that the present bill, by the distinguished Senator from Minnesota and a number of his colleagues, seeks to repeal.

Mr. President, we are once again called upon to revive a United Nations dictate that denies the United States the important right to import strategic metals from the sovereign nation of Rhodesia, thus increasing our dependence for such metals on Communist Russia. The issue is clear. If this bill, the Humphrey bill, S. 1868, is enacted into law, it will demonstrate further subservience of our Nation to the United Nations organization and its allies in the Department of State who are waging economic warfare against the sovereign nation of Rhodesia. It has been said by proponents of this bill that until Congress authorized the import of Rhodesian chrome, the United Nations and the Department of State had succeeded in imposing the most effective sanctions program in the world against Rhodesia.

So the question is whether we shall continue to be bound by United Nations dictates in matters affecting our national security or whether we shall consult our own national interests and decline to be yoked. When we consult our national interest, we are forced to the conclusion that we are flirting with disaster if we deliberately deny our ferrochrome industry—the principal consumer of raw chromite ore—of its primary source of supply of high-grade ore from Rhodesia.

Those who are willing to kowtow to the United Nations on this issue can, of course, stand up and be counted. But, before the count is taken, let each Senator acknowledge that the trade embargo imposed by the United Nations Security Council against Rhodesia is a legal farce and a nullity, and is not binding in law. Let it be acknowledged that we are asked to impose self-inflicted wounds upon an element of our economy which is vital to our national defense and the technological progress of our Nation.

It is conceded by most observers of the United Nations that the Security Council embargo on trade with Rhodesia was imposed in violation of the terms of the United Nations Charter. Thus, the embargo resolution is ultra vires, without force and effect either in the United States or in international law.

Mr. President, while I do not intend to rehash this universally recognized conclusion, I do want to point out that the United Nations has no authority to intervene in matters within the domestic jurisdiction of any state. I do want to point out that the embargo was imposed for the purpose of compelling Rhodesia to alter its constitution. I do want to point out that the Security Council's resolution requiring the United States to participate in economic warfare against Rhodesia was made without regard to the provision of the United Nations Charter which requires a bona fide finding by the Security Council that Rhodesia constituted a threat to international peace. I do want to point out that under the charter, any party in a dispute under consideration by the Security Council shall be invited to participate in the discussions relating to the dispute.

To digress just a moment to comment on this matter of the findings by the Security Council that Rhodesia constituted a threat to international peace, how farfetched can an argument be, or how farfetched could a position be. This small landlocked nation in Africa a threat to international peace? It is absolutely ridiculous to entertain any such notion or to maintain any such argument.

Yet, despite repeated requests, Rhodesia was not allowed to participate in the kangaroo courtlike proceedings which led to a declaration, without hearings, that Rhodesia constituted a threat to international peace. That conclusion was and remains an absurdity that refutes any claim to respectability by nations dedicated to the rule of law.

Mr. President, I am frightened by an international organization such as the United Nations which by resolution that it passes can go beyond or hold for naught the policy of the U.S. Government or supersede statutes or constitutional provisions of the United States of America. We certainly do not want any international organization that has more power than the Congress and the President and the courts of this land. That is exactly the position we are going to find ourselves in if we allow this embargo imposed by the United Nations to become the law of the Government of the United States of America. Certainly, we do not want to be guilty of that type procedure.

Mr. President, the United States should not dignify such crude procedures on the part of the United Nations. What nation might next be victim of such procedures?

Mr. President, there is an old saying that something is wrong when it becomes necessary to violate principles of a theory in order to make it work. It is reasonable to conclude by analogy that something is seriously wrong when the United Nations has to abandon the solemn provisions of its charter in order to make it work. I find it less than amusing to hear arguments that our obligation to support economic warfare against Rhodesia is a requirement of international law as interpreted and applied by the United Nations Security Council in this case involving Rhodesia.

Mr. President, let us put aside the farcical claims of legality of the embargo. What we are talking about is the national security of the United States and the power of the United Nations to deny our Nation access to critical, strategic materials. We are talking about the right of a sovereign state, the United States, to acquire and maintain a stockpile of critical defense materials. We are talking about our right to maintain our critically important ferrochromium industry, free from total dependence on imported chromite from Commnist Russia and other tenuous sources of supply.

In this connection, since 1962, our national stockpile of metallurgical grade chromite has declined over 43 percent and is currently at the lowest level in 15 years. In addition, 43.1 percent of the stockpile of available inventories are officially classified "nonstockpile grade." Furthermore, the administration has recently proposed further liquidation of the high-grade chromite stockpile. Our industry is consuming more than we can import.

Mr. President, I do not want to become technical in this discussion, but it is useful to know that chromite must be refined before it is useful to specialty steelmakers, and chromium is absolutely essential to a modern technological society. In recognition of this fact, the Government designated chromium as the first mineral to be stockpiled in 1939. It is used in the manufacture of a wide variety of products from jet engines to hypodermic syringes, and in any product demanding corrosion resistance. Among some of the important uses are those in areas of environmental control equipment, power generation equipment, transportation equipment, food processing, chemical and petroleum production, and home appliances and equipment.

Mr. President, our Nation is totally dependent upon imports and our national stockpile as sources of supply. It is the opinion of the Tool and Stainless Steel Industry Committee that reimposition of the Rhodesian embargo would convert a serious problem into a crisis.

That is what this bill, S. 1868, would do. In effect it would reimpose the embargo on our imports into this country of Rhodesian chrome, whereas the Byrd amendment lifted that embargo. If we want to do the dirty work of the United Nations we would be for S. 1868; on the other hand, if we want to support the United States and support the national security of the United States without regard to the position of the U.N., then we will be for maintaining and keeping the Byrd amendment and we would be opposed to S. 1868.

Mr. President, I concur in the belief that the only certain effect of a reimposition of our trade war against Rhodesia would be to injure our American industry and restrict this country's ability to meet technological requirements for a strong and continuing national defense.

At last account there were over 130 member nations of the United Nations. Some of the nations have few inhabitants. The Maldive Islands, for instance, have a population of only about 100,000 inhabitants. Yet they have the same vote in the General Assembly as the United States of America, which has some 210 million people.

As the Senator from Virginia (Mr. HARRY F. BYRD, JR.) pointed out, we do not know the internal setup of all these emerging nations. We do not know what their situation is, what the condition is of human rights in those areas, and I daresay no one else does.

The General Assembly is controlled by nations having fewer than 5 percent of the world's population. Five percent of the population of the members of the United Nations control the United Nations; and the nations of Africa and Asia constitute a substantially majority of the entire membership of the General Assembly of the United Nations. So we are certainly not in the hands of friends in terms of internal problems of our Nation, our political policy, and the control of the domestic affairs of our allies in the hands of the United Nations, governed as it is by a majority of the members of the General Assembly coming from the continents of Asia and Africa, where we seem to have very, very few friends.

This illegally imposed embargo on Rhodesia should not be reimposed. Congress has already spoken on this subject. I do not know of many Representatives and Senators who have changed their minds from their position of 2 years ago. I doubt if the distinguished Senator from Minnesota, or, I daresay, a single one of the cosponsors of the legislation, some 30 in number, voted for the Byrd amendment 2 years ago. I do not imagine that a single one of them did.

So, with the important matters we have before the Senate, we are called on to rehash this problem, which Congress has already spoken on.

I believe I heard the distinguished Senator from Virginia say that the Senate itself has acted on this question, in favor of the Byrd amendment, on three separate occasions. I believe that is correct. And here we are called on to argue it out again when we have so many other questions to consider.

Mr. President, in conclusion, let me point out that the United States is not bound in perpetuity by international law, to say nothing of United Nations lawlessness. One generation may not bind another, one Congress may not bind another, and the Congress which enacted the United Nations Participation Act may not bind this Congress in the exercise of its judgment on the United Nations or any of its actions.

Mr. President, it is time for the United States to begin the formulation of a Declaration of Independence from the United Nations. An appropriate place to begin is by declaring the right to import such strategic materials as may be necessary to the defense of our Nation and the economic health of the ferrochromium industry. Next, we must impose the same limitations on the United Nations to commit our Armed Forces to acts of warfare as were imposed on the President.

Another dangerous aspect of the power of the United Nations is the right they have to commit the armed forces of the various member nations. I feel that this is certainly a time to say, in a loud, clear voice, that we are satisfied with the Byrd amendment, permitting the import of strategic materials from non-Communist nations. If imports into this country are permitted from Communist nations, why should the Communist nations be the most favored nations? And that seems to be what S. 1868 seems to do—make the Communist nations the most favored nations, and make our own allies the least favored nations.

That may make sense to some Senators, and apparently it makes good sense to the 30 sponsors of S. 1868, but I do not believe it will make good sense to the U.S. Senate as a whole.

I hope that S. 1868 will be defeated, when and if it comes to a vote in the Senate.

I did hear the distinguished Senator from Virginia say he was going to make some of his arguments at this time, but as the days wore on, that he would make additional arguments, and I look forward to hearing his additional arguments, as the distinguished Senator is planning to make them from time to time as the bill is under consideration.

I do wish there were more Senators present here this afternoon to hear the distinguished Senator from Virginia speak in opposition to the bill.

Mr. HARRY F. BYRD, JR. Mr. President, the able Senator from Alabama has made a powerful presentation against the proposal offered by the Senator from Minnesota (Mr. HUMPHREY). As the Senator from Alabama customarily does, and with great consistency, he focused the attention of the Senate right on the heart of the problem. In his presentation today he hit the key points so effectively as to the weaknesses, the fallacies, the faults of S. 1868 offered by the distinguished Senator from Minnesota (Mr. HUMPHREY).

The Senator from Alabama brought out that if the United Nations sanctions against Rhodesia were valid in the first place, they could be valid under the United Nations Charter only if Rhodesia were a threat to world peace.

Here is a small, landlocked African country. It has no navy. It has no air force. I am not certain how much of an army it has, but, the best I can determine, it is mainly a police force to take care of the internal problems of that country. And yet the United Nations Security Council had to certify that that little country was a threat to world peace.

Mr. President, how ridiculous can you get? The able Senator from Alabama is an outstanding lawyer. He is deeply vested in the law. What he points out today is what another great constitutional lawyer pointed out to African Subcommittee of the Foreign Relations Committee of the Senate. I refer to the late Dean Acheson, who served as Secretary of State under President Truman for many years. He testified in support of the Byrd amendment. Some time next week I am going to read his statement into the RECORD. He pointed out that the United Nations itself was in violation of its own Charter, and he cited chapter and verse to substantiate the points he made, just as did the splendid Senator from Alabama (Mr. ALLEN) a few moments ago.

The Humphrey legislation says that the United States is in violation of the law. That means that more than 45 Members of the Senate voted to violate the law. It means, according to the letter sent out by the group of Congressmen who are opposing my position in the House of Representatives, that 253 Members of the House of Representatives voted to violate the law. It means that the President of the United States himself put his signature to a violation of the law. It means that a Federal court here in Washington, which sustained the Byrd amendment, was in violation of the law.

Of course, all of that is not correct at all. It is not correct at all. As the Senator from Alabama made so clear, the measure we have before us now goes way beyond whether it is wise or unwise to import chrome from Rhodesia.

It goes beyond whether it was wise or unwise originally for the United Nations to put sanctions against Rhodesia.

The new principle that the legislation introduced by the Senator from Minnesota (Mr. HUMPHREY) would enuciate is that once the United Nations, through the Security Council, adopts a course of action and that action is put into effect by the President of the United States unilaterally, without the consent of Congress, then Congress is bound by that action and there is no recourse that Congress has without being in violation of what they consider to be international law.

I submit that certainly is not the case.

And if it is the case, then we in the Senate of the United States and those who are serving in the House of Representatives have placed ourselves in a straitjacket where whoever might be President in some future years can take a course of action in the international field which cannot be reversed by the Congress of the United States.

I say that principle to my mind is more serious than the question of chrome, more serious than the question of trade with Rhodesia, more serious than the question of the United Nations itself.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Illinois without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RANDOLPH PIONEERED IN ENERGY LEGISLATION BEGINNING IN 1959—GOVERNMENT EXECUTIVE MAGAZINE INTERVIEW OF APRIL 1971, PUBLISHED HIS PROPHETIC CONCERN

Mr. HARRY F. BYRD, JR. Mr. President, on Sunday and again yesterday the distinguished majority leader (Mr. MANSFIELD) called attention to the pioneering efforts of the able Senator from West Virginia (Mr. RANDOLPH) in authoring legislation and programs to develop a national policy on fuels and energy under which this country could be assured of adequate supplies of energy to serve our citizens.

Senator MANSFIELD has stressed that in 1970 the Senator from West Virginia (Mr. RANDOLPH) introduced legislation with 62 cosponsors to establish a National Commission on Fuels and Energy. In connection with the majority leader's remarks it is appropriate to inform Senators that the work of the Senator from West Virginia (Mr. RANDOLPH) goes back even before 1970. In 1959 Senator RANDOLPH introduced a resolution to establish a Joint Committee on a National Fuels Policy. Again in 1961 he introduced a resolution to establish such a Joint Committee on a National Fuels Study. In 1961 also Senator RANDOLPH proposed a resolution to establish a Special Committee of the Senate on National Fuels Study. This latter measure was approved by the Senate in an amended form.

It is clear that the Senator from West Virginia possessed keen foresight with regard to the energy problems confronting this Nation and over the years continued to translate this foresight into affirmative action. In April 1971, Senator RANDOLPH discussed his concerns in an article entitled "Fuel Plants—250 New Power Sites?" with the associate editor of the magazine, Government Executive. It is my belief that this interview is indicative of the in-depth knowledge that the Senator from West Virginia possesses on fuels and energy issues. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FUEL PLANTS: 250 NEW POWER SITES?

In mid-April, plus or minus 48 hours, the first substantive Government action to prevent a power crisis in the next two or three decades will be taken.

Oddly enough, the action will not be taken by the Executive Branch, which has had the ball in its court for a long time, but by the Legislative Branch.

The prime mover is Sen. Jennings Randolph, who 12 years ago proposed a study of U.S. fuel and energy needs. Had the proposal been acted on then, present power shortages—alarming to Government officials as well as citizens—could have been prevented.

Randolph, 27 years a Democrat in Congress, the last 13 as a Senator, represents a coal mining state, West Virginia, but has tackled the fuels and energy problem impartially, viewing the overall problems covering oil, gas, coal and nuclear sources.

Randolph is chairman of the Senate Public Works Committee and as such realizes the significant relationship between energy requirements and assurance of environmental quality. He told *Government Executive*:

CONGRESSIONAL ACTION

"This Nation and the world community of nations are embarked on a gigantic gamble that we can maintain energy supply reliability compatible with demand. The gamble is gigantic. To lose it would be catastrophic for the American people, and indeed, for large inhabited portions of the earth."

In 1970, Randolph introduced, with the cosponsorship of 60 Senators, a bill to create a national Commission on Fuels and Energy.

The Administration opposed creation of the commission, which would have been a partnership instrumentality of nine members from the Executive Branch, six from Congress, and six non-Government experts. So, on February 4, 1971, Randolph introduced a resolution (S.R. 45), calling for a study of the fuels-energy situation by the Senate Interior Committee, chaired by Sen. Henry "Scoop" Jackson (D–Wash.).

This committee has been studying the resolution and will (or has, by this reading) report it favorably to the full Senate. The Senate will refer it to its Rules Committee, where no opposition is expected. The Committee, in turn, will report it favorably to the Senate for action.

Said Randolph: "The time has come for our society, its people and institutions, educational, political and religious, to act to avert further environmental crises and to plan for a future in which man can restore that balance which is essential to quality living. The critical factor in reestablishing the equilibrium will be man's will to create an environment adapted to his physical, psychological and spiritual needs."

"In the next 20 years," he continued, "we must triple our national power capacity to meet projected population and industrial demands. This may require 250 new power plant sites with an estimated capital need of as much as $350 billion. Such an expansion will require approximately eight million acres of land and may require over one-half million miles of voltage transmission lines—enough to circle the world four times.

"Yet the electric power industry, with annual revenues of some $20 billion is, according to the Federal Power Commission, currently spending less than one-half of one percent of its gross revenues on developing new and improved methods for the generation and transmission of electric power."

The immediate need, Randolph told the Senate in introducing his resolution, "is to overcome a fossil fuel shortage and to develop more effective, more efficient and cleaner methods of power generation and transmission without doing ecological violence."

He continued: "Proven reserves should be tied into distribution systems. Over many years, tax policies encouraged oil companies to develop sources of crude oil and natural gas and place them in reserve for future consumption. In effect, these national reserves are being held in trust. Therefore, in a fuels or energy crisis the public policy should dictate when these reserves are made available.

"I am concerned with the apparent proliferation of Federal efforts in this time of crisis. Recent reports indicate energy studies are being undertaken by the President's Domestic Council, the Office of Science and Technology, the National Science Foundation, the Atomic Energy Commission, the Department of Commerce, the Federal Power Commission and two studies by the Interior Department, to name a few.

"There is a pressing need for overall coordination if piecemeal examinations and competitive forces are to be minimized. Government agencies must be directed to lay aside jurisdictional disputes and short-term self-interests and recognize the long-term national interests involved."

At the present time, Randolph told *Government Executive:* "Energy research and development efforts of Government, private enterprise and education institutions are fragmented and uncoordinated. There is no agency responsible for a coordinating effort in the fuels and energy area which affects so many elements of our society and our environment.

"I suggest consideration on the establishment of a National Institute on Fuels and Energy under the Office of Science and Technology of the Executive Office of the President. A valid mission of this Institute would be to bring together, analyze and make recommendations on all public and private fuels and energy research and development programs, especially those which are interrelated with the development of technology for improvement of the quality of the environment."

DOUBLING EVERY DECADE

Under Randolph's resolution, the Senate Interior Committee would make a thorough investigation of U.S. fuel and energy resources, requirements and policies, and recommend actions necessary to insure fulfillment of future requirements for energy consistent with sound environmental quality policies and practices.

"The United States," says Randolph, "is unique among the countries of the world in its consumption of energy. Coal, oil and gas—and a small amount of nuclear power—provide our energy base. Three-fourths of the Nation's energy supply is derived from oil and gas.

"I do not overstate when I say that we are facing today—and will face tomorrow and many more tomorrows—a shortage of fuel and power to serve the industries and the homes of America.

"The energy demands of the United States since World War II have been doubling every decade. Our ability to meet the demand to date has clearly resided in the use of fossil fuels for their energy value."

Mr. LONG. Mr. President, will the Senator from Virginia yield?

The PRESIDING OFFICER (Mr. DOMINICK). Does the Senator from Virginia yield to the Senator from Louisiana?

Mr. HARRY F. BYRD, JR. I am happy to yield to the Senator from Louisiana.

Mr. LONG. I agree with what the Senator has to say in his statement. I was a cosponsor of the Randolph proposal to which the Senator has made reference. It was the Senator's predecessor in the Senate, his father, the honorable Harry F. Byrd, Sr., who offered an amendment in the Finance Committee which subsequently became law, known as the Defense amendment, declaring that this Nation should not be without an adequate fuel industry to meet its needs in times of emergency.

If Presidents had had the foresight and the courage to administer that amendment the way it was intended, we would not have any energy crisis today. Any dispassionate, objective, and perceptive person would agree that if that amendment had been administered courageously and beyond politics and the expediency of the times, we would have, today, a fuel industry that would be producing this Nation's energy requirements.

I am not saying that they would be adequate to produce all of our desires in terms of oil or natural gas, but if one takes into consideration the enormous coal reserves we have and what the intent of that amendment was, we would have today an industry adequate to meet our needs. Only because of the urgings of others who did not agree with it, which were sufficiently successful, did this Nation continue to permit more and more reliance to develop on foreign sources, so that we find ourselves in the situation we are in today. When those sources are denied to us, we are then in a real energy crisis.

It is quite appropriate for the distinguished Senator from Virginia to place in the RECORD the information he has placed there. It is worth noting the fact that if the Defense amendment, which initially was offered by the Senator's father, had been pursued the way it was intended and as it was explained in the committee report, we would not have this problem today.

I say that as one who voted for the amendment and thought it was right—and still do.

Maybe we can go beyond that, and embellish it and fill in some more details which the amendment may have lacked at the time. But, as it was intended in that amendment, and explained very clearly, we should not have to rely on foreign nations for essential supplies of energy.

Mr. HARRY F. BYRD, JR. Mr. President, I appreciate the comments of the distinguished Senator from Louisiana. I had not been aware of that part of the history of that amendment which goes back, as I recall, to 1959—does it?

Mr. LONG. Yes.

Mr. HARRY F. BYRD, JR. I am particularly interested to learn that my father was the author of that proposal and that the Senator from Louisiana (Mr. LONG) was a cosponsor of that proposal in 1959, almost 15 years ago.

That shows how long ago attention had been focused on that problem, yet how little was done about it.

I believe what the Senator from Louisiana said a few moments ago, as to what we must do in this country to develop our own reserves so that we will not be dependent on what, one might say, are not necessarily too stable countries in other areas of the world.

Mr. LONG. As the Senator so well knows, it is a matter of energy. We may not be able to find enough petroleum to meet all our needs but we certainly, by our existing technology, have enough coal available to us to provide all our energy requirements for 300 years, based on the rate that we are presently consuming it—and that is assuming we do not find more.

Mr. HARRY F. BYRD, JR. The Senator is correct. I misspoke myself if I confined it to petroleum reserves. I did not intend to do that. I meant the entire energy field.

Mr. LONG. Yes. So that we have to make a simple decision, whether we will develop enough energy in this country and enough capacity to process it so that we can provide for our own requirements, or whether we will rely on uncertain foreign sources that might be available to us and then again might not.

We must realize how important energy is to us, and I mean not only gasoline or electric power but every other source of energy, heating, and all the rest. When we are confronted with the problem and made to live with it, we realize, too, so much that we have been permitting that sort of thing to be left to chance.

Unfortunately, some people have not seen that. They will not see it until they have had their gasoline denied them. Perhaps they will not even see it until the lights are turned off in their homes. However, once they are cold, in the dark, and without transportation, they will see the light so to speak, with regard to the need for this nation to be self-sufficient, particularly a nation which has the enormous burdens placed upon it as a result of world leadership.

It is irresponsible for this Nation to be in the position where it cannot provide for its own requirements of fuel. It should be able to provide enough so that it can go to the aid of others such as our friends in Europe—the Dutch, who, I believe, were the only country that stood by our side at the time this Nation thought it necessary to place its Armed Forces on the alert because of the crisis in the Mideast. We found then that the Arab nations had decided to cut off the fuel of the Dutch and the Americans insofar as they had the power to do so, cutting off the energy for the Dutch because they had honored a commitment to the United States.

We ought to have enough capacity that we not only can provide our own requirements but also can go to the aid of those who have been our friends and allies and stayed by us in time of crisis. We had that at the time the defense amendment was voted. President Nixon set it as an objective that we should have it again, hopefully within 7 years. We would have had it right now if we had not permitted our capacity to produce our energy requirements to diminish, on the theory that we could buy fuel cheaper somewhere else.

If we had decided to do that, at a minimum, we should have been stockpiling a great deal of it here—if we are going to rely upon them—so that when they have cut off our foreign sources, we at least have something to take care of us for several months, which we do not have.

We have the capability. It is simply a matter of whether we are going to make the sacrifice and pay the price to have an industry here capable of producing our requirements. While we do not begin to have the oil reserves that the Persian Guf area possesses, we have more than half of the world's known coal reserves. We have so much here that it really does not make much difference where the rest of it is.

Mr. HARRY F. BYRD, JR. I recall that a week ago last night, at the White House, the senior Senator from Louisiana brought out that point in a discussion several of us had with the President of the United States.

Mr. LONG. Just by the existing technology, we have all the coal we need.

Let us face it: If we can make the breakthroughs that we should be seeking and finding in terms of atomic power and other methods—fuel cells being one that should be considered—particularly if we make the breakthroughs that we know are possible in the area of atomic fusion, where there is no limit to the amount of power we can develop at low cost, with a minimum of pollution, then we will not need the oil or the coal.

It may be so cheap to provide the energy that we will not be producing natural gas except to use it to make some other material, such as plastic, or as raw material from which to make some finished product that might be used for clothing, furniture, housing, or something of that sort. But until such time as we make those breakthroughs, at which point the oil will not be worth much—it will be a very cheap commodity, because there will be very little demand for it, and the same will be true of coal and gas—until those days come, we should be moving to develop an adequate industry to provide energy for this country, even though it be at higher cost, so that the American citizens can be protected and be the masters of their destiny.

Another thing we have learned by hard experience is that just because a foreign nation, such as Saudi Arabia or Kuwait, can produce oil and gas more cheaply than we can does not mean they are going to sell it any cheaper. They are going to sell it for a price in line with what it will cost us to produce the same thing here. They would be fools not to do so. They are looking after their interests, just as we are trying to look after ours. You cannot really blame them for charging us everything they can get for something they can produce, keeping it in short supply until they can get the price they demand.

So we have learned some hard lessons, but it is not too late. We can now go to work and within a few years develop a fuel industry completely adequate for our needs.

I just hope that people will remember the situation in which we find ourselves, when we did not have an industry that could provide our requirements.

Mr. HARRY F. BYRD, JR. The people, I am sure, will remember it. If I size the situation up accurately, this country is in a very bad position for fuel, for energy. No one knows what is going to happen in the next 4 to 12 months.

The measure we passed last night, after 18 recorded votes, is not going to solve the problem by any manner of means. It does not create 1 additional gallon of gasoline. It does not make available to the public 1 extra ton of coal.

All it does is spread the misery around, and I think there is going to be plenty of misery to spread around, because we are very short of energy.

I am indebted to the able Senator from Louisiana for bringing out the history of a proposal going back to 1959 which apparently foresaw what we are facing in 1973.

Mr. LONG. I thank the Senator.

PROGRAM

Mr. ROBERT C. BYRD. The Senate will convene tomorrow at 10 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, in the order stated: Mr. Randolph, Mr. Cranston, Mr. Humphrey, and Mr. Robert C. Byrd, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

If there is business tomorrow which can be transacted by voice vote or by unanimous consent, such business will be transacted. Otherwise, there will be no yea-and-nay votes tomorrow.

At the close of business tomorrow, the Senate will adjourn, pursuant to House Concurrent Resolution 378, as amended, to 12 noon the following Monday, November 26, at which time the Senate will proceed to the consideration of any orders for the recognition of Senators which have previously been entered, after which there will be routine morning business, after which, if there is no legislative business to be transacted, the Senate will take up the nomination of Gerald R. Ford.

At the hour of 2 p.m. on November 26, the Senate will proceed to the consideration of Executive Calendar No. 22, Executive N, 93d Congress, 1st session, a protocol amending the 1928 Convention Concerning International Expositions, and Executive Calendar No. 23, Executive Q, 93d Congress, 1st session, a protocol to the International Civil Aviation Convention. Yea-and-nay votes have already been ordered on those two conventions, and an order has been entered whereby instead of having a 15-minute vote on each of the two conventions, there will be one 30-minute yea-and-nay vote on both of the two conventions, the vote to begin at 2 p.m. and end at 2:30 p.m. on Monday, and the vote, of course, to count as two yea-and-nay votes in the Record.

At the conclusion of that yea-and-nay vote on the two treaties, the Senate will either resume consideration or begin consideration—whichever the case may be, as determined by circumstances on that date—of the nomination of Mr. Ford. The vote on the confirmation of Mr. Ford's nomination will not occur on Monday, November 26, but it is anticipated, and hoped, that the vote on the nomination may occur on Tuesday, November 27.

Mr. President, I think that about wraps up the program for tomorrow and for Monday, November 26.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. HARRY F. BYRD, JR. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 4:15 p.m. the Senate adjourned until tomorrow, Wednesday, November 21, 1973, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 20, 1973:

Superior Court of the District of Columbia

Fred B. Ugast, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years.

Public Service Commission of the District of Columbia

William R. Stratton, of the District of Columbia, to be a member of the Public Service Commission of the District of Columbia for a term of 3 years expiring June 30, 1976.

Department of State

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

U.S. Arms Control and Disarmament Agency

J. Owen Zurhellen, Jr., of New York, to be Deputy Director of the U.S. Arms Control and Disarmament Agency.

Robert H. Miller, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

Overseas Private Investment Corporation

Donley L. Brady, of California, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1975.

ACTION Agency

Nicholas W. Craw, of the District of Columbia, to be an Associate Director of the ACTION Agency.

Federal Maritime Commission

George Henry Hearn, of New York, to be a Federal Maritime Commissioner for the term expiring June 30, 1978.

Federal Trade Commission

Mary Elizabeth Hanford, of North Carolina, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1973.

Securities Investor Protection Corporation

Glenn E. Anderson, of North Carolina, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1975.

Hugh F. Owens, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for the remainder of the term expiring December 31, 1973.

Hugh F. Owens, of the District of Columbia, to be a Director of the Securities Investor Corporation for a term expiring December 31, 1976.

Department of Defense

Eugene E. Berg, of Minnesota, to be an Assistant Secretary of the Army.

COUNCIL ON ENVIRONMENTAL QUALITY

Russell W. Peterson, of Delaware, to be a member of the Council on Environmental Quality.

CIVIL AERONAUTICS BOARD

Lee R. West, of Oklahoma, to be a member of the Civil Aeronautics Board for the term of 6 years, expiring December 31, 1978.

Richard Joseph O'Melia, of Maryland, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1974

DEPARTMENT OF STATE

William H. Donaldson, of New York, to be Undersecretary of State for Coordinating Security Assistance Programs.

Carlyle E. Maw, of New York, to be Legal Adviser of the Department of State.

John M. Thomas, of Iowa, a Foreign Service Officer of class 1, to be an Assistant Secretary of State.

DEPARTMENT OF JUSTICE

Leonard F. Chapman, Jr., of Virginia, to be Commissioner of Immigration and Naturalization.

Henry A. Schwartz, of Illinois, to be U.S. attorney for the eastern district of Illinois for the term of 4 years.

John L. Bowers, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee for the term of 4 years.

Charles H. Anderson, of Tennessee, to be U.S. attorney for the middle district of Tennessee for the term of 4 years.

Leigh B. Hanes, Jr., of Virginia, to be U.S. attorney for the western district of Virginia for the term of 4 years.

R. Jackson Smith, Jr., of Georgia, to be U.S. attorney for the southern district of Georgia for the term of 4 years.

Robert J. Roth, of Kansas, to be U.S. attorney for the district of Kansas for the term of 4 years.

John H. deWinter, of Maine, to be U.S. Marshal for the district of Maine for the term of 4 years.

John J. Twomey, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois for the term of 4 years.

Rex Walters, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years.

Rex K. Bumgardner, of West Virginia, to be U.S. Marshal for the northern district of West Virginia for the term of 4 years.

Leon T. Campbell, of Tennessee, to be U.S. Marshal for the middle district of Tennessee for the term of 4 years.

James T. Lunsford, of Alabama, to be U.S. Marshal or the middle district of Alabama for the term of 4 years.

Leon B. Sutton, Jr., of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years.

George R. Tallent, of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

James E. Williams, of South Carolina, to be U.S. marshal for the district of South Carolina for the term of 4 years.

Jack V. Richardson, of Kansas, to be U.S. marshal for the district of Kansas for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

U.S. AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Ernest C. Hardin, Jr., [redacted]FR (major general, Regular Air Force) U.S. Air Force.

U.S. NAVY

Vice Adm. Means Johnston, Jr., U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of admiral within the contemplation of Title 10, United States Code, Section 5231, for appointment to the grade of admiral while so serving.

U.S. MARINE CORPS

Maj. Jack R. Lousma, U.S. Marine Corps, for permanent promotion to the grade of lieutenant colonel in the U.S. Marine Corps, in accordance with article II, section 2, clause 2, of the Constitution.

IN THE NAVY

Navy nominations beginning Reinhardt H. Bodenbender, to be commander, and ending Thomas A. Schultz, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on October 10, 1973.

Navy nominations beginning William Arlen Abbott, to be commander, and ending Sarah Jane Watlington, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 1973.

Navy nominations beginning Richard Walter Akin, to be captain, and ending Helen R. Levin, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on November 2, 1973.

Navy nominations beginning Herman Carl Abelein, to be captain, and ending Bessie R. Weeter, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on November 2, 1973.

IN THE AIR FORCE

Air Force nominations beginning Darwin G. Abby, to be major, and ending Ronald E. Hand, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 1973.

IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Gori P. Bruno, for reappointment in the Foreign Service as a Foreign Service officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America, and ending David E. Thurman, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1973.

IN THE COAST GUARD

Coast Guard nominations beginning John M. Cece, to be commander, and ending Robert E. Kramek, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on November 9, 1973.

EXTENSIONS OF REMARKS

A SIGNIFICANT BIRTHDAY FOR WEST VIRGINIA AVIATION

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 20, 1973

Mr. RANDOLPH. Mr. President, the swift pace of history leaves little time to pause and assess the seemingly minor events that contribute to the whole. One such event took place 40 years ago—on October 18, 1933—near Charleston, W. Va. On that date, a Ford Tri-Motor, operated by American Airways, predecessor company of American Airlines, took off from the old Wertz Field to give Charleston its first commercial airline service.

The citizens of the Charleston-Kanawha Valley area recently joined with American Airlines to mark this important event in its economic development. Commercial aviation has contributed significantly to the progress of the Charleston area and a genuine and fruitful partnership has developed between Charleston, the State of West Virginia, and American Airlines.

The flight of the famed "Tin Goose" left Charleston for Washington, D.C., at 1:20 p.m., carrying a delegation of local and State officials. With a cruising speed of 122 miles per hour, and tri-motor took about 2½ hours to reach the Nation's Capital. The 727 Astrojets that American uses at Charleston's Kanawha Airport today could make that same flight in less than 50 minutes—carrying 93 passengers, compared to the Tri-Motor's capacity of 11.

This is a significant birthday for West Virginia aviation, and I ask unanimous consent that a news article describing the event, written by Richard Haas, business editor of the Charleston Daily Mail, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KANAWHA'S 40TH AVIATION YEAR

(By Richard Haas)

Forty years of aviation history were recognized today in a ceremony at Kanawha Airport commemorating the inauguration of commercial air service in Charleston.

Featured guest at the ceremony was Leo E. Peters of Charleston, who as Daily Mail reporter chronicled the 2½-hour trip between Wertz Field in Institute and Washington, D.C., Oct. 18, 1933. He is the last remaining passenger from the flight by American Airways, predecessor of American Airlines.

Other Charleston notables making the historic trip included Gov. H. G. Kump, Mayor R. P. DeVan, T. Brooke Price, then president of the chamber of commerce, Gazette writer Harry L. Flournoy, and P. A. Koontz and David M. Giltinan of West Virginia Airways.

The 11-passenger Ford Tri-Motor, the famed "Tin Goose" in which the Charleston delegation made the trip, was the first of eight aircraft American has used to service Kanawha County, noted Eric Thon, manager of the airline's Charleston operations. Others included the twin-engine Curtis Condor biplane, the DC-3, the DC-6, the Lockheed Electra, and the current 93-passenger 727 Astrojet.

"Commercial aviation has been a key factor behind the progress of the Charleston area over the last 40 years and American is proud to have launched this long and fruitful partnership," Thon said.

He estimated the airline has boarded about 500,000 passengers and 10,000 tons of cargo, first at Wertz Field and later at Kanawha Airport, which opened in December, 1947.

In a statement issued from his Washington office today, Sen. Jennings Randolph noted: "It was my privilege to cooperate, as a member of Congress, in securing American Airlines service in West Virginia. I worked actively with my good friend, C. R. Smith, who was president of the company at that time and recently was brought back to head this great transportation carrier.

"We are gratified that American today operates two daily 727 flights between Charleston and Cincinnati and Chicago. I am intensely aware also of the strong support that our state has given American during our partnership. It is my belief that this cooperation will continue in the future."

CAMPAIGN REFORM

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. PRITCHARD. Mr. Speaker, the State of Washington has a financial disclosure and campaign financing law that is one of the toughest in the Nation. These stringent regulations were enacted not in the State legislature, but through an initiative by the people. More than 72 percent of the voters approved the measure on the general election ballot in 1972.

That was more than 12 months ago, and the law has now been in effect through one general election in our State.

A. Ludlow Kramer, who is Washington's secretary of state and chief elections officer for the State, testified on the subject of campaign reform on November 14 before the Subcommittee on Election Reform of the House Administration Committee. I believe my colleagues will find Mr. Kramer's testimony of interest:

TESTIMONY OF WASHINGTON'S SECRETARY OF STATE A. LUDLO KRAMER—BEFORE THE HOUSE SPECIAL COMMITTEE ON CAMPAIGN REFORM—NOVEMBER 14, 1973

Mr. Chairman and members of the Committee. I appreciate the opportunity to submit this testimony on the subject of campaign reform. The extent of public concern over the abuses and inequities of our current method of financing political campaigns was clearly demonstrated in Washington State during the General Election of 1972. Dissatisfied with the lack of regulation of campaign expenses and angered by the Legislature's attempt to either ignore or sabotage attempts at reform, a coalition of concerned organizations met and drafted a very comprehensive initiative proposal covering the areas of campaign financing, lobbyist registration and reporting disclosure of financial interests by elected officials and access to public records. They collected over 160,000 signatures of registered voters in Washington State in order to qualify their measure to be placed on the General Election Ballot in 1972. Over 72% of the voters approved the initiative.

The provisions of the initiative dealing with the regulation of political campaigns are based on the joint operation of three essential elements. The first is a complete reporting of contributions and expenditures by candidates and political committees. This is somewhat similar, but in certain respects more extensive, than the reporting provisions of the Federal Election Campaign Act of 1971. The second essential element is the complete disclosure of financial interests by elected officials and candidates. These provisions are somewhat similar to Sen. Frank Church's amendment to S. 372 which was adopted by the Senate during its debate of the measure in late July. The third essential ingredient of the initiative scheme for regulating campaigns is an independent five-member commission charged with the administration, interpretation and enforcement of the act.

A commission of this type was also a feature of the Senate campaign reform proposal now before this subcommittee. I have brought with me for the Committee's examination copies of this initiative measure approved by the people of Washington State and some of the explanatory material and forms prepared by the commission which administers this law. I would particularly like to direct the Committee's attention to the manner in which the essential terms of the initiative are defined.

The sponsors of the measure were particularly careful to draw very comprehensive and specific definitions which avoided many of the major loopholes which plague legislation of this type. For example, "contributions are defined to include loans, advances, pledges and forgiveness of indebtedness; and special care is taken to distinguish and exempt parttime volunteer services. The definition also includes the contribution of materials, equipment and professional services for less than full consideration. Similarly, the term "expenditure" is given a broad definition to include not only direct payments but any kind of future obligation, contract or promise where no actual cash transaction has taken place. "Political advertising" is defined to include virtually all methods of communication which candidates may use in the course of their political campaigns. Also, all firms or individuals who provide political advertising services for candidates are required to report the financial extent of these services. This serves as a cross-check on the reporting of expenditures by candidates and committees.

The definition of "political committee" in this state law, unlike the definition of this term in the federal statutes, includes any individual, public or private corporation, association, candidate committee, political party or executive committee, thereof, or any other group or organization of persons which has the expectation of receiving any contributions or making any expenditures in support of or opposition to a candidate or a ballot proposition. This definition has the effect of identifying all political committees, although some may be exempted from the majority of subsequent financial reports.

In odd-numbered years in Washington State, we hold all of our municipal elections and special district elections; and the date of the General Election in these jurisdictions is also a State General Election for the purpose of voting on state measures such as constitutional amendments and initiatives and referendums. Our experience during the fall campaign just concluded indicates that the extensive reporting provisions of this new initiative did not appear to discourage any normal sources of contributions to political campaigns. From our experience with the reporting of contributions and expenditures under this law by candidates in Washington State and the subsequent attempt on the part of the press to report the substance of these disclosures to the public, I would urge this committee to make every attempt to keep the reporting provisions of any measure it adopts as uncomplicated and direct as it can.

As approved by the voters of Washington State, the initiative contained a limitation on total campaign expenditures based alternatively, on the number of registered voters in the constituency or the public salary which would be paid to the office being sought. Within weeks after certification of the initiative, it was made the subject of no fewer than five constitutional changes. One of the suits which challenged the constitutionality of this limitation on total campaign expenditures was upheld by the Superior Court which heard the case. This decision and the ruling on several other minor matters are now pending appeal before the State Supreme Court.

In working on state campaign proposals in the past, we have always had the impression that severe limitations were primarily advantageous to incumbents; and, if the limits were raised sufficiently to avoid granting this kind of advantage to the incumbent, they would not serve as a significant check on large individual or special-interest contributions. The most significant abuse in the field of campaign financing occurs when a candidate is obligated either openly or implicitly to those who have made excessively large contributions to his campaign. In this respect, the kinds of limitations on the size of individual contributions incorporated in the Senate version of S. 372 is the most promising suggestion to date for eliminating this type of abuse. Such a restriction strikes at the heart of the problem by directly prohibiting the abusive practice. Limitations on total campaign expenditures, although they may impose an indirect check on such large contributions, could in no way be expected to be as effective as the limits on individual contributions.

This Committee has undoubtedly heard many different proposals which would involve partial or full public financing of federal political campaigns. Such a proposal is susceptible to the same kind of objection raised in connection with the limits on total campaign expenditures. Public financing of political campaigns does nothing in itself to prevent the obligation of an incumbent officeholder or potential candidate by individuals or special interests. At the very minimum, nearly complete public financing, coupled with strict limitations on total campaign expenditures, would be necessary to keep large contributors and special interests from donating money or favors to candidates independently of the support they receive for their campaigns from the federal government. I think the Committee should also consider any suggestion for public financing of federal campaigns in light of its possible effect at the state and local levels. We have seen the pattern in the area of elections legislation where action on the part of the Federal Congress governing the campaigns under their jurisdiction has virtually committed the states to take similar action. Even partial funding of the campaigns for state legislature and other state elective offices would represent an expenditure few states could afford at this time.

Some of the proposals for public funding of federal campaigns have included funding for Presidential campaigns prior to the nominating conventions of the two major parties. In states which do not presently have Presidential Primaries, the thought of having such public money used by Presidential aspirants to influence the relatively few people who are delegates to county and state political conventions might force almost all of those states to adopt Presidential Primaries of their own. If this were to occur, I feel Congress should seriously consider providing a series of Regional Presidential Preference Primaries to replace all of the individual state Presidential Primaries and to standardize their nominating procedures.

From our experience with our own state's campaign reporting and disclosure statutes and our past consideration of expenditure limitations, contribution limitations and public funding of political campaigns, we would make the following recommendations to the committee:

1. An Elections Commission is an effective administrative and enforcement agency for a regulation of this type. The Commission should be as independent as it can from the elected officials whose campaigns it must regulate, and it must be assured of having an adequate staff and budget to monitor and enforce the law it administers.

2. Candidates for public office and elected officials should be required to make a substantial disclosure of their financial interests. Such a disclosure should not be administratively burdensome to the individual but should include any considerable interest which might result in a subsequent conflict of interest.

3. The amount any individual can contribute either directly to a candidate or through a political committee or series of political committees should be limited. This will strike at the heart at most of the current abuse in the campaign financing system. It will also serve as an implicit limitation on the total amounts candidates spend, since a disproportionate amount of funds currently contributed to political candidates comes from such large donors.

4. The Congress should consider the questions of public financing of political campaigns and limitations on total expenditures as a separate matter. In both of these matters, we would be embarking on new ground without the benefit of any state's experience with similar statutory regulations and in an area fraught with constitutional objections.

In my opinion, members of the committee, the enactment of the three reforms referred to previously must not be delayed while debating public financing and expenditure limitation proposals.

I urge you to act now. The mood of the American public will not tolerate procrastination. We as public officials cannot sustain a further erosion of public trust. The time has definitely come to act decisively on the abuses and inequities that exist in our election system.

Thank you.

MARRIOTT IS FIRST CORPORATION IN AMERICA TO RECEIVE ANNUAL NATIONAL REHABILITATION ASSOCIATION'S ORGANIZATIONAL AWARD

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 20, 1973

Mr. RANDOLPH. Mr. President, the economic and social progress of our Nation's handicapped depend largely on the goodwill and constructive efforts of individuals. For the first time in its history, the National Rehabilitation Association has selected a private corporation as the recipient of its 1973 Organizational Award. It is one of five NRA awards presented yearly to individuals and organizations.

This year, the Marriott Corp., a leader in the food service and lodging industry, has been recognized for its contribution to rehabilitation efforts in the Washington, D.C., metropolitan area, the national headquarters for the company. Since 1927, when J. Willard Marriott opened the first Hot Shoppe, the company has grown to include 3 large groups of over 400 food service units and 18 hotels in the United States. As the company expanded throughout the Nation and overseas, it has continued to work with and for the handicapped in these new locations.

Marriott Corp.'s service to the physically and mentally handicapped is primarily in training and employment opportunities and financial grants to agencies which serve these individuals. Every responsible businessman endorses the principle of helping the handicapped to help themselves. Yet few private corporations have adopted a systematic program of employment and training to encourage the handicapped to become independent, self-supporting citizens. Marriott Corp. is one of these. The corporation has made a nationwide commitment to hiring and helping handicapped individuals. In addition to its employment and promotion programs on behalf of handicapped employees, Marriott provides many other forms of service, including the donation of food for more than 1,800 handicapped children during a Potomac River boatride, participation on the President's Committee for the Employment of the Handicapped, and membership on the Board of Directors of Goodwill Industries by J. Willard Marriott, Jr., president of the company.

The corporation has provided financial assistance to over 30 national organizations that are committed to the well-being of handicapped people. It contributes to the United Givers Fund throughout the Nation to the extent of over more than $100,000 yearly. It has contributed more than $22,000 directly to agencies for the handicapped in the past few years, responding to individual requests from these organizations. And Marriott has pledged or granted to hospitals a sum of $160,000 to be used for the care of handicapped children.

In the company's 1973 annual report. President Marriott, in a special message on corporate responsibility, commented:

> We have had a practice of hiring the handicapped for many years. They are very good workers, very loyal workers. With us they get equal pay, equal benefits, and a lot of understanding. Many have had richer lives for years because we welcome them.

Mr. President, it is especially gratifying that a Washington-based company has taken the lead in this area of social responsibility. As chairman of the Senate Subcommittee on the Handicapped, it has been my privilege to work closely with the National Rehabilitation Association and the Marriott Corp. for many years. I believe that it is important that those individuals and, in the first instance, a private corporation, be broadly recognized and universally commended for their efforts on behalf of the handicapped.

I ask unanimous consent that the NRA's citation to the individuals receiving the 1973 awards be placed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

THE 1973 RECIPIENTS OF NRA AWARDS AND CITATIONS

W. F. FAULKES AWARD: EDWARD W. LOWMAN, M.D.; NEW YORK, N.Y.

Dr. Lowman, a fellow in Internal Medicine is currently professor of and Clinical Director of Physical Medicine and Rehabilitation at New York University Hospital and School of Medicine. Author or co-author of over 60 articles related to medicine which were published in national medical journals and author or co-author of 15 medical books that are widely used in the field of medicine and rehabilitation. In addition to these publications, Dr. Lowman is well known in the field of rehabilitation and medicine for his numerous contributions and findings in relation to working with disabled people. Dr. Lowman is also well known for his work with the spinal cord injured and his writings in this field. Dr. Lowman is a diplomat of the American Board of Physical Medicine and Rehabilitation and recipient of the Gold Key award from the American Congress of Rehabilitation and Medicine. He is a consultant or a member of numerous national societies and committees having to do with rehabilitation and medicine.

THE NRA PRESIDENT'S AWARD: MR. ANDREW MARRIN; DENVER, COLO.

The NRA President's Award is presented for outstanding achievement of a nontechnical nature on behalf of handicapped people on a nationwide or international basis. Mr. Andrew Marrin, Associate Regional Commissioner for Rehabilitation Services (retired) began as a case worker for the State Relief Administration in Los Angeles, California in 1934. He worked his way through state government to become the State Director of the Bureau of Vocational Rehabilitation in the State of California. Later Mr. Marrin was appointed Associate Regional Commissioner for Rehabilitation Services, SRS, Department of HEW. He is a member of numerous organizations relating to rehabilitation and has published numerous articles in national publications. He has made life-long contributions to the field of rehabilitation, nationally, regionally, and locally. He has served on the Board of Directors of the National Rehabilitation Association and President of the Pacific Region, NRA. Under Mr. Marrin's direction, new and expanded concepts of service consultation and technical service was offered not only to State Vocational Rehabilitation Agency but to other government agencies, private facilities and institutions of higher learning.

NRA'S MERITORIOUS SERVICE AWARD: VIVIAN SHEPHERD; KANSAS CITY, MO.

Vivian Shepherd, a past national President of the National Rehabilitation Association has served on numerous NRA committees and on its Board. Also, Mrs. Shepherd is a past member of the Board of Directors and Vice-President of the International Association of Rehabilitation Facilities. She has served on additional numerous national associations related to rehabilitation. Mrs. Shepherd became an "honorary colonel" through the staffs of governors of Oklahoma and Kentucky. She has received a citation for service to the handicapped from the Association of Rehabilitation Centers. She was honored as distinguished alumni from the University of Missouri in 1959. Mrs. Shepherd helped found and became the original Executive Director of the Rehabilitation Institute of Kansas City, Missouri. Over the years, Mrs. Shepherd has dedicated herself to the services of the handicapped and to the organizations that represent them. She has consistently devoted her time and creativity to literally hundreds of committees whose work has had its impact on every facet of the rehabilitation movement. She has been a member of the National Rehabilitation Association since 1944 and has given her support and boundless energy to the growth of this organization.

THE BELL GREVE AWARD: BOYCE R. WILLIAMS, PH. D.; WASHINGTON, D.C.

Dr. Williams is a chief of the Communications Disorders branch of the Department of HEW in Washington, D.C. He is internationally known for his outstanding leadership in the area of rehabilitation of deaf individuals. His wisdom and astute judgment have given direction to programs in ways that have enabled the United States to develop a commitment and a social policy that is both humane and sensible. He has served on the Board of Directors of Gallaudet College and is currently chairman of the Board of Fellows. Dr. Williams has received numerous honors from the "deaf world" including the Distinguished Service Award from the National Association of the Deaf. It has been said of Dr. Williams that no one individual has done more for a single disability than he has.

NRA NATIONAL CITATION: HOMER JACOBS; MONTGOMERY, ALA.

Mr. Jacobs is the Assistant Director of special services for Vocational Rehabilitation. His name and contributions are listed in numerous publications including International Who's Who in Community Services, 1972, Who's Who in Alabama, and Who's Who in the Southwest. He is a member of numerous professional service, civic and church organizations. For 27 years he has been a member of the National Rehabilitation Association providing leadership on a national level. He is Past President of the Administrative & Supervisor Practices Division of NRA, Past President of the Alabama Rehabilitation Association, former chairman of NRA's Program Development Committee and currently Executive Secretary of the Alabama Rehabilitation Association. Mr. Jacobs' work in research utilization has provided assistance to numerous practitioners throughout the United States.

NRA NATIONAL CITATION: DON RUSSELL; RICHMOND, VA.

Don Russell, currently the Commissioner of Virginia Department of Vocational Rehabilitation, former Director of Vocational Rehabilitation in the state of Arkansas, has devoted his life to the rehabilitation of handicapped individuals. He is a member of numerous national organizations concerned with rehabilitation and he is well known throughout the United States for his leadership in the state-federal program. He is a Past President of the National Rehabilitation Association and a previous NRA Board member who held that position longer than any other individual since. Mr. Russell is the Past President of the Council of State Administrators, a member of the National Advisory Council on Vocational Rehabilitation for four years and former chairman of the Virginia's Governor's Committee on Employment of the Handicapped. Mr. Russell initiated new and innovative approaches to increasing services to handicapped by developing the "third party agreements," development of services in penal institutions and development of comprehensive rehabilitation centers.

CONGRATULATIONS TO MR. J. B. LANDRY

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. LONG of Louisiana, Mr. Speaker, in acknowledgment of a fine public servant, I would like to take this opportunity to congratulate Mr. J. B. Landry upon his recent retirement as postmaster of the Prairieville Post Office in Prairieville, La.

Mr. Landry has had a long and distinguished career in the postal service and his civic contributions to the community have been outstanding. He began his career in the postal service as a clerk at the age of 13, under the direction of his father, Leonce P. Landry. After a 28 year tenure, Mr. Leonce Landry retired and J. B. succeeded him as Postmaster of Prairieville—a position that J. B. held proudly for 31 years.

During his term as postmaster, J. B. Landry has recommended four area postmaster appointments, three rural routes and one auxillary mail route at Prairieville. Through his efforts, a mail truck route was established from Baton Rouge that significantly streamlined mail service for the more than 5,000 customers in Prairieville and those in the surrounding towns of Gonzales, Sorrento, St. Amant, Brittany, and Duplessis. The pride of Mr. Landry's service record is the new Prairieville Post Office Facility that is near completion as a result of 4 years of perserverence and planning.

In conjunction with his exemplary record of public service in the postal service, Mr. Landry's civic activities and achievements have been most impressive.

He has been active in organizing recreational programs in the Prairieville community, having served as director of the East Ascension Sportsmen League Baseball program, president of the East Ascension Recreation Commission, and on the full board of directors of the 650 member East Ascension Sportsmen League. Indicative of his total dedication to his surrounding community is the recreation facility that Mr. Landry constructed on his own private property for the free use of individuals, civic organizations, schools, and churches of all denominations. He has used this facility for fund-raising activities in the Prairieville area over the years and to date, more than $30,000 had been raised for various worthwhile community projects. For example, as a member of the building committee of the St. John Catholic Church, Mr. Landry used his park to raise over $7,500 dollars in 1 day toward the restoration of the fire-damaged church.

His recreational interests are further indicated by his memberships in the Gonzales and St. James Boat Clubs, the Prairieville Fair Association, and the Bayou Baseball League of which he is the president. Mr. Landry is a Legionnaire out of Post 81 in Gonzales and is a member of the Prairieville Volunteer Fire Department, the Louisiana State Firemen's Association, the National Association of Postmasters, the American Red Cross, and the Louisiana Wildlife Federation.

Energy, leadership in public service, and civic participation—these are the trademarks of Mr. J. B. Landry. When personal service is at such a premium these days, it is indeed comforting to know that there are public servants who unselfishly dedicate their lives to serving the needs of their customers, fulfilling the duties of their office, and helping the community to grow. Appropriately, Mr. Landry was recently awarded the "31 Year Service Award" and a "Certificate of Appreciation" at the State postmaster's meeting in Baton Rouge this month. To these awards I add my own personal congratulations and, on behalf of the people of Prairieville, I wish to extend my appreciation to J. B. Landry for a job well done.

FAUNTROY SUPPORTS NATIONAL ALLIANCE RIGHT TO REPRESENT MEMBERS IN GRIEVANCE PROCEEDINGS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. FAUNTROY. Mr. Speaker, I was very pleased to have been able to speak before the distinguished Subcommittee on Postal Facilities, Mail, and Labor Management, chaired by Congressman CHARLES H. WILSON on behalf of the bill which would assure the rights of the National Alliance of Postal Employee members to continue to represent its members in grievance proceedings. It is an essential right of every American to be able to choose the one whom he wishes to have represent him whenever he confronts management. The U.S. Postal Service, however, has maintained that this is not so when it established a procedure under the Postal Reorganization Act which operates to preclude an employee from having a National Alliance representative assist him in a grievance proceeding.

In order that my colleagues may better understand this issue, I am attaching a copy of my comments and some of the questions which were asked at the hearing. I also want to note that, upon my suggestion, our colleague, Congressman CHARLES H. WILSON, contacted the Postal Service to determine the reason that the District of Columbia has been without a postmaster for 3 years. He has learned, I am told, that a postmaster will be appointed shortly. The National Alliance has submitted several names to the Service for consideration, and I understand that as soon as an appointment is made, the subcommittee will be notified.

The statement follows:

STATEMENT BY CONGRESSMAN WALTER E. FAUNTROY

Mr. Chairman, I am most appreciative of the efforts which you and your staff have extended to make it possible for me to testify before this distinguished Subcommittee on the Bill introduced by our Colleague, Bill Clay, which would provide that no procedure as established under the Postal Reorganization Act shall operate to preclude an employee from being represented in grievance and adverse actions by a representative of his own selection whether or not that representative is the bargaining representative recognized under Section 1203 of the Act.

As the Congressman from the District of Columbia in which many postal employees are residents, I am acutely aware of the need for this clarifying legislation. Many postal employees have complained to my office of being unable to have their representative and union represent them in proceedings which I am led to believe were to be protected in the Act. In 1970, Congressman Hanley specifically asked Postmaster General Blount whether the reform bill would continue the right of the employee to choose their own representatives regardless of the status of the union. His reply was that one would have the opportunity for a fair hearing with a representative of their own choosing regardless of that organization's status.

From the colloquy that followed, the spokesmen for the National Alliance indicated that they could live with an agreement that gave rise to wage bargaining at the national level by whatever organization had either the most members or could win an election provided that they continued to maintain a check-off provision and be allowed to represent their members in their locals. Subsequent events indicated that the postal service did not choose to interpret the provisions of the bill—which are clear in the reports and hearings—as allowing for such representation.

Personally, I am not concerned with which union is the bargaining unit in the final analysis. I am concerned, however, with a number of issues which are impliedly raised by the interpretation which the department and some other unions have placed on the Bill. In the first place, it would destroy an old established union which has a history and tradition of representing its members in a vigorous manner whenever their rights have been abused. The fact is that the National Alliance is the only union which historically and presently looks after the rights of many, many minority employees who are in the Postal Service. In the second place, this precedent, if allowed to be maintained, will effectively destroy the ability of any Federal employee to have his own representative advise, counsel, and advocate his rights with a department.

It is my understanding that the Alliance has strived very hard to avoid the need for this clarifying legislation. The Postal Service, however, has refused to accede to the understandings of the Congress and it has refused to abide by the language in the National Labor Relations Act, which states that: "any individual employee or group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect. . . ."

The National Alliance of Postal and Federal Employees is an employee union that has several thousands members in the Postal Service. This organization is seriously adversely affected by the lack of such a provision in the Postal Reorganization Act to allow its members to select this organization to represent them in grievance proceedings. Under the provisions of the contract negotiated by the Postal Service and the craft unions, the National Alliance of Postal and Federal Employees is being denied the right to represent its members under the grievance procedure. The National Labor Relations Board has held that the denial of the right to select one's own representative, the National in this case, is an unfair labor practice. The Postal Service refuses to abide by the National Labor Relations Board's ruling. As the thousands of employees are being denied their right, this action on the part of the Postal Service is causing irreparable damage to the National Alliance, as a union.

The National Alliance of Postal and Federal Employees recently celebrated its Sixtieth Anniversary with a pilgrimage to Chattanooga, Tennessee, the place of its founding. Noted in its history is that this organization, over the past 60 years, has been instrumental in the creation of many constructive laws, regulations, and policies, benefiting Post and Federal employees. The Amendment before you is another constructive effort on the part of the Alliance to help the Congress perfect one of these Laws.

Although I am here in support of H.R. 7183, as I view the many complaints that I have received from the Washington, D.C. postal employees, I can only believe that some of these complaints would not be forthcoming if there were a Postmaster here that was more sensitive to the employees' problems. Although I feel that a Black Postmaster would be ideal for these more than 10,000 employees, of which over 80% are Black, I nevertheless find it strange that the Eastern Region, alone, has appointed some more than 780 Postmasters since January 1, 1973 but has not filled the position in Washington, D.C. that has been vacant for three years. I hope that this Committee, will examine this oversight by the service as soon as it completes work on this Bill.

In the meantime, I urge that you support the passage of this very simple clarifying amendment because the work which this union is now doing is not going to be done by anyone else. However hard someone else may try, the fact is that our minority workers in the government will continue to be under-represented and mis-represented unless the rights of a minority union are protected. The Postal Reorganization Act was an attempt in this direction; but, the department didn't heed the Congressional intent making it necessary for us to more fully clarify our position. I hope we will do it and make it very plain to the Executive Branch that we do not take our responsibilities of assuring representation for our people lightly.

Mr. Chairman, again, I want to express my deep and sincere appreciation to you for your kindness in scheduling my appearance. I hope that my views on this bill are helpful to you in your deliberation.

Mr. WILSON. Thank you very much, Mr. Fauntroy. I'm going to follow up on your suggestion that our subcommittee look into this postmaster situation in the District. It's interesting that while we were in San Francisco, the Alliance representatives came over from Oakland and explained that there was a vacancy there, and they felt it was high time that a Black be appointed postmaster in that area.

Certainly, there are enough qualified people who can fill the bill. After we were there, and the Alliance testified, a Black was appointed as Postmaster. We hope we did have a little to do with it.

Perhaps we can ask some questions here to find out. It's our understanding that Mr. Beall has been appointed District Manager. He also currently holds the job as Postmaster. There is no reason in the world that we shouldn't have a Black Postmaster here in the District.

Mr. FAUNTROY. I'm sure that when you follow up, you'll find out it was going to happen anyway. Perhaps it'll just happen sooner.

Mr. WILSON. Thank you

Mr. Clay?

Mr. CLAY. Mr. Fauntroy, I'm very interested in the testimony that for three years, the Postmaster's position has been vacant in the District. I would think that labor organizations would be very interested in terms of filling positions like that and would be out agitating that these positions be filled forthwith.

Have you gone to any of the AF of L unions and asked for support in terms of getting this position filled?

Mr. FAUNTROY. As a matter of fact, I corresponded with the President three years ago.

Mr. CLAY. President Nixon?

Mr. FAUNTROY. Yes.

Let me say however the fact that the vacancy has not been filled argues eloquently for the activity of a union like the National Alliance which has 60 years of experience in representing the interests of minority employees of the Postal Service.

I am not in a position to judge at all Mr. Beall's sensitivity or concern for the postal employees.

Mr. WILSON. I think you could judge that, can't you?

Mr. FAUNTROY. I will not, let's say.

There is no way in the world that he nor unions which may be successful in achieving a bargaining position can substitute for the 60 years of experience that have been developed by this union in addressing problems of minority employees.

So that, no matter how sensitive Mr. Beall may be, or another union which may have the bargaining position, you cannot substitute for the kinds of experience that this union has developed in addressing the kinds of grievances which I, from the 80 percent of the Postal employees in this community have been getting on a continuing basis.

Mr. Chairman and Mr. Clay, I come to this table out of a background of some 12 years' activity in the civil rights movement as a representative for the Southern Christian Leadership Conference and Dr. King, and have viewed with awe and great respect the work of this Alliance not only in behavior of Postal employees on the questions of their employment rights, but Federal employees generally, and disadvantaged people around the nation in particular.

Mr. CLAY. I'm quite interested in your statement that because of the 60 years of activity in this area, that the Alliance perhaps is better equipped and better qualified to speak in the area of Black interests. I think we had disagreements with witnesses yesterday in terms of a Black oriented organization with Black perspective.

The opinion of one of the spokesmen was one of we have a number of Blacks in key positions in our organization. I don't think it's fair for you to say we're not Black-oriented.

Could you comment briefly on the difference between an organization like the National Alliance and some of the other Postal unions.

Mr. FAUNTROY. I think you put your finger on the point when you say that they indicate that they feel that they are automatically equipped to represent all of the employees. But, the fact is that you cannot substitute for the kind of experience that the members of this union, the employees of this union have had representing aggrieved employees who have been members of minorities.

There is no way in the world—unless they employ the entire staff, which I'm not sure the members of this union would object to—but, there's no way in my judgment that you can substitute for that experience.

The fine staff of the EEOC, the fine staffs of our various government agencies which have equal employment opportunity offices; those staffs notwithstanding, I contend that until we deal with the very sensitive question of racial discrimination—and, God knows, I wish we didn't have the problems. I would like to put on some rose-colored glasses and say the problems disappeared on July 2nd, 1964 when, in the East Room of the White House, Mr. Johnson signed the Civil Rights Act of 1964. I wish we could say that, but the fact is, we have those continuing problems, and to address them, you need particularly skilled and experienced people.

There is no body of experience in the Postal Service arena more able to address this continuing serious problem in the Postal Service of our country than the National Alliance.

That is a fact that I think no one can find sound grounds for refuting.

Mr. CLAY. Thank you.

Mr. WILSON. Just one more comment about the Postmaster situation here. It's my understanding that Mr. Beall is the District

Manager, and under ordinary circumstances, would be the one who would have to initiate the recommendation for Postmaster.

I don't think these are ordinary circumstances, so I'm going to talk personally to the Postmaster General about this matter and see if we can get some action started immediately.

Mr. Fauntroy. That would help both the representative on the Hill and the union to perform the services that we should. Once you pass the amendment to clarify the situation, I'm sure that will do fine.

Mr. Wilson. Thank you very much, Mr. Fauntroy.

THE SKEPTICAL PATRIOT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. RANGEL. Mr. Speaker, since I announced my requset to the General Accounting Office for an investigation into the amount of fuel used by President Nixon in his numerous trips to his homes in Key Biscayne and San Clemente, I have received hundreds of letters from people all over the country saying that my request articulated their own concern that President Nixon was asking the American people to make sacrifices that he himself appears unwilling to make.

William Raspberry, the able columnist of the Washington Post, recently addressed the same concern in a column entitled "The Skeptical Patriot." For those of my colleagues who missed it, I include it in the Record and I renew my call to the President to make all of the sacrifices he has asked all other Americans to make.

The article follows:

[From the Washington Post]

The Skeptical Patriot

(By William Raspberry)

I'm cold. They've turned the thermostat at The Washington Post down to 68 degrees, and while that's not exactly freezing, it is uncomfortable for those of us who prefer a warm room.

I'm also late, due, at least in part, to the fact that I'm driving more slowly these days. I get passed a lot and honked at, but that's all right. You see I'm a patriot, and when my country calls . . .

Probably most Americans are like that: ready to make a modicum of personal sacrifice for the greater good, wanting only to know that we're not being taken advantage of by those who would make cynical use of our patriotism.

And that, frankly, is what is giving me some problems now. I think I believe there is a fuel shortage, perhaps even an energy crisis. But I can't be sure, and I don't wish to be made a fool of.

The commentators tell me that the President's energy message was a good one, although, they say, it may have relied a bit too heavily on volunteerism as opposed to stern compulsory measures. Essentially, however, they take the crisis as literally and seriously as they did the Mideast crisis, and they say that the main thing wrong with the President's move is that it came late.

That's what the commentators tell me. What I heard—or thought I heard—on television last week was a recital of all the things the big, powerful fuel interests have been seeking for the past several years:

The Alaska pipeline, for instance. And strip mining and offshore drilling and exploitation of shale oil and relaxation of pollution standards. The oil interests had asked for these things for their own economic reasons. Now they'll be getting them, apparently, for reasons of national interest, perhaps even national survival.

It's hard not to be skeptical, particularly since nearly all of the information on energy reserves comes from these same interests.

The patriot in me says it sounds reasonable when the President urges the relaxation of "environmental regulations" in order to permit a "balancing of our environmental interests, which all of us share, with our energy requirements, which, of course, are indispensable."

But, says the skeptic in me, wasn't it just a few months ago that they were telling us that dirty fuel was one of the main reasons we were on the verge of either going blind or choking to death? So how come it makes sense now to relax the prohibitions against dirty fuel and go back to using that noxious high-sulfur fuel oil? And what will they tell us next summer when we start crying and choking again?

The nation's first duty, of course, is to survive, and only crybabies or idiots will complain over a few degrees reduction in the interior temperature.

But then I find myself wondering whether the chairman of Standard Oil is shivering, or carpooling it to the office. Or I read where the White House says the President has no intention of curtailing his flights—in his personal jet—to Key Biscayne or San Clemente.

It sounds as though he's sacrificing right along with the rest of us when he says he is turning down the thermostat in the Oval Office. Then I remember how little time he spends there, and I wonder if I'm being had. I could accept his relaxing at Camp David, Md., which is in the mountains and a little colder than Washington. But sunny Florida and Southern Cal.? Somehow it doesn't seem right.

Nor does the President's insistence on continuing his energy-wasting flights to those sunny retreats. I'm not sure what I'd have him do: Book on United Air Lines? Take a military hop on a space-available basis? He could, of course, stay right here. I understand there's a place at 1600 Pennsylvania Ave. that the taxpayers have fixed up pretty nice. Then he could save not only fuel costs of his own trips but those of the White House reporters as well.

And aren't they getting ready for another space shot? If there's really a fuel crisis, shouldn't they close Cape Canaveral down for the duration?

What I'm saying, I guess, is that I'd feel a lot better about taking the energy crisis seriously if those who announced it showed more evidence of taking it seriously.

Oh, well, patriotism never was easy. And nobody ever died of sniffles.

SEVERITY OF ENERGY SHORTAGE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. ASPIN. Mr. Speaker, I would like to include in today's Record part II of the Library of Congress report on the severity of the current energy shortage which was done for me. The report follows:

Part II of Library of Congress Report on the Severity of the Current Energy Shortage

C. SEVERITY OF THE SHORTAGE

When the production cutbacks and cutoffs were announced by the Arab oil-producing states, the initial reaction in the U.S. was that the loss of Mid-East supply was a minor complication that could be easily accommodated. It was reasoned that since only 2½% of our oil consumption in 1972 was met with oil from the Middle East, the impact would not be very great. Those initial assessments, however, appear to be overly optimistic because they did not include several important considerations. First, the direct imports of Arab oil have averaged about 250% more for 1973 than for 1972, and were even higher in the period immediately preceding the cutoff. The direct imports of crude oil from the Middle East in 1973 amount to 1.1 million b/d compared to the estimated U.S. demand of 17.5 million b/d.[14] Second, the United States imports petroleum products, especially residual and distillate fuel oil, which are refined in Western Europe and the Caribbean from Middle Eastern crude oil. As both direct and indirect shipments of Arab oil are affected, the reduction in supply may amount to 3 million b/d or 18% of the U.S. daily demand. Third, Canada, which supplies the U.S. with more than any other country (1.1 million b/d in 1972), traditionally for geographical reasons has imported as much oil as it exported. Because Canada's producing areas are in Western Canada, it was expedient to sell the surplus oil there to the U.S. rather than to transport it to Eastern Canada. Now that Canada's imports are threatened, it has placed strict controls on oil exports and is planning to redistribute as much of its western production as is necessary to meet the requirements of its eastern provinces.

The effect of this will reduce Canadian exports to the United States by a comparable amount (possibly 500,000 b/d), and probably would push the U.S. shortfall over 20%. Fourth, the general production cuts imposed by the Arabs have tightened world supply to the point where competition for the oil of Venezuela, Nigeria, Iran, Indonesia, and others may make it difficult for the U.S. oil industry to buy as much petroleum from those sources as it did last year. If the shortages resulting from normal demand growth, natural gas curtailments, low inventories, and an exceptionally cold winter are added the total shortfall could be as much as 35%. While that is the worst possible case, it is unlikely that even an end to the Arab oil embargo and a relatively mild winter could reduce the shortage to 20% or less. That case, if it occurred, would minimize the gasoline problems that would otherwise develop next summer, but would come too late to prevent shortages this winter.

Worldwide, the cutoff of Middle East oil has reduced world oil supplies by 4.7 million b/d.[15] It is expected that the production loss in November will be about 6 million b/d.[16] The *Oil and Gas Journal* reports that there is no alternate supply readily available to offset a reduction of this magnitude. Most non-Arab producers are already operating near capacity and are not likely to increase exports to the U.S., except for Indonesia which has offered to increase production slightly.

The impact of these shortages is certain to be felt by all consuming nations, but the U.S. and the Netherlands will likely be affected to the greatest extent, assuming that the complete embargo is not extended to other countries. Europe will be adversely affected since it gets approximately 87.8% of its oil from Arab states. The cutoff for Europe is not total, however, and many countries there have strategic reserves of ap-

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Footnotes at end of article.

proximately 90 days. The U.S., on the other hand, is now subject to a 100% embargo, has no strategic oil storage system, and expects domestic oil production to decline.

No one can say with certainty just how severe the shortage will be. It was widely predicted that there would be a fuel oil shortage this winter and that now appears to be inevitable. The foreign fuel oil that was imported last year will not be available this year because exporters face possible shortages in their own countries and could be cut off entirely from Middle east oil if they transship crude oil or petroleum products to the United States.

The real effects of the cutoff have not yet been felt in the United States because oil that was shipped before the embargo is still in transit and the peak demands of the heating season will not be reached until late December. The shortage will be the most severe since World War II and will affect every energy consuming phase of American life. At the worst, some factories, schools, and businesses may have to close or limit operations and many personal activities may have to be curtailed. Many homes may be cold and many electric utilities may have to limit output because of fuel restrictions. If the shortage is severe and protracted, serious strains could develop in the U.S. economy.

The region of the United States that will probably be affected the most will be New England, and to a lesser degree, the upper Midwest. Half of the residual fuel oil imported to the East Coast is made from Arab oil. That oil is used primarily to produce 70% of New England's electricity. If the oil supply is reduced by half, 35% of New England's generating capacity will be cut. Some power systems in New England are totally dependent on Mid-East oil and will have difficulty finding other sources, because residual fuel oil is not yet subject to mandatory allocation. The oil shortage problems of the Northeast and Midwest will be compounded by the fact that winters are usually colder there than in the rest of the country and consequently per-capita heating requirements are higher.

V. POLICY OPTIONS

The increasing U.S. dependence on foreign oil has greatly reduced the alternative courses of action available to the U.S. For the most part, it is unlikely that the two extreme options of total capitulation to Arab demands or of miliary intervention to restore supply lines would be used. The U.S. can respond in other ways that can be effective to varying degrees over both the short and long term.

A. INCREASED DOMESTIC PRODUCTION

An immediate increase in domestic production is, at best, only a partial solution. Certainly there is insufficient productive capacity, even including Naval Petroleum Reserves, to meet a shortfall of 4 to 4½ million b/d. To the extent that this oil is available, however, the shortage can be reduced accordingly. During the oil shortage last winter, production controls were lifted on many U.S. fields but with only marginal success. It is doubtful that U.S. production for this winter will match last year's total, let alone meet the greater demand of this year. The *Oil and Gas Journal* reported that U.S. oil fields do not have sufficient productive capacity to compensate for an Arab oil cutoff.[17] The *Journal* estimated that only 100,000 b/d of extra domestic production could be made immediately available. After 90 days, the *Journal* predicted, 250,000 b/d could be produced if pipeline capacity were increased, gas and brine-handling facilities were expanded. A maximum of 445,000 b/d could be obtained at the risk of reservoir damage, wasted natural gas through flaring, and pollution. This increase falls far short of the 1,053,600 b/d of crude oil imported from the Middle East in July 1973. It should also be noted that the 445,000 b/d increase is considered optimistic by many. The Texas Railroad Commission, which oversees the production of oil in Texas, has indicated that there is no excess capacity and that production could be increased only by damaging the reservoirs which would reduce even more the eventual production.[18] The major oil companies contend, on the other hand, that increased production is possible and have petitioned for increased allowables. Even the most optimistic estimates, however, predict that the cutoff will result in a substantial shortfall in supply at a time when inventories should be building up for the high demands of winter's heating season.

B. STRICT CONSERVATION MEASURES

Mandatory allocations of distillate fuel oil and propane were implemented earlier this year to deal with the predicted winter shortage. As the President indicated in his message of November 8, 1973, the Arab oil cutoff may require more extreme measures, and rationing may be necessary. Senator Henry M. Jackson has introduced a bill (S. 2176) which he claims could result in savings or additions to supplies of over 3 million b/d within 5 months.[19] The proposed legislation would require a declaration of national emergency when the shortage exceeds 5%, and would direct the President to issue requirements for rationing and conservation plans to be developed by state and local governments. The goal of the conservation plans would be to reduce energy consumption by 10% within 10 days and by 25% within 4 weeks after implementation.[20] Some of the measures may include maximum speed limits of 50 m.p.h. or less; mandatory tuneups of motor vehicles; a ban on advertising to promote the consumption of energy; mandatory inspection of commercial and industrial heating and air conditioning units; temperature limits of 65° F. in winter and 80° F. in summer for all buildings owned or leased by the Federal Government; and mandatory carpooling. Temporary relaxation of air quality standards might be allowed to permit utilities to burn high-sulfur coal instead of oil, which would then be available for transportation and space heating.

President Nixon, in his November 7th nationwide address on the energy situation, proposed a broad energy conservation plan that would give him the authority to ration gasoline and fuel oil, reduce speed limits, exempt industries from environmental controls, and to impose taxes on excessive energy use. The President asked the Congress to return the United States to permanent daylight saving time and ordered immediate cuts in the use of energy by the Federal Government in addition to the 7% cut ordered earlier. He ordered that Federal offices be heated to no more than 68° F. and that Federal vehicles not travel more than 50 m.p.h. In addition, the Atomic Energy Commission was asked to accelerate the rate at which nuclear power plants are being licensed and built. He directed that industries which presently use coal be prevented from switching to oil and encouraged utilities now using oil to convert to coal utilization. Individuals were asked to lower their thermostats, to form carpools, and generally reduce their consumption of energy. He urged that the following steps be taken at the state level: halt unnecessary lighting, stagger working hours, encourage greater use of mass transit, and adopt a 50 m.p.h. speed limit. In the legislation requested by the President was the authority to enable regulatory agencies to adjust the schedules of planes, ships, and other carriers in order to conserve energy.

C. COMMITMENT TO ENERGY SELF-SUFFICIENCY

One consequence of the Arab oil cutoff is an intensified interest in developing energy self-sufficiency within the United States. While such a goal would take years to realize, the U.S. does have large quantities of coal, oil shale, and offshore and Alaskan oil that ultimately could reduce dependence on foreign sources of oil. To accomplish a task of such magnitude would require a major commitment by the United States to that goal. As seen by Members of Congress, particularly Senator Jackson, attaining this goal would require a coordinated national energy policy fortified with adequate funds and manpower. Such a program would be designed to reduce the economic and technological barriers that stand in the way of large scale use of coal gasification and liquefaction, solar energy, breeder reactors, and fusion reactors.

Even if such a national energy program were initiated and were ultimately successful, it would probably not have much effect on energy supply for at least a decade. In the meantime, the United States may find it expedient to launch large-scale exploration and development operations in promising but politically secure areas of the world. The Orinoco heavy oil reserves of Venezuela may hold close to one trillion barrels of oil, Canada's Athabascan tar sands 300 billion barrels, the Green River oil shale formation 600 billion barrels and the Naval Petroleum Reserve No. 4 in Alaska an undetermined amount.[21] The Atlantic Outer Continental Shelf which has not yet been explored may also contain large oil and gas reserves.

The lead time required to develop these reliable sources would be 8 to 15 years,[22] so they could not be immediately brought to bear on the present situation. A national commitment to these resources, however, would be useful in negotiations with Middle-Eastern producers. This combined with the creation of an organization of oil consuming nations could conceivably reduce the prospect of arbitrary supply interruptions in the future and could promote international cooperation in the search for new sources of energy.

FOOTNOTES

[14] "U.S. Moves to Offset Loss of Arab Oil," *Oil & Gas Journal*, Oct. 29, 1973, p. 53.

[15] "World Shaken by Arab Oil-Export Cuts, Price Hikes," *Oil and Gas Journal*, Oct. 29, 1973, p. 49.

[16] "An Arab Oil Squeeze that Works," *Wall Street Journal*, November 6, 1973.

[17] "U.S. Fields Unable to Fill Gap If Arab Oil Is Cutoff," *Oil and Gas Journal*, Oct. 15, 1973, p. 39.

[18] *Ibid*. p. 40.

[19] *Oil and Gas Journal*, p. 53.

[20] *Ibid*.

[21] "The Oil Crisis: This Time the Wolf Is Here," James E. Akins, Foreign Affairs, April 1973, p. 489.

[22] *Ibid*., p. 489.

PUERTO RICAN DISCOVERY DAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. RANGEL. Mr. Speaker, on November 19, 1493, 480 years ago, the island of Puerto Rico was discovered by Christopher Columbus on his second voyage to the new world.

As we celebrate this anniversary, it is an appropriate time for us to remember and express appreciation for all the contributions which the people of Puerto Rico have made to our society. We in New York City have been particularly enriched by the culture of the Puerto Rican people, and we happily join them in celebrating this anniversary day, recognizing fully our debt of gratitude to a people with a rich history that has become part of our own.

BRONX BOROUGH PRESIDENT ROBERT ABRAMS CALLS FOR MASS-TRANSIT FARE FREEZE TO SAVE FUEL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. RANGEL. Mr. Speaker, the borough president of the Bronx, Robert Abrams, has made an excellent suggestion to encourage the use of mass transit and thus conserve dwindling fuel reserves during the current energy crisis. He has called upon the Congress to adopt a nationwide freeze on all mass transit fares for the duration of the current fuel emergency to encourage the public to use mass transit in greater numbers.

We have had the sad experience in New York City over the past decade of a spiraling mass transit fare which has resulted in a loss of riders with each increase. Now we are threatened with another, due largely to the fact that the Federal Government has not provided the subsidies that are needed to operate our mass transit system at a fare that can be afforded by the working people in our city and which will encourage the use of the system over the family car.

Even before the fuel crisis our cities were being choked to death by the automobile and we recognized the need for a greater emphasis on mass transit. Now with the national fuel emergency, this emphasis becomes imperative.

SENATE—*Wednesday, November 21, 1973*

The Senate met at 10 a.m. and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we thank Thee for all the blessings of life, but today we thank Thee especially that we are citizens of this good land, conceived in liberty and dedicated to the proposition that all men are created equally free under God. We thank Thee for the produce of the soil, the untold riches of the Earth, the opportunities for work and play and healthful living, for freedom to speak and write, for public education and regard for every man's welfare.

We thank Thee, too, for prophets, patriots, and pioneers, for parents, pastors, and teachers, for heroes in war and in peace, for philosophers, artists, and musicians. We thank Thee for the comradeship of service in this place.

We pray, O Lord, that as we thank Thee for all these good gifts, Thou wilt continue Thy providential care over us and make our Nation great in the qualities which are pleasing to Thee, even the righteousness which is doing Thy will.

We pray in Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 21, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 20, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Raymond C. Anderson, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations placed on the Secretary's desk on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations placed on the Secretary's desk on the Executive Calendar will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I call up a nomination at the desk which was reported earlier today, and ask that it be stated.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

UPPER GREAT LAKES REGIONAL COMMISSION

The second assistant legislative clerk read the nomination of Raymond C. Anderson, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

WOMEN IN COAST GUARD RESERVE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 525, H.R. 9575.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The second assistant legislative clerk read as follows:

H.R. 9575, to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, may I say that I am happy a bill of this nature, extending equality to women so far as the Coast Guard Reserve is concerned, is before the Senate today. I hope that the difficulties which women are having in being admitted to the military academies will shortly be overcome because, if we believe in equality, they should have the same rights that men have in this area, as well as in all other areas. So that this difficulty which they seem to be having at the moment, I hope will be done away with.

May I say it was my pleasure this year to nominate a young woman from Montana for the Merchant Marine Academy. If any others come along, they will be given the same consideration as their male counterparts.

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. Having served in the merchant marine, I can think of nothing better in the forecastle than to have as members of the crew a number of lady members of the merchant marine, or, as the British call it, the merchant navy. Maybe I will go back to the merchant marine if this eventuates.

Mr. MANSFIELD. That sounds pretty good, Captain.

The ACTING PRESIDENT pro tempore. The question is on the third reading and passage of the bill.

The bill (H.R. 9575) was ordered to a third reading, was read the third time, and passed.

SENATOR DANIEL INOUYE AND WATERGATE

Mr. MANSFIELD. Mr. President, Parade magazine for November 11, 1973, which, I think, reaches a circulation of between 14 and 15 million readers, contains a most interesting article about Senator DANIEL INOUYE. The article is entitled "Senator DANIEL INOUYE: Watergate Changed His Life," and was written by Lloyd Shearer. It is worth placing in the RECORD.

It is my belief that Senator DANIEL INOUYE, one of the shining lights in this Chamber, would make a very, very acceptable candidate for Vice President of the United States on the Democratic ticket.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Parade magazine, Nov. 11, 1973]

SENATOR DANIEL INOUYE: WATERGATE CHANGED HIS LIFE

(By Lloyd Shearer)

WASHINGTON, D.C., and HONOLULU.—This past summer when the Watergate hearings reached their apogee, a group of schoolboys ran up to Sen. Ted Kennedy and Dan Inouye.

"I stepped back," explains the diminutive (5 feet, 6 inches) Democratic Senator from Hawaii, "because I knew from experience that everybody wants Ted's autograph. But this time it was different. The kids didn't want his autograph. They wanted mine. I knew then that Watergate had changed my life."

Ironically, Inouye (pronounced—in-aw-way) vehemently refused to accept a place on the Watergate committee when it was first offered to him. "I tried every way I knew to get out of the assignment."

But the Democratic leadership insisted. They wanted someone with a Mr. Clean image to investigate the Republicans' dirty tricks, and Inouye has a spotless record in politics. Until Watergate, however, national limelight escaped him.

In 1959, when he arrived in Washington, a freshman Congressman to represent the new state of Hawaii, he was introduced to the venerable and veteran Speaker of the House, Sam Rayburn, then 77.

"It's a very great honor for me," acknowledged Inouye, "to meet the most famous, widely recognized member of the Congress."

Speaker Sam took optical inventory of Inouye. "Don't worry," the Texan assured him. "You'll soon be the second most widely recognized member in the Congress."

Inouye, 35, raised a quizzical eye-brow. "How do you figure that, Mr. Speaker?"

Rayburn replied quickly, "We don't have too many one-armed, Japanese Congressmen here."

PROPHECY FULFILLED

Today, 14 years later, after three years in the House of Representatives and almost two terms in the Senate, Daniel Inouye has virtually fulfilled the prophecy of Speaker Sam Rayburn, who died in 1961. He has become one of the most widely recognized members of the U.S. Senate.

Owing to his ethnic background (Japanese), the loss of his right arm (in World War II) and his membership in the Senate Watergate Committee, Senator Inouye is instantaneously recognized these days.

Prior to Watergate, he was known mostly in the Senate and within the borders of his own state where he's always been exceedingly popular. (In 1968 he was reelected by a staggering 83.3 percent of the ballots.)

"Now," he says, "it's a different ball game. When I get off the plane in San Francisco, going to or coming from Honolulu, people come up to me and shake my hand. Perfect strangers. They've seen me on TV. I've appeared on all the networks. I'm constantly called for interviews and speeches. Before Watergate, my exposure quotient was almost zero, at least on the Mainland.

MORE MAIL, MORE WORK

"Watergate added five hours to my workday, every day. The mail load increased from 200 to 1000. The peak was something like 4000 a day.

"From a family standpoint," Inouye continues, "Watergate also made a difference. My home telephone numbers in both Washington and Hawaii are listed. My son Dan, 9, used to enjoy answering the phone. But since Watergate I grab the phone, because although most of the phone calls are courteous, there are now some that are rather hateful. I don't want Danny picking up the receiver and getting barraged by obscenities. Until Watergate I never got obscene calls."

Before Watergate, however, Inouye was never considered a possible Democratic Vice Presidential candidate; now he is. There is no mentioned Democratic Presidential hopeful—Kennedy, Mondale, or Humphrey—who does not hold Inouye in a favorable running-mate light.

A war hero, a Methodist, a minority ethnic member, a superb campaigner who has never lost a race, a politician unsullied by the slightest stain of scandal, Inouye is regarded as a political plus. At 49 he is young, vigorous, growing, an exemplary U.S. Senator. The largest campaign contribution he ever received was donated by Mary Lasker, widow of the advertising tycoon, Albert Lasker.

"It was in 1959," Inouye narrates, "right after Hawaii was accorded statehood, and I announced my candidacy for the House of Representatives. One day I received a $5000 check from New York City from Mary Lasker. I had never met a woman named Mary Lasker.

"But there was her check and a one-line letter. It said, 'I wish you all the best.' That's all. I wrote a letter thanking her, but I never got a response. Three years later I finally met Mrs. Lasker, and I thanked her. 'Oh, don't mention it,' she said. Incidentally, she never asked me for a single favor."

WHAT I WOULD LIKE

Inouye insists, "I do not want to be Vice President of the United States. I have never in my wildest dreams seen myself in that role, and I don't see it now. What I'd like are two more terms in the Senate. Nothing more. By that time I would be 62. My son would be 22, capable of earning his own living.

"I'd like then to go back to Hawaii with my wife Margaret, perhaps teach a seminar in political science, maybe write a book on government. I've seen a lot of books on government, but I've yet to see one that would give a real insight into what goes on around here. For example, just look at how I got appointed to the Watergate Committee."

Originally, Mike Mansfield, the Senate Democratic Leader, decided that no Democrat who was a lawyer should be assigned to the Watergate Committee. Immediately that eliminated half the Democrats in the Senate. His second restriction was that no senior Senator who chaired a committee, Fulbright of Foreign Relations, Eastland of Judiciary, McClellan of Appropriations, Jackson of Interior, should be assigned, because these Senators already carried too heavy a workload. A third restriction held that if any Democratic Senator had ever aspired to the Presidency or had been mentioned seriously for it, then he, too, was disqualified.

"It finally came down to four of us," Inouye says half jokingly, "myself, Montoya, Talmadge, and Sam Ervin. And even then, Mike Mansfield had to scrap the lawyer restriction, or he couldn't have gotten anybody."

ALL FOR THE BEST

Inouye, of course, is now happy that he accepted the Watergate chore. It not only afforded him maximum TV exposure and new prestige during his start-up campaign for a third term, but, he says, "I believe what the committee disclosed will have a lasting effect on future Presidents and their advisers. It will help reform the campaign practices of the nation."

The Senator, who spent $60,000 in his first Senatorial race in 1962 and $70,000 in 1968, says that he personally has learned a great deal from the Watergate hearings.

"Having been in politics since 1954," he explains, "I wasn't particularly naive about big money, but I never dreamed that so much—$60 million of Republican funds and about $37 million of Democratic funds—was involved in the '72 campaign.

"I was also not aware of the dirty tricks, the espionage, the arm-twisting, the shady, scurvy, slimy tactics, the corruption of young men by older men who preached law and order. And this bugging of telephones! It's been shocking! And what a horrible commentary on our democracy!

"I'm sad to say," he asserts, "that many of us in the Senate just assume that our phones are tapped. I operate on that basis. You notice that the doors to my office are always open. If you come into my file room, you'll notice a whole bank of filing cabinets. They're all open. No one has to jimmy them. The only time we lock our doors is at night. In Honolulu, the same thing. My desk is set up in such a way that as soon as one opens the door they can see me. I make myself accessible, and if your discussion is unfit for my secretary's ears, I don't want to hear it.

NAMES AND AMOUNTS

"I recently had a campaign fund-raising dinner in Honolulu. I released all the names and addresses of the contributors and the amount each had contributed, and I'm going to insist upon that procedure.

"At a time when the Vice President of the United States has resigned and the President himself is under fire and the whole political system is under a dark cloud of suspicion, I believe that legislators, politicians have to reassure the people that honesty and openness and decency are still the character ingredients of the men they elected."

Daniel Inouye, the first Nisei ever elected to the U.S. Senate, feels a very special obligation to the American way of life even though he has been a victim of its prejudices.

Pre-war Hawaii, run by the descendants of the American missionaries who had stolen, connived, and intermarried into Hawaiian property, was full of bias. It was only through the intervention of Franklin D. Roosevelt that the War Department after Pearl Harbor permitted 1500 Nisei volunteers to join the U.S. Army, form the 442nd Regiment combat team and die in Italy in horrendous numbers to prove their loyalty. Eventually some 33,000 Nisei saw action in Europe.

WHAT PRICE GLORY?

In 1946, Capt. Daniel Inouye was returning to Honolulu. Heavily decorated with rows of campaign ribbons, the Distinguished Service Cross, the Bronze Star, the Purple Heart—small compensation for the loss of his right arm in a gallant assault against a German machine-gun bunker in Italy—Inouye walked into a San Francisco barber shop, his empty right sleeve pinned to his tunic. He asked for a haircut.

"We don't serve Japs here," the owner snapped.

Twenty-seven years later, Inouye was again to hear the "Jap" racial slur; this time from John J. Wilson, the Watergate lawyer for President Nixon's two closest advisers, Bob Haldeman and John Ehrlichman, the latter now under indictment for perjury and conspiracy. Subsequently, attorney Wilson apologized, and Inouye generously accepted the apology, attributing the "Jap-crack" to the hot climate generated by the Watergate hearings, in which the Senator had muttered under his breath, after hearing Ehrlichman's testimony, "What a liar."

Dan Inouye was born in Honolulu on Sept. 7, 1924, the son of poor Japanese immigrant parents. His mother was the orphaned daughter of a Hiroshima family whose members had signed up for contract labor on the sugar plantations of Hawaii. His father came to Hawaii from Japan with his parents at the age of 4.

Named after a Methodist minister, young Dan was raised in poverty. He attended Honolulu public schools, was graduated from McKinley High School, then named "Tokyo High," because most of its students were Japanese.

AFTER PEARL HARBOR

When Pearl Harbor erupted, Inouye was 17. At the outset of the war, all Americans of Japanese ancestry were discharged from National Guard units in Hawaii and rejected by the Selective Service system. Sometime later, President Roosevelt declared, "Americanism is a matter of the mind and heart; American is not, and never was, a matter of race and ancestry." He ordered the War Department to accept a limited number of Americans of Japanese descent. Dan Inouye, 18, a freshman in pre-med studies at the University of Hawaii, was one of those. Sent to Italy where he won a battlefield commission as a second lieutenant "because I learned how to kill well," he was seriously wounded by a German rifle grenade at close range, spent 20 months in various Army hospitals after losing his right arm.

MEETS FUTURE WIFE

Returning to Honolulu, he abandoned hopes of becoming a surgeon and entered the U. of Hawaii as a pre-law student. There he met Margaret "Maggie" Awamura, daughter of a Honolulu jeweler who had done her undergraduate work at Hawaii and had also taken a master's degree at Columbia University.

"I met him via a phone call," Mrs. Inouye says of her first date with her husband. "He called to say hello and asked me for a date, a dinner-dance at Fort Shafter with some of his veteran friends. I said yes, and on the second date he took me out to dinner and proposed. I said yes again.

"We got married in 1949 and went off to Washington, D.C., where I worked as a secretary in the Navy Department while Dan went to George Washington University Law School. Then we returned to Honolulu where Dan practiced law and went into politics. It was a very propitous time. For years the Republican Party had dominated politics in the islands, but after the war the Democratic Party opened its arms to the returning Nisei and other underprivileged groups, and Dan ran into them."

Inouye ran for the territorial House of Representatives in 1954, was elected majority leader at age 30, held the position until 1958 when he was elected to the Hawaii Senate.

A year later when Hawaii became a state he won election to the House of Representatives and then re-election to a full term in 1960. In 1962 he ran for the U.S. Senate against Benjamin Dillingham II, son of a prominent Hawaii family, and won by nearly 70 percent of the vote. In 1968 he won by an even greater margin. And in 1974 his third-term victory seems assured.

The Senator and his wife have only one child, 9-year-old son Danny, "who came late in our lives, when we both were 40," Inouye points out, "and I try to spend as much time with him as possible. We live in Bethesda, Md., and we feed tropical fish and look after squirrels, chipmunks and birds together.

ENTERTAIN LITTLE

"My wife and I don't entertain very much. In the eight years we've had our Bethesda house, we've had two receptions, both of them neighborhood receptions. I don't give parties for ambassadors or other Senators or visiting dignitaries. I need time to be alone with my family, to collect my thoughts, to think things through."

When asked how he would describe himself politically, the Senator says he's a moderate Democrat. He regrets having supported the Vietnamese war, attributes it in large part to his friendship with Lyndon Johnson "and the conditions of the times."

He used to wear an artificial arm "when I first got out of the hospital," and asks, "Did you know that Phil Hart [Democratic Senator from Michigan] and Bob Dole [Republican Senator from Kansas] and I were all in the same veterans hospital in Battle Creek, Mich., after the war? Prosthetics weren't very well developed back then. Wearing an artificial arm in tropical Hawaii was uncomfortable and sticky and smelly. And I didn't need it to practice law, so I took it off; and I just haven't worn one since."

LEADS POLL

This past August, a survey by the Gallup Poll people revealed that all seven members of the Watergate committee were favorably regarded by a majority of Americans, with some achieving a nationwide name awareness.

In that same survey, the Gallup pollsters asked their subjects to rate the seven committee members on a 10-point attitude scale. Daniel Inouye came in first with a 84 percent favorable rating. Sam Ervin was second with 81 percent, Howard Baker third with 78.

Those statistics faithfully reflect the sensational popularity climb of Daniel Inouye in the past six months from island Senator to national celebrity.

Where he goes from here he declines to speculate. His reelection in 1974 seems a certainty. The Republicans in Hawaii may not even offer token opposition. Inouye maintains that U.S. Senator is as high an office as he cares to achieve. Certainly he has brought great honor to his native state by his Horatio Alger rise. But politics has an insidious way of infecting men with its ambition virus. And it would surprise few people if the Democratic National Convention in 1976 nominated him as its candidate for the Vice Presidency.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF SENATE HEARINGS ON NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT

Mr. HUGH SCOTT. Mr. President, I submit a resolution and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 206

Resolved, That there be printed for the use of the Committee on Rules and Administration additional copies of its hearings on the nomination of Gerald R. Ford to be Vice President of the United States in such quantity as shall not exceed the statutory $1,200 limitation under a simple resolution.

Mr. HUGH SCOTT. Mr. President, the nomination has been favorably reported by the distinguished chairman of the Committee on Rules and Administration (Mr. CANNON), on whose behalf I submit the resolution, and in his words. The statement is to be taken as though read by Senator CANNON. It is a proposal to save a part of the taxpayers' money by printing the additional copies at this time.

I ask unanimous consent that Senator CANNON's statement be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR CANNON

This resolution would authorize the printing for the use of the Committee on Rules and Administration of additional copies of its hearings on the nomination of GERALD R. FORD to be Vice President of the United States in such quantity as shall not exceed the statutory $1,200 limitation under a simple resolution.

This nomination has been favorably reported by me today. In view of the wide public interest in Mr. FORD's nomination, the committee will inevitably need more than its normal complement of this document. In order that a portion of the taxpayers' money may be saved by printing the additional copies at the same time, I strongly urge that the Senate now consider and approve this resolution.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution? There being no objection, the resolution (S. Res. 206) was considered and agreed to.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF COMMITTEE REPORT ON NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT OF THE UNITED STATES

Mr. GRIFFIN. Mr. President, I submit a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 207

Resolved, That there be printed for the use of the Committee on Rules and Administration additional copies of its report on the nomination of Gerald R. Ford to be Vice President of the United States in such quantity as shall not exceed the statutory $1,200 limitation under a simple resolution.

Mr. GRIFFIN. Mr. President, the resolution will make available additional copies of the committee report on the nomination of GERALD R. FORD to be Vice President of the United States within the limitation in the Senate rules.

I ask unanimous consent that a statement by Senator CANNON be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR CANNON

This resolution would authorize the printing for the use of the Committee on Rules and Administration of additional copies of its report on the nomination of Gerald R. Ford to be Vice President of the United States in such quantity as shall not exceed the statutory $1,200 limitation under a simple resolution.

This nomination has been favorably reported by me today. In view of the wide public interest in Mr. Ford's nomination, the Committee will inevitably need more than its normal complement of this document. In order that a portion of the taxpayers' money may be saved by printing the additional copies at the same time, I strongly urge that the Senate now consider and approve this resolution.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 207) was considered and agreed to.

AUTHORIZATION FOR PRINTING OF CALENDARS

Mr. GRIFFIN. Mr. President, on behalf of the chairman of the Committee on Rules and Administration (Mr. CANNON), I submit a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 208

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $10,300 for the purchase of 20,600 calendars. The calendars shall be distributed as prescribed by the committee.

Mr. GRIFFIN. Mr. President, on behalf of the chairman of the Committee on Rules and Administration (Mr. CANNON), I report an original resolution which would authorize the committee to expend not to exceed $10,300 for the purchase of 20,600 1974 wall calendars for the use of the Senate—200 per Member. The calendars are published by U.S. Capitol Historical Society, and for several years have been made available to for distribution to their constituents. Members of the House of Representatives

Mr. President, I ask unanimous consent that the Senate proceed to consider the resolution.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 208) was considered and agreed to.

A TIME FOR THANKSGIVING

Mr. HUGH SCOTT. Mr. President, at this time of the year in many of our churches, it is the custom to bring to the altar the fruits of the land and of the sea and of the sky, in order that we may recognize our debt to our Creator in fructifying the land for our blessing and sustenance. At this particular time there is added significance, I think, because we have been amidst perilous ways, nevertheless enjoying an affluence which is given to few nations and to few peoples to receive.

Our ills, it seems to me, stem in considerable part from our abundance and from our affluence and from our well-being. We have been living beyond our means, perhaps, in the use of energy. We have been living in our productive life for the use of others; some of these usages must continue.

But I think it is time, at this period of thanksgiving, to note that we are indulged by the beneficence of the creative forces which sustain us and that we are indeed a blessed people.

Elizabeth Barrett Browning wrote:

> Happy are all free peoples, too strong to be dispossessed;
> But blessed are those among nations who dare to be strong for the rest!

JOHN FITZGERALD KENNEDY

Mr. MANSFIELD:

JOHN FITZGERALD KENNEDY

A REMEMBRANCE

What is ten years remembered:
  Is it shots of infamy in a Dallas street?
    A clinical report of a murder.
  Is it a dress dark-splotched with blood?
    The swollen faces of grief.
  Is it a rain-filled sky over Washington?
    A silent throng under the Capitol's dome.
  Is it two children and a child's single cry?
    A riderless horse.
    An intonation in a cathedral.
    The flickering of a flame.
What is ten years remembered:
  How much rain beating on a grave-site?
  How much snow falling and filtered sunlight?
  How many mind-flashes of a man?
    Of his humor and humanity.
    Of his sense and sensitivity.
Ten years after, it is all remembered and more:
  An assertion of human decency.
  A trust of freedom.
  A confidence in reason.
  A love of country.
  A kindled hope for the Nation.
This was John Fitzgerald Kennedy.
This is John Fitzgerald Kennedy.
Ten years after.

Mr. RANDOLPH. Mr. President, the passage of time often lessens the pain of a dreadful event, but it can never erase the memory of such an occurrence. There are persons, of course, who are closer to a tragedy than others; but as the tides of the ocean, they ebb and flow and come to touch the lives of many persons, perhaps millions. In a sense, my brief words today may express the thoughts of those who are far removed from this Chamber.

Mr. President, I recall vividly those first shattering moments of a decade ago when word of the happening in Dallas came to the Senate floor. Tomorrow, millions of Americans, and perhaps millions and millions of people throughout the world, will take a further personal inventory of their recollections of the date when the news flashed that President John Fitzgerald Kennedy had been the victim of an assassin's bullet.

In reviewing the tragic events of November 22, 1963, we have collectively asked ourselves, "What manner of people are we, that such violence is bred in our midst?" This question and the self-appraisals that I think it must engender have served, hopefully, to make us a better Nation, a better people.

But, Mr. President, in justice to the American character for which John Fitzgerald Kennedy held such high hopes, let us also acknowledge that the same Nation, the same people, which fostered his assassin gave birth to John Kennedy and responded to his call—his repeated calls—for finer ways and higher deeds for mankind everywhere.

Those who write the judgment on this era will not appraise us solely on the basis of that insane moment in Dallas but on the extent to which we, as a Nation and a people, live up to the ideals for which John Kennedy labored.

For those of us who had the privilege of knowing and working with John Kennedy in this body, I think our lives have been enriched by that cherished experience. It has been for me. It was my good fortune to stand by him in many important matters. I was, with him, a member of the Senate Committee on Labor and Public Welfare.

I remind my colleagues and the country today that perhaps a little glimpse of his character in helping people was expressed by the fact that he sought membership—he was not assigned to—the Committee on Labor and Public Welfare. He served as chairman of the Subcommittee on Labor on which I serve. At that time and later, he was articulate clearly and effectively the concerns of what many people call the downtrodden, the disadvantaged, the handicapped, the helpless, and, yes, sometimes those who were really hopeless.

I can recall the very moment on the Senate floor when we learned that this great voice for people, for oppressed people, had been silenced. We were involved in the Senate, on November 22, 1963, with an amendment to the Library Service Act. Senator Wayne Morse, of Oregon was floor manager of the bill.

I have often thought of John Kennedy standing, as a Senator, behind his desk, presenting his thoughts, his views, from the desk to my left near the door.

I remember him so very well as the manager of legislation when he brought it to the floor. He was an entirely different person, expeditious, when legislation from a subcommittee of which he was chairman was brought to the floor.

It was my privilege to cosponsor that legislation. I recall how much it meant to West Virginia and the libraries there; $301,682 in Federal funds for that fiscal year coming up of 1964.

I had just inserted in the RECORD a letter I had written to Dora Ruth Parks, executive secretary of the West Virginia Library Commission at Charleston. I remember I commented on the Book of the Month Club presenting a $1,000 check to the Charles W. Gibson Public Library in the little community of Buckhannon, W. Va.

Now, Mr. President, where you, my colleague from Idaho, sit today, at that moment TED KENNEDY was sitting. Very few people know this as a fact. Senator Morse was on the floor, as I have said; Frank Carlson of Kansas was here; the late Olin Johnston of South Carolina was in attendance; Harrison Williams was present, and our late colleague Winston Prouty. They formed the group of Senators in the Chamber.

I remember what happened at the time of the announcement of President Kennedy's brutal shooting. I shall never forget that through the door to the left, the doorkeeper on duty, Richard Riedell entered. Many of us in the Senate remember him. He was a large man; he moved very quickly that day as he stepped up to the steps to the desk where Senator TED KENNEDY was presiding; and he whispered to him the tragic news. Senator KENNEDY's face became ashen gray, and he covered his face with his hands for a moment. Then, he rushed from the desk and out of the Chamber.

It was then we were informed of the terrible event which had happened in Texas. I remember also our late colleague Senator Spessard Holland of Florida. He slipped into the Presiding Officer's chair and I recall the comments then of Senator Morse:

> Mr. President, I should like to interrupt a moment to say that if ever there was an hour when all Americans should pray, this is the hour.

Senator MIKE MANSFIELD, the majority leader, had entered the Chamber by this time and moved that the Senate recess, which it did at exactly 1:55 p.m.

Then, at 2:10 p.m. we reconvened and we were led in prayer by the late Chaplain of the U.S. Senate, Dr. Frederick Brown Harris. The prayer is as follows:

> Our Father, Thou knowest that this sudden, almost unbelievable, news has stunned our minds and hearts as we gaze at a vacant place against the sky, as the President of the Republic goes down like a giant cedar green with boughs goes down, with a great shout upon the hills, and leaves a lonesome place against the sky. We pray that in Thy will his life may still be spared.
>
> In this hour we cry out in words that were uttered in another hour of deep loss and bereavement: "God lives! And the Government at Washington still stands."
>
> Hold us, we pray, and the people of America, calm and steady and full of faith for the Republic in this tragic hour of our history.
>
> God save the State and empower her for whatever awaits for the great world role she has been called to fill in this time of destiny. Amen.

Mr. President, of all of the tributes spoken for this great American, in my memory, I think the finest occurred during the national and official mourning following his tragic death. Many of us remember those hours. The body of the President lay in state in the great Rotunda of the Capitol, to my right, approximately half way between the two legislative chambers in which he had labored for many, many years.

During that brief period when John Kennedy was once again among us in the Capitol Building, I observed that more than one-third of the persons who passed reverently by his bier were boys and girls in their teens. I watched them closely as they moved slowly past and later viewed them by television.

Citizens from every walk of life were there, expressing their sincere admiration, their genuine love, their real affection for a fallen leader. There were people of high office and esteem in the lines, generals and admirals, scholars and statesmen. But always, and in increasing numbers, there were the young people.

The President certainly was a gallant man. Gallantry appeals to the youth of the United States and of the world. Youth sensed in the career of John F. Kennedy something that was good and noble.

I remember nine young men who drove 400 miles from Marshall University at Huntington, W. Va., to express their reverent respect for the slain President of the United States. My colleague, Senator ROBERT C. BYRD, remembers this well, too.

I ask those young men, "Why do you come?"

Tearfully, they replied, "We came because we just had to come."

I recall, as does my colleague, Senator ROBERT C. BYRD, another group of five young men from Fairmont State College at Fairmont, W. Va. They drove through the night to join the long line of grieving thousands.

They moved slowly along in line for 8½ hours, before they, those young people from Fairmont could reach the bier to express their respects.

Again, I asked them why they had come. "Because," one of them replied—I will never forget the choke in his voice—"he was our President and we, as young people, felt that he was concerned with our future."

Yes, Mr. President, I think he was concerned with their future, and the future of all people; and no man, I believe, in public service can expect or hope to earn a more glorious tribute.

Mr. HUMPHREY. Mr. President, I want to compliment and indeed highly commend the distinguished Senator from West Virginia (Mr. RANDOLPH) on a beautiful statement here in the Senate today about our beloved and our greatly admired and talented late President John Fitzgerald Kennedy.

I sat here and listened to the words of the Senator from West Virginia and kept saying to myself, "He speaks for all of us." It would be really unworthy for anyone now to try to add much to what has been said.

I had the privilege of knowing President Kennedy as a friend, as a competitor, as one of the then leaders in the Senate, the majority whip of the Senate, visiting with him from time to time, both in official matters and matters that were private and social. I am sure that my thoughts and reactions are characteristic of those of so many who knew him.

He was an exciting man, an engaging man, a person of both humor and humility, of honor and courage, of vision and practicality.

The happiest days of my public life were the days when I was privileged to work with him, to be one of his legislative leaders here in the Senate, and to share in his fellowship.

I might add that I think one of the most interesting Presidential primary compaigns was in 1960, in the campaigns of West Virginia and Wisconsin. I mention this because out of those primary contests, in which the then Senator Kennedy and I were engaged, came programs for the future. We did not merely talk about each other; we talked about policy and program. It was in those primaries that we hammered out the Peace Corps program, the arms control program, Federal aid to education, and a number of other items that have now become public policy and public law.

May I say to my colleagues, I remember that tragic hour of his assassination. Mrs. Humphrey and I were visiting at the Embassy of Chile. We were guests at a luncheon there, and I received a call from the White House. I went to the telephone and was told by Mr. Fred Dutton, who was one of the Presidential aides at the White House, that the President had been shot. I can remember the feeling of shock and trauma that came over me. I asked whether he was still living, and was told, yes, that he was, but that the wounds had been severe and possibly fatal. I went back to the table, stunned, and had no more than arrived there when the call came again and I was told that he had been killed.

I had to announce to that luncheon gathering the tragic news.

I recall, Mr. President, going back to the White House after that luncheon, really unable to believe that the tragic news was a fact. I have written down my thoughts on this matter and I have kept them as a record. I did so within the day after his burial, because I wanted to put down on paper what had flashed through my mind, the emotions that I had experienced, the feelings that had come over me; and all of this I have preserved for my family and my friends.

I also recall the night that the Vice President became President as he took his oath of office. Lyndon Johnson came back to Washington. Many of us were at Andrews Air Force base when the new President arrived. I remember that first meeting in the Vice President's office, with the man who had become President, when he said to some of us that his aim, his goal, and indeed his pledge, was to see to it that every major item of legislation that President Kennedy had proposed which as yet had not passed would become public policy. And in those remaining days of the Kennedy years, filled by then President Johnson, up until January 20, 1965, the new President labored long and hard to accomplish or to achieve a living memorial to President Kennedy, namely, the enactment of the legislative program of the fallen President.

Today it is not my purpose to once again stand here and eulogize out of heart and mind President Kennedy. We all have our thoughts. We all have our memories. And to me they are wonderful thoughts and beautiful memories.

What I remember most of all was that he was a leader. I remember that he inspired people. I recall that he asked of us our best and that the theme of the day was excellence not mediocrity, and performance not merely utterance. And those are the themes and the standards which this great Nation needs.

Again I want to thank the Senator from West Virginia for his beautiful statement and for bringing it so close to us and bringing his memories back to us. He recalled the reactions of the people of the great State of West Virginia, the people of which State had a special affection for President Kennedy. And might I add it is a State for which I have a special affection.

THE DESOLATE WILDERNESS

Mr. AIKEN. Mr. President, I ask unanimous consent to have printed in the Record the lead editorial in the Wall Street Journal of this morning entitled "The Desolate Wilderness."

This editorial starts out by reading:

> Here beginneth the chronicle of those memorable circumstances of the year 1620, as recorded by Nathaniel Morton, keeper of the record of Plymouth Colony, based on the account of William Bradford, sometime governor thereof.

I wish this editorial could be required reading for all those who spend so much time lamenting the possibility that they are going to be deprived of some of their luxuries and field trips throughout America and abroad for the coming period. I hope everybody who is lamenting today will read this editorial.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Nov. 21, 1973]

The Desolate Wilderness

(Here beginneth the chronicle of those memorable circumstances of the year 1620, as recorded by Nathaniel Morton, keeper of the records of Plymouth Colony, based on the account of William Bradford, sometime governor thereof:)

So they left that goodly and pleasant city of Leyden, which had been their resting-place for above eleven years, but they knew that they were pilgrims and strangers here below, and looked not much on these things, but lifted up their eyes to Heaven, their dearest country, where God hath prepared for them a city (Heb.xi,16), and therein quieted their spirits.

When they came to Delfs-Haven they found the ship and all things ready, and such of their friends as could not come with them followed after them, and sundry came from Amsterdam to see them shipt, and to take their leaves of them. One night was spent with little sleep with the most, but friendly entertainment and Christian discourse, and other real expressions of true Christian love.

The next day they went on board, and their friends with them, where truly doleful was the sight of that sad and mournful parting, to hear what sighs and sobs and prayers did sound amongst them; what tears did gush from every eye, and pithy speeches pierced each other's heart, that sundry of the Dutch strangers that stood on the Key as spectators could not refrain from tears. But the tide (which stays for no man) calling them away, that were thus loath to depart, their Reverend Pastor, falling down on his knees, and they all with him, with watery cheeks commended them with the most fervent prayers unto the Lord and His blessing; and then with mutual embraces and many tears they took their leaves one of another, which proved to be the last leave to many of them.

Being now passed the vast ocean, and a sea of troubles before them in expectations, they had now no friends to welcome them, no inns to entertain or refresh them, no houses, or much less towns, to repair unto to seek for succour; and for the season it was winter, and they that know the winters of the country know them to be sharp and violent, subject to cruel and fierce storms, dangerous to travel to known places, much more to search unknown coasts.

Besides, what could they see but a hideous and desolate wilderness, full of wilde beasts and wilde men? and what multitudes of them there were, they then knew not: for which way soever they turned their eyes (save upward to Heaven) they could have but little solace or content in respect of any outward object; for summer being ended, all things stand in appearance with a weatherbeaten face, and the whole country, full of woods and thickets, represented a wild and savage hew.

If they looked behind them, there was a mighty ocean which they had passed, and was now as a main bar or gulph to separate them from all the civil parts of the world.

THE ENERGY CRISIS

Mr. HUMPHREY. Mr. President, I wish to address myself to a matter that is much more mundane, a matter that I think is of great importance.

We face a major crisis in this Republic and it is not Watergate, important and distressing as that is. We face a threat in this republic that is ominous as a nuclear threat from a determined enemy. I speak of the oil crisis, and I speak also of its twin, the food crisis.

Mr. President, from time to time I have spoken throughout the Nation and in this body on the subjects of fuel, food, and foreign policy. Today in the few minutes that are mine, I want to tie down two or three reflections or observations which I believe are necessary or that at least need to be understood and hopefully fully comprehended.

We generally associate the current problem of the oil shortage with the embargo imposed upon shipments of crude oil from the Arab States. My point is that there was an oil crisis and a food crisis without any embargo from the Arab States. We were facing this crisis and were yet unwilling to recognize the dimensions.

The Arab embargo was but the straw that broke the proverbial camel's back. And might I say that simile is most appropriate in light of the fact that much of the oil we need comes from the Middle East and much of the problem we face today is the result of actions taken in the Middle East. However, the point I seek to make as one Senator is that the fuel crisis and the energy crisis were with us before October 6 when the war in the Middle East flared up once again.

It was with us before the King of Saudi Arabia decided to cut back on the shipments of crude oil to the United States and other countries. And it will be with us even if tomorrow morning the Arab States say that the embargo is over.

I repeat, this Nation faces an energy crisis for at least 5 years under the most favorable of circumstances, and for at least 3 years even with the wholehearted cooperation of the countries of the world that are today punishing us with their embargoes. Were those same countries to lift those embargoes this very morning, were the crude oil to flow from the wells of the Arab States into the tankers and into the boats of the United States, we would still have a critical shortage of fuel. Why?

First of all, we have inadequate refineries.

Second, we have inadequate pipelines.

Third, we have inadequate transportation to move oil from the pipelines.

Fourth, we have inadequate port facilities.

In other words, Mr. President, we have drifted along, unwilling to plan, unwilling to look ahead, looking at day by day, letting the major oil companies set the policy rather than having a national fuel policy.

So, my first point is that there is no escape from the energy crisis quickly or in a short period of time.

Having said that, Mr. President, I think it is important that we recognize as a country that our entire economic system depends upon energy. It always has. Sometimes that energy was in the form of human power. We use a similar phrase many times today when we speak of our automobiles in terms of horsepower, because at one time in our history as a world people it was the animal, the horse that gave the energy for the plow, for the field, for transportation.

Energy is but another form of power. And when we use fossil fuels or other kinds of fuels or energy to propel our machines, it eases the human burden and makes possible what we call an industrialized society.

The United States is the greatest industrial society in the world. We use vast amounts of energy.

With 6 percent of the world's population, we use 35 percent of the world's energy. With 6 percent of the world's population, we use 40 percent of the world's natural resources. That is why we have a high standard of living.

We have in a sense been gluttons, or to put it more kindly, we have been wastrels. Wasting and consuming has been the pattern of our life.

We have wasted our natural resources, our land, water, timber, and minerals. We have polluted our environment. We have consumed these things in abundance and wastefully.

We have wasted our resources of fuel. And now the hour of decision has arrived.

In many ways we owe a debt of gratitude to those who would punish us today by their oil embargo, because their action forces us to come to grips with a problem that was there even before the Arab leaders took action.

Today we are compelled to face reality. And fortunately for us, we have the means with which to come to grips with these problems.

Let me lay it on the line. This Nation cannot afford to be dependent upon other nations for the fuel, power, and energy that is needed for our economy and for our national security.

We cannot afford to be a hostage to other peoples for our survival.

We cannot permit ourselves to be blackmailed. To put it in the positive, Mr. President, we must become self-sufficient in energy and fuel, just as we are self-sufficient in food.

The margin of American strength in the 20th century has been found in its industrial and agricultural capacity. Far more important than our armies or our navies has been the fact that we had a tremendous economy—growing, modern, efficient. We have had a powerful and ever-expanding labor force—skilled, talented, and hardworking. We have had competent management. We have had a great agricultural system based upon the family farm.

These have been our assets, along with a people who believe in education, who possess a sense of idealism, and who are willing to accept any challenge. Now the challenge is here, and I want our country to look upon the present fuel crisis or energy crisis as an invitation to greatness.

We have been able to do things that others have never been able to do. That is the margin of difference between the United States and other countries. In the years of the late 1930's and the early 1940's we were fortunate to receive in our country men from Germany, Italy, and other parts of Europe, with names like Einstein, Fermi, Bohr—the great atomic scientists and physicists—theoreticians, as they said. Men who were driven out of Europe by Mussolini and Hitler. They came to America as great and talented men of science and technology.

With these men and others, and through a commitment by the Government of the United States, a massive research program known as the Manhattan project was established to release from the atom the energy that was there, to make possible what we call atomic energy and the development of the atom bomb, and subsequently the hydrogen bomb.

How did we do it? We did it by organization, by commitment of resources, by putting the best minds of the country to work, by using the talent that was available throughout the country. And we did it because we had to do it, because we faced a crisis. We split the atom and released the power of the atom. Only a small fraction of that power was released, but it produced weapons of unbelievable destructive power, and it also produced a new form of energy called nuclear energy, which today can be harnessed in ever-increasing amounts to meet our energy needs.

Then someone said, "But the atom bomb is dirty," just as they say today, "Coal is dirty."

So this Nation set itself to the task of producing, Mr. President, what we call the clean bomb. A country that can produce a clean bomb, a bomb that does not contaminate the Earth with radioactivity, ought to be able to produce a clean fuel. A country that can split the atom ought to be able to do something about harnessing the power of solar energy. After all, atomic energy is nothing more nor less than solar energy itself. A country that could clean up a fission bomb and make it into a fusion bomb, a clean bomb, ought to be able to develop the technology that will take our vast and unlimited supplies of coal and make those supplies of coal a nonpollutant, clean source of fuel. A country that can achieve these great objectives can certainly unlock the mysteries of geothermal, nuclear, hydroelectric, and other sources of energy for the use of generations of Americans to come.

Mr. President, we had to do it in terms of our national security when it came to the nuclear power, and we did it.

Second, I remember another incident: the Russian sputnik, that missile that flashed across the skies. I was here in Washington in those late years of the 1950's. I remember the shock that fell upon this country when we read that the Russians were in advanced stages of space technology, that sputnik was in orbit. I remember the advantage that the Russians had in space technology, and I remember the Senate seizing that challenge. I remember the then majority leader, Lyndon Johnson, rising on this floor and saying that we would accept the challenge.

We established NASA. We appropriated the money and got the program moving. Then I remember John Kennedy addressing the Nation and saying to the whole world that within the decade of the sixties, the United States of America would send a man to the Moon, that he would land on the Moon, walk on the Moon, work on the Moon, and then leave the Moon and come back to the Earth safely—all within the decade of the sixties.

There were those who said it was impossible. There were those who reminded us that we were 5 to 10 years behind the Russians in space technology. But there was a President who said, "We will do it," and there was a Congress that responded. There was a nation that was challenged.

Mr. President, I was in the Kremlin in Moscow on the very day that Neil Armstrong stepped forth on the Moon. I was there the week that our Apollo space operation to the Moon was launched, and I remember seeing Russian leaders surprised and amazed at the success of the American achievement.

We decided that we had to do something, and we did it. I sat across the table from Premier Kosygin of the Soviet Union on the very day that Neil Armstrong put foot on the Moon, and saw in Mr. Kosygin his respect and admiration for American competence.

Mr. President, any country that can split the atom, any country that can make a clean bomb out of a dirty weapon, any country that can put a man on the Moon not once but again and again—that country can do what it needs to do in developing the technology that is required to find sources of energy in this country that will meet our needs.

So I rise in the Senate today to say, "Let's quit wringing our hands. Let's quit complaining and moaning. Let the word go forth from this place that we accept the challenge."

I would hope the whole world will unite, because it is important that it unite, in a common program, with our friends in Europe and Japan and elsewhere, and that we tell those who would seek to use oil as a weapon that it will have a short life, that we do not intend to let that weapon destroy us, that we intend to find ways and means to no longer be reliant upon the capricious decisions of those who would punish us. To do anything less would be unworthy of us.

Mr. President, what does it take to do this? A commitment. Not this band-aid, piecemeal stuff, but a massive commitment. The American people think in big terms. They need a big challenge. They need someone to say what the task is, to outline its dimensions, to point up its difficulties, and then to mobilize the resources to get the job done.

That is what the space program was about. That is what the atomic energy program was about. We can do it. We need to signal to the whole world that we will do it. In the meantime, we will take whatever steps are necessary in the way of conservation and sacrifice, to buy the time we need to make this country self-sufficient in energy and fuel.

Now, Mr. President, one other aspect. We are not a helpless people. I said that I have addressed myself from time to time on the subject of fuel, food, and foreign policy. Food and fuel are tied together. It takes energy—fuel and power—to bring about food production. Maybe this is one of the reasons the United States is one of the greatest food-producing nations in the world. We are a food reserve producing nation.

There are four major nations in the world that are what we call food reserve producing countries. By that I mean producing much more than just their own domestic needs. They are the United States, Canada, Argentina, and Australia.

But in order that we may understand how important we are as a nation in this matter, the United States produces more food for export than all the other three countries I have just mentioned put together.

For example, 50 percent of all wheat exported in the world comes from the United States.

Sixty percent of all feed grains exported in the world come from the United States.

Eighty to 85 percent of all the soybeans exported in the world come from the United States. In other words, Mr. President, the availability of an adequate food supply in the world is, in large measure, dependent on the production of the United States of America. This assumes that other countries are doing their best. The margin between disaster and survival is what happens in the United States. Let me repeat that: The margin between disaster for millions of people in the world—starvation for millions of people in the world—and survival for those same millions of people is the production of the American agricultural economy. That is not a boast. That is just a fact.

So, Mr. President, when the Arab nations put a boycott on oil to the United States, what they are really doing is reducing American agricultural production, because it takes oil or petroleum to make fertilizer. That is the base for fertilizer. Fertilizer is necessary for adequate food production here and abroad. Thirty percent of the feed grain production in the United States is the result of fertilizer.

Mr. President, we have opened up over 60 million new acres of land in the past 2 years. Much of that land needs fertilizer. If it is not available, it will not be productive. If fertilizer is not available, future land production will be down. Fertilizer needs oil. To plant the crops we need fuel. To harvest the crops, we need fuel. To dry the corn, we need fuel such as propane and heating oil.

Mr. President, food and fuel are partners, so when the Arab States cut back on oil to the United States, they need to be reminded as to where the injury will really fall.

I spoke in Munich last week, addressing the World Soy Protein Conference. Forty-five nations were represented. I stated there what I am about to state here; namely, that the Arab oil boycott is an inconvenience for America but it is not a catastrophe. The Arab oil boycott will cut our agricultural production. Make no mistake about that. All the agricultural production estimates of 3 months ago, 2 months ago, must be revised downward. With the Arab boycott there will be less fertilizer. There will be a shortage of fuel supplies for American agriculture. Therefore, there will be less production, which means there will be less food in the world. However, Mr. President, we are not going to be short of food in America.

Here is exactly what I told the 45 nations represented at that conference—many of them were from Africa and Asia: "I want all African and Asian brothers here to know that when the Arab nations boycott oil to the United States, all they are doing is signaling to you that you will starve. Or, to put it quite candidly, if this embargo persists, I can predict that the estimate of food production in the United States will have to be revised and revised downward sharply. And, should that be the case, the poor nations will go without food both in commercial markets, in concessional sales and in food grants. For the American people this food shortage will be an inconvenience, but for the developing nations it will be a catastrophe with many people suffering from malnutrition and dying of starvation."

Mr. President, it is not our wish as a nation to use food as a political weapon, but as I have noted, petroleum is the base for fertilizer and fertilizer is essential in feed grain production. So we have to face up to the fact that if there is a shortage of food production for U.S. reserves, the people who will suffer will be the poor. The people who will suffer will be those in food deficit countries, with food prices skyrocketing.

Mr. President, as one Senator who abhors export embargoes and export controls, if the choice is between the American people going without food and someone else going without it, then I am going to protect the American people.

So, Mr. President, the Arab oil embargo may be an inconvenience for America, but it is starvation and death to millions and millions of people in Africa, Asia, and Latin America.

Let the Arab leaders know what they are doing.

I say to the representatives of Africa and Asia, "Speak to your Arab brothers, because there will be no food to purchase; there will be no concessional sales in which we have put out billions of dollars worth of food at low interest and on long-term credit, there will be no food grants and there will be no charity, because there will be no surplus."

So the Arab embargo on oil directed at the United States has a way of developing its own backlash. It will lash back upon millions of the poor in Africa and Asia, those who have received from America over the past decade billions of dollars in food relief—the hundreds of millions of bushels, and millions of tons of food that have gone from America to relieve human suffering.

Thus, the Arab States stick their dagger not into the heart of America but into the hearts of those whom they say they love.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Washington Post today, written by Joseph Alsop, entitled "Oil Blackmail Threatens U.S. Independence."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 21, 1973]

OIL BLACKMAIL THREATENS U.S. INDEPENDENCE

(By Joseph Alsop)

The energy crisis is in danger of becoming the other horror story of the second Nixon administration. The Arab oil embargo on this country is proving all too successful. Its enforcement is even being policed by the big American-owned oil companies.

Available supplies are therefore close to 20 per cent short of total U.S. demand for oil fuels before the embargo. As any fool can see, this kind of supply-demand relationship must soon cause acute shortages. New England will pretty certainly be freezing before Christmas. Soon thereafter, the whole country will feel the full effects of the biggest, most painful single problem ever met with by the U.S. in peacetime.

Yet this enormous problem finds the U.S. government divided and irresolute, and the Congress rather more footling and feeble than the executive branch. In the administration, the chief immediate bone of contention is whether to have some sort of rationing.

As is well known, both Secretary of the Treasury George Shultz and the President's Council of Economic Advisors are strongly opposed to rationing. They want more allocation, plus higher prices, to serve instead. Secretary of the Interior Rogers Morton, meanwhile, is strong for rationing. But the real swamp of indecision is among the President's energy specialists, headed by Gov. John Love.

Governor Love is a handsome, amiable fellow who has notorious difficulty making up his mind about anything. It is pretty obvious the White House already hankers to replace this impossible substitute for the energy-czar who is now so badly needed. As to Governor Love's staff, it is enough to say that his chief staff member is the author of President Nixon's energy message of last January, Charles DiBona.

A tough, forthright January message could have made the President the hero of the energy crisis, in contrast to a "do-nothing Congress." Instead, the message was watered down to a damp squib by DiBona and John Ehrlichman. The latter also chose both DiBona and Governor Love to be put in charge of the energy problem. Even in the Watergate horror, Richard M. Nixon has rarely been worse-served.

The result, in fact, is that the politically beleaguered President has been left in the wrong posture to deal with this appalling crisis and *with no real instrument for the purpose*, and *with conflicts of view among the highest policy-makers*.

Furthermore, the argument about rationing may dominate the energy scene at the moment, but is far away from the central point of the energy crisis. The central point is both grim and simple. Whether or not we have rationed oil fuels, we have got to begin paying much, much higher prices for energy in all forms.

The only alternative to much higher energy prices was suggested at a recent meeting of state officials from Colorado, Wyoming, and the other Western states which contain the largest U.S. reserves of easily mined coal as well as oil shale. These states now have to face being literally excavated. They do not like the prospect. Hence one official, currently running for the Wyoming governorship but to be kept nameless, actually made the all but incredible statement:

"Maybe the time has come for the U.S. to destroy Israel, in order to safeguard American oil supplies from the Arab countries."

The monstrous anecdote serves to dramatize the real American stake in the energy crisis. The stake is nothing more nor less than the political and strategic independence of the United States.

To preserve American independence, surely any decent American ought to accept gasoline at a dollar or even $1.25 a gallon—which is the current gas price in West Germany. Much higher energy prices are unavoidable, in turn, in order to make it profitable to exploit the huge alternative energy-sources the U.S. luckily possesses. The main ones are oil shale and coal, of course; and if these are not exploited to the utmost, we cannot be independent.

For this purpose, the needed investments may easily run above $100 billion in the next 10 years. Obviously, moreover, investments on this scale are never going to be made, without some sort of guarantee of long-term price stability at the new high level. There will never be a huge American oil-shale industry, for instance, without solid protection by import taxes or in other ways. The Arab states have to be prevented from destroying this novel competition overnight, by arbitrarily cutting their own oil prices for a while.

Meanwhile, however, with national independence quite clearly at stake, no one seems to worry about anything but the Watergate horror. And this is even true of the President.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

NOMINATION OF HELMUT SONNENFELDT TO BE UNDER SECRETARY OF THE TREASURY

Mr. HARRY F. BYRD, JR. Mr. President, I had not planned to speak this morning, but since some of the news accounts of the pending nomination of Mr. Helmut Sonnenfeldt to be Under Secretary of the Treasury are not completely accurate, I wanted to make my position on this matter clear.

My concern about the nomination of Mr. Sonnenfeldt to be Under Secretary of the Treasury deals only with his qualifications for the position to which he has been appointed.

I have reached a conclusion, following his testimony before the Committee on Finance, that he is not qualified for the position of Under Secretary of the Treasury.

That is not to say that he is not qualified for other positions, high positions, in Government. It is only to express my judgment that, insofar as the position of Under Secretary of the Treasury is concerned, he does not have the qualifications. My prediction is that the administration will reach that conclusion, also, if, indeed, it has not already. My guess is he will not stay long in the position for which the Senate is asked to confirm him.

For that reason, I have great reluctance to cast an affirmative vote for him for this very important position. I will not go into the details today. I will speak at some length later, giving my reasons in this regard.

Other Senators are concerned about other aspects of the Sonnenfeldt appointment. I am not involved in that, and as to the charges that have been made, I understand that testimony will be taken by a committee of the House of Representatives in December.

My only reason for rising today is to make clear that my opposition to Mr. Sonnenfeldt rests entirely on the fact that, in my judgment, he does not have the qualifications for the particular job to which he has been appointed; namely, that of Under Secretary of the Treasury.

Mr. MATHIAS. Mr. President, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) has outlined for the Senate the basis for his objections to the confirmation of Mr. Helmut Sonnenfeldt. As I listened to his remarks I was, of course, impressed with the conscientious and serious way in which he approached the duty of the Senate to pass on Executive nominations.

I would like to add at this point that I have known Mr. Sonnenfeldt for a number of years, and I have observed him in the discharge of very responsible duties on the part of the U.S. Government in meetings both in this country and abroad. I have always felt he discharged those responsibilities with distinction and honor to the United States.

I am hopeful that any questions that have been raised about his confirmation may soon be laid to rest.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

Is there morning business?

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ENERGY ILLUSIONS

Mr. PROXMIRE. Mr. President, this morning's edition of the New York Times carried a column by former Secretary of the Interior Stewart Udall about the energy crisis. Stewart Udall is a highly qualified expert on our energy resources. Mr. Udall points out that we have been operating, and are still operating, under a number of illusions about the energy situation. Mr. Udall described the situation with which few Americans are familiar and which needs greater emphasis.

He said that these illusions are:

Illusion One is the misconception that the crisis is a "temporary emergency." The crunch is, in fact, a deepening long-term impasse that is certain to escalate and send shock waves through our economy for at least a decade.

Illusion Two is the misconception that we have "reserve" resources which can bail us out in the near term. The hard truth is that for the last five years U.S. consumption has increased much faster than production. All of the energy industries need six- to ten-year "lead times" to produce big results—and these lead times have already been irretrievably lost. The President grossly misled the American people on this point: there is no way we can become energy-sufficient by 1980.

Illusion Three is the presupposition that the U.S. is so rich and powerful (and so capable of pulling off quickie "technological miracles") that any serious long-term "energy gap" is unthinkable. Yet the unthinkable has already happened, as a cocksure nation has allowed gargantuan shortages to develop. The hard reality is that the era of abundant, cheap oil has ended—and there have never been any short-cut substitutes in sight for this versatile commodity.

Illusion Four is the misconception that radical, mandatory conservation measures are not necessary. Despite the ominous indicators, until this month the Nixon winter conservation program has been largely hortatory. The sooner mandatory across-the-board rationing and waste elimination programs are imposed the better. Our energy economy is bloated and profligate. At least one-third of the energy we use is wasted.

Illusion Five is the assumption that the U.S. oil depletion policy is still sound. Depletion was probably wise several decades ago when oil was an infant industry. Now that U.S. oil production has peaked and begun its long decline, rigorous conservation must become our new oil policy.

Illusion Six is the wishful thinking that the Arabs would not dare to use their "oil weapon" against us. Events have rudely shattered this mirage. The oil weapon has a sharp edge, and the Arab oilmen are wielding it with relentless skill. From now on they will call the tune for the global oil game.

In spite of the debate we have had in the Senate, in spite of the action we took on Monday, which certainly was essential, it seems to me that neither the Senate nor Congress, certainly not the American people, and especially not the President of the United States appreciate the very, very serious economic situation that confronts this Nation.

Mr. President, it is rapidly becoming clear that these are indeed illusions. Gas rationing now appears to be inevitable—as unpalatable as it may seem, all the other possible solutions would be worse. And we cannot simply pass this off as a "temporary emergency"—it is clear that major, permanent changes in our national life style are going to be required.

I hope to hold hearings in the Joint Economic Committee in the coming weeks to provide an idea of the types of changes in our life style that will be required—not only by the energy shortage, but also by the other shortages we face as well.

Mr. President, I ask unanimous consent that the article by Stewart Udall entitled "The Energy Illusions" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ENERGY ILLUSIONS

(By Stewart L. Udall)

BETHESDA, MD.—A nation that bases a vital national policy on illusions is inviting trouble. The energy crisis—which is worsening each week—is a classic example of policymaking by myth. For the past two years we have seen monumental miscalculations both by energy executives, and the Nixon Administration—and the President's latest special message (his fourth on energy since April) essentially applies a band-aid to hemorrhage.

In my opinion, the President and the energy industries have been floundering because they have been unwilling to push aside their 1950-vintage illusions and face the grim facts. Most of the script for the nineteen-seventies has already been written—by gluttonous increases in U.S. consumption—and not by the new uncertainties about Arab oil supplies. Consequently, we cannot come to grips with the real issues until we first face the urgent need to make drastic changes in our energy economy.

The illusions that are paralyzing bold action are these:

Illusion one is the misconception that the crisis is a "temporary emergency." The crunch is, in fact, a deepening long-term impasse that is certain to escalate and send shock waves through our economy for at least a decade.

Illusion two is the misconception that we have "reserve" resources which can bail us out in the near term. The hard truth is that for the last five years U.S. consumption has increased much faster than production. All of the energy industries need six- to ten-year "lead times" to produce big results—and these lead times have already been irretrievably lost. The President grossly misled the American people on this point: there is no way we can become energy-sufficient by 1980.

Illusion three is the presupposition that the U.S. is so rich and powerful (and so capable of pulling off quickie "technological miracles") that any serious long-term "energy gap" is unthinkable. Yet the unthinkable has already happened, as a cocksure nation has allowed gargantuan shortages to develop. The hard reality is that the era of abundant, cheap oil has ended—and there have never been any short-cut substitutes in sight for this versatile commodity.

Illusion four is the misconception that radical, mandatory conservation measures are not necessary. Despite the ominous indicators, until this month the Nixon winter conservation program has been largely hortatory. The sooner mandatory across-the-board rationing and waste elimination programs are imposed the better. Our energy economy is bloated and profligate. At least one-third of the energy we use is wasted.

Illusion Five is the assumption that the U.S. oil depletion policy is still sound. Depletion was probably wise several decades ago when oil was an infant industry. Now that U.S. oil production has peaked and begun its long decline, rigorous conservation must become our new oil policy.

Illusion Six is the wishful thinking that the Arabs would not dare to use their "oil weapon" against us. Events have rudely shattered this mirage. The oil weapon has a sharp edge, and the Arab oilmen are wielding it with relentless skill. From now on they will call the tune for the global oil game.

In a moment of exasperation a few weeks ago, Treasury Secretary George Shultz asserted that we would have to crank up a "crash plan" to develop our own resources (Illusion Two) to "cool the swagger of the Arab nations." Yet it is we who are the swaggerers—and the energy pigs as well. We are consuming nearly one-third of the world's petroleum even though we have only a dwindling 9 per cent of the world's oil reserves. This is the situation that sets the stage for a painful, overdue comeuppance.

We have ridden our illusions of omnipotence into a long-term impasse. The crunch this winter is but a preview of things to come. The President must stop pretending there are easy, painless solutions. Billions and bold changes in our policies are needed to build excellent public transportation, to legislate a 25-miles-per-gallon compact car, to squeeze out the scandalous waste in industrial energy uses and to force individuals to make permanent changes in their lifestyles.

The oil companies (with the President acting as their echo) have led us into a cul de sac that is bound to cripple our economy. Their fatuous slogan, "A nation that runs on oil can't afford to run short," reveals their disastrous philosophy. The energy conservation imperative now dictates a new credo: "A nation that is running out of oil must stretch its supplies as far as it can." From here on, the making of national energy policy is too important to be left to the oilmen.

THE NEED FOR PRIORITIES IN THE ALLOCATION OF FUEL RESOURCES

Mr. MATHIAS. Mr. President, the so-called energy crisis presents us with very many serious choices in America. So far a lot of the public debate on this subject has been at the level of whether or not we are going to give up a Sunday afternoon drive in the country or reduce by a few degrees the temperature in our living rooms. There are much deeper and more serious levels of concern with the energy crisis.

As one example, I have in my hand a dialysis unit, which is better known as an artificial kidney. For many Americans, this device is the difference between life and death. In the literal meaning of the words, it is a lifesaver.

The energy crisis that now besets us has, in its own way, affected and to some extent imperiled the lives of many persons who depend on these artificial kidneys. These devices are manufactured of products that are petroleum-based. The manufacturers are reporting that they are having difficulty obtaining the component parts because of the crunch on petroleum and other oil products; yet it would certainly seem that this is the type production that must have priority in the allocation of our petroleum resources.

I bring this to the attention of the Senate today to assert the need for priorities in the allocation of our fuel resources as we get into the details of the program that will be established as a result of our energy shortage.

We must clearly comprehend the depth and the urgency of the decisions being made and that will have to be made. It is imperative that the Government recognize the need for priorities for petroleum products and keep in mind the very urgent requirement for products like this artificial kidney, which is a lifesaver, when we go about the difficult and distasteful job of trying to decide what comes first in passing around the available supplies.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 2735. A bill to increase the availability of urgently needed mortgage credit for the financing of housing and other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MOSS:

S. 2736. A bill for the relief of Guillermina Yolanda Abadillo. Referred to the Committee on the Judiciary.

By Mr. HARTKE:

S. 2737. A bill to establish controls on the export of certain energy producing commodities. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 2735. A bill to increase the availability of urgently needed mortgage credit for the financing of housing and other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, today I am introducing, along with the distinguished Senator from Texas, the ranking minority member of the Banking Committee, the Emergency Mortgage Credit Act of 1973. We are introducing this bill primarily for the purpose of dealing quickly with some of the very serious problems that have cropped up in the mortgage market over the past few months. I do not have to deal at any great length with the severe problems that lack of mortgage money and extraordinarily high mortgage interest rates have caused housing. Suffice it to say that housing starts during the month of October were down to a level of 1,613,000 on an annualized basis, the lowest since October 1970. Even more serious, the building permits rate for October was down to 1,310,000 units, the lowest since April 1970. All indications are that matters will get much worse before they get better.

Mortgage credit shortages are just as bad in connection with the financing of the sales of existing housing. All over the country prospective buyers of homes are finding that they cannot finance these homes because of the high cost of mortgage money, or nonexistence of mortgage money at any price. In many States there are usury limits on the maximum amount of mortgage interest that can be charged. Yet the market rate exceeds this State usury ceiling and therefore there is no mortgage money available at any price.

The provisions of the proposed Emergency Mortgage Credit Act will help to rectify some of the problems that today face the prospective home buyer, or renter, as well as the home seller and the homebuilder. It will increase the mortgage limits on Federal Housing Administration single family and multifamily loans in recognition of the substantial cost increase since these limits were last raised in 1969. It will raise the mortgage limits applicable to savings and loans and the secondary market operations of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. It will expand the ability of commercial banks to make mortgage loans and to finance the construction of housing. It will encourage greater flows of funds into thrift institutions as well as commercial banks by permitting 100 percent Federal insurance on deposits of public bodies as well as increasing the regular insurance limit on savings accounts from $20,000 to $50,000.

There are, of course, many things which need to be and can be done to prevent the precipitate ups and downs in the availability of mortgage credit. The proposals contained in this bill do not contain all the answers. However, they will ease matters considerably and represent a first step toward dealing with the recurrent crisis in the supply of mortgage money.

As the Senate is aware, the Banking Committee has been working for a month and a half now on omnibus housing legislation. Many of the matters covered by this bill are also covered within this legislation. However, there is concern that this omnibus legislation will not be completed by both the House and the Senate soon enough to deal with today's crisis situation. That is why I felt obliged to offer this bill as an interim step pending enactment of broader range, omnibus housing legislation.

At the same time, as chairman of the Banking Committee, I intend to push forward as quickly as possible with the completion of our markup of that bill. It is my hope that we can complete the markup and bring to the floor of the Senate, before the end of this session, omnibus housing and community development legislation which will improve upon and simplify our present complex housing and community development situation.

In addition to the mortgage credit provisions of the bill, I have added a title to provide needed authorizations or extensions for the various HUD housing and community development programs through fiscal year 1975.

Not only is it necessary for the Congress to take action to stimulate the availability of mortgage money for housing, it is also essential that the housing programs for the Nation's low- and moderate-income families have adequate funds to meet housing needs. Regardless of the amount of mortgage money available, these lower-income families cannot afford decent housing at today's prices without Government assistance. It is also essential that there be adequate funds available to keep going such important programs as urban renewal, model cities, and the other HUD community development programs.

We all know about the totally unjustified moratorium that has been placed by the administration on the HUD programs and how serious the suffering has been by those who would normally benefit from them. I am hopeful that this moratorium will soon be ended, either voluntarily, by the administration or, if necessary, by the courts. If and when such an ending occurs, it is important that there be adequate authorizations available to get the programs moving again. These authorizations when appropriated would do just that.

Under the bill, authorization would be provided for the programs through fiscal year 1975. In two cases, for the public housing and the 236 rental housing assistance programs, additional authorization would be provided for this fiscal year, 1974. In some cases, no new moneys would be provided, but the authority to continue the programs would be extended through June 30, 1975.

I am fully cognizant of the fact that many of these programs are presently under study by the Banking Committee, which is in the process of marking up an omnibus housing and community development bill. However, there is concern that such a bill would not be passed by both the Senate and the House before late next spring. Furthermore, once such a bill becomes law, it will be necessary to provide funds for the new or revised programs, as well as for HUD to gear up with new regulations and procedures. All this will take time, many months in fact.

I am, therefore, introducing these provisions in order to insure that the existing HUD programs will continue until such time as the new or revised programs are enacted into law and become operational, with adequate funding. Thus, if there were a long delay in enacting new legislation so we would not reach the point when the new programs would become operational until some time during fiscal year 1975, I would expect that the existing programs would be phased out at that time to be replaced by the new programs. In fact, there is a preamble to this new title which specifically states that as the intention of Congress.

Mr. President, the needs of our low- and moderate-income families and of our cities are too great to be allowed to suffer a hiatus. Many of the programs designed to meet undenied needs have been under suspension too long, and it is essential that we get them going again with adequate funds and authority to operate.

Mr. President, Senator TOWER and I are introducing this bill by request because we have not had time to study all the provisions of the bill and, furthermore, we are still hopeful that the omnibus bill the Banking Committee is marking up will move rapidly toward passage and thus eliminate the necessity for interim legislation. The omnibus bill contains provisions which will form the basis for new approaches to federally-aided housing and community development programs. It is a complex bill, covering a broad range of subjects and will require more time to complete. However, it is very important that it become law, and I would not want any prior action with respect to an interim bill to detract from its passage and early implementation. I realize the difficulties facing the housing field and have agreed to introduce the interim bill so that it can be studied and, if conditions so require, have it enacted into law at the appropriate time.

Mr. President, I ask unanimous consent that the section-by-section explanation of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF "EMERGENCY MORTGAGE CREDIT ACT OF 1973"

TITLE I—DEPOSIT INSURANCE

Sec. 101. Full deposit insurance for public units

It is estimated that there are more than $30 billion in deposits of state, county, and municipal governments in financial institutions throughout the country. Of this total sum, approximately 98% is deposited in banks and only 2% in savings and loan associations. The reason these funds are not distributed on a more equal basis is that most public funds custodians are limited by law, regulation or custom to maintaining such deposits within the insured $20,000 ceiling or requiring the depository to pledge government bonds as collateral. Since savings and loan associations are not permitted to pledge collateral, they are able to hold only token amounts of these public fund deposits.

Passage of legislation permitting 100% insurance of public funds would have the effect of providing freedom of choice, greater convenience and complete safety for public officials in choosing depositories. In addition, an increase in public funds deposits in savings and loan associations would help to provide urgently needed funds for the residential housing market, which has been hit hard by recent savings rate increases causing substantial outflows of savings.

By providing 100% insurance of public fund deposits, a substantial segment of the economy would be benefitted without adversely affecting the reserves or operations of the FSLIC and the FDIC.

Secs. 102 and 103. Increased FDIC and FSLIC insurance limits

These sections would increase FDIC and FSLIC insurance limits on individual accounts from the current $20,000 to $50,000 partially in recognition of past inflationary trends. An important effect of this change will be to attract more money to savings and loan accounts and thus make more funds available for home mortgage loans. The increase will alleviate the need for frequent, inconvenient upward revisions in the insurance limit, as has been the practice in the past. The favorable history of defaults in insured institutions, combined with recently tightened supervision by the regulatory agencies, suggest that the insurance limit increase will pose no threat to the insurance reserves.

TITLE II—LENDING AND INVESTMENT POWERS FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Sec. 201. Construction loans

Federal savings and loan associations are unnecessarily hampered in making residential construction loans in that they are restricted in methods of payment and types of security that require a complicated, time-consuming and needless series of recordings. The amendment would permit federal associations to make line-of-credit loans to builders which would be generally limited to situations related to the financing of construction of primarily residential real property as distinguished from loans to finance non-residential commercial real estate. This new lending flexibility would help to create a more competitive construction loan market and would assist in reducing closing costs.

Sec. 202. Single family dwelling limitations

This section would increase the present $45,000 limitation on the amount of the loan which a federal institution may make on a single family residence to $55,000. This is necessary if home lending is to take account of present day inflation. Real estate values have traditionally been on the ascent. Recent studies show that the cost of both existing and new housing has increased over 100% in the last 20 years. The cost of building materials, particularly lumber, has risen substantially over the last ten years. Accordingly, this amendment would conform the lending capacity of federal associations to the present housing market.

In addition, the amendment would allow an association to allocate only the excess over the limit to the 20% of assets requirement, where before the whole amount of the loan, including the amount under the limit, had to be counted.

Sec. 203. Lending authority under the Home Owners Loan Act

This section would permit a Federal Savings and Loan Association to make loans respecting real property or interest therein used primarily for residential purposes without regard to the limitations and restrictions otherwise contained in Section 5(c) of the Home Owners Loan Act in an amount not in excess of 10% of its assets. This authority would be subject to such conditions as the Home Loan Bank Board may prescribe.

TITLE III—MORTGAGE CORPORATIONS

Sec. 301(a) FHLMC loan-to-value ratio

Would allow purchase of a conventional mortgage with the outstanding balance exceeding 80% of value when the excess over 80% is insured by a qualified private insurer.

Under existing law, such mortgages may be purchased only where the outstanding balance exceeding 75% of value is insured by a qualified private insurer.

(b) FHLMC percentage limitation on 1-year mortgages

Would remove a limitation now in the law limiting the purchase of conventional mortgages over one year old at time of purchase to 10% of conventional portfolio. However, the seller would have to agree to relend such funds within 180 days after the date of purchase by FHLMC.

(c) Maximum principal amount

Provides that the limitations governing the maximum amount of a conventional mortgage purchased by FHLMC be comparable to the limitations contained in the first sentence of section 5(c) of the Home Owners' Loan Act of 1933 ($45,000 in the case of single-family dwellings and the dollar amounts contained in section 207 of the National Housing Act for multi-family housing), except that such limitations may be increased by 25% with respect to mortgages on property located in Alaska, Guam, and Hawaii. With the enactment of section 202 of this bill, the single-family limit would increase to $55,000.

Secs. 302(a)–(e) Investment in FHLMC obligations

These subsections make clear that national banks, state-chartered banks which are members of the Federal Reserve System, Federal Home Loan Banks, federal savings and loan associations, and federal credit unions have statutory power to purchase mortgages, obligations or other securities which are sold or ever have been sold by the Federal Home Loan Mortgage Corporation without regard to limitations which might be otherwise applicable to purchase of such mortgages, obligations or other securities.

Sec. 303(a) FNMA loan-to-value ratio

Amends section 302 of the FNMA Charter Act to allow purchase of a conventional mortgage with the outstanding balance exceeding 80% of value when the excess over 80% is insured by a qualified private insurer. Under existing law such mortgages may be purchased only where the outstanding balance exceeding 75% of value is insured by a qualified private insurer.

Sec. 303(b) Percentage limitation on 1-year mortgages

Removes the 10% limitation on purchase of conventional mortgages over 1 year old. However, the seller would have to agree to relend such funds within 180 days after the date of purchase by FHLMC.

Sec. 303(c) Maximum principal amount

Amends such section 302 to provide that the maximum amounts of conventional mortgages purchased by FNMA shall be comparable to the limitations contained in the first sentence of section 5(c) of the Home Owners' Loan Act of 1933 ($45,000 in the case of single-family dwellings and the dollar amounts contained in section 207 of the National Housing Act for multi-family housing), except that such limitations may be increased by 25% with respect to mortgages on property located in Alaska, Guam, and Hawaii. With the enactment of section 202 of this bill, the single-family limit would increase to $55,000.

Sec. 303(d)

Amends section 309 of the FNMA Charter Act to provide that employees subject to the Civil Service retirement law who became employed by FNMA prior to January 31, 1972 may continue under such law.

Sec. 304. GNMA purchase limits

This amendment increases the maximum mortgage purchase limit for the Government National Mortgage Association from $22,000 to $33,000. This applies to GNMA's regular program as well as the Tandem Plan.

Sec. 305. Conflicts of interest

This provision would prohibit officers or directors of a financial institution or other mortgage lender engaged in the organization of mortgage loans, some of which may be insured by private mortgage insurers, from owning an interest in a private mortgage insurance company.

TITLE IV—DOWNPAYMENT REQUIREMENTS AND MAXIMUM MORTGAGE AMOUNTS UNDER FHA PROGRAMS

Section 401. The loan-to-value ratios (which determine downpayment schedules) for the FHA programs are changed as follows:

Section 203(b) single-family homes:

Current

97% on the 1st $15,000

90% on amounts between $15,000 and $25,000

80% on amounts above $25,000

Proposed

97% on the 1st $20,000

90% on amounts between $20,000 and $30,000

80% on amounts between $30,000 and $40,000

70% on amounts above $40,000

The same loan-to-value ratios will apply to single family homes under the section 220 insurance program in urban renewal areas and the 234 program for mortgage insurance for condominium units.

The loan-to-value ratios are also changed for the section 222 program for mortgage insurance for servicemen as follows:

Current

97% on the 1st $15,000

90% on amounts between $15,000 and $25,000

85% on amounts above $25,000

Proposed

97% on the 1st $20,000

90% on amounts between $20,000 and $30,000

85% on amounts between $30,000 and $40,000

70% on amounts above $40,000

Section 402. Increase in maximum mortgage amounts under FHA's 1 and 4 family mortgage insurance programs

This section increases the maximum mortgage amounts for the section 203(b), the section 220(d), the section 222, and 234 programs from $33,000 to $45,000. Under the section 203(b) and 220(d) programs maximum limits for 2 and 3 family units are increased from $35,750 to $48,750, and for 4 family units from $41,250 to $56,000.

Section 403. Increase in maximum mortgage amounts under FHA's multifamily mortgage insurance programs

The per-unit mortgage limits for multifamily structures under section 207, the regular FHA multifamily insurance program, the section 213 cooperative housing program, and the section 220(d) program for multifamily housing in urban renewal areas are increased as follows:

	Current	*Proposed*
Efficiency	$9,900	$13,000
1 Bedroom	13,750	18,000
2 Bedroom	16,500	21,500
3 Bedroom	20,350	25,500
4 or more bedrooms	23,100	30,000

For elevator-type structures under these programs, the limits are increased as follows:

	Current	*Proposed*
Efficiency	$11, 550	$15, 000
1 Bedroom	16, 500	21, 000
2 Bedroom	19, 800	25, 750
3 Bedroom	24, 750	32, 250
4 or more bedrooms	28, 050	36, 465

For the section 221(d)(4) multifamily insurance program for modest income and displaced families, the per-unit increase is as follows:

	Current	*Proposed*
Efficiency	$9, 200. 00	$12, 300
1 Bedroom	12, 937. 50	17, 188
2 Bedroom	15, 525. 00	20, 525
3 Bedroom	19, 550. 00	24, 700
4 or more bedrooms	22, 137. 50	29, 038

For elevator-type structures under this program, the limits are increased as follows:

	Current	*Proposed*
Efficiency	$10, 525. 00	$13, 975
1 Bedroom	15, 525. 00	20, 025
2 Bedroom	18, 400. 00	24, 350
3 Bedroom	23, 000. 00	31, 500
4 or more bedrooms	26, 162. 50	34, 578

TITLE V NATIONAL BANKS

Sec. 501. Real estate loans by national banks

This section would extensively revise section 24 of the Federal Reserve Act to authorize broader lending and investment powers for national banks relative to real estate. Under this revision banks would be authorized to make real estate related loans as follows:

1. Make real estate loans secured by other than first liens provided said lien when added to prior liens does not exceed the applicable ratio of loan to value. Loans of this type would be limited to 20 percent of unimpaired capital and surplus.

2. Make loans against unimproved real estate up to 66⅔ percent of appraised value and if improved with off-site improvements up to 75 percent of appraised value.

3. Continue to make loans against improved real estate up to 90 percent of appraised value for a maximum term of thirty years, but with no required amortization on any type of real estate loan except when it exceeds 75 percent of appraised value or is improved with a dwelling for one to four families. Amortization, where required, would be based on a maximum of a thirty-year payout, with no requirement that the loan be fully amortized by maturity if the term is less than thirty years.

4. Classify all loans, insured under the National Housing Act or by the Secretary of Agriculture, or where guaranteed by HUD when the guarantee is backed by the full faith and credit of the U.S., or fully guaranteed by a state agency or instrumentality thereof or by a state authority for the payment of which the faith and credit of the state is pledged, or at least 20% of which is guaranteed by the Veterans Administration as non-real estate loans and not subject to any of the limitations of conventional loans or included in the aggregate amount of real estate loans that may be made or in the aggregate of subordinate liens that may be made.

5. Continue the practice, where loans are secured by real estate and other collateral, to subtract the value of the non-real estate collateral from the loan and consider the balance only as a loan against real estate.

6. Consider a loan secured by a lien on real property, where there is a firm take-out from a financially responsible party to advance the full amount of the loan within sixty months, as a non-real estate loan.

7. Continue to consider loans, with a maturity of not more than sixty months made against a building under construction secured by a firm take-out to advance the full amount of the loan and loans to finance the construction of residential and farm buildings for a term not in excess of sixty months, as commercial loans and limit such loans to 100 percent of unimpaired capital and surplus.

8. Make construction loans up to 75 percent of appraised value without the necessity of a firm take-out.

9. Continue to classify loans, where the lender looks to the borrower's general credit standing, or an assignment of rent where a mortgage is taken as a precaution against contingency or where the bank agrees to participate with the Small Business Administration, as commercial loans.

10. Permit up to 10 percent of the maximum amount that may be invested in real estate loans to be placed in loans secured by real estate without the necessity that said loans conform to any of the individual loan limitations of the revised section.

The Comptroller of the Currency would be authorized to prescribe by rule or regulation such additional conditions and limitations on real estate loans as he deemed necessary.

TITLE VI—AUTHORIZATIONS FOR COMMUNITY DEVELOPMENT AND HOUSING PROGRAMS

Sec. 601. Statement of purpose

This section would make clear the intent of the Congress that the authorizations and program extensions set out in this Title for the various community development and housing programs of the Department of Housing and Urban Development for the remainder of fiscal year 1974 and for fiscal year 1975 are being provided in order to permit continued activities under these necessary programs until new or revised programs are enacted into law and operational with adequate funding. It expresses the intent of Congress that once these new or revised programs are thus operational, the present programs herein extended through fiscal year 1975 are to be phased out in favor of the new or revised programs.

Sec. 602. Urban renewal authorization

This section provides an additional authorization for the urban renewal, neighborhood development, and other programs funded under Title I of the Housing Act of 1949 in the amount of $1 billion for fiscal year 1975.

Sec. 603. Model cities authorization

This section provides additional funding authorization in the amount of $400 million for fiscal year 1975 for the model cities program. It also extends the authority to expend or appropriate funds authorized for previous fiscal years through fiscal year 1975.

Sec. 604. Rehabilitation loan authorization

This section would continue the authority for the Secretary of the Department of Housing and Urban Development to make rehabilitation loans under section 312 of the Housing Act of 1964 through June 30, 1975.

Sec. 605. Basic water and sewer facilities grant and neighborhood facility grant authorization

This section would permit funds for the water and sewer and neighborhood facility programs authorized for appropriation in previous fiscal years to be appropriated through fiscal year 1975.

Sec. 606. Comprehensive planning authorization

This section would authorize an additional $75 million for fiscal year 1975 for the comprehensive planning assistance program authorized by section 701 of the Housing Act of 1954.

Sec. 607. Homeownership assistance authorization

This section would provide additional contract authority, subject to approval in appropriation acts, for the homeownership assistance program authorized by section 235 of the National Housing Act. An additional $15 million would be provided for fiscal year 1973 to coincide with the actual amount of contract authority authorized in the HUD appropriation act for that fiscal year and a new $100 million in contract authority would be authorized for fiscal year 1972.

Sec. 608. Rental housing assistance authorization

This section would provide additional contract authority, subject to approval in appropriation acts, for the rental housing assistance program authorized by section 236 of the National Housing Act. An additional $50 million would be provided for fiscal year 1973 to coincide with the actual amount of contract authority authorized in the HUD appropriation act for that fiscal year, a new $100 million for fiscal year 1974 and $200 million for fiscal year 1975.

Sec. 609. Rent supplement authorization

This section would provide an additional $50 million, subject to approval in appropriation acts, for fiscal year 1975 for the rent supplement program authorized by section 101 of the Housing and Urban Development Act of 1965.

Sec. 610. Public housing authorization

Additional contract authority for the public housing program authorized by the U. S. Housing Act of 1937 will be provided for fiscal years 1974 and 1975. For fiscal year 1974 $210 million in authority would be authorized in addition to the $140 million previously authorized. This new authority for fiscal year 1974 would be available for operating subsidies and modernization as well as the provision of additional dwelling units. For fiscal year 1975 an additional $250 million of contract authority would be provided.

By Mr. HARTKE:

S. 2737. A bill to establish controls on the export of certain energy-producing commodities. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. HARTKE. Mr. President, the administration has called on the American people to conserve energy by asking millions to suffer inconvenience and economic distress in order to conserve energy sources. Americans understand that the Federal Government demands that our thermostats be turned down, that our cars be driven slower and less frequently, that our schools and factories and farms be operated shorter hours. What they do not understand is the fact that the Federal Government continues to permit the export of vital domestic supplies of fuel oil, coal, natural gas and propane.

The bill which I am introducing today would correct this error of judgment on the part of our Government. The purpose of this legislation is to stop all unnecessary exports of No. 2 fuel and heating oil, coal, propane and natural gas. I believe that there is no excuse for our Government permitting the export of these scarce energy resources during a time of domestic energy shortage.

EXPORTS OF NO. 2 FUEL AND HEATING OIL

The Cost of Living Council projects that 53.3 million gallons or 1.5 million barrels of heating oil will be exported from the United States during 1973. This represents a 284-percent increase in heating oil exports over those of 1972.

Last month alone, exports of this heating oil increased by a whopping 350 percent over the previous month. Heating oil exports climbed from 200,000 barrels in August to 642,000 barrels in September. The largest shipments during September were to Great Britain, the Netherlands, and Venezuela.

The 642,000 barrels exported in September received a payment of $7.28 per barrel. This represents a 158-percent increase in the average price per barrel over last year's price. If the heating oil had been sold domestically, it would have brought only $6.50 a barrel.

Apparently the lure of bigger profits abroad is persuading the major oil companies to export desperately needed heating oil despite the shortage.

EXPORTS OF COAL

While coal exports this year are just slightly less than in 1972, the significance of these exports now is much greater because we are now reconverting our electrical generating plants from oil to coal. This will mean increased American production of coal which is possible.

The problem is that most of our coal is already tied up in long-term export contracts with the Japanese and Canadian steel industries. The result will be a continued shortage of a commodity of which we have rich and plentiful sources, if we do not pass this export control legislation.

Bituminous coal accounted for 98 percent of total coal exports in 1972. In 1972, Japan and Canada received 64 percent of the total bituminous coal exports, and Canada received about 64 percent of the total anthracite coal exports.

EXPORTS OF NATURAL GAS AND PROPANE

In the first 10-month period of 1973, our exports of natural gas have increased almost 20 percent over the same period in 1972. By September 1973, we had already exported 67.2 billion cubic feet compared with 57 billion cubic feet for the same period in 1972.

Natural gas is the cleanest form of energy that the United States produces. I see no reason for shipping such large amounts abroad without some kind of surveillance which these controls would provide.

Canada, Mexico, and Japan are our major export markets for natural gas. Canada and Mexico received natural gas via pipeline transmission, while Japan, starting in 1969, received liquefied natural gas shipments from Alaska. Japan was our largest export market in 1972, received over 50 percent of our total natural gas exports.

The export of propane is also up over the 1972 figures. By September we had exported over 2.5 million barrels of this commodity which is in great demand in our country. Over the same period in 1972, we exported 2.3 million barrels.

The Midwest farmers are absolutely dependent upon this source of energy. If exports increase, we may have crop shortages. The American plywood industry has already begun to shut down many of its plants because it cannot get this precious commodity to dry its wood.

FLEXIBILITY OF THE HARTKE APPROACH

The export controls which I advocate would not disrupt the international market and, therefore, would not invite retaliation. They are designed, however, to protect our own national interests.

I would have the Secretary of Commerce estimate the domestic production of fuel oil, coal, propane, and natural gas quarterly, in the case of emergencies or shortages. He would then determine those amounts necessary for domestic consumption in the United States including a reasonable amount for a carryover to build up U.S. stocks and the remainder would be allocated for export to foreign countries.

The Secretary of Commerce then would allocate such exports among countries on a quota system, based upon past exports and such other criteria as are necessary to produce a fair and equitable quota.

Based upon what is available for export, the Secretary would set up a system for the sale of export licenses through an auction system. Licenses would be sold to the highest responsible bidders with special exceptions for the developing countries. The fees collected would be used to set up a trust fund for the research and development of present and new sources of energy.

The Secretary would be able to lift this licensing system on any of the above energy fuels that he determines is produced in sufficient quantities to meet both U.S. demand and normal world requirements from the United States, without any quota system.

Exception to this quota system is any shipment of these energy fuels for temporary export for processing abroad and reshipment back to the United States. This is necessary because some high sulfur content fuel oil is sent abroad to be mixed with less polluting low sulfur oil and then shipped back to the United States.

CONCLUSION

In a time of nationwide emergency, we cannot countenance the export of these vital and essential energy resources. Without legislation these exports could increase. Their absolute amounts may not be gigantic, but they are in dire need in this country and should be utilized here in keeping our factories and schools in operation and our homes heated.

Mr. President, I ask unanimous consent that my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Export Conrtol Act of 1973".

DEFINITIONS

Sec. 2. As used in this Act—

(1) "Secretary" means the Secretary of Commerce; and

(2) "energy producing commodity" means coal, fuel oil number 2, propane gas, and methane gas.

DETERMINATION OF QUALITY

Sec. 3. (a) At least quarterly during any period of nationwide energy emergency, and at least annually during any other period, the Secretary shall determine the quantity of each energy producing commodity, if any, that will be available for export during the succeeding quarter or year, as the case may be, and shall cause such determination to be published in the Federal Register.

(b) Such determination shall be made by estimating the total quantity of domestic production of each energy producing commodity and subtracting from each such quantity the sum of—

(1) the quantity of each such commodity the Secretary estimates will be necessary to meet domestic needs; and

(2) the quantity of each such commodity the Secretary estimates will be necessary for a reasonable carryover, taking into account any current or possible future national and international emergencies and the need to maintain adequate inventories.

The quantity of any such commodity which remains, if any, shall be the quantity available for export.

LICENSING AND ALLOCATION OF EXPORT AUTHORITY

Sec. 4. (a) No energy producing commodity may be exported to any foreign country unless the exporter has been issued a license by the Secretary for the export of a quantity of such commodity to such country, or unless such export is exempt under the provisions of section 7 or section 8(3).

(b) The quantity of any commodity available for export shall be allocated among foreign countries by the Secretary on the basis of—

(1) the quantity of such commodity exported to such country during a representative base period; and

(2) such other factors as the Secretary determines to be fair, equitable, and sufficient to protect the interests of traditional trading partners of the United States.

ISSUANCE OF LICENSES

Sec. 5. (a) Upon establishing allocations under section 4, the Secretary shall publicly announce such allocations, and shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodities to specified countries.

(b) Licenses shall be issued under this section to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among the bidders.

ADMINISTRATIVE ADJUSTMENTS

Sec. 6. The Secretary may make adjustments in quantities determined under section 3 and of allocations determined under section 4 if he determines on the basis of new information that original determinations were erroneous.

EXEMPTIONS

Sec. 7. (a) The Secretary may exempt from payment of any license fee an export which he determines involves—

(1) the export of an energy producing commodity to a developing foreign country with a serious need for such commodity; and

(2) such action would be in the best interests of the foreign relations of the United States and would not have an adverse effect on the energy needs of the United States and the program provided for under this Act.

(b) The Secretary may exempt from the application of this Act or any requirement under this Act the export of any energy producing commodity which he determines—

(1) involves a temporary export for processing purposes to a foreign country and will result in a subsequent import of such commodity to the United States; or

(2) such export will be offset by a subsequent import of another energy producing commodity or other matter essential to the energy needs of the United States.

ADMINISTRATION

Sec. 8. The Secretary is authorized to issue such rules and regulations as may be necessary including rules and regulations—

(1) providing for the reduction, suspension, or termination of the allocation of any commodity made under this Act to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this Act;

(2) limiting or prohibiting the sale or transfers after issuance of export licenses issued under this Act if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this Act; and

(3) exempting from application of this Act any commodity the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

USE OF FUNDS

Sec. 9. Fees received by the Secretary under section 5 shall be deposited in a special account in the Treasury and shall be available without fiscal year limitation for the purpose of conducting research with respect to the more efficient use of existing energy sources and the development of new energy sources.

Mr. HARTKE. Mr. President, in the energy crisis that has gripped the industrial potential of our country, little attention has been given to coal. It has been accepted as an almost unlimited source of energy. In my legislation I ask that the export of this so-called plentiful commodity be put under surveillance and that controls be applied where necessary.

A close examination of the coal industry indicates unequivocally that we are headed for a shortage of this energy commodity as well. Production this year is expected to fall 5 million tons short of last year's 595 million tons, but consumption is expected to rise 6 percent to 609 million tons. The difference will have to come from rapidly dwindling stockpiles.

Coal operators and brokers have indicated that a shortage may already exist for this winter and spring.

A larger and more significant question looms. Will the coal industry be able to triple its production to the 1.5 billion tons that energy analysts say the country will need annually by 1985 to supply proposed coal gasification and liquefaction plants and to meet the Nation's growing electricity needs? My proposed legislation would help answer this question.

I am submitting for the Record an article which appeared in today's, November 21, Wall Street Journal by Bob Arnold which sets out some of the more salient issues involved in the production of coal. The coal industry is plagued with problems which will not be solved easily, as indicated in this article.

I should point out that I do not necessarily agree with the antilabor bent of the author. I also disagree with him on the consequences of the Federal Coal Mine Health and Safety Act of 1969, which I feel is absolutely essential legislation needed for the protection of mine workers who risk their lives daily when they go down into the deep mines to bring out their now very precious energy resources.

Mr. President, any time lost in repairing a faulty ventilation system, moving high voltage cables or making roof supports in mining areas more safe for the miners is time well spent as far as I am concerned.

In spite of this divergence of opinion between Mr. Arnold and myself on these issues, I believe the article will help to explain to my colleagues the problems within the coal industry and the possibility of shortages in the near future.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

No Easy Out: Coal Industry's Woes Becloud "Best Answer" to the Energy Crisis—They Involve Labor, Safety, Pollution and Inefficiency; Can Output Triple by 1985? "Still the Pick and the Shovel"

(By Bob Arnold)

HERNDON, W. VA.—Beneath the rocky slopes of Appalachia, the stubbly hills of southern Illinois and the mesas of the West lie what many believe to be the best, perhaps the only, answer to the nation's energy crisis—at least 300 billion tons of recoverable coal.

But, at the moment, it seems far from certain that enough coal can be brought to the surface each year to fulfill that promise.

Consider the problems faced by Fred Hill, superintendent of Eastern Associated Coal Corp.'s Keystone No. 2 mine here. On an average day, one in five of his 560 workers is absent or injured. Through September, he had lost 8,488 man-days—equal to more than three weeks' production—to wildcat strikes. His mine's productivity has plummeted to between six and seven tons per man per day from a high of 11 in 1969, and output so far this year is down 32%. Keystone No. 2 has incurred a loss of about $700,000 since the first of the year.

LAWS AND INEFFICIENCY

Talks with coal-company executives and officials of the U.S. Bureau of Mines indicate that Mr. Hill's problems are typical of the industry's—especially in underground mines, where two-thirds of the nation's coal miners work. Because of ever-tightening federal health and safety rules, rampant wildcat strikes that the industry calculates will cost it 540,000 man-days this year, inefficient company management and stagnant technology, the industry's productivity, or output per man-day, has dropped 17% since 1969. Underground, where 52% of the nation's coal was mined last year, productivity has dropped about 25%.

One result, industry observers have said, is that the country may already face a coal crisis. Production this year is expected to fall five million tons short of last year's 595 million tons, but consumption is expected to rise 6%, to 609 million tons. (The difference will come from dwindling stockpiles.) Coal operators and brokers say a shortage may already exist for this winter and spring.

Perhaps more important, it is an open question whether the industry will be able to triple its production to the 1.5 billion tons that energy analysts say the country will need annually by 1985 to supply proposed coal gasification and liquefaction plants and to meet the nation's growing electricity needs. Bureau of Mines officials say that new safety rules yet to be implemented could cut underground productivity by as much as another 10%. And while energy analysts believe that any stepped-up coal production will have to rely heavily on strip mining, industry executives say a tough federal strip-mine bill expected to be passed by Congress early next session could substantially slow development of surface mines.

SULPHUR AND STACKS

Moreover, current and proposed air-pollution laws clamp strict limits on sulfur emissions from coal-burning electric utilities. But machinery to remove sulphur from smokestack gases won't be available on a wide scale for perhaps three to five years. The impact of this, says John Corcoran, president of Consolidation Coal Co., is that virtually all of his company's production east of the Mississippi—46 million tons last year—could be "outlawed" by 1977.

Those problems—combined with price controls, which governed even long-term contracts until early this fall—have depressed earnings to the point where few companies are willing, or able, to risk expansion. (Most operations are divisions of other companies, so profit-and-loss figures aren't reported, but bankers and industry sources say that with few exceptions coal companies are teetering between profit and loss). Openings of underground mines in the predominantly high-sulphur seams of the Eastern and Midwestern coal fields have slowed to a trickle.

"We're heading toward a shortage and we're not making the moves that will keep us from being in a deep hole 10 to 15 years from now," warns William N. Poundstone, executive vice president of Consolidation Coal. But if the future is problematic, the present is clear: The industry has myriad problems that aren't going to be solved easily.

LABOR'S ALLEGIANCE

The most obvious and least predictable among them is labor. Company officials complain that they are steadily losing control over their employes and that for the most part miners today feel allegiance only to their union. "We don't have the power to make them work" says Keystone No. 2's Mr. Hill. Coal companies, he adds, "need to instill pride in the men, and we aren't doing it yet."

A major handicap, many observers agree, is the miner's style of life, especially in West Virginia. "He likes hunting and fishing. He lives very practically—doesn't want a big, fancy house. He can afford to miss a day now and then and still live in the style he wants" on union wages ranging between $42 and $50 a day, says John Higgins, Eastern Associated's vice president for production.

Moreover, "a few years in the mines has its effects physically," says Louis Antal, president of United Mine Workers District 5. "Some days you just don't feel like going underground." Whatever the causes, industry absentee rates are estimated at 10% to 15%, with resulting annual production losses of several million tons.

Turnover is similarly high. No estimates exist for the industry, but at Keystone No. 2, about 570 men, a number equal to the entire work force, have been replaced in the last four years. This is especially significant because underground miners work in seven-man teams called section crews. The longer a crew works together, the greater its efficiency.

In some cases, turnover can be attributed to such human desires as a wish to work in a newer, safer mine or in a mine closer to home that may offer a chance to work days instead of nights. Be that as it may, mine operators say the fact that a miner's pension is set by the length of his union membership, rather than by the length of his company service, doesn't help in maintaining a stable work force.

The most vexing labor problem, however, is wildcat strikes, which will cost the industry between seven million and 10 million tons of production this year. This has especially been a problem in West Virginia. Through the first seven months of this year, the state, which produces about a third of the nation's deep-mined coal, has accounted for 57% of the industry's wildcat strikes.

"They'll go on strike just about any time," says Keystone No. 2's Fred Hill. Last month, for instance, pickets from the mine union's welfare and retirement fund, who were striking against the union, showed up at Keystone No. 2 and Mr. Hill's miners walked out for one shift in sympathy.

Of course, miners also walk out for much more serious reasons. After a fellow miner is injured or killed, they frequently strike to protest against unsafe working conditions or against a foreman who they feel contributed to the accident.

A GENERATION GAP

There are other, more subtle production impediments from a labor standpoint. During the late 50s and early 60s, mechanization and sagging coal demand combined to interrupt the flow of new workers into the industry. Employment has since picked up, but many operators say the resulting generation gap has brought with it tensions between young and old miners and slowed the transfer of knowledge necessary to maintain peak productivity. And traditionally, middle-aged miners have been the industry's most productive workers.

But if labor difficulties hamper output, so does anemic company management. For instance the rail sidings at Keystone No. 2, where loaded cars are put until a motor is free to pull them to the surface, were designed to accommodate only five cars, fewer than half the number modern motors can pull. And the sidings are so cramped that a fully loaded car can't squeeze under the mine's roof.

A faded schedule on Mr. Hill's wall reveals that maintenance on some machinery at Keystone No. 2 is behind schedule. As a result, his miners say, at least some equipment is operating less efficiently than it should. Furthermore, the cars in which the men ride into the mine are kept outside—uncovered. When it rains, the miners must ride two or more miles to their underground stations with their feet in water. It is a situation that could easily provoke a wildcat strike, Mr. Hill feels, and one that he plans to remedy.

Also contributing to the industry's troubles are the indirect effects of the federal Coal Mine Health and Safety Act of 1969. Although regulations passed under it have helped to sharply reduce mine deaths, they have also taken a heavy toll in productivity.

NUMBERS IN SAFETY

Today a superintendent can't make a change in his mine-ventilation system, move a high-voltage cable or begin installing roof supports in mining areas without prior federal approval. The law also provides for periodic inspections that can result in time-consuming repair work. For example, Mr. Hill displays a three-inch stack of violations—104 in all—from one recent inspection of Keystone No. 2's electrical system.

While even the most crusty mine operators concede that the law has resulted in safer operations, they complain about the paperwork the law requires and the time the superintendent must spend escorting inspectors around the mines. U.S. Steel Corp. estimates that its superintendents and foremen spent 4,000 man-hours last year guiding inspectors—and its mines are recognized by the Bureau of Mines as among the safest in the industry.

Another industry complaint: The need for expert inspectors under the health and safety act has siphoned off a number of its experienced foremen and superintendents at a time when the industry badly needs additional managerial talent. Consolidation Coal says it has lost 600 foremen to the ranks of federal inspectors.

There are a few glimmers of optimism in the industry: Price controls on long-term contracts were lifted this fall: energy analysts say that if the strip-mine law Congress approves turns out to be less restrictive than the bill the Senate has already passed, surface mining could boost production quickly and significantly; Arnold Miller, the new president of the mine union, is willing to meet with operators in an attempt to smooth relations at problem mines; and Eastern Associated, which owns Keystone No. 2, is giving foremen week-long courses in what it calls "labor relations, work planning and how to handle people."

STRESS ON TECHNOLOGY

There is also a new, albeit still minimal, emphasis on technology. Sophisticated machines currently in use underground can chew coal out of the earth at 600 tons an hour. But the companies tasks of keeping the roof from falling and of hauling coal away from the automatic miners are so time-consuming that 600 tons is an entire section crew's production for an eight-hour shift—under perfect conditions.

"In effect, we're still mining with a pick and shovel," says Consolidation's Mr. Corcoran. "We've improved both the pick and the shovel," but the method remains the same.

Consolidation spends between $2 million and $3 million a year on research in mining technology, a figure Mr. Corcoran says is equal to that spent by the rest of the industry. The federal government, which increasingly is looking toward coal as an important energy source, has allocated $7 million for mining technology for 1974 (the funds haven't been released yet). And the recommendations for a five-year, $10 billion energy program that are scheduled to be submitted to President Nixon on Dec. 1 by Dixy Lee Ray, the chairman of the Atomic Energy Commission, who is coordinating several presidential task forces on energy, are expected to include $25 million to $50 million a year for coal-mining technology.

Even at that rate, however, industry experts say it will be at least five years before new technology will increase coal-mining productivity.

ADDITIONAL COSPONSOR OF A BILL

S. 2730

At the request of Mr. MANSFIELD (for Mr. EAGLETON), the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2730, a bill to extend for 3 years the District of Columbia Medical and Dental Manpower Act of 1970.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 205

At the request of Mr. Moss, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of Senate Resolution 205, to designate a room in the Capitol the Alben W. Barkley Room.

AMENDMENT OF SOCIAL SECURITY ACT—AMENDMENT

AMENDMENT NO. 701

(Ordered to be printed and referred to the Committee on Finance.)

Mr. ROBERT C. BYRD (for Mr. CHURCH) submitted an amendment intended to be proposed by Mr. CHURCH to the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

COMPENSATION OF THE ATTORNEY GENERAL—AMENDMENT

AMENDMENT NO. 702

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to the bill (S. 2673) to insure that the compensation and other emoluments attached to the office of Attorney General are those which were in effect on January 1, 1969.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, November 28, 1973, at 10:30 a.m., in room 2228 Dirksen Office Building, on the following nominations:

William C. Conner, of New York, to be U.S. district judge, southern district of New York, vice Edmund L. Palmieri, retired.

Richard Owen, of New York, to be U.S. district judge, southern district of New York, vice Edward C. McLean, deceased.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

INFLATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Inflation, With All Cards Wild," written by Walter W. Heller, and published in today's Wall Street Journal.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 21, 1973]

INFLATION, WITH ALL CARDS WILD

(By Walter W. Heller)

The closer one looks, the worse it looks. The shadow cast by the oil crunch is darkening the inflation outlook for 1974. Oil is just the latest—and perhaps the most treacherous—of the villains in the drama of inflation forecasts gone wrong.

Time was when inflation forecasting was relatively straightforward: Project demand conditions and unit labor costs, make marginal adjustments for unusual developments in food or other commodity prices, and crank out the answer. Except for wars, tolerably good inflation forecasts resulted.

But the '70s have been a period of rude awakening for inflation forecasters. Defying economic slowdown and slack in 1969–71, inflation took off in a self-propelling spiral. Price forecasts had to make room for the forces of the wage-wage spiral and of self-fulfilling expectations. Beginning in 1971, the twists and turns of wage-price controls added another dimension of uncertainty.

But it is 1973 that will go down as the year of infamy in price forecasting. Never have so many been so wrong by so much. Prices have raced ahead at twice the consensus forecast rate of 3½ to 4% inflation. Surprises have been legion.

Within ten days after the year began, the sudden dropping of Phase 2 controls in favor of the ineffectual voluntarism of Phase 3 knocked out an important prop of the moderate-inflation forecast.

Next, the food price explosion took us unawares. While few forecasters accepted White House statements that food prices would be lower at the end of the year than at the beginning, none expected a 25% leap.

Powered by a world-wide economic boom, the run-up in world commodity prices went beyond all expectations. The Reuter's Commodity Index doubled within a year.

Unforeseen dollar devaluations boosted import prices and contributed to shortages by stimulating exports.

Indexes of industrial capacity (now revised) turned out to be deceptive. Demand-pull was upon us faster than we figured. (In a lonely but welcome compensating error, cost-push was muted by remarkable wage moderation.)

The oil crisis, a late starter among the perils of price forecasting this year, is making up for lost time.

Conditioned by the turbulent experience of the past four years, the forecaster now goes well beyond the traditional demand-pull and labor-cost-push analysis to consider such factors as the state of expectations, the outlook for controls, the course of farm prices, the condition of world commodity markets and the oil crunch. What are the portents for 1974?

DEMAND PULL

Under the impact of restrictive monetary and fiscal policy, excess demand is ebbing. In measuring demand pressure, we have traditionally emphasized the degree of tightness of the labor market. This time around, limited plant capacity and materials shortages have loomed much larger and look considerably more stubborn. Some will evaporate as the boom subsides. But retarded expansion of industrial capacity in the past few years, short supplies of some primary products and the energy crisis will plague us with more bottlenecks and their associated pockets of inflation than is usual in a softening economy.

LABOR COST-PUSH

As output gains recede and the rising cost of living is increasingly reflected in wages, the good performance of unit labor costs in 1971–73 will progressively erode. That the turn is already underway is suggested by the course of pay, productivity, and cost figures in the first three quarters of this year compared with the corresponding quarter a year earlier:

The rise in compensation per man-hour has been steadily edging upward, from 7.3% in the first, to 7.4% in the second, and 7.7% in the third quarter.

Productivity advances in the meanwhile have receded from 5.3% to 3.6% to 2.7% in the first three quarters.

This combination has pushed the rise in unit labor costs from 1.9% in the first quarter to 3.6% in the second and 4.8% in the third.

With such steady advances occurring in a year of wage moderation, it's hardly surprising that the prospects of rising labor militancy and dwindling wage-price controls lead to apprehensions about 1974. If, in addition, the energy shortage superimposes sizable cutbacks in production on an already softening economy—as it seems destined to do—output per man-hour will falter, and unit labor costs will rise sharply. Part of this will impact on profits, but much of it will appear as cost-push inflation.

Will rising prices and rising costs chase each other up the spiral staircase of inflation as they did in 1969–70? As John O'Riley reminded us in "The Outlook" Monday, first-year wage-and-fringe increases in negotiated labor settlements exploded from 9% in the first quarter of 1969 to 16% in mid-1970.

Nothing this drastic seems in store for us in 1974. Neither the price-wage nor the wage-wage catch-up pressure is as intense as in 1969–70. And the new look in steel-aluminum-cans bargaining is on the side of moderation.

To be sure, labor will be a lot tougher in 1974 than in 1973. And cost-of-living escalators will fatten the recorded settlements. But starting from last quarter's averages of 7.8% for first-year increases and 6.4% per year over the life of the contracts, wage escalation has a long way to go before its role in inflation shifts from erosion to explosion.

EXPECTATIONS AND CONTROLS

In part, this conclusion depends on avoiding bad turns in the state of price expectation and the management of Phase 4 and its aftermath. If people have little hope that prices will ebb, they will project the prevailing rate of inflation into the future and strike their wage and price bargains at terms that protect them accordingly. That's how price-wage spirals are born. In the remaining months of its life, Phase 4 has the difficult task of de-escalating not only price rises but price expectations and then giving way to a wage-price monitoring system that will help curb the post-controls flare-up in prices. Failure would invite a new self-propelling wage-price spiral.

FOOD PRICES

One of the brightest spots on the 1974 inflation horizon is the prospect of a drastic slowdown in food prices, a development that will curb the rise in price indexes and shorten the price peg on which labor, understandably, hangs its bargaining hat. After the 25% jump in food prices during 1973, prices will be high. But with reasonable luck in next year's growing and harvesting weather, a further rise of as little as 5% from December to December looks like a good bet.

After the disaster of 1972 when world grain output dropped for the first time in a decade, farm output is back on the growth track in 1973. Both the U.S. and Russia are having very good crop years. Farm and wholesale food prices are about 10% below their August peaks. Lower and less volatile grain prices are creating a more viable environment for expansion of broiler, hog, and cattle production.

As to processed foods, one major processor reports that net increases in raw material prices have been digested and that unabsorbed labor and transportation costs will add only 2% or 3% to final product prices. "In a growing number of cases, it's competition, not Phase 4, that's holding our prices in line."

According to the estimates of John Schnittker, the world will need to add 30 million tons to its grain output in 1974 to meet the average increase in demand. With the aid of extended acreage and the incentive of high prices, farmers are likely to meet this target, weather willing. But one should never leave the subject of farm prices without the caveat that, with demand up sharply and stockpiles down to wafer-thin levels, the world food situation is still close to the razor's edge.

OTHER COMMODITY PRICES

Echoes of the world's commodity price explosion in 1973 will still be heard in 1974, especially in the first half. Leaving aside oil for the moment, one finds that world spot prices of primary products rose nearly 30% in the first half of 1973 and, even with some easing in the current quarter, will have risen another 20% in the second half. As the worldwide economic boom subsides, spot prices should drop perhaps 15% to 20% during the coming year.

Actual transactions prices are not only much less volatile but lag well behind the spot price changes. Thus, even when spot prices recede, average import values of primary commodities will continue to rise for a time:

—In 1973, their rise was on the order of 15% in the first and 12% in the second half.

—In the offing for 1974 is a delayed-action rise of at least another 5% the first half before leveling off in the second.

Even with some price increases still in the pipeline, the easing of price pressures of primary products, excluding oil, will have a moderating influence on the rate of inflation in 1974.

THE OIL CRUNCH

The more deeply one probes the dark recesses of the oil and energy problems, the plainer it is that there are nothing but hard ways out. Even if King Faisal relents in a few weeks or months, the supply crunch, and especially the price crunch, won't.

Caught with its guard down, the White House is only now—through Governor Love—owning up to the severity of the energy shortage even aside from the Arabian embargo and the gravity of that crisis if the embargo continues. The oil sheik-down, coming on top of the rising cost of short supplies of U.S. energy, seriously imperils the 1974 inflation outlook. We need not wait for computer printouts to recognize the grim contours of the problem:

Even before the sheiks posted their huge price increases and choked off supplies in October, the price index of "fuels and related products and power," representing 7% of the U.S. Wholesale Price Index, had risen 20% from September 1972 to September 1973. (Refined petroleum products rose 35%.)

Given leaping crude oil prices and the tightening energy noose, a further price rise of 30% to 40% in the fuels category between September 1973 and September 1974 seems a reasonable conjecture.

Since perhaps half of this price rise will pass through to the consumer level and since fuel and related items comprise about 6% of the CPI, one arrives at a rough approximation of a one percentage point increase in the cost of living in 1974 from the direct effects of the oil and energy crisis. Secondary effects, especially through shortages in key petrochemicals and plastics where inelastic demand can send prices zooming, could materially enlarge this impact.

Finally, much depends on whether the White House follows its nose and depends largely on higher prices and taxes to allocate energy or holds its nose and resorts mainly to government controls and rationing. In the short term, the former approach would lead to considerably greater price rises.

The foregoing exercise leads to a forecast, excluding oil, of a 5% to 6% rate of increase in living costs in the first half, and 4% to 5% in the second half, of 1974 (with a somewhat slower rise in the GNP deflator). The energy shortage will add a percentage point or more to these numbers. But with so many unknowns still clouding the price picture, all forecasts of 1974 inflation, including this one, should be taken for what they are at the moment: subject to change without notice.

GOOD NEWS

Mr. HUGH SCOTT. Mr. President, there is some good news to be found despite some of the headlines to the contrary.

The Philadelphia Inquirer has taken note of this in an editorial of November 19. I agree, and as the editorial says, "there'll be more later."

I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WANT GOOD NEWS? RIGHT HERE

Readers ask us from time to time why we don't print more good news. All right, by popular demand, here's some good news.

About energy. It may take you a little longer to get there if you slow down to 50, but you're more likely to get there in one piece. The National Safety Council says a driver's chances of survival in an accident are four times better at 50 than at 70. And this is especially important in Pennsylvania, since the potholes are getting deeper and wider because the legislature has argued all year on how to pay for repairs.

About Watergate. Consider the great boost it's given to employment—of lawyers (but most of them, ironically, Democrats who won spurs in the Justice Department under Robert F. Kennedy).

About unemployment. The rate is down to 4.5 percent. Also, hourly compensation in the private sector is up 8 percent. Unfortunately, real income this year is down due to inflation.

About inflation. World output of wheat is soaring, and the price is coming down. Sorry to add, though, that the farmer gets only one cent out of seven in the price of bread. And what with the energy shortage, prices of other factors involved from farm to table—production and distribution—are likely to keep rising.

Well, that's our good news for today. But stay tuned—there'll be more later.

CARPOOLS—THE UNDERUTILIZED MODE

Mr. HUMPHREY. Mr. President, Monday the Senate passed my carpool promotion amendment to S. 2589. I believe that the program called for will substantially reduce gasoline consumption, environmental pollution and transportation congestion. It should be insisted upon by our conferees and implemented as rapidly as possible.

The importance of the car pool in meeting our gasoline scarcity problem is fully discussed by Mr. Lew Pratsch, an expert on carpooling, in an article soon to be published in Civil Engineering magazine. Civil Engineering and Mr. Pratsch have kindly consented to making this article available to the Congress at this time.

I ask unanimous consent that "Carpools—The Underutilized Mode" by Lew Pratsch be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARPOOLS—THE UNDERUTILIZED MODE

(By Lew Pratsch)

AUGUST 1973.

The President's June 29, 1973, energy statement stated various ways to conserve energy resources. Among the approaches to save transportation fuels the President suggested, "Use carpools and mass transit more frequently." Likewise, carpooling figures prominently in the Environmental Protection Agency's (EPA) proposed strategies to meet the 1975 air quality standards set forth in the 1970 Clean Air Act. EPA's strategies include motor vehicle limitations in 28 urban areas.

Faced with mounting pressures to limit inefficient automobile use, new approaches are underway to alleviate urban congestion. The thrust is twofold: (1) to move more vehicles per highway lane and, (2) to increase the occupancy of highway vehicles. With the greatest disparity between demand and capacity occurring during the commuter rush hour, typically, less than 2 or 3 hours per day, it is natural to focus considerable attention on this time period. At this time, the public's preference for one mode—the single occupant automobile—creates a disproportionately higher share of the social disadvantages attributed to the automobile. This is largely due to the fact that the automobile is greatly underutilized. At the present national average of 1.4 persons per car for work trips over two thirds of the automobile seats are unused.

Key advantage: Impact of increased carpool use can be immediate

Frank Turner, recently retired Federal Highway Administrator stated late in 1972: "In all but a handful of cities the only practical solution to this problem is to divert commuters from private autos to higher capacity vehicles, namely buses and carpools, and thereby, increase the people-moving capacity of our urban highways. And this is the only solution that can be applied in the immediate future—in a matter of a year or so."

Commuter carpooling offers the strongest and and most feasible tool available to cut the vehicle miles of travel (VMT) in the short time frame so critical to both energy and air pollution reduction programs. Already more passengers are carried in carpools than all other forms of mass transportation combined. By raising the auto occupancy 30 percent from the current 1.6[1] to 2.1 the commuter VMT can be reduced 22 percent. A 30 percent increase is believed to be a realistic goal, considering that all successful carpools programs have exceeded this goal. It is important to recognize that carpooling requires communication and cooperation, but no additional equipment. Unlike most other alternatives, carpooling can be implemented within a matter of weeks and with no significant capital expenditures.

Assimilating this same 22 percent reduction in auto trips by 1975 will be difficult for transit systems already operating at near capacity levels at rush hour. Significant additions to capacity would require added equipment, next to impossible to obtain in a few years. For instance, in the Washington, D.C., metropolitan area where 80 percent of work trips are traveled in the auto, the bus fleet would have to be doubled. This one urban area alone would require over half of the nation's bus production for one year, not to speak of other urban area needs.

Relieving highway congestion—extremely critical

The benefits of reducing or eliminating rush hour congestion (many authorities question whether congestion can be eliminated) far exceeds the proportionate reduction in urban VMT traveled at this time. Relatively minor reductions in VMT during congested traffic flow can yield significant increases in average speeds. The sensitivity of speed to travel demand is greatest during congested periods when over 0.8 of the capacity (level of service D & E) is being utilized. When highways are most congested, relatively small decreases in overall demand can yield proportionally larger increases in overall travel speeds.

Another benefit of higher average speeds on a given facility is the reduced probability of frequent or major speed changes. Speed changes, whether a moderate deceleration-acceleration cycle or a complete stop-idle-start cycle, adds significantly to energy consumption and emission production. While improved traffic controls can aid in eliminating the speed variations allowing the automobile to travel at efficient steady state speeds, concern has been expressed that merely creating better travel conditions will encourage more travel. As a result, both traffic control improvements and efforts to reduce vehicular demand should proceed simultaneously.

EMISSION REDUCING POTENTIAL

Urbanwide carpool programs implementable by 1975—the year which clean air standards must be met unless granted an extension by the EPA—can produce reductions in emissions far exceeding the absolute reduction in vehicle miles of travel. This potential arises from a combination of factors including emission timing, less highway congestion, and fewer engine starts.

The EPA has established that the hydrocarbon production between 6 and 9 a.m. had the most critical effect on daily, ambient, oxidant pollution concentrations. This emission time is critical to air quality because the most significant impact of hydrocarbons is its role in the photochemical process that generates smog. Essentially hydrocarbons must be airborne within this time frame according to the EPA to create peak level photochemical oxidants or smog. During this critical time period, vehicle travel for work purposes accounts for approximately 85 percent of the total. Any major decrease in vehicular travel is not likely to be supplanted by travel increases for other purposes due to the earliness of the morning rush hours. As a result, the most pollution critical portion of the day for hydrocarbons coincides with the period in which carpooling would be most effective.

The relationship between speed and emission rate per vehicle mile for carbon monoxide and hydrocarbons is similar. A relatively small increase in overall travel speed resulting from reduced congestion can effect a proportionately higher decrease in emissions per vehicle mile of travel.

A case in point is Washington, D.C., where in 1972, the Metropolitan Washington Council of Governments reported 35 percent of total peak hour travel was on congested arterial streets operating below 15 miles per hour.

If a comprehensive vehicle-pooling program reduced arterial vehicle travel 20%, average arterial speeds could jump to 27 miles per hour for an 80 percent increase. This increase would result in a 40 percent drop in CO emissions, from 85 to 51 grams/vehicle mile. As a result, a decrease of only 20 percent in travel on congested arterials would result in a 52 percent drop in CO emissions. While this drop in CO emissions will be most effective in critical CBD locations it may not be representative of an entire highway network.

Preliminary data have shown that the emissions generated during a cold-start/hot-soak cycle represent a large and increasing portion of total emissions from pollution controlled automobiles. Cold-start/hot-soak cycles, essentially the first few minutes of vehicle operation and the period after a hot engine is stopped, will account for an increasing portion of emissions as advanced control devices limit emissions under average, over-the-road, running conditions. Pollution control strategies which envision increased transit usage through the development of "park-ride" and "kiss-ride" facilities would only decrease the over-the-road duration of trips where emissions from controlled vehicles are already the lowest, leaving the large volume of cold-start/hot-soak emissions intact. Vehicle pooling is not subject to this limitation because by eliminating large numbers of vehicle trips, both over-the-road vehicle travel miles *and* the number of cold-start/hot-soak cycles would be reduced.

ENERGY CONSERVATION

Clearly reductions in VMT will result in reduced levels of congestion allowing traffic to flow more freely and efficiently. As in the case of emissions smoother flowing traffic conserves energy since the steady state speeds are more economical than varying speeds or average speeds.

Steady state or uniform speeds of 30 m.p.h. are the most economical on fuel consumption while steady state speeds of 15 m.p.h. or 52 m.p.h. consume 19 percent more fuel according to Robley Winfrey's Economic Analysis For Highways. The optimum steady state speed for some highway vehicles may reach as high as 40 or 50 m.p.h. In addition, fuel consumption increases dramatically when stops or speed changes break up steady state speeds. For example, just one stop-start cycle requires 19 percent more fuel per mile than a steady state driving speed of 30 m.p.h. The 19 percent added fuel consumption does not include idling time frequently associated with stop-start cycles. Idling requires approximately one gallon fuel for every 20 minutes of idling using best data available. A generalization on fuel consumption versus traveltime can be so stated: A 50 percent increase in driving time on a given highway results in a 100 percent increase in fuel consumption. Unfortunately, a distinct understanding of fuel consumption during congested travel is not available to compare with non-congested flow.

While the single occupant automobile is quite inefficient, carpooling is quite respectable. Adding 2 or 3 more people with similar time-origin-destination needs dramatically reduces the energy consumed per passenger mile.

For the Nation as a whole, the transit buses are estimated to produce only 6 passenger miles per bus mile traveled. This low rate is due primarily to extensive deadheading and the low occupancy of off-peak travel. Throughout the day, buses at 4 miles per gallon are equivalent to the average automobile carrying 1.6 persons at 15 miles per gallon.

Evaluating the energy consumption per person mile of travel at peak periods, the carpool is competitive with the commuter bus. Using the ideal situation, which neither mode currently attains, the bus including deadheading and carrying 20 passengers per mile is estimated to be equivalent to an automobile with five persons.

Also, carpools compare favorably to fixed rail. Considering all energy requirements, the Bay Area Rapid Transit System (BART) says it will be four times as energy efficient as the automobile carrying 1.3 occupants. As the automobile occupancy increases, the energy differential will close. Needless to say, BART's claims are contingent upon achieving its predicted ridership. Empty trains could be the most energy wasteful of all.

While many approaches to conserve fuel have been discussed, carpooling appears to have the greatest potential. Increasing the auto occupancy 30 percent at rush hour can save 5 percent of the total highway fuel consumed and 3 percent of the Nation's total transportation fuel needs. The 5 percent savings are based on the percentage reduction in VMT and does not include the benefits of reduced congestion as outlined previously. It is estimated that carpooling can accomplish a significant reduction in fuel consumption at less inconvenience or loss of traveltime than other approaches. Let's compare:

Little progress in attaining a 50 mph speed limit is expected short of Congressional action. It will require change of signs, strict enforcement, and lost traveltime while creating economic hardship on the trucking industry. A reasonable expectation of the 50 mph speed limit goal is a savings of 2.5 percent of the highway users fuel needs.

Shifting 10 percent of the auto trip mileage to the walk or bicycle modes would save 7.1 percent of highway fuel. This would be equivalent to each person in the United States walking or bicycling an additional 1.5 miles per day. This is quite a goal when considering the average person walks far less than that today.

A similar shift of 10 percent of the auto mileage to buses would save an estimated 3.5 percent of highway fuel. This would require a 100 percent increase in bus patronage, if the buses were available.

The same 10 percent shift to motorcycles averaging 75 miles per gallon would save 4.5 percent of highway fuels. However, aside from the inconvenience of inclement weather in much of the Nation and the safety record of motorcycles, the Environmental Protection Agency has placed stringent limitations on motorcycle use due to their emission rates. In the Environmental Protection Agency plans for transportation controls for the Los Angeles area, motorcycle registrations are held at 1973 levels on the grounds that the technology for controlling motorcycle emissions is currently lacking. Starting May 1974, two stroke motorcycles, "the worst polluters" would be totally barred during "smog prone daylight hours."

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[1] The 1.6 is based on passenger miles per vehicle mile whereas the 1.4 represents the occupants per trip. This difference results from increased carpooling on longer trips.

Increasing average fuel consumption rates from 13.6 miles per gallon to 15 miles per gallon for 10 percent fuel savings can be accomplished in essentially two ways. One would be an improvement in the autos efficiency through more efficient engines such as diesel, smaller cars, or less power accessories. However, the current trend is more gas consumed in light of increased use of anti-pollution devices, air conditioning, and other power options. The second method to increase miles per gallon is to reduce the commuter congestion which may consume as much as 100 percent more gas. A combination of traffic flow improvements and increased carpooling provide a ray of hope for reversing miles per gallon trends.

COMMUTER RIDE SHARING

To obtain widespread user support for ride sharing of any type, solutions which meet commuter needs and desires are paramount. Various successful carpool and buspool programs, studies, and surveys have shown that improved service is the number one factor for encouraging ride sharing. Acceptable service commonly includes door-to-door traveltimes comparable with the best alternative available and convenience at a reasonable cost. When ride sharing has these amenities, the impact has been substantial. Such is the case in special buspool programs which attract growing patronage while carpool programs typically exceed two persons per car.

The Charles River Associates' study, "An Evaluation of Free Transit Service," concluded, "The evidence indicates that transit ridership is more responsive to improvements in service than reductions in fares; and reductions in access times to and from the transit station as well as transfer and waiting times, are likely to be particularly important in this regard." In practice, this statement is well supported. In the Reston, Virginia, area, a chartered buspool program has grown from 1 to 26 bus routes in 5 years. Their riders, surveyed in November 1971, ranked the reduction in traveltime as the number one improvement necessary to expand ridership.

Likewise, progress in carpool programs is attributed to providing the commuter highly personalized service which is both convenient and excellent on traveltimes. The service is typically door-to-door, no transfer, low cost, avoids waiting in inclement weather, provides a guaranteed comfortable seat, requires fewer driving days, and provides service to the handicapped and nondrivers. Frequently, to form convenient carpools, the potential matching universe must extend beyond friends and associates to virtually all employees at a specific location. By enlarging the universe, the probability of locating partners within reasonable proximity is greatly enhanced. To provide optimum carpool locator service, computer programs are recommended for any group exceeding 200 persons.

To date, all successful carpool programs have provisions for carpool matching, thus eliminating the information gap.

In Washington, D.C., the National Aeronautics and Space Administration (NASA), typical of many Government agencies, allocates a limited parking permit to carpools ranking highest on a point system. NASA's continuing well-managed program, initiated in 1964, now commands an average of 3.85 persons per car.

In St. Louis, Missouri, the McDonnell Douglas Corporation promoted carpooling among their 47,000 employees when parking availability became critical. By designating close in parking areas for cars containing three person or more, a short walk to a car can permit a carpooler to "beat the evening rush." Results, 2.8 persons per car double the national rate.

In Pasadena, California, the Burroughs Corporation and Operation Oxygen, a local environmental organization, established a carpool program to assist in the abatement of air pollution and traffic congestion. Backed by Burrough's management, an effective public information campaign was mounted. The carpool program reduced parking demand by 35 percent, from 659 to 427 cars. This program is a notable example of carpools being formed where parking was both free and plentiful, in contrast to priority parking incentives used in most successful programs.

In contrast to successful carpool programs, a much publicized "Share a Ride" day in Los Angeles occurred on October 6, 1971. The public responded with classical indifference. Vehicle occupancy rates were virtually unchanged and three special bus lines carried a total of seven persons. The brief effort could have been enhanced by providing assistance in carpool matching.

To optimize carpool formation a comprehensive carpool program consisting of three phases: carpool matching, public information, and incentives is recommended. To provide carpool locator service, computer programs such as the Federal Highway Administration's computer carpool program are recommended for any group exceeding 200 persons. The sheer volume of compiling lists for each applicant including name, address, work time, destination, and optimal data are required, makes manual matching a challenge. In addition to the initial matching, a continuing service is extremely beneficial in maintaining or increasing the occupancy rates derived from the initial matching effort. Vacancies will still exist in carpools while others will develop quickly due to personnel turnover and changing living patterns. Such changes represent a source of empty seats and require maintenance of a readily available master list to answer inquiries.

Through a public information campaign, the advantages to the individual, employer, and society should become clear. Not only can many commuters be matched with conveniently located travel partners, but amenities frequently superior to driving alone are possible. Some considerations to stress are traveltime, dollar savings, convenience, environment and social interaction.

In combination with the public information phase, special incentives should be provided where feasible. By far the most successful incentive is parking privileges for carpoolers utilizing two techniques: (1) where parking is limited, the parking spaces are allocated to the largest carpools; and (2) where parking is plentiful "close in" priority parking for carpools is designated. By utilizing parking incentives, employers can simultaneously promote carpooling as an employee service while increasing the productivity of the organization's parking facilities.

Highway departments have an incentive to encourage high occupancy vehicular use to demonstrate the highway's flexibility in meeting rush hour demands. Priority freeway lanes for buses and carpools can provide a distinct incentive for ride sharing. By doubling the current 1.4 persons per car, the highway's person moving capacity could clearly eliminate the rush hour congestion—a thorn in the highway builders' and users' back.

It is noteworthy that of the urban public transportation annual revenue passengers between 1960 and 1970 only the taxicab industry increased. It appears that the taxicab industry, because of its typical door-to-door personalized service, has grown because it provides the type of service which is more attractive to the riding public. The 31 percent taxicab growth contrasts dramatically with the 20 percent decline in the other urban public transportation modes. The taxicab industry transported more passengers than all rail mass transit and nearly 60 percent as many passengers as the bus industry. The annual taxi revenues in 1970 exceeded the revenue of the total mass transit, even though they haul less than half as many revenue passengers on shorter trips. In many communities, where bus service has disappeared taxicabs are the only form of public transportation available.

CARPOOL PROGRAM DEVELOPMENT

While pooling represents the single most powerful and feasible tool available to reach our 1975 air quality goals and conserve energy, there is much to learn. The magnitude of occupancy increases certainly will be related to the sophistication of efforts to encourage ride sharing. To truly develop, gauge, and utilize ride sharing potential, various comprehensive carpool-buspool programs including, in addition to carpool matching, public information and effective incentive phases are vital.

Considerable discussion on carpool potential has emerged recently and a number of urbanwide pooling programs are in the planning stages; such is the case in the Washington, D.C., area now planning an urbanwide carpool and buspool locator system in conjunction with meeting clean air goals and conserving fuel. By compiling the successful techniques into a complete working model, the necessary guidance will be at hand.

A comprehensive carpool program is also very inexpensive. The estimated annual benefit/cost ratio of a comprehensive carpool program which increases vehicle occupancy 10 percent is an astounding 47 to 1. With no capital costs required in carpool programs, the only operating cost is estimated at 1.00 per auto commuter. Approximately 20 cents is required for data processing with the remaining funds for overhead, public information and incentives. Although the benefit/cost ratio is astronomical, it is conceivable that the costs will decrease and the benefits of reduced VMT will increase in subsequent years as more commuters join in carpooling. No attempt was made to assign a dollar value to the reduced pollution levels attributed to a 10 percent increase in auto occupancy.

CONCLUSION

The immediate challenge is to provide adequate urban mobility while reducing air pollution and the demand for petroleum fuel. Relatively minor reductions in VMT during rush hour return high potential rewards in lowering automobile emissions and conserving fuel. By combining carpooling with traffic control advances, it is conceivable that the urban rush hour can be delegated to the history books.

Although extensive PRT systems have drawn praise for flexibility which approximates the attributes of the private automobile, they are years away. In the meantime, by increasing the person moving capacity of the highway system through carpools which have proven their ability to serve commuters' desires and needs, an answer is at hand. Certainly any sincere effort to clean the air by 1975 and conserve fuel will demand comprehensive carpool programs.

NATIONAL BANK OF NORTH AMERICA PRESENTED PRESIDENT'S EXPORT "E" AWARD

Mr. BUCKLEY. Mr. President, on October 16, I had the great pleasure of presenting to the National Bank of North America the President's Export "E" Award for its services in support of the Nation's export expansion program. The award, presented in a ceremony at the bank's metropolitan office, consisted of a citation signed by U.S. Secretary of Commerce Frederick B. Dent in the name of President Nixon and a distinctive "E" flag.

The honor recognizes the bank's active roles in providing a full range of international banking services to U.S. companies engaged in export trade and in promoting a greater export awareness among members of the business community, particularly in the Long Island area. As stated by the Commerce Department:

> Through its vigorous efforts to promote and stimulate the growth of international trade and its close cooperation in this endeavor with other local world trade groups, National Bank of North America has contributed in great measure to the Nation's Export Expansion Program.

With an international division staff of approximately 200 people, the bank assists manufacturers and distributors in finding markets and in locating agents and distributors abroad as well as arranging for introduction of clients to foreign banks including its more than 600 correspondent banks.

In cooperation with the Commerce Department and local trade organizations, the bank has initiated a number of promotional activities to acquaint area firms with export opportunities, marketing techniques and related procedures. Among contributions in this area have been the bank's sponsorship of an export seminar series in conjunction with the U.S. Department of Commerce and the Regional Export Expansion Council for more than 7 years.

The bank assisted in the 1968 formation of the World Trade Club of Long Island, an affiliate of the Long Island Association of Commerce and Industry, and has participated in its trade promotion and overseas trade mission activities.

To facilitate further the growth of international trade, the bank has organized a ship loan division which finances the construction and operation of ships for many of the world's leading fleet operators, including U.S. merchant ships being built under the administration's maritime program.

Mr. President, I hope other banks will emulate the National Bank of North America in its effective efforts to stimulate exports. We need not only access to foreign oil. We will have to be able to continue to earn the money through sales abroad with which to pay for it.

DECLARATORY JUDGMENT AND INJUNCTION ACTION ARISING OUT OF DISCHARGE OF ARCHIBALD COX

Mr. MOSS. Mr. President, 2 weeks ago, following the firing of Archibald Cox as special prosecutor, I joined in a lawsuit to have the legality of his dismissal determined.

U.S. District Judge Gerhard A. Gesell has now rendered his decision which speaks for itself.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the District of Columbia—Civil Action No. 1954–73]

MEMORANDUM

Ralph Nader, Senator FRANK E. MOSS, Representative BELLA S. ABZUG, and Representative JEROME R. WALDIE, Plaintiffs, v. Robert H. Bork, Acting Attorney General of the United States, Defendant.

This is a declaratory judgment and injunction action arising out of the discharge of Archibald Cox from the office of Watergate Special Prosecutor. Defendant Robert H. Bork was the Acting Attorney General who discharged Mr. Cox. Plaintiffs named in the Amended Complaint are as listed above.

Some issues have already been decided. The matter first came before the Court on plaintiff's motion for preliminary injunction and a request that the trial of the action on the merits be consolidated with the preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure. Defendant filed opposition papers, and a hearing was held on the detailed affidavits and briefs filed by the parties. The Court determined that the case was in proper posture for a determination on the merits at that time.

All injunctive relief requested in the proposed preliminary injunction tendered at the hearing and in the Amended Complaint was denied from the bench. The effect of the injunctions sought would have been to reinstate Mr. Cox as Watergate Special Prosecutor and to halt the Watergate investigation until he had reassumed control. It appeared to the Court that Mr. Cox's participation in this case was required before such relief could be granted. *See* Rule 19(a) of the Federal Rules of Civil Procedure. Yet Mr. Cox has not entered into this litigation, nor has he otherwise sought to be reinstated as Special Prosecutor. On the contrary, his return to prior duties at Harvard has been publicly announced. Moreover, a new Watergate Special Prosecutor was sworn in on November 5, 1973, and the Court felt that the public interest would not be served by placing any restrictions upon his on-going investigation of Watergate-related matters.

Plaintiffs continue to press for a declaratory judgment on the only remaining issue to be resolved: the legality of the discharge of Mr. Cox and of the temporary abolition of the Office of Watergate Special Prosecutor. To this end, it must initially be determined whether plaintiffs have standing and whether a justiciable controversy still exists.

Defendant Bork contends that the congressional plaintiffs lack standing[1] and that the controversy is moot. This position is without merit. The discharge of Mr. Cox precipitated a widespread concern, if not lack of confidence, in the administration of justice. Numerous bills are pending in the Senate and House of Representatives which attempt to insulate the Watergate inquiries and prosecutions from Executive interference, and impeachment of the President because of his alleged role in the Watergate matter—including the firing of Mr. Cox—is under active consideration.[2] Given these unusual circumstances, the standing of the three congressional plaintiffs to pursue their effort to obtain a judicial determination as to the legality of the Cox discharge falls squarely within the recent holding of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell* v. *Laird*, No. 71–1510 (D.C. Cir. March 20, 1973). Faced with a challenge by a group of congressmen to the legality of the Indo-China War, the Court recognized standing in the following forceful terms:

> "If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint. . . ."

Id at 4.

Unable to distinguish this holding, defendant Bork suggests that the instant case has been mooted by subsequent events and that the Court as a discretionary matter should refuse to rule on the legality of the Cox discharge. This view of the matter is more academic than realistic, and fails to recognize the insistent demand for some degree of certainty with regard to these distressing events which have engendered considerable public distrust of government. There is a pressing need to declare a rule of law that will give guidance for future conduct with regard to the Watergate inquiry.

While it is perfectly true that the importance of the question presented cannot alone save a case from mootness, *Marchand* v. *Director, United States Probation Office*, 421 F.2d 331, 333 (1st Cir. 1970), the congressional plaintiffs before the Court have a substantial and continuing interest in this litigation. It is an undisputed fact that pending legislation may be affected by the outcome of this dispute and that the challenged conduct of the defendant could be repeated with regard to the new Watergate Special Prosecutor if he presses too hard,[3] an event which would undoubtedly prompt further congressional action. This situation not only saves the case from mootness, *see United States* v. *Concentrated Phosphate Export Assoc.*, 393 U.S. 199, 203–04 (1968); *Friend* v. *United States*, 388 F.2d 579 (D.C. Cir. 1967), but forces decision. The Court has before it an issue that is far from speculative and a strong showing has been made that judicial determination of that issue is required by the public interest. Under these circumstances, it would be an abuse of discretion not to act.

Turning then to the merits, the facts are not in dispute and must be briefly stated to place the legal discussion in the proper context.

The duties and responsibilities of the Office of Watergate Special Prosecutor were set forth in a formal Department of Justice regulation,[4] as authorized by statute.[5] This regulation gave the Watergate Special Prosecutor very broad power to investigate and prosecute offenses arising out of the Watergate break-in, the 1972 Presidential election, and allegation involving the President, members of the White House staff or presidential appointees. Specifically, he was charged with responsibility to conduct court proceedings and to determine whether or not to contest assertions of Executive privilege. He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that "The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part."

On the same day that this regulation was promulgated, Archibald Cox was designated as Watergate Special Prosecutor.[6] Less than four months later, Mr. Cox was fired by de-

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Footnotes at end of article.

fendant Bork. It is freely admitted that he was not discharged for an extraordinary impropriety.[7] Instead, Mr. Cox was discharged on the order of the President because he was insisting upon White House compliance with a Court Order which was no longer subject to further judicial review. After the Attorney General had resigned rather than fire Mr. Cox on this ground and the Deputy Attorney General had been discharged for refusing to do so, defendant Bork formally dismissed Mr. Cox on October 20, 1973, sending him the following letter:[8]

"DEAR MR. COX: As provided by Title 28, Section 508(b) of the United States Code and Title 28, Section 0.132(a) of the Code of Federal Regulations, I have today assumed the duties of Acting Attorney General.

"In that capacity I am, as instructed by the President, discharging you, effective at once, from your position as Special Prosecutor, Watergate Special Prosecution Force.

"Very truly yours,
"ROBERT H. BORK,
"Acting Attorney General.

Thereafter, on October 23, Mr. Bork rescinded the underlying Watergate Special Prosecutor regulation, retroactively, effective as of October 21.[9]

The issues presented for declaratory judgment are whether Mr. Cox was lawfully discharged by defendant on October 20, while the regulation was still in existence, and, if not, whether the subsequent cancellation of the regulation lawfully accomplished his discharge. Both suppositions will be considered.

It should first be noted that Mr. Cox was not nominated by the President and did not serve at the President's pleasure. As an appointee of the Attorney General,[10] Mr. Cox served subject to congressional rather than Presidential control. *See Myers* v. *United States*, 272 U.S. 52 (1926). The Attorney General derived his authority to hire Mr. Cox and to fix his term of service from various Acts of Congress.[11] Congress therefore had the power directly to limit the circumstances under which Mr. Cox could be discharged, *see United States* v. *Perkins*, 116 U.S. 483 (1886), and to delegate that power to the Attorney General, *see Service* v. *Dulles*, 354 U.S. 363 (1957). Had no such limitations been issued, the Attorney General would have had the authority to fire Mr. Cox at any time and for any reason. However, he chose to limit his own authority in this regard by promulgating the Watergate Special Prosecutor regulation previously described. It is settled beyond dispute that under such circumstances an agency regulation has the force and effect of law, and is binding upon the body that issues it. *Accardi* v. *Shaughnessy*, 347 U.S. 260 (1954) (*"Accardi I"*); *Bonita* v. *Wirtz*, 369 F.2d 208 (D.C. Cir. 1966); *American Broadcasting Co.* v. *F.T.C.*, 179 F.2d 437 (D.C. Cir. 1949); *United States* v. *Chapman*, 179 F.Supp. 447 (E.D. N.Y. 1959). As the Ninth Circuit observed in *United States* v. *Short*, 240 F.2d 292, 298 (9th Cir. 1956):

"An administrative regulation promulgated within the authority granted by statute has the force of law and will be given full effect by the courts."

Even more directly on point, the Supreme Court has twice held that an Executive department may not discharge one of its officers in a manner inconsistent with its own regulations concerning such discharge. *See Vitarelli* v. *Seaton*, 359 U.S. 535 (1959); *Service* v. *Dulles*, *supra*. The firing of Archibald Cox in the absence of a finding of extraordinary impropriety was in clear violation of an existing Justice Department regulation having the force of law and was therefore illegal.

Defendant suggests that, even if Mr. Cox's discharge had been unlawful on October 20, the subsequent abolition of the Office of Watergate Special Prosecutor was legal and effectively discharged Mr. Cox at that time. This contention is also without merit. It is true that an agency has wide discretion in amending or revoking its regulations. *United States* v. *O'Brien*, 391 U.S. 367, 380 (1968). However we are once again confronted with a situation in which the Attorney General voluntarily limited his otherwise broad authority. The instant regulation contains within its own terms a provision that the Watergate Special Prosecutor (as opposed to any particular occupant of that office) will continue to carry out his responsibilities until he consents to the termination of that assignment.[12] This clause can only be read as a bar to the total abolition of the Office of Watergate Special Prosecutor without the Special Prosecutor's consent, and the Court sees no reason why the Attorney General cannot by regulation impose such a limitation upon himself and his successors.

Even if the Court were to hold otherwise, however, it could not conclude that the defendant's Order of October 23 revoking the regulation was legal. An agency's power to revoke its regulations is not unlimited—such action must be neither arbitrary nor unreasonable. *Kelly* v. *United States Dept. of Interior*, 339 F. Supp. 1095, 1100 (E.D. Cal. 1972). *Cf. Grain Elevator, Flour and Feed Mill Workers.* v. *N.L.R.B.*, 376 F.2d 774 (D.C. Cir.), *cert denied*, 389 U.S. 932 (1967); *Morrison Mill Co.* v. *Freeman*, 365 F.2d 525 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 1024 (1967). In the instant case the defendant abolished the Office of Watergate Special Prosecutor on October 23, and reinstated it less than three weeks later under a virtually identical regulation.[13] It is clear that this turnabout was simply a ruse to permit the discharge of Mr. Cox without otherwise affecting the Office of the Special Prosecutor—a result which could not legally have been accomplished while the regulation was in effect under the circumstances presented in this case. Defendant's Order revoking the original regulation was therefore arbitrary and unreasonable, and must be held to have been without force or effect.

These conclusions do not necessarily indicate that defendant's recent actions in appointing a new Watergate Special Prosecutor are themselves illegal, since Mr. Cox's evident decision not to seek reinstatement necessitated the prompt appointment of a successor to carry on the important work in which Mr. Cox had been engaged. But that fact does not cure past illegalities, for nothing in Mr. Cox's behavior as of October 23 amounted to an extraordinary impropriety, constituted consent to the abolition of his office, or provided defendant with a reasonable basis for such abolition.

Plaintiffs have emphasized that over and beyond these authorities the Acting Attorney General was prevented from firing Mr. Cox by the explicit and detailed commitments given to the Senate, at the time of Mr. Richardson's confirmation, when the precise terms of the regulation designed to assure Mr. Cox's independence were hammered out. Whatever may be the moral or political implications of the President's decision to disregard those commitments, they do not alter the fact that the commitments had no legal effect. Mr. Cox's position was not made subject to Senate confirmation, nor did Congress legislate to prevent illegal or arbitrary action affecting the independence of the Watergate Special Prosecutor.

The Court recognizes that this case emanates in part from congressional concern as to how best to prevent future Executive interference with the Watergate investigation. Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court. As Judge Learned Hand warned in *United States* v. *Marzano*, 149 F.2d 923, 926 (1945):

"Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."

This Memorandum contains the Court's findings of fact and conclusions of law. The rulings made are set out in the attached Final Order and Declaratory Judgment.

FINAL ORDER AND DECLARATORY JUDGMENT

On the basis of findings of fact and conclusions of law set forth in an accompanying Memorandum filed this day, it is hereby.

Ordered and decreed that:

(1) Plaintiff's motion for leave to file an Amended Complaint and add additional plaintiffs is granted.

(2) Plaintiff's motion for preliminary injunction is denied, and the trial of the action on the merits is advanced and consolidated with the hearing on said motion.

(3) Mr. Ralph Nader is dismissed as plaintiff for lack of standing.

(4) All injunctions prayed for in the Amended Complaints are denied.

(5) The Court declares that **Archibald Cox**, appointed Watergate Special Prosecutor pursuant to 28 C.F.R. § 0.37 (1973), was illegally discharged from that office.

FOOTNOTES

[1] At the injunction hearing, the Court dismissed Mr. Nader as a plaintiff from the bench, it being abundantly clear that he had no legal right to pursue these claims. *Flast* v. *Cohen*, 392 U.S. 83, 102 (1968).

[2] Referring to various bills pending in the Senate, Senator Moss stated, "I am severely hampered in my ability to discharge my duties because of uncertainty which exists with respect to the legality of Special Prosecutor Cox's dismissal and the abolition of his office." Affidavit of Senator Frank E. Moss, dated October 29, 1973. Congressman Waldie is a member of the House Judiciary Committee and both he and Congresswoman Abzug have introduced resolutions calling for the impeachment of the President because of the Cox dismissal and other matters.

[3] The regulation from which the present Watergate Special Prosecutor, Mr. Leon Jaworski, derives his authority and his independence from the Executive branch is virtually identical to the original regulation at issue in this case. *See* note 13 *infra*. It is therefore particularly desirable to enunciate the rule of law applicable if attempts are made to discharge him.

[4] 38 F.R. 14688 (June 4, 1973). The terms of this regulation were developed after negotiations with the Senate Judiciary Committee and were submitted to the Committee during its hearings on the nomination of Elliot Richardson for Attorney General. Hearings Before the Senate Comm. on the Judiciary, 93rd Cong., 1st Sess. 144–46 (1973).

[5] *See* 5 U.S.C. § 301.

[6] Justice Department Internal Order 518–73 (May 31, 1973).

[7] *See* Defendant's Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction, at 13.

[8] Exhibit 12 to the Affidavit of W. Thomas Jacks.

[9] 38 F.R. 29466 (Oct. 23, 1973).

[10] *See* 38 F.R. 14688 (June 4, 1973).

[11] 5 U.S.C. § 301; 28 U.S.C. §§ 509–10.

[12] *See* 38 F.R. 14688 (June 4, 1973): "The Special Prosecutor will carry out these responsibilities with the full support of the

Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself."

[13] The two regulations are identical, except for a single addition to the new regulation which provides that the Special Prosecutor may not even be discharged for extraordinary improprieties unless the President determines that it is the "consensus" of certain specified congressional leaders that discharge is appropriate. *Compare* 38 F.R. 30738 (Nov. 9, 1973) *with* 38 F.R. 14688 (June 4, 1973).

NAVY TESTS DESTROYER FUELED BY OIL DERIVED FROM COAL

Mr. HUGH SCOTT. Mr. President, history was made last week when the U.S.S. *Johnston*, a Navy World War II destroyer, became the first ship to be powered by coal derived from oil. The test, out of the port of Philadelphia, was termed a success by both military and civilian officials. It became a reality, thanks to legislation sponsored by the Pennsylvania congressional delegation.

In this time of critical energy shortages, we must consider this not simply an experiment but, hopefully, the beginning of recovery from the energy crisis through similar research and development efforts that will make the most use of America's vast supplies of coal as a prime energy source. There is a great need to step-up these research efforts.

Ongoing research in western Pennsylvania—particularly in Pittsburgh and Homer City—has given us the hope that coal-powered vessels will soon be in wide use on the high seas and the Great Lakes.

Mr. President, I ask unanimous consent that the New York Times account of the U.S.S. *Johnston* test, published on November 16, 1973, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NAVY TESTS DESTROYER FUELED BY OIL DERIVED FROM COAL

(By Wayne King)

PHILADELPHIA, November 15.—A World War II Navy destroyer, the U.S.S. Johnston, steamed out of port here today to become the first ship in history to use coal-derived oil to power its engines.

Beyond its historical import, the short one-day cruise of the Johnston, both military and civilian officials said, will likely have great practical significance to an increasingly fuel-starved nation.

Initial impressions indicated that the pilot test of the fuel to fire the steam generating boilers of the Johnston was a success, although a detailed analysis has yet to be completed. More important, Government officials predicted that, with Congressional approval of the large outlays needed for construction of coal-conversion plants to produce the fuel, fairly widespread use of it as a petroleum substitute may be only a few years away.

For more than a year, the Navy has been working with the Department of the Interior to develop a clean-burning, economical substitute for the petroleum-based fuels that the Navy consumes at the rate of 42 million gallons a year.

If all goes as planned, the coal-derived oil will begin replacing petroleum fuels in Navy vessels in about three years, and will ultimately—within a decade—account for about half of the fleet's total consumption.

Beyond that, the Department of the Interior's Office of Coal Research—an agency that began 12 years ago with a relatively meager $1-million budget and will spend $122-million this year—already has in operation a pilot coal liquefaction plant in Princeton, N.J., with another under construction in Tacoma, Wash. Two pilot plants to convert coal to gas are also in operation, with a third being built.

COAL-CONVERSION PLANTS

Within a decade, said Paul R. Jordan of the Office of Coal Research, the Interior Department hopes to have assisted in development of a number of privately owned and operated coal conversion plants, each capable of producing 250 million cubic feet of gas a day—enough for a city of a half a million people—and 60,000 to 100,000 barrels of synthetic fuel oil a day.

Although the Navy today became the first to make use of the new fuel, both naval and other officials said its development was keyed heavily to civilian use.

Though the coal gasification and liquefication prospect has been under way for almost 10 years, the recently developed fuel crisis has given it new and accelerated emphasis.

The Navy, according to Rear Adm. Randolph W. King, who answered questions at a news conference at the Philadelphia Naval Base prior to the sailing of the Johnston, is interested in the coal liquefaction process as a means of guaranteeing an uninterrupted fuel supply regardless of the political situation in the Middle East or other oil-producing areas.

At present, he said, coal supplies in the United States are adequate for at least another 100 years. Other estimates have ranged up to 500 years and more.

Moreover, both Admiral King and the Interior Department sources said the ultimate projected cost of production of the synthetic fuel oil would average $4.50 to $5 a barrel, compared to $5.25 a barrel for the fuel now used. This estimate, however, takes into consideration the selling of byproducts from the liquefication process to reduce the overall cost.

Moreover, Mr. Jordan of the Coal Research Office projected capital outlays for construction of coal conversion plants at $5-billion over the next decade or so. Present plans call for a joint effort by the Federal Government and private industry, with the process ultimately to become entirely private enterprise.

Actual plant construction beyond the pilot stage, however, would require Congressional appropriations.

Both naval and Interior Department officials were optimistic about the prospects for large-scale coal conversion in the relatively near future, however. Although officials could not come up with a specific figure, the coal derived fuel that powered the Johnston without incident today ferrying newsmen on the first leg of her pilot cruise, cost many times the $4 to $5 figure that the Government ultimately hopes to attain for coal-derived fuel oil—which can be used in almost identical form to heat homes and a somewhat more refined version to fuel jet aircraft.

The economic success of the project rests on the economies of extremely large-scale production in plants that were estimated to cost from one-third to three-quarters of a billion dollars each to construct.

It was not made clear whether the Government's per-barrel cost estimates for the synthetic fuel included the initial costs of plant construction.

The coal-derived fuel itself should be acceptable to environmentalists, officials said, as it is of very low sulphur content, and will burn cleaner than the fuels used now by the Navy.

It is also possible to distill the synthetic oil in much the same manner as petroleum crude oil and thus convert it to higher grades, including gasoline.

CONVERSION PROCESS

The synthetic oil is obtained by a process called pyrolysis, in which the coal is crushed and then decomposed by use of heat, pressure and catalysts. This is followed by hydrogen treatment that alters the substance chemically to produce a synthetic oil-like fuel.

The process requires roughly a ton of coal to produce one barrel of oil. However, also produced is some 12,000 pounds of char, which can be further processed for extraction of fuels, and over 8,000 cubic feet of gas.

In general, officials at the news conference said, the coal fields of the Midwest and West produce the best type of coal for this process, a fact that is not expected to gain a warm reception in coal-rich Eastern states like Pennsylvania and West Virginia that are searching for ways to again utilize largely abandoned coal fields.

Renewed efforts to make extensive use of coal is expected to run into stiff resistance by environmentalists who oppose the ravages of strip mining.

Samples of the coal-derived fuel oil passed out to reporters appeared roughly the color and consistency of crankcase motor oil at about the time it badly needs changing. Its odor was somewhat sweetish, with the rather sharp, astringent cast of a disinfectant.

Early tests, indicated a strong coal-tar odor when the substance was burned, suggesting it might prove too offensive for boiler room personnel.

A seaman in the engine room today said, however, that the odor was acceptable and that the fuel seemed to perform in a manner indistinguishable from the usual petroleum oil, except for what appeared to be a slightly brighter flame.

The fuel is thicker than others used by the Navy, however, and cannot be poured at temperatures below 60 degrees Fahrenheit, a problem in some situations.

SENATOR RANDOLPH DOCUMENTS THE ENERGY CRISIS: THE SENATE'S RECORD SINCE 1959

Mr. RANDOLPH. Mr. President, on Monday, after the 3 days of debate, the Senate passed the National Energy Emergency Act of 1973, in response to a generally recognized and immediate energy crisis. By its very nature, this legislation could easily be implemented by the President in ways that significantly shape the economic future of the country. I believe it is timely to document the Senate's record on this problem, beginning in 1959.

Fostered by an immediate energy emergency, the current commitment may very well materialize as the most significant economic as well as energy policy action by the Congress in recent years. The underlying cause of the crisis, however, is the failure of the United States of America to possess a coherent and rational national fuels and energy policy. Instead our country is still operating under a series of ad hoc policies which were fostered over the years by a series of crises, such as this winter's fuel supply shortages.

As a consequence, any national energy policy we may have was not intentional, but rather is a mixture of statutory policies and administrative practices. As such, these policies often are conflicting, frequently are uncoordinated, and occasionally are inept. In sum total, our National Energy Policy is the product of more than 40 Federal departments, agencies, and regulatory commissions.

Considerable cohesion can be and must

be achieved through a reorganization of Federal programs and activities to reflect energy policy concerns. Nevertheless, there remains the need for the Congress to formulate and establish specific national energy goals and policy objectives that also reflect broad societal aspirations.

In recognition of this need, I have actively sponsored and supported, since 1959, the congressional formulation of a national energy policy.

On August 18, 1959, I introduced Senate Concurrent Resolution 73, to create a Joint Committee on a National Fuels Policy. The resolution was cosponsored by some 43 Senators: Allott, Anderson, ROBERT C. BYRD, BARTLETT, Beal, BIBLE, Butler, Capehart, Carlson, Cooper, CURTIS, Dirksen, Dodd, Douglas, Engle, Gruening, HARTKE, Hennings, HRUSKA, HUMPHREY, Keating, Kefauver, Kerr, Kuchel, Langer, Lausche, MANSFIELD, McCarthy, McGEE, McNamara, Morse, Morton, Moss, Murray, MUSKIE, Neuberger, Saltonstall, HUGH SCOTT, Wiley, Yarborough, YOUNG of North Dakota and Young of Ohio.

Of particular note was the introduction in the House of Representatives of some 24 identical resolutions to our Senate Concurrent Resolution 73.

During the 86th Congress, on September 2, 1959, the Committee on Interior and Insular Affairs reported favorably our Senate Concurrent Resolution 73 to create a Joint Committee on a National Fuels Policy. The committee noted the "widespread and growing concern, both within and without the Halls of Congress, in respect to the adequacy of the Nation's fuel and energy resources. . . and the lack of a national policy for the most effective utilization of these resources, in the best public interest."

The resolution, Senate Concurrent Resolution 73, was referred to the Senate Committee on Rules and Administration, where it died. There was insufficient sentiment for the joint committee concept, particularly in the House of Representatives, to assure its eventual establishment. However, out of that idea for a congressional study came action by the White House in 1959 when President Eisenhower established by Executive order a mandatory oil import quota program.

In 1960 the need for a comprehensive national fuels and energy policy became a major political issue. Both Democratic and Republican Party platforms supported a national fuels policy and long-range minerals and fuels planning and programing. I urged the national Democratic Platform Committee to act on this vital issue. The Democratic platform contained the following declaration: "We support the establishment of a national fuels policy." The Republican platform in 1960 also declared for "long-range minerals and fuels planning and programing."

On January 19, 1961, my proposal for a Joint Committee on a National Fuels Study was reintroduced in the 87th Congress as Senate Concurrent Resolution 4. In all there were 55 cosponsoring Senators, including: BARTLETT, Beal, BENNETT, BIBLE, Bridges, BURDICK, Bush, Butler, Byrd of Virginia, BYRD of West Virginia, Capehart, Carroll, Chavez, CHURCH, Clark, Cooper, Dirksen, Dodd, Douglas, Dworshak, Gore, Gruening, HARTKE, Hickey, Hill, Holland, HUMPHREY, JACKSON, JAVITS, Johnston, Keating, Kefauver, Kerr, Lausche, Long of Hawaii, MAGNUSON, McCarthy, McGEE, McNamara, METCALF, Miller, Morse, Morton, Moss, Neuberger, PASTORE, PROXMIRE, Saltonstall, SCOTT, SPARKMAN, SYMINGTON, Wiley, YOUNG of North Dakota, and Young of Ohio.

By March 1961 however, it was apparent that the joint committee proposal had little chance for success. Therefore on March 2, 1961, I introduced Senate Resolution 105 providing for creation of a Senate Special Committee on a National Fuels Study, authorized to study the current and prospective fuel and energy resources of the United States. The study also was authorized to examine existing fuels and energy policies with the view of determining the changes advisable in order to coordinate and provide an effective National Fuels Policy.

Senate Resolution 105 was one of the most widely sponsored legislative proposals of the 87th Congress or any other Congress. A truly bipartisan effort with 63 cosponsors who were Senators BARTLETT, Beall, BENNETT, BIBLE, Boggs, Bridges, BURDICK, Bush, Butler, Byrd of Virginia, Capehart, Carroll, Chavez, CHURCH, Clark, Cooper, COTTON, Dirksen, Dodd, Douglas, Engle, FONG, Gore, Gruening, HART, HARTKE, Hickey, Hill, Holland, HUMPHREY, JACKSON, JAVITS, Johnston, Keating, Kefauver, Lausche, Long of Hawaii, MAGNUSON, McCarthy, McCLELLAN, McGEE, McNamara, METCALF, Morse, Morton, Moss, MUSKIE, Mrs. Neuberger, PASTORE, PELL, PROXMIRE, Robertson, Saltonstall, SCOTT, Smith of Massachusetts, SPARKMAN, SYMINGTON, Wiley, WILLIAMS of New Jersey, Young of North Dakota, and Young of Ohio.

The 1961 resolution was supported by the Department of the Interior, the Atomic Energy Commission, the Department of State, the Office of Civil and Defense Mobilization, and the Bureau of the Budget.

As introduced Senate Resolution 105 authorized a Special Committee on a National Fuels Study, to consist of nine Senators to be appointed by the President of the Senate.

As reported by the Committee on Interior and Insular Affairs on August 25, 1961, the resolution was amended in two principal regards: first, the scope of the study was expanded to include fuels and energy resources; and, second, the study was to be conducted by the Interior Committee, with three ex officio members to be appointed by the President of the Senate. It was the committee's judgment that "the scope of the study was within the legislative jurisdiction of the Interior Committee and that its members were particularly knowledgeable in the field of natural resources and resource conservation and development." Consequently, the committee amended the resolution to provide that the investigation be undertaken by it rather than by a special committee of the Senate created for that purpose.

Thus, as passed by the Senate on September 11, 1961, Senate Resolution 105—87th Congress—instructed the Senate Committee on Interior and Insular Affairs to undertake a three-part study as a basis for possible revision of national fuels and energy policies, including the possibility of new legislation. The three parts were, first, a study of the present and future energy requirements of the Nation and of its ability to meet those requirements; second, a review of existing laws and policies with respect to their effect on energy supply and demand; and third, consideration of policy.

In testimony on Senate Resolution 105 before the Senate Interior Committee on June 12, 1961, I observed that—

> In June 1961, the world—the United States included, of course—has available more energy fuels in the form of coal, oil, and natural gas than currently we can use. In reference to oil, the word, I think, is "glut." From recent oil discoveries in North Africa, it would appear that there are still vast sources of supply that have not yet been discovered. Who knows what the continent of Africa may hold in the way of energy?
>
> This is fine, but it is a small source of comfort and security to Americans living in Maine, Minnesota, or Montana that what might become an anti-American land has in her earth unlimited quantities of the same kind of energy fuels that are the very lifeblood of America. What guarantee do we Americans have that the African continent, or Venezuela, or Kuwait, or any of the other prolific oil areas of the world will constantly make their riches available to us? What good will Venezuelan oil be to the United States if Latin America embraces communism, or if Africa turns against us, or if the Soviet Union decides to effect a coup d'etat in the Middle East?
>
> Every year that passes, in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is 1 year nearer disaster. What makes this all the more tragic is that it is unnecessary. The United States of America, the richest country the world has ever known, is, by its own complacency, gradually placing itself at the mercy of those it should most diligently guard against. By neglecting to apprise ourselves of the true, unbiased, realistic picture of our own energy wealth and stability, we are gambling with our country's future.
>
> Mr. Chairman, this Nation has a foreign policy—a defense policy—a farm policy and the beginnings of a transportation policy. All are necessary and of first importance. But not one of them is so basic to our national security and economy as would be a national policy in respect of those energy fuels that make all of them possible and without which, or lacking an abundant available supply of which, would render all other national policies impotent and would disarrange our country industrially, economically, and militarily.

The chairman of the 1962 Senate National Fuels and Energy Study Group was Senator Clinton P. Anderson. The other members of the Interior Committee were: Senators Allott, BIBLE, Bottum, BURDICK, Carroll, CHURCH, Gruening, Hickey, JACKSON, Jordan, Kuchel, Long of Hawaii, METCALF, Miller, Moss, and PEARSON. And the ex-officio members were Senators NORRIS COTTON, Clair Engle, and myself.

It is interesting to note that the oil

and gas industries, whose spokesmen opposed Senate Resolution 105, agreed to cooperate with the Senate National Fuels and Energy Study Group.

Subsequently on September 21, 1962, the Senate's National Fuels and Energy Study Group completed their assessment of available information on energy in the United States. The final report—Senate Document No. 87-159—identified 12 major policy issues:

The sale of natural gas to industrial consumers under interruptible rate schedules;

Importation of residual fuel oil;

Importation of crude oil and products other than residual fuel oil;

Importation of natural gas from Canada;

Development of a domestic shale oil industry;

The role of Government-sponsored energy research;

Domestic self-sufficiency;

Emergency needs;

End-use controls;

Government encouragement of electric transmission interties;

How to handle unemployed coal miners; and

Granting of rights of eminent domain to coal pipelines.

The majority of these issues are unresolved even today in that we do not have definitive national policies, that reflect long-term concerns. These issues, however, are now under advisement by the Senate's National Fuels and Energy Policy Study authorized by Senate Resolution 45 of the 92d Congress which I introduced on February 4, 1971.

Under the able chairmanship of Senator HENRY M. JACKSON the Committee on Interior and Insular Affairs is actively pursuing a comprehensive legislative and investigatory program that will serve as the foundation for congressional formulation and establishment of a national fuels and energy policy for the United States. The National Energy Emergency Act of 1973 is but one notable legislative measure from this effort under Chairman JACKSON's effective leadership and diligent endeavors.

Returning to the recommendations of the National Fuels and Energy Study Group, the Interior Committee then commented on the availability of energy supplies through 1980 stating that—

> The Nation's resource base, in terms of each fuel, is adequate to meet projected requirements for the period covered by this study—i.e., to 1980. The 20 billion tons of coal even now commercially available (reserves) is more than enough comfortably to support a 1980 coal output of even as much as 800 million tons. There is plenty of oil in the ground but one or more steps may be needed to realize it: rate of exploration be stepped up, more attention be given to secondary recovery, ratio of reserves to rate of output be established at some figure well below the usual range of 12 to 14. *The Nation has the ability to be self-sufficient in oil if it so wills.* (Italics added.)

The 1962 study added—

> Imports could be called on if desired, there being no dearth of foreign oil, and so could the oil in oil shale. Oil shale may in fact actually be yielding oil well before 1980, and coal may be yielding gasoline. The domestic supply of gas available appears to be safely well above the projected requirement. High B.t.u. gas from coal is in the near offing. A comparison between projected consumption of electric energy (regardless of source) and the ability to supply it yields the prompt and simple answer that there should be no difficulties in that area. While nuclear power faces several problems, it is an accomplished technological fact.

Nevertheless, Mr. President, despite our country's projected ability to be energy self-sufficient, we subsequently pursued policies predicated on the use of imported crude oil and refined products to meet shortfalls between the U.S. energy demands and available domestic supplies. Thus our country finds itself in the situation of enacting the National Energy Emergency Act of 1973.

Commenting on the Senate's energy record in recent years, Senator JACKSON noted in his Senate remarks on November 15, 1973—

> Legislative interest in critical energy issues has not developed overnight. Senators may recall that on July 16, 1970, Senator Jennings Randolph introduced legislation cosponsored by Senators of both parties to establish a National Commission on Fuels and Energy. This was to be a joint executive-legislative body to make a comprehensive study of the Nation's energy needs and how best to meet them.
>
> The administration opposed creation of this Commission on the ground that its work would overlap with studies by the Domestic Council—studies that were announced after Senator Randolph's bill was introduced. If such studies were in fact made by the Domestic Council, they have never seen the light of day. But it is significant that the administration was on notice, more than 3 years ago, of deep congressional concern about emerging energy problems.
>
> Because a serious study was obviously needed, Senator Randolph and I sought to authorize a unique cooperative effort in the Senate in early 1971. On February 4, 1971, he introduced Senate Resolution 45, cosponsored by 50 Senators, authorizing the national fuels and energy policy study by the Senate Interior Committee, with participation by the Committees on Commerce and Public Works and the Joint Committee on Atomic Energy. This has not been idle participation either. Under the leadership of Senators Magnuson, Pastore, and Randolph, these committees have played a major role as the study has progressed.
>
> The study authorized by the Senate on May 3, 1971—when Senate Resolution 45 was approved—was broad in scope, involving a comprehensive investigation of the Nation's energy needs and energy resources; of the alternatives available for meeting those needs; and of the effect of Federal laws and policies on the fuels and energy industries. Beginning in late 1971 and continuing into mid-1973, the committee held extensive hearings on a wide range of issues including deep water port policy, energy conservation, oil import policy, Federal leasing programs, fuel shortages, and energy research programs. These hearings have laid the groundwork for the legislative program now moving through Congress.

Mr. President, I ask unanimous consent that the summary and recommendations of the 1962 report of the Senate's National Fuels and Energy Study Group appear in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

REPORT OF THE NATIONAL FUELS AND ENERGY STUDY GROUP

SUMMARY

The basic purpose of this report is to compile and assess an existing body of information, and hence the report does not readily lend itself to being summarized in the usual sense. Nevertheless, we have tried here to condense the information and to indicate its drift in such a way as to give the reader a useful guide, so that he may be able to select such part of the contents as he wishes for detailed reading.

REQUIREMENTS

There is a reasonable consensus among the experts that the Nation's projected requirements will nearly double by 1980 (to about 82 quad-rillion B.t.u.'s), that generation of electric energy will multiply by some 3½ times (to about 2,700 billion kilowatt-hours), and that consumption of oil will increase by about two-thirds (to, say, 5.7 billion barrels). The consensus for coal, gas, and nuclear energy is not so clear cut, but the following deductions have been accepted as usable for the policy-tailored framework of this report: coal consumption roughly to double by 1980 (to 800 million tons or more), gas almost to double (to 20 trillion cubic feet or more), hydropower generation to drop from a share equal to 4 percent of total energy consumption to about 2½ percent, and nuclear energy to increase to a level about equal to hydropower.

Quantitative estimates of emergency requirements—a euphemism for wartime requirements—are meaningful only in relation to a near-future contingency. For this and other reasons, we assume that the nonmilitary part of wartime requirements will be within the margin of error inherent in the peacetime figures projected for 1965: i.e., 11 million barrels of oil a day, 15 trillion cubic feet of gas a year, 500 million tons of coal a year, and 1,100 billion kilowatt-hours a year. For oil there would be an additional military demand approaching 3 million barrels a day.

These figures do not apply to nuclear war, of course. In the period immediately following an attack, the civilian population would have to get along with such quantities and kinds of fuels as are at hand locally. We presume that the military arm has petroleum fuels in hand to support the immediate retaliatory blow. The demand for petroleum products would increase as military action mounts, and the demand for all forms of energy would increase as national authority is restored and industrial activity is resumed. The top limit of this increase is conditioned by how long the war would last and the course it takes. All energy demands would remain high during the period of reconstruction.

SUPPLY

The Nation's resource base, in terms of each fuel, is adequate to meet projected requirements for the period covered by this study—i.e., to 1980. The 20 billion tons of coal even now commercially available (reserves) is more than enough comfortably to support a 1980 coal output of even as much as 800 million tons. There is plenty of oil in the ground but one or more steps may be needed to realize it: rate of exploration be stepped up, more attention be given to secondary recovery, ratio of reserves to rate output be established at some figure well below the usual range of 12 to 14. The Nation has the ability to be self-sufficient in oil if it so wills. Imports could be called on if desired, there being no dearth of foreign oil, and so could the oil in oil shale. Oil shale may in fact actually be yielding oil well before 1980, and coal may be yielding gasoline. The domestic supply of gas available appears to be safely well above the projected requirement. High B.t.u. gas from coal is in the near offing. A comparison between projected consumption of electric energy (regardless of source) and the ability to supply it yields the prompt and simple answer that there should be no difficulties in that area. While nuclear power faces several problems, it is an accomplished technological fact.

Conventional fossil fuels plus shale oil and fissionable materials contain recoverable energy equivalent to 800 years of usage at the current rate. Improvement in nuclear technology could expand this figure eightfold. This outlook is without the benefit of foreign supplies, fissionable materials available at prices higher than those now paid, coal and shale oil beyond the limited quantities assumed to be recoverable, or the energy potential of unconventional sources.

There is also a large present plant capacity and apparently an industrial ability to generate the funds to expand the capacity as needed. Labor supply should pose no problems; the only sector about which doubt has been expressed is in regard to coal miners, and here it appears that, because of expected continued improvement in output per man-day, the 800 million tons of 1980 conceivably could be produced by a labor force even smaller than the force presently at work.

Transportation has sometimes been considered a bottleneck in the energy complex. The concern appears exaggerated. Transportation of oil and gas is a matter of investment. An aggressive research on extra-high voltage transmission almost assures continued economic transportation of electric power. The only real question relates to a shortage of railroad cars for the movement of coal. Such shortages as occur are not the result of a shortage of cars as such but of cars that are serviceable. The railroads repair damaged cars only as traffic demands it, and a shortage results when business picks up faster than ability to repair the cars. Whether or not shortages have ever limited the total supply of coal to the country, or have caused coal users to turn to other fuels, is a matter of conflicting opinion.

In a nuclear emergency, the Nation will have to rely initially, as indicated above, on the supply locally available, but there would be such great destruction of consuming equipment and plants that the supply would be generally adequate. Further supply should be available as quickly as it is called for by restoration of the economy. For other war or war-related emergency, the national capacity for producing oil products seems to come close to equaling, or even exceeding, total war-time demand. This is without regard to imports, but so much judgment is involved, and the problems of wartime requirements and logistics are so complicated, that the subject needs deeper analysis than we can give it. Both coal-producing capacity and labor supply are large enough to meet emergency coal demand. Gas-producing capacity and electric-generating capacity are adequate. Information on wartime transportation capability regarding energy is scanty and conflicting, but seemingly there would be no dire problems within the United States itself. Ocean transportation encompasses military problems outside our purview.

COST AND TECHNOLOGIC PROGRESS

Implicit in the above commentary about the Nation's ability to meet its needs over the next 20 years is an assumption about the ability of continued technologic progress to hold costs within limits. In part this is a matter of faith, albeit faith based on the record. How much oil, gas, and coal will be produced, and how much electricity generated, are matters of economic decision, which resolve into incentives for exploration, research, and development and for investment in plant to transport what is produced or generated. Incentives are related to ultimate profits, which are related to costs. Information on costs is elusive and inconclusive, but at least for oil and gas jointly there seems to be little discernible trend either upward or downward in real terms (dollars of constant value). None of the three principal fossil fuels seems likely to price itself out of any major markets within the time span of this report. In any case the cost of oil from shale should place an upper limit on the price of crude oil, and the cost of gasifying coal a limit on the price of natural gas; all these will impose restraints on the price of coal.

The cost of transportation is a vital part of the delivered price of energy. The coal pipeline, the integral train, mine-mouth generation coupled with extra-high-voltage transmission, larger diameter oil and gas pipelines, and other developments should hold transportation costs down.

INTERFUEL COMPETITION

Use of coal has been going down in the face of an increasing national consumption of energy. The three fuels—coal, oil, and gas—compete with one another for the electric energy, space-heating, and process-heat markets; electric energy (including hydropower) competes with coal, oil, and gas for parts of these same markets.

Competition results from the ability and willingness of the customer to shift from one product or supplier to another. Many factors influence this freedom of choice. One is the physical character of the fuels. The solid nature of coal and the liquid nature of oil generate advantage and disadvantages for each, both with respect to cost in their competition with one another and with gas and with respect to esthetic preference.

A second factor is adequacy and assurance of supply, and a third is the delivered price. Delivered price is related to transportation. Cost of transportation is the reason why interfuel competition is so severe in those areas having little or no native energy resources, as in New England particularly. Railroad transportation of coal comes high, compared to the cost of moving oil or gas, constituting on average price of bituminous coal.

All the major fuels, including coal, are produced and transported as though jointly with coproducts or byproducts. Electricity, too, is sometimes a joint product, and transportation also has its joint-product aspects. The economics of joint products influences the pricing of the main product.

One aspect of the influence of technology has been referred to above. Of more immediate relevance to competition is the technology of use, which has acted particularly to the detriment of coal. Prime examples are the change from steam to diesel railroad locomotives and the substitution of oil and gas for coal in home heating.

Fuel competition is related also to the propinquity of fuel source to market, which is a shifting circumstance, and of course to the common phenomenon of consumer preference.

A final factor is the framework of policies, laws, and regulations within which the competition operates, summarized separately below.

POLICIES, LAWS, AND REGULATIONS

Federal, State, and municipal governments all have laws and regulations relating to energy. The Federal Government leaves local energy problems to local regulation. In addition, the policies of foreign governments have their impact on American supply and demand.

Federal legislation and policy in the field of energy covers foreign trade, production of raw materials, electric power generation, production and sale of natural gas, transportation, research, taxation on production and use, maritime laws, and foreign relations. State and local regulations apply mainly to conservation of oil and gas and cover also taxation on mineral production and use, public utility regulation, and air pollution.

Policies of foreign governments relate to their control over the importation of American coal and to their reaction to U.S. restrictions on importation of oil and oil products. Canadian policy occupies a special niche, because of the contiguity of the two countries. The U.S. imports both gas and electricity from Canada, which imposes restrictions on the outflow of both.

Some policies, laws, or regulations tend to limit production and to raise price, some to lower price; some specifically restrict end use.

POLICY ISSUES

Twelve policy issues have been identified as justifying discussion. These include the sale of natural gas to industrial consumers under interruptible rate schedules, importation of residual fuel oil, importation of crude oil and products other than residual fuel oil, importation of natural gas from Canada, development of a domestic shale industry, the role of Government-sponsored research, domestic self-sufficiency, whether action is necessary to insure that U.S. emergency needs can be met from the Western Hemisphere alone, legislative or regulatory control of the use to which a fuel may be put, Government encouragement of electric transmission interties, how to handle the problem of unemployed coal miners, and granting of right of eminent domain to coal pipelines.

Whatever policy direction may be followed with respect to each of these, various costs and gains are involved—to the Treasury, to the consumer, to the gaining and losing industries, and to society. Some of these gains can be quantified, mostly they cannot. In fact, it is not possible always to isolate them, or to trace out the specific effect of a policy action. Action taken may better one situation, worsen another. Questions that cannot be answered insist on intruding, such as: What is the cost to society when in the pursuit of some goal a desired product or service is denied? Or, what is the cost of withholding the fruits of technologic innovation or of dampening investment?

Energy policy relates to other policies, either explicitly or indirectly, and some energy policies indirectly affect policy in other areas. The important involvements as with transportation, taxation, trade policy, international policy other than trade, national defense, and various Federal programs, particularly atomic energy. Other areas of policy involvement include antitrust legislation, care and development of the inland waterways, space exploration, air pollution, labor, and urban redevelopment.

The three policy issues that are currently of most intense interest are:

Interruptible gas

In 1960 total interruptible sales totaled 2.1 billion Mc.f. Most of this is sold in geographic areas not economically served by coal, and some is sold for noncompetitive uses. In all, about one-fourth (or the equivalent of 22 million tons) is in direct competition with coal.

The price charged for interruptible gas is less than that charged for firm service and at least covers the cost of the gas itself plus the out-of-pocket costs of transportation and distribution. Thus this type of service makes a contribution toward fixed charges that would otherwise be borne by firm customers. In 1960 this fixed-charge contribution aggregated $400 million nationally.

Residual fuel oil

The use of residual fuel oil in the United States has remained fairly uniform over the past decade, but on the east coast, where most of it is consumed, net imports for domestic consumption have been rising and in 1960 were the equivalent of about 40 million tons of coal. Such imports come largely from the Caribbean where heavy fuel oil is the major refinery product. These imports affect the production of coal primarily in Pennsylvania, Virginia, and West Virginia.

Coal mine unemployment

The number of workers engaged in coal mining has been declining almost steadily from a peak of about 875,000 reached in the early 1920's. It is now only about 150,000. The number of unemployed is estimated at 100,000.

About half the decline has resulted from loss of markets and half from improvement in the efficiency of production. For bituminous coal the fractions are about one-third due to loss of market and two thirds to improved efficiency. The average miner produced 2,450 tons in 1960, as against 1,350 tons a year during the midforties when coal output reached its peak, and about 750 tons a year in the early twenties when employment reached its peak. Concurrent with loss of markets, coal-mining wages were rising and were among the highest in American industry, and this element of cost has been a major factor in pushing the industry into mechanization during the postwar period, in order to stay competitive.

Elimination of interruptible gas sales and of the importation of heavy fuel oil would increase employment in the coal industry, but for a number of reasons (among them that part of the vacated markets would be taken by domestic oil and by firm gas and that the current coal work force is used less than full time) the gain would be small perhaps a few thousand men—in terms of the gross problem. Each million tons of added coal production would represent the employment of 400 miners at today's average output per man-day and at the average current workweek of less than 4 full days; at the current workweek but at the output per man-day projected for 1965, each million tons would represent the employment of 285 miners.

INDUSTRY AND CONSUMER POINTS OF VIEW

The point of view held by producers and consumers of energy as to what policy should be is as much a piece of information as is a table of statistics or description of a piece of technology. In order to provide as full a body of information as possible, we have invited the points of view of 12 groups, each representing either a producer of one or another form of energy or a consumer. These are included precisely as received. It would be a disservice to these groups to summarize their statements, for interpretation unavoidably would insinuate itself, and therefore we have not done so.

LEAKS FROM THE WATERGATE COMMITTEE

Mr. BUCKLEY. Mr. President, the New York Times, on November 20, 1973, contained an article headlined "Watergate Unit Suspends Investigator Over a Leak." When I saw that headline I was extremely gratified for it so happens that on October 4, 1973, I sent a letter to the distinguished chairman of the Select Committee on Presidential Campaign Activities (Mr. ERVIN) asking him to put members of his staff under oath in order to discover who was leaking damaging material about witnesses who were called to appear before the committee. The chairman declined to do this for a number of reasons, among which were his concern that a search for leakers would "divert" the committee from important tasks and that it would hurt staff morale. To quote his exact words, the chairman wrote:

> If it should permit itself to be diverted from the performance of its task by matters not directly related to it, the Senate Select Committee could be unable to perform its allocated task within the time assigned to it.

You can therefore imagine my delight when I saw the headline suggesting that the chairman had changed his mind and that those who had abused the rules of the committee by leaking confidential information were being investigated and punished.

Alas, such is not the case. As I read the story, I discovered that it was not concern for the rights of witnesses that brought about the suspension but the concern of certain high-ranking staff members for their own image. To quote the story:

> An investigator for the Senate Watergate Committee was suspended from duty today because Samuel Dash, the committee's chief counsel, believed that he was the source of a newspaper article that was highly critical of the Committee staff . . .
>
> . . . The article, written by Timothy Crouse, contained no details of the Committee's investigation that had not previously been reported elsewhere.
>
> But it was savage in its criticism of the committee's top staff. It quoted a "majority staffer" as calling Mr. Dash an "egomaniac" and declared that Fred D. Thompson, the Republican counsel, and David M. Dorsen, an assistant chief counsel, were incompetent.
>
> After an investigation that lasted more than a week, according to one staff member, Mr. Dash this morning ordered Mr. Armstrong suspended from the staff without pay for a month. . . .

Mr. President, I am puzzled that the committee should feel it could devote "more than a week" to search for someone who said unpleasant things about Mr. Dash—whether these judgments are true or not is irrelevant to my point—but will not spend 5 minutes in an attempt to identify those committee staffers who leak confidential information involving outsiders? In his letter to me, the chairman of the select committee dismissed Patrick Buchanan's complaints over abuses by staff members by quoting Truman's aphorism, "If you can't stand the heat get out of the kitchen". Yet when one of the staffers gave a reporter his nonprivileged views on Mr. Dash, the matter was apparently considered so serious as to warrant a full-scale investigation lasting 8 days.

Mr. President, if members of the committee or the staff cannot stand the heat of an adverse newspaper report, perhaps they should be asked to get out of the kitchen. If the Times report is substantially correct, the Senate is owed an explanation of an apparent double standard when it comes to leaks: Those leaks which harm a witness are to be dismissed with brutal unconcern; those leaks which criticize top committee staffers are to be stopped even if it takes 8 days of "diverting" the committee from its real responsibilities.

Mr. President, I ask unanimous consent that the following article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 20, 1973]

WATERGATE UNIT SUSPENDS INVESTIGATOR OVER A LEAK

(By David E. Rosenbaum)

WASHINGTON, November 19.—An investigator for the Senate Watergate committee was suspended from duty today because Samuel Dash, the committee's chief counsel, believed that he was the source of a newspaper article that was highly critical of the committee staff.

The investigator, Scott Armstrong, was deeply involved in the committee's inquiry into the affairs of Charles G. Rebozo, President Nixon's close friend. One Senator on the committee said today that Mr. Armstrong was "the best investigator on the staff."

A ranking official on the committee described Mr. Armstrong as "a tenacious bugger who ticked off everybody in sight but always got what he was after."

The article appeared in the Nov. 22 issue of Rolling Stone, a biweekly newspaper that concentrates on rock music but regularly contains articles on politics and social affairs.

NO NEW DETAILS

The article, written by Timothy Crouse, contained no details of the committee's investigation that had not previously been reported elsewhere.

But it was savage in its criticism of the committee's top staff. It quoted a "majority staffer" as calling Mr. Dash an "egomaniac" and declared that Fred D. Thompson, the Republican counsel, and David M. Dorsen, an assistant chief counsel, were incompetent.

After an investigation that lasted more than a week, according to one staff member, Mr. Dash this morning ordered Mr. Armstrong suspended from the staff without pay for a month.

Immediately, Senator Lowell P. Weicker Jr., the Connecticut Republican, praised Mr. Armstrong and offered him a job on his personal staff.

Neither Mr. Dash nor Mr. Armstrong could be reached this afternoon. Mr. Dash, in New Orleans for a meeting of a committee of the American Bar Association, confirmed to The Associated Press that he had suspended Mr. Armstrong.

According to that news agency, Mr. Dash said that the article "had a tremendous impact on the morale of the staff" and that Mr. Armstrong had violated "a pretty iron-bound rule that is broken too often."

"WE NEED HIM"

Mr. Dash was reported as saying that Mr. Armstrong was "a very fine staff member who will be welcomed back because we need him."

The investigatory phase of the Committee's work is scheduled to be completed before Mr. Armstrong could return to duty, however.

Since its inception, the committee has been subject to a wide variety of leaks and information to the press. But supporters of Mr. Armstrong insisted today that he had never disclosed any of the committee's investigatory information.

According to several staff members, Mr. Dash and his colleagues first saw the Rolling Stone article on Nov. 8 or 9. Mr. Dash, according to one official, was "outraged," and Mr. Thompson "acted like Vesuvius."

Over the weekend of Nov. 10–11, Mr. Dash reportedly ordered an investigation into the sources of the quotations that were critical of him and others.

On Monday, according to officials, Mr. Dash talked with Mr. Crouse. Throughout last week, there were meetings among the staff members to decide Mr. Armstrong's fate. "The committee expended seven days—eight if you count today—on this drivel when they should have been working their tails off on something of substance," one staff member who supported Mr. Armstrong declared today.

Last Friday there was what this man called a "bloodletting"—a long meeting at which other investigators called for Mr. Armstrong's dismissal and Terry F. Lenzner, an assistant chief counsel, argued that Mr. Armstrong should be retained.

Senator Sam J. Ervin, Jr., the committee chairman, left the decision on Mr. Armstrong's future up to Mr. Dash, and Mr. Dash said that he would take the weekend to make up his mind.

He reportedly described the one-month suspension as a "compromise" today and told other staff members that many people wanted Mr. Armstrong to be permanently discharged.

But a staff member who sat through many of the meetings had another version: "The minute Sam saw that bit about his being an egomaniac, he went bananas. There was no stopping him. Nobody else who mattered gave a damn but Dash."

FINANCIAL STATEMENT

Mr. MOSS. Mr. President, approximately every 2 years—in each Congress—I make public disclosure of my income and financial assets. I do so again today.

This is perhaps the most timely disclosure I have made. Those of us who have been elected to the legislative branch can help restore credibility in government by being frank and open in all respects, and one way to be candid is to make full disclosure of personal finances. I am glad to disclose mine here at this time.

The statement I file in this Congress shows an increase in the equity of my homes in Salt Lake, and Washington, D.C., over the past 2 years, and it shows I have also acquired equity in a home in Maryland and in a condominium at Bear Lake, Utah. It likewise indicates an increase in my liabilities.

I should mention that I receive lecture fees between $5,000 and $10,000 a year, and small royalties on my book, "The Water Crisis," and on the two small stockholdings I have. These are my only earnings outside of my Senate salary, with the exception of $406.06 gross a month which I draw as retired military pay for my service in the U.S. Air Force. My wife has no separate assets, income, or earnings.

I recognize that the Senate has adopted a disclosure-of-assets rule, and I follow this rule faithfully. However, as we all know, the information in this "disclosure" is not made public, but is merely filed away, year after year, under the guardianship of a "custodian" who never sees it. There is no way for a constituent or anyone else to know about the income and assets of a Member of Congress except through the voluntary disclosure by that elected official. The present disclosure law gives the illusion of full disclosure, when it really does not do that at all.

Because I believe strongly in full, public disclosure, I ask unanimous consent that my current financial statement be printed in the RECORD

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Financial statement of Senator Moss

(As of Nov. 1, 1973—All amounts approximate)

ASSETS

Savings account	$1,353
Cash on hand and in checking account	2,000
1971 Dodge Dart and 1965 Mustang	2,000
Personal notes due me	13,715
Cash value life insurance	18,500
Paid in equities:	
House in Washington	41,642
House in Salt Lake City	15,596
House in Maryland	10,758
Condominium at Bear Lake	4,273
Lot (unimproved) Salt Lake City	8,000
Utah Employees Credit Union	426
5 shares Standard Oil of California	325
1 share A.T. & T	48
Total	118,636

LIABILITIES

Personal note	9,600
Mortgages (balance due):	
House in Washington	4,353
House in Salt Lake City	15,490
House in Maryland	62,243
Condominium at Bear Lake	35,226
Total	126,917

PROF. VAN ALSTYNE, DUKE UNIVERSITY, ON ELIGIBILITY OF SAXBE TO BE ATTORNEY GENERAL

Mr. HRUSKA. Mr. President, this past Monday at my request the statement of Acting Attorney General Bork regarding S. 2673 was printed in the CONGRESSIONAL RECORD. It can be found there at page S. 20830, November 19, 1973. Closely allied with this statement was the testimony heard on Tuesday before the Judiciary Committee of William Van Alstyne, a distinguished professor of law at Duke University.

Prof. Van Alstyne presented an extremely clear analysis of article I, section 6, clause 2 of the Constitution, as it related to the eligibility of the appointment of the Senator from Ohio, Senator SAXBE, to the position of Attorney General.

For the benefit of the Members, who would wish to inform themselves further on this subject, I ask unanimous consent that Prof. Van Alstyne's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF WILLIAM VAN ALSTYNE ON THE ELIGIBILITY OF SENATOR WILLIAM SAXBE FOR THE OFFICE OF ATTORNEY GENERAL, THE JUDICIARY COMMITTEE OF THE U.S. SENATE

I. INTRODUCTION

It is my understanding that Senator William Saxbe was elected to the United States Senate in 1968, to a regular six-year term. It is also my understanding that in 1969 the salary for the Office of Attorney General, together with the salaries for certain other civil offices, was subsequently increased. Mr. Saxbe has recently been nominated by the President for the Office of Attorney General, and a question has arisen respecting his eligibility for that office in light of the following provision in Article I, Section 6, Clause 2, of the Constitution:

"No Senator . . . shall, during the time for which he was elected, be appointed to any civil office . . . which shall have been created, or the emoluments whereof shall have been increased during such time."

It is evidently agreed that the provisions of this clause clearly affect Mr. Saxbe's eligibility for appointment as matters now stand. I understand, however, that this Committee wishes to know whether the disability would continue even supposing that Senate Bill No. 2673 were to become law prior to the Senate's consent to the nomination so that the salary and emoluments which Mr. Saxbe would be entitled to receive as Attorney General would not, during the time for which he was elected to the Senate, exceed the emoluments of that office previously provided as of January 1, 1969. Recognizing that the question might subsequently be raised in appropriate judicial proceedings challenging actions Mr. Saxbe would be expected to take in the ordinary performance of his duties as Attorney General, I understand that the Judiciary Committee wishes to satisfy itself on the substantive merit of any such challenge—so that the Committee may report to the Senate its own view as to how far the question of Mr. Saxbe's eligibility should affect the Senate's desire to consent in his nomination.

I cannot, of course, presume to speak for others on this question, and I am frankly grateful that the Judiciary Committee has already considered the views of other witnesses and a great deal of additional material. On the effect of Senate Bill 2673, however, I have reached a personal conclusion. Briefly, it is that the enactment of S. 2673 would be effective to confirm the eligibility of Mr. Saxbe consistent with Article I, Section 6, Clause 2, by making certain that as of the time of his appointment there would be no emoluments he would be entitled to receive which are possibly traceable to any action previously taken by Congress after his election to the Senate, in 1968. It is also my view, moreover, that a different and less generous view of the effect of S. 2673 is not only not required by Article I, Section 6, Clause 2, but that it would foreclose eligibility of Members of Congress for appointment to pre-existing civil offices quite contrary to the intention and the understanding of the draftsmen of that clause in the Constitutional Convention of 1787. To understand the basis for these conclusions, I think it may first be helpful to indicate my understanding of the constitutional clause itself, and then to address the effect of S. 2673.

II. THE SPECIFIC CHARACTERISTICS OF ARTICLE I. SECTION 6, CLAUSE 2 AS A SAFEGUARD AGAINST POLITICAL SPOILS

It is quite true that neither the adoption of S. 2673 nor any other Act of Congress can literally expunge the past as a fact of history. It is also true that while Article I, Section 6, Clause 2 meant to deal with the problem of a spoils system (or with the problems of improperly motivated executive-legislative collaboration), it did not mean to do so by allowing Congress or the courts latitude to determine whether a person appointed to a particular office may not in fact have been influenced by any improper consideration whatever in creating or in enhancing the emoluments of that office and, by satisfying itself in that way, presuming to construe the clause as not applying to such a person.

Indeed, in this respect I entirely agree with the Opinion of Attorney General Brewster (17 OP. A.G. 365, May 26, 1882), in the appointment of Governor Kirkwood who was deemed disqualified from being appointed to an office created during the term for which he was elected as a Senator, in spite of the fact that Mr. Kirkwood had resigned from the Senate more than a year before the office was created and thus could not have had any direct influence as an active or current legislator in the adoption of the Act creating the office. No investigation into the possibility that Mr. Kirkwood might somehow have been influential in some personal or private way in having the office established was made, moreover, nor was it suggested that any such investigation would be an appropriate means of determining his eligibility for appointment. Rather, the clause sets its face against the awkwardness and possible manipulation of such investigations, by making them irrelevant.

For the same reason, I agree also with the Opinion of Acting Attorney General Conrad (21 OP. A.G. 211, August 15, 1895), advising the President that Senator Ransom of North Carolina was ineligible for appointment as envoy to Mexico during the term of his election because the salary for that office had been increased by $5,000, and without inquiring at all as to how Senator Ransom had voted on the bill or, indeed, as to whether he voted or had anything whatever to do with the bill.

These were unquestionably sound applications of the clause, exactly in keeping with its intention as well as its letter. For the spirit of the clause, cast as it was in terms of utterly impersonal and virtually mechanical tests, is not simply to avoid certain varieties of improper political temptation, but to do so by means that: (a) permit no possibility of evasion by inviting the same Congress constrained by the clause to give in to temptations of self-interest by making "exceptions" for persons where Congress would find no particle of improper influence; that (b) operate with sufficient impersonality as not to involve the possibility of calling into public question the motives of a member of Congress who may have voted for a particular bill; and that (c) would, so far as words can ever do so, secure the public confidence in the automatic and wholly impartial manner of their application. (See Elliot, Debates in the Federal Convention, vol. 5, pp. 188–501.)

In this respect, the mechanicalism of Article I, Section 6, Clause two has the same virtues and the same vices as similar provisions elsewhere in the Contitution. For along with the virtue of clear and impersonal operation, there is, of course, the shortcoming of that legislative technique—that a line drawn in a manner giving conclusive effect to but one or two circumstances may often fail to reach a variety of possible corrupt practices that a more general standard would tend to reach. It is clear, for instance (see Elliot *supra*, at p. 233), that a Senator or Representative nearing the end of his term might be induced to vote to create a new office or to raise the emoluments in an existing one, expecting in return for his vote at once to be appointed to that office the instant his term expires. Yet, the clause does not reach that case. (See also 33 OP. A.G. 88 (1922); Story, Commentaries on the Constitution, vol. I, p. 633 (5th ed. 1891).) The case was also put in Convention, as an objection to the limited character of the clause (Elliot *supra*, at p. 231), of a Member of Congress entering a cabal with his colleagues and with the President to secure an important existing office for himself by voting to create a new office so that the incumbent of the office he wished for himself could then be transferred. Again, the clause provides no precaution against this possibility.

In fact, the clause is in no respect a general, constitutional "corrupt practices" act. Rather, it deals with only three varieties of possible improper influence (voting for new offices, raising the salary of an existing office, and holding any other office while simultaneously serving in Congress). It deals with these, moreover, only in the most limited way (*i.e.*, the sole sanction is that of ineligibility). And even the sanction is of the most limited duration (*i.e.*, disqualification for appointment only until the end of the term for which one was elected).

I have thought it important to note these limitations on the clause not to disparage it in any way, or to imply that it ought not be applied rigorously insofar as it clearly does establish at least certain safeguards against the temptations of the spoils of office, but rather to make clear that the limitations of the clause were themselves perfectly well understood even at the time the clause was being proposed. Moreover, the reasons for accepting these limitations were felt at the time to be of sufficient importance as themselves to account for the clause emerging ultimately as it did. An examination of those reasons will, I believe, in turn explain why a bill such as S. 2673 not only satisfies Article I, Section 6, Clause two, but the respect in which it tends to achieve one of the purposes that accounted for the ultimate form of the clause.

III. THE CONCERN OF THE CLAUSE TO ASSURE THE APPOINTMENT ELIGIBILITY OF MEMBERS OF CONGRESS WHERE THERE IS NO POSSIBILITY OF PROFIT FROM OFFICES CREATED, OR SALARIES INCREASED, DURING THE TIME FOR WHICH THEY WERE ELECTED

The essence of the problem is this. Insofar as the clause is concerned with any civil office "created" during the time for which a Senator or Representative was elected to Congress, and for which he might otherwise be considered for appointment, no question of the kind presented by S. 2673 can arise: if Congress first established a new office by law and, prior to the appointment of anyone to fill it then enacts a law discontinuing that office, there remains no new office to be filled and thus the question of anyone's eligibility to fill it is at once moot.

Insofar as the clause is also concerned with *existing* offices which members of Congress are as eligible as all others to fill, but means to restrict the President from appointing a Member of Congress only when the emoluments of that office have been enhanced by Act of Congress, however, the problem is obviously different. Where Congress, prior to the appointment to be made, eliminates the only perquisities of office that would otherwise have made the appointment constitutionally objectionable, to regard a Member of Congress as still ineligible for appointment is to exceed the very function of the clause *which does not mean to disable such persons from appointment to pre-existing offices.*

As Mr. Justice Story observed in his Commentaries on the Constitution (vol. 1, p. 633, 5th ed. 1891):

"The reason for excluding persons from offices who have been concerned in . . . increasing their emoluments (is) to take away, as far as possible, any improper bias in the vote of the representative. . . ."

It was not, on the other hand, to disqualify a person for appointment to an existing office and it is very clear from the Convention Debates that such a situation would have been regarded as highly undesirable in depriving the country of the services of able people, *i.e.*, Members of Congress, who, by their experience in Congress, familiarity with Washington, and knowledge of the workings of particular executive posts, might well be obvious good choices for the President to consider in the event a vacancy were to occur.

A preliminary draft of Article I, Section 6, Clause two provided that Members of the House would be "ineligible to *any* office" under the authority of the United States during their term of election. (Elliott, at p. 189. Emphasis added.) In Convention, James Madison proposed to change the proposed clause so that it would apply only to office "as should be established, or the emoluments augmented, by the legislature of the United States during the time of their being members." (*Id.* at 230.) He gave as his reason that "(h)e supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, and that if the door was shut against them, it might properly be left open for the appointment of members to other offices. . . ." (*Ibid.*) He strenuously opposed "absolute disqualification" from all offices, and not merely those created during a Member's term or those enhanced by Congress during a Member's term. (Elliot at 232.) Madison's proposal was initially rejected, but it was subsequently introduced the next month, debated again, and carried on a close vote. (Elliot at 506.) The reasons stated by the proponents of the change were exactly the same as those that Madison had previously advanced.

This history bears critically upon the compatibility of S. 2673 with the original understanding, the function, and the only sensible construction of Article I, Section 6, Clause two. In terms of the functions of that clause, the exact equivalent of Congress eliminating the very office they earlier established during the term of election of a colleague is to eliminate whatever increase in emoluments which they had previously approved in connection with an *existing* office. The whole purpose of the clause in this respect, which was to avoid any question whatever that might otherwise arise that the earlier increase was in anticipation that a Member of Congress might himself benefit from it, is at once fulfilled in terminating the efficacy of that prior legislation and by thus rendering it impossible for any appointee from Congress personally to benefit from that prior legislation. On the other hand, not to recognize the efficacy of S. 2673 in terminating the disability created solely by the previous legislation would itself offend one of the reasons that accounted for the final form of Article I, Section 6, Clause two: to assure the eligibility of Members of Congress for appointment to vacancies in *existing* offices, insofar as neither the office itself nor any perquisite associated with that office would result to them as a consequence of any Act of Congress during the term for which they were elected to that Congress.

To be sure, one or two questions remain to be answered and, although they are not at this moment before the Judiciary Committee, it will be useful to anticipate them because they, too, bear upon the appropriate construction of Article I, Section 6, Clause two. Without doubt, it has already occurred to several persons to wonder what would happen if S. 2673 were to become law, Mr. Saxbe were then to be confirmed as Attorney General, and immediately thereafter an Act were to be adopted again raising the salary of the Office of Attorney General to what it was prior to the adoption of S. 2673. There are obviously three possibilities:

a) The increase would at once become effective and Mr. Saxbe would be entitled to receive it although it came within the time for which he was elected to the Senate.

b) The adoption of the Act would operate at once to disqualify Mr. Saxbe from continuing to serve as Attorney General, at least for the balance of the term for which he was elected to the Senate.

c) Mr. Saxbe would remain as Attorney General, but Article I, Section 6, Clause two operates to forbid him from receiving any increase and the increase would become effective only for such services as he might perform as Attorney General after the date of expiration of the term for which he was elected to the Senate.

The plain sense and history of Article I, Section 6, Clause two persuade me that the proper answer is the last one—he would not be automatically disqualified, but he would be precluded from realizing any personal benefit during the balance of the term for which he was elected to the Senate. But to avoid any legal question from arising and any possible appearance of impropriety as well, it is within the sound discretion of Congress simply to keep from considering any subsequent increase in the salary of that office, at least until Mr. Saxbe's senatorial term shall expire.

On the immediate question before the Committee, however, it is my view that insofar as the adoption of S. 2673 would make clear that Mr. Saxbe may be appointed solely to an existing office for which there are no emoluments apart from those provided prior to the time for which he was elected to the Senate, it would not only misconstrue Article I, Section 6, Clause two, but it would violate one of its own purposes (to preserve the eligibility of Members of Congress to fill vacancies in such offices) were a court to hold Mr. Saxbe to be ineligible.

The language of Article I, Section 6,

Clause two is, of course, not clear and no doubt that is why this question seems difficult. One might read the phrase "the Emoluments whereof *shall have been* encreased during such time" as concerned to know only whether, as an historical datum, an increase was once voted regardless of whether it was shortly discontinued and of no possible profit to a nominee whose name is subsequently submitted to the Senate. To insist upon that reading, however, is at once too broad and too narrow as well. On the one hand, it would disregard the sole function to remove temptation in voting for an increase that one might personally anticipate receiving, it ignores the impact of subsequent legislation, and it offends the deliberate purpose of the framers of the Constitution to provide for the continuing eligibility of Members of Congress for appointment to an existing office where nothing they nor their colleagues have previously done can serve to make that office more attractive than otherwise. It is, at the same time, too narrow a reading as well: the history of the clause also makes clear that it was the drafters' purpose to forbid a Member of Congress from benefitting from any subsequent increase in the emoluments of the office to which he is appointed, for the balance of the time for which he was elected to Congress. Yet this intention would be disrespected if the clause were read as being concerned solely with a single past event, *i.e.*, an increase which "shall have" occurred as of the date of appointment.

Finally, I have regarded the constitutional history of the clause as obviously important to the question before this Committee, because I assume that it would necessarily be taken into account were the question to arise in the Supreme Court:

"Our sworn duty to construe the Constitution requires . . . that we read it to effectuate the intent and purposes of the Framers. We must, therefore, consider the history and circumstances indicating what the (provisions in question) were in fact designed to achieve." Bell v. Maryland, 378 U.S. 226, 289 (1964) (Mr. Justice Goldberg, concurring).

Respectfully submitted,

WILLIAM W. VAN ALSTYNE.

GENOCIDE CONVENTION MISUNDERSTOOD

Mr. PROXMIRE. Mr. President, I have received many letters from persons opposed to the Genocide Convention on the grounds that it would subject American citizens to extradition outside the United States for trial on charges for acts committed within the United States.

Mr. President, there is absolutely no factual basis for this concern. Article VII of the convention does not constitute an extradition treaty. Rather, it obligates the contracting parties to grant extradition in accordance with their already existing laws and treaties.

The provision of article VII regarding extradition of citizens who are accused of genocide says:

> The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

The important point is that extradition is promised in accordance with laws and treaties in force. The convention itself does not alter extradition procedures. It says they will be conducted the way our extradition treaties specify. At present, we have no extradition treaties dealing with genocide. They would be made in the future with the advice and consent of the Senate.

These treaties could and would contain a number of safeguards. First, we can assure that certain procedural rights are secured in the courts of the foreign nation. Second, there can be provision for a thorough examination of the evidence in the case before extradition is agreed to.

Finally, S. 3182, the proposed legislation implementing the Genocide Treaty, states that it is the sense of Congress that extradition treaties should provide that the United States reserves the right not to extradite in cases which the United States is either already prosecuting or intends to prosecute.

The Genocide Convention is, then, not in itself an extradition treaty.

Mr. President, we already have extradition arrangements for various other offenses with 97 nations. Since there is no reason to think that the extradition arrangements we would make concerning genocide would particularly differ from those existing treaties either in provision or effect, criticism of the Genocide Convention on these grounds is unreasonable.

I urge the Senate the ratify the Genocide Convention without further delay.

ATTITUDES ON ENERGY—ADDRESS BY SENATOR TOWER

Mr. GRIFFIN. Mr. President, the able and distinguished senior Senator from Texas (Mr. TOWER) is delivering a radio address to the people of his home State this weekend. I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ATTITUDE ON ENERGY

(By Senator JOHN TOWERS)

Fellow Texans . . .

On this Thanksgiving weekend, we Americans traditionally pause from our routines to contemplate and to give thanks for the bounty about us. For more than a generation, too many of us have taken for granted the bounty that we enjoy—which has given us the greatest living standard in the history of man. In many instances, we have mistakenly gone about our daily routines as if these bountiful resources of this country were endless. Suddenly in 1973, we have discovered that they really are not unlimited supplies of resources, especially in the area of energy which runs our homes, automobiles, airlines and factories. In short, I think we finally have realized that we do have problems—that there really is an energy crisis, and it's worldwide.

America has grown and prospered on this abundance of natural energy and human motivation. And now, our ever growing demands for energy have begun to outstrip available supplies. The first thing we have to realize is that we, as Americans, must now rely on cooperative initiative and individual energy conservation as we face the prospects of shortages for several years to come.

Our attitude is important. We should view the current situation, not as an energy crisis, rather an energy challenge. As we have met challenges in the past—Sputnik, for example, accelerated our now highly successful space program—so we shall meet this challenge with creative integrity and self-sacrificing conservation.

It is in this light that I applaud the action this week by the Senate to begin to meet the energy challenge by passing the President's National Energy Emergency Act within less than two weeks after it was requested as an emergency measure. It is now incumbent on the House to act speedily on this vital legislation and rush it to the President's desk.

This bill which we passed this week is a strong measure, and grants the President immense powers. It authorizes the President to immediately undertake actions to conserve scarce fuels and to increase supplies. He may, if necessary, implement rationing of gasoline and other fuels. But I emphasize that he is not required to do so. I reluctantly support the rationing concept, for use only as a measure of last resort, to be imposed only if less economically restrictive programs and voluntary measures fail to generate the necessary energy savings.

To best use our scarce resources, the President will require power plants using cleaner fuels such as natural gas or low-sulphur oils—which are now in short supply—to convert to the more abundant, less clean fuels such as high-sulphur oil or coal when conversion is possible. In order to accommodate this conversion, variances from air pollution control standards will be permitted under certain liimted conditions.

Encouraging energy conservation necessitates alternate means of transportation in many cases. Therefore, incentives will be provided for the use of mass transit and other efficient modes of transportation such as car pools.

Another provision of the Senate bill prohibits exports of oil products considered scarce, and will divert their destination to our domestic market. In addition, it will open the door to discussion with other nations for alleviation—of our fuel problems.

I only regret that this bill which we passed this week does not reach the heart of our energy problem—that of supply. Again, let me say that I reluctantly supported this legislation because such legislation has been forced upon us by decades of wastefulness in the use of energy, years of ill-advised energy-related policies on the national level, and too many examples of short-sighted thinking by too many in high levels of government.

I can recall in recent years the fights we have had in the Congress over tax incentives to make funds available for exploration of new energy resources. I said a few years ago when we cut the oil depletion allowance that it was a mistake, and I still believe it was a mistake.

We must move quickly now to de-regulate the price of natural gas at the well-head so that there will be incentives for our producers to find the vast new sources of gas which we need.

Three times now this year the President has called for new legislation to meet our energy crisis. Congress is beginning to respond. The President's call for a project of independence to meet our energy needs here at home by 1980 is one to which every American should respond.

I am confident that if we all work together, we will meet our needs—and be able to help the rest of the world meet their needs, too. I am confident that we Americans, by working together, can continue to know the blessings of both a high-energy civilization, and a bountiful and healthy world to live in. Indeed, I am confident that we can face up to our problems, and for years to come, at this season we can again pause and give thanks for the bountiful resources about us.

BIAS OF MAJOR MEDIA

Mr. HELMS. Mr. President, long before I ever dreamed that I would be a Member of the U.S. Senate, I was constantly dismayed by the arrogantly biased conduct of so many of the major news media of this country.

Now, Mr. President, let me emphasize that I myself have been a part of the "media" for most of my adult life. I have been an editor, and I have been an executive officer of a fairly sizable broadcasting company. So when I complain about the media, I am complaining about those in my own profession.

For years I have heard noble ideals converted into nauseous cliches; "freedom of the press," and "the people's right to know," have been mocked by irresponsible men who violate every tenet of fair and decent journalism.

They do have one consistency, however, Mr. President: They never practice what they preach. The same news media plead for a "shield law" to protect them from having to back up their anonymous attacks on people and issues they oppose; but they demand that the President of the United States have no privacy or confidentiality at all in conducting his affairs.

And they talk about "credibility." Who are they to talk? Just observe, Mr. President, the coverage of activities on the floor of this Senate. Let one of my distinguished liberal colleagues speak on even the most insignificant matter, and his words are reported immediately across the continent as if they had rolled down from Sinai.

But let one of my distinguished conservative colleagues make a major speech, and it is ignored—or, if it is reported at all, it received two or three lines on the bottom of the obituary page.

Is this accidental, Mr. President? I think not. The major news media operates from a solid base of bias, distortion and partisanship. They wrestle with their cliches, and they talk about other people's "credibility." Well, Mr. President, let us examine this cliche-credibility issue.

One of the favorite cliches of political commentators over the last several months has been the "credibility" problem of President Nixon. Now a serious question has been raised over the credibility of some of those who bring the "news" to us.

Only last week, the Newspaper Guild, a trade union for newspaper men and women, passed a resolution recommending the impeachment of President Nixon. By so acting, the Newspaper Guild, speaking for its 40,000 members, whom the guild did not consult, put the press in an anti-Nixon posture with regard to one of the most controversial issues of the century.

The real question is whether this action has not irreparably damaged the integrity and credibility of the writing press, thus making suspect its reporting on current events. Those who wanted the reporting of the current crisis to be dispassionate and reasoned surely will be disappointed to hear that those who bring them the news are organizationally predisposed on the issue of impeachment.

The Newspaper Guild's action is but a reminder of the guild's endorsement of Senator McGovern for President during the 1972 campaign. Exhibiting an ideological bent that reflects poorly on the fairness of press coverage, the McGovern endorsement, like the impeachment endorsement, justifies widespread public concern that the major news media have completely discarded fair-play and objectivity.

As a former newsman, I am dismayed that the major news media of America could become so committed on an issue which is sure to provoke the greatest debate in the weeks and months ahead. More than ever before, the public must be informed in a fair and comprehensive manner of the facts on which any impeachment question is based. An endorsement of impeachment, in advance of any realistic action by the Congress, raises the gravest questions of bias on the part of our communications industry.

Mr. President, I ask unanimous consent that the article entitled, "Guild Board Calls for Impeaching," which was recently published in the Washington Post be printed in the Record for the information of my colleagues.

There being no objection, the article was ordered to be printed in the Record as follows:

Guild Board Call for Impeaching

(By William Greider)

The International Executive Board of the Newspaper Guild has called upon Congress to initiate impeachment proceedings against President Nixon, denouncing "improper, unconstitutional and illegal conduct involving both the President and his closest associates."

The 16-member board acknowledged in its resolution, passed Thursday, that its action "may be seized upon by President Nixon's apologists and perhaps by the President himself as supporting the accusations as biased and distorted reporting he has chosen as a last line of defense . . ."

The board asserted, however, that "we have obligations to our country as well as our craft and, in any event, we are confident the public will not be deceived.

The union's 40,000 members were not consulted before the vote. One board member, Vice President Warren E. Howard of the Washington-Baltimore local, voted against the resolution on the grounds that it will be "counter productive."

The Wire Service Guild, which represents employees of the Associated Press and United Press International, dissociated itself from the anti-Nixon resolution by a vote of its own executive board.

Robert Levey, unit chairman at The Washington Post, also spoke against it. "The thing is absolutely absurd," he said. "I feel just the way about it as I did on the McGovern endorsement. It hopelessly compromises our working members."

* * * * *

The Guild is affiliated with the AFL–CIO, which has already urged impeachment.

In other developments regarding impeachment, a survey of congressional opinion made by The Christian Science Monitor concluded that President Nixon will not be impeached, though he will remain handicapped by the Watergate scandal.

The Boston newspaper said that of 193 representatives and 32 senators responding to its poll, 135 said impeachment proceedings in the House are not likely, but 174 said impeachment proceedings are possible.

When asked if President Nixon could regain his credibility, 65 said yes and 137 said no.

Sen. Howard Baker (R. Tenn.) commented yesterday, however, that he thinks now that the President can restore his stature with the people.

"Six weeks ago and even three weeks ago," Baker said, "I didn't think he could make it. But in view of the things that have happened in the last few days I think he can make it. I'm not prepared to so say he will, but he has a chance."

Rep. Paul N. McCloskey (R. Calif.), a frequent Nixon critic, said, on the other hand, that if the House "assumes its awesome responsibility in a reasoned, deliberate, scholarly and reflective manner, the President will be impeached three to four months from now."

The board of another AFL–CIO union, the 200,000-member Oil, Chemical and Atomic Workers Union, also declared yesterday that Mr. Nixon should be impeached, saying he "has earned the deep distrusts of the people and therefore he cannot lead the nation."

THE ECONOMIC STABILIZATION PROGRAM

Mr. BEALL. Mr. President, all of us have recently given thought to the overall condition of our Nation's economy. The current shortage of petroleum has the potential of seriously dislocating our economy, but it is still too early to accurately assess its full impact. I have recently issued a statement outlining my views on the economic stabilization program.

A number of recent newspaper articles have also addressed themselves to evaluating the performance of our economy. I ask unanimous consent that the text of my statement, the New York Times of November 4, 1973, article entitled "The Economy—Some Signs Point to the Right Path," and the Baltimore Sun of November 1, 1973, article entitled "Inflation Gallops Abroad, Trots in United States" be printed in the Record at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Statement by Senator J. Glenn Beall, Jr.

When the Economic Stabilization Program was announced by the President in August of 1971, I expressed the belief that a program of government control of the economy could serve, for the short run, as a moderating influence on excessive wage and price increases which were fueled by our Nation's overheated economy during the late 1960's and early 1970's. Thus, the Economic Stabilization Program was designed to impose a degree of discipline on the economy as we made this difficult transition.

I think most Americans would agree that Phase I and II worked reasonably well. However, the longer controls remain in effect the less effective they become; and therefore we began to encounter problems as the program continued. In addition, the controls themselves serve to dislocate various aspects of the economy. For instance, there was an adequate supply of beef on the hoof throughout the summer, but the freeze on beef prices caused a shortage at the retail level because the ranchers and the feed lot owners were reluctant to sell their cattle. This was a prime example of how economic controls can produce shortages, encourage the development of blackmarkets, and otherwise adversely affect the normal functioning of our economic system.

However, no matter what actions the government takes, we cannot repeal the law of supply and demand. If demand for a particular item exceeds the available supply, the price will tend to rise. If the supply is adequate or exceeds demands, the price will tend to remain stable or decline. However, if you artificially hold prices down, you depress rather than encourage greater production; hence controls tend to be self-defeating in the long run.

There are several steps which all of us must take, I think, if we are to improve our Nation's economic situation. First, all Americans must work together to stabilize our Nation's economy because it is in the best interest of all of us to do so. Second, the Congress must scrutinize more closely all expenditures in an effort to reduce our federal deficits. Third, we must take steps to promote the productivity of our economy and strengthen the government's ability to regulate exports so as to avoid serious domestic shortages that contribute to the inflationary spiral.

While we must all continue to cooperate with the Cost of Living Council in its efforts to restore economic stability, I believe that it is important for us not to become "addicted" to the idea that our dynamic trillion dollar-a-year economy can be directly controlled by the federal government. Certainly it is in the best interest of this Nation to move away from a program of controls at the earliest possible date.

THE ECONOMY—SOME SIGNS POINT TO THE RIGHT PATH

(By Eileen Shanahan)

WASHINGTON.—Can a nation's economy keep growing and producing jobs and profits when the future of the nation's political leadership is in grave doubt? The stock market last week seemed to answer a loud "no," though the war in the Middle East may have contributed as much as the news from Washington to the biggest one-week market decline in years.

The economy itself, however, was giving a somewhat different answer than the stock market's, and so were the ordinary supersensitive international financial markets.

All of the recent economic statistics indicated a continuation of a months-long trend—a slowdown, but a mild one.

The October unemployment figures, which came out Friday and are the first available statistics for last month, looked surprisingly good. The jobless rate fell from 4.8 per cent of the work force, where it had been stuck since June to 4.5 per cent, the lowest level in three and a half years.

While economists disagreed over the meaning of the decline, at the very worst it seemed to indicate no deterioration in the business outlook. At the best, it indicated that the slowdown might be milder than had been thought.

Figures on the nation's total production of goods and services in the July-September quarter—the Gross National Product—did show that the slowdown was occurring at about the anticipated pace. The G.N.P. rose during the quarter at a 3.6 per cent annual rate. This was better than the surprisingly low 2.4 per cent in the April-June quarter and close to the 4 per cent rate that Administration economists think is about as fast as the economy can grow without producing strains on productive capacity and, hence, additional inflationary pressures. Earlier in the year, the growth rate had been at 9 per cent.

Other figures for September also confirmed the softening outlook. Construction and sale of new houses is a bit sluggish in the face of high interest rates and so is consumer spending generally, in the face of inflation, and of Detroit's inability to produce the newly-popular small cars as fast as it could probably sell them.

On the other hand, the production of machinery and equipment used by business has continued to rise strongly and the build-up of inventories is still relatively quite small. It is the expected continued strength in expenditures for new plant and equipment, plus the lack of excess inventories that has led to the belief that the slowdown could not take a drastic turn.

The belief that a downturn in consumer buying is likely is based largely on the certainty that inflation will eat further into purchasing power and, as far as prices are concerned, the immediate past may have been a bit better than the future. Food prices fell in September and, as a result, over-all consumer prices rose relatively little. Everyone agrees that bigger consumer price increases are in the offing, however, because of increases in production and distribution.

Besides the rather bleak outlook for prices, there are a number of other questions about the economic future:

Is the impending shortage of oil likely to be large enough to become an independent cause of economic slowdown? Is it possible that the Administration might react to the improved unemployment figures or other economic "good news" with policies to further slow the economy? Herbert Stein, the chairman of the President's Council of Economic Advisers, hinted at this on Friday when he said the employment figures showed that it was more urgent than ever to keep the budget under control so that inflation could be controlled.

And there is the political question. Otto Eckstein, the Harvard economist and former member of the Council of Economic Advisers, said in his latest economic analysis:

"The instability at the center of national power poses a major risk to the 1974 economy. The United States is not accustomed to doubt about the durability and continuity of national authority, but other countries such as Italy have demonstrated over and over again that the economy is affected adversely."

A contrary verdict is being rendered, so far, however, by the international financial markets. These markets ordinarily are enormously sensitive to political developments and their participants tend to be better informed than the average investor in the American stock market. The striking fact is that the international currency markets have experienced only a few small jiggles in recent weeks.

There are excellent economic reasons for the strength of the dollar in international currency markets: the United States had a huge surplus in its international trade in September and the balance of payments is also looking good.

It is possible that the dollar ought to have been even stronger in recent weeks, given the great improvement in the position of the United States in the world economy. But it does seem that the international money men are saying that as long as America's economic news is good they will not worry about the political news. That could change.

INFLATION GALLOPS ABROAD, TROTS IN UNITED STATES

(By Art Pine)

PARIS.—In these days of raging inflation, soaring food prices and shrinking weekly paychecks, where can a person go to escape the high cost of living and return to relative economic calm?

Answer: The good old U.S.A.

The good old U.S.A.? With a horrendous 7.4 per cent overall inflation rate, an eye-popping 13.4 per cent spurt in grocery prices, and a sharp surge in wholesale prices this year that points to more steep retail boosts on the way?

Right. For the plain fact is, while inflation still is serious inside the 50 states, it is even worse in most other major industrial countries, both throughout Europe and in Japan.

Indeed, compared to the galloping inflation rates now being racked up in most of the rest of the world, the 7.4 per cent inflation rate now raging on inside the U.S. looks almost like old-fashioned stability.

Retail prices in Japan, for example, are soaring at a spectacular 15.9 per cent rate so far this year, while those in Italy are rising at a 13.2 per cent pace and costs in Great Britain are up at an annual rate of 9.8 per cent.

9.4 PERCENT IN CANADA

Comparable figures show the inflation rate this year running at 9.4 per cent in Canada, 8 per cent in West Germany and Switzerland and 7.4 per cent in Sweden.

In fact, the only major nation to beat the U.S. on the price front is France, where the inflation rate is a numerically lower 7.1 per cent. But analysts say this is no victory—the difference is too scant to be significant.

Moreover, despite the high cost of groceries back home, food prices in other industrialized countries are skyrocketing almost as badly as they have been in Baltimore.

Food prices in Italy, for example, have gone up a staggering 13.4 per cent during the 12-month period ended in August, with Japan's up 12.4 per cent, Britain's 11.8 per cent, France's 10.2 per cent and West Germany's 7.8 percent.

Expectedly, a *Sun* Survey in Western Europe recently showed consumers there about as frustrated as those at home over the sharp upswing in prices. With no Watergate to sidetrack attention, inflation is a major political issue.

"PEOPLE COMPLAINING"

"People are complaining about prices here all the time," says Ernst Schueller, a grocery-store manager in a suburb of Bonn, "but they can't do anything about it, so they just grit their teeth and spend."

Andre Chavane, a retired French Army colonel who lives on the outskirts of Paris, says he has stopped eating meat altogether, because of the price spurt. "I only have beef," he says, "when I'm invited to homes of friends."

The causes of the rest of the world's inflation, as traced by analysts here, sound much like the explanations of President Nixon's Council of Economic Advisers—blaming recent huge jumps in world prices and chronic grain shortages.

Indeed, the emergence of high levels of demand virtually throughout the industrialized world at once—as nearly all the major nations entered into a boom period at the same time—appears to have spurred prices up worldwide.

But even here, economists say the U.S. looks relatively better off—if only because the government at home got started earlier in trying to slow down the economy.

While the various industrial nations have taken widely differing steps to try to combat inflation, only Italy, the United Kingdom—and possibly West Germany—have been even mildly successful.

GERMAN TAXES RAISED

Among those that have acted, Japan has slashed public works spending severely, while West Germany has raised taxes and cut back federal outlays, and Great Britain has adopted a set of U.S.-style wage-and-price controls.

However, France, Canada and many smaller nations have done virtually nothing either to change fiscal policy or impose wage-price restraints to combat inflation. And while most countries have tightened monetary policy, few have achieved results.

Economists predict that if present policies remain in force, demand will have tapered off more in the U.S. next year than in any other industrial nation—giving America the best chance to see a price slowdown (as well as a recession).

France, which hardly has done anything to cope with its inflation problem, still will be in a boom period through most of 1974, while the United Kingdom will not begin to begin tapering off before the second half of the year, analysts say.

Only West Germany, Italy and Japan are expected to show much sign of slowing their overheating in the early part of the year—a job the U.S. already has under way. Canada's boom is expected to last through late next year.

Despite the rosier price picture inside the U.S., however, there is one key area where American consumers are falling behind their counterparts in other nations: Their paychecks are not keeping pace as well with prices.

While wage rates have been far outstripping prices in most other industrial countries, union demands in the U.S. have remained surprisingly moderate. As a result, purchasing power at home has worn thin, compared to other nations.

While "real spendable earnings"—take-home pay, adjusted for inflation—rose only 0.8 per cent at home during the year ending last June, those in Japan rose 3 per cent, West Germany 2.4 per cent, and France 5.2 per cent.

Purchasing power in Italy rose a staggering 10.2 per cent, despite an inflation rate of 13.2 per cent, because workers there garnered a sharp 23 per cent increase in wages, on the average, over the year. The United Kingdom was up 3 per cent.

To be sure, no one is predicting with much certainty just which way the inflation cycle will go next year. Indeed, those nations with high wage increases this year most likely will pay higher prices to cover them later on.

And there seems little telling how long U.S. unions will continue to keep their demands moderate in the face of the sharp stateside rise in prices—despite the Nixon administration's wage-price controls program.

However, for the moment, at least, the price situation, painful as it is, looks relatively comfortable back in the U.S. If hot dogs seems expensive in Baltimore, knockwurst in Bonn is becoming a delicacy.

5-NATION PRICE LIST—COMPARATIVE PRICES IN UNITED STATES AND EUROPEAN CAPITALS (IN 1-WEEK SAMPLE BY SUN CORRESPONDENTS)

[Translated into U.S. dollars]

Item	Bonn	Paris	London	Brussels	Washington
Milk 1 qt	0.38	0.29	0.70	0.93	0.43
Bread 1 regular loaf	.52	.16	.24	.36	.33
Eggs 1 doz large	1.35	1.55	1.20	1.15	.79
Butter 1 lb	1.58	1.79	.63	1.62	1.07
Flour 5 lbs	1.30	.28	.75	1.99	.98
Sugar 5 lbs	1.40	.42	.75	1.00	.88
Coffee 1 lb	3.92	1.84	2.31	1.94	1.15
Filet mignon 1 lb	6.67	5.88	4.75	3.11	4.56
Hamburger 1 lb	2.00	2.07	1.55	1.49	1.39
Frozen green beans	.65	1.16	.35	.77	.33
Apples 1 lb	0.28	0.66	0.35	0.38	0.29
Lettuce Romaine	.16	.38	.25	.27	.39
Tomatoes 1 lb	.67	1.51	.60	.66	.49
Baby food large	.58	.64	.20	.52	.17
Paper towels 2-pak	.60	1.34	.65	.41	.52
Soft drink 16 oz	.21	.33	.18	.41	.16
Cigarettes 1 pack	.96	.82	.73	.60	.40
Dog food 1 can	.37	.42	.31	.52	.22
Gasoline 1 gal regular	1.18	1.08	.80	1.21	.42
Men's dress shirt	20.83	16.24	11.50	15.75	16.00

NATURE AND MAN PERIL CHESAPEAKE OYSTER FLEET

Mr. MATHIAS. Mr. President, when we work to preserve the waters, marshes, and shores of the Chesapeake Bay, we are also working to preserve a way of life.

The men and women who have made their living on the bay are unique, and have made a contribution to America by their self-reliance, independence, and salty outlook.

Some of the flavor of life on the bay is captured in today's New York Times in an article by B. Drummond Ayres, Jr., and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATURE AND MAN PERIL CHESAPEAKE OYSTER FLEET

(By B. Drummond Ayres, Jr.)

CAMBRIDGE, MD., Nov. 20.—Under the cold pallor of a November moon, eight tall ships awaited dawn in the snug, keyhole-shaped harbor, their jutting masts and angled rigging creaking softly, casting long, bobbing shadows on the low skyline of docks and warehouses.

Whiffs of frying ham and perking coffee wafted through the yellow rectangles of lamplight that marked open hatches, followed by muted laughter and snatches of talk about a girl named "Moody," an all-night drunk and "a 150-bushel day."

Then, like something out of Conrad or Melville, a raspy voice bellowed: "All right, swing out that yawl and hoist the mainsail!"

Another long, hard day was beginning for Maryland's Chesapeake Bay "skipjacks," the stylish oyster dredging boats that are said to make up the last surviving fleet of commercial sailing vessels in North America and are now seen in danger of foundering because of old age, new taxes and oyster beds so depleted by man's carelessness and nature's vagaries that catches often fall short of the daily limit of 150 bushels.

MORE THAN ENOUGH CLASS

At the turn of the century, there were hundreds of these 50-foot boats working the bay, their low-slung white hulls, needle-sharp clipper bowsprits and sharply raked jibs and single masts giving them more than enough class to offset shallow draft, ungainly centerboards and hippy 16-foot beams.

A decade ago, there were still about a hundred afloat.

But today, only about three dozen ply the Chesapeake, eight of them working out of this little Eastern Shore port, the rest berthed in harbors nearby.

Scarred hulls and cracked masts testify to the fact that most of the survivors were built before 1910 and some as early as 1885. The last was launched in 1956.

To build a skipjack in 1973—the name comes from a speedy Chesapeake Bay fish—would take about $40,000 and a long, frustrating search for a shipwright with the know-how. Even more discouraging, the finished vessel almost certainly would be an economic bust.

"The catch is only fair this year, and it'll be worse in years to come because of all that fresh water hurricane Agnes dumped into the bay last summer," 63-year-old Capt. Malcolm Wheatley said, climbing onto the deck of his 72-year-old vessel, Kathryn. He added:

"On top of all that, the tax people have started making us captains pay Social Security for crews, and they make us file detailed records of how much cash the men take home. Most people in this business already are over 40—young people just won't do the work—and you can bet all this red tape and mathematics is going to make getting hands even harder, just like it has in a lot of other things, from farming to babysitting.

"I've already had to hire me a bookkeeper—at $10 a week."

For all his complaints, Captain Wheatley did not look like an unhappy man, standing in the stern of his ship, standing erect and clothed in bulky winter gear. The Kathryn was under way now, and the tug of the sheet rope and the kick of the sea against the wheel sent his mind somewhere else.

Ahead were the Choptank River oyster beds, hidden in four fathoms of saltwater that was turning gray-green in the revealing tinge of dawn.

Amidships, the all-black five-man crew was breaking out the two dredges, the tow cables and the motorized windlass.

Astern, other skipjacks were strung out on colorful parade, among them the 87-year-old Rebecca T. Ruark, her canvas streaked with age, and the Rosie Parks, only 18 years old and immaculate in a newfangled suit of dacron sails that stood out white-on-white in the early morning blue.

"It'll be cam at first, but I've got a good feeling we'll get our hundred and a half," Captain Wheatley called out to his men, falling in to the Chesapeake watermen's pronunciation of "calm," usage inherited from the British who settled this area more than three centuries ago.

"Be first back home, too," added Dave Barkly, the 58-year-old cook, on deck helping with the windlass.

Under Maryland law, the windlass and the yawl, hung in davits over the stern, are the only motorized equipment allowed on skipjacks. Too much mechanization might lead to depletion of the bay's famed oyster beds, already hit by pollution, natural disasters, a mysterious killer disease called MSX and voracious bivalve appetites in landlocked cities such as Tulsa and Des Moines, now only a few ice-down hours away from Cambridge.

The windlass is a device used to haul up the dredges, V-shaped mesh baskets tipped on their sides, thrown overboard amidship and dragged open-end-first across the oyster beds when the skipjack moves forward.

The yawl is often lowered and used as a pushboat to augment the sails, the case with the Kathryn this morning. But only on Mondays and Tuesdays can it be used in dredging.

Oysters must be taken by sail during the rest of the week. The alternative is to work from a power boat with forceps-shaped tongs, a method that carries a tight daily limit of 25 bushels per man.

Oystering is rugged work—dirty and wet because of the nature of shellfish, cold because of the season is limited to the fall and winter, miserable because the crew must sleep in the skipjack's cramped, damp forward hole whenever the vessel works more than a day's sail from home.

The pay is on a share basis, with the first 35 cents of every dollar made going to the boat and the rest divided evenly among the captain and the deckhands. Since oysters are now bringing $6 a bushel wholesale (about three cents an oyster), a 150-bushel day works out to roughly $400 for the captain and his boat and $100 each for the five deckhands.

Instead of averaging $10,000 for the 20-week season, most crewmen make less than $5,000 and have to find work the rest of the year.

BREEZE FRESHENS

By now, the sun is well above the horizon, the yawls are back in the davits and the skipjacks are over the beds, waiting for the "cam" to end.

Suddenly the breeze freshens, the Kathryn and the Lady Katie momentarily lock bowsprits and booms in a watery fencing match as the eight boats spread out and the dredges go overboard.

Back and forth the skipjacks tack, windlasses grinding, dredges going up and down, water and mud flying, crews culling empty shells from marketable oysters, cursing snagged cables, laughing about "Moody," arguing about how to cook turnip greens, bragging about those all-night drunks (always ashore), challenging other crews and one another to culling and "drudging" contests.

There are no rest breaks, so Captain Wheatley tries to make things easier by holding a steady course, all the time beaming proudly at his men. They sense his pride and bend harder to their work.

By 11 A.M., everyone aboard the Kathryn is optimistic about a 150-bushel day. By noon, it looks like the Kathryn might also be the first skipjack back to port.

To make sure, the crew steps up the pace, stopping only at 1:30 P.M. when Captain Wheatley orders 60-year-old Levin Turner to estimate the haul. Mr. Turner, his face worn and lined after 47 years on the bay, clambers over the muddy heaps of oysters, then calls back: "Hundred and fifty, hundred and fifty."

"Are you sure?" the Captain asks.

"I'm sure," Mr. Turner replies.

The Kathryn comes about and runs for home.

An hour later, when the take is unloaded in Cambridge and measured exactly, the count comes to 150 bushels, with 46 individual oysters left over. Hunkering down on the forward batch, two crewmen start to eat the surplus.

THE SENATE FELL FAR SHORT OF ITS RESPONSIBILITY IN CONFRONTING THE ENERGY CRISIS

Mr. HELMS. Mr. President, I did not choose to make a statement Monday just prior to final passage of the National Energy Emergency Act (S. 2589). It would only have delayed the Senate further; there had been 17 rollcall votes that afternoon; Senators were tired, and I realized that it would have been an exercise in futility at that point to speak out against a measure that was headed for certain and overwhelming approval.

But it still needs to be said, Mr. President, that S. 2589 is terribly inadequate to the crisis at hand. It is another instance of legislation being enacted because Senators felt that "something" had to be passed. I presided over the Senate, Mr. President, for much of the time that S. 2589 was being debated. It may be unseemly of me to say so, Mr. President, but there were only a few Senators on the floor at any given time. Only a few understood, therefore, that salutary amendments—amendments which might have made this an acceptable piece of legislation—were swept aside in a great rush to get "something" passed.

I voted against S. 2589, Mr. President, simply because I was convinced, and still am, that in the long run—and this fuel crisis is certain to run for a long time—we will have succeeded merely in making bad matters worse.

My primary objection is that the Senate has voted once again to abdicate its responsibilities. We will shortly discover, Mr. President, that we have turned over to Federal bureaucrats another great chunk of control over the lives of the people of this country.

This bill could have moved, but did not, in the direction of increasing the production and supply of fuel. That is what needs to be done.

This bill does not do that, Mr. President. Instead, it paves the way for another massive dose of Federal bureaucracy and controls.

This bill could have moved, but did not, in the direction of effective conservation of fuel now being wasted—such as eliminating the forced busing of schoolchildren which now is resulting in the waste of countless millions of gallons of gasoline each year.

This bill does not do that, Mr. President. Instead, the Senate refused even to vote on an amendment submitted for the purpose of eliminating this waste. The amendment was tabled, Mr. President—by a relatively close vote, to be sure, but tabled nevertheless by Senators refusing to face up to the issue.

This bill could have made clear the Senate's wish to encourage the American free enterprise system to concentrate on solving the problem of the energy crisis. Instead, the Senate voted merely to add more shackles to the free enterprise system, thus restraining its potential.

I predict that the results of what the Senate has done—or, more accurately, what the Senate has failed to do—will soon be clear to all Americans who will be wrestling with redtape, rationing tickets, shortages, corruption and Federal bureaucracy.

Yes, Mr. President, the Senate did "something" on Monday. But having heard almost all of the debate, and participating in much of it, I simply could not be a party to what I considered to be unwise, unduly hasty, and improperly focused legislation. We could and should have done better, much better, Mr. President. I am confident that not many weeks will pass before all of us realize it. We may realize it only after the American people assess the results of what was done Monday—but, then, it is not unusual for the people to be wiser in the long rum than the Congress in the short run.

THE RECORD INDUSTRY AND THE DRUG EPIDEMIC

Mr. BUCKLEY. Mr. President, some months ago members of my staff and I undertook to investigate allegations of "drugola"—the use of drugs as a form of payment to promote sales—by the record industry. I have reported elsewhere on some of our findings with respect to the specific charges broadly reported in the press earlier this year, some of which are now the subject of criminal investigation.

This morning I would like to address myself to a broader aspect of the matter, namely the relationship between the record industry and the drug culture that has so plagued young America in recent years. Our examination of the ethical and social environment that gave rise to the charges of the easy acceptance of drugs as a form of exchange in the world of rock music led inevitably to the question as to whether the industry itself had contributed to that environment. I cannot help but feel that the recording of lyrics and the promotion of rock acts extolling the use of drugs, either directly or through code words, must have had their effect on the predominantly young audiences who listened to the record and flocked to rock concerts during the late 1960's.

These are not novel concerns, nor are they limited to those outside the industry. Indeed, some of the most biting criticism of this aspect of the record industry has come from individuals who, in one way or another, have been part of it. A number of years ago, in an article in Holiday, Gene Lees, lyricist, writer, record producer, and former editor of Downbeat wrote:

> To make passing reference, in songs meant for adults, to narcotics and characters who use them is one thing. It is quite another, in songs meant for children of twelve, and even younger, to proclaim that it's wise, it's hip, it's inside to dissolve the responsibilities and problems of a difficult world in the mists of a marihuana, LSD or heroin high. The one kind of song occasionally touches on the subject; the other specifically advocates the use of dope, even if the language is sometimes ambiguous in order that parents may not know what is being said . . .
>
> . . . For the sake of profits, many record companies have become, in effect, an unpaid advertising medium for products whose chief supplier is the Mafia . . .

In the September 1973 issue of High Fidelity magazine, Mr. Lees writes:

> . . . Is the rock world involved with dope? For God's sake, yes! Everybody in the business knows it. Is dope used for payola? Yes! . . .
>
> . . . An industry that never even perceived—much less practiced—social and aesthetic responsibility as part of the complex of McLuhanesque electronic communications, sought the widest (and inevitably lowest) common denominator, and then turned its powers of persuasion to the task of claiming this was "great, new, significant, unprecedented"—in a word, "heavy". And if, in the pursuit of profit, they allowed their stoned-out rockers to proselytize their sickness to the impressionable young, all well and good in the corporate view . . .

Paul G. Marshall, New York attorney for a recording firm and counsel for the Woodstock festival of August 1969, wrote at a time when there was much criticism of the industry over drug lyrics:

> . . . record companies and music publishers have been responsible for the issuance of many successful records, bringing million of dollars in gross revenues, which records embody the performance of a youth extolling the virtues of soft drugs and LSD. Songs like "Mr. Tambourine Man," "Acapulco Gold," "Lucy in the Sky with Diamonds," "Got my Mojo Working," and too many others, have made vast fortunes for companies which accept the money and deny the responsibility. Would one turn out phonograph records extolling the virtues of forcible rape, armed robbery, or kidnapping? The answer, I think, for many companies is yes—as long as there is money in it and they don't go to jail. Several company executives have said that "we're not judges and are only giving the kids what they want." It is the same argument one occasionally hears used in the Courts of New York to defend narcotics pushers.

Writing in Life, rock critic Albert Goldman stated, at the time of the death by drugs of two rock stars in 1970:

> The rock culture has become the drug culture.

One of the most informative examinations of the problem I have come across appeared in the "Bulletin on Narcotics," Department of Economic and Social Affairs, United Nations, October–December 1969. The author goes into considerable detail concerning the kind of link that exists between drug lyrics and drug taking.

I want to quote at length from it now to give some idea of the complexity of the problem as seen through the eyes of an intelligent observer:

> . . . That young songwriters and singers in troubled and changing times should produce controversial material is almost to be expected. But that presumably mature business executives with the public interest, presumably at heart should allow pro-pot and pro-LSD records to bombard the minds of millions of youngsters the world over is a bit difficult to believe.
>
> The basic reason why record companies allowed these songs to be released is that they, like the artists, want to make a lot of money, and they, probably even more than the artists, must scout for and follow trends. Besides, in the rough and rocky early days of the drug trend (there was some degree of protest about some of the songs) it was possible for company executive to sit behind covers of ambiguity: if somebody says *Eight Miles High* is about smoking pot, but Jim McGuinn says it is simply about an airplane ride—that's good enough for Columbia Records. Columbia Records, at least, has a clear conscience. . . .
>
> . . . The true importance of the music perhaps, is that through the controversy it aroused, it bred among the young a great, easy-going familiarity with pot and LSD. If ten years ago Elvis Presley had been arrested for a narcotics offence, there doubtless would have been a profoundly shocked reaction and his career would almost certainly have been jeopardised. But today, when beatle John Lennon is arrested for a drug offence, none of this shock is in evidence, and his career rolls cheerfully along. Being arrested for a drug violation is almost fashionable, and certainly nothing unusual.
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> Rock and roll stars of the stature of the Beatles, or the Rolling Stones, or Donovan, hold an amazing power over the young. Anyone who has witnessed the thousands of spellbound, hysterical fans, with their long hair, boots, and moustaches can deduce this for himself. If a John Lennon or Mick Jagger is going to make music on record about something as serious as pot, his views are not likely to greatly affect in one way or the other the thinking of any reasonable adult; the person it would seem most likely he would affect would be the slightly less mature, greatly more impressionable person who faithfully buys all the current hits, follows pop stars in the Press, dresses like them and goes to their concerts: that great part of the pop audience made up of twelve to sixteen year olds. If someone wanted to seriously communicate an attitude toward drugs to an adult audience, the safe and proper way to do it is through an adult medium. For all the ponderous analyses of the profundity of popular songs in the serious Press, rock and roll remains, perhaps more than ever, aimed at youngsters, at children.
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> Whereas some public figures are careful not to be seen smoking ordinary cigarettes for fear of influencing impressionable young people, the Beatles and other like-minded pop musicians have seen fit to be reported as having experimented with LSD and having smoked "pot" for fun. And they have musically reinforced their attitudes in the public mind by releasing a profusion of drug-slanted pop songs. The songs in themselves, certainly, can have done little harm; it is that they appeared to be advertisements of the singers' feelings and attitudes, and it is these feelings and attitudes which have repeatedly been shown to have an astounding influence over the youth of the world.
>
> The end result of it all perhaps, is that when, sooner or later, an urban child—who lives in the ordinary world, not in the pop world where a drug conviction can be shrugged off—is offered a marijuana cigarette or a dose of LSD, he will remember them not as something his health and hygiene teacher spoke warningly about, but as something Mick Jagger, or John Lennon, or Paul MacCartney had used and enjoyed.

Concerning the music business as a whole, Steve Payley, an "A&R"—artist and repertory—man of Columbia Records, and confidant of rock-star Sly Stone, was quoted in Forbes as saying:

> This business is amoral. If Hitler put together a combo all the top executives would catch the next plane to Argentina to sign him up.

With ringing testimonials like these from industry insiders, it is little wonder that outsiders have also cast a critical eye on the recording industry.

From time to time, a leader in the industry has recognized the extent of the problem and has sought to meet it in a responsible way. A case very much in point is that of Mike Curb, former president of MGM records in 1970. Billboard, a leading trade publication reported:

> MGM Records president Mike Curb has dropped 18 acts who, in his opinion, promote and exploit hard drugs through music. The company will not sign artists advocating hard drugs . . .
>
> . . . Curb has lined up appointments with major radio broadcasters to explain his policy, and hopes to solicit their support to ban records which carry drug-oriented lyrics . . .
>
> . . . Curb said that hard drug groups "come into your office, wipe out your secretary, waste the time of your promotion people, abuse the people in your organization, show no concern in the recording studio, abuse the equipment and then to top things off, they break up."
>
> "I'm not looking to go on a witch hunt, and we are not asking any acts to roll up their sleeves." An act's reputation or the advocacy of hard drugs in their scngs will be indicators with which the label will guide its decisions. A morals clause in all contracts gives MGM an out for immediate termination of the contract.
>
> "We are now explaining to groups in front that they cannot advocate and exploit drugs." Curb added, "MGM will not be used to further the use of drugs. . . ."

Mr. Curb said:

> As records become hits, the groups perform, not just in New York and San Francisco, but in Atlanta, Tennessee—all over. When they appear, smashed out of their minds, and describe a great experience they had on drugs, they glorify drugs. I credit hard-drug record acts with starting hundreds and hundreds of new young drug users.

Curb's action, however, was met by a denunciation from Clive Davis, head of Columbia Records, and then one of the most successful and well-known record executives. Davis called Curb's action "a grandstand play" and "irresponsible". He was joined by Irwin H. Steinberg, president of Mercury Records, who said:

> We shouldn't really question whether or not a person uses drugs in his private life. It is similar to the question of a long-haired football player. If it doesn't stand in the way of doing his job, why object?

Mr. Steinberg's view of illegal drug use, in which a decision to take heroin is on a moral level with a decision to change hairstyles may seem odd to those outside the industry. But other record spokesmen have voiced similar sentiments.

In fairness, it should be stated that there are those outside the record industry who feel that rock music has not had a casual effect on the use of drugs. David E. Smith, a doctor at Haight-Ashbury Clinic in San Francisco has written:

> Drug using youth likes rock music—non-drug using youth likes rock music. There is no casual relationship between the two, but rock music is the current popular form of music for young people. Certainly the patients that we saw in the clinic liked rock music but I've had opportunity to lecture and consult all over the country. I've found that youth in general has a great attraction for this current musical form whether they use drugs or not. Just like in the 1950's, they liked rock 'n' roll music. In the 1940's they liked the popular music of that era . . .

This view is widely, if not universally, shared throughout the industry. It has been recently stated in different form by Stanley Gortikov, in a letter to me. Gortikov, former head of Capitol Records and current president of the Recording Industry Association of America—RIAA—the industry trade group, has this to say concerning the relationship between rock and drug usage:

> The drug problem is of serious national concern, and there have been numerous efforts in the past to find simple solutions. Drug abuse has been blamed by some on a variety of factors, including "life in the ghetto," advertising, the "rebellion of youth," and on rock music.
>
> Such superficial solutions are unlikely to provide answers to this complex problem—and certainly are not supported by expert evidence.
>
> Music does not create the kind of society in which we live. Music reflects our culture, as interpreted by the artists who create the music.
>
> Today, as always, popular music deals with the life and times of people. As in literature, music talks of human aspirations and human problems—of love, of war and peace, of brotherhood. It would be surprising, then, if some music did not deal with the subject

> of drugs. It seems dangerous to assume, however, that references to drugs in music are necessarily seeking to "encourage or glamorize the use of drugs." There is a good deal of recorded music that warns of the dangers of drugs. . .

Mr. Gortikov is not only an industry spokesman, but an executive who is widely respected by his fellows and what he has written concerning the relationship between rock music and drugs is, I believe, a fair and accurate reflection of the prevailing attitude, within the industry.

And there the battle has been joined. On one side there are those—a definite minority within the industry—who believe the rock acts extolling drugs contributed significantly to the drug epidemic of the late sixties and early seventies. On the other side there is the majority of industry executives and many of the recording artists. They believe that the drug culture was there before rock came along and that, if some rock acts seemed to be extolling drugs, they were doing nothing more than reflecting the mood that already existed in the young audience.

In one limited sense, Mr. President, this controversy has become somewhat academic insofar as lyrics are concerned. Approving references to drugs have virtually disappeared from popular songs. Yet the question remains: was the response of the recording industry to the drug epidemic of the late sixties a responsible one? I think, Mr. President, that this is a question that the industry should seek to answer. I think it is of the utmost importance now for industry leaders to face their critics within the industry in an open, candid manner. We live in a time of unprecedented hostility toward business, and every charge of business abuse is met by calls for government regulations. This is why the recording industry ought to be so specially concerned about satisfying the public that it is capable of an honest examination of the charges that have in fact been leveled at it. And if it concludes that some have been well made, then it should go about the business of housecleaning in an open and effective manner.

Above all, the industry must demonstrate that it understands its special responsibility to American youth. One of the reasons I undertook my investigation was because the recording industry does have a special, indeed, a unique and highly influential relationship to the young. Time magazine discussed the phenomenon of the popularity of the recording industry in February of this year. Referring to the readiness of the American public to buy records, Time said:

> . . . Last year those purses responded to the galactic, 16-track, monster-smash tune of nearly $2 billion in records and tapes ($3.3 billion worldwide), making music, for the first measurable time in history, the most popular form of entertainment in America. The television may drone on in the living room, but there is little that youth wants to hear from Archie Bunker or Marcus Welby—especially since it has found both relevance and escape in magical sound . . .

Time then quoted a record executive:

> . . . Music is participatory now. You've got a generation buying it that has lived through ten years of craziness and crisis. The music has reflected every facet of that period . . . . Those kids need those albums. You can't separate it from their lives.

Jonathan Eisen, scholar and critic of the rock scene said in an introduction to his anthology "The Age of Rock":

> . . . rock now must be seen as an art form like any other that arises from and talks to the people in direct, charged and organic ways . . . Today there is a sense of participation in the air, a sense of involvement with society and with everyone else in one's generation—among the young. This is also true in the musical world where . . . there is a less distinct line between the audience and the performer, where there is less and less a tangible effort on the part of a musical-taste elite to impose standards on its listeners, more of a feeling that the music is what the people themselves want to hear . . .
>
> . . . No music has been able to inspire a greater degree of participation than has rock, except perhaps tribal music, with which rock shares many analogies . . .

Mr. President, it appears obvious to me that an industry that has been concerned in recent years with a musical and theatrical form that has been concerned in recent years with a musical and theatrical form that has inspired a greater degree of participation among its young adherents than any in history and one which is the most popular in American history is not simply another business. So far as American youth is concerned, it is the business and the former of cultural attitudes par excellence.

The recording industry is even now undergoing an intense and much needed period of introspection, of soul-searching. But if this self-investigation is to be fruitful at all, I do not think it is wise for anyone to unilaterally decide that the question of industry responsibility toward youth concerning drug-related rock acts and songs is one that is over and done with. What is at the heart of the matter is not payola or drugola or corporate corruption, but the way in which the industry looks at its great, unparalleled power not only to reflect popular attitudes—which it undeniably does—but to form attitudes as well.

In the course of our investigation it was discovered that within certain parts of the industry there was a kind of corporate schizophrenia concerning the degree of responsibility that a corporation ought to exercise when it is dealing with a product whose main consumer is the young.

Nowhere has this been better shown than in the policies which existed simultaneously at the Columbia Broadcasting System concerning lyrics of songs that might tend to be interpreted by youths as approving the use of drugs.

On October 21, 1970, Mr. Robert Cole, vice president, CBS owned FM stations, CBS radio division, issued a memo in which he stated:

> . . . As each station commences to feature individualized locally-produced musical fare, it might well be timely to re-affirm the longstanding policy of close scrutiny of lyrical content with respect to any reference, direct or indirect, relating to glorifying the use of drugs in any form. . . .

On April 1, 1971, Mr. Richard W. Jencks, then president of the CBS/Broadcast Group wrote:

> . . . Whatever may be the merits of increased governmental surveillance in this area of licensee responsibility, it is to be noted that CBS long before this expression of FCC concern had adopted and implemented a policy of not knowingly broadcasting for entertainment purposes any material that promotes or glorifies the use of illegal drugs. We have recognized that the implementation of this policy calls for sound discretion in view of the ambiguity and subtlety of the language contained in contemporary lyrics and in view of the desirability of affording maximum scope for creative expression consistent with the public interest.
>
> While the Commission's notice does not require alteration of our pre-existing policy, it does suggest the desirability, in exercising our review of recorded material or of live performances of musical or spoken selections, that management personnel first obtain a *written* copy of the words of the material in question. Such a written copy should be obtained in the case of recordings either from the publisher or record company, or if such cannot be obtained in that manner, by listening to the material in question and transcribing the lyrics. . . .

Mr. President, I believe that both of these gentlemen are to be congratulated on their willingness to acknowledge that radio stations have a responsibility to screen, as it were, lyrics of songs broadcast over the public airwaves, and the Columbia Broadcasting System is to be congratulated for such fine efforts.

But, at the same time that CBS' broadcasting divisions were calling for close scrutiny of any lyrics being broadcast over the CBS airwaves, the chief of another major division of CBS took precisely the opposite point of view. Clive Davis, as reported in Billboard said:

> The charges that music—specifically rock music—supports and encourages drug experimentation which leads to addiction is at the least erroneous and at the most, a complete reversal of a cultural process. Music is a reflection of a culture; a footnote to the events within a society.

Mr. Davis was reported by radio station owner Gordon McClendon as having stated at an industry meeting that Columbia Records will produce and market to the general public records containing "any lyrics that are conducive to creativity." Mr. McClendon's remarks were also published in Billboard.

Here we have a situation that reflects, I think, the curious schizophrenia that has afflicted the industry in dealing with the very difficult problem of alleged drug lyrics. With whom did CBS' chief executives agree? If Mr. Cole and Mr. Jencks were correct then it was not only permissible but desirable to have lyrics screened. But if Mr. Davis was correct, it was an attempt at abridgement of freedom of speech to even hint at any such screening on the part of CBS. If Mr. Davis' view reflected CBS' policy correctly, then Mr. Cole and Mr. Jencks were deliberately interfering with free expression, according to CBS. But if Mr. Cole and Mr. Jencks reflected true CBS policy, then Mr. Davis was being irresponsible in not screening lyrics.

If, finally, CBS as a corporate entity was content to live with these diametrically opposed points of view, it can only be assumed that either the question of drug lyrics was not thought to be important enough to call for a companywide policy or that somehow both views reflected CBS policy. If CBS thinks that drug lyrics broadcast over CBS radio stations should be carefully examined, why did not that same concern reflect itself in the record division? Or could it be that CBS's concern over the broadcasting of drug-related lyrics reflected more of a concern over the adverse effect on the FCC than it did for its effect on young listeners? I draw no such conclusion, but certainly the ambivalence of CBS policy invites such a question.

Mr. President, I for one do not understand precisely what the official view of CBS was toward drug lyrics as it is obvious from the evidence that one division of the company thought drug related lyrics were dangerous enough to warrant close preplay scrutiny by CBS broadcasters while, at the same time, another division of CBS refused to even consider such a policy. I have no doubt that each point of view was held from sincere convictions, but I do not see how else we may interpret this conflict except to say that on matters of the utmost public concern one of the leading communications companies in the world was projecting two different and irreconcilable policies.

There is another aspect of the relationship between the drug culture and the record industry that sheds light on the degree of corporate responsibility or lack of it shown by major record companies during this period.

I refer to advertising placed by major record companies in what used to be known as the underground press during the late sixties and early seventies. The advertising I refer to is so blatantly drug-oriented that there can no longer be any doubt about a lack of corporate responsibility, during a time when business—especially a business dealing almost exclusively with the young—should have been more acutely aware of youth's growing fascination with drug experimentation.

As evidence of the inexcusable attempt at the seduction of American youth through the use of drug-oriented advertising, let me present the full text of an ad which appeared in the Los Angeles Free Press on April 4, 1969:

> The Chicago heart pump out a stream of anti-life corpuscles that rush through the Main Vein searching for a place to hide. AORTA feels every pulse and takes the flow and purifies it. There is a rush of new thought and Feelings that say:
>
> Feeling rather high
> Feeling rather high
> And I'm never coming down
> Down, down down"—AORTA.
>
> Music in a Main Vein On Columbia Records.

Mr. President, I want to state that when an advertisement tells its young readers of a "rush," of "music in the main vein" of "feeling high," there can be no other rational interpretation than that the creators of the advertisement deliberately and openly used the language associated with the heroin thrill in order to sell records to young people.

It should not be thought that CBS was the only corporation to use this kind of advertising policy. Cadet/Concept records advertised in the East Village Other in March 1968, telling the young reader to "Turn yourself on with a diamond needle" Elektra Records used a picture of a bottle of pills, obviously not aspirin, with the words "For Relief of All Kinds of Misery—Take One of These," to sell records, Los Angeles Free Press. Capitol Records offered a full-page ad showing a leopard perched in a tree, the fruit of which is what are obviously supposed to be amphetamine pills, Berkeley Barb, October 1968.

Given more ads, given the suggestive lyrics of so much of the rock music of the late sixties, it is no wonder that recent statements by record industry executives about corporate responsibility have met with such widespread cynicism.

In closing I would like to give my own replies to some of the arguments I have come across in recent weeks from those in the industry who are unwilling to admit that there has been any occasion for public concern. I hope my own reaction to them will prove of some help in bringing perspective to discussions within the industry:

First. Kids do not take drugs solely because they listen to rock lyrics.

No one says that they do, so why set up a strawman? But just because there is no clinically provable link between drug usage and drug-oriented rock music does not mean that we must discard the conclusions or intuitions of dozens of observers both in and out of the industry. Given not just the lyrics, but the ambience of the rock acts and the publicity that extolled them, it is hard to believe that the net effect has not been at the very least to lower the threshold of resistance among the more susceptible.

Second. Drug taking has underlying causes. Get rid of those causes and kids will stop taking drugs. Kids are alienated and bored because of great injustices in society. Don't blame rock for society's faults.

Nobody is blaming rock for the entire drug phenomenon. Of course drug taking has underlying causes unconnected with rock. But just because the causes for drug taking are complex does not mean that an examination of rock's link with drugs might not tell us something about the role of records, and perhaps of the recording industry in spreading the drug culture.

Third. Rock music reflects society. It is, in Clive Davis' phrase, "a footnote to the events within a society".

Music is, of course, a reflector of culture. But, at the same time, like any other art form, it is also a former of cultural attitudes. It is hard to believe that the wholesale participation of youth in the most popular entertainment form in history did not have some effect in planning or reinforcing certain positive attitudes to a wide variety of subjects, not the least among which was drugs. Rock did not deal exclusively with drugs, but in its drug-aspects in the 1960's it is fair to suggest that it could well have played an important role in forming certain attitudes. If it did not, it is the first popular art form in history that did not play such a role of "culture-former." And, because rock was ubiquitous in the world of American youth—concerts, records to play at home, radio, both AM and FM, tapes, magazines, films—is not it fair to suggest that an explicit acceptance, let alone a glorification, of the drug culture played some role in forming outlooks on drugs?

Industry spokesmen are eager to point to those programs in which the industry cooperated with agencies of the Federal Government in fighting drug abuse. Mr. Gortikov has stated in this regard:

> RIAA was commended by the White House Special Action Office For Drug Abuse as "one of the first major industries to volunteer cooperation (in 1969) in the government's Drug Abuse Information Program."

The industry is certainly to be commended for such cooperation. It is evident that industry spokesmen approve of the work that the Action Office is doing and are willing to cooperate in helping that Office to fight the scourge of drug abuse.

Yet, it is hard to see how the industry could fail to understand the full adverse impact of its records on youthful attitudes toward drugs. A recent pamphlet entitled "Special Action Office for Drug Abuse Prevention Answers the Most Frequently Asked Questions About Drug Abuse," there is a list of the eight most frequently offered reasons for drug abuse. At least four of those reasons are of particular interest concerning the possible influence of the recording industry in fostering drug culture:

> The hoped-for enjoyment of drug effects.
>
> The "peer pressure" which leads an individual, especially a young one, to conform to current styles in behavior, entertainment—and drugs.
>
> The search for different perception and ideas which some persons believe they can obtain from mind-altering drugs.
>
> The statements of proselytizers who proclaim the "goodness" of drugs.

No one denies that during the late sixties there were rock songs that told of hoped-for enjoyment of drugs. The peer pressure on young people to conform to current styles in behavior, entertainment—and drugs certainly can be traced in part at least, to the industry that creates and fosters the entertainment form to which so many youths conform their life style. The role of psychedelic lyrics and rock acts certainly brought to a wide audience the idea of altered perception and mind-blowing as a positive good. Finally, the statements on and off stage by certain rock stars can be said to be those of proselytizers.

Thus, while I do not wish to seem to be denigrating the positive role played by the industry in antidrug programs, it seems that it is not unfair to ask why the industry did not examine its own responsibility in creating and fostering the psychological atmosphere in which these reasons for drug taking could prosper.

Fourth. Jazz stars took drugs. Movie stars take drugs. Why single out the rock music world for criticism? Besides, what a star does in his private life is his own affair. The companies had no responsibility to tell rock stars how to live.

This argument depends upon the erroneous premise that drug usage among rock stars was a private phenomenon. Now the fact is that the historical record tells us precisely the opposite. Drugs were not only used by rock stars, but were referred to in songs on stage and on record, and were referred to in little asides to the audience so as to gain rapport with the marijuana-smoking or drug-taking crowd. Thus drug taking was a well-publicized aspect of the commercial rock scene. This last point was made to my staff by a record executive who formerly worked in the rock concert field.

The jazz-drug analogy just does not hold up under examination. Drug taking among jazz stars was a private affair, was not referred to specifically or inferentially in their acts, was always seen and referred to as a source of trouble for jazz stars—they could not play in certain clubs in New York City because the police would not give them a license—and was always referred to as a danger in trade publications. Quite the contrary is true with drug rock.

Fifth. Stop picking on the record companies. They cannot control the lives of their artists. How is a record executive to know about drug usage by record stars?

This seems to me to be perhaps the weakest argument of all. How is it possible that recording executives did not know the well-advertised, often self-evident drug use of the part of their stars? Yet, this is precisely what top recording executives informed members of my staff during our investigation. How was it possible for these executives to have absolutely no knowledge of illegal drug usage—which Mr. Gortikov as an industry spokesman has said the industry is against—when, to give one example, rock star Eric Clapton was quoted in 1970 in the New York Times as saying:

> We're all hooked on something, . . . Take the drugs away from many rock musicians and blues players and you'd be left with only half a man. It's no good blaming the war in Vietnam for our situation; we're not copping out. Ours is a universal problem; how to find peace in a society which we feel to be hostile. We want to express that search in our music since that is our most eloquent voice. We need the drugs to help us, to free our minds and our imaginations from the prejudices and snobbery that have been bred into us. And there is not one who doesn't wish for that.

Mr. Albert Goldman in a recent interview with the National Broadcasting System said:

> People in these companies are well aware of what's going on, I mean, how can you miss it? Everybody who goes through promotion parties, or recording sessions or junkets, or this or that, sees drugs being passed around.

Betty Rollin of NBC News has said:

> Heroin use among rock performers is not uncommon. Nor is it much of a secret. There are rock performers who would no more walk out on a stage or into a recording studio without being high, than they would play their electric guitar without plugging it in. Nor is drug use much of a secret. Indeed, much rock music of the past decade has been a kind of celebration of drugs—LSD, speed, cocaine, heroin.

So much, Mr. President, for some of the principal arguments I have run into. I also acknowledge that the majority of rock acts and songs did not deal with drugs. But is it really so wrong to suggest that those acts and records which did deal with drugs, either in lyrics or their total impact had a powerful effect on young audiences lowering their resistance to the seductive call to experimentation? Their effect was, if we are to believe scholars in the field, was to provide a subtle climate that helped shape prevailing attitudes toward the use of drugs.

There is one area, Mr. President, in which I am in substantial agreement with the industry. This concerns the value of much of today's popular music, which must be considered as "art" in the popular American sense of that term. And because it is art, it is more than a mirror. It is also a former of attitudes and it is this aspect of the record industry's great influence that should, I feel, be understood.

The industry itself admits this in a rather roundabout way. The industry speaks proudly of the numerous contributions it has made toward antidrug programs. Recording stars have made spot announcements deploring the use of drugs and the RIAA helped to create long playing records for use by radio stations on which experts talked about the danger of drug use.

The industry says to its critics:

> We have responsibly used our talents to fight drug use.

But the argument admits the validity of the criticism that has been leveled at the industry. If the industry is certain that antidrug messages effect youth's attitudes—else why record such messages in the first place?—how can they also be so certain that acts and songs which extolled drug usage were only "reflections" of the audience and in no way a contributor to audience attitudes toward drug taking? How can a brief nonmusical recorded message, telling factually of drug danger, be effective in shaping antidrug attitudes—which the industry claims it is—while a high-powered, psychedelic, wild, driving, wailing, expertly performed rock act in which the joy of drug usage is either explicitly or implicitly present is supposedly ineffective in shaping pro-drug attitudes?

Mr. President, the recording industry itself is best able to examine these questions. There are, as I have shown, differing views in and out of the recording industry as to the extent to which its past practices have contributed to the spread of the drug culture among our young. We need an honest assessment of the facts; and if the facts reveal that there have indeed been widespread abuses, and if the recording industry did in fact contribute to a climate of acceptance of drugs, then we also need to see appropriate measures and standards adopted to preclude a continuation or repetition of such abuses in the future. I hope the industry will rise to the challenge. I hope it will because each business must stand ready to keep its own house in order lest others—I speak of the Federal Government—be tempted to do the housekeeping for it. But most importantly, I hope it will because this is a business that has a most powerful influence on the young of this country and this fact involves an awesome responsibility that responsible executives cannot and ought not try to avoid.

AUTHORIZATION FOR COMMITTEE ON FINANCE TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance have until midnight tonight to file its reports on H.R. 3153, H.R. 8214, and H.R. 11104.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPENSATION AND OTHER EMOLUMENTS ATTACHED TO THE OFFICE OF ATTORNEY GENERAL—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Has an order been entered for the consideration of S. 2673 upon the disposition of the nomination of Mr. Gerald R. Ford?

The PRESIDING OFFICER. The order has not been entered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that at such time as the bill (S. 2673) the so-called Attorney General bill, is called up before the Senate and made the pending business, there be a time limitation thereon of 5 hours, to be equally divided between the distinguished majority leader and the distinguished minority leader, or their designees, with one-half hour on any amendment to the bill, with one-half hour on any amendment to an amendment, debatable motion, or appeal, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I just want to state for the record that this consent agreement has been checked with the ranking minority member of the Post Office and Civil Service Committee, the distinguished Senator from Hawaii (Mr. Fong), and also with the ranking minority member of the Judiciary Committee, the distinguished Senator from Nebraska (Mr. Hruska).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene on Monday, November 26, at the hour of 12 o'clock meridian.

At that time, the Senate will proceed to the consideration of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business, if there is no legislative business to be transacted, the Senate will proceed to the consideration of the nomination of Mr. Gerald R. Ford for the office of Vice President of the United States.

If there is legislative business that has been cleared for action, then, at the conclusion of routine morning business, the Senate will proceed to the consideration of such business.

At the hour of 2 o'clock p.m., on Monday, November 26, the Senate will proceed to the consideration of the following treaties; Calendar No. 22 and Calendar No. 23, they being Executive N, a protocol amending the 1928 convention concerning international expositions, and Executive Q, a protocol to the International Civil Aviation Convention, respectively.

A yea-and-nay vote will begin at the hour of 2 p.m. That rollcall will extend to the hour of 2:30 p.m., allotting 30 minutes for the one rollcall vote on the two treaties, which ordinarily would require 30 minutes with two rollcall votes; that is, the one rollcall vote will count for two votes.

At the hour of 2:30 p.m. the Senate will either begin consideration or will resume consideration of the nomination of Mr. Ford, whichever is the case, as dictated by circumstances on Monday. It is not anticipated that there will be any vote on the confirmation of Mr. Ford on Monday. Debate will ensue during the remainder of the afternoon. It is hoped that the vote on the confirmation of Mr. Ford can occur on Tuesday.

That about wraps it up for Monday.

ADJOURNMENT TO MONDAY, NOVEMBER 26, 1973

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 378, as amended that the Senate stand in adjournment until the hour of 12 o'clock noon Monday, November 26, 1973, with a happy Thanksgiving to everyone.

The PRESIDING OFFICER. The Chair wishes the same to the distinguished majority whip.

The motion was agreed to; and at 11:31 a.m., the Senate adjourned until Monday, November 26, 1973, at 12 o'clock noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 21, 1973:

Upper Great Lakes Regional Commission

Raymond C. Anderson, of Michigan, to be Federal cochairman of the Upper Great Lakes Regional Commission.

(The above nomination was approved subject to the nominee's commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

In the National Oceanic and Atmospheric Administration

National Oceanic and Atmospheric Administration nominations beginning Kenneth E. Lilly, Jr., to be lieutenant commander, and ending Contantine E. Mercias, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on November 15, 1973.

EXTENSIONS OF REMARKS

THE CASE FOR TWO CHINAS

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. SCHERLE. Mr. Speaker, last week the People's Republic of China—PRC—purchased the imposing Windsor Park Hotel in Washington, reportedly for an Embassy, at a staggering $5 to $6 million. Foreign policy observers say this signals establishment of full diplomatic relations between the United States and Communist China. Currently the 50-man PRC delegation in Washington is strictly unofficial. But the new American obsession with mainland China poses a distressing dilemma for one U.S. ally of a quarter century, the Republic of China—ROC—located on the Island of Taiwan.

Both the PRC and ROC insist there is but one China, each adamantly claiming its capital as the seat of government. Free China knows recognition of Communist China will mean the ouster of its Embassy from the United States, just as seating the PRC in the United Nations meant expulsion for the Republic of China in 1971. When the United States first sought a new relationship with the People's Republic of China, U.S. officials acknowledged the principle of one China, but scrupulously avoided mention of either capital. Our real policy, in fact, has been a juggling act of balancing one China off against the other.

For 25 years, the ROC has enjoyed U.S. recognition and has maintained its Embassy in Washington. But friendship between these two nations has been more than just a diplomatic venture; we hold similar values of individual liberty. To this day the Republic of China is one of the freest in Asia. Through the Mutual Defense Treaty of 1954, the United States has made invasion by Red China across the 90-mile-wide Taiwan Strait unfeasible. America also provided economic assistance to ROC and in 1965 their industriousness made possible a complete phaseout of development aid, one of the few nations to become so self-reliant. In fact, Free China has benefited from an 11-percent growth rate in the gross national product for each of the last 4 years, a phenomenal success for a developing nation. Yet, all this may change if we switch recognition from the Republic of China to Communist China.

U.S. foreign policy has focused recently on accommodating past enemies to reduce past cold war tensions. However, this sudden shift has left traditional allies out in the cold, a policy for which the White House and State Department bear responsibility since Congress has no power over the game of diplomacy. One conceivable result of this policy switch might be a U.S. troop pullout from the Island of Taiwan, leaving it vulnerable to the other China. Another probable one is the recognition of the PRC.

While it is wise to better international relationships, it is neither prudent nor expedient to sacrifice a proven ally with similar ideals to a suddently friendly former adversary. We seem to be banking too heavily on Red Chinese promises of friendship.

In the past, our word has been our bond and allies were assured of a consistent loyalty by the United States. Only demonstrations that the United States is not abandoning free China can maintain American credibility with its friends worldwide. Two convincing shows of American good faith could prove the United States a true ally to the Republic of China: Continuing military support and sponsoring the seating of both Chinas in the U.N.

Ample precedent has been set in the U.N. for the admission of two Chinas; currently both East and West Germany enjoy membership. South Korea recently made a bid to join the U.N. under a separate flag from her neighbor North Korea, a move backed by the United States. Even North and South Vietnam can see the possibility that both can belong to the General Assemly—so why not China?

HON. LES ARENDS TO RETIRE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. de la GARZA. Mr. Speaker, only one Member has served in this House longer than the gentleman from Illinois, the Honorable Leslie C. Arends. That man is the dean of the House, my fellow-Texan and friend, the Honorable Wright Patman. Only one other Member has served as long as Les Arends, and that is another Texan, the Honorable George H. Mahon.

Les Arends came to Congress in 1935. During his nearly four decades of service here vast changes have occurred in our Nation and in the world. But, one unchanging factor has been the dedication of our friend from Illinois to his country, his responsibilities as a Member of the House, and to his party.

He is a strong party man. For some 30 years he has been an important part of the House Republican organization. But never to my knowledge has he allowed partisan considerations to interfere with personal friendship. For my own part, I have found him my friend from the time I came to Congress. His knowledge and experience have been enormously helpful to me on many occasions.

When LES ARENDS announced recently that he will retire at the end of his present term, Members on both sides received the news with sorrow and dismay. His wise counsel, his consideration of other Members, his gift for friendship will be sorely missed by all of us. His departure will be a loss of magnitude to this body—and to me personally.

THE WAR POWERS RESOLUTION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. VANDER JAGT. Mr. Speaker, continuing discussion in the press of the recently enacted war powers resolution prompts me to explain my own position on this extremely significant legislation.

I have long sought a more effective role for Congress in national security decisionmaking. Constituents frequently have expressed to me their conviction that an intensive congressional debate and yea-or-nay vote should precede any significant involvement of American forces in hostilities or in situations likely to become hostile. Accordingly, I supported the war powers legislation when it initially came before the House, as well as the conference report on the measure. However, the context in which the House once again considered the legislation on November 7 was markedly different from that in which it previously had come before the House. On the basis of my personal interpretation of my legislative responsibility, the distinction led me to vote to sustain the President's disapproval.

The difference between support of legislation as it first moves through Congress and support of a bill that has been vetoed by the President is comparable to the distinction between jurors responsibilities in a civil case as opposed to a criminal proceeding. A decision is reached in a civil case on a tipping of evidence, while a defendant in a criminal proceeding, given the far more severe consequences which may result, must be proven guilty beyond reasonable doubt; in other words, in a criminal proceeding, the burden of proof is far greater.

My initial support of the War Powers Act reflected my conviction that the evidence of recent years compels Congress to reassert its role in decisions of this nature. My decision to sustain the President's veto, however, arose from a careful reassessment of the legislation in a new context, an examination which seriously undermined my confidence in the soundness of the bill and its capacity to meet my constituents objectives.

First, in the wake of the President's disapproval, concern was increasingly expressed that the bill broadened rather than narrowed the President's authority to commit U.S. troops to action. A number of prominent congressional Democrats generally associated with a liberal or dovish orientation, such as Missouri's RICHARD BOLLING and Iowa's JOHN CULVER, voted to sustain the President's veto. I decided that I could not support the attempt to override this veto, aware as I was that astute observers feared that the consequences of the measure would be opposite to those intended.

Second, the most potent provision in this legislation is that which enabled Congress by concurrent resolution to compel the withdrawal of troops at any time. Concurrent resolutions, because they do not require Presidential signature, normally do not have the force of law. Yet the concurrent resolution provision in the War Powers Act was intended to have very significant legal effect. Unless the warnings of those Members who thought the bill actually expanded Presidential authority were correct, the concurrent resolution provision appeared to be unconstitutional.

Third, despite the measure's provisions which sought to make a bill or resolution in support of continued U.S. troops involvement matters of priority concern in both Houses, I was deeply concerned that a crucial decision withdrawing forces might result from congressional inaction. This legislation was an invitation to any number of Members to find some procedural obstruction that would block a floor vote in one House of Congress.

We have had too many decisions by congressional inaction; we have no business encouraging others. I concluded that irrespective of its intentions, the war powers resolution did not guarantee the yea-or-nay vote with its accountability of each and every Representative and Senator that my constituents vociferously have sought.

Finally, I had serious misgivings about passage of this legislation over the President's veto at a time of deep American involvement in the critical Middle East situation. To tamper with the structure of military policymaking in the United States in the midst of a grave international crisis seemed to me to be unwise.

In conclusion, these doubts, coupled with Vice-President-designate FORD's assertions to me and to the House at large that the President would cooperate in the development of an effective substitute if the veto were sustained, led me to oppose passage over his disapproval. Certainly the opportunity which the existing legislation presented for Congress to assert itself was significant. But I did not believe that it was a unique opportunity. I was prepared to lend my full support to legislation which would have achieved our common objective and avoided the perils of the existing bill.

The vote to override President Nixon's veto having carried, however, I earnestly hope that the new statute's effect will be as constructive as its most persuasive sponsors have promised. And I hope that an early court test will clarify the uncertain legality of the measure's dubious provisions. A law of such extraordinary significance to our Nation should not become an endless constitutional issue.

CONGRESSMAN BRADEMAS INTERVIEWS SENATORS BIRCH BAYH AND LOWELL WEICKER

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the text of an interview I conducted with the distinguished junior Senator from Indiana, the Honorable BIRCH BAYH, and the distinguished junior Senator from Connecticut, the Honorable LOWELL WEICKER.

The interview will be aired November 22, on WSJV-TV, the ABC affiliate in South Bend-Elkhart, Ind.

The transcript follows:

BAYH-WEICKER: "WASHINGTON INSIGHT"

Mr. BRADEMAS: Welcome to another edition of Washington Insight.

The relationship of the President to Congress and the place of both—and the courts—in the American Constitutional system is receiving more intense scrutiny today than for many, many years.

Watergate and related events, sweeping assertions of executive privilege, White House impoundments of Congressionally-appropriated funds, and claims to Presidential war-making powers have made the phrase "Constitutional crisis" commonplace in the vocabularies of millions of Americans.

Here to discuss these and other questions with me are two leading United States Senators, both of whom have been deeply engaged in seeking to resolve many of these constitutional problems.

Senator Lowell Weicker of Connecticut is a distinguished, and outspoken, Republican member of the Senate Watergate Committee. Senator Weicker first came to Washington as a Member of the House in 1968. In 1970 he was elected to the Senate.

My distinguished colleague, Senator Birch Bayh, needs little introduction to Hoosiers, whom he has served in the Senate for the past eleven years. Before that, he served in the Indiana House where, at 28, he became the youngest Speaker in history.

Right now, one of Senator Bayh's most important assignments is on the Judiciary Committee, where he chairs its Subcommittee on Constitutional Amendments.

Senator Weicker, let's begin the questioning with you, sir. The Watergate Committee's hearings are now just a little over six months old, and before they got underway, the Majority Counsel, Sam Dash, said that the "ultimate goal" of the hearings was to discover the impact of Watergate and related events on the Democratic process. Have you reached that goal?

Senator WEICKER. I think we have. I think that some people tried to give to the Watergate Committee a task it never had, which, specifically was relating its work to the President of the United States. That wasn't our job then. It isn't our job now.

Our job is exactly what Sam Dash said, as to what happened to our Constitution, what happened to the government processes, what happened to the political processes, these broad areas. And in that way I think the work of the Committee has been very, very conclusive.

I mean, how many more examples do you want to realize how far down into the gutter politics was taken?

How many more examples do you need to prove that the legitimate operations of government were used oppressively to stifle dissent and disagreement?

How many more examples do we have to have to show the light regard in which the

Constitution is held by many men in the Executive Branch of government?

So that I think it is important to point out that when Watergate and ITT occurred I was very surprised that I received no communication at all from my constituency in Connecticut.

Even, quite frankly, I would expect the Democrats to write and say, hey, what's wrong with you Republicans. But nothing came.

Now we have gone from that situation—I mean literally five to six letters on either one of these matters, which were pretty horrendous—now we have gone from that point to where I am sitting under an avalanche of twenty thousand letters, most of which come from the State of Connecticut.

So I think the point you made is right on target, namely, an increased awareness of the American people of the Constitution and their form of government. And it was their being asleep at the switch which encouraged others to go ahead and hack around and abuse those concepts.

Mr. Brademas. Senator Bayh, you have a special vantage point from the Judiciary Committee and a particular interest from your situation as Chairman of the Constitutional Amendments Subcommittee.

How do you see the answer to that question of the effect of Watergate on the processes of democracy?

Senator Bayh. Well, I think it's had a rather demoralising effect on a lot of people. The mail I'm getting from Indiana—I don't know what yours is telling you, John—but most of our people are telling me that they wonder whether anybody can really talk straight to them, can tell them really what the problems are, and thus be in a position to stand up and make some of the tough decisions.

We in the Judiciary Committee are trying to keep our eye on the mark of a different responsibility than that which Lowell, Senator Ervin, Senator Baker, and others on the Watergate Committee have.

Theirs is really to awaken the public to the problem of Watergate and thus to prepare the way for enactment of important legislation to keep it from happening again. And I think that because of their work we were able to pass a landmark bill in the Senate dealing with campaign financing, which was really much of the problem of Watergate—the abuse of money in order to get elected.

I hope the House can go along with that bill and that we can put some really strong controls on how we use money to influence elections.

But we in the Judiciary Committee are looking beyond that. Really, we're looking to the normal, ordinary everyday due process questions of what do you do if somebody violates the law.

In South Bend or Elkhart, Indiana, if somebody violates the law, they are tried, convicted or exonerated in the court system. And so we need to keep our eye on the mark: that those who have been uncovered and disclosed as participants, or possible law violators in the Watergate affair still need their day in court, because I think the public is going to demand that justice be done and that can't be done on the television camera. That has to be done where twelve men and women say you are either guilty or innocent.

Mr. Brademas. Senator Weicker, let me turn to a related matter which has been much under discussion, the question of the celebrated tapes. First, the President refused to surrender them; then, after firing Archibald Cox, he said that he would turn them over to the Federal courts; and then he said that some of them never existed.

What's been the impact of that series of events on the attitudes of the members of your Committee?

Senator Weicker. You know, I am going to answer your question in a way that I don't think I have done. But I all of a sudden remembered the other day, in my shower, which is where I do most of my thinking, which is that do you realize that we never would have had the revelations of the tapes had it not been for the Committee?

People ask me what functions does that Committee perform? This didn't come out by the nature of any criminal prosecution. It's in the hands of the courts and the prosecutors now, but the fact there was a taping system in existence came out through the Watergate Committee.

So that I think this clearly shows the two areas of responsibility: on the one hand, within the judicial system, the determination of individual guilt or innocence; and on the other hand, the work of a legislative committee to bring out a broad picture of what was going on within government.

Mr. Brademas. Let me ask at that point a question on a related matter that's before both the House and Senate right now. That is the question of the new special prosecutor, and what the appropriate role of Congress is in respect to assuring his independence and the appropriate role of the courts? Could each of you comment on that?

Senator Weicker. Let me defer to Birch on that one, because I think this has been his specialty. Let me just complete the first question that was raised here.

I think the big problem insofar as the tapes are concerned is not going to come in a constitutional confrontation between the Congress and the President. I think the problem is going to come when defendant after defendant after defendant claims his rights under the Fourth Amendment, if you will, to have witnesses if he's the accused, and turns to the President and says, I'd like to have those tapes in order that I might establish my innocence. Or the prosecutor wants to have them to establish guilt. What's the President of the United States going to say then? I think that's where his real problem is.

Senator Bayh. You are so right. When I first heard of the existence of the tapes, the Vesco case was just getting started, and I said that if I were a lawyer for John Mitchell or former Secretary of Commerce Stans, I'd demand those tapes. And as long as the President keeps those tapes, they can't be prosecuted. Nobody can be prosecuted, even on the basis of evidence that's not in the tapes.

I think the average American thinks, well, they want those tapes to convict. And yet there are two men who have been indicted on the basis of evidence that's not in the tapes. Yet they are both going to go scot free unless that court gets those tapes. I think you hit the nail on the head, Lowell.

Mr. Brademas. I think it's a "Catch 22" situation where no justice would appear to be possible unless those tapes are brought forth.

Senator Weicker. Let me say that for all the great institutions of government, I still think what differentiates our society from every other society is that the individual is important. And he's the one who's important in this controversy, and the two that Birch mentioned, and there are going to be many, many others, I can assure you, many others.

Mr. Brademas. Senator, what about that special prosecutor and his independence that I asked about a moment ago?

Senator Bayh. Well, John, we've had two special prosecutors, Archibald Cox, and now Leon Jaworski, and without in any way demeaning the integrity and character of those men, I am not satisfied with the authority of a special prosecutor. Special means almost anything. We need an independent prosecutor.

We have seen what happens when you have men with the character of Cox, Elliot Richardson and Bill Ruckelshaus, three pretty outstanding citizens. Yet, when the President, for reasons that he feels are appropriate, feels they are not doing their duty, he can discharge them. And you can say the same thing now about Mr. Jaworski. If Senator Saxbe becomes Attorney General, you can say the same about him. He is a man of character. But as long as they can be discharged by the President, they're not given the independence necessary to follow Watergate tracks wherever they lead.

And, I think, from two standpoints, it's imperative that we create a truly independent prosecutor, and a prosecutor who can be hired and fired by the President, or for that matter, hired and fired by the Democratically-controlled Congress, I don't feel fills the bill.

And that's why we have about 55 or 56 of us in the Senate who feel we should delegate the appointing and firing authority, and that's all, to a panel of the District Court and let them establish the independence of this man and then let him proceed.

We need that independence because there is no way that we can get around the fact that in the past sequence of events the President can discharge a special prosecutor. This going to a consensus of the Leadership is meaningless. The President made those same pledges on television. He made them to Senator Scott, of course, the Republican Leader in the Senate, and Mr. Richardson was confident that there was a mandate of independence.

So to keep from getting in the kind of situation we were on that very dark Saturday, we have to look ahead and hope, not only hope that won't happen, but create a vehicle of independence where it can't.

And the second point is, you know that a lot of our people out there are so cynical, I think with good cause, about what we're doing up here. They have seen impossible, what I have felt would be impossible, things happen. And I don't want to put them in a situation where they have another impossible thing happen. If this prosecutor thinks somebody's innocent, I want that person out there to feel that he's independent enough to declare him innocent.

Mr. Brademas. Senator Weicker, let me turn to another area of Presidential-Congressional confrontation, the so-called War Powers issue. Congress has just overridden the President's veto of that bill, and you argued very forcefully for it. Can you tell us what it is and why you were for it?

Senator Weicker. Well, I might add, just as importantly, the American people were for it. The polls that came out since the override, the polls that were taken before Congress voted for the override, showed that some 80 percent of the American people felt there should be some check on the President in this area.

Basically, this is not a problem of Richard Nixon. It's a problem of American presidents within my lifetime, from Roosevelt through Nixon, where in effect in the foreign affairs field, in the military field, more and more power has been given up by the Congress, placed into the hands of one man. How badly that type of a system operates is illustrated, I suppose, by Vietnam. That's really the lesson.

So in this particular piece of legislation, what we have done is not to deny the President the capability of acting and acting immediately without any check from the Congress, but, rather, we have provided that any such action is subject to Congressional review within a matter of sixty days.

So to those who like to raise the scare tactic that in a nuclear age you're tieing the hands of the President behind his back, the answer is nuts. It's just not doing that. To the extent that he does have to check in with the elected representatives of the people in the

House and the Senate, yes, he does. And there's not one of us that wouldn't agree that we would never have gotten into the terrible dissension over Vietnam if, in fact, that decision again had been arrived at by the American people. But it wasn't. It was basically a decision made by a few men.

So all we've done is to put things in their original perspective. This isn't anything revolutionary or new. All we are doing is harking back to the original principles of the Constitution insofar as Congress being involved in any commitment of American troops and of declaring war.

The waging of war isn't the job of Congress. That is the job of one man. But before American lives are going to be lost, I think the American people should be consulted.

Mr. BRADEMAS. Birch, do you have any comments on the War Powers Bill?

Senator BAYH. Well, I think it's long overdue. It either means what it says in the Constitution, or it doesn't, John, and I don't think the American people want one man to make a determination as to whether hundreds of thousands of our young men are going to have to suffer and our nation is going to have to suffer the costs of war, and the tragedy of war.

And I think, as Lowell pointed out, we have not tied the hands of our policymakers, our President, and those around him, so that they cannot defend us. This is some of the rebuttal that was used against us.

But the President can respond; he can do anything in the event of attack; and we've given him that time . . .

Mr. BRADEMAS. Sixty days within which to commit U.S. troops to combat, but after that he has to come back to Congress if he wants to keep them there, isn't that part of the Act?

Senator BAYH. Yes, and that's a long enough period of time for the Congress to act. You can argue all you want to about Vietnam. That's over. To try to rehash the pluses and minuses of that, I don't think means much, but we're really foolish if we don't learn so we don't have another Vietnam.

Mr. BRADEMAS. Let me put another question to both of you Senators, and that's on another subject where the President and Congress have been at loggerheads, and that's the issue of executive privilege. Senator Weicker, just what is executive privilege and how far do you think it ought to be extended?

Senator WEICKER. Well, it's a lot of nonsense as advocated by President Nixon.

I believe there is a valid area of executive privilege. I would say it certainly would involve conversations between the President and his staff on matters of security. Aside from that, I don't allow for the theory. His business is the public's business, just as mine is.

And it certainly does not cover illegal type conversations or conversations that related to possible illegal activities by persons. I don't think it should involve anything except valid national security discussions. At least, that's my concept of executive privilege.

Otherwise, I think everything the President of the United States and everything that Senator Bayh and myself say quite frankly ought to be public.

Now we've just gone through this business in the Senate of opening up Senate hearings, not just the public hearings, but the executive sessions. We've placed upon ourselves the limitations of national security, of proprietary information—trade secrets—and one more area, of personal references to character, those to be held private. But, otherwise anything else to be discussed ought to be in the public domain. This isn't our government; it isn't our committee; it belongs to the American people.

I feel the same way insofar as discussions of the President are concerned, recognizing there could be a valid national security area—not, again, the very broad one that's been thrown around the place—where the President's conversations should be privileged between himself and the staff, but none of that executive privilege business for staff member discussing national issues.

Mr. BRADEMAS. Senator Bayh, what do you think about this issue?

Senator BAYH. Well, you know, there's nothing in the Constitution about executive privilege. The philosophy of executive privilege, a very narrowly defined one as Lowell accurately describes it, is sort of a doctrine that's developed to let the President conduct his business so that staff people can come in and be very candid with him. "Mr. President, last night you were terrible in that speech", or "You made this mistake", or "I recommend thus and so", without having that get out in public. And it's necessary to have that kind of candor.

But the President isn't above the law. No member of the President's staff ought to be permitted to use this kind of thing to cloak mischievous activity and the size of it has been so blown out of proportion that I could hardly believe my eyes and ears when I watched President Nixon on that press conference the Friday night after everybody had been discharged down at the Justice Department there that day, when he talked about the Thomas Jefferson experience with the Aaron Burr letter and Chief Justice Marshall, and that this was precedent for his not letting any of this information be made available.

The facts of that situation were that, if Jefferson were the one who defined executive privilege as of that moment and this moment, he let the letter be made not only available to a judge who would watch it, as the Watergate tapes were going to be held by the court. He gave the letter to the prosecuting attorney involved, the U.S. district attorney, and even said he was willing to be interrogated himself.

So it is not a matter of the President's having a curtain around him which can't be penetrated. We don't want government in a smoke-filled room or in the privacy of our office or of the Oval Office at the White House.

Mr. BRADEMAS. There does seem, speaking of the Oval Office in the White House, to be some dissension going on right now in respect of what the President and General Haig are saying about what former Attorney General Richardson said about the firing of Archibald Cox. Senator Weicker, do you think that General Haig will be brought up before the appropriate Senate committee to testify on that subject?

Senator WEICKER. I'm going to let Birch address himself to that question because he's on the Judiciary Committee, where the comments were made, but I'm just going to say one thing.

I made a comment, I think it was when Mr. Haldeman was on the witness stand, that everything those people touched, they corroded. Mr. Haldeman took very great exception to that comment. The fact is I haven't seen one person walk in and out of that mess who doesn't come out bespattered or dead or anything in between. And I mean that.

You know, you see men like Ruckelshaus, you see an Elliot Richardson and Archibald Cox, and you realize how far that's gone. These men don't tell lies. They make mistakes, I suppose, like we all can, but they don't tell lies.

But apparently everybody in Washington, in other words, has lied at one time or another, has been disloyal. I'll tell you it's a grim picture that has been painted, and for all of those who said, well, how did Pat Gray not understand what was afoot when he walked into the White House in June of 1972? How could he know that what was being presented to him wasn't wrong, may I point out that at that time there was no knowledge of anything having gone wrong with the exception of one small story about a break-in at Democratic headquarters.

Even to this day, honorable men like Senators Baker and Ervin walked down to the White House, and, before they come out, they are something less than when they walked in. I've had it with that group down there insofar as the reverence in which they hold the concepts of honesty, integrity and the reverence in which they hold the position of the Presidency of the United States. It's a rough show, and I'll believe the version of, as I say, those who have walked in and out and have been hurt and hurt badly, rather than the version of those still there.

Mr. BRADEMAS. Well, speaking of the Presidency of the United States, we have a problem now with the Vice Presidency, and you in the Senate will be shortly voting, and we in the House, on the nomination of Jerry Ford for Vice President. Senator Bayh, you were the author of the 25th Amendment that makes possible the present procedure. Is the procedure working the way you thought it would?

Mr. BAYH. About as well as could be anticipated.

Could I just add one comment to Lowell's remarks, because this week we had considered the matter of whether we should find out who's telling the truth when the President says Elliot Richardson is lying.

I don't know what it is, Lowell, about this city that for some reason or another, it goes beyond just smattering the institution of the Presidency, but public office as a whole. Apparently people no longer feel that when they make a mistake, they can admit it.

It seems to me that when you make a mistake, the best way to extricate yourself from it is to say, all right, I made a mistake. I don't think people expect any of us to be perfect, but they darn well don't expect us to lie and to have to look for straw men on whom to have to shift blame for the responsibilities of a public official. That doesn't make good politics and it certainly isn't honest and ethical.

I don't think Elliot Richardson lied. He was before our committee, I worked carefully with him in my office to try to iron out the negotiations on which Archie Cox could move on out and get this Watergate behind us, get it out of the politics so we could get on with other business. I don't think Elliot Richardson lied, but I'm willing to listen to anybody.

On the 25th Amendment, as I look back now, my hindsight is better than my foresight.

We could foresee then that you might have a Congress of one party and a President of the other, and that it would not be good for the institution of the Presidency, the Executive Branch, to have a Democrat in there now taking pot shots at the President, nor would it have been the case when President Eisenhower was there to have a Republican.

We need a unified executive, and so we wanted the President to nominate someone that was of his party that he would feel confident in so that he could delegate Presidential duties and thus share the awesome burdens of that office.

We didn't want that to be an anointment of the heir apparent because history has shown that Vice Presidents have a great probability of becoming President. So we wanted the Congress to serve as an electoral body, and I hope that's the function we're performing right now.

We ought to be looking for one thing, and that's to find a man who's qualified to serve as President. That was the underlying authority given in the 25th Amendment to the Constitution.

Senator **Weicker**. I think it's only fair to say as far as Birch is concerned that his foresight was pretty good, and I think it is testimony to what can be done with some creative thinking, and he had it. It wasn't a hindsight operation at all.

Mr. **Brademas**. We only have a couple of minutes left, so I'd like to ask each of you to speak for just a minute on how you see the future of American democracy in the light of Watergate and all we have been experiencing. Are you optimistic or pessimistic, Senator Bayh?

Senator **Bayh**. Well, I have some short term pessimism about some critical problems that are going to confront our country as a result of the black eye the democratic process has received because of all the things Senator Weicker and others have been involved in letting us know about what happened.

But because they have let us know, I think I have long-range optimism that no system anyplace else in the world could have uncovered this malfunctioning of the situation and thus be able to purge itself of those men and those malfunctions of the system so we can keep it from happening again. I think the system is going to survive.

Mr. **Brademas**. Senator Weicker, how do you feel?

Senator **Weicker**. Very good. I think quite frankly we've got a tremendous future ahead of us just because of what's happened. We've been running around the town to figure what we ought to do for our 200th anniversary, what monument or building ought to be raised up, at the cost of millions of bucks.

I think the fact that we've once again decided to return to our original concepts, those concepts that made America great, is enormously important. In other words, we are not willing to accept a little decadence, a little corruption, as the price of government. If we'd done that I would have said it would have been a pretty bleak future. But with what has been unearthed, . . . a year and a half ago, a guy stood outside a supermarket in Florida with a copy of the Bill of Rights, and 75 percent of the people who came out said, "I'm not going to sign that Communist document". They wouldn't do that today. They now understand what it means.

SPEECH DELIVERED TO THE VETERANS MEMORIAL COURT OF HONOR IN RED OAK, IOWA, ON NOVEMBER 12, BY REAR ADM. D. V. COX, U.S. NAVY

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. SCHERLE. Mr. Speaker, I would like to take this opportunity to share with my colleagues the following speech by Rear Adm. D. V. Cox, U.S. Navy, Deputy Chief of Staff for Operations and Plans, commander in chief, U.S. Atlantic Fleet, who recently delivered the address to the Veterans Memorial Court of Honor in Red Oak, Iowa. I feel that the remarks by Admiral Cox, who has served this country for more than 30 years in the Navy, are an excellent tribute to our veterans and also provide us with a good look at today's Navy. The speech follows:

Speech by Rear Adm. D. V. Cox

I am honored, but above all pleased, to be here today to join you in observing Veterans Day of 1973. For as long as I can remember, Armistice Day, from which Veterans Day evolved, was important to me. My dad, Ralph Cox of Farragut, was a volunteer in the American Expeditionary Force in World War I and I was early taught that the moment of silence at 11 a.m. on 11 November was sacred to the memory of those who had given their lives for our country and for the peace of the world. The war to end wars had been fought and won, and our thoughts in those days of the 30's were occupied with overcoming depression and drouth. We paid little heed to the warlike preparations of a man named Hitler. But a few lines of a poem, repeated at every Armistice Day ceremony, impressed me in a way I can never forget.

In Flanders fields the poppies grow
Between the crosses row on row.

We are the dead, short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields.

Take up our quarrel with the foe
To you from failing hands we throw
The torch; be yours to hold it high
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

To me this never meant 1916 in war torn France; it never meant that Germans were the foe.

It meant that young men had given their lives for an ideal; and their last wish, as I imagine it has always been from the Biblical wars through Vietnam and the Mid-East conflict, was that their mortal contribution would count toward a better life for those left and those yet to be born, a better world.

Not all heroes give their lives in war. Most survive their trials and live a full life still striving for a better world. So today is a tribute to the living as well as the dead. It is a day when all stand in ranks again to receive the honor of our nation.

Attainment of freedom and peace, of a better world, extracts a price. Veterans of yesterday and of today have paid that price. Those who paid the full price desired to live as much as does any American; those who were disabled desired peace and health instead of injury and illness; those who watched their loved ones march off to war prayed for their safe return and the security of the country they love. Through constant efforts to preserve our freedom, this country has lived by sacrifice and service. It is stronger for it, the world is better for it.

Having said a few humble words to honor the past let me now talk to the future. Glorious histories have been written by those whose flags we dedicate today. The inspiration their memory gives us is for the future, not the past. Our duty to them cannot be fulfilled by one day a year of glorious memory, It can be filled by living in the future by the standards for which they died.

Today we see new young faces in the ranks of our Army, Navy and Marines, and Air Force. Our future safety is in their hands. They guard this future just as those we honor today guarded our past. I am proud of them and proud to be an old-timer serving with them. I trust them and you must. We now have a volunteer force, for the first time since before World War II. Think what that means, and especially think what it means today. Since Pre-World War II days the only choice a young man has had was which service to choose. He knew that he had to serve. Now the choice is—if to serve. If he serves, he volunteers with the knowledge that there will be no flags waving as he marches off—and none as he marches home. He may feel that his accomplishments will not be of interest, only his failures. He may have an awareness that he will not read of any triumphs of his superiors, military or civilian, only of their inadequacies. If he reads his newspaper well and watches TV devotedly he might wonder whom he can trust. He could easily be convinced that no one will trust him. Yet his Nation expects him to volunteer under these conditions. And he does. He is deserving of very special faith and respect for that reason alone.

In times of peace and prosperity or following a conflict such as Vietnam these national attitudes can be expected. Historically, this has always been the case in all lands. Remember what Rudyard Kipling wrote about a 'tween-wars England:

"For it's Tommy this, an Tommy that, an' chuck him out, the brute!"
But it's 'Savior of 'is country' when the guns begin to shoot;
And it's Tommy this, an Tommy that, an anything you please;
An' Tommy aint a bloomin fool—you bet that Tommy sees!"

When I entered the service, in 1940, such was the case. A great many people really believed that there was no reason for us, here in America, to worry about Germany and Japan. A few short months later, thousands of American lives were sacificed to that complacency.

What is the situation today? We read and hear a great deal about defense—but it's all about its atrocious expense. We read of a new era of "detente" and hopes for lasting peace. Of course, at the same time we do read of war in the Middle East. Many seem to wonder why—now that we're no longer at war anywhere in the world—why we still need to spend so much for defense.

I am going to limit my remarks on this matter to the Navy, your Navy, with which I am most familiar. Believe me, our whole purpose is to protect the United States and the future. We can't do this without your support, economic and political, and we can't do it without public confidence.

Now let us examine what the Russian Navy is doing.

We have excellent authority for our analysis.

I can pass on to you some of the things Admiral Gorshkov, who had headed the Soviet Navy for the past 20 years, has told us about his navy's potential. "The Soviet Navy will no longer be confined to its home waters, but will exploit the freedom of the seas and through its global presence in peacetime will spread Communist influence outside the borders of the USSR."

The value of a Navy was really emphasized to the Soviets when they didn't have one to stand up to us in the 1962 Cuban missile crisis, although for years they had smarted under our ability to sail in full control of the Mediterranean and to carry the stars and stripes to all the ports of the free world. They have spent the past ten years building a Navy. Because of the national emphasis and resources they have been willing to put into the effort, they have had phenomenal success.

First they created a naval deterrent to counter-balance the US ballistic missile submarine force. Their leader Admiral Gorshkov has said: "Our Navy is now a modern ocean-going fleet outfitted with the latest equipment. It is armed with nuclear missile-carrying submarines that have long-range ballistic missiles. Submarines armed with ballistic missiles are capable of destroying ships at distances of hundreds of kilometers, and of delivering blows from beneath the water against strategic targets at great distances." Their first version of our Polaris submarine—the Yankee—made its operational appearance in 1968. The Soviet Yankee submarines, each with sixteen 1300-mile range ballistic missiles, commenced regular patrols in the Atlantic in 1969. Today the Soviets maintain several Yankees on station off the East Coast at all times. There are 31 Yankees in the Soviet inventory, most of them in the Northern Fleet with direct access to the Atlantic.

Now, while we debated on whether to build the Trident submarine or not—they have built a similar new class, the Delta, with 12 missiles capable of a range of 4000 miles. With these they can target most of Europe and the entire US (including Iowa) from as far away as the Norwegian Sea. They have 16 of these under construction.

They have also built quantities of fast attack submarines which we know are aimed at US and NATO supply lines and naval forces. The "Charlie" model carries 8 cruise missiles by which it can launch submerged.

Their surface combatants, new cruisers and destroyers, are fine ships with superb missile systems. They have built helicopter carriers, the Moskva and Leningrad. Now we learn that the first Soviet aircraft carrier has been launched, and that more are on the way. We expect to see this ship go to sea with a combination of helicopters and vertical takeoff aircraft. As Janes Fighting Ships states "This will give them a worldwide capability—able to provide antisubmarine and air striking power at any point where the Soviets consider intervention necessary."

The Soviets have a real "Blue Water" Navy, and in the past few years they have learned to use it. The Mediterranean is now full of Soviet ships. Their level in the Atlantic has increased by 50 per cent. They keep ships, combat ships, in the Indian Ocean, off the coast of Africa and in the Caribbean.

This year in August and September, a Soviet cruiser, destroyer and submarine visited in Cuba and exercised in the Gulf of Mexico.

On the 13th of August the Russian cruiser and destroyer were 200 miles off Corpus Christi. The next day they were 100 miles east of the mouth of the Rio Grande and on the 15th they were 300 miles South of New Orleans. They have now gone home, but others will return. This is a regular deployment for them.

It is patently clear that the Soviets already have a Navy of far greater strength than would be needed for purely defensive purposes, and they methodically continue to build with no sign of tapering off.

Why in an era of "detente" has Russia placed this emphasis on offensive naval forces? This question needs answering far more than that heard in this country of—"Why must we continue to spend money on defense?" Russia, unlike the US, is a land power, self sufficient in all critical material resources, not at all dependent on maritime trade. Why, then this Soviet emphasis on an offensive Navy? In the military, we know the Soviets' capabilities, and we are concerned about them. We reject and resent allusions to a lack of sincerity on our leaderships' part when these capabilities are described. I assure you the Soviet capability is not a fantasy, dreamed up to pry your tax dollars loose. The Soviet Bear's capability at sea, on any sea, is real, formidable and awe-inspiring.

We know defense must share priority with domestic needs. We know funds are limited. We in the services pay taxes too. We recognize that defense must be efficient. I firmly believe there is no large company in the world that works harder, or is more effective at running an efficient business than the military services. And we are spending less, not more on defense. Measured in "real" dollars, with inflationary effects removed, this year's budget request is 8 billion below the last pre-Vietnam budget in 1964—35 billion below the Vietnam peak year of 1968.

Because we are economizing, your country's active duty military strength is at its lowest level since the Korean War. Your Navy has 40 percent fewer ships than it had in 1968. In the Atlantic Fleet, as the Soviets build, we have less than 200 combatant ships. The Soviets have almost that many submarines in their Northern Fleet.

In spite of what I've said, I still feel we have a slight edge. We are building a more modern, if smaller, Navy. Manned with real professionals from our volunteer force, we'll do our utmost to give this country of ours the best defense we can. But we need your help. We need, first of all, your help in finding more young men and women to volunteer for your Navy. You grow the best crop of these in the world, right here in Iowa.

Next, we need your understanding that a defense is necessary, that history has proved we can never have peace through weakness, that defense will cost money, that lack of defense may cost lives.

But most importantly in these days we need your confidence and trust. We can't negotiate with the Soviets or Chinese, or stand up to them if need be, without this. We can't buy the weapons we need for defense if you don't believe us, and so turn down our requests. We can't lead your fine young men and women as they should be led unless your confidence passes on to them.

This is a day of inspiring memory, for those whose flags we honor and for all veterans. Let us also make it a day when we examine, in the light of the patriotism, dedication and responsibility they showed so well—the future of our nation. I think this wonderful country is worth defending—and defending well.

THE COMMUNICATIONS WORKERS OF AMERICA WANT DISMANTLING OF COLC

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. REUSS. Mr. Speaker, in the October 1973, CWA News, Joseph A. Beirne, president of the Communications Workers of America, appraises the Cost of Living Council:

DISMANTLE THE IMPOTENT GIANT

(By Joseph A. Beirne, president, CWA)

The one-armed giant known as the Cost of Living Council should be dismantled and its members sent packing. The Council should go out of business at once because it was never really in business—not in the busines for which it was intended.

It never really was operative, except in the mind's eye of those who advise President Nixon on economics.

Price controls are a joke—a nasty joke on workers whose wages were shrunk by freezes and then shredded by bloated prices and inflated interest rates.

This economic monstrosity with only one enforcement arm used to squeeze workers and consumers and a mouth that chews up workers' paychecks while waving businessmen and financiers ahead in their race for bigger profits must be disbanded now.

It is quite evident that the Cost of Living Council is doing nothing about the fact that the present inflation is pilfering 45 percent more out of workers' paychecks for food than was taken six years ago.

It appears helpless to cope with inflation that is costing the average workers 60 percent more than in 1968 for meat, fish and poultry. These figures come from the U.S. Departments of Labor and Agriculture.

When trying to deal with anything involving prices whether it is beef on the hoof or gasoline to get you to work, the Council decrees by its inaction that we live in an economy half-free and half-slave. No state, Abraham Lincoln told us, can live that way.

This economy can no longer tolerate the abuse of economic slavery for workers and the simultaneous unbounded license for profiteers.

Economists forecast that the Cost of Living Council will grant most if not all of hundreds of pending price increase requests. And even Herbert Stein, chairman of the President's Council of Economic Advisers expresses little confidence in the Cost of Living Council. He predicts that food prices will rise for the next six months at an annual rate of ten percent.

As the business-oriented U.S. News and World Report notes in its October 15 issue: "Even before Mr. Stein's forecast, people around the country had been bracing themselves for still more unpleasant price news."

No forecaster is predicting wage increases to parallel the boost in prices, however. If only one-half of the economic picture is controlled, how far can we be from the corporate state where every segment of society and every individual is in complete bondage?

A RELATED MATTER

I would like to share with you some information on another, but related, matter.

Oftentimes critics contend that leaders are unaware of what members think and believe on various subjects. This Union is blessed with so many levels of contact that we in CWA do not lack knowing; if there is a lack, it is of time to digest what CWA men and women at various levels are saying.

As you know, a number of times during the year CWA has conducted random polls of the members.

Such a poll was taken a few months ago and five major issues of concern with their order of importance resulted from that poll.

CWA members told us the five issues about which they were most concerned in this order were:

1. Economy (this category included cost of living, inflation and wage and price controls); 2. high taxes; 3. honesty in government (including Watergate and related matters such as "dirty tricks" in politics); 4. ecology (including air and water pollution and energy crisis), and 5. pension.

These findings may or may not coincide with what you individually believe. They do represent the concerns of a large sampling who took the time to complete the poll.

Since the poll was taken, elected officials of both major political parties who made their own assessments during the summer recess of Congress have come alive and recognized the (to them) startling fact that economic worries were right on the top of the list.

Whether our nation's leaders act upon this new found knowledge remains to be seen. Thus far there is no sign that they are translating their awareness into activity.

The CWA poll results are striking, too, in that for the first time in many, many years "world peace" is absent from the list. The poll, of course, was taken before the present Mideast crisis which again focuses attention on the problem of "world peace."

This may also be attributed to the withdrawal from Vietnam or because of the President's negotiations with Peking and Moscow, and the use of the word "detente" as a catchall to cover the world situation today.

One can only hope and pray that this euphoric use of the word "detente" will not entice this nation and its citizens into a false sense of security. This whole issue of foreign affairs and our quest for world peace certainly merits a great deal of consideration by all.

In the struggle for world peace, with all its diplomatic subtleties and nuances, there should be a sense of caution; for the problems of Southeast Asia have not evaporated and are still with us, not in the dramatic way that the Middle East now is, but there, nevertheless.

On world matters, we are not dealing with children, but with skilled negotiators, eager to press every advantage. If anyone doubts that, he or she should take another look at the wheat deal.

No one who has stepped inside a food market recently or applied at a bank for a home mortgage would quarrel with the fact that economy is a number one issue. But it is just as disquieting to consider that the same folks who brought us this economic mess are also managing our international relations.

A LETTER FROM A FARMER'S DAUGHTER

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. SCHERLE. Mr. Speaker, I have received the following letter from my constituent, Teri Benson of Jefferson, Iowa. As a farmer, I know that few people realize what our life and profession is like. Teri has asked me "to set the people of this country straight." I can think of no better way than by sharing her letter with my colleagues:

JEFFERSON, IOWA,
November 6, 1973.

Hon. WILLIAM SCHERLE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SCHERLE: For many years there has been great dissension toward farmers. For some reason, people in this country are quite narrow minded. They seem to think that farmers are rich and have it easy. I'm the only daughter of a farmer here in Jefferson, Iowa, and I know from experience that it is not true. Of course, there are always some in every profession that this might apply to, but if you took a survey of all of Iowa farmers, you would find that a large percentage are having quite a few struggles to make ends meet or to compete with modern big farmers.

Take the price of cattle and hogs. First, the farmer must buy replacements for his herds, then buy feed and modern equipment to get the biggest gain on his animals. This amounts to a lot of money! Then, when prices are frozen, the poor, small farmer can't get much profit, if any, from his cattle or hogs.

Then consider the risks a small farmer, or any farmer, takes with his crops, such as corn and beans, which are the major crops raised here in Iowa. First, in the spring, my father has to worry about getting the crops in and making a decent seedbed. Of course, he also has to worry about getting fertilizers, chemicals, and the brand and hybrid of seeds he needs. Considering the very wet and disagreeable weather we've had the last few years its been a hectic and often discouraging race against time and fate.

In the fall he has to worry about whether or not he'll get his crops out. Sometimes, like last year, he was still working clear up till after Thanksgiving. What a headache!

I think something should be done about this. People blame the farmer for food inflation. That's not right! If it weren't for the farmer in this country, there would be no country! I think we should set the people of this country straight! Let them know of the plight of the small farmer, and do something about it before its too late and there are no more small farmers!

Sincerely,

TERI BENSON.

HOUSE OF REPRESENTATIVES—*Monday, November 26, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Watch ye, stand firm in your faith, be courageous, be strong. Let all that you do be done in love.—I Corinthians 16: 13, 14.

Almighty God, again we assemble in this Chamber after a brief recess and first of all we lift our hearts unto Thee in prayer. Facing the days of this week and the tasks of these hours, grant unto us a vivid sense of Thy presence that in our minds there may be understanding, in our hearts peace, and in all relationships—good will.

Keep us unwavering in our loyalty to the best interests of our country, unfaltering in our courage as we seek solutions to the perplexing problems which confront us, and unalterably just and kind in all our dealings with one another.

Kindle in our hearts and in the hearts of all people a desire to cultivate the fine art of living together in good will, with justice and for peace in our world.

In the spirit of Christ we offer this our morning prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 9575. An act to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1284. An act to amend title 5, United States Code, to improve the administration of the leave system for Federal employees;

H.R. 2533. An act for the relief of Raphael Johnson;

H.R. 3334. An act for the relief of Maria Lourdes Rios;

H.R. 3758. An act for the relief of Isabel Eugenia Serrane Macias Ferrier;

H.R. 8528. An act to provide for increasing the amount of interest paid on the permanent fund of the U.S. Soldiers' and Airmen's Home;

H.R. 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes;

H.R. 10511. An act to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements; and

H.R. 11459. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11459) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MANSFIELD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. MCCLELLAN, Mr. SYMINGTON, Mr. CANNON, Mr. SCHWEIKER, Mr. MATHIAS, Mr. BELLMON, Mr. YOUNG, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills, joint and concurrent resolutions, of the following titles, in which the concurrence of the House is requested:

S. 97. An act for the relief of Jose A. Seradilla;

S. 663. An act to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes;

S. 928. An act to create a catalog of Federal assistance programs, and for other purposes;

S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave;

S. 1206, An act for the relief of Concepcion Velasquez Rivas;

S. 1398. An act to authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes;

S. 1418. An act to recognize the 50 years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions on the Organization of the Executive Branch, and his service as 31st President of the United States, and in commemoration of the 100th anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace;

S. 1673. An act for the relief of Mrs. Zosima Telebanco Van Zanten;

S. 2112. An act for the relief of Vo Thi Suong (Nini Anne Hoyt);

S. 2267. An act to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes;

S. 2299. An act to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes;

S. 2551. An act to authorize the disposal of molybdenum from the national stockpile, and for other purposes;

S. 2589. An act to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes;

S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index;

S.J. Res. 40. Joint resolution to authorize and request the President to call a White House Conference on Library and Information Services in 1976;

S.J. Res. 126. Joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday in May of each year as "Grandparents Day";

S.J. Res. 168. Joint resolution to authorize the President to designate the period from February 10, 1974, through February 16, 1974, as "National Nurse Week"; and

S. Con. Res. 57. Concurrent resolution expressing the sense of the Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 16, 1973.

Hon. CARL ALBERT,
The Speaker, House of Representatives.

DEAR MR. SPEAKER: Pursuant to the permission granted on November 15, 1973, the Clerk has received from the Secretary of the Senate the following messages:

That the Senate agreed to the conference report on S. 2408, An Act to authorize certain construction at military installations, and for other purposes;

That the Senate agreed to the House amendment to S. 2681, An Act to authorize appropriations for the United States Information Agency; and

That the Senate agreed to the House amendments to the Senate amendments to H.R. 9474, An Act to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By BENJAMIN J. GUTHRIE.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 19, 1973.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: Pursuant to the permission granted on November 15, 1973, the Clerk has received from the Secretary of the Senate the following messages:

That the Senate passed without amendment the following bills:

H.R. 1353. An act for the relief of Toy Louie Lin Heong;

H.R. 1356. An act for the relief of Ann E. Shepherd;

H.R. 1367. An act for the relief of Bertha Alicia Sierra;

H.R. 1463. An act for the relief of Emilia Majowicz;

H.R. 1696. An act for the relief of Sun Hwa Koo Kim;

H.R. 1955 An act for the relief of Rosa Ines D'Elia;

H.R. 2513. An act for the relief of Jose Carlos Recalde Martorella;

H.R. 2628. An act for the relief of Anka Kosanovic;

H.R. 3207. An act for the relief of Mrs. Enid R. Pope;

H.R. 3754. An act for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni;

H.R. 6828. An act for the relief of Edith E. Carrera;

H.R. 6829. An act for the relief of Mrs. Jose Antonio Trias;

H.R. 7582. An act to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the Service academies;

H.R. 8187. An act to amend section 2031(b)(1) of title 10, United States Code, to remove the requirement that a junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 10366. An act to amend title 10, United States Code, to remove the four-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port;

H.R. 10840. An act to amend the act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress;

H.R. 10937. An act to extend the life of the June 5, 1972, grand jury of the United States District Court for the District of Columbia; and

H.J. Res. 735. A joint resolution authorizing the Secretary of the Navy to receive for instruction at the United States Naval Academy two citizens and subjects of the Empire of Iran.

That the Senate recedes from amendments to H.R. 5777, an act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
By BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 21, 1973.

Hon. CARL ALBERT,
The Speaker, House of Representatives.

DEAR MR. SPEAKER: Pursuant to the permission granted on November 15, 1973, the Clerk has received from the Secretary of the Senate the following message:

That the Senate passed without amendment the following bill:

H.R. 6334, An Act to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS.
By W. RAYMOND COLLEY,
Clerk, House of Representatives.

ENROLLED BILLS AND JOINT RESOLUTION OF THE HOUSE AND ENROLLED BILLS OF SENATE SIGNED

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, November 15, 1973, he did, on November 19, 1973, sign sundry enrolled bills and joint resolution of the House and enrolled bills of the Senate, as follows:

H.R. 5777. An act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture;

H.R. 7582. An act to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies;

H.R. 8187. An act to amend section 2031(b)(1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 10366. An act to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port;

H.J. Res. 735. Joint resolution authorizing the Secretary of the Navy to receive for instruction at the United States Naval Academy two citizens and subjects of the Empire of Iran;

S. 2408. An act to authorize certain construction at military installations, and for other purposes; and

S. 2681. An act to authorize appropriations for the U.S. Information Agency.

And on November 21, 1973, sign sundry enrolled bills of the House as follows:

H.R. 1353. An act for the relief of Toy Louie Lin Heong;

H.R. 1356. An act for the relief of Anne E. Shepherd;

H.R. 1367. An act for the relief of Bertha Alicia Sierra;

H.R. 1463. An act for the relief of Amilia Majowicz;

H.R. 1696. An act for the relief of Sun Hwa Koo Kim;

H.R. 1955. An act for the relief of Rosa Ines D'Elia;

H.R. 2513. An act for the relief of Jose Carlos Recalde Martorella;

H.R. 2628. An act for the relief of Anka Kosanovic;

H.R. 3207. An act for the relief of Mrs. Enid R. Pope;

H.R. 3754. An act for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni;

H.R. 6334. An act to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System;

H.R. 6828. An act for the relief of Edith E. Carrera;

H.R. 6829. An act for the relief of Mr. Jose Antonio Trias;

H.R. 9474. An act to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation, and for other purposes;

H.R. 10840. An act to amend the act of August 5, 1950 (6 Stat. 411), to provide salary increases for members of the police force of the Library of Congress; and

H.R. 10937. An act to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF DEFENSE, 1974

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

Mr. CEDERBERG reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON SUPPLEMENTAL APPROPRIATIONS BILL, 1974

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

Mr. CEDERBERG reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CALL OF THE HOUSE

Mr. TEAGUE of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 593]

Abzug
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Ashley
Badillo
Beard
Bell
Biaggi
Blackburn
Bolling
Brademas
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Burke, Calif.
Chisholm
Clancy
Clark
Collier
Collins, Ill.
Collins, Tex.
Coughlin
Davis, Wis.
Dellenback
Dellums
Dent
Diggs
Dingell
Dorn
Downing
Dulski
Eckhardt
Edwards, Ala.
Esch
Eshleman
Ford, William D.
Fraser
Goldwater
Grasso
Gray
Green, Pa.
Grover
Gubser
Gunter
Hansen, Wash.
Harrington
Hébert
Hungate
Ichord
Jarman
Johnson, Pa.
Keating
Koch
Kuykendall
Kyros
Landrum
McEwen
McKinney
Macdonald
Martin, Nebr.
Mathias, Calif.
Melcher
Mills, Ark.
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moss
Nelsen
Nix
O'Hara
Patman
Pepper
Pickle
Pike
Podell
Powell, Ohio
Reid
Roe
Roncallo, N.Y.
Rooney, N.Y.
Rose
Rostenkowski
Roybal
Satterfield
Shipley
Skubitz
Snyder
Spence
Staggers
Steele
Steiger, Wis.
Stephens
Stokes
Stubblefield
Tiernan
Udall
Van Deerlin
Veysey
Walsh
Whitehurst
Widnall
Wilson, Charles, Tex.
Wolff
Wydler
Young, Alaska
Young, Ga.
Young, S.C.
Zwach

The SPEAKER. On this rollcall 317 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DEATH OF FORMER CONGRESSMAN TOM PELLY

(Mr. TEAGUE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TEAGUE of California. Mr. Speaker, I have the very sad personal duty to announce to the House the death of former Congressman Tom Pelly, who died very suddenly last week while on vacation in my district. He served for 20 years. He was a magnificent legislator, a perfect gentleman.

I doubt very much if anyone had more friends in this body than he did. I know all Members want to join me in expressing our sorrow about his departure and our sympathy to his family.

I am sure that the gentleman from Washington (Mr. PRITCHARD) is going to later ask for a special order so that we may all pay tribute to a great gentleman, Mr. Pelly.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Illinois.

Mr. ARENDS. Mr. Speaker, I, too, was saddened by the note that my friend, former Congressman Tom Pelly, had passed away. As the gentleman from California mentioned, he was, indeed, a gentleman, one of the finest men I ever had the privilege of serving with in all the years he was a Member of this great body. He was distinguished in his field and in many fields. He particularly loved politics and enjoyed being in the House as much as any man I ever knew. He was diligent in his attention to his work. He wanted to do his job well, the job the people sent him here to do, and he diligently worked at it.

His loss was felt by many of us when he decided to retire from Congress. We have missed him here during this last year.

As the Republican whip I often conferred with him on many important upcoming votes. He had a mind of his own and voted his convictions. I admired him for the firm positions he held.

I extend my sincere sympathy to the family.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Speaker, I would like to join my colleagues in expressing my deep regrets at learning of the death of Tom Pelly.

We came to the Congress in the same year and served together on the Merchant Marine and Fisheries Committee during his entire period of service in the House. Tom did an excellent job in representing his district in the committee, and when he retired at the end of the last Congress, it was a great loss to the committee as well as his district. He was a wonderful gentleman, a good friend, and a great legislator.

I extend my deepest sympathy to Mrs. Pelly and to the members of his family.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Speaker, I ask unanimous consent that we have a half hour of special orders on Thursday so that Members may have an opportunity to express their feelings about Tom Pelly.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. PRITCHARD. Mr. Speaker, Tom Pelly was a dear friend of mine even before he came to Congress. He was in the same business as my father, and his family and our family have been very friendly for years. He was a great public servant and one of our distinguished citizens from our State.

Mr. Speaker, I am sure many Members will want to join with me on Thursday when we make some appropriate remarks.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I would just like to join with my colleague from Seattle and with the gentleman in the well in saying how much we will miss Tom.

I am looking forward to participating in the special order on Thursday so that we may express to his family our deep sympathy.

THE ENERGY SHORTAGE

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, it is essential that the Government move without further delay to cope with the growing threat of serious energy shortages. Already the hour is late. Necessary programs, some of which have just been advanced, should have been authorized and implemented well before the onset of winter. The administration is late in providing leadership in this field. It should be noted again that Congress already has approved some legislation to enable the President to cope with the problem.

Plans now have been advanced by the President and generally I support them. He did not recommend rationing of gasoline and I agree this should be avoided if possible. However, there are indications it is inevitable and standby plans should be prepared in the event rationing must be resorted to.

I question that the proposed restrictions on Sunday driving are necessary or wise. There are many people who have legitimate reasons for travel on Sunday for church or business or other matters. They should not be precluded from obtaining gasoline.

The use of car pools and the elimination of unnecessary driving could be effective in savings of gasoline. We have reached the point where nearly every teenager above the age of 16 has an auto, and most people feel they must drive to get across the street. Effective savings in this area would entail voluntary rather than mandatory programs but the effort should be made.

There should be a very early meeting of the minds between Congress and the administration on the steps to be taken for energy savings, and emergency powers should be granted to the President to insure there are no additional, unnecessary delays.

EPA AND CONGRESSIONAL PARKING

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, if reports that I heard this morning are true, then the arrogance of the bureaucrats down at the Environmental Protection Agency is only exceeded by that of the oil sheiks in the Arab world, about which I will have more to say later.

However, I hear the EPA is now saying that they are going to tax Members and Members' staffs for parking in the Rayburn and other garages and parking lots here.

Mr. Speaker, I do not know how my friends on the parking committee will feel—I see one of them sitting here, Mr. GROSS—but as for me, I can only say that it will be a cold day in hell when they get away with that.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, I did not vote on two rollcalls on Tuesday, November 13, 1973, because I was doing Judiciary Committee work in connection with the forthcoming confirmation hearings re GERALD FORD, nominee for Vice President. If I had been present for those votes, I would have voted as follows:

Roll No. 579. Motion to recommit the conference report on H.R. 8877, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies. I would have voted "yea."

Roll No. 581. Agreement to the conference report on S. 1570, Emergency Petroleum Allocation Act of 1973. I would have voted "yea."

LIMITING COAL EXPORTS

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, I am today introducing legislation to limit the exports of coal.

In 1972, 56 million tons of coal produced in this Nation were exported. That is almost 10 percent of our total production. If we have such an energy crisis that we are forced to resort to strip mining and ripping up the land, then it does not make any sense to export this tremendous amount of our domestic coal production. My legislation would provide an exception to allow the export of coal to Canada, because we import oil from Canada.

In addition to that, it would allow an exemption from the export ban for the export of coal to serve our Armed Forces in foreign nations.

About 85 percent of our coal exports are low-sulfur coal, and the proportion shipped to other countries in 1972 was derived 86 percent from underground mines and 14 percent from strip mines. About 72 percent of our exports are high-grade, metallurgical coal which is used in the manufacture of steel, with the balance being used for steam electric generation.

The coal industry contends that the metallurgical coal is too high priced to be used in this country. I find it hard to believe that any American industrialist would contend that an American product is "too good for Americans." If the quality is too high, it could be blended with lower quality coal and utilized to meet the energy crisis and to stave off the destruction of our land through strip mining.

All of the high-quality export coal could be burned immediately to generate electricity. Because of its low-sulfur content, it would have the added advantage of being a relatively "clean" fuel.

The comparable Btu content of the 56 million tons of exported domestic coal is 613,700 barrels of oil per day. Should we not take advantage of this obvious source of supply and keep it right here at home where it is desperately needed?

The text of my bill, which is geared to H.R. 11450, the bill introduced by my colleague, Representative HARLEY STAGGERS, chairman of the House Interstate and Foreign Commerce Committee, follows:

H.R. —

A bill to amend the Clean Air Act, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 110 of the Clean Air Act, as amended (84 Stat. 1683), is amended by adding the following new subsection:

"(h) During any period when the Administrator is authorized to temporarily suspend any provision of this Act or any regulation, limitation, schedule, timetable, or requirement adopted under this Act, all domestically mined coal, as that term is defined in the Federal Coal Mine Health and Safety Act of 1969, except such coal of similar quantity and quality which for purposes of increased efficiency of transportation is either exchanged with persons or the government of an adjacent foreign state, or temporarily exported across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (50 U.S.C., App. 2401 et. seq.). In addition, before any coal subject to this subsection may be exported during such period under the limitations and licensing requirements and penalty and enforcement provisions of said Export and Administration Act of 1969, the President shall (1) make and publish in the Federal Register an express finding that any such export (A) will not diminish the total quantity or quality of mined coal available and needed for domestic uses in the United States during the next succeeding 180 calendar days, and (B) is in the national interest and in accord with the provisions of the Export Administration Act of 1969, and (2) submit a report to the Congress containing such finding. If either House of Congress, after receiving such reports, adopts a resolution disagreeing with such finding within 60 calendar days during which both Houses of Congress have been in session for at least 30 of such days, such export shall be prohibited by the President: *Provided,* That the President may permit such export, without filing such report, if he affirmatively finds, and publishes his finding in the Federal Register, that the export of such coal to any specific foreign state is necessary to insure that the importation of other fossil fuels into the United States from such state is not interrupted. The President, or his delegate, shall, after the enactment of this subsection, promptly issue regulations to implement this subsection and to insure that any person who plans to export such coal after the date of enactment of this subsection will notify the President or his delegate and specify the quantity and quality of the coal to be exported, the port from which it will be exported, the destination of such coal, the name and address of the person or persons mining such coal, and such other information as the regulations may require. The provisions of this subsection shall not apply to coal exports for use by the Defense Department in any foreign state."

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. This is District of Columbia Day. The Chair recognizes the gentleman from Georgia (Mr. STUCKEY), a member of the Committee on the District of Columbia.

TAXABILITY OF INSURANCE COMPANY DIVIDENDS

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6186) to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first proviso of section 1 of title X of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47–1580) is amended to read as follows: ": *Provided, however,* That, in the case of any corporation, the amount received as dividends from a corporation which is subject to taxation under this subchapter or under title II of the Act entitled "An Act to provide additional revenue for the District of Columbia, and for other purposes", approved August 17, 1937 (D.C. Code, secs. 47–1801—1808), and in the case of a corporation not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under this subchapter or under such title II of such Act shall not be considered as income, from sources within the District for purposes of this subchapter."

SEC. 2. The amendment made by the first section of this Act shall apply with respect to all taxable years ending after December 31, 1969.

With the following committee amendment:

On page 2, line 13, strike "December 31, 1969" and insert in lieu thereof "December 31, 1973".

The committee amendment was agreed to.

Mr. STUCKEY. Mr. Speaker, I move to strike the last word.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the District bills to be considered today.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. STUCKEY. Mr. Speaker, the purpose of H.R. 6186, as provided in H. Rept. 93–654, is to amend the existing District of Columbia tax laws to provide that dividends and interest received by a corporation from an insurance company subject to the 2% net premium tax imposed by Section 6 of Title II of the District of Columbia Revenue Act of 1947 (D.C. Code, Tit. 47, Sec. 1806), shall not, when paid to the parent corporation, be considered as income from sources within the District, and thus shall not be subject to District of Columbia income tax.

The Committee believes that this legislation would eliminate the unintended discrimination against holding companies receiving dividends from District of Columbia life insurance companies and would thereby encourage holding companies controlling life insurance companies to continue to incorporate and locate the home offices of those life insurance companies in the District of Columbia.

NEED FOR LEGISLATION

During the past ten to fifteen years, the trend within the life insurance industry has been to conduct business within a holding company structure, thereby giving management greater flexibility and increasing substantially the financial strength and operating efficiency of the organization involved. More than 50 holding companies, representing a major part of the life insurance industry, have been formed during the past several decades.

The holding company generally provides its life insurance affiliates with management assistance and a variety of technical services, including investment counseling, actuarial, and data processing services. Through the centralization of investment advisory and other securities operations, and product research and development by its actuarial staff, the holding company is able to improve investment results and promote more effective and efficient operations.

The regulatory climate in the District of Columbia has been favorable to the formation and operation of life insurance companies in the District of Columbia. Furthermore, Congress has never intended to discourage insurance company operations within the District of Columbia when conducted within a holding company structure. The District of Columbia tax laws, however, as construed by the District of Columbia Department of Finance and Revenue, inadvertently discourage the formation of holding companies with life insurance company affiliates located in the District of Columbia and, more importantly, encourage holding companies controlling District of Columbia-based life insurance companies to cause those companies to change their domicile and move their operations outside the District of Columbia.

Present law (D.C. Code, Tit. 47, Sec. 1571(a)) imposes an income tax upon every corporation "for the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District". Although the D.C. Code (Tit. 47, Sec. 1580) provides that dividends paid by a corporation which is subject to the income tax shall not constitute, in the hands of a receiving corporate stockholder, income from sources within the District, this provision has been construed to be inapplicable to a corporation receiving dividends from a District of Columbia life insurance company, because the exemption for intercorporate dividends is stated to be applicable only when the distributing corporation is subject to the income tax. Insurance companies, because of difficulties encountered in determining their net income, are not subject to the normal District of Columbia corporate income tax, but instead are subject to a net premiums tax imposed "in lieu of" other taxes (D.C. Code, Tit. 47, Sec. 1806).

The purpose of District of Columbia Code (Tit. 47, Sec. 1580) is to insure that at the corporate level income is taxed only once and not a second time when distributed as dividends to a corporate shareholder. This treatment is generally consistent with the Federal income tax law. (Of course, dividend income is taxed a second time when eventually distributed to individual shareholders.)

Since the net premiums tax on life insurance companies is designed to be a complete substitute for the corporate income tax, there is no reason for treating the dividends a holding company receives from a District of Columbia insurance company differently from the dividends it receives from other corporations.

Enactment of this provision of the District of Columbia Code, which has been construed to impose a double tax on the earnings of certain life insurance companies, appears to have been inadvertent and to have occurred when there were no District of Columbia life insurance companies operating as a part of a holding-company structure, before commencement of the current trend to operate life insurance companies within a holding company structure. No other jurisdiction construes its income tax laws to penalize, or has a tax structure which penalizes, as does the District of Columbia, the operation of life insurance companies within a holding company structure.

PROVISIONS OF THE BILL

The bill amends Section 1580 of Title 47 of the District of Columbia Code to provide that, for purposes of the corporate income tax, dividends received by a corporation from any corporation subject to the District of Columbia net premiums tax shall not be considered as income from sources within the District and to provide that interest received by a corporation not engaged in carrying on any trade or business within the District from any corporation subject to the District of Columbia income tax or to the District of Columbia net premiums tax shall likewise not be sonsidered as income from sources within the District.

HISTORY

A public hearing on H.R. 6186 was held by the Subcommittee on Business, Commerce and Taxation on July 16, 1973. Witnesses heard in support of the legislation included the Superintendent of Insurance and the Deputy Superintendent of the District of Columbia Government, and representatives of life insurance companies located in the District of Columbia and environs. There was no testimony opposing the legislation, as amended, and no expression of opposition thereto has been received by the Committee. The Subcommittee, in executive session on November 2, 1973, amended Section 2 of the bill, which had made repeal of the tax retroactive.

H.R. 6186, as amended, was ordered favorably reported by a voice vote of the full Committee on November 5, 1973.

CONCLUSION

The best interests of the District of Columbia will be served by encouraging the continued formation and operation of life insurance companies within the District. H.R. 6186 will remove an unintended obstacle to the formation and operation of such life insurance companies in the District when controlled by a holding company. For this reason, and those reasons indicated above, the Committee recommends enactment of H.R. 6186.

COST

Peoples Life Insurance Company, the principal company affected by the adverse taxation, was acquired by Capital Holding Company, Louisville, Kentucky, in 1969. No dividends were paid in 1969 by Peoples, the first year that the second tax became applicable. In 1970, $69,071 and in 1971, $84,308 were paid to the District as taxes on dividends the holding company received from the D.C. insurance company. No dividends were paid in 1972 to avoid the second tax. It is estimated that taxes in the amount of $100,000 would have been paid in 1972. These tax figures represent the estimated loss of direct revenue to the District of Columbia by this legislation.

AMENDMENT OFFERED BY MR. BROYHILL OF VIRGINIA

Mr. BROYHILL of Virginia. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of Virginia: Page 2, line 7, immediately after "subchapter" insert the following: "; and in the case of any corporation organized as a bank holding company under the provisions of the Bank Holding Company Act of 1956 and the Bank Holding Company Act Amendments of 1970, the amount received as dividends from a corporation which is subject to taxation under this article or under the provisions of paragraph (5) or paragraph (7) of section 6 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes", approved July 1, 1902 (D.C. Code, secs. 47–1701 and 47–1703), and in the case of any such bank holding company not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under such paragraphs, shall not be considered as income from sources within the District for purposes of this subchapter".

The SPEAKER. The gentleman from Virginia is recognized for 5 minutes in support of his amendment.

Mr. BROYHILL of Virginia. Mr. Speaker, as pointed out by the gentleman from Georgia (Mr. STUCKEY), the main purpose of the pending legislation is to eliminate what was apparently an unintended discrimination against holding companies receiving dividends from District of Columbia life insurance companies. As a result of this existing inequity, such holding companies are being subjected to double taxation by the District of Columbia, even though they may be located outside of the District and do not engage in any business within the District.

Like most jurisdictions, the District of Columbia imposes a tax upon all general business corporations on the basis of their net income. Also like other jurisdictions, the District of Columbia exempts dividends paid by a general business corporation from taxation as income when these dividends are paid to and received by a corporate shareholder. This exemption is based, of course, upon the fact that the corporation paying the dividend has already been taxed, and thus the clear purpose is to avoid double taxation. In this respect, the District of Columbia tax treatment of dividends paid by a general business corporation conforms to the treatment of such dividends under the U.S. Internal Revenue Code.

Again in conformity with the practice prevailing in most jurisdictions, life insurance companies in the District of Columbia are not subject to the District of Columbia corporate income tax, but instead are taxed on the basis of their net premiums receipts, because it is very difficult to determine the actual net income of an insurance company.

It would be reasonable to expect that when an insurance company in the District of Columbia pays dividends to a corporate shareholder, or a holding company, the same exemption would apply to such dividends with respect to District taxation as in the case of dividends paid by general business corporations, referred to above, in order to avoid double taxation. And indeed such exemption does apply to insurance company dividends in all other jurisdictions, as well as under the provisions of the U.S. Internal Revenue Code—but not in the District of Columbia.

Undoubtedly because of an oversight, section 47–1580 of the District of Columbia Code does not provide specific language exempting dividends paid to holding companies by life insurance companies in the District from such taxation. As a consequence, the District of Columbia has taken the position that intercorporate dividends paid by a District of Columbia insurance company to a corporate shareholder are taxable, on the grounds that the exemption for such dividends is stated to be applicable only when the distributing corporation "is subject to income tax."

The fact is that the net premiums receipts tax on insurance companies in the District of Columbia is entirely a substitute for the normal corporate income tax, and for this reason I regard this distinction as very far-fetched indeed, as I can see no valid reason for treating the dividends a holding company receives from a District of Columbia insurance company differently from the dividends it receives from other corporations. The result is a double tax burden that is not imposed in any other jurisdiction in this country, nor by the Federal Government.

Inasmuch as the District of Columbia has taken this position, however, it is incumbent upon the Congress to correct this inequity, the results of which can be very damaging to the city itself.

During the past 15 years, there has been a significant trend within the life insurance industry to conduct business within a holding company structure. This concept affords greater flexibility for management, and increases substantially the financial strength and operating efficiency of the organizations involved. Today there are more than 50 such holding companies operating in the United States.

One example of these holding companies is the Capital Holding Corp., which was formed in 1969 by the Commonwealth Life Insurance Co., an operating company located in Louisville, Ky. When Capital Holding Corp. was organized only 4 years ago, Commonwealth Life was its only subsidiary. Today, Capital owns a casualty insurance company, a real estate holding company, a finance company, and eight life insurance companies which do business in 43 States and the District of Columbia.

Capital provides its affiliates with management assistance and a variety of services such as investment counselling, actuarial services, and data processing services. Investment results have improved as a result, and a greater variety of better insurance policies are being offered to customers than ever before. In many ways, the competitive ability of the various members of the Capital group has been substantially improved.

One of the members of this group is the Peoples Life Insurance Co. here in the District of Columbia, which joined the Capital Holding Corp. family in December of 1969. Peoples is one of the more important members of the Capital group, as a well managed, profitable life insurance company which does business in 14 States and the District of Columbia.

At present, Peoples employs more than 300 persons in the District of Columbia. Peoples pays annual real property taxes to the District in excess of $100,000, and it also pays the District net premiums taxes, withholding, sales, and unemployment compensation taxes in excess of $60,000 each year.

The net premiums tax, imposed in lieu of the District's corporate income tax, is paid only on Peoples' earnings from District of Columbia sources. Its earnings from the 14 other States in which it does business are taxed by those jurisdictions, of course, in a similar manner. I am advised that if Peoples' earnings, regardless of sources, are again subjected to District of Columbia tax at the corporate level, that is when they reach Capital Holding Corp., then this added tax burden on these earnings will be increased each year by more than $100,000. This is a tax burden which Capital simply cannot afford to bear—and as I have pointed out, since general business corporate earnings in the District are taxed only once at the corporate level, and further since no other jurisdiction imposes such a tax on life insurance company operations at the holding company level—then they should not be expected to.

As a result of this situation, Peoples has paid no dividends since 1972, and will pay none so long as this inequity of double taxation is imposed on such dividends. Even more serious is the fact that consideration is being given to moving Peoples out of the District of Columbia.

The District cannot afford, in its present financial position, to lose such a company as Peoples Life Insurance Co. Nor does Peoples want to move. They regard their location in this city as an asset in most respects. Recently, the company expanded its operations by acquiring licenses to do business in three additional States. Their management wants to keep the company in the District and to use it as a vehicle for building an even more substantial business enterprise; but they cannot do so unless they can have the benefit of an equitable tax structure in the District, one which places the District on a par with competing jurisdictions and does not penalize life insurance companies for conducting their operations within a holding company structure.

I am advised that there is presently one other life insurance company in the District operating as a part of a holding company and which therefore is affected by this problem. In view of the trend toward such operating structure within the life insurance business, however, there would normally be others in future years. As I have pointed out, this structure has been proved to offer many real benefits to the policyholders of such companies, and thus this trend should be encouraged in the District of Columbia, rather than being forced out of the city by an unfair tax structure.

H.R. 6186 will resolve this problem, by providing that dividends received from a corporation which is subject to taxation under District of Columbia law and, in the case of a corporation not engaged in carrying on a trade or business within the District, interest received by it from a corporation which is subject to taxation under District of Columbia law, shall not be considered as income from sources within the District.

I understand that the District of Columbia government has no objection to this bill, which will provide justice by eliminating the difference in treatment of dividends paid by corporations paying the regular corporate income tax and by life insurance companies paying the net premiums tax, and will conform the District's tax laws applicable to life insurance company operations with those applicable to such operations in all other jurisdictions.

The amendment I am offering will make the same provisions apply to bank holding companies. Banks in the District of Columbia do not pay income tax, but rather, pay a tax on the net interest that they receive, which is the total interest less the interest they pay on savings accounts. Therefore they are not classified as corporations paying income tax. My amendment would permit the bank holding company to be exempt from paying corporate taxes on the dividends they receive from banks the same as other corporations are exempted from income taxes on interest they receive as dividends from business corporations operating in the District of Columbia.

I have in my hand a letter from the D.C. Commissioner, supporting this amendment. I have discussed this matter with the chairman of the subcommittee of the Committee on the District of Columbia, and I understand he has no objection to it. I also discussed it in the full committee at the time this bill was being considered, but at that time the District government had not had a chance to review the provisions of this amendment. Subsequent to the time the bill was reported out, they had an opportunity to review it, and the following letter expresses the District's approval of this amendment:

THE DISTRICT OF COLUMBIA,
Washington, D.C., November 26, 1973.
Hon. JOEL T. BROYHILL,
Member of Congress,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BROYHILL: This is in response to your letter of November 12, 1973, in which you requested my views on an amendment to H.R. 6186 to extend such relief to banks domiciled in the District of Columbia.

The District Government indicated in its report to Chairman Diggs dated July 16, 1973, that it had no objection to the enactment of Section 1 of the bill. The District did object to Section 2 of H.R. 6186 which would make the bill retroactive to 1970 and thus would have resulted in substantial refunds of taxes already paid by the affected corporations.

The District Government would offer no objection to an amendment to H.R. 6186 to extend relief to banks and savings institutions. We assume that inclusion of such an amendment will in no way jeopardize the provisions of the bill relating to insurance companies in view of the more immediate problems facing the insurance companies. We continue, however, to oppose the retroactive provisions of Section 2.

Because of technical errors in the language of H.R. 6186, we are enclosing an amended version of the bill which we believe will better accomplish the desired purposes.

Sincerely yours,
WALTER E. WASHINGTON,
Mayor-Commissioner.

Mr. Speaker, I urge the adoption of this amendment and the approval of the bill.

Mr. STUCKEY. Mr. Speaker, I rise in support of the amendment.

I think the gentleman from Virginia has stated the case quite well.

There is no objection from the District of Columbia government with regard to his amendment.

As I stated earlier, there are only three kinds of corporations subject to this tax liability at the present time—banks, life insurance companies, and utilities. These corporations all have this double taxation when in a holding company situation. To make it fair to all concerned, I urge the adoption of the gentleman's amendment at this time and urge the adoption of the bill.

The SPEAKER. The question is on the amendment offered by the gentleman from Virginia (Mr. BROYHILL).

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions."

A motion to reconsider was laid on the table.

HOLDING COMPANY SYSTEM REGULATORY ACT

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7218) to improve the laws relating to the regulation of insurance companies in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 7218

A bill to improve the laws relating to the regulation of insurance companies in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Holding Company System Regulatory Act".

SEC. 2. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

(a) "affiliate" (an "affiliate" of, or person "affiliated" with a specific person), means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by or is under common control with, the person specified;

(b) "commissioner" means the Commissioner of the District of Columbia or his designated agent;

(c) "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 per centum or more of the voting securities of any other person;

(d) "District" means the District of Columbia;

(e) "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer;

(f) "insurer" includes any company defined by section 2, chapter I, of the Life Insurance Act (D.C. Code, sec. 35-302) and by section 3, chapter I, of the Fire and Casualty Act (D.C. Code, sec. 35-1303), authorized to do the business of insurance in the District, except that it shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a State or political subdivision of a State;

(g) "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function;

(h) "securityholder" of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing;

(i) "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries; and

(j) "voting security" includes any security convertible into or evidencing a right to acquire a voting security.

SUBSIDIARIES OF INSURERS

SEC. 3. (a) AUTHORIZATION.—Any domestic insurer, either by itself or in cooperation with one or more persons, may, subject to the limitation stated in subsection (b) of this section, organize or acquire one or more subsidiaries. Such subsidiaries may conduct any kind of business or businesses and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic insurer.

(b) LIMITED ADDITIONAL INVESTMENT AUTHORITY.—(1) The total amont which a domestic insurer may invest in the common stock, preferred stock, debt obligations, and other securities of the subsidiaries referred to in subsection (a) of this section shall not exceed the lesser of (A) 5 per centum of such insurer's assets, or (B) in the case of a capital stock company, 50 per centum of the excess of its capital, surplus, and contingency reserves over the then required statutory minimum capital and surplus, or, in the case of a mutual company, 50 per centum of the excess of its surplus and contingency reserves over the then required statutory minimum surplus.

(2) In calculating the amount of such investments, there shall be included (A) total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary, whether or not represented by the purchase of capital stock or issuance of other securities, and (B) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or sur-

plus of a subsidiary subsequent to its acquisition or formation.

(c) Exemptions From Investment Restrictions.—The investments permitted under this section shall be in addition to the inevstments in common stock, preferred stock, debt obligations, and other securities permitted under sections 35 and 41 of chapter III of the Life Insurance Act (D.C. Code, secs. 35–535 and 35–541) and section 18, chapter II, of the Fire and Casualty Act (D.C. Code, sec. 35–1321), and the investments under this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in the aforesaid sections of law applicable to such investments of insurers.

(d) Qualifications of Investment: When Determined.—Whether any investment pursuant to this section meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance of all previous investments and debt obligations and the value of all previous investments in equity securities as of the date of the new investment.

(e) Cessation of Control.—If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the Commissioner may prescribe, unless at any time after such investment was made, such investment meets the requirements for investment under sections 35 and 41, chapter III, of the Life Insurance Act (D.C. Code, secs. 35–535 and 35–541) and section 18, chapter II, of the Fire and Casualty Act (D.C. Code, sec. 35–1521), and the insurer has notified the Commissioner thereof.

ACQUISITION OF CONTROL OF OR MERGER WITH DOMESTIC INSURER

Sec. 4. (a) Filing Requirements.—No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer, unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the Commissioner and has sent to such insurer, and such insurer has sent to its shareholders, a statement containing the information required by this section and such offer, request, invitation, agreement, or acquisition has been approved by the Commissioner in the manner hereinafter prescribed. For purposes of this section a domestic insurer shall include any other person controlling a domestic insurer unless such other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(b) Content of Statement.—The statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected (hereinafter called "acquiring party"), and

(A) If such person is an individual, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years;

(B) If such person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by subparagraph (A) of this subsection.

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration: *Provided*, That where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(5) The number of shares of any security referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security referred to in subsection (a) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (a) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.

(8) A description of the purchase of any security referred to in subsection (a) during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

(9) A description of any recommendations to purchase any security referred to in subsection (a) made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests or invitations for tenders of exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (a), and (if distributed) of additional soliciting material relating thereto.

(11) The terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (a) for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

(12) Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest. If the person required to file the statement referred to in subsection (a) is a partnership, limited partnership, syndicate, or other group, the Commissioner may require that the information called for by paragraphs (1) through (12) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member, or person is a corporation or the person required to file the statement referred to in subsection (a) is a corporation, the Commissioner may require that the information called for by paragraphs (1) through (12) shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than 10 per centum of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

(c) Alternative Filing Materials.—If any offer, request, invitation, agreement, or acquisition referred to in subsection (a) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a State law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) may utilize such documents in furnishing the information called for by that statement.

(d) Approval by Commissioner; Hearings.—

(1) The Commissioner shall approve any merger or other acquisition of control referred to in subsection (a) unless, after a public hearing thereon, he finds that:

(A) After the change of control the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(B) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in the District or tend to create a monopoly therein;

(C) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining securityholders who are unaffiliated with such acquiring party;

(D) The terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a) are unfair and unreasonable to the securityholders of the insurer;

(E) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; or

(F) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer or of the public to permit the merger or other acquisition of control.

(2) The public hearing referred to in paragraph (1) shall be held within thirty days after the statement required by subsection (a) is filed, and at least twenty days' notice thereof shall be given by the Commissioner to the person filing the statement. Not less than seven days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other person as may be designated by the Commissioner. The insurer shall give such notice to its securityholders. The commissioner shall make a determination within thirty days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments, and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the Superior Court of the District of Columbia. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

(e) Mailings to Shareholders; Payment of Expenses.—All statements, amendments, or other material filed pursuant to subsection (a) or (b), and all notices of public hearings held pursuant to subsection (d), shall be mailed by the insurer to its shareholders within five business days after the insurer has received such statements, amendments, other material, or notices. The expenses of mailings shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the Commissioner an acceptable bond or other deposit in an amount to be determined by the Commissioner.

(f) Exemptions.—The provisions of this section shall not apply to—

(1) any offers, requests, invitations, agreements, or acquisitions by the person referred to in subsection (a) of any voting security referred to in subsection (a) which, immediately prior to the consummation of such offer, request, invitation, agreement, or acquisition, was not issued and outstanding;

(2) any offer, request, invitation, agreement, or acquisition if, under the terms thereof, the consummation of the transaction contemplated thereunder would result in the ownership by security holders of the domestic insurer of stock possessing at least 80 per centum of the total combined voting power of all classes of stock of the acquiring party entitled to vote; and

(3) any offer, request, invitation, agreement, or acquisition which the Commissioner by order shall exempt therefrom as (A) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (B) as otherwise not comprehended within the purposes of this section.

(g) Violations.—The following shall be violations of this section:

(1) The failure to file any statement, amendment, or other material required to be filed pursuant to subsection (a) or (b); or

(2) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the Commissioner has given his approval thereto.

(h) Jurisdiction; Consent to Service of Process.—The Superior Court of the District of Columbia is hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in the District who files a statement with the Commissioner under this section, and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the Commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the Commissioner and transmitted by registered or certified mail by the Commissioner to such person at his last known address.

REGISTRATION OF INSURERS

Sec. 5. (a) Registration.—Every insurer which is authorized to do business in the District and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this Act. Any insurer which is subject to registration under this section shall register within sixty days after the effective date of this Act or fifteen days after it becomes subject to registration, whichever is later, unless the Commissioner for good cause shown extends the time for registration, and then within such extended time. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(b) Information and Form Required.—Every insurer subject to registration shall file a registration statement on a form provided by the Commissioner, which shall contain current information about—

(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) the identity of every member of the insurance holding company system;

(3) the following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(A) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales, or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

(F) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(4) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

(c) Materiality.—No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purposes of this section. Unless the Commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans, or extensions of credit, or investments, involving one-half of 1 per centum or less of an insurer's admitted assets as of the thirty-first day of December next preceding shall not be deemed material for purposes of this section.

(d) Amendments to Registration Statements.—Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the Commissioner within fifteen days after the end of the month in which it learns of each such change or addition: *Provided*, That subject to subsection (c) of section 6, each registered insurer shall so report all dividends and other distributions to shareholders within two business days following the declaration thereof.

(e) Termination of Registration.—The Commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(f) Consolidated Filing.—The Commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(g) Alternative Registration.—The Commissioner may allow an insurer which is authorized to do business in the District and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) and to file all information and material required to be filed under this section.

(h) Exemptions.—The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the Commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

(i) Disclaimer.—The presumption of control as defined by section 2(c), may be rebutted by a showing made in the manner herein provided that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and an opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect. Any person may file with the Commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the Commissioner disallows the disclaimer. The Commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(j) Violations.—The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this section.

STANDARDS

Sec. 6. (a) Transactions With Affiliates.—Material transactions by registered insurers with their affiliates shall be subject to the following standards:

(1) the terms shall be fair and reasonable;

(2) the books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions; and

(3) the insurer's surplus as regards policy-

holders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) ADEQUACY OF SURPLUS.—For the purposes of this section in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification, and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves; and

(10) the quality and liquidity of investments in subsidiaries made pursuant to section 3. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants.

(c) DIVIDENDS AND OTHER DISTRIBUTIONS.—(1) No insurer subject to registration under section 5 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until (A) thirty days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or (B) the Commissioner shall have approved such payment within such thirty-day period.

(2) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of (A) 10 per centum of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding or (B) the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Commission's approval thereof, and such a declaration shall confer no rights upon shareholders until (A) the Commissioner has approved the payment of such dividend or distribution or (B) the Commissioner has not disapproved such payment within the thirty-day period referred to above.

EXAMINATION

SEC. 7. (a) POWER OF COMMISSIONER.—Subject to the limitation contained in this section and in addition to the powers which the Commissioner has under the insurance laws of the District relating to the examination of insurers, the Commissioner shall also have the power to order any insurer registered under section 5 to produce such records, books, papers, or other information in the possession of the insurer or its affiliates as shall be necessary to ascertain the financial condition or legality of conduct of such insurer. In the event such insurer fails to comply with such order, the Commissioner shall have the power to examine such affiliates to obtain such information.

(b) PURPOSE AND LIMITATION OF EXAMINATION.—The Commissioner shall exercise his power under subsection (a) only if the examination of the insurer under and as is provided for by the insurance laws of the District is inadequate or the interests of the policyholders of such insurer may be adversely affected.

(c) USE OF CONSULTANTS.—The Commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subsection (a). Any persons so retained shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

(d) EXPENSES.—Each registered insurer producing for examination records, books, and papers pursuant to subsection (a) shall be liable for and shall pay the expense of such examination in accordance with the provisions of section 19, chapter II, of the Life Insurance Act (D.C. Code, sec. 35–418) and section 10, chapter II, of the Fire and Casualty Act (D.C. Code, sec. 35–1313), pertaining to examination expense.

SEC. 8. CONFIDENTIAL TREATMENT.—All information, documents, and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to section 7 and all information reported pursuant to section 5, shall be given confidential treatment and shall not be subject to subpena and shall not be made public by the Commissioner or any other person, except to insurance departments of other States, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

SEC. 9. RULES AND REGULATIONS.—The Commissioner may, upon notice and opportunity of all interested persons to be heard, issue such rules, regulations, and orders as shall be necessary to carry out the provisions of this Act.

INJUNCTIONS; PROHIBITIONS AGAINST VOTING SECURITIES; SEQUESTRATION OF VOTING SECURITIES

SEC. 10. (a) INJUNCTIONS.—Whenever it appears to the Commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of this Act or of any rule, regulation, or order issued by the Commissioner hereunder, the Commissioner may apply to the Superior Court of the District of Columbia for an order enjoining such insurer of such director, officer, employee, or agent thereof from violating or continuing to violate this Act or any such rule, regulation, or order, and for such other equitable relief as the failure of the case and the interests of the insurer's policyholders, creditors, shareholders, or the public may require.

(b) VOTING OF SECURITIES; WHEN PROHIBITED.—No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this Act or of any rule, regulation, or order issued by the Commissioner hereunder may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the Superior Court of the District of Columbia has so ordered. If an insurer or the Commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this Act or of any rule, regulation, or order issued by the Commissioner hereunder the insurer or the Commissioner may apply to the Superior Court of the District of Columbia to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 4 or any rule, regulation, or order issued by the Commissioner thereunder, to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, shareholders, or the public may require.

(c) SEQUESTRATION OF VOTING SECURITIES.—In any case where a person has or is proposing to acquire any voting securities in volation of this Act or any rule, regulation, or order issued by the Commissioner hereunder, the Superior Court of the District of Columbia may, on such notice as the court deems appropriate, upon the application of the insurer or the Commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such orders with respect thereto as may be appropriate to effectuate the provisions of this Act. Notwithstanding any other provisions of law, for the purposes of this Act the situs of the ownership of the securities of domestic insurers shall be deemed to be in the District.

SEC. 11. CRIMINAL PROCEEDINGS.—Whenever it appears to the Commissioner that any insurer or any director, officer, employee, or agent thereof has committed a willful violation of this Act, the Commissioner may cause criminal proceedings to be instituted in the District against such insurer or the responsible director, officer, employee, or agent thereof. Any insurer which willfully violates this Act may be fined not more than $1,000. Any individual who willfully violates this Act may be fined not more than $1,000 or, if such willful violation involves the deliberate perpetration of a fraud upon the Commissioner, imprisoned not more than two years or both.

SEC. 12. RECEIVERSHIP.—Whenever it appears to the Commissioner that any person has committed a violation of this Act which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders, or the public, the Commissioner may proceed as provided under the insurance laws of the District to take possession of the property of such domestic insurer and to conduct the business thereof.

SEC. 13. REVOCATION, SUSPENSION, OR NON-RENEWAL OF INSURER'S LICENSE.—Whenever it appears to the Commissioner that any person has committed a violation of this Act which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the Commissioner may, after giving notice and an opportunity to be heard, suspend, revoke, or refuse to renew such insurer's license or authority to do business in the District for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

SEC. 14. JUDICIAL REVIEW; MANDAMUS.—(a) Any person aggrieved by any act, determination, rule, regulation, or order or any other action of the Commissioner pursuant to this Act may appeal therefrom to the District of Columbia Court of Appeals, in accordance with the District of Columbia Administrative Procedure Act.

(b) Any person aggrieved by any failure of the Commissioner to act or make a determination required by this Act may petition the Superior Court of the District of Columbia for a writ in the nature of a mandamus or a peremptory mandamus directing the Commissioner to act or make such determination forthwith.

Sec. 15. Conflict With Other Laws.—All laws and parts of laws of the District inconsistent with this Act are hereby superseded with respect to matters covered by this Act.

Sec. 16. Separability of Provisions.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are separable.

Sec. 17. Effective Date.—This Act shall take effect thirty days after the date of its enactment.

With the following committee amendment:

On page 15, line 13, immediately after "vote" insert ", or at least 80 percentum of the total combined voting power of all classes of stock of the person in control of the acquiring party entitled to vote".

The amendment was agreed to.

Mr. STUCKEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 7218, as set forth in H. Rept. 93–653, is to improve the laws relating to the regulation of insurance companies in the District of Columbia by providing a framework for a District of Columbia insurer to enter a holding company system and to avoid duplication of regulation in every state where the insurer is licensed which has similar legislation. Safeguards included herein will, it is believed, provide adequate protection for policyholders and shareholders so that financial and managerial erosion of their acquired rights are avoided.

NEED FOR THE LEGISLATION

A model bill to regulate insurance holding companies was approved by the National Association of Insurance Commissioners in June, 1969, and is known as the Insurance Holding Company System Regulatory Act. As of January, 1973, thirty-seven states have adopted this model bill with slight variations and modifications which were necessary for compatibility with their Code. H.R. 7218 is the model bill for the District of Columbia Insurance Code with minor changes, and its passage by the Congress has been requested by the D.C. Government.

During the past three decades, there have been major social, economic and political changes which have exerted great influence on the market for insurance and the services which insurance companies can perform for their policyholders and the public. They have given rise to sound and legitimate reasons why some insurance companies have found it advantageous to utilize a holding company operation. The severe restrictions imposed by state statutes applicable to the insurance business have prevented insurers from serving new and changing needs of the insurance buyer and the total economy, particularly in the areas of investment, underwriting and the provisions of a wide spectrum of financial services.

Three major trends have impelled insurers to diversify their activities. The first is the long-term trend of inflation which has accelerated in the past two decades. The second trend is the persistent decline in the underwriting profits of property-liability insurers. And the third is the increased attention of the concept of "one-stop" financial service. To diversify their activities, many insurers have gone to the holding company system.

There are valid and beneficial economic, social and legal advantages that can accrue to many insurers in a holding company system. These advantages would also benefit the policyholders as insurers are able to increase underwriting capacity and to provide a broader spectrum of services. Nevertheless, there should be effective state supervision of insurers in their relationship with holding companies. Such supervision is a proper and natural extension of the responsibility of state regulatory authority to assure, in the public interest, the solvency of the insurer and the protection and fair treatment of policyholders.

The business of insurance has long been recognized as so affected with the public interest as to require extensive and detailed regulation. The objective of insurance regulation is to assure the solvency of the insurer and to protect the interests of the policyholder. H.R. 7218 is a logical extension of this broad regulation.

HISTORY

A public hearing was held on H.R. 7218 on July 16, 1973, by the Subcommittee on Business, Commerce and Taxation. Witnesses in support of the legislation included representatives of the District Government, the Superintendent and the Deputy Superintendent of Insurance, and representatives of five major life insurance companies in the District of Columbia. No opposition to the bill has been received by the Committee.

The enactment of this proposed legislation will involve no added cost to the government of the District of Columbia.

H.R. 7218 was ordered favorably reported, as amended, by voice vote of the full committee on November 5, 1973.

CONCLUSION

This legislation, sought by the District Government, provides satisfactory liberalization of investment laws and procedures to disclose and examine mergers and acquisitions pertaining to D.C. domiciled companies. It also means an administrative relief from duplication of filings and reporting now required of D.C. domiciled companies in other states. Foreign companies, if subject to substantially similar provisions contained in the acts of other states, are exempt. This permits sound and fair development of regulation at the State level.

Foreign companies domiciled in States which have not as yet passed similar legislation will be subject to this Act.

The provisions of the bill will enable the District of Columbia to update its laws and attain the desirable level of holding company insurance regulations now existing in at least 37 States.

As noted in the Commissioner's report below: "Enactment of the proposed 'Holding Company System Regulatory Act' is necessary to discourage migration of local insurance companies from the District, while providing safeguards for the maintenance of a healthy insurance market for the residents of the District of Columbia".

Accordingly, the Committee urges enactment of H.R. 7218, with the clarifying amendment thereto.

Mr. BROYHILL of Virginia. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 7218 has the support of the minority. As pointed out by the distinguished gentleman from Georgia (Mr. Stuckey) this is a model bill for the District of Columbia Insurance Code, patterned after the Insurance Holding Company System Regulatory Act, a model bill which was approved in 1969 by the National Association of Insurance Commissioners and which has now been adopted in 37 States.

The purpose of the bill is to provide controls to be exercised by the District of Columbia Commissioner over presently unregulated mergers or acquisitions of local domestic insurance companies with or by holding companies. This is important in view of the valid and beneficial economic, social, and legal advantages that can accrue to many insurers, and to their policyholders, in a holding company system.

This bill is designed to provide a framework for the control of insurance holding company activities through registration of the insurance company with the District of Columbia and regulation by the District of the insurer's transactions with the other members of the holding company system. Registration in the District will be required only of domestic insurers and those foreign insurers whose States do not have similar legislation. In other words, a system of reciprocity in this respect is established between the District of Columbia and 37 of the States.

The regulatory framework is based upon full and complete disclosure of all significant transactions between an insurer and its parent, subsidiaries, and sister companies.

The bill permits insurers to invest additional amounts in subsidiaries, provided always that remaining surplus is adequate to protect policyholder interests. Tests for determining whether remaining surplus would be adequate are included.

Any person attempting to take control of or to merge with an insurer must disclose to the District of Columbia Superintendent of Insurance relevant information about both himself and the takeover transactions, and the soliciting material must be filed prior to its use. The Superintendent may disapprove any attempted acquisition of or change in control over an insurer if the takeover party cannot satisfy specific standards designed to protect the interests of policyholders, shareholders, and the public.

H.R. 7218 will thus serve a twofold purpose. First, it will provide a framework for the District of Columbia insurer to enter a holding company system. And secondly, the safeguards that are included will provide adequate protection for the policyholders and the shareholders alike.

Mr. Speaker, I support the bill, and hope that it is adopted.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE DISTRICT OF COLUMBIA USURY LAWS

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6758) to permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Capital Yacht Club, a District of Columbia nonprofit corporation, shall have the power to borrow money at such rates of interest as the corporation may determine, without regard to the restrictions of any usury law, and shall not plead any statute against usury in any action.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) chapter 33 of title 28 of the District of Columbia Code (relating to interest and usury) is amended by adding at the end thereof the following:

"§ 28–3309. District of Columbia Council Authorized To Exempt Certain Loans and To Change Rates of Interest."

"The District of Columbia Council is authorized from time to time to provide by regulation for (1) the exemption from the provisions of this chapter of any loan or financial transaction, and (2) the change of any interest rate specified in this chapter. The Congress is further authorized to amend or repeal any such regulation at any time, but no such amendment or repeal relating to any exemption made under authority of this section shall affect any such loan or financial transaction lawfully made or entered into while such exemption is in effect."

(b) The chapter analysis for chapter 33 of title 28 of the District of Columbia Code is amended by adding at the end thereof the following item:

"28–3309. District of Columbia Council Authorized To Exempt Certain Loans and To Change Rates of Interest."

Sec. 2. The Capital Yacht Club, a District of Columbia nonprofit corporation, shall have the power to borrow money at such rates of interest as the corporation may determine, without regard to the restrictions of any usury law, and shall not plead any statute against usury in any action.

Mr. STUCKEY. Mr. Speaker, the purposes of the bill (H.R. 6758) as set forth in H. Rept. 93–655 are (a) to provide the District of Columbia Council with authority to amend certain existing laws in the District of Columbia relating to usury; and (b) to permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia.

NEED FOR LEGISLATION

The question of setting or adjusting local interest rate ceilings in the District of Columbia, taking into consideration local market and credit conditions, is a complex matter. Current economic conditions appear to warrant intensive analysis of local interest rates, but with approaching home rule it seems inappropriate for Congress to undertake such a study at this time. This bill, accordingly, accelerates transfer of authority to the District of Columbia Council over the interest rate provisions contained in Chapter 33 of Title 28 of the D.C. Code.

The provisions of Chapter 33 of Title 28 set interest rate ceilings for certain types of mortgages, consumer credit, and other loans. By other provisions of law, loans to profit-making corporations are already exempted from the Chapter 33 provisions. The authority transferred to the Council over chapter 33 by this bill is similar to that given to the Council in 1970 to exempt FHA and VA insured mortgages from interest rate ceilings if the Council determined that changing local conditions made such action necessary.

The provisions of this accelerated transfer of authority in no way are intended to limit the powers which an elected city government could exercise after January 1, 1975, under the home rule bill (S. 1435).

PROVISIONS OF THE BILL

Section 1 authorizes the District of Columbia Council to amend Chapter 33 of Title 28 of the District of Columbia Code, relating to the usury laws in the District.

The usury laws in the District of Columbia do not permit nonprofit corporations domiciled in the District to pay interest on loans at rates in excess of the 8% maximum which, except for certain statutory exemptions, is the legal maximum rate for loans in the District of Columbia at the present time. It is the Committee's understanding that for a substantial period of time, the prime rate of interest for commercial, preferred-risk borrowers has been in excess of 7%. The credit rating of most business corporations does not qualify them for that rate, and so the corporations must borrow funds at higher rates of interest.

It is the intention of the Committee that the District of Columbia Council shall have full authority to change the maximum rate of interest allowed in the city, in order to facilitate the economic and physical development of the District.

Section 2 of the bill permits the Capital Yacht Club of the District of Columbia to borrow funds without regard to the usury laws of the District of Columbia. Profit-making corporations organized or doing business in the District of Columbia are not within the jurisdiction of the District of Columbia usury laws. However, nonprofit corporations domiciled in the District under such statutes are not permitted to pay interest on loans at rates in excess of the present 8% maximum legal rate for borrowing in the District of Columbia.

The maximum interest rates set for the District poses a very serious problem for the Capital Yacht Club of the District of Columbia in that the Club is presently under the obligations of a lease with the District Redevelopment Land Agency to construct a new clubhouse and to expand its marina within an urban renewal area of the city. The Corporation has negotiated a loan for the construction of its facilities at a rate in excess of the maximum permissible rates of interest for the District of Columbia. The need for authorization of the Yacht Club Corporation to accept the loan without regard to the usury rate in the District is critical, because if the corporation does not fulfill its lease obligations to construct its clubhouse and marina, it may be faced with cancellation of its lease by the Redevelopment Land Agency.

The language of Section 2 of H.R. 6758 has the effect of assuring that a loan can be obtained at an interest rate mutually agreed upon by the lender and the borrower.

It also contains language which will assure that the District cannot bring action charging any lender of funds to the corporation with exceeding the legal rate of interest that is provided in the District of Columbia usury statutes (D.C. Code, Tit. 28, Sec. 3301). The latter language is essential to protect a lending institution which makes loans to organizations that are exempted from the application of the usury laws and is identical to provisions of the D.C. Business Corporation Act (77 Stat. 136; D.C. Code, Tit. 29, Sec. 904 (h)).

HISTORY

Hearings were held by the Subcommittee on Business, Commerce and Taxation on H.R. 2524, the original bill, on April 5, 1973. Witnesses were Members of Congress, representatives of the Capital Yacht Club, and of the D.C. Government. The bill was amended in accordance with the District's recommendations by the Subcommittee in executive session and a clean bill, H.R. 6758, was introduced and approved.

In view of the current economic conditions and the tight money market, particularly in the mortgage lending field, numerous representations have been made to the full Committee as to the necessity of enacting legislation to authorize borrowing at rates in excess of the 8% legal rate for loans in the District at the present time.

Because of the imminency of final approval of the legislation for D.C. self-government and government reorganization, the Committee added a new section to H.R. 6758 to give the D.C. Council authority to amend the D.C. Code provisions relating to usury, thus putting the responsibility and the granting of relief in the hands of the local city government, where they belong.

The enactment of this proposed legislation will involve no added cost to the government of the District of Columbia.

H.R. 6758, as amended, was ordered favorably reported by a voice vote of the full Committee on November 5, 1973.

CONCLUSION

The citizens of the District of Columbia are facing a crisis, in that many such citizens have been unable to borrow money within the present 8% limitation imposed by Title 28, Section 3301 of the D.C. Code. Similarly, the Capital Yacht Club is facing an even more immediate crisis which, if not alleviated by Congressional action, may force the cancellation of the leases between the Yacht Club and the District of Columbia Redevelopment Land Agency. Such cancellation would thwart the intent of Congress in providing for a master design applicable to the Washington waterfront.

For these reasons, and those indicated above, the Committee recommends enactment of H.R. 6758.

REPORT OF THE DISTRICT GOVERNMENT

The Commissioner of the District of Columbia in his report dated November 8, 1973, supports H.R. 6758 as reported to the House.

Mr. GUDE. Mr. Speaker, will the gentleman yield?

Mr. STUCKY. Mr. Speaker, I yield to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. I thank the chairman for yielding.

Mr. Speaker, the Capital Yacht Club has been serving the local area since 1892. In addition to the service it provides its members and transient watercraft, it also teaches safe boating principles to young Sea Scouts, members of the Coast Guard Auxiliary and other groups interested in safety at sea. It, along with other facilities, is important as one of the general recreation-business establishments of the Washington area. Its membership is open to all persons without regard to race or creed.

Pursuant to its contract with the D.C. Redevelopment Land Agency—RLA—the Capitol Yacht Club plans to construct a new clubhouse and marina on Southwest Waterfront Site E of Southwest Urban Renewal Area Project C.

To do so the yacht club requires an exemption from the usury laws of the District of Columbia which now penalize a lender who lends money in excess of 8 percent interest to a nonprofit corporation. Although the Yacht Club is a nonprofit corporation I do not believe it requires nor does it need the protection which the law has extended to such organizations.

During the 91st Congress, Private Law 91–185 was approved to allow George Washington University to borrow funds necessary to complete its building program.

I feel that the Capital Yacht Club should be granted similar relief so that it can complete its financial arrangements for construction. The club is fully capable of protecting its business interests, just as George Washington University was in 1970 when Congress considered its case.

These two situations indicate that the appropriate District of Columbia Code provisions relating to the powers exercised by nonprofit corporations should be reviewed. To delay the exemption for the yacht club would, however, be a great hardship and would further delay the construction of its much needed facility.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, it is with no little hesitation and restraint that I take the floor because I am arguing against a bill that has been shepherded by my good friend, the gentleman from Maryland, and my good friend, the gentleman from California, but I must do so. This dates back to an early point in my political career when in the Kentucky State Senate we were faced with the very same problem of raising the interest rate ceiling beyond what the State assembly felt was the usurious rate limit. We were lobbied quite actively and energetically by the special interests. Ultimately there was a reasonable agreement struck, but this Member opposed raising the ceiling on interest rates beyond the legal rate existing at that time.

I have filed in the report, for those Members who care to read them, individual views. At the time I filed them, I had not fully made up my mind whether I would oppose the bill or simply add what little bit of wisdom might be in there for the Members' consideration. Subsequently I have decided to oppose the bill and to vote against it in its present form.

Mr. Speaker, I was fully prepared to support the gentleman from Maryland in his quest to have the yacht club protected, and I was fully prepared to accept their ability to go on the market and pay whatever rate they could negotiate, but all of a sudden during the course of the meeting, without any hearings that I was aware of, Mr. Speaker, without any testimony that I was aware of, the motion was made and the amendment subsequently carried to remove the usury rate ceiling subject to the decision of the City Council.

I am one—and I have said in my individual views, Mr. Speaker—who typically feels that where possible we should yield to the District Council to make its mind up. But, in the present situation, where we lack full-fledged home rule, it seems to me that the potential for mischief and overreaching of the average homeowner and the average borrower of the District of Columbia is so tremendous that I feel it would ill serve this House to provide the tools and the mechanism for such possible avarice and greed to take the form of high interest rates on the part of the individual.

The gentleman from Virginia had originally proposed, Mr. Speaker, a $1 million limit beyond which no usury would be effective, under which usury would be effective, and I was prepared to support that, but I just simply cannot support at this time a bill which, without any hearings at any time that I am aware of, and without paving and laying the groundwork carefully, would allow this to take place.

Mr. GUDE. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Speaker, I understand the gentleman's sentiments. I think they are directed to the amendment to the original bill. The gentleman has no quarrel with the original legislation, the specific exemption?

Mr. MAZZOLI. No. I think the bill as it is drafted has that proviso in it.

Mr. GUDE. That amendment would have to be offered on the floor, I believe.

Mr. MAZZOLI. I understand that amendment has yet to be offered. I have already said my piece and I will not take the time of the House to speak again, but certainly if it is to be offered I would oppose the offering of the amendment. My information is that it is incorporated in this bill and would remove all usury rates on loans to all borrowers.

Mr. BROYHILL of Virginia. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I regret that the gentleman from Kentucky is opposing the bill as amended by the committee.

This bill is designed to bring about long-needed revision of the laws pertaining to usury in the District of Columbia.

The first section of the bill, as amended and reported by the committee, would authorize the District of Columbia. Council to amend the existing District of Columbia. Usury Act (D.C. Code, section 28–3301 et seq.).

The most recent and far-reaching amendments to the District of Columbia. Usury Act were enacted by the Congress in 1971, as Public Law 92–200. These amendments retained the existing ceiling of 6 percent interest on verbal contracts, as well as the existing limit of 8 percent interest on "instruments in writing", which includes bonds, bills, and promissory notes. Exception to this 8 percent limitation was added, however, in the case of finance charge or interest on direct installment loans not exceeding $25,000 and also on direct motor vehicle installment loans. A ceiling of 11.5 percent per annum on the unpaid balance was imposed on the interest or finance charge in the case of these two types of loans.

Also in that law, interest rates on revolving charge accounts were limited to 1.5 percent per month or 18 percent per annum on balances of $500 or less, and to 1 percent per month or 12 percent per annum on balances greater than $500.

In addition, Public Law 92–200 authorized the District of Columbia. Council to provide by regulation for the exemption from the usury laws of all VA and FHA mortgage loans in the District. This provision proved to be timely indeed, as the District of Columbia Council acted promptly upon this authority, as a result of which such loans in the District of Columbia are exempted from the city's usury laws—and in fact represent the only substantial amount of mortgage money presently available in the District.

It should be mentioned at this point that corporations in the District of Columbia may borrow without limitation by the District of Columbia Usury Act. Section 29–904(h) of the District of Columbia Code provides that corporations in the District may "borrow money at such rates of interest as the corporation may determine without regard to the restrictions of any usury law". Also, however, under District of Columbia law no corporation may plead any statutes against usury in any action to avoid payment of interest for which it has contracted.

At the present time, the remaining areas of most serious difficulty with respect to the operation of the District of Columbia Usury Act are twofold. First, those persons in the District who cannot qualify for mortgage loans under VA or FHA simply cannot obtain financing for the purchase of homes, because of the 8 percent ceiling imposed upon the interest rates for such loans from private sources. And second, a very serious problem also exists in the area of large commercial loans to noncorporate borrowers. The situation in regard to both of these categories of potential borrowers is simply that with the prime interest rate presently in excess of 9 percent, 8 percent mortgage money does not exist, in the District of Columbia or anywhere else as far as I am aware.

This problem is the more acute in the District of Columbia because the usury laws in the neighboring States are more lenient and realistic. For example, both Maryland and Virginia have amended their usury laws in recent years to exclude from their application certain commercial transactions by business or commercial organizations. Maryland law, in fact, now provides an exemption from that State's usury statutes for all loans in excess of $5,000.

While this comparative situation has been improved somewhat by the amendments to the District of Columbia Usury Act enacted in 1971, which I have referred to above, the present problem with regard to mortgage loans and large commercial loans continues to militate against the economic health of the District of Columbia. The housing market in the District has stagnated, and large commercial construction in the city is likewise at a virtual standstill, while both of these elements of the economy are booming in nearby Virginia and Maryland.

Nothing is going to solve this most serious problem except some realistic, forward-looking changes in the District of Columbia usury law. It is sheer folly to maintain an inflexible 8-percent ceiling on mortgage and certain other loans, ostensibly for the purpose of protecting the citizens and businessmen in the city from exorbitant rates of interest, when the only result is to deny such potential borrowers access to any loan funding whatever. Some upward adjustment of this 8-percent limitation as it applies to these vital economic areas will make it possible for citizens in the District of Columbia once again to purchase homes, and also will result in an immediate upsurge in commercial construction in the city. The result will be increased tax revenues to the city and a marked improvement in the city's overall economy.

I favor the approach to this problem embodied in H.R. 6758, which is to authorize the D.C. Council to amend the District of Columbia Usury Act, rather than direct amendments to the statute by the Congress itself, for several reasons. In the first place, under the provisions of the District of Columbia Home Rule bill which is presently in its final legislative stages, the Council will acquire this authority in another year anyway, and I feel it highly appropriate that we "jump the gun" in this particular area where legislative action is badly needed, and grant them this authority now. Also, I was pleased that the Council acted promptly in the exercise of the authority we granted them 2 years ago with respect to VA and FHA loans in the District, to the benefit of a great many residents of the city.

Section 2 of the bill would permit the Capital Yacht Club here in the District of Columbia to borrow money without regard to the District of Columbia usury laws, or at an interest rate higher than 8 percent. It is further provided that the yacht club, a nonprofit corporation, shall not plead any statute against usury in any action in connection with such a loan. Nonprofit corporations in the District are not exempted from the limitations of the District of Columbia Usury Act, as are other corporations.

The Capital Yacht Club has been a landmark on the District of Columbia waterfront for the past 80 years. Several years ago, however, their clubhouse and all of their parking facilities were taken by the District of Columbia Redevelopment Land Agency and demolished, and much of the club's riparian area was filled over with a large deck, all as a part of RLA's plan for redevelopment of the waterfront area.

The Capital Yacht Club submitted an offer and was selected by RLA to build a new yacht club adjacent to the new Flagship restaurant. Under the terms of the yacht club's 99-year leasehold agreement with RLA, the club was obligated to construct a clubhouse on the site, and also to develop a marina for the principal use of its members, but with access by the transient boating public to certain portions thereof.

The yacht club succeeded in securing a loan of $300,000 at 8 percent interest for the construction of the clubhouse, which I understand has now been completed. However, the club has more than $50,000 of additional outstanding obligations which are not covered by this construction loan, incident to the overall development of the facilities, including the marina. For this reason, they are seeking to borrow this additional amount as a part of the permanent loan, which would thus total $350,000. Under present fiscal conditions, however, they have found it impossible to obtain this expanded loan within the 8 percent interest limit imposed by the District of Columbia Usury Act. The company which advanced the $300,000 construction loan, however, has made a commitment of the $350,000 sought at 9 percent interest.

Thus, the Capital Yacht Club must depend upon this proposed legislation, which in effect will enable them to accept this loan offer, in order to remain in existence.

There is precedent for this section of H.R. 6758, since in 1970 the Congress enacted identical legislation permitting George Washington University to borrow money without regard to the District of Columbia Usury Act, in similar circumstances.

This Capital Yacht Club has been an important part of the District of Columbia waterfront for many years. Its clubhouse has been the scene of Coast Guard Auxiliary and Sea Scout meetings, courses, and lectures on seamanship, and has otherwise been a focal point for civic events of the District, such as the annual President's Cup Regatta.

Their need is immediate, and for this reason cannot await the amending process to the usury laws which is the principal goal of this bill. Certainly we should not permit this fine organization to be forced out of existence for lack of this permission to accept the loan which is essential for their continuance.

Mr. Speaker, again I urge favorable action of this important measure. The District of Columbia Council is aware of this pending legislation, and I trust that they are already laying the groundwork for coming to grips with this serious problem of interest rates in the city, and I am confident that prompt and judicious action on their part will prove invaluable to the economic well-being of the District of Columbia.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I certainly support the feeling of the gentleman in trying to help the single home purchaser on his loans. I do not believe we should undertake removal of all usury rates and the congressional edict on what constitutes usury and allow the District of Columbia to take over that point. I would allow the D.C. Government to use this in good judgment, but as I said the potential for mischief overreaches too far for me to go all the way with the gentleman.

Where are the hearings on that portion of the bill that deal with the removal of the usury laws? Were there hearings?

Mr. BROYHILL of Virginia. There were no public hearings held on the amendment itself but we had discussed it in the full committee and the subcommittee. As the gentleman will recall I think the amendment was adopted overwhelmingly. I think the gentleman from Kentucky was the only Member who voted against the amendment.

Frankly, we have to do something. We are being totally unrealistic, unless we do something for these individuals. If they cannot foot 9 percent or 10 percent, what we have done is passed the buck over to the District of Columbia Assembly, the same as we did in 1971.

Mr. STUCKEY. Mr. Speaker, I move to strike the last word.

I think if the gentleman would take a look at the bill, really all this amendment is doing is expediting what the Home Rule bill will do. As far as hearings having been held on it, the gentleman is quite correct. On this bill there were no hearings held on this particular amendment; however, under the Home Rule bill there were extensive hearings held relating to the usury laws; so that the part the gentleman is objecting to is simply a matter of time until an elected City Council has this authority.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. STUCKEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I certainly share the gentleman's desire to see a full Home Rule bill; but pending the adoption of the conference report and the signature of the President on the Home Rule bill, we have appointed local government. I do not know that it is wise to vest the appointed local government with the right to set what could be disastrous rate limits for the average homeowner, the average borrower, who does not have the leverage of a yacht club, that can come into the Congress to have bills passed for their own special interests, that does not have the leverage of the large borrower to negotiate rates.

The individual could be basically held up for the rest of his natural productive life if we are not careful here. That is why I do not think that such profound power should be in the hands of local government.

Mr. BROYHILL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. STUCKEY. If I have the floor, I will yield.

Mr. BROYHILL of Virginia. The gentleman from Kentucky is aware of the fact that first mortgages are now based on more than 8 percent.

The gentleman is further aware that no homeowner can borrow under the present usuary rates, because all first mortgages are in excess of 8 percent; so what would the gentleman suggest that Congress do, or the District Committee do; what does he suggest now to do when it is in excess of 8 percent?

Mr. MAZZOLI. If the gentleman will yield further, the solution would be to have hearings on the bill and to see what the so-called experts might say on the rule or the limitation, which is exceeded by artifice.

Mr. BROYHILL of Virginia. The main result would necessitate an increase in the usury rates.

Mr. MAZZOLI. Well, does the gentleman propose that without the benefit of hearings?

Mr. BROYHILL of Virginia. The House is not going to act on it directly to set the rates themselves, but send it over to the Administrative Council that has jurisdiction over that matter.

The SPEAKER. The time of the gentleman from Georgia has expired.

Mr. REES. Mr. Speaker, I rise to speak in favor of the bill in its present form as amended by the committee.

Part of the problem, if Members will look at this, this is an exemption under title 28 of the District of Columbia Code, and that is the usury statute. This is the statute that has many exemptions. That is the problem with many usury statutes, that they have exemptions all over them.

This is a very minor thing. This is to allow the yacht club to be exempt from the usury statute.

Now, if we want to drive Congress crazy and drive the District of Columbia Committee crazy, we will have every single organization that wants to have an exemption from the usury statute coming in here and asking for special consideration.

Mr. BROYHILL had a bill up involving all loans of more than $1 million for the noncorporate borrower. I supported that, because if a person is in business and is going to spend $1 million, he knows something about the cost of money.

The usury law is to protect poor people, but in this bill we are not talking about poor people, because poor people buy under FHA and VA, and under title 28 of the District Code, these are exempt.

If a person wants to buy VA or FHA in the District, he can pay 8, 9, 10, 11, 12 percent, whatever is approved by the FHA or VA, but let us say that a person in the $25,000 income bracket wants to buy a house costing $55,000; he cannot do that in the District of Columbia because there are no 8-percent loans around.

We also find the same problem in commercial development in the District of Columbia. If a person wishes to improve his property or purchase property, and the transaction is a heavy one, let us say in the investor or business area where there is a $10 million loan, he cannot do it under the present usury statute of the District of Columbia.

Mr. Speaker, it was our feeling in the committee that instead of dealing with every little petition, the Capitol Yacht Club or whoever might be coming down the line tomorrow, that we give to the District of Columbia Council and to the mayor the power to amend the law dealing with the District of Columbia so that these minor, technical aspects are not before the District Committee or before the Congress of the United States. I think we have far greater things to deal with in this Congress.

One of the reasons I offered the amendment to give this power to the District of Columbia is because there is certainly precedent for this. This has been done continually by the District Committee. We have given the Council more and more power so that it can take care of more of the day-to-day work of the District of Columbia, and especially that work which deals with the things that may not be flexible, such as interest rates of the United States or the District of Columbia.

For that reason, I think the bill in its present form is an excellent bill. It certainly ties into the spirit of home rule in letting the people of the District figure out what they think a reasonable interest rate might be.

The SPEAKER. The question is on the committee amendment.

The question was taken; and the Speaker being in doubt, on a division, there were—ayes 18, noes 5.

So the amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend Chapter 33 of Title 28 of the District of Columbia Code, relating to usury, and for other purposes."

A motion to reconsider was laid on the table.

AMENDING THE DISTRICT OF COLUMBIA MINIMUM WAGE ACT

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 10806) to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(b) of the District of Columbia Minimum Wage Act (D.C. Code, sec. 36–404 (b)) is amended by:

(1) striking the word "or" following the semicolon in subparagraph (4):

(2) striking the period at the end of subparagraph (5) and inserting in lieu thereof "; or";

(3) inserting after subparagraph (5) the following new subparagraph:

"(6) any employee employed by a carrier by air who voluntarily exchanges workdays with another employee for the primary purpose of utilizing air travel benefits available to such employees.".

Mr. STUCKEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 10806, as set forth in H. Rept. 93–656, is to amend the District of Columbia Minimum Wage Act in order to allow airline employees to engage in the practice known in the industry as "day trading."

NEED FOR THE LEGISLATION

Existing law (D.C. Code, Title 36, Sec. 403(b(1)(B) prohibits the employment of any employee for a work week in excess of 40 hours, unless the employee receives overtime compensation at a rate not less than 1½ times the regular rate for hours worked in excess of such 40 hours. The bill would exempt airline employees from such provisions in much the same manner as railroad employees are currently exempted.

The change in the law is important to airline employees in order to permit them to engage in the practice of "day trading." "Day trading" allows an employee to accumulate a number of successive days off, in addition to the two regular days off each week, by voluntarily working more than five days in succession. This permits the employee to take full advantage of the right to reduced-rate air travel on days off, which most airlines include as a standard fringe benefit to their employees. Airlines have always permitted their employees to day trade with the understanding that hours voluntarily worked in excess of 40 hours a week will not result in overtime pay as long as the average over the course of the year does not exceed 40 hours.

The District of Columbia is the only jurisdiction in the country which now restricts the practice. The only way to correct this inequity is through the legislative process.

PROVISIONS OF THE BILL

The bill provides an amendment to present law (D.C. Code, Tit. 36, Section 404(b)). This section provides for specific exemptions of certain employees from the minimum wage and overtime provisions of Title 36, Section 403. The bill provides that employees employed by a carrier by air who voluntarily exchange work days with another employee for the primary purpose of utilizing air travel benefits available to such employees shall not be subject to the overtime provisions of said Title 36, Section 403.

HISTORY

On November 1, 1973, a public hearing on H.R. 10806 was held by the Subcommittee on Business, Commerce and Taxation. Witnesses in support of the legislation included representatives of the D.C. Minimum Wage Board, the International Brotherhood of Teamsters, and airline officials. Letters in support of H.R. 10806 were supplied for the record from Senator WILLIAM PROXMIRE and from certain airlines.

H.R. 10806 was approved and ordered favorably reported to the House by voice vote of the full committee on November 5, 1973.

The enactment of the bill will entail no added cost to the government of the District of Columbia.

The District Government has no objection to the passage of the bill.

Mr. BROYHILL of Virginia. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, The purpose of this bill is to resolve certain ambiguities in the District of Columbia Minimum Wage Act so as to enable airline employees in the District to exchange days at regular rates of compensation, and thus to enjoy more fully day-trade benefits which are allowed to airline employees in other States.

In the airline industry, employees enjoy a "fringe benefit" of air travel for themselves and their immediate families, either free of charge or at greatly reduced fares. In order to avail themselves of this opportunity for travel, such employees sometimes find it advantageous to trade work days among themselves, so that they may work more than 40 hours 1 week in exchange for some extra time off the following week so that they may take a trip of several days' duration. This practice is known as "day trading," and is the only practical means by which airline employees can use their opportunity for travel to far-off places.

Under present District of Columbia law, however, this modification of work schedule through day-trading is frustrated because section 36–403 of the District of Columbia Code requires that airline employees, with several exceptions, must be paid at an overtime rate for work in excess of 40 hours in any workweek. While all the airlines wish to offer the benefits of day-trading to their employees here in the District of Columbia, they cannot afford to pay overtime wages accruing under such a voluntary arrangement.

The employees who have thus been denied this most attractive fringe benefit which is enjoyed by airline personnel in every other State in the country are the officeworkers, maintenance personnel, and other employees aside from the plans crews themselves.

H.R. 10806 will solve this problem by amending the District of Columbia Minimum Wage Act to provide that any employee of a carrier by air who voluntarily exchanges workdays with another employee for the primary purpose of utilizing air travel benefits available to such employees shall not be covered by the overtime provisions of that act.

Not only is this exclusion from overtime pay provided for airline employees in the other States, but it is provided in the District of Columbia for seamen and railroad employees. Thus, the airline employees in the District alone are being discriminated against.

I am advised that the enactment of this proposed legislation is endorsed by all the airlines operating in the District of Columbia, as well as the District of Columbia Minimum Wage Board and the union to which may of these employees belong. As far as I am aware, there is no opposition to the measure.

I urge the support of my colleagues for this bill, which I am convinced will be beneficial to everyone concerned.

Mr. STARK. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise to speak in favor of H.R. 10806. The bill was introduced jointly at the request of the airline companies, the unions, and employees of airline reservation offices in the District and has been agreed to by the Minimum Wage Board of the District of Columbia government.

It basically rights an inequity which prevents airline employees who work in the District of Columbia from receiving their travel benefits because of a provision which prohibits them from trading days off on strictly voluntary basis.

This will have the effect of allowing employees who work for airlines within the District of Columbia to receive the same benefits as airline employees in the other 50 States. It will provide an atmosphere in which airlines might be expected to expand their employment in the District if their employees will not be discriminated against.

Mr. Speaker, I urge the adoption of the bill.

Mr. BROYHILL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Speaker, I am pleased to associate myself with the remarks made by the gentleman from California.

The minority is pleased to support this legislation, and I am aware of no opposition to the bill. The airlines support this bill on behalf of their employees' welfare, and the unions also endorse the measure.

The District of Columbia government approves the bill also, and I urge the adoption of this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SUBSIDY PAYMENTS FOR CHILD ADOPTION

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 11238), to amend the act of March 16, 1926—relating to the Board of Public Welfare in the District of Columbia—to provide for an improved system of adoption of children in the District of Columbia, and for other purposes, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 11 and 12 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1926 (D.C. Code, secs. 3—114 and 3–115), are each amended to read as follows:

"SEC. 11. The Commissioner of the District of Columbia (hereinafter referred to as the 'Commissioner') may

"(1) make temporary provision for the care of children pending investigation of their status;

"(2) have the care and legal guardianship, including the power to consent to or arrange for adoption in appropriate cases, of

"(A) children who may be committed to the Commissioner as wards of the District of Columbia by courts of competent jurisdiction; and

"(B) children who are relinquished by their parents to the Commissioner or whose relinquishment is transferred to the Commissioner by a licensed child placing agency under section 6 of the Act entitled 'An act to regulate the placing of children in family homes, and for other purposes', approved April 22, 1944 (D.C. Code, sec. 32—786); and

"(3) make such provision for the care and maintenance of such children in private homes, under contract, including adoption subsidy pursuant to section 12 of this Act (D.C. Code, sec. 3—115), or in public or private institutions, as the welfare of such children may require; and

"(4) provide care and maintenance for substantially retarded children who may be received upon application or upon court commitment, in institutions or homes or other facilities equipped to receive them, with in or without the District of Columbia.

The Commissioner shall cause the wards of the District of Columbia placed out under temporary care to be visited as often as may be required to safeguard their welfare.

"SEC. 12. (a) Except as provided in subsection (f), the Commissioner may conclude arrangements with persons or institutions at such rates as may be agreed upon.

"(b)(1) The Commissioner may make adoption subsidy payments to an adoptive family (irrespective of the State of residence of the family), as needed, on behalf of a child with special needs, where such child would in all likelihood go without adoption except for the acceptance of the child as a member of the adoptive family, and where the adoptive family has the capability of providing the permanent family relationships needed by such child in all areas except financial, as determined by the Commissioner. Subsidy payments may be made under this section only pursuant to a subsidy payment agreement entered into by the Commissioner and the adoptive parents concerned prior to completion of the adoptive process, but subsidy payments may be made before such adoption becomes final.

"(2) For the purposes of this subsection—

"(A) The term 'child with special needs' includes any child who is difficult to place in adoption because of age, race, or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together. A child for whom an adoptive placement has not been made within six months after he is legally available for adoptive placement shall be considered a child with special needs within the meaning of this section.

"(B) The term 'adoptive family' includes single persons.

"(c) Any public agency, licensed child placing agency, having a child with special needs in foster care or institutional care, or any foster parent having such a child in his home may recommend to the Commissioner a subsidy for the adoption of such child, and may include in the recommendation advice as to the appropriate level of payments and any other information likely to assist the Commissioner in carrying out the provisions of this section. The Commissioner shall make the determination as to whether or not an appropriate adoptive home exists for the child, but in so doing the Commissioner shall refer to the recommendations of the referring agency. If the Commissioner concludes that the child referred is a child with special needs within the meaning of this section, and that an appropritae adoptive home exists for the child, the Commissioner is authorized to enter into a tentative adoption subsidy agreement with the prospective adoptive family, and upon entering into such an agreement with the Commissioner may accept a transfer of relinquishment of parental rights from the referring agency pursuant to section 6 of the Act entitled 'An Act to regulate the placing of children in family homes, and for other purposes', approved April 22, 1944 (D.C. Code, sec. 32–786).

"(d) If a child in the custody of the Commissioner or a licensed child placing agency has been in foster care or institutional care for as least six months after the child is considered legally available for adoptive placement, the Commissioner or agency shall inform the family or institution providing care of the possibility of financial aid for adoption under this section. If the family caring for the prospective adoptee applies to the Commissioner for adoption of the child, and if it appears to the Commissioner after study that the family would be an appropriate adoptive family for the child but for the family's economic inability to meet the child's needs, the Commissioner shall enter into a tentative agreement with the family concerning the amount and duration of a proposed subsidy in the event the child is placed for adoption with that family. Thereafter the Commissioner may accept a transfer of relinquishment of parental rights from the referring agency in appropriate cases. The Commissioner shall in all cases take all steps necessary to assist the family in completing the legal and procedural requirements necessary to effectuate the adoption, including payment for legal fees and court costs.

"(e) The amount and duration of adoption subsidy payments may vary according to the special needs of the child, and may include maintenance costs, medical, dental, and surgical expenses, psychiatric and psychological expenses, and other costs necessary for his care and well-being. A subsidy may be paid on a long-term basis to help a family whose income is limited and is likely to remain so; on a time-limited basis to help a family meet the cost of integrating a child into the family over a specified period of time; or on a special services basis to help a family meet a specific anticipated expense or expenses when no other resource appears to be available. Eligibility for payments shall continue until the child reaches eighteen years of age.

"(f) The Commissioner is authorized to make payments under this section from appropriations for the care of children in foster homes and institutions, and to seek and accept funds from other sources including Federal, private, and other public funding sources, to carry out the purposes of this section. The amount expended by the Commissioner for any subsidy may not exceed the highest amount the Commissioner would be authorized to spend in providing or securing support and special services for the child if the child were in the legal custody of the Commissioner. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

"(g) No adoption subsidy payment be made on behalf of any child with respect to whom an adoption decree has been entered by the Superior Court of the District of Columbia, pursuant to chapter 3 of title 16 of the District of Columbia Code, prior to the effective date of this section.

"(h) Once during each calendar year the Commissioner shall review the need for continuing each family's subsidy. At the time of such review and at other times during the year when changed conditions, including variations in medical opinions, prognosis, and costs are deemed by the Commissioner to warrant such action, appropriate adjustments in payments shall be made based upon changes in the needs of the child. Any parent who is a party to a subsidy agreement may at any time in writing request, for reasons set forth in the request, a review of the amount of any payment or the level of continuing payments. Such review shall be begun not later than thirty days from the receipt of the request. Any adjustment may be made retroactive to the date the request was received by the Commissioner. If the request is not acted on within thirty days after it has been received by the Commissioner, or if the Commissioner modifies or terminates an agreement without the concurrence of all parties, any party to the agreement shall be entitled to a hearing under the applicable provisions of the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501—1–1510).

"(i) The Commissioner shall keep such records as are necessary to evaluate the effectiveness of adoption subsidy as a means of encouraging and promoting the adoption of children with special needs. The Commissioner shall make an annual progress report which shall be open to public inspection. The report shall include, but not to be limited to—

"(1) the number of children placed in adoptive homes under subsidy agreements during the year preceding the annual report and the major characteristics of the children placed; and

"(2) the number of chidren currently in foster care with the Commissioner for six months or more, and the legal status of those children.

The Commissioner shall disseminate information to prospective adoptive families as to the availability of adoptable children and of the existence of aid to families who qualify for a subsidy under this section.

"(j) All rules and regulations adopted by the Commissioner pursuant to this Act shall be published in the District of Columbia Register as required by section 6 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1505).".

(b) Section 14 of such Act (D.C. Code, sec. 3–117) is amended to read as follows:

"SEC. 14. The Commissioner may—

"(1) accept for care, custody, and guardianship dependent or neglected children whose custody or parental control has been transferred to the Commissioner, and to provide for the care and support of such children during their minority or during the term of their commitment, including the initiation of adoption proceedings and the provision of subsidy in appropriate cases under section 12 of this Act (D.C. Code, sec. 3–115);

"(2) with respect to all children accepted by him for care, place them in private families either without expense or with reimbursement for the cost of care, or in appropriate cases to place them in private families under an adoption subsidy agreement concluded under section 12 of this Act (D.C. Code, sec. 3–115) or to place them in institutions willing to receive them either without expense or with reimbursement for the cost of care; and

"(3) consent to arrange for or initiate court proceedings for the adoption of all children committed to the care of the Commissioner whose parents have been permanently deprived of custody by court order, or whose parents have relinquished a child to the Commissioner or to a licensed child-placing agency which has transferred the relinquishment to the Commissioner under section 6 of the Act entitled 'An Act to regulate the placing of children in family homes, and for other purposes', approved April 22, 1944 (D.C. Code, sec. 32–786).".

SEC. 2. (a) Section 307(b)(1)(D) of title 16 of the District of Columbia Code is amended by inserting immediately after "should have knowledge" the following: ", including the existence and terms of a tentative adoption subsidy agreement entered into prior to the filing of the adoption petition under section 12 of the Act of March 16, 1926 (D.C. Code, sec. 3–115)".

(b) Section 309(b) of title 16 of the District of Columbia Code is amended by adding at the end thereof the following new sentence: "In determining whether the petitioner will be able to give the prospective adoptee a proper home and education, the court shall give due consideration to any assurance by the Commissioner that he will provide or contribute funds for the necessary maintenance or medical care of the prospective adoptee under an adoption subsidy agreement under section 12 of the Act of March 16, 1926".

SEC. 3. The amendments made by this Act shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

That (a)(1) section 11 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1926 (D.C. Code, sec. 3–114), is amended to read as follows:

"SEC. 11. The Commissioner of the District of Columbia (hereinafter referred to as the 'Commissioner') may—

"(1) make temporary provision for the care of children pending investigation of their status;

"(2) have the care and legal guardianship, including the power to consent to or arrange for adoption in appropriate cases, of—

"(A) children who may be committed to the Commissioner as wards of the District of Columbia by courts of competent jurisdiction; and

"(B) children who are relinquished by their parents to the Commissioner or whose relinquishment is transferred to the Commissioner by a licensed child-placing agency under section 6 of the Act entitled 'An Act to regulate the placing of children in family homes, and for other purposes', approved April 22, 1944 (D.C. Code, sec. 32–786); and

"(3) make such provision for the care and maintenance of such children in private homes, under contract, including adoption subsidy pursuant to section 3 of the Act of July 26, 1892 (D.C. Code, sec. 3–115), or in public or private institutions, as the welfare of such children may require; and

"(4) provide care and maintenance for substantially retarded children who may be received upon application or upon court commitment, in institutions or homes or other facilities equipped to receive them, within or without the District of Columbia. The Commissioner shall cause the wards of the District of Columbia placed out under temporary care to be visited as often as may be required to safeguard their welfare.

(2) Section 3 of the Act of July 26, 1892 (D.C. Code, sec. 3–115), is amended to read as follows:

"Sec. 3. (a) Except as provided in subsection (f), the Commissioner may conclude arrangements with persons or institutions at such rates as may be agreed upon.

"(b)(1) The Commissioner may make adoption subsidy payments to an adoptive family (irrespective of the State of residence of the family), as needed, on behalf of a child with special needs, where such child would in all likelihood go without adoption except for the acceptance of the child as a member of the adoptive family, and where the adoptive family has the capability of providing the permanent family relationships needed by such child in all areas except financial, as determined by the Commissioner. Subsidy payments may be made under this section only pursuant to a subsidy payment agreement entered into by the Commissioner and the adoptive parents concerned prior to completion of the adoptive process, but subsidy payments may be made before such adoption becomes final.

"(2) For the purposes of this subsection—

"(A) The term 'child with special needs' includes any child who is difficult to place in adoption because of age, race, or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together. A child for whom an adoptive placement has not been made within six months after he is legally available for adoptive placement shall be considered a child with special needs within the meaning of this section.

"(B) The term 'adoptive family' includes single persons.

"(c) Any public agency or licensed child-placing agency, having a child with special needs in foster care or institutional care, or any foster parent having such a child in his home may recommend to the Commissioner a subsidy for the adoption of such child, and may include in the recommendation advice to the appropriate level of payments and any other information likely to assist the Commissioner in carrying out the provisions of this section. The Commissioner shall make the determination as to whether or not an appropriate adoptive home exists for the child, but in so doing the Commissioner shall refer to the recommendations of the referring agency. If the Commissioner concludes that the child referred is a child with special needs within the meaning of this section, and that an appropriate adoptive home exists for the child, the Commissioner is authorized to enter into a tentative adoption subsidy agreement with the prospective adoptive family, and upon entering into such an agreement, the Commissioner may accept a transfer of relinquishment of parental rights from the referring agency pursuant to section 6 of the Act entitled 'An Act to regulate the placing of children in family homes, and for other purposes', approved April 22, 1944 (D.C. Code, sec. 32–786).

"(d) If a child in the custody of the Commissioner or a licensed child-placing agency has been in foster care or institutional care for at least six months after the child is considered legally available for adoptive placement, the Commissioner or agency shall inform the family or institution providing care of the possibility of financial aid for adoption under this section. If the family caring for the prospective adoptee applies to the Commissioner for adoption of the child, and if it appears to the Commissioner after study that the family would be an appropriate family for the child but for the family's economic inability to meet the child's needs, the Commissioner shall enter into a tentative agreement with the family concerning the amount and duration of a proposed subsidy in the event the child is placed for adoption with that family. Thereafter the Commissioner may accept a transfer of relinquishment of parental rights from the referring agency in appropriate cases. The Commissioner shall in all cases take all steps necessary to assist the family in completing the legal and procedural requirements necessary to effectuate the adoption, including payment for legal fees and court costs.

"(e) The amount and duration of adoption subsidy payments may vary according to the special needs of the child, and may include maintenance costs, medical, dental, and surgical expenses, psychiatric and psychological expenses, and other costs necessary for his care and well-being. A subsidy may be paid on a long-term basis to help a family whose income is limited and is likely to remain so; on a time-limited basis to help a family meet the cost of integrating a child into the family over a specified period of time; or on a special services basis to help a family meet a specific anticipated expense or expenses when no other resource appears to be available. Eligibility for payments shall continue until the child reaches eighteen years of age.

"(f) The Commissioner is authorized to make payments under this section from appropriations for the care of children in foster homes and institutions, and to seek and accept funds from other sources including Federal, private, and other public funding sources, to carry out the purposes of this section. The amount expended by the Commissioner for any subsidy may not exceed the highest amount the Commissioner would be authorized to spend in providing or securing support and special services for the child if the child were in the legal custody of the Commissioner. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

"(g) No adoption subsidy payment shall be made on behalf of any child with respect to whom an adoption decree has been entered by the Superior Court of the District of Columbia, pursuant to chapter 3 of title 16 of the District of Columbia Code, prior to the effective date of this section.

"(h) Once during each calendar year the Commissioner shall review the need for continuing each family's subsidy. At the time of such review and at other times during the year when changed conditions, including variations in medical opinions, prognosis, and costs are deemed by the Commissioner to warrant such action, appropriate adjustments in payments shall be made based upon changes in the needs of the child. Any parent who is a party to a subsidy agreement may at any time in writing request, for reasons set forth in the request, a review of the amount of any payment or the level of continuing payments. Such review shall be begun not later than thirty days from the receipt of the request. Any adjustment may be made retroactive to the date the request was received by the Commissioner. If the request is not acted on within thirty days after it has been received by the Commissioner, or if the Commissioner modifies or terminates an agreement without the concurrence of all parties, any party to the agreement shall be entitled to a hearing under the applicable provisions of the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501—1–1510).

"(i) The Commissioner shall keep such records as are necessary to evaluate the effectiveness of adoption subsidy as a means of encouraging and promoting the adoption of children with special needs. The Commissioner shall make an annual progress report which shall be open to public inspection. The report shall include, but not be limited to—

"(1) the number of children placed in adoptive homes under subsidy agreements during the year preceding the annual report and the major characteristics of the children placed; and

"(2) the number of children currently in foster care with the Commissioner for six months or more, and the legal status of those children

The Commissioner shall disseminate information to prospective adoptive families as to the availability of adoptable children and of the existence of aid to families who qualify for a subsidy under this section.

"(j) All rules and regulations adopted by the Commissioner pursuant to this Act shall be published in the District of Columbia Register as required by section 6 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1505)."

(b) Section 5 of the Act of July 26, 1892 (D.C. Code, sec. 3–117), is amended to read as follows:

"Sec. 5. The Commissioner may—

"(1) accept for care, custody, and guardianship dependent or neglected children whose custody or parental control has been transferred to the Commissioner, and to provide for the care and support of such children during their minority or during the term of their commitment, including the initiation of adoption proceedings and the provision of subsidy in appropriate cases under section 3 of this Act (D.C. Code, sec. 3–115);

"(2) with respect to all children accepted by him for care, place them in private families either without expense or with reimbursement for the cost of care, or in appropriate cases to place them in private families under an adoptive subsidy agreement concluded under section 3 of this Act (D.C. Code, sec. 3–115) or to place them in institutions willing to receive them either without expense or with reimbursement for the cost of care; and

"(3) consent to, arrange for or intiate court proceedings for the adoption of all children committed to the care of the Commissioner whose parents have been permanently deprived of custody by court order, or whose parents have relinquished a child to the Commissioner or to a licensed child-placing agency which has transferred the relinquishment to the Commissioner under section 6 of the Act entitled 'An Act to regulate the placing of children in family homes, and for other purposes', approved April 22, 1944 (D.C. Code, sec. 32–786).".

Sec. 2. (a) Section 307(b)(1)(D) of title 16 of the District of Columbia Code is amended by inserting immediately after "should have knowledge" the "following: ", including the existence and terms of a tentative adoption subsidy agreement entered into prior to the filing of the adoption petition under section 3 of the Act of July 26, 1892 (D.C. Code, sec. 3–115)".

(b) Section 309(b) of title 16 of the District of Columbia Code is amended by adding at the end thereof the following new sentence: "In determining whether the petitioner will be able to give the prospective adoptee a proper home and education, the court shall give due consideration to any assurance by the Commissioner that he will provide or contribute funds for the necessary maintenance or medical care of the prospective adoptee under an adoption subsidy agreement under section 3 of the Act of July 26, 1892 (D.C. Code, sec. 3-115).".

SEC. 3. The amendments made by this Act shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

Mr. STUCKEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of the bill (H.R. 11238), as set forth in H. Rept. 93-657, is to authorize the Commissioner of the District of Columbia to make adoption subsidy payments on behalf of children with special needs, where such children otherwise would in all likelihood go without adoption, and where the adoptive family is deemed appropriate in all respects but for its economic inability to meet the child's needs.

NEED FOR THE LEGISLATION

According to testimony from District of Columbia officials, there currently are between 2,500 and 2,700 children who are wards of the District Government. Of these, it was estimated that between 200 to 300 could be placed in permanent families with the assistance of an adoption-subsidy program. Approximately 150 such placements are expected within the first year.

The Director of the District of Columbia Department of Human Resources testified that, without adoption subsidies, these children, for the most part, will "linger for years in a foster care situation" where they are subject to "being jostled about in the various changes of foster placement."

PRECEDENTS

Twenty-six States have enacted legislation comparable to H.R. 11238.

The States providing adoption-subsidy programs are: California, Colorado, Connecticut, Delaware, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Washington.

The experience of these states indicates there are two primary benefits which flow from a program of subsidized adoption; first, the opportunity to place children in adoptive homes by providing financial resources to prospective parents who otherwise could not afford to consider adoption; second, the decrease in state child welfare expenditures which results from shifting from the state to the adoptive parents portions of the cost of care and responsibility for the child.

HISTORY

On July 27, 1973, the Subcommittee on Labor, Social Services and the International Community held a public hearing on the bill, H.R. 7259, at which time testimony in favor thereof was submitted by officials of the District of Columbia Government and of the Superior Court of the District of Columbia; by representatives of interested community organizations; and by persons directly involved in adoption subsidy programs in other jurisdictions. On September 13, 1973, the Subcommittee held a mark-up session, at which several amendments were approved and ordered incorporated into a clean bill to be reported to the full Committee.

COMMITTEE VOTE

The clean bill, H.R. 11238, on November 5, 1973, was ordered favorably reported by voice vote of the full Committee.

COST

The Committtee is informed by the District of Columbia Government that it estimates the costs of instituting a subsidized adoption program will be $117,450 in the first year, $197,383 in the second year, $166,456 in the third year, $143,200 in the fourth year and $164,820 in the fifth year.

These cost projections reflect short-term added administrative expenses for starting a new program, including the development of procedures and regulations. Also considered are the added costs of providing subsidies for children not currently wards of the District of Columbia and providing court costs and legal assistance for families petitioning to adopt under this Act.

Over the long term, substantial savings are expected by District of Columbia officials because of the greatly reduced costs of overseeing care for a child in an adoptive home, as opposed to costs in a foster home or institution.

Such expected savings were reported during the Committee's hearing, by witnesses familiar with the operation of adoption subsidy programs in the states. The Committee also received written reports, documenting cost savings, from State officials in California, Illinois, Iowa, North Dakota and Washington. Other reports from Maryland, New York and Vermont indicate that ongoing adoption subsidy programs have not resulted in increased child welfare expenditures.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 11238, was reported by the Committee on the District of Columbia on November 5, 1973, with a committee amendment which strikes all after the enacting clause to allow for the correction of purely technical drafting errors.

This legislation affects a particularly needful segment of our society—children who have become separated from their natural parents and who face meager prospects for adoption by a loving family.

We are talking about children who are available for adoption, but because of circumstances beyond their control, a physical or mental handicap, their age, their sibling situation, or their race, have not been chosen by prospective adoptive families.

We are talking about children who are wards of the District and who, for the most part, have been placed out in foster homes. In many instances a loving relationship has developed between foster child and foster parent. Yet adoption is not feasible because it would mean the discontinuance of needed financial support, which presently is available only in the foster care situation.

H.R. 11238 addresses this problem by authorizing the Commissioner of the District of Columbia to make subsidy payments which will make it possible for worthy parents to adopt children who have these special needs.

At least 26 States have already enacted legislation of this kind, and their reports to our committee indicate that "adoption subsidies" have made it possible to bestow the priceless gift of a permanent, loving, new family to abandoned or parentless children who in all likelihood would otherwise have remained wards of the State until they reached adulthood.

In some of these States, reduced child welfare costs have reportedly resulted from the use of adoption subsidies. However, in the committee's view, the human good which comes from the provision of a warm and supportive family relationship to a homeless child—more than economic savings—is the true spirit, purpose, and key goal of the bill.

H.R. 11238 provides that subsidy payments cannot exceed what it would cost the District of Columbia to continue to support a child as a public ward. Even so, city officials feel there will be a need for additional funds during the early years of the program to get it established and to make it work efficiently.

Three types of subsidy agreement are specified in H.R. 11238:

First. Long-term basis, to help a family whose income is limited and is likely to remain so;

Second. Time-limited basis, to help a family, during a specified period of time, integrate into their budget the expenses of the care of the new child; and

Third. Special services basis, to help a family meet specific expenses, such as medical procedures or legal costs of the adoption.

During the hearings, the committee was told that there are currently between 2,500 and 2,700 children who are wards of the District of Columbia government. Of these, it was estimated that between 200 and 300 could be placed in permanent families if adoption subsidies were available. We were told that some 150 children might be adopted in the first year alone.

Again, Mr. Speaker, we are talking about children who have the deck cruelly stacked against them, because of physical or emotional handicaps. All have undergone the trauma of separation from natural parents, whether due to death, abandonment, or relinquishment.

At the same time, qualified families are willing to provide permanent homes, permanent family names, permanent affection, and permanent care for these children. But, they cannot do so for one reason—the economic inability to meet the children's needs.

There are many fine and dedicated persons serving the District of Columbia as foster parents, but, your committee heard testimony from the foster parents themselves that foster care is impermanent and falls short of fully meeting the needs of a child. It lacks continuity and often is ended abruptly without suitable transition.

In adoption, of course, the child becomes a permanent member of the family with precisely the same legal status as a natural child.

This, I think is what we all desire for every American child. And, to the extent that H.R. 11238 advances this end, it is a good bill.

The main features of the bill—briefly summarized, are as follows:

To qualify for an adoption subsidy, a family would have to be found appropriate in all respects but for its economic inability to meet the adopted child's needs; and

The level of subsidy payments could not exceed the maximum amount it would cost the District of Columbia to maintain the child as a public ward.

Children eligible for placement under the adoption subsidy program are defined as those who are "difficult to place in adoption because of age, race, or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together," or those for whom placement has not been made within 6 months of the time they became legally available for adoption.

Three types of subsidy agreement are specified in H.R. 11228:

First. Long-term basis, to help a family whose income is limited and is likely to remain so.

Second. Time-limited basis, to help a family, during a specified period of time, integrate into their budget the expenses of the care of the new child.

Third. Special services basis, to help a family meet specific expenses, such as medical procedures or legal costs of the adoption.

Foster parents may seek the assistance of subsidy to adopt a child for whom they have been providing foster care.

Voluntary, licensed adoption agencies, having difficulty to place children under their care, may propose that the District of Columbia Commissioner accept such children for the purpose of placing them through the subsidized adoption program.

The bill provides for annual review of adoption subsidy agreements by the Commissioner and for appropriate adjustments in payment levels, as dictated by "changes in the needs of the child," or other changed conditions affecting the family, if the commissioner determines a subsidy is no longer needed, he may terminate it.

Eligibility for payments extends only until the child reaches the age of 18.

In conclusion, Mr. Speaker, I urge my colleagues to support H.R. 11238.

Mr. KAZEN. Will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman.

Mr. KAZEN. I am not familiar with the provisions of the bill or how the District of Columbia handles this adoption situation. Do I understand now with the passage of this bill family income is no longer going to be a deterrent to adopting children?

Mr. MAZZOLI. The gentleman states the case precisely. Family income would be no deterrent for the adoption of the hard-to-place child and the family would be able to be subsidized not to exceed the amount of money now being paid for foster care. There would be a limitation on the amount of money paid, and this amount of money would be well used, in my opinion.

Mr. GUDE. Will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Maryland.

Mr. GUDE. I thank the gentleman for yielding.

As pointed out in the committee report, there are some 26 States—and Texas is one of those—that have a subsidy plan adopted.

Mr. MAZZOLI. That is right.

Mr. GUDE. It is, of course, the only barrier which these families have to not being able to adopt a child; namely, lack of income. They meet all the other requirements. In other words, it has to be a poor family which is otherwise suited to adopt a child.

Mr. MAZZOLI. As the gentleman from Maryland knows, being one of the chief sponsors of the bill, the payments are limited to the amount of money which can presently be paid in the District of Columbia for foster care so we have a limit to the amount of money that can be expended under the program.

Mr. BROYHILL of Virginia. Will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman.

Mr. BROYHILL of Virginia. Of course, as the gentleman stated, this should not cost any additional money and would supply a need for the adoption of some of these children who otherwise would not be adopted. We have children with certain mental deficiencies or other matters in their background. This is more or less a humane approach. We have families who have the love and desire to care for these children but do not have the economic means. I think this is the proper place to put it in perspective.

Mr. MAZZOLI. I thank the gentleman from Virginia.

PRINCIPAL PROVISIONS OF THE BILL

AUTHORITY OF THE COMMISSIONER

The Commissioner of the District of Columbia, in order to enhance adoption opportunities for "difficult to place" children, is authorized to assist adoptive parents in meeting the special needs of such children through the payment of cash subsidies. Such payments can be used to meet maintenance costs; medical, dental and surgical expenses; psychiatric and psychological expenses, and other costs necessary for the well being of the child.

ELIGIBILITY REQUIREMENTS

To qualify for an adoption subsidy, a family would have to be found appropriate in all respects but for its economic inability to meet the adopted child's needs. Single persons may qualify as adoptive parents.

Children eligible for placement under the adoption subsidy program are defined as those who are "difficult to place in adoption because of age, race, or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together," or those for whom placements has not been made within six months of the time they became legally available for adoption. Eligibility extends only until the child reaches the age of 18.

The Committee noted with concern the great number of wards of the District of Columbia, who apparently are unlikely to be reunited with their natural parents, but who are unavailable for adoption because parental rights have not been legally terminated. Members of the Committee expressed the view that this problem should be addressed through separate legislation, which might facilitate the termination of parental rights after efforts to reunite families have proved ineffective.

LEVEL OF PAYMENT

The level of subsidy payments could not exceed the maximum amount it would cost the District of Columbia to maintain the child as a public ward. Present costs to the District for the maintenance of minor wards varies widely, depending upon the needs of the child and the type of care provided. Institutional care generally is far more expensive than foster care. The Committee was informed that the traditional foster care contracts in the District provide $165 per month for children under 12, and $180 per month for those over 12.

During the course of committee hearings on this legislation, a number of witnesses testified that the present level of foster care payments in the District of Columbia is inadequate. Since adoption subsidy payments, in a great many cases, will be limited to what it would have cost the District to keep the child in foster care, the committee directs the attention of the Appropriations Committee to the need for providing the funds necessary to raise the level of foster care payments in the District of Columbia. In this way, improved support can be provided both for children in foster homes and those adopted under subsidy.

The Internal Revenue Service has informed the committee that adoption subsidy payments, so long as they do not exceed expenses incurred in care of the child, need not be included in the gross taxable income of the parents.

TYPES OF SUBSIDY

Three types of subsidy agreements are specified in the bill:

1. Long-term basis, to help a family whose income is limited and is likely to remain so.
2. Time-limited basis, to help a family, during a specified period of time, integrate into their budget the expenses for the care of the new child.
3. Special-services basis, to help a family meet specific expenses, such as medical procedures or legal costs of the adoption.

ADOPTION BY FOSTER PARENTS

Foster parents may seek the assistance of a subsidy to adopt a child for whom they have been providing foster care. In cases where a child, legally available for adoption, has been in a foster home for 6 months, the Commissioner shall notify the family of the possibility of financial aid for adoption. If the family seeks to adopt the child, and is found to be qualified, the Commissioner shall assist the family in completing all legal and procedural requirements and shall pay legal fees and court costs involved.

WARDS OF VOLUNTARY AGENCIES

Voluntary, licensed adoption agencies, having "difficult to place" childen under their care, may propose that the District of Columbia Commissioner accept such children for the purpose of placing them through the subsidized adoption program.

REVIEW AND ADJUSTMENT PROCEDURES

The bill provides for annual review of adoption subsidy agreements by the Commissioner and for appropriate adjustments in payment levels, as dictated by "changes in the needs of the child" or other changed conditions affecting the family. If the Commissioner determines a subsidy is no longer needed, he may terminate it.

AMENDMENTS TO PRESENT LAW

The following sections of the District of Columbia Code are amended as indicated:

(1) Title 3, Section 114. The authority of the Commissioner, with respect to the care and guardianship of children, is broadened to specifically allow for adoption subsidy contracts, and to allow for the arrangement of adoptions for children relinquished to the Commissioner by their parents or by licensed child-placing agencies. References to religious faith are deleted.

(2) Title 3, Section 115. The bill sets forth the circumstances under which the Commissioner can enter into agreements to make adoption subsidy payments. Included are provisions as to eligibility requirements for children and adoptive parents; parties who may recommend a child for subsidy; notification of foster parents eligible to adopt with subsidy; variations in form and duration of adoption subsidy agreements; limitation on amount Commissioner may expend; prohibition against subsidies of previously completed adoptions; requirement for annual review and appropriate adjustments; record-keeping and dissemination of information about the program and publication of regulations.

(3) Title 3, Section 117. The bill provides specifically that the Commissioner may initiate adoption proceedings, including the provision of subsidy in appropriate cases, for children relinquished to his care by their parents or by a licensed childplacing agency, to which the child was previously relinquished.

(4) Title 16, Section 307. The bill provides for informing the Superior Court of the District of Columbia for the existence of adoption subsidy agreements entered into prior to the filing of adoption petitions.

(5) Title 16, Section 309. The bill provides that the Court, in determining the ability of a petitioner to provide for a child, shall take into consideration adoption subsidy agreements made by the Commissioner.

The above amendments shall take effect 90 days following the enactment of this act.

Mr. Speaker, I also include in the RECORD the following report from the Commissioner of the District of Columbia, dated November 23, 1973, which urges favorable consideration of the clean bill, H.R. 11238:

THE DISTRICT OF COLUMBIA,
Washington, D.C., November 23, 1973.
Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Government of the District of Columbia has for report H.R. 11238, a bill "To amend the Act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes." This bill is similar to H.R. 7259 on which the District Government reported July 26, 1973.

H.R. 11238 would amend sections 11, 12, and 14 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1926 (D.C. Code, secs. 3–114, 3–115, and 3–117). The bill would amend section 11 to provide that the Commissioner of the District of Columbia shall be authorized to: (1) make temporary provision for the care of children pending investigation of their status; (2) have the care and legal guardianship, including the power to consent to or arrange for adoption of children committed as wards of the District by courts of competent jurisdiction and children relinquished by their parents to the Commissioner or children relinquished by a licensed child-placing agency; (3) provide for the care and maintenance of such children in private homes, under contract including adoption subsidy, or in public or private institutions; and (4) provide care, welfare, and maintenance of retarded children.

The bill would amend section 12 of the Act to provide that the Commissioner shall have the authority, in appropriate cases, to consent to adoption with subsidy for wards of the District of Columbia. Subsection (b)(1) of that section would authorize the Commissioner to make adoption subsidy payments on behalf of a child who falls within the definition of a "child with special needs," when such a child would not be adopted otherwise by a qualified family due to lack of adequate financial resources. The bill would define a "child with special needs" as "any child who is difficult to place in adoption because of age, race, or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together" or a child who has not been placed for adoption within six months after he is legally available for adoptive placement.

The amendment of subsection (c) of section 12 of the Act would provide that any person, public agency, or licensed child-placing agency having a child with special needs in foster care or institutional care may recommend to the Commissioner that a child be determined eligible to receive a subsidy for purposes of adoption. The bill provides that the Commissioner shall determine whether the child referred to is a "child with special needs" and if so whether an appropriate adoptive home exists for the child. Upon making those determinations, the Commissioner is authorized to enter into a tentative adoption subsidy agreement with the prospective adoptive parents and to accept a transfer of relinquishment of parental rights from the referring agency, pursuant to section 6 of the Act of April 22, 1944 (D.C. Code, sec. 32–786).

Subsection (d) would provide that if a child who is in the custody of the Commissioner or a licensed child-placing agency, has been in foster care or institutional care for at least six months after being considered legally free for adoption, such family or institution would be informed of the possibility of subsidized adoption for the child. Subsection (e) would provide that the amount and duration of adoption subsidy payments may vary according to the special needs of the child, as determined by the Commissioner but may include in addition to maintenance costs, medical, dental, and surgical expenses, psychiatric and psychological expenses, and other necessary care. The bill would authorize the Commissioner to continue to provide adoption subsidy payments, if necessary, until the child reaches the age of eighteen, provided that the family continues to meet the conditions of the adoption subsidy agreement.

The amendment of subsection (f) of section 12 of the Act would provide that the Commissioner would be authorized to make payments for the care of children with special needs in foster homes and institutions from appropriations as well as Federal, private, and public funding sources. Subsection (g) would make adoption subsidy payments available for prospective adoptions only, and not to families who have already completed the adoption of a child. Subsection (h) would provide that the Commissioner review annually the need for continuing each family's subsidy, and also provide that a parent participating in the subsidy program may request the Commissioner to review the level of subsidy. Subsection (i) would require the Commissioner to maintain necessary records to evaluate the effectiveness of adoption subsidy and to make an annual public report on the number of children placed in adoptive homes, and number of children in foster care for six months or more. Subsection (j) would provide for publication of all rules and regulations adopted by the Commissioner as required by the D.C. Administrative Procedure Act.

The bill would amend section 14 of the Act to provide specifically that the Commissioner would have the authority, which the former Board of Public Welfare and the Department of Public Welfare had, to (1) accept for care, custody, and guardianship dependent or neglected children under his control; (2) place all children accepted by him for care in private families either without expense or with reimbursement for cost of care; and (3) arrange or initiate court proceedings for the adoption, in appropriate cases, of children committed to his care.

Section 2 of the bill would amend the District's adoption law (Act of December 23, 1963, as amended; D.C. Code, section 16–307(b)(1)(D)) to provide that the court may take into account in determining whether or not to grant a petition for adoption the existence and terms of a tentative adoption subsidy agreement entered into prior to the filing of the adoption petition. The bill would also provide that the court give due consideration, in determining whether the petitioner will be able to give the prospective adoptee a proper home and education, to any assurances by the Commissioner that he will provide or contribute funds for maintenance or medical care under an adoption subsidy agreement.

H.R. 11238 incorporates the majority of technical and substantive amendments suggested by the District in our report on H.R. 7259, including the deletion of the requirement that the predominant criterion for child placement be the placement of a child in a home of like religion. While we do not suggest that religion is not an important and relevant factor in making placements, we do not think the Commissioner should be required to specifically justify each case in which a child is placed in an institution, foster home, or adoptive family of a different religion. Placement of a child in a loving home should be the predominant criterion.

The District Government supports the objectives of H.R. 11238 on behalf of children with special needs in the District of Columbia and on behalf of prospective adoptive parents who are in every way, except financially, capable of providing permanent family relationships for such a child. We are of the view that the bill would encompass the major provisions necessary to enable the District of Columbia to locate qualified adoptive homes for many children who might otherwise grow up in foster care.

We are convinced of the need for such legislation. The experience of other States indicates that there are two primary benefits which flow from a program of subsidized adoption: first, the opportunity to place children in adoptive homes by providing financial resources to prospective parents who otherwise could not afford to consider adoption; second, the eventual decrease in State child welfare expenditures which results from shifting from the State to the adoptive parents, the cost of care and responsibility for the child. Our statistics show that approximately 150 children could be placed in adoptive homes in the first year if subsidies could be provided.

The District Government estimates that the cost of instituting a subsidized adoption program would be $117,450 in the first year, $197,383 in the second year, $166,456 in the third year, $143,200 in the fourth year, and $164,820 in the fifth year, for a total 5-year estimated cost of $789,309.

The District Government strongly urges the favorable consideration of H.R. 11238.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Mr. GUDE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 11238, to provide for a program of subsidized adoption in the District of Columbia. I wish to thank my distinguished colleague from Kentucky, chairman of the Subcommittee on Labor, Social Services, and the International Community, for his admirable leadership and hard work on behalf of this legislation, and thereby, the people of Washington.

As has been noted, H.R. 11238 will enable the District's Department of Human Resources to provide payments to assist in the adoption of children with special needs, traditionally defined as "hard to place." Such needs include age, race, or ethnic background, physical or mental condition or membership in a sibling group which should be placed together. These subsidies are permitted on a long-term basis, to help a family whose income is limited and likely to remain so; or on a time-limited basis, to help a family meet the cost of integrating the child into the family until, for example, a parent finishes school or gets a better job, or where the mother temporarily leaves her job; or on a special-services basis, to help a family meet specific limited expenses where there is no other resource available.

In all cases, the amount that could be spent for such an adoption subsidy under this legislation may not exceed the amount the Department would be authorized to spend if the child continued in foster or institutional care. In all cases, too, the parents receiving the subsidy must be able to provide the permanent family relationships needed by these children in all areas, except financial.

Mr. Speaker, it is estimated that there are approximately 2,700 children in the District of Columbia who are placed in the category of "dependent and neglected." They are in private child care institutions, traditional foster care, and in group or special foster care. Some have even been temporarily placed in District of Columbia General Hospital at times, with no real medical reason for being there, simply because the District may be running out of qualified places in which to keep them.

Not all of these children, nor even most, would be eligible for immediate placement under an adoption subsidy program of the nature we propose today. Several are not yet legally free for adoption. However, in testimony to the committee, Mayor Washington has indicated that approximately 150 children could be placed in adoptive homes in the first year alone if subsidies are provided. Moreover, this number would be likely to increase simply by virtue of the establishment of such a subsidy program on the books, as this would give incentive to the review of cases not now under consideration, and the initiation of proceedings to free the child legally.

If the alternative is for these children to remain perhaps indefinitely in custodial care—to be shifted from home to institution to another home—then their placement wtih permanent families under a subsidized program is justified on that basis alone, whether for one child, 100 or 1,000 children.

Twenty-six States have enacted a subsidized adoption program in some form or another. In other States, it is a matter pending before the legislature. It is a concept strongly endorsed by the Child Welfare League of America and other groups interested in this field. In our hearings before the subcommittee this July, we received overwhelmingly favorable testimony from the Mayor, the District of Columbia City Council, Judge Green of the Superior Court and several local child placement agencies, professional social workers and interested citizens. These included Catholic Charities, Lutheran Social Services of the National Capital Area and the Foster Parents Association of Washington.

It may be noted that the savings to the public under subsidized adoption programs have been substantial. Many of the families need short-term, time-limited subsidies only. Furthermore, the experience of many States has been that because of the publicity focused on the children as a result of these new programs, many families eventually determined to be without need for financial assistance came forward to provide homes for them.

That is what it all boils down to, Mr. Speaker—providing permanent, loving relationships for these "unwanted" children. Dollars and cents and statistics are not the issue here. The value of a stable home life for the minority child, the older child, the handicapped and the retarded child cannot be measured in such terms. Our main consideration must be the child. We know that there are several good people out there anxious to have these children in their families, but for the costs. How tragic it would be to allow a financial barrier to block the path of the child into a home for life.

We simply want these children to reach their highest potential of development. Subsidies to parents as provided for in this legislation will help us achieve that very basic goal. I urge my colleagues' support to this end.

Mr. GROSS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I should like to ask someone knowledgeable about this bill if it pertains only to retarded children and/or otherwise handicapped children, or does it apply to all adoptive children?

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield, I am not sure that I am knowledgeable, but the bill did come out of our subcommittee. The gentleman from Iowa is correctly stating the issue that the bill does deal simply and solely with the hard-to-place child. That child is defined as one who has a mental defect or disability, or a physical disability, or a child who is part of a sibling group, such as triplets, which pose a special problem in their being placed, or a child who has been in the custody of the District of Columbia longer than 6 months without being placed where authorities have been seeking to place the child.

It was testified that there are no more than 200 or 300 of such children out of the approximately 2,700 children who are wards of the District of Columbia.

Mr. GROSS. So that in no instance is it designed to help adoptive children who are sound of mind and limb?

Mr. MAZZOLI. The gentleman from Iowa is correct.

Mr. GROSS. Is not so designed?

Mr. MAZZOLI. Is not.

Mr. GROSS. What is the estimated or indicated cost of this legislation?

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield further, on page 5 of the committee report we have a 5-year estimate which was provided by the District of Columbia Commissioner of Human Resources. The cost for the first year is estimated to be $117,000; the second year, $197,000; the third year $166,000, the fourth year $143,000, and the fifth year $164,000.

But if the gentleman from Iowa will yield further, we, in going over the report which we just received this morning from the District of Columbia officials, we find that there perhaps was an accounting error made downtown in that the estimate included costs which we believe would not be involved such as the foster-care payments, which would be terminated when the subsidy payments were started. Nor were costs of social worker visits which would be terminated once we have a permanent adoption mode, taken into consideration as projected savings.

But nonetheless, the figures which have been supplied to us and which have been placed in the RECORD, will total the amount that I have suggested. Again I say that we think that they are erroneously figured on the high side, but as I say, we have no actual proof at this point.

Mr. GROSS. We all know that funds of the Federal Government contribute very handsomely to the District of Columbia and that, therefore, Federal funds would be available for this program in the District of Columbia even though on an indirect basis. What funds are used in the various States which have an adoptive program of this nature?

Mr. MAZZOLI. If the gentleman would yield, the gentleman is aware of the Iowa program. This gentleman served some information of this program on the gentleman from Iowa. Those funds, of course, came from the States simply and solely, except as it might possibly be that they can take some of the Federal social security money, some of the social services money, and use it in those directions.

I cannot verify that only Iowa money goes for the Iowa program. I would be inclined to think that there would be some Federal money from the various social services program which finds its way into the subsidized adoption program in the State of Iowa.

Mr. GROSS. It is not proposed by the District of Columbia Committee to expand this into a subsidy program for all children subject to adoption?

Mr. MAZZOLI. If the gentleman would yield further, I would oppose that as vociferously as I opposed, earlier today, the bill eliminating usury.

Mr. GROSS. I thank the gentleman from Kentucky for his frank answers.

The SPEAKER. The question is on the committee amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. FLOWERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 0, not voting 83, as follows:

[Roll No. 594]

YEAS—350

Abdnor
Adams
Addabbo
Alexander
Andrews, N.C.
Andrews,, N. Dak.
Archer
Arends
Armstrong
Aspin
Bafalis
Baker
Barrett
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brasco
Bray
Breaux
Breckinridge
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Denholm
Dennis
Derwinski
Devine
Dickinson
Dingell
Donohue
Drinan
Dulski
Duncan
du Pont
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Hutchinson
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, N.C.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mizell
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Patten
Perkins
Pettis
Peyser
Pickle
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—0

NOT VOTING—83

Abzug
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashbrook
Ashley
Badillo
Beard
Bell
Blackburn
Bolling
Brademas
Brinkley
Brooks
Brown, Ohio
Burke, Calif.
Chisholm
Clark
Collier
Collins, Ill.
Dellenback
Dent
Diggs
Dorn
Downing
Eckhardt
Edwards, Ala.
Eshleman
Foley
Grasso
Gubser
Gunter
Hansen, Wash.
Hébert
Hungate
Ichord
Jarman
Johnson, Pa.
Keating
Koch
Kuykendall
Landrum
McCormack
McKinney
Macdonald
Martin, Nebr.
Mathias, Calif.
Melcher
Mills, Ark.
Mink
Mitchell, N.Y.
Moakley
Montgomery
Moss
Nelsen
Nix
O'Hara
Patman
Pepper
Pike
Podell
Reid
Rooney, N.Y.
Rose
Rostenkowski
Shipley
Snyder
Spence
Steele
Steiger, Wis.
Stephens
Stokes
Stubblefield
Teague, Tex.
Tiernan
Udall
Van Deerlin
Wilson, Charles, Tex.
Wolff
Wydler
Young, Alaska
Young, Ga.
Young, S.C.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Ichord.
Mr. Dent with Mrs. Chisholm.
Mr. Udall with Mr. Brinkley.
Mr. Mills of Arkansas with Mr. Mathias of California.
Mrs. Grasso with Mr. Badillo.
Mr. Pepper with Mr. McKinney.
Mr. Foley with Mr. Blackburn.
Mr. Anderson of California with Mr. Dorn.
Mr. Annunzio with Mr. Young of Alaska.
Mr. Brademas with Mr. Ashbrook.
Mrs. Burke of California with Mr. Brown of Ohio.
Mr. Brooks with Mr. Martin of Nebraska.
Mr. O'Hara with Mr. Anderson of Illinois.
Mr. Moss with Mr. Johnson of Pennsylvania.
Mr. Macdonald with Mr. Gubser.
Mr. Reid with Mr. Stokes.
Mr. Nix with Mr. Podell.
Mr. Van Deerlin with Mr. Eshleman.
Mr. Rostenkowski with Mr. Wydler.
Mr. Gunter with Mr. Beard.
Mr. Shipley with Mr. Mitchell of New York.
Mr. Charles Wilson of Texas with Mr. Kuykendall.
Mr. Wolff with Mr. Steiger of Wisconsin.
Mr. Diggs with Mr. Eckhardt.
Mr. Hébert with Mr. Young of South Carolina.
Mrs. Hansen of Washington with Mr. Nelsen.
Mr. Koch with Mr. Bell.
Mr. Landrum with Mr. Downing.
Mr. Pike with Mr. Snyder.
Mr. Rose with Mr. Collier.
Mr. Stephens with Mr. Hungate.
Mr. Teague of Texas with Mr. Edwards of Alabama.
Mr. Ashley with Mr. Spence.
Ms. Abzug with Mr. Young of Georgia.
Mr. Clark with Mr. Steele.
Mrs. Collins of Illinois with Mr. Keating.
Mr. Jarman with Mr. McCormack.
Mrs. Mink with Mr. Moakley.
Mr. Montgomery with Mr. Patman.
Mr. Stubblefield with Mr. Tiernan.
Mr. Melcher with Mr. Dellenback.

The result of the vote was annouced as above recorded.

A motion to reconsider was laid on the table.

MAKING TECHNICAL CORRECTIONS IN THE ENGROSSMENT OF H.R. 6186

Mr. STUCKEY. Mr. Speaker, I ask unanimous consent that the Clerk be authorized in the engrossing process to make the following technical amendments to H.R. 6186:

On page 1, line 8, strike "subchapter" and insert in lieu thereof "article".

Page 2, lines 5 and 7 strike "subchapter" and insert in lieu thereof "article".

And on the last line of the amendment strike "subchapter" and insert in lieu thereof "article".

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GUAM MILITARY RELATIONS

(Mr. WON PAT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WON PAT. Mr. Speaker, on October 11, 1973, in the floor discussion of the military construction bill, I pointed out to the Congress the difficulties the Government of Guam and my office have encountered in obtaining information from the Pentagon regarding their land-use requirements in the territory of Guam.

The Armed Forces Journal International, a prestigious publication widely read by the Defense Establishment, has written an excellent article outlining the problems Guam is having with the military. The article appears in the November issue of the Journal, and I am pleased to include it in the RECORD at this time for the information of my colleagues:

GUAM GETS SILENT TREATMENT ON NAVY PLANS FOR IDLE LANDS

While more than one-fifth of the land which the Department of Defense holds on Guam lies idle, the island's citizens are becoming increasingly impatient because no one will tell their Governor or Delegate to the U.S. House of Representatives what plans, if any, exist for its eventual use.

Its disposition is important to the Guamanians because almost one-third of the 212 sq. mi. island—50,000 acres out of 136,000—is federally owned land, held for "national security purposes" since the island was liberated from the Japanese in 1944. But despite the dramatic rise in military activity on the island during the Vietnam War, 11,000 acres of the DoD-held land still sits "abandoned for all practical purposes and off limits to the very people who could make the land productive once again," according to Antonio Won Pat, Guam's Delegate to the House of Representatives.

"To a people living on an island only 30 miles long and 8 miles wide," he noted during recent House debate on the FY 74 Military Construction Authorization bill, "every acre counts. Guam cannot afford the luxury of having 11,000, 5,000 or even 1,000 acres of our best land idle."

The Navy seems to be largely responsible for the unused 11,000 acres that Guamanians would like to have back if DoD's only plan is to keep it in cold storage for another quarter century. Won Pat told his fellow Representatives, "I regret to state that the U.S. Navy is relentlessly pursuing a course which will certainly destroy the amiable and close relations between the civilian and military communications on Guam unless promptly checked."

Guam had a population of 89,926 in 1972; 32,993 of these were DoD military or civilian personnel and their dependents. Most of these are Navy (59% of all dependents, for instance).

Guam has begun to develop on a large scale during past years and the problem of land shortage has become acute. Tourism has grown from 10,000 tourists just 5 years ago to 130,000 in 1973 and the population is "soaring." (The number of U.S. military personnel stationed there dropped from 17,000 to 16,000, however, just between last March and June.) Won Pat says that Guamanians urgently need the unused Navy land for housing, schools, parks, hospitals, nursing homes and "to use our limited resources to develop an economy separate from the vicissitudes of military spending, which is precarious at best."

Along with his Governor, Won Pat has been unable to gain release of the unused land, much less find out what plans, if any, the Navy has for ever using the 11,000 acres. Last year, he asked the President's Property Review Board to study DoD's long range land requirements on the island. The study, known as Project Gateway, was completed by the Navy last September but classified. Late last March, Won Pat wrote to then Defense Secretary Elliot Richardson asking that certain portions of the study, relating to Guam but not to strategic matters, be declassified.

SLOW MAIL

Five weeks later, he received a letter from Deputy Assistant Secretary of Defense Edward J. Sheridan that action had been initiated to provide him with an unclassified version of the Gateway study. Sheridan noted specifically, "We hope to be able to provide you with this document within the next few weeks."

"Seven months later," Won Pat says, "the Governor of Guam and I have yet to lay eyes on this elusive study, despite repeated requests."

AFJ has learned that Guamanians never will see the study. It is obsolete and another study has been initiated to "update it." "Project Gateway is no longer relevant," AFJ was told.

Asked why Don Pat hadn't been notified of this, DoD's Sheridan said that he was being advised of the new study in a letter that had been forwarded to Defense Secretary James Schlesinger for signature "2 or 3 days ago." But when Sheridan checked on the letter's status, he found that it had been sent for signature on September 27th and was still awaiting action 3½ weeks later. It won't tell the Guamanians much—except that they can't have the Gateway plan because a new one is being prepared while DoD restudies its worldwide basing posture.

Meanwhile, one Navy official has voiced an objection to briefing Guam's Governor on even the tentative Gateway results because, he said, "classified material can't be shown to non U.S. citizens." (Guamanians are U.S. citizens and have been ever since the Organic Act of 1950, passed 23 years ago.)

That same Navy official might also be surprised to learn that on a somewhat similar issue just a few years ago; a senior Navy civilian official showed the Governor of Puerto Rico a secret paper on the Navy's plans to expand the Culebra gunnery range. (After an AFJ query last year about the Governor's security clearances, the Navy declassified the paper but admitted that it was still classified secret at the time Joseph Grimes showed it to then Governor Luis Ferre. Navy spokesmen said Grimes acted within existing security regulations in making the paper available.)

Guam and Puerto Rico hold identical status as U.S. territories who are represented but do not have a vote in Congress.

One DoD official told AFJ he "got the point" but couldn't offer an answer when asked why the Governor of one territory enjoys a visibility another doesn't over Navy plans affecting their territories.

Won Pat stresses that Guamanians "are proud of our part in helping the military to do its job" and that their loyalty to America is unquestioned. He notes, for instance, that almost 4000 Guamanians serve in the Armed Forces. (This would amount to almost 8% of Guam's civilian population, compared with a national average of about 1% for service in uniform.) "We want to preserve Guam's role in America's strategic plans," he says, but noted also that given the kind of answers Guamanians haven't been getting about those 11,000 idle acres, a complicated issue could mushroom "into a bitter and insoluble dispute."

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS PRESIDENT STILL REFUSES TO ACKNOWLEDGE SEVERITY OF ENERGY CRISIS

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, last night President Nixon proposed a series of emergency energy steps. They include the 50-mile-per-hour speed limit, the cutback on outdoor lighting, a ban on Sunday sales of gasoline and other miscellaneous measures.

These are all commonsense items which Congress already had included in the emergency energy legislation that is now moving toward enactment. The Senate passed the bill last week.

What was lacking from the President's message is any intimation of a coherent national energy policy. The President still refuses to acknowledge the scope and severity of the energy crisis. He is trying to make the public believe that the shortage will not be as bad as it actually will be, and that the energy-savings measures will save more fuel than they actually will.

There was no call in the President's message for the long-range research we need to develop alternate sources of energy. He mentioned nothing about rationing to conserve supplies we have. He outlined no comprehensive program for dealing with this energy crisis.

The only heartening thing about the message is the indication that he is at last ready to accept some of the actions that Congress has been urging upon him for the past year and more. I was especially glad to hear that the President will sign the mandatory fuel allocation bill. This is the same bill which his administration deliberately stalled all summer.

Mr. Speaker, in a thorough and detailed white paper issued last weekend, you described the initiative and the actions of the Congress with regard to energy. You contrasted this work of the Congress with the delay and indifference of the administration.

I ask unanimous consent that the entire 22-page document be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The document follows:

The Energy Crisis

(Statement of Representative Carl Albert, the Speaker, U.S. House of Representatives, Nov. 25, 1973)

In a major statement presenting the Congressional view of America's energy crisis, Speaker of the House Carl Albert today charged that the Nixon Administration is not doing enough to counteract growing power shortages and that Administration policies have actually played a major part in causing the energy crisis.

"America faces an extremely severe energy shortage during the coming months," the Speaker of the House said, and the causes of the shortages "go back many years and are deeply rooted in long-standing policies pursued by the Nixon Administration."

In a lengthy statement, Speaker Albert itemized mistakes made by the Administration, including:

Impounding millions of dollars in funds appropriated by Congress for energy research and development—while simultaneously criticizing the Congress for not doing enough to solve the energy crisis.

Maintaining an Oil Import Control program which kept foreign oil out of the United States during recent years while America's fuel reserves were falling to dangerously low levels.

Refusing to implement the mandatory fuel allocation authority granted by Congress until it was too late to make much impact on the distribution of fuel supplies and then, at this late date, implementing the program ineffectively.

Failing to draw up contingency plans and to stockpile adequate fuel reserves in the face of obvious political instability in the Middle-East.

Mishandling the price control program by freezing gasoline prices at seasonal peaks and home heating oil at seasonal lows, thus forcing refiners to convert crude oil to gasoline instead of to heating oil in preparation for the winter months.

Failing still at this late date to realize, and to tell the American people, how tight our energy supplies really are and to take the far more stringent allocation, rationing and conservation measures that are our "only hope of riding out the difficult winter just ahead and the difficult years which will follow."

The Speaker of the House stated that Administration spokesmen are touring the country in an effort to "rewrite the history of the energy crisis" to suit their own needs, trying to create the impression that the Congress is responsible for energy shortages but that, in reality, "quite the opposite is true."

Speaker Albert pointed out that "the President had no program" for meeting emergency energy needs and that, without exception, all the emergency legislation which Nixon requested in his November energy address was legislation which a "determined Congress" was about to force on a President who had not been willing to use even those authorities he already had.

The Speaker of the House also termed Nixon's $10 billion dollar energy research and development program a "paper program" created simply by reshuffling existing programs under new budget titles.

"It has become apparent that fully two-thirds of the funds for the 'new' program are funds already budgeted. Only about one-third is new money, and the rest is simply a result of reshuffling existing budget titles to place activities only vaguely connected with energy research and development under this heading" the Speaker said.

The Speaker also criticized the Administration's plans for use of energy research and development funds, saying that nowhere in the program are sufficient funds for coal liquification and gasification and other forms of potentially valuable energy research and development.

Throughout his statement, Speaker Albert stressed the need for President Nixon to be honest with the Congress and the American people about energy shortages.

The Speaker stated that it will be difficult for the Congress to "look past the bitterness" the President is engendering in trying to create the impression that it is the Congress, rather than his own Administration, which has placed the Nation in its present serious difficulties.

The Speaker of the House concluded that the Congress would have to challenge both the President's version of events leading up to the energy crisis and his analysis of the gravity of the situation.

"The Administration's story on the energy crisis is wrong and, if it goes unchallenged, history will catch up with America just as surely as it is now catching up with the Nixon Administration," the Speaker said.

The Energy Crisis

(Statement of Representative Carl Albert, the Speaker, U.S. House of Representatives, Nov. 25, 1973)

America faces an extremely severe energy shortage during the coming winter months and for the foreseeable future.

Following on the heels of a year of rapid inflation, during which the average person's real purchasing power has actually declined by several percent, the sudden appearance of severe energy shortages is a disheartening and even frightening event.

At best, these shortages mean serious inconvenience—and potentially even danger—for American families, who will find themselves without enough fuel to heat their homes this winter, without sufficient gasoline for their cars, and without enough energy to run their places of employment, their factories, their farms and businesses.

At worst, the energy shortages will mean massive disruption of our Nation's life and economy, closing of factories and schools, declining production, and widespread unemployment rising to 8% or even higher.

The fact that energy shortages have burst so suddenly upon the public's awareness does not mean that this problem has developed overnight. In fact, quite the opposite is true—the origins of the shortages we are now experiencing go back many years and are deeply rooted in long-standing policies pursued by the Nixon Administration.

I. NEED FOR CANDOR WITH THE AMERICAN PEOPLE

Early in November, President Nixon presented a message concerning energy shortages to the American people. In his message, and on several occasions since then, the President has attempted to place the responsibility for the serious shortages we are now facing on international events, on our standard of living, and on the Congress—especially on Congress.

Even in his initial address, in which he called for national unity and cooperation from the Congress in solving our energy supply problems, President Nixon sought to convey to the American people the impression that the Congress is chiefly responsible for current energy shortages—an assertion which I believe will not withstand an examination of the facts.

In truth, the President has tried to place the blame for the energy shortages we are experiencing almost everywhere except where the greatest share of responsibility for scarcities really belongs—at the doorsteps of the Nixon Administration. Even as I write, the President's surrogates are touring the country, repeating the Administration's assertion that delays by the Congress, and not Administration negligence, are primarily to blame for our energy supply problems.

In view of the Administration's concerted efforts to mislead the Nation regarding where responsibility lies for our energy shortages, I believe it is necessary to outline the events which have lead up to present energy scarcities, and to place before the American people information which will help clarify the Nixon Administration's mishandling of and even causing of those events.

This is a task I would much prefer not to have to undertake, for a spirit of cooperation among the branches of government is essential during a crisis, and—let there be no doubt—America is facing a crisis of immense proportions.

However, President Nixon has once again chosen not to be candid with the American people—not about the magnitude of the crisis we are facing—not about the origins of, and responsibility for, the crisis; and not about the ease with which the problems we are facing will be solved.

I therefore believe that it is incumbent upon the Congress to provide for the American people the facts regarding the origins and seriousness of the current energy supply situation—for at this point in time basic honesty by the government with the people concerning our situation must take precedence over Congressional cooperation with an Executive branch which has, unfortunately, chosen not to be candid concerning the magnitude of the crisis we are facing, and which has chosen to rewrite the history of the origins of the energy crisis to suit its own purposes.

The President has promised the American people more than I—and he—know can be delivered. President Nixon has told the Nation that there will be no real suffering on the part of our citizens.

In my judgment, we stand a better than even chance of experiencing an actual decline in production next year, accompanied by widespread unemployment among our people, perhaps even reaching above 8%.

President Nixon has told the Nation that his Administration has acted quickly and responsibly to meet the energy crisis.

In fact, the Administration is in chaos. It has no effective leadership with which to meet this crisis and it has not taken anything like the actions which will be necessary to avert a major recession.

There has been a succession of no fewer than four energy policy heads in as many months.

The Administration is speaking on energy matters with at least eight voices, none of whom are saying the same things.

The steps to conserve energy taken by the Nixon Administration thus far are more cosmetic than meaningful—and they are nothing like the stringent measures which must be taken, and taken now, if we are to survive the immediate energy shortage without severe damage to our Nation's well-being, economy, and security.

President Nixon has told the Nation that the Congress has been dragging its feet on energy matters and is therefore responsible for the current shortages.

In reality, quite the opposite is true. Those constructive measures which have been taken and will be taken in the immediate future (including the emergency legislative recommendations which the President has taken as his own) have originated without exception in the Congress, and not in the Administration.

It is the Nixon Administration which has dragged its feet, by failing to implement the authorities granted to it by the Congress in the energy field; by asking the Congress to retard the development of its own legislation; and by failing to deliver to the Congress promised legislative recommendations.

In fact, there is very substantial evidence—which I shall present—that the policies pursued by the Nixon Administration have themselves been a major factor in precipitating America's energy crisis.

To understand fully the origins of our energy crisis, and the inaccuracy with which the President has described them to the American people, it is necessary to examine the record of the Nixon Administration and the record of the Congress on energy matters with some care.

II. THE NIXON RECORD ON ENERGY MATTERS—EMERGENCY MEASURES

It is illuminating—if painful—to survey the Nixon record on energy matters. A point-by-point review of the Administration's actions—and more frequent inaction—will make clear the extent to which the Nixon Administration has failed in addressing our energy problems squarely.

Let us begin by examining the emergency measures taken by the President last week.

To begin with, there is not one of these measures which could not have been implemented more than two years ago. And even more important, these measures represent far too little action and they have been taken far too late. Consider:

Nuclear power plant construction

The President has asked the Atomic Energy Commission to speed licensing and construction of nuclear power plants to reduce the time required to build these plants from ten years to six years.

In reality, the AEC has been struggling unsuccessfully for over 18 months to reduce the ten year lead time but has been unable to because of the immensely complicated technical problems of nuclear power plant construction—unless we are willing to sacrifice the safety of the American people. Furthermore, we are currently deriving only about one percent of our Nation's energy from nuclear power plants. If the number of plants were increased four-fold in the next five years—which is simply not possible—the amount of power generated would still be insignificant relative to our immediate shortages and to the long-term needs of the American economy.

This Presidential proposal for speeding nuclear power plant construction, which sounds so reassuring at first, turns out to be a command to do the perhaps impossible which, even if it could be done, would have an almost negligible effect on our total energy supply situation over the next few years.

Power plant conversion

The President stated that efforts would be made to convert oil burning power plants back to coal and to prevent new conversions from coal to oil.

There are several important observations to make on this point.

First, President Nixon's statement assumes that we have an adequate ready supply of coal. This is very far from true. Coal itself is in very short supply, and the situation is likely to get much worse before it improves.

There are severe shortages of many important items used in mining. For example, there is a shortage of diesel fuel used by the big shovels and in hauling coal in the mines and on barges. (Under the Nixon Administration's inadequate mandatory fuel allocation program, vital energy producers such as coal companies have, until very recently, received no more diesel fuel than they received last year.) And because the Administration implemented its price control program without proper regard for growing energy shortages, there is an extreme scarcity of the explosives and other equipment used in mining coal. There is also a scarcity of coal-hauling rail cars, and rail traffic itself has hardly yet recovered from the chaos wrought by the Administration's grain deals.

In fact, shortages in the coal industry are so severe that some of the big coal companies are currently meeting only about 60% of their existing contract commitments and are considering closing down by the end of December.

In view of all these shortages, the coal industry can expand production only by about 10% by next summer. Since coal currently accounts for about 18% of America's total energy consumption, this means that we can—through use of coal—increase our energy supplies barely at all this winter and by less than 2% by next June or July.

It will be literally years before coal production can even begin to make up for energy shortages. It takes about four years to open an underground mine and almost half that time to open a strip mine.

In short, it will be a long, cold winter for those who await resolution of our energy problems from the coal industry.

But suppose, for a moment, that coal were available—what about the oil to coal conversion measure for power plants suggested by the President? According to the Federal Power Commission, fewer than half the oil-fired power plants in the country could be converted to coal, and these conversions could not be completed in time to make any difference in the energy situation for the 1973–74 winter season.

Furthermore, in the East, where power plant conversion was begun many years ago, there are very few large plants left which can be converted back to coal at all—and this is the portion of the Nation expected to experience the most severe residual fuel shortages this winter, up to 48% below needs, according to an Interior Department advisory group.

Finally, it is very important to note that power plant conversions from coal to oil have been made necessary in the first place by terribly bad air pollution problems, literally a hazard to public heatlh and safety. President Nixon's failure to act soon enough and effectively enough on energy problems has placed us in a bind in which we sacrifice our energy production and our standard of living, or we sacrifice clean air and our health.

Thus this Presidential proposal for using coal rather than oil this winter—which seems so reasonable at first glance—in fact offers very little in terms of real contribution to solving our energy problems in the coming year and for some years in the future.

Speed limit reductions

President Nixon's proposal, which originated in Congress and passed the Senate last June, to governors and mayors to make across-the-board speed limit reductions to 50 miles an hour is another example of the Administration's shooting from the hip when carefully thought out plans are needed. The proposal has some merit, but it is far too little and far too late. Furthermore, there have been nationwide protests from bus and trucking firms for whom such a speed limit would actually result in increased fuel consumption because of massive disruption of schedules and because their engines are designed to run more efficiently at high speeds than at low speeds. While a 50-mile-an-hour speed limit—or lower—for passenger cars is desirable, imposition of such a speed limit on scheduled buses and trucks will wreak havoc with the efficiency of these industries. Had anyone in the Administration given even a moment's thought to this proposal before it surfaced in President Nixon's statement, it would have been apparent how incomplete and imperfect the implementation plans for this basically sound proposal were.

Mandatory fuel allocation program

President Nixon has announced his intention at long last to implement a mandatory fuel allocation program.

The Congress—whom Nixon is trying to blame for our energy problems—gave him the authority to require sensible allocation of available fuel supplies to various parts of the Nation years ago and then strengthened this authority more than half a year ago under the Economic Stabilization Act Amendments (P.L. 93–28). The Congress could see the energy shortages and fuel allocation problems coming, and so they gave our unwilling President the atuhority to deal with the problem and pleaded with him time and again to use it.

President Nixon did hardly anything with this authority. In May he announced the implementation of a voluntary fuel allocation program to distribute scarce fuel supplies. But the disastrous failure of the voluntary program was aptly demonstrated last summer when over 2,000 independent gasoline service stations were forced to close their doors from lack of supply. Moreover, the errors of the voluntary program were exacerbated by the Administration's Cost of Living Council, which brought about the closing of more gas stations and near rebellion among service station owners this fall.

The Administration's voluntary scheme for resolving last summer's gasoline shortages resulted in disaster, while the Congress pointed time and again to the real solution, asking the President to use the power it had given him to establish mandatory allocation programs, to provide an equitable distribution of available supplies. Typically, the response of the Nixon Administration was inaction.

After it had become clear that the President would not take meaningful action, the Congress began last June to consider legislation to force the President to act. The Administration asked the Congress to delay this legislation, promising to deliver its own bill to the Congress within a week. This promise was not kept.

Shortly thereafter, another person was installed as head of the Administration's energy policy activities—the fourth such individual in four months. Like his predecessor, this man promised to deliver an Administration plan for mandatory fuel allocation to the Congress. That plan was never delivered.

It is a sad commentary on the Administration's lack of basic honesty that this person, who himself asked the Congres to delay action on its energy legislation, has now joined in the Administration's well-orchestrated attempts to blame Congress for delaying action.

At long last, well past the eleventh hour, the Administration has implemented a mandatory allocation program for propane and middle distillates—and they are implementing the program badly. Typical of the Administration's errors is its failure to provide the proper administrative framework for the program. The middle distillates program (home heating and diesel oils) has been so badly handled that governors from around the country—who are desperately concerned about solving the energy shortages in their states—have actually had to write to ask the Administration to withdraw the program for a month and then to try again to implement it properly.

It seems that the Administration began the program without first writing the necessary forms or obtaining staff to handle the program: for example, there are only two people in the Office of Oil and Gas in one major West Coast city to handle literally thousands of inquiries as to how the allocation program is to be carried out.

Among the distributors and the States, who are supposed to carry out the program, no one really knows how it should operate and confusion reigns. This has occurred because the program was implemented with so little planning and forethought. The Administration was caught totally unprepared, revealing once again their lack of adequate policy planning.

However, even if it had been administered properly bureaucratically, the Administration's program would still have fallen far short of what is needed because they have failed until just recently, at the end of November, to try to introduce any system of priorities for allocating fuel among various kinds of users. Under the system originally imposed by the President, merry-go-rounds and pleasure boats got the same priority for oil as hospitals, schools and public utilities. Unbelievably, the Administration waited until the end of November, when freezing weather had already struck many parts of the Nation, to provide special fuel allocations to such industries as the coal mining industry, which desperately needs increased fuel supplies in order to mine the coal to make up for the missing oil.

By now, however, the priority system may not matter anyway. The Administration has dragged its feet so long that it is almost too late to make meaningful home heating oil allocations before winter sets in. And, even more incomprehensible is the fact that the Administration has failed—even at this late date—to provide mandatory allocation of residual oil, which fuels heavy industry. Thus, even though the shortage of residual oil may reach 37 percent nationwide according to the Administration's own advisory council, President Nixon still has not faced up to the need for mandatory allocation of all oil products. Shortages of residual oil on the East Coast may come close to the 50 percent level, forcing drastic curtailment of production and consequent declines in employment. The President has had authority to impose a mandatory control program on residual oil for a very long time, but even now he still refuses to use it and so the Congress is preparing legislation to force him to take this obviously essential step.

Federal energy conservation

The President ordered reduction in the Federal government's consumption of energy, which is all to the good. The President has not been alone, however, in his concern about Federal government energy conservation. For example, earlier this year, the Congress passed an amendment to the Department of Defense Appropriation Act stating the sense of the Congress "that prompt effective action be taken by the Department of Defense to conserve important petroleum resources" and directing the Secretary to initiate conservation measures not incompatible with national defense. The 7 percent reduction in the Federal government's consumption of energy which President Nixon has just ordered follows the pattern set by Congress.

The most notable fact about all the above emergency actions taken by the President is that they represent a terribly belated and inadequate effort by the Administration to come to terms with energy shortages by using legislative authority granted years ago by the Congress in an effort to avert the crisis we now are facing.

President Nixon has implied that he has taken meaningful steps to counteract energy shortages. But he has greatly overstated the possible beneficial effects of his program and has thus misled the American people concerning the possibility of readily solving our energy supply problems. In reality, the President's actions constitute far too little effort at this late date.

Furthermore, the President has implied that it is he who is leading in the fight to conserve energy when, in fact, the Congress has in every instance preceded the President in acting to control and conserve energy usage by granting the Executive branch the required authorities—authorities which the President has steadfastly refused, and is still refusing, to utilize.

The Congress has actually found it necessary to prepare remedial legislation to force the President to deal with the energy crisis, such as the legislation forcing the President to institute a mandatory allocation system.

III. THE NIXON RECORD ON ENERGY MATTERS—EMERGENCY LEGISLATIVE PROPOSALS

I believe I have dealt adequately with the misimpressions created by the President concerning the meaningfulness of his emergency actions taken early in November. But what of the future, what of President Nixon's new emergency legislative program unveiled before the American public on national television?

The really new legislative ideas, as the President himself was practically forced to admit, are coming out of the Congress.

There was not a single Administration item in the emergency package. Every single proposal mentioned by President Nixon as part of "his" program was contained in energy bills introduced months ago and already well along in the Congress—energy conservation bills which the Administration has been opposing and delaying.

The Administration's about-face on this matter is really quite incredible—from opposing and delaying energy conservation measures which the Congress has fashioned to claiming these Congressional bills as the President's own program, and criticizing the Congress for acting too slowly on the same Congressional bills they have been opposing. All this in a matter of weeks.

President Nixon, in his November address, made several references to his energy messages and to his desire that Congress act quickly on emergency legislation designed to counteract the energy crisis.

The implication of the President's remarks was that the Congress has been dragging its feet while the President is in a hurry to implement emergency legislation. Nothing could be farther from the truth.

Once again, the President has attempted to convey a misleading impression to the American people.

The President had no program for emergency legislation. Virtually all the preparatory work for meeting the energy crisis was done in the Congress, not the Executive branch. Every emergency program mentioned by the President originated in the Congress and had never been mentioned prior to this time by the President in any of his energy messages.

Tapping of the Naval petroleum reserves was never mentioned by the President prior to early November as a possible solution, in the short term, to our energy crisis. This authority was, however, contained in major Congressional energy initiatives, in case dire emergency should force this last-resort action.

Reducing speed limits on Federal highways to conserve gasoline had never been mentioned by President Nixon prior to his November address, but such legislation was passed by the Senate last June.

President Nixon has never in his energy messages, or elsewhere, mentioned returning to daylight saving time on a year-round basis until his "request" for this authority from the Congress. Major Congressional legislation, prepared long before the President spoke, however, already included this provision which, it is estimated, will bring a 3% savings in fuel consumption.

General energy conservation measures, such as restrictions on working hours, had never been mentioned by the President in any of his energy addresses. Congressional legislation, on the other hand, already included these provisions and the Congress was preparing to force them on a President who had been totally unwilling to implement broad energy control measures.

Standby rationing authority is one of the measures which President Nixon stated that "it is imperative" that he receive before the Congress recesses. Congressional legislation, however, already contained rationing authority, and the Congress was preparing to force this authority on a President who, thus far, had been unwilling to implement even the mandatory allocation authority which had been granted to him years ago and strengthened last spring.

President Nixon requested authority to regulate schedules of trains, ships, and other carriers, including speed limits, in order to economize on fuel consumption. This was the first the Congress had ever heard of the President's interest in such measures. Major Congressional legislation, however, had already been prepared, providing the required authority.

Thus, without exception, the emergency authorities which President Nixon "requested" from the Congress in early November were in fact authorities which a determined Congress was about to thrust upon him. The President's "emergency energy conservation" program did not exist. It was simply a compilation of legislation already pending in the Congress—legislation which the Congress was about to pass and to force upon a President who had been reluctant to use even the authorities which he already had.

IV. THE NIXON RECORD ON ENERGY MATTERS—HIS ORIGINAL LEGISLATIVE PROGRAM

As for the President's seven-item legislative request last spring, concerning which the President criticized the Congress in his November address, this program is simply inconsequential in relation to the energy needs of the Nation over the coming decades.

The President attempted to convey to the American people the impression that the Congress, by not passing the requested legislation, was delaying the Nation's long-term energy development. In fact, however, the seven pieces of "major legislation" which the President criticized the Congress for not passing are practically a joke in terms of solving our real long term energy needs.

The Santa Barbara Channel legislation permits the Federal government to repurchase 35 oil leases in the Santa Barbara Channel and compensates for this by opening drilling on certain public lands. This is hardly a "major" piece of energy development legislation; and furthermore, the Administration apparently is about to change course and request reopening of drilling after all in the Santa Barbara Channel—the site of the disastrous 1969 oil spill.

Furthermore, the opening for commercial production of the Elk Hills, California, Naval Oil Reserve and other Naval Reserves is fraught with danger for the security of the United States.

These Reserves were created for a purpose—to provide a sure supply of oil for use in the defense of our Nation.

Only as a last resort should these Reserves be tapped—not frivolously by a President who does not believe we have a severe energy shortage, who is still unwilling to use his full petroleum allocation authority, and who is not yet willing to admit that more than "stand-by" consumer gasoline rationing authority is needed.

If we have, indeed, come to our last resort, then let the President so acknowledge by taking the kind of stringent conservation measures the situation calls for—and acknowledge also his responsibility for placing our Nation in a bind in which we sacrifice either our energy production and our standard of living, by not using oil from the Naval Reserves—or we dip into the Naval Reserves and sacrifice the future security of our Nation.

We have a President who seems constantly to present us with two bad alternatives and no good choices.

For my own part, I find it very strange policy indeed to propose that the civilian economy draw on the military reserves in the same week that the Pentagon has begun commandeering civilian oil supplies under the the Defense Production Act because the military is running out of fuel.

The Electric Facilities Siting Act deals, not very well, with a small and possibly unresolvable problem which the AEC has already taken independent steps to deal with. The bill is drafted so badly that even the power companies, who it is supposed to help, opposed it. It does not have a chance of going anywhere in the form in which the Administration submitted it. Only a great deal of effort by the Congress could possibly put this bill into workable shape.

The *Mined Areas Protection Act* is the Administration's strip-mining bill and is widely viewed as a "sell-out." The bill would allow strip-mining to go unregulated for several years. Its provisions are weak and nonspecific, and even the Administration's own Environmental Protection Agency opposed the bill. Much better legislation has been prepared by the Congress and has already passed one body.

The *Mineral Leasing Act Amendments* and *Bureau of Land Management Organic Act*—the Alaska Pipeline bill has been enacted, and in much better form than the Nixon version. Even so, it will be years before this measure can bring some limited relief to our energy supply problems.

Furthermore, when the Congress enacted this legislation, it added vitally needed provisions to aid small businesses and consumers—causing the Office of Management and Budget, and the President, to threaten veto of the bill.

The *Deepwater Port Facilities Act* is another measure which is years away from having any impact on our very immediate and urgent energy supply problems. Deepwater ports are controversial; they certainly won't contribute to American energy "self-sufficiency"; and these ports take years to construct.

To call for emergency energy crisis legislation for deepwater ports at this particular time is rather like asking for emergency legislation to build a bucket for a dry well.

The *Natural Gas Supply Act* would remove all regulation from well-head prices. This is a controversial issue and, most importantly, increasing gas prices will not increase our in-ground energy reserves, and this is our real long-term problem.

In short, these seven pieces of "major legislation" which the President criticized the Congress for not passing are for the most part insignificant or so bad that they should not pass. All these bills are inconsequential for the short term. The only meaningful bills for the long term were the Alaska Pipeline and Deepwater Ports. The Pipeline bill has been enacted, and Deepwater Ports legislation is well along. Both bills originated in Congress, and neither bill began with a Presidential initiative. Unfortunately, neither bill can make substantial contributions to our energy supply situation in the near term.

V. THE NIXON RECORD ON ENERGY MATTERS—POLICIES CONTRIBUTING TO CURRENT SHORTAGES

The Nixon Administration's failures in dealing with energy problems are not limited to the lack of adequate plans to deal with the shortages which are now upon us.

In fact, the President's policies of years past have in large measure actually created the grave difficulties in which our Nation has been placed.

Probably the outstanding example of bad Administration policies lies in its handling of the oil import control program. This program, which discouraged entry of foreign oil, resulted in artificially high prices for domestic oil and a consequent unnecessarily heavy drawing on our domestic oil reserves.

In 1970—three years ago—President Nixon's own blue-ribbon Cabinet-level Task Force recommended abolishing the oil import quotas. The Task Force, like Members of the Congress, could see the energy shortage coming and the damage the import quotas were doing in America.

But—incredible as it is—only this year, in the face of tremendous pressure, did the Administration finally dump the import control program—a program which has made us use up our domestic oil reserves much faster than we otherwise would have and which has discouraged us from building the refinery capacity which could have helped us avoid last winter's oil shortage and this summer's gasoline shortage.

Some statistics here will help show how long the Administration remained unwilling to deal realistically in the interests of the Nation with growing energy shortages.

By 1972, several years after shortages had become apparent, the Administration was finally willing to admit that petroleum scarcities were occurring, and so the President authorized entry of another 230,000 barrels of oil per day.

By this time, even the oil companies, and especially independent refiners and distributors, were pleading with the Administration to discard the import control program and for an increase in supplies.

The Administration, however, remained unwilling to abandon the import control program: by the end of August, 1972—about a year ago and two years after the Task Force report—the official Administration position, as expressed by the Interior Department, was that no real shortage existed and that not more than an additional 50,000 barrels of oil should be allowed to be imported. This position is almost unbelievable in view of the fact that by this time distillate stocks had dropped to 25% below the 1971 level. Yet the Administration still hung on to the import control program.

By January, 1973, the Administration had had to increase oil imports by 915,000 barrels per day over the 1972 level—a tacit admission of the total inaccuracy of its earlier position. Stocks were still in terribly depleted condition, but despite this fact, not one single refiner was granted additional imports as large as had been requested. Refineries were running well below capacity, and no oil was available because the Administration would not allow more to enter the country.

Last spring, the Administration finally discontinued the oil import control program and now, less than a year after belatedly dropping the import control program, the Administration tells us that we will be between 20 and 30 percent short of needed petroleum supplies by next spring.

Even the major oil companies were finally urging the Administration to end the import control program before the President finally dumped it, not in 1970 or 1971, when it might have done some good, but in 1973 when the shortages were already upon us and we had become terribly vulnerable to oil cut-offs such as we now face.

Far from planning rationally for future scarcities, the Nixon Administration has, through deliberate policy, placed our Nation in its present dangerous situation.

The Administration's handling of the import control program not only kept badly needed oil out of the country, but also had the secondary effect of preventing construction of needed refineries in the United States.

The oil industry knew that the import control program could not last much longer, and refiners preferred to wait for government action on long range policies concerning distillate and heavy fuel oils before making commitments to building new refineries. Needless to say, real long-range policies never materialized in the Nixon Administratioin.

Continuation of the import control program long past its useful life would alone have resulted in serious energy shortages in the United States this winter, Arab embargo or not. But the Administration exacerbated the shortages of petroleum products by mishandling the price control program under the Economic Stabilization Act.

The August, 1971, price freeze set gasoline prices at seasonal highs and heating oil prices at off-season lows. This resulted in refiners converting a maximum percentage of the limited crude oil imports they were able to obtain into gasoline rather than into fuel oil. This was a major factor in causing the alarming low fuel oil stocks of the summer of 1972.

There can be little doubt but that the Nixon Administration, through its unwise continuation of the import control program and handling of price control authority has contributed substantially to creating our present energy shortages.

VI. THE NIXON RECORD ON ENERGY MATTERS—RESEARCH AND DEVELOPMENT

Unfortunately, the Administration's record on energy research and development is no more impressive than its handling of the import program and price controls.

After a very heavy prodding from Congress, President Nixon finally publicly adopted a research and development program about half the size of that proposed by Congressional leaders. The Nixon initiative—announced with much fanfare—was to be a five-year $10 billion research and development program.

Unfortunately, the President's statements about his program were very misleading. It has become apparent that fully two-thirds of the funds for the "new" program are funds already budgeted. Only about one-third, $3.5 billion, is new money, and the rest is simply a result of reshuffling existing budget titles to place activities only vaguely connected with energy research and development under this heading.

This Nixon program is not slated to take effect until fiscal year 1975—when we are suffering severe energy shortages now—and most of the research and development money is slated for the breeder reactor, a program that may help us by 1990, but certainly not before that time.

Furthermore, the breeder reactor is a classic case of putting all the eggs in one basket—nowhere in the President's program are there sufficient funds for coal gasification and liquefaction programs which we need now, which we can count on to help us solve our pressing energy supply problems from now until the breeder reactor could be available.

The way the President plans to use the totally inadequate $700 million per year in new money will not give our Nation anything like self-sufficiency in the years ahead.

But then, we cannot be certain that President Nixon is really asking for $700 million annually in new money. Following the June 29th announcement of the President's so-called "$10 billion dollar" program, he actually asked for an additional $115 million for fiscal year 1974. And, in his October 11th message, the President did not mention that $60 million of this $115 million dollar amount had already been appropriated by Congress, so the new "$10 billion dollar" program really amounts to $55 million in hard cash this year—an inconsequential change in budget priorities by Federal standards, and a meaningless amount in terms of the cost of meaningful energy research and development.

Indicative of the Administration's real position on energy research and development is the fact that, on the very night the President spoke, none of the Congressionally appropriated funds—which were in excess of the President's original budget request—had been released for agency use.

The President's claims to the Nation regarding his efforts to solve the energy crisis have misled the American people at a time when it is terribly important that they be told the truth. In truth, the President has no real program with which to face our energy crisis. The Administration's fourth so-called energy research and development program, mistitled "Project Independence," exists largely on paper.

A program does exist, fashioned by the Congress against the will of a reluctant President. But the Administration appears to lack the leadership needed to carry the program out successfully.

VII. THE RECORD OF THE CONGRESS ON ENERGY MATTERS

I believe that a more realistic assessment of the Congress's and the President's efforts to solve the energy crisis can be obtained from actual records, rather than from Administration speeches. For example:

More than $20 million in energy research and development money from Public Works-Atomic Energy Commission appropriations has been impounded by the President's Office of Management and Budget. This includes funds for geothermal, solar, gas, and nuclear power research.

Congress appropriated $23 million more than the President's budget requested for coal gasification and liquefaction.

The President's budget requested $4 million for geothermal research. Congress appropriated $11 million, so OMB impounded $7 million in funds for this promising energy research program, again impounding funds badly needed for energy research and development.

The Office of Management and Budget is blocking construction of $4 million dollars in power units on the Columbia River—where jobs are now being lost because of insufficient energy supplies. The Bonneville Power Administration had testified in previous years that a power deficiency in the area was imminent, and Congress had set the target date for operation of the power units at 1975. However, because of Administration impoundments, the date has slipped back to 1981.

If the past is prelude to the future, as I believe that it is, Congress will continue to appropriate funds badly needed for energy research, and the President will continue to refuse to spend them, while simultaneously announcing grandiose plans for meeting impossible goals.

Thus we should not be too surprised if in the near future we hear about Congressional battles with the Administration over freeing impounded energy research and development funds while the President is telling the American people that his $10 billion paper program—really largely a reshuffling of existing energy funds—is going to meet the almost impossible goal of freeing America of dependence on foreign energy sources within the next six years.

If America had to wait for President Nixon, his energy advisers, and his Office of Management and Budget, there would be no progress at all on the energy front. Fortunately, however, the Congress has been very active on energy problems:

While President Nixon used the import control program to prevent oil from entering the country and thus prevented a build up in our danegrously low fuel stocks, Congress has been holding hearings and reporting thoughtful legislation to improve our position in nearly every area of energy supply policy.

The Congress granted authority to the President for the emergency actions he belatedly took several years prior to the President's using these authorities.

The "emergency legislation" which the President has now belatedly requested is in fact merely an echo of legislation fashioned carefully by the Congress over the last year.

The Congress has consistently appropriated more energy research and development funds than the President has been willing to spend. As recently as last summer, two Cabinet Secretaries testified before Congress in opposition to the Congress' plans for a large-scale energy research and development program.

In the last few weeks alone, both the Wall Street Journal and the Oil and Gas Journal—the Bible of the energy industry—have carried articles acknowledging how the Congress has seized the lead on energy supply problems after the Nixon Administration proved incapable of supplying the leadership the Nation needs. As the Oil and Gas Journal stated, just before the President's most recent energy message, October 29, 1973,

"The Nixon Administration is losing to Congress the initiative on energy policy. This is especially true of emergency measures. . . . initially the White House was reluctant to use the authority to allocate oil granted in the Economic Stabilization Act. Now, the President is at the point of getting mandatory allocation across the board shoved down his throat by Congress. . . ."

Twenty-eight committees of Congress have held more than 500 days of hearings on energy issues this year. More than 700-energy-related bills have been introduced and many of these have been, or soon will be, enacted. Each will make a contribution to relieving America's energy shortage. Both Democrats and Republicans in Congress have been working on energy problems, after becoming concerned about the Administration's obvious lack of leadership and incapacity in this area.

There follows a table showing major energy legislation receiving Congressional action this year alone:

ENERGY LEGISLATION RECEIVING ACTION IN THE 93D CONGRESS

Bill	House report	Date passed	Senate report	Date passed	Public Law
S. 70—Council on Energy Policy			93-114	May 10, 1973	
S. 268—National Land Use Policy			93-197	June 21, 1973	
S. 394—Rural Electrification Act	(H.R. 5683) 93-92	Apr. 4, 1973	93-20	Feb. 21, 1973	93-32
S. 398—Economic Stabilization Act Amendments of 1970	(H.R. 6168) 93-114	Apr. 16, 1973	93-63	Mar. 20, 1973	93-28
S. 425—Regulation of Surface Mining			93-402	Oct. 9, 1973	
S. 1081—Rights-of-Way Across Federal Lands (Alaska Pipeline)	(H.R. 9130) 93-414	Aug. 2, 1973	93-207	July 17, 1973	93-153
S. 1501—Water Resources Planning Act, Authorizations	(H.R. 6338) 93-266	June 19, 1973	93-174	May 30, 1973	93-55
S. 1570—Emergency Petroleum Allocation Act of 1973	(H.R. 9681) 93-531	Oct. 17, 1973	93-159	June 5, 1973	93-
S. 1828—Mining Enforcement and Safety Administration, Confirmation of Head			93-340	July 25, 1973	
S. 1993—EURATOM Cooperation Act	(H.R. 8867) 93-385	July 30, 1973	93-341	July 26, 1973	93-88
S. 1994—AEC Authorization	93-280 (H.R. 8662)	June 25, 1973	93-224	June 25, 1973	93-60
S. 2176—Energy Conservation			93-409		
H.R. 5441—Oil Pollution Act, amendment	93-137	May 8, 1973	93-405	Sept. 24, 1973	93-119
H.R. 5777—Hobby Protection Act	93-159	May 16, 1973	93-345 (S. 1880)	Aug. 2, 1973	
H.R. 8917—Interior Appropriations	93-322	June 27, 1973	93-632	Aug. 1, 1973	93-120
H.R. 8947—Public Works, AEC Appropriations	93-327	June 28, 1973	93-338	July 23, 1973	93-97

While the Congress has been moving forward steadily on energy legislation, the Nixon Administration has been opposing measures which would help alleviate shortages.

For example, President Nixon has threatened to veto the Congress' Mass Transit bill—one of the most obvious and best solutions for getting the gas-guzzling cars off the road. More than 20 million Americans use mass transit facilities every day, and the possibility of massively increasing this number by making mass transit more flexible, efficient, comfortable, reliable and safe, offers one of our Nation's best hopes for reducing our Nation's energy consumption.

Unfortunately, President Nixon is apparently planning to veto this legislation.

When the Congress has passed sound policies in the energy field, the Nixon Administration has implemented them badly, for example, the mandatory fuel allocation provisions.

As another example, the Congress passed the Geothermal Steam Act in 1970, which provided for leasing geothermal resources on Federal lands. It has taken the Administration three years to come up with a program to tap this valuable and promising energy resource. Meanwhile, final regulations have not yet been issued, and the Nation is denied the use of this source of energy by Administration delays and incompetence.

President Nixon has tried to shift the responsibility for our energy supply problems anywhere he could—to the Congress, to our rising standard of living, and to international events. But the purpose of government is to anticipate and avert problems, not to shift the blame for failure. The Congress has been at work on energy problems and is well ahead of the President. The Administration's wrong-headed policies with regard to oil import controls, mishandling of price control authority, confused and disjointed leadership, failure to create energy reserves and contingency plans in the face of obvious political instability in the Middle East, and general lack of foresight and careful planning have been the primary factors in creating the difficult situation in which our Nation now finds itself.

Most Americans know these facts—and those who do not will soon come to realize them when they are huddled around the fireplace trying to keep warm because there is no heating oil. The Administration has endangered the safety and future of America through its five years of non-policy and bad policy in the energy area, and the Nation is going to pay a high price for Administration failures.

The President spoke in his most recent energy message of the lessons that could be learned from the State of Oregon, where public cooperation has resulted in an 8% reduction in fuel consumption. The President, however, failed to point out the other lesson which we can learn from Oregon—that shortages in power have already caused the dismissal of almost 1500 workers in the soft metals industry; that lack of natural and propane gas is threatening to close down sawmills employing about 4,000 workers; and that imminent closing of an aluminum plant threatens another 600 jobs. And still another lesson can be learned from Oregon: President Nixon's Administration is even now delaying funds for completion of the Columbia River Power System, as factories close down and workers are laid off.

The American people are now being asked to pay with their patriotism the price exacted by the misguided policies and negligence of the Nixon Administration—and pay we will, with our comfort, our standard of living, our jobs, and our futures.

The American people will pay for the incompetence of the Nixon Administration but they will not forget it—because every cold winter day will be a reminder of the Administration's errors.

VIII. THE NEED FOR GOVERNMENT COOPERATION AND HONESTY IN DEALING WITH THE ENERGY CRISIS

Even now, as President Nixon speaks of "no real suffering" for any American because of the energy shortages his Administration has permitted and fostered, one of his most respected Cabinet members—somewhat more realistic than the President—is speaking of "potential plant shutdowns and massive employee layoffs."

The energy crisis is upon us, and still the Administration continues to speak with many confused voices—some saying there will be rationing, others saying there will not; some saying there will be high unemployment and others saying there will be little economic effect.

At a time such as this, it is more important than ever that the American people understand both the severity of the energy crisis and the fact that their Congress is hard at work on legislation which will help pull us out of this crisis.

There is also a need for cooperation among the branches of government during time of crisis. The Congress will work cooperatively with the President in solving our energy problems—if this is possible.

However, if forced by the President into choosing between being honest with the people and cooperating with the Administration, the Congress must of necessity choose to maintain faith with the people.

This choice is, in fact, the decision which the Congress now confronts. We must choose between cooperating with an Administration which is intent on deceiving the American people with regard to both the severity and the causes of our energy shortages, and being honest with the people by telling them that we are living on borrowed time, on our reserves, and that far more stringent allocation, rationing, and conservation measures are our only hope of riding out the difficult winter just ahead and the difficult years which will follow.

Cooperation at a time of crisis is essential. But it is very difficult indeed to cooperate with an Administration which is promising pie-in-the-sky "self-sufficiency in six years" while it impounds energy research and development money. Despite Administration rhetoric, the last of the tankers from the Middle-East are about to enter our ports, and we must sharply curtail our luxuries now, immediately, or we will find ourselves without essentials in the very near future, perhaps as early as January.

It will also be difficult for the Congress to cooperate with the President because we will have to try to look past the bitterness he is engendering when he attempts to rewrite the history of the energy crisis, so as to make it appear that the Congress is responsible for our energy shortages when, in reality, the burden of responsibility for negligence and lack of foresight truly lies far more heavily on the Administration.

If a nation engages in fantasy, reality will crush it. And right now, the Nixon Administration is engaging in a number of fantasies: that across-the-board fuel allocation and stringent rationing are not necessary; that we can draw on the Naval Petroleum Reserves with impunity, without endangering our future security; that the Administration has things under control and is doing enough to head off massive economic breakdown next spring; and that the Congress, and not the Administration, is responsible for the long history of mismanagement and neglect in which the energy crisis has its origins.

The trouble with trying to rewrite history to suit your short-term political advantage is that, in the long run, it doesn't work. History catches up with you and, if your story was wrong, you pay the price.

This is why the Congress cannot permit the Administration to write instant history now concerning the origins of the energy crisis.

The Administration's story on the energy crisis is wrong and, if it goes unchallenged, history will catch up with America just as surely as it is now catching up with the Nixon Administration.

THE 55TH ANNIVERSARY OF LATVIAN INDEPENDENCE

The **SPEAKER** pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. **DERWINSKI**. Mr. Speaker, may I direct to the attention of House Members the fact that on November 18, the Latvian people celebrated the 55th anniversary of their Independence Day. Because the House was not in session on that day, I wish to take this time to commemorate this historic occasion. This great event was celebrated only in the free world areas with an unfortunate feeling of sadness, as Latvian emigrees throughout the world keeping alive the historic nature of the occasion, could not truly be commemorated.

The people of Latvia itself are not permitted to celebrate their true independence day which, by the way, was achieved at the expense of the original Russian Communist Government.

It is necessary to remind the Members that the Soviet Union continues to suppress the nationalistic spirit of non-Russian Republics within the U.S.S.R. The Soviet Union, in its deliberate policy to eliminate the theorical independence of various Soviet Socialist Republics, is expanding regional governmental structures in an effort to blot out historic national lines. The Latvian people as well as Lithuanians and Estonians are being deliberately scattered about the Soviet Union in order to lessen their nationalistic effectiveness.

I earnestly appeal to all Americans of Latvian origin and to Latvian emigree groups throughout the free world to maintain their spirit and determination to work for the restoration of freedom to their homeland. The most important point to emphasize is that freedom will not be achieved for Latvia or any other captive nation of communism if the Western World adopts a policy of coexistence with the Soviet Union.

The brave people of Latvia suffered under centuries of czarist tyranny and were rapidly developing their little nation when treacherously engulfed by the Soviet Armed Forces in June of 1940.

Justice will certainly triumph. In commemorating the 55th anniversary of Latvian independence, we look forward to the ultimate restoration of freedom to that brave little nation, when its people will once again control their own democratic form of government and regain their freedom from the Russian-imposed Communist rule.

Mr. Speaker, I insert at the conclusion of my remarks an article in the October 1973, Latvian Information Bulletin which tells the story of the persecution of Latvians within the U.S.S.R.:

A Latvian Couple Challenges Soviet Denial of Emigration

On January 17, 1973, Daniel Bruveris, 28, a citizen of Latvia, was married in Riga to Rudite Klavins, 22, a West German citizen of Latvian descent who was on a tourist visit to Latvia at that time. Being both of Baptist faith, they were married in the Riga St. Mathews Baptist Church, where Bruveris was employed as organist. Their marriage was also recorded in the registry office of Riga. Mr. Bruveris' subsequent application for a exit visa to join his wife, who had returned to Germany, was consistently turned down by the Soviet authorities in Latvia and the Soviet Embassy in Bonn. In July, as a last resort, Bruveris went on a hunger strike, which he continued for thirty days, visibly losing strength. Meanwhile, Mrs. Bruveris demonstrated each day in front of the Soviet Embassy in Bonn. There were also demonstrations by supporters of the Bruveris' in other European capitals. The Soviets finally tried to counteract unfavorable publicity by offering Mrs. Bruveris a return visa allowing her to live with her husband in Riga for three months. But the indomitable couple rejected this "kind" offer in the spirit of Patrick Henry's famous slogan: "Give me liberty, or give me death." And they won in the long run, with Bruveris being "expelled" from Soviet Latvia for behavior unbecoming a Soviet citizen. On September 10 the happy "outcast" arrived in Frankfurt where he was met by his wife. His possessions at arrival consisted of the clothes on his back, and his belief in God. However, being an organist and piano tuner, he expects to have no difficulty in finding employment in Germany.

The ordeal of this couple, who wanted only to be reunited in freedom, found a sympathetic echo in the free world's press, including the United States. The Washington Star-News of September 4 carried a column by William F. Buckley, the first part of which says:

"A letter from Tom Curtis, talented cartoonist for the Milwaukee Sentinel, enclosing a letter from a correspondent in Latvia. Yes, Latvia. When Vishinsky came to the United Nations as the first ambassador of the Soviet Union, he was met by the press on landing and asked if this was the first time he had been abroad, and he replied with a macabre joke. Yes, he said, in a way it was his first time, because the other first time didn't really count. He had gone as emissary of the Soviet Union to Latvia. 'But when I woke up the next morning, I was back in Russia!' This was shorthand for telling the reporters that during the night, Vishinsky had organized a coup, and from that moment on, Latvia became another of the Soviet Union's vast colonies.

"And, accordingy, Latvia endures a share of Soviet barbarism. One learns of a young man, an organist at the Baptist church at Riga. Danier Bruveris married a student at Heidelberg, Germany, after having received permission to do so from the authorities. Now the Latvian government refuses him permission to emigrate. Young Bruveris has begun a hunger strike. The correspondent writes that Americans should be made aware that the persecution in Russia is not only directed against members of the Jewish faith. Attention Sen. Jackson."

Mr. **CRANE**. Mr. Speaker, the Latvian people commemorated the 55th anniversary of the proclamation of their independence on November 18.

Thirty-three years ago the Soviet Union, through the use of force, took control of the Baltic States of Latvia, Estonia, and Lithuania. The independence of Latvia was short lived.

At this time when there is much discussion of "détente" it is easy to overlook the Soviet record of repression in the Baltic States. We engage in such fantasizing at great peril to ourselves, as well as to human decency. No peace which is lasting can ever be achieved by turning our backs upon history and its lessons.

Since June 15, 1940, the Baltic nations have lost more than one-fourth of their combined populations to the ethnically genocidal deportation and resettlement programs of the Soviet Union. These programs continue today. Despite this fact, a world which condemns genocide in Biafra and in Bangladesh, and which regularly criticizes the policies concerning different racial and ethnic groups of nations such as Portugal and South Africa, remains strangely silent concerning genocide in the Baltic States.

The U.S. Government has never recognized the forced incorporation of Latvia and the other Baltic States into the Soviet Union. If we are to be true to our own principles, we must insist that the Soviet Union, which is a signatory of the United Nations Declaration of Human Rights, grants these rights to the people of Latvia and the other Baltic nations. These include the rights of assembly, free elections, and freedom of worship. They also include the right to move freely over the borders for emigration and visiting purposes.

At this time, as we celebrate the 55th anniversary of the independence of Latvia, and as we consider the manner in which that independence was stifled, it is important to remember that the nation which calls itself the U.S.S.R. is really a collection of "captive nations."

We often forget that Armenia fell to Communist domination in 1920, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, and the Ukraine in the same year. The Far Eastern Republic fell in 1922, the Mongolian People's Republic in 1924, Estonia, Latvia, and Lithuania in 1940.

In all of the years since 1940, the hope for independence and freedom has never died in Latvia. It is alive today, and needs only encouragement from those of us in the free world who still maintain a dedication to freedom, and who are not persuaded by the soft words of "détente" that the people of Latvia and the other captive nations really enjoy their slavery.

For many years, the United States has been a beacon of hope to the millions of men and women living under Soviet subjugation and hoping for their freedom and independence. We must keep faith with these men and women, and the occasion of the 55th anniversary of Latvian independence provides us with an opportunity to reaffirm that faith.

The people of Latvia only seek for themselves what we have sought for ourselves—freedom, independence, and the right to determine their own future. Any "peace" which is achieved, and which does not guarantee those rights, will be of little value. At this time, the people of Latvia should know that we stand with them, and their rulers in Moscow should know that our commitment to freedom and self-determination is as strong as it ever was.

Mr. BIAGGI. Mr. Speaker, on November 18, millions of Latvians in America and throughout the world celebrated the 55th anniversary of their proclamation of independence. Yet as it has been for the last 33 years, this celebration has been tempered by the continued domination of Latvia by the Soviet Union, who ruthlessly imposed their rule on Latvia in 1940.

As the nation of Latvia enters its 33d year under Russian rule, the conditions under which her citizens are forced to live remains cruel and inhumane. The Russian domination and control of the Latvian people has been marked by terrorism, expropriation, exploitation and complete suppression of basic human rights and fundamental freedoms. Yet throughout the long suffering years, the Latvian people remain dedicated to the cause of the restoration of their freedom.

This mixed event for the Latvian people is observed against a background of vastly improved relations between the Soviet Union and the United States. Yet as grateful as we are for the emergence of a new era of "détente," we must maintain our insistence that the Soviets begin to respect the right of self-determination not only for the nation of Latvia, but for all the nations of Eastern Europe who remain under the oppressive yoke of Russian domination.

On this day of mixed sentiments, let us in the United States hear the pleas of the Latvian people for our assistance in their struggle to restore their freedom and resume a life of liberty and dignity. Détente with the Soviet Union can only benefit the world if it is based on the right of self-determination for all nations.

Mr. Speaker, I am honored to join with my colleagues in paying a tribute to the brave and courageous people of Latvia. Let us in the Congress urge the President to work with the Soviet Union to bring about universal respect for the rights and freedoms of all the peoples of the world.

Mr. MORGAN. Mr. Speaker, on November 18 the Latvian people celebrated the 55th anniversary of the proclamation of their independence, and I am pleased to participate in this special order commemorating that event. Unfortunately, freedom was extinguished in 1940, when the defenseless Baltic Republics of Latvia, Lithuania, and Estonia were occupied by Soviet armed forces and forcibly incorporated into the Soviet Union. The United States, in response to this action, formally declared on July 23, 1940 that it did not recognize this subjugation of the Baltic Republics.

I have many Latvian Americans in my congressional district, and they have made major contributions to community life. Their culture, as evidenced by their distinctive art, literature, and dance, is a notable example of the diversity of our great country, in which many nationalities have settled and retained elements of the lifestyle of their homeland.

Thus, it is especially disheartening to observe the discrimination against these proud people in their native country. Membership in the Latvian Lutheran Church has decreased from 1 million prior to Soviet occupation to 0.03 million during the late 1960's, and only 5 of the 259 churches are still used for religious services. Any nationalistic tendencies are promptly suppressed, and Latvians could even become a minority in their own country, because of the influx of Russian workers due to heavy industrialization and the emigration of some Latvians to other parts of the Soviet Union.

Mr. Speaker, our foreign policy seeks to foster détente with the Soviet Union and other countries, and I support these efforts to develop and maintain peace in the world. I can only hope, however, that détente is accompanied by the elimination of discriminatory policies within all nations, so that peoples such as the Latvians are able to partake of their unique religious and cultural heritage with pride and dignity.

Mr. PATTEN. Mr. Speaker, the proclamation of Latvia's independence on November 18, 1918, was this year once again observed in the United States and elsewhere in the free world by descendants of the Baltic countries in solemn gatherings and church services.

Although Latvia lost its independence through foreign aggression in 1940, the Latvian people have made it crystal clear that they will not surrender their feeling of nationhood or their justified aspirations and goals to be able to direct their own lives and futures, and their own thoughts, which we do freely in this Nation. We as free people can only respect and commend this national consciousness and courageousness.

The history of civilization has many instances of man's inhumanity to man and of freedom-loving people struggling against foreign oppressors. This is the situation with the Latvians. Since they cannot openly commemorate the anniversary of their independence, it is up to the people of the free world to remind mankind of the plight and the just cause of the Latvians.

We in the United States respect and support the right of these wonderful people—the Latvians—to a free life and an independent existence.

Mr. SMITH of New York. Mr. Speaker, on November 18, Latvians all over the world observed the 55th anniversary of the declaration of independent Latvia in 1918. Unfortunately, this special day was not observed in Latvia itself. In 1940, the Russians invaded Latvia. Since World War II, Russian imperialism has prevented self-determination in the Baltic countries—Latvia, Lithuania, and Estonia. In our future dealings with the Soviet Union, as we work for world peace, let us not forget that there can be no true peace while some who desire freedom live under oppression. Let us be careful not to allow a compromise of one of our basic principles.

Mr. REUSS. Mr. Speaker, November 18 marked the 55th anniversary of Latvia's proclamation of independence. But the anniversary is a sad one because her freedom was crushed in 1940.

Latvia was devastated by World War I fighting between Russian and German armies. In the following 22 years of her independent existence—established in 1918 by courageous Latvian patriots—Latvia rebuilt her economy, developed considerable foreign trade, and gave her people a degree of freedom and self-determination they had never known before.

Then, in World War II, the battles of Russian and German troops destroyed her economy and peaceful way of life once again. Finally, she was occupied by the Soviet Union.

These long years of suffering have not extinguished the Latvians' yearning for liberty. So while this anniversary is a day of sorrow, let it also be a day for us to rededicate ourselves to work for the time when Latvians and all other peoples will share the full blessings of freedom.

PEANUT AND RICE CROP PROGRAM CHANGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BAKER) is recognized for 20 minutes.

Mr. BAKER. Mr. Speaker, on November 6, 1973, the Subcommittee on Oilseeds and Rice, chaired by my esteemed colleague from North Carolina (Mr. JONES), held hearings on the announced program changes of the Department of Agriculture for peanuts in 1974. Hearings were also held on November 13 regarding the program changes for rice. I commend the gentleman for his willingness and desire to hold hearings on these administrative changes and on legislative proposals regarding peanuts and rice.

Present legislation requires that the Secretary proclaim a national acreage allotment for peanuts of not less than 1,610,000 acres. It also provides that peanuts must be supported at not less than 75 percent of the parity price unless farmers voting in a referendum have disapproved marketing quotas. Farmers have naturally voted to continue marketing quotas under these conditions, and the Government has continued to support production far in excess of our domestic edible needs at unreasonably high prices.

While allotted acreage has remained at the minimum 1,610,000 acres, production per acre has increased from 940 pounds in 1952 to 2,203 pounds in 1972. Since domestic food uses for peanuts have not kept pace with increases in production, the quantity of peanuts diverted through the Commodity Credit Corporation—CCC—has been rising. In 1959, about 123,000 tons of peanuts were diverted at a loss of $11 million. By the 1971 crop, around 589,000 tons—39 percent of the crop—were diverted at a cost of over $97 million. Losses dropped to around $60 million on the 1972 crop, largely because of a world shortage of protein and oils. However, over the long run, unless we can get from under the acreage and price restrictions of present law, the costs of the peanut program will continue to rise.

The General Accounting Office, an arm of the Congress, in its report last April, estimated that CCC's loss on peanuts from 1973 through 1977 will total $537 million or over $100 million a year.

For the 1973 crop, the Department of Agriculture made three administrative changes to cut costs and improve administration. A $50 per ton discount was imposed on peanuts found to have aflatoxin, $15 per ton was deducted from the loan rate to help pay storage, handling, and inspection costs, and the sheller purchase program was eliminated. I am glad, Mr. Speaker, that the Department has found ways to cut costs in these areas, costs which would have been borne by the taxpayers of our Nation.

In addition, for the 1974 crop, the Department has announced more administrative changes to further reduce costs. There will be a complete elimination of price support on peanuts found to contain aflatoxin. Acreage allotment transfers by lease, sale, or by owner privilege will no longer be permitted. Third, there will be an increase of $2 per ton in the storage, handling, and inspection deduction. Also, no tolerance in program compliance determinations relating to measured acreages wil be allowed. The 1974 peanut program provides a new minimum resale level for peanuts diverted by CCC—at 115 percent of the loan rate. This brings peanuts more in line with minimum resale prices of other crops—wheat, corn, and cotton. The transfer of field and supervisory functions from the grower associations to the Department will put a function that is properly governmental back into the hands of the Agriculture Department.

For rice, it is possible that U.S. producers could plant about 2.8 million acres in 1974. If this occurs, we will be faced with a huge oversupply which will result in a tremendous carryover and heavy loan delivery to the CCC. Because of this potential oversupply, the Department of Agriculture has announced changes that would tend to control the production response. For example, allotment holders will be required to plant within their allotted acres to be eligible for loans and delivery of any surplus rice to the CCC. Allotment holders will also be required to be in compliance with the rice acreage allotment for all rice farms in which they have an interest to be eligible for loans and delivery to the CCC. An allotment will be allocated only to a producer providing a production resource.

I believe that both rice and peanut farmers should have the same advantages extended to the wheat, feed grain, and upland cotton farmer. They should be able to make independent judgment decisions as to the commodity they wish to plant to maximize their incomes and earn their proceeds from the marketplace.

SOVIET OIL AND U.S. TECHNOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, with the energy shortage in the United States, we should realize that the Soviet Union is facing energy problems. At least one Western analysis forecast the Soviet Union will be a major consumer of Middle East oil by 1980. By 1985 or 1990 due to their own immense reserves the Soviets could reduce their need of Arab oil and become self-sufficient. However, this may not happen as the Soviets export oil to Eastern Europe. This export keeps Eastern Europe dependent on the Soviet Union—a dependency the Soviet Union wishes to maintain. Additionally, the Soviet Union exports oil and gas to Western Europe to earn hard currency. As much as 30 percent of the hard currency they earn may come from such exports.

Two other inhibiting factors in Soviet efforts to increase oil and gas production are the shortage of investment capital and the lack of technology and technological skill. The Soviets seem to have been unable to develop the advanced technology for extraction of their resources. Also, refinery capacity must be greatly expanded to handle any increase in oil production.

We must remember that oil and other energy sources are a vital part of any nation's military capacity. Factories which produce weapons need energy to operate their equipment. The Soviet navy—considered to be the most modern in the world—needs oil to propel its destroyers, submarines, transport ships, and other vessels. Soviet tanks, troop vehicles, armored personnel carriers, and jeeps all need oil—be it engine oil, gasoline, or diesel fuel—to operate. The Soviet Air Force needs jet fuels to keep its Mig's in the air. Obviously petroleum and petroleum products keep a military machine going. Soviet ships transporting weapons of war to Vietnam or the Middle East were able to do so because the Soviets had the petroleum.

Let us briefly look at the history of the Soviet petroleum industry and their development of technology.

By 1900 the Caucasus oilfields of Russia were producing more crude oil than the United States. After the Russian Revolution due to lack of necessary activity, many of the wells became a mixture of oil and water. By 1922, half of the wells of the Baka field—the most important of the Caucasus fields—were idle while the remainder were producing even greater quantities of water.

To solve the problems, Serebrovsky, Chairman of the Soviet petroleum combine, had a solution. He stated:

> . . . American capital is going to support us. The American firm International Barnsdall Corporation has submitted a plan . . . Lack of equipment prevents us from increasing the production of the oil industry by ourselves. The American firm . . . will provide the equipment, start drilling in the oilfields and organize the technical production of oil with deep pumps.

The Barnsdall Corp. did what Serebrovsky said it would. Soviet oil drilling technology changed from labor-intensive methods to the American-developed rotary drilling techniques. Similar advances were made in pumping technology.

Electrification came to these oilfields in the 1920's through Metropolitan-Vickers, Ltd.—United Kingdom—a subsidiary of Westinghouse, and the introduction of General Electric products.

Oil pipelines were built in the 1920's from Western materials and by Western companies. Between the Russian Revolution and 1930 19 refineries and cracking plants were built. One which was built under British technical supervision had some units manufactured in the U.S.S.R.

In the early 1930's the Soviets began building their own refinery equipment from Western designs. Progress was slow and limited. In 1936 American refinery construction companies came back to help the Soviets expand thier refining capacity. Hydrogenation units were built by Universal Oil Products, an American company, to convert gasoline into aviation gasoline. Deliveries of refinery equipment also were made after agreements were signed in 1945.

The Soviet petroleum and energy industry has been highly dependent on Western technology including American.

On October 2, 1972, the American Communist Party's newspaper Daily World reported that the U.S.S.R. has placed orders and bought oil-extracting and other petroleum industry goods. Discussions have taken place and tentative agreements reached on the United States providing the technology to develop Siberian gas reserves.

A recent United States-Soviet trade conference sponsored by the National Association of Manufacturers included Soviet officials who discussed their desire for resource development, particularly in the oil and natural gas sectors. In these areas, the Soviets are presently placing in the words of the "proceedings" of the conference, "a heavy emphasis on the importation of advanced Western machinery, equipment and technology." Thus, the Soviets still need Western technology for the development of their energy resources.

At a time when refinery capacity should be increased in the United States, at a time when the United States should be involved in serious energy exploration at home, the United States government and American businessmen are helping the Soviets increase their energy industry. Remember it takes petroleum to move a military machine. Trucks, tanks, airplanes and ships all need petroleum.

One of the arguments put forth by the proponents of building Soviet industry with American technology and credits is that the United States can turn to the Soviet Union for importation of petroleum and gas. Occidental Petroleum and El Paso Natural Gas Co. signed a letter of intent with the Soviet government to develop Siberian gas fields. Financial support would have to come from a consortium of American banks plus the backing of the U.S. Export-Import Bank. Once the fields were developed, the United States is supposed to receive gas. The gas would go first by pipeline to the Soviet coast and then by tanker to the American west coast.

Questions have been raised as to the extent and the amount of Soviet reserves. The amount of energy resources that the U.S.S.R. may be able to supply might be limited by growing internal domestic needs and commitments.

One reason not mentioned by many experts stands above all others when speaking of the United States receiving petroleum from the Soviets. The United States right now is suffering from an Arab oil shutoff—an oil shutoff being masterminded by Arab countries previously considered friendly to the United States such as Kuwait and Saudi Arabia. The Soviet Union has never had such a history of friendship with the United States. Soviet aims in the Middle East, Southeast Asia, Cuba, Eastern Europe, and numerous other places on this globe have been directly counter to the interests of the United States. The Soviets understand power and use it. American dependence on the Soviets for energy supplies—be they petroleum or gas—would give the Soviets a very influential lever to use against the United States. If we wish to maintain our freedom and even our national existence, this is a power that we do not want the Soviets to have.

Who would be so foolish to think that the Soviets would treat us any better than the Arabs? Who is so foolish to think that Soviets would not use American dependence on Soviet gas or oil as a weapon—perhaps not today but surely tomorrow—against American interests and even existence.

We must not confuse the U.S. Government with the Soviet Government. The U.S. Government may be unwilling to use trade with the Soviets as a weapon to further American interests but the Soviets have never shown such unwillingness. The kulaks, the Russian Baptists, the Russian Jews, the dissidents have all tasted Soviet power. Poland, Latvia, Estonia, Lithuania, Hungary, Czechoslovakia—to mention a few—also have all felt Soviet power. Let us not confuse our own proclivities with those of the Soviets. The Soviets view our humaneness as weakness; our search for peace as a desire to be manipulated for their own ends; our discussion of building their energy resources as a weapon to be used against us.

Let us begin to look with realism at Soviet needs and desires. Let us not confuse our own wishes with those of the Soviets. And let us not think that the Soviets want to help us out of our energy crisis. They want our help to make themselves an even stronger threat to our liberty, property, and even lives.

THE RIGHT TO BE LET ALONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, Mr. Justice Brandeis, in Olmstead against United States (1928), observed:

> The makers of our Constitution . . . recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

When he penned this Olmstead opinion in 1928, 38 years since he had coauthored in 1890 the most definitive piece of scholarship to that date on the principles supporting a claim for a recognition at law of the right to privacy, Mr. Justice Brandeis had seen the widespread use of the telephone and other listening devices come into vogue. He had seen the enactment of a vast Federal income tax—and the filing of the most sensitive of personal financial data with a government agency. He had seen the growth of information exchange systems, however, not yet aided by the invention and use of the computer.

It is little wonder, as he looked to the future, that he warned:

> Experience should teach us to be most on guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

Yet, despite these prophetic assertions for vigilance against the growing powers and roles of government, our Nation moves ever closer to policies, programs, and activities which infringe or tend to infringe upon the right to be let alone, the right to privacy.

These infringements are not things which have suddenly come about during this administration or during the past decade. Rather, they have raised their heads in ratios directly proportional to the acceptance of the notion that the interests of government—of society, of the collective will—are paramount to the protection and exercise of individual freedom and personal rights. They have accelerated at a rate equivalent to the decline in the belief in the individual good and worth of man, of free will and its exercise, and of the requirements of political and economic freedom.

Nothing is more to blame for the rise in government interference and intervention in our private lives and security than the notion that government can solve all our problems and must be given, therefore, the unrestricted range of authority to do so.

Only when we come to full grips with those notions will we ever secure ourselves and our posterity against infringements on the right of privacy.

Jefferson observed that:

> It is in the natural course of events that liberty recedes and government grows.

While accurate, Jefferson's observation stated only one specific aspect of a larger and more complex equation, to wit: As external, collective human control over, and interference with, a person's life intensifies, individual liberty shrinks proportionally.

In this larger sense, the real threat to individual liberty is the collective will of any institution or group of people which has the economic or political power to coerce, intimidate, control, deny, or even give. The recognition that it is the natural course of events for liberty to recede as government grows is, then, only one manifestation of threats to liberty, albeit the most evident threat in both Jefferson's and our times.

The lessons of history teach us that this growth of collective power can come from institutions other than government. The problem is not singularly the "bigness" of these institutions, in relation to the individual and the exercise of his free will, but such "bigness" does accentuate the problem, in that it tends to reduce the range of alternative choices of conduct available to the individual.

But in the 20th century, particularly in our Nation, it has been the growth of—the "bigness" of—government which has posed the single greatest threat to human liberty, a growth in government occasioned by these erroneous notions that only government can solve the major social, economic, and societal problems of our era, and that government schemes and regulations are preferable to the laws of supply and demand and the exercise of free choice by individuals.

Woodrow Wilson, a doctor of philosophy in history and a recognized scholar on the processes of maintaining individual rights before coming to the Presidency, warned that—

> Liberty has never come from government. . . . The history of liberty is the history of limitations of government power, not the increase of it.

In contradistinction to the classical liberalism embodied in these profound observations of Jefferson and Wilson, despite the clear warnings from history as prior human experience, and even despite the all-too-apparent results of the rapid growth of government in our modern age, we seem, as a people, to have learned little. For, that government has grown disproportionately to the whole of society is factually indisputable, and that such growth has occasioned an ever-growing threat to individual liberty is, in my opinion, equally indisputable.

In both absolute and percentage terms, government's growth has been virtually without restraint during the past 40 years. It has exceeded all bounds of necessity and perspective. What are the facts? Between 1940 and 1972—

The Federal Government's gross annual revenue rose by 2,790 percent—from $7.0 billion to $202.5 billion.

Total Federal expenditures rose by 2,140 percent—from $10.1 billion to $226.2 billion.

The Federal debt outstanding rose by 830 percent—from $43.0 billion to $398.1 billion. It has since risen to $477.0 billion.

Federal expenditures per capita rose by 1,450 percent—from $77 to $1,195.

The Congress enacted 13,579 public laws.

Federal employment zoomed to 2,865,303 people.

The Federal Register, the Government's compilation of proposed and final rules, published hundreds of thousands of pages of Federal regulations carrying the full force of law.

Federal forms, to be painstakingly filled out by individuals and corporations, grew and grew in number and complexity.

Federal investigatory surveillance, and monitoring staffs grew to enforce each and every measure.

The number of Federal initiatives, most of which are reinforced through interventionist regulatory powers and policies, mushroomed.

The Federal agencies which execute these powers and policies—and, frequently, call for more—grew accordingly.

And, this growth in government was not limited to the Federal Government.

The manifestations were myriad: data banks, wiretapping, electronic surveillance, eavesdropping, credit histories, medical histories, income tax information, information systems, regulatory report filings, disclosure statements, data exchanges.

Separately—and, most assuredly, when taken collectively—these devices and procedures add up to a growing infringement on the right to be let alone, the right to privacy.

Government action is only one aspect of this infringement, for it has grown as well within the private sector, particularly with respect to matters involving personal financial data. Government policy has abetted those intrusions by the private sector, however, in that government has failed to institute remedial measures to safeguard privacy and has cooperated actively in information exchange systems.

Information flows from the private sector to government, from government to the private sector, from one government agency to another, from one private agency to another. A single error can be repeated and duplicated in a multiple of instances, compounding the individual's capacity to "set the record straight." It is but one example of why we must devise mechanisms to resolve this problem.

What, then, is this "right to privacy?"

The notion of privacy is closely related to the notion of due process, for limitations on capabilities within the Government and private sectors to intrude upon that privacy must be accompanied by statutorily prescribed procedures through which information can be obtained, exchanged, and disclosed only with the concurrence and knowledge of the party about whom such information is relevant, together with a mechanism for correcting erroneous information. These devices, once established in law, must be judicially enforceable with appropriate and easily exercised remedies available.

The right to privacy exists. Its recognition has been a slow, yet deliberate, process, for the difficulty of semantically formulating the parameters of the right has perplexed even the best of jurists and legal scholars.

In the year 1765, the English jurist, Lord Camden, in *Entick* v. *Carrington*, 19 How. St. Tr. 1029, expounded:

> It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offense; but it is the invasion of his indefeasible right of personal security, personal liberty * * * where that right has never been forfeited by his conviction of some public offense.

In the mid 19th century, in his then widely used textbook on tort law, Judge Cooley first used the term, the right "to be let alone," a right then defined in terms of tort actions against unauthorized uses of portraits and "the evil of the invasion of privacy by the newspapers," tort actions not dissimilar to modern actions for libel.

The watershed in the development of the notion of a judicially enforceable right to privacy was the publication by two young lawyers, Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," 4 Harv. L. Rev. 193 (Dec. 15, 1890):

> That the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection.
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> The common law . . . grows to meet the demands of society.
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> The intensity and complexity of life, attendant upon advancing civilization, have rendered necessary some retreat from the world, and man, under the refining influence of culture, has become more sensitive to publicity, so that solitude and privacy have become more essential to the individual. . . . When gossip attains the dignity of print, and crowds the space available for matters of real interest to the community, what wonder that the ignorant and thoughtless mistake its relative importance.
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> The common law secures to each individual the right of determining, ordinarily, to what extent his thoughts, sentiments, and emotions shall be communicated to others. Under our system of government, he can never be compelled to express them (except when upon the witness-stand); and even if he has chosen to give them expression, he generally retains the power to fix the limits of the publicity which shall be given them. The existence of this right does not depend upon the particular method of expression adopted. . . . In every such case the individual is entitled to decide whether that which is his shall be given to the public.
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> Lord Cottenham stated that a man "is entitled to be protected in the exclusive use and enjoyment of that which is exclusively his." Lord Cottenham declared . . . that "privacy is the right invaded." But if privacy is once recognized as a right entitled to legal protection, the interposition of the courts cannot depend on the particular nature of the injuries resulting.
>
> These considerations lead to the conclusion that the protection afforded to thoughts, sentiments, and emotions . . . is merely an instance of the enforcement of the more general right of the individual to be let alone. It is like the right not to be assaulted or beaten, the right not to be imprisoned, the right not to be maliciously prosecuted, the right not to be defamed.
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> * * * * *
>
> It is the unwarranted invasion of individual privacy which is reprehended, and to be, so far as possible, prevented.

Mr. Justice Brandeis found forum for these views in his now famous dissenting opinion, on other grounds, in Olmstead, 277 U.S. 438.

How can we at least begin to get an effective handle on this problem of encroachments on the right to be let alone, the right to privacy?

The often silent, and seldom vocal, threat which the growth of government poses to basic human liberty ought to be an issue on which there is commonality of concern and agreement, for it is a libertarian notion central to a free society. In that this House, both through its own initiatives and through acquiescence in powers sought by the Executive, helped to create this problem, and in that this House retains the power with which to aright these imbalances, it is my fervent hope that all Members—conservatives and liberals, Republicans and Democrats—can join together to, first, retard, and, then, to reverse, the undue growth in the power of government over individuals' lives and its most obvious manifestation today—infringements on the right to privacy, the right to be let alone.

There are, then, a number of ways in which we can get a handle on this problem.

First, we must establish procedures which govern the disclosure of certain financial information by financial institutions to Government agencies.

Second, we must protect the constitutional rights of our citizens and prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information.

I have sponsored H.R. 10259, the Right to Financial Privacy Act of 1973, to accomplish those two purposes.

Third, we must provide standards, at law, of fair personal information exchange practices.

I have introduced H.R. 10260, the Code of Fair Information Practices of 1973, to accomplish that purpose.

Fourth, we must act promptly and effectively to require full disclosure of the recording of telephone conversations to those individuals conversing.

I have introduced a bill which will amend 18 U.S.C. 2511(2) to require the actual giving of notice to all parties on the telephone line and the use of an automatic tone warning device producing an audible distant signal at regular intervals during the course of such conversation.

Fifth, we must tighten the laws governing inspection and disclosure of information contained in individual Federal tax returns, to insure that this, the most confidential of all information about an individual, is never used for any purpose other than that for which it is intended, never subject to political abuse, and remains in the strictest of confidence.

I have cosponsored a bill to provide for a tightening of these standards.

Sixth, we must stop the indiscriminate use of one's social security number for data gathering purposes, a use which has facilitated, far beyond any other mechanism which could have been devised, the collection of vast amounts of complex data on practically every citizen.

I have introduced a bill which would amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that, unless so required, no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance program.

But more must be done than the introduction of bills.

If we are indeed to prevent the further erosion of the rights to be let alone and to privacy, this body must launch a legislative counterattack against encroachments thereupon.

Few actions can be more misleading than to sponsor legislation, on which people aspire or act in reliance, only to have those legislative measures pigeonholed. I call upon the committees of Congress, who exercise various jurisdictions over aspects of this impending crisis, to act as soon as possible on these—and related and important—measures.

Delay will not resolve this issue; it will only accentuate it.

HOUSING AND COMMUNITY DEVELOPMENT BILL TO GET US MOVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, the Housing Subcommittee has just completed 3 weeks of hearings on housing and urban development legislation during which a good deal of valuable testimony was heard on both the administration's proposals and on H.R. 10036, the Barrett-Ashley bill (see Congressional Record, Sept. 5, 1973, p. 28436).

The general tenor of the testimony was against the administration's proposals and in favor of trying out the Barrett-Ashley approach—at least on a limited scale. While much of the testimony was favorable to Barrett-Ashley, there was also a good deal of constructive criticism—something to be expected in hearings on a measure like H.R. 10036, which contemplates some very basic departures from our current housing assistance delivery system.

In the light of those hearings and a careful reading of the Barrett-Ashley bill, I endorse its basic approach and today introduce H.R. 11570, a bill which is similar to H.R. 10036, but which incorporates my own recommendations and those recommendations for improvement which came out of the hearings that I consider most meritorious.

My colleague on the Housing Subcommittee, Mr. Moorhead of Pennsylvania, joins me in sponsoring the bill. However, he differs with the bill in one respect, the provision which gives a priority to urban counties in applying for community development and housing block grant funds which would be available to HUD for distribution on a discretionary basis. Mr. Moorhead is developing a separate proposal on this matter which he will introduce during the subcommittee's executive sessions on this legislation, expected to begin in January.

The bill I introduce today contains the following new provisions:

First, the bill would authorize a program to encourage the formation of State development corporations similar to New York State's very successful Urban Development Corp. Under the bill Federal assistance would be made available to such corporations in the form of a Federal guarantee of the obligations they issue to finance their operations. These obligations would be taxable, with a 30-percent Federal interest differential grant available to make up the difference between the interest cost on these obligations and the interest which would be paid on similar tax-exempt obligations.

It is important to recognize that community development block grants will be of assistance primarily in the provision of infrastructure facilities, necessary community services, and cleared land at prices which make development feasible. Experience under the urban renewal program has shown that, in many areas of the country, large-scale developers are needed to provide both the subsidized and unsubsidized housing and related private and public facilities necessary for the creation of viable, well-planned neighborhoods. In addition, in many instances, the development of large-scale industrial, manufacturing, and commercial facilities, in conjunction with housing, is often needed to promote the economic stability and growth of particular neighborhoods in urban areas. To meet these needs and to fill what I consider a gap in the Barrett-Ashley bill, I am proposing this program of Federal assistance for large-scale public developers.

Second, with respect to housing and community development block grants, I include express statutory language in the bill to make it clear that State development corporations would be eligible entities for direct assistance in any case where a State government would be eligible.

Third, a number of witnesses at the hearings, most notably former Secretary of HUD Robert C. Weaver, expressed concern at the lack of emphasis in the Barrett-Ashley bill on the need to treat housing and community development as an areawide problem—one which is not confined to a particular locality's boundaries. Dr. Weaver specifically recommended strengthening the language concerning the provision of housing near employment opportunities which is contained in section 112(a)(3) of the Barrett-Ashley bill. I have done so in the bill, by providing a priority for community development grants to local governments that on their own initiative are making good faith efforts to provide low- and moderate-income housing.

Fourth, a number of witnesses expressed concern over the technique proposed in the housing block grant proposal for assuring the long-term financing of future subsidized housing projects. I have closely examined this financing technique and regard it as basically sound. I can appreciate, however, the concern of housing sponsors and others in the field over this novel technique—especially the apparent lack of any assurance that block grant funds will continue during the life of the project at a level which is sufficient to provide necessary subsidies. To help assuage this concern, I have included a provision in the bill directing State and local governments and the Secretary of HUD to administer their housing block grant programs in such a manner as to assure that an insufficiency of funds in any particular year does not result in an unreasonable increase in charges to the occupants of housing projects built under the program. An explanation of the financing of housing under provisions of the housing block grant is included at the end of my remarks.

Fifth, the bill also includes an amendment to the housing block grant proposal permitting a locality, as an eligible activity under the housing block grant, to carry out a program of housing allowances where such a program has been specifically approved in advance by the HUD Secretary. Inclusion of housing allowances as an eligible block grant activity would provide greater flexibility to local governments in solving their housing needs.

Finally, and I think most important,

the bill would carry over into the new housing and community development block grant programs the policies first developed under the model cities program which require that opportunities for training and employment arising in connection with the programs and contracts for work to be performed in connection with particular projects be given, to the greatest extent feasible, to persons residing in the area. I think it most important that this requirement be included. In carrying out the new block grant programs, we must not allow ourselves to again be subject to the Banfield-Moynihan criticism that the housing and community development programs of the 1960's are not serving those they were designed to help, but rather the "middlemen"—the bankers, lawyers, builders, and social workers—instead.

In conclusion, I wish to repeat that I enthusiastically endorse the major provisions of the Barrett-Ashley bill. The bill I offer today contains needed improvements, improvements which in no way detract from the Barrett-Ashley approach. I hope that these improvements will increase support for an excellent piece of legislation.

There follows an explanation of financing methods:

THE FINANCING OF PRIVATELY OWNED HOUSING UNDER H.R. 10036

It is anticipated that most of the financing for rental projects would be provided by State or local agencies. These agencies would raise funds by issuing long-term obligations the interest from which would be included in income for purposes of Federal income taxation. HUD would make grants to these State and local agencies to reduce the interest paid on these "taxable" obligations by 30 percent, which would lower the cost of borrowing to approximate the cost of "tax-exempt" borrowing. In addition, the Federal Government would fully guarantee the timely payment of principal and interest on these obligations.

For example, a State housing finance agency might borrow funds at a "taxable" rate of 8 percent. The interest reduction grant of 30 percent would reduce the effective interest rate paid by the State agency to 5.6 percent. The State or local agency could lend funds raised in this manner to a private sponsor to provide construction and permanent financing for a rental project.

Without subsidies, the project would have to generate rentals sufficient to pay operating costs and to enable the State or local agency (the lender) to meet payments on its obligations and its administrative costs related to the loan. In terms of the example given, the project would have to support approximately a 6 percent loan.

In order to reduce rentals to levels affordable by most of the low and moderate income persons to be served by the program, housing block grant funds would be substituted for a portion of the rentals. For example, without subsidy the average monthly rentals might be $150. A certain level of subsidy would be agreed upon initially by the project owner, the recipient of block grants (usually a local government), and the lender (a State agency, for example), which would require average monthly rentals of $90, for example. The project owner would apply the rentals toward operating costs, reserves, and profits and pay the remainder to the State or local lender. Block grant funds would be used to cover the differential between the amount the lender received from the project and the debt service requirements on its obligations. If it is decided to provide very low rentals in a project, say an average of $45, part of the block grant funds would go directly to the project owner.

The project owner's payments to the lender would by agreement be determined by three factors: the level of subsidy, the operating costs, and the rentals. In the example given above involving $90 average rentals, the agreement may require that initially $15 a unit be paid to the lender (toward principal and interest on the loan), leaving the remaining $75 for operating expenses and profits. Any of the three factors can change, however. If rentals increase (for example, because of changes in minimum rent requirements), payments to the lender could be increased and subsidy payments decreased.

If operating costs increase, rentals could be increased. However, the recipient of block grants would have the option of increasing the subsidy available to the project. Thus, if in the above example operating costs increased from $75 to $95, average rentals might be increased to $100 and subsidies increased by $10 per unit. The lender would continue to receive $15 per unit.

Subsidies could also be increased if rentals decreased. Increases in subsidies could be made available out of reserves held for this purpose by the block grant recipient or out of the incremental portion of each year's block grant.

However, if the project appears to be a failure and there is a high vacancy rate, the project can be foreclosed. The recipient of block grants would bear any loss involved either through using available block grant funds or reimbursing the Federal Government for payments on its guaranty out of future block grants.

In the unlikely event that the Federal Government reduces or eliminates the funding of block grants in the future below levels necessary to continue support of existing subsidized projects, project owners and tenants would be protected. The guaranty agreement between the Federal Government and the State or local lending agency would provide for the Federal Government to make up any deficiency in the required payments on the State agency's bonds on the same repayment schedule and without a "default" by the State agency. In the example given above, the project owner would be required only to continue the payment of $15 a unit to the lender. The $15 payment could be reduced to zero as necessary to meet increased costs beyond the rent-paying ability of the tenants.

Projects receiving or requiring subsidies of operating costs could be hurt if annual funding were cut off, but all projects under existing programs are similarly vulnerable. To assure protection in such cases, State or local governments might assume the financial responsibility for operating subsidies.

The purchase or sale of owner-occupied housing is likely to be financed primarily with FHA-insured mortgages, with the purchasers assuming the slight risk of the curtailment of funding. . . .

GAS RATIONING NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. Owens) is recognized for 20 minutes.

Mr. OWENS. Mr. Speaker, the oil crisis will overshadow nearly every major crisis this country has known since World War II. The Northeast blackout will seem mild compared to the discomforts and inconvenience that is likely to last for weeks, even months, this winter. The Cuban missile crisis did not carry the prolonged impact on individual lives that cold and immobility will produce. Dire warnings of widespread industry closures and unemployment rates exceeding 8 percent are difficult to comprehend, particularly by the majority of our population falling below the age of 25.

THE DIMENSIONS OF THE CRISIS

While it may be understandable that the vast majority of the country has not yet comprehended the dimensions of the problem, I am baffled by the administration's timid approaches to the problem. The energy-saving measures the President announced last night are inadequate and unrealistic in view of the harsh energy facts. By his own calculations, the steps announced by the President will produce a savings of only 10 percent when he is estimating a shortage of 17 percent. And many others are predicting shortages of 25 to 35 percent. Inconvenience is minimized for now, under the President's proposals, at the expense of dire hardship later. It was obvious nearly 2 years ago that this country was embarked on a course of considerable risk. Restrictions on imports coupled with artificially low prices for dwindling supplies of domestic petroleum brought the expansion of new refining capacity to a standstill. As a result this country only produces 9.6 million barrels per day of domestic oil and is capable of refining only 12.6 million barrels per day of crude oil. We must now import 4.7 million barrels per day of refined and residual oil products from other countries to meet the average daily demand for 17.3 million barrels per day of petroleum products. Even before the Middle East embargo, we were going to need an additional 1.4 million barrels per day of imports to meet the increased demand over last year.

The Middle East embargo has turned a serious problem into the major crisis we now face. While direct imports of Middle East crude oil amount to a little over 1 million barrels per day—6 percent—indirect supplies of petroleum—those which are shipped via other countries—bring our total dependence on Middle East oil to a staggering 14 percent of our current needs, or 2.5 million barrels per day. Largely neglected by the administration is the fact that most of our alternative sources of additional imports, those outside the Middle East, will be called upon to make up additional worldwide shortages of 2.5 million barrels per day and therefore will be hard pressed to make up our shortage of 2.5 million barrels per day. And under no conceivable circumstance can we expect that our increased demand this year—1.4 million barrels per day—will be made up from alternate sources.

AREAS OF GREATEST IMPACT

The most serious problem will occur in the shortages of distillate fuels, or heating oil. The Office of Oil and Gas predicted in September a need for over 650,000 barrels per day of heating oil imports to supplement the daily production of 3 million barrels per day from domestic refineries. With the shutoff of Middle East crude oil this need will increase to nearly 1 million barrels per day, or 25 percent of our wintertime daily demand of 4 million barrels per day. This shortage, which is based on the assumption that winter conditions will be no more severe than normal, will drastically affect the east coast where imports from foreign and domestic supplies furnish nearly all of the needs for heating oils. It will be difficult to alter the distribution patterns within this country in sufficient time to make up for loss of the imported products. It is quite possible that most of the immediate shortfall in heating oils will be absorbed, at least in the early period, on the east coast. If that is the case, the east coast will face winter with only 60 percent of its normal requirement of 2,000,000 barrels per day of heating oil. A colder than normal winter will reduce that to less than half of the normal need. No amount of thermostat adjustment will make up this shortfall.

An almost equally bleak picture can be seen in the residual oil, or industrial fuel, area. Nationwide we consume about 2.5 million barrels per day of residual oil of which 70 percent, or 1.7 million barrels per day are imported. Over the past decade, the east coast has almost completely converted from coal to residual oil and now depends on imports for over 90 percent of its supply. Between 1965 and 1972, 398 coal-fed utility boilers, mostly on the east coast, were converted from coal to oil. These plants have been called upon by President Nixon to convert back to coal but this is a difficult undertaking which will require production of an additional 70 million tons of coal a year and will save, at the very most, 300,000 barrels of the total 1.7 million barrels per day of residual oil required by east coast industry. I think it is quite obvious that the electric utilities which depend heavily on this fuel, and their customers, which includes just about everybody, are in for a very difficult time.

The majority of the remaining shortage in petroleum products will fall upon motor gasoline and jet fuels. Nearly 25 percent of our annual consumption of 8 million barrels per day, or 2 million barrels per day, of jet fuels and motor gasoline will simply not be available.

In the face of the information available—a 23 percent shortfall in total petroleum products available, a possible 50 percent shortage in east coast winter heating needs, in excess of 75 percent shortage in industrial oil needs on the east coast, and a 25 percent shortage in gasoline and jet fuel requirements—it is inconceivable that the President is approaching this crisis so timidly. We cannot afford to risk the very real possibility of running completely out of heating oil in widespread areas of the country on the assumption that the Middle East situation can be eased through the diplomatic efforts of a very capable Secretary of State. To hide our heads is foolish—we must plan for the worst and make the painful decisions now.

REQUIRED HEATING AND INDUSTRIAL OIL SAVINGS

Maximum practicable savings must be achieved immediately in the four major affected categories of fuel usage. For heating oils, the President has already called for a 15 percent reduction in the allocation of heating oils to last year's customers. While that amount of reduction can be achieved through lower thermostat settings, we will not make the necessary savings by that step alone. That allocation should be immediately reduced by 5 to 10 percent. If 20 percent savings could be achieved, we would reduce our demand by 700,000 barrels per day nationwide and would reduce the east coast shortfall to about 20 to 25 percent of needs. A massive national campaign should be started immediately to inform the public that only 80 percent of last year's allocation will be available to each home and that rooms should be closed off and temperatures kept at the lowest possible setting. The remaining shortfall can be met by converting refinery operations to the production of more distillate fuels at the expense of other fuels. At the same time immediate steps must be taken to alter distribution patterns so that the east coast can be supplied with increasing proportions of the gulf coast States heating oil stocks.

An accelerated program of conversion to coal-fired burners rather than residual oil burners must be undertaken immediately. The administration should establish an office of special investigators to visit each plant that is known to have the capability to convert to a coal operation and impress upon plant managers the need for quick action. At the same time, the administration should take steps to see that the maximum increase in coal production is achieved over the next 2 months.

At the same time, we must not be timid in approaching the problem of air standard variances. Although I support, fully, the provisions of the Clean Air Act, I am convinced that the crisis we face is sufficiently grave as to warrant setting aside strict compliance with secondary standards in order to get us through this winter. I would not favor the granting of variances for more than 6 months at a time. Additional variances might be necessary but should be granted for only the period of most serious need. The alternatives to avoid widespread electricity outages and plant closures are few. One is to import more of this product. The other alternative is to reduce gasoline production in favor of more residual oils.

REQUIRED GASOLINE AND JET FUEL SAVINGS

The greatest savings in fuel can be achieved in the motor gasoline and jet fuels area. The president of the American Automobile Association estimated recently that almost a third of current gasoline consumption is for nonessential purposes. Pleasure driving and unnecessary trips made for convenience rather than real need must be reduced drastically. The President has asked that speed limits be reduced, that service stations be closed on Sunday, and that trips be combined. These will produce savings of approximately 10 percent, which is clearly inadequate. Reductions in the number of commercial jet flights may produce savings of about 15 percent. The total savings in gasoline and jet fuels which can be expected by these measures is approximately 800,000 barrels per day.

Summing all of the savings which may be achieved by the steps so far outlined by President Nixon, we are still short of the total 4 million barrels per day in savings which must be achieved. Therefore, we must immediately reduce our consumption of gasoline and jet fuels by an additional 1.6 million barrels per day. The current consumption of gasoline is approximately 18.6 gallons per week per registered vehicle, or a total of 7 million barrels per day. Jet fuel consumption amounts to 1 million barrels per day. If average gasoline consumption were reduced 30 percent—down to 13 gallons per vehicle per week—and jet fuel consumption were reduced 30 percent—to 700,000 barrels per day—we would save an additional 1.6 million barrels per day in gasoline consumption.

WAYS TO REDUCE GASOLINE CONSUMPTION

There are four possible programs to reduce the consumption of gasoline: first, allow prices to rise and let normal market forces allocate the supplies, second, apply an arbitrary surtax and let market forces allocate supplies, third, establish a firm allocation program which would allow each supplier only a percent of his last year's allotment, and fourth, adopt a coupon rationing program.

In my view, the program which is chosen must meet three basic criteria: it must achieve the target reduction; it must meet basic needs; and it must be nondiscriminatory.

Allowing normal market forces to allocate supplies through higher prices will not achieve the necessary fuel savings. Economists have long recognized that fuel is underpriced, and only if the cost is substantially increased will the amount of purchases decrease materially. The cost of fuel represents a small portion of disposable income to the majority of citizens, but that solution falls with disproportionate impact upon those with the least disposable income—the middle- and lower-income groups. This solution would also have the distasteful effect of providing the oil industry with windfall profits, on top of the record profits made this year.

An arbitrary surtax would be regressive in the same way—hitting those who can afford it the least. Some have suggested that this tax could be discounted against yearly income taxes. At best this would produce temporary, though real, hardships on those with fixed income and little, if any, long-range gas savings. There is no certainty that this type of surtax approach would save 30 percent of our gasoline consumption. The surtax approach, even if partially rebated, would preclude windfall profits to the oil industry.

A firm allocation program would allow each dealer a fraction of his last year's allotment. Although this would assure that required savings were met, it would not assure equitable distribution of supplies. Individual stations could restrict deliveries to each vehicle but there would be no way to preclude several stops in order to fill the tank. Some would be able to squander scarce supplies while others would be unable to meet even basic needs. And inevitably, the service stations, as they did last summer with smaller allotments, will sell out their gas and close—at monetary losses to them and gross inconvenience to motorists.

A rationing program, though complicated and subject to a great deal of abuse if not carefully administered, would allow basic needs to be met without precluding essential uses. It would assure that target savings in fuel are met and could be modified as required to adjust for fluctuations in supply. If, for example, the Middle East countries were to ease the present embargo, or new sources found, adjustment in the rationed allowance could be accomplished with little difficulty. And it can be abandoned altogether when that is possible.

GASOLINE RATIONING

It is apparent to me that rationing is the only solution which will achieve the savings in fuel required, most nearly assure that all essential needs are met, and assure the most equitable distribution to all. We should not shy from making the decision to proceed immediately. Only immediate rationing can avert a disastrous winter, unemployment, and widespread economic hardship by providing for adequate fuel to move people to work and goods to market.

In order that all the basic needs be met, every owner of a registered vehicle could receive a basic allowance of 10 gallons per week. If no additional amounts were allowed, this alone would save 45 percent of our annual consumption rate of 7 million barrels per day of gasoline. However, it is unrealistic to assume that this would meet all basic needs—emergency vehicles, police cars, fire equipment and other vital needs must be met. In addition, many, such as salesmen, and those faced with long commutes to work, will require more than the basic allowance. These will require planning and administration, but the decision to proceed must be made immediately so that these needs can be accommodated.

If we will undertake rationing now before supplies run out, rationing can be done carefully to assure that life and work continue in an orderly fashion. If we wait until February when the country will literally run out of gas, severe disruptions are inevitable. We know how much oil we have. We know also, how much oil we do not have. These are not normal times and the solutions we must seek can not be normal. The President must act now—rationing of gasoline should be started as soon as possible.

CPA AT DOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, continuing with my effort to avoid confusion in relation to the scope of authority for a proposed Consumer Protection Agency, today I wish to insert material from the Department of Transportation.

There are three CPA bills pending before a Government Operations Subcommittee on which I serve—H.R. 14 by Congressman Rosenthal, H.R. 21 by Congressmen Holifield and Horton and H.R. 564 by Congressman Brown of Ohio and myself.

The major difference among the bills is that under two of them, H.R. 14 and H.R. 21, the CPA would be granted a statutory right to appeal to the courts the final decisions of other agencies, including decisions not to take action as requested by the CPA. Under the Fuqua-Brown bill, on the other hand, the CPA would not be allowed to appeal to the courts the final decisions of other agencies.

In this regard, the material submitted from DOT demonstrates that all of the many thousands of actions taken by that Department annually would be subject to CPA court appeals under all bills except the Fuqua-Brown bill, H.R. 564.

It should also be noted that the number and type of DOT proceedings each year are so numerous that the Department could not respond to my request for a full itemization of all of them. Instead, DOT sent me a summary of major actions.

This shows the problems we on the subcommittee face in weighing the various provisions in the CPA bills before us—there is absolutely no way we can familiarize ourselves with the literally billions of annual Federal agency formal proceedings and informal activities that would be subject to CPA advocacy under the proposals.

In fact, my staff often has trouble preparing material such as today's insertion for the Record because of the volume of affected proceedings involved. You will recall that all of the material from the Environmental Protection Agency could not be printed in the Record with my insertion on that agency earlier this month; we had to send much of it to the subcommittee office and notify the Members that it would be available for review there for those who wished to see the substantial impact of a CPA upon EPA.

Similarly, I have received a response to my survey from one major agency which sent me computer readouts listing hundreds of thousands of its 1972 formalized proceedings, alone, which would be subject to CPA advocacy under the bills and CPA court appeals under all except the Fuqua-Brown bill.

Mr. Speaker, I submit in the Record a listing of the 1972 DOT proceedings that would have been subject to CPA advocacy under the pending bills in the Government Operations Committee. I do this to give the Members an early appreciation of the scope and importance of these bills, with the hope that we may avoid the confusion that occurred during our 1971 debate on this issue.

Office of the Secretary
of Transportation,
Washington, D.C., September 26, 1973.

Hon. Don Fuqua,
House of Representatives,
Washington, D.C.

Dear Mr. Fuqua: This replies to your inquiry of September 7, 1973, requesting data pertaining to the operations of the Department of Transportation during calendar year 1972. I understand that the Department's Office of Congressional Relations has been informed by your staff that summary data will be appropriate. The listings below will be itemized by the Departmental elements involved[1]; and major subject matter. The proceedings of the Department during the course of a full year are too numerous for specific description of each.

(A) *Question 1.* What regulations, rules, rates or policy interpretations subject to 5 USC 553 (the Administrative Procedure Act (APA) notice and comment rulemaking provisions) were proposed by your agency during calendar year 1972?

(1) OST

The Office of Hazardous Materials engaged in numerous proceedings involving the classification of hazardous materials and applications for special permits.

The Office of Pipeline Safety proposed and adopted a number of regulations dealing with the safe operation of gas transmission pipelines and acted upon several requests for waiver of various regulations.

The Office of Transportation Security initiated a program to promulgate cargo security advisory standards. Although these are not, in a technical sense, either rules or regulations and thus not within the purview of the APA, they are issued after notice and opportunity for comment.

One proceeding was concluded under the Uniform Time Act in which the line between the eastern and central time zones in Florida were relocated.

Several agency administrative regulations involving such matters as public availability of information, nondiscrimination in Federally-assisted programs, and procurement.

(2) USCG

Numerous proceedings involving:

Drawbridge operations.

Implementing regulations under the Boating Safety Act and Life-Saving Equipment Program.

Maritime carriage of hazardous materials.

(3) FAA

Numerous proceedings involving promulgation, revision and amendment of rules, regulations, minimum standards and procedures governing the following:

General rule-making and enforcement procedures.

Aircraft, including design, materials, workmanship, construction, and performance of aircraft, aircraft engines, propellers, appliances and parts. Also their maintenance and alteration, identification and registration.

The certification of airmen and certain non-airmen, to insure possession of minimum qualifications with regard to knowledge, experience, competency, medical, and various others as required.[2]

Airspace, including the designation and use of Federal airways, controlled airspace, reporting points, special use airspace, the establishment of jet routes and area navigation routes, and control of objects affecting navigable airspace.

Air traffic and general operating rules.

The certification and operations of operators, including air carriers, air travel clubs, and operators for compensation or hire.[2]

The certification and operations of ground instructors, schools, and other certificated agencies.[2]

The certification, operation, and maintenance of non-Federal navigational facilities.[2]

Airports.

The transportation of hazardous materials and other dangerous articles by air.

Aircraft noise abatement and sonic boom.

Airport security measures.

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[1] Office of the Secretary (OST), United States Coast Guard (USCG), Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA), and Urban Mass Transportation Administration (UMTA).

[2] While, by definition, issuance, or denial of such certificates amounts to an "adjudication" within the definition thereof in the Administrative Procedure Act (see 5 U.S.C. 551(6), (7) and (9)), these are not adjudications "subject to" the provisions of 5 U.S.C. 554 which applies only where a determination is required by statute to be made "on the record after opportunity for an agency hearing." The Federal Aviation Act does not require a hearing.

(4) FHWA

Proceedings looking toward issuance, modification or revocation of provisions of the Motor Carrier Safety Regulations including matters such as vehicle requirements, driver qualifications and carriage of hazardous materials.

(5) FRA

Promulgation of regulations under the Rail Safety Act.

Regulations affecting the transportation of hazardous materials.

Requests for waiver of operating rules.

Promulgation or modification of standards under such authorities as the Safety Appliances Acts and the Locomotive Inspection Act.

(6) NHTSA

Promulgation of numerous Federal Motor Vehicle Safety Standards.

Regulations concerning tire uniform quality grading system.

Requests for waiver of regulations with respect to importation and vertification of noncomplying vehicles.

Promulgation of uniform highway safety programs standards.

(7) UMTA

There were not any proceedings conducted under the notice and comment provisions of section 553 of the APA.

(B) *Question 2.* What regulations, rules, rates or policy interpretations subject to 5 USC 556 and 557 (that is, APA rulemaking on the record) were proposed or initiated by your agency during calendar year 1972?

The only formal rule makings on the record conducted or proposed during 1972 involved proceedings instituted by FHWA to consider the matter of toll bridge rates at Philadelphia, Pennsyvania; Budington, Iowa; and Chester, Illinois.

(C) *Question 3.* Excluding proceedings in which your agency sought primarily to impose directly (without court action) a fine, penalty or forfeiture, what administrative adjudications (including licensing proceedings) subject to 5 USC 556 and 557 were proposed or initiated by your agency during calendar year 1972?

None.

(D) *Question 4.* What adjudications under any provision of 5 USC Chapter 5 seeking primarily to impose directly (without court action) a fine, penalty or forfeiture were proposed or initiated by your agency during calendar year 1972?

The USCG conducts numerous proceedings involving revocation, suspension or modification of merchant seamen documentation.

(E) *Question 5.* Excluding proceedings subject to 5 USC 554, 556 and 557, what proceedings on the record after an opportunity for hearing did your agency propose or initiate during calendar year 1972?

None.

(F) *Question 6.* Will you please furnish me with a list of representative public and nonpublic activities proposed or initiated by your agency during calendar year 1972?

There are numerous functions of the Department which, although they do not fall into the class of formal proceedings, nevertheless amount to "agency activities". H.R. 14 and H.R. 564 define "agency activity" as including "any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process."

The limiting effect of the last-mentioned definitional caveat regarding "any particular event" is unclear. We find it conceptually difficult to separate any agency "process" from the particular events which it comprises. To cite only one example, how is it possible to isolate a single event in the process by which determinations are reached as to whether agency records will be released to the public under the Freedom of Information Act (5 U.S.C. 552)?

Applying to the proposed bills a literal construction, it appears to us that "agency activity" cuts across virtually every function of this Department, formal or informal, that does not fall within its formal rulemaking or adjudicative functions. Carrying this provision to its logical conclusion, the following representative functions of the Department would be included:

Preparation of Department budget.

Determination of Departmental positions for presentation to the Congress.

Personnel matters, including duty assignments and promotion policies, and USCG courts-martial procedures.

Decisions to hold meetings or attend conferences or events.

Administration of grants-in-aid and loan programs.

Decisions to conduct research and development.

Collection and publication of data, and issuance of press releases.

Conduct of enforcement programs, including determinations to seek or compromise civil penalties.

(G) *Question 7.* Excluding actions designed primarily to impose a fine, penalty or forfeiture, what final actions taken by your agency in calendar year 1972 could have been appealed to the courts for review by anyone under a statutory provision or judicial interpretation?

The right of review granted by 5 U.S.C. § 702 to "a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute" would apply to all final agency actions under the Administrative Procedure Act (including section 552).

As previously noted, the data presented is only representative of the myriad activities of the Department of Transportation.

I hope you will find this information useful.

Sincerely,

J. THOMAS TIDD,
Acting General Counsel.

THE IMPORTANCE OF EXAMPLE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. **COTTER**. Mr. Speaker, as former Attorney General John Mitchell, the "philosopher" of the Nixon administration, said in response to many questions: "Look at what we do, not what we say." With this in mind, I listened to the President's address to the Nation urging some initial steps toward cutting down gas and oil consumption, steps which I fear will have to be intensified later. I heard President Nixon again urge the American people to endure cold, dark houses, cut travel on the weekends to conserve fuel, and then today I found the following article in the newspaper:

NIXON'S WEEKEND: 600 GALLONS OF FUEL

Helicopters used by President Nixon and his Secret Service escort consumed about 600 gallons of fuel during Mr. Nixon's two round-trip flights to his Camp David retreat this holiday weekend, figures provided by the White House indicate.

Mr. Nixon's helicopter is accompanied by an identical aircraft ferrying Secret Service agents. The White House said each helicopter burns about 150 gallons of fuel an hour, and the flight between the White House and Camp David is about 30 minutes.

In addition, the President's limousine is driven the 70 miles to Camp David and other automobiles are used to carry staff personnel.

Following Mr. Mitchell's philosophy, I can see how the American people question the credibility of President Nixon. I have found in my district that this skepticism extends to the energy crisis itself. Perhaps good example should begin at the top. The President's weekend travels can only encourage the "I'm all right Jack" attitude which will intensify our energy crisis.

HAWAII'S LORI LEI MATSUKAWA IS MISS TEENAGE AMERICA, 1973

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 5 minutes.

Mr. **MATSUNAGA**. Mr. Speaker, the whole world knows, I am sure, but just in case any Member of this august body missed the best and greatest news over the last weekend, I take great pride in announcing that Hawaii's Lori Lei Matsukawa was crowned Miss Teenage America, 1973, last Saturday evening at Fort Worth, Tex.

An excellent student, a talented singer and dancer, the 17-year-old beauty is the daughter of Mr. and Mrs. Joe Sadao Matsukawa and the granddaughter of two of Hawaii's earliest immigrants from Japan. It was my pleasure to know Lori Lei's grandparents and parents when I lived on the island of Kauai as a youngster.

It was my pleasure, too, to host Lori Lei here on Capitol Hill when she came as a member of Aida High School's "Swinging Singers" only last year. The group made a highly successful performing tour of the mainland United States, during which they performed in the House Caucus Room of the Cannon Building for a standing-room-only audience.

As Miss Teenage America, Lori Lei will receive a $10,000 4-year scholarship to the university of her choice, which I am told is Northwestern University in Illinois. She will also receive $5,000 in travel expenses and shares of stock. Lori Lei was sponsored in the Miss Teenage America contest by Liberty House, a department store chain which is a subsidiary of Amfac, Inc. of Hawaii.

Those who watched her in person or on television will agree with me, I am sure, that the judges made the right choice and that Lori Lei will prove a real credit to this great Nation of ours. As an Hawaiian, she will plant the seed of aloha wherever she goes and spread infectious cheerfulness among all whom she meets. What is more important, perhaps, is that she has already proven to the world that in America, regardless of race or ancestry, one can expect one's wildest dream to come true.

I take this means to congratulate Lori Lei and her proud parents, Mr. and Mrs. Joe Sadao Matsukawa of Aiea, Hawaii.

NATHANIEL S. KEITH

(Mr. **BARRETT** asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. **BARRETT**. Mr. Speaker, on Saturday, November 24, one of the most outstanding experts in the field of housing and urban development died. Nathaniel Keith, long-time president and then chairman of the National Housing Conference had one of the longest associations both in Government and in private industry with the Federal Government's efforts to provide safe and adequate housing for all its citizens. Nat Keith joined the Washington scene in 1929 as a reporter covering financial activities in Washington for the Wall Street Journal.

He joined the Federal Government in 1940 with the old National Housing Administration and by 1949 became the first director of the Federal Government's urban renewal program which has done such an outstanding job in revitalizing our cities. It was at Nat Keith's direction that the urban renewal program took shape. As chairman of the Housing Subcommittee, I have worked particularly close with Nat Keith over the last 10 years. As president and then chairman of the National Housing Conference, Nat was always appearing before our Housing Subcommittee testifying on pending legislation and urging upon the Congress his expert advise in a very complicated and controversial area. We always listened to Nat and in many cases considered and accepted his sound recommendations.

Mr. Speaker, there are many thousands of families across America who have benefited from Nat Keith's brilliant services to his country, and I am sure that many will agree with me that our effort to provide decent, safe, and sanitary housing and the effort to improve our cities have lost a major benefactor.

I insert the following article from the Washington Post, November 26, 1973:

NATHANIEL S. KEITH, EXPERT ON HOUSING

(By Jean R. Hailey)

Nathaniel S. Keith, 66, an authority on urban renewal and slum clearance, died Saturday at the National Institutes of Health of pneumonia complicated by cancer.

At the time of his death, Mr. Keith was chairman of the board of the National Housing Conference. He had served as its president from 1958 to 1972.

He was considered a leader, both as a federal government official and later as a housing consultant in private practice, in programs to start the revitalization and redevelpoment of many cities, including Washington, D.C.

In 1955, Mr. Keith and developer James W. Rouse prepared a long-range urban renewal program for the D.C. Commissioners in which they called for a centralized administration of such a program.

Although their advice was not followed to the fullest extent, and the responsibility for urban renewal continued to be spread among a number of agencies, their report was credited with leading to the redevelopment of Southwest Washington.

Mr. Keith also had played an important rolé as a consultant to the Redevelopment Land Agency on the problems of renewal in the blighted Northwest and Northeast sections of the city.

His work had included an intensive urban renewal study for the Federal City Council, which had been asked for such a report by the House District Committee.

Born in Cincinnati, Mr. Keith was a graduate of Brown University. He was a staff writer for the Wall Street Journal from 1929 to 1940, specializing in transportation industries, construction, corporation finance and federal finance.

During World War II, he was special assistant and Congressional liaison officer to the National Housing Administrator.

In 1944, Mr. Keith became assistant to the administrator of the Housing and Home Finance Agency and five years later was named the first director of the Federal Slum Clearance and Urban Redevelopment Program.

In this position, he organized and administered a $1.5 billion program of federal financial assistance to more than 200 cities throughout the country.

He opened his own consultant offices in 1953. They are located at 1250 Connecticut Ave. NW.

In addition to working with D.C. urban renewal, Mr. Keith was a consultant to the Municipal Housing Authority of San Juan on its plans for the renewal of San Juan Antiguo and helped to prepare a long-range community development for Buffalo, N.Y., involving private residential and neighborhood commercial renewal which is now underway.

He also served as a consultant on redevelopment programs in Rochester, N.Y., Battle Creek, Mich., the University of Maryland and the Virgin Islands.

As president of the National Housing Conference, Mr. Keith was a major spokesman for the public interest before Congressional committees considering housing and urban development. The Conference is a clearing house for coordinating support of housing legislation by progressive groups throughout the country.

His book, "Politics and the Housing Crisis," published recently, analyzes political developments that have been involved in the evolution of the national housing policy.

Mr. Keith was a trustee of the Foundation for Cooperative Housing and a member of the National Association of Housing and Redevelopment Officials, the National Trust for Historic Preservation, the Washington Planning and Housing Association, the Washington Building Congress, the Metropolitan Board of Trade and the Cosmos Club.

He is survived by his wife, Marjorie MacDonald, of the home, 6316 31st Pl. NW; a daughter, Penelope Trickett, of North Branford Conn.; a sister, Margaret Friend, of Long Island, N.Y., and one grandchild.

The family suggests that expressions of sympathy be in the form of contribution to Children's Hospital.

STEPHEN G. SLIPHER

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BARRETT. Mr. Speaker, during the Thanksgiving recess the House and financial community lost two of its most outstanding representatives with the deaths of Stephen Slipher, the legislative director and vice president of the U.S. League of Savings Associations, and Nathaniel S. Keith, chairman of the board of the National Housing Conference. Steve Slipher was the longtime Washington director of the U.S. Savings and Loan League having headed their Washington office since 1949. The U.S. Savings and Loan League is the major trade organization for the savings and loan associations throughout the country. As its Washington spokesman, Stephen Slipher represented an industry which at his death had some $260 billion in total assets. When he joined the U.S. League in 1941 the savings and loan industry had assets well under $20 billion.

Mr. Speaker, I have known Steve Slipher since 1949 and always appreciated his expert advice, his renowned humor, and good friendship. As the "dean" of the housing and financial representatives in Washington, it was my good fortune to have many associations with Steve Slipher in my capacity as the chairman of the Housing Subcommittee and ranking majority member on the Committee on Banking and Currency. The housing and financial community is certainly at a loss with the death of Steve Slipher.

I insert the following article from the Washington Post, November 20, 1973:

STEPHEN G. SLIPHER DIES; OFFICIAL OF S&L ASSOCIATION

Stephen G. Slipher, 53, staff vice president and legislative director of the U.S. League of Savings Associations, died Saturday of cancer at his home, 5825 Rockmere Dr., Sumner, Md.

He had been head of the Washington operations of the League, formerly the U.S. Savings and Loan League, since 1949.

Mr. Slipher joined the Chicago-based organization in 1941. As the principal trade group for savings and loan associations, it has seen a vast expansion in the business from $17 billion to $260 billion in assets.

Mr. Slipher was known on Capitol Hill as the "dean" of housing and financial representatives. The League was once referred to by President John F. Kennedy as "the most powerful lobby in Washington."

One of Mr. Slipher's jobs was to put out a weekly newsletter, "Washington Notes," considered an authoritative publication in the savings and loan field.

Born in Lafayette, Ind., Mr. Slipher grew up in Columbus, Ohio. He was a graduate of Indiana University and also took graduate work at Northwestern University. He served on the economics faculty at DePaul University in Chicago and taught at the American Savings and Loan Institute.

A Navy veteran of World War II, he had participated in the Normandy invasion in Europe and also served in the Pacific.

Mr. Slipher was a member of the American Legion, the Congressional Country Club, the University Club, the Capitol Hill Club, the National Press Club, the Metropolitan Washington Board of Trade and the American Society of Association Executives.

He was a past chancellor of the Exchequer Club and a founder of 116 Club on Capitol Hill.

He is survived by his wife, Catherine, and two sons, Paul and Jeffrey, of the home; his father, John A., of Columbus, and a sister, Elizabeth Barry, of Wilwaukee.

The family suggests that expressions of sympathy be in the form of contributions to the American Cancer Society.

NOT A TIME FOR NEW ANTIGUN LAWS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, with a new Attorney General about to take over at the Department of Justice, it is hoped by many that a disturbing trend set by some of his predecessors will be halted and that efforts to curtail the right of law-abiding citizens to own firearms for legitimate purposes will be dropped.

A recent report by the National Advisory Commission on Criminal Justice Standards and Goals was a thinly veiled attempt to convince the American people that law-abiding citizens with guns are major contributors to crime in this country.

It proposed the manufacture and sale of handguns be terminated and that existing handguns be confiscated by the Government. The report cited the assassination of Senator Kennedy, the attempted assassination of Governor Wallace, and the wounding of Senator Stennis as examples of how handguns are used illegally. What the report did not state was that if existing laws had been adequately enforced, none of these three events need have happened.

What is so disturbing about the Commission report was word from the Department of Justice that new legislation is being drawn up which would further restrict the right of law-abiding citizens to own handguns. This would represent a complete turnabout of the commonsense attitude shown by agencies of this administration for the past 4 years on the subject of gun controls.

Taking guns from those who obey the law will not mean guns will be deprived to lawbreakers. But gun owners who also believe in the enforcement of laws are appalled at suggestions they be stripped of their guns while criminals are roaming the streets with weapons procured illegally or stolen or not surrendered under new gun control laws.

The new Attorney General soon will have the opportunity to demonstrate his position on gun control. Hopefully it will be consistent with the reasonable view that the enforcement of laws already on the statute books through apprehension and punishment of criminals will accomplish far more to stem crime than the enactment of new antigun laws. As long as criminals are petted and pampered by the courts, crime will not diminish no matter what is done about handgun laws.

GENERAL LEAVE

Mr. TOWELL of Nevada. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order given by the gentleman from Illinois (Mr. Derwinski) on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Foley (at the request of Mr. O'Neill), for today and November 27, on account of illness in family.

Mr. Pepper (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Towell of Nevada) to revise and extend their remarks and include extraneous material:)

Mr. Derwinski, for 30 minutes, today.
Mr. Baker, for 20 minutes, today.
Mr. Ashbrook, for 30 minutes, today.
Mr. Frey, for 60 minutes, December 4, 1973.
Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Ginn) to revise and extend their remarks and include extraneous material:)

Mr. Dent, for 10 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Reuss, for 30 minutes, today.
Mr. Owens, for 20 minutes, today.
Mr. Fuqua, for 5 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Matsunaga, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Towell of Nevada) and to include extraneous matter:)

Mr. Derwinski in three instances.
Mr. Forsythe.
Mr. Broyhill of Virginia.
Mr. Esch.
Mr. Young of Illinois in two instances.
Mr. Wyman in two instances.
Mr. Robison of New York.
Mr. Burke of Florida.
Mr. Sandman.
Mr. Railsback in two instances.
Mr. Shoup.
Mr. Rousselot.
Mr. Regula.
Mr. Froehlich.
Mr. Kemp in two instances.
Mr. McClory.
Mr. Walsh.
Mrs. Heckler of Massachusetts.
Mr. Chamberlain.

(The following Members (at the request of Mr. Ginn) and to revise and extend their remarks:)

Mr. O'Neill.
Mr. Bolling.
Mr. Annunzio in six instances.
Mr. Rarick in three instances.
Mr. Gonzalez in three instances.
Mr. Nichols.
Mr. Carney of Ohio in two instances.
Mr. Vanik in two instances.
Mr. McSpadden in four instances.
Mr. Hamilton in 10 instances.
Mr. Rostenkowski.
Mr. Harrington in four instances.
Mr. Edwards of California in three instances.
Mr. Zablocki in two instances.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 97. An act for the relief of Jose A. Seradilla; to the Committee on the Judiciary;

S. 663. An act to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes; to the Committee on the Judiciary;

S. 928. An act to create a catalog of Federal assistance programs, and for other purposes; to the Committee on Government Operations;

S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave; to the Committee on Armed Services;

S. 1206. An act for the relief of Concepcion Velasquez Rivas; to the Committee on the Judiciary;

S. 1398. An act to authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes; to the Committee on Foreign Affairs;

S. 1418. An act to recognize the 50 years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his services as 31st President of the United States, and in commemoration of the 100th anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace; to the Committee on Education and Labor;

S. 1673. An act for the relief of Mrs. Zosima Telebanco Van Zanten; to the Committee on the Judiciary;

S. 2112. An act for the relief of Vo Thi Suong (Nini Anne Hoyt); to the Committee on the Judiciary;

S. 2267. An act to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes; to the Committee on Interstate and Foreign Commerce;

S. 2299. An act to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes; to the Committee on Government Operations;

S. 2551. An act to authorize the disposal of molybdenum from the national stockpile, and for other purposes; to the Committee on Armed Services;

S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index; to the Committee on Armed Services;

S.J. Res. 40. Joint resolution to authorize and request the President to call a White House Conference on Library and Information Services in 1976; to the Committee on Education and Labor;

S.J. Res. 126. Joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday in May of each year as "Grandparents Day"; to the Committee on the Judiciary;

S.J. Res. 168. Joint resolution to authorize the President to designate the period from February 10, 1974, through February 16, 1974, as "National Nurse Week"; to the Committee on the Judiciary; and

S. Con. Res. 57. Concurrent resolution expressing the sense of the Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs; to the Committee on Banking and Currency.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1353. An act for the relief of Toy Louie Lin Heong;

H.R. 1356. An act for the relief of Ann E. Shepherd;

H.R. 1367. An act for the relief of Bertha Alicia Sierra;

H.R. 1463. An act for the relief of Amilia Majowicz;

H.R. 1696. An act for the relief of Sun Hwa Koo Kim;

H.R. 1955. An act for the relief of Rosa Ines D'Elia;

H.R. 2513. An act for the relief of Jose Carlos Recalde Martorella;

H.R. 2628. An act for the relief of Anka Kosanovic;

H.R. 3207. An act for the relief of Mrs. Enid R. Pope;

H.R. 3754. An act for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni;

H.R. 5777. An act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture;

H.R. 6334. An act to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System;

H.R. 6828. An act for the relief of Edith E. Carrera;

H.R. 6829. An act for the relief of Mr. Jose Antonio Trias;

H.R. 7582. An act to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies;

H.R. 8187. An act to amend section 2031(b) (1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 9474. An act to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation, and for other purposes;

H.R. 9575. An act to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes;

H.R. 10366. An act to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port;

H.R. 10840. An act to amend the act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress;

H.R. 10937. An act to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia; and

H.J. Res. 735. Joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2408. An act to authorize certain construction at military installations, and for other purposes; and

S. 2681. An act to authorize appropriations for the U.S. Information Agency.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following title:

On November 16, 1973:

H.R. 9295. To provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University.

On November 19, 1973:

H.R. 5777. To require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture;

H.R. 7582. To amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies;

H.R. 8187. To amend section 2031(b) (1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 1036. To amend title 10, United States Code, to remove the four-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. To amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port; and

H.J. Res. 735. Authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran.

ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 42 minutes), the House adjourned until tomorrow, Tuesday, November 27, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1561. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the U.S. Secret Service of the Department of the Treasury for "Salaries and Expenses," for fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1562. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of the Interior for "Office of Oil and Gas" for fiscal year 1974, has been apportioned on basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1563. A letter from the Administrator of General Services, transmitting the semiannual report on the strategic and critical materials stockpiling program for the 6 months ended June 30, 1973, pursuant to section 4 of Public Law 79–520; to the Committee on Armed Services.

1564. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

1565. A letter from the Assistant Secretary of the Treasury, transmitting a report on the status of foreign credits by U.S. Government agencies as of December 31, 1972, pursuant to section 634(f) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1566. A letter from the Assistant Secretary of Defense (International Security Affairs), transmitting the views of the Department of Defense on the bill to authorize appropriations for U.S. participation in the International Ocean Exposition 1975; to the Committee on Foreign Affairs.

1567. A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting notice of the approval of deferment of the construction repayment installments due the United States during 1974 and 1975 for irrigation facilities in the Kansas-Bostwick Irrigation District No. 2, Pick-Sloan Missouri Basin program, Kansas, pursuant to 73 Stat. 584; to the Committee on Interior and Insular Affairs.

1568. A letter from the President, National Academy of Sciences, transmitting copies of various panel reports developed under sponsorship of the Academy's Committee on Motor Vehicle Emissions during studies conducted under the provisions of section 6 of Public Law 91–604, concerning the technological feasibility of meeting light duty motor vehicle emission standards; to the Committee on Interstate and Foreign Commerce.

1569. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to enlarge the trial jurisdiction of U.S. magistrates to encompass additional misdemeanors; to the Committee on the Judiciary.

1570. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference claassification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

1571. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend the act of August 24, 1935 (commonly referred to as the "Miller Act") to provide for the inclusion of interest and legal fees in judgments granted on suits by subcontractors based upon payment bonds, and for other purposes; to the Committee on the Judiciary.

1572. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated July 13, 1973, submitting a report, together with accompanying papers and illustrations, on reformulation of the Sixes Bridge and

Verona projects in the Potomac River Basin, in response to a directive contained in the conference report, House of Representatives Report No. 92–1582, on Senate Bill 4018, Public Works for Rivers and Harbors, in two volumes (House Doc. No. 93–2); to the Committee on Public Works and ordered to be printed with illustration.

1573. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Abbeville, S.C., to the Committee on Public Works.

1574. A letter from the Administrator of General Services, requesting the withdrawal of prospectus proposing the construction of a post office, courthouse, and Federal Office Building at Auburn, N.Y.; to the Committee on Public Works.

1575. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report covering the 6 months ended June 30, 1973, on research, development, test, and evaluation contracts and mobilization based contracts negotiated by NASA, pursuant to 10 U.S.C. 2304(e); to the Committee on Science and Astronautics.

1576. A letter from the Secretary of the Treasury, transmitting the annual report on the state of the finances of the U.S. Government for fiscal year 1973, pursuant to 31 U.S.C. 1027 (House Doc. No. 93–116); to the Committee on Ways and Means and ordered to be printed with illustrations.

Received From the Comptroller General

1577. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during October 1973, pursuant to 31 U.S.C. 1174; to the Committee on Government Operations.

1578. A letter from the Comptroller General of the United States, transmitting a report that educational laboratory and research and development center programs need to be strengthened; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. House Resolution 715. Resolution providing for the consideration of H.R. 7130. A bill to amend the Rules of the House of Representatives and the Senate to improve congressional control over budgetary outlay and receipt totals, to provide for a legislative budget director and staff, and for other purposes (Rept. No. 93–652). Referred to the House Calendar.

Mr. DIGGS: Committee on the District of Columbia. H.R. 7218. A bill to improve the laws relating to the regulation of insurance companies in the District of Columbia; with amendment (Rept. No. 93–653). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 6186. A bill to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies; with amendment (Rept. No. 93–654). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 6758. A bill to permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia; with amendment (Rept. No. 93–655). Referred to the Committee of the Whole House.

Mr. DIGGS: Committee on the District of Columbia. H.R. 10806. A bill to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes (Rept. No. 93–656). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 11238. A bill to amend the act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes; with amendment (Rept. No. 93–657). Referred to the Committee of the Whole House on the State of the Union.

Mr. MADDEN: Committee on Rules. H.R. 7130. A bill to amend the Rules of the House of Representatives and the Senate to improve congressional control over budgetary outlay and receipts totals, to provide for a legislative budget director and staff, and for other purposes; with amendment (Rept. No. 93–658). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 11010. A bill to assure opportunities for employment and training to unemployed and underemployed persons; with amendment (Rept. No. 93–659). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 11576. A bill making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–663). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 11575. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–662). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNGATE: Committee on the Judiciary. H.R. 11401. A bill to provide for, and assure the independence of, a Special Prosecutor, and for other purposes with amendment (Rept. No. 93–660). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. S. 2641. An act to confer jurisdiction upon the district court of the United States of certain civil actions brought by the Senate Select Committee on Presidential Campaign Activities, and for other purposes (Rept. No. 93–661). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DON H. CLAUSEN:

H.R. 11554. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration in cooperation with the National Bureau of Standards, the National Science Foundation, the Secretary of Housing and Urban Development, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling; to the Committee on Science and Astronautics.

By Mr. DENNIS (for himself, Mr. McClory, Mr. Huchinson, Mr. Smith of New York, Mr. Sandman, Mr. Mayne, Mr. Hogan, Mr. Butler, Mr. Cohen, Mr. Lott, Mr. Moorhead of California, Mr. Flowers, Mr. Maraziti, and Mr. Fish):

H.R. 11555. A bill to define the powers and duties and to place restriction upon the grounds for the removal of the Special Prosecutor appointed by the Acting Attorney General of the United States on November 5, 1973, and for other purposes; to the Committee on the Judiciary.

By Mr. COHEN (for himself, Mr. Burke of Massachusetts, Ms. Schroeder, Mr. Gude, Mr. Pickle, Ms. Holtzman, Mr. Seiberling, Mr. Nichols, Mr. Taylor of North Carolina, and Mr. Conte):

H.R. 11556. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. CONTE:

H.R. 11557. A bill to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

H.R. 11558. A bill to direct the President to halt all exports of gasoline distillate fuel oil, and propane gas until he determines that no stortage of such fuels exists in the United States; to the Committee on Banking and Currency.

By Mr. de LUGO (for himself, Mr. Won Pat, Mr. Burton, Mr. Don H. Clausen, and Mr. Regula):

H.R. 11559. A bill to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DENT:

H.R. 11560. A bill to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand; to the Committee on Banking and Currency.

By Mr. EILBERG:

H.R. 11561. A bill to provide loans for air transportation expenses to the United States or the remains of U.S. citizens who die abroad, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FORSYTHE:

H.R. 11562. A bill to provide emergency security assistance authorizations for Israel; to the Committee on Foreign Affairs.

By Mr. HAMILTON:

H.R. 11563. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes; to the Committee on Interstate and Foreign Commerce

By Mr. HECHLER of West Virginia:

H.R. 11564. A bill to amend the Clean Air Act, as amended, and for other purposes; to the Committee on Banking and Currency.

By Mr. HOWARD (for himself, Mr. Grover, Mr. Cleveland, Mr. Snyder, Mr. Milford, Mr. Zion, Mr. Baker, Mr. Walsh, Mr. Cochran, Mr. Taylor of Missouri, Mr. Clark, Mr. Dorn, Ms. Abzug, Mr. Breaux, Mr. Studds, and Mrs. Burke of California):

H.R. 11565. A bill to insure that certain buildings financed with Federal funds utilize the best practicable technology for the conservation and use of energy; to the Committee on Public Works.

By Mr. LEHMAN:

H.R. 11566. A bill to direct the Secretary of Commerce to research and develop new building designs and construction methods which utilize solar energy and to authorize the Secretary of Housing and Urban Development to increase the maximum amount of mortgages insured under title II of the National Housing Act for certain facilities utilizing solar energy; to the Committee on Banking and Currency.

By Mr. LUJAN:

H.R. 11567. A bill to provide, in cooperation with the States, benefits to individuals who are totally disabled due to employment-related respiratory disease and to the surviving dependents of individuals whose death was due to such disease or who were totally disabled by such disease at the time of their deaths; to the Committee on Education and Labor.

H.R. 11568. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. McDADE:

H.R. 11569. A bill to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors; to the Committee on the Judiciary.

By Mr. REUSS (for himself and Mr. Moorhead of Pennsylvania):

H.R. 11570. A bill to establish a program of community development and housing grants and to provide assistance to State development agencies relating to housing and urban development activities; to the Committee on Banking and Currency.

By Mr. ROSENTHAL:

H.R. 11571. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. SHOUP:

H.R. 11572. A bill to provide for the imposition of an embargo on the shipment of goods and materials to Arab nations; to the Committee on Banking and Currency.

By Mr. WON PAT:

H.R. 11573. A bill to amend the Organic Act of Guam to place certain lands within the jurisdiction of the government of Guam, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HÉBERT (for himself, Mr. Bray, Mr. Price, of Illinois, Mr. Fisher, Mr. Bennett, Mr. Stratton, Mr. Pike, Mr. Ichord, Mr. Nedzi, Mr. Arends, Mr. Bob Wilson, and Mr. Gubser):

H.J. Res. 831. Joint resolution authorizing the President to designate the nuclear-powered aircraft carrier CVN-70 as the U.S.S. *Carl Vinson;* to the Committee on Armed Services.

By Mr. CONTE:

H. Res. 716. Resolution to provide for the conservation of energy by reducing the number of operational days and hours in Federal buildings and offices; to the Committee on Post Office and Civil Service.

By Mr. THOMPSON of New Jersey:

H. Res. 717. Resolution providing for printing of additional copies of legislative hearings entitled "Jointly Administered Legal Services Plans"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CONABLE introduced a bill (H.R. 11574) for the relief of Edward Drag, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

356. By the SPEAKER. Petition of the city council, Philadelphia, Pa., relative to amending the Elementary and Secondary Education Act; to the Committee on Education and Labor.

357. Also, petition of the city council, Philadelphia, Pa., relative to an accounting of the servicemen missing in action in Southeast Asia; to the Committee on Foreign Affairs.

358. Also, petition of Dr. Tsung-Po Kuo, Kaohsiung Medical College, Taiwan, China, relative to the Republic of China; to the Committee on Foreign Affairs.

359. Also, petition of the U.S. Jaycees, Tulsa, Okla., relative to alcohol abuse and alcoholism prevention; to the Committee on Interstate and Foreign Commerce.

360. Also, petition of the common council, Buffalo, N.Y., relative to daylight saving time; to the Committee on Interstate and Foreign Commerce.

361. Also, petition of the Suffolk County Legislature, N.Y., relative to daylight saving time; to the Committee on Interstate and Foreign Commerce.

362. Also, petition of Herman Howlery, Menard, Ill., relative to redress of grievances; to the Committee on the Judiciary.

363. Also, petition of members of the Trade Union Committee for Action and Democracy, Berkeley, Calif., relative to impeachment of the President; to the Committee on the Judiciary.

364. Also, petition of Ralph Boryszewski, Rochester, N.Y., relative to impeachment of the President; to the Committee on the Judiciary.

SENATE—*Monday, November 26, 1973*

The Senate met at 12 o'clock meridian and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God of grace and goodness, we pray that as we work this day our souls may be sanctuaries of Thy presence, Thy peace, and Thy power. We seek Thee because Thou has first sought us and bid us come to Thee. Hold us fast lest we go astray. Amid all that is sinful and ugly in this world, help us ever to remember Thou hast conquered evil and provided forgiveness and healing. Help us to give our first loyalty to Thee knowing that all lesser loyalties will be fulfilled in fidelity to the supreme loyalty. May the vision of the Founding Fathers never be dimmed by any dark moments. With hearts still aglow with the idealism of the past, may we be partners with Thee in bringing to fulfillment the kingdom of brotherhood and peace.

We pray in Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., November 26, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of November 21, 1973, the following reports of a committee were submitted on November 21, 1973:

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 11104. An act to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974 (Rept. No. 93-552).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 3153. An act to amend the Social Security Act to make certain technical and conforming changes (Rept. No. 93-553).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 21, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on November 16, 1973, the President had approved and signed the following acts:

S. 1081. An act to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes; and

S. 2410. An act to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Robert C. Byrd) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees; and a message withdrawing the nomination of Col. Leonard F. Stegman, [redacted], U.S. Army, for temporary appointment in the Army of the United States to the grade of brigadier general, which was sent to the Senate on October 10, 1973.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 1353. An act for the relief of Toy Louie Lin Heong;

H.R. 1356. An act for the relief of Ann E. Shepherd;

H.R. 1367. An act for the relief of Bertha Alicia Sierra;

H.R. 1463. An act for the relief of Amilia Majowicz;

H.R. 1696. An act for the relief of Sun Hwa Koo Kim;

H.R. 1955. An act for the relief of Rosa Ines D'Elia;

H.R. 2513. An act for the relief of Jose Carlos Recalde Martorella;

H.R. 2628. An act for the relief of Anka Kosanovic;

H.R. 3207. An act for the relief of Mrs. Enid R. Pope;

H.R. 3754. An act for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni;

H.R. 6334. An act to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System;

H.R. 6828. An act for the relief of Edith E. Carrera;

H.R. 6829. An act for the relief of Jose Antonio Trias;

H.R. 9474. An act to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation, and for other purposes;

H.R. 10840. An act to amend the act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress; and

H.R. 10937. An act to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COLLECTION OF INFORMATION BY GOVERNMENT AGENCIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 527, S. 1106.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 1106, to amend the Federal Reports Act to avoid undue delays in the collection of information by Government agencies.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate considered the bill, which was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 3509 of title 44, United States Code, is amended by inserting "(a)" before the words "A Federal agency" and by adding at the end thereof the following new subsections:

"(b) A determination of disapproval by the Director shall be accompanied by a full statement of the reasons therefor.

"(c) Any collection of information which has been referred to the Director of the Office of Management and Budget for his approval under section 3506 of this title or under subsection (a) of this section shall be approved or denied within sixty days or such approval shall be deemed to have been granted."

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Montana will state it.

Mr. MANSFIELD. Is it correct to state that the vote on the two treaties will occur at the hour of 2 p.m. today?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at 5 minutes before 2 p.m. today, the distinguished Republican leader (Mr. HUGH SCOTT) be recognized to inquire as to what the schedule will be for this week and for the remainder of this session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISCIPLINE AND SACRIFICE

Mr. HUGH SCOTT. Mr. President, at a time when some of the brightest aspects of civilization were manifesting themselves in the great realm of China a division was asserted, as it has been during all of the times of man on this earth, a division between the Han jen and the Hsiung-nu. The Han jen were the people of the Han, which the Chinese people have always called themselves for more than 2,000 years until this very day.

The Hsiung-nu were barbarians beyond the frontier.

There exists in every person the eternal conflict between the Han jen, or the civilized part of his nature, and the Hsiung-nu, or the barbarian part. We are now, as Americans, being asked to make certain sacrifices for the good of all. There is the tendency to seize for oneself advantages to the detriment of others, whether it be blackmarketing or hoarding, or other advantages which are taken at the expense of the commonality of the community.

I hope that as we turn our attention to the mutual need for sacrifice the civilized aspects of America will assert themselves against the barbarian tendency which lie, not always controlled, fuming like the dragon of China, within all of us.

So let us hope that we will, in a civilized manner, impose discipline upon ourselves, abide by the laws and regulations, and live so that all of us may be able, together, to solve a very difficult and surely a common problem. For if the Hsiung-nu prevails, then we will have defeated others, but we will also have defeated ourselves, because we will not have risen to the capacity which lies within us, one and all.

TRANSACTION OF ROUTINE BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine business, with statements therein limited to 3 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD):

A resolution of the Common Council of the City of Buffalo, N.Y., in support of daylight saving time on a year-round basis. Ordered to lie on the table.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. NELSON (for himself and Mr. JACKSON):

S. 2738. A bill relating to the necessity of reorganizing certain departments and agencies of the executive branch, and for other purposes. Referred to the Committee on Government Operations.

By Mr. PROXMIRE:

S. 2739. A bill for the relief of Christina Yung. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 2740. A bill to amend the Fair Labor Standards Act of 1938 to provide a cost-of-living index increase for certain enterprise and establishment exemptions under that act. Referred to the Committee on Labor and Public Welfare.

By Mr. BROCK:

S. 2741. A bill to provide for an investigation of the character and past activities of potential Vice Presidential nominees by the Federal Bureau of Investigation. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself, Mr. BIBLE, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. HASKELL, Mr. NELSON, Mr. FANNIN, Mr. HANSEN, Mr. HATFIELD, Mr. BUCKLEY, Mr. MCCLURE, Mr. BARTLETT, and Mr. MATHIAS):

S.J. Res. 175. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1974, as "National Historic

Preservation Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself and Mr. JACKSON):

S. 2738. A bill relating to the necessity of reorganizing certain departments and agencies of the executive branch, and for other purposes. Referred to the Committee on Government Operations.

GOVERNMENT SURVEILLANCE AND THE THREAT TO INDIVIDUAL PRIVACY: A NEED TO REORGANIZE THE GOVERNMENT

Mr. NELSON. Mr. President, approximately 185 years ago, Thomas Jefferson warned that—

> The natural progress of things is for liberty to yield and government to gain ground.

The time has long since past for Congress to exercise control over government surveillance and recordkeeping activities. When the Government invades an individual's privacy—whether by wiretapping, electronic bugs, or some other means—it strike at the individual freedoms essential to democratic self-government. Government then becomes a threat to the very constitutional rights and liberties it was designed to defend. None of us can afford to be insensitive to this risk of government spying and prying.

I introduced legislation in 1971 and in June of this year aimed at bringing this dangerous activity under congressional oversight. Senator JACKSON and I have joined in presenting further legislation at this time seeking the same objective. It is my intention to continue raising this issue on the Senate floor until Congress awakens to the serious threat to liberty posed by Government surveillance.

The need for Congress to act is more pressing today than ever before. The incidence of spying at all levels of government seems to grow unabated. Virtually every day congressional committees, as well as newspapers and magazines, expose new details of how Federal, State, and local governmental agencies intrude into the private affairs of America's citizens. Examples abound:

One night last spring Federal agents battered down the doors of two law-abiding families in Collinsville, Ill., on the mistaken assumption that the families were in possession of dangerous drugs.

Joseph Kraft, a syndicated columnist, learned that the Government not only burglarized his home to install a wiretap on his telephone but also shadowed him in his foreign travels.

A Senate subcommittee reported that it cannot determine the name of the official who initiated the surveillance activities of 1,500 U.S. Army agents on more than 100,000 law-abiding private citizens.

No one knows how many illegal wire taps have been used by Government agents but enough evidence has been exposed to give cause for alarm.

The rise in Government snooping has not escaped the attention of the public. Numerous commentators and periodicals have reported the public's growing concern that Government surveillance and recordkeeping activities are endangering the individual's right to privacy.

This legitimate public concern was aptly summarized in an article titled "Political Surveillance and Police Intelligence Gathering—Rights, Wrongs, and Remedies," which appeared in the Wisconsin Law Review last year:

> Eleven years from the title date of George Orwell's fictionalized account of the totalitarianism of the future, many Americans sense that "Big Brother" is emerging as a terrifying reality in the United States. There are no posters or broadcasts proclaimed the fact, but to many the ubiquitous surveillance, represented by the telescreen and the thought police in Orwell's novel, is upon us in the guise of the proliferating governmental agencies engaged in the business of spying.

A report released by the Department of Health, Education, and Welfare, in July, 1973, titled "Records, Computers and the Rights of Citizens," confirms that fear of governmental snooping still prevails among the public. The HEW report related the results of a public opinion survey in which a very large proportion of the respondents expressed concern that their personal privacy was being seriously compromised by Government surveillance and recordkeeping activities. The source of this public concern is not obscure. As the HEW report explained—

> The public fear of a "Big Brother" system, in effect a pervasive network of intelligence dossiers, focuses on the computer, but it includes other marvels of twentieth-century engineering, such as the telephone taps, the wireless microphone, the automatic surveillance camera, and the rest of the modern investigator's technical equipage.

This HEW report adds new weight to the public's deep concern with Government spying. Much of this concern reflects the public response to the Government activities exposed by the Senate Watergate hearings. In a recent poll, for example, Louis Harris found that—

> The revelations of the Watergate investigation have had a profound impact on the American people's awareness of threats to individual liberty and have made the public much more convinced that specific acts by government have been not only unnecessary but dangerous.

Indeed, Mr. Harris also reported that 52 percent of those surveyed "now agrees with the statement that things have become more repressive in this country in the past few years." In a word, this public opinion poll, as well as numerous other commentaries and reports, make clear the public's fear that the Government often invades the individual's privacy with little or no justification.

The Government's pervasive violations of individual privacy must not go unchallenged. Indeed, if Congress refuses to respond to these violations, it will be nothing less than an abdication of Congress responsibility to safeguard individual liberty. It is therefore imperative that Congress act now to reverse this tide of government snooping.

Accordingly, Senator JACKSON and I are introducing legislation today which will provide Congress with critically necessary oversight of government surveillance activities. Specifically, this bill will establish a Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance. The joint committee will be bipartisan and will include representation from those Senate and House committees which have jurisdiction over those agencies and departments engaging in surveillance. The joint committee will have two basic responsibilities. First, it will examine the surveillance activities of all Federal agencies. Second, it will review the intergovernmental relationships among the Federal, State, and local governmental agencies insofar as those relationships concern the conduct of and the sharing of information acquired by surveillance activities. Having executed these two responsibilities, the joint committee will be able to recommend whatever changes are necessary in law and in governmental structure in order to protect individual privacy against intrusion by the Government.

I. THE PROBLEM DEFINED

The problem of government surveillance is not new. In fact, its origins predate the birth of our Nation.

Early English history, for example, is replete with instances in which the king's agents sought to invade the homes of citizens suspected of wrongdoing. This practice was firmly condemned by the English courts as early as 1603 in Semayne's Case, 5 Cook 91, 11 ERC 629, 77 Eng. Reprint 194:

> In all cases where the king is party, the sheriff (if the doors be not open) may break in the party's house, either to arrest him, or to do other execution of the K(ing's) process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors . . .

The English court's concern for the individual's right of privacy did not entirely dampen the willingness of some British officials to ignore that right in pursuit of certain governmental interests. In 1766, the British Parliament debated means to assure collection of an excise tax on cider. One proposal would have authorized the king's officers to enter a citizen's home without knocking. In opposition to this proposal, William Pitt argued eloquently in the House of Lords that it would emasculate the time-honored principle which protected each citizen from unlawful invasions of his privacy by the Government:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement. (William Pitt—1776)

What the King of England could not do 200 years ago the American Government today does with abandon. The Government burglarizes homes, installs wiretaps on private phones, and engages in other kinds of deplorable surveillance activities which violate the sanctity of an individual's privacy. These activities not only violate American traditions, but, more importantly, also violate constitutional rights and established legal procedures.

In the American colonies, no less than in England, people appreciated the fundamental importance of a citizen's right or privacy. The Colonials also understood that that right would be a fragile one if left to the guardianship of a government more eager to suppress political dissent than to safeguard individual liberty.

For the American colonials, this lesson was learned from bitter experience. British agents frequently violated the sanctity of the colonials' homes by conducting searches authorized by only a general warrant and by otherwise harrassing those suspected of treasonous sentiments.

In response to these hated abuses, the framers of our Constitution adopted the fourth amendment. That amendment states quite simply that—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

The fourth amendment's provisions apply to all searches and seizures. No exception is made for national security cases or any other kind of circumstance. The absence of any expressed exceptions, moreover, cannot be interpreted as an oversight or a failure of the Founding Fathers to appreciate future developments in which world affairs would be overshadowed by a nuclear sword of Damocles.

When the Constitution was drafted in 1787, our country was only 11 years old. The new American citizens had recently concluded a long war with England to preserve their country's independence. That independence was not entirely secure. The threat of foreign attack and subversion was still present. Notwithstanding the existence of this threat, the Founding Fathers adopted the fourth amendment and made no exception to its application.

One need not be a lawyer to understand the basic purpose of this amendment. It is designed to protect the individual from unjustified invasions of his privacy by the Government.

The fourth amendment thus limits the power of the Government. Like the other amendments in the Bill of Rights, the fourth amendment reflects the framers' intention that individual liberty, rather than unrestrained government power, be the hallmark of our political system. As Justice Louis Brandeis observed in his moving dissent in the case of Olmstead versus the United States:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed must be deemed a violation of the Fourth Amendment.

The wisdom of the framers in adopting the fourth amendment is beyond question. Without its protection, individual freedom would remain at the mercy of the Government's unbridled discretion.

However sound the principles embraced within the fourth amendment, its words have a hollow ring today. For those words have done little to restrain government at any level from engaging in surveillance of law-abiding citizens.

There are innumerable examples to demonstrate the scope of government spying and other invasions of privacy. Reference to a few is sufficient to expose the grave implications which this snooping has for individual liberty.

As early as 1967 Prof. Alan Westin reported in his book, "Privacy and Freedom," that—

> At least fifty different federal agencies have substantial investigative and enforcement functions, providing a corps of more than 20,000 "investigators" working for agencies such as the FBI, Naval Intelligence, the Post Office, the Narcotics Bureau of the Treasury, the Securities and Exchange Commission, the Internal Revenue Service, the Food and Drug Administration, the State Department, and the Civil Service Commission. While all executive agencies are under federal law and executive regulation, the factual reality is that each agency and department has wide day-to-day discretion over the investigative practices of its officials.

In short, there is an army of governmental agents engaged in surveillance activities who are, in large measure, accountable to no one but themselves. Congress has virtually no procedure to determine whether these surveillance activities are conducted in a manner consistent with constitutional rights and established law.

A 1973 report of Senator ERVIN's Subcommittee on Constitutional Rights detailed the extensive spying which the U.S. Army had conducted on more than 100,000 private citizens during the 1960's. This surveillance was directed principally at those suspected of engaging in political dissent. According to the subcommittee:

> Army surveillance of civilians engaging in political activities in the 1960's was both massive and unrestrained. At the height of the monitoring, the Army engaged over 1,500 plainclothes agents to collect information which was placed in scores of data centers around the country.

Needless to say, this Army surveillance well exceeded any legal authority granted to the Army. It was therefore important to determine who was responsible for initiating this unlawful surveillance. Incredibly enough, the subcommittee could not make that determination:

> The subcommittee has been unable to conclude what particular official or officials were responsible for ordering the expansion of the surveillance operation in the late 1960's.

On April 14, 1971, it was revealed that the FBI had conducted general surveillance of Earth Day activities on April 22, 1970. As the one who initiated and planned that first celebration of Earth Day in 1970, I cannot imagine any justification for FBI surveillance of those activities. Earth Day resulted in a genuine and peaceful demonstration by tens of thousands of American citizens of their overriding concern to preserve our natural environmental resources. There is nothing subversive or otherwise dangerous in expressing that concern. Indeed, it falls squarely within the American tradition and, for that reason, attracted the participation and support of 150 Members of Congress, more than 100 representatives of the Nixon administration, and numerous Governors.

In spite of its unquestioned legitimacy, Earth Day 1970 attracted FBI surveillance. There is still no satisfactory explanation as to why the FBI felt compelled to spy on those participating in the Earth Day celebration. Nor is there any reason to believe that the whole sorry episode cannot be repeated in the future.

In many cases, governmental agencies enlist the assistance of private organizations to help them to spy on private citizens. A 1968 article in Look magazine, for example, reported that governmental agents often requested and received information from American Airlines concerning the travel schedules of certain individuals. The article cited—

> A computer expert for the airline [who] says that 10 to 15 investigators a day (Federal, State, local and other) are permitted to delve into the computer for such information. Some of them want (and get) a print out of the entire passenger list of a certain flight to see who might be traveling with a particular person.

As another example, the State of Florida utilized the services of the Wackenhut Corp., a large private detective firm, to conduct a wide-ranging investigation into crime and corruption.

In many cases, the surveillance is as indiscriminate as it is unjustified. Law-abiding citizens often find that they are subjects of government surveillance merely to satisfy the whim of governmental officials. Columnist Joseph Kraft, for example, was no doubt surprised to learn that the government had burglarized his home in 1969 to install a tap on his phone and shadowed his foreign travels merely because his columns raised the ire of high-placed government officials.

These invasions of privacy by the government, in and of themselves, are, to say the least, disturbing. Even more disturbing, however, is the fact that most of us—and especially those of us in official positions of responsibility—have become so inured to government snooping that we often fail to appreciate its serious dangers.

We cannot afford to take individual liberty for granted. We cannot afford to ignore the dangers which government spying poses for that liberty—no matter how benign the government's motives. Government surveillance always poses great dangers to a free society. This is especially true today since those dangers have been aggravated in recent years by two basic developments.

First, government snooping has been facilitated, and made more insidious, by advanced techniques of surveillance. Numerous articles have underscored the rapid pace at which new surveillance devices are developed.

An article in the January 1971 issue of Transactions on Aerospace and Electronic Systems, for instance, reported the proposal of an electric "transponder" system to help prevent crime. Under this system, any individual with a criminal record will be required to carry a small radio. The radio, in turn, emits waves which can enable enforcement officials to locate that individual at any time.

An article titled "New Bug Hears All," which was printed in the February 20, 1972, issue of Parade magazine, discussed another advanced means of surveillance now being used by the FBI. The new device is a bug which, when placed on an outside telephone line, can pick up all sounds through a telephone receiver, even when the receiver remains on the hook.

The ingenuity—and potential danger—of this new bug is perhaps surpassed only by the design of a new communications system which would enable the Government to turn on all television and radio sets on a moment's notice.

These and other new developments in surveillance techniques invoke the specter of a government which can intrude its eyes and ears into every nook and cranny of our private lives. None of us can afford to be insensitive to the reality of this spectre. For it raises anew the fundamental question of how willing and able we are to preserve those individual liberties for which our forbears fought.

Familiarized with the advanced techniques of surveillance, Justice William Brennan posed this fundamental question in his dissent in the 1963 case of Lopez against the United States. In Justice Brennan's view—

> Electronic aids add a whole new dimension to eavesdropping. They make it more penetrating, more truly obnoxious to a free society. Electronic surveillance, in fact, makes the police more omniscient; and police omniscience is one of the most effective tools of tyranny.

Justice Brennan then articulated the inherent dangers of a Government which can spy on its citizens with little or no restraint:

> Electronic surveillance strikes deeper than at the ancient feeling that a man's home is his castle; it strikes at freedom of communication, a postulate of our kind of society . . . [F]reedom of speech is undermined where people fear to speak unconstrainedly in what they suppose to be the privacy of home or office. If electronic surveillance by government becomes sufficiently widespread, and there is little in prospect for checking it, the hazard that as a people we may become hagridden and furtive is not fantasy.

These hazards of government snooping have been made more real by a second major development: the rapid growth of an intergovernmental system whereby the Federal Government acts in conjunction with the State and local governments to conduct and share the fruits of surveillance. Much of this growth can be attributed to title III of the Omnibus Crime Control and Safe Streets Act of 1968. That title, among other things, enabled State and local enforcement officials to seek court-authorized wiretaps for virtually any reason. As Prof. Herman Schwartz commented in an article, "The Legitimation of Electronic Eavesdropping: The Politics of 'Law and Order,'" which appeared in the Michigan Law Review in 1969—

> In fact, the list of offenses for which state eavesdropping is permitted [under Title III] is practically unlimited: "murder, kidnapping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime dangerous to life, limb or property, and punishable by imprisonment for more than one year . . . or any conspiracy to commit any of the foregoing offenses."

State and local enforcement officials have made extensive use of this provision. Statistics reported by the Administrative Office of the U.S. Courts show that between 1968 and 1972 the number of State-authorized wiretaps increased from 174 to 649. During that time period, it is also noteworthy that the Federal, State, and local governments wiretapped more than 1,623,000 conversations involving approximately 120,000 people.

All the information which the State and local governments acquire from these wiretaps is not retained in their exclusive possession. More often than not, that information is shared with innumerable Federal agencies, such as the FBI, the Law Enforcement Administration, the IRS, and the Secret Serivce.

In many cases, information acquired through wiretaps and other activities is not shared willingly with the Federal agencies. Frequently a Federal agency coerces a State or local goverment into sharing the information by dangling the threat of suspension of Federal funding for the particular government. As early as 1965, a report of the House Committee on Post Office and Civil Service summarized this insidious practice:

> Since federally supported State programs have mushroomed in recent years, we are faced with rapidly expanding reporting and paperwork programs which, for all practical purposes, fall outside of any Federal or State supervision. This situation lends itself to all kinds of abuses since the Federal agency can threaten the State agency by withholding funds unless all of its demands for information are met.

If the information were shared according to established standards for legitimate purposes, then the risks to constitutional rights might be minimal. But usually there are few standards and no assurances that the information will be used for lawful purposes. A recent letter from Gov. Francis Sargent of Massachusetts to then Attorney General Richardson offers a graphic illustration of the problem.

On June 13, 1973, Governor Sargent wrote to Mr. Richardson that Massachusetts would withhold its participation in the FBI's National Criminal Information Center, an interlocking computerized system enabling States to share criminal information on individuals with the FBI. Citing the 1967 Report of the President's Commission on Law Enforcement and Administration of Justice, Governor Sargent stated that Massachusetts would withhold its participation from this system until the Federal Government adopted standards adequate to safeguard individual rights:

> . . . I take very seriously the President's Commission warning that the application of computer technology for criminal justice information requires special precautionary steps to protect individual rights. The Massachusetts criminal information system has been designed to provide internal and external safeguards against potential abuse. Unfortunately, I have seen no similar action on the part of the Department of Justice, the Attorney General or the Federal Bureau of Investigation to construct equivalent safeguards for the national criminal information system.

Governor Sargent's comments underscore a situation which prevails at the Justice Department and virtually every other governmental agency engaged in surveillance activities; there are no safeguards to which the agency is held accountable to the public or the law to insure that surveillance activities are conducted in a lawful manner and for legitimate purposes.

II. THE NEED FOR CONGRESSIONAL ACTION

In defining the permissible scope of Government invasion of privacy, it is obviously necessary to strike a balance between the need to safeguard individual liberty and the need for the Government to acquire information necessary to protect the Nation from foreign hostilities and to serve other legitimate purposes. It should now be more than clear that we cannot rely exclusively on the executive branch or the courts to strike that balance.

The Government would of course prefer that implict trust be placed in its judgment. In 1971, then Assistant Attorney General William H. Rehnquist espoused this view in testimony before the Senate Subcommittee on Constitutional Rights:

> We believe that full utilization of advanced data processing techniques is by no means inconsistent with the preservation of personal privacy. . . . I think it quite likely that self-discipline on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excess of information gathering.

These basic statements were echoed by then Attorney General Richardson in a letter dated September 12, 1973, to the chairman of the Senate Foreign Relations Committee. Responding to the committee's justified concern with government wiretaps purportedly used to protect the national security, Mr. Richardson acknowledged that the Constitution and recent judicial decisions limited the Government's power to wiretap. But the Attorney General made clear that, in the end, he would be the one to decide whether a particular wiretap would exceed those limitations.

As a matter of history and as a matter of law, we cannot rely on the self-discipline of the Executive branch to safeguard of our constitutional rights. As a matter of history, the Government is not always able to judge dispassionately when its urge to engage in surveillance should yield to the paramount importance of individual liberty. This is no less true even when the motives of the Government are beyond question. Justice Brandeis succinctly summarized this teaching of history in his dissent in the Olmstead case:

> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious, encroachment by men of zeal, well-meaning but without understanding.

Relying on this historical judgment, the Supreme Court in 1972 held in the case of the United States versus U.S. District Court that the Government cannot wiretap individuals for domestic security purposes without court authorization. In issuing this decision, the Court declared, as a matter of law, that the Government's self-discipline was inadequate to protect the individual liberties conferred by the fourth amendment. The Court's judgment was not premised on the malicious dispositions of those who inhabit the Executive branch. Rather, the judgment flowed from the conflicting interests which the Government is required to serve. Speaking for a unanimous Court, Justice William Powell examined the evolution and contours of the freedoms conferred by the fourth amendment. He then stated:

> These Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute . . . The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressure to obtain incriminating evidence and overlook potential invasion of privacy and protected speech.

The Court expressly declined to decide whether the same judgment would attach to cases where the Government was intent upon conducting surveillance to protect national security interests. In my view, however, the same considerations which underlie the Court's decision in the domestic security case compel a conclusion that the fourth amendment also protects American citizens when the Government's urge to wiretap is motivated by national security interests. In short, to ask the Government—however, well-intentioned—to protect the individual's right to privacy in cases of government surveillance is usually no different than to ask the wolf to guard the sheep. In either case, there is no assurance that the valued asset will be preserved.

Nor is there much reason to believe that the courts can provide blanket protection of an individual's privacy against unlawful invasions by the government. The inability of the courts to provide this blanket protection stems from the nature of wiretap procedures and the scope of existing laws rather than from any deficiencies in the judges.

To begin with, most wiretapping and other surveillance activities are anticipatory in nature—they are geared toward uncovering possible crimes or other information which the government might find useful. In these cases, an individual might never learn that the government is spying on him. Accordingly, that individual would have no incentive to seek judicial relief.

The case of Morton Halperin is illustrative. In 1969, when he was a member of the staff of the National Security Council, Mr. Halperin had his telephone tapped. For 4 years, Mr. Halperin remained ignorant of the tap and never sought judicial relief. A string of fortuitous circumstances at the recent trial of Daniel Ellsberg in Los Angeles led the Government to reveal the existence of the tap. Although the courts successfully exposed a wiretap in this particular case, the circumstances strongly suggest that there are many more individuals who will never learn that Government is spying on them.

For these individuals, the court's protection is nonexistent. A court will not act on its own to restrict Government surveillance activities. The courts only act when specific controversies are brought to them for decision by particular individuals. This is, in effect, a "Catch 22" situation. On the one hand, an individual cannot object to Government surveillance activities unless he himself is a subject of such surveillance. On the other hand, there is no law which would require the Government—absent a criminal indictment or some other proof—to disclose on its own whether an individual is in fact a subject of surveillance.

The law, of course, is not entirely powerless to protect individuals against unlawful Government surveillance activities. Title III of the Crime Control and Safe Streets Act does provide certain remedies for individuals who are the subject of Government abuses. There are also some Federal, State, and local laws which are designed to protect an individual's privacy from unlawful invasions by the Government in certain circumstances. But these laws are fragmentary and generally unable to provide any comprehensive protection.

Prof. Arthur Miller, an acknowledged legal authority in this area, examined these legal limitations in an article, "Personal Privacy in the Computer Age: the Challenge of a New Technology in an Information-Oriented Society," which appeared in the Michigan Law Review in 1969. Of particular concern to Professor Miller was the impact which the computer would have on the collection and dissemination of information acquired by surveillance or some other means. According to Professor Miller:

> The present legal structure, at both the state and federal levels, appears to be virtually unprepared to cope with the threats to privacy that rapidly are becoming part of our computer age. The fragmented, ad hoc approach that has been taken to informational privacy problems is disheartening, for it simply aggravates the existing system's unsuitability for solving the problems raised by the computer. The result is confusion concerning the scope of protection afforded by various common-law doctrines and legislative provisions, and, quite frequently, uncertainty regarding the source of law applicable to a particular invasion of privacy.

Professor Miller's view was endorsed by the HEW report, on "Records, Computers, and the Rights of Citizens." The report states flatly that—

> Under current law, a person's privacy is poorly protected against arbitrary or abusive recordkeeping practices.

The circumstances which I have described show that neither the courts nor the executive branch are always able to provide adequate safeguards for individual liberty. Congress, however, has done little to remedy the situation. This fact was perhaps reflected in the recent comment of John M. McDougal, the Army officer who provided the press with details of the U.S. Army's surveillance activities in Western Europe. In explaining his action, Mr. McDougal stated in a column which appeared in the op-ed pages of the New York Times of September 4, 1973:

> After long deliberation on what course of action to take, I decided to release this information to the press. I choose the press because I believe it to be the strongest force for political and individual freedom in America today.

With all due respect to the virtues of the press, it is a sad commentary on the U.S. Congress that it is no longer viewed as the strongest defender of individual freedom. This development is not surprising. Congress has exercise few checks over Government surveillance at the Federal, State, or local levels. Congress has done little to discourage the Government from trampling all over constitutional liberties when conducting surveillance activities. Congress has not established itself as a forum to remedy the indignities and abuses to which thousands of individuals become subject when the Government decides to spy and pry on them. In short, Congress has done virtually nothing to supervise the ever-expanding web of Government snooping.

This situation should be tolerated no longer. Ours is a government of laws. The integrity of those laws should not be entrusted to the unreviewed discretion of those charged with enforcing them. Otherwise, we accept the risk that the guarantees of the law will be sacrificed on the altar of expediency. That is a risk we cannot afford to accept, particularly when the guarantees involved are fundamental constitutional rights.

Congress must guard those rights with vigilance. It can do so only if it continually reviews the Government's surveillance activities and determines whether any changes are needed in the law or in the governmental structure in order to protect an individual's privacy against unlawful intrusions by the Government. To this end, Senator JACKSON and I are introducing legislation today to establish a joint committee of the Congress on the Study of the Need to Reorganize the Departments and Agencies Engaged in Surveillance.

III. THE PURPOSES AND RESPONSIBILITIES OF THE JOINT COMMITTEE

The joint committee will be a bipartisan assemblage of the majority and minority leaders of both Houses of Congress, as well as the chairman and ranking minority member of all those congressional committees having jurisdiction over governmental agencies which engage in surveillance activities. Those Senate Committees represented would include Government Operations, Appropriations, Armed Services, Commerce, Foreign Relations, Judiciary, and Post Office and Civil Service. Those House committees represented would include Government Operations, Appropriations, Armed Services, Foreign Affairs, Interstate and Foreign Commerce, Judiciary, and Post Office and Civil Service. By having bipartisan representation from each of these House and Senate committees, the joint committee will benefit by the expertise which Congress has on those governmental agencies which engage in surveillance activities.

The basic purpose of the joint committee will be to provide a continuing review of those governmental agencies which conduct surveillance activities in order to determine whether the protection of individual liberties, and especially the individual's right to privacy, require any changes in the law or in the governmental structure. More specifically, the joint committee will have two basic responsibilities.

First, the joint committee will examine the nature and scope of the surveillance activities conducted by Federal agencies. At least once each year, officials from the IRS, the FBI, the military surveillance units, and other selected Federal agencies will be required to appear before the committee with all relevant documents and other evidentiary materials to testify under oath about their surveillance activities. The joint committee will also be empowered to subpena other individuals, private or public, who can give testimony or evidence relative to the surveillance activities of Federal agencies. This first responsibility is of particular importance since Congress presently has no means to determine the nature or scope of Government surveillance activities.

Second, the joint committee will review the intergovernmental relationship between the Federal, State, and local governmental agencies insofar as that relationship involves the conduct of surveillance activities and the sharing of information acquired from such activities. The committee will be authorized to subpena public and private witnesses as well as documents and other evidentiary materials, which are necessary to make this review. The focus of the joint committee's examinations here will be a determination whether any changes are needed in those intergovernmental relationships to protect individual liberties and, if so, whether such changes can be effected through the reorganization of relevant Federal agencies or enactment of laws.

The joint committee will issue reports as often as it deems necessary but in any event at least annually. The joint committee will also make recommendations for legislation concerning the reorganization of the Federal agencies or the reordering of intergovernmental relations if the committee determines that such changes are necessary to safeguard individual liberties from unlawful Government surveillance.

The creation of this joint committee will be a sound response to the numerous proposals from both public and private sources concerning the Government's collection and dissemination of information about a citizen's private affairs. As early as 1965 the Bureau of the Budget, concerned that the Government's informational policies posed serious threats to an individual's privacy, suggested the creation of a single Federal agency to collect and control the distribution of all such information in the Government's possession.

Professor Miller made a similar proposal in his article in the 1969 Michigan Law Review. Professor Miller premised his proposal on the establishment of clear standards to protect an individual's privacy:

> The more attractive alternative [to control the Government's acquisition and distribution of private information] appears to be a data center that is functionally circumscribed and is structured to place a heavy premium on privacy considerations. Prior to establishing such a center, the government's information policies must be comprehensively evaluated in the hope of achieving an over-all balance between the need for massive amounts of raw data that can be handled efficiently and used for a variety of purposes and the obligation of the national government to preserve the privacy of its citizens. Moreover, this evaluation must be a continuing one in order to keep pace with changing agency practices in the collection and use of data.

The HEW report on records, computers, and the right of citizens likewise concluded that the creation of a new Federal agency might be necessary to protect individual privacy against Government acquisition and distribution of information. According to the report—

> The "strongest" mechanism for safeguard [of individual privacy] which has been suggested is centralized, independent Federal agency to regulate the use of all automated personal data systems.

No doubt the joint committee will want to consider the proposals of the HEW report, Professor Miller, and others in determining what legal or structural changes are necessary to protect individual liberty against government surveillance and recordkeeping activities. Whatever proposals it finally recommends, however, the joint committee will provide the first, basic steps toward remedying the dangerous abuses of Government surveillance activities.

IV. CONCLUSION: A STEP TOWARD CONGRESSIONAL OVERSIGHT OF GOVERNMENT SURVEILLANCE ACTIVITIES

We should not underestimate the importance of taking these first steps toward correcting the abuses of Government surveillance. The individual's right to privacy is one of our most cherished liberties. It is fundamental to the concept of democratic self-government where each individual's private thoughts and beliefs are beyond the reach of Government. Without that right to privacy, the individual's freedom is placed in jeopardy. Government then becomes a monster to be feared rather than a servant to be trusted. As Justice Field declared in the 1888 case of In re Pacific Railway Commission:

> Of all the rights of the citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not merely protection of his person from assault, but exemption of his private affairs, books and papers, from the inspection and scrutiny of others. Without the enjoyment of this right, all others would lose half their value.

Individual privacy, in short, provides the individual with the freedom to live his own philosophy without fear of retribution or repression by the Government.

The history of the past few years demonstrates that the Government has frequently accorded little respect for individual privacy when conducting surveillance of private citizens. The few examples I described earlier indicate that all too often the Government is willing to tolerate violations of individual privacy in the pursuit of information which it deems useful. As a result, many individuals have been and will be subjected to injustices in the name of government surveillance.

Congress cannot and should not stand idly by while this unjust condition continues to fester. Writing of the liberation of Paris from the Nazis in 1944, Albert Camus observed:

> Nothing is given to men, and the little they can conquer is paid for with unjust deaths. But man's greatness lies elsewhere. It lies in his decision to be stronger than his condition. And if his condition is unjust, he has only one way of overcoming it, which is to be just himself.

It is my hope that Congress will aspire to this standard of greatness and act to correct the injustices of government surveillance activities.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the bill to establish a Joint Committee on the Continuing Study of the Need To Reorganize the Departments and Agencies Engaging in Surveillance.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to provide the Congress with an improved means for formulating legislation (1) involving reorganizations of certain departments and agencies of the United States engaged in the surveillance of individuals for the purpose of assuring the protection of certain rights, and (2) involving the intergovernmental relationship between the United States and the States as such relationship involves the areas of surveillance of individuals and the need to protect such rights, there is established a joint committee of the Congress which shall be known as the Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging In Surveillance (hereafter referred to as the "joint committee"). The joint committee shall be composed of the following Members of Congress:

(1) the majority and minority leaders of the Senate and of the House of Representatives; and

(2) the ranking majority and minority

members of the Committee on Government Operations, the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Commerce, the Committee on Post Office and Civil Service, and the Committee on Armed Services, of the Senate, and the Committee on Government Operations, the Committee on the Judiciary, the Committee on Foreign Affairs, the Committee on Appropriations, the Committee on Interstate and Foreign Commerce, the Committee on Post Office and Civil Service, and the Committee on Armed Services, of the House of Representatives.

(b) The joint committee shall select a chairman and a vice chairman from among its members.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 2. It shall be the function of the joint committee—

(1) to make a continuing study of the need to reorganize the departments and agencies of the United States engaged in the investigation or surveillance of individuals, including, as a part of such study, the extent and the method of investigation or surveillance of individuals by any department, agency, or independent establishment of the United States Government as such investigation or surveillance relates to the right to privacy, the authority for, and the need for such investigation or surveillance, and the standards and guidelines used to protect the right to privacy and other constitutional rights of individuals;

(2) to make a continuing study of the intergovernmental relationship between the United States and the States insofar as the relationship involves the area of investigation or surveillance of individuals;

(3) to make a continuing study of the collection, processing, analysis, storage, and dissemination of information concerning specific individuals, collected by any department, agency or independent establishment of the United States Government, as it relates to the right to privacy, including the authority and need for such collection, processing, analysis, storage, and dissemination, and the standards and guidelines established to protect the right to privacy and the other constitutional rights of individuals and, as appropriate, to protect the confidentiality of the information obtained; and

(4) as a guide to the several committees of the Congress dealing with legislation with respect to the activities of the United States Government involving the area of surveillance, to file reports at least annually, and at such other times as the joint committee deems appropriate, with the Senate and the House of Representatives, containing its findings and recommendations with respect to the matters under study by the joint committee, and, from time to time, to make such others reports and recommendations to the Senate and the House of Representatives as it deems advisable.

(5) *Provided, however*, that nothing in the foregoing provisions shall authorize the joint committee, or any subcommittee thereof, to examine lawful investigative and/or surveillance activities related to the defense or national security of the United States conducted within the territorial boundaries of the United States. For purposes of this subsection, lawful investigative and/or surveillance activities related to the defense or national security of the United States means—investigative and/or surveillance activities carried on by the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or other organizations or components of the Department of Defense authorized by and in accordance with court decisions, statutes, Executive orders, administrative regulations and other applicable guidelines describing the legitimate activities of those agencies.

(6) Provided further, nothing in this resolution shall give the Joint Committee, or any Subcommittee thereof, jurisdiction to examine any activities of agencies and departments of the United States government conducted outside the territorial boundaries of the United States.

SEC. 3. (a) The joint committee or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpoena witnesses and documents (in accordance with subsection (b)), (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b)(1) Subpoenas may be issued under the signature of the chairman of the committee or of any subcommittee, or by any member designated by such chairman, when authorized by a majority of the members of such committee, or subcommittee, and may be served by any person designated by any such chairman or member.

(2) Each subpoena shall contain a statement of the committee resolution authorizing the particular investigation with respect to which the witness is summoned to testify or to produce papers, and shall contain a statement notifying the witness that if he desires a conference with a representative of the committee prior to the date of the hearing, he may call or write to counsel of the committee.

(3) Witnesses shall be subpoenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing and to employ counsel, should he so desire. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House of Representatives, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The expenses of the joint committee shall be paid from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(e) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

By Mr. TOWER:

S. 2740. A bill to amend the Fair Labor Standards Act of 1938 to provide a cost-of-living index increase for certain enterprise and establishment exemptions under that act. Referred to the Committee on Labor and Public Welfare.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

Mr. TOWER. Mr. President, I am today introducing legislation to gear the small business exemption under the Fair Labor Standards Act to the Consumer Price Index. The effect of such legislation would be to apply a cost-of-living escalator to the small business exemption provisions in section 3(s) and section 13 (a)(2) of the Fair Labor Standards Act.

This legislation authorizes the Secretary of Labor to determine whether during the preceding quarter the Consumer Price Index increased by at least 3 percent, and upon an affirmative finding to adjust the small business exemption so as to correspond with the increase in the Index.

This bill is similar to an amendment I offered during the debate on the minimum wage bill earlier in the year. While the amendment did not carry, it did receive significant support, and encouraged me to draft legislation to achieve the same objective as the amendment.

This bill is a modest proposal compared to the amendment I offered. The latter called for an immediate increase in the exemption from $250,000 to $325,000 in gross annual volume sales for a covered enterprise. The intent of the amendment was to increase the exemption so as to take into consideration inflation, dating back since the last time the exemption was amended.

Mr. President, I will only summarize the need for the bill I am offering today since I intend to have inserted the debate on my previous amendment. This legislation is greatly needed by the small business community which has been a forgotten segment of our economy anytime minimum wage legislation is debated. It should be recalled that it has only been since 1961 that the great majority of small businesses were covered by the minimum wage law. Since that time, with an inflation eroding the real value of the dollar, and with the Congress acting to reduce the dollar value of the exemption, the small business community has felt the wrath of a well-meaning but poorly economically conceived minimum wage law.

The end effect has been the closing of small businesses or the layoff of many of their employees. This has encouraged economic concentration, advantaging just those larger business establishments that have little or no problem absorbing minimum wage increases.

Mr. President, I urge my colleagues to give this proposal, which is a modest one, their careful consideration. I ask unanimous consent that the text of the bill and the debate and vote on my amendment which I referred to earlier be printed in the Record at this time.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Fair Labor Standards Amendments of 1973".

Sec. 2. The first sentence of section 3(s) of the Fair Labor Standards Act of 1938 is amended by—

(1) striking out the words "and beginning" in paragraph (1) of such section and inserting in lieu thereof "during the period";

(2) inserting after "February 1, 1969" in such paragraph the following: "through the fifty-ninth day after the date of enactment of the Fair Labor Standards Amendments of 1973"; and

(3) inserting before the semicolon at the end of such paragraph a comma and the following: "and beginning on the effective date of the Fair Labor Standards Amendments of 1973 is an enterprise or a gasoline service establishment whose annual dollar volume of sales made or business done is not less than the amount (exclusive of excise taxes at the retail level which are separately stated) determined by the Secretary under section 4(f)".

Sec. 3. Section 4 of the Fair Labor Standards Act of 1938 is amended by inserting at the end thereof the following new subsection:

"(f) (1) For purposes of this subsection—

"(A) the term 'base quarter' means the calendar quarter ending on June 30, 1972 and every year thereafter:

"(B) the term 'cost-of-living computation quarter' means a base quarter, as defined in subparagraph (A), in which the Consumer Price Index exceeds, by not less than 3 percent, such index in the last prior base quarter; and

"(C) the Consumer Price Index for a base quarter, or a cost-of-living computation quarter, shall be the arithmetical mean of such index for the 3 months in such quarter.

"(2) (A) The Secretary shall determine each year beginning with 1974 whether the base quarter in such year is a cost-of-living computation quarter.

"(B) If the Secretary determines that such base quarter is a cost-of-living computation quarter, he shall, effective with the month of January of the next calendar year as provided in subparagraph (C), increase the amount of the annual gross volume of sales made or business done for the purpose of section 3 (s) and section 13 (a) (2) of this Act by an amount derived by multiplying each such amount by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for such cost-of-living computation quarter exceeds such index for the most recent prior base quarter. Any such increased amount which is not a multiple of $100 shall be increased to the next higher multiple of $100.

"(C) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register on or before November 1 of such calendar year a determination that an increase in the annual gross volume of sales which is less than the the purpose of section 3 (s) and section 13 (a) (2) of this Act is required and the percentage thereof. He shall also publish in the Federal Register at that time a revision of the amount of the annual gross volume of sales made or business done for the purpose of section 3 (s) and section 13 (a) (2) of this Act, and such revised amount shall be deemed to be the amount appearing in such sections."

Sec. 4. Section 13 (a) (2) of the Fair Labor Standards Act of 1938 is amended by—

(1) inserting immediately before the word "or" the last time it appears in such section the following: "during the period ending on the fifty-ninth day after the date of enactment of the Fair Labor Standards Amendments of 1973"; and

(2) by inserting immediately before the period in such section a comma and the following: "or beginning on the effective date of the Fair Labor Standards Amendments of 1973 such establishment has an annual dollar volume of sales which is less than the amount (exclusive of excise taxes at the retail level which are separately stated) determined by the Secretary under section 4 (f)".

Sec. 6. This Act shall take effect on the sixtieth day after the date of its enactment.

[From the Congressional Record, July 19, 1973]

Mr. Tower. Mr. President, I call up my amendment No. 376 and ask that it be stated.

The Presiding Officer. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

Mr. Tower. Mr. President, first let me call attention to a printing error in the printed version of the amendment. On page 2, line 9, it should read "(2)" instead of "(12)".

The Presiding Officer. The amendment is so modified.

The amendment, as modified, is as follows:

"On page 5, between lines 21 and 22, insert the following:

"(2) The first sentence of such section 3(s) is further amended by—

"(1) striking out the words 'and beginning' in paragraph (1) of such section and inserting in lieu thereof 'during the period';

"(2) inserting after 'February 1, 1969' in such paragraph the following: 'through the fifty-ninth day after the date of enactment of the Fair Labor Standards Amendments of 1973'; and

"(3) inserting before the semicolon at the end of such paragraph a comma and the following: 'and beginning on the effective date of the Fair Labor Standards Amendments of 1973, is an enterprise or a gasoline service establishment whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated)'.".

"On page 5, line 22, strike out '"(2)"' and insert in lieu thereof '"(3)"'."

Mr. Tower. Mr. President, this amendment would increase the small business exemption for retail and service establishments from $250,000 to $325,000.

It should be noted that prior to 1961 all retail and service firms were exempt from the minimum wage provisions of the Fair Labor Standards Act. In 1961 firms with $1 million or more in gross sales were brought under the law. In February 1967, the exemption was lowered to $500,000 and 2 years after that to $250,000.

In the 92d Congress, the Senate Labor and Public Welfare Committee attempted to reduce this figure to $150,000 but it was deleted from the committee bill by a vote of 91 to 0.

Mr. President, this amendment is very much needed by the small business community in the United States. More than any other sector in the economy it is the small business community that is hurt the most by S. 1861.

There has been a lot of rhetoric in the Congress in the past few years about the evil of "big business" and the need to assist the small businessman and the family farmer. I cannot emphasize the problems which the small business community will face if S. 1861 is enacted in its present form. I introduced my substitute partially because of the terrible effect such a large minimum wage increase would have on small business. S. 1861 will, if enacted, result in closings of many small businesses all over the country, especially in the Midwest, the South, and the Northwest.

The argument put forth for the passage of S. 1861 is that such a large minimum wage increase is needed to restore the purchasing power of employees covered by the Fair Labor Standards Act. The proponents of S. 1861 state that a $2.20 minimum wage is required due to the rises in the consumer price index since the act was last amended in 1966.

The amendment raising the small business exemption to $325,000 is offered on the same theory. Using the Consumer Price Index to calculate the rate of inflation between February 1, 1969, and May 1973, approximately $307,000 would be needed to provide retail and service firms with the same degree of assistance as $250,000 did in 1969. Projecting the rate of inflation for the first 5 months of 1973 over the remainder of the year, this figure would increase to $318,750.

This information is confirmed by the Department of Labor, I ask unanimous consent that a letter from Mr. Benjamin Brown, Deputy Under Secretary for Legislative Affairs to me in response to an inquiry on this matter made by a member of my staff be printed into the Record at this time.

There being no objection, the letter was ordered to be printed in the Record, as follows:

"U.S. Department of Labor,
"Washington, D.C., July 13, 1973.

"Hon. John Tower,
"U.S. Senate,
"Washington, D.C.

"Dear Senator Tower: This is in response to a request from Gary Lieber of your staff concerning the $250,000 gross annual volume sales test for enterprise coverage under the Fair Labor Standards Act. Mr. Lieber requested that the $250,000 be inflated to reflect the increase in the Consumer Price Index between February 1969 and May 1973 with the projection ahead to December 1973.

"The Consumer Price Index in February 1969 when the $250,000 enterprise test went into effect was 107.1 and in May 1973 was 131.5. Assuming that the rate of increase for the seven months from May 1973 to December 1973 will be the same as it was for the seven months from October 1972 to May 1973, the projected Consumer Price Index for December 1973 would be 136.6. This assumption does not take into account the current price freeze or the Phase IV control program.

"The percentage increase in the Consumer Price Index of 22.8 from February 1969 to May 1973 and the estimated increase of 27.5 from February 1969 to December 1973 would result in an enterprise test adjusted for these increases of $307,000 in May 1973 and $318,750 in December 1973.

"I hope this information will be helpful. If there is anything further you need please do not hesitate to call me.

"Sincerely,
"Benjamin L. Brown,
"Deputy Under Secretary for Legislative Affairs."

Mr. Tower. Mr. President, this amendment therefore is totally consistent with the past action of Congress in establishing and maintaining a business exemption under the Fair Labor Standards Act. It offers to the Senate an opportunity to maintain some equity of treatment for the small businessman. Surely, failure to adopt this amendment will represent a clear message to the small business community that we do not care about them despite our rhetoric to the contrary.

THE EXEMPTION IS CONSISTENT WITH CONGRESSIONAL POLICY

Over the last few decades Congress has recognized that small independent business has distinct problems and faces some forms of competitive disadvantage vis-a-vis the large corporations in the country. This extends to areas such as financing, advertising, and access to specialized talent and expertise. The Small Business Administration, the Senate and House Select Committees on Small Business and special considerations and exemptions, like the one contained in the Fair Labor Standards Act, represent congressional recognition of and action to rectify these inequities.

Unless my amendment is approved, I fear that the disadvantages small businesses face in the economy vis-a-vis larger establishments will widen greatly, resulting in that type of economic concentration that many Members of Congress feel has already reached an intolerable level.

INCREASING THE EXEMPTION WILL MAINTAIN JOBS

I feel that increasing the exemption will maintain jobs. Most small retail and service firms are labor intensive, making the effect of an increase in the minimum wage relatively large. Economic theory suggests that small firms will use less of the factors of production that become relatively more expensive, indicating that it might become difficult for some workers, especially part-time and the unskilled, to hold their jobs.

In support of this point, witness the results of a survey conducted by the National Federation of Independent Businessmen which shows that almost half of the businesses between $200,000 and $400,000 would reduce their labor force or the man-hours of its employees if they were required to increase the minimum wage to $2 or $2.20 an hour. Significantly, the firms that indicated that they would react by reducing their work force, also reported that over 20 percent of their cutback would impact on heads of households.

INCREASING THE EXEMPTION WOULD EASE THE INFLATIONARY IMPACT OF A RAISE IN THE MINIMUM WAGE

The labor-intensive nature of most small retail and service firms, which are rarely in a position, because of a lack of capital, to take advantage of laborsaving techniques, suggest that they would either have to reduce their work force or raise their prices to compensate for an increase in the present minimum. In fact, most could be expected to raise their prices even if many of them were in a position to reduce their employee payrolls.

To appreciate the impact of this action on consumer prices, we must keep in mind that these small businesses are at the end of the production and marketing chain and must deal with their increased labor costs on their own. If they are forced to increase their prices proportionally, these increases will show up immediately in the Consumer Price Index, adding to inflation and wiping out gains made by those marginally and unskilled workers who directly benefited by the minimum wage increase.

Increasing the small business exemption would tend to ease this inflationary pressure. It would give these firms more time to search for alternative solutions and possibly enable them to actually absorb more of the increase.

IMPACT ON SMALL BUSINESSES IN RURAL AREAS

While I believe this amendment is a positive response to the economic difficulties which affect small business in all areas of the country, I believe it has special significance for rural America. The committee bill is based on the premise that there exists no economic differences based upon geographical classification in the country. It is simply not true that the economies of New York City and south Texas are relatively of equal character, let alone that they have any similar qualities at all. I know for a fact that many small businesses in the rural parts of Texas will have no alternatives at all if S. 1861 is enacted. The amendment I now propose at least gives many of these retail and service firms a chance of survival.

In summary, Mr. President, this amendment is based upon last year's unanimous endorsement by the Senate of the small business exemption under section 3(s) of the Fair Labor Standards Act. All it does is update the exemption in accordance with the Consumer Price Index—the same theory utilized by the proponents of S. 1861 for increasing the minimum wage by 37 percent.

It is an amendment seeking only equity in treatment for small businesses and moderate in the sense that it is only based upon increases in the Consumer Price Index from 1969 to 1973, instead of making the amendment in the CPI in 1974 when the $2.20 minimum wage under S. 1861 would go into effect.

I hope that the Senate has considered what I have said and will approve the amendment. I think our failure to approve it, Mr. President, would be tantamount to reducing the small business exemption, because the exemption as it now stands in reference to 1969 dollars, so to be completely equitably we must follow the same theory that we follow in raising the minimum wage 37 percent by allowing the same 37-percent increase in the exemption for small business. To fail to do so would be to actually endorse what the Senate unanimously rejected last year in the attempt to reduce the exemption to $150,000.

I urge the adoption of my amendment.

Mr. JAVITS. Mr. President, I yield myself such time as I may require in opposition.

Mr. President, there are two central themes to the amendment. One is the central theme that we are only maintaining the exemption at its parity in depreciated dollars, and the second theme is that it is a necessary acknowledgment of differences in economic circumstances between small business establishments in different parts of the country.

The Senator from Texas (Mr. Tower), if I got his words exactly, said, "We have the mistaken idea that there exists no economic differences," were his words, "between New York and, for example, the rural parts of Texas."

To answer that, first, we understand very well that there are those economic differences. That is why this minimum is not $3 or $3.50.

Mr. TOWER. Mr. President, will the Senator yield for a point of clarification?

Mr. JAVITS. I yield.

Mr. TOWER. What I said was that the bill apparently proceeds on that premise. I am not saying anyone automatically makes that assumption.

Mr. JAVITS. I appreciate that, but the bill does not proceed on that premise. We have established a national minimum which is the limit of decency and humanity. That is really what it comes down to, as far as we can see. If we were establishing a minimum, I suppose, for New Jersey or the industrial areas of New York, Michigan, Pennsylvania, or any other major State of the kind mentioned in the argument, we would set the minimum at what would be a realistic minimum, to wit, $3 or maybe more, based upon the requirements of living in those areas. But we are setting a national minimum precisely because we are selling a standard of decency, and we are setting a standard below which we do not want competition among States or among establishments.

So it seems to me, Mr. President, that that answers that argument. Our minimum must be tested by the base floor on a national level, no matter where it applies, and we believe that there we have sustained the burden of proof, and that it measures up.

Now, as to the particular fears involving small businesses: There is a $250,000 limit in terms of the applicability of the Fair Labor Standards Act to small businesses. There was strong sentiment in our committee to bring that down. It has been brought down progressively in earlier years. It was $1 million; and it is now down to $250,000. Mind you, we started way up, which would easily have taken account of the inflation Senator Tower speaks of, but we have been bringing it down and down and down, because we believe workers in small businesses are also entitled to protection, and there are millions of workers involved. This little old amendment of Senator Tower's will, the Labor Department advised us this morning, take 750,000 people out of the protection of the minimum wage, if the amendment passes—not put new ones in, but take them out. I doubt very much that Congress wishes to go that route.

So as I say, there was a lot of sentiment in the committee, Mr. President, to bring this figure down farther. It had been progressively reduced, and there was strong sentiment to bring it down to $150,000 as the new limit for a small establishment which would not be subject to the act. But that was rejected on the very ground Senator TOWER speaks of, to wit, that inflation really meant we were accomplishing, in substance, about what we wanted to accomplish, by keeping the figure at $250,000. That will obviously be nullified, Mr. President, if we adopt this amendment.

Interestingly enough, I have examined the letter which Senator TOWER has submitted on which he bases his figures, and I must say I find one interesting point in it. That is, the letter says that the estimate of the Department of Labor of the increase in the consumer price index for February 1969, which is the last time for which they have the figures, to December 1973, will be something in the area of 27 percent. It was 22.8 percent from February 1969 to May 1973. But it is estimated to be 27 percent instead of 22 percent. In short, an absolute rise of 5 percent in the intervening 7-month period. That is strictly an extrapolation but it bears on the figures.

The $325,000, is something like $18,000 in excess of the last ascertained figures is, according to this letter, $307,000 as the translation in May 1973, terms of the $325,000 figure. I only mention that because, obviously, the amendment has been pitched in the utmost upper range—to wit, well in excess of the Department of Labor estimates of the increase in the Consumer Price Index for December 1973.

But, Mr. President, the objection to the amendment, as I say, goes deeper. In summary, one, it takes three-quarters of a million workers out of minimum wage rather than putting new ones in. I cannot conceive of the Senate's doing that. Second, it fails to take into account the fact that we intentionally did not reduce the $250,000 figure, because we were giving a discount, as it were, to inflation. Third, because the absolute minimum we are setting, which will bind the retailers, is the national minimum conditioned on the lowest rather than the highest order of magnitude of what is necessary for a human being to survive in the country. Therefore, the disparity in the relative cost of living in different areas of the country has already been taken fully into account in bringing out this bill.

Also, my assistant reminds me that as this is on workers first covered in 1966, the rate of increase of the minimum wage goes up more slowly for them. It is $1.80 immediately and then it is $2 and $2.20. There is a year's lag for those particular workers. We feel that every equity has already been recognized in the bill.

For those reasons, Mr. President, I hope that the amendment will be rejected.

Mr. DOMINICK. Mr. President, will the Senator from Texas yield me some time?

Mr. TOWER. I yield to the Senator from Colorado such time as he may need.

Mr. DOMINICK. Four minutes will be enough.

Mr. TOWER. I yield 4 minutes.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Colorado is recognized for 4 minutes.

Mr. DOMINICK. Mr. President, I rise in support of the amendment of the Senator from Texas. We discussed this in committee, and I got the general impression that the distinguished Senator from New York and the distinguished Senator from New Jersey are really in favor of putting everyone under the minimum wage regardless of the size of the business involved. We retained the $250,000 enterprise test in committee, but that does not mean we have accomplished what the Senator from Texas wants.

Let me get into this a little bit.

Since almost any firm grossing less than $500,000 is eligible for assistance under Small Business Administration guidelines, there is little doubt that small businesses are, indeed, what we are talking about and what the Senator from Texas is talking about. The importance of this sector of the economy can hardly be overestimated.

There are approximately 5.4 million small businesses in this country, accounting for 95 percent of all businesses, close to 50 percent of all employment, and roughly 40 percent of the gross national product.

A reduction in 1966 of the enterprise sales test from $1 million to its present level of $250,000 per year extended minimum wage overtime coverage to about 649,000 smaller firms. The last minimum wage increase for employees of those newly covered firms—at $1.60 per hour—went into effect only on February 1, 1971. Under the committee bill, they would be required to pay their lowest paid employee $2.20 per hour a little more than 2 years after enactment.

This is an extraordinary high increase in just 2 years.

Inflation alone has already extended coverage to firms actually considerably smaller than those to which coverage was initially extended by the 1966 amendments, even though we have kept the $250,000 phase-in program.

Since the Consumer Price Index has increased 31.5 percent since 1967, a firm which grossed $250,000 in 1967 would gross $328,750 in 1973, without any real growth in sales at all. To put it another way, a firm which grossed $250,000 in 1967 is equivalent in size to a firm which grosses $171,750 in 1973.

The point is that if Congress retains the present $250,000 test for coverage of small business employees, inflation itself would operate soon enough to extend the coverage clear down to the "mom and pop" size firms.

That is really what the Senator from Texas is talking about. It is also what I am talking about. I have a great deal of difficulty, for example, in saying that the $250,000 enterprise test does not apply where one manufactures or produces any of his own products. So that a firm which is making, we will say, $50,000 in sales making ice cream and sells it to kids outside an amusement park, or whatever, would have to go under the minimum wage.

This makes absolutely no sense to me at all. I just cannot understand it. It would seem to me that although the amendment of the Senator from Texas does not hit that particular problem, if we could reach the problem of inflation with his amendment, we could then go on and do something about that other provision in the bill which is highly unacceptable insofar as most Senators are concerned, particularly if they have listened to this debate which, because of their other work, they are unable to do.

There is one other thing which I think is of interest in the committee bill, and I am very glad that the Senator from New York brought it up, and that is that for the first time we have been able to get all classifications of workers on the same plane with the new bill as opposed to the substitute which we put in which was defeated yesterday. We are splitting them again and saying to those under the 1966 coverage that they are second-class citizens because it will be 2 years before they catch up again. That makes no sense to me at all. If we are going to have them on the same plane now, why raise one group more than the other because they happened to be covered earlier? That makes no sense at all to me. But that is what the bill does.

So, all I can say is, we continue to hit this piecemeal to try to correct some of the defects. One of the things that can be corrected equitably and well would be adoption of the amendment of the Senator from Texas.

Mr. TOWER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I just yield myself whatever time I may need. On the point the Senator from Colorado (Mr. DOMINICK) just made, that the bill does not treat all employees, those covered before and after 1966, the same, I might say that that has been the whole concept of minimum wage. We have always given the opportunity to agricultural employers, who are still behind the parade and also we have done it with respect to Puerto Rico, and we have done it, obviously, to retail and service employers, who were brought under the Act as one of the big changes in 1966. So there has been a traditional phase-in to give an opportunity so that that progress could be made.

I may say, too, that though I do not worship consistency, it is hardly consistent to make an amendment to raise the small business exemption and then to complain about the fact that we are giving small business a break. Be that as it may, the rationale for our action is the fact that traditionally this is the way in which the minimum wage structure and minimum wage legislation are adopted.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. DOMINICK. It is true, is it not, that all people who are now covered by minimum wage, prior to this bill, are now on the same minimum wage rate?

Mr. JAVITS. Except for agriculture. That has not yet caught up. All others are at the same rate. We have not raised the minimum wage for a rather long period of time.

Mr. DOMINICK. But at the moment they are on the same wage rate.

Mr. JAVITS. That is correct.

Mr. DOMINICK. Under the committee bill, that is changed, and two classes are created again, not just the newly covered but also the ones who have been previously covered.

Mr. JAVITS. We do not believe that we violate the principle we have always followed, which is to give an opportunity for the catch-up, which we are doing in respect of these small business establishments.

Mr. DOMINICK. This is not a catch-up in that respect. One group is just being raised more than another. If we were applying the differential to the people who are newly covered under this bill, that might be one thing, but we are not doing it.

Mr. JAVITS. We believe that this gives the bill an attractiveness because it is in accordance with the policy we have followed. I realize that the Senator does not like what we have done, and naturally he would like us to do something perhaps a little less attractive; but in this respect, so far as Senator WILLIAMS and I are concerned, we will not.

Mr. WILLIAMS. Mr. President, the net effect of this amendment, unbelievably, would take out from coverage under the minimum wage provisions of the law 750,000 workers. Close to 1 million workers would lose the protection if this amendment should prevail. Certainly, that is not what the Senate should be doing at this date.

I yield back the remainder of my time.

Mr. TOWER. Would the Senator from New Jersey like to reserve the remainder of his time?

Mr. WILLIAMS. I have yielded it back.

Mr. TOWER. Mr. President, it should be noted that S. 1861 removes the exemption for retail and service establishments that have gross sales under $250,000, but which are part of a chainstore operation. The reasoning for this exemption is that these stores are vital to their individual communities and that the repeal of the exemption would have the effect of encouraging the chains to consolidate.

I do not support the repeal of this exemption. I think that it will further erode the position of small business in our economy. However, my amendment increasing the small business exemption does not strike the chainstore repeal language in the bill. It affects only the gross sales enterprise exemption under section 3 of the act.

During last year's debate on the amendment to retain the $250,000 exemption by the Senator from Vermont, Mr. STAFFORD, the distinguished chairman of the Labor and Public Welfare Committee, Mr. WILLIAMS, made the important point that with the inflationary forces at work, the small business gross sales exemption was being reduced without Congress taking any affirmative action on it. On the small business exemption, he made the following point:

"We all know the struggles of small business, for a variety of compelling economic reasons. I have come to the point where I regret some employees will not be covered whom I would like to see covered but, on balance, this is, I believe, a wise answer and is in the best interests of the country."

I think those were words of great sagacity on the part of the Senator from New Jersey, and they are as true today as when he spoke them last.

The amendment I have proposed today is consistent with this responsible statement by the distinguished chairman. Taking inflation into mind, the small business gross sales exemption is equivalent to only $193,000 in May 1973 dollars and will be worth only $181,000 by the end of this year.

This amendment is designed to assist the mom-and-pop stores in our communities. Unless these small businessmen and businesswomen are given the relief called for in this amendment they will certainly not be able to compete with the much larger enterprises. I do not think the Senate wants to go on record as increasing economic concentration at the expense of the small business community.

Mr. President, the principal objections to the minimum wage bill do not come from big business. They come from small businesses. I have not had one big business or big businessman complain to me about the minimum wage. It has always been the small businessman. We are seeking to punish him now by in fact reducing his exemption from the effects of this bill.

We talk a great deal about small business; we have all sorts of legislation designed to help small business. We are now getting minorities into the mainstream of American business, through the Office of Minority Business Enterprise. We are punishing these ethnic minorities that are just coming into the mainstream of American business by making them liable to the provisions of this act.

So let us just note that in spite of all we are doing for small business, we are engaging in the hypocrisy of reducing their exemption so far as the applications of this minimum wage bill are concerned. Believe me, it is going to result in unemployment. I have already seen it happen with previous minimum wage legislation. Small businesses are going to close; more people are going to be unemployed.

There seems to be somewhat of a relationship between the minimum wage in various sections of the country and the unemployment rate. The minimum wage in New York is $1.85; in Texas, it is $1.40. We have 2 percent less unemployment in Texas than in New York.

Of course, the cost of living is much lower in Texas, and the people who make these lower wages probably live as well as the people who make higher wages in the more congested areas of the country.

But things are not similar, and I do not think we should paint small business with the broad brush of the $250,000 exemption, which is going to work in extensive hardship on small business in my State and in other States, and it is going to result in more unemployment.

I am glad the unemployment rate in my State is 2 percent below the national average, and I want to keep it there. Therefore, I believe this small business exemption should be raised in terms of 1973 dollars.

Mr. WILLIAMS. I yield myself a couple of seconds on the bill.

Mr. President, what I said last year was in response to an effort by the Senator from Vermont to amend the bill that was before us which had $150,000 as the test. The Senator from Vermont wanted to return it to the level of law, to amend the bill to bring it back to $250,000, which was the level of the law. My hope, as I introduced the bill last year, was that we would reach out and bring more under coverage. I recognize that that was not to be last year.

But the arguments then, about going back to $250,000, was quite different from the arguments now, when, by this amendment, we would reach out and say to almost a million people that we are going to take the protections of the law away from them.

I appreciate the reference to last year, but it certainly does not apply when you are taking coverage away, and that was not what we were doing last year.

Mr. TOWER. This expressed my thought, but I wanted to give credit to the author of the thought, the Senator from New Jersey, who has said many wise things on this floor. I think he enunciated what might be called an eternal verity when he made that statement. I have often followed his leadership, and I am glad to follow it in that particular instance.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 37, nays 61, as follows:

[No. 304 Leg.]

YEAS—37

Baker, Bartlett, Bennett, Brock, Buckley, Byrd, Harry F., Jr., Church, Cook, Cotton, Curtis, Dole, Domenici.

Dominick. Eastland, Ervin, Fannin, Fulbright, Goldwater, Gurney, Hansen, Hatfield, Helms, Hollings, Hruska, Long.

McClellan, McClure, McIntyre, Packwood, Roth, Saxbe, Scott, Pa., Scott, Va., Stafford, Thurmond, Tower, Young.

NAYS—61

Abourezk, Aiken, Allen, Bayh, Beall, Clark, Cranston, Eagleton, Fong, Gravel, Griffin, Hart, Hartke, Haskell, Hathaway, Huddleston, Hughes, Humphrey, Inouye, Jackson, Javits.

Bellmon, Bentsen, Bible, Biden, Brooke, Johnston, Kennedy, Magnuson, Mansfield, Mathias, McGee, McGovern, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Pastore, Pearson.

Burdick, Byrd, Robert C., Cannon, Case, Chiles, Pell, Percy, Proxmire, Randolph, Ribicoff, Schweiker, Sparkman, Stevenson, Symington, Taft, Talmadge, Tunney, Weicker, Williams.

NOT VOTING—2

Stennis, Stevens.

So Mr. TOWER's amendment (No. 376) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

By Mr. BROCK:

S. 2741. A bill to provide for an investigation of the character and past activities of potential Vice-Presidential nominees by the Federal Bureau of Investigation. Referred to the Committee on the Judiciary.

Mr. BROCK. Mr. President, as everyone knows, we will soon be voting on the confirmation of a new Vice President. Events of the past 15 months amply demonstrate the need to take a hard look at the methods by which a Vice President is chosen.

When we examine both history and current events, we see that there is a vast difference between the scrutiny that a potential President and a potential Vice President receives. Normally, a man who desires the office of President of the United States must receive a great deal of publicity if he hopes to even have a chance of being elected. During the time period between a potential President's name being mentioned as a possible candidate and his actual nomination, the candidate is subjected to intense examination by the press and the general public. This examination keeps a Presidential candidate constantly in the public eye. Such scrutiny has often resulted in a candidate's withdrawing from the Presidential race.

This is not true of a potential Vice President, however. Under the present method of choosing the Vice President, the candidate who is selected is more often than not relatively unknown to the public. This means that a Vice-Presidential candidate virtually never receives the scrutiny that a Presidential candidate receives. Often, less than 24 hours passes between the time of a Presidential candidate's nomination and a Vice-Presidential candidate's nomination. Adequate investigation is impossible under such circumstances.

Today, I would like to introduce a bill which will eliminate many of the problems created by the present system of choosing the Vice President. This bill would allow, but not require, Presidential candidates with a reasonable chance of winning the nomination to submit the names of up to 10 possibilities for Vice President to the FBI. Reasonable chance of winning means that a candidate either has 10 percent of the delegate votes, or is among the top three contenders.

The investigation of the contenders shall consist of the normal procedures used for a top-secret clearance. The results of the investigations shall be released only to the winner of the Presidential nomination and only with the written consent of the person investigated. Also, only the Presidential candidate himself and one other staff member chosen by the Presidential candidate may view the records at all times.

An FBI agent would serve as custodian of the records. After the selection of the Vice President by the party convention, all investigation reports including the investigation of the Vice-Presidential candidate shall be destroyed. It will be a Federal offense of up to 5 years imprisonment and a $50,000 fine for unlawful disclosure of the results of any investigation.

Mr. President, this bill I am introducing will provide the means to prevent the recurrence of events such as the ones of this past 15 months. The investigations provided for by this bill should determine the fitness of the man who, if elected, would be a heartbeat away from the Presidency. At the same time, this bill forbids the leaking of information about the people being investigated, and thus it safeguards their rights of privacy.

SALIENT POINTS OF BILL

First. At the conclusion of the final Presidential primary of final nominating convention, but in any case at least 1 month prior to the party convention, those candidates with at least 10 percent committed delegates at that time, or the top three contenders, shall have the right to submit to the FBI the names of not more than 10 persons to be investigated for the office of Vice President.

Second. The investigation shall consist of the normal procedures used for a top secret clearance.

Third. These investigations shall be released only to the winner of the Presidential nomination, and only with the written consent of the person investigated. Also, only the Presidential candidate himself and one other staff member chosen by the Presidential candidate may view the records, and at all times, there shall be an FBI agent present as custodian of records.

Fourth. After selection of the Vice President by the party convention, all investigation reports including the investigation on the Vice-Presidential candidate shall be destroyed.

Fifth. It shall be a Federal offense of up to 5 years imprisonment and a $50,000 fine for unlawful disclosure.

By Mr. JACKSON (for himself, Mr. BIBLE, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. HASKELL, Mr. NELSON, Mr. FANNIN, Mr. HANSEN, Mr. HATFIELD, Mr. BUCKLEY, Mr. MCCLURE, Mr. BARTLETT, and Mr. MATHIAS):

Senate Joint Resolution 175. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1974, as "National Historic Preservation Week." Referred to the Committee on the Judiciary.

Mr. JACKSON. Mr. President, I am introducing for appropriate reference a joint resolution to designate the week of May 6, 1974, as National Historic Preservation Week.

Earlier this Congress I, together with the distinguished Senator from Nevada and Chairman of the Parks and Recreation Subcommittee (Mr. BIBLE) and the distinguished Senator from Maryland (Mr. MATHIAS), introduced similar legislation for 1973; and the results have been most gratifying.

The National Trust's sponsorship of the first Historic Preservation Week was, by all accounts, a major success. Hundreds of preservation-related activities were sponsored throughout the week by scores of member organizations—from as near as Washington to as far as Guam.

Mr. President, I feel that it is necessary that the American people give heightened attention to the preservation of the towns and villages, the buildings and places across the land which have shaped our lives and which are the tangible evidence of our past as a people.

In acknowledgment of the significance of historic preservation to our country today and in the Bicentennial era immediately before us, I consider this measure particularly appropriate in light of the dramatic growth in public interest in historic preservation in recent years.

The selection of the week of May 6 is designed to coincide with the national awards presentation of the National Trust for Historic Preservation.

ADDITIONAL COSPONSOR OF A BILL

S. 2559

At the request of Mr. SCHWEIKER, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 2559, the Domestic Food Price Impact Statement Act of 1973.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 173

At the request of Mr. MCINTYRE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 173, directing the Securities and Exchange Commission to examine its rules and regulations and make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the U.S. securities markets.

FAIR CREDIT REPORTING ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT NO. 703

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BIDEN. Mr. President, I am today submitting an amendment to S. 2360 that would require, in clearly defined circumstances, automatic disclosure of investigative consumer reports to the individuals on whom they were prepared. The purpose of the amendment is the same as that of the Fair Credit Reporting Act, which S. 2360 seeks to strengthen. The explicit protections for consumers go beyond both the act and S. 2360 but I think they are necessary both to insure the correction of inaccurate or misleading information in investigative reports and to guarantee the fundamental right of privacy of the individual.

The amendment would apply only to "investigative consumer reports," which are written by consumer reporting agencies on the basis of personal interviews with the subject's neighbors, or acquaintances or anyone "who may have knowledge" of the consumer's "character, general reputation, personal characteristics, or mode of living." These reports are prepared unsystematically, and may contain allegations about the most personal aspects of an individual's life. The veracity of the person interviewed or the accuracy of the information supplied may never be double checked.

I have copies of actual reports that were randomly selected from the files of the Federal Trade Commission and forwarded to me with the names of the reporting agency and all individuals deleted. While I do not know the purpose for which any of these reports was prepared, knowledge of that purpose is not necessary. Once a report is drafted, it can be, and is, used for any of the purposes for which information may be requested. I expect that you will find these documents as startling and revealing as I did. Indeed, I believe that the structure of the reports, the questions they ask and the responses they permit, vividly illustrate the need for my amendment.

Unfortunately, because such unverified and unverifiable reports may contain false allegations, they may cause a specific individual substantial harm. More generally, events of recent years have convinced me that our fundamental freedoms are ever more seriously jeopardized by secret invasions of personal privacy, however accomplished. I profoundly believe that individuals have the right to control their own destinies. That right is meaningless, however, if a person can lose a job because of false information that he had no chance to correct. As a nation we value the integrity of the individual; our laws must safeguard that integrity.

The best way to correct the injustice that may result from the investigative procedures I have described is to provide citizens with a practical means to protect themselves. To do this, I propose to give everyone the opportunity to correct any misinformation in his consumer report before it is sent to a third party, before the damage is done. Requiring the investigative agency to make prior disclosure to the consumer is the ounce of prevention that will be worth infinitely more than a cure that will frequently, if not always, come too late.

Although no hard data is available to chart the use of these reports, I understand substantial numbers of them are prepared each year. I have taken into account the burden that providing this protection will impose, and have, therefore, called for disclosure only in those cases where misinformation is most likely to cause irreparable harm. The most acute problems arise in employment situations, which represent a small minority of the cases for which these reports are prepared. According to the testimony on S. 2360 given by the Nation's largest investigative reporting company, which furnishes approximately 20 million investigative consumer reports annually, only 9 percent, or 1.8 million, are furnished for employment purposes.

While investigative reports are most commonly used for credit and insurance purposes, in those cases the consumer is given an adequate chance to correct misinformation in the present legislation and in the additional procedures in S. 2360. Although credit and insurance may be subsequently reinstated when the misinformation is corrected, once a job is lost because an employer relied on false statements, it is almost certainly gone forever. Another job might be secured at a later date, but each position is unique and no one should be denied a unique opportunity because of false reports. Because few things are more important than a person's job, I believe that consumers are entitled to the additional protection that my amendment will provide.

However, to further focus the amendment, I have limited the applicability of its disclosure procedure to cases of "adverse" information. This term is presently incorporated in the Fair Credit Reporting Act and I intend that it be broadly construed in the context of this amendment in order to give individuals the maximum possible protection. The procedural requirements of the amendment might be superfluous if a report reflected favorably on a person's character, but I strongly believe that when the information is potentially damaging to an individual's chances for employment, the harm that may result from misinformation is so great that the need for added protection clearly outweighs any burden that might result from disclosure.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 703

On page 2, line 13, before "A person" insert "(a)".

On page 2, line 24, strike out the quotation marks and the period at the end of the line.

On page 2, after line 24, insert the following:

"(b) If an investigative consumer report contains information which may be adverse to the consumer to whom it relates, a consumer reporting agency may not furnish that investigative consumer report to any third party for employment purposes unless, at least 5 business days prior thereto, such agency mails or otherwise delivers without charge a copy of such report to the consumer to whom it relates, except that any medical information contained in the report shall be deleted and the consumer shall be advised of the existence of such information and of his right to have such information furnished to a licensed physician of his choice.".

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—AMENDMENT

AMENDMENT NO. 704

(Ordered to be printed and to lie on the table.)

Mr. PELL submitted an amendment in the nature of a substitute to amendment No. 651, intended to be proposed to the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974.

AMENDMENTS NOS. 705, 706, 707, 708, AND 709

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN. Mr. President, I send to the desk five amendments to the Campaign Reform Amendment (No. 651) to the debt ceiling bill (H.R. 11104) and ask that they be printed.

These five suggestions are based upon the experience of the McGovern campaign last year in raising more than $25 million largely in small contributions. They are designed to strengthen the intent of this legislation to remove the influence of special interest money in political campaigns and to encourage future candidates to finance their campaigns by appealing for the support of many individual citizens. For simplicity's sake I refer to amendment No. 651 as "the bill" and to my amendments as "amendments."

MATCHING SMALL CONTRIBUTIONS

The first of these amendments would alter the ratio for matching small contributions with Federal funds in Presidential primary elections from 1 to 1 to 2 to 1. For the first $100,000, the ratio would be 3 to 1.

The purpose of this amendment is to put the candidate who seeks small contributions on an equal footing with the one who seeks large contributions. It would also provide the necessary "seed money" to commence the costly effort to raise small contributions. My amendment would retain the requirements that a candidate raise $100,000 in small contributions before he or she is entitled to matching funds. It would also permit matching only for the first $100 of each contribution.

Under the provisions of the bill, a candidate may opt for a strategy of seeking $15 million in $3,000 contributions from larger interests and wealthy individuals without seeking any small contributions at all. Thus, the bill would not achieve the kind of gross financing which is desirable.

Unfortunately, the candidate who sought small contributions from the people would have difficulty in competing with the fat cat candidate. Raising small contributions is an extremely costly and difficult operation. Many months and much effort are required to develop the lists. And the costs for direct mail may run between 25 and 33 percent of the money raised.

Raising small contributions for Presidential primaries is much more difficult than for the general election. In the case of the McGovern campaign, we raised something over $3 million in small contributions in the primaries and more than eight times that amount for the general election. Our experience indicates that, under the proposed bill, no candidate, no matter how good the fundraising operation, would be able to rely exclusively on small contributions.

An equality between these different kinds of candidacies can be achieved by matching small contributions on a ratio of 2 to 1 with Federal funds.

In addition, this change would create a strong incentive on the part of a candidate to seek small rather than special interest contributions. The candidate would know that he or she could raise the major part of the needed funds by going directly to the people. My judgment is that a candidate who was certain of the ability to do so would be less likely to incur the taint of special interest contributions. On the other hand, unless the change I propose is made, the candidate who sought to rely primarily on small contributions would ultimately raise much less money than the one who concentrated on large contributions.

The key to raising small contributions is to plow back into fundraising as much of the initial profits as possible. The problem the bill creates is that the candidate who sought small contributions would have to allocate much of the early profits to other campaign activities which in the past have been initially financed by a few large loans and contributions which the amendment would make unlawful. Thus, for technical reasons the effect of the bill will be to make raising small contributions more difficult than it has in the past.

The provision for matching the first $100,000 on a 3-to-1 basis would give the candidate the necessary seed money to develop a good small contribution fundraising operation. The initial profits from mail or media appeals could be reinvested in those efforts while the matching funds could be used to finance the other costs of the candidacy.

BANK LOANS

The second of these amendments would set a $250,000 ceiling on the amount of funds a Presidential candidate might borrow from national or State banks at any one time. In the case of congressional campaigns, the ceiling would be limited to $50,000.

The bill adopts the definition of contribution contained in title 18 of the United States Code, section 591(e), which includes loans. Since it is unlawful under other provisions of law for a corporation to make a political contribution, bank loans were specifically excepted from this definition. And since existing law does not limit the amount of campaign contributions, it has not been necessary to limit the amount of funds a candidate may borrow from banks.

The reason for setting a ceiling on the amount a candidate may borrow from banks is to insure that the candidate who is independently wealthy, or has an extremely productive small fundraising effort, does not obtain an unfair advantage over less fortunate competitors. An equally compelling reason is to avoid even the appearance of favoritism on the part of lending institutions toward one candidate or one political party. Under the terms of my amendment a candidate could borrow from banks up to the ceiling amount at any time. Borrowed funds could, of course, be repaid and further loans negotiated as needed.

LIMIT ON FAMILY GIVING

The present text of the bill limits individual contributions to $3,000 per candidate with a $25,000 ceiling on contributions to all candidates. The bill also makes indirect contributions unlawful.

During the debate on S. 372, a provision applying similar ceilings to families was deleted principally because of potential conflict among family members concerning the candidate to whom contributions should be given. While it was generally recognized that a vague prohibition on indirect contributions could lead to the abuse of a four-person family contributing what was in reality one $12,000 contribution to one candidate, it was felt that this potential abuse was not as serious as the family strife such a ceiling would cause.

The amendment I am proposing would prevent that abuse without causing family strife. It would limit the amount a husband, wife and their minor children might contribute to any one candidate and at the same time retain the $25,000 limit which each family member might contribute to all candidates. Thus if a husband, wife and their children each wanted to contribute to the same candidate, they could make a joint contribution of $3,000. But if each supported a different candidate, they could each give $3,000 to the candidate of his or her choice.

INCREASED TAX CREDIT

The bill would provide an additional incentive to small contributions by doubling the amount of the tax credit and deduction permitted under present law.

The fourth amendment I am offering would increase the present 50 percent tax credit to a full 100 percent credit. The purpose of this change is to put the worker or farmer in the lower tax brackets on an equal footing with higher bracket taxpayers.

In addition, this change would provide a substantially greater stimulus to small contributions. Middle and lower income taxpayers form the bulwark of any effort to raise small contributions. For many, particularly in this time of record inflation, a $25, $50, or $100 contribution means that they will be forced to cut their already overstretched budgets in some essential area. So by providing a full tax credit to the small contributor we will not only treat all taxpayers equally, we will also greatly increase the numbers of persons who are likely to contribute.

I view this change as extremely important to the purpose of the bill in seeking to encourage a candidate to rely on small contributions. For unless we insure that the people are likely to contribute, we run the risk of legislating a desirable goal which is impossible to fulfill.

DEFINITION OF PRESIDENTIAL ELECTION

The last amendment I am offering is essentially a clarification of an ambiguity in the present definition of a Presidential election. Because of the possibility that the Constitution may be amended to provide for the direct election of the President, the definition should be clear that a person who has received a political party's nomination is a candidate for purposes of the bill whether or not the candidate has pledged electors in individual States.

In conclusion, Mr. President, I would like to take a few moments to explain why I support this bill even though I have not joined in sponsoring it.

One of the ironic consequences of the Nixon campaign was that it demonstrated more eloquently than the words of any reformer how a political campaign should not be financed. The $60 million Nixon-Agnew war chest was accumulated largely from wealthy individuals and special interest groups.

I do not know whether Mr. Nixon's fundraisers systematically shook down large corporations or accepted contributions in return for special treatment, as some of those contributors have charged. But I do know that it seems that way to many Americans who have seen corporate profits soar at three times the cost of living and oil companies increase their profits because of the energy crisis, in one case by 91 percent.

Most business executives, like most politicians are in Mark Anthony's phrase "honorable men." But because of the Nixon campaign abuses, the corrupt exception is perceived by many as the general rule.

The McGovern campaign, despite some mistakes, demonstrated what the experts doubted—that a campaign could be financed by small contributions without relying on special interest money.

I support this bill because it represents a first, good effort to build on that experience. If adopted, future campaigns would escape the charges of corruption which now cripple the present administration.

However, I have not joined in sponsoring this bill because I disagree with some aspects of the legislation. My principal disagreement concerns the failure to regulate House and Senate primary campaigns. This omission strongly favors incumbent candidates and gives the bill as a whole the appearance rather than the reality of reform. I recognize that there are reasons why an amendment to that effect could not become law this year and therefore have not offered an amendment to that effect. But I question whether it would not be better to leave the issue of congressional campaigns open until a future time when a consensus for meaningful reform in this area has emerged.

The second policy difference I have is over the question of whether the same kind of private financing the bill would permit in primary elections should not also be available in general elections. I feel that it is important for a candidate to remain dependent upon the people for financial support at all times. This would prevent the aloof candidate from running a slick media campaign as we saw one candidate do last fall. And since the McGovern campaign—despite our problems in the polls—showed that an amount greater than the proposed ceiling can be raised in small contributions, there can be no substantive objection to doing so.

However, I have refrained from offering amendments to that effect because I feel that the bill's strong points greatly outweigh its weak points. I hope it becomes law and I do not want to do anything which would impair its chances of success. I have accordingly limited the amendments I am offering to technical points based upon our efforts last year which would make the legislation function in accordance with the sponsors' intent.

So, Mr. President, I support this bill and strongly urge my colleagues to vote for it.

NOTICE OF HEARING ON RURAL UTILITY COOPERATIVES

Mr. McGOVERN. Mr. President, the Subcommittee on Agricultural Credit and Rural Electrification of the Senate Committee on Agriculture and Forestry will hear testimony on Tuesday, December 4, on S. 2150, a bill by Senator EASTLAND and others to expand the availability of capital to rural utility cooperatives.

The hearing will commence at 9 a.m. on Tuesday, December 4, in the board of directors room at the headquarters of East River Electric Power Cooperative in Madison, S. Dak.

ADDITIONAL STATEMENTS

SENATOR RANDOLPH URGES JOINT EFFORT TO COPE WITH FUEL SHORTAGES—PRESIDENT NIXON RECOGNIZES NEED FOR COOPERATION

Mr. RANDOLPH. Mr. President, the statement of President Nixon on the energy crisis recognizes that a joint effort by the Congress and the Executive, with the cooperation of all segments of our population, is essential to securing solutions to this critical issue.

The President's energy conservation measures are commendable. However, the proposed actions could easily prove inadequate to eliminate actual shortfalls in energy supplies. They are predicated on a 16- to 17-percent shortfall in petroleum supplies, while deficits as large as 30 to 35 percent have been reported from congressional research services' sources.

The National Energy Emergency Act of 1973 is vitally needed to assure an equitable distribution of anticipated shortages so that economic dislocation and unemployment are minimized. This measure has passed the Senate and is pending before the House Interstate and Foreign Commerce Committee.

Because of the close relationship between heating oil and gasoline production, action to increase the supply of one product reduces the supply of the other.

Needed programs were proposed by the President to reduce the demands for heating oil and transportation uses of petroleum products. For the first time, the administration has reflected priorities in allocation of available supplies. For industrial users of heating oil, there will be a 10-percent curtailment, for residential users 15 percent, and for commercial users some 25 percent. Such priorities have been actively sought by the Congress and myself for several months. This was the principal reason for passage of the Emergency Petroleum Allocation Act of 1973, against administration opposition.

The President's proposed transportation controls are needed. But consideration also should be given to modifying freight rates to encourage the long-haul transport of freight by railroads.

It is my genuine hope that the President's message will be followed by affirmative action and accelerated steps to insure the energy supplies to eliminate present and projected shortages.

GOVERNOR ROCKEFELLER ADDRESSES "TRUNK 'N TUSK DINNER" IN PHOENIX, ARIZ.

Mr. HUGH SCOTT. Mr. President, on October 25, 1973, Nelson Rockefeller, the distinguished Governor of New York, addressed the "Trunk 'N Tusk Dinner" in Phoenix, Ariz. In his speech, Governor Rockefeller expressed his great hope, one that I share deeply, that—

> The shock of Watergate can and must make all Americans realize that we must return to our basic belief in individual honesty and integrity—whether in private life or in public life.

Governor Rockefeller said:

> We must get back to the fundamental moral and ethical values on which this country grew to greatness.

In his eloquent address, Governor Rockefeller paid tribute to our colleague in the Senate, BARRY GOLDWATER, for his "integrity and frankness."

Mr. President, the views of Governor Rockefeller, so well stated, should inspire all of us to practice the kind of integrity and frankness of leadership that Senator GOLDWATER possesses, and to move forward to restore trust and confidence in each other and the Nation.

I ask unanimous consent that Governor Rockefeller's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

EXCERPTS OF REMARKS BY GOV. NELSON A. ROCKEFELLER

Let's face it: no political gathering these days is going to avoid the subject of Watergate—whether the gathering is Democratic or Republican. But there is one fundamental fact to keep in mind: The Watergate tragedy is a tragedy of individuals—not the Republican Party.

But all Americans have been shocked by this tragedy. And strangely enough, it could be that Watergate may prove in the long run to have been a very significant turning point for America. The hard reality is that throughout the country, there has been a blurring of our sharp focus on what is right and what is wrong. Tragically, this is true in all phases of American life.

There has been a growing tendency to cut corners, to think it's smart to beat the system: whether it's fixing a ticket or paying off organized crime; cheating on exams or lying to the public; padding expense accounts or chiseling on welfare.

The shock of Watergate can and must make all Americans realize that we must return to our basic belief in individual honesty and integrity—whether in private life or in public life. We must get back to the fundamental moral and ethical values on which this country grew to greatness. We can no longer condone corruption in any form. We must so conduct ourselves as to restore trust and confidence in each other and in our nation. Unless we do so, we will destroy the very fabric of our free society and our role of leadership in the world.

* * * * *

At a time when integrity and frankness are high priorities for America, no American stands higher than your own Senator, Barry Goldwater. This great man has become a symbol of integrity and the soul of frankness. The American people respect Barry Goldwater as a man who says what he means—and means what he says.

I know Arizona is proud of Barry, the Republican Party is proud of him, and I know that the people of the United States feel enormous gratitude, deep affection and profound respect for him. This also goes for Johnny Rhodes, another great Arizonan and the next Republican minority leader of the House of Representatives.

* * * * *

I'm delighted to be here with Arizona Republicans tonight. And I have to say that, despite all the problems, I'm optimistic about the future. Sure, it's a period of great change and uncertainty. But we as a free people have the capacity to look into the future, to understand the nature and impact of change, and to shape that change so it will contribute to the well-being of all and not overwhelm us.

We can no longer afford the luxury of moving from crisis to crisis, hoping to solve our problems by throwing money at them. There has been too much of this treatment of symptoms—and not enough tackling of basic causes.

I believe in the Republican Party. I believe in its purposes, I believe in the ideals that gave it birth in Lincoln's time, and that sustain it today. And let me say this: I believe in our party as a lifelong Republican, and as the leader of the Republican Party of New York State for 15 years. I am proud of the fact that Arizona and New York State are two of the most Republican states in the Nation. In both states, the Republican Party controls both houses of the Legislature, holds all statewide offices except for one, and is represented in Washington by two United States Senators. And all this despite the fact that in both states we are a minority party.

In considering the challenge and responsibility which confront us as Republicans—first we must face the fact that we are a minority party. We cannot win elections unless we understand the economic and social problems faced by people in all walks of life. We have got to be sure that they know we are aware of and concerned about their problems. We have got to be creative and imaginative in dealing with these problems.

Secondly, in order to do this, we cannot afford the luxury of a monolithic point of view. We have got to be a party that has the wisdom, the understanding and the courage to embrace different points of view—a broad spectrum of political thought—that is not afraid to be confronted with honest differences in its ranks—that can argue and debate and then come to sound, constructive solutions.

Third, with this approach and an "Open Door" policy we can truly be the party of the people—the party of Lincoln; and once again become the majority party of America.

Fourth, if we are to be an effective instrument of political leadership and action for this country during these critical times, we have to concentrate on the objective of unity within diversity. This is the ultimate strength not only of the Republican Party, it has been the basis of the strength of America.

Obviously, within state parties and between parties in different states, you won't find agreement on every point. But this is the strength and vitality of our system. It is in the great tradition of the Republican Party—a party that can reach out to people of many points of view and unite them—in the noble example of this great nation—for the good of all.

Moreover, it gives the people confidence in the conviction, integrity and effectiveness of our leadership. They like to feel that we can face our honest differences within the party and have the courage to fight them out—that we are people of integrity who say what we think; that we have faith in the democratic process; that the majority prevails and the minority waits for another day.

Fifth, at a moment in history when people feel overwhelmed by the pace of change with less and less power to control their own destiny, this kind of strength was never more needed. It is essential to provide effective leadership that will command the confidence of the people—leadership with a vision of the future; leadership with faith in America and our unique heritage.

One of the basic responsibilities of leadership is the well-being of the people. Let me give you two examples: welfare and drugs.

Welfare started out as a compassionate effort to help genuinely needy people during the Depression. But there were also those who looked on it as an opportunity to redistribute the wealth—to bring about a welfare culture totally alien to the work ethic that built this nation.

Combine this attitude with lax administration in some areas and you have a condition where too many people are both willing and able to take a free ride at the taxpayer's expense.

I decided in New York State that we were going to get the cheats and chiselers off the taxpayer's back. First, we made the welfare commissioner directly responsible to the Governor. We named a management expert to head the state welfare department. We created a Welfare Inspector General to root out fraud and chicanery. We put in reforms such as requiring able-bodied recipients to take available jobs and job training.

Those who can't get regular jobs are required to take part-time jobs in the public service to work off their welfare. We require every recipient to come in for a face-to-face review of eligibility every six months.

These welfare reforms are paying off. Thus far this year, the welfare rolls have been reduced by 160,000—the largest decline since World War II. And as for the taxpayer: if these rolls had kept rising at the rate of the late 1960's; if we hadn't introduced these reforms and reduced the rolls; it would have meant another total outlay of $400 million for state and local governments in New York State.

Drug addiction and the crime it generates have spread fear and terror. It has been so bad in some communities that the people are really in prison—while the pushers roam the streets free. I tried every possible approach to the drug problem—treatment, rehabilitation, education. New York committed over $1 billion trying to help the drug addict to help himself.

But that didn't stop the spread of drugs—and treatment had a lasting effect in only one case out of five. Eighty per cent of the drug addicts treated went back to drug addiction. The drug abuse went on. the pushing went on. The crime went on. And no wonder. Look at the odds.

In one recent year, out of 20,762 drug arrests in New York City, only 418 persons went to prison—that's a two per cent imprisonent rate—and a 98 per cent safety factor for the accused. This year I decided we needed a real deterrent for drug pushers. I proposed and the Legislature approved a mandatory life sentence for drug pushing—with stiff minimum prison sentences.

Furthermore, to show that we mean business, we are creating up to 100 more judges to meet any increase in narcotics cases. We already named 26 new judges, and will have 41 new courts in operation by the end of January.

But basically I feel that the best way to cope with these problems is to get back to fundamental values.

I believe our American society must revitalize the old American idealism and morality and reapply these qualities to today's problems.

And I believe the Republican Party must get back to the fundamental ideals and values of basic Republicanism—as exemplified by its Presidents and leaders from Lincoln onward.

We have got to regain our sense of integrity and sincerity; we have got to renew our respect for each other and for our fellowman; we have got to get back some of the plain old virtues that made this country great; a sense of friendliness, and compassion toward one another—the spirit of mutual help of pioneer days; a unity of purpose, as we worked together toward common goals and shared dreams.

And we need a new sense of self-discipline. We aren't going to save our environment or meet an energy crisis or solve any hard problem—if we expect to indulge every creature comfort and yield to every material desire. We are going to have to be a tougher people. And we are going to have to stop looking to Washington and the federal government for all our answers.

In fact, we're going to have to stop looking to government at any level for all the answers—and look more to ourselves.

The answer to the ills of this country aren't going to be found in Big Bureaucracy. They are going to be found in the hearts and minds of 200 million individuals—in the character of our 200 million people—in our willingness to assume responsibility and discipline ourselves.

* * * * *

For decades, not only Americans but also many in other nations, looked upon America as a model for the rest of the world in many respects.

We need once again to make this nation a model worthy of emulation—and this requires, among other things, a much clearer sense of the mission of the United States in today's world.

As we approach the 200th anniversary of this nation, we must become, once again, a beacon to all the world—an inspiration to men and women everywhere who are yearning for freedom and a better life. I cannot imagine a more exciting time to be a citizen of this country than now. I'm optimistic about the future of our party. And I'm optimistic about the future of this country.

I have faith that our underlying intelligence, our spiritual and moral strength as a free people, can see America through any challenge. In 1976, we will enter our third century as a Nation. If we are a united people, if we have a sense of pride and a sense of purpose, if we restore our sense of integrity, we will scale new heights in that third century—for the betterment of ourselves and the benefit of all mankind.

BETHEL BAPTIST MEMORIAL CHURCH

Mr. HARRY F. BYRD, JR. Mr. President, a historic landmark in Virginia is

Bethel Baptist Memorial Church in Clarke County, Va.

This little church has a history as rich as the beautiful country which surrounds it. Mr. Alex Mackay-Smith is chairman of the board of trustees.

I ask unanimous consent that Mr. Mackay-Smith's brief history of the church be printed in the Record.

There being no objection, the history was ordered to be printed in the Record, as follows:

Bethel Church

When the first pioneers crossed the Blue Ridge Mountain at what is now called Ashby's Gap, lying between Clarke, Fauquier and Loudoun Counties, they found a well marked trail made by the buffalo and followed by the Indians which led due west down the mountain until, half way down, it met and followed the stream which flows in a southwesterly direction and eventually empties into the river some two miles south of the U.S. Route 50 bridge. The buffalo crossed the river on what came to be known as the Swift Shoal and then fanned out to feed on the natural prairie grasses which were to be found in the Shenandoah Valley. Early in the 18th century there was established, just above the Swift Shoal, Kersey's Ferry. From here a road mounted to the ridge above and then went westward to Bartonsville, where the Shenandoah Valley's pioneer settler, Jost Hite, had established his headquarters. From the Shenandoah River to Bartonsville this road did not cross a single stream or water course which could have impeded traffic in wet weather.

Close to the river during the middle of the 18th century there was built a Quaker meeting house, abandoned soon after 1800 as larger meeting houses were built to the westward. In 1809 a Baptist congregation took over the old meeting house, holding services there until 1833 when a two story red brick church, with a gallery above, was built to house the much expanded congregation. Baptist services were held here until the late 1920's, by which time the concentration of population in the Clarke county towns of Berryville and Boyce had drained off most of the members of the parish.

Thanks largely to the efforts of the late Beverley Brownley McKay, the Board of Trustees of the Bethel Baptist Memorial was organised to undertake the restoration of the church. It now stands much as it did nearly 150 years ago with its original pews, the original church furniture and communion vessels, the church minute books dating back to 1809, and the handsome gallery, originally reserved for slaves in the second story. The building is a fine example of early 19th century religious architecture. Many of the leading figures in the Baptist Church, both clergy and laity, have worshipped there. Over the years it has played a major part in the religious and social history, first of Frederick, and, since 1836, of Clarke County.

EMERGENCY ENERGY LEGISLATION—THE CURE MAY BE WORSE THAN THE DISEASE

Mr. HATFIELD. Mr. President, in approving S. 2589, the emergency energy legislation, last week, the Senate abdicated its responsibilities in setting policies to deal with the energy shortages we face. Instead of facing up to hard policy decisions—knowing that some would be politically unpopular—we passed the ball to the President and put the burden on him to try and solve the energy crisis. The President's remarks last night are a hint of what may follow, and some of his actions, in fact, were prefaced with the comment that restrictions would be imposed after the energy bill passed.

Two respected columnists commented on the impact of the bill in their respective columns in the last week. James Reston and James Kilpatrick—neither of whom needs any introduction to my colleagues—discussed the emergency bill in terms with which I agree. While we have already considered this legislation, I hope their comments also are of interest to Members of the House, who will be voting on this legislation shortly.

As the only member of the Interior Committee to oppose the bill when we reviewed it, and one of only six or so to vote against it here on the floor, I fear that comments made by these respected columnists are too mild to describe what may occur after this bill is passed.

I ask unanimous consent that the articles referred to be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Legislative Energy Proposals Seek Too Much or Too Little

(By James J. Kilpatrick)

Washington.—Twenty years after the nation should have launched a crash program of energy development, we seem to be rushing pell mell into one. I strongly suspect we are rushing the wrong way.

Two major pieces of legislation now are working their way toward enactment. The first is the National Energy Emergency Act of 1973; it may be too much. The second is the National Energy Research and Development Policy of 1973; it is almost certainly too little.

As to the first bill: So far as its general provisions are concerned, dealing with fuel conservation, the legislation plainly is needed to cope with the situation that confronts us at present. This much also should be understood: The bill is fraught with the most dangerous implications for the future. What is involved here is massive delegation of power to the President. What is further involved, or simultaneously involved, is a weakening of certain economic and political concepts that have been weakened too much already.

Patrick Henry laid down the sound advice, nearly 200 years ago, that in political matters power should be delegated sparingly: "If you give too little power today, you may give more tomorrow. But the reverse of the proposition will not hold. If you give too much power today, you cannot retake it tomorrow, for tomorrow will never come for that purpose."

The Energy Emergency Act pays small heed to Henry's warning. The bill calls for "prompt action by the executive branch" to deal with "severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop planting and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods." The presidential responsibility would appear to be comprehensive.

Under this legislation, the President is directed to promulgate "a nationwide emergency energy rationing and conservation program." He is directed to fix priorities on fuel consumption. His authority is to extend to "transportation control." He is to impose restrictions against the use of fuel for certain uses he deems "nonessential." No such awesome powers ever before have been delegated in peace time to a president.

Given the gravity of the present situation, perhaps some such powers have to be delegated, but they ought to be subject to restraints and checks and balances. The bill provides very few.

There is this to consider too: "The bill opens the door to new and still more pervasive federal regulation of the marketplace; it imposes new federal authority upon the traditional responsibilities of state and local government. The bill appears to require, for one thing, federal subsidies for reduced fares on local transit systems, and we may be grimly certain, following Patrick Henry, that if such subsidies are provided today, tomorrow will never come for their removal.

The second of the two major bills prompts equal concern. If our nation truly is to achieve "energy independence," the major thrust of a research and development program must be directed less toward fossil fuels and atomic fuels and more toward what the experts call "the exotics"—the energy of the sun, the energy of the wind.

One hears pathetically little talk on the Hill of harnessing the sun and wind. The talk is chiefly of coal degasification, oil shales, offshore drilling, and expediting development of atomic energy plants. The talk, that is to say, is of further exploitation of resources that are either finite or hazardous. The sun and the wind, by contrast, are clean, safe and inexhaustible. If these resources could be mastered—and they can be mastered—much of the problem would be solved not merely for the here and now, but also for the world and for the future.

Our concerns this winter have to deal with power in two meanings—with political power, and with kinetic power also. The problem is to control the one and to expand the other. If we fail, we can look to the day when two lights grow dim—the light of freedom, and the light of industry as well.

Tough Choices for President Built Into Senate Energy Bill

(By James Reston)

Washington.—If you're trying to figure out what you should be thankful for over the holiday weekend, you might begin by being thankful that you don't have to handle the fuel shortage or administer the National Emergency Energy Bill (S. 2589) just passed by the Senate, 78–6.

This bill gives the President vast discretionary powers to conserve fuel of all kinds, but it raises more questions than Watergate. For example:

It authorizes the President to limit nonessential fuel consumption, but how do you cut consumption: By rationing fuel or taxing?

How do you make a fair choice between allocating furnace oil for New England as compared with gasoline for California and Florida?

How do you share the limited supplies even within a state like California, which is warm in the south and is often chilly north of San Francisco? Or between congested cities like New York which has a rapid transit system, and sprawling cities like Los Angeles, which relies almost entirely on the automobile?

What is "essential" in one area of the country, or even one part of a state, may not be "essential" in another.

S. 2589 empowers the President to reduce consumption by eliminating "non-essential recreational activities," but while the human race can probably struggle along without snowmobiles or lighted ski resorts or country inns, many communities exist by providing these services, and for some states "nonessential" recreation activities are essential to the economic life of the state. It is one of America's greatest dilemmas that it has turned nonessential activities into essential economic imperatives.

On a more frivolous but popular level, is

Howard Cosell and Monday night pro-football under the lights on television "essential" to America? Any congressman who votes that it's not will probably find that he's "non-essential" at the next election.

Under S. 2589, the President could control advertising, black out all lighted billboards or "pleasure driving" on Sunday, but do you permit advertising for little cars and ban it for Cadillacs and the other big gas-guzzlers?

These are awkward questions, for even going to church on Sunday is a "pleasure" for some and an agony for others, but once you start to control limited supplies of essential commodities like fuel in a vast continental country like the United States with different climates and attitudes, you are in terrible trouble.

It is interesting how the Senate has dealt with this problem. In the middle of trying to restore its own authority after Vietnam and Watergate—even while it was in the process of considering the possibility of impeaching the President for exceeding his constitutional powers—it tossed responsibility for handling the fuel crisis to the President, without defining the principles or the policy that should guide him.

Most senators were for conserving fuel, especially for conserving fuel outside their own states, and they were for reviving the declining power of the Senate, but when it came to handling the energy crisis, they passed the responsibility to a President they had been saying had too much power.

Only Senators Mark Hatfield, R-Ore., and Charles Mathias, R-Md., raised major objections. Hatfield told the Senate: "When we in Congress get into a crunch, as we are now, all the rhetoric about congressional responsibility goes out the window in our eagerness to pass the ball to the President. Congress need not become an administrative agency, but it should set policy."

Mathias noted before passage of S. 2589 that it didn't even make provisions for the President and his aides to give prior notice of their fuel regulations, so that the press could publish them and give the people time to testify on them, and, unfortunately, his amendment to the bill was accepted.

But under the pressures of the latest Middle East war and the Arab oil pressures on the United States, Western Europe and Japan, the Senate has rushed through a loose, imprecise and at some points even incoherent bill, and the House would probably have done the same thing if it had not been for the accident of the Thanksgiving recess.

This bill will have great influence on the social, economic and political life of the nation. As it now stands, it could add immeasurably to the divisions and differences between the regions, classes and races in America at a time when more trouble is not exactly what we need.

So maybe the Thanksgiving recess in Congress is a blessing that will give the Congress time to reappraise the situation. The House has not yet voted on the problem. It will be roughly a month before the issue can go to the floor for a vote and to the White House for the President's signature.

This will give the oil-producing nations of the Middle East time to think whether it is in their long-term interests to blackmail America, Western Europe and Japan. It will give the Congress time to think about the implications of S. 2589 and tidy it up a bit. And it will give the press time to make sure that it is ready to report on the new complicated federal regulations on fuel, so that the people will know what the government is doing before the regulations create even more divisions than we now have.

JOHN F. KENNEDY: THE PROMISE

Mr. CHURCH. Mr. President, much has been written in the past few weeks—and will continue to be written for weeks to come—on the brief Presidency of John F. Kennedy on the 10th anniversary of his tragic assassination in Dallas.

My views on the Kennedy presidency I have found largely enunciated by Joseph Kraft in his column in the Washington Post on November 20.

Writes Kraft:

> I think the Kennedy style and the Kenedy substance were particularly well suited to curb the excesses of the past decade. I think many of our recent troubles could have been eased, and perhaps avoided, if the course of our political evolution had moved ahead normally. The tragedy of the assassination, in other words, finds its fullest expression in the pain that has come afterwards.

I ask unanimous consent, Mr. President, that Mr. Kraft's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE KENNEDY PROMISE

(By Joseph Kraft)

Everybody talks about the Kennedy tragedy, the promise of the young President cut off in his prime by the assassination 10 years ago. But what was the promise?

I think it was the promise of a cool approach to the central social, economic and foreign policy problems of the time. It was the promise of being spared the false expectations and inevitable counter-reaction, which in fact developed after the assassination.

To understand all this it is first necessary to say a word about the Kennedy style. "Camelot," with its evocation of something magic, misrepresented what it was all about. The term as Ben Bradlee, executive editor of The Washington Post, noted in this newspaper the other day, was foisted upon the public that wanted to believe it after the President's death.

But the true Kennedy style consisted in down-to-earth things. It was refusing to wear a Stetson or a headdress at political gatherings with cowboys and Indians. It was narrow lapels and informal ways of doing business.

It was laughing at Richard Nixon when he waxed sanctimonius about Harry Truman's profanity. It was preferring approaches that could be called "pragmatic." In taking stands on "matters of principle." It was what caused even sympathetic critics to charge that the Kennedys lacked heart. It was not glamour. It was cool.

The cool style expressed a genuine caution, a sense that politics was tough, not easy, which came naturally to a President vulnerable to the charge of inexperience who had been elected by a minority in the face of ingrained religious prejudice. The caution characterized—and to a degree camouflaged—the Kennedy approach to the major problems of his brief time in the highest office.

In foreign policy, Kennedy was never a peacenik prone to believe the Communists were the good guys. He thought the hardliners had a point in emphasizing effective defense forces, particularly against subversion. Probably he paid excessive deference to the military professionals in embarking on the Bay of Pigs and in going deeper into Vietnam.

But the central line of his policy was clearly the other way. The important point was keeping open a line of escape for Nikita Khrushchev in the Cuba missiles confrontation. It was the signing of the test ban agreement; and the refusal to take impulsive counter-measures against the Berlin Wall; the building up of Willy Brandt, the apostle of detente, over Konrad Adenauer, the cold war chancellor. In short, Kennedy was moving from confrontation to detente, and taking the hardliners with him.

Similarly in social policy, Kennedy was highly sensitive to the national division on civil rights. He wanted to preserve the support of white southerners, both in the Congress and the country at large. His feelings found expressions in some of his judgeship appointments, in his constant preference for mediating race conflicts, and in the distances he took from civil rights leaders.

But no one could doubt his central line of policy. When mediation efforts failed, he repeatedly used force to back up the law. The Civil Rights Bill of 1963 was a particularly far-reaching measure. More important it came with its majority built in. The Kennedy Justice Department devised the tactic for beating a filibuster by winning over the Republican leader in the Senate, Everett Dirksen.

Finally there was economic policy. Kennedy feared what the interests opposed to government intervention could do to him. He was slow to move against recession and inflation.

But when he moved, he moved in the right direction. He committed the country to an income policy with wage and price guidelines. The 1963 tax bill, representing the first use of fiscal policy to counter recession, set in motion the record prosperity of the mid 60s. When it went through it had the support of the conservative interest groups as well as the trade unions.

All this went awry after the assassination. Maybe it had to. Maybe there was no holding the forces that made for Vietnam, runaway inflation and the self-assertion of minorities. Maybe the reaction which set in in 1963 was written in the national psyche.

But for my own part, I doubt it. I think the Kennedy style and the Kennedy substance were particularly well suited to curb the excesses of the past decade. I think many of our recent troubles could have been eased, and perhaps avoided, if the course of our political evolution had moved ahead normally. The tragedy of the assassination, in other words, finds its fullest expression in the pain that has come afterwards.

INDIAN RESERVATION SCHOOLS

Mr. DOMENICI. Mr. President, as a life-long resident and now a Senator from a State with a high Indian population, I am well acquainted with the specific problems encountered by our Indian citizens. Certainly at the top of the list of priority problems is the deplorable condition of the reservation schools.

Recent research has shown that the fastest growing segment of the school population in the United States is the Indian. Enrollment in many Indian school districts has doubled in the last 5 years and is expected to double again in the next 5. This rapid population increase has combined with the deterioration of outdated school buildings to create a serious backlog for construction aid.

At the present time construction expenses for Indian schools are to be picked up under the provisions of Public Law 81-815. Inasmuch as these funds have been inadequate to meet the needs of those schools which were eligible for support under Public Law 815, the Bureau of Indian Affairs commissioned the National Indian Training and Research Center of Tempe, Ariz., to survey the construction needs of those public schools serving reservation children. The House Interior

Appropriations Subcommittee initiated the survey.

Senator Fannin, the distinguished Senator from the State of Arizona, incorporated the entire report as released by the NITRC in the November 14, 1973 Congressional Record. I am pleased that the Senator had the report made public.

Facts as they concern Indians in the entire country as well as in New Mexico are now on record, alarming facts that illustrate the immediate need for action by Congress now. All children simply must have good educational facilities in order to learn properly.

DECLINING LOBSTER SUPPLY

Mr. MUSKIE. Mr. President, in recent years, I have been increasingly alarmed by the depletion of lobster stocks off the coasts of the United States. For various reasons—the pollution of our offshore waters, inadequate legislation, and, above all, increases in the foreign fishing efforts off our coasts—lobsters are becoming scarce and prohibitively expensive. The State Department has repeatedly said that nations that fish off our shores would respect our wishes and not fish for lobster. Yet, according to National Fisherman, foreign fishing vessels have taken between 16 million and 22 million pounds of the offshore lobster stock. And in my own State of Maine, in the last 11 years, the lobster yield has dropped by more than 30 percent even though the number of lobstermen has increased by more than 25 percent.

To help preserve our stocks as well as the livelihood of our fishermen, I joined several other Senators in introducing on April 10 of this year S. 1527, the Lobster Conservation and Control Act of 1973. This bill provides for the effective control of lobster fisheries off our coasts by amending existing legislation to make the lobster a creature of the Continental Shelf, such as was done with the Alaskan king crab. Under present Federal law, foreign vessels are prohibited from harvesting Continental Shelf fishery resources except in conformity with conditions prescribed by the United States or as expressly provided by an international agreement to which this country is a party.

Earlier this month, the House Subcommittee on Fisheries and Wildlife Conservation, after holding hearings, reported out favorably H.R. 6074, a bill designed to make the lobster a creature of the Continental Shelf. I am hopeful that the House Committee on Merchant Marine and Fisheries will soon act favorably on the legislation and that the bill will be on the House floor within the next few weeks.

The House subcommittee, by its action, seems to recognize the urgent need to preserve our offshore stocks by making the lobster a creature of the shelf. I do not believe we in the Senate can afford to do less. It is not sufficient to depend on the good will of other nations or the conclusion of a comprehensive international fish agreement to end the depletion of our stocks. We must enact legislation to preserve the lobster.

Mr. President, I ask unanimous consent that an article on this subject from a recent issue of the New York Times magazine section be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Where Have All the Lobsters Gone?

(By Elisabeth Keiffer)

Point Judith, R.I.—Was it really only 15 years ago that a small boy appearing on my Rhode Island neighbor's veranda at cocktail time, demanded, "What am I having for supper, Ma?"

And she, passing the peanut-butter-on-Ritz *hors d'oeuvres* to her guests, absent-mindedly replied, "Lobster, darling."

"Oh, no, not lobster *again!*" the small boy wailed. No one raised an eyebrow.

Unless he's made it big in the interim it may be a long time before that young man chokes down another lobster. Last summer, the price at our local dockside market was $2.65 a pound for "selects," those weighing one and a half to three pounds apiece. The prediction is that this winter the retail customer on the East Coast will have to pay $4.50 a pound and up to enjoy a "select" at home, and God only knows how much if he orders it in a restaurant.

It is true that in the memories of most of us, lobster, like porterhouse, has been considered a luxury food, unless you happened to live on the New England coast and knew a friendly lobsterman. But now, in addition to being so insanely expensive, lobster is scarce.

In 1889, the U.S. catch was 30,449,603 pounds, taken by men in small boats, working close to shore and using only hand equipment. Its value, incidentally, was $883,736. Last year, a far more efficient fleet, using the most sophisticated equipment and tapping the recently discovered and supposedly abundant stocks about 100 miles offshore, brought in over a million pounds less—29,278,000 pounds, with a value of $36,052,000. Everyone agrees that the size of the lobsters has been declining steadily since the colonists' times, when the animals are said often to have weighed as much as 25 pounds apiece.

Is the supply of *Homarus americanus*, which inhabits only a relatively narrow strip of the eastern coast of North America, really close to depletion? Will our children have to settle for shore dinners that include only steamers, chowder and corn on the cob?

The answer is that, barring some unforeseen ecological disaster that kills off the immature, sublegal stock, lobster will probably continue to be available to some of the people who are willing to pay the price—but not to all, by a long shot. A Canadian biologist estimates that as soon as 1980 there will be a demand for 20 million more pounds a year than can be landed. And scientists, lobstermen and marketers do not expect the price to do anything but rise in the immediate future.

The American lobster fishery as a separate industry began around the end of the 18th century, principally off the coast of Massachusetts. By 1812, the residents of Provincetown were sufficiently alarmed at the decline in the stock to pass a not particularly effective restrictive law. Till then, the lobster stock had been shown no mercy, the eggs being especially prized as "a capital article of food." According to a 1909 Bureau of Fisheries Bulletin, by 1880 "the period of prosperity had long passed and few lobsters were taken from the Cape. Only eight decrepit men were then engaged in the business and were earning about $60 apiece."

Attributing the scarcity to lack of conservation practices, coastal states in the lobster's range—Labrador to the Carolinas—began enacting protective laws. As early as 1900, biologists believed that the only way to keep the lobster population going was to establish hatcheries in which the eggs could be reared through the perilous larval stages and then released into the ocean. Hatcheries were set up in a number of states, though no one could possibly tell how many of their graduates survived in the wild. Today, Massachusetts is the only state operating a hatchery. Its longtime director, John T. Hughes, considers the research that has gone on there more important to the future of *Homarus* than the laboratory's supposed *raison d'étre*—raising and releasing the young.

Meanwhile, it has been established that the lobster's growth rate is closely tied to water temperature—it grows, and therefore reproduces, faster in warm water than in cold—so fluctuations in the catch can be partly explained by warming or cooling trends in the Atlantic. But the steady decline since the days of abundance in the nineteen-sixties that followed the first exploitation of the offshore population can't be explained all that simply.

Pollution may be responsible in some measure for the decline. The lobster is extremely sensitive to water equality, and it has been demonstrated in the laboratory that only a few drops of oil or kerosene in a lobster's tank will make it stop eating for a week. Similarly it is known that oil or pesticides on the surface of the ocean can be lethal to the tiny lobster larvae, but to date there simply hasn't been enough documented evidence or enough research done to determine the immediate impact or possible subtle long-term effects of low-level pollution on the population.

Are foreign fishing fleets spiriting away vast quantities of American lobster as "incidental" to their fishing catch? A high State Department official says that most nations fishing off our East Coast have indicated they would respect our wishes and not fish for lobster. But, according to National Fisherman, it's been estimated that foreign vessels have taken between 16 million and 22 million pounds of the offshore stock. So far, the most publicized complaints of the New England lobstermen have been over the pots they have lost when foreign trawlers, presumably inadvertently, cut their lines. This may be because these complaints can be substantiated. It is harder to document the contention in the trade that substantial landings of undersize and egg-bearing American lobsters have been showing up at ports in other parts of the world.

But while the lobstermen blame the present scarcity on the foreigners, on the Federal Government and, to some extent, on the marine biologists for not having come up with more answers through research, many biologists point the finger at state regulations and the lobstermen themselves. John Hughes, director of the Massachusetts State Lobster Hatchery and Research Station at Oak Bluffs, who has probably spent more years studying lobsters than anyone in the world, firmly believes that the future of the natural supply depends most importantly on (1) an increase in the legal size to 3½ inches, and (2) a Federal law to replace the present crazy quilt of state regulations.

Lobsters are measured from eye socket to end of carapace, rather than by overall length, because of the difficulty of straightening out the tail for accurate measurement. The size at which they may be taken legally varies from 3 1/16 inches in Rhode Island, to 3 3/16 inches in Maine, New York and Massachusetts. Ninety per cent of the lobsters caught today fall within this size range. However, biologists claim, at this size they have only just reached sexual maturity and in all probability have not spawned even once, so a high proportion of the potential breeding stock is taken out of circulation every year. Five-sixteenths of an inch seems a very small fraction to fight over, but most lobstermen are prepared to fight, since if the legal size were raised to 3½ inches they would, for a few years at least, be forced to forgo 90 per cent of their present catch.

Given the magnitude of the scarcity, it is not surprising that some unprincipled characters swell their catches via dirty tricks. Instead of throwing back "berried" lobsters—females with eggs—as the law requires, they "brush" them to remove the eggs and make the matrons look like legal maidens. "Shorts," those under minimum size, can also be doctored to look legal. With the carapace removed to prevent enforcement officials from making embarrassing measurements, they can be sold profitably to wholesalers as lobster tails. It is impossible to tell how widespread these practices are, but one spokesman for the fishery recently commented angrily that if government agencies would spend more time enforcing existing laws instead of planning new restrictions they would be making a greater contribution to the management of the stock.

Another claim by conservationists, pooh-poohed by many lobstermen, is that "ghost" traps are helping to deplete the stock. Even after the bait is gone, lost pots on the bottom of the ocean can continue to allure and trap lobsters who venture into them simply for shelter. There was a suspicion a few years ago that the decline in the Alaska king crab fishery was attributable to lost metal pots which never deteriorated. Many conservationists and a few lobstermen would like to see traps manufactured with a "self-destruct" section through which lobsters could escape after a period of time.

So, there are probably many answers to the where-have-all-the-lobsters-gone question. An always heavily fished resource has been exposed to new pressures, and no one knows how many others may be added or how devastating their effects may be. But everyone, from scientist to consumer, is worried.

When you become acquainted with the lobster's life history, John Hughes once commented, it seems amazing that so many of them make it to our dinner tables at all. They are able to mate only when the female is newly molted and soft, usually within 48 hours of casting her shell, and this magic moment comes at best only once a year and usually much less frequently. Even then there are complications. It has been observed in the laboratory that though a small male can mate successfully with a much larger female, a big male who falls for a small female is plain out of luck: Anatomically, it just won't work.

Although the female may produce up to 60,000 eggs, it normally takes her from 15 to 18 months after copulation to release them as baby lobsters. These tiny creatures, a third of an inch long and looking more like mosquito larvae than lobsters, pass their first three larval stages drifting on the surface of the ocean, where they are helpless prey for birds, fish and tides that may carry them out to sea to perish. Only an estimated 0.1 per cent, or 10 out of 10,000, survive the first three weeks to reach the fourth larval stage. And maturity is a long way off. In the ocean it takes a lobster between five and eight years, depending on water temperature, to weigh one pound and become sexually mature.

Even the lobster's method of growth is perilous. Getting bigger and stronger is indeed, as an early writer described it, a "dangerous and expensive operation." Since the lobster's chitinous shell is inelastic, to increase its size the crustacean must cast off the shell periodically, perhaps 10 times during the first year and with decreasing frequency after that. While the lobster is performing this critical and occasionally fatal feat, and until its new shell begins the hardening process, it is, of course, absolutely without defenses.

When the struggle of molting is all over, within 5 to 20 minutes, every part of the old shell, down to a microscopic hair, has been reproduced in the new one, and unless one picks up the weightless empty shell it could be mistaken for an intact live lobster. Even the stomach, gills, mouth parts and eye stalks have been discarded. The newly molted creature, which feels as limp as wet paper in the hand, almost immediately gains about 15 per cent in length and 50 per cent in weight. Unlike crabs, which are prized in this state, soft lobsters are not considered good to eat by people. However, fish—their principal predators after man—and, sometimes, other lobsters, find them delicious. So it is not surprising that the lobster chooses to lead most of its life alone. In this it differs from its relative, the clawless spiny lobster, which likes to congregate in clubby groups.

It is true that scientists have learned a great deal about lobsters in the 80-odd years they have been studied intensively, but not anywhere near as much as they would like to. Even now, no one knows for certain the greatest age or size a lobster can achieve. It is believed the largest ever captured weighed 40-odd pounds and was perhaps 50 years old, but this is just a guess. Once a lobster has reached the fourth larval stage and sunk to the bottom of the ocean, never willingly to come to the surface again, its life-style becomes pretty much of a mystery to humans. A night animal, it hides in a burrow or shelter by day, waiting till dark to venture forth in search of food—walking, as a 19th-century biologist described it, "nimbly upon the tips of its slender legs." Scientists really can't do much more than speculate on the daily details of the lobster's early years in the ocean deep. And when they study the lobster's behavior in the laboratory, they are never entirely sure how much it is being altered by captivity.

One thing a reporter can learn about the scientists who study lobsters is that, inevitably, they come to regard the crustaceans with a mixture of wonder and affection. "They're so damn pretty," John Hughes commented fondly, leading the way past tanks of jewel-bright little creatures, some of which were brilliant blue and red mutants. Stanley Cobb, an assistant professor of zoology at the University of Rhode Island, became so attached to his research subjects as a graduate student that he hasn't eaten one since. These scientists are considerably annoyed by the popular misconceptions about lobsters, held by people who only see them pegged and thrashing in fish-market tanks.

Jelle Atema, a young Dutch biologist at the Woods Hole Oceanographic Research Institute, says impatiently, "Judging the lobster's personality by the ones you see in the market is like judging all human beings by the unfortunates penned up in a concentration camp." He resents the popular picture of them as the bullies of the deep, lurching about on the ocean floor, smashing and tearing everything that comes within reach of their claws. He pointed out indignantly a photograph in a magazine captioned, "Undersea gladiators duel to the death." No one has ever seen one lobster attack another from the defenseless rear, which would be the logical approach if death were the aim of the encounter. When lobsters do fight, to establish dominance in situations involving food, shelter and mating, their encounters have an almost stately quality. Standing on the tips of their walking legs, they lock crusher claws and pull and push each other back and forth in the sand until one is exhausted. Cobb describes it as looking more like a tango than a fight. When it is over, the dominant one chases the subordinate one from the contested prize and the loser, Atema reports, "flees and assumes submissive postures."

Although lobsters do eat each other when they are closely confined in tanks—those in the larval and juvenile stages being particularly voracious—most researchers believe this is determined by the artificial conditions, and may often be partly accidental. If a lobster in a crowded tank is injured, or newly molted, he will certainly be eaten—just because he is there, and eatable. "Not the same thing at all as the deliberate cannibalism humans know," Atema claims. Cobb says, too, that lobsters in his laboratory tanks at U.R.I. will co-exist peacefully at certain stages if they are not crowded together too closely, or frequently disturbed.

Another canard about lobsters is that they are scavengers, feeders on carrion and refuse. Not so, John Hughes says emphatically. Although he admits wistfully that we don't know and perhaps never will know all the components of the lobsters' natural diet, they have never been observed eating rotted food. They relish small crustaceans, little fish and the tiny mollusks that they dig out of the sand, and their stomachs are often found to be packed with eelgrass, an indication perhaps that they also feed on the minute organisms that inhabit it. In the laboratory they have been observed devouring their newly cast shells, probably filling a need for the lime contained in them.

How lobsters should be eaten, or what is the most humane way to cook them, has been debated for many years. Hughes says that Julia Child telephoned him not long ago to ask that question. When she repeated his instructions (place them in a pot with boiling water to cover them, and clap on the lid) on her TV program, she was deluged with protests from tender-hearted viewers. Later, though, she and Hughes were vindicated by an international humane organization which, after investigating the matter, wrote that death-by-boiling was almost instantaneous and certainly preferable to the alternative of slow suffocation, which is the fate of a lobster placed in cool fresh water that is then brought to a boil.

The more that is learned about lobsters, the more fascinating they seem. At Woods Hole, Jelle Atema and his colleagues were able to demonstrate that the female, just after molting, releases a sex pheromone, a chemical messenger that subdues aggression and triggers amorous behavior in the male. Here is what Atema wrote in a paper published in Nature magazine about lobster courtship:

"[The male] seems to be immediately aware of the presence of a sexually ready female. His claws are lowered and closed and he brings himself up on the tips of his walking legs. He approaches the soft-shelled female very slowly and gently, walking around her and stroking her continuously with his antennae . . . After about 15 minutes of this courtship dance, the male slowly mounts the female from behind and turns her over with his walking legs. Copulation takes about 8 seconds, after which the two animals separate and find a corner position in the tank. The male is still not aggressive to the vulnerable female." The gentleness required to avoid injuring the tender female at this time is remarkable.

Although the male transfers his sperm into the seminal receptacle of the female at this moment, the eggs are not fertilized until as much as nine months later. Then, the female arranges her body so that, while releasing the eggs, they spill over the receptacle containing the sperm, which has been waiting all this time. Once fertilized, the eggs are cemented to the underside of her tail to remain for perhaps another nine months before they hatch as tiny larvae. One way to distinguish a male from a female lobster is to compare the width of their tails: The female's is always wider.

One of the more sinister possibilities suggested by research into lobsters' chemical communication, says Atema, is the long-term effect of such substances as oil or chemicals introduced into the ocean environment. Even at levels low enough not to be immediately toxic, it is quite possible that these pollutants could disrupt the communication that is essential to life not only for lobsters but probably for all marine animals.

Even before the lobster became as scarce as it is this year, the enormous increase in world-wide demand had led to the thought that perhaps it could be raised commercially like cattle or poultry. The mass-production of chickens is, after all, a relatively recent and enormously profitable enterprise. John Hughes was the pioneer in this research. In 1968, he published an article in Ocean Industry magazine called "Grow Your Own Lobsters Commercially" in which he described the work he and his associate, the late John Sullivan, had been carrying out at the Massachusetts hatchery since 1951. Because the lobster's first weeks are so hazardous and its growth in nature so slow, Hughes felt that man might well be able to improve on it. And indeed he did. By raising the larvae on a rich diet in tanks of his own design—conditions calculated to cut down on cannibalism—he succeeded in increasing their survival rate from one-tenth of 1 per cent to over 40 per cent some years ago. He was also the first to demonstrate that living in a year-round temperature of 70 degrees F., rather than in the fluctuating ocean temperatures, would bring the young to legal, one-pound size in less than three years, roughly half the time it takes in nature. Like all cold-blooded creatures, the lobster's metabolism depends on the temperature of its environment, and when the ocean water chills in winter it stops feeding almost entirely and becomes semidormant.

Although the state of Massachusetts showed little interest in the hatchery's research beyond its legislated purpose of raising and releasing the young, Hughes, after working on a minuscule budget for many years, made a happy alliance with scientists at the University of California at Davis, who received a $140,000 Federal Sea Grant in 1971 to work on the problems of raising lobsters successfully, quickly and profitably in captivity. With continuing Federal support, and a recent $1-million appropriation by the California Legislature for a new aquaculture laboratory at Bodega Bay, Calif., Dr. Robert Shleser, director of the research there, is confident they can develop the complicated technology required. Already his team has raised the survival rate of the larvae to 90 per cent on a brine shrimp diet and are sure they can produce a lobster that will reach market size in just over a year. And Hughes imaginatively suggests that, since there need be no legal restriction on the market size of hatchery-bred animals, a profitable consumer demand might be built for lobster tails the size of jumbo shrimp. Shleser, a geneticist himself, says that genetic selection and breeding—again a field in which Hughes did pioneering work—will play an important part in their program.

The commercial ideal might be described as a superdocile lobster (to cut down on cannibalism in captivity) that grows exceptionally fast, has consistently high-quality meat and larger than usual claws and tail. Whether the retail price of this paragon, if they succeed in creating it, will ever be comparable with that of chicken, is anyone's guess at the moment.

However, the number of obstacles to be overcome before commercial farming can become a reality seems staggering. Dr. Akella N. Sastry, who is directing related research at the University of Rhode Island's Graduate School of Oceanography, feels that space is among the foremost. It's been found that lobsters grow faster in a larger space, though no one knows why. His team is trying to find the answers, since space will be a vital cost factor. They're also trying to formulate a diet that will most profitably produce plump, meaty lobsters.

There is more behind the intense, countrywide research efforts in lobster culture than the simple aims of satisfying the demand for a luxury or turning a quick profit. Aquaculture, whose development in this country was one of the stated purposes of the 1966 Sea Grant Act, has never really gotten its feet wet here, in spite of the likelihood that eventually we will have to depend on cultivating certain marine animals to replace or supplement the wild stocks.

Although Sea Grant and other public funding agencies will finance preliminary aquaculture efforts, only industry is likely to put up the kind of money needed to support the technology that large-scale aquaculture calls for. To many, lobster, the most valuable American seafood, is the logical choice with which to attempt the commercial breakthrough. If industry is to be interested in so vast an investment, it has to be sure it has a hot property. That, lobster will undoubtedly continue to be.

But in the mind of this finicky consumer, one dismal thought arises, prompted by distant memories of that admirable creature, the farmyard chicken. What will the meat of a "farmed" lobster—raised on artificial foods, possibly in artificial sea water and forced to grow at a gallop—taste like? Will one still be able to say, as the early writer R. Brookes did: "Their Flesh is sweet and restorative and very innocent"? The scientists say they honestly don't know.

DIAL-A-RIDE

Mr. BROCK. Mr. President, the energy crisis that has developed has created many problems for our Nation, problems that are very real, and ones which we will continue to face and solve in the coming months and years. This Nation's thirst for fuel is ominous, and indeed, our production and our livelihood depend upon energy. Not only must we find ways of meeting the fuel crisis head-on, and finding new sources of energy, we must also devise ways to protect the precious fuel that we have left.

In the past months, the U.S. Department of Transportation has been assisting in a unique experiment in several cities across the country. This experiment has been labeled "Dial-A-Ride." And judging from the success of this pilot program, I think perhaps the Congress should consider this system for expansion in more cities and areas. There are several factors which indicate that a move in this direction would be a correct one.

First, Dial-A-Ride could help in the fuel crisis. The buses are programed to serve a specific area, as it actually goes to the front door of the passenger, and then delivers that passenger to their destination. The route that the bus takes in some instances is computerized, and several passengers can be picked up in the same general area.

Second, so far, Dial-A-Ride has proven very efficient and quick. The average pick up time has been less than 20 minutes from the time of the call, a rate sometimes better than that of taxi services. Deliveries have also been quick. Again, the average time is approximately 20 minutes.

Third, Dial-A-Ride is relatively cheap. At this time, fares are somewhat higher than ultimately anticipated by Department of Transportation officials. But the average cost even in the experimental programs is hardly twice that of fares on fixed route buslines, and certainly much, much cheaper than cab service.

Fourth, fuel conservation is perhaps at this time, one of the most important points. Most of the programs have only a few buses working in Dial-A-Ride, but they have been able to increase their workload as the program administrators become more familiar with the workings of the routes and pickups. This program obviously would allow one person to call a bus to his home or office, and be delivered directly to his destination's door, while at the same time riding with other persons, thus taking that number of people out of cars and saving fuel, cutting pollution, and making driving on our streets and highways safer. In fact, Dial-A-Ride has been very successfully used as a commuter service, and is heavily used on a regular basis from central carpool areas outside of the specific downtown areas to the downtown business district.

Fifth, Dial-A-Ride could also be of significant value to the poor and the elderly. As in any city, some people are just not located on a direct, fixed bus route. But these people also have to travel to the grocery store, to the doctor, and so on. Dial-A-Ride would give them the opportunity to do just that.

Sixth. Dial-A-Ride could also be the partial answer to some of the tremendous problems that are being faced by mass transit today. It would loosen fixed routes, and allow those companies to serve the needs of more of the community.

When we talk of the mass transit problems that we face not only in the future, but today, most would quickly think of rapid transit lines, or some similar type of transportation. But, the fact remains that even when you construct those rapid transit lines, you still have the problem of how to get people to the transit stations. Over and above that, rapid transit lines do not solve the problems of the innercity. Certainly rapid transit concepts could be helpful, but they are also very expensive, and we simply have to remember that we are spending money at a greater pace than ever before in our history, and we, the Government, are the worst offenders in feeding inflation.

What Dial-A-Ride may represent is a simple, cheap way to solve many of our problems. It is, in the simplest terms, a cheap taxi service, with all of the advantages money wise of a bus line.

To be perfectly honest about it, I simply cannot see where rapid transit systems are the sole answer to our transportation needs. Certainly in some cities, it is the answer, but, we cannot put all of our eggs in one basket, particularly one lined with the taxpayers dollars which could be more wisely spent. I would hope that the Congress would seriously consider the Dial-A-Ride concept, and perhaps we could not only solve some of our major transportation problems, but also save considerable money.

CHRISTMAS RUSH

Mr. McGEE. Mr. President, Postmaster General E. T. Klassen responded over the weekend to questions relating to this year's "Christmas rush" and other postal matters, including the energy crisis and its repercussions on mail service.

Last year at Christmas time proved to be difficult, if not disastrous for the Postal Service. Since early summer the Postmaster General has put his top management staff to work to insure this will not happen again.

After listening to him recently before the Post Office and Civil Service Committee and reading the following newspaper articles I am hopeful that this Christmas will not be similar to 1972.

Mr. President, I ask unanimous consent that articles printed in the Washington Post and the Philadelphia Inquirer of November 25, 1973, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PROMPT YULE MAIL DELIVERY PLEDGED

ENERGY CRISIS WON'T INTERFERE, POSTAL CHIEF SAYS

WASHINGTON.—Postmaster General Elmer T. Klassen says he has received top-level assurances that the nation's energy crisis should not interfere with his promise that nearly 9 billion Christmas cards and packages will be delivered on time.

"I expect every postmaster to be free of his mail by Christmas Eve," the 65-year-old former corporate executive said. "I expect the house to be clean."

He also said the country's nearly 700,000 postal service employees may be asked to work six or seven days a week in December in an effort to deliver the massive volume of mail which totals 600 million pieces a day in December, twice the normal flow.

Klassen said Interior Secretary Rogers C. B. Morton has personally promised that the 224,000 ground vehicles needed to move the mail will have the 45 million gallons of fuel it takes to operate them. The total is 50 percent above the normal monthly fuel totals.

Klassen, a former president of American Can Co., replied to charges leveled by syndicated columnist Jack Anderson last week that the postal service may use the energy crisis as an excuse for "mail slowdowns that are really the result of ordinary inefficiency."

Klassen said he wanted to make sure the public understands that the postal service "is not hiding behind any energy crisis" when it comes to performance. He said everything possible is being done to guarantee that the deluge of cards and packages will arrive at their destinations on time.

Klassen indicated a problem may still exist if the airlines decide to cut back any more flights due to a shortage of fuel.

"They've cut back some 300 flights (out of a daily total of 14,000), but during the month of November we've found ways of dealing with that problem without seriously hurting us," he said.

"With the increased volume we have in the month of December alone, we need for them to put on a couple of extra flights."

Aides to Klassen have said that standby plans were being drafted for "supplemental ground capacity" in case the reduction of scheduled airlines flights become more acute.

Klassen said he has also taken the additional step of contacting leaders of the unions which represent postal workers.

The leaders he said, "are as concerned as I am about our performance. I've said to them that we may have to ask everyone to work six or seven days a week . . . and if the volume warrants it we'll deliver mail three times a day.

With the kind of cooperation we're getting from people throughout the country, the dedication of the employees themselves, the cooperation I'm getting from the union leaders and the kind of cooperation we're going to get from Secretary Morton in the fuel crisis, I'm satisfied that we're going to deliver the mail."

CHRISTMAS MAIL CRUSH—KLASSEN HOPES TO OVERCOME IT THIS YEAR

(By G. David Wallace)

Postmaster General E. T. Klassen says this Christmas is going to be different.

Different, that is, from last Christmas. Personnel cutbacks, machinery snarls and what Klassen called "damn poor management" stayed the Postal Service's couriers then more surely than snow, rain and gloom of night ever did.

Reports of letters taking 25 days to go from New York to Albany or eight days to go 40 blocks in Baltimore were examples last January of the complaints that flooded the Postal Service in double the highest volume received in any month since the agency was launched on its mission to become self-supporting. "We perhaps lost track of service," Klassen told an angry Congress.

But this year, Klassen said in an interview, he has given district directors more authority to hire extra help and has been making the rounds of major post offices to make sure they're ready for the Christmas crush.

Lurking in the wings, however, is a gasoline shortage that could cripple the Postal Service and the airlines and truckers that carry the mail.

Following are the questions and answers from an interview in which Klassen talks of his agency's condition as its busiest season approaches.

Q. What sort of shape are you in for Christmas this year? Do you feel you have last year's problem licked?

A. We had some very severe problems last year. I think we're going to be all right this Christmas.

Partly because of the hiring freeze I imposed in March 1972, we did not have enough people in some locations to do a good enough job. Every year we have a problem with Christmas.

I have met with 15,000 managers since February. I've given them much greater authority. We've given them additional authority to hire new people.

Q. So you don't anticipate any serious problems?

A. A cutback in fuel will have a very serious impact on us. We have 100,000 vehicles. We have another 100,000 under contract: This fuel thing gives us real concern. It will have a serious impact on our ability to perform.

One contractor called and told us he'd be out in three days. An air taxi we use has fuel for a week. I realize there is much mail which is sent which need not be sent. But who's going to make that judgment?

(Klassen told the Senate Post Office Committee on Monday that the mail service hasn't been hurt yet by the elimination of 300 flights by scheduled airlines to save fuel. But by the peak Christmas mail season, "I can say with certainty that mail service will suffer unless the airlines add extra sections.")

Q. Could you foresee a situation when you might have to cut back delivery or delay certain classes of mail?

A. As far as we're concerned there is no junk mail. We move five million Christmas cards in December. No one is going to say you can't mail your Christmas cards.

Q. You've recently asked for a postal rate increase which will raise the price of a first-class stamp 2 cents to 10 cents. Why do you need the money?

A. We have a mandate under our reorganization act that costs and revenue have to be brought into balance. We're handling two billion more pieces of mail than we did last year.

Keep in mind that in 1972 and 1973 we had no price increases. I daresay there weren't many other businesses which didn't raise prices in that period.

We've had a very substantial cost increase. Wage rates account for 85 per cent of operating costs. When the wage rates go up—and were approved by the cost council—we have to do something.

Q. Will the money go for improving service or for maintaining the present level of service?

A. We're going to implement an extensive improvement program. We have 11,000 facilities we think are totally inadequate for people to work in. That's out of 40,000.

We're trying to mechanize our operations. The amount of mail we handle has gone up by 4 or 5 per cent a year. Yet we had 750,000 employees in 1969 and a little over 700,000 now.

If we had continued on without mechanization, by 1980 we'd have a million employees.

PRICE CONTROLS

Mr. BROCK. Mr. President, someone once quipped "When you can remain calm while all others around you are losing their heads, then you do not understand the gravity of the situation." This seemingly funny little bit of wisdom is not so funny when you take a long, serious look at our current economic situation. We are seeing inflation grow at rates comparable or larger than at any point in our history. And, at the same time, the supply of products falls much shy of demand. The reason: a very simple one, controls. Columnist Jenkin Lloyd Jones in a recent article, made some very interesting comparisons of controls as opposed to the laws of supply and demand, and I think his observations are important. I ask unanimous consent that Mr. Jones' remarks be printed in the RECORD, so that we might obtain a better view of what those controls are really doing to our Nation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRICE CONTROLS INSURE UNHAPPY ENDING

(By Jenkin Lloyd Jones)

In the evil old days when patent medicine manufacturers could get away with anything, it was customary to lace "consumption cures" with large dollops of opium. The results were marvelous.

The coughing stopped, for the cough mechanism was effectively anesthetized. The astonished and delighted patient fired off a glowing testimonial. Sometimes he had time to write two before lung congestion took him to the undertaker. By interrupting nature's effort to remove the infection, there was a brief appearance of health, and then zap!

Price controls are like the old consumption cures. They "cure" inflation. Prices suddenly cease going up. The consumer is delighted. But generally the producer, caught in a cost squeeze, stops producing. The controlled commodity vanishes from the shelves. So the buyer does without or hunts up a black market.

A classic example is what happened to housing in Germany and France following World War II. The French sought to ease rising rents by slapping on stiff ceilings. It became uneconomical to build housing. Rents were cheap enough, but you had to practically inherit an apartment. Today, 28 years after the war's end, the urban Frenchman is still scrambling for a place to live.

Most German cities were largely destroyed. People were living in cellars, boxes, tents. But the Germans didn't put on controls.

Rents rose astronomically. It was so profitable to produce rental space that the building business soared. Everyone rushed to bulldoze up the rubble and clean the bricks for reuse. The cement mixers churned.

In consequence, within five years the housing crunch vanished. People could become choosy and rents slipped back.

Cheaper beef is no good if there's no beef. We found that out last August. Still, there remains the wistful hope that if some bureaucrat writes a magic number on a price tab, without regard to demand, supply and production incentives, the consumer will be served.

Efforts to fix prices for everything go back 41 centuries to the kings of ancient Sumer. They probably caused the invention of counters so that business could be carried on under them.

It is a sad fact of life that free prices remain steady only as long as supply and demand are in perfect equilibrium. When inventories are drawn down, prices edge up, and when things gather dust in the stockroom, cut-rate sales are offered.

These fluctuations distress everyone, but they are nature's corrective. For, in general, higher prices encourage more production, which meets demand, which softens the market, which causes prices to fall, which increases demand, which strengthens prices.

But what we are beginning to run into in this country is the phenomenon of shortages we never felt before. In a time of higher-than-ever personal incomes, spaghetti eaters upgrade to ground round and ground-round eaters go for sirloin.

If there were limitless pasturage and limitless grain for feed yards, supply would eventually catch up to demand. But the number of head of cattle you can carry on any given acreage is not easily expanded, and the whole world is bidding for our grain supplies. So meat goes up. To artificially hold down the price and thus discourage breeding is nuthouse economics.

The cheap energy days are drawing to a close in America. For years it was the Federal Power Commission's policy to hold down the price of natural gas. So most of America threw away its coal shovels and oil burners and hurried to tap into this lovely clean source of instant heat.

As the odds against hitting a good gas well went up and the cost of drilling went up and the price stayed the same, the chances for profitably exploring for gas went down. So wildcatting languished as the market soared. And now we have a gas crunch.

How much better off we would be if we had let the mechanism adjust itself—higher prices, slower conversion from more plentiful fuels, less incentive to waste this most versatile hydrocarbon in inefficient fireboxes, more incentive to find new reserves and a more gradual and orderly adjustment toward the inevitable day when natural gas is gone.

Monkeying with prices seems irresistible to Washington. But a rigged price is not the same as a true value. And value eventually triumphs. The kid who traded a $1,000 for two $500 cats stayed happy only until he tried to sell the cats.

FOOD AND ENERGY SHORTAGES—THEIR EFFECT ON TRADE, COOPERATION, AND THE FUTURE

Mr. HUMPHREY. Mr. President, on several occasions I have remarked on the importance of food, fuel, and foreign policy. The complexity of these subjects, their interrelationships with one another, and their growing effect on all segments of the world economy demand our immediate and continuing attention.

In the Washington Post of November 25, 1973, Lester Brown, a senior fellow at the Overseas Development Council, discussed the far-reaching effects of food and energy shortages throughout the world. Mr. Brown's article notes that significant increases in the price of petroleum coupled with a growing shortage of other basic trade items can have repercussions that range from changed consumption habits to export controls and revised foreign assistance policies. He also describes the potential strains on international relationships in general and the need for greater and continued attention to the management of population growth.

Mr. President, this excellent article also calls for an international system of food reserves as a means of coping with the problem of food scarcity. This is a concept which I will continue to support and encourage as a major element of any solution to the food and energy crisis.

In view of the timeliness and scope of Mr. Brown's discussion, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 25, 1973]

GLOBE GOBBLING: THE WORLD SCARCITIES AHEAD

(By Lester R. Brown)

As we approach the final quarter of this century, global scarcity of many important resources is emerging. While the energy crisis has been occupying the headlines, scarcity of other resources is now apparent.

Global consumption of every important mineral required by a modern industrial economy is increasing dramatically. Having already depleted their own reserves of critical raw materials, industrial countries are turning increasingly to non-industrial countries for supplies. As global economic growth continues we can only anticipate growing international competition and rising prices for supplies of many key resources.

Accelerating world price rises and frequent shortages of forest products—lumber, fuel and newsprint—are arising from the fact that the earth is gradually being deforested.

Shortages of natural fibers, principally cotton and wool, are helping to drive up clothing prices. In the past, scarcity of natural fibers has been offset easily by increased production of man-made fibers. However, the rising cost of petroleum—a basic raw material for the synthesis of fibers—has severely reduced that possibility.

Skyrocketing food prices in 1973 resulted in part from a disturbing long-term trend: the global demand for foodstuffs generated both by population growth and affluence is gradually outrunning the productive capacity of the world's farmers and fishermen.

Food scarcity is being accentuated by energy scarcity. Energy is an important cost in the manufacture of chemical fertilizers, and the primary raw material for the production of crucial nitrogen fertilizer is natural gas. High yield agriculture in Western Europe, Japan and the midwestern United States depends upon the intensive use of energy.

In many nations, population growth and economic growth are rapidly increasing the demand for land suitable for living space and commercial purposes. The result has been soaring land prices. Recreational, industrial and residential uses are reducing the land available for food production—a dangerous trend in a food-short world which has little unused arable land.

One essential resource which is beginning to constrain the expansion of both agricultural and industrial activity in substantial areas of the world is the availability of fresh water. Within agriculture it is now the principal constraint on the spread of the new high-yielding dwarf wheats in countries ranging from Mexico to Afghanistan. It is hamstringing Soviet efforts to meet expanding consumer demand for livestock products.

In many nations we are seeing growing pressures on another resource on which economic activity depends: waste absorptive capacity. Increases in the incidence of environmentally induced illnesses, the change in oxygen content of lakes and a lengthening list of species threatened with extinction are among the symptoms.

A DOMINO EFFECT

The scarcity characterizing the world market for many important commodities in the early 1970s must not be viewed as a historical accident or a temporary situation which will shortly vanish. It is the product of continuing exponential economic growth within the physical constraints of a finite, rather small planet. And if we are to deal with this problem we must create new mechanisms of global cooperation, such as a world food reserve and international management of ocean fisheries.

We are, in fact, seeing a domino effect of resource scarcity in operation. A shortage of fresh water with which to restore strip-mined areas holds down the level of coal extraction, adding pressures not only on available coal supplies but on all other energy resources as well. A fall-off in the growth of the world fish catch raises global demand for soybeans in order to produce substitute protein products such as poultry. Scarcity of cotton pulls cropland needed for soybean production into cotton production, intensifying the protein shortage. The list of such extended chains or networks of resource interdependence is long.

Economists traditionally have regarded substitution as the panacea for scarcity of a particular presource. In today's world, however, the opportunities for substitution frequently ensure only that scarcity is contagious.

Scarcities are not merely national scarcities affecting a particular country or group of countries; they are global scarcities. Countries throughout the world are dependent on common supplies of petroleum, soybeans, marine protein, copper and natural fibers. As the global economy has become more integrated, as a result of growing monetary interdependence and rapidly expanding internationial trade, it has become exceedingly difficult for individual countries to isolate themselves from scarcities elsewhere.

The United States, historically blessed with relative resource self-sufficiency, is experiencing a growing dependence on imported minerals, closely paralleling that for energy. Of the 13 basic raw materials required by a modern economy, the United States in 1970 was dependent on imports for more than half of its supplies of six. By 1985 it is projected to be primarily dependent on imports for supplies of nine of the 13 basic raw materials, including three major ones: bauxite, iron ore and tin.

In no areas has American interdependence with the world been demonstrated more dramatically than with food. If there is any area in which the U.S. economy was believed to be invulnerable, it was in its capacity to provide an adequate supply of low-cost food for American consumers. But at present, American consumers find that they must share food scarcity with consumers in other countries, most importantly those in the Soviet Union. The United States could have avoided the politically painful food price rises of early 1973 by restricting farm exports, but unfortunately an adequate U.S. energy supply is dependent on expanded farm exports to pay the rapidly rising import bill.

The international consequences of the growing common dependence on geographically concentrated, and often increasingly scarce, global resources deserve far more attention than they have thus far received. Resource scarcities are altering the economic and political relationships among countries, changing the relative position and influence of countries in the international hierarchy. A given country may find its position abruptly strengthened in one sector of economic activity and weakened in another. World food scarcity has greatly improved the terms on which the United States makes foodstuffs available to the rest of the world, but its negotiating position in the world energy economy has deteriorated sharply. The converse is true for the Soviet Union, which is highly vulnerable in food but in a much better position with energy, which it produces in surplus.

Efforts by individual countries to expand their share of global output, employment and wealth are taking new forms. Linkage between global scarcities and internal policies affecting economic growth, inflation and employment are becoming both more direct. Stresses on the international political fabric are increasing. Cooperation among countries is needed in spheres of activity where none was needed before.

THE COINS' OTHER SIDE

Since World War II, the overriding objective of national trade policies has been that of expanded access to markets abroad for exports. The General Agreement on Tariffs and Trade (GATT) was created specifically with this in mind. Five successive rounds of GATT negotiations since World War II have steadily reduced tariff barriers, as evidenced by the healthy growth in world trade throughout the postwar period.

Scarcity is now bringing the other side of the international trade coin, the question of access to supplies, to the fore. Highlighting this question is the disturbing tendency for countries to limit exports of raw materials. Countries are limiting exports to cope better with internal inflationary pressures, to extend the foreign exchange earning lifetime of a nonrenewable resource, to increase the share of indigenous processing, to improve export terms and to take advantage of anticipated future price rises.

Countries with nonrenewable resources such as petroleum and minerals are beginning to ask themselves at what rate they want to exploit their resources. Historically, when potential supplies almost always exceeded prospective demand, and supplier countries were eager to maximize exports, this issue was seldom raised. But today it is a much more complex issue.

Should the growth in world demand determine the rate at which a given resource is exploited or should it be determined by some longer-term internal development strategy, which might argue for a much slower rate of exploitation and lower level of exports?

What should determine the rate at which Venezuela's remaining oil reserves are exploited—its own longer-term foreign exchange needs or the short-term consumption needs of the United States? The former may argue for a much lower level of petroleum production and export than the latter.

Exports of scarce commodities are being banned or restricted by a number of countries in order to cope with internal inflationary pressures. Brazil has liimted the export of beef in 1973 to levels 30 per cent below the corresponding month in 1972. Thailand, a leading world supplier of rice, has banned exports in order to prevent inordinate price rises in its national food staple. The United States severely limited the export of soybeans this summer (the controls subsequently were lifted) and it is virtually the sole supplier of this critical protein resources to the rest of the world.

As lumber prices soar within the United States, a leading exporter of forest products, it is attempting to negotiate a voluntary quota for Japan on its imports of U.S. forest products. This represents a dramatic turnabout in U.S.-Japan trade relationships, where the focus over the past decade has been on the negotiation of voluntary quotas with the Japanese to limit their exports of textiles and steel to the United States. Under what conditions should a country be permitted to use trade policy to, in effect, export inflation?

Should a country be permitted to deny others access to an indigenous raw material of which it is the principal global supplier? We must begin to at least ask the question of how to cope with export limitation on raw materials which directly affect the well-being of people throughout the world. Guidelines governing terms of access to external markets and penalties for those countries which fail to comply have evolved within the framework of GATT, but there are no such guidelines on whether or when a country should be permitted to withhold a given resource from the rest of the world.

EXPORTING PROCESSED GOODS

Many developing countries see the improved market outlook for raw materials as an opportunity to substitute exports of semi-processed or processed raw materials for those of raw materials *per se*. They wish to abandon the "hewers of wood, drawers of water" role they have traditionally occupied in the world economy. Perhaps the best single example to date of the exercise of newly acquired bargaining power is an agreement between Japan and Turkey, wherein Japan has agreed to build a 50,000-ton-per-year ferro-chrome ore alloy plant in Turkey in exchange for agreement to supply a million tons of chrome ore over the next 11 years.

If the Shah of Iran gets his way, more and more of the oil leaving Iran will be refined rather than crude oil. Argentina, Brazil and India are taking advantage of the global scarcity of cattle hides by restricting or banning exports, thus furthering development of their domestic leather goods industry. In effect, they hope to shift the geographic focus of the leather goods export industry from Italy and Japan to the southern hemisphere. Indonesia is combining its favorable resource situation with mounting Japanese fears of pollution at home to persuade Japanese firms investing in mineral extraction to ship processed ore rather than crude ore to Japan.

Poor countries eager to acquire smokestacks and the jobs which they bring are likely to view their unused or underused waste absorptive capacities as a resource to be exploited in international economic competition, much like mineral reserves or fertile farm land.

The response of investors to pollution differentials among countries in some ways parallels that to wage differentials. In effect, firms are beginning to locate pollution-intensive phases of their operation in countries with low pollution levels much as they have located labor-intensive aspects of their operations in low-wage countries, most prominently Mexico, Taiwan, Hong Kong, Singapore and South Korea over the past decade.

COLLECTIVE BARGAINING

As the industrial countries turn increasingly to non-industrial countries for raw materials, their negotiating position is likely to weaken over time, altering the terms on which these raw materials are made available.

In the wake of the extraordinarily successful, highly visible collective bargaining by petroleum exporters over the past few years, the possibility of collective bargaining by suppliers of other raw materials is being viewed with more than ordinary interest. For them it is a tantalizing model. The prospects for successful collective negotiation by raw material exporters are influenced by a number of factors, including the number of suppliers, the ability and willingness to restrict supply, the availability of possible substitutes, alternative sources of foreign exchange earnings for the supplier and the possibility for collective bargaining by importing countries.

Efforts to bargain collectively fail far more often than they succeed but oftentimes a convergence of special circumstances can give the exporting countries the leverage to alter the terms on which a given raw material is made available. A prolonged strike in the mining or transport sector and interference with global transport arteries, such as blockage of the Suez Canal or the severing of a strategic rail or pipeline linking a major supplier with world markets, are but two of the events which can combine to strengthen inadvertently the hands of exporting countries.

One of the necessary, though far from sufficient, requisites for effective collective bargaining is that a relatively small number of countries control most of the exportable supplies. Four poor countries—Chile, Peru, Zambia and Zaire—supply most of the world's exportable surplus of copper. Three others—Malaysia, Bolivia and Thailand—account for 70 per cent of all tin entering international trade channels. Austria, Mexico and Peru account for 60 per cent of the exportable supply of lead. Cuba and New Caledonia have well over half of the world's known reserves of nickel. Known reserves of cobalt are concentrated in Zaire, Cuba, New Caledonia and parts of Asia.

Exportable protein feedstuffs are concentrated in even fewer countries. One country, Peru, supplies most of the fish meal entering the world market.

Exportable supplies of cereals are controlled by a few countries. North American dominance of cereal exports, both foodgrains and feedgrains, is even greater than Middle Eastern dominance in energy. Not only is the United States the leading supplier of wheat and feedgrains, but it is now the leading exporter of rice as well. The world is more dependent on North American food supplies than ever.

Suppliers of some raw materials are certain to attempt to emulate the Organization of Petroleum Exporting Countries. The four copper exporting countries are already doing so. There is concern within the aluminum industry that the politics of petroleum are becoming the politics of bauxite. Coffee exporters are now beginning to bargain collectively as a group whereas in the past they were dependent on the willingness of the importing countries to support prices of coffee.

While some poorer nations may be benefiting handsomely from resource shortages, others may suffer greatly. Global resource scarcity could threaten future economic progress in those countries which are densely populated and not blessed with any of the critical raw materials the rest of the world needs.

For example, a 40 per cent rise in the world market price of petroleum and cereals could bring economic development to a near standstill in those poor countries dependent on imports of both. The foreign assistance needs of resource-rich Indonesia, Algeria or Brazil no longer can be considered in the same light as those of Bangladesh, India or Colombia.

AFFECTING LIFESTYLES

Global resource scarcities impact heavily on economic and political relationships among countries, in part because they affect so directly the living conditions within a given country. They affect the very lifestyles of people, their dietary habits, their mode of transportation. The level of protein intake in the Soviet Union and Japan are directly affected by U.S. farm export policy. The size of automobiles in the United States is inevitably affected by production decisions of Middle Eastern oil countries. It is this dimension of global resource scarcity that makes the terms of access to needed resources such a politically sensitive issue.

As global resource scarcity makes itself felt within the United States, it is generating a need to modify lifestyles. As long as the resources consumed within the United States were largely indigenous, how much was consumed was largely an internal matter, but as these resources come more and more from abroad, others will have some say over the rate and terms on which they are consumed.

Many of the technologies embodied in the U.S. economy evolved in a situation of resource abundance, of seemingly unlimited supplies of energy, land and water. The time has now come to re-examine these technologies in light of the growing resource scarcity. For example, the time may have come to redesign the transportation system, imposing limits on the size of automobiles and investing more in urban mass transit and less in interstate highways and urban throughways.

A similar situation exists with food. Claims on world food resources by the average American are nearly five times as great as those of the average Indian, Nigerian or Colombian. Whether Americans can continue to consume evermore animal protein, as existing economic projections indicate, in a protein scarce world is now problematic. It may become necessary for both economic and ecological reasons to begin to substitute high-quality vegetable protein for animal protein much as vegetable oils have been substituted for animal fats over the past generation.

NEEDED: GLOBAL COOPERATION

Coping with scarcity of some resources calls for specific new modes of international cooperation. Growing food scarcity is one such need. With world grain reserves now far below the desirable working level, and idled cropland in the United States rapidly disappearing, a major stabilizing influence on world food prices has been lost. Under these circumstances, an internationally managed world food reserve becomes highly desirable as a counter to the threat of famine and as a source of assurance and security to consumers everywhere, including the United States.

In some instances, such as in world fisheries, the failure to cooperate could leave all involved worse off. Unless an institutional framework can be created within which to cooperatively manage oceanic fisheries, we must face the prospect of depleted stocks, declining catches and soaring seafood prices. It is in this context that consumers have a direct stake in the forthcoming U.N.-sponsored Law of the Sea Conference.

Advancing technology has brought us to the point where national efforts to expand the supply of fresh water through river diversion or alteration of rainfall patterns may have international if not global consequences. Under these circumstances we need to think seriously of creating a supra-national institution to regulate national interventions in the hydrological cycle. When should a country be permitted to increase its rainfall at the expense of another, if at all? Should individual countries be permitted to divert river flows or deforest on a scale which will affect the global climatic system?

Scarcity manifested in rising prices and intensified competition among countries for access to and control of resources may make continuing global population growth a much more obvious threat to the future well-being and security of people everywhere than it is today.

One of the inevitable consequences of scarcity and, more importantly, the realization that it may not be temporary, is a growing doubt as to whether the currently projected world population of 6.5 billion by the end of the century will be considered tolerable. This in turn may impart a new urgency for putting on the demographic brakes, highlighting the importance of the U.N.-sponsored world population conference, now scheduled for Bucharest in August, 1974, and the World Population Plan of Action it is intended to produce.

TROUBLED YEARS AHEAD

The supply position of some raw materials will undoubtedly improve from time to time in the years ahead, but overall the prospect is for continuing scarcity. Over the longer term, technological breakthroughs may dramatically improve the supply situation. The energy crisis may one day disappear, but a technological breakthrough which might permit this, such as the harnessing of fusion power, is not likely to have an impact before 1990 at best. Advances in the technology of fish farming may some day permit growth in the supply of cultivated fish to offset the inevitable decline in growth in the oceanic catch. But progress on this scale almost certainly will be reserved for some point beyond the current decade, if it comes at all. And so it is with all too many resources plagued by global scarcity.

How to cope with global scarcity must be recognized as a global problem. The temptation at the government level will always be to act in the national interest, narrowly defined, and against a short-term time horizon. Political leaders often will be tempted to blame other countries for inflation, economic stagnation, rising unemployment or other ills deriving from scarcity. All too often, they will be tempted to use trade and monetary policy to export inflation and unemployment.

We delude ourselves if we think the years ahead will be an easy period in international relations. At best, they will be troubled ones. The complex resource issues which must be resolved, one way or another, will place great stress on the international political fabric. At issue is whether we can create a workable order for an increasingly interdependent world.

GLOBAL SCARCITIES OF ESSENTIAL RESOURCES

Mr. McGOVERN. Mr. President, one of the most sobering and important articles I have read in some time is the piece which appeared in yesterday's Washington Post by Dr. Lester R. Brown, a senior fellow with the Overseas Development Council in Washington. Dr. Brown is one of the world's leading authorities in the field of food and resource matters.

In his Sunday article he identified what I believe may become the No. 1 global challenge of the next 10 years—the mounting scarcity of essential materials. The hard truth is that we are increasing world population faster than we are increasing supplies of food, fertilizer, fuel, forestry products, minerals and fresh water. The shortages with us now and in the future require cooperation on an international scale. As Dr. Brown puts it:

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I ask unanimous consent that Dr. Brown's article be printed in the RECORD.

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In many nations, population growth and economic growth are rapidly increasing the demand for land suitable for living space and commercial purposes. The result has been soaring land prices. Recreational, industrial and residential uses are reducing the land available for food production—a dangerous trend in a food-short world which has little unused arable land.

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The scarcity characterizing the world market for many important commodities in the early 1970s must not be viewed as a historical accident or a temporary situation which will shortly vanish. It is the product of continuing exponential economic growth within the physical constraints of a finite, rather small planet. And if we are to deal with this problem we must create new mechanisms of global cooperation, such as a world food reserve and international management of ocean fisheries.

We are, in fact, seeing a domino effect of resource scarcity in operation. A shortage of fresh water with which to restore strip-mined areas holds down the level of coal extraction, adding pressures not only on available coal supplies but on all other energy resources as well. A fall-off in the growth of the world fish catch raises global demand for soybeans in order to produce substitute protein products such as poultry. Scarcity of cotton pulls cropland needed for soybean production into cotton production, intensifying the protein shortage. The list of such extended chains or networks of resource interdependence is long.

Economists traditionally have regarded substitution as the panacea for scarcity of a particular resource. In today's world, however, the opportunities for substitution frequently ensure only that scarcity is contagious.

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The United States, historically blessed with relative resource self-sufficiency, is experiencing a growing dependence on imported minerals, closely paralleling that for energy. Of the 13 basic raw materials required by a modern economy, the United States in 1970 was dependent on imports for more than half of its supplies of six. By 1985 it is projected to be primarily dependent on imports for supplies of nine of the 13 basic raw materials, including three major ones: bauxite, iron ore and tin.

In no areas has American interdependence with the world been demonstrated more dramatically than with food. If there is any area in which the U.S. economy was believed to be invulnerable, it was in its capacity to provide an adequate supply of low-cost food for American consumers. But at present, American consumers find that they must share food scarcity with consumers in other countries, most importantly those in the Soviet Union. The United States could have avoided the politically painful food price rises of early 1973 by restricting farm exports, but unfortunately an adequate U.S. energy supply is dependent on expanded farm exports to pay the rapidly rising import bill.

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THE COIN'S OTHER SIDE

Since World War II, the overriding objective of national trade policies has been that of expanded access to markets abroad for exports. The General Agreement on Tariffs and Trade (GATT) was created specifically with this in mind. Five successive rounds of GATT negotiations since World War II have steadily reduced tariff barriers, as evidenced by the healthy growth in world trade throughout the postwar period.

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EXPORTING PROCESSED GOODS

Many developing countries see the improved market outlook for raw materials as an opportunity to substitute exports of semiprocessed or processed raw materials for those of raw materials *per se*. They wish to abandon the "hewers of wood, drawers of water" role they have traditionally occupied in the world economy. Perhaps the best single example to date of the exercise of newly acquired bargaining power is an agreement between Japan and Turkey, wherein Japan has agreed to build a 50,000-ton-per-year ferro-chrome ore alloy plant in Turkey in exchange for agreement to supply a million tons of chrome ore over the next 11 years.

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Efforts to bargain collectively fail far more often than they succeed but oftentimes a convergence of special circumstances can give the exporting countries the leverage to alter the terms on which a given raw material is made available. A prolonged strike in the mining or transport sector and interference with global transport arteries, such as blockage of the Suez Canal or the severing of a strategic rail or pipeline linking a major supplier with world markets, are but two of the events which can combine to strengthen inadvertently the hands of exporting countries.

One of the necessary, though far from sufficient, requisites for effective collective bargaining is that a relatively small number of countries control most of the exportable supplies. Four poor countries—Chile, Peru, Zambia and Zaire—supply most of the world's exportable surplus of copper. Three others—Malaysia, Bolivia and Thailand—account for 70 per cent of all tin entering international trade channels. Australia, Mexico and Peru account for 60 per cent of the exportable supply of lead. Cuba and New Caledonia have well over half of the world's known reserves of nickel. Known reserves of cobalt are concentrated in Zaire, Cuba, New Caledonia and parts of Asia.

Exportable protein feedstuffs are concentrated in even fewer countries. One country, Peru, supplies most of the fish meal entering the world market.

Exportable supplies of cereals are controlled by a few countries. North American dominance of cereal exports, both foodgrains and feedgrains, is even greater than Middle Eastern dominance in energy. Not only is the United States the leading supplier of wheat and feedgrains, but it is now the leading exporter of rice as well. The world is more dependent on North American food supplies than ever.

Suppliers of some raw materials are certain to attempt to emulate the Organization of Petroleum Exporting Countries. The four copper exporting countries are already doing so. There is concern within the aluminum industry that the politics of petroleum are becoming the politics of bauxite. Coffee exporters are now beginning to bargain collectively as a group whereas in the past they were dependent on the willingness of the importing countries to support prices of coffee.

While some poorer nations may be benefiting handsomely from resource shortages, others may suffer greatly. Global resource scarcity could threaten future economic progress in those countries which are densely populated and not blessed with any of the critical raw materials the rest of the world needs.

For example, a 40 per cent rise in the world market price of petroleum and cereals could bring economic development to a near standstill in those poor countries dependent on imports of both. The foreign assistance needs of resource-rich Indonesia, Algeria or Brazil no longer can be considered in the same light as those of Bangladesh, India or Colombia.

AFFECTING LIFESTYLES

Global resource scarcities impact heavily on economic and political relationships among countries, in part because they affect so directly the living conditions within a given country. They affect the very lifestyles of people, their dietary habits, their mode of transportation. The level of protein intake in the Soviet Union and Japan are directly affected by U.S. farm export policy. The size of automobiles in the United States is inevitably affected by production decision of Middle Eastern oil countries. It is this dimension of global resource scarcity that makes the terms of access to needed resources such a politically sensitive issue.

As global resource scarcity makes itself felt within the United States, it is generating a need to modify lifestyles. As long as the resources consumed within the United States were largely indigenous, how much was consumed was largely an internal matter, but as these resources come more and more from abroad, others will have some say over the rate and terms on which they are consumed.

Many of the technologies embodied in the U.S. economy evolved in a situation of resource abundance, of seemingly unlimited supplies of energy, land and water. The time has now come to re-examine these technologies in light of the growing resource scarcity. For example, the time may have come to redesign the transportation system, imposing limits on the size of automobiles and investing more in urban mass transit and less in interstate highways and urban throughways.

A similar situation exists with food. Claims on world food resources by the average American are nearly five times as great as those of the average Indian, Nigerian or Colombian. Whether Americans can continue to consume ever more animal protein, as existing economic projections indicate, in a protein scarce world is now problematic. It may become necessary for both economic and ecological reasons to begin to substitute high-quality vegetable protein for animal protein much as vegetable oils have been substituted for animal fats over the past generation.

NEEDED: GLOBAL COOPERATION

Coping with scarcity of some resources calls for specific new modes of international cooperation. Growing food scarcity is one such need. With world grain reserves now far below the desirable working level, and idled cropland in the United States rapidly disappearing, a major stabilizing influence on world food prices has been lost. Under these circumstances, an internationally managed world food reserve becomes highly desirable as a counter to the treat of famine and as a source of assurance and security to consumers everywhere, including the United States.

In some instances, such as in world fisheries, the failure to cooperate could leave all involved worse off. Unless an institutional framework can be created within which to cooperatively manage oceanic fisheries, we must face the prospect of depleted stocks, declining catches and soaring seafood prices. It is in this context that consumers have a direct stake in the forthcoming U.N.-sponsored Law of the Sea Conference.

Advancing technology has brought us to the point where national efforts to expand the supply of fresh water through river diversion or alteration of rainfall patterns may have international if not global consequences. Under these circumstances we need to think seriously of creating a supra-national institution to regulate national interventions in the hydrological cycle. When should a country be permitted to increase its rainfall at the expense of another, if at all? Should individual countries be permitted to divert river flows or deforest on a scale which will affect the global climatic system?

Scarcity manifested in rising prices and intensified competition among countries for access to and control of resources may make continuing global population growth a much more obvious threat to the future well-being and security of people everywhere than it is today.

One of the inevitable consequences of scarcity and, more importantly, the realization that it may not be temporary, is a growing doubt as to whether the currently projected world population of 6.5 billion by the end of the century will be considered tolerable. This in turn may impart a new urgency for putting on the demographic brakes, highlighting the importance of the U.N.-sponsored world population conference, now scheduled for Bucharest in August, 1974, and the World Population Plan of Action it is intended to produce.

TROUBLED YEARS AHEAD

The supply position of some raw materials will undoubtedly improve from time to time in the years ahead, but overall the prospect is for continuing scarcity. Over the longer term, technological breakthroughs may dramatically improve the supply situation. The energy crisis may one day disappear, but a technological breakthrough which might permit this, such as the harnessing of fusion power, is not likely to have an impact before 1990 at best. Advances in the technology of fish farming may some day permit growth in the supply of cultivated fish to offset the inevitable decline in growth in the oceanic catch. But progress on this scale almost certainly will be reserved for some point beyond the current decade, if it comes at all. And so it is with all too many resources plagued by global scarcity.

How to cope with global scarcity must be recognized as a global problem. The temptation at the governmental level will always be to act in the national interest, narrowly defined, and against a short-term time horizon. Political leaders often will be tempted to blame other countries for inflation, economic stagnation, rising unemployment or other ills deriving from scarcity. All too often, they will be tempted to use trade and monetary policy to export inflation and unemployment.

We delude ourselves if we think the years ahead will be an easy period in international relations. At best, they will be troubled ones. The complex resource issues which must be resolved, one way or another, will place great stress on the international political fabric. At issue is whether we can create a workable world order for an increasingly interdependent world.

TOUGALOO COLLEGE

Mr. KENNEDY. Mr. President, the November issue of Encore, a new monthly magazine featured a special report on Tougaloo College, a private institution located in Tougaloo, Miss. Tougaloo, like other black colleges and universities with financial problems, is in the midst of a severe financial crisis. Inadequate funding and decreasing student enrollments threaten the growth and the existence of this school that has devoted over 100 years to the educational growth of black people not only in the State of Mississippi, but in other parts of the country.

Mr. President, I ask unanimous consent that the series of articles from this special report be printed in the Record so that others may be made aware of this fine school, and the excellent job it has done in the past and how the school is planning to continue its fine record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Profile of Tougaloo

One hundred and four years ago, a Mississippi plantation became the site of Touglaloo College. Considered by many to be the finest Black college in Mississippi. Touglaloo today retains many elements from its past, while offering students an education which prepares them to deal realistically with the modern world.

The consensus is that Tougaloo provides a teacher-student relationship not found at the big universities, or even at many smaller schools, and that this is what makes Tougaloo special. This supplement is about that relationship, and about the need for Black people to ensure the continued growth and survival of this and other Black colleges, where young people can receive an education relevant to the Black experience in the twentieth century.

Tougaloo College: Emphasis on Growing

(By Lynn Sharpe)

There are 120 Black colleges in the United States. These institutions are perennially plagued by lack of funds and attacks on the validity of their existence.

Funding comes from the government, foundations, corporations, and the United Negro College Fund, which aids 40 Black colleges. Each year the Black colleges seek to meet their projected needs and each year funding falls short. The United Negro College Fund reported that out of $223 million given to colleges by corporations in 1971–1972, Black colleges received only $4 million. During this period, federal aid to higher education totalled $4.9 billion; only $170 million went to Black colleges.

When White colleges began to increase their enrollment of minority students and hiring of Black professors, many educators felt that Black colleges would soon become obsolete. But it was an empty fear. Black students dropped out of White colleges, and many enrolled in Black colleges. As the number of potential Black students rose, White schools didn't have the funds to take in these students, and in some cases they claimed that the Black students weren't qualified. Black colleges, however, were increasing their enrollment and needed more money so they could help more students. Seventy percent of Black graduates receive diplomas from Black colleges.

Tougaloo college is an example of one Black college which is trying to counter these problems. ENCORE feels, that Tougaloo deserves a closer look, not just a pat on the back, for what it has done for hundreds of Black students.

A private college with a present enrollment of only 750, Tougaloo is seeking funds so that it can increase the number of its students, increase its staff, and improve its campus.

The emphasis at Tougaloo a hundred years ago was to each young Blacks to teach. But today Blacks have career opportunities in the fields of business, law, and science which were unavailable then. Tougaloo has changed the emphasis of its curriculum. Intern programs allow students, to assess their commitments to particular fields. The Intensive Summer Study Program, sponsored by Harvard, Yale and Columbia, gives Tougaloo students the chance to see what graduate school is all about. The Career-Related Summer Experience provides on-the-job apprenticeship.

Tougaloo also gives students the opportunity to work in the surrounding community. There is a special internship in sociology, and students are encouraged to participate in a program wherein they tutor selected elementary school students in their homes.

Tougaloo has the reputation for being the first Black school in Mississippi. Many of the students are the sons and daughters of alumni. Many of the faculty are alumni who felt a commitment to return to Tougaloo and help educate young Blacks. The number of Tougaloo graduates going on to graduate school has increased, as has the number who return to Mississippi.

There is a strong student-teacher relationship on Tougaloo's campus. No student is a number. Special programs are available to help students with academic, financial and social problems. Constant dialogue takes place between the administration and the students. President Owens encourages the students to talk to him about the college's policies or anything else on their minds.

Tougaloo students, like their brothers and sisters in other Black colleges, are concerned about their education and the world they live in. Unlike Black students in the sixties, who were preoccupied with militant extracurricular involvements, Black students today are concerned with learning skills so they can fulfill their commitments to the Black community. The Black campus provides the best education possible to prepare them to face these commitments.

Each year Black colleges shrug off the doomsday reports and continue to maintain themselves on whatever funding is available. Black college administrations, professors, and students realize that the Black college experience is unique and necessary. Tougaloo College is an important asset to our community. It is not becoming obsolete, but it does need more of our support.

History

What happened during Tougaloo's first hundred years: 1869–1969?

1869: American Missionary Association purchases 500-acre plantation near Jackson, Mississippi and establishes a training school.

1871: Mississippi State legislature grants the institution a charter under the title of Tougaloo University.

1875: Home Missionary Society of the Disciples of Christ obtains a charter for a school known as Southern Christian Institute.

1901: First Bachelor of Arts degree presented to a graduate of the institution.

1954: Tougaloo College and Southern Christion. Institute merge as one institution and become Tougaloo Southern Christian College.

1963: The Board of Trustees of the College, with the agreement of the supporting bodies, votes to change name to Tougaloo College.

1964: The cooperative program between Tougaloo and Brown University is established, with a grant from the Ford Foundation.

1965: George A. Owens is named 12th President of Tougaloo College and becomes the first alumnus and first Negro to hold the office of President.

1969: 38% of Tougaloo's Centennial class admitted to graduate schools with several national honors. 34% take positions in government and industry. College launches Centennial Development Fund, its first nationwide appeal.

PRESIDENTS OF TOUGALOO COLLEGE

Rev. Ebenezer Tucker, 1869–1870.
Mr. A. J. Steele, 1870–1873.
Rev. J. K. Nutting, 1873–1875.
Rev. L. A. Darling, 1875–1877.
Rev. George S. Pope, 1877–1887.
Rev. Frank G. Woodworth, 1887–1912.
Rev. William T. Holmes, 1913–1933.
Mr. Charles B. Austin (Acting) 1933–1935.
Rev. Judson L. Cross, 1935–1945.
Dean L. B. Fraser (Acting), 1945–1947.
Dr. Harold C. Warren, 1947–1955.
Mr. A. A. Branch (Acting) 1955–1956.
Dr. Samuel C. Kincheloe, 1956–1960.
Dr. A. D. Beittel, 1960–1964.
Dr. George A. Owens (Acting), 1964–1965.
Dr. George A. Owens 1965–

The First Hundred Years

The Reconstruction era was an ambiguous time for Blacks. On the one hand they were free; on the other hand they were existing under de facto slavery in the South and in some instances in the North. The American Missionary Association, like many Northern abolitionist organizations, was interested in helping freed Blacks help themselves through education.

The association established many of the Black colleges in the South. In 1869 it purchased a plantation of 500 acres about three miles north of Jackson, Mississippi, and established a school there (in what is now known as the town of Tougaloo). The mansion on the property served as a school building and home for the first principal, Rev. Ebenezer Tucker, and his family. The building still stands, but today it houses the business and administrative offices.

The school's stated purpose was "to be accessible to all, irrespective of their religious tenets, and conducted on the most liberal principles for the benefit of our citizens in general." In 1871 the Mississippi state legislature granted the institution a charter under the title of "Tougaloo University."

The normal department, which trained teachers and maintained a private elementary school, was supported as a state normal school until 1892, when Tougaloo ceased to receive state financial assistance and ended its formal connection with the Mississippi school system. The elementary school was terminated in 1952. Until 1957, however, the high school department of Tougaloo contiued to receive textbooks and financing for a lunch program from the state. The university offered course credit for the first time in 1897, and the first Bachelor of Arts degree was awarded in 1901. In accord with Black educational needs immediately following Reconstruction, most students were trained to be teachers and ministers.

In Tougaloo's library is an unapproved, detailed history of the school that reports its early years as having been quite unsettled. Apparently, many Northern Whites became bored by the Black cause and it was difficult to obtain funds. But the White ministers and missionaries were determined to keep the school alive, often going without necessary books, food, and medical supplies. There was a farm, but it made only enough money to keep the school population from starving. However, in the 1920's the Board of Home Missions of the Congregational Churches became the agent for the American Missionary Association, and aid to Tougaloo became a part of the program of the Congregational Christian Churches. A few more philanthropic groups and individuals contributed to the support of the school, and things improved financially.

Not long after its inception. Tougaloo began to get a reputation as a hot-bed of impudent Blacks. Many White Mississippians became upset and irate, and a great debate evolved as to what kind of education Blacks should receive. The response of Tougaloo was the Blacks should be educated not to "know" their place but to "find it."

The school's philosophy was that a faculty member or student was a citizen and had the right to participate fully in the community as long as he did his duties on campus. A school president, having been counseled to cane a smart-alecky student, refused to do so because the student had not broken any school rules. In 1938 the choir chaplain was one of the organizers of the Mississippi chapter of the NAACP, in the eyes of White Mississippians a crime worse than organizing the Communist party. Under pressures to have the chaplain fired, the president of the college refused to do so.

In 1931, the Mississippi Department of Education and the Association of Colleges and Secondary Schools of the Southern States granted full accreditation to the high school department. Tougaloo was the first institution for Mississippi Black students to receive this rating.

In 1954, the American Missionary Association and the United Christian Missionary Society, consolidated the educational activities and financial support of Tougaloo University and Southern Christian College (founded in 1875 in Hemingway, Mississippi) under the name of "Tougaloo Southern Christian College." In 1963, the college's board of trustees and supporting denominations renamed the institution "Tougaloo College" to remove any suggestion of sectarian or regional restrictions.

During the late fifties and early sixties Tougaloo College became the cornerstone of the Mississippi civil rights movement. It was Tougaloo students who often led demonstrations and sit-ins and helped fill the Mississippi jails. When civil rights leaders came through Mississippi, they usually could rest and find comradeship at Tougaloo. Martin Luther King, Jr., Medgar Evers, Stokely Carmichael, and others often used the campus as headquarters for strategy meetings. In 1970, when Black students were fired upon at Jackson State, Tougaloo students went there to demonstrate their support.

In 1969, Tougaloo celebrated its 100th anniversary. The college has been part of Mississippi history and in some ways has helped to shape it. After 100 years, Tougaloo still reflects the desire of its founders to provide the people with education of high quality accessible to all and free of ecclesiastical control.

Interview—The Business of Running Tougaloo

(It was news in the sixties when a Black educator or businessman took over the job traditionally held by a White minister or philanthropist—the presidency of a Black college.

George Owens was Tougaloo College's first Black president. A Tougaloo graduate, Owens dreamt of moving up through the corporate structure instead of the college bureaucracy. But in 1949, after a year as a Saks Fifth Avenue junior executive, Owens was asked to become business manager for Talladega College in Alabama. Six years later Owens became Tougaloo's business manager. "I felt it was time to pay my dues," he recalled. In 1964 the board of trustees asked him to serve as acting president. After a year of searching for someone with all of Owens' qualifications, they appointed Owens himself.

Associate Editor Lynn Sharpe interviewed President Owens last June.)

Sharpe. Do you feel that the students have given you an easier time than they gave your White predecessors?

Owens. I've had to earn the respect of the students here like anyone else would have had to. In the beginning there was the challenge to old ways and the use of civil rights tactics against the administration, which means against the president. I'm not easily intimidated. If I don't agree with you, I'm not going to agree with you unless you have documentation. So we argued things out.

No student was arbitrarily ousted. We never had any demonstration or protest last more than 24 hours because we did a lot of talking together. We will talk and continue to talk until we reach some agreements over the table.

Sharpe. What specifically changed as a result of those challenges to your authority?

Owens. We went from a total faculty-administrated student judiciary committee to a total student administrated student judiciary committee. The students themselves decided that this wasn't working effectively, and they came up with the idea to have a student-and-faculty-administrated student judiciary. Students became full voting members of the majority of the faculty committees. The whole in loco parentis relationship has changed to adults relating to adults.

Sharpe. What do you think you as a Black president have brought to this Black college?

Owens. It's hard to say. I graduated under a White president and I served under two as a business administrator. I knew those three as fine men who did a good job in their time. When I came the times were different. I wasn't here to prove that a Black could be president of a college. We've had outstanding Black presidents of colleges before. What I brought as an individual is what I would hope is very important.

I think it important to build quickly a cadre of young Black people who are skilled and will be able to liberate Black people from the oppression we have lived under so long. I have an obligation to use the influence that I have to really selfishly multiply the number of hands and hearts to help Black liberation. The more young people we can graduate with skills, the better it is for me personally. And for everyone who we've graduated I feel that we've added another strong warrior to help do the job.

I thought it very important that we have a program that would prepare our students for a new day of equal opportunity. So we set up a career counseling and placement center. We didn't need a placement center when 95 percent of our students were going into teaching. When industry opened its doors, it was important that Tougaloo give its students the necessary guidance. We increased our students entering graduate and professional schools from five percent to 45 percent.

Sharpe. The one thing that impressed me about the students here was their expressed desire to come back to Mississippi after they have finished graduate school. It is interesting that you returned to help your alma mater.

Owens. This institution helped me get the preparation that I have. I enjoy this job. I am pleased that many more Blacks are doing the same, returning to the South with their skills. I would guess that right now 20 percent of the graduates of Tougaloo actually have come back. The five top administrators of this school are graduates of Tougaloo. I would estimate that, of the recent graduates in lawyers, 50 percent who are from Tougaloo come back to the state. Many of those going to medical school promise me that they will return, and I really think they will.

But it is important that our students go to other places as well, like White institutions. White kids need their help and need to see Blacks in leadership-type positions.

Sharpe. How many of the teachers are Tougaloo graduates?

Owens. We have a number of them. I can appreciate the fact that they need more money than we can offer. I told the seniors this year that I wanted all of them to get good and rich so they could give us some money. I don't want to have to go to the Ford Foundation all the time.

Sharpe. How is the school financed?

Owens. Most of our support is from the government. We also get a percentage of money from the United Negro College Fund. We get money from two church denominations—United Church of Christ and the Christian (Disciples of Christ) Church, foundations, and corporations, as well as individual gifts. We try to raise at least 15 percent of our budget. When I came here in 1955 the budget was $400,000 a year. Now it's about $4 million. Our student body has grown from 300 in 1955 to 700. Since we have no endowment, we really pinch pennies.

Sharpe. Why is that?

Owens. People are not willing to invest in Black institutions, and especially a small, Black college in Mississippi. I think the reasons are racist. So we live on a year-to-year basis. We don't have rich alumni. We have to exploit our faculty and administrators. God has been good to us; we have people here who are talented and willing to work for the joy of seeing young Blacks get the necessary skills.

Sharpe. Not having a lot of money, however, does not in this case mean a lower quality in education. But the rumor does persist that the only good education can be found in White colleges.

Owens. When you start looking around and seeing where our Black leaders graduated from, Black colleges have more than a fair representation—Thurgood Marshall, Martin Luther King, Jr., Stokely Carmichael, to name a few. If I recall correctly someone said that the majority of the Black doctors in this country came out of Black colleges. If you close all the Black colleges, our movement for full participation in this society would be set back a hundred years. I think the people who believe and nurture the theory that Black colleges are on the wane may have a grand design to weaken us. We have the church and our Black colleges. An individual can't do much; you've got to have groups and institutions.

Sharpe. But doesn't it seem a bit ironic that many of these Black colleges have a good number of White instructors? The students here are very much aware of this, and in the interviews I had many of them express resentment about it.

Owens. My preference is for an integrated faculty. I think that it's an experience that our students need as preparation for entry into the broader world. I do know that at one time many of the White people who were working in the South wanted to control and maintain their reputations as White liberals by associating themselves with Black movements and institutions. But I think that Black students are aware enough to realize where people are coming from.

Sharpe. During the late sixties White colleges were flaunting their numbers of registered Black students. Many of them implied, obviously in order to get more federal aid, that their increased enrollment of Black students meant Black students were leaving the South—meaning Black colleges. Is this true?

Owens. Let's look at some facts. Ten years ago you had 90,000 Blacks enrolled at Black colleges. Five years ago there were about 135,000. Presently there ar 150,000. It's projected that in ten years 250,000 Black students will be enrolled in Black colleges. There are twice as many enrolled in White institutions. But there is a trick of statistics here that people are not aware of. Many of these Black students are dropping out; I haven't seen any figures on how many Black students are graduating from White institutions. Many of the White institutions set quotas higher than they were going to maintain. There is no institution in this country that is going to literally, spiritually, or figuratively change its complexion.

Black students never left Black colleges. During the sixties these White institutions went out and grabbed as many Black students as they could. Often these schools took Black students we wouldn't have, and if we had we wouldn't have let them sink. The pressures at these schools for Black students to be Black 24 hours was a bit ridiculous. Black students have come to understand that on a Black college campus you don't have to be super-Black.

We are proud of our background and intellectual setting in the sense that here a student can hear it all. He is in close proximity to conservative and segregationist views. At the same time, all kinds of Black idealogy are brought on campus for the student to examine. Our students have developed a sophistication because they can see and hear and discern for themselves what is important for them to understand.

Lady Encore

"I'm a Mississippian; I grew up here. I felt that I was given a great opportunity here and should share that with other Blacks," states Dr. Naomi Townsend, dean of academic affairs at Tougaloo and one of the few women who are academic deans of American coeducational colleges.

An alumna of Tougaloo (class of '38), Dr. Townsend returned to the college in 1945 to teach. "It had nothing to do with a missionary zeal. I could make money at other places, but here I could make a contribution."

Dr. Townsend is responsible for the January "mini-semester" at Tougaloo, a three-week term during which instructors are encouraged to develop innovative teaching methods for use during the regular semester. "I took on the responsibility because I wanted the challenge of seeing some of my programs through," she explained. "I also want to help establish Tougaloo's place in higher education in Mississippi."

In 1964, when she graduated from Tougaloo, Joyce Ann Ladner would not have believed she would return nine years later as the commencement speaker. But she was in for a lot of surprises. The Tougaloo National Alumni Association selected her as 1973's Alumna of the Year in a secret balloting.

After completing her undergraduate work, Dr. Ladner earned her masters degree and doctorate from Washington University. At present, she is a professor of sociology at Howard University, the author of Tomorrow's Tomorrow, a revealing book about the Black woman, and has recently completed her second book, The Death of White Sociology, a collection of essays and articles on what is right about Black sociology.

Born in Hattiesburg, Mississippi, Dr. Ladner asserts that "the 20 years I spent being socialized by my family and the broader Black community prior to entering graduate school shaped my perception about life and enhanced my ability to survive in a society that has not made survival for Blacks easy."

Alice Walker—poet, essayist and novelist—taught at Tougaloo for several years. Her love for the students is expressed by the Alice Walker Literary Award, given each year to a promising young writer at Tougaloo. Ms. Walker herself attended Spelman College and Sarah Lawrence. She is the author of several collections of poetry and other works. *In Love and Trouble*, her latest book, consists of 13 short stories dealing with Southern Black women who are bound together in terms of their vulnerability, both to life and to their men, present or absent.

Encore also salutes the many other Tougaloo alumni who have made their college proud.

The majority of Mississippi's Black doctors and lawyers are graduates of Tougaloo. For example, Alphonso Willis (summa cum laude, '73) started his medical studies at the Harvard University Medical School this fall and plans to return to Mississippi to practice.

Tougaloo has had more Danforth Scholars than any other Southern Black college. Danforth Scholars are given tuition and a small allowance so that they can work on their graduate degrees. Sandy Dwayne Martin (summa cum laude, '73) was this year's Danforth Scholar from Tougaloo and he also appears in the 1973 *Who's Who in American Colleges*. He will study church history at Union Theological Seminary in New York City.

And last, but not least, Encore salutes Tougaloo's committed instructors, who over the years have motivated and inspired their students.

STUDENT LIFE

(By Larry Robinson)

I'm a native of Greenville, Mississippi, and a music major in my senior year at Tougaloo College.

Talented Black musicians usually attribute their natural ability to heredity. My father, now deceased, was a Baptist minister who possessed a marvelous baritone voice. He fathered thirteen children, ten by his first wife and three by my mother. My two brothers and I used to travel with our folks throughout northern Mississippi to churches where my father would preach. I was young and I hated going on those trips, but I've since learned to appreciate the foot-stamping, the shouting, the "amens" in response to my father's preaching, and of course, the singing, especially my father's singing of "Amazing Grace."

Since the age of five I've had some kind of interest in music. I would sit at the kitchen table or at the dresser and just peck away. Once, a neighbor dumped his old piano in his back yard, and I guess that was the very first piano I played—by ear, of course.

Along with piano playing came singing, and in elementary school I sang soprano, which is how a lot of male singers begin. Later I sang tenor in a high school choir.

Remembering my high school days, one thing that has always stood out in my mind is that clubs and groups meant a great deal to me. Our high school choir was considered the best in the state, so I truly respected the thoughts and judgments of the talented lady who directed it. She told me: "Playing the piano by ear isn't all it takes. Unless you can read the printed page along with that ear, you can't pursue what is destined for you in the future."

I had heard about Tougaloo College and its involvement with the civil rights movement in the early sixties, but had never given any thought to what role the college might play in my life. At any rate, I was fortunate to have the opportunity to come to Jackson one spring weekend and see Tougaloo and for a short time grasp the warm atmosphere of friendship. I say "friendship" in an overwhelmingly positive sense of the word because that is what I sensed in those few hours I spent on campus.

My decision was made in favor of Tougaloo College over other schools which would, as I saw it, only give me financial aid and a registration number.

I believe that the purpose of the institution is humane; not just to educate social security numbers, but to show concern for students as individuals who are seeking myriad goals in life. The fact that in 1969, 43 percent of Tougaloo graduates went on to graduate school or some professional institution of higher learning may only be a statistic to most outsiders, but inside one can see the effort of the administration, faculty, and staff to help others help themselves to get those things that Blacks have been deprived of for centuries.

No institution is totally free as far as campus life is concerned, but at Tougaloo each individual learns to take responsibility. Students are treated as adults, and are allowed coed visitation, fraternities, sororities, and those various other things which give one "enough rope to hang or save yourself."

I changed schools for one semester. This only confirmed my devotion to Tougaloo, where I was taught to measure myself not only in terms of grades, but on the basis of my development—what I would be capable of in the future.

Tougaloo College, along with two other institutions, is the founder of Opera South. I had the privilege of participating in this group, as well as making choir tours throughout the United States, and going to many auditions and concerts. In this, as in many ways, Tougaloo College has served as an asset in the development of my musicianship, character, and the relationship I have with others on campus. The idea of being a part of this group still lingers in my mind, but now I must use my talents and education to help children, especially Black children, who have been crippled musically, to feel the beauty of rag, jazz, blues, soul and gospel music.

OUR COLLEGES MUST SURVIVE

(By Edgar Smith)

Where roses bloom in bowers,
  And where the moss hangs grey,
Where tall the oak tree towers,
  There steals my heart today.

As every loyal alumnus knows, these are the opening lines of the Tougaloo College Alumni song—a fitting tribute to the small, predominantly Black, private college that in 1969 celebrated its 100th anniversary.

A review of Tougaloo's record of performance clearly indicates that its first century has been an extremely productive one, as attested to by the success of the college's graduates in various fields of endeavor. Needless to say, this is no small task for a Black, private college in the state of Mississippi.

Having been invited to elaborate on the subject of "What Tougaloo Means To Me," my response will be strictly personal and specific. But I am confident that it will approach the feelings of numerous graduates from other predominantly Black colleges.

As a child growing up in the Mississippi Delta in the pre-civil rights days, I was keenly aware of my "place." My education through secondary school was in the "separate but equal" system of that day. In spite of the obvious shortcomings, however, that system was not all bad. This might sound strange to someone not familiar with how things were done.

The point is that were certain benefits derived from the "forced togetherness" of segregation. For example, in my high school a great deal of attention and encouragement were given to individual students by sympathetic teachers. These ingredients are lacking in many of the Northern school systems with which I have been connected. This is not to imply that to achieve these qualities schools must be segregated, but it does suggest that the nation's secondary schools could benefit from more Black input at the teaching and administrative levels.

While in grammar school I became familiar with Tougaloo because our school principal was a proud alumnus. In high school my interest was heightened by teachers and students, by visits to the campus, and last but not least, by the mighty Tougaloo College Choir. The choir interested me because I wanted so much to be part of a proud tradition that had been maintained through the years. Thus, this was the school for me.

At Tougaloo I found a continuation of the high school phenomenon to which I alluded earlier, namely, an effort to give each student as much individual attention as possible. This time, however, it was on a more integrated basis, since many of the faculty members were White. My anticipated problems of adjustment to this situation never arose. The obviously sincere interest of the entire faculty, coupled with the warmth of the Tougaloo community, dispelled any fears I might have harbored about what was going to happen to me in the next four years.

My educational experiences at Tougaloo gave me both the academic background and the all-important encouragement I needed to pursue graduate study, as well as experiences that contributed to my overall growth as a person. In many small, subtle ways it made me begin to realize the worth of every human being. I am grateful for the concrete education I received at Tougaloo—both in and out of the lecture halls.

No statement about a predominantly Black, Southern college would be complete without some expression of the pitiful financial state in which all such colleges currently find themselves. Tougaloo is certainly no exception. As a member of the board of trustees, I can say with authority that we are in the midst of a struggle for survival. We have seen rough days in the past, but at no time has the life of our beloved college been more threatened.

To meet the money crisis, we have intensified our appeals to the traditional sources of funds: the government, foundations, alumni, and so forth. But we desperately need long-range commitments from all Blacks. We, as Blacks, cannot afford the intellectual luxury of debating whether or not our institutions should exist; rather, we must concern ourselves with assuring their survival. It is indeed appalling, in these days of increased Black affluence, that our schools cannot rely on us for a *major portion* of their support. This situation must change!

The Tougaloos of this nation must survive and hold to their programs of growth and productivity. Without these we lose the option of Black, private, higher education in the South—a loss we can ill afford. If this appeal is interpreted as a challenge to Blacks, it will have achieved its purpose.

TOUGALOO'S BLUES

(By Lou Holloway)

The spirit of Tougaloo's three-week January term is innovative. During the 1973 January term I got into the spirit of things and offered a course on a subject rarely explored in academia: The Blues.

Books have been written on the blues; blues artists have been the subject of learned treatises. But, to the best of my knowledge, my course was unique in that not only explored the blues of the past, but, taking the blues as "a mirror reflecting the Black experience," we attempted to deal with contemporary Black experience through present-day artists suggested by the students themselves.

The course needed a title, and I came up with the weighty, intellectually subversive *JT4, B. B. King, Ray Charles, Nina Simone, Curtis Mayfield, etc*. I didn't want to narrow the course down in advance: if it was to be really innovative, with all the freedom implied in that term, the students would have to decide for themselves on what to emphasize.

I wrote a course description and a rationale (a proposal for the course which must be approved before it can be put into the curriculum), in which I advocated the peaceful coexistence of the three B's (Bach, Beethoven, Brahms) with the three B's (B. B. King and Blues). No overthrow of traditional music was implied, but just as classical music represented the aspirations of eighteenth and nineteenth century European civilization, the blues represent, in the words of Ralph Ellison:

> . . . the heritage of a people who for hundreds of years could not celebrate birth or dignify death, and whose need to live, despite the dehumanizing pressures of slavery, developed an endless capacity for laughing at their painful experiences.

I reasoned that culture which relates to the Black experience is entitled to a niche in our school as secure as that occupied by the culture of White society. I was determined to legitimize the blues in academia.

The course was approved and got underway. After the second class we had twenty-five regulars and nine or ten visitors attending two hours a day, four days a week, for two weeks. It didn't take long for the students to narrow down the subject matter: they zoomed right in on B. B. King.

Relating to King as a Mississippian, as one whose own experiences must be close to theirs, students referred to King as their "home-boy." With intense concentration, they focused on his lyrics, pulling out his message and analyzing its relationship to Black life, past and present.

Needless to say, the course was a success. It was discussed on campus; it was recommended in the student newspaper for its approach and content. Students who attended classes indicated that they had acquired not only a deeper understanding and appreciation of the music they listened to every day, but a feeling for the importance of Black music as it relates meaningfully to the Black experience—to their own lives.

Rob Roblin of WLBT-TV, Jackson's NBC affiliate, happened to see the course announcement and did a three-minute story on it which ran on several Mississippi news programs. NBC picked up the story and distributed it nationwide, adding an editorial which praised Tougaloo for offering such a course. Roger Wood of NBC in New York received numerous inquiries from other colleges on how other courses dealing with such nontraditional subject matter could be implemented.

As the end of the course drew near, the class became aware that its analysis of B. B. King's work had impressed us all with the fact that he was a very important artist indeed. I suggested that we carry our project one step further by awarding King the honor accorded many people who have made outstanding contributions to an institution of learning: an honorary degree.

Both the class and the Committee on Honorary Degrees gave my proposal their unanimous approval, and the May 4 issue of the student newspaper was headlined: "Tougaloo Now Has a King! B. B. King in TC Class of '73."

Although the degree was awarded at the end of the spring, 1973 term, because of King's unavailability at that time the presentation ceremony did not take place until September 30. This was an advantage, for a Spring presentation would have taken place at the commencement ceremony, attended mostly by graduates. The fall ceremony was attended by the entire student body of 750, an indication of the seriousness and enthusiasm of the students for the course, the man, and the message.

Hopefully, the curriculum committee will now approve my proposal for a full-semester course, *B. B. King, Blues, and the Black Experience*. And, hopefully, other Black colleges, recognizing the importance of contemporary Black music as a measure of our experience, past and present, will follow Tougaloo's lead.

Alliance for Opportunity

(By Donald E. Cooper)

The "Tougaloo Community," as defined by the college's president, George A. Owens, encompasses not only students, alumni, faculty, and administrators, but also individuals and organizations actively working to assist the college. General Foods was welcomed into this community a little less than two years ago with a healthy mixture of hope and skepticism.

Our involvement with Tougaloo was triggered by the corporation's long-standing objective of expanding opportunities for Black and minority groups. While several programs involving corporate donations were under way, a number of us felt that a good means to accomplish our objective would be the utilization, by the college, of the skills possessed by the people in the corporation.

The first and very critical step was to determine how the needs of the college could be matched up with the resources of the firm. Tougaloo Vice-President A.A. Branch and Professor Larry Morse of the Economics Department, among many others, were particularly helpful during this somewhat groping stage of the relationship. After several months of discussion we agreed that the primary objective would be to "build an awareness among students, faculty, and administrators that business offers a challenging and rewarding career option to Blacks." There were a number of reasons for the selection of this overall objective.

First, until recently business was, in general, not a viable career option for Blacks in the South. As a result, few students came to Tougaloo with an inclination towards business as a career, and few companies came to the campus to recruit.

Second, in the past the majority of Tougaloo graduates have gone into teaching. However, the demands for teachers has fallen off in recent years, creating a problem for students who wish to enter teaching right after graduation.

Third, and most important, businesses are now looking for Blacks to fill managerial level positions.

We agreed on two operating principles. First, a long-term commitment by General Foods to Tougaloo was essential. A one-shot approach would be a mutual waste of time; several years were needed to maintain an effective, ongoing program. Second, we agreed that the initial year should be looked upon as a "building and learning" year: despite our best efforts, there were probably going to be mistakes.

A Co-op Program and a Seminar Program were the major means selected to achieve the overall objective of building an awareness and understanding of business.

The Co-op Program was a real first for both Tougaloo and those of us from General Foods who set it up. Open to all students who have completed four semesters at Tougaloo, it consists of a six-month period during which the students work at General Foods on a full-time basis. At the end of six months a report containing a formal evaluation of their work is forwarded to the appropriate faculty advisor.

Currently, there are three co-op positions available: one in Marketing, one in Technical Research, and one in Marketing Research. Initial difficulties in recruiting students were overcome as students became familiar with and interested in the program, and as student interest increases on a long-term basis we hope to expand the number of co-op positions.

The first participants in the Co-op Program have done well. Several have graduated and have either entered the business world or continued their postgraduate studies with a business orientation.

To date, the Seminar Program has been implemented twice at Tougaloo, with plans for more seminars in the future. Each seminar lasts four days and involves approximately fifteen people from General Foods who spend one or two days apiece on the campus.

The seminars center around case discussions led by separate two-man teams in selected classes. Each case relates, in a general way, to the particular subject matter being discussed in the class. The students are involved in the development of solutions to the kinds of problems with which we deal. The cases are sent to the students a week ahead of time so they can familiarize themselves with the key issues.

We've received good feedback from the students on these seminars and some excellent suggestions on how we can improve them in the future. In addition, the Seminar Program provides us with the opportunity for informal discussions with the students while we're on campus. Several of our Black managers have been particularly effective in this area.

The three-week January term is also a good opportunity to expose some of the students to business. This past January, three students spent the term in our Tech Research labs working on carefully structure projects. In addition, two of our people spent several days on the campus coaching students in interviewing techniques. In the future we plan to expand our January term activities.

We've had a number of other activities with Tougaloo ranging from instructions on how to conduct idea-generating sessions to a research grant. All in all, we feel that by working closely together we have begun to make real progress towards increasing the awareness of business as a viable career option.

Tougaloo's Special Programs

Special programs are important to the college community. They provide extra funds, and both help the staff and allow the college staff to service segments of the community, such as residents of the Choctaw Indian Reservation. Tougaloo also has programs that allow students to obtain extra help in their studies or expand their experience in certain fields. There are normal departmental programs such as the French and African studies programs, and a Career Counseling program, headed by Vice-President A. A. Branch, which helps a student if he wants to work for a corporation.

TEAM COUNSELING

This program, started in January 1972, offers tutorial and counseling services to acknowledged "underachievers" referred by public schools in Jackson, Mississippi. The tutors—mainly students from Tougaloo College, some from Jackson State College—are supervised by Mrs. Jacqueline Dedeauz. "The kids are committed. They find that they are not only in a teaching position, but also in a learning position."

After four weeks of training, the tutors, in teams of two, visit the students' homes. "They soon learn," said Mrs. Dedeaux, "that they aren't just visiting teachers."

Often the teams find that it is not the student's mind that must be modified, but his environment. They have helped families get proper clothing, proper medical care, and legal help. For such work, they receive $50 a month, and the warm appreciation of parents, children and teachers.

PREHEALTH PROGRAM

Mississippi desperately needs doctors who are sensitive to the needs of the state's Blacks, Indians and poor. Tougaloo has initiated a strong program to recruit Black students for the health field. "Once we get these students interested in the health field," said

Dr. Richard McGinnis, associate professor of chemistry at Tougaloo, "we work on getting them committed to coming back to Mississippi."

To complement the school's academic program, there is a Pre-Health Club, funded by the Macy Foundation of New York. The club sponsors seminars and field trips to broaden the students' knowledge about medicine. Doctors from all over the country come in and speak. Also available are summer programs. More participants in the Harvard Health Careers Summer Program have come from Tougaloo than from any other college in the country. However, students are encouraged to work in their home towns when possible. In 1972, Tougaloo began its own summer program in cooperation with doctors in Jackson as well as throughout the state. The students earn $1,100 for this work.

"Through all the extra effort we put into this program," said Dr. McGinnis, "we are able to change students' attitudes about the health field, help them get financial aid so that they can study, and place all of them in some summer program or medical school when the time comes."

Madison County Project. In an effort to develop a stronger relationship with the community, Tougaloo initiated the Madison County Project in 1972. The project's main focus is to encourage students to become involved with the community and to help the college and the community and get first-hand experience.

Trio Program. "We want to help you help yourself," is the Trio Program's motto. The program is called Trio because it consists of three separate government-funded programs.

Talent Search is a guidance program that covers a large geographical area and serves junior high and high school students as well as adults. It helps veterans to obtain their benefits, students to get into trade schools, and adults to earn their high school diplomas.

Upward Bound—a pre-college cultural enrichment program—is designed to help high school students make the transition from high school to college, through on-campus residential sessions during the summer and followup sessions during the school year.

The program also helps students choose a college and obtain necessary financial aid. "We don't encourage the students to come to Tougaloo, because it is more expensive than the state school or the junior colleges," says Elijah Slaughter, director of the Trio Program. "But Tougaloo is dedicated to helping students, as attested to by the fact that over 80 percent of the student body here receives financial aid and a large number of the students have come through the Trio Program."

Special Services assists Tougaloo students who need special help to stay in college. It offers a modified curriculum, social counseling, and tutorial services. Mrs. Alice Anderson, a Special Services counselor, is convinced the program is a success: "I can't help but think of Doris Clay when I'm asked about the program. This shy girl, who had very little confidence in her ability when she started, is now completing her four-year college program in three years—and with honors!"

Tougaloo's president, George Owens, sums up the special programs at the college this way: "Tougaloo is about helping a student survive in this world."

FROM A BLACK PERSPECTIVE

(By James M. Pool)

As part of a predominately Black college, Tougaloo's Department of Afro-American Studies was never intended, from its inception, to be autonomous. Its plan is to be interdisciplinary, merging inconspicuously into the total structure of the small college, offering the student who is interested an added perspective, not to the exclusion of, but supplementary to, the traditional disciplines.

Nor can Tougaloo's program in any way be considered merely a sop to appease militant students. Although the Department of Afro-American Studies did grow originally out of student demands, the students do not feel bound to remind the teachers of this fact. This is due to the depth and scope of its program; contrary to the practice at many schools. Tougaloo's Afro-American studies are not merely a scatter-shot accumulation of courses.

Set up in 1969, the department offers a student the chance to major in Afro-American studies through a systematic program of interrelated courses, which develop not only an in-depth knowledge of African and Afro-American people, but a body of skills with which the student can continue his studies.

Thus, the major in Afro-American studies offers an interdivisional concentration, or a concentration in either the Social Sciences Division or Humanities Division. Courses in these areas explore the literature, language, philosophy, religion, art, music, and dance of the African and Afro-American, as well as the depth and range of experiences, social situations, cultures, and economic and political positions of Africans and Afro-Americans—all this against a background of humanities and social science skills. In addition, the student is provided with seminars and independent study opportunities so that he can do original research on his own. This allows him to bring together insights from many disciplines, while helping to correct the biased scholarship which in the past has affected this field of study.

The department is staffed by Blacks and non-Blacks, none of whom has changed his professorial status; i.e., a professor of English retains his position in the English Department, and simply teaches, in addition to his assigned courses in the traditional discipline, courses whose scope includes or centers on the Black experience. Instructors who are invited to span two areas in this manner have done extensive researh in the Black experience beyond their preparation in their traditional major area.

For example, the instructor of a course in African Literature at Tougaloo is a non-Black with a Ph.D. in English from Notre Dame. I doubt that there are too many professors who have researched this area more thoroughly than the professor in question, even to the extent of exploring works not yet published in this country, and others that require translation from a foreign language. This suggests that Tougaloo's Department of Afro-American Studies is attempting to add another dimension to the student's knowledge.

African Literature may only be taken by upper-level students; a junior or senior will already have studied, in his sophomore year, Shakespeare, Emerson, Dante, Wright, Baldwin, Ellison and others. He can then broaden his perspective by being able to place in juxtaposition with the above-mentioned writers such artists as Achebe, Diop and Choonara.

The sequence of courses in Afro-American studies has been carefully planned with all the foregoing goals in mind. The freshman who expresses an interest in majoring in Afro-American studies is advised to combine them with one of the traditional disciplines. He will, in most cases, decide on his major before he completes his sophomore year. With this in mind, the student takes his basic skills courses, required of all students in the college, along with an introductory course in Afro-American studies. This introductory course is designed to familiarize the student with what is loosely called the "Black experience"—the African heritage and Afro-American experience.

In his sophomore year the Afro-American studies major, in addition to courses in his co-major, takes Afro-American Literature, a survey of the major Black writers from 1760 to the present; either Afro-American music or art; and either philosophy of Black Americans or Black religion. In his junior year the major takes Black history, and either economics or politics of Afro-Americans, or the sociology of racism.

The senior major takes anthropology (Peoples of Africa) and a senior seminar, in which he writes a major paper bringing together his two chosen disciplines. For example, the student having a co-major in political science/Afro-American studies may, after a period of collecting data, write a paper discussing the Black vote in a selected area of Mississippi. Also, the senior major is required to take a comprehensive examination drawn up by all professors who have taught courses in the Afro-American studies program. In addition to these required courses, students may elect in-depth author courses on Richard Wright and James Baldwin, and other courses dealing with the Black experience, such as African literature, African politics, and the Afro-American in the Caribbean.

Tougaloo has graduated seven students with combined degrees in Afro-American studies and either economics, political science, history, or psychology. All seven are in graduate schools, continuing their work in their traditional disciplines from a Black perspective.

GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, as we know, genocide is the systematic, organized planned extermination of an entire people by murder. It has been practiced throughout the ages, and never with greater or grimmer ferocity than in this century when Adolph Hitler directed the systematic murder of more than 6 million Jews and 2 million Poles.

The Convention on Genocide was unanimously adopted by the General Assembly of the United Nations on December 9, 1948, and signed in behalf of the United States on December 11, 1948.

On June 16, 1949, President Truman submitted the Genocide Convention to the Senate for ratification. It was immediately referred to the Foreign Relations Committee. A subcommittee of the Foreign Relations Committee considered the convention on January 23, 1950. In the intervening years, there has been neither explanation nor excuse from the committee on its failure to act.

One historical fact should be of special interest to the Senate, the State Department, and the administration. On January 23, 1950, the State Department sent to the Foreign Relations Committee as its advocate in behalf of ratification, a most articulate and persuasive spokesman, the then Deputy Under Secretary of State—Dean Rusk.

Secretary Rusk's case for ratification was compelling in 1950. In 1973 it is irrefutable.

It is a cruel paradox as well as a national disgrace that the United States, which has proved conclusively to the world the practical effectiveness of our own Bill of Rights, must hang our national head in shame at our irresponsible unwillingness to lead the fight for the establishment of basic human rights for all men.

The fundamental human protection guaranteed by the Genocide Covenant, to prevent the organized destruction of human beings on racial, religious, or cultural grounds, remains unratified by this Senate.

The responsibility cannot be placed with others. We cannot criticize the usual whipping boys; the State Department, the Executive, the House. The Senate and each of us as Senators must accept individual responsibility for our collective failure to act. The time is here for this Senate to fulfill our pledge to all Americans, to the United Nations, and to all humanity by moving immediately to ratify the Genocide Convention.

ATTENTION TO FUTURE WORLD FOOD PRODUCTION

Mr. HUMPHREY. Mr. President, as we enter a time of year traditionally devoted to Thanksgiving, holidays, and celebration, it is important that we take some time to consider the sobering thoughts on world food supply. The time has come for us to take stock of future food supplies, or future holiday celebrations may be bleak and barren.

In an article in the Washington Post on November 23, Mr. Stephen Rosenfeld discussed the critical subject of world food supply. Mr. Rosenfeld makes several important points, among them the fact that even though grain production has increased this year, population growth rates over the same period have negated the net effect of that increase. He goes on to note that increases in production are very much dependent upon weather conditions and technical input and that current projections for increased production next year will do little more than fill the gap left by the use of our reserves this year.

Mr. President, these are critical concerns that have been stated before and must be stated again. The adequacy of world food supply and our efforts to arrive at solutions to this problem are a subject to which we must devote continuing attention and for which we must devise practical and effective courses of action.

I believe that Mr. Rosenfeld's article succinctly states many of these concerns, and I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A World Food Crisis

(By Stephen S. Rosenfeld)

Enjoy your turkey yesterday? You may take a modest bow for having eaten a kind of meat relatively efficient to produce: it takes only three pounds of grain (in feed) to produce a pound of turkey, against seven for a pound of beef. Eating poultry is like driving your car at a patriotic 50: it saves on a resource in increasingly short world supply.

But, you may say, didn't the paper just say that the world grain production has hit an all-time high, and that the United States, Russia and even India have produced record harvests? The paper did say so and the paper, of course, was right. But that's not the end of the tale.

After a fall in 1972, grain production around the globe rose this year by about three per cent over the previous peak in 1971. But because world population rose by about the same rate in the same time, per capita grain production probably only held even, if it did not actually decline.

In fact, the diet of many, perhaps most, people in the world may have deteriorated as production climbed, for the reason that the rich—among countries and within countries—are better able to buy food than the poor are. Good news in gross production does not translate literally into good news in personal consumption. Since food prices have retreated only nominally from the peaks of 1972, many poor people may be worse off than they were in 1971.

We laymen in this field, looking at food production numbers, still tend to blame weather for disappointments, to credit technology for successes, and to assume more or less that technology will beat the weather over time. But this may be American provincialism, false. Productivity increases flowing from technology are no longer considered automatic. Indeed, in such a key crop as soybeans, advances are coming so slowly that one expert, Lester Brown, urges creation of a research institute by us and the Chinese, the two big producers.

Bad weather, however, is considered automatic. Russia's location and geography ensure it other onslaughts of drought. South Asian deforestation ensures other years of flooding there. Pacific overfishing ensures empty anchovy nets, and so on.

Moreover, a big chunk of the increment in American wheat production this year is owed to the one-shot fact that after 1972, good acreage long held out of production to discourage the growing of unmarketable "surpluses," was put back in production. There is little such good acreage left. Putting marginal acreage into production, here or elsewhere, is so costly that food raised on it would be beyond the reach of the poor.

Worst of all, while world food reserves were decimated by the effects of bad harvests in 1972, these reserves are not being rebuilt in the good harvests of 1973. Instead, production gains are going into current consumption. The annual increment needed just to keep up with demand, swollen by population increases and improvements in diet, rises apace.

So there will not soon again be huge wheat stocks available if Russia comes back into the international grain market in a big way. There will not be large stocks available for humanitarian emergencies. Last year, after a bad crop, the world was on the brink of duress or catastrophe, depending on national situation, and this year after a good crop the world is also on the brink of duress or catastrophe.

In 1972 people could accept, at least intellectually, the harsh Malthusian reality that population growth was exceeding growth in the available food supply. It takes more mental effort to accept the same harsh reality in 1973 but it remains true.

Perhaps it's being a spoilsport to even bring the matter up in a week including the national day of gorging. But here we are, pushing farm exports like crazy rather than expanding our effort to replace food stocks and to help other countries grow more food themselves, permitting nutritional disparities to widen not only between the world's rich and poor but between our own rich and poor.

The country seems prepared finally, if belatedly, to cope with the fact that consumption and production of energy in the world have gotten badly out of whack but it has been slow to grasp the analogous fact that the same may be coming true of food.

In food, of course, the United States has the great advantage of being a marvelous producer. But we have yet to decide, or to discuss adequately, whether we regard this capacity as a national asset or as an international trust. It is the difference in broad terms between using food as a lever for our own purposes, economic or political, say, to counter the Arab oil boycott, or as one of a number of valuable commodities whose use must somehow be determined by nations acting in concert for their common good.

It is a fiercely difficult choice which can be made only step by step over a period of time, which cannot be avoided, and which will determine the kind of people we are.

UNITED FARM WORKERS' STRUGGLE

Mr. KENNEDY. Mr. President, during recent months, along with many other Senators, I have followed closely the dispute in the fields of California where the United Farm Workers Union has sought to give credence to the constitutionally protected rights of workers to organize and to select a union of their own choice.

The past months' struggle is only the latest chapter in a long history of the efforts to secure those rights for the Nation's farmworkers.

In that struggle, the Farm Workers Union has maintained its commitment to nonviolence despite often violent and brutal tactics employed by its opponents. Two farmworkers have been killed in that process. Many have been injured.

The response of the farmworkers has been to continue their organizing, to continue their tactics of nonviolence, and to continue their struggle to build a union.

Last week, the National Conference of Catholic Bishops adopted two resolutions in support of that effort.

I ask unanimous consent that these two resolutions be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

Resolution

The National Conference of Catholic Bishops go on record in support of the right of the field workers in the agricultural industry to free secret ballot elections which will determine whether or not they want union representation and which union they want to represent them. The NCCB calls upon the growers and the Teamsters to accede to this demand of the United Farm Workers of America without further delay.

Resolution

The National Conference of Catholic Bishops endorses and supports the United Farm Workers' consumer boycott of table grapes and head lettuce until such a time as free secret ballot elections are held.

Mr. KENNEDY. Mr. President, the tragic events of the recent past in the agricultural valleys of California have not yet come to an end.

The Teamsters Union apparently has turned its back on an agreement that might have spelled a final conclusion to the California jurisdictional dispute that has produced bitterness and violence in its wake.

Under the leadership of George Meany, president of the AFL–CIO, negotiations were held involving Mr. Meany, Mr. Frank Fitzimmons, president of the Teamsters Union, other Teamster officials and Cesar Chavez, president of the United Farm Workers Union. On September 28, news reports detailed that agreement. It represented a recognition of the right of the United Farm Workers to organize and represent agricultural fieldworkers.

Weeks passed in which many of us awaited the finalizing of that agreement. Because of the special interest of members of the Committee of Labor and Public Welfare, Senator Williams, Senator Javits, and I sent letters to Mr. Meany, Mr. Fitzsimmons, and Mr. Chavez requesting information as to their intentions with regard to the ratification of the agreement which appeared to us to be a reasonable way to remove the potential for violent conflict which already had cost the lives of two men.

We received responses from Mr. Meany and Mr. Chavez indicating their willingness to ratify the agreement. We received a negative response from Mr. Fitzsimmons.

I ask unanimous consent that the correspondence be printed at the conclusion of my remarks along with the summary of the proposed agreement as reported in an AFL–CIO statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, I ask unanimous consent that a news article reporting the Teamster rejection of any agreement and an editorial in the New York Times on the same subject be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 16, 1973]

Teamsters Reopen Farm Labor Battle

San Diego, November 15.—Teamsters union President Frank E. Fitzsimmons, denying his union ever had a farm labor peace treaty with the AFL-CIO, today said most contracts negotiated this year with California growers will be honored.

His announcement, an apparent reversal of an earlier agreement with the AFL-CIO, followed a 30-minute meeting with representatives of California growers now operating under Teamsters contracts. Between 30,000 and 40,000 field hands are covered by the pacts.

In affirmation of what he said last week in Washington, D.C., Fitzsimmons told newsmen, "We assured the growers we have a moral and legal obligation in reference to all contracts, and we intend to enforce them."

Fitzsimmons' announcement sets the stage for a renewal of hostilities between the Teamsters and the United Farm Workers of America, which claims jurisdiction over farm labor.

When asked why the Teamsters had broken a tentative agreement with the AFL-CIO, announced Sept. 28, Fitzsimmons said, "There was no tentative agreement. It was a discussion of the facts. There was no agreement to be broken."

At that time, the labor federation announced that a tentative treaty in the bitter farm labor struggle had been reached and that it awaited only ratification by Fitzsimmons, AFL-CIO president George Meany and attorneys for both unions.

The agreement provided that the Teamsters would give up all contracts signed with grape growers this year and that they would not renegotiate contracts with lettuce growers that expire in 1975. The UFW was to have jurisdiction over organizations of farm field hands and the Teamsters jurisdiction in canneries, processing plants and packing houses.

As for contracts with Delano grape growers, which Fitzsimmons personally repudiated on Aug. 9, the Teamsters president said, "They remain in a status quo position."

He said there would be further discussions with the Delano growers to resolve the issue of whether the Teamsters hold binding contracts.

Lee Shaw, a Chicago attorney speaking for a number of the Delano grape growers position on those pacts. "Based on what he said today, they will not honor them," he said.

AFL–CIO spokesman said the labor federation would have no immediate comment.

Flanked by Western Conference of Teamsters head Einar Mohn, Fitzsimmons said he did not know if the Teamsters would continue to organize California farm workers.

"What our future activities are going to be, you'll just have to wait and see what comes about," he told newsmen.

The Teamsters boss asserted it was now up to the growers to honor their part of the contracts. Some of them have already begun paying five cents an hour to the Teamsters pension fund and the Delano growers are scheduled to begin making such payments Dec. 1.

UFW attorney Jerry Cohen said from union headquarters near Bakersfield that Fitzsimmons' assertion that there was no agreement was false. "I've got a copy of it in my hands," he said.

The farm labor situation, which flared into violence this past summer, reverts to the position it occupied earlier this year when the Teamsters signed up virtually all the growers who once held contracts with the UFW. The struggling farm workers union now holds only 12 contracts, and its membership has dropped from more than 30,000 to about 6,000 members.

[From the New York Times, Nov. 19, 1973]

Teamster Fakery

In line with a long string of broken promises, the giant International Brotherhood of Teamsters seems well on its way toward repudiating its latest pledge to stop blocking the organizational progress of the United Farm Workers, a tiny union rich only in idealism.

Two months ago the Teamsters' president, Frank E. Fitzsimmons, assured George Meany of the A.F.L.–C.I.O. that his union would leave the organizing of laborers in California's vineyards and lettuce fields to the farm union. That commitment implied a readiness by the Teamsters to junk the shabby partnership some of its local leaders had formed with the large growers to exterminate the U.F.W. and discredit its crusading leader, Cesar Chavez.

Ever since the supposed promise to Mr. Meany, however, Mr. Fitzsimmons has been edging away, declining explicitly to reaffirm it. His evasiveness continued last week at a California meeting with leading growers. The result has been a decision by Mr. Chavez to widen his boycott of grapes and lettuce grown under Teamster contracts and also of wine made from such grapes.

The consumer boycott is a poor weapon; but the continued deceit practiced by the Teamsters and the gross imbalance in the forces aligned against Mr. Chavez leave him no other instrument of resistance. The basic need remains for passage by Congress of a law extending to farm workers the same machinery for free elections and enforcement of fair labor practices that other American workers have had for nearly four decades.

Exhibit 1

The text of the agreement reached on September 27 and referred to earlier, follows:

TEAMSTERS-FARM WORKERS

1. The Teamsters are to retain the contracts which they hold in lettuce and other raw crops with the exception of Finnerman and D'Arrigo, until July 15, 1975, at which time such contracts will not be renewed. The UFWA will not boycott the companies holding these contracts.

2. The Teamsters will not recognize any contracts they have signed in the grapes (table or wine), neither will they recognize the contracts which they signed with the D'Arrigo and Finnerman companies. They will immediately make this known to the companies involved by letter renouncing and unilaterally rescinding these contracts and disavowing further representation of the affected workers upon assurance by the AFL–CIO that through the UFWA it will undertake the protection and advancement of the welfare of such workers. Copies of said letters will be sent to the AFL–CIO.

3. The Teamsters will immediately announce that they will not organize in agriculture as defined in the jurisdictional pact of August 12, 1970. In instituting a boycott the UFWA will comply with the rules and policies of the AFL–CIO.

4. George Meany and Frank Fitzsimmons will be the final determiners of all differences between the Teamsters and the UFWA as to the application of this pact which remain unresolved on the local level.

[Telegram]

Keene, Calif.

Senator Edward Kennedy,
Capitol Hill, D.C.:

The United Farm Workers of America, AFL–CIO, has been prepared since September to sign the agreement which was reached in principle with the teamsters. We are still prepared to do so, although we have learned via the press that the Teamsters are now reneging on the agreement.

Sincerely,

Cesar E. Chavez,
President.

AFL–CIO,
Washington, D.C., November 13, 1973.

Hon. Harrison A. Williams, Jr.
U.S. Senate,
Washington, D.C.

Dear Senator Williams: I have received the letter jointly signed by you, Senator Javits and Senator Kennedy with reference to the problems of the California farmworkers.

I know I do not need to recite the long history of our support for the farmworkers because you are familiar with that and I know that you are up to date on the latest developments on this matter.

As the situation stands now, I am waiting to hear from Teamster President Frank Fitzsimmons advising me of the final determination made by the Teamsters' Union with reference to the agreement which had been negotiated.

I note from the newspaper reports that President Fitzsimmons has said he will have some definite word and will consult with me on this matter some time next week.

Thank you for your continuing interest in this problem.

Sincerely,

George Meany,
President.

International Brotherhood
of Teamsters,
Washington, D.C., November 21, 1973.
Hon. Edward M. Kennedy,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

Dear Senator Kennedy: I have your letter of October 24, 1973, in which you inquire as to the status of the attempt to work out an agreement between the Teamsters and the United Farm Workers Union.

I am sorry to report that I must reply in the negative as I announced today at a news conference in my office. I am enclosing a copy of the statement which I released to the press in answer to your letter.

Respectfully,
Frank E. Fitzsimmons,
General President.

Committee on Labor
and Public Welfare,
Washington, D.C., October 24, 1973.
Mr. George Meany,
President, AFL–CIO,
Washington, D.C.

Dear Mr. Meany: As members of the Senate Labor and Public Welfare Committee, we have maintained a deep and continuing interest in the labor conditions of the nation's farmworkers. In that regard, we have watched with grave concern the escalating violence in the fields including the deaths of two men, the beatings of many more and the forced confrontation between strikers and local law enforcement officers.

All of these events have created a situation which can only lead to further tragedy and further denial of the rights of workers.

The only bright light in the dark history was the announcement on September 28, 1973, that an agreement had been reached between the United Farm Workers Union and the Teamsters Union, under the joint aegis of yourself and Frank Fitzsimmons, President of the International Brotherhood of Teamsters. The agreement reported in the Los Angeles Times, September 28, 1973, would appear to successfully represent a peace settlement which would protect the rights of farm workers affected by the current jurisdictional dispute.

Since this reported agreement appears to represent a step toward removing the potential for violence which has been present in the current dispute, we would be most interested in learning of its status and details, and would also appreciate your advising us as to whether you anticipate that it will be signed by your organization.

We are sending similar inquiries to Mr. Fitzsimmons and Mr. Chavez.

Sincerely,
Jacob K. Javits.
Edward M. Kennedy.
Harrison A. Williams, Jr.

Committee on Labor
and Public Welfare,
Washington, D.C., October 24, 1973.
Mr. Cesar Chavez,
President, United Farm Workers,
Keene, Calif.

Dear Cesar: As members of the Senate Labor and Public Welfare Committee, we have maintained a deep and continuing interest in the labor conditions of the nation's farmworkers. In that regard, we have watched with grave concern the escalating violence in the fields including the deaths of two men, the beatings of many more and the forced confrontation between strikers and local law enforcement officers.

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We are sending similar inquiries to Mr. Fitzsimmons and Mr. Meany.

Sincerely,
Jacob K. Javits,
Edward M. Kennedy,
Harrison A. Williams, Jr.

Committee on Labor
and Public Welfare,
Washington, D.C., October 24, 1973.
Mr. Frank E. Fitzsimmons,
President, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Washington, D.C.

Dear Mr. Fitzsimmons: As members of the Senate Labor and Public Welfare Committee, we have maintained a deep and continuing interest in the labor conditions of the nation's farmworkers. In that regard, we have watched with grave concern the escalating violence in the fields including the deaths of two men, the beatings of many more and the forced confrontation between strikers and local law enforcement officers.

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We are sending similar inquiries to Mr. Meany and Mr. Chavez.

Sincerely,
Jacob K. Javits,
Edward M. Kennedy,
Harrison A. Williams, Jr.

EXPORTS OF COAL AND NO. 2 FUEL OIL

Mr. HARTKE. Mr. President, on Wednesday last, I introduced a bill, S. 2737, the proposed Energy Export Control Act of 1973, to stop all unnecessary exports of coal, fuel oil No. 2, propane gas, and methane gas. At the present time, the Federal Government continues to permit their exportation. These exports have continued to expand even during the emergency energy crisis which we are now facing at home.

The Cost of Living Council predicts that 1.5 million barrels or 53.3 million gallons of heating oil will be exported from the United States during 1973. This represents a 284-percent increase in heating oil exports over those of 1972.

While coal exports this year are just slightly less than in 1972, the significance of these exports now is much greater because we are now reconverting our electrical generating plants from oil to coal. This will mean increased American production of coal which is possible. The problem is that most of our coal is already tied up in long-term export contracts with the Japanese and Canadian steel industries. The result will be a continued shortage of a commodity of which we have rich and plentiful sources, if we do not pass export control legislation.

In the first 10 months of 1973, our exports of natural gas have increased almost 20 percent over the same period of 1972. By September 1973 we had already exported 67.2 billion cubic feet compared with 57 billion cubic feet for the same period in 1972.

The export of propane is also up over the 1972 figures. By September we had exported over 2.5 million barrels of this commodity which is in great demand in our country. Over the same period in 1972, we exported 2.3 million barrels.

Concern for this problem was reflected in the debate on S. 2589, the National Energy Emergency Act of 1973, and by the adoption of export control provisions in that bill, as offered by Senators Dole and McIntyre.

S. 2737 would have the Secretary of Commerce estimate the domestic production of fuel oil, coal, propane, and natural gas quarterly, in the case of emergencies or shortages. He would then determine those amounts necessary for domestic consumption in the United States, including a reasonable amount for a carryover to build up U.S. stocks, and the remainder would be allocated for export to foreign countries.

The Secretary of Commerce then would allocate such exports among countries on a quota system, based upon past exports and such other criteria as are necessary to produce a fair and equitable quota.

Based upon what is available for export, the Secretary would set up a system for the sale of export licenses through an auction system. Licenses would be sold to the highest responsible bidders with special exceptions for the developing countries. The fees collected would be used to set up a trust fund for the research and development of present and new sources of energy.

The Secretary would be able to lift this licensing system on any of the above energy fuels that he determines is produced in sufficient quantities to meet both U.S. demand and normal world requirements from the United States without any quota system.

Exception to this quota system is any shipment of these energy fuels for temporary export for processing abroad and reshipment back to the United States. This is necessary because some high sulfur content fuel oil is sent abroad to be mixed with less polluting low sulfur oil and then shipped back to the United States.

In a time of nationwide emergency, we

cannot countenance the export of these essential energy resources. Without legislation, these exports could increase. Their absolute amounts may not be gigantic, but they are in dire need in this country and should be utilized here in keeping our factories and schools in operation and our homes heated.

Mr. JACKSON. Mr. President, I assure the distinguished Senator from Indiana that his bill has a great deal of merit, and the Interior Committee would like to take up this matter in hearings which I promise the Senator will take place within the next 3 to 4 weeks.

The whole export question raises a number of very important issues not the least of which is who is shipping oil from our shores to whom, and for what reasons.

I am also very concerned about the whole issue of coal. I recognize, along with the Senator from Indiana, that our domestic production will have to increase, particularly in light of our policy of converting electrical generating plants from burning oil to coal. How much coal do we not have readily available? Will this amount be sufficient to satisfy our domestic needs in the coming months? What is the nature of the long-term export contracts of American coal to the steel industries of Canada and Japan? Will any action taken by the United States cause these countries to retaliate? Should we grant quotas to our historical trading partners to prevent disruptions in the international marketplace?

I compliment the Senator from Indiana on his attempt to find answers to these questions and others. I assure him that hearings will be held on this subject. S. 2737 is an important contribution to our efforts in dealing with these problems.

Mr. HARTKE. I thank the Senator from Washington (Mr. JACKSON) for his comments, and at this time, Mr. President, I am heartened by his assurances that hearings will be held within the month on this critical legislation.

BOSTON IS SHARING CITIES' TROUBLES WITH A DIFFERENCE

Mr. KENNEDY. Mr. President, I would like to bring to the attention of this Senate, an article from the Washington Post, describing some recent tragic events in Boston, Mass.

Last month after a series of tragic occurrences in that city, the people of Boston were gravely concerned about these troubling assaults.

I believe the account of these events as presented by Stephen Isaacs in the Washington Post is quite well done and deserves the attention of this Senate.

Mr. President, I request unanimous consent to print in the RECORD the article, "Boston Is Sharing Cities' Troubles With a Difference," by Stephen Isaacs, from the Washington Post, Sunday, November 11, 1973.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BOSTON IS SHARING CITIES' TROUBLES—WITH A DIFFERENCE

(By Stephen Isaacs)

BOSTON.—Cradle of the American Revolution. Founded in 1630. Now one of the oldest cities in the land. Citadel of Anglo-American high culture and learning. Spawning ground of colorful Irish ethnic politics and flamboyant politicians like James Michael Curley and "Honey Fitz" Fitzgerald. The preserve of the Cabots and Saltonstalls and Lowells.

Boston today, minus sentimentality, is the largest city in New England (pop.: 659,230), the center of America's academic establishment, a locus of modern electronic innovation and manufacturing, a growing focus of the insurance and banking industries and a city in grave trouble.

Elma Lewis, a 50-year resident of nearly all-black Roxbury, says, "Boston is now more like the rest of America. It is amazing here, but it's not amazing for America."

Mrs. Lewis' frustration may be an indication of the hostility afoot in Roxbury when she says:

"When you start saying Boston's a bad city, hell, America's a bad country. My white people aren't worse than your white people (in Washington). Agnew didn't come from here. Nixon didn't come from here. It's the system. It doesn't work any better here than there. It's the same everywhere."

But it is not the same everywhere. Boston is unique in many ways, and one of those is in its racial crisis.

For Boston has ethnic neighborhoods whose rigidity is legendary. It has a per capita tax burden amassed by no other city. Its per capita annual household income is lower than any other big city's—thousands of dollars lower, for instance, than Washington or Newark or Philadelphia or Buffalo.

And, with a tenacity that has been a hallmark of the American Irish, Boston has hung on by its fingernails to keep "the others" out. In particuar, its local politicians have blatantly flaunted their opposition to those "others," have successfully pandered to fears in ways that would probably be shocking in comparable cities in Alabama or Mississippi.

And all in the city that was the fount of the American abolitionist movement, the home of William Lloyd Garrison, the first major American city to prohibit segregation in its schools, in 1855. And all in a state that has the only black United States senator (Edward W. Brooke), and that was the first state to enact a law forbidding racially imbalanced schools.

"A DEEPLY CONSERVATIVE PLACE"

Boston's city election system, installed by "Yankee" reformers years ago to dilute the power of Irish ward bosses, now requires nonpartisan, at-large contests for all city council and school committee posts. This has translated into the Irish majority's domination of elections and, because elections fall every two years, into incessant, fear-baiting political rhetoric.

As a result, says political scientist and State Rep. Barney Frank, "The candidates are desperate for headlines. They can't build any record with a particular district. It's a random lottery in which names are everything. Issues are rarely discussed. The whole system puts a premium on irresponsibility."

Frank, Mayor Kevin White's liaison with black community groups during White's first three years in office here, says, "People are misled by the voting image of Massachusetts and of Boston. They think of Ed Brooke, of the McGovern vote, of the Kennedys. But this is a deeply conservative place socially. It's probably got the most left-wing congressional delegation in the country, but on social issues, it's the other way.

". . . I think people vote for people 'like them' for city council and for the school committees. But they vote 'up' for mayor, for governor, for senator, for President."

Voting for people "like them" has evolved into an acrid racial tenseness isolated primarily in inner Boston and perceived hardly at all in the more comfortable Boston outside the technical city limits nor in the image of the city held by the rest of America.

When one thinks of Boston, the imagery is likely to be of neighboring Harvard University and of Massachusetts Institute of Technology; of Paul Revere and the old North Church; of the basketball Celtics and the hockey Bruins and the baseball Red Sox; of Beacon Hill and the lovely Public Gardens downtown; of the Isabella Gardner Museum and the Museum of Fine Arts; of the Boston Symphony Orchestra; of the 700-plus electronics firms ringing the city along Route 128.

THE REAL BOSTONIANS

All of that means little or nothing—except for frustrating unattainability—to the real Bostonians, the Irish, Italians, blacks and growing numbers of Puerto Ricans who rub up against one another in this 47-square mile city.

The real Bostonians are the ones who have to contend with the immense tax loads of a city so institutionalized that more than half of its lands is tax-exempt.

And they are the ones left behind to pay the dues of urban tension. Only slightly more than a fifth of metropolitan Bostonians actually live within the boundaries of Boston, where the skirmish lines are manned perhaps more intently than they were in Revolutionary War days.

The weapons now are the baseball bat and the tire chain, the racial taunt and epithet and—more and more frequently—the gun and the knife. Continued resentment and anger are guaranteed by the inflammatory rhetoric of the Irish politicians and, occasionally, by the media.

Boston's black community, now more than 100,000 strong and 17 per cent of the population, grows increasingly frustrated and, it seems to feel, isolated. It is, as Mayor White says, peculiarly apolitical for this most political of cities. And it is, in the main, leaderless. Strangely, its principal leader has probably been the mayor himself, whose steps to bring blacks into government and into a share of the power structure earned him the label of "Mayor Black" during the last mayoral campaign.

But the nexus of Boston's racial problem lies not so much in the black community as it does among the Irish, who have long made up the majority in Boston but who have always perceived themselves as a weak and frustrated minority.

This perception of self is manifested in the tenacious Boston neighborhoods, in the consciousness of territorial imperative—their turf.

TURF CALLED IMPORTANT

Irish Bostonians, in fact, epitomize what the Rev. Andrew Greeley, the Chicago ethnic specialist, has been saying for the past decade. They are misunderstood, he says. They are not racists per se.

Instead, Father Greeley has said repeatedly, they are the less well off "middle Americans" whose turf is vitally important to them; whose lots and neighborhoods are extensions of identity and self; whose investments in their home and neighborhood are crucial; who are suspicious and afraid of intruders no matter what may be their color of skin.

When Boston's black population began to increase in the 1950s in places like Roxbury, then to Jamaica Plain and Mattapan, the Jews of Boston—like those in other cities—mostly picked up and left, for close-in suburbs like Brookline and Newton.

But the Irish have held on, in their parishes in South Boston and in Dorchester and in West Roxbury, their fears stoked constantly by their political leaders.

Boston's Irish have refused to yield.

When a black youth ventures onto the fringes of the Irish turf in Boston, he had best not venture alone.

"I've never imagined, I've never seen, such a confrontation of hate" in the Irish young, says one forlorn black community worker in Roxbury. "It grows up in these kids. I don't understand how people can be so poisoned.

"It's bad, it's bad, and the majority of our local political structure is peopled by so many of these kinds of people.

"They're definitely an impendment to progress, and they play that racial angle to the hilt. They pit race against race because that gets them votes. It's the most dangerous kind of politics that can be practiced, and it permeates the whole structure."

And, then, when incidents like those that occurred here last month arise, the hatred and fear pyramids.

TWO INTERPRETATIONS

The first incident came Oct. 3 when a white woman in Roxbury, who was carrying a can full of gasoline to a stalled car, was set upon by six or so black youths. They ordered her to douse herself with gasoline, then set her afire.

The Boston and national media rushed to their largest headlines. The interpretation of their message was clear: black versus white.

Then two days later came the reports that an old white man fishing in Dorchester Bay, along side a predominantly black housing project, had been stabbed and stoned to death by a gang of black youths.

Perhaps only in a city as race-minded as Boston could there follow the almost automatic assumption that the murders were racially motivated.

A Boston policeman, in a saner, more retrospective moment, acknowledged that the burning victim could have just as easily been black as white.

Another says that the youths probably never intended to kill the woman—that they were more likely trying to scare her, and like young people sometimes do, miscalculated the danger.

In any case, such a bizarre method of murder, premeditated or not, inevitably brought with it new examinations of black-white relations in Boston.

Police now wonder if the murder of the old man was at all racial. Three youngsters have been accused of the death and investigation indicates that they may have believed the old man informed on youths involved in another crime, and they may have retaliated to "get a rat," skin color irrelevant.

HUNGER IS CONSTANT

"People here aren't concerned with identifying criminals as criminals," says one black Bostonian. "They're only concerned with whether they're black or white."

Police Sgt. Earl A. Bolt, a 26-year veteran of the Boston force, doubts whether any of the crime at the housing project, Columbia Point, is particularly racial.

"You've got to understand the uniqueness of Columbia Point," says Sgt. Bolt, who is black. "You have a great number of people isolated in that project, with no economic, educational or housing opportunity. Those kids down there live all their lives exposed to no hope.

"It's a confined kind of place and perhaps they see no possibility of escape. And there's nobody else to prey on, no matter whether they're black, white or Chinese. They're really desperate down there. Some of those kids go to bed hungry every night and wake up hungry every morning."

Columbia Point was built during the 1950s when such public housing projects were standard in America.

"Columbia Point was two steps ahead of Pruitt-Igoe," says Barney Frank. "It was an enormous project, and it was well over a mile from anything else. There was no school, no shopping, it was kind of a landhound Devil's Island. It wasn't racist. It was just anti-poor."

The complexion of Columbia Point's tenants changed over the years from mostly white to, now, a few elderly whites and perhaps two-thirds blacks; several thousands of those blacks—a majority—are young.

The Irish, politicians point scornfully to the shopping center that was built alongside Columbia Point. It had a huge Stop 'n Shop, a department store, a restaurant, a bank, a drugstore. Now all but the bank are abandoned, windows boarded over, parking lots empty, a low-slung armory of failure, looted and vandalized out of business by the kids from Columbia Point.

SYMBOL OF RESISTANCE

"It's just awful what they did to us," said Louise Day Hicks, the symbol of Irish resistance in Boston, who recently finished first in the city council election, and who has run for office 10 times in Boston in the last 12 years.

"The project itself is situated in a beautiful setting," she says, "overlooking the bay. But now the firefighters can't go in without police protection, and the taxis won't take people in. I'm terribly concerned about the senior citizens in there.

"I truthfully think that for too long we've let these young black youths get away with too much. In the schools they're extorting and vandalizing. It's carried on too long. We've got to stop it.

". . . People in Boston are filled with fear. People have triple locks on their doors, white and black. I can't believe it. This is Boston, a city of culture."

It doesn't matter that Boston's crime rate is among the lowest of America's major cities, and that the number of policemen per capita is second highest in the nation. Or that the number of black-white murders in Boston is relatively low (nine of the 111 so far this year).

"We're going to have to take some real preventive measures," says Mrs. Hicks, just turned 50. "You can't take a pill and have it go away in the morning.

". . . Right now, we've got to call a halt, look at it, and do something before it's too late. We've got to face up to this problem.

". . . Maybe we have all the laws we need, but maybe people don't know we have them. And maybe they should be enforced."

"KIDS DON'T HAVE ANYTHING"

Sgt. Bolt sees Columbia Point somewhat differently.

"These are kids that don't have anything, anything at all," he said. "They look in a store window and they see things they can never hope to afford. Perhaps if I were in the same fix, I would do the same thing. A kid has no pair of shoes, and he knows he won't get a pair of shoes until he steals them."

And Sgt. Bolt sees crime in Roxbury differently, too.

"The same day that woman was burned." he said, "a black man was shot and killed on Northhampton Street. There was no human cry about that. To me, the problem is that people here don't consider people as human beings. The first question anybody asks is whether the victim was white or black.

"If there is a crime in Roxbury, they ask, 'Well, what was he?' and if the answer is 'black' then they relax and sit back and they're not concerned. But, as soon as we describe the victim as a white Caucasian, then it becomes a matter of public concern."

Sgt. Bolt, who lives in a six-room house in Roxbury, says he is having an ever-harder time convincing black people that "the system" can work.

"We take pride in the fact that we have an educational system that makes the majority of the people literate. So we read in the paper that the Supreme Court of the land has determined that segregated schools are not constitutional. Here it is 1973, and we're still having individual states fighting the integration of schools hammer and tong.

"If it takes 19 years, and the thing is still up in the air, and the black kid reads the paper, 'What the hell is going on? The man is talking out of both sides of his mouth. You say what a great system it is, but they're still fighting over whether I have the right to an equal education.'

"Education is basic to it, you know. It's the first thing we introduce our kids to in a public way. That's where we begin to train him there are differences in people."

A CLOSED WORLD

Sgt. Bolt is jarred by his own daughter, who is 15 and is telling him that "they're against us."

"She came up to me one night and said, 'What happened in World War II? Look at Japan and Germany today. This country had a lot to do with rebuilding those countries, who were once our enemies. We saw fit to make them powerful. If they could do that, why can't they do something now? Would it have been better for us to fight a war with the United States?' "

"And I don't know how to answer those questions.

"We're not talking about poverty programs and a few million dollars here and there that never filter down anyway. They really spent billions of dollars in those countries. It's simple logic, but if you think about it, it's devastating."

The blacks of Boston look around and, often, see a white man's world that is closed to them, white neighborhoods (parishes rather than neighborhoods in Boston), a fire department that is 99-plus per cent white, a police department that is nearly 98 per cent white. You can stand at Columbia Point on the bank of the bay where the old man fished and died or on Blue Hill Avenue in the heart of black Roxbury and speculate on the luxurious living that goes on in the glistening insurance office castles you see looming from the "new Boston" skyline beyond.

Some, like Elma Lewis, who runs the National Center for Afro-American Art, see hopelessness setting in.

"NOBODY CARES"

"I am convinced," she says, "that young people feel there is no way to operate with this system. They look at the so-called successes in the black community, who can't even get their garbage moved, and they say, 'Who needs that?'

"They'll do anything to get a dollar. They look at Agnew and see how he got off. 'He's rich, and he got away with it. That's America, so I'll do it. I'm taking certain risks, yes, but look how big I'll win if I'm a winner.' They say that in America the dollar is the biggest thing in the world, and they look around and they see that it doesn't matter how you get it.

". . . If you walk downtown, you'll see hordes of black kids like wolf packs, snatching hand bags, terrorizing office workers. And if one of those white policemen sees them, he doesn't ask them why they're not in school. These kids realize nobody cares about them. They're not a part of the system. And, when something happens, everybody gets uptight for 10 minutes.

". . . This is a very, very bad time—a very, very serious time."

No one is more cognizant of that than Mayor White, who is holding meetings all day long with his community affairs specialist and with community groups, trying desparately to keep the lid on, hoping to appeal to what he feels is basic conservatism among Boston's black citizenry.

He feels that the media's overplaying of the murders and their racial aspect was "a disgrace."

He is worried that no one can seem to control young blacks like those who participated in the recent crimes, and whose own internal leadership turns over constantly. He is hoping to mobilize older youths to assume that role.

POLICE HAVE PLANS

Above all, he is disturbed by the thinly veiled racism of the political rhetoric, having been subjected to it in his mayoralty campaign, and has been pleading for calm. During the heat of the reactions to the two murders, he even held two press conferences in one day.

Like most other city officials, he will not tell you about the military-style battle plan the police have ready in case "it" happens in Boston, a plan designed to seal communities off from one another.

"I don't think that there's that deep a despair in the black communities," he says, and wonders whether Boston's black leadership, or anyone else for that matter, can gauge how deep or how hostile are the feelings on the street.

"But I honestly believe," he insists, "that we're nowhere near a racial war."

ATTORNEY GENERAL'S SALARY REDUCTION

Mr. HRUSKA. Mr. President, this week the Senate is scheduled to take up consideration of S. 2673, which proposes to return the salary of the Attorney General to the level in effect on January 1, 1969. This bill was introduced to insure compatibility between the proposed nomination of Senator SAXBE to be Attorney General and the constitutional provision which reads:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office. (Article I, Section 6, Clause 2)

There is no question as to Congress authority to raise and lower the salary of Cabinet officers. However, some have voiced concern that even after the enactment of S. 2673, Senator SAXBE may still not be eligible for the office to which he will be nominated.

This concern stems from the fact that Senator SAXBE became a Member of Congress on January 4, 1969 and subsequently salary increases for Cabinet offices were approved. Such concern is fair and understandable, for a cursory reading of that pertinent portion of the Constitution alone, as is the case with almost any portion of that document, could leave one in doubt as to its meaning. Because of this doubt, S. 2673 was referred to the Judiciary Committee for study of the constitutional issues involved.

After a thorough consideration of all the testimony heard before that committee, I am fully convinced that the enactment of this bill would be effective to confirm the eligibility of Senator SAXBE for the office of Attorney General.

The major theme sounded by those who doubt the efficacy of the approach taken by the subject bill, is that the plain, literal words of the clause forbid such a move. However, such an interpretation appears to fly directly in the face of the intentions of the framers, the rules of constitutional construction and available precedents.

The narrow, literal approach to the Constitution taken without reference to pertinent historical data is one which has been long rejected. In one of a line of similar pronouncements, the Supreme Court, in the *Legal Tender Cases*, 12 Wall. 457, 531 (1871) stated:

> Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered.

A review of the history of the constitutional debates reveals that the framers were concerned with the prevention of the evils which might arise if Members of Congress could benefit from the creation of new offices or increase in the emoluments of existing ones. Much consideration was given as to how to best achieve that objective. One proposal, later rejected, called for an absolute prohibition of Members of Congress assuming civil office both during their term in Congress and for 1 year thereafter. Such an absolute provision, it was clearly recognized, would unfortunately effectively bar the tapping of valuable talent in the Congress, for use in executive offices. In approving the final form of article I, sections 6, clause 2, the framers guarded against possible corruption in the appointment process but also achieved their avowed objective of making available Members of Congress for other positions in the public service.

A restrictive reading of this provision ignores this second portion of its dual function.

The enactment of S. 2673 would be entirely in accord with the intentions of the framers. Upon his confirmation to the office of Attorney General, there would be no emoluments that Senator SAXBE would be entitled to receive which were possibly traceable to any action taken by Congress while he was a member of that body. Further, the country would have the opportunity to be served by a man of recognized experience and ability.

The proponents of a restrictive interpretation of the Constitution indicate difficulty particularly with the words "shall have been increased" found in the phrase in question.

In view of the framers' intentions it would appear that the phrase contemplates a continuing increase of emoluments. Congress by its approval of the 1969 pay increase simply created the condition to which the constitutional clause attaches. By enacting S. 2673, Congress, having the power to revoke as well as enact statutes, will have removed that condition.

The argument has been put forth that if the framers desired the course of action which is before us, they would have specifically provided for it. This argument assumes, however, that the Constitution was drafted in the same manner as a detailed statute. Chief Justice John Marshall, well aware that many constitutional provisions do not spell out contingencies in great detail, wrote in *McCulloch* v. *Maryland*, 17 U.S. 316 (1819):

> A constitution to contain an accurate detail of all the subdivisions of which its great powers will admit and of all the means by which they may be carried into execution, would partake of prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced, from the nature of the objects themselves. . . . We must never forget that it is a constitution we are expounding.

Regarding principles of constitutional construction, we can readily point to instances in which the Supreme Court's interpretation of constitutional provisions go beyond the literal implication of the language in order to reach a result consistent with the intent of the framers. To cite one example, the Court, going beyond the words that prohibit compulsory self-incrimination "in any criminal case," has held that the fifth amendment includes such protection in civil cases, administration proceedings and congressional investigations. Likewise the Court has construed this amendment, beyond its mere words, to uphold the validity of immunity statutes. There are many more examples of construing the Constitution beyond its bare wording standing alone.

In addition to the general principles of constitutional construction, several favorable precedents are available in which Congress engaged in considerable debate upon similar matters.

One such precedent involved the appointment of Senator Morrill as Secretary of the Treasury in 1876. During his term, salaries for Cabinet officers were raised and then subsequently reduced to their former amount. Senator Morrill's nomination was nevertheless confirmed by the Senate without challenge based upon the constitutional provision in question.

A directly analogous situation to that presently before us occurred in 1909 with the nomination of Senator Knox to be Secretary of State. During Senator Knox's term the salary to that office had been increased, and, upon his nomination, legislation was introduced restoring the salary to the level at which it had been prior to Senator Knox's term. Upon passage of this remedial legislation, Senator Knox was named and confirmed by the Senate for that Cabinet position.

The relevance of the entire body of constitutional history in construing the meaning of its provisions was aptly summed up in the following quotation from a 1964 Supreme Court decision:

> Our sworn duty to construe the Constitution requires . . . that we read it to effectu-

ate the intent and purpose of the Framers. We must, therefore, consider the history and circumstances indicating what the (provision in question) were in fact designed to achieve. *Bell* v. *Maryland*, 378 U.S. 226, (Mr. Justice Goldberg, concurring).

The inescapable conclusion one draws from a study of a constitutional debate, the rules of construction, and the available precedents is that S. 2673 effectively clears the way for Senator SAXBE's assumption of the Attorney Generalship. I, therefore, urge prompt and favorable action by this body upon this bill and upon the forthcoming nomination of Senator SAXBE.

FOOD FOR PEACE—THE JAMAICA STORY

Mr. HUMPHREY. Mr. President, from the inception of the "Food for Peace" program under Public Law 480, the U.S. Congress and its agricultural committees had expressed the objective of using food donations under title II of the act, not only for humanitarian purposes, but as an incentive for other governments to improve social feeding programs, particularly for children. It was also the goal of the U.S. Congress that the food donations would help countries "graduate upward" from direct food assistance to sales of U.S. food products on long-term concessional credit arrangements.

Jamaica is now providing a significant example of a Food for Peace "success story," demonstrating such a "graduation" from title II food donations to title I concessional credit sales—and by Jamaica's own determination setting a new precedent and example to other developing nations of the world.

For Jamaica's new title I agreement, signed last month, is the first in the world under which the Government is not using the concessional credit to purchase foods for resale into the market place but rather is using the credit to obtain foods for its own constructive social program purposes—in this instance, for its school lunch program under a "model" arrangement that will assure its young people of improved diets and improved nutrition.

Title II food commodities were provided to the Government of Jamaica for a maternal child health and school feeding program under a 3-year agreement which started in 1967. That program authorized 16,000 metric tons of food commodities valued at $5.2 million to feed 200,000 children each year, most of whom are very poor and whose diet otherwise would consist of starchy foods and very little protein. The Jamaica Government showed a willingness from the start to do its own part, committing itself to a cash input of $2,698,000.

The program had since been extended to December 31, 1973, under which the United States agreed to contribute an additional $3.5 million in commodities with the Government of Jamaica agreeing to finance all the administrative inputs, requiring about one million dollars annually.

Further, the Government of Jamaica agreed to build a new central kitchen at a cost of $1.3 million, and to enter into a contract with ARA Services, a private U.S. catering service operating a worldwide network of kitchens serving schools, hospitals, airlines, and other mass feeding centers, to design, supervise construction of and train operators for the central kitchen in the metropolitan area of Kingston and St. Andrew, Jamaica.

Jamaica has kept every pledge, and, under the leadership of an exceptionally able Minister of Education, the Honorable Eli Matalon, has not only dedicated the new central kitchen but has utilized it to move Jamaica forward toward better feeding patterns for all its people. ARA nutritionists working under the contract with Minister Matalon have developed recipes for lunches prepared at the new kitchen which will provide one-third of the daily protein and calorie requirements for 100,000 schoolchildren to be served from this kitchen—and, from its experience, future food policies of the country are evolving. The aim in Jamaica is to start with the children, in teaching the value of better nutrition, but then carrying it to the marketplace where all can share in higher protein products for which acceptance has been proven by these school feeding programs.

Jamaica has not only fulfilled the hopes and expectations of the United States in this forward-looking policy, but it has gone the "extra mile." Under the leadership of Prime Minister Manley, Jamaica is showing its concern for its youth and its ability to stand independently on its own feet, neither dependent upon nor beholden to anyone, yet grateful for cooperation and assistance from everyone appreciating their own goals and desires. Minister of Education Matalon has negotiated the agreement taking Jamaica out of the category of food donations and moving it into the category of paying, with U.S. credits, for the food it is using for social programs, of its own, like the school lunch program. Jamaica has every right to lift its head high on this move. It is an example for many other countries by making use of a U.S. Government program of long-term credits, normally devised for commercial purposes, to serve constructive social purposes.

Under Minister Matalon's leadership, the Government of Jamaica entered into a title I agreement with the United States for provision of the high-protein-blended food commodities which were previously donated under title II, such as wheat-soy blends.

The leadership of Jamaica in utilizing long-term credits of the United States—normally used only for commercial transactions by developing countries—for broader social purposes previously covered by straight food donations, set a new precedent that helps prove the value of the objectives behind the actions of the U.S. Congress in creating these food programs and comes at a time when tight food supplies make it all the more difficult—and costly—for a developing country to implement.

Jamaica has also wisely chosen to use the new high-protein-blended foods, to assure the maximum nutritional and protein value for each dollar it invests in food for its children.

Congratulations are in order, not only to the Jamaican Government, but also the Food for Peace Office in the Agency for International Development and the U.S. Department of Agriculture for pioneering with this new arrangement.

EDITORIAL COMMENT ON THE PRESIDENTIAL CRISIS

Mr. McGOVERN. Mr. President, I have been most impressed by a series of editorials appearing recently in the Washington Post relating to the Presidential crisis that now confronts the Nation. I ask unanimous consent that three editorials entitled "Operation Disney World" appearing in the Washington Post of November 20, November 21, and November 23, an editorial in the Washington Post of November 26 entitled "Mr. Nixon's Thanksgiving Day Offering" and an excellent column by the columnist Mr. William Raspberry in today's Post be printed in the RECORD.

Mr. President, the Sunday Washington Star of November 25 carries a perceptive analysis of the President's personality entitled "What Makes Nixon Tick." The article is authored by Dr. Eli S. Chesen, a psychiatrist who will enter the Air Force in January for 2 years of active duty as Chief of Mental Health at Nellis Air Force Base, Nev. I ask unanimous consent that this piece be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 20, 1973]

OPERATION DISNEY WORLD (I)

Working our way laboriously through the transcript of President Nixon's extraordinary performance last Saturday night before the Associated Press Managing Editors at Disney World, it struck us with increasing force that on a number of specific points the President is not exactly clearing up the record on Watergate and related matters. Rather, he seems determined to add to the public's confusion at almost every turn. The President would have us believe, of course, that with Operation Candor (as the White House has called it) he is at long last setting out to sweep away public misapprehensions—that he is helping us to get to the bottom of the Watergate affair, once and for all. Yet, picking and choosing almost at random, one finds disturbing distortions of the record and misrepresentations of the facts. By way of a beginning effort to set the record straight, we would deal today with the President's misuse of two of his predecessors in office—Thomas Jefferson and Lyndon Johnson—in attempting to defend actions of his own.

Mr. Nixon's persistent use of the "Jefferson rule," as he called it in his Saturday night appearance, is startling. This is the second time in a month that the President has distorted the facts regarding the issuance of a subpoena to President Jefferson by way of justifying his own performance in the matter of the Watergate tapes. In his press conference on October 26, Mr. Nixon said that the court had subpoenaed a letter which President Jefferson had written and Mr. Jefferson had refused to comply, but rather had compromised by producing for the court a summary of the contents of the letter. Saturday night, he went further. He began his answer to a question having to do with executive privilege with the astonishing assertion that, "I, of course, voluntarily waived privilege with regard to turning over the tapes." This is a curious way to describe his ultimate decision to obey an order of the Federal District Court—an order which he first appealed to the U.S. Court of Appeals.

Having lost the appeal he then tried to compromise the issue with the famous Stennis proposal which cost him the resignation of his Attorney General and his Deputy Attorney General in the course of his efforts to fire the Watergate Special Prosecutor who had originally requested the tapes. Having rewritten this recent history, the President went on to elaborate on the "Jefferson Rule" and to rewrite some more. He repeated his version of the Jefferson case which he had given us in October and went on to say that John Marshall, sitting as Chief Justice, had ruled in favor of the Jefferson "compromise."

In just about every important aspect, it simply didn't happen that way. To begin with the letter was not written *by* President Jefferson. It was written *to* him. What is more, Mr. Jefferson agreed to testify in the case under oath (although he wanted to do so in Washington, rather than journey to the court in Richmond). And he sent the entire letter—no a mere summary—to the U.S. Attorney who in turn offered it to the court and authorized the court to use those portions "which had relation to the cause." Chief Justice Marshall, moreover, never ruled in his capacity as Chief Justice on any such compromise; he ruled as a trial judge in a lower court. So much for the misuses of Mr. Jefferson.

Now for President Johnson and Mr. Nixon's taxes. The first thing to be said is that the President was offered a specific opportunity to deny published reports that on a total income of $400,000 for the years 1970 and 1971 that he paid only $1,670 in income taxes. He did not deny it, but rather admitted that he had paid "nominal" taxes for those years. He then said that the fact that his taxes were nominal was not a result of "a cattle ranch or *interest* or all of these gimmicks . . ." Perhaps so. But it would be somewhat surprising if Mr. Nixon did not deduct interest from his gross income for those years. The figures the White House has put out concerning the transactions by which he acquired his Key Biscayne and San Clemente homes indicate that he paid substantial sums in interest in those years, and it is hard to figure out any other way he could have arrived at such a "nominal" obligation.

His own explanation for that "nominal" obligation was that President Johnson told him shortly after he became President in January, 1969, that he ought to donate his vice presidential papers and take a deduction for them. There are two things puzzling about the idea that Mr. Nixon was merely taking his cue from his predecessor. One is the inference conveyed by Mr. Nixon that all this was new to him; in fact, he had made such a donation of some of his official papers in 1968, prior to taking office as President. The second, and far more important thing that is puzzling about Mr. Nixon's story is his suggestion that Mr. Johnson had established the precedent and that both men followed the same general policy in their handling of the tax aspects of their official papers. Prior to 1969, they apparently did just that. But in 1969, Mr. Johnson made a careful decision not to do what President Nixon did, for very precise reasons having to do with property.

The facts of this matter are that in 1969 Congress was debating a significant change in the Internal Revenue Code which might have precluded anyone from taking such a deduction from this sort of gift of papers or documents. Both Mr. Johnson and Mr. Nixon expressed their opposition to this change in the tax rules but until late in the year it was unclear which way Congress would resolve the issue—or when any change would become effective. Under the circumstances, Mr. Johnson decided that it would be unseemly for a former President to attempt to make such a gift in an effort to beat a congressional deadline and so he did not do so—reportedly at a cost of millions of dollars to his heirs. Mr. Nixon, by contrast, made a gift that year of papers valued at more than $500,000 and took what he claimed to be the appropriate deduction.

So much for the inference that Mr. Nixon was only following President Johnson's lead. Beyond that, there is an even larger question—not specifically raised by the editors and consequently ignored by Mr. Nixon on Saturday night—as to whether what he did in 1969 with respect to his gift of papers and claimed tax deduction was in accordance with the requirements of law—quite apart from its propriety in the context of the congressional debate and the likelihood of an imminent change in the rules. Speaking of his predecessor, Mr. Nixon said that Mr. Johnson "had done exactly what the law required." What remains to be seen, as we have noted repeatedly in this space, is whether Mr. Nixon, in this particular instance, can make that same claim for himself.

We do not mean to say that the President does not have a cogent defense of his tax deductions, or of his policy toward the release of his tapes—or of any of a number of other charges and allegations that have been raised in connection with his performance in the broad category of matters which come under the broad misnomer of Watergate. We would simply argue (and we will be returning to the argument in this space) that the President is unlikely to clear the air and resolve public confusion in any conclusive way by the sort of muddying of history and misrepresentation of facts which characterized so much of his appearance before the managing editors on Saturday night in Disney World.

[From the Washington Post,
Nov. 21, 1973]

Operation Disney World (II)

"If it had gone to the Supreme Court—and I know many of my friends argued, 'Why not carry it to the Supreme Court and let them decide it?'—that would, first, have had a confrontation with the Supreme Court, between the Supreme Court and the President. And second, it would have established very possibly a precedent, a precedent breaking down constitutionality that would plague future Presidencies, not just this President."

Thus Mr. Nixon, in his Saturday night question-and-answer session with the Associated Press Managing Editors, elaborated on his reasons for failing to carry his fight to protect the secrecy of the White House tapes subpoenaed by Archibald Cox to the Supreme Court. We cite at some length his remarks on the subject because they strike us as characteristic of the quality of the President's defense as a whole. It is marked by a perpetual shifting of argument, a series of astounding assumptions and a facility for distorting the facts of the case.

Consider only the quotation we have cited. Mr. Nixon, who on October 20th was declaring he was "confident" he would have won an appeal to the Supreme Court but didn't think it would be wise to leave the question open for the time it would take the Supreme Court to rule, now suggests that the prospect of losing was a strong factor in his decision not to appeal. So far as astounding assumptions are concerned, we invite your attention to the President's assumption that a Supreme Court ruling against him would have been of dubious constitutionality (surely the thing works the other way round). And finally, on the facts of the matter, does anyone have any doubt that the reason the President abandoned his plan to seek a Supreme Court test was that he considered he had a better chance of preserving the secrecy of the tapes by cooking up his so-called "compromise" or that he ultimately only agreed to release them to Judge Sirica as a consequence of the uproar brought on by his mishandling of Mr. Cox and the issue as a whole?

Yesterday in this space we addressed ourselves to Mr. Nixon's discussion of his taxes and to his misuse of two of his predecessors in the course of justifying his actions. Today, we will deal briefly with the President's arguments concerning the Watergate case itself.

Mr. Nixon's observations on the Watergate case, of course, revolved around the twin issues of Mr. Cox and the forbidden tapes. It is at least curious that the President who had a great deal to do with delaying Mr. Cox's investigation had the temerity to complain about that delay. Thus Mr. Nixon who earnestly discussed the reasons it had taken him so long to discover that two of the tapes did not exist and who, at least by indirection, acknowledged that he himself had been in a protracted and time-consuming legal battle with the Special Prosecutor concerning the White House documents that would be made available to the prosecution, in the same breath observed that the Special Prosecutor had taken much too long to get his cases into court. What does Mr. Nixon think Archibald Cox was doing for much of that time—if not battling the White House in order to acquire the material he regarded as necessary to bring those cases in an orderly and effective way, material which Mr. Nixon sought to deny him?

When Mr. Nixon observed that Assistant Attorney General Henry Petersen, who was replaced on the Watergate case by Mr. Cox, claimed to have had the case 90 per cent completed when it was put in Mr. Cox's hands, he again misled his audience. That is because, in the first place, Henry Petersen was referring exclusively to the case concerning the burglary of Democratic headquarters on June 17, 1972, and the subsequent cover up, and in the second place, because Mr. Petersen's claim referred to a period before it had been revealed that any White House tapes even existed—a revelation that inevitably produced attempts on the part of the Special Prosecutor to gain access to this potentially crucial new evidence.

Nor does the President's explanation of his delay in informing the court of the nonexistence of two of the subpoenaed tapes overwhelmingly persuade. If Mr. Nixon is so clear in his mind that he made the June 20, 1972, phone call to John Mitchell on a White House telephone that was not part of his recording system—he even recalls that he was on his way in to dinner when he placed the call—how could it have taken him from late September to late October to ascertain this fact? How is it, for that matter, that he wasn't aware there was no such tape back in July when Mr. Cox subpoenaed a tape of the call? If Mr. Nixon is now only deducing from the absence of a tape that he must have made the call on the phone in question, he is merely offering us a theory, not an assertion of fact—and if, on the contrary he is offering a clear recollection of fact, there is hardly any explanation for the many months it took him to remember or disclose it.

The case for the President's delay in discovering the nonexistence of a tape of his crucial April 15 conversation with John Dean is not much more persuasive. The President is known to have spent many hours on June 4th listening to tapes of conversations he'd had with Mr. Dean; the April 15 conversation was among their most important talks; and Mr. Cox subpoenaed this tape also in mid-July. Mr. Nixon, however, asks us to accept his argument that he did not discover that there was no tape until late September and that he had less sense of urgency about finding it than he had about the others because only Mr. Cox—and not the Ervin Committee—had asked for it.

Since the President did not intend to produce tapes for the Ervin Committee in any event, and since the Ervin Committee (unlike Mr. Cox) lost its case in court to gain access to them, it is hard to see how the Ervin Committee requests could have figured so prominently in Mr. Nixon's actions at the time.

So much for Mr. Nixon's capacity to twist beyond recognition the already complex matter of the tapes. And so much for his desire once and for all to clarify these matters with candor. Because the President has attached such great importance to this latest "once and for all" effort to set the record straight, we think it equally important to examine his words and the facts to which he alludes with great care. Therefore, we intend to return to the subject of Operation Candor. There is yet much to discuss.

[From the Washington Post, Nov. 23, 1973]

OPERATION DISNEY WORLD (III)

After President Nixon's meetings with the Republican governors in Memphis on Monday, Gov. Tom McCall of Oregon said Mr. Nixon "was very believable today—more believable than I've ever seen him before." White House deputy press secretary Gerald L. Warren, for his part, said Mr. Nixon hadn't told the governors anything he hadn't said before. There is only one way to reconcile these two comments and that is to assume that the governors are either so credulous or so hungry for reassurance that they can be inordinately cheered by a little special attention and a superficial plausibility—what White House aides used to call "stroking." For if Mr. Nixon's private sessions with the Republicans have been anything like his public performance before the Associated Press Managing Editors at Disney World last Saturday, he has been serving up generous portions of half-truths, illusions and outright distortions as substitutes for facts.

We have already discussed his penchant for rewriting the record of past Presidents and his confusing, not to say misleading, reconstruction of his role with respect to the Watergate investigation and the missing tapes. There is another pattern in his performance that takes the form of directing attention away from his own conduct and toward his opposition as some sort of justification or excuse for what he may have done. Scapegoating is, of course, a very human trait; but even children usually learn quite early that "everybody does it" and "he hit me first" seldom stand up as viable defenses—even when the finger-pointing has some validity.

Mr. Nixon compounds the weakness in this tactic by twisting the facts. Discussing the financing of the 1972 campaign, he said:

"Neither party was without fault . . . They raised $36 million and some of that, like some of ours, came from corporate sources and was illegal because the law had been changed, and apparently people didn't know it."

Now the fact is that no corporations have admitted or been charged with making illegal gifts to the McGovern campaign, while six have so far been convicted of making large unlawful donations to Mr. Nixon's re-election drive. Furthermore, the law barring such corporate gifts is hardly new; it was enacted in 1907.

There was a similar twist to Mr. Nixon's version of the milk deal—a story he was all too eager to advance. As he told it, the administration's sudden reversal on milk price supports in March 1971 came about not because of large contributions from the dairy lobby, but because "Congress put a gun to our head." Members of Congress comprising about one-fourth of each house, mostly Democrats and including Senator McGovern, were urging an increase to 85 or 90 per cent of parity. According to Mr. Nixon, the furor got so intense his "legislative leaders" said "there is no way" to avoid passage of a bill and the override of a veto.

There are two things that are unpersuasive about this. First, Democratic pressures don't explain some crucial concurrent events: the dairy lobby's contribution of $10,000 to the Republicans on March 22, 1971; a presidential meeting with spokesmen for three big dairy co-ops on March 23; another industry contribution of $25,000 on March 24; and the price support increase on March 25. Nor do Democratic pressures explain either the White House staff memo, alluding to a dairy industry commitment of $1 million or more, or any number of other curious facts about the size and the timing of the milk lobby's largesse. Moreover, if Senator McGovern and his colleagues did push Mr. Nixon to change his mind, that would be another historic first. Given the President's penchant for vetoes and extraordinary success in making them stick, this would have been the only time we can think of that the administration was cowed by a group of Democrats not numerous enough even to pass a bill—much less to override a veto.

Then there was the "everybody-does-it" approach to the sensitive matter of presidential taping of conversations. In the course of his tortuous remarks about the missing tapes, Mr. Nixon said in passing that the taping equipment used in President Johnson's term "was incidentally much better equipment . . . and I am not saying that critically." Well, so far as we can determine, the equipment President Johnson actually had was in no way comparable to the extensive, indiscriminate automatic voice-actuated system—"little Sony" or not—which President Nixon installed. Close associates of President Johnson can recall only recorders attached to two telephone consoles, one in the Oval Office and one in the presidential bedroom. Each box reportedly had two cylinders with a total recording time of 30 minutes, and the mechanism had to be activated each time by a toggle switch—and by the President's conscious decision that a particular conversation was sensitive enough to be worth recording on tape. According to his former aides, Mr. Johnson used this equipment, with its limited capabilities, primarily to obtain an exact record of conversations with the military and with foreign diplomats. If Mr. Nixon knows of any other bugging or telephone tapping operations by his predecessor—anything remotely like the all-embracing, voice-activated mechanisms Mr. Nixon himself employed—the facts should be disclosed. If not, the innuendo—"critical" or otherwise—should stop.

There were still more misleading comments, such as Mr. Nixon's description of his telephone conversation with John N. Mitchell on June 20, 1972. As Mr. Nixon tells it now, Mr. Mitchell "expressed chagrin to me that the organization over which he had control could have gotten out of hand in this way." However, on that same day, Mr. Mitchell was expressing no such chagrin publicly. On the contrary, in a formal public statement he was saying, "This committee did not authorize and does not condone the alleged actions of the five men apprehended Saturday morning. . . . The Committee for the Re-election of the President is not legally, morally or ethically accountable for actions taken without its knowledge and beyond the scope of its control."

In one sense, it hardly matters to what extent this constitutes a conscious, deliberate effort to distract and deceive, and to what extent Mr. Nixon has really come to believe that the record he's supposedly setting straight is the truth. Either way, such rhetorical evasions and distortions place an intolerable burden on the public and the government at a time of severe national stress. In short, when you take the trouble to examine with some care the contents of "Operation Candor," you discover that candor is precisely what is lacking in this latest effort by the President to present us, "once and for all," with the facts which could begin the long, slow process of restoring public confidence in Mr. Nixon's conduct of government.

[From the Washington Post, Nov. 26, 1973]

MR. NIXON'S THANKSGIVING DAY OFFERING

Did we dream it up over a heavy holiday weekend? Or did President Nixon's lawyers really go into court late last Wednesday, on the eve of Thanksgiving, and announce that there is an inexplicable, 18-minute missing passage in one of the more crucial Watergate tapes? It does not seem possible that this could happen when you consider everything else that has already happened in the matter of the President's tapes:

The formal subpoenas for nine recorded conversations, on behalf of the President's own Special Prosecutor; the losing Court fight on the constitutional principle of separation of powers; the attempted compromise in which, it was said, Sen. John Stennis of Mississippi had agreed to verify "every requested" tape; the subsequent firm commitment by the President to comply completely with the court's order to produce the tapes; the sudden revelation that two of the nine tapes were missing; and finally Mr. Nixon's solemn reassurance earlier last week to the Republican governors that at least the surviving seven tapes were intact and "audible" and that there were no more "bombs waiting in the wings" to shred what is left of public trust in the President.

And yet we didn't dream it—the evidence of the newspaper clippings is there. White House Special Counsel J. Fred Buzhardt did in fact tell Federal District Judge John Sirica on Wednesday that there had been this "phenomenon," as he put it—that part of the tape of a June 20, 1972 conversation between the President and his chief of staff, H. R. Haldeman, consisted of nothing more than an "audible tone." As a Thanksgiving Day offering, this would be quite sufficiently shattering. But in our view, the political reaction to it of the Republican governors who had come away from their Tuesday meeting with Nixon in an almost buoyant mood was more disturbing and demoralizing than the actual fact of this latest misadventure with the tapes. For what it tells us is that the President remains more than ever incapable—at least in the way he is now going about it—of recapturing the public confidence he so desperately needs if he is to conduct his office effectively over the next three years.

"He had probably the most representative and sympathetic audience of any group in the country and he just didn't square with us, level with us," said Gov. Dan Evans of Washington.

"I came out of there assured that we've bottomed out and now I'm not sure that we've bottomed out because this revelation does call for some further explanation," said Gov. Winfield Dunn of Tennessee.

Gov. Tom McCall of Oregon, who had said on Tuesday that he and his colleagues had been left with "a sense of relief that the President was leveling," said afterward that he was "sorely perplexed."

Now, these are not men, as far as we know, who wish for anything other than the President's political recovery. They want to believe that what he has been saying all through the long months of Watergate about his own innocence of wrong-doing—and about his ignorance of wrong-doing by others, as well—is true. So when their faith is shaken, right on the heels of the fresh sense of reassurance which has supposedly been generated as a result of the new "Operation Candor" we have been witnessing, it reinforces a point that we have been trying to make in this space for a good many months. The point is that it is not going to be enough for the President simply to protest his innocence—or to pretend that he can afford to leave the final verdict to the courts or to an impeachment process. And neither is it going to be enough for him to treat his current predicament as a public relations exercise—something that can be handled by a show of self-confidence or by a great flurry of activity to prove that he is capable of "governing." The point is that he must deal with the complex facts of the matter in a way which suggests that he has some respect and concern not only for the technical requirements of a court of law but for the practical requirements of public sensibilities. And that is precisely what he is not doing. Leaving aside his handling of the record of the various cases which come under the heading of Watergate—the cover-up, ITT, the milk deal, his personal finances, the "plumbers" and all the rest—he is demonstrably not doing this even with so seemingly straightforward a question as his compliance with a lawful order of a court to yield up his famous tapes intact.

Instead, what the President has done is to give us yet another indication that, one way or another, this requested evidence has been grossly mishandled. Whether or not the mishandling amounts to actual tampering, we would not profess to know. But even giving the President the best of it, it amounts to gross negligence, if not monumental incompetence, on a level which invites suspicions of the darkest sort at a time when the removal of suspicion ought to be the President's first imperative. What Mr. Nixon is playing fast and loose with, after all, is potential evidence in a criminal proceeding, evidence which he has been commanded by the courts to produce. This evidence was requested by his Special Prosecutor in July and while it is true that the President decided, quite within his rights, to oppose the subpoenas (and a consequent federal court order upholding their legality) on broad constitutional grounds, this course of action in no way relieved him of an obligation to preserve and produce the requested material in the event that the courts ruled against him—as indeed they did.

On the contrary, it seems to us he had an obligation from the outset to ascertain immediately whether he actually possessed what the Special Prosecutor was asking for—and what was being fought over in the courts. In fact, it now appears that he did not even take the trouble to discover until the end of September that two of the requested tapes were missing and he did not reveal this information until the end of October. Thereupon, he offered as a substitute for one of the missing tapes a dictabelt recording of his own account of the meeting in question—only to announce later that this too could not be found. Now he is telling us that a big chunk out of one of the seven remaining tapes is also missing, and while there is no way of telling exactly how important its loss may be, this is the way Special Prosecutor Archibald Cox, in his request to Judge Sirica, explained the possible relevance of the tape covering Mr. Nixon's conversation with Mr. Haldeman on June 20, 1972:

"There is every reason to infer that the meeting included discussion of the Watergate incident. The break-in had occurred on June 17—just three days earlier . . . Early on the morning of June 20, Haldeman, Ehrlichman, Mitchell, Dean and Attorney General Kleindienst met in the White House. This was their first opportunity for full discussion of how to handle the Watergate incident, and Ehrlichman has testified that Watergate was indeed the primary subject of the meeting . . . From there, Ehrlichman and then Haldeman went to see the President. The inference that they reported on Watergate and may well have received instructions, is almost irrestible. The inference is confirmed by Ehrlichman's public testimony that the discussion with respondent [the President] included both Watergate and government wiretapping . . . The contemporary evidence of that meeting should show the extent of the knowledge of the illegal activity by the participants or any effort to conceal the truth from the respondent."

With 18 minutes missing from the recording of this meeting, we will now never know whether it was as potentially significant as Mr. Cox believed it to be—just as we will never know what might have been on the two tapes that are missing in their entirety. What we do know, however, is that it has taken Mr. Nixon the better part of four months to reveal to us that evidentiary material lawfully demanded of him by a court of law either never existed or has somehow disappeared. Given the resources at the command of the President and the care with which other urgent presidential business is carried out, to ask us at this stage to believe that this happened by accident—or even out of nothing more than incompetence or indifference—is to put the faith of an abused American public to an excruciating test.

WHY ASK IF HE'S GUILTY?

(By William Raspberry)

Satisfactory answers are yet to come, but President Nixon finally has got the question right.

"People have got to know whether or not their President is a crook," he told the 400 Associated Press editors in Florida. Naturally he didn't proceed to confess to a bill of high crimes and misdemeanors, saying instead, "I am not a crook."

But he was right on target when he said it is in the people's interest to know whether there is a crook in the White House.

It is this target that ought to be kept in mind while weighing conflicting testimony regarding the Nixon administration scandals. The advantage of keeping it in mind is that it helps to make sense of a lot of things.

For instance, if the question is: Am I a crook?, the answer, whatever the facts may be, is: No, I'm not. If he is in fact innocent, he certainly is going to say that he's innocent. But if he's guilty as sin, he'll still say that he is innocent. The only way he could say otherwise would be in a speech of resignation. Or in a suicide note.

If you know what his answer must necessarily be, then it's pretty well pointless to ask him the question. It's equally pointless, of course, to have him ask it of himself as he has been doing for the past couple of weeks in an effort to restore his credibility which, like certain other items in the White House inventory, either is lost or never existed in the first place.

It is to his advantage, of course, to try to create the feeling that he is being newly candid without providing any new information. To some degree, the attempt seems to be succeeding. Some of the AP editors, for instance, came away from Disney World saying their doubts concerning the President's credibility had been relieved.

But in the long run, it's hard to see how it can work. If he has information that would serve to establish his innocence, it would have been released long before now. If he had tapes that proved John Dean a liar and John Mitchell an honest civil servant, those tapes would long since be public knowledge.

On the other hand, if the documents and the tapes tended to disprove Richard Nixon's version of things, he would certainly resist any move to make them available.

Which, of course, is precisely what he has been doing, and which is why so many Americans take for granted that he is lying. It's very difficult not to believe that something funny is going on. First you have the President's flat refusal to furnish the tapes and other documents; then, when he is finally ordered by the courts (after an unsuccessful appeal) to produce them, two of the most important recordings turn out not to exist. And while an incredulous public is still laughing about that, it turns out that another significant tape is just whistlin' Dixie for 18 minutes.

A third of the supposedly crucial tapes have been eliminated. One expects to see any day now a newspaper headline reading: "And Then There Were None."

And this is just the tapes. There were presidential attempts to limit the scope of the Watergate investigation long before the world knew there were tapes, and the attempts continue even while the tapes are disappearing.

The President's problem is to make believable a series of muddy, incomplete explanations of White House interference in the investigation. What makes it so difficult a problem is that a much simpler explanation makes more sense. It all falls into place if you assume that the President is guilty of most of the things he is suspected of, and that any major new disclosure would tend to point out his guilt. Assume that, and the business of blocking investigations and withholding documents and having tape recordings go sour or evaporate makes absolute sense.

But also, if you assume that, it's silly to demand that the President be candid with the people. A call for candor from a guilty man is really nothing more than a demand that he confess.

I'm not saying that the President is unequivocally guilty, although both the objective evidence and the evidence of his own behavior suggest that he is. What I am saying is that he is the wrong person to ask whether he is guilty.

Instead of debating presidential "candor," which apparently consists of seeming very earnest while divulging no information, we ought to be paying more attention to the other thing he said:

"People have got to know whether or not their President is a crook."

There are ways of finding out.

[From the Washington Star-News, Nov. 25, 1973]

WHAT MAKES NIXON TICK?—ONE PSYCHIATRIST'S ANALYSIS

(By Dr. Eli S. Chesen)

(This article is excerpted from "President Nixon's Psychiatric Profile," a book written by Eli S. Chesen, M.D., and just published by Peter H. Wyden.

(Chesen, a 29-year-old psychiatrist, has not had Nixon as a patient, but gathered what he calls a "surplus" of evidence and of insights from observing him through the media, presidential writings, etc. The evidence actually exceeded that which a psychiatrist might have available in treating some private patients, he said.

(Chesen describes his analysis as politically neutral. He describes himself as a moderate—one who once voted for Goldwater, and who has voted for and against Nixon.

(He also said the study reflects no conclusion by him on whether these psychological characteristics make a person suitable or unsuitable for the presidency: that is up to the electorate.

(Chesen, educated at the University of Nebraska, is completing his residency in Phoenix, Ariz. In January he will enter the Air Force, as a major, for two years of active duty as chief of mental health at Nellis Air Force Base, Nev.)

Paradoxical as it seems, frequently more can be learned about someone's inner workings when the examiner is an interested spectator or observer rather than a prying interrogator. Much can be learned about someone just by looking at him, listening to him, looking at his accomplishments, and reading his writings.

The federal government has used this method. It has been the habit of the government, through some of its agencies, to compile secret psychiatric profiles of its foreign enemies and, at times (the Ellsberg affair) of its own citizenry. During World War II, psychoanalytic studies of Adolf Hitler were carried out, in absentia, by our government as well as others.

The profile presented in this article is not secret, and for the most part was compiled in my own living room as I watched my own television set, using methods that are completely open to question and scrutiny. Public necessity dictates that this be done. It is imperative that we gain insight into the minds that have not only been governing us but investigating some of us.

We can know much more than we do about Richard Nixon and his fan club. We need only look closely at the subtle but revealing aspects of these men to discover what makes them run.

One early surmise that I can offer is that they run rapidly and powerfully, like a well-tuned Ferrari, but the fuel is not high-octane gasoline—it is Anxiety. More than any other factor, the neurotic need, shared by many people, to deny his own human limitations has led to Richard Nixon's successes as well as to his failures. It has perverted the political process and given us the Watergate phenomenon.

Richard Nixon made it all possible and even inevitable by serving as a rigid mold for his followers. He is a victim of his own inflexible, predictable personality. He takes himself and the intrinsic office of the presidency too seriously—thereby showing, among other things, that he lacks one of the redeeming attributes of his one-time mentor, Dwight D. Eisenhower.

Eisenhower knew that he was only part of Nixon, an extension of himself. It is no wonder, then, that many of his closest associates have seen themselves as mere appendages of the President, even at the expense of their own personal integrity.

NIXON VERSUS MILHOUS

An early conflict that has plagued Nixon from childhood through his political life is that of "Milhous versus Nixon." I refer to the dichotomy of a powerful, dominating, yet pacifist mother who was experienced by Richard along with an argumentative, punitive, hot-tempered, extroverted father.

Hannah Nixon was a gentle, peace-loving woman even though she dominated the entire family, including her husband. Frank Nixon, though dominated by his wife, was a political reactionary, in the sense that he reacted dramatically to what he felt were political injustices; he was a fighter.

It would be just about impossible for Nixon to live up to both of these standards simultaneously—they cannot coexist. This is a partial explanation for Nixon's puzzling patterns of ambivalence.

By repressing the Milhous identification, he is able to function smoothly as a war hawk. At other times he is a conscious Milhous, and shows it by way of his diplomatic missions designed as authentic strategy to achieve peace, such as his overtures to the long-hated Russian and Chinese Communists. In this parent-built paradox lies one of Nixon's greatest strengths and apparent flexibilities.

Because Nixon's primary identifications seem to be with his mother, he is able, most of the time, to keep the "Frank Nixon elements" repressed. Yet these elements continue to seek the light of day and at times come to the surface in the form of surprising explosions. These explosions produce the Nixon who "is never to be argued with", the Nixon who refuses to give in to the face of reality; the Nixon who on a few occasions gives out with gut reactions he is to regret and back down from later.

SELF-CONTROL

But overall Richard Nixon's most highly organized and finely honed weapon against his underlying insecurities is his ability to maintain strenuous self-control.

In Nixon's conscious and unconscious strivings to isolate his inner self from observation, he unknowingly is most revealing.

Opening statements such as "Let me be perfectly clear," "Let me be quite candid," "Let me speak with candor," and "Let me make this point crystal clear" are long-familiar trademarks of the Nixon rhetoric. On the surface, such statements appear to be reasonable ways to initiate points; but the excessive usage of them indicates something more. A closer analysis permits at least two conclusions.

At the risk of appearing politically naive, I will assume here that the public expects some emotional straightforwardness from a public official at a press conference. Everyone grants that no one can be totally honest all of the time; nevertheless, we do expect some candor in public colloquy.

Within that context such utterances as "Let me be quite candid" become unnecessary redundancies. Yet while such assertions are really not required by the public, they are obligatory for Nixon.

It is quite possible that during a press conference Nixon sees himself as candid even when he is not; the reality is acknowledged only unconsciously. Because of the constant presence of these unconscious forces, Nixon tends to use such expressions automatically and liberally. He needs to use these expressions to convince himself of "truths" that he is uncertain about.

As a psychiatrist, I find that when I take a history from a patient who employs excessive energy to defend his own credibility as a historian, rather than just being a historian, he is actually being less than candid. For example, during the course of an appointment John tells me that what he is about to say is "absolutely true." At this point I ask myself (and, if appropriate, I may ask John), "Why do you have to assure me of your veracity when I tend to assume it?" I find myself asking the same question about Richard Nixon.

GESTURES

Nixon's typical gestures offer another clue to his mysterious personality. The famous Nixonian arm movements resemble those of a robot. He moves like a cumbersome unitized structure. This appears to be the result of high muscle tone, which in turn reflects tension and control.

His facial expressions do not come across with any degree of warmth or naturalness. The familiar pensive look is interrupted occasionally by a rapid, transient smile which switches on and off like a neon sign. Even during the momentary smile one gets the glimmer of an ambivalent clown face subtly frowning through a painted smile. The sound of the infrequent laugh is forced and limited.

Why must this man so consistently display such an exaggerated measure of composure? Being in control is really an effort to ward off feelings of self-uncertainty. Unconsciously, Nixon is likely distressed by such feelings of being less than perfect. Despite the presence of a surplus of unconscious insecurities, one can successfully deny the existence of those insecurities to oneself if one can achieve absolute control over oneself.

Using these psychological mechanisms, Nixon has theoretically placed himself in a position of incredible power: He can anticipate and prepare for anything that might happen in his life! While many people (especially successful achievers) operate to varying degrees on the same principle, there is evidence that Nixon has followed it as a psychological modus operandi, a law of life.

DETAILS, DETAILS

Nixon has a "passion for facts." He likewise is passionate in his need to "take advantage of a situation," to have it under his total control. Our subject has a very real fear of leaving out any detail for fear he might overlook something important. An unfortunate aspect of this fear is that it can interfere with judgment: If nothing is considered unimportant and everything is important, the mind can get bogged down with trivia.

Nixon illustrates this vividly in his description (in Six Crises) of the fateful 1960 campaign: "At 4:30 Sunday afternoon, we took off for Alaska, a trip which was to mark the fulfillment of the pledge, made in my acceptance speech, to carry the campaign into every one of the fifty states. Not even our most optimistic supporters thought we had a chance to carry Alaska."

This accounting is revealing. First we get a sampling of Nixon's obsession with detail in his writing style: "4:30 Sunday afternoon"; the book is papered with such unneeded minutiae. More important, we see Nixon's obsession with detail on a much grander scale: He must campaign in every state, leave no stone unturned.

Politically such an all-inclusive crusade could not be justified. It was general knowledge that the election was pivoting on key precincts in Chicago and other large cities. The need to mount a pointless trip to Democratic Alaska arose from neurotic necessity, not political logic.

This is all part of Nixon's tendency toward overkill when he prepares to meet situations. He must do this to convince himself *unconsciously* that he is invulnerable, that he has done everything possible, covered every detail. In responding to those *unconscious* drives, he unfortunately short-changes conscious judgments.

Nixon's paramount dread is that he might overlook something and therefore commit an error. Mistakes are intolerable, a point that Nixon beats to death in his book, "Six Crises": The point of greatest danger is not during the battle itself, but in the period immediately after . . . Then, completely exhausted and drained emotionally, he must watch his decisions carefully. Then there is an increased possibility of error because he may lack the necessary cushion of emotional and mental reserve which is essential for good judgment."

This not only demonstrates an obsession to take up an emotional guard. It also testifies to the tremendous energy that is required to keep control. It is no accident that Nixon's crises go on and on. He tends to view life as a series of battles. Though he is always able to find an external enemy, more significant war is being waged on Nixon's internal battlefield.

GRANDEUR

Nixon's unconscious insecurities have contributed to much of his admirable success. Having achieved almost total control over himself, he advanced to the presidency of the United States, thereby assuming the most significant possible control of his environment. In command of himself and his government, he is able to fend off distressful unconscious feelings of helplessness and vulnerability that are ever threatening from within. As for Nixon's compulsive drive to accumulate all possible knowledge including details, while it is obviously impossible for anyone to master all knowledge, Nixon has an inclination to try. It gives him a subjective feeling of comfort, of preparedness. These strivings give rise to illusory feelings of omniscience. In turn, this pansophical illusion presumes uninhibited abilities or omnipotence.

By assuming this stance Nixon can see himself as superhuman and therefore not endangered by the usual threats that ordinary humans must face. In this unconscious milieu of heightened self-importance, he proves to himself and to the world that *he* *need not operate by the rules.* The comforting illusion of grandeur tends to extend across all aspects of Nixon's functioning.

The mechanisms that turn insecurity into grandeur are not in themselves pathological. I do not mean to imply that Nixon is afflicted by "delusions of grandeur," as are patients in highly pathological mental states who have a fixed false belief. (Delusions of grandeur are seen in psychotic individuals who, for example, believe they are someone other than themselves. A most common example of this is the psychotic person who believes that he is Jesus Christ.)

This is not the case of illusional thinking. The more subtle mechanisms of evolving grandeur that I see in Nixon are almost universal. We all need to defend ourselves against anxiety, and this is one very effective way it is often done, unconsciously and consciously. In Nixon's case, I believe he looks upon himself as being more important and almighty than he is in reality. Nixon's apparent illusions of himself certainly suggest at least the presence of a personality problem.

I discuss Nixon's grandiosity because it is, first of all, a very consistent component of his personality. Second, it is one of several important Nixon characteristics that profoundly influenced the evolution of Watergate. Third, it is important to point out that, while the outgrowth of grandiosity is comforting and not in itself pathological, it does have untoward side effects.

Nixon's grandiosity is also illustrated by what is now being called his "imperial life style."

While no recent American President has been lacking in luxury, Nixon extended the personal perquisites of the nation's chief executive to an unprecedented degree. In the process he exhibited an intense desire to acquire not only extreme privacy for working and living but to create almost surrealistic buffers to place between himself and the vast mass of mere mortals.

When it comes to the President's personal working environment, *Fortune* magazine finds a flight from humanity in these tacts among many others: "Nixon's penchant for solitude has resulted in an unparalleled proliferation" of office suites for his personal use—nine at latest count!

Fortune concluded: "The attitude of the man at the top toward his perquisites is generally a reflection of his conception of his role and power. The deliberate expansion of presidential benefits tends to confirm and reinforce a monarchial vision of the office."

WATERGATE

Given critical amounts of sunlight, moisture, gravity, chemical elements, temperature, and time, the evolution of life becomes a certainty. Given our constitutional form of government and the personality dynamics of Richard Milhous Nixon, the evolution of the Watergate operation was equally inevitable.

The "Watergate operation" refers to the entire panorama of unusual and illegal activity emanating and/or controlled from the White House by Nixon and his staff. By analyzing the Watergate scandal, a great deal is learned about Richard Nixon's mental processes. Regardless of his detailed involvement or noninvolvement in the operation, his handling of this albatross has at times allowed the observer a closer look than could have been achieved at any other time. And by examining Nixon's psychological make-up, it becomes apparent why Watergate was a process of natural evolution—inevitable.

In the summer of 1971 Richard Nixon called for the formation of a special-investigations unit which has come to be known as "the Plumbers," to plug leaks of confidential White House information to the press, and to carry out other delicate responsibilities.

Nixon's very edict to form the Plumbers unit was an extension of his own need for omniscience. This takes on special personal psychological significance for Nixon when one considers that other established federal agencies exist which function in intelligence gathering—notably the Central Intelligence Agency, the Federal Bureau of Investigation, the Internal Revenue Service, and the National Security Agency.

Not only does Nixon need to have an inordinate amount and variety of private intelligence, he also requires direct control over the intelligence gathering. In reality, the Plumbers were not established because of any incompetence on the part of existing agencies. They were established because, unlike the FBI or CIA, Nixon could maintain total direct and indirect control of their operations.

The tiny elite group could have been better named "The Agency for the Maintenance of Personal Omniscience." It gathered information because intelligence-gathering decreases anxiety in the face of the otherwise unknown and puts Nixon in a unique position of power.

The taping of newsmen's telephones satisfies Nixon's appetite for omniscience in more than one way. To Nixon, the press, like the Communists, are looked upon with fear and assigned to the status of enemies. This attitude is based on Nixon's need to "shut the world out." The job of the newsman conflicts with his need. The reporter's job is to gather his own kind of intelligence. When this involves Nixon's activities, the presidential shell of anonymity is painfully threatened.

I think Nixon's fear of the press is constant but fluctuating. One index of his relative feelings of insecurity before the press might be his avoidance of using a podium during press conferences, as has been suggested by journalists. With the evolution of Watergate, there was a reappearance of the podium. Anyone who has done any public speaking is aware of the added feeling of security that a podium provides. While Nixon used to pride himself on standing directly before his audiences, he began using a podium again in the wake of his administration scandals.

OVERKILL

Again, I am obviously in no position to know what, if any, specific degree of guilt is attributable to Nixon personally. However, a break-in into the opposition headquarters reflects a general Nixon theme.

In this case the enemy was the Democratic party. If an effort to become all-knowing about Democratic activity could be successful, then enemy power would be defused. The question of Nixon's degree of direct involvement becomes academic in this psychological study.

A theme of overkill applies in the Ellsberg case, too: Everything must be done (regardless of legalities) to insure the "right" outcome. "Overkill" is a theme woven throughout the fabric of Watergate and the life of Richard Nixon. Its aim is to insure absolute control over the future whenever possible and at all costs.

As the Watergate scandal blossomed, it became possible to see Nixon's complex series of external psychological defense mechanisms first boldly exposed and then stripped away. A classic example is that of the famous White House tapes.

Among the most startling testimony before the Senate Select Committee was the soberly spoken revelation of a former White House functionary, Alexander P. Butterfield. A onetime aide to H. R. Haldeman, Butterfield straightforwardly described how Nixon had directed the Secret Service to install voice-recording equipment in Nixon's Oval Office, his Executive Office Building office, and the Cabinet room. (After Butterfield's disclosure, Nixon said he ordered the equipment's removal.)

This reiterates and adds credibility to much of my theoretical foundation of Nixon's psychiatric profile.

First we must examine Nixon's own professed motives for establishing the elaborate system of eavesdropping. He and his aides claimed that these recording devices were to preserve a running account of all oral communications for the sake of history. Even if we were to accept this at face value, Nixon is confirming personality characteristics that I have previously discussed. This is especially true since Nixon has an excellent memory that surely will serve him well in writing his own memoirs. But he is again preoccupied with all detail and shows a fear of leaving something out.

The open-ended, almost infinite gathering and mechanical memorizing of conversations represents the pinnacle of omniscience.

A "submarine effect" also comes into play with the Nixon tapes. Recalling this integral mechanism of his personality, we can see what was probably Nixon's primary motivation in setting up his office as a recording studio. Imagine Nixon as a submerged submarine captain whose periscope makes him aware of all that is going on about him, including all conversations.

Personally, the submarine captain (Nixon) is anonymous with respect to the tape recorder. I mean that he knows it is there: consequently, by controlling his candor in the recorder's presence, he enjoys selected anonymity.

Being aware of this unusual setup, Nixon gained a sense of power over anyone with whom he spoke in his office. Since the purpose of the recorder was to record history—and since Nixon's is to control history—Nixon was able to speak selectively with his victimized guests and edit himself so as to place himself in a favorable light vis-a-vis the microphone.

THE "SUBMARINE"

Guided by Nixon's knowledge of the recorder and his victim's ignorance of the machine, Nixon alone could always show his best side to the microphone. Like a periscope, the microphone bacame a one-way valve that put only Nixon's unsuspecting conversational partners in a bad light.

It is most important for Nixon to see himself in a good light, which the tapes certainly enabled him to do. This is the most dramatic example I can think of to demonstrate the use of omniscience by Nixon to place himself in a relative position of power over others.

A SIGN OF THE TIMES

Mr. BIDEN. Mr. President, we live in an exciting time. With the ever increasing pace of life, it remains extremely difficult to keep abreast of the latest changes. It is both exhausting and exciting. Just recently, I learned that the State of Delaware now has a woman football referee. Quoting from the Wilmington Morning News on November 16, 1973, itself:

> Dale Levine isn't your average woman and she doesn't even come close to being your run-of-the-mill football referee—but she's trying to get sanctioned in the latter department.

Mr. President, I commend Ms. Levine's efforts and wish her continuing good luck as referee. I ask unanimous consent that the full text of the Wilmington Morning News article be printed in the RECORD in my remarks.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

MS. LEVINE—FOOTBALL UMPIRE

Dale Levine isn't your average woman and she doesn't even come close to being your run-of-the-mill football referee—but she's trying to get sanctioned in the latter department.

On Monday night, the 26-year-old Claymonter will go back to school to take her final exam in football officiating. If she passes the test given by the National Federation of State High School Athletic Associations, Miss Levine will become the first woman in the state sanctioned to officiate at Delaware varsity high school football games.

Miss Levine, who is a sports columnist for the Evening Journal, says she originally got into officiating to give her a different slant on the games. She didn't get "the (officiating) bug" until later.

Since the school year started, she has been a rookie official in junior varsity and peewee league games. She needs the National Federation sanction, though, to move up to varsity games.

Eventually, Miss Levine would like to take the National Collegiate Athletic Association officials test. This would allow her to referee at games involving high schools which play NCAA rules, such as members of the Independent Conference, and at college games.

To date, she has refereed games in Delaware, southern Pennsylvania and Maryland.

So far, she hasn't had any major beefs over her calls. She points out that football officiating is about 95 per cent judgment and five per cent rules.

"Most coaches realize I'm a rookie and have been more than willing to cooperate," she says.

Has she had any problems with the players?

Not really. At one game, however, things got a little suspicious.

The game two weeks ago was between Glasgow High School's junior varsity and Middletown High School's junior varsity.

As Miss Levine tells it, Middletown doesn't have a real, organized junior varsity. As a result most of the plays were sweeps.

All in her direction.

FINANCIAL STATEMENTS OF THE ALEUT CORPORATION FOR THE YEAR ENDING JUNE 30, 1973

Mr. JACKSON. Mr. President, in accordance with section 7(o) of the Alaska Native Claims Settlement Act, the Aleut Corporation has furnished to the Interior and Insular Affairs Committee their audited financial statements for the year ending June 30, 1973.

Mr. President, I would like to bring these to the attention of the Members of the Senate, so I am submitting the statements and ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COOPERS & LYBRAND,
ANCHORAGE, ALASKA,
October 16, 1973.

THE BOARD OF DIRECTORS,
The Aleut Corporation,
Anchorage, Alaska.

We have examined the accompanying preoperating accountability statement of The Aleut Corporation (a corporation in the development stage) as of June 30, 1973 and the related statement of preoperating financial activities for the period June 21, 1972 (date of incorporation) to June 30, 1973. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we consider necessary in the circumstances.

The Corporation is in the development stage and has no operating history. Recovery of preoperating costs (Note 1) through operations is dependent upon future events, the outcome of which cannot be determined at this stage of the Corporation's development, and the accompanying financial statements have been prepared to reflect these circumstances. Because of this, the financial statements do not present financial position or results of operations.

In our opinion, the aforementioned financial statements present fairly the cost of the assets, preoperating activities, and the liabilities of The Aleut Corporation as of June 30, 1973 and the source and use of its financial resources for the period June 21, 1972 (date of incorporation) to June 30, 1973 in conformity with generally accepted accounting principles.

COOPERS & LYBRAND.

THE ALEUT CORPORATION

(A Corporation in the Development Stage)

PREOPERATING ACCOUNTABILITY STATEMENT—JUNE 30, 1973

Cash	$19,786
Receivables:	
Village corporations	15,426
The Aleut League, an affiliated nonprofit corporation	51,705
Note from Alaska Federation of Natives, Inc., bearing interest at 6 percent	22,932
Accrued interest	1,574
Other	3,938
Total	95,575
Federal National Mortgage Association debentures, 7.25 percent, at cost which approximates market	130,000
Prepaid expenses	9,193
Notes receivable from employees, at 8 percent interest	13,631
Office furniture and equipment and automobile at cost, less accumulated depreciation of $1,633 (Note 1)	17,591
Preoperating costs (Note 1)	245,245
Total Assets	531,021
Less liabilities:	
Accounts payable	16,516
Accrued payroll and payroll taxes	14,505
Total Liabilities	31,021
Contributed capital, advanced by Alaska Native Fund (Notes 2 and 3)	500,000

STATEMENT OF PREOPERATING FINANCIAL ACTIVITIES

For the period June 21, 1972 (date of incorporation) to June 30, 1973

Source of financial resources:	
Contributed capital advanced by Alaska Native Fund (Note 2)	$500,000
Use of financial resources:	
Accounts and notes receivable	95,575
Investments	130,000
Prepaid expenses	9,193
Notes receivable—employees	13,631
Furniture, equipment and automobile	19,224
Preoperating costs (Note 1)	245,245
Less depreciation provision which did not require financial resources this period	1,633
	511,235
Excess of uses over sources represented by the excess of accounts payable and accrued liabilities over cash	$11,235

NOTES TO FINANCIAL STATEMENTS

1. Basis of Financial Statements and Significant Accounting Policies:

The Aleut Corporation was incorporated June 21, 1972 as a regional native corporation pursuant to the Alaska Native Claims Settlement Act. The Corporation will assist in administering the Aleut region's share of a) 40 million acres of land and b) cash distributions of $962,500,000, provided by the Act. The region's share (estimated to be 3.5 percent) cannot be determined until shareholder enrollment is completed (Note 4). The Corporation will receive title to the subsurface estate of the land selected in the Aleut region. Seventy percent of all revenues received from timber resources and subsurface rights received by each of the regional corporations shall be divided annually among all regional corporations based on enrollment of eligible Alaska natives.

The Corporation is affiliated with The Aleut League, a nonprofit corporation.

The accompanying financial statements give recognition to the fact that the Corporation is in the development stage and has no operating history. All costs incurred, reduced by incidental investment revenues, have been accumulated because they were incurred in the expectation that they would benefit future periods. It is not practicable, at the present stage of the Corporation's activities, to determine the extent of recoverability of the accumulated preoperating costs. Recoverability is dependent on future events, including the ability of the company to attain the goals of its development program, and to achieve a satisfactory level of operations. The outcome of these matters cannot be determined at this time.

Depreciation of furniture, equipment and automobile is calculated by the straight-line method over estimated useful lives of 3 to 10 years.

1. Basis of Financial Statements and Significant Accounting Policies, Continued:

Costs and expenses incurred by the Corporation from June 21, 1972 (date of incorporation) to June 30, 1973, reduced by interest income, are deferred as preoperating costs. These costs will be amortized over a period of years to be determined when the Corporation commences operations.

Preoperating costs deferred at June 30, 1973 consist of the following:

Salaries	$69,184
Directors' fees and per diem	16,941
Directors and other meeting expenses	25,781
Travel expenses	38,128
Legal and consulting fees	69,431
Office and equipment rent	9,944
Payroll taxes	2,474
Depreciation	1,633
Insurance	2,069
Employee relocation expense	9,997
Telephone and telegraph	3,502
Office supplies and expense	5,407
Pension plan expense (Note 4)	7,913
Total	$262,404
Less interest income	−17,159
Total	$245,245

Funds received under provisions of the Alaska Native Claims Settlement Act, from the Alaska Native Fund, are not subject to Federal, State or local income taxes. Real property interests received pursuant to the Act are not subject to income taxes, however, income derived from the real property interests and other operations of the Corporation are subject to Federal, State and local income tax regulations.

1. Basis of Financial Statements and Significant Accounting Policies, Continued:

Real property interests received under the Act are exempt from ad valorem taxes for a period of 20 years or until developed.

Investment tax credits will be reflected as a reduction of income tax provisions in the year utilized.

2. Alaska Native Fund Advance:

This is an advance from the Alaska Native Fund of the Corporation's share of cash to be received pursuant to the Alaska Native Claims Settlement Act. This advance is not subject to the percentage distributions described below. However, it will be deducted from the Corporation's portion of future funds payable by the Alaska Native Fund. The Corporation's share of cash distributions constitute contributed capital to the Corporation. All amounts received from the Alaska Native Fund, revenues from timber resources and subsurface rights and all other net income shall be distributed as follows:

(1) 10% to individual shareholders (for five years from December 18, 1971)

(2) 45% to Village Corporations and Class B shareholders (for five years from December 18, 1971 and 50% thereafter)

(3) Balance to be retained by the Corporation.

3. Common Stock:

One hundred shares of common stock is to be issued to each qualified shareholder when shareholder enrollment pursuant to the Act is complete (anticipated to be December 18, 1973), as follows:

Class A shares (no par value, 1,000,000 shares authorized, none issued) to Alaska natives enrolled pursuant to the Act in the Aleut region and who are stockholders in one of the village corporations in the Aleut region.

Class B shares (no par value, 1,000,000 shares authorized, none issued) to Alaska natives enrolled pursuant to the Act in the Aleut region but who are not stockholders in one of the village corporations in the Aleut region.

For a period of 20 years from December 18, 1971 the stock dividends paid or other stock rights are restricted, pursuant to the Act, and the stock may not be sold, pledged, assigned or otherwise alienated except in certain circumstances by court decree or by death. For the 20 year period the stock shall carry voting rights only if the holder thereof is an eligible Alaska native.

4. Pension Plan:

The Corporation has established a noncontributory pension plan covering one employee, in accordance with an obligation under an employment contract, and funds the cost currently under an annuity contract. Such expense for the current year was $7,913.

5. Subsequent Event:

In September, 1973 the Corporation received a Native Loan of $250,000 from the State of Alaska at 5.9 percent interest, which is not collateralized and is due December 1974.

METHODS TO COMBAT THE ENERGY CRISIS

Mr. HUDDLESTON. Mr. President, last night President Nixon announced a new six-point program to combat the energy crisis. This program includes: A ban on Sunday gasoline sales; rationing of heating oils; mandatory 50 and 55 mile-per-hour speed limits for cars and trucks respectively; restrictions on outdoor lighting; a reduction of scheduled airline flights to reduce jet fuel consumption; and a diversion of some petroleum that would normally be used for gas into the production of home heating oil to meet winter needs.

Like so much of what the administration has done in the energy field, some of these measures are rather late in coming. Had we taken strong, effective conservation measures months ago we would not be in such a crunch today. And but for the leadership of many Members of Congress—particularly Senator HENRY M. JACKSON—the President would not be in a position to take the steps he has taken. But all of that is past, and we must deal with the situation today.

I generally support the actions announced last night by the President, and I believe the American people will also give their support and make what sacrifices are necessary. We have perhaps been energy gluttons in the past and now we will have to tighten our belts. We are now paying for our past excesses—and our shortsightedness.

But I think it is also fair to warn the American people that the worst may yet be ahead. We may well be required to institute even tougher, more restrictive measures in the months ahead. We have only to keep a few facts in mind:

The President himself said the measures he announced would relieve only about 10 percent of an anticipated 17 percent shortfall in energy.

Studies by a congressional committee and the Library of Congress project the shortfall will be far greater than 17 percent—perhaps as much as 35 percent.

The situation in the Middle East, especially as negotiations approach, remains as volatile as ever.

So the very real possibility exists that much tougher measures will be required. And should that occur, I hope the administration will not go the route of putting a large surtax on gasoline sales. Far better methods are available.

I was very pleased that the administration announced that it had tentatively rejected that proposition. However, should the crunch get worse I fear that some within the administration may again push the gas tax as a method of reducing gasoline consumption.

The gasoline tax is unacceptable because such a tax would hurt the very people least able to afford it. Lower income people already have less discretionary use of gasoline than do other segments of the population. Increasing the tax on gasoline would certainly limit what discretion they now have.

As for middle-income Americans, they are already overtaxed and hard hit by the high cost of necessities. Another tax would merely take money out of their pockets and severely inhibit their ability to make ends meet.

In addition, a gas tax would take billions of dollars out of the economy and perhaps contribute to an economic recession which many economists are already saying is inevitable. A penny-a-gallon surtax would yield roughly $1 billion in Federal revenues. A 30-cent surtax would bring in almost $30 billion.

Projected real growth of the economy was anticipated to be about 2.5 percent before the energy crisis. Now economists see a no-growth year in 1974 or a 1- to 2-percent decline with resultant high unemployment. Indeed, the administration's game plan of an economic "soft landing" may end up being a big thud.

But with these facts in mind, it would be foolish to take another $10, $20, or $30 billion out of circulation through a gas tax. To do so would turn the possibility of a recession into a reality—in a hurry.

I believe other methods—including periodic restrictions on driving—would be far better than a gas tax increase. And while I certainly hope we will not have to go to rationing, if worse comes to worse that would be preferable to a gas tax hike.

Mr. President, in recent days two of my State's daily newspapers—the Lexington Herald and the Paducah Sun-Democrat—have editorially opposed higher gasoline taxes for many of the same reasons I have already stated.

As the Herald stated:

> However unpleasant a prospect of gasoline rationing may be, it offers room at least for an equal sharing of hardship, a cutdown of consumption at all levels of motorist society. That is something a new tax cannot do.

The Sun-Democrat said:

> The proposed tax increase should be buried in a "graveyard for stupid legislative proposals."

I agree. The paper goes on to point out that:

> The scheme would make more gasoline available to the rich at the expense of the poor.

I ask unanimous consent that these two editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Lexington (Ky.) Herald, Nov. 14, 1973]

RATIONING BETTER THAN TAX INCREASE

A move to clamp another tax bite on motor vehicle fuel is a tempting option to Nixon administration officials dealing with the oil shortage and the question of how to cut gasoline consumption.

The officials should be given credit for trying, but they should be warned that they are on the wrong track.

They believe their proposed tax, if enacted by Congress, would do what other price increases do: reduce consumption. They see the added revenue from a resulting price increase going to the public treasury, and not to an industry that by recent accounts appears to be doing very well on its own.

They see additional advantage: A new gasoline tax of anywhere from 5 to 40 cents a gallon could be collected without much added effort. Machinery for collecting a federal tax of 4 cents a gallon has operated for many years.

What Nixon administration officials should see is that a new gasoline tax would force low-income people to do most of the cutting back in consumption. Also, it would run contrary to the idea that taxation should be employed to meet expenses of government, not to punish the citizenry.

Everything points to a continuing rise in gasoline prices because of international market conditions working to the detriment of the American consumer. Already he pays from 9 to 12.5 cents in state and federal tax levies on every gallon of gasoline he uses. The last thing he needs now is more tax, which would force prices even higher.

However unpleasant a prospect of gasoline rationing may be, it offers room at least for an equal sharing of hardship, a cutdown of consumption at all levels of motorist society. That is something a new tax cannot do.

[From the Paducah (Ky.) Sun-Democrat, Nov. 15, 1973]

PROPOSAL DESERVES A "STUPIDITY" PRIZE

If a prize is offered for the most idiotic suggestion made to relieve the gasoline shortage, we nominate for the award the proposal to increase by a "large" amount the federal tax on each gallon sold.

So far, the authors of this proposal are identified only as "top officials of the Nixon administration." Even the mention of the President's name in connection with the suggestion is enough to step up the tempo of impeachment talk throughout the country.

The idea of jacking up the price of gasoline so high the average motorist could not afford to buy it is so blatantly unfair it's a wonder that even the "top officials" couldn't see its unfairness. What the scheme would do is make more gasoline available to the rich at the expense of the poor. Some democracy!

Maybe we do the authors of the proposal an injustice. Maybe they did recognize its unfairness. Why else would they propose that each gasoline consumer be allowed to deduct as an income tax credit the extra amount of gasoline tax levied to hold down gasoline consumption? Perhaps they never even considered the fact that the wealthy car owner—the individual who could afford to buy all the gasoline he needed at the higher price—would also receive the largest income tax credit at the end of the year. Perhaps—but we doubt it.

If there is a graveyard for stupid legislative proposals in Washington, we suggest that this suggestion be buried in it immediately. If it wins a stupidity prize, the award can be buried alongside without exhuming the putrid body.

WATERGATE AND AMERICAN FOREIGN POLICY

Mr. BIDEN. Mr. President, a week ago, on November 19, my colleague from Idaho, Senator Church, spoke at the University of Delaware in Newark on Watergate and its effects on American foreign policy.

In his address, the Senator suggested that the time has come for America to consider a constitutional amendment to provide for removal of the President as a result of "no confidence." It is a thought-provoking suggestion, and one which I commend to the Senate for its consideration.

I ask unanimous consent, Mr. President, that the text of Senator Church's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

WATERGATE AND THE AMERICAN FOREIGN POLICY

Outrage and indignation have largely served their purpose in the Watergate affair. This is not to suggest that the guilty be let off or that judicial proceedings be suspended. On the contrary, they must be seen through as the law requires, even as to the President, himself. It is rather my purpose to suggest that the issue now belongs in the courts, and in the House Judiciary Committee's inquiry into possible grounds for impeachment. The Ervin hearings have served a necessary and cathartic purpose, but that purpose seems substantially fulfilled. With gratitude for that accomplishment, we can now most usefully turn our attention to the roots of the corruption called "Watergate," to its causes and antecedents, not so as to judge and condemn, but for the more important purpose of gaining insight and perspective on which to base corrective measures.

This view, I suspect, may not be universally shared. It is reported, for example, that many Americans feel that Mr. Agnew was let off too lightly, and perhaps he was. Even more inflammatory was the President's ill-considered action in firing Mr. Cox and provoking the resignation of Attorney General Richardson, and in his tergiversations with the tapes. Nonetheless, it seems to me most important that we distinguish between punitive and corrective justice, not for the sake of the transgressors, but to spare the country unnecessary bitterness and division. Allowing then that judicial and Congressional processes may still require drastic action—perhaps even impeachment—I suggest that we await the results of those processes before taking further action in the political arena.

There are two reasons for restraint: One is the need for getting on with the country's business—a need which is underlined by the delicate and still dangerous situation in the Middle East. The other is the danger of aggressive self-righteousness, of imitating the attitudes if not exactly the methods of those whom we would bring to justice.

I. FIGHTING FIRE WITH FIRE

Imitating the methods of opponents is what got us into trouble in the first place. "Is it possible," Dr. Kissinger asked not long ago, speaking of Watergate, "to insulate foreign policy from the general difficulties we are facing as a nation?" "I don't know the answer," he added, "but that is the question that torments me." It is indeed a significant question, and I shall comment upon it. But there is a prior question that also requires comment—and that is the effect of foreign policy upon our domestic life. To paraphrase Dr. Kissinger: Is it possible to insulate our democracy at home from the kind of foreign policy we have conducted for the last twenty-five years, a policy of almost uninterrupted cold war, hot war, and even clandestine war? Or to put the question even more pointedly: Is it possible to engage in protracted conflict with totalitarian adversaries without coming to imitate their methods, first in dealing with the foreign adversaries themselves, then in dealing with critics and dissenters at home?

One can in fact trace a chain of events connecting President Nixon's Cambodian policy with Watergate. In 1969, the President initiated a policy of secret bombing raids upon the North Vietnamese sanctuaries in Cambodia, at the same time that Administration officials were solemnly and repeatedly proclaiming their respect for Cambodia's neutrality. Then, when reports of the clandestine bombing began to appear in the Press, Mr. Nixon, by his own account, established the notorious "plumbers," a kind of Presidential vigilante force, to plug these and other leaks. The plumbers were also employed for the break-in of the office of Daniel Ellsberg's psychiatrist, necessitated in the view of the Administration by "national security."

The clandestine bombing of Cambodia failed to wipe out the North Vietnamese sanctuaries, and American ground forces were sent in to do the job in the Spring of 1970, setting off the most violent of the anti-war protests at home.

These in turn provoked the beleaguered Administration to undertake widespread, illegal searches and surveillances at home, again, like the bombing itself, in the name of "national security."

Seeking as we have these many years to defend our democracy by undemocratic means—to fight fire with fire—we have come in sight of the point where the circle will close. It will close, if we do not change our course, with the demise of freedom itself, as a casualty of the struggle to defend it. As Alexis de Tocqueville put it in his great work, *Democracy in America:* "All those who seek to destroy the freedom of the democratic nations must know that war is the surest and shortest means to accomplish this. That is the very first axiom of their science."

From its beginning, the conduct of the Vietnam war has dolefully borne out Tocqueville's aphorism. Between 1961 and 1964, our operations in Vietnam, through so-called "military advisers," were largely if not entirely covert. In 1964, as our involvement grew and seemed likely to grow even larger, President Johnson sought a semblance of Congressional acquiescence through the Gulf of Tonkin Resolution. Congress adopted that Resolution in the firm belief—spelled out in the Resolution itself—that the naval units of North Vietnam had repeatedly and deliberately attacked United States naval vessels on the high seas and that these attacks were, in the words of the Resolution, "part of a deliberate and systematic campaign of aggression" on the part of North Vietnam. It has since become known that the ships involved, "the *Maddox* and the *Turner Joy,* were engaged in provocative intelligence activities in the Gulf of Tonkin, and serious doubt has been cast on whether the alleged second attack ever took place at all.

In addition, in the course of adopting the Resolution, Congress made it abundantly clear that it did not consider itself to be authorizing a war but, by backing the President, helping to *prevent* a full-scale war. Nonetheless, the Gulf of Tonkin Resolution was later invoked as valid authorization for the Vietnam war, as if Congress could authorize war inadvertently, without knowing what it was doing. In fact, the Tonkin Resolution was more in nature of a "dirty trick," a foreign policy precursor, and something of a precedent, to the domestic dirty tricks of Watergate.

President Johnson entered and then escalated the Vietnam war behind a smokescreen of misstatements and evasions. I do not think President Johnson *wished* to deceive the American people or to usurp the powers of Congress. His principal motive, I would guess, was to spare his Great Society program at home from the effects of war, to combine guns with butter by underplaying the guns. In the end, of course, he lost both, as the war dragged on inconclusively and the nation became bitterly divided. The deception of Congress and of the people, and the usurpation of power, came to be perceived as a necessity of national security.

In these conditions of foreign war and domestic uproar, of secrecy, divisiveness and intrigue, the Nixon Administration came to office in 1969. At that time, Mr. Nixon might have restored public confidence in government by leveling with the American people, by setting forth his problems and perspectives with simplicity and candor. He chose, instead, to use advertising techniques, to "sell" the continuing war to the American people by trumpeting periodic troop withdrawals and the decline of American casualties. The Administration also employed secrecy to an unprecedented degree, not only as to the bombing of Cambodia but over the entire range of foreign policy, which came to be made by a White House elite, headed by Dr. Kissinger, with Congress and even the State Department relegated to the periphery.

Like its predecessors, but with far greater thoroughness, the Nixon Administration headed off controversy by secretiveness, dissembling, and the centralization of power, with scarcely a nod in the direction of the Constitution. The Johnson Administration at least paid vice's tribute to virtue by hypocritically invoking the Tonkin Resolution as authority for the Vietnam war. When that Resolution was repealed, the Nixon Administration was more candid—and more brazen—

offering no objection to the repeal because, they said, the Administration had never relied on that Resolution anyway. They were fighting in Vietnam to protect American lives, they said, and that was all the authority they needed. It sounded plausible until one stopped to consider that our soldiers' lives would not have needed protecting if they were not fighting to begin with. In due course, with the withdrawal of our ground forces from Indochina, the Administration was stripped even of this sophistry and was forced to rationalize its continued, but now quite open, bombing of Cambodia with the baffling argument that the bombing was justified as a means of enforcing the cease-fire agreements.

These various devices—secrecy, dissembling and outright deception—worked well for a time, muffling dissent and confounding the opposition. Still, in the absence of candor from its leaders, the country remained divided and mistrustful. Unable to win public trust, the Administration had to settle for grudging acceptance.

Then, as Mr. Nixon's term neared its end and it became evident that grudging acceptance would not guarantee the re-election of the President, it took no great leap of the imagination, perhaps not even a conscious decision, to begin to apply the tricks which had worked in foreign policy, and in the "selling" of foreign policy at home, to the electoral process itself. If the Nixon foreign policy was essential to the "national interest," surely, in the minds of the President's men, the re-election of the President was no less essential. In this frame of reference, the Watergate break-in, the Ellsberg burglary and the campaign sabotage were easy to regard not as "dirty tricks" but as patriotic duty, responsive to a cause that transcended the law of the land.

There is nothing new about any of this. From ancient times arbitrary government has been justified in the name of a higher law. Tyrants have always justified their tyranny in the name of high ideals, never, so far as I know, in the name of wickedness, greed or ambition. History shows that there is no illusion more dangerous than the illusion that the end justifies the means, and no men more dangerous than those who practice that doctrine. Their outlook is nothing less than subversive of the rule of law because of a fatal misunderstanding of the relationship between morality and law. Treating of morality, or of such concepts as "national security" or the "national interest," as if these were objective and incontestible categories, these believers in the "higher law" assume that anyone who does not agree with them must in fact be opposed to morality or "national security," and therefore deserves to be overridden by the most expedient means available, lawful or not. The path that begins with the "higher law" ends inevitably with "dirty tricks."

Conventional law—the law of statutes and constitutions—is based on a different premise: that ideas about morality and justice are subjective and that no one man's idea of what these are is to be relied upon. The law itself therefore serves as the common denominator of diverse opinion and of society's experience as to what morality and the national interest are.

Although it is neither perfectly moral nor perfectly objective, law represents the closest approximation of an objectified morality of which a human society is capable. In such a context, dissent from official views of the "national interest" is not only permissible but essential, because there is no "higher" law in any operative, usable or verifiable sense. All we can aspire to is an approximation of truth, generated through discussion and debate. There is, therefore, no national interest more vital than the preservation of the law itself; when government officials go outside the law, they become in the most literal sense outlaws, assailants of the national interest regardless of what they believe their purpose or motives to be.

In charity and fairness, it must be noted that neither the Johnson nor the Nixon Administration invented the modern practice of going outside the law in the conduct of public policy. Since 1940, crisis has been chronic, and one President after another has felt it necessary to go outside the Constitution, or to resort to secrecy or deceit, in order to defend the national interest as they have perceived it. No one of them, to the best of my knowledge, has wished to usurp the powers of Congress or to deceive the American people; each has been motivated by a desire to circumvent political obstacles in order to deal with real or seeming emergencies. The prevailing attitude was summed up accurately if inadvertently by Secretary of State Dean Acheson in 1951, when he impatiently dismissed Congressional questioning of the President's claimed authority to assign troops to Europe with this comment:

"We are in a position in the world today where the argument as to who has the power to do this, that, or the other thing, is not exactly what is called for from America in this very critical hour." [1]

In this outlook one perceives the seeds of Vietnam and of Watergate. The troops-in-Europe debate was followed by many another "critical hour" in which Constitutional procedure was sacrificed to an anxious expediency, until it became almost the normal way of conducting foreign policy. If this outlook is to be countered, we shall have to begin by returning to first principles. We must reaffirm what we have always known, that no individual—including the President of the United States—has a monopoly of good judgment as to what is or is not in the national interest.

Beyond this, we must reaffirm, as we have also always known, that the delays and inconveniences of the democratic process are not accidental but purposeful, useful and necessary. As Justice Brandeis explained it:

"The doctrine of the separation of powers was adopted by the convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy." [2]

Let us return now to Dr. Kissinger's question: "Is it possible to insulate foreign policy from the general difficulties we are facing as a Nation?" Turning the question around, I have tried to show that it is impossible to insulate the Nation from its foreign policy. Conversely, the free working of the democratic process at home, even when it has involved protracted controversy, seems not to have been damaging to our foreign policy. Until recently at least, the Watergate scandal has done no apparent damage to our foreign relations, and in one area—Indochina—it has done a great deal of good.

It is scarcely to Congress' credit, but it took Watergate to embolden the legislators to put a final end to American participation in the Indochina war. The cutoff of funds last summer for any further bombing of Cambodia beyond August 15 might conceivably have been enacted in the absence of Watergate, but it is hardly likely that the Congress would have pressed the issue with as much determination as it did, or that the President, but for his chastened state, would have acquiesced by withholding his veto.

Most foreign governments are not especially interested in Watergate because it does not bear upon their own national interests. Some foreign diplomats have even expressed off-the-record astonishment over the fuss. "It's nothing compared to what we do," one Asian diplomat, who shall remain nameless, confided recently. "Corruption?" asked an incredulous Italian of visiting columnist Mary McGrory. "Signora, don't make me laugh . . . All politicians are robbers . . . we in Italy know that." Others abroad have been favorably impressed by the American reaction to Watergate, regarding the hue and cry, the hearings, press reports and judicial proceedings as testaments to the vitality of American democracy, because in most countries the leaders have no difficulty covering up their scandals. This is not to trumpet Watergate as a triumph of American democracy but to put it in perspective as far as its effects upon our foreign policy are concerned.

The great Communist powers have gone to lengths to avoid having Watergate interfere with their dealings with the Nixon Administration. The Chinese seem to have ignored it, and until President Nixon boasted of his military alert of October 25 as a victory over the Soviets in the Middle East, the Russians were expressing suspicion that the scandal had been cooked up by Communist-haters to derail the Nixon-Brezhnev detente. Only since then has the Soviet press alerted the Russian people to the possibility of President Nixon's impeachment. Prior to that, and for the most part even now, General Secretary Brezhnev has been scrupulously correct in treating Watergate as an internal American matter.

The great communist powers, obviously, are acting on their own interests, the Chinese desiring an American lever against the Soviet Union, the Russians desiring American trade, investment, and—one hopes—an arms agreement. Neither is so moralistic as to let an American scandal interfere with its own national objectives.

Still there are disturbing straws in the wind. At the very least Watergate has had the effect of intensifying the Administration's interest in the dramatization of foreign policy. The reason, of course, is that the Administration is interested in anything that gets people to think about something other than Watergate, the Agnew resignation, the tapes, the firing of Archibald Cox, or the President's income tax. Now, more than ever, the President needs to pull off success spectaculars in foreign policy in order to recapture faltering public support. The greater Mr. Nixon's domestic political need for success abroad, the larger his temptation to take imprudent concessions, and the more likely that foreign powers will come to perceive his vulnerable bargaining position.

The specter of a weakened, increasingly incautious Executive, reaching feverishly for "successes" abroad, raises exceedingly difficult questions for the Congress, questions to which I shall turn in a moment. Until now, however, the crucial connection has not been the effect of Watergate upon foreign policy but the chain of causation between secrecy and deception in foreign policy and the playing of dirty tricks at home. At this juncture, Watergate is most usefully examined not as cause but as culmination—the culmination of three decades of crisis abroad, of war and cold war and the methods used to conduct them, of a foreign policy broken loose from its domestic, democratic moorings. The circle has not yet closed; war and cold war have not yet destroyed the freedom of this democratic nation. But Watergate has given us a glimpse of what the future might hold; it has shown us the accuracy of Alexis deTocqueville's ominous warning.

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[1] "Assignment of Ground Forces of the U.S. to Duty in the European Area," Hearing by Committees on Foreign Relations and Armed Services, U.S. Senate, 1951, pp. 92–93.

[2] *Myers v. United States*, 1926, 272 U.S. 293, Mr. Justice Brandeis dissenting.

III. CONGRESS AND A CRIPPLED PRESIDENCY

There is no better restorative for a weakened democracy than the practice of democracy. Enfeebled institutions are not revived by invocation; they are revived by the exercise of power and by the acceptance of responsibility. Congress in recent decades has often seemed more interested in escaping responsibility than in discharging it, especially in foreign policy and in military matters.

Only the disasters of recent years have caused the Congress to stir from its inertness. Prior to Vietnam and the Watergate, the American Presidency was acquiring an aura of imperial infallibility. Perhaps it had always been an inherent pitfall of the office, but only in these years of chronic national emergency since the Great Depression and World War II has the imperial potential come near to being realized. A whole school of political science has been built on the cult of the Presidency; millions of university students in the Fifties and Sixties were indoctrinated with the idea that the President was the only reliable agent in our politics of progress, reform, and internationalism; whereas Congress was nothing but a bunch of reactionary, parochial, privilege-encrusted, superannuated dolts. If the cult of Presidential infallibility is now in decline—as it appears to be, at least temporarily—it is not the result of a deliberate return to the wisdom of the Founding Fathers, but rather the result of disastrous events—at home and abroad—which have demonstrated that Presidents, like ordinary men, sometimes have feet of clay.

So it is that we are confronted with the perplexing question of how to deal with a President who, by all available indices, has lost the people's confidence but who still wields vast, unchecked power over our foreign relations. The problem is both long-term and short-term; in the long run we may find it necessary to devise new institutional methods of upholding the national interest abroad when a Chief Executive stands discredited at home. In the short term, during the remaining tenure of the Nixon Administration, we must try to insulate our foreign policy from the President's domestic difficulties, conducting ourselves with such restraint as may be required to shield the President from the temptations of incautious but diversionary action abroad, as well as to discourage foreign powers from attempting to exploit his disabilities.

If Congressional resurgence is too little for the job, impeachment may well be too much. Limited in application by the Constitution to the drastic instances of "treason, bribery, or other high crimes and misdemeanors," the impeachment process is ill-suited to a President whose effectiveness has been undermined by incompetence, unsound policies, a lack of personal probity, or criminal conduct on the part of his subordinates. In parliamentary systems, a government can be removed by an expression of "no confidence," either by formal vote or informally as in the case of Chamberlain in 1940, or Anthony Eden after Britain's Suez fiasco in 1956. The ancient Chinese had an equally effective means of removing an emperor who had served the nation badly: the elders of the empire would ease out a discredited ruler by advising him that he had lost "the mandate of heaven."

In the American system—so effective, democratic and ingenious in so many ways—there is no way of removing a President who has lost the "mandate of heaven," except through the criminal-like proceedings of impeachment. President Nixon has clearly lost the confidence of the majority in Congress, but as long as he can have his vetoes upheld by a minority of one-third plus one of either House, he can work his will, at least in a negative way. The elders of the Republican Party might see fit to advise the President that his leadership has become detrimental both to the nation and to his Party, but President Nixon has already defied suggestions that he resign.

It has, therefore, become necessary, most regrettably, to proceed with the impeachment inquiry in the House of Representatives. The prospects are uncertain because of the drastic nature of the remedy, which has been employed only once in our history, and then in the wake of civil war. Public opinion is understandably ambivalent: Recent polls show popular confidence in the President at less than 30 percent; but the polls still show a majority against impeachment, 54 to 37 percent as of early November. Clearly, the nation is in need of a means less drastic than impeachment, but more effective than simple entreaty, to withdraw the "mandate of heaven."

To this end, I suggest that we turn our thoughts to a Constitutional amendment. The exact specifications will require careful, extended deliberation, but the basic requirement is a procedure for removal of a President who, though not necessarily guilty of provable, "high crimes and misdemeanors," has nonetheless lost the capacity to govern. I would not have this done by simple Congressional majorities, principally because our system of separation of powers does not require the maintenance of parliamentary "confidence" in the British sense; our system is not one of simple majoritarian democracy. Moreover, with our loose, undisciplined political parties, transient coalitions might topple Presidents for fractious reasons, reducing the Chief Executive to the condition of a French Premier prior to De Gaulle. The removal of a President on grounds of "no confidence" should require two-thirds majorities of both Houses of Congress. This would assure that, except in rare circumstance, the approval of a President could not be accomplished without substantial support from members of his own Party. A President so removed would be succeeded by his Vice President, either to serve out the remainder of his term, or perhaps only to serve as a caretaker pending a special election. In the latter event, it might be appropriate, and more in keeping with our checks and balances, to require the Congress to step down along with the President and submit to the electorate for a new mandate.

The advantage of such a change in our basic law is that it would spare the nation the burden of protracted periods of division, disruption or paralysis under discredited leaders. When the President himself becomes a national issue, aside from questions of public policy such as inflation or war, his departure becomes a matter of national interest. The greatest advantage of such a Constitutional amendment, however, is that its very existence might obviate the necessity to use it: an incumbent President would be constantly aware of the need to retain the confidence of Congress. The impeachment process might now serve that purpose if it were believable, but few Presidents, including Mr. Nixon, have ever taken seriously the threat of removal from office for "high crimes and misdemeanors." The believable threat of removal from office for reasons of "no confidence" could in itself have the salutary effect of inhibiting executive arrogance, by placing the President under a continuing obligation to work with Congress and faithfully adhere to the laws.

Despite its appeal, I would not have such a Constitutional amendment adopted, or even initiated, in the present overheated political atmosphere. It is never a good idea to make fundamental innovations at a time when emotions are running high, and in any case it would be inappropriate, even if it were feasible, to alter the Constitution in time to have the amendment apply to the present Administration.

The matter is for future regimes; Mr. Nixon must be dealt with under the existing rules. Moreover, various ramifications are likely to arise in the course of considering new methods of removing a President, and these will warrant careful, dispassionate deliberation.

The immediate problem, then, remains: how are we to prevent the Watergate affair from undermining our foreign policy during the remaining tenure of the present Administration? It would hardly be possible, even if it were desirable, to drop Watergate; prosecutions will continue in the courts, and if the House Judiciary Committee find grounds for a bill of impeachment, Congress will have to proceed with the case.

Over and above these processes, however, there is still a government to be run; there is still public business to be done. A crisis of government cannot be allowed to cripple the nation's capacity to deal with such matters as arms control, detente with the Soviet Union, peace in the Middle East, and the burgeoning energy crisis. All of us, therefore—Congress, the press, the people, and the President himself—are under a special obligation to avoid unnecessary recrimination, to confine the area of controversy to the specific issues involved, and to cooperate, wherever possible, for the public interest. Until his term expires in 1977, or until his prior resignation or removal from office, Mr. Nixon will remain the nation's chief magistrate, entitled to the nation's cooperation in the discharge of his legitimate, Constitutional responsibilities.

Mr. Nixon, himself, in these unusual conditions, is under a special obligation to cooperate with the other branches of Government. One hopes, too, that the President will spare the nation the divisive consequences of further polemics against Congress, the press and his critics in general. If the country owes the President a measure of restraint, he owes the country no less. The President can do no greater service to the country and to its institutions, including the Presidency, than to recognize the wisdom embodied in the opinion delivered by the Court of Appeals which affirmed his obligation to surrender the tapes: "Though the President is elected by nationwide ballot, and is often said to represent all the people, he does not embody the nation's sovereignty. He is not above the law's commands . . . Sovereignty remains at all times with the people and they do not forfeit through elections the right to have the law construed against and applied to every citizen."

The President—and all of us—would also do well to recall the words of Justice Brandeis in a 1928 wiretapping case: "In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."

BALANCED GROWTH SAVES ENERGY

Mr. HUMPHREY. Mr. President, the costs to society of unbalanced and unplanned for growth have been cataloged by many of us on numerous occasions. The fact that 80 percent of our people live on 10 percent of our Nation's land area results in physical and social problems that affect all Americans in the quality of their lives.

A recent article in the New York Times, by Peter Goldmark, looks at the energy crisis within this context of unbalanced growth. Mr. Goldmark's observations on the tremendous energy conservation possible by a more balanced distribution of the American population over our Nation's land area, is based on his experience with the New Rural Society—NRS—project being carried out under HUD auspices in Windham, Conn.

Because of the insights provided into the energy conservation benefits of "balanced national growth and development," I ask unanimous consent that the Goldmark article, entitled "A Rural Approach to Saving Energy," from the November 11 issue of the New York Times, be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A RURAL APPROACH TO SAVING ENERGY: TECHNOLOGY COULD HELP EASE URBAN CONGESTION

(By Peter C. Goldmark)

Almost everyone is talking about the "energy crisis" (roughly defined as the shortage of gasoline and fuel oil) and we are being urged to do something about it, from unscrewing the unneeded light bulb to turning off the furnace to—heaven help us—selling the family station wagon.

The President sparked this "save a watt and conserve a gallon" campaign by pleading for restraint in using up our resources and targeting a 5 per cent voluntary reduction in over-all energy use by 1974.

Those who don't think much of the American capacity for self-discipline have been seeking other ways to improve the situation, ranging from innovative techniques (oil from shale, or gas from coal, for instance) or, in the case of petroleum, simply by suggesting more judicious techniques of dealing with the oil-rich Arabs.

Although the United States has only about 6 per cent of the world's population, we consume about 36 per cent of the world's energy. This means that the average American uses six times as much energy as his world neighbors.

Oil experts are calling for national rationing programs. They point out that if every household were to cut back 10 per cent on fuel use, American families will get through the winter. Similarly, if industry conserved 10 per cent of its energy use, some 1.5 million barrels of oil could be saved each day—the output of 24 average-sized refineries.

They're right. But I believe that consumer cooperation must be matched by Government and industry in sponsoring high-technology research. Unless there is a commitment now to begin research and development programs that will pay off in five, 10 or 15 years, no amount of consumer sacrifice is likely to solve the problem.

Scientists have looked into the glamour fuels of the future, from hydrogen to wind to nuclear elements. I have suggested to the National Aeronautics and Space Administration that we utilize the abundant power of the sun (which is readily convertible to heat) by lofting a cluster of solar batteries into orbit.

This can be done with present technology. Not a single new invention is needed.

High-technology programs should also explore nuclear power for energy sources, coal gasification, fusion and geothermal underground natural steam methods to generate electricity.

But will this be enough? I wonder whether short-term palliatives or even long-term technology is going to be enough this time to save us.

The curves that demonstrate how fast the petroleum reserves are being used up and the limitations on other resources are too persuasive to think anything short of a drastic change in lifestyle is going to solve the problem.

I feel, therefore, it is important now to start thinking not just of turning off switches, but of reversing the sorry trends of society—particularly the steady crowding of people into urban centers where more energy is constantly needed.

The mass-transit subway system, for instance, requires enormous amounts of power to bring people from home to work and back again. The new World Trade Center in New York, which is designed to do world business in one building, consumes as much energy in a summer day as a city of 120,000 people. Do we really need it?

My feeling is we do not, and I urge that we consider the possibility of a simple rebalance of population—a shift of the present trend toward the city back to the country. I am not proposing the establishment of a kind of rustic barefooted Walden for future Thoreaus.

What I propose is that the advances of telecommunications technology—satellites, cable TV, broadband circuits and similar devices—make it possible to attract future generations into the smaller towns of America beyond the commuting dependency range of the big city and suburbia and thus cut down on the excessive use of power.

Because of current trends, we are in the midst of an urban-rural problem that is intertwined with the energy crises. In many ways, this triangular problem is linked to the largest migration in the history of man—the migration since 1940 of more than 30 million people from America's rural areas to its cities, creating a population imbalance in which about 80 per cent of the population lives on 10 per cent of the land.

The resulting social problems affect more than three-quarters of our population and they occurred while science and technology triumphed in so many fields, unaware of the developing catastrophe.

My plan for coping with the urban-rural energy crisis, which I call the new rural society (N.R.S.), has been under way for two years as a Federal pilot project under the watchful eye of the Department of Housing and Urban Development in the Windham, Conn., area, 100 miles north of New York City.

We have shown there on a small scale that we can, through telecommunications such as two-way TV and electronic facsimile devices, conduct high-level business without constant personal contact, which uses up fuel in commuting or in other kinds of transportation.

We have also shown that it is possible for hospitals, colleges and state governmental agencies to provide their services from a distance with electronic communications. The basic idea is to find out how to bring even the most complex service to the consumer by imaginative uses of communications and thus to draw people to the country (or keep them there) by providing the same cultural, economic, health and educational services available in the city.

During the first phase of our N.R.S. work we conducted a national "quality of life" study which targets more than 6,000 small communities in rural America whose carefully planned growth can accommodate 75 million to 100 million people who may choose to live and work in an attractive rural environment by the year 2000.

If this kind of program is adopted on a national scale—and I doubt whether it could work otherwise—the effect on power demands will be dramatic. Not only will there be a lessened drain of power in the city but people in the country will rediscover the utility of the bicycle and the feet for transportation as well as for exercise.

If the New Rural Society eliminated commuting over 10 miles, I have calculated that we could save half our current consumption of gasoline while generating only negligible amounts of pollutants.

Heating and air-conditioning in private urban dwellings and business establishments require about 20 per cent of the nation's energy. In rural areas there is far less necessity for air-conditioning and there are no huge building complexes consuming large amounts of electrical power for elevators, heating and cooling, light and other services.

The problem associated with gigantic power generating plants by large cities could be relieved through the use of many smaller local plants, using other means of producing electricity. Today, our use rate of electricity is increasing 7 per cent annually, roughly twice the rate of growth of our total energy consumption.

I submit the N.R.S. is a bold scheme. It demands faith in the options provided by technology. But if such faith is not forthcoming and present trends continue I can see nothing short of disaster. I trust that America is too shrewdly survival-oriented to allow this to happen.

(Dr. Goldmark, former president of C.B.S. Laboratories, is president and director of research of Goldmark Communications Corporation, a subsidiary of Warner Communications, Inc., and a member of the board of trustees of Northeast Utilities.)

ACCIDENTAL FIREARMS FATALITIES IN THE CLEVELAND, OHIO, AREA

Mr. KENNEDY. Mr. President, I would like to place in the RECORD a copy of a report on accidental firearm fatalities in the Cleveland, Ohio, area, prepared by the Cuyahoga County Coroner's Office.

"The possession of firearms by civilians appears to be a dangerous and ineffective means of self protection." That statement critically summarizes the basic conclusion of the study completed by four community health officials in Cuyahoga County.

Throughout the years that I have worked for enactment of effective Federal firearms controls, the needless killing and maiming caused by guns has been repeatedly reported by serious observers of this grave social problem.

Cleveland, Ohio, like other large urban communities has seen a substantial increase in gun ownership by civilians over the past 12 years, according to the report. During that time, the rate of accidental firearms deaths increased five times for white males in the city of Cleveland, and four times for black male Cleveland residents.

And though, total accidental gun deaths are significantly fewer than accidental death from other causes, the accidental death rate for firearms increased 50 percent during the same period.

Last year, the Senate passed legislation to control the abuse of handguns. This study reveals the continuing need to enact effective handgun controls. Approximately 84 percent of all accidental gun deaths were caused by handguns; three-fourths of those deaths occurred in the home, and 70 percent of them occurred while playing with the gun.

Clearly this study, adds to the impressive documentation that the easy accessibility to guns has contributed to the continuing rise in the gun-related deaths and injuries. The importance of this study, once again emphasizes the need for the Nation to adopt stringent and effective controls on these harmful weapons.

I believe every Member in this Senate

deserves to review this cricital report, and I ask unanimous consent to enter in the Record the full report, "Accidental Firearm Fatalities in a Metropolitan City" with accompanying tables.

There being no objection, the report was ordered to be printed in the Record, as follows:

ACCIDENTAL FIREARM FATALITIES IN A METROPOLITAN COUNTY

By Charles S. Hirsch, H.D.; Deputy Coroner, Cuyahoga County Coroner's Office, 2121 Adelbert Road, Cleveland, Ohio 44106, Assistant Professor of Forensic Pathology, Case Western Reserve University School of Medicine.

By Norman B. Rushforth, Ph.D.; Professor of Biology and Chairman of the Department, Case Western Reserve University, 2080 Adelbest Road, Cleveland, Ohio 44106, Associate Professor of Biometry, Case Western Reserve University School of Medicine.

By Amasa B. Ford, M.D.; Associate Professor of Community Health and Medicine, Acting Director of the Department of Community Health, Case Western Reserve University School of Medicine, Wearn Research Building, University Hospitals, Cleveland, Ohio 44106.

By Lester Adelson, M.D.; Chief Deputy Coroner, Cuyahoga County Coroner's Office, 2121 Adelbert Road, Cleveland, Ohio 44106, Professor of Forensic Pathology, Case Western Reserve University School of Medicine.

Presented before the Epidemiology Section, American Public Health Association, San Francisco, California, November 6, 1973.

INTRODUCTION

We have recently reported an alarming increase in the number of homicidal deaths in the Cleveland area (1). The major proportion (80%) of these violent deaths was caused by firearms, especially handguns, and we concluded that a significant factor in the increase in the homicide rate was the ready availability of small arms. In order to investigate this phase of the matter further, we undertook a study to acquire additional independent evidence to test our hypothesis that the number of firearm incidents (nonfatal as well as fatal) is a function of the number of guns in civilian hands. This report is a statistical survey of accidental firearm fatalities in Cuyahoga County (Cleveland, Ohio and suburbs) during the interval from 1958 through 1972 inclusive.

Previous studies of accidental firearm deaths have shown a preponderance of male victims, with a peak incidence in the 15–24 year age range and a higher rate in nonwhites than in whites (2,3). From 1959–61, 56% of such fatalities occurred in the home when the place of occurrence was stated on death certificates (2).

METHOD

For purposes of classification and discussion, we have subdivided Cuyahoga County ("county") into two fractions: 1. the centrally located City of Cleveland ("city") and 2. the aggregate of 60 other municipalities ("suburbs"). All known and suspected violent ("unnatural") deaths in the county must be investigated by the coroner's office, regardless of the fashion in which the violence arose. Reporting the violent deaths is complete because a valid death certificate cannot be signed by a person other than the Coroner when injury causes or contributes to death.

We have tabulated all accidental gunshot fatalities in Cuyahoga County by the geographic subdivision where the incident occurred.

Establishing the cause of death in firearm fatalities usually offers no problem. However, determination of the *manner* of death, i.e., accident *versus* suicide or homicide, can be difficult. Two basic sets of circumstances exist: was the fatal wound self-inflicted (suicide or accident?) or was it inflicted by another (homicide or accident?). In either instance, an appropriate ruling as to the manner of death requires considered evaluation of information derived from all available sources. Useful criteria which help to substantiate or refute the statements of witnesses include the location of the fatal wound, the range and direction of fire, and the presence or absence of primer or gunpowder residue on the victim's hands.

Data supplementing the objective anatomic and toxicologic findings of the coroner's staff are supplied by police reports, eyewitness accounts, and hospital records. In Cuyahoga County, validity of judgment as to the manner of death is enhanced by experience and has been consistent within the limits of individual variability because one man (Samuel R. Gerber, M.D., J.D.) has been Coroner since 1936. When the manner of death cannot be determined "beyond a reasonable doubt," cases are classified as "violence of undetermined origin." From 1958 through 1972 seven firearm fatalities have been so classified.

We calculated accidental firearm fatality rates from the number of victims listed in the Coroner's records and from population figures in Census Bureau publications. The decennial cenuses of 1960 and 1970 furnished city and suburban population sizes in the respective years. These data were supplemented by a Special Census for the City of Cleveland in 1965.

Accidental firearm fatalities were analyzed with respect to the following variables: (1) rates for other types of accidental death; (2) geographic location of the incident (city, suburbs); (3) agent (self-inflicted, other); (4) age, sex, and race of victim; (5) presence of ethyl alcohol in adult victims; (6) types of firearms (handguns, long guns); (7) time and place of occurrence of the incident (primate dwelling, other places); and (8) circumstances surrounding the occurrence (cleaning gun, handling or playing with gun, etc.).

Cuyahoga County is an almost completely urban area, and there is very little legal hunting within its boundaries. Fatalities from hunting accidents, therefore, are conspicuously absent in our study population.

RESULTS

Table 1 shows the number of accidental fatal firearm victims in Cuyahoga County classified by race and sex for the City of Cleveland and suburbs for each year during the period 1958–1972 inclusive. In the city, accidental firearm deaths are most frequent among nonwhite males, whereas, in the suburbs, white males constitute the majority of victims. A marked increase in accidental firearm deaths in the city started in 1968 and continued through 1971. Although there was a reduction in such deaths in 1972, the total for the first nine and a half months of 1973 is 11, suggesting that the elevated rate is being sustained.

The increase in accidental firearm deaths in the city during the latter part of the 15-year period occurred at a time during which there were large changes in the size and composition of the population of the county. It is therefore necessary to examine rates for subgroups of the population. The total population of the city decreased over these 15 years by more than 14 per cent. During this interval, the nonwhite population in the city increased by about 12 per cent for males and 19 per cent for females, whereas the white population underwent a reduction of approximately 28 per cent for males and 25 per cent for females.

Rates for accidental firearm deaths increased for both nonwhite and white city males. The average annual rate of accidental firearm deaths for white males rose from 0.3 per 100,000 for the period 1958–1962 to 0.6 for 1963–1967, and to 1.6 for 1968–1872, a 5-fold increase over the initial rate (Table 2). Comparable rates for nonwhite males in the city show a similar trend, rising from 1.5 for 1958–1962 to 1.7 for 1963–1967 and up to 6.0 for 1968–1972. The city rate in the last five year interval is four times greater than it was in the period 1958–1962.

The suburban population, black as well as white, increased during the study period. For suburban white males, the rate of accidental firearm deaths per 100,000 rose from 0.2 to 0.3 and then up to 0.4 for the successive five-year periods, a doubling of the rate during the study interval.

Table 3 lists the average annual death rates for various types of accidents in Cuyahoga County for the successive five-year periods from 1958 through 1972. Firearm death rates are smaller than those for vehicular, industrial, home and "other" accidents. However, during this period, death rates from firearms have increased more than those from any other types of accidents, climbing 3-fold. While deaths from vehicular accidents increased 50% over the 12-year period, other accidental death rates rose only slightly.

We also tabulated accidental firearm deaths in the city and suburbs by month of the year, day of the week, and time of the day. There were no significant differences in the number of deaths by month or day (P> 10). Fatal accidental shootings were most numerous (72%) in the period from 3:00 P.M. to midnight for children up to age 15. They were relatively high for adults during this period also, and extended in similar high frequency over the time period from midnight to 3:00 A.M. (77% of the incidents occurred during the interval from 3:00 P.M. to 3:00 A.M.).

One hundred and ten of the 131 accidental firearm fatalities (84%) resulted from mishaps with handguns. Three-quarters of these fatalities occurred in the home, and the majority of them (70%) occurred when someone was handling or "playing" with a gun. Of the 87 victims whose blood was tested for ethanol, 43 (50%) gave positive results. For children up to age 15, slightly less than half (45%) of the accidental firearm deaths were self-inflicted as compared with 70% for adults.

The age-specific rates of accidental firearm deaths were calculated for the period 1968–1972, using the 1970 census data for both nonwhite males and white males in the city (there were insufficient numbers of deaths in other categories to compute meaningful rates). Figure 1 shows that annual death rates for both white and nonwhite males in Cleveland rose with to a maximum in the range 25–34 years and then decreased.

[Figure 1 not printed in Record.]

DISCUSSION

Aggressive behavior, social stress, poverty, disrespect for law, disintegration of families and a variety of other factors (exclusive of alcohol and drug abuse) which have been suggested as causes of homicide and other crimes of violence, have no direct relationship to the occurrence of accidental deaths inflicted by firearms. These tragic deaths result only from careless handling of guns and other types of misadventure. Our evidence suggests that the number of accidental firearm fatalities is determined primarily by the number of guns in civilian hands.

The annual number of accidental firearm deaths in Cuyahoga County tripled in 1968 as compared with the average for the previous ten years, and the increased level was sustained for four consecutive years. Since the criteria for a "Coroner's verdict" (ruling) of accidental firearm death were unchanged, and the system of reporting and recording such fatalities was consistent, the increase must be regarded as significant. In 1972 the number of these deaths in Cuyahoga County dropped to pre-1968 levels, but the rate in 1973 again appears to be high.

Routine supporting of accidental deaths due to firearms on a national basis shows very little change in rates over the past 20 years (4). We have obtained figures from medicolegal offices in 13 metropolitan jurisdictions across the country. Roughly a quarter show increases during the past 4 or 5 years, while the majority show no definite trend. Evidently the experience in Cleveland is not unique, nor, on the other hand, is it confirmed in all urban areas.

Our data also suggests that guns in the home are more dangerous than useful to the homeowner and his family who keep them to protect their persons and property. During the period surveyed in this study, only 17 burglars, robbers, or intruders who were not relatives or acquaintances were killed by guns in the hands of persons who were protecting their homes. During this same interval, six times as many fatal firearm accidents occurred in the home. Furthermore, the total impact of accidental shootings includes disability, suffering and expense resulting from these needless injuries in addition to the mortality. The ratio of fatal to nonfatal accidental gunshot injuries admitted to hospitals in the Cleveland area is approximately 1:13 (5). (We do not know how many individuals are treated for gunshot injuries in emergency rooms and released.) Extrapolating from the number of fatal accidental shootings in Cuyahoga County, a minimum of 1,000–2,000 serious nonfatal accidental shootings occurred during the 12 years, 1958 through 1972.

In summary, we have documented a dramatic rise in homicides over the past 5 years in a large metropolitan community which is most clearly related to increased availability and abuse of handguns. Associated with this dangerous trend has been a parallel increase in accidental firearm fatalities in this community. The possession of firearms by civilians appears to be a dangerous and ineffective means of self-protection.

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ACCIDENTAL FIREARMS FATALITIES IN A METROPOLITAN COUNTY

Hirsch, C. S., Rushforth, N. B., Ford, A. B., and Adelson, L., Case Western Reserve University School of Medicine and Cuyahoga County Coroner's Office.

TABLE 1.—NUMBER OF ACCIDENTAL FIREARM DEATHS IN CUYAHOGA COUNTY, OHIO, BY RACE AND SEX FOR THE CITY OF CLEVELAND AND SUBURBS OVER THE PERIOD 1958–72, WITH POPULATION FIGURES BY CENSUS

	City of Cleveland					Suburbs					
Year	WM	WF	NWM	NWF	Total	WM	WF	NWM	NWF	Total	County total
Number of accidental firearm deaths:											
1958	0	0	5	1	6	0	1	0	0	1	7
1959	1	0	1	0	2	2	1	0	0	3	5
1960	1	1	2	0	4	0	0	0	0	0	4
1961	1	0	1	1	3	2	1	0	0	3	6
1962	1	0	0	0	1	0	0	0	0	0	1
1963	2	0	5	0	7	1	0	0	0	1	8
1964	1	0	3	0	4	1	0	0	0	1	5
1965	2	0	2	1	5	2	0	0	0	2	7
1966	2	0	1	0	3	1	0	0	0	1	4
1967	1	0	0	0	1	2	0	1	0	3	4
1968	4	0	8	2	14	4	1	0	0	5	19
1969	2	1	9	2	14	3	0	0	0	3	14
1970	2	0	11	1	14	2	0	1	0	3	17
1971	6	1	9	1	17	1	1	0	0	2	19
1972	3	0	4	1	8	0	0	0	0	0	8
Total	29	3	61	10	103	21	5	2	0	28	131
Population by census (thousands):											
1960	305	318	122	140	876	370	396	3	3	772	1,648
1965	257	275	132	147	811						
1970	219	239	137	156	751	444	482	21	23	970	1,721

Note: Abbreviations for table 1: WM, white male; WF, white female; NWM, nonwhite male; NWF, nonwhite female.

TABLE 2.—AVERAGE ANNUAL ACCIDENTAL FIREARM DEATH RATES IN CUYAHOGA COUNTY, OHIO, FOR SELECTED GROUPS,[1] FOR SUCCESSIVE 5-YEAR PERIODS (1958–72)

RATES (DEATHS/100,000)

	City		Suburbs, WM	County, total
	WM	NWM		
1958–62	0.3	1.5	0.2	0.3
1963–67	.6	1.7	.3	.3
1968–72	1.6	6.0	.4	.9

[1] Rates are not calculated for groups in table 1 having fewer than four deaths.

Note: Abbreviations for table 2: WM, white male; NWM, nonwhite male.

TABLE 3.—AVERAGE ANNUAL RATES OF ACCIDENTAL DEATH BY VARIOUS CAUSES (1958–72)

NUMBER OF DEATHS/100,000 POPULATION

	Vehicular	Home accidents (nonfirearm)	Other	Industrial	Firearm
1958–62	10.3	18.0	13.6	2.0	0.3
1963–67	12.3	18.0	13.6	2.1	.3
1968–72	15.7	19.0	13.9	2.2	.9

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973

Mr. HRUSKA. Mr. President, this past Wednesday, the Committee on the Judiciary in executive session unanimously agreed to order reported two competing legislative proposals to establish an independent prosecution office with jurisdiction over Watergate-related offenses.

One proposal was S. 2611, introduced by Senator HART, as amended.

The second proposal was S. 2642 with an amendment in the nature of a substitute that represents the joint efforts of the distinguished junior Senator from Ohio (Mr. TAFT) and myself.

In order to allow my colleagues the opportunity to examine the Hruska-Taft amendment to S. 2642 at this time, I ask unanimous consent that it be reprinted in full immediately following the conclusion of these remarks, along with a letter dated November 26, 1973, from Acting Attorney General Robert H. Bork which is intended to supplement the legislation. I shall take this opportunity to outline the measure in a very general fashion.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. S. 2642, as amended, would:

Authorize the Attorney General to appoint a special prosecutor with the understanding that the Senate would have a prominent de facto role to play in the appointment process.

The jurisdiction of the special prosecutor would generally parallel the jurisdiction of former Special Prosecutor Cox and would provide that, where deemed advisable by the special prosecutor, such jurisdiction would be primary in nature.

The special prosecutor could only be removed by the Attorney General for neglect of duty, malfeasance in office, or violation of the act. The Attorney General would have to notify both Houses of Congress 30 days in advance of such removal stating the reasons for such dismissal.

The district courts would have original jurisdiction of any action brought by the special prosecutor with respect to remedial or attempted removal and could issue an order blocking such removal, if appropriate.

The U.S. District Court for the District of Columbia would have the power to appoint an interim special prosecutor if a vacancy did occur with the provision that the Attorney General could appoint a successor.

Sometime next week the Judiciary Committee will report out S. 2611 and S. 2642. Sometime thereafter, the Senate as a whole will begin consideration of these two proposals and any others which might arise on the floor in an effort to fashion the best legislation possible to deal with Watergate-related offenses.

The judicial appointment approach of S. 2611 has been suggested by many Members of Congress as the only solution to this issue. However, many would share the view of Senator Taft and myself that the appointment of a special prosecutor by the judiciary raises numerous constitutional problems which need not necessarily be raised in order to adequately deal with the situation at hand.

The purpose of S. 2611 is to shield the special prosecutor from executive interference and to provide him with maximum independence in the performance of his duties. While all would agree with the goal of the bill, we must stop to consider the risks which are inherent in the procedures contemplated by the proposal.

The constitutionality of S. 2611 has already been attacked and will continue to be attacked in the near future. At best, the proposal rests on a questionable constitutional footing.

S. 2611 is certain to receive judicial scrutiny, but that test will not come until after evidence has been presented to the grand jury, indictments have been returned, defendants have been arrested and arraigned, and defense motions have been filed. At that point a judicial determination that the bill is unconstitutional would be more than an esoteric exercise in constitutional law. It would have an immediate adverse impact on all prosecutions arising out of the new special prosecutors activities.

Consider some of the possible consequences of the S. 2611 arrangement:

First. The independence of the grand jury may be compromised by the presence of a special prosecutor who brings into the grand jury room the aura of the judiciary;

Second. The secrecy of the grand jury proceedings may have been breached by the presence of a prosecutor who lacked authority to appear before the grand jury;

Third. Because of the irregularity of the proceedings before the grand jury, the indictments could be dismissed;

Fourth. Unnecessary delay would be incurred while evidence is represented to obtain new indictments;

Five. Convictions may be overturned and retrial prohibited because of the double jeopardy clause of the fifth amendment.

Sixth. If retrial is permitted, the Government's case may be weakened during the intervening time as evidence is lost, witnesses become unavailable and memories fade; and

Seventh. If retrial is permitted, the defendents would continue to be exposed to embarrassment, anxiety, expense, and restrictions on their liberty in contravention of the policies which underpin both the double jeopardy and speedy trial provisions of the Constitution.

Because the ramifications are real and great, Congress should be particularly circumspect in their consideration of S. 2611. The bill has the potential for immunizing future Watergate defendants from prosecution, and care should be exercised to avoid the result, to paraphrase Justice Cardozo, that "the criminal should go free because the Congress has blundered."

Further, Senators question whether the courts would exercise such appointment power, even if the Bayh-Hart bill were to become law in light of Judge Sirica's comments and Judge Gesell's recent opinion. I think that the answer would be that they would not.

In closing, I want to salute the enormous efforts of my friend and colleague from Ohio (Mr. Taft) in working to fashion a legislative response to the "Watergate" problem and commend S. 2642 as amended by the Hruska-Taft amendment to the prompt attention of my colleagues.

Exhibit 1

Office of the Solicitor General,
Washington, D.C., November 26, 1973.

Hon. Roman L. Hruska,
U.S. Senate,
Washington, D.C.

Dear Senator: Pursuant to your request, I have examined the two bills, S. 2611 and S. 2642, ordered reported by the Senate Judiciary Committee last Wednesday which would create the office of Special Prosecutor.

Of the two bills, S. 2642, the Taft bill as amended, is preferable because, in my opinion, it presents no constitutional difficulties that might cast doubt on the legitimacy of the Special Prosecutor's future actions. The other proposal could result in protracted litigation, causing delay and uncertainty.

Because I understand the need for public confidence in the Special Prosecutor, let me assure you that if S. 2642 is approved while I am the Acting Attorney General, I will consult with the Senate leaders prior to making any appointment to the office of Special Prosecutor. I also will not appoint anyone whom the Senate disapproves by resolution.

Sincerely,

Robert H. Bork,
Acting Attorney General.

S. 2642 as Amended by the Hruska-Taft Amendment in the Nature of a Substitute

A bill to establish an Independent Special Prosecution Office, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Independent Special Prosecutor Act of 1973."

Sec. 2. The Congress hereby finds and declares—

(a) alleged crimes arising out of the Presidential campaign and election of 1972 have raised serious questions whether a full and complete investigation and prosecution of such charges will proceed without partisanship or favor;

(b) the Department of Justice is composed of men and women of the highest integrity and ability capable of conducting a fair, full, and impartial investigation and prosecution of these alleged crimes, but circumstances already existing call for special independent investigation and prosecution;

(c) the appointment of a Special Prosecution Force in the executive branch of the Government on May 24, 1973, began the process of restoring the faith of the American people in the integrity of this Administration and, in particular, in the belief that the ends of justice were to be served;

(d) the dismissal of the Special Prosecutor on the direct order of the President of the United States on October 20, 1973, has aroused public controversy and has the potential to place serious strains on the Doctrine of Separation of Powers inherent in our governmental system;

(e) in order to restore the public confidence, the investigation and prosecution of any offense arising out of the Presidential campaign and election of 1972 should be in an independent prosecutorial force; and

(f) the President of the United States has assured Congress of his commitment to such an independent prosecutorial source and that the Special Prosecutor appointed hereunder shall not be dismissed without first securing a consensus of the majority and minority leaders of both Houses of Congress and the chairmen and ranking members of the Judiciary Committees of both Houses of Congress.

Sec. 3. There is hereby established an Independent Special Prosecution Office responsible for investigation and initiating prosecution of all offenses arising out of the Presidential election of 1972 and matters related thereto and arising therefrom and all matters which were under investigation by the Special Prosecutor force prior to October 19, 1973, pursuant to the agreement made between the former Special Prosecutor and the Attorney General designate on May 19, 1973.

Sec. 4. The Attorney General of the United States shall appoint (within fifteen days of the enactment of this Act) a Special Prosecutor.

Sec. 5. (a) The Special Prosecutor is authorized and directed to investigate, as he deems appropriate, and prosecute on behalf of the United States:

(1) offenses arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate;

(2) other offenses arising out of the 1972 Presidential election;

(3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election;

(4) offenses arising out of all matters which were under investigation by the Special Prosecutor force prior to October 19, 1973, pursuant to the agreement made between the former Special Prosecutor and the Attorney General designate on May 19, 1973; and

(5) any other matters which the Special Prosecutor consents to have assigned him by the Attorney General.

(b) The Special Prosecutor shall have primary jurisdiction over any of the offenses or matters enumerated in subsection (a) of this section when such primary jurisdiction is determined by him to be necessary for the proper performance of his duties under this Act.

Sec. 6. The Special Prosecutor shall have full power and authority in carrying out his duties and responsibilities under this Act—

(a) to conduct proceedings before grand juries and other investigations he deems necessary;

(b) to review all documentary evidence available from any source;

(c) to determine whether or not to contest the assertion and scope of "executive privilege" or any other testimonial privilege;

(d) to receive appropriate national security clearance and if necessary contest in court, including where appropriate through participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

(e) to make application to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders;

(f) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations and handle all aspects of any cases over which he has jurisdiction under this Act, in the name of the United States;

(g) notwithstanding any other provision of law, to exercise all other powers as to the conduct of criminal investigations and prosecutions within his jurisdiction which would otherwise be vested in the Attorney General and the United States attorneys under the provisions of chapters 31 and 35 of title 28 of the United States Code, and the provisions of 26 CFR 301.6103(a)-1(q), and act as the attorney for the Government in such investigations and prosecutions under the Federal Rules of Criminal Procedure.

Sec. 7. (a) All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties and responsibilities of the Special Prosecutor under this Act, tangible or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to 28 CFR Sec. 0.37, rescinded October 24, 1973, or his successors, shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) All investigations, prosecutions, cases, litigation, and grand jury or other proceedings initiated by the former Special Prosecutor, or by his successors, shall be continued, as the Special Prosecutor deems appropriate, by him, and he shall become successor counsel for the United States in all such proceedings, notwithstanding any substitution of counsel made after October 30, 1973.

Sec. 8. The Special Prosecutor shall appoint a Deputy Special Prosecutor who shall assist the Special Prosecutor as the Special Prosecutor shall direct in the performance of his duties, and, in the event of the disability of the Special Prosecutor or vacancy in the Office of Special Prosecutor, shall act as Special Prosecutor until his successor is appointed in accordance with section 13 of this Act.

Sec. 9. (a) The Special Prosecutor shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. The Deputy Special Prosecutor shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

(b) The Special Prosecutor shall have the power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. The Special Prosecutor is authorized to request the Department of Justice or any other department or agency of the Federal or District of Columbia government to provide on a reimbursable basis such assistance as he deems necessary, and any such department or agency shall comply with such request to the fullest extent practicable. Assistance by the Department of Justice shall include but not be limited to affording the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation.

Sec. 10. The Administrator of General Services shall furnish the Special Prosecutor with such offices, equipment, supplies, and services as are authorized to be furnished to any other agency or instrumentality of the United States.

Sec. 11. Notwithstanding any other provisions of law, the Special Prosecutor may submit directly to the Congress requests for such funds, facilities, and legislation as he shall consider necessary to carry out his responsibilities under this Act, and such requests shall receive priority consideration by the Congress.

Sec. 12. The Special Prosecutor shall carry out his duties and responsibilities under this Act within two years from the date of enactment, except as necessary to complete trial or appellate action on indictments then pending.

Sec. 13. (a) The Special Prosecutor may be removed by the Attorney General only for neglect of duty, malfeasance in office, or violation of this Act.

(b) If the Attorney General believes grounds for removal under subsection (a) exist, he may suspend the Special Prosecutor immediately and prepare a notice of dismissal. Such notice of dismissal shall be effective 30 days thereafter and shall be transmitted to both Houses of Congress, stating the reasons for such dismissal. For the purpose of this subsection, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

(c) The district courts shall have original jurisdiction of any action brought by the Special Prosecutor with respect to his removal or attempted removal under subsection (a) of this section. Upon a finding of removal in violation of subsection (a), the district court shall grant a temporary restraining order, preliminary injunction, order compelling forthwith the reinstatement of the Special Prosecutor or such other relief as it deems appropriate. Any district court in which a proceeding is instituted under this section shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

(d) In the case of the disability of the Special Prosecutor or the vacancy of such office, the Attorney General shall appoint a successor. The United States District Court for the District of Columbia may appoint an interim Special Prosecutor to serve—

(1) in the event an appointment is not made in accordance with section 4 of this Act until such power of appointment is exercised; or

(2) in the event of the disability or the vacancy of the office of Special Prosecutor until such time as the Attorney General shall appoint a successor in accordance with subsection (d) of this section.

Sec. 14. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Sec. 15. If any part of this Act is held invalid, the remainder of the Act shall not be affected thereby. The provisions of any part of this Act, or the application thereof to any person or circumstance if held invalid, shall not affect the provisions of other parts and their application to other persons or circumstances.

RECESS UNTIL 1:45 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Accordingly, at 12:11 p.m., the Senate took a recess until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Clark).

RENAISSANCE ON CAPITOL HILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record the lead editorial "Renaissance on Capitol Hill."

I believe the editorial gives a deserved pat on the back to Congress for the work it has done so constructively this year and for the way in which it has conducted itself in the carrying out of its responsibilities.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Renaissance on Capitol Hill

Every odd-numbered year about this time, editorialists across the land begin to tot up the score on what Congress has done and has not done in the first year of its session. Usually there is a lot more not done than done, including important but routine activities like passing the appropriations bills for the fiscal year already nearly half over. On the score of appropriations bills, this Congress has made no better start than usual. On the score of legislation, however, this Congress has shown more energy and initiative than any in a long, long time.

It has become routine in Washington for the basic policy decisions regarding legislation to be made not by Congress but by the President, the Cabinet departments and the Office of Management and Budget. That state of affairs began before President Nixon came to the White House and continued for several years while he served. But this year Congress has written a novel farm bill with a target price system that attempts to get away from some of the follies of the past. The President opposed much of it, but in the end signed it. Congress also wrote a new foreign aid bill that makes basic changes in aid philosophy, and the President, though he has some objections, is probably going to sign it. Then there is the war powers bill, which Congress passed over the President's veto. Also, Congress seems on the verge of establishing a federal land-use program though Mr. Nixon objects. Congress, not the White House, has taken the lead on writing meaningful legislation dealing with protecting private pensions; with increasing school lunch aid; with subsidizing medical organizations which will get the costs to patients down; and all or most of this can be expected to become law by some time next year.

In addition to this innovation and leadership, Congress, meanwhile, has for the first time tried to come to grips with its own deficiencies in controlling the total federal budget, and a law setting up a central budget committee may be the result. Also in this area of political-governmental housekeeping, so to speak, the Senate has passed a greatly needed campaign finance reform bill, and we trust the House will follow suit. The Senate has, of course, served an educational function with its Watergate committee hearings. Both chambers have performed responsibly in their investigation of Vice President-designate Gerald Ford, a responsibility for which there were no precedents. Nor is that all, in 1973. Congress has shown it can move with speed in the whole energy crunch brought to a head by the Middle East oil embargo.

We usually criticize Congress every other autumn. This year we would like to salute it and its leaders. We don't support all the measures listed above, but we believe that what President Nixon called "a renaissance" of influence on Capitol Hill is now under way, and that it is good news for all Americans.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. HUGH SCOTT. Mr. President, I rise for the purpose of inquiring as to both good news and bad. I am anxious to know, for the benefit of all of us, what is the program for the rest of the week and for the rest of the year. So I rise in a spirit of optimism, which I hope will be justified by the reply of our distinguished majority leader.

Mr. MANSFIELD. Mr. President, in response may I say that what I am about to say to the Senate will not be optimistic.

The unfinished business is the Rhodesian chrome bill, S. 1868. It will be laid aside from time to time to accommodate the Senate's program, including these major items:

First. The Ford nomination.

Second. The Attorney General's pay bill, S. 2673.

Third. The debt ceiling, with the campaign financing amendment, H.R. 11104.

Fourth. Social security amendments, H.R. 3153.

Fifth. Daylight saving, S. 2702. I understand there will be a motion to lay on the table the amendment dealing with the minimum wage.

Sixth. Legal Services Corporation, S. 2686, reported unanimously.

Seventh. Energy conservation, S. 2176, with amendments.

Eighth. Midwest and Northeast rail crisis legislation. It is hoped that that will be reported out later in the week.

Ninth. Confirmation of the nomination of the Attorney General.

Tenth. Independent Watergate prosecutor. It is my understanding that two reports will be filed by the Committee on the Judiciary next Monday.

Eleventh. Energy Research and Development, to be reported by the Committee on Interior and Insular Affairs tomorrow.

In addition to that, under item 12, we have three appropriation bills on which the Senate is waiting from the House of Representatives:

First. Department of Defense, to be reported in House today, and I understand very likely to be taken up tomorrow.

Second. Foreign Aid, awaiting the signing of the authorization bill.

Third. The supplemental appropriation bill, to be reported in the House today.

Other items, if possible:

First. Congressional budget procedure, S.1541.

Second. The supergrade bill, S. 2548.

Third. Abandoned money orders, S. 2705.

Fourth. Omnibus housing, to be reported some time in December.

Fifth. Flood insurance.

Sixth. Consumer credit reporting.

Seventh. International financial institutions authorization.

Eighth. Omnibus rivers and harbors authorization.

Ninth. Allocation of waste treatment funds.

Tenth. Emergency mortgage credit.

Mr. HUGH SCOTT. I was only asking the distinguished majority leader for the 1973 schedule.

Mr. MANSFIELD. Well, I have tried to split it in half, and indicate what would be taken up and what might be taken up "if possible."

Mr. HUGH SCOTT. I thank the distinguished majority leader. I take it that it is not possible to say how long we will be in session this year, but I am wondering whether there are any overtones of jingle bells in the Senator's announcement, or whether or not Members will be home in time to deck the halls with holly.

Mr. MANSFIELD. Well, as long as they do not light the holly, I think it will be all right. It is my understanding that the House of Representatives will try to complete its business by the 15th, and of course the Senate will do just as well as the House if it can get the necessary appropriation bills over here, so that we can face up to them. But this is a most difficult list of legislative pieces which I have enumerated to the Senate today. Much of it is important; much of it is wanted by the administration, and I assure the distinguished Republican leader that the Democrats on this side of the aisle will do all they can to further the wishes of the administration, especially in the field of energy.

Mr. HUGH SCOTT. I thank the distinguished majority leader. I am sure that Senators on this side of the aisle are equally anxious to cooperate and expedite it. There are some very important items of legislation involved, and I believe we have time limitations on only a few of them.

I think there is a 4-hour time limitation on the Attorney General emolument bill, plus limitations on amendments—five amendments, I believe; but there are certain limitations on amendments. Do we have time agreements on any other legislation?

Mr. MANSFIELD. That is all, I am informed by the assistant majority leader.

Mr. HUGH SCOTT. Senators should be alerted to the fact that we will continue to try to reach time agreements, if we can, subject to their wishes.

Mr. MANSFIELD. That is correct.

Mr. HUGH SCOTT. I thank the Senator from Montana.

Mr. COTTON. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. COTTON. Only last week it was my understanding from members on the Committee on Commerce who were opposed, or at least wished to amend the daylight saving bill that we would not act on it last week. In the meantime, I understand they are now willing to agree to a time limitation. I believe that the distinguished Senator from Kentucky (Mr. COOK), who is not here at the moment, said that he would even agree to 2 hours.

Mr. TAFT. If the distinguished Senator will yield, we understood that was the case. However, the distinguished Senator from Colorado and I have given indication of our intention to offer by way of an amendment to that bill the substitute minimum wage proposal that we offered previously in substance at that time. So, in view of that, at this point, we thought it proper not to have a unanimous-consent agreement.

Mr. COTTON. That is news to me.

Mr. MANSFIELD. I am sure that the assistant leadership on both sides of the aisle, in the notices they send out to our colleagues, will incorporate what has been said today so that those who are not in the Chamber at this time will be made aware of what the situation will be in the weeks ahead.

We hope that we will not be here at Christmastime. If need be, we will have to give serious consideration to Saturday sessions in order to expedite the schedule and to carry out the wishes of the President in the field of energy.

If I may have the attention of the Senate once more, before we go into executive session, I neglected to mention that the Senator from Louisiana (Mr. LONG) expressed the wish to bring up the debt ceiling legislation. There is a time limitation on it, to be brought up the end of this week, or as soon as possible, so that it would follow the disposition of the Ford nomination tomorrow.

I thank the Chair.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 9575) to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD.)

EXECUTIVE SESSION

PROTOCOL AMENDING THE 1928 CONVENTION ON INTERNATIONAL EXPOSITIONS—EXECUTIVE N; AND PROTOCOL TO THE INTERNATIONAL CIVIL AVIATION CONVENTION—EXECUTIVE Q

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the hour of 2 p.m. having arrived, the Senate will now go into executive session to proceed to vote on Executive N, 93d Congress, 1st session, and Executive Q, 93d Congress, 1st session.

There will be one vote on these two treaties, broken down so as to count as a separate vote on each treaty.

EXECUTIVE N, 93D CONGRESS, 1ST SESSION—PROTOCOL AMENDING THE 1928 CONVENTION ON INTERNATIONAL EXPOSITIONS

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification of Executive N, 93d Congress, 1st session?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Colorado (Mr. HASKELL), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Illinois (Mr. STEVENSON) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The yeas and nays resulted—yeas 76, nays 0, as follows:

[No. 511 Ex.]

YEAS—76

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bible
Biden
Brock
Brooke
Buckley
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Fannin
Fulbright
Gravel
Griffin
Hart
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NAYS—0

NOT VOTING—24

Bayh
Bentsen
Burdick
Byrd, Harry F., Jr.
Cook
Eastland
Ervin
Fong
Goldwater
Gurney
Hansen
Haskell
Javits
Magnuson
McClellan
McClure
Mondale
Percy
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

The PRESIDING OFFICER. On this vote the yeas are 76 and the nays are zero. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EXECUTIVE Q, 93D CONGRESS, 1ST SESSION—PROTOCOL TO THE CIVIL AVIATION CONVENTION INTERNATIONAL

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification of Executive Q, 93d Congres, 1st session?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Colorado (Mr. HASKELL), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

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I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The yeas and nays resulted—yeas 76, nays 0, as follows:

[No. 512 Ex.]

YEAS—76

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bible
Biden
Brock
Brooke
Buckley
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Fannin
Fulbright
Gravel
Griffin
Hart
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NAYS—0

NOT VOTING—24

Bayh
Bentsen
Burdick
Byrd, Harry F., Jr.
Cook
Eastland
Ervin
Fong
Goldwater
Gurney
Hansen
Haskell
Javits
Magnuson
McClellan
McClure
Mondale
Percy
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

The PRESIDING OFFICER. On this vote the yeas are 76 and the nays are zero. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

By unanimous consent, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more rollcall votes today.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF DEBT CEILING BILL AND FOR VOTE ON NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I have cleared the following proposed unanimous-consent agreement with the distinguished Republican leader and the distinguished assistant Republican leader, and I am authorized by the distinguished majority leader to propound the request. It has been cleared also with the distinguished Senator from Louisiana (Mr. Long), chairman of the Committee on Finance, and with the ranking Republican member of that committee (Mr. Bennett), and the distinguished senior Senator from Massachusetts (Mr. Kennedy), and other Senators.

Mr. President, I ask unanimous consent that at the hour of 10:30 a.m. tomorrow, the Senate proceed to the consideration of H.R. 11104, the Debt Ceiling Extension Act, and that the Senate, at the hour of 3:30 p.m. tomorrow, resume consideration, in executive session, of the nomination of Mr. Ford to be Vice President of the United States, and that a vote occur on the confirmation of the nomination of Mr. Ford at 4:30 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, does that mean that further action on the debt ceiling bill would continue after that vote?

Mr. ROBERT C. BYRD. Yes. It would mean that if action on the debt ceiling bill had not been completed before the hour of 3:30 p.m., the Senate would resume consideration of the debt ceiling bill after the vote on the Ford nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the disposition of the committee amendment on H.R. 11104, the Debt Ceiling Extension Act, the Chair lay before the Senate amendment No. 651, dealing with public financing of elections; provided that debate on amendment 651 be limited to 6 hours, to be equally divided in accordance with the usual form; that debate on any amendment to the amendment be limited to 1 hour; that debate on the amendment to H.R. 11104 that is to be offered by the Senator from Minnesota (Mr. Mondale) be limited to 2 hours; that time on the bill be equally divided between and controlled by the distinguished chairman of the Finance Committee (Mr. Long) and the distinguished ranking Republican member thereof (Mr. Bennett); and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I wonder if the distinguished majority whip could tell us what the amendment that the Senator from Minnesota (Mr. Mondale) may offer is about? Is there a number to it, or is it a printed amendment?

Mr. ROBERT C. BYRD. I wonder if the distinguished Senator from Massachusetts would respond to that.

Mr. KENNEDY. Mr. President, it is my understanding that the Senator from Minnesota (Mr. Mondale) and the Senator from Pennsylvania (Mr. Schweiker) intend to offer the portion of the overall amendment that deals with public financing of Presidential primaries, through matching grants.

Mr. GRIFFIN. I think that puts the Senate on notice concerning the nature of the amendment. I appreciate the brief explanation of the Senator from Massachusetts. It will be a very important matter with a 2-hour limitation, but Senators are free to make their own judgments as to whether that is an appropriate limitation.

Mr. KENNEDY. Mr. President, further on this point, since the Mondale-Schweiker proposal for Presidential primaries is a significant part of amendment 651, I would expect that a substantial amount of the 6 hours on the amendment itself would be used in talking about the proposal for Presidential primaries.

Mr. PELL. Mr. President, if the Senator will yield, there is one point I would like to raise. This is the first time I have heard publicly or have heard any Senator mention to me that this amendment would be brought up on the floor in connection with the debt ceiling bill. I have heard a rumor to that effect. It disturbs me a little bit because, as chairman of the subcommittee involved, we had either 3 or 4 days of hearings and about 40 witnesses. I had my own bill, which goes substantially further than to provide for primary and general elections of Representatives, Senators, Presidents, and Vice Presidents.

I wonder if this is correct. It seems to me that no one has yet said to the subcommittee, officially or in writing, that this matter was coming up.

Mr. KENNEDY. Mr. President, I had the good fortune of appearing before the subcommittee which the Senator from Rhode Island chairs, as did many of my colleagues who are also cosponsors of this measure.

I tried to indicate during the course of those discussions, along with the minority leader, the Senator from Pennsylvania (Mr. Hugh Scott), that we were hopeful of offering an amendment at the earliest possible time.

The hearings mentioned by the Senator from Rhode Island were an outstanding contribution to the development of the issue, and I commend him for his leadership.

The amendment the Senate will be considering concerns the matter of public financing of elections. It has been debated many times on the Senate floor, going back to 1966. And, as a matter of fact, during the Senate floor consideration of the debt ceiling measure that passed the Senate last June, major amendments were adopted.

I completely respect the initiative of the Senator from Rhode Island and the thoughts and the concern which he has. However, it is the feeling of the nine cosponsors of the amendment that the Debt Ceiling Act provides us with the best opportunity to have a prompt, full and open discussion on the floor of the Senate concerning a matter that is of extreme importance and significance to the future well-being of our political system.

Mr. PELL. Mr. President, if I offer my amendment, which goes a little further, as a substitute, what would be the wish of the cosponsors?

Mr. GRIFFIN. The Senator from Rhode Island would have an hour of debate on his amendment, a half-hour to the side.

Mr. PELL. Mr. President, I would add that if it is a question of voting up or down on the proposal of the nine Senators, I would vote for it because I think the idea is right. However, I would naturally prefer to see the amendment considered which came out of the committee as the result of hearings. We worked very hard on this, and I would like to see it voted on.

Mr. KENNEDY. Mr. President, I would like to give assurances to the Senator from Rhode Island that there were substantial contacts at the staff level. However, there was no contact with the chairman of the subcommittee, and I regret that.

Mr. PELL. The Senator is correct. We were not informed at the staff level until after the amendment had been submitted. This is the first notice to the Senate, however.

Mr. GRIFFIN. Mr. President, further reserving the right to object, I wish to indicate that I share the concern of the distinguished Senator from Rhode Island, the chairman of the subcommittee of the Committee on Rules and Administration, which has jurisdiction over such legislation as that to be offered by the Senator from Massachusetts (Mr. Kennedy). Because I serve on the subcommittee I am conscious of diligence with which the Senator from Rhode Island has pursued this particular matter. Considering the jurisdictional question, it would be unfortunate if the amendment being talked about should be tacked on to the debt ceiling bill, and then should be sent to a conference between the Senate Finance Committee and the House Ways and Means Committee.

It seems obvious that this is not a very good way to legislate in such an important area, allowing only 1 hour for debate of such important amendments. On this side of the aisle, of course, we must be concerned about getting to passage of the debt ceiling legislation before the week is out. So, we do not have much choice.

I would inquire of the distinguished majority whip whether I am correct in understanding that, under the unanimous consent request tabling motions would not be precluded?

Mr. ROBERT C. BYRD. The Senator is correct. May I add to the request, Mr. President, that there be a time limitation on the bill itself of 4 hours.

Mr. MATHIAS. Mr. President, further reserving the right to object, do I correctly understand the distinguished majority whip to make the request in the usual form?

Mr. ROBERT C. BYRD. The Senator

is correct. Mr. President, I withdraw the addendum, that there be 4 hours on the bill. I withdraw that provision. That is not a part of the request.

Mr. MATHIAS. Mr. President, I appreciate the difficulty which the distinguished majority whip has in forming and proposing these requests. I do not want to make his job more difficult. However, I have in mind a situation that could develop in which it might be useful and necessary to offer an amendment which would be analogous to the Mondale-Schweiker amendment, but which would be excluded under the unanimous-consent request.

I wonder if under the unanimous-consent request I could be granted the right to offer such an amendment regardless of germaneness.

Mr. ROBERT C. BYRD. Would it be similar?

Mr. MATHIAS. It would be in that category.

Mr. ROBERT C. BYRD. Mr. President, would the chairman like to comment?

Mr. LONG. Mr. President, if we are talking about an amendment in the campaign financing area, I have no objection.

Mr. MATHIAS. It is in that area.

Mr. ROBERT C. BYRD. Mr. President, how much time does the Senator desire, the 1 hour accorded to other amendments?

Mr. MATHIAS. I would say one and one-half hours.

Mr. ROBERT C. BYRD. Very well, Mr. President. I include the Senator's request in the overall request.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. KENNEDY. Mr. President, if the Senator would yield further, I wanted to indicate to the acting leader that with respect to the raising of this particular issue on the Debt Ceiling Act. Members of the Senate know that over the period of the last 2 years, the Senator has acted to adopt major amendments to the debt ceiling legislation. A little over a year ago, we did so on the expansion of social security benefits to provide what the overwhelming majority of the Senate thought were essential increases in social security. And last June we adopted an end-the-war amendment to the Debt Ceiling Act. So there are ample precedents for the public financing amendment we intend to offer. On matters of overriding importance and consequence in the past, the Senate has used this particular vehicle to achieve desired public policy.

It certainly seems to those of us who are cosponsoring the amendment—and hopefully the majority of the Senate will think so as well—that significant and important reform in the area of campaign financing is a matter on which we should have similar speedy consideration by the Senate.

Mr. President, I thank the acting leaders for yielding.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and, as in legislative session, it is so ordered.

EXECUTIVE SESSION—NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed in executive session to the consideration of the nomination of Mr. GERALD R. FORD for the office of Vice President of the United States.

Mr. CANNON. Mr. President, I ask unanimous consent that William M. Cochrane and Richard Casad be permitted on the floor during the consideration of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, the Senate Committee on Rules and Administration has submitted its report to the Senate, unanimously recommending the confirmation of Congressman GERALD R. FORD as Vice President of the United States.

The committee's report, together with the printed hearings, are on the desks of all Members of the Senate and, taken together, speak for themselves on the scope and depth of the investigation into the qualifications of the nominee during the period beginning October 12, 1973, when President Nixon named him to succeed to the vice presidency, and ending last Tuesday, November 20, when the committee cast its vote to report the nominee favorably to the Senate.

Members and staff of the committee worked diligently to examine every pertinent facet of the nominee's private and public life to determine to the very best of its ability whether any defect or flaw in the character, or misdeed or misconduct in the record, of Congressman FORD might be uncovered as a bar or impediment to his confirmation.

The Department of Justice was pressed to conduct a thorough investigation into the background and present activities of the nominee. Hundreds of agents interviewed in excess of a thousand individuals.

The Internal Revenue Service was asked to conduct audits on the income tax returns of Mr. FORD, and the Congressman was requested to furnish copies of his returns for each of the past 10 years.

As stated in the table of contents of the report, the committee studied particular issues in detail. Those included:

Payroll data.
Disclosure of income, assets, honoraria.
Payroll information.
Real estate holdings.
Business affiliations, and
Campaign finances.

Also, the nominee was questioned concerning his views on several public issues of great import, including:

Foreign policies.
Domestic issues.
The impoundment of funds.
Grounds for impeachment.
The Warren Commission.
The "Watergate" problems.
Executive privilege, and
Special prosecutor.

The matters listed are not and were not exclusive. They were some of the many areas of inquiry delved into during the course of the investigation. The printed hearings and the report contain all of the major and minor points into which action was directed.

The allegations made by Mr. Winter-Berger in his book, "The Washington Pay-Off" were all examined carefully on a painstaking, individual basis.

If there are any sources of information not fully explored, the committee is not aware of them, nor have any such sources been mentioned by the general public, the press, or any department or agency of Government.

Members of the Senate will note in the records of this investigation that Congressman FORD was closely questioned on his views with respect to a number of policy and legal matters so that the Senate and the Nation might know his position and his possible future action should he be confirmed as Vice President, or, much more vitally, should he ascend to the highest office in the land—the Presidency of the United States.

The committee has been gravely cognizant of the possibility that its investigation of Congressman FORD might offer greater significance than its stated purpose—his qualifications to serve as Vice President.

In that light, its energies have been devoted toward satisfying every question existing in the minds of the Members of the Senate and of the citizens of this Nation who were relying upon the committee to fulfill their right of choice at the polls.

The committee, in accepting this responsibility, determined to place the nominee under the microscope of public scrutiny in order to ascertain in an objective, logical, and analytical manner whether he possessed the qualifications requisite for the high elective office to which he had been named.

Restraint was required in order to remain within the proper limits of honest and thorough inquiry.

There are undoubtedly those who will find some of the nominee's policies objectionable, and there may be others who think that Congressman FORD is not the most outstanding candidate available to the President in the selection of a candidate to fill the vacancy in the office of the Vice President.

The judgment of the committee was and is that the President had the right to choose from among the general citizenry, or from among Republican ranks, a nominee of his own general political persuasion and in whom he could place confidence that the policies and programs of this administration would be supported.

As chairman of the committee, Mr. President, I am confident that my colleagues on the committee were committed to the goals and the means to attain those objectives that I have expressed today, and I am pleased to state that the committee has lived up to its obligations with integrity.

I wish to commend my colleagues on the committee and all of the staff personnel who were assigned to this confirmation investigation, for their diligence, their spirit of cooperation in a difficult task, and for the unanimity of purpose displayed throughout the proceedings.

Mr. President, the committee has unanimously recommended to the Senate that Congressman Gerald R. Ford be confirmed as Vice President of the United States.

For myself, and for all of the members of the Committee on Rules and Administration, I urge the favorable consideration of this nomination.

Mr. THURMOND. Mr. President, it is with great pleasure that I rise in support of the nomination of my good friend and colleague, Gerald Ford, to be Vice President of the United States. As a brief review of Gerald Ford's background will clearly indicate, he is eminently qualified for this position of high trust in our Government.

In 1948, he defeated the incumbent and went on to win his first term as Representative of Michigan's Fifth Congressional District. He has subsequently been reelected 12 times, and has won by over 60 percent of the vote cast in every election. It is obvious that the citizens of Michigan's Fifth District—those who know him best—have complete confidence in their Congressman.

In the Congress, Gerald Ford has served on the House Public Works and Appropriations Committees. He has served on a number of Appropriations Subcommittees, including Army Civil Functions, Emergency Agency, Foreign Operations, and Department of Defense. He has served as a member of the Republican leadership in Congress since January 1963, and has been minority leader since 1965. As a prime example of his dedication to hard work, throughout his entire 24-year tenure, he has maintained an attendance record of over 90 percent.

In 1961, the American Political Science Association conferred on Gerald Ford its Distinguished Congressional Service Award and lauded him as a "Congressman's Congressman." In 1971, the American Academy of Achievement selected him as one of 50 "giants of accomplishment" and presented him with the Golden Plate Award. Much earlier in his career, he was named as one of "America's 10 Outstanding Young Men" by the U.S. Junior Chamber of Commerce. Truly, Gerald Ford is a man of accomplishment and achievement—a man who can get things done.

Gerald Ford has also obtained high achievement in his private life. He graduated with honors from the University of Michigan in 1935, and received his law degree from Yale in 1941. His prowess in high school and collegiate athletic competition is widely known. He served with distinction in the U.S. Navy during World War II, and continues to be active in the American Legion, the Veterans of Foreign Wars, and AMVETS.

I could go on, but I believe this brief summary of Gerald Ford's background clearly shows his qualification for the office of Vice President. He has the experience, and is known for his integrity and fairness. He is not afraid of hard work, and he can get the job done. Perhaps most important, he can help restore to the Government the confidence of the American people. It is with great pleasure that I support his confirmation.

Mr. HATHAWAY. Mr. President, I have reluctantly concluded that I cannot support this nomination to fill the current vacancy in the Vice Presidency. My opposition to the nomination, however, should not be interpreted as a reflection on the character or qualifications of Representative Ford, but is based instead upon my conviction that the consideration of any nominee is improper under the present circumstances. Simply put, it is my feeling that a President currently undergoing an impeachment investigation by the House of Representatives should not be allowed to name his potential successor and that the country should not be subject to the immediate possibility of a prolonged period under an appointed Executive. The former is inconsistent with my sense of propriety and the latter with my understanding of the basic principles of our Government. Therefore, until the matter of the President's future is resolved, I think it is appropriate for the Congress to refrain from any further action on this nomination.

During the consideration of the 25th amendment, Prof. Richard P. Longaker of U.C.L.A. stated prophetically:

> When the twenty-fifth amendment is first applied, flaws not hidden will no doubt appear. Some of the inevitable imperfections are already evident, though their seriousness will depend on factors extrinsic to the wording of the amendment.

This case has made manifest one of these flaws. Surely, the framers of this amendment did not contemplate the present situation: a Vice President's resignation in the face of criminal prosecution only to leave a President facing the first serious impeachment proceedings in over 100 years. To carry through with the confirmation of any Vice-Presidential designee under these circumstances, especially when there are other alternatives available, would, it seems to me, not be in the national interest.

What if the present President is impeached and removed from office? As one who may have to sit in judgment on the case, I voice no opinion on the likelihood of such an eventuality, but merely state what must be conceded to be a realistic possibility. If this were to happen, the occupant of the White House and the holder of the free world's most critical position would then be one appointed by the very leader deposed by the people. Such a result seems contrary to the principles of our entire legal and political tradition.

Further, a President thus installed would, for the first time in our history, not be one elected by the people. This is inconsistent with the underlying principle of democratic government: that sovereignty and legitimacy derive only from the people themselves. That this idea was basic to the conception of our Presidency is clear from the writings of Madison and Hamilton. With the progressive extension of suffrage, this objective has become even more firmly imbedded in our system. Confirmation of Mr. Ford at this time unnecessarily increases the likelihood of this principle being breached.

Because of my concern with this problem, I have developed—in consultation with many others—and introduced a proposal for its solution. My bill, S. 2678, would establish, by statute, a procedure for the holding of a special election when there is a vacancy in both the Presidency and the Vice Presidency. This would, in essence, be simply a return to the Presidential succession statute which was passed in the Second Congress and which was law for the first 100 years of our history. If such a statute were now in force, the outcome of the impeachment proceedings could be awaited without the need for precipitate action on this nomination. If the President were removed, the people would choose his successor and charges of partisanship in the removal would not lie; if the President were vindicated, then this nomination could be confirmed with all dispatch and the 25th amendment will have served its purpose. I am convinced that this alternative is preferable to the choice with which we are confronted.

I realize that the views I express today may not be accepted by some of my colleagues; but it is my responsibility, nonetheless, to oppose what I feel to be a mistake of policy as well as a dangerous constitutional precedent. It is for these reasons that I intend to vote against the nomination of Mr. Ford when it comes up tomorrow afternoon.

Mr. CRANSTON. Mr. President, I rise to support the nomination of Gerald Ford to be Vice President of the United States. I will cast my vote for him.

Frankly, I am astonished to hear myself, a lifelong Democrat, support a Republican for Vice President of the United States.

We are living through an incredible time of unprecedented events, however. And so we in this Democratic-controlled Congress find ourselves, under this new and untested 25th amendment to our Constitution, doing what a Republican National Convention, and then the people themselves, would normally do in nominating and electing a Vice President.

Together, we in Congress share a unique and heavy responsibility—particularly in view of the present plight of the Presidency.

I have not taken this responsibility lightly. Nor has the chairman of the Rules Committee, the thorough and able Senator from Nevada (Mr. Cannon). I congratulate and thank him, and all the members of his committee on both sides of the table who, under his fine leadership, have handled the consideration of the nomination so carefully, so expeditiously, and so wisely.

I have relied substantially—but far from entirely—on the committee to determine the qualifications of GERALD FORD to serve as our Vice President and, if need be, our President. I have followed the committee's hearings and findings closely.

I am relieved that the testimony of witnesses, the committee's own investigation, the FBI investigation it requested, and the press in its independent investigations all failed to produce any evidence challenging the integrity and character of GERALD FORD. After all that has transpired of late, such a discovery would have been a great shock, and a new and deep disappointment, to the people of our country.

I am delighted that the committee found no other reason to oppose the nomination, and that it therefore supports him unanimously.

It is great, finally, that the committee, while doing a very thorough job, has completed its assignment with considerable speed—for any undue delay would only have aggravated the sense of instability and uncertainty that already troubles and torments our fellow citizens so very deeply. Instead, by their responsive and responsible performance, the Senator from Nevada and his committee colleagues have shown the Nation a firm faithfulness to the letter and the spirit of the Constitution.

Much as I respect the chairman and the members of his committee, however, I have not been content to delegate all responsibility in this matter to them. My own contacts with FORD have been casual and infrequent. I did have an encouraging experience recently when, on the emergency medical services bill that was primarily mine on the Senate side, he came through on a commitment he made to the House that the President would sign the measure, after an original veto, despite the fact that all but one of the several changes the President had demanded in the measure had not been made. This, however, only finally worked itself out a few days ago.

I set out, on my own, weeks ago, to learn all I could about FORD.

I have consulted very widely. I have held several hundred meetings and phone conversations with those I represent in California—and others elsewhere—who might shed some light on GERALD FORD. I have talked with colleagues of his of both parties in the House and with Senators who have served with him there or had reason to deal with him directly from here; with people of Michigan whom he represents; with men and women in other States who have crossed his trail, or observed him; and most of all with hundreds of Californians whose views I thought would have particular value, and whom I phoned or visited with out there in the State in the past few weeks.

Californians I have consulted include business, labor, and civic leaders, Democrats and independent voters. I have consulted particularly with Republicans who, under normal circumstances, would have had a more direct role in considering the nomination of a member of their party for Vice President, and who would be most likely to know GERALD FORD, or to have information or insights about him. Among others, I talked with 56 of the 57 Republican county central committee chairmen, with leaders of the official and unofficial statewide GOP organizations in California, including the State chairman, Gordon Luce, and the national committeeman, Dr. William Banowsky. I discussed FORD with Gov. Ronald Reagan and other constitutional officers, and I sought the advice of the delegates to the 1968 Miami Republican National Convention. I also solicited the views of a large number of official and unofficial leaders of California's Democratic Party at the State and local level, including the State chairman, Assemblyman John Burton, the vice chairman, Charles Manatt, members of the national committee, and many county central committee chairmen.

Of all the people I consulted, only two Republicans and three Democrats spoke out strongly against FORD and urged his rejection.

Some Republicans, and a number of Democrats, said that they would have nominated someone else—but that, given the prevailing situation and the procedures available under the 25th amendment, all of them said they nevertheless favored approval of GERALD FORD.

A large number of the leaders of both parties, along with many others I spoke to, said they felt that FORD, considering the circumstances and the man, was just about the best choice that could have been made.

Not one person raised any question about GERALD FORD's honesty.

One prominent California businessman offered specific evidence of his integrity and good judgment. A wealthy Michigan industrialist, who is a friend of his and of FORD's, concerned about FORD's modest income and standard of living, has several times offered to let FORD in on some legitimate real estate deals that seemed promising. Invariably, this man told his California friend, FORD politely and firmly declined.

Several Republican leaders, too, told me of personal experiences of their own involving financial contributions given to FORD to be transmitted to other Republican candidates. Their common conclusion was summed up by one, who said:

> The money was always handled scrupulously, always accounted for just the way the law required.

Explained another:

> Sometimes we simply gave Ford the money, and told him to pass it along to whatever congressional candidate he felt needed it most. He not only always reported back to tell us what he'd done with it, but he told us we could have the money back if we didn't like the candidates he'd picked.

Other comments on this aspect of the man:

A businessman who has dealt with FORD on legislation over the years:

> He's not an equivocator, or a liar, or a slip-around the corner guy.

A rural Republican county committee chairman:

> He's probably as straight a guy as I've known, or even known about, in politics.

Another of the same:

> I don't know him personally, but he seems like a right good man—appears honest. I sure hope he is.

Another:

> He seems straight. If a man isn't, you hear whispers. I've never heard any about him.

A Republican colleague of FORD's in the House, a Californian:

> He's so square, I'd be absolutely shocked and astounded if he'd ever done anything wrong.

An urban Democratic county committee chairman:

> Thank God he's got character, not charisma. We've had too much of the one, too little of the other. I like his low-key style, after all the high, shrill notes others have been striking.

I chatted about FORD with our former Republican colleague, Charles Goodell of New York, who was one of the leaders in the move that deposed Charles Halleck and propelled FORD to GOP leadership in the House, and who, ironically, was later a Senate victim of Spiro Agnew. Said Goodell about FORD:

> He's open, honest, decent, solid. You can believe him, even when you don't want to follow him. No arrogance. Reaches out for help. Comparisons to Truman has a ring of truth to them.

Early, when the many investigations of FORD had barely gotten underway, the plaintive hope that nothing bad was in his background to be turned up was reflected in the remarks of a Republican county committee chairman:

> My wife and I are terribly troubled by the whole situation. We just hope he checks out o.k. on his income taxes.

Another Republican official said at about the same time:

> He seems honest to me—but don't rush things because of the crisis. Make sure you know all there is to know about him before you act back there.

The only serious question voiced to me about GERALD FORD went to his competence—not to serve as Vice President but as President.

The general impression seems to be, both on the part of those who know him casually or who knew him only by hearsay or through impressions gained through the media, that FORD is something of a plodder—not brilliant, not creative, but adequate, competent, reliable.

"I have a great sense of relief that it's FORD," said a very prominent Democrat in the State. "We could have had a terrible controversy over somebody else. He's very acceptable."

A leader of Republican women told me;

> In my opinion he, like many of us middle class Americans, works more for his country than his own personal ambition. He's not arrogant, and he works well with others.

A noted Democratic business leader in California:

> We know Gerry and Betty more socially than anything else. He's a straight shooter whom you instinctively trust; superb for this particular, tough situation. Re the allega-

tions that he isn't bright, that's silly. He isn't scintilating or sparkling, but he's far from being a dummy.

A top Republican Party leader:

I had some feeling of letdown when he was picked. I'd have preferred some more extraordinary person. There's nothing about him that causes me to be enormously enthusiastic—nor particularly negative.

Those who know FORD better than these tend to agree that he is no superbrain—but they generally give him high marks for ability to work things out and get things done. He's got a good bit of savvy," said one longtime FORD-watcher.

And, from these who have had direct opportunities to size him up in action—over the years or in brief but significant encounters—I picked up some fascinating, and encouraging, insights.

John McCone, Los Angeles industrialist who was head of the CIA in the Kennedy administration, told me that FORD has a penetrating, inquisitive approach to serious problems. In briefings of congressional leaders during the Cuban missile crisis, he felt FORD had some sound intuitions, sensing there was "something more to it" than some supposedly well-informed officials in the executive branch originally believed to be the case. "FORD'S cold, correct judgment about the nature of the missiles was proven sound," McCone told me. "The so-called experts were wrong."

David Packard, likewise a California industrialist, who worked with FORD two administrations later during President Nixon's first term, while serving as Undersecretary of Defense, used some of the same words to convey much the same impression:

A good, steady hand . . . responsible . . . solid insights . . . thoughtful . . . I'd put faith in his experience.

Marvin Watson, the Texan who was in the White House with Lyndon Johnson and who now practices law in Los Angeles and Washington, observed FORD often in congressional liaison sessions, and recalled:

He was quiet and reserved in those meetings; straight in negotiations; never offered compromises, but didn't oppose them, either. He supported foreign policy, opposed domestic policy. He was fair, although a couple of times his speeches on the House floor after a White House session annoyed us. No question about his integrity. Good organizer.

Other comments in this category:

A Republican woman leader in California who has known FORD for years:

A native intelligence—not a schooled "intellectual." Horsesense.

Another Republican woman in the State:

He's modest and humble, and we need some of that. We've had all too much, for all too long, of people who think they know it all, of leaders with limitless confidence in their own superiority who lead us into unlimited nightmares.

A former chairman of the Republican Party in California:

The fact that he's been in politics and government so long should make him a real plus for this administration. The President's had too many people around him with no political experience.

He then recalled the story about Sam Rayburn, Lyndon Johnson, and the bright and brilliant people President Kennedy brought down to Washington, when the Speaker supposedly said:

They may be mighty intelligent, Lyndon, but I'd feel a lot better about them if one of them had run for sheriff once.

A prominent educator:

He seems to respect representative government. If he becomes President, he won't develop a God-like, dictator-like complex.

Former Senator William F. Knowland:

I had a very favorable impression during the thirteen and a half years we were there together. He's got his feet on the ground. He knows the issues—you've really got to learn them you know, in those leadership roles.

A Republican county committee chairman, one of many who have become acquainted with FORD in the course of constant travels across the country to speak on behalf of GOP congressional candidates:

Not brilliant, but a sound, solid citizen who'll do the best he can.

A nationally known figure who was behind him at Yale Law School:

He's a real Eagle Scout. As bright as many people who've served as Vice-President, and a heck of a lot brighter than some Veeps.

Time and again, Charles Goodell's point about Ford "reaching out" to others for help was stressed. A conservative Californian who was until recently a colleague of FORD's in the House, H. Allen Smith of Glendale, told me he supported Halleck against FORD in the struggle that made FORD minority leader.

But he surprised me afterwards. Always straightforward, always consulted—consulted everybody. "What about this?" he'd ask. "What about that?" Always listened. Never gave orders. Works terribly hard, endlessly. Has a great memory. You can trust him as far as you can trust anybody.

"Why did you oppose him?" I asked. "Only because I was close to Halleck in those days, and barely knew FORD."

I did get a strong negative from one prominent aerospace-defense executive in California, a Republican who has seen something of FORD in business-government relations. Said he:

There's nothing wrong with him. Also, there's nothing right with him. He's not the kind of guy I'd hire to get a job done. He's a non-entity.

Most people, by now, seem to have heard about the caustic comments Lyndon Johnson allegedly made about, Ford, particularly the one about playing football too often without a helmet.

One Republican I conferred with turned that football background right around, however. He said:

Things might be better if Richard Nixon had made that Whittier football team. Thank God, GERALD FORD made the Michigan team. He's strong, and he knows it. He's tough, and he knows it. He won't have to prove his manhood—and I'm not thinking only about Nixon when I say that. Look at his predecessor. Thank God, too, that FORD wasn't a quarterback. He knows he doesn't know all the answers.

And a Republican county committee chairman from the Mother Lode said:

I've been impressed with Gerry Ford since I saw him play football in the East-West Shrine Game.

GERALD FORD's record on the issues was the major point of controversy that I encountered—primarily among Democrats but also, to a minor degree, among Republicans.

It was on the basis of his voting record—and mainly on civil rights issues—that the few Democrats opposed to FORD urged that he be rejected. Only one black leader with whom I spoke urged that he be turned down for that reason, however.

"I disagree with him 100 percent on the issues," said a Democratic candidate for governor. "But we've got no choice, under this new Amendment. We can't expect Nixon to pick anybody with a Democratic voting record. And he could have done worse. Remember how, after Haynsworth was defeated, he tried to give us Carswell?"

A leader of the volunteer California Republican Assembly suggested, in the conceivable context of a FORD presidency, that he would be better than President Nixon on domestic matters—"through his experience in grappling with them over so many years in the House"—but that he would be weaker on foreign policy: "so I'm relieved by his apparent respect for Henry Kissinger and the prospect that he'd keep him as Secretary of State."

A Republican conservative delegate to the Miami convention:

I'd have preferred somebody with a position more to the right. But he's o.k. I'd put him slightly to my left—which may please you!

A local Democratic leader:

He's sure been a Nixon supporter, and he was bad on the war—but he's honest, people can believe in him, so I hope he's confirmed.

A labor leader:

He's got a terrible voting record on the COPE charts—but I think you have to approve him.

Several Republicans, and a few Democrats, cited FORD's support of GOP Congressman PETE MCCLOSKEY's successful bid for reelection last year—despite his strong opposition to President Nixon and to the Vietnam War—as evidence of a broad-gauged, unprejudiced attitude on FORD's part. "I'm all for him," MCCLOSKEY himself told me. And, apropos of FORD's support of the Vietnam War all through the Johnson and Nixon years, a liberal, anti-war Democrat who serves in the House, said:

Sure he was a hawk, but a lot of hawks learned a lot out of the Vietnam tragedy, and I think one of them was Ford. Don't forget that it was Ford who finally negotiated Nixon's acceptance of the cutoff date that ended our combat role in the war.

The hope that FORD was just the man to improve relations between the executive branch and Congress was expressed by a great many people of all political persuasions and philosophies. "If I had to pick one thread out of the quilt," said a county supervisor, "it would be how timely it is to have FORD emerge on the national scene. The confrontation between the President and the Congress is deep and dangerous, and maybe FORD can do something about it. President Nixon was very wise to pick him."

Quite a few with whom I consulted, some in agreement with FORD on the basis of his voting record and some in disagreement, felt that it was impossible to judge him on the basis of that record.

"His sense of responsibility, of duty, as Republican leader in the House, explains his support of Nixon's program. It is not fair, or accurate, to size up his philosophy solely on that basis. It does not necessarily reflect his views," said one Republican, expressing a view voiced by several others and by a couple of Democrats as well.

Other Democrats expressed concern that FORD simply seemed to swallow whole whatever program Richard Nixon laid down. But John Veneman, former Republican assemblyman, who came to HEW as Under Secretary to Bob Finch, and who encountered FORD every now and then on legislative matters, told me:

> He had more than an average grasp of H.E.W.-type issues. I found him very pragmatic—not at all a hard liner. Eager to weigh the merits. He wouldn't just take the White House line because somebody called him up from down there. A very key point about him is that he has a good staff—seems to know how to size up people and select assistants very well.

A remarkably restrained and fair comment—one that might surprise foes of OEO's legal services program—came from a young attorney who has worked in that program in GERALD FORD's congressional district:

> He really represents that district of his. That district would distrust anybody who was innovative, and throw out anybody who was liberal. So his voting record doesn't necessarily reveal his real beliefs. I'll be watching to see if there's any change when he gets away to a national base, like there was in Lyndon Johnson—on domestic issues—when he was liberated from his Texas base. I wouldn't expect as dramatic a change in Ford, yet I'd be surprised if there wasn't some change.

Incidentally, I was struck during my canvas of so many citizens that no one—no Republican, no Democrat, no labor leader, no minority group leader, no civil rights activist, no attorney—no one ever raised the issue of FORD's abortive effort to impeach Justice William O. Douglas, let alone suggested that as a reason to vote against him.

A shrewd and seasoned Democratic leader in California, who has great experience in national politics, expressed the same theme about FORD and his District in these words: "The papers in Grand Rapids—FORD's hometown—are ultra-conservative. Their influence on FORD will diminish now."

And how thoroughly FORD, indeed, does represent his district was described by a Saginaw banker who was queried about FORD by a leader of one of California's Republican volunteer organizations.

> He communicates constantly with people here in the district, the banker said. He understands our problems and tries hard to solve them. His leadership responsibilities in the House may have something to do with the fact that he's never gotten any nationally significant bills of his own through Congress. But he's never been too busy to pay attention to our needs. He's never overlooked us.

Actually, far and away the best comment on the issues aspect of GERALD FORD came, I think, from our own Democratic colleague from Michigan (Mr. HART), when he said:

> I have known Gerry Ford for many years. During that time we have often disagreed, but I have never had reason to doubt his integrity and his sincerity. As for his voting record, I suspect he views mine in about the same light I view his, and in this period of swift change only the foolhardy offers his own voting record as a standard of wisdom and consistency.

Thinking back now upon all the varied views of GERALD FORD I have absorbed, I find I am most of all impressed by what seems to me to be an almost startling concensus of conciliation that is developing around him.

Virtually if not totally unknown to many of those with whom I have spoken until he burst so suddenly and so recently into their consciousness, GERRY FORD has come into focus as someone who appears to offer the Nation a steadiness and a dependability for which it yearns.

I doubt if there has ever before been a time when integrity has so surpassed ideology in the judging of a man for so high an office in our land.

I have never before found so many Democrats so universally and utterly devoid of partisanship when giving their measure of a Republican leader.

I have never before found so many Republicans so free and frank in discussing and dissecting, with a Democrat, their own leaders as they affect the future of their party and our Nation.

Many of these conversations, of course, branched out beyond GERALD FORD to Richard Nixon, the Congress, the courts, the Constitution, the country.

The possibility of a Ford Presidency was always implicit, often explicit. No Democrat urged that Congress hold up FORD in hopes of instead landing CARL ALBERT, Democrat, in the White House. Many spoke out strongly against that course, including the State Democratic chairman and vice chairman, John Burton and Charles Manatt. "That would be taking partisan advantage of a national crisis," was a common comment. "It would be breaking trust to try to put a Democrat in," said John Henning, executive secretary of the State AFL–CIO.

A Republican delegate to Miami ended our conversation by asking with a chuckle:

> Will you call up to ask my views when Ford submits his vice-presidential choice to Congress?

Out of all this, out of the strange and untoward events now transpiring in our America, I strongly sense that there may come not the dividing of Americans that has been feared but a uniting of Americans that has not been foreseen.

And, in an odd, unexpected, unpredictable way, GERALD FORD may serve as the catalyst for this.

"I feel comfortable about him," was said to me three times in three separate conversations, repeated in those exact words, once by a Democrat, once by a Republican, once by one whose party affiliation is unknown to me.

GERALD FORD may seem bland and uninspiring to those whose tunnel-vision politics is limited to a compulson for the charismatic leader. But I think he will prove to be a man of solidity in a time of turbulence.

GERALD FORD may not, however, be a man for all seasons. He will need the prayers, the guidance, the help of all of us if history forces him into the Presidency.

On the issues, FORD described himself in his testimony before the Rules Committee in words I might use if I sought to describe myself. He said he's "conservative in fiscal affairs, moderate in domestic affairs, internationalist in foreign affairs." I am sure my definitions would differ quite deeply in detail in all three categories, but FORD's self-analysis did offer me, too, a sense of reassurance—and compatability.

So, as a Democrat who must vote "aye" or "no" on a Republican nominee for Vice President who may well become our President, I have come to my decision.

I vote for GERALD FORD with trust in his trustworthiness, with faith in his fairness, with sufficent confidence in his capability—and with great hope.

Mr. PELL. Mr. President, as a member of the Committee on Rules and Administration, I recommend the approval by the Senate of the nomination of Representative FORD to be Vice President of the United States.

With the other members of the Rules Committee, I have conducted a searching inquiry into Representative FORD's public and private record. I am satisfied based upon that inquiry and my own interrogation of Representative FORD that he is a man of integrity, character, and probity, and one who will not abuse the powers and prerogatives of his public office.

I would add that integrity—basic honesty—is a quality in very high demand in the highest reaches of our Government these days.

I have some very basic philosophical differences with Representative FORD on Government policies. But I also believe that the President of the United States, elected by the majority of the people, has a right under the 25th amendment to the Constitution, to nominate a Vice President who is in agreement with him on basic policies.

In recommending the approval of the nomination, therefore, I am supporting the nomination of a man of integrity and am respecting the wishes of the people as expressed in the 1972 national election, but I am not endorsing what I consider to be Mr. FORD's conservative philosophy of government.

I also wish to express publicly my regard for the care, firmness, and efficiency with which our Chairman, Senator Cannon, handled his responsibility in conducting these historic hearings.

Mr. GRIFFIN. Mr. President, I wish to commend the distinguished Senator from Nevada (Mr. Cannon), chairman of the Committee on Rules and Administration, for the outstanding job he did in providing leadership for the committee throughout the historic proceedings which have led up to the Senator's present consideration of this nomination.

It is fair to say that a sense of the historic significance of our undertaking pervaded all the actions of the Committee on Rules and Administration. We were well aware, not only that Gerald Ford, but also the committee and the 25th amendment were under intensive scrutiny throughout the proceedings; and that public judgment would be rendered on all three. In my opinion, all three have passed the test with flying colors.

Those of us who have had the pleasure of serving in Congress with Jerry Ford knew him well before the hearings began. We know him even better now. Until recently, Jerry Ford was known to the public at large as the minority leader of the House. But Jerry Ford, the man was not as well known outside the Congress. That is no longer the case. The impression Jerry Ford made on the public and on the committee in the course of the hearings was overwhelmingly favorable. I am personally gratified, and not at all surprised, that that has been the case.

Representative Jerry Ford has been my friend and associate in Congress for many years. So it was with special satisfaction that I noted comments like those of David Broder, of the Washington Post, when he commented in recent days as follows:

> The gentleman from Grand Rapids is the man on the spot. He is the key figure in an unprecedented experiment, testing whether a government of divided partisanship can make an untried provision of the Constitution operate in a climate of pervasive public distrust.
>
> His conscientious preparation, his evident cooperativeness and his candor are making his confirmation hearings an occasion in which the country can not only learn something of the character of its new Vice President but re-learn the value of one of its oldest traditions—the tradition of civility . . .
>
> Ford . . . operates, under any circumstance, in a tradition of civility, of mutual accommodation, of respect for persons and institutions.

Such an evolution and response to Jerry Ford's personality and performance as the nominee for Vice President augers well for his prospects as Vice President.

I know that Jerry Ford is the right man for the country at this time in the office of Vice President.

Jerry Ford is a man of character—at a time when the people of this country want assurance that those who hold leadership responsibilities are men and women of integrity and principle.

Jerry Ford is a man of candor and sincerity—at a time when people are looking for openness and frankness in their leaders; when they want nothing so much as the plain, unvarnished truth.

Jerry Ford is a man of consistent commonsense and steady judgment—at a time when the people are looking for stability, stamina, and levelheaded strength for the long haul ahead.

Jerry Ford is a man of the Congress—at a time when the people are looking toward Congress for help in restoring confidence in our government and its institutions.

And, Jerry Ford is a man of the center, respected across the whole broad spectrum of responsible political opinion—at a time when the people are looking for common ground and a basis for unity.

Mr. President, I am delighted that the vote by which the Rules Committee reported this nomination was unanimous. And I look forward to the vote in the Senate tomorrow at 4:30 p.m.—a vote which I confidently expect will register overwhelming approval of this nomination.

Mr. President, one matter has been raised in the hearings in the other body which should be mentioned in this discussion on the Senate floor, I refer to Congressman Ford's role in suggesting at one time the possibility of impeaching Justice William O. Douglas. Some have suggested critically that our Committee on Rules did not look deeply enough into that matter.

While the chairman of the Rules Committee is here in the Chamber, I wish to indicate my view that any such criticism of the Senate Rules Committee is not justified. The Senate Rules Committee and its staff did carefully look into that particular episode. Among various inquiries that were made on the subject to satisfy ourselves, individually and collectively, was a request to the Library of Congress. The response provided in analysis form by Richard Sachs, of the Government and General Research Division, is worth attention in Record to put the matter in proper perspective.

Accordingly, I ask unanimous consent that the document be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Role of Vice-President-Designate Gerald Ford in the Attempt to Impeach Associate Supreme Court Justice William O. Douglas

(By Richard Sachs, Analyst, American National Government, Government and General Research Division, October 24, 1973)

Gerald Ford's involvement in the effort by the House of Representatives to impeach Associate Supreme Court Justice William O. Douglas reportedly began in the Spring of 1969 with the resignation of another member of the high court, Abe Fortas. Fortas had stepped down after coming under severe attack over his relations with Louis Wolfson, the financier. This marked the first time a justice had resigned under a shadow of impropriety.[1]

Much of the controversy over Fortas concerned his association with foundations and fees he had received from foundations. Several years earlier an investigation by the *Los Angeles Times* had revealed that Douglas was being paid $12,000 by the Albert Parvin Foundation for serving as its only paid officer.[2] With Fortas' resignation as a precedent, Douglas' conduct was being called into question and Members of Congress began receiving a considerable amount of mail critical of Douglas. House Minority Leader Ford was impressed at the response and decided to launch his own investigation of the allegations surrounding Douglas. One source close to the investigation recalled, "Jerry decided to look into it, but it wasn't being pressed on a crash basis."[3] As part of the investigation, Ford contacted White House aide Clark Mollenhoff who, as a former journalist, had written several articles on Douglas' position with the Parvin Foundation.[4] The investigation by Ford and his staff proceeded quietly through the summer and into the fall of 1969.[5]

Meanwhile, Justice Douglas, perhaps one of the more controversial members of the Court, often criticized for his outspoken liberal viewpoints and unconventional lifestyle, continued to be a figure of contention. In late May, as Douglas was resigning his position with the Parvin Foundation for the stated reason that the foundation's activities posed too heavy a workload it was revealed that he had been receiving fees from another foundation which he headed, the Center for the Study of Democratic Institutions in Santa Barbara, California.[6] Douglas then publicly criticized an Internal Revenue Service investigation of the Parvin Foundation as a "manufactured case" designed to force him from the bench.[7] As the extent of Douglas' involvement in the foundation's affairs became known, he was further criticized by House Judiciary Committee Chairman Emanuel Celler (D-N.Y.) and his outright resignation was called for by Rep. H. R. Gross (R-Iowa) and John R. Rarick (D-La).[8] He was assailed by critics in the Senate for authoring articles that appeared in Playboy and in Avant-Garde, a magazine put out by controversial publisher Ralph Ginzburg who had recently been convicted of violating Federal obscenity laws.[9] In late July the ethics committee of the American Bar Association refused to decide whether Douglas had violated the canons of judicial ethics by his relationship with the Parvin Foundation. The ABA had been asked to look into the matter by Senator John J. Williams (R-Del.).[10]

In early November, as the Senate was embroiled in debate over the confirmation of Supreme Court nominee Clement F. Haynsworth, Ford's investigation was revealed. Haynes Johnson, reporting for the Washington Post, wrote later that "Ford himself suffered an embarrassment. A Washington reporter learned of the investigation and asked Ford point-blank about it. Ford, understandably, wanted to keep his investigation out of the public arena—particularly at a time when the President, the leader of his party, was facing a major fight over his Supreme Court choice. News that a key Republican congressman was looking into a liberal justice appointed by a Democrat might harm Haynsworth's chances. Faced with either confirming or denying the report, Ford said it was true."[11]

In announcing the investigation, Ford emphasized that ethical standards being aplied to nominee Haynsworth should also apply to present justices. "If the Senate votes against a nominee for lack of sensitivity," Ford stated, "it should apply the same standards to sitting justices." Ford said that several colleagues had come to him suggesting the investigation, including GOP Conference Chairman John Anderson (R-Ill.) and Rep. Guy Vander Jagt (R-Mich). He said that he had not discussed the matter with the President and at the White House Press Secretary Ron Ziegler made a similar statement.[12]

Footnotes at end of article.

Whether the investigation was disclosed as Johnson later reported it, whether Ford leaked the news himself, or whether the effort was coordinated at the White House remains a matter of speculation. But response to the news was immediate and many observers saw it as heavy-handed attempt to hold Douglas hostage for a Haynsworth confirmation.[13] The New York Times editorialized: "The transparency of Mr. Ford's move does him no credit either as statesman or tactician. . . . we think he will find that anti-Haynsworth Senators will hardly be induced to switch by a poorly veiled threat." [14] The Senate failed to confirm Haynsworth but Ford said he was continuing his investigation. In a UPI interview he said that his original decision to study possible impeachment of Douglas was related not to the Haynsworth matter, but to the published charges about Douglas' connection with the Parvin Foundation.[15]

While the issue dropped from sight, the Haynsworth defeat apparently intensified the bitterness among many conservatives and strengthened their determination to do something about Douglas.[16] Signs that preparations were being made to move against Douglas when Congress reconvened in January were revealed in a Washington Evening Star story in late December by Lyle Denniston. Denniston wrote: "A commitment to go ahead with the often-discussed challenge . . . is—at this point—a loosely organized effort. It has several champions, but no leader. It has no timetable, beyond the plan to file 'articles of impeachment' during the House's 1970 session. Moreover, the preparation of the case against Douglas involves an unusual combination of House staff work, plus continuing private investigations of the Justice by news organizations. These private investigations almost have the status of a semi-official inquiry, since the anti-Douglas lawmakers are definitely counting on the results to help make their case.

"The move is dominantly if not exclusively a Republican effort. While the House GOP leader, Rep. Gerald R. Ford of Michigan, is among the promoters of the continuing probe of Douglas' activities, he has not yet assumed the role of leading the effort, or even the job of coordinating it. Ford's own staff is generally doing the House part of the investigation. That activity gained a windfall of 'tips'—some believed to be solid, others plainly frivolous—after Ford's staff investigation of Douglas became public over a month ago.

"While the GOP House leader is centrally involved, he apparently is not yet ready himself to conclude that the impeachment effort will go forward. His staff, in fact, expressed surprise at being told that a commitment to go ahead had been made.

"Among those known to be either a part of the group that will seek impeachment, or else acting as an adviser to the group, are Reps. Clark MacGregor, R-Minn., and H. R. Gross, R-Iowa. It is understood that there are at least two or three others in the group." [17]

Douglas, meanwhile, continued to infuriate his critics. On February 18, Random House published his latest book, "Points of Rebellion." The volume, employing much of the controversial political thought and rhetoric of the day, argued that revolution might prove the only alternative to oppression by the "American establishment." Douglas wrote, "George III was the symbol against which our founders made a revolution now considered bright and glorious. . . . We must realize that today's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution." [18-19]

"Points Of Rebellion" produced a predictable response among the anti-Douglas faction in Congress. One Congressman, Louis Wyman (R–N.H.), already troubled by Douglas' foundation activities, recalled that after reading advertisements about the book, he sent a staff aide out to buy an advance copy. "I took the whole morning off and read it. It disturbed me very much." [20] Without informing anyone else, Wyman began drafting a resolution calling for the need to investigate Douglas with a possible view of impeachment. When he went to Ford's office, he was asked by an aide not to introduce his resolution, the timing was inappropriate. The Senate was once again considering a Supreme Court nominee, G. Harold Carswell, and it was considered politically unwise to make any moves that might jeopardize the Republican nominee's chances.[21] One individual reportedly close to the matter recalled, "By this time quite a number on both sides of the aisle wanted to go after Douglas, but to be perfectly honest about it, they didn't have the material Ford's staff had. That staff had been working off and on for about a year." [22]

After the Carswell defeat, conservative emotions intensified. Haynes Johnson wrote: "When news of Carswell's defeat reached the House floor, it is understood that several Congressmen immediately approached Ford. They were angry and emotional. In effect, they laid down an ultimatum: either Ford would act on Douglas or one of them would. All it took was for one member to stand up and call for impeachment, Ford was reminded.

"Ford, who was not available for comment on this episode, is reliably reported to have told them to hold off. If anything was going to be done it should be done right, and not just for one day's headline in someone's hometown newspaper.

"Ford deliberated for several days. Part of the time he went to his home district in Grand Rapids, Mich. He returned to Washington on Sunday and studied the case further. About noon the next day, Monday, April 13, Ford met with several key congressmen at the Capitol. Among them, it is reported, were Leslie Arends of Illinois, Robert Sikes of Florida, Joe D. Waggonner Jr. of Louisiana and William L. Scott of Virginia.

"Wyman remembers the essential question as boiling down to this: whether to ask for impeachment or an investigation to see if impeachment proceedings were justified.

"Ford told them he intended to lay out, publicly, his probable cause case against Douglas in a speech later that week. He also said he favored an investigation rather than impeachment.

" 'Jerry,' one Capitol Hill source speculated, 'was in the position of being stampeded or of staying in front of the pack.' " [23]

At about the same time Vice-President Agnew called for a thorough examination of Douglas' record. He said: "It seems rather unusual for a man on the bench to advocate rebellion and revolution, and possibly we should take a good look at what he thinks, particularly in view of the fact that two fine judges have been denied seats on the bench for statements that are much less reprehensible, in my opinion, than those made by Justice Douglas." [24]

As Ford was preparing his speech against Douglas, another incident served to further enrage the anti-Douglas faction and catalize many who were undecided about joining the move against the Justice. The April issue of Evergreen magazine appeared on Washington newsstands and among its contents was an excerpt from "Points of Rebellion." The substance of the article was offensive to his critics, but as Johnson wrote, ". . . it wasn't the justice's words that set off a furor; it was their juxtaposition with other material. There was a full-page caricature of Richard Nixon made to look like George III. There was an article by Tom Hayden on repression and rebellion. But the centerpiece was the object of most attention. A seven-page rotogravure section contained 13 half page photographs of nudes. Men and women were embracing, making love. Genitals were clearly shown. . . . As pornography goes these days, the pictures were not that titillating, but they were enough to solidify the opposition against Douglas." [25]

Describing the magazine, Ford later told Congress; "There are nude models of both sexes in poses that are perhaps more shocking than the postcards that used to be sold in the back alleys of Paris and Panama City, Panama." [26]

Feelings against the Justice were thus running high as Ford delivered his promised speech on the evening of April 15. "It was," Johnson wrote, "something of a Roman circus atmosphere on Capitol Hill. One Republican congressman who sat listening that night says he was reminded of Julius Caesar and Mark Antony. Indeed, a feeling of the Forum and the public trial was present. Ford himself added to the impression. At one point during his speech, he recalled that the censor was an ancient Roman office, the supervisor of the public's morals. He and his colleagues didn't intend to set themselves up as censors, but he added: 'Let me substitute, if I might, another Roman office, the tribune. It was the tribune who represented and spoke up for the people. This is our role in the impeachment of unfit judges and other federal officials. We have not made ourselves censors; the Constitution makes us tribunes'." [27]

In his speech, Ford made five major charges against Douglas:

Douglas' failure to disqualify himself from the obscenity cases of Eros publisher Ralph Ginzburg. In 1969, Ginzburg had also paid Douglas $350 for an article on folk-singing which appeared in "Avant Garde." Ford termed the action a "gross impropriety."

Ford charged that "Points of Rebellion" violated the standard of good behavior and was "an inflammatory volume."

Ford charged that Evergreen magazine which had published the excerpt from "Points of Rebellion" was "hardcore pornography "

Ford again brought into question Douglas' relationship with the Albert Parvin Foundation linking the Justice with gambling concessions in the United States and the Dominican Republic and alleged international gangsters.

Ford charged that the Center for the Study of Democratic Institutions, of which Douglas was chairman of the board of directors and had received consultant's fees, was a "leftish" organization and a focal point for organization of militant student unrest.[28]

Two days before Ford's speech, he had called a news conference and announced that a bipartisan group would introduce resolution creating a special investigating unit to look into the Douglas matter and report to the House in ninety days.[29] By calling for a select committee, the anti-Douglas forces sought to avert any impeachment measure away from liberal Representative Emanuel Celler's (D-N.Y.) Judiciary Committee, the group that normally considers any House action to impeach. Aware of this tactic, Celler's aides had contacted Andrew Jacobs Jr., (D-Ind.), and in the midst of Ford's speech, Jacobs "marched to the well dropped in the hopper" [30] a resolution stating; "Resolved, that William O. Douglas, associate justice of the Supreme Court of the United States, be impeached of high crimes and misdemeanors and misbehavior in office." [31] Fifty-two Republicans and fifty-two Democrats, mostly from the South, signed the Ford resolution but as the result of Jacobs' action Celler's committee had jurisdiction and the conservative's measure later died in the Rules Committee.[32]

At the White House, Press Secretary Ron Ziegler denied any role in the Ford investigation by White House aide Clark Mollenhoff and stated: "There is no involvement

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Footnotes at end of article.

and no concentration on this matter from the White House."[33]

Celler moved swiftly to form a special subcommittee to investigate the charges against Douglas. On April 21 he announced that Byron Rogers (D-Col.), Jack Brooks (D-Texas), William M. McCulloch (R-Ohio) and Edward Hutchinson (R-Michigan) would serve on the subcommittee created by Jacob's resolution, H. Res. 920. Celler himself, would chair the group. He said the unit would report its finding to the full Judiciary Committee in 60 days.[34] Earlier Celler had joined with a group of forty other House liberals in protesting the Ford move as "an attack on the integrity and the independence of the United States Supreme Court."[35] He had also commented that the timing of the anti-Douglas move suggested that "this probably is somewhat in the spirit of retaliation" for Carswell's defeat.[36]

Douglas remained unworried, at first refusing to take the matter seriously. In an interview with ABC News he said that if his latest book advocated rebellion, "I'll eat it without mayonnaise or anything."[37] When asked whether "you find this controversy more heated than some of the others you've been in," Douglas countered, "What controversy are you talking about?"[38] Some of Douglas' friends finally convinced him the impeachment move was serious. The group—including Clark Clifford, former Secretary of Defense; Ben Cohen, one of the original New Deal "brain trusters;" and David Ginsburg, a Washington lawyer and Douglas' first law clerk—saw the move as "nothing less than an effort by the Nixon Administration to stifle dissent and build a campaign issue for the fall election. After analyzing Ford's statement and the impeachment resolution, they concluded—over Ford's strong denial—that the Administration was deeply involved in it at all."[39] Douglas agreed and announced that he was disqualifying himself from participating in rulings on obscenity appeals involving the film "I Am Curious (Yellow)" and a libel suit against Look magazine (in response to which Ford commented that the action was "tacit admission" that Douglas should have disqualified himself from the Ginzburg libel and obscenity case),[40] and retained an old friend and former Federal judge, Simon Rifkind, to represent him against possible impeachment charges.[41]

The first action the special subcommittee took was to request from Ford and the other sponsors of the impeachment resolution material relevant to the charges against Douglas. The subcommittee also requested relevant material from the Department of Justice, the Securities and Exchange Commission and the White House.[42] The subcommittee began the long process of collecting, collating and analyzing the information. However other events, the incursion of American troops into Cambodia and the accompanying unrest on college campuses, overshadowed the work of the investigating group, and for his role, Ford was forced to turn his attention to defending the Administration's actions in the fact of renewed anti-war efforts in Congress.

By early June, it appeared that the subcommittee had made little progress. Members of the group complained that they had received little cooperation and little new information from fellow Congressmen. Most of the evidence, solicited in earlier letters, proved to be newspaper clippings and the like. Rep. Brooks added that the Federal Government was not much more of a productive source of evidence. He commented: "They're just as slow as molasses to come up with any facts. We're slowly getting papers from the Justice Department. They didn't have very much, apparently."[43]

The subcommittee, stating that it needed additional time to conduct its investigation asked for, and was granted, sixty day extension. It issued, on June 20, an interim report containing material on the investigation up to that point.[44]

At the same time that some members were stating that there appeared little substantial evidence to impeach Douglas, there were reports that "recent checks on House attitudes" revealed that "if the House votes on charges any time before election day, Nov. 3, it very likely would vote to impeach Douglas." The reports stated that public opinion was running so heavily against Douglas, that most Congressmen would be forced to vote against him or run the risk of losing at the polls in November. Therefore, there was pressure from the leadership not to conclude the subcommittee investigation before the fall elections.[45]

On August 3, amid further reports that the Douglas unit was stalling its investigation,[46] Ford, who had little to say publicly about the Douglas investigation for the past several months,[47] joined with Reps. Waggonner and Wyman in a charge that the investigation was a "whitewash" and a "travesty."[48] Ford demanded that the panel hold public hearings, examine witnesses under oath and make public "all pertinent documents." He also revealed that one of his staff assistants, Robert Hartman, had been working with Waggonner in an independent investigation of Douglas. Waggonner had reportedly hired Benton L. Becker, a former trial lawyer in the Criminal Division of the Justice Department to conduct the probe. Becker had been on Waggonner's office staff for about two months.[49]

Celler replied saying that his inquiry was being obstructed by the refusal of Federal agencies to supply necessary information. He said that the State Department, the Justice Department and the Central Intelligence Agency had not furnished his material requested six weeks ago. Celler stated: "These delays and obstructions have hampered the special subcommittee in this investigation and hindered the completion of its task. In the light of the lack of cooperation from the executive branch, criticism of the special subcommittee is not justified." Celler indicated the investigation could run on for many months. So on August 11, the subcommittee released a second document, "Legal Materials on Impeachment," containing briefs by Rifkind and a Detroit law firm retained by Ford.[50] [51]

While political charges and countercharges continued, the case seemed to crystallize around Ford's views of what constituted an impeachable offense. In his April 15 attack on Douglas, Ford had stated: "The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history."[52]

On May 18, Douglas' attorney, Simon Rifkind, had submitted a Memorandum On Impeachment of Federal Judges. Rifkind wrote: "A careful examination of the Constitution itself . . . clearly demonstrates that Federal judges may be impeached only upon charges of 'Treason, Bribery, or other High Crimes and Misdemeanors'. There is nothing in the Constitution . . . to suggest that Federal Judges may be impeached for anything short of criminal conduct. Rifkind's memorandum concluded: "There has developed the consistent practice, rigorously followed in every case in this century, of impeaching Federal judges only when criminal offenses have been charged . . . In consequence, while the Federal judiciary has over the years suffered a few judges who were unable to perform their duties, since 1805 it has been free from political purges and from harassment directed at the beliefs, speeches and writings of individual judges."[53]

On August 5, Ford had submitted a memorandum to the subcommittee from the Detroit law firm of Dykema, Wheat, Spencer, Goodnow, & Trigg, which at Ford's request had studied the question of what constitutes an impeachable offense. Bethel B. Kelley, a member of the firm, wrote Ford, "If a judge's misbehavior is so grave as to cast substantial doubt upon his integrity, he must be removed from office regardless of all other considerations. . . . We conclude, that misbehavior by a Federal Judge may constitute an impeachable offense though the conduct may not be an indictable crime or misdemeanor."[54]

On August 18, Rifkind wrote a letter to Celler indicating astonishment at the Kelley Memorandum. "Mr. Ford's definition of an 'impeachable offense' means that judges serve as the pleasure of Congress. This is so utterly destructive of the principles of an independent judiciary and the separation of powers that I could not believe that convincing historical support could be found for so radical a proposition. Now that I have read the Kelley memorandum, I am more than ever convinced that Mr. Ford's view is historically and legally as untenable as it is mischievous."[55]

In defending Douglas against the particular charges of Ford and the anti-Douglas forces, Rifkind made the following points:

On the Ginzburg case: "The Justice has never had any dealings with Ralph Ginzburg."

On "Points of Rebellion:" "The attack on the Justice's book . . . is not only profoundly subversive of the First Amendment, but is based upon an inexcusable distortion of what the Justice actually wrote . . . The book . . . is a patriotic call for our democratic processes to meet challenges of the day so as to pull the rug from under the small minority advocating violent rebellion."

On the Evergreen magazine article: "The Justice did not authorize its editors to reprint a portion of his book. Pursuant to its standard contractual rights, Random House, one of the nation's most prestigious publishers, made the decision."

On associations with Albert Parvin, alleged international gamblers, and the Albert Parvin Foundation: "The Foundation had no connection with the 'international gambling fraternity.' . . . Justice Douglas does not know the alleged underworld persons named in the attacks upon him . . . (He) has not engaged in the 'practice of law' . . . The corporate papers he is alleged to have drafted were drafted by a Los Angeles attorney . . . In serving as a director of the Albert Parvin Foundation, and receiving modest compensation for such services, Douglas followed long precedent—as, for example, did Chief Justice Warren Burger and Justice Harry Blackmun with respect to the Mayo Foundation and the Kahler Corporation."

On the Center for The Study of Democratic Institutions: "Mr. Douglas has participated in the activities of one of the free world's great academic institutions . . . So have Chief Justices Warren and Burger, George Romney and Robert Finch, and scores of other distinguished Americans. His services . . . have been uncompensated."[56]

While Ford was leading the Washington challenge against Douglas, he was reportedly presenting a different image in his reelection campaign in his home district of Grand Rapids, Michigan. In an election that was marked by emotional appeals from many contenders, Ford's campaign was surprisingly low-key. Wrote a Washington Post correspondent: "In the GOP's grand crusade for victory over permissiveness this fall, House Republican Leader Gerald R. Ford is clearly out of step. It is largely a matter of style and emphasis, but the distinction keeps popping up on TV screens throughout Michigan's heavily Republican 5th Congressional District: 'Return a man of peace to Congress. Support Jerry Ford. He gets things done.' That's it. No shrill cries for law and order. Not one of Ford's TV ads dwells on street crime or cam-

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Footnotes at end of article.

pus unrest. Perhaps more significant, not one of them mentions President Nixon—or the Republican Party—by name."[57]

After the November election it appeared that the Douglas impeachment move was running out of steam, despite reports that the action might be continued by some unnamed "lame-duck" Congressmen.[58] Celler's special subcommittee staff had completed the bulk of its work in mid-September and on December 3, the subcommittee met and voted three to one that there were no grounds to impeach the Justice. One of the two Republican members, Edward Hutchinson of Michigan, announced that he would file a minority view. The other, William M. McCulloch of Ohio, refrained from joining in either the majority or minority view. McCulloch later said that there was "just not enough evidence to come to a final, fast, hard conclusion on whether an impeachable offense has been committed." Celler termed the report, "the most exhaustive inquiry I've known of during my 48 years in Congress."[59]

In response to the subcommittee's vote, Ford said: "For the present I can only say that this matter is far from finished and that the sentiment of House members, both Democrats and Republicans, is not accurately reflected in the subcommittee's vote."[60]

But when the new session of Congress opened in January, Ford indicated that he had decided to spend less time and effort in leading the public challenge against Douglas. One source was quoted as saying that Ford "doesn't intend to be so much the ball-carrier." And, though the anti-Douglas forces offered an opening day resolution to create a special six-member committee to conduct what they called a "meaningful" investigation, nothing came of the effort.[61]

FOOTNOTES

[1] Haynes Johnson, "The Douglas Case: No Neutral Ground," Washington Post, April 26, 1970.

[2] "Foundation Headed by Douglas Sells Its Stock in Company That Owns Casinos," New York Times, May 20, 1969.

[3] Johnson, *op. cit.*

[4] Fred P. Graham, "Ford Hints Move To Oust Douglas," New York Times, November 8, 1969.

[5] Johnson, *op. cit.*; Graham, *op. cit.*; Spencer Rich, "Ford Eyes Ousting Douglas," Washington Post, November 8, 1969.

[6] John P. MacKenzie, "Douglas Resigns From Foundation," Washington Post, May 24, 1969; "Foundation Says That It Paid Douglas $4,000 for Two Seminars," New York Times, May 22, 1969.

[7] Bernard Collier, "Douglas Says Tax Inquiry Aims to Get Him Off Court," New York Times, May 25, 1969.

[8] Congressional Record, May 26, 1969, pp. 13774–13775; George Lardner, Jr., "Celler Raps Douglas On Letter to Parvin," Washington Post, May 28, 1969.

[9] George Lardner, Jr., "Sen. Fannin Assails Douglas on Article," Washington Post, May 29, 1969; Bernard L. Collier, "Thurmond Urges Douglas To Quit," New York Times, May 30, 1969; Congressional Record, June 16, 1969, pp. 15861–15865.

[10] "Justice Douglas Gets A Pass," Chicago Tribune, July 23, 1969.

[11] Johnson, *op. cit.*

[12] Spencer Rich, "Ford Eyes Ousting Douglas," Washington Post, November 8, 1969; Fred P. Graham, "Ford Hints Move To Oust Douglas," New York Times, November 8, 1969.

[13] Royce Brier, "Douglas Hostage For Haynsworth," San Francisco Chronicle, November 19, 1969; "The Impeachment Bungle," Washington Post, November 11, 1969.

[14] "Contempt of Court," New York Times, November 11, 1969.

[15] "Rep. Ford Says He Pushes Study Of Justice Douglas," Washington Post, November 22, 1969.

[16] Johnson, *op. cit.*

[17] Lyle Dehniston, "Lawmakers Pushing Effort To Impeach Justice Douglas," Washington Evening Star, December 21, 1969.

[18] Israel Shenker, "Justice Douglas Says Revolution May Be Only Honorable Reply to Oppression," New York Times, February 1, 1970; William McPherson, "On Revolt," Washington Post, February 20, 1970.

[19] *Ibid.*

[20] Johnson, *op. cit.*

[21] *Ibid.*

[22] *Ibid.*

[23] *Ibid.*

[24] Milton Viorst, "Bill Douglas Has Never Stopped Fighting The Bullies of Yakima," New York Times Magazine, June 14, 1970, p. 52.

[25] Johnson, *op. cit.*

[26] Congressional Record, April 15, 1970, p. 11916.

[27] Johnson, *op. cit.*

[28] Congressional Record, April 15, 1970, pp. 11912–11927; "House Committee Studies Charges Against Douglas," Congressional Quarterly Weekly Report, November 13, 1970, pp. 2786–2789.

[29] Warren Weaver, Jr., "Inquiry By House On Douglas Urged," New York Times, April 14, 1970.

[30] Marjorie Hunter, "Ford Asks Douglas' Ouster," New York Times, April 16, 1970.

[31] Philip Warden, "2 Factions Grab For Probe Of Douglas," Chicago Tribune, April 17, 1970.

[32] Hunter, *op cit.*

[33] *Ibid.*

[34] Norman C. Miller, "House Judiciary Committee Names Panel To Investigate Charges Against Douglas," Wall Street Journal, April 22, 1970.

[35] Hunter, *op cit.*

[36] Richard L. Lyons, "Ford Seeks Removal Of Douglas, "Washington Post," April 14, 1970.

[37] "Douglas Denies Book Advocates Rebellion," Washington Post, April 18, 1970.

[38] *Ibid.*

[39] Viorst, *op. cit.*

[40] "Douglas To Skip 3 Court Rulings," New York Times, April 28, 1970.

[41] Majorie Hunter, "Lawyer is Retained By Douglas To Help In Impeachment Fight," New York Times, April 29, 1970.

[42] U.S. Congress. House. Committee on the Judiciary. First Report By The Special Subcommittee on H. Res. 920. 91st Congress, 2d Session. June 20, 1970. p. 9–10.

[43] "Evidence Meager On Douglas," Washington Post, June 7, 1970.

[44] U.S. Congress. House. Committee on the Judiciary. First Report by the Special Subcommittee on H. Res. 920, 1970. pp. 25–26.

[45] Lyle Denniston, "Pressure Building in House For Douglas Impeachment," Sunday Star, June 14, 1970; Willard Edwards, "Word For Douglas Case—Delay," Chicago Tribune, July 2, 1970.

[46] Robert S. Allen and John A. Goldsmith, "Celler Probe Of Douglas Raises Doubt of Sincerity," Jackson, Miss. Daily News, July 27, 1970.

[47] Ford had said very little on the floor of the House and in an appearance on the ABC radio and television program "Issues and Answers," On June 22, had not commented on the subject at all.

[48] Carroll Kilpatrick, "Douglas Whitewash Charged," Washington Post, August 3, 1970; Marjorie Hunter, "Critics of Douglas Call Inquiry A 'Whitewash' and 'Travesty'," New York Times, August 3, 1970; Shirley Elder, "Waggonner Irked, Starts Own Probe of Douglas," Washington Evening Star, August 3, 1970.

[49] *Ibid.*

[50] Warren Weaver, "Celler Says 3 Agencies Obstruct Douglas Inquiry," New York Times, August 5, 1970.

[51] U.S. Congress. House. Committee on the Judiciary. Legal Materials On Impeachment. Special Subcommittee on H. Res. 920. 1970.

[52] Congressional Record, April 15, 1970, p. 11913. The Constitution, Article III, Section one, provides that "The judges both of the Supreme and inferior Courts, shall hold their offices during good behavior. . . ." Article II, Section Four, provides that "The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

[53] Congressional Quarterly Weekly Report, November 13, 1970, p. 2788.

[54] *Ibid;* Fred P. Graham, "Impeach Douglas Plea Raises Constitutional Question," New York Times, August 24, 1970.

[55] Congressional Quarterly Weekly Report, op. cit., pp. 2788–2789.

[56] *Ibid.*

[57] George Lardner Jr. "Ford Strides Out of Step With His Party," Washington Post, November 2, 1970.

[58] Arlene Alligood, "Impeach Douglas Drive May Be Pushed by Lame-Ducks," San Francisco Chronile, November 15, 1970.

[59] Marjorie Hunter, "House Unit Finds No Basis For Action On Douglas," New York Times, December 4, 1970; Lyle Denniston, "Bid To Impeach Douglas Fails," Washington Evening Star, December 4, 1970; Richard L. Lyons, "No Grounds To Impeach Douglas Found," Washington Post, December 4, 1970.

[60] "Ford Calls Efforts To Oust Douglas Far From Finished," New York Times, December 5, 1970.

[61] Lyle Denniston, "Justice Douglas' Critics In House Renew Attack," Washington Evening Star, January 22, 1971.

Mr. GRIFFIN. Mr. President, I yield to the distinguished Senator from Nevada.

Mr. CANNON. Mr. President, I want to thank my distinguished colleague for the kind remarks he had to make about the chairman of the committee and our committee's actions on that matter, as well as the distinguished Senator from Rhode Island for his gracious remarks.

I certainly agree with my colleague from Michigan that we did consider very carefully the matters relating to Mr. Ford's role in what has been referred to as the attempted impeachment of Justice Douglas. We went into the research quite thoroughly to determine that that matter had been settled upon and that it was not necessary to bring that matter up further and to delve into it further beyond the information the committee had at hand.

I thank the Senator for pointing that out and for making a part of the Record the study that was given to the matter by the Rules Committee.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the action to be taken by the Senate in participating in the selection of the next Vice President of the United States will be a first in our country's history. Little did we know that the 25th amendment would be utilized so soon after its enactment or under such circumstances.

As you know, the Senate Rules Committee has just completed one of the most thorough investigations of any nominee for any Federal office. I am proud to have served on this committee and want to publicly express my appreciation to Senator Cannon for the able leadership he provided the committee throughout the Ford hearings.

Mr. Ford's record as a public servant is well known to all Members of Congress and, therefore, I do not feel that it is necessary to review his career at this time.

Mr. Ford assured the Senate Rules Committee that he intends to serve as a liaison between the executive branch and the legislative branch. Mr. Ford is eminently qualified to serve the Nixon administration in this role.

The latest revelations concerning the Watergate tapes only cast more suspicion on the administration. The President's credibility is at an all time low and his ability to provide this country with honest leadership is being questioned. Gerald Ford's confirmation as Vice President will calm the questions of Presidential succession as well as bring an indiivdual of unquestioned integrity into the administration.

Gerald Ford will be in an unique position to serve as a liaison between the American people and the Nixon administration. Mr. Ford's greatest challenge over the next 3 years will be to convince the American people that Government officials can be trusted. Gerald Ford can be trusted and the American people will be able to believe in him. I believe Gerry Ford will be able to relate to the American people and in turn restore their faith in our political system.

Mr. FANNIN. Mr. President, due to a long-standing commitment in my home State of Arizona, it will be impossible for me to be here Tuesday for the vote on confirmation of Jerry Ford as Vice President of the United States.

I wish to state my enthusiastic support for Mr. Ford and go on record as saying that I would vote for confirmation if I could be here. I am deeply disappointed that I will not be present to add my voice to those voting for confirmation.

Mr. Ford has a distinguished record in the House of Representatives and he is superbly qualified to assume the duties of Vice President.

I know the vote here will be overwhelming in favor of Mr. Ford, and I would hope that the House of Representatives will expedite the confirmation proceedings there so that our new Vice President can be sworn into office promptly.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the majority leader be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has the order already been entered to provide that at the hour of 10:30 a.m. the Senate proceed to the consideration of the extension of the debt limit legislation?

The PRESIDING OFFICER. It has.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

ORDER FOR DIVISION OF TIME ON EXTENSION OF DEBT CEILING LEGISLATION, H.R. 11104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a division of time beginning tomorrow at 3:30 p.m. on the Ford nomination, between the Senator from Nevada (Mr. Cannon) and the Senator from Kentucky (Mr. Cook).

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the majority leader will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m. with statements limited therein to 3 minutes.

At the hour of 10:30 a.m., the Senate will proceed to the consideration of H.R. 11104, an act to provide for a temporary increase in the public debt limit, and debate will ensue thereon with action on amendments thereto.

At the hour of 3:30 p.m., the Senate will go into executive session to resume the consideration of the nomination of Mr. Gerald R. Ford to be Vice President of the United States.

At the hour of 4:30 p.m., the vote will occur on the nomination of Mr. Gerald R. Ford to be Vice President of the United States.

Following the vote on the nomination of Mr. Ford on tomorrow, the Senate will resume the consideration of H.R. 11104, the extension of the debt limit legislation if that legislation has not been disposed of prior to that time, and undoubtedly it will not have been disposed of. Votes could continue to occur into the evening thereon.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 3:43 p.m. the Senate adjourned until tomorrow, Tuesday, November 27, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 26, 1973:

Civil Aeronautics Board

G. Joseph Minetti, of New York, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1979. (Reappointment.)

Overseas Private Investment Corporation

David Gregg III, of New York, to be Executive Vice President of the Overseas Private Investment Corporation, vice Herbert Salzman, resigned.

Department of Justice

Wayman G. Sherrer, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years. (Reappointment.)

J. Keith Gary, of Texas, to be U.S. marshal for the eastern district of Texas for the term of 4 years. (Reappointment.)

In the Navy

Adm. Richard G. Colbert, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

In the Navy

The following named officers of the U.S. Navy for temporary or permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Abernathy, Thomas H.
Ablett, Mark C.
Achille, Franklin S.
Acton, Thomas A.
Adams, David A.
Adams, Harold S., Jr.
Adams, James J.
Adams, Kay L.
Adams, Thomas D., Jr.
Adkins, Robert F.
Agnor, Robert J.
Albright, Jeffrey H.
Alburger, John F.
Aldrich, Daniel J.
Alexander, Ronald K.
Alexander, Patrick F.
Alexander, John F., III
Alexander, John W.
Alford, Ralph M., Jr.
Algarotti, Mary C.
Alger, James A.
Alleman, David P.
Allen, Dale I.
Allen, James J.
Allen, James R.
Almendinger, Sylvia S.
Almy, Thomas B.
Altmayer, Magnus S.
Alvarez, Richard E.
Ammerman, David C.
Ammons, Edward A.
Andersen, James B.
Anderson, Christopher E.
Anderson, Leonard M.
Anderson, Robert L.
Anderson, Robert A.
Anderson, Wayne H.
Aninowsky, William E.
Annis, Robert E.
Anthony, Joseph D.
Apley, Walter J., Jr.
Appleby, Robert T.
Archdeacon, Francis J., Jr.
Architzel, Ralph E.
Ardizzone, Vincent
Armstrong, Ralph F.
Arnold, Berthold K.
Arnold, Hollis D.
Arnote, Stanley D.
Athow, Karl J.
Atkinson, Leland D.
Austin, Robert B., Jr.
Austin, Simeon H.
Avera, Troy G., Jr.
Avery, Richard C.
Ayers, Carleton R., II
Babarik, Dan E.
Bach, Terrance S.
Baird, Robert K.
Baittinger, Eric W.
Baker, David L.
Baker, Leonyx G.
Baker, Peter A.
Baker, Timothy L.
Bakken, Gary C.
Baldasari, Nicholas E.
Ball, John C.
Balson, William E.
Baltz, Donald M.
Banellis, Charles E.
Banwarth, Mark C.
Bardwell, Robert R.
Barker, Jimmy L.
Barker, Laughlin M.
Barnes, Robert F., Jr.
Barnett, Harry E.
Barnett, Richard L.
Barnett, Richard L.
Barnum, Kenneth P.
Barrett, John M., Jr.
Barrington, John S.
Barron, James D., Jr.
Barron, Timothy R.
Barrowman, Glenn J.
Barry, John M.
Bartley, John A.

Barton, David C.
Barton, Walter H.
Bartosh, Stephen A.
Bartram, Roger W.
Bashore, Harry W., III
Bateman, Clifford B.
Bauer, Carl O.
Bauer, Dennis D.
Baughman, Wilfred E., Jr.
Bausili, Mark T.
Baxter, Richard B.
Beacham, Frederick B.
Beasley, Drew W.
Beatty, Charles T.
Beatty, Daniel A.
Beauchamp, David N., Jr.
Beaudet, Carl A.
Beavers, Michael C.
Beck, Ardie L.
Beck, Edward C., III
Becker, Fred R., Jr.
Beckham, Don H.
Beckham, Tommy L.
Beckman, Robert J.
Beckham, William L.
Bedell, Ronald A.
Beelby, Michael H.
Beeson, Dennis R.
Beier, Werner J.
Bekkedahl, Stephen L.
Bender, John P.
Benefiel, James W.
Bennett, Arthur K., III
Benson, Eric J.
Benziger, Philip E.
Berger, Robert D.
Bernard, Sanford K.
Berns, Michael S.
Bersticker, Keith P.
Bertelson, John D.
Bickford, John C.
Bickler, Jerome E.
Bien, Jay K.
Bingaman, James A.
Black, Carolyn F.
Black, Joyce R.
Blair, Coy L.
Blair, Gary W.
Blair, Gregory A.
Blair, Thomas B., II
Blake, Richard D.
Blakesley, Larry L.
Blanton, Sankey L., III
Blase, William E.
Blauvelt, Russell M.
Bloom, James A.
Bluestein, Michael S.
Boardman, Geoffrey P.
Bogdewic, Daniel D.
Bogdewic, Linda L.
Bogle, Ronald C.
Bohannan, James G.
Bohannon, Joseph A.
Bohrer, Herbert A.
Bolcar, James A.
Bolduc, David T.
Boller, George R.
Bolton, Patrick J.
Bond, Richard W.
Bongard, Charles R.
Boniface, John M.
Bonner, Patrick J.
Boomhower, Paul M.
Booth, James E.
Boriotti, Thomas
Borland, John
Boswell, Barry E.
Bottenberg, Richard B
Boucher, David L.
Bouton, Edwin H., Jr.
Bowen, John D., III
Bowman, Richard T., Jr.
Boyd, William K., Jr.
Brady, Patrick D.
Brady, Peter D.
Brake, Terry A.
Braman, Frederick A.
Branaman, Larry G.
Brandes, John C.
Brandt, Ted M.
Breedlove, Rodger D.
Breitinger, Thomas L.
Brender, Mark E.
Brennan, Michael E.
Breuer, Valerie L.
Brewer, Donald S.
Brick, James M.
Brinker, John A.
Brinson, Buck, Jr.
Brooker, Richard I.
Brooks, David A.
Brouhard, Jack W.
Brown, Charles W.
Brown, Daniel E.
Brown, Douglas L.
Brown, Duane W.
Brown, Harry P., Jr.
Brown, James B.
Brown, John R.
Brown, Lonnie C.
Brown, Nellie R.
Brown, Stephen H.
Brown, Steven A.
Brown, Steven J.
Brown, William B., Jr.
Brown, William B.
Brubaker, Robert C.
Bruce, Stephan R.
Bruggemann, Glenn A.
Brunelli, Duane L.
Bruwelheide, Dennis R
Bryant, James B.
Bullard, George C., Jr.
Bullock, James L.
Bumgardner, Paul R.
Buntrock, George E., III
Burd, John S.
Burgess, Lee E.
Burgess, Richard S.
Burkhead, Ferree R.
Burkland, Peter W.
Burlingame, Charles F.
Burman, Richard A.
Burns, Timothy J.
Burtt, Chester A.
Buschbaum, Dennis E.
Butkus, Stephen B.
Butler, Bruce A.
Butler, Frank K., Jr.
Butler, Thomas A.
Butler, William A.
Butt, Cyrus H., IV
Byers, Stephen A.
Byrd, Robert E.
Cadden, Charles J.
Cady, William D.
Cahill, John J.
Callahan, Joseph A., II
Campbell, Edward P.
Campbell, Richard D.
Cann, John D.
Capizzi, David A.
Capra, Robert A.
Carlin, James J., Jr.
Carlin, Thomas J.
Carlson, Richard J.
Carnahan, Thomas M.
Carr, Russell M.
Carro, Stephen J.
Carroll, Edward B., Jr.
Carson, Thomas H., III
Carter, Larry J.
Carter, Michael W.
Caruthers, William P.
Cash, Louie O.
Casselman, Richard D.
Catarella, Philip D., II
Cauchon, Richard P.
Cech, Ladd M.
Chadwell, Robert G.
Champagne, Gerald E.
Champagne, Lee W.
Chandler, Jeffrey D.
Chandler, Michael E.
Chaney, David A.
Chapman, Robert B.
Chappell, Thomas E., Jr.
Charvat, David E.
Chase, Peter M.
Chattin, James W.
Cheliras, Richard M.
Chew, David W.
Chimenti, Robert A.
Chiquelin, William R.
Christian, Robert H.
Christiansen, Terry G.
Christy, Leonard C.
Cichucki, Jon L.
Civiello, Constance E.
Clark, Augustus W., III
Clark, Lawrence F.
Clark, Mackenzie C.
Clayton, Gregory
Clements, Joseph E.
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Clopper, Richard J.
Closs, John W.
Closson, Bradley D.
Coatney, Brian L.
Coats, Bruce A.
Cochran, Charles T.
Cocolin, David P.
Cocos, William J.
Cohen, Michael F.
Cohlmeyer, Alan S.
Cole, Christopher W.
Cole, Fred G.
Cole, Warren B.
Collier, Charles M.
Collier, Michael J.
Colling, Arthur K., Jr.
Collins, James P.
Collins, John H., Jr.
Colquitt, Richard E., Jr.
Comer, Stephen A.
Condon, John K.
Conkey, John A.
Conklin, Douglas G.
Connell, Mary K.
Connelly, Michael J.
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Conner, William R., III
Conners, Jeffrey D.
Conover, Richard P.
Conrad, Jack L.
Conte, Enrico E.
Cook, Roger D.
Cooksey, Mark G.
Coolbaugh, Robert J.
Cooper, Richard W., II
Cooper, Ward J.
Corack, Mary T.
Corbin, James H.
Cornelison, Ronald F.
Cosgriff, Kevin J.
Costa, Pat A.
Courtney, Thomas B., Jr.
Covington, George B.
Cowherd, Robert F.
Crabtree, Thomas E., Jr.
Cradduck, David C.
Cramer, Mark J.
Crane, Jeffrey R.
Crawford, Robert O.
Creath, Timothy G.
Creech, James W.
Creelman, James E., III
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Crompton, David R.
Croom, Miles M.
Crouch, Richard M.
Crow, Paul E.
Crowe, Robert K.
Crowther, Jackie M.
Crum, Robert C.
Culbertson, Frank L., Jr.
Cummings, Harold H., Jr.
Cummings, Jon R.
Cupps, Stephen L.
Curry, Daniel L.
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Curtis, Stephen K.
Cusick, Stephen K.
Custer, Robert C.
Dale, Charles J.
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Daley, Bradley L., Jr.
Damron, John S.
Danforth, Peter A.
Daniel, Gerald L.
Daniels, Andrew M., Jr.
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Darnstaedt, Gloria J.
Daugherty, Jack E.
Davis, Jack M.
Davis, James A.
Davis, Kenny D.
Davis, Leroy W., II
Davis, Michael E.
Davis, Terry L.
Davis, Thomas E.
Davis, William B.
Dawson, Michael K.
Day, Fay, Jr.
Day, Ralph D.
Deacon, Glenn R.
Dean, Raymond E.
Decesari, Robert J.
Delaney, Dennis M.
Delbalzo, Michael F.
Deloof, Ronald M.
Demmon, William J. R.
Dennis, Ronald W.
Densmore, Russell A.
Denson, James P.
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Derrick, Jerry W.
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Desmond, Dennis A.
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Dessommes, Jack C.
Devey, Graham R.
Devins, Robert S.
Devos, Peter F.
Dial, Kathy L.
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Dick, Lawrence L.
Dickey, Thomas P., Jr.
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Dimmette, Joel P., Jr.
Disney, Donald B., Jr.
Dobrovoiny, Timothy G.
Dobrydney, Frank J.
Doherty, James E., Jr.
Dokos, James A.
Dolan, John K.
Donald, Balfour J.
Donges, William H.
Donlon, Stephen E.
Donnelly, Michael S.
Doores, Gale N.
Doorly, Dale M.
Dorman, Peter F.
Dornan, John R.
Dougherty, Terryll, Jr.
Douglas, Diantha L.
Doyle, Patrick M.
Drake, Carroll M.
Dresner, Jay D.
Driscoll, Edmund F., II
Driscoll, Michael L.
Dubay, Eugene N.
Dubay, Roland C.
Dubeck, John B.
Dubois, William L.
Duclos, Edward D.
Dudek, Frank J.
Duma, David W.
Duncan, David A.
Duncan, Michael G.
Dunford, Patrick J.
Dunlap, Barry C.
Dunlap, Philip S.
Duquette, Marc R.
Durocher, Peter H.
Durst, David P.
Dussman, Thomas R., Jr.
Duzy, Charles A.
Dvorak, William C.
Dyer, James R.
Dykes, Edward R.
Eakin, Philip J.
Earhart, Ralph P.
Earley, Anthony F., Jr.
Easley, Stephen W.
Easter, David T.
Easterday, Kenneth P., Jr.
Eastin, William P.
Ebright, Arthur L.
Ecker, William M.
Ector, Richard H.
Eddleman, Rickee D.
Eden, Michael S.
Edmonds, Robert W.
Edson, David P.
Edwards, Terence D.
Eldridge, John K.
Elfelt, James M.
Ellis, Ronnie J.
Ellis, William R.
Ellison, Alan A.
Emerson, Joseph D.
Emslie, William A.
Enderle, John P.
Enderly, Richard H.
Endo, Victor
Engel, Douglas T.
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Engelmann, Bruce H.
Englehart, William P.
English, Jerome R.
Enright, Joseph E.
Enzinger, Richard S.
Erickson, Bruce N.
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Ericson, Alfred E., Jr.
Erwin, Troy J.
Esposito, Vincent J., III
Estes, James L.
Estrada, Carmen C.
Etnyre, Terrance T.
Ettredge, Michael L.
Evans, John C.
Exstrum, Terry D.
Faith, Everett W., Jr.
Farrand, Thomas W.
Farrell, Richard J.
Fazio, Joseph L.
Feeley, Michael E.
Feeney, John P.
Feldman, Brian D.
Felts, William S., Jr.
Fenech, Robert A.
Fennell, Walter F., Jr.
Fergione, John A., Jr.
Fichter, John E.
Fields, David A.
Filka, Ronald A.
Finch, Randal C.
Findeiss, Lawrence W.
Fine, Jerry M.
Finegold, Brian D.
Finley, Richard G.
Finn, Michael P.
Finney, Robert D.
Fischer, Halsey R.
Fischer, Theodore A., II
Fishel, Henry G.
Fisher, Robert S., Jr.
Fitzsimons, John R.
Flanagan, Edward M.
Flanagan, Thomas J.
Flannery, Peter A.
Fleming, John B., Jr.
Fleming, Kenneth W.
Fleming, Richard P., Jr.
Fleming, William L.
Flenniken, Michael E.
Fletcher, Patrick J.
Fletcher, Richard S.
Flickinger, Stephen L.
Flones, Richard L.
Flood, Jeffrey L.
Flowers, Philip R.
Floyd, Thomas F., II
Foe, Christopher G.
Foerst, John E.
Foley, John M.
Foltz, Ricky A.
Foote, Edward P., Jr
Foraker, Allen S.
Foster, Bradley S.
Foster, Finley B.
Foust, John T.
Fox, Barry L.
Fox, Edward C.
Frame, Terrance C.
Frank, Joel S.
Franssen, Roger A.
Fredericksen, John S.
Fredricks, John A., Jr.
Freeman, Parker C.
Freeman, Russell D.
French, Michael J.
Freund, Robert H.
Frey, Robert A.
Friedman, Paul, Jr.
Fritchman, Wilson J.
Fritz, Robert W.
Frnka, Robert D.
Frohlich, Thomas W.
Frost, Charles W.
Frost, Jack W.
Fry, Scott A.
Fryman, Donn L.
Fujimoto, Gene T.
Fulton, Thomas B.
Funk, Richard L.
Funk, William T.
Funke, James C.
Funke, Richard H., III
Fuqua, Harry E., II
Furrevig, Harold L.
Gabe, Daniel E.
Gaffney, Michael G.
Gafney, Edward J., III
Gaiser, Manfred J.
Gallagher, Robert M.
Gallemore, James B.
Galloway, Thomas A.
Galloway, Thomas R.
Gandy, Russell E.
Gannon, Thomas H., III
Garcia, Frank C.
Garrow, James W.
Gatchell, James K.
Gates, Ronald A.
Gauthier, Normand C.
Gavrich, Douglas D.
Gearhart, Michael W.
Gecan, Anton S.
Geci, Karl E.
Geddes, Norman D.
Gehl, Michael T.
Geiger, Donald G.
Gemmell, Stephen L.
Gerlach, Gerry L.
Gessis, Scott N.
Gill, Robert L., Jr.
Gessner, Robert L., Jr.
Gilley, Edward R.
Gillogly, Jay T.
Gilmer, John B., Jr.
Girvin, Charles R., III
Givens, Joel D.
Gizzi, Lucia M.
Glanzmann, Christopher F.
Glick, Randall A.
Glynn, Dennis W.
Gokey, James W.
Golding, Joseph F.
Goldschmitt, Marc L.
Gonzales, James G.
Gorman, John J., Jr.
Gorski, Thomas H.

Gorton, Grant J., II
Gosma, James A.
Grabiel, Marolee
Grace, William J.
Graeber, Grant L.
Graham, Barry W.
Graham, Clive, Jr.
Graham, John E.
Graham, Linda L.
Graham, William R.
Grames, Steven M.
Granberry, Michael G.
Graves, Davie W.
Gray, Charles L.
Gray, Donald F., Jr.
Green, Barton L., II
Green, James F.
Green, Kevin P.
Greene, Brenton C.
Greeno, John L.
Gregory, Troy R.
Griffiths, Charles H., Jr.
Griswold, Henry C
Griswold, Ronald K.
Groenig, Alice E.
Groenig, Stanley R.
Groff, Lawrence L.
Groman, Mark S.
Gronroos, William E.
Gross, Mitchell I.
Gross, Thomas M.
Grubb, Ronald E.
Grupe, David A.
Gryde, Stanley K., Jr.
Gubanc, David M.
Gudenkauf, Bruce P.
Guest, Frank B., III
Gulas, John E.
Gunn, Donald P.
Gunther, Donald L.
Gurke, Lee S.
Gurry, Frank H., Jr.
Gustafson, David L.
Haase, Martin R.
Hackett, David J.
Hagadone, Ronald S.
Hagstrom, David W.
Hagy, Michael R.
Hahn, Randall P.
Hahn, Thomas A.
Hakanson, Donald K.
Hall, Herbert W.
Hall, Larry W.
Hall, Thomas C.
Hallahan, Dorothy E.
Hallahan, Michael J.
Hallenbeck, Wayne J., Jr.
Halligan, Michael J.
Hambleton, Michael G.
Hamilton, Howard W., Jr.
Hamilton, William L.
Hammer, Roger W.
Hammond, Russell E.
Haney, Robert E.
Hanneman, Richard K.
Hansen, Harold E., Jr.
Happ, David R.
Harbaugh, David R.
Hardee, James B.
Harding, Robert W.
Hardman, Samuel R., Jr.
Harkness, Mary A.
Harmon, William C.
Harms, Alfred G., Jr.
Harper, Gregory P.
Harris, Charles P.
Harris, Eldon D.
Harris, Jodie R., Jr.
Hart, John M.
Hart, William S.
Hartmuller, Roger L., Jr.
Hartshorn, Randy L.
Harvey, Gary W.
Haseltine, Raymond F.
Hash, David F.
Hass, Timothy F.
Hatcher, William L., III
Hawver, William S.
Hay, Willard C., Jr.
Hayden, Michael P.
Hayes, Bradd C.
Hayes, James A.
Headrick, Joseph R.
Health, Donald E.
Heath, Gregory G.
Hebert, Edward R.
Hecomovich, Michael R.
Hedegor, John W.
Heflin, William N., Jr.
Heil, Frances T.
Heil, James P.
Heine, Roger R.
Heinz, James A.
Heitmanek, James L.
Held, John T.
Helfrich, James C.
Helgeson, Marc A.
Hellmann, William E.
Helwig, Gary L.
Hemphill, William B.
Henbest, Philip M.
Hendershot, Robert P.
Henderson, Haywood H., Jr.
Henson, John W.
Herald, David M.
Herbst, Alan K.
Hergenroeder, James
Herger, Joseph F.
Hermanson, Bruce
Hermeling, Theodore A.
Herrera, Heriberto
Herring Frederick S.
Herring, Sonja M.
Herring, Thomas, III
Herris, John W.
Hess, Glenn E.
Hess, John M.
Hess, Mark W.
Hessler, Thomas J.
Hewett, Ronald E.
Hichak, Michael J.
Hickey, Daniel G.
Hicks, Leonard L.
Higgins, Timothy
Hiles, Charles H., Jr.
Hilton, William R.
Hines, Edward C., III
Hines, Jerome H.
Hingle, Leander L., Jr.
Hirsh, Louis M.
Hitt, Curtis W.
Hobart, Joseph R.
Hoepper, Charles T.
Hoert, Michael J.
Hoewing, Gerald L.
Hoffman, Thomas L.
Hoffmann, Mark W.
Hoffoss, Peter O.
Hogan, Raymond J.
Holland, Benjamin A.
Holland, John P., Jr.
Holland, Nathaniel L.
Holland, William W.
Hollingsworth, Arnold G.
Holloway, Robert H.
Holm, John A., I
Holmquist, Kurt E.
Holmstrom, Garry
Holstrom, Marshall V.
Hook, Kenneth J.
Hoover, William C.
Hope, Roger K.
Hoppus, Michael L.
Horais, Brian J.
Horgan, Mark M.
Hormel, Richard C.
Horn, Richard D.
Hornung, Scott A.
Hosier, Mark S.
Hoskins, Michael H.
Houck, Timothy L.
Hough, Thomas H.
Hovermale, Mark D.
Howard, David G.
Howard, John L.
Howe, David B.
Howe, Mark H.
Hower, James D., Jr.
Howze, Catherine D.
Hoxie, Joel P.
Hribar, James A.
Hubbard, John H.
Hudson, Steven D.
Huffman, Thomas D.
Hufford, Harriett M.
Hughes, Eric M.
Hughes, Joseph A.
Hughes, Thomas F.
Hulsizer, Stephen A.
Hume, John G., Jr.
Hunt, James C.
Hupp, Alfred R., Jr.
Hura, Leo O.
Hurst, Brian D.
Huss, Boyce W.
Hussey, John W., Jr.
Huston, Norman E., Jr.
Hutchins, Alfred G., Jr.
Hutchins, Stephen C.
Hutchison, Raymond D.
Hutson, Thomas W., III
Hyman, Harold D.
Ibert, Peter J.
Ilku, Michael
Isen, Forester W., Jr.
Ives, Kenneth R.
Jackson, Floyd S.
Jackson, John E., Jr.
Jackson, Walter A.
Jacobs, Alfred J.
Jacobs, Robert W.
James, Michael T.
Janes, Charles E.
Janiec, Jan D.
Jannusch, Craig M.
Jarabak, John P., Jr.
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Jarvis, David E.
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Jastrab, Michael E.
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Jenkins, Judith B.
Jenkins, Michael O.
Jensen, Jens A.
Jensen, John A.
Jerome, Douglas J.
Johanek, James F.
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Johnsen, Jeffrey K.
Johnson, David M.
Johnson, Dennis J.
Johnson, Eric C.
Johnson, James D.
Johnson, Jerry R.
Johnson, John C.
Johnson, Kenneth P.
Johnson, Larry C.
Johnson, Michael J.
Johnson, Michael B.
Johnson, Philip G.
Johnson, Ralph P.
Johnston, Phillip L.
Johnston, Steven A.
Johnston, Wayne A.
Jones, Douglas C.
Jones, Francis
Jones, Jimmie G.
Jones, John H., II
Jones, Mark W.
Jones, Roger N.
Jones, Stanley L.
Jones, Walter E.
Jones, Wayne M.
Jordan, Franklin W.
Jordan, Kenneth S.
Josefson, Carl E., Jr.
Josephson, Hardy R.
Jouannet, Peter R.
Judson, James H.
Junge, Dennis M.
Jurkowsky, Thomas J.
Kaiser, Edward W., Jr.
Kaltneckar, Steven R.
Kane, Dennis L.
Karlovich, James E.
Kaskin, Jonathan D.
Kasmiroski, Lige H., III
Keating, Charles L.
Keating, Timothy J.
Keenan, Philip V.
Kehoe, Michael J.
Keith, Fredrick W.
Keith, James S.
Kelley, Daniel W., Jr.
Kelley, Michael J.
Kelly, Dennis J.
Kelly, Edward W.
Kelly, Patrick R.
Kelso, Robert B.
Kemp, Allan W.
Kemp, Dieter K.
Kendall, David C.
Kendall, Gene R.
Kennedy, Francis J., Jr.
Kern, Dennis J.
Kesling, Willard R., Jr.
Keuhlen, Phillip J.
Keyser, Emmett M., III
Kidder, Jeffrey B.
Kimball, Jackson G.
Kimmel, Robert L.
Kindberg, Richard R.
King, Kendall J.
King, Michael R.
Klein, Fred C.
Klose, Craig W.
Knight, John R., Jr.
Koch, Ronald B.
Kocmich, Eugene J.
Koczon, Andrew
Koehler, Kathleen M.
Koerner, Douglas G.
Koger, Gary L.
Kohut, John G.
Kolle, George N., Jr.
Kolody, Paul W.
Kopec, John M., Jr.
Korff, Susan C.
Korin, Michael W.
Kortman, Gregory M.
Kosar, Peter G.
Kovacinski, Boleslaw A.
Kramer, Klaas
Kraus, George F., Jr.
Krech, Donald W.
Krouse, Cheryl M.
Krueger, Edward H., III
Kruger, Frederick B., Jr.
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Kubovchik, John F., Jr.
Kuemmel, James D.
Kuhlman, James R.
Kuhn, Kathryn M.
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Kunselman, David E.
Laing, Clinton L.
Lalonde, Larry W.
Landers, Judson T.
Landrum, Richard H., Jr.
Lane, Christopher K.
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Lanier, Richard J.
Lantier, Patrick D.
Lappano, Gilbert C.
Large, William R., III
Larkin, Robert J.
Larson, David A.
Larson, Gregg D.
Lassman, Abraham J.
Latsch, Bonnie C.
Lavery, William H.
Lawrence, Russel G.
Laws, David T.
Leake, Beverly F.
Leary, Dennis J.
Ledvina, Thomas N.
Lee, David L.
Lee, Thomas E.
Leestma, David C.
Legacy, Alan E.
Lehman, Michael P.
Leiby, Kenneth L., Jr.
Leichtnam, James J.
Leidholdt, Edwin M., Jr.
Leinenweber, Lewis E.
Leitch, Jerrold M.
Lemkin, Bruce S.
Lemoine, David E.
Lenfant, Philippe M.
Lengerich, Anthony W.
Lennon, Gerard T., Jr.
Leo, Barry L.
Leon, John A., Jr.
Leonard, Peter J.
Lepick, Mark H.
Leroy, Richard D.
Levien, Keith L.
Lewandowski, Allan A
Lewis, Frank L., Jr.
Lewis, Jeffrey E.
Lewis, Jerry L.
Lewis, Kirk T.
Ley, Gary W.
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Linck, Victor T.
Linder, Bruce R.
Lindgren, Paul W.
Lindsay, William H., III
Linnehan, John J.
Linnenbom, Victor J., Jr.
Linton, Barbara J.
Liseno, Robert T.
Little, William H.
Loague, Anthony A.
Locke, James W., Jr.
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Lohman, Gary W.
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Long, John H.
Long, Paul B.
Long, Theodore W.
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Longinotti, Paul J., Jr.
Longworth, Michael W.
Loring, Paul M.
Louden, Peter E.
Loustaunau, Paul J.
Love, Glenn E.
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Lovell, Bruce A.
Love, Aljurnel E.
Lowe, John M.
Loyd, Robert C.
Lucy, Robert W.
Ludowise, John D.
Luengen, David W.
Lusky, Charles A.
Luten, James G.
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Lutz, Michael H.
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Lynn, James J., III
Lyons, Daniel W.
Lyons, Joseph F., Jr.
Lytwyn, Peter
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Macris, Athos C.
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Maher, John W.
Mahoney, Stanton V., Jr.
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Mallory, Harry B., III
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Manning, William B., III
Marich, Milutin
Maris, James R.
Marks, Kenneth A.
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Marle, William H.
Martin, David T.
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Martin, John F., III
Martin, Michael R.
Martin, Paul H.
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Martini, Perry J., Jr.
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Maskaluk, David C.
Mason, Lewis G.
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Massengale, Saint E. M.
Massie, John L.
Masters, William D.
Mathews, Monty G.
Mathus, Edward F.
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Matz, William P.
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Mayon, Michael H.
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McBride, Michael P.
McCabe, Robert J.
McCamish, Michael J.
McCarriar, Thomas L., Jr.
McCauley, George B.
McClary, William W.
McClellan, George W.
McClendon, Erwin L.
McClure, Bruce P.
McComb, Lorne B.
McConkey, David L.
McConnell, Daniel D.
McCormick, Robert C.
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McCoy, Kenneth F.
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McCuddin, Michael E.
McCulloch, Ben, Jr.
McDermott, James K.
McDevitt, Gerald R.
McDonald, Lawrence L.
McDonald, Terrance S.
McDougal, James M.
McDowell, Joel G.
McDuff, Douglas M.
McFarland, Clyde E., Jr.
McFarlane, Craig L.
McGee, Bruce B.
McGillvray, John W., Jr.
McGough, Larry W.
McGovern, Peter J.
McGrody, Robert J., Jr.
McIntire, Paul G.
McKay, Duane L.
McKee, Robert L.
McKee, Stanley W.
McKinstray, James M.
McLaughlin, Peter J.
McLaughlin, Timothy M.
McLean, Peter, III
McLeod, John B.
McLochlin, John M.

McMacken, John C.
McMann, Donald F.
McManus, Donald E.
McMartin, James F., III
McMullin, Geoffrey L.
McNallen, John M.
McNamara, Donald H.
McPherson, Mark H.
McQuigg, Marion, L., Jr.
McSweeny, Joseph M.
McVoy, Richard E., Jr.
Meade, John T.
Measel, Richard A.
Meisenbach, Edward W.
Meister, John T.
Mell, John K., Jr.
Mellin, Peter J.
Melton, Daryl K.
Melton, James D., Jr.
Mendenhall, Thomas L.
Mendez, Robert
Mercer, Lawrence D.
Mercier, Kevin G.
Merdes, Daniel W.
Meriwether, Gordon K., III
Merwin, Ronald J.
Metzger, James W.
Meyers, William A.
Micone, Theodore R., Jr.
Midgett, Joe C.
Miernicki, Michael J.
Mihalak, Edward
Milbrath, Arthur G., Jr.
Millenbach, Bruce E.
Miller, Arlington R., Jr.
Miller, Charles R.
Miller, David B.
Miller, David E.
Miller, Donald P.
Miller, Douglas L.
Miller, George R.
Miller, Kathleen A.
Miller, Lee C.
Miller, Mark W.
Miller, Richard S.
Miller, Ronald R.
Miller, Steven M.
Milligan, Jan S.
Milne, Thomas J.
Mims, Dwight C.
Miner, John B.
Minnich, John H., III
Mischen, Stephen C.
Mitchell, Donald R.
Mitchell, James A.
Mizer, Herald S.
Modes, Ronald W.
Moffat, Steven P.
Moffitt, Eric C.
Monopoli, Anthony M.
Monson, Lee E.
Monson, Scott A.
Montesano, Frank W.
Montgomery, Glenn H.
Moody, Richard A.
Moore, Alice M.
Moore, Ben, III
Moore, George R.
Moore, George H.
Moore, Michael J.
Moore, Robert L.
Moran, Emmett J.
Morawski, Richard T.
More, Gary K.
Morgan, Gregory C.
Morgan, James C., Jr.
Mori, Donald P.
Moriarty, Christopher P.
Morin, Roger A.
Morneau, Michael L.
Morrell, Michael P.
Morris, Ernest L., Jr.
Morris, John J.
Morris, John L.
Morris, John T.
Morris, Robert L.
Morrison, John W.
Mosey, David M.
Mosher, James K.
Mulkern, Trent C.
Muller, William G.
Mullins, Patrick C.
Mulvaney, Gregg P.
Muncie, John C.
Murchison, Grover R.
Murdock, Thomas E.
Murphy, Douglas A.
Murphy, Ralph I.
Murray, Raymond M.
Musso, Thomas F.
Mustain, James A.
Myck, Stephen R.
Myers, Frederick H.
Myers, Randall W.
Nacht, John J.
Nacion, Robert J.
Naedel, Daniel S.
Naff, Peter B.
Nafziger, George F.
Nall, Robert C.
Naple, Richard P.
Nasief, Edmund G., Jr.
Naugher, Loran D., Jr.
Nave, Herbert M.
Needham, John J., Jr.
Neely, Frederick C.
Neely, Judith A.
Nelson, Frederick D.
Nelson, Robert E.
Nelson, States L.
Nelson, Stephen C.
Nemeth, Christopher P.
Neville, Richard C.
Nevins, John D., Jr.
Nevitt, William R., Jr.
Newberger, Stephen R.
Newman, Don R.
Newman, Micajah W.
Newman, Stephen H.
Newton, Laurence H.
Newton, Thomas A., Jr.
Nichols, Bruce E.
Nichols, David J.
Nichols, Greg
Nichols, Thomas J.
Nicholson, Harry X., III
Nickelson, Bobby L.
Nicolin, Kevin C.
Nielsen, William G.
Nise, James R.
Nixon, Leslie R.
Noland, Neal D., Jr.
Nold, William F.
Nordin, Michael T.
Norris, John A.
Norton, Joseph D.
Nottke, Bruce A.
Novin, Keith E.
Nowell, George W.
Oatley, Eugene T.
O'Brien, Thomas F.
O'Bryant, Kenneth M.
O'Conner, James J., Jr.
O'Connor, Joseph M.
O'Connor, Kevin J.
O'Dea, James E.
Odland, David J.
O'Donnell, Frendan J.
Ogden, Robert J.
Ogurek, Robert F.
Okerson, Eric C.
Olcott, Charles W., Jr.
Oliver, Diane E.
Oliver, Thomas A.
Olson, James D.
Olson, Kenneth L.
O'Neill, Kevin D.
Onyon, Dale E.
Opsal, James K.
Organek, William E.
O'Rourke, Michael P.
Orrison, Michael L.
Ortmann, Robert A.
Orton, Frederick C.
Osler, Christopher
Oslund, Dwayne A.
Oswald, Louis J., III
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Owens, John R., Jr.
Owens, Terry L.
Oxford, Edward M.
Padgett, Gerald A.
Page, Steven G.
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Palmer, Carleton A.
Palmer, Henry B.
Palmer, Michael C.
Palmer, William W., III
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Pappas, Gregory W.
Park, James A., III
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Parks, Edward J.
Parks, Philip D.
Parrish, Sharon E.
Parsons, Robert C.
Patterson, Thomas F., Jr.
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Paulson, John J.
Pautler, David B.
Pearce, Robert K., Jr.
Pearl, David A.
Pearson, Charles W., II
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Pelstring, Stephen
Penley, Stephen S.
Penner, Stephen E.
Penniman, William T., II.
Perin, Jeffrey M.
Perkins, George W., Jr.
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Perkuhn, Claus P.
Pesce, Charles S.
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Petty, Randolph A.
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Phillips, David E.
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Phipps, John W.
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Pinkham, Timothy H.
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Pittman, Ernest D. B.
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Plourde, Elwood H.
Pluta, Joseph, Jr.
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Pollard, Mark E.
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Polwarth, John B.
Polzien, David E.
Ponthan, Steven H.
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Poorman, Kenneth A.
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Porter, Thomas P.
Potter, Thomas L.
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Prunty, Robert W., Jr.
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Pugh, William N.
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Pyles, Thomas C.
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Quinn, Timothy J., Jr.
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Rankin, Robert H.
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Ray, Samuel L.
Reasoner, James D., Jr.
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Redshaw, Michael D.
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Reese, James C.
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Rehwaldt, Anthony J.
Reinauer, Gordon S., II
Reinertsen, Donald G.
Reitz, Stephen L.
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Revolinsky, Joseph A.
Reynolds, John C.
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Rich, Patrick A., Jr.
Richards, Philip E.
Richardson, Isaac E., III
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Rickard, Danny L.
Rickman, Loy D., Jr.
Rickman, William L.
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Ridley, John S., Jr.
Rigby, William H., Jr.
Rightmire, James W., Jr.
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Riley, Steven L.
Rinker, James R.
Rinz, William H.
Riordan, Michael E.
Ritter, William M.
Rivera, Robert
Rizzo, Michael F.
Roberts, Dana A.
Roberts, Ralph D., Jr.
Robertson, Brian D.
Robertson, Ronald L.
Robertson, David C.
Robinson, David R.
Robinson, Douglas R.
Rockwell, Donald E., III
Roda, Richard D.
Rodgers, Bette A.
Rodgers, Richard L.
Rogers, Ted E.
Rohrbaugh, Michael G.
Romann, John E.
Roscoe, Stacy A.
Rose, Robert R.
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Ross, Jonathan M.
Ross, Roger D.
Rottler, Howard C., Jr.
Rottman, Robert E.
Route, Ronald A.
Roux, Max D.
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Rowland, Mitchell L.
Rubel, Robert C.
Rubino, Woody M.
Ruddock, Theodore D., III
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Rusch, Christopher A.
Rush, David P.
Russell, Donald C.
Russell, Howard S.
Rutherford, Allan
Rutkowski, Edwin G.
Rutledge, William C.
Rychener, Bruce E.
Ryder, Richard E.
Sacia, Roger E.
Sackett, Craig P.
Sage, Michael J.
Sagendorf, Robert D.
Sagi, John P.
Salerno, Michael J.
Salinas, Manuel G.
Samar, Jack J., Jr.
Sameit, Douglas E.
Samons, George M.
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Sampson, Robert D.
Sanders, James H.
Sanderson, Edward J.
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Sassen, John C.
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Saunders, Kenneth P.
Savage, Robert R.
Sawyer, Duane R.
Sax, Karl, II
Saylor, Roger S.
Schaeffer, Jacob D.
Schaffter, Alan B.
Schall, George E., Jr.
Schaper, Dorsey D., Jr.
Schapira, Joel R.
Scharfe, Mark C.
Schaufelberger, Albert A.
Scheina, Martin J.
Scherr, Michael R.
Schierer, Leon A.
Schilder, James F.
Schilling, Robert L.
Schlueter, Rory L.
Schmidt, Robert W.
Schmidtkunz, James E.
Schmitt, Stephen R.
Schmitt, William E.
Schneider, Peter P., Jr
Schnellenberger, James E.
Schoonmaker, Catherine D.
Schoonover, Robert A.
Schroder, Ronald D.
Schuknecht, Richard E.
Schuler, John J.
Schultea, Patrick D.
Schultz, John A.
Schultz, Joseph M.
Schultz, Robert R.
Schultz, Robert G., Jr.
Schultz, Warren R.
Schulze, James L., Jr.
Schutzman, Jay S.
Schuyler, John H.
Schwarz, Edward G.
Schwedhelm, Martin H.
Scott, John E.
Scott, Kenneth H., Jr.
Scroggins, Bradley D.
Seaton, Robert D.
Secorsky, Thomas A.
Seil, John W.
Selde, Peter J.
Seminoff, Gregory N.
Senior, Michael W.
Sentman, Orville L.
Settlemoir, Rex W.
Setzer, Charles W., Jr.
Severson, Robert E.
Sevi, Alfred N.
Shackelford, Leland S.
Shaffer, Daniel R.
Shatzer, Lewis A., Jr.
Shaver, Eric B
Shaw, Henry M., Jr.
Shaw, Robert S.
Shaw, Russell J.
Shaw, Samuel D.
Shay, Robert H.
Sheehan, Glenn W.
Sheffield, Harold L.
Sheldon, Patricia J.
Sheline, Theodore C., II
Shellem, James B.
Shellhammer, Gary R.
Shelton, John P., Jr.
Shepard, Fredric A.
Shepherd, William M.
Sheppard, James J.
Sheppard, Walter T.
Sherrard, John C.
Sherrard, Martin V.
Shields, Robert D.
Shoaff, Ray L., Jr.
Shobe, Ronald K.
Shockley, William R.
Shoffner, Mann A., III
Short, Kenneth D.
Shuk, John G.
Shutt, William L.
Sidor, Mary F.
Sieminski, Kenneth M.
Simila, James D.
Simmons, Charles H., Jr.
Simonds, Robert H.
Simoneaux, Lawrence F.
Simpkins, Earl L., Jr.
Simpson, Paul L.
Sims, Donald B., Jr.
Sinclair, William F., Jr.
Sisk, David P.
Sitler, Stephen D.
Sitterson, Allan E.
Sivers, Mark R.
Sixta, John A., Jr.
Skelton, Robert T.
Skibitsky, William S.
Skidmore, Michael G.
Skinner, Michael E.
Skirm, George L., III
Skurski, Paul R.
Slater, Arthur F.
Sloat, Mark S.
Smartt, Douglas A.
Smith, Craig H.
Smith, Duke A.
Smith, Gary J. E.
Smith, Gary L.
Smith, Harris L.
Smith, Jeffrey T.
Smith, Jeffrey C.
Smith, John K.
Smith, Lawrence D.
Smith, Leonard G., III
Smith, Paul T.
Smith, Richard M.
Smith, Samuel A.
Smith, Stephen W.
Smith, Steven C.
Smith, Steven, T.
Smith, Stuart W.
Smith, Sue K.
Smoogen, James L.
Snell, Frank W.
Snodgrass, Guy B.
Snook, Thomas R.
Snoots, Theodore E.
Snowdon, William H.

Snyder, Michael D.
Solomon, John W.
Somers, Larry L.
Soriano, Joseph R.
Sorrentino, Ludwig A.
Soule, William E.
Sowers, Gary G.
Spanbauer, Mark E.
Spancake, Steven C.
Speer, John P.
Speer, Robert G.
Spencer, Chares H., Jr.
Sperberg, Lester W., Jr.
Spotts, William W.
Staffel, Peter L.
Stage, Ronald A.
Stahlak, Russell F.
Stahler, Scott W.
Stahlhut, David M.
Stanke, Jay D.
Stanke, John G.
Stansfield, James D., III
Stanton, Karen A.
Stark, Richard R.
Starr, Kenneth W.
Starr, Lester L., Jr.
Stas, Nicholas J.
Steelman, William J.
Stefanick, Andrew
Steffen, Norman W.
Steinke, Paul D.
Stelling, Geoffrey H.
Stephens, Michael R.
Stephens, Michael W.
Stephens, Susan H.
Sterusky, Robert D.
Stevens, William T.
Stevenson, John G.
Stevenson, John H.
Steward, Paul E., Jr.
Steward, Scott C.
Stewart, Daniel D.
Stewart, Frank W.
Stewart, Michael B.
Stewart, Richard M.
St Germain, Robert D.
Stone, James B. Jr.
Stone, Timothy G.
Storms, Ernest N.
Strain, Hugh J.
Stratton, James W.
Strobbe, Robert J.
Strom, William W.
Strong, Robert A.
Struble, James F.
Stuart, Robert W.
Stubblefield, William H.
Stuhlman, Robert H.
Stull, Mark J.
Sullivan, Edward L.
Sullivan, Eugene
Sullivan, Kerry J.
Suman, Steven M.
Sudin, Melvin L., Jr.
Swacker, Robert N.
Swearingen, James D., Jr.
Swepston, Anderson H.
Swetland, Paul D.
Sydnor, Thomas L.
Szemborski, Stanley R.
Tapajcik, John M.
Taplett, Kenneth J.
Tappen, Frank R.
Tappen, Frank R.
Taylor, Dean E.
Taylor, Joseph E.
Taylor, Lee B.
Taylor, Perry R., Jr.
Taylor, Richard W.
Tempest, Mark J.
Tennant, John W.
Tennesen, Gary M.
Ternes, Thomas J.
Thaggard, Robert S., Jr.
Thalman, David M.
Thayer, Paul D.
Theis, James M.
Thom, John L., Jr.
Thomas, Harry F.
Thompson, Alan J.
Thompson, Douglas F.
Thompson, Jerry D.
Thompson, Peter M.
Thomson, David D.
Thorley, Robert A.
Thornton, James T.
Thornton, Peter B.
Thorpe, Lloyd A.
Tilden, Averill E.
Timmins, John P.
Tinsley, James W., Jr.
Tobergte, David J.
Todd, Dale E.
Tody, Stephen L.
Toliver, Lynden R.
Tomlinson, Phillip F.
Toms, Brian L.
Toomey, James E.
Towers, Kenneth W.
Towne, Bruce G.
Travis, Thomas L.
Treadwell, William P.
Tredway, Leo J., Jr.
Troutman, Stephen B.
Trudell, Michael A.
Turk, Richard S.
Turner, Jay E.
Turner, John S.
Turrentine, Luanne A.
Tuttle, Larry J.
Tylenda, Francis P.
Ulaszewski, Terence J.
Unger, Norbert S., Jr.
Uplinger, Joseph C.
Utschig, Thomas J.
Vagts, Steven W.
Vandeman, Frank L., IV.
Vandenbergh, Henry J., Jr.
Vanderels, David M.
Vanderpool, Michael E.
Vandover, David L.
Vanfleet, Larry W.
Vanhaute, Raymond T., Jr.
Vanhoy, William A.
Vannatta, John O.
Vansickel, Michael E.
Vassos, George A., III
Vaughan, Timothy L.
Vercellino, David L.
Vest, Louis C.
Vickery, Thomas E.
Viglienzone, Dennis E.
Villarosa, John P.
Virus, Terry P.
Vivian, John W.
Vivoli, James W.
Wassell, Joseph R.
Waddell, James B.
Wagemaker, Wallace J.
Wagner, Cort D.
Wagner, Randall D.
Wagoner, Henry M.
Wagoner, Robert C.
Walker, David L.
Walker, Frank T., Jr.
Walkwitz, Jon J.
Wall, Allan D.
Wallace, Robert C.
Wallis, Robert C
Walsh, Dennis F.
Walsh, Dennis M.
Walsh, Gregory E.
Walsh, Richard F.
Walter, Robert L.
Walters, John J.
Walton, Robert L.
Walz, Victor M., Jr.
Ward, Charles R.
Ward, Michael C.
Wargo, Joseph W.
Washam, Gary I.
Washington, Robert J.
Waters, Raymond S., Jr.
Watts, Patrick R.
Weatherington, Michael W.
Weaver, Charles S.
Weaver, Christopher E.
Weaver, Richard K.
Weaver, Vaughan C.
Webb, Lincoln P.
Weber, Frank C.
Weedon, Gerald W.
Weibley, Rolland E., Jr.
Weidler, Darlene R.
Weidman, Richard D.
Welch, Danield R.
Welles, Charles F., III
Welling, David C.
Wellman, William E.
Welsh, Edward J., III
Welsh, Harold K., Jr.
Wenner, David L.
Werner, Gerald C.
Werthmuller, Roy W.
Wessman, Ernest E.
Wessman, Mark D.
West, Michael C.
Westbrook, Gary M.
Wharton, Darryl M.
Wheatley, Charles D.
Wheeler, Richard C.
Wheldon, Richard G.
Whitacre, Robert F.
White, Grover L., III
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White, Marcia A.
White, Richard L.
White, Russell A.
Whitefield, H. Leland, III
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Whitelatch, Robert C.
Whiteman, Charles W.
Whitman, David A.
Whitney, John D.
Whitson, William F.
Whittaker, Forrest R.
Whittle, Alfred J., III
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Wieferich, James R.
Wiegand, Sue L.
Wiggins, Ronald L., Jr.
Wilbur, Steven G.
Wilder, Henry L. B.
Wile, Ted S.
Wiles, Tom D.
Wilhelm, John R., Jr.
Wilkinson, Lester P.
Will, Alan D.
Williams, Bruce A.
Williams, Dale E.
Williams, Donald G., Jr.
Williams, Eugene J., Jr.
Williams, Gary E.
Williams, John A.
Williams, Michael L.
Williams, Robert W.
Williams, William R.
Williamson, John D.
Willoughby, Michael L.
Wills, Theodore C.
Wilson, David G.
Wilson, Frederick D.
Wilson, James M.
Wilson, Michael K.
Wimett, William T.
Winsky, Gregory J.
Winter, Mark C.
Wish, James A.
Withrow, John A.
Wnek, Francis M.
Woerner, David A.
Wohler, Stephen A.
Wolfsen, Terrence H.
Wolnewitz, Robert L.
Wood, Charles E., Jr.
Woodall, Allen G.
Woodard, Donald L.
Woodyard, William D.
Woolard Reginald W., II
Worrall, Eric H.
Worth, Joseph C., III
Wray, Lawrence F.
Wright, Carroll G.
Wright, Charles J.
Wright, Richard G.
Wright, Richard F.
Wright, Wilbur G.
Wunder, Bernard A.
Wunsch, Charles S.
Wyatt, Patrick R.
Wylie, James M., Jr.
Yale, James A.
Yeakley, James R.
Yeatman, Lawrence L.
Yee, Thomas H.
Yocum, William E., Jr.
Young, Cassin, II
Young, David K.
Young, Robin H.
Zabala, Vincent N., Jr.
Zajicek, Richard G.
Zapf, William E., Jr.
Zavaglia, Ronald F.
Ziska, Richard F.
Zmuda, Raymond A., Jr.
Zuorro, Kenneth J. P.
Zurfluh, Michael T.

SUPPLY CORPS

Anderson, David G.
Argento, Terry J.
Armstrong, Frank D., III
Ayers, Robert S.
Baggett, Joseph E.
Bakaley, Stephen L.
Barcinski, Robert A.
Beassie, Leslie J.
Becker, Gregory P.
Bell, Douglas A.
Bender, Danny A.
Benson, Eugene T.
Bird, Robert R.
Blancq, John P.
Blanton, James E., II
Bocchino, David L.
Boecker, Theodore J.
Bond, Lewis F., III
Bott, Kerry C.
Butcher, Thomas C., Jr.
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Calia, John E.
Callaway, Michael P.
Camp, Gary L.
Carden, Robert J.
Caskey, John William, Jr.
Chamberlain, Stephen P.
Chambers, Thomas R.
Clack, Jeffrey R.
Clark, David W.
Clark, Thomas C.
Cole, John L.
Collier, Robert L.
Colvin, Bruce A.
Conroy, Denis S.
Cummins, John L.
Dewell, Kenneth G.
Difrancesco, Albert P.
Dmetruk, Stephen F.
Donlan, Robert J.
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Emerson, Jimmie D.
Engel, Steven R.
Ensminger, David S.
Etcher, John S.
Fages, Sheldon N.
Farrell, Anthony J.
Faulders, Cyril T., III
Faurie, Bruce R.
Flora, James H.
Fuller, Dana A., Jr.
Gilbert, Jack A.
Gillespie, Daniel D.
Gordohn, Richard E.
Griggs, William C.
Grimes, David M.
Grotjahn, Paul J.
Gulden, Gary W.
Gunia, Earl G.
Hammons, Thomas J., III
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Heleniak, James F.
Henn, Loring K.
Hickey, Paul D.
Houlihan, Timothy P.
Howell, Arthur E., III
Hurley, Patrick E.
Jackson, John E.
Joens, Steven K.
Kaloupek, William T.
Keckley, William A.
Kelly, Daniel C.
Kilroy, Clark E.
Kirkland, Donald E.
Knauss, Walter W., III
Lakes, Danny E.
Lambert, John R.
Landes, Norman E.
Langevin, Richard R.
Lauer, Thomas H., II
Lowe, Michael D.
Lowry, Robert S.
Lundberg, James B.
Madge, Norman W.
Martinec, Dennis P.
Mathew, Paul A.
Matsushima, Rodney F.
McClellan, Lex L.
McGee, Gary O.
McKinney, William L.
McLaughlin, James P.
McLean, William D.
Moffitt, Michael A.
Moore, Joseph N.
Moran, Michael D.
Morrisset, John W.
Nichol, Eldon E.
Nightingale, Frederick C.
Nolan, Lawrence F.
Okeson, Kenneth L.
Parrino, Jack J.
Pathwickpaszyc, John C.
Payne, George A.
Perkins, Charles A.
Pierce, William B.
Rogers, John W.
Rose, Robert W., Jr.
Rova, Bruce W.
Royer, Frank E.
Rutledge, Dennis H.
Saunders, Daniel T.
Schlax, Thomas P.
Schmidt, William G.
Schneider, Jeffrey W.
Schwartz, Allen B.
Sharrocks, Charles S.
Shelton, Betty J.
Shiffman, Robert L.
Shoemaker, Charles K.
Sides, Stephen L.
Siembieda, Eugene J., Jr.
Simmons, Roger S.
Slettvet, Richard M., Jr.
Smith, Thomas P.
Soron, John E.
Stephenson, Ronald J.
Stevens, Lawrence A.
Stilwell, Robert R.
Storm, Louis O., II
Sumrow, Ronald G.
Sunday, John L.
Sweeney, Francis E.
Taylor, Robert W., Jr.
Tufts, John E.
Underwood, Brian C.
Ustick, Michael L.
Valade, Richard H.
Vining, Michael P.
Ward, James T.
Weidemann, James L.
Wells, Randolph R.
Wells, Robert B.
Williams, Jan L.
Williams, John W., Jr.
Williams, Richard L.
Wood, Robert H., II
Woods, Kevin J.
Young, Roger A.

CIVIL ENGINEER CORPS

Ackerbauer, Blair
Allen, James R.
Allen, Junius D.
Allshouse, Clare R.
Biter, Denzil J.
Campbell, Bruce S.
Cherry, John M.
Cortney, Michael C
Craft, Gary M.
Dean, Joseph C.
Dierckman, Thomas E
Elsbernd, Robert L.
Foster, William W.
Gebert, David K.
Golden, Patrick F.
Haas, Richard F., Jr.
Hall, William M.
Herriott, Thomas R.
Hill, Jerry D.
Hocker, Robert G., Jr.
Huber, Paul R.
Hyatt, Andrew J.
Kotz, John S.
Laboon, Thomas A., Jr.
Leppert, John D.
Marcy, Hugh W.
McConnell, Craig V.
Moll, David C.
Morrow, James F., III
Pizzano, Robert C.
Plockmeyer, Dennis R.
Pyles, Troy K.
Ramsower, David C.
Rautenberg, Robert C.
Robins, John M.
Sandell, Charles G.
Schroeder, Donald J.
Scullion, Leonard P.
Shaw, Danny G.
Simon, Lee E.
Stockwell, Christopher J.
Stone, John T., Jr.
Terry, Ronald E.
Thomas, Clarence E., Jr.
Tull, Terrence W.
Turowski, Henry G., Jr.
Walker, William F.
West, Joseph D.
Weyrauch, Edwin F.
Wong, Jack J., Jr.
Zachary, James M.
Zuber, David E.

MEDICAL SERVICES CORPS

Barina, Fred G., Jr.
Cosenza, Joseph M.
Fristad, Arvid C.
Love, Douglas, Jr.
Malinoski, James W.
Martin, Donna R.
Peters, Anthony J., III
Williams, Warren, Jr.

NURSE CORPS

Connelly, Susanne T.
Cothern, Jimme G.
Fiddler, Iris E.
Graham, Alfred E., Jr.
Haley, Kathleen A.
Hamachek, Susan M.
Jones, Donald G.
Leifeld, Deanna R.
Lloyd, Thomas M.
Picchi, Christine A.
Ruschmeier, Elizabeth M.
Santos, Debra A.
Schemmer, Carol L.
Siegel, Robert M.
Smith, Margaret L.
Spangler, Catherine E.
Wright, Mitchell P.

Lt. Comdr. Allan C. Byrne, Jr., for temporary appointment to the grade of lieutenant commander in the Supply Corps of the U.S. Navy, subject to qualification therefor as provided by law.

Lt. Cmdr. Allen H. Wirzburger, for temporary appointment to the grade of lieutenant commander in the line of the U.S. Navy subject to qualification therefor as provided by law.

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the staff corps of the Navy, as indicated, subject to qualification therefor as provided by law:

MEDICAL SERVICE CORPS

Barber, Norman J.
Bartlett, James
Bauer, Peter J.
Bennett, Ronald
Boyles, Robert W.
Broadhurst, Rona
Brown, George R.
Buffington, John
Carroll, Robert
Crabtree, Roger
Dawson, Richard
Defibaugh, Thoma
Delong, Douglas
Denayer, John W.
Dial, William S.
Dittman, David
Dunkleman, Dennis
Ewing, Ronald C.
Fry, Wendell J.
Gibson, Kenneth
Greenan, John E.
Hastings, Jerry
Hetrick, John R.
Hickey, Rodney D.
Hisoire, Dennis
Hixson, Steven R.
Holman, Larry D.
Hovis, Robert S.
Hughes, Francis
Huju, John I.
Johnson, David E..
Joseph, William
Kane, Robert J.
Keenan, James M.
Knee, Dale O.
Kochis, James B.
Kunkel, Clyde E.
Kurtich, Richard
Lemmerman, Donald
Lewis, Morris N.
Malinky, Robert
Manley, Edward
Maskulak, Michael
McBride, Joseph
McNair, John D.
Mills, Wayne M.
Moody, Johnny M.
Morey, Arlen D.
Moses, William R.
Mullen, Michael
Mullin, Jack A.
Mullin, Jimmie J.
Oldham, Richard
Penn, Jerry D.
Peterson, Jack L.
Raymond, James L.
Roman, Michael J.
Ruffin, Tommy L.
Schick, Gary E.
Schweinfurth, Ka
Seelbach, Richard
Shannon, Kenneth
Shepherd, Jack W.
Sheridan, Peter
Silvas, Jose M.
Skog, Roy R.
Smith, Steven L.
Stewart, George
Stratman, Robert
Thompson, J. Rona
Tingley, Terry J.
Todd, David J.
Todd, Michael L.
Tomlinson, Tommy
Upton, Billy G.
Waggoner, Lemuel
Wallace, William
Wanamaker, John
Watts, Len S.
Weappa, Larry R.
West, Joseph J.
Willis, George R.
Yost, Harry E.

Lt. Adrian T. Doryland, of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line subject to qualification therefor as provided by law.

The following-named officers of the U.S. Navy for permanent promotion to the grade of chief warrant officer, W–3 subject to qualification therefor as provided by law:

Hallinan, Joan E.
Spencer, Saundra K.
Chandler, Susan A.

Lt. Tommy G. McDowell, U.S. Navy for transfer to and appointment in the Supply Corps in the permanent grade of lieutenant (junior grade) and temporary grade of lieutenant.

The following-named officers of the U.S. Navy for transfer to and appointment in the Supply Corps in the permanent grade of lieutenant (junior grade).

Bang, Paul G.
Burton, Robert N., Jr.
Gregory, Troy R.
Holland, Benjamin A.
McCoy, Rex C.
McKenzie, Donald R., Jr.
Pitkin, Richard C.
Wimett, William T.

The following-named officers of the U.S. Navy for transfer to and appointment in the Supply Corps in the permanent grade of ensign:

Assad, Shay D.
Atkinson, Eric J.
Bang, Paul G.
Cavanaugh, John H.
Feltes, Dale J.
Gregory, Troy R.
Holland, Benjamin A.
Mokodean, Mark M.
O'Connell, Matthew P.
Schrader, Thomas D.
Wimett, William T.

Lt. (junior grade) John B. Montgomery, U.S. Navy for transfer to and appointment in the Judge Advocate General's Corps in the permanent grade of lieutenant (junior grade).

WITHDRAWAL

Executive nomination withdrawn from the Senate November 26, 1973:

IN THE ARMY

Col. Leonard F. Stegman, [redacted], U.S. Army, for temporary appointment in the Army of the United States to the grade of brigadier general, under the provisions of title 10, United States Code, sections 3442 and 3447, which was sent to the Senate on October 10, 1973.

EXTENSIONS OF REMARKS

FRANK E. SULLIVAN RECEIVES JOHN NEWTON RUSSELL MEMORIAL AWARD OF THE NATIONAL ASSOCIATION OF LIFE UNDERWRITERS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BRADEMAS. Mr. Speaker, I was delighted to learn that an outstanding citizen and valued friend, Mr. Frank E. Sullivan, vice president of the Mutual Benefit Life Insurance Co., was recently honored by the National Association of Life Underwriters.

Mr. Sullivan received the John Newton Russell Memorial Award at the association's annual convention in Chicago. The award is the highest individual honor accorded by the life insurance industry, and is for "dedicated service above and beyond the call of duty."

Mr. Sullivan, until recently a resident of South Bend, Ind., in the district I represent, is not only an extremely successful insurance executive but has also made a lifetime career of civic service. I take great pleasure in his being recognized in this way by his industry, and include at this point in the RECORD the tribute to Mr. Sullivan which was delivered at the award dinner held a few weeks ago:

TRIBUTE TO FRANK E. SULLIVAN, CLU, RECIPIENT OF THE 1973 JOHN NEWTON RUSSELL MEMORIAL AWARD

If there is one truism that has validity and meaning in our lives, it is the reality that time is fleeting; that each moment given us to love, learn, serve, and share is truly precious and irreplaceable.

Even this perception of life does not deter most of us from being wasteful of time. However, there are those few in each generation who give it much higher priority . . . who are responsive to Marcel Proust's admonition: "The time which we have at our disposal is elastic; the passion that we feel expands it; those that we inspire control it; and habit fills up what remains."

You, Frank E. Sullivan, CLU, have used your God-given time in such fashion . . . in a manner that has not only brought you bountiful satisfactions and rewards; but, more importantly, has motivated the well-being of a socially-significant calling, enhanced the quality of life for your fellow citizens, and energized a commitment to excellence and service by thousands of your fellow life underwriters.

Frank E. Sullivan, CLU, you recently undertook great challenges as a senior officer of a large and esteemed life insurance company. You came to this position of trust and influence with impressive credentials as a life and qualifying member of the Million Dollar Round Table and a successful general agent, life insurance organizational leader, author, speaker, good citizen. Even more, you are acknowledged and lauded by your peers as a man of ever-stretching mind, of concern and empathy, of generosity of spirit and worldly goods.

Throughout an illustrious life insurance career beginning in 1953, you have held firm a conviction that the life underwriter's primary mission is to help protect the security of the family. Thus, you have followed assiduously and imparted to others the philosophy: "Life insurance still has to be sold."

Your fulfillment of this personal obligation was graphically achieved with skill, hard work and dedication—and, particularly, through the creative and innovative use of time. In your professional endeavors and in writings, speeches, and encouragements, you have demonstrated it is possible to systematize use of time in life insurance salesmanship so that routine is minimized and creative service to others maximized.

Frank E. Sullivan, CLU, you are a native of Massachusetts and a loyal alumnus of the University of Notre Dame. After United States Naval service, you joined the American United Life Insurance Company to attain company leadership as both a personal producer and general agent.

Because of your self-imposed discipline in managing and employing time well and for the benefit of others, you have made notable contributions to your business, your fellow life underwriters, your community . . . without reneging on devotion to your family, daily church attendance, and a regimen for physical and mental fitness.

You have been president of the South Bend, Ind., Association of Life Underwriters; president of the Million Dollar Round Table in 1967—the youngest man ever to hold this prestigious post; and chairman of the American Society of Chartered Life Underwriters *Journal* board . . . and you now are chairman of the Life Underwriter Training Council.

You have written three acclaimed books

and numerous articles on life insurance selling, travelled in excess of 500,000 miles in the United States, Canada and Europe to address more than 300,000 life underwriters and others engaged in financial planning; been guest faculty member at several universities; and appeared in a well-received sales film.

The finely tuned balance of your eventful life is further reflected in a host of community and extra-curricular activities . . . many of which brought you significant accolades. We commend you, sir, for service in the National Urban Coalition, United Community Services, Health Care Foundation, advisory council for the Notre Dame School of Business. We honor you as recipient of the Brotherhood Award of the National Conference of Christians and Jews; and the Golden Plate Award of the American Academy; as Notre Dame alumni man of the year; as one of your community's outstanding young men.

Frank E. Sullivan, CLU, in your position of life insurance leadership and influence, you have counseled your fellows to be men and women of conviction and dedication; to develop the art of clear and enthusiastic communication; to amass technical and worldly knowledge; and, perhaps above all, to use each moment of their time with creativity in good cause.

That you, personally, have followed this meaningful advice is a measure of your character and commitment . . . and the richness and relevance of your endeavors conclusively demonstrate its enduring worth.

Mindful of your moral conviction and exemplary attributes which have inspired so many others to emulate your example as of the country's incomparable life insurance salesmen, it is with the greatest pleasure that the Award Committee cites you, Frank E. Sullivan, CLU, as recipient of the 1973 John Newton Russell Memorial Award.

FUEL CRISIS AND ECONOMY

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BOLLING. Mr. Speaker, Hobart Rowen's column, "Fuel Crisis and the Economy," which appeared in the Washington Post of November 18 brings both perspective and realism to the problems this country faces in the current energy crisis:

FUEL CRISIS AND THE ECONOMY

(By Hobart Rowen)

Former Economic Council Chairman Walter W. Heller wisely observed in a special article for the Wall Street Journal last week that because of the oil crunch, all forecasts for inflation in 1974 are now "subject to change without notice." Let's go one step beyond that: all forecasts of any kind are useless.

The only realistic assumption that can be made is that the economy will be in some sort of recession next year and will continue to be depressed while the Arab oil embargo lasts.

Just how bad the economic slide here will be depends on a number of unknown factors, including the duration of the embargo and the wisdom of U.S. leaders in handling the shortage problem.

So far, there is little reason to be optimistic on either score: the Arabs seem interested in limiting their production and maximizing profits (already huge) regardless of the outcome of the Egyptian-Israeli negotiations; and the Watergated Nixon administration once again appears to be bungling an economic management job.

The clear need at the moment is to install a gasoline rationing program that would sharply cut pleasure driving, so that energy resources still available can be husbanded for essential industry.

But administration spokesmen are all over the lot on this issue, some trying to sweep the urgency of the problem under the rug. Others talk wistfully of a "free market" approach, letting prices skyrocket in order to create new production incentives as well as to diminish consumption.

The trouble with letting prices shoot up should be obvious. Not only would that mean the well-to-do could use and waste resources at will while people of modest means suffer, but such a "solution" would raise unholy hell with the economy.

Heller points out that fuel prices had been soaring even before the "sheik-down." Thus, the price index of fuels, related products and power (representing 7 per cent of the wholesale price index) had risen 20 per cent from September, 1972, to September, 1973. Refined petroleum products rose 35 per cent in that period.

Further price increases are certain. But unless rationing and price controls are made effective, costs will go out of sight.

Some administration officials, notably Economic Council Chairman Herbert Stein and Treasury Secretary George Shultz—who fear any kind of controls—would opt for a surtax system to reduce consumption of gasoline.

But Treasury experts admit that each penny of additional tax sucks $1 billion out of total purchasing power. If—as Gov. John Love suggested—the country needs a 30-cent tax to cut consumption of gasoline by 20 per cent or so, that would pull $30 billion out of individuals' pockets and into the Treasury.

Even if a chunk of that were rebated in various ways, it would be likely to throw the economy into a serious recession.

In any event, the administration has badly failed the nation in assessing and coming to grips with the energy problem. The most compelling energy statistic I've seen comes from Deputy Treasury Secretary William E. Simon:

Prior to the Middle East crisis, the administration's expectation was that energy consumption in the United States would increase by 4 per cent a year, doubling 1970's needs by about 1980.

And how did we plan to get that increased energy supply? From the Middle East, because oil there was cheap. The idea of considering national security in economic terms apparently never occurred to the administration. Now, Mr. Nixon talks of "independence" by 1980.

Back in April, the President sent a message to Congress in which he referred to an energy "challenge"—he wouldn't even use the word "crisis". Five years too late, Mr. Nixon abandoned oil quotas. Yet, there was no recognition that oil was an international problem. and that some day we would have to come to grips with an international cartel with a strangehold on key supplies.

Meanwhile, the domestic oil industry, fat and comfortable, wasn't anxious to add to refinery capacity or to prove out new reserves. Some oil industry leaders confess they badly underestimated how fast demand would rise, but most tend to blame the conservationists for holding back new exploration.

Early this year, former Commerce Secretary Peter G. Peterson came back from a trip around the world and reported to the President that energy would be the United States' overyhelming problem for the next decade, but he was politely ignored.

Peterson tried to get Henry Kissinger's attention focussed on the problem, but Kissinger was too preoccupied.

In his report, Peterson sharply highlighted U.S. dependence on Middle East oil for the projected growth of the economy through the 1970s and early 1980s. In an interview with him published in the Washington Post on July 9, 1973, I reported:

"Peterson's figures assume that the Middle East countries will continue to be attracted by higher prices, increase their production and sell the West all the oil it wants to buy.

"But the Middle East countries, knowing that their oil resources are finite, may decide not to increase production so rapidly. And in any event, the Middle East countries broadly suggest that unless there is a solution to the Arab-Israeli conflict more satisfactory to them, they may not cooperate with the West at all."

The administration wasn't listening.

Around mid-year, Mr. Nixon appointed Love to head an Energy Policy Office, but a sense of urgency didn't emerge until the shock of the oil embargo that accompanied the outbreak of war in the Middle East.

Mostly, the past few months have been a time of fumble and stumble. Mandatory allocation of propane and middle distillate fuels was put in, but gasoline and electricity consumption are still subject to only voluntary restraint.

Above all else, the administration needs to act at once to put a mandatory rationing system in effect for private transportation and home heating oils.

At the same time, it must address itself to developing new sources of energy for the long haul, and to working with other Western nations in the short run to find ways of persuading the Arabs to lift their embargo.

There is no reason why the Western nations should not consider economic counter-sanctions, from food shipments to sales of manufactured products (including aircraft and arms) to technical aid and knowhow. A retaliatory embargo, of course, would require the Western World to act together. Given the Arabs' success in forcing Britain and France to make the right anti-Israeli noises, and the possibility of similar successful blackmail against Japan, prospects for the success of such a concerted drive look dim indeed.

STATEMENT ON S. 1081—ALASKAN PIPELINE AUTHORIZATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. EDWARDS of California. Mr. Speaker, I wish to express my deep concern regarding two very important issues now facing the Nation, the energy crisis and environmental protection.

Our Nation is facing a grave crisis because of decreasing energy resources. With the recent cutoff of some foreign supplies and increasing domestic demand for energy, it is obvious that we must find and tap available energy resources within the United States. We must have energy to remain a great nation; I do not think for a moment that we can suddenly cut our energy useage without creating a disasterous situation. The Alaskan oil reserves will supplement our energy input, and I feel we must begin using these reserves. However, the way we go about tapping the Alaskan oil fields is also very important.

One aspect of the greatness of this Nation is our quality of life. The natural beauty, grandeur and variety of our environment enhances our lives not only esthetically but in terms of our physical health. We must protect the environment from unnecessary and indiscriminate harm; environment protection is as important to the future well-being of this Nation as is maintaining adequate supplies of energy.

I believe that we can find a logical, fair, and extensively examined compromise between our energy needs and protection of the environment. We must carefully balance our demand for energy with the need for a healthy and safe environment in which to live. For this reason, I voted against S. 1081, the Alaskan Pipeline Authorization.

First, all possible alternatives were not adequately considered in the discussion of this legislation. The State Department failed to sufficiently investigate the adequacy and desirability of a trans-Canadian pipeline. A number of other alternatives should also have been considered in depth before the trans-Alaskan pipeline was authorized.

In addition, passage of this bill seriously jeopardizes present environmental protections. It was a difficult and lengthy battle to begin to incorporate environmental safeguards into our system of laws. Passage of the National Environmental Policy Act in 1970 took us a long way toward the goal of living in harmony with the environment. S. 1081, however, overrides the protective guarantees of NEPA and removes from the people the right of access to the courts for relief of injustices done by the construction of the pipeline. Not only is this a very dangerous procedure, it also sets a precedent for bypassing environmental protections in the future, rendering NEPA useless and ineffective and relegating environmental concerns to second place.

I also object to this legislation on other grounds. It favors west coast oil and shipping concern over those in the Midwest and Eastern sections of the country, the areas that will be hit hardest by shortages in the future.

Again, I want to say that my vote against S. 1081 does not reflect a lack of understanding and concern for U.S. energy needs. I believe that it is important that we tap the oil reserves in Alaska, but I feel that we must also show vital interest in the environmental problems this development will create. I feel that S. 1081 does not fairly balance necessary environmental safeguards and energy needs, and I, therefore did not support the bill.

STANLEY PENKALA

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, November 26, 1973

Mr. SCHWEIKER. Mr. President, it is alarming to know that some 750,000 children and adults suffer from cerebral palsy in this country. It has been estimated that cerebral palsy occurs in 1 out of 200 live births. At the present rate, approximately 15,000 infants are born each year with this condition.

Cerebral palsy is a condition which originates in the brain, usually at birth, and control of the muscles is affected. There are some preventive measures used for pregnant women, but our focus must be on management programs to help the afflicted child achieve maximum potential in growth and development. Despite the multitude of State and local organizations throughout this country who dedicate themselves to aiding those suffering from cerebral palsy, there is still not enough money or personnel to deal with the problem.

In this connection, I would like to call to the attention of Senators Mr. Stanley Penkala of Wilkes-Barre, Pa., whose untiring efforts on behalf of handicapped people have earned recognition locally and nationally. He received the Dr. Benjamin Rush Award of the Luzerne, Pa., County Medical Society and a special award by the National United Cerebral Palsy Associations. Mr. Penkala, who suffers from cerebral palsy, is well known by those who reside in Luzerne County as the chief of security at the Luzerne County courthouse. He is also active in community affairs. He was an original member of the United Cerebral Palsy Organization of Wyoming Valley.

I have known Stanley Penkala to be a dedicated, hard-working man. He was done much to bring comfort to children and adults in Luzerne County. Through his volunteer efforts, many are now able to lead a normal life. I commend him for his outstanding work, and his concern for his fellow man has made him an example for all of us who are privileged to know him.

UNITED STATES-MEXICO SALINITY AGREEMENT

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. HOSMER. Mr. Speaker, the October issue of Aqueduct, the magazine of the Metropolitan Water District of Southern California, contains the following notable article concerning the recent agreement between Mexico and the United States to control salinity levels of the Colorado River at the border:

THE MEXICAN WATER TREATY—A NEW INTERPRETATION

A new chapter is being written on the often strained relations between the United States and Mexico over water from the Colorado River.

On its way to Congress soon will be a so-called "permanent, definitive" solution to Mexico's complaints about the salt content of water delivered in the past 12 years. The dispute has resulted primarily from highly saline irrigation return flow water from the Wellton-Mohawk Irrigation District near Yuma, Arizona.

The price tag on the solution: at least $115 million in works to be built by the United States, including the world's largest desalting plant on the Wellton-Mohawk drain at a cost of $67 million.

"It was a political settlement on the part of former U.S. Attorney General Herbert Brownell," said Ray Rummonds, chairman of the Colorado River Board of California. "He had to work amid conflicting interests of the United States and Mexico as well as those of the water-short seven Colorado River Basin States."

Brownell was appointed by President Nixon, with the rank of ambassador, to study the salinity problems and come up with a settlement.

Mexico, under a new interpretation of the 1944 treaty with the United States, will be provided water that is very comparable in quality to that being diverted for irrigation in Imperial Valley in Southern California. Specifically, it is to be only 115 parts per million higher in salt content than that at Imperial Dam. It's currently 850 ppm at Imperial Dam, the last major diversion point on this side of the border.

"Congress will now have to authorize the works and appropriate the necessary funds on a timely basis to carry out the settlement in good faith," Rummonds said.

"It is clearly a national obligation—one which should be borne at federal expense without adverse impact on water and power users of the seven states."

At a press conference at the Western White House in San Clemente, Brownell announced the signing by both countries of a new agreement specifying the quality of 1.5 million acre-feet annually that must be delivered under the treaty, which is administered by the International Water and Boundary Commission.

"It was part of the treaty after construction of Hoover Dam that Mexico would take water that included irrigation return flow," Rummonds said.

"But no one foresaw the development of the Wellton-Mohawk Project and the highly saline flow from drainage wells that would get into the river. In 1961, when Wellton-Mohawk drainage began entering the river, the water at Morelos Dam, where Mexico diverts to the Mexicali Valley, rose to well over 1500 parts per million salt."

The United States will line with concrete the first 50 miles of the Coachella Branch of the All-American Canal to conserve some 130,000 acre-feet of water that now leaks from the canal into the underground. That will allow temporary releases to Mexico of an equivalent amount of water from upstream storage.

For the past year, Mexico has been bypassing Wellton-Mohawk drainage water and the U.S. has replaced about 118,000 acre-feet, half the bypassed water, with supplies from storage or wells along the river.

Other aspects of the agreement, of principal concern to Arizona, will be limiting Mexico and the United States to 160,000 acre-feet each year which they can pump from an underground basin near the Arizona-Sonora boundary.

The United States will also support Mexico in obtaining loans from international sources to assist farmers of the Mexicali Valley and provide funds for the installation of tile drains. The Mexican government estimated to Brownell that 75,000 acres of land in the valley have gone out of production because of salty soil and salty water used for irrigation.

"You could fill volumes and volumes about the history of Mexico-U.S. relations on water from the river, going right back to the time of negotiations that resulted in the 1944 treaty," Rummonds said.

"For many years after construction of Hoover Dam there was a surplus of water flowing into Mexico.

"When the supplies became tighter and the United States limited the flow to the treaty terms, the Mexican farmers probably tried to stretch the supply over too much acreage. Without proper leaching, salt continued to build up in the naturally salty soil of the Mexicali Valley."

In announcing the signing of the new agreement, Ambassador Brownell said that the quality of water delivered could be improved permanently without adversely affecting any of the planned programs for development of the natural resources in the states.

That has not, as yet, alleviated the considerable concern of the Committee of Fourteen, a group with representatives appointed by the governors of each of the seven basin states. In the case of California, the two representatives are Myron Holburt, chief engineer of the Colorado River Board, and John R. Teerink, director of the State Department of Water Resources.

"Arizona officials have shown perhaps the greatest concern over Brownell's negotiations with the Mexican government because the Central Arizona Project has the lowest priority of water entitlement under the 'law of the river,'" Holburt said. "However, the other basin states could also be injured if the United States does not undertake the necessary measures to prevent adverse impacts on the states."

"If the necessary public works aren't built and operated effectively," he said, "Arizona wouldn't want to give up precious water for releases downstream to improve salinity at the border. Nor would the other states."

The committee has pointed out to Brownell and the Nixon administration and to Congressional representatives of the states that there are many questions that remain to be answered.

Where will the electric power come from to operate the desalting plant? And the 40,000 to 50,000 acre-feet of replacement water needed to carry brine from the desalting plant to the Gulf of California?

"It would be foolish, too, to concern ourselves only with salinity at the border while salt is building up slowly for nearly the entire river north of Imperial Dam," Holburt said.

Three bills now in Congress, signed by all 14 senators and 35 representatives of the Basin states, would authorize salinity control projects in the Upper Basin to remove 400,000 tons of salt annually from the river at a cost of some $135 million. The bills also authorize feasibility reports on other projects to remove even more salt from the 1400-mile-long river.

The field trips to the Mexicali Valley by Brownell and his staff are over. The closed-door negotiations with Mexican officials have resulted in a highly significant new reading of the 1944 treaty. The "good faith" plans to be laid before Congress call for relining the Coachella Canal by 1976 and completion of the desalting plant and brine disposal facilities of Wellton-Mohawk by July, 1978.

The "permanent, definitive" solution is on paper as a national pledge to our neighbors south of the border, contingent on Congressional appropriations.

But it's a pledge that remains of great concern to the water users of the seven states.

SOCIAL SCIENCE AND PUBLIC POLICY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BRADEMAS. Mr. Speaker, I insert in the Record the text of a most perceptive editorial concerning the relationship between social science and domestic programs in the United States.

The editorial, entitled "Faculty Engineers or Neglected Experts?" is by Amitai Etzioni, professor of sociology at Columbia University and director for the Center for Policy Research there.

The editorial appears in the July 6, 1973, issue of Science, a publication of the American Association for the Advancement of Science.

I believe Professor Etzioni's essay correctly draws attention to some of the thoughtless criticisms made of the role of social sciences in a number of federally supported domestic programs. The article follows:

FAULTY ENGINEERS OR NEGLECTED EXPERTS?

Social scientists are being made scapegoats for the failure of dozens of domestic programs. The October 1972 issue of *Fortune* reports that "social engineers retreat under fire"—a main source of the shots fired being *Fortune* itself. Its staff writer Tom Alexander reports: "There's plenty of material for recrimination." He then recites the by now familiar catalog of failures of the domestic programs, failure to abolish welfare, poverty, school segregation, and so on—problems that have not been solved despite "record" investments.

The charges against social scientists are about as well founded as those brought in the early 1950's, equating social science with socialism. The discipline, as such, is no more at fault for the failure of many Great Society programs than the study of international relations is for the American involvement in Vietnam.

First, most programs did not receive the funds and manpower they *needed*. Alexander is, of course, technically correct: the investments in domestic programs reached "record" levels. But this does not make them high, and certainly not high enough.

Second, many solutions require tradition-bound citizens and legislatures to reexamine their views about the world, human nature, and human values. If they balk, and block progress, there is little a social scientist can—and maybe should—do. Thus, crime is usually ranked as the number one domestic problem. Recently the President, on the heels of the governor of New York, has sought to reinstate the death penalty because, it is alleged, all other efforts to turn back the rising wave of crime have failed. But the fundamental remedies that most social scientists favor have not even been tried. Many politicos prefer to grandstand against crime with "tough" speeches and suggest "tough" measures that they must know are either ineffectual or unconstitutional or both. Why point the finger at social scientists?

The social sciences could be more vigorous than they are—if the politicos would let them. The social sciences, as a group, have been the neglected branch of the sciences, receiving a mere 2 to 3 percent of the resource pie, and even that much only in recent years. No wonder there are fields in which little is known: how to help disadvantaged children catch up, for example, or how to respond to the growing dissolution of the family. But even in these areas social scientists can at least point to what will not work. The Coleman Report pointed out that the kind of efforts undertaken, at a cost of roughly $1.2 billion a year, had no discernible results.

If America now seeks to attend to its long list of social problems, an increased investment in social science is the order of the day—not a chopping of their sources of support. Furthermore, social programs, in which the findings of social scientists are utilized, must be allowed to go through the same research and development sequence that missiles and lunar landing crafts go through. An initial mistake made by social scientists was agreeing to the use of their theories in attempts to plan societal changes. They should have insisted on design or table-top or wind-tunnel models in order to initiate, not to bypass, the research and development sequence. We must stop trying to jump directly from sociological blueprints into multibillion-dollar programs.

We can no longer delay facing our domestic needs, and we cannot deal with them without the help of the social sciences. But the social sciences themselves will require much nourishment and fortification before they will be able to fully measure up to this mission.

FUEL SHORTAGE

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. SANDMAN. Mr. Speaker, in light of the continuing fuel shortage we are now facing, it is ridiculous to reduce the speed limit on our highways to 50 miles per hour, while the automobile manufacturers continue to turn out gasoline-guzzling, 300-horsepower engines. I propose that all new car engines be required to meet a minimum of 20 miles per gallon in their performance.

Years ago, there were automobile engines that were able to get 25 to 30 miles per gallon with little or no trouble. It is rumored that the major oil companies, in order to boost gasoline sales, bought all the patents for those engines, and removed them from the market. These same oil companies, who recently registered near record quarterly earnings, are crying that they are the only ones really being hurt by the petroleum shortage and the attempts to control it. If they truly want to help take off some of the pressure, will they support my proposal?

Every antipollution device and luxury convenience item we install on our cars is just another factor in decreasing our gas mileage. The Environmental Protection Agency has announced that emission control devices reduce oil economy by an average of 7 percent, air conditioning by 9 percent, and automatic transmissions by 5 to 6 percent. Let us do some serious thinking, apply a little commonsense, and meet this energy crisis head-on. If we double the performance of gasoline engines, our consumption will be cut in half.

It looks as though we will have to accept some form of gasoline rationing in the near future. Of the various methods being discussed, there is one to which I am unequivocally opposed: a large increase in the gasoline tax. This type of tax is automatically regressive. The people who could least afford to pay the increased price are the ones who would be hit the hardest. In the long run, the tax increase method would have the least effect upon conserving fuel.

CRIME CONTROL NO. 11

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. LANDGREBE. Mr. Speaker, the number of crimes committed in this country has been rising far faster than the population during the past several years. Yet, despite this enormous growth of crime there are those who think the victims or potential victims of criminals should be disarmed. Disarmament of the innocent, we are told illogically, will decrease crime. However, the persons advocating disarmament of the innocent have said very little about restraining the criminals; in fact, those who favor restrictions on the innocent are quite often the same people who believe that criminals should be rewarded by the erection of luxurious country-club motels in which criminals may be "rehabilitated." This reversal of morality is called liberalism, and it has been the cause of the growth of crime in this country. The liberals are determined to make crime pay—and they have largely succeeded.

I adamantly oppose gun controls precisely because they will make crime pay more than it does already. I believe and have always believed that crime should not pay—and that an armed citizenry is one of the most effective ways of insuring that crime will not pay. My point is well illustrated by the following article from the Detroit Free Press, October 10, 1973.

Burglar and Bandit Are Killed

A householder killed a burglar and a bar owner killed a bandit in separate incidents in Detroit only five minutes apart early Tuesday.

The unidentified burglar was slain by Ronald Goodwin, 19, in Goodwin's home at 18811 Hull at 1:20 a.m.

Goodwin found a rear window in his home broken when he arrived home about 11 p.m. He notified police, who came and made a report on the break-in.

He told police that he was watching television later when he heard noises at the rear of the house. He investigated and saw a man climb through the window.

Goodwin obtained a 12-gauge shotgun. The burgular turned to hand a pistol to an accomplice outside Goodwin said. The accomplice saw Goodwin and aimed the pistol at him.

Goodwin fired once, striking the first burglar in the upper right back. The man's companion fled.

The burglar was pronounced dead at the scene.

In the second slaying, at 1:25 a.m. in the West Detroit Bar at 2533 Woodward, witnesses told police that two bandits entered the bar.

One pulled a gun on a bartender, Peter Polonis, 50, and took Polonis' revolver from the bartender's belt.

The second man leaped over the bar and began emptying the till.

At that moment the bar owner, Richard Paquin, 41, came out of a rear room and fired once, hitting the second man in the abdomen. The first bandit fled.

The bandit was pronounced dead on arrival at Detroit General Hospital.

FARM CITY WEEK

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. NICHOLS. Mr. Speaker, recently Mr. Ed Maudlin, a long-time friend of agriculture from Town Creek, Ala., addressed the Birmingham Kiwanis Club in connection with their annual farm-city week.

Mr. Maudlin's remarks are so timely that I feel they merit the reading by the Members of this body and I am pleased to place them in the Record.

The remarks follow:

Address to Birmingham Kiwanis Club by Ed Maudlin

On behalf of myself and farmers everywhere, I want to express my appreciation to you gentlemen and to all Kiwanians for your traditional annual recognition of agriculture through the designation of Farm-City week and your efforts to keep open the lines of communication and understanding between rural and urban America, in this manner. While all our aspirations and dreams for a more gracious society are the same, there are bound to be significant differences between your immediate problems and even your lifestyle and those of your friends who live, as I do, in rural Alabama and operate its farms.

Recognizing this, your program chairman, Carl Happer, has asked me to visit with you today about what is going on in rural Alabama and to share with you some of my views as to what the future might hold in store for us all. Let's begin our visit by thinking briefly about what has been happening just within the lifespan of most of us here today.

Many rural areas of the state which were heavily dependent on farming alone have experienced large declines in total population and purchasing power and the attendant loss in political influence. Just in the two decades since 1952, Alabama has lost more than one-half million of our rural citizens to other states. This mass migration, described in a study by the University of Alabama as the flight from the soil has already resulted in the loss of two seats in the Congress of the United States from Alabama—a political loss which adversely affects our urban citizens as well.

So severe is the impact of our loss in population that if you made a calculation beginning with the 1950 census figures and added all births and subtracted all deaths within our State since that date, the net result would be a figure equivalent to the present population of Alabama plus the added population of a city the size of Atlanta proper. Think of the social and economic loss to our state because of this drastic and, I believe unnecessary, depopulation of our rural areas—a loss we can never make up.

Why has it happened—why must it go on? These are the questions we in Alabama must find the answers for, if our state is to maintain its relative economic and political importance in this nation and the world.

Why must our Alabama farms continue to disappear at the rate of over 5,000 per year? Why must some of our finest, most patriotic and God-fearing citizens be driven off their land where they have known a cherished and respected way of life and into the cities that can only provide ghettos and welfare roles? Why must local business firms disappear from the rural scene in numbers so large as to cause the per capita cost of maintaining necessary local public services such as roads, schools, mail deliveries and electricity to be raised to prohibitive levels? Why must those left on the land suffer the personal hardships of being stranded in rural areas where there is little or no demand for their services and where depopulation has caused local governments to be hard pressed to raise the funds necessary for continued functioning, much less provide quality services?

Why must we, you and I, who like to think of ourselves as the responsible citizens of Alabama, continue to condone such grave wastes in human resources, as the jamming of rural Americans into the large metropolitan centers only to have them cause even more serious and costly problems of traffic congestion, air and water pollution, increased criminal activity, worsened race relations and swollen welfare roles?

It has been said that "land without people is a wilderness and people without land is a mob." Surely there is a better way than creating wilderness out of our once fertile fields and making mobs out of our displaced citizens. Surely this country must have something better to offer our citizens, both farm and city, than the prospect of more of the same.

I say to you, my city friends, the better way lies with the quality of rural life. Our own noble Alabama farm folk are just like people everywhere—they would rather live in the fresh air, on their own soil, enjoying the gifts of God and nature, provided they could once again expect the economic opportunity to provide their families with the quality of life enjoyed by their fellow citizens in the suburbs.

Quality rural life begins with economic opportunity. A day's pay for a day's work. Automobiles and the gas they burn, television sets and the electric power they consume, health care with its medical bills, all cost the rural American just as much as his city cousins.

Yet most urban workers have higher returns per hour of labor than most rural workers. And, almost all urban workers enjoy greater purchasing power per hour of labor than do their brothers who diligently till the soil to produce the food and fiber so vital to the well being, let alone the safety and security of this great country.

Now, please don't misunderstand me, I am happy to see my urban friends receive good pay, if for no other reason, simply so they can buy more of what we farmers grow. But my point is that quality rural life, equal quality, is necessary to save our country from the wilderness of rural depopulation and the mobs of urban overpopulation.

While rural population has declined so markedly in recent years, the actual farm population has declined even more critically. During the decade from 1960 to 1970, when urban population swelled by 19 per cent, rural population fell off 4 per cent, and actual farm population dropped a whopping 38 per cent. Here in Alabama studies by Senate agriculture economists reveal that this state's total farms have dropped to an alltime historic low of only 76,000 working farms in 1973. This compares to approximately 250,000 Alabama farms scarcely more than 30 years ago—an average loss of 5,000 farms per year for over three decades. Just over twenty years ago, Alabama planted more than two million acres to cotton—this year we will harvest less than one-half million acres of cotton, a 75% reduction since 1949.

Certainly, it doesn't take a professionally trained economist to look at these figures and determine why your wives should indeed be concerned over the price of meat and groceries. Looking ahead just a few years further with this continuing trend, they can forsee something much more serious than even high prices with which to concern themselves—the prospect of no meat, not enough groceries at any price. The prospect of nobody left on the farms to produce the abundance of food and fiber which this country and its people have come to take for granted.

Commodity prices in recent months have indeed skyrocketed in the world's futures exchanges. New York cotton, Chicago soy beans, Tokyo beef and Russian wheat prices have all set record levels this year—won't that make the farmers prosperous you ask, won't that stop the attrition of our farms? Surely prosperous farmers don't abandon their land you say, and to that extent, you are correct.

The facts are that across the board inflation unbridled by sensible public policies, an unprecedented world demand for wheat, feed grains and meat, coupled with a long-time public policy of imposed deferred maintainance on our farms caused by sustained low farm prices has brought us for the first time in this generation to the brink of food shortages.

It is true, food prices resulting from these factors have gone up, month by month, day by day and every family—city and farm alike—feels the impact on the pocketbook. And even though everything else has gone up too, a clamor has arisen, making out the farmer as the villain solely responsible for rising food costs.

As responsible citizens, I am sure that you here today have no desire to engage in the luxury of wantonly blaming any particular segment of our economy for our problems to the exclusion of all others.

Rather I know that you feel as I do, that thoughtful farmers, business and professional people, our public servants, everyone that is truly concerned must work together to seek, to find a remedy.

All of us here I am sure recognize that it is in the total national interest to evolve public policies for agriculture that will continue to assure this nation an abundance of food and fiber and to prevent the grave national risk of potential shortages such as we have recently faced. But to do this, we must abandon some of the false gospels of the past which have forced our farmers into a continuous posture of deferred maintainance because of economic strictures that have also caused agriculture's human resources to so rapidly disappear.

The archaic policies of enforced poverty that have prevailed by the coupling of unrealistically low price supports with burdensome surpluses for so long that we have overdepleted our agricultural plant must be abandoned.

We must, this country must, if we are to continue to be the best-fed for the least-cost nation in the world, adopt long-range public policy that is keyed to demand, assures stable production, and provides sustained adequate income for the farmer who is prudent with his investment, energetic with his labors and productive with his resources.

A prosperous agriculture is necessary for the Quality of Rural Life which is the only answer to alleviate the conditions of the past which we have mentioned.

Now, in the remaining time let's think about some of the fascinating things which the future can hold and some of the really great things agriculture can do for this country.

This country, with its agricultural plant properly functioning, can produce enough wheat to feed us all and enough more to export twice that much. We can grow enough soy beans for all our needs and still sell an equal amount abroad. We can pick all the cotton our domestic mills choose to spin and still earn a billion dollars from overseas sales if we would but reestablish our dependable supplier reputation. Half our beef hides are available for overseas markets. We can grow three times as much rice as we normally eat.

And, we can do all of this with less than 5 per cent of our people while it takes more than one-third of the population of Russia to produce a scant supply of food and fiber for its domestic consumption.

Agriculture is truly this nation's largest industry and is America's largest dollar earner abroad with farm crop exports now representing more than 20% of all U.S. exports.

Indeed agriculture has become the brightest spot in our international trade picture; it contributed a surplus of $5.6 billion to the nation's trade balance last year—a time when non-agricultural trade was running in the hole by more than $9 billion.

Too few people seem to understand that this surplus—this favorable balance of trade—is the key to the ability to buy freely on the world market. If we expect to continue to buy in the world market we must sooner or later sell as much as we buy. Now only agriculture in our economy has the ability to make that contribution.

Farm crop exports last year were enough to pay for all our coffee, tea, rubber, bananas and all other agricultural imports and still leave us with $4.5 billion in purchasing power abroad left over. This was enough to offset the two-billion dollar oil import deficit with $2.5 billion more to apply to the cost of imported electronics and automobiles.

Scientists so desperately concerned with the energy crisis (destined to be a part of our lives for years to come) have determined that because the chief source of energy used in the production of cotton comes from the radiant sun, the nourishing earth and the refreshing rains that cotton production consumes only one-tenth as much commercial energy as does synthetic fiber production.

The Japanese who have the reverse problem of this country's surplus deficit are continually searching for ways to spend or invest the enormous accumulation of dollars which they have earned from the sale of their goods to America. This has resulted in many changes in their habits and customs, including a tremendous stimulation in their appetite for beef which costs ten times as much in Tokyo as it does in Birmingham.

Their ingenious way of satisfying this appetite includes buying our beef carcases on the west coast, having them boned out and the beef air freighted to Japan. Air shipment is economical because the depressurized freight compartments of their big jets are naturally refrigerated by high altitude temperatures. As they gradually relax their own beef import restrictions, the oriental appetite for U.S. beef promises to grow into a fantastic market.

Contract selling, which has attracted so much attention in the news media this year due to conflicts arising from the phenomenal increase in prices after the spring cotton contracts were made between the farmers and the mills has not always been available to our growers. Properly handled between responsible growers and reputable spinners, this marketing tool provides an innovation which could have lasting benefits for the cotton industry. It should afford the mills the expectancy of a dependable supply of cotton and it should provide the farmer with an opportunity to select with increased latitude that time of the year to fix his price which he deems to be most favorable to him. Heretofore, he has ofttimes had to pick his cotton, then go, hat-in-hand, to the buyer during the rush of the harvest season and ask how much will you give?

Hopefully, you will agree that farmers deserve the right just the same as other segments of the economy to become price-makers instead of being merely price-takers.

We have all noticed the extremely high prices quoted on the various commodity exchanges for certain crops this year. But do we all realize that only farm prices, if they go up then they always come down. Cotton went up to over 90 cents per pound then it went down to 60 cents per pound. Fifty years ago, in the 1920's, cotton was 40c a pound. Thirty years later in the early 1950's, it reached that level again but in recent years cotton prices have been so disastrously low that farmers were easy picking for the contractors who offered 30c this spring. So, most Alabama cotton growers will not benefit from the temporary high prices of 1973. Soy beans went up to $10.00 per bushel earlier this year; now as we gather our beans, they are bringing $5.00 per bushel.

This is the nature of farm crop prices. But not the farmers costs. His tractor prices go up in cost to him, but they never go down. We have a small farm equipment dealership which I have been involved with for nearly a quarter of a century now. Never during that entire time has the price of a tractor or a piece of equipment gone down. A cotton picker which fifteen years ago was selling for $7,500 is now more than $30,000. The cost of taxes, electricity, labor, fuel, fertilizer, chemicals and all the other inputs which the farmer must buy from others to make his crops goes up and up but never comes down.

But one thing he knows for sure, if cattle go up, they will certainly come down; if cotton goes up it will surely come down. It always has. For the farmer, the law of gravity works only on the crops he sells, but never on the supplies he buys.

This defiance of that law with the accompanying ever increasing input costs finds our farmers and rural businesses with an insatiable need for additional capital.

Recognizing this need and understanding the unavailability of capital in the rural areas, Congress passed the Rural Areas Development Act of 1972. As Carl mentioned, I was privileged to serve on Senator Talmadge's advisory task force seeking ways to implement this legislation.

As with many other innovative measures, the problem arose as how best such a program could be effected without being structured so as to become too complicated for the local banker to administer and for the local borrower to understand. Hopefully this obstacle has been overcome. If the administration should at some future date see fit to release the funds which have been congressionally appropriated but administratively impounded, the necessary seed money will then inaugurate a program that will bring the capital starved rural borrowers and the capital rich money markets together on a basis that should be equitable for both.

In closing, I ask you too keep in mind that farm programs in the past, though usually thought of as methods to increase farm income, have actually been as much or more a system that has resulted in cheap food for American consumers. Without price supports there would have been inadequate production and without production controls there could have been unmanageable surpluses.

If this nation is to continue to be the best fed and best clothed, and if our people are to continue to spend less of their net take-home pay for food and fiber than any nation in the world ever in history; then certainly, the power of public policy must be used to sustain the independent farmer in our economy which is otherwise so strongly organized. Ours is an economy in which almost all other production is planned, where most marketings are regulated, and where prices are administered and most other profits are by fiat added on to the cost of production.

The ten million people on the two million individually owned farms remaining in this country have no way to independently plan for the national production needed, no way to regulate their markets, or to administer their prices and consequently no farmer acting alone has the capability of adding a profit to his cost of production.

Hopefully, I have helped you to understand why Alabama is loosing 5,000 farms and tens of thousands of our rural citizens each year.

Effecting a remedy is a problem worthy of the attention of us all.

It has been a pleasure to be with you and see so many old friends, to meet new ones and I applaud all Kiwanians for your interest in the challenges facing agriculture.

RESOLUTION NO. 221

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. EILBERG. Mr. Speaker, under title I of the Elementary and Secondary Education Act of 1973, children from sections of the country labeled "poverty areas" are receiving the benefits of special educational programs and projects while those children from low-income families not residing in these areas are deprived of such benefits.

Because this law seems grossly unjust and in need of revision, the Council of the City of Philadelphia has adopted a resolution in favor of amending title I to include other low-income areas in addition to the present designated poverty areas.

I enter into the Record a copy of the resolution which was adopted by the Council of the City of Philadelphia on November 1, 1973.

The resolution follows:

Resolution No. 221

Memorializing the Congress of the United States to amend Title I of the Elementary and Secondary Education Act, approved June 28, 1973, to include other areas in addition to the poverty areas as designated under Title I which deprive, limit or deny educational benefits to those school children not included in the poverty area designation.

Whereas, There are families of low income levels living in areas not designated as poverty area residents whose children are being deprived of the special education programs available only under Title I; and

Whereas, The children now being bused from designated poverty area schools to schools outside their area are being deprived of the special educational programs provided under Title I; and

Whereas, Schools declared ineligible for Title I funds are now depriving many school children of the benefits of the special projects and programs; therefore

Resolved, By the Council of the City of Philadelphia, That we hereby memorialize the Congress of the United States to amend Title I of the Elementary and Secondary Education Act, approved June 28, 1973, to include other areas in addition to the designated poverty areas so that Title I programs and projects are not denied those school children not included in the designated areas under the Act.

Resolved, That certified copies of this Resolution be forwarded to the Speaker of the House, President pro-tem of the Senate, and the members of the Senate and the House of Representatives representing Philadelphia in the Congress of the United States.

MARTHA GRIFFITHS—"DOES ANYBODY CARE ABOUT THE MIDDLE CLASS?"

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. ROSTENKOWSKI. Mr. Speaker, recently, an article was brought to my attention that I believe captures much of the true spirit of one of our most able Members. It appeared 2 weeks ago in the Pittsburgh Press, and it concerns the social philosophy of our colleague from Michigan's 17th District, Martha Griffiths.

I have had the privilege to serve alongside her on the House Ways and Means Committee for the past 9 years. Thus, I have not only benefited from her extensive insight into economic problems but also have been continually amazed at her ability to consistently find the heart of any legislative issue.

Since I know that this article will be of considerable interest to all my colleagues in the House, I would like to insert it in the Record at this point:

Does Anyone Care About the Middle Class?

(By Alan D. Haas)

Our federal system of benefits provides a multiplicity of subsidies for the poor and a variety of income tax breaks to the rich, but the bulk of middle-class Americans—those earning $10,000 to $25,000—get little, if any, help from Washington, D.C., according to Rep. Martha W. Griffiths, D-Mich., a veteran of nerly 20 years in Congress.

"Even worse," claims Mrs. Griffiths, "these middle-income earners are paying the super-lion's share of the nation's taxes. In these inflationary times, the family in the middle is the victim of staggering income inequities fomenting justifiable outrage and discontent."

The Michigan congresswoman is chairman of the Joint Senate-House Fiscal Policy subcommittee which is studying the problem and looking for ways to ease the burden on middle-class wage earners. "We are dangerously close to a political revolution in America," Mrs. Griffiths says, in a voice charged with anger, "unless we can provide suitable remedies that will enable the backbone American—factory worker, white collar person or professional—to pay his bills, retain adequate purchasing power and avoid excessive debts."

A massive study by Mrs. Griffiths' subcommittee documents the morass into which well-intentioned bureaucrats and legislators have led us by planning social programs on a piecemeal basis. "At the present time," the congresswoman observes, "we have 10 legislative committees and 11 executive departments running entrenched social programs without anyone capable of seeing the overall picture. What we really need is a central federal computer that could analyze and evaluate each new program as to how it affects every economic or social grouping in the country."

The myth that there exists in America a broad, comfortable middle class of two-car families, with color TV and luxurious suburban homes does not hold up. Only 30 per cent of U.S. families own a second car, and many have none. The median value of a single-family, owner occupied home in this country is around $17,000. The House Banking Committee recently estimated that half of all American households could not afford a mortgage on even a $20,000 home.

"Federal studies have shown that many American families make it into the $10,000 and over income bracket only when the wife works, and the husband may be moonlighting on a second job as well. Two of every three families in the $10,000 to $20,000 category require a minimum of two breadwinners," says Mrs. Griffiths. "We cannot continue to logically press for justice for minority groups in this nation, unless we at the same time provide for a more equitable distribution of wealth among all segments of the population."

The economic crunch operates in many ways and almost all of them put both ends of the financial scale against the middle. Here's a sampling of inequities that Mrs. Griffiths decries:

Taxes. A mythical urban families of four with a salary income of $10,971 pays about $1,800 in taxes and Social Security payments, leaving it with a disposable income of approximately $9,171 to cover food, housing, medical bills, transportation, clothing, insurance, etc. Considering all the benefits available, the average urban family of four—with nobody employed—comes out about two-thirds as well financially. "The dis-incentive to work under these conditions is very real. The U.S. tax structure, in effect, penalizes the working stiff, and rewards idleness," Mrs. Griffiths laments.

PENALIZED FOR MARRIAGE

Working wives are also discriminated against by tax laws. A woman earning $14,000 married to a man with the same income will owe an extra $984 annually in federal income tax for the privilege of being husband and wife.

"I know of at least one couple in my own constituency who got divorced and now live together, thereby saving $1,000 in taxes," Mrs. Griffiths said.

When each spouse earns $10,000, the tax equals that of a family in which the one working spouse earns $20,000. But the two-earner family has less taxpaying ability because it lacks the value of the nonemployed wife's untaxed labor in the home.

"Any tax reform worthy of the name would have to include the closing of some of the $22 billion in loopholes for the wealthy. But unless the wealthy suddenly acquire less clout in the nation's capital or the middle class adds some, this is a doubtful prospect."

Health Care. "At the present time, middle-class persons are paying (through taxes) for better health care for the poor than they can afford for themselves. Our subcommittee found a situation in New Jersey where a mother with three chilrden went on welfare, then found a job paying $900 a month. However, she was still entitled under New Jersey law to $19 worth of welfare assistance each month, which also meant that she was eligible for Medicaid for her family, as well as free milk, school lunches, subsidized housing and other benefits."

NATIONAL HEALTH INSURANCE

The congresswoman has introduced a national health insurance plan measure in the House of Representatives that is essentially the same as the one that Sen. Ted Kennedy is pushing in the Senate. "The only answer to the present medical care inequities is to treat everyone equally and to provide total health insurance for all, regardless of one's ability to pay," she says.

Housing. "Present housing regulations are particularly discriminatory against women—regardless of their financial resources—simply because they are members of the fair sex. I have received many complaints from women around the country, divorced and widowed ladies particularly, often with more than adequate resources, who have not been able to purchase homes simply because the FHA won't guarantee a mortgage for them. I have introduced an amendment to the existing housing legislation to bar this kind of sex discrimination and I am hopeful of passage in this session of the legislature."

Day Care. "Poor and low income families qualify for free federally subsidized day care and their children have first call on the available facilities. Middle-class families can deduct modest amounts for day care expenses if they itemize their deductions. For instance, a family with a $10,000 income and one child can take a $95 deduction if it spends $500 per annum on day care facilities. At the $18,000 level, day care deductions start to be phased out and at the $25,000 level, there is no deduction permitted at all."

Social Security. "Many middle-income workers actually gain little or nothing from the years they and their employers contributed to Social Security. In Michigan, a man who has contributed all his working life is entitled to minimum benefits of $250 per month for himself and his wife, plus $32 a month under the welfare program for the aged poor. A man who never contributed a dime to Social Security can collect a full welfare check of $282, the same total amount. Thus, the Social Security contributor has nothing extra to show for long years of paying ever-higher payroll taxes."

Unemployment Insurance. "In Minnesota, an unemployed worker with a wife and two children can receive a maximum of $277 per month in unemployment insurance. However, if such a worker were not eligible for these funds, he could draw $360 per month under the aid to dependent children program. Once again, the wage earner comes out the loser when contrasted with the poor or out-of-work.

PART-TIME WORK DISCOURAGED

"Additionally, unemployed persons in a number of states are discouraged from taking part-time jobs because their earnings are deducted from their benefits, and after taxes and work expenses they could be worse off financially from having worked part time. Since higher unemployment benefits for those in need could only come from higher tax revenues, there appears to be little likelihood that this inequity will be corrected any time soon," Mrs. Griffiths concludes.

Scholarships and Student Loans. "According to a recent statistic, 62 per cent of families with incomes of $14,000 to $18,000 have been unable to save a dime towards sending their kids to college. With the cost of a college education now estimated at $12,000 to $20,000, it is easy to see that the middle class is just as disadvantaged in this area as the poor."

Retirement Pensions. "For the middle-class worker, up in years and facing retirement, the final and best hope for fiscal independence is his pension. Once again he finds the federal establishment has failed to adequately protect his rights. In the straw that breaks the camel's back, tens of thousands of corporate employes have discovered that the pension they counted on is not there. Perhaps he or she is fired a week or a year before completing eligibility. Or the company he worked for for 20 or 30 years has gone bust. Or the pension fund itself was mismanaged and his payments reduced. Some Washington legislators have been aware for years that private pension funds require federal minimum standards to protect workers, but reform has been held back partially because of the complexity of the matter. Now, at last, after more than three years of committee work, Congress appears to be moving towards passage of an adequate private pension bill.

"Legislators like myself, military men, and the like all have generous pension plans, which cannot suffer default due to federal guarantees. But the private citizen is still vulnerable. In America we virtually worship fairness, but too often we have not been fair to our most deserving citizens," declares Mrs. Griffiths.

FM RADIO—A GROWING INDUSTRY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BRADEMAS. Mr. Speaker, Thomas Burns of WMCB of Michigan City, Ind., recently published a most interesting article in Broadcast Management magazine entitled "How We Staked Out Our FM Audience."

Mr. Burns describes the rapid growth in recent years in FM programing nationwide and especially the experience of WMCB-FM in Michigan City, Ind.

Mr. Burns' article is most interesting reading for anyone interested in radio programing and I include it at this point in the RECORD:

HOW WE STAKED OUT OUR FM AUDIENCE

(By Thomas Burns)

FM radio in recent years has emerged as a major medium. Many say it will surpass AM radio in audience reached and revenue generated during this decade. In some major markets, FM stations have overtaken AM in audience rating. In Michigan City, Indiana, where the writer operates WMCB (FM), our billings have nearly quadrupled since 1969.

Although commercial FM began 31 years ago, it is only recently that marketing concepts have been applied to selling FM. In this paper, I will describe marketing channels for smaller-market FM stations. Since we are selling a non-tangible service, not a physical product, it is necessary to describe the entire marketing program and relate the channels to the other elements of marketing. In addition, two separate, but sometimes overlapping, channels must be considered: audience channels and advertiser channels.

Until about 1966, FM was a dormant medium. Its growth was halted during World War II, and in the post-war period it was bypassed for development of television. In the early 1950s, an engineer at WDWS, Champaign, Illinois, forgot to turn on the FM that duplicated AM programming. Hours passed before a listener called to inquire why the FM station was not broadcasting. The few independently-operated FM stations often sold time in blocks of 15 minutes to an hour at very low rates to anyone they could get to buy it. FM receiver ownership was very low and programming, when not a duplication of AM, was the lowest-cost material available. There were no systematic efforts to market FM . . . and no one cared.

But slowly in the 1950s a demand began for program material for hi-fi and later stereo systems. Discs and tapes were expensive, and an alternate, inexpensive source was needed. As a result, FM tuners were added to sound systems, and inexpensive imported FM table radios became available.

By 1966 a second generation of FM stations came on the air to meet the hi-fi and stereo needs. The same year survey firms began measuring demographic audience structures, and demographically-programmed FM stations, such as WFMT, Chicago, began showing up in these surveys—although with limited audiences at first. The reason appeared to be that hi-fi and stereo enthusiasts were very specific in the types of music they liked, and listened to the stations which came closest to fulfilling their listening tastes. By comparison, the mass-market AM stations, with something-for-everyone formats, did not appeal to the same extent to specific demographic groups.

Today more receivers are sold with FM than without. And consulting firms now offer demographically-structured syndicated programming services designed to reach target audiences. Some have been quite successful: Stereo Radio Productions Ltd., for example, achieved first place ratings among all stations, AM and FM, in Grand Rapids, Michigan, with WOOD-FM, and in West Palm Beach, Florida with WEAT-FM.

In these cases, and in Miami and Boston too (where FM is in first place), the programmer has selected a specific audience and developed and broadened it to exceed any other demographic audiences in those markets. As Kotler points out in *Marketing Management*, a smaller competitor should attempt to segment the market rather than to compete head-on with dominant firms.

As the programming was being demographically developed, it could be sold on a demographic basis. Recently ABC published a survey of product preferences of persons who listened to stero rock on FM. The study is being actively used by ABC-FM salesmen in calling on clients whose product types have a high appeal for stereo rock listeners.

In describing marketing channels of small market FM, I will draw upon my experiences in Michigan City and generalize them to this class of station. Although demographic programming has been slower in being applied in smaller markets, I believe there are advantages to such segmentation. In addition, it is often possible to redefine and expand a smaller market geographically. Thus it is possible to create a new service for a new market.

First we defined the geographic market. Although Michigan City has been traditionally considered an isolated market, a major enclosed shopping mall opened several years ago near two converging expressways at the south edge of the city. Between 40 and 60% of the shoppers were found to come from beyond the Michigan City limits. But the long established mass media in Michigan City, a daily newspaper and an AM station, continued to program and sell primarily to Michigan City.

WMCB-FM reaches most of northwest Indiana and southwest Michigan. There are several hundred thousand potential listeners within 30 miles of Michigan City, who shop both in Michigan City and at the businesses in their local communities. Thus, we decided to program our station for this regional market and direct our sales efforts to advertisers within about 30 miles of Michigan City, as well as those within Michigan City. (Thirty miles is a marginal limit for sales and programming.) Since WMCB-FM was a new medium, there were no traditions to alter. We could provide news, weather, sports, and features for listeners throughout the area without offending Michigan City listeners.

Second, we examined the census figures and found there was a large potential audience in the 21-to-45 age category. Our surveys indicated that WLS, Chicago, was dominant among teens, a number of background music FM stations were splintering the older audience for FM, and the Michigan City AM stations reached mostly persons over 45. Thus we structured our selection of music for the 21-to-45 age category by playing contemporary, popular music and directed our regional news, weather reports, sports coverage, and features to persons in that age category. We also discovered that no other station, AM or FM, in our desired coverage area was editorializing. We added that feature.

Prior to these modifications in the audience marketing channels, the station, under previous ownership, had been one of a number of FM stations broadcasting background music to this area. Many of these stations, broadcasting from Chicago, had better programming and better signals throughout much of the regional area we wanted to serve. These facts reinforced our decision to abandon background music. Further, the background music listener tends to listen to the station with the fewest commercials.

While we were developing the audience marketing channels directed to young adult listeners and promoting the audience on-the-air and through newspaper ads, we were simultaneously developing advertiser marketing channels.

We were actively calling upon clients within 30 miles of Michigan City whose products or services would have strong appeal to young adults. We showed them how our station could fill advertising needs.

We contacted national accounts where there was some logical tie-in with our regional area and audience age. We worked through local dealers or distributors. We avoided a shotgun approach.

In the last year we have added a national representative and have joined a group of stations in Michigan and Indiana who sell advertising jointly.

Our local and regional sales efforts have been quite satisfactory. In addition to in-town business, about a third of our business comes from advertisers in the surrounding region. We have gained some national business, but there is still a great deal of prejudice against FM among advertising agencies. They will buy with a strong recommendation from a local dealer. That is the only profitable means to pursue national agency business at this time. One day agencies will discover FM, and it will suddenly become the "in" thing. (My experience with agency people is that most tend to follow the herd.) Our efforts through our national representative and the group of stations has produced little yet, but I believe there is great potential there.

During the time we have been pursuing our defined channels we have been gradually expanding our scope of programming. We have softened and added a larger variety of contemporary music and mixed in lightly some music dating back to the 1950s. In addition our news, editorials, sports and weather coverage has gained response from older people, too. We have developed additional regional programs such as beauty pageants and election night coverage for both Indiana and Michigan, which sold easily to regional advertisers.

When we began in 1969, WMOB–FM had little audience an FM set penetration was about 70% of homes in the area. Our present surveys show we are the dominant FM station with an early 50% lead in listener preference over the second place FM station, which broadcasts background music. FM set penetration has climbed to about 90%. As audience loyalty continues to develop and set penetration nears 100%, I believe we can further broaden our audience appeal and advertising sales. We also plan a power increase, not so much to reach farther, but to increase our signal level in the areas we already serve.

We stimulated audience channels through occasional contests such as one in which listeners were rewarded for identifying sounds unique to this area, through saluting on the air a different local person daily, through on-the-air promotion, call-in programs, newspaper ads and mail directed to community leaders.

Advertising channels are stimulated with yearly demographic surveys of audience, documented success stories in letter form from advertisers, news releases public appearances of station personnel and by active participation in many community projects.

In smaller markets that have a number of competing radio signals, I believe segmentation of audience is as necessary as it is in a larger market. Only in isolated, single-station markets can a station be all things to all people. Too, I believe there are many markets where an FM station operator has an opportunity to redefine the geographic limits of the market as we did here. FM signal coverage is more constant than is AM coverage and is often greater. If a broader area than the local city can be served, and if there are no long-standing ties of the station to the central city, why confine the service area? In addition to Michigan City, I know of stations in Aurora, Illinois, and Traverse City, Michigan, which have successfully programmed and sold to a broadened geographic market.

In this story I have discussed the marketing channels, audience and advertising channels, and related them to the other elements of the marketing mix. Often the distinction is blurred since we are not transporting and distributing a product or service in the traditional sense. We have no inventory problems, unless you count unsold time; we have no distributors in our local area, unless you count the few local ad agencies; and we have no dealer network. In our business the channels become an inseparable part of the whole. But that is what makes it so interesting, and challenging.

DANGERS OF LAW ENFORCEMENT COMPUTER BANKS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. EDWARDS of California. Mr. Speaker, I would like to call my colleagues' attention to an editorial which appeared in the San Jose News, November 7, pointing out the dangers of law enforcement computer banks. As you may know, I have introduced legislation which would limit the dissemination of arrest records, H.R. 187, but as the editorial and the National Advisory Commission on Criminal Justice Standards and Goals have indicated, we need to go further than this basic protection. My Subcommittee on Civil Rights and Constitutional Rights, will be looking into this subject in greater depth to insure increased protection of individual, civil liberties.

The editorial follows:

Placing a Rein on Data Banks

There have been several unfortunate incidents of persons being arrested and held in jail for several hours because of inaccurate information in police computer files.

Each of us lives increasingly with the fear of how outdated or inaccurate information, centrally collected in vast data banks, might adversely affect our lives.

The concern is not misdirected. The question is what to do about it. Part of the answer is to carefully regulate what type of information may be gathered about American citizens, to severely limit unnecessary dissemination that invades privacy—and to insist that an individual is not hounded by inaccurate or outdated information.

The National Advisory Commission on Criminal Justice Standards and Goals has recommended that law enforcement computer banks periodically be purged of such data and that persons cleared of wrongdoing be allowed to retrieve their police records.

A similar recommendation was made earlier this year by California Atty. Gen. Evelle Younger.

The recommendations merit prompt consideration, both at the federal and state level. Basic civil liberties are involved. Guidelines on security of the files, protection of privacy, and purging of outdated, inaccurate or irrelevant information cannot be left to chance or whim.

MAYBE ENERGY CRISIS WILL TEACH US A LESSON

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. DERWINSKI. Mr. Speaker, a very hard-hitting, sharp editorial carried in the Illinois Suburbanite Economist on November 14 on the subject of the energy crisis is well worth reading by all of us.

The article expressed the fact that the current energy crisis could be handled more effectively and it makes several very practical solutions to be made to curb this growing national problem.

The article follows:

Will an Energy Crisis Teach Us the Lesson?

We are the world's only nation going to the poorhouse riding in automobiles, this country's celebrated cowboy said in the early 1930s.

Will Rogers' puzzlement would have turned into disbelief in more recent years as the country with "the most" has been agonizing through a host of similar paradoxes.

We have been the world's only nation with tens of thousands of highly educated technicians and scientists whom we could not employ; the world's strongest military power but we were bogged down for over 20 years in a war with a small, backward country in Southwest Asia; the country with the most comfortable and fanciest skyscrapers but we still have millions of people buried in the slums; the world's only nation where we can buy new cars as often as people in other advanced countries change suits and still find it increasingly difficult to reach our jobs in the morning.

And now, to top it all, the kingsize paradox: We are the richest nation in the history of this planet so far but we will soon be unable to heat our homes and drive to a forest preserve for a few hours of relaxation. Fuel rationing is coming, soon, the government has told us and we have succumbed to the belt-tightening as if it were inevitable.

But in the midst of calls for an austerity program to conserve on fuel and to get the most out of existing energy resources, the administrators of our government failed to tell us one thing:

It is not the boycott by the Arab states (suppliers of a meager 6 per cent of our oil needs) that has caused the present crisis.

It is lack of planning by the less-than-bright boys in Washington that has created this latest crisis.

The Arab boycott simply brought to an explosive point a crisis that has been bubbling for almost a decade and erupted quite visibly in 1969.

In the years to come, history will judge government administrators severely for inexcusable shortsightedness. They have sat around carefree showing greater eagerness to deal with politics rather than running the country.

For an entire decade now, economists and conservationists have been pointing out that growth cannot be sustained indefinitely since all of our known resources of energy are finite. Our resources have been dwindling and our economy cannot continue to grow without energy.

In 1969, Texas and Louisiana oil fields that produce two thirds of the oil in the U.S. suffered a reserve loss of more than 45 million gallons of oil, the largest decline of crude oil reserve in history.

Crude oil stocks of the 10 largest companies in the U.S. were down in 1972 and we were faced with higher gasoline prices early last spring. But the government steadfastly refused to face up to the real issue which is the decline of the existing energy sources.

Now, under the gun of the Arab states, the President goes on TV and announces the launching of Project Independence.

Well, that is a step that should have been taken years ago as part of a long-term, unhurried plan. What the present condition proves is that the government has failed us in the most profound sense.

It has not deceived us or lied to us. It has ignored us. It has quite clearly failed to fulfill its main obligation which is to plan on a long-term basis. It has humiliated us at a time when the epithet "paper tiger" is still ringing in our ears.

With all its computerized capacity and its hordes of bureaucrats, Washington in the most elementary terms failed to plan for the future.

To be sure, this nation in the past functioned well under pressure, as President Nixon has pointed out. The Project Manhattan and the space program were carried out successfully with little long range planning. Does that mean that we have to operate under such pressure continually?

This latest crisis has assaulted the life of every American with an unprecedented forcefulness and, what is more frustrating in retrospect, it seems the most unnecessary. Depending on its severity, it will affect our lifestyles and our economy beyond anything else since Depression.

Will we ever learn any lessons from our past? Will Washington ever learn to take heed of early warnings?

If not, we may also find ourselves holding another record. We may become the nation on this planet that declined faster than any other, the only civilization that died 200 years after its birth.

PRISON REFORM

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. HARRINGTON. Mr. Speaker, approximately 14 months ago, as a result of the brutal riots at Attica, national attention focused on prison reform. Since that time, continued prison riots have repeatedly shattered our complacency. They force us to notice what, at best, can be termed subhuman living conditions and treatment. Many of us are guilty of ignoring the tragedies produced by the continual debasement which goes on in our prisons. As a nation, we have done little to address the problems which foment such furious outbreaks. Filthy conditions, savage brutality, and disregard for the sanctity of human life, and lack of creative and purposeful rehabilitation programs continue to plague most inmates.

The definition of cruel and unusual punishment has been debated at length before and after the Supreme Court's decision on capital punishment. It seems to me that for some, capital punishment would almost seem preferable to the treatment and neglect suffered in prison by such individuals as Jackson "Curly" Fee who killed himself this October in the U.S. penitentiary in Marion, Ill., after being beaten by prison guards and isolated in a special cell. The torment and anguish suffered by these men surely passes well beyond the intent of the judges who sentenced them.

There are few people in our society today who do not feel threatened by the rising crime rate. A substantial portion of this crime is committed by ex-convicts—which testifies to the failure of rehabilitation programs to adequately induce inmates to lead peaceful lives upon release. It seems to me that the adoption of comprehensive and far-reaching programs of rehabilitation would surely reduce the incidences of crime committed by ex-offenders.

There are some who argue that our prison systems are not so inadequate; that these conditions may not be as critical or as desperate as they have been depicted. However, it would be a mistake to be lulled into a false sense of complacency and to expect that this issue will eventually resolve itself. It is necessary for the Congress to address this issue in a responsible manner and to enact legislation to eliminate the potential for abuses within our prison system.

At this time, I wish to insert a letter sent to me by an inmate of the U.S. Penitentiary in Marion, Ill., and a news item prepared by Earth News. The situation described in the letter from the inmate presents a challenge to our sense of decency and morality. The letter and editorial follow:

HUNGER STRIKE AT MARION

Prisoners at Marion federal penitentiary are continuing a hunger strike that began with the death of a fellow inmate October 22nd.

Prison officials reported that 48-year-old Jackson "Curly" Fee hanged himself in his maximum security cell. Inmates have alleged his death was murder. Several prisoners have written letters that claim Fee was beaten in his cell a week before the apparent suicide. Fee reported that incident to his attorneys and made sworn statements concerning threats that were made against him by prison guards. Jackson Fee had a lawsuit against the officials at the prison and his attorney claimed late last week that there was strong evidence he was beaten before his death last month.

One of Fee's attorneys in that suit, G. Flint Taylor, said the official version of the death may be accurate, but noted that the highest crossbar in Fee's cell was only five-feet seven-inches high. Fee was five-feet five-inches tall—leaving little room for a hanging.

Inmates and attorneys have called for a congressional investigation.

U.S. PENITENTIARY,
Marion, Ill., October 28, 1973.

DEAR SIR: Are you aware that during the last few years in the federal prisons (and some states also) a policy of preventive detention has been put into effect? It used to be that you had to break some rule or regulation—not always, but generally—before you were locked up in the "hole". Not now though; they're putting many of us in the "Long Term control Unit" indefinitely—not for what we did, but for what we might do. They've even converted normal cell blocks into segregation units to handle the hundreds of prisoners locked up.

On Oct. 22, 1973, a squad of "correctional officers" armed with clubs, helmets, and plastic shields beat Jackson "Curly" Fee (weight 125–135 lbs.; height 5′6″ or 5′7″) in cell H–D–17 and dragged him to the "boxcar" cells (which are yet more punitive). On Oct. 27, 1973, he was found hanged to death.

Lt. Culley, Manager of this "Long Term Control Unit", wouldn't allow Curly's best friend, Richard Montgomery, to talk with Curly, when he, in a complete reversal of his normal manner, stopped speaking. It was obvious, even to us uneducated prisoners, that there was something seriously wrong with him but our overseers couldn't—or wouldn't—do anything for him.

Under their policy of perpetual lock-up there will be more suicides, self-mutilations, prisoners being driven insane, psychosomatic illnesses, etc. (see the articles in the Kansas City newspapers on the many Leavenworth suicides.) Meanwhile, Norman Carlson, Director of the Prison Bureau, continues to prate his "rehabilitation" theme to the unknowing, or uncaring, public. Congress, of course, continues to vote millions for "Correctional services"—with over 90 percent spent for guns, bars, locks, Long-Term Control Units, etc. I believe two billion dollars are allocated for constructing new prisons in the near future: to what end—to force, beat, coerce, more good people, like my friend Curly, into suicide?

Since much of my mail "vanishes" (contrary to their own policy statements), I would appreciate a brief acknowledgment of this letter.

Thank you.
Sincerely,

——— ———.

P.S. our cell block is now on a hunger strike—as futile as that may be.

RESOLUTION FOR DR. THOMAS KILGORE, JR.

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mrs. BURKE of California. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

Whereas, Dr. Thomas Kilgore, Jr., has served the Los Angeles Community as Pastor of the Second Baptist Church for the past 10 years and 37 years as a spiritual leader here and throughout the South and East, and,

Whereas, Dr. Kilgore's activities have not been limited to his pastorate, but to the unending struggle for the betterment of mankind during which he organized and led the Prayer Pilgrimage to Washington in 1957 and helped to organize the famous March on Washington in 1963, and,

Whereas, Dr. Kilgore has demonstrated outstanding leadership in other ways, as President of the American Baptist Convention in 1969–70, in the Council of Churches, the National Association for the Advancement of Colored People, Southern Christian Leadership Conference, Opportunities Industrialization Center, College and Seminary Board of Trustees, and as special advisor of the President of the University of Southern California on community relations.

Therefore, be it known this 20th day of October 1973, that we are in recognition of the enduring accomplishments of Dr. Kilgore and join with his many friends and admirers in paying tribute to him. Be it further resolved that a statement of this Recognition will be placed in the Congressional Record.

ARTICLES OF INCORPORATION OF THE AMERICAN BICENTENNIAL COMMISSION OF JACKSONVILLE, FLA., INC.

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BENNETT. Mr. Speaker, herewith, I include in the RECORD the articles of incorporation of the American Bicentennial Commission of Jacksonville, Fla. I do this because almost every community in the country will eventually be seeking to set up a similar organization and the inclusion of this document may be of assistance to others who might use it as a format. In doing so I pay particular tribute to George M. Linville of Jacksonville who has ably spearheaded the bicentennial work in the Jacksonville area.

The articles of incorporation of the American Bicentennial Commission of Jacksonville, Fla., Inc. follow:

ARTICLES OF INCORPORATION OF THE AMERICAN BICENTENNIAL COMMISSION OF JACKSONVILLE, FLA., INC.

(A corporation not for profit)

We, the undersigned, with other persons, being desirous of forming a corporation for charitable, educational and philanthropic purposes under the provisions of Chapter 617 of the Florida Statutes do agree to the following.

ARTICLE I—NAME

The name of this corporation is The American Bicentennial Commission of Jacksonville, Florida, Inc. The principal office of this corporation in the State of Florida is located in Jacksonville, Duval County, Florida.

ARTICLE II—OBJECTS AND PURPOSES

The general nature of the objects and purposes of this corporation shall be:

1) To promote, conduct, present and operate in the City of Jacksonville, Florida, and in Northeast Florida, celebrations leading up to and commemorating the Two Hundredth Anniversary of the establishment of the United States of America, the American Revolutionary War, the signing of the Declaration of Independence, and in cooperation with other indivdiuals, corporations, commissions or authorities, including but not limited to the St. Augustine Committee for the National Bicentennial, Inc., the Bicentennial Commission of Florida, and the American Revolution Bicentennial Commission of the United States, to provide in Jacksonville, Florida, and Northeast Florida a festival of freedom through the bicentennial era of 1973 to 1987 and to foster and encourage a new spirit of '76 in the people of Northeast Florida. The festival of freedom shall embrace three themes which are:

(a) Heritage '76. A summons to recall our heritage and place in its historical perspective, including the promotion, preservation and dissemination of information relating to the history of Jacksonvile, the State of Florida and the United States, the identification, recordation, preservation and renovation of historical sites, structures, folklore and history of Jacksonville, the State of Florida and the United States in order that the people of our community may re-examine our origins, our values, take pride in our previous accomplishments and better understand the meaning and purpose of our social, economic and political environment.

(b) Festival USA shall be the central component of the bicentennial commemorative celebration evoking the spirit of hospitality, exchange of ideas and movement which has characterized American development with its focal point the year 1976 and the day July 4, 1976, and including appropriate celebrations each year from 1973 through 1987.

(c) Horizons '76, looking toward America's third century, is a challenge to every American to undertake or to participate in programs and projects which manifest the pride, priorities and hope of his community in a constructive effort to demonstrate concern for and promote the freedom, welfare and happiness of our fellow Americans; to assist in the development of the City of Jacksonville and Northeast Florida as a tourist center; to favorably advertise and promote Jacksonville and its institutions; to promote the general business and orderly growth of the Greater Jacksonville Area; and to cooperate with business and civic organizations in promoting the cultural advancement and economic betterment of Jacksonville and Northeast Florida.

ARTICLE III—POWERS

In order to carry out the general purposes and objects stated above, this corporation shall have all powers granted by law and in addition thereto the following specific powers:

1) To contract and be contracted with, sue and be sued, invest and reinvest, the funds of the corporation, and to do all acts and things requisite, necessary, proper, and desirable, to carry out and further the objects and purposes for which this corporation is formed.

2) To act as trustee of funds, or other assets, given for its purposes; to receive by bequest, devise, gift, purchase, or lease, either absolutely or in trust, any property, whether real, personal or mixed; and to administer such property and such trusts; to sell and convey such property, and to invest or reinvest the proceeds from the same, or the proceeds and income therefrom, in such manner, for the purpose of this corporation, as in the discretion of the Board of Directors, will best promote the objects of the corporation.

(a) In each instance where specific instructions shall have been given the corporation by the donor, grantor, testator, or testatrix, as to the disposition of property, or funds, whether such gift, devise, or bequest, shall be absolute or in trust, such gift, devise or bequest shall be placed in a fund to be known as a "designated fund" and the instructions, insofar as the same are legally possible, shall be binding upon the Executive Commitee and the corporation, and shall be faithfully performed; provided, if the objects and purposes for which any designated gift was made shall cease to exist then such designated gift, devise, or bequest, shall become part of the undesignated funds or property of the corporation and shall be administered as such.

(b) In the absence of specific directions by the donor, grantor, testator, or testatrix, any gifts, grants, devises and bequests to the corporation shall be known as "undesignated funds" and the distribution of such property and funds, and the income therefrom, shall be made for the purposes of the corporation as the Executive Committee in their discretion shall deem best.

3) To sell, lease, exchange, mortgage, pledge or otherwise dispose of and encumber any real estate or any personal property at any time owned or held by the corporation, and any interest or estate therein or to donate all or any part of such real and personal property, or any interest or estate therein, to the State of Florida, or to any political subdivision, agency or municipality of the State of Florida or to any educational, historical, charitable or benevolent corporation now or hereafter organized or existing under the laws of the State of Florida, and in connection with the sale, lease, exchange, mortgage, pledge, donation or other disposition of any such real or personal property to impose such restrictions upon the use thereof as the Executive Committee may deem proper.

4) To maintain and manage lands, parks or historical sites or buildings which may be entrusted donated, conveyed or leased by the United States, the State of Florida, or any of its political subdivisions, or by any person, firm, corporation or association, for the purpose of public recreation, environmental protection, preservation of natural features, historic sites, or sites, structures or articles possessing historic value.

5) To borrow money for any of the purposes of the corporation, and to issue bonds, certificates of indebtedness or other obligations therefor, and to secure the same by pledge or mortgage of the whole or any part of the property of the corporation, either real or personal, or both real and personal or mixed, and/or the income therefrom, or to issue notes or other obligations without any such security. To draw, make, accept, endorse, discount, guarantee, execute, and issue promissory notes, bills of exchange, drafts, warrants and all kinds of obligations and certificates and negotiable or transferable instruments.

6) To carry out all or any part of the foregoing objects and purposes as principal, agent, contractor or otherwise, either alone or in conjunction with any person, firm, association or other corporation, public or private; and in carrying on its business and for the purpose of attaining or furthering any of its objects or purposes, to have and maintain offices in Jacksonville, Florida, and other places in the State of Florida, the United States, or foreign countries, as may be necessary; to make and perform such contracts of any kind and description; to do such acts and things, and to exercise any and all such powers, as a natural person could lawfully make, perform, do or exercise, provided, that the same be not inconsistent with the laws of the State of Florida Articles of Incorporation.

7) To do any and all things necessary, suitable, convenient or proper, for, or in connection with, or incidental to, the accomplishment of any of the purposes or the attainment of any one or more of the objects herein enumerated, or designed, directly or indirectly to promote the interest of the corporation, or to enhance the value of any of its properties. To do any and all things and exercise any and all powers which it may now or hereafter, be lawful for the corporation to do or to exercise under the laws of the State of Florida that may now or hereafter be applicable to the corporation; and to do all things incident or necessary to the carrying out of the purposes and objects of this corporation.

ARTICLE IV—MEMBERS

The members of this corporation shall consist of the commissioners listed in the attached Schedule "A", and such other commissioners as may be added from time to time in the manner provided in the by-laws.

ARTICLE V—TERM OF EXISTENCE

This corporation shall exist perpetually.

ARTICLE VI—SUBSCRIBERS

The initial subscribers of this corporation are:

George M. Linville, 6842 Old St. Augustine Rd., Jacksonville, Florida.

Hans G. Tanzler, Jr., Mayor, City of Jacksonville, City Hall, Jacksonville, Florida.

James C. Rinaman, Jr., P. O. Box 447, Jacksonville, Florida.

ARTICLE VII—OFFICERS AND EXECUTIVE COMMITTEE

The affairs of this corporation shall be managed by the officers of the corporation and the Executive Committee. The officers of the corporation shall be a President (who shall also be Chairman of the Executive Committee), a Vice President, a Secretary, and a Treasurer (all of whom shall serve as members of the Executive Committee), and such other officers as may be provided in the by-laws.

Members of the Executive Committee in addition to those who serve by virtue of their office as provided herein shall be appointed by the President and shall serve at the pleasures of the President. The names and addresses of the persons who shall serve as the initial officers and members of the Executive Committee until their successors are appointed or elected are:

Office—Name—Address

President (and Chairman of the Executive Committee, George M. Linville, 6842 Old St. Augustine Rd., Jacksonville, Florida.

Vice President and General Counsel, James C. Rinaman, Jr., P. O. Box 447, Jacksonville, Florida.

Secretary, Constance Hansen, Gulf Life Ins. Co., Gulf Life Tower, Jacksonville, Florida.

Treasurer, Rodell Roberts, 330 East Bay Street, Jacksonville, Florida.

Executive Committee Members. The initial members of the Executive Committee shall include the officers listed above and the members of the Board of Directors listed in Article VIII.

ARTICLE VIII—BOARD OF DIRECTORS

The determination of policy matters, identification of goals and objectives, and control over the officers and Executive Committee in the management of the business affairs of the Commission shall be vested in the Board of Directors. The Board of Directors shall consist of the officers and ten directors whose number may be increased according to the by-laws and who shall be elected by the members at the annual meeting or a special meeting called for that purpose. The initial Board of Directors which shall serve until the annual meeting of the corporation in June of 1974 or until their successors are elected or appointed in the interim by the President shall be:

George Linville, Chairman of the Board, 6842 Old St. Augustine Road, Jacksonville, Florida.

James C. Rinaman, Jr., Vice President and General Counsel, P. O. Box 447, Jacksonville, Florida 32201.

Constance Hansen, Secretary, Gulf Life Insurance Company, Gulf Life Tower, Jacksonville, Florida.

Rodell Roberts, Treasurer, 330 East Bay Street, Jacksonville, Florida 32202.

Robert R. Feagin, 1 Riverside Avenue, Jacksonville, Florida 32201.

William W. Gay, 523 Estelle Lane, Jacksonville, Florida 32204.

Harold Gibson, P.O. Box 8000, Jacksonville, Florida 32211.

Ira M. Koger, 3986 Boulevard Center Drive, Jacksonville, Florida 32207.

Donald T. Martin, 500 West Water Street, Room 204, Jacksonville, Florida 32202.

Robert B. Massey, 2434 Atlantic Boulevard, Jacksonville, Florida 32207.

Dr. Paul A. Mori, 3599 University Boulevard South, Jacksonville, Florida 32216.

Fred Rebman, 2037 Main Street North, Jacksonville, Florida 32206.

Christine Schmidt, 4232 Ortega Forest Drive, Jacksonville, Florida 32210.

Dr. Benjamin R. Wygal, Florida Junior College of Jacksonville, Cumberland Campus C-25, Jacksonville, Florida 32205.

ARTICLE IX—ELECTION AND APPOINTMENT OF OFFICERS

All officers and directors of the corporation shall be elected as provided in the by-laws.

ARTICLE X—BY-LAWS

The corporation may provide such by-laws for the conduct of its business and carrying out of its purposes and objects as may be deemed necessary from time to time. Upon proper notice the by-laws may be amended, altered or rescinded by a majority vote of the Board of Directors.

ARTICLE XI—AMENDMENTS

These Articles of Incorporation may be amended at any regular meeting or any special meeting of the Commission called for that purpose by a majority vote of those present and voting at such meeting providing that a quorum of at least twenty-five commissioners must be present at such meeting and further provided that written notice that such amendment is proposed and the text of such amendment shall be mailed to the members of the Commission not less than three days prior to any such meeting.

ARTICLE XII—VESTED INTEREST AND COMPENSATION

No members of this corporation shall have any vested right, interest or privilege of, in, or to the assets, functions, objects, or franchises of this corporation, or any right, interest, or privilege which may be transferable or inheritable, or which shall continue if his membership ceases, or while he is not in good standing.

No dividends shall be paid by this corporation and no part of the income of this corporation shall be distributed to its members, commissioners or officers.

No officer or commissioner of this corporation shall receive directly or indirectly any compensation for his services; however, expenses incurred in and about the work of this corporation, or advances made for the account of the corporation, reasonable in character and amount, may be paid by the Treasurer to persons of the aforesaid classes after a statement thereof shall have been submitted to and approved for payment by the Executive Committee.

ARTICLE XIII

The corporation shall provide for and obtain an annual audit by a certified public accountant of the books and records of the corportion immediately after the close of each fiscal year. Such audit and the books and records of the corporation shall at all reasonable times be open for inspection by the public.

ARTICLE XIV—DISSOLUTION

In the event of the dissolution of this corporation, its assets, after payment of all debts and charges of the corporation, and expenses of dissolution, shall be distributed to one or more organizations which have qualified for exemption under Section 501 (c)(3) of the Internal Revenue Code of the United States as the same may be amended. No part of the net earnings of this corporation shall enure in whole or in part to the benefit of incorporators, private shareholders, or any individuals, nor shall this corporation engage in carrying on propaganda or otherwise attempting to influence legislation, nor shall it participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

In witness whereof, the incorporators of this corporation intending in good faith to carry out the purposes and object set forth in these Articles of Incorporation, have hereunto subscribed their names this 8th day of November, 1973.

GEORGE M. LINVILLE.
HANS G. TANZLER, Jr.
JAMES C. RINAMAN, Jr.

JACKSONVILLE, FLA.

STATE OF FLORIDA, COUNTY OF DUVAL

Before me, a Notary Public, duly authorized in the state and county named above to take acknowledgments, personally appeared George M. Linville, Hans G. Tanzler, Jr., and James C. Rinaman, Jr., to me known to be the persons described as subscribers in and who executed the foregoing Articles of Incorporation, and they acknowledged before me that they executed and subscribed these Articles of Incorporation.

Witness my hand and official seal in the County and State named above this 8th day of November, 1973.

SHERYL D. SMITH,
Notary Public, State of Florida at Large.

SCHEDULE "A"—COMMISSIONERS

H. S. Albury, Richard A. Altobellis, Karl J. Ambrose, Jr., James H Arnold, Edward D. Baker, Edward G. Ballance, Wm. U. Bankhead, Chas. H. Barco, Ralph E. Becker, Chas. E. Bennett

Wm. O. Birchfield, Donald M. Bolling, John R. Bond, Richard A. Boone, John W. Bowden, Richard Lee Bowers, Tyrie A. Boyer, Donald L. Braddock, Lewis B. Brantley, Alexander Brest.

Donald Edward Brewer, Jr., Harry E. Brinton, Jacob F. Bryan, III, Kendall G. Bryan, Franklin S. Bunch, Percival E. Campbell, Sr., Smiley Carlton, Frank Carlucci, Joe A. Carlucci, Thos. G. Carpenter, Ph.D., Dale G. Carson, Wm. E. Carter, Geo. Champion, Jr., Wm. V. Chappell, Jr., Harold R. Clark, Jack Coleman, Patricia C. Cowdery, M.D., Alexander M. Crenshaw, John Crider, Joseph L. Cullen.

J. J. Daniel, Henry V. Dartigalongue, Bernard S. Datz, Michael F. Davidson, DeWitt C. Dawkins, Lamar Dean, Miss Kathleen L. Dilonardo, R. Earl Dixon, Wm. B. Doe, Wm. L. Durden.

R. V. Elder, Mrs. Wm. E. Elsberry, Mrs. James S. English, Robert Evans, Julian E. Fant, Jr., Robt. R. Feagin, Ms. Carolyn Fisher, Geo. R. Fisher, John R. Forbes, Joe B. Forshee, Jr.

John A. Futch, Wm. W. Gay, Sidney J. Gefen, Lawrence R. Geis, Harold Gibson, Jim Glisson, Mark A. Gluckman, Jake M. Godbold, Edward L. Green, Geo. R. Grosse.

John T. Gunning, Ed.E., Stephen P. Gyland, M.D., Mattox S. Hair, John A. Hammack, Frank Hampton, Mrs. Constance H. Hansen, David E. Harrell, Wilson L. Harrell, Mrs. E. Ross Harris, Norman J. Harrison, Jr.

Malachi Haughton, III, Lewis A. Hester, Wendell P. Holmes, Jr., Rev. James S. Hornsby, Wm. S. Howell, Homer H. Humphries, Jr., J. Earl Huntley, Donald G. Ingram, Wm. A. Ingram.

Preben Johansen, Earl M. Johnson, Gustave E. Johnson, Ted S. Johnson, Mickey R. King, Frances B. Kinne, Ph. D., Peter Kirill, Ira M. Koger, John F. Lanahan, Rev. Dr. Sidney M. Lefkowitz.

Rt. Rev. Monsignor Lenihan, Geo. M. Linville, James B. Lumpkins, David C. MacNamara, Robt. A. Mallard, Donald T. Martin, Robt. B. Massey, Wm. S. Mathias, Jr., Mrs. Sallye Mathis, Donald R. McClure.

Thos. R. McGehee, Alton E. McLeod, Ms. Linda Menke, Mrs. Gene W. Miller, Wm. Butler Mills, Richard H. Montney, James E. Mooney, Jr., Paul A. Mori, M.D., Henry G. Motes, Jr., Edward A. Mueller.

Sanford A. Mullen, M.D., Harry M. Nearing, Robt. A. Nelson, Virgil R. Norris, Carl Ogden, Robt. W. Olcott, Wm. R. Opp, Willis H. Page, Mrs. Fred S. Patterson, Jr., Wesley C. Paxson.

Rev. Richard A. Petry, Mrs. Geo. E. Pharr, Robt. E. Phillips, Miss Emily L. Price, Wm. P. Pridgen, Jr., John Roger Pugh, Mrs. Irene S. Racine, Mrs. Oscar G. Rawls, Frederick J. Rebman, Frank Reyes.

Alvin Richer, James C. Rinaman, Lynwood Roberts, Rodell F. Roberts, Chas. B. Rogers, III, David E. Russell, John Sanders, Dan I. Scarborough, Robt. W. Schellenberg, Mrs. Christine Schmidt, Gert H. W. Schmidt, Hugh Schulman, James J. Scott, Jr., Frank W. Sherman, Mary L. Singleton, Frank G. Slaughter, M.D., O. H. Slaughter, Bruce A. Smathers, Mrs. Amelia H. Smith, Eric B. Smith.

Harold K. Smith, Frank E. Snell, Jr., Robt. H. Spiro, Ph. D., Wm. J. Staten, Dalton R. Steele, Martin Edward Stein, Malcolm L. Stephens, Jr., Robt. J. Stroh, Mrs. Gray Strum, Richard H. Suddath.

Clarence Suggs, James J. Sugrue, I. M. Sulzbacher, Ms. Eugene M. Suter, Marion E. Sweet, Hans G. Tanzler, Jr., Larry Teague, Gerald Tjoflat, Geo. B. Tobi, Samuel J. Tucker, Ph. D.

Mrs. R. L. Vanderslice, John Van Ness, Wm. Ashley Verlander, Joel D. Wallach, D.V.M., James N. Watson, Charles Webb, Mrs. Fred L. Whitmore, Chester G. Whittaker, Roger K. Wilkinson, Walter L. Williams, Jr.

Gerald Wilson, Hugh Wilson, Nathan H. Wilson, James B. Windham, Louis H. Winnard, James H. Winston, Michael J. Wood, Benj. R. Wygal, Ph.D., Claude J. Yates.

DO WITH LESS—OR DO WITHOUT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. DERWINSKI. Mr. Speaker, last night the President again spoke to the Nation on the current energy shortage and outlined in detail some of the steps that should be taken to ease this shortage.

Coincidentally, I read with satisfaction an editorial response in the Harvey Star Tribune of Suburban Cook County, to the President's original message. The editorial, which follows, stresses the significance of the measures that must be taken for the Nation to overcome the current crisis:

DO WITH LESS, OR DO WITHOUT

President Richard Nixon's sobering announcement that the country is faced with a critical energy shortage poses a new challenge for the American people. As citizens of a country blessed, until now at least, with an embarrassment of riches in natural resources, many understandably reacted in pained surprise to the realization that the United States has almost depleted the cupboard and must now begin to do with less or eventually do without.

The President's message was to the point: Not since World War II has the country's need for energy of all types placed such a severe strain on its resources. Indeed, the implication is, unless steps are taken immediately, it undoubtedly will be necessary in the very near future to invoke the logical consequence of the World War II shortages—nationwide rationing.

In order now, as the President indicated, are voluntary economies in lots of little ways all along the line, including such seemingly ordinary things as lower room thermostat settings, elimination of unnecessary lighting around the home and other places, a maximum highway driving speed of 50 miles an hour, and formation of work day car pools.

Some of these measures undoubtedly will prove unpopular with part of the population; fortunately, however, the great majority of Americans will recognize the situation for what it is and do their patriotic best to help the country pull through this latest emergency. This characteristic is another great national resource.

PRESIDENTIAL TELEVISION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD an excellent editorial by Don Oakley, published in the November 19, 1973, issue of the Goshen, Ind., News concerning the recent publication, "Presidential Television."

The editorial follows:

PRESIDENTIAL TELEVISION

(By Don Oakley)

A just-published report on a study commissioned by the 20th Century Fund could not be more timely.

At a time when Americans are intensely concerned about the health of our governmental system of checks and balances, the report charges that "the president's overwhelming access to prime-time radio and TV, unmatched by any other branch of government," has fundamentally altered that system.

The report, entitled "Presidential Television," has been brought out in book form by Basic Books. One of its authors is former Federal Communications Commission chairman Newton N. Minow, the coiner of that immortal description of television as a "vast wasteland."

Maybe it is for the viewing public. But for the past four presidents, television has been a land of golden opportunity. Via the electronic medium, the report contends, the chief executive has been able to outmaneuver, outconvince and out-headline the other branches of government as well as the opposition party.

In Minow's view President Nixon is probably the most innovative and adept user of presidential television.

He has commanded and received more free time than any predecessors. During his first 40 months in office prior to his Moscow trip in 1972, Mr. Nixon made 32 special appearances in prime time, compared to only 24 by President Johnson in more than five years, 10 by President Kennedy in under three years and 23 by President Eisenhower in eight years.

The president's ability to choose when and how to appear—without cost—before the American public is completely unmatched by his political or congressional opponents, says Minow.

"It means," he writes, "holding a press conference before a potential audience of 60 million people . . . It is the carefully presented presidential 'image.' It is the nationally viewed justification of war, invocation of peace, praise for political allies, damnation of opponents, veto of legislation, scolding of Congress . . .

"The president may make a formal address, hold a press conference, consent to an interview, telephone an astronaut, go to a football game, receive a visiting chief of state, take a trip abroad or play with his dog on the White House lawn. He may send his family, his cabinet members or his political allies before the cameras. In almost every case, he, and he alone, decides."

The report makes a number of suggestions to correct this imbalance. Among them:

Televised debates from the floor of the House and Senate; live debates between spokesmen for the two major parties four times a year; guaranteed air time for the opposition to reply to any presidential address broadcast in the months preceding a national election; improved coverage of Supreme Court decisions.

Also, by way of countering the influence of big money in presidential campaigns, the report proposes allotting each candidate certain amounts of network time, to be paid for by the government at half price.

It is a good thing and in the public interest for a president to speak to the nation frequently, says Minow. But it is also important that the political opposition and the other branches of government have equal opportunity to influence public opinion.

And that is today's "hysterical" comment.

PRECEDENT INVOLVING PRESIDENT THOMAS JEFFERSON

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. EILBERG. Mr. Speaker, President Nixon in two televised press conferences, cited a precedent involving President Thomas Jefferson as his principal defense for not turning over the Watergate tapes to the court.

Although the President has since agreed to release these tapes, he still continues to use this example as a reason why he does not have to do so.

The fact is that President Jefferson made every effort to comply with the court order.

At this time I enter into the RECORD a study done by the Library of Congress which presents the facts in this case.

The study follows:

DOCUMENTS FORWARDED BY PRESIDENT THOMAS JEFFERSON TO THE TRIALS OF AARON BURR IN 1807

(By Stephen Stathis)

The trial of former Vice President Aaron Burr on charges of treason against the United States had entered its third week when Mr. Burr stunned the courtroom with an announcement that he desired the court "to issue a subpoena to the President of the United States, with a clause, requiring him to produce certain papers; or in other words to issue the subpoena duces tecum."[1] It was Mr. Burr's intent to secure as evidence in his defense a letter dated October 21, 1806 which had been sent to President Jefferson by General James Wilkinson, as well as documents containing instructions for the army and navy "to destroy" Burr's "person and property."[2] Burr added that if the Attorney for the United States (George Hay) would produce the documents requested, he would withdraw his motion for the issuance of a subpoena. In his affidavit of the following day Burr summarized his rationale for the subpoena duces tecum.[3]

Upon the introduction of Burr's motion, an immediate controversy arose over the right of the court to subpoena the President of the United States. Chief Justice John Marshall, the presiding judge in the trial, called for argument because "I [Chief Justice Marshall] am not prepared to give an opinion on this point."[4] For the next four days the propriety of the question was debated. The prosecution admitted that the court might issue a subpoena to the President as well as any other man, but maintained that he was not bound to disclose confidential communications.

On June 13, 1807 Chief Justice Marshall delivered his opinion on the motion proposed by Mr. Burr. Marshall held that the Presi-

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Footnotes at end of article.

dent was subject to subpoena just like any other citizen, that there was nothing in the Constitution that exempts a President from a subpoena. However, Marshall stated that: "if, upon any principle, the President could be construed to stand exempt from the general provisions of the Constitution, it would be, because his duties, as chief magistrate, demand his whole time for national objectives." [5] If the President's duties did require his full time, he could submit the papers instead of appearing before the Court.[6]

President Jefferson previously had been informed of Burr's request in one of John Hay's regular letters.[7] On June 12, 1807, the day prior to the issuance of Marshall's opinion, Jefferson wrote Hay that all the papers relevant to the Burr case had been hand-carried to Richmond by Attorney General Caesar A. Rodney. As to the Wilkinson letter, Jefferson explained that he did not recollect the entire contents of the letter and requested Hay to exercise his own discretion in "withholding the communication of any part of the letter [Wilkinson's] which are not directly material for the purpose of justice." [8] With regard to the copies of military correspondence requested by Burr, Jefferson indicated that only those papers which were "proper for communication and pertinent to any point" would be forwarded to Mr. Hay. Two letters apparently within the context of the definition of relevance as applied by the President were forwarded to Hay by the Secretary of War on the same day.[9]

On the 17th of June the President personally forwarded additional papers to Hay. Jefferson felt that these documents substantially fulfilled the objective of the subpoena. If, however, questions should still exist, the President stated that he and the Heads of the Departments would be willing to submit a deposition, "through any persons whom the Court shall authorize to take our testimony at this place [Washington]."

Jefferson continued by arguing that this was the suitable alternative to a personal appearance at the trial. Such an appearance Jefferson explained would set a precedent that might expose him to subpoenas to attend other trials as far away as the Mississippi Territory.

"To comply with such calls would leave the nation without an executive branch, whose agency, never the less, is understood to be so constantly necessary, that it is the sole branch which the Constitution requires to be always in function. It could not mean that it should be withdrawn from its station by any co-ordinate activity." [10]

Again, on June 20th [11] and later on the 7th of September,[12] Jefferson repeated, to Hay, his strong convictions regarding the separation of powers under the Constitution. In the second letter Jefferson stated:

"As I do not believe that the district courts have a power of commanding the executive government to abandon superior duties and attend on them, at whatever distance, I am unwilling, by any notice of the subpoena, to set a precedent which might sanction a proceeding so preposterous. I enclose you, therefore, a letter, public and for the court, covering substantially all they ought to desire. If the papers which were enclosed in Wilkinson's letter may, in your judgment, be communicated without injury, you will be pleased to communicate them. I return you the original letter." [13]

Stemming from Jefferson's declarations on executive privilege a question began to emerge which ultimately has become the focal point of discussion among historians and constitutional scholars today. Although numerous long and weighty expositions have attempted to trace the degree of compliance exhibited by President Jefferson to the subpoena for the Wilkinson letter of October 21, 1806, a wide range of opinion still exists. Yet extensive research has disclosed a number of apparently incontrovertible facts. The original copy of the subpoenaed October 21, 1806 letter from General Wilkinson to President Jefferson was never found, as Jefferson explained in his letters of the 17th, 21st and 23rd of June to Hay and Wilkinson.[14] An authenticated and complete copy of this letter, however, was presented as evidence before the Grand Jury prior to Burr's treason trial [15] and later during his subsequent misdemeanor trial.[16]

Apparently, confusion has arisen over the Wilkinson letter because of the incomplete condition of the records of Burr's trials,[17] and the fact that on September 4, 1807 (during the misdemeanor trial) Burr requested a second letter from Wilkinson to Jefferson dated November 12, 1806.[18] Although this second letter was not specifically requested by Burr in his original motion, his right to make such a request was not questioned. Hay, however, did explain that President Jefferson had devolved upon him the authority, which constitutionally belonged to the President, to withhold those portions of correspondence not relevant to the case now being tried. The accuracy of his judgment in this regard, Hay explained, he was "willing to refer to the judgment of the court, by submitting the original letter [of November 12, 1806] to its inspection." [19]

Burr's attorneys argued that the President's power of discretion could not be passed on to Hay.[20] Chief Justice Marshall subsequently upheld the contention of the defense by declaring that "In this case . . . the president had assigned no reason whatever for withholding the paper called for. The propriety of withholding it must be decided by himself, not by another for him." [21] Thereupon "Hay stated that there was one passage in General Wilkinson's letter [of November 12, 1806] which he was certain the President himself would hold back." [22] As a result he would not turn over that letter to the defendant, but "would immediately send an express to Monticello for instructions . . ." [23]

On September 9, 1807 Hay reported the response of President Jefferson. After reading the correspondence from the President,[24] "Hay observed, that in his own and in the President's extracted copy from Gen. Wilkinson's letter [of November 12, 1806] there was not a variation of more than ten or fifteen words; the omitted passages were, indeed, so manifestly improper to be submitted to the court." [25]

Three times thereafter (during the misdemeanor trial) the Wilkinson letter of November 12, 1806 was discussed. On September 16, 1807 Burr again stated his dissatisfaction with the abbreviated version of the letter of the preceding November that was submitted to the court; [26] and on September 29, 1807 defense attorney Wickham in his cross-examination of General Wilkinson asked if Wilkinson could turn over a complete copy of that letter to court. Hay at that point protested, citing the President's correspondence. Chief Justice Marshall apparently then closed the issue. Marshall "remarked that after the president had been consulted, he could not think of requiring from General Wilkinson the exhibition of those parts of the letter [of November 12] which the president was unwilling to disclose." [27] By the first of October when the contents of the November letter were again discussed the disclosure of the complete letter had apparently ceased to be an issue.[28]

Unwilling to attend the trial yet cooperative to a large degree, the President had exercised his allowable option under Marshall's opinion. Although Jefferson believed that it was "the necessary right of the President of the U.S. to decide, independently of all other authority, what papers coming to him as President, the public interest permits to be communicated and to whom," [29] he apparently made available a majority of the records sought by the Court. Unfortunately, a complete list of the documents forwarded apparently does not exist. And a record of the parts of Wilkinson's letter of Nov. 12, 1806 which were withheld by Hay and (later) by Jefferson likewise is unavailable.

FOOTNOTES

[1] David Robertson. Reports of the trials of Colonel Aaron Burr for treason, and for a misdemeanor. Vol. I Philadelphia, Pennsylvania: Published by Hopkins and Earle. Fry and Kammer, Printers [1808] pp. 113–114.

[2] *Ibid.*, p. 114.

[3] *Ibid.*, p. 119.

[4] *Ibid.*, p. 118.

[5] *Ibid.*, p. 181.

[6] *Ibid.*, p. 182. See also Thomas Perkins Abernethy. The Burr conspiracy. Gloucester, Massachusetts: Peter Smith [1968] p. 238; and Robert K. Faulkner. John Marshall and the Burr trial. The journal of American history, v. 53, No. 2, September 1966: 257.

[7] John Hay to Thomas Jefferson, June 9, 1807, Thomas Jefferson Papers, Manuscript Division, Library of Congress.

[8] Thomas Jefferson to John Hay, June 12, 1807, Paul Leicester Ford, ed. The writings of Thomas Jefferson, Vol. IX, 1807–1815. New York: G. P. Putnam's Sons [1898] p. 55.

[9] *Ibid.*, p. 55–56.

[10] Thomas Jefferson to John Hay, June 17, 1807, P. L. Ford. The writings of Thomas Jefferson. Vol. IX, p. 57.

[11] Thomas Jefferson to John Hay, June 20, 1807, P. L. Ford. The writings of Thomas Jefferson. Vol. IX, p. 60.

[12] Thomas Jefferson to John Hay, September 7, 1807, P. L. Ford. The writings of Thomas Jefferson, Vol. IX, p. 63.

[13] *Ibid.*

[14] Thomas Jefferson to John Hay, June 17, 1807, and June 23, P. L. Ford. The writings of Thomas Jefferson. Vol. IX, pp. 56, 61; and Thomas Jefferson to General James Wilkinson, June 21, 1807, H. A. Washington, ed. The writings of Thomas Jefferson. Vol. V Washington, Published by Taylor and Maury [1853] p. 109.

[15] General Wilkinson testified on September 29, 1807 that a copy of his October 21, 1806 letter to President Jefferson had been given to the Grand Jury. For the text of that disclosure see: T. Carpenter. The Trial of Col. Aaron Burr on an indictment for treason before the Circuit Court of the United States, held in Richmond, (Virginia) May term 1807: including the arguments and decisions on all motions and trial, and on the motions for an attachment against Gen. Wilkinson. Vol III. Washington City, Printed by Westcott and Co. [1808] p. 254.

[16] For the details on how the October 21, 1806 letter from General Wilkinson to President Jefferson became a part of the record of misdemeanor trial see: T. Carpenter. The Trial of Col. Aaron Bur. Vol. III. pp. 38–46. For a complete copy of the letter see: James Wilkinson to Thomas Jefferson, October 21, 1806, U.S. Department of State: Letters in Relation to Burr's conspiracy 1806–1808, Manuscript Division, Library of Congress.

[17] David Robertson's Reports of the trials of Aaron Burr is most frequently cited as documentation for discussions on the Burr trials; however neither Robertson's work nor the records of the Burr trial held by the Virginia State Library in Richmond accurately describe events after September 9, 1807. Only the out-of-print three-volume work by T. Carpenter, The Trial of Aaron Burr, details the events of Burr's misdemeanor trial into October of 1807.

[18] D. Robertson. Reports of the trials of Aaron Burr. Vol. II. p. 504.

[19] *Ibid.*, p. 514.

[20] *Ibid.*, p. 512.

[21] *Ibid.*, p. 536.

[22] T. Carpenter. The trial of Col. Aaron Burr. Vol. III. p. 38.

[23] *Ibid.*

[24] Thomas Jefferson to John Hay, September 7, 1807, P. L. Ford. The writings of Thomas Jefferson. Vol. IX, pp. 63–64.

[25] T. Carpenter. The trial of Col. Aaron Burr. Vol. III, p. 46.

[26] *Ibid.*, pp. 111–112.

[27] *Ibid.*, p. 254.

[28] *Ibid.*, pp. 265–266.

[29] Thomas Jefferson to John Hay, June 7, 1807, P. L. Ford. The writings of Thomas Jefferson. Vol. IX. p. 55.

THE ADVENTURES OF RANGER FORD

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mrs. HECKLER of Massachusetts. Mr. Speaker, as you know, the Congress is now investigating the background of our colleague, the Honorable Jerry Ford, prior to voting on whether to confirm his nomination as Vice President. An interesting sidelight of Jerry's past—his service as a seasonal ranger at Yellowstone National Park—has been kindly brought to my attention by National Park Service Director Ron Walker.

The latest edition of the NPS newsletter contains a fascinating account of Jerry's activities riding shotgun on a bear-feeding truck, his courtly service dancing with unescorted young ladies, and above all, his coolness under stress. Here, for the enjoyment and information of our colleagues, is the newsletter story on the "Adventures of Ranger Ford":

Vice-President-Designate—Jerry Ford—"A Darned Good Ranger"

(By Jean Bullard)

Gerald R. Ford will be the first National Park Service seasonal ranger to become Vice President of the United States if his nomination is confirmed. His name has become familiar to most Americans recently, but few of us in the Park Service realize that Jerry Ford was a seasonal ranger at Yellowstone the summer of 1936.

"One of the greatest summers of my life," Jerry Ford responded enthusiastically to a query from the Newsletter about his summer as a ranger.

This answer was delivered by his wife, Mrs. Betty Ford, who invited me with a warm welcome to the Ford's home in Alexandria, Virginia. She said that the Yellowstone summer was one often mentioned in the Ford family.

Among the favorite bedtime stories of the four Ford children, Mrs. Ford explained, was the one their father used to tell about his adventures as a ranger feeding the bears at Yellowstone.

"Of course we realize that rangers feeding the bears at Yellowstone is a thing of the past," Mrs. Ford quickly explained.

At that moment her tall blond son, Steve, 17, a senior at local T. C. Williams High School, entered the living room. Mrs. Ford asked him, "Steve, do you remember your father's Yellowstone stories?"

"You mean the bear tales? said Steve with a smile. "I sure do."

Mrs. Ford mentioned that the influence of the west and the parks has been evident in the whole family. She said that the Ford's second son, Jack, 21, a forestry student at Utah State University, spent last summer working in Utah for the U.S. Forest Service in a position similar to his father's Park Service job.

Mrs. Ford generously lent the Newsletter their only photo of Jerry Ford in his NPS ranger uniform. The other photo of the Canyon District rangers and ranger naturalists (see page 7) was obtained from Frank Anderson through the persistent efforts to locate him by Else Doherty, park technician, PNRO.

The Newsletter contacted several men in the photo to learn more about that summer in Yellowstone.

"Jerry was a darned good ranger," said his former supervisor, Canyon District Ranger Frank Anderson, now retired. "I had a letter from Jerry just last August mentioning his fine memories of that summer we shared in Yellowstone."

Among the duties Frank assigned to Jerry was the task of armed guard on the bear-feeding truck. Every evening visitors were fenced-in in an area with benches while grizzly and black bears roamed free when they appeared about 7:30 p.m.

The ranger truck would drive into the garbage pit to feed the bears while Jerry rode in the back with a gun in case there was any trouble. He never did have to fire a shot but there were some close calls.

Another ranger duty was meeting the VIPs at Canyon Hotel and Lodge, a job that called for someone who could meet people well and who had a very neat appearance in uniform. "When I asked Jerry to do the job," Frank explained, "he said he felt it was undemocratic and un-American to give special attention to VIPs, but he did the job and did it well."

Everyone contacted mentioned the evenings they used to hold wrestling matches among themselves and with some of the road crew in the community room of the ranger station. One night the conversation turned to football and Wayne Repogle suggested that Jerry Ford demonstrate a straight-on tackle.

Ford gave an energetic try and both he and Wayne went right through the thin masonite wall into the next room. There followed a great scramble to repair the damages before arrival of the chief ranger.

Wayne Repogle, senior seasonal of the group, roomed with Jerry Ford in the ranger station and frequently shared duties with him.

"I never saw Jerry show any excitement or emotion during a difficult rescue or at other times of stress," said Wayne.

"He would always say, 'Calm down everybody. It'll turn out all right.' He was always so reliable that we looked to him to get difficult assignments done right, even though he was one of our youngest rangers that summer.

"In those days," continued Wayne, "rangers were on duty 24 hours a day, seven days a week. You could not get out of uniform without permission from your district ranger who in turn had to clear it by phoning the chief ranger at Mammoth.

"Even to go on a picnic you had to ask for permission and then tell where you were going, who with and when you would return. Jerry was handsome and young, maybe 24, and with the girls he was the most popular of us bachelors that summer.

"He was frequently chosen for dance duty. This meant spending the evening at the lodge or the hotel in uniform all cleaned and pressed with riding boots polished with a clean white dress shirt and green tie. Daytime shirts were grey wool.

"Visitors really flocked around and would often ask pointless questions just as an excuse to say that they had talked with a ranger."

One duty Jerry liked was the early morning check, about 5 to 7 a.m., of every auto in camp. Rangers recorded the make, state and license number of each vehicle and type of tent. Wayne said, "We had to run most of the time to get 150 to 200 licenses listed in two hours."

"Jerry, a football player, was in good shape and enjoyed this early duty. In fact he was fine company because he genuinely enjoyed just about everything we rangers had to do," Wayne concluded.

MEDICAL EMERGENCIES IN THE SNOW

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. WALSH. Mr. Speaker, the combination of heavy snow and a medical emergency can be a serious problem indeed. A problem that all levels of government, the medical profession, and countless volunteer and professional agencies dealing with health have been trying to solve for years.

In Syracuse, N.Y., my hometown, a detailed plan has been worked out and will get its first serious test this winter. A recent article in the American Medical News detailed this plan and I would like to share that article with my colleagues:

Medical Emergencies in the Snow

Every winter, a cold wind sweeps across Lake Ontario and dumps an average of 135 inches of snow on the unlucky residents of Syracuse, N.Y., and surrounding communities.

And that's a serious medical problem. Emergency treatment systems that run smoothly under normal conditions simply won't function in a snowstorm—an almost weekly occurrence in Syracuse. Ambulances won't run. Power goes out. Phone lines go down. People get stalled, stuck and lost.

But thanks to the Onondaga County Medical Society, the 415,000 citizens of that county will be getting medical care when they need it this winter, snow or no snow.

Using automobiles, sled ambulances, snowplows, two-way radios, and hundreds of volunteers, the society's "snow emergency medical program" can dispatch physicians and nurses to isolated places to aid the ill and injured and provide other health services—even during blizzards.

It's a cooperative effort, involving about 80 physicians, 225 nurses, 54 fire departments, four ambulance services and scores of firemen, municipal crews, and rescue units—all unpaid volunteers, working on their own time.

In fact, one of the project's interesting features is that it won't cost the taxpayer a cent, since all services and equipment are donated, and the medical society pays for the medications and supplies used by the physicians and nurses.

The entire project, under the direction of Edward D. Sugarman, M.D., a Syracuse orthopedic surgeon, was started and organized by the county medical society. It's a remarkable demonstration of close cooperation between individuals and a large number of public and private agencies.

Dr. Sugarman said the program has actually been operating for two years, though this winter the system has been expanded to operate county-wide. It was ready to go last winter, but Onondaga County was fortunate in having an unusually mild winter.

However, "test runs" conducted in previous winters prove that volunteer systems work, as when a sudden blizzard isolated a small town 30 miles south of Syracuse two years ago. The emergency units quickly reached the town, established communications with outlying areas, and set up overnight aid facilities.

The goal of the program is to insure that emergency services are available when heavy snowfall brings normal emergency systems to a grinding halt. For example, when illness or injury strikes a snowbound farm, participants work together to find out about it and dispatch a nurse or physician—aboard a snowmobile, if necessary—to bring help.

THE RED CHINESE SPEND MILLIONS ON PROLETARIAT HOUSING IN WASHINGTON

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. RARICK. Mr. Speaker, the most recent and tangible evidence of expanded United States-Red China relations is the multimillion-dollar purchase of a large Washington hotel to house Peking's growing diplomatic mission to the United States.

The 50 people of the Chinese delegation have apparently outgrown their old quarters at the Mayflower Hotel. China-watchers view this move to the 400-room Windsor Park Hotel as a major step toward full-scale diplomatic relations. The staggering sale price, reported at between $5 and $6 million, makes it evident that the Red Chinese plan to make their mission more than just unofficial.

Connecticut Avenue, in the exclusive Northwest section of Washington, is a far cry from the "proletariat housing" found in other areas of the Nation's Capital. Apparently, "the people's representatives" have been influenced to some degree in their taste for housing by the "running dogs of capitalism."

I include the related newsclipping at this point:

[From the Washington Post, Nov. 18, 1973]

CHINESE BUY WINDSOR PARK HOTEL

(By Judy Luce Mann)

The People's Republic of China has signed a contract to purchase the 400-room Windsor Park Hotel for use as a chancery and residence for its expanding liaison staff.

The purchase price could not be ascertained, but an industry source who was asked to act as a real estate broker for the hotel earlier this year put the price at between $5 million and $6 million.

The purchase comes in the wake of an announcement on Nov. 14 that the United States and China have agreed to expand and upgrade their liaison staffs in Peking and Washington. The move was viewed by observers as a major step toward full diplomatic recognition and the establishment of embassies between the two countries.

The Chinese delegation in Washington, about 50 people, has been using space at the Mayflower Hotel. The delegation has been looking for permanent facilities since last April.

Hampton Davis, a State Department protocol officer, said members of the delegation looked at the Windsor "quite early. They've been considering this one for six months or so." Real estate agents were invited to submit facilities for consideration and the State Department also gave some suggestions as to properties, Davis said.

"They wanted to have a place where they could combine offices and residence for people. They were hoping to have some space around this for a garden. This necessarily represents some compromise," Davis said.

The hotel, at 2300 and 2310 Connecticut Ave. NW, has about 400 rooms, a Korean restaurant, newstands, a gift shop and reception rooms. It does not have space for large formal gardens.

Wallace B. Agnew, a real estate broker in the District, who was asked to sell the hotel earlier this year, said yesterday the Chinese paid "a lot more for it than it's worth because they needed a place badly. They had to buy something they could move into that was already furnished. It would be hard to find all that many rooms ready to go, with linen service and telephones in all the rooms." He estimated the sale price at between $5 million and $6 million and said a sale price of $4 million would be "pretty high."

The hotel is owned by Bernard Bralove and Stafford Fletcher, who also manages it. Bralove refused to disclose the purchase price. "I'm not going to give you any idea of the price. I don't think it's anybody's business," he said. Settlement on the contract has not been made, so it does not show up on public records.

Bralove said that none of the current occupants of the hotel hold leases but he would not disclose how soon they would be moving out and the Chinese delegation members moving in, saying such information should be disclosed by the Chinese.

Members of the delegation could not be reached for comment. However, a State Department official said he understood that some members of the delegation are scheduled to move in this week.

Attorneys for the Chinese asked the District board of zoning adjustment Wednesday for a special exception to establish a chancery and residential facility at the hotel. The board granted a similar exception on Sept. 19 for use of a limited portion, the "executive wing," of the hotel as a chancery.

At that time, only one person questioned the request, wanting to know if the property would be kept up.

The brief filed with the board Wednesday states that "upon further investigation and examination" of the site, "the liaison office has determined that the purchase of 2300 Connecticut Ave. . . . permit larger accommodations for residential uses and a larger area for chancery uses."

The brief also states that the "major portion of both premises will continue in residential uses, serving the chancery staff, supporting personnel and their families." The board is scheduled to act on the request Tuesday.

KINDERGARTEN CLASSES ARE RESCHEDULED TO SAVE GASOLINE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BRECKINRIDGE. Mr. Speaker, I submit for the information of my colleagues the action of Kentucky's Montgomery County School Board in adapting the school program to meet the exigencies imposed by the petroleum shortage, as outlined in the Lexington Herald of November 22, 1973.

While our people are concerned about the disruptive effects of the possible imposition of national daylight saving time, I deem the action of the Montgomery County Board of Education a refreshing reminder of our people's ability to adjust to the needs of the times.

KINDERGARTEN DAYS REVISED TO SAVE GAS

MT. STERLING, KY.—Classes of the kindergarten of the Montgomery County school system will be rescheduled after the first of the year to save gasoline.

The Board of Education at a special meeting voted to hold classes for half of the children during regular school hours on Monday and Tuesday and half a day Wednesday, and the other half Wednesday afternoon and all day Thursday and Friday beginning Jan. 7. At present half of the pupils are attending in the morning and the other half in the afternoon.

Board members also agreed that gasoline for school trips be purchased at nearby service stations in order not to use the school's allotment.

In the event the nation goes back to Daylight Saving Time the schools will open an hour later, at 9 a.m., and close at 4 p.m.

The board voted to purchase four new 66-passenger buses with automatic transmissions and awarded the Bailey Nursery, Mt. Sterling a $1,355.75 contract for landscaping at the new junior high school.

SOUTHERN BAPTIST FELLOWSHIP BREAKFAST

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. TEAGUE of Texas. Mr. Speaker, on October 30, 1973, the Members of Congress were invited to a breakfast in the Members private dining room to share fellowship with some distinguished visitors. The visitors included: Owen Cooper, president, Southern Baptist Convention; Cecil E. Sherman, pastor, First Baptist Church, Asheville, N.C.; and C. Welton Gaddy, director of Christian Citizenship Development, the Christian Life Commission of the Southern Baptist Convention.

The visitors at the Southern Baptist fellowship breakfast spoke on the subject "Focus on Intergity." I would like to share their remarks with you, other Members of Congress, and the general public because they can be an inspiration to each of us.

The remarks follow:

INTEGRITY: CHALLENGE TO A NEW COMMITMENT

As you well know, no one Southern Baptist can, or would even attempt, to speak for any other Southern Baptist much less the Convention as a whole. However, out of my involvement in the structures of this denomination and as a result of the many personal acquaintances which I have made, there are some things which I have come to know about Southern Baptists and thus some things about which I feel comfortable to speak.

In relation to government, the history of Southern Baptists is one marked by unflinching patriotism, sincere prayerful support, and individual political involvement. Members of this denomination have effectively served in the highly esteemed offices of the federal government, even as you are now serving, as well as in the state capitols and county court houses across our land. At present, my home state of Mississippi is governed by a dedicated Christian who is a faithful Southern Baptist church member.

Southern Baptists are deeply concerned with biblical morality and we desire to see this morality embodied in those who lead our nation. The support of the people in the 33,000 churches of our Convention will almost invariably be behind those politicians whose words resonate with honesty and whose lives exhibit integrity. As you know, we are a people who quickly grow impatient with anyone who attempts to use the processes of government for personal gain, deceive the voters, or violate the basic personal rights and liberties given to us by Almighty God and guaranteed for us by the Constitution.

None of this is new. None of this is partisan. The disturbing events of recent weeks have provoked outcrys of dismay because of their obviously illegal and unethical nature. Southern Baptists join in a plea for recommitment to the basic moral principles upon which our government has traditionally stood. This plea grows out of time-tested convictions which antedate Watergate or any other contemporary event.

We have come here today with at least a partial understanding of the present dilemma of persons like yourselves who seek to serve the nation in government. Because of the recent tragic events, public distrust of governmental leadership and cynicism regarding the political process have increased. These matters are disturbing to us even as they are to you. We still believe in this government's ability to function effectively and justly. We want to encourage the citizens who attend our churches to not withdraw but to involve themselves even more integrally in the political process. You, who serve here day in and day out, can count on our prayerful support, especially in times of crisis but at other times as well.

We believe that whatever measure of greatness America has achieved is in no small way related to dynamic moral leadership and an abiding national commitment to such matters as integrity, personal liberty, justice, and equality. Persons like yourselves help us be assured of the continuation of that leadership and commitment. We take pride in knowing that there are so many Southern Baptist Senators and Congressmen as well as other outstanding Christian leaders serving in the United States government.

Let me thank you for being here this morning in order that we might share in a time of Christian fellowship and join together in praying for our nation and each other. At the same time, let me encourage you to keep open the lines of communication between yourselves and the spiritual leadership of our Convention,. We will seek to be more faithful at this point ourselves. My prayer is that we may all so carry out our responsibilities in relation to government that God may be glorified in our nation, strengthened as a guarantor of liberty and justice for all. Count on us to be praying for you and call on us if there are other ways in which we can be of help.

INTEGRITY: SPIRITUAL DIMENSIONS

(By Cecil E. Sherman)

My friends, I have waited for this day for all of a lifetime. Finally, the tables are turned. You see, I have listened to Senator Tom Connally address the students of Baylor University. I stood in a Texas "norther" to hear Senator Lyndon B. Johnson speak at the State Fair of Texas. I've heard Congressman Roy Taylor numerous times as he goes about his district in Western North Carolina. But at no time have I ever had a "captive audience" of congressmen and senators listening to me. I don't intend to misuse the moment.

I have pondered long about the words I have chosen. The crisis in confidence that surrounds government has such an obvious spiritual dimension. I am a preacher. Sin, truth, deceit, and integrity: these words are the stuff of my profession. Rather than give you a preachment, I think I shall tell you a personal story.

While I was a seminary student in Fort Worth, Texas, I was also the pastor of a very small open-country church in Fannin County, Texas. Some of you may recall that Fannin County was the home of Sam Rayburn. I would drive back and forth from Fort Worth to that open-country church each weekend. The round trip was 300 miles. I did this for four years: 1950 until 1954. I lived in the homes of the farmers. I came to know those people like no other people I have ever pastored. Most of them were trying to stretch the family farm through one more generation. Some were still plowing with mules. Fun was Saturday afternoon in town buying groceries and going to a "shoot-em-up" movie. Saturday night was spent listening to Grand Ole Opry and playing dominoes. I was not reared on the farm, but I came to love those people and their simple kind of life. Religion was big with them. Most of them "got religion" during the summer revivals, and they knew that they were supposed to live with their wife, care for their children, tell the truth, work for their living, and love their country. It was a pretty simple and straight-forward way of living. On the last Sunday in August of 1954 I left those people. I was going to graduate school at Princeton Theological Seminary in Princeton, New Jersey. I was also to be the chaplain to the Baptist students of Princeton University.

I cannot imagine a more severe and total change in congregations. From farmers in a backwater of Northeast Texas to the urbane and very sophisticated students of an old Ivy League university. I had never been to Princeton. I was afraid and unsure of myself. Surely among all of these very intelligent people I must change my message, I reasoned. And for awhile I did bend. But slowly this truth dawned upon me: the students at Princeton were remarkably like the people in my country church. Farmers are tempted to cheat. Students are tempted to cheat. Farmers have ways they avoid social responsibility. Students can retreat from the hard parts of "loving your brother." People are people and being a Christian is just being a Christian wherever you are.

Some of your people probably came from simple homes and godly people. Somebody has trusted you; that is how you got elected. Now you live in the fast swirl of Washington. The ways to be dishonest are more subtle. The penalties for wrongdoing are not precise. The example of some in high places is not helpful. What is a politician who wants to be honest to do?

I think the answer does not lie in new theories about ethics. Our wisdom comes from the Bible. We are to love God. We are to place our loyalty to him above all other loyalties. We are to live simply, for the clutter of many things will corrupt us. We are to tell the truth. We are to honor our families. We are to live temperate lives. We are to love our neighbors as we love ourselves. We are to "bear one another's burdens." These are the great ideas of any ethic. These are the moral principles which all Americans need to see and a large majority of Americans want to see embodied in their governmental leaders. These great ideas, so frequently acclaimed, must be as frequently practiced. Seldom has there been a more opportune time for Christian statesmen to assert strong moral and spiritual leadership in accord with these principles than the present.

Coming to Washington does not change anything. It does not alter moral demands, though it could increase our tolerance for something less than the ethic of which I have just spoken. When I went from the country to Princeton, I found that really nothing had changed. I hope that you people who have come from the heartland to Washington and that the rest of us who are still trying to be responsible Christian citizens out at the grassroots are being controlled by those great Bible ideas that we learned from our homes and churches when we were children. If we are, I can hope again for my country.

PRAYER FOR INTEGRITY

(By C. Welton Gaddy)

Our Father, we are in trouble. We humbly seek your help. We pray that integrity may be established as the characteristic of our words, the mark of our behavior, indeed as the life-style of our nation.

We pray for our nation—that the erosion of credibility between citizens and governmental officials may be arrested before the gap becomes a canyon;

that the leaders of our country may, by both words and deeds, reestablish the importance of honesty in national affairs and in personal matters;

that the laws of the land and the institutions which implement their intent may be spared manipulation for personal gain and utilized for justice and the public good;

that the trust of our republic may not be limited to that power which is measured in megatons or to that wealth which is reflected in the Gross National Product but that it may rest in You;

that our commitment to honesty, our pursuit of justice, or elimination of discrimination, our support of freedom, our efforts at world peace, may be of such a nature as to assure us a place of moral leadership in the international community.

We pray for the citizens of our nation.

Lord, our trust has been ruptured by double talk and immoral behavior on the part of persons within high echelons of government.

Our minds are troubled by a tumult of crises.

Our wills are frustrated as we vascillate between a sense of importance as citizens and a sense of futility.

We are in desperate need of your help.

Forgive our worship of a civil religion which equates nationalism with Christianity, confuses governmental policy with your will, and interprets patriotism as blind allegiance.

Disturb any apathy concerning the political arena until complacency becomes creative involvement in politics on behalf of basic morality.

Translate our political cynicism into a responsible citizenship which persistently works at every level of government, supporting that which is right and challenging that which is wrong.

We pray for the leaders who have gathered in this room—

that they may ever be cognizant of your support even as of your expectations for them;

that they may be among those in this 93rd Congress who by moral leadership secure once again the shaking foundations of this democracy.

May their faith be a source of courage and their communion with you a source of strength.

Now keep us disciplined in our followship of the One who was the incarnation of integrity, the One who thus can make us free. Amen.

WISDOM FROM YOUTH

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. McSPADDEN. Mr. Speaker, I include the following: Part of a letter from Tracy Taverner, Student Energy Crisis

Day Committee Chairman, Sooner High School, Bartlesville, Okla.

DEAR MR. MCSPADDEN: The students of Sooner High School in Bartlesville, Oklahoma, have become deeply concerned with the increasing lack of energy facing our nation today. Because of this concern, we, the Sooner student body, have decided to set aside Thursday, November 29, 1973, as "Energy Crisis Day."

Our goal is to make ourselves and others more aware of the national problem of the lack of energy and how we, as high school students, can help our country to conserve the nation's natural energy and to convince other high school students to do the same.

To accomplish this purpose, we have planned and organized a student body march, to be led by the Sooner Spartan band, from a local church to school, the purpose being to conserve the gasoline used daily by Sooner students in their travels to and from school. Lights, heat, and most electrical appliances will be shut off at Sooner during the day.

Sooner students are issuing a challenge to every high school in the nation to take up the crusade to encourage the youth of today to conserve our natural resources. Although we realize that the energy saved on this day by our students will not make a significant difference in the energy crisis, it is our hope that through these efforts we will inspire other schools to follow the example in conserving energy so vital in our nation's existence. We feel " 'tis better to light one candle than to curse the darkness." . . .

Yours sincerely,

TRACY TAVERNER,
Student Energy Crisis Committee Chairman.

PRESENT LAWS DISCOURAGE ENERGY SAVINGS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. LEHMAN. Mr. Speaker, the realization that the energy sources upon which we depend may well be either depleted or unavailable sometime in the future has encouraged many of us to begin to look more closely and with more enthusiasm as the vast possibilities of solar energy.

While science and industry press on to find cures for the energy crisis, we should examine our present laws to see if they inadvertently discourage energy savings. One such area is title II of the National Housing Act under the Federal Housing Administration.

As the law now reads, the ceiling on mortgages dissuades homebuyers from installing energy conserving devices because of their higher initial cost. In the case of a single family dwelling, the maximum FHA insurance is $33,000. Presented with either a short term capital savings or a lower fuel bill in the future, the average consumer will take the former to keep near the $33,000 limit.

The long-term effect of the limited ceiling discourages sales of solar energy devices, and also discourages research into what companies see as a deadend market. With fuel costs certain to rise, and in the interests of reaching self-sufficiency in energy, it is time to encourage the regrowth of the solar energy business by granting dollar for dollar rises in the FHA ceilings for solar energy devices approved under the provisions of my bill.

It is obvious that there is enough solar energy to meet our demands. Even if our demand were increased to the ultimate saturation level estimated at 45 kW person, which is 22 times the present level, and even if our population grew to 500 million persons, only 0.3 percent of the solar energy coming in contact with our land would be needed to fill the resulting enormous demand.

Some 2 trillion kilowatt hours—kWh—of electrical energy were used in the United States in 1970. Incident solar energy in our deserts averages some 2,000 kWh per year per square meter. Simply put, our electrical energy consumption was equivalent to the solar radiation falling on only some 400 square miles of desert.

The Solar Energy Panel in the White House has identified three broad applications of solar energy. These are: First the heating and cooling of homes and commercial buildings, second, the chemical and biological conversion of organic materials to liquid, solid, and gaseous fuels, and, third, the generation of electricity.

Some 15 percent of our present energy consumption, electric and otherwise, are used today for space heating and cooling. This percentage represents a larger share than our total electrical power generated today.

Rising fuel costs are beginning to make solar energy feasible for space heating. Already it is less expensive than electric heating in many areas, such as New Mexico and Arizona, and even Miami. Office buildings are especially suited for solar heating and air-conditioning, because they are used most heavily during daylight hours.

There are even a few companies which manufacture solar water heaters in the United States. Before natural gas became widely available in Florida, for example, one solar water heating company sold more than 60,000 units.

There are seven prime factors which enter into the cost of a solar-run home: the cost of the solar system, the cost of money or interest rates, the lifetime of the components of the solar system, maintenance, taxes and insurance, and the annual average of the energy collected by the system.

One scientist estimated that with the current state of the art, the cost of a solar electric/thermal system for a single family dwelling would exceed a conventional system by approximately $3,000. Setting the interest rate at 6.5 percent, with 2.5 percent levelized amortization, and an average 3 percent maintenance and insurance charge, the cost of energy for such a home would be about $360 per year. This represents about 12 percent of the initial cost. However, increased production and advances in technology would reduce this price.

Erich Farber, who is the director of the solar energy laboratory at the University of Florida, is well aware that installation costs of a solar system run about eight times as high as for electrical systems and about twice as much as for gas. But he also estimates that a solar system will pay for itself in 7 or 8 years.

For most uses, the cost of converting solar energy to useful forms of energy is now higher than conventional sources, but with the increased prices of conventional fuels, shortages of those fuels and constraints on their use, it will surely become competitive in the near future.

Solar energy also sustains the winds. It is estimated that the power potential in the winds over the continental United States, the Aleutian Islands, and the eastern seaboard is about 10^{11} kilowatts of electricity. Winds are both repeatable and predictable, and the momentum could be extracted from the moving air by momentum-interchange machines located in places such as plains, valleys, and along the continental coast shelves.

The Solar Energy Panel has concluded that with adequate research and development support over the next 30 years, solar energy could provide us with at least 35 percent of the heating and cooling needs of future buildings, more than 30 percent of the methane and hydrogen we need for gaseous fuels, and eventually, greater than 20 percent of the electrical power we need. All of this could be done with a minimal effect on the environment and a substantial savings of nonrenewable fuels.

H.R. 11566

A bill to direct the Secretary of Commerce to research and develop new building designs and construction methods which utilize solar energy and to authorize the Secretary of Housing and Urban Development to increase the maximum amount of mortgages insured under title II of the National Housing Act for certain facilities utililing solar energy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Energy Act of 1973".

SEC. 2. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary") shall conduct research into how solar energy can be used to heat and cool buildings and shall collect appropriate weather data for the various climatic regions of the United States for the purpose of determining the extent to which reliance upon solar energy is feasible in each region.

(b) The Secretary shall—

(1) develop and test new building designs and construction methods which involve the utilization of solar energy equipment such as solar collectors, heat storage units, heat exchangers, absorption refrigeration equipment, and auxiliary heat supply facilities;

(2) prescribe standards and specifications for such building designs and construction methods; and

(3) specify the climatic regions of the United States where the use of such building designs and construction methods is practicable.

(c) The Secretary shall issue initial standards under subsection (b)(2) of this section not later than one year after the date of enactment of this Act. Such standards shall be promptly published in the Federal Register and otherwise disseminated as widely as possible to the construction industry and to the general public.

(d) In carrying out the research, development, and testing required by this section, the Secretary shall consult with the National Aeronautics and Space Administration, the National Science Foundation, and other Federal agencies engaged in housing and building regulation.

SEC. 3. Title II of the National Housing Act is amended by adding at the end the following new section:

"HOUSING UTILIZING SOLAR ENERGY EQUIPMENT

"SEC. 244. In determining the maximum dollar amount of a mortgage which may be insured under any section of this title with respect to any dwelling or residence which involves a building design or construction methods which meet the standards and specifications prescribed by the Secretary of Commerce under section 2(b) (2) of the Solar Energy Act of 1973, the Secretary may increase the maximum amount of a mortgage which may be insured under such section with respect to such dwelling or residence by the amount by which (as determined by the Secretary) the cost of using such building design or construction methods exceeds the cost of using conventional building design and construction methods."

MURDER BY HANDGUN: THE CASE FOR GUN CONTROL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. HARRINGTON. Mr. Speaker, opponents of strict gun control legislation often contend that restrictions on private possession of firearms would unfairly deny homeowners the right to own handguns for self-protection. They claim that privately owned firearms are not a contributing factor to the crime problem. This allegation is tragically easy to refute. In almost any newspaper you pick up these days there is a story of an accidental shooting, which often results in death.

Citing a recent report, an editorial on the Washington radio station WTOP stated, "handguns kill friends and relatives and the users six times more often than the intruders." A recent newspaper story tells of a 12-year-old boy who was accidentally shot and killed by his 11-year-old playmate—just one illustration of the consequences of allowing the possession of handguns in the home.

Included below is the article from the November 6 Courier-News as well as the text of the WTOP editorial of November 13:

BOY, 12, SHOT

BRICK TOWNSHIP, N.J.—A 12-year-old boy was accidently shot and killed Monday by an 11-year-old playmate toying with his father's .38 caliber target pistol, police said.

Kenneth Beatty was shot in the right side of the chest in the bedroom of his friend's home, near his own home. Police say the gun was loaded with five rounds of target bullets.

The boys had stayed home from school and were watching television and listening to records alone in the house, police said. The younger boy went into his parent's bedroom and took the pistol from a closet shelf.

[A WTOP editorial, Washington, D.C.]

HANDGUNS SHOULD BE BANNED FROM HOMES AS WELL AS THE STREETS, NOVEMBER 13 AND 14, 1973

A recent study indicates that guns in the home are more dangerous than useful as self-protection.

A four-year survey showed that death from firearm accidents in the home was about six times more frequent than death from gunshot of burglars, robbers or intruders.

In fact, while death by accidental gunfire is still below the rates for auto and industrial accidents, it's increasing at much faster rates.

Furthermore, the overwhelming majority of these fatal firearm accidents resulted from *handgun* misuse.

This study is only one more piece of evidence that handguns should be banned, whether on the streets or in the home.

The only legitimate purpose that handguns in the home could have is to ward off intruders. But if handguns kill friends and relatives and the users six times more often than the intruders, they are grossly and tragically inefficient.

We are *not* talking about guns designed for reasons other than to kill people . . . such as hunting and sporting firearms. These guns are *not* the primary problem. We're talking instead about handguns, which exist basically for one reason: to kill people.

But more and more frequently, it seems, they are killing the *wrong* people.

Ridding our society of handguns is a cause we should keep alive.

This was a WTOP Editorial . . . Ray White speaking for WTOP.

SECRETARY MORTON BITES THE "ENERGY" BULLET

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. REGULA. Mr. Speaker, on November 15 the Honorable Rogers C. B. Morton, Secretary of the Interior, spoke to the Rubber Manufacturers Association meeting here in Washington, D.C. The subject of his address was the "energy crisis." Secretary Morton's call for a reorientation of American attitudes toward energy is a challenge that all of us share. I include the text of his address be at this point in the RECORD for all to read:

REMARKS OF THE HONORABLE ROGERS C. B. MORTON, SECRETARY OF THE INTERIOR, BEFORE THE RUBBER MANUFACTURERS ASSOCIATION, NOVEMBER 15, 1973, WASHINGTON, D.C.

The energy crisis, at least for many Americans, is still asymptomatic. The unequivocal facts of supply and demand, however, tell another story. The energy crisis is here, and within the next four to six weeks there is going to be more than enough evidence to convince any skeptic.

Let's not be mistaken, the energy crisis is cold, dark, and disquieting news. It isn't going to go away. And no one is going to be able to order, litigate, or legislate it away from your door by the end of the year.

We are transitioning from an era where energy was a "given" in every business, manufacturing, or personal decision we made, into a period—and I'm talking about the balance of the decade—where every product we build, sell, buy or use is going to have an energy price on it.

We are entering an era where government and industry will be talking about "regulating shortages" instead of regulating supplies.

We are crossing the threshold into an era with an altogether new and forgotten generation experience—rigid fuel allocations, and the growing possibility of fuel rationing. On a personal basis this means that there are no assurances that you can buy an unlimited supply of heating oil for your home, propane for your farm, gas for your car, or electrical power for your factory.

And when the short term aspects of this energy crisis are over we must all recognize that energy will cost more.

Let's examine the dimensions of our near term energy prospects.

First, our problem is neither physical, environmental, or geological. Instead, it is a function of *time*—and *economics*. It is a question of when we can bring new supplies to the market? And when we do, what kind of a price are we going to have to pay for it?

In the very short term, at least, we are going to have to make up the supply by managing the demand—and that means allocation *today*—and the *possibility* of some kind of rationing in the future.

Second, energy demand. The most evident reason for our current energy situation is that demand has been and is now growing at a geometric rate—doubling about every fifteen years. We have now reached the point where Americans will use as much energy in a year as half the rest of the world will use in the same period.

In fact, the 210 million people in the U.S. use more energy than the 500 million people in the other leading industrial nations including Germany, Great Britain, Japan and the Soviet Union combined.

Third, for a period of years—as far back as the mid-sixties—the U.S. has been moving away from energy self-sufficiency.

Since 1965, drilling activity for petroleum has been declining. And domestic oil production has continued to drop off, in spite of the fact that last year virtually all of our domestic wells were producing at 100 percent capacity.

Since 1968, we have been using natural gas faster than we discover it.

Coal—our greatest fossil fuel resource—has taken a declining share of our total energy supply because of technical, and environmental factors. Today, in fact, coal accounts for a smaller share of our energy supply curve, than it did twenty years ago.

And nuclear power provides a meager 1 percent of our total energy supply—about as much as we get from firewood.

The thing that is hard for all of us to understand is: How did these negative trends occur in this great land of plenty? We have nearly half the world's coal supply and many years reserves of oil and gas.

In the meantime, second generation energy sources such as fusion, solar energy, oil shale, and geothermal steam are still confined to the conceptual laboratory, or bench testing stage—in spite of all the wistful editorializing that "we plug into the sun, or make gasoline out of a top hat."

Fourth while energy supply and demand has continued to dance along a delicate razors edge, the Arab oil embargo exacerbated a shortfall situation.

In the last few years, we have continued to underwrite a growing chunk of our economy with foreign oil imports.

Up until 1972, we were able to meet about 80 percent of our petroleum import needs in the Western Hemisphere.

Since then, however, production in Venezuela has leveled; Canadian supplies are tightening up; and the only other future in our oil portfolio—Arab oil—has disappeared.

The recent hostilities in the Mid-East have turned the threat of oil diplomacy into reality. The Arab oil embargo means a loss of between 2 and 2¾ million barrels of oil a day—about a third of our total oil imports.

No matter how you add this up, we come up with a 12 to 15 percent shortage.

Whether we have an allocation program or not, I can promise you that consumption is going to drop by at least 2 million barrels a day by the end of the year.

And the reason it will drop is because we can't burn oil we don't have.

Even without the oil embargo—and it certainly hasn't helped—the oil import situation would have become tighter. The Arab members of the organization of petroleum exporting countries (OPEC) raised their prices 70 percent across the board in mid-October on top of sizeable increases earlier in the year.

All of these dimensions, consumption, supply, world market conditions, and a continuing trend away from domestic self-sufficiency bring us down to our only alternative: a thoroughly national effort to regain energy independence.

That is the program President Nixon called for last week. We need new legislation, new funding and, most important, new energy habits. That is what the President called for, and anything short of full support from everyone—the Congress, the private sector, and the consumer—could have severe consequences.

At the least we are going to have to use our finite energy resources as wisely and efficiently as possible. This means energy conservation, and an end to energy waste.

Let me be frank. No one I know of in Congress or in the administration wants to go to rationing. In fact, I would like to see us do everything within our grasp to keep from going to rationing. However, if the voluntary measures the President has outlined fail—and I hope they don't—we may find that there is no alternative except to go to rationing. The critical measure of whether that will happen is in the hands of the consumer. And with over 40 percent of our total energy supply going to industry—a large share of that decision is in *your* hands.

On the supply side, it is imperative that we accelerate the development and delivering of *all* domestic energy resources to the market.

A first major step will be to match our energy usage patterns with our energy resources.

Almost 90 percent of our domestic fossil fuel resources are coal. Yet American depends on natural gas and oil to meet almost 80 percent of our total energy needs, and coal's share is only about 17 percent. We may have to suffer a reduction in environmental quality temporarily—and this can be minimized—but anything less than a return to coal, will fail to see us through the near term.

We are going to have to accelerate the development of *all* energy resources. The President, for example, has called for tripling our outer continental shelf leasing programs to bring new supplies of natural gas and oil into the market.

It may seem incredible, but after almost two decades, less than 2 percent of the OCS has been leased. And to date, not a single exploratory well has been sunk on the Atlantic OCS.

We are going to have to bring new funding and greater momentum across the board in all of our energy R & D programs.

The perfection of coal gasification, for example, should enable us to convert coal into pipeline quality, synthetic gas. At expected rates of conversion, if our coal reserves were converted into gas, they would yield almost 6,000 trillion cubic feet of gas—many more than the world's known gas reserves of about 1,500 trillion cubic feet.

And the potential of oil shale, the breeder reactor, fusion, solar energy, and a number of other technologies still await economic development.

We are going to have to face hard decisions that lead to achievable goals within the inflexible constraints of time and money.

Many of these decisions will require accepting reasonable environmental tradeoffs and, for a brief period of time, harsh environmental impacts.

Still other decisions are going to call for massive amounts of capital, new funding, and a total reorientation of American attitudes towards energy.

One thing that we can be sure of, none of these decisions are going to be easy.

Most of these proposals require Congressional action. All of them, however, require the understanding, participation, and support of every facet of the American public.

Congress has shown a willingness to act to meet our national energy needs. Their action on legislation for the Trans-Alaska pipeline is a broad illustration of their necessary role in delineating a national energy policy. Hopefully, that momentum will extend to other critically needed energy legislation.

There is a limit, however, to what Government can do.

We know, for example, that many of our current energy dilemmas are the result of the infirmities of long-standing regulatory and economic policies which have retarded the development of our domestic resources.

Fortunately, there is still time—time to build new plants, time to develop new energy technology, time to match energy use with energy efficiency.

In the meantime, the dizzy economics of foreign oil have driven some of our new energy sources onto the edge of market economics. Oil shale, gasification and liquefaction processes for coal, and geothermal steam are ready to be brought to their potential—I say let's do it *now*.

Energy is the delicate sinew that binds our economy and our entire social system together. Without adequate supplies of energy, we have little hope of continuing our current way of life.

Our ability to produce needed raw materials, minerals, and even fibers, depends upon energy. The mining and minerals industries including fuels, for example, account for almost one-fourth of our total U.S. energy production.

Nothing, in my view, could be more disastrous than to create a severe and unwarranted disruption of vital business and production activity.

At the same time, however, we are going to have to take a hard and unbiased look at those operations that are not efficient—from an energy standpoint. And when we have to reduce energy supplies, ensure that we do it as equitably as possible.

Make no mistake about it. We are talking about jobs, about production, and about profits.

Fortunately, we still have a margin of time to re-evaluate, and re-examine our energy usage patterns. However, I would not be frank with each of you, unless I warned you that unless you do this, and do it *now*—more severe shortages could result in government stepping in and doing it for you.

It is a challenge that all of us share, and one that we can meet if we pursue it together—with a common spirit of determination.

PAUL A. KHASIGIAN BECOMES EAGLE SCOUT

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mrs. BURKE of California. Mr. Speaker, under leave to extend my remarks in the Record, I include the following:

Congress of the United States,
House of Representatives,
Washnigton, D.C.

Whereas, Paul A. Khasigian, son of Dr. and Mrs. Amos Khasigian of Ladera Heights, at the age of 13, has achieved the rank of Eagle Scout, highest rank a boy can attain in Scouting, and;

Whereas, Paul A. Khasigian, son of Dr. through the ranks of Scouting to the highest level attainable with 24 Merit Badges, while, at the same time, maintaining an outstanding scholarship record at Crozier Junior High School in Inglewood, and remaining active in Sunday School and Youth Service at St. James Armenian Apostolic Church, and;

Whereas, for his Eagle Service Project, Paul Khasigian, planned and directed part of a program for the cleaning and repair of the grounds of the historic Centinela Adobe, birthplace of the City of Inglewood.

Therefore, be it known this 20th day of November 1973, that we are in recognition of the outstanding accomplishments of this young man in the field of Scouting, and his exemplary conduct in his personal life, and further direct that this resolution be entered in the Congressional Record.

AMNESTY: AN ONGOING CRITICAL ISSUE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Ms. ABZUG. Mr. Speaker, amnesty remains an issue of grave concern to me and to the thousands of young men and their families who refused to participate in the war in Vietnam. As the author of legislation that would grant universal, unconditional amnesty to all those who refused to participate or cooperate in that war I am please to include in the Record a statement of amnesty that has been signed by many leading Americans. In its eloquent plea for reconciliation and its reiteration of basic American principles, it is worthy of note. I include it at this point in the Record:

Statement of Amnesty—October 1973

We ask again that the public and the government face the fact that for all that has happened in our Vietnamese war, only men who are young have been or are being punished; and that in disproportionate numbers these men are non-white and from low economic estate.

We are speaking of those men who are or were imprisoned for refusing induction; of those who expatriated themselves before or after induction or who have lived underground; and of those given "less-than-honorable" or other discriminatory discharges from the military.

We believe that justice—justice that is symmetrical in its equal treatment of all citizens—requires an unconditional amnesty, pardon, or fair restitution for all men who are charged with, may be charged with, or have been convicted for offenses arising out of their refusal to participate in the military action in Southeast Asia, or for offenses against military law while doing so.

A country which has found only a lieutenant guilty for My Lai, has found no one legally culpable for the massive deception revealed in the Pentagon Papers and in the disclosures of later lawlessness and deceit in the war's conduct, has seen its honor sacked by Watergate and similar affairs—

such a country so long as it may belong to a just people cannot now impose its penalties only on these young and powerless men. That cannot be fair, cannot be in keeping with our best ideals.

Our war, we trust, is over. The nation now has much to do, much that it can do only as a united people. There is too little mutual trust among us, too much that is corrosive of hopes and spirits.

A general and unconditional amnesty would be a simple and clear act. It would be a sign that we want to live at peace with each other, that we want to end within ourselves the awful divisions caused by the war, that we want to get on with the work of making this a better land.

Who can be opposed to such an act? Can the dead speak, and advise us; or can any speak for them? Would we really want to turn to parents of the dead and set them speaking against each other, some urging amnesty and some opposed?

Are veterans (including former prisoners of war) opposed? They appear divided, many for, many against, many indifferent. Although interest and weight do attach to the views of the veterans of this war who were themselves enlisted men, even they, in the tradition of our civil society, have now to advance those views as citizens, and not as a distinct group.

Can Congressmen and members of the administration, both present and former ones, who put us into the war and who kept us in it so long, have it in their hearts to absolve themselves while they hurt these young men?

Can those Congressmen who opposed the war, in the way the public empowered them to do, want to hurt those powerless men who opposed the war in the only way *they* could or knew how, men who in the process helped create and sustain that public disgust with the war which finally gave some success to Congressional effort to end it?

We believe that Congress and the President are, in fact, fully free to act for amnesty, and that they cannot rightfully claim to be held back by constituents' pressures. We believe amnesty, as was segregation in the South, is an issue wherein statesmen would not trade on fears but can, and therefore should, lead. We believe that the people will respond helpfully to forthright leadership, as did people in the South when segregation was outlawed.

We believe that if Congress or the President will give the American people the opportunity to be generous and just, the nation will be so. We ask for that opportunity.

Does this nation, that was established to "form a more perfect union" and to "insure domestic tranquility," not want to heal itself? Do we not want to take this chance on justice?

There are few acts a government can decide upon that clearly and immediately benefit individuals; amnesty would be one. We think it would be even more. We would be saying to ourselves that we now put the Vietnam war behind us, with its terrible freight of bitterness and recrimination, and of corruption and brutality too. We would signal a decisive turning away from the darkness of the war years, and toward rebuilding and restoring and healing, both here and, as we are morally bound to do, in Indo-China. We also would be affirming to ourselves that America has no time or need for vengeance against ourselves, and especially not against our youth. We would, instead, be welcoming the return, as free members of a freer society. of young men who can give much to the future—theirs and ours and our country's.

Roger Baldwin, founder and former Director, American Civil Liberties Union.

Rev. Eugene Carson Blake, retired General Secretary, World Council of Churches.

Rabbi Irwin M. Blank, Temple Ohabei Shalom, Brookline, Mass.

Rev. Robert McAfee Brown, Professor of Religious Studies, Stanford University.

Heywood Burns, Director, National Conference of Black Lawyers.

Rev. Will D. Campbell, Director, Committee of Southern Churchmen.

Rev. W. Sterling Cary, President, National Council of Churches of Christ in the U.S.A.

Kenneth B. Clark, Professor of Social Psychology, City University of New York; President, Metropolitan Applied Research Center.

Rev. William Sloane Coffin Jr., Chaplain, Yale University.

John R. Coleman, President, Haverford College.

Robert Coles, psychiatrist, Harvard University; author.

Dorothy Day, Editor and publisher, *The Catholic Worker*.

Patricia M. Derian, Democratic National Committeewoman from Mississippi.

Leslie Dunbar, Executive Director, The Field Foundation.

Vernon A. Eagle, Executive Director, The New World Foundation.

Rabbi Maurice N. Eisendrath, President, Union of American Hebrew Congregations.

Erik H. Erikson, psychoanalyst and author.

W. H. Ferry, Executive Director, D.J.B. Foundation.

Lawrence J. Friedman, President, U.S. National Student Association.

Willard Gaylin, Professor of Psychiatry and Law, Columbia University; author.

Ernest Gruening, former U.S. Senator from Alaska.

Michael Harrington, Chairman, Democratic Socialist Organizing Committee; author.

Rev. Theodore M. Hesburgh, C.S.C., President, University of Notre Dame.

M. Carl Holman.

David R. Hunter.

Rev. James M. Lawson, Jr., Pastor, Centenary Methodist Church, Memphis, Tenn.

John Lewis, Executive Director, Voter Education Project, Atlanta, Georgia.

Robert Jay Lifton, Professor of Psychiatry, Yale University.

Benjamin E. Mays, President, Board of Education, Atlanta, Georgia; President Emeritus, Morehouse College.

David McReynolds, War Resisters League.

Charles Morgan, Jr., Executive Director, Washington National Office, American Civil Liberties Union.

The Rt. Rev. Paul Moore, Jr., Bishop of New York, Episcopal Church.

Rev. Robert V. Moss, President, United Church of Christ.

Aryeh Neier, Executive Director, American Civil Liberties Union.

Rev. Kenneth Neigh, retired General Secretary of the former Board of National Missions of the United Presbyterian Church in the U.S.A.

Eleanor Holmes Norton, Chairwoman, New York City Commission on Human Rights.

Hon. Justine Wise Polier.

Roy Pierce, Professor of Political Science, University of Michigan.

Daniel H. Pollitt, Professor of Law, University of North Carolina Law School.

Charles O. Porter, former U.S. Congressman from Oregon; Chairman, National Committee for Amnesty Now.

Rev. Stephen G. Prichard, Director of Training, Institutes of Religion and Health.

Louise Ransom, Director, Americans for Amnesty; Gold Star Mother.

Joseph L. Rauh, Jr., Counsel, Leadership Conference on Civil Rights.

Milton J. E. Senn, Sterling Professor Emeritus of Pediatrics and Psychiatry, Yale University.

Charles E. Silberman, Director, The Study of Law and Justice; author.

William P. Thompson, Stated Clerk of the General Assembly, United Presbyterian Church in the U.S.A.

John William Ward, President, Amherst College.

Raymond M. Wheeler, President, Southern Regional Council; Chairman, Children's Foundation; physician.

Andrew J. Young, Member of Congress from Georgia.

(Titles for identification only.)

THE ROLE OF CONGRESS—IMPEACHMENT

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. ROBISON of New York. Mr. Speaker, on November 15 my most recent effort to delineate the increasingly complex issues that now surround the so-called Watergate affair appeared in the CONGRESSIONAL RECORD. The response from my colleagues and others has been gratifying.

Last week—Monday, November 19—the Wall Street Journal editorial page contained an editorial and an article which are relevant to what I said on November 15.

I find myself in agreement with the editorial and feel the article on the impeachment trial of President Johnson gives us some perspective on the events of today. I recommend them to my colleagues who, along with myself, continue to seek what insight we can as we grapple with the issues confronting us.

The editorial and article follow:

CONGRESS BURDEN

Now that a serious impeachment investigation is in the offing, Congress has assumed the duty of assuring the public that justice is done in the Watergate affair. It is a heavy burden for a body that shows all the weaknesses of any other committee of 535 souls.

It is to Congress' credit that the House has overwhelmingly voted to finance the impeachment investigation at $1 million. If the investigation itself seems competent and fair, it could do much to clear the air. But the hassle over President Nixon's meetings with Congressmen, and the confusion over the creation of a special prosecutor, are not encouraging omens on the kind of investigation we are likely to see.

As the House was voting funds for the investigation, Democratic leader Thomas O'Neill was criticizing Mr. Nixon for meeting with congressional Republicans. The President, Mr. O'Neill charged, was trying to influence the grand jury that would hear his case. Yet the President still is President, and it is his responsibility to build political support to run the nation. Dealing with Watergate certainly is part and parcel of this task. Surely it is unreasonable to expect the President to cloister himself while the House waits until January or later to take up the charges against him, which charges in any event remain unspecified. That the President is explaining himself must be rated a plus, especially after all the charges of presidential isolation, regardless of the audience he chooses.

A more apt criticism would be that in meeting with audiences based on party affiliation, Mr. Nixon is trying to depict Watergate and impeachment as purely partisan issues. The Democratic leadership would be on firmer ground in making this criticism if Democrats had taken greater pains to avoid partisanship. If they are serious about impeachment, a moment's thought and a little arithmetic should convince them that the absolute key is taking along a good number of Republicans. If Democrats ignore this point, they will be seen as wanting not to resolve the crisis but to wield a partisan club.

Congress is also showing a lack of direction in coping with the issue of protecting a special prosecutor. Its favorite idea was to have the courts appoint a prosecutor, who would also be charged with giving Congress anything relevant to impeachment. But two of the judges who would be involved in such an appointment have made it clear they want nothing to do with it, that they see their job not as prosecuting but as judging.

Here again it seems to us the answer is a serious impeachment investigation. We see little reason to conclude that a special prosecutor within the Executive Branch could not investigate and if appropriate prosecute, say, John Mitchell or John Erhlichman. As a practical matter, Leon Jaworski has considerable leverage in resisting pressures to slow such investigations. The real problem comes in investigating the President himself. Investigating the President is the prerogative of Congress; that is why the Founding Fathers created the impeachment power.

Yet so far Congress has shown little disposition to put most of its chips behind the impeachment investigation. This is partly due to a lack of leadership, both on the House Judiciary Committee and more broadly in the Congress as a whole. But we sense that a great many in Congress do not really want a serious investigation. Some of them are afraid that the point will come when they must say, yes, there is evidence for impeachment. But others are equally afraid that the point will come when they must say, no, there is no evidence for impeachment.

It is the habit of Congress, as of other committees, to avoid difficult decisions whenever possible. But considering the duty to reassure the public that our system of government can cope with the extraordinary difficulties it faces, we hope that Congress can somehow find the leadership that will enable it to reach a clean decision, based on an investigation that is competent, bipartisan and above all open-minded.

THE BIG IMPEACHMENT TRIAL OF 1868

(By Arlen J. Large)

WASHINGTON.—That was the dramatic declamation of George T. Brown, Sergeant at Arms of the U.S. Senate, ceremonially opening on March 13, 1868, the impeachment trial of President Andrew Johnson. The President, however, did not stride dramatically into the Senate chamber to face his accusers, that day or ever during the trial that lasted until May 26. Three of his lawyers answered for him.

So that's one precedent. If the House should ever impeach Richard Nixon, he could follow the Johnson example and not go personally to the Capitol for his Senate trial. Indeed, Mr. Nixon and all future Presidents, and all Congresses as well, would be governed closely by the precedents established during that winter and spring of 1868. Because a President has never been impeached before, the people who conducted those proceedings were terribly aware they were also setting the pattern for impeachments to come.

At the outset, Chief Justice Salmon Chase told the Senate: "All good citizens will fervently pray that no occasion may ever arise when the grave proceedings now in progress will be cited as a precedent, but it is not impossible that such an occasion may come."

The Constitution, for example, specified only that the Chief Justice of the Supreme Court would be the Senate's presiding officer when a President is on trial. But how would a judge "preside" over a legislative body acting as a jury? Could he rule whether evidence was admissible? Could he break a tie vote of Senators?

He would learn the answers to that and more before the trial was over. And now all the precedents of the Johnson impeachment and trial, squirreled away in congessional archives these many years, have been dusted off and re-examined as the House takes its first tentative steps toward Mr. Nixon's possible impeachment.

UGLY AND TROUBLED TIMES

Congress today may be able to re-create the impeachment machinery used 105 years ago against Andrew Johnson, but fortunately it can't recapture the ugly spirit of that troubled time. The situation then facing the country was far more serious than now. The Civil War had ended militarily but not politically. Ten of the 11 Confederate states still weren't represented in Congress. Abraham Lincoln's let-'em-up-easy Reconstruction policies hadn't been fully formulated at the time of his death, and as President Johnson tried to put them in practice, the dominant congressional Republicans objected that the presidentially sanctioned new state governments in the South were eroding the North's Civil War victory.

Particularly irksome were the "Black Codes" denying rights to former slaves that had been adopted by all-white Southern legislatures. For his part, the President, a Tennessee Democrat who had run in 1864 with Mr. Lincoln on a one-time "Union" ticket, accused the Republicans of trying to keep the secession states out of Congress until they, too, embraced the GOP. Narrowly Mr. Johnson was charged with official misconduct, but the impeachment really was part of a broad policy struggle over how to put the American union back together again.

Can a President be impeached just because Congress disagrees with him about this policy or that? If so, it would require a rather loose construction of the Constitution's murky list of impeachable offenses: "treason, bribery or other high crimes and misdemeanors." Three years ago just that kind of loose construction was being pushed by soon-to-be Vice President Gerald Ford in seeking the impeachment of Supreme Court Justice William Douglas. Rep. Ford told the House that an impeachable offense "is whatever a majority of the House of Representatives considers it to be at a given moment in history."

But the House didn't buy that in 1970, and it wasn't buying it in 1867, either, when an impeachment drive began against Mr. Johnson. The House Judiciary Committee in November of that year recommended impeachment to the full House, enumerating a list of grievances against the President. During House debate in early December Rep. James Wilson of Iowa, a Republican who opposed impeachment, called the judiciary committee report "a bundle of generalities" and asked: "If we cannot state upon paper a specific crime, how are we to carry this case to the Senate for trial?" On Dec. 7, the House rejected impeachment by a vote of 108 to 57.

There's a lesson in that vote for Sen. George Aiken and others who urge that the House either impeach Mr. Nixon or "get off his back." For President Johnson, there was no deadline for the question to be settled by the House "one way or another." As with the unfolding Watergate story this year, his fight with Congress was an unending series of slams and shocks, of Reconstruction bills angrily vetoed and grimly overriden, of harsh insults traded by both sides. On Feb. 21, 1868, just two and a half months after the first House vote, the President dropped the next bombshell by appointing Gen. Lorenzo Thomas Secretary of war.

THE STANTON PROBLEM

The problem was that according to the Senate, Edwin Stanton still filled that job under terms of an 1867 law requiring Senate approval of the dismissal of Executive Branch officers. Mr. Stanton, a Lincoln appointee who disapproved of Johnson-type Reconstruction, had been fired by the President in August, 1867. But encouraged by congressional Republicans, Mr. Stanton kept physical possession of his office, and on Feb. 21 the Senate formally voted 28 to 6 not to concur with his removal. Right then, the President appeared to be breaking the Tenure of Office Act, which pointedly classified any violation as a "high misdemeanor."

Now the House had what it lacked in December: a presidential deed equivalent to an indictable crime. Three days later the House voted 128 to 47 for impeachment.

The 11 articles of impeachment the House finally approved reflected the continuing uncertainty about kind of offense for which a President could be tried. The first nine articles dealt in several ways with the Stanton firing, the supposed violation of law. The tenth article was closer to the political heart of the quarrel with the President. It accused him of going around the country making speeches "in a loud voice" intended "to bring into disgrace, ridicule, hatred, contempt and reproach the Congress of the United States. . . ." The last article combined in a hybrid package allegations of both the political crime of denigrating the laws of Congress and the legal crime of firing Edwin Stanton.

Across the Capitol in the marble Senate wing, then just nine year old, the 54 members of course knew what the House had been doing and were getting ready for their big moment. Rules for conducting the trial were drawn up, and on March 4 seven House "managers," or prosecutors, appeared in the Senate chamber for a formal reading of the articles of impeachment. Sergeant-at-Arms Brown, who seemed to have all the good lines, sang out:

"Hear Ye! Hear Ye! Hear Ye! All persons are commanded to keep silence on pain of imprisonment while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against Andrew Johnson, President of the United States."

Any modern spectator returning to those packed galleries (1,000 tickets were printed for use each day) would have seen that the Senate was behaving, well, like the Senate. Procedural bickering broke out continually, requiring roll-call votes on the pickiest details. But some of the procedural matters were important. Democratic Sen. Garrett Davis of Kentucky objected that no trial could be held until Senators from the 10 absent Southern states were admitted; he was voted down 49 to 2.

Early in the trial, one of the President's lawyers objected to a question asked of a witness, but Chief Justice Chase ruled the question should be answered. A Senator protested that the Chief Justice should have let the Senate itself decide, without making a preliminary ruling. The wrangling continued until someone suggested that the Senate go to a nearby conference chamber to argue in private. That was put to a vote, and it was a tie, 25 to 25. The Chief Justice broke the tie by voting "aye." (Note that, Chief Justice Burger.) In the end, the Senate decided 31 to 19 to let the Chief Justice rule on admissibility of evidence, but that the rulings could be appealed to a vote of the full Senate.

A ticklish question came up at the time Senators were swearing their special oath to do "impartial justice" during the trial. A Johnson loyalist said the oath shouldn't be given to Ohio Republican Benjamin Wade, who was the Senate's President Pro Tempore.

The law of succession in those days put Sen. Wade next in line for the presidency because there was no Vice President. Letting him vote to put himself into the White House at Mr. Johnson's expense would be a blatant conflict of interest, but the Senate let him be sworn anyway and be ultimately voted "guilty." That wasn't the only instance of suspected partiality. Voting "not guilty" was Democratic. Sen. David Patterson of Tennessee, President Johnson's son-in-law.

As the trial progressed the President's lawyers argued Mr. Johnson didn't really violate the Tenure of Office Act because it didn't apply to Mr. Stanton. The Secretary of War, they said, was a Lincoln appointee whose protection under that law ran out with the former President's death. Somewhat contradictorily, the White House lawyers also claimed that Mr. Johnson fired Mr. Stanton to get a court test of a law he considered unconstitutional. Thus he had no criminal intent.

President Johnson never did get his test, but the Supreme Court in 1926 ruled that Congress can't interfere with the Executive's power of dismissal within his own branch. that decision has been studied closely in recent weeks by members of Congress trying to figure out how to write a law preventing President Nixon from firing a new special Watergate prosecutor.

On May 16 the Senate was finally ready to vote on conviction itself. A separate vote would occur on each of the 11 articles of impeachment, and a two-thirds majority for "guilty" on any one of them would topple the President from office.

The House managers wanted the first vote to come on the eleventh article, deemed to be the strongest because it combined both the legal and political charges. Just before the roll call Republican Sen. James Grimes of Iowa, who had suffered a stroke two days previously, was carried into the chamber to his desk. Chief Justice Chase admonished the galleries to keep "absolute silence and perfect order."

Republican Sen. Henry Anthony of Rhode Island was first on the alphabetical list of 54 members.

The Chief Justice addressed him: "Mr. Senator Anthony, how say you? Is the respondent, Andrew Johnson, President of the United States, guilty, or not guilty, of a high misdeameanor as charged in this article of impeachment?"

"Guilty."

The Chief Justice asked his tortuous question 53 more times, and at the end of the roll call the tally was 35 "guilty" and 19 "not guilty."

One vote short.

The chair ruled: Two-thirds of the Senators present not having pronounced him guilty, Andrew Johnson, President of the United States, stands acquitted of the charges contained in the eleventh article of impeachment."

The losers quickly moved to adjourn the Senate for 10 days, in hopes of converting at least one of the seven Republicans who had voted for acquittal. But on May 26 the lineup was exactly the same on the second and third articles. The Senators saw no reason to keep voting and the trial was over for good.

HISTORY AND REVISIONISM

The impeachers of Andrew Johnson generally have received a bad press from historians, who tend to cast the struggle in terms used by Sen. Edmund Ross of Kansas, one of the seven Republicans to vote for acquittal. Had Mr. Johnson been pulled down, Sen. Ross wrote later, "the office of President would be degraded, cease to be a coordinate branch of the government, and ever after subordinate to the Legislative will."

Sen. Ross was lionized for his acquittal votes by Sen. John Kennedy in his 1956 book, "Profiles in Courage." Sen. Ross "may well have preserved for ourselves and posterity constitutional government in the United States," Sen. Kennedy wrote.

More recently, however, revisionists have been at work, concluding that the Republicans had no other defense against a President who was trying to freeze Congress out of policymaking at a time of grave national peril. In his 1973 book "The Impeachment and Trial of Andrew Johnson," Ohio State University Assistant History Professor Michael Benedict puts it this way:

"In many ways, Johnson was a very modern President, holding a view of presidential authority that has only recently been established. Impeachment was Congress' defensive weapon; it proved a dull blade and the end result is that the only effective recourse against a President who ignores the will of Congress or exceeds his powers is democratic removal at the polls."

That may well be true when attempted impeachments are the climax of heavy policy fights, as in the Johnson case. But the impeachment weapon was really intended to be unsheathed against blatant personal misconduct by high officials of the government, whether it be obstruction of justice for political ends or stealing money or something worse. If strong evidence of personal crime is ever lodged against a President, the Senate Sergeant at Arms will be reaching for that "hear ye" script again, and the impeachment blade may prove sharper than it was in 1868.

VOTING TO RECOMMIT CONFERENCE REPORT

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. DULSKI. Mr. Speaker, on November 13, I joined 271 of my colleagues in voting to recommit the conference report on H.R. 8877.

Although there were no instructions, it is hoped that a more equitable ESEA title I allocation definition will result from the recommittal.

I have been provided with some background data on this subject by Dr. Eugene C. Samter, executive secretary of the Conference of Large City Boards of Education in New York. I take this opportunity to insert Dr. Samter's letter and accompanying tables into the RECORD, and commend them to the attention of the conferees and Members of Congress:

CONFERENCE OF LARGE
CITY BOARDS OF EDUCATION,
Albany, N.Y., November 21, 1973.

Hon. THADDEUS J. DULSKI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DULSKI: Continuing efforts by a large majority of the New York congressional delegation to assure that Labor-HEW appropriations for FY 1974 will contain an equitable ESEA Title I allocation for New York State's disadvantaged children are most appreciated. As you know, 32 members of the New York delegation joined with 242 other U.S. Representatives in voting to recommit H.R. 8877 to Senate-House Conference Committee, with the inference that the allocation limits must be more justly defined with respect to where the poor children are located.

Several proposals have been made to remove or relax the upper limit on the percentage increase in Title I funds which local education agencies may receive in 1974. The most recent, by Congressman Quie, would remove the maximum LEA percentage increase while assuring local districts at least 90 percent of their 1973 funds. It also applies a 120 percent of 1973 limitation to the amount any state may receive.

Those who oppose proposals such as that of Congressman Quie declare, among other points, that it will cause the AFDC part of the formula to be overly influential this year in determining allocations. This is unfair and inaccurate for several reasons.

First, the inference that AFDC in 1974 will suddenly blossom forth as a controlling factor is misleading. In point of fact, the count of AFDC children has been used annually since 1965 to update the count of poor children which otherwise would have been frozen at the 1960 census level. We should emphasize, too, that nobody, including HEW specialists, has made available any other more adequate data which is provided county-by-county on an annual basis.

Secondly, it is an exaggeration to say that 1974 allocations will be changed from those of 1973 primarily because of AFDC counts. Table I attached shows that the most significant cause of shifts in funds is the changeover from 1960 census to 1970 census, not the annual change in numbers of AFDC children. For example, the 1970 census shows that the proportion of the nation's low-income children found in New York State has increased 81 percent, while it has dropped 50 percent in Kentucky. By contrast, only five states have either increased or decreased their concentrations of AFDC children by more than 30 percent.

Finally, we refute the contention that because of the use of AFDC data, "only the richest states in the country have been able to increase their numbers of Title I children every year, while the poorest states are left with only the same numbers of children counted under the census." (See *Congressional Record,* 11/12/73, 36653). Table II attached shows that no such relationship exists. For example, New York, with the highest per capita income, ranked 37th in terms of its increase in AFDC children. On the other hand, Louisiana, 46th in per capita income shows the 4th highest percentage increase in AFDC children.

It seems important to lay to rest some of the misunderstandings about the determination of eligibles under ESEA Title I. If your efforts in this respect are successful, at least the intent of this legislation to help the economically disadvantaged will remain intact, even though its implementation has been seriously hampered by inadequate and late funding.

Sincerely,

EUGENE C. SAMTER,
Executive Secretary.

TABLE I.—*Comparative importance of census versus AFDC in changes in eligibility under ESEA title I*

[Percent increase or decrease]

Proportion of the Nation's low-income children from 1960 census to 1970 census:	
Connecticut	100.0
Nevada	100.0
California	94.2
New York	81.4
New Jersey	80.1
Washington	68.6
Louisiana	66.5
Massachusetts	66.3
District of Columbia	63.3
Alaska	60.0
Oregon	54.1
Utah	50.0
Hawaii	50.0
Maryland	49.5
New Hampshire	41.6
Colorado	41.2

TABLE I.—*Comparative importance of census versus AFDC in changes in eligibility under ESEA title I*—Continued

[Percent increase or decrease]

Proportion of the Nation's low-income children from 1960 census to 1970 census—Continued

Arizona	40.5
Delaware	40.0
New Mexico	39.4
Rhode Island	37.5
Florida	32.3
Illinois	31.5
Ohio	28.3
Indiana	25.9
Michigan	25.4
Wyoming	18.1
Nebraska	14.2
Idaho	12.0
Wisconsin	11.0
Pennsylvania	9.3
Montana	7.7
Kansas	3.7
Maine	2.7
Texas	−10.5
Missouri	−11.4
Vermont	−13.3
Oklahoma	−17.5
Minnesota	−22.4
Virginia	−24.4
Alabama	−25.9
Georgia	−27.4
Mississippi	−27.5
Tennessee	−30.5
South Dakota	−33.8
Arkansas	−34.1
South Carolina	−34.9
North Dakota	−36.1
West Virginia	−37.6
Iowa	−41.3
North Carolina	−42.5
Kentucky	−50.3

Proportion of the Nation's AFDC children from fiscal year 1972 to fiscal year 1973:

Georgia	100.0
North Carolina	43.4
Indiana	43.1
Louisiana	39.0
Washington	28.4
Wisconsin	17.4
Wyoming	16.7
Florida	16.7
Michigan	16.5
District of Columbia	15.2
Utah	15.0
Oregon	14.9
Illinois	14.4
Nevada	14.3
Texas	13.6
Ohio	8.5
Hawaii	7.7
Idaho	5.3
New Hampshire	5.3
Colorado	4.5
Virginia	4.1
Maine	1.7
Minnesota	1.5
Massachusettes	1.1
Arkansas	
Mississippi	
Tennessee	
Connecticut	−0.7
Pennsylvania	−1.2
Maryland	−2.2
Kentucky	−3.0
Rhode Island	−3.5
Nebraska	−4.0
Vermont	−5.0
Iowa	−5.4
Delaware	−5.6
North Dakota	−5.9
Missouri	−6.6
Alaska	−6.7
Oklahoma	−7.1
New Jersey	−8.1
New York	−8.6
Montana	−10.5
California	−11.5
West Virginia	−12.0
Arizona	−13.1
South Dakota	−16.7
New Mexico	−19.2
Alabama	−25.0
Kansas	−27.1
South Carolina	−82.7

TABLE II.—RELATIONSHIP BETWEEN A STATE'S WEALTH AND INCREASE IN AFDC ELIGIBLE CHILDREN UNDER ESEA TITLE I

	AFDC children under ESEA title I					Per capita income	
State	Fiscal year 1972	Fiscal year 1973	Increase (decrease) Amount	Increase (decrease) Percent	Ranking	Calendar 1971	Ranking
Georgia		45,995	45,995	100.0	1	$3,599	34
Indiana	31,760	51,115	19,355	60.9	2	4,027	21
North Carolina	24,386	39,056	14,670	60.2	3	3,424	39
Louisiana	12,006	18,778	6,772	56.4	4	3,252	46
Washington	37,092	53,472	16,380	44.2	5	4,132	17
Florida	19,292	25,472	6,180	32.0	6	3,930	24
Wisconsin	35,418	46,691	11,273	31.8	7	3,912	27
Michigan	148,837	194,106	45,269	30.4	8	4,430	12
Utah	11,591	15,058	3,467	29.9	9	3,442	37
Illinois	211,327	270,392	59,065	28.0	10	4,775	6
Texas	62,250	79,326	17,076	27.4	11	3,726	31
New Hampshire	5,414	6,698	1,284	23.7	12	3,796	30
Wyoming	1,791	2,213	442	23.6	13	3,929	25
Hawaii	11,356	13,902	2,546	22.4	14	4,738	7
Ohio	113,416	137,774	24,358	21.5	15	4,175	14
Idaho	5,587	6,570	983	17.6	16	3,409	40
Virginia	42,991	50,142	7,151	16.6	17	3,899	28
Colorado	32,509	37,295	4,786	14.7	18	4,153	15
Minnesota	39,624	45,154	5,530	14.0	19	4,032	19
Maine	17,329	19,721	2,392	13.8	20	3,375	41
Massachusetts	104,790	118,674	13,884	13.3	21	4,562	10
Connecticut	42,253	47,116	4,863	11.5	22	4,995	2
Pennsylvania	223,225	246,945	23,720	10.6	23	4,147	16
Kentucky	29,527	32,334	3,077	10.4	24	3,306	42
Maryland	53,908	59,407	5,499	10.2	25	4,522	11
Delaware	5,228	5,711	483	9.2	26	$4,673	8
Nebraska	14,487	15,821	1,334	9.2	27	4,030	20
Vermont	5,821	6,325	504	8.7	28	3,638	32
Rhode Island	17,038	18,308	1,270	7.5	29	4,126	18
Alaska	4,444	4,723	279	6.3	30	4,875	3
North Dakota	4,849	5,150	301	6.2	31	3,538	35
Oklahoma	28,836	30,372	1,536	5.3	32	3,515	36
Iowa	27,270	29,074	1,354	5.0	33	3,877	29
Missouri	35,433	37,152	1,719	4.9	34	3,940	23
New Jersey	165,912	170,877	4,965	3.0	35	4,811	5
Nevada	3,369	2,427	58	2.5	36	4,822	4
New York	553,315	565,968	12,653	2.3	37	5,000	1
Tennessee					38	3,300	43
Arkansas					39	3,078	49
Mississippi					40	2,788	50
Arizona	17,717	17,624	−93	−.5	41	3,913	26
Alabama	1,078	1,074	−4	−.4	42	3,087	48
Montana	5,610	5,575	−35	−.6	43	3,629	33
West Virginia	14,684	14,553	−131	−.9	44	3,275	45
California	566,387	560,993	−5,394	−1.0	45	4,640	9
Oregon	27,737	26,326	−1,411	−5.1	46	3,959	22
New Mexico	15,180	13,975	−1,205	−7.9	47	3,298	44
South Dakota	7,134	6,537	−597	−8.4	48	3,441	38
Kansas	27,933	23,011	−4,922	−17.6	49	4,192	13
South Carolina	21,877	4,561	−17,316	−79.2	50	3,142	47

RELIGION AND PSYCHIATRY

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. LONG of Maryland. Mr. Speaker, the question of how religion and psychiatry can work together in our troubled times has many facets. Several cogent comments are offered by Rabbi Martin Weitz in an article in the summer 1973 Colorado Quarterly.

I share here some excerpts from the article. The author is director of interfaith studies at Lincoln University and rabbi to the Adas Sholom Temple in Havre de Grace, Md.

RELIGION AND PSYCHIATRY

(By Martin M. Weitz)

Two worlds—religion and psychiatry—have had much common and uncommon ground in recent decades in their search for values at their ablest and bravest. Like the continental plate theory described in "This Changing Earth" (*National Geographic Magazine*, January, 1973), whereby a super-continent broke loose into moving sectors which now often collide with one another's edges; so too religion and psychiatry may be apart from and then become a part of one another.

A case in point is the "holiday paradox," described so fully in *Newsweek* (January 8, 1973), which reveals that suicides peak sharply after Christmas and New Year's, the "worst week of the year," according to Dr. Robert Litman of the Los Angeles Suicide Prevention Center. Depression, long the leading mental illness in the U.S., is now epidemic, with suicides, 50,000 to 70,000, its frequent aftermath. In mortality rates alone, the figures are comparable to those for diabetes and leukemia. *Newsweek* claims that 125,000 Americans are hospitalized annually with depression, while another 200,000 are treated by psychiatrists and physicians, and that another 4,000,000 to 8,000,000 are in need of help but do not know it. Though this depression is spreading among youth because of the frustration of war, of environmental pressures and confusion over values—"even drug-taking is in reality self-medication for depression"—there is a glow of hope beyond the grim statistics. Factors that help include new anti-depressant drugs that prevent reoccurrences as well as relieve depression, lithium salts, electroshock therapy, and psychotherapy.

Too many—even after they learn to know classics for conscience, as the above—look askance at religion through imaginary lenses of psychiatry, especially if they prefer to view religion as antiquated and therefore useless while psychiatry is wholly modern, therefore useful. They would equate "holiness in celibacy" as dread of home and parenthood, behavior of children in language of faith as neurotic dependence on others, fundamentalism's attack on evolution as dread of its power in reality, perils of non-conformity in organized religion as flight from modern pressures, belief in resurrection as related to primitive smearing of blood over a corpse, the appearance of angels even more than God in dreams with ease of identity with childlike qualities of angels, election of any people to compensation for its real frustration, singing of hymns as return to infantile patterns and infancy, insistence on preservation of present mores as fear of the unknown and love of the status quo, redemption via great heroes as need for group heroics and dramatics, sanctions for war as noble cause, for joys in mass participation, freedom from worry, flight from futility and monotony, nostrum for corrosive psychic ills as well as a way to act out in reality unresolved conflicts of personality.

Closer to our times, more psychiatrists, as in growing areas of science in general, are not only on speaking terms but on seeking terms with religion in a common quest for human values that may be tinctured with faith as well as reason. This is also due in no small measure to hosts of believers added to religion and all its activities and experiences, to a greater need for meaning beyond the limited world of secularization and science of a decade ago, and also to an enlightened social awareness and personal conscience recovered by the leadership and fellowship of major faiths of the West in the face of such common foes as totalitarianism, conformism, secrecy in government, and potential atomic annihilation. There is world-wide need indeed for much less anxiety and much more faith.

It is, therefore, in a mood friendly and favorable to religion that a number of foremost psychiatrists have these declarations to make: Mukerjee: "Religion adjusts inner conflict in crisis of sex, food, birth; this adjustment brings stability in the life of individual and in the organization of society." Raknee: "Religion is organization of ecstatic experiences without which whole personality might disintegrate." Kuenkel: "Religion emanates from a sense of inadequacy and bespeaks man's attempt to feel superior to the forces that envelop him." Pfister: "Religion is not a neurotic compulsion but a release from it." Bastide: "Religion may be not a neurosis, but a successful dealing with it." Halliday: "Psychology has a true service to render religion in disturbing the complacency with which most people regard themselves and in showing that we seldom are what we think we are." Fromm: "Religion should aim to make man fully human, to be able to enfold, to give love and devotion and in which psychoanalysis could play a role by helping man to overcome greed, folly, anger, fear and his illusions about nature, reality, and himself."

Beyond these spokesmen and soul-probers of a generation ago, we find in our own day doctors and ministers, as well as psychoanalysts and theologians, together sharing a groping and growing awareness of a relationship between *faith* and *health* as they strive to serve the ill. No longer as in the past do the doctors and the clergymen find themselves in competitive roles. Instead the men in white and in black, aware of a relationship between faith and health, are joining force in mutual concern for the "whole" patient. The confessional of the chaplain and the couch of the analyst have helped the patient more than ever before, especially in the "twilight zones" of depression. In the National Academy of Religion and Mental Health, there are over six hundred members of the American Psychiatric Association, six hundred psychologists as social workers and laymen, and six hundred clergymen of all major faiths. This organization is paralleled by regional units coordinating pastoral care and clinical experience and is guided by what the great physician Sir William Osler once asserted: "Nothing in life is more wonderful than faith—the one great moving force we can neither weigh in the balance nor test in the crucible."

A most worthy goal for the 1970s is for religion and psychiatry to have less of conflict and more of cooperation than ever before. Simple clarifications of these two avenues that often merge as a modern highway and then part company after hurdling a mountain range, linking several cities or bridging common obstacles as streams, will not resolve remaining semantic difficulties, nor others that flow from them. But they will enable us to have a meeting of minds and also of hearts enroute.

Religion has been estimated to have well-nigh a thousand definitions. The dictionary terms it, "any system of faith or worship." Whitehead defines it as "what man does with his solitariness." Haydon calls it "cooperative quest for the good life." Cohon explains it as "consciousness of the sacred." Barnes describes it as "the dynamics of social ethics." As basic as any for at least ten of the world faiths of mankind—and for ourselves—might be the simplest and most adequate definition implied in the word itself, for the Latin *religio* means "to bind." Religion thus might be an "attachment to a quest for values—for self, others, and God—as lofty as the love of Deity and as ample as the needs of humanity."

Psychiatry—though just three generations of age and not at all comparable to the millennia of religion—likewise, is meaningful if we explain it in the Greek, from which it derives, for *suxe* suggests "soul" and *iatria* implies "healing." As Dr. Henry E. Kagan once clarified it, "Religion is a spiritual belief; psychiatry is a scientific therapy."

In our day, we are beyond the so-called conflict between science and religion, even as the world has grown beyond Copernican astronomy and sixteenth-century religion. Today psychiatry recognizes the validity of religion in cure of sick-souls while religion values psychotherapy for abnormal emotional sickness, in fears, guilts, loves, hates of even normal people. Both have a common challenge in reducing the threshold of tensions and depressions.

Religion has made peace with astronomy and also with biology, and now even lends a hand in relating all this enrichingly and meaningfully to the saga of life itself—from the seeded sediment of earth to the studded starland pulsars and quasars beyond us and above us. Yet the world within man has gone unseeded and unsolved as yet. We have decoded the atom but have not deciphered Adam! More important than our relationship to distant stars in space or patterns of life in time is our relationship to each other and to ourselves. For several centuries, key words for such progressive relationships were dependence (to a God or a king), independence (for individuals), and interdependence for nations).

Throughout our life we see increase of tension, fragmentation of familiar patterns, and a volcanic lava-flow of depression in the increase of suicides, in over-crowded mental hospitals, in "juvenile jungles" and their explosive crime waves, in family breakups, in the growth of authoritarianism and "father imagery," in all areas where fear-ridden peoples barter personal liberty for imaginary group security. The vast network of suburbia (as over-night Levittowns), exurbia (as week-end estate-villages) and interurbia (as blends of both along railroads or flight-lines or turnpikes, a continuous settlement from, say, New York City to Washington, D.C.) is in itself a mobility of restlessness, a compulsive obsession for making money, a moving to and fro almost aimlessly for its own sake. Witness Vance Packard's latest volume on the saga of American mobility.

From Freud to Fromm, as in the latter's book *Ye Shall Be As Gods*, we have exemplars of human experience who have crossed the "Great Divide" as often as necessary from the watershed of religion to that of psychiatry in the short span of half a century. Freud began with *Studies in Hysteria* and ended his days with *Moses and Monotheism*. He began with questions about physical therapy and ended with answers about religio-therapy. He "discovered" in man a threefold personality: (1) Instinct or "Unconscious"—most important force for energy yet of which man is least conscious or cognizant; (2) Ego—where awareness of the world helps man accept reality; (3) Superego—a kind of "overseer" in the form of conscience, incubated by parents and actuated by subsequent parent-substitutes or subalterns, like teachers, ministers, friends, or relatives. In a parable by Freud, life is a carriage drawn by three horses in tandem: Instinct, Ego, Superego. If their pace is steady, their course normal, their range regular, the journey is free from untoward incident. A healthy individual is one whose ego balances instinct with conscience, with due allowance for both. When instinct overtakes its claim, personality may disintegrate into delinquency, and when conscience may overtax its host with compulsive guilts, personality may fragment into slivers of fear and depression.

Religion as well as psychiatry realizes that emotions affect our bodies, that we often incarcerate emotions which could not grow up with us from childhood and which we repress into the unconscious as we otherwise grow toward maturity, and that such repressed emotions either distill and escape as dreams and phantasies under relaxation of sleep or seek expression by clinging as an invisible creeping vine to some bodily organ. Religion and psychiatry employ a common effort to "ventilate" such inner feeling—through "confession" for one and psychoanalysis for the other. In either instance, cure for repression of emotion is consciously talking to an analyst—or at least, a "listening post."

In this way two great objectives are attained: (1) catharsis—"ventilation" of repressions and relief from tensions; (2) transfer—attachment to the analyst or listener, with a feeling of freedom for complete expression, with full confidence in his competence and without fear of reprisal. In time this process guides the "sick soul" to self-acceptance and freedom from any dependence on others, including the analyst. Even the *Book of Proverbs* has this prescription for mental health: "If there be worry in the heart of man, let one talk it away; yea a goodly word will even make it glad." And the *Book of Psalms* anticipates modern psychiatry when it intimates: "When I kept silence, my bones wore away through my groaning all the day long. Then I acknowledged my sin unto Thee, and my iniquity I have not hid. I said I will make confession concerning my transgressions unto the Lord, and Thou forgavest the iniquity of my sins." Both *cartharsis* and *transfer* are implied in these outbursts, with God as Supreme Intelligence (in lieu of a secular analyst).

Yet psychiatry has made several notable contributions to religion. Psychiatry restores awareness of the profound insight of religion concerning the therapeutic importance of talking out emotions that trouble our souls. The popular movement of Hasidism for Judaism achieved this very equation for simplicity for the dispirited in soul over 150 years ago in affirmations for life. One, attributed to Rabbi Bunam, insists, "Every human being is to have at least one sincere friend and true companion. This friend must be so close to us that we are able to tell him even that of which we are ashamed." The Tsaddik-Rabbi was indeed such a Father-Confessor to the broken in spirit. This very confidence and guidance were attributed to the Founding Father of Hasidism, the Baal Shem Tov (about 1700–1760), in the story told of him that once when a father came to complain about a dereliction of his son and asked what punishment shall be meted out to this wayward son, the "Master of the Good Name" advised him, "Love him the more!"

Perhaps it would be wise for the ministry in general to have listening as well as speaking pastors. This may not solve serious mental disorders—rightly in the province of medical psychiatry—but it may do much to relieve emotional strain before it is beyond that, as well as restore a classic function of the minister as a physician of the soul.

As an Einstein beyond Copernicus, so a Fromm beyond a Freud has perceived new dimensions for the world within. The Menningers and Fromms may part company with the Freuds and Adlers, for they concede the validity of ceremony for spiritual as well as emotional stability, the value of personal identity and integrity with rootage in the world, the life of faith in personal tragedy and sorrows of death as synonymous with faith in life. Religion, even more than psychiatry, may have the prescription needed for atomic-age anxiety: faith and love. If life is worth saving and serving, whether by psychiatry or religion or both, it must be for the whole of life rather than for any of its fragments. As psychiatry strives to serve sick souls in their breakdown—as curative medicine—so religion seeks to forestall such sickness in the first place as preventive medicine, with such proven prescriptions as a threefold relationship for fulfillment in God to man, man to God, and man to man. The *Book of Proverbs* synthesizes it all in a simple "prescription for life": "For as one thinketh in his heart, so is he."

SWORD OF LOYOLA AWARDED TO MR. AND MRS. FOSTER G. McGAW, OF ILLINOIS

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. YOUNG of Illinois. Mr. Speaker, I would like to call the attention of my colleagues to some of the great things, some of the fine things that are happening in this wonderful United States. Helping the poor and helping the sick are two of the aims of mankind. The University of Loyola with its sponsorship of the Stritch School of Medicine, has long been a channel for men and women to use in promoting the aims of mankind. In recognition of two of the outstanding citizens of this Nation in the art of helping their fellow man, the University of Loyola has awarded the Sword of Loyola to Mr. and Mrs. Foster G. McGaw of Evanston. To appreciate this recognition, I would like to recite the History of the Sword of Loyola:

History of the Sword of Loyola

The Sword of Loyola has become a permanent highlight of the Loyola University Stritch School of Medicine Annual Award Dinner. It was conceived in 1964 by Norton F. O'Meara, a former Vice-President of a national advertising company. The Sword is intended to recognize persons of national and international prominence who best typified the distinctive qualities of mind and spirit associated with St. Ignatius of Loyola—Courage, Dedication, and Service.

Inigo (Ignatius) of Loyola was born in the Basque province of Guipuzcoa of Spain. His exact birth date, disputed by historians, is generally accepted as 1491.

A Spanish gentleman, he entered the service of the Duke of Najera who was Viceroy of the border province of Navarre. Not a trained soldier, Inigo was more of an enthusiast ready to raise his sword to defend his king and master. In the war with France in 1521 Inigo received severe leg wounds—wounds which were to change his life and begin a new period in the history of Christianity.

For days he lingered between life and death and sought to pass the time reading the lives of the saints and a life of Christ. Inspired, he made a pilgrimage to the Abbey of Montserrat, near Barcelona, to make a vigil before the altar in the Chapel of Montserrat. At dawn, he laid down his sword and dagger, gave away his fine clothes to a beggar, and donned a sack-cloth robe. In place of his sword, he carried the pilgrim's staff. The conversion was life-long.

After further studies and ordination to the priesthood, he founded the small group which became known as the Society of Jesus. Today, more than 30,000 Jesuits serve society throughout the world as priests, missionaries, authors, and educators.

And from this background, came the Sword of Loyola award, calling attention to those concepts inherent in Ignatius' dedication of his sword to the service of God, and exemplified today in the lives of the following awardees:

1964—J. Edgar Hoover for life-long service to his country in law-enforcement.

1965—Lt. Col. James A. McDivitt, pioneering astronaut, and Maxime A. Faget, engineering genius of the manned space program.

1966—Lt. Dieter Dengler, Viet-Nam prisoner, who escaped through dense jungle to return to the free world.

1967—Brig. General David Sarnoff, recognized for his many contributions to the American communications industry.

1968—Capt. Edward V. Rickenbacher, WW I flying ace and pioneer in commercial aviation.

1969—Dr. Thomas O. Paine, researcher, administrator and Director of N.A.S.A., and William A. Anders, Apollo VII Lunar module pilot on first moon orbiting flight.

1970—Archbishop Fulton J. Sheen, distinguished priest, educator, missionary, and orator.

1971—Miss Helen Hayes, "First Lady of the American Stage," teacher and counselor to aspiring students of the theatre.

1972—Reverend James F. Maguire, S.J., dynamic leader of greatest growth period in the history of Loyola University of Chicago.

1973—Mr. and Mrs. Foster G. McGaw.

I would like to insert into the Record Loyola's citation to Mr. and Mrs. Foster G. McGaw:

Citation

Tonight the prestigious Sword of Loyola for the first time will be presented to a man and wife: Mr. and Mrs. Foster G. McGaw. Since 1964, the Sword of Loyola has been presented annually to a national or international figure who has exhibited to a high degree the beautiful virtues of courage, dedication and service. Foster and Mary McGaw exemplify these qualities to a singular degree.

Mr. McGaw is the honorary chairman of the board of the American Hospital Supply Company which he founded 51 years ago. His vision and unique marketing philosophy are responsible for the hospital supply industry.

To the midwest, however, the name McGaw is rather a synonym for philanthropy. The McGaws' beneficence stems from their belief that they are "the stewards of property that is God's, not their own." Mr. and Mrs. McGaw have built chapels and campus buildings; they have endowed professorships, bestowed matching funds and provided the seed money for many worthwhile projects.

Mr. McGaw's renown in the world of philanthropy gains added eminence from the fact that he rose from humble beginnings. A minister's son, he grew up in a home where money was so scare that he had to leave high school after his sophomore year and work for two years before he could return and get his diploma.

In 1922, Foster McGaw with the financial support of three other men, founded the American Hospital Supply Company. Today, the company serves our nation's and many foreign countries' hospitals, stocking more than 70,000 items.

Mary McGaw is a close partner with her husband in all their bequests. Although she prefers to remain in the background, she is a vital force in the partnership-for-giving which she and her husband have formed.

Years ago, Foster and Mary McGaw quietly embarked on a program to enhance the quality of life and opportunity for literally countless men, women and children.

It gives all of us the greatest pleasure to see their goodness rewarded with Loyola University's highest distinction, the Sword of Loyola.

This citation should be an inspiration to all Americans of the good that can be accomplished if you have the desire and the will to serve.

NEARLY 30,000 GATHER AT PRO-LIFE RALLY AT ST. LOUIS, MO.

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. HOGAN. Mr. Speaker, the outpouring of 30,000 people on a perfect October Sunday in St. Louis was a thrilling testimonial to the joy of life.

This rally was especially significant because it was held at the Old Courthouse, the site where Dred Scott, a slave, was judged to have no human rights because he was someone else's property. The Supreme Court went on to err in this matter also as history reversed the Supreme Court's error and decided in favor of human dignity.

Mr. Speaker, I would like to include in the Record an article that appeared in the Globe-Democrat summarizing this prolife rally.

Nearly 30,000 Gather at Pro-Life Rally Here

(By Karen K. Marshall)

Nearly 30,000 persons gathered in downtown St. Louis Sunday to show support for a proposed U.S. constitutional amendment—one to protect the rights of the unborn child.

The crowd—children, nuns, old people, teen-agers, whole families—stretched as far as the eye could see from the western steps of the Old Courthouse and heard two politicians and a doctor tell them they must fight for the rights of the unborn.

Among the speakers were Attorney General John Danforth, who noted that Missouri is challenging the U.S. Supreme Court decision nearly a year ago that struck down abortion laws across the country.

"This is not a hopeless case," Danforth said. "I believe we are making profound arguments," using medical evidence.

If Danforth's case fails, he believes a constitutional amendment (the 28th if the Equal Rights Amendment is ratified by the states) will be necessary.

Danforth said he has had many letters and telegrams warning that he should not speak out against abortion.

"I'm more than an attorney general, I'm a man," Danforth, who is an ordained Episcopalian minister, countered.

"I have my own views, and I believe abortion is wrong," he said. The crowd roared its approval—one of many ovations the speakers heard.

"I am not a Catholic," the attorney general continued. "I am an Episcopalian and I believe that abortion is wrong. This is not a

Catholic issue solely or a Christian issue solely, but a human issue, because what is involved is human life."

Danforth urged the people to educate others and to work for the cause without bitterness. "Let's make our case in a moral and decent and humble way," he said.

Sen. Thomas F. Eagleton (Dem.), Mo., described the abortion issue as a "moral dilemma."

"We must seek to undo by legal means the improvident decision of the Supreme Court," he said.

Eagleton blamed much of that decision on the attitudes of a society that has become "calloused in attitude toward life and death.

"I fear a society," he said "whose highest tribunal comes down on the side of death.

"As a society, we have lost our respect for life in a variety of ways," he said, noting attitudes toward the poor and handicapped, the killings in the war in Southeast Asia and the "inconsistency" of people who favor abortion yet are opposed to death as punishment.

Many people had already been standing in Kiener Memorial Plaza for more than an hour in sunshine that seemed more like June than October when the afternoon's principal speaker finally took the microphone.

But they listened attentively and gave a warm ovation to Dr. Mildred F. Jefferson, a Boston University Medical Center surgeon, who was the principal speaker.

Sunday's Human Life Amendment Rally was part of "one of the greatest people movements our country has known," Dr. Jefferson said.

She insisted that the Supreme Court judges made their decision "as poorly informed citizens," but in doing so, gave women and their doctors "the private right to kill.

"This private right must be denied the woman and doctor or be extended equally to all members of society," she said. "Who should be the one to have it next? The husband who wants to get rid of the mother?" There was no mirth in her voice.

Although the rally officially began at 2:30 p.m., people began assembling about 12:30 at the Soldier's Memorial, 14th and Pine streets, to march to the Old Courthouse. The rally was sponsored by Missouri Citizens for Life.

A SUCCESSFUL PUBLIC SERVICE CAREERS PROGRAM

HON. KENNETH J. GRAY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. GRAY. Mr. Speaker, Carbondale, Ill., is the largest city in my congressional district which covers over 11,000 square miles. Since Carbondale is a university town many of its problems have been peculiar in nature because of the phenomenal increase in student enrollment. Among other things this brought on a tremendous housing shortage. My good friend, Mr. Robert Stalls, CDA director, has brought to my attention a very successful public service careers program in Carbondale. In an effort to understand what Model Cities has meant to us I herewith insert a complete résumé of this public service career program in the RECORD.

A SUCCESSFUL PUBLIC SERVICE CAREERS PROGRAM IN CARBONDALE, ILL.

Carbondale, a university town with a total resident and student population of about 45,000, has a classic case of historical neglect in the quadrant of the city which houses the Black population. The neglect is obvious in the physical and environmental abuses—inadequate streets, sewers, storm drains, and sidewalks. It is also obvious in the lack of services, particularly in inadequate protection against open vandalism to public and personal property.

The Model Cities program, which provided a focus for citizen concern about neglect of their neighborhood, generated a tremendous amount of pressure on the city government for two things: improvement in the quality of municipal services to the neighborhood and increased employment opportunities for neighborhood residents in city government. The "Public Service Careers" program provided a way to link these two concerns together by hiring and training Model Neighborhood residents to supplement municipal agency staffs and thereby foster the additional service capacity necessary to bring the level of municipal services in the Model Neighborhood up to the city norm.

In meeting the Model Neighborhood demands for increased employment opportunities, the program's employment statistics would be enough to count the program an overall success. However, the impact of the "Public Service Careers" program has extended beyond that into a far-reaching institutional change of the city's whole personnel system. To date, 46 unemployed or underemployed heads of households in the Carbondale Model Neighborhood have been enrolled in the PSC program. Twenty-eight of those have completed or will shortly complete their training and become full-time city employees. Of the remainder, 11 have voluntarily resigned from the program, 5 have left for better paying jobs, and 7 have been involuntarily terminated from the program. PSC trainees have become permanent city employees in the Public Works Department, the Police Department, the City Planning Agency, the City Manager's Office and recently the Fire Department. This represents a 16.5% reduction in Model Neighborhood unemployment using the base figure for PSC's initial year.

Carbondale's first step to open jobs in its city departments was to do functional analyses of entry level jobs. The object was to identify aptitude and educational achievement levels inclusive of specific skills necessary for a person to do entry level work and to successfully complete the training phase of the general probationary period. These analyses, conducted by the PSC staff and personnel office with the active cooperation and support of the city's administration, revealed educational requirements far in excess of actual need for many entry level jobs. Once the analyses were completed and agreement was obtained from the city departments to employ PSC enrollees, new entry level requirements based on the Wide Range Achievement Test (WRAT) were developed. Unlike others, the WRAT is normed on the achievement levels of disadvantaged populations. Thus, Model Neighborhood residents are scored against norms similar to their own cultural and educational environment. Generally, Carbondale found that WRAT to be a good predictor of on-the-job performance ability while not discriminatory against Blacks who possess the required job aptitude but normally score low on achievement tests.

Following determination of a new entry level WRAT score for a given job, the PSC program advertises widely for applicants from the community. Any applicant eligible for the program can apply for the job and take the WRAT test. Those who score at or above the level required for that particular job are interviewed by a committee composed of representatives from the departments, the personnel office, the PSC program, and the Model Neighborhood Board. From these interviews, a list of persons qualified for employment is submitted to the department head. So far, the departments always have selected the interviewing committee's top choice.

Once employed, the PSC enrollee receives very personalized counselling and supportive services from the PSC staff along with the on-the-job training necessary for completion of the probationary period. The only difference between the PSC enrollee and normal entry level job holder in the department is that the PSC trainee follows a specific training design as a part of the PSC contract. The PSC program staff has found that inordinate amounts of counselling, motivational stimulation, and supportive services as well as a very personalized follow-up on enrollees account for the success of Carbondale's placement effort. According to George Paluch, the PSC Director, "We have learned that the only effective way to develop individual potential is to convey the attitude: "We know you can do it. Why not admit to yourself you can do it?" We have learned that we can only provide aggressive supportive services; we can't change a person's performance unless he changes his own internal performance expectations."

Recognition of the importance of motivational stimulation and counselling to successful job adjustment has spilled over into the city's general personnel system. According to the city's past Personnel Director . . . "innumerable referrals of city employees were made to the PSC Personnel Counselling Unit with respect to finance, problems with supervisors on the job, and other related matters. Many other city employees referred themselves. The city found it almost impossible to have too large a counselling staff." Furthermore, the Director believed "that any entry level careers program must have a strong personnel counselling and advisory service."

Other spin-offs from the PSC program include the institution of parallel training programs for reguar city employees who want the opportunity for job upgrading. The initial analysis of employment patterns in the city government which was part of the PSC application identified gross patterns of discrimination against Blacks and women in city agencies. Accordingly, aggressive recruitment for professional level applicants has been undertaken to remedy the underrepresentation. In nine months, the numbers of each category have doubled from two to four women and from four to eight Blacks out of a total number of twenty-nine supervisory and professional positions in the city government. The city personnel office has established a network of communications in twenty-two predominantly Black colleges and feels it has been successful in competing with private industry for qualified graduates.

The critical factor in the success of Carbondale's program is the wholehearted support given to it by the city's past personnel director. According to that director "PSC, being on the outside of our department, . . . put pressure on us to do things that wouldn't have been generated from the inside. I encouraged the program, and when pressure was applied I responded to it, because I fully supported program's objectives." For cities in which the personnel agency doesn't provide this kind of support, it is recommended that individuals or groups file complaints against the cities' personnel systems with the Fair Employment Practices Commission (FEPC), the U.S. Equal Employment Opportunity Commission, or in federal court under Title VII of the 1964 Civil Rights Act.

The chances of success for the complainants in such cases are considerably improved in light of the *Griggs Et Al. v. Duke Power*

Co. 401 U.S. 424(1971) decision and the Equal Employment Opportunity Act of 1972. The Griggs decision declares unintentional employment discrimination to be as illegal as the intentional kind. It bans any employment practice by Title VII employers which in effect discriminates "against persons on the basis of race, sex, religion, or national origin . . . . unless the employer shows it to be job-related and an accurate indicator of what it seeks to measure." Additionally, the Equal Employment Opportunity Act, which extends Title VII coverage to state and local governments, results in the initiation of four new practices. First of all, it expands the jurisdiction of the U.S. Equal Employment Opportunity Commission to include job discrimination complaints by state and local governmental employees. Second, it permits the filing of Title VII discrimination suits in federal court. Third, it allows the U.S. Department of Justice to sue state and local governments for alleged Title VII violations. Finally, it makes federal court decisions mandates for public employers to provide equal employment opportunity for all.

Overall, the PSC program facilitated meaningful progress in employment of Model Neighborhood residents in Carbondale. Consequently, the de facto cancellation of the program by the Department of Labor is a severe disappointment to the CDA as well as the vast majority of the city's administration. That cancellation not only negates the possibility of future gains in employment of the disadvantaged but also places existing ones in grave peril. This is particularly true in view of the city's inability to finance equivalent training on its own and in view of the inability of disadvantaged persons to successfully compete for employment without such training. Nevertheless, in the absence of a PSC program, prior experience, training, and education must against receive primary emphasis in the city's employee selection process. For a very short time, under the PSC, the emphasis on these criteria were secondary and thereby afforded the flexibility necessary for Carbondale to make gains in the employment of minorities. Against this background and motivated by a satisfaction with its achievement, though unavoidably short-term, Carbondale offers its experience with PSC as a lesson to the nation of what can be done to improve minority employment in a climate conducive to change.

In light of its success, it is understandable that the City of Carbondale regrets the untimely cancellation of the PSC program. The sentiments of the CDA, the vast majority of the City Administration, and Model Neighborhood residents are echoed in the current personnel director's observation that "the small gains we were able to make will doubtless be shortly lost." That director labels the Program's cancellation as "extremely regrettable, short-sighted and ill-advised." Finally, again in combination with the CDA, most of the City Administration, and M.N. residents, the Personnel Director "strongly urges continuation of the PSC program by the Congress." For the most part, in Carbondale, PSC was viewed as an excellent beginning toward an ultimate end to the very troublesome problem of minority employment.

Although Carbondale's achievement in this area is most readily attributed in the largest extent to the PSC program, the underlying role of Model Cities was virtually indispensable to that achievement. It was only through a unique use of comprehensive planning and Model Cities money that the PSC program was brought into conformance with the peculiarly local demands of the Carbondale Model Neighborhood. PSC provided for the training but omitted any provision for the payment of trainees salaries. It was Model Cities money that made up for this omission as well as other inadequacies in the categorical PSC program. Thus, in the final analysis, the Carbondale achievement is more accurately attributable to a combination of thorough comprehensive planning, strategic use of Model Cities' monies, and the PSC program.

CONGRESS: IMPEACH OR FORGET IT

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. CHAMBERLAIN. Mr. Speaker, during this period of crisis concerning questions of impeachment and resignation, I feel that responsible editorial opinion should be included in the RECORD. The following article which appeared November 18 in the State Journal, Lansing, Mich., suggests that "Congress must determine if it has the evidence to justify impeachment and then do it and, if not forget it." This thought certainly is indicative of a growing awareness that our country cannot endure a prolonged paralysis, a point which we in the Congress must consider most carefully.

The editorial follows:

CONGRESS: IMPEACH OR FORGET IT

In a strange turn of events during recent days, several major newspapers, a few TV commentators and other political observers have called for the resignation of President Nixon as the only means of ending the paralysis in Washington.

Some of these observers have been steadfast Nixon supporters in the past. But the proposed solution is too simple and in fact dangerous.

Certainly the President's ability to lead the nation has been severely damaged by the Watergate scandal and his reluctance to answer questions. But he has said he will not resign.

Those beating the drums of resignation are wrong because they are going outside the Constitution, seeking an illegal solution to end an odorous scandal in the administration, and thereby hoping to bring the seemingly endless investigation to an end.

There are some Republicans, too, who would like to see Nixon resign because he has become a liability for next year's election campaigns. President Nixon's performance in the Watergate battle so far has indeed stretched his credibility nearly to the breaking point.

But the fact remains that the founding fathers of this nation provided the legal means for Congress to remove a President from office who has violated the public trust. That method is impeachment. The House can vote a bill of impeachment. If that happens, the Senate then tries the President and determines guilt or innocence and removal.

Congress, in short, must determine if it has the evidence to justify such an action and then do it. If not, forget it. That does not mean prosecution of others involved in Watergate can not continue.

Trying to force the resignation of a President to avoid the unpleasantries of an impeachment can set a precedent which could make every future President subject to similar attacks by powerful special interest groups and keep the presidency in a constant state of turmoil.

The American people may decide to move to the British parliamentary (vote of confidence) system at some future date to deal with Watergate disasters. But the law of the land now requires impeachment. Congress must either proceed with that course and soon or drop it and get back to the business of meeting the nation's needs.

RATIONING IS IRRATIONAL

HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. FROEHLICH. Mr. Speaker, I would like to call to the attention of every Member an editorial that appeared in the Wall Street Journal of November 15, on the question of gas rationing. I believe this issue demands a perspective not evidenced in much of the rhetoric that has recently abounded on the subject. I insert the editorial so that my colleagues may have a vantage point from which objectively to view this issue with all its consequences and implications; an objectivity that is most necessary in any meaningful evaluation of a national system of gas rationing.

The editorial follows:

RATIONING IS IRRATIONAL

John Love, the President's energy chief, and Rogers Morton, the Interior Secretary, are already predicting that the voluntary conservation program is doomed to failure and that there's no avoiding a full-blown rationing program by early 1974, perhaps New Year's Day. Mr. Nixon insists rationing will only be a last resort, but he doesn't sound very confident.

We certainly hope it doesn't come to that. Rationing is absolutely the worst way to deal with fuel shortages. Any system that can be devised by Washington bureaucrats would have to be based on equal treatment for Americans, within broad priority pigeonholes. And while Americans may be born equal, we doubt there are any two of them with precisely the same legitimate energy requirements. Rationing would impose the grossest kinds of inequities on people and the crudest kinds of inefficiencies on the economy.

Consider: Jones earns $50,000 a year, commutes to work by train, and owns a Lincoln, a Buick station wagon and a Volkswagen. Smith earns $8,000 a year, owns a Ford and drives 12 miles to work. Brown makes $15,000 a year when you add together his earnings, his wife's and his son's, each of whom drives a separate car to work. Miller lives in Brooklyn, rides a subway to work and owns no cars.

So how do you divvy up the rationing coupons: Do you give them out per auto, meaning Jones gets three allotments while Smith gets one? Or do you divvy them up by auto-owning households, which may be fair to Jones but leaves two of the Brown family's wage-earners stranded?

And what about Miller, who after all is the most deserving of all, in terms of patriotically conserving gasoline? Should he not be given gasoline coupons, which after all are worth money? A black market in coupons will evolve slowly at first, but within a minute or two after coupons are first placed in the public's hands it will be going full blast. In fact, one of the options the government is considering is giving out the coupons on a per capita basis, regardless of need, precisely to protect Miller's interests.

If you don't want to hand out the coupons per-car, per-household or per-capita, you can try to distinguish between "essential" and "nonessential" driving. This would require an army of enforcers and also provide further national incentives to lie and cheat. And even without that, Tom, Dick and

Harry, executives who live in the suburbs and drive 15 miles to the city, could form a car pool and divvy up two "essential" allotments for pleasure driving. Or sell their excess coupons to Jones, who wants to drive his Lincoln to Florida.

Insofar as industry is concerned, rationing would also have to be "fair and equitable," as the bureaucrats say. Consider American Widget, which now uses 1,000 units of gasoline, fuel oil and electricity per day. It has to make do with 900 units. The same is true for National Widget. It's all fair and square, except that in the last year American Widget has been scrupulously and patriotically paring energy consumption, turning out the lights, running cold water in the rest rooms, installing more energy-efficient machinery, and recounting delivery schedules. National Widget, on the other hand, has been squandering British thermal units with abandon, as it always has. With rationing, American Widget has no choice but to cut production. National simply trots around doing those things that American already accomplished.

To avoid this and other problems, the government could not make rationing work unless it conducted a national energy audit. Each of several million enterprises would have to come before Mr. Love and his people with several volumes of documents to justify their respective hard-luck stories and win an extra dollop of fuel from the czar.

Rationing worked after a fashion during World War II, but produced no economic distortions to speak of; the economy was wholly geared to the war effort.

Peacetime rationing is quite another matter, and if we're to have it, we had best import several battalions of Soviet bureaucrats who have 56 years of experience in allocating material and only foul up half the time. While rationing seems the fair and equitable thing to the cherubs in Washington who have shown their stuff on wage and price control, in practice we foresee a monumental snafu.

Treasury Secretary Shultz, at least, says rationing will be a "last resort." The first resort, which we recommend begin as of last week if at all possible, is for the government to permit energy suppliers to raise prices until demand meets supply.

TRIBUTE TO MURRY BERGTRAUM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BIAGGI. Mr. Speaker, it is with a profound sense of sorrow and loss that I pay tribute today to the late Murry Bergtraum of Queens, a former president of the New York City Board of Education, who died on November 8 at the age of 56.

Murry Bergtraum was a major influence in the New York City school system for over 20 years. During that time he was considered one of its most articulate spokesmen on the subject of the improvement of education in New York City. Bergtraum had a distinguished career in the field of educational affairs. His first involvement was as a school parent association president in Queens. It was while serving in this capacity that he became increasingly involved with citywide educational matters. He next became a member and chairman of the local school board of district 25 in Queens.

On May 20, 1969, Bergtraum was appointed by the borough president of Queens as its representative on the five member central board of education. One year later he was chosen by his other four colleagues as president of the board. As president, Bergtraum will be best remembered for his hard work in accomplishing the successful implementation of school decentralization in the New York City school system. Throughout his term as president, Bergtraum held regular meetings with all 32 local board representatives to personally insure that this important policy was being administered properly.

Murry Bergtraum remained actively involved with board matters after his term as president expired in 1971. He served as chairman of the finance and budget committee. Tragically, it was while he was serving in this capacity that he was struck down with his first heart attack in 1972, which caused him to prematurely terminate his distinguished career.

Murry Bergtraum was a rare and remarkable man. In addition to his time-consuming duties on the board of education, he still found time to serve as the executive secretary of the health, pension, and labor funds of the fur industry of New York. In addition, he was a registered public accountant.

The residents of Queens will feel a particular loss over the passing of Murry Bergtraum. He still managed to find time in his hectic schedule to serve his beloved Queens as an officer to several community educational and civic groups, as well as being a trustee of the Queensborough public libraries.

His absence will be felt by all New Yorkers. As a life long resident of the city, and a recipient of a New York City public school education, Bergtraum was able to serve the interest of millions of school children with special sensitivity and awareness of their problems and those of their schools.

It is always an especially tragic loss for New York City when it loses such a sterling public servant as Murry Bergtraum. I know I speak for thousands of my fellow New Yorkers when I express my sincerest condolences to his beloved wife Edith, his three children, Howard, Marcia and Judith, as well as his mother, Mrs. Anna Worth.

It is my fervent hope that the excellent leadership and dedication which Murry Bergtraum gave to the New York City school system will be continued in the future years. There can be no better tribute paid to this fine man.

WHY THE PRESIDENT SHOULD RESIGN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. RANGEL. Mr. Speaker, in the days since I introduced my resolution calling upon President Nixon to resign and nominate a successor who would be confirmed under the 25th amendment with the understanding that the President would step aside upon his or her confirmation, it has become increasingly clear that the President's resignation is in the best interest of the country. The President's whirlwind attempts to tell his story before handpicked Members of Congress and friendly audiences are only serving to show how far his credibility has fallen. Even while declaring himself to be candid, he withheld vital information about another missing segment of Watergate tapes from the Republican governors last week. The contradictions, deceptions, and evasions are piling up. As the House begins the impeachment process, it is time for the President to resign.

The President's current position was analyzed yesterday by columnists David Broder and Joseph Kraft in the Washington Post. For those of my colleagues who missed these columns because of the holiday weekend, I place them in the Congressional Record:

The Whole Story Will Come Out

(By David S. Broder)

The President's frenetic public relations efforts over the past two weeks have served to disguise, but not to alter, the stark seriousness of his situation.

He is fighting for his political life; with the knowledge that the whole story of his role in the transactions that have aroused public suspicion must now emerge. The President has not yet told that story; all he has done, in his meetings with Republican politicians and the press, is to say that it will be told. And in doing that, he is doing no more than acknowledging the obvious. The tough times for him still lie ahead.

For the past month, Mr. Nixon's position has been essentially the same as Spiro Agnew faced when the federal prosecutors in Baltimore last August put him on notice that he was under investigation on serious charges. The Agnew investigation had begun with a host of subsidiary characters, just as the Nixon investigation did. But in both cases, the focus worked its way to the top—and stayed there until the critical questions were resolved.

Agnew was never indicted, and Mr. Nixon may never be impeached, but there can no longer be any doubt in his mind that the whole story will come out. The political imperative which makes full disclosure inevitable in Mr. Nixon's case is the same as in Agnew's: the Republican Party, which nominated both, will not intervene to spare him, any more than it did Agnew, from the burden of full disclosure.

Agnew learned that when a Republican prosecutor, acting with the obvious approval of a Republican Attorney General and a Republican President, filed his formal notice of investigation last August 2.

Mr. Nixon received the same word from Republican congressional leaders on Oct. 23, the Tuesday after the long holiday weekend on which Cox, Richardson and Ruckelshaus were eliminated. The President's emissaries went up to Capitol Hill that day to line up Republican support against impeachment demands. They were told, and bluntly, that no Republican leader would speak up on his behalf unless the President was prepared to come clean.

The first step in coming clean, Mr. Nixon was told, would be to turn over the White House tapes. That afternoon, two hours after the ultimatum had come from the Republicans on Capitol Hill, the President abandoned his three-month fight to withhold the tapes.

Even should Mr. Nixon now desire to backtrack and stop short of full disclosure, the pressures pushing in that direction appear irreversible. Every passing day brings the House Republicans one day closer to their day of reckoning with their constituents. To support the President against impeachment, they will require of him complete candor.

The new independent prosecutor, starting from the base Archibald Cox left behind, is moving toward indictments of some of Mr. Nixon's principal past associates. The Senate Watergate committee is approaching the deadline for rendering its judgment on the matters it has been investigating.

Any effort, however mild, by Mr. Nixon to interfere in these processes will come at high cost to his own depleted reserves of trust. Every additional foot of tape declared nonexistent or inaudible comes out of his hide. He has already conceded about 90 per cent of the ground he set out to protect last spring, when Watergate broke. He cannot retreat much farther without literally being backed out of the Oval Office.

The proposition now for him is quite simple: Can he stand to come clean? If he can—if he can establish that he did not permit or direct the concealment my members of his campaign organization and White House staff of the Watergate crimes; if his role in the milk producers case, the ITT case, and the campaign contributions cases was, indeed, innocent; if the handling of his personal finances has been in every respect aboveboard—then full disclosure will enable him to rout his critics and restore his credibility and power.

If, on the other hand, he cannot stand scrutiny, then he will be driven from office, as surely as Agnew was.

A reporter covering this story is the last one who should prejudge its final chapter. But certain ominous parallels are becoming obvious. Agnew lasted a little more than nine weeks after he knew he would have to come clean. He employed various tactics in that period, first pledging cooperation in the investigation, then finding reasons to delay turning over evidence, waging war with his critics in the press and government, and finally "going public" to mobilize sympathy for his stand.

In retrospect, we can see that those were the writhings of an impaled creature. Agnew was dancing at the end of a rope.

We do not know if Mr. Nixon's situation is as desperate, but his tactics this past month have been exactly those Agnew employed in his final weeks in office. Now, like Agnew, he has come finally to face the realization that it will all come out. He knows what that means for him. We will soon enough know, too.

TOWARD IMPEACHMENT

(By Joseph Kraft)

"People have a right to know whether or not their President is a crook." Mr. Nixon said the other day. But how are we going to find out?

Not certainly from the series of personal appearances the President has been making in what the White House is pleased to call "Operation Candor." Mr. Nixon, in fact, is one of the least trustworthy witnesses on his own behalf.

For better or worse—and it is not always for the worst—Mr. Nixon has in his makeup far less psychological space for failure than most men. When things get tough he fights back, and when they go wrong he tends to blame others. Hence, his recent contretemps with former Atty Gen. Elliot Richardson about the firing of special Watergate prosecutor Archibald Cox.

Mr. Richardson is a man prone to present controversial points in highly abstract formulations. Those formulations are often obscure in their meaning, and few men are less well-equipped to divine their sense than the unsubtle soldier who now serves as the White House chief of staff, Gen. Alexander Haig. So it is entirely possible that Gen. Haig did not understand Mr. Richardson when serving as his pipeline to the President.

But the President and Gen. Haig could not admit such weaknesses. Instead they implied that Richardson lied. They intimated he was a drunk. They even hinted that a fair system—as distinct from one rigged to get Mr. Nixon—would have Richardson up on perjury charges.

If we cannot expect to get the beginning of what we need to know from Mr. Nixon, there are also limitations on the investigations being conducted by the special Senate committee and the Watergate prosecutor. The Senate committee is limited in its jurisdiction. It has to stick to matters relevant to the presidential campaign, which means it cannot go into such clearly important transactions as the President's tax returns or the payments made on his homes in Key Biscayne and San Clemente.

As to the special prosecutor, there is no reason to disparage Mr. Cox's replacement, Leon Jaworski. He has already shown in his handling of the case involving the White House plumbers that he is not going to be snowed just because the White House yells "national security."

Even so, Mr. Jaworski also has limitations. In particular, he has no mandate to investigate such matters as the Rebozo case and the President's taxes and homes.

An impeachment proceeding knows no such bounds. The House Judiciary Committee, to which the impeachment resolutions have been referred, is setting up to go into an across-the-board investigation of Mr. Nixon and his conduct as President. It will center not on any particular issue or offense, but on the larger question of whether Mr. Nixon abused the public trust which is the root of legitimacy in our country.

The organization of this inquiry is necessarily going to be an extremely difficult and messy operation. The Judiciary Committee has 38 members broken into factions. Its chairman, Peter Rodino of New Jersey, is new in the job, and its ranking minority member, Edward Hutchinson of Michigan, lacks the bipartisan approach of his predecessor, William McCulloch of Ohio, which made the committee so effective in the past. A great deal will have to devolve on the general counsel and his staff and on the selection of a special subcommittee that will actually conduct the investigation.

Even if all these arrangements go beautifully, no one should imagine that the hearings can be short or neat, or that there will emerge a particular set of facts that bear the Perry Mason stamp of being the Truth. On the contrary, the hearings are probably going to be full of partisan rancor. They will wrack the country and they will probably arrive only at a general judgment as to whether or not Mr. Nixon betrayed his trust.

For all these reasons, other methods would probably have been preferable.

It would still be better if Mr. Nixon, on the confirmation of Gerald Ford to be Vice President, resigned. But failing that there is no alternative. For bad as it may be, there is one thing worse for the country than impeachment. That would be to sweep under the rug the issue which has now been posed—the issue of whether, in the large moral and intellectual sense, the President is a crook.

UPDATE ON VIETNAM

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. EDWARDS of California. Mr. Speaker, the following editorial from the San Jose Mercury, November 6, 1973, summarizes recent and projected future events in Vietnam, drawing a not very optimistic but probably realistic picture of the current situation. The article then goes on to call attention to the other problems that now beset us here at home: the Watergate, the energy crisis, the Middle East war. I agree with the Mercury that it is most fortunate that we no longer have the Vietnam war to add to our list of difficulties, and that we should remain as disentangled as possible from the tragedy of involvement in Southeast Asia.

The editorial follows:

NO RETURN TO VIETNAM

While the attention of the American people has been riveted on the Middle East and assorted domestic crises, a fragile, unstable peace has continued to crumble in Southeast Asia.

Now, heavy armor and artillery clashes between North and South Vietnamese forces near the Cambodian border provide a warning of perhaps grimmer things to come. The lessons both for Saigon and Washington in this are clearly obvious.

Saigon had better know—and accept the fact—that it will sink or swim on its own efforts. Washington, for its part, is most unlikely to commit any major forces to salvage a South Vietnamese regime which cannot, or will not, fight for its own independence.

Despite the cease-fire signed last January, there is little question that North Vietnam intends to press its effort to take over all of Indochina by force. The cease-fire did not, for example, prevent Hanoi from continuing its war against the Lon Nol regime in Cambodia; indeed, the fighting tended to step up in Cambodia in direct proportion to its waning in South Vietnam.

Now that Hanoi apparently believes its Cambodia supply route is secure once more, it is beginning to turn its attention again to South Vietnam. Armor is on the move; artillery duels are breaking the uneasy truce. Hanoi will, if it follows past practice, push ahead as far and as fast as it can. If it is stopped, Saigon will have to stop it. Washington won't.

The United States, which is to say the vast majority of the American people, views war in Southeast Asia as a nightmare from which it has recently awakened and to which it is resolved never to return.

Apart from unhappy memories in Southeast Asia, the American people are confronted with what most of them consider to be more serious problems closer to home. The fourth Arab-Israeli war produced the most recent and potentially the most disastrous confrontation yet between the United States and the Soviet Union, a confrontation that continues to lie just below the surface of diplomatic negotiations to bring peace and stability to the Middle East.

In addition to, though not actually in consequence of, the Arab-Israeli war, the oil-producing Arab states have slapped an embargo on oil to the United States and cut back production by 25 per cent. Deliveries to America's allies in Western Europe have been reduced, in part to put indirect pressure on the United States and in greater part to force crude oil prices higher still.

All of which will add marginally to the energy crisis in the United States in the short run and create diplomatic headaches for Washington in the long run.

Add to this the continuing crises of inflation and the near-paralysis of government because of the ongoing Watergate scandal, and the total picture is one of a Washington determined to remain out of any foreign difficulty it has managed to put behind it. And that means Vietnam first and foremost.

CAMPAIGN TO REMOVE THE EARNINGS LIMITATION ON SOCIAL SECURITY RECIPIENTS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BURKE of Florida. Mr. Speaker, I am delighted to inform my colleagues that Alan Courtney of WIOD Radio in Miami, Fla., which serves the 12th District of Florida which I represent in the 93d Congress, has initiated a nationwide petition addressed to all Members of Congress to gain support for legislation to remove the earnings limitation on social security recipients.

Mr. Courtney hopes to start a national drive to send signed petitions to the Committee on Ways and Means to verify the grass roots support for this legislation by those receiving social security benefits living in Florida and throughout the Nation.

Since coming to the U.S. Congress in 1966, I have introduced legislation in each Congress, the 90th, 91st, 92d, and 93d, calling for complete removal of the earnings limitation on social security recipients. In my opinion, the present law is harsh and unrealistic, and its removal would ease the financial plight of all elderly Americans. However, while there have been several modifications of the earnings limitation, the Committee on Ways and Means which has jurisdiction over this matter in the House of Representatives has not seen fit to act favorably on the complete removal of this bar on social security payments.

When the social security law was being written in the 1930's, the authors wanted it to be a social insurance system under which workers and their dependents were insured against the loss of work income resulting from the worker's death, disability, or retirement. To this end, the authors felt it was desirable to be sure a person was retired before he was given social security benefits. The original intent of the retirement test or earnings limitation was to prevent senior citizens from working and at the same time collecting social security, on the theory that they could afford to work cheaper than other workers because in effect they were being subsidized. In addition, it was hoped that early retirement would create jobs for the unemployed younger people.

The present retirement test contains four elements:

First, the annual exempt amount—$2,100 goes to $2,400 January 1, 1974;

Second, the reduction mechanism—$1 for each $2 of earnings above $2,100;

Third, the monthly measure of retirement—$175;

Fourth, exempt age—72 and over.

We should stop treating elderly Americans like dependent children and permit them to assume more responsibility for their financial future if they so chose.

The present earnings limit on income applies only to the income received from working. Benefits, however, are payable regardless of income from investments or other nonwork sources such as savings, investments, insurance, and the like. Thus as it stands now, those who support the earnings limitation argue that to allow unlimited income from working would: First, violate the basic principle of the system; second, help only a very few people; and, third, would add substantial costs to the present program.

It is my view, however, that since social security benefits are related to the wages of both the employer and the employee contributor and his contributions to the social security fund, it should be a matter of right for any person if he chooses to receive benefits for his contributions when he reaches the minimum retirement age. Today we are supplementing the income of the prosperous persons who have pensions, insurance and investments, while we are penalizing the less fortunate who have for one reason or another little or no resources to fall back on in their later years, and who must therefore work in order to make ends meet under today's conditions. The policy of discouraging older workers from working past an arbitrary retirement age originated as I indicated during the depression when it was necessary to increase job opportunities for younger workers, but today's high-employment economy does not require such restrictive measures.

In truth, why should we insist that a person reaching 65 years old should retire and leave the work force. Many have skills and experience which are needed and which increase productivity. Moreover, the Federal Government, gerontologists, and others concerned with the health of the elderly, encourage the hiring and retention of older workers in all aspects of the economy.

The earnings limitation is out-of-date. It was designed for a bygone era, and its effects are contrary to the original purposes of social security insurance to provide an income floor for elderly Americans. It causes hardship to our elderly Americans who must augment the income by working and it should be stopped.

If we assume that most of the 3 million workers over 65 are entitled to the average social security retirement benefit of $163.70 monthly, and we know that the older worker cannot expect to earn equal wages to those paid younger people, let us take the example of an elderly American earning $4,500 per year. His net earning from employment paid at this rate is $3,300 and the loss in income of $1,200 represents an effective tax rate of over 36 percent. In the schedule of Federal personal income taxes, such a rate applies to incomes over 20 times as great.

I congratulate Alan Courtney of Miami's WIOD for his dedication in this matter. I hope others will join in his efforts to precipitate action to remove of the earnings limitation by getting people to sign their names to petitions and forward them to either Alan Courtney, WIOD Radio, Miami, Fla., or to the Honorable WILBUR MILLS, chairman of the Committee on Ways and Means, Longworth House Office Building, Washington, D.C.

The petition being circulated by Mr. Alan Courtney is as follows:

PETITION TO U.S. CONGRESS

We, the undersigned petition Congress to amend title 2 under Social Security Act to permit an individual receiving benefits thereunder to earn outside income without losing any of such benefits.

Please sign below, when page is filled, mail to Alan Courtney, WIOD, Miami, Florida 33138.

Name—Address—City—State:

NEW ENGLAND NEEDS YEAR-ROUND DAYLIGHT SAVING TIME

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. O'NEILL. Mr. Speaker, I would like to call to the attention of my colleagues a statement by David Bartley, speaker of the Massachusetts House of Representatives in support of year-round daylight saving time.

Those of us from the New England States are especially concerned about the energy crisis, because it will most dramatically affect our region. We face an energy crisis of ever-increasing magnitude as predictions continue to point toward greater shortages of oil, the form of energy upon which New England depends highly for heating our homes and for generating electricity to light our homes.

There is evidence that year-round daylight saving time will save a significant percentage of our energy needs this winter. Mr. Bartley has graphically spelled out the merits and need for enacting year-round daylight saving time, as one important, immediate response to the energy deficit and as one key method of energy conservation.

I ask unanimous consent that the following remarks be inserted in the RECORD at this point:

Mr. Chairman, Members of the Committee:

I am David M. Bartley, speaker of the House of Representatives of the Commonwealth of Massachusetts. I will speak in favor of Senate bills 1260, 2568 and 2602, all of which provide for the extension of daylight saving time through the winter months.

Title 15, section 260, sub (A) of the U.S. Code recognizes the right of an individual State to unilaterally exempt itself from daylight saving time. Yet, subsection (B) has the effect of specifically prohibiting States from doing the converse. At the present time, there are several States in our country which do not observe daylight saving time at all; and only (Indiana) observes it in selected counties. Thusly, the Uniform Time Act of 1966 notwithstanding, time in the United States is *not* uniform.

There is nothing sacred about standard time. Throughout the world, there are countries which add 15, 30 or even 45 minutes to the "standard" time of their respective zones.

Precedents have been set for year-round daylight saving time—principally during the two world wars. The Congress and Presidents Wilson and Roosevelt responded at that time to the need for an extra hour of afternoon daylight. Parts of Europe turned their clocks ahead two hours during both wars. (England had success with year-round daylight saving time between 1968 and 1971?) (But gave it up because of northern farmer opposition).

As a result of the favorable experience of year-round daylight saving time in World War I, Massachusetts, with no federal guidelines, passed legislation in 1920 to advance the clock one hour between March and October. The dates were changed twice until, in 1954, we observed daylight saving time from April to October. More than ten years before the federal government acted in 1966, all the states in the Northeast had unilaterally passed uniform laws for changing their times.

Today, we in the Northeast face an energy crisis of ever increasing magnitude. Every day our newspapers predict greater and greater shortages of oil, a form of energy on which New England is highly dependent. The world and national political situation is fraught with uncertainty.

Some positive action is needed. Information filtering through the media from the private utility companies' advertisements indicates that any measure that will save even small amounts of energy should be implemented. Recommended courses of action range from lowering thermostats a few degrees to closing our schools for the full month of January.

Surely turning our clocks ahead one hour is less inconvenient than these other alternatives.

There is, I believe convincing evidence that adoption of year-round daylight saving time will save a small, though significant, percentage of our energy needs this winter.

Peak usage of electricity occurs at dusk. Daylight saving time during the winter months would dissipate this peak usage, which is very inefficient and therefore more costly to produce than the same number of kilowatts at other times of the day.

Thus, even though our mornings would be darker, the total use of electricity would decrease—some experts believe by as much as two percent.

In World War II, the Office of Production Management estimated that year-round daylight saving time saved almost 1% of our electrical requirements.

Much of our electricity in the Commonwealth is generated by oil. Boston Edison, our largest electrical utility, has told me they would save 30 to 50 thousand barrels of oil this winter if this program were adopted. This constitutes approximately one day's quota.

Aside from its absolute energy conservation, potential the extension of daylight saving time would have important ancillary effects:

The average commuter would be traveling during the daylight in the evenings. The occurrence of motor vehicle traffic accidents at dusk is more than twice that of the morning hours.

School children would have the advantage of an extra hour of daylight in the afternoon for leisure and school activities. They would be twice as safe as waiting for a morning bus in semi-darkness as they are now in the afternoon. Child molestation may decrease.

Not the least of all, the average citizen would enjoy a later sunset. The public response to my office on this issue has been overwhelmingly favorable. The Boston Globe and our NBC affiliate radio station have editorialized in favor. Last year, even *Time magazine* endorsed this measure.

The New England Regional Commission, in a study completed last week of the New England States' response to the energy deficit, recommended year-round daylight saving time as a key method of energy conservation.

Mr. Chairman, the Massachusetts House is convinced of the merits of this proposal. Last week, the chairman of our committee on government regulations, Rep. Robert B. Ambler, drafted a bill to put Massachusetts on daylight saving time indefinitely, effective December 1 of this year. Last Thursday, this bill passed our 240 member house by an overwhelming vote of 215 to 7.

Two weeks ago, I asked our Republican Governor, Francis W. Sargent, to call an emergency meeting of the New England Governor's Conference to consider regional action on this proposal. His response has been to put this matter on the agenda of their next regularly scheduled meeting of November 15.

I have personally contacted other New England State legislatures on this matter.

Mr. Chairman, New England can not afford to waste time at this late date, Some of our people have already been denied oil deliveries; some contracts for schools and government oil needs have not received one bid.

We are mindful that unilateral action on our part would be illegal unless you change the U.S. Code by means of the bills before you today.

Yet, it has been our experience lately that New England must speak out to a disproportionate degree in order for the present administration to respond to our plight.

The Massachusetts House has gone on record in favor of a positive, painless way to lessen the impact of the impending energy shortage.

I am hopeful that the Congress, under your initiative and guidance will do the same.

Thank you.

THE MANCHESTER, N.H., FEDERAL BUILDING—EXAMPLE OF GSA FORESIGHTEDNESS

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. WYMAN. Mr. Speaker, all Americans are now beginning to become aware of this country's energy problems. But this awareness has been long in coming. The present reaction to our energy crisis is heartening, but it is even more encouraging to know of actions already undertaken; actions which anticipated the current crisis, and actions which offer the immediate prospect of saving great amounts of energy.

I want to call attention to an example of this kind of advanced planning. The General Services Administration is currently designing a Federal Office Building for Manchester, N.H. Over a year ago, Arthur F. Sampson, Administrator of General Services, designated this project as an energy conservation test project. It will be a living laboratory to test both recognized and totally new concepts of energy conservation in building construction and use.

It is expected that this building will use 25 to 35 percent less energy than a conventional building—at no substantial increase in cost. The building will be wired with instruments to test the energy savings made and the results will be made public. In this way, the building will serve as a model for energy conservation for all future buildings.

The possibilities this building offers for future energy conservation programs are challenging and fascinating.

The November 10, 1973, issue of Business Week magazine carried an excellent summary of GSA's expectations for the building. This important project is deserving of continued close attention in this period of energy conservation.

The article follows:

THIS BUILDING SAVES ENERGY

"We waste so much energy in buildings now that even by thinking about it, we can effect major savings," says Walter A. Meisen of the General Services Administration. As assistant commissioner of the Office of Construction Management, Meisen is now putting taxpayer's money where his mouth is. For the past six months, he has been supervising the design of a unique office building that will incorporate virtually every energy-saving device in existence.

The GSA's test project is the seven-story Federal Office Building to be built in Manchester, N.H., for the local branches of 11 federal agencies. The design is now 90% complete, and bids will be let in the spring. When the first of 500 workers moves in two years later, they will find a building that should use only three-quarters to one-half of the energy of a conventional building of the same size.

Not only will such elements as the heating and cooling systems be as efficient as possible, but the shape of the building, the colors of the walls, and even the temperature of the water in the washrooms will be carefully related to energy use. "Our initial expectation was a 20% to 25% saving," Meisen says, "and we fully expect to exceed that."

EXHIBIT A

The decision to use the Manchester building as an energy laboratory was made by GSA Commissioner Arthur F. Sampson after his agency and the National Bureau of Standards sponsored a conference on energy conservation in May, 1972. The $6.5-million building had already been funded, and GSA had hired Nicholas Isaak & Andrew Isaak, an architectural firm in Manchester, to design the project. After Sampson's decision, Dubin-Mindell-Bloome Associates, a New York City engineering firm, which had been an active member of the energy conference, was named as energy consultant.

"Our first job was to solicit all the ideas we could," says Alfred S. Dubin, president of the firm. "We wrote to utility companies, manufacturers, designers, universities, some foreign groups, anybody we could think of." The result was a pile of about 500 suggestions ranging from the facetious—one man said the entire building should be edible—to the feasible. The Dubin firm also went through details of 7,000 of its earlier projects, looking for energy-saving ideas.

Conforming to the GSA's proviso that components and materials must be available off the shelf, the consultants chose a short list of elements that seemed likely to be useful. These were fed into an NBS computer to evaluate their potential for saving energy both in the operation of the building and in the production of the components themselves.

A BLOCKHOUSE

Though the final design is not yet complete, it is already clear what the building will look like. Outwardly, it will be as square as the site permits, to get maximum volume with minimum exposure of wall areas to the weather. The north wall will be heavily insulated, at least 12 in. thick, dark in color, and windowless. All these characteristics are designed to conserve heat, which Dubin estimates would take 56% of the energy utilized in a building of similar size and type in New Hampshire's cool climate.

For the same reason, windows on five of the floors will fill only 10% of the outside area, compared with the usual figure of about 50% in office buildings. They may be of special reflecting glass, and they will probably be mounted in niches at right angles to the walls, and be protected from summer sun by louvers or fins outside the building. The angles of the fins and the windows themselves will be calculated to accept the winter rays to pick up as much natural warmth as possible.

On one floor, however, windows will probably make up 90% of the outside area, a variation that reflects one of the many dilemmas faced by the designers. "Is it better to save on lighting costs with big windows, which then create a heating and cooling problem? Or should we cut down on window area and use more lighting—which can create a heating problem?" asks architect Nicholas Isaak. The different arrangements are an attempt to find the answer.

Lighting, in fact, which uses about a quarter of a building's energy, will be one of the most visible changes. Instead of rows of fixtures that give uniform illumination everywhere, areas will be lit selectively. Corridors and lobbies will be left dimmer than stairs, for example, and desks and other work areas will be more brightly lit. Some desks will have individual, library-style lights.

HEATING AND COOLING

GSA and Dubin have concentrated much of their own energy on the heating and cooling systems. There will be variable-flow, rather than variable-temperature, heating. When a man is cold in a conventional building, he usually gets someone to turn up a thermostat, which results in the delivery of hotter air. In the Manchester building, such an adjustment will increase the flow of warm air, but the air will be at the same temperature. A worker will feel warmer, but the costly business of heating all the air for the sake of one person or a limited area will be avoided.

Excess heat and cold will also be stored for later use. When part of the building has to be cooled, the unwanted heat will be stored as hot water in one of three 10,000-gal. tanks under the building. Excess heat from light fixtures will be conserved in the same way, and so will unneeded cold air. In most conventional buildings, hot and cold air that is not needed immediately is wasted by being ejected into the open air.

Even hot water for handwashing, which consumes only about 3% of an office building's energy, has drawn the attention of the designers. "Normal systems heat the water to about 140F," says Dubin. "Then it runs all through the pipes, losing heat, and is eventually cooled to about 100F with cold water by the person using it." Water in the Manchester building will therefore be heated initially to only 100F.

Finally, the building will be made even less dependent on normal fuels by having two or three solar collectors of different types mounted on the roof. These will be virtually the only custom-made items used.

All these measures are expected to cut energy use drastically. Dubin claims that GSA's estimates of 20% to 25% savings are far too modest. His firm's computerized simulation shows that a conventional building of the same type would use about 135,000 Btu per sq. ft., per year, compared with only 56,000 Btu for the newly designed building, a dramatic energy saving of 58%.

Whether this is borne out in the actual building is still in question, but the National Bureau of Standards plans to monitor the results for at least five years to find out.

WHY NOT USE AGRIPOWER TO COMBAT OIL POWER?

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. McCLORY. Mr. Speaker, in the Monday, November 19, issue of the Chicago Tribune, the distinguished consulting economist, Eliot Janeway, presents an accurate and persuasive account of the causes and remedies for the current energy crisis.

Mr. Janeway rightly points out that we should take the initiative away from the Arab officials and deal with them on a quid pro quo trading basis, that is, if they give us the oil we need, we will give them the food they require.

If they think that they can dictate our foreign and domestic policy by virtue of their mere control of necessary fuel reserves, these countries will have to seriously reconsider such a position. Americans throughout history have stood up to adversity and overcome all odds.

I concur with Mr. Janeway in his well-founded belief that "agripower" is much stronger than their oil power. We should use our "agripower" to counter their threats.

Most importantly, all other nations of the world that are on the so-called blacklist of the Arab countries and that are threatened with oil cutoffs unless they bow to Arab blackmail, and, as a result, break off diplomatic relations and stop their support of the young State of Israel should unite and halt agricultural exports to these same Arab nations.

Because Mr. Janeway took this issue as the thesis for his excellent article, I would ask that those comments be printed in the RECORD, as follows:

AGRIPOWER: ANSWER TO ARAB BLACKMAIL

(By Eliot Janeway)

New York, November 18.—Gas rationing is on its way. Worse still, it is being taken for granted as the way to cope with the artificial shortage that has been created.

The thinking which accepts gas rationing as an American answer to the crisis is an extension of the thinking which invited the crisis to explode in the first place. Playing American's hand by rules made to suit the opposition is its expectation.

Accepting the necessity of a costly American adjustment to harsh terms laid down by unfriendly countries is the underlying strategy of this thinking, even tho each and every one of the unfriendly countries is less favorably situated than America and brandishes less bargaining power.

Rationing consumption is not the only way to balance the world market equation. It's only one of two ways to do it. Renewing the flow of supply is the other, and better way.

The Broadway comedy "The Solid Gold Cadillac" left the language enriched with a phrase which puts the problem of distinguishing between the two methods: "I don't get ulcers" the tycoon hero snorts, "I give them." America has acquiesced in the Arabs' seizing of the ulcer-giving lead role. She has accepted the ulcer-getting role of stooge.

Henry Kissinger's travels are exposing three fictions about the Arabs as ulcer-givers. The first is that they are united. The second is that having oil makes them strong. The third is that holding back shows their self-sufficiency.

Seeing thru all three fictions suggests as many techniques for Uncle Sam to use in switching to the ulcer-giving role and coming on hard playing it.

Exploiting the divisions among the petro-powers is the most obvious way. Israeli strategy has been playing this game for years by offering to pay interest on private dealings with the rich Arabs, in defiance of Moslem law, and leaving them worried about whether the poor Arabs might find out about it.

Greed is the companion motive to fear. It's not as if all the Arabs were cutting off all their oil. Nor is it as if all of them were not eyeing the others to see who is sacrificing how much and who may be working out a special deal for how much more.

What's wrong with Washington dangling some marketing payola before the petro-producers—one at a time? The Europeans and the Japanese would scramble onto any American bandwagon that rolled across the Middle East oil country recording the success of Washington's divide and rule tactic.

The second fiction about the Arabs is that having oil makes them strong. The reality is that having nothing but oil makes them weak. Having dollars to show for their oil makes them vulnerable to Washington's retaliation against their oil holdback.

Blocking dollars of unfriendly oil powers would be a daring response to their oil blackmail. It would also be profitable because it would drive the world oil price back down.

America did not fire the shot that started the new world trade war. But this reply would be the shot that ends it.

A constructive course for America to take is to play the agripower hand—no oil, no food, and lots of food for lots of oil. Activating agripower would destroy the myth of petro-power self-sufficiency.

Agriculture Secretary Earl Butz' latest alibi for inaction argues that the Russians would make up for any Arab food difficiency. But they can't handle their own food difficiency.

Arab food requirements, meanwhile, are soaring with their dollar flows. The Arabs are now the biggest new entries into the world meat market, and they have the money to pay for it. American agripower is the most wholesome new force for peace in the history of this war-weary world—if only Washington will mobilize it.

GALLUP POLL REFLECTS OVERWHELMING PUBLIC SUPPORT FOR WAR POWERS ACT

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. ZABLOCKI. Mr. Speaker, it is reassuring—but certainly not surprising—to know that when the Congress voted on November 7 to override the President's veto of the war powers resolution, House Joint Resolution 542, it was clearly reflecting the overwhelming support of the American people.

That fact was amply demonstrated in a public opinion survey recently conducted by the Gallup poll, the results of which were released on November 18.

What that nationwide survey reflected was an 80-percent margin of public support for curbing the President's warmaking powers. In other words, 4 out of 5 Americans responded favorably to the question:

Do you think the President should or should not be required to get the approval of Congress before sending U.S. armed forces into action outside the U.S.?

As chief sponsor of the legislation in the House I have long been convinced of such widespread public endorsement. Surely the 284 Members of the House and the 75 Members of the Senate who voted to override will take satisfaction from knowing that they were voting the best interests and views of their constituents.

I am pleased to place in the RECORD at this point the Gallup poll released on the survey as well as a related New York Times article of November 18 and recommend them to the reading of my colleagues.

PUBLIC OVERWHELMINGLY VOTES IN FAVOR OF LIMITING PRESIDENT'S WAR-MAKING POWERS

(By George Gallup)

PRINCETON, N.J., Nov. 17.—The American people overwhelmingly support, in principle, the new war powers bill which would require that a President receive congressional approval before sending U.S. troops into action overseas.

By a vote of 5 to 1, the public favors curbing the President's war-making powers. Under the new bill, the President would have to explain an act of war within 48 hours, but even if Congress didn't accept his reasons, the chief executive could continue the fighting for 60 days and have an additional 30 days to complete withdrawal from the action.

In overriding President Nixon's veto, the House voted 285 to 135, four votes more than the two-thirds majority required to override a veto. The subsequent vote in the Senate, 75 to 18, made the bill law with 13 votes more than required.

VIETNAM WAR A KEY FACTOR

A key factor in the public's desire to limit the war-making powers of the President is their desire to avoid future Vietnams. As early as 1966, six in 10 held the view that we should not send troops if a situation like Vietnam were to arise in another part of the world.

A nationwide Gallup survey conducted in late April this year showed that the public, by an overwhelming majority, wanted congressional sanction of further military action in Southeast Asia. The same survey showed Americans opposed to the bombing in Cambodia and Laos by a 2 to 1 margin, with a large majority holding the view that bombing would lead to a reinvolvement of American troops in Southeast Asia.

In addition, more recent surveys have shown that the vast majority of Americans would be opposed to a commitment of U.S. forces if the Middle East situation were to flare up again.

ALL GROUPS FAVOR LIMITING POWER TO WAGE WAR

The view that the President should get congressional approval before committing the nation to war is held by a large majority of persons in all major population groups.

Women, Democrats and younger persons are the most likely to favor limiting the chief executive's war-making powers.

Following is the question asked and the key findings:

"Do you think the President should or should not be required to get the approval of Congress before sending U.S. armed forces into action outside the U.S.?"

[In percent]

	Should	Should not	No opinion
Nationwide	80	16	4
Men	76	20	4
Women	85	11	4
18 to 29 years	84	12	4
30 to 49 years	78	17	5
50 years and older	79	17	4
Republicans	71	26	3
Democrats	86	10	4
Independents	80	17	3
College background	77	19	4
Highs chool	83	14	3
Grade school	78	15	7
East	80	17	3
Midwest	84	13	3
South	76	17	7
West	80	16	4

Although an overwhelming majority of Americans favor approval by Congress before the President commits U.S. armed forces to action, six in 10 persons think Congress should not be required to obtain the approval of the people by means of a national vote. At the same time, however, as many as one-third would favor such a procedure.

The question of a war referendum was asked of a sample of the U.S. public by the Gallup Poll at regular intervals during the late 1930's and early 1940's. Majorities consistently opposed a referendum until just before the outbreak of World War II when opinion shifted in favor.

A majority of persons in all segments of the population are opposed to a national vote, with the exception of young adults and persons with a grade school background where the issue is fairly evenly divided.

Following is the question and findings:

"In order to declare war, should Congress be required to obtain the approval of the people by means of a national vote?"

[In percent]

	Should	Should not	No opinion
Nationwide	35	58	7
Men	31	64	5
Women	39	52	9
18 to 20 years	49	46	5
30 to 49 years	27	67	6
50 years and older	33	58	9
Republicans	21	72	7
Democrats	42	51	7
Independents	35	59	6
College background	25	74	1
High school	37	57	6
Grade school	43	40	17
East	38	57	5
Midwest	32	60	8
South	37	54	9
West	33	63	4

The results reported today are based on a nationwide survey conducted Nov. 2–5 with 1,550 adults, 18 and older, interviewed in person in more than 300 scientifically selected localities across the nation.

[From the New York Times, Nov. 18, 1973]

EIGHTY PERCENT IN POLL SUPPORT WAR-POWERS CURB ON THE PRESIDENCY

Four out of five Americans support in principle the new war-powers law enacted by Congress Nov. 7 over President Nixon's veto, the Gallup Poll organization said yesterday.

The law is aimed at limiting the President's power to commit the armed forces to hostilities abroad without Congressional approval. It sets deadlines of up to 90 days for troop commitments by the President alone and gives Congress the right to step in and order immediate removal of troops by passage of a concurrent resolution.

The Gallup organization said the view that the President should be required to get Congressional approval before sending United States armed forces into action outside this country was held by a large majority in all population groups, but women, Democrats and younger persons were most likely to favor it.

Nationwide, 80 per cent of those questioned in a survey Nov. 2–5 said that the President should be required to get the approval of Congress in such circumstances. Sixteen per cent thought he should not be required to get Congressional approval. Four per cent had no opinion.

Although 85 per cent of the women questioned thought he should be required to obtain Congressional approval, the proportion of men who thought so was 76 per cent. Similarly, 86 per cent of the Democrats but only 71 per cent of the Republicans favored the requirement, and 84 per cent of persons 18 to 29 years of age while 78 per cent of those 30 to 49 and 79 per cent of those 40 and older favored the step.

The Gallup release stated that 58 per cent of those questioned said Congress should not be required "to obtain the approval of the people by means of a national vote" in order to declare war. Thirty five per cent thought Congress should be so required and 7 per cent had no opinion.

The results were based on a survey of 1,550 adults 18 and older interviewed in person at more than 300 locations in the nation, the polling organization said.

ONE CITIZEN VIEWS THE NATION'S CAPITAL

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, Col. F. X. Purcell, U.S. Air Force, retired, civil engineer and freelance writer, recently furnished me with a copy of a thought-provoking article he had written setting forth his views on the Nation's Capital.

As I believe his article would be of interest to many of our colleagues, I insert it in full at this point in the RECORD:

THE UNITED STATES NEEDS A CAPITAL

(By F. X. Purcell)

In spring we flock to Washington to see the cherry blossoms, the Lincoln Memorial, the White House and the Capitol. Most go home without noticing "the inner city", "the slum", the "crime capital of the world". Really, the ugly overshadows the beautiful. Beauty is there because the founding fathers planned it, but we need only ride up 14th Street to see the ugliness.

Why isn't our seat of government the showplace of the world?

George Washington, in 1791, commissioned Pierre Charles L'Enfant, major of engineers, son and pupil of a professor of fine arts, to lay out the capital. L'Enfant studied the plans of the great cities of Europe and worked on the principle, as he put it, "the plan should be drawn on such a scale as to leave room for that aggrandizement and embellishment which the increase of the wealth of the Nation will permit it to pursue at any period however remote."

In 1825 L'Enfant died, broken and broke.

The L'Enfant plan has been called "the most complete as well as the most artistic city system ever carried out." The trouble is, it has not been well carried out. In early days this was because L'Enfant was pushed aside for political reasons; now it is because many people think its execution is legally or financially impossible. Not so!

The wise men who founded our country understood the need for an artistic, cultural capital and wrote the constitution accordingly. As for cost, the entire District of Columbia can now be bought for its taxes of thirty years.

The constitution (Section 8 of Article I) empowers Congress:

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States—for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;"

Congress accordingly in 1790 established the present location of the District, and a year later the states of Maryland and Virginia ceded the necessary land. (Virginia's part was later turned back to the state.) A condition of this cession of land was that the United States would exercise exclusive jurisdiction forever. The United States then acquired legal title to most of the land that is now downtown Washington; but for lack of funds it had to hand half of it back to former private owners and to sell other tracts. This much is worth remembering: the citizens of the United States as a whole did own this land in 1791.

In the first half of the 19th Century the L'Enfant plan was followed in general with the resources available. But from 1850 to 1870 the population of Washington almost tripled, to 131,700. Then between 1871 and 1874 an experimental popular government ran up such a debt through overextension, graft and waste that the Federal Government had to step in and set up the present system.

As people from outside continued to flood the District, landowners built flimsy tenements which fell to ruin and became rats' nests. The massive Treasury Building and the ugly State, War and Navy Building were plumped down as if expressly to ruin the landscape. For half a century, "temporary" buildings have littered the Mall. Thus the slum was established and the national capital lost in the garbage.

So the first thing to do is to start to take back the land of the District of Columbia—every square inch of it—for the people of the United States. The second is to renew and extend the L'Enfant plan. Extension of the plan will require the same long-range vision as the original concept, to provide for the needs of the government "at any period however remote". All future construction must conform to the plan and to the purpose of the constitution.

This may sound like a grandiose and expensive program, but a moment's thought will show that it is not. We are not talking about buying New York City or Chicago or Los Angeles—their problems are their own. The District is only a little patch of Federal ground about seven miles by ten and much of the land is not built up. The assessed value of all private land is $1,606,000,000, and since current land values are affected by interest and insurance rates, the government could probably get bargain prices. Improvements are assessed at $2,066,000,000; not all need be purchased.

There will be delays caused by legal and political problems, requiring exercise of "eminent domain", to that the acquisition will be spread out over several years at, say, $500,000,000 a year. At the same time the U.S. can avoid buying land outside the District of Columbia for the needs of the capital.

Some landowners may object, but nobody can claim that he is robbed of his ancestral rights: the only communities that existed before the land was ceded to the Federal Government were the little settlement of Georgetown and, probably, the Indian village where Captain John Smith met Pocahontas. The 19 proprietors of the land originally taken over conveyed it to the president in trust, with the understanding that the parts not laid out for public use would be left in their hands. The present owners have only the right to reasonable payment for the land to be taken.

As the land is acquired, all unsafe, unsanitary and obsolete buildings will be razed and the areas converted to parks and lawns until needed for Government buildings. Thus the slum will gradually disappear and the capital will become a place of open air and green vistas.

It is not necessary or desirable to tear down all privately owned buildings. The capital will still be a center of culture with colleges, museums, churches and theaters. Visiting diplomats, tourists and people with government business will need hotels, restaurants, stores, garages and places of entertainment. Certain business establishments such as banks, and professional people like doctors and lawyers, will have their place. The land itself will be taken over and held in perpetuity by the government, but it may be rented out on long-term leases for "needful buildings" as provided by the constitution. Where a going concern is to stay in business, the initial rental can be made comparable to the current taxes. The government, by the terms of the lease, will always be able to terminate a lease if the land is misused or is needed for immediate construction.

When all this is under way—the slum wiped out and the intent of the constitution reaffirmed—the District will be able to breathe again and to resume its growth as the proudest capital in the world.

The Mall, expanded and beautiful, can be our Champs Elysee; the National Cathedral, our Notre Dame; Rock Creek Park, our Bois de Boulogne. We cannot have an Acropolis or a Roman Forum—yet—but thousands of years from now scholars and tourists may come to study the artistic glories of the Golden Age of America.

It takes no change in the constitution to accomplish all this. It takes, rather, an expression of the will of our 200 million people to carry out the intent of the constitution itself. That is what we elect our representatives in Congress for, and we should let them know that's what we expect.

A WORTHY CONSERVATION MOVE

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. ESCH. Mr. Speaker, conservation of fuel this winter could have a significant impact on the shortages made critical by the embargo of Mideast oil. To assist the nation in the current fuel crisis, many industries and private citizens are making valuable efforts to reduce use of energy.

Better insulation in homes and commercial buildings is one method for conserving heating fuel while at the same time providing consumers with lower heating bills. The Michigan Consolidated Gas Co. which serves many of my constituents, is setting an example for utilities across the nation by actively promoting a home insulation program for its customers.

The program prompted the following favorable editorial comment from the Detroit News which I am inserting in the Record for the information of the members:

A Worthy Conservation Move

Michigan Consolidated Gas Co. has taken an imaginative step in energy conservation which proves that fuel economy is not the same as talking about the weather but doing nothing. The utility is aggressively promoting a home insulation program for its customers which could yield significant savings in gas supplies.

The program targets on 200,000 of firm's 840,000 residential customers whose homes are poorly insulated. Although current FHA standards require six inches of ceiling insulation, many older homes have little or no insulation.

The owner of a typical two-story uninsulated home built in Detroit before 1940 could cut his gas heating costs $35 annually by following the utility's advice. Estimated cost of the insulating material, about $90, would be recovered in three years.

But even owners of homes built within the past several years would benefit from improved insulation and that applies to homes heated by fuel oil—which is in critically short supply—or any other heat source.

The Michigan utility, which also serves Ann Arbor, Ypsilanti, Grand Rapids and much of northern Michigan, is believed the first in the nation to directly involve itself in such an energy conservation effort.

According to its estimates, if owners of the 200,000 most underinsulated houses take advantage of the program the fuel saving would be 6 billion cubic feet of gas, equivalant to the total gas heating consumption of 37,500 homes for an entire year.

There are reasons other than fuel and cost savings why homeowners should consider added insulation. A well-insulated home is more comfortable in winter and insulation has sound-deadening qualities. Ceiling or attic insulation also keeps a home cooler in summer.

The Michigan Public Service Commission, the state's utility regulator, gave quick approval to the gas company's fuel conservation program. Its advantages are so obvious that it raises the question of government insistence on proper insulation in all forms of housing.

For example, the FHA construction standard may not be followed where housing is built for conventional financing. Apartment structures and other multiple housing evidently follow other insulation rules and mobile construction varies widely.

In all its energy consumption the nation has two choices: to continue to waste irreplaceable energy supplies or to stretch as far as possible what is available. Michigan Consolidated's effort makes best use of gas for heating and should set an example for utilities and home builders across the nation.

SUPPORT FOR PRESIDENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. MICHEL. Mr. Speaker, like most of my colleagues, the mail I received from back home immediately after the firing of Archibald Cox was running heavily in favor of impeachment of President Nixon and not a small percentage of that mail suggested that he should resign immediately.

Following that initial surge of anti-Nixon sentiment, a good portion of which was orchestrated, my current mail has swung around completely and is now overwhelmingly in support of the President. In addition, I was back in the district last week and found that there is pretty broad sentiment in support of the President as expressed by people who were stopping me on the street and urging me to be sure and tell the President that they were for him and that he should not give up and should stay on the job.

We often hear these days the question, "How will it play in Peoria" and to answer that question I insert several letters from constituents residing in Peoria and other areas of my congressional district in the Record at this point:

Peoria, Ill., *November 15, 1973.*

Hon. Robert H. Michel,
House of Representatives,
Washington, D.C.

Dear Sir: I rate myself as one of the millions often referred to as the silent majority. Well, I have remained silent too long! These are my sentiments:

1. I have complete confidence in the ability of President Nixon to effectively govern our nation. Recent National and Worldwide events substantiate this view.

2. I am against the impeachment of our President!

3. I am for a more accurate, fair, impartial, reporting of the news—especially by the TV media.

4. I have never witnessed so many persons branded as guilty on nationwide TV networks before all the evidence is in and in many cases before they have had a fair and impartial trial.

Very truly yours,

Harold B. Page.

Peoria, Ill., *November 13, 1973.*

Hon. Bob Michel,
Washington, D.C.

Dear Congressman Michel: This letter is written to let you know this family is 100 percent behind President Nixon and his accomplishments since taking office.

In spite of all the (analysis ???) by the would be reporters of news, unemployment has gone down, crime has diminished, campus unrest has vanished, inflation has been held in check from what could have been a runaway fiasco. Greater strides have taken place to relieve international tensions than have been made in the last twenty five years. Our military forces have been pulled out of Viet Nam with thousands of our young mens lives saved.

Now about Watergate—not one person has been bodily hurt, not one person killed, and nothing was burgled from the so-called break in. The whole affair has been aired and televised to the point that from here on it hurts the nation to continue the hearings. Enough has come to light long ago to enable lawmakers to do the job that is needed to be done to prevent such a thing happening again. As far as justice is concerned, the culprits have suffered enough from the exposure they have had. To run them through the courts and met out jail sentences won't do them any good, nor the nation. It will only cost the taxpayers a lot of dollars.

The whole spectacle should be shut down.

Respectfully,

W. W. Owen.

Peoria, Ill., *November 13, 1373.*

Mr. Robert Michel,
House of Representatives,
Washington, D.C.

Dear Sir: My wife and I along with our many relatives and friends are really put out on the abusive treatment of our great President by many of our republican Senators and Congressman and the press and we are carefully watching the results of the meeting with the republicans Congressmen and Senators. Evidently they wanted him in 1968 and all good republicans wanted him and got him and we reelected him again in 1972. My first vote was for a republican and have been a good republican since 1928 and I say it is time for republicans to come to the aid of their party and not pussyfoot around the issues. Everyone knows the press wasn't for our President in 1964 and then he lost for Governor in California and the press said he was done for in politics and then in 1972 carried every State but one.

Well I think revenge is the real issue in the Watergate. I think the people are fed up with the (post mortem) held by the commentator after our President speaks on television.

I think when the press continually repeats over and over one thing then the people begin to feel the same way. Over and over the newsmen hurt us abroad and at home. But I have not given up and never have on Richard Nixon. I told Ivan Pettijohn when he told me Nixon was washed up after loss in California the he would be nominated in 1968 and was.

I don't think people really could forget so soon what he has done. Could these young people draft age and mothers forsake a party who has brought their sons back with peace, and an unemployment of only 4½ million.

But as I am out of the labor pool now I am free to get out and knock on doors as I am in good health, and us Senior Citizens will be heard from in the coming elections.

Any way we hope you and Sen. Charles Percy do not follow same views as Brooks and the Senator from Colorado. But these are the feeling, of my family, relatives and friends that I have talked with. So you wonder some times just where they take these polls.

Yours sincerely,

Howard Taylor.

Chattanooga, Tenn., *November 17, 1973.*

Dear Congressman Michel: As one of your constituents and supporters I would like to express my concern and opinion on the Nixon-Watergate Issue.

I personally feel that the President is telling the truth concerning the coverup, etc. I do not believe he should be impeached or resign. The President will be cleared, I believe and hope; but he can only return to strength if we will support him.

I ask you, as my representative, to help Mr. Nixon to regain his position and strength.

Your work is appreciated. As an officer of the government, you are in my prayers.

Sincerely,

B. Joey Watt.

Colchester, Ill., *November 20, 1973.*

Representative Michel: I am writing to beg you to please give Mr. Nixon your support and trust in every way you can.

We are more convinced each day of his complete innocence and honesty in this Watergate mess! And we think this has gone on much, much, too long!

Let's now get back once more to the more important issues of peace, stability, and prosperity in the world!

A concerned housewife, mother, and farmer's wife.

Mrs. Richard A. Dixon.

Topeka, Ill., *November 15, 1973.*

Hon. Robert Michel,
House of Representatives,
Washington, D.C.

Dear Congressman Michel: We are up to our ears with Watergate! It is time we let our representatives in Congress know exactly where we stand, so here it is.

The fuss made over the Watergate matter is ridiculous. By no stretch of the imagination is it of such proportion to deserve so much attention, time and money. Is there any politician in Washington who could stand an investigation such as has been given Mr. Nixon? Could any politician since the Garden of Eden stand such? And when all is said and done, will the Congress do anything constructive to change the ways of politics? We seriously doubt it—we seriously doubt that it is humanly possible.

There is much talk of the excessive power of the executive branch of the government, but what really frightens us is the excessive and irresponsible power of the press. The brainwashing job done on the American people by the news media in the Watergate matter must surely be the envy of Communist countries everywhere. The whole coverage of the affair by the press seems to us to be a concerted effort to destroy Richard Nixon and nothing else.

As we see it, Richard Nixon was the people's choice for President of the United States, and unless Congress moves swiftly to confirm Gerald Ford as Vice President, the elimination of Mr. Agnew and the clamor for the impeachment or the resignation of President Nixon smacks of an attempt to overthrow a duly elected government.

We feel that in these times the job of President of the United States is of such magnitude that any president—Democrat or Republican—deserves the cooperation of the Congress and the country in carrying out his duties. This does not mean agreeing with everything he proposes or says, but it does rule out antagonism, persecution and acting like children who didn't get their way. The real problems of this country—inflation, energy, pollution, world peace, foreign relations, to name a few—are so varied and so great that quite frankly we do not see how Congress can afford the time they have spent on the Watergate matter.

We are a part of middle class America who pay the lion's share of the nation's taxes—not poor enough to be exempt from income tax and not rich enough to have a herd of lawyers to manipulate our way out of paying. We own our own farm and locally we pay, what seems to us, more than our fair share of local government costs through the real estate tax. We pay and pay and pay, and we resent having our money frittered away on such nonsense as Watergate, which is only one among many of the occasions when government spends the taxpayers' hard earned dollars with utter carefree abandon.

We live on a farm near Topeka, Illinois. We are endeavoring to see our four children through college. Three have received college degrees and the youngest is now a sophomore at ISU. It has not been particularly easy to do without and pinch pennies to raise and educate our family and pay our taxes—local, state and federal—only to see those taxes squandered on asinine projects dictated by irresponsible government. The greatest service the Congress could do for the American people would be to stop the excessive spending, spending, spending of the tax dollar on wasteful, unnecessary or half-baked appropriations.

In conclusion, we think Richard Nixon has been an excellent president. He is being an excellent president under very trying circumstances. We voted for him in 1968, we voted for him in 1972 and we would vote for him again today. We sincerely wish that the Congress would take an honest look at the Watergate situation, get things in their right perspective and attend to the matters of government which are of real importance. As citizens of the state of Illinois we request you, our representative, to give reasonable cooperation to President Nixon in his efforts to solve the really pressing problems of our country.

Thank you for your attention.

Very sincerely,

Mr. and Mrs. DOYLE WALKER.

MACOMB, ILL., *November 21, 1973.*

Representative ROBERT MICHEL,
House Office Building,
Washington, D.C.

DEAR SIR: In my opinion Watergate has gone much too far and those who have lead the attack on President Nixon have done the country a great disservice.

Also it seems to me that those who have not supported him in the crisis have failed to be good citizens. Each one of us owes allegiance to our President whether he be a Republican or a Democrat. President Nixon from the beginning has professed his innocence of any wrongdoing and we should accept that and believe him until it is proved otherwise. And it must be admitted that there is no actual proof of guilt—only suspicion and speculation—nothing that would stand up on impeachment or in a court of law.

I respectfully urge you and the Congress to leave the matter to the courts and support the President and get on with the business of the country.

Mrs. Harris joins me in these statements.

Very truly yours,

EDWIN L. HARRIS.

A "DUTY" LETTER

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. FORSYTHE. Mr. Speaker, we all are aware of the wrenching effect the Watergate events have had on many, many loyal and concerned Americans.

I recently received a letter from a constituent, Mr. Tom Carson, of Cherry Hill, N.J., which rather graphically expresses the frustration of his family with these events.

I would like to share his letter with you. Therefore, without objection, I insert the text at this point in the RECORD:

Re President Nixon and the United States Congress

DEAR CONGRESSMAN FORSYTHE: This is a "duty" letter. I wish to be on record that I have believed for several months that President Nixon should resign. The events since last April when President Nixon finally deigned to address the public on television have been catastrophic and need not be enumerated here.

The public has been bewildered by the quantity, the rapidity of scandals within almost every area of the Executive branch of government. Adding to this is the apparent obfuscation of both houses of Congress.

Why would Congress pass 8 or is it now 9 bills and permit the President veto to stand? Is one man who obviously is doing every thing wrong a better evaluator of what effect a bill will have on the public interest or well being than the Congress which presumably studied and researched the subject before obtaining a majority vote?

Frankly, I am ashamed of our Congress. The House of Representatives has no strong leadership and The Senate has leaders of dubious character or sensibilities. Why is Congress so mealy mouthed?

I have a 19 year old daughter with an above average IQ. She is in her second college year at Albright and she is so distraught she is planning to emigrate to Australia. Meanwhile she is paying a good deal of time reading about the asinine 16 year old Indian who claims to speak for God!

My daughter can't understand why an intelligent man like her father who was a prominent advertising director for 25 years, a man who gave 3 and a ½ years to service for his country, a man who is physically and mentally very capable, is unable to find work of any kind. She is also unable to understand why college graduates are forced into jobs as ribbon or cosmetics clerks when they have a degree in social science or other equally worthwhile subjects.

Our family viewpoint, and I believe we are typical of families with grown children (our other daughter is married), is that our Presidents since the Truman administration have let this country down. We feel Congressmen in both Houses have been inept. If we were of an age that would permit our entry, my wife and I would encourage our youngest daughter to go to Australia and we would go with her. We loved our Country, and we received our rewards as we contributed to its growth and well being. Today we see nothing left for us, and no future for our youngest daughter. Could you read this into the Congressional Record.

Sincerely, and best wishes,

TOM CARSON.

THE GAL FROM BOONE

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. SCHERLE. Mr. Speaker, Boone, Iowa, in my district is privileged to have Mrs. Mamie Eisenhower as one of its most beloved natives.

Our former First Lady travels annually to Boone to visit her uncle, Joel E. Carlson, and these trips are always welcomed by local relatives and friends.

In her most recent trip home, Mrs. Eisenhower consented to the following interview with Allison Engel which appeared in the November 24, 1973, issue of the Des Moines Register. I would like to take this opportunity to share it with my colleagues.

MAMIE WANTS TO BE THE "GAL FROM BOONE"

(By Allison Engel)

BOONE, IA.—"Ike was known by heads of state all over the world as the man from Abilene. I want to be known as the gal from Boone."

But Mamie Eisenhower, widow of one of the nation's most popular military figures and former President, cannot shun her role in history. She yearns for privacy and quiet, shuns the spotlight and seldom speaks out on current political controversies.

CURRENT TRIP

She prefers the simpler things. Example: She describes her current trip to her native Boone (to visit her uncle, Joel E. Carlson, 93) as one stop on a "journey of love."

Earlier, she had stopped in Abilene, Kan., for her annual visit to place a wreath on Ike's grave.

Consenting to a rare private interview earlier this week, a cheerful and composed Mamie talked on a potpourri of subjects:

Childhood trips to Iowa, life in the White House, her recipes for tomato pudding and a happy marriage, and the creation of her trademark, "Mamie bangs."

Although reluctant to answer questions on current political events and the continuing Watergate scandals, Mamie did express firm support for President Nixon.

"He's as honest as the day is long," she said. "If he weren't, he'd have a lot more money than he does now."

She added: "It's about time we all started thinking for ourselves—using that gray matter. An article . . . is just the opinion of one person."

"We ask too much of the President," she continued. "He wears too many hats. In other countries, there are prime ministers and so forth to do various things, but here we have one man do it all."

Most of her words on the presidency, however, were reserved for her White House life with Ike.

"I was Ike's wife. I took care of everything in the White House and he took care of the presidency. We were very happy," she said, her startling blue eyes showing a brief glimmer of tears.

They had the same arrangement at the Gettysburg farm, she said.

"The outside was Ike's and the house was mine. I'm the best porch sitter you ever saw," she said with the ready laugh that often punctuated her words.

Mamie said she never played golf with her husband, whose love for the game was legendary.

"There was no competition between us. What he did, I didn't do," she said.

"I don't know about the Kansas profanity he was supposed to use when he played, though. I heard he had a few choice words when the ball didn't go where he wanted it to, but I never heard them around the house," she said with a smile.

FLAG PIN

As she spoke the jeweled rad, white and blue flag pinned on her left shoulder blinked in the morning sun. Below that, the tiny diamonds that encircled a small gold Presidential Seal sparkled.

The seal was a past Christmas present from President Nixon, she said, and the flag pin was given to her in the Philippines in 1936. "It only has 48 stars," Mamie said. "I wear it with dinner clothes and everything . . . because Ike asked me to. He was a great patriot."

"I wear him, too," she said, fingering an Eisenhower silver dollar medallion that hung around her neck. "If he gets in the way, I just tuck him inside."

Her appearance belied her 77 years. The direct gaze, spontaneous smile and the inevitable bangs were the same that had graced the nation's newsprint for decades.

A question about those famous bangs prompted an amused reply.

Did they create quite a nationwide commotion?

"Certainly!" Mamie replied with a laugh. "But I've worn them all my life. One day, I just got out a scissors and said 'I'm going to cut bangs' and I clipped away," she said, gesturing with exaggerated cutting motions. "Oh, I clip them with nail scissors, any scissors," she added.

Mamie characterized her eight years in the White House simply as "busy times."

The busiest, she said, was "meeting lots of people. I'd go from a group of farm women to a group from arts and letters. I'd meet an average of 500 to 1,000 women every morning for the first two years in the White House," she stated proudly.

LOOKS AT EYES

When meeting people, she said, she looked at their eyes.

"I can tell more about a person by looking into his eyes. I can't tell you what color hat you are wearing, but I can remember your eyes. I notice teeth, too. Teeth and eyes."

"Everyone has her own way of managing the White House," Mamie said. "And the First Ladies have different color schemes and want to rearrange the furniture differently, but you can do pretty much as you please."

"I always had one rule, though: I didn't interfere with Uncle Sam," she stated with emphasis.

"I think that President and Mrs. Nixon are bringing dignity back to the White House—which I'm sure was there when Ike and I were there," she said.

Mamie said she has noticed two differences between her way of entertaining and her successors'.

"I liked high floral arrangement, and I see now where they're using smaller ones. I would always use carnations as a base flower," she added, explaining that she did so to avoid guests' possible allergies to other flowers.

Her fondness for carnations was well known. "The Colorado growers used to send me 300 a week for my own use," she said.

Mamie had no measure of any difference between Mr. Nixon as vice-president and now as President.

NO BUSINESS TALK

"I wouldn't know. The minute Ike walked into the mansion, business was dropped. I never knew—we never discussed the presidency," she said.

"It goes back to letting him run his business and me run the house. As you can see, I'm not a woman's libber," she confessed.

Mamie also confessed to not being a cook, but said she did remember a recipe for tomato pudding she submitted to a cookbook once.

"It's good. You ought to try it," she urged.

Again, the quick peal of laughter. "It's not a dessert pudding. You serve it with beef or any roast meat. It's made with tomato paste, not whole tomatoes," she explained.

(It's also made with brown sugar, salt, bread cubes and butter, and baked in the oven.)

Mamie's life-style is such that cooking need not concern her.

She travels with 12 Secret Service agents and a secretary, who work to make Mamie's passage as smooth as possible.

When in Boone, the entourage stays at the Imperial Inn, a motel, where they are given a wing to themselves. Her visits are kept so quiet that some of the motel staff never see her during her stay.

"I live pretty much my own life now," Mamie said. "I go hither and yon, work on my projects and keep in touch with my family."

Some of her projects include working on a "People-to-People" program and close contact with Gettysburg (Pa.) College and Eisenhower College in Seneca Falls, N.Y.

A typical day, Mamie said, could have her waking up early.

"I always ring for breakfast at 8:15. My secretary comes at 9, and we go over letters and things until 4. So it's a very long day."

"There's one thing I still have—my checkbook and my signature," she said. "I answer most of the letters I receive, but don't write that down or I'll have everyone writing me," she instructed half-seriously.

Mamie said she "truly enjoys" her yearly visit to her birthplace. "I'm proud I'm from Iowa," she said. "I'll always know where the tall corn grows!"

Her uncle Joel, who celebrated his birthday with Mamie on Wednesday, "lives in the very house where he was born," Mamie said. "Can you imagine that?"

She recalled that she and her three sisters used to sleep on a mattress outside her uncle's home when they visited in the summer as small children.

"We thought that was hot stuff. We'd fall asleep at 9 p.m. thinking it was midnight," she said.

Another vivid memory was traveling from the Doud home in Denver to her grandmother's house in Boone.

BEES FOUND HER

"We had plumbing and indoor lights and everything and then we'd come to grandma's in Boone—with an outhouse out back," she said. "There were more bees around that place! And they'd find me," she giggled.

Mamie is "very much a family person," and pointed out that she now has three great-grandchildren.

"I think I'm a strange grandmother," she declared. "I don't baby-sit."

She said that she was "very pleased" about grandson David's decision to leave military service and study law. "David gave his time—three years—to Uncle Sam. He's not militarily-inclined at all."

SECRET SERVICE

She paused, and looked toward the two Secret Service agents in the room. "They're almost family too," she said. "Some of them have been with me for 20 years."

"They all know my shortcomings," Mamie said ruefully. "I have to be helped when I walk, you know."

But when she gave her final comment and issued her last warm smile, Mamie stood erect and walked carefully from the room slowly and proudly, without the aid of waiting hands.

HOUSE OF REPRESENTATIVES—*Tuesday, November 27, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Teach me Thy way, O Lord, that I may walk in Thy truth; unite my heart to fear Thy name.—Psalms 86: 11.

O Thou who art good, whose love is everlasting, and whose truth endures through all the ages, open our eyes that we may see the way Thy spirit is beckoning us and open our ears that we hear the voice of Truth as she calls us to be truehearted, wholehearted, faithful, and loyal in this critical hour of our national life. Give to us the dauntless courage to so live our own lives and to so lead our people that we as a nation may be lifted above the bitterness that blights the brightness of brotherhood and be carried beyond the strife which separates the spirits of men.

Make us united in great purposes, elevated to genuine sympathies and eager for all good works. Keep us close to Thee this day that we may walk the way of truth and live the life of love for the sake of our country and the peace of the world: Through Jesus Christ our Lord. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1106. An act to amend the Federal Reports Act to avoid undue delays in the collection of information by Government agencies.

CONFERENCE REPORT ON S. 1443, FURNISHING DEFENSE ARTICLES AND SERVICES TO FOREIGN COUNTRIES

Mr. **MORGAN** submitted the following conference report and statement on the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations:

Conference Report (H. Rept. No. 93–664)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Foreign Assistance Act of 1973".

POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

Sec. 2. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) In the chapter heading, immediately after "Chapter 1—Policy", insert "; Development Assistance Authorizations".

(2) In section 102—

(A) insert "(a)" immediately after "Statement of Policy.—"; and

(B) add at the end thereof the following:

"(b) The Congress further finds and declares that, with the help of United States economic assistance, progress has been made in creating a base for the economic progress of the less developed countries. At the same time, the conditions which shaped the United States foreign assistance program in the past have changed. While the United States must continue to seek increased cooperation and mutually beneficial relations with other nations, our relations with the less developed countries must be revised to reflect the new realities. In restructuring our relationships with these countries, the President should place appropriate emphasis on the following criteria:

"(1) Bilateral development aid should concentrate increasingly on sharing American technical expertise, farm commodities, and industrial goods to meet critical development problems, and less on large-scale capital transfers, which when made should be in association with contributions from other industrialized countries working together in a multilateral framework.

"(2) Future United States bilateral support for development should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.

"(3) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, and voluntary agencies.

"(4) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

"(5) United States bilateral development assistance should give the highest priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

"(6) The economic and social development programs to which the United States lends support should reflect, to the maximum extent practicable, the role of United States private investment in such economic and social development programs.

"(7) Under the policy guidance of the Secretary of State, the agency primarily responsible for administering this part should have the responsibility for coordinating all United States development-related activities."

(3) At the end thereof, add the following new sections:

"SEC. 103. FOOD AND NUTRITION.—In order to alleviate starvation, hunger, and malnutrition, and to provide basic services to poor people, enhancing their capacity for self-help, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $291,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 104. POPULATION PLANNING AND HEALTH.—In order to increase the opportunities and motivation for family planning, to reduce the rate of population growth, to prevent and combat disease, and to help provide health services for the great majority, the President is authorized to furnish assistance on such terms and conditions as he may determine, for population planning and health. There are authorized to be appropriated to the President for the purposes of this section, in addition to the funds otherwise available for such purposes, $145,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 105. EDUCATION AND HUMAN RESOURCES DEVELOPMENT.—In order to reduce illiteracy, to extend basic education and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $90,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 106. SELECTED DEVELOPMENT PROBLEMS.—The President is authorized to furnish assistance on such terms and conditions as he may determine, to help solve economic and social development problems in fields such as transportation, power, industry, urban development, and export development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $53,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 107. SELECTED COUNTRIES AND ORGANIZATIONS.—The President is authorized to furnish assistance on such terms and conditions as he may determine, in support of the general economy of recipient countries or for development programs conducted by private or international organizations. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $39,000,000 for each of the fiscal years 1974 and 1975, which amounts are authorized to remain available until expended.

"SEC. 108. APPLICATION OF EXISTING PROVISIONS.—Assistance under this chapter shall be furnished in accordance with the provisions of titles I, II, or X of chapter 2 of this part, and nothing in this chapter shall be construed to make inapplicable the restrictions, criteria, authorities, or other provisions of this or any other Act in accordance with which assistance furnished under this chapter would otherwise have been provided.

"SEC. 109. TRANSFER OF FUNDS.—Notwithstanding section 108 of this Act, whenever the President determines it to be necessary for the purposes of this chapter, not to exceed 15 per centum of the funds made available for any provision of this chapter may be transferred to, and consolidated with, the funds made available for any other provision of this chapter, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision. The authority of sections 610(a) and 614(a) of this Act may not be used to transfer funds made available under this chapter for use for purposes of any other provision of this Act.

"SEC. 110. COST-SHARING AND FUNDING LIMITS.—(a) No assistance shall be furnished by the United States Government to a country under sections 103 through 107 of this Act until the country provides assurances to the President, and the President is satisfied, that such country will provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an 'inkind' basis.

"(b) No grant assistance shall be disbursed by the United States Government under sections 103 through 107 of this Act for a project, for a period exceeding thirty-six consecutive months, without further justification satisfactory to the Congress and efforts being made to obtain sources of financing within that country and from other foreign countries and multilateral organizations.

"SEC. 111. DEVELOPMENT AND USE OF COOPERATIVES.—In order to strengthen the participation of the urban and rural poor in their country's development, not less than $20,000,000 of the funds made available for the purposes of this chapter shall be available during the fiscal years 1974 and 1975 only for assistance in the development of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.

"SEC. 112. PROHIBITING POLICE TRAINING.—(a) No part of any appropriation made available to carry out this Act shall be used to conduct any police training or related program in a foreign country.

"(b) Subsection (a) of this section shall not apply—

"(1) with respect to assistance rendered under section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, or with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates to crimes of the nature which are unlawful under the laws of the United States; or

"(2) to any contract entered into prior to the date of enactment of this section with any person, organization, or agency of the United States Government to provide personnel to conduct, or assist in conducting, any such program.

Notwithstanding paragraph (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after such date of enactment.

"SEC. 113. INTEGRATING WOMEN INTO NATIONAL ECONOMIES.—Sections 103 through 107 of this Act shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of foreign countries, thus improving their status and assisting the total development effort.

"SEC. 114. LIMITING USE OF FUNDS FOR ABORTIONS.—None of the funds made available to carry out this part shall be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions."

DEVELOPMENT LOAN FUND

SEC. 3. (a) Section 203 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 203. FISCAL PROVISIONS.—Not more than 50 per centum of dollar receipts scheduled to be paid during each of the fiscal years 1974 and 1975 from loans made pursuant to this part and from loans made under predecessor foreign assistance legislation are authorized to be made available for each such fiscal year for use for purposes of making loans under chapter 1 of this part. Such receipts shall remain available until expended."

(b) Effective July 1, 1975, such section 203 is repealed.

TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

SEC. 4. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) In section 211 (a), in the last sentence immediately after the word "assistance", insert the word "directly".

(2) In section 214, strike out subsections (c) and (d) and insert in lieu thereof the following:

"(c) To carry out the purposes of this section, there are authorized to be appropriated to the President for each of the fiscal years 1974 and 1975 $19,000,000, which amounts are authorized to remain available until expended.

"(d) There are authorized to be appropriated to the President to carry out the purposes of this section, in addition to funds otherwise available for such purposes, for each of the fiscal years 1974 and 1975 $6,500,000 in foreign currencies which the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

"(e) Not later than June 30, 1974, the Secretary of State shall submit to the Congress such recommendations (including recommendations concerning which agency of the United States Government should administer such assistance) as he considers desirable for assistance to schools, libraries, and hospital centers for medical education and research, outside the United States, founded or sponsored by United States citizens and serving as study and demonstration centers for ideas and practices of the United States."

HOUSING GUARANTEES

SEC. 5. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) In section 221, strike out "$205,000,000" and insert in lieu thereof "$305,000,000".

(2) In section 223(i), strike out "June 30, 1974" and insert in lieu thereof "June 30, 1975".

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 6. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) In section 235(a)(4), strike out "June 30, 1974" and insert in lieu thereof "December 31, 1974".

(2) In section 240(h), strike out "June 30, 1973" and insert in lieu thereof "December 31, 1974".

ALLIANCE FOR PROGRESS

SEC. 7. Section 252(b) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(b) There are authorized to be appropriated to the President for the fiscal year 1974, $934,000, and for the fiscal year 1975, $934,000, for grants to the National Association of the Partners of the Alliance, Inc., in accordance with the purposes of this title."

PROGRAMS RELATING TO POPULATION GROWTH

SEC. 8. Section 292 of the Foreign Assistance Act of 1961 is amended by striking out "for each of the fiscal years 1972 and 1973, $125,000,000" and inserting in lieu thereof "for the fiscal year 1974, $125,000,000, and for the fiscal year 1975, $130,000,000".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 9. Chapter 3 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) At the end of section 301 add the following new subsection:

"(e)(1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations a single professionally qualified group of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, and evaluation of the programs and activities of such organizations. Such proposal shall provide that such group shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such group on each examination, review, and evaluation shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation group.

"(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations, professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, and evaluation of the programs and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe, and that the reports of such groups on each examination, review, and evaluation shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

"(3) Reports received by the United States representatives to these international organizations under this subsection and related information on actions taken as a result of recommendations made therein shall be submitted promptly to the President for transmittal to the Congress and to the Comptroller General. The Comptroller General shall periodically review such reports and related information and shall report simultaneously to the Congress and to the President any suggestions the Comptroller General may deem appropriate concerning auditing and reporting standards followed by such groups, the recommendations made and actions taken as a result of such recommendations."

(2) In section 302(a), strike out "for the fiscal year 1972, $138,000,000 and for the fiscal year 1973, $138,000,000" and insert in lieu thereof "for the fiscal year 1974, $127,822,000 and for the fiscal year 1975, $150,000,000".

(3) In section 302(b)(2), strike out "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000" and insert in lieu thereof "for use in the fiscal year 1974, $14,500,000, and for use in the fiscal year 1975, $14,500,000,".

(4) Section 302(d) is amended to read as follows:

"(d) Of the funds made available to carry out this chapter for each of the fiscal years 1974 and 1975, $18,000,000 shall be available in each such fiscal year only for contributions to the United Nations Children's Fund."

(5) In section 302(e), strike out $1,000,000 for the fiscal year 1972 and $1,000,000 for the fiscal year 1973" and insert in lieu thereof "$2,000,000 for the fiscal year 1974 and $2,000,000 for the fiscal year 1975".

CONTINGENCY FUND

SEC. 10. Section 451(a) of the Foreign Assistance Act of 1961 is amended to read as follows: "(a) There is authorized to be appropriated to the President for each of the fiscal years 1974 and 1975 not to exceed $30,000,000, to provide assistance authorized by this part primarily for disaster relief purposes, in accordance with the provisions applicable to the furnishing of such assistance."

INTERNATIONAL NARCOTICS CONTROL

SEC. 11. (a) Section 481 of the Foreign Assistance Act of 1961 is amended by inserting "(a)" immediately after "INTERNATIONAL NARCOTICS CONTROL.—" and by adding at the end thereof the following new subsection:

"(b)(1) Not later than forty-five days after the date on which each calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on the programing and obligation, on a calendar quarter basis, of funds under this chapter prior to such date.

"(2) Not later than forty-five days after the date on which the second calendar quarter of each year ends and not later than forty-five days after the date on which the fourth calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed semiannual report on the activities and operations carried out under this chapter prior to such date. Such semiannual report shall include, but shall not be limited to—

"(A) the status of each agreement concluded prior to such date with other countries to carry out the purposes of this chapter; and

"(B) the aggregate of obligations and expenditures made, and the types and quantity of equipment provided, on a calendar quarter basis, prior to such date—

"(i) to carry out the purposes of this chapter with respect to each country and each international organization receiving assistance under this chapter, including the cost of United States personnel engaged in carrying out such purposes in each such country and with each such international organization;

"(ii) to carry out each program conducted under this chapter in each country and by each international organization, including the cost of United States personnel engaged in carrying out each such program; and

"(iii) for administrative support services within the United States to carry out the purposes of this chapter, including the cost of United States personnel engaged in carrying out such purposes in the United States."

(b) Section 482 of the Foreign Assistance Act of 1961 is amended by striking out "$42,500,000" and all that follows down through the period at the end of such section and inserting in lieu thereof "$42,500,000 for each of the fiscal years 1974 and 1975. Amounts appropriated under this section are authorized to remain available until expended."

MILITARY ASSISTANCE

SEC. 12. (a) Chapter 1 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 502A. EXCESS DEFENSE ARTICLES.—Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items."

(b) Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended as follows:

(1) Section 503 is amended to read as follows:

"SEC. 503. GENERAL AUTHORITY.—(a) The President is authorized to furnish military assistance, on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

"(1) acquiring from any source and providing (by loan or grant) any defense article or defense service; or

"(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature.

"(b) In addition to such other terms and conditions as the President may determine pursuant to subsection (a), defense articles may be loaned thereunder only if—

"(1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis;

"(2) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period, unless the loan is then renewed;

"(3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States;

"(4) the agency making the loan is reimbursed for the loan based on the amount charged to the appropriation for military assistance under subsection (c); and

"(5) arrangements are made with the agency making the loan to be reimbursed in the event such article is lost or destroyed while on loan, such reimbursement being made first out of any funds available to carry out this chapter and based on the depreciated value of the article at the time of loss or destruction.

"(c)(1) In the case of any loan of a defense article or defense service made under this section, there shall be a charge to the appropriation for military assistance for any fiscal year while the article or service is on loan in an amount based on—

"(A) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and

"(B) the depreciation which occurs during such year while such article is on loan.

"(2) The provisions of this subsection shall not apply—

"(A) to any particular defense article or defense service which the United States Government agreed, prior to the date of enactment of this subsection, to lend; and

"(B) to any defense article or defense service, or portion thereof, acquired with funds appropriated for military assistance under this Act."

(2) In section 504(a)—

(A) strike out $500,000,000 for the fiscal year 1972" and insert in lieu thereof "$512,500,000 for the fiscal year 1974"; and

(B) strike out "forty countries" and insert in lieu thereof "thirty-one countries".

(3) Section 505 is amended by adding the following new subsections at the end thereof:

"(e) In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer unless the United States itself would transfer the defense article under consideration to that country, and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred. In addition, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

"(f) Effective July 1, 1974, no defense article shall be furnished to any country on a grant basis unless such country shall have agreed that the net proceeds of sale received by such country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Education and Cultural Exchange Act of 1961."

(4) In section 506(a)—

(A) strike out "the fiscal year 1972" in each place it appears and insert in lieu thereof "the fiscal year 1974";

(B) strike out "vital to the security" and insert in lieu thereof "in the security interests"; and

(C) strike out "$300,000,000" and insert in lieu thereof "$250,000,000".

(5) Sections 507, 508, 509, 512, and 514 are repealed.

(6) Section 513 is amended—

(A) by striking out "THAILAND.—" in the section heading and inserting in lieu thereof "THAILAND AND LAOS.—(a)"; and

(B) by adding at the end thereof the following new subsection:

"(b) After June 30, 1974, no military assistance shall be furnished by the United States to Laos directly or through any other foreign country unless that assistance is authorized under this Act or the Foreign Military Sales Act."

(c) Section 655(c) shall not apply to assistance authorized to be furnished under any provision of law for fiscal year 1974.

SECURITY SUPPORTING ASSISTANCE

SEC. 13. Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended—

(1) in section 532 by striking out "for the fiscal year 1972 not to exceed $618,000,000, of which not less than $50,000,000 shall be available solely for Israel" and inserting in lieu thereof "for the fiscal year 1974 not to exceed $125,000,000, of which not less than $50,000,000 shall be available solely for Israel"; and

(2) by striking out section 533.

TERMINATION OF ASSISTANCE

SEC. 14. Section 617 of the Foreign Assistance Act of 1961 is amended by striking out "twelve" and inserting in lieu thereof "eight".

PROHIBITIONS

SEC. 15. The first full paragraph of section 620(e)(1) of the Foreign Assistance Act of 1961 is amended by striking out "no other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection." and inserting in lieu thereof "the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States. Such certification shall be reported immediately to Congress."

EMPLOYMENT OF PERSONNEL

SEC. 16. Section 625 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(k)(1) In accordance with such regulations as the President may prescribe, the following categories of personnel who serve in the agency primarily responsible for administering part I of this Act shall become participants in the Foreign Service Retirement and Disability System:

"(A) persons serving under unlimited appointments in employment subject to subsection (d)(2) of this section as Foreign Service Reserve officers and as Foreign Service staff officers and employees; and

"(B) a person serving in a position to which he was appointed by the President, whether with or without the advice and consent of the Senate, if (i) such person shall have served previously under an unlimited appointment pursuant to such subsection (d)(2) or a comparable provision of predecessor legislation to this Act, and (ii) following service specified in clause (i) of this subparagraph, such person shall have served continuously with such agency or its predecessor agencies only in positions established under the authority of sections 624(a) and 631(b) or comparable provisions of predecessor legislation to this Act.

"(2) Upon becoming a participant in the Foreign Service Retirement and Disability System, any such officer or employee shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of section 852 of the Foreign Service Act of 1946, as amended. Thereafter, compulsory contributions will be made with respect to each such participating officer or employee in accordance with the provisions of section 811 of the Foreign Service Act of 1946, as amended.

"(3) The provisions of section 636 and title VIII of the Foreign Service Act of 1946, as amended, shall apply to participation in the Foreign Service Retirement and Disability System by any such officer or employee.

"(4) If an officer who becomes a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection is appointed by the President, by and with the advice and consent of the Senate, or by the President alone, to a position in any agency of the United States Government, any United States delegation or mission to any international organization, in any international commission, or in any international body, such officer shall not, by virtue of the acceptance of such an appointment, lose his status as a participant in the system.

"(5) Any such officer or employee who becomes a participant in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection shall be mandatorily retired (A) at the end of the month in which he reaches age seventy, or (B) earlier if, during the third year after the effective date of this subsection, he attains age sixty-four or if he is over age sixty-four; during the fourth year at age sixty-three; during the fifth year at age sixty-two; during the sixth year at age sixty-one; and thereafter at the end of the month in which he reaches age sixty. However, no participant shall be mandatorily retired under this paragraph while serving in a position to which appointed by the President, by and with the advice and consent of the Senate. Any participant who completes a period of authorized service after reaching the mandatory retirement age specified in this paragraph shall be retired at the end of the month in which such service is completed.

"(6) Whenever the President deems it to be in the public interest, he may extend any participant's service for a period not to exceed five years after the mandatory retirement date of such officer or employee.

"(7) This subsection shall become effective on the first day of the first month which begins more than one year after the date of its enactment, except that any officer or employee who, before such effective date, meets the requirements for participation in the Foreign Service Retirement and Disability System under paragraph (1) of this subsection may elect to become a participant before the effective date of this subsection. Such officer or employee shall become a participant on the first day of the second month following the date of his application for earlier participation. Any officer or employee who becomes a participant in the system under the provisions of paragraph (1) of this subtion, who is age fifty-seven or over on the effective date of this subsection, may retire voluntarily at any time before mandatory retirement under paragraph (5) of this subsection and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

"(8) Any officer or employee who is separated for cause while a participant in the Foreign Service Retirement and Disability System pursuant to this subsection, shall be entitled to benefits in accordance with section 637 (b) and (d) of the Foreign Service Act of 1946, as amended. The provisions of subsection (e) of this section shall apply to participants in lieu of the provisions of sections 633 and 634 of the Foreign Service Act of 1946, as amended."

REPORTS AND INFORMATION

SEC. 17. Section 634 of the Foreign Assistance Act of 1961 is amended by striking out subsection (f) and inserting in lieu thereof the following new subsections:

"(f) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate a comprehensive report showing, as of June 30 and December 31 of each year, the status of each loan and each contract of guarantee or insurance theretofore made under this Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of defense articles or defense services on credit terms, and each contract of guarantee in connection with any such sale, theretofore made under the Foreign Military Sales Act, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each sale of agriculture commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954, with respect to which there remains outstanding any unpaid obligation; and the status of each transaction in which a loan, contract of guarantee or insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945, with respect to which there remains outstanding any unpaid obligation or potential liability. Such report shall include individually only any loan, contract, sale, extension of credit, or other transaction listed in this subsection in excess of $1,000,000.

"(g) The President shall transmit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, not later than January 31 of each year, a comprehensive report, based upon the latest data available, showing—

"(1) a summary of the worldwide dimensions of debt-servicing problems among such countries, together with a detailed statement of the debt-servicing problems of each such country;

"(2) a summary of all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted;

"(3) a summary of the worldwide effect of the debt relief granted by the United States on the availability of funds, authority, or other resources of the United States to make any such loan, sale, contract of guarantee or insurance, or extension of credit, together with a detailed statement of the effect of such debt relief with respect to each such country; and

"(4) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States, together with a detailed analysis of such net aid flow with respect to each such country."

ADMINISTRATIVE EXPENSES

Sec. 18. Section 637(a) of the Foreign Assistance Act of 1961 is amended by striking out "for the fiscal year 1972, $50,000,000, and for the fiscal year 1973, $50,000,000" and inserting in lieu thereof "for each of the fiscal years 1974 and 1975, $45,000,000".

TECHNICAL AMENDMENT

Sec. 19. Section 638 of the Foreign Assistance Act of 1961 is amended by striking out "Peace Corps Assistance" and inserting in lieu thereof "Exclusions".

AFRICAN SAHEL FAMINE AND DISASTER RELIEF AND DEVELOPMENT PROGRAM

Sec. 20. Chapter 2 of part III of the Foreign Assistance Act of 1961 is amended by inserting after section 639 the following new sections:

"Sec. 639A. Famine and Disaster Relief to the African Sahel.—(a) The Congress affirms the response of the United States Government in providing famine and disaster relief and related assistance in connection with the drought in the Sahelian nations of Africa. The President shall report to Congress as soon as possible on solutions to this problem of famine and further propose how any of these solutions may be carried out by multilateral organizations.

"(b) Notwithstanding any prohibitions or restrictions contained in this or any other Act, there is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $25,000,000 to remain available until expended, for use by the President, under such terms and conditions as he may determine, for emergency and recovery needs, including drought, famine, and disaster relief, and rehabilitation and related assistance, for the drought-stricken Sahelian nations of Africa.

"Sec. 639B. African Sahel Development Program.—The Congress supports the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program."

COORDINATION; SHIPPING DIFFERENTIAL

Sec. 21. Chapter 2 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sections:

"Sec. 640B. Coordination.—(a) The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the head of the agency primarily responsibile for administering part I, Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, and Labor, the Executive Office of the President, and other executive departments and agencies, as the President shall designate.

"(b) The President shall prescribe appropriate procedures to assure coordination among—

"(1) the various departments and agencies of the United States Government having representatives in diplomatic missions abroad; and

"(2) representatives of the United States Government in each country, under the direction of the Chief of the United States Diplomatic Mission.

The President shall keep the Congress advised of his actions under this subsection.

"(c) Programs authorized by this Act shall be undertaken with the foreign policy guidance of the Secretary of State.

"(d) The President shall report to the Congress during the first quarter of each calendar year on United States actions affecting the development of the low-income countries and on the impact of those undertakings upon the national income, employment, wages, and working conditions in the United States.

"Sec. 640C. Shipping Differential.—For the purpose of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), funds made available for the purposes of chapter 1 of part I or for purposes of part V may be used to make grants to recipients to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible."

DEFINITIONS

Sec. 22. Section 644 of the Foreign Assistance Act of 1961 is amended as follows:

(1) Subsection (g) is amended to read as follows:

"(g) 'Excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act."

(2) Subsection (i) is repealed.

(3) Subsection (m) is amended to read as follows:

"(m) 'Value' means—

"(1) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 632(d) such actual value shall not be taken into account;

"(2) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

"(3) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this Act, the contract or production costs of such article; and

"(4) with respect to a defense service, the cost to the United States Government of such service."

ANNUAL FOREIGN ASSISTANCE REPORT

Sec. 23. Section 657 of the Foreign Assistance Act of 1961 is amended to read as follows:

"Sec. 657. Annual Foreign Assistance Report.—(a) In order that the Congress and the American people may be better and more currently informed regarding the volume and cost of assistance extended by the United States Government to foreign countries and international organizations, and in order that the Congress and the American people may be better informed regarding the sale of arms to foreign countries and international organizations by private industry of the United States, not later than December 31 of each year the President shall transmit to the Congress an annual report, for the fiscal year ending prior to the fiscal year in which the report is transmitted, showing—

"(1) the aggregate dollar value of all foreign assistance provided by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance by category provided by the United States Government to each such country and organization, during that fiscal year.

"(2) the total amounts of foreign currency paid by each foreign country or international organization to the United States Government in such fiscal year, what each payment was made for, whether any portion of such payment was returned by the United States Government to the country or organization from which the payment was obtained or whether any such portion was transferred by the United States Government to another foreign country or international organization, and, if so returned or transferred, the kind of assistance obtained by that country or organization with those foreign currencies and the dollar value of such kind of assistance;

"(3) the aggregate dollar value of all weapons, weapons systems, munitions, aircraft, military boats, military vessels, and other implements of war, and the aggregate dollar value of each category of such implements of war, exported under any export license, to all foreign countries and international organizations, and to each such country and organization, during that fiscal year;

"(4) all exports of significant defense articles on the United States Munitions List to any foreign government, international organization, or other foreign recipient or purchaser, by the United States under this Act or any other authority, or by any individual, corporation, partnership, or other association doing business in the United States, including but not limited to, full information as to the particular defense articles so exported, the particular recipient or purchaser, the terms of the export, including its selling price, if any, and such other information as may be appropriate to enable the Congress to evaluate the distribution of United States defense articles abroad; and

"(5) such other matters relating to foreign assistance provided by the United States Government as the President considers appropriate, including explanation of the information required under clauses (1) through (4) of this subsection.

"(b) All information contained in any report transmitted under this section shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the same time that the report is transmitted.

"(c) If the Congress is not in session at the time a report or supplemental report is transmitted to the Congress, the Secretary of the Senate and the Clerk of the House of Representatives shall accept the report or supplemental report on behalf of their respective Houses of Congress and present the report or supplemental report to the two Houses immediately upon their convening.

"(d) For the purposes of this section—

"(1) 'foreign assistance' means any tangible or intangible item provided by the United States Government under this or any other law to a foreign country or international organization, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country; and

"(2) 'provided by the United States Government' includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty."

INDOCHINA POSTWAR RECONSTRUCTION

Sec. 24. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new part:

"PART V

"Sec. 801. General Authority.—The President is authorized to furnish, on such terms and conditions as he may determine, assistance for relief and reconstruction of South Vietnam, Cambodia, and Laos, including especially humanitarian assistance to refugees, civilian war casualties, and other persons disadvantaged by hostilities or conditions related to those hostilities in South Vietnam, Cambodia, and Laos. No assistance shall be furnished under this section to South Vietnam unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam.

"Sec. 802. Authorization.—There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to funds otherwise available for such purposes, for the fiscal year 1974 not to exceed $504,000,000, which amount is authorized to remain available until expended.

"Sec. 803. Assistance to South Vietnamese Children.—(a) It is the sense of the Congress that inadequate provision has been made (1) for the establishment, expansion, and improvement of day care centers, orphanages, hostels, school feeding programs, health and welfare programs, and training related to these programs which are designed for the benefit of South Vietnamese children, disadvantaged by hostilities in Vietnam or conditions related to those hostilities, and (2) for the adoption by United States citizens of South Vietnamese children who are orphaned or abandoned, or whose parents or sole surviving parent, as the case may be, has irrevocably relinquished all parental rights, particularly children fathered by United States citizens.

"(b) The President is, therefore, authorized to provide assistance, on terms and conditions he considers appropriate, for the purposes described in clauses (1) and (2) of subsection (a) of this section. Of the funds appropriated pursuant to section 802 for fiscal year 1974, $5,000,000, or its equivalent in local currency, shall be available until expended solely to carry out this section. Not more than 10 per centum of the funds made available to carry out this section may be expended for the purposes referred to in clause (2) of subsection (a). Assistance provided under this section shall be furnished, to the maximum extent practicable, under the auspices of and by international agencies or private voluntary agencies.

"Sec. 804. Center for Plastic and Reconstructive Surgery in Saigon.—Of the funds appropriated pursuant to section 802 for the fiscal year 1974, not less than $712,000 shall be available solely for furnishing assistance to the Center for Plastic and Reconstructive Surgery in Saigon.

"Sec. 805. Authority.—All references to part I, whether heretofore or hereafter enacted, shall be deemed to be references also to this part unless otherwise specifically provided. The authorities available to administer part I of this Act shall be available to administer programs authorized in this part."

FOREIGN MILITARY SALES ACT AMENDMENTS

Sec. 25. The Foreign Military Sales Act is amended as follows:

(1) Section 1 is amended by adding at the end thereof the following new paragraph:

"In order to reduce the role of the United States Government in the furnishing of defense articles and defense services to foreign countries and international organizations, and return such transactions to commercial channels, the United States Government shall reduce its sales, credit sales, and guaranties of such articles and defense services as soon as, and to the maximum extent, practicable."

(2) Section 3 is amended—

(A) by striking out "and" at the end of paragraph (2) of subsection (a) and inserting before "unless" the following: "and not to use or permit the use of such article for purposes other than those for which furnished";

(B) by redesignating paragraph (3) of subsection (a) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) the country or international organization shall have agreed that it will maintain the security of such article and will provide substantially the same degree of security protection afforded to such article by the United States Government; and";

(C) by inserting the following immediately before the last sentence of subsection (a):

"In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country, and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred. In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President."; and

(D) by adding at the end thereof the following new subsections:

"(c) Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in substantial violation of any provision of this Act or any agreement entered into under this Act, shall be immediately ineligible for further cash sales, credits, or guarantees.

"(d) No sophisticated weapons, including sophisticated jet aircraft or spare parts and associated ground equipment for such aircraft, shall be furnished under this or any other Act to any foreign country on or after the date that the President determines that such country has violated any agreement it has made in accordance with paragraph (2) of subsection (a) of this section or section 505(a) of the Foreign Assistance Act of 1961 or any other provision of law requiring similar agreements. Such country shall remain ineligible in accordance with this subsection until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not reoccur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned."

(3) Section 22 is amended to read as follows:

"Sec. 22. Procurement for Cash Sales.—(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

"(b) The President may, when he determines it to be in the national interest, accept a dependable undertaking of a foreign country or international organization with respect to any such sale, to make full payment within 120 days after delivery of the defense articles or the rendering of the defense services. Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold."

(4) In section 24(c)—

(A) strike out "pursuant to section 31" and insert in lieu thereof "to carry out this Act"; and

(B) insert "principal amount of" immediately before the words "contractual liability" wherever they appear.

(5) In section 31(a), strike out "$40,000,000 for the fiscal year 1972" and insert in lieu thereof "$325,000,000 for fiscal year 1974".

(6) In section 31(b), strike out "(excluding credits covered by guaranties issued pursuant to section 24(b), (and the face amount of guaranties issued pursuant to sections 24 (a) and (b) shall not exceed $550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be available to Israel only" and insert in lieu thereof "and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed $730,000,000 for the fiscal year 1974, of which amount not less than $300,000,000 shall be available to Israel only".

(7) In section 33(a)—

(A) strike out "cash sales pursuant to sections 21 and 22,";

(B) strike out "(excluding credits covered by guaranties issued pursuant to section 24 (b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)"; and

(C) strike out "$100,000,000" and insert in lieu thereof "$150,000,000".

(8) In section 33(b)—

(A) strike out "cash sales pursuant to sections 21 and 22,"; and

(B) strike out "(excluding credits covered by guaranties issued pursuant to section 24 (b)), of the face amount of contracts of guaranty issued pursuant to sections 24(a) and (b)" and insert in lieu thereof "of the principal amount of loans guaranteed pursuant to section 24(a)".

(9) Section 33(c) is repealed.

(10) In section 36, strike out subsections (a) and (b).

(11) In section 37(b), insert after "indebtedness" the following: "under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are made available for such obligations)".

(12) Add at the end thereof the following new section:

"Sec. 47. Definitions.—For purposes of this Act, the term—

"(1) 'excess defense article' has the meaning provided by section 644(g) of the Foreign Assistance Act of 1961; and

"(2) 'value' means, in the case of an excess defense article, not less than the greater of—

"(A) the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such article, plus the scrap value; or

"(B) the market value, if ascertainable."

AMENDMENTS TO FOREIGN MILITARY SALES ACT AMENDMENTS OF 1971

Sec. 26. The Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971 (84 Stat. 2053), is amended as follows:

(1) Section 8(a) is amended by inserting immediately before clause (1) the following: "(less amounts to be transferred under section 632(d) of the Foreign Assistance Act of 1961)".

(2) Section 8(b) is amended—

(A) by striking out "The provisions" and inserting in lieu thereof "In the case of excess defense articles which are generated abroad, the provisions"; and

(B) by striking out "$185,000,000" and inserting in lieu thereof "$150,000,000".

(3) Section 8(c) is amended to read as follows:

"(c) For purposes of this section, the term 'value' has the same meaning as given it in section 644(m) of the Foreign Assistance Act of 1961."

(4) Section 9 is repealed.

PUBLIC DISCLOSURE OF CERTAIN MUNITIONS CONTROL LICENSES

Sec. 27. Section 414 of the Mutual Security Act of 1954 is amended by adding at the end thereof the following new subsection:

"(e) Licenses issued for the export of articles on the United States Munitions List in excess of $100,000 shall be reported promptly to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, which report shall contain—.

"(1) the items to be exported under the license;

"(2) the quantity of each such item to be furnished;

"(3) the name and address of the consignee and of the ultimate user of each such item; and

"(4) an injunction whenever appropriate, concerning the necessity to protect the confidentiality of the information provided."

ASIAN DEVELOPMENT BANK

Sec. 28. Section 17 of the Asian Development Bank Act is amended by striking out "$60,000,000 for fiscal year 1972 and $40,000,000 for fiscal year 1973" and inserting in lieu thereof "$100,000,000".

ACCESS TO CERTAIN MILITARY BASES ABROAD

Sec. 29. None of the funds authorized to be appropriated by this Act may be used to provide any kind of assistance to any foreign country in which a military base is located if—

(1) such base was constructed or is being maintained or operated with funds furnished by the United States; and

(2) personnel of the United States carry out military operations from such base;

unless and until the President has determined that the government of such country has, consistent with security, authorized access, on a regular basis, to bona fide news media correspondents of the United States to such military base.

TERMINATION OF INDOCHINA WAR

Sec. 30. No funds authorized or appropriated under this or any other law may be expended to finance military or paramilitary operations by the United States in or over Vietnam, Laos, or Cambodia.

LIMITATION ON USE OF FUNDS

Sec. 31. No funds authorized or appropriated under any provision of law shall be made available for the purpose of financing directly or indirectly any military or paramilitary combat operations by foreign forces in Laos, Cambodia, North Vietnam, South Vietnam, or Thailand unless (1) such operations are conducted by the forces of that government receiving such funds within the borders of that country, or (2) specifically authorized by law enacted after the date of enactment of this Act.

POLITICAL PRISONERS

Sec. 32. It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

ALBERT SCHWEITZER HOSPITAL

Sec. 33. There is authorized to be appropriated to the President for fiscal year 1974, $1,000,000 to make grants, on such terms and conditions as he may specify, to the Albert Schweitzer Hospital in Gabon.

PRISONERS OF WAR AND INDIVIDUALS MISSING IN ACTION

Sec. 34. (a) The Congress declares that—

(1) the families of those one thousand three hundred individuals missing in action during the Indochina conflict have suffered extraordinary torment in ascertaining the full and complete information about their loved ones who are formally classified as missing in action;

(2) United States involvement in the Indochina conflict has come to a negotiated end with the signing of the Vietnam Agreement in Paris on January 27, 1973, and section 307 of the Second Supplemental Appropriations Act, 1973, requires that "None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam, and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose.";

(3) the question of the return of prisoners of war and accounting for individuals missing in action and dead in Laos is covered by article 18 of the Protocol signed by representatives of the Lao Patriotic Front (Pathet Lao) and the Royal Laotian Government in Vientiane on September 14, 1973 (which implements article 5 of the Agreement signed by the Pathet Lao and that government in Vientiane on February 21, 1973, requiring the release of all prisoners "regardless of nationality" captured and held in Laos), and paragraph C of such article 18 provides that, within "15 to 30 days" from the date of the signing of the Protocol, each side is to report the number of those prisoners and individuals still held, with an indication of their nationality and status, together with a list of names and any who died in captivity; and

(4) few of the United States men lost in Laos during the military engagements in Indochina have been returned, and with knowledge about many of these men not yet being fully disclosed, and the North Vietnam cease-fire provisions calling for inspection of crash and grave sites and for other forms of cooperation have not been fully complied with.

(b) It is, therefore, the sense of the Congress that—

(1) the provisions for the release of prisoners and an accounting of individuals missing and dead, as provided for in article 18 of the Protocol signed on September 14, 1973, by the Pathet Lao and the Royal Laotian Government, be adhered to in spirit and in deed; and

(2) the faithful compliance with the spirit of the Laotian Agreement and Protocol on the question of individuals missing in action will encourage all parties in Indochina to cooperate in providing complete information on all nationals of any nation who may be captured or missing at any place in Indochina.

RIGHTS IN CHILE

Sec. 35. It is the sense of the Congress that (1) the President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners; (2) the President should support international humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross to insure the protection and safe conduct and resettlement of political refugees, the humane treatment of political prisoners, and the full inspection of detention facilities under international auspices; (3) the President should support and facilitate efforts by voluntary agencies to meet emergency relief needs; and (4) the President should request of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events occurring in Chile.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

SEC. 36 (a) The President or his delegate shall seek, as soon as possible, a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank. Such revision should provide for the—

(1) periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969 (22 U.S.C. 290f and following);

(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act (22 U.S.C. 1942 and 1943) in such a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries; or

(3) both the transfer described in paragraph (1) and the utilization described in paragraph (2).

(b) Any transfer or utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

(c) Any transfer under subsection (a)(1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.

(d) The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his delegate shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer or utilization described in this section.

(e) Not later than January 1, 1974, the President shall report to Congress on his action taken pursuant to this section.

PROHIBITION ON ASSISTANCE TO NORTH VIETNAM

SEC. 37. Notwithstanding any other provision of law, no funds authorized by this Act shall be expended to aid or assist in the reconstruction of the Democratic Republic of Vietnam (North Vietnam), unless by an Act of Congress assistance to North Vietnam is specifically authorized.

REPORT CONCERNING CERTAIN USE OF MILITARY ASSISTANCE IN AFRICA

SEC. 38. The President of the United States shall, as soon as practicable following the date of the enactment of this Act, make a determination and report to Congress with respect to the use, if any, by any non-African country in support of its military activities in its African territories of—

(1) assistance furnished under the Foreign Assistance Act of 1961 after the date of the enactment of this Act;

(2) defense articles or services furnished after such date under the Foreign Military Sales Act; or

(3) agricultural commodities furnished after such date under the Agricultural Trade Development and Assistance Act of 1954.

WORLD FOOD SHORTAGES

SEC. 39. (a) It is the sense of the Congress that the United States should participate fully in efforts to alleviate current and future food shortages which threaten the world. To this end, the President shall—

(1) encourage, support, and expedite studies relating to the long-range implications of the world food situation (including studies of national and world production, distribution, and utilization of agricultural commodities and other foodstuffs) and support the organizing of a world food conference under United Nations auspices in 1974;

(2) request the member nations of the General Agreement on Tariffs and Trade to explore the means for assuring equitable access by all nations to national markets and mineral and agricultural resources;

(3) consult and cooperate with appropriate international agencies, such as the Food and Agriculture Organization of the United Nations, in determining the need for, the feasibility of, and cost on an equitably-shared basis of, establishing an international system of strategic food reserves; and

(4) report his findings and recommendations to the Congress on the implementation of this section no later than December 31, 1974.

(b) It is further the sense of the Congress that—

(1) in making assessments which would affect or relate to the level of domestic production, the Executive Branch should include in the estimates of overall utilization the expected demands for humanitarian food assistance through such programs as are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480); and

(2) legislation providing increased flexibility for responding to emergency and humanitarian requirements for food assistance should be considered as promptly as possible to the end that the last sentence of section 401 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), may be amended by striking the period and inserting in lieu thereof a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act."

USE OF LOCAL CURRENCIES

SEC. 40. Effective July 1, 1974, no amount of any foreign currency (including principal and interest from loan repayments which accrues in connection with any sale for foreign currency under any provision of law may be used under any agreement entered into after the date of the enactment of this Act, or any revision or extension entered into after such date of any prior or subsequent agreement, to provide any assistance to any foreign country to procure equipment, materials, facilities, or services for the common defense, including internal security, unless such agreement is specifically authorized by legislation enacted after such date.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

THOMAS E. MORGAN,
CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
W. S. MAILLIARD,
PETER H. B. FRELINGHUYSEN,
WM. S. BROOMFIELD,
Managers on the Part of the House.

H. H. HUMPHREY,
GEORGE D. AIKEN,
CLIFFORD P. CASE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organization, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The House also amended the title of the bill.

The committee of conference recommends a substitute for both the Senate bill and the House amendment to the text of the Senate bill. The committee of conference also recommends that the Senate recede from its disagreement to the amendment of the House to the title of the bill.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below:

The Senate passed two foreign aid authorization bills.

S. 1443 authorized $770,000,000 for grant military assistance, military training, supporting assistance other than for Indochina, and foreign military credit sales for fiscal year 1974.

S. 2335 authorized economic assistance of $1,218,222,000, plus $6,500,000 in foreign currencies, for fiscal year 1974 and $812,722,000 for fiscal year 1975.

In each of the Senate bills the House struck out all after the enacting clause and inserted a substitute amendment.

The substance of the House amendments to each bill was identical and contained authorizations for economic assistance in the amount of $1,610,868,000 for fiscal year 1974 and $821,068,000 for fiscal year 1975, plus $7 million in foreign currencies for each of the fiscal years 1974 and 1975.

Each House amendment also provided an authorization of $1,155,000,000 for grant military assistance, military training, supporting assistance other than for Indochina, and foreign military credit sales for fiscal year 1974 only.

Neither of the Senate bills nor the House amendment contained authorizations for fiscal year 1975.

The committee of conference agreed to a single bill (S. 1443) containing authorizations for economic and military assistance for fiscal year 1974 of $2,392,243,000, which represents a reduction of $373,634,000 in the House figure, an increase of $404,012,000 in the Senate figure, and a reduction of $395,266,000 below the amount requested by the Executive and authorizations for economic assistance for fiscal 1975.

The amounts recommended by the committee of conference compared to the amounts requested by the executive and recommended by the House and Senate follow:

[In millions of dollars]

	Executive request	House[1]	Senate[2]	Conference agreement[3]
Economic assistance:				
Indochina postwar reconstruction for South Vietnam, Laos, and Cambodia	632.0	632.0	376.0	504.000
International organizations	124.8	127.8	127.822	127.800
Indus Basin grants	15.0	15.0	14.0	14.500
Old development loan/grant categories:				
Loans (including Alliance for Progress)	351.4			
Grants (including Alliance for Progress)	251.8			
Population	(116.0)	(4)	(4)	(4)
New development assistance categories:[5]				
Food and nutrition		300.0	282.0	291.000
Population planning and health		150.0	141.0	145.000
Education and human resources		90.0	94.0	90.000
Selected development problems		60.0	47.0	53.000
Selected countries and organizations		50.0	28.0	39.000
Miscellaneous categories:				
American schools and hospitals abroad	10.0	[6] 20.0	[6] 19.0	[6] 19.000
International narcotics control program	42.5	50.0	40.0	42.500
Contingency fund	30.0	30.0	23.5	30.000
Partners of the Alliance		.968	.9	.934
Administrative expenses (AID)	53.1	53.1	24.0	45.000
Arab refugees		2.0		2.000
African famine relief		[7] 30.0		[7] 25.000
Albert Schweitzer Hospital			1.0	1.000
Total economic assistance	1,510.6	1,610.868	1,218.222	1,429.734
Military assistance:				
Grant military assistance	652.0	550.0	420.0	[8] 512.500
Security supporting assistance (outside Indochina)	100.0	125.0	125.0	[9] 125.0
Military credit sales	525.0	450.0	200.0	[10] 325.0
Military training	(8)	30.0	25.0	(8)
Total military assistance	1,277.0	1,155.0	770.0	962.5
Total economic and military assistance	2,787.6	2,765.868	1,988.222	2,392.234

[1] Economic aid authorizations are for fiscal year 1975 also except for African famine relief, Indochina assistance, and international organizations (open ended authorization for fiscal year 1975).

[2] The same amounts are authorized for fiscal year 1975 for all economic aid programs with the exception of: (1) the international narcotics control program for which $30,500,000 is authorized for fiscal year 1975, and (2) American schools and hospitals abroad, the Albert Schweitzer Hospital, and Indochina postwar reconstruction, for which funds are authorized only for fiscal year 1974. The amounts for military assistance are for fiscal year 1974 only.

[3] The same amounts are authorized for fiscal year 1975 for all economic aid programs with the exception of the Albert Schweitzer Hospital, Indochina postwar reconstruction assistance, and African famine relief. For fiscal year 1975, the amount authorized for international organizations is $150,000,000. The amounts authorized for military assistance are for fiscal year 1974 only.

[4] A separate appropriation of $116,000,000 was requested by the executive branch. The Senate earmarked $125,000,000 out of economic assistance funds for population programs in fiscal year 1974 and $150,000,000 in fiscal year 1975. The House earmarked $125,000,000 for each of fiscal years 1974 and 1975. The conferees approved $125,000,000 for fiscal year 1974 and $130,000,000 for fiscal year 1975.

[5] Not more than 50 percent of the amounts appropriated for the categories may be used for grants under the Senate bill. In addition, repayments on outstanding foreign assistance loans would be available for new loans in fiscal year 1974 under the House bill.

[6] In addition, excess foreign currencies are authorized ($6,500,000 in the Senate bill; $7,000,000 in the House bill). The bill authorizes $6,500,000 in excess foreign currencies for each of the fiscal years 1974 and 1975.

[7] To remain available until expended.

[8] $27,500,000 of this approved for military training. The Executive requested an open end authorization for this purpose. The Executive appropriations request was $33,000,000.

[9] $50,000,000 earmarked for Israel.

[10] A ceiling of $730,000,000 established, of which $300,000,000 earmarked for Israel.

CHANGE OF TITLE OF ACT AND NAME OF AGENCY

The House amendment changed the name of the Foreign Assistance Act to the Mutual Development and Cooperation Act and of the Agency for International Development to the Mutual Development and Cooperation Agency.

The Senate bill did not contain a comparable provision.

The House receded.

POLICY—DEVELOPMENT ASSISTANCE AUTHORIZATION

The committee of conference reconciled four differences between the Senate bill and the House amendment that dealt with section 102 of the Foreign Assistance Act relating to statement of policy.

Development of employment-intensive technologies

The Senate bill included a provision that the President should place appropriate emphasis on a requirement that the "United States should concentrate in particular on the development of employment-intensive technologies suitable to the less developed countries."

The House amendment did not contain a comparable provision.

The Senate receded.

Multilateral approaches to development

The Senate bill included new language that urged a shift to multilateral approaches to development and required a report from the Secretary of State on consultations, negotiations, and recommendations regarding such a shift.

The House amendment included in its statement of policy a declaration that U.S. development assistance should continue to be available through bilateral channels until it is clear that multilateral channels exist which can do the job with no loss of development momentum.

The House and Senate receded.

Role of U.S. private investment

The House amendment contained a statement that emphasized the role of U.S. private investment to the maximum extent practicable in economic and social development programs, specifying that arrangements should be continually sought to provide stability and protection for such investment.

The Senate bill did not contain a comparable provision.

The Senate receded with an amendment which deleted the requirement to continually seek arrangements for the protection of such investment.

Coordination of U.S. development-related activities

The Senate bill provided for the coordination of all United States development-related activities by the administering agency under the policy guidance of the Secretary of State, and required the head of the agency to advise the President of actions affecting development and to inform the Congress about the progress of the less developed countries.

The House amendment simply specified the Mutual Development and Cooperation Agency as the agency responsible for the coordination, without spelling out any specific requirement to advise the President or inform the Congress.

The Senate receded, with a technical amendment to substitute "the agency primarily responsible for administering this part" for the name of the agency.

DEVELOPMENT ASSISTANCE—CATEGORIES

Food and nutrition

The Senate bill added a new section 103 to the Foreign Assistance Act to provide development assistance for food and nutrition. It authorized an appropriation of $282 million for each of the fiscal years 1974 and 1975 for this purpose.

The House amendment contained a similar provision that authorized an appropriation of $300 million for each of the fiscal years 1974 and 1975.

The committee of conference agreed to an authorization for each of the fiscal years 1974 and 1975 in the amount of $291 million.

Population planning and health

The Senate bill added a new section 104 to the Foreign Assistance Act that authorized an appropriation of $141 million for each of the fiscal years 1974 and 1975 for population planning and health assistance.

The House amendment authorized an appropriation of $150 million for each of the fiscal years 1974 and 1975 for this purpose.

The committee of conference agreed to an authorization of $145 million for each of the fiscal years 1974 and 1975 for population planning and health.

Education and human resources development

The Senate bill added a new section 105 to the Foreign Assistance Act that authorized an appropriation of $94 million for each of the fiscal years 1974 and 1975 for education and human resources development.

The House amendment authorized an appropriation of $90 million for each of the fiscal years 1974 and 1975 for these purposes.

The Senate receded.

Selected development problems

The Senate bill added a new section 106 to the Foreign Assistance Act that authorized an appropriation of $47 million for each of the fiscal years 1974 and 1975 for selected development problems.

The House amendment authorized an appropriation of $60 million for each of the fiscal years 1974 and 1975 for this purpose.

The committee of conference agreed to an authorization of $53 million for each of the fiscal years 1974 and 1975.

Selected countries and organizations

The Senate bill added a new section 107 to the Foreign Assistance Act that authorized an appropriation of $28 million for each of the fiscal years 1974 and 1975 for development assistance to selected countries and organizations.

The House amendment authorized an appropriation of $50 million for each of the fiscal years for this purpose.

The committee of conference agreed to an authorization of $39 million for each of the fiscal years 1974 and 1975.

TRANSFER OF FUNDS

The Senate bill authorized a limited transfer of funds from one sector to another under new sections 103–107 of chapter I but prohibited the use of sections 610(a) and 614(a) of the Foreign Assistance Act with respect to transactions involving sector funds.

The House amendment provided similar authority for the transfer of funds without the restrictive language.

The House receded with an amendment which permitted the transfer of funds under the authority of sections 610(a) and 614(a) into but not out of the funds for development assistance under chapter I.

COST SHARING AND FUNDING LIMITS

The Senate bill required the host country to partcipate in the financing of bilateral projects to the extent of at least 25 percent of the entire costs, in any fiscal year, of the program, project, or activity. It also provided that disbursements for a bilateral capital project under all five functional categories of development assistance would be limited to 36 consecutive months and that efforts should be made before, during, and after the period of disbursement to find local and external sources of funding for such project.

The House amendment did not contain a comparable provision.

The House receded with an amendment striking "in any fiscal year" and making the limitation applicable to grant assistance only. Any extension of the expenditure period beyond 36 months is subject to further justification satisfactory to the Congress. It was also agreed that the 36-month disbursement period will not begin until project disbursements start in-country, excluding preliminary disbursements for planning and preparation costs outside the recipient country.

FUNDING OF FOLLOW-ON PROJECTS

The Senate bill provided that no amounts available under sections 103 through 107 of the act could be obligated for any follow-on project which links that project with any other project without further congressional authorization.

The House did not contain a comparable provision.

The Senate receded.

USE OF RECEIPTS

The Senate bill limited the use to not more than one-third of prior years loan reflows for any one of the functional categories of development assistance in any fiscal year.

The House amendment did not contain a comparable provision.

The Senate receded.

LIMITATION ON GRANTS

The Senate bill limited grants under the functional sectors to not more than 50 percent of the funds appropriated each fiscal year for sections 103–107.

The House amendment did not contain a comparable provision.

The Senate receded.

DEVELOPMENT AND USE OF COOPERATIVES

The Senate bill provided that not less than $20 million made available during fiscal years 1974 and 1975 should be available only for assistance in the development of cooperatives in less developed countries.

The House amendment did not contain a comparable provision.

The House receded.

PROHIBITING POLICE TRAINING

The Senate bill prohibited police training and related programs for any foreign country under any law except those relating to certain crimes and administered by the Law Enforcement Assistance Administration, or with respect to any authority of the Drug Enforcement Administration, or the Federal Bureau of Investigation.

The House bill did not contain a comparable provision.

The House receded with an amendment applying the prohibition to programs in a foreign country and to funds made available under the Foreign Assistance Act. The prohibition is not applicable to any contract entered into prior to the date of enactment of this act that provides personnel to conduct, or assist in conducting, any such program but it prohibits extension of those contracts. Further, it is the intent of Congress that present programs being conducted by the Agency for International Development in foreign countries should not be transferred to some other agency of the Government in order to avoid this prohibition. The new language is meant to phase out such programs financed hereunder and the objective should not be circumvented by using other funds for this purpose.

INTEGRATION OF WOMEN INTO NATIONAL ECONOMIES

The Senate bill provided that development assistance programs should be administered with particular attention to the integration of women into the national economies of foreign countries.

The House amendment did not contain a comparable provision.

The House receded.

LIMITING USE OF FUNDS FOR ABORTIONS

The Senate bill prohibited the use of funds in any manner, directly or indirectly, to pay for abortions, abortifacient drugs or devices, the promotion of the practice of abortion, or support of research to develop methods of abortion.

The House amendment did not contain a comparable provision.

The House receded with an amendment prohibiting the use of funds to pay for the performance of abortions or to motivate or coerce any person to practice abortion.

This provision is not intended to interfere with or curtail support for preventive maternal and child health and family planning services and related research which are provided on a voluntary basis and in accordance with the prevailing local customs and medical practice and it is not intended to apply to funds obligated prior to the date of enactment of this bill.

DEVELOPMENT LOAN FUND, FISCAL PROVISIONS

The Senate bill repealed section 203 of the Foreign Assistance Act which makes dollar receipts from previous loans available for new loans for development assistance.

The House amendment extended the authority of section 203 to fiscal years 1974 and 1975 and expanded the authority to include dollar receipts from loans made prior to 1954.

The Senate receded with amendments that delayed the repeal of section 203 until July 1, 1975, and provided that not more than 50 percent of the dollar receipts scheduled for repayment would be available. The committee of conference intended, based on AID's congressional presentation, that, under this limitation, approximately $161.5 million and $184 million in new loan authority would become available in fiscal years 1974 and 1975, respectively.

COUNTRY LIMITATION

The House amendment added to word "directly" to the forty-country limitation on technical assistance and development grants contained in the act to make clear that the limitation applies only to bilateral assistance furnished directly by the United States Government to governments of less developed countries.

The Senate bill did not contain a comparable provision.

The Senate receded.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

The Senate bill authorized an appropriation of $19 million and $6.5 million in excess currencies for fiscal year 1974 for assistance to American schools and hospitals abroad. It did not authorize assistance for fiscal year 1975 but requested a study and report including recommendations by the Secretary of State with respect to future assistance for schools and hospitals outside the United States.

The House amendment authorized $20 million and $7 million in excess local currencies for each of the fiscal years 1974 and 1975. The House amendment also contained a limitation on assistance in any fiscal year to no more than four institutions in the same country, of which not more than one shall be a university and not more than one a hospital.

The committee of conference agreed to the authorization of an appropriation of $19 million and $6.5 million in excess local currencies for each of the fiscal years 1974 and 1975.

The House receded on its limitation but the committee of conference agreed that the agency which administers this program should make every effort to administer this program so as to achieve a more equitable geographic distribution of assistance and to limit financial support for operations and maintenance activities. The committee of conference also agreed that the report and recommendation by the Secretary of State should be made by June 30, 1974.

It is the intent of the committee of conference that the report shall include recommendations for equitable geographical distribution of U.S. assistance and such possible solutions to the problems relating to long term commitments to institutions as the Secretary of State deems desirable.

HOUSING GUARANTIES

The Senate bill increased the worldwide ceiling for housing guaranties which may be outstanding at any one time from $205 million to $349.9 million, and extended the program to June 30, 1975.

The House amendment increased the worldwide ceiling to $305 million, an increase of $100 million, and extended the program to June 30, 1976.

The committee of conference accepted the House ceiling of $305 million and the Senate date of June 30, 1975.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The House amendment extended the issuing authorities of the Overseas Private Investment Corporation for investment and guaranty activities from June 30, 1974 to June 30, 1975. It also renewed the agriculture credit and self-help community development pilot project authority from June 30, 1973 to June 30, 1975.

The Senate bill did not contain any comparable provision.

The Senate receded with an amendment extending the authorities to December 31, 1974.

PARTNERS OF THE ALLIANCE

The Senate bill authorized an appropriation of $900,000 for grants to the National Association of the Partners of the Alliance for each of the fiscal years 1974 and 1975.

The House amendment authorized an appropriation of $968,000 for each of the fiscal years 1974 and 1975 for such grants.

The committee of conference agreed to an authorization of an appropriation of $934,000 for each of the fiscal years 1974 and 1975.

PROGRAMS RELATING TO POPULATION PROGRAMS

The Senate bill provided that not less than $125 million in fiscal year 1974 and $150 million in fiscal year 1975 of part I funds shall be available for programs relating to population growth.

The House amendment earmarked $125 million of part I funds in each of the fiscal years 1974 and 1975 for this purpose.

The committee of conference agreed to earmark $125 million in fiscal year 1974 and $130 million in fiscal year 1975 for programs relating to population growth.

INDEPENDENT REVIEW GROUPS FOR INTERNATIONAL ASSISTANCE INSTITUTIONS

The House amendment added a new subsection which required the President to actively seek the establishment of independent groups within the United Nations and its affiliated organizations to review and evaluate their programs. It further required the President to transmit to the Congress and the Comptroller General reports prepared by such units.

The Senate bill did not contain a comparable provision.

The Senate receded.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS AUTHORIZATION

The Senate bill authorized an appropriation of $127,822,000 for each of the fiscal years 1974 and 1975.

The House amendment authorized an appropriation of $127,800,000 for fiscal year 1974 and "such sums as may be necessary" for fiscal year 1975.

The committee of conference agreed to $127,800,000 for fiscal year 1974 and $150 million for fiscal year 1975.

INDUS BASIN AUTHORIZATION

The Senate bill authorized an appropriation of $14 million for each of the fiscal years 1974 and 1975 for grants for the Indus Basin development.

The House amendment authorized an appropriation of $15 million for each of the two fiscal years.

The committee of conference agreed to an authorization of an appropriation of $14,500,000 for each of the fiscal years 1974 and 1975.

UNICEF CONTRIBUTION

The House amendment earmarked $18 million of international organizations funds for each of fiscal years 1974 and 1975 for contributions to the United Nations Children's Fund (UNICEF).

The Senate bill did not contain a comparable provision.

The Senate receded.

ARAB REFUGEE TRAINING

The House amendment authorized an appropriation of $2 million for each of the fiscal years 1974 and 1975 for contributions to the United Nations Relief and Works Agency for technical and vocational training of Arab refugees.

The Senate bill did not contain a comparable provision.

The Senate receded.

CONTINGENCY FUND AND DISASTER RELIEF AUTHORITY

The Senate bill authorized an appropriation of $23.5 million for each of the fiscal years 1974 and 1975 for assistance primarily for disaster relief purposes.

The House amendment authorized an appropriation of $30 million for each of the fiscal years 1974 and 1975 for contingencies and authorized such amounts as may be required from time to time to provide extraordinary disaster relief.

The committee of conference accepted the House authorization of an appropriation of $30 million for each of the fiscal years 1974 and 1975, and accepted the purpose language of the Senate bill.

COUNTRY NARCOTICS CONTROL PERFORMANCE

The Senate bill amended the Act to require the President to make an affirmative finding, to be transmitted to the Congress, that a country has taken adequate steps to control the production, distribution, transportation, and manufacture of opium and its derivatives. The Senate bill further required the President to suspend all aid, except narcotics control programs, to any country if the Congress passed a concurrent resolution rejecting the findings.

The House amendment did not contain a comparable provision.

The Senate receded.

REPORTS TO CONGRESS ON NARCOTICS CONTROL PROGRAM

The House amendment added a new requirement for quarterly reports to Congress on the programing and obligation of foreign assistance funds for narcotics control programs, and semiannual reports on the activities and operations carried out under this program.

The Senate bill did not contain a comparable provision.

The Senate receded.

INTERNATIONAL NARCOTICS CONTROL AUTHORIZATION

The Senate bill authorized an appropriation of $40 million for fiscal year 1974 and $30,500,000 for fiscal year 1975 for the international narcotics control program.

The House amendment authorized an appropriation of $50 million for each of fiscal years 1974 and 1975.

The committee of conference agreed to the authorization of an appropriation of $42,500,000 for each of the fiscal years 1974 and 1975 for this purpose.

COOPERATIVE ECONOMIC EXPANSION

The House amendment added a new chapter 10 authorizing the use of $2 million of part I funds for each of the fiscal years 1974 and 1975 for cooperative economic expansion.

The Senate bill did not contain a comparable provision.

The House receded.

STATEMENT OF POLICY—MILITARY ASSISTANCE

The Senate bill repealed sections 501 and 502 of the Foreign Assistance Act, relating to policy and purposes for which military assistance can be furnished.

The House amendment did not contain comparable provisions.

The Senate receded.

EXCESS DEFENSE ARTICLES

The Senate bill provided that excess defense articles should be furnished whenever possible in preference to the procurement of new items.

The House amendment did not contain a comparable provision.

The House receded.

MILITARY ASSISTANCE—GENERAL AUTHORITY

The Senate bill repealed section 503 relating to general authority and provided general authority to furnish grant military assistance to any foreign country otherwise eligible to receive assistance. The Senate language eliminated the requirement that the aid-receiving country be "friendly," as well as the President's authority to furnish military assistance to international organizations, and to loan defense articles and defense services. It also struck out the authority in section 503(b) to make financial contributions to multilateral programs to acquire or construct facilities for collective defense and in section 503(c) to provide financial assistance incidental to the U.S. Government's participation in regional or collective defense organizations.

The House amendment did not contain a comparable provision.

The Senate receded with an amendment which authorized the loan of defense articles and defense services but specified conditions under which loans could be made and provided that "out of pocket" expenses incidental to making the loan and the cost of "depreciation" shall be charged to the appropriation for military assistance for each fiscal year or part thereof that the item is on loan.

It is the intention of the committee of conference that the provisions of this section shall not apply when short term loans are made in connection with disaster relief efforts in response to earthquakes, floods, or other natural disasters.

The House receded with respect to the repeal of subsections (b) and (c) of section 503.

MILITARY ASSISTANCE AUTHORIZATION

The Senate bill repealed section 504(a) of the Foreign Assistance Act relating to authorization for military assistance, and provided separate authorizations for eight countries totaling $270 million. It also authorized up to $25 million of the funds to be used to furnish excess defense articles to any foreign country or international organization not specifically identified. The Senate bill further provided a separate authorization for such sums as may be necessary, as well as a special drawdown authority subject to future reimbursement, for furnishing defense articles to South Vietnam and Laos, and authorized $150 million to be appropriated for military assistance to Cambodia.

The House amendment provided an authorization of an appropriation of $550 million for fiscal year 1974.

The Senate receded from its provisions and the committee of conference agreed to an authorization of $512.5 million, including military training, for fiscal year 1974. The number of countries eligible to receive military grant assistance, other than training in the United States, was reduced from forty to thirty-one.

SOPHISTICATED WEAPONS

The Senate bill repealed the proviso clause and subsection (b) of section 504 of the Foreign Assistance Act but included a similar provision which prohibited the furnishing by grant credit sale, or guaranty of sophisticated weapons systems to underdeveloped countries unless the President determines that furnishing such weapons systems is important to United States national security.

The House amendment did not contain any comparable provisions.

The committee of conference agreed to retain existing law.

CONDITIONS OF ELIGIBILITY

The Senate bill repealed section 505 of the Foreign Assistance Act relating to conditions of eligibility but provided similar conditions of eligibility with one new requirement. The new eligibility condition required that funds received by a foreign country in disposing of U.S.-furnished weapons should be paid to the United States Government for use in meeting its local currency expenses, including international educational and cultural exchange activities.

The House amendment did not contain a comparable provision.

The Senate receded on the repeal of section 505 and the House accepted the additional condition of eligibility beginning July 1, 1974.

TRANSFER OF DEFENSE ARTICLES TO THIRD COUNTRIES

The Senate bill contained a provision relating to conditions of eligibility that would require Presidential approval for the transfer of U.S.-furnished defense articles from one country to another under specified conditions. This provision was similar to the provisions of section 9, Foreign Military Sales Act Amendments, 1971, which the Senate bill repealed.

The House amendment did not contain a comparable provision.

The committee of conference agreed to include a similar provision in both section 505 of the Foreign Assistance Act relating to grant military assistance and section 3 of the Foreign Military Sales Act, relating to the sale of defense articles.

SPECIAL DRAWDOWN AUTHORITY

The House amendment contained a provision which renewed the President's special authority to draw down defense articles from the stocks of the Department of Defense and defense services up to $300 million in fiscal year 1974 when he determines it to be vital to the security of the United States, subject to subsequent reimbursement from military assistance program funds.

The Senate bill did not contain a comparable provision.

The Senate receded with an amendment authorizing a draw down ceiling of $250 million. The drawdown authority may be used when it is in the security interests of the United States. This authority is not to be used to supplement MAP funds routinely to meet foreseen, non-emergency requirements for military assistance.

It is the intent of the committee of conference that up to $200 million of the emergency military assistance requirements for Cambodia be furnished pursuant to the authority contained in this section.

RESTRICTIONS ON MILITARY AID TO LATIN AMERICA AND AFRICA

The Senate bill repealed sections 507 and 508 of the Foreign Assistance Act relating to restrictions on military assistance for Latin America and Africa.

The House amendment did not contain a comparable provision.

The House receded. A ceiling on the amount of military assistance and sales that can be made or furnished to Latin America and Africa in any fiscal year is provided in section 33 of the Foreign Military Sales Act, as amended.

CERTIFICATION OF RECIPIENTS CAPABILITY

The Senate bill repealed section 509 of the Foreign Assistance Act which requires the chief of the appropriate military assistance advisory group representing the United States to certify in writing that the recipient country has the capability to effectively utilize defense articles furnished by the United States.

The House amendment did not contain a comparable provision.

The House receded.

RESTRICTIONS ON TRAINING FOREIGN MILITARY STUDENTS

The Senate bill repealed section 510 of the Foreign Assistance Act but placed an identical limit on the number of foreign military students to be trained in the United States in any fiscal year.

The House amendment repealed section 510.

The committee of conference agreed to retain section 510 of the law.

MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS

The Senate bill repealed section 512 of the Foreign Assistance Act which required certain reductions in military assistance advisory groups and military groups by September 30, 1972.

The House amendment did not contain a comparable provision.

The House receded.

MILITARY ASSISTANCE AUTHORIZATION FOR LAOS

The Senate bill contained a provision which required the transfer of authorizations for military assistance and sales programs for Laos and South Vietnam from the Department of Defense to the Foreign Assistance and Military Sales Acts effective June 30, 1973.

The House amendment provided for the transfer of such military assistance and sales authorizations effective June 30, 1974.

The committee of conference agreed to transfer military assistance and sales authorizations for Laos effective June 30, 1974, with the understanding that funds obligated for assistance to Laos prior to the date specified in section 513 which are in the "pipeline" at that time may be provided regardless of when the defense articles are actually delivered or the defense services actually rendered.

SPECIAL FOREIGN CURRENCY ACCOUNTS

The Senate bill repealed section 514 of the Foreign Assistance Act but included a similar provision which required the establishment of special foreign currency accounts in which any government receiving grant military defense articles, including excess defense articles, and military training would deposit local currencies to meet official costs of the United States Government in the recipient country.

The House amendment repealed section 514 of the Foreign Assistance Act.

The Senate receded.

It is the intent of the committee of conference that billings for foreign currency payments under section 514 shall end with deliveries for the quarter ending December 31, 1973.

LIQUIDATION ACCOUNT FOR PRE-FISCAL YEAR 1969 FOREIGN MILITARY SALES CREDITS

The Senate bill repealed section 524 of the Foreign Assistance Act which established a special liquidation account in the Treasury for pre-fiscal year 1969 sales credits and guaranties.

The House amendment did not contain a comparable provision.

The Senate receded.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

The Senate bill separated grant military training from the material assistance program and authorized the appropriation of $25 million to the Secretary of State for military training in fiscal year 1974.

The House amendment also provided under separate authority $30 million for an international military education and training program for fiscal year 1974.

The committee of conference agreed to retain the grant military training program as an integral part of the military assistance program and added $27,500,000 to the authorization for grant military assistance in section 504(a) for fiscal year 1974. The House receded on numerous technical conforming amendments contained in the House amendment which would have been necessary separately to authorize funds for military education and training.

CAMBODIA CEILING WAIVER

The Senate bill included a provision as a technical amendment to perfect the bill in such a way that the Cambodia ceiling of section 655(c) would not apply to assistance furnished under the act.

The House amendment did not contain a comparable provision.

The House receded.

SECURITY SUPPORTING ASSISTANCE

The Senate bill repealed the provisions of existing law relating to security supporting assistance, but included similar authority to furnish security supporting assistance and authorized an appropriation of $125 million for fiscal year 1974, of which $65 million was to be available solely for Jordan and $50 million solely for Israel.

The House amendment authorized $125 million for security supporting assistance of which not less than $50 million was to be available solely for Israel.

The committee of conference agreed to retain the general authority language of existing law for security supporting assistance and to repeal section 533 relating to United States Refund Claims.

The Senate receded and accepted the House authorization and earmarking provision.

SMALL BUSINESS

The Senate bill contained a provision rewriting section 602 of the Foreign Assistance Act, which required that insofar as practicable the President should assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds made available for grant military assistance.

The House amendment did not contain a comparable provision.

The committee of conference agreed to retain existing law.

SHIPPING ON U.S. VESSELS

The Senate bill contained a provision similar to section 602 of the Foreign Assistance Act, which provided that ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from appropriations under this act should not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, or any other law relating to the ocean transportation of commodities on U.S.-flag vessels.

The House amendment did not contain a comparable provision.

The committee of conference agreed to retain existing law.

PROCUREMENT

The Senate bill contained a provision similar to section 604 of the Foreign Assistance Act, relating to procurement of commodities outside the United States.

The House amendment did not contain a comparable provision.

The committee of conference agreed to retain existing law.

TERMINATION OF ASSISTANCE

The Senate bill provided that military assistance and sales could, if not sooner terminated by the President, be terminated by concurrent resolution of the Congress.

The House amendment retained existing law which permits the termination by concurrent resolution of assistance furnished under the Foreign Assistance Act and allows funds to remain available for 12 months from the termination date for the necessary expenses of winding up programs.

The Senate receded with an amendment reducing the windup period from 12 to 8 months.

EXPROPRIATION POLICY

The Senate bill modified section 620(e)(1) of the Foreign Assistance Act—the Hickenlooper amendment—by permitting the President to waive its sanctions when he determined that such a waiver was "important to the national interests of the United States." Any waiver was to be reported promptly to the Congress.

The House amendment deleted section 620 (e)(1) and added a new section requiring termination of assistance to any country which, after the enactment of this section, expropriated property that was at least 50 percent beneficially owned by U.S. citizens, unless one of three conditions was met: (1) prompt, adequate, and effective compensation had been paid; (2) the dispute was submitted to arbitration under the rules of the Convention for the Settlement of Investment Disputes; or (3) good faith negotiations were in progress aimed at providing prompt, adequate, and effective compensation. The amendment did not permit the President to waive its application in the national interest.

The House receded.

ASSISTANCE TO COUNTRIES WHICH TRADE WITH NORTH VIETNAM

The House amendment contained a provision which permitted the President to waive the prohibition against assistance to countries trading with North Vietnam or permit vessels or aircraft under their registry to transport goods to North Vietnam. Each waiver required a Presidential finding that it was in the national interest. Each finding had to be reported to the Congress, together with assurances that North Vietnam was cooperating fully in providing for a full accounting of any remaining prisoners of war and all missing in action.

The Senate bill did not contain a comparable provision.

The House receded.

AID TO GREECE

The Senate bill contained a provision that would terminate all military assistance, sales, credit sales, or guaranties to Greece pending completion of a Presidential study and report which concluded that the Government of Greece is in full compliance with its political and military obligations under the North Atlantic Treaty.

The House amendment did not contain a comparable provision.

The Senate receded.

COORDINATION WITH FOREIGN POLICY

The Senate bill contained a provision similar to section 622(b) of the Foreign Assistance Act emphasizing the responsibility of the Chief of each diplomatic mission to submit recommendations concerning security assistance from personnel in his mission.

The House amendment did not contain a comparable provision.

The committee of conference agreed to retain existing law.

STATUTORY FUNCTIONS OF THE SECRETARY OF STATE

The Senate bill changed the responsibility of the Secretary of State for the "general direction" of military assistance activities, as currently set forth in section 622(c) of the Foreign Assistance Act, to responsibility for "direction" of those activities.

The House amendment did not contain a comparable provision.

The Senate receded.

ACCESS TO AND FAILURE TO PROVIDE INFORMATION

The Senate bill included a provision to assure the General Accounting Office or any committee of Congress access to information in the possession of any agency carrying out provisions of law with funds made available under the Foreign Assistance Act. After the expiration of any 35-day period following a written request by the General Accounting Office or a congressional committee for any document, paper, communication, audit, review, finding, recommendation, report, or other material in the custody of such agency, none of the funds available to such agency could be obligated unless and until the request had been honored. Communications between the President and any officer or employee of the agencies concerned were expressly excluded from the operations of this section.

The Senate bill also amended section 634 of the Foreign Assistance Act and provided for a similar exclusion of Presidential communications.

The House amendment did not contain a comparable provision.

The Senate receded.

MILITARY ASSISTANCE INFORMATION

The Senate bill contained a provision requiring that there be made public that portion of any record showing the name of any recipient of military assistance and the amount of such assistance intended to be provided or the amount that has been provided by the United States.

The House amendment did not contain a comparable provision.

The Senate receded.

The committee of conference agreed that the provisions of section 634(b) of the Foreign Assistance Act, requiring the President to make public all information concerning operations under the Act, should be construed as calling for full public disclosure of military assistance information, except during periods of critical international developments when classifying such data is in the national security interest. In any case, such information should be fully available to appropriate congressional committees.

REPORTS AND INFORMATION

The House amendment repealed section 634(f) of the Foreign Assistance Act and replaced it with two new subsections. New subsection (f) required the submission of semiannual reports on the status of each outstanding loan, contract of guaranty or insurance, credit sale of defense articles, defense services, or agricultural commodities, and each Export-Import Bank loan, guaranty, or insurance. Only transactions in excess of $1 million would be reported individually. New subsection (g) required annual reports showing the debt-servicing problems of foreign countries, debt relief granted by the United States, and the consequences thereof.

The Senate bill repealed section 634(f) of the law.

The Senate receded.

The committee of conference understands that a delay of 90 to 180 days may occur in providing the first semiannual report under the new subsection (f); however, all subsequent reports should be forwarded as promptly as possible but no later than 60 days after the report is due.

ADMINISTRATIVE EXPENSES

The Senate bill authorized an appropriation of $24 million for administrative expenses for each of the fiscal years 1974 and 1975.

The House amendment authorized an appropriation of $53,100,000 for each of the fiscal years 1974 and 1975 for such expenses.

The committee of conference agreed to an authorization of an appropriation of $45 million for each of the fiscal years 1974 and 1975, with the understanding that program funds available under part I and part V may be used to defray additional administrative expenses up to the level provided in the House amendment.

PEACE CORPS ASSISTANCE

The Senate bill amended section 638 of the Foreign Assistance Act by changing its title from "Peace Corps Assistance" to "Exclusions".

The House amendment did not contain a comparable provision.

The House receded to this technical amendment.

FAMINE AND DISASTER RELIEF

The House amendment contained a provision which would have amended section 639 of the Foreign Assistance Act to permit the furnishing of disaster relief assistance notwithstanding any provision of law.

The Senate bill did not contain a comparable provision.

The House receded.

FAMINE AND DISASTER RELIEF TO THE AFRICAN SAHEL

The House amendment contained an authorization of an appropriation of $30 million for relief and rehabilitation of African Sahel and gave congressional endorsement for long-term planning for the preservation and development of the Sahel region in cooperation with the United Nations and other international and regional organizations.

The Senate bill contained a provision which asked the President to consult with international organizations on how to solve the West African famine problem, but did not authorize any funds.

The Senate receded with an amendment to authorize an appropriation of $25 million for these purposes.

DEVELOPMENT COORDINATION COMMITTEE

The Senate bill amended the Foreign Assistance Act by adding a new section providing for coordination of United States development policies and programs. It provided for the establishment of a Development Coordination Committee, named members thereof by their positions in the government, required the Chief of the U.S. mission in a country to be the development coordinator, and required reports to the Congress and the President by both the Committee and the country coordinator.

The House amendment contained a comparable provision which named as members of the Committee representatives of designated agencies and required the President to develop appropriate procedures for coordinating overseas activities and to report to Congress.

The Senate receded with an amendment that the President prescribe appropriate procedures to assure coordination among both (1) departments and agencies of the U.S. having representatives in diplomatic missions abroad, and (2) U.S. representatives in each country under the direction of the Chief of the U.S. diplomatic mission.

SHIPPING DIFFERENTIAL

The House amendment provided for the payment of the differential in shipping costs between U.S.- and foreign-flag vessels.

The Senate bill did not contain a comparable provision.

The Senate receded.

DEFINITION OF EXCESS DEFENSE ARTICLES

The Senate bill redefined defense articles in such a way as to restrict them to those items which are excess to the needs of the Department of Defense for other than military assistance purposes, thereby transferring items in "long supply" from the category of excess defense articles to the category of nonexcess defense articles.

The House amendment did not contain a comparable provision.

The House receded.

The purpose of the new definition is to require that a defense article must not be treated as "excess" for purposes of the Foreign Assistance Act of 1961 or the Foreign Military Sales Act unless it has been screened against the requirements of all the military departments and Defense agencies, thus correcting a problem cited in a recent study by the General Accounting Office of the use of "excess" defense articles in the military assistance program. The Department of Defense states that the current administrative practice is consistent with the new definition.

DEFINITION OF VALUE

The Senate bill defined the "value" of excess defense articles as "actual value" but not less than one-third of acquisition cost. It also defined the "value" of nonexcess defense articles and defense services to include "a proportional share of the administrative expenses incurred by the United States Government in supplying" such articles and services, except that personnel pay and allowances would be excluded from the computation of "administrative expenses" for this purpose as it relates to military assistance (excluding grant military training).

The House amendment did not contain a comparable provision.

The committee of conference agreed that

"value" means (1) in the case of excess defense articles, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that only such gross costs shall be taken into consideration for purposes of reimbursement to the supplying agency; (2) with respect to nonexcess defense articles delivered from inventory, the acquisition cost to the United States Government adjusted as appropriate for conditions and market value; (3) with respect to nonexcess defense articles delivered from new procurement, the contract or production costs; and (4) with respect to a defense service, the cost to the United States of such service.

PRESIDENTIAL FINDINGS AND DETERMINATIONS

The Senate bill repealed section 654 of the Foreign Assistance Act, relating to Presidential findings and determinations, and included language similar in purpose.

The House amendment did not contain a comparable provision.

The Senate receded.

USE OF U.S. ARMED FORCES

The Senate bill rewrote section 650 of the Foreign Assistance Act whch provides that the furnishing of economic, military, or other assistance under the act shall not be construed as a commitment to use Armed Forces of the United States for the defense of any foreign country.

The House amendment did not contain a comparable provison.

The Senate receded and existing law, containing a similar provision, is retained.

ANNUAL FOREIGN ASSISTANCE REPORT

The Senate bill repealed section 657 of the Foreign Assistance Act and included language requiring essentially the same information to be submitted annually to the Congress, together with data on all exports of significant defense articles on the United States munitions list.

The House amendment did not contain a comparable provision.

The House receded.

QUARTERLY REPORTS

The Senate bill contained a provision requiring the submission of quarterly reports on the sale or guaranty of defense articles and services, grant of excess defense articles, defense articles and defense services, and the number of U.S. Government personnel detailed to military assistance advisory groups or organizations.

The House amendment did not contain a comparable provision.

The Senate receded.

SPECIAL REPORT ON MAP AGREEMENTS

The Senate bill contained a provision calling for a report from the President by January 31, 1974, listing all military assistance agreements entered into prior to that date and recommending which should be continued.

The House amendment did not contain a comparable provision.

The Senate receded.

ANNUAL NATO REPORT

The House amendment contained a provision requiring the Secretaries of State and Defense to report annually on or before January 15 to the Speaker of the House and to the Senate Committees on Appropriations, Armed Services, and Foreign Relations on the direct, indirect, and unallocated costs to the United States of its participation in NATO in the immediately prior fiscal year, in the current fiscal year (estimated), and in the budget fiscal year (budget request).

The Senate bill did not contain a comparable provision.

The House receded.

INDOCHINA POSTWAR RECONSTRUCTION

The Senate bill amended the Foreign Assistance Act by adding at the end thereof a new part V, authorizing an appropriation of $376 million for fiscal year 1974 for postwar relief, rehabilitation, and reconstruction in South Vietnam, Cambodia, and Laos, of which not less than $10 million was to support humanitarian programs of the Indochina Operations Group of the International Red Cross in South Vietnam, Cambodia, and Laos.

The House amendment contained a comparable provision, authorizing an appropriation of $632 million for fiscal year 1974 and providing that no funds could be used for police support or prison construction and administration within South Vietnam.

The committee of conference agreed to a $504 million authorization for the fiscal year 1974. The House receded on its statement of policy and the Senate receded on the earmarking of funds for the Indochina Operations Group and on the prohibition on the use of funds for police support or prison construction and administration within South Vietnam.

REDUCTION IN GOVERNMENT PARTICIPATION

The Senate bill contained a provision calling for a reduction in the role of the United States Government in the furnishing or sale of defense articles and defense services to foreign countries and international organizations by reducing its sales, credit sales, and guaranty of such articles and defense services to the maximum extent practicable.

The House amendment did not contain a comparable provision.

The House receded.

ILLEGAL SEIZURE OF U.S. PRIVATE FISHING VESSELS

The Senate bill repealed section 3 of the Foreign Military Sales Act which prohibits the sale (cash, credits or guarantees) to any country within a year's period after such country seizes, or takes into custody, or fines an American fishing vessel for fishing more than 12 miles from the country's coast, unless the President waives the prohibition on the basis that it is important to U.S. security or that he has received reasonable assurances from the country that similar seizures will not occur in the future.

The House amendment did not contain a comparable provision.

The Senate receded.

PENALTY FOR UNAUTHORIZED TRANSFER OF SOPHISTICATED WEAPONS TO A THIRD COUNTRY

The Senate bill contained a provision which prohibited the furnishing of sophisticated weapons, including sophisticated jet aircraft, to any foreign country which transferred defense articles provided by the United States in violation of an agreement requiring U.S. consent to such a transfer.

The House amendment contained a similar provision, but permitted restoration of eligibility when the President determines that the violation has ceased and he has received satisfactory assurances that the violation will not reoccur, and provided that in the case of unauthorized transfer of sophisticated weapons, such weapons have been returned to the original recipient.

The Senate receded.

CASH SALES FROM STOCK

The Senate bill repealed section 21 of the Foreign Military Sales Act and included a provision authorizing cash sale of defense articles and services from the stocks of the Department of Defense.

The House amendment did not contain a comparable provision.

The Senate receded.

PROCUREMENT FOR CASH SALES

The Senate bill repealed section 22 of the Foreign Military Sales Act and included language to require purchasers of defense articles or defense services to pay to the United States Government, in addition to the cost of such items, an amount equal to the administrative costs incurred in procuring such articles and services. The Senate bill also eliminated the President's authority to sell defense articles on a fixed price basis and prohibited cash sales of defense articles and services by the U.S. Government to a developed country if such articles are generally available from commercial sources in the United States.

The House amendment did not contain a comparable provision.

The House receded with an amendment deleting the prohibition on the sale of defense articles to economically developed countries, and the requirement to pay administrative costs.

It is the intent of the committee of conference that the current administrative practice of charging an appropriate amount to cover overhead expenses, when feasible, be maintained.

CREDIT SALES

The Senate bill repealed section 23 of the Foreign Military Sales Act and included a similar provision authorizing credit sales of defense articles and defense services to economically less developed countries. Repayment would be required within 10 years after delivery.

The House amendment increased the repayment period from 10 to 20 years.

The committee of conference agreed to retain existing law.

SALES CREDITS AT CONCESSIONAL RATES AND REPAYABLE IN LOCAL CURRENCY

The Senate bill contained a provision which authorized credit sales on concessional terms to countries that received grant military assistance in fiscal year 1973 in amounts not exceeding the level of grant assistance provided during that fiscal year. During fiscal years 1974 and 1975, sales could be made which were repayable in local currency and without interest. In fiscal years 1976 through 1978 sales could be made at interest rates not less than 3 percent a year to the extent the local currencies were needed for U.S. Government requirements.

The House amendment did not contain a comparable provision.

The Senate receded.

GUARANTY AUTHORITY

The Senate bill repealed section 24 of the Foreign Military Sales Act and included a similar provision.

The House amendment amended section 24 to authorize the President to issue guaranties to persons doing business outside the United States. It also permitted funds made available under the Act to be obligated for the 25 percent guaranty reserve, and amended the Act to allow the calculation for the purposes of the guaranty reserve, the aggregate ceiling on Foreign Military Sales credits, and the regional ceiling on military sales on the basis of the principal amount of the contractual liability which would preclude guaranteed interest from counting against the ceilings.

The committee of conference agreed to the House amendment with the exception of the provision which would have allowed guaranties to be issued to persons doing business outside the United States.

FOREIGN MILITARY CREDIT SALES

The Senate bill authorized an appropriation of $200 million to the Secretary of State for military sales credits for fiscal year 1974 and set an aggregate ceiling on military credit sales at $700 million for fiscal year 1974, of which $300 million was to be available only for Israel.

The House amendment authorized $450 million for military sales credits for fiscal year 1974, provided an aggregate ceiling of $760 million for fiscal year 1974, and earmarked $300 million for Israel.

The committee of conference agreed to authorize the appropriation of $325 million and established an aggregate ceiling of $730 million for fiscal year 1974, of which $300 million shall be available only for Israel.

PROHIBITION ON EXPORT-IMPORT BANK

The Senate bill repealed section 32 of the Foreign Military Sales Act which prohibited the Export-Import Bank of the United States from participating in any new extension of credit in connection with the purchase of defense articles or defense services to any economically less developed country.

The House amendment did not contain a comparable provision.

The Senate receded.

AGGREGATE LATIN AMERICA AND AFRICA REGIONAL CEILING

The Senate bill repealed section 33 of the Foreign Military Sales Act and included a similar provision which established an aggregate ceiling of $150 million on the total amount of military assistance and sales that can be made to Latin America in any fiscal year and a corresponding ceiling of $40 million for Africa. It also eliminated the President's authority to waive an amount equal to 50 percent of such regional ceilings.

The House amendment increased the ceiling for Latin America to $150 million and excluded cash sales from counting against the aggregate ceiling for both Latin America and Africa.

The committee of conference agreed to retain existing law with the changes proposed in the House amendment and to eliminate the Presidential waiver authority as provided in the Senate bill.

PRIOR CONGRESSIONAL APPROVAL OF MILITARY SALES

The Senate bill contained a provision requiring the President to submit to the Congress, prior to entering into any relevant sales or guaranty agreement, written information on any cash sale, credit sale, or guaranty of over $25 million to any country under the Foreign Military Sales Act. The President could not complete such an agreement if either House of the Congress adopted a resolution disapproving it. The same procedure applied to every sale, in whatever amount, to a country that had purchased more than $50 million in a fiscal year.

The House amendment did not contain a comparable provision.

The Senate receded.

REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS

The Senate bill repealed section 36 of the Foreign Military Sales Act and included a similar provision relating to reports of the export of significant defense articles on the U.S. munitions list.

The House amendment repealed section 36(a) of the Foreign Military Sales Act relating to the export of significant defense articles.

The committee of conference agreed to the repeal of subsections 36 (a) and (b) of the act.

DEPOSITS IN THE GUARANTY RESERVE

The House amendment amended section 37(b) of the Foreign Military Sales Act to authorize a portion of the proceeds from the sale of notes generated by credit extended under section 23, to be obligated as a reserve for the guaranty of the payment of such notes without additional charge against current appropriations.

The Senate bill did not contain a comparable provision.

The Senate receded.

GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS—FOREIGN MILITARY SALES ACT

The Senate bill repealed chapter 4 of the Foreign Military Sales Act, relating to general, administrative, and miscellaneous provisions.

The House amendment did not contain a comparable provision.

The Senate receded.

REPEAL OF MUTUAL SECURITY APPROPRIATION ACT, 1956

The Senate bill repealed section 108 of the Mutual Security Appropriation Act, 1956, as amended, thereby placing future military assistance programs on an obligation, direct-citation-of-funds basis.

The House amendment did not contain a comparable provision.

The Senate receded.

SPECIAL FOREIGN ASSISTANCE ACT OF 1971

The Senate bill repealed the Special Foreign Assistance Act of 1971 with the exception of section 7 which prohibits the introduction of United States ground combat troops into Cambodia.

The House amendment did not contain a comparable provision.

The Senate receded.

FOREIGN MILITARY SALES ACT AMENDMENT, 1971

The Senate bill repealed the Foreign Military Sales Act Amendments, 1971 with the exception of section 12 which repealed the "Joint resolution to promote the maintenance of international peace and security in Southeast Asia".

The House amendment did not contain a comparable provision.

The Senate receded.

The committee of conference agreed to amend section 8 with respect to excess defense articles and included the provisions of section 9 as an amendment to the Foreign Assistance Act and the Foreign Military Sales Act.

INTERNATIONAL CONFERENCE ON CONVENTIONAL ARMS

The Senate bill repealed section 5 of the Foreign Military Sales Act Amendment, 1971 which expresses the sense of the Congress that the President should negotiate with the Soviet Union and other powers a limitation on arms shipments to the Middle East; and section 6 of the same act which expresses the sense of the Congress that the President initiate a thorough and comprehensive review of military assistance and sales programs of the Department of Defense. In lieu thereof, the Senate bill included a provision which directed the President to make a concerted effort to convene an international conference of major arms suppliers within 18 months to negotiate an agreement placing a workable ceiling on arms transfers.

The House amendment did not contain a comparable provision.

The Senate receded.

The committee of conference agreed that the President should make every effort to negotiate with the Soviet Union and other powers an agreement which would bring about workable controls over the transfer of conventional arms.

EXCESS DEFENSE ARTICLES

The Senate bill repealed section 8 of the Foreign Military Sales Act Amendments, 1971 and included a provision that excess defense articles furnished under MAP authority by any agency of the United States Government should be considered to be an expenditure made from funds appropriated for military assistance.

The House amendment continued the exemption of $185 million on the value of excess defense articles, regardless of where generated, which might be ordered under any authority during any fiscal year before the value of those articles is chargeable against funds appropriated under part II of the Foreign Assistance Act of 1961.

The Senate receded with an amendment reducing the exemption from $185 million to $150 million of the value of excess defense articles which may be furnished before being charged against funds appropriated under part II of the Foreign Assistance Act, provided that such excess articles are generated outside of the United States. The value of any excess defense articles generated within the United States and furnished as military assistance shall be charged off against funds appropriated for military grant assistance. The committee of conference expects that no action will be taken which would have the effect of circumventing the purpose of this new restriction.

PRIOR AUTHORIZATION

The Senate bill repealed section 10 of the Foreign Military Sales Act Amendments, 1971, and included a similar provision requiring an authorization before appropriated funds may be obligated or expended.

The House amendment did not contain a comparable provision.

The Senate receded.

PUBLIC DISCLOSURE OF EXPORT OF MUNITIONS LISTS ITEMS VALUED IN EXCESS OF $100,000

The Senate bill contained a provision which required that the Congress be notified of licenses issued for the export of items on the Munitions List valued in excess of $100,000.

The House amendment did not contain a comparable provision.

The House receded.

TRANSFER OF MILITARY VESSELS AND BOATS

The Senate bill contained a provision which prohibited the transfer of any vessel or boat of the United States, to any foreign country or international organization except in accordance with foreign assistance, sales, or other specific legislation.

The House amendment did not contain a comparable provision.

The Senate receded.

LIMITATION ON ASSISTANCE TO SOUTH VIETNAM, LAOS, AND CAMBODIA

The Senate bill contained a provision which:

(1) limited assistance to South Vietnam and Laos to that permitted by the respective cease-fire agreements. A similar provision related to a limitation on military assistance to Cambodia if and when a cease-fire agreement is reached;

(2) authorized the President to furnish emergency military assistance to South Vietnam if the President found and reported to the Congress that the cease-fire agreement was no longer in effect; and

(3) required the President to submit a quarterly report to the Congress on the nature and quantity of all types of foreign assistance provided to South Vietnam, Laos, and Cambodia and the number and types of United States personnel present in those countries, involved in providing such assistance.

The House amendment did not contain a comparable provision.

The Senate receded.

MEDIA ACCESS TO U.S.-FINANCED BASES

The Senate bill contained a provision which prohibited the programing of assistance to any country in which a military base is located if the base had been constructed, maintained, or operated with United States funds and used by United States personnel to carry out military operations, unless the President determines and reports in writing to the Congress that the government of such country has, consistent with its own security, authorized access to those military bases, on a regular basis, to bona fide news media correspondents of the United States.

The House amendment did not contain a comparable provision.

The House receded with an amendment deleting the requirement that the President report in writing to the Congress.

TERMINATION OF INDOCHINA WAR

The Senate bill contained a provision which prohibited the use of funds authorized or appropriated under this or any other law to finance military or paramilitary operations by the United States in or over Cambodia, Laos, or South Vietnam.

The House amendment did not contain a comparable provision.

The House receded.

There are similar prohibitions on the use of funds contained in Public Law 93–50 (The Second Supplemental Appropriations Act) enacted July 1, 1973; Public Law 93–52 (The Continuing Resolution Authority for fiscal year 1973) enacted July 1, 1973; Public Law 93–126 (The Department of State Appropriations Authorization) enacted October 18, 1973; and Public Law 93–155 (Military Procurement Authorization Act), enacted November 16, 1973.

LIMITATION ON USE OF FUNDS

The Senate bill contained a provision prohibiting the use of funds to finance directly or indirectly "military or paramilitary operations" by third country forces in Laos, Cambodia, North Vietnam, South Vietnam, or Thailand, unless specifically authorized by legislation.

The House amendment did not contain a comparable provision.

The House receded with an amendment adding the word "combat" after "paramilitary" and before "operations".

POLITICAL PRISONERS

The Senate bill contained a provision expressing the sense of the Congress that the President should deny economic and military assistance to any country which interns or imprisons that country's citizens for political purposes.

The House amendment did not contain a comparable provision.

The House receded.

ALBERT SCHWEITZER HOSPITAL

The Senate bill authorized an appropriation of $1 million for fiscal year 1974 for grants to the Albert Schweitzer Hospital in Gabon.

The House amendment did not contain a comparable provision.

The House receded.

PRISONERS OF WAR AND INDIVIDUALS MISSING IN ACTION

The Senate bill expressed the sense of the Congress that the provisions of article 18 of the Protocol signed on September 14, 1973, by representatives of the Lao Patriotic Front (Pathet Lao) and the Royal Laotian Government, relating to prisoners of war and individuals missing in action, be adhered to in spirit and in deed.

The House amendment did not contain a comparable provision.

The House receded.

PROHIBITIONS TO FURNISHING ASSISTANCE TO NORTH VIETNAM

The House amendment contained a provision prohibiting assistance to the Government of North Vietnam unless that assistance is specifically authorized by legislation.

The Senate bill did not contain a comparable provision.

The Senate receded.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

The House amendment directed the President to seek a revision of the Social Progress Trust Fund Agreement to provide that its funds might be transferred to or utilized by the Inter-American Foundation, the Inter-American Development Bank, and the Department of State and/or the U.S. Treasury.

The Senate bill did not contain a comparable provision.

The Senate receded with an amendment, striking subsection (1) (B) and (C) which called for periodic transfer of trust funds to the U.S. Department of State and the U.S. Treasury.

USE OF MILITARY ASSISTANCE IN AFRICA

The Senate bill amended the Foreign Assistance Act by adding a new section which prohibited the use of any U.S. military or economic aid or other U.S. exports to maintain the status of the African territories of Portugal and required termination of aid and military sales and military exports requiring a validated license if the President determined that those items were being used by Portugal in support of its military activities in its African territories.

The House amendment provided that assistance to Portugal should be suspended when the President makes a determination and reports to Congress that Portugal has used U.S. assistance in support of its military activities in its African colonies. The restoration of such assistance was made contingent on appropriate corrective action by Portugal.

The Senate receded with amendments (1) making the provision applicable to "any non-African country," (2) striking the parenthetical reference in the House amendment to sales "whether for cash or by credit, guarantee or any other means," and (3) striking the requirement to suspend assistance.

ENTRY OF SOVIET JEWS INTO AUSTRIA

The Senate bill contained a sense of the Senate resolution asking the President to urge the Austrian Government to take whatever action is necessary to permit and facilitate travel of Soviet Union emigrants through Austria.

The House amendment did not contain a comparable provision.

The Senate receded.

GOVERNMENT OF INDIA LOAN SETTLEMENT

The Senate bill provided that any settlement of the debt owed to the United States by India that is less than the full amount owed must be authorized by the Congress.

The House amendment did not contain a comparable provision.

The Senate receded.

It is the intent of the committee of conference, however, that the administration report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, as well as to the Senate and House Agriculture Committees, the terms of any proposed settlement with India, with the right to review, 30 days prior to entering into such settlement.

The Committee on Foreign Relations has asked the General Accounting Office for a detailed study of the entire situation concerning U.S.-owned foreign currencies.

HUMAN RIGHTS IN CHILE

The Senate bill contained a sense of the Congress provision that the President should deny any military or economic assistance to Chile until he finds that the Government of Chile is protecting human rights of all individuals, Chilean and foreign; support certain other steps to insure the protection of human rights; be prepared to provide asylum and resettlement opportunities for a reasonable number of political refugees; support and facilitate efforts by voluntary agencies to meet emergency relief needs; and request the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events in Chile.

The House amendment did not contain a comparable provision.

The House receded with an amendment striking out the language which would deny aid and substituting the expression of Congress that the President should request the Government of Chile to protect human rights in Chile. The committee of conference also agreed to delete the reference to providing asylum and resettlement opportunities for political refugees.

BUREAU OF HUMANITARIAN AND SOCIAL SERVICES

The Senate bill expressed the sense of Congress that there should be created a new Bureau of Humanitarian and Social Services in the Department of State, to be headed by a new Assistant Secretary of State, with responsibility for continuing guidance and coordination of U.S. Government efforts related to refugee relief assistance, victims of international disasters, migration and visa affairs, the field of international human rights, overall government liaison with the United Nations and other appropriate international agencies and nongovernmental organizations.

The House amendment did not contain a comparable provision.

The Senate receded.

HUMANITARIAN ASSISTANCE IN SOUTH ASIA

The Senate bill authorized the President to use $6 million of funds appropriated to carry out the Foreign Assistance Act to furnish humanitarian assistance to the U.N. High Commissioner for Refugees in support of the repatriation and exchange of minority populations between Pakistan and Bangladesh.

The House amendment did not contain a comparable provision.

The Senate receded. Existing law (section 2(c) of the Migration and Refugee Assistance Act of 1962 (Public Law 87–510)) already authorizes the President to transfer up to $10 million of Foreign Assistance Act funds in any fiscal year to meet unexpected urgent refugee and migration needs.

WORLD FOOD SHORTAGES

The Senate bill contained language urging full participation by the United States in efforts to alleviate current and future food shortages, the establishment of a high level commission to study and report on the world food situation, consultation with various international organizations involved in this field, and proposing revision of Public Law 480 to permit greater utilization of United States food production in meeting emergency and humanitarian requirements for food assistance.

The House amendment did not contain a comparable provision.

The House receded with amendments expressing the sense of the Congress with respect to the world food situation and steps deemed necessary to deal with it.

LOCAL CURRENCIES USED FOR MILITARY ASSISTANCE

The Senate bill amended section 104(c) of Public Law 480, which authorizes the President to enter into agreements with foreign governments to use foreign currencies generated under the Act to procure articles for the common defense, by requiring that any such agreement must be specifically authorized by statute.

The House amendment did not contain a comparable provision.

The committee of conference agreed that effective July 1, 1974, no amount of any foreign currency (including principal and interest from loan repayments) which accrues in connection with any sale for foreign currency under any provision of law may be used under any agreement or any revision or extension of any prior or subsequent agreement, entered into after the date of the enactment of this act, to provide any assistance to any foreign country to procure equipment, materials, facilities, or services for the common defense, including internal security, unless such agreement is specifically authorized by legislation enacted after such date.

ASIAN DEVELOPMENT BANK

The Senate bill amended the Asian Development Bank Act (Public Law 92-245) to carry forward authorizations from fiscal year 1972 and fiscal year 1973 totaling $100 million.

The House amendment did not contain a comparable provision.

The House receded.

THOMAS E. MORGAN,
CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
W. S. MAILLIARD,
PETER H. B. FRELINGHUYSEN,
WM. S. BROOMFIELD,
Managers on the Part of the House.
H. H. HUMPHREY,
GEORGE D. AIKEN,
CLIFFORD P. CASE,
Managers on the Part of the Senate.

THE PENDING ENERGY CRISIS

Mr. McKINNEY. Mr. Speaker, on the week before Thanksgiving the Senate of the United States passed an emergency energy crisis bill that to me takes us back to a very sad day in August 1964 when the House and Senate of the United States turned to the President of the United States over the Bay of Tonkin incident and said, "Mr. President, we abdicate, you run your war." That simple action tore this Nation apart for a great many years following.

I would suggest to you, Mr. Speaker, there might be some precedent in that since certainly Southeast Asia is foreign policy, but it is absolutely appalling to me that the Senate and this House could possibly consider passing a bill in the field of domestic policy, a matter of the basic jurisdiction of the U.S. Congress, which would give the President of the United States the most dictatorial powers ever given to a Chief Executive without a nation being in a state of war.

Mr. Speaker, I would urge all of my colleagues, and seriously suggest this Congress assert itself by establishing a policy that would force us to establish policy for the energy crisis rather than again abdicating our role, and turning to the President and saying, "You, Mr. President, do your thing and not the people's thing."

SOMETHING FOR THE ARAB LEADERS TO THINK ABOUT

(Mr. HAYS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I am inclined to agree with the gentleman who just left the well in his analysis of the bill that is to come before the House. I have no intention of voting to turn all of these superpowers over to this President or any President. And while I am on the subject, I think it might be well for somebody to point out to the leaders of the Arab States that they are not being quite as smart as they think they are, and that they are not going to be allowed to eventually bring down the civilization of Western Europe and America, to which they have contributed nothing for 2,000 years.

I had a little chat with an Ambassador from one of those countries the other day, and he said, "You wouldn't dare invade us." I said, "Why not?" He said, "The Russians would come to our rescue." I said, "Well, they did not come to the rescue when Khrushchev was the top man in the Communist world when Eisenhower sent Marines into Lebanon, and that is a lot closer to Russia than your country."

Then he went on to say that, "You have got to make the Israeli do this, and do that, and if you do not we will have to shut off your oil." Well, that remains to be seen. These potentates and dictators down there have only three things that they are really interested in and that is their air-conditioned Cadillacs, their air-conditioned palaces, and their air-conditioned harems. You know, the welfare of the majority of the people of the world might come ahead of those priorities.

WE MUST IMMEDIATELY OPEN NAVAL OIL RESERVES

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, I rise to suggest in the strongest terms possible the immediate opening of the Naval Petroleum Reserve at Elk Hills and the post haste development of Naval Reserve No. 4 on the North Slope of Alaska.

Prior to the Arab embargo and the cutoff of fleet resupply in Singapore, the military was drawing 350,000 barrels per day from domestic sources and 350,000 barrels per day from foreign sources. Today all but a small amount must come from domestic sources. No one denies or should deny that our Armed Forces must be supplied on a No. 1 priority basis. This, Mr. Speaker, is what oil reserves are all about. The 180,000 barrels per day from Elk Hills would be a great help now. Orders have gone out to all domestic refiners to establish a priority for the military of 800,000,000 gallons of all types of fuel. The need is great, the time is now. Mr. Speaker, I respectfully request your immediate attention and that of the distinguished chairman of the Armed Services Committee to act now to open Elk Hills at least for military supply.

UNIFORM SPEED LIMITS FOR ALL VEHICLES

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, the administration proposal that the lumbering giants of the highway—buses and trucks—be permitted 55-mile-an-hour speed while automobiles are limited to 50 should be rejected by the Congress.

Whatever limit is established should apply uniformly to all vehicles.

No doubt some engines perform more efficiently at higher speed than do others, but this can be said of automobile engines as well as truck and bus engines.

The efficiency gain-loss involved in 5 miles an hour can hardly justify the other hazards that could occur if the double standard in highway speeds is attempted.

Trucks and buses would forever be passing automobiles, and this would create horrendous hazards especially on narrow two-lane pavements. Moreover, the outrage every automobile driver will inevitably feel as the big vehicles roar past will introduce the greatest hazard of all.

Several State Governors have already seen the danger and absurdity of the double standard and so should the Congress.

I AM CONCERNED

(Mr. DENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENHOLM. Mr. Speaker, I am concerned. I am in doubt—but I refuse to accept "fear" as a foundation to build upon the future.

I am concerned because I am an American. I am in doubt because as an American I do not want to be deceived—I want to believe and I have faith in ourselves as Americans.

I concur with the President in the objective of "Project Independence" but I refuse to believe that America cannot achieve that goal prior to 1980.

I am certain "independence" never was—cannot now and never will be achieved by slowing down, turning down the heat, shutting off the lights, and getting into bed. In the short run or in the long run—that purported leadership is negative. It is not the high road of conquest over challenge—any challenge worthy of our best effort. I respectfully submit it is but a recognition of the problem—totally void of seasonable solutions to the deficiency of the supply of heating fuels, gasoline, petroleum, and petroleum products.

I am concerned for the security of America. I am concerned because negative leadership may invite an unprovoked attack from any "would be aggressor" that is ignorant of our real capacity of performance on land, in the air, and on the seas.

APPOINTMENT OF CONFEREES ON H.R. 9256, TO INCREASE CONTRIBUTION OF GOVERNMENT TO COSTS OF HEALTH BENEFITS FOR FEDERAL EMPLOYEES

Mr. DULSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9256), to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. DULSKI, HENDERSON, WALDIE, GROSS, and HOGAN.

ADMINISTRATION OF LEAVE SYSTEM FOR FEDERAL EMPLOYEES

Mr. WALDIE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1284) to amend title 5, United States Code, to improve the administration of the leave system for Federal employees, with Senate amendments thereto, concur in Senate amendments Nos. 1 through 7, and concur in Senate amendment No. 8 with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 22, strike out " "subsections (b) and (d)" and insert " "subsections (b), (d), and (e)".

Page 2, line 24, strike out "subsection:" and insert "subsections:".

Page 3, line 3, strike out "such" and insert "the".

Page 3, line 6, strike out "such" and insert "the".

Page 3, line 8, strike out "such" and insert "the".

Page 3, line 21, strike out "title."." and insert "title.".

Page 3, after line 21, insert:

"(e) Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d)(2) of this section because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of discovery of the error. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the salary rate in effect on the date of the lump-sum provisions became applicable.".

Page 5, strike out all after line 20 over to and including line 5 on page 6 and insert:

SEC. 7. (a) Section 5562(a) of title 5, United States Code, is amended by adding at the end thereof the following new sentences: "Notwithstanding other statutes, an employee in a missing status on or after January 1, 1965, is entitled—

"(1) to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status; or

"(2) to have all of that accrued leave credited to his account for use. An employee shall make an election in writing, within 90 days, after the date of enactment of his sentence or 90 days immediately following the termination of that missing status, whichever is later, whether he desires that payment or credit. Payment under clause (1) of his subsection shall be at the employee's rate of basic pay in effect on the first day the employee could have made the election."

(b) The amendment made by subsection (a) shall apply to former employees or their beneficiaries.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I shall not object, we can act on this if the gentleman will explain briefly the nature of the amendments and the necessity for the amendments.

Mr. WALDIE. Mr. Speaker, Senate amendment No. 8 amends section 7 of the House bill, relating to leave lost by employees in a missing status.

The Senate amendment would permit such employees the option of accepting a lump-sum payment for the accrued leave or having such leave credited to their accounts for future use. The House bill authorized only payment for such leave.

The amendment I am offering would make two minor changes in the language of the Senate amendment.

First, my amendment would provide that any leave restored to the employee for future use shall be credited to a separate leave account in accordance with the provisions of section 6304(d)(2) of title 5, United States Code, as amended by H.R. 1284.

The effect of this change is to assure that such restored leave is not commingled with the annual leave currently earned by the employee and to require that the use of such restored leave be administered in accordance with regulations to be prescribed by the Civil Service Commission under section 6304(d)(2).

In addition, my amendment would provide that the lump-sum payment for any leave forfeited by an employee in a missing status shall be based on the employee's rate of pay in effect at the time the leave was forfeited. The Senate amendment provides that such payment shall be based on the rate of pay in effect at the time the employee elects to receive the payment.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection and urge the adoption of the bill, as amended.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. WALDIE

Mr. WALDIE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WALDIE moves that the House concur in Senate amendments Nos. 1 through 7, and concur in Senate amendment No. 8 with an amendment, as follows:

In lieu of the matter proposed to be inserted by Senate-engrossed Amendment No. 8 insert the following:

SEC. 7. (a) Section 5562(a) of title 5, United States Code, is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, an employee in a missing status on or after January 1, 1965, is entitled—

"(1) to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status; or

"(2) to have all of that leave restored to him and credited to a separate leave account in accordance with the provisions of section 6304(d)(2) of this title.

An employee shall elect in writing, within 90 days immediately following the date of enactment of this sentence or within 90 days immediately following the termination of his missing status, whichever is later, whether he desires payment for the leave under clause (1) of this subsection or credit of the leave under clause (2) of this subsection. Payment under clause (1) of this subsection shall be at the employee's rate of basic pay in effect at the time the leave was forfeited."

(b) The amendment made by subsection (a) of this section shall apply to former employees or their beneficiaries.

The motion was agreed to.

A motion to reconsider was laid on the table.

MAKING TECHNICAL CORRECTION IN ENROLLMENT OF H.R. 1284, LEAVE SYSTEM FOR FEDERAL EMPLOYEES

Mr. WALDIE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 381) authorizing the Clerk of the House to make a technical correction in the enrollment of H.R. 1284.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 381

Concurrent resolution authorizing the Clerk of the House to make a technical correction in the enrollment of H.R. 1284

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill H.R. 1284 entitled "An Act to amend title 5, United States Code, to improve the administration of the leave system for Federal employees", the Clerk of the House of Representatives is authorized and directed to make the following additional change in the provisions of such bill: On page 3, line 12, of the House engrossed bill, insert ", or under clause (2) of section 5562(a) of this title," immediately after the word "subsection".

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Mr. DONOHUE. Mr. Speaker, I call up the conference report on the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 14, 1973.)

Mr. DONOHUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DONOHUE. Mr. Speaker, I yield myself such time as I might consume.

The conference report on the bill H.R. 7446 represents a final step in the efforts of the Congress to provide a logical and workable organization to carry forward the planning and direction of the Nation's bicentennial observance on the Federal level. The basic form of the bill as it passed both Houses was worked out over weeks of effort in committee in the early part of this year.

The Senate amended the bill, and embodied those changes in six amendments. The first amendment amended section 4 of the bill. This is the section defining the functions of the new American Revolution Bicentennial Administration and responsibilities of the Administrator. The amendment provided that, in preparing the administration's plans and programs, the Administrator is to give due consideration to any related plans and programs developed by State, local, and private groups. It is further provided that he may designate special committees with representatives from such bodies to plan, develop, and coordinate specific activities.

The conferees agreed to the language of this amendment amending section 4 of H.R. 7446. This language is consistent with the basic principle of the legislation in encouraging State and local participation in the bicentennial observance.

The second amendment of the Senate amended section 7(a)(1) of the House bill by placing a ceiling of $10,000,000 annually for the expenses of the administration. It further provided language which would have continued a program for annual grants to each of the States and territories of $45,000 a year which had been provided for 2 years in the existing law. This would have been accomplished by providing that not more than $2,475,000 for annual grants of $45,000 to the Bicentennial Commission of each State, Territory, the District of Columbia and the Commonwealth of Puerto Rico. This provision for the $45,000 grants was contained in a parallel amendment to section 9 of the bill which authorized the Administrator to make equal grants from appropriated funds of not more than $45,000 to each of the recipients.

The conferees agreed to reduce the $45,000 figure to $25,000 per entity and the annual authorization for this grant program to $1,375,000. These grants would only be made to State Bicentennial Commissions for use in Bicentennial activity in accordance with regulations of the Bicentennial Administration.

Section 7(a)(2) as added by the Senate authorized an appropriation of not more than $20,000,000 for grants-in-aid on a matching basis to the several States to assist them in developing and supporting bicentennial programs and projects as provided in the new section 9(b) as added by the Senate, the amount to remain available until expended but no later than June 30, 1976. The conferees changed this date to December 31, 1976, because of the continuing celebrations and commemorations anticipated throughout the calendar year of 1976.

The language of section 9(b) as contained in the Conference Report is the revised language agreed to by the Conferees. The Senate language provided that the amounts received under Section 9(b) by any State could not exceed $400,000 per State on a matching basis. In conference, it was agreed to change this language so that each recipient would be entitled to not less than $200,000 in grants on a matching basis under the Subsection. In addition, the District of Columbia, the territories and the Commonwealth of Puerto Rico were included as eligible recipients. The conferees recognized that each jurisdiction would, therefore, be assured of the right to participate in this grant program up to the amount of $200,000 on a matching basis. The language of the subsection makes it clear that these grants are subject to regulations prescribed and approved by the Board. The $200,000 amount is available for grants to each jurisdiction and considered obligated for that purpose, which, if not used, would lapse. It is not intended that the unused portion of the $200,000 minimum earmarked for each jurisdiction will be available for distribution to any other jurisdiction or for any other purpose. The remaining funds under the authorization, that is, the $9,000,000 remaining after the amount reserved for the States and other eligible jurisdictions is deducted, are therefore available for grants to any eligible jurisdiction that presents a program found acceptable to the administration.

The conferees retained Senate amendment No. 4. It is merely a conforming amendment made necessary by the renumbering changes in subsection (a) of Section 9.

The Senate conferees receded from Senate amendment No. 6 which would have provided that the Administrator would serve as Chairman of the American Revolution Bicentennial Board and the Vice Chairman shall be elected by members of the Board from members of the Board. The conferees agreed to retain the original House language providing that the Chairman and Vice Chairman shall be elected by members of the Board from members of the Board other than the Administrator.

As is emphasized in the conference report, the conferees intended that the regulations provide a reasonable period for applications for grants by eligible entities. This, of course, recognizes that the eligible jurisdictions must promptly formulate their plans and present them to the administration.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DONOHUE. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, how much is this above the bill as it left the House?

Mr. DONOHUE. In the bill as it left the House, we did not authorize the appropriation of any specific amount. The provision in the House bill, in effect, has stated that the amount to be appropriated would be left up to the Appropriations Committee as the Appropriations Committee thought necessary and needed for the carrying out of the American Bicentennial program. This, of course, would be changed by the language in the conference report which does impose limitations in authorizing appropriations.

Mr. GROSS. It is reported that this bill is $20 million above the authorization that left the House. Could that be possible?

Mr. DONOHUE. There was no authorized amount provided in the bill as passed by the House. It was sort of open ended, permitting the Appropriations Committee to appropriate such sums as it thought was necessary and needed.

It is true that in the conference report there is a provision authorizing $20 million as a result of a Senate amendment, but I must call to the attention of the gentleman from Iowa that this $20 million is on a matching basis. In order to get the $200,000, that State or that entity must match it with $200,000 out of its own treasury.

Mr. GROSS. Well, the facts of the matter are that there will be an increase of $20 million in the authorization; is that not correct?

Mr. DONOHUE. There would be $20 million available to assist the States, the particular States and also a provision for limited grants to State bicentennial commissions to assist the State bicentennial commissions to carry out their plans and their programs.

Mr. GROSS. How much has already been spent on this project, if the gentleman has a round figure? How much is contemplated to be spent?

Mr. DONOHUE. Up until and through 1973, there was approximately $11,541,000, and deducting what was granted to the States from that amount would leave the amount at $6,741,000. In other words, the American Bicentennial Commission on the Federal level has had available to it $6,741,000 dating back from 1969 through 1973.

Mr. GROSS. This project has had some very bad administration. Does the gentleman think the administration has been improved or will be improved?

Mr. DONOHUE. I am quite confident it will be improved decidedly under the provisions of the amended legislation.

Mr. GROSS. Well, does the gentleman think that by 1976 there will be enough energy left in this country to stage a bicentennial celebration?

Mr. DONOHUE. I sincerely hope so.

Mr. GROSS. The gentleman sincerely hopes so.

Mr. Speaker, I thank the gentleman.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. DONOHUE. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, I participated in the conference deliberations on behalf of the House. I urge the adoption of this conference report as a legitimate compromise between the views of the House and the Senate.

Mr. VANIK. Mr. Speaker, I oppose this conference report on the creation of the American Revolution Bicentennial Administration. This legislation is an example of how unbalanced our priorities remain despite our country being in the midst of a severe national energy crisis.

In a time when we should be devoting every effort and dollar toward solutions and alternatives to a petroleum-deficient society, we have instead voted to spend over $30 million over the next 3 calendar years for a commemorative event. I cannot stress enough my own belief that this money should instead be spent to confront the energy problems that face us now—and not for a bureaucracy whose past has been marred by partisanship and bungling bureaucratic ineptitude.

Mr. Speaker, I would propose that this money instead be put into an energy research trust fund which can make the Nation energy free by 1976. There is no better way for America to redeclare its independence. This Nation can no more be half-sufficient than half-free.

The energy research and development fund could be named in honor of the Bicentennial and become the cornerstone of the energy trust fund, which could be supplemented by a 4-cent tax per gallon of gasoline and a small graduated tax on other energy. It could thus be developed into a $6 billion fund to be used for energy research and development. Among the types of energy that could be developed by such a fund are—

Solar energy for electricity and heating and cooling;

Oil shale;

Coal gasification and liquidification;

Geothermal energy;

Fusion research;

Wind power and the utilization of tidal currents;

Improved transmission of electrical energy;

Improved generation of electricity—MHD;

New forms of conservation devices;

Alternatives to petroleum as a fuel, such as hydrogen; and

Utilization of ocean thermal gradients.

Mr. DONOHUE. Mr. Speaker, I have no further requests for time.

The SPEAKER. Without objection the previous question is ordered on the conference report.

There is no objection.

The SPEAKER. The question is on the conference report.

The question was taken.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 34, not voting 42, as follows:

[Roll No. 595]

YEAS—357

Abdnor
Abzug
Adams
Addabbo
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Aspin
Baker
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Ford, Gerald R.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hays
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Reuss
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—34

Anderson, Calif.
Bafalis
Bauman
Beard
Collier
Collins, Tex.
Conlan
Crane
Eckhardt
Fisher
Flynt
Froehlich
Gilman
Gross
Hawkins
Hechler, W. Va.
Landgrebe
Miller
Murphy, N.Y.
Rangel
Riegle
Roberts
Roncalio, Wyo.
Schroeder
Shuster
Snyder
Steiger, Ariz.
Symms
Thompson, N.J.
Van Deerlin
Vanik
Waldie
Wilson, Charles H., Calif.
Young, Alaska

NOT VOTING—42

Alexander
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Badillo
Blackburn
Blatnik
Boggs
Buchanan
Burke, Calif.
Collins, Ill.
Conyers
Dellenback
Diggs
Downing
Evans, Colo.
Foley
Ford, William D.
Gray
Gubser
Hansen, Wash.
Hinshaw
Jarman
Johnson, Pa.
Keating
Landrum
Lent
Litton
Macdonald
Mills, Ark.
Mizell
O'Hara
Patman
Rees
Reid
Rooney, N.Y.
Steele
Stokes
Tiernan
Wilson, Charles, Tex.
Young, Ga.

So the conference report was agreed to.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Jarman.

Mr. Blatnik with Mr. Patman.

Mrs. Hansen of Washington with Mr. Blackburn.

Mr. Gray with Mr. Mizell.

Mr. O'Hara with Mr. Lent.

Mr. Charles Wilson of Texas with Mr. Johnson of Pennsylvania.

Mr. Macdonald with Mr. Gubser.

Mr. Diggs with Mr. Badillo.

Mrs. Collins of Illinois with Mr. Reid.

Mr. Rooney of New York with Mr. Buchanan.

Mr. Stokes with Mr. Tiernan.

Mr. Ashley with Mr. Conyers.

Mr. Evans of Colorado with Mrs. Burke of California.

Mr. Landrum with Mr. Hinshaw.

Mr. Young of Georgia with Mr. Rees.

Mr. Mills of Arkansas with Mr. Ashbrook.

Mr. Litton with Mr. Dellenback.

Mr. Downing with Mr. Andrews of North Dakota.

Mr. Alexander with Mr. Keating.

Mr. Foley with Mr. Anderson of Illinois.

Mr. William D. Ford with Mr. Steele.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING CORRECTION IN ENROLLMENT OF H.R. 7446, AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 382) authorizing the Clerk of the House to make a correction in the enrollment of H.R. 7446.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 382

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, is authorized and directed in the second sentence of section 9(a) to strike out "as he may prescribe" and insert in lieu thereof "as may be prescribed".

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report on the bill H.R. 7446.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DAYLIGHT SAVING TIME ACT OF 1973

Mr. SISK, from the Committee on Rules, reported the following privileged resolution (H. Res. 718, Rept. No. 93-665), which was referred to the House Calendar and ordered to be printed:

H. RES. 718

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a two-year trial period. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for amendment under the five-minute rule, and all points of order against section 5 of said substitute for failure to comply with the provisions of clause 7, Rule XVI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. SISK. Mr. Speaker, I call up House Resolution 718 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 718?

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, nays 40, not voting 44, as follows:

[Role No. 596]

YEAS—349

Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Aspin
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Corman
Cotter
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Ford, Gerald R.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hawkins
Hays
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Madden
Madigan
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Zablocki
Zion
Zwach

NAYS—40

Abdnor
Bray
Burleson, Tex.
Carter
Conlan
de la Garza
Denholm
Duncan
Flynt
Ginn
Gross
Haley
Hammerschmidt
Hechler, W. Va.
Hungate
Hutchinson
Jones, Okla.
Kazen
Landgrebe
McSpadden
Mahon
Martin, Nebr.
Mathis, Ga.
Mayne
Mizell
Poage
Price, Tex.
Randall
Rarick
Scherle
Sebelius
Spence
Steed
Steiger, Ariz.
Symms
Taylor, Mo.
Teague, Tex.
White
Young, S.C.
Young, Tex.

NOT VOTING—44

Alexander
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Badillo
Blackburn
Blatnik
Boggs
Buchanan
Burke, Calif.
Collins, Ill.
Conyers
Coughlin
Dellenback
Diggs
Downing
Evans, Colo.
Foley
Ford, William D.
Gray
Gubser
Hansen, Wash.
Hastings
Holifield
Jarman
Johnson, Pa.
Keating
Landrum
Litton
Macdonald
Mailliard
Mills, Ark.
O'Hara
Patman
Rees
Reid
Rooney, N.Y.
Steele
Stokes
Tiernan
Wilson, Charles, Tex.
Wyatt
Young, Ga.

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 718.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York and Mr. Dellenback for, with Mr. Charles Wilson of Texas against.

Mr. Reid and Mr. Stokes for, with Mr. Patman against.

Mr. Steele and Mrs. Boggs for, with Mr. Jarman against.

Mr. Diggs and Mr. Macdonald for, with Mr. Andrews of North Dakota against.

Until further notice:

Mr. Holifield with Mr. Alexander.
Mr. Blatnik with Mr. Coughlin.
Mr. Badillo with Mr. Conyers.
Mr. Gray with Mr. Ashbrook.
Mr. William D. Ford with Mr. Buchanan.
Mrs. Collins of Illinois with Mr. Evans of Colorado.
Mrs. Burke of California with Mr. O'Hara.
Mr. Rees with Mr. Blackburn.
Mr. Tiernan with Mr. Anderson of Illinois.
Mr. Young of Georgia with Mr. Ashley.
Mr. Downing with Mr. Gubser.
Mr. Foley with Mr. Hastings.
Mr. Mills of Arkansas with Mr. Johnson of Pennsylvania.
Mr. Litton with Mr. Keating.
Mrs. Hansen of Washington with Mr. Mailliard.
Mr. Wyatt with Mr. Landrum.

The result of the vote was announced as above recorded.

The SPEAKER. The gentleman from California (Mr. SISK), is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee

(Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 718 provides for an open rule with 1 hour of general debate on H.R. 11324, a bill to provide for year-round daylight saving time in the United States for a 2-year trial period.

House Resolution 718 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

House Resolution 718 also provides that all points of order against section 5 of said substitute for failure to comply with the provisions of clause 7, rule XVI—the germaneness provision—of the Rules of the House of Representatives are waived.

H.R. 11324 provides that the standard time of each time zone into which the United States is divided would be advanced one hour beginning at 2 a.m. on the first Sunday which occurs more than 30 days after the date of enactment of the legislation and terminating at 2 a.m. on the last Sunday of April 1975.

The only provision of the bill requiring additional expenditures is section 3 which requires the Secretary of Transportation to submit a report to the Congress on the operation and effects of the legislation on or before June 30, 1975. This report is expected to cost approximately $300,000.

Mr. Speaker, I urge adoption of House Resolution 718 in order that we may discuss and debate H.R. 11324.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the able gentleman from California (Mr. SISK) explained, this is an emergency measure.

Mr. Speaker, with the fuel and energy crisis which we have confronting us, whatever we can do for the benefit of all the people of this country we should do.

The committee report states that the savings will amount to up to 2 percent in the use of electricity and energy if this bill goes into effect.

It is my hope the committee will offer an amendment to see that daylight saving time goes into effect sooner when the bill is before the House.

Mr. Speaker, House Resolution 718 provides for the consideration of H.R. 11324, the Daylight Saving Time Act of 1973, under an open rule with 1 hour of general debate. The rule also makes it in order to consider the amendment in the nature of a substitute from the committee as an original bill for the purpose of amendment, and all points of order against section 5 of the substitute for failure to comply with clause 7 of rule XVI, dealing with germaneness.

The primary purpose of H.R. 11324 is to provide for year-round daylight saving time for a 2-year period in order to reduce energy consumption in the United States.

The bill would take effect on the first Sunday which occurs more than 30 days after the date of enactment and terminate on the last Sunday of April 1975, when regular daylight saving goes into effect for the summer of 1975.

The bill requires that the Secretary of Transportation report to the Congress on the effects of the bill by June 30, 1975. The report is to provide data indicating whether year-round daylight saving time should be continued.

The authority of the Secretary of Transportation to alter time zone limits would be suspended while the legislation is in effect.

Finally, the FCC would be directed to permit daytime AM radio stations which are not otherwise eligible for presunrise operating authority to operate up to 1 hour in advance of local sunrise, insofar as this is in the public interest and does not conflict with existing treaties.

The cost of this bill is estimated to be about $300,000, which funds will be used to prepare the report to Congress on the effects of the bill.

Mr. Speaker, I am very much in favor of this important piece of legislation and urge the adoption of this rule.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11324, with Mr. MONTGOMERY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentlemen from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I think most of us are conversant with the bill and what its intent is.

We have had this issue of daylight saving time up before us in the Congress several times previously. This is for all intents and purposes a year-round application of the concept of daylight saving time.

This legislation was requested by the President because we are dealing with an energy emergency. The President has stated that this would be a major and important part of the Government's attempt to save energy in America.

He sent a message to the Congress stating that this is one means of energy conservation, and that this is a bill that he wants to have passed as soon as possible.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentleman from West Virginia said that we have had this legislation before the House of Representatives on other occasions. When did we ever have a year-round daylight savings time bill before the House of Representatives?

Mr. STAGGERS. I would say to the gentleman from Iowa that I think the gentleman misunderstood what I said. In general, the text of what we have here, we have had before the House before. This has been before the House at least twice before during wartime when we have had daylight saving.

Mr. GROSS. How many years have elapsed since World War II?

Mr. STAGGERS. I think the gentleman from Iowa can figure that out as well as I can. That was in 1945.

Mr. GROSS. We have not had year-round daylight saving time since World War II, have we?

Mr. STAGGERS. That is correct.

Mr. GROSS. And after the end of the Second World War one of the first wartime powers acts that was repealed was the one for year-round daylight saving, was it not, because the country was sick and tired of year-round daylight saving time, and the gentleman knows that.

I would further ask the gentleman as to when the last mass meeting held in West Virginia took place in favor of daylight savings time the year around, asking for this particular legislation. Did such a mass meeting occur in West Virginia?

Mr. STAGGERS. No; the President of the United States went on television and said that we were in the midst of an energy crisis in America, and stated that he wanted to have year-round daylight saving time in order to save energy. He further told the people of this Nation that this was one of the sacrifices, among others, that they would have to make in order to conserve energy. That is the reason for this bill being on the floor today.

Mr. GROSS. The gentleman still has not answered my question, and that was: When was the last mass meeting held in West Virginia for year-round daylight saving time?

Mr. STAGGERS. I do not know whether they were held in Iowa or elsewhere, and that is neither here nor there. This is a problem that the President has brought up before this Congress, and the issue is before us, and we have to meet it.

Mr. Chairman, the bill would go into effect on the first Sunday which occurs more than 30 days after the date of the enactment of this legislation. However, there have been many Members in the Senate and many Members in the House, and others who have said that they would like to have this take effect the first Sunday which occurs more than 15 days after the enactment of this legislation. I would be agreeable to that, and I will offer an amendment at the proper time to make it become effective at that time.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for yielding to me.

Actually, much of the evidence that was presented before the committee regarding this daylight saving time bill was concerning merely estimates; is that true?

Mr. STAGGERS. That is true.

Mr. CARTER. Do we really know that this will result in the saving of this amount of energy?

Mr. STAGGERS. I might say that the Secretary of the Interior said that if we enacted this bill, in the testimony given before our committee, that we would save 95,000 barrels of oil each day.

Mr. CARTER. Did he say we would save that?

Mr. STAGGERS. Yes.

Mr. CARTER. Or that that was in the realm of possibility? As I heard those hearings, everyone said that it was their best understanding that we possibly could save this much energy.

Mr. STAGGERS. That was the estimate, that is right.

Mr. CARTER. If the distinguished chairman, the gentleman from West Virginia (Mr. STAGGERS) will yield further, is it not true that in the gentleman's district and in other mountainous areas such as that of the gentleman's district and my own, that many of our schoolchildren are bused to school before daylight each day, is that correct?

Mr. STAGGERS. That is correct. But let me say to the gentleman from Kentucky that as far as any State in the Union is concerned, that they can change their school opening time if they want to do so. There is nothing to prohibit the gentleman's State of Kentucky or my own State of West Virginia changing the school day, if they want to do so. That is in the local school district's control. It is up to them to do what they desire.

Mr. CARTER. It is possible that they might do so, but I want to state further to the distinguished chairman that there are other States who merely want to have extra time for play in the evening, and that much of the desire for this is not so as to save energy, but rather so as to get extra playtime in the evening, and that this applies particularly to some of our so-called Sunshine States.

Mr. STAGGERS. I do not disagree with the gentleman on that.

Mr. CARTER. No doubt, the distinguished Chairman will remember the testimony of the mayor's office in California which stated that that was one of the reasons they supported this legislation, and to increase playtime in the afternoon.

Mr. STAGGERS. I would agree with the gentleman, but I will say I do not believe that is the reason that the President of the United States gave when he said that this was one of the "must" bills in the energy crisis that we are having right now, and that we need it.

Mr. CARTER. I am sure that the President has his reasons.

Mr. STAGGERS. Yes, sir.

Mr. CARTER. This House is here to work its will.

Mr. STAGGERS. That is right.

Mr. CARTER. The legislation passed here will be by the will of the Members.

Mr. STAGGERS. That is right.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, is there anything in this bill that will let the individual States have a say in whether or not they want to go to daylight saving time?

Mr. STAGGERS. It is binding on all States because we felt if there was going to be a sacrifice in any way, it should be universal.

Mr. KAZEN. But the only choice they have is combining the two, so we would not have two different time zones.

Mr. STAGGERS. That is right.

Mr. KAZEN. But does the State legislature in any State have the right to come in and say, No, we do not want daylight saving time in the State of West Virginia or in the State of Texas, or anyplace else?

Mr. STAGGERS. No, they do not.

Mr. KAZEN. This is a mandatory bill under which the entire United States will have to go on daylight saving time?

Mr. STAGGERS. Our people are going to have to recognize that they are in an energy crisis, and all of them must suffer equally, if we are going to suffer at all.

Mr. KAZEN. Mr. Chairman, I think that the degree of suffering in the various parts of the country is different.

Mr. STAGGERS. It surely is.

Mr. KAZEN. Therefore, the situation should be different in different parts of the country, and the States themselves are not unpatriotic. If they find that it is going to save fuel, and if they find that their economy is not going to be disrupted, and there are many other elements that enter into it, they may or may not desire to go into this program.

Mr. STAGGERS. We know that.

Mr. KAZEN. But this fixes it so they cannot do it.

Mr. STAGGERS. Only as long as we are in an energy crisis. This is only a temporary bill; it is not a permanent bill.

Mr. KAZEN. This is a 2-year bill; is it not?

Mr. STAGGERS. No, it is not. It runs out in April, 1975, which will be about 14 months. Then we shall have a study by the Department of Transportation to see how effective it is, to see whether it does save energy, to see whether it does prevent crime in America.

Mr. KAZEN. Mr. Chairman, I agree with everything the gentleman has said, but these investigations should have been made before this bill was presented.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

As the gentleman from West Virginia knows, the State of Arizona is against this bill. We feel that it will cause hardships to the people in our State if this bill is passed as it now reads. Nevertheless, I should like to say to my good friend, the distinguished Chairman, that I will support the bill. I think it is good legislation, and I would hope that it will pass.

The Senate bill which has been reported by the committee in the other body, has a provision which I will commend to the gentleman from West Virginia and his committee. It appears in the Senate bill, in the report. It, in my opinion, would go a long way to resolving some of the perhaps unforeseeable problems which we might have in various States, and it reads like this. It is on page 6 of the Senate report.

> Notwithstanding any other provision of law, if a State, by proclamation of its governor, makes a finding prior to the commencement of a period of advanced time under this subsection that an exemption from the operation of this subsection or a realignment of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President may grant such exemption or realinement.

This is not mandatory language; it is permissive language; but I do think it might be efficacious in the future in perhaps suggesting some problems that we cannot now foresee by the passage of this bill.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Chairman, I thank the chairman of the committee for yielding.

Indiana is grateful to the committee for looking out for its interests. However, there are some questions which I think should be raised.

As I understand it, in section 2(b), that would apply only to the State of Indiana because of action that it has previously taken to take care of its rather unique summer months if by legislative action 2(a), Mr. Chairman, it provides:

> except that any State with parts thereof in more than one time zone may by law exempt the entire area of the State lying within one time zone from the provisions of this subsection.

My question is this: Does this section permit Indiana to remain on standard time during the winter months and to adopt daylight saving time during the summer months if it by legislative action so chooses?

Mr. STAGGERS. I would say to the gentleman, if he would read section 2(b) he would find Indiana is covered by that section.

Mr. ROUSH. Will the gentleman repeat his answer.

Mr. STAGGERS. Under the provisions of section 2(b) the State of Indiana could by law provide that the exemption which is deemed to be in effect under this legislation shall no longer apply, in which case the Northwest and Southwest corners of Indiana which are in the central time zone would observe advanced central time and the remainder of Indiana which is in the eastern time zone would observe advanced eastern time until this legislation terminates on the last Sunday of April 1975.

Mr. ROUSH. But Indiana would not be prohibited, would it, Mr. Chairman, from changing its mind and adopting the daylight saving time provisions of this bill?

Mr. STAGGERS. No, that is right. It could be done as I have already stated by law waiving the exemption that section 2(b) deems to apply.

Mr. ROUSH. If Indiana chose to do that, it would have to be bound by that choice during the winter months. Is that correct?

Mr. STAGGERS. That is correct.

Mr. ROUSH. I thank the gentleman.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Chairman, the managers of this legislation have delivered a very thorough explanation of the daylight saving bill, H.R. 11324. I will therefore limit my remarks to urging its passage and to congratulating the Committee on Interstate and Foreign Commerce for including an amendment to this legislation which will allow several hundred daytime only AM radio broadcasting stations to stay on the air and to remain in business.

Section 5 of this bill requires the Federal Communications Commission to permit, consistent with the public interest, daytime AM radio broadcast stations to operate not more than 1 hour before local sunrise.

To have failed to include this amendment would have forced these small local radio stations to come on the air 1 hour later than the general public would awaken under the advanced time this bill contemplates. For technical reasons, FCC presently permits daytime only AM radio stations to begin operation at local sunrise, which we will assume to be 7:30 a.m. in mid-winter. Since the imposition of daylight saving time will move back the clock 1 hour, but not the sunrise, FCC would have not permitted these stations to come on the air until 8:30 a.m. advanced time under current law.

To have allowed this condition to have remained in effect would have deprived these stations of their most profitable business hours of the day. This period is known in the radio business as "prime drive time," when most of the commuting public is en route to work, and stations of this type cannot stay in business and perform their excellent service to small communities and small businesses if they are deprived of this advertising time.

The action by the committee in recognizing and solving this problem to the satisfaction of the Federal Communications Commission is to be highly commended. I know that the small radio broadcasters and their listening public appreciate this amendment.

Mr. STAGGERS. I thank the gentleman from Virginia.

Mr. Chairman, in conclusion the bill is one we all recognize is an emergency measure. It is a temporary bill. Its operation and effects will be studied and we will have the recommendations of the administration before it is extended.

I recommend passage of this legislation.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield

Mr. STAGGERS. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, I associate myself with the remarks made by the members of the committee on this bill. I think the chairman of the committee and the committee have been expeditious in handling this bill.

Even though this legislation might create some inconvenience for some sections of our country, I think at the present time this is very necessary and I commend the committee for bringing it to the floor.

Mr. STAGGERS. I thank the gentleman from Tennessee.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the winter of 1973–74 holds the promise of the most serious energy crisis in the history of this Nation. The curtailment of oil from the Middle East has aggravated an already growing shortage of wintertime petroleum supplies. We as a nation must now turn toward measures to cut unnecessary energy consumption without seriously harming our economy or the comfort of our citizens.

The President, in his November 8 energy message, stated that he would seek legislation to "authorize an immediate return to daylight saving time on a year-round basis." The legislation we are considering today, H.R. 11324, is in response to this request for authority sought by the President.

The principal purposes of H.R. 11324, as reported from the House Committee on Interstate and Foreign Commerce, are: First, to provide for year-round daylight saving time in the United States on a 2-year trial basis; and second, to provide data on which to base a determination as to whether year-round observance of daylight saving time should be continued.

Various studies by independent and governmental agencies have indicated that year-round daylight saving time will yield significant energy savings in the form of lowered demand for electrical energy.

According to the fact sheet accompanying the President's energy message, the observance of year-round daylight saving time could reduce electricity and heating demands, particularly in the northeastern areas, by as much as 3 percent.

However, no information is available which estimates with certainty that an overall reduction in energy consumption will directly result from the year-round observance of daylight saving time.

Nonetheless, there is evidence that there is a high probability of such a reduction. In testimony presented before the Interstate and Foreign Commerce Committee, Mayor Bradley of Los Angeles estimated that daylight saving time on a year-around basis would save his city approximately 200,000 barrels of oil annually. He also noted that Southern California Edison Co. has estimated a savings of 500,000 barrels per year.

The American Public Power Association, representing local publicly owned power companies, estimated that year-around observance of daylight saving time could save that portion of the industry the equivalent of between 4.3 and 8.6 million barrels of oil during the 1974–75 winter period.

Consolidated Edison Co. of New York, in a recent study using conservative estimates, projected a savings of 4 million barrels of oil annually.

Year-around daylight saving time may have beneficial effects besides direct energy conservation. There is evidence that added daylight during the evening rush hours will significantly reduce traffic fatalities. Great Britain, during its 3-year period of year-around daylight saving time, experienced a 3.8-percent reduction in the number of motor vehicle fatalities and serious accidents.

In large urban areas, additional daylight in the evening hours may reduce street crime.

There is the possibility that an extra hour of daylight in the evening will contribute to the economic well-being by adding additional shopping hours after 5 p.m. and by increasing the number of hours of overlay between the United States and European business day.

Changing to daylight saving time in April and back again in October has proved confusing and costly for certain segments of our economy. Adjustments in train, plane, and other schedules involve some expense for industry and some confusion for the traveler.

Farmers have traditionally been troubled by this switch in time, particularly the dairy farmers. Year-around daylight saving time will eliminate this switching back and forth and at least alleviate those problems associated with adjusting to new time.

However many advantages it may have, the observance of year-around daylight saving time also presents problems. Children required to travel considerable distances to school in darkness poses a safety problem. It is hoped that this problem could be lessened by the States and local school districts adopting a later beginning time for schools, and the committee endorsed this approach.

Another problem resulting from enactment of this legislation is its effect on standard—AM—radio broadcasting stations operating during daylight hours only. There are approximately 2,270 stations in this category throughout the country. H.R. 11324, in directing the Federal Communications Commission to permit daytime standard—AM—radio broadcast stations to operate up to 1 hour in advance of local sunrise, I believe adequately and fairly meets this problem.

Because data on the effects of year-round daylight saving time is so limited, the additional provision directing the Secretary of Transportation to submit a report on these effects to the Congress on or before June 30, 1975, will enable the Congress to make a considered determination as to whether year-round daylight saving time should be continued in the future.

Under normal circumstances I would

be reluctant to support the continuation of daylight saving time on a year-round basis. However, the magnitude of the energy shortage has necessitated a concerted effort on all fronts to cut back on energy consumption, and I believe the observance of daylight saving time on a year-round basis will contribute to this effort.

Mr. PEYSER. Mr. Chairman, I rise in support of this legislation. My purpose today is to discuss a bill which I have strongly supported and cosponsored, H.R. 11324, calling for the initiation of daylight saving time on a year-round basis. I strongly believe that this legislation is a logical and necessary proposal, especially when one considers the current energy crisis facing our country.

Only twice in the Nation's history has daylight saving time been uniformly observed throughout the land since Benjamin Franklin first suggested it in 1784. The United States began experimenting with daylight saving time in 1918 largely as a result of World War I. With the advent of World War II, the United States put into effect "war time" in order to aid war production. Unfortunately, immediately after both wars many areas abandoned daylight saving time altogether. We are now facing another crisis in the field of energy which calls for the reinstitution of daylight saving time on a nationwide level.

The energy crisis has brought the question of daylight saving time into a very important perspective. Consideration of gasoline and fuel oil rationing, reduction of speed limits, curtailing outdoor electrical advertising, taxing excessive uses of energy, all are drastic measures. It is strange that in a conservation-conscious period we have not initiated an easy way to conserve. The implementation of daylight saving time is certainly an easy and proper means of providing for the utilization of more daylight. We would conserve a tremendous output of electricity used to light our homes, offices, and shops in that last hour of lost afternoon sunlight. The fuel used to produce the current and also the attendant pollution therefrom would be saved. Daylight saving time would cause a reduction of peak load demand for electricity by some 5 percent. That alone will not cure the energy problem, but it is a step in the right direction.

While the issue of conserving power is the most convincing argument for the adoption of daylight saving, there are several other important benefits to the initiation of H.R. 11324.

Police statistics show that the peak crime hours are right after dark. The millions of Americans who must travel home at 5 o'clock during the early darkness that standard time so conveniently affords would be much safer from the muggers and purse snatchers during daylight traveling.

Traffic officials agree that the peak accident hours are right after dark, when during winter months America's commuters are driving home from work. With standard time we have the hour of light in the morning when many people are still asleep and not utilizing the safer traveling conditions.

Other social benefits would result from this proposal, including an increase in recreation time. The Nation's population is now overwhelmingly urban and for these citizens daylight saving time allows evening outdoor activities and recreation so vital to our mental and physical health.

We should learn from the example set by the British in 1968, when they adopted daylight saving time. It is time to "bring our clocks more into phase with the needs of our urban society."

We are facing a crucial problem with conserving energy of the proportions seen during World War II. It is obvious that the simple act uniformly setting our clocks ahead 1 hour and maintaining this standard on a year-round basis can go far in the attempt to meet and solve our energy crisis. Our Nation and its people must learn to cope with the shortages of energy supplies and adjust properly.

It is extremely disappointing to see crime, traffic and recreational considerations fall by the wayside.

It is extremely wasteful, indeed, to not utilize an extra hour of natural energy.

We need not waste any more time—the benefits of this bill are evident. I urge its swift passage.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 1 additional minute.

I yield to the gentleman from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask the gentleman a question. In Tennessee we as a two-zone State have the privilege in our legislature to waive the provisions in this bill in one time zone.

Mr. BROYHILL of North Carolina. In one time zone only.

Mr. BAKER. If the legislature decided the eastern time zone of Tennessee would not respond to the action of this order, would this be proper?

Mr. BROYHILL of North Carolina. In one time zone only, it could not exempt the whole State.

Mr. BAKER. May I ask one more question? The President, so far as daylight saving time is concerned, has presented this in a manner which affects commerce; is that correct? The attitude of the people generally is not a matter of consideration. The only concern in the Federal statutes so far as the establishment of daylight saving time or standard time is only how it affects commerce; am I correct there?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 1 additional minute.

The daylight saving time effect, of course, is to change the patterns of travel, the patterns of business or commerce, and by so doing it does have the effect of saving energy. I do not know if that answers the gentleman's question. I am not sure I understand his question.

Mr. BAKER. If the gentleman will yield, if in the committee's judgment it is decided to change from standard to daylight saving time, is this favorable to commerce in this instance?

Mr. BROYHILL of North Carolina. I would say it is going to have an effect. Are you saying it is going to have a bad effect on certain segments of commerce?

Mr. BAKER. Mr. Chairman, I am seeking enlightenment. I think there is definitely some business which would suffer an overall effect.

Mr. BROYHILL of North Carolina. It would not have a bad effect on all commerce. The effect of this legislation is to reduce consumption of energy which is in the overall public interest.

Mr. BAKER. Mr. Chairman, I thank the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HARVEY).

Mr. HARVEY. Mr. Chairman, Michigan is also one of those States that is divided into two time zones. This question of daylight saving time has been a very controversial question, indeed, in our State. We have had two special referendums on it within the past few years, and more than 2 million people voted in each election with not more than 51 percent voting one way or the other. We at first rejected daylight saving time, and in the last vote accepted daylight saving time.

What I want to be sure of, and I would ask my chairman, the gentleman from West Virginia (Mr. STAGGERS), whether he could answer me; as I read section 2(a) of the bill, the last portion of the last sentence says:

> Except that any State with parts thereof in more than one time zone may by law exempt the entire area of the State lying within one time zone from the provisions of this subsection.

Mr. Chairman, as I read that, I would say to my chairman that I see in that language the same flexibility that we have had in the past. In other words, our State, if it wishes, can determine that one of the time zones in our State shall be exempt from daylight saving time, is that correct?

Mr. STAGGERS. The gentleman is correct in his assumption. Yes, indeed.

Mr. HARVEY. Mr. Chairman, I thank the chairman.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. Chairman, the gentleman has had worlds of experience in the field of power, and I think the committee deserves to hear his expertise.

Mr. NELSEN. Mr. Chairman, many of us who live on the farms of America have long had our concerns about daylight saving, because the dew comes on the hay at the same time of day regardless of the laws we pass. Many of us have also had great concern about the youngsters standing out on the streets and on the highways waiting for the schoolbus in the dark under the daylight saving system, and this does not help rural families very much.

But there is a very important factor involved here. That is the power problem, the fuel crisis in the Nation today. In the power business, one of the real concerns involves peak load. If the peak falls at one time of the day, you have to have plant capacity to meet that peak. If you can spread that peak, you can then make the power system capable of handling more kilowatt hours during the day, and in this manner the crisis can be eased.

One of the real problems we had in the Rural Electrification Administration program was to get suitable interconnection, so that one system could help another, thereby spreading their peaks and making total use of their powerplant capacities.

Before our committee, the only real, logical, convincing argument that I could see, was that by virtue of utilizing daylight savings, we would accomplish a tremendous saving of electrical capacity and fuel by spreading out the peak load period. While I would be most reluctant to continue the daylight saving program indefinitely, I want to point out that this measure would permit year-round daylight saving only until April of 1975 by which time we hope to have the current energy crisis better in hand.

So I am willing to go along with our good committee chairman, who is cooperatively going along with the administration in trying to help solve this problem. I am going to support our chairman and our ranking minority member in their endeavor here to bring this bill into realization.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. CONLAN).

Mr. CONLAN. Mr. Chairman, I rise in opposition to the bill.

I think the evidence is not clear that we are going to realize very much in the way of savings; we are not going to realize anywhere near the savings that are proposed.

I rise mainly in opposition because of the suggestion of the other gentleman from Arizona, who spoke previously, pointing out that this bill is unnecessarily authoritarian in that it does not allow some of the local option features which we have had before.

Mr. Chairman, if the bill had the local option provision that was in the Senate bill, then I think it might be more palatable. If the bill does not have that provision in it, then I will have to vote against it.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 11324, the Daylight Saving Time Act of 1973.

I introduced similar legislation, under the title of the Energy-Daylight Conservation Act of 1973, and my bill had 25 cosponsors.

The bill proposed today provides one efficient means of meeting the challenges of energy management. The return to daylight saving time, as a tactic in our energy conservation strategy, has proven its utility before, both at home and abroad.

Daylight-conservation studies, conducted by researchers at the Rand Corp., of Santa Monica, Calif., indicate a 2-percent savings in electricity consumption during the winter months. The resultant fuel oil dividend could heat 50,000 to 75,000 homes.

A significant factor in the risk involved in homeward-bound commuting has been alcohol abuse. The intoxicated driver, going home in the dark, compounds the danger to himself and others.

To a large extent, crimes striking homeward-bound workers depend upon the cover of darkness. Added sunlight at the end of the working day will have a disinfecting effect upon the plague of personal assaults.

Statistically, daylight use of mass-transit is greater than nighttime, and ridership suffers a decline when the Nation reverts to standard-time. Riders, switching to safer means of transportation like their cars, swell the existing demands upon energy resources.

Year-round daylight-saving time was imposed during both world wars, and proved successful in conserving significant amounts of fuel. It is needed to conserve energy. It is needed to curtail twilight-hour crime and reduce auto accidents. When weighed against the onerous task of revising personal, industrial, governmental and professional schedules to achieve the same ends, it is a remarkably practical course.

Year-round daylight-saving time is not going to solve the energy crisis. But it will help alleviate some of the misery. In my region of the country—up there in New England—supplies of home heating oil are expected to fall 30 percent short of demand. Even with perfect obedience to the energy conservation measures proposed by President Nixon on Sunday, New England would still have a 20 percent shortfall of heating oil. So the situation is desperate. I ask my colleagues, without further delay, to enact this energy conservation legislation.

Mr. STAGGERS. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I thank the chairman of the committee for yielding me this time.

I would like to commend the gentleman and the members of the committee for bringing out this measure with such expedition. While it does not represent a new idea, there is novelty in that it is being considered in peacetime as an energy saving measure. Up until a few months ago, support for the idea was limited to a few forward-looking people, including some of my constituents, particularly senior citizens who felt that extending daylight saving time would improve public safety both in regard to crime and traffic accidents.

Now the need is much more acute. In October the Arabs began a policy of oil blackmail, challenging the freedom and independence of western nations to decide their own foreign policy and control their own economies. This blackmail was followed then by a sad spectacle of proud nations knuckling under to the oil boycott threat because of their dependence on Arab oil. Only the United States with its lesser dependence on Arab oil and the brave nation of the Netherlands have stood firm.

In response to this turn of events, on October 16 I introduced H.R. 10917, which I believe was the first temporary 2-year daylight saving bill in the House. My bill was aimed at saving a substantial amount of energy—estimated at about 2 percent—as well as symbolizing our Nation's determination to follow our own course without submitting to blackmail of any kind. In a way, it is a declaration of independence against an oppressive policy which if successful could encourage other small nations in control of needed raw materials to adopt similar blackmail policies.

Daylight saving time year-round, or energy saving time, as it could be called, will affect every citizen in our country and make us fully aware of the need to conserve our limited energy supplies. Too long we have indulged in energy wastefulness. Since 1940 our population has grown by 82 percent but our energy consumption has increased by 290 percent. We are only 6 percent of the world's population but we consume 30 percent of the world's energy supplies. How long could we expect the world's resources to satisfy this energy appetite of ours? Energy use awareness and conservation are long overdue. In time we may thank the Arabs for forcing us to adopt energy conservation policies and to launch a concerted effort to become energy independent by finding alternative sources of energy.

Sunday, December 16, which conceivably could be the effective date of "energy saving time," if we act quickly, our Nation will celebate the 200th anniversary of another American act against oppression, the Boston "tea party." Like a modern day George III, King Feisal and other Arab leaders are underestimating the spirit of our citizens to fight oppressive policies and our ability to profit by adversity. Energy saving time as the beginning of "operation independence" will put the world on notice that those who use the blackmail of withholding scarce commodities may find themselves eventually sitting on obsolete products.

The bill before us—H.R. 11324—as recommended by the House Interstate and Foreign Commerce Committee is very similar to my proposal. It provides for a year-round daylight saving time in the United States for a temporary 2-year period and requires a report to Congress by the Secretary of Transportation on or before June 30, 1975, on the operation and effects of the legislation, particularly in regard to energy savings. To prevent States from requesting time zone changes and negating the beneficial effects of the proposal, the bill suspends the Secretary of Transportation's authority under the Uniform Time Act of 1966 to change such time limits while the legislation is in effect.

The estimates of energy saving from year-round daylight saving time—DST—range from 1.5 percent to 3 percent. This saving is expected to come from reduced needs for artificial lighting which uses 24 percent of our Nation's electricity generated by utilities consuming about one-third of our Nation's energy resources. A recently released Rand Corp. research study estimated that daylight saving time would save 1 percent of the fuel used for the generation of electricity and twenty-five hundredths percent of the Nation's total energy supply. This translates into a saving of 150,000 to 450,000 barrels of crude oil a day which puts a good dent in the estimated shortage this winter of 2 to 3 million barrels a day. As for other types of energy saving, the Rand study projected a 2-percent savings of fuel oil and natural gas resulting from decreased commercial and residential heating needs. These figures represent the estimated direct effect of enactment of this legislation; there is no telling what additional energy saving will be realized because of the increased public awareness "energy saving time" will bring.

To many senior citizens and auto commuters in my district the nonenergy benefits of an extra hour of light in the evening are of great importance. While there are no figures to support the contention that year-round daylight saving time will reduce crime, commonsense suggests that it will. Statistics do show that robberies, muggings, and purse snatchings are most frequent during early evening when most people are returning from work or shopping. Older people especially feel more secure in daylight hours and they have been among the first to suggest year-round daylight saving time. The Justice Department insists that criminals will adjust to the new daylight hours, but when darkness does fall, they may find less people on the streets to victimize than under the old standard time.

Reduction in traffic fatalities and serious accidents could also follow from this legislation. In the winter months in the United States, much homeward bound commuting by automobile is done in darkness at a time when drivers are fatigued by work and occasionally under the influence of alcohol. These disadvantages on the whole do not operate in the morning. The British found that there was a 3.8-percent decrease in the number of serious accidents during their 3-year experiment with year-round daylight saving time. There is no reason why we cannot expect a similar, if not greater, reduction.

While I have dwelled on the benefits of this legislation, I do recognize the adverse effects year-round daylight saving time will have on certain groups whose activities are tied to the rising and setting of the sun more directly than most. The committee, with foresight, has included a provision allowing the FCC to make adjustments in the operating hours of certain radio stations which would otherwise lose broadcast time because of the bill. This was a problem brought out in the committee hearings.

I would like to point out one problem that I do not think was brought out in the hearings on this legislation and ask the comment of the chairman of the committee in this regard.

Among the groups that will be seriously inconvenienced by this bill are the orthodox and conservative Jews of our country who must make their daily prayers after sunrise. They cannot conduct their daily services until the sun has risen. That means in the winter months communities that observe this religious obligation—and there are estimated to be more than 2 million Jews in that category—may not be able to arrive at work on time. For example, I calculate that in some parts of the country sunrise will not occur until as late as 8:56 a.m. in the depths of the winter.

I would hope that we could make some legislative history here and that it would be the committee's intention that employers, including the State, local, and Federal Governments, will take this matter into account and make accommodation for employees who have such obligations so that they will be able to make up the lost time in some other way.

May I ask the chairman if he would agree that that would be the hope and intent of the committee that employers would take these religious obligations into account?

Mr. STAGGERS. Yes. I am sure every member of the committee would agree with the gentleman in the well that they should be taken into consideration, and I am sure they will be.

If they do not, there could be application for relief under the Civil Rights Act. However, I am sure that such individuals will be given every consideration, and it is our intent that this should be done.

Mr. BINGHAM. I thank the chairman.

I take it what the chairman is saying is that if voluntary cooperation on the part of employers is not enough, employees adversely affected would have the opportunity to seek relief under various national acts, such as the Civil Rights Act if something like religious discrimination were involved. We hope that will not be necessary, but the remedy is there. I take it that is the intent of the chairman.

Mr. STAGGERS. The gentleman is correct.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, whether or not I can support this legislation will depend in part on what happens to some of our small radio stations which is the only daily source of information for our farmers. I am talking about the little radio stations that operate in the limited areas usually countywide and operate on from 170 to 200 watts.

I understand the committee made an effort somewhere along the line to adjust to some of them, but we should remember there are two categories. There are those mentioned in the report and also in the bill that they will be given an additional hour but only for those stations which do not now have presunrise operating authority. There are a large number of these small stations that do have pre-sunrise operating authority at the present time.

Most of them are little stations that are needed to let the farmers know the latest weather information, and also whether or not there is going to be school in the case of severely inclement weather.

The chairman indicated he has an amendment to offer, and I am hoping to get a little time under the 5-minute rule to inquire about that. I understand that at the request of the Federal Communications Commission that there will be an amendment offered, which will strike out the words at page 4, lines 19 and 20 of H.R. 11324 "stations which are not eligible for presunrise operating authority." With these words out I assume that the adjustment of 1 hour prior to local sunrise would apply to all stations, is that correct?

Would the chairman of the committee care to respond?

Mr. STAGGERS. I will be glad to respond to the inquiry of the gentleman from Missouri. My amendment will take out that portion of the bill and apply it to all of the stations. I want to temper that by saying that we cannot include the stations which are under treaty obligations of Mexico and Canada, but all the rest of them I am talking about it.

Mr. RANDALL. Of course, I understand that the Federal Communications Commission proposed amendment, and the chairman's amendment, all of them must respect existing treaty and other agreements, but I want to be certain that this so called adjustment will apply to all stations. Will it apply to any and all AM stations, whether they have or have not presunrise authority at the present time?

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri.

Mr. RANDALL. I thank the gentleman for yielding me this extra time.

Mr. STAGGERS. Mr. Chairman, I would like to respond to the gentleman from Missouri, and say that with the exceptions of those stations that I have mentioned, being those that are under treaty exemption, all others would be covered.

Mr. RANDALL. Only those that are barred by treaty?

Mr. STAGGERS. I might say that there are approximately 2,200 standard—AM—daylight radio stations in the land, and about 1,700 of them have already received presunrise authorizations. And there are others that have the right to such authority, but they have not applied for it.

Mr. RANDALL. That is what I am talking about; those other 500.

Mr. STAGGERS. I might add that there would be about 125 daytime standard broadcast radio stations not now entitled to presunrise operating authority which would be granted authority to operate before local sunrise under this legislation.

Mr. RANDALL. I thank the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I rise in opposition to H.R. 11324, the Daylight Saving Time Act of 1973.

For several Congresses, I have proposed bills to limit daylight saving time to the period between Memorial Day and

Labor Day. The people in northwest Iowa have voiced strong support for these proposals and at the same time have urged me to help defeat any attempt to extend daylight saving time.

Their reasons for opposing extended daylight saving time are numerous and convincing. Their children are subjected to serious inconvenience and danger in the dark hours of the early morning when, in many rural areas including northwest Iowa, the children have to wait at bus stops in remote areas or walk long distances to school, exposed to unnecessary health and safety hazards.

Farmers find they must achieve maximum utilization of morning daylight hours in their jobs, particularly in the spring soil preparation and planting season and in the fall harvest season. They find they are unable to get in their fields until late morning because of dew or moisture from an evening shower and then must work until late evening to take advantage of the sunlight. This causes conflict with farm laborers, many of whom live in small towns and want to work by the clock rather than the sun, in order to avoid disruption of their normal home life and social activities. With the customary business day ended, while a few hours of daylight remain due to daylight saving time, any unforeseen breakdown of equipment can result in the loss of valuable working time for the farmer.

Passage of this bill will thrust adverse economic effects as well as numerous inconveniences on the farmers of America. In addition to their actual tilling of the soil, most farm families participate actively in affairs of the community in which they live. This bill would force them to make a choice between being forced away from their farming during daylight hours or finding it impossible to attend activities that are normally scheduled in the evening.

We are now presented with a new appeal for year-round daylight saving time based on the assumption that year-round daylight saving time would conserve energy. But this is an assumption only as the committee report readily admits when it states:

> However, no studies have been carried out and no information is available which establishes with certainty that an overall reduction in energy consumption will directly result from the year-around observance of daylight saving time.

I know my constituents are more than willing to do their part in conserving energy during this time of genuine energy shortage and would not want me to oppose legislation that would clearly aid this country in its attempts to conserve energy. Despite the many disadvantages daylight saving time presents to the people of northwest Iowa, I am confident they would gladly accept the inconveniences if it could be convincingly shown that year-round daylight saving time would, in fact, save substantial amounts of our Nation's energy.

However, little evidence exists to support the contention that year-round daylight saving time would save energy. Proponents contend that daylight saving time achieved substantial savings of electricity during World War II. But conditions have changed dramatically from those wartime years when peak demand for electricity was much more sensitive to lighting loads than is true today. Many more electrical appliances are now in use, and heating and air-conditioning loads make up a much greater part of the total load. Any possible savings in electric lighting energy are likely to be more than offset by increased gasoline consumption by recreational drivers taking advantage of longer daylight hours after work.

The sponsors of this bill also contend that year-round daylight saving time would decrease the number of motor vehicle accidents. However, the Department of Transportation has responded that having the morning rush hour occur during darkness might increase the concentration of traffic due to traveling at somewhat lower speeds. In testimony before the Senate committee, DOT representatives also recognized the safety hazard to school children traveling to school or waiting for buses in the darkness of the early morning. Proponents also make the unsupported claim that year-round daylight saving time would reduce crime; certainly this was not verified by the Justice Department which instead reports that it is difficult to quantify the effects of year-round daylight saving time on the incidence of crime.

I, therefore, stand in opposition to H.R. 11324 because no one has been able to substantiate the contention that this bill will really help conserve energy. On the other hand the disadvantages and hardships which year-round daylight saving time will thrust upon rural America are clearly evident. I urge my colleagues to join me in opposing legislation which has been presented to us today as an energy conservation measure, when there has been no adequate showing that it will actually save energy in any significant amount.

Mr. O'NEILL. Mr. Chairman, I want to commend Chairman STAGGERS and the members of the Interstate and Foreign Commerce Committee for responding so constructively and expeditiously to the energy crisis which confronts the United States, by reporting out H.R. 11324, which provides for year-round daylight saving time on a 2-year trial basis.

I urge all my colleagues on both sides of the aisle to support this legislation on its merits. The truth of the matter is that adoption of year-round daylight saving time will save a small, yet dramatically significant, percentage of our energy needs this winter.

According to a White House fact sheet, observance of year-round daylight saving time could reduce electricity and heating demands, particularly in the northern areas of the country, by 2 to 3 percent. We are all aware that peak usage of electricity occurs at dusk. Daylight saving time during the winter months would dissipate this peak usage, which is not only inefficient, but more costly to produce than the same number of kilowatts at other times of the day.

Why, Boston Edison, the largest electrical utility in my area, has predicted that it would save 30,000–50,000 barrels of oil this winter if year-round daylight saving time were adopted. That amounts to approximately 1 day's quota.

The New England States are very dependent upon the Arab oil supply. A recent study by the Library of Congress indicates that loss of this supply could effect up to 35 percent of electrical generating power in New England. Already some of our people have been denied oil deliveries, and some contracts for schools and government oil needs have not received one bid.

Rogers Morton said over the weekend that New England could expect brownouts and blackouts this winter. Why? Because, for one reason, residual heating fuel oil, upon which New England heavily relies, is approximately 13 percent short of expected demand. Thus, it is imperative for the Congress to enact daylight saving time as one necessary response to the energy deficit and as a key method of energy conservation.

Year-round daylight saving time will mean that the average commuter will be traveling home from work during the daylight in the evening. This would reduce the occurrence of motor accidents at dusk which is more than twice that of the morning hours.

Business establishments would operate in daylight hours, thus conserving more electricity and heating.

Year-round daylight saving time could reduce the incidence of street crime by permitting greater numbers of workers and children to return home from work and school in daylight instead of dusk. While a safety problem exists for some children in the western portion of the various time zones going to school during darkness, local school boards could alleviate the problem by adopting a later beginning time for schools.

Year-round daylight saving time is not a panacea for resolving the eminent energy crisis. But it is a positive and immediately available means to lessen the impact of the Nation's energy shortage.

Mrs. HOLT. Mr. Chairman, I rise to speak to the Daylight Saving Time Act of 1973 which is before us today.

H.R. 11324, which amends the Uniform Time Act of 1966, would have a number of desirable results. The most important effect of continuous daylight saving time would, of course, be a saving in energy estimated to run as high as 3 percent in the northern areas of the Nation. Local publicly owned power companies which account for 13 percent of the total sales of electricity estimate that year round daylight saving time would save between 4 million and 8 million barrels of oil during the 1974–75 winter period. Figures from Consolidated Edison of New York, projected nationwide, confirm the above findings.

In addition to the direct energy savings, I believe that this legislation would increase public awareness of the gravity of the Nation's energy problem; this could account for further conservation.

There are other areas which would benefit directly from the passage of this legislation. It is believed, from available traffic statistics, that there would be a decrease in motor vehicle fatalities and serious accidents. Because much homeward bound commuting is done in darkness when drivers are fatigued it is felt that the decrease in serious accidents would be of considerable proportions. A study in Great Britain from 1968–71 showed that there was a 3.8-percent decrease in the number of traffic fatalities during continuous daylight saving time.

In addition, by permitting greater numbers of people to return home from work during daylight in the winter months, year round daylight saving time could reduce the incidence of street crimes.

Consideration of any one of these factors might suggest the importance of this legislation. Taken as a whole, the evidence overwhelmingly suggests that we should insure the passage of this needed measure without delay.

Mr. Chairman, I urge all of my colleagues to join me in supporting the Daylight Saving Time Act of 1973.

Mr. **BIAGGI**. Mr. Chairman, I rise in support of this bill H.R. 11324 which would authorize year round daylight saving time for the entire United States on a 2-year trial basis. I feel passage of this legislation will provide us with tremendous assistance in our efforts to conserve our rapidly dwindling supply of energy.

Simple logic points out the advantages of this bill to our overall energy conservation needs. It is estimated that conversion to year-round daylight saving time could reduce electricity and heating demands by as much as 5 percent nationwide. In addition it could also result in the savings of up to 4 million barrels of oil annually. In light of the continuing "blackmail diplomacy" being carried out by the Arab nations with respect to oil imports, this saving takes on added significance.

In addition to these energy conserving advantages, year-round daylight saving time will have additional positive effects for the overall Nation including:

A reduction in the number of traffic fatalities and serious accidents since many American commuters would be able to drive from work in the daylight hours, thus reducing the risk of accident.

A reduction in the numbers of street crimes which traditionally occur more often in the early evening hours than in the daytime.

We must begin to formulate more of this kind of logical, inexpensive legislation if we are to lick this energy crisis. We in the Congress must begin a major crusade to eliminate our dependence on foreign sources for energy by calling for more stringent conservation measures here at home.

In addition we must begin to more fully develop the various research and development programs aimed at producing new domestic supplies of energy. For example, passage of this bill could easily hasten the development of a comprehensive solar energy program, by permitting the maximum use of daylight hours.

Mr. Chairman, I applaud the initiative of the Congress in reporting this bill to the floor. Let this be the starting point for more comprehensive legislation which will achieve the important goal of assuring an adequate supply of energy for every American.

Mr. **EDWARDS** of California. Mr. Chairman, I support H.R. 11324 to establish year-around daylight saving time. I feel that this legislation is an important first-step toward conservation of our increasingly valuable and less available energy sources.

Setting our clocks back 1 hour will help us to take greater advantage of the most abundant, inexpensive and reliable energy source we have—the sun—with minimal inconvenience and expense to every citizen. Symbolically, it will also be a reminder of the need for each individual to do whatever he can, no matter how insignificant it may seem, to help conserve energy.

This simple energy saving step has added value in that it has already been tested for usefulness. Daylight saving time was first used in the United States during World War I and has been used several times since as an energy saving device. England has also made use of clock resetting to save on energy consumption.

I hope that my colleagues will join me in supporting the passage of this legislation.

Mr. **LEGGETT**. Mr. Chairman, it is commonsense that we will use less energy for lighting and heating if we can have more people awake during daylight hours and more people asleep during the hours of darkness.

For reasons I find somewhat difficult to understand, we have developed a traditional working schedule under which the average American gets up after sunrise, thus wasting time during which he could have operated without artificial light. He then remains awake for several hours after sunset, requiring energy-consuming artificial light, plus a higher degree of artificial heat than he will need when he is asleep under warm blankets.

Ideally we should have 16 hours of daylight the year round. Of course we cannot do this. It is beyond the power of Congress of the United States in all its majesty—it is even beyond the powers of the President—to affect the rate at which the earth rotates on its axis. But we can shift our living schedules to eliminate the wasted morning daylight, and to eliminate 1 hour of the evening energy-consuming period.

There is some question over whether the energy saving will be 2 or 3 or 4 percent of total electric and heating consumption. Whatever the figure, it is significant, and we must have it. Additional benefits will be reductions in traffic accidents in street crime. I commend the Interstate and Foreign Commerce Committee for reporting the bill and President Nixon for suggesting it. I hope we will pass it overwhelmingly.

Mr. **HARRINGTON**. Mr. Chairman, I rise in support of H.R. 11324, which provides for the year-round observance of daylight saving time, a practice intended to reduce U.S. consumption of petroleum during this period of severe shortages.

In the President's energy message of November 8, he stated that the country's petroleum supplies would fall 17 percent short of demand. Mr. John Buckley, vice president of the Northeast Petroleum Co., Massachusetts' largest independent fuel distributor, has estimated that the adoption of year-round daylight saving time would decrease national petroleum use by 1 to 2 percent. Most of this curtailment would be effected by reducing demand for electricity in peak early evening hours, when the demand level is swollen by offices and factories having to operate in winter darkness.

Such a reduction in electrical use and heating requirements would in turn reduce the need for "residual" or No. 6 oil, necessary for the generation of electricity. Substantial conservation of residual oil, largely a product of the Middle East, would greatly soften the effects of the Arab embargo on petroleum.

Thus far, Mr. Chairman, the President's recommendations pertaining to conservation have been directed almost wholly at the individual consumer. Adjustment of thermostats, elimination of unnecessary lighting, and observance of year-round daylight saving time impose the burden of action on individuals. In light of the enormous third quarter profits of the oil companies, however, it seems to me essential that the President and Congress address the energy crisis much more directly, by confronting the unchecked monopoly power of the major companies. These firms must be made to open their records on current fuel production and available reserves. They must be made to divulge precise records of production costs. They must be made to adjust their refinery runs so as to produce less gasoline and more fuel oil, thus distributing the shortage of crude oil in a more desirable manner among various end products.

And, most importantly, the country's total available supplies of petroleum must be made subject to a nationwide program of rationing administered by the Government. This is not an appealing alternative, but it offers the hope that essential consumers of fuel in the United States will have adequate resources this winter.

Before closing, Mr. Chairman, I would like to point out that industry and government alike have been grossly negligent in anticipating and preparing for the impending shortage—which should not have come as a surprise, despite the actions by the Arab States. Yet, though rough estimates, like Mr. Buckley's, are available on the possible efficacy of year-round daylight saving time, the committee report accompanying this bill states that:

> No studies have been carried out and no information is available which establishes with certainty that an overall reduction in energy consumption will directly result from the year-round observance of daylight saving time.

The failure of foresight illustrated in this observation statement is a sharp indictment of the Federal Government's competence. It seems to me, Mr. Chairman, that Congress should take immediate steps to design some national capacity—centered in the executive branch, the legislative branch, or the private sector—to address this problem of inadequate information. We have to act now to mitigate, as best we can, our national state of energy unpreparedness.

Mr. SARASIN. Mr. Chairman, the Nation is now in the midst of an energy shortage which could severely affect our style of living, our economy, and our national security. To avert serious consequences, the administration, the Congress, private industry, and the American consumer are recommending energy conservation measures which will cause minimal inconvenience to our daily living patterns, and at the same time, maximum fuel savings.

One of these suggestions is year-round daylight saving time, a measure we are considering today. In May, well before the severity of the energy shortage was known and well before talk of cold, dark winters and increased unemployment became prevalent, I polled the constituents of the Fifth District of Connecticut on this subject. Sixty-nine percent responded in favor of the adoption of the proposal.

The benefits of year-round daylight saving time far off-set any potential disadvantages. It is expected that daylight saving time would yield a 1 to 2 percent nationwide reduction in the demand for electricity, equivalent to at least 30,000 barrels of oil per day. Translated into dollars, Americans can save as much as $600 million on electric bills.

In addition to energy and monetary savings, it is also anticipated that it would greatly reduce the frequency of murders and muggings which occur between the hours of 5 p.m. and nightfall, the normal traveling time of people leaving work. Also, if the results of a similar daylight saving time experiment in Britain will hold true for America, we can expect at least a 3-percent reduction in the number of vehicle fatalities and serious accidents.

The implementation of daylight saving time will not only mean conservation of energy, but will also serve as a reminder for everyone to help ease the energy shortage in all aspects of our daily living, from now until the situation has been resolved.

Mr. VAN DEERLIN. Mr. Chairman, I wish to identify with the remarks of my California colleague, Mr. Hosmer, a recognized pioneer in the move for year-round daylight saving.

Compared with Mr. Hosmer, I was a late-comer—though my own bill, introduced last May 1, was the first to propose the limited test period of 2 years, such as we are about to adopt.

Questions have been raised during this debate—and raised with absolute sincerity, I am certain—whether the artificial change in clocks will actually result in energy savings. Much has been made of the fact that our committee report, prepared with admiral restraint, fails to cite proof that d.s.t. will help.

It is precisely because we cannot be absolutely certain that the committee opted for the test period.

It would seem that at the very least, d.s.t. during wintertime would relieve some of the pressure on generating capacity, particularly in our urban areas. I am advised that yearly peaks of demand for electric power are reached with the falling of darkness in early December. Generators hum to produce the power then needed to light and heat homes and offices. Perhaps if we could "postpone" the setting of the sun for 60 minutes, by keeping d.s.t. in effect all year round, most people could get home before dark on even the shortest days of the year, and the pressure on our generating capacity would be significantly alleviated.

Year-round d.s.t. has been tried before, of course, and proven successful. The wonder is that we ever reverted to our present on-again, off-again procedures.

From February 1942, to October 1945, d.s.t. was in effect on a year-round basis throughout the United States. The purpose of this wartime measure was to conserve electricity—and it worked.

More recently, for a 3-year period ending in 1971, Britain conducted a similar test. Studies indicated a dramatic leveling off peak period demands for electricity, with a concurrent 3.8 percent drop in traffic accidents, but following the trial Parliament did in fact terminate the year-round daylight saving experiment. Primarily responsible for the decision to discontinue the system was the discontent of the states to the north and west of England proper—they were genuinely inconvenienced. Because of their location in relation to England, the sun simply did not appear until too late in the day for them.

It is possible that some agricultural States in our own country might be similarly inconvenienced by year-round d.s.t. And generally speaking, these States would be those—predominantly rural in nature—where the energy crisis is least acute.

In any event, it is incumbent on us to act, and the sooner the better. We can no longer afford the luxury of procrastination.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 11324, the bill which maintains daylight saving time year round, rather than only during the summer. The sun, which provided us the energy we have used until the present, and which is being heavily relied on for our future energy, is available to help us now to conserve a small portion of the energy we use so lavishly and need so desperately.

I have already joined many of my colleagues in the introduction of a package of legislation to establish a major national program of research, development, and demonstration of fuels and energy technologies. There is a definite possibility, for instance, than clean solar energy will be heating and cooling buildings within a decade, and providing electric power shortly thereafter.

Because of the magnitude of the crisis now facing us, however, we must approach our current energy problem almost on a barrel by barrel basis, scrimping for each possible Btu of saved energy, and taking every step, no matter how small, if its benefits outweigh its cost.

Why would continuing daylight saving time year round save energy? Peak usage of electricity occurs at dusk. Daylight saving time during the winter months would dissipate this peak usage, which is very inefficient and therefore more costly to produce than the same number of kilowatts at other times of the day.

Obviously, artificial lighting is the primary use of energy that would be reduced. But later daylight might also affect other forms of electric consumption and even motor fuel consumption to some extent. In addition, the extra light in the afternoon would reduce crime and increase highway safety.

W. R. Harris, in a preliminary study sponsored by the Rand Corp., reported that electric consumption between October and April might be reduced between 0.9 and 1.5 percent, a savings of overall national energy of between 0.2 and 0.4 percent. The Middle Atlantic generating region reported to the Federal Power Commission that daylight saving time during the winter might lead to savings of as much as 235,000 tons of coal over 6 months.

The available estimates of energy savings that would result are all very conjectural, however, and have only one thing in common. They are small. No one contends that magnificent amounts of power will be conserved by remaining on daylight saving time. But it is clear that some energy will be saved. Perhaps it will only be enough to heat 1 or 2,000 homes this winter more than would otherwise be heated. It may be enough to prevent an entire city from being blacked out. It may even be enough to enable us to squeak through this winter, combined with other conservation measures and mild weather. But some energy will be saved. It is clear to me that such a step is worth taking.

There are other reasons to enact H.R. 11324, which offers us perhaps the best means of demonstrating to the American people that their government is serious about conserving energy. No one will move his clock back an hour without giving at least some thought to the reasons for it. Perhaps the savings of energy that will be prompted by a popular realization of the need to conserve, and a popular effort to turn off lights, drive slower, keep homes and offices cooler, will outweigh the direct benefits. American citizens have always been willing to undertake a major effort when called on to do so. Perhaps going back on daylight saving time will trigger such an effort.

I believe it is a step well worth taking.

Mr. ROSTENKOWSKI. Mr. Chairman, the concept embodied in the legislation before us today is certainly not a new one. It has been utilized several times in our history to conserve energy in a time of crisis. In my opinion, the committee's quick action in reporting this legislation in this new time of crisis was the responsible thing to do. I fully support the bill as reported and agree with the committee's reasons for enacting year-round daylight savings at this time.

I would, however, just like to take a few moments to add what I have long believed are other equally significant reasons for supporting legislation of this type. These are reasons which the present energy shortage notwithstanding, would themselves be sufficient to justify undertaking a 2-year experiment of this type.

When I first introduced similar legislation in the last Congress, I felt that enactment of that measure would serve as a deterrent to such crimes as aggravated assault, robbery and murder, which occur most frequently in the early evening hours. While it is obvious that a mere adjustment in our system of keeping time will not completely eliminate crime on the streets, a study that was prepared for me by the Chicago Police Department shows that such a move would be a positive step toward achieving that end.

The Chicago police statistics show that in the early evening, the number of police emergency calls is the highest. For example, at 6 p.m., the number of emergency calls in Chicago is 21 percent higher in December than in July. At 7 p.m., the difference is 23 percent. Proportionately, the number of police calls is greater during this period of the day. Therefore, the additional hour of daylight provided by this bill should insure greater safety for commuters.

This legislation would also facilitate the movement of evening rush hour traffic. In Chicago, this would be particularly beneficial for drivers who must contend with often hazardous driving conditions: icy streets, drifting snow, and slippery intersections.

A reevaluation of the time question would admittedly affect some initial inconvenience to time-scheduled industries. But, broadcasting, interstate trucking, and other common carriers would ultimately benefit from a standardized program of operation. I believe that the expenditures necessary for schedule alteration will be more than justified by greater efficiency of service.

The present system, instituted as part of the Uniform Time Act of 1966, provides for a 6-month period of daylight saving time. This is confusing to a great many persons who must change their clocks in April and again in October. As the Chicago police statistics have indicated, an additional hour of daylight is more important in the evening than in the morning.

In closing, I would hope that the Secretary of Transportation's report that is required by section 3 of the bill to be sent to Congress will include not only an analysis of the impact of this legislation on energy consumption, but also a review of its effects on crime in the early evening hours. I am convinced that such a review will provide us with sufficient incentive to eventually transform this 2-year experiment into a permanent adjustment of our present time standard.

Mr. DONOHUE. Mr. Chairman, in view of the energy conservation crisis facing our people in the Northeast section and throughout the Nation today I most earnestly urge and hope that this House will speedily and overwhelmingly approve this pending bill, H.R. 11324, the Daylight Saving Time Act of 1973.

It is obvious, Mr. Chairman, that some positive program must be promptly initiated in order to attempt to effectively deal with and overcome our energy shortage and the reinstitution of daylight saving time will be a substantial first step in such a program.

Past experience, during two World Wars, with the reinstitution of daylight saving time, in my own State and throughout our Northeast region, where the energy shortage will have perhaps the most severe consequences, proves that year-round daylight saving time can be very helpful in alleviating the hardship of energy shortages.

The authorities have estimated that through the reestablishment of daylight saving time the total use of electricity would be decreased by as much as 2 percent which could amount to a saving, to our Massachusetts and New England people, of some 30,000 to 50,000 barrels of oil this winter and that amount of oil saving is surely worthwhile.

Past experience has also demonstrated that beyond energy conservation year-round daylight saving time results in a significant and wholesome lessening of crime, especially those affecting elementary and secondary schoolchildren, and motor vehicle accidents.

Mr. Chairman, while the return of daylight saving time would be particularly helpful to our people in the Northeast who are facing an ever-increasing energy crisis it is also of tremendous importance to our overall national objective of energy conservation and I, therefore, hope that this measure will be resoundingly approved, without extended delay, in the public interest.

Mr. HOGAN. Mr. Chairman, today, our country is facing an energy crisis of ever-increasing magnitude. Every day our newspapers predict greater and greater shortages of oil, a form of energy on which our country is highly dependent. The world and national political situation is fraught with uncertainty.

The President addressed the Nation on November 7 and called on Congress to enact specific legislation which would help alleviate our pressing energy crisis. I am pleased to see that the House now has before it the bill, H.R. 11324, to provide for daylight saving time on a year-round basis for a 2-year trial period.

There is little information available on the effects of year-round daylight savings. For this reason the committee bill provides for year-round, daylight saving time for a period of 2 years. During this time its effects will be carefully studied and analyzed by various departments, agencies, and instrumentalities of the United States. When this informaton is received by the Congress, we will be better equipped to determine whether or not year-round daylight saving time should be continued in the future.

There is clear evidence that year-round daylight saving time will reduce nationwide demand for electricity by more than 1 to 2 percent. This effect would vary, however, by region, depending upon whether a region's peak demand occurs during the winter or summer.

There is nothing sacred about standard time. Throughout the world, there are countries which add 15, 30, or even 45 minutes to the standard time of their respective zones.

During World War II, Congress enacted legislation which advanced the standard time of each zone by 1 hour. This enactment of daylight saving applied throughout the entire year to assist in dissipating evening peaks in the Nation's electrical power consumption, which were threatening to exceed the capacity available for nondefense purposes. During this period, from 1942 to 1945, the Office of Production Management estimated that year-round daylight saving time saved almost 1 percent of our electrical requirements.

Mr. Chairman, we cannot afford to waste time at this date. Some of our people have already been denied oil deliveries; some contracts for schools and government oil needs have not received one bid. The situation will reach a critical point if we do not act decisively on energy conservation matters.

Peak usage of electricity occurs at dusk. Daylight saving time during the winter months would dissipate this usage which is very inefficient and therefor more costly to produce than the same number of kilowatts at other times of the day. Thus, even though our mornings would be darker, the total use of electricity would decrease.

Aside from the absolute energy conservation potential, the extension of daylight saving time would have important ancillary effects:

Available traffic statistics suggest that year-round daylight saving time would decrease the number of motor vehicle fatalities and serious accidents. Although daylight saving time in winter would mean that more of the morning commuting to work would be done in darkness, thereby tending to increase the morning rush hour fatality rate, there are overriding factors indicating that the increase would be less than the decrease achieved in the evening.

Schoolchildren would have the advantage of an extra hour of daylight in the afternoon for leisure and school activities. The problem has been raised, however, that the schoolchildren would be traveling to school in early morning darkness during the winter months. HEW does not have any information which would be helpful in this area, but the suggestion has been made that school starting times could be postponed to overcome this darkness problem.

Mr. Chairman, it is the responsibility of Congress to move in a positive and relatively painless way to lessen the impact of the impending energy shortage. It is my belief that the enactment of this legislation will save a small, though significant, percentage of our energy needs this winter.

Mr. BADILLO. Mr. Chairman, it is noteworthy that the House of Representatives is moving with dispatch to enact this legislation authorizing year-round daylight saving time. It should be pointed out that this legislation is entirely a congressional initiative and whatever delay there has been in action on it is entirely attributable to the fact that the Nixon administration withheld support for the bill until the energy crisis became an unavoidable fact of life.

In rising to support H.R. 11324, I want to commend its original author, the gentleman from California (Mr. HOSMER), and my friend and colleague, the gentleman from Massachusetts (Mr. CONTE), whose Energy-Daylight Conservation Act of 1973 I was pleased to cosponsor earlier this year. It is to be hoped that the Senate will now move promptly to enact similar legislation so that the President will have an opportunity to sign the measure into law no later than mid-December.

No one pretends that year-round daylight saving time is going to solve our energy crisis. The situation has progressed too far for such a measure to have more than a modest effect. But year-round daylight saving time will produce a fuel and electrical energy saving of approximately 2 percent and in these critical times, that saving cannot be ignored.

It is significant that the preliminary findings of a Rand Corp. study indicate that year-round daylight saving time would curtail electrical consumption nationally by 1.77 percent or more. The study estimates that fuel oil and natural gas savings could be even greater. In addition to saving fuel, American consumers and industries could save almost $600 million on their electrical bills alone.

Other advantages to year-round daylight saving time include a reduction in traffic fatalities and serious accidents, and the additional protection against crime that would be occasioned by more daylight.

This measure is but a small element in what must be a far-reaching, comprehensive, and effective national energy policy. So far, neither the administration nor the Congress has established the dimensions and ingredients of such a policy, but the crisis that is upon us is sure to generate action. The time for piecemeal measures, half-steps, voluntarism and wishful thinking is long since past. We are going to have to face up to some difficult times by adopting policies and programs that will force a change in our way of life. The alternative, however, is disaster.

Mrs. HECKLER of Massachusetts. Mr. Chairman, for years, millions of Americans have consistently turned their clocks forward and backward in the spring and fall to alternate between daylight saving time and standard time each year.

This country is presently facing the most serious energy shortage of its history. We must take immediate action to counteract this energy crisis. One of the most direct and most efficient ways in which we can conserve energy is to establish a daylight saving program on a year-round basis.

We need continuous daylight saving time for several reasons. As a way to save energy, daylight saving time could conserve from 1 to 2 percent of the Nation's total energy needs in electricity, natural gas and fuel oil. Studies indicate that permanent daylight saving time would reduce America's fuel consumption by a minimum of 2 percent. Translated into barrels of oil, a 2-percent savings would equal conservation of at least 30,000 barrels of oil each day.

The Department of Transportation recently reported that year-round daylight saving would decrease the number of motor vehicle fatalities during evening rush hours and would provide bicyclists with an extra hour of light for traveling in congested traffic.

Statistics show that generally auto drivers are more exhausted, less alert, and more often under the influence of alcohol during evening rush hours than in morning rush hours—so additional hours of daylight would assist in reducing early evening accidents.

Another noteworthy benefit would be the reduction in street crime. Statistics indicate that robberies, muggings, and purse snatchings are most frequent during the early evening. With an extra hour of daylight saving time at a time when most of the work force is going home deterring criminal attacks at this time.

Year-round daylight saving time would mean that a bigger share of most people's active working day would take place in daylight. As we anticipate increased energy demands, daylight saving time on a year-round basis is one of the wisest conservation moves we could make and at no cost or loss to anyone.

I urge my colleagues to support the legislation under consideration today which would provide for daylight saving time on a year-round basis for a 2-year trial period.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in support of H.R. 11324, the Daylight Saving Time Act. This legislation provides for a 2-year experiment and requires the Secretary of Transportation to report back to the Congress June 30, 1975, on the operation and effect of the bill, especially as it relates to energy savings. I would urge, however, that the Secretary also work in concert with the Department of Justice to determine the effects of daylight saving time on the possible reduction of street crime. For a long time now, I have urged that daylight saving time would provide an extra margin of safety against robbery and assaults which occur during the evening rush hour.

Frankly, Mr. Chairman, I do not believe that this legislation will result in substantial savings of fuel oil, since it will only reduce demands for electricity and heating by about 3 percent. Nevertheless, it would appear that every little bit is going to make a difference in view of the extortion game now being played out by the Arab oil producers.

Extortion is always an ugly game, but it is moreover a foolish one when played in international politics. At the moment the Arab countries have the upper hand, due in large part to the error of America and Europe in becoming reliant upon foreign producers for energy resources. The winter, however difficult, will pass. But the memory will linger far beyond in the minds of Americans and of Europeans of this cold winter. A new push for energy independence and self-reliance will develop. Within a decade new sources of energy will develop leaving the Arab countries with a lot of oil, few customers, and very little good will.

A major initiative into nuclear, solar, tidal, geothermal, and other sources of energy must begin. I strongly urge that the administration take steps now to develop a cooperative energy research and development program with Europe and Japan and other nations who are the victims of this extortion.

As for ourselves, I agree with those who have suggested that perhaps we as a people have been living too high off the hog. We have surrounded ourselves in luxurious gasoline-guzzling automobiles which we drive to work each day alone, polluting the air and congesting the highways. The time for moderation in consumption is long overdue. We need not only smaller more efficient cars, we need less of them.

The time for independence from the automobile is long overdue. There must be a massive infusion of support for mass efficient and responsive transportation systems. I have been urging such an approach for years as have other urban leaders. It is foolish and senseless to continue to burn billions of gallons of scarce fuel in order to support the questionable luxury of being an automobile dependent society while depriving other areas of the economy of needed and scarce resources. The main user of petroleum fuel remains the automobile in an era when it is and has long been technologically feasible to move large numbers of people to and from work comfortably, inexpensively, and efficiently. I would remind my colleagues from agricultural areas who have opposed mass transit funding that every gallon of gas used for urban commuting is denied to farmers for planting and harvesting.

It appears that the only way in which we will be able to free ourselves of reliance on the most wasteful means of transportation in history, is a deep and very real crisis that threatens our economy, health, and safety. Yet it is not too late. We have made a start this year by partially opening up the Highway Trust Fund and by approving the Mass Transportation Act of 1973. Yet these are small victories which took too long to win. There must be a massive acceleration of support for mass transit programs which would incidently, take up the slack of unemployment caused by cutbacks in the automobile industry.

In addition, there must be serious planning to determine the transportation, industrial, and household energy needs for the next several decades. Most important there must be a willingness to treat seriously what has now become a fearful reality, that we are indeed running out of fuel with which to sustain our lives. Indeed, one observer has noted that if the Earth were a hollow sphere filled with oil and we continued to use it at our present rate we would run out in 200 years. Well, the Earth is not a hollow sphere and as yet we have not cut back. I recall several years ago that I supported legislation which would have significantly revised import quotas on petroleum. Had that legislation passed, we would today have far greater reserves upon which to draw in this present crisis.

Mr. Chairman, I am pleased that the Congress has taken the initiative over the past several years to seek new sources of energy. There are today at least nine bills in this session of this 93d Congress alone, which are in advanced stages of legislative consideration which originated in the House and Senate and which would deal effectively with the energy problems. The statement by the President that because the Congress did not accept his proposals, at least one of which had been withdrawn by the administration, is therefore unfortunate. The record will bear out that it has been the Congress which has been most concerned and shown the most foresight in conserving energy and planning for the future.

Mr. KYROS. Mr. Chairman, as a sponsor of H.R. 11324 and a member of the House Interstate and Foreign Commerce Committee that studied it, I rise in support of establishing year-round daylight savings time on a 2-year trial basis. This is not simply a daylight saving bill. It is an energy saving bill.

Mr. Chairman, with each passing day, as winter turns his windy wheel in our direction, it becomes abundantly clear that we are going to have an energy problem with us this winter. We are now in the position in Congress of planning this Nation's overall energy conservation strategy. One important step in this plan, a step that can be accomplished with little inconvenience or disruption, is to return to daylight savings time.

The most compelling reasons for support of this measure is that it would bring substantial energy savings. Studies show that year-round daylight savings time would reduce America's fuel consumption by at least 2 percent—many thousands of barrels a day—because it would still be light at 5 p.m. when most businesses and industrial plants are shut down. Year-round daylight saving time was successful in curtailing electricity consumption during both world wars, and reduced consumption now would free significant quantities of oil for other uses.

Not only would this legislation reduce energy use during peak afternoon hours; it would also cut early evening crime and decrease traffic accidents during afternoon rush hours. Great Britain has reduced traffic fatalities 3.2 percent since establishing permanent daylight saving time, and it is generally accepted that drivers are less alert and more often under the influence of alcohol during evening rush hours than in the morning. Why, then, should we compound that problem with an extra hour of darkness?

In addition, the Nation's crime rate can also be lowered by adding an extra hour of sunshine in the early evening. Statistics show a substantially higher crime rate during the first hours of evening darkness than during the last few hours of darkness in the early morning. Moreover, in Maine most working men and women are forced to return home from work in total darkness during the winter months. Why should Maine's schoolchildren wait on dark street corners at 4:30 in the afternoon for their buses home from school?

Mr. Chairman, this Nation and the people of my State of Maine deserve to be spared as much inconvenience and turmoil as possible in curbing energy consumption. This bill, which would return the country to daylight saving time for a 2-year trial period, is a relatively small, but meaningful means to that end.

Mr. MIZELL. Mr. Chairman, I rise in opposition to this legislation to reinstate daylight savings time on a year-round basis.

My opposition to this bill is twofold. First, a study conducted recently by the Winston-Salem/Forsyth County Board of Education has demonstrated that energy consumption will actually be increased by 5 percent if daylight savings time is enforced, and the hours of school openings are maintained at their present schedules.

And if the hours for school openings are moving forward an hour to compensate for daylight savings time, the schoolchildren who ride buses—and there are several thousands of them, thanks to our Federal courts—will be caught right in the middle of rush-hour traffic in the afternoon.

So we have these options: we can send our children to school in the cold and the dark of early morning, with the darkness increasing the possibility of bus accidents and pedestrian crossing accidents, and with the cold requiring a greater expenditure of heating oil than is now required.

Or we can send our children to school an hour later, and let them join their parents in the perils of rush hour traffic, a hazard that all of us here would like to avoid for ourselves, much less our children.

And this leads me to my second point of opposition. All of these unattractive options are consequences of the still-thriving policy of massive forced cross-town busing for racial balance purposes.

The cost of this policy in terms of children's safety and in terms of the shortage of money available for legitimate educational needs has always been a source of great concern for me.

But now, in the midst of an energy emergency, the cost of this policy of forced busing in terms of wasted energy is enormous and astounding and totally without warrant.

In the Winston-Salem-Forsyth County school system alone, court-ordered busing required an increase in gasoline consumption of more than 300,000 gallons a year. Combined with three other school systems in North Carolina now under court busing orders, the total of wasted gasoline soars to more than 1 million gallons a year.

That is only in four school districts in one State. Translated to national terms, the waste of precious petroleum resources is staggering indeed.

At least one school district in this country has found that daylight saving time will not save it any energy, but will instead cost it more. And I became convinced long ago that the continuation of forced busing will result in not only a drain on our children's energy and education, not only a drain on our limited educational funds, but a serious and needless drain on our energy supplies as well.

I respectfully urge my colleagues to join me in voting down this measure, and let us then bring up legislation that will stop massive forced busing and plug a gaping hole in our Nation's energy reserve at the same time.

Mr. MINISH. Mr. Chairman, as a longtime advocate of year-round daylight saving time, I am pleased that the Committee on Interstate and Foreign Commerce has reported H.R. 11324 to the full House.

Year-round daylight saving time will save precious energy, it will reduce crime, and it will promote traffic safety.

Most importantly, in view of our present energy emergency, H.R. 11324 represents an important step in the national effort to alleviate the energy shortage. Preliminary figures released by the Rand Corp. indicate that year-round daylight saving time would curtail electrical consumption in America by close to 2 percent or more. The Rand study also estimated that the projected savings of fuel oil and natural gas may be even greater than the electrical savings due to the fact that many utilities generate electricity by burning oil or gas.

There are additional benefits to be derived from year-round daylight saving time. For example, during a 3-year experiment in Great Britain, the additional daylight resulted in an almost 4-percent reduction in traffic fatalities and serious accidents.

Moreover, research studies indicate that America's crime rate can be reduced by the establishment of year-round daylight saving time. Police report that criminals thrive in the early darkness that winter and standard time so conveniently afford.

Mr. Chairman, I urge overwhelming approval of H.R. 11324 by the House.

Mr. BOLAND. Mr. Chairman, I rise today in support of H.R. 11324, the Daylight Saving Time Act of 1973.

This legislation would provide for the introduction of daylight saving time on a nationwide basis in order to effect savings in energy consumption.

It has been estimated by the Committee on Interstate and Foreign Commerce, whose distinguished chairman, the Honorable HARLEY O. STAGGERS of West Virginia, introduced this legislation, that electricity and heating demands would drop by as much as 3 percent on a national basis if this legislation were enacted.

Such relief would be particularly welcome to the people of the Northeast, who are already beginning to feel the pinch of the Arab oil embargo more severely than the other sections of the population.

New England, in particular, has relied heavily in the past upon imported oil.

Energy savings therefore have assumed the value that victory gardens and war bonds had during the last war.

Daylight savings—or advanced—time was appropriately called "war time" during the period from 1942 to 1945.

President Franklin D. Roosevelt suggested that name in order to impart to all Americans the real gravity that daylight savings and other conservation measures had in terms of the war effort.

I think it is time that a similar notion be imparted to the American people.

It is going to require a spirit similar to the spirit of '76—which brought the starving American Revolutionary Army through its hard, cold winter at Valley Forge—to weather the cutbacks and shortages that this winter holds in store for the Nation.

Perhaps we should rename daylight saving time as Roosevelt did during World War II.

We could call it "energy savings time."

But whatever we call it, we Americans must realize that the energy crisis of which we hear so much is fully upon us.

You have only to sit in my office here or back in Springfield, Mass., for a half an hour or so and sample the letters, telegrams, and phone calls that I receive to appreciate that the scarcity of home heating fuel alone has already created hardships for many individuals and businesses in New England.

This legislation would help ease the plight of these unfortunate victims by conserving millions of barrels of oil that otherwise would be used for heating and lighting in the early darkness of our winter evenings.

It would also point up the seriousness of the national energy problem.

The increased public awareness of this problem could only spur concerned citizens to further, sustained energy savings.

The British experience of year-round daylight saving also prompts the hope that traffic fatality and serious accident rates would drop as a result of the increased daylight during evening commuting hours.

There are also suggestions that the number of street crimes would be reduced if workers could return home during daylight.

Mr. Chairman, there may be those who will suggest that the introduction of year-round daylight saving is hasty or ill-conceived, that it may be proven unnecessary or unfounded in light of subsequent studies.

To those who may advance such arguments, I would point out that H.R. 11324 contemplates termination of year-round advanced time in April of 1975.

At that time, we will have sufficient data on hand to determine whether year-round observance of daylight savings time should be continued.

In the meanwhile, however, we will have taken action in a sector that could well reap substantial energy savings—and with possible additional side benefits.

We owe this effort—however successful it may prove in the long run—to those of our citizens, particularly in certain hard-hit regions such as New England, who are already suffering because we are energy poor.

We owe these people—and all our people—every effort we can devise that will offer a chance of alleviating their distress.

As a Member who becomes daily more aware of the far-reaching, ever-increasing effects of the energy emergency, I urge the swift and full enactment of this legislation.

Mr. HORTON. Mr. Chairman, I rise in support of H.R. 11324, the Daylight Saving Time Act of 1973. Those of us who have sponsored similar legislation for a number of years are particularly gratified that this bill has finally reached the House floor. Unfortunately, it is an energy shortage of crisis proportions that has given this proposal its current momentum.

I commend the Interstate and Foreign Commerce Committee for responding quickly to this aspect of the emergency program submitted by the President on November 8. I believe the committee acted wisely in reporting a bill which provides for year-round daylight saving time for a 2-year trial period.

We have good reason to expect that year-round DST will help alleviate our energy shortage. White House estimates project a reduction in electricity and heating demands, especially in the northern areas, by as much as 3 percent. A study conducted by Consolidated Edison Co. of New York estimated a saving of 4 million barrels of oil annually. In the highly publicized Rand Corp. study, it was calculated that the net reduction in electrical output during the spring months of daylight saving time has averaged 0.6 percent over the last 7 years and during the colder fall months, 1.77 percent. Since these percentages would probably increase during the shorter daylight periods of January and February, the Rand Corp. predicts a savings of $600 million per year in electric bills.

A 2-year trial period will give us an excellent opportunity to determine whether these projections are on target, too conservative, or overly optimistic. The experimental period can also test other anticipated benefits of year-round DST, including a reduction in street crime and traffic accidents with more people returning home from work during daylight in the winter months.

The response of my constituency has been overwhelmingly in favor of observing daylight saving time on a year-round basis. Following the President's energy message, hundreds of individuals have written urging swift action on a DST bill. A petition drive, spearheaded by Mrs. Byrna Weir of Rochester, resulted in over 2,000 signatures advocating year-round DST.

Mr. Chairman, I believe the great majority of Americans view H.R. 11324 as an important step toward energy conservation and I hope that both Houses of Congress will move quickly to send this bill to the President.

Mr. HANRAHAN. Mr. Chairman, rarely has a legislative proposal been so uncomplicated and yet so potentially productive as is the movement to establish daylight saving on a permanent basis.

I think we were all somewhat wary of the plan as it was first conceived, simply because it was so uncomplicated. These suspicions have proven to be healthy and productive, though, for they have caused us to carefully scrutinize the proposal. Every possible ramification has been explored, and the conclusions are highly favorable.

There are no critical drawbacks to the bill whatsoever; all the effects of the bill will be on the plus or positive side. In short, there is no reason not to take immediate, favorable action on this bill.

On October 26, I introduced legislation to immediately establish daylight saving time year-round. The same bill was later reintroduced as H.R. 11277 with 10 additional cosponsors. Although there were differences between my proposal and the proposal we are discussing here today, the principles behind both bills are the same and I overwhelmingly endorse today's legislation.

The need for immediate enactment of year-round daylight saving time is clear. The energy crisis is with us now. Immediate action is called for. The shortest day of the year and the day on which electric lights will burn longest, December 21, is fast approaching, and that date should signal to us that if we want to avert a real shortage of energy, the time to do something is today.

The facts are clear. The implementation of daylight saving time on a permanent basis would save us 1 to 2 percent of our energy resources, or 30,000 barrels of oil a day. Such a savings is hardly insignificant. The Nation's implied objective is to reduce demand for energy by at least 10 percent. By enacting this one simple measure, we could be 10 to 20 percent of the way toward this objective.

A second potential area of savings is in crime reduction. Although there has been no definitive proof that crime will be reduced, it certainly could not increase as a result of the implementation of daylight saving time. And commonsense dictates that it will, in fact, be a decided benefit in the fight against crime, by giving workers more daylight time in which to get home, and by improving police efficiency. It certainly deserves a chance.

The possibilities for reducing traffic fatalities and serious accidents by acting favorably on this bill are also great. In fact, they are so great that the weight of this evidence should alone be sufficient to enact the bill. During the evening hours, drivers are generally more tired and oftentimes have consumed large amounts of alcohol. It makes good sense not to compound these problems with unnecessary darkness. During the British experiment with permanent daylight time, traffic fatalities and serious accidents were reduced 3.8 percent.

It is obvious then, that there is everything to gain from enactment of H.R. 11324. But, of course, the overriding rationale for this legislation is the need to save our precious energy resources.

People in this country are anxious to embrace this idea. Even prior to the President's address of November 7, this support was apparent. The Chicago Today, one of the city's large daily newspapers, conducted a poll on the subject; the results were overwhelming; 7,000 responses were received, and support was running about 10 to 1. The overriding reason for their support was the potential energy savings. Other reasons cited were crime reduction and the inconvenience faced twice a year of having to adjust the clocks.

The Nation's citizens are ready to endorse year-round daylight saving time. This swift and simple measure could be doubly rewarding because it would first of all, create a real and significant energy savings, and second, it would serve as a very visible sign that the National Government is doing really something about the energy emergency, and would further encourage citizens to do their part, which is really the key to the solution of the whole energy conservation effort. Let us get going on the energy crisis. No other measure will be as important or could be as useful as this bill.

Mr. RINALDO. Mr. Chairman, House approval of the Daylight Saving Time Act will mark an important contribution in the Nation's effort to conserve energy. Exactly how much energy will be saved no one can predict with any degree of precision. But this fact should not obscure the obvious benefits of this legislation.

It is reasonable, I suggest, to accept the considered judgment of the administration in this regard, and administration officials estimate that observance of year-round daylight saving time could reduce electricity and heating demands, especially in northern areas, by as much as 3 percent. And with the shortage of such energy variously estimated to be between 10 and 17 percent, this single step can make a significant difference.

I was especially pleased to note, Mr. Chairman, that in its substitute amendment the Committee on Interstate and Foreign Commerce has included a most important provision directing the Federal Communications Commission to permit, wherever possible, daytime standard AM radio broadcast stations which are not otherwise eligible for presunrise operating authority to operate up to 1 hour in advance of local sunrise.

The importance of this provision arises from the fact that many daytime radio stations depend heavily on the early morning market. A substantial part of this market would be lost if such stations were prevented from broadcasting during the winter months, under daylight saving time, until sunrise. The revenue loss from such a prohibition could threaten the ability of many daytime stations to continue operating.

Since the similar bill passed by the other body does not contain this broadcast provision, I would urge those of our colleagues who may serve as conferees in the event of a conference with the Senate on this legislation to insist that this language be included in the conference report.

Similarly, Mr. Chairman, I would urge the Federal Communications Commission, in carrying out the responsibilities imposed by the broadcast provision, to apply the directive as liberally and inclusively as possible. Except under the most compelling circumstances, local radio stations should be permitted to continue to broadcast during this first hour of their daily schedule.

Mr. Chairman, I hope our colleagues will join in giving this legislation the overwhelming support it deserves and, thus, assure the country that the Congress is prepared to meet the many challenges of the energy crisis.

Mr. RANDALL. Mr. Chairman, I rise in opposition to H.R. 11324, being the bill providing daylight saving time on a year-round basis for a 2-year trial.

I am mindful that the proponents of this bill may have good intentions and may honestly believe that it will be helpful in our present energy crisis. They undoubtedly believe there will be some substantial savings of energy. On the other hand, in consideration of all of the disadvantages and detriments of this plan no one can be positive or certain how much of a savings, if any, in either light, heat or gasoline will result.

On page 8 of the report all of the predicted savings of energy are precluded with the wording

> There is only a high probability of a reduction in energy consumption.

As one Member put it during the debate—

> This bill is loaded with "mays" and "coulds."

Mr. Chairman, the portion of the report which is the greatest confession of all is contained in the third paragraph of page 8 of the report containing these words:

> However, no studies have been carried out and no other information is available which establishes with certainty that an overall reduction in an energy consumption will directly result in the year-round of daylight savings time.

With that kind of a confession contained in the report all of the arguments as to whether there will be a savings in either electricity, gasoline, or heat fuel are purely speculative and conjectural.

Now, Mr. Chairman, with no certainty as to any reduction in consumption of energy to come directly from this year-round daylight saving time, we must remember we at the same time are asking our people to assume some burdens and to bear some hardship unnecessarily.

What are some of these inconveniencies, disadvantages, and burdens?

Well, first, the dew will not come off the ground regardless of the clock. That means a disadvantage to our farmers. It means they cannot harvest their crops until the Sun removes the dew.

It means that for our farmers there will be places of business in the towns and small cities which they adjoin that will close their doors according to the clock or local time and even though there may be daylight beyond that hour, our farmers will not be able to get parts to repair their machinery or get other needed items to service or repair their tractors and other implements.

For a long while our farming community has contended—and I think they are right—that they will lose an hour at the beginning of each day and lose an hour at the end of each day.

Mr. Chairman, the farming community is not the only one that this bill will affect adversely. Schoolchildren will be leaving for school prior to sunrise. In the rural areas our children must walk along country roads to reach their school-buses and are frequently required to wait in the dark for a considerable time until the bus arrives.

It is little wonder to me that our mail has been quite substantial from parents in opposition to this plan. They express a fear that in these dark hours unavoidable accidents may occur. As a matter of fact there have been many traffic accidents to our schoolchildren in the period between Labor Day and the third week in October under the current daylight saving law. Accidents could well increase if we have daylight saving time year-round.

Not only will our farmers be adversely affected and our school children be subject to injury in the dark but in many areas of the country including west-central Missouri just about everyone will be inconvenienced and disadvantaged unnecessarily. For example in the capital city of Kentucky, sunrise will not occur until 8:40 a.m. In Grand Rapids, Mich., sunrise will come at 9:10 a.m. At Boise, Idaho, the Sun will not officially rise until 9:15 a.m.

Mr. Chairman, there are many difficulties associated with daylight saving plan as it now exists from April to October. Because I have recognized these difficulties, every year since the enactment of the Uniform Time Act of 1966 I have introduced legislation to amend the Time Act to provide that daylight saving time begin on Memorial Day and end on Labor Day of each year.

There are not many who could quarrel with daylight saving time during the summer months. In fact, it may then possess more advantages than disadvantages. But before Labor Day and after Memorial Day the scales are tipped against the operation of such a plan and it is for this reason that I have introduced a bill at the beginning of each Congress to repeal a daylight saving plan except from Memorial Day to Labor Day. At the beginning of this Congress I introduced similar legislation.

Who can successfully argue that a plan of this kind will increase the number of hours in a day. There will only be 24 hours no matter how you slice them up. This kind of an idea reminds me of the story of the old Indian trying to lengthen his blanket. You will recall he cut off one end of his blanket and sewed it to the other end to make it longer. With this so-called daylight saving plan what we save on one end we most surely lose on the other. The plan is a gimmick, pure and simple.

If I may recall a contribution made by the gentleman from Kentucky (Mr. CARTER) in this debate, we in Congress are trying to be a modern Joshua. It should be recalled that Joshua was a Biblical character who commanded the Sun to stand still, but today, no matter how hard we try the Sun will continue to orbit and the dew will dry up in the fields only on standard time.

Take for example in our congressional district of west-central Missouri, the National Almanac Office of the U.S. Naval Observatory says that during December—depending on the exact day—the sun will rise between 7:18 a.m. and 7:38 a.m. on central standard time, but if year-round daylight saving time is adopted the sun would rise between 8:18 a.m. and 8:38 a.m. clock time. As I mentioned earlier, this means that our schoolchildren and farmers would have been up about 2½ hours earlier, moving about in the dark.

Well, how is this a saving? The answer to this question should be obvious. If we are working in the dark we will require light. But even if somehow there could be a savings in electricity there will be a loss entailed by the need for heat because during those early hours during the winter months more heat will be required.

No, Mr. Chairman, Congress cannot make of itself a modern Joshua nor can we make our blanket longer like the attempt of the old Indian who cut off one end and sewed it on the other. There are only 24 hours in a day; no matter how much we fool around with the Lord's plan we cannot increase the number of hours. The British tried to stretch their days 2 years ago and give it up as a failure.

With the confession contained in the report that there is no available information with any certainty that there will be an overall reduction in energy consumption directly from year-round daylight saving time and with all the inconveniences and disadvantages that will result, H.R. 11324 should be voted down.

Mr. LENT. Mr. Chairman, I rise in support of H.R. 11324, which would provide for year-round daylight saving time on a 2-year trial basis.

On January 8 of this year, I introduced H.R. 1600, providing for year-round daylight saving time, and was thus the first Member of the 93d Congress to do so.

My primary concern in introducing H.R. 1600 was, of course, the conservation of energy. Consolidated Edison, which serves the power needs of the Greater New York area, estimated that it could reduce its winter peak hour electric load by as much as 5 percent, thus considerably reducing the national power drain. The administration, after much hesitancy, has concluded that year-round daylight saving time could have a major effect in reducing power consumption in the United States.

While energy conservation is the prime motive in promoting year-round daylight saving time, a number of other factors enter into consideration. Primarily, year-round daylight saving time should help curtail the rate of auto accidents, especially during the hours of dusk when commuters return from work. Government figures have pegged the traffic fatality rate three times higher at night than during the daylight hours. Additionally, the crime rate, which is substantially higher during the evening hours, could be substantially reduced.

Year-round daylight saving time has received broad urban and suburban support, and it now appears that rural opposition is considerably less than it once was. I urge that H.R. 11324 be given favorable support, so that the President's energy conservation goals can be realized.

Mr. MURPHY of New York. Mr. Chairman, at a time when our proud Nation is beset by the worst energy shortage in our history, all of us must strive to define and implement any and all measures which will serve to rescue us from this awful predicament.

The Northeastern region of the United States, which I represent, is one of the most hard-hit areas in the whole country. None of us in this area desire to rely solely on temporary, stop-gap measures. We want our immediate needs attended to as well as future ones. It is the failure to institutionalize such long-range thinking into our energy measures that has resulted in the current crisis.

Daylight saving time must be instituted promptly. We already possess ample evidence pointing to the fact that greater oil shortages are in store for us. This will severely affect how our homes are heated and the amount of electricity we can consume. Any possible solution to this is a necessity.

Year-round daylight saving time will address this problem. Since much electricity is used at dusk, daylight saving time during the winter months would be extremely useful. In fact, we have the examples of World Wars I and II which demonstrate the advantages in energy conservation resulting from daylight saving time. In World War II, daylight saving time saved almost 1 percent of our electrical requirements.

Additional benefits to the American people will accrue from daylight saving time. With the average commuter traveling in daylight during the evening, a significant drop in traffic accidents will result. Schoolchildren will have an extra hour of daylight for school and extracurricular activities. This will make for a much safer school busing situation in that fewer children will be waiting in darkness for their buses.

The advantages of daylight saving time extend to many areas including, as mentioned, energy, safety, and also the fact that, with fewer people on the streets in darkness, a significant reduction in crime could result. The very fact that the observance of daylight saving time in the Northeast could reduce electricity and heating demands by as much as 3 percent provides more than enough justification for it. These additional advantages make its institution absolutely mandatory.

I am most pleased that the House has passed such a measure. I am hopeful that the Senate will do so immediately and bring us closer to the implementation of this most important piece of legislation.

Mr. BRINKLEY. Mr. Chairman, in spite of grave misgivings about the wisdom of daylight saving time on its own merit, I have decided that it is necessary to vote for this legislation.

Let there be no mistake about it, we face an energy crisis of enormous proportions. A hair-curling depression is being predicted by many economists unless a solution is found to this dilemma.

Having just returned from 3 days in Israel and 3 days in Egypt, I know firsthand the very real impasse which exists. It is of such grave and far-reaching consequences that were I the President, I would go to the Middle East at once as a priority, urgent matter of business.

It is difficult for me to see how daylight saving time will save any significant amount of energy; nevertheless, it seems important today, on this initial piece of legislation, to provide the President with a united approach of solidarity towards enacting his "package" of proposals. He has information which we do not have. He has the counsel of many experts at his disposal. It would seem that we would be justified in relying upon his judgment. This does involve a measure of faith and the President could be wrong. And we may err in voting for this bill or for the other measures to follow. Our intention and our purpose is to withstand the tidal wave which threatens to engulf us and we must do the very best we can as one nation—the Congress united with the Executive.

Fortunately, the legislation provides a method of relief where the need is great. The example provided relates to broadcast hours for radio stations and the adjustment of their hours of operations. This authority is within the Federal sphere and the adjustment is specifically authorized in this bill.

Similarly, an exemption may be granted by State and local authorities by an adjustment of a time schedule affecting the area of need. In my own State of Georgia I would favor such an adjustment for our schoolchildren. The adjustment would be a simple one—a matter of adjusting the hours of operation to fall within daylight hours. That discretion properly belongs to local authorities and is not considered in this bill.

All of us hope for the support and understanding of the American people as we seek to heed the admonition of Longfellow who said:

> Go forth and meet the shadowy future without fear and with a manly heart.

Mr. PRICE of Texas. Mr. Chairman, I strongly object to this legislation, H.R. 11324, which would allow our Nation to become a guinea pig for the sake of those who prefer daylight saving time. It would demand that the entire country observe year-round daylight saving time for a 2-year period so that the Department of Transportation can spend $300,000 to see what effects its use has on our Nation.

I would rather have Congress vote to use this money to reduce the public debt, as I would gladly inform DOT what effects this legislation will have on the people of the 13th District of Texas. After hearing of the effects on these citizens, DOT would undoubtedly recommend that we return to standard time year round. Great Britain conducted an experiment of 3 years of daylight saving time, and then voted to return to standard time. Must we subject all Americans to 2 years of time change—that they do not want in many instances—to end up with the same results? The difficulties which we face in this experiment are far greater than our friends across the Atlantic faced: we must contend with the complications that arise because of the vast amount of land in each time zone and the inconveniences this places on the westernmost sections of these zones as compared with the small effect that the differences in a time zone had in Britain.

Daylight saving time is not welcomed

by my people even in the summertime, and I have had numerous pleas to allow at least half of the year to be on standard time. In rural areas many schoolchildren are forced to go as far as 40 miles to school. On December 21, the Sun will not rise in Amarillo, Tex., until a few minutes before 9; these children will be forced to stand out on the highways in my district in the cold, bleak dark morning. I am concerned for the safety of these children. Schools will need additional fuel to heat and light the classroom during this time. In homes where schoolchildren and their parents prepare for their daily activities, the fuel consumption rate will surely increase because of this later sunrise.

The impact of energy savings is hard to rationalize in instances such as this early morning use of heat and lighting. In hearings before the Interstate and Foreign Commerce Committee, the Department of the Interior stated that there has been a polling of electric utility companies by the Federal Power Commission and some felt that there would not be any savings.

The National Rural Electric Cooperative Association testified that "there is little evidence to suggest that much, if any, energy conservation will be achieved in rural America through year-round daylight saving time." The committee report gave no concrete evidence that there will be any saving of fuel. Although a study was made by the Rand Corp. which estimates that over 1 percent of fuel could be saved, I have yet to talk to anyone who has seen this report, and the study itself was not available to the committee. Evidence such as was presented to the Committee does not give me any reason to vote in favor of a measure for which I have received only negative correspondence.

This legislation is supported by many citizens who merely want more playtime in the evening. I cannot object to making good use of leisure time, especially in some of our sunshine States, however, in my district many farmers and ranchers work on their own property in the mornings and then must work a full day at another job in an attempt to meet their financial needs because of inflation caused by overspending in Congress. I cannot, with good conscience, vote for legislation which will inconvenience many people who are attempting to support their families by long hours of hard work, when I cannot get reassurance that this measure will definitely save energy. I would be a poor representative to those who elected me if I fell for this time change gimmick. Instead of causing hardship to these hardworking Americans, perhaps we should follow the advice of one of my constituents who stated:

> If our television networks would go off the air earlier, most Americans would go to bed earlier—as thousands of Americans sit night after night, in overheated rooms watching the idiot box, which consumes countless kilowatts of valuable energy.

Another thoughtful constituent reiterated the old saying:

> You can't make a blanket longer by cutting off one end and sewing it to the other.

Not only will schoolchildren be adversely affected by this legislation, but ranchers and farmers will have no choice but to follow standard time in their farming schedule while the rest of the country follows a daylight saving time schedule. As one farmer so aptly put it:

> You can legislate daylight saving time til you are blue in the face, but the dew is still going to dry off the field on standard time.

As housewives complain of rising food prices, it should be the concern of all my colleagues to insure that farmers can produce the needed food for America as efficiently as possible. For this, and the reasons mentioned earlier, I urge all Congressmen to vote against this legislation.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no further requests for time at this moment, and I reserve the balance of my time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time, and suggest that the Clerk read the bill.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 11324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Daylight Saving Time Act of 1973".

SEC. 2. (a) Notwithstanding the provisions of section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a (a)), the standard of time of each zone established by the Act of March 19, 1918 (15 U.S.C. 261–264), as modified by the Act of March 4. 1921 (15 U.S.C. 265), shall be advanced one hour and such time as so advanced shall for the purposes of such Act of March 19, 1918, as so modified, be the standard time of each such zone; except that any State with parts thereof in more than one time zone may by law exempt the entire area of the State lying within one time zone from the provisions of this subsection.

(b) Any law in effect on October 27, 1973, adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by subsection (a) of this section unless that State, by law, provides that such exemption shall not apply during the effective period of this Act.

(c) The provisions of subsections (b) and (c) of section 3 of the Uniform Time Act of 1966 shall apply to the provisions of subsections (a) and (b) of this section.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I am opposed to this bill. In the first place it would steal an hour out of my life, and I have not a single hour to give to gimmickry of this kind. When one gets to be as old as I am, he will look at his remaining hours and hope that they are dedicated to some kind of a worthy cause, and hope that they are not stolen away from him as is proposed here today.

Mr. Chairman, I want to correct a misstatement made by the gentleman from Minnesota (Mr. NELSEN). Incidentally, I am surprised that a Member coming from an agricultural State would take the position that he does on this bill. He stated that this is a 1-year bill. It is more nearly a 2-year bill since it would impose so-called daylight saving time continuously from this December to June 30, 1975.

I urge you to read the report on this bill. It is loaded with "mays," "coulds," "mights." Nowhere is there to be found a positive statement that it is going to save anybody anything.

There has been much talk today about an emergency. When is President Nixon going to come to Congress and ask that it join in a formal declaration of an emergency? He simply tells us there is an emergency and Congress responds with ill-advised legislation such as this.

Not so long ago we put certain restrictions upon a President who embarked this country on a war and specified that within a certain time, and in the absence of a declaration of war, hostilities on the part of this country must end.

If we are going to embark on this emergency business every few months, let us have declared emergencies in which Congress participates.

With respect to schoolchildren, the report on page 17 says:

> The problem of later sunrise in winter occasioned by daylight saving time would seem particularly acute for children traveling to school in the morning.

What do you propose to do about it? Compound the darkness that already prevails when they go to school in the winter? Watch how fast darkness comes this evening. If this bill is approved, children will be going to school in the fall and winter for perhaps 2 hours in the mornings, and they will come home at night—some of them—in the darkness.

As I said earlier this afternoon, Congress could not wait after the end of World War II to repeal what was then called "war time." It was one of the first war power acts repealed by Congress. Yet you are going to jump into this thing with no information as to what it will save, no positive information that it will save anything, that it will do anything but upset the lives of a lot of people in this country.

As I said earlier, I have not heard of a single mass meeting ever having been held in West Virginia or anywhere else in behalf of this legislation. Then where is the demand for it? You can play with this gimmickry to your heart's content, and it is not going to get you anywhere insofar as solving this problem.

I wish I had the wherewithal to provide every Member of this House with an old gunny sack or a rag so they could go out and wipe the dew off the soybeans, corn, and hay so the farmers could get out and harvest their crops before the sun can do its work in the morning. The gentleman from Minnesota knows that farmers cannot harvest crops until the sun does its work by way of eliminating dew, frost, and so on. Go ahead and play with this gimmickry to your heart's content. I want no part of it, and I hope the public will let you know what it thinks about it before this winter is over.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUNAGA: On page 3, line 7, immediately after the word "zone" insert the following: ", and any State that lies entirely within one time zone and is not contiguous to any other State,".

On page 3, line 13, immediately after the word "zones," insert the following: "or adopted pursuant to section 3(a) (1) of such Act by a State that lies entirely within one time zone and is not contiguous to any other State,".

Mr. MATSUNAGA. Mr. Chairman, my amendment is simple in nature and one which no reasonable person can oppose. It would have the effect of exempting Hawaii from the provisions of this bill.

This exemption is completely in keeping with the objective of this bill, that is, to conserve our Nation's precious energy resources. To exempt Hawaii would not result in any increased usage of energy. The exemption would, in fact, reduce energy consumption in Hawaii.

A brief look at Hawaii's past experience with daylight savings time, and its present situation, will demonstrate this.

During World War II, when Hawaii was under martial law, the military commander ordered the islands to go on daylight savings time. Both before the war and afterward, Hawaii was on a standard time which was 2½ hours behind Pacific standard. In 1947, to rationalize the system, Hawaii accepted a half-hour of permanent daylight saving time and adjusted Hawaii standard to only 2 hours behind Pacific standard. Since then, standard time has been the unbroken rule in my State. When Congress passed the Uniform Time Act in 1966, Hawaii exempted itself from its application.

And why has Hawaii resisted general daylight saving time? First, because Hawaii is further south and closer to the equator than any other State in the Union, there is much less variation between long and short days as the seasons change. In the Hawaiian city of Hilo, for example, hours of daylight on December 21 are only 2 hours and 23 minutes less than on June 21. By contrast, the difference in Boston is over 6 hours, in Los Angeles more than 4 hours, in Chicago more than 6 hours, and in Miami, the difference is 3 hours, 13 minutes—50 minutes more than the difference in Hilo. There is, then, little or no need for this adjustment in Hawaii.

Second, as I pointed out, Hawaii standard time already implicitly includes a half hour of daylight savings time. Another hour would place great hardship on the people of the Aloha State, without reaping any savings in fuel or energy.

Third, life in Hawaiii is already built on an early-rise, early-to-bed pattern. Most private workers begin by 7:30 or 8 a.m. Most Government workers begin their workdays at 7:45. They complete their days and drive home, even now during daylight hours. At best, the imposition of daylight savings time in Hawaii would merely transfer some energy usage from evening to morning hours, without any energy savings at all.

One final point, Mr. Chairman: Besides the military imposition of daylight time during World War II, Hawaii found itself on daylight time on one other occasion. The territorial legislature passed a statute imposing "fast time" as of April 30, 1933. The effect merely on island family life was devastating. Children lacking sleep became cranky; workers and students had to travel through darkness to job and school. The public outcry was so great that the legislature promptly repealed the time adjustment law, effective May 21, 1933.

I have discussed my amendment with both the majority and the minority of the committee, and I trust that they will accept it.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I understand the purpose of the gentleman from Hawaii. I would not have any objection to the amendment. Most of Hawaii is below the 20th parallel and the lower part of the United States is up around the 30th. Hawaii is a special situation, so I am sure we would have no objection on this side of the aisle and I would accept the amendment so far as I am concerned.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, we understand the purpose of the amendment and on this side of the aisle we feel that in this particular, special case we would agree to accept this amendment.

Mr. MATSUNAGA. Mr. Chairman, I thank both the gentlemen.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, today we consider the bill, H.R. 11324, to provide for daylight saving time on a year-round basis for a 2-year trial.

In view of the crisis that we are now facing with regard to our energy supplies, I realize the need for certain measures designed to reduce the consumption of fuel and to conserve energy resources. But I do see the many difficulties that daylight saving time has caused and will cause for many of our rural families. I seriously doubt if energy will be conserved.

I want to state that I continue to support legislation which would amend the Uniform Time Act of 1966 to provide that daylight saving time shall begin on Memorial Day and end on Labor Day of each year. I am currently sponsoring such a bill and I have done so in previous Congresses.

In many of our Nation's rural areas, daylight saving time has not always proved to be the beneficial change that its initiators intended it to be, because of the length of daylight saving time, schoolchildren in rural Kentucky are obliged to trudge along dark country roads to school buses and to wait in the dark for their ride to school. It is my understanding that this condition exists in rural areas in many parts of the country.

Many parents have expressed to me the fear that in the dark early hours avoidable accidents may occur, and have occurred. If the period of daylight saving time were amended to include only the 3 summer months, the hazardous conditions faced by these children would be eliminated.

Mr. Chairman, I doubt if many of the people in this body realize just what this will mean as to the time sunrise will occur. In Frankfort, Ky., on December 21, sunrise will occur at 8:30 a.m.

At Grand Rapids, Mich., sunrise will occur at 9:10 a.m.

At Boise, Idaho, sunrise will occur at 9:15 a.m.

I submit that we are trying to be modern Joshua's. Of course, he commanded the Sun to stand still but try as we may, the Sun will continue in orbit and the dew will dry as usual on standard time.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman for yielding.

I would like to join in his comments and his statement today. Even though we represent different parts of Kentucky and even though we represent generally different constituencies within the Commonwealth of Kentucky I share his concern about this bill and I commend him for his statements today.

Mr. BAKER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman.

Mr. BAKER. I would like to associate myself with the remarks of the gentleman from Kentucky. I represent the Third Congressional District of Tennessee, which lies in the eastern time zone and we suffer every peril described in his statement. I thank the gentleman for yielding.

Mr. CARTER. I am happy to yield to the distinguished gentleman.

I regret to say that seriously I doubt if any energy will be saved by this measure.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Kansas.

Mr. SEBELIUS. I, too, would like to associate myself with the remarks of the gentleman. I have 57 counties on the western border of Kansas. If we are going to have this double daylight saving time, I wonder if the gentleman remembers what the old Indian thought up when he cut off one end of his blanket and sewed it to the other end to make it longer.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Missouri.

Mr. RANDALL. We have heard various estimates of potential or speculative savings of energy by this daylight saving year-round. As far as I know, there have been no specific figures provided as to what savings, if any, or in what kinds of energy, lights, or heat. We have heard figures all the way from 1 percent, to 1.5 and 1.7 percent. Obviously, the daylight saving plan is not going to help much in terms of gasoline. People have to get to work somehow. It is not going to help save any gasoline on our schoolbuses. They are going to have to run. Where will the savings be? They will just drive at a different hour. Maybe it will be in some slight savings in electric power, although I doubt that, but if a person gets up in the dark they will require more heat.

Mr. CARTER. I feel we will all be getting up an hour earlier when it is cold and having to heat things up and energy will not be saved.

Mr. RANDALL. Mr. Chairman, will the gentleman yield further?

Mr. CARTER. I will yield to the gentleman.

Mr. RANDALL. The gentleman has demonstrated some logical thinking. People will have to get up, no matter where they live. They are going to have to use about the same amount of electricity and use even more heat.

Mr. CARTER. Yes, and especially long before daylight.

Mr. RANDALL. Mr. Chairman, I am still hoping to get some answers from someone. Perhaps the gentleman knows. I see the gentleman from California over there. He has been fighting for daylight saving plans for a long time; he has been trying to get this year-round for years. But that is not my concern what I am asking the gentleman in the well, will the saving by this plan be 1 percent or is there going to be any saving at all?

Mr. CARTER. Mr. Chairman, I want to say that I am quite familiar with the distinguished gentleman from California. He is a fine man, but he has had a bill in for year-round daylight saving time, long before we had any energy crisis, for years and years. He wants to get out an extra hour to play, and that is the reason.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. Matsunaga).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were ayes 83, noes 2.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 3. The Secretary of Transportation shall on or before June 30, 1975, submit a report to the Congress on the operation and effects of this Act giving particular attention to its effects on the use of energy in the United States. In carrying out the provisions of this section, the Secretary shall consult with departments, agencies, and instrumentalities of the Federal Government having information or expertise with respect to the operation and effects of this Act, and each such department, agency, and instrumentality shall exercise its power, duties, and functions in such manner as will assist in carrying out the provisions of this section. Such report shall include such recommendations for legislation or other action as the Secretary may determine.

Sec. 4. The authority of the Secretary of Transportation, under the first section of the act of March 19, 1918 (15 U.S.C. 261), to modify the limits of any time zone is suspended during the effective period of this act.

Sec. 5. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules to permit daytime standard amplitude modulation broadcast stations which are not eligible for presunrise operating authority to operate not in excess of one hour prior to local sunrise, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

Sec. 6. This act shall take effect at 2 o'clock antemeridian on the first Sunday which occurs more than thirty days after the date of enactment of this act and shall terminate at 2 o'clock antemeridian on the last Sunday of April 1975.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Staggers: Page 5, line 4, strike out "thirty" and insert in lieu thereof "fifteen".

Mr. STAGGERS. Mr. Chairman, I offer this amendment because several Members from my side and several Members from the other side have said they wished that we would bring this down to 15 days so that this bill can be put into effect a little bit earlier.

We are in an energy emergency, and they thought we should get it into effect earlier than 30 days. This makes it 15 days earlier that it will go into effect. We think the communications system of this land being what it is today with radio, TV, and the newspapers, everyone will have an opportunity to know immediately what is required, and the transportation systems will be able to change their schedule in 15 days and it can go into operation.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, the object of this amendment, as I understand it, is to change the effective date of this section from 30 days after enactment—that is, the Sunday after 30 days after enactment—to the Sunday 15 days after enactment.

Mr. STAGGERS. That is correct.

Mr. BROYHILL of North Carolina. Mr. Chairman, I support this amendment.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio, the ranking minority member of the committee.

Mr. DEVINE. Mr. Chairman, I intend to support the amendment based on the limited knowledge I have at the moment, but I was wondering whether it is practical from a time standpoint to have the effective date shortened.

Will this allow the train schedules, the bus schedules, the airline schedules, and the television station schedules to be adjusted? Will they be able to do that?

Mr. STAGGERS. Yes.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I want to thank the distinguished chairman for yielding.

Other Members, as well as myself, have had similar amendments to offer. I think this amendment makes commonsense.

I only regret that neither the Congress nor the White House took the leadership in doing this some time ago. I thank the gentleman for expediting the matter.

Mr. STAGGERS. Mr. Chairman, I want to thank the gentleman from Massachusetts for his comments.

He did come to me. He is one of the Members that did have a similar amendment to offer; there were several other Members who also had similar amendments. I felt that in order to expedite it, the chairman of the committee would offer the amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I would be happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, may I ask the gentleman, what is the attitude of the Department of Transportation as far as the gentleman's amendment is concerned?

Mr. STAGGERS. They feel that they can get along with it all right, and I believe they so testified before our committee.

Mr. GROSS. They apparently do not know "straight up" about what this bill will do so far as saving anything is concerned. Is it not correct that there is a provision for at least $300,000 to run a study of what this bill will do?

Mr. STAGGERS. Mr. Chairman, I might say to the gentleman that I believe they do have an idea of what it would do.

Mr. GROSS. If they have all the answers, why do they want $300,000 to conduct a study?

Mr. STAGGERS. Mr. Chairman, let me say in answer to the gentleman that we are not including the $300,000 figure in the bill. That was an estimate, that they would have to spend to make a study of the effectiveness of this bill, that is, how much energy it saves, and considering the crime rate, as to whether it went up or down, and as to the safety on the road, automobile accidents, and so forth.

This study is to be made and submitted to Congress before June 30 of 1975 in order to give us information on the operation and effects of the legislation so that we can decide whether or not to extend or do not extend it. In this way we will have some information we can work with and have something to base legislation on.

Mr. GROSS. So the $300,000 would be spent by the Department of Transportation to develop a report and to lobby for permanent and perpetual daylight saving time? That is about the answer to that, is it not?

They want the $300,000 for lobbying purposes; is that not correct?

Mr. STAGGERS. I will say in answer to the gentleman that according to law, we are protected from such lobbying.

Mr. GROSS. That does not inhibit the various agencies and departments of government when they want to ram something down the throats of the people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Page 4, strike out line 14 and all that follows down through page 5, line 2, and insert in lieu thereof the following:

SEC. 5. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, to permit daytime standard amplitude modulation broadcast stations to operate not in excess of one hour prior to local sunrise, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

The CHAIRMAN. The gentleman from West Virginia is recognized for 5 minutes in support of his amendment.

Mr. STAGGERS. Mr. Chairman, this is a technical amendment which makes changes in the provisions of the reported bill relating to standard AM radio broadcast stations. It would permit the FCC to take interim action before general rules are adopted that would allow the stations to operate 1 hour before sunrise. It would also permit the FCC to take into consideration those stations now not operating with presunrise authorizations or which are not eligible for such authorizations so as to permit them to operate 1 hour before sunrise.

That is the intent of the amendment. The language has been proposed by the Chairman of the FCC, and I urge its adoption.

Mr. BROYHILL of North Carolina. Will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. BROYHILL of North Carolina. I agree with the gentleman from West Virginia that the language he is proposing is much clearer and states the intent of the committee. I hope it will be adopted.

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

The reason I take this time is to try to make some legislative history here, on how this year-around daylight savings time may affect some of our small sunrise to sunset radio stations.

In the report there is an effort made that some language would be added to provide for those stations who do not have pre-sunrise authority. It was proposed they be permitted to operate 1 hour prior to local sunrise. But nothing is said in the report or in any other information circulated by whip advisories about those stations being given an extra hour before sunrise who now have pre-sunrise authority. The amendment offered by the chairman of the committee today is very different from the language contained on page 4, section 5 of H.R. 11324, and very different from the suggestion in the report in the form of a letter from Dean Burch, Chairman of Federal Communications Commission.

I can only speculate what the amendment offered by Chairman STAGGERS tries to accomplish. I believe we need to have some specifics recited.

Does the chairman of the committee suggest that the amndment he is offering goes beyond those stations which are without pre-sunrise authority and includes those stations which have pre-sunrise authority at the present time. Will these stations be given the additional hour so that they can broadcast information on the weather for farmers and schoolchildren?

I think we should bear in mind we are talking about stations under 500 watts.

Some comment has been made about international treaties. I fail to see how any station in the heart of America or anywhere in the midlands can interfere with Canada or Mexico, particularly a station of between 200 to 500 watts.

I would like to ask the chairman of the committee is it his thought that the amendment he proposes goes beyond those stations that do not have pre-sunrise authority and includes those presently with pre-sunrise authority.

Mr. STAGGERS. If the gentleman will yield, yes, and I so stated in my first remarks that that is the intention of the amendment.

Mr. RANDALL. That is the intention of the amendment?

Mr. STAGGERS. Yes.

Mr. RANDALL. One more question, if the gentleman will bear with me.

We hear so much about clear channels and some possible interference with our great, powerful 50,000-watt stations in the East. No one can interfere with these grants. The little stations that operate countywide will be put out of business, and no one seems to care. Will the Federal Communications Commission take these stations into consideration in their so-called process of adjustment. Is that right? I hope we are talking about some kind of an adjustment for these stations with preservice authority, are we not, Mr. Chairman?

Mr. STAGGERS. That is right.

Mr. RANDALL. Will the matter of interference be taken into consideration when they allow this 1 additional hour?

Mr. STAGGERS. It certainly should be taken into consideration. That is the intent of the amendment. It so states in the amendment, "including the public's interest in receiving interference-free service."

Mr. RANDALL. In other words, if there is no interference those little stations would be permitted to have their additional hour before sunrise?

Mr. STAGGERS. Assuming that the Federal Communications Commission sees fit to do that, they would give them permission to do that.

Mr. RANDALL. I thank the chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

Mr. NELSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a statement was made earlier that there will be a savings of fuel through this legislation. That statement has been challenged with the charge that there has been no evidence presented here that a savings will be accomplished. Yet the mayor of Los Angeles estimates a savings of up to 500,000 barrels a year. The Public Power Association estimates a savings of from 4 to 8 million barrels of oil. Consolidated Edison of New York estimates a savings of 4 million barrels of oil. But I also want to say this as a former Administrator of the national REA program: One of the first States in the country that found itself in trouble because of peakloads in isolated systems was Iowa, and one of the first States to move in the direction of REA interconnection to spread those peaks was Iowa.

I fail to understand why my associate, the gentleman from Iowa, should zero in on me, and talk about soybeans and the dew on the soybeans. I have lived on the farm virtually all of my life, and I voted against daylight saving before because of that fact. So I know a little bit about the inconvenience of daylight saving time during harvest season, at haying time, and all of that.

But I am also aware of the fact that this Congress is perfectly willing to take a hot potato and put it in the lap of the President, so that Congress is always left free of responsibility and can then criticize him for dealing with it, and can insist that it should have been done in a different way. The sad fact is that whether it be a wage-price freeze, an energy crisis or you name it, when we get a hot potato we lateral it to the President so that he will have to take the blame for whatever happens.

We have a situation now where we need to make a decision. It is not a decision that I like to make. But certainly there is, in my judgment, an opportunity here to spread the peak loads of the power systems of the country through the adoption of this program. And I do not just think that I know—I know that I know, because of the fight we had in the REA agency where I was in charge as Administrator—that one of the toughest decisions and toughest points to sell was trying to get the peak load in isolated REA systems divided. Here is a chance to spread the peak loads in the United States of America, because it has been demonstrated before that it will do exactly that. This is what we must do, or we might find ourselves wiping the dew off the frozen pipes in our homes instead of the soybeans in our fields.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman, but I have no desire to get into any argument with anyone.

Mr. ICHORD. Mr. Chairman, I can assure the gentleman from Minnesota that I do not intend to get into any argument with the gentleman but I would appreciate it very much if the gentleman would explain for the record and for the benefit of the Members exactly how by moving our day up 1 hour this will cause a more even spreading of the peak loads.

Mr. NELSEN. Because the people who are in the power business have said so. They point out that their peak load is very great at a certain hour, and if the load can be spread, the peaks will be spread, and the system will be able to carry the load in a better manner. I make that point, and I reemphasize it, because I believe it to be accurate.

It is my feeling that this point is highly important. In my judgment, this is one of the real areas where we can be of some help. I regret to have to accept it, but I also am aware of the fact that this is a decision we here in the Congress need to make. We should not delegate to the President of the United States all of the responsibility, but take some ourselves.

Mr. Chairman, I yield back the balance of my time.

Mr. HOSMER. Mr. Chairman, I move to strike the necessary number of words.

Mr. HOSMER. Mr. Chairman, I rise in support of the bill. I am the gentleman from California who was mentioned anonymously a little earlier in the debate as having introduced in bill form this particular idea for year-round daylight saving time some time ago, so long ago perhaps that the memory of man runneth not to the contrary. Actually it was only about 8 years ago and I have been at it ever since.

I was delighted to hear the gentleman from Kentucky allege that I introduced it in order to let people have an hour's more fun. I did so, and there is certainly nothing the matter with that. One can have a lot more fun with that extra hour of daylight at the end of the day than early in the day, and we should. Actually, what is time for but to put to man's best and highest use?

All during World War II, I was in the Navy. I was a navigator and I ran a big attack transport. Every day 30 minutes before dawn we rang a general alarm, got up on deck, manned the guns because we were liable to get a German submarine attack about that time, and it was reasoned that if everybody were up and around, we could either fight off the Germans, or if they sank us, we could get off the ship without sinking with it. Since we were constantly moving dawn was coming up daily at different times and upsetting ship's routine, I simply adopted the device of setting our ship's clock according to where we were steaming so we always had dawn at 6 o'clock in the morning. Then we were up and fought the Germans on a regular and civilized schedule and had our breakfast at reasonable hours without sunrise interfering with it. Everything worked well because we used the clock intelligently. We mastered it instead of it mastering us.

This is the same principle that is applicable to all-year d.s.t. now. We are just aiming to put time to the highest and best use and benefit of man by adjusting the clock so things come out better than they do now for us humans.

That was foolishness that we heard a little while ago about the Indian cutting a rug on one end and sewing it on the other end. Whoever told that story obviously does not know the difference between breakfast and dinner. And, there are a lot of other differences than that between the morning and the evening.

When we get up in the morning we are tired and hate to get up in the first place. We turn on the minimum number of lights possible so our wives cannot see how ugly we look. Then we quickly get out of the place and go to work. We do not use much light; we do not use much power. It is in the evening that we use the power. If we can delay by 1 hour the time when the Sun goes down, and when everybody in the evening turns on all the lights and the television and all the rest of the household gadgets, then, of course, we are going to save energy. No doubt about it.

It does not take of necessity anybody's even reading the Rand study that was made on this to know that. But the study documents that we can save 2 percent of the power in this country just by recognizing these plain facts of life. Some of the Members here did not want to read the Rand study probably. Some have never heard of the study, but that is what it shows, an annual saving of hundreds of millions of dollars of electricity use.

This is why we are going to pass this bill. It is not some kind of freakish fantasy. It is to do something for this country when something needs to be done for it. It will allow the energy shortage to be imposed more evenly and with less burden upon the people of this country.

I say this to the Members: That while these 2 years are going on when we have this temporary daylight saving time all year round and the studies are being made and you have tried it, then you are going to like it.

I am also sure that having studied the matter, we will find out that this old business of longitudinal division of time up and down like we have done in the past may not even be the way to do it. Remember that the idea of time zones in this country originated with the railroads. Naturally, anything run by the railroads will go awry, so then they had to pass a law to straighten things out. At that time the Congress knew all about longitude but it did not know much about latitude.

We know the higher latitude we are in, the shorter the day or night, depending on the season. The lower in latitude we are, the more sunshine we get in the summer, the less in winter. Also moving East and West where we have metropolitan load centers, as indicated by the gentleman from Minnesota, if we snake those lines that change time around the load centers, we can put these heavy consumers of electricity an hour off phase in many instances, and thereby pick up an enormous amount of electrical capacity that we do not have to turn on and use because we have intelligently used time for the benefit of man. We also, because natural daylight can last for an hour longer in the evening, by maneuvering these lines horizontally, as well as vertically, pick up the other numerous advantages of daylight saving time on an all-year basis.

I am sorry an energy crisis had to come about to precipitate action on this bill, but believe me I am delighted to be one of its coauthors and to have it here today and to know it is going to pass and probably be in effect as a Christmas present for all the people.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I wish to identify with the remarks of my colleague, the pioneer from California, who has just addressed the House.

I rise in support of the legislation.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I asked for this time in order that I may read a few words from the committee report. I would then like to have the chairman of the committee comment on these four lines if he will. The four lines are:

> However, no studies have been carried out and no information is available which establishes with certainty that an overall reduction in energy consumption will directly result from the year-round observance of daylight saving time.

Will the chairman comment on that statement, please?

Mr. STAGGERS. Mr. Chairman, if the gentleman will yield I will be happy to comment.

We have just discovered that we are in an energy crisis in America. The President in one of his messages has recommended that we pass the daylight saving time bill as one of the methods of reducing the energy shortage.

In making this statement we said it was recommended by the administration and we have had different ones from the administration come and give their testimony to the effect that if we pass this bill we will save 95,000 barrels of fuel each day.

We have had before us the fact that England has had an experiment on this same line for 3 years and we based our action on what they had found out and had done.

Also we have had the testimony of the different power companies and their estimates.

After all this we decided we should do something, and that we should have a study made by the Department of Transportation and we ask them to bring back to us in June of 1975 a report. We made this a temporary bill which runs out in April 1975. We will know by that time, or hope we definitely will know, what this will do for America. There is no other way in which we can have the figures, unless we actually now do something.

The best information we have been given and the best estimate is that when we get this information they will be able to say what has happened during this interval of 14 months.

However, the time to act is now and we cannot put it off for 14 months.

Mr. GOODLING. We had daylight saving time for a great many years so why did we not have studies made during that time?

Mr STAGGERS. The gentleman can ask that. Perhaps there are those who should have anticipated this crisis but they did not. However, the time for us to act is now. The President has said in his message to America this is one of the things he would ask Congress to do and we have responded to that as quickly as possible.

Mr. GOODLING. Has the gentleman given any thought to the adverse effect this will have on the millions of schoolchildren?

Mr. STAGGERS. That is in the committee report and we have covered that. Every time we have had a daylight savings bill on the floor and there have been several in the past years, someone has asked these same questions We have had discussions on the effects of daylight saving time for the children in the District of Columbia and we have discussed that each time we came before the Congress with that type of legislation.

Then they found that is was not as they said it would be; they had one nationally, but it got us in such a chaos in America that something had to be done to bring uniform time. From that they found daylight saving time has not been so bad. When the President asked for this, saying on the best information he had that it would save so much energy, it was time for Congress to do something.

Mr. GOODLING. Mr. Chairman, as many of the Members do, I have grandchildren and I do not particularly like to have them stand on the highways and have the schoolbus pick them up before daylight.

Mr. STAGGERS. Well, if the gentleman will yield, all he has to do is to go to the school board in his district and ask them to change the time.

Mr. GOODLING. Why not ask everybody to do just that?

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Alabama.

Mr. DICKINSON. If I might have the attention of the chairman for one question I wonder if the committee is seriously considering the question of double daylight saving time? If this is so good, we will get a double dip when the summer days come along and add to daylight saving time on top of this.

Mr. STAGGERS. We could not see any advantage to that. It has been tried in different parts of the country, but it does not work too well.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GOODLING was allowed to proceed for an additional 2 minutes.)

Mr. GOODLING. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the gentleman for yielding.

I want to commend him for stating it exactly as it is. There is no proof whatever that there will be any energy saving by this bill. This is stated in the committee report. Again I want to thank the gentleman for asking this very pertinent question.

Mr. GOODLING. I thank the gentleman for his comments and yield back the balance of my time.

AMENDMENT OFFERED BY MR. MATHIS OF GEORGIA

Mr. MATHIS of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS of Georgia: Page 3, line 9, preceding the period insert: and any State lying wholly within one time zone, bordered on the east by a State within the same time zone, and on the west by a State lying within a different time zone.

Mr. MATHIS of Georgia. Mr. Chairman, what I have is a very simple little amendment that simply exempts the State of Georgia from the provisions of this bill. I know that in the same spirit of friendship and harmony with which the amendment was offered by the gentleman from Hawaii, the chairman of the committee, and the ranking Republican member, they will also agree to support my amendment.

I do not see any point in debating or discussing it, because it does one thing. It exempts Georgia. Therefore, I simply ask support for my amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment of the gentleman.

This goes against the complete purpose of the bill. Certainly, if this amendment passes, no one is going to save anything. We are not going to save energy. I would urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The amendment was rejected.

Mr. ICHORD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, personally it makes no difference to me if we get the one dip as the gentleman from West Virginia urges, or the double dip which the gentleman from Alabama urges, because I personally have my life organized on a 24-hour basis.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yeld to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I want to correct the record. I am not urging a double dip. I just know that if it is such a good thing that we enact this into public and permanent law, it will not be long before they come back during the summer months and say, "It has done all this, we need a double dip."

It is not that I am urging this. I want to correct the record.

Mr. ICHORD. Mr. Chairman, of course I must agree with the gentleman from Iowa that daylight saving time is just a gimmick as far as I personally am concerned. I can go to work at 7 o'clock, or with the double dip 6 o'clock, and return at 3 o'clock or 4 o'clock instead of 4 o'clock and 5 o'clock, but the thing that does concern me are the millions of young schoolchildren, particularly in rural areas, who will be greatly inconvenienced in the morning.

If this will save as much fuel as the gentleman from California states, perhaps it is worth that inconvenience, but here I have the report and there is no evidence that there will be such large savings of fuel, but yet the gentleman from California refers to a Rand study where we will have millions upon millions of barrels of fuel per year.

I would like for the gentleman from California to elucidate a little bit more on that Rand study and state why it was not made available to the committee. I am beginning to think that those who maintain that daylight saving time will save fuel are referring to savings during the summer months. There is no doubt that daylight saving time will conserve fuel and power in the summer, but I seriously question whether there will be any savings in the winter.

This is what I cannot see. I arose at 6:30 this morning. I had to have the lights on till 7:30 before I could see to get around the house. Now, I am going to be arising at 5:30 and have my lights on for 2 hours until it becomes 7:30.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I just want to say, No. 1, I cannot give the gentleman the answer why——

Mr. ICHORD. The committee could not give us the answer why, either.

Mr. HOSMER. The committee does not have the Rand study, but it does exist and it shows that 2 percent savings can be made with year-round daylight saving time. It translates into savings, in terms of dollars, at least into $600 million a year spent on fuel.

Mr. Chairman, insofar as the gentleman's morning light bulbs are concerned, I invite him to count his morning light bulbs and evening light bulbs, and if he does not have twice as many in the evening as he does in the morning, he is wasting electricity anyway.

Mr. ICHORD. Mr. Chairman, I am sure this House is going to pass the bill, but I wonder if we are doing it on the basis of fact.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I do not know whether it means anything or not, but the British tried it out, year-round daylight saving time, for 3 years from 1968 to 1971, and threw it out.

Mr. MATHIS of Georgia. Will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Georgia.

Mr. MATHIS of Georgia. Mr. Chairman, I just wonder if the gentleman knows that this Rand Corp. study he is talking about, is this the same outfit Dr. Ellsberg works for?

Mr. ICHORD. I believe Dr. Ellsberg did work for them for a while.

Mr. CRONIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the bill H.R. 11324 to provide for the establishment of year-round daylight saving time. It has long been clear to me that such a move would contribute substantially to the overall effort to conserve energy and that immediate passage of the legislation would be a positive step towards meeting the Nation's energy needs. In addition, passage will emphasize the concern of the House and exhibit the much needed leadership standard for the country.

Year-round daylight saving time would have a number of beneficial effects in addition to the energy saved. The Department of Transportation estimates that d.s.t. would reduce nationwide demand for electricity by as much as 2 percent. In terms of dollars, this decrease in demand could save Americans some $600 million in electrical bills.

Although it has been argued that daylight saving time would interfere with agricultural production, the Department of Agriculture reports that it will not scientifically effect farmers. Its institution would, in fact, benefit dairy farmers because it would eliminate the semiannual adjustment when the customary time changes are made.

Public safety in two areas would be improved as a result of longer daylight periods in the evening. Justice Department studies indicate that the frequency of muggings and murders which occur between the hours of 5 p.m. and nightfall, the normal traveling time of people leaving work, will decrease. In addition, statistics suggest that year-round d.s.t. would decrease the number of motor vehicle fatalities during evening rush hours, a decrease which would offset by a slight increase of accidents during morning rush hours.

When I cosponsored in January the legislation we are considering today, I was convinced of the necessity of passage in order to save energy. Today the need is self-evident. If we, as a nation, are to maintain the quality of life that we have, we must recognize that most of our energy sources have limited supplies and must be conserved. To use energy wisely is now a national goal. Daylight saving is one small step towards reaching that goal. It is time we took that step.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MONTGOMERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, pursuant to House Resolution 718, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RANDALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 311, nays 88, not voting 34, as follows:

[Roll No. 597]

YEAS—311

Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Aspin
Badillo
Bafalis
Barrett
Bauman
Beard
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Wis.
Delaney
Dellums
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Flood
Flowers
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Harrington
Harvey
Hastings
Hawkins
Hébert
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKinney
Madden
Madigan
Mailliard
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shoup
Shuster
Sikes
Sisk
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Walsh
Ware
Whalen
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Zablocki
Zion

NAYS—88

Abdnor
Baker
Bergland
Blackburn
Bray
Breaux
Breckinridge
Burleson, Tex.
Camp
Carter
Clark
Conlan
Daniel, Dan
Davis, Ga.
Davis, S.C.
de la Garza
Denholm
Dorn
Duncan
Evins, Tenn.
Fisher
Flynt
Fountain
Fulton
Gettys
Gonzalez
Goodling
Gross
Haley
Hammerschmidt
Hansen, Idaho
Harsha
Hays
Hechler, W. Va.
Henderson
Hicks
Hutchinson
Ichord
Jones, N.C.
Jones, Okla.
Kazen
Landgrebe
McKay
McSpadden
Mahon
Martin, Nebr.
Mathis, Ga.
Mayne
Mazzoli
Miller
Mizell
Myers
Natcher
Perkins
Poage
Powell, Ohio
Price, Tex.
Randall
Rarick
Robinson, Va.
Roy
Runnels
Ruth
Scherle
Sebelius
Shipley
Shriver
Skubitz
Slack
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Symms
Taylor, Mo.
Teague, Tex.
Thone
Thornton
Waggonner
Wampler
White
Whitten
Young, S.C.
Young, Tex.
Zwach

NOT VOTING—34

Alexander
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Buchanan
Burke, Calif.
Collins, Ill.
Conyers
Dellenback
Diggs
Downing
Evans, Colo.
Foley
Ford, William D.
Ginn
Gubser
Hansen, Wash.
Jarman
Johnson, Pa.
Keating
Landrum
Macdonald
Mills, Ark.
Patman
Rees
Reid
Rooney, N.Y.
Rose
Steele
Stokes
Tiernan
Wilson, Charles, Tex.
Young, Ga.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Charles Wilson of Texas against.

Mr. Diggs for, with Mr. Ginn against.

Mr. Foley for, with Mr. Jarman against.

Mr. Anderson of Illinois for, with Mr. Andrews of North Dakota against.

Until further notice:

Mr. Reid with Mr. William D. Ford.

Mr. Conyers with Mr. Tiernan.

Mr. Ashley with Mrs. Hansen of Washington.

Mr. Stokes with Mr. Rees.

Mr. Alexander with Mr. Mills of Arkansas.

Mrs. Burke of California with Mr. Buchanan.

Mr. Downing with Mr. Gubser.

Mr. Evans of Colorado with Mr. Landrum.

Mrs. Collins of Illinois with Mr. Keating.

Mr. Macdonald with Mr. Johnson of Pennsylvania.

Mr. Young of Georgia with Mr. Rose.

Mr. Patman with Mr. Ashbrook.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

"PRIORITIES FOR RESEARCH AND DEVELOPMENT IN EDUCATION," AN ADDRESS BY CONGRESSMAN JOHN BRADEMAS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on November 19, 1973, I had the privilege of addressing the annual fall convention of the Council for Educational Development and Research here in Washington.

I insert the text of my address on this occasion:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS

I am pleased to have the opportunity to speak at the Annual Fall Convention of the Council for Educational Development and Research.

It is not to flatter you because I believe it to be true that I say that, in my view, you who labor to extend the frontiers of learning about learning are engaged in an enterprise crucial to the future of our society.

As a member for fifteen years of that committee of the House of Representatives with chief responsibility for writing legislation for education, from preschool through graduate school, I speak from experience when I say that we need the best that you, the men and women of the education research and development community, can give us if we as legislators and our nation as a whole are to provide education worthy of a free people in the modern world.

It is because of this conviction that three and a half years ago I responded with such enthusiasm to President Nixon's proposal, in his Message to Congress on educational reform, for the creation of a National Institute of Education as a vehicle for supporting research and development in education.

I want today to talk to you about the NIE and how the National Institute of Education, as one Member of Congress, I see it in relation to the issue of priorities for educational research and development.

As one who has found it easy—and it's getting easier every day!—to restrain his enthusiasm for the works of Richard Nixon, I nonetheless applauded the President's call for establishing an institution that would, in his words, "begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal".

And so in March 1970, as leader of a bipartisan group of twenty members of the House of Representatives, I introduced the bill authorizing the National Institute of Education.

The Select Education Subcommittee, which I have the honor to chair, of the House Committee on Education and Labor conducted extensive hearings on the bill, visited centers of educational research in this country and abroad, and commissioned essays by leading authorities on the kinds of problems such an institute might consider.

Our subcommittee went through this intensive process—a kind of protracted graduate seminar—not only to inform ourselves about the role of research in education but also to signify to our colleagues in Congress, to the Administration, to educators and others that we regarded the National Institute of Education as a new development of the highest importance to the future of American education.

And, without my here reviewing the legislative history, we wrote the National Institute of Education into law. Suggested by a Republican President not known for his support of education, approved by bipartisan majorities in a Democratic-controlled Congress, the new venture was on its way.

SOME OF THE TROUBLES OF THE NIE

But as you all know, the NIE has run into some serious troubles in its first year of existence.

That the $162 million recommended by an anti-education Administration should have been reduced to $75 million by a Congress that consitsently votes more money for education than the President wants is dramatic evidence of these troubles.

Why the cuts?

Here, I suggest, are some reasons.

Many Members of Congress are not really clear about what research in education is and, whatever it is, are not sure that research makes any difference in improving teaching and learning. Investment in research, moreover, especially in the field of human behaviour, characteristically does not produce rapid, concrete dividends.

The lack of short-run payoffs from educational research is all the more grating to Congressmen and Senators faced with an Administration budget that slashes deeply or eliminates Federal funds for ongoing education programs.

Another reason for the NIE's funding difficulties is, in my view, apathy or opposition from professional groups, including teachers, chief state school officers, educational organizations and even researchers like you who, not seeing some immediate benefit to their own interests, responded like some county highway commissioners complaining that there was not enough pork in the barrel for them.

I must say, too—and I believe that Tom Glennan and his associates have been courageously engaged in some self-criticism on this point—that the NIE leadership should have done a much better job of communicating its purposes to Congress as well as to the educational community.

But finally, I would assert that the White House itself must bear a major share of the blame for the failure of Congress to vote more funds for the NIE.

For by delaying for months the selection of the Director and then for many months more the appointment of the National Council on Educational Research, which, as you know, is and was deliberately designed by Congress to be policy-making and not simply advisory in nature, President Nixon left the NIE leadership in a straightjacket.

It was difficult for Dr. Glennan to tell Congress what his programs and policies were to be, given the absence of the Council that had been statutorily mandated to share with the Director, in shaping those programs and policies.

I have elsewhere said that I believe the mentality of Watergate is to be found throughout the Administration of Richard Nixon, and in my view, that mentality cropped up even in the matter of the White House attitude toward the NIE.

For when I say the mentality of Watergate, I mean simply the posture of contempt for the law of the land, in this case, the willful refusal of President Nixon to obey the law which Congress wrote requiring that he appoint a National Council on Educational Research.

That Mr. Nixon should have so undermined the strong bipartisan support in Congress for an initiative for which he could rightfully claim credit is a problem I leave to you researchers in human behavior to explain.

In any event, I want here to reaffirm my own support for the ability and integrity and dedication of Tom Glennan and to say that I know from personal observation he is laboring hard to make the National Institute of Education an institution that will command the confidence of both Congress and the American educational community.

A little later I'll come back to some comments on how I think you can help him achieve that goal, which ought surely to be your goal as well.

PRIORITIES FOR RESEARCH AND DEVELOPMENT

But first, let me talk to you about what seem to me should be some of the priorities for research and development in education today.

I do not of course insist that the priorities of Federal legislators are the only ones, and I recognize that mine are, understandably, colored by my particular perspective and experience.

There are other sources of priorities as well: public policymakers at all levels of government—Federal, State and local; consumers—teachers, administrators, students, parents; and you, the practitioners of research and development.

But here is a list of areas that, as one Member of Congress, I believe should come high on the agenda of effort of the NIE itself and of the institutions it engages to carry out research.

BASIC RESEARCH INTO LEARNING PROCESS

And as I set forth my list, I shall from time to time indicate how some items relate to problems Members of Congress encounter in writing education legislation.

First, we need basic research into the learning process. We should seek to understand the variety of cognitive styles and should try as well, to cite one example, to have physiologists and nutritionists as well as psychologists explore the factors which affect learning ability.

As chief sponsor of the Comprehensive Child Development Bill, which President Nixon vetoed in 1971, I want to know—as my colleagues and I renew our efforts to shape a new early childhood proposal—all I can about how and when children learn and develop, both cognitively and non-cognitively.

What can the researchers tell us on this matter of crucial concern?

EDUCATION OF THE DISADVANTAGED

Second, the NIE should give special attention to the complex national problems of the education of the disadvantaged.

Even now we on the Committee on Education and Labor are considering legislation to extend the Elementary and Secondary Education Act, and to say that we have been bogged down in our effort to write Title I would be grossly to understate our dilemma.

How, for example, do you define educational disadvantage?

The present law is premised on the presupposition of a very high correlation between economic deprivation and education underachievement.

That premise is now under attack in the committee and none of us has seen scientific evidence that is completely compelling on any side of this argument.

We need the help of the educational research community here and most of us, frankly, have not been much impressed by what we have seen.

EDUCATIONAL FINANCE

The NIE should study educational finance at every level—from preschool through graduate school. Recent court decisions at both the state and Federal levels should make us all aware that we are headed for major changes in the pattern of support of public elementary and secondary education in the United States, but it is not clear in just what direction we are going.

For example, the NIE can help states and cities look at a variety of alternative means of paying for education.

The sad state of our knowledge here is one of the reasons Congress last year, as part of the Higher Education Act, established a National Commission on the Financing of Postsecondary Education, for we were mightily distressed by the failure of the American education community, including its researchers, to pay serious intellectual attention to the economics of higher education.

You will all recall, for example, the several reports of recent years contending that many of our colleges and universities were in deep financial distress. But when our committee attempted to find a definition of "financial distress" or even "financial need", our inquiries fell on stony ground.

For there are no commonly accepted standards of the economics of higher education, and while I appreciate that simply to state the problem is not to solve it, I believe you should realize the dangers for the future financing of higher education in the continued absence of more systematic attention to such problems by the higher education community.

Or are we in Congress to be told that with respect to shaping public policy to support the institutions that symbolize reason in our society, reason does not apply?

Even now those of us who sit on the National Commission on the Financing of Postsecondary Education are working hard to fashion by the end of the year a much needed analytical framework within which, hopefully, those who make decisions on financing postsecondary education—Congressmen, state legislators, governors, administrators—can more soundly, more rationally, if you will, decide. It has not been an easy task.

Hopefully, the National Institute of Education will find in our Commission's effort something of value on which to build.

IMPROVING THE EDUCATION OF EDUCATORS

The NIE should also consider ways of improving the education of educators—of enhancing the qualities of those who teach in or administer our schools and universities. In this connection I am concerned that, in the rush of the Nixon Administration to abandon Federal support for training in nearly every area, the NIE not turn its back on the support of training of researchers.

To advance educational practice in terms of both the content of what is taught and the means by which it is taught must also be on the agenda of the NIE.

And I know that these are both areas to which many of you in this room have devoted your own efforts.

STRENGTHENING LINKS OF R. AND D. WITH SCHOOLS AND UNIVERSITIES

I think it essential that the National Institute have as a high priority the creation of ways of strengthening the links between research and development institutions and schools and universities.

It is vital not only that there be more and better research but also that the fruits of research be disseminated throughout the educational system and not, in the metaphor familiar on Capitol Hill, sit on some dusty shelf.

It was, indeed, because of our awareness of the importance of the dissemination function that the authors of the National Institute of Education stipulated that the principal responsibility for the dissemination of the results of research findings were to be lodged not with the Office of Education but with the National Institute of Education.

To explain why Congress gave control over dissemination to the NIE rather than OE, I quote from the language of our report of our House committee on the bill establishing the National Institute of Education:

"There are two reasons the Institute must collect and disseminate the findings of educational research as well as support such research. First, if they are to be aware of the needs of real students and real teachers and real administrators and real educational settings, researchers involved in developing new knowledge about learning must be involved with such consumers of education.

"Second, the process of research and development in education is not a simple linear one, that is, a process in which basic research is followed by demonstration and validation and then by dissemination of a product. Rather, the process is a dynamic one in which there are constant, continuing interchanges back and forth between and among: (1) basic researchers; (2) those who demonstrate the results; and (3) the consumers, those who apply the results in teaching and learning situations.

"The Institute must, therefore, assume responsibility not only for the development of educational materials and practices but also for their dissemination to students, teachers, administrators and other potential users."

The Senate report on the bill echoes this view of the nature of the relationship between dissemination and research.

OTHER AREAS

There are other areas, too, that deserve the most searching inquiry: continuing and mid-career education, non-formal and extra-institutional ways of learning, and the relationship between the public and non-public sectors of education.

Moreover, should not educational researchers take heed of the implications of last spring's report of the panel of the President's Science Advisory Committee entitled, "Youth: Transition to Adulthood?"

The panel, chaired by James S. Coleman, suggests, among other things, that schools, and the educators who run them, do not adequately prepare young people for adulthood.

The report goes on to suggest that the objectives of schools should be expanded beyond providing students with cognitive skills to include helping young people learn to manage their own affairs, to "develop capabilities as a consumer not only of goods, but more significantly, of the cultural riches of civilization," and, finally, to develop "capabilities for engaging in intense concentrated involvement in an activity."

Will educational researchers see such thinking as a threat or an opportunity?

EVALUATION

I want to single out for special discussion as a high priority matter for the NIE the development of measures for assessing and evaluating the effectiveness of education.

Some of you may recall that several months back, President Nixon, in seeking to justify the sharp reduction or elimination from his budget of Federal funds for a number of domestic programs, said, "We have conducted detailed studies comparing . . . costs and results. On the basis of that experience, I am convinced the costs of many Federal programs can no longer be justified."

But as many of my colleagues in Congress will agree and as I can testify from personal experience, Administration witnesses at Congressional hearings have been silent when pressed to describe the standards and techniques by which they have judged programs successfully or not.

Administration witnesses have simply been unable to point to the existence of the "detailed studies comparing . . . costs and results" on the basis of which studies they try to justify cutbacks in Federal funds.

For the people in this room know better than do most that we have a long way to go to develop an effective science of the evaluation of human behavior and that a degree of humility would be much more in order than these sweeping—and fundamentally dishonest—pretensions of Administration spokesmen, including the President, whose pleas for budget cutbacks in domestic programs are far more understandable in terms of ideological bias than as a consequence of objective evaluation.

So I am very pleased to see that such groups as the National Advisory Council on Education Professions Development are giving particular attention in their current discussions to the problem of the evaluation of education.

And I believe it imperative that the NIE place evaluation high on its list of subjects that require th most careful and thoughtful inquiry and analysis. We need to develop a science of evaluation and we need as well to learn how to evaluate evaluation.

There is one other consideration which, in my judgment, should underlie all the works supported by the NIE, a consideration of particular significance to you.

And it is aptly summarized by Patrick Suppes and Lee Cronbach in their book, Research for Tomorrow's Schools:

"Neither the presence nor the absence of Federally supported research is fundamental. What is fundamental is to create a climate that is favorable to first-class intellectual effort and hostile to second rate."

For I am sure we all can share the conviction that first-class standards must be established in all the work supported by the National Institute of Education if it is to be successful in bringing change to American education.

A SUMMARY

Let me sum up what I have tried to say to you and unburden myself of a few admonitions to you for the future.

I have tried to tell you something of the genesis of the National Institute of Education and review the troubles it's had and why they happened.

I have attempted to indicate to you some of the priorities for research and development that I believe should be on the agenda for the National Institute of Education, with particular reference to our concerns here in Congress as we write education legislation.

I have made clear that this list is of my own making but I like to think that it is not too different from what many of you would produce or from what Dr. Glennan and the National Council will deem among the subjects worthy of attention and consideration and investment.

But there are some final comments that I should like to leave with you as well as look down the road to the future of the National Institute of Education.

The first thing I want to say is to urge you, the researchers and developers in education in this country, to give your strong support to the Institute.

That you may not yourselves have benefited from the NIE as much as you hoped is really no excuse for standing by on the other side.

I know that many of you, especially from the regional laboratories and R. and D centers, feel particularly aggrieved at a pattern of educational R and D policy that seems at best erratic.

Nevertheless, if you as professionals are serious about the importance of research and development in education in this country, you have a responsibility to support the NIE. It's the only one we have and I believe it terribly shortsighted, as I have earlier suggested, that so many who should have a stake in supporting the efforts to improve the quality of education in this country have failed to communicate to their Representatives and Senators their conviction of the importance of this enterprise or still worse, have opposed the effort.

In this connection, I want to reiterate my conviction that Tom Glennan is worthy of your counsel and advice and your support as well as of your constructive criticism.

Second, I hope you will realize that like the rest of the country, many in Congress do not really understand the contribution that first-class research can make to increasing our dividends on our national investment in education and that you, as researchers, have therefore an educational responsibility to help the country and Congress to a better appreciation of the relationship between R and D and our systems of education.

For the skills, the imagination, the efforts of our educational researchers and developers depends, far more than perhaps even you realize, the capacity of American education to produce a free and civilized people.

METHOD OF DETERMINING BIG TEN TEAM FOR ROSE BOWL QUESTIONED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 5 minutes.

Mr. ESCH. Mr. Speaker, it is with recognizable bias and a great deal of frustration that I rise today to point out a major injustice committed over the weekend. The purpose of my calling this matter to the attention of the House is not to ask for congressional action—for I believe it is not properly within the prerogative of the Federal Government to oversee such matters. Rather, it is to use this national forum for twofold purpose:

First, to give high praise and honor to the men of the University of Michigan football team who performed so well Saturday in the Michigan-Ohio State game. Although the score ended in a 10 to 10 deadlock, obviously they were the moral victors.

Second, to use this forum to raise the question with those who are responsible, specifically the Big Ten athletic directors, as to the method used to send Ohio State rather than Michigan to the Rose Bowl.

We should at the outset put these matters in perspective. It is most important to pay tribute to the players and coaches of the University of Michigan football team whose efforts thrilled a record crowd of 105,223 and millions more who watched on television. Trailing 10 to 0 at halftime, the Michigan players rose to the occasion and came back against a well-disciplined Ohio State team, leaving no doubt as to who deserved the Rose Bowl berth. That game and the 10–0–1 record of Michigan will remain a vivid memory for all football fans.

So also will the furor generated by the selection of Ohio State, with a 9–0–1 record, to represent the Big Ten in the Rose Bowl game against Southern California which last year dealt Ohio State a 42 to 17 loss. The tragedy was not in that the University of Michigan was denied representation at the Rose Bowl. The real tragedy was for the athletes who so clearly deserved the honor of playing in the Rose Bowl.

As one who represents the Ann Arbor area and an alumnus of that institution, I must register in this forum my strong protest over the decision of the athletic directors at a time when amateur athletics is increasingly under fire. I have written the athletic directors of each of the Big Ten's schools requesting a full explanation as to the method of selection and to ask whether there could be a more equitable and impartial way of choosing the Rose Bowl team in a situation such as this.

At a time in this country when credibility is widely questioned, fairness in any contest—political or athletic—demands a new accountability and makes the decision of the past weekend even more unfortunate.

THE ENERGY SHORTAGES: ARE WE SEARCHING FOR THE RIGHT ANSWERS?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, almost every American is aware that our country is facing a serious energy shortage. The fact is, though, that this problem is not ours alone, for it involves the whole world.

It is not easy to explain in brief how this situation came about, for the complexity of the problem pales into insignificance when compared to the complexity of its resolution. Only one thing is for sure—that the Earth is not running out of potential sources of energy; it is only running out of energy supplies readily available. It will take a major effort and considerable time to develop sufficient resources to meet our future needs. But, the task must begin.

ARAB OIL BOYCOTT WAS PREDICTABLE

In an address before the Greater Buffalo Area Energy Symposium, which I had the honor to sponsor on September 21, I stressed the following point:

> To describe the energy supply shortage as a "crisis" is, to me, a less than satisfactory term, for it implies an unstable state of affairs of a short duration which will be solved, for good or for ill, in the not-too-distant future.
>
> What we are really faced with, instead, is a protracted period of chronic and growing deficiencies in the supply of indigenous fuels that will make our nation uncomfortably and dangerously vulnerable to external and political pressures.

And, in an address before this House on October 9, I addressed this problem even more specifically:

> The United States must rapidly accelerate its attention to the full development of oil supplies other than those now held, as if for ransom, by some of the Arab nations. This Nation and our allies can no longer rely on the Arabs for oil. To do so is to continue to subject ourselves to international and economic blackmail by them.
>
> The United States should move immediately to a full inventory of the available fossil fuel supplies, with primary concentration on raw petroleum. Exploration of suspected untapped oil fields should commence. The vast Alaskan North Slope resources must be tapped and moved to areas of use. Technology for oil shale and coal processing must be refined further. I believe we can have both adequate energy and adequate environmental protection at the same time, but we must move forward in these areas now. To do otherwise is to invite continued abuse at the hands of the belligerent Arab nations.

I do not cite these words to stress any quality of clairvoyance on my part; rather, they are cited to show that we, as a Nation, failed to heed the obvious and to remedy the potential crisis before it became a real one. This otherwise potential crisis became a very real emergency within a matter of days and weeks.

ENERGY SHORTAGES INTERTWINED WITH OTHER ISSUES

To recognize a problem is not to solve it. It is the search for resolution—solutions and answers—which must now be the order of the day.

That search will not be an easy one, for the issue is intertwined with such diverse considerations as supply and demand; technology; foreign policy, particularly as that policy relates to the Middle East; environmental protection, esthetics, and land use planning; antitrust monitoring and enforcement; tax policies; export and import regulation; the balance of trade and the value of the U.S. dollar affected thereby; price controls and commodity price ceilings; the development of regional resources; the quantity and quality of technological progress; and the intricate shadow-boxing not only between the Congress and the administration, but also among competing forces within the administration and competing forces within the Congress.

When examined against this background, one can more fully appreciate the intricacy of resolving the energy shortages and why there are no simple answers to be found.

Before we, as a Nation, propose specific avenues of approach with respect to particular aspects of the present and future energy shortages, it is crucial to first determine the premises on which solutions should be based.

What ought these basic premises be?

ENERGY PROBLEMS ARE SHORT-TERM, INTERMEDIATE, OR LONG-TERM IN NATURE

We can best understand—and deal with—the energy problem when we separate it into time frames within which we have to both devise solutions and implement them. We have some aspects of the energy problem which must be dealt with immediately, like getting through this winter. We have other aspects which must be dealt with over the period of the next 3 to 7 years. And, we have those other aspects which must be dealt with over a more extended time frame. In some instances there is an overlapping of time frames.

THE SHORT-TERM

The most critical problem is getting through the coming winter months. I trust that my continuing efforts on such vital matters as insuring a continuing flow of Canadian oil to the United States this winter—on which we now have been able to obtain stronger assurances than at any point in the past 60 days—will aid in getting us through this winter fuel crunch. The Canadian Energy Board's recently announced decision to relax their export restrictions should aid greatly in providing adequate No. 2 and No. 6 fuels, particularly for the Northeastern States.

We must reduce gasoline consumption through the use of lighter, more efficient automobiles, car pools, better vehicle operation and maintenance, and those particular auto emission devices and controls which will add to mileage. This must be a continuing, as well as immediate, concern. On the subject of gasoline consumption, let me say a word on proposals for rationing.

Rationing of gasoline ought not to be the long-term preference of any one seeking to preserve the economic freedoms on which our political freedoms rest. The rationing of a scarce natural resource will not make that resource less scarce, in other words, more available. Rationing simply spreads out, on what is perceived by the decisionmakers as a more equitable basis, the unavailability of the resource. Instead of some classes of users being without adequate supplies, all classes of users are made to go without adequate supplies; it's simply that all are supposedly treated more equally. If rationing is the only answer, then a rationing scheme will have to be deployed, but we must be ever mindful—as we were not when we acquiesced in the setting up of a "temporary" wage and price control system—over 2 full years ago—that "nothing is more permanent than a Government's temporary program." The free market system, using the time-proved principles of supply and demand, is a preferable system to arbitrary Government regulation.

Similarly, the imposition of a new Federal or State tax upon retail gasoline is no answer either. It would create undue hardships on low- and middle-income people—owners of small businesses, like fledgling taxi cabs or delivery companies, as well as those private citizens who must commute because of the failure over the past years to provide adequate mass transportation systems—who depend, for their very livelihood on the use of automobiles and other vehicles. I am afraid that such a tax could create serious recession-prone tendencies within the economy, hurting most those who are least capable of surviving such a measure.

We must improve rail and bus systems for short to moderate length interurban transportation—to provide a better balance with auto and air travel. The enhancement of urban mass transportation is crucial, and it is something for which I have pushed strongly for western New York. Similarly, rail and bus transportation between cities must be improved; many are already predicting a rebirth of rail transportation. It is for this energy conservation imperative that I am making efforts with my Buffalo colleague Congressman DULSKI to reinstitute rail transportation to points west of Buffalo once again—railroads to Chicago and points in between.

We must, during this period of intense domestic fuel shortage stop the exportation from the United States to foreign nations of any crude or refined oil which can be used domestically. I supported legislation, which was subsequently incorporated in the bill, "the Emergency Petroleum Act of 1973," as passed by the House, to cease all exports of crude and refined oil during this period of crisis. I hasten to add that we must be mindful that while such exports did increase in 1973, they still constituted, according to the Office of Oil and Gas, Department of the Interior, of November 9, 1973, only "a quantity of distillates equal approximately to two-tenths of 1 percent of U.S. total demand," and, further, that the bulk of such exports were of such high sulfur fuels which cannot now be used in the United States because of environmental standards.

We must speed the pace of nuclear powerplant construction; this cannot wait, for it takes from 7 to 10 years to get a nuclear powerplant "on the line."

We must implement programs to advance the commercial development of oil shale. Large deposits exist and their locations are known, but there are technological problems to be resolved.

We must resolve conflicts between environmental goals and energy resource development through appropriate government action.

We must use more coal directly for the production of heat and energy.

INTERMEDIATE MEASURES

We must use more coal indirectly, as a source of synthetic oil and gas. The technology exists, but it must be further developed, and it takes several years to get a gasification or liquefaction plant into full production.

We must institute residential and commercial building standards to save energy used for heating, air conditioning, and lighting, and we must build accordingly.

We must develop new ways in which to generate power more efficiently, controlling air pollution and energy consumption at the same time.

THE LONG-TERM RESPONSE

The area of long-term considerations is where understanding basic principles is of the greatest importance.

Over the long range period—the extended time frame—there is little necessity of diminishing the total consumption of energy among developed societies, or of retarding the growth rates of developing societies, if—I repeat, if—energy sources can be developed and harnessed which are, essentially, both unlimited in supply and not productive of environmentally detrimental byproducts.

All supplies of oil—when recovered, refined, and consumed—will run out at some future point—historically, in the not-too-distant future. And, with widely varying points at which they will also run out, so too will natural gas, and coal, and all other fossil fuels or organic substances.

Yet, there is no limit to solar power, as long as the sun gives forth light; the power of falling or flowing water, as long as rivers flow and tides run; the power of wind, as long as air currents move; and, geothermal steam, as long as the earth's inner crust remains molten.

Our only limitations, at present, are in developing adequate technologies and devices with which to harness such unlimited power sources. And, the ecological consequences of their uses are much less potentially adverse than those of existing fuels and substances.

By reliance on unlimited power sources, the development of a society, which depends on continued or expanded energy uses, could go forward unfettered. No developed society would be compelled to reduce its standard of living, and no developing society would be compelled to abandon a course of action designed to enhance that standard.

Instead of acquiescing to a notion that we must reduce our standard of living by reducing our percentage of the world's energy consumption, we would be better advised to expand the levels of energy available to all the world.

GOVERNMENT ACTION ALONE IS NO ANSWER

The development of solutions to the energy problem lies only partially in Government action.

We too often forget that the invention of the automobile, as an example, was the result of the search for alternatives to the very-visibly polluting horse, particularly in crowded metropolitan areas. Its invention came not from Government initiative or largess. It came, rather, from the genius of men acting simultaneously, in what they perceived to be both the best interest of the community and their own enlightened economic self-interests.

Ford, and Edison, and Steinmetz, and Morse, and Marconi, and Bell, and countless others brought to the world unparalleled contributions to harnassing energy for man's development and progress, and they did it without Government sponsorship.

There is a role for Government, particularly as its efforts might be devoted to an infusion of basic research and applied demonstration, but the role of Government ought never to be taken as a substitute for—a replacement for—the efforts of a diverse and intelligent people, as reflected through the private and volunteer sectors of the economy. Nor should its activities draw the talents of those within the private and volunteer sectors—those who are capable of helping to therein resolve parts of the immediate and long-range problems—away from those sectors and into solely Government endeavors.

ACTION MUST BE DIRECTED AT THE CAUSES OF THE PROBLEM

The degree of Government action which is to be undertaken should be directed at the causes of the shortages and not simply at the obvious results thereof.

Government policies are too often directed at the results—not the causes—of the problems those policies are intended to resolve. Through an application of such misdirected policies, Government tends to diminish the people's abilities to resolve problems through reliance on problem-solving institutions other than Government and through problem-solving devices other than statutes and regulations. The Government—no matter how well-intentioned and no matter how well-learned its officers—can never duplicate the diversity of independent—and voluntarily collective—human action indigenous to a free society. If there is one thing which history teaches us, it is that Government is incapable of dealing adequately with complex and interrelated problems, for Government directives always have unforeseen secondary and tertiary side effects, and Government remedial action is, at best, too slow, and, at worst, never coming. Immediately answers to immediate problems, without adequate regard for long-range consequences, too often characterizes Government action.

We must never forget that Government brought about no small share of the energy crisis which some proponents now say only that same Government can resolve. Theory? Philosophy of Government? No. Rather, fact.

Artificial pricing schemes, particularly in the area of natural gas, distorted the market allocations between supply and demand, creating inadequately available supplies to meet real demands; government regulation created that artificial pricing scheme.

The removal or lessening of tax incentives to mineral exploration reduced significantly the search for new sources of oil within the United States and on the Continental Shelf.

The congressionally-fostered delay in the construction of the trans-Alaskan pipeline set back the delivery of hundreds of thousands of barrels of crude oil per day by several years.

Nuclear plans are not now "on the line" because of Government policies.

Offshore oil exploration has not gone forward at its natural pace, again because of Government policy.

The examples are virtually unlimited, but, in summary, they add up to the conclusion that Government allocation cannot make a scarce resource more plentiful, and that Government policies would be better directed at developing additional sources, not simply allocating inadequate resources.

The Washington Post editorialized this notion as follows:

> The time of adjustment is going to be difficult and exasperating.
>
> We may be forced to irritations like gasoline rationing before the new sources of oil begin to flow.
>
> But Adam Smith's economics is now our likeliest policy to end the shortages over the next several years.
>
> Independence is worth 15 cents a gallon.

MUST LESSEN DEPENDENCY ON FOREIGN SOURCES

Lastly, the development of energy sources—by searching for a new type of energy, or by developing further a now underutilized type, or by increasing the quantity of an already heavily used type—should be within the conscious framework of reducing dependency on foreign supplies.

This is no proposal that we abandon our foreign commitments or that we return to a "fortress America" notion of economic self-sufficiency, for that would reject both the realities of our time and the premises of our commitments with foreign nations on matters of mutual concern, but it is a proposal that we develop such internal resource capabilities as not to be ever again—as we are now—caught with wholly inadequate supplies with which to meet existing demands.

Mr. Speaker, if we operate from these premises, we can develop a sound and effective energy policy. If we ignore them, we are doomed to repeat the errors of the past—not the least of which has been an intensification, not diminution, of this energy problem.

POWER STRUGGLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GUNTER) is recognized for 5 minutes.

Mr. GUNTER. Mr. Speaker, the latest issue of Orlando-Land magazine published in my congressional district contains a thoughtful article by Mr. Sammy Roen entitled "Power Struggle."

In the article, Mr. Roen reinterviews individuals with, whom he discussed the problem of finding energy sources 1 year ago. The contrasts, predictions and similarities to the problems presented a year later make fascinating reading.

The article follows:

POWER STRUGGLE

(By Sam Roen)

Just a year ago, Curt Stanton told us Orlando Utilities' new generator would take care of the system's needs through 1980. Since then, much has changed in the energy picture nationally.

What effect will the energy crisis have on Orlando-land now?

For a timely analysis, we went back to the key people in the electric and national gas business whom we interviewed last year.

First, Curt Stanton, general manager and executive vice president of Orlando Utilities Commission.

"Curt, I want you to tell me what the situation is—the aspects of critical shortages of fuel and the resultant power shortage. What do we have to look forward to?"

"At present we're not facing any critical power shortages, provided our equipment continues to function as it has so far. We have approached some rather high peaks compared to our capability. However, our new generator has just gone into operation at the Indian River plant. It adds 325,000 kilowatts to our previous 425,000, which brings us up to a capability of around 750,000."

"This new generator . . . what kind is it? I think we talked about it before."

"This is a fossil fuel generator which, of course, brings us into the fuel supply situation. Now just a few more comments on the power. We certainly feel that now this is in operation we have a very comfortable margin, both in serving our customers and helping in other areas of the state. We are able to contribute more to help possible problems in other areas where other companies may not be quite ready to increase their facilities and may be having a faster load growth than they can supply comfortably. As far as fuel is concerned we are still relying quite a bit on gas but it is becoming less and less availabe. We are having to look more to the use of fuel oil which is a bunker "C" or a residual type fuel oil to burn in our boilers. Our boilers can take or burn either gas or fuel oil. They cannot burn coal."

"Curt, what about this Jay Field (in the Florida Panhandle) which is providing so much gas?"

"Well, as far as the Jay Field is concerned, our contracts are with Florida Gas Transmission . . . Florida Gas Company and insofar as they are able to participate in that Jay Field production then we would benefit from the point of additional gas."

SPILL LAW

"I was under the impression that the Jay Field was going to supply a tremendous amount of gas."

"It may very well as time passes. But frankly I'm not that familiar with the geological situation in respect to the potential gas production. But it is my impression, Sam, as it is yours that there will be a lot of gas available. That doesn't necessarily mean much as far as using it for boiler fuel to generate electricity, which is our use. Because most of the regulatory agencies are leaning toward denying that use, to free gas for use in domestic areas like heating homes and making it available to more people.

"I seriously doubt in the years to come that we could expect too much benefit from Jay even though it went into tremendous production. The commission has fortunately got a contract which we signed a year ago that takes us through April '75, which will supply our fuel needs. We have got an immediate problem with that contract because of Florida's very stringent spill law. We don't object to the general intent of the law which is, of course, obvious protection.

"Unfortunately there are two aspects of that law which hit the whole state of Florida very hard. The first is there is no limit of liability on the part of the ship owners or operators, and the other part is that the state need not show cause. Usually people are exempt from complicity in a negligent or liable action if they can prove that it was an act of God or something over which they obviously had no control. There are no such safeguards in the law as it is presently written. Even the federal law has a limit I think of $15,000,000 and does include protection against acts of God and so forth.

"There have been hearings by the appropriate legislative committees of the state, listening to information regarding what is happening. It is my understanding that the preponderance of evidence indicates that we are having quite a problem obtaining fuel by ship into ports because of the stringent aspects of this law. It is hoped that the legislature will do something. Other than that, to get back to your original question, Sam, we are getting along and so far I don't see any real problem, and hopefully these other things will come about in such a way that we won't have."

COSTS GOING UP

"What do you anticipate as far as the price of electricity of the future?"

"Right now the biggest thing that is affecting our production cost is fuel and we are protected in that respect in that we have a fuel adjustment charge which is applied and refigured every month so this part protects us; certainly the charges are continuing to go up because fuel is going up. Now I think in time we'll have to do something to cover increased labor. Labor is continuing to go up. So far because of the growth patterns around here by production increases we have been able to keep our unit production cost in line but this can't go on continuously, and I'm sure that we are looking at increased costs of electricity as well as for anything else."

"I've been told the day of inexpensive power is behind us."

"Definitely. This is true because there are other things coming into the picture. For instance government regulations and laws concerning air pollution and thermal pollution; these things will obviously result in higher costs. For instance oil, if you get where you have to burn a 1% or less than 1% sulphur oil to keep down the discharge of sulphur dioxides and nitrous oxides into the atmosphere. In our case we'll have to pay for that low sulphur oil at least 30% more than we're paying for a normal (1½ or 2% sulphur) oil. We will have to meet these guidelines within the next few years so all of this just has to raise the charge for electricity. Although, Sam, I think people's bills are going to continue to go up even if the charge per unit remained the same because people are still using more electricity."

"We all do . . . it's so luxurious."

"This is the way we've been trained through the years, and to effect a real slowdown that's going to be felt any time in the new future I think would be extremely difficult."

"I don't know anyone who wants to do without their air conditioning and other conveniences once they have been accustomed to them."

"No. No one does."

POWER ORGANIZATION

"I understand that you have been elected chairman of the Florida Electrical Power Group, the organization of the power companies of Florida. How does this new organization plan to function?"

"We represent at least 99% of the power generating and distributing facilities in the state. We have hired a manager, who will report in December. He has been with the Department of Water and Power in Los Angeles and has a tremendous wealth of experience. He will manage the affairs of the association and will coordinate our activities. We are planning to have our headquarters in the Tampa area.

"I'm so happy that we have this organization; it is going to be a tremendous help to our industry and to the state. You've probably read about the site law that the state has passed, which means that certain criteria have to be met over a considerable period of time before a site can be approved for a power plant to be built. We hope that our organization, through its committees and subcommittees, can be very helpful to the state in formulating these guidelines and eliminating a lot of the time loss that we might have without the knowledge and experience that is at our disposal through our organization. Our environmental committee and our operating committee are working with the proper state agencies, we have formulated a legislative committee which we hope will be helpful in that respect and also iron out some of the problems that may arise within our own organization."

"Curt, the focus is so much on offshore drilling as a fuel supply. What do you offer for the future from this source?"

"Again, we've been involved. At a federal hearing of the Department of Interior, the subject involved was the lease of certain offshore areas for oil and/or gas exploration. We actively supported the sale of these leases; our Florida organization FCG made a statement and took a stand because Florida is obviously dependent on oil and gas primarily. In order that we continue to supply our customers and so the people of Florida would continue to be supplied electricity at reasonable rates, we've just got to support whatever is necessary to see that these things are done. One of the reasons for shortages, as reported by people knowledgable in this field, is that over the last 10 or 12 years the exploratory activities for oil and gas have been very minimal. I think we've got to do this; however, it must be done with proper supervision so that there is the least possible damage to any ecological or environmental factors. And I think this can be handled."

"What's our situation today on the nucs?"

"As far as nuc power is concerned, speaking for Orlando, I question that Orlando, at least for far beyond what we could see, would be in a position to finance by itself a nuclear plant. However, this does not mean that there isn't a possibility that we can take advantage of nuclear produced power. We are, hopefully, going to be in a position where we could, after proper investigation and study, jointly own one of these plants with one or more other utilities."

ASTRONOMICAL INCREASE

For the second time James Gleason, Vice President of the Florida Power Corporation, graciously talked to me about the energy crisis. One year had passed between interviews.

"What has been happening in the energy situation as you see it, Mr. Gleason, since we last talked?"

"About what we predicted. The cost of fuel has gone up almost astronomically."

"Will you specify the fuel?"

"Oil; we're an oil-burning organization. Most of our oil is bought from foreign sources, and they do control the cost of it . . . and it has just moved out."

"When you say foreign sources . . . ?"

"Mideast."

"You say prices have gone up astronomically; can you give me specific figures?"

"Yes I can. Our fuel cost alone has increased 83% since Jan. 1 of this year."

"Fantastic. Have you been able to pass that on to the consumer?"

"No, we haven't. We do have a fuel cost clause in our rate base; however there's a six month's delay built into it. So we have a delay between actual cost and implementation of a pass-on, a portion of it. It doesn't allow us to pass on the full amount."

"Is your company in the process of asking the Florida Utilities Commission for an increase?"

"Not at the moment. We are studying carefully, making preparations to go to the commission for an increase which we will do when we have the necessary information available."

"Are there indications that the price of your fuel oil is going to go up beyond this 83%?"

"Oh, yes, we expect it to continue to increase. There's more to it than that. The Florida oil spill law shows promise of creating additional expense to any oil-using organization, particularly a utility."

"Will you elaborate on that?"

"It's the most stringent, the most rigid oil spill law anywhere in the United States. It exceeds the federal requirements and it is so extreme that it actually tends to discourage oil suppliers from bringing fuel into the state of Florida for fear that they might have a spill and the cost would be so great that they simply couldn't afford it."

"When you talk about spills, how would that occur in your normal business relationships with the oil companies; where would the spill occur?"

"We have an unloading facility in Tampa Bay. An oil tanker bringing fuel to that facility could run aground or have an accident and cause an oil spill . . . this is the problem that the tankers have."

"So that's the deterrent for the oil companies doing business with the companies in Florida."

"That's right and I think that the legislature will probably be inclined to look into the possibility of mitigating this oil spill law to some extent."

MANPOWER PROBLEMS

"What other problems do you have?"

"The problems of manpower. We have a number of vacancies that stay with us almost all the time. We're not able to get as many people as we would like to have with the necessary qualifications, knowledge and training that we require. This is almost true in an area of rapid growth such as this particular area, the Orlando area."

"With this problem of personnel and your problem of fuel . . ."

"I might add another problem. That is material and equipment supplies. The manufacturers all over the country are behind in filling orders. They've got the same problems that we have of rough materials to work with the manpower, and we have some difficulty with poles, ordinary utility equipment . . . getting enough at the right time. This creates additional shortages as in the building-construction business. They have problems with concrete and materials of various kinds. We have the same general problems with our materials."

"An increase in rates is not going to solve all of those problems?"

"An increase in rates will not solve many of those problems. It's a condition that I think we will continue to live with for the foreseeable future. A period of shortages, of high cost and of limited man power."

"Is it overdevelopment . . . too fast technologically in this nation . . . putting a tremendous strain on the uses of energy?"

"No, I don't think so; were it not for the widespread use of energy that we have, we couldn't be anywhere near where we are nor could we meet our social as well as our economic requirements."

"Are we developing too slowly?"

"I'd hesitate to say that, but we are moving too slowly from a governmental standpoint to be able to meet the requirements of technology, because of inability to adapt to changing conditions."

"Is the big problem the environmental controls?"

"I'd hesitate to label environmental as being the big problem. The idea of controls, and I guess the extreme caution with which government and industry move into new areas causes problems. These problems can best be illustrated, I suppose, by the idea of what would happen if we tend to set up extreme conditions and possibly overreact to new developments . . . and the unknown."

NUCLEAR POWER COMING

"When we talked last year we dwelled a little on the nuclear power plants that you had been building and then had halted. What is the status of that today?"

"We have a large nuclear facility that is moving along quite well at the present time. And it should be in service if we have no further or unanticipated delays, late in 1974 or early 1975."

"Where is this one located?"

"This is Crystal River. Crystal River complex on the Gulf Coast."

"It has been cleared to be completed?"

"It has been cleared to go to completion. There are some final permits that will be required before it becomes commercially operative."

"Do you anticipate any problems in that department?"

"Hopefully, no."

"Do you have any other nuclear plants under construction or in the planning stage or design?"

"We feel as a company that nuclear generation is the system of the future. We think, and most of the electric utility industry agrees, that nuclear generation is the only feasible way to supply the energy that this country requires. We are planning additional nuclear generation, but remember, it takes 10 years from decision to operation. So that if we decide in 1973 to build a large nuclear installation, it's anticipated that it will be 1982 at least before this could become a functioning part of our system."

"Are those decisions made as yet?"

"They are being very carefully considered. Now don't misunderstand me. We have alternative ways of providing the necessary generation. There will not be an acute lack of capacity whether or not we get the nuclear system . . . not the one under construction but those in the planning stage. We'll have other ways of providing the generation, but that is the way to go and that's the way we expect to travel."

"At this point you really cannot plan more nucs?"

"The problems are economic, site availability . . . this sort of thing. And really you have to decide whether the cost will allow you to go in that direction and if time will permit it, because you can bring a fossil fuel system into operation in substantially less time than you can a nuclear plant."

"Do you anticipate any major power shortage in Florida?"

"It depends what you mean by major. I would expect that certain conditions of population growth, of climate activities, of temperature, humidity or accidental problems could create temporary shortages in the state of Florida or could cause at least sporadic shortages. They would not be extended or prolonged."

REALLY HAVE A CRISIS

Back at Florida Gas, I again talked with H. L. Wilhite, executive vice president.

"What can you tell me about the power situation today . . . the energy crisis?"

"Well, I think it's becoming more and more evident that we really do have such a crisis. In the summer we went through a period where people were concerned about gasoline for their automobiles and the major oil companies changed their refinery operations to produce as much gasoline as they could to ease the shortage and get through the summer. But now they probably limited themselves to how much heating oil they can make for the coming season. So it is very likely that we may see some fuel oil shortages in the Midwest and the Northeast during the next heating season.

"As for the generation of electricity and shortage of fuel, I think the most significant development has been that the new federal energy coordinator appointed by the President, former Governor Love of Colorado, has taken a position with environmentalists that there is going to have to be some compromise. We are going to have to if we are going to continue to have something near the quality of life we've gotten used to in this country. I think we can do that and still preserve our environment.

"But as an example he has now said that he wishes to halt all moves by electric generating companies in this country to go from coal to a low sulphur oil to meet environmental quality standards. He wants them to stay on whatever source of energy they had previously, regardless of whether it meets these environmental quality standards. And I think that's a good move because we have to make use of all the fuel we've got, and use the natural gas and low sulphur fuel oils for perhaps things other than completely boiler fuel except where it really is necessary to control the environment. We furnish natural gas that really is almost a necessity from an environmental standpoint. Those are some of the things that are going on."

"What about production; is it being increased? I'm thinking about gas now. Specifically, what is happening at the Jay Field?"

"The Jay Field is performing very well. Production has stabilized; it's not expected to increase; it's fully developed. The producers in the field are attempting to get the approval of the state of Florida to unitize the field which would make it in effect one large unit which would permit them to inject water in one side of the field, the low side, and increase the recovery of oil by maintaining the reservoir pressures and sweeping the oil into the wells in the high part of the field."

"What are we talking about in time?"

"The construction project at Jay, the gasoline plant, will probably go into operation about Jan. 1, 1975. We'll still get substantial quantities of natural gas from the field. There will be a dropoff to some extent, because some of the hydrocarbons will be taken out as liquids before we get it."

NEW SOURCES SCARCE

"Are we finding any new sources of supply, any new fields?"

"Not very many. The offshore areas of the Gulf . . . of Texas . . . of Louisiana have had some successful exploratory operations going on there in the last couple of years. Perhaps the most exciting thing at the moment is the proposed Northeast Gulf sale off the shore of Mississippi, Alabama and Florida where the federal government is proposing to lease about 300,000 acres for drilling where no drilling has ever taken place previously. Beyond the 10-mile or 3-league limit off shore Florida in the Gulf. The state of Florida controls three leagues, which is approximately 10.6 miles; beyond that is the federal control, and that's where the leasing is planned to take place. If it does take place in December or January, it could be a great benefit to Florida as far as natural gas is concerned which we might be able to get as a result of that."

"How are we affected, if at all, by the pipeline from Alaska?"

"It will certainly have an impact. I would say that it would represent perhaps 5 to 10% of the current requirements for natural gas once it's in service. It's important and we need it, but as big as it is, it's still relatively small to the total requirements."

"When we last talked you told me that your company was experimenting with the fuel cell and had an experimental installation in Disney. What's the progress on that now?"

"The fuel cell is similar in principle to the one used by the astronauts in the space capsule, where you generate electricity almost directly through a chemical reaction rather than through the steam process which turns turbines. This is a program that's being jointly developed by the American Gas Assn. and Pratt & Whitney.

We installed a test unit on one of the condominiums being constructed by Disney and it remained in service and performed very well during the test period; the agreement was that after about a 60 or 90-day test period, test data would be taken and forwarded to Pratt & Whitney and then the unit would be moved to some other city. It's still under somewhat test conditions. Probably within three to five years it can be operational for general use."

WAIT AND SEE

"When it does come into being, will it be commercially practical and will it solve some of the energy problems of today?"

"I'm not sure what the future of the fuel cell is. When we had plentiful natural gas it seemed like a very exciting development, and it still is, but with the shortage of natural gas, which is the feed stock, the raw material that permits the fuel cell to work, it may not be as important to our country as we thought it would be. We'll just have to wait and see how that works out."

"I guess it's again the basic flaw, like perpetual motion . . . we do need the beginning fuel, power or energy from somewhere."

"Right, right. As we continue to use our fossil fuels, the crude oil or the natural gas substantially faster than we are finding them, perhaps the long range hope are the large coal reserves that exist. Somehow we have to find a way to enviromentally and economically make use of them. They are so important. For example, based on today's requirement for energy in this country, we have coal reserves that might last something like 300 years, whereas our other fossil fuels, natural gas and oil, have no more than a nine year life, unless we increase our exploratory activities to an extent where we find each year as much as we are using. At present rates if they did not find any gas or oil, they would be used up in another 9 or 10 years. Where we have these substantial coal reserves and use them it would also solve, to some important extent, the balance of payments deficit problem that we face, because we are going to have to import large amounts of crude oil from the Middle East. It's estimated by 1985 our balance of payments deficit alone due to that may amount to as much as $30,000,000,000. For security purposes and to avoid the deficit, we need to develop a way to use our coal reserves . . . shale oil in this country."

Mr. Wilhite told Orlando-land that the cost factor for gas uses would rise in the future. "Gas prices at the present time are doubled. Gas for home use, we might guess, might double in the next five years; considering inflation, perhaps that's not too unreasonable."

In answer to our question about the exotic sources of power, Mr. Wilhite said that the future solution for electric power would be in the nuclear plants. "And the ultimate solution is the breeder reactor—almost like a perpetual motion you mentioned a while ago, where it can breed its own energy so to speak and is reusable and will have an almost unlimited source of fuel when the breeder comes into play . . . it may be 20 years down the road."

Mr. Wilhite also mentioned solar sourced power, geothermal energy (heat from the earth) advancement in hydro-electric . . . "Some far looking people think that hydrogen gas may really come into play towards the end of this century."

RESEARCH A MUST

We talked with Rep. Bill Gunter, who willingly discussed with Orlando-land the story of the energy crisis from his governmental position.

"Bill, I've been talking with the 'power' men of our community and now I would like to ask you some relative questions. What do you see in the future to solve our problems?"

"I believe that two or three things must be done to turn the tide of what I consider to be a real energy crisis. I think that we absolutely must, as a nation, commit ourselves to the kind of research effort that will provide alternative sources of energy. I know that it will take some time to develop alternatives to gas, oil and coal, but we must embark on that course of action if we are ever to find those that are economically sound. Why haven't we done that in the past? I don't know the answer because it seems to me that there were many red flags that could have been seen and discerned prior to the current energy crunch. But, it's imperative that we start an Apollo-like commitment, if you will, toward developing either solar energy or ocean thermal energy, perhaps coal gasification, coal liquification or some of the more exotic potential sources of energy for America, rather than depending on fast depleting oil or gasoline supplies, or looking to the Mideast where we know that there's some political perils."

"Bill, in my exploratory activities one of my interviewees told me that we have vast supplies of coal in the west that have never been mined and that this would be one tremendous source of energy fuel. Do you know anything about that?"

"Yes, we have had some testimony before the House Energy subcommittee on which I serve, with regard to that very fact . . . it is true. We have substantial supplies in other areas of the U.S. The industry has been under great pressure by the Environmental Protection Agency and other forces in the U.S. and as a result there has been a decline in coal production for energy uses. You know we've had pollution problems that have been tied directly to coal. We have not been able to scrub out the pollutants from the stack gases. We don't have the sophisticated equipment in quantity that has been developed, the technology that has been developed, at this time.

"But that's another area where I think our research effort should be cranked up and we should commit the research dollars . . . and the administration has said that they are willing to commit substantial dollars in order to do those things today that will pay off in the future. Let me point out one other thing while we're on the subject. When I was in the Soviet Union representing the Science and Astronautics Committee, we visited an MHD plant just outside of Moscow."

MORE EFFICIENCY

"What is an MHD?"

"That is a magnetohydrodynamic facility which takes coal and through the gasification process converts it directly to energy. This process is attractive to us in this country because of the factor that you mentioned, that we have substantial supplies and reserves of coal whereas we're running out of gas and oil. But beyond that the process is also attractive because it releases very little in the way of pollutants into the atmosphere. And also it is a very efficient process in the conversion of coal to energy, or coal to electricity. So that if you compare the conversion process of the other fossil fuels, gas and oil, the highest efficiency that you can achieve there is roughly 40%, whereas in the MHD process, the Soviets have been achieving from 50 to 55% efficiency.

"That's part of the reason why there are less pollutants that are released. As you can see, we came away with the feeling that the Congress should look into this potential energy process, and we should commit some money to further research here. The Soviets would like for us to do that. They are obviously ahead of us in this technology, but they would be willing to share their technology with us with the thought of working out some of the barbs that are still present. They have an on the line plant just outside of Moscow that's delivering 25,000 kilowatts to the Moscow grid today. They are expending that MHD facility; in 1975 it will be producing over a million kilowatts a day. So that is an area of energy research that we think would bear supporting in the U.S."

"The opinions that I have picked up indicate that this source of energy could be economically feasible."

"Right, and I can tell you that this is one of the conclusions that has been reached by the House of Representatives Energy subcommittee."

OCEANIC POWER

"Another exotic source of power that the industry is discussing is oceanic. Have you or has your committee been involved in this in any way?"

"I'm not intimately familiar with it, but I think that you are referring to ocean current power. The Gulf currents off the coast of Florida have been suggested by those who testified before our subcommittee as a place where additional experimentation might be useful. One reason is that those are warm currents. The Gulf Stream brings warm waters in contact with colder waters so in addition to the thrust of the current itself, you have the interaction of warm and cold waters, which adds to the potential energy supply. These are factors where there's a lot of technology yet to come. I think that Florida is in an excellent position wherein we can exploit some of the potential research sources not only in ocean current energy but also in thermal energy and solar energy."

"What can you tell me about the solar energy? How far have we moved?"

"We're in position now with the research that has been done to know that solar energy provides a constant source; it provides a clean source of energy, but it's not economically feasible. We've got to jump over that particular barrier. At the University of Florida they have created a solar heated, air conditioned house, and by and large this is the extent of the research. They have not been able to harness solar energy to the extent that it would go beyond that rather minimal requirement to take care of all of the electrical facilities, for example, in a normal American home. You have to have broad expanses to take in the rays of the sunlight and then to bring them into concentration at one point or another."

U.S. DOLLAR INCREASING IN VALUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, as chairman of the Subcommittee on International Finance, I must watch closely the value of the dollar and the progress toward monetary reform. I would like to report that the U.S. dollar has strengthened considerably in the foreign exchange markets. Since the dollar hit its low mark in the summer, it has improved almost continuously, and as of the end of last week the dollar was nearly at the same levels as in March of this year when the float began after the devaluation of the dollar.

The dollar, in other words, has reached a new 8-month high against most major currencies. And foreign exchange dealers feel that the dollar will continue to improve.

The strengthening of the dollar was one topic discussed this past weekend at a meeting in France, attended by Secretary of the Treasury George P. Shultz. This meeting of the Big Five—West Germany, Japan, France, Great Britain, and the United States—was the second in a series of private meetings to discuss monetary reform outside of the auspices of the Committee of Twenty. The Washington Post, in the following article summarizes well the issues involved in this meeting:

Big Five Talk Rate Stability

(By Hobart Rowen)

The world's Big Five financial powers concluded a secret weekend caucus in the French Loire Valley yesterday which may be the forerunner of a return to more stable exchange rates.

Recent strengthening of the dollar has created the question of how to manage the exchange markets. Or, to put it another way, the big powers are seeking ways to keep the dollar from getting stronger than the level set by the devaluation last February—a level that most officials think is the right one.

At the same time, the third secret meeting in a row of the self-nominated Big Five has caused bitterness among other powers, causing a further chill in Common Market relations.

Treasury Secretary George P. Shultz, meeting with reporters immediately after returning from France, said that the major powers had agreed at the end of September in Nairobi to meet again in late November "to review the bidding" on monetary reform issues.

He acknowledged that a primary subject for discussion was the increasing strength of the dollar, and whether governments should intervene to stop its rise at the levels set at the time of the February devaluation of the dollar.

"We agreed," Shultz said with a smile, "that the markets have finally caught up with the opinions of the finance ministers," inasmuch as exchange rates (except for the Japanese yen) are close to the relationships set in February, as adjusted by the revaluation of the German mark and Dutch guilder.

Shultz stopped short of saying that there had been an agreement reached under which the dollar would not be allowed to float above the February rate. But he said that "we would consider it healthy to have a reflow of dollars from countries holding them."

A reflow would occur, for example, if the West German government sold dollars out of its own hoard to keep the dollar from moving up past the level of 2.67 marks to the dollar, the old official rate.

Shultz pointed out that "from the standpoint of long-term monetary reform, the problem of the dollar overhang can be dealt with at least in part by having a reflow." In effect, the dollar overhang would automatically be reduced by this process, the exact reverse of the dollar support operations which helped to build the overhang in the first place.

"We have thought for a long while that something like the second (dollar) devaluation level was desirable," Shultz said. "Now, we don't want to get back to pegging rates. At the same time, we think a reflow is called for now."

The U.S. official indicated that the "relaxed informal" session at a French chateau covered the gamut of internatioanl monetary issues, including gold, the future structure of the International Monetary Fund and convertibility. There was a hint, also, that a deputy to IMF Managing Director H. Johannes Witteveen might have been selected whose name might soon be announced by Witteveen.

Shultz vigorously defended the private and exclusive nature of the talks, and said others would be held in due course. "At Nairobi," he revealed, "quite a few (of the other countries) said that 'you fellows who represent the big countries ought to get together and organize your thinking, but don't let it get highly publicized'."

Besides, Shultz said, lots of other countries, including the Common Market group, have caucuses, "and I don't see anything wrong with it."

He reported that the question of energy came up "as it bore on monetary reform." Various views were offered on how the Arab oil boycott would affect the economies of Europe, but he said there was no talk of a worldwide recession.

But he conceded that "there is a lot of uncertainty about what the result will be on prices and output, and that's a problem for any monetary system to handle.

Shultz's private office, where he met reporters, was only dimly lit in acknowledgment of the need to conserve energy.

The origin of the Big Five secret meetings lies in U.S. and German dissatisfaction with the unwieldy nature of the IMF and its reform group called the Committee of Twenty.

Shultz invited his German, French, British and Japanese counterparts to a Camp David meeting last July, prior to a C–20 meeting.

They met again at Nairobi, with the late Japanese Finance Minister Kiichi Aichi as a dinner host, where they agreed to put off final decisions on reform until July 31, 1974.

French Finance Minister Valery Giscard d'Estaing confirmed at the conclusion of the Loire Valley session what Shultz told reporters here about the origin of the meetings. The reaction from some of those left out was bitter.

An Italian foreign ministry statement, for example, said that the secret meeting involving three EEC countries "can only cause concern among those who are attached to the normal working" of the Common Market. The Canadian, Australian and other governments who have representation through the C-20 are equally annoyed.

Giscard d'Estaing and West German Finance Minister Helmut Schmidt indicated that no firm decisions were made by the group. Giscard d'Estaing, in a statement to the press, said that the ministers had talked about monetary reform, inflation and problems relating to the energy crisis.

Monetary experts here suggested that while the energy crisis might have influenced the sudden scheduling of the meeting, the basic cause was the need to discuss the problems caused by the rapid recovery of the dollar.

A related issue is the sticky question of gold: the Common Market countries have at least one position on which they are unified, and that is they want a stronger, rather than a de-emphasized role for gold.

The dollar problem is the bigger one at the moment. Yesterday, the dollar was at its highest levels in the West German foreign exchange market since before the revaluation of the mark in June. At one time, the dollar hit 2.6608 marks, before settling back fractionally to 2.6585 marks.

During the Nairobi meeting, West German central bank governor Otmar Emminger revealed that his country would intervene by selling from its enormous holdings of dollars whenever the dollar appreciated to the 2.67 mark level. At that time, it was considerably below, at 2.42 marks.

Since then, the dollar has climbed steadily, aided by a U.S. balance of payments shift from deficit to surplus—and, more recently, by the energy crisis, which is expected to hit the United States less severely than Japan and Europe, which are more dependent on Arab oil.

The confluence of these circumstances apparently produced the hastily arranged Big Five session, secret until word leaked out on Saturday. Money market experts here suggested that a basic decision might be whether market intervention should be arranged when the dollar is at the top end of the allowable range around a central point (which would be the normal way) or whether intervention should come at an earlier point.

From the standpoint of American policy, says one expert, "There is something to be said for holding the dollar at the lower end of the range." That would give the dollar a stronger competitive edge and help to build up the trade surpluses already in view. But there may be resistance from other countries to maintaining what would be regarded as an undervalued level for the dollar.

CONGRATULATIONS AND BEST WISHES TO CONGRESSWOMAN YVONNE BRATHWAITE BURKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. Roy) is recognized for 5 minutes.

Mr. ROY. Mr. Speaker, while I am sure that I am not the only Member of Congress who has ever delivered a baby, I believe I must have the record—in that I delivered over 5,500 babies prior to my service in Congress.

As an obstetrician, I believe it appropriate that I extend to our colleague, Congresswoman Yvonne Brathwaite Burke, congratulations and best wishes on the birth of her daughter.

Autumn Roxann Burke was born at 3:55 p.m. on Friday, November 23 at Queen of Angels Hospital in Los Angeles. She weighed 7 pounds and 9 ounces.

As we all know, Congresswoman Burke is the first Member of Congress ever to give birth while serving in the Congress. I know that all my colleagues in the House join with me in wishing the Burkes much happiness.

TRIBUTE TO LATE R. S. FREEMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Fulton) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, I would like to take the opportunity today to pay tribute to Mr. R. S. Freeman, late of Yorkville, Tenn., and to include an article from the Jackson, Tenn., Sun.

Mr. Freeman was field representative and longtime friend of our colleague, Congressman Ed Jones. Mr. Freeman worked with Mr. Jones for many years. The two men began their association in 1945 with the West Tennessee Artificial Breeding Association and continued working together when Ed Jones was elected to Congress in 1969.

The friendship and working rapport between Congressman Jones and Mr. Freeman was a thing to be admired, and I know that all of you join with me in extending our heartfelt sympathy to the members of Mr. Freeman's family and, of course, to our colleague, Ed Jones.

Tribute to the Late R. S. Freeman

Yorkville.—R. S. Freeman, director of field services for Congressman Ed Jones, died Sunday morning of an apparent heart attack.

Mr. Freeman, 50, became ill early Sunday morning at his home in Yorkville and was taken to Gibson County General Hospital in Trenton where he was pronounced dead at 7 a.m.

Funeral services will be this afternoon at 3 o'clock at the Karnes Funeral Home chapel in Dyer with Tom Holland, minister of the Church of Christ, and the Rev. James Combs officiating. Burial will be in Oakwood Cemetery in Dyer.

A native of Gibson County, he was the son of Robert Freeman of Dyer and the late Ima Freeman. He was married to the former Dean Brownloe of Rutherford.

He was educated in the public schools of Gibson County and enlisted in the Navy in 1941 at the outbreak of World War II. He served in the Pacific Theatre and returned to his native Gibson County in late 1945.

Mr. Freeman's first job after completing his military service was with Congressman Jones, who at that time was introducing artificial breeding to upgrade dairy herds in this area. He subsequently became manager of the West Tennessee Artificial Breeding Association, leaving that position in 1969 when Jones was elected to Congress in the old 8th District.

"I told him I wanted him to stay with me because I trusted him so much," Congressman Jones said of his long time association with Mr. Freeman.

Jones, who flew home from Washington Sunday after learning of the death of his staff member, was at the funeral home Sunday afternoon with other members of the congressional staff and Mr. Freeman's family.

"I have lost one of the best friends I ever had," the congressman said. "He and I could just communicate."

Congressman Jones said Mr. Freeman "had a great ability to analyze people" and was devoted to his work as director of field services for the 7th District representative. "He just never would quit," Jones added.

The congressman had urged Mr. Freeman to take a vacation after he had spent so much time tending to arrangements for the "Ed Jones Day" dinner in Jackson on Sept. 8, but after a weekend fishing trip with his family at Kentucky Lake he was back on the job helping cut through federal red tape for the congressman's constituents.

Sunday morning when Mr. Freeman became ill and planned to go to a Memphis hospital later in the day, he went to the congressman's Yorkville office at 4:15 a.m. to leave some instructions for the secretary.

Mr. Freeman was an active member of Thompson-Jones Post 9635, Veterans of Foreign Wars in Dyer, belonged to the American Legion Post in Dyersburg, Yorkville Masonic Lodge 115, the Moose Club of Dyersburg and the Ruritan Club. He was a member of the Church of Christ in Dyer.

In addition to his widow and father, he is survived by two daughters, Mrs. Shelia Tullos of Memphis and Miss Denise Freeman, a senior at the University of Tennessee at Knoxville, and a sister, Mrs. Joyce Lewis of Trenton.

Pallbearers will be Ray Lancaster, Bob Cashdollar, Joe Hill, Dennis Vaughn, Galey Fesmire and Jim Crow.

FINANCIAL MALNUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Rogers) is recognized for 10 minutes.

Mr. ROGERS. Mr. Speaker, over the past several years this administration has attempted to establish a new method of "working" the legislative process. When there is legislation which the executive branch does not support, and the sentiment in the Congress is such that this legislation could not be defeated or later vetoed because the veto would be overridden, then the administration would kill the law or portions of it by simply not funding it.

FINANCIAL MALNUTRITION

This practice, impoundment, reached fruition last year in the confusion over interpretation of the continuing resolution for Labor-HEW appropriations, and, as a result, dozens of constituent groups have been forced to go to court to obtain the funds which the continuing resolution entitled them to.

The results of these court actions, thus far, tell the story rather well—29 favorable decisions for the constituents of health, education, and welfare programs, dealing with impounded funds totaling more than $1 billion.

Although the administration originally announced its intention to appeal these court decisions, we are now seeing an attempt to retroactively halt the right of constituent groups to use the courts to redress arbitrary impoundment of funds. The so-called Laird package, a proposed amendment to the fiscal year 1974 Labor-HEW appropriations bill, would negate all suits pertaining to fiscal year 1973 moneys if the constituent group accepted any fiscal year 1974 funds.

Mr. Speaker, I think this approach is unconstitutional. In my view, the amendment would deny constituent groups or individuals their due-process rights to access to the courts. Moreover, it raises serious constitutional questions of undue encroachment by the legislative branch on the judicial branch in violation of the constitutional principle of separation of powers.

Additionally, such an amendment, if passed into law would give weight to the premise that the executive branch can ignore the intent of the Congress and laws passed by the Congress, thus legitimizing financial malnutrition as a legislative tool to be used by the executive branch to defeat the intent of Congress.

I am, therefore, asking that the House conferees now considering the Labor-HEW appropriations conference report reject this unprecedented attempt to weaken the power of the Congress. It is a plain and simple attempt to legitimize this administration's position that they are not obligated to carry out the laws of the land as well as serving to intimidate constituent groups while barring their access to the courts.

I would like to call to the attention of my colleagues the following remarks prepared by Dr. John T. Grupenhoff for delivery before the State University of New York's Washington Seminar program. Dr. Grupenhoff, a former Deputy Assistant Secretary of HEW for Health Legislation, is the coauthor of the recently published book, "Impoundment of Health Funds by the Nixon Administration, an Analysis and Case Study: Colleges of Podiatric Medicine v. Ash and Weinberger."

The remarks follow:

COMMENTS BY JOHN GRUPENHOFF, PRESIDENT, SCIENCE & HEALTH PUBLICATIONS, INC.

The Administration has proposed an amendment to the pending HEW-Labor appropriations bill for fiscal year 1974. It would nullify the 29 favorable judgments totaling over $1 billion already won by health, education and welfare groups in their anti-impoundment suits, would cancel all other anti-impoundment suits now pending, and would permit the Administration to cut up to 5% from each line item of the appropriation (to a total of $400 million for the total bill) after it is passed into law.

Let us deal first with the language on the nullification of the court actions. It provides that if any federal funds are accepted by any program from fiscal year 1974 appropriations, such acceptance would discharge any claim for any fiscal 1973 impounded funds already freed for that program by the courts.

It is clear that a program which needed its promised federal funds so desperately last year that it was forced to sue the government would also need them in fiscal year 1974. The dilemma a program would face is simple: On the one hand, if it wishes to survive fiscal year 1974, it will have to forget about fiscal year 1973 impounded monies, even if it won them back in the courts. On the other hand, if the situation is desperate enough, the loss of the fiscal year 1973 monies alone would guarantee the program's failure. If it takes the former option, the Nixon impoundment strategy for fiscal year 1973 worked; and if the latter option is followed, the Nixon Administration, desirous of destroying or lessening the program, will have succeeded. Heads the program loses, tails the program loses. And the Administration, even if its actions were declared illegal by the courts, would win.

It is also clear that the amendment is probably unconstitutional, on three grounds: separation of powers, due process of law, and the right of petition. In a recent memo to Senator Magnuson on the amendment, by Mr. Jerome Wagshal, (who was the attorney of record in the case of *The Community Mental Health Centers* v. *Weinberger*, decided in favor of the plaintiffs on August 3, 1973) and several other lawyers all of whom participated in impoundment cases, the case against the amendment on the grounds of probable unconstitutionality was spelled out in considerable detail. A reading of this memo would be valuable to your understanding of this issue.

Because of the limited time given me for the presentation, I will comment only briefly on these issues.

Separation of Powers.—The amendment raises questions of undue encroachment by the Congress on the federal judiciary. The amendment would bar access to the courts, and the recipients of federal funds who seek court action are thus economically coerced from doing so. The courts have repeatedly ruled that each of the three branches of government must be able to act without control or coercive influence by any other. Additionally, the courts themselves have ruled that impoundment issues are justiciable, and not alone political.

Due Process of Law.—The amendment would require the plaintiffs to give up funds to which the courts have already ruled they are legally and constitutionally entitled, in order to gain fiscal year 1974 operating funds, which would seem to amount to a form of extortion. The Supreme Court has stated, "Retroactivity, even when permissible, is not favored, except on the clearest mandate". The court has also recognized that the provisions of the Fifth amendment prevent the deprivation of property or the right to it once legislative actions vest that property or the right to it in a person. (Of course, the courts have ruled in the impoundment cases that such a right to appropriated funds does exist.)

Right to Petition.—The Wagshal memo brings up another issue of constitutionality, which has not, so far as I can recall, been raised elsewhere, the right to petition. The argument is that the "right of access to the courts" has been held to be "one aspect of the constitutional right to petition." (*California Motor Transport* v. *Trucking Unlimited*, 404 U.S. 508, 510–1972.) Further, a law which has no other purpose than, "to chill the assertion of constitutional rights by penalizing those who choose to exercise them is patently unconstitutional", *Shapiro* v. *Thompson*, 394 U.S. 618, 631 (1969).

Certainly, these are very strong arguments, and from my point of view would be viewed favorably by the courts.

Why has the Administration proposed the amendment? Its action follows from the severe reversals it has received in the courts on the impoundment issue. Of the 33 cases heard in Federal district courts (almost 60 have been filed), 29 have been decided in favor of the plaintiffs. Two others have been dismissed without consideration on the merits of the case, one because the judge stated he lacked jurisdiction, and the other because the judge ruled the plaintiff lacked standing. The remaining two cases were heard on the merits. In one, the impoundment of some OEO funds in Chicago was ruled legal in a district court there; but shortly afterwards in a strikingly similar case on OEO in the D.C. courts, such an action was ruled illegal—it may be that the difference in decisions will be ruled upon in an appeal. In only one case, then, did the government win a clear-cut victory. That case involved an impoundment of housing funds by the Secretary of HUD, and the court ruled that the applicable law permitted the Secretary discretion in funding, and thus permitted impoundment. The Administration, at each loss, threatened appeal, but in fact has appealed only a few cases and has already released impounded funds in many of the others.

It is unlikely that the Supreme Court will rule quickly on the impoundment issue, as it recently declined to hear a Georgia impoundment case on original jurisdiction despite the fact that both the plaintiffs and the government attorneys requested a hearing. It is possible that a suit may be heard in the spring term, but until then, there are several months in which many of the nearly 30 unheard cases will be decided.

Additionally, there are many groups now deciding to move to sue, encouraged by the success of others. This movement is being reinforced by the rapidly growing body of legal literature and commentary and by the widespread reporting of decided suits by the newsletters and newspapers of the affected groups. Ad hoc attorneys meetings on impoundment abound, law schools are developing courses, and even the official organization of the State attorneys general is publishing newsletters on the subject. Clearly, a massive anti-impoundment movement is developing.

It should be noted, additionally, that the language used in the courts' decisions has given little comfort to the Administration. The legal arguments that the Executive possesses the power to impound on the grounds of the constitutional power of the President, historical precedent, delegated powers, and necessity to manage the national economy, all have been turned aside. Even the argument that the impoundment issue involves a legislative-executive struggle in which the judiciary has no role has carried little weight. For example, Judge Gesell of the D.C. Federal District Court stated in a recent case, that when the Congress directs that money be spent by the President, and he declines to permit the spending, "the resulting conflict is not political", and it is necessary "for the courts to interpret the law and resolve the conflict".

In a recent case (Colleges of Podiatric Medicine v. Ash & Weinberger) the judicial language was more blunt. The government attorneys asserted that Congress no longer effectively holds the power of the purse, because of its inability to establish national priorities and fund programs properly to meet them. The government attorneys, in the verbal argument, asserted that, "Congress is in a position where it is influenced by different interest group pressures and it would not want to be in a position of preferring one interest group over another, so it seems the Congress has left the authority to the President and the Executive Branch to determine which programs demand priorities over others".

This inference that the Administration is not affected by interest group pressures in determining national priorities, and therefore it can set priorities better, and thus should have the power to impound, carried little weight with Judge George Hart of the D.C. Federal District Court, who is known as a strict constructionist and a conservative. He put the issue simply, on October 26: "Well, of course, there is no question about the fact that the power to appropriate direct expenditure monies rests solely in the Congress. Now, Congress can, if they wish, give the President certain discretion in the matter, or they can direct that the money be spent and if they direct it, then whether it is foolish or isn't foolish, it has got to be done, if it is available . . ."

"It does seem to me in these matters relating to health that Congress decided that they were definitely not going to give the discretion or would not give the discretion to the Executive Department to determine what should or should not be spent, but were directing that it actually be spent."

"Now, whether that makes sense or not does not make any difference. It is the prerogative of Congress to spend money foolishly if it wants to, and the remedy is, I suppose, in the electorate."

Faced with these reverses, the Administration has now decided upon an alternative method of attempting to hold its impoundment program intact and has proposed its amendment. Consider the proposal's effect on the courts, the affected groups, and the Congress.

The courts have ruled consistently that the conflict may properly be settled on judicial groups. The Administration amendment effectively would remove the courts from any further consideration of fiscal 1973 impoundment matters, leaving those impoundments purely a political matter, and thus the enforcement of appropriation law a political matter.

The affected groups will become even more disaffected from the Administration than they have been by the impoundments alone. Those who have decided to sue have not done so easily—among the health groups especially there is uneasiness. They are historically conservative regarding legal action; they were concerned with their suits' impact upon administration program heads with whom they dealt daily and who themselves disliked impoundments and their effects upon the programs; and they were most concerned about "reprisals" from the Administration leaders if they did sue. Anyone who followed closely the discussions of the groups and associations who finally resolved to sue could see this pervading fear of "reprisals", a fear that was unspecific and therefore more ominous.

Additionally, most of these groups have believed that their suits would not only be seen favorably by the Congress, because the Congress authorized and funded them, but that they were supporting, by the suits, the Congress' efforts in the domestic field.

Finally, this Administration action will further catalyze these groups: over the last several years they have become increasingly politically aware and active, and it is certain that the latest action will only increase that militancy. Already many of these groups are girding themselves for still another battle, this time to sue on the grounds of unconstitutionality because of the separation of powers and due process, as well as the right to petition. U.S. district court judges, already weary of impoundment suits, will have to ready themselves for more. It is likely that the entire years of 1973–74 will be known as the years of "appropriations by litigation".

What about the Congress? It is now being asked to make legal an Administration program that the courts have ruled illegal and unconstitutional, and to do so with an amendment that at the least may be unconstitutional, but certainly in any case violates the spirit of legal fair play. The Congress is also being asked to pre-empt the support of its present ally, the judiciary, in the appropriations law enforcement question. If it would acquiesce to the Administration, it would deprive itself of part of a major strength it now has, the power of the purse, which would be doubly unfortunate at this time, when it is struggling so hard to regain a parity with the Executive on questions of national and international affairs.

The Administration knows that it is in very deep trouble on the impoundment issue, and is asking the Congress, whose intentions it has consistently disregarded on authorized programs and appropriations, to pull it out of the pit it has dug for itself. There is simply no other way out for it than to try to get the Congress to nullify the court action.

The President no longer can veto an appropriations bill, then impound funds provided in a continuing resolution which the Congress would pass in order to temporarily keep the government running. He cannot, because the courts have indicated by their rulings, that the continuing resolutions have the same force and effect as the appropriations law they temporarily replace. If he vetoes an appropriations bill, the Congress will respond with a continuing resolution, and it is becoming sophisticated in the use of this newly important instrument of appropriation, so much so that it is getting to be very much like an appropriation bill itself. And if the President vetoes the resolution, he stops the applicable part of the government. Thus, before the courts ruled on the continuing resolutions, he could veto appropriations and demand that the Congress keep the government running by a continuing resolution, then impound. Now the shoe is on the other foot—the President is confronted with the task of keeping the government running, because he cannot impound continuing resolution moneys.

Thus, the Administration's only way out is to block judicial rulings on impoundments. The Congress, consequently, is in a very strong position, a position it can lose only if it accedes to the Administration's request. It would be foolish to do so.

Finally, congressional acceptance of the second part of the amendment, which would provide the Administration with the opportunity to cut up to five percent of any appropriated line item (up to $400 million for the entire bill) would only weaken Congress' hand still further, unnecessarily.

This proposal, styled a compromise by the Administration, would permit expenditures under this bill to fall $37 million below the continuing resolution now in force (which provides for program expenditures at the House or Senate passed appropriation bill level, whichever is lower).

Why should the Congress move to accept it? As a matter of political power, it need not. If it chooses not to accept it, and does pass the bill, and should the President veto, he puts himself in the box just described above.

To sum up: The federal courts, interpreting the separation of powers and the power of the purse issues in Congress' favor, have gone a long way to helping to re-establish parity between the legislative and executive branches. This newly re-established parity can only be lost by the Congress if it desires to lose it.

Also, however, if the Congress really desires to hold on to the power of the purse, it must do more than say it wants to keep it. It must now restructure itself to establish a solid and workable budgetary program, which will require a high degree of institutional self-discipline.

AMERICAN—BEING NEIGHBORLY IS A TWO-WAY STREET

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. CHAPPELL) is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, it took the Canadian Broadcasting Corp. to bring into focus what many Americans have been saying a long time—that we rush to give aid to every country in the world when they have trouble but always are left to pull through our own crises alone. It is good to see that our efforts are appreciated by some.

The following is a copy of the CBC statement as printed in the Sarasota Herald:

STATEMENT

The United States' dollar took another pounding on German, French and British exchanges this morning, hitting the lowest point ever known in West Germany.

It has declined there by 41 per cent since 1971 and this Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people in all the earth.

As long as 60 years ago, when I first started to read newspapers, I read of floods on the Yellow River and the Yangtse. Who rushed in with men and money to help? The Americans did.

They have helped control floods on the Nile, the Amazon, the Ganges and the Niger.

This year the rich bottomland of the Mississippi was under water and no foreign land sent a dollar to help.

Germany, Japan, and to a lesser extent Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts.

None of those countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the American who propped it up and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquake it is the United States that hurries in to help—Managua, Nicaragua, is one of the most recent examples.

So far this year, 59 American communities have been flattened by tornadoes. Nobody has helped.

The Marshall Plan and the Truman policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplane.

Come on, let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles.

You talk about American technocracy and you find men on the moon, not once but several times and safely home again.

You talk about scandals and the Americans put theirs right in the store window for everybody to look at.

Even their draft dodgers are not pursued and hounded. They are here on our Canadian streets, most of them (unless they are breaking Canadian laws) are getting American dollars from Ma and Pa at home to spend here in Canada.

When the Americans get out of this bind—as they will—who could blame them if they said: "To Hell with the rest of the world."

"Let someone else buy the Israel bonds. Let someone else build or repair foreign dams or design foreign buildings that won't shake apart in earthquakes."

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When

> the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.
>
> I can name you 5,000 times when the Americans raced to the help of other people in trouble.
>
> Can you name me even one time when someone else raced to the Americans in trouble?
>
> I don't think there was outside help even during the San Francisco earthquake.
>
> Our neighbors have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their Flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.
>
> I hope Canada is not one of these.

I do not want America to thumb its nose at anyone, but I do want us to look long and hard at our assistance programs. Many of our own resources are dwindling and we need to be concentrating on conserving what we have and searching for new sources. While we want to remain neighborly with the other countries of the world, we are no longer in a position to act as benefactor for all the rest of the world.

Mr. Speaker, it is encouraging to read that others believe America will come out of this crisis with our flag held high.

THE TRUTH ABOUT USDA'S PROPOSED ACROSS-COUNTY-LINES COLOCATION OF FIELD OFFICES

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, in order that Members of the House are not misled by the Department of Agriculture's recent press release about providing one-stop service to farmers at its country offices, I have obtained a copy of the conclusions to the Department's work paper behind that proposed centralized location of offices which I believe should go in the RECORD.

The press release, quoting Secretary of Agriculture Earl L. Butz, assures us:

> We do not anticipate this program will force separation of any personnel. Dislocations will be minimal.

But their background paper raises my doubts and will raise the dander of farmers when they find that "colocation," or grouping of offices together in one building, may bring extra driving and inconvenience.

The conclusions section of the USDA colocation study which I have obtained indicates that 3,300 to 5,000 employees will be terminated and that 8,250 to 13,750 people will require compensation for movement of their households at an average cost of $1,600 to $1,800 each.

The background study indicates that 8,800 facilities will be involved, 800 will be eliminated, and that the current number of locations of USDA field offices will be reduced from 4,500 to 2,200. It also describes the colocations as "across county lines colocation."

There is an estimated one-time cost of the so-called intercounty colocation of offices in the $14 to $25 million range, but one of the Department's conclusions is that—

> At worst, the Department will break even financially while streamlining its field structure. At best it will realize substantial savings in personnel positions and expenditures.

The county ASC committees, Soil Conservation Service offices, Farmers Home Administration, and Federal Crop Insurance are primary targets for colocation.

There is an interesting timetable which indicates that key Members of Congress and the Office of Management and Budget were to be notified of the planned colocation by October 12, or no later than distribution of Secretary's memo.

As a member of the House Agriculture Committee, I had no notice of the plan before the paeans of praise for this one-stop service for farmers started pouring out in press release form recently with the assurance that "we do not anticipate this program will force separation of any personnel. Dislocations will be minimal."

I think I can understand now, coming from a State where they already have farmers traveling over 100 miles to some county offices, why I have not been advised about this across county lines colocation effort.

It seems to me appropriate that the Agriculture Committees hold hearings on what is planned, so we will all at least get some idea how much more gasoline is going to be burned getting to the 2,200 offices, out of 4,500, to be retained. Obviously, if 2 million farmers have to travel an extra hundred miles back and forth several times a year to county USDA offices, it will not contribute to energy conservation.

Of course, I can think of a few other reasons why some features of the colocation idea are of dubious merit. The idea of one-stop service for farmers is very laudable, but not if that stop involves a round trip of 200 miles to an understaffed set of offices. But the backgrounders themselves, you will find, have listed a few problems, including:

Disruption of county committee;
Some clients disadvantaged;
Institutional objections;
High one-time cost;
Disruption of work flow;
Space limitations;
Management structure needed;
Employee grievances, morale, resistance to change, and need for retraining.

The study indicates that Georgia and Florida are to be the guinea pigs for this new across-county-lines consolidation of offices.

It seems to me that this is another instance where Members of Congress might serve as the best original guinea pigs. Why not try it out—in all its honest detail—on the elected representatives of the people?

That step might just save the Government a few million dollars with very little one-time cost. Some of us country boys might be able to give Mr. Butz' management experts a pointer or two.

I include in the RECORD, first, the release of the Department of Agriculture announcing the attractive new one-stop services for farmers, and second, a section of "Conclusions" from the USDA Field Colocation Study by the Office of Information Systems, dated October 12, 1973, which outlines a few of the more realistic details:

SECRETARY BUTZ ANNOUNCES NATIONAL PROGRAM BEGUN TO PROVIDE FARMERS ONE-STOP SERVICE

> WASHINGTON, D.C., November 21.—A nationwide program is being initiated to modernize the U.S. Department of Agriculture's outdated field office system by establishing local U.S. Agricultural Service Centers to provide farmers, ranchers, and rural citizens up-to-date "one-stop service," Secretary of Agriculture Earl L. Butz announced today.
>
> In an effort to provide maximum service at single locations, USDA is initiating development of local U.S. Agricultural Service Centers to update the Department's existing 15,000 field offices which now function in many different organizational structures, the Secretary explained. A Steering Committee chaired by Under Secretary J. Phil Campbell has been established to direct the new program and the Office of Field Operations has been established under direction of Edward H. Hansen to carry out its objectives, he said.
>
> The program will involve approximately 7,800 offices at the local or county level in similar geographic areas operated by the Agricultural Stabilization and Conservation Service (ASCS), Farmers Home Administration (FHA), the Soil Conservation Service (SCS), and the Federal Crop Insurance Corporation (FCIC), Secretary Butz explained. Administrative committees in each state composed of the State Directors of the four agencies will develop plans which will vary according to geography, transportation network, farm population, workload and other factors.
>
> "We do not anticipate this program will force separation of any personnel. Dislocations will be minimal," he emphasized.
>
> Secretary Butz said establishment of Service Centers will "carry out the mandate of Congress spelled out in the Rural Development Act of 1972" which calls for location of all units of the Department concerned with rural development in single field offices and "the interchange of personnel and facilities in each such office to the extent necessary or desirable to achieve the most efficient utilization of such personnel and facilities and provide the most effective assistance in the development of rural areas . . . ."
>
> The Secretary said the Service Center program will also carry forward a USDA effort begun 11 years ago which achieved some colocation in 54 percent of counties with USDA offices. However, he said the degree achieved lacks uniformity and does not achieve maximum efficiency. He added that USDA has learned through its experience so far that the effort is a worthwhile one.
>
> "It's time we brought our field delivery system forward into the 1970's with concentration of services in single field offices at the county level wherever possible, the elimination of marginally effective offices, and groupings where more efficient services to farmers and rural residents can be achieved," the Secretary said.
>
> "We've asked farmers to use new farm programs and go all-out in food production next year, so we in government have a concurrent responsibility to go all-out to give farmers the most efficient and streamlined service in the field that's possible," the Secretary said.
>
> "This is impossible with our present field structure. Most of it has grown up independently of other agencies since the 1930's and there's little of the coordination we should have. As a result, most farmers have to run all over town to do business with us. In this modern age, that's inexcusable."

The Secretary pointed out that with farms growing larger in size and farther apart, farmers are planting and harvesting more acres and need more time to concentrate on selling in the marketplace. "They have less time to spend running from one place to another because of an outdated USDA office system," the Secretary explained.

In addition, the Secretary emphasized the need to reduce confusion among rural citizens who seek assistance from USDA in housing, community facilities, water and sewer, and industrialization programs. A streamlined county-level office structure should enable rural citizens to get comprehensive and more specialized assistance at one location at the local level.

Secretary Butz said the Department is already reorienting its administrative capability in Washington to provide farmers and ranchers a more effective field delivery system. Establishment of new offices will permit USDA at the local level to provide more technical assistance, more information and other services not now feasible with a widely-dispersed, multiple-agency field office system, he added. Upgraded communications capability, computer terminals, and modern business equipment are planned for each office.

He said the Service Center program will:

Permit a fuller range of services to farmers, ranchers, and rural residents at each local office;

Reduce client travel in many cases by eliminating multiple office visits;

Integrate mutually supportive programs;

Allow a fuller range of technical expertise a county-level site rather than state or regional;

Enhance the effectiveness of field employees through broader knowledge of USDA programs;

Reduce duplicated overhead costs;

And centralize equipment use.

USDA FIELD COLOCATION STUDY
OFFICE OF INFORMATION SYSTEMS,
October 12, 1973.

CONCLUSIONS

Co-location across county lines will:

Accrue significant savings through economies of scale and reduction of personnel by facilitating functional integration.

Provide for improved clientele service by facilitating functional integration by facilitating a wider range of technical expertise.

Provide potential for increased administrative efficiencies.

(NOTE.—The following cost and savings estimates are conservative.)

IMPLICATIONS: ESTIMATED ONE-TIME COST

	Low	Expected	High
Number of offices to be moved	2, 700	3, 600	4, 500
Average cost per office move	×$125	×$150	×$175
Cost of moving offices	$337, 500	$540, 000	$787, 500
Number of people requiring compensation for movement of household	8, 250	11, 000	13, 750
Average cost per household moved	×$1, 600	×$1, 700	×$1, 800
Cost of relocations	+$13, 200, 000	+$18, 700, 000	+$24, 750, 000
Estimated total one-time cost	$13, 537, 500	$19, 240, 000	$25, 537, 500
Range of one-time cost, $14 to $25,000,000.			

IMPLICATIONS: ESTIMATED ANNUAL SAVINGS

	Low	Expected	High
Number of offices merged with offices of same agency	600	800	1, 000
Average cost of operating an office	×$1, 750	×$2, 000	×$2, 250
Annual operational savings	1, 050, 000	1, 600, 000	2, 250, 000
Number of people in offices to be consolidated	33, 000	33, 000	33, 000
Percent personnel reduction possible	×.10	×.125	×.15
Number of fewer people required	3, 300	4, 125	4, 950
Average annual salary plus benefits	×9, 500	×10, 000	×10, 500
Annual personnel savings	+31, 350, 000	+41, 250, 000	+51, 975, 000
Number of offices moving to rented space	1, 000	1, 500	2, 000
Average additional rent	×1, 750	×2, 500	×2, 250
Annual additional rent cost	−1, 750, 000	−3, 000, 000	−4, 500, 000
Estimated total annual savings	30, 650, 000	39, 850, 000	49, 725, 000
Range of annual savings, $30 to $50,000,000.			

ESTIMATED IMPLICATIONS BY END OF EACH FISCAL YEAR

	Fiscal year—				
	1974	1975	1976	1977	Total
Offices moved (percent)	15	50	35		
Low	405	1, 350	945	0	2, 700
Expected	540	1, 800	1, 260	0	3, 609
High	675	2, 250	1, 575	0	4, 500
Personnel reduced (percent)		25	50	25	
Low	0	825	1, 650	825	3, 300
Expected	0	1, 025	2, 050	1, 025	4, 100
High	0	1, 250	2, 500	1, 250	5, 000

CUMULATIVE COSTS AND SAVINGS

[Millions of dollars]

	Fiscal year—				
	1974	1975	1976	1977	1978
Cost:					
Low	2	9	14	14	14
Expected	3	13	19	19	19
High	4	17	25	25	25
Savings:					
Low	0	4	19	45	75
Expected	0	5	25	60	100
High	0	6	31	75	125

CONCLUSION

Even with substantial variation from estimated figures, co-location makes sense. At worst, the department will break-even financially while streamlining its field structure. At best it will realize substantial savings in personnel positions and expenditures.

Implications—overall

Total facilities involved	8, 800
Facilities to be eliminated	—800
Facilities remaining	8, 000
Current number of locations	4, 500
Locations to be eliminated	2, 300
Locations remaining	2, 200
Estimated personnel reduction	4, 125
Estimated one-time cost	14–25 million
Estimated annual savings	30–50 million

AND IMPROVED ONE-STOP SERVICE

Benefits

Service effectiveness:

Permit fuller range of services—reduce client travel time in many cases; integrate mutually supportive programs; permit fuller range of technical expertise available at one site (generalist vs. specialist); enhances effectiveness of each employee through broader knowledge of USDA programs; centralizes information flow; centralizes equipment use; computer terminals; wats line; and files integration.

Economy:

Reduce personnel costs—share clerical and support personnel; reduce administrative costs.

Management efficiency:

Functional integration potential—reduction of program/service overlap; centralization at the local level.

Problems

Political:

Disruption of county committee—some clients disadvantaged and institutional objections.

Functional:

High one-time cost—disruption of work flow; space limitations; and management structure needed.

Employee:

Grievances; morale; resistance to change: need retraining.

Recommendations

Co-location be undertaken and directed toward: co-location across county lines, and functional integration.

	Number of offices	Personnel
Primary candidates for colocation:		
Most county-level offices of—ASCS, FHA, FCIC, SCS	8, 212	27, 500
Additional candidates for colocation:		
Some local offices of—AMS, FNS, APHIS, OGC	611	5, 200
ASCS (management) OIG	8, 823	32, 700

* Implementation start on a pilot basis: two States—Florida and Georgia.

Implementation plan and date completed by

1. Present plan to under Sec. & Sec.—revise as necessary & obtain approval, October 5, 1973.

2. Inform Asst. Sec. & key agency & staff office heads, October 5, 1973.

3. Select project director, October 5, 1973.

4. Finalize action plan (including public information strategy) with Under Sec. & Sec., October 12, 1973.

5. Establish departmental steering committee, October 12, 1973.

6. Identify task force members: program agency representatives (5–6); staff office

representatives (5–6); and communications representative (1), October 12, 1973.

7. Prepare & distribute Sec. memo, October 12, 1973.

8. Notify key members of Congress & OMB as appropriate, but no later than distribution of Sec. Memo, October 12, 1973.

9. Notify GSA & others as appropriate (including State administrative committees, October, 19, 1973.

10. Prepare presentation package, October 19, 1973.

11. Develop co-location plan for pilot State: State Admin. Committee (SAC) to meet with Sec. to initiate project, October 19, 1973.

SAC & task force formulate guidelines and work plans, gather workload data, November 2, 1973.

Preliminary action plan completed, November 12, 1973.

Action plan finalized & issued, December 10, 1973.

12. Begin pilot co-location, December 17, 1973.

13. Finalize national action plan, March 18, 1974.

14. Expand to national basis using model developed from pilot effort.

Key issues to be resolved by pilot effort

1. Test the accuracy of assumptions and estimates.

2. Determine adequacy of scope: impact on non-PFT personnel and impact on State and regional and district offices.

3. Determine appropriate administrative system: degree of integrating field office management; problems associated with single office director concept, and mechanisms to coordinate field activities from Washington.

Identify complications in acquiring adequate office space and terminating lease agreements.

5. Determine best way to involve State administrative committees.

6. Determine nature and degree of local support and/or opposition and best ways to use the former or counteract the latter.

7. Develop detailed guidelines and procedures for national implementation.

Summary

An aggressive multicounty colocation effort would: result in the moving of 2,700–4,000 offices; facilitate the reduction of 3,300–5,000 personnel; entail estimated one-time costs of $14–25 million, and permit estimated annual savings of $30–50 million.

And would yield the benefits of: enhancing one-stop service; facilitating improvements in administrative efficiency, and facilitating functional integration.

SPECIAL PROSECUTOR

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House the gentleman from Illinois (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Illinois. Mr. Speaker, today I am introducing a bill on the subject of the special prosecutor for Watergate matters. This subject has occupied the interest of both Houses of Congress. The primary purpose of the legislation introduced in both Houses thus far has been to seek to obtain an independent special prosecutor with adequate authority to pursue all relevant and pertinent evidence with respect to wrongdoing, including alleged evidence that the President may or may not have participated in such wrongdoing.

The difficulty with the legislation introduced so far has been with respect to drafting a constitutional bill on this subject. Most of the legislation has proceeded toward giving either the courts the authority and the duty to select a special prosecutor, or putting that authority in the Congress, or giving the Senate the right to advise and consent with respect to the selection of a special prosecutor.

Another related matter is trying to provide that the inedependent prosecutor appointed not only has the authority adequate to do the job, but also that he will be secure in his tenure. That he will not be discharged if it looks like he is making some headway or is in disagreement with the President.

I believe it is important that we consider these matters, in view of the background and in view of the need to instill confidence in the American public with respect to this investigation. My bill meets all the constitutional and substantive requirements.

First, it recognizes that the selection should be by the executive branch of the Government. That either a judicial or legislative selection would be unconstitutional. The next thing the bill does, after giving the duty to select the special prosecutor to the Attorney General, is to secure to the special prosecutor the rights and the authority which are contained in the regulations published by the Attorney General on this subject.

Next, my bill provides that the special prosecutor cannot be discharged except for certain causes: death, physical disability or mental disability, gross impropriety, and for similar acts. My bill also provides that if it is determined that the special prosecutor should be discharged, the House of Representatives and the Senate must be given 30 days' notice, and the discharge will not be effective if within that 30-day period Congress would disapprove of such action.

The appointment of Leon Jaworski as special prosecutor, is a fact that has already been consummated, and under my bill the Attorney General would have the right to reaffirm that selection.

I believe Mr. Jaworski has the confidence of the majority of the American people. He will then have the authority under the regulations promulgated by the Attorney General. He will have the same staff that Mr. Cox did. Further, he will have tenure that will be secure, so that he cannot be discharged unless and until this Congress would see fit to approve his discharge. I request my colleagues to examine the merits of this bill and their support.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, today I voted against the conference report on the American Revolution Bicentennial Administration (to accompany H.R. 7446). The reasons for this are simple.

First, the legislation is not going to commemorate the American Revolution. What apparently is going to be celebrated is a decentralized hodgepodge of local historical events with little or no chronological or geographical relationship. They may be related to the American Revolution in no way. The history and geography of 1776 are being ignored. Custer's Last Stand. The California Gold Rush. The Alamo. Such events as these, while important nationally, have nothing to do with gaining our freedom from England, although they may be appropriate for States and municipalities to celebrate. They occurred years later, however, and have little to do with the revolution that occurred almost 200 years ago and which is meant to be the focal point of our national observations.

Second, there is inadequate leadership on the Federal level. Funding is totally inadequate. People in the States and cities are crying for help and guidance.

Third, there is no program now or planned which will adequately acquaint the people with what is being planned. Americans from all over the country will be visiting other parts of our Nation for the first time. Foreign travelers by the millions, from Europe, South America, and the Orient will visit our country. No program exists which will properly let these people know the "what, where, when, why and how" of the celebration.

As far as I can see, if an effective celebration of our 200th birthday is to be held it will have to be done by the States. Virtually no help can be counted on from the Federal Government in Washington.

And finally, if things continue as they are, our country will be commemorating its tricentennial before the Bicentennial Commission gets through with even the necessary preliminary planning for what it is going to do.

I WOULD SURE LIKE TO HEAR

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the Delaware County, Ohio, Republican newsletter "Partyline" published a very interesting and enlightening article by Betty Horn, president of the Women's Club.

Members of Congress, Mr. Speaker, as well as the people across America, should be interested in these views which do not surface often in the liberal segment of the media.

The article follows:

I WOULD SURE LIKE TO HEAR

(By Betty Horn, president, Delaware County Republican Women's Club)

I'd sure like to hear . . . President Nixon make a speech without 2 or 3 interpreters or analysts, as they call themselves, explaining what he really meant. Aren't the American people smart enough to understand what the President has to say without the TV newsmen trying to interpret for them? I'd sure like to hear . . . more reliable reporting and less instant analysis of the news. Why is it unheard of to listen to facts, so we can evaluate them ourselves? Would our conclusions differ with those presently analyzing the news? I'd sure like to hear . . . President Nixon announce plans to do one thing that the news media doesn't jump on immediately—stating how Congress and the Senate won't go along with it.

I'd sure like to hear . . . More about the accomplishments of the Nixon Administration such as the end of the war in Vietnam, the return of the POW's, the end of the draft, the reduction of unemployment, fiscal responsibility, the peace-making endeavor now in progress with the Arab-Israeli war, and all the other accomplishments so soon forgotten.

I'd sure like to hear . . . all our Congressmen and Senators stand behind our President and quit contributing to the mass hysteria created by the electronic media. I'd sure like to hear . . . that Americans are presumed innocent until proven guilty, that our President should receive as much consideration in this matter as any other American.

In President Nixon's first Inaugural Address he said, "We cannot learn from one another until we stop shouting at one another—until we speak quietly enough so that our words can be heard as well as our voices." That was good advice on January 20, 1969. It seems even better advice today—better for everybody concerned.

TO FUND A CRASH PETROLEUM EXPLORATION PROGRAM

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MEEDS. Mr. Speaker, I am today introducing legislation to fund a crash exploration program for Naval Petroleum Reserve No. 4 in Alaska. The $200 million survey would be under the direction of the Secretary of the Navy, which administers U.S. petroleum reserves for national defense.

There is no question about our Nation's need for a dependable petroleum supply in the future. The current energy crunch makes it imperative that we explore all continental reserves to ward off disaster in the years ahead.

Naval Petroleum Reserve No. 4 was set aside in 1923 and remains only lightly explored on Alaska's North Slope. It covers 37,000 square miles, nearly the same as the State of Indiana. A $50 million survey of reserves during and after World War II confirmed suspicions of vast underground petroleum but no definitive work has been done since.

The reason for neglecting this potentially vast reserve was transportation. But now Congress has authorized construction of the trans-Alaska pipeline and brought the North Slope closer to production.

My bill appropriates funds for study only. Pet 4 cannot serve the national defense and improve the energy situation until we at least know what is there.

COMMON CAUSE, HAYS STILL LOCKED IN DISPUTE

(Mr. JAMES V. STANTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. JAMES V. STANTON. Mr. Speaker, I include with my remarks an article from the Plain Dealer, Sunday, November 25, 1973, by Robert J. Havel of the Washington Plain Dealer bureau.

Although the article is critical of Congressman Hays in some instances, I consider it to be an objective article and I think it would make educational reading for every Member of Congress.

The article follows:

Common Cause, Hays Still Locked in Dispute

(By Robert J. Havel)

Washington.—The simmering feud between Common Cause and those who concoct campaign legislation in the House has been shunted to a back burner because of the pot-pourri of political potboilers that continue to whet the public appetite.

But the dispute between the "people's lobby" and principally, Rep. Wayne L. Hays, W-18, Flushing, is indeed still bubbling. It probably will not come to a full boil until next year.

Common Cause will not hesitate to tell you—and rightfully so—that it was instrumental in pushing through the Senate tough campaign reform legislation that it hopes will lead to some form of public financing of political campaigns, Hays, head of the House Administration Committee, is in no hurry to press for similar action.

There will be no such bill out of the House this year, Hays says, and darkly warns that he intends to bring Common Cause under the financial reporting requirements of any bill that emerges.

At issue is whether Common Cause, three years old and 280,000 members strong, is a political organization and therefore subject to reporting requirements of campaign law rather than the less stringent demands of the lobbying law.

One nationally syndicated columnist pointed out that Commons Cause headquarters throbs with more political activity than either the Democratic or Republican national committee. This would seem to equate Common Cause with political organizations.

Another writer labeled Common Cause a political organization interested in opening up the American political system.

An organization that issues reports on fund-raising organizations has none on Common Cause because, it states, it does not undertake to report about organizations operating primarily in the political field.

Federal law defines a political committee as any group that raises money and spends it to influence a federal election.

"We're a lobby and not a political organization," insists John W. Gardner, chairman of Common Cause. "We don't get involved in political races on the basis of personalities. We get involved in issues. We do not give or take political money. We're scrupulous about not endorsing or opposing a candidate and raising or giving political contributions."

Hays expresses mock surprise that Gardner should insist on such a narrow definition of "political committee." He says Common Cause spends "substantial amounts of money mainly to promote press releases against those who don't bow to their wishes.

"I think this is a political effort and so does everybody else," he continues. "They don't endorse, but they hammer people. This has the same effect of being involved in a campaign.

"It's illogical that an organization that demands total and full disclosure is unwilling to submit to the same canons it would impose on others. If Common Cause has nothing to hide, it has nothing to fear."

Gardner insists he has nothing to hide or fear. It is standard procedure for Hays to "threaten anyone who disagrees with him," Gardner adds.

"Common Cause should make complete disclosure and it does now," he says. "We file the most complete report of any lobbyist. We file a full report to the Internal Revenue Service. We have a yearly audit. We report to members on how we spend their money. We keep a record of all contributions of over $100 and make it available to anyone who wants to look at it.

"But we're willing to do it in other forms. We'd post it in the town square if that's what they ordered us to do."

Bringing Common Cause under a political-reporting law would do it no harm, Gardner says, because Common Cause already observes limitations on contributions. It would cut off corporate and union gifts, he says, "but what we get from either source you could put in your eye." Such gifts are illegal to political committees.

About 97% of Common Cause money—it raised more than $4.1 million in the first three quarters of this year—comes from the $15 annual dues each member pays and from gifts of less than $100, Gardner says.

In its lobbying reports for the year Common Cause accounts for spending about 20%—$680,000—of the $4.1 million it has received. The $680,000 went for public relations and advertising, wages and salaries, printing and mailing, office expenses, telephone and travel.

Where does the rest go?

"The biggest single expenditure is for membership recruitment," Gardner acknowledge. "Building a membership base is absolutely crucial." Gardner, incidentally, receives no salary.

In its 1972 Form 990, which organizations exempt from income tax are required to file with IRS, Common Cause listed expenditures of $1.6 million for postage and mailing, printing and publications, computer processing, consultant fees and mailing lists and advertising. Reported receipts totaled $3.4 million. This is considered a good rate of return by fund raisers.

In a recent report, Common Cause listed among the successes it helped win "an end to U.S. military action in Indochina, congressional committee decisions made out in the open, the highway trust fund busted . . ."

"So far they have not been effective on campaign reform," the liberal says. "Common Cause no less than anybody else can carry these things off by itself."

A conservative critic, who also chooses to remain anonymous, bristles at Common Cause's claim of nonpartisanship.

Of the 44 listed on Common Cause's 1972 governing board, he says, 26 are "hard Democrats," several of them substantial contributors to Democratic presidential candidates. At best, he says, the board has only three Republicans, including Gardner, and one "probable" Republican. Among Republicans, Gardner's GOP credentials are suspect.

Gardner emphatically denied Hays' charge that Common Cause spends millions "exclusively at the direction of two or three people."

"Decisions are made by the board of directors," he says. "If our members don't like those decisions they can vote against us by not renewing their memberships. That is important."

He points out that anybody can run for the board by getting a petition signed by 20 persons and that a referendum establishes priority issues. The response to the referendum, however, is fractional.

"We never go below the fourth-ranking priority," Gardner says. "The board meets and turns priorities into battles. It's fairly essential that the board agree fully on an issue. You can't operate effectively with a divided board."

But the board has never turned down a staff-initiated position, and there is no doubt in most minds that John Gardner IS Common Cause.

While many other groups operating in the political arena barely wallow along through Watergate, Common Cause continues to grow and flourish almost strictly because of Watergate, according to Gardner. It got perhaps its biggest boost when it won the case to force President Nixon's re-election committee to disclose its contributors before April 7, 1972. It was a triumph for which Common Cause can take full credit.

Prior to Watergate, Common Cause's membership showed signs of slippage.

Operatives in allied fields attribute Common Cause's initial successes to a tidy sum of seed money and to the fact that a "citizens' lobby" was an attractive idea. But they see a tailing off of its appeal.

"No problems are created by belonging to Common Cause," one said. "It appeals to the moderate center and that's the biggest group to appeal to.

"But the good-government-type organizations usually go sterile."

Common Cause is working to evade this eventuality. It is building a grassroots field organization that it hopes to have operating in all 435 congressional districts this year.

"By next fall," says Jack Conway, president of Common Cause, "we're going to be in every single congressional district and in every Senate race on our reform issues, and we'll be felt."

That, says Wayne Hays, is politics.

THE IMPEACHMENT PROCESS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the letters pouring into my office supporting the impeachment process continue unabated. As of now, the count is approximately 5,400. Those in support of impeachment proceedings outweigh those in opposition by 5,400 to 160. The mail supporting the initiation of impeachment proceedings began after that infamous Saturday of October 20 when the President indicated that he would not obey the order of the U.S. District Court Judge John J. Sirica. That action caused more than 100 of our colleagues, myself included, to sponsor resolutions initiating the Judiciary Committee's impeachment proceedings. The House has authorized $1 million for the committee's use in retaining an investigatory staff and doing all that is necessary to expeditiously report to the House of Representatives whether or not the President has committed impeachable acts.

Almost every day since the Watergate investigations started, the President's credibility has been impeached by actions on his part and those of his associates. The public has become weary of the continuing flow of revelations and administration excuses that seem to become more preposterous as time goes on. The country's tolerance is worn and there is an understandable desire that this matter be resolved with dispatch. At the same time, most Americans appreciate the importance of not allowing the passions of the hour to corrode two gems of our Constitution: civil rights and civil liberties. We must acknowledge that the President, too, has civil rights and liberties that deserve equal protection.

While I believe that a careful investigation must be made of the allegations brought against the President, to say that I have no opinion on this matter would be neither truthful nor credible. I do believe that there is strong reason to believe that the President has engaged in actions which can be described as obstruction of justice. At this time I anticipate awaiting the report of the Judiciary Committee before making a final determination on impeachment. After reviewing the evidence that the committee uncovers and the case it advances, I will not hesitate to cast my vote for impeachment if I believe that a prima facie case has been established against the President warranting his being tried by the Senate—even were the Judiciary Committee to make a lesser recommendation.

The latest episode involving the President's taped conversation with H. R. Haldeman and its erasure by an alleged error committed by the President's secretary, Rose Mary Woods, strains one's credulity, to say the least, and further destroys the President's credibility.

The impeachment of a President for having committed "high crimes and misdemeanors" is a step which should not be taken lightly but is one that must not be shunned if warranted. I will fulfill my sworn obligation to uphold and defend the Constitution.

SOVIET OPPRESSION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, many of those who have lent their support to the cause of Russian Jews and intellectuals were recently given some cause for optimism at what appeared to be a lull in Soviet repressive tactics. If that optimism were ever justified, it is no longer. Dissidents are clearly in the midst of a grievous escalation of political harassment and court proceedings. Christopher Wren writes in today's New York Times that dissident Soviet mathematician Yuri A. Shikanovich has gone to trial after 14 months of incommunicado detention. He was not permitted to attend his trial on grounds of insanity and was committed indefinitely to a mental hospital. His lawyer has never been allowed to meet him. The Shikanovich case is matched by others equally serious that have emerged in recent weeks. Consider the following actions against Soviet Jews:

First. On November 13, Pieta Pinkasov, a carpenter, was sentenced to 5 years in a labor camp. The charge was that Pinkasov had performed some illegal freelance work. He and his family had previously obtained visas to Israel. They were set to leave when Pinkasov was arrested.

Second. On November 19, the trial of 26-year-old Aleksandr Feldman began in Kiev. The charge is "malicious hooliganism." Feldman has been trying for 2 years to emigrate.

Third. On October 25, Leonid Zabelishensky, an unemployed electrical engineer who taught at the Ural Polytechnic Institute, was arrested and charged with "parasitism." The investigation by Soviet authorities continues even though Zabelishensky is currently taking care of their sick son and his wife works and earns a susbtantial income. The Zabelishenskys had applied for exit visas in 1971.

These cases give a brief indication of what is presently occurring on a massive scale. I could cite numerous additional instances of intellectuals and Jews brought under investigation, put on trial, or forcibly confined—all during the past month. Every new wave of repression further consumes my faith in the efficacy of diplomatic appeals by the American leadership and public appeals by concerned American citizens. These efforts seem to induce more change in the appearance of Soviet policy than in its conduct. It is time for the Congress to realize that the Soviet Union will never allow its Jews and intellectuals to live in peace unless it becomes materially costly to do otherwise. I must again speak to the moral sensibilities of my colleagues to ask them to deny the President discretion to grant most favored nation status to the Soviet Union unless it guarantees freedom of emigration. The unceasing message from the victims of Russian persecution is that Jackson-Mills-Vanik is their only hope. If that hope is extinguished, we must bear the responsibility.

OPERATION DISNEY WORLD

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, the American public has been subjected to a steady barrage of startling disclosures, revelations, and discoveries regarding the conduct of the President and his closest associates and staff. After much prodding by the press, members of his own party and occurrences which he could not overlook, the President, on October 26, launched "Operation Candor."

A well-researched and objective analysis of those first offerings was carried in Washington Post editorials entitled "Operation Disney World."

The text of these three editorials follows:

OPERATION DISNEY WORLD (I)

Working our way laboriously through the transcript of President Nixon's extraordinary performance last Saturday night before the Associated Press Managing Editors at Disney World, it struck us with increasing force that on a number of specific points the President is not exactly clearing up the record on Watergate and related matters. Rather, he seems determined to add to the public's confusion at almost every turn. The President would have us believe, of course, that with Operation Candor (as the White House has called it) he is at long last setting out to sweep away public misapprehensions—that he is helping us to get to the bottom of the Watergate affair, once and for all. Yet, picking and choosing almost at random, one finds disturbing distortions of the record and misrepresentations of the facts. By way of a beginning effort to set the record straight, we would deal today with the President's misuse of two of his predecessors in office—Thomas Jefferson and Lyndon Johnson—in attempting to defend actions of his own.

Mr. Nixon's persistent use of the "Jefferson rule," as he called it in his Saturday night appearance, is startling. This is the second time in a month that the President has distorted the facts regarding the issuance of a subpoena to President Jefferson by way of justifying his own performance in the matter of the Watergate tapes. In his press conference on October 26, Mr. Nixon said that the court had subpoenaed a letter which President Jefferson had written and Mr. Jefferson had refused to comply, but rather had compromised by producing for the court a summary of the contents of the letter. Saturday night, he went further. He began his answer to a question having to do with executive privilege with the astonishing assertion that, "I, of course, voluntarily waived privilege with regard to turning over the tapes." This is a curious way to describe his ultimate decision to obey an order of the Federal District Court—an order which he first appealed to the U.S. Court of Appeals. Having lost the appeal he then tried to compromise the issue with the famous Stennis proposal which cost him the resignation of his Attorney General and his Deputy Attorney General in the course of his efforts to fire the Watergate Special Prosecutor who had originally requested the tapes. Having rewritten this recent history, the President went on to elaborate on the "Jefferson Rule" and to rewrite some more. He repeated his version of the Jefferson case which he had given us in October and went on to say that John Marshall, sitting as Chief Justice, had ruled in favor of the Jefferson "compromise."

In just about every important aspect, it simply didn't happen that way. To begin with the letter was not written by President Jefferson. It was written to him. What is more, Mr. Jefferson agreed to testify in the case under oath (although he wanted to do so in Washington, rather than journey to the court in Richmond). And he sent the entire letter—not a mere summary—to the U.S. Attorney who in turn offered it to the court and authorized the court to use those portions "which had relation to the cause." Chief Justice Marshall, moreover, never ruled in his capacity as Chief Justice on any such compromise; he ruled as a trial judge in a lower court. So much for the misuses of Mr. Jefferson.

Now for President Johnson and Mr. Nixon's taxes. The first thing to be said is that the President was offered a specific opportunity to deny published reports that on a total income of $400,000 for the years 1970 and 1971 that he paid only $1,670 in income taxes. He did not deny it, but rather admitted that he had paid "nominal" taxes for those years. He then said that the fact that his taxes were nominal was not a result of "a cattle ranch or *interest* or all of these gimmicks . . . " Perhaps so. But it would be somewhat surprising if Mr. Nixon did not deduct interest from his gross income for those years. The figures the White House has put out concerninng the transactions by which he acquired his Key Biscayne and San Clemente homes indicate that he paid substantial sums in interest in those years, and it is hard to figure out any other way he could have arrived at such a "nominal" obligation.

His own explanation for that "nominal" obligation was that President Johnson told him shortly after he became President in January, 1969, that he ought to donate his vice presidential papers and take a deduction for them. There are two things puzzling about the idea that Mr. Nixon was merely taking his cue from his predecessor. One is the inference conveyed by Mr. Nixon that all this was new to him; in fact, he had made such a donation of some of his official papers in 1968, prior to taking office as President. The second, and far more important thing that is puzzling about Mr. Nixon's story is his suggestion that Mr. Johnson had established the precedent and that both men followed the same general policy in their handling of the tax aspects of their official papers. Prior to 1969, they apparently did just that. But in 1969, Mr. Johnson made a careful decision not to do what President Nixon did, for very precise reasons having to do with propriety.

The facts of this matter are that in 1969 Congress was debating a significant change in the Internal Revenue Code which might have precluded anyone from taking such a deduction from this sort of gift of papers or documents. Both Mr. Johnson and Mr. Nixon expressed their opposition to this change in the tax rules but until late in the year it was unclear which way Congress would resolve the issue—or when any change would become effective. Under the circumstances, Mr. Johnson decided that it would be unseemly for a former President to attempt to make such a gift in an effort to beat a congressional deadline and so he did not do so—reportedly at a cost of millions of dollars to his heirs. Mr. Nixon, by contrast, made a gift that year of papers valued at more than $500,000 and took what he claimed to be the appropriate deduction.

So much for the inference that Mr. Nixon was only following President Johnson's lead. Beyond that, there is an even larger question—not specifically raised by the editors and consequently ignored by Mr. Nixon on Saturday night—as to whether what he did in 1969 with respect to his gift of papers and claimed tax deduction was in accordance with the requirements of law—quite apart from its propriety in the context of the congressional debate and the likelihood of an imminent change in the rules. Speaking of his predecessor, Mr. Nixon said that Mr. Johnson "had done exactly what the law required." What remains to be seen, as we have noted repeatedly in this space, is whether Mr. Nixon, in this particular instance, can make that same claim for himself.

We do not mean to say that the President does not have a cogent defense of his tax deductions, or of his policy toward the release of his tapes—or of any of a number of other charges and allegations that have been raised in connection with his performance in the broad category of matters which come under the broad misnomer of Watergate. We would simply argue (and we will be returning to the argument in this space) that the President is unlikely to clear the air and resolve public confusion in any conclusive way by the sort of muddying of history and misrepresentation of facts which characterized so much of his appearance before the managing editors on Saturday night in Disney World.

OPERATION DISNEY WORLD (II)

(Note.—If it had gone to the Supreme Court—and I know many of my friends argued, "Why not carry it to the Supreme Court and let them decide it?"—that would first, have had a confrontation with the Supreme Court, between the Supreme Court and the President. And second, it would have established very possibly a precedent, a precedent breaking down constitutionality that would plague future Presidencies, not just this President.)

Thus Mr. Nixon, in his Saturday night question-and-answer session with the Associated Press Managing Editors, elaborated on his reasons for failing to carry his fight to protect the secrecy of the White House tapes subpoenaed by Archibald Cox to the Supreme Court. We cite at some length his remarks on the subject because they strike us as characteristic of the quality of the President's defense as a whole. It is marked by a perpetual shifting of argument, a series of astounding assumptions and a facility for distorting the facts of the case.

Consider only the quotation we have cited. Mr. Nixon, who on October 20th was declaring he was "confident" he would have won an appeal to the Supreme Court but didn't think it would be wise to leave the question open for the time it would take the Supreme Court to rule, now suggests that the prospect of losing was a strong factor in his decision not to appeal. So far as astounding assumptions are concerned, we invite your attention to the President's assumption that a Supreme Court ruling against him would have been of dubious constitutionality (surely the thing works the other way round). And finally, on the facts of the matter, does anyone have any doubt that the reason the President abandoned his plan to seek a Supreme Court test was that he considered he had a better chance of preserving the secrecy of the tapes by cooking up his so-called "compromise" or that he ultimately only agreed to release them to Judge Sirica as a consequence of the uproar brought on by his mishandling of Mr. Cox and the issue as a whole?

Yesterday in this space we addressed ourselves to Mr. Nixon's discussion of his taxes and to his misuse of two of his predecessors in the course of justifying his actions. Today we will deal briefly with the President's arguments concerning the Watergate case itself.

Mr. Nixon's observations on the Watergate case, of course, revolved around the twin issues of Mr. Cox and the forbidden tapes. It is at least curious that the President who had a great deal to do with delaying Mr. Cox's investigation had the temerity to complain about that delay. Thus Mr. Nixon who earnestly discussed the reasons it had taken him so long to discover that two of the tapes did not exist and who, at least by indirection, acknowledged that he himself had been in a protracted and time-consuming legal battle with the Special Prosecutor concerning the White House documents that would be made available to the prosecution, in the same breath observed that the Special Prosecutor had taken much too long to get his cases into court. What does Mr. Nixon think Archibald Cox was doing for much of that time—if not battling the White House in order to acquire the material he regarded as necessary to bring those cases in an orderly and effective way, material which Mr. Nixon sought to deny him?

When Mr. Nixon observed that Assistant Attorney General Henry Petersen, who was replaced on the Watergate case by Mr. Cox, claimed to have had the case 90 percent completed when it was put in Mr. Cox's hands, he again misled his audience. That is because, in the first place, Henry Petersen was referring exclusively to the case concerning the burglary of Democratic headquarters on June 17, 1972, and the subsequent cover-up, and in the second place, because Mr. Petersen's claim referred to a period before it had been revealed that any White House tapes even existed—a revelation that inevitably produced attempts on the part of the Special Prosecutor to gain access to this potentially crucial new evidence.

Nor does the President's explanation of his delay in informing the court of the nonexistence of two of the subpoenaed tapes overwhelmingly persuade. If Mr. Nixon is so clear in his mind that he made the June 20, 1972, phone call to John Mitchell on a White House telephone that was not part of his recording system—he even recalls that he was on his way in to dinner when he placed the call—how could it have taken him from late September to late October to ascertain this fact? How is it for that matter, that he wasn't aware there was no such tape back in July when Mr. Cox subpoenaed a tape of the call? If Mr. Nixon is now only deducing from the absence of a tape that he must have made the call on the phone in question, he is merely offering us a theory, not an assertion of fact—and if, on the contrary he is offering a clear recollection of fact, there is hardly any explanation for the many months it took him to remember or disclose it.

The case for the President's delay in discovering the nonexistence of a tape of his crucial April 15 conversation with John Dean is not much more persuasive. The President is known to have spent many hours on June 4th listening to tapes of conversations he'd had with Mr. Dean; the April 15 conversation was among their most important talks; and Mr. Cox subpoenaed this tape also in mid-July. Mr. Nixon, however asks us to accept his argument that he did not discover that there was no tape until late September and that he had less sense of urgency about finding it than he had about the others because only Mr. Cox—and not the Ervin Committee—had asked for it. Since the President did not intend to produce tapes for the Ervin Committee in any event, and since the Ervin Committee (unlike Mr. Cox) lost its case in court to gain access to them, it is hard to see how the Ervin Committee requests could have figured so prominently in Mr. Nixon's actions at the time.

So much for Mr. Nixon's capacity to twist beyond recognition the already complex matter of the tapes. And so much for his desire once and for all to clarify these matters with candor. Because the President has attached such great importance to this latest "once and for all" effort to set the record straight, we think it equally important to examine his words and the facts to which he alludes with great care. Therefore, we intend to return to the subject of Operation Candor. There is yet much to discuss.

Operation Disney World (III)

After President Nixon's meetings with the Republican governors in Memphis on Monday, Gov. Tom McCall of Oregon said Mr. Nixon "was very believable today—more believable than I've ever seen him before." White House deputy press secretary Gerald L. Warren, for his part, said Mr. Nixon hadn't told the governors anything he hadn't said before. There is only one way to reconcile these two comments and that is to assume that the governors are either so credulous or so hungry for reassurance that they can be inordinately cheered by a little special attention and a superficial plausibility—what White House aides used to call "stroking." For if Mr. Nixon's private sessions with the Republicans have been anything like his public performance before the Associated Press Managing Editors at Disney World last Saturday, he has been serving up generous portions of half-truths, elisions and outright distortions as substitutes for facts.

We have already discussed his penchant for rewriting the record of past Presidents and his confusing, not to say misleading, reconstruction of his role with respect to the Watergate investigation and the missing tapes. There is another pattern in his performance that takes the form of directing attention away from his own conduct and toward his opposition as some sort of justification or excuse for what he may have done. Scapegoating is, of course, a very human trait; but even children usually learn quite early that "everybody does it" and "he hit me first" seldom stand up as viable defenses—even when the finger-pointing has some validity.

Mr. Nixon compounds the weakness in this tactic by twisting the facts. Discussing the financing of the 1972 campaign, he said:

"Neither party was without fault . . . They raised $36 million and some of that, like some of ours, came from corporate sources and was illegal because the law had been changed, and apparently people didn't know it."

Now the fact is that no corporations have admitted or been charged with making illegal gifts to the McGovern campaign, while six have so far been convicted of making large unlawful donations to Mr. Nixon's reelection drive. Furthermore, the law barring such corporate gifts is hardly new; it was enacted in 1907.

There was a similar twist to Mr. Nixon's version of the milk deal—a story he was all too eager to advance. As he told it, the administration's sudden reversal on milk price supports in March 1971 came about not because of large contributions from the dairy lobby, but because "Congress put a gun to our head." Members of Congress comprising about one-fourth of each house, mostly Democrats and including Senator McGovern, were urging an increase to 85 or 90 per cent of parity. According to Mr. Nixon, the furor got so intense his "legislative leaders" said "there is no way" to avoid passage of a bill and the override of a veto.

There are two things that are unpersuasive about this. First, Democratic pressures don't explain some crucial concurrent events: the dairy lobby's contribution of $10,000 to the Republicans on March 22, 1971; a presidential meeting with spokesmen for three big dairy co-ops on March 23; another industry contribution of $25,000 on March 24; and the price support increase on March 25. Nor do Democratic pressures explain either the White House staff memo, alluding to a dairy industry commitment of $1 million or more, or any number of other curious facts about the size and the timing of the milk lobby's largesse. Moreover, if Senator McGovern and his colleagues did push Mr. Nixon to change his mind, that would be another historic first. Given the President's penchant for vetoes and extraordinary success in making them stick, this would have been the only time we can think of that the administration was cowed by a group of Democrats not numerous enough even to pass a bill—much less to override a veto.

Then there was the "everybody-does-it" approach to the sensitive matter of presidential taping of conversations. In the course of his tortuous remarks about the missing tapes, Mr. Nixon said in passing that the taping equipment used in President Johnson's term "was incidentally much better equipment . . . and I am not saying that critically." Well, so far as we can determine, the equipment President Johnson actually had was in no way comparable to the extensive, indiscriminate automatic voice-actuated system—"little Sony" or not—which President Nixon installed. Close associates of President Johnson can recall only recorders attached to two telephone consoles, one in the Oval Office and one in the presidential bedroom. Each box reportedly had two cylinders with a total recording time of 30 minutes, and the mechanism had to be activated each time by a toggle switch—and by the President's conscious decision that a particular conversation was sensitive enough to be worth recording on tape.

According to his former aides, Mr. Johnson used this equipment, with its limited capabilities, primarily to obtain an exact record of conversations with the military and with foreign diplomats. If Mr. Nixon knows of any other bugging or telephone tapping operations by his predecessor—anything remotely like the all-embracing, voice-activated mechanisms Mr. Nixon himself employed—the facts should be disclosed. If not, the innuendo—"critical" or otherwise—should stop.

There were still more misleading comments, such as Mr. Nixon's description of his telephone conversation with John N. Mitchell on June 20, 1972. As Mr. Nixon tells it now, Mr. Mitchell "expressed chagrin to me that the organization over which he had control could have gotten out of hand in this way." However, on that same day, Mr. Mitchell was expressing no such chagrin publicly. On the contrary, in a formal public statement he was saying, "This committee did not authorize and does not condone the alleged actions of the five men apprehended Saturday morning . . . The Committee for the Re-election of the President is not legally, morally or ethically accountable for actions taken without its knowledge and beyond the scope of its control."

In one sense, it hardly matters to what extent this constitutes a conscious, deliberate effort to distract and deceive, and to what extent Mr. Nixon has really come to believe that the record he's supposedly setting straight is the truth. Either way, such rhetorical evasions and distortions place an intolerable burden on the public and the government at a time of severe national stress. In short, when you take the trouble to examine with some care the contents of "Operation Candor," you discover that candor is precisely what is lacking in this latest effort by the President to present us, "once and for all," with the facts which could begin the long, slow process of restoring public confidence in Mr. Nixon's conduct of government.

MILLER INTRODUCES CONSTITUTIONAL AMENDMENT TO CURB ABSENTEEISM

(Mr. MILLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER. Mr. Speaker, absenteeism is a thorn in the side of Congress that often impedes its effectiveness. While it may not have received the attention it deserves, it is nevertheless an obvious problem that must be confronted by all of us, especially as an election year draws near.

Like any organization, the Congress functions best when there is a high level of membership participation in its activities. The Nation is best served when legislation is considered and voted upon by the entire Congress, not just a simple majority. Congressional absenteeism has often impeded the scheduling of legislative business and has eroded public confidence in the legislative branch's ability and commitment to help lead the Nation.

Since 1953, the Congressional Quarterly has conducted a voting participation study of all Members of Congress. During this period, on the average, voting participation has been between 79 and 90 percent. This year has been a relatively good year. Through August, attendance to recorded votes stood at 89 percent. While this level is not as high as I think it should be, it will nevertheless drop appreciably next year. Traditionally, it has been much harder to roundup quorums and bring bills to a vote in election years.

In most private businesses, a 5 percent absenteeism rate is considered high. Yet the 11 percent rate in Congress this year is the best record since 1959. On many votes that are taken, there is substantially less than 89 percent of the Members voting. In 1972, 330 rollcall votes were taken in the House because no quorum was present. This amounted to 10,140 minutes of lost time.

There have been occasions when poor attendance has delayed floor business or caused adjournment.

On September 5, 1972, when Congress returned after a recess, there were 79 empty seats in the Senate Chamber. The Senators who were present had to wait around an hour before enough Members showed up to conduct business.

When the House met on October 14, 1972, 251 Members were mustered for the first rollcall. Six record votes occurred throughout the day and evening with a maximum of 269 Members voting at any one time. Unable to establish a quorum, the House adjourned late that evening.

Committee absenteeism is perhaps even a greater problem getting things done around here. Often hearings are poorly attended and markups are delayed or drawn out for lack of quorums.

As we all well know, the congressional workload has increased dramatically in recent years and each day new demands are made upon our time. We could get more done in less time and do a better job in our work if more people would stay in town while we are in session.

The place to start in reasserting congressional responsibilities in this Government is by doing the job we are elected and paid to do. And you can not do that if you are off globetrotting or campaigning. When Congress is in session, the job is here. There could be no better way of promoting public confidence in our abilities and commitment to move America forward than a high level of congressional attendance and voting participation. The Constitution guarantees every State and district, representation in the Congress. Each Member of Congress, therefore, has a duty to be the voice of the people and maintain a high level of voting participation.

Other jobholders in this country are hired with the understanding that they will perform certain duties, they will be punctual, and they will report for work regularly. When an employee is chronically absent without extenuating circumstances, he is discharged. The same should hold true for Congress. If a Member can not meet minimum attendance standards, he also should be dismissed. Last year, in fact, Senate Majority Leader Mike Mansfield bluntly told his colleagues that if they were employed by private industry they would be fired.

I have introduced today a constitutional amendment with 10 cosponsors to curb congressional absenteeism by requiring the Congress to expel any Member who was not present and voting on at least 60 percent of the rollcall votes taken in a session. While any percentage figure would be somewhat arbitrary, 60 percent is generally recognized a minimum passing standard and, therefore, more than reasonable for the purposes of curbing absenteeism.

The only exception that would be made for a Member's absence is his hospitalization due to illness or accident. The Congress would be empowered to enforce the article through appropriate legislation.

I hope this amendment will serve as a vehicle for useful constructive debate on how we promote better attendance practices in the Congress.

REVIEW OF VICE-PRESIDENT-DESIGNATE

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, all of us are getting mail from our constituents asking for a thorough, though prompt, review of the nomination of our colleague, Vice President-designate Gerald R. Ford. I support such a review because of the importance of the precedent being set here.

Conceivably, that review may disclose material that will change Congress and my own favorable views of the character and solid honesty of Jerry Ford—but I think not.

He has worked conscientiously. He has shown an open, "listening" quality of leadership even when his position required partisanship. We know the thorough study he gives to the issues, his honesty and his candor—and we know that these qualities are important to the Nation.

His ideology may be to the right or to the left of some of us, but it is very close to the views expressed by the President and approved overwhelmingly in the past Presidential election, and that is what counts if we are to keep faith with the people.

Washington Post columnist David S. Broder has written of our colleague—

> His conscientious preparation, his evident cooperativeness and his candor are making his confirmation hearings an occasion in which the country can not only learn something of the character of its new Vice President but re-learn the value of one of its oldest traditions—the tradition of civility.
>
> When he says, as he did that "my platform, gentlemen, is always to support truth and intelligent compromise," you know that is the authentic Ford credo—and not a line some public relations adviser furnished.

THE NUCLEAR DEFENSE PROGRAM AND ENERGY SUPPLIES

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, an article in the November 21 Washington Post, I am afraid gives the wrong impression concerning the use of electricity for nuclear weapons program. I am referring to the statement in this article about possibly diverting electricity from the nuclear weapons program to the civilian economy.

First, the enriched uranium being produced in the Government's uranium enrichment plants which is referred to in the article, is not for the nuclear weapons program, but for the nuclear power program. Each kilowatt hour of electricity used for enriching uranium is multiplied manifold when the uranium is used to generate electricity in nuclear powerplants. In other words, the uranium enrichment operation provides one of our most important solutions to the energy problem.

Of course, if we had a serious short-term problem with the supply of electricity, a short-term interruption of the uranium enriching operation may be justified. In fact, last year during a particular shortage of electrical energy on the east coast, the diffusion plants were cut back to meet the short-term energy problem. It should be remembered though that we should do everything reasonable to keep up our production and, in fact, increase the production of enriched uranium for our civilian power program, because nuclear power is essential to meeting our energy needs.

Secondly, the inference in the article that the nuclear weapons program results in any aggravation of our energy problem is incorrect for another reason. Due to the vision of the Joint Committee on Atomic Energy and the Congress in the early 1960's, one of the newest plutonium production reactors for the nuclear weapons program, the NPR reactor at Hanford, was built with electrical generators to utilize the waste heat generated by the reactor. This reactor is now generating nearly 1,000 megawatts of electricity for the energy-short west coast. In other words, the new weapons program is a net generator and not a user of electrical energy.

The above-mentioned article appearing in the Washington Post of November 21, 1973, follows:

U.S. PRESSES RATION-FREE ENERGY HUNT

(By Thomas O'Toole)

The federal government pressed its search yesterday for ways of easing the energy crisis without resorting to rationing. A nationwide ban on Sunday driving and moving into the civilian economy the massive amounts of electricity used to make uranium for nuclear weapons were among the considerations.

These steps are being urgently studied by the White House in addition to a whole raft of other possibilities, such as a ban on weekend gasoline sales, closing national parks to automobiles, shutting down shopping centers on Sundays and prohibiting the sale of fuels for private power boats and aircraft.

"We want to consider every possible option we have before we make a move on rationing," one energy source close to the White House said. "We still consider rationing our last resort."

More and more energy experts, however, called for an immediate start to gasoline rationing, at least partly on the ground that it will take six months to impress the public with the seriousness of the shortage.

"We need to ration gasoline now," said Rawleigh Warner, chairman of the Mobile Oil Corp. and outgoing chairman of the American Petroleum Institute, "not only to save fuel but to get the message across so the public fully understands it next spring."

Another reason to ration gasoline now, said S. David Freeman, director of the Ford Foundation's Energy Project, is to allow refineries to turn their full attention this winter to the production of heating oil.

"More than 25 per cent of the petroleum we use goes right to the automobile," Freeman said. "It's one of the end uses we can really save on."

The White House, emphasizing alternatives to rationing, studied proposals for a ban on Sunday driving and gasoline sales that a Cabinet Task Force on Energy is believed to have sent to President Nixon for his consideration.

"What we're doing is to look at more rigorous conservation measures instead of rationing," one White House aide said. "We're preparing for rationing in case it comes, but we want to look hard at every alternative we have to rationing."

One alternative is the study begun this week by the Federal Power Commission to see if large amounts of electricity can be diverted from the production of enriched uranium to the huge electric companies of the Middle West and Northeast. As much as 3 per cent of the electricity consumed in the United States is used to enrich uranium, so that even a fraction of that would save electric companies a massive amount of the oil they now burn to make power.

Twice before, the U.S. allowed shipment of its uranium-making electricity to the Midwest and Northeast, both times in the summer of 1970 when a heat wave and power plant breakdowns threatened blackouts in Illinois, Michigan and New York.

The U.S. now produces 3.8 million kilowatts of power to enrich uranium for weapons and for electric companies. The uranium is produced at three plants, one in Oak

Ridge, Tenn., a second at Portsmouth, Ohio, and a third at Paducah, Ky. The first time it did so the Atomic Energy Commission diverted 650,000 kilowatts to private electric companies, the second time 250,000 kilowatts.

If the AEC were to agree to a diversion of power this time, it would have to slow down drastically its production of uranium for power plants, which it is now stockpiling in anticipation of the huge needs for uranium in the next 10 years. The stockpile is to meet the needs of the U.S., Japan and all of Western Europe. The United States has signed export contracts with the Japanese and Europeans.

Meanwhile, the American Automobile Association said that while gasoline supplies are holding up well Thanksgiving travelers may find many service stations closed.

"The thing that should be emphasized is that there will be no major inconvenience for holiday travel," Kay Aldous of the AAA said yesterday, "although over the holiday it is likely that a number of stations will be operating on schedules similar to what they've been doing on Sunday since Labor Day."

The Air Transport Association warned that the Thanksgiving weekend may produce "one of the biggest crunches in airline history." It said airlines expect to carry four million passengers this Thanksgiving, but the fuel squeeze means it has to do so on 500 fewer flights than last year.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Metcalfe, for Wednesday, November 28, 1973, on account of official business.

Mrs. Hansen of Washington (at the request of Mr. O'Neill), for November 26 and 27, on account of illness.

Mr. Murphy of Illinois, for Wednesday, November 28, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mrs. Green of Oregon, for 1 hour, today.

(The following Members (at the request of Mr. Towell of Nevada) to revise and extend their remarks and include extraneous material:)

Mr. Esch, for 5 minutes, today.

Mr. Kemp, for 30 minutes, today.

Mr. Roncallo of New York, for 30 minutes, December 5.

Mr. Collins of Texas, for 3 minutes, today.

Mr. Young of Illinois, for 5 minutes, today.

(The following Members (at the request of Miss Jordan) to revise and extend their remarks and include extraneous material:)

Mr. Gunter, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Roy, for 5 minutes, today.

Mr. Fulton, for 5 minutes, today.

Mr. Lehman, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Rogers, for 10 minutes, today.

Mr. Chappell, for 5 minutes, today.

Mr. Melcher, for 5 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to review and extend remarks was granted to:

(The following Members (at the request of Mr. Towell of Nevada) and to revise and extend their remarks:)

Mr. Kemp in two instances.

Mr. Broyhill of Virginia.

Mr. Whalen.

Mr. Brotzman.

Mr. Collins of Texas in five instances.

Mr. Carter in three instances.

Mr. Sarasin in two instances.

Mr. Symms.

Mr. Harvey.

Mr. Zwach.

Mr. Hosmer in two instances.

Mr. Shuster.

Mr. Wyman in two instances.

Mr. Frenzel in three instances.

Mr. Bauman in two instancees.

Mr. Davis of Wisconsin in two instances.

Mr. Treen.

Mr. Hudnut.

Mr. Hogan.

Mr. Fish.

Mr. Lent in five instances.

Mr. Rousselot in two instances.

Mr. Widnall.

Mrs. Holt.

Mr. Derwinski in two instances.

Mr. Taylor of Missouri.

Mr. Huber.

Mr. Shoup.

Mr. Smith of New York.

Mr. McCloskey.

(The following Members (at the request of Miss Jordan) and to include extraneous matter:)

Mr. Young of Georgia in six instances.

Mr. Lehman in 10 instances.

Mr. Gonzalez in three instances.

Mr. Aspin in 10 instances.

Mr. Bennett.

Mr. Rarick in three instances.

Mr. Brasco.

Mr. Corman in two instances.

Mr. Ryan.

Mr. Leggett.

Mr. Drinan in five instances.

Mrs. Chisholm.

Mr. Bolling.

Mr. Fraser in five instances.

Mr. Rees.

Mr. Fascell in five instances.

Mr. Rodino.

Mr. Roybal.

Mr. Hanna in six instances.

Mr. Dellums in six instances.

Mr. Harrington in three instances.

Mrs. Burke of California in 10 instances.

Mr. Moorhead of Pennsylvania in 10 instances.

Mr. Nix.

Mr. Dominick V. Daniels.

Mr. Gunter.

Mr. Rogers in five instances.

Mr. Stokes in two instances.

Mr. Patten in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1106. An act to amend the Federal Reports Act to avoid undue delays in the collection of information by Government agencies; to the Committee on Government Operations.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on November 26, 1973, present to the President, for his approval bills of the House of the following title.

H.R. 1353. For the relief of Toy Louie Lin Heong;

H.R. 1356. For the relief of Ann E. Shepherd;

H.R. 1367. For the relief of Bertha Alicia Sierra;

H.R. 1463. For the relief of Emilia Majowicz;

H.R. 1696. For the relief of Sun Hwa Koo Kim;

H.R. 1955. For the relief of Rosa Ines D'Elia;

H.R. 2513. For the relief of Jose Carlos Recalde Martorella;

H.R. 2628. For the relief of Anka Kosanovic;

H.R. 3207. For the relief of Mrs. Enid R. Pope;

H.R. 3754. For the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni;

H.R. 6334. To provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System;

H.R. 6828. For the relief of Edith E. Carrera;

H.R. 6829. For the relief of Mr. Jose Antonio Trias;

H.R. 9474. To amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation, and for other purposes;

H.R. 9575. To provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes;

H.R. 10840. To amend the act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress; and

H.R. 10937. To extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia.

ADJOURNMENT

Miss JORDAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 19 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 28, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1579. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to increase the size of the Executive Protective Service; to the Committee on Public Works.

1580. A letter from the Administrator of General Services, transmitting an amendment to the approved prospectus for the Federal Office Building proposed for construction at Mount Vernon, Ill., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee of conference. Conference report on S. 1443 (Rept. No. 93–664). Ordered to be printed.

Mr. SISK: Committee on Rules. House Resolution 718. Resolution providing for the consideration of H.R. 11324. A bill to provide for daylight saving time on a year-round basis for a 2-year trial period (Rept. No. 93–665). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 719. A resolution providing for the consideration of H.R. 11010. A bill to assure opportunities for employment and training to unemployed and underemployed persons

Mr. MADDEN: Committee on Rules, House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 1817. A bill to provide for the striking of national medals to honor the late J. Edgar Hoover (Rept. No. 93–666). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MAHON:

H.R. 11575. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

H.R. 11576. A bill making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

By Mr. ARCHER:

H.R. 11577. A bill to establish a Joint Committee on Energy; to the Committee on Rules.

By Mr. ASPIN (for himself, Mr. Andrews of North Carolina, Mr. Brasco, Mr. Cotter, Mr. Edwards of California, Mr. Fulton, Mrs. Grasso, Mr. Harrington, Mr. Ichord, Mr. Mazzoli, Mr. Sisk, and Mr. Young of Georgia):

H.R. 11578. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, propane gas, and residual fuel until he determines that no shortage of such fuels exists in the United States; to the Committee on Banking and Currency.

By Mr. BEVILL:

H.R. 11579. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for oher purposes; to the Committee on Veterans' Affairs.

By Mr. BROWN of Ohio:

H.R. 11580. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 4 years and to establish orderly procedures for the consideration of applications for the renewal of such licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER:

H.R. 11581. A bill to amend section 133 of title 28, United States Code, to increase by two the number of district judges for the eastern district of Kentucky; to the Committee on the Judiciary.

By Mr. DENHOLM:

H.R. 11582. A bill to amend the Clean Air Act in order to exempt motor vehicles purchased by persons residing in certain rural areas from certain emission control requirements; to the Committee on Interstate and Foreign Commerce.

By Mr. DERWINSKI:

H.R. 11583. A bill to amend the Age Discrimination in Employment Act of 1967 to remove the 65-year age limitation; to the Committee on Education and Labor.

H.R. 11584. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. FRASER (for himself Mrs. Grasso, Mr. Biester, Mr. Bingham, Mr. Conte, Mr. Esch, Mr. Gonzalez, Mrs. Heckler of Massachusetts, and Mr. Badillo):

H.R. 11585. A bill to limit the medicare inpatient hospital deductible; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself, Mr. Brown of Ohio, Mr. Burgener, Mr. Hastings, Mr. Hunt, Mr. Keating, Mr. Rinaldo, Mrs. Heckler of Massachusetts, Mr. Biester, and Mr. Kemp):

H.R. 11586. A bill to amend the Federal Election Campaign Act of 1971 and the Communications Act of 1934 to provide for more effective regulation of elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. HASTINGS:

H.R. 11587. A bill to improve and extend the Public Health and National Health Service corps scholarship training program; to the Committee on Interstate and Foreign Commerce.

By Mr. HOGAN:

H.R. 11588. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

H.R. 11589. A bill to provide emergency security assistance auhorizations for Israel and Cambodia; to the Committee on Foreign Affairs.

By Mr. HUBER:

H.R. 11590. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer insulating his residence for the years 1973, 1974, and 1975 during the period of maxmium fuel shortages, and to allow the owner of rental housing to amortize at an accelerated rate the cost of work and materials to insulate such housing; to the Committee on Ways and Means.

By Mr. HUDNUT:

H.R. 11591. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. KETCHUM:

H.R. 11592. A bill to amend the Clean Air Act to change the requirements for extension of deadlines for compliance with implementation plans; to the Committee on Interstate and Foreign Commerce.

By Mr. MAYNE:

H.R. 11593. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. MEEDS (for himself and Mr. Ruppe):

H.R. 11594. A bill to authorize the Secretary of the Navy to conduct programs of exploration for oil and gas on Naval Petroleum Reserve No. 4, in the State of Alaska; to the Committee on Armed Services.

By Mr. NIX:

H.R. 11595. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PATTEN:

H.R. 11596. A bill to amend certain provisions of the Internal Revenue Code of 1954 to provide for a broader and more equitable tax base; to the Committee on Ways and Means.

By Mr. REES:

H.R. 11597. A bill to provide for Federal regulation of foreign banks and other foreign persons establishing, acquiring, operating, or controlling banking subsidiaries in the United States (including its possessions), and for other purposes; to the Committee on Banking and Currency.

By Mr. SISK (by request):

H.R. 11598. A bill to establish an improved program for the benefit of producers and consumers of extra long staple cotton; to the Committee on Agriculture.

By Mr. SLACK:

H.R. 11599. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit the Secretary of Transportation from imposing certain seatbelt standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SPENCE:

H.R. 11600. A bill to provide standards of fair personal information practices; to the Committee on the Judiciary.

H.R. 11601. A bill to amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that (unless so required) no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. SYMMS (for himself, Mr. Camp, Mr. Landgrebe, Mr. Rousselot, Mr. Fisher, Mr. Burgener, Mr. Hutchinson, Mr. Gross, Mr. Ashbrook, Mr. Crane, Mr. Ketchum, Mr. Scherle, Mr. Dickinson, Mr. Mathis of Georgia, Mr. Ruth, Mr. Montgomery, and Mr. Goodling):

H.R. 11602. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

By Mr. THOMSON of Wisconsin:

H.R. 11603. A bill to create an Upper Mississippi River Recreational Area; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Illinois:

H.R. 11604. A bill to establish an independent Special Prosecutor and for other purposes; to the Committee on the Judiciary.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.J. Res. 832. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. MILLER (for himself, Mr. Robinson of Virginia, Mr. Zwach, Mr. Butler, Mr. Young of Florida, Mr. Thone, Mr. Cleveland, Mr. Treen, Mr. Archer, Mr. Froehlich, and Mr. Ketchum):

H.J. Res. 833. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress; to the Committee on the Judiciary.

By Mr. ESCH:

H. Con. Res. 383. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. ZWACH:

H. Con. Res. 384. Concurrent resolution expressing the sense of Congress with respect to climate manipulation; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH:

H. Res. 720. Resolution concerning protection of human rights in Chile, and for other purposes; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DRINAN:

H.R. 11605. A bill for the relief of Mina Cooper; to the Committee on the Judiciary.

By Mr. HARVEY:

H.R. 11606. A bill for the relief of Ida Kunstmann, Waldemar F. Kunstmann, and Anneliese E. Kunstmann; to the Committee on the Judiciary.

By Mr. TAYLOR of Missouri:

H.R. 11607. A bill for the relief of Tri-State Motor Transit Co.; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 11608. A bill for the relief of Robert H. Glazier; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

365. The SPEAKER presented a petition of the City Committee, Coral Gables, Fla., relative to fuel for the operation of the Coral Gables municipal transit system; to the Committee on Interstate and Foreign Commerce.

SENATE—*Tuesday, November 27, 1973*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who called men of old to the service of the Nation and hast not ceased to call, call us to a life higher than we have ever known or lived. In days which cry aloud for leaders, make us faithful, wise, and good. Reach down into the depths of our being to refine and renew our souls, strengthening us in every endeavor, empowering us in all that pertains to that righteousness which exalts a nation. Across the toiling hours, be the companion of our souls to strengthen our weakness and steady our anxieties, to calm our restless spirits and control our fevered tempers, granting us courage for cowardice, and faith for cynicism. Amid all that is transient and temporal keep us loyal to the transcendent and eternal, testing all our actions by our conscience, and by the words and spirit of One who is Lord and Master, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 27, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 26, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting Republican leader desire recognition?

Mr. TAFT. No, I do not desire recognition at this time, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), was to be recognized for 15 minutes at this time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be given control of the time allotted to the distinguished majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be charged against the time under my control.

The PRESIDING OFFICER (Mr. HUDDLESTON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. GOLDWATER. Mr. President, I request permission to be absent from the Senate from November 30 until December 9 for the purpose of visiting Iran on official business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. In accordance with the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORTS ON REAPPORTIONMENT OF APPROPRIATIONS

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Office of Oil and Gas" for the fiscal year 1974 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations. Referred to the Committee on Appropriations.

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the U.S. Secret Service of the Department of the Treasury for "Salaries and Expenses," for fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation. Referred to the Committee on Appropriations.

REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON NEGOTIATED CONTRACTS

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on certain negotiated contracts for the period January 1, 1973, through June 30, 1973 (with an accompanying report). Referred to the Committee on Aeronautics and Space Sciences.

STOCKPILE REPORT TO THE CONGRESS

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, the semiannual report to the Congress on the strategic and critical materials stockpiling program for the period January 1 to June 30, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

MONTHLY LIST OF GAO REPORTS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office of the previous month (with an accompanying report). Referred to the Committee on Government Operations.

Report on Ways To Improve U.S. Foreign Trade Strategies

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on ways to improve U.S. foreign trade strategies (with an accompanying report). Referred to the Committee on Government Operations.

Report on Need for a Faster Way To Pay Compensation Claims to Disabled Federal Employees

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on a need for a faster way to pay compensation claims to disabled Federal employees, Department of Labor (with an accompanying report). Referred to the Committee on Government Operations.

Deferment of Construction Repayment Installments—Kansas-Bostwick Irrigation District No. 2, Pick-Sloan Missouri Basin Program, Kansas

A letter from the Acting Deputy Assistant Secretary of the Interior, reporting, pursuant to law, the approved deferment of the construction repayment installments payable to the United States in 1974 and 1975 for irrigation facilities serving lands in the Kansas-Bostwick Irrigation district No. 2, Pick-Sloan Missouri Basin program, Kansas. Referred to the Committee on Interior and Insular Affairs.

Proposed Legislation To Revise the Boundary of the Golden Gate National Recreation Area, Calif.

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to revise the boundary of the Golden Gate National Recreation Area, Calif., and for other purposes (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Proposed Legislation To Provide for the Inclusion of Interest and Legal Fees in Judgments Granted on Suits by Subcontractors Based Upon Payment Bonds

A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend the act of August 24, 1935 (commonly referred to as the "Miller act") to provide for the inclusion of interest and legal fees in judgments granted on suits by subcontractors based upon payment bonds, and for other purposes (with accompanying papers). Referred to the Committee on the Judiciary.

Proposed Legislation To Increase the Size of the Executive Protective Service

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to increase the size of the Executive Protective Service (with accompanying papers). Referred to the Committee on Public Works.

Amendment to the Approved Prospectus for the Federal Office Building Proposed at Mt. Vernon, Ill.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, an amendment to the approved prospectus for the Federal office building proposed for construction at Mt. Vernon, Ill. (with accompanying papers). Referred to the Committee on Public Works.

Reports Concerning the Technological Feasibility of Meeting Light Duty Motor Vehicle Emission Standards

A letter from the President, National Academy of Sciences, transmitting, pursuant to law, panel reports developed under the aegis of the Committee on Motor Vehicle Emissions during its recent study under the provisions of section 6 of Public Law 91–604, the Clean Air Amendments of 1970, concerning the technological feasibility of meeting light duty motor vehicle emission standards (with accompanying reports). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Allen):

A resolution adopted by the County Legislature of Suffolk County, Riverhead, N.Y., requesting Congress to enact legislation to establish permanent daylight saving time. Ordered to lie on the table.

A resolution adopted by the Amalgamated Transit Union, relating to National No-Fault Auto Insurance. Ordered to lie on the table.

A resolution adopted by City Commission, operation of municipal buses. Referred to Committee on Banking, Housing, and Urban Affairs.

A resolution adopted by the Amalgamated Transit Union, relating to social security. Referred to the Committee on Finance.

A resolution adopted by the Amalgamated Transit Union, relating to National Health Security. Referred to the Committee on Finance.

A resolution adopted by the city council, city of Philadelphia, Pa., relating to proposed amendment of the Elementary and Secondary Education Act. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the city council, Yonkers, N.Y., relating to aid for research for cure of impaired hearing. Referred to Committee on Labor and Public Welfare.

A resolution adopted by the Amalgamated Transit Union, relating to Workmen's Compensation Protection. Referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 8214. An act to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes (Rept. No. 93–554).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

H.R. 1328. An act for the relief of Master Sergeant Eugene J. Mikulenka, United States Army (retired) (Rept. No. 93–555);

H.R. 1694. An act for the relief of Ossie Emmons and others (Rept. No. 93–556);

H.R. 1948. An act for the relief of Edgar P. Faulkner and Ray H. New (Rept. No. 95–557);

H.R. 1949. An act for the relief of Hazel W. Lawson and Lloyd C. Johnson (Rept. No. 93–558);

H.R. 2207. An act for the relief of Joseph C. Leeba (Rept. No. 93–559);

H.R. 2213. An act for the relief of Corneliue S. Ball, Victor F. Mann, Junior, George J. Posner, Dominick A. Sgammato, and James R. Walsh (Rept. No. 93–560);

H.R. 3044. An act for the relief of James Evans, publisher of the Colfax County Press, and Morris Odvarka (Rept. No. 93–561);

H.R. 3530. An act for the relief of Eugenia C. Lyttle (Rept. No. 93–562);

H.R. 3751. An act for the relief of James E. Fry, Junior, and Margaret E. Fry (Rept. No. 93–563);

H.R. 4175. An act for the relief of Manuel H. Silva (Rept. No. 93–564);

H.R. 4448. An act for the relief of First Lieutenant John P. Dunn, Army of the United States, retired (Rept. No. 565);

H.R. 5379. An act for the relief of John B. Clayton (Rept. No. 93–566);

H.R. 6007. An act for the relief of Swiff-Train Company (Rept. No. 567);

H.R. 7210. An act for the relief of George Downer and Victor L. Jones (Rept. No. 93–568);

H.R. 8406. An act for the relief of William M. Starrs (Rept. No. 93–569);

H.R. 9276. An act for the relief of Luther V. Winstead (Rept. No. 93–570); and

S. Res. 125. Resolution to refer the bill (S. 1970) entitled "A bill for the relief of Carl Johnstone, Junior" to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 93–571).

By Mr. BURDICK, from the Committee on the Judiciary, with an amendment:

S. 724. A bill for the relief of Marcos Rojos Rodriguez (Rept. No. 93–572);

S. 774. A bill for the relief of Arline Loader and Maurice Loader (Rept. No. 93–573); and

S. 1922. A bill for the relief of Robert J. Martin (Rept. No. 93–574).

By Mr. BURDICK, from the Committee on the Judiciary, with amendments:

H.R. 1316. An act for the relief of Claude V. Alcorn and 21 others (Rept. No. 93–575).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S. 1836. A bill to amend the act entitled "An Act to incorporate the American Hospital of Paris," approved January 30, 1913 (37 Stat. 654) (Rept. No. 93–578).

S. 2441. A bill to amend the act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization (Rept. No. 93–576).

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment:

S. 389. A bill for the relief of Southeastern University of the Young Men's Christian Association of the District of Columbia (Rept. No. 93–577).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

William H. Stafford, Jr., of Florida, to be U.S. attorney for the northern district of Florida;

Gaylord L. Campbell, of California, to be U.S. marshal for the central district of California;

James W. Traeger, of Indiana, to be U.S. marshal for the northern district of Indiana;

Roger L. Campbell, of Virginia, to be Examiner-in-Chief, U.S. Patent Office;

Walter W. Burns, Jr., of Virginia, to be Examiner-in-Chief, U.S. Patent Office;

Lincoln C. Almond, of Rhode Island, to be U.S. attorney for the district of Rhode Island; and

Elmer J. Reis, of Ohio, to be U.S. marshal for the southern district of Ohio.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

Morris Thompson, of Alaska, to be Commissioner of Indian Affairs.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS:

S. 2742. A bill to establish improved programs for the benefit of producers and consumers of peanuts, rice, and extra long staple cotton. Referred to the Committee on Agriculture and Forestry.

By Mr. JOHNSTON (for himself and Mr. HASKELL):

S. 2743. A bill to establish a program of loan guarantee to enable independent refiners of crude oil to construct or acquire new or expanded refining facilities in the United States. Referred to the Committee on Interior and Insular Affairs.

By Mr. RIBICOFF (for himself, Mr. PERCY, Mr. JAVITS, Mr. ERVIN, Mr. PASTORE, Mr. AIKEN, Mr. BROCK, Mr. JACKSON, Mr. GURNEY, and Mr. ROTH):

S. 2744. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions. Referred to the Committee on Government Operations.

By Mr. MONDALE:

S. 2745. A bill for the relief of Sabir Hussain Dairkee and children: Bilquis Sabir; Aneela; and Fakhera; and

S. 2746. A bill for the relief of Alexander B. Caleb and children, Jennifer Rebecca; Frances Marie; Mark; and Paul. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself and Mr. JAVITS):

S. 2747. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 2748. A bill to authorize the Secretary of the Interior to designate the Mulholland National Scenic Parkway in the State of California, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (for himself and Mr. HASKELL):

S. 2743. A bill to establish a program of loan guarantee to enable independent refiners of crude oil to construct or acquire new or expanded refining facilities in the United States. Referred to the Committee on Interior and Insular Affairs.

INDEPENDENT REFINERY GUARANTEE BILL

Mr. JOHNSTON. Mr. President, I am introducing today on behalf of myself and the Senator from Colorado (Mr. HASKELL) a bill that I believe will be of substantial assistance to the Nation in meeting the energy crisis we now so clearly face. The bill, which seeks to stimulate the construction of new and expanded domestic refineries, attempts both to focus legislatively on problems that presently inhibit the expansion of the Nation's refining capacity and to help solve those problems through limited, but important, Federal involvement.

The need for expanding the Nation's refinery capacity is, I believe, clear, Mr. President. The National Petroleum Council estimates that by 1975 the United States will require additional refining capacity of 4.8 million barrels per day in order to meet our domestic needs. It is hardly necessary, in light of recent events, to emphasize the importance to the Nation of our being able to meet our domestic needs with refineries located in the United States. Yet, the expansion of refining capacity has not risen to meet this need. In 1971 and 1972 refining capacity rose only 3.2 and 2.2 percent, respectively. The future looks even bleaker in light of recent developments. Although a number of refiners and potential refiners earlier this year announced plans to make substantial investments for increased refining capacity, the recent suspension of oil shipments from the Middle East has caused grave concern about whether these needed investments will, in fact, be made. Because of the absence of any assurance of a reliable source of crude oil to refine, serious questions are now being raised concerning the availability of the necessary capital to build the domestic refineries we so desperately need.

Mr. President, the bill I am introducing today will, I believe, help to solve this problem. The bill authorizes the Secretary of the Interior to enter into agreements to guarantee up to 10 percent of the principal amount of loans to independent refiners if the proceeds of such loans are used for the construction or acquisition of new or expanded refining capacity. Such guarantees would not apply across the board, but only would be applicable to defaults in the payment of principal and interest that are attributable to the inability of the refiner to obtain supplies of crude oil sufficient to utilize 50 percent of the full capacity of the new refining facility, together with his existing refining facility if any. In addition, an applicant would be required to establish to the satisfaction of the Secretary that

First, the new or expanded refining facilities will increase his refining capacity and will not replace existing refining facilities of another refiner,

Second, the new or expanded refining facilities will be capable of producing refined products in proportions commensurate with the national needs as determined by the Secretary, and

Third, the applicant has been unable to obtain assurance of supplies of crude oil sufficient to utilize the full capacity of the new refining facilities together with his existing refining facilities if any.

In order to prevent abuse, the total liability of the United States on loans guaranteed under the program will be limited to $1 billion, and the Secretary is directed to take appropriate steps to insure that any loans guaranteed represent an acceptable financial risk to the United States. Provisions also are included to authorize the Secretary to approve the lender, the interest rate, and other relevant terms under which any such guarantee is made.

Mr. President, I believe that the bill that I am today introducing is a responsible and necessary stimulus to the much-needed expansion of our domestic refining capacity. I am pleased that the distinguished chairman of the Committee on Interior and Insular Affairs has agreed to the scheduling of prompt hearings with respect to this matter. I would urge that all interested parties file with the committee, at the earliest possible date, written statements with respect to this legislation, so that the committee can proceed with an expeditious, but careful, examination of this bill.

Mr. President, I ask unanimous consent that our bill be printed in the RECORD at this point, to be followed by an article from the November 14, 1973, issue of the Wall Street Journal entitled "A Tighter Squeeze: Refinery Construction Likely To Drop in United States, Prolonging Fuel Crisis," an excellent recent article dealing with this important subject.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 2743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of this Act, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized to guarantee the repayment of the principal and interest of loans made to independent refiners to enable them to construct or acquire new refining facilities or expanded refining facilities in the United States.

(b) For purposes of this Act, the term "independent refiner" means a refiner who (1) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to the date of enactment of this Act, more than 70 per centum of his refinery input of domestic crude oil (or 70 per centum of his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner, and (2) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or nonbranded independent marketers. Such term also means a person who does not have any refining facilities, and who (3) does not control, is not controlled by, and is not under common control with any producer or producers of crude oil, and (4) establishes to the satisfaction of the Secretary that a substantial volume of petroleum products refined by him will be marketed or distributed through branded independent marketers or nonbranded independent marketers. For purposes of this subsection, the terms "branded independent marketers" and "nonbranded independent marketers" have the meanings assigned to them by section 3 of the Emergency Petroleum Allocation Act of 1973.

SEC. 2. (a) Subject to the provisions of this Act and to such other terms and conditions as the Secretary may prescribe, upon application made by an independent refiner, the Secretary is authorized to guarantee repayment of principal and interest on a loan to be made to such independent refiner the proceeds of which are to be used for the construction or acquisition of new refining facilities, including the expansion of existing refining facilities, in the United States. In order to qualify for such guarantee, an applicant must establish to the satisfaction of the Secretary that—

(1) the new or expanded refining facilities will increase his refining capacity and will not replace existing refining facilities of another refiner,

(2) the new or expanded refining facilities will be capable of producing refined products in proportions commensurate with the

national needs as determined by the Secretary, and

(3) the applicant has been unable, after reasonable good faith efforts, to obtain assurance of supplies of crude oil sufficient to utilize the full capacity of the new or expanded refining facilities, together with his existing refining facilities (if any).

Any guarantee under this subsection shall apply only with respect to defaults in payment of principal or interest which are attributable, as specified by the Secretary at the time of making the guarantee, to the inability of the applicant to obtain supplies of crude oil sufficient to utilize 50 per centum of the full capacity of the new or expanded refining facilities, together with his existing refining facilities (if any).

(b) No guarantee shall be made under this section unless the Secretary has determined that the facilities involved represent an acceptable financial risk to the United States, taking into consideration (1) the financial and security interests of the United States, and (2) the public purposes of this section.

(c) The Secretary shall take such steps as he considers reasonable to assure that loans guaranteed under this section will—

(1) be made by investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary,

(2) bear interest at a rate satisfactory to the Secretary,

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary, and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, or other matters.

SEC. 3. The total liability of the United States on loans guaranteed under this Act shall not exceed $1,000,000,000. Within such total amount, the Secretary shall guarantee loans under this section so as to—

(1) provide the maximum amount of energy by new or expanded refining facilities of independent refiners,

(2) achieve equitable distribution of such new or expanded refining facilities among the various geographic regions of the United States, and

(3) limit the liability of the United States with respect to each loan guaranteed to an amount not to exceed 10 per centum of the principal amount of such loan.

[From the Wall Street Journal,
Nov. 14, 1973]

A Tighter Squeeze: Refinery Construction Likely to Drop in United States, Prolonging Fuel Crisis—Major Impact on Consumers Expected in 2 to 3 Years; Oilmen Fear Lack of Crude; Taking a "Hard Second Look"

(By Danforth Austin and James Tanner)

HOUSTON.—When Arab oil starts flowing to this country again, don't expect fuels suddenly to be plentiful in the U.S. The shortages will linger on—for years.

The reason: Upheavals of world oil supplies are beginning to cloud the outlook for refinery construction in the U.S.

That, at least, is the assessment of many of the leaders of the oil industry attending an American Petroleum Institute meeting, which ended yesterday.

The oilmen say they would be willing to spend billions of dollars on high-risk ventures to help drive this nation toward the energy self-sufficiency urged by President Nixon. One of the most pressing needs is additional refining capacity. And the oilmen have announced in recent months a blitz of new refineries to be completed in the next two or three years.

But the new plants, designed to use foreign petroleum, can't run without crude oil. And the oilmen are beginning to suspect that they can *never* again enjoy assured supplies of crude from abroad. They cite the surprising case with which the Arab countries mounted effective oil embargoes and production cutbacks, the skyrocketing of petroleum prices abroad and the fierce world-wide competition for oil supplies by the other consuming nations.

STRICTLY FOR THE BOARDS?

The result, the oilmen suggests, is that many of those widely publicized plans for big new refinery projects aren't going to get off the drawing boards.

"A lot of people are rethinking those announcements," says Rawleigh Warner Jr., chairman of Mobil Oil Corp. Mobil, he adds, already has begun a "searching" review of its plan to expand its Paulsboro, N.J., refinery to a capacity of 250,000 barrels a day from the current 100,000 barrels.

Mobil is hardly alone. Most of the major oil companies—and many of the smaller ones—are beginning to take similar steps. Exxon Corp., the world's biggest oil company, earlier announced a $400 million refinery-expansion program for the U.S. But now, "We'll take a hard second look," says M. A. Wright, chairman of Exxon U.S.A., a division of Exxon Corp.

All of this suggests that the worst is yet to come. It indicates that beyond the short-term shortages this winter and next summer, the really big effect on U.S. consumers from the Arab oil moves won't be felt for two to three years. That would be when all those proposed refineries were to have been completed and operating—but presumably won't be.

"The impact is long-term," says Donald O'Hara, president of the National Petroleum Refiners Association.

Despite the uncertainties, a few companies insist that they are going full speed ahead on their refinery projects—at least for the moment. One of these is Energy Corp. of Louisiana, a joint venture of Ingram Corp. of New Orleans and Northeast Petroleum Industries Inc., a fuel distributor based in Chelsea, Mass.

Energy Corp. plans a 200,000-barrel-a-day refinery 35 miles up the Mississippi River from New Orleans. It will be built to handle crude oil from the Mideast. "We'll examine the whole project before going into long-term financing, but we've already got $125 million in materials on order," says Frederic B. Ingram, chairman of Ingram.

Pennzoil Co. earlier this year announced plans to build a 200,000-barrel-a-day facility in Mississippi to process foreign crude oil. The company currently is moving ahead with the project. But Baine P. Kerr, chairman of Pennzoil's executive committee, says that in light of tight foreign oil supplies, "we're considering all the options," including a possible scaling-down in size of the refinery.

"PRESS-RELEASE REFINERIES"

In all, since May, more than 40 companies have announced refinery projects—new ones as well as expansions of existing plants—that would add a total of more than 4.5 million barrels a day to the nation's refining capacity. Not all would have been built even if there hadn't been a Mideast crisis. Called "press-release refineries" in the trade, some are considered to be out-and-out promotions that will never get built.

Most are bona fide, however, and the U.S. can ill afford to lose a single one.

A quarter-century ago, the U.S. had more than 400 refineries. Today, the refineries are bigger but number only 250. The combined capacity is 13 million barrels a day. That's four million barrels a day less than Americans consume in petroleum products. The difference has been made up of imports.

Until the Mideast crisis, it wasn't the lack of petroleum but the lack of refining capacity that was behind the fuel shortages that were beginning to occur in the U.S. Early this year, after completion of Mobil's 150,000-barrel-a-day facility at Joliet, Ill., the oil industry didn't have one new refinery under construction in the U.S.

The reasons were difficulties in bringing in foreign oil because of import controls as well as U.S. product prices, which weren't considered high enough to justify the large capital expenditures needed for new refineries.

Last May, however, Mr. Nixon loosened import controls to stimulate refinery construction. Product prices, meanwhile, had begun the climb. The oil companies reacted with a spurt of plans for projects. But it takes two or three years to build a refinery, and the costs are enormous.

The present rule-of-thumb estimate for the cost of a new plant is $2,000 per single barrel of capacity. That means a 100,000-barrel-a-day plant, about the smallest considered economically feasible today, requires a capital investment of $200 million.

If oil firms knew they could get enough crude, they could justify such vast sums. But U.S. output has peaked, and the only sources of oil for new refineries lie abroad.

By Mr. RIBICOFF (for himself, Mr. PERCY, Mr. JAVITS, Mr. ERVIN, Mr. PASTORE, Mr. AIKEN, Mr. BROCK, Mr. JACKSON, Mr. GURNEY, and Mr. ROTH):

S. 2744. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions. Referred to the Committee on Government Operations.

ENERGY REORGANIZATION ACT OF 1973

Mr. RIBICOFF. Mr. President, I introduce the Energy Reorganization Act of 1973. The purpose of this legislation is to establish an independent Energy Research and Development Administration—ERDA—and a Nuclear Energy Commission—NEC. The bill will provide the organizational framework for the short- and long-range solutions to the energy crisis. It is an important step toward making our Nation self-sufficient in energy supply. If we are ever to sever the lines of dependence on foreign energy sources, we must create a scientific and technological operation greater than this country has ever known. The natural resources are already within reach. What we lack today are the means to convert them into power enough to drive our country efficiently and cleanly into the 21st century.

The current energy shortage has come as a surprise to many Americans, but in reality an energy crunch has been coming for many years. Our country contains only 6 percent of the world's population, but consumes over 30 percent of the world's energy. Everyday we use 17.3 million barrels of petroleum products. Nearly a third of this total, 6 million barrels, is imported, with the likely prospect of even greater reliance on foreign production in the future.

The creation of ERDA is intended to reverse this trend. Its mission will be to develop technologies for efficiently using fossil, nuclear, and advanced energy sources so that the United States will have the capacity to produce all the energy we need. This is the goal I set forth in my recent report to the Government Operations Committee on the emergence of "petropolitics"—"Petropolitics and the American Energy Shortage," November 8, 1973.

ERDA will have a broad charter covering research and development on technology for utilization of all foreseeable energy sources. Liquefication and gasification of coal and conversion of our oil shale reserves are undoubtedly high on the list of priorities. But we must also move forward with efforts to harness geothermal and solar power, winds, tides, and advanced cycles. The Agency will also be responsible for devising new ways of conserving our existing energy supply.

ERDA will be formed by transfer of the AEC's energy R. & D. military applications, basic research, production, biomedical, and environmental programs, the Department of the Interior's Office of Coal Research and Bureau of Mines energy centers, the solar and geothermal energy development activities of the National Science Foundation and portions of EPA's stationary source emissions control and advanced automotive propulsion research programs.

ERDA will be headed by a single Administrator and a Deputy Administrator, who will be appointed by the President with the advice and consent of the Senate. In addition, the bill establishes a balanced structure of five Assistant Administrators, each being responsible for a major program area, as follows: Fossil energy development; nuclear energy development; research and advanced energy system; environment, safety, and conservation; and national security affairs.

The Assistant Administrators will be appointed by the President and confirmed by the Senate.

ERDA's approach to developing safe, efficient energy sources will involve the energy industry to the maximum extent possible. It will supplement existing and planned R. & D. by private industry. After the feasibility of a technology has been demonstrated by ERDA, industry will take the lead in further development and applying it on a commercial scale. ERDA will encourage independent energy R. & D. by working closely with industry in the development of technology and to facilitate a rapid, smooth transfer of knowledge to the private sector. To carry out this policy, jointly funded Federal and private projects will also be encouraged.

While ERDA's basic mission will be energy research and development, it will also have responsibility for research on the environmental protection and public safety aspects of the new energy sources it develops. The bill establishes a separate organizational unit within the Agency to carry out this task.

Mr. President, there is no necessary conflict between our need for energy and our need for a healthy environment. One of the most important considerations in developing a national framework is bringing together the intelligence of conservation and technology. ERDA will bring these two interests together in a harmonious way by assuring that environmental considerations are given proper weight in the development of new energy sources.

In contrast to ERDA, the NEC is not a new agency. It will perform the licensing and regulatory functions of the AEC. The mission of NEC will be to protect the public from the health and safety hazards involved in the use of nuclear materials.

The Commission will consist of the Chairman and members of the AEC, its general counsel, and other units not transferred to ERDA. The Commission will continue to carry out the regulatory functions of the present AEC which include: Policy setting and assessment; oversight of regulatory operations; adjudication of licensing and related cases, and resource allocation.

The regulatory responsibilities of the NEC will encompass the licensing of all nuclear utilization and production facilities for industrial or commercial purposes including the transportation, disposal, import, or export of these materials.

The NEC's regulatory authority will extend to ERDA's demonstration projects of fast breeder reactors and other nuclear reactors when they are operated as part of the power generation facilities of an electric utility system. This will assure that ERDA's research and development work is performed in a manner consistent with public health and safety.

To provide the Commission with the capability to carry out its mission, the bill authorizes it to conduct and support safety and environmental research.

Mr. President, this bill was drafted in cooperation with the Nixon administration. It is intended to fill out and complete the statutory plan for reorganization of our natural resource and energy programs contained in S. 2135. The Subcommittee on Reorganization, Research, and International Organizations, which I chair, has held 3 days of hearings on that bill. This legislation is being introduced as a separate bill so that the Congress can speedily establish the organizational units necessary to carry out the research, development, and regulatory programs which are so urgently needed to meet the energy crisis.

Mr. President, our Nation must realize there are no quick, easy, cheap solutions to the energy crisis. In the short run, some changes in our lifestyle will be required if we are to avoid serious disruption of our economy in the future. The answer to our energy problem lies in research and development of new, efficient sources of power and conservation of the energy sources we now have. This is the path to energy self-sufficiency. And that is our goal for ERDA.

As chairman of the subcommittee with jurisdiction over the bill, I pledge prompt consideration of it, so that the full Senate will soon have an opportunity to act on it.

I support the basic approach of the bill, but, of course, reserve judgment on its final provisions pending the outcome of the hearings.

Mr. JAVITS. Mr. President, I am pleased to join my colleagues as a principal cosponsor of S. 2744, the Energy Reorganization Act of 1973. As the ranking minority member of the Executive Reorganization Subcommittee, I intend to join with our chairman, Mr. RIBICOFF, in moving the bill to hearings within the next 2 weeks.

Decisive action for the short and the long run must be taken in several areas if we are to avert widespread hardship to our people and damage to our economy during the current nationwide energy emergency. The Senate acted swiftly to enact the National Energy Emergency Act last week providing the President with additional legislative authorities needed in order for the Federal Government to deal effectively with potentially severe fuel shortages.

Under that legislation, we must have a priority system and plan for allocating energy fuels equitably and for energy conservation designed to reduce the level of consumption by 25 percent within 4 weeks.

While we are confronted today with an immediate energy crisis during the coming winter months we are also confronted by the fact that we as a nation are too dependent upon foreign forces for oil and other sources of energy.

While we must discipline ourselves in the use of energy and make conservation of those resources our immediate national goal, we must also take new initiatives to assure national self sufficency and independence in the development and production of new and adequate sources and supplies of energy for the future.

Our failure to do so may well result in catastrophe during the next decade for our Nation. It is to facilitate the achievement of this objective, that I join today in introducing the Energy Reorganization Act of 1973.

Long range national energy needs can be met only through more efficient utilization of current energy sources, development of raw energy sources and more effective conservation and utilization practices. The administration has proposed a large scale Federal research and development effort in order to achieve these solutions. A new, central agency is needed to provide the necessary organization, management and technical expertise to achieve these R. & D. goals in the energy area. Our bill therefore proposes the establishment of the Energy Research and Development Administration.

The mission of this important agency will be to develop new technologies for efficiently using fossil, nuclear, and other energy sources in a manner consistent with sound environmental and safety practices. It will have direct responsibility for policy formulation, strategy development, planning, management, conduct of energy R. & D. and for working with industry to assure that new technologies are developed and applied.

In its second title, the bill would change the name of the Atomic Energy Commission to the Nuclear Energy Commission which would continue to perform the licensing and related regulatory functions now performed by the AEC. Regulation of atomic energy resources through licensing will be disengaged from activities relating to their development and promotion, and lodged in the NEC.

Thus, in proposing the ERDA/NEC

reorganization, we seek several important objectives which are critically important to the long-term solution of our national energy crisis;

First. We must develop energy technology to be able to to utilize our vast resources of fossil fuel while carrying on new energy R. & D. to produce adequate amounts of clean energy;

Second. We must develop improved energy technologies in all sources of energy including nuclear, fossil, or solar, and geothermal, and

Third. We must develop better energy conservation technologies such as automotive power systems, electric power generation, and transmission techniques.

Mr. President, all of us in Congress are facing a challenge of extraordinary dimensions. The energy crisis raises profoundly difficult problems relating to the economy, Federal regulation of energy production, supply and distribution and enforcement of those regulations on a fair and equitable basis, levels of unemployment, transportation, consumer protection, environmental standards, international trade, and a whole host of problems relating to the ways in which millions of Americans live their daily lives. The wisdom and fairness with which we accept that responsibility may determine to an important extent the quality of life enjoyed by our citizens for many years to come.

While Congress and the administration will attack this problem on many fronts, I believe the bill we introduce today is a most important building block toward a comprehensive solution.

Mr. JACKSON. Mr President, I join the senior Senator from Connecticut (Mr. RIBICOFF) and other members of the Subcommittee on Reorganization of the Government Operations Committee today in introducing a measure which would create an independent Energy Research and Development Administration—ERDA. The measure is a companion bill to one which was developed in the House Government Operations Committee, and I am pleased to join the subcommittee chairman and ranking minority member in introducing it so that it will be before the subcommittee as the important matter of Federal energy organization is considered.

I am cosponsoring this measure. However, I do not want to imply that I am in complete agreement with its objectives. An administration measure for energy reorganization is already pending and has been under consideration by the Government Operations Committees in both Houses. In the Senate, this measure is S. 2135. It would provide for a comprehensive reorganization resulting in a Department of Energy and Natural Resources as well as a centralized energy research organization.

The principal objective of the bill being introduced today is to isolate the research function from the other aspects of energy organization. I believe that the provisions of the new measure should be considered, but I am reluctant to consider them in isolation from the concerns of overall energy organization.

Other aspects of the measure, in my view, will require careful attention and considerable work before it could be recommended to the Senate. For example, the measure does not set forth congressional guidance concerning the strategy, priorities, and objectives for nonnuclear energy research. The technologies which should be considered, the management approaches which are authorized, and the budgetary levels which might be anticipated are all left to the discretion of the executive branch.

I know that the Congress has given careful attention to these matters in several committees. I believe that we will achieve an effective nonnuclear energy research effort more rapidly if the Congress provides some leadership in setting objectives and priorities for the task.

Other provisions of the measure also require detailed examination. A new Nuclear Energy Commission would be created by the bill to undertake the licensing and regulatory functions currently performed by the AEC. The relationship of the new Commission to the nuclear experimental work which will be done by ERDA is an important consideration. I am not satisfied that the bill adequately resolves it.

The disposition of the military functions of the AEC should also be thoroughly studied.

Federal organizations usually have long lives. They should be carefully designed for the long term, not hastily established in the name of expediency. If the Energy Research and Development Administration proposal is rushed through the Congress, it is unlikely that detailed consideration will be given to the complex and equally significant relationships between energy research and other aspects of energy policy or overall natural resources management.

I fully recognize the urgent need for coordination of Federal energy research programs and the need for sound congressional authority for an expanded nonnuclear research and development program. The Senate Interior Committee, in cooperation with the Public Works, Commerce, and Joint Atomic Energy Committees, has been working on a measure which will provide congressional direction and authority for a nonnuclear energy research and development program. This measure, S. 1283, the Energy Research and Development Act, will be ready for Senate consideration very soon.

Appropriate permanent organizational arrangements also must be established to administer Federal energy policies—including research policies. I intend to cooperate in every way in developing legislation to establish them. I am hopeful that such legislation will be approved as quickly as possible, but with the care and study that the complexity of the issues deserves.

Mr. PERCY. Mr. President, as the principal minority cosponsor of S. 2135, the Department of Energy and Natural Resources bill introduced on July 10 of this year, and the chief sponsor of each of the President's departmental reorganization bills in the last Congress, I am pleased to join today as the principal cosponsor of the Energy Reorganization Act of 1973.

The present energy emergency has dramatized for all Americans the vital need for more research into the potential of new energy sources, and development of these sources. Only a massive and sustained commitment of funds for energy R. & D. can close the widening gap between domestically produced fossil fuels and the projected national demand for energy in the coming years.

In the interests of pressing ahead with this research and development effort, while the Congress continues to develop the more complex Department of Energy and Natural Resources—DENR—legislation, the President has requested separate legislative action on the proposed Energy Research and Development Administration—ERDA—and Nuclear Energy Commission—NEC.

The bill we are introducing today would establish those two agencies without prejudicing congressional consideration of DENR. I fully expect that hearings will continue on the DENR proposal, and that S. 2135 will be reported out early next year. Meanwhile, the Congress should act immediately to create ERDA and NEC.

The bill we are introducing today would establish an Energy Research and Development Administration to bring together and direct Federal activities relating to R. & D. on the various sources of energy, to increase efficiency and reliability in the use of energy, and to perform military and production functions.

In addition, the bill would permit the orderly separation of the licensing and regulatory functions of the Atomic Energy Commission from the research and development functions of the AEC. The licensing and regulatory functions would be performed by a renamed Nuclear Energy Commission.

THE ENERGY RESEARCH AND DEVELOPMENT AGENCY

A massive federally sponsored R. & D. effort has been proposed by the President, providing for the expenditure of $10 billion over the next 5 years, in order to develop energy technologies to meet the Nation's energy needs. A new independent agency is needed to provide the proper organizational framework, management, and technical expertise to achieve the Nation's R. & D. goals in the energy area.

ERDA's mission will be to develop technologies for efficiently using fossil, nuclear, and advanced energy sources to meet growing needs and in a manner consistent with sound environmental and safety practices. ERDA will have a broad R. & D. charter covering the development of technologies for all foreseeable energy sources and utilization systems, including solar, geothermal, oil shale, and hydrogen. The Agency will have responsibility for policy formulation, strategy development, planning, management, conduct of the energy R. & D. and for working with industry to assure that promising new technologies can be developed and applied. In addition, ERDA will continue the weapons production and development programs of the AEC.

ERDA will be formed by transfer of AEC's energy R. & D. military applications, basic research, production, biomedical and environmental programs, Interior's Office of Coal Research and Bureau of Mines energy centers, NSF solar and geothermal energy development activities, and portions of EPA's stationary source emissions control technology and advanced automotive propulsion systems—AAPS—research programs.

NUCLEAR ENERGY COMMISSION

The separation of regulatory functions from the research, development, and production activities of the present Atomic Energy Commission is another step in the evolution of the Federal Government's involvement in nuclear energy. The five member AEC Commission, including its staff offices and licensing boards, plus the three regulatory Directorates under the Director of Regulation will form the nucleus of the renamed Nuclear Energy Commission—NEC. NEC will be an independent regulatory Commission responsible for licensing the civilian use of nuclear power and materials.

The nuclear power industry has matured rapidly in the last decade and the growth is continuing with the number of licenses issued for nuclear reactors currently doubling every 2 or 3 years. By 1980, 20 to 30 percent of electrical energy will be generated by nuclear reactors.

Maturity of the nuclear power industry requires a full-fledged regulatory agency free of development responsibilities in order to handle this ever-increasing workload in an impartial manner to assure the public health and safety.

NEC's mission will be to insure the protection of the public and the environment from potential health and safety hazards inherent in the use of nuclear materials.

The five member Commission will continue to carry out, but on a full-time basis, the regulatory functions of the present AEC which include: Policy setting and assessment, oversight of regulatory operations, adjudication of licensing and related cases, and resource allocation.

Mr. President, I urge the Congress to swiftly enact this bill. The framework must be established first if we as a nation are to mount the full-scale effort needed to develop vital new energy resources for the 1980's and beyond.

By Mr. WILLIAMS (for himself and Mr. Javits):

S. 2747. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

Mr. WILLIAMS. Mr. President, on September 6, 1973, just 3 days after Labor Day, Richard Nixon became the first President to veto a minimum wage bill, dashing the hopes of millions of American workers. In doing so, he nullified a 3-year effort by the Congress to fashion a reasonable and realistic piece of legislation.

Mr. President, since 1970, the House of Representatives and the Senate have conducted countless days of hearings on this leigslation, compiling a record of thousands of pages. The bill has been debated on the floor of both Houses in both the 92d and the 93d Congress. What emerged was not the bill that Congressman Dent and I jointly introduced in 1969. Rather it was a bill substantially revised through the legislative process.

Since the President's veto of the minimum wage bill it has often been suggested that the majority has refused to compromise. Let me set the record straight.

In the first place, as I have already noted, the bill which was sent to the White House reflected substantial compromise. Yet, on the day the House failed to override the President's veto of this measure, Senator Javits and I instructed both majority and minority committee staff to reach out to the White House to initiate discussions on a potential compromise. That night the White House staff agreed to meet with the committee staff. A meeting did occur in which representatives of George Shultz, in his capacity as Secretary of the Treasury and as counselor for economic affairs, participated. At that meeting committee staff suggested some particular areas of compromise.

The administration personnel said that they would have to review these matters and that they would arrange for a follow-up meeting. To this date, my staff has not heard any further word from these representatives of the administration. In addition, the staff has had nonproductive meetings with Department of Labor officials.

Mr. President, the President of the United States, in his veto message, has pledged cooperation, but none has been forthcoming.

Now our colleagues from Colorado (Mr. Dominick), Ohio (Mr. Taft), and Maryland (Mr. Beall) have called for a compromise. Yet, the bill they offer, S. 2727, is, in their own terms, "substantially the same as one they offered" as a substitute this year and one that was also offered as a substitute in the House of Representatives this year.

On each of these occasions it was voted down. Yet now it is being offered again as a "realistic compromise." It is, in fact, not a compromise at all, since it was arrived at unilaterally without even a request for discussion with me.

Mr. President, the key issue in minimum wage legislation is, and always has been, the wage rate and its effective date. Today, my colleague from New York (Mr. Javits) and I are offering a new bill. In all candor it has only one major revision from the conference report that was vetoed. But that major revision goes to the heart of minimum wage legislation.

The conference report would have imposed the second stage of minimum wage increases next July 1, only 7 months from now. The bill we introduce will delay the second increase until 1 full year after the first increase. That is, at least 13 months from now, with the third following 1 year later, and the fourth 1 year after that.

Although we believe this to be a substantial change from the conference report, we do not offer it on a take it or leave it basis. We are willing to discuss any potential compromise which is not regressive. I believe that the hopes of millions of Americans rest on our ability to achieve a "legislative compromise," a compromise which we in the Halls of Congress can agree is reasonable and equitable and responsive to the needs of the people. I certainly am willing to explore any such compromise.

The demonstrated catastrophe of executive isolation we have seen manifested in the energy crisis, mismanagement of the economy, and other areas, has hopefully brought the administration to a realization that détente is in order, not only with the Soviet Union, but also with the Congress.

If we in Congress can compromise our differences, I am hopeful the President would now be willing to join in the consensus.

By Mr. TUNNEY (for himself and Mr. Cranston):

S. 2748. A bill to authorize the Secretary of the Interior to designate the Mulholland National Scenic Parkway in the State of California, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

MULHOLLAND DRIVE NATIONAL SCENIC PARKWAY

Mr. TUNNEY. Mr. President, today I am introducing legislation to designate Santa Monica's Mulholland Drive as a national scenic parkway. I am pleased to have my colleague, Senator Cranston, as a cosponsor.

Last March I introduced legislation to create a Santa Monica Mountain National Urban Park and Seashore to protect the last remaining open space buffer in the Los Angeles Basin. I believe that a logical first step toward reaching this larger goal is to designate Mulholland Drive as a national scenic parkway, connecting State and local parks from Griffith Park to Pt. Mugu.

This 53 miles drive—extending from the Hollywood Freeway to the Pacific Coast Highway—is within 15 miles of the 9 million residents of the city of Los Angeles. The people of Los Angeles have less open space than any other metropolitan area—including New York City. The Santa Monica chain offers such a recreation area, and must be protected against encroaching urban sprawl. The idea of a scenic parkway is to provide the necessary corridor for access to recreation areas but to discourage development of Mulholland as a thoroughfare.

The parkway would not be designed for high density use, but as a connecting link augmented by scenic overlooks, picnic areas, and bike and equestrian trails.

The establishment of a scenic parkway would be a major step toward getting the parks to the people of Los Angeles and would represent a major cooperative effort between the Federal Government and State and local planners and decisionmakers.

This bill is the first in a series of efforts I plan to pursue to meet the comprehensive goal of an urban and seashore park, properly protected and managed, for southern California residents.

I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2728

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Secretary of the Interior (hereinafter referred to as the Secretary) may designate as Mulholland National Scenic Parkway (hereinafter referred to as the "parkway") the present Mulholland Drive and Highway rights-of-way commencing at the intersection of Pacific Coast Highway and running eastward along the crest of the Santa Monica Mountains to the intersection of the Hollywood Freeway together with adjacent or related sites, for public recreation use and for interpretation of scenic and historic values. The Secretary shall establish the parkway by publication of a notice to that effect in the Federal Register, at such times as he deems advisable. The Secretary may make minor revisions in the boundary of the parkway from time to time, by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 2. Within the boundaries of the parkway, the Secretary may acquire lands and interests in lands (including scenic easements) by donation, purchase or exchange except that in no case shall any such lands or interests therein owned by the State of California or political subdivisions thereof be acquired other than by donation or negotiated purchase.

SEC. 3. The Secretary shall administer the parkway as a unit of the national park system in accordance with the authority contained in the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented.

SEC. 4. The Secretary shall coordinate development of the parkway in close coordination with Los Angeles City and Los Angeles and Ventura County agencies and with the California Department of Parks and Recreation.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 149

At the request of Mr. INOUYE, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor to S. 149, to amend section 5(c) of the Home Owners Loan Act of 1933 to authorize an increase in the principal amount of mortgages on properties in Alaska, Guam, and Hawaii to compensate for higher prevailing costs.

S. 948

At the request of Mr. MONDALE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 948, to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees.

S. 1745

At the request of Mr. MONDALE, the Senator from Oregon (Mr. PACKWOOD) was added as a consponsor of S. 1745, the Sudden Infant Death Syndrome Act of 1973.

S. 2385

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2385, to designate the Chattooga River in the States of North Carolina, South Carolina, and Georgia, as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 2422

At the request of Mr. MATHIAS, the Senators from California (Mr. TUNNEY and Mr. CRANSTON) were added as cosponsors of S. 2422 to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape.

S. 2506

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 2506, to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes.

S. 2518

At the request of Mr. MONDALE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2518, the Women's Educational Equity Act.

S. 2643

At the request of Mr. KENNEDY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2643, the Immigration and Nationality Act amendments.

S. 2702

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2702, to provide that daylight saving time shall be observed on a year-round basis.

HOUSING ACT OF 1973—AMENDMENTS

AMENDMENT NOS. 710 THROUGH 717

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. TAFT. Mr. President, I am gratified that in its markup of proposed housing legislation, the Senate Banking, Housing and Urban Affairs Committee has already accepted several amendments introduced by the Senator from California (Mr. CRANSTON) and myself, which are designed to insure that Federal housing programs devote more attention to the preservation of our existing housing stock. Senator CRANSTON and I have made it clear that we intend to submit more amendments along these lines, and we are submitting all of those amendments today for the benefit of committee members and other interested parties who wish to review them. I ask unanimous consent that a short summary of each of our remaining amendments to the Housing Act of 1973 and the amendments themselves, along with similar material relating to two of my own amendments along the same lines, be inserted in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 710 (TAFT-CRANSTON)

The Committee has already decided to continue the Sec. 312 direct rehabilitation loan program rather than merge it into the community development legislation. Under present law the program can basically be used only in code enforcement and urban renewal areas. However, under the community development bill the program will no longer be subject to such strong area restrictions because each community will have more discretion to define appropriate areas. We support this increased flexibility and feel that it will have positive results. For example, the program should prove valuable in areas which are just starting to decline, as well as in more deteriorated areas which might have been designated in the past as code enforcement and urban renewal areas. Additionally, while "spot" rehabilitation is often a waste of money in otherwise neglected areas which are declining rapidly, a homeowner with limited means in a relatively sound neighborhood may need it desperately.

We feel that the Sec. 312 program is an ideal vehicle through which Federally subsidized efforts to preserve and repair existing housing can be increased and that more flexible area restrictions is a step in the right direction. However, we recognize that if this is to occur, the program must be tightened up so that private rather than Federal money is used for rehabilitation wherever practicable. This is particularly important since the program is a direct loan program.

Our amendment, which reflects these considerations, contains the following major provisions:

1. Sec. 312 could be used, basically, wherever consistent with a locality's community development or housing plans. One of the effects of this language should be to ensure that the program is not used in neighborhoods which are deteriorated past the rehabilitation point, except as part of a comprehensive revitalization effort.

2. Loans for owner-occupants would be limited to applicants who could not otherwise undertake rehabilitation without assuming a monthly housing expense exceeding 25% of income, or a lower percentage set by the Secretary. This test would not have to be applied to those whose income is less than 50% of the median. Except as explained in #7 below, loans for owner-occupants would be further limited to those whose incomes do not exceed 80% of the median income for the community. Loans to owners of multifamily projects could be made only when the loan benefits would "accrue substantially" to citizens within such income limits.

3. Refinancing would be limited to owner-occupants who need it to avoid "an excessive monthly housing expense as explained in #2 above, and for whom FHA-guaranteed unsubsidized refinancing would not provide the necessary assistance.

4. Loans for rehabilitation of strictly nonresidential property could only be made where the rehabilitation is a necessary part of a community development program.

5. The loan amount could not exceed the lesser of the estimated cost of rehabilitation or $8,000 per family unit, plus the amount of any existing indebtedness refinanced.

The loan amount for multifamily projects would be further limited to the estimated appraised value of the property after rehabilitation less any outstanding indebtedness, taking into account community neighborhood preservation efforts. (This is a check on neighborhood soundness.)

6. Funds would be allocated in a manner which encourages communities to facilitate rehabilitation through their own programs, particularly for owner-occupants in community development areas who cannot afford Sec. 312 loans. HUD is also directed to administer the legislation in a manner which devotes more attention to "transitional areas" rather than slums.

7. Loans would be available to owner-occupants whose incomes exceed 80% of the median only if such loans are supplements to FHA-guaranteed unsubsidized home improvement loans of reasonably substantial amounts, and the Sec. 312 loans are necessary to avoid an excessive monthly housing expense as explained in No. 2 above. The repayment on these loans would be deferred until the private loan is repaid. This arrangement is designed to reduce Federal out-

lays, to help ensure reliance on the private sector for rehabilitation loans where practicable and to encourage local housing agencies which administer the Sec. 312 program to work more closely with local financial institutions.

If such an owner-occupant lives in a neighborhood where home repair financing at affordable rates is otherwise unavailable, the requirement for private money would be waived. However, the direct loan would be made at whatever interest rate the borrower could afford without paying an excessive proportion of monthly income for housing expenses.

8. Owner-occupants who could not otherwise afford essential repairs could have their loan repayment deferred until the property is transferred. (One of the reasons for advancing this provision is to spark a full-scale debate on the proper division of responsibility between the Federal government and the localities in our housing rehabilitation program.)

9. Authorization level: $150 million for fiscal 1974 and $300 million for each fiscal year thereafter.

Provisions of present law to match the above numbers:

1. Loans are available basically in urban renewal or code enforcement areas.

2. Loans are limited in eligible areas only to applicants who cannot find funds "on comparable terms and conditions" (i.e., not effectively limited by this provision). HUD is directed to "give priority" to those with incomes where incomes are below the limits for Sec. 221(d)(3) projects. These limits are compiled in a complicated manner, but in many cases they amount to about the median income.

3. Refinancing is allowed wherever needed to reduce monthly housing expense to 20% of income.

4. No such provision.

5. Loan amounts are limited to $12,000 per family unit, or the cost of rehabilitation, whichever is lesser, plus any amount within such overall limitations which is required to cover refinanced existing indebtedness. There is no such provision relating to appraised value of the property after rehabilitation. These changes will increase the importance under the program of "moderate" as opposed to "gut" rehabilitation, and encourage utilization of the program in transitional areas rather than slums.

6. No such provision.

7. No such provision.

8. No such provision. Such people presently receive (Sec. 115 urban renewal) grants. It is assumed that any outright rehabilitation grants will have to be given by localities as part of community development programs, rather than supplied directly by the Federal Government.

9. Present level is $150 million per fiscal year. The level has not been raised since 1968.

RATIONALE FOR THE INCREASED AUTHORIZATION

The National Association of Housing and Rehabilitation Officials estimated that the demand for Sec. 312 rehabilitation loan funds in 1972 was between $200 and $250 million. We have authorized the present level of $150 million for fiscal 1974 and $300 million starting in fiscal 1975. The increase over the present level takes into account normal increased demand, the demand which was not fulfilled while funds were being held back by the Office of Management and Budget over the past year, and the new provisions allowing more widespread utilization of the program within communities and deferred repayment until the property is transferred in hardship cases. In addition, the increase would indicate that the Committee is serious about funding the program.

AMENDMENT No. 710

At the end of the bill, add the following new title:

CHAPTER IV—MISCELLANEOUS

REHABILITATION LOANS

SEC. 401. Section 312 of the Housing Act of 1964 is amended to read as follows:

"REHABILITATION LOANS

"SEC. 312. (a) The Secretary is authorized, through the utilization of local public and private agencies where feasible, to make loans to owners and tenants of property to finance the rehabilitation of such property. No loan shall be made under this section unless—

"(1)(A) the property is determined to require rehabilitation, and such rehabilitation is consistent with the provisions and objectives of an approved community development program under the Community Development Assistance Act of 1973, or with any housing plan approved by the Secretary pursuant to the provisions of the Housing Act of 1973 (particularly those provisions of such plan relating to the types of housing preservation or rehabilitation efforts proposed for various neighborhoods); or

"(B) the property has been determined to be uninsurable because of physical hazards after an inspection pursuant to a statewide property insurance plan approved by the Secretary under title XII of the National Housing Act, and the loan is made to the owner or tenant of the property to finance rehabilitation which the Secretary determines to be necessary to make the property meet reasonable underwriting standards;

"(2)(A) if the applicant owns and occupies a single family dwelling unit to be rehabilitated, (i) the applicant's income does not exceed 80 per centum of the median income for the area, as determined by the Secretary in the same manner as such determination is made pursuant to section 402 of the Housing Act of 1973, except as provided in subsection (f); and (ii) the applicant is unable to secure the necessary funds from other sources without paying more than 25 per centum or such lower per centum as the Secretary deems appropriate of his average monthly income for housing expenses, except that this clause (ii) shall not be applied to an applicant whose income does not exceed 50 per centum of the median for the area, as determined pursuant to the provisions of this section; or

"(B) if the applicant proposes to undertake rehabilitation of multifamily housing, the Secretary is satisfied that the benefits of such rehabilitation will accrue substantially to citizens whose incomes fall within the income requirement of clause (A)(i); and

"(3) the loan is an acceptable risk taking into consideration the need for the rehabilitation, the security available for the loan, and the ability of the applicant to repay the loan.

"(b) For the purpose of this section—

"(1) the term 'rehabilitation' means the improvement or repair of a structure or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes or a statewide property insurance plan to be provided by the owner or tenant of the property;

"(2) the term 'tenant' means a person or organization that meets such conditions regarding length of lease and such other conditions designed to protect the Secretary's interest as the Secretary may prescribe; and

"(3) the term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) A rehabilitation loan made under this section shall be subject to the following limitations:

"(1) The loan shall be subject to such terms and conditions as may be prescribed by the Secretary.

"(2) The term of the loan may not exceed twenty years or three-fourths of the remaining economic life of the structure after rehabilitation, whichever is less.

"(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate, but not to exceed 3 per centum per annum, of the amount of the principal outstanding at any time, and the Secretary may prescribe such other charges as he finds necessary, including service charges and appraisal, inspection, and other fees.

"(4) The amount of the loan may not exceed—

"(A) in the case of residential property, the Secretary's estimate of the cost of rehabilitation, or $8,000 per family unit, whichever is the lesser: *Provided*, (i) That the Secretary may, by regulation, increase such amount per family unit by not to exceed 45 per centum in any geographical area where he finds that cost levels so require, (ii) that the loan may exceed the cost of rehabilitation in order to include an amount approved by the Secretary to refinance existing indebtedness secured by the property if such refinancing is necessary to enable the applicant to amortize, with a monthly payment of not more than 25 per centum of his average monthly income or such lower per centum as the Secretary deems appropriate, such loan and any other indebtedness secured by the property, and (iii) that the amount of the loan shall be further limited in the case of rehabilitation of a multifamily project to the Secretary's estimate of the appraised value of the property after rehabilitation, taking into account any community programs of neighborhood preservation or rehabilitation; or

"(B) in the case of nonresidential property, whichever of the following is the least: $50,000, or the cost of rehabilitation, or an amount which when added to any outstanding indebtedness related to the property securing the loan creates a total outstanding indebtedness that the Secretary determines could be reasonably secured by a first mortgage on the property.

"(5) A loan may not be made under this section to refinance existing indebtedness unless the applicant is the owner-occupant of a single-family dwelling and refinancing pursuant to section 401 of the Housing Act of 1973 would not provide the necessary assistance.

"(6) A loan for the rehabilitation of strictly nonresidential property shall not be made pursuant to this section unless the Secretary determines that such rehabilitation is a necessary part of the community development program being carried out under the Community Development Assistance Act of 1973.

"(7) A loan shall be secured as determined by the Secretary.

"(d) In any case where assistance pursuant to this section other than (or in addition to) a loan is necessary to enable an applicant who owns and occupies a single-family dwelling unit to finance rehabilitation because such applicant cannot afford all or part of the required payments of principal and interest on any necessary loan, the Secretary is authorized to make an advance to such applicant to cover or assist in covering the cost of the necessary rehabilitation. The amount of such an advance shall be the cost of rehabilitation (but not more than $4,000), reduced by the principal amount of any loan made pursuant to this section in connection with the same rehabilitation. Any advance made under this subsection shall be a repayable advance and as such shall create a lien on the property in favor of the Secretary in an amount equal to the amount of the advance, and such lien shall be duly recorded. Such advance shall be repaid and the lien discharged at such time as the property is subsequently sold or otherwise transferred to another person (other than to the owner's surviving spouse) and shall be subject to such other terms and conditions as the Secretary may prescribe.

"(e) The Secretary shall make funds available pursuant to this section, and otherwise administer the provisions of the section, in a manner designed to encourage communities to undertake programs which facilitate or provide public or private financing of rehabilitation with funds not made available under this section or any other Federal housing program. In the administration of this subsection, the Secretary shall take into account the necessity to address the rehabilitation needs of owner-occupants living in areas affected by community development activies whose incomes are too low to afford loans provided pursuant to this section. The Secretary shall also encourage utilization of assistance provided under this section in a manner consistent with the objectives of section 1601(c) of the Housing and Urban Development Act of 1968.

"(f)(1) The Secretary may make a loan available pursuant to this section to an owner-occupant of a single-family dwelling whose income does not fall within the limitation established in subsection (a) if such owner-occupant has received a property improvement loan pursuant to the provisions of title III of the Housing Act of 1973. The amount of such loan under this section shall be limited to that estimated portion of the rehabilitation which cannot be financed with a loan pursuant to the provisions of title III without forcing such owner-occupant to pay an excessive per centum of his monthly income for housing expenses, as determined by the Secretary. The total amount of the loan under this section, combined with the loan pursuant to the provisions of title III, shall not exceed the maximum loan amount authorized under this section. The Secretary may adopt such regulations as he deems appropriate to insure that the provision of a loan pursuant to this paragraph is contingent upon the provision of a reasonable loan amount by a financial institution pursuant to the provisions of such title III. The Secretary is authorized to provide compensation to the extent he deems appropriate to financial institutions for increased servicing expenses related to loans made pursuant to the provisions of such title III which are supplemented by loans made pursuant to this paragraph. Repayment of any loan made available pursuant to this paragraph shall be deferred until the loan made pursuant to the provisions of title III has been repaid.

"(2) If the Secretary determines that property improvement loans pursuant to the provisions of title III of the Housing Act of 1973 are unavailable in the neighborhood or area of the housing proposed to be rehabilitated with a loan made pursuant to this subsection, and that the application for a loan under this subsection otherwise meets the required criteria, he may make a loan available to the applicant notwithstanding the unavailability of such property improvement loans. Notwithstanding the provisions of subsection (c)(3), a loan made available pursuant to this paragraph shall be subject to such interest rate and such other terms and conditions as the Secretary deems appropriate to allow an applicant to finance rehabilitation without paying an excessive proportion of his average monthly income for housing expenses.

"(g) There is authorized to be appropriated not to exceed $150,000,000 for fiscal 1974 and $300,000,000 for each fiscal year thereafter which shall constitute a revolving fund to be used by the Secretary in carrying out this section. All moneys in such revolving fund shall be available for necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing of such loans.

"(h) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary shall have (in addition to any authority otherwise vested in him) the functions, powers, and duties set forth in section 402 of the Housing Act of 1950 (except subsection (c)(2)).

"(i) The Secretary is authorized to delegate to or use as his agency any Federal or local public or private agency or organization to the extent he determines appropriate and desirable to carry out the objectives of this section in the area involved.

"(j) The Secretary is authorized to issue such rules and regulations and impose such requirements and conditions (in addition to those specified in this section) as he determines to be desirable to carry out the objectives of this section, including limitations on the amount of a loan and restrictions on the use of the property involved.

"(k) No loan shall be made under the authority of this section after July 1, 1976, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section before that date."

Amendment No. 711 (Taft-Cranston)

This amendment requires that as part of a community's 3-year housing plan it identify housing preservation objectives and the type of preservation efforts that are appropriate for various neighborhoods or areas. It recognizes that the success of housing rehabilitation efforts depends greatly upon neighborhood conditions. For example, "spot" rehabilitation may be quite effective in an area just beginning to decline, but a waste of money in an area that has deteriorated to the point where a much more concentrated effort is necessary. The future of another area may be so uncertain that low cost "fix-up" efforts may be justified but substantial rehabilitation is not, unless the community agrees to a full-scale preservation program for that area.

Report language should make clear that HUD's special risk insurance actions in older, declining areas, as well as rehabilitation actions, must be consistent with the community's housing preservation objectives and actions as described in the housing plan.

Amendment No. 711

On page 19, between lines 2 and 3, insert the following:

A housing plan required by this subsection shall contain, in addition to a description of proposed housing construction efforts, an identification of housing preservation objectives and a description of the types of efforts consistent with such objectives, such as property tax adjustments, improvements in municipal services, facilitation of moderate or substantial housing rehabilitation, and encouragement of coordinated rehabilitation action among neighborhood or area residents, which are proposed for various neighborhoods or areas.

Amendment No. 712 (Taft-Cranston)

This amendment would allow home maintenance and management counselling to be given in FHA programs other than the low-income homeownership program to the extent HUD deems useful and appropriate. Such counselling may be quite helpful to unsubsidized homeowners with older homes in declining areas or to tenants in the FHA subsidized programs.

Amendment No. 712

On page 48, line 18, after "section", insert "and, to the extent he deems useful and appropriate, to individuals assisted under any other provision of this Act or any provision of the National Housing Act".

Amendment No. 713 (Taft-Cranston)

If the Committee decides to continue the FHA subsidized multifamily program in the form of a new Sec. 502, mortgagors under this program would be required to deposit regularly into an escrow account adequate funds for maintenance and repair expenses. HUD would have access to the account and if it found, upon investigation done at its discretion or prompted by complaints from tenants or State or local officials, that the building was not being adequately maintained, it would be able to expend escrow funds for the necessary maintenance and repairs. HUD would also be given specific authority to adopt regulations encouraging or requiring on-site management of Sec. 502 projects to the extent it deems appropriate. An additional sentence should increase tenants' communications with HUD with respect to matters concerning the project, by ensuring that they will have the opportunity to present written objections to any proposed rent increases.

Because Sec. 502 projects would be Federally insured, any sanctions which HUD might take against project owners who are not providing sufficient maintenance or are otherwise acting contrary to tenant interests would have to be tempered by the necessity to keep the project economically viable. This consideration makes it crucial that HUD take precautions which, to the maximum extent possible, prevent problems from developing and provide for early detection and treatment of problems which do develop. The provisions of the amendment will help to accomplish these ends.

Amendment No. 713

On page 67, between lines 6 and 7, insert the following:

The Secretary is authorized by regulation to require mortgagors to provide on-site management of projects subject to mortgages insured under subsection (i) whenever and to the extent he determines such a requirement to be necessary to assure adequate management of such projects.

(h) The Secretary shall require any mortgagor subject to a mortgage which is insured under subsection (i) to deposit funds periodically in an escrow account to be used solely for the purpose of performing necessary maintenance and repairs to the property secured by the mortgage. The amount of funds to be deposited shall be determined pursuant to an agreement entered into between the Secretary and the mortgagor based upon the estimated cost of such necessary maintenance and repairs. Such agreement shall also provide that upon any finding by the Secretary, on his own motion or as a result of an investigation of complaints by tenants or by State or local government agencies, that the project is not being adequately maintained, the Secretary shall be authorized to utilize funds in the account to carry out necessary maintenance and repairs.

Amendment No. 714

This amendment allows HUD to use anti-abandonment demonstration money (already authorized) for the purpose of assisting and evaluating "Urban Homesteading" programs. Such programs would attempt to reclaim structurally sound abandoned housing units by making the units available at nominal charge to anyone who will rehabilitate them to meet code standards and live in them for a specified time period. Programs of this type are getting underway in Wilmington, Philadelphia and Baltimore. This is an exciting idea for dealing with one of our most difficult urban problems and HUD should help to explore the concept further.

The amendment also allows this demonstration money to be used for the elimination of health, safety and security hazards which are so often associated with abandoned units.

S. 2182

AMENDMENT NO. 714

At the end of the bill, add the following new section:

"DEMONSTRATION WITH RESPECT TO ABANDONED PROPERTIES

"SEC. . (a) The first sentence of subsection (b) of section 505 of the Housing and Urban Development Act of 1970 is amended by inserting after 'process of abandonment' the following: 'or begin to restore viability'.

"(b) The second sentence of such subsection is amended by striking 'and' before '(7)', by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following: '(8) the prompt elimination of health, safety, or security hazards with respect to abandoned units; and (9) projects of the type described in subsection (c)'."

"(c) Such section is amended by redesignating subsections (c) through (f) as subsections (d) through (g), and by inserting after subsection (b) the following new subsection:

"'(c) The Secretary is authorized to provide assistance pursuant to this section to localities undertaking projects which he determines would help to demonstrate the feasibility of facilitating rehabilitation of abandoned units and revitalization of areas containing abandoned units, by making such units available at nominal cost to individuals who place such units in a condition which meets State and local housing codes relating to health or safety and who agree to occupy such units for a specified time period. In addition to those project activities listed in subsection (b), project activities supported pursuant to this paragraph may include, but shall not be limited to, inspections to determine the condition of abandoned property, technical assistance to facilitate rehabilitation undertaken personally by such individuals, acquisition by donation from the Secretary of abandoned dwellings to which the Secretary holds title, and necessary rehabilitation assistance for such individuals which is not available under other Federal programs'."

"EXPLANATION

"This amendment allows HUD to use anti-abandonment demonstration money (already authorized) for the purpose of assisting and evaluating 'Urban Homesteading' programs. Such programs would attempt to reclaim structurally sound abandoned housing units by making the units available at nominal charge to anyone who will rehabilitate them to meet code standards and live in them for a specified time period. Programs of this type are getting underway in Wilmington, Philadelphia, and Baltimore. This is an exciting idea for dealing with one of our most difficult urban problems and HUD should help to explore the concept further.

"The amendment also allows this demonstration money to be used for the elimination of health, safety, and security hazards which are so often associated with abandoned units."

AMENDMENT NO. 715

This amendment would give HUD the power to make grants or loans from insurance funds to assist single-family mortgagors in curing defaults if there is no other feasible means except HUD acquisition of the mortgage, and HUD makes a judgment that the provision of this emergency assistance is reasonably likely to save insurance funds in the long run by averting the costs associated with foreclosure. Since the average loss to HUD from a default termination under Sec. 235 is now $4,350, the amendment could potentially result in considerable savings to the government. Although the judgment we are asking HUD to make would be a tough one in many cases, HUD should have the authority to take advantage of this method of minimizing losses where feasible.

We would expect this authority to be exercised in a manner which ensures that both the lender (through means such as forbearance) and the mortgagor have first made a reasonable effort to take care of the default problem without government assistance.

S. 2182

AMENDMENT NO. 715

On page 99, after line 23, insert the following:

ADVANCES TO PREVENT FORECLOSURE

SEC. 607 (a) Subject to the provisions of subsection (b), the Secretary is authorized to make an advance of funds, out of the mortgage insurance fund carrying the insurance obligation with respect to the mortgage involved, in order to assist a mortgagor whose mortagage involves a single-family dwelling unit in curing a default and thereby to avoid foreclosure in any case in which he determines that—

(1) such an advance is reasonably likely to result in a lower net cost to the fund than foreclosure would;

(2) such an advance is the only feasible means available under the circumstances to avoid foreclosure, other than acquisition of the mortgage by the Secretary; and

(3) there is reasonable prospect of repayment of such an advance.

(b) Any advance under this section shall be made on such terms and conditions as the Secretary may prescribe to carry out the purposes of this section, including such terms and conditions as may be appropriate in any case to effect the repayment of the advance upon maturity of the mortgage or at such earlier time as may be feasible and including a security interest for the government in the dwelling unit or other property.

AMENDMENT NO. 716 (TAFT)

This amendment authorizes HUD to undertake demonstrations of ways to improve housing maintenance. Americans' expenditures per housing unit for maintenance, repairs and major replacements actually declined about 20% in constant dollars between 1962 and 1970. According to the President's June 1972 Report on Housing Goals, the average American spends enough on repairs and maintenance to care adequately for a housing unit with only slightly more than half the value of his home. In the case of Federally assisted units, such negligence increases the chance that major repairs will be needed, and this situation in turn can force foreclosures.

In one of the demonstrations to be tried, HUD would encourage Sec. 235 (or 402, if the programs continued) mortgagors to keep a joint escrow account for maintenance and repairs over a specified time period with a local housing-related agency. The agency would cosign withdrawals to be made for these purposes or for emergency expenses. At each withdrawal, the agency would provide any necessary counselling to encourage effective maintenance and efficient use of maintenance funds. This arrangement could be made a requirement, on a demonstration basis, for Sec. 402 mortgagors. Another required demonstration program would make cash bonuses available to families in Federally assisted housing who maintain their units exceptionally well relative to other such families. This type of program, involving $50 bonuses for the best exterior maintenance of Sec. 23 leased public housing units, has been tried on a limited basis in Ohio with apparent success.

After 3 years, HUD would report to the Congress any findings and recommendations resulting from such experiments.

AMENDMENT NO. 716

At the end of the bill, add the following:

SEC. . Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following new section:

"IMPROVED MAINTENANCE OF FEDERALLY ASSISTED HOUSING

"SEC. 506. In order to promote improved maintenance practices and thereby to avoid unnecessary housing deterioration and to assist mortgagors whose mortgages are insured under section 235 of the National Housing Act or section 401 of the Housing Act of 1973 in meeting the responsibilities of homeownership, the Secretary is authorized, in carrying out the provisions of section 501 of this title and under such conditions and circumstances as he deems appropriate, to encourage such mortgagors to establish and maintain joint savings accounts for maintenance expenditures with appropriate local agencies which the Secretary determines are capable of providing counseling services to such mortgagors and performing their functions under this section in the prompt and financially responsible manner necessary to fulfill the objectives of this section. No disbursement of funds from such joint savings account shall be made without the authorization of both the mortgagor and the agency providing counseling. A mortgagor shall contribute to such joint savings account an amount agreed upon by the agency providing counseling services and the mortgagor at regular time intervals agreed upon by the parties, taking into account the estimated normal maintenance expense for the dwelling owned by the mortgagor, but such contributions shall not be required when the beginning monthly balance in such joint savings account exceeds $150. The agency providing counseling shall agree to the disbursement of funds from the joint savings account upon the request of the mortgagor if such agency is satisfied that such mortgagor intends to use the funds for home maintenance or for emergency expenses. All such disbursements of funds shall be accompanied by such counseling assistance as the agency providing counseling deems appropriate to encourage effective and improved maintenance practices and efficient use of maintenance funds. The Secretary is authorized to undertake such variations of this demonstration as he deems appropriate, including variations which require mortgagors to establish and maintain such accounts as a condition for receiving assistance under section 402 of the Housing Act of 1973, and to demonstrate other methods of improving maintenance and thereby preventing deterioration of single family and multi-family housing. Such variations shall include the provision of cash bonuses to families in federally-assisted housing who maintain their dwellings exceptionally well relative to other such families in such housing. Within three years, the Secretary shall recommend to Congress under what circumstances and conditions, if any, and by what methods, joint savings accounts for maintenance expenditures such as those authorized by this section should be encouraged or required, and any other measures which he finds will result in improved maintenance of housing. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

AMENDMENT NO. 717 (TAFT)

This amendment would allow HUD to guarantee, on a portfolio basis, portions of public, quasi public, and private revolving rehabilitation loan funds containing State, local government, or private money. Such funds could qualify for portfolio insurance if the rehabilitation being undertaken is consistent with the community's housing and community development plans, loans are limited to those who cannot obtain or afford private financing, there is significant State or local government participation in the rehabilitation program (for example, through financial participation in the fund or provision of increased municipal services) and HUD judges the insurance transaction to meet "special risk" criteria. HUD would be given wide latitude to vary terms and conditions so that such criteria can be met. For example, HUD might agree to reimburse such a fund for 50% of the value of all losses over 5% of outstanding volume during a specified time period. HUD would determine an appropriate insurance premium level for this service.

This amendment would encourage states, local governments and non-profit agencies such as community development agencies to become more involved in housing rehabilitation independently of any Federal funding. It recognizes that a sufficient scale-up of our efforts to assist those who cannot otherwise afford to preserve and improve their housing, cannot and should not be undertaken solely with Federal money. This is true from a cost standpoint and because local groups with a financial stake in rehabilitation efforts may be quite sensitive to patterns of neighborhood viability and other local conditions which are so important to the success of rehabilitation efforts. The infusion of non-Federal money which the amendment would encourage could be brought about conceivably at a quite negligible expense to the taxpayers. In addition, provision of insurance on a portfolio basis would save Federal administrative costs by obviating the necessity for a Federal examination of each and every rehabilitation loan.

Revolving rehabilitation funds of the type contemplated are now operating in conjunction with the Federal Home Loan Bank Board's Neighborhood Housing Services program in Pittsburgh, Cincinnati, Dallas, Oakland, and Washington, D.C. Thus far, these neighborhood-oriented funds have relied heavily upon foundation money, but any expansion of this type of effort would require money from state governments, local governments, or other sources. A Federal guarantee would become quite useful under those circumstances.

I realize that this amendment takes a somewhat new approach to the housing preservation problem and I am certainly open to suggestions for improving or modifying it, but I do believe that legislative action is necessary to encourage the kind of local activity I have described.

AMENDMENT NO. 717

Intended to be proposed by Mr. TAFT to S. 2182, a bill to consolidate, simplify, and improve laws relative to housing and housing assistance, and for other purposes, viz:

On page 21, line 23, strike out "and".

On page 21, line 24, strike out the period and insert in lieu thereof "; and ".

On page 21, between lines 24 and 25, insert the following:

"(7) rehabilitation loan funds insured under section 309.".

On page 36, between lines 10 and 11, insert the following:

"INSURANCE OF STATE AND LOCAL REHABILITATION LOAN FUNDS

"SEC. 309. (a) The Secretary is authorized upon such terms and conditions as he may prescribe to insure any revolving fund administered by a State or local government or by any public or private nonprofit agency or organization approved by the Secretary for purposes of this section against part of the losses which such fund may sustain as a result of loans or advances of credit from the fund pursuant to a loan program which meets the requirements of this section.

"(b) A loan program which meets the requirements of this section shall—

"(1) involve significant participation in the rehabilitation program by a State or local government;

"(2) involve loans to finance rehabilitation of predominantly residential property which meet the requirements of section 312(a)(1) of the Housing Act of 1964;

"(3) provide loans to persons who cannot otherwise obtain or afford private financing; and

"(4) meet such requirements concerning the nature of the loans involved as the Secretary determines necessary so that a guarantee pursuant to this section will meet special risk criteria.

"(c) The Secretary is authorized to establish and collect such insurance premiums or other fees or charges as he determines to be necessary in connection with the administration of this section.".

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973—AMENDMENT

AMENDMENT NO. 718

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK (for himself and Mr. TAFT) submitted an amendment intended to be proposed by them jointly to the bill (S. 2702) to provide that daylight saving time shall be observed on a year-round basis.

COMPENSATION OF THE ATTORNEY GENERAL—AMENDMENTS

AMENDMENT NO. 719

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to the bill (S. 2673) to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

ENERGY EXPORT CONTROL ACT OF 1973—AMENDMENT

AMENDMENT NO. 720

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

AMENDMENT TO S. 2737

Mr. HARTKE. Mr. President, I take the opportunity to amend my bill, the Energy Export Control Act of 1973, S. 2737, to include the energy source of gasoline.

It has come to my attention that there is also a great need to provide surveillance and control over gasoline as well as coal, fuel oil No. 2, propane gas, and methane gas.

In comparing the export figures of gasoline for 1972, with those for the first 9 months of 1973, there has been a drastic increase in the export of gasoline. In the first 9 months of this year, we have already surpassed the amount exported during the entire year of 1972, by over 178,000 barrels. There are 42 gallons in every barrel.

Mr. President, I ask unanimous consent that a chart showing the exports of gasoline for 1972 and the first 9 months of 1973, be inserted in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Export of gasoline

1972 (Jan.–Dec.):	(*Barrels*)
Aviation fuel (100 octane or more)	77,533
Aviation fuel (less than 100 octane)	16,319
Total	93,841
Gasoline, Total	280,894
1973 (Jan.–Sept.):	
Aviation fuel (100 octane or more)	44,044
Aviation fuel (less than 100 octane)	6,247
Total	40,291
Gasoline, Total	459,529

Figures from Bureau of the Census.

Mr. HARTKE. Mr. President, the export controls which I advocate would not disrupt the international market and, therefore, would not invite retaliation. They are designed, however, to protect our own national interests.

In a time of nationwide emergency, we cannot countenance the export of these vital energy resources. Without legislation these exports could increase. Their absolute amounts may not be gigantic, but they are direly needed in this country and should be utilized here in keeping our factories and schools in operation and our homes heated.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—AMENDMENT

AMENDMENT NO. 721

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary debt limit applies to June 30, 1974.

AMENDMENT OF SOCIAL SECURITY ACT—AMENDMENTS

AMENDMENT NO. 722

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON. Mr. President, I am submitting for myself and Senators RIBICOFF, HATHAWAY, BROOKE, and STEVENS an amendment which I intend to propose to H.R. 3153, the Social Security Amendments of 1973.

The purpose of the amendment is to guarantee that those aged, blind, and disabled persons who will receive mandatory State supplementary payments under the supplemental security income program will receive the social security/SSI cost-of-living increases provided in the bill without having those increases deducted from their State supplementary payments.

With the enactment of section 212 of Public Law 93-66 last summer, Congress recognized a continuing Federal-State responsibility for the income of those persons being transferred from existing programs of aid to the aged, blind, and disabled to the new SSI program. Section 212 requires the States to make such payments to these persons as are necessary to maintain their total income as of December 1973—or prior to the cost-of-living increases proposed for 1974.

If we do not require the States to disregard these social security/SSI increases, many States may simply reduce their supplementary payments by the amount of those increases. I believe our responsibility extends to insuring that the 1.7 million persons receiving mandatory State supplements will not be denied an increase in income in 1974.

My amendment would merely require the States to make the same supplementary payments they would have made if the social security/SSI increases had not occurred.

AMENDMENT NO. 723

(Ordered to be printed and to lie on the table.)

EXTENDED UNEMPLOYMENT COMPENSATION AMENDMENT

Mr. JAVITS. Mr. President, on behalf of myself, Senator TUNNEY and Senators BROOKE, CASE, CRANSTON, HART, PELL, RIBICOFF, and WILLIAMS, I introduce an amendment to H.R. 3153, the social security bill. I had originally intended to propose this amendment as an amendment to the pending debt-ceiling bill; but the unanimous-consent agreement entered into yesterday precludes this. My amendment would amend the 1970 Federal-State extended unemployment compensation benefits program by eliminating and modifying certain of the unrealistic trigger requirements which are now contained in the law. Without this amendment, commencing on December 29, 1973, no State will be eligible to participate in the program any longer; if my amendment is enacted, at least 24 States will be able to regain or continue their eligibility to participate in the program.

According to the most recent Labor Department estimates furnished to me, if this amendment is enacted into law, about 600,000 workers who would otherwise exhaust their benefits during calendar year 1974 would potentially become eligible to receive 13 additional weeks of unemployment compensation. The actual number of beneficiaries would depend on how many States decided to take advantage of this legislation and participate in the extended benefits program.

Under my amendment each State would:

First, be permitted to eliminate the requirement which will be back in present law on December 29, that the current insured unemployment rate in the State be 120 percent of the date during the corresponding period in each of the past 2 years in order for that State to trigger "on." No State can meet this 120-percent requirement at this time.

Second, be permitted to change the other trigger requirement—now 4 percent insured unemployment—to 4.5 percent and to count workers who have exhausted their regular unemployment benefits in determining whether this new trigger rate has been met. The law presently excludes such workers in determining whether the 4-percent trigger rate, which will be back in law on December 29, has been met.

Last June the Senate adopted, as an amendment to the previous debt ceiling bill, an amendment which permitted the States to eliminate the 120 percent trigger requirement. In conference, the Senate amendment was modified by the addition of a proviso changing the existing 4 percent insured unemployment trigger to 4.5 percent. In addition, the amendment was made temporary; it expires December 29, 1973. As finally enacted into law, the amendment helped very few States retain or regain their eligibility to participate in the program. Moreover, as noted above, since even the limited amendment adopted last June expires by its terms on December 29, 1973, after that date, no State will be eligible to participate in the program unless we act before then to change the trigger requirements.

If my amendment is enacted into law the following States would be eligible to benefit from these provisions:

Alaska
California
Connecticut
Hawaii
Idaho
Louisiana
Maine
Massachusetts
Michigan
Minnesota
Missouri
Montana
Nevada
New Jersey
New Mexico
New York
North Dakota
Oklahoma
Oregon
Pennsylvania
Rhode Island
Utah
Vermont
Washington
West Virginia
Wisconsin
Puerto Rico

The changes which would be made by my amendment are necessary not only to permit these States to participate in the program, but also to put the program itself on a more sensible and logical basis. Thus, the requirement in present law that the insured rate in a State be 120 percent of the rate in corresponding periods of each of the past 2 years makes no sense at all except as a way of arbitrarily cutting off eligibility for the program. The purpose of this program is to help States deal with high unemployment; it should make no difference if unemployment is high enough whether it is increasing or decreasing over previous years.

Similarly, it defies commonsense to exclude from counting as the present law does workers who have actually exhausted their unemployment benefits. Obviously such workers should be the first group to be counted in determining eligibility for the program.

Under my amendment each State could decide to change its law to permit this program to go into effect if and when the insured unemployment rate—counting exhaustees—reached 4.5 percent. That is a realistic figure in determining when this extended benefits program should trigger "on" in any given State.

Both the chairman of the Finance Committee and the chairman of the House Ways and Means Committee previously assured each House that they would give this matter of rationalizing the trigger requirement reconsideration. Yet neither committee has in fact, in a deliberate way, reconsidered the matter except in the context of amendments which I have offered on previous occasions to unrelated legislation. I have offered such amendments only because I have no alternative. The fact of the matter is that unless something is done now, not a single State will be permitted to participate in this program and hundreds of thousands of workers who have exhausted their benefits will be required to go on welfare or take jobs which are way beneath their ability.

The precise cost of my amendment is difficult to determine since each State will be free to decide for itself whether to take advantage of its provisions. In the case of those States which do take advantage of the amendment, the cost of the program will be borne 50 percent by the State unemployment insurance trust fund and 50 percent by the Federal trust fund established for that purpose. Assuming that all those States potentially eligible to take advantage of the amendment chose to do so, the total Federal cost of the program would be approximately $186 million and the State cost would be $176 million. However, based on previous experience probably no more than a half of the States potentially eligible to participate in the program will in fact choose to do so. Thus the actual cost of the program will be considerably less than those I have just given.

Also to be noted in this connection is the fact that there is embodied in the present law an 0.05 percent tax which is specifically earmared for the extended benefits program. If my amendment is not enacted and permanent law is permitted to go back into effect after December 29, 1973, that 0.05 percent tax will produce $126 million for the Federal account next year. That amount would be added to the $65 million presently in the Federal account.

What these figures show is that, given a less than 100 percent rate of participation by the States in the program, the total Federal cost of the program will not exceed by much, if at all, the expected revenues from the special tax already in the law to finance the program.

Mr. CASE. Mr. President, I join Senator JAVITS in submitting this amendment to eliminate totally those restrictions which will, on December 29, end the payment of extended unemployment compensation benefits.

The Federal-State Extended Unemployment Compensation Act, enacted in 1970, was designed to deal with the then-rapid surge in unemployment that this country was experiencing. Accordingly, it specified that this 13-week extension of unemployment benefits could not be paid unless a State's unemployment rate was sharply increasing—in technical terms, the rate has to be at least 120 percent of the rate prevailing in that State in the 2 previous years.

The present law simply does not apply to, or deal with, the persistent degree of high unemployment that many States are presently experiencing. In fact, the unanticipated effect of the 1970 law has been to end entitlement in those very States where unemployment has leveled off on a high plateau.

In effect, the thousands of jobless exhausting their 26 weeks of State benefits are told that the degree of unemployment does not matter. They are told that they are entitled to extended benefits only if conditions are becoming still worse at an ever-increasing pace.

Now we are paying the price of this oversight in the 1970 law. At least 24 States, all with unemployment rates high enough otherwise to entitle them to these extended benefits, will lose out strictly because their rates happen to have leveled off. Truly, this represents a cruel "Catch-22" logic that I am certain the Congress never intended.

In my own State of New Jersey, unemployment stands at 6 percent of the work force—far above the national average. Yet, on December 29, over 25,000 workers in my State will lose their entitlement to these extended benefits. And adjustments that may have to be made because of the energy crisis indicate that these figures may be extremely conservative. In all, the New Jersey Department of Labor and Industry estimates that at least 150,000 unemployed workers in New Jersey will be eligible for these payments in the year ahead if this restriction is removed.

As in the other 23 States involved, most of these jobless will have no other recourse except to go on the welfare rolls—and this at a time when State and local governments across the country are hard pressed financially. The Federal Government finances 50 percent of the cost of this program of benefits.

In June of this year, I and a number of my colleagues secured a temporary waiver of this restriction which subsequently enabled the payment of these extended benefits. Unless we act, this waiver will expire on December 29. Once again, I urge my colleagues to rectify this oversight in the present law and support our amendment to strike permanently at the "120-percent requirement" of the Federal-State Unemployment Compensation Act of 1970.

Mr. TUNNEY. Mr. President, I am delighted to join the distinguished senior Senator from New York in cosponsoring this amendment.

California continues to suffer from high levels of unemployment. Many working men and women, through no fault of their own, find themselves out of jobs and out of unemployment compensation benefits and will immediately benefit from passage of this amendment.

Specifically, during the last month for which data are available, more than 16,000 Californians exhausted their unemployment compensation benefits. These people represented just over 8 percent of all those receiving such benefits. Under ordinary circumstances, more than 250,000 Californians could be expected to benefit from the proposed extension of unemployment compensation eligibility in 1974.

Unfortunately, Mr. President, the advancing energy crisis will throw many additional thousands of people in my State onto the unemployment rolls.

We can thus anticipate that the numbers of unemployed exhausting their benefits will rise substantially. The urgency of this amendment is, therefore, greater than ever before.

Mr. President, according to the latest available statistics for the State of California, more than 394,000 members of the labor force are now out of work. On a seasonally adjusted basis, this means that 5.2 percent of those in the work force are presently seeking work without success. Many have exhausted their unemployment benefits and many more will be in the same position in the weeks and months to come.

Chairman Wilbur Mills of the House Ways and Means Committee has indicated his support for the substance of this amendment. In view of the widely recognized need for extension of unemployment compensation benefits and the favorable prospects for House passage, I urge the Senate to approve this amendment without further delay.

ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 651

At the request of Mr. Kennedy, the Senator from South Dakota (Mr. Abourezk), the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from New Jersey (Mr. Case), the Senator from Florida (Mr. Chiles), the Senator from Iowa (Mr. Clark), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Montana (Mr. Mansfield), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Wisconsin (Mr. Nelson), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), the Senator from New Jersey (Mr. Williams), the Senator from New York (Mr. Javits), and the Senator from North Dakota (Mr. Young) were added as cosponsors of amendment No. 651, intended to be proposed by him to H.R. 11104 to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Ira DeMent, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years, reappointment.

William A. Quick, Jr., of Virginia, to be U.S. marshal for the western district of Virginia for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the Committee, in writing, on or before Tuesday, December 4, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS BY THE SPECIAL SUBCOMMITTEE ON INTEGRATED OIL OPERATIONS

Mr. HASKELL. Mr. President, on December 5 and 6, 1973, the Special Subcommittee on Integrated Oil Operations of the Committee on Interior and Insular Affairs will continue public hearings on competition in the petroleum industry. They will be convened in room 3110 of the Dirksen Office Building at 10 a.m.

The principal issues for the December 5 hearing will be: Are interlocking directorates and financial interties in the petroleum industry a serious anticompetitive problem and are the independents being subjected to an unfair competitive disadvantage relative to the majors? Witnesses expected to appear at this hearing are: Senator Lee Metcalf; Congressman William Gunter; Prof. James Patterson, Indiana University; Mr. Kenneth W. Catmull, Autotronic Systems, Inc.; Mr. Charles Shipley, Service Stations Dealers of Michigan; Mr. Samuel Gary, Denver, Colo.; Mr. Charles Binsted, National Congress of Petroleum Retailers; Mr. Gregg Potvin, National Oil Jobbers Council; Mr. John Miller, Independent Petroleum Association of America; and selected directors who hold dual positions with two or more firms in the petroleum industry.

The principal issue for the December 6 hearing will be: Are the major petroleum companies expanding into other fuels areas, and is this economically desirable? Witnesses expected to appear at this hearing are: The Honorable Dixy Lee Ray, Chairman, Atomic Energy Commission; Mr. Alex Radin, American Public Power Association; Prof. Reed Moyer, Michigan State University; Mr. James Ridgeway, author of "The Last Play"; Mr. Arnold Miller, president, United Mine Workers of America; Mr. A. F. Grospiron, president, Oil, Chemical, and Atomic Workers International Union of America; Mr. B. R. Dorsey, Gulf Oil Co.; Mr. J. K. Jamieson, Exxon; Mr. D. A. McGee, Ken-McGee, Oklahoma City; Mr. J. . McLean, Continental Oil Co.; and Mr. C. A. Spahr, Sohio.

Interested or affected parties desiring to file statements for the record are requested to transmit their submissions to the Interior Committee staff. Additional hearings by the special subcommittee will be announced in the future.

NOTICE OF HEARING BY SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. MUSKIE. Mr. President, on August 2, 1973, the Subcommittee on Intergovernmental Relations contracted with a respected public opinion firm, Louis Harris and Associates, Inc., to undertake "A study to measure public perception of the responsiveness of government at the Federal, State, and local levels and to explore ways to increase the responsiveness and efficiency of government at all levels."

This September, Louis Harris and Associates, Inc., personally interviewed a scientific cross-section of 1,596 Americans. In September and October, the subcommittee staff personally interviewed 68 State officials, including Governors, Lieutenant Governors and legislative leaders of both parties in a scientifically selected sample of all States. At the same time, the subcommittee staff conducted a mail survey of 206 officials in 96 scientifically selected sampling points across the country.

The results of those three surveys have been compiled into a report entitled "Confidence and Concern: Citizens View American Government." Louis Harris will discuss that study at 10 a.m., Monday, December 3, at a hearing of the Subcommittee on Intergovernmental Relations. The hearing will be held in room 3302 of the Dirksen Senate Office Building.

NOTICE OF HEARINGS ON CORPORATE GIANTISM AND FOOD PRICES

Mr. NELSON. Mr. President, I announce that the Subcommittee on Monopoly of the Select Committee on Small Business will resume its hearings on "The Role of Giant Corporations in the American and World Economies" on December 10. Sessions on December 10, 11, and 12 will comprise "Part 6—Corporate Giantism and Food Prices."

The hearings will begin at 10 a.m. on each day in room 6202 of the Dirksen Senate Office Building.

At these hearings, the subcommittee will receive testimony from farmers, small business food processors, consumer spokesmen, labor spokesmen, and specialists in the food industry.

A complete witness list will be available at the offices of the Small Business Committee within the next few days.

ADDITIONAL STATEMENTS

CHARGES AGAINST THE SBA

Mr. YOUNG. Mr. President, I was very interested, as I believe most Members of Congress would be, in an editorial appearing in the Forum on November 26, 1973, entitled "House Subcommittee Should Speed Public Hearings on Charges Made Against SBA."

The views expressed by the editor of North Dakota's largest newspaper are in accord with mine and I believe deserve consideration.

Mr. President, the Forum carried another editorial on November 22, 1973, entitled "Americans Have Much To Be Thankful for Even if There Are Some Troubles Ahead." This is a thought-provoking editorial and a very timely one.

I ask unanimous consent that these editorials be printed in the RECORD as a part of my remarks.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

HOUSE SUBCOMMITTEE SHOULD SPEED PUBLIC HEARINGS ON CHARGES MADE AGAINST SBA

From what we know of the record of a North Dakotan holding a top job in Washington, the subcommittee on Small Business of the House Banking and Currency Committee is doing a disservice to the nation and particularly to the Small Business Administration by failing to call an immediate public hearing on its allegations that criminal misconduct is occurring regularly in SBA business procedures in many parts of the country.

Thomas Kleppe, appointed SBA administrator by President Richard M. Nixon after he lost a senatorial contest in 1968, is unhappy with the injustice of the charges and the manner in which they were made.

At a recent press conference, Kleppe, former mayor of Bismarck and a prominent businessman in North Dakota before going to Washington, stated that it all began when the subcommittee issued a press release charging that there were serious problems in the administration of SBA offices and loans, and that some of these were "so severe that criminal prosecution may be in order."

Kleppe charged that this was given as the excuse for the subcommittee's stopping any further action on the bill that would give the agency the funds it needs to continue its loan-making activities in behalf of small businesses throughout the country. "For all practical purposes, this assistance has been cut off by the action of the subcommittee, even though the Senate approved the bill unanimously on September 23," Kleppe said.

Kleppe complained that he was informed of the subcommittee's action by the press, and all of his information about what the committee has in mind has come solely from press accounts.

At his first press conference since his appointment three years ago, Kleppe declared he had not been advised of any date for his appearance before the subcommittee. He is anxiously awaiting the invitation to appear.

He pointed out that the SBA was created to handle the riskier loans, loans that commercial banks could not handle because the credit rating of the applicants did not qualify them for regular loans. Because of the nature of the loans, these are losses. They run at the rate of about 6 percent of the amount of money loaned. Most of the losses are the direct results of business failures.

Undoubtedly there has been mismanagement or improper conduct, as there always is in anything of such major magnitude, Kleppe said. He did report that the FBI checks every business borrowing funds through the SBA, but not all undesirable situations are uncovered by such investigations. The SBA has uncovered problems, and referred the matters to the Department of Justice.

Apparently the major problems referred to by the subcommittee concern the Richmond, Va., office of the SBA, but the remarks made by subcommittee members are much more inclusive, Kleppe told his press conference that:

One member of the subcommittee was reported in the press as saying that SBA's corruption is pervasive throughout the nation. He guaranteed if the subcommittee member would provide the information, the Justice Department would have the case within the hour.

Another "source close to the investigation" said, "It goes from top to bottom," yet, Kleppe said, SBA has no names, no numbers, no help from the congressional investigators.

Another member of the subcommittee put out an incredible amount of misinformation about what SBA is doing and isn't doing, Kleppe said, but "he hasn't talked with us, and so we haven't had a chance to figure out what he is talking about."

The SBA makes its loans to small businesses under programs legislated by Congress. Congress virtually orders that minority enterprises get special attention and favorable action, even if the credit ratings aren't good.

It would be a good guess that every SBA state administrator could pinpoint the number of times that he has been asked by members of the House and Senate to do everything he can to speed loans for the officeholder's friends. But these political pressures aren't under investigation by Congress.

As Kleppe said, it is time to remove the cloud of suspicions from the entire SBA staff and bring all the charges into the open, and to bring criminal proceedings against those, and only those, who might be found in violation of the law. The subcommittee should speed the public hearings on the charges it has made.

AMERICANS HAVE MUCH TO BE THANKFUL FOR EVEN IF THERE ARE SOME TROUBLES AHEAD

Today is Thanksgiving Day, 1973. So what do Americans have to be thankful for?

Well, there's plenty of turkey available. Unfortunately, it costs almost twice as much as it did last year, but that certainly is better than no turkey at all, or the bowl of meatless soup that will be the main meal for countless thousands in the hungry nations of the world.

While food prices have shot up almost unbelievably in the past year, it hasn't all been bad. In these agricultural states of North Dakota and Minnesota, the farmers feel they are at last getting their rightful share of America's prosperity. And their prosperity rubs off on the rest of us.

Around the corner of the New Year there may be trouble ahead, primarily because of the shortage of petroleum products, specifically gasoline for cars and fuel oil for homes and businesses.

No one can say for certain just how critical the shortages will prove to be. We may find out that the voluntary reduction of room temperatures in the homes, stores and office buildings to 68 degrees from the generally accepted norm of 75 degrees, and a curtailment of our pleasure driving may be enough to see us through the winter.

The gasoline shortage may curtail our vacation plans for next summer, but that won't be as critical as a fuel oil shortage in this part of the nation during the cold months of December, January and February and even March and April.

Still, there is no prospect that things around our homes will be quite as cool as they used to be just a few short years ago. In the 1920s almost every home was heated by coal. That coal fire burned itself down pretty well by morning. The early riser of the household had to put on more coal, open the draft and the furnace and empty the ashes before the heat started flowing again. The household temperature dropped down to a chilly 60 degrees in those uninsulated homes.

If gasoline for our cars gets to be in short supply, we can always find ways to get to work through car pools or even walking. It may be that the youngsters will find that they'll have to walk a mile or more to school, just like their grandparents did.

So far, the only thing that confronts us because of these shortages is inconvenience, rather than hardship.

Our nation is involved in no war. There is no draft into military service of our young men. There is no pending military action. We've just seen war flare up in the Middle East between the Jews and the Arabs—and we have seen both sides accept a cease-fire which could lead to peace in that restless section of the world.

The cease-fire came before the big powers of the world became participants in the land and air battle. Now there is more concerted effort to end the continuing conflict between

Arabs and Jews than there has ever been in the last twenty years and a greater hope that something will be worked out.

There is no promise that peace will be achieved in the Middle East, but certainly we can be thankful that the threat of conflict becomes less as each day goes by.

Yes, America has much to be thankful for, much more so than the pilgrims who instituted this feast day in the early 1600's. We can enjoy our family reunions today in an even happier mood than a year ago, because we have ended our participation in the Vietnam conflict. There may be some troubles ahead, but nothing with which we cannot cope.

DESEGREGATION PLANS OF THE COMMONWEALTH OF VIRGINIA

Mr. HARRY F. BYRD, JR. Mr. President, on November 10, the Office of Civil Rights of the Department of Health, Education, and Welfare rejected the college and university desegregation plans of the Commonwealth of Virginia. The reasons given for this action have been given careful scrutiny by Virginia's press.

The Roanoke Times, whose editorial page editor is Harold Sugg, called the rejection "harassment" and stated editorially that "extraordinary progress is being made—as it was in public school systems before the Federal judiciary and HEW went on a quota and busing kick."

The Ledger-Star, which serves Norfolk, Portsmouth, Virginia Beach and Chesapeake, characterized the HEW objections as "fuzzy and unrealistic." The editor of the Ledger-Star's editorial page is George Herbert.

The Daily News-Record, of Harrisonburg, whose editor and general manager is D. Lathan Mims, disputed the HEW findings point by point.

In its editorial, the Richmond Times-Dispatch scored the Federal action as demanding "precisely the brutish policy that now prevails in our public elementary and high schools." The Times-Dispatch editorial page editor is Edward Grimsley.

These courageous remarks reflect a statewide consensus that the HEW findings are counterproductive and will cause a deterioriation in both race relations and the high quality of Virginia's institutions of higher learning.

I ask unanimous consent that the editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Roanoke (Va.) Times, Nov. 15, 1973]

HARASSMENT

The Department of Health, Education and Welfare (HEW) is harassing the state of Virginia on the question of desegregating colleges and universities. It's an old bureaucratic technique: If a company, an agency or another government is really making progress, make it fill out still more forms.

The Office of Equal Employment Opportunity demonstrated the technique most recently by bringing fierce-sounding charges against precisely those major corporations which are doing the most to give opportunities to minority groups. Virginia has furnished the most details on how it is obeying the law. Therefore, says the technique, let's order Virginia to do more than the states which provided very brief plans.

The fact is that Virginia colleges and universities do not discriminate racially. Most of them are recruiting black prospects and giving them every break they can in class. Extraordinary progress is being made—as it was in public school systems before the federal judiciary and HEW went on a quota and busing kick.

That same way-out-yonder idiocy could damage not only Virginia's colleges but racial amity if it is permitted to succeed. Busing college students the five miles between Old Dominion University and Norfolk State is a stupid proposal; the students have a hard time making schedules on their main campus. Not to recognize that many black students *want* to go to Virginia State College in Petersburg *because* it remains principally black is a failure to understand the feelings of many black people.

A determined mixture of faculties, to achieve some kind of a racial balance, could damage all Virginia colleges. Suppose one of the nation's most distinguished black historians became available; and then suppose that Virginia State College could not hire him because that would tend to make the black-white ratio of faculty members more black. Similarly, a distinguished white historian could not be hired at Virginia Tech or UVa because that would tend to make the ratios more white.

What Civil Rights Director Peter Holmes, of HEW, is probably incapable of comprehending is that proposals like his, at the least nonsensical and at the most counterproductive, kill off the desire to try hard to make de-segregation work. Temptation must be resisted; the desire should stay alive. And Governor Holton should treat the proposals as official nonsense. Could Virginia take the legal offensive and enjoin HEW from harassment? If not, there is a big battle to be fought in Congress.

[From the Ledger-Star, Nov. 16, 1973]

HEW AND THE COLLEGES

The heavy hand of HEW has come down again on Virginia's state-supported higher education system. The U.S. Department of Health, Education and Welfare has directed the state to submit new desegregation plans within 90 days. Eight other states' plans also were rejected.

Virginia's plan, which had been submitted in June, was turned down as being imprecise and incomplete.

Although the HEW letter to Gov. Holton, who has spearheaded a genuine effort to bring the state system into compliance, raised some specific points of objection, much of its criticism seemed fuzzy and unrealistic. Even as the state was trying to carry out some of the latest directives, officials were saying others needed clarification.

There is evidence, too, that the federal department is ignoring special conditions and needs in its pursuit of greater racial balance. A college system offering wide educational diversity and covering a whole state scarcely lends itself to principles that have been applied on the secondary and elementary levels. Indeed the racial balancing that has occurred on these levels has been accompanied by considerable disruption and disenchantment.

HEW also would impose upon individual colleges recruiting responsibilities that, in our view, go beyond what they reasonably should be. For example, it was proposed that all colleges and universities set up active recruiting efforts aimed at bringing in more students of the race currently in the minority in their student bodies.

Here in Tidewater, of course, the presence of both Old Dominion University, which is predominantly white, and Norfolk State College, which is predominantly black, gives the HEW rejection special application.

The two schools have been working in concert both to eliminate duplication where practical and to increase student exchange. Course eliminations have begun; ODU and Norfolk State are bringing their calendars into agreement, and buses are being considered as a means of enabling larger numbers of students to take courses at both colleges.

HEW wrote approvingly of the strides that have been made but seeks precise information on when steps will be implemented and what funds will be required.

A failure by the state to satisfy the federal government as to the desegregation of its campuses not only would threaten federal grants but also could lead to legal action by the Justice Department.

Virginia, it seems to us, has moved positively to bring more racial mix into its colleges and has instituted specific programs and policies to support this claim. This is being done within the context of the state's twin overall goals of improving the system of colleges and universities and of expanding the educational opportunities for black and white students alike. HEW's goals, by contrast, appear to be interference and harassment.

[From the Daily News-Record, Nov. 17, 1973]

FEDERAL MEDDLERS

The Department of Health, Education, and Welfare has issued a ukase to Virginia, commanding the Commonwealth to submit within 90 days an improved plan for desegregation of all state institutions of higher learning, "from community colleges to schools on the doctoral level." Madison College was among schools singled out for their low percentage of minority enrollment.

Let us say at the outset that we believe race should be no bar to anyone at any college; those who apply should be considered on the basis of their promise, as well as that can be judged, and race is a factor that should not be taken into account. This said, the fact remains that the HEW directive orders Virginia to do four things that are either impossible on a rational accounting or undesirable in any college.

First, the state is asked to ensure "that high school counselors will not channel students toward colleges in which their race predominates." Obviously the state has no power over the decisions of the thousands of persons involved, and in any event the final decision is the student's. Who can say whether a counselor or a student is responsible for the latter's choice of a college? And will any counselor in his right mind attempt to dissuade qualified white students from attending, say, the University of Virginia, or William and Mary?

Second, there should be a "method to insure that the attrition rate of black students in predominantly white institutions will be no greater than that of white students." Preposterous! The only method that could possibly effect such a result is a dual grading scheme and a special program to look after the welfare of minorities. Both are highly discriminatory, and the former is unethical as well. Nor should college students require to be coddled: *in loco parentis* disappeared from campuses in the 60s.

Third, curricula should be realigned "at particular institutions to enable them to compete aggressively for students of the race not traditionally identified with those institutions. Virginia State College, we suppose, will have to initiate a White Studies program. Since the order recognizes in effect that academic standards are lower at the predominantly black institutions, must they raise their standards while the others lower theirs, in order to achieve a racial mix acceptable to the authorities in Washington?

Curriculum changes are made only with the consent of the college departments involved. For government at any level to impose them is an invasion of the prerogative of the faculty; yet that is what HEW is directing Virginia to do.

Fourth, there should be "remedial courses and compensatory services for the "culturally deprived and those from 'low socio-economic groups' at all state-supported institutions."

The high school is the proper place for remedial and compensatory work: it is a familiar environment to almost every boy and girl, at least to the age of 16, and it is close to home. Students from the lower classes, who may be intimidated by strange surroundings, have a better chance to develop latent abilities in places where they feel at home.

In any case, the purpose of a college, especially if it goes by the name of liberal arts, is the pursuit and diffusion of knowledge. Students when they arrive should have a command of the basic tools. If they do not, they do not belong in any four-year college, where remedial work is a misuse of space, time, and personnel—not to mention money.

Finally, are colleges supposed to ignore race as a criterion, or not? HEW seems to be saying that it should be ignored when it works to the advantage of minorities, and taken into account when it works against them. Do blacks and other minorities really want to be the objects of such bureaucratic paternalism, or do they wish to make it on their own, without discrimination either for or against?

We hope that Madison and all other Virginia institutions will continue to accept applicants on the basis of their promise, as well as that can be judged, and regardless would make that impossible.

[From the Richmond Times-Dispatch, Nov. 15, 1973]

WORTH FIGHTING FOR

With all the legal resources at its command, Virginia should oppose the latest Procrustean college desegregation edict from the Department of Health, Education and Welfare. This is no call for a return to massive resistance; it is a call for a return to sanity. For HEW's arrogant decree is one of the most insane orders ever to be issued by Washington's bureaucracy, and its implementation could have a tragic impact upon the quality of higher education in this state.

Ignoring the fact that physical, social and academic diversities contribute to the vitality and appeal of colleges and universities, HEW would transform them into institutions of dulling sameness. In a misguided effort to improve the quality of some colleges, HEW would worsen the quality of others. All, as a result, would become simply mediocre.

Today students are free to choose their colleges for a variety of reasons. They choose a college because they like its academic programs. Or its traditions. Or its location and physical characteristics. Or the composition of its student body. Or, perhaps, because Dear Old Dad went there.

And this is as it should be. College students are adults and they should be free to make some major decisions for themselves. Moreover, the pursuit of a college education is a highly individualistic undertaking in which the performance of each student is determined largely by his own attitudes and aspirations. Educators may find the herd approach unavoidable in elementary and secondary schools, but it is counterproductive in colleges.

Yet it is the herd approach that HEW would follow. It would restrict the right of students to choose their own colleges by effectively establishing racial quotas for the student bodies of both predominantly black and predominantly white institutions. Virginia State College and Norfolk State College, both predominantly black, are told that they should increase their white enrollments until whites constitute "at least one third of the student body" at each. Certain predominantly white institutions—Virginia Military Institute, Madison College and Christopher Newport College among them—are warned that they must increase their percentage of black students.

There is no way, no way in the world, that state officials could guarantee the achievement of HEW's statistical goals without making direct or indirect force a component of college admissions policies. One way or another, some students would have to be required to attend specified colleges. This is precisely the brutish policy that now prevails in our public elementary and high schools. Are the young people of this nation, the greatest democracy on earth, to be given no freedom of choice at any point in their educational careers?

It should be enough to open all state-supported institutions of higher learning to students of all races on equal terms. Virginia has done this and more. Most of its predominantly white colleges and universities make conscientious efforts to attract additional black students. But this is not enough for HEW. It seems to be especially rankled by the fact that Virginia State and Norfolk State remain predominantly black. Yet many black educators, including Virginia State President Wendell P. Russell, are convinced that predominantly black institutions perform a vital educational role. In their opinion, predominantly black colleges can be far more effective than predominantly white institutions in meeting the educational needs of some young Negro men and women. But the protests of distinguished educators like Dr. Russell sail right over the heads of HEW's bureaucrats, who, if they could, would destroy both Virginia State and Norfolk State.

HEW's insanity does not end with its admissions decree. Incredibly, it would inject race as a factor in college grading systems, for under its edict colleges would be expected to develop "a method to insure that the attrition rate of black students in predominantly white institutions would be no greater than that of white students." In other words, colleges are to see to it that white and black students pass, fail and drop out at precisely the same rates. Obviously, this is something that no academically honest college can promise.

HEW's order should not go unchallenged. Gov. Linwood Holton should do all that he can to have it cancelled or modified, not as an act of defiance but as an act of reason. And though they might not be successful, Virginia's congressmen should make an effort to amend the Civil Rights Act of 1964, which HEW cited as authority for its action. At stake is the future of higher education in Virginia, and that, HEW should be made to understand, is worth fighting for.

TRIBUTE TO THE LATE REPRESENTATIVE JOHN P. SAYLOR

Mr. FANNIN. Mr. President, I wish to add my voice to the many who have paid well-deserved tribute to Representative John P. Saylor, of Pennsylvania. His unexpected death was a shock to all of us who have known him and worked with him over the years.

John Saylor was a man well-known far from the borders of his own home district. His leadership on the House Interior Committee made his name a household word in my home State of Arizona. His deep concern for my State's natural beauty and resources was understood and appreciated by our people.

He was a tough legislative fighter—a man who was a forceful ally or a tenacious opponent. He spoke his mind and worked diligently for preservation of such national treasures as the Grand Canyon.

John Saylor was an environmentalist before the term became a national catchword.

He also had a most commendable record of working for the benefit of our veterans.

As a member of the Senate Interior Committee and more recently as minority leader of this committee, it was my privilege to work with Representative Saylor in his capacity as minority leader of the House committee. I know that he was a gentleman of high intelligence and utmost integrity.

Our Nation has lost one of its greatest legislators, and I join with those who have extended sympathy to the family.

ARMS CONTROL

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues an excellent article by William Epstein, former Director of the U.N.'s Disarmament Division, which appeared in the New York Times on November 17.

Mr. Epstein argues that the present debate in the U.N. General Assembly on arms control provides an urgently needed opportunity to discuss the curtailment of military budgets—first by the five nuclear powers and the two Germanys and then, eventually, by all countries.

I am sure that my colleagues share Mr. Epstein's concerns over continually escalating military budgets among the major powers. But he recognizes that "it would be better to leave it to the individual countries to decide in what sectors they would carry out the agreed reductions."

Mr. President, I ask unanimous consent that Mr. Epstein's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 17, 1973]

THE WORLD COULD BE OUTFITTED WITH PRUNING HOOKS

(By William Epstein)

UNITED NATIONS, N.Y.—Once again the General Assembly is debating arms control and the reduction of military expenditures—the biblical injunction of Isaiah to turn spears into pruning hooks—at a moment in modern history when nation has lifted sword against nation. The superpowers in recent days have observed their sophisticated weapons tested in the sands and over the skies of Sinai; blood has flowed on both sides of the Suez Canal. Whether hot war, cold war or détente, the military budgets spiral upward.

The arms race exacts an appalling toll in terms of human welfare in the rich as well as the poor countries. On both the national and the international level the world is afflicted by the threat of the three p's—poverty, population and pollution. To grapple with them, the enormous sums wasted in the futile arms race must be rechanneled to economic and social goals.

The paradox of the escalating arms race, despite more than a dozen arms control agreements, is all the more puzzling because of the recent improvement in the international climate. China and the two Germanys are now members of the United Nations, the

United States and the U.S.S.R. in their SALT agreements have agreed to stabilize the deterrent and give up the race for nuclear superiority.

Soviet-American détente seems to have survived the latest Middle East war, though subjected to severe strain. In the long run it may even have been strengthened by mutual efforts to end the conflict. A new opportunity was provided for the two superpowers to halt or curtail arms deliveries to the Arab and Israeli combatants. But instead of trying to increase security in the area at a lower level, the two powers have used the war as a testing ground for new weapons and are still feeding enormous quantities of arms to each side. The military establishments in both the U.S. and the U.S.S.R. will no doubt use the fighting as an excuse for another round of budgetary increases.

The problem of the arms race should be met head on, not by interminable debate about limiting or reducing specific weapons and the number of troops but by cutting military budgets—by the five nuclear powers, the two Germanys, eventually by all countries. It would not even be necessary to specify how and where military budgets should be cut; it would be better to leave it to the individual countries to decide in what sectors they would carry out the agreed reductions.

Times have also changed with respect to verification of any agreement for mutual reductions. The great powers now have a much better knowledge of each other's economic systems and technologies and have developed new techniques of economic monitoring; satellite and telecommunications surveillance can alert each side to any significant changes in the other side's activities; and intelligence information provides an additional alert to any evasions.

Foreign Minister Gromyko has proposed in the General Assembly that the five permanent members of the Security Council (the five nuclear powers) reduce their military budgets next year by 10 per cent and that a portion (10 per cent) of the savings be used to help the developing countries. This would leave 90 per cent of the savings for domestic purposes. Since these five countries are responsible for about three-quarters of the total of world military expenditures, the reduction, although a modest 10 per cent to begin with, would amount to about $15 billion.

The developing and third world countries of course favor the idea, and it is likely that it will be approved in some form or other by the General Assembly. The United States and its allies have been notably cautious in their reactions and China has been hostile to it, calling it a fraud and hypocritical. Nevertheless, on reflection, all powers might find it in their interest to agree on budgetary cuts.

DELAYED FUNDING OF NATIONAL EDUCATION PROGRAMS

Mr. DOMENICI. Mr. President, I wish to speak today with regard to what seems to me an apparently endless delay in appropriating funds for our national education programs. Continuing resolutions are becoming more and more the rule rather than the exception.

As we all are well aware, Congress never did pass an education appropriations bill for fiscal 1973, and now, almost halfway through fiscal 1974, we are still authorizing funds under a continuing resolution, Public Law 93–124. Even when Congress does agree on an appropriations bill, its passage frequently has been delayed until October or November—well into the start of the fiscal year being funded. This kind of appropriations process is obviously irresponsible, resulting, I believe, in grossly inefficient utilization of our tax dollars.

The people who suffer the most by congressional delays are the school district officials, and, ultimately, the children themselves. Even in so-called normal years when Congress passes an appropriations bill at the beginning of the fiscal year, school districts are subject to great strains in their planning for the next school year. Every month of delay in passing an appropations bill causes more and more turmoil at the district level.

When dealing with education programs, delayed funding can have several major consequences which should be avoided. We all are aware of the fact that agencies like to spend the full amount of their appropriations. When funding is delayed, only minimal planning is possible and frequently programs are started which would have benefited by longer time on the drawing boards. There is no excuse for this kind of irresponsible grantmaking initiated by time pressures to use funds just because they are miraculously available. Furthermore, operating under a continuing resolution frequently results in the continuation of ineffective and outmoded programs—programs which have long existed beyond their usefulness. This is a kind of waste we simply cannot afford.

School officials operate with different calendar schedules than Congress. They do not have the freedom to indulge in political debates without causing serious losses to their programs. Hiring of new teachers and support staff usually takes place during April and May as does contract renewal of current staff. For many districts, hiring new personnel and retaining many currently employed is contingent upon receipt of Federal funds. Not knowing whether, when, or how much Federal money they will receive makes responsible budget planning almost impossible.

The losers in this deplorable situation are the children, the target of the well-intentioned funds. With inadequate resources to begin with—the funds we can allot to education being limited by other crucial demands on the national budget—we cannot afford to waste them on account of political and bureaucratic delays.

I have talked with several school superintendents representing a number of districts. These professional educators and administrators assure me that they would prefer a Federal commitment for a lesser amount of money at the time school budgets are determined rather than the indefinite prospect of possibly more money at a later date. It is impossible to hire teachers with only a promise of Federal funds; unfortunately teachers cannot eat and live on promises.

To emphasize the damage done by delayed Federal funding, which has been a problem for a number of years, I would like to quote from the first report of the National Advisory Council on the Education of Disadvantaged Children on title I of ESEA:

> There is no doubt that implementation of Title I was greatly hampered this year by the non-availability of funds until after the school year began. Most personnel in needed specialties were already under contract, and school administrators were forced to plan projects almost overnight. The pressures of time gave State departments of education little opportunity to revise substantially many quickly conceived programs. We strongly urge the Congress to enact the next Title I appropriations bill as early as possible but not later than early summer 1966, to permit more careful program development and thus assure more effective use of funds.

Obviously, educators have been laboring beneath an unnecessary fiscal burden for years. The facts are the same today as they were in 1966. It is time to stop bickering and get moving on the fiscal 1974 appropriations bill. We must also think about ending this problem of delayed funding. Our goal is to help school districts—not to hinder their progress.

USE OF OUTDOOR RECREATION FUNDS TO CONSTRUCT INDOOR FACILITIES, A SENSIBLE IDEA

Mr. MONDALE. Mr. President, several days ago, the Fargo Forum printed an editorial concerning a bill that was recently introduced by Senator BURDICK.

This proposal would permit money from the land and water conservation fund to be used to enclose outdoor recreation facilities when climatic conditions and increased use would justify the cost.

According to the Forum:

> One example shows the wisdom of such an approach. In North Dakota, outdoor swimming pools can be used only sixty to seventy days a year, or at most ninety days, from Memorial Day to Labor Day. Put a roof over the pool, provide heat and the same outdoor pool can be used the year round.

I would like to compliment my colleague from North Dakota for his leadership in developing legislation which would enable people who live in communities that normally experience long winters to enjoy greater opportunities for traditionally outdoor forms of recreation.

Mr. President, I ask unanimous consent that the full text of the Forum's editorial be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

[From the Fargo (N. Dak.) Forum, Nov. 8, 1973]

USE OF OUTDOOR RECREATION FUNDS TO CONSTRUCT INDOOR FACILITIES SENSIBLE IDEA

On the face of it, the granting of outdoor recreation funds to construct indoor recreation facilities sounds like an intentional illegal use of federal grants. There is, however, a lot of common sense to this idea as incorporated in a bill proposed by Sen. Quentin Burdick, D.-N.D.

He is sponsoring a measure in Congress that would allow municipalities and park districts, for instance, to use grant money from the Federal Land and Conservation Fund to bring some outdoor recreation facilities inside.

Sen. Burdick explained that the bill would permit the states to use 25 per cent of their annual apportionments from the fund to enclose certain traditionally outdoor recreation facilities where land or climatic conditions provide no feasible alternatives and increased public use justifies the cost.

One example shows the wisdom of such an approach. In North Dakota, outdoor swimming pools can be used only sixty to seventy days a year, or at the most ninety days, from Memorial Day to Labor Day. Put a roof over the pool, provide heat and the same outdoor pool can be used the year around.

Sen. Burdick said, "While the increase in construction costs for such a facility are estimated to be 30 to 40 per cent, the public could enjoy five hundred per cent more swimming time. In addition, the year-around pool would be more sanitary and easier to maintain."

Or you can reverse the situation. An outdoor skating rink has a limited time use, because there is no telling when the first hard freeze will arrive or when a January thaw will put the ice out of condition for two or three weeks at a time. Put the same rink under a roof with artificial ice-making facilities, and the skating season is extended from three months to six or seven months—or all year-around if there is a public demand.

The money could only be used to protect recreational activities that are traditionally outdoor activities. It could not be used for bowling alleys, billiard rooms or theaters. It could be used for tennis, swimming pools, skating rinks. We doubt there would be enough money available to put a roof over a full-scale golf course, but riding arenas for horse lovers might quality.

The federal grants for outdoor recreational facilities are going to be made. Burdick's proposal would only permit the states to spend the money in the ways in which the public use of those facilities could be greatly increased at a relatively low cost.

EDUCATIONAL OR VOCATIONAL OPPORTUNITIES TO VETERANS

Mr. HANSEN. Mr. President, the current GI bill, Public Law 89–358, which became effective on June 1, 1966, was enacted by the Congress to provide educational or vocational opportunities to veterans whose plans may have been delayed because of service in the Armed Forces after January 31, 1955.

By recognizing the importance of educational opportunities for our men and women in uniform, these same opportunities were later made available to servicemen on active duty who had completed more than 180 days of service.

Mr. President, it is noteworthy that in 7 years since the enactment of the Vietnam-era GI education programs, participation rates have surpassed the record of the World War II GI bill.

I applaud the efforts of the Veterans' Administration in achieving this significant record.

A recent VA press release, highlighting this subject is at hand and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION NEWS

More college students have already received educational benefits under the current G.I. Bill than were trained during the entire World War II G.I. Bill program, Donald E. Johnson, Administrator of Veterans Affairs, reported today.

During October, Johnson said, nearly 801,000 G.I. Bill college students were enrolled. This surge pushed the cumulative total during the seven years since the newest G.I. Bill was enacted to 2,258,158 trainees.

College enrollments during the entire 12 years of the World War II G.I. Bill numbered 2,230,000. The total for the seven year program under the Korean G.I. Bill was 1,158,109.

College trainees under the current G.I. Bill include 91,312 servicemen and 2,166,846 veterans. Military personnel on active duty were not eligible for training under the two earlier G.I. Bills.

The number of college trainees in the present G.I. Bill program is expected to far outstrip the World War II college trainee total in the years to come since Vietnam Era veterans have eligibility for eight years following release from service.

In terms of percentage of all G.I. Bill trainees who trained at the college level, Johnson noted, only 28.6 percent of the World War II veterans went to college. That percentage jumped to 50.7 percent for the Korean G.I. Bill, and to date stands at 56.1 percent for Vietnam Era veterans.

A major reason for the big increase in college level training today, the VA Administrator added, is the higher level of pre-service education attained by present day veterans. During World War II only 38.5 percent of servicemen had completed high school. Some 85 percent of the Vietnam Era servicemen were high school graduates, and thousands of others were able to complete high school training under military educational programs while in service.

A NOVEL APPROACH TO ENERGY CONSERVATION

Mr. HATHAWAY. Mr. President, a Maine banker, Mr. Arnold Sturtevant, president of the Livermore Falls Trust, has come up with what I believe is a novel approach to energy conservation which I would like to share with my colleagues and which I hope some other industries may follow.

I ask unanimous consent that an article entitled "L. F. Trust To Initiate Energy-Saving Hours and Employees Bonus Plan," and published in the Livermore Falls, Maine, Advertiser of November 22, 1973, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Livermore Falls (Maine) Advertiser, Nov. 22, 1973]

L. F. TRUST TO INITIATE ENERGY-SAVINGS HOURS AND EMPLOYEES BONUS PLAN

If you find Livermore Falls Trust a little darker and a little cooler—(in temperature, not friendliness, that is)—then you are experiencing the results of that bank's energy conservation program.

The bank has undertaken some rather unusual measures that it expects will result in substantial savings of fuel and electricity in the months ahead.

Turning back the thermostat, switching off lights and paying its employees an "energy bonus"—(based on the actual savings that result)—are just a few of the ways that this Maine banking institution hopes to do its part in conserving the nation's critically short energy supply.

The most unique aspect of the bank's program is its bonus plan. To arouse a greater awareness of the crisis—and to promote individual participation in helping to solve that crisis—the bank will pay its employees a bonus of $2.00 for every $1.00 of fuel and electrical costs saved. (The measure of savings will be determined by applying the unit costs for fuel and electricity to the actual kilowatt hours and gallons of fuel saved over normal operation. (Although energy conservation will thus end up costing the bank twice as much as the cost of energy, its management considers it a worthwhile contribution to the solving of a true national emergency; and it feels that this incentive to economize at work can't help but result in beneficial carryover to each employee's home life.

Arnold Sturtevant, president of the bank, reports that employees are enthusiastically participating in the incentive program—already having found ways to cut over 18,000 watts from the institutions normal illumination needs; and a 20 per cent cut in commuting mileage will present added opportunities for conservation of gasoline.

In addition, the bank has announced a new energy-saving schedule of operations. New hours will allow it to run its furnaces and lights less while, at the same time, providing just as many hours of service to the public. This savings will be accomplished by closing its main office lobby on Mondays and adding the normal hours that it is open on that day to the remaining days of the week.

Bank management states that it has been demonstrated that significant energy savings can be effected by closing its main office lobby for three consecutive days (Saturday through Monday).

Starting the first week of December, its main lobby will be open to the public from 9 a.m. to 5 p.m. each Tuesday, Wednesday, Thursday and Friday. (It has normally closed at 3 p.m. on Tuesday through Thursday.)

The bank's main office drive-ups and walk-up windows will continue to be open every weekday afternoon until 5 p.m. and Saturday morning from 9 a.m. until noon. However, to help compensate for the lost Monday hours in the main lobby, these facilities will extend their hours to include Monday mornings—operating 9 a.m. to 5 p.m. on that day. The bank felt this added service would be especially useful to those businesses that need bank services after each weekend. These drive-in and walk-up service facilities can be operated with little expenditure of fuel and electricity, as they are separately heated and are compact self-contained units.

Livermore Falls Trust's branches in Jay and Chisholm have been on a Tuesday through Saturday schedule for several years; and their hours will remain unchanged.

The bank's Family Finance Center, considered a part of the main office will now be closed on Monday; but, like the rest of the main office, it will be open from 9 a.m. until 5 p.m. on other weekdays—(expanding from its former hours). In addition, the Family Finance Center will continue its past practice of accepting appointments for Saturday mornings.

Sturtevant says that he is sure that these measures will result in significant energy savings, undertaken in voluntary compliance with the President's request for all Americans to make a sincere effort to conserve scarce resources; and he fully expects that many others—(both businesses and individuals)—will be increasingly involved in doing their part.

IMPOUNDMENT, OFF AGAIN—ON AGAIN

Mr. HARTKE. Mr. President, I would like to call attention to a booklet that was sent to all Members of Congress entitled "Impoundment of Health Funds by the Nixon Administration; an Analysis and Case Study: Colleges of Podiatric Medicine versus Ash and Weinberger." I ask unanimous consent that the text of that cover letter sent by Mr. Robert A. Heil, executive director of the American Association of Colleges of Podiatric Medicine, be printed in the RECORD.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF
COLLEGES OF PODIATRIC MEDICINE,
Washington, D.C., November 20, 1973.

DEAR SENATOR HARTKE: As you now realize, the U.S. District Court for the District of Columbia recently granted a motion for summary judgment in our anti-impoundment suit against HEW Secretary Weinberger and OMB Director Ash. The twenty day stay of the order has now lapsed, so apparently the case will not be appealed.

Because ours was the first anti-impoundment suit to be filed by a health group, great interest has been shown in the suit and in circumstances which led the Association to file the court action.

John T. Grupenhoff, Ph.D., and Robert G. Vaughn, LL.M., have authored the enclosed book which discusses legal aspects of impoundment generally and which uses our suit as a case study. It includes all the relevant suit documents in the appendix. We learned of the book before it was published and were so impressed that we decided to provide you a copy, feeling certain that you are interested in the subject.

We are hopeful that this book not only will provide you an insight to the legal issues but also will afford you an understanding of the problems faced by the colleges of podiatric medicine.

Sincerely yours,
ROBERT A. HEIL, *Executive Director.*

Mr. HARTKE. Mr. President, I point out that an important milestone was reached by the October 26 decision of Judge George Hart, of the U.S. District Court for the District of Columbia. The decision ordered the Department of Health, Education, and Welfare and the Office of Management and Budget to release fiscal 1973 capitation funds for the colleges of podiatric medicine and for the colleges of pharmacy and optometry which had been impounded by the administration. This decision was in response to the first important suit of its kind filed by a health group.

Now this decision is threatened by an administration proposal in the nature of a substitute for the conference report to the Labor-HEW appropriation bill which has been recommitted to conference. The lever being applied to Congress by the administration offers a signed Labor-HEW appropriation bill in exchange for a provision which would nullify all of the impoundment suits that have been tried and won in the courts and would cancel any lawsuits on which a final ruling has not been made. While the question of constitutionality of such a substitute has not been determined, this action is also in direct violation of the separation of the executive, legislative, and judicial branches of our Government. I would urge my colleagues to take heed of this action in view of the court decisions handed down to release these funds appropriated by the Congress and impounded by the administration.

PROFESSOR BARRETT, UNIVERSITY OF CALIFORNIA, ON THE ATTORNEY GENERAL SALARY BILL

Mr. FONG. Mr. President, last week, testimony was heard before the Judiciary Committee from Assistant Attorney General Robert G. Dixon, Jr. and Prof. William Van Alstyne, Duke University, concerning S. 2673, the bill to reduce the Attorney General's salary.

Both of these individuals concluded that the enactment of this bill would effectively clear the way for the proposed nomination and confirmation of Senator SAXBE as Attorney General. Additional support for this position is found in the letter from Edward L. Barrett, Jr., professor of law, University of California, to the distinguished chairman of the Judiciary Committee, Senator EASTLAND.

For the benefit of the Members who wish to further inform themselves on this subject, I ask unanimous consent that Professor Barrett's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CALIFORNIA,
Davis, Calif., November 15, 1973.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: I understand that you are holding hearings on S. 2673 and that the question has been raised whether it would be constitutional to appoint Senator Saxbe (or any other current member of Congress who was a member when the salary of the Attorney General was last increased) to the position of Attorney General should this bill become law.

A reading of the debates in the Constitutional Convention gives some flavor of the problem that Framers were attempting to solve when they adopted this provision. They saw the English experience as demonstrating that persons might become legislators in order to get offices for themselves and their friends, a source of corruption which could ruin the government. 1 Farrand, The Records of the Constitutional Convention 376 (Yale U. Press 1911). They thought that making legislators eligible to offices would give too much power to the executive. 2 Farrand 490. Thus the initial draft made Members of the Congress ineligible for appointment to any office during the time for which they were elected or, in the case of Members of the Senate, for one year afterwards. See, *e.q.*, 2 Farrand 166. There was much discussion of the inconvenience of making ineligible to office those who might be the best qualified and keeping them out for long periods of time. After much discussion the matter was compromised by limiting the disqualification to newly created offices and to those for which the emoluments were increased during the term to avoid similar evils. See *e.q.* 2 Farrand 286–290. See also the discussion by Madison in the debate in the Virginia Convention, 3 Farrand 314–317.

When the compromise was made in the Convention, those opposed to making members ineligible during the terms for which they were elected proposed an amendment restricting the ineligibility to offices created during their terms. Proponents of the original version rejoined that the incapacity ought to be extended at least to cases where salaries should be increased as well as offices created during their terms, and this was then accepted as the compromise. 2 Farrand 490–492.

The problems which concerned the Framers, dealing as they were with a situation in which the first Congress would create all offices and in which the Congress would be limited in number, do not seem to be of similar importance today. At any rate the history is clear that the Framers did not want to make able Members of Congress ineligible for long periods to appointment to government office. They imposed then a rather narrow limitation to those situations in which there would be danger that a legislator would use his position to create an office or to increase its compensation in order to be appointed to it.

Hence, it would appear that reading the Constitution to permit the appointment of a Member of Congress to an office the salary of which though increased during his term has been reduced to its origial level would be quite consistent with its general spirit and intent. No new office would have been created nor would an existing office be financially more attractive at the time of the appointment. The fact that similar action was taken without challenge in 1909 to permit the appointment of a Senator to be Secretary of State lends weight to this interpretation.

In short, I would find it quite consistent with the way in which many clauses in the Constitution have been interpreted to apply their general spirit and intent to the problems of modern times to interpret Article I, Section 6, Clause 2 to permit the appointment of a Member of Congress to an office created before his term but the compensation for which was increased during his term so long as the compensation were reduced to the level it had on his election prior to his actual appointment.

I should add that I am expressing my personal opinion and am not speaking for or on behalf of the University of California.

Sincerely yours,
EDWARD L. BARRETT, Jr.,
Professor of Law.

A STRONG RESPONSE FROM THE STATE OF DELAWARE

Mr. BIDEN. Mr. President, as the winter draws near and an energy shortage with it, Gov. Sherman W. Tribbitt, of Delaware, has acted forcefully. Addressing an extraordinary session of the general assembly on November 16, the Governor criticized the Government for not taking stronger measures and requested that the State of Delaware initiate programs designed to lessen the effect of the energy crisis on the citizens of our State. As the Governor stated:

> We are at the very epicenter of an enormous energy earthquake that will shake our expectations for the future and alter our Earth forever.
>
> We have usurped our resources . . . and now we must pay the ultimate user-fee . . . we do not have access to resources we had counted on.
>
> And there are precious few resources left readily available today—let alone tomorrow. Now we must fully develop what has been sitting untapped.
>
> And that is not meant as a "scare" tactic. It is merely calling a shortage, "a shortage."

Outlining a proposal that included closing off nonessential rooms, curtailing outdoor advertising, reducing voltage during selected hours, and many others, the Governor has recommended strong measures to deal with the energy crisis.

Mr. President, I commend the Governor for his efforts to help the citizens of Delaware through these troubled times, and I ask unanimous consent that the entire text of the Governor's speech be printed in the RECORD.

There being no objection, the speech

was ordered to be printed in the Record, as follows:

Mr. Speaker, Mr. President, Mr. President pro tem, Ladies and Gentlemen of the 127th General Assembly, Members of the Congressional Delegation, Members of the Cabinet, distinguished guests, fellow Delawareans: A crisis forces us together this afternoon.

An energy crisis that threatens our State and our Nation.

A crisis that could rock our economy.

It is absolutely essential that you members of the legislature act this very afternoon to pass the emergency legislation I have drafted . . . and grant me the broad powers I need as your Governor to meet this crisis head-on. . . . To meet the crisis with all the powers of my office. . . . To meet the crisis wisely and promptly.

Although we are gathered in an extraordinary session today, the energy problem is not a newly-exposed issue.

As far back as January of 1973, both *Newsweek* and *Time* magazines ran cover stories on what they labeled "the energy crisis."

We all watched it come cannon-balling down the track to us. . . . And many stood there, frozen in their paths.

And this winter, we may all suffer if we don't do something quickly.

The problem is that although we were warned about it, although people in the know talked about it, the problem was more real than it was apparent.

And if the public couldn't feel the effects of lessening oil and gas reserves. . . . If the public couldn't watch their pockets empty as the gas tank filled up. . . . Then they weren't ready to believe it.

Now everyone must believe.

We are at the very epicenter of an enormous energy earthquake that will shake our expectations for the future and alter our earth forever.

We have usurped our resources . . . and now we must pay the ultimate user-fee. . . . We do not have access to resources we had counted on.

And there are precious few resources left readily available today—let alone tomorrow. Now we must fully develop what has been sitting untapped.

And that is not meant as a "scare" tactic.

It is merely a question of calling a shortage, a shortage.

The one thing I find so staggering is that the Nixon Administration sat and sat. . . . And did nothing. . . . While America's energy reserves dwindled.

President Nixon did not act. He declined to act. He should have acted.

Finally, when he did address the Nation with an energy statement. . . . Months too late. . . . What he ultimately did was to deliver a message that was more homily than hard-nosed.

And in effect, the President slapped the problem on the desks of the 50 Governors. . . . who have little or no power to fight a national crisis, and total inability to develop the required comprehensive national policy.

But that did not preclude me from recognizing the problem even before I came into office in January of 1973. . . .

And it did not preclude me, as one Governor, from issuing a series of executive orders concerning the problem.

Let's take a quick look back. . . .

On January 18th of this year. . . .just two days after my inauguration. . . .I signed executive order number one, directing all State Departments and Agencies to start a program to conserve energy in all State-owned or leased facilities.

On the fourth of May, I signed executive order number eight, creating the Delaware Energy Emergency Board to study the conservation and allocation of gas, diesel, and other fuels being in short supply during the coming months.

On the twelfth day of June, 1973, I signed executive order number twelve dealing with energy conservation in State facilities during the summer.

The primary purpose of that executive order was to insure that air-conditioning facilities would be used sparingly.

On the 24th of August of this year, I addressed a letter to John Love, the President's "Energy Czar, urging that the Nation proceed with the mandatory allocation program for middle distillates as soon as possible. . . . and before the onset of the coming heating season.

Unfortunately, mandatory controls on home heating fuels did not become mandatory until November first. . . .well after the onset of the heating season.

And I might add, the forms which should have been in our hands on or before November first, from the Federal government, were bogged down. . . .and did not reach the office of the Division of Emergency Planning and Operations in Delaware City until the 13th of November. . .a full 12 days late.

My next step was to designate the Director of the Division of Emergency Planning and Operations as the head of the Mandatory Fuel Allocations Program in our State.

Heading that program, which went into effect on November first is Lieutenant Colonel James McCloskey.

In order to maintain orderly channels of communication to other levels of government, I propose to ask the appropriate officials in each of the three counties to designate an individual to work closely with Colonel McCloskey in his office.

In that way, each county and its elected officials can be constantly aware of the State's efforts to find solutions to the problems in the counties as they come to our attention.

Two weeks ago, I initiated steps to establish a public awareness campaign to awaken the people of Delaware to the energy crisis.

I felt it was critical to make information available to our citizens through the newspapers, radio and television.

Among steps taken to date is a statewide toll-free "WATS" line into Colonel McCloskey's office so that any citizen . . . regardless of his location in the State . . . can call Colonel McCloskey at no charge and obtain help with home heating or other related problems.

Next, I arranged for advertising to be prepared for insertion in the newspapers to explain how consumers can help conserve energy.

Also, radio spots are now being prepared—and will be distributed to all radio stations in the State—which will publicize energy conservation tips as well as the "WATS" telephone number.

I am pleased to say that all of this has been arranged by the State at no charge.

And I am proud to say that this is a definite sign of the support and the concern of the business community for the problems of the energy crisis.

Continuing with my efforts . . . on November 9th, I signed Executive Order Number 25 which reduced at once the speed limits of all State vehicles to 50 miles an hour.

And finally—just yesterday—I declared a state of emergency in Delaware. Now I turn to you of the legislature to grant me the necessary authority to move to combat the crisis.

In that state of emergency proclamation, I called for the return of this general assembly in extraordinary session for that sole purpose—of considering legislation to grant the Governor the authority to take actions as are appropriate in this crisis.

They are broad measures that I ask you to adopt to help conserve energy and to assist the Governor in doing what is possible to preserve the health and welfare of the citizens of Delaware, as well as bolstering the economy of our State.

But I say to you now . . . and I point a finger of guilt at Washington . . . that if the energy challenge had been handled in a timely, forthright, and judicious manner by our Federal Government, we would not be here today trying to perform a patchwork operation on a patient that is half dead.

And now I turn to you, the members of our general assembly to demonstrate your leadership and vision by joining with me and acting with dispatch on my legislative proposal which will be before you shortly.

This legislation will grant me, as Governor, extensive powers.

Its passage is essential.

Similar legislation was passed by the Maryland legislature earlier this week.

My proposal, when enacted into law, will give the Governor the power to take any and all action deemed adivsable to mitigate the energy crisis, recognizing our limited powers as a State.

Among other things, my proposal will empower the governor to promulgate orders, rules, and regulations to:

Establish and implement programs, controls, standards, priorities, and quotas for the allocation, conservation, and consumption of available energy reserves.

Control the type, composition, production and distribution of energy reserves.

Monitor the days and hours public buildings and commercial and industrial establishments are open for business.

Coordinate Delaware's energy reserve control programs and actions with those of the Federal Government and those of our sister states.

Suspend or modify air quality control standards insofar as the State has not been preempted by the Federal Government, keeping in mind our citizens' health and welfare.

With respect to modifications of the "clean air standards," unless the provisions of that law are superseded by emergency Federal legislation, the amount of latitude available to the States in terms of granting variances during this emergency situation is limited by the requirements to maintain air quality at a level designed to protect public health.

If the current oil shortage situation continues and energy conservation measures fail to alleviate the problem, we may inevitably be faced with the necessity of having to decide to temporarily compromise the environment, and the health of the citizens of Delaware in order to supply the energy to keep Delaware and the rest of the Nation moving or refuse to make that compromise.

The air priority region of new Castle County is most critically affected by this dilemma.

It has been estimated that about 19,000 tons of additional sulphur-oxide could be emitted into new Castle County's atmosphere before the primary sulphur-oxide standards are reached.

Considering that the required one per cent sulphur fuel is virtually impossible to obtain, and the required .3 (3/10) percent sulphur content home heating oil also is in short supply, it is anticipated that the sulphur emission reserve may be quickly allocated to those regulated parties seeking variances.

Fortunately, the air priority situation in Kent and Sussex Counties is less critical.

Those are some examples of the problems on which I may act if you grant me this needed broad power.

However, the bill contains certain restrictions.

I may not authorize, for example, the establishment of any major capital facility such as deep water ports or oil refineries.

Moreover, the bill creates a bipartisan joint legislative committee to review and endorse my action.

I will now list for you some of the steps I propose be taken immediately upon passage of this essential legislation:

Reduce the maximum speed limits in Delaware to 50 miles an hour. A ten percent fuel saving can be effected, and there may be the secondary impact of allowing the refineries to produce other necessary fuels.

(Let me add at this time that Senators Berndt and Hughes and Representative Spence demonstrated foresight on June 6, 1973, when they co-sponsored Senate Bill No. 321 to achieve precisely that goal of reduced speed limits.)

Inventory all energy reserves in Delaware and request anticipated demands for energy through July, 1974. The inventory process is aimed at eliminating hoarding of energy reserves.

Restrict student driving to schools.

Make firewood available. The wood from land-clearing operations can be made available to the public at cost. Prison labor may be used for cutting the wood.

Consolidate work areas—close off nonessential rooms. This can be done in both the public and private sectors.

Eliminate unnecessary security lights. Users will be required to investigate and utilize minimum lighting for safety and security purposes.

Curtail outdoor advertising lighting. Power can be conserved by curtailing outdoor advertising.

Power plants to reduce voltage during selected hours. Power companies will be directed to reduce voltage in selected areas during selected hours to minimize the fuel used for generating electricity. Such reduction in voltage can be achieved without affecting electric appliances or lighting.

Minimize nighttime lighting of large office buildings.

Reduce street lighting. However, public safety will be the criterion.

Survey all State buildings to correct heating deficiencies. The heating and ventilating systems of all State buildings will be surveyed and appropriate actions taken to minimize energy loss.

Suggest car pools. Every employer will be requested to investigate employee carpooling to maximize gasoline conservation.

In the next ten to fifteen days I will study and decide the feasibility of taking further action in the following areas:

Change employee working hours to 8:00 a.m. to 4:00 p.m. with a half-hour for lunch or . . . request industry to initiate a staggered working hour program.

Require power companies to investigate methods to reduce peak load consumption. Power companies will be asked to look at methods of stretching fuel usage for power and production purposes and such efforts may require reduction in peak load consumption and the spreading of that load.

Mandatory burner inspection at least once each year. Every fuel burner in the public and private sector should have fuel burning equipment inspected at least once a year to assure maximum efficiency of fuel usage.

Eliminate outside Christmas lighting. This will assist in reducing electricity demand during the cold winter months. Late last night I learned that Almart's stores have decided on their own initiative to ban all Christmas lighting this year.

Extend the Christmas vacation for school children through January 7, 1974.

I will also consider implementing additional action if necessary in the next 30 to 60 days in the following areas:

Investigate reduction of shopping hours. The amount of fuel used in shopping centers could be reduced by selectively cutting down shopping hours on certain days.

Eliminate extra-curricular activities and programs at our public schools during the evening hours.

Establish a four-day school week beginning in January and extending through March 15, 1974. The lost time can be made up by using vacation days or extending the school term or by other methods determined by the state board of education in cooperation with local school districts.

So far I've spoken about the need for action, the lack of direction from Washington, my legislative proposal, and the steps to be taken following its passage.

But there is more to the energy crisis. There is the probability of serious economic impact. An impact on Delaware—an impact on the nation.

But before generalizing about the impact, let us review some of the facts which in and of themselves outline the magnitude of the energy crisis.

1. The two million barrels a day of middle Eastern crude imported into this country has been embargoed at the source.

2. It is probable that the last shipments of Arab crude will have reached our shores by November 25.

3. Much of that crude will have been refined by December 15.

4. Obviously with world short term oil tanker charter rates down 80 percent, there must be a large idle tanker capacity.

5. The two million barrels of crude per day from the Middle East represented 6 percent of the Nation's energy resource. And it may have represented as much as 25 percent of the energy resource of the north eastern United States—including Delaware.

6. Even without the loss of the Arab crude, it is probable that America's energy demand would have exceeded supply this winter by some two percent. It would be still greater if the winter is extremely cold.

7. Critical shortages will be felt in home heating oil, diesel fuel, and gasoline.

8. Implementation of gas rationing would have immediate impact on Delaware's auto assembly and retail industries.

9. Gas rationing or very high gas prices would have a negative impact on State revenues—the motor fuel tax, for example.

These are just a few of the facts—facts which will become ever more apparent, ever more important.

Before touching in some detail the potential impact which may occur over the next six months, let me make one point. If Arab crude becomes available again soon, the impact of the crisis could be considerably softened. However, President Nixon has failed to brief the Governors on this important, compelling aspect of the crisis.

Therefore, I cannot in good conscience plan on that energy resource soon again becoming available. I hope and pray that it does.

However, my plans and my sense of urgency about this matter are based on the assumption that if it does become available, I will find out about it only through the news media.

While I appreciate the earnest efforts of the media to relay information, a situation as critical as this deserves direct President-to-Governors contact—from the Chief Executive to the 50 chief executives. And I call upon the President at this time to brief the Governors on this important subject immediately.

Now, based on the assumption that Arab crude will not be available for the next several months or more, we project that America's oil supply will be reduced 11 to 12 percent this winter. Since oil accounts for 46 percent of the Nation's total energy supply, energy nationwide will decline by roughly five percent.

If it is assumed that public conservation measures can absorb half of this reduction, then industrial output will probably decline by two-and-a-half percent.

It is conceivable then that total personal income may not increase at all during this period and may even decrease as much as two percent. In the long run, major increases in unemployment are likely. In the short run, unemployment will be less visible.

Increases in the cost of crude oil—as much as 100 percent in the last 12 months—suggest that the retail price of gasoline may climb to 65 cents a gallon within three to six months. If price rationing through imposition of an energy tax occurs, gas prices could reach one dollar or more a gallon. This could mean the demand for automobiles—especially larger models of the types assembled in Delaware—would decrease resulting in possible reductions in output, employment, and corporation and personal incomes in the State's auto assembly plants.

Reduced demand in the automotive industry will also impact the chemical and plastics industry which is a major employer in Delaware and supplier to the auto industry.

The retail and wholesale sector of our economy may be affected if it becomes very expensive to drive to stores. . . . or if rationing is imposed. This could severely reduce nonresident shopping in Delaware.

The Sussex County tourist industry could be seriously affected if the energy crisis continues longer than six months due to vacationers' dependence on the automobile.

Since transportation is a built-in cost of most goods and services, there could well be an increase in all prices merely due to increased petroleum prices alone.

Hopefully, increased car pooling and use of mass transit would occur automatically.

If the public recognizes the crisis will last more than a few months, there may be significant changes in commuter patterns—such as relocation of residences closer to places of employment.

State general fund revenues will be affected as a result of the anticipated economic slowdown.

Decreased production is almost a certainty due to the decrease in the available energy supply.

This will result in lower corporate income than expected. . . . And the growth rate of total personal income also will decline . . . although it is difficult to estimate the extent.

These events, of course, would result in lower State revenues.

Travel becomes more expensive, pari-than expected. . . . And the growth rate of racetrack fans.

We could speculate on these and other matters at great length.

We see the danger signals; however, we do not yet have the final answers.

Therefore, I have gathered a group of economists and analysts from both the private and the public sector.

They will hold their first meeting Monday afternoon.

Their job will be to gather data from all sections of the economy, weigh that data, and promptly submit to me a detailed analysis of the probable economic impact of the crisis.

I realize this has been a grim speech, but I don't want any of you to give up hope. We can and we will survive this crisis.

More than that, we will surmount it.

But, if the Arab crude remains embargoed, it will be a long, hard, up-hill fight taking years to get back to where we were.

But the people of our State and our nation are not soft.

They can and they will rise to the occasion. Steps will be taken, I know.

For example, railroads could be moving more coal right now. More coal mines will be opened. More hopper cars will be built and old ones rebuilt. I am sure that coal gasification processes will be improved. I suspect that the Federal Government will allow east coast continental shelf oil exploration. And if oil is found, they will permit its exploitation.

These are just some of the positive steps that will be taken.

But they will take time—some will take years.

But be assured each and every one of you that I will do everything in my powers to lessen the impact of the crisis on the people of Delaware.

However, the overriding consideration is the immediate establishment of a sound, hard-nosed policy by the Nixon Administration.

Now, let me thank each and everyone for coming today and let me ask the General Assembly to favorably consider the legislation I propose.

Finally, let me leave you with the famous words of the late President John F. Kennedy. They are especially meaningful today—

"Ask not what your country can do for you. . . . Ask what you can do for your country."

Thank you.

EILEEN GALLAGHER

Mr. MONDALE. Mr. President, the University of Minnesota has for some time run a highly successful program—HELP—whose purpose has been to make it possible for welfare mothers to attend college. The outstanding record of this endeavor has been most encouraging. Mrs. Eileen Gallagher—who testified recently to the Senate Finance Committee about this program and what it has meant to her family—provides an excellent example of what this program offers.

Eileen Gallagher is an exceptional woman. She is the outspoken, 41-year-old Irish mother of nine, who has been supporting her family on AFDC funds.

In the middle of heated criticism, Mrs. Gallagher decided to return to college and obtain a degree. It has taken her 5 years and a great deal of courage and patience, but she has achieved that goal. She has now been taken off the welfare rolls and is employed at $12,500 a year as the director of the Episcopal Neighborhood Center School.

Mr. President, I would like to share Mrs. Gallagher's story with my colleagues and the public. I ask unanimous consent that a story which appeared in the Minneapolis Star be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A New Age for a Mother of Nine

(By Jim Klobuchar)

It was almostly unanimously predicted in 1967 that Eileen Gallagher would flop as a 41-year-old coed.

Some of her neighbors offered the view that she not only would, but should.

Mrs. Gallagher was the kind of woman who had no difficulty attracting antagonism. She was the mother of nine children, living in a fatherless home in Minnetonka. Her marriage ended in divorce in 1961. Her husband had never been a rock of stability, and so when the time came for alimony the court's award might be generously described as microscopic.

She had to accept the public dole, aid to dependent children.

From the Olympian outlooks which some ascend in judging those who have to live on welfare, this tended to put Mrs. Gallagher on the road to social exile.

Her decision a few years later to enroll at the University of Minnesota with nine kids on AFDC payments practically assured her banishment from the community of the just and worthy.

An account of her first months as a struggling college freshman received widespread attention. Between and around classes in American Lit and English composition she would drive to the grocery store for milk, find Kevin's shoes, help with the dishes, sew clothes, serve dinner in shifts, and referee the congestion at the bathroom door so that Mark and Mary could make the bus for Minnetonka high.

For her brazenness in wanting a higher education while she was accepting public money to preserve her family, Eileen Gallagher was denounced as an ingrate, a negligent mother and a slothful woman; in addition she was enthusiastically suspected of being a hussy.

Her largest sin in retrospect appears to have been a certain Irish feistiness of temperament and the stubborn belief that a woman does not have to forfeit all of her individuality and her ambition in order to meet society's test for "the right kind of AFDC mother."

"I tried some jobs that fell through," she said. "I had an offer of a $200-a-month job that would have put me on the road all the time, but what kind of life would that have been for the kids? Nobody had to tell me about the awkwardness of being a woman on AFDC. After a couple of years I could have written the book on it. I didn't want the money that way.

She decided the best way to shake any kind of social stigma from her kids was to go to college and to emerge not only as a fulfilled person but a better provider. It took five years, loans, federal assistance, 18 hours a day and one breakdown, but the lady graduated.

Her children gave a party for the scholar. Some in the neighborhood congratulated her, but she is still not likely to poll many votes for local mother of the year.

She looked for work, but had little trouble avoiding suffocation under the offers. She began doing volunteer work at the Episcopal Neighborhood Center. Her energy and innovations earned the admiration of superiors. She began speaking publicly, on problems of welfare mothers and those of drop-out high school kids.

A few weeks ago the Episcopal Neighborhood Center named Eileen Gallagher, the director of its Center School, at $12,500 a year.

We lunched a couple of days ago, our first since six years ago when the reformed tomboy from Holy Angels decided she would assault the walls of academe.

"Three of the kids married," she said. "One of them went to Vietnam. One is at the university and another is between colleges. We still have a household of six, and maybe now and then a foster kid I take in. You called me once a snappy, energetic Irish girl with notions to be a middle-aged Joan of Arc. I think that may have been close to it. But the crusades are not just for welfare mothers but for this alternative school for kids who would otherwise go down the drain.

"I'm a happy kind of person. But I'm not going to deny some leftover bitterness about some of the things that were said to my kids and the dirty and malicious phone calls I got. I'll repay the loans. Somebody asked me if I don't think I owe the public something for all of the AFDC money I got. I think it came to something like $50,000 in 10 years. I am grateful. But now I'm paying for somebody else, gladly.

"If the work I'm doing now can save just two or three kids, or even one, shouldn't the debt be square?

"How do you value a salvaged young life?"

PAGE NELSON KEESEE, OF JOHNSTON, S.C.

Mr. THURMOND. Mr. President, Page Nelson Keesee of Johnston, S.C., has recently retired as editor of the South Carolina Legionnaire, and I am pleased to call to the attention of the Senate the good work he has done on behalf of our veterans.

Nelson Keesee deserves the thanks of all of our veterans for a job well done. I wish him a pleasant and happy retirement with his family and many friends, and a complete recovery from his recent illness.

A. B. Fennell, former veterans employment representatives for South Carolina, has been unanimously appointed to fill in as editor. Abe Fennell knows and understands the problems of our veterans, and South Carolina veterans are indeed fortunate that his services are available to them.

The November issue of the South Carolina Legionnaire contains several accounts and an editorial about Nelson Keesee and Abe Fennell.

Mr. President, I am pleased to call these articles to the attention of my colleagues, and I ask unanimous consent that they be inserted in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the South Carolina Legionnaire, November 1973]

Keesee Resigns Editor's Post

Page Nelson Keesee, who has been editor of the South Carolina Legionnaire for several years, suffered a heart attack several weeks ago, but has returned home after having been hospitalized at Self Memorial Hospital in Greenwood.

Legionnaire Keesee, who also served as Department Adjutant for some ten years, is reported well on the way to recovery and is now back at his home "At Anchor" in Johnston.

Mr. Keesee has been advised by his doctors that he must drastically cut back on his activities and has indicated that he can no longer serve as Editor of the South Carolina Legionnaire.

Those of us who are engaged in publication of this issue of the S. C. Legionnaire join with his many friends among members of The American Legion in wishing Nelson a quick and complete recovery.

A. B. "Abe" Fennell of Columbia is the newly appointed editor of the South Carolina Legionnaire, succeeding Page Nelson Keesee of Johnston who retired last month after suffering a heart attack.

"Abe", longtime and active American Legionnaire, is a past department commander and served as Chairman of South Carolina American Legion baseball program for three years after having served 21 years as state director of the program. He also was on the Legion world series staff for 11 years.

With a record of many years in newspaper work, "Abe" brings with him strong credentials as he assumes the vital post as head of the official newspaper of our Department.

After a meeting of the Department's Public Relations Committee Nov. 4th at which "Abe" was the unanimous choice as editor, Chairman Robert S. Powell stated:

"The Public Relations Committee feels fortunate in obtaining the services of an outstanding Legionnaire such as "Abe" Fennell and feel he will do much to help instill and promote a strong interest in Legionnaires to become more active in the noteworthy programs of the American Legion. We pledge him our cooperation and urge the rank and file of our Department to join in this support."

Continuing, Chairman Powell expressed appreciation to Legionnaire Keesee for his years of service as editor of our official newspaper. "The Public Relations Committee of our Department join with Legionnaires across the state in wishing Nelson a speedy recovery," Powell said.

[From the South Carolina Legionnaire, November 1973]

A Tribute to Page Nelson Keesee

Page Nelson Keesee, who served as department adjutant of the Department of South Carolina of the American Legion, who headed up the Boys State program for many years and served as editor of this newspaper both before his retirement as department adjutant and since that time, has, on the advice of his physician, resigned as editor of the South Carolina Legionnaire.

Nelson, as he is known to most of us, served 30 years in the U.S. Navy before returning to his beloved home "At Anchor" in Johnston after his retirement. But he didn't really retire. He became active in his "home" Legion Post and was a prime mover in "Teen Town", one of the better community youth programs in South Carolina. He was most active in other projects, but his real love was The American Legion's Boys State program, which he directed for many years. Under his leadership, the South Carolina program became recognized nationally. The program grew to over 600 Boys Staters and Mr. Keesee was recognized nationally by being selected several years as a member of the Boys Nation staff, an honor reserved for the outstanding Legionnaires in the Boys State program. Known affectionately to literally thousands of the finest young men in South Carolina as "The Admiral", he stepped down after the annual Boys State gathering this year. It was a crowning glory for him that the 1973 President of Boys Nation was the first Boys Stater from South Carolina ever so honored.

His service as department adjutant was a great factor in the great progress made by the department during the ten years he served. He made many friends for himself and the department both within the borders of our state and on the national scene.

As editor of the South Carolina Legionnaire, Page Nelson Keesee performed still another great service to The American Legion and its members—a service which will long be remembered. The South Carolina Legionnaire—thanks to his dedication and ability—ranks as one of the better Legion publications in the country.

Every Legionnaire and every Boys State graduate will wish for Page Nelson Keesee a quick and complete recovery, as well as many more pleasant years of retirement at his lovely ancestrial home in Johnston, as will every person who knows what he has done for The American Legion and especially for the youth of South Carolina.

SOCIAL SECURITY: IN NEED OF OVERHAUL

Mr. HARTKE. Mr. President, there have been countless articles and books written during the past 2 or 3 years on the glaring inequities of the present social security system. When Congress passed H.R. 1 last year (Public Law 92–603) I stated that the promise of reform contained in that legislation was more illusion than reality. We have yet to tackle the difficult question of reform which plagues both the retired and those still in the working force.

I have introduced several pieces of legislation this year which would bring about major social security reforms. Among them is S. 1838 which provides for partial general revenue financing of retirement and health benefits and which also establishes a reduced social security payroll tax for low-income individuals. I believe S. 1838 is essential if we are to bring equity to the current working generation and adequate benefits for the retired.

Mr. President, recently, an article by Carolyn Shaw Bell on the myths and inequities of social security appeared in the Washington Post. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Social Security—Myths and Inequities

(By Carolyn Shaw Bell)

Since the beginning of social security in 1935, the myths surrounding it have hardened into dogma. Yet it is time to acknowledge that it is not insurance but a massive income-transfer program containing many elements of welfare, and that it contains a number of serious inequities that need correcting.

Most of us believe, of course, that we pay social security into insurance funds and get it back later; that we all earn our social security benefits—the more we pay in, the more we're entitled to get back; and that social security is something we work for and are entitled to, unlike welfare which is a government handout.

Actually, the monthly social security checks currently received by, among others, widows, retired workers and the dependent children of disabled workers come from only one source: the payroll taxes collected by the Social Security Administration on the current earnings of some 93 million workers. It is a flow of funds—about $4.6 billion a month—from earners to non-earners.

Once the system is correctly identified, controversial issues of equity arise:

Financing the system by a payroll tax calculated at a flat percentage makes it highly regressive, posing more of a burden for those earning low wages than for those receiving high salaries. For most Americans, the sums withheld in social security contributions exceed those withheld for federal income taxes. Yet most of those receiving social security benefits need not have (and probably have not) remitted any such contributions.

The Social Security Administration calculates benefits partly on the basis of income maintenance, and Congress has approved the notion that the system should provide a family with an income adequate to meet its basic needs for food and shelter and clothing. Yet such welfare considerations do not exclusively determine the amount of benefits, for they also reflect past earnings and hence contributions.

The system taxes individuals as workers, and for families with more than one worker, the tax burden rises accordingly. Yet the system benefits individuals not only as retired or disabled workers but as dependents in a family. Hence the relation between taxes paid and benefits received is far less generous for a family with two or more earners than for a single-earner family.

People with incomes below the poverty level are exempt from the federal income tax, but must pay social security taxes. Yet social security benefits are themselves exempt from income tax.

These and other inequities surely require extensive public discussion, rather than being confined to congressional committee hearings and to disputes among experts.

THE TRUE FLOW OF FUNDS

From the beginning, the terms "contribution" and "social insurance" have been used to describe social security, although it was never seriously contemplated that payments to trust funds would in any sense be saved intact or invested to provide future benefits to the workers taxed. The notion that people have "rights" to social security, based on their contribution, has also persuaded many to envision a flow of funds from some kind of accumulation to those who helped build up the accumulation, and are therefore entitled to benefits.

Little effort has been made to get people to appreciate the true flow of funds, from taxpayers this year to beneficiaries this year. The revision in the 1972 legislation which put the entire system on a pay-as-you-go basis has not been particularly publicized. It may well be that public faith in the system, and to some extent in the federal government which administers it might be severely shaken if people suddenly discovered that no vast pile of funds existed. ("What did they do with all the money?") But changing the system to meet the true needs and wants of the people who support it will never occur without more widespread understanding of what now exists.

Because of the emphasis on retirement provisions, the income transfers brought about by social security is frequently described as one between generations—that is, between workers and retired workers. Yet over half the people on social security obtain allowances as dependents; they may or may not be of a different generation than the working population which furnishes their income. They include over 4 million children and an equal number of widows (including widowers), mostly elderly. Another 3 million wives (and a few thousand husbands and parents) of disabled or retired former workers (who are themselves drawing social security benefits) also receive allowances. These people may or may not have contributed social security taxes themselves, but they receive their benefits as dependents of some other person. Benefits also go to those who have left the labor force because of disability rather than age: almost 2 million of them today. In other words, today's workers help support millions of people their own age, or younger, who for various reasons do not earn income from employment. Only $2.4 billion of the $4.6 billion in monthly benefits goes to retired workers.

REDISTRIBUTION OF INCOME

Because the system emphasizes a link between contributions and benefits, the impact of its transfer payments on the distribution of the nation's income has been overlooked. To most people, perhaps, the phrase "redistribution of income" conjures up some vision of equalizing income, of taking from the rich to give to the poor, but such is not necessarily the case.

Social security beneficiaries receive their payments as a matter of eligibility defined by law, and a "means test" or other income definition does not determine this eligibility. As far as the dependents are concerned, their eligibility status turns on their family relationship to someone working in so-called "covered" employment. (Most workers who do not pay social security taxes are enrolled in some government pension plan.) The amounts received depend on the contributions of the "covered" worker and, for dependents, on the nature of the family relationship.

The sums contributed by any worker reflect, of course, both length of employment and the earnings derived. In general, people who have earned higher wages over a given number of years are entitled to higher benefits than those who earned less.

Because the level of benefits has depended on the level of earnings in this way, the system has been stoutly defended as one of "social insurance" and its payments as "contributory." One can also argue that it reflects the American belief that people have unequal incomes at least partly because people work with different skills and degrees of effort. There is no clear majority, or even plurality, in this country in favor of a completely equal distribution of income. And if it is equitable for those with special skills to earn more than the untrained or less ambitious, it seems equally appropriate for such people to enjoy higher retirement income, "paid for" out of their earnings. But this argument does not apply to social security as a whole, because the complex formula used to determine benefits does not consistently provide more to those who pay more.

First, those with low incomes receive more generous benefits, compared to what they have contributed in taxes, than do those with higher incomes. For example, a worker whose monthly earnings averaged $300 would be entitled to a retirement benefit of $193, which is 64 per cent of what he had earned. Someone employed at a wage level twice as high, with years of work at a salary of $600 a month, would of course be entitled to higher benefits. But they are not twice as great. The retirement pay for such a worker amounts to $309, or only 51 per cent of the average earnings.

Secondly, those coming under the system in recent years will benefit, in proportion to what they pay in, far more than those who have worked in "covered employment" for many years, or who have paid taxes since the system began in 1935. And, to cap it all, each time that Congress adjusts the conditions of eligibility or the benefits paid (and this has occurred 10 times so far) the relation between taxes paid and benefits available changes, generally toward more generous treatment of the newly eligible.

Together with the graduated scale of benefits, these policies reflect the goal of providing adequate family income. Thus the surviving widow of a covered worker who leaves four children receives a higher total benefit than does the widow with a single child. The system must insure sufficient income for families and individuals to purchase the primary necessities of life, whether or not the covered worker's contributions would generate this amount of income. Such provisions justify describing the system as one of income maintenance; a system of income insurance would calculate benefits in a consistent relation to contributions.

BENEFITS VERSUS HANDOUTS

This ambiguity about the goals of the system—whether it should provide income insurance or income maintenance—has assumed threatening proportions with recent efforts to alleviate poverty in this country.

Next January a new supplementary security income program (SSI) will replace old age assistance (OAA), the welfare program for older people now administered by the several states. Under SSI all elderly people in need will be guaranteed a minimum level of income, uniform throughout the country. The payments scheduled, however, will exceed many benefits now being paid to retired workers under social security—some of whom may have been receiving additional funds from OAA.

Accordingly, the two programs will be integrated so that the elderly who were formerly covered workers, or retired people who have contributed to social security, will receive higher payments than those paid with SSI alone. For example, the basic SSI payment for an elderly individual will provide $130 monthly. A single person now receiving a retirement social security benefit of $84.50 will be entitled to the new minimum, $130, but will also be allowed to receive part of the social security payment as well. The total monthly income will be $150.

The retired worker thus does get more—$20 a month more—than the person receiving only the basic security income. But this difference, $20, can also be regarded as the sum total of the retirement benefits "earned" by all the social security taxes paid in previous years. To many retired workers, the income thus yielded by their contributions will look very small indeed.

It is true, of course, that retired workers get substantial psychic income in addition to their social security checks. These returns can be described in terms of self-respect, of pride at having "earned" the benefit, of a moral righteousness or satisfaction with the fulfillment of a contract. Obviously, for some, these feelings are enhanced by invidious comparison to those on welfare who receive "government handouts." (The hardworking couple who've paid social security taxes all their lives claim they deserve more income, when they retire, than the indigent welfare types who never paid a dime to the government but now expect to be taken care of for the rest of their lives. And who is to deny their claim?)

In fact, of course, because benefits have not been calculated in a consistent relation to contributions, strong welfare elements exist in the present system of social security. A large part of the benefits paid have not been "earned" by the recipients any more than the sums paid to dependent children have been earned by the youngsters involved. Nevertheless, the public, and especially that portion of the public receiving social security benefits, differentiates sharply between the two programs.

Although SSI clearly takes the first step towards an overall income maintenance program, the strong feelings about social security, and the widespread ignorance of its welfare content, will probably prevent any easy substitution of such a program, financed from general revenues, for social security. Precisely because the system has been described for so many years in terms of insurance and of contributions, the public may be unwilling to relinquish the myth of self-support in favor of income maintenance.

OUTDATED ASSUMPTIONS

This brings up the other basic conflict in the social security system as a whole: that among the differing economic roles played by an individual during his or her lifetime. The system receives its funds from workers as individuals: all wage-earners pay the same rate of tax without regard to their family situation; no provisions exist for joint filing or for figuring total family income. Benefits, however, go to individuals and their dependents who are identified in terms of a family. The amount of income received, therefore, reflects the family situation rather than that of the individuals in the family. Major inequities arise when more than one individual in a family has contributed to social security, for the system does not yet provide that benefits can be calculated on the basis of two sets of earnings.

An example may help: This year the social security base (the maximum earnings to which the tax is applied) amounts to $10,800, which means about $590 in taxes for a man earning this amount. If this man marries a woman earning $6,000 who pays social security taxes of $351, their combined "contributions" amount to $941. But a man whose salary equals that joint income—that is, someone earning $16,800—would not pay that amount of tax. His total social security contribution is the $590 payable on the first $10,800 of earnings.

The problem can also be revealed by comparing benefits. If both men are married, and each have the same years of earnings, their social security disability or retirement benefits will be equal. Each will be entitled to the same monthly payment, plus one-half the dollar amount for his wife. The fact that one wife has, herself, worked at covered employment and contributed to social security may or may not provide the family with additional income. If the benefits she is entitled to, in her own capacity as a retired (or disabled) worker, exceed her allowance as a dependent wife, then she may, of course, collect the higher sum. But in over one million cases the return is negative: That is, the elderly woman who has worked receives more as her husband's dependent wife or widow than she would from her own retirement benefit. In millions of other cases the difference is very small and in many cases falls short of the annual social security taxes paid before retirement.

There are other anomalies in the system's treatment of two or more earners in the same family. They can nearly all be traced to the simplistic notion of dependence used to define family relationships.

The basic assumption pervading the system (and probably American society as well) is that a family is dependent upon the husband and father, a woman is a dependent wife or widow, and children depend on their father for economic support and on their mother for care.

In economic terms, these statements have been meaningless for a good many years. Over 6 million families have no husband or father to support the woman and children. Only 1 out of 3 married couples depends on the husband as the sole earner; the majority of married women earn income from their employment. That these women have entered the labor market by the millions over the past decade has done more to reduce the number of families below the poverty income level than any other single occurrence. The contributions of women earners to their families' income cannot be easily measured, in terms of their human significance, by simple quantitative statements about average dollar sums or median wages. But clearly economic dependence for the family can no longer be defined in terms of the male breadwinner as the means of support.

Aside from defining economic dependency, the family has also been accepted as the basic unit of analysis for many social phenomena.

Social security benefits, welfare programs and the whole concept of income maintenance merely symbolize or reflect this fairly widely accepted construct. Yet the notion that children require the mother's care and attention may itself be questioned since young mothers with small children are joining the labor force more rapidly than older women or than men.

From 1960 to 1971, the number of families headed by men increased from 40 to 47 million, or about 16 per cent, while the number headed by women rose from 4 to 6 million, or about 38 per cent. Only a few among these latter families receive any support for the children from their fathers.

UNFAIR TO WOMEN

These changes in the economics of the family pose special problems for women. Social security benefits they earn tend to be much smaller than those for men, chiefly because working women are confined to low-wage occupations. A woman who works full-time, year-round, earns 57 per cent of what her male counterpart does—a substantial decline from the 65 per cent fraction of a decade ago. It follows that the regressive nature of the payroll tax also bears more heavily on women; for the increasing number working to support their children, the protection offered by social security may not seem worth the cost.

On the other hand, the economic work women perform at home does not count as "covered" employment under the Social Security Act so there is no way for women outside the labor force to earn rights to disability or retirement income. Hardship results for the divorced woman, whose years spent in caring for husband and children may have precluded her taking a paid job, and for the widower with young children, who has to pay for domestic services.

This problem points up the conflict in the system between taxing individuals as earners but paying benefits to family member and dependents. If benefits should be calculated on the basis of family needs, then why not tax wage earners on the basis of total family income, rather than regarding them as separate individuals? If, on the other hand, the present system of allowances for wives and widows recognizes their economic contribution of household care, then why not vest their rights to social security benefits in themselves as people, rather than requiring a state of dependency? In the more advanced social security systems of some European countries, this approach has been explored, with, for example, tax credits granted to women on maternity leave, and pensions provided elderly women in their own right as retired wives and mothers.

Another special problem under the present social security program concerns older people who continue to work after age 65. Their retirement benefits are reduced by $1 for every $2 they earn over a sum of $2,100 anually.

For example, assume that most of the 3 million workers over 65 are entitled to the average social security retirement benefit of $163.70 monthly. To supplement this income, the older worker cannot expect to earn equal wages to those paid younger people, but take the case of someone earning half the median wage, or $4,500. For an elderly person, the net yield from employment paid at this rate is $3,300 and the loss in income of $1,200 represents an effective tax rate of over 36 per cent. In the schedule of federal personal income taxes, such a rate applies to incomes over 20 times as great. Of course, the elderly worker also pays social security tax on the earnings, and has occupational expenses as well to reduce take-home pay.

This provision clearly exposes the conflict between income maintenance and income insurance. If retirement benefits are designed to replace earnings (i.e., income insurance), then clearly they should not be paid at all when earnings exist. But since retirement benefits provide very low incomes to many people, the goal of income adequacy results in their being allowed to supplement their social security payments with earnings, albeit earnings taxed at extremely high rates.

THE IMPACT ON POVERTY

Another conflict over the goal of maintaining adequate incomes is seen in the impact of the social security system on those with low incomes. The average payments for retired workers amount to less than the poverty level income for elderly single people, although the benefit to retired couples averages slightly above the poverty level. This means that many beneficiaries have not "earned" from their "contributions" sufficient income to keep them out of poverty. With significant increases in social security benefits last year and this year, the number of poor people over 65 has, however, dropped from almost 5 million in 1969 to about 3 million today.

Among poor people who are not 65, the system works hardship because of the import of taxes. Families and individuals with incomes below the poverty level pay no federal income tax: in 1972 a family of four with about $4,500 of income or a single person with an income of $2,163 would have been so exempted. Of the 5 million families classified thus as "poor" in 1972, about half contained at least one person who was employed, and in over a million families two workers brought home wages and salaries. Despite the fact that their earnings were insufficient to raise the family out of poverty, these people paid social security taxes at the same rate as the highest salaried executive in the country. Especially for the two-earner family, total income might well have exceeded the poverty level had it not been for social security.

These controversial issues cannot be easily solved. They pose hard questions about goals: Do we want income insurance or income maintenance? What are the demands of equity and of ethics? But they cannot honestly be dealt with until the additional question about people as earners and as family members can be squarely faced. If the system taxes each worker as an individual, it should pay the beneficiary as an individual; if it pays benefits in terms of family status, it should tax the worker on the basis of family status.

NEED FOR A NATIONAL GROWTH POLICY

Mr. HARTKE. Mr. President, earlier this year I introduced the National Growth Policy Planning Act (S. 1286) because I believe it is essential that this country adopt a rational scheme for its continued growth and development. Our cities are overcrowded and strangling amidst pollution and neglect, while urban areas are suffering economic blight.

There are hundreds of Federal programs to meet urban and rural needs, but there is little coordination among them. Some of these programs actually work against each other; most have little relationship among themselves.

S. 1286 would utilize local and regional planning to develop a national growth policy plan. This would be a flexible plan based on local needs and desires. It would seek to conserve that which is best about our metropolitan and rural areas and to change what should be changed. All of this would be done in a rational, well-thought manner, rather than the crisis-to-crisis approach which seems to be the mode of most governments.

Mr. President, recently I read a research proposal prepared by two members of the faculty of Stanford University in California, Profs. Willis W. Harman and John T. McAllister, Jr. Their proposal seeks to make an assessment of the institutional requirements for developing and implementing a national growth policy. The introduction to their proposal explains the need for a national growth policy, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

AN ASSESSMENT OF THE INSTITUTIONAL REQUIREMENTS FOR DEVELOPING AND IMPLEMENTING NATIONAL GROWTH POLICY

(By Willis W. Harman and John T. McAlister, Jr.)

I. NATIONAL AND SOCIETAL NEED

I. Need For National Growth Policy

The half-century between 1920 and 1970 was one of the most dramatic periods of growth—especially in economic output—that any nation has ever experienced. During these fifty years, America's GNP increased by more than ten times (from under $90 billion to almost $1000 billion) and our population more than doubled (from 100 million to over 200 million).

As beneficial as this growth has been to most segments of American society, there is now a recognition that it has demanded a high price in social disorientation, ecological degradation, and public alienation. Rapidly growing public concern with these adverse consequences of uncontrolled national growth has led to increasing awareness of the need to assert greater public control over the direction of future growth. The President clearly articulated this concern in his State of the Union address of 1970 when he called for the formulation of a National Growth Policy to direct government activities towards achieving balanced growth:

". . . For the past thirty years our population has been growing and shifting. The result is emptying out of people and of promise—a third of our counties lost population in the sixties.

". . . The violent and decayed central cities of our great metropolitan complexes are the most conspicuous area of failure in American life today.

". . . I propose that before these problems become insoluble, the nation develop a *national growth policy*.

". . . In the future, government decisions as to where to build highways, locate airports, acquire land, or sell land should be made with the clear objective of aiding a balanced growth for America.

". . . If we seize our growth as a challenge we can make the 1970's an historic period when by conscious choice we transformed our land into what we want it to become."

This call for explicit national growth policy clearly recognizes that many public actions, such as highway construction, already have a substantial impact on the pattern of national development. America, in fact, has a long history of public involvement in the process of national growth. For example, the Federal government actively encouraged migration westward by subsidizing railroads, opening public lands for homesteading, and so on. Management of the national economy for the purpose of achieving high employment and stable growth has also long been a concern of the Federal government. More recently, programs such as the Appalachian Regional Development Act have been created with the explicit purpose of promoting the development of lagging regions.

Perhaps more important than these explicit policies, however, have been the many implicit policies affecting national growth. As the report of the National Goals Research Staff noted:

"The fact is that while the Federal Government has no cohesive population policy, it is continually developing policies that have secondary consequences for the migration and distribution of our population:

". . . FHA and VA mortgage insurance, the interstate highway system, Federal and State tax policies, State and local land use programs, all contributed to the massive suburbanization of the last 25 years."

". . . Defense contract awards have accelerated the population booms in southern California and along the gulf coast.

". . . Agricultural research and support programs have accelerated depletion of the rural population."

"These policies make individually positive contributions to society, but their collective impact may not be desirable from the standpoint of distribution of population and economic opportunity."

The point of these remarks is that while many public actions have a substantial impact on the magnitude and distribution of national growth, these impacts are frequently unforeseen, unintended, and in some cases undesired. The major purpose of developing explicit national growth policy, therefore, is to provide a framework which can serve as a basis for coordination of programs intended to affect growth, and that can ensure that growth impacts are explicitly considered in the formulation and implementation of other programs whose primary purpose is not directly related to growth.

The first major step in responding to this challenge came with the Housing and Urban Development Act of 1970 which established, in effect, a Congressional consensus for the development of a national urban growth policy. While this Act once again called for rational and efficient growth, it did not establish either policies or policy-making mechanisms to achieve this goal. However, it did recognize the requirement for further problem assessment, data gathering, and analysis for developing a national growth policy, and it directed the President to prepare a biennial report on national growth, the first of which was issued in Ferbuary 1972.

During early 1972, two major reports appeared which once again called attention to the need for national growth policy. The American Institute of Architects issued a report in January which recommended that growth policy be organized around the neighborhood as a basic unit for future growth. The AIA report, as might be expected, was almost exclusively concerned with the quality of the physical growth of the nation—especially urban living areas. In March the President's Commission on Population Growth and the American Future (the Rockefeller Commission) issued a report, which explicitly called for a national population policy which would influence the geographic distribution of population as well as its overall rate of growth.

These examples illustrate a major obstacle to focused debate on national growth policy: a tendency to define the issue so broadly as to make it almost useless for policy purposes. Underlining this point, the President's 1972 *Report on National Growth* noted that "the term 'national growth policy'—and even the term 'urban growth policy'—has come to embrace virtually everything we do—privately and publicly—that shapes the future of our society. As a result, a 'national growth policy' is often viewed as a panacea for all our social ills." For example, while the ACIR report *Urban and Rural America: Policies for Future Growth* focuses heavily on urban and metropolitan development, the report of the National Goals Research Staff *Toward Balanced Growth: Quantity with Quality* includes education, basic natural science, technology assessment, and consumerism as topics relevant to growth policy. An initial objective of our study will, therefore, be to clarify this ambiguity by developing an operational definition of national growth policy.

One way of analyzing the concept of national growth policy is to identify the dimensions of growth which such policies should specifically address. This approach would consider, for example, whether national growth policy should deal with such growth issues as population distribution, utilization of natural resources, and so on. As we have indicated, we must draw some boundaries around the issues to be grouped together under the heading of national growth policy if we are to keep it from becoming a catch-all phrase referring to practically all domestic policy.

On the basis of our previous work on the subject, we feel that it is useful to limit our consideration to policies dealing with (1) aggregate growth such as growth of the GNP, the rate of utilization of natural resources, the rate of population increase, and the environmental impacts of growth and (2) the geographic pattern and distribution of growth, including patterns of metropolitan and urban development, regional difference in economic activity, and the geographic distribution of population. This definition would exclude, for example, such national welfare objectives as provision of aggregate levels of health and educational opportunity as well as income maintenance. We expect to refine these restrictions during the first phase of our study.

A second way to define national growth policy is in terms of the specific policies and programs that it would subsume. This approach recognizes that national growth policy would not be a single "super-policy," but rather many interrelated policies and programs developed and implemented on a continuing basis through various forms of interaction between all levels of government. As we have noted earlier, many elements of national growth policy already exist in the form of explicit policies concerning such aspects of growth as the aggregate level of economic activity, environmental pollution, and so on. However, in other areas, such as population distribution, no explicit policies exist, although it can be argued that a national policy is implied by the many public programs, such as the Interstate Highway System, that affect settlement patterns. Development of comprehensive national growth policy would, therefore, entail both the formulation of explicit component policies dealing with those aspects of growth that are at present inadequately treated, and the establishment of a framework for relating these policies to each other in order to eliminate conflicts or inconsistencies insofar as possible.

The second part of our definition of national growth policy, then, will be an identification both of the existing programs and policies having the greatest impact on the dimensions of growth in which we are interested, and of the major policies that have been proposed for dealing with relevant growth issues that are not yet covered by explicit public policy.

APPOINTMENT OF AN INDEPENDENT PROSECUTOR

Mr. **BAYH**. Mr. President, early next week the Senate will consider legislation designed to insure true independence for the Watergate Special Prosecutor. The Judiciary Committee has reported two bills to the Senate without recommendation, the Bayh-Hart-Kennedy bill, S. 2611, and the Hruska-Taft bill, S. 2642. Our bill would vest appointment and removal power in the District Court thus removing the Prosecutor from being subject to the control of the President, while under the Hruska-Taft proposal the Prosecutor would still be the President's nominee, responsible to the President, and subject to being removed by the President. Some concern has been expressed about the statements of Judges Gesell and Sirica expressing disapproval of such court appointment. In that connection, I would like to draw the Senate's attention to an excellent editorial that appeared earlier this week in the Des Moines Register concerning this point. As the editorial points out:

> When judges render legal judgments on matters that have not been briefed and argued before them, their views are entitled to no more weight than the views of other lawyers. Distinguished constitutional scholars such as Paul Freund of Harvard Law School and Philip Kurland of the University of Chicago believe it is desirable and constitutional for Congress to establish a special prosecutor appointed by the courts. So does the American Bar Association.

I am firmly convinced that the only way in which the American people can be assured of a full, fair, and independent investigation is to establish by law a procedure which prevents the executive from investigating itself. I ask unanimous consent that the full text of the Des Moines Register editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Prosecutor and Court

Senator James Eastland (Dem., Miss.), chairman of the Senate Judiciary Committee, wrote to Federal Judge John Sirica recently asking Sirica's views on pending legislation providing for court appointment of a special prosecutor. Sirica responded that he disapproves of such a court appointment. He said eight other federal judges with whom he discussed the question agree. Sirica added that he approves statements made earlier by Federal Judge Gerhard Gesell.

Gesell had ruled that the firing of special prosecutor Archibald Cox was illegal. In the course of the judge's ruling, he warned Congress against providing for court appointment of a successor to Cox:

"The courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent executive interference with the Watergate special prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular court."

The courts should remain neutral. They stray from neutrality when they give advisory opinions to Congress and offer legal judgments on matters that are not before them. It was improper for Senator Eastland to ask Sirica's opinion and improper for Judges Sirica and Gesell to express opinions on a legal issue in an effort to influence Congress.

When judges render legal judgments on matters that have not been briefed and argued before them, their views are entitled to no more weight than the views of other lawyers. Distinguished constitutional scholars such as Paul Freund of Harvard Law School and Philip Kurland of the University of Chicago believe it is desirable and constitutional for Congress to establish a special prosecutor appointed by the courts. So does the American Bar Association.

Article II, Section 2 of the Constitution states: ". . . Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments."

As Professor Freund has observed, "That justice shall be done and shall be seen to be done is a paramount and legitimate concern of the Congress. That concern requires no extra-constitutional powers. It does serve to caution against raising barriers to the exercise of the power expressly granted by Article II."

The chief argument against creating a special prosecutor named by the courts is that prosecution is an executive function and vesting the appointment of a prosecutor in the courts violates separation of powers. Senator Birch Bayh (Dem., Ind.) has demolished this argument.

"On the contrary," he wrote, "court appointment of an independent prosecutor may be the only means of affirming the separation of powers, and its corollary doctrine of checks and balances.

"The separation of powers is not a formal, rigid doctrine dividing our government into watertight compartments. Rather, it is a functional doctrine to assure that checks and balances prevent one branch of government from assuming unreasonable powers. In the situation now confronting us, it would do violence to this concept of checks and balances to leave within the executive branch the authority for an investigation of the executive branch."

The House Judiciary Committee has approved legislation calling for the judges of the U.S. District Court in Washington, D.C. to pick a panel of judges to appoint a special prosecutor. This is the direction Congress must move to assure independent prosecution in keeping with the separation of powers.

ANNALS OF INDUSTRY: CASUALTIES OF THE WORKPLACE

Mr. MONDALE. Mr. President, the November 5, 1973, issue of New Yorker magazine contains an article by Paul Brodeur entitled "Annals of Industry: Casualties of the Workplace." The article deals with an asbestos plant in Tyler, Tex. and the workers employed at the plant. The article is noteworthy and deserves the attention of my colleagues because it represents one of the most frightening accounts I have ever read of the effects of unsafe working conditions—in this instance, exposure to asbestos fibers—on workers.

The author details his interviews with workers in the asbestos plant. For example, the author's interview with Frank Spencer, a worker who had handled asbestos for more than 20 years, is described:

"I'll be sixty-six years old in May," Spencer said. "And I swear I'm just about the onliest one I know that's left alive from that McGregor plant. Except for my son, of course, he's already got trouble with his lungs. I've had trouble with mine for years. I finally had to quit the Tyler plant in 1968. They disabled me. Just couldn't hardly breathe no more. Now I'm out of breath all the time. Can't do nothing. Can't walk any distance at all. When I quit, they started giving me some retirement payments—eighteen dollars a month. I should've done what Ed Land did. He quit around about 1962. He couldn't breathe, either, because a lung collapsed on him. I heard he was going to sue, but they settled with him."

I asked Spencer if he was receiving any medical attention, and he smiled for the first time. "I've been going to these local doctors for my lungs for years," he said. "I spit up an awful lot, and I'm always out of breath, and I've got a funny-sounding cough. I guess I've been to just about every last doctor in that Medical and Surgical Clinic. All of 'em have told me I had something wrong on my X-rays. Some of 'em have told me I got emphysema, and some of 'em say it's asthma, and at one time they even thought I had cancer, but not one of 'em ever said it was on account of asbestos. Well, they're a bunch of quacks. I know what I got now. I got what Ed Land got. I got what Harold's got. And all the others. I got that dust disease. That dust has ate us up."

As Yandle and I left a few minutes later, Spencer rose from his rocking chair, saw us out the door, and stood on the porch and bid us goodbye. As we went down the steps, I turned to thank him, and saw him leaning forward, hands on his knees, rocking his head up and down. He was gasping for air.

The conditions at the Tyler plant were uncovered as a result of the dedicated and courageous work of Mr. Anthony Mazzocchi, the director of the legislative department of the Oil, Chemical, and Atomic Workers International Union, which represents the workers at the plant. Mr. Mazzocchi and Mr. Steven Wodka of the union have been active in the field of occupational safety and health for many years. For several years, they have been holding conferences for factory workers around the country to point out the hazards existing in the industrial environment and to give workers guidance on how to deal with them.

According to Department of Labor statistics, more than 200 thousand workers across the Nation risk serious disease from direct occupational exposure to asbestos, and asbestos fibers are being found in the lungs of people who have had no industrial exposure to the mineral at all. The article by Mr. Brodeur provides a shocking picture of the results of inadequate laws, lax enforcement, industry indifference, and lack of worker knowledge.

Mr. President, I ask unanimous consent that the article entitled "Annals of Industry: Casualties of the Workplace" by Mr. Paul Brodeur from the November 5, 1973 issue of New Yorker be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Annals of Industry—Casualties of the Workplace

II—THAT DUST HAS ATE US UP

(By Paul Brodeur)

In the summer of 1971, a young doctor named William M. Johnson, who had just joined the Division of Field Studies and Clinical Investigations of the Department of Health, Education, and Welfare's National Institute for Occupational Safety and Health, discovered data in the files of his predecessors which showed that grossly excessive and dangerous asbestos-dust levels had existed for years in an amosite-asbestos-insulation plant in Tyler, Texas, owned by the Pittsburgh Corning Corporation. Realizing that men working at the plant were in danger of developing asbestosis—scarring of the lungs resulting from the inhalation of asbestos fibres—as well as lung cancer, mesothelioma, and other malignant asbestos-induced tumors, Dr. Johnson and the newly appointed director of his division, Dr. Joseph K. Wagoner, took the unprecedented step of sending the information to Anthony Mazzocchi, the director of the Legislative Department of the Oil, Chemical, and Atomic Workers International Union, which represented the sixty-three workers at the factory. At Mazzocchi's request, Dr. Pohnson and several of his associates from the division conducted a survey of the Tyler plant in October of 1971 which showed that dust levels there were far in excess of the federal standard (twelve asbestos fibres per cubic centimetre of air); that asbestosis was already afflicting seven of the workers there and that since 1954, when the factory opened, a total of eight hundred and ninety-five men had been employed there in conditions that posed grave danger to their health.

In the meantime, Mazzocchi and other trade-union leaders, supported by Dr. Irving J. Selikoff, who is the director of the Mount Sinai School of Medicine's Environmental Sciences Laboratory and a pioneer in the field of modern asbestos epidemiology, had been urging Secretary of Labor James D. Hodgson to declare an emergency standard for occupational exposure to asbestos of two fibres per cubic centimetre of air. However, in spite of the fact that Dr. Selikoff and Dr. E. Cuyler Hammond, who is vice-president for epidemiology and statistics of the American Cancer Society, had provided incontrovertible evidence that one out of five asbestos-insulation workers was dying of lung cancer, and that almost half of these men were dying of some form of asbestos disease, Secretary Hodgson, apparently searching for some middle ground that he hoped would satisfy both industry and labor, declared a temporary emergency standard of five fibres per cubic centimetre in December of 1971. Another indication that the government was seeking a compromise between the well-being of workers and the interests of industry came when the Department of Labor's Occupational Safety and Health Administration, which has the responsibility for enforcing the provisions of the Occupational Safety and Health Act of 1970, inspected the Tyler plant late in November of 1971, as a result of Dr. Johnson's report that a critical occupational-health situation existed there. Although major deficiencies in the factory's ventilation system constituted serious violations of the Act—those likely to result in disability or death—the Administration chose to consider them as nonserious, and fined Pittsburgh Corning just two hundred and ten dollars.

There has since been considerable speculation in government circles, among trade unions, and within the independent medical and scientific community about the lenient attitude adopted by the Occupational Safety and Health Administration toward Pittsburgh Corning after the November survey. Apologists for the Administration claim that because the Secretary of Labor announced the emergency standard for asbestos after the survey was conducted harsher penalties might have been interpreted as unfair harassment of the company. Some people say that, with the Administration in the process of redefining safety and health standards for workers, the regional inspectors in Dallas had received no clear guidelines from Washington about over-all policy and, fearful of exceeding their authority, were simply trying to muddle through an administrative vacuum.

Other observers feel that the Administration was reluctant to invoke the letter of the law in the case of the Occupational Safety and Health Act, because to have done so would have opened a Pandora's box of health violations in other industries, which the Administration was ill-equipped to handle, since it had only forty industrial hygienists to enforce standards in some four million workplaces. And still others, including Mazzocchi, believe that the Administration's people were highly embarrassed by the National Institute of Occupational Safety and Health report on the Tyler plant, which pointed up the Department of Labor's failure to enforce the standards of the Walsh-Healey Act at the factory after a department inspection on February 13, 1969. Indeed, Mazzocchi believed that the Administration's people were hoping that if they slapped Pittsburgh Corning lightly on the wrist with some nonserious violations the whole affair would blow over.

Whether the truth lies in any one of these theories or, as seems more likely, in a combination of them, it became apparent in December of 1971 that the Tyler affair was not going to blow over. That it did not, as so many other occupational-health scandals had, was largely the result of the efforts of Mazzocchi, who was determined to make it a *cause célèbre*. For several years, he and his associates in the union's Legislative Department, aided by Dr. Glenn Paulson, a young scientist working under Professor René Dubos, at the Rockefeller University, had been holding conferences for factory workers around the country to point out the hazards existing in the industrial environment and to give the workers guidance in how to deal with them. It was a considerable undertaking, for the hundred and eighty thousand members of the union were being exposed to thousands of potentially toxic substances. Indeed, in certain factories men were working with more than five thousand different chemicals, yet federal standards existed for fewer than four hundred and fifty of them.

Since Mazzocchi found that the lack of government standards was accompanied by lax government enforcement of existing health regulations and an attitude of almost total callousness on the part of industry, he became convinced that industrial workers were victims of a conspiracy designed to suppress knowledge of occupational health hazards and to delay the passage and enforcement of laws to cope with them. A blunt-spoken man in his middle forties, with a fiery temperament, piercing eyes, and an unruly mane of black hair, he had begun to brood over what he considered the gross immorality that attended the plight of men who were either dying or being disabled early in life as a result of exposure to substances such as asbestos, whose adverse health effects had long been known to and ignored by a medical-industrial complex consisting of company doctors, industry consultants, and key occupational-health officials at various levels of the state and federal governments.

Consequently, when the situation at Tyler was brought to his attention by Dr. Johnson in September of 1971, Mazzocchi saw it as, in his words, "the epitome of what was wrong with the way our country was dealing with the problem of industrial disease." However, he decided against making any public disclosure of conditions at the Tyler plant until the National Institute for Occupational Safety and Health survey had been conducted and written up. "I wanted to marshal all the facts and then choose the forum that would enable me to use the example of the Tyler plant to best effect, and to bring help to the unfortunate men who were working there," he has said. "I wanted the whole country to know in detail what had happened at that factory, and to understand that what had gone on there—the fruitless Bureau for Occupational Safety and Health inspections, the lack of enforcement by the Department of Labor, the company's disregard for the men, the whole long, lousy history of neglect, deceit, and stupidity—was happening in dozens of other ways, in hundreds of other factories, to thousands of other men across the land. I wanted people to know that thousands upon thousands of their fellow-citizens were being assaulted daily, and that the police—in this case, the federal government—had done nothing to remedy the situation. In short, I wanted them to know that murder was being committed in the workplace, and that no one was bothering about it."

The forum Mazzocchi chose was the annual meeting of the American Association for the Advancement of Science, which was held at the Sheraton Hotel in Philadelphia on December 26th, and was attended by some fifty thousand scientists from all over the country. Along with Ralph Nader and Dr. Sidney. Wolfe, the director of Nader's Health Research Group, Mazzocchi addressed eleven hundred of the delegates at a symposium entitled "Workers and the Environment," which was moderated by Professor George Wald, the Nobel Prize-winning biologist from Harvard. Nader and Dr. Wolfe spoke about occupational-health problems in general, and Mazzocchi zeroed in on Tyler as the quintessential example of the ignorance, neglect, and subterfuge that characterized government policy toward industrial hygiene. The complete and final report of the survey made by the National Institute for Occupational Safety and Health (known as NIOSH) had been sent out on December 21st, and he was thus able to document his charges with devastating effect. Mazzocchi was hoping that his disclosures about conditions at the Tyler plant would be picked up by newsmen covering the meeting and relayed to the nation. As things worked out, however, press coverage of the symposium tended to emphasize the more general aspects of occupational health that had been discussed by Nader.

In the meantime, notwithstanding the mildness of the penalties that accompanied them, the Administration citations had caused considerable consternation to the management of Pittsburgh Corning by setting March 31, 1972, as the date for completing extensive improvements in the ventilation- and dust-control systems of the Tyler plant. Combined with the failure of a company plan to use mineral wool as a substitute for asbestos in the manufacture of high-temperature pipe insulation, and the union's insistence that there be strict compliance with the recommendations of the NIOSH report, the deadline meant that the company would at long last be forced to clean up the plant or close it. Faced with this choice, Pittsburgh Corning's board of directors met in the middle of December and decided to shut the factory within a few months—after using up as much raw-asbestos stock as possible—in order to avoid further penalties.

The decision to close the Tyler plant rather than to spend the necessary time and money to make it safe obviously appealed to the managers of the company as the best way out of their difficulties. However, it did not solve the problem faced by Dr. Lee B. Grant, the medical director of one of Pittsburgh Corning's parent corporations, PPG Industries, and medical consultant to Pittsburgh Corning. Dr. Grant appears to have felt that his professional reputation had been called into question by the findings of the NIOSH survey.

On December 13th—five months to the day after he had told Dr. Johnson that the health situation at Tyler wasn't serious—Dr. Grant visited Dr. Johnson at the Division of Field Studies and Clinical Investigations to discuss the medical condition of the seven Tyler workers who showed signs and symptoms of asbestosis and, as Dr. Grant put it, "to avoid further misunderstanding" between NIOSH and Pittsburgh Corning. According to Dr. Johnson, the meeting was somewhat strained, for Dr. Grant was attempting to minimize the asbestos problem at the Tyler factory. "He tried to imply that our medical findings on the seven men were based more on epidemiological data than on clinical examination," Dr. Johnson recalls. "I replied that rales, finger clubbing, dyspnea, and reduced pulmonary function were well-recognized clinical evidence of asbestosis.

Furthermore, I told him that back in October Dr. Richard M. Spiegel, of our division, was given to understand that some of the X-rays taken by Dr. George A. Hurst—the superintendent of the East Texas Chest Hospital, in Tyler—showed evidence of pulmonary fibrosis. I also reminded Dr. Grant that in 1970 a manager of the plant had died of mesothelioma. Dr. Grant then informed me that the company was willing to release Dr. Hurst's X-rays to us—they had been made at Dr. Grant's request—but only on the condition that we come back to Tyler early in January, so that we could sit down and review them together. I got the distinct impression that he was trying to make it appear that NIOSH and Pittsburgh Corning had been working jointly on the problem from the very beginning. However, we wanted to get our hands on those X-rays, so I agreed to the meeting, even though I saw little reason for it."

On January 5, 1972, Dr. Spiegel and Richard A. Lemen, an epidemiologist who had also been a member of the original NIOSH survey team, returned to Tyler, and the following morning they met with Dr. Grant, Dr. Hurst, and William Farkos, Pittsburgh Corning's director of personnel and industrial relations, in a conference room at the East Texas Chest Hospital. The five men reviewed the medical reports on all of the employees—results of X-rays and pulmonary-function tests done by Dr. Hurst, and results of examinations for rales, finger clubbing, and dyspnea done by the NIOSH team—and concluded that seven of the employees had asbestosis. Then Dr. Hurst announced that his superiors at the Texas State Health Department would not release the chest films to NIOSH. But Dr. Grant said that the release would be acceptable to Pittsburgh Corning, and it was decided that he and Dr. Spiegel would fly to Austin to try to get permission from the Texas State Health Commissioner.

By arrangement with Pittsburgh Corning, Steven Wodka, of the Oil, Chemical, and Atomic Workers Legislative Department, arrived in Tyler on the afternoon of that day to tour the plant and to meet with members of the local union committee. Wodka was accompanied on his tour by Herman Yandle, the chairman of the local committee; by Farkos; and by Charles E. Van Horne, the plant manager; he found conditions in the factory to be much as they had been described in the NIOSH report. Huge piles of loose asbestos fibre lay on the floor of the plant, and visible clouds of dust were erupting from several operations. After the tour, Wodka—who had learned only the previous day that men from the Occupational Safety and Health Administration had inspected the plant in November—asked to see the citations they had issued, pointing out that the company was required to post them publicly for the information of the workers.

When Van Horne and Farkos produced them, they professed to be ignorant of this requirement, although each citation sheet states that "a copy of the enclosed citation(s) shall be prominently posted in a conspicuous place at or near each place a violation referred to in the citation occurred." They also assured Wodka that the items marked for immediate compliance had been taken care of. Then they told him that Pittsburgh Corning planned no extensive changes in the ventilation- and dust-control systems by the March 31st deadline, and that the factory would be shut down sometime in the middle of February.

At the same time, they rejected a request by Wodka that in the meantime the company provide in-plant facilities for storing respirators and for changing work clothes, so that the employees would not continue to contaminate their cars and homes with asbestos dust and thus expose members of their families to the risk of incurring asbestos diseases.

That evening, Wodka held a meeting with several members of the local union committee to discuss the health situation at the plant. At the outset, he informed them of the results of a mortality study Dr. Selikoff and Dr. Hammond had made of men who had worked at an amosite-asbestos-insulation plant owned by the Union Asbestos & Rubber Company, in Paterson, New Jersey, between 1941 and 1954. (When the company closed the Paterson plant in 1954, it transferred its asbestos operations there to the Tyler factory, which was later purchased by Pittsburgh Corning.)

As it happened . . . found a gross number of excess deaths resulting from asbestosis, lung cancer, and mesothelioma among the Paterson workers, and since the two plants had been operated in a similar manner, the doctors' findings obviously had frightening implications for the men who were employed at Tyler. "It was a sombre moment, for it was the first time that they had been told how serious their situation was, and how precarious it would remain in the future," Wodka recalls. "However, they accepted the news stoically. They even seemed relieved to know the facts. You see, they had been living in doubt ever since the NIOSH survey, and still hadn't been informed that any of them had been diagnosed as having asbestosis."

The next morning, a final meeting was held at the East Texas Chest Hospital. In addition to Dr. Grant and Dr. Hurst, those present were Farkos and Van Horne, of Pittsburgh Corning; Dr. Spiegel and Mr. Lemen, of NIOSH; and Wodka and Yandle, of the union. Dr. Grant began by saying that when he first visited the Tyler plant, in 1965, he had realized that a potential health problem existed there, and had done everything in his power to have the situation corrected. He took credit for instituting a number of surveys and studies of the plant's ventilation equipment, and blamed the Bureau of Occupational Safety and Health and Dr. Lewis J. Cralley, who had been in charge of field studies and epidemiology for the bureau, for not following through on a proposed medical study of the workers.

Dr. Grant also insisted at the meeting that asbestos-dust levels at the Tyler plant were always within the legally specified limits, and he claimed that respiratory protection was made mandatory for all workers in the factory as early as May of 1969—a contention that was disputed on the spot by Yandle, who had worked in the plant for more than ten years, and who declared that, with a few exceptions, the wearing of respirators was not required until the summer of 1971. For his part, Dr. Spiegel listened to Dr. Grant's assessment of the history of the plant in silence. "I was not there to argue with him about what had or had not happened, or why," he recalls. "I was there to reiterate NIOSH's medical conclusions about the workers we had examined during our survey, and to bring back the X-rays taken by Dr. Hurst in August.

In my opinion, however, Dr. Grant was trying to absolve himself and the Pittsburgh Corning Corporation of all responsibility for the conditions that had existed in the Tyler plant over the years, and for the lack of attention paid to the health of the workers. His speech sounded like a legal brief more than anything else. As I sat listening, I kept wondering why on earth he had not kept calling Dr. Cralley to insist that the bureau undertake its proposed medical studies, or, failing that, why he didn't get back to Dr. Hurst sooner than he did. Surely, in all the years since 1965 he could have found *someone* to examine the workers."

After Dr. Grant's opening summary, he and Dr. Spiegel formally announced their joint conclusion that at least seven of the eighteen workers with more than ten years of employment in the Tyler plant had symptoms and signs consistent with asbestosis. Dr. Grant and Farkos then said that Pittsburgh Corning would pay for the treatment of any disease that was occupationally related, provided that the treatment was performed at the East Texas Chest Hospital, but they were vague about whether the company would pay for any long-term medical followup of the sixty-three workers then employed at the plant. (In his December meeting with Dr. Johnson, Dr. Grant had suggested that such a program should be undertaken and financed by NIOSH.) There was also no discussion whatever of any medical followup of the eight hundred and thirty-two men who had previously been employed at the Tyler plant, and who would carry the asbestos they had inhaled in their lungs for the rest of their days, presumably because no one could be held legally responsible for what might happen to them.

After the meeting, Dr. Spiegel and Dr. Grant flew to Austin to obtain permission for the release of the X-rays. The chest films had been an item of dispute between NIOSH and Pittsburgh Corning from the beginning; now the Texas State Department of Health people were apparently concerned about being in the middle of such a dispute, and they may well have begun to entertain second thoughts about the propriety of Dr. Hurst's having accepted a contract from Pittsburgh Corning to examine workers for occupational illness at one of the department's hospitals, when the department itself had never seen fit to conduct a health inspection of the Tyler plant during the plant's entire seventeen years of existence. By that time, practically everyone who had been involved in the Tyler affair seemed to be trying to cover his tracks.

While Dr. Spiegel and Dr. Grant were en route to Austin, Wodka and Lemen, the NIOSH epidemiologist, stayed behind to conduct a thorough investigation of Pittsburgh Corning's practices of dumping asbestos waste in the vicinity of the plant and of selling burlap bags contaminated with asbestos dust to local nurserymen. (Both practices had been mentioned in the NIOSH report, which informed Pittsburgh Corning and the Texas State Department of Health that they presented a serious health hazard, and recommended that all asbestos waste and used burlap bags be buried.) That afternoon, Wodka, Lemen, and Yandle drove out to a group of dumps in an inhabited area near a sewage-treatment plant, about a mile north of the factory. One of the dumps was the size of half a football field, and was covered to the depth of at least two feet with asbestos scrap.

Thick vegetation sprouting through a covering of asbestos in surrounding gullies showed that the dump had been in use for many years. Yandle told Wodka and Lemen that asbestos scrap was still being trucked there daily, and his statement was substantiated by the presence of wads of asbestos fibre covering the access roadway. Since the company had undertaken to put soil over two dumps adjacent to the factory which had been seen by the NIOSH investigators during their October survey, its continued use of this third, more remote dump site could be construed only as an act of blatant disregard and deception. However, for sheer brazenness the Pittsburgh Corning people outdid themselves a few weeks later, when they learned that the third dump had been discovered. At that point, they simply posted an armed guard at the site, with instructions to turn all unauthorized persons away.

After taking photographs of the dump, Yandle, Wodka and Lemen drove to the Elkner Nurseries, a huge outfit on the west side of Tyler, where they interviewed Elbert Fenton, the man in charge of sales and distribution. Fenton told them that a shipment of thirty thousand burlap bags, costing twelve hundred dollars, had been received from Pittsburgh Corning some months before, and he took his visitors out to a barn where some fifteen hundred of the bags were stacked in piles.

The bags were visibly contaminated with asbestos, and even as Lemen and Wodka were telling Fenton about the hazard of using them, a woman worker entered the barn, picked up a bag, and, after shaking it vigorously to remove the dust, slung it over one shoulder and walked out. With Fenton's permission, Wodka and Lemen took two sample bags away with them in sealed containers for laboratory analysis; then, bidding Yandle goodbye, they drove back to Dallas and flew home. Meanwhile, Dr. Grant and Dr. Spiegel had met with the State Health Commissioner, who gave permission for the X-rays of the Tyler workers to be mailed to NIOSH headquarters in Cincinnati.

At the beginning of 1972, the Tyler affair was like one of those simmering quarrels between small nations that threaten to disrupt the balance of power in a sensitive geopolitical area where a number of larger nations have interests. The Oil, Chemical, and Atomic Workers saw it as an outright test of the Occupational Safety and Health Administration's willingness to enforce the provisions of the Occupational Safety and Health Act; the NIOSH people, who had exposed the situation at the factory to begin with, were waiting to see how the Occupational Safety and Health people would dispose of the recommendations that had been made to correct it, in order to gauge the effectiveness of the advisory role they themselves had been given under the Act; and the Occupational Safety and Health people, who had not seen fit to tell the union about the minor nature of the penalties they had imposed upon Pittsburgh Corning, could not have failed to view the affair as a potentially embarrassing scandal coming at a most inopportune moment.

Under the provisions of the Occuptional Safety and Health Act, the emergency standard for asbestos that had been declared by the Secretary of Labor on December 7th had to be replaced by a permanent standard within six months. The law also required the Department of Labor to hold public hearings before it promulgated a new standard, and notice that hearings on the asbestos standard would begin in March was to be published in the *Federal Register* on January 12th. Since the permanent-standard on asbestos was the first ruling the Occupational Safety and Health Administration would make under its mandate to redefine occupational-safety-and-health regulations, industry and labor were prepared to look upon the ruling as an indication of how determined or easygoing the Administration would be when it came time to set new standards for other hazards, such as lead berillium, carbon monoxide, mercury, silica, utraviolet light, and cotton fibres.

The public hearings on asbestos, then, loomed as a crucial test of strength between the independent medical and scientific community and the medical-industrial complex. On the one hand the NIOSH people were preparing to send the Administration a document recommending that the permanent standard for occupational exposure to asbestos be set at two fibres per cubic centimetre, which was the standard that the British Inspectorate of Factories—the Administration's English counterpart—had set in 1968, the one that Dr. Selikoff had advocated in 1969, and the one that the

A.F.L.-C.I.O.'s Industrial Union Department's ad-hoc Committee on the Asbestos Hazard had urged upon the Secretary of Labor in November of 1971. On the other hand, the major asbestos companies, led by the giant Johns-Manville Corporation were preparing testimony to show that the five-fibre standard would prevent disease from occurring among asbestos workers, and economic statistics to demonstrate that a two-fibre standard would drive them out of business.

In order to weigh all the evidence and decide upon a safe level of exposure to asbestos, the Occupational Safety and Health Administration would obviously have to conduct itself in a completely impartial manner, for, even under the best of circumstances, its decision was bound to be controversial. As things stood, however its claim to impartiality was in question, because of its failure to enforce even the standards for asbestos that it was now compelled to consider obsolete. And since its failure had nowhere been more recently and nakedly apparent than in its handling of the critical situation that existed in the Tyler plant, and the Administration was unhappy about the possibility that the citations and penalties it had sent Pittsburgh Corning in December might become public knowledge. The fact that under the provisions of the Occupational Safety and Health Act such information was public property seems to have been forgotten.

Already stung by the disclosures Mazzocchi had made at the science meeting, and eager to avoid future embarrassment, the Occupational Safety and Health Administration now sought to place itself above reproach by publicly revising its attitude toward occupational exposure to asbestos. On January 4th, George Guenther, who was the Assistant Secretary of Labor and the director of the Occupational Safety and Health Administration, held a press conference in Washington to announce the start of a target health-hazards program designed to control five toxic substances that were in widespread use in American industry—silica, lead, carbon monoxide, cotton dust, and asbestos.

At this time, a special health-hazard fact sheet on asbestos was distributed to newsmen (and, presumably, to the Administration's regional administrators and inspectors), informing them that more than two hundred thousand workers across the nation risked serious disease from direct occupational exposure to asbestos and that asbestos fibres were being found in the lungs of people who had had no industrial exposure to the minerals at all. The fact sheet reminded everyone that the emergency standard for asbestos was an eight-hour average of five fibres greater than five microns in length per cubic centimetre of air, and it stated unequivocally that any exposure exceeding this level would henceforth be considered a serious violation of the Occupational Safety and Health Act.

It soon became apparent, however, that it was one thing for the director of the Occupational Safety and Health Administration to announce a new policy on asbestos in Washington and quite another for that policy to be put into effect by his subordinates in the field. On January 13th, a week after Farkos and Van Horne had assured Wodka that all conditions on which the Administration had called for immediate compliance had been corrected, the Tyler plant was reinspected by Clarence R. Holder, an assistant administrator in the Dallas office of the Occupational Safety and Health Administration, and John P. Boyle, an industrial hygienist, who together had conducted a similar inspection at Tyler nearly two months before.

Holder and Boyle found on their second inspection of the plant that, contrary to recommendations made after their first visit, the workers had not been examined to determine whether they were physcally able to wear respirators, that required improvements on a block saw and on feeding-machine enclosures had not been made, and that clean-up procedures in the feeding and building areas of the plant remained inadequate. The two men reviewed the situation with Van Horne, but when they stressed the necessity of cleaning up asbestos waste around the feeding machines and the builder units, the plant manager asked them whether this meant that the factory would have to be kept as clean as a dairy.

In spite of the company's reluctance to take this inspection seriously, Holder and Boyle issued no new citations but simply sent Pittsburgh Corning a notification of failure to correct three of the original violations and a list of proposed additional penalties. Moreover, in spite of the new policy on asbestos that had been announced by Assistant Secretary Guenther ten days earlier, they still chose to consider the violations at the Tyler plant nonserious. Therefore, the proposed additional penalties were based upon a schedule of a hundred dollars for each day of noncompliance, plus fifty per cent of the original fine. The period of noncompliance ran from December 21, 1971, to January 13, 1972, and the total additional assessment amounted to six thousand nine hundred and ninety dollars.

The notification of failure to correct violations and the list of new penalties were mailed to E. W. Holman, Pittsburgh Corning's vice-president in charge of manufacturing and technology, on January 17th. It is not known whether Holman received them prior to his telephone interview with the Tyler *Courier-Times* on January 19th, nor is it known whether he had read the citations that were mailed to him on December 16th; whether he had been informed of two NIOSH reports—one describing the critical occupational-health situation at the Tyler plant and the other the symptoms of asbestosis in seven of the workers there—that were sent to Dr. Grant, in November and December; whether he had been told by Dr. Grant of the death of Van Horne's predecessor from mesothelioma; or whether he was aware of the admissions about the incidence of asbestosis among the Tyler workers which Dr. Grant had made in Dr. Hurst's office, on January 7th. If Holman did not know of these things, he must surely have been one of the most ill-informed vice-presidents in corporate history. Whatever the case, on January 19th he told the *Courier-Times* that he knew of no Pittsburgh Corning employee suffering any significant illness as a result of working with amosite-asbestos insulation.

By that time, with the Tyler affair not just bubbling but about to boil over, practically everyone involved in the situation was maneuvering for position. The Texas State Department of Health had already put some distance between itself and the stove; Pittsburgh Corning was backing toward the door; the Occupational Safety and Health Administration had little choice but to sit on the lid; and the union and NIOSH were separately gathering fuel for the fire. On the very day that Holman talked to the *Courier-Times*, Lemen sent Wodka a report containing the results of tests performed by Roy M. Fleming, an engineer in the Environmental Investigations branch of NIOSH's Division of Field Studies and Clinical Investigations, on one of the burlap bags that had been taken from the nursery in Tyler on January 7th.

The bag, still in its sealed container, was placed in front of a chair in a room that was free of asbestos. A man wearing a respirator and two dust samplers entered the room and sat on the chair. Taking the burlap bag out of the plastic container, he turned it inside out; then, standing, he shook the bag for sixty seconds. Next he sat down, spread the bag on his lap, and wrapped it around the base of a small tree. After tying the corners of the bag with wire, he placed the tree on the floor, stood up to brush off his clothes, and left the room. During the four minutes this operation required, the average concentration of asbestos fibres longer than five microns around the worker was four hundred and ninety fibres per cubic centimetre of air—ninety-eight times the emergency five-fibre standard and more than forty times the old twelve-fibre one.

(Indeed, had he not been wearing a respirator, the man would have inhaled some four million fibres during the four-minute period.) In a covering letter that was sent with a copy of the report to the Texas State Department of Health on January 17th, Lemen and Fleming described the use of burlap bags that had contained asbestos as a potentially serious health problem, and, by way of documenting this charge, pointed out that a recent report in the *British Medical Bulletin* referred to cases of mesothelioma in women who had been engaged in cleaning such bags.

In the meantime, Wodka had been trying without success to get information from John K. Barto, the regional administrator of the Occupational Safety and Health Administration, in Dallas, on the Administration's actions about Tyler. Finally, on January 28th, Barto told Wodka that he was under orders from his superiors in Washington "not to disclose anything on the Tyler case to anybody." He did, however, tell Wodka about the followup inspection made by Holder and Boyle on January 13th, and about the additional proposed penalties levied against Pittsburgh Corning as a result of it.

Barto refused to release the report of the Department of Labor's 1969 inspection of the Tyler factory or of the dust counts that Holder and Boyle had taken there in November, claiming that he felt obligated to withhold them because of the possibility that Pittsburgh Corning might contest the fines and send the Tyler case into litigation. Since Wodka and Mazzocchi considered this a lame excuse designed to cover up the Department of Labor's failure to implement the provisions of the Walsh-Healey Act in 1969, and the regulations of the Occupational Safety and Health Act in 1971, they now determined to make a fresh attempt, as they put it, to "blow the lid off the Tyler affair and focus national attention upon it."

The two union officials were well aware that their decision amounted to a declaration of open war upon the Occupational Safety and Health Administration and Pittsburgh Corning. Indeed, for several weeks Wodka had been compiling a history of the Tyler plant for a confidential report entitled "Occupational Health Tragedy," which amounted to a battle plan for the approaching hostilities. In the concluding section of the report, Wodka urged that a press conference be held in Washington to provoke the Environmental Protection Agency into taking action on the open-air dumps and contaminated bags, to force the Occupational Safety and Health Administration to declare an imminent-danger situation at the Tyler factory under the provisions of the Occupational Safety and Health Act, and to denounce Pittsburgh Corning for its callous disregard of the health of the Tyler workers. Realizing that much of the opprobrium for what had gone on in the Tyler plant was bound to be offset by Pittsburgh Corning's decision to close the plant, Wodka concluded his report by saying:

"We have a responsibility to point out what protection Pittsburgh Corning failed to provide for the workers at Tyler and, instead, what utter contempt this company displayed for the lives of those workers, their families, and that community. The Tyler case is unique in that this company was aware as early as 1963 that something was wrong in Tyler. Pittsburgh Corning was not ignorant, but was fully aware of what was going to happen to those men in that plant. The company would very much like to see the plant shut down, the men quietly fade away, and the Tyler pin removed from their corporate map. The last place the company wants to be is on page 1."

The press conference that Wodka had requested was held on February 10th at the National Press Building in Washington, and was conducted by Mazzocchi, who opened the proceedings by reading telegrams that had been sent on February 8th by A. F. Grospiron, the president of the union, to William Ruckelshaus, the Administrator of the Environmental Protection Agency, and to Assistant Secretary Guenther. The telegram to Ruckelshaus urged him to take immediate action regarding the open asbestos dumps in Tyler and the tens of thousands of contaminated bags that had been sold to nurseries in the Tyler area, and to place Pittsburgh Corning under surveillance to prevent the repetition of such practices in other places. The telegram to Guenther pointed out the Department of Labor's laxity in not having enforced asbestos regulations at the Tyler plant in the past, and urged him to investigate Pittsburgh Corning's operations in other places.

Mazzocchi next reviewed the chronology and the findings of the various inspections of the Tyler factory over the years, and then he launched into an angry denunciation of the callousness and ignorance that had allowed the conditions there to go uncorrected. "Industry doctors and government officials who cover up vital life-and-death information about worker health are guilty of the My Lai syndrome," he declared, and he went on to note that what had happened at Tyler was probably happening in hundreds of other plants in America, and was symptomatic of the occupational-disease problem in this country. He concluded by describing Pittsburgh Corning's reaction to the NIOSH survey and the Administration citations. "This company was receiving a subsidy in terms of years of men's lives," he said. "When that subsidy was terminated by belated government intervention, the company decided to quit the asbestos business altogether." Neither Guenther nor Ruckelshaus responded to the telegrams sent by Grospiron, and only two major newspapers ran articles on Mazzocchi's charges.

Down in Tyler, however, the Pittsburgh Corning plant got back into the news by way of a dispatch from United Press International that was based upon a press release issued by union headquarters, in Denver, on February 9th. The release was concerned chiefly with the contaminated burlap bags. As a result, when the story appeared in the Tyler papers, the *Courier-Times* and the *Morning Telegraph*, on February 17th, there was no mention whatsoever of the NIOSH report, of the Administration citations and fines, or of the fact that serious illness had already manifested itself among the sixty-three-man work force at the Tyler factory. The report in the *Morning Telegraph* was carried beneath a banner headline that read "Threat of Cancer Alleged," the article in the *Courier-Times* appeared beneath the caption "Company Denies Claims by Union," and both pieces consisted mostly of charges levelled by a union official about the contaminated burlap bags and denials of the charges by Gerald J. Voros, a public-relations spokesman for Pittsburgh Corning. According to both accounts, however, Voros admitted that "workers at the plant had been given physical examinations to determine if any of them exhibited contamination symptoms," and that "those whom the examinations revealed had been affected were referred to their personal physicians."

He was quoted as saying when asked by the *Telegraph* what the company would do if any of these afflictions could be attributed to asbestos dust, "I don't know. We'll just have to wait and see." Voros was, of course, being noncommittal only about Pittsburgh Corning's responsibility to the sixty-three workers who were employed at the Tyler plant when it was shut down, on February 3rd, since neither Pittsburgh Corning nor the Union Asbestos & Rubber Company, the factory's previous owner, can be held legally accountable for what may happen to the eight hundred and thirty-two other men who toiled in the factory at one time or another during the seventeen years it was in operation.

Thus, in the middle of February Pittsburgh Corning found itself compelled for the first time to issue public denials of wrongdoing in connection with its Tyler plant, even as it took steps to deny public access to the factory and its adjacent dumps, and to bury as much of the equipment and machinery from the place as possible. That the company should be placed on the defensive over some dumps and burlap bags, and not because of the awful jeopardy in which it had put the health of hundreds of its workers and their families, seems ironic. It should not, however, come as any surprise.

Much of industry in the United States has long operated on the assumption that it could endanger the lives of its employees with relative impunity—and without embarrassing publicity and possibly damaging repercussions—as long as it did not overtly threaten the health and safety of the community at large. Underlying this assumption is the further assumption that workers are not so much a part of the community as part of the equipment and machinery of production. As such, upon being proved defective they become expendable. They can be replaced or transferred, or, if worst comes to worst, given workmen's compensation (which in most states is minimal) and retired. At that point, they cease to be anyone's responsibility. Like the eight hundred and ninety-five men who worked in the Tyler plant over the years, they are out of sight and out of mind. In a sense, therefore, like much of the factory itself, they are buried.

I first heard about the Tyler plant when I attended the press conference that Mazzocchi held in Washington on February 10, 1972. Later, at my request, he provided me with copies of all the inspection reports, surveys, and studies that had been made of the factory over the years, and after studying them I decided to go to Texas and talk with some of the people who had been involved in the whole sad affair. On Monday, March 6th, I flew to Dallas, where I paid a call on Barto, the regional administrator for the Occupational Safety and Health Administration. Barto is a heavyset, bejowled man in his early fifties. I was ushered into his office shortly after noon, and when we had shaken hands I took a seat at a conference table in front of the desk and explained why I had come to see him.

"Look," he said, "NIOSH referred the Tyler situation to us, and we confirmed what NIOSH had discovered. It's as simple as that."

I told him that I was familiar with the contents of the NIOSH report and with the results of the Occupational Safety and Health Administration's subsequent inspections, and that I was particularly interested in knowing more about the inspection of the factory that the Dallas office of the Department of Labor had conducted on February 13, 1969.

Barto replied that he had not arrived at the Dallas office until July of 1970, so we would have to discuss the matter with Holder, the assistant regional administrator, who had been there since 1961, and he buzzed Holder on an intercom and asked him to bring a copy of the 1969 inspection report. While we waited, Barto told me that when he took over as regional administrator there had been no industrial hygienist in the office and there had been only three inspectors for the region, a five-state area comprising Texas, Louisiana, Oklahoma, Arkansas, and New Mexico. "A plant as small as Tyler simply couldn't be checked under those conditions," he said. "Believe me, that was a minuscule problem compared to others we had."

Holder came in and took a seat opposite me at the conference table. He struck me as being an archetypal Texan—a tall, lean, tanned man in his late forties, with wavy blond hair and a rugged, seamy face. After Barto had explained the purpose of my visit, I asked Holder if the Department of Labor had ever inspected the Tyler plant before February 13, 1969. He shook his head. I then asked him if he knew of any previous inspections that had been conducted by agencies with enforcement power, such as the Texas State Department of Health. He replied that he did not. When I told him that I was particularly interested in learning more about the 1969 inspection conducted by the Dallas office, he replied tersely that on that date the Tyler plant had been found to be unsatisfactory according to the provisions of the Walsh-Healy Act. (This was an Act, still effective in 1969, that established occupational-safety-and-health standards for employees of companies holding contracts of ten thousand dollars or more with the federal government.) I then asked Holder on what specific grounds the factory had proved to be unsatisfactory, and he answered that the exhaust systems were deficient in terms of airflow, and that there was excessive dust.

At that point, I inquired what steps had been taken to determine whether the Pittsburgh Corning people had corrected the unsatisfactory conditions in the Tyler plant. Holder replied that the company had agreed that it would initiate a research-and-development program to improve the ventilation system, that it would study the possibility of replacing asbestos with a substitute material, and that it would provide respirators in the meantime, to protect the workers in the particularly dusty areas of the plant. He went on to say that the Walsh-Healy Act allowed the company to exceed the asbestos-dust standard if respirators were issued and worn, and that the issuance of respirators had therefore satisfied him as far as any violations of the Act were concerned.

I asked Holder how he knew that the employees in the Tyler plant had received respirators.

"Because the company had to issue them in order to come into compliance with the Walsh-Healy Act," he replied.

Rephrasing the question, I asked him if he had any first-hand knowledge that the company had complied.

For a moment, Holder remained silent. Then, quickly, he asked me if, by any chance, I was hard of hearing.

I replied that I didn't think so but that perhaps I had not understood him.

"Well, I think you must be hard of hearing, fella," he continued, "because didn't I just explain all that to you?"

I repeated that perhaps I had not understood him, and, rephrasing the question once more, asked him how he could be certain that Pittsburgh Corning had issued respirators to its employees following the 1969 inspection. After glancing at Barto, Holder said that the company had assured him at that time that it would undertake a study to improve the ventilation system and that it would issue respirators. He had no reason to believe that Pittsburgh Corning had not kept its word, he added.

I asked Holder if it was normal procedure to accept a company's statement of intention as evidence of compliance with occupational-health regulations, and he replied that he felt it was.

I then asked him if he or anyone else from the Dallas office had ever reinspected the Tyler plant to determine whether the company had come into compliance.

At that, Barto held up his hand. "No sense beating around the bush with this," he said. "What Holder's saying is that we did not reinspect. Let's leave it at that."

Since this seemed the only sensible course to take, I got to my feet, thanked both men for their time, and left the room. Holder followed me out, and engaged me in conversation as I was putting on my coat. "You know, the trouble with respirators out there is some of those boys really like their chewing tobacco," he told me in a confidential tone. "Why, you can't get them to wear a mask no way."

I asked Holder if he knew that asbestos inhalation could cause not only pulmonary scarring but lung cancer, mesothelioma, and other malignancies. He replied that he had never heard of mesothelioma and that he doubted if there was any real proof that asbestos could cause cancer.

"If such proof existed, would you still characterize the violations at Tyler as nonserious?" I asked.

"You know, this health business is always being exaggerated, in my view," Holder said. "I didn't see any serious danger in the Tyler situation, and I still don't. How can there be a serious danger if it doesn't hurt you right away? I mean, how can it be called serious if you can go right on working with it?"

Half an hour later, I was driving a rented car east on Interstate 20, toward Tyler, about a hundred miles away. For the first fifty or sixty miles, the country was flat and dotted with grazing cattle; then it became hilly and wooded. Here and there, a pale-green wash of buds on bushes growing in wet draws signalled the approach of spring, but the hint seemed lost against a larger background of brown fields, skeletal trees, red clay soil, and a vast sky filled with circling buzzards. At about four-thirty in the afternoon, I turned off Interstate 20 and drove south on U.S. Highway 69 to a motel on the outskirts of Tyler, where I had made a reservation. At the turnoff, there was a large billboard, erected by the Peoples National Bank of Tyler, that read "Life Is a Bed of Roses."

When I got to the motel, I telephoned Dr. Hurst, at the East Texas Chest Hospital, and made an appointment to see him the next afternoon. Then I got in touch with Yandle, the local union chairman, who lives in Hawkins, a small town eighteen miles north of Tyler. Yandle has no telephone, but his wife's grandmother's house is next door, and she went over to get him. I had called him from New York and told him I wanted to talk with him, and when he came to the phone a few minutes later he said he would be along within an hour. While I wanted for him, I drew up a list of questions for Van Horne, Pittsburgh Corning's plant manager, whom I planned to see the following day.

Yandle, who arrived shortly before six o'clock, proved to be a tall, heavyset man with an engaging grin and an easygoing manner. He came into the room, stuck out a hand, and plopped down in an easy chair. I asked him to tell me something about himself and his work history, and he said that he was thirty-six years old and had gone to work at the Tyler plant in the autumn of 1961. He had spent three and a half years in the production department, he went on, working on the feeder and scrap machines, and for the past seven years he had been in the shipping department.

The first time he had ever worn a respirator was in July of 1971, he told me, and it was also the first time he had even seen any of his co-workers wearing respirators except for a short period in the spring of 1969, when two or three men working in very dusty areas had requested them. "It was more or less voluntary in 1969," he explained. "And after a few weeks the guys stopped wearing them."

I asked Yandle when he had first been told that asbestos was hazardous to work with, and he said it was in August of 1971, when Dr. Grant came down to give the men a talk. "We were real mad about the masks," he said. "Heck, I'd been working there ten years without one, and they were a pain in the neck to wear, especially in the summer, when it got so hot in there you'd sweat and couldn't get enough air through to breathe. So when Dr. Grant called my shift into the shipping supervisor's office, the first thing we asked him was how long we were going to have to wear the respirators. He said no longer than a year, because the company was going to shift over from asbestos to mineral wool. He had a blackboard set up in there with a lot of complicated words and numbers on it that none of us could make head or tail of.

I remember he said that the company could make the whole plant dust-free but they couldn't make the finished product safe for the insulators to use. When somebody asked him about better dust collectors, he said that profits wouldn't allow them now. He said that the amosite mines in South Africa were running out and that the rates were getting too high for the company to bear the cost. He also said it had been known since 1963 that asbestos could hurt us. At the same time, he said that amosite asbestos didn't cause trouble if you didn't smoke—that it wasn't proved medically that it could cause trouble. He had it written on the blackboard that seventeen per cent of the people who work with asbestos have lung cancer, but he told us that was another kind of asbestos. He claimed that if you didn't smoke you didn't have any more chance of catching cancer in the plant than you did walking out in the street. He also wrote a word I can't pronounce—meso-something."

"Mesothelioma?" I asked.

"That's it," Yandle replied. "Dr. Grant said for us not to worry about that, either. Especially if we didn't smoke. Cigarettes and asbestos don't go together is what he told us. Next thing we knew, they were sending us over to Dr. Hurst at the East Texas Chest Hospital for X-rays, lung-function tests, and blood tests."

I asked Yandle if he had ever been X-rayed before then, and he said he had, on two occasions. "Both times, it was at the Medical and Surgical Clinic in Tyler," he told me. "They're the ones who handled all the accident work and medical stuff for Pittsburgh Corning. The first time I got X-rayed was in 1961, when I went to work there, and the next time was in the spring of 1969, not long after the Department of Labor people inspected the plant. According to Van Horne, all the X-rays they took of us in the spring of 1969 were good. We never saw them, of course, and wouldn't have known what to make of them if we had.

I came across them, just by accident, last October, though, when the NIOSH boys were down here making their big inspection. I was taking them through the plant as the union representative, and I spotted a whole stack of something on a shelf high up in the men's room. So I climbed up there and took a look. It turned out to be our 1969 X-rays, but they were so old and cracked and covered with dust and dirt you couldn't have made out a thing."

I asked Yandle what he and his fellow-workers were told about the X-rays and tests that Dr. Hurst had performed the previous August, and he said they were not told anything until a few weeks before the NIOSH inspection in October. "Early in October, two of us went over to the hospital to ask Dr. Hurst for our medical reports," he went on. "Dr. Hurst said that he had sent them to Van Horne and Dr. Grant. He explained that he was obligated to Pittsburgh Corning, because he had done the tests for them, but that, as a medical doctor, he was also obligated to us. He said we had no asbestosis on our diagnosis, and that if there were shadows on the X-rays they were probably not related to asbestosis.

He said that as far as he could tell there were no health problems that were related to our work, but there were people who had emphysema and bronchitis, which he said was on account of smoking. When a NIOSH doctor examined me a few weeks later, though, he said he was sure I had a good dose of asbestosis. Also, I'd begun to think back on things and to wise up on my own. I remembered when Willie Hurtt had to quit a few years ago because he was spitting up blood. And Robert Thomas, a neighbor of mine up in Hawkins, who hasn't been able to breathe good for a long time now. And Ed Land, with the same trouble. And Bill Morris, who was spitting up blood, too, and took himself over to the Gladewater Municipal Hospital in 1969, where they found spots on his lungs and made a biopsy. And a whole bunch of others I could name. So when Steve Wodka and I went over to the East Texas Chest Hospital in January to meet with Hurst, Grant, Farkos, Spiegel, and Lemen, and I heard that seven of us who'd worked in the plant for ten years had symptoms of asbestosis, I wasn't surprised. Wodka and I asked for a thorough medical reading on the health problems of each and every man in the plant, and after that we began to hear a different tune.

"Early in February, Van Horne put up a notice on the factory bulletin board scheduling appointments with Dr. Hurst for twenty-three of us, who, it turned out, had something wrong on our medical tests. I went over there on the ninth with Arthur Bearden, who'd worked in the plant for about sixteen years. I went in first, and Dr. Hurst read off a lot of numbers and said that after a recheck of my tests they'd made a new diagnosis. He told me that I had symptoms of early asbestosis but that my condition wasn't so bad as some of the others'. He said that a few more weeks in the plant wouldn't hurt but that after it shut down I shouldn't try to find work in a foundry or a welding shop, or anyplace where it's dusty, and he advised me to look for a truck-driving job. He told the exact same thing to Arthur Bearden. Naturally, one of the things I asked Dr. Hurst was what I could do for myself. And that's when it dawned on me that I was in real bad trouble, because he said that there was no medicine or cure for asbestosis, and that I had to keep coming back every two years for another examination to see if it was getting worse."

I asked Yandle how he felt these days, and he said not bad. "It's kind of hard to explain," he went on. "But if I exert myself real fast, I kind of just give out." Yandle added that in addition to Bearden and himself, Robert Thomas, Mitchell Walker, Tom Belcher, and Harold Spencer had been told by Dr. Hurst that they had symptoms of early asbestosis, and had been advised not to work in dusty places. "There's a seventh guy with the same trouble, but he's a supervisor and he won't talk about it," Yandle said. "We hear that the company settled six months' pay on all the supervisors. These other fellows I told you about, though—they'll talk, and if you want I can introduce you to some of them."

I told Yandle I would like to meet them, and anyone else he could think of who could help to give me a clear picture of what had gone on in the Tyler plant.

"Well, then, you ought to talk to Frank Spencer," he said. "He's Harold's father, and the interesting thing about him is that he used to work at the old Union Asbestos & Rubber Company plant in McGregor, down by Waco. Old Frank's got an awful problem breathing these days, so he's almost always at home. Why don't I call him up now? I might as well call Ray Barron, too. Ray lives right close, and he's part of the maintenance crew they've kept on to clean up the plant."

Yandle telephoned Spencer and arranged for us to visit him at his house later in the evening. Then he called Barron and invited him to come to the motel. When he had hung up, I asked him to tell me what he knew about the burlap bags that asbestos was shipped to Tyler in and that were later sold to nurseries in the Dallas-Tyler area.

"That's a real laugh," he said. "I mean about them recalling thirty-five thousand of those bags from the local nurseries. You see, the amosite came in hundred-pound bags from South Africa to New Orleans and Houston, and then it was freighted over here on the Cotton Belt Route. Now, I happen to know that from 1963 to 1967 Pittsburgh Corning sold those bags to the Coastal Bag & Bagging Corporation, of Houston. Then, after 1967, they started selling them locally—mostly to the nurseries. Anyway, what I'm getting at is that the thirty-five thousand bags are just a drop in the bucket. Look at it this way. We used two hundred sacks of amosite a day in production, and we worked a five-day week. That makes a thousand bags a week, and fifty-two thousand bags a year. Is that right?"

"Right," I said.

"O.K.," Yandle went on. "Fifty-two thousand bags a year for ten years gives you how much?"

"More than half a million," I replied.

"More than half a million," Yandle said quietly. "And you know what? They leaked like crazy—all of them. I know, because I used to help unload them from the freight cars. They leaked like crazy, and they were dusty as could be."

It was nearly seven when Ray Barron arrived—a handsome, strapping, dark-haired man of thirty-four, with a soft-spoken manner. He told me that he had worked at the Tyler plant for six years, first as a bag feeder, then in the building department, and now as a maintenance man. "I was a bag feeder for about six months," he said. "It was my job to empty the amosite out of the burlap sacks and into the feeding machines. I fed about seventy hundred-pound bags of asbestos on every eight-hour shift I worked. Trouble was, the asbestos wouldn't just pour out. It was packed in so tight we had to dig it out with our bare hands."

I asked Barron if he had ever worn a respirator when he was a bag feeder, and he shook his head. He had never worn one until August of 1971, he said, when the company suddenly made it mandatory for the entire work force to wear respirators. "Some of us were issued respirators a few years ago, but it was voluntary if we wanted to wear them, and since no one told us until last August that asbestos was dangerous to work with, we didn't, he said. "All of us in the maintenance crew are wearing 'em now, though. Except for Van Horne, who keeps saying that asbestos won't hurt you. He claims that none of our medical problems are caused by asbestos. My own X-ray is supposed to be clear, and my other tests are O.K., and I don't have finger clubbing, so they told me I was probably all right. What worries me is that word 'probably,' and whether I'll be all right five or ten years from now. When I think back, all I can remember is the dust. Why, most of the time I worked there you couldn't see from one end of the place to the other—especially when there was any sunlight coming through the windows."

Barron then said that for the past several weeks he and three other maintenance men had been dismatling machinery and equipment with acetylene torches and burying most of it in a dump next to the plant. "The little that's left is either being shipped up to Pittsburgh or being sold for scrap," he went on. "When we get through, the place'll be empty except for the surplus fiber that's still in the warehouse."

"How much of that is there?" I inquired.

"There must be about ten thousand bags," Barron answered. "I hear they've already sold it to some outfit up in Canada."

"Do you know who they are or where in Canada they are?"

"No," Barron said. "It's suppose to be a secret. But we'll be busy full time down there for at least six more weeks, so I might hear something. We've only just begun to bury the ventilation pipe, and we still have to finish cutting up the conveyor belts, carriages, ovens, and cyclone machines."

Barron left shortly after eight o'clock and then Yandle and I drove out the loop highway—one of a series of roads that girdle Tyler—to the east side of town, where Frank Spencer and his wife live. We climbed the porch steps, and Yandle knocked on a screen door that opened into a small living room. Mr. and Mrs. Spencer were inside, sitting in rocking chairs and watching a quiz show on a large color TV set. Spencer, a white-haired, man, was wearing blue-and-white striped overalls. His wife, also white-haired, was wearing a plain calico dress. After Yandle had introduced us, I sat down on a small couch and asked Spencer to tell me about his experiences working with asbestos.

"Well, I worked with asbestos for twenty years or so," he said. "I started in 1948 or 1949 in the old plant down in McGregor, where we used to live. The factory was in the Bluebonnet Ordnance Plant area, where they'd made bombs for the Air Force during the Second World War, and the government began reactivating the place in 1952, so Union Asbestos & Rubber moved out and came up here in '54. There was about sixty of us on the work force at McGregor, but there was a big turnover. Most of us were farmers, and there was a lot of young farm boys who came and went. Harold, my own son, worked there, too. In fact, I signed a paper saying he was eighteen, but he was really only seventeen. That's so he could get the job."

I asked Spencer if he had ever worn a respirator at McGregor, and he gave me a look of amazement. "Wore a respirator!" he exclaimed. "Why, I wore one all the time down there. They never said a word to us about asbestos being dangerous, but they made us wear our respirators. Actually, it wasn't the company that did that. It was the insurance underwriters who said we had to wear 'em. I guess they must have known that that dust couldn't be doin' us much good, eh? But, goodness' sakes, insurance underwriters or not, you would have *had* to wear a respirator down there—you couldn't have breathed otherwise. Most of the time, I couldn't hardly see the man working next to me!"

"Do you ever get back there?" I inquired.

"We used to go back all the time to see our friends and relatives," Spencer replied. "But, one by one, just about all the men who worked with me at that place have died. Mostly, they just seemed to stop breathing."

"Some of them died of cancer, too," Mrs. Spencer added, without taking her eyes from the TV set. "Chest cancer, the womenfolk told me."

"I'll be sixty-six years old in May," Spencer said. "And I swear I'm just about the onliest one I know that's left alive from that McGregor plant. Except for my son, of course, and he's already got trouble with his lungs. I've had trouble with mine for years. I finally had to quit the Tyler plant in 1968. They disabled me. Just couldn't hardly breathe no more. Now I'm out of breath all the time. Can't do nothing. Can't walk any distance at all. When I quit, they started giving me some retirement payments—eighteen dollars a month. I should've done what Ed Land did. He quit around about 1962. He couldn't breathe, either, because a lung collapsed on him. I heard he was going to sue, but they settled with him."

I asked Spencer if he was receiving any medical attention, and he smiled for the first time. "I've been going to these local doctors for my lungs for years," he said. "I spit up an awful lot, and I'm always out of breath, and I've got a funny-sounding cough. I guess I've been to just about every last doctor in that Medical and Surgical Clinic. All of 'em have told me I had something wrong on my X-rays. Some of 'em have told me I got emphysema, and some of 'em say it's asthma, and at one time they even thought I had cancer, but not one of 'em ever said it was on account of asbestos. Well, they're a bunch of quacks. I know what I got now. I got what Ed Land got. I got what Harold's got. And all the others. I got that dust disease. That dust has ate us up."

As Yandle and I left a few minutes later, Spencer rose from his rocking chair, saw us out the door, and stood on the porch and bid us goodbye. As we went down the steps, I turned to thank him, and saw him leaning forward, hands on his knees, rocking his head up and down. He was gasping for air.

At eight o'clock the next morning, Yandle came by the motel in his battered blue pickup. We had a cup of coffee in the dining room and then drove out to Arthur Bearden's house, on the east side of town. Bearden's place was a faded-green frame dwelling that sat on cinder blocks, like most of the houses in the area, and in the front yard there was a twenty-five-foot-high, symmetrically rounded, and wonderfully festive holly tree, so full of shiny green leaves and bright-red berries it looked as if it had been hung by hand.

Bearden came to the door, ushered us inside, and immediately offered to brew us some coffee. He is a grave-faced, soft-spoken man in his middle forties, and when Yandle told me he was famous for making strong coffee he responded with a broad grin of delight. Then, seating me at a table in the dining room, he disappeared into the kitchen. Yandle went to get Harold Spencer, who lived in a trailer next door.

When Bearden returned from the kitchen, he sat down across from me and told me that he had gone to work at the Tyler plant in March of 1955, a few months after it began operating. "I worked there until 1960," he said. "Then I was laid off for a year, but I went back in April of 1961 and stayed until the plant closed down last month. So, all in all, I figure I worked with asbestos about sixteen years. During that time, I guess I worked in most areas of the production department. I never wore a respirator until last August, and I never saw anyone else wearing one except for a few fellows on the feeder machines and in the saw room back in 1969. Those were probably the dustiest areas in the plant, but the whole place was so dusty it's hard to tell for sure. Most days, you couldn't see from the middle of the building to either end."

At this point, Yandle returned with Harold Spencer, a man in his late thirties, who wears a grin that masks a diffident manner and an air of fatalism. When I told him I had met his father and mother the night before, he simply nodded and grinned a little wider, and sat down at the table. I asked Spencer how long he had worked with asbestos, and he thought for a few moments and said he guessed for about seventeen years. "I worked at the Union Asbestos & Rubber plant in McGregor from '51 to '53," he said.

"Then I worked at Tyler from '55 to '57, and then I came back in 1960 and worked steady from then on until the plant closed down last month. Nobody ever told me the stuff would hurt us, and I never wore a respirator until last August, when everybody had to start wearing them. Back around last Thanksgiving time, I got called over to the East Texas Chest Hospital by a Dr. Seaman, who told me I had a spot on my left lung. He didn't say what it was, but he offered to treat me as an outpatient.

"He said I could keep on working at the plant that way. I went to him for about two months. During December and January, I went once a week, on Tuesday morning. They took X-ray pictures of me every time. Most mornings, they just took a couple, but one morning they took eleven—one standing up and ten flat on my back. Another time, they swabbed out my mouth with anesthetic, put in some kind of a coating, and looked down into my chest with some kind of a tube. Afterward, Dr. Seaman told me my left lung wasn't functioning properly. I asked him if it was on account of the asbestos, but he said he couldn't say. All he could say was that there wasn't any surgery for it. Then, on February 9th, I got sent over there to see Dr. Hurst. He said I had what looked to him like asbestos scar tissue in my lungs. He told me not to work in dusty conditions anymore, and he said to come back and see him in two years. By that time, I was real worried and didn't know what to think. What worried me most of all was what a doctor from NIOSH told me back in October. He had listened to me breathe, and he had looked real careful at my fingers, and he had told me I had a case of asbestosis."

"That's what we all got," said Bearden, looking around the table at his friends and then at me. "We just better hope we don't get cancer. You know, some people have already died of cancer who worked there. Mr. McMillan—he was plant manager before Van Horne—he died about a year and a half ago of some kind of cancer in the chest. And Marvin King, one of the supervisors—he took sick back in 1958, I think it was, and died of lung cancer. And Chester Hickman, who'd been night watchman since the place opened—he died of cancer in June of 1971."

Bearden went out to the kitchen and brought back coffee for everyone. It turned out to be as strong as any I had ever tasted, and when I told him so he grinned with delight again. "Spencer here was the only one of us that got treated as an outpatient," he said. "Back in October, Dr. Spiegel told me I had a bad sound in my lungs, but I didn't see Dr. Hurst until I went over to the East Texas Chest Hospital with Herman here in February. Dr. Hurst told me I had early stages of asbestosis with rales in my lungs, and that I shouldn't try to find a job anyplace there was dust. The thing that bothers me is I should've realized something was wrong back in 1968. I was off from work then with a bladder infection and got sent over by the company to see Dr. Smyth, at the Medical and Surgical Clinic. He gave me a physical examination and listened to my chest and took some X-rays. A few hours later, he called me back and listened to my chest again, but he didn't tell me anything."

"Funny thing," Spencer murmured. "Back in 1969, I got my first X-ray at the Medical and Surgical Clinic, and a Dr. Marshall over there told me I had a spot on my lung. He said he'd be in touch with me, but after I waited six months without hearing from him I got worried and went back and saw a Dr. Whetsell there. Dr. Whetsell gave me a check-up, and when he was through I told him I thought that maybe I ought to change jobs, but he said he couldn't guarantee I'd be hired anywhere else, because I might not be able to pass a physical."

While Spencer was talking, we were joined by Willie Hurtt, whom Yandle had invited over. Hurtt is a gaunt man in his late fifties, with sunken cheeks and a shy manner. He told me that he had started work at the Tyler plant in January of 1956, and had stayed until November of 1969, when he quit. "I worked mostly on the feeding machines and the ovens, and I hardly ever wore a respirator the whole time," he said. "I remember, though, that around the end of May of 1969 some fellows from the union committee went in and asked Van Horne how come a few of the boys were suddenly wearing masks. Van Horne told them it was on account of the dust levels were high in the saw room and the feeding-machine area. So they asked him if the dust would hurt us, and Van Horne just said that even if it did there wasn't any way anybody could be sure of it.

Of course, by that time I was beginning to get some idea of my own that the stuff wasn't good to breathe. I'd been coughing bad for nearly three years, and I'd been to a lot of doctors. I went to see Dr. Thomas and Dr. Smyth at the Medical and Surgical Clinic, and I went to Dr. Knight at the Glenwood General Hospital, in Tyler. Dr. Smyth told me I ought not to work in dust, but he never said I'd be disabled. Dr. Knight said I had emphysema in both lungs. He kept me at the Glenwood General Hospital for a week after I quit the plant. He took a lot of X-rays and asked me where I worked, but he didn't tell me anything about the X-rays and he didn't say anything about asbestos. Now I'm not worth a hoot to do anything. If I walk just a little piece, I can't even breathe."

"Same with me," said Bearden. "I hoed a row in the garden the other day and I was out of breath entirely."

"The worst thing of all is we can't pass a physical to get another job," Spencer said.

Bearden nodded soberly. "I got an application in at a plant that manufactures air-conditioners," he told me. "But I'm a-scared to death of the physical. I'll take it, but I'm afraid of it, 'cause I know I won't pass it if they take an X-ray or listen to my lungs." For a moment, Bearden was silent, looking around the table at his friends. "You know," he said reflectively, "not everybody was as dumb as we were. I remember a new man walking in a few years ago. It was in 1970, I think. They had told me to explain the feeders to him, and it was nighttime and the lights were on and the dust was so thick it was fogging the lights. This fellow—I'll never forget him. He took a look at the feeders, and he walked partway down the plant floor. Then he turned and walked back past me and gave his head a shake. And then he went right on out the door, without a word to anybody, and he never came back."

It was about eleven o'clock when Yandle and I returned to the motel. I had an appointment to see Van Horne in an hour, and Yandle had to do some work around his house. We arranged to meet there late in the afternoon. Half an hour later, I drove east to U.S. Highway 271, where I turned north at a huge foundry that was belching smoke into the sky. About eight miles down the road, I passed a large, modern brick building surrounded by expansive lawns. A sign identified it as "East Texas Chest Hospital." A few hundred yards past the hospital, I turned west onto State Highway 155, where there was a sign pointing the way to the Owentown Industrial District. At the bottom of a hill, about a mile northwest of the hospital, I came to a flat valley filled with sheds, prefabricated buildings, and some wooden warehouses that had once been part of Camp Fannin, a Second World War training center and P.O.W. camp. The whole place was crisscrossed by spurs of the St. Louis Southwestern Railway. After winding through the area for five or ten minutes, I came upon a pair of long, low sheds with peeling wooden facades and corrugated roofs, and saw a sign affixed to the side of one of them which read "All Persons Entering This Area *Must* Wear Approved Respirator Protection." It was a new white sign with bright-red lettering, and against the shabby background it shone like a beacon. At one end of the sheds was a green cinder-block office building with a sign reading "Pittsburgh Corning Corporation."

I parked the car out front, went inside, and gave my name to a receptionist in an anteroom, who announced my arrival on an intercom. A minute later, Van Horne came out, shook my hand, and ushered me into his office, where we sat down near his desk. He was a gray-haired, self-assured man in his middle forties, and he was wearing horn-rimmed glasses and a mustard-colored sports jacket. When I told him that I wanted to talk with him about the plant, he said he had been in touch with the Pittsburgh office an hour before and had received certain orders. "I have been instructed to read a statement to you," Van Horne continued. "It is an authorized statement, and after I am done reading it I will have no further comment."

Having said this, he got to his feet, picked up a sheet of paper from the top of his desk, adjusted his glasses, and, in the firm, measured tone of a schoolmaster explaining the rules to a new and possibly recalcitrant student, began reading. "Pittsburgh Corning, on its own initiative, has closed the Tyler, Texas, plant and has ceased asbestos production entirely," the statement said. "We have no plans for further use of the Tyler plant and are making every effort to insure safe disposal of any remaining waste material. We sincerely regret the adverse economic impact that the plant closing might have on our employees and their families. Since 1967, we have made efforts and investments to reduce dust levels at the plant and have kept government agencies advised.

"It has become economically impossible to reach the increasing rigid dust levels established by the federal government. Each of the employees at the plant have been given complete physical examinations and, in cooperation with local officers of the Oil, Chemical, and Atomic Workers Union, we have established a job-counselling service to aid men in locating other work. There is no substantiation for the claim that burlap bags from the plant are a health hazard. Despite this, we have recently bought from nurserymen in the Dallas-Tyler area some thirty-six thousand bags, which may have come from our plant."

When Van Horne finished reading, there was a moment of constrained silence; then I got to my feet, thanked him for giving me his time, and asked him if I could have a copy of his statement. He rang for the receptionist, who came in, took the statement, went out, and returned with a Xerox copy. Van Horne handed me the Xerox, shook my hand, accompanied me to the front door, and wished me a pleasant trip back to New York City. I told him I was planning to stick around town for a while. Then I got into the car and drove away.

When I got back to the motel, I went to my room to make a few phone calls. While I was looking up some numbers in the local directory, I happened upon a description of the town, and learned that it had been established in the early eighteen-forties and named for President John Tyler, who had advocated the annexation of Texas to the United States. According to the phone book, Tyler had been "a small agricultural town with an aristocratic background" until 1930, when the great East Texas oil field was discovered. At that point, the phone directory said, "Tyler became the office headquarters for two hundred and sixty-seven independent and major oil producers, operators, and refiners working in the fields surrounding the city." Beneath the description was a box with the heading "Some Interesting Facts About Tyler."

One of the interesting facts was that Tyler has a twenty-eight-acre municipal garden containing twenty-five thousand rosebushes in three hundred and fifty varieties. Another interesting fact was that "more than half of the field-grown rosebushes supplied to the entire nation come from within a fifty-mile radius of Tyler." The most interesting fact about Tyler I saw, however, was that it is the medical center of East Texas, with an expanding complex that includes the Medical Center Hospital, the Mother Frances Hospital, two other general hospitals, four private clinics, and, on the outskirts, the East Texas Chest Hospital, which has eight-hundred and twenty-five beds.

After lunch, I drove out to the East Texas Chest Hospital to keep my appointment with Dr. Hurst. It was a windy afternoon, with clouds scudding across the sky, and on a flagpole in front of the main entrance to the hospital the American and Lone Star flags were flapping to the accompaniment of rattling grommets. A lot of Texas redbud trees on the grounds were just beginning to bloom, and they cast a sheen of purple against the well-trimmed green lawns. Some distance off, ramshackle wooden barracks with sagging roofs, peeling clapboard walls, and verandas evolving into debris indicated that, like the nearby Owentown Industrial District, the site had once been part of Camp Fannin.

After spending a few minutes in a waiting room, I was directed to the office of Dr. Hurst, whom I found to be a tall, thin man in his late thirties, with dark hair, an earnest manner, and a mild way of speaking. Born in Minas Gerais, in Brazil, where his father was a missionary, Dr. Hurst received his training at the University of Texas Southwestern Medical School, in Dallas; he then became a specialist in pulmonary disease, and for several years was a member of the staff of the Chest Division of Woodlawn Hospital, in Dallas. In 1964, he was appointed clinical director of the East Texas Chest Hospital, and in the autumn of 1970 he became superintendent of the institution. He told me that the hospital had been founded in 1949 as a tuberculosis hospital, and that its major work had always been in the field of tuberculosis treatment. "Since 1967, however, we've been treating patients afflicted with other kinds of pulmonary disease," he said. "The fact is that when Dr. Grant, as medical consultant to Pittsburgh Corning, approached me late in 1966 about conducting a medical survey of the workers in the asbestos factory here, it promised to be a real departure for us."

"What reasons did Dr. Grant give you for wanting the study performed?" I asked.

"He told me that the men were working with amosite asbestos, and that the company wanted to know if they were encountering any medical problems as a result of their exposure."

I remarked on the irony of the factory's proximity to a hospital specializing in pulmonary disease, and asked Dr. Hurst if he had known of the plant's existence before Dr. Grant's visit.

Dr. Hurst shook his head somberly. "No," he said. "I'd never heard of the place."

"Did Dr. Grant give you any indication that he suspected the men might be getting sick because of their exposure to asbestos?"

"No, he did not," Dr. Hurst replied. "Obviously, he knew that exposure to asbestos could cause pulmonary fibrosis. He simply told me that the company had been using the Medical and Surgical Clinic, and that it now wanted us to undertake a comprehensive medical survey of its workers."

I asked Dr. Hurst if he had ever been consulted by any doctor at the Medical and Surgical Clinic about any worker at the Pittsburgh Corning plant who had had to stop work because of pulmonary insufficiency.

"No," he said. "Never. I only examined men sent me by the company, who were working and were apparently well."

I told Dr. Hurst that several of the asbestos workers I had talked with had said that doctors at the clinic had told them they were afflicted with emphysema or bronchitis, and that I had not yet met anyone who had been told by any doctor at the clinic that he was afflicted with asbestosis. I asked Dr. Hurst if this seemed strange to him.

For a moment, he was silent. Then he said, "You know, there's an awful lot of ignorance about occupational disease. The average doctor tends to minimize the danger of it. Some doctors tend to blame everything on cigarettes."

I asked Dr. Hurst if he had learned at any time that Dr. Cralley, of the Bureau of Occupational Safety and Health, in Cincinnati, had not performed the medical survey of the Tyler workers he had agreed to back in 1967.

"No, I did not," he answered. "I assumed that the study had been conducted, as Dr. Grant had indicated it would be."

"What reasons did Dr. Grant give when he called you last August and once again proposed that you examine and test the workers?" I inquired.

"The same reasons he gave nearly five years before," Dr. Hurst replied.

"Did he tell you that Pittsburgh Corning had filed a request with the Department of Labor for a variance from occupational-health regulations, and that the request for a variance stated that the company had already expanded its medical-examination program?"

"No," said Dr. Hurst.

When I asked Dr. Hurst to describe the tests that were performed on the Tyler workers at the East Texas Chest Hospital in August of 1971, he told me that they included ventilatory studies, to determine how fast air goes into and out of the lungs; lung-volume studies, to show how much air the lungs can hold; blood-gas studies, to indicate how efficiently oxygen is getting into the bloodstream; diffusion studies, to indicate what happens to oxygen and carbon dioxide in the lungs; and chest X-rays.

I then asked Dr. Hurst when he first suspected that some of the workers were afflicted with asbestosis. "Well, that took a while, because we weren't able to pull all our data together until November," he said. "By then, we knew there was evidence of fibrosis, or scarring of the lungs, on some of the X-rays. Some of the men also had dyspnea, or shortness of breath, and there were decreases in diffusion capacity as well. In fact, all but one of the seven men in real trouble had low diffusion. The trouble was, we had made a mistake in our formula for the diffusion studies, and didn't discover it until December. That's why it took us so long to come up with a positive diagnosis of asbestosis."

I then asked Dr. Hurst if he or anyone else was planning to perform followup medical studies of the Tyler workers or their families, or of former workers or their families.

"I've talked about that with Dr. Johnson, at NIOSH, with Dr. Norman Dyer, of the Environmental Protection Agency, in Dallas, and with my superiors in the Texas State Department of Health," he said. "I really can't say what's going to happen, however. I suppose it's a question of where the money will come from."

Next, I asked Dr. Hurst if the East Texas Chest Hospital had ever before examined workers on a consultant basis with a company.

"Not to my knowledge," he replied.

"Would you do it again?"

"I don't know," Dr. Hurst said slowly. "The studies we performed for Pittsburgh Corning were good studies, and once we rectified the error in our diffusion tests they were thorough. But whether we should have got involved with the company in the first place is something I'm not sure about."

It was about three-thirty when I left the hospital, so I took the shortest route to Yandle's house, driving north on State Highway 155, past the Owentown Industrial District. I continued, through Winona, to the town of Big Sandy, where I turned west on U.S. Highway 80, toward Hawkins. At one point, I crossed a bridge over a muddy, meandering stream, and then the road passed through mile after mile of pecan groves, where snow-white cattle grazed among thousands of frail black trees, whose delicate branches formed an intricate tracery against the sky. The center of Hawkins consists of four corners, where U.S. Highway 80 is bisected by State Highway 14. A sign there says that the town has a population of nine hundred and seventy-seven. I turned north on State Highway 14 and, within a mile or so, arrived at Yandle's place—a small white frame house—and found Yandle standing in the driveway.

Yandle and I spent the rest of the afternoon hunting up men who had worked in the Tyler plant. A mile down the road, we paid our first call, on Dale Peek, a lean, good-looking fellow in his late twenties, whom we found in the yard behind his house, bending over the engine of a car. Peek was wearing a navy-blue wool watch cap, a shirt with the sleeves cut out, and Levi's. After we shook hands, he stuffed his hands into the hip pockets of his Levi's, sat down on a fender of his car, and told me that he had worked at the Tyler plant for five years. "Like most of the other boys, I had a whole bunch of jobs," he said. "I was a feeder, a builder, a saw-room laborer, and a scale man.

"Scale men are the ones who weigh the boxes carrying the finished product. I finally quit the place in July of 1969, on account of the respirators they had started making some of us wear. I couldn't breathe through the damn thing. I just couldn't get any air into me, so I quit. Now I work making corrugated boxes at the Continental Can plant. That's in the Owentown Industrial District, too. The spring before I quit, I'd been elected chairman of the union committee, and I went in to Van Horne to ask him about some articles that some of the fellows were reading that said asbestos was bad for you. Van Horne passed it off with a shrug. He said that as far as he knew the doctors had no way in the world of knowing for sure that the stuff caused you to get sick."

With Peek accompanying us, Yandle and I drove west about fifteen miles to the town of Mineola, to see Tom Belcher, one of the seven men whose symptoms had been diagnosed as those of asbestosis, and who had been advised by Dr. Hurst not to work in a dusty environment. On the way, Yandle told me that Belcher had worked in the plant for sixteen years, and that he had started as a feeder operator.

"Him and Willie Hurtt," Peek said. "They're real old-timers at that place. I used to see them shaking down the dust collectors. Why, the stuff was so thick on them you couldn't hardly make out their hair or faces. I remember Tom sometimes wore a mask. It wasn't a real mask, though. It was one of those gauze ones, like you see them wearing in hospitals on the TV."

Belcher was a florid, heavyset man in his late forties, and as Yandle, Peek, and I stood talking with him in the front yard it was obvious that he was having difficulty breathing. "No one ever told me the damn stuff was dangerous," he said bitterly. "About two years ago, though, I started to feel different in my chest. It felt tired all the time, and it hurt a lot. Its been that way ever since, and these days I cough so much in the morning I can't hardly stand it."

A few moments later, Belcher's wife called me into the house and showed me a copy of Dr. Hurst's diagnostic report. According to the report, Belcher had a reduction of forced vital capacity, which is the maximum amount of air he can take into his lungs; a twenty-five-per-cent reduction in total lung capacity, which is the amount of air his lungs can hold; and a slight reduction in the amount of oxygen that gets into his bloodstream. In addition, his X-ray films showed an increase in bronchovascular markings on the lower left-lung field. Mrs. Belcher said that her husband's chest was giving him a great deal of pain, that he was worried about it, and that she was worried about his worrying, because in addition to his pulmonary problems he had high blood pressure.

When we left the Belchers, Yandle, Peek, and I drove to a place about seven miles north of Hawkins, where J. C. Yandle, Herman's brother, lived with his wife and family, and worked as a tenant rancher. He had a typical small Texas spread, with a long blacktop drive leading up to a native-rock farmhouse that was surrounded by pastures separated by well-kept fences. We found J. C. Yandle in a field adjacent to the house, fixing a cultivator rig. He was a tall, thin, lean-faced man in his middle forties; he was wearing Levi's and a denim jacket, and he looked as if he had stepped right out of a scene in "The Last Picture Show."

After Herman introduced us, J.C. leaned against a corral fence and, speaking very deliberately, told me that he had gone to work at the Tyler plant in November of 1961. "I worked there steady until the place shut down last month," he said. "During that whole time, no one ever told me or anyone else I know that asbestos could harm you. Why, I can remember some of our supervisors saying it not only wouldn't hurt you but was *good* for you. They even used to tell us you could *eat* it. They were saying that right up till August, when all of a sudden we have to wear respirators.

"First thing I heard about my X-rays was on the ninth of February, when Dr. Hurst called me in and said they didn't show up anything wrong. He told me I was breathing in better than I was breathing out, though. I asked him why. He said some people do that. He said maybe I was smoking too much. Funny thing is, I roll my own and I don't smoke an awful lot. About half a pack a day, maybe. But I am sure awful short-winded, and for the last few years it's been getting worse and worse. I been coughing up a terrible storm in the mornings, too."

After we said goodbye to J. C. Yandle, his brother and Peek and I drove toward Hawkins on State Highway 14 and, about a mile before Herman Yandle's place, stopped at a frame house with brown asbestos siding where Ray Hicks, a former Tyler worker, lived with his mother. Hicks wasn't at home, so we drove a little farther along the road, to a house where Hubert Thomas, another of the Tyler workers, was visiting some friends. As we were getting out of the car, Hubert's brother Robert drove up, with his wife, and parked just in front of us. Robert Thomas was fifty years old; he had worked at the Tyler plant for ten years and three months, and he was one of the seven men whose symptoms had been diagnosed as those of asbestosis. "At the end, just before they closed the place down, I was working in the finishing department," he told me.

"It was my job to push cartons of finished insulation down along the factory floor. Trouble was, I just couldn't push the damn things without stopping every hundred feet to get my breath. My chest's been hurting something awful lately, and I've been short of wind for the past five or six years. I also cough a lot these days. When I got called in by Dr. Hurst last month, he told me that he and the other doctors at the hospital had decided I probably had emphysema or bronchitis. He also said I could have symptoms of a disease caused by all the dust I'd breathed over at the factory. He advised me not to accept any work near dust, like at one of the local pipe or foundry outfits, and he told me to quit smoking. He said that I should have another X-ray soon and that the ones they'd already taken showed something wrong. I think he said it was some enlarged tissues down there.

"When he told me that, I remembered something funny that happened back in the last part of 1970. I'd hurt my back, and the company had sent me to the Medical and Surgical Clinic, which shipped me over to the Mother Frances Hospital for some X-rays. After they took the X-rays, I was lying in my bed when a nurse came into the room with a clip board. She looked at the clipboard for a minute, and then she asked me if I was there for my back or for my lungs. I told her I was there for my back, and she shook her head and said that that was odd, because there sure was something wrong with my lungs."

At that point, I said goodbye to Robert Thomas, and walked up a driveway toward the house. The driveway crossed a deep culvert by the roadside, and on the other side of the culvert was a large tank full of channel catfish, which are a delicacy in that part of Texas. Two children, armed with long-handled dip nets, were trying to catch a pair of them for a customer who had stopped off to buy his supper. The catfish were surprisingly agile, and the children were having a lot of fun but not much luck. When Hubert Thomas strolled over to see if they needed a hand, I introduced myself to him, and we stood talking for some time beside the tank.

He told me that he had gone to work at the Tyler plant in October of 1961, and he had stayed on until the factory was shut down. "We're all kind of worried about what's going to happen to us," he said quietly. "Especially those of us that's got a lot of years in that place. Nobody's told me anything about my medical examination yet, which may be a good sign, but I can tell you something for sure. I'm so shortwinded these days it's ridiculous. I can't even walk from the tank here to my house without getting out of breath. Why, I not only have to stop a couple of times to get it back but sometimes I have to sit right down on the ground!"

I asked Thomas if he had ever worn a respirator and if anyone had ever told him before Dr. Grant's visit that asbestos was dangerous to work with.

He shook his head. "I never wore a respirator until last summer," he replied. "And nobody ever said to me that the stuff could hurt you. No—come to think of it, that ain't right. There *was* a man who told me asbestos was dangerous. That was Mr. McMillan, who was plant manager before Van Horne. Way back, when I first went to work there, he told me the stuff could be harmful. He never said to wear a mask, though, so I didn't. I got to respect that man, because nobody else from Pittsburgh Corning was ever that honest with me. But it's funny, ain't it? I mean, Mr. McMillan knew it was dangerous, and he died of cancer himself not long ago, but he never said to wear a mask. So I didn't. None of us did."

It was growing dark and when Yandle, Peek, and I left, we drove south on State Highway 14 and stopped again at Ray Hick's place. His mother came to the door and told Yandle that Ray had come and gone since we were there before but that she was pretty sure we could find him at the service station down by the four corners in Hawkins. A few minutes later, Yandle spotted Hick's car at the service station, and when I drew up beside it he climbed out to get him. Hicks, a tall, thin, handsome, pale man in his early thirties, got into the back seat with Peek and Yandle got in front with me, and we spent a few minutes chatting. Hicks told me that he had gone to work at the Tyler plant on April 30, 1962, and had worked there until the factory was shut down. "That makes nine years and ten months, and I never wore a respirator except for the last six months I was on the job," he said. "I never knew it was dangerous to work with asbestos until last summer, when Dr. Grant came down. He told us it was hazardous, but he said you didn't get any symptoms in less than ten or fifteen years."

I asked Hicks how he felt, and he said that he felt pretty good—that, unlike a lot of his friends from the plant, he wasn't experiencing any short-windedness. "Dr. Hurst took X-rays of me in August of 1971, but I never heard from him, so I guess that means I'm O.K.," he added.

"Hey, why don't you tell us what Van Horne told you when he called you in last month," Yandle said, with a smile.

"Oh, that," Hicks said with a sheepish grin. "Why don't you guys lay off that?" Hicks then shook his head and smiled ruefully at me. "Well, Van Horne called me into his office just before the plant shut down," he said. "He told me a report on my X-rays indicated that there was a little spot on the lower lobe of my left lung, and he said I'd better stop smoking. I told him I'd never smoked in my life—except cigars. So he asked me if I drank a lot of milk."

When Hicks said this, Yandle began to chuckle. Then, joined by Peek, who had broken into a guffaw, both men leaned back in their seats and gave way to gales of laughter.

"And what did you tell him?" asked Yandle, making a vain attempt to stifle his laughter.

"I told him I drank a little milk now and then," Hicks said. "That's the truth, too. I don't drink all that much milk."

"A little bit?" said Peck, who was suddenly overtaken by another paroxysm of truth. "Just a little bit?"

"And what did Van Horne say when you told him that?" Yandle cried, still laughing.

Hicks glanced at me but he had begun laughing himself now, and suddenly he doubled over as the mirth bubbled out of him. "Van Horne told me I had a calcium deposit in my lungs, and said I must be drinking too much milk."

At this point, Hicks broke down completely, and I began to laugh myself. For some moments, the four of us sat rocking with laughter, unable to speak; then Hicks straightened up and managed to get partial control of himself.

"I walked out of there real mad," he said. "But when I told my friends back on the floor, all they did was laugh, and they've been ribbing me ever since."

"But, Ray, we was worried about you!" Yandle protested. "We was worried about you on account of all that milk you've been drinking."

This comment started everybody laughing again, and we were still laughing when we climbed out of the car, a few minutes later. I thanked Yandle for all his help, shook hands with each of them, and bade them farewell and good luck. Then I got back into the car and started for Tyler. As I drove away, I caught a glimpse of Yandle, Peck, and Hicks in the rearview mirror. There they were, in front of the filling station, with their arms around each other's shoulders and their heads thrown back—three Texans standing beneath the stars of the immense night sky and laughing to beat the band.

In the morning, I ate breakfast, paid my bill, and checked out of the motel. I was planning to drop by the Medical and Surgical Clinic to ask the doctors there why none of the men who had come to them with pulmonary problems had been told that the trouble might be the result of the place they were working and what they were inhaling on the job. Some of the men I had spoken with had been told they had bronchitis, and others had been told they had emphysema, but none of the doctors at the clinic, as far as I could make out, had ever told them they were suffering from asbestosis, which is, of course, what was afflicting many of them, and was the reason they were experiencing such difficulty in breathing. However, after sitting behind the wheel of my car for a few moments I decided not to go to the Medical and Surgical Clinic.

What good would it do to ask a bunch of local doctors how they could have failed to diagnose a lung disease that had been well known and well defined in medical circles for more than fifty years, when men such as Dr. Grant, medical consultant to Pittsburgh Corning, medical director of PPG Industries, president of the American College of Preventive Medicine, and the holder of several other high posts in distinguished industrial health organizations, and Dr. Lewis J. Cralley, director of the Division of Epidemiology and Special Services of the United States Public Health Service's Bureau of Occupational Safety and Health, not only had known for years that workers at the Tyler plant were being subjected to levels of asbestos dust that could cause asbestosis but had neglected to give them medical examinations that would have ascertained this beyond a doubt?

All of a sudden, I felt I had asked enough questions for the time being, and I was ready to accept Dr. Hurst's explanation that most doctors are ignorant of occupational disease and prone to blame cigarettes for pulmonary trouble. In any case, what sort of judgment could one make about the doctors at the Medical and Surgical Clinic, who, after all, had had a close working arrangement with Pittsburgh Corning over many years?

Having decided not to go to the Medical and Surgical Clinic, I thought I would return to Dallas and fly home. I wanted to take a last look at the factory, however, so I drove out past the East Texas Chest Hospital and turned north on State Highway 155. It was about 10 a.m. when I came to the Owentown Industrial District, and as I wound my way through the area, which is about a mile long and half a mile wide, I saw several hundred cars parked outside the factories, sheds, and warehouses of the other industries there.

Among those industries were the Continental Can Company, where Dale Peek now made corrugated boxes; the National Homes Corporation, makers of house trailers and prefabricated-housing units; the Ty-Tex Rose Nursery; Levingston-Armadillo, Inc.; National Casein; and the Texas Tubular Products Company, next door to the Pittsburgh Corning plant, which Ray Barron and the other men of the maintenance crew were dismantling and burying. All in all, there must have been close to fifteen hundred men and women working in that industrial park, and, remembering the case of the proprietor of a junk yard adjacent to an old asbestos plant in Paterson, New Jersey, who had died of mesothelioma, and the documented cases of dozens of other mesothelioma victims whose only exposure to asbestos was simply that they had lived or worked in the vicinity of asbestos factories, I could not help wondering what would happen to these Owentown workers. Then I remembered the case of the daughter of the engineer who developed the product that had been manufactured in the Tyler plant for seventeen years—she had died of mesothelioma, though her only known exposture to asbestos had occurred when she played with samples of asbestos products her father brought home from time to time—and the cases of dozens and dozens of other mesothelioma victims whose only known exposure to asbestos was that as the wives of asbestos workers they had washed their husbands' work clothes, or as children and relatives of asbestos workers they had simply lived in the same house, and I found myself wondering about the fate of the families of the eight hundred and ninety-five men who had been employed at the factory during its seventeen years of operation. At that point, the Owentown Industrial District became too depressing for me, and I drove away. A few miles down the road, I came to Interstate 20, and turned east toward Dallas. It was a warm, sunny morning; buds were bursting everywhere, and the green sheen I had noticed on the way to Tyler two days before had become palpably greener. Overhead, the buzzards were out in force.—Paul Brodeur

BILL SCOTT REPORTS

Mr. WILLIAM L. SCOTT. Mr. President, this month's report to constituents may be of interest to my colleagues in the Senate, and I ask unanimous consent to have printed in the Record a copy of my regular monthly report.

There being no objection, the report was ordered to be printed in the Record, as follows:

Bill Scott Reports

Our office receives more mail and citizens generally appear to be more concerned about the energy crisis and the crisis of confidence than most other matters. There is, of course, a continued concern about the high cost of living and taxes.

THE PRESIDENT

The charged atmosphere in Washington due to Watergate, the resignation of Vice President Agnew, and the call for impeachment of the President by a segment of the media, the head of the AFL–CIO and a variety of others, disturbs most Americans and adversely affects the stability of our government. Our office received more than 100 letters per day shortly after the firing of the Special Prosecutor, 90% of which urged that the President resign or be impeached.

A survey, however, indicated that the great bulk of the correspondence came from people who had not supported the President in the past. A copy of our analysis of this correspondence will be made available upon request. Let me add that the mail now has changed and is approximately 2–1 in favor of the President's continuance in office.

While I do not condone any wrongdoing on behalf of public officials, I am not aware of any act justifying the resignation or impeachment of the President. He has been elected to serve as our President for a 4-year term by an overwhelming majority of the people of the country and barring a new development showing an impeachable offense, I feel that the people of the country should unite behind him so that he can effectively carry the heavy responsibility of his high office and can effectively deal with both domestic and international problems as they arise.

In my opinion, the continued, almost constant criticism and attempt to reverse the electoral process is harming the country and can only react against the best interests of the people as a whole.

SILENT MAJORITY

Reasonable people can always disagree on a course of action in a given situation. However, the orderly processes of government require confidence in elected officials and participation in the formation of public opinion by all segments of our population. In other words, the so-called "silent majority" should, in one way or another, let public officials know their feelings on issues as they arise from time to time or the officials may feel that the activists who do contact them, or special interest groups, reflect the feeling of the entire population.

Members of Congress often hear from special interest groups, from labor and management, from ecologists, and others who have deep feelings but concentration in a very limited field. We know that if this "noble experiment in self-government" is to succeed, it must be through the active interest and participation of the vast majority of the people of the country. In my opinion, there is no greater force in our land than an aroused public opinion. Elected representatives, the press, and all segments of our population will respond to concerns expressed by the general population. But, unless the general public is aroused and activated, we will continue to have minority views carrying greater weight in the decision making process than their numbers warrant.

ENERGY EMERGENCY

We have all heard the bleak prospects for fuel to heat our homes and operate our industries this winter. With 6 percent of the world's population, we are told that our nation consumes one-third of the earth's total energy output. Not only is the shortage of energy caused by the cutoff of fuel from the Middle East, but also from inadequate domestic production and environmental constraints. The National Energy Emergency Act passed by the Senate a few days ago gives emergency power to the President for a period of one year. While he is given authority in the Senate bill to ration fuel, the President has publicly stated that this will only be done as a last resort.

Some have criticized the Congress for giving vast authority to the President in this field, but it is extremely difficult, if not impossible, for a legislative body to make specific laws to govern the day-to-day operation of a conservation plan. The measure does attempt to have the President submit his plans to the Congress within 15 days after the enactment of legislation, to have states and major metropolitan areas submit their own plans to implement the Federal programs within 10 weeks after the announcement of the programs, directs conversion of some plants from oil to coal or other fuel, government regulatory agencies to take steps to conserve fuel within the transportation industry, provides incentive plans for the use of public transportation, waives some requirements of the Clean Air Act, provides grants to states and major metropolitan areas to assist in developing programs for conservation, and reserves the right of the Congress to approve or disapprove in whole or in part plans submitted by the Chief Executive. Of course, this is only a one-year emergency program which is subject to termination by the Congress at the end of six months.

NEW VICE PRESIDENT

The Senate Rules Committee has unanimously recommended confirmation of Congressman Gerald R. Ford of Michigan to be Vice President and the Senate is expected to confirm his nomination within a few days by a huge majority. The Judiciary Committee of the House of Representatives, however, may take a somewhat longer time to bring his nomination before the House. It is expected that when the mattter is brought before the House of Representatives for consideration, only a small percentage of the Members will oppose him. Therefore, barring some unforeseen development, I feel there is a good possibility that Mr. Ford will be confirmed as Vice President before the end of the year.

MORE ENERGY

There is no doubt that our country needs to become more self sufficient in its energy supply. The enactment of the Alaska Pipeline measure is a step in this direction. Had legal action not been taken by environmental groups several years ago, we might now be utilizing oil from Alaska. The Congress has, however, amended the law and authorized the project to proceed.

Research is being done by a number of Senators and their staffs to prepare legislation to find ways to further expand our energy resources. My own staff is participating in this research. Apparently incentives to explore and develop new gas wells and other sources of energy are needed; for example, fuller utilization of offshore fields and shale oil, as well as negotiating for additional oil from friendly nations. Authorization for deep water ports is under consideration by our Special Committee which may result in super tankers docking some miles off our shores and piping fuel to storage tanks or refineries on the mainland. We also need to expand the use of our vast coal reserves, to find ways to utilize nuclear energy, water power, and solar energy to far greater extents. The emergency legislation passed by the Senate can only be a temporary sharing of limited supplies while government and industry work together to find more permanent solutions.

Our Public Works Committee will probably act within the next few days to postpone requirements for compliance with automobile emission standards; and perhaps early next year to change the non-degradation requirement of a recent Supreme Court decision which could preclude construction of new energy facilities for suburban and rural areas. Congress may have acted too hastily in responding to pressure groups in the past few years, and I believe our present energy crisis will necessitate the adoption of a rule of reason in balancing the need for additional energy against a corresponding need to have a clean, wholesome environment.

MILITARY BILLS

As you know, the Senate has passed and sent to the President a Military Procurement Bill calling for the expenditure of $21.3 billion for military equipment and supplies. Although this represents only a cut of $659 million from the Defense Department's request, the Congress has attempted to limit defense spending without seriously undermining our need to have a strong military force.

The intent of Congress to maintain a strong fighting force is reflected in the authorization calling for full funding for the development of new nuclear submarines in the Trident program, the F–15, F–111 and A–7D aircraft and tank purchase program.

In the area of military construction, the Congress has approved a measure calling for expenditures of $2.6 billion. However, this appropriation is less than the requested amount of $2.9 billion. When this measure becomes law, it is expected to have a favorable impact upon Virginia since it will authorize construction on our military bases in excess of $90 million.

RICHMOND VISIT

My next visit to the Richmond office, located on the 8th floor of the Federal Building, 400 North 8th St., will be on Thursday, November 29. While I am scheduled to speak at 9 a.m. at the annual meeting of the Virginia Farm Bureau Federation in Richmond, this will permit me to be at the office to speak with constituents any time after 10 a.m. Should you desire to stop by and discuss a problem or to talk with me regarding any matter, please feel free to do so.

PAMPHLETS AVAILABLE

Among pamphlets available in the office for distribution upon request are the following:

Energy, America and You—Nine steps private citizens can take to conserve energy.

Johnny Horizon Kit—Describes things children can do to help preserve the environment

Banned Products List—List of toys and other products banned by Food and Drug Administration.

Seven Ways to Reduce Fuel Consumption in Household Heating Through Energy Conservation

Please let us know if you would like for us to forward any of these pamphlets to you.

WAR POWERS ACT

As you know, the President's veto of the War Powers Act was recently overridden by the Congress. It is the first time the Congress has ever overridden a veto of President Nixon's. The bill endeavors to define the authority of the President as Commander in Chief of the military forces of the country and the constitutional power of the Congress to declare war.

Basically, it permits the President to commit our troops to combat without a formal declaration of war in the event of an attack upon the country, its territories, possessions or armed forces anywhere in the world but prevents military activities from continuing for more than sixty days without Congressional consent. Congress may also halt military activity at any time by a concurrent resolution of both Houses, and such a measure is not subject to Presidential veto.

It seems reasonable to define the authority of the President and the Congress at a time when we are at peace rather than when troops are committed and when we would be hesitant to jeopardize the safety of members of our armed forces by cutting off funds or showing lack of support or unity within the country.

Should a major emergency arise, the Congress and the President can jointly meet the emergency in a very short period of time and the bill, as passed, does permit the taking of all action necessary to protect our troops or civilian citizens anywhere in the world.

Committing this Nation to war is one of the most serious actions that can be taken and I feel that before such action is taken, it should have the support not only of the President, but the Congress and the people as a whole.

QUESTIONNAIRE RESULTS

Opinions of constituents on a variety of matters were requested in our last newsletter. The results have now been tabulated and are shown below. While some of the results appear to be contradictory, there is a definite consensus against increasing taxes and for expanding supplies and productivity. I appreciate your responses.

	Percent		
	Yes	No	No opinion
1. To control inflation, would you:			
(a) Reduce Federal spending	88	8	4
(b) Impose tough economic controls	36	50	14
(c) Increase taxes	16	73	11
(d) Tighten money supply	32	47	21
(e) Expand supplies and productivity	67	13	20
2. U.S. troop strength in Europe should be:			
(a) Continued at present levels	35	48	17
(b) Reduced through mutual agreements with Communist countries	54	32	14
(c) Unilaterally reduced	36	42	22
(d) Increased in number	3	74	23
3. Should Federal laws and regulations generally be strengthened in the following areas?			
(a) Occupational health and safety	44	41	15
(b) Consumer protection	66	26	8
(c) Environmental pollution controls	55	36	9
(d) Small business activities	30	48	22
4. Do you favor efforts to increase U.S. trade with Communist China and the Soviet Union	60	34	6
5. What action should the United States pursue regarding military spending:			
(a) Increase spending for military research and weapons	47	42	11
(b) Increase benefits to active and retired servicemen and dependents	28	55	17
(c) Reduce spending for military research and weapons	27	58	15
(d) Reduce benefits to active and retired servicemen and dependents	14	67	19
(e) Continue personnel benefits and weapons purchased at present levels	47	31	22

CONGRESSIONAL ADJOURNMENT

Each year the leadership in the Congress speaks of an early adjournment and I believe a serious effort is made to expedite necessary action. But, the passage of required appropriation bills which provide funds for the operation of the government always seem to hold up final adjournment as is true again this year. The earliest date now mentioned for adjournment is December 8 and it may even be a week or two later. Under the Constitution, the second session will commence on January 3 unless a different date is set by joint action of the House and Senate. Regardless of the date of adjournment, I believe Congress will have a period of about thirty days between the adjourning of the first session and the convening of the second session of the 93rd Congress.

MYTHS OF THE ENERGY CRISIS ANSWERED

Mr. HANSEN. Mr. President, no one yet knows just how severe the coming fuel shortages will be.

One thing is sure. We are in serious trouble. Another fact should be obvious and that is the urgent need to get on as rapidly as possible with the job of increasing supplies of energy.

There is enough blame for everyone—the Congress, the President, the oil companies, the Arabs and the Israelis. But continuing to point the finger of blame and further harassment of the energy industries will not do one thing to increase the supply. Rationing will not, either.

So let us forget the myths about the energy crisis and get on with the job of doing what we should have been doing for several years.

Two excellent articles on our energy dilemma were published in the latest issue of Future, the U.S. Jaycee magazine.

One, "Whither Energy," explodes the myths of the energy problem and the other, an interview with Senator DEWEY BARTLETT, is an excellent assessment of how we got in this mess.

I would recommend both to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHITHER ENERGY?

(By Robert L. Feuquay, Jr.)

Herewith *Future* tackles one of the most mind-boggling problems facing contem-

porary society: The energy crisis. Read fast, your kilowatts may go anytime.

First, the bad news. The U.S. is facing the most severe threat to its existence in history. That statement takes into consideration the Civil War and both World Wars. What those two great calamities could not do the energy crisis could very easily accomplish; that is, the U.S. could go out of business as a nation. And it could happen literally almost overnight.

Sounds like a gigantic scare tactic, doesn't it? We have been raised for so long with the myth that only a nuclear holocaust could crumple us that it is virtually impossible to believe that a cessation of energy could do us in. But the new fact remains: A termination of our energy sources would cripple us faster and more completely than an all out nuclear attack! And our chances for recovery would be nil.

It is perplexing that, facing this unparalleled crisis, there is yet so little genuine public concern over it. While the top boys in government are trembling in their boots, the energy crisis has yet to mark a profound reaction on the citizenry. Certainly, it can't be for lack of coverage; the popular press has devoted millions of words to the crisis over the past two years. Then why so little alarm? I believe that the public does not understand what energy is. Misconceptions on the subject are rampant. Energy is an abstract word, war a concrete one. We have an instant gut reaction to the latter because we know what it is, but the former means little to us in a positive sense. Millions of barrels of oil, deadweight tonnage, pipelines—what do these things mean? They're not sinister or threatening terms, they are simply the ingredients of a very large business. So what's a little oil more or less? Or who cares where it comes from as long as it doesn't hurt anything or mess up the land? Lights, air conditioners and car ignitions are turned on by switches, so what's the big fuss?

The above are just a few of the dozens of energy myths that cloud the thinking of the average man and woman. This article will attempt to deal with some of those myths.

Myth: *The energy crisis is a fabrication of the oil companies.*

The popular reasoning here is that the oil companies are crying wolf in an effort to ultimately win public approval for sweeping price increases. Wrong. The oil companies are screaming because they are scared. Domestic oil production is drying up, U.S.-owned foreign oil is threatened by mercurial political situations, and a *producing* business does not like to have to buy its product from other sources—it understandably wants to produce it.

Now that is not an apology for the U.S. oil industry. It is evident over the years that deep brotherly love has not been the prime motivating fact of the oil industry. Something more like profits has been the guiding star, but then no one has ever confused business with churches. Money making is the name of the game in our society and we have done quite well by it. Although where oil is concerned the "bigness" of the game is truly staggering: The yearly sales of Standard Oil of New Jersey and its affiliates are more than the yearly gross national product of Austria ($18.7 billion for Jersey in 1971).

Still, the oil companies are not the villains in the energy crisis. The only legitimate trouble-maker is supply and demand. We are simply demanding more energy than is available. The crisis is that we *must* meet the demand for, as we will see in a minute, it's not a question of turning the clock back. The servant, energy, has become the master; we are utterly powerless as a nation not to heed this new and total dictator. We are all presently enslaved to the giant—the oil companies as much as the man in the street.

Myth: *Running out of energy is not so bad. Our grandparents did without it. We can too.*

"A termination of our energy sources would cripple us faster than all out nuclear attack."

This rationale is so simplistic that it is amazing that well educated, thinking people could support it. It is the favored logic of some environmentalists and many, many others. It is no less harebrained than still insisting that the world is flat. People who believe this myth apparently conjure up visions of a return to pot belly stoves, the horse and buggy, candle light, and other staples of Currier and Ives prints.

Okay, here's the true story: We are exactly like the 10 year coma victim who, when the brain suddenly returns to normal life, discovers that his legs have become so shrunken from disuse that he is no longer able to walk. He is a permanent cripple. We are that patient in regard to energy. We have slept through five generations while our energy servants built us an entire new world of power, ease, and leisure. It is impossible to return to the old; we have lost our legs.

Here are some things we face if our energy supply should halt. All major cities would become deserts. Of course New York and Chicago were around a hundred years ago, but they were not the same cities that they are today. And they can't be rebuilt to what they were then. Without electricity and central air conditioning and heating virtually every major office building in the U.S. would be rendered immediately inoperative. In the summer, office windows could be smashed to let in air (the majority are sealed), and a 10, 30, or 50-story climb would do many a world of good.

As for urban home life, it too would vanish. Without fuel, trains and trucks could not supply food. That would spell an immediate evacuation to the farm lands—on foot or bicycles since gasoline would not be available. Millions would starve to death.

It is pointless to continue with these scenarios since it is inconceivable that the logic of the situation is not immediately apparent. Even our vaunted national defenses would be useless without energy. Not even Clint Eastwood could hurl an anti-ballistic missile at an aggressor; it reaches its target with fuel.

It is quite alright for those who wish to go back to nature to do so. They can go into the wilderness and build their cabins and trim their wicks (no, that involves kerosene; they'd have to make candles), and live out their lives in the manner they choose. But this nation of 200 million can't do it and survive as a nation. We have come too far.

Myth: We'll get out of this without any serious problems by developing forms of energy other than oil and coal.

At least this myth has some fact. Our long term salvation is in other energy sources, a weaning away from our present oil dependence. But time is the essence of this myth for those who invoke it imply that we will somehow switch over to nuclear, solar, or some alternative forms of energy overnight. It just ain't so, McGee. Nuclear energy, which offers the greatest promise as a new major energy source, now supplies a slim one percent of our energy needs. Nuclear power will not be a large scale reality (indeed, it may die a premature death) until the late 1990s.

An important point should be made here: It is easy to conceive of new energy sources, but developing the technology to translate those conceptions into working facts is a different matter. Thus, no one questions the reality of solar energy. It is an indefatigable source but it is not yet ready to be harnessed on a large scale. The technology simply does not yet exist and many years will pass before it will. The same is true of tidal energy, hydrogen, and all the other possible sources of power.

The one bright hope for the immediate future is plain, old fashioned coal. Since the oil ascendancy, the black rock has become the ugly sister of the energy team. Oil and its counterpart, natural gas, are clean, efficient, and easily transportable. Coal is bulky, dirty and somewhat inconvenient to use. But we have mountains of it, literally. Our known coal reserves at our present rate of energy consumption are sufficient for 400 years! And our unproven reserves probably 10 times that.

The question is what to do now? Coal means mining and mining means disturbing the land. Additionally, coal technology is outdated and that certainly covers present mining equipment. Coal trains have become practically a thing of the past and yet they are essential to coal's transportation.

But the real coal bugaboo is environmental. How much of the land do we sacrifice to satisfy our energy appetites? Here is where the hard core environmentalists become rabid. The very word "strip mining" is enough to send them into seizures. Now I do not mean to come down hard on environmentalists. Heaven knows we've done enough to wreck this planet, and if it weren't for the voices crying in the wilderness there probably wouldn't be any wilderness. Anyone who has driven through the stripping disaster that is West Virginia, or the oil hell hole that fringes Newark, New Jersey, knows how well energy companies respected the environment in the past. (I once showed a picture of a filthy rigging operation—the land torn asunder for as far as the eye could see—to an executive of the American Petroleum Institute. He warned me that it would never do to show such a picture of our Alaskan oil operations. The picture was actually a Soviet shot of a Siberian undertaking.)

But the point at hand remains that we cannot have it both ways. We must maintain our energy level, indeed, expand upon it if we are to remain secure as a nation. Only a fool would agree that America would continue unmolested if we were brought to our knees by a precipitous energy decline.

ENERGY, THE PICTURE TODAY

During each day of the year, the U.S. consumes more than 15 million barrels of oil. Over a year's time, that averages more than 27 barrels for every man, woman and child. Remember, this is only oil. To that must be added the vast daily consumption of power from natural gas, coal, hydroelectric and, on a smaller scale, nuclear energy.

More than any nation in the history of the world, the U.S. is dependent on energy sources in every form. We put gasoline and diesel fuel into our motor vehicles; coal, natural gas, and residual oil into our generating plants for electricity and heat, and into our industrial plants for millions of products; bunker fuel into our ships and jet fuel into our planes; light fuel oil and natural gas into our homes.

It is no coincidence that our country and others with high rates of energy consumption also rank at the top in living standards. Studies have shown a marked correlation between a nation's rate of energy consumption and its per capita income.

At present, we get our energy from these sources: oil, 44 percent; natural gas, 32 percent; coal, 20 percent; hydroelectric power, four percent; nuclear, slightly under one percent.

Thus, fossil fuels provide more than 95 percent of our energy. These ratios will change some over the next 30 years, but the increased volume of energy required from each source will continue to be tremendous.

Of course, fossil fuels are those finite fuels which are in the land and under the water. When they are gone, there isn't any more. This fact has caused many people to demand an immediate cessation to the use of fossil fuels in an effort to preserve them. This reasoning is faulty. There is absolutely nothing wrong per se with using every bit of fossil fuel up to the last drop or ounce. It is of no use whatsoever to any living creature if it just lies in, on, above or below the ground. Not using fossil fuels because they will eventually run out is akin to not eating because the food will then be gone.

The proper argument should not be whether to use fossil fuels but how and in what manner to use them. Of even greater importance than that question is the need for an immediate decision to go full steam ahead on complete development of alternative energy sources. We should not be stuck with only fossil fuels—we should have a chance to utilize many and varied energy sources. We could then tailor the types of energy to specific jobs, something that is not possible as long as we remain tied to three prime energy sources: oil, natural gas, and coal.

These decisions must be made now.

ENERGY AND GOVERNMENT

Many politicians are scared of getting embroiled in the energy impasse. Not a few have come close to losing their heads over it in the past, and the memories linger on. Still, the government has a responsibility to the people to see that we do not freeze to death, or spend every dollar we have paying for fuel.

Mr. Nixon's recent energy appointments, statements and collateral actions demonstrate his awareness that the problem won't vanish of its own accord. The Congress similarly has assumed a leadership role in its historic vote to proceed with the trans-Alaska pipeline, although when producing at top capacity all of Alaska's tremendous oil will provide only 10 percent of the nation's needs.

But government must do much more if we are to survive this crisis intact. Government's mild exhortations to use our blenders less, turn off the bathroom lights, and wear less heavy clothing in order to reduce our air conditioning needs is Alice in Wonderland double-talk. The really thorny problems that need to be tackled immediately are such things as fuel rationing, commercial travel curtailment, fuel consumption penalties (he who wants to drive a big car must pay for the privilege), and private automobile travel restrictions. The proposal of these or any other personal freedom infringements is enough to turn most Congressmen ashen. Yet there is no present alternative. The picture is vividly clear: We cannot continue our profligate expenditure of energy. We must cut back drastically and we will only do that when we are so ordered by law. The great majority of Americans are not going to voluntarily walk three blocks to the supermarket if there is any possible way of getting their cars there. Congress had better realize this and get hopping on methods to conserve energy. We need to be curtailed in our energy uses for our own well being regardless of how repugnant the idea is. The time has come for sweeping legislation, not feeble stop-gap measures.

Rapid transit is also a government concern. It is the only solution for getting millions of cars off the streets, thereby saving billions of gallons of gasoline. The freeing of funds from the highway tax for rapid transit development is a step in the right direction. Now time is of the essence.

Perhaps the most pressing energy item now for legislative concern is the oil import situation. We are presently importing slightly more than 25 percent of all of our oil, most of this from nine highly unstable countries in the Middle East. (These are member nations of the Organization of Petroleum Exporting Countries. They are. Abu Dhabi, Iran, Iraq, Kuwait, Quatar, Saudi Arabia, Algeria, Libya, Indonesia, Nigeria and Venezuela.)

As the U.S. becomes more frantic in its search for petroleum, the more it plays into the hands of the oil-rich Middle Eastern nations. Already some OPEC members have moved to "nationalize" U.S.-owned petroleum companies within their countries, and this cry is sure to gain momentum. Were the OPEC nations to halt petroleum sales to the U.S., which is an ever-present threat, we would be in desperate straits immediately. And, of course, few people are saying what oil-inspired leverage could be brought against us at any time in regard to our stated pro-Israel position. International events have turned frequently on far less explosive issues than our rising dependence on Middle Eastern oil. It is our government's solemn obligation to extricate us from this critical import net quickly. This can be done by opening the doors to more domestic oil and natural gas production as well as incentives for coal retrieval. The Middle East dependence is a critical issue, and only Congress and the Executive can defuse the time bomb.

SOME UNPOPULAR PROPOSALS

The present energy situation is one of the few national crises—perhaps the first—where the average citizen is more or less powerless to help remedy the state of affairs. Naturally there is the power of the vote, of making ourselves heard in Washington, but there are few direct actions we can take to ease the situation. The brunt of the problem lies with big business, international machinations, and U.S. state and foreign policy. Cutting back a bit individually in electricity and fuel consumption is to lock the barn door after the horse has bolted. It should be done but it won't save us from our present predicament.

Three things must now happen to alleviate the energy crisis. Some very bitter medicine is contained herein.

1. We must rapidly promote the development of energy sources other than fossil fuels. Since the technology necessary to the production of nuclear energy is already known, we have no choice but to proceed full apace. As it now stands the construction of nuclear reactors for energy is at a standstill owing to fierce legal battles waged by environmentalists and communities where such reactors are planned. But the arguments must stop, building must begin. The inherent risks in such construction, grave as they may be, do not offset the calamity we face if we postpone or delay too long. We must live with the danger for the time being.

Naturally we must also push ahead development of other energy sources, but since nuclear energy is presently the most advanced, we must proceed down that road immediately.

2. Coal must be brought into greater play. If we must offer the coal industry greater incentives for new mining, then so be it. And, of course, we will have to rescind in some measure many of our present air quality environmental laws. Coal, as a rule, is higher in sulfur content than oil or natural gas. But it would be better for the time being to allow some additional levels of sulfur dioxide into the air than to bend to the harsh demands of the oil exporting nations.

3. We must encourage the domestic production of petroleum and natural gas. This again means that some environmental rules are going to be severely bent or suspended for awhile.

The easy-to-reach petroleum deposits in the U.S. southwest have been pretty well depleted. That means we must encourage, rather than hinder, domestic offshore exploration. (It is an interesting statistic that of the more than 16,000 offshore oil wells now present only three have blown out effecting major spills.)

Of course, we need not kowtow to the oil industry but we must learn to live with it and even try to understand some of its many problems. There is evidence that, prompted in large measure by public indignation over a past history of recklessness, that the oil companies may turn at last into good guys. (Although I for one wish they would drop their current holier-than-thou posture. There is something offensive in a major oil company trucking out an advertising campaign that speaks of "the real" and "the ideal" in almost religious tones.)

In the midst of this crisis it is unlikely that our East Coast states will retain their much vaunted virginity against the advances of the drill's bit. The East Coast contains an estimated 42 billion barrels of oil and 228 *trillion* cubic feet of gas. We are going to have to tap those reserves sooner or later—and probably sooner.

SOME WARY OPTIMISM

We will survive the energy crisis in the long run, although our lives are going to be altered in many ways by it. Were we to truly run out of all of our fossil fuels, then the situation would be hopeless. But we have an ample domestic reserve of these fuels to sustain our energy needs for a long time, well into the period when we begin wholesale conversions to other energy sources. The problem at hand is to tap those resources as quickly and economically as possible even though energy is never again going to be the relative bargain we have taken for granted for so long.

We will certainly have to make some accommodation with our environmental priorities during the foreseeable years. (*Future* will cover the environment in other issues.) Yet it is unlikely that all of our progress to date will go down the drain. We have worked too hard for that to happen; still, we will have to learn to give in on certain points for the time being.

The energy crisis is most definitely not an abstraction. It is a fact that is now making itself felt on the life of every citizen. None of the answers to the crisis are simple and some are distinctly distasteful. Nevertheless they must be fully pursued if we are to win the final victory. We must henceforth think of ourselves as a nation at war—not with a foreign power, but rather with the conditions of our very own existence. As is true with all wars, we will emerge the victor only if our sacrifices are stringent enough to assure total and complete successes. Everyone is now part of the army.

AN INTERVIEW WITH SENATOR DEWEY F. BARTLETT ON ENERGY

(Interview by Reg Parrish)

(EDITOR'S NOTE: It has been popular during the past few years to blame the oil industry for everything from a spoiled environment to Machiavellian maneuverings on the international scene. Now, with the energy crisis engulfing us, we are more interested than ever in the oil industry—the source of the majority of our energy.

Senator Bartlett is an ex-oil man himself. Further, the distinguished GOP Senator hails from Oklahoma, a prime petroleum producing state. We thought it would be of considerable interest to ask Senator Bartlett to address himself publicly to some very pertinent, and not easily answerable questions as regards our current energy plight.

Future would also like to give equal space to any Congressional colleague of Senator Bartlett's who might like to challenge some of the Senator's views. Such an interview could prove very interesting.—JWH)

PARRISH. Senator Bartlett, would you be kind enough to state your views on the role of government in relation to energy supply, demand, and production?

Senator **BARTLETT.** I believe that government has a responsibility to stimulate both the short and the long term growth and expansion of the energy industry: oil, natural gas, coal, nuclear and so forth. It must also see to it that there is at all times a sufficient supply of energy from reliable sources to satisfy our needs and to protect our national security. And all of this must be accomplished at the lowest possible cost.

Parrish. There has been talk that the current energy crisis is somewhat artificial. That is, that oil and natural gas producers are holding back production in an effort to force new price increases upon the consuming public. Would you comment on this, Senator?

Senator Bartlett. This, of course, is a very serious charge and were it found to be true it would have grave implications. As you may know, the Federal Trade Commission is conducting an investigation of the oil industry to determine if there have been any violations of the anti-trust laws, or any evidence on the part of the industry to withhold production or fix prices. I hope that such an investigation does not turn into a witch hunt because there is a real opportunity here to bring all the facts before the people and to provide justice.

As to my knowledge of information in support of charges, I possess none. For the past six months I have served on the Interior Committee which has held hearings for over two years relating to such rumors. During that time, the Committee has not to my knowledge received any reliable or factual information of a conspiracy.

There are some 439,000 people employed in the exploration and production aspects of the oil industry. If there were such a thing as a conspiracy I think it highly unlikely, with so many people involved, that the secret would not come out in candid, striking terms.

Parrish. As you see it, Senator, the oil industry is without blame?

Senator Bartlett. I have no knowledge of any conspiracy on the industry's part. That is not to say that the industry is without blame and errors in other matters.

I think the industry miscalculated—and so did the government—in estimating our present and future energy demands.

As the energy shortage developed, I blamed the large oil companies for taking advantage of it by canceling contracts with some independent marketers and refusing to sell at all to other independent marketers who had served a useful purpose for years by purchasing refined products, including gasoline at reduced prices. I know of no illegal actions by the major oil companies but I do not consider their actions fair.

Parrish. What do you see as the long term effects of the energy crisis? How long do you think it will be with us, and what are some of the things we can expect as a result?

Senator Bartlett. Well, I think the crisis will be with us for 15 or 30 years. By crisis I mean off and on shortages, threats of shortages, and threats to our national security and economy in the form of extremely high prices and interruptions in our supply of foreign crude oil and natural gas.

How severe the shortages may appear and what sacrifices Americans may be called upon to make because of the shortages depends, of course, on whether we are in a peaceful era or one with some very real tension. It depends whether the OPEC (Organization of Petroleum Exporting Countries) nations continue to blackmail us by threats or actual cutoffs of some or all of our oil and gas imports from one or more OPEC nations. This is very serious in light of the fact that we now import approximately one third of our petroleum, and that the Chase Manhattan Bank predicts that we will import at least 50 percent of all our oil by 1976. This naturally makes us very dependent upon foreign supplies, and it is never to a nation's advantage to be overly dependent upon another country for essential supplies.

We are certainly leaving the era of plentiful, low-priced energy and moving into an era of limited supplies and higher energy costs. This means we will see some basic changes in our life styles. Housing and office construction will probably be modified in an effort to increase energy efficiency and thus reduce wasteful usage of electricity, lighting, heating, and air conditioning. We will also be forced to adapt to less personal automobile usage than we now enjoy. I think it's a whole new ball game we're playing in, but no one is quite sure yet of the rules.

You see, everything is tied to energy. If we are to grow and expand as a nation—our standard of living, education, quality of health care, efforts to eliminate poverty, etc.—we must maintain and expand our energy resources. If this is not possible, then we will no longer be able to maintain our present number one ranking among nations—that would be a disaster to world peace.

We have to change our way of looking at energy—and food for that matter, too. We have become accustomed to an over-supply of both, but now we are seeing and feeling the results of a supply reduction in each of these. Also domestic prices are no longer higher than foreign prices. Today they are lower. We need the incentives to change our concerns from over-supply to solutions for our shortages. Until recently we were not too concerned about the influence of foreign demand on our domestic energy and food supplies. Now we must be highly cognizant of foreign influences and demands.

Parrish. How is the price of foreign oil affecting our domestic oil industry?

Senator Bartlett. The prices of foreign oil and gas continue to increase. This puts pressure on our domestic prices to increase notwithstanding our domestic price controls on oil and gas. It seems foolish to me that we should pay premium prices to other nations to develop *their* oil and gas industry, rather than paying the same prices to ourselves, thereby assuring our country an independent source of energy. The best guarantee of fair prices for foreign crude oil and gas lies with a strong domestic energy industry.

Parrish. Is there anything that a civic action group, such as The U.S. Jaycees, can do to help alleviate the present energy crisis?

Senator Bartlett. You bet there is. I would encourage the Jaycees, and other groups interested in the economic welfare and national security of this nation, to launch an independent study of our energy situation, our policies and practices. There is a great need to inform the public, to promote a comprehensive understanding of the seriousness of this crisis. The Jaycees might consider establishing an energy committee to tackle these vast problems. I think it requires a forward-thinking group to understand just what the energy crisis means and to prepare this nation to face up to the challenge and solve it.

This is a very serious problem that is going to be with us for a long time. It affects all of us directly and it affects our ranking as a great nation.

I urge the Jaycees to give as a nationwide project top priority to the energy crisis. We need all the fresh thinking we can get, and the Jaycees have an admirable history for seizing the initiative in such challenging problem areas. The help of the Jaycees would be invaluable to a sound solution of this critical problem.

One of the problems is that many politicians cannot resist the temptation of developing good public relations for themselves—brownie points with their constituents—by making a scapegoat of the oil and gas industry at the expense of taking the necessary steps to eliminate the shortages of domestic energy.

TRIBUTE TO THE LATE FORMER REPRESENTATIVE THOMAS M. PELLY

Mr. JACKSON. Mr. President, we in the Congress and particularly those of us from the State of Washington feel a deep loss today. Former Congressman Thomas M. Pelly, who represented the First District for 20 years, passed away last Wednesday, in Ojai, Calif.

Tom Pelly was a delightful man to work alongside all of those years.

He was an effective Congressman, and he added a touch of humor and brightness to every event he attended.

The son of Seattle's British consul, Tom Pelly was as American as Mark Twain. He enjoyed quoting Twain in tense moments. With a quiet humor, he lightened the burdens of all of us and helped us find the answers to difficult questions.

Tom Pelly's father served as consul for the British Government in Seattle for many years, and when Tom reached the age of 21, he was offered the choice of a British or American citizenship. He chose the United States, while a brother chose Great Britain and went on to a long and distinguished career in the British foreign service.

Congressman Pelly liked to recall the day his brother was clipping the Congressional Record for the British Ambassador here when he encountered a blistering attack on Great Britain issued on the floor of the Congress by Tom.

In his 20 years of service in the Congress, Tom Pelly gained the ranking minority position on the Merchant Marine and Fisheries Committee and a high position on the Science and Astronautics Committee.

He played a major role in obtaining the beautiful Shilshole Marina in Seattle and personally called on Sherman Adams at the White House to obtain Corps of Engineering funding for that project. He had the assistance of then minority counsul of the House Public Works Committee Russell Train in drafting House legislation for the marina.

During his career, he was closely identified with the Seattle waterfront and helped bring it to its present status as one of the world's great ports.

He managed in his career to maintain the respect and support of both labor and management of the merchant marine and fisheries industry.

He also took special pride in his role on the minority's watchdog committee in the House, calling attention to backdoor spending of the executive branch.

Retiring in 1972, he returned to Seattle where he and his wife, Mary, reestablished their residence. It was in Seattle that Tom Pelly first gained the attention and admiration of all of us with his tireless efforts in behalf of his community. A successful businessman as president of a large office supply and stationery firm, he found time for innumerable civic undertakings.

During World War II, he was active in United Service Organization activities. The year before he was elected to Congress he was president of the Seattle Chamber of Commerce. He had a keen and contributing interest in the Seattle Symphony.

While we differed on many political issues, Tom Pelly had the magnificent talent of disagreeing without being disagreeable. His presence always assured a smile. We will miss him in the Congress and especially in his birthplace. Washington State.

BIG BUSINESS HAS A HEART

Mr. PERCY. Mr. President, I am aware that among the general population, big business often has the reputation of being cold and without heart, concerned more with profits and power than with the happiness and welfare of individuals. As a former businessman myself, I know that this reputation is ill deserved, and I would like to bring to public attention the existence of a group in Chicago that completely belies that reputation.

A group of prosperous businessmen and a few welfare mothers have formed a unique alliance, sharing their resources to bring direct assistance to needy Chicago families. A partnership of this type can accomplish—and has indeed done so—the simple goal of people helping people, a goal that governments and bureaucracies, no matter how well intentioned, often fail to accomplish.

The Chicago Tribune recently carried an article on this very special group. I ask that it be printed in the Record with the hope that the public will recognize that big business can be humanitarian and altruistic. I also hope that other businessmen will recognize how much good can be accomplished through the simple, direct efforts of individuals working with one another and will launch similar ventures.

There being no objection, the article was ordered to be printed in the Record, as follows:

They Wheel, Deal for Needy

(By Anne Keegan)

Three of the best wheeler dealers in town had just arrived.

But nobody in the lobby of the Board of Trade Building even recognized them.

They slipped into an elevator and rode to a floor housing one of the largest stock brokerage firms in the country. Then, into a conference room where the firm's vice president sat. It was time for the monthly reports.

But when the three started talking money, it was not in millions or even thousands. It was in simple dollars and cents.

These wheeler dealers don't play the futures or worry about capital gains. Their investments, tho large, are not financial. The three are mothers—welfare mothers—who deal in poverty.

Poor-savvy and street-wise, they work the section of the city where they live, providing help and emergency funds for the poor. In their neighborhoods, the word has gotten around. Unencumbered by the red tape of city and state agencies, they provide fast action for the people who need it.

Wanda, the mother of five, works the North Side; Sherron, the mother of eight, works the West Side; and Carol, the mother of six, works the South Side. They all work for nothing.

Backing them are a handful of wealthy businessmen. The men, who wish to be anonymous, donate money and their skills to raise more. The three women, with their first-hand experience are the eyes and ears and legmen.

Together, businessmen and welfare mothers, they form the unique entente. It is called the Emergency Fund for Needy People. It has no administrative costs or offices—only a mailing address of Third Floor, 360 N. Michigan Av.

Each month the women receive a check for $200. And each month they meet with one or all the men to report how they spent it.

For one hour this week they ticked off their lists: shoes for kids with only socks; carfare for a man to get his first job in six months; diapers and undershirts for a young mother whose husband moved out with the clothes, furniture, and all the money.

For one hour they talked—discussing the status of a congressional funding bill with as much ease as the prices of tomato paste in stores on the West Side. The stock broker listened carefully and shook his head on occasion.

"There was this family with eight kids, four in high school," said Wanda. "But the four weren't going to school because their clothes were in tatters and the children were making fun of them. I bought the boy two pairs of pants and two shirts. . . . That's $17.50.

"I found a woman who sold me six outfits for the girls. The whole lot was $20. They were worth $150. I got a good deal for them," she said smiling.

"Then there was an old couple with a daughter with cerebral palsy. They were on Social Security. They had nothing to wear. I bought the girl corrective shoes. I bought the old man some warm clothes—he'd been giving his things to his wife.

"And I crocheted the old woman a shawl just in time for their 49th wedding anniversary. He gave it to her as a gift. Then he told me he never takes anything for nothing so now I've got him fixing up old toys for Christmas presents for the kids in the neighborhood.

"I had a woman with a 2-year-old baby who'd had skin grafts. The baby had always wanted a birthday. He'd never had one before. But her welfare check had not come. So I bought a birthday cake and wrapped up some toys I'd collected and the baby had his first birthday . . . on time."

"Magnificent," said the broker. "The small amount of money needed to alter situations . . . And the way you girls know the system. I guess that's why we exist.

"When people in emergency situations just cannot find recourse to cut thru bureaucracy . . . to get help when they need it when it could take weeks thru official channels."

"Now next month we're going to need some things," one of the women said.

"What do you need?" asked the broker.

"Vitamins," said Carol, "for the children."

"Clothes," said Sherron.

"Bibles," said Wanda. "A lot of senior citizens would just like to be able to have a Bible in their hands."

"How many?" asked the broker.

"Twenty," she replied.

"Okay, Wanda," he said with a smile, "you've got them."

FREEDOM OF INFORMATION

Mr. MUSKIE. Mr. President, a distinguished group of constitutional scholars, judges, lawyers, journalists, and congressional aides met for 2 days last June in the Chief Justice Earl Warren Conference on Advocacy to consider various problems relating to Government and the first amendment. Their conference, sponsored by the Roscoe Pound-American Trial Lawyers Foundation, has now issued its report in which are included 12 specific recommendations dealing with access to Government information. Many of the recommendations are similar to those contained in S. 1142, a bill I introduced in March of this year, to amend the Freedom of Information Act. I believe the conference's dozen recommendations and the helpful commentary on each one can be of assistance to the Congress as we consider ways to make the Freedom of Information Act a more effective instrument for open, responsive Government, and I ask unanimous consent that the recommendations be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Final Report: Annual Chief Justice Earl Warren Conference on Advocacy in the United States, June 8-9, 1973, sponsored by The Roscoe Pound-American Trial Lawyers Foundation]

Recommendations Dealing With Access to Government Information

XI

Government agencies should be required to respond to requests for access to public records within 10 to 20 days.

(Unanimously adopted).

Commentary: One of the major problems with the operation of the Freedom of Information Act is the time that it takes to answer a request through the administrative process. It is not uncommon for an agency to take from two weeks to six months to act upon a request under the Freedom of Information Act. As a result, the Act has been, to a large extent, futile and unused by the news media, which needs information on a deadline basis. By setting a time period of 10 to 20 days, this problem would be resolved.[1]

A Chief Public Information Officer should be placed in each government agency to be responsible for handling Freedom of Information Act matters.

(Narrowly Adopted)

Commentary: A Public Information Officer (PIO) is sensitive to the needs and interests of both citizens and the news media in connection with obtaining information from the agencies. However, some Conferees stated that the job of the PIO might be to make the agency look good in the eyes of the public and that a PIO would be reluctant to release information that showed the agency in an unfavorable light. Others believed that a PIO would restrict the flow of information in certain circumstances.

XIII

The Freedom of Information Act should apply to Congress.

(Adopted by substantial majority)

Commentary: If the Freedom of Information Act is to secure the people's right to know the actions of their government, this should extend to the legislative as well as the executive branch. Congress has attempted self-reform in connection with public access, but it is coming too slowly and in piecemeal fashion.

Some Conferees felt that legislators need confidentiality especially in mark-up sessions and in meetings with staff, and to make the Act apply to Congress would be to cut off some of the valuable internal discussions that take place.

XIV

The principles of the Freedom of Information Act should be extended to the states.

(Adopted unanimously)

Commentary: It was recognized that each state has different statutes and conditions governing access to state and local information. But information in the possession of state and local governments affects very closely the lives of the governed. Therefore, the Conferees felt that all states should adopt laws similar to the federal Freedom of Information Act so that the public will be informed about government actions at all levels.

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[1] Mr. Lightman commented that 10 to 20 days may be too long a period for the news media to wait for needed documents. He would like to see a 24 to 48 hour maximum response period.

XV

Courts should be permitted to assess the government for court costs including legal fees incurred by successful plaintiffs in taking Freedom of Information Act cases to court.

(Adopted by substantial majority)

Commentary: The public and members of the press, who are without great financial resources, have been unable to avail themselves of the judicial review provided by the Freedom of Information Act because of the high cost of legal fees. The costs can run more than $1,500 for even the simplest of cases. Public use of the Act would not normally result in financial gain and there are few individual citizens who can afford to bring a case under the Act under such circumstances. It was pointed out that only when an agency is subject to court review does it begin to comply with public access requirements in any meaningful way. Granting legal fees to a successful plaintiff was seen as a means of bringing more cases to court and thereby improving agency compliance. Paying legal fees also was seen as a penalty against agencies for wrongfully withholding documents.

XVI

Sections of government records which are the final work product of a professional, should be a public record and should not be withheld as an internal memorandum.

(Adopted by substantial majority)

Commentary: Under Section (b) (5) of the Freedom of Information Act "interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency" may be withheld from public disclosure. Large numbers of government documents contain factual information intertwined with opinions or recommendations and these documents—usually in the nature of inter- or intra-agency memoranda—often are withheld solely because of opinion content, not because of the facts.

When these documents are the end product of the work of a government professional, the final written work should be a public record regardless of the opinion content, thus making the public aware of the basis for government actions and permitting a meaningful evaluation of government decisions.

XVII

(Note: The following are interrelated recommendations.)

A. There should be special counsel, acceptable to the plaintiff, who will meet security clearance qualifications of the government, with the cost of clearance borne by the government.

B. Any attorney may seek a security clearance without connection to particular case so that the attorney may be able to participate in any future *in camera* proceeding involving classified documents while representing a plaintiff.

(Adopted by substantial majority)

Commentary: The obvious problems of allowing counsel to participate *in camera* is that, if extremely sensitive documents are determined by the court to be properly withheld, they should not be shown to persons not "cleared" to see them. To avoid this problem the Conferees adopted proposals to have attorneys "qualified" to participate in *in camera* inspection.

If special counsel is determined to be necessary, because of the government's argument that cases involving security information cannot be argued unless all participants are cleared for access to security information, the government should bear the cost of the clearance regardless of the outcome of the case.

XVIII

In order to withhold any part of any government document from the public, the government should justify the withholding of that part of the document, and should not merely assert that the specified document contains "secret" material.[2]

(Adopted by substantial majority)

Commentary: One of the greatest problems in government classification of and refusal to release documents is overclassification. Normally, whenever any document contains any reference sentence, or phrase, deemed "secret" by the government the whole document is classified and any derivative documents which come from or refer to the original document receive the same classification as the initial document, even though they may not refer to the particular item which necessitated the classification. In this way, millions of documents which have no justification for classification, and which deserve only partial classification, are fully classified.

XIX

The court system should have the following powers:

A. To exercise a *de novo* review under the Freedom of Information Act of the classification of records which are withheld from the public in the name of national defense or foreign policy.

B. To examine, *in camera*, the content of such documents to determine the propriety of classification.

C. To order the release of classified information when the classification is considered improper.

(Adopted by substantial majority)

Commentary: This Recommendation resulted from a discussion of the recent Supreme Court decision in *Environmental Protection Agency v. Mink*, 410 U.S. 73, (1973). In that decision the Court stated that, under the Freedom of Information Act, the district court could do no more than determine whether the document sought was classified by the agency pursuant to executive order. If an agency certified by affidavit that the document was in fact classified, the Supreme Court held that the district court's review could not review or assess the propriety of the classification. In reference to 5 USC 552 (b) (1), which permits withholding of matters that are specifically required by executive order to be kept secret in the interest of the national defense or foreign policy, Justice Stewart stated in his concurrence:

"... it (Congress) has built into the Freedom of Information Act an exemption that provides no means to question an Executive decision to stamp a document 'secret', however cynical, myopic, or even corrupt that decision might have been. 410 U.S. 73 at 95."

The preceding Recommendation is an attempt to provide the courts with the means to review the decisions of agencies which withhold documents under Section (b) (1) of the Freedom of Information Act. Section (a) (3) of the Act directs that district courts determine cases *de novo* with the burden on the government agency to sustain its withholding. The Recommendation would clarify the Congressional intent to apply the court's *de novo* review powers to matters under Section (b) (1). The question was raised whether a district court judge is competent to review questions of major national and international importance. The Conferees determined that, even though there might be some difficulties with court review, it would be better than the present system of unchallengeable Executive power in withholding government records in the name of national defense or foreign policy. The district court in its review should be able to develop standards of what should be classified without having to rely solely upon the standards provided by the President in current Executive orders.

XX

Adversary counsel should be present at *in camera* proceedings.

(Adopted by substantial majority)

Commentary: This is necessary to protect the rights of plaintiffs to guarantee that the court receives full benefit of arguments from both parties. If counsel for plaintiff is not allowed to participate *in camera*, he can only argue abstract theories of law before the court since he will not know the contents of the documents that the court is reviewing.

The Conferees discussed the proposal that a review by the court of the documents should be exclusively *in camera*, without counsel, but with government representatives that the judge deems necessary.

The Conferees felt strongly that counsel for plaintiff should be permitted to participate in proceedings *in camera* so that he can adequately advocate the position of his client. The Conferees did not find it an acceptable alternative to have *in camera* inspection conducted by the court and any outside expert that the court may wish to include. To do so might tend to deprive the plaintiff's counsel from knowing all of the facts so he can fully advocate his client's position.[3]

XXI

Specific intent to harm the nation's security should be retained as a basic element of the federal espionage laws.

(Adopted unanimously)

Commentary: U.S. Senate Bill 1400 (93rd Congress, First Session), an administration-sponsored recodification of the U.S. Criminal Code, would make release of classified information a criminal offense whether or not the releaser had intent to harm the United States or had reason to believe the release would be harmful. The Conference agreed that a person should be guilty of the crime of espionage *only* when specific intent to harm the nation, or reason to believe there would be harm, could be clearly shown.

The Conference agreed that the President should establish rules for protection of security information within the administrative structure of the Executive Branch but that the rules would have no force of law outside the Executive Branch. The Conference discussed and defeated a Recommendation on whether Congress should by statute, establish a system for classification and protection of national security information to include penalties for overclassification and underclassification.

XXII

A government agency should be established by Congress, independent of the Executive Branch, to review national security documents and report to a congressional committee on the use and abuse of the classification system and on the operations of the Freedom of Information Act.

(Adopted overwhelmingly)

Commentary: This agency would function in much the same way as the General Accounting Office, being responsible to Congress but not acting as a super-agency whose judgments would be binding on Congress or the courts.

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[2] Mr. Weaver cites, in support of this Recommendation, the decision of Judge John Sirica, Jr. (8-29-73), In Re Subpoena Duces Tecum, the Cox-Nixon suit, 360 F. Supp.1 (D.D.C. 1973), on the severability of privileged and unprivileged material and the right of the Judicial rather than the Executive Branch to make the determination as to privilege.

[3] Mr. Weaver stated: "In retrospect, probably reflecting considerable exposure to In Re Subpoena Duces Tecum, the Cox-Nixon suit, I think I would prefer *in camera* inspection by the judge alone, possibly with some sort of specially-qualified advisor. The presence of counsel, however cleared, seems to raise too many serious problems."

At present, there is no method of overseeing the system for classifying and protecting national security information, and the major implementation of the Freedom of Information Act covering non-classified documents is handled by the small staff of the Foreign Operations and Government Information Subcommittee.

GASOLINE RATIONING

Mr. TOWER. Mr. President, there has been much discussion recently with respect to the equity, wisdom, or efficacy of gasoline rationing. It is a very complex issue and many factors have to be taken into account before appropriate action is taken since such a decision will immediately touch each and every American citizen and the aftereffects are likely to be with us for a long time.

Before anyone decides for himself what would be the appropriate public policy, I would urge him to study carefully the recent article by the distinguished former Chairman of the Council of Economic Advisers, Dr. Paul W. McCracken. Paul McCracken tests each of three available options—rationing, gas tax, and market price—against the triple objectives of allocating petroleum to its most productive uses, increasing the basic supply, and treating everyone alike and concludes that only with the free market price will these objectives be met. If this forthright approach is not politically acceptable, then the least damaging alternative would be to have a coupon rationing system where the coupons could be freely bought and sold among individuals. I recommend to my colleagues the reading of the enclosed article, and ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 26, 1973]

COUPON BOOK ECONOMICS

(By Paul W. McCracken)

During the weeks immediately ahead decisions will be made about energy that will in quite fundamental ways shape not only our economy but also the future course of American life. And there is an uncomfortably high probability that we shall set ourselves on a course of action that will be difficult to reverse and bitterly regretted.

That we confront a difficult energy problem is clear enough. We are consuming oil at the rate of just over 17 million barrels per day. Domestic production is about 11 million and not rising. Directly and indirectly roughly one-third of the six million that must be imported has been coming from the embargo area. The annual growth in demand could be expected to add roughly another million barrels per day to our requirements, and this also would in the normal course of things have come from the Persian Gulf because that is where the oil is.

This confronts us with a tough problem, one whose gravity is not to be minimized. Looking toward the year ahead we have a shortfall in probable petroleum supply of 15% to 20% relative to normal demand, and oil and gas in turn supply roughly half of our energy requirements. When we remember that a spot shortage at one point can have domino effects in other directions, the large potential that this shortage has for disorganizing our economic life becomes apparent. But for a nail . . . some kingdoms can be lost.

What should our energy programs do for us? What are the guidelines for determining what we should do and should not do? Precisely because the problem is so urgent we need to take time enough to perceive the longer run consequences of our short run actions. We have this problem of energy today in part because we did not take time a few years ago to think through the longer range results of some immediate actions. In a seizure of evangelical fervor, for example, we charged mindlessly ahead on some environmental standards that were clearly building up requirements for oil and gas which could not be met even before the Mideast war. The result of this theologization of environmental programs, which tended to treat questions about consequences almost with contempt or as sin, is that as these painful consequences now become more apparent the perfectly good cause of having regard for our environment is threatened with being discredited. If so it will have hard going to recover support from a public understandably suspicious because of having been burned once.

There will in this urgent energy problem again be a tendency to act as if the problem is so urgent that we must mount our steed and ride instantly off at top speed without even taking time to make sure that we are headed in the right direction.

SOME SOCIAL VALUES

Efforts at voluntary conservation are, of course, commendable. There are even social values to be derived at these joint efforts for the common good. And there can be no doubt that habits about energy use, reflecting quite rational responses to cheap energy prices (and not, as some comments seem to suggest a new variant of original sin), have led to some uses that can readily be curtailed. Indeed, it is possible that something approaching half of our shortfall could be taken up by such careful using of energy more sparingly.

Rationing commends itself to many as the way to handle the remainder of the job. It seems fair because "everybody would be treated alike."

If we do go into rationing, certain predictions can confidently be made. One is that what starts out as "treating everybody alike" will be a program that each citizen is sure is discriminating against him. For one thing there is infinite variation in people's situations. Giving everybody X gallons per week, or even everybody in Z category X gallons, will be just fine for the inactive family whose car spends most of its time getting dusty in the garage; and it might be lethal for the active family using the car for all manner of things. There is a way to use this enormous variation in individual situations, but more of that later.

The result is that a rationing program in practice would waste gasoline and oil because simplistic and across-the-board rules, inevitable in such a broadside program, would put substantial amounts of these scarce products into the hands of those for whom the need would be of secondary urgency.

A more unfortunate aspect of rationing would be its adverse effect on public morality. If there is one lesson to be drawn from experience with these programs it is that black markets would flourish. Thus those with "flexible" standards of morality, or who have political pull, or who can work some other angle will do relatively well, while the ordinary decent citizen will wind up with the dry gasoline or oil tank. Economies that are managed by license and edict and coupon books are also economies with pervasive corruption and graft. This is no accident. Those possessing the authority to grant favorable decisions possess something of great value, and there will be growing numbers who are willing to pay the price. All they will need to do is look around them to conclude that almost "everybody does it."

The major weakness of the rationing approach is that it slows down the process of curing the problem. Businesses inevitably will be reluctant to commit capital for products that are to be sold in a rationed market. It is one thing to bet one's ability to match wits with market forces and quite another to bet against the vagaries of government decisionmaking.

Rationing, which starts out as a holding action during a shortage, will ineluctably prolong the shortage.

Another approach for dealing with the shortage is the imposition of a stiff tax on gasoline and fuel oil. This would be vastly superior to rationing. It encourages every user to examine his own unique and peculiar combination of circumstances for ways to use scarce, high-priced products more sparingly. There is the usual skepticism about whether a higher price would have much effect, but the limited factual evidence available suggests that with something like a 20-cent-per-gallon tax on gasoline the shrinkage in use would bring demand into balance with limited supplies even with the absence of Mideast oil. And this would "treat everybody alike" in the meaningful sense that the intensity of pain for the last gallon given up in each case would be more nearly equal for all people than with rationing. It would use these scarce resources more efficiently.

This tax approach has two drawbacks. One is that an increase in price would hit lower income groups harder than those with high incomes. This is less certain than seemingly obvious. A lower income family (e.g., a retired couple) may find it easy to avoid the problem by curtailing use while a family with a larger income and less ability to cut usage will feel the bite. Moreover, there are far more effective ways directly to take care of society's quite legitimate concern about income distribution than to paralyze the pricing system. In this specific case, for example, we could have a rising deduction from income taxes going down the income scale with the credit payable in cash if it exceeded the income tax liability. The better approach, of course, would be to have a full-scale income maintenance program.

The more serious though less obvious drawback of the tax approach is that it does nothing to cure the fundamental need for enlarging our supply capability. It uses the pricing system to ferret out usages of secondary importance, but it does not use the pricing system to make a commitment of capital into energy production more profitable. Thus it would be a policy to allocate scarcity but not to eliminate it.

This leads to the third approach. Ever since the pricing system was invented, there has been a way to handle the shortage while fundamental forces are being set to work to correct it. What Americans most need now is enough clear-headedness at both ends of Pennsylvania Avenue so that higher prices for energy can start to get us more oil and gas. This will mean higher profits for the energy companies, but the U.S. Treasury will be a majority participant in the increased profits.

Here we do need to keep some specific facts in perspective. During the last decade the real retail price of gasoline excluding taxes (i.e., this price adjusted to allow for changes in the value of the dollar generally) declined 8% and during the last two years the real price of gasoline has declined almost 8%. A change in the ever more bargain basement character of these prices was about due in any case.

Of the three ways to regain balances between demand and more limited supplies, an outright higher price would be most effective, and rationing at the outset would be most attractive (and, in the end, most disappointing). We have, therefore, a good chance that within the next few months rationing of gasoline and fuel oil will be adopted. Is there anything that can be done to minimize its perverse effects? Not much.

Rationing, particularly peacetime rationing, almost inherently works badly and encourages black-marketeering, corruption, and waste.

AVOIDING A BLACK MARKET

One modification of the rationing system would, however, be helpful if the political process insists on going down that road. That would be to allow gasoline coupons to be freely bought and sold. In this way gasoline would be utilized for the most urgently felt needs. There would more nearly be equal sacrifice "at the margin." There would be no black market. And demand for gasoline would still be held in the aggregate to supplies available if the right total amount of coupons had been issued.

After this system operated for awhile, we would begin to perceive that what we had was a free market for gasoline plus a slightly disguised income redistribution program. It might then occur to us that we should have a straightforward income distribution program plus the straightforward superiority of the price system in free and open markets to handle the economy's allocations function.

If we could be sure of that result, a bout with rationing would almost be tempting.

THE EXISTENCE OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, many have expressed the concern that ratification of the Genocide Convention will deny constitutional rights of our citizens. There is no reason for such speculation about the possible effects of the Genocide Convention on the United States.

We can look at the countries that have ratified the convention and see how it has actually affected them. Many are democracies; some have federal forms of government. Their experience with the convention should give us the basis for making a realistic assessment of the impact of the convention on the United States.

Has any citizen of these 75 nations been tried by an international court on charges of genocide? No. Has any citizen of these countries ever been extradited to a Communist country to stand trial for genocide? No. Has this convention disrupted the federal structure of those federated nations which have ratified it? No. Nor will the Genocide Convention have such effects in the United States.

American ratification of the Genocide Convention will put the United States formally on record as opposed to the crime of mass murder. It is not enough to say that we are opposed to genocide. We must do something about it. Ratification of this treaty is a good, constructive action we must take.

Mr. President, I urge the Senate to ratify the Genocide Convention without delay.

PATAPSCO STATE PARK

Mr. MATHIAS. Mr. President, a number of river valleys in Maryland witnessed the early development of industry in our State. The Maryland Park Service has acquired many of these areas that show the historical importance of industrial efforts in the early growth of the Nation. Nowhere is this vital factor in Maryland's economic history better displayed than along the banks of the middle Patapsco River. Patapsco State Park, a major unit in Maryland's public recreation program, effectively showcases this phase of early America's industrial and economic history.

An article that tells the story of Patapsco State Park was published November 8 in two of Maryland's fine newspapers, the Catonsville Times and the Howard County Times. For all who are interested in the history not only of Maryland but of our Nation, I recommend that this article be read and, for that purpose, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PATAPSCO STATE PARK, TREASURE OF AMERICAN INDUSTRIAL HISTORY

Patapsco State Park, most heavily used of Maryland's State Parks, is a treasure-house of American industrial history.

This state park, between Elkridge and Ellicott, particularly, is where many important elements of American's industrial revolution had their beginnings. The area contains a memorable collection of early industrial artifacts.

It was here, along the banks of the Patapsco, where Peter Cooper's steam-powered locomotive, "Tom Thumb," although temporarily defeated in a race against horse-drawn power in 1830, established the country's tremendous railroad potential.

It was here, in 1835, that citizens of the valley marvelled at the building of the Thomas Viaduct, the world's first multiple stone arch railroad bridge. The sturdy structure still carries train traffic heavier than anything envisioned at the time of its construction.

It was at Ellicott City, in 1831, that the nation's second railroad station opened for business. It still stands, a monument to America's earliest faltering moves toward the west. It was the terminus of the country's first stretch of railroad track, being 13 miles from Baltimore's Mount Clare Station, built one year earlier.

Industry flourished in many ways in the Patapsco Valley from the nation's very beginning. Captain John Smith, in his early explorations, made note of the modular deposits of iron-bearing red clays discovered in the valley. During the colonial period the Patapsco River Valley became a principal source of iron ore as well as a smelting center. Caleb Dorsey's furnace, established at Elkridge in 1756, produced 1,000 tons of iron a year, most of which was shipped to Great Britain.

Two years later Dorsey began a furnace and forge operation at Avalon, a mile up the river, and supplied guns to Washington's Army during the Revolution. The Ellicott family acquired the plant which evolved into the Avalon Nail and Iron Works. By the mid-nineteenth century, it was turning out rails for the Baltimore and Ohio Railroad as well as 40,000 kegs of nails a year. Bustling Avalon was finished as an important iron center by a devastating flood in 1868.

Other iron-making in the valley included the Hockley Forge and two other furnaces operated by Colonist Dorsey along the Rockburn Branch of the river.

During most of the eighteenth century, Elkridge Landing served as an important port, handling export of farm crops, such as cotton, tobacco, and grain, as well as iron ore and lumber. It was also the port of entry for goods needed by the colonists. Elkridge Landing even rivaled Annapolis in shipping tonnage. Shipyards built sailing vessels from native oak, while fittings were fashioned from iron smelted in the valley furnaces.

Milling of wheat was an important valley industry in the mid-18th century when Europe provided a ready market for American flour. Although the Ellicott family dominated the earliest milling industry, many other mills sprang up along the Patapsco. The river enjoyed enough power in its flow to the Chesapeake to attract many users willing to harness it.

Orange Grove flour, from the mill built by C. A. Gambrill in 1856 near the old Park Headquarters, was widely used and highly regarded in national and international markets until the mill was destroyed by fire in 1905.

Diversification of industry, which has marked Maryland to this day, had its beginning in the Patapsco River Valley where many different types of manufacturing were attracted by the river's 30-foot fall in the 18 miles above Elkridge.

The valley was the home of cotton print cloth as early as 1837 and a paper mill dating back to 1794. Granite quarrying, dams for water supply and power, as well as copper manufacturing, were important to the economy of the valley. Remnants of these old industrial operations constitute a major Patapsco State Park attraction for history buffs.

Ruins of the famous Viaduct Hotel and Station which replaced Relay House, built in the 1830's by the youthful B. and O. as a train junction depot, and variously used as a hotel and resort, are visible near the Thomas Viaduct. Along this stretch of railroad, between Baltimore and Washington, Samuel Morse, inventor of the telegraph, made his first practical tests of the device which was destined to revolutionize the nation's communications industry.

Although handicapped by storms, floods and fire the pioneers who settled the Patapsco Valley fought to keep their industries established. But by the end of the 18th century, Baltimore had become a thriving port and an industrial city. The Patapsco had suffered heavy silting caused by unsophisticated farming practices. Elkridge Landing faded as a port and the area furnaces became obsolete.

The historic valley was also the scene of some latter-day firsts. Within Patapsco State Park and less than a mile from the old headquarters (demolished by the 1972 flood) is the dam which housed the nation's first underwater hydroelectric generating plant. Built in 1907 to supply electricity to the Catonsville area, the so-called "Bloede Dam", later known as the Ilchester Plant, continued operating at its 600 kilowatt capacity until 1932, when a new steam generating plant came on the line and made obsolete the old hydroelectric facility.

Disastrous floods in 1868, 1923 and Agnes in 1972 took their toll of these valuable early industrial artifacts. The park's areas in Avalon and Orange Grove were all but wiped out. Work is now under way to restore these important recreation areas, but the extent of the rehabilitation project is mammoth and will take considerable time.

It is hoped by the Department of Natural Resources that restoration will be completed in time for the Bicentennial in 1976, at which time undoubtedly the popular bus tours of the "River of History," conducted by trained Patapsco State Park rangers can be reinstituted.

Needed road and bridge reconstruction have temporarily forced cancellation of these widely patronized interpretive programs.

Other river valleys such as the Susquehanna and the Gunpowder also witnessed the early development of industry in the Free State. The Maryland Park Service has acquired for the state many areas that feature visualization of the historically important industrial efforts to satisfy the growing needs of a young nation.

Nowhere is this vital factor in the state's economic history better displayed than along the banks of the middle Patapsco River. Patapsco State Park, a major unit in Maryland's public recreation program, showcases effectively this phase of early America's industrial and economic history. Restoration and preservation of the park areas at Avalon, Orange Grove, and vicinity is eagerly awaited by Marylanders who are proud of their heritage.

RHODE ISLAND ROAD DEATH RATE LOWEST IN THE UNITED STATES

Mr. PELL. Mr. President, I am very pleased to call to the attention of my colleagues the fact that my home State of Rhode Island in 1972 had the lowest highway fatality rate in the Nation.

A recent article in the Providence Evening Bulletin describes a nationwide survey completed by the Highway Users Federation which points out that in three separate categories Rhode Island had the most outstanding record.

Last year the national average of fatalities on a mileage basis was 4.53 per 100 million vehicle miles; in Rhode Island the comparative figure is 2.5. The death rate in 1972 per 100,000 motor vehicle registrations averaged 4.66 across the Nation; in Rhode Island the comparative figure is 2.2—or less than half the national average. In terms of population, again Rhode Island's death rate on the highways is less than half the national average—12.6 per 100,000 inhabitants, as opposed to the national average of 27.2.

I wish to take this opportunity of commending all those in my home State who are responsible for making possible this excellent record of road safety. This record reflects great credit on our State and local police and on our State officials and local citizens who have taken leadership in campaigning for highway safety. It is a record of which all Rhode Islanders can be justly proud.

Mr. President, I ask unanimous consent that an article from the Providence Evening Bulletin of November 8, 1973, entitled "Rhode Island Road Fatality Rate Best In United States" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RHODE ISLAND ROAD FATALITY RATE BEST IN UNITED STATES

Rhode Island had the lowest highway fatality rate in 1972 of any state, the Highway Users Federation announced today.

In a nationwide survey, the federation analyzed every state's highway death rate in three different computations—by mileage, by registrations and by population—and Rhode Island ranked best in all three measurements.

The national average last year on a mileage basis was 4.53 traffic deaths per 100 million vehicle miles. In this state, it was 2.5.

The death rate per 100,000 motor vehicle registrations averaged 4.66 nationally. It was 2.2 in Rhode Island.

By population, the death rate national average was 27.2 per 100,000 inhabitants. In Rhode Island it was only 12.6.

The 2.5 mileage death rate here was duplicated in the District of Columbia, which is not a state. This rate ranged from 6.2 to 6.7 in Nevada, Idaho, New Mexico and Louisiana, and the worst records were 7.0 in Mississippi and 7.3 in Montana.

On a population basis, Wyoming's rate was 57.1, more than four times greater than in Rhode Island.

The survey used data from the National Safety Council, the National Center for Health Statistics, the Federal Highway Administration, the Census Bureau and information from state traffic authorities.

So far this year, there have been 117 highway fatalities in this state, as against 102 in the same period last year. This increase, which began early in January, has caused state and local traffic officials to promote strong safety campaigns to combat the uptrend.

Eugene P. Petit, registrar of motor vehicles, called the survey results for 1972 "fantastic," and said, "It gives me more confidence in the situation here now."

There were 122 highway deaths here last year and this year began with a sharp upswing which Mr. Petit said had him "worried" that the state might be heading for a new record, topping the 145 deaths in 1928.

But fatalities slowed in the summer and while the 1973 total is likely to top the 122 deaths last year, Mr. Petit said he considers it "almost impossible" that the 1928 record would be exceeded.

He credited the slowing of the upturn this year to the safety campaigns and police cooperation. But he emphasized that, in addition to police controls and teams of registry inspectors on the highways every day, "we've got to get the message to the people; we've got to educate the drivers in highway safety."

TRIBUTE TO WILLIAM G. WHITE

Mr. TAFT. Mr. President, I have recently been informed that my former administrative assistant, William G. White, has been named managing director of the District of Columbia Credit Union League.

I congratulate Mr. White and I am quite pleased to hear of this excellent appointment. Bill has had long and valuable experience dealing with the problems of credit unions. After 10 years of employment with what is now the Cleveland Transit System, Bill signed on as a field representative for the Ohio Credit Union League. When he left 12 years later, he was the director of public relations. After 2½ years of service to me, in which he proved a valuable assistant, Bill was named assistant managing director of the District of Columbia Credit Union League and he held that title until his recent appointment.

Even while Bill was with me, he was participating in the Congressional Employees Federal Credit Union. He has been involved in credit union affairs for over 30 years and I know he is now recognized as one of the top League employees in the United States. In this time of difficult issues and concerns facing our credit unions, I am confident that he will do a fine job.

TRIBUTE TO PRESIDENT KENNEDY

Mr. TUNNEY. Mr. President, I ask unanimous consent to have a poem written by James G. Egan on President John F. Kennedy printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

PRESIDENT KENNEDY

(By James G. Egan)

A Harvard intellectual
With principle quite high,
A Naval hero effectual
Recalled with tear and sigh.

When he was our President
He feared no nation's might,
To every U.S. resident
He shed a shining light.

All of the nations of the earth
Drawn to his smiling face
With abundant wit and mirth
But firm with every race.

Presidents do come and go,
Strong or weak by fate,
Our schoolchildren all do know
John F. Kennedy was great.

FIGHTING AGE DISCRIMINATION IN EMPLOYMENT

Mr. PERCY. Mr. President, the November 10 issue of the Illinois State AFL–CIO newsletter points out efforts by the Department of Labor to enforce a Federal antidiscrimination statute which is all too often overlooked—the Age Discrimination in Employment Act.

As my colleagues know, this act protects individuals from age 40 to age 65 from discrimination in employment on account of age. The Wage and Hour Division of the Department of Labor, which enforces the act, recently reported that it had found nearly 15,000 workers to have been discriminated against in this manner during fiscal 1973.

As the Department of Labor figures suggest, and as my own mail has indicated, knowledge of this Federal law and sanctions for its abuse is not as widespread as it should be. Despite the efforts of the Department of Labor to both publicize and enforce the law, it is probable that the incidence of age discrimination which goes unchallenged and unreported remains high.

I commend the Illinois State AFL–CIO for its efforts to make workers aware of the Age Discrimination in Employment Act and penalties for its violation, and urge other public and private groups to do likewise. I ask unanimous consent that this newsletter article be printed in the RECORD at the conclusion of my remarks.

Mr. President, individuals between the ages of 40 and 65 represent nearly half of the adult working-age population, and, I dare say, over half of our Nation's talent and experience. To allow these individuals to be discriminated against in employment solely because of their age is not only unconscionable, but a waste of an invaluable resource.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Illinois State AFL–CIO Weekly News Letter, Nov. 10, 1973]

15,000 VICTIMS

Almost 15,000 American workers aged 40 to 65 were found by the U.S. Department of Labor to be victims of illegal age discrimination during the 1973 fiscal year.

The employees were working or looking for work in more than 2,800 establishments which were found viiolating one or more provisions of the Age Discrimination in Employment Act (ADEA).

Bernard E. DeLury, Assistant Secretary of Labor for Employment Standards, said age discrimination law enforcement is among the Labor Department's highest priorities.

"Every year, many of our nation's most capable and experienced workers are disadvantaged in employment because they have passed *age 39.*

"This is not only a violation of their basic rights, but also a waste of valuable resources," he said.

The Act protects workers aged 40 to 65 from arbitrary age discrimination in hiring, firing, job referral, and the granting of fringe benefits or other terms and conditions of employment. It specifically prohibits placement of help wanted advertisements containing words or phrases that imply older workers will not be considered for job vacancies.

Among the violators were 1,836 employers and employment agencies known to have placed discriminatory help wanted advertising; 957 found refusing to hire 40- to 65-year olds; 181 known to have fired them, and 149 which denied them promotions, leave, pay or other job benefits—all because of age.

In addition, 1,031 workers were found to be owed $1,866,226 because of lost working time or other damages resulting from age discrimination.

The Age Discrimination in Employment Act is enforced by the Labor Department's Wage and Hour Division, which was able to correct many of the violations by persuading the employers and employment agencies to comply voluntarily. This method resulted in agreements to restore $662,324 to 304 employees without formal legal action.

DeLury noted that most of the establishments found practicing age discrimination were in the retail, service and manufacturing industries.

"Until the incidence of age discrimination disappears in all industries, our enforcement efforts will continue to be a top priority," DeLury said.

EXPANSION OF THE WILD AND SCENIC RIVER SYSTEM

Mr. GRAVEL. Mr. President, Senators will remember that the Alaska Native Claims Settlement Act incorporated two important features especially in promising to Americans who desire better coordination of policy among governments and a balanced and studious appraisal of land resources and policy in Alaska.

The act authorized the Secretary of the Interior to withdraw for study up to 80 million acres of Federal lands which might be included by Congress in the National Forest, National Park, Wildlife Refuge, and Wild and Scenic River systems. The act directed the Secretary to submit legislative recommendations regarding lands so withdrawn by December 18, 1973.

The act created the Joint Federal-State Land Use Planning Commission for Alaska through an amendment which I sponsored. The Commission is an agency of both the Federal and State governments, supported by appropriations of both. The Commission members are some of the finest and most knowledgeable citizens in Alaska and it has an energetic, able and interdisciplinary staff. The tasks of the Commission cover a wide variety of subjects mandated by the Congress and the Alaska legislature. One of its tasks was to study the lands withdrawn by the Secretary of the Interior Morton for possible inclusion in the so-called four systems I have mentioned above.

Mr. President, the State of Alaska has participated in the act in the best possible spirit. Governor Egan, the commission's cochairman under the terms of the Alaska Settlement Act, appointed State Senator Joe Josephson as his full-time designee, to assure that from the State's point of view, the commission would enjoy full-time direction and leadership. Other commissioners appointed by Governor Egan include the State commissioner of Natural Resources, Charles Herbert; the commissioner of Environmental Conservation, Dr. Max Brewer; the former executive director of the Alaska Federation of Natives, Harry Carter, and a distinguished Alaska business leader and former legislator, James Hurley, of Wasilla.

The federally appointed commissioners are no less distinguished. They include the Federal cochairman, Burton W. Silcock, former Director of the Bureau of Land Management; Joseph Fitzgerald, former chairman of the Federal Field Committee for Development Planning in Alaska; Dr. Richard Cooley, head of the environmental studies program at the University of California, Santa Cruz; and a noted Alaska conservationist, Miss Celia Hunter.

Mr. President, I will not elaborate on the fact that one of the Federal positions on the commission is vacant now, and has been vacant for many months—a condition which in itself may demonstrate that the administration has failed to give the commission the same measure of support as the State administration has done.

Nor will I comment on the weeks of delay which followed the departure from Alaska of the original Federal cochairman, Assistant Secretary of the Interior Jack O. Horton, prior to the appointment and confirmation of his successor.

More indicative than these facts may be the procedure which the Department of the Interior has followed in its consideration of the lands withdrawn for possible inclusion in the four systems.

Mr. President, the Joint Federal-State Land Use Planning Commission for Alaska certainly did its part. It conducted public hearings on the lands withdrawn for study in approximately 40 Alaskan communities. It received testimony from people in all walks of life. It heard from Eskimos and Indians who use the land as a source of protein and to maintain their traditional life-style. It heard from Alaskans who want the land available always for recreation. It heard from those who supply the Nation's critical demand for energy sources and scarce minerals. It heard from others who treasure especially those portions of the lands under study for their primitive and untrammeled characteristics.

The Commission also conducted hearings in Denver and Seattle and San Francisco and here in Washington. It understood that the decisions to be made ultimately by Congress affect all Americans, as well as the people of Alaska directly. It sought input from all areas of the Nation.

The Commission directed its interdisciplinary resource planning team to prepare narrative and graphic materials about the lands and their resources. It spent weeks in public sessions to prepare its recommendations to the Secretary of the Interior. In August, the Commission completed its first phase of recommendations by submitting carefully documented materials dealing with uses of the lands under study which, the Commission felt, should be allowed, restricted, or prohibited.

Other activities of the Commission concerning these lands are still in progress. Soon the Commissioner will be conducting an important seminar in which invited experts from across the Nation will discuss Federal mining laws, and changes which might serve the public interest if applicable to the lands under study in Alaska.

Mr. President, the deadline for Secretary Morton's recommendations to the Congress is fast approaching. In less than 30 days, his proposals for new parks, refuges, national forests, or for the expansion of the wild and scenic river system, must be placed before us.

Mr. President, I ask unanimous consent that an article from the Anchorage Daily News of November 18 be printed in the RECORD at this point of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORTON SEEKS 83 MILLION ACRES IN LAND WITHDRAWALS

(By Tom Brown)

MENLO PARK, CALIF.—Interior Secretary Rogers Morton tentatively plans to ask Congress next month to approve federal land withdrawals totaling more than 83 million acres in Alaska.

The secretary will seek: 29 million acres in 10 separate withdrawals for the national park system; 34.3 million acres for national wildlife refuges; 19.8 million acres for national forests; one million acres for wild and scenic rivers.

Withdrawals in the four categories total 83.1 million acres—3.1 million more than specifically authorized by the Native Claims Settlement Act of 1971.

Nathaniel Reed, assistant secretary of Interior for fish, wildlife and parks, told Sierra Club officials in a background briefing here recently that Morton felt he was not limited to the 80 million acres specified in the bill.

Morton's proposal currently is being reviewed by the various federal land management agencies and the Office of Management and Budget. It is expected to be made public—along with any last-minute changes—by Dec. 15.

It was understood that there was considerable wrangling among the land management bureaucracies over how much land each would receive, that mining interests had sought to limit withdrawals to 40 million acres, that the oil industry was reluctant to agree to any major withdrawals and that the State of Alaska and Native groups opposed some of the withdrawals. Nor were the conservation officials at the briefing entirely satisfied.

Morton's plan, as outlined by Reed, includes these major features:

Among the withdrawals for possible inclusion in the national park system will be 8.6 million acres in the Wrangell mountains; 8.1 million acres in the Brooks Range for the proposed Gates of the Arctic National Park; and 1.8 million acres in the Noatak River valley is Northwestern Alaska.

There will be separate withdrawals of 5.2 million, 1.7 million and 1.2 million acres in the Gates of the Arctic package.

In addition to the 1.3 million acres for the National Park Service in the Noatak, another 7.5 million acres will be withdrawn to be administered by the Fish and Wildlife Service and the Bureau of Land Management.

Reed said he considered the Wrangells,

Gates of the Arctic and Noatak withdrawals the most important from a parks standpoint.

Another 3.4 million acres will be proposed for withdrawal as a possible addition to Mt. McKinley National Park.

Other major withdrawals for the National Park Service include 2.5 million acres in the Lake Clark area west of Anchorage; 1.7 million acres near Katmai National Monument, 1.9 million acres on the Upper Yukon River west of Eagle, and 2.3 million acres on the Seward Peninsula, to be administered in conjunction with the Fish and Wildlife Service.

Mr. GRAVEL. Mr. President, we now know that the Sierra Club at Menlo Park, Calif., has been given a background briefing by Assistant Secretary Nathaniel Reed about the proposals to be made by the Secretary of the Interior for the future of 80 million acres in Alaska—one fourth of the area of the 49th State.

Mr. President, the junior Senator from Alaska has had no background briefing by the Secretary, the Under Secretary, Clerk or other employee of the Department of the Interior. The Governor of the State of Alaska has had no background briefing to date. The Commission charged by law to study these lands and which has performed creditably has had no background briefing.

However, the senior Senator from Alaska and the Congressman have each received an in-depth briefing.

I ask you what manner of performance is this?

It is understandable that normal partisanship calls for favorable treatment to those of the same political party as the administration. Every Democratic Senator works with the knowledge that Republican Senate offices routinely will receive first word of grant awards, Federal appointments, bid openings, and so forth. But when matters of such overriding importance as the disposal of some 80 million acres of public lands is at hand, little room for partisanship remains. A greater sense of public duty demands that Republican politics be laid aside and that public interest be first and foremost.

Mr. President, these concerns are not just concerns of the people of Alaska. They are properly concerns of all of us who saw in the Joint Commission a new approach to intergovernmental relations that would meet legitimate Federal, State, and local objectives.

The Senate has entertained similar hopes for coordination of Federal and State policy through the recently passed National Land Use Policy Act.

But the Congress can only legislate; it does not implement. The legislation we approve is only as good as is the will of the departments charged with administering Federal law. In this instance, the Department of the Interior proceeds in a way which is a clear affront to the people of Alaska, a legacy, perhaps of a colonial viewpoint towards Alaska that was supposedly cured by statehood 15 years ago.

Why is the Department so reluctant to tell Alaskans and their leaders what is in store for them in the Secretary's proposals? Perhaps the Department knows that it has bad tidings, and is loathe to give out the bad news any sooner than it must. Perhaps the Department knows that a program which does not emerge from a studious review of resource information and public testimony, as the Commission program did, but which evolves instead from "considerable wrangling among the land management bureaucracies over how much land each would receive," as Mr. Brown reports, cannot be defended. For such a methodology is the antithesis of sound planning and of due regard for environmental concern. And perhaps the Department is reluctant to give out information to the State of Alaska before the 11th hour because it does not want the weaknesses of its program exposed in time to correct them before it is released.

Mr. President, the State of Alaska, I am sure, will continue to work to improve coordination of policy with the Federal and State Governments. The State, which seeks a viable economy and a high quality of life for all Alaskans, has no choice. The State of Alaska will continue to support the Commission as one of the vehicles to achieve such coordination and to approach land use policy in a rational way. In other words, Mr. President, the State is not to be deflected in its purposes by the attitude shown to date by the Department of the Interior.

Nor should we, Mr. President, prejudge any proposals by the Secretary of the Interior. On the other hand, we should express ourselves very vigorously against the arbitrary, secretive way by which these proposals are being prepared, with the people of Alaska only the last to know the contents of a program which will affect future generations of Alaskans if approved by Congress.

In any event, we in the Congress should not act on any proposals, Mr. President, until and unless the proposals by the Joint Commission for Land Use Planning in Alaska, and their background materials, have been explored thoroughly in our committees. Mr. President, a rational, open, studious approach, in which the public had direct input, should not be replaced by a secretive, closed approach to which Alaskans are denied access.

A BALANCED VIEW OF PUBLIC HOUSING

Mr. PERCY. Mr. President, in recent years there has been considerable coverage by the press and criticism by the administration of our current Federal housing and community development programs. Inefficient management and local scandals have plagued the operation of programs that might otherwise have been viewed with favor.

In a recent issue of the Nation, J. S. Fuerst, of Chicago's Loyola University's graduate program in urban studies, emphasizes some of the positive aspects of our housing programs. By so doing, Fuerst has done a service to America's low- and moderate-income population as well as to the people in the housing industry. I ask that his article, which helps provide a balanced view of our housing and community development efforts, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HIDDEN SUCCESSES OF PUBLIC HOUSING

(By J. S. Fuerst)

CHICAGO.—Though public housing in the United States seems to be a dead duck, there are many public-housing projects whose health is blooming. But even as I write, more attacks are being made upon these and other housing developments so that the situation is steadily deteriorating. I get the distinct feeling that few outside the program give a damn.

To understand what is happening, some history is necessary. The public-housing program began in this country in 1937. Few programs have been so stubbornly opposed from the outset as this particular one. The entrance of the government into housing threw panic into the ranks of the real estate and banking industries, and other conservative groups. They launched an unrelenting attack on the specter of socialism: public housing was "Un-American"; it was "mollycoddling the poor."

When it became clear in 1935, during the depression, that the large number of ill-housed people in our affluent society and the continuing lack of provision for them by the private sector required some action, a program was hammered out whereby poor people would be served. But lobbyists for private industry made sure at the local and national levels that very few units would be built and that those which were would be crippled by low construction-cost ceilings, low-income limits and many other tenant restrictions.

The liberal sponsors of the program saw it as an entering wedge for a broad housing program that would make jobs for the unemployed, clear the slums, provide housing for the ill-housed, and be a keystone in the building of cities. Unfortunately, the opponents managed so to stigmatize the projects that almost from the start it was impossible to carry out these aims. As one example, it was difficult to obtain upward-striving families. When such families moved in, they soon moved out again, thus initiating a pattern of cleavage between the tenants of the projects and the rest of the community. This estrangement was accentuated by both rising incomes and a racial situation wherein a disproportionate percentage of the poor were black. This resulted in a shift of public-housing tenancy from mostly white to mostly black.

More significantly, the projects drifted into quasi-institutions for the socially, emotionally and economically underprivileged. The poorer the general quality of the tenants, the more difficult it was to get good families to remain, or to move in, until now it is hard to fill them at all. As a corollary, middle- or lower-middle-class neighborhoods, black or white, objected to having projects built in their midst.

Where were the projects built? Except in the small towns, almost all public-housing units, fewer than 2 per cent of the total housing supply, were built in the slums, in industrial areas or in all-black areas—that is, in the most undesirable areas of a city where no one else wanted to put residential housing.

What was their quality? In the beginning, cheap and occasionally not unattractive units were built. In the past fifteen years, larger high-rise projects have become the rule because, according to local authorities, cost limitations and local objections precluded anything else. Average unit size was also increased to accommodate families with many children.

Oscar Newman, author of the recent *Defensible Space,* has described the architecture in detail. It was massive and monolithic. It was stereotyped. Large, barren, open spaces stretched between huge buildings. Frequently there was no grass, windows were few and small, walls were usually common red brick. The architects, in too many cases unstimulated by public housing and restricted by the local and federal bureaucrats, built for the most part unimaginative, undistinguished, depressingly institutionalized projects.

Who moved in? Many of the most socially disadvantaged black, broken and big families—in short, the most desperate families. Thus many projects became final refuges for more than a few alcohol- and dope-ridden, criminally disposed, mentally and physically ill families—and relatively few self-supporting ones. With such selection of site, architecture and tenants, it is easy to see why public housing fell to the bottom of public esteem.

Behind the planners and the architects of the projects were those who sabotaged the program. But they had their allies. Black activists, aware of the great housing need of black families, insisted on a larger proportion of the tiny amount of housing in existence, instead of demanding more housing for the total community. In Chicago, for example, not satisfied with 87 per cent, they pushed for 95 per cent of the units available. This grotesquely disproportionate allocation of public housing to blacks was intensified by the combination of forces which relegated projects almost exclusively to black areas, and in turn greatly affected those few projects thrust into white areas.

The difficulties were also magnified by the social workers who believed that, in spite of the inadequate number of public-housing units, they had to be jam-packed with the poorest, most underprivileged families. This practice did little either for those families, or for upward-striving families who ceased to value project life.

Not all social workers are that short-sighted. Monsignor Vincent Cooke, for many years head of Catholic Charities of Chicago, stated that if public housing were to survive it could not be merely a receptable for the problem cases of social agencies. Public assistance families as well as broken families should be admitted, but there must be a preponderance of "normal" families to give "troubled" families models to emulate. In the political area, Senators Brooke and Mondale and former Secretary of Housing Romney have taken substantially the same position.

In light of the prevailing negativism, the question is whether anywhere in the United States there may exist—unremarked—public-housing models that contradict what most big city and many small city people think of such projects. Indeed there are some, but you have to hunt. I know because, while doing a book on public housing several years ago, I found about ten of them. So did Oscar Newman, who described half a dozen he came upon in his travels.

First there are the quasi-suburban projects, low-rise, low-density housing such as Valley View in Providence, Glendale Heights in Minneapolis, La Salle in Louisville, West Bluff in Kansas City, Le Claire Court and Racine Court (recently converted to a cooperative) and Trumbull Park, all in Chicago. These projects lie for the most part on the outskirts of town, surrounded by single-family private homes in neighborhoods which have not been materially altered by the introduction of public housing. They were built at different times in different styles. For example, La Salle and Trumbull Park were both PWA projects built in 1937 in an interesting style, the first with 234 units, the second with 462. Over the years, largely because their original architecture was sound, their location was good and the number of rooms per unit was small, the projects have remained operable. It is true that a number of elderly people live in them and a rather larger proportion of broken families. Nevertheless, the projects are integrated, with perhaps 15 per cent black families, and the neighborhoods continue good. The worst thing about these two projects is that, like some of the other projects to be discussed here, they are not in enormous demand, largely because of the predominating influence of poverty upon them.

On the other hand, West Bluff, a 100-unit project, partakes of some of these characteristics but is thoroughly integrated, with 45 per cent Mexican, 30 per cent white and 25 per cent black. That project contains all large units for big families and appears to have considerable appeal. Like many projects that have failed, West Bluff contains a lot of children, but most of the families have two parents and the project is in an outlying area, where the problems of large family size do not have to cope with the problems of density.

Glendale Heights, 184 units, has a well-designed, attractive layout. It is located a mile from the University of Minnesota in a community of many university people. Over many years it has developed a great *esprit de corps*, both within the project and in the surrounding neighborhood which cooperates with the tenancy. The community pride has risen to the point where the tenants have appealed to management for the right to run their own project, a proposal which was looked on with considerable favor. Management indicates that the highly integrated nature of the project, along with its relatively small number of fatherless families and the relatively few children, are important features in its success.

La Salle in Louisville also enjoys high marks, which stood the project in good stead when, for example, it was necessary to evict an undesirable tenant. The other tenants willingly testified on behalf of the authority. In the more demoralized projects that rarely happens, and eviction is then most difficult.

North Beach in San Francisco, mentioned by Newman, is a special case. Set between Coit Tower and Fisherman's Wharf, it is a 229-unit project in an industrial area. It is almost an exact replica of the working-class public or cooperative housing built in Holland and Austria in the 1920s. A particularly interesting aspect of the project is that the ground-floor units along Bay Steel are entered directly from the sidewalk; thus many of the units look as if they were single-family houses.

A most important feature of the workable projects is the mix of family income. Most of the projects Newman chose for models were for low- and middle-income families and financed by city, rather than federal money. Locally financed projects have a better chance to succeed because for them the architectural restrictions are less burdensome and the tenancy is far more diversified. John Macey, the director of the Greater London Housing Council Public Housing Program for many years and a consultant to the HUD, has said that only if income restrictions are changed, so that families of moderate as well as low income can apply, will the projects begin to function well. Examples are LaClède in St. Louis, a publicly subsidized private project mentioned by Newman; Riverbend and Stephen Wise Houses in New York City; Ogden Courts in Chicago.

At Valley View in Providence, income level has caused an important conflict. This 254-unit project, built twenty years ago as a city-financed project, is a success. It has integrated occupancy and completely diversified tenancy, with a preponderance of low-income workers ranging from the elderly poor and widows receiving public assistance to a captain in the local police force and a microbiologist in a local college. The city administration in Providence, because it does not wish to subsidize families, some of whose incomes overlapped those of families living in private real estate developments (the central fight that public housing has had to battle in its thirty years of existence), has decided to sell this model housing project to a private developer. He would presumably then greatly increase the rents, making it unavailable to the low- and moderate-income families who now live there. The story is not over yet because the tenants have banded together and with a small body of supporters are fighting the action in the courts where they have already won a preliminary stay. It indicates, however, the continued vigilance that is necessary to preserve the few viable public housing projects.

Apart from income levels, race is the most controversial question in public housing. One of the really great achievements of some of these public houisng successes is that they have shown how the process of integration can be both smooth and permanent.

At Trumbull Park, although there was a great brouhaha when integration was first proposed, the project has since operated successfully with a reasonable proportion of black families. At Valley View in Providence, in Wise Houses and many others in New York City, in many projects in Newark and Pittsburgh, and in North Beach in San Francisco, there have been no racial problems.

Problems of racial balance arise when the city itself becomes overwhelmed by blacks on welfare. Newark had for many years a fine, integrated housing program, until the white families left not only the projects but the city itself in large numbers. Similarly at Gateway Homes in Pittsburgh and at Le Claire in Chicago, bold and enlightened administrators Alfred L. Tronzo and Elizabeth Wood fought hard to keep their projects integrated and were fired. The business-as-usual authorities, under public pressure, were unwilling to hold vacancies in order to keep the tenancy integrated, and hid their timidity behind slogans of "no quota" and "first come, first served." The tenancy went all black, forming into subsidized ghettos.

On the other hand, it is certainly true that projects in many cities are all black because they are located in all-black areas, and that many of these, particularly the smaller projects consisting of row houses with a large number of single-family homes surrounding them, are most successful and much in demand. Such projects as Lowden Homes in Chicago, Riverdale in New York and many others are extremely significant at a time when various courts are forbidding the authorities to build in black areas. True, the courts are doing so in order to generate more building of integrated housing in white areas and to stop the displacement of blacks, but the effect has been to stop the building of housing in black areas long after the "relocation" has been accomplished. As Frances Piven and Richard Cloward said in *The New Republic* in December 1966, on the subject of desegregated housing, projects must be built with the recognition that, given the enormous number of black families in most large cities, large numbers of blacks are for the calculable future going to live in all-black areas. Housing must be built in white areas and made available on an open basis, though with controls. At the same time, housing must also be built in black areas, and if the groundwork is laid in the surrounding neighborhood, if the buildings are designed well and not too large, if some control is exercised over the type of tenant, it can be perfectly workable and is vitally needed.

A frequent allegation in the past five or seven years is that public housing cannot successfully operate elevator projects; "experts" point to Chicago's Robert Taylor Homes, New York's Van Dyke and St. Louis' Pruitt-Igoe as clear evidence. Actually these projects support no such generalization. On the contrary, Ping Yuan is a 7-story elevator project in the middle of San Francisco's Chinatown. It has an all-Chinese occupancy; its density and number of children are high, and the number of rooms per apartment is higher than average. But the architecture is pleasing and in harmony with the neighborhood, and the *esprit de corps* is such that apartments are in enormous demand. There is prestige rather than stigma to be gained by living in the project.

Riverbend, a middle- and low-income project in Harlem described by Newman, has a diversified architecture but all of it is high rise. The most interesting part is a 10-story section of five duplexes piled one on top of the other (piggy-back row houses). It seems to be relatively crime-free, with low tenant turnover.

Wise Houses in New York, another multistory project in the middle of an urban renewal area, with a very mixed tenancy and with an outstanding management for many years, has had a considerable success with diverse tenants.

Several of the projects in Chicago built and tenanted under the 1950 state- and city-financed program were delightful 7-to-8-story, 150-to-200-unit projects. No one objected to living in them; on the contrary, for a number of years they were in great demand.

Elevator projects can be workable for families of low and moderate income under certain conditions. They cannot be too high—6 to 10 stories (maybe higher for the elderly)—cannot be too densely packed with people, particularly children, and cannot accept too many problem families.

As Arthur Naftalin, ex-Mayor of Minneapolis, reported in discussing the success of housing projects in his city, "The factor that I must mention first is the quality, competence and dedication of the housing authority staff. This I believe is the most important variable in determining the success or failure of any governmental enterprise, but especially in one as complex as the housing and urban renewal program."

Perhaps the most frequent though least publicized success stories are the projects in small towns. It is often overlooked that 85 per cent of all housing authorities and a quarter of all the units are in towns of 25,000 or less. One such example in a not so small town is the modular-built Valley View Houses of Akron, Ohio, a well-arranged cluster of seventy-five modern town houses in twenty-five structures built on the side of a hill overlooking a deep ravine. This is an integrated family project. Again it seems to be in considerable measure the product of one man, the recently appointed but now deceased director of the Akron Housing Authority, Jack Saferstein. A similar project is to be found in Fulton, Mo., a really small town (population 13,000). Here the authority operates seventy-five units and, according to a report in *Journal of Housing* (July 1972), the tenant body represents a cross section of the community, even though they are all low income. According to executive director Musick, this representation, plus a strong community endorsement from the college town, has made the project successful.

And finally, success stories are to be found by the hundreds in those projects for the elderly which, though in many places they are a capitulation to the fact that the community would not allow the authority to build any low-rent housing for families, nevertheless have scored some important achievements in their own right. These projects, many of them high rise, are for the most part occupied by the elderly of all races; and are very often built in middle- or lower-middle-class areas. They do indicate clearly the possibility of success for such integrated living and they show none of the crime problems so often found in public housing. In one sense, they are an excellent proving ground and could as easily be assigned to young married couples whose income is low and who, as many European countries recognize, desperately need a home they can afford.

Today the question is whether such strengths in public housing can beat back the forces that seem inevitably to be pulling them down. Are the successful projects and the effective administrators mentioned above persuasive enough to overcome the image of failure, or has the dominant character of the public housing program been so crystallized by its enemies that no amount of success can save it?

PROJECT SSI ALERT

Mr. CLARK. Mr. President, last year, the 92d Congress passed the supplemental security income program, landmark Federal legislation designed to replace most State welfare programs for the aged, blind, and disabled. This new Federal program is scheduled to begin this January 1.

The supplemental security income plan should cover nearly 6 million older or disadvantaged Americans, and this program could go a long way toward alleviating the income problems that continually plague all too many people in this country.

But recently there has been a great deal of concern that the administration may not be doing enough to enroll an estimated 3 million people, who are not now on State welfare rolls but who are eligible for supplementary security income benefits. There are some inevitable barriers to enrolling new people eligible for SSI, but that makes it all the more important for the Department of Health, Education, and Welfare—in concert with the Social Security Administration and the Administration on Aging—to take every possible measure to insure that the SSI program reaches everyone it can.

An article in yesterday's Wall Street Journal outlines the problems—and the challenges—faced by the Federal Government in initiating the supplemental security income program.

The article points out that the Department of Health, Education, and Welfare this week intends to announce an effort to reach some 400,000 individuals now receiving social security benefits. But the outreach program described in the article may touch only the tip of the iceberg. Much more needs to be done.

Hopefully, the initial phase of "Project SSI Alert" will be a success. And hopefully, even more intensive efforts will follow because the promise of SSI will be an empty promise unless every American eligible for the program enjoys its benefits.

Yesterday, Senators McGovern, Ribicoff, Cranston, and myself sent a letter to Secretary Weinberger expressing our concern about the future of the SSI program and in that letter, we requested that the Secretary outline for us both the short- and long-range plans for the outreach program.

Mr. President, I ask unanimous consent that the full text of the article be printed in the Record, along with the letter from Senators McGovern, Cranston, Ribicoff, and myself to the Secretary of Health, Education, and Welfare, and the exchange of correspondence between Senator McGovern and the Social Security Administration.

There being no objection, the material was ordered to be printed in the Record, as follows:

Big New U.S. Welfare Plan, To Start in 1974, Could Produce Political Problems for Nixon

(By Jonathan Spivak)

Washington.—A massive new federal welfare program, due to start next year, is experiencing birth pangs that could produce political problems for the Nixon administration.

The Supplemental Security Income program, enacted last year, will replace most state welfare payments for the aged, blind and disabled with a more generous federal allowance. So far, the Social Security Administration, which will run the program, is well along transferring the records of those million existing state welfare recipients to the computerized federal system designed to get the first checks out Jan. 2. But it's made little progress finding another estimated 2.5 million to 2.8 million aged and others in need believed to be eligible.

Only about 300,000 applications have been received so far, and federal officials believe the number of new recipients actually on the rolls in January could be little more than 500,000. If so, labor, liberals and other advocates of the aged in Congress could severely attack the Nixon administration for foot-dragging and failing to fulfill ambitious promises of new aid for the aged. The Health, Education and Welfare Department had been talking most or this year of reaching as many as six million people with the new program.

The SSI program poses two problems for the federal government. There's a massive bookkeeping job of transferring eligible persons on state welfare rolls to the federal system and calculating their benefits, which in many cases could be higher. And there's the task of informing and qualifying about as many additional people made eligible through SSI's higher payment level and fewer eligibility restrictions. These new recipients must apply for their benefits, but without special steps by the federal government, many probably won't know they are eligible.

CONTACTING THE POOR

To ferret out new recipients, HEW plans to announce on Wednesday a special effort to contact directly hundreds of thousands of the aged poor. HEW Secretary Caspar Weinberger, Social Security Commissioner James Cardwell and Arthur Fleming, head of the Administration on Aging, will announce "Project SSI Alert," a $6 million to $6.5 million effort to mobilize volunteers, mostly through help of the Red Cross and nongovernmental organizations of the aged, to contact potential recipients. As an initial target group, the Social Security Administration has picked out 400,000 of its own recipients, who, because of low earnings, are likely to be eligible for the SSI program. The alert will be patterned on a previous program by the Administration on Aging, which claims to have added another 200,000 Food Stamp recipients out of a potential of 1.4 million.

The potential for political criticism of the Nixon administration is substantial if eligible recipients aren't added to the rolls within the program's first six months. The bold forecast of extending added help to aged and other poor through the new program is currently being construed as a target for the beginning of the next fiscal year rather than a starting step.

But some Social Security officials view the magnitude of the SSI task as greater than launching the Health Insurance Program for the Aged in 1966. The switch to federal rolls of three million state welfare recipients is largely completed, although more data is required on some 400,000 individuals. The SSI program would seek to get checks out in January even if there is initial uncertainty over eligibility of those on the rolls, waiting until later to clear up questions.

MAJOR BENEFITS FOR AGED

Whatever the initial administrative headaches, the SSI program will have major effects on the economic well-being of the aged. Its basic monthly benefit of $140 for a single person, or $210 a couple, is greater than existing benefits in about half the states. Also, Congress has liberalized some of its provisions even before the program takes effect, and most administrative decisions by HEW Secretary Weinberger have made the program more generous for recipients and states.

When it was initially passed, estimates for the federal outlays were $4.2 billion for the first full year, compared with the federal costs under existing programs of $2.6 billion. But current estimates by the Social Security Administration are $5.2 billion for the first year, rising to $5.5 billion in federal outlays for the next year.

The increase in payments under SSI for the aged will tend to take political pressure off for increasing minimum Social Security Benefits for low-income workers and could mean that the retirement system in the years ahead is made more generous for workers with higher earnings than it would be otherwise. In addition, enabling the Social Security Administration to run both retirement and welfare payment systems for the aged could produce greater efficiency and eliminate some of the inequities that arise when payments are increased under one system but aren't under another.

However, Congress has insisted that the two programs remain separate. Social Security retirement is financed mainly through the payroll tax while SSI is paid out of general tax revenues.

U.S. Senate,
Washington, D.C., November 26, 1973.
Hon. Caspar W. Weinberger,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

Dear Secretary Weinberger: We are writing to express our concern for the approximately three million low income elderly and handicapped Americans not now receiving state income assistance, but who are estimated to be eligible for the Supplemental Security Income Program when it takes effect on January 1, 1974.

Acting Commissioner Hess' September 13 letter in response to Senator McGovern's initial inquiry in this matter outlined an "outreach program" of speeches, publicity, and briefings to reach those individuals and to inform them of their eligibility under SSI. Mr. Hess indicated that any major outreach effort probably would be out of the question because it would not meet "administrative needs." Mr. Hess ruled out any major mailing, and he indicated that he only had enough personnel to accomplish the changeover of recipients who are now on state assistance; that he could not, for want of manpower, undertake another major screening program for three million more people.

This outreach program described in Mr. Hess' letter is inadequate. It is not realistic to expect that newly eligible elderly and handicapped persons will be sufficiently informed by such an approach. They are at the bottom of the income ladder. For the most part they are not members of organizations which represent the elderly and handicapped. They are relatively less educated than the rest of the older population, and this group has traditionally been reluctant to seek assistance. Additionally, many of these people are living in rural areas of the country, creating special barriers to information access.

It has been conclusively established in community after community that the only effective method of reaching them with new programs and services is direct mail followed by personal contact. Your letter to Senator McGovern mentioned a 1,500 person test of a self-help mailing, which produced a substantial response. But it also demonstrated the absolute necessity for a mailing follow-up to insure that no eligible person is left uninformed or is inadvertently left out of the program.

When Congress passed H.R. 1 in 1972, the intent was to place a minimum floor under the income of every senior citizen, handicapped or disabled person in the country. It was not contemplated that anyone would be excluded because "administrative needs" take precedence over urgent human needs. It has come to our attention that various efforts may be attempted by the different states and the Administration on Aging to reach those individuals who will qualify for the Supplemental Security Income Program. We have also read that the Social Security Administration is planning to do some mailing to high poverty urban areas. However, we have yet to publicly hear of most of these programs.

Mr. Secretary, we request that you provide us with a complete description of the Supplemental Security Income outreach program to be implemented in the next twelve months. Also, please include any and all short and long range plans in this regard with specific details where available.

A speedy reply to our letter will be appreciated as the date for the initiation of the program is not far off.

With all good wishes, we are,
Sincerely,

Dick Clark.
Alan Cranston.
Abraham Ribicoff.
George McGovern.

U.S. Senate,
Washington, D.C., July 18, 1973.
Mr. Sumner G. Whittier,
Director, Bureau of Supplemental Security Income, Social Security Administration, Baltimore Md.

Dear Mr. Whittier: From the information I have available. I think you have made some significant progress thus far on the implementation of the Supplemental Security Income Program. I regard it as an important step forward in our continuing effort to provide a more adequate financial foundation for this nation's older and handicapped citizens.

There is, however, one area in which I would appreciate additional information. H.R. 1 did not specify a particular outreach program and did not specifically authorize funds for this purpose. However, in testifying before the Senate Special Committee on Aging in January, former SSA Commissioner Ball spoke of outreach. He said that 90% of the three million newly eligible persons in the country could be found on the rolls of Social Security and Medicare. After "whittling" down this group by removing persons who are obviously ineligible, Mr. Ball indicated that SSA would mail to about eight million individuals letters informing them of the program. Has this mailing been accomplished? If not, is it planned and/or are there alternative proposals to reach this group? Mr. Ball further indicated that working with senior citizens groups and others, SSA would follow up the returns from the mailing to actually enroll individuals in the SSI program. Is this still planned?

Mr. Ball also noted that there are somewhere between two and three hundred thousand potential eligibles who could not be located in this manner. To reach them, he said, "we will make use of general information materials and work with organizations that are in touch with older people, the blind and disabled, and with nursing homes just as we did with Medicare. A very widespread effort will be made . . . as we think we have an obligation . . ." I would like to know if this is still a part of the program, what the costs and methods are for reaching this specialized group as well as the larger group of eight million.

Any information your office can provide on the present and future status of the outreach program would be very much appreciated.

With every good wish, I am,
Sincerely,

George McGovern.

September 13, 1973.
Hon. George McGovern,
U.S. Senate,
Washington, D.C.

Dear Senator McGovern: I am sorry for the delay in responding to your letter of July 18 addressed to Mr. Summer G. Whittier asking for information about our efforts to reach potential eligibles of the supplemental security income program.

We certainly share your concern that needy aged, blind, and disabled people be made aware of and receive all possible assistance from the supplemental security income program. The new program is, in part, a replacement of existing State run programs for the aged, blind, and disabled, and a little over half of the estimated number of people who will receive supplemental security income payments as of January 1974 are already receiving State welfare payments. These people, about 3 million, are being automatically considered for benefits under the new program. This conversion effort, I am happy to report, is going extremely well. The latest information shows that the initial control file has been received for all State and local welfare jurisdictions and that the process of verification of the information is moving ahead on schedule. For this group of people, we want the transition to the new program to be smooth and to take place without causing them any anxieties. We are fully confident that this will be done.

To reach these people who might be eligible for SSI payments and who are now not receiving public assistance, we have developed a deliberate pinpointed information program which is closely tied to admistrative needs as well as our concern for the rights of potentially eligible persons. The seven most important elements of this program are:

1. Systematic coordination with selected groups and organizations identified with the aged, blind, and disabled.
2. Briefings of local press and issuance at the local level of news releases about specific events in the claims-taking process.
3. Highly selective cooperative communications efforts with special media such as Black and Spanish-language radio stations.
4. Timely reporting by district managers to key local groups.
5. Regular contacts with welfare professionals and similar interested parties.
6. Notice to present State recipients of the new system. Messages will be tailored to meet individual State needs.
7. Information materials available at our district offices to all persons on request who seek more details on the program, including self-screening materials to reduce nonproductive pre-claims interviews.

The implementation of this strategy is well under way. Earlier this year, we brought together in Baltimore a large gathering of national volunteer organizations whose constituents are the aged, blind, and disabled. The new program was explained to them and channels of future communications with them were established. Since that time, we have solidified our contacts with some 15 national organizations which work most closely with the needy aged, blind, and disabled. These organizations have highly effective grassroots components which are in contact with potential eligibles for SSI payments. We are getting cooperative, productive assistance in our proposals to have local chapters train local level staff people in the basic provisions of the program, to distribute information, and to answer questions, and we are confident that this method will prove effective in getting the message to the greatest number of potential eligibles and will even reach those very poor who would not be reached by any other means. Besides these volunteer organizations, local State public assistance offices are referring potentially eligible people to their social security offices where they are given full information about the program. As a result of our press releases, initial articles about the supplemental security income program have already appeared in about 500 newspapers nationwide. These stories have succeeded in spurring an initial flow of inquiries and applications for benefits. We are also putting out weekly information packages to be used by our local offices in their contacts with the media. Naturally, as we move forward and identify situations where special public information efforts appear necessary, we will be ready to act to assure that those in need receive word on the program.

I appreciate knowing of your interest in the status of the proposed outreach program outlined very early in our planning by former Commissioner Ball in his testimony. Because we came to have doubts about the efficiency and timing of so massive a campaign, a test was run to determine its feasibility. A mailing early this year to 1,500 randomly selected potentially eligible social security beneficiaries was made. Only half of those responded. Of these, only six would have been entitled to supplemental security income payments on the basis of the applications they completed by mail with self-help. Follow-up interviews conducted with all 1,500 persons in the sample identified only 167 others who could qualify for benefits. The disappointing results of this test indicated to us that a self-screening process would not have proved effective without a much greater commitment of manpower resources than was originally envisioned. Moreover, the timing of the proposed effort proved to be completely out-of-phase with the need for State decisions on supplementation.

Because SSA staff is now engaged in an increasingly complex make-ready period which is causing ever-increasing demands on our manpower—particularly in local social security offices where the follow-up on the self-screening project would have to be carried out—our plans for a nationwide effort of this kind had to be reconsidered. We will be evaluating the results of the comprehensive program outlined in the seven points above. We will also consider the possible effectiveness of mailing special self-screening information packages on a selective basis to people living in high poverty areas. These would be people who are receiving low social security benefits, who do not appear to be receiving public assistance and who have not yet filed for SSI.

Thank you for writing me of your concerns. I think you can see from the above information that we are committed to seeing that the assistance this program offers is made known to the special public it is designed to serve.

With best regards,
Sincerely yours,
ARTHUR E. HESS,
Acting Commissioner
of Social Security.

RATIONING WILL NOT CURE THE FUEL SHORTAGE

Mr. HANSEN. Mr. President, during the debate on the National Energy Emergency Act several Senators, including myself, argued against mandatory rationing of gasoline or anything else for that matter.

I noted in the Wall Street Journal of November 26 that our views are not only shared but fortified by those of the eminent economist and former Chairman of the President's Council of Economic Advisers.

Dr. Paul W. McCracken says:

> A rationing program in practice would waste gasoline and oil because simplistic and across-the-board rules, inevitable in such a broadside program, would put substantial amounts of these scarce products into the hands of those for whom the need would be of secondary urgency.
>
> A more unfortunate aspect of rationing would be its adverse effect on public morality. If there is one lesson to be drawn from experience with these programs it is that black markets would flourish. Thus those with "flexible" standards of morality, or who have political pull, or who can work some other angle will do relatively well, while the ordinary decent citizen will wind up with the dry gasoline or oil tank.

Dr. McCracken predicts:

> Rationing which starts out as a holding action during a shortage, will ineluctably prolong the shortage.
>
> During the weeks immediately ahead decisions will be made about energy that will in quite fundamental ways shape not only our economy but also the future course of American life, and there is an uncomfortably high probability that we shall set ourselves on a course of action that will be difficult to reverse and bitterly regretted.

Mr. President, I believe all Senators could benefit from reading the full text of Dr. McCracken's views on rationing so that we in this body would be better informed and avoid setting ourselves on the wrong course of action. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COUPON BOOK ECONOMICS

(By Paul W. McCracken)

During the weeks immediately ahead decisions will be made about energy that will in quite fundamental ways shape not only our economy but also the future course of American life. And there is an uncomfortably high probability that we shall set ourselves on a course of action that will be difficult to reverse and bitterly regretted.

That we confront a difficult energy problem is clear enough. We are consuming oil at the rate of just over 17 million barrels per day. Domestic production is about 11 million and not rising. Directly and indirectly roughly one-third of the six million that must be imported has been coming from the embargo area. The annual growth in demand could be expected to add roughly another million barrels per day to our requirements, and this also would in the normal course of things have come from the Persian Gulf because that is where the oil is.

This confronts us with a tough problem, one whose gravity is not to be minimized. Looking toward the year ahead we have a shortfall in probable petroleum supply of 15% to 20% relative to normal demand, and oil and gas in turn supply roughly half of our energy requirements. When we remember that a spot shortage at one point can have domino effects in other directions, the large potential that this shortage has for disorganizing our economic life becomes apparent. But for a nail . . . some kingdoms can be lost.

What should our energy programs do for us? What are the guidelines for determining what we should do and should not do? Precisely because the problem is so urgent we need to take time enough to perceive the longer run consequences of our short run actions. We have this problem of energy today in part because we did not take time a few years ago to think through the longer range results of some immediate actions. In a seizure of evangelical fervor, for example, we charged mindlessly ahead on some environmental standards that were clearly building up requirements for oil and gas which could not be met even before the Mideast war. The result of this theologization of environmental programs, which tended to treat questions about consequences almost with contempt or as sin, is that as these painful consequences now become more apparent the perfectly good cause of having regard for our environment is threatened with being discredited. If so it will have hard going to recover support from a public understandably suspicious because of having been burned once.

There will in this urgent energy problem again be a tendency to act as if the problem is so urgent that we must mount our steed and ride instantly off at top speed without even taking time to make sure that we are headed in the right direction.

SOME SOCIAL VALUES

Efforts at voluntary conservation are, of course, commendable. There are even social values to be derived at these joint efforts for the common good. And there can be no doubt that habits about energy use, reflecting quite rational responses to cheap energy prices (and not, as some comments seem to suggest, a new variant of original sin), have led to some uses that can readily be curtailed. Indeed, it is possible that something approaching halt of our shortfall could be taken up by such careful using of energy more sparingly.

Rationing commends itself to many as the way to handle the remainder of the job. It seems fair because "everybody would be treated alike."

If we do go into rationing, certain predictions can confidently be made. One is that what starts out as "treating everybody alike" will be a program that each citizen is sure is discriminating against him. For one thing there is infinite variation in people's situations. Giving everybody X gallons per week, or even everybody in Z category X gallons, will be just fine for the inactive family whose car spends most of its time getting dusty in the garage; and it might be lethal for the active family using the car for all manner of things. There is a way to use this enormous variation in individual situations, but more of that later.

The result is that a rationing program in practice would waste gasoline and oil because simplistic and across-the-board rules, inevitable in such a broadside program, would put substantial amounts of these scarce products into the hands of those for whom the need would be of secondary urgency.

A more unfortunate aspect of rationing would be its adverse effect on public morality. If there is one lesson to be drawn from experience with these programs it is that black markets would flourish. Thus those with "flexible" standards of morality, or who have political pull, or who can work some other angle will do relatively well, while the ordinary decent citizen will wind up with the dry gasoline or oil tank. Economies that are managed by license and edict and coupon books are also economies with pervasive corruption and graft. This is no accident. Those possessing the authority to grant favorable decisions possess something of great value, and there will be growing numbers who are willing to pay the price. All they will need to do is look around them to conclude that almost "everybody does it."

The major weakness of the rationing approach is that it slows down the process of curing the problem. Businesses inevitably will be reluctant to commit capital for products that are to be sold in a rationed market. It is one thing to bet one's ability to match wits with market forces and quite another to bet against the vagaries of government decisionmaking.

Rationing, which starts out as a holding action during a shortage, will ineluctably prolong the shortage.

Another approach for dealing with the shortage is the imposition of a stiff tax on gasoline and fuel oil. This would be vastly superior to rationing. It encourages every user to examine his own unique and peculiar combination of circumstances for ways to use scarce, high-priced products more sparingly. There is the usual skepticism about whether a higher price would have much effect, but the limited factual evidence available suggests that with something like a 20-cent-per-gallon tax on gasoline the shrinkage in use would bring demand into balance with limited supplies even with the absence of Mideast oil. And this would "treat everybody alike" in the meaningful sense that the intensity of pain for the last gallon given up in each case would be more nearly equal for all people than with rationing. It would use these scarce resources more efficiently.

This tax approach has two drawbacks. One is that an increase in price would hit lower income groups harder than those with high incomes. This is less certain than seemingly obvious. A lower income family (e.g., a retired couple) may find it easy to avoid the problem by curtailing use while a family with a larger income and less ability to cut usage will feel the bite. Moreover, there are far more effective ways directly to take care of society's quite legitimate concern about income distribution than to paralyze the pricing system. In this specific case, for example, we could have a rising deduction from income taxes going down the income scale with the credit payable in cash if it exceeded the income tax liability. The better approach, of course, would be to have a full-scale income maintenance program.

The more serious though less obvious drawback of the tax approach is that it does nothing to cure the fundamental need for enlarging our supply capability. It uses the pricing system to ferret out usages of secondary importance, but it does not use the pricing system to make a commitment of capital into energy production more profitable. Thus it would be a policy to allocate scarcity but not to eliminate it.

This leads to the third approach. Ever since the pricing system was invented, there has been a way to handle the shortage while fundamental forces are being set to work to correct it. What Americans most need now is enough clear-headedness at both ends of Pennsylvania Avenue so that higher prices for energy can start to get us more oil and gas. This will mean higher profits for the energy companies, but the U.S. Treasury will be a majority participant in the increased profits.

Here we do need to keep some specific facts in perspective. During the last decade the real retail price of gasoline excluding taxes (i.e., this price adjusted to allow for changes in the value of the dollar generally) declined 8% and during the last two years the real price of gasoline has declined almost 8%. A change in the ever more bargain basement character of these prices was about due in any case.

Of the three ways to regain balances between demand and more limited supplies, an outright higher price would be most effective and rationing at the outset would be most attractive (and, in the end, most disappointing). We have, therefore, a good chance that within the next few months rationing of gasoline and fuel oil will be adopted. Is there anything that can be done to minimize its perverse effects? Not much. Rationing, particularly peacetime rationing, almost inherently works badly and encourages black-marketeering, corruption, and waste.

AVOIDING A BLACK MARKET

One modification of the rationing system would, however, be helpful if the political process insists on going down that road. That would be to allow gasoline coupons to be freely bought and sold. In this way gasoline would be utilized for the most urgently felt needs. There would more nearly be equal sacrifice "at the margin." There would be no black market. And demand for gasoline would still be held in the aggregate to supplies available if the right total amount of coupons had been issued.

After this system operated for awhile, we would begin to perceive that what we had was a free market for gasoline plus a slightly disguised income redistribution program. It might then occur to us that we should have a straightforward income distribution program plus the straightforward superiority of the price system in free and open markets to handle the economy's allocations function.

If we could be sure of that result, a bout with rationing would almost be tempting.

JOHN F. KENNEDY—NOVEMBER 22, 1963

Mr. BENTSEN. Mr. President, November 22 marked the 10th anniversary of the assassination of President John F. Kennedy in Dallas, Tex.

As one who served with John Kennedy in the House, who worked for the Kennedy-Johnson ticket as a Texas finance chairman, I shall always have a clear memory of President Kennedy's service to the country and of the sense of loss we all felt at his death. The goals President Kennedy set for this country and the measures he initiated to achieve them still benefit the Nation today and continue to give us hope for tomorrow. I think the word to describe his life must be service—as he once expressed to a group of young Catholic Youth Organization delegates in New York:

> But look at all the sections of the United States, in our large cities, in eastern Kentucky, parts of southern Illinois, parts of Ohio, West Virginia, where people live lives of desperation without hope; they look to this country, they look to you and they look to me to serve. So I hope that all of you will serve—serve not only your families and your Church, but also serve this country. It deserves the best. It has been very generous to us all. And we must be generous in return.

At a time of trouble for this country that has rarely been matched in our history, we should reflect on those words and on the lessons of example that the President left us.

I ask unanimous consent, Mr. President, that the text of President Kennedy's acceptance speech at the 1960 Democratic National Convention, his inaugural address and his remarks that were intended for delivery on November 22 in Dallas may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Democratic National Convention Acceptance Address

(By John F. Kennedy)

With a deep sense of duty and high resolve, I accept your nomination. I accept it with a full and grateful heart—without reservation—and with only one obligation—the obligation to devote every effort of body, mind and spirit to lead our party back to victory and our nation back to greatness.

I am grateful, too, that you have provided me with such an eloquent statement of our party's platform. Pledges which are made so eloquently are made to be kept. "The rights of man"—the civil and economic rights essential to the human dignity of all men—are indeed our goal and our first principles. This is a platform on which I can run with enthusiasm and conviction.

And I am grateful, finally, that I can rely in the coming months on so many others—on a distinguished running-mate who brings unity to our ticket and strength to our platform, Lyndon Johnson—on one of the most articulate statesmen of our time, Adlai Stevenson—on a great spokesman for our needs as a nation and a people, Stuart Symington—and on that fighting campaigner whose support I welcome, President Harry S. Truman.

I feel a lot safer now that they are on my side again. And I am proud of the contrast with our Republican competitors. For their ranks are apparently so thin that not one challenger has come forth with both the competence and the courage to make theirs an open convention.

I am fully aware of the fact that the Democratic party, by nominating someone of my faith, has taken on what many regard as a new and hazardous risk—new, at least, since 1928. But I look at it this way:

The Democratic Party has once again placed its confidence in the American people, and in their ability to render a free, fair judgment.

And you have, at the same time, placed your confidence in me, and in my ability to render a free, fair judgment—to uphold the Constitution and my oath of office—and to reject any kind of religious pressure or obligation that might directly or indirectly interfere with my conduct of the Presidency in the national interest.

My record of fourteen years supporting public education—supporting complete separation of church and state—and resisting pressures from any source on any issue should be clear by now to everyone.

I hope that no American, considering the really critical issues facing this country, will waste his franchise by voting either for me or against me solely on account of my religious affiliation. It is not relevant, I want to stress, what some other political or religious leader may have said on this subject. It is not relevant what abuses may have existed in other countries or in other times. It is not relevant what pressures, if any, might conceivably be brought to bear on me.

I am telling you now what you are entitled to know:

That my decisions on every public policy will be my own—as an American, a Democrat and a free man.

Under any circumstances, however, the victory we seek in November will not be easy. We all know that in our hearts. We recognize the power of the forces that will be aligned against us. We know they will invoke the name of Abraham Lincoln on behalf of their candidate—despite the fact that his political career has often seemed to show charity toward none and malice for all.

We know that it will not be easy to campaign against a man who has spoken or voted on every known side of every known issue. Mr. Nixon may feel it is his turn now, after the New Deal and the Fair Deal—but before he deals, someone had better cut the cards.

That "someone" may be the millions of Americans who voted for President Eisenhower but balk at his would-be, self-appointed successor. For just as historians tell us that Richard I was not fit to fill the shoes of bold Henry II—and that Richard Cromwell was not fit to wear the mantle of his uncle—they might add in future years that Richard Nixon did not measure to the footsteps of Dwight D. Eisenhower.

Perhaps he could carry on the party policies—the policies of Nixon, Benson, Dirksen and Goldwater. But this nation cannot afford such a luxury. Perhaps we could afford a Coolidge following Harding. And perhaps we could afford a Pierce following Fillmore.

But after Buchanan this nation needed a Lincoln—after Taft, we needed a Wilson—after Hoover we needed Franklin Roosevelt—and after eight years of drugged and fitful sleep, this nation needs strong, creative Democratic leadership in the White House.

But we are not merely running against Mr. Nixon. Our task is not merely one of itemizing Republican failures. Nor is that wholly necessary. For the families forced from the farm will know how to vote without our telling them. The unemployed miners and textile workers will know how to vote. The old people without medical care—the families without a decent home—the parents of children without adequate food or schools—they all know that it's time for a change.

But I think the American people expect more from us than cries of indignation and attack. The times are too grave, the challenge too urgent, and the stakes too high—to permit the customary passions of political debate. We are not here to curse the darkness, but to light the candle that can guide us through that darkness to a safe and sane future. As Winston Churchill said on taking office some twenty years ago:

"If we open a quarrel between the present and past, we shall be in danger of losing the future."

Today our concern must be with that future. For the world is changing. The old era is ending. The old ways will not do.

Abroad, the balance of power is shifting. There are new and more terrible weapons—new and uncertain nations—new pressures of population and deprivation. One-third of the world, it has been said, may be free—but one-third is the victim of cruel repression—and the other one-third is rocked by the pangs of poverty, hunger and envy. More energy is released by the awakening of these new nations than by the fission of the atom itself.

Meanwhile, Communist influence has penetrated further into Asia, stood astride the Middle East and now festers some ninety miles off the coast of Florida. Friends have slipped into neutrality—and neutrals into hostility. As our keynoter reminded us, the President who began his career by going to Korea ends it by staying away from Japan.

The world has been close to war before—but now man, who has survived all previous threats to his existence, has taken into his mortal hands the power to exterminate the entire species some seven times over.

Here at home, the changing fact of the future is equally revolutionary. The New Deal and the Fair Deal were bold measures for their generations—but this is a new generation.

A technological revolution on the farm has led to an output explosion—but we have not yet learned to harness that explosion usefully, while protecting our farmers' right to full parity income.

An urban population revolution has overcrowded our schools, cluttered up our suburbs, and increased the squalor of our slums.

A peaceful revolution for human rights—demanding an end to racial discrimination in all parts of our community life—has strained at the leashes imposed by timid Executive leadership.

A medical revolution has extended the life of our elder citizens without providing the dignity and security those later years deserve. And a revolution of automation finds machines replacing men in the mines and mills of America, without replacing their income or their training or their need to pay the family doctor, grocer and landlord.

There has also been a change—a slippage—in our intellectual and moral strength. Seven lean years of drouth and famine have withered the field of ideas. Blight has descended on our regulatory agencies—and a dry rot, beginning in Washington, is seeping into every corner of America—in the payola mentality, the expense account way of life, the confusion between what is legal and what is right. Too many Americans have lost their way, their will and their sense of historic purpose.

It is time, in short, for a new generation of leadership—new men to cope with new problems and new opportunities.

All over the world, particularly in the newer nations, young men are coming to power—men who are not bound by the traditions of the past—men who are not blinded by the old fears and hates and rivalries—young men who can cast off the old slogans and delusions and suspicions.

The Republican nominee-to-be, of course, is also a young man. But his approach is as old as McKinley. His party is the party of the past. His speeches are generalities from Poor Richard's Almanac. Their platform, made up of left-over Democratic planks, has the courage of our old convictions. Their pledge is a pledge to the status quo—and today there can be no status quo.

For I stand tonight facing west on what was once the last frontier. From the lands that stretch 3,000 miles behind me, the pioneers of old gave up their safety, their comfort and sometimes their lives to build a new world here in the West.

They were not the captives of their own doubts, the prisoners of their own price tags. Their motto was not "every man for himself"—but "all for the common cause." They were determined to make that new world strong and free, to overcome its hazards and its hardships, to conquer the enemies that threatened from without and within.

Today some would say that those struggles are all over—that all the horizons have been explored—that all the battles have been won—that there is no longer an American frontier.

But I trust that no one in this vast assemblage will agree with those sentiments. For the problems are not all solved and the battles are not all won—and we stand today on the edge of a new frontier—the frontier of the 1960's—a frontier of unknown opportunities and perils—a frontier of unfulfilled hopes and threats.

Woodrow Wilson's New Freedom promised our nation a new political and economic framework. Franklin Roosevelt's New Deal promised security and succor to those in need. But the New Frontier of which I speak is not a set of promises—it is a set of challenges. It sums up not what I intend to offer the American people, but what I intend to ask of them. It appeals to their pride, not their pocketbook—it holds out the promise of more sacrifice instead of more security.

But I tell you the New Frontier is here, whether we seek it or not. Beyond that frontier are uncharted areas of science and space, unsolved problems of peace and war, unconquered pockets of ignorance and prejudice, unanswered questions of poverty and surplus.

It would be easier to shrink back from that frontier, to look to the safe mediocrity of the past, to be lulled by good intentions and high rhetoric—and those who prefer that course should not cast their votes for me, regardless of party.

But I believe the times demand invention, innovation, imagination, decision. I am asking each of you to be new pioneers on that New Frontier. My call is to the young in heart, regardless of age—to the stout in spirit, regardless of party—to all who respond to the scriptural call:

"Be strong and of good courage; be not afraid, neither be thou dismayed."

For courage—not complacency—is our need today—leadership—not salesmanship. And the only valid test of leadership is the ability to lead, and lead vigorously. A tired nation, said David Lloyd George, is a tory nation—and the United States today cannot afford to be either tired or tory.

There may be those who wish to hear more—more promises to this group or that—more harsh rhetoric about the men in the Kremlin—more assurances of a golden future, where taxes are always low and subsidies ever high. But my promises are in the platform you have adopted. Our ends will not be won by rhetoric and we can have faith in the future only if we have faith in ourselves.

For the harsh facts of the matter are that we stand on this frontier at a turning-point in history. We must prove all over again whether this nation—or any nation so conceived—can long endure—whether our society—with its freedom of choice, its breadth of opportunity, its range of alternatives—can compete with the single-minded advance of the Communist system.

Can a nation organized and governed such as ours endure? That is the real question. Have we the nerve and the will? Can we carry through in an age where we will witness not only new breakthroughs in weapons of destruction—but also a race for mastery of the sky and the rain, the ocean and the tides, the far side of space and the inside of men's minds?

Are we up to the task? Are we equal to the challenge? Are we willing to match the Russian sacrifice of the present for the future? Or must we sacrifice our future in order to enjoy the present?

That is the question of the New Frontier. That is the choice our nation must make—a choice that lies not merely between two men or two parties, but between the public interest and private comfort—between national greatness and national decline—between the fresh air of progress and the stale, dank atmosphere of "normalcy"—between determined dedication and creeping mediocrity.

All mankind waits upon our decision. A whole world looks to see what we will do. We cannot fail their trust; we cannot fail to try.

It has been a long road from that first snowy day in New Hampshire to this crowded convention city. Now begins another long journey, taking me into your cities and homes all over America. Give me your help, your hand, your voice, your vote. Recall with me the words of Isaiah:

"They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary."

As we face the coming challenge, we too, shall wait upon the Lord and ask that He renew our strength. Then shall we be equal to the test. Then we shall be weary. And then we shall prevail.

INAUGURAL ADDRESS, JANUARY 20, 1961

[Delivered in person at the Capitol]

Vice President Johnson, Mr. Speaker, Mr. Chief Justice, President Eisenhower, Vice President Nixon, President Truman, Reverend Clergy, fellow citizens:

We observe today not a victory of party but a celebration of freedom—symbolizing an end as well as a beginning—signifying renewal as well as change. For I have sworn before you and Almighty God the same solemn oath our forebears prescribed nearly a century and three quarters ago.

The world is very different now. For man holds in his mortal hands the power to abolish all forms of human poverty and all forms of human life. And yet the same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state but from the hand of God.

We dare not forget today that we are the heirs of that first revolution. Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of those human rights to which this nation has always been committed, and to which we are committed today at home and around the world.

Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

This much we pledge—and more.

To those old allies whose cultural and spiritual origins we share, we pledge the loyalty of faithful friends. United, there is little we cannot do in a host of cooperative ventures. Divided, there is little we can do—for we dare not meet a powerful challenge at odds and split asunder.

To those new states whom we welcome to the ranks of the free, we pledge our word that one form of colonial control shall not have passed away merely to be replaced by a far more iron tyranny. We shall not always expect to find them supporting our view. But we shall always hope to find them strongly supporting their own freedom—and to remember that, in the past, those who foolishly sought power by riding the back of the tiger ended up inside.

To those people in the huts and villages of half the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required—not because the communists may be doing it, not because we seek their votes, but because it is right. If a free society cannot help the many who are poor, it cannot save the few who are rich.

To our sister republics south of our border, we offer a special pledge—to convert our good words into good deeds—in a new alliance for progress—to assist free men and free governments in casting off the chains of poverty. But this peaceful revolution of hope cannot become the prey of hostile powers. Let all our neighbors know that we shall join with them to oppose aggression or subversion anywhere in the Americas. And let every other power know that this Hemisphere intends to remain the master of its own house.

To that world assembly of sovereign states, the United Nations, our last best hope in an age where the instruments of war have far outpaced the instruments of peace, we renew our pledge of support—to prevent it from becoming merely a forum for invective—to strengthen its shield of the new and the weak—and to enlarge the area in which its writ may run.

Finally, to those nations who would make themselves our adversary, we offer not a pledge but a request; that both sides begin anew the quest for peace, before the dark powers of destruction unleashed by science engulf all humanity in planned or accidental self-destruction.

We dare not tempt them with weakness. For only when our arms are sufficient beyond doubt can we be certain beyond doubt that they will never be employed.

But neither can two great and powerful groups of nations take comfort from our present course—both sides overburdened by the cost of modern weapons, both rightly alarmed by the steady spread of the deadly atom, yet both racing to alter that uncertain balance of terror that stays the hand of mankind's final war.

So let us begin anew—remembering on both sides that civility is not a sign of weakness, and sincerity is always subject to proof. Let us never negotiate out of fear. But let us never fear to negotiate.

Let both sides explore what problems unite us instead of belaboring those problems which divide us.

Let both sides, for the first time, formulate serious and precise proposals for the inspection and control of arms—and bring the absolute power to destroy other nations under the absolute control of all nations.

Let both sides seek to invoke the wonders of science instead of its terrors. Together let us explore the stars, conquer the deserts, eradicate disease, tap the ocean depths and encourage the arts and commerce.

Let both sides unite to heed in all corners of the earth the command of Isaiah—to "undo the heavy burdens . . . (and) let the oppressed go free."

And if a beach-head of cooperation may push back the jungle of suspicion, let both sides join in creating a new endeavor, not a new balance of power, but a new world of law, where the strong are just and the weak secure and the peace preserved.

All this will not be finished in the first one hundred days. Nor will it be finished in the first one thousand days, nor in the life of this Administration, nor even perhaps in our lifetime on this planet. But let us begin.

In your hands, my fellow citizens, more than mine, will rest the final success or failure of our course. Since this country was founded, each generation of Americans has been summoned to give testimony to its national loyalty. The graves of young Americans who answered the call to service surround the globe.

Now the trumpet summons us again—not as a call to bear arms, though arms we need—not as a call to battle, though embattled we are—but a call to bear the burden of a long twilight struggle, year in and year out, "rejoicing in hope, patient in tribulation"—a struggle against the common enemies of man: tyranny, poverty, disease and war itself.

Can we forge against these enemies a grand and global alliance, North and South, East and West, that can assure a more fruitful life for all mankind? Will you join in that historic effort?

In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger. I do not shrink from this responsibility—I welcome it. I do not believe that any of us would exchange places with any other people or any other generation. The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world.

And so, my fellow Americans: ask not what your country can do for you—ask what you can do for your country.

My fellow citizens of the world: ask not what America will do for you, but what together we can do for the freedom of man.

Finally, whether you are citizens of America or citizens of the world, ask of us here the same high standards of strength and sacrifice which we ask of you. With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own.

REMARKS PREPARED FOR DELIVERY AT THE TRADE MART IN DALLAS, NOVEMBER 22, 1963

I am honored to have this invitation to address the annual meeting of the Dallas Citizens Council, joined by the members of the Dallas Assembly—and pleased to have this opportunity to salute the Graduate Research Center of the Southwest.

It is fitting for these two symbols of Dallas progress are united in the sponsorship of this meeting. For they represent the best qualities, I am told, of leadership and learning in this city—and leadership and learning are indispensable to each other. The advancement of learning depends on community leadership for financial and political support, and the products of that learning, in turn, are essential to the leadership's hopes for continued progress and prosperity. It is not a coincidence that those communities possessing the best in research and graduate facilities—from MIT to Cal Tech—tend to attract the new and growing industries. I congratulate those of you here in Dallas who have recognized these basic facts through the creation of the unique and forward-looking Graduate Research Center.

This link between leadership and learning is not only essential at the community level. It is even more indispensable in world affairs. Ignorance and misinformation can handicap the progress of a city or a company, but they can, if allowed to prevail in foreign policy, handicap this country's security. In a world of complex and continuing problems, in a world full of frustrations and irritations, America's leadership must be guided by the lights of learning and reason—or else those who confuse rhetoric with reality and the plausible with the possible will gain the popular ascendancy with their seemingly swift and simple solutions to every world problem.

There will always be dissident voices heard in the land, expressing opposition without alternatives, finding fault but never favor, perceiving gloom on every side and seeking influence without responsibility. Those voices are inevitable.

But today other voices are heard in the land—voices preaching doctrines wholly unrelated to reality, wholly unsuited to the sixties, doctrines which apparently assume that words will suffice without weapons, that vituperation is as good as victory and that peace is a sign of weakness. At a time when the national debt is steadily being reduced in terms of its burden on our economy, they see that debt as the greatest single threat to our security. At a time when we are steadily reducing the number of Federal employees serving every thousand citizens, they fear those supposed hordes of civil servants far more than the actual hordes of opposing armies.

We cannot expect that everyone, to use the phrase of a decade ago, will "talk sense to the American people." But we can hope that fewer people will listen to nonsense. And the notion that this Nation is headed for defeat through deficit, or that strength is but a matter of slogans, is nothing but just plain nonsense.

I want to discuss with you today the status of our strength and our security because this question clearly calls for the most responsible qualities of leadership and the most enlightened products of scholarship. For this Nation's strength and security are not easily or cheaply obtained, nor are they quickly and simply explained. There are many kinds of strength and no one kind will suffice. Overwhelming nuclear strength cannot stop a guerrilla war. Formal pacts of alliance cannot stop internal subversion. Displays of material wealth cannot stop the disillusionment of diplomats subjected to discrimination.

Above all, words alone are not enough. The United States is a peaceful nation. And where our strength and determination are clear, our words need merely to convey conviction, not belligerence. If we are strong, our strength will speak for itself. If we are weak, words will be of no help.

I realize that this Nation often tends to identify turning-points in world affairs with the major addresses which preceded them. But it was not the Monroe Doctrine that kept all Europe away from this hemisphere—it was the strength of the British fleet and the width of the Atlantic Ocean. It was not General Marshall's speech at Harvard which kept communism out of Western Europe—it was the strength and stability made possible by our military and economic assistance.

In this administration also it has been necessary at times to issue specific warnings—warnings that we could not stand by and watch the Communists conquer Laos by force, or intervene in the Congo, or swallow West Berlin, or maintain offensive missiles on Cuba. But while our goals were at least temporarily obtained in these and other instances, our successful defense of freedom was due not to the words we used, but to the strength we stood ready to use on behalf of the principles we stand ready to defend.

This strength is composed of many different elements, ranging from the most massive deterrents to the most subtle influences. And all types of strength are needed—no one kind could do the job alone. Let us take a moment, therefore, to review this Nation's progress in each major area of strength.

First, as Secretary McNamara made clear in his address last Monday, the strategic nuclear power of the United States has been so greatly modernized and expanded in the last 1,000 days, by the rapid production and deployment of the most modern missile systems, that any and all potential aggressors are clearly confronted now with the impossibility of strategic victory—and the certainty of total destruction—if by reckless attack they should ever force upon us the necessity of a strategic reply.

In less than 3 years, we have increased by 50 percent the number of Polaris submarines scheduled to be in force by the next fiscal year, increased by more than 70 percent our total Polaris purchase program, increased by more than 75 percent our Minuteman purchase program, increased by 50 percent the portion of our strategic bombers on 15-minute alert, and increased by 100 percent the total number of nuclear weapons available in our strategic alert forces. Our security is further enhanced by the steps we have taken regarding these weapons to improve the speed and certainty of their response, their readiness at all times to respond, their ability to survive an attack, and their ability to be carefully controlled and directed through secure command operations.

But the lessons of the last decade have taught us that freedom cannot be defended by strategic nuclear power alone. We have, therefore, in the last 3 years accelerated the development and deployment of tactical nuclear weapons, and increased by 60 percent the tactical nuclear forces deployed in Western Europe.

Nor can Europe or any other continent rely on nuclear forces alone, whether they are strategic or tactical. We have radically improved the readiness of our conventional forces—increased by 45 percent the number of combat ready Army divisions, increased by 100 percent the procurement of modern Army weapons and equipment, increased by 100 percent our ship construction, conversion, and modernization program, increased by 100 percent our procurement of tactical aircraft, increased by 30 percent the number of tactical air squadrons, and increased the strength of the Marines. As last month's "Operation Big Lift"--which originated here in Texas—showed so clearly, this Nation is prepared as never before to move substantial numbers of men in surprisingly little time to advanced positions anywhere in the world. We have increased by 175 percent the procurement of airlift aircraft, and we have already achieved a 75 percent increase in our existing strategic airlift capability. Finally, moving beyond the traditional roles of our military forces, we have achieved an increase of nearly 600 percent in our special forces—those forces that are prepared to work with our allies and friends against the guerrillas, saboteurs, insurgents and assassins who threaten freedom in a less direct but equally dangerous manner.

But American military might should not and need not stand alone against the ambitions of international communism. Our security and strength, in the last analysis, directly depend on the security and strength of others, and that is why our military and economic assistance plays such a key role in enabling those who live on the periphery of the Communist world to maintain their independence of choice. Our assistance to these nations can be painful, risky and costly, as is true in Southeast Asia today. But we dare not weary of the task. For our assistance makes possible the stationing of 3.5 million allied troops along the Communist frontier at one-tenth the cost of maintaining a comparable number of American soldiers. A successful Communist breakthrough in these areas, necessitating direct United States intervention, would cost us several times as much as our entire foreign aid program, and might cost us heavily in American lives as well.

About 70 percent of our military assistance goes to nine key countries located on or near the borders of the Communist bloc—nine countries confronted directly or indirectly with the threat of Communist aggression—Viet-Nam, Free China, Korea, India, Pakistan, Thailand, Greece, Turkey, and Iran. No one of these countries possesses on its own the resources to maintain the forces which our own Chiefs of Staff think needed in the common interest. Reducing our efforts to train, equip, and assist their armies can only encourage Communist penetration and require in time the increased overseas deployment of American combat forces. And reducing the economic help needed to bolster thse nations that undertake to help defend freedom can have the same disastrous result. In short, the $50 billion we spend each year on our own defense could well be ineffective without the $4 billion required for military and economic assistance.

Our foreign aid program is not growing in size, it is, on the contrary, smaller now than in previous years. It has had its weaknesses, but we have undertaken to correct them. And the proper way of treating weaknesses is to replace them with strength, not to increase those weaknesses by emasculating essential programs. Dollar for dollar, in or out of government, there is no better form of investment in our national security than our much-abused foreign aid program. We cannot afford to lose it. We can afford to maintain it. We can surely afford, for example, to do as much for our 19 needy neighbors of Latin America as the Communist bloc is sending to the island of Cuba alone.

I have spoken of strength largely in terms of the deterrence and resistance of aggression and attack. But, in today's world, freedom can be lost without a shot being fired, by ballots as well as bullets. The success of our leadership is dependent upon respect for our mission in the world as well as our missiles—on a clearer recognition of the virtues of freedom as well as the evils of tyranny.

That is why our Information Agency has doubled the shortwave broadcasting power of the Voice of America and increased the number of broadcasting hours by 30 percent, increased Spanish language broadcasting to Cuba and Latin America from 1 to 9 hours a day, increased seven-fold to more than 3.5 million copies the number of American books being translated and published for Latin American readers, and taken a host of other steps to carry our message of truth and freedom to all the far corners of the earth.

And that is also why we have regained the initiative in the exploration of outer space, making an annual effort greater than the combined total of all space activities undertaken during the fifties, launching more than 130 vehicles into earth orbit, putting into actual operation valuable weather and communications satellites, and making it clear to all that the United States of America has no intention of finishing second in space.

This effort is expensive—but it pays its own way, for freedom and for America. For there is no longer any fear in the free world that a Communist lead in space will become a permanent assertion of supremacy and the basis of military superiority. There is no longer any doubt about the strength and skill of American science, American industry, American education, and the American free enterprise system. In short, our national space effort represents a great gain in, and a great resource of, our national strength—and both Texas and Texans are contributing greatly to this strength.

Finally, it should be clear by now that a nation can be no stronger abroad than she is at home. Only an America which practices what it preaches about equal rights and social justice will be respected by those whose choice affects our future. Only an America which has fully educated its citizens is fully capable of tackling the complex problems and perceiving the hidden dangers of the world in which we live. And only an America which is growing and prospering economically can sustain the worldwide defenses of freedom, while demonstrating to all concerned the opportunities of our system and society.

It is clear, therefore, that we are strengthening our security as well as our economy by our recent record increases in national income and output—by surging ahead of most of Western Europe in the rate of business expansion and the margin of corporate profits, by maintaining a more stable level of prices than almost any of our overseas competitors, and by cutting personal and corporate income taxes by some $11 billion, as I have proposed, to assure this Nation of the longest and strongest expansion in our peacetime economic history.

This Nation's total output—which 3 years ago was at the $500 billion mark—will soon pass $600 billion, for a record rise of over $100 billion in 3 years. For the first time in history we have 70 million men and women at work. For the first time in history average factory earnings have exceeded $100 a week. For the first time in history corporation profits after taxes—which have risen 43 percent in less than 3 years—have an annual level of $27.4 billion.

My friends and fellow citizens: I cite these facts and figures to make it clear that America today is stronger than ever before. Our adversaries have not abandoned their ambitions, our dangers have not diminished, our vigilance cannot be relaxed. But now we have the military, the scientific, and the economic strength to do whatever must be done for the preservation and promotion of freedom.

That strength will never be used in pursuit of aggressive ambitions—it will always be used in pursuit of peace. It will never be used to promote provocations—it will always be used to promote the peaceful settlement of disputes.

We in this country, in this generation, are—by destiny rather than choice—the watchmen on the walls of world freedom. We ask, therefore, that we may be worthy of our power and responsibility, that we may exercise our strength with wisdom and restraint, and that we may achieve in our time and for all time the ancient vision of "peace on earth, good will toward men." That must always be our goal, and the righteousness of our cause must always underlie our strength. For as was written long ago: "except the Lord keep the city, the watchman waketh but in vain."

ENVIRONMENTAL QUALITY

Mr. MATHIAS. Mr. President, the Honorable Theodore R. McKeldin, one of Maryland's most distinguished citizens, a former mayor of Baltimore and Governor of the State of Maryland, recently had occasion to address the Baltimore Chapter of the American Institute of Banking. In recent months, the Senate has had many occasions to grapple with the difficult problems of environmental quality. It is for this reason I would like to share former Governor McKeldin's thoughts with my colleagues in the Senate. He has touched upon one important aspect of environmental quality. Often, we equate environmental issues with a concern for maintaining the integrity of beautiful streams and rivers or most recently for preserving the mountains, plains, and valleys of this country from the ravishes of strip mining. While it is clear that those are important facets of the search for environmental quality, we must never forget the important role that American cities must play. The planning nightmares associated with urban sprawl are to a great extent brought on by the declining quality of urban America. People have left the cities for the suburbs by the droves and it is imperative that public and private institutions take action to halt this migration. Former Governor McKeldin has long believed in the American city and he has demonstrated his belief by the work he has done in improving the city of Baltimore. Under his leadership as mayor and Governor, we made great strides to reclaim the depressed areas of the city and as a private citizen he continues to provide wise counsel as we undertake new and even more ambitious projects of urban renewal. Virtually every major city across this country is in need of rebirth and for this reason I commend former Governor McKeldin's remarks to my colleagues' attention. I ask unanimous consent that the full text of his remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF THEODORE R. McKELDIN, BALTIMORE CHAPTER, AMERICAN INSTITUTE OF BANKING

It is always a good feeling for a lawyer and a former politician to address bankers. I've always found the banking community responsive to my requests as Governor and Mayor and believe that you have found in Baltimore and Maryland Government a similar responsiveness.

We all know that there is no more important element of the business community than the banks—they play a leadership role not only in business, but in the civic and government life of this community. Their policies influence major public decisions and their officers and directors play increasingly important roles in both the public and private decisions that are made.

The American city has been said to be in trouble. Many pundits and prognosticators have said that Urban America is dying. Many doomsayers have predicted the decline of the American city as leading towards the decline of America itself.

I don't believe any of this. I believe it is possible, just as it is necessary, to save the American city and thus save America itself. This country is an increasingly urban society. We've seen most Americans move from their rural living conditions in the 1930's and 40's to an urban society. Today over 70% of the American people live in the cities of America and less than 30% on the rural areas. And by cities I mean Baltimore and the surrounding urban counties, because that's what the city is in today's context. It is no longer limited to the narrow boundaries of Baltimore City. We share the problems and the opportunities as a region.

In the case of Baltimore, the City of Baltimore, as distinguished from the region of Baltimore, has traditionally been the center of our commerce and our culture, of our investment and of our economic activity. As Governor of Maryland, I was intimately aware of the fact that the economy of the State of Maryland depended on the health and the welfare of the City of Baltimore. That condition has not changed.

The decisions that are made in finance and in commerce and in industry, the decisions of civic organizations, social service organizations, charitable organizations and religious organizations are basically made for this entire region somewhere within Baltimore City. The Board Rooms of your banks are for the most part in Baltimore and in downtown Baltimore. The chief executive officers and the senior officials operate from the center city of Baltimore in most instances. If Baltimore was to be a city of despair and decline, of deterioration and dirt, if Balitmore was to be a city of congestion and blight and slums, the major decisions would have been made in that stultifying atmosphere or the decision-makers would have moved.

Happily for you and the organizations you represent and for the citizens of Baltimore, and the region, and of Maryland, Baltimore is not such a city. The decisions that were made 10 and 15 and 20 years ago are affecting the decisions that are being made today. The decision to locate the State Office Building in the largest city in Maryland made in the early 1950's significantly aided in the redevelopment of the Mount Royal section of Baltimore.

The decision that public and private authorities made in the late 1950's to plan and to begin to build Charles Center continued the momentum which has lead to the development of that inspiring project. Charles Center has created not only new buildings and new plazas for Baltimore, it has created not only new taxes and new job opportunities, but it has created the priceless enthusiasm and spirit which are so necessary for a City to move ahead. That self-confidence and enthusiasm which flowed from Charles Center is perhaps its most important contribution to the City and State.

As you know, ground was broken for the last commercial office building to be built in Charles Center on Thursday, September 20th; and with the completion of the Hilton Hotel, the beginning in 1974 of the Gas and Electric Company addition, and the beginning this fall of the final Mullan tower (if the costs are successfully brought in line, which I predict they will be), Charles Center will have been completed and will stand as one of America's most outstanding urban development projects.

When I returned to Baltimore after two terms as Governor of Maryland, I saw the future being shaped by projects like Charles Center and the City's general urban renewal program. I felt that Baltimore had an opportunity to keep the momentum going and to capitalize on its unique public/private partnership which had produced Charles Center. I proposed in my Inaugural Address in 1963 that the same people who produced Charles Center (that is the City and the private business community) join together to look at the great opportunity presented to the City by the fact that our downtown is adjacent to a harbor.

I was aware of the fact that great cities from Singapore to Stockholm, from Chicago to San Francisco, had all utilized their water to enhance their center city. Great cities have capitalized on great bodies of water, and perhaps it was lucky that Baltimore had not done a piecemeal, unexciting redevelopment program in the Inner Harbor. Perhaps it was fortuitous that Charles Center preceded any attention to the Inner Harbor, because Charles Center raised our sights as to what was possible.

I called Jim Rouse, who was then Chairman of the Greater Baltimore Committee, to meet with me to discuss this problem. Jim responded in his usual enthusiastic and imaginative way. We're blessed to have citizens like this in our community, and I was immediately excited by his response.

So we put together the same team that had planned Charles Center and began to look at the area south of it—not 33 acres like Charles Center, but 128 acres—within 18 months we came up with a plan which received the enthusiastic support of my Administration, of the Baltimore City Council, of the Federal Renewal Agency, and finally, and most importantly, of the Baltimore City voters who were asked to support it by a $12 million dollar bond issue. And support it they did—by a two-and-a-half to one vote in favor of the Inner Harbor bond issue. At a time when school bond issues and redevelopment bond issues around the country were being defeated, Baltimoreans expressed sufficient faith in our future to tackle one of the biggest bond issues that they had ever been faced with. Today you see some of the results of that work.

I'd like to tell you a little bit about the Inner Harbor project from a philosophical standpoint. It is important for a city to have beautiful buildings and plazas, adequate parking and good transportation, but buildings do not a city make. People are the important ingredient. Charles Center doubled the employment in its 33 acres. The Inner Harbor was conceived as an instrumentality for atttracting people back to the City to live, for obtaining a mix of income levels, for providing educational facilities, for providing tourist attractions, for providing health care, for providing low and moderate-income housing, as well as luxury housing, and for providing the plans which are now being implemented for a beautiful downtown Baltimore.

Even in the initial planning stage, we were excited by the response we began to receive from the citizens and the institutions of the City who participated in the planning of these facilities. Early on, the pastor of Christ Lutheran Church came to me with a proposal that they would provide health care facilities, housing facilities, and community service facilities to the people of south Baltimore and of the entire city as part of the Inner Harbor plan. Today the John L. Deaton Hospital is open and operating. The 250 apartments for low-income elderly people are about ready for occupancy. The underground parking with a plaza above for concerts and plays and activities is about ready for occupancy, and their building for social service organizations is next on their agenda.

The work of Christ Lutheran Church in providing from their parishioners over $800,000 of hard cash to this project, which allowed for a total investment of $14 million in those facilities was an inspiration to those in government and in the private sector who saw the Inner Harbor as a promise for a new Baltimore.

Since that time work has begun on the $6 million Maryland Academy of Sciences Building at the corner of Key Highway and Light Street. The bulkhead has been redesigned and work completed on the Key Highway, Light Street, and Pratt Street sides. (This was the site of almost 2,000,000 people participating in the Baltimore City Fair on the weekend of September 28, 29, and 30.)

The Constellation is almost completely refurbished and will provide continuous and attractive tourist attractions in Baltimore just as 3,000,000 visitors annually are attracted to the U.S.S. Constitution in Boston's Harbor.

The U.S.F. & G. Company will occupy their handsome new building at the end of this year at the northwest corner of Pratt and Light Streets. This building will have beautiful landscaping and a Henry Moore sculpture as an indication of the quality of the entire development.

On the northeast corner of Pratt and Light Streets we can see the I.B.M. Building under construction, which is living proof that Baltimore can compete. Baltimore was able to attract this new regional headquarters of a major corporation, in competition with innumerable suburban sites along the Beltway. It was a hard-headed business decision which proved to I.B.M. that it made sense to locate in the Inner Harbor.

Next to the I.B.M. Building, along Pratt Boulevard, as we now call it, is the site for the new Federal Reserve Building. The design work has been completed on this handsome new building but the final authorization has not yet cleared Congressman Wright Patman's committee. We believe that the authorization to begin this building will, however, not be too far in the future.

On the site of what is now Pier 2, Pratt Street, ground will be broken at 10 o'clock tomorrow morning for the new World Trade Center Building designed by the world renowned arcitect, I. M. Pei (pronounced PAY).

Across the street again next to the News American Building (which will stay and be refurbished) will be the Quille Garage and office building. Construction will begin on this before the end of 1973.

Adjacent to that site and just east of the Customs House is the site of the new Community College Inner Harbor Campus. Ground was broken for this undertaking on September 7th.

Here again, just as in the Maryland Academy of Sciences, the Constellation and the Christ Church development, the commitment to people comes forth because the Community College of Baltimore at its Inner Harbor Campus will be training the youth of our City and, specifically, the youth of east and south Baltimore for job opportunities in downtown business and industry and in port-related industry.

I would suggest to you bankers that you give serious consideration to courses to be taught at this branch of the Baltimore Community College in areas where you feel a need for men and women in your business and professions. This college is scheduled to be open in early 1976.

At the southwest corner of Pratt Boulevard and Light Street, from Pratt Street to the McCormick Building, will be Constellation Plaza. This plaza will include a major office building for the C & P Telephone Company, several hundred luxury apartment units, and a 500-room Sheraton Hotel, as well as underground parking, tennis courts, health clubs and an exciting series of shops, restaurants and boutiques along the bulkhead on the east side of Light Street. The first phase of this development is scheduled to begin in late 1973 or early 1974. I believe that you will soon see a public announcement concerning it.

For the area to the west of Charles Street, over to the Camden Station area at Sharp Street and from Pratt Street to Hill Street, is the Inner Harbor West project. This has been committed to a national development concern who will undertake the $60 million project to include a variety of housing types—from single-occupancy to multiple occupancy, from rental to ownership. This project will be a new town in town for approximately 3,500 families. The developer—the Shelter Corporation of America—competed for the opportunity to do the job with nine other nationally-known developers.

To the north of this development and to the south of the Federal Office Building in Charles Center, construction is about to begin for a new Federal Courthouse to replace the older building on Calvert Street at Fayette. Construction on this should start within 45 days, as the site is now being prepared.

Back to the other side of the project and to the piers which the City owns along Pratt Street. I described the beginning tomorrow morning of the construction of the World Trade Center Building. This leaves piers 3, 4, 5, and 6, owned by the City and available in approximately five years for construction of apartments and condominiums in the Inner Harbor, which by that time will have been so dramatically changed as to make those piers an exciting and beautiful place for people to live.

Plans are now being drawn for a design competition among local and national developers for the opportunity to undertake that development.

I am not here tonight to speak about the Convention and Stadium Complex which has been proposed as the finishing touch for Baltimore's Inner Harbor program because that is another complete program for you. Suffice it to say that if the City and State are successful in receiving authorization for their plans, we can see additional parking, shops, convention facilities and an enclosed stadium for 70,000 people south of the Civic Center and slightly to the west of Camden Station.

This exciting project would bring ten's of thousands of people on approximately ninety days of the year in the downtown area to patronize the shops and restaurants and thus contribute to the rebuilding of downtown Baltimore.

Again, I do not want to talk tonight about the subway system which will serve the Charles Center, Inner Harbor and the Stadium Complex because that is another subject for another time, but construction is due to start in late 1974 on a system that will provide clean, safe, frequent rapid transit service to these projects from major underground stations. The length of each will be appoximately 700 feet and provide multiple entrances directly into the buildings which I have described.

All of this has been conceived from a master plan of a new and beautiful downtown Baltimore. As you can see from some of the dates that I have enumerated in this talk, most of the commitments are at hand. Much of the construction is underway, such as the Christ Church, the Maryland Academy of Sciences, IBM and the U.S. F. & G. Others will just start, such as the World Trade Center, the new Hotel, the Telephone Company Building and the new Courthouse.

Others, such as the Inner Harbor West are committed but the Inner Harbor is moving at a great pace that exceeds even the fondest expectations of those of us who conceived and planned it.

Baltimore has a lot going for it and the public-private partnership, which is making all this possible, is an integral part of our new progressive stance.

The banking community has played an important part in all of this and will play an even more important part in the future. The contribution of the banks has been important in terms of your receptivity to finance the new developments, but equally important has been the role that bankers have played in their civic capacity to help provide the leadership that has made this all possible.

I hope that civic responsibility will continue to be foremost among the duties of the bankers of Baltimore.

As for Baltimore itself, it is not dead.

It is not dying.

But it is, thank goodness, under intensive care.

NIXON ADMINISTRATION ATTEMPTS TO BLACKMAIL CONGRESS

Mr. HUMPHREY. Mr. President, the Nixon administration, through a recent proposal by White House domestic adviser Melvin R. Laird, is attempting to blackmail Congress into agreeing to the cancellation of all anti-impoundment lawsuits against the administration, by State, communities, and organizations, as a condition for preventing a Presidential veto of the bill, H.R. 8877, providing appropriations for programs administered by the Department of Labor and Health, Education, and Welfare.

Mr. Laird has proposed this scheme as part of an amendment he has submitted behind closed doors at the last minute to House and Senate conferees working on the final version of this crucially important appropriation measure, already passed by both Houses of Congress. The Laird amendment would strike out Senate language in this bill prohibiting administration impoundments of appriated funds. In its place, there would be a new provision authorizing a reduction of up to $400 million from funds contained in this bill, except that no line item funding could be reduced by more than 5 percent. That still amounts, however, to giving the President an item-veto over appropriations enacted by Congress. But with respect to formula grant programs—an example, under the Elementary and Secondary Education Act—this reduced amount could be considered the appropriated level—thereby precluding any court cases brought by States over amounts to which they believe they are entitled according to the relevent formula.

The initial conference report on the Labor-HEW appropriations bill would establish a total spending level of $32.9 billion. The $400 million overall reduction proposed by the White House would bring spending for these programs to meet essential needs of our people down to a level that is $37 million below the current fiscal 1974 level authorized under the continuing resolution under which these programs presently operate.

I find it unconscionable that this administration would seek to further cut back funds for essential programs to improve educational opportunities for our children, provide job training and employment services for youth and older workers, expand critically needed health care services for all our people, and accomplish so much more that is of vital importance to people in need and in the betterment of life for all our citizens.

But this spending reduction proposed by the administration is only the tip of the iceberg. The Laird proposal, which can only be described as a case of unbridled blackmail, stipulates that the acceptance of fiscal 1974 Federal assistance by any organization—meaning even States—will automatically cancel any claim brought by that organization before a court for Federal funds to which it believes it is entitled under fiscal 1973 appropriations enacted by Congress.

This amounts to setting aside in one stroke some 30 court decisions against the administration, where total funds determined to have been impounded illegally by the Office of Management and Budget amount to at least $966 million.

We have seen case after case of blatant impoundment by the administration of funds ordered by Congress to be spent on vitally needed domestic programs for our people. In a report filed for the quarter ending September 30, 1973, as required under the Federal Impoundment and Information Act, the Office of Management and Budget still listed $7.443 billion as being held back in "budgetary reserves." And his is only part of the story of funds delayed from reaching programs of housing and community improvement, research and development in several major areas, and services to meet human needs of the highest priority.

Only 2 days before Mr. Laird submitted his proposal, a ruling, of great importance to school districts and vocational education programs across the Nation, was handed down by U.S. District Court Judge Joseph C. Waddy. Judge Waddy ordered that $380 million in fiscal 1973 education funds appropriated by Congress but frozen by the administration be distributed among the States immediately. I applaud this decision, which follows upon an earlier court order prohibiting the reversion of these unspent funds to the Treasury at the end of the last fiscal year.

However, the effect of the Laird proposal would be to tell the State and school district claimants in this case that if they accept one cent of Federal assistance in fiscal 1974, these court decisions will be automatically wiped out and they will be permanently barred from seeking previous Federal assistance to which they were fully entitled.

The time has come for this Congress to instruct the Nixon administration that it must cease its attempts to exempt itself from the law.

The time has come for Congress to insist that the Office of Management and Budget abide by the decisions of the courts holding various impoundments of appropriated funds illegal.

Let Congress now make it sharply clear that it will not submit to blackmail, where the White House is proposing the cancellation of these lawsuits as a tradeoff for the President's signing a major appropriations bill into law. Congress must totally reject Mr. Laird's proposal to deny claimants in court suits on OMB improvements of fiscal 1973 appropriated funds any judicial relief upon their acceptance of Federal assistance in the current fiscal year.

The central fact is that this proposal is flatly unconstitutional. Not only does it violate the doctrine of separation of powers inherent in the Constitution—because it represents a blunt intrusion by the Nixon administration into the power of Congress to appropriate Federal funds—but it also violates the constitutional right to equal protection of the laws. A recent message by Lucy Wilson Benson, president of the League of Women Voters, rightly states that Mr. Laird's proposal "violates the right of citizen access to judicial relief and subverts the basic concepts of checks and balances among the legislative, executive, and judicial branches."

I strongly urge Senate and House conferees on the fiscal 1974 Labor-HEW appropriations bill not to submit to this unconscionable act of White House blackmail with the implied threat of a Presidential veto if Mr. Laird's proposal is not accepted. Let it be made emphatically clear to the administration that Congress is a coequal partner in the American system of government, and that no intrusion upon its legislative power of the purse will be tolerated.

Mr. President, I ask unanimous consent that two articles—"Education Millions Unfrozen," appearing in the Washington Post of November 22, 1973, and "White House Seeks HEW Budget Bill," appearing in the Washington Post of November 24, 1973, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 22, 1973]

EDUCATION MILLIONS UNFROZEN

WASHINGTON.—U.S. District Judge Joseph Waddy ruled Wednesday that the administration must spend $380 million in appropriated education funds that President Nixon had ordered impounded.

Ruling in a class-action suit brought by the Commonwealth of Pennsylvania, Waddy ordered Secretary Caspar Weinberger of the Department of Health, Education, and Welfare to distribute the $380 million among the states "immediately."

The case involved money appropriated for fiscal year 1973, which ended June 30. Pennsylvania had sought its share, which it said amounted to $18 million.

The money was appropriated under the Elementary and Secondary Education Act, the basic federal-aid-to-education program, and under the Vocational Education and Adult Education acts.

There have been a number of court decisions on the constitutionality of Nixon's refusal to spend all that Congress has appropriated.

The Library of Congress said opponents of Nixon's impoundments have won more than 30 lawsuits while the administration has been upheld in about six.

The administration has been seeking a definitive Supreme Court decision on the constitutionality of impoundments.

In the only case to go above the District Court level, the U.S. Court of Appeals upheld, 2 to 1, a decision ordering the release of money from the Highway Trust Fund.

Other District Court decisions have ordered the release of funds for housing, urban renewal, rural housing, antipoverty, food, water pollution, and health programs.

Democrats in Congress, unhappy because the impoundments have withheld money for social programs, have sought to enact legislation inhibiting the President's ability to refuse to spend appropriated funds.

Such legislation has passed the Senate and awaits House action.

[From the Washington Post, Nov. 24, 1973]

WHITE HOUSE SEEKS HEW BUDGET BILL

(By Stuart Auerbach)

The White House's chief domestic adviser, Melvin R. Laird, said yesterday that he has launched an effort to prevent the Department of Health, Education and Welfare from having to operate without a budget for the second straight year.

In this effort to avert another presidential veto of the HEW-Labor appropriations bill, Laird said in an interview, he proposed a plan that would block suits to recover impounded funds.

"I'm trying to get a bill that can be signed so the department does not have to work on a continuing resolution that makes it impossible for them to plan," Laird said.

"We want a bill. You shouldn't be operating the department for this long a period [more than a year] on a continuing resolution."

Sen. Warren Magnuson (D-Wash.), chairman of the HEW-Labor Appropriations Subcommittee, agreed with Laird. "We would like to have a bill. We are tired of these vetos and continuing resolutions," he said.

As approved by the House-Senate Conference Committee two weeks ago, the bill called for expenditures that totaled $1.4 billion more than President Nixon asked. The House, however, sent the bill back to conference, a move that Laird said he was "instrumental" in arranging.

He predicted a presidential veto last summer when the House passed its version of the bill calling for spending $2.1 billion more than Mr. Nixon requested.

Laird said that he wants to "earmark some of the money" in the budget for out-of-court settlements of the more than 50 suits that state and local governments and private organizations have brought against the government for the recovery of funds impounded by the President.

The governments and private organizations have won at least 30 of the suits in the lower courts while the Nixon administration has been upheld in only six cases, a Library of Congress study showed.

Nevertheless, some members of the Nixon administration, including HEW Secretary Caspar W. Weinberger, feel that the government should appeal the cases to the Supreme Court if necessary.

Weinberger said yesterday that he believes "a correct decision would recognize the President's authority" to refuse to spend money even though Congress has appropriated it.

"In the absence of congressional procedures for examining the overall spending of government," said Weinberger, "the only one who can is the President. I believe he has the power to impound funds and I hope the courts will recognize it."

Laird recalled that he took the other side of the impounding issue during his years in the House, where he served as the ranking Republican on the HEW-Labor Appropriations Subcommittee.

The late John E. Fogarty, then chairman of the House Appropriations Subcommittee, and Laird "used to be in conflict over this thing" with Presidents Eisenhower, Kennedy and Johnson, Laird recalled.

Laird's proposal, as drafted in amendment form by HEW lawyers, would bar organizations from getting funds from the 1974 budget if they pressed suits for money they thought was coming to them from the 1973 budget.

Laird, however, said he did not intend to cut off funds. He said that he would "feel better" if there were money in the budget to settle the suits.

"I foresee greater problems if these suits go the other way"—that is, against the government, Laird said. "The time to compromise on court cases is before they get to the Supreme Court, not after."

The League of Women Voters, meanwhile, sent letters yesterday to the House and Senate chairmen of the Conference Committee urging rejection of the Laird proposal.

League President Lucy Wilson Benson called the proposal "unethical and perhaps unconstitutional," and said that it "violates the right of citizen access to judicial relief and subverts the basic concepts of checks and balances among the legislative, executive and judicial branches."

ORANGE COUNTY, N.C., YOUNG DEMOCRATS HONOR L. B. J.

Mr. HUMPHREY. Mr. President, it is my great pleasure to call to the attention of my colleagues a unique and fitting tribute to our late beloved President Lyndon Baines Johnson.

On November 8, 1973, the citizens of Orange County, N.C., hosted a tribute honoring the late President and his widow, Lady Bird Johnson, culminating in a ceremony renaming the Orange County Young Democratic Club the LBJ Young Democratic Club.

In a resolution proclaiming President Johnson one who "will be forever remembered as the President most truly of all Americans" and one who "nobly served his Nation first, and the Democratic Party second—all his life" the Orange County Young Democratic Club became the first such organization in the Nation to so honor this great citizen and leader. Noting that Mrs. Johnson "served equally with her husband in his many tasks," the club declared the name to be in honor jointly of the late President and the former First Lady.

Mr. President, I ask unanimous consent to have printed in the Record the resolution officially naming the Young Democratic Club in Orange County, N.C., a proclamation issued jointly by the chairman of the Board of Commissioners of Orange County and the mayors of Carrboro, Chapel Hill, and Hillsborough; an article by Ms. Margaret Knox in the North Carolina Leader; and my message of greeting to those gathered in honor of the late President and his Lady.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

A Resolution to Officially Name the Young Democratic Club in Orange County, N.C.

Whereas; this club has generally been known as the Orange County Young Democratic Club, and

Whereas; it is appropriate that the club should bear a distinctive and official name, and

Whereas; President Lyndon Baines Johnson departed this life on 22 January 1973, and

Whereas; President Johnson will be forever remembered as the President most truly of all Americans, and

Whereas; Lyndon Baines Johnson nobly served his nation first, and the Democratic Party second—all his life, and

Whereas; His constant friend, companion, and help-mate was his beloved wife, and

Whereas; Lady Bird Taylor Johnson served equally with her husband in his many tasks, and

Whereas; this "most remarkable woman ever to be First Lady" to quote a leading columnist, continues to carry on the ideals for which her husband lived, and,

Whereas; It is appropriate that in honoring the late President we also honor the former First Lady:

Therefore be it resolved:

Article I. The Young Democratic Club in Orange County, North Carolina, shall henceforth and forever be known as The LBJ Young Democratic Club.

Article II: This name shall be in honor jointly of our beloved late President Lyndon Baines Johnson and our former First Lady, Mrs. Lady Bird Johnson.

Article III: The President of this Club shall inform the Johnson family of this action.

Article IV: The President of this Club shall organize a suitable public memorial honoring President Johnson.

Article V: The President of this Club and a committee appointed by him shall make arrangements for an official copy of this Resolution to be presented to Mrs. Johnson.

Article VI: The President shall sign and each officer of the Club shall co-sign this resolution.

Article VII: The President may invite other appropriate persons, not to exceed ten, to join in the signing of this resolution.

Article VIII: This resolution shall be in effect immediately upon its adoption.

Proclamation

Whereas; on Thursday, November 8, 1973, Mrs. Lyndon Baines Johnson will visit North Carolina and Orange County, and

Whereas; a visit by the former First Lady of the United States is an occasion for official attention and welcome, and

Whereas; a special tribute to Mrs. Johnson and our late President Lyndon Baines Johnson is to be held by The LBJ Young Democratic Club, and

Whereas; this event is bringing many persons of note into Orange County, and

Whereas; it is appropriate that for this occasion we act jointly for the citizens of Orange County, and the towns of Carrboro, Chapel Hill, and Hillsborough:

Therefore: we the Chairman of the Board of County Commissioners of Orange County, the Mayor of Carrboro, the Mayor of Chapel Hill, and the Mayor of Hillsborough do jointly declare and proclaim that Thursday, November 8, 1973 shall be LBJ Day in these our jurisdictions and that on this day we do order and extend to Mrs. Lady Bird Johnson the Freedom of our Precincts and our Towns.

[From the North Carolina Leader, Nov. 13, 1973]

Three Former Governors at Lady Bird's Banquet

(By Margaret Knox)

Lady Bird Johnson, wife of the late U.S. President Lyndon Baines Johnson, won the hearts of North Carolinians all over again the other day in Chapel Hill and other parts of Orange County.

Described as the "greatest First Lady in modern history," by former Gov. Luther H. Hodges at a banquet in Chapel Hill, Mrs. Johnson was warm, friendly and gracious.

She was in Chapel Hill specifically to be the guest of honor of the renaming of the Orange County Young Democratic Club to the LBJ Young Democratic Club.

John Hamilton, club president, said it was the first club in the nation to so honor the former Democratic president who died in January, 1973.

The banquet was held in the American Legion building on Legion Road in Chapel Hill and consisted of barbeque, Brunswick stew, cole slaw, hushpuppies and coffee.

Former Governor Hodges said he was the oldest man in both President Kennedy's and President Johnson's cabinet.

On a personal note, he said, he recounted an experience with President Johnson and Lady Bird who had driven from their Texas ranch to Washington with two servants.

"There was no place for a black person to stay. He said we are going to change it and he did. He saw all of us as one people who should be treated alike," Hodges said.

Because he was older than then President Johnson, Luther Hodges said he often spoke up when perhaps he should have been silent.

"I remember one occasion when Lady Bird was taking a nap in the next room where I was talking with the President. He called her name and I told him, she was resting. So he called 'Ladybird, what is the name of that flower I want planted on all the highways of America?'

"She called back, "Bluebonnets!" the former Governor related.

Former Gov. Bob Scott, now executive director of the North Carolina Agribusiness Council, said he and his wife, Jessie Rae, had enjoyed a meal in the Johnsons' Texas home.

"And we took the famous ride around the LBJ ranch. Being a farm boy, I cast a critical eye . . . it was a working ranch, nothing pretentious at all.

"On the car telephone, he heard an order for someone to go to the store for some salt for some homemade ice cream . . . President Johnson said, 'While you're at it, make out a list of everything else you need and quit making so many trips to the store!' " reported Former Gov. Bob. Scott.

"It was a warm home, unpretentious. President Johnson had a great sense of pride in his heritage. We want to thank Mrs. Johnson for her presence here. There are people who believe in you as much as before," Scott added.

Former Sen. B. Everett Jordan declared, "She is one of us!"

Duke President Terry Sanford, also a former North Carolina governor, told Mrs. Johnson, "Welcome to the environs of Duke University, which is one of the reasons why Chapel Hill is so great."

President Sanford said that former President Johnson will be remembered as the President who put education first.

"He made education the business of the nation," he said.

Sanford said there is work to be done on the Democratic party to make it "an open party and a winning party."

Mrs. Johnson rose to speak briefly.

"I am grateful that you have named your Young Democratic Club for Lyndon. It fills me with warmth and gratitude. These years you speak of were great years, vigorously loved; Lyndon was anxious to put all his strength into his work," she said.

Mrs. Johnson said that someone had mentioned the Lady Bird Special which toured the country in behalf of her husband's campaign.

"That was the most wonderful time of my life. It left us with understanding, warmth, respect and liking for North Carolina," she added.

"I'm just so happy to see many old friends and meet young new friends," said the nation's former First Lady. "Thank you very much for the evening and your memories of my husband."

Before dinner, Mrs. Johnson mingled freely with guests in another room of the American Legion building.

One of the first to greet her was Oscar Ewing of Chapel Hill who was the FSA Administrator under President Harry Truman.

Mrs. Johnson showed her surprise and keen pleasure at meeting him again, clasping his hand in both of hers.

"I just can't believe it," she murmured.

All North Carolina's former First Ladies were seated at the head table while the former Governors (except Luther H. Hodges) were sprinkled out among the guests.

When Chapel Hill Mayor Howard Lee spoke he came to the mike at the head table and began, "Mrs. Johnson, former Governors and honored guests, including my wife who replaces me at the head of the table . . ."

He presented Mrs. Johnson with a gold key to the city of Chapel Hill.

"It opens the door to our hearts," he said.

By proclamation Nov. 8 was LBJ Day by the Orange County Commissioners, the mayors of Chapel Hill, Hillsborough and Carrboro.

In mid afternoon, Mrs. Johnson made an appearance at the Chapel Hill Public Library on Franklin St.

Her limousine was delayed a little while as she visited Carrbro. Meanwhile, Mrs. Richmond Bond, chairman of the board of trustees of the Library, appeared somewhat astonished at the array of news media present.

"I thought this was just going to be a small private affair," said Mrs. Bond.

Meanwhile, Mrs. Lillian Lee, wife of Chapel Hill's mayor and a special teacher at North Carolina Memorial Hospital, appeared with seven youngsters from the Communications Disorders Clinic, all eager to meet Mrs. Johnson.

They waited outside in the warm Autumn sunshine before the limousine pulled up at the library.

Mrs. Johnson took time to shake each little hand and heard the children clearly enunciate their names.

Inside the library's fireplace crackled a huge fire which Mrs. Johnson said was welcoming and "says come inside and linger."

Mrs. Bond told Mrs. Johnson, "I think we lend more books than we have."

"My long years in Washington taught me a lot about the people in North Carolina," said the former First Lady. "You always sent the best men to Washington."

She presented the library with two books—The Vantage Point by Lyndon Baines Johnson and A White House Diary by herself.

"These books will mean a great deal to all the people of Chapel Hill," observed Mrs. Bond.

Downstairs Mrs. Bond poured her hot coffee and she chatted briefly with news media.

"It is nice to be remembered," she said. "I loved my theme of work on things so marvelously interesting such as environment, Head Start and See America."

At present she works with the Austin library and travels quite a bit.

She said the Austin library "is a little capsule of history . . . it shows what the sixties were like. It is a visual history . . . I have an office there and a small staff."

Bob Pace of Chapel Hill, Democratic stalwart, asked her if he and John Hamilton could visit the library sometime.

"Let me know ahead of time and I'll be your guide," she promised.

As for her own book, she commented, "They were great years and I'm sure glad I got it all down."

While in Chapel Hill she was the guest of old friends, Dr. and Mrs. Samuel Selden.

Mr. JOHN W. HAMILTON,
Chapel Hill, N.C.:

Although we cannot accept your kind invitation to join you on November 8, Muriel and I do want to send our greetings to our friends in Chapel Hill. The naming of your club in honor of the Johnsons is a wonderful tribute to them. Lyndon Johnson was a very special man and a public official who gave exceptional service to our country. Lady Bird was a most gracious First Lady and continues to be an inspiration to all who know her. We are proud to have served in Government with the Johnsons and grateful for their friendship.

HUBERT H. HUMPHREY.

McINTOSH FOUNDATION EXECUTIVE IMPOUNDMENT PROJECT

Mr. CHILES. Mr. President, I would like to call to the attention of my colleagues the findings of the recently completed McIntosh Foundation Executive Impoundment Project.

Started 12 months ago at the University of Florida College of Law, the study assesses the impact of the increasing phenomenon of withholding congressionally appropriated funds. The study notes the legal, political, and economic ramifications of impoundment.

When Senator ERVIN and I cochaired the hearings on impoundment earlier this year, we ran into some areas where executive witnesses claimed one thing and we claimed another. I am, therefore, glad to see this nonpartisan study answer some of the questions on which we reached an impasse.

This study reveals as unfounded Presidential claims that impoundment is a tool in fighting inflation. In fact, impoundment has had only a minimal anti-inflationary impact. The findings also show that at least 80,000 persons were unemployed during fiscal year 1973 as a result of impoundment.

The findings also pose an important warning:

> When the President and Congress assert conflicting policies and priorities regarding government spending, citizen confidence in government itself is likely to be undermined, especially when the President resolves the conflict by his own unilateral action, on the basis of procedures which pose an unacceptable risk of abuse within the executive branch.

When I chaired the Ad Hoc Committee on Impoundment in January, impoundment was seen as one of the major issues of this Congress. Now it has been overshadowed by other events.

However, I have no doubt that we will be faced with a congressional role in the impoundment conflict in the very near future. This is a conflict which affects the fundamental roots of our system. I for one do not want to see the history books record that this Congress relinquished the purse strings to the Executive by allowing him the power to arbitrarily impound funds.

Because the impoundment question is filled with so many myths and uncertainties, I highly recommend this expertly prepared report authored by Jon Mills and Harold Levinson for the attention of all Members of Congress.

I ask unanimous consent that these findings be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

McINTOSH FOUNDATION EXECUTIVE IMPOUNDMENT PROJECT

SUMMARY

Introduction

This release presents the abbreviated findings of a twelve-month research project conducted at the University of Florida, Holland Law Center, Gainesville, under the direction of L. Harold Levinson and Jon L. Mills, supported by the Josephine H. McIntosh Foundation, Inc. The final report of the project, now being prepared, will include a full statement of the findings, together with proposals for reform.

Definition of impoundment

In dicussing "impoundment," this project avoids narrow technical definitions. As used here, the term includes all actions by the executive branch of government which reduce the flow of funds to a program below the level of budget authority authorized or approved by legislation.

Impact of recent impoundment

Impoundment during the past eighteen months has destroyed, curtailed or disrupted a number of important federal programs. The effects have been felt not only by the former beneficiaries of the program, but also by numbers of federal employees whose appointments have been terminated.

In addition, major effects have been felt by state and local governments throughout the country; uncertainty about possible impoundments has brought confusion into efforts to plan for the future.

Budget process

Impoundment is generally carried out on the basis of crucial decisions made by the president and certain senior advisors, regarding total amounts to be impounded to keep government spending within acceptable limits. These top level decisions are transformed into more detailed decisions involving specific programs as the impoundment process moves down the chain of command, subject to continuing review and supervision by higher levels. The impoundment decisions can be implemented by various techniques, carried out by various executive agencies, at various stages of the spending process.

When determining which programs to cut in order to keep total spending within the desired limits, executive officials choose to cut those programs which have the lowest priority from the Executive's point of view. Thus executive priorities rather than congressional priorities are reflected in the decisions to impound.

Congress has not demonstrated ability to coordinate its spending total with taxing and borrowing totals. This situation leaves the Executive with an opportunity (arguably a responsibility) to exercise discretion in deciding how to reduce the spending total so as to conform to the total of taxing and borrowing authority.

Political perspective

Many other presidents have impounded funds. However, President Nixon's impoundments have produced much more controversy than those of his predecessors. One reason is that President Nixon, a Republican, is using impoundment as a means of curtailing or destroying certain social programs which were adopted by the Democratic majority in Congress. Another related reason is that the President and Congress are in sharp disagreement on many other issues. Thus President Nixon cannot rely upon the informal liaison with congressional leaders which enabled many of his predecessors to work out budgetary problems amicably.

Decisions to impound are based, to a considerable extent, on policy preferences of the executive branch, including the question of political expediency. And after an impoundment measure has been announced, political pressures may persuade the executive branch to "unimpound," that is, to release the funds.

Economics

An econometric model indicates that the 1973 impoundments have not significantly changed the Consumer Price Index, although the President and his senior officials have repeatedly asserted that their impoundment policy was designed primarily for the purpose of reducing inflationary pressure in the economy.

The model shows that the 1973 impoundments did have at least one measurable effect—they resulted in the unemployment of 80,000 people.

Legal and constitutional aspects

Dozens of lower federal court decisions have been rendered within the past year in impoundment cases. Most have been decided against the President. No case has yet been decided or even argued in the Supreme Court.

The text of the Constitution does not clearly state how much discretion, if any, can be exercised by the president in carrying out his spending function. The lower courts have generally ruled, on the basis of statutes applicable to the disputed program, that the president has claimed more discretion than the law allows. But the general scope and limits of presidential discretion have not yet been set by the lower courts, and in any event the issue must remain in doubt until the Supreme Court renders a decision.

State governments in the United States

A survey of all state governments in the United States discloses that impoundment is not generally a serious issue in the functioning of state government. Many states have adopted various mechanisms which, singly or in combination, tend to prevent the occurrence of problems over spending.

Many of these devices have implications for the federal government. However, their significance is limited, in view of the limited responsibility of state governments as compared to the federal government.

Comparative study of foreign countries

A study of Britain, France and West Germany shows that, in all three systems, the Executive dominates the process of introducing appropriations into the legislature. And, once an appropriation has been enacted, the Executive enjoys considerable but not absolute discretion in deciding whether or not to spend the total amount of funds appropriated.

All three countries have parliamentary systems of government, in which the Executive is part of the legislative branch, subject to removal through a simple vote of no confidence. The legislatures thus possess an ultimate sanction which assures executive deference to policies of the legislative majority.

Pending proposals for reform

Each house of Congress recently passed a different version of a bill which would adopt a spending ceiling and which would require the President to submit his impoundments for congressional approval. The bills also provide that certain types of appropriations shall not be subject to impoundment at all, while all other types of appropriations will be impounded, if necessary for macro economic reasons, on an across-the-board basis. The Senate-House conference committee has reported hopeless deadlock in its attempt to reconcile the two versions.

Other proposals are pending, in connection with reform of the congressional process for considering and adopting spending measures.

Evaluation of current situation

The current situation leaves altogether too much room for abuse by the executive branch or irresponsibility by the legislative branch, and for an irreversible shift of effective power from Congress to the President. Meanwhile confusion prevails in state and local governments, and significant federal programs have been crippled or abolished by means of unilateral action by the executive branch

Recommendation will be included in our final report

The final report will include our recommendations as well as a detailed presentation of the facts summarized in this release.

INTRODUCTION

This release presents, in abbreviated form, the principal findings of a research project on the impoundment of funds by the President of the United States.

The project began in 1972 at the University of Florida Holland Law Center, Gainesville. The project is headed by University of Florida Law Professor L. Harold Levinson[1] and attorney Jon L. Mills.[2] The final report will be compiled by Levinson and Mills and will include chapters by them as well as three by contributing authors: Professor Irving Goffman, University of Florida Economics Department; Professor William G. Munsell, University of Florida Political Science Department; and Professor Hans W. Baade, University of Texas College of Law. Extensive research memoranda have been prepared for the authors by a team of law and economics students at the University of Florida.

The Josephine H. McIntosh Foundation, Inc., of West Palm Beach, provided essential financial support, and the University of Florida provided administrative support, with Law School Dean Joseph R. Julin being especially helpful.

The authors gratefully acknowledge the scholarly, financial, and administrative assistance listed above. However, the views expressed are totally those of the authors and should not be attributed to any institution or any other person except where one of the contributing scholars is clearly designated as the source of the opinion.

The report is the result of hundreds of interviews, in addition to library research in law, economics, the budget process, and political science. An invaluable conference was organized by the project and was held at the University of Florida in May 1973. Participants included Senator Lawton Chiles; Dr. Louis Fisher, the most notable author on impoundment; Mr. Rufus Edmisten, Counsel for the Senate Subcommittee on Separation of Powers; and officials from the Justice Department, Office of Management and Budget, General Accounting Office, and the House Appropriations Committee; together with the scholars who were the major participants in the study.

A preliminary report was released by the project on June 25, 1973. The present release summarizes the findings to date.

DEFINITION OF IMPOUNDMENT

Currently there is no statutory definition of impoundment, nor is there a definition which is universally accepted.

In the Impoundment Information Act, the first enactment directly relating to the practice, the Office of Management and Budget (OMB) is directed to report impoundments, but no definition of the term is provided. OMB has chosen a narrow approach, reporting only those items which fit under their definition of "reserves." In part, that definition reads:

"[Reserves] may be established as a result of changes in requirements, greater efficiency of operations or other developments subsequent to the date on which the budget authority was enacted . . . also . . . to provide for contingencies or for subsequent apportionment. . . ."

The OMB definition is derived chiefly from the Anti-Deficiency Act, a measure cited by the Administration as authority to impound. Using their narrow definition of the term, the OMB was able to exclude from their list such impoundments as the $5 billion which President Nixon ordered the Environmental Protection Agency not to spend from the Waters and Sewers Act.

In response to the narrow approach of the OMB, current proposals of the House and Senate are much broader in scope. For example, a current Senate bill, after specifically listing actions to be considered impoundments, concludes with an attempt to cover all possibilities of Executive withholding:

"(4) Any type of Executive action or inaction which effectively precludes or delays the obligation or expenditure of any part of authorized budget authority."

To encourage a broad treatment of the issue, our project has defined impoundment as any executive action which reduces the flow of funds to a program that has received budget authority from congressional authorization or appropriation and the approval of the President. This excludes changes in budget levels approved by Congress and vetoes sustained by Congress. In no way is this definition a condemnation of all acts regarded as "impoundments."

IMPACT OF IMPOUNDMENT

Impoundments of the past eighteen months have destroyed, curtailed, or disrupted a number of important programs. A few examples illustrate the impact of these curtailments.

Housing

In January, 1973, the Administration announced a moratorium of government approvals of construction of low and moderate income subsidized housing, low rent public housing and college housing. According to official figures released by the Department of Housing and Urban Development, the impoundment measures accompanying this moratorium resulted in a direct reduction of $1.5 billion in housing construction funds. A much higher loss, $7.5 billion, is estimated by the National Association of Housing and Redevelopment Officials. Whichever figure is used, the impact is highly significant, especially to the recipients of the housing program.

Office of Economic Opportunity

Impoundment measures placed in jeopardy the entire operation and existence of the Office of Economic Opportunity and the Community Action Agencies which administered many of its programs—until a federal court ordered the Executive to permit OEO and its related agencies to carry out the mission for which they had been created. The impact of the attempted abolition of OEO is not easily quantifiable. Many who have been employed by OEO would undoubtedly return to the welfare rolls, and if the OEO were in fact terminated, some observers speculate that increased tension would result, of the same type that caused the riots of the 1960's.

Highways

As a result of contract controls and other devices employed for the purpose of impoundment, the Nixon Administration has withheld $2.5 billion from highway construction funds. The impact on states has been especially significant. For example, one third of Iowa's highway budget comes from federal funds.

Environmental program

The Water Pollution Act passed by Congress over presidential veto was one of the programs hardest hit by impoundment. Congress authorized the expenditure of $11 billion during fiscal years 1973–1974. The President ordered that only $5 billion be allotted during those two years. A federal district court ruled that the President's action was invalid; appeals are pending.

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[1] Professor Levinson is on leave of absence from the University of Florida during academic year 1973–74 and is Visiting Professor of Law at Vanderbilt University, Nashville, Tennessee.

[2] Mr. Mills has devoted full time to this project since December, 1972. He was recently appointed director of the newly created Center for Governmental Responsibility at the Holland Law Center at the University of Florida.

Food stamps

$400 million of funds authorized for food stamps were withheld by the Executive during 1973. At the end of fiscal year 1972, $379 million of unspent food stamp funds reverted to the Treasury and an unspent surplus has been reported for every year since 1969.

The cutbacks in expenditures were effected by various means, often in the form of regulations making participation in the program more expensive or imposing more stringent qualifications upon applicants.

Impact on State and local governments

The impoundment report issued by the Office of Management and Budget, February 1973, includes $4.4 billion of impoundment involving grant-in-aid programs to state and local governments. In addition, these governments were affected by environmental program funding cuts, which the OMB does not describe as impoundment.

Impoundments have hampered planning in state and local governments and have caused disruption of state and local budgets. When federal grants-in-aid are reduced, the result is not only to freeze the flow of federal funds, but also to preclude or at least seriously complicate the expenditure of state or local funds which had been destined for use as matching resources with federal funding.

Special concern has been expressed by state and local officials over President Nixon's tendency to use impoundment deliberately to reduce the flow of federal categorical grants for domestic programs. The President apparently believes that state and local governments should use their share of general revenue funds, either to replace the federal grants he cut off, or for other programs which command stronger local political support. Even if the transition from grants-in-aid to revenue sharing is accepted in principle, state and local officials complain that the Nixon Administration has failed to provide for a smooth transition.

BUDGET PROCESS

Impoundment decision process: Overall limits on Government spending

Budget officials who served under the last five Presidents report that Truman, Kennedy and Johnson took direct interest in budget decisions, including cutbacks, while Presidents Eisenhower and Nixon took minimal roles in the impoundment and budget decision making process.

In our investigation of the impoundment decision making process, one fact was undisputed. The decision to impound is not the result of a regularized review process or a series of hearings. Impoundments are determined on an ad hoc basis or through the decisions of unofficial committees. Additionally, the process is carried on largely in secret. When our project attempted to obtain decisional memos from the OMB, we were met with denials allegedly justified by executive privilege and exceptions to the Freedom of Information Act.

The principal decisions for the impoundments of fiscal year 1973 were made by a committee which met at the White House and Camp David. The committee included John Ehrlichman, Kenneth Cole, George Schultz, Caspar Weinberger, Roy Ash, and Herbert Stein. During meetings, members did not share equal access to the President. It was John Ehrlichman who most often left the room reportedly to consult with Mr. Nixon. This committee reached the figure of $11 billion to be cut—a decision made in anticipation of the President's upcoming budget.

Selection of programs to be cut

Executive priorities rather than congressional priorities are reflected in the selection of programs to be impounded. The impoundment committee gave only slight indications of particular programs to be cut. Most of the programs were selected by discussions between the OMB, agencies, and the staff of the Domestic Council. The Domestic Council staff considered the political cost and benefits of proposed impoundments. Their sources of information included OMB memos, telephone calls to various politicians from different geographical districts and discussions with spokesmen of interest groups. However, lower level agency officials were often not contacted. Regional and local officials in HUD, Labor, HEW, and OEO felt totally ignored and expressed the opinion that decision makers had little understanding of the ultimate impact of cuts.

Deciding which programs to cut involved political methods and considerations. Political strategy memos such as the OEO document reproduced in the March 3rd, 1973, *Congressional Quarterly* at page 432 illustrate some types of political considerations and strategy. An entire section in the OEO memo is entitled "Tactics". The memo sets as goals, among others, to "Delay the Labor/HEW appropriation bill long enough to force the ultimate decision into Continuing Resolution framework late in June [and to] . . . [d]evelop adverse public and congressional reaction to the scattered, angry demonstrations that are virtually inevitable when these decisions [to cut OEO] are announced." It is interesting to note that this memo contains no impact analysis, no cost benefit analysis, and no economic analysis.

Methods of impoundment

Numerous methods are used by the executive branch to implement impoundment decisions. Not all are listed in the current OMB report, a quarterly document required by the Impoundment Information Act. However, the effects of all are similar—they reduce the flow of funds and, in some instances, terminate domestic programs. Further, in the decision process, all methods of impoundment are considered together and the most expedient and efficient alternative is chosen.

Nonetheless, the selected methods have in some instances not produced the desired results. With the HUD moratorium, the initial termination orders to HUD regional offices, in the words of a regional official, manifested such a "lack of knowledge of the programs" that the directives actually failed to effect a moratorium. In fact, some regional offices continued to initiate new housing programs during the confusion.

Impoundments are accomplished through the actions of three separate entities: Office of Management and Budget, the Agencies, and the President.

OMB

The OMB is the most prominent actor in the impoundment process. The apportionment process carried on by the OMB, which paces the rate of government spending, provides a convenient tool for impoundment. By apportioning disproportionately small amounts of spending for the first part of the fiscal year, this method can slow down the implementation of a new program or the operation of an on going program.

The Administration has utilized this device for programs in HEW and Labor. Indian Education, operating through a mandatory formula grant under HEW administration, was completely impounded by apportioning its total funding, $18 million, entirely to the fourth quarter of the fiscal year, preventing the beginning of program implementation. Before the beginning of the fourth quarter, the OMB recommended that Congress rescind the entire program. While the rescission request was pending in Congress, the OMB continued to withhold the funds. Though Congress ultimately rejected the rescission, the program remained entirely impounded. The use of the fourth quarter apportionment combined with the rescission request is, according to our research, unprecedented.

By far the most well publicized and most easily ascertained impoundments are accomplished by the OMB's reserving of funds, a power claimed from the Anti-Deficiency Act. Reserving may in some instances prevent funds from ever reaching designated programs and, thus, may curtail implementation of congressional policy. At the end of fiscal year 1973, reserves amounted to $7 billion.

The Highway Trust Fund illustrates the impact reserving may have on a program. As of January 29, 1973, $2.5 billion was reserved out of $4.7 billion potentially available to the states.

Agencies

Agencies can be used to implement impoundment. In the following examples, the decision to impound may have originated in the White House or the OMB, but the agencies themselves actually bring about the curtailing of expenditures.

1. Refusal to allot funds. In the budget process, allotment is the means by which agencies control rates of expenditures. This was done by the Environmental Protection Agency with regard to Clean Water funds. The court action on this question is still on appeal.

2. Change of regulation. This was accomplished by the Department of Agriculture in the Food Stamps program. A change in regulations eliminated benefits for approximately 350,000 recipients and reduced benefits for another 1,750,000. Current regulation changes are also limiting certain programs in HEW such as Day Care and Senior Citizen Centers. The new regulations reduce mandatory services, restrict the definition of former and potential recipients, and restrict the use of donated funds.

3. Contract controls. This is the claimed authority to reduce the level of contractual obligations authorized by congressional enactment. It was used to reduce expenditures from the Highway Trust Fund.

4. Refusal to receive, process, or approve applications for federal assistance. This was done in the Farmers Home Administration in the Farmers Home Loan Program.

5. "Scare" letters. Regional offices of HUD received letters which stated that they would have to reduce their number of employees but maintain their average GS rating. This meant that the more mobile and younger employees would probably leave immediately in anticipation of cutbacks, and higher GS rated individuals would have to be discharged to even out the average GS rating resulting from the departure of younger, lower GS rated employees.

6. Cutting communications between local and regional offices. OEO locals were cut off from communication with regional offices and were forced to deal directly with Washington. Washington was then able to direct more easily the dismantling of Community Action Agencies, a significant program of the OEO.

7. Phase out order. In February, 1973, telegrams directed Regional Medical Programs to begin a phase out and to submit a plan for that phase out by March 15, 1973.

White House Controls

The following are actions which can be directly accomplished by White House action or inaction.

1. A refusal to appoint persons to positions required to carry out a program. The Presi-

dent refused to fill positions required to administer the Indian Education Act.

2. Appointment of persons to dismantle and curtail programs. Howard Phillips was appointed director of OEO for the purpose of supervising the dismantling of Community Action Agencies.

3. Manipulating the effects of continuing resolutions. Continuing resolutions provide for temporary funding authority until new appropriations are passed. The resolution typically authorizes funding of ongoing programs at the current level of spending or the amount requested in the budget, whichever is lower. The Administration contends that it may "amend" the budget, even after adoption of a continuing resolution. By making downward amendments in January 1973 to his budget request for fiscal year 1973, the President contended he thereby reduced the amount which could be spent pursuant to the continuing resolution already in effect for that year. These amendments have affected many HEW programs including Mental Health, Health Services Delivery, Health Manpower, Educational Renewal, and Social and Rehabilitation Services. The results have been an overall reduction of $1.2 billion.

4. Rescission. The President or the OMB may propose rescission of a program, either to save money or because of disagreement with the basic program. During the pendency of proposals for rescission this year, the OMB withheld the funds from the programs in question. Those funds were effectively impounded. Some of the programs that have been affected include veteran's benefits for higher education, manpower training services, educational renewal, and Indian health services.

Defense budget

Prior to the formulation of the 1974 budget and impoundment decisions, President Nixon earmarked defense as a protected category. Impoundments in the defense area resulted in little if any program curtailment. To the contrary, spending techniques have been used to implement defense objectives not approved by Congress.

For example, according to Dr. Louis Fisher, the Nixon Administration financed Laotian military and paramilitary forces by transferring funds from such foreign assistance programs as "Food for Peace," refugee programs under the Agency for International Development, and other socially or economically oriented programs.

Another example involves the secret B–52 bombing raids in Cambodia from March 1969 through May 1971. The Pentagon concedes that 3,630 bombing raids took place in Cambodia during the time when Congress had appropriated $145 million for bombing raids in Vietnam. By using the funds for bombing in Cambodia, the Executive may well have circumvented congressional intent.

New personnel

Political appointees now fill positions of authority previously held by careerists. An example is the newly created positions of Associate Directors in the OMB. Four political appointees hold those positions, bringing the total of appointees in the OMB to six—three more than before.

Additionally, the Office of Management and Budget has instituted a new management program termed "Management by Objective". The result of MBO had been a centralization of decision making in the new political appointees.

Information leaks

In the impoundment decision making process, the OMB staff is largely immune from lobbying by special interest groups. However, top level OMB political appointees and the Domestic Council staff are contacted by interest groups and Washington lawyers. Occasionally these interest groups have received advance notice of impending cutbacks. This occurred with the HUD moratorium when the National Association of Homebuilders was contacted in December 1972 before the moratorium was communicated to local HUD officials. In response to the advance warnings, building contractors flooded local HUD offices with applications for housing programs, some of which were later invalidated. Housing officials speculated that the leak was a trial balloon to gauge reaction. Significantly, regional HUD officials also were forced to obtain their information concerning the moratorium from NAHB rather than from HUD's Washington office since Washington provided so little information.

In contrast to the notice given to home builders, Minnesota farmers received only a few minutes notice of the suspension of the emergency loan program of the Farmers Home Administration. The program was terminated by a teletyped message from Agriculture Secretary Earl Butz to the Minnesota State FHA office which was received at 4:20 PM on December 27, 1972. The message directed the state office to cease accepting emergency loan applications at the close of that business day. The county supervisors at the local level did not even receive notice of the termination until December 29.

Congress

Congress has demonstrated that it lacks adequate control over the budgetary process. Its committee structure is not organized to promote sound fiscal management of the national budget. Lacking coordinated taxing and spending committees, Congress never adequately considers expenditures in relation to revenues to gauge the impact of the budget on the economy. Moreover, appropriations are passed piecemeal without adequate opportunity for weighing competing priorities. Congress is also understaffed and consequently unable to either analyze the data presented by he President in support of his budget request or to assemble its own data.

Since Congress depends so heavily upon the executive branch for information, Congress is sometimes subjected to orchestrated facts and figures. For example, the school lunch program administered by the Department of Agricuulture initially received a low appropriation pursuant to the Department's request. The Department then instructed the states to informal local school districts that application for more funds would be useless as none were available. Congress, after receiving complaints of inadequate federal assistance, requested the Department to conduct a study as to additional program needs. The Department centered this study around the requests of local districts for supplemental assistance; however, the report did not take into account the number of districts deterred from making such requests because of the Department's earlier communications.

From a political perspective, Congress sometimes is entangled in partisan struggles, which often damage communicational flow. This is exemplified by instances in which majority and minority committees staffs jealously guard information from the other party.

Congress has shown decreasing interest in meeting the issue of impoundment head-on. Theoretically, Congress could take extremely strong measures to end or severly curtail the practice of impoundment. However, many members of Congress side with the President in the controversy and others have not been disturbed enough to change a situation in which ambiguity offers an opportunity for maneuvering and rhetoric. As stated by Congressman Robinson:

"It may well be true that—without our even realizing it—the practice of Presidential impoundments that has grown up over the years is part of a tacit agreement that Congress will get credit for voting the funds while the President takes Congress off the hook by refusing to spend them."

POLITICAL PERSPECTIVE OF THE CONTROVERSY

Why is impoundment an issue?

Several reasons have contributed to the increased salience of impoundment as a political issue:

1. President Nixon has chosen to make an issue of impoundment. The Administration has forcefully advocated impoundment as necessary, legally sound, and constitutionally sanctioned.

2. The type of programs cut by the Administration, such as social welfare, have broad based political support.

3. Interest groups concerned with the programs have been more vocal than during prior administrations.

4. President Nixon is impounding funds authorized by a Congress under control of an opposition party.

5. A large number and range of programs have been affected.

6. Programs are now being substantially curtailed and terminated rather than continued with efforts to achieve fiscal savings on expenditures.

7. The legislative and executive branches are in heated disagreement over a multitude of other issues, including Watergate.

The political bases for impoundment

Impoundment decisions are largely policy oriented. In the words of OMB Director Roy Ash, "The choice had to be made between good programs and bad programs, and in some cases between good ones and better ones." The OMB during Senate hearings reported that impoundment decisions depended on at least three criteria. They were "(1) Does the need which brought about enactment of the program still exist? (2) Does the program achieve its intended goal? (3) Is the program meeting its objective in a reasonably efficient way?"

Unimpoundment

The release of funds from various programs after an occurrence of impoundment can be termed an "unimpoundment." This is perhaps the most political part of the decision process. Executive officials have called unimpounding "fine tuning" to alleviate political complaints resulting from the impact of impoundment. The ultimate effect of unimpoundment can be to selectively grant funds to those who can achieve a release of funds. The possibility of unimpoundment affects the size of cuts for impoundment. Larger cuts can be made because it is known that unimpoundment can reduce the effect of miscalculations.

The practice of unimpoundment has occurred for years; for example, in 1943, the Bureau of the Budget released $800,000 of impounded funds for Nevada airports because of political pressure from Senator McCarran. In 1971, the OMB, prompted by a House Subcommittee hearing, released $67 million withheld from public works programs. In April 1972, the Nixon Administration announced that it had released $415 million in federal school aid that had been impounded.

Methods of exerting pressure for unimpoundment

Those attempting to unfreeze funds include interest groups, Congressmen, citizens, and governors. Techniques of exerting pressure used by these parties in order to get funds unimpounded range from activities such as taking busloads of community people to sit in the offices of the Secretary of Health, Education & Welfare to conferences with the Domestic Council and OMB officials.

The major factor in successful unimpounding seems to be political influence on the White House. For example, according to one New York official, attempts to unfreeze impounded housing funds for New York must now be channeled through Governor Nelson Rockefeller. While Democratic Mayor John Lindsay is told there is a moratorium, Republican Governor Rockefeller can get whatever housing funds he wants. Additionally, one Washington lobbyist pointed to Philadelphia's success in obtaining the release of $10 million in urban renewal funds and suggested that the sole motivation for such a release was the close political relationship between Nixon and Mayor Rizzo.

Unimpoundmentments—election related

An officer of a national interest group, when asked if releases of impounded funds are election related, said: "Yes they are connected. The election in 1972 was related to the release of $109 million we got unfrozen in January of '73." Another example, cited by Dr. Louis Fisher, involves education funds. In the fall of 1970 it was learned that the Nixon Administration planned to withhold such funds. Criticism began to build up in Congress and in the school districts. Two weeks before the November elections, the Administration announced the money would be released.

Arguments for impoundment

The most politically persuasive arguments for impoundment will vary according to the issues of the times. For example during war time the commander in chief power may be the most persuasive basis for impoundment. During the current period of inflationary difficulties, the best political justification for impoundment is its counter-inflationary effect. The actual validity of this justification at present is in question.

Economics

Impoundment affects two levels of the national economy: first, macro economic effects (involving the national economy as a whole) and, second, micro economics (involving particular programs). This study undertook to consider both the macro economic and selected micro economic effects.

Macro economics

To evaluate the impact of impoundment on major economic variables, three alternative levels of spending were presented for computer analysis by the well respected Chase Econometrics Model. The first level was a baseline forecast based on the actual level of spending as of June 5, 1973. The second alternative was based on the assumption that OMB's February 1973 impoundment figure of $8.5 billion would have been spent, not impounded. Alternative 3 assumes that spending was increased by $14.5 billion, the Library of Congress February figure for impoundment.

Perhaps the most important finding from the econometric model is that impoundment, whether at the $8.5 billion or $14.5 billion level, caused very little change in the Consumer Price Index—the measure of inflation. Although Roy Ash, Director of the OMB, stated in February 1973 that if the President had not impounded, "he would have given rise to an absolute need for either new taxes or considerably higher prices through inflation," the computer findings show that even over two years the maximum effect on the CPI is only ½ of a point.

Amount impounded	Effect on Consumer Price Index		
	1972	1973	1974
No impoundment	125.8	132.4	137.8
$8,500,000,000 (February OMB figure)	125.8	132.5	138.2
$14,500,000,000 (February Library of Congress figure)	125.8	132.6	138.3

Unemployment

In addition to the effects on the consumer price index, there were also effects on employment. The computer figures indicate that at least 80,000 persons were unemployed during fiscal year 1973 as a result of impoundment.

Micro economic effects

For an example of the micro economic effects of impoundment, the Section 235 and Section 236 HUD housing programs were selected for analysis. 235 housing programs subsidize mortgages for low income families purchasing their own home. Similarly, 236 provides assistance for rent and mortgages for cooperative housing for low income families. The project's study extracted figures of estimated regional impact from the National Ad Hoc Housing Coalition.

The Coalition's aggregate figures were broken down to show the estimated economic and employment losses for each area office. These estimates were based upon the percentage allocations to area offices made by HUD in previous years. In the project's analysis of the total cost of the housing moratorium to particular cities, the following factors were considered, among others: community facilities that were to support housing, real estate taxes, interest on loans, maintenance on the buildings, insurance, heat and utilities.

The following figures represent the lost housing starts in selected cities for fiscal years 1972 and 1973 as a result of the moratorium on 235 and 236 housing programs. The amount listed as the total cost of the moratorium is a total of the factors previously mentioned, *e.g.*, lost real estate taxes, etc.

IMPACT OF MORATORIUM FOR FISCAL YEARS 1973–74 IN SELECTED CITIES

	Lost housing starts	Total cost of moratorium
Boston:		
235	3,092	140,642,712
236	11,881	465,960,939
Tampa:		
235	8,290	377,078,990
236	3,250	127,461,750
Detroit:		
235	9,432	429,023,952
236	8,273	324,458,787
Indianapolis:		
235	5,290	240,620,940
236	8,577	266,381,363

The National Ad Hoc Coalition's figures have been subject to criticism by HUD on several grounds. They regard them as substantially inflated, arguing that the drop in housing starts due to the moratorium will be largely counteracted by increased demand of non-eligible groups and by direct and indirect incentives which will still exist to meet the needs of eligible groups. Similarly, HUD criticizes, as unrealistic, assumptions that the fall in housing expenditures and related community services means that funds will not be spent in the community; the money will rather find its way to alternative uses.

In arguing minimal economic impact, HUD also would ironically be minimizing reductions in spending, thus reducing the counter-inflationary effects of the moratorium.

LEGAL AND CONSTITUTIONAL ASPECTS OF THE IMPOUNDMENT CONTROVERSY

At least 61 court cases dealing with the impoundment controversy have been filed during the last year. Most decisions have gone against the Administration's position. The executive arguments of political question and sovereign immunity have been almost unanimously rejected by the federal district courts. Further, the assertion that the President has the power to impound to fight inflation has been rejected. However, no final determination of the legal and constitutional issues will be available until the Supreme Court undertakes determination of the issue.

Most courts have shied away from holdings on the constitutionality of impoundment, while the Supreme Court might not. In its first chance to hear the issue, however, the Court refused original jurisdiction in the case of *Georgia v. Nixon*. Consequently, a Supreme Court review of impoundment will most likely have to wait for the appellate process to bring the issue to the Court.

The Constitution

The Constitution does not directly mention the power to impound. However, several provisions indirectly relate to the impoundment issue: veto power, the "faithfully execute" clause, executive power, commander in chief, and legislative power.

The Veto Power

This is the only constitutional provision which directly relates to an interrelationship between the Executive and the Congress on issues of legislation. It gives the final voice to Congress in overriding executive vetoes. This grant of power to Congress was given after an "absolute negative" was proposed by Alexander Hamilton at the Constitutional Convention and unanimously rejected. Impoundments generally have the effect of an absolute veto, leaving no possibility for congressional override. For example, even after the Clean Water Act had been passed over a veto, President Nixon directed the EPA not to allot the funds.

Impoundments have also been analogized to an item veto—a device common in state governments. An item veto grants the power to reject one portion of a bill without vetoing it as a whole. Project research revealed no discussion of item vetoes at the Constitutional Convention; however, the proposal has been since made and rejected.

Faithfully Execute

The clause requiring the President to "faithfully execute" the laws has been used by the Executive to justify impounding when there is an apparent conflict between statutory authorizations to spend and congressional directives not to spend. A prime example is the debt ceiling. The debt ceiling limits the amount which can be borrowed by the federal government. The President argues that limited revenues together with a limit on debt prevents him from expending monies up to the level appropriated by Congress when the level is above these restrictions. The use of the "faithfully execute" clause as a basis for *not* executing a statute is not supported by precedent. Additionally, one statute directly relates to the conflict pointed to by the President. Title 31 United States Code § 13 directs that when a conflict occurs between level of spending and level of authorized revenues, the President shall return to Congress for direction.

Executive Power

The clause vesting executive power in the President has given rise to a theory that the President possesses certain inherent powers. The courts have developed a three-pronged test of such an assertion: first, is the power committed to a coordinate branch; second, has there been historic acquiescence to the power by Congress; and, third, is the action in the public interest.

The criterion of commitment to a coordinate branch, in the context of the impoundment controversy, is subject to interpretation and offers no clear answer.

The consideration of historical practice is the criterion most often argued by the Executive. However, even if a practice has been carried on for a period of time, it may still be held unconstitutional. Examination of historic instances of impoundment leads to two conclusions. In previous administrations, impoundments have occurred which affected policy. For example, curtailments of public works projects during World War II and RB-70 cutbacks both had an effect on national policy. Additionally, these impoundments had the effect of curtailing implementation of programs. In these two respects, Nixon Administration impoundments are not unique. However, the broad scale of impoundments and numerous instances of program curtailments during a single year do make the 1973 impoundments different. Impoundments curtailing program performance have never before been a generally accepted part of the budget process. Consequently, impoundment as practiced by the current Administration is unprecedented.

The public interest criterion is accepted only for temporary periods and, in some instances, not accepted at all if Congress is deemed to have spoken. For example, in the famous Steel Seizure case, the Court rejected seizure of the steel mills by President Truman despite the claim of national emergency.

Commander in Chief

The commander in chief power in the Constitution presents perhaps the most sacred grounds upon which the President can impound. This is also the area in which many past Presidents have justified their impoundments, including Roosevelt and Kennedy. In contrast there have been no impoundments formally justified under the commander in chief power in the Nixon Administration, possibly because military spending has been a favored category during this Administration.

Constitutional powers of Congress

Congress was granted the power to legislate on all subjects "necessary and proper" to carry out its enumerated powers. Part of its power to legislate is the power to appropriate since no funds may be drawn from the treasury "but in consequence of law." If a presidential action has the effect of curtailing legislative intent, the President could be said to be encroaching on the congressional power to legislate. That the Congress has been given the right to legislate spending implies that there is no absolute right in the President to refuse to spend entire appropriations.

Enactments relating to impoundment

In addition to constitutional bases for withholding funds, there are particular statutes which the Executive has cited as reason to impound. Interpretation of these acts as well as specific authorizations and appropriations have been the focus of court decisions.

Anti-Deficiency Act

The Anti-Deficiency Act was originally passed in 1907 to prevent overspending, as implied by its name. In 1950, the provision was added which allowed for "reserving" by the OMB. Of the reasons for reserving, the provision most cited currently by the OMB is the power to reserve for "other developments." In a Budget Bureau handbook written just two years after the amendment to the Act had been passed, the Bureau stated, "Reserves must not be used to nullify the intent of Congress with respect to the specific project or level of programs." There is no doubt that the Anti-Deficiency Act authorizes actions to reduce expenditures for the sake of fiscal savings. However, as evidenced by the Bureau of the Budget handbook, the statute does not directly authorize curtailment of congressional policy enactments. In the recent *Missouri* v. *Volpe* case, finding impoundments in the Highway Trust Fund illegal, the court held that their decision was not inconsistent with the provisions of the Anti-Deficiency Act and that the Act authorizes reserves only when "they will not be required to carry out the purposes of the appropriation concerned."

Employment Act of 1946

The Employment Act was passed for the purpose of "maximizing employment, production and purchasing power." The Act itself places no particular power in the hands of the Executive but creates both the Council of Economic Advisors and the Joint Economic Committee. There is no grant of power in the Act for the Executive to take action against inflation. There consequently appears to be no authorization in this statute to impound for counter-inflationary reasons.

Interpretation of congressional authorization and appropriations

Without exception, the court cases on impoundment have focused on the interpretation of the statute authorizing the program allegedly impounded. The argument is whether the statute has "mandatory" or "permissive" provisions. An appropriations act is not per se mandatory. This is supported by a statement of the chairman of the House Appropriations Committee, George Mahon: ". . . the weight of experience and practice bears out the general proposition that an appropriation does not constitute a mandate to spend every dollar appropriated." This is further supported by the existence of the Anti-Deficiency Act, previously mentioned, which specifically empowers the Executive to withhold in specific circumstances.

This is not to say the language in appropriation or authorization statutes has no effect. In fact, President Nixon, in vetoing funds for impacted schools, recognized the possibility of controlling executive spending discretion: "Nearly nine tenths of this Congressional increase—$1.1 billion—is for mandatory programs. The executive branch would have no control over these appropriations."

In the one appellate decision on impoundment, the *Missouri* v. *Volpe* case, the court relied heavily on legislative history to determine the intent of Congress regarding expenditures. It determined that the language of the statute in the context of the legislative history prevented the impoundment of Highway Trust Fund monies.

Another court, in its analysis of the HUD moratorium, took a more limited view and looked primarily to the words of the statute itself. The court found the provision permissive. From this point of view, the absence of the magic words "direct" or "mandate" could be determinative.

In the majority of cases, the courts have determined that the action of the Executive in withholding was improper. Many of the examples of impoundment discussed in the budget process section have now been declared illegal by federal district courts. Dismantlement of CAA's in OEO was ruled illegal. Refusal to allot Clean Water funds has been found to be beyond the discretion of the agency administrator. The failure to give adequate notice to Minnesota farmers of termination of FHA emergency loan programs was ruled by the D.C. District Court to be a violation of the notice requirements of the Administrative Procedure Act. Further, the judge stated, "The unilateral termination of the program *without notice* to the Minnesota farmers offends all traditional notions of fair play." The Minnesota case emphasizes the fact that not only the effects of impoundments but the procedure by which they have been accomplished are illegal.

However, none of the court decisions have offered a final solution to the impoundment issues. The courts continue to emphasize statutory interpretation and avoid declaring impoundment as a general practice unconstitutional. This is prudent since impoundments, in the broad meaning of the term, are often not only constitutional but desirable and supported by Congress. These are the instances in which impoundment is used for savings which do not substantively affect program performance. It is only when impoundments affect congressional policy, something which can only be determined by analysis of statutory language and legislative history, that impoundments take on the character of an item veto or absolute veto and could be considered unconstitutional.

STATE GOVERNMENTS IN THE UNITED STATES

Questionnaires were mailed to the legislative appropriations committees and the executive budget agency of each state. Forty-six states responded to the questionnaires, providing considerable information on each state's system of budegt preparation, appropriations, item veto, budget execution and post audit. Library research supplemented the findings of the questionnaires.

State legislative modernization has brought some significant changes in committee organization. Fourteen states have adopted joint appropriation committees, and in four of these states the appropriation and taxation functions are combined. There is an increasing trend to provide permanent professional staffing for fiscal committees, often in the form of a central legislative fiscal agency. In addition state legislators seem to have greater access to relevant information than do federal legislators. In the majority of states, initial agency requests are openly available to fiscal committees, and needed fiscal information may be obtained from central executive staff or the agencies themselves. Legislators commonly have access to allotment schedules, accounting records and disbursement reports. Monthly computer reports of expenditures are provided in at least seven others. In six states, there are some specific requirements for reporting the withholding of funds either before or after the fact.

The item veto is granted to the governors of over forty states. While typically allowing the governor to eliminate individual items, the item veto may also allow him to scale down items to desired levels. Similarly, in some states the veto may also include the ability to veto provisos or statements of intent included in the appropriation. Despite its widespread availability, the item veto is infrequently used, but when it is used, it is rarely overridden. In a small number of states, however, the item veto has been extensively used and has proved to be a significant restriction on legislative policy making. Greater use of the veto appears to occur in those states with the "reduction veto." In at least one state, Illinois, the use of the reduction veto was also accompanied by frequent "impoundment."

Generally, however, failure to spend in accordance with legislative intent has not presented serious problems. State fiscal statutes often place restrictions on the executive authority to approve allotments, authorize fund transfers, and/or withhold to prevent deficits. In some states, for example, impoundments can be made only on an across-the-board basis.

The existence of legislative oversight committees and the presence of legal remedies through court action or attorney general opinions also appear to have placed limits on executive discretion.

Many of the devices used by state governments have implications as potential methods of reform of the federal government. However, their significance is limited in view of the limited responsibilities of state governments as compared to the federal government. Only the federal government is responsible for defense, international balance of payments, nationwide price levels, and other problems of national scope. The federal government may well require unique systems in order to perform its unique missions.

COMPARATIVE STUDY OF FOREIGN GOVERNMENTS

A comparative study was prepared for our project by Professor Hans W. Baade, University of Texas Law School, covering the budget processes of Great Britain, France and West Germany during the past three centuries. A summary of a few of the major points of his report follows.

Each of these countries has a parliamentary system of government. The contrast between their system and the presidential system in the United States must be recognized before any other meaningful comparisons can be made.

In each of the overseas countries studied, modern budgetary history started with the struggle to prevent the king from levying taxes without the consent of the legislature. The British Parliament won this struggle in 1689, when the Bill of Rights established the principle of no taxation without representation; however, the American colonies did not enjoy the benefits of this principle until they became independent a century later. In France and the German States, at different dates, the power to tax ultimately fell into the hands of the legislature.

In the early days of legislative supremacy over taxation, the legislatures tended to levy taxes at levels below the amount desired by the king to support royal programs, especially involving the military. However, as nations became industrialized, and as governments were called upon to render far reaching social services, legislators came under increasing pressure from their constituents to initiate and expand governmental spending, often beyond the level desired by the Executive.

By this time, the executive function had generally passed from the king to the "government," typically consisting of a prime minister and cabinet, who could be forced out of power by a legislative vote of no confidence.

While individual legislators asserted the need for increased spending for specific programs, the government was obliged to control overall levels of spending, since no other organ of government could enforce fiscal responsibility.

The legislature itself recognized the need to protect individual legislators from constituent pressure, and to protect the government from excessive legislative pressure to spend. In 1713 the English House of Commons adopted a standing order, still in effect today, providing that only the government can introduce taxation or appropriation bills. Similar provisions are found in statutes or constitutions of the other nations of the British Commonwealth. France and Germany also place strict limits on the ability to introduce financially-burdensome legislation.

The possibility of dispute regarding the speding of public funds is obviously reduced in such circumstances, where the government dominates the appropriations process as well as the spending process. Nevertheless, in Britain, France and West Germany, the government sometimes wishes to spend less than the amount appropriated, and the government in each country enjoys considerable but not complete discretion in deciding whether or not to spend.

In all three countries, the government is permitted and indeed expected to reduce the level of spending when called for by considerations of prudent and efficient administration, that is, when the legislative program can be carried out at lower cost than originally anticipated.

In addition, in all three countries, the government enjoys limited discretion to reduce spending for specific programs in order to keep total spending within acceptable macro economic limits. This discretion and its limitations are most clearly recognized in West Germany, where the Stability Act of 1967 provides guidelines which the government must follow in deciding whether to impound funds; however, the guidelines are quite vague, and the government apparently enjoys broad discretion under the statutes. France takes a somewhat different approach, providing that ongoing programs are not subject to impoundment, but new programs may be. In England, the government's discretion seems greatest. As recently as March, 1973, the chancellor of the Exchequer announced that he would act at any time of the year to adjust expenditure, taxation or monetary policy as the economy might require. This statement should be interpreted in light of the English tradition, which assumes that the government will ordinarily try to adhere to the program which is explained and defended during the parliamentary debates on the budget.

PENDING PROPOSALS

As a result of the impoundment controversy, over forty bills have been introducted into Congress concerning impoundment and the budget. The first bill passed by the 93rd Congress was a bill compelling the reporting of impoundments to Congress by February 10th, 1973. Joint hearings of the Subcommittee on Separation of Powers and the Ad Hoc Subcommittee on Impoundment were held. And a joint committee was formed to study the congressional role in the budget process.

The final result regarding impoundment has been two spearate proposals passed in each House which would require congressional review of impoundment. There is a substantial difference in method of review between the two bills. The Senate bill provides that impoundments will become invalid unless approved by Congress within 60 days. The House bill would result in impoundments being invalid only if Congress disapproved. The two bills are now in conference committee, which is reportedly deadlocked. There is currently more enthusiasm for action on bills relating to improving the congressional budget process than on restricting impoundments.

EVALUATION OF CURRENT SITUATION

The dispute over impoundments has dramatically escalated during the past 18 months. President Nixon has announced that he has impounded, and intends to impound in the future, until such time as Congress becomes "responsible" in its approach towards spending. He scales expenditures down to a level he regards as acceptable, and he does so by impounding funds from programs which in his view have the lowest priority. This often frustrates the intent of Congress, which may have very different priorities. Congress, in turn, accuses the President of seizing unprecedented power by imposing his own set of priorities. However, Congress has not been able to rally around a position from which to exert effective pressure against continuing impoundment. The lower federal courts have ruled that a number of recent impoundment measures were illegal, on the basis of statutes involving the specific programs in question, but the Supreme Court has not decided an impoundment case.

Some degree of friction between the President and Congress is built into our system of separation of powers. This friction can be expected to be especially severe when the President and the congressional majority are of opposite political parties, as at present. However, the current confrontation over the impoundment issue has reached serious proportions.

When the President and Congress assert conflicting policies and priorities regarding governmental spending, citizen confidence in goverment itself is likely to be undermined, especially when the President resolves the conflict by his own unilateral action, on the basis of procedures which pose an unacceptable risk of abuse within the executive branch.

This risk of abuse arises from such elements as: the lack of any regularized procedure for making impoundment decisions in the executive branch; the lack of guidelines for allocating priorities in connection with proposed spending cuts; the secrecy of the process and of the underlying documents; the openness of White House staff to importuning; the possiblity of unimpoundment by means of "fine tuning" on a selective basis; the consideration of political impact as one of the bases for decisions; and the leakage of information in advance of official announcement of certain impoundment decisions.

In such a system, errors can go undetected, and so can arbitrary, discriminatory and irrational decisions.

No only is there a risk of abuse in making impoundment decisions regarding cuts in specific programs. In addition, the macro economic assumptions which form the basis of the President's policy regarding total spending are themselves open to serious challenge.

In the face of such presidential action, Congress has failed to assert itself forcefully. Part of the explanation may lie in the fragmentation of congressional strength. But deeper explanations may underly congressional tolerance of the President's impoundment policy. Congress may welcome the situation as one where, as one Congressman put it, "Congress will get credit for voting the funds while the President takes Congress off the hook by refusing to spend them."

Some scholars have observed an inevitable trend toward increased presidential power, especially with regard to macro economic and fiscal planning. President Nixon's use of power demonstrated in his impoundment policy may be a symptom of a more general shift of power to the Executive, a shift which Congress is not yet prepared to acknowledge. Whether this shift does in fact take place and, if so, when, will depend largely upon the extent to which Congress can demonstrate its capacity for responsible leadership.

In keeping with the American tradition of conflict and compromise, quite possibly the impoundment controversy will not end with either branch of government clearly predominating. Perhaps our best hope is that the controversy is never quite solved and that our system will remain, in this respect as in others, in a constant state of creative tension.

CALLING UP OIL'S SHADOW GOVERNMENT

Mr. METCALF. Mr. President, in his energy speech Sunday evening, the President did not mention one of his most significant actions. It was briefly mentioned in a fact sheet issued by the White House Sunday. That fact sheet stated that the Emergency Petroleum and Gas Administration Executive Reserve will be partially activated and that approximately 250 oil and gas industry executives will be "activated" to assist in planning and administering emergency programs.

You will not find the Emergency Petroleum and Gas Administration in the Congressional Directory. EPGA has been a shadow government agency which through Interior's Office of Oil and Gas, was maintained in standby readiness to mobilize and direct the Nation's petroleum and gas industries in the event of a national emergency.

The EPGA is composed principally of oil company officials. Its plan of action was developed by the National Petroleum Council, an industry advisory committee, and other oil company entities.

I believe it is important that we all know as much as possible about persons who conduct the affairs of Government.

In this instance the administrators, for the most part, are not public officials seasoned by experience in civilian government. They are part of the oil industry. They will function with military officials who are also being brought into the program.

The table of organization of the Emergency Petroleum and Gas Administration lists 24 officials from Exxon, 22 from Shell, 20 from Texaco, 15 from Mobil, 14 from Atlantic Richfield, 12 from Sun Oil, 11 from Northern Natural Gas, 10 from Gulf. And so it goes, with officials from energy companies dominating most of the 476 positions already filled in this crucially important Government agency now being quietly activated by the President, an agency with a total of 935 positions to be filled. The positions in which energy company officials have already been placed involve policy direction and implementation, the provision of legal counsel, and information.

Mr. President, I ask unanimous consent to print in the Record four items which provide details on this matter. One is Roberta Hornig's article, in the November 22, Washington Star-News, " 'Executive Reservist' Aid Sought by Energy Group." The second is the November 26 article, "Allocating Oil 'The Military Way' " by Rowland Evans and Robert Novak. The third is an article from today's Washington Star-News "Oil-Leader Draft Hits Legal Snags" and fourth is the table of organization and key positions of the Emergency Petroleum and Gas Administration as of October 31, 1973, and as provided to me this week by the Office of Oil and Gas.

There being no objection, the material was ordered to be printed in the Record, as follows:

Executive Reservist Aid Sought By Energy Group

(By Roberta Hornig)

The White House's Cabinet-level Emergency Energy Action Group has decided to recommend that "executive reservists" be called up to help the administration cope with severe energy shortages.

The "reservists" would be senior officials from the oil industry who are members of the standby Emergency Petroleum and Gas Administration which was last activated during the Korean War.

Administration sources say that some 100 or so of the executives would be stationed throughout Washington and various regions in the country to help carry out any fuel allocation programs.

News of the energy group's actions were generally blacked out after its third meeting yesterday.

Leaks that had been coming from its meetings were generally stopped after White House Chief of Staff Alexander Haig met briefly with the group and declared that decisions are "no policy" until approved by the President.

One administration source said Haig pointed out that any policies decided upon have to be activated by the President.

The action group, organized last week, is headed by presidential energy adviser John Love. So far it has produced at least two specific recommendations—closing gas stations on Sundays to cut down gasoline consumption and "allocating," or rationing, heating oil to consumers and business establishments.

Both of these actions, which were approved earlier this week, are likely to be announced Monday at the White House, administration sources say.

Until now, the administration has generally relied on voluntary energy conservation by U.S. citizens. At the same time, several administration members have painted bleak pictures of what lies ahead for the American public.

Interior Secretary Rogers C. B. Morton, for example, yesterday predicted that the public will begin feeling the fuel pinch early next month and that Eastern states particularly may experience power brownouts or blackouts.

Shortages will hit residual oil used in electrical power plants in early December, extend to heating oil, diesel oil and jet fuel in late January, and effect gasoline in early to mid-February, he warned.

In New Haven, Connecticut Gov. Thomas Meskill announced that New England's electric companies will reduce voltage by 5 percent from 4 p.m. to 8 p.m. daily to save fuel, the Associated Press reported.

(The cutback, to begin Monday, would have a minimal effect on consumers, possibly only reducing the quality of television reception, the governor said.)

Another administraion spokesman, Roy Ash director of the Office of Management and Budget, reported yesterday that a ban on Sunday driving "is not under consideration" by the government.

Besides calling up "executive reservists," who reportedly represent all segments of the oil industry including the refining, marketing, producing, and transportation ends, the action group yesterday:

Presented an option paper to the President on a nationwide speed limit of 50 miles an hour.

Heard Stein, director of the Council of Economic Advisers, discuss the economic impact of energy shortages.

Discussed a proposed mandatory conservation move requiring business establishments to close on Sundays or shorten store hours to save fuel. An administration source said several businssmen have told the White House the hours of curtailment would cut down their overtime and payroll gross, which would be beneficial to them.

Discussed the plight of the Northeastern states, which are expected to be among the hardest hit by energy shortages since they depend so heavily on the imports of the Mideastern Arab states that have been cut off since the Arab-Israeli war.

Meanwhile, in related developments:

Authoritative sources reported that Rep. Wilbur D. Mills, chairman of the House Ways and Means Committee, has told the Treasury that he would not go along with an increase in the federal excise tax on gasoline that involved income-tax rebates, the new York Times said.

The Treasury, still opposed to general gasoline rationing, was reported to be considering a gasoline tax boost that would be partly offset by the issuance to motorists of coupons that could be used to pay the tax only on a specified number of gallons.

John T. Dunlop, director of the Cost of Living Council, said he opposes lifting petroleum price controls early, to discourage consumption, although he said U.S. oil prices must rise in the long run.

But Dunlop raised the possibility of early price increases on home heating oil by revealing that his council was considering incentives to encourage its production at U.S. refineries.

In New York, Ralph Nader, criticizing Nixon's directive to speed up the licensing of atomic power plants, said emphasis on atomic power could "replace the energy crisis with a long-term radioactivity crisis."

Dixy Lee Ray, chairman of the Atomic Energy Commission, called Nader's statement "one more attempt to frighten the American people." She said Nader and the Union of Concerned Scientists, who joined him in the statement, were "wrong" and "have chosen to ignore the . . . facts."

Kenneth E. Hill, a member of the National Petroleum Council, said yesterday in New York that oil companies are drawing their fuel oil stock down at the rate of a million barrels a day. Combined with the 3 million-barrels-a-day Arab oil embargo, he said, "They'll literally run out on March 1."

Hill also said the U.S. can never reach the total self-sufficiency sought by President Nixon because it would cost more than $70 billion a year for the next seven years to do so.

The Cost of Living Council exempted from some price controls crude oil produced from wells producing small amounts of oil.

The council said its action is expected to step up production from the small wells and help relieve the nation's energy shortage. The so-called "stripper wells" are estimated to account for 13 percent of petroleum produced in the United States.

Sen. Hubert H. Humphrey, D-Minn., said a shortage of petroleum-based fertilizers arising from the Arab boycott will curtail U.S. food production and could lead to starvation in the poor nations of Africa and Asia.

Allocating Oil the Military Way

(By Rowland Evans and Robert Novak)

The federal agency exerting life-or-death power over the American economy through allocation of scarce gas and oil is being run by a crusty three-star admiral who privately vows the program will work "the military way" no matter what the public wants.

Vice Adm. Eli T. Reich, 60, last month quietly retired from the Navy (ending 38 years' service), left his Pentagon job as Deputy Assistant Secretary of Defense for Logistics and the next day came downtown to take over the new Office of Petroleum Allocation in the Interior Department. Since then Reich (pronounced "rich") has brought in more than 15 retired or active duty military officers (colonels and above). More are on the way.

A Prussian complexion for what is now the government's most important people program seems dubious. But beyond image. Interior Department officials question whether generals and admirals are equipped to dictate allocation and rationing with transcendent political and economic impact.

Their doubts were fueled by Adm. Reich's first days on the job. Gathering Interior Department staffers about him, Reich declared: "I don't give a damn for the public image. We're not here to create an image. We're to do a job—my way. And that's the military way." Reich then launched into what civilians at the Interior Department describe as a series of "old sea stories."

Interior Department civilians were suddenly in coventry, cut off from what was happening. Simultaneously, the brass migration began. Navy Capt. Robert C. (Bing) Gillette became acting executive director, Air Force Lt. Col. R. D. (Deek) Hensley is Reich's administrative assistant, retired Air Force Maj. Gen. James Curtin was named director of operations.

Retired officers will be in charge of regional offices in Atlanta, Dallas and Denver, Col. James Scanlan was put in charge of personnel with a Navy captain as his deputy. A retired major general was scheduled to become permanent executive director but bowed out because of poor health. Four officers, active and retired, were assigned to the Office of Planning and Policy. And the underground railway from the Pentagon has not yet run its course.

The reason for the topside military invasion is given as dire necessity. The allocation office was struggling along with some 200 nondescript bureaucrats detailed from the poverty program, the Agriculture Department and other departments utterly irrelevant to the energy program. With the crisis at hand, following months of White House procrastination, the office was incapable of doing the job. So, presidential counselor Melvin R. Laird suggested that Reich, an expert at military logistics, take over.

"Frankly, we had chaos," Reich told us, defending the brass as the best available talent. For instance, Col. William Steger, brought over from the Pentagon, is a recognized petroleum expert.

Reich contends that some of his retired generals will stay only six months and that, once conflict-of-interest and antitrust complications are ironed out, he plans to draw 225 persons from private industry. Moreover, high administration officials claim that Reich's army is strictly administrative.

In truth, however, it is more than that. His office is now setting priorities in the critical middle-distillate (heating fuel, jet fuel, diesel fuel, etc.) area. Whether those decisions are correct or not, some administration officials worry about the image. Interior Department bureaucrats cringed when Reich's first act in the new job was to establish top priority for the Defense Department They fear repercussions when he allocates fuel for defense contractors at the expense of other industries.

The once warm relationship between Democratic Sen. Henry M. Jackson of Washington and the Nixon administration underwent further deterioration during the Mideast crisis, with Jackson fuming to friends that he was cut off from diplomatic information.

What incensed Jackson was the continuing ardent courtship by Secretary of State Henry Kissinger of Jackson's arch foe and inveterate Nixon-baiter, Sen. J. W. Fulbright of Arkansas—a fact spread around town by friends of the Foreign Relations Committee chairman.

Jackson, President Nixon's invaluable ally through the long agony of Vietnam, felt he was cut off from the information spigot because of criticism of détente and the Nixon-Kissinger handling of the Mideast crisis. Last week Kissinger finally telephoned Jackson to ask him for an appointment—but resentment endures.

Oil-Leader Draft Hits Legal Snags

President Nixon's plan to draft 250 oil industry executives to help run his emergency energy programs is running afoul of antitrust and conflict-of-interest laws.

But the administration will try to get Congress to exempt the executives from the laws so that they can come to work as soon as possible.

Nixon said Sunday night he would activate 250 of the more than 400 oil executives who signed up some years ago to take government posts in a national emergency.

At the Interior Department, officials were uncertain how soon the executives would be coming to work and in precisely what capacity.

"We expect some difficulty in getting them on board," said Ben Tafoya, an official in the Oil and Gas Division who is in charge of keeping the executive list up to date.

"You have to make sure the conflict-of-interest and antitrust problems are resolved to the individuals' satisfaction," he said. "Most people in the oil industry are very sensitive to that."

Under the emergency planning program, the executives would be the key officials in the Emergency Petroleum and Gas Administration, an agency that would regulate the industry during national emergency.

Until now, that agency existed only on paper, but the White House said it will be "partially activated" to help run Nixon's new oil-allocation programs.

The oil industry is pressing for a general exemption from antitrust laws for any executives who take a government post, either to help with rationing, allocation or other program. White House energy adviser John A. Love said he would support the exemption.

National Headquarters Unit—Table of Organization (Key Positions)

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

100; National Administrator; Hon. Rogers C. B. Morton (Sec'y of the Interior).

100–A; Alternate National Administrator; Stephen A. Wakefield (AS/EM).

110; Deputy Administrator.

110–A; Alternate Deputy Administrator; Harold M. McClure, Jr. (McClure).

110–B; Alternate Deputy Administrator; Duke R. Ligon (OOG).

110.1; Special Assistant; Vincent M. Brown (NPC).*

110.2; Regional Coordinator; Maxwell S. McKnight (NPC).

110.3; Coordinator—International Alliances; John Ricca (General Motors).

120; Director—Office of Program Coordination; Jack H. Doores (Exxon Corp.).

120.01; Staff Assistant; W. Gibson Jaworek (Foster Assn.).

120.1; Asst. Director—Long Range Branch; C. Marvin Case (Consultant).

120.11; Chief—Long Range Programs Section; E. F. Dellamonte (Texaco).

120.12; Chief—Liaison, Production; Clarence W. Lee (Phillips).

120.13; Chief—Liaison, Refining.

120.14; Chief—Liaison, Supply and Transportation; Harold E. Cashman (Retired).

120.15; Chief—Liaison, Distribution and Marketing; Francis X. Jordan (IPAA).

120.16; Chief—Liaison, Gas Operations; William W. Cofield (Transco).

120.17; Chief—Liaison, Support Services.

120.18; Chief—Facilities Research Section.

120.2: Asst. Director—Intermediate Range Branch; Robert L. Presley (OOG).

120.21; Chief—Domestic Pet. Area Programs Section.

120.22; Chief—Foreign Pet. Area Programs Section.

120.23; Chief—Gas Programs Section.

120.3; Asst. Director—Short Range Branch.

120.31; Chief—Domestic Programs Section.

120.32; Chief—Foreign Programs Section.

120.4; Asst. Director—Defense Liaison Branch; Richard S. Fourman (Cities Service).

120.41; Chief—Long Range Mil. Programs Section.

120.42; Chief—Inter. & Short Range Mil. Prog. Sect.

140; Director—Office of Statistical Services; James S. Cross (Sun).

140.1; Asst. Director—EDP Branch; John S. Christenson (Caltex).

140.11; Chief—Programming Section.

140.12; Chief—Machine Operations Section.

140.2; Asst. Director—Operations Statistics Branch; Jack L. Morrison (U. of Okla).

140.21; Chief—Domestic Operations Section; Herbert J. Ashman (OOG).

140.22; Chief—Foreign Operations Section; William J. Darby (OOG).

140.23; Chief—Gas Operations Section; Frederick W. Lawrence (EPA).

140.24; Chief—Support Services Section.

140.25; Chief—OPC and Staff Section.

140.3; Asst. Director—Mat. Alloc. Acct. Branch.

140.31; Chief—Domestic Operations Section.

140.32; Chief—Foreign Operations Section.

140.33; Chief—Gas Operations Section.

150; Director—Office of Secretariat; Carrol D. Fentress (Phillips).

150.1; Asst. Director—Conferences & Reports Br.; Robert E. Plett (OOG).

150.11; Professional Assistant.

150.12; Staff Assistant (Industry Advisory Comm.)

150.2; Asst. Director—Executive Communications Br.; Walter E. Rogers (INGAA) **

160; Director—Office of Administrative Service; Joe H. Cooley (Bu Mines).

161; Dep. Dir.—Office of Administrative Services.

160.1; Asst. Director—Office Services Branch; Leonard A. Vickers (OOG).

160.11; Chief—Gen. Adm. Services.

160.12; Chief—Reprod., Printing & Binding Sect.; Marshall L. Atkinson (LLM).

160.13; Chief—Mail & Internal Comm. Section.

160.14; Chief—Records Management Section.

160.2; Asst. Director—Budget & Finance Branch; Wayne E. Fichtner (USGS).

160.21; Chief—Annual Budget Section.

160.22; Chief—Fiscal Control Section.

160.23; Chief—Employee Travel & Transp. Section.

160.3; Asst. Director—Personnel Branch; Mrs. Lola E. Rowe (ASO–USDI).

160.31; Chief—Gen. Personnel Adm. & Supvn. Sect.

160.32; Chief—Employee Relations & Serv. Section.

160.33; Chief—Staffing Section.

160.34; Chief—Safety Mgmt. & Pers. Security Sect.

160.4; Asst. Director—Organization Planning Branch; Stephen G. Lynch (USGS).

160.41; Chief—Records System & Mail Mgmt. Section.

160.42; Chief—Records Creation & Disposal Section.

170; Director—Office of Information.

170.01; Staff Assistant; Rhoda Ritzenberg (OOG).

170.1; Asst. Dir.—Public Relations & Comm. Branch; Ralph E. Williams (AS/EM).

170.2; Asst. Director—Internal Relations Branch.

180; General Counsel.

180.1; Asst. General Counsel—Domestic Pet. Operns.

180.2; Asst. General Counsel—Foreign Pet. Operns.

180.3; Asst. General Counsel—Gas Operations; Jerry P. Fortenberry (Tenneco).

180.4; Asst. General Counsel—Support Services.

190; Finance Counselor; Jerry J. O'Brien (Seaboard).

190.01; Staff Assistant.

190.1; Asst. Counselor—Govt' Agencies Liaison; J. Cordell Moore (Consultant).

190.2; Asst. Counselor—Financial Policy.

200; Asst. Administrator—Domestic Pet. Operns.; Warren B. Brooks (Mobil).

200.1; Executive Assistant.

210; Director—Dom. Prod. & Nat. Gas Process. Div.; Claude W. Brown (Br. & Thorp).

210.01; Special Assistant; J Roy Goodearle (OOG).

211; Dep. Dir.—Dom. Prod. & Nat. Gas Process. Div.

211.01; Statistical Assistant.

210.1; Asst. Director—Analysis & Planning Branch; Billie D. O'Neal (Exxon Co.).

210.11; Chief—Supply Section; Sherwood W. Kingsbury (Atlantic Richfield).

210.12; Chief—Economics & Spec. Studies Section.

210.2; Assistant Director—Production Branch; James Gill (OOG).

210.21; Chief—Production Coordination Section.

210.22; Chief—Facilities Section.

210.3; Asst. Dir.—Gas Gathering & Processing Br.; Harold R. Galloway (Exxon Co.).

210.31; Chief—Operations Coordination Section; Joseph A. Golasinski (OOG).

210.32; Chief—Facilities Section.

220; Director—Dom. Refining & Manufacturing Div.; W. H. Decker (Atl. Richfield).

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* NPC—National Petroleum Council.

** Independent Natural Gas Association of America.

221; Dep. Dir.—Dom. Refining & Manufacturing Div.; Eugene L. Peer (OOG).

221.01; Statistical Assistant.

220.1; Assistant Director—Facilities Branch; David L. Uzzell (Monsanto Co.).

220.11; Chief—Materials Section.

220.12; Chief—Manpower & Construction Section.

220.2; Assistant Director—Technical Branch; Jack E. Phillips (Bu. Mines).

220.21; Chief—Technology Section.

220.22; Chief—Planning Section; George S. Birchfield (Exxon).

220.23; Chief—Economics Section.

220.3; Assistant Director — Operations Branch; Frank A. M. Buck (Shell).

220.31; Chief—Operations Section—Regions 1 & 2.

220.32; Chief—Operations Section—Region 3.

220.33; Chief—Operations Section—Region 4.

220.34; Chief—Operations Section—Region 5.

220.35; Chief—Operations Section—Region 6.

220.36; Chief—Operations Section—Regions 7 & 8.

220.37; Chief—Operations Section—Region 9.

220.38; Chief—Operations Section—Region 10.

220.4; Asst. Dir.—Additives & Catalysts Operns. Br. J. Lisle Reed (OOG).

220.41; Chief—Lead Alkyls, & Gas Inhib. Section.

220.42; Chief—Petroleum Cracking Cat. Section.

220.43; Chief—Lube Oil Additives Section.

220.44; Chief—Other Additives Section.

220.5; Asst. Dir.—Petrochemical Operns. Branch David L. Neal (Phillips).

220.51; Chief—Operations Section—Regs. 1, 2 & 4.

220.52; Chief—Operations Section—Region 3.

220.53; Chief—Operations Section—Region 5.

220.54; Chief—Operations Section—Region 6.

220.55; Chief—Operations Section—Regions 7 & 8.

220.56; Chief—Operations Section—Regions 9 & 10.

230; Director—Domestic Supply & Transp. Division; Frank S. English, Jr. (Marathon).

231; Dep. Dir.—Domestic Supply & Transp. Division.

230.01; Statistical Assistant.

230.1; Assistant Director—Supply Planning Branch.

230.11; Chief—Intermediate Range Program Section.

230.12; Chief—Short Range Program Section.

230.2; Assistant Director—Supply Coordination Branch; Paul M. Kinnaird (Ashland).

230.21; Chief—Crude & Gas Liquids Section; W. R. Pettigrew (Kerr-McGee).

230.22; Chief—Products Section.

230.3; Assistant Director—Transportation Branch; Earl G. Ellerbrake (OOG).

230.31; Chief—Pipeline Section; C. P. Bowie (Cont. Pipeline).

230.32; Chief—Surface & Inland Waterways Section.

230.33; Chief—Tanker Section; Otto G. Glander (C. D. Mallory).

230.34; Chief—Facilities.

240; Director—Domestic Dist. & Mktg. Division; Virgil A. Shriver (Cities Service).

Dep. Dir.—Domestic Dist. & Mktg. Division; Daniel E. Hendricks, Jr. (Shell).

241.01; Statistical Assistant.

240.1; Assistant Director—Analysis & Planning Br.

240.11; Chief—Products Section; Max H. Biber (Marathon).

240.12; Chief—Support Services Section.

240.2; Assistant Director—Operations Branch; Edward F. Shannon (Retired).

240.21; Chief—Products Section.

240.22; Chief—Support Services Section.

300; Asst. Administrator-Foreign Petroleum Operns.

300.1; Executive Assistant; Douglas H. Harnish, Jr. (OOG).

310; Director—Foreign Production Division; G. R. Bates (Texaco).

311; Dep. Dir.—Foreign Production Division.

311.01; Statistical Assistant.

310.1; Assistant Director—Technical Branch.

310.2; Assistant Director—Latin America Branch; Ernest E. Merkt, Jr. (Gulf).

310.3; Assistant Director—Canada Branch.

310.4; Assistant Director—Europe & Africa Branch.

310.5; Assistant Director—Near & Middle East Br.

310.6; Assistant Director—Far East Branch.

320; Director—Foreign Ref. & Mfg. Division; Walter A. Arnold (Mobil).

321; Dep. Dir.—Foreign Ref. & Mfg. Division.

321.01; Statistical Assistant.

320.1; Assistant Director — Facilities Branch.

320.11; Chief—Materials Section.

320.12; Chief—Manpower & Const. Section.

320.2; Assistant Director — Technical Branch; Bari Saunders (Exxon Co.).

320.21; Chief—Technology Section.

320.22; Chief—Planning Section.

320.23; Chief—Economics Section.

320.3; Assistant Director—Refinery Operns. Branch; Kenneth G. Brown (Consultant).

320.31; Chief—West. Hem. (Ex. U.S.) Section.

320.32; Chief—East. Hem. Section.

320.4; Asst. Dir.—Additives & Catalysts Operns. Br.

320.41; Chief—Alkyls., Inhib., & Cat. Section.

320.42; Chief—Lube & Other Additives Section.

320.5; Assistant Dir. — Petrochemicals Operns. Br.; A. R. Rehrig (Phillips).

320.51; Chief—West Hem. (Ex. U.S.) Section.

320.52; Chief—East Hem. Section.

330; Director—Foreign Supply & Transp. Division; Wessel C. Brodhead (Gulf).

330.1; Asst. Director—Program Coordination Branch; R. V. Kahle (Esso).

330.11; Chief—Supply Scheduling Section.

330.12; Chief—Technical Section.

330.2; Asst. Director—Supply Operations Branch; Leonard S. Marshman (Mobil).

330.21; Chief—Supply Scheduling Section.

330.22; Chief—Supply Development Section.

330.3; Assistant Director—Transportation Branch; J. R. Shipley (P/L Tech.).

330.31; Chief—Tanker Claimancy Section.

330.32; Chief—Analysis Section.

400; Assistant Administrator—Gas Operations.

400.1; Executive Assistant; Lucio D'Andrea (OOG).

410; Director—Gas Distribution Division.

411; Dep. Director—Gas Distribution Division; David E. Hochandadel (Panhandle East. P/L).

411.01; Statistical Assistant.

410.1—Assistant Director—Program Coordination Br.; William B. Cameron (Brooklyn Union Gas Co.).

410.11; Chief—Operations Priorities Section.

410.12; Chief—Support Services Section; Orion A. Fink (S. Cal. Gas Co.).

410.2—Assistant Director—Gas requirements Branch; Stuart B. Eynon (Heath Survey).

410.21; Chief—Validation Section.

410.22; Chief—Planning & Analysis Section.

420; Director—Gas Transmission Division; Semour Orlofsky (Col. Gas).

421; Dep. Director—Gas Transmission Division.

421.01; Statistical Assistant.

420.1; Asst. Director—Gas Transmission Branch; Ferdinand L. Gagne (No. Natural Gas Co.).

420.11; Chief—Pipe Line Operations Section; William C. Day (Retired).

420.12; Chief—Support Services Section.

420.2; Asst. Director—Program Planning Branch; James B. Thomas (Texas East. Trans. Corp.).

420.21; Chief—Long Range Planning Section.

420.22; Chief—Short & Inter. Range Plan.

500; Assistant Administrator—Support Services; Joseph G. Wilson (Consultant).

500.1; Executive Assistant.

510; Director—Materials Division, Howard B. Douglas (Chevron).

511; Deputy Director—Materials Division.

511.01; Staff Assistant.

511.1; Assistant Director—Claims Staff.

511.2; Assistant Director—Priorities Staff.

510.1; Asst. Dir.—Oilfield Equip. & Const. Branch.

510.11; Chief—Oilfield Machinery Section.

510.12—Chief—Metals Section.

510.13; Chief——Tubular Goods Section; Charles T. McClure (Youngstown).

510.14; Chief—Construction Projects Section.

510.2; Asst. Dir.—Stock Equip. & Supplies Branch; Robert E. Elmore (Mid-Cont.).

510.21; Chief—Industrial Equipment Section.

510.22; Chief—Chemicals & Containers Section.

510.23; Chief—Scient. & Tech. Equip. Section.

510.3; Asst. Director—Foreign Coordination Branch; James F. Gleason (Caltex).

510.31; Chief—Production Section.

510.32; Chief—Refining Section.

510.33; Chief—Supply & Transp. Section.

520; Director—Manpower Division.

521; Deputy Director—Manpower Division; Anthony C. Sabatine (UCAW).

521.01; Statistical Assistant.

520.1; Assistant Director—Manpower Branch; Kenneth L. Dupuy (OOG).

520.11; Chief—Domestic Section.

520.12; Chief—Foreign & Gas Section.

520.2; Assistant Director—Claimancy Branch; Richard C. King (Sohio).

520.21; Chief—Labor Dept. Liaison Section.

520.22; Chief—Other Govt. Liaison Section.

530; Director—Communications Division; Lloyd E. Cook (Atlantic R).

531; Deputy Director—Communication Division.

530.1; Asst. Dir.—Engineering & Operns. Branch; Charles E. Wilson (Exxon Co).

530.11; Chief—Engineering Section.

530.12; Chief—Operations Section.

530.2; Assistant Dir.—Liaison & Claimancy Branch; Charles L. Farrell (Sun).

530.21; Chief—Liaison Section.

530.22; Chief—Claims Section.

540; Director—Facility Security Division; A. Lewis Russell (Retired).

540.01; Staff Assistant; Lee H. Kostora (Retired).

540.1; Asst. Dir.—Programs & Standards Branch; Maynard M. Stephens (OOG).

540.2; Assistant Director—Domestic Branch; John C. Newson (Conoco).

540.21; Chief—Physical Security Section.

540.22; Chief—Personnel Security Section.

540.3; Assistant Director—Foreign Branch; James A. Abshier (Gulf).

Total number of key positions, 253.

Number of assigned positions as of October 31, 1973, 99.

NOTE.—The following persons in unassigned positions:

E. Clyde McGraw.
Henry K. Holland.
R. Phillip Wheeler.

REGION I AND REGION II (FORMERLY REGION I) EMERGENCY PETROLEUM AND GAS ADMINISTRATION

(Roster and table of key positions)

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

Regional administrator

R1-2-100; Regional Administrator; Vacant.

R1-2-100.1; Special Assistant; Robert E. Geiger, Mobil Oil Corporation, 150 East 42nd Street, New York, New York (10017 (212) 883-3192.

R1-2-110; Deputy Regional Administrator; John H. Osborne, Buckeye Pipe Line Company, 345 Park Avenue, New York, New York 10022 (212) 832-0900.

Office of Administrative Services

R1-2-106; Director; Kevin P. Kelley, General Services Administration Room 712, John McCormack Post Office and Courthouse, Boston, Massachusetts 02109, (617) 223-264.

R1-2-170; Director; Leonard Braun, Granite Management Services, Inc., 500 Old Country Road, Garden City, New York 11530 (516) 421-0848.

R1-2-170.1, Assistant Director; John Lord, Continental Oil Company, 30 Rockefeller Plaza, New York, New York 10020 (212) 586-2510.

Office of general counsel

R1-2-180, Regional Counsel; Irving Slifkin, Shell Oil Company, 600 Summer Street, Stamford, Connecticut 06903 (203) 327-3600.

R1-2-180.1, Asst. Regional Counsel; James J. Grifferty, New England Division, Mobil Oil Corporation, P.O. Box 228, Waltham, Massachusetts 02154 (617) 890-6400.

Petroleum operations

R1-2-200, Asst. Regional Administrator; Vacant.

Refining and manufacturing division

R1-2-220, Director; C. G. Cortelyou, Mobil Oil Corporation, 150 East 42nd Street, New York, New York 10017 (212) 883-4977.

R1-2-220.1, Asst. Dir., Facilities Branch; Vacant.

R1-2-220.3, Asst. Dir., Operations Branch; Albert E. Williamson, Mobil Oil Corporation, 150 East 42nd Street, New York, New York 10017 (212) 883-4242.

R1-2-220.5, Asst. Dir., Petrochemical Br.; Vacant.

R1-2-220.11, Chief, Materials & Equipment Sec.; Vacant.

R1-2-220.12, Chief, Construction & Maint. Sec.; Vacant.

R1-2-220.31, Chief, Technology & Planning Sec.; Vacant.

R1-2-220.32, Chief, Operations & Supply Sec.; David T. Smith, Mobil Oil Corporation, 150 East 42nd Street, New York, New York 10017 (212) 883-2492.

Supply and transportation division

R1-2-230, Director; Gilbert G. Sykes, Senior Vice President, Metropolitan Petroleum Co., 380 Madison Avenue, New York, New York 10017 (212) 867-4141.

R1-2-230.1, Asst. Dir., Supply; Arthur E. Pereless, Shell Oil Company, P.O. Box D, Sewaren, New Jersey 07077 (201) 634-3063.

R1-2-230.2, Asst. Dir., Supply Coord. Br.; Vacant.

R1-2-230.3, Asst. Dir., Transportation Br.; Vacant.

R1-2-230.11, Chief, Planning Section; Vacant.

R1-2-230.21, Chief, Crude Section; Vacant.

R1-2-230.22, Chief, Products Section; James J. Conlin, BP Oil Corporation, 560 Sylvan Avenue, Englewood Cliffs, New Jersey (201) 871-3500.

R1-2-230.31, Chief, Pipeline Section; Vacant.

R1-2-230.32, Chief, Surface & Inland Waterways Section; G. Donnelly, Exxon Company, U.S.A., P.O. Box 66, Linden, New Jersey 07036 (201) 862-7000, ext. 269.

R1-2-230.33, Chief, Tanker Sec. (Liaison), Vacant.

Distribution & marketing division

R1-2-240, Director; A. Lewis Collie, Jr., Texaco Inc., P. O. Box 149, Brookline, Mass. 02146 (617) 734-1070.

R1-2-240.1, Asst. Director; James F. Noon, Atlantic Richfield Company, 155 South Main Street, Providence, Rhode Island 02903 (401) 421-8040.

R1-2-240.11, Chief, Product Section; Roy M. Ritota, Texaco Inc., 2100 Hunters Point Avenue, Long Island City, N.Y. 10803 (212) 361-3100.

R1-2-240.2, Chief, Support Services; Harvey A. Davenport, Shell Oil Company, P.O. Box D, Sewaren, New Jersey 07077 (201) 634-1000.

Gas operations

R1-2-400, Asst. Regional Administrator; Edwin S. Larson, The Brooklyn Union Gas Company, 195 Montague Street, Brooklyn, New York 11201 (212) 643-2837.

R1-2-410, Dir., Distribution Division; David L. Cownie, Jr., Iroquois Gas Corporation, 10 Lafayette Square, Buffalo, New York 14203 (706) 854-4360.

R1-2-420, Dir., Transmission Division, John R. Coker, Transcontinental Gas Pipe Line Corp., 744 Broad Street, Newark, New Jersey 07102 (201) 622-0830.

Support services

R1-2-500, Asst. Regional Administrator, Vacant.

Materials division

R1-2-510, Director, John L. Gompf, Oasis Oil Company of Libya, Inc., 1270 Avenue of the Americas, New York, New York 10020 (212) 582-9140.

R1-2-510.1, Asst. Director, Vacant.

R1-2-510.11, Chief, Oil Industry Specialized Materials & Equipment Section, Vacant.

R1-2-510.21, Chief, Industrial Equipment & Supply Section, Vacant.

Manpower division

R1-520, Director, Vacant.

R1-520.1, Asst. Dir., Manpower Branch, William S. Waddell, Continental Oil Company, Park 80 Plaza East, Saddle Brook, New Jersey 07662 (201) 845-3800.

R1-520.2, Asst. Dir., Claimancy Branch, Vacant.

Communications division

R1-2-530, Director; Edward P. Fitzgerald, Exxon Corporation, 1251 Avenue of the Americas, New York, New York 10020 (212) 974-5720.

R1-2-530.1, Asst. Dir., Operations Br., Vacant.

R1-2-530.2, Asst. Dir., Claimany Br.; Vacant.

Facilities securities division

R1-2-540, Director; Arba S. Taylor, Verdi Road, Shelter Harbor, Westerly Rhode Island 02891 (401) 322-7297.

R1-2-540.1, Asst. Dir., Physical Security Br.; Vacant.

R1-2-540.2, Asst. Dir., Personnel Security Br.; Vacant.

REGION I

EPGA State offices

Maine

RS1-200-(ME), Manager—Petroleum; Vacant.

RS1-201-(ME), Asst. Manager—Petroleum; Roy A. Jones, Maine Oil Dealers Association, 477 Congress Street, Portland, Maine 04111 (207) 774-8291.

New Hampshire

RS1-200-(NH), Manager—Petroleum, Herbert L. Small, Cities Service Oil Co., 10 Forbes Road, Braintree, Mass. 02184 (617) 436-8000.

RS1-201-(NH), Asst. Manager—Petroleum; Vacant.

Vermont

RS1-200-(VT), Manager—Petroleum; C. Douglas Cairns, Champlain Oil Co., Inc., P. O. Box 216, S. Burlington, Vermont 05401 (802) 864-5380.

RSI-201-(VT), Asst. Manager—Petroleum; Joel Ryshpan, Green Mountain Petroleum Corp., P. O. Box 982, Burlington, Vermont 05401 (802) 862-9754.

Rhode Island

RS1-200-(RI), Manager—Petroleum; Herbert F. Porter, Jr., Texaco, Inc., 1116 Eddy Street, Providence, Rhode Island 02905 (401) 781-5650.

RS1-201-(RI), Asst. Manager—Petroleum; Vincent L. Cadigan, American Oil Company, P. O. Box 4542, Riverside, Rhode Island 02915 (401) 434-5500.

Connecticut

RS1-200-(CT), Manager—Petroleum; Donald B. Craft, Vice President, Wyatt, Inc., Chapel Square, 900 Chapel Street, New Haven, Connecticut 06510 (203) 787-2175.

RS1-201-(CT), Asst. Manager—Petroleum; Arthur K. Kelly, Exon Company, U.S.A., P. O. Box 1083, Hartford, Connecticut 06107 (203) 521-7350.

RS1-400-(CT), Manager—Gas; Herbert E. Johnson, Connecticut Natural Gas Corp., P. O. Box 1230, Hartford, Connecticut 06101 (203) 525-0111.

Massachusetts

RS1-200-(MA), Manager—Petroleum; Donald A. Hosmer, Frontier Petroleum Company, 824 Boylston Street, Chestnut Hill, Mass. 02167 (617) 734-2070.

RS1-201-(MA), Asst. Manager—Petroleum; Nicholas H. Fitzgerald, Fitzgerald Fuel Co., Inc., 36 Church Street, Winchester, Mass. 01890 (617) 729-3000.

RS1-400-(MA), Manager—Gas; William E. Lawson, Algonquin Gas Transmission Co., 1284 Soldiers' Field Road, Boston, Massachusetts 02135 (617) 254-4050.

REGION II

EPGA State offices

New York

RS2-200-(NY), Manager—Petroleum; Mark J. Hannon, 84 Chicken Valley Road, Old Brookville, Glen Head, New York 11545 (516) 671-6562.

RS2-201-(NY), Asst. Manager—Petroleum; James M. Laine, Gulf Oil Company—U.S., P.O. Box 126, Salina Station, Syracuse, New York 13208 (315) 478-5791.

RS2-400-(NY), Manager—Gas; Earle L. Traub, Niagara Mohawk Power Corp., 300 Erie Blvd., Syracuse, New York 13202 (315) 464-1511 Ext. 1352.

New Jersey

RS2-200-(NJ), Manager—Petroleum; Alfred V. Edelmann, Exxon Company, U.S.A., Hutchinson River Parkway, Pelham, New York 10803 (914) 738-4700.

RS2-201-(NJ), Asst. Manager; Petroleum, John T. Shultz, Jr., Gulf Oil Corporation, P.O. Box 4279, East Providence, R.I. 02914.

RS2-400-(NJ), Manager; Gas, John B. DiRienzo, Public Service Electric & Gas Co., 80 Park Place, Newark, New Jersey 07101 (201) 622-7000, ext. 3735.

Puerto Rico

S2-200-(PR), Manager; Petroleum, Noel Totti, Jr., The Shell Co. (Puerto Rico), Ltd., G.P.O. Box 2768, San Juan, Puerto Rico 09936 (809) 722-0150.

RS-201-(PR), Asst. Manager; Petroleum, Vacant.

Virgin Islands

RS2-200-(VI), Manager; Petroleum, Vacant.

Total No. of Positions, 73.

Unassigned—William H. Kramer, Jr., Department of Labor and Industry, Bureau of Engineering and Safety State of New Jersey, Room 419, 1100 Raymond Boulevard, Newark, New Jersey 07102 (201) 648-2357.

Region III—Emergency Petroleum and Gas Administration

(Roster and table of key positions)

POSITION NUMBER, POSITION TITLE, INCUMBENT

Regional administrator

R3–100; Regional Administrator; Vacant.

R3–100.1; Special Assistant; Laurance H. Major, Ashland Oil & Refining Co., Post Office Box G, Freedom, Pennsylvania 15042 (412) 775–3774.

R3–110; Deputy Regional Administrator; Vacant.

R3–110–A; Alternate Deputy Reg. Admin.; Vacant.

Office of Administrative Services

R3–160; Director; Vacant.

R3–160.1; Asst. Dir.—Office Services Br.; Vacant.

R3–160.2; Asst. Dir.—Budget & Finance Br.; Vacant.

Office of Information

R3–170; Director; Pat R. Wrigley, National Petroleum Refineries Assn., 1725 DeSales Street, N.W., Washington, D.C. 20036 (202) 638–3722.

R3–170.1; Asst. Director; Vacant.

Office of General Counsel

R3–180; Regional Counsel; Charles E. McGinnis, Pennzoil Company, Suite 410, Four Gateway Center, Pittsburgh, Pennsylvania 15222 (412) 261–1837.

R3–180.1; Asst. Regional Counsel; William H. Borghesani, Jr., Keller and Heckman, 1150 17th Street, N.W., Washington, D.C. 20036 (202) 296–2700.

Petroleum Operations

R3–200; Asst. Regional Administrator; John Savoy, Sun Oil Company, 240 Radnor-Chester Road, St. Davids, Pennsylvania 19087, (215) 935–1600.

Production & Natural Gas Processing Division

R3–210; Director (Liaison); William S. Lytle, Oil & Gas Division, Bureau of Topographical & Geologic Survey, Dept. of Environmental Resources, Room 401, State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222, (412) 565–5030.

R3–210.1; Asst. Director (Liaison); John C. McCarthy, 1010 Buffalo Street, Franklin, Pennsylvania 16323 (814) 437–3055.

Refining & Manufacturing Division

R3–220; Director; Raymond K. Arzinger, Getty Oil Company, Inc., Eastern Operations, Delaware City, Delaware 19706, (302) 834–4581.

R3–220.1; Asst. Director—Facilities Br.; Charles K. Fleming, Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840, (419) 422–2121.

R3–220.3; Asst. Director—Operations Br.; Vacant.

R3–220.5; Asst. Director—Petrochemicals Br.; Dr. Edward B. Stuart, Chemical & Petroleum Engineering Department, University of Pittsburgh, Pittsburgh, Pennsylvania 15213, (412) 621–3500, ext. 6121.

R3–220.11; Chief, Materials & Equipment Sec.; Vacant.

R3–220.12; Chief, Const. & Maint. Section; Vacant.

R3–220.31; Chief, Technology & Planning Sec.; Maurice L. Webster, Jr., Sun Oil Company, Marcus Hook, Pennsylvania 19061, (215) 485–2121.

R3–230.32; Chief, Operations & Supply Sec.; Vacant.

RF3–(RC1)–220.1; Delaware River R.C.; Vacant.

Supply & Transportation Division

R3–230; Director; John C. S. Wood, Jr., Sun Oil Company, 108 Walnut Street, Philadelphia, Pennsylvania 19101, (215) 985–1600.

R3–230.1; Asst. Dir.—Supply Planning; Vacant.

R3–230.2; Asst. Dir.—Supply Coord. Br.; Vacant.

R3–230.3; Asst. Dir.-Transportation Br.; John W. Scanlon, Buckeye Pipe Line Co., P.O. Box 368 Emmaus, Pennsylvania 18049, (215) 967–3131.

R–230.11; Chief, Planning Section; Vacant.

R3–230.21; Chief, Crude Section; Victor E. Schermerhorn, Jr. Standard Oil Co. (Ohio) Midland Building, Cleveland, Ohio 44115 (216) 575–5280.

R3–230.22; Chief, Products Section; Ernest A. Slade, Laurel Pipe Line Co., P.O. Box 426, Trindle & Fallowfield Roads, Camp Hill, Pennsylvania 17011, (717) 737–8611.

R3–230.31; Chief, Pipeline Section; Frank A. Young, Sun Pipe Line Co., Eastern Region, 216 Goddard Boulevard, R.F.D. No. 2, King of Prussia, Pennsylvania, (215) 265–7210.

R3–230.32; Chief Inland Waterways & Transportation Sec.; Vacant.

R3–230.32.1; Chief, Motor Transportation Sec.; Vacant.

R3–230.33; Chief, Tanker Section (Liaison); Vacant.

Distribution & Marketing Division

R3–240; Director; William R. Siler, Sun Oil Company, P.O. Box 6356, Clevleand, Ohio 44101, (216) 883–6100.

R3–240.1; Asst. Director; Vacant.

R3–240.11; Chief, Product Section; Vacant.

R3–240.12; Chief, Support Services; Vacant.

Gas operations

R3–400; Asst. Regional Administrator; Vacant.

R3–410; Dir., Distribution Division; Vacant.

R3–410.1; Asst. Dir., Distribution Div.; Aaron H. Griffin, Texas Gas Transmission Corp., P.O. Box 1160, Owensboro, Kentucky 42301, (502) 683–2431.

R3–420; Director, Transmission Division; DeWitt C. MacKenzie, Consolidated Natural Gas Serv. Co., Inc., 4 Gateway Center, Pittsburgh, Pennsylvania 15222, (412) 471–9957.

R3–420.1; Asst. Dir., Transmission Div.; Pliny Rogers, Consolidated Gas Supply Corp., 445 West Main Street, Clarksburg, West Virginia 26301, (304) 623–3611.

Support services

R3–500; Asst. Regional Administrator; Vacant.

Materials division

R3–510; Director; Harry F. MacPhee, Catalytic, Inc., 1528 Walnut Street, Philadelphia, Pennsylvania 19102, (215) 545–7500.

R3–510.1; Asst. Director; Vacant.

R3–510.11; Chief, Oil Industry Specialized Materials & Equipment Section; Vacant.

R3–510.21; Chief, Industrial Equipment & Supply Section; Robert J. Ford, Exxon Company, U.S.A., Box 1288, 7720 York Road, Baltimore, Maryland 21203, (301) 825–5400.

Manpower Division

R3–520; Director; Russell M. Loughner, Sun Oil Company, 1608 Walnut Street, Philadelphia, Pennsylvania 19103, (215) 985–1600.

R3–520.1; Asst. Director—Manpower Br.; Vacant.

R3–520.2; Asst. Director—Claimancy Br.; Vacant.

Communications Division

R3–530; Director; A. H. Hewlett, Columbia Gas System Service Corp., 1600 Dublin Road, Columbus, Ohio 43215, (614) 486–3681.

R3–530.1; Asst. Director—Operations Br.; Charles H. Burgess, Sun Oil Company, 240 Radnor-Chester Road, St. Davids, Pennsylvania 19087, (214) 985–1600.

R3–530.2; Asst. Director—Claimancy Br.; Vacant.

Facilities Division

R3–540; Director; Perry W. Johnson, Jr., Shell Chemical Company, P.O. Box 700, Woodbury, New Jersey 08096, (609) 848–8800.

R3–540.1; Asst. Dir.—Physical Security Br.; Vacant.

R3–540.2; Asst. Dir.—Personnel Security Br.; Vacant.

Gas Group No. 2

Elkins, West Virginia

R3(G2)–400; Director; Arthur M. Ferenz, Columbia Gas Transmission Corp., P.O. Box 1273, Charleston, W. Virginia 25325, (304) 346–0951.

R3(G2)–400.1; Asst. Director; Howard S. Gray, Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, Texas 77001 (713) 229–4961.

EPGA State Offices

Pennsylvania

RS3–200(PA); Manager—Petroleum; Vacant.

RS3–201–(PA); Asst. Manager; Vacant.

RS3–400–(PA); Manager—Gas; Vacant.

Delaware

RS3–200–(DL); Manager—Petroleum; George W. Ruppersberger, Gulf Oil Corporation, P.O. Box 8056, Philadelphia, Pennsylvania 19101 (215) 839–6111.

RS3–201–(DL); Asst. Manager; Vacant.

RS3–400–(DL); Manager—Gas; Charles G. Minich, Jr., Delmarva Power & Light Co., 800 King Street, Wilmington, Delaware 19899 (302) 429–3203.

Maryland

RS3–200–(MD); Manager—Petroleum; John I. Loving, Crown Central Petroleum Corp., P.O. Box 1168, Baltimore, Maryland 21203, (301) 539–7400.

RS3–201–(MD); Asst. Manager; John P. Poling, Gulf Oil Company—U.S. P.O. Box 2235, Baltimore, Maryland 21203, (301) 675–5970.

RS3–400–(MD); Manager—Gas; Dean F. Gunby, Federal Power Commission, Bureau of Natural Gas, 825 N. Capitol St., Rm. 7000–G, Washington, D.C. 20002, (202) 386–5755.

Virginia

RS–3–200–(VA); Manager—Petroleum; Vacant.

RS3–201–(VA); Asst. Manager; Vacant.

RS3–400–(VA); Manager—Gas; Vacant.

West Virginia

RS3–200–(WV); Manager—Petroleum; Kenneth C. Brand, Exxon Company, U.S.A., 1410 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, (304), 344–8361.

RS3–201–(WV); Asst. Manager; Vacant.

RS3–400–(WV); Manager—Gas; George T. Weaks, Columbia Gas Transmission Co., P.O. Box 1273, Charleston, West Virginia 25325, (304) 346–0951.

District of Columbia

RS3–200–(DC); Manager—Petroleum; John S. Cooke, BP Oil Corporation, 401 Farragut Street, N.E., Washington, D.C. 20011, (202) 832–8500.

RS3–201–(DC); Asst. Manager (Covering); John I. Loving, Crown Central Petroleum Corp., P.O. Box 1168, Baltimore, Maryland 21203, (301), 539–7400.

RS3–400–(DC); Manager—Gas; Lancy F. Heverly, Office of Pipeline Safety, Department of Transportation, 400 Sixth Street, S.W., Washington, D.C. 20590, (202) 426–2082.

Total No. of Positions, 77.

Standby: Thurman J. Dupy, Gulf Oil Company, P.O. Box 1023, Toledo, Ohio 43601, (419) 729–3891.

Region IV—Emergency Petroleum and Gas Administration, Thomasville, Ga.

(Table of organization, roster and table of key positions)

POSITION NUMBER, POSITION TITLE, INCUMBENT

Regional headquarters

R4–100; Regional Administrator.

R4–110; Deputy Regional Administrator; William D. Mounger, P. O. Box 1200, Jackson, Mississippi (601) 353–9996, 39201.

R4–100.1; Special Assistant; Jack M. Hoffman, GiftAmerica, 85 McKee Drive, Mahwah, N.J. 07430 (201) 529-4600, x. 2588.

Office of Administrative Services

R4-160; Director; Jack D. Marquis, Gulf Oil Corporation, P. O. Box 7245, Station C, Atlanta, Georgia 30309 (404) 892-1101 x. 371.

R4-160.1; Assistant Director, Office Services and Records Branch; Lamar Lund, Standard Oil Co. of Ky., P. O. Box 1446, Louisville, Ky. 40201 (502) 587-7531.

R4-160.2; Assistant Director, Finance and Personnel Branch.

Office of Information

R4-170; Director; Dan Lee Grant, American Petroleum Inc., 2218 Peachtree Ctr. Bldg., Atlanta, Georgia 30309 (404) 521-3476.

R4-170.1; Assistant Director.

Office of Regional Counsel

R4-180; Regional Counsel.

Petroleum Operations

R4-200; Assistant Regional Administrator; Harry L. Moir 531 Golden Harbor Dr., Boca Raton, Fla. 33432 (305) 395-8855.

R4-200.1; Executive Assistant.

Production and Natural Gas Processing Division

R4-210; Director of Coordination.

*State Regulatory Agency Liaison**

RL4-210.31; Alabama Oil and Gas Board Liaison.

RL4-210.32; Florida Department of Conservation Liaison.

RL4-210.34; Mississippi Oil and Gas Board Liaison.

Refining and Manufacturing Division

R4-220; Director; Robert T. Prater, Delta Refining Co., P. O. Box 9097, Memphis, Tenn. 38109 (901) 774-3100.

R4-220.1; Assistant Director Facilities and Operations Branch.

R4-220.32; Chief—Operations Section.

RF-220.31; Representative—Refinery Center 31—Alabama.

FR4-220.34; Representative—Refinery Center 31—Mississippi-Alabama; James A. McDaniel, Southland Oil Co., P.O. Box 79, Brookhaven, Miss. 39601, (601) 833-2904.

RF4-220.37; Representative—Refinery Center 31—Tennessee.

Supply and Transportation Division

R4-230; Director; Harry Wearne, 4740 Merlendale Dr. NW, Atlanta, Georgia 30327, (404) 255-8636.

R4-230.1; Assistant Director—Supply Planning & Coordination Branch; James W. Davis, Texaco Inc., P.O. Box 1722, Atlanta, Georgia 30301, (404) 631-4411.

R4-230.11; Chief—Product Supply/Demand Section.

R4-230.14; Chief—Refining Section.

R4-230.3; Assistant Director—Transportation Branch.

R4-230.31; Chief—Pipeline Section.

R4-230.32; Chief—Surface and Inland Waterways Section; Rupert D. Belt, Ashland Oil & Refining, 1409 Winchester Ave., Ashland, Ky. 41101, (606) 324-1111.

R4-230.33; Chief—Tanker Section.

R4-230.36; Chief—Facilities Section.

Distribution and Marketing Division

R4-240; Director.

R4-240.1; Assistant Director—Products Branch; Leslie G. Denny, Phillips Petroleum Co., 5050 Poplar, Memphis, Tenn. 38117, (901) 682-8311.

R4-240.11; Chief—Products Section.

R4-240.12; Chief—Support Services Section.

RF4-240.41; Representative—Mobile, Alabama.

RF4-240.42; Representative—Sheffield, Alabama.

RF4-240.43; Representative—Jacksonville, Florida.

RF4-240.44; Representative—Miami, Florida.

RF4-240.45; Representative—Tampa, Florida; Herbert T. Cartright, Eastern Seaboard Petroleum, P.O. Box 3233 Sta. F., Jacksonville, Fla. 32200 (904) 355-9676.

RF4-240.46; Representative—Albany, Georgia.

RF4-240.47; Representative—Savannah, Georgia.

RF4-240.48; Representative—Charlotte, North Carolina; Fenton A. Adkins (retired), 2043 Forest Dr. East, Charlotte, N.C. 28211 (714) 366-3801.

RF4-240.49; Representative—Greensboro, N.C.; J. Willard Hobbs, Kenco Petroleum Mktr., P.O. Box 11237, Greensboro, N.C. 27400 (919) 299-3431.

RF4-204.51; Representative—Wilmington, N.C.; Loren A. Tompkins, McLeod Oil Co., Inc., P.O. Box 99, Mebane, N.C. 27302 (919) 563-3172.

RF4-240.52; Representative—Charleston, S.C.

RF4-240.53; Representative—Spartanburg, S.C.

RF4-240.54; Representative—Knoxville, Tennessee.

RF4-240.55: Representative—Chattanooga, Tenn.; Donald J. Schillaci, Texaco Inc., P.O. Box 8276, Chattanooga, Tenn. 3741 (615) 894-0667.

Gas Operations

R4-400; Assistant Regional Administrator.

R4-400.1; Executive Assistant.

Gas Distribution Division

R4-410; Director.

R4-410.11; Chief—Priority Section.

R4-410.21; Chief—Gas Requirements Section; T. Cecil Wray, 1413 Granny White Pike, Nashville, Tenn. 37220 (615) 297-2950.

Gas Transmission Division

R4-420; Director; Louis N. Brown (retired) 3309 Cherokee Road, Birmingham, Ala. 35223 (205) 967-5600.

R4-420.11; Chief—Pipeline, Operations Section; Harold J. Hofsess, Transcontinental Gas Pipeline Corporation, P.O. Box 16, Grover, N.C. 28073 (704) 937-7751.

Gas Group Office No. 1, Birmingham, Ala.

R4-(G1)400; Director.

R4-(G1)401; Deputy Director; Charles M. Hunter, Southern Natural Gas Co., P.O. Box 2563, Birmingham, Ala. 35202 (205) 325-7410.

Support Services

R4-500; Assistant Regional Administrator; Robert C. Wiles, Colonial Pipeline Co., P.O. Box 18855, Atlanta, Ga. 30326, (404) 264-1470.

R4-500.01; Staff Assistant.

Materials Division

R4-510; Director; John Ed Johnson, American Oil Company, P.O. Box 5077, Atlanta, Ga. 30302, (404) 634-6611.

R4-510.1; Assistant Director-Claims and Priorities Branch; Samuel O. Franklin, Plantation Pipeline Co., P.O. Box 18616, Atlanta, Ga. 30326, (404) 261-2137.

R4-510.3; Assistant Director-Petroleum Equipment Construction and Supplies Branch.

R4-510.31; Chief-Oil Field Machinery, Metals, and Tubular Goods Section.

R4-510.34; Chief-Construction Projects.

R4-510.41; Chief-Stock Equipment and Supplies Section.

Manpower Division

R4-520; Director.

R4-520.1; Assistant Director.

Communications Division

R4-530; Director; William E. Freese, Colonial Pipeline Co., P.O. Box 18855, Atlanta, Ga. 30326, (404) 261-1470.

R4-531; Deputy Director.

Facilities Security Division

R4-540; Director; John C. Wilson (retired), 108 Princess Drive, Ashland, Ky. 41101 (606) 325-1520.

R4-540.1; Assistant Director.

EPGA State Offices

RS4-200 (AL); Alabama—State Petroleum Manager.

RS4-200 (FL); Florida—State Petroleum Manager; Hogan T. McWilliams, Texaco, Inc., P.O. Box 109, Tampa, Florida 33601 (813) 872-1555.

RS4-200 (GA); Georgia—State Petroleum Manager.

RS4-200 (KY); Kentucky—State Petroleum Manager.

RS4-201 (KY); Kentucky—Asst. State Petroleum Manager.

RS4-200 (MS); Mississippi—State Petroleum Manager.

RS4-200 (NC); North Carolina—State Petroleum Manager; John J. Siegner, Exxon Co., U.S.A., P.O. Box 420, Charlotte, N.C. 28201 (704) 523-2211.

RS4-200 (SC); South Carolina—State Petroleum Manager.

RS4-200 (TN); Tennessee—State Petroleum Manager; Leo T. Hampel, Exxon Co., U.S.A., P.O. Box 120, Nashville, Tenn. 37201 (714) 523-2211.

RS4-400 (AL); Alabama (1)[1] State Gas Manager.

RS4-400.1 (AL-FL); Alabama-Florida (4) Gas Intrastate Representative.

RS4-400.2 (AL); Alabama (2)[1] Gas Intrastate Representative; A. Guy Franks, Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Ala. 35630, (205) 383-3631.

RS4-400 (FL); Florida (1)[1] State Gas Manager; E. J. Burgin, Florida Gas Transmission Company, P.O. Box 44, Winter Park, Fla. 32790, (305) 644-2210.

RS4-400 (GA); Georgia (1)[1] State Gas Manager.

RS4-400 (KY); Kentucky ( )[1] State Gas Manager; R. H. Walton, Louisville Gas and Electric Company, P.O. Box 354, Louisville, Ky. 40201, (502) 582-3511, x. 363.

RS4-400 (MS); Mississippi (4)[1] State Gas Manager; Edmund R. Butler, Mississippi Valley Gas, P.O. Box 3348, Jackson, Miss. 39207, (601) 354-2511.

RS4-400.1 (MS); Mississippi (1)[1] Gas Intrastate Representative; (a).

RS4-400.2 (MS); Mississippi (2)[1] Gas Intrastate Representative; (a).

RS4-400.3 (MS); Mississippi (3)[1] Gas Intrastate Representative; (a).

RS4-400 (NC); North Carolina (1)[1] State Gas Manager; Arthur P. Gnann, Jr., North Carolina Natural Gas Company, P.O. Drawer 909, Fayetteville, N.C. 2830 , (919) 483-0315.

RS4-400 (SC); South Carolina (1)[1] State Gas Manager.

RS4-400 (TN); Tennessee (2)[1] State Gas Manager; Thomas K. Davis, East Tennessee Natural Gas Company, P.O. Box 10245, Knoxville, Tenn. 37919, (615) 588-3501.

RS4-400.1 (TN); Tennessee (3)[1] Gas Intrastate Representative; Otis D. Korn, Tennessee Gas Pipeline, P.O. Box 188, Middleton, Tenn. 38052, (901) 376-8401.

Total Number of Positions—88—this does not include Miss. Gas Reprs.

(a) Since Mr. Butler's company is associated with this Gas Group taking gas from it, this position may not be necessary.

REGION V—EMERGENCY PETROLEUM AND GAS ADMINISTRATION, CHICAGO, ILL.

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

Regional headquarters

R5-100; Regional Administrator.

R5-110; Deputy Regional Administrator.

R5-110.1; Special Assistant.

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* Under Region 6.

[1] Gas Group.

Office of administrative services

R5-160; Director.

R5-160.1; Assistant Director, Office Services Branch.

R5-160.2; Assistant Director, Budget & Finance Branch.

R5-160.3; Assistant Director, Personnel Branch; Richard D. Shook, Defense Logistics Services Center, Federal Center, ATTN: CPP, Battle Creek, Michigan 49016, (616) 962-6511, Ext. 6411.

Office of information

R5-170; Director.

Office of general counsel

R5-180; Regional Counsel, M. R. Burmaster, Clark Oil & Refining Corporation, 8530 West National Avenue, Milwaukee, Wisconsin 53227, (414) 321-5100, Ext. 236.

R5-181; Assistant Regional Counsel, Thomas A. Graham, Graham, Meyer, Young, Welsch & Maton, 10 South LaSalle Street, Room 1620, Chicago, Illinois 60603, (312) 332-0905.

Petroleum operations

R5-200; Assistant Regional Administrator, David W. Dolson, TOTAL Leonard, Inc., East Superior Street, P.O. Box 231, Alma, Michigan 48801, (517) 463-1161.

Production and natural gas processing division

R5-210; Director.

R5-211; Deputy Director.

Refining and manufacturing division

R5-220; Director, Kenneth R. Buckler, TOTAL Leonard, Inc., East Superior Street, P.O. Box 231, Alma, Michigan 48801 (517) 463-1161.

R5-230.32; Chief, Surface and Inland Waterways Section.

R5-230.32.2; Chief, Rail Transport Unit.

R5-230.32.3; Chief, Motor Transport Unit, Alfred R. White, Commercial Transport, Inc., 207 South 20th Street, P.O. Box 469, Belleville, Illinois 62222, (618) 233-5260.

Distribution and marketing division

R5-240; Director, Louis C. Steffano, Shell Oil Company, 1605 East Algonquin Road, Arlington Heights, Illinois 60009, (312) 625-0615.

R5-240.1; Assistant Director, Lorne C. Black, Jr., Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840, (419) 422-2121.

R5-240.11; Chief-Products Section, George R. Warner, Cities Service Oil Company, 1 Salt Creek Lane, Hinsdale, Illinois 60521, (312) 325-4400.

R5-240.12; Chief-Support Service Section, Robert H. Grant, Marathon Oil Company, 539 South Main Street, Findley, Ohio 45840, (419) 422-2121.

Gas operations

R5-400; Assistant Regional Administrator, Keith Bentz, 713 S. 6th Street, St. Charles, Illinois 60174, (312) 584-4638.

R5-220.1; Assistant Director, Facilities Branch, John H. Lovett, Illinois Environmental Protection Agency, Division of Air Pollution Control, 309 West Washington Street, Chicago, Illinois 60606, (312) 793-3875.

R5-220.11; Chief, Materials Section, Harry E. Jacobs, Atlantic Richfield Company, 400 East Sibley Blvd., Harvey, Illinois 60426, (312) 333-3000 or (312) 468-9300.

R5-220.12; Chief, Manpower and Construction Section.

R5-220.3; Assistant Director, Operations Branch, John A. Marshall, Shell Oil Company, P.O. Box 262, Wood River, Illinois 62095, (618) 254-7371.

Supply and transportation division

R5-230; Director.

R5-230.1; Assistant Director, Supply Planning Branch, Keith D. Wall, Union Oil Company of California, 200 East Golf Road, Palatine, Illinois 60067, (312) 529-7576.

R5-230.3; Assistant Director, Transportation Branch.

R5-230.31; Chief, Pipeline Section, Howard M. Davis, Marathon Pipe Line Company, 539 South Main Street, Findlay, Ohio 45840, (415) 422-2121, Ext. 2219.

R5-400.1; Executive Assistant.

Gas distribution division

R5—410; Director, Ernest B. ———, Michigan Wisconsin, Pipe Line Company, One Woodward Avenue, Detroit, Michigan 48226, (313) 965-1616, Ext. 2238.

R5-410.12; Chief, Support Services Section.

Gas transmission division

R5-420; Director.

Gas group office No. 3 Kansas City, Mo.

R5-(G3) 400; Director, B. J. Roberts, Panhandle Eastern Pipe Line Company, 3444 Broadway, P. O. Box 1348, Kansas City, Missouri 64141, (816) 753-5600.

R5-(G3) 401; Deputy Director.

Support services

R5-500; Assistant Regional Administrator, James R. Cross, The Standard Oil Company, (Ohio), Midland Building, Cleveland, Ohio 4416, (216) 575-5394.

Materials division

R5-510; Director, August P. Koopmann, Phillips Petroleum Co., 1750 Brenwood Blvd., St. Louis, Missouri 63144, (314) 968-1666.

R5-511; Deputy Director, Herbert A. Widell, Murphy Oil Corporation, Superior Refinery, P. O. Box 2060, Superior, Wisconsin 54860, (715) 398-3566.

R5-510.21; Chief, Industrial Equipment Section.

R5-510.22; Chief-Chemicals and Containers Section.

R5-510.23; Chief-Scientific and Technical Equipment Section.

Manpower division

R5-520; Director, Paris W. Phipps, P. W. Phipps & Associates, 1232 South Chester Avenue, Park Ridge, Illinois 60068, (312) 823-7174.

R5-521; Deputy Director, Lewis H. Maynard, Michigan Consolidated Gas Company, One Woodward Avenue, Detroit, Michigan 68226, (313) 965-2430, Ext. 3202.

R5-520.11; Chief-Petroleum Section, William R. Standefer, Amoco, 2400 New York Avenue, P. O. Box 270, Whiting, Indiana 46394, (219) 659-2700.

R5-520.12; Chief, Gas Section, Clark H. Duncan, Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603, (312) 431-7635.

Communications division

R5-560, Director, Theodore P. Rykala, Michigan Consolidated Gas Company, One Woodward Avenue, Detroit, Michigan 48226, (313) 965-2430, Ext. 2747.

R5-531; Deputy Director.

Facility security division

R5-540; Director.

R5-541; Deputy Director.

R5-540.21; Chief—Physical Security Section.

R5-540.22; Chief—Personnel Security Section.

EPGA State offices

ILLINOIS

RS5-200-(Ill); Manager, Petroleum, Ronald J. Peterson, Martin Oil Service, Inc., P.O. Box 298, Blue Island, Illinois 60406, (312) 928-6700.

RS5-400-(Ill); Manager, Gas, Garlin F. Crouch, Panhandle Eastern Pipeline Company, 3695 South Sixth Street, Springfield, Illinois 62703, (217) 529-6711.

INDIANA

RS5-200-(Ind); Manager, Petroleum, Walter O. Seabury, Jr., Public Service Commission of Indiana, State Office Building, Room 906, Indianapolis, Indiana 46204, (317) 633-4618.

RS5-400-(Ind); Manager, Gas.

MICHIGAN

RS5-200-(Mich); Manager, Petroleum, Raymond J. Oosdyke, 3246 Soft Water Lake Drive, Grand Rapids, Michigan 49505, (616) 361-5881.

RS5-400-(Mich); Manager, Gas, Donald R. Green, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, (517) 788-1891.

MINNESOTA

RS5-200-(Minn); Manager, Petroleum, William H. Starr, Jr., 10404 Crestridge Drive, Minnetonka, Minnesota 55343, (612) 545-1092.

RS5-400-(Minn); Manager, Gas, Larry N. Reed, Northern Natural Gas Co., 730 2nd Avenue, South Suite 905, Minneapolis, Minnesota 55402, (612) 339-6827.

OHIO

RS5-200-(Ohio); Manager, Petroleum, J. G. McDonald, The Standard Oil Company (Ohio), Midland Building, Cleveland, Ohio 44115, (216) 575-5289.

RS5-400 (Ohio); Manager, Gas, Charles E. Campbell, The East Ohio Gas Company, 1717 East Ninth Street, Cleveland, Ohio 44114, (216) 522-2922.

WISCONSIN

RS5-200X(Wisc.); Manager, Petroleum, Charles D. Jacobus, The Jacobus Company, 7700 West State Street, Milwaukee, Wisconsin 53213, (414) 258-7700.

RS5-400-(Wisc.); Manager, Gas, Jack H. Mikula, Michigan Wisconsin Pipe Line Company, 615 W. Moreland Boulevard, P.O. Box 149, Waukesha, Wisconsin 53186, (414) 547-5520.

RE5-(RC2) 220.2; Northern Ohio RC.

RP5-(RC4) 220.3; Ohio River RC.

Unassigned; E. C. Featheringill, Mobil Oil Corporation, 7280 North Caldwell Avenue, Niles, Illinois 60648, (312) 775-4100.

Unassigned; Dan C. Long, Carr Mfg. & Supply, 57 East Naghten Street, Columbus, Ohio 43215, (614) 221-7883.

Total number of positions, 66

REGION VI—EMERGENCY PETROLEUM AND GAS ADMINISTRATION, DENTON, TEX.

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

Regional headquarters

R6-100; Regional Administrator; Carrol M. Bennett, Texas Pacific Oil Company, 1700 One Main Place, Dallas, Texas 75250 (214) 741-5933.

R6-110; Deputy Regional Administrator.

R6-100.1; Special Assistant; Albert E. Sweeney, Jr., U.S. Dept. of the Interior, Office of Oil and Gas, Federal Center—Loop 288, Denton, Texas 76201 (817) 387-5811, x. 372.

Office of Administrative Services

R6-160; Director; Kenneth Hughes, U.S. Dept. of the Interior, Bureau of Mines Research C, P.O. Box 1398, Bartlesville, Okla. 74003 (918) FE-6-2400.

R6-161; Deputy Director.

R6-160.1; Assistant Director-Office Services.

R6-160.2; Assistant Director—Records and Finance.

R6-160.3; Assistant Director—Personnel; Melvin F. Sears, U.S. Dept. of the Interior, Bureau of Reclamation, Herring Plaza, 317 Third Street, Amarillo, Texas 79101 (806) 376-2452.

Office of Information

R6-170; Director; John W. Wagner, Texas Mid-Continent, Oil & Gas Association, 2920 Southland Center, Dallas, Texas 75201 (214) 748-8861.

R6-170.1; Assistant Director-Public Relations & Communications.

R6-170.2; Assistant Director-Internal Relations; Charles F. Morrison, Mobil Oil Corporation, P. O. Box 900, Dallas, Texas 75221 (214) RI–2–4131.

Regional Counsel

R6–180; Regional Counsel.

R6–180.1; Assistant Counsel-Petroleum Operations; W. Perry Dornaus, 203 Columbia Building, Tulsa, Oklahoma 74114 (918) 584–3481.

R6–180.3; Assistant Counsel-Gas Operations.

R6–180.4; Assistant Counsel-Support Services.

Petroleum Operations

R6–200; Assistant Regional Administrator; Gene C. Bankston, Shell Oil Company, P. O. Box 2099, Houston, Texas 77001, (713) 222–1181, x. 202.

R6–200.1; Executive Assistant; John B. Campbell, Exxon Co. U.S.A., P. O. Box 1600, Midland, Texas 79701, (915) 684–4411.

Production & Natural Gas Processing Division

R6–210; Director; Irvin R. Yancey, Mobil Oil Corporation, 1030 Plaza Tower, 1001 Howard Avenue, New Orleans, La. 70113 (504) 529–2461.

R6–210.01; Special Assistant.

R6–210.1; Assistant Director-Analysis & Planning Branch; K. Marshall Fagin, Fagin Associates, 5630 Yale Boulevard, Dallas, Texas 75214, (214) 369–6300.

R6–210.11; Chief-Supply Section; E. Eugene Funk, Cities Service Oil Co., P. O. Box 300, Tulsa, Oklahoma 74102, (918) 560–3199.

R6–210.2; Assistant Director-Production Branch; Nace F. Mefford, Jr., Patrick Petroleum Co., C and I Building—1006 Main St., Houston, Texas 77002, (713) 228–6465.

R6–210.21; Chief-Production Section.

R6–210.22; Chief—Facilities Section; George E. Farenthold, The Crispin Company, 22 World Trade Bldg., Houston, Texas 77002 (713) 224–8000.

R6–210.3; Assistant Director—Gas Gathering & Processing Branch.

R6–210.31; Chief—Gas Gathering & Processing Operations Coordination Section.

R6–210.32; Chief—Gas Gathering & Processing Facilities Section; George W. Gaulding, Warren Petroleum Company, P. O. Box 905, Tatum, New Mexico 88267 (505) 298–5566.

State Regulatory Agency Liaison*

RL6–210.51; Arkansas Oil and Gas Commission Liaison; Lynn J. Fite; Arkansas Oil & Gas Comm., 314 East Oak Street, El Dorado, Ark. 71730 (501) 862–4965.

RL6–210.52; Louisiana Department of Conservation Liaison; Carlton V. Hudson, Louisiana Dept. of Conservation, P. O. Box 44275, Capitol Station, Baton Rouge, La. 70805 (504) 389–5161.

RL6–210.53; New Mexico Conservation Commission Liaison; I. R. Trujillo, New Mexico Land Board, State Capitol, Santa Fe, New Mexico 87501 (505) 827–2261.

RL6–210.54; Oklahoma Corporation Commission Liaison; Lawrence W. Elderkin, Oklahoma Corporation Comm., Jim Thorpe Building, Oklahoma City, Okla. 73105 (405) 521–2203.

RL6–210.55; Railroad Commission of Texas Liaison.

Production and Natural Gas Processing Division Field Representatives

RF6–210.11; Representative—Aztec ,New Mexico.

RF6—210.11; Representative—Aztec, New Mexico.

RF6–210.13; Representative—Guymon, Oklahoma.

RF6—210.14; Representative—Midland, Texas; Travis J. Crutchfield, El Paso Natural Gas Co., 600 Bank of the Southwest, Midland, Texas 79701 (915) 684–5701.

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*Liaisons for Alabama, Florida, and Mississippi are in Region 4 Table of Organization.

Refining and Manufacturing Division

R6—220; Director; James M. Seamans, Texaco Inc., P. O. Box 52332, Houston, Texas 77052 (713) 224–9811.

R6—221; Deputy Director; T. Gerald Harper, Gulf Oil Company, P. O. Box 1519, Houston, Texas 77001 (713) 226–1011.

R6—220.1; Assistant Director—Facilities Branch; John L. Coulter, Gulf Oil Company, P. O. Box 2100, Houston, Texas 77001 (713) 226–1604.

R6—220.11; Chief—Materials Section; Eugene H. Busby, Exxon Co. U.S.A., P. O. Box 3950, Baytown, Texas 77520 (713) 427–5711, x. 2012.

R6—220.12; Chief—Manpower and Construction Section; Lonnie C. Estes, Brown & Root Inc., P. O. Box 3, Houston, Texas 77001 (713) 672–4361.

R6—220.3; Assistant Director—Operations Branch, David C. Lehwalder, Shell Oil Company, 1 Shell Plaza, Houston, Texas 77001 (713) 220–6782.

R6–220.37; Chief—Operations Section; R. N. Burnley, Shell Oil Company, 1 Shell Plaza, Houston, Texas 77001 (713) 220–6784.

RF6 — 220.31; Representative — Refinery Center 51—Tulsa, Oklahoma; Walter L. Swander, Sun Oil Co., P. O. Box 2039, Tulsa, Oklahoma 74102 (918) 583–4300.

RF6 — 220.32; Representative — Refinery Center 52—Baton Rougle, Louisiana; Irving J. Staid, Exxon Co. U.S.A., P. O. Box 551, Baton Rouge, La. 70821 (504) 359–7800.

RF6 — 220.33; Representative — Refinery Center 53—Beaumont, Texas; Hunter L. Jaggard, Mobil Oil Corporation, P. O. Box 3311, Beaumont, Texas 77704 (713) 833–9411.

RF6 — 220.34; Representative — Refinery Center 54—Houston, Texas.

RF6 — 220.35; Representative — Refinery Center 55—Corpus Christi, Texas.

RF6–220.36; Representative—Refinery Center 56—El Paso, Texas, William J. Ruth, Chevron Oil Company—Western Division, P.O. Box 20002 El Paso, Texas 79999 (915) 772–1411.

RF6–220.38; Representative—Refinery Center 57—Ardmore, Oklahoma.

RF6–220.39; Representative—Refinery Center 57—Artesia, New Mexico.

R6–220.4; Assistant Director—Additives and Catalysts Branch, Kenneth M. Brown, Universal Oil Products, Algonquin Road, Des Plaines, Illinois 60016 (312) 391–2636.

R6–220.41; Chief—Lead Alkyls and Gasoline Inhibitors Section, Marcel J. Voorhies, Jr., Ethyl Corporation, 451 Florida Boulevard, Baton Rouge, La. 70801 (504) 348–0131.

R6–220.42; Chief—Petroleum Cracking Catalysts Section.

R6–220.43; Chief—Lubrication Oil Additives Section, Peter A. Asseff, The Lubrizol Corporation, P.O. Box 3057, Cleveland, Ohio 44117 (216) 943–4200.

RF6–220.56; Representative—Lake Charles, Louisiana.

Supply and Transportation Division

R6–230; Director; H. E. White, Shell Pipe Line Corp., P.O. Box 2648, Houston, Texas 77001 (713) 222–1181.

R6–230.1; Assistant Director; Joe W. Meehan, South Central Oil Company, 1108—107th Street, Arlington, Texas 76010 (817) 261–6621.

R6–230.12; Chief—Short Range Program Section; Robert E. White, Continental Oil Company, P.O. Box 2197, Houston, Texas 77001 (713) 225–1511.

R6–230.2; Assistant Director—Supply Coordination; Walter I. Weed, Phillips Petroleum Company, Phillips Annex Building, Bartlesville, Oklahoma 7400 (918) 661–4140.

R6–230.21; Chief—Crude & Gas Liquids Section; Robert F. Thornburg, Cities Service Oil Company, P.O. Box 300, Tulsa, Oklahoma 74101 (918) 560–2960.

Supply and Transportation Division

R6–230.22; Chief—Production Section; J. R. Lennon, Charter International, 893B Manchester, Houston, Texas 77012 (713) 923–1651.

R6–230.3; Assistant Director—Transportation Branch; Robert A. J. Roger, Shell Oil Company, 1 Shell Plaza, Houston, Texas 77001 (713) 220–6439.

R6–230.31; Chief—Pipeline Section.

R6–230.32; Chief—Surface & Inland Water Section.

R6–230.33; Chief—Tanker Section; Emmitt T. Smith, Jr., Sun Oil Company, P.O. Box 1349, Beaumont, Texas 77704 (713) 838–0111.

R6–230.34; Chief—Facilities Section.

Distribution and Marketing Division

R6–240; Director; Fritz D. Stelljes, Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001 (713) 229–4351.

R6–240.01; Special Assistant; W. Glen Andrea, U.S. Dept. of Interior, Office of Oil & Gas, 2120 Travis—Room 801, Houston, Texas 77004 (713) 226–5487.

R6–240.2; Assistant Director—Operations Branch; Paul W. Edge, Jr., Exxon Co., U.S.A., Southland Center, Dallas, Texas 75201 (214) 748–8261.

R6–240.21; Chief—Products Section.

R6–240.22; Chief—Support Services Section; Robert O. Wilson (retired), 4325 Westway Drive, Dallas, Texas 75205 (214) 528–0615.

Field Representatives

RF6–240.51; Representative—Fort Smith, Arkansas.

RF6–240.52; Representative — Shreveport, Louisiana.

RF6–240.53; Representative—Albuquerque, New Mexico.

RF6–240.63; Representative — Tucumcari, New Mexico.

RF6–240.54; Representative — Oklahoma City, Oklahoma.

RF6–240.55; Representative—Abilene, Tex.; John Paul Williams (retired), 3527 West Wadley, Midland, Texas 79701 (915) 694–5041.

RF6–240.65; Representative—Dallas-Fort Worth, Texas.

RF6–240.75; Representative—Wichita Falls, Texas.

RF6–240.85; Representative—El Paso, Tex.

Gas Operations

R6–400; Assistant Regional Administrator; Frederick Clarke, Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, Texas 77001 (713) 229–2589.

R6–400.1; Executive Assistant.

Gas Distribution Division

R6–410; Director.

R6–410.1; Assistant Director-Program Coordination; Lewis O. Smith, Columbia Gulf Transmission, P.O. Box 683, Houston, Texas 77001 (713) 621–1200.

R 6–410.11; Chief—Operations Priorities Section.

R 6–410.12; Chief—Support Services Section.

R6–410.2; Assistant Director—Gas Requirements.

R 6–410.21; Chief—Validation Section.

R 6–410.22; Chief—Planning and Analysis Section; Stephen S. Clair, Jr., Columbia Gulf Transmission, P.O. Box 683, Houston, Texas 77001 (713) 621–1200.

Gas Transmission Division

R 6–420; Director; Thomas H. Pofahl, El Paso Natural Gas Co., P. O. Box 1492, El Paso, Texas 79948 (915) 548–4957.

R 6–420.1; Assistant Director—Gas Transmission Branch; Jack W. Seaman, Northern Natural Gas Co., P. O. Box 3316, Midland, Texas 79701 (915) MU–2–7964.

R 6–420.11; Chief—Pipeline Operations Section; E. L. Colvin, Texas Eastern Transmission, P. O. Box 1612, Shreveport, Louisiana 7110 (318) 424–0331.

R 6–420.12; Chief—Support Services Section.

R 6–420.2; Assistant Director—Program Planning Branch.

R 6–420.21; Chief—Long Range Planning Section.

R 6–420.22; Chief—Intermediate and Short Range Planning Section.

Gas Group Office No. 4: Shreveport, Louisiana

R6(G4)400; Director; John E. Taylor, Ark-La Gas Company, P. O. Box 1734, Shreveport, La. 71102 (318) 425–1271.

R6(G4)401; Deputy Director.

Gas Group Office No. 5: Oklahoma City. Oklahoma

R6(G5) 400; Director.

R6(G5) 401; Deputy Director; Richard S. Sidwell, Cities Service Gas Company, P. O. Box 25128, Okla. City, Okla. 73112 (405) 236–0601.

Support Services

R6–500; Assistant Regional Administrator.

R6–500.1; Executive Assistant; H. F. Rainey, Shell Oil Company, 1 Shell Plaza, Houston, Texas 77001 (713) 220–6161, x. 4119.

Materials Division

R6–510; Director; Felix W. Dreyfus, 121 North Drive, Covington, La. 70433 (504) 892–4790.

R6–510.1; Assistant Director—Oil Field Equipment & Construction Branch; Robert E. Dickson, USS Oilwell Div. U.S. Steel, P. O. Box 2506, Houston, Texas 77001 (713) 225–6491.

R6–510.11; Chief—Oil Field Machinery Section.

R6–510.12; Chief—Metals Section.

R6–510.13; Chief—Tubular Goods Section.

R6–510.14; Chief—Construction Projects Section; William R. Roever, 2001 B. Stoneybrook, Houston, Texas 77042 (713) 781–1501.

R6–510.21; Chief, Industrial Equipment

R6–510.22; Chief, Chemicals and Contain-

99–060 x44–18–19

R6–510.2; Assistant Director—Stock Equipment & Supplies Branch; John E. Ellis, Texaco, Inc., P.O. Box 52332, Houston, Texas 77052, (713) 224–9811.

R6–510.21; Chief—Industrial Equipment Section.

R6–510.22; Chief—Chemicals and Containers Section.

R6–510.23; Chief—Scientific and Technical Equipment Section; F. Earl Neal, The Chevron Oil Company, 1111 Tulane Avenue, New Orleans, La. 70112, (504) 524–5711.

Manpower Division

R6–520; Director; E. W. McNeil, Jr., Dept., Exxon Co. U.S.A., P.O. Box 2180, Houston, Texas 77001, (713) 221–3636.

R6–521; Deputy Director; Robert F. Tierney, Texaco, Inc., P.O. Box 52332, Houston, Texas 77052, (713) 224–9811.

R6–521.01; Statistical Assistant.

R6–520.1; Assistant Director—Manpower Branch.

R6–520.11; Chief—Petroleum Section.

R6–520.12; Chief—Gas Section.

R6–520.2; Assistant Director—Claimancy Branch.

R6–520.21; Chief—Labor Department Liaison Section.

R6–520.22; Chief—Other Government Liaison Section.

Communications Division

R6–530; Director; William E. Walker, Shell Pipeline Company, P. O. Box 2648, Houston, Texas 77001 (713) 220–5956.

R6–531; Deputy Director.

R6–530.1; Assistant Director—Engineering & Operations Branch; Ralph H. Echols, Atlantic Richfield Company, P. O. Box 2819, Dallas, Texas 75221 (214) 747–6484.

R6–530.2; Assistant Director—Liaison and Claimancy Branch.

Facilities Security Division

R6–540; Director; Albert Dalton, Exxon Co. U.S.A., Southland Center—34th Floor, Dallas, Texas 75201 (214) 748–8261.

R6–540.2; Assistant Director—Domestic Branch.

R6–540.21; Chief—Physical Security Section.

R6–540.22; Chief—Personnel Security Section.

EPGA State Offices

RS6–200 (AK); Arkansas—State Petroleum Manager.

RS6–200 (LA); Louisiana—State Petroleum Manager; Thomas W. Doyle, Texaco Inc., P. O. Box 60252, New Orleans, Louisiana (504) 524–8511, 70160.

RS6–200 (NM); New Mexico—State Petroleum Manager; Gerald L. Wolf, Zia Oil Company, 2350 Second, SW., Albuquerque, New Mexico, (505) 242–2751, 87102.

RS6–200 (OK); Oklahoma—State Petroleum Manager; William N. Pritchett, Kerr-McGee Corporation, Kerr-McGee Building, Oklahoma City, Okla. 73100 (405) 236–1313.

RS–6–200 (TX); Texas—State Petroleum Manager.

RS 6–201 (TX); Texas—Assistant State Petroleum Manager; Orville Dial Bridges, Exxon Co. U.S.A. Southland Center, Dallas, Texas 75201 (214) 748–8261.

RS 6–221 (TX) Texas—Assistant State Petroleum Manager—Refining & Manufacturing.

RS 6–400 (AK); Arkansas (4) **State Gas Manager.

RS 6–400.1 (AK); Arkansas (3) **Gas Intrastate Representative.

RS 6–400 (LA); Louisiana (4) **State Gas Manager.

RS 6–400 (NM); New Mexico (8) **State Gas Manager; Lowell Parrish, Jr., El Paso Natural Gas Co., P.O. Box 990, Farmington, N.M. 87401 (505) 325–2841.

RS 6–400.1 (NM); New Mexico (5) **Gas Intrastate Representative.

RS 6–400.2 (NM); New Mexico (7) **Gas Intrastate Representative.

RS 6–400 (OK); Oklahoma (5) **State Gas Manager.

RS 6–400.1 (OK); Oklahoma (4) **Gas Intrastate Representative.

RS 6–400.2 (OK); Oklahoma (7) **Gas Intrastate Representative.

RS 6–400 (TX); Texas (5) **State Gas Manager.

RS 6–400.1 (TX); Texas (4) **Gas Intrastate Representative.

RS 6–400.2 (TX); Texas (7) **Gas Intrastate Representative.

RS 6–400.3 (TX); Texas (8) **Gas Intrastate Representative.

** Gas Group.

Total Number of Positions—157.

REGIONS 7 AND 8—EMERGENCY PETROLEUM AND GAS ADMINISTRATION, DENVER, COLO.

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

Regional headquarters

R7–8–100; Regional Administrator; Otis B. Hocker, Texaco, Inc., P.O. Box 2100, Denver, Colorado 80201 (303) 573–7571, Ext. 331.

R7–8–100.1; Executive Assistant; Dr. Philip F. Dickson, Chemical Petroleum Refining Dept., Colorado School of Mines, 1500 Illinois, Golden, Colorado 80401 (303) 279–3381, Ext. 355.

R7–8–110; Deputy Regional Administrator.

Office of Administrative Services

R7–8–160; Director; Warren W. Mankin, RMR, OOG Dept. of the Interior, Bldg. 67, Denver Federal Center, Denver, Colorado 80225 (303) 234–2596.

R7–8–161; Asst. Director, Fiscal Branch.

Office of Information

R7–8–170; Director; (P) Daniel L. Dienstbier, Northern Natural Gas Company, P.O. Box 308, Omaha, Nebraska 68101 (402) 348–4468.

Office of Regional Counsel

R7–8–180; Regional Counsel; Burns H. Errebo, Mobil Oil Corporation, P.O. Box 5444, Denver, Colorado 80217 (303) 572–3636.

R7–8–181; Deputy Regional Counsel.

Petroleum Operations

R7–8–200; Asst. Regional Administrator; Joseph S. Bowman, Fluor Oil and Gas Company, 1050 Colorado State Bank Bldg., 1600 Broadway Ave., Denver, Colorado 80202 (303) 572–8406.

Production and Natural Gas Processing Division

R7–8–210; Director; William T. Blackburn, Vaughey, Vaughey & Blackburn, 1650 Denver Club Building, 518 17th Street, Denver, Colorado 80202 (303) 825–8178.

R7–8–211; Deputy Director; Jack P. Denny, Phillips Petroleum Company, 1010 Security Life Building, Denver, Colorado 80202 (303) 573–6611, Ext. 269.

R7–8–210.2; Asst. Director, Production; W. Jones Turner, Jr., Sun Oil Company, 800 Security Life Building, Denver, Colorado 80202 (303) 266–2181.

R7–8–210.3; Asst. Director, Gas Gathering and Processing Branch.

R7–8–210.31; Chief, Natural Gas Branch.

R7–8–210.32; Chief, Natural Gasoline Branch.

R7–8–210.33; Chief, LPG Branch.

Domestic Refining and Manufacturing Division

R7–8–220; Director.

R7–8–220.1; Asst. Director, Facilities Branch; Leonard R. Cox, Continental Oil Company, Asphalt Unit, P.O. Box 40, Commerce City, Colorado 80022 (303) 534–2100, Ext. 66.

R7–8–220.2; Asst. Director, Technical Branch; Philip G. Morrow, Farmers Union Central Exchange, Inc., P.O. Box 126, Laurel, Montana 59044 (406) 698–4311.

R7–8–220.3; Asst. Director, Operations Branch; Barry D. Nolan, Exxon Company U.S.A., P.O. Box 1163, Billings, Montana 59103 (406) 252–3811, Ext. 201.

R7–8–220.4; Asst. Director, Petrochemical Branch.

Domestic supply and transportation division

R7–8–230; Director; Cortlandt S. Dietler, Western Crude Oil, Inc., P.O. Box 5568 TA, Denver, Colorado 80217 (303) 222–4561.

R7–8–231; Deputy Director.

R7–8–230.1; Asst. Deputy Director, Supply.

R7–8–230.3; Asst. Deputy Director, Transportation; (P) Robert B. Hastie, ARCO Pipe Line Company, ARCO Building, Independence, Kansas 63701 (316) 331–1300 Ext. 292.

R–8–230.31; Chief; Pipeline Branch.

R7–8–230.32; Chief, Motor Transportation Branch.

R7–8–230.33; Chief; Rail Transport Branch.

Domestic distribution and marketing division

R7–8–240; Director; Robert J. Alfrey, Chevron Oil Co.—Western Division, 1700 Broadway, Denver, Colorado 80202 (303) 292–1400, Ext. 239.

R7–8–241; Asst. Director; Robert M. McManis, Husky Oil Company, 4040 E. Louisiana Ave., Denver, Colorado 80222 (303) 756–1511.

Gas operations

R7–8–400; Asst. Regional Administrator.

Gas distribution division

R7–8–410; Director.

Gas transmission division

R7–8–420; Director; Jack T. Simon, Mountain Fuel Supply Company, P.O. Box 11368, Salt Lake City, Utah 84111 (801) 328–8315.

Gas Group Office 6, Omaha, Nebraska

R7–8(G6)400; Director; Glen L. Grove, Jr., Northern Natural Gas Company, P.O. Box 308, Omaha, Nebraska 68101 (402) 348–4669.

R7–8(G6)401; Deputy Director.

R7–8(G6)400.1; Member; Gayle B. Roseland, Northern Natural Gas Co., P.O. Box "S", Ogden, Iowa 50212 (515) 275–2452.

Gas Group Office 7, Colorado Springs, Colorado:

R7–8(G7)400; Director; Robert C. McHugh, Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80901 (303) 473–2300, Ext. 345.

R7–8(G7)401; Deputy Director; Stephen D. Ford, Jr., Kansas-Nebraska Natural Gas Co., P.O. Box 608, Hastings, Nebraska 68901 (402) 462–2141.

R7–8(G7)400.1; Member; Stanley W. Jervis, Western Region, Peoples Div. Northern Natural Gas Co., P.O. Box 1357, Colorado Springs, Colorado 80901 (303) 634–5537.

Gas Group Office 9, Butte, Montana

R8(G9)400; Director; Louis S. Stadler, The Montana Power Company, 40 East Broadway Street, Butte, Montana 59701 (406) 723–5421, Ext. 267.

R8(G9)401; Deputy Director; David P. Price, Montana-Dakota Utilities Co., P.O. Box 131, Glendive, Montana 59330 (406) 365–5251.

R8(G9)420; Chief, Gas Supply & Transmission; John B. Van Gelder, The Montana Power Company, 40 East Broadway Street, Butte, Montana 59701 (406) 723–5421, Ext. 268.

R8(G9)430; Chief, Gas Distribution; Guy S. McBane, The Montana Power Company, 40 East Broadway Street, Butte, Montana 59701 (406) 723–5421, Ext. 236.

Support services

R7–8–500; Asst. Regional Administrator; Jene P. Harper, Franklin Supply Company, Suite 2400, Colorado State Bank Bldg., Denver, Colorado 80202, (303) 292–0050.

Materials division

R7–8–510; Director; John D. Cranor, Jr., Manning Gas & Oil Company, 2332 Lincoln Center Bldg., 1660 Lincoln St., Denver, Colorado 80202, (303) 572–7787.

Manpower division

R7–8–520; Director.

Communications division

R7–8–530; Director; William I. Blount, Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80901, (303) 473–2300.

Facility security division

R7–8–540; Director; John G. Wilkinson, Jr., Texaco, Inc., P.O. Box 2100, Denver, Colorado 80201, (303) 573–7571, Ext. 240.

EPGA state offices

Colorado

RS8–200(CO); Manager—Petroleum; John R. Allexan, Texaco, Inc., P.O. Box 2100, Denver, Colorado 80201, (303) 573–7571 Ext. 204.

RS8–400(CO); Manager—Gas; Robert F. Jonas, Fuel Resources Development Co., P.O. Box 840, Denver, Colorado 80201, (303) 297–7776.

Iowa

RS7–200(IA); Manager, Petroleum.

RS7–400(IA); Manager, Gas; Evan M. Griffiths, Northern Natural Gas Company, Travelers Building—3rd Floor, 215 Keo Way, Des Moines, Iowa 50309 (515) 243–6139.

Kansas

RS7–200(KS); Manager, Petroleum.

RS7–400(KS); Manager, Gas; Eugene O. Bacon, Northern Natural Gas Company, 2130 N. Hiway 83, Liberal, Kansas 67901 (316) 624–5623.

Missouri

RS7–200(MO); Manager, Petroleum.

RS7–400(MO); Manager, Gas; Ben H. Longshore, Panhandle Eastern Pipe Line Co., P.O. Box 1348, Kansas City, Missouri 64141 (816) 753–5600, Ext. 631.

Montana

RS8–200(MT); Manager, Petroleum; Max G. Punches, Continental Oil Company, P.O. Box 2548, Billings, Montana 59103 (406) 252–3841.

RS8–400(MT); Manager, Gas; Justus W. Leggate, Montana-Dakota Utilities Co., P.O. Box 2546, Billings, Montana 59103 (406) 245–4161.

Nebraska

RS7–200(NB); Manager, Petroleum; Milton E. Whitehead, Jr., Whitehead Oil Company, 2537 Randolph Street, Lincoln, Nebraska 68510 (402) 435–3509.

RS7–400(NB); Manager, Gas; David P. Corkill, Northern Natural Gas Company, P.O. Box 308, Omaha, Nebraska 68102 (402) 348–4489.

North Dakota

RS8–200(ND); Manager, Petroleum.

RS8–400(ND); Manager, Gas; Albert J. Mayer, Montana-Dakota Utilities Company, 400 N. Fourth Street, Bismarck, North Dakota 58501 (701) 224–3224.

South Dakota

RS8–200(SD); Manager, Petroleum.

RS8–400(SD); Manager, Gas; George O. Miller, Montana-Dakota Utilities Company, 703 Kansas City Street, Rapid City, South Dakota 57701 (605) 342–0160, Ext. 22.

Utah

RS8–200(UT); Manager, Petroleum; Robert J. Martin, 3489 South 325 West, Bountiful, Utah 84010 (801) 328–8315.

RS8–400(UT); Manager, Gas; Clair F. Coleman, Mountain Fuel Supply Company, P.O. Box 11368, Salt Lake City, Utah 84111 (801) 328–8315.

Wyoming

RS8–200(WY); Manager, Petroleum; Howard R. Gagon, Husky Oil Company, P.O. Box 380, Cody, Wyoming 82414, (307) 587–4711, Ext. 274.

RS8–400(WY); Manager, Gas.

EPGA field liaison representatives

RF8–210.1; Utah, Petroleum Production; Cleon B. Feight, Utah State Dept. of Natural Resources, Div. of Oil & Gas Conservation, 1588 West North Temple, Salt Lake City, Utah 84116 (801) 328–5771.

RF8–220.1; Utah, Refinery & Manufacturing; Louis H. Butterworth, Amoco Oil Company, 474 West 8th North, Salt Lake City, Utah 84103, (801) 364–3103.

RF8–230.1; Montana, Supply & Transportation; William H. Behr, Jr., Continental Oil Company, P.O. Box 2548, Billings, Montana 59103, (406) 252–3841.

RF8–230.3; Utah, Supply & Transportation; Donald E. Hull, Phillips Petroleum Company, 393 So. 800 West, Woods Cross, Utah 84087 (801) 295–2311.

RF7–400.1; Nebraska, Natural Gas; James W. Asbury, Kansas-Nebraska Natural Gas Co., P.O. Box 608, Hastings, Nebraska 68901 (402) 462–2141.

RF7–400.2; Kansas, Natural Gas; Otto V. Barbee, Northern Natural Gas Company, 3007 West Tenth Street, Great Bend, Kansas 67530 (316) 792–2161.

Unassigned; Thomas L. Pelican, Colorado Interstate Corp., P.O. Box 1087, Colorado Springs, Colo. 80901 (303) 473–2400, Ext. 264.

Total number of positions, 74.

REGION 9—EMERGENCY PETROLEUM AND GAS ADMINISTRATION, SAN FRANCISCO, CALIF.

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

Office of the Administrator

R9–100; Regional Administrator; John E. Ford, Jr., U.S. Oil & Refining Company, 5150 Wilshire Blvd., Los Angeles, CA 90036, (213) 938–7156.

R9–110; Deputy Regional Administrator; Ellerton E. Wall, Standard Oil Co. of Calif., WOI, P.O. Box 2437, Terminal Annex, Los Angeles, CA 90051, (213) 489–1000.

R9–110.1; Executive Assistant; Wayne Guymon, Standard Oil Co. of Calif., WOI, 225 Bush Street, San Francisco, CA 94120, (415) 894–0159.

R9–110.2; Staff Assistant; Eugene W. Standley, Office of Oil and Gas, U.S. Department of the Interior, 450 Golden Gate Avenue, Box 36032, San Francisco, CA 94102, (415) 556–2833.

Office of Administrative Services

R9–160; Director; Joel C. Berry, Bureau of Reclamation, U.S. Department of the Interior, P.O. Box 988, Willows, CA 95988, (916) 934–7066.

R9–160.1; Assistant Director—Office Services Branch.

R9–160.2; Assistant Director—Personnel—Fiscal Branch; David E. Dunahay, Bureau of Reclamation, U.S. Department of the Interior, 140 Squire Lane, Auburn, CA 95603, (916) 484–4691.

Office of Information

R9–170; Director.

Office of General Counsel

R9–180; Regional Counsel (Petroleum); Robert H. Buchanan, Poindexter, Lynch & Buchanan, 626 Wilshire Blvd., Los Angeles, CA 90017, (213) 680–9590.

R9–181; Deputy Regional Counsel (Natural Gas); Charles R. Salter, Pacific Lighting Corporation, P.O. Box 60043, Terminal Annex, Los Angeles, CA 90060 (213) 689–3538.

R9–200; Assistant Regional Administrator; A. J. Horn, Petroleum Consultant, 34 Lloyden Drive, Atherton, CA 94025.

R9–210; Director; O. W. Ward, Tenneco Oil Company, Post Office Box 1996, Bakersfield, CA 93303, (805) 832–9090, X 468.

R9–210.1; Assistant Director-Analysis & Planning Br.; James S. Eads, Jr., Superior Oil Company, Post Office Box 1031, Bakersfield, CA 93302, (805) 589–2522.

R9–210.11; Chief-Crude Oil Section; Donald E. Grosskurth, Texaco Inc., 3350 Wilshire Blvd., Los Angeles, CA 90010, (213) 385–0515.

R9–210.12; Chief-Natural Gas Section.

R9–210.2; Assistant Director-Production Branch.

R9–210.21; Chief-Production Coordination Section.

R9–210.22; Chief-Facilities Section; Eugene E. Nichols, Atlantic Richfield Company, Post Office Box 147, Bakersfield, CA 93302, (805) 831–1600.

R9–210.3; Assistant Director-Gas Gathering & Processing Branch.

R9–210.31; Chief-Operations Coordination Section.

R9–210.32; Chief-Facilities Section; W. L. Bradford, Union Oil Company of California, Union Oil Center, Los Angeles, CA 90051, (213) 482–7600.

Refining and Manufacturing Division

R9–220; Director; Charles E. Auerbach, Standard Oil Company of California, 225 Bush Street, San Francisco, CA 94120, (415) 894-2471.

R9–220.1; Assistant Director-Facilities Branch; David K. Beavon, The Ralph M. Parsons Company, 617 West 7th Street, Los Angeles, CA 90017, (213) 629–2484.

R9–220.11; Chief-Materials and Equipment Section; Edward J. Smet, Fluor Corporation, P.O. Box 7030, East Los Angeles Branch, Los Angeles, CA 90022, (213) 262–6111.

R9–220.12; Chief-Construction and MRO Section; T. J. Gates, 3945 Via Solano, Palos Verdes Estates, CA 90274.

R9–220.2; Assistant Director—Operations pany of California, San Francisco Refinery, Rodeo, CA 94572, (415) 799–4411.

R9–220.21; Chief—Technology and Planning Section.

R9-220.22; Chief—Operations and Supply Section.

R9-220.3; Assistant Director—Petrochemicals Br.

R9-220.31; Chief—Technology and Planning Section; John P. Alexander, Union Carbide Company, Post Office Box 407, Torrance, CA 90508, (213) 371-5521.

R9-220.32; Chief—Operations and Supply Section; E. Walker Baylor, Atlantic Richfield Company, Post Office Box 787, Wilmington, CA 90744, (213) 834-2521.

R9-220.33; Chief—Additives and Catalysts Section; John F. Shaw, E. I. duPont de Nemours & Co., Inc., 612 South Flower Street, Suite 433, Los Angeles, CA 90017, (213) 624-1354.

R9-230; Director; George H. Hemmen, Union Oil Company of California, Union Oil Center, Los Angeles, CA 90017, (213) 486-6109.

R9-230.1; Assistant Director—Supply Planning Branch, Roy L. Steen, Exxon Company, USA, 1800 Avenue of the Stars, Los Angeles, CA 90067, (213) 879-2700.

R9-230.11; Chief—Program Section.

R9-230.2; Assistant Director—Supply Coordination Br.; Clinton E. Kelley, Atlantic Richfield Company, 515 South Flower Street, Los Angeles, CA 90017, (213) 629-4111.

R9-230.21; Chief—Crude Oil Section.

R9-230.22; Chief—Products Section.

R9-230.23; Chief—Gas Liquids Section.

R9-230.3; Assistant Director—Transportation Coordination Branch; Richard Canham, Standard Oil Company of California, 130 Sutter Street, San Francisco, CA 94104, (415) 894-2125.

R9-230.31; Chief—Tanker Section.

R9-230.32; Chief—Pipeline and Inland Waterways Section.

R9-230.33; Chief—Rail and Motor Section; James L. Hand, Douglas Oil Company of California, 530 West 6th Street, Los Angeles, CA 90014, (213) 625-7541.

R9-230.34; Chief—Facilities Section.

Distribution and Marketing Division

R9-240; Director; Houghton W. Bragg, Union Oil Company of California, 461 South Boylston Street, Los Angeles, CA 90017, (213) 482-7600.

R9-240.1; Assistant Director—Operations Branch.

R9-240.11: Chief—Products Section.

R9-240.12; Chief—Support Services Section.

R9-400; Assistant Regional Administrator.

R9-400.1; Executive Assistant; Walter T. Johnson, Jr., Southern California Gas Company, P.O. Box, 3249, Terminal Annex, Los Angeles, CA 90051, (213) 689-2311.

Distribution Division

R9-410: Director; Thomas C. Hinrichs, San Diego Gas & Electric Company, Post Office Box 1831, San Diego, CA 92112. (714) 232-4252.

R9-410.1: Assistant Director—Gas Requirements Dr; Richard L. Johnson, Arizona Public Service Company, Post Office Box 21666, Phoenix, AZ 85036, (602) 261-8480.

R9-420; Director, Harry P. Prudhomme, Pacific Gas & Electric Company, 245 Market Street, San Francisco, CA 94106 (415) 781-4211.

R9-420.1; Assistant Director, Operations Branch.

R9-420.2; Assistant Director, Supply Planning Br., Skyles E. Runser, Jr., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, CA 94106 (415) 781-4211.

R9-420.21; Chief—Program Section, Edward C. Wright, Gas Department, City of Long Beach, 2400 East Spring Street, Long Beach, CA 90802 (213) 595-5311.

Gas Group Office No. 8 (Kingman, Arizona)

R9(G8)-400; Director, Edward E. Alsup, El Paso Natural Gas Company, Post Office Box 308, Flagstaff, AZ 86001 (602) 774-1403.

R9(G8)-401; Deputy Director, Francis J. Parsons, Pacific Gas & Electric Company, 245 Market Street, San Francisco, CA 94106 (415) 781-4211.

R9(G8)-410; Chief Program Coordination, James W. Ritter, Southern California Gas Company, P.O. Box 3249, Terminal Annex, Los Angeles, CA 90051 (213) 689-3575.

R9(G8)-420; Chief—Gas Supply and Transmission, James H. Beeler, Transwestern Pipeline Company, Post Office Box 2018, Roswell, New Mexico 88201 (505), 623-2761.

R9(G8)-430; Chief—Gas Requirements and Allocation.

R9-500; Assistant Regional Administration, Charles W. Seitz, C. F. Braun & Company, 1000 South Fremont Avenue, Alhambra, CA 91802 (213) 570-1000.

Materials Division

R9-510; Director.

R9-510.1; Assistant Director—Special Materials and Equipment Branch, John B. Campbell, Atlantic Richfield Company, 515 South Flower Street, Los Angeles, CA 90017 (213) 629-4111.

R9-510.2; Assistant Director—Industrial Materials and Equipment Branch, P. J. Lazzarini, Phillips Petroleum Company, Avon Refinery, Martinez, CA 94553 (415) 228-1220.

Manpower Division

R9-520; Director, William R. Bearding, Exxon Company, USA, Benicia Refinery, Benicia, CA 94510, (707) 745-3450.

R9-520.1; Assistant Director—Manpower Branch., Peter R. Hemphill, Shell Oil Company, 1008 West Sixth Street, Los Angeles, CA 90054 (213) 482-3131.

R9-520.2; Assistant Director—Claimancy Branch.

Communications Division

R9-530; Director, Henry Schoellhorn, III, Standard Oil Company of California, Telecommunications, Post Office Box 397, La Habra, CA 90631 (213) 691-2251.

R9-530.1; Assistant Director—Operations Branch, Donald G. Gregory, Pacific Gas & Electric Company, 245 Market Street, Room 244, San Francisco, CA 94106 (415) 781-4211.

R9-530.2; Assistant Director—Claimancy Branch., Leonard C. Hylton, Getty Oil Company, Route 1, Box 197-X, Bakersfield, CA 93308 (805) 399-2961.

Facilities Security Division

R9-540; Director, Robert B. Farrell, Texaco Inc., 3350 Wilshire Blvd., Los Angeles, CA 90005 (213) 385-0515.

R9-540.1; Assistant Director—Programs-Standards Branch., Richard J. Buxton, Atlantic Richfield Company, 515 South Flower Street, Los Angeles, CA 90017 (213) 486-2467.

STATE OFFICES

Arizona

RS9-200 (AZ) Manager—Petroleum., John C. Bauguss, Southern Pacific Pipe Lines, Inc., Post Office Box 12428, Tucson, AZ 85711 (602) 623-6464.

RS9-400 (AZ) Manager—Natural Gas, William B. Page, El Paso Natural Gas Company, Post Office Box 1630, Phoenix, AZ 85001 (602) 967-1686.

California

RS9-200 (CA) Manager—Petroleum.

RS9-400 (CA) Manager—Natural Gas., Jean W. Adamson, Pacific Gas & Electric Company, 4040 West Lane, Stockton, CA 95204 (209) 466-2261.

Hawaii

RS9-200 (HI); Manager—Petroleum; Mark W. Allen, Standard Oil Company of California, 141 Merchant Street, Honolulu, Hawaii 96813 (808) 533-2911.

RS9-400 (HI); Manager—Manufactured and LP Gas; Paul C. Joy, Pacific Resources, Inc., Post Office Box 3379, Honolulu, Hawaii 96801 (808) 548-5321.

Nevada

RS9-200 (NV); Manager—Petroleum; Donald L. Spanier, Southern Pacific Pipe Lines, Inc., Post Office Box 917, Sparks, Nevada 89431 (702) 358-6971.

RS9-400 (NV); Manager—Natural Gas; James M. Miller, Southwest Gas Corporation, Post Office Box 1190, Carson City, Nevada 89701 (702) 882-2126.

FIELD LIAISON REPRESENTATIVES

California

RF9-201.1; Production (All Centers); Ralph M. Barger, California Division of Oil and Gas, 117 West Main Street, Woodland, CA 95695 (916) 662-4683.

RF9-220.1; Refining (Northern California); Charles L. Persyn, Phillips Petroleum Company, Avon Refinery, Martinez, CA 94553 (415) 228-1220.

RF9-220.2; Refining (Southern California).

RF9-230.1; Supply & Transportation (Northern California); Darius N. Keaton, Jr., Charter Trading Company, 666 Camino Aguajita, Monterey, CA 93940 (408) 373-0955.

RF9-230.2; Supply & Transportation (Southern California); Edwin H. Anderson, Fletcher Oil & Refining Company, Post Office Box 548, Wilmington, CA 90744 (213) 775-3503.

Alaska

RF9-210.2; Production (All Centers); O. G. Simpson, Atlantic Richfield Company, P.O. Box 360, Anchorage, Alaska 99501 (907) 277-5673.

Total Number of Positions: 87

REGION 10—EMERGENCY PETROLEUM AND GAS ADMINISTRATION, BOTHELL, WASH.

POSITION NUMBER, POSITION TITLE, AND INCUMBENT

Office of the administrator

R10-100; Regional Administrator.

R10-110; Deputy Regional Administrator.

R10-110.1; Executive Assistant.

Office of administrative services

R10-160; Director; John B. Benedetto, Bureau of Indian Affairs, U.S. Department of the Interior, Federal Bldg., 3006 Colby Ave., Everett, WN 98201, (206) 259-0349.

R10-160.1; Assistant Director, Office Services Branch.

R10-160.2; Assistant Director—Personnel-Fiscal Branch.

Office of information

R10-170; Director.

Office of general counsel

R10-180; Regional Counsel; Vernon L. Lindskog, Pebbles, Swanson & Lindskog, 202-212 Security Building, Olympia, WN 98501, (206) 943-8440.

Petroleum operations

R10-200; Assistant Regional Administrator.

Refining & manufacturing division

R10-220; Director; Michael Humphrey, Mobil Oil Corporation, Post Office Box 8, Ferndale, WN 98248, (206) 384-1011.

R10-220.1; Assistant Director-Facilities Branch; Jack Webb, Texaco Inc., Post Office Box 622, Anacortes, WN 98221, (206) 293-2131.

R10-220.11; Chief-Materials, Construction and MRO Section; Raymond R. Snover, Atlantic Richfield Company, P. O. Box 1127, Ferndale, WN 98248, (206) 384-1500.

R10-220.2; Assistant Director-Operations Branch; Richard C. Flickinger, Shell Oil Company, Post Office Box 700, Anacortes, WN 98221, (206) 293-3111.

R10-220.21; Chief-Technology & Planning Section; Ralph W. Moulton, Dept. of Chemical Engineering, University of Washington, Seattle, WN 98105, (206) 543-2250.

R10-220.22; Chief-Operations & Supply Section; James R. Nierman, Shell Oil Company, Post Office Box 700, Anacortes, WN 98221, (206) 293–3111.

R10–220.3; Assistant Director-Petrochemicals Branch; Andrew T. Peery, Phillips Pacific Chemical Co., Post Office Box 6008, Kennewick, WN 99336, (509) 586–6191.

R10–220.31; Chief-Additives & Catalysts Section; Donald R. Thorson, Mobil Oil Corporation, Post Office Box 8, Ferndale, WN 98248, (206) 384–1011.

Supply and Transportation Division

R10–230; Director; Warren G. Dulin, Union Oil Co. of California, 2901 Western Avenue, Seattle, WN 98111, (206) 682–7600.

R10–230.1; Assistant Director, Supply Planning Branch.

R10–230.11; Chief, Program Section.

R10–230.2; Assistant Director, Supply Coordination Br.

R10–230.21; Chief, Crude Oil Section; Ken Denton, Sound Refining Co., Inc., 2628 Marine View Drive, Tacoma, WN 98401, (206) 272–9348.

R10–230.22; Chief, Products Section; W. Kermit Rice, Phillips Petroleum Company, 66 Bovet Road, San Mateo, CA 94402, (415) 349–3166.

R10–230.3; Assistant Director, Transportation Coordination Branch.

R10–230.31; Chief—Pipeline Section.

R10–230.32; Chief—Tanker, Barge, Motor & Rail Section; Michael D. Duppenthaler, Foss Launch & Tug Company, 1901 Tidewater Road, Anchorage, Alaska 99501, (907) 272–9332.

Distribution & marketing division

R10–240; Director.

R10–240.1; Assistant Director—Operations Branch; James T. Clarkson, Shell Oil Company, 2540 - 11th Avenue, S.W., Seattle, WN 98134, (206) 624–0550.

R10–240.11; Chief—Products Section; Billy E. Myron, Shell Oil Company, Post Office Box 10327, Portland, Oregon 97210, (503) 228–7321.

R10–240.12; Chief—Support Services Section.

Natural gas operations

R10–400; Assistant Regional Administrator; Norman F. Trainor, El Paso Natural Gas Company, Post Office Box 1526; Salt Lake City, Utah 84110, (810) 328–8252.

Distribution division

R10–410; Director; Karl B. Reese, Washington Natural Gas Co., Post Office Box 1869, Seattle, WN 98111, (206) 622–6767.

R10–410.1; Assistant Director—Gas Requirements Branch; Reed Penning, Intermountain Gas Company, 555 South Cole Road, Boise, Idaho 83707, (208) 375–1361.

Transmission division

R10–420; Director; Carl F. Whitmire, Pacific Gas Transmission Co., P. O. Box 4395, Station B, Spokane, WN 99202, (509) 534–0657.

R10–420.1; Assistant Director—Operations Branch; Paul A. Hoglund, Washington Natural Gas Co., Post Office Box 1869, Seattle, WN 98111, (206) 622–6767.

R10–420.2; Assistant Director—Supply Planning Branch; Robert T. McLendon, The Washington Water Power Co., Post Office Box 1445, Spokane, WN 99210, (509) 489–0500.

R10–420.21; Chief—Program Section; Murray L. Neal, California-Pacific Utilities Co., Post Office Box 1709, Medford, Oregon 97501, (503) 772–5281.

Support Services

R10–500; Assistant Regional Administrator; Ernest W. Baxter, Jr., Post Office Box 622, Anacortes, WN 98221, (206) 293–2131.

Materials Division

R10–510; Director; Howard L. Graul, Standard Oil of Calif., Post Office Box 125, Edmonds, WN 98020, 206 542–2131.

R10–510.1; Assistant Director-Specialized Materials & Equipment Branch.

R10–510.2; Assistant Director-Industrial Materials & Equipment Branch; Abe W. Jackson, Atlantic Richfield Company, P.O. Box 1127, Ferndale, WN 98248, (206) 384–1500.

Manpower Division

R10–520; Director; Charles L. Hamer, Phillips Petroleum Company, 848–106th Avenue, N.E., Bellevue, WN 98004, (206) 455—3666.

R10–520.1; Assistant Director-Manpower Branch.

R10–520.2; Assistant Director-Claimancy Branch.

Communications Division

R10–530; Director; Roy A. Charves, Pacific Gas Transmission Co., 245 Market Street, San Francisco, CA 9410, (415) 781–0474.

R10–530.1; Assistant Director, Operations Branch; Harry T. Schriver, El Paso Natural Gas Co., Post Office Box 1526, Salt Lake City, Utah, 84110, (801) 382–8252.

R10–530.2; Assistant Director, Claimancy Branch.

Facilities Securities Division

R10–540; Director.

R10–540.1; Assistant Director, Programs Standards Br.

State offices

Alaska

RS10–200 (AK) Manager, Petroleum; H. Russell Painter, Tesoro-Alasaka Petroleum Corp., P.O. Box 6272, Anchorage, Alaska, 99502.

RS10–400; (AK) Manager, Natural Gas; Dale Teel, Alaska Pipeline Company, 202 Spenard Road, Anchorage, Alaska, 99502.

Idaho

RS10–200 (ID); Manager—Petroleum; G. T. Brower, Chevron Pipe Line Company, 201 N. Phillippi Street, Boise, Idaho 83704, (208) 375–2912.

RS10–400 (ID); Manager—Natural Gas; Scott W. Busselle, Intermountain Gas Company, 555 South Cole Road, Boise, Idaho 83707, (208) 375–1361.

Oregon

RS10–200 (OR); Manager—Petroleum; Newton P. Lesh, Time Oil Company, Post Office Box 03117, Portland, Oregon 97203, (503) 286–1611.

RS10–400 (OR); Manager—Natural Gas; Ronald T. Miller, Northwest Natural Gas Company, 123 N. W. Flanders Street, Portland, Oregon 97209, (503) 226–4211.

Washington

RS10–200 (WA); Manager—Petroleum.

RS10–400 (WA); Manager—Natural Gas; Melvin C. Clapp, Cascade Natural Gas Corporation, 222 Fairview Avenue, North Seattle, WN 98109, (206) 624–3900.

Field Liaison Representatives

Alaska

RF10–230.1; Supply & Transportation; Robert B. Tinnell, Standard Oil Company of Calif., Post Office Box 1580, Anchorage, Alaska 99501, (907) 279–9666.

Oregon (Western)

RF10–230.3; Supply & Transportation.

Washington (Eastern)

RF10–230.4; Supply & Transportation; Robert B. Pennington, Phillips Petroleum Company, Post Office Box 2123, Spokane, WN 99210, (509) 534–9391.

Standby; David L. Dennard, Cook Inlet Pipeline Company, P.O. Drawer 4–XX, Anchorage, Alaska 99503, (907) 272–9568.

Total No. of Positions: 60.

OUR CURRENT ENERGY SHORTAGE

Mr. BEALL. Mr. President, surely all of us in this body recognize the tremendous responsibility government has to insure that, in the face of our current energy shortage, farm operations receive whatever fuel is necessary to plant, tend, and harvest the foodstuffs of this Nation. Already, with the passage of S. 1570, the Emergency Petroleum Allocation Act, the Congress has noted the priority status that agriculture ought to receive in any fuel allocation formula. The administration has also realized the need for preferences for essential farm operations, and I have been hopeful that with this firm mandate, our Nation's farm community would have little difficulty in receiving the necessary quantities of fuel for their critical operations.

However, Mr. President, it came to my attention last week that because of delays in the processing of applications for additional allocations, farmers were not getting fuel in a timely fashion. Delays of up to 10 days or more were occurring, and farm equipment was forced to stand idle, waiting for orders from Washington to begin the fuel flow.

Because of the critical time factor involved in farm operations, such delays were of course intolerable. Therefore, on November 20 I contacted Secretary of the Interior Morton urging him to take action to cut this unnecessary redtape and expedite the flow of fuel to our Nation's farmers. Specifically, I asked that he permit responsible State officials to make a determination of need, pending further review by the Department of the Interior.

Mr. President, I am pleased to note that the Department has begun to take steps to break this bureaucratic logjam. In today's Federal Register of November 27, 1973, Mr. Eli T. Reich, Administrator of the Office of Petroleum Allocation, announced procedures whereby diesel fuel is to be delivered to farmers without formal petition or approval by Federal officials. Preference category customers, such as farmers, can now directly apply to their supplier for diesel fuel needed for essential farm operations, accompanied only by a written statement certifying that the volumes requested are needed for essential requirements. The order further stipulates that the needs of priority customers should be met in full by suppliers in the most expeditious manner possible.

Mr. President, I welcome these new regulations as a much needed step to end bureaucratic delays and permit the rapid supply of essential diesel fuel to farmers. I am hopeful that similar actions will soon be taken with regard to other fuels, such as gasoline, so that our country's vital food supply is not significantly affected by current energy shortages.

In a time of crisis such as we are experiencing, it is important that government not further complicate matters by bureaucratic inaction. I commend the administration on this forthright step to meet a pressing problem.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the letter I sent to Secretary Morton along with copies of the regulations as published in the Federal Register.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., November 20, 1973.
The Honorable ROGERS C. B. MORTON,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: In the face of the critical energy crisis confronting our Nation today, I believe it ought to be the role of government to take actions which will assure the timely allocation of needed resources to those areas of particular high priority. As you know, one such area is agriculture, and I am pleased to note the importance Congress and the Administration has attached to this sector in allocating scarce fuel resources.

However, a situation has come to my attention which is seriously threatening the ability of farmers in my State and, indeed, the whole Nation, to harvest their crops on which our citizens rely. As you know, for a farmer to receive special consideration for available fuel resources, he must submit an application for certification of need to his State, who then must forward his request to the appropriate federal officials. This bureaucratic procedure, however, is causing undue delays in processing applications, which is in turn curtailing or halting farm operations for lacking of additional fuel. In view of the critical time factors involved in farming, such delays are potentially disastrous.

I call upon the Department of the Interior to take actions to cut this unnecessary red tape, and expedite the flow of fuel to our Nation's farmers. Specifically, I propose that you permit responsible State officers, such as the Governor or Secretary of Agriculture for each State, to temporarily make a determination of certification of need, pending further review by your Department. I believe that this action will significantly ease the log jam of applications now pending, thus permitting needy farmers to receive fuel as quickly as possible, while at the same time allowing the Department of the Interior to make the final determination.

In a time of crisis such as we are experiencing, it is important that government not further complicate matters by bureaucratic inaction. Such a plan as I have proposed will meet a crucial need, and I ask your immediate consideration of this matter.

With best wishes, I am
Sincerely yours,
J. GLENN BEALL, Jr.

[Federal Register, Vol. 38, No. 222—Monday, November 19, 1973]

Office of Petroleum Allocation [Advisory Notice 2]

MIDDLE DISTILLATE FUELS—ALLOCATION PREFERENCES

In order to relieve unintended results under the Mandatory Allocation Program for Middle Distillate Fuels, it has been determined that pursuant to section 12 of the regulations (EPO Reg. 1; 38 FR 28660) for a period of 60 days effective immediately, suppliers shall give preference in the allocation of diesel fuels in the middle distillate range to the following purposes:

(1) For the operation of prime movers or power units necessary for the exploration, production, refining, and distribution of fossil fuels which includes petroleum, natural gas, and coal.

(2) For the operation of mobile and fixed farm and ranch equipment essential to the planting, growth, or harvesting of crops and or livestock.

(3) For the operation of public mass transportation systems within metropolitan areas when certified as essential to the public welfare by the Governor of the State to the Administrator.

It is intended that the preference granted herein shall apply only to delivery of diesel fuels in the middle distillate range during the 60-day period and does not apply to orders placed on a supplier for delivery beyond the next 60 days.

Purchasers requesting assistance under this notice are cautioned to limit their requests to actual current requirements as it is intended that quantities of such fuels delivered during the 60-day period will be assessed against their adjusted total annual allocation.

ELI T. REICH, *Administrator.*

November 15, 1973.

[FR Doc.73-24716 Filed 11-16-73;9:14 am]

[Federal Register, Vol. 38, No. 227—Tuesday, November 27, 1973]

Office of Petroleum Allocation [Advisory Notice No. 6]

DIESEL FUELS—ALLOCATION PREFERENCES

This is to provide clarification as to the intent of Advisory Notice No. 2, published in the Federal Register on November 19, 1973 (38 FR 31857), which established a preference for diesel fuel supply to three categories of customers.

The intent of Advisory Notice No. 2 is that:

1. The diesel fuel needs of customers in each of the three categories be met in full by the appropriate supplier to the customer.

2. Such supply be delivered without formal petition to or approval by representatives of the Office of Petroleum Allocation. That is, suppliers at each level are expected to meet the indicated essential needs of customers in each of the three preference categories in the most expeditious manner possible.

3. Preference category customers will limit demands under these provisions to those volumes essential to the accomplishment of the basic preference function of each customer. It is necessary that customers receiving diesel fuel supplies under these preference categories furnish a written statement certifying to their supplier that volumes requested constitute essential requirements during the period covered by Advisory Notice No. 2. It is not intended that Advisory Notice No. 2 be used as a device for stocking fuels against potential future needs.

4. Records, including customer certification statements, will be kept at each level of supply as to the additional quantities provided in each monthly period to meet essential preference category needs; and such records shall be available on demand for inspection by representatives of the Office of Petroleum Allocation.

5. If suppliers act in accordance with the intent of this Advisory Notice, no sanctions under the Mandatory Distillate Fuel Allocation Program shall be imposed by the Office of Petroleum Allocation as a consequence of any unintended results stemming from implementation of these preference category demands.

The purpose of Advisory Notice No. 2 is to insure that adequate supplies of diesel fuel be delivered to preference category customers in an expeditious and effective manner, with no delays stemming from formal pre-delivery documentation. Expeditious fulfillment of preference demand is essential.

ELI T. REICH, *Administrator.*

November 23, 1973.

[FR Doc. 73-25214 Filed 11-23-73; 2:42 pm]

PAN AMERICAN DEVELOPMENT FOUNDATION

Mr. KENNEDY. Mr. President, during the annual meeting of the Pan American Development Foundation, I think it appropriate to call to the attention of my colleagues the work of this unique organization.

As a member of the board of trustees, along with Senator JAVITS, I have watched with some admiration the accomplishments of this independent and nonprofit agency which is sponsored by the Organization of American States and whose chairman is Galo Plaza. For over a decade, PADF has attempted to provide a mechanism to provide low-interest loans to finance community self-help projects in various countries in Latin America.

Beyond the value of the particular project which is determined by the community rather than by any remote governmental agency, the loans guaranteed by the local national development foundations force traditional credit institutions to reach out to the poorest communities which are on the periphery of the economic and social structure of most developing nations.

The national development foundations formed in each nation have become not only a source of technical assistance to these communities but serve as a vital conduit to enable local communities to take a small step toward ultimately becoming integrated into the ongoing economic, social, and political life of the country.

In a recent article in Vision magazine by Winthrop Carty, the work of the Nicaraguan Development Foundation following the devastating earthquake a year ago is shown in sharp contrast to the concerns of traditional sources of credit. The banks' concerns were with corporations and those with established credit ratings. The foundation's concern was with the "little man at the bottom of the entrepreneurial heap."

Mr. President, I ask unanimous consent that a translation of the article "Rebuilding Businesses" be printed in the RECORD. I also ask unanimous consent that the names of the officers and board of trustees of the Pan American Development Foundation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAN AMERICAN DEVELOPMENT FOUNDATION

(The following is the English version of a story on the Managuan recovery program. The story, written by Winthrop P. Carty, appeared in Vision Magazine.)

What are the consequences to a nation's economy if the capital's commercial center virtually disappears? Managua sadly found out last December 23. A series of giant tremors tumbled the downtown area and the ensuring fires and looting ravaged the region. Perhaps 8,000 people died in the holocaust.

Today, roughly 500 city blocks have been sealed off by barbed wire. Gutted buildings have been dynamited and much of the rubble has been pushed into Lake Managua. Only a few high-rise office buildings remain—too unsafe for occupancy—to break the picture of utter desolation.

The layout of the city, similar to many world capitals, dictated the economic results of the disaster. Large commercial enterprises, small business, and governmental agencies were jammed into the bustling center. Woven into the downtown area and the immediately surrounding area was the housing of the white-collar workers employed in the commercial institutions, government offices, and shops. The outer ring of Managua was composed of factories and the housing of blue-collar workers.

Roughly 95% of the commercial area was

wiped out. The surviving clerks, accountants, secretaries, small shop-keepers and other center city workers were left jobless. Their housing, located in the epicenter and made mostly of adobe, fell, and Managua's predominantly lower middle class residents fled to outlying areas. But in sharp contrast of fortune, only 10% of the city's outer ring of factories and industrial worker's housing was seriously damaged.

Of all the major categories of financial interests, the biggest question mark is attached to the fate of urban landowners. The value of highpriced property in downtown Managua tumbled in the wake of the earthquake. Landowners possess title to formerly prized land which now brings no rent and lies forsaken behind barbedwire. The hope of revived real estate values turns mainly on exactly how the government rebuilds the city. At the very least, realtors expect some return by selling their property to the government for an integrated reconstruction effort. On the other end of the seesaw, property-owners on the outer circles of the city hold strategically located land and stand to make windfall profits.

Manufacturers suffered the least. No more than 10% of Managuan factories, strung along the outskirts, had production seriously interrupted. The Managuan Pepsi Cola plant is cited as an admirable example of the manufacturing sectors's resiliency. The management quickly removed the rubble of the collapsed roof, found the machinery basically intact, and placed a jerrybuilt canvass cover over the plant. Full production was reached within a month. Meanwhile, permanent steel roofing was constructed before the rainy season set in. "From ashes to production in 28 days," exclaims a sign outside the factory. Industrial capacity is now reaching 100%, and some manufacturers have expanded into new lines during the renovation period.

The larger commercial and retail enterprises survived the disaster with unexpected ease. The large firms had branches in nearby Masaya, Grenada, and Leon, Nicaragua's other population centers. The branches became the headquarters while the companies scrambled for a new roof in Managua. A human wave followed the same pattern. Possibly half of Managua's population of 400,000 fled the city and often found lodging with relatives in the secondary cities. The uprooted brought manpower and clients to the firms' temporary headquarters.

The Managuan headquarters of the Nicaraguan Branch of the Bank of America, the world's largest private bank, was the kind of business well able to jump back into operation. The original downtown headquarters was built of re-inforced concrete but fire weakened the structure beyond repair. Armando Ortega, the Nicaraguan-born manager took a route familiar to many business leaders. The government assigned a day when police would escort the transfer of assets from the wrecked headquarters to a new location. The Banco Nicaraguense lent the Bank of America a window at its Masaya branch. At first some depositors raced to withdraw their savings but the bank paid cheerfully and confidence was quickly restored. Subsequently, Ortega rented a house in Masaya to enlarge the operation. Finally, a colonial-style house, only one-third constructed in Managua, was purchased and converted into the permanent headquarters.

"A high percentage of the destroyed enterprises have a credit relationship with the banking community," notes Ortega, "and we, like other banks, are serving our clients." The banks are experiencing high liquidity. Clients with cash on hand and policy-holders of earthquake insurance have reserves they don't wish to invest until they have a clear picture of the government's plans to reconstruct Managua.

The large insurance companies survived financial pay-outs and business dislocation. Leonel Argüello, the executive director of the Compania Nacional de Seguros, the largest Nicaraguan insurance company, points out that substantial companies have a hedge against being swamped by a disaster like the Managuan earthquake. The companies belong to an international system of catastrophic insurance that provides back-up foreign reserves in case of an overwhelming national calamity.

Argüello's first task was to save the company records. After the six-story main office was dangerously cracked by the quake, employees, numbering 70, formed a human chain to pass out the irreplaceable records and load them on trucks. Private houses were rented in residential suburbs, and the company began the job of processing the fall-out of claims. The superintendent of banks has announced that $56 million in claims were honored in the first half of 1973, and industry sources estimate as much as $75 million may be paid out by year's end.

Argüello notes that foreign companies tended to have more earthquake insurance than local firms. "After the 1931 earthquake," he observes, "people thought lightening doesn't strike twice;" furthermore, a local claims' movement puts the Nicaraguan insurance in a public-relations bind. The earthquake triggered fires and looting. Policy-holders with fire and theft insurance are pressing claims. But the international consortium as well as local companies, under the terms of their contracts, only pay for coverage of the prime cause of the disaster, the earthquake.

The survival of shop-keepers, restaurateurs, commercial district suppliers and the like turns on access to credit. Some shops in the center represented the owner's place of business, warehouse and residence. In a few tumultuous hours, a man could lose his established location, inventory, home, helpers, and, if a property-owner, the value of his land. A scant 10% of an estimated 900 small Managuan enterprises were located on the spared outskirts of town, and only 12% of all small businesses had any form of insurance.

The established entrepreneurs were able, despite financial loss and dislocation, to resume business. An industrial fairground was redesigned to accommodate 200 shops previously situated in the center. The rents are relatively low and the government is providing some recovery financing, but many relocated entrepreneurs suffer doubts. "Business is slow here," wearily said a druggist, "but we are waiting for the city to begin bus service to this shopping area. We have another small pharmacy on the other side of town—just in case."

With the final design of the reconstructed capital not yet settled, many entrepreneurs are hedging their bets. Italian-born Annunziato Esposito, who ran the popular El Coloseo restaurant in the old center, has converted a house on the main road to Masaya, but he too has purchased a spot in a different section of town in case the city grows away from his present site. Come what may, Esposito is confident: "I'll make it—I work hard, know my business, and have faithful customers."

Familiar Managuan commercial names are popping up in suburban houses. Casa Commercial Gertsch Molina is typical of the established enterprise which has survived the earthquake, and can look to the future with reasonable confidence. Federico Gertsch, a Swiss-born engineer, ran a machinery import business next door to his wife's successful jewelry shop, Relojeria Omega. Married three months before the 1931 earthquake, they maintained earthquake insurance for 25 years, but let the policy lapse two years ago. The elderly couple owned six houses, three of which were in the devastated center. With funds saved over the years, they are back in business in one of the three undamaged houses.

The lasting economic victims of the Managuan earthquake are the small entrepreneurs without access to credit, and white-collar workers who lost their homes. Housing in the old commercial center, it should be remembered, represented proximity to jobs. In common with most Latin American nations, the Nicaraguan economy isn't geared to extend credit to small entrepreneurs, or constructing appropriate housing for white-collar workers. Both government and private banking lack a small-loan delivery system for the little man at the bottom of the entrepreneurial heap. Usurers provide the financing for the marginal members of the cash economy.

With varying success, private foundations in Latin America have tackled the problem of making proper credit available to "marginated" persons. The Nicaraguan Development Foundation (FUNDE) is one of the best run private-sector, non-profit foundations in the Americas. "We cannot pretend to solve the nation's problems," explains William Baez Sacasa, FUNDE's executive secretary, "but we can experiment and seek new approaches to old problems."

FUNDE has been virtually alone, for instance, in helping the vivanderas (market women), the lowest-level entrepreneurs but, by definition, classic symbols of the free-market economy. Before the earthquake, Managua's three main markets—Boer, Santo Domingo, and Oriental—represented 2,500 selling locations in such basic wares as bread, candy, simple jewelry, shoes, furniture, and clothes.

The economics of the ancient markets are complex. A woman operating a retail stand, needs between $15 and $150 daily to do business. Daily working capital for a woman with a basket runs from $5 to $7. Most women with medium or large stands receive loans from usurers for repayment over a one or two-month period. The daily interest rate averages 25% of the loan.

Some of the more enterprising women had built up a relatively substantial business. Cigar-maker Lila Garcia, for example, rented a house fronting one of the markets for $115 monthly, and employed four women to roll tobacco. Her most popular pack was 50 small cigars for 50 cents, and, on an average day, she would sell as many as 5,000. Her cigars were sold in the front of the house, while they were fashioned and the tobacco stored in the back rooms.

Lila started her business in Managua at a conspicuous corner of a main market, and rolled her cigars in public as a way of advertising her product. She considered herself "established" after six months of maintaining her corner station and building up a regular clientele.

During the earthquake, her cigar business literally went up in smoke. The house, serving as her retail outlet, storage facility and home, and her modest inventory of tobacco, were completely lost. She raced to the countryside. But 15 days later she was back in Managua rolling tobacco. FUNDE loaned her money sufficient to regain her position in the market place. "Little by little I shall build back my former production," the rugged vivandera claims. Aware that a lack of a trademark and transportation limit her operation to her door front, she adds, "I hope some day to own a well marked truck to deliver well packaged cigars" to put the business on a higher commercial level. "She unquestionably will receive the money she needs from FUNDE," says Baez Sacasa, "once she raises her daily production."

Even an enterprising woman like Lila Garcia is intimidated by the formal lending system. At first FUNDE attempted to draw the vivanderas into forming cooperatives and collectively applying for bank loans. The women, however, rejected the prospect of entering the marble halls of a bank for a loan, and clung to their tradition of borrowing from usurers who keep their accounts in a booklet. As a first step toward overcoming the vivanderas' cultural resistance to formal banking procedures, FUNDE designed a booklet similar to that of the usurers. The group then accepted the foundation's loan and their weekly repayments are recorded in the familiar booklets which the women are given to hold. The vivanderas also have been encouraged to form cooperatives—to buy in bulk, build adequate storage facilities, etc.—and their repayment record is excellent. The fact they traditionally finance their businesses with money borrowed at usurious rates indicates the inherent strength of their operations.

In the first half of 1973, FUNDE had completed 186 projects, including 48 small businesses, eight small businessmen's cooperatives, 27 other cooperatives, and extended technical assistance to 44 small enterprises. But the work among the market women best illustrates FUNDE's ability to reach the thousands of little people who are generally bypassed by disaster relief.

Housing for white-collar workers is another area hardly touched by the government. With great fanfare, Gen. Anastasio Somoza and Ambassador Turner Shelton earlier this year opened a U.S.-financed housing project called "Las Americas". The project, originally designed for 11,000 shelters, is a manifest failure. The housing project is only partially occupied and blacks basic facilities. Popularly called "the concentration camp", Las Americas was erected in the worker's district, where damage was relatively light. Inconveniently located and crudely serviced, the drab units are of no use to needy white-collar workers.

FUNDE constructed a cheaper, portable house. The pre-fabricated units were designed with the help of the Pan American Development Foundation, the OAS-associated stimulous for the Latin American national development foundations. The pre-fabs can be placed on land people already own, in a relative's backyard, or near existing public facilities. White-collar workers, who were scattered badly, find the mobile houses more practical than the government's poorly serviced, fixed units.

The Managuan experience spotlights many of the problems surrounding disaster relief. Foreign governments and agencies can send medicine, food, clothing and other items of immediate help, but aid for long-range economic recovery is another matter. Foreign disaster relief often raises unfulfilled hopes among the recipients and disillusionment among donors. Among the many extraneous supplies reportedly sent stricken Managua were Spanish wine and frozen German chickens. In the chaos following a major earthquake or flood, there is no sound way of accounting for relief items. The Somoza dynasty naturally engenders doubts about the disposition of foreign assistance. Many observers quietly believe President Luis Echeverria was prudent in politely turning down offers of international aid after Mexico's recent earthquake. Mexico has the resources to help its own people, and can avoid the misunderstandings which all too often attend foreign relief programs.

Most Latin American nations, unfortunately, simply lack the grassroots agencies to assist the little man beyond charity. The Peruvian government is still attempting to reconstruct Huarez, the picturesque town demolished three years ago in an earthquake. "Over the fundations that remain we will not reconstruct misery," the recovery program's slogan proclaims. But the process of making Huarez into a model town and redistributing local wealth has been painfully slow.

"People's values change after an earthquake," notes Baez Sacasa. "Property doesn't seem so important—people discover that possessions can crumble in 30 seconds, and one is lucky just to be alive. But Managuans soon found that it was important to get back to work—it gave them a chance to forget the past and regain a sense of purpose about the future."

PAN AMERICAN DEVELOPMENT FOUNDATION OFFICERS

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EMBASSY CONDUCT IN CHILE

Mr. KENNEDY. Mr. President, during the recent coup in Chile, several Americans were detained, several were beaten and two were killed, Charles Horman and Frank Teruggi. These tragic incidents reflect the pattern of conduct of the military regime in the days and weeks following the coup.

Questions concerning the policies of the United States toward the Allende Government, questions concerning the sharp turnabout in that policy since the coup, and questions concerning the attitude of the U.S. Government toward the violence and the violation of human rights in Chile have not yet been answered to my satisfaction.

However, there is an additional question that I would call to the attention of the Senate today, the question of how well the U.S. Embassy and its officers fulfilled their responsibility to protect and safeguard American citizens during the coup.

The wife and father of Charles Horman have raised serious doubts about both the attitude and conduct of U.S. embassy officials. They feel that an attitude of concern and vigorous action by U.S. officials might have prevented the death of Charles Horman. Their criticism is echoed by several other individuals in Chile at the time of the coup.

In a recent column by Jack Anderson in the Washington Post and in news articles appearing in the New York Times, the question of the vigor with which the embassy pursued its responsibilities to protect the lives of U.S. citizens is raised again.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TWO AMERICANS SLAIN IN CHILE: THE UNANSWERED QUESTIONS

(By Marvine Howe)

SANTIAGO, CHILE, November 5.—The quiet young Americans met violent death in the troubled aftermath of the military coup d'état here two months ago, and the reason is still unclear.

Investigations into the deaths of Charles E. Horman, a 31-year-old filmmaker from New York, and Frank Teruggi, a 23-year-old economics student from Chicago, raise disturbing questions, in the opinion of friends of the victims, about the role of some United States officials in the crisis and about the failure to protect American citizens.

It is generally believed that more than 2,000 people were killed in the turmoil and repression that followed the overthrow of the democratically elected Marxist President, Dr. Salvador Allende Gosens, on Sept. 11. Most of the dead were Chileans and other Latin Americans, executed because they were said to have tried armed resistance or were believed to be leftist activists.

But Mr. Teruggi and Mr. Horman, according to many friends and relatives questioned, were, while deeply committed to the Allende cause, pacifists and gentle intellectuals not involved in Chilean politics.

ACCIDENT WIDELY DOUBTED

Of course there were many accidents in the troubled weeks after the coup, and there is nothing to rule out accidential shooting in the cases of Mr. Horman and Mr. Teruggi. But on the basis of the mild personalities of the two Americans and the discrepancies in the official reports, the theory is widely doubted.

"It can't be a complete mishap because the authorities called both of them by name—Teruggi in the stadium, where he was a prisoner, and Horman at the homes of two friends," said an American resident in Chile who knew both men well and has been investigating their deaths.

There is no evidence that the killings were connected other than the fact that the two men are said to have died in the same violent way. They were acquainted and had a number of mutual friends, but they were not close friends.

Both were associated with North American News Sources, a group of young Americans who published a small nonprofit magazine on the United States for the local leftist press. The articles were often critical of the negative United States position on the Allende Government. The group disbanded after the first attempted military revolt at the end of June.

WORKING ON A CARTOON

"Charles was a poet at heart, totally involved in the cultural revolution and a fervent believer in Chile's experiment of socialism in freedom," one of his former colleagues said.

Mr. Horman and his wife, Joyce, came to Chile in June, 1972, and were working on an animated cartoon called "The Sunshine Grabbers" for a small Chilean movie company. Mr. Horman had also written a script on the history of imperialism in Chile and was doing research for a book on Chile's "transition to socialism."

In the beginning the Hormans lived in a large, comfortable house in Las Condes, a fashionable Santiago suburb. It was a permanent open house for Chilean and foreign artists, Marxist-Leninist discussion groups and other intellectuals and their children.

Recently the Hormans' funds had run low and they moved to a working-class district, Vicuña Mackenna, at the beginning of September, and their easy-going, gregarious lifestyle changed.

On the weekend before the coup Mr. Horman took Terry Simon, a houseguest from New York, to see the sights of Valparaiso and the coast.

By most accounts, the armed forces' moves against the Allende Government started with the navy at Valparaiso. When the military took control and established a curfew, Mr. Horman and Miss Simon were stranded with a number of other Americans at the resort of Viña del Mar.

RIDE WITH NAVY MAN

Mr. Horman and Miss Simon were given a ride back to Santiago on Sept. 15 by Capt. Ray Davis, chief of the United States military mission here, who says he had gone to Valparaiso to check on the safety of his people at the United States Navy station there.

According to Mrs. Horman, her husband brought with him information on American activities at Valparaiso on the eve of and during the coup. This information has been relayed to friends.

"Charlie's information is interesting as part of the general picture of the United States intervention in the Chile crisis, but it did not warrant killing him off," said a friend who had access to the information.

Mr. Horman's report is said to include a description of special activity at the Valparaiso port at the time of the coup, as well as conversations with American civilians and military men there. A retired American engineer who had been at the 15th Naval District headquarters in the Panama Canal Zone was quoted as saying, "We came down to do a job and it's done."

Mrs. Horman has indicated that this was a reference to the coup; however, it is not known whether Mr. Horman obtained proof that the engineer was speaking of the military take-over.

United States Government sources have firmly denied any role in the coup and insist that there were no navy vessels in Chilean ports or scheduled to bring in military equipment.

On Mr. Horman's return from Valparaiso, he discussed the situation with his wife and they decided they should leave Chile as soon as possible, Miss Simon said.

On Monday, Sept. 17, Mr. Horman registered in a downtown hotel. Then he and Miss Simon tried to get airplane seats. They were told to go to the embassy, which was said to be drawing up a list of Americans who wanted to leave. At the embassy they were told to go to the consulate, in another part of town.

NEVER SEEN AGAIN

Two hours later Mr. Horman was arrested in his home by military men, taken away and never seen again.

Alone at the time, he had gone to get the family's belongings. His wife was doing some final shopping and Miss Simon had gone to the consulate, there to be told by a consul that he knew no special measures to get Americans out and that she should inquire at the airline, Braniff.

Neighbors reported that military men broke into the small house rented by the Hormans at 5:30 p.m., using a ladder to scale the wall. They raided the house and took Mr. Horman toward the National Stadium, according to a witness.

"When I got back at 8:30 the next morning, I found the house in shambles, the mirrors broken, the gas and electricity cut, the beds ripped apart," Mrs. Horman said in an interview a few days later. She had been caught by the early curfew and had spent the night of the 17th with a friend.

"They stole everything we had of value," she added.

On the morning of the 18th Chilean military-intelligence officers called two of Mr. Horman's friends and asked them to visit the police and give information about him. Neither went, but one of them, a United Nations official, says he called the American consul, Frederick D. Purdy, to report the incident. Mr. Purdy denied to newsmen having received the call.

Mr. Horman's father, Edmund, a semi-retired businessman, appealed to United States congressmen and press and business circles to put pressure on the embassy in Santiago and the Chilean military authorities to find his son. Finally he came to Santiago to press the search, assisted by Americans at the embassy.

It was Captain Davis who appeared to be leading the embassy investigation into the case. He asked Mrs. Horman for a picture of her husband and a detailed description. He also asked for a list of their friends, which she refused.

Finally, on Oct. 19, the Chilean military-intelligence agency officially informed Mr. Horman that his son had died by gunfire and was buried in the National Cemetery. Identification was made, they said, by fingerprints. Yet military intelligence officers denied having picked Charles Horman up, nor, according to his father, was there any record of him at the stadium or in any prison.

Mr. Purdy says he was informed that Mr. Horman's body was picked up in the street by a military patrol on Sept. 18.

Members of the Horman family have not seen the autopsy report, which is said to give as cause of death "multiple bullet wounds," nor have they been given any explanation of the circumstances.

MULTIPLE BULLET WOUNDS

The autopsy report for the other American, Mr. Teruggi, gives the same cause of death—multiple bullet wounds, 9 to 17 of them. Yet a Columbia University graduate student, Steven Volk, who identified Mr. Teruggi's body at the morgue, insists that he did not see 17 wounds but only a gash in the neck and a hole in the cheek.

Mr. Purdy acknowledges that there are a number of "technical discrepancies" connected with both deaths.

A principal one in the Teruggi case is the official contention that he was arrested "because he was outside after curfew." Yet, according to a friend, David Hathaway, he and Mr. Teruggi were arrested on Sept. 20 at 8:15 P.M., 15 minutes after the curfew, in the apartment they shared.

In an interview on his release a week later, Mr. Hathaway told how paramilitary policemen raided the apartment, seized a number of Mr. Teruggi's Marxist books, punched him in the stomach and took him to a police station for a rough interrogation before transferring them to the stadium.

Mr. Teruggi was called out of the cell by name the following afternoon, according to Mr. Hathaway, and not seen alive again.

NO RECORD OF RELEASE

Official sources said that Mr. Teruggi was set free on Sept. 21, but there is no record of his release, nor did he make contact with his friends.

He had lived in Santiago for a year and a half and had been attending the school of political economy at the University of Chile. Described by colleagues as conscientious and hard-working, he was more concerned with the technical side of their magazine than with content. Most people who knew him say he was something of a loner, quiet, monk-like and completely dedicated to the cause of socialism.

A spokesman for the military junta, in confirming Mr. Teruggi's death, described him as "a rebel, of quick temper, easily disturbed." He suggested that newsmen go to the embassy for more details.

"We have no knowledge as to the circumstances of the death of either Horman or Teruggi," the consul, Mr. Purdy, said, adding that the United States Embassy had asked the Chileans for an investigation.

VICTIM'S FATHER IS BITTER AT U.S. HANDLING OF CASE

The father of a 31-year-old American filmmaker and writer killed in Chile during the September coup believes that the handling of his son's case by United States officials in Santiago was "either a cover-up or an incredible apathetic bit of stupidity."

Edmund C. Horman, the father of Charles E. Horman, who was shot to death Sept. 18, and Charles' wife, Joyce, believe that his death could have been prevented if the American Consulate had acted on information they received that morning, the day after Charles was detained.

Official United States Consulate documents made available by Mr. Horman show that the consulate knew of Charles' seizure on the 18th. The documents also show that the consulate was informed two days after his seizure that Chilean military intelligence was questioning his friends about his activities.

Yet 17 days later, according to Mr. Horman, a consular official in charge of the case denied any knowledge of this information.

After pleading for days with American officials to check the National Stadium for his son—Mr. Horman recalls always getting the same reply, that "Charles' name is not on the computerized list of prisoners"—he was allowed to go to the stadium.

"THIS IS YOUR FATHER"

Using a bullhorn he called out in English: "Charles Horman. I hope you are out there. This is your father speaking. If you hear me please come forward. You have nothing to fear." Mr. Horman still did not know his son had been shot to death more than three weeks before.

A State Department official, asked about the handling of the case and Mr. Horman's charges, said, "The embassy and consulate followed up on every clue and bit of information they received regarding the incident."

Mr. and Mrs. Horman—along with Charles' wife and friends of his interviewed in New York—disagree with that account.

Mr. Horman, a lifelong resident of New York and a semi-retired sales and design engineer and inventor who for many years headed his own company, says he learned of his son's arrest four days after it occurred.

Placing a call to his son's home, he was informed that he had moved. The call was switched to the consulate and Mr. Horman was told by a consular official that his son had been arrested.

CAMPAIGN OF PRESSURE

Mr. Horman set out to organize a campaign of pressure on the embassy and consulate and the Chilean Government, using letters, cables and phone calls from legislators and other influential people. Among them were Senators Jacob K. Javits, James L. Buckley, Edward M. Kennedy and J. W. Fulbright; the Ambassador to India, Daniel P. Moynihan, and Secretary General Waldheim.

Mr. Horman and his family hope to present the facts of Charles's death to Congressional committees investigating the situation in Chile and the question whether aid should be reinstated.

"I'm not interested in revenge," Mr. Horman said. What can revenge do? I don't "want this to happen to an American citizen again."

In Chicago the family of Frank Teruggi, the other young American killed during the coup, is taking steps similar to those of the Horman family. They have appealed to their Congressional representatives and are trying to find out from the State Department and the Chilean Government just how and why he was killed.

The Horman family has been told that on Sept. 18, the day after Charles was taken from his home, reportedly by Chilean soldiers, two friends received calls from Chilean military intelligence.

One, a Chilean whom Mr. Horman feels it would be unsafe to identify, was reportedly asked why Charles Horman would have his phone number. He was also asked what he knew about Charles's activities in Chile.

According to the account, the Chilean was told that Charles was "an extremist" and that if he, the Chilean, lied he would be arrested.

Warwick Armstrong, a New Zealander who worked for the United Nations, was the other person called. He said he was also questioned regarding Charles and told to report to the nearest police station to make a statement. He did not go, he said, but telephoned to tell the consul, Frederick D. Purdy, what had happened.

The Chilean did not call the embassy, but he informed Mrs. Horman, who was following every lead she could, and she in turn informed the consulate.

On Oct. 5 Edmund Horman arrived in Santiago and was picked up at the airport by Mr. Purdy. At the embassy they met with Joyce Horman, the Ambassador, Nathaniel Davis, and Col. William Hon, the military attaché.

QUESTION AT THE EMBASSY

Mr. Horman, who had been in contact with his daughter-in-law since he was informed of his son's arrest, asked if any leads had developed relating to the phone calls and neighbors' reports that Charles had been picked up by men in Chilean Army uniforms and taken to the National Stadium.

Ambassador Davis then asked Mr. Purdy, according to Mrs. Horman and Mr. Horman, whether those tips had led to anything. Mr. Purdy replied that he knew nothing of the calls. Mrs. Horman then pointed out to him that his notes on the case, which she had been shown by another consular official, listed the calls and the information they contained.

At this point, the Horman account went on, Mr. Purdy got his notes, looked them over and said, according to Mrs. Horman, "Yes, the information on the calls is here."

The Ambassador then asked that the calls and the neighbors' reports be checked out and that Mr. Purdy write a resume of the case.

The resume, as made available to Mr. Horman, says

"18 September—Consulate received report of Horman's detention from one of its local employes one of whose relatives knew Horman. Few details given.—Later also received call from Mr. Armstrong, also telling that Horman missing since late 17 September when reportedly detained by military.—Consulate called pertinent Commisaries with no success."

JAILED AND RELEASED

On Oct. 3 the embassy received a note from the Chilean Foreign Ministry—later corrected in another note dated Oct. 22 and given to Mr. Horman—saying that "Mr. Horman had been jailed on 20 September and subsequently released the next day."

Edmund Horman cites this letter as an example of lack of initiative on the part of the embassy. He feels that it should have picked up this discrepancy in dates and questioned the Chilean Government.

A State Department official said that the Ambassador did question the Chilean Government on this matter. The official noted that getting information at the time was difficult.

"Everything was in chaos," he said. "The Chilean Government was not functioning. Ministers were being removed and new people were coming in. Operational procedures were highly irregular."

The official also said that the embassy was "constantly impressing on the Chilean Government and military their concern for the safety and well-being of Mr. Horman."

"We had 2,800 Americans down there," he added. "There were other Americans who were detained. We were trying to secure all of their releases. We didn't think people would get killed."

While in Chile, Mr. Horman, who constantly met with United States and Chilean officials, pressed the consulate hard to get an identification check made at the Santiago morgue since his son had had a Chilean identification card.

In a letter to Mr. Horman dated Oct. 10 Mr. Purdy said: "The morgue has verified to me that prints are taken almost immediately of all bodies at the morgue, and sent to identification. There they are checked against all prints on file, which includes anyone who has gotten a Chilean ID card or anyone whose prints have otherwise been furnished them.

"The latter category as well as the former applies to your son since we supplied them with his classification on Oct. 2."

"We specifically asked the prints be used to verify whether any one of the unidentified bodies might be that of Charles, and were later informed that none could be so identified," the latter concluded.

The word from the embassy and consulate the Mr. Horman and Charles's wife received daily was that everything possible was being done. There was embassy speculation on Charles's fate. Perhaps, the Hormans say they were told, Charles was in hiding; perhaps he was detained and released, and then picked up by leftists and killed.

FULL-TIME SEARCH ORDERED

On Oct. 18, Mr. Horman says, an Inspector Rojas from the investigation office visited him and Joyce Horman. He showed them a letter from the Minister of the Interior that directed him to devote his entire effort to finding the truth about Charles.

That afternoon Mr. Purdy telephoned Mr. Horman to tell him that the Chileans had matched Charles's fingerprints with those of the body of a man shot in the National Stadium on Sept. 18 who had been interred in the wall of the National Cemetery on Oct. 3.

The Hormans say they have never seen an autopsy report and are now being told by the State Department it has asked Chile to make an exception to a policy of cremation and allow the return of the body.

The next day Inspector Rojas paid a call on Mr. Horman to inform him officially of the death. The conversation in Spanish was brief.

Mr. Horman asked, "Shot?" The inspector replied, "Yes." Mr. Horman asked, "In the stadium?" The reply was yes. Mr. Horman asked, "On Sept. 18?" "Yes," the inspector replied and turned to leave. Mr. Horman recalls that tears were streaming down the inspector's face.

Callous Consulate

American families have complained to the Senate that U.S. diplomats in Chile timidly stood by while their loved ones were murdered by the military dictatorship.

Copies in our hands of the private statements given to the Senate Foreign Relations Committee charge that the U.S. embassy in Santiago ignored the disappearance and abuse of American citizens in order not to ruffle the epaulettes of the new Chilean junta.

For example, Mrs. Charles Horman, in a moving statement, described how she was given the runaround while the junta was murdering her American filmmaker husband. Charles Horman, a Ph. D. from Harvard, was dragged out of his home in Santiago.

His distraught wife had a friend notify the U.S. Consulate that Charles was missing; another friend reported it on his own. Though it was common knowledge that the military was hustling prisoners into the National Stadium, the consulate contented itself that day with a call to police headquarters and a few calls to various precincts.

When Mrs. Horman kept pressing the consulate, she was questioned about her husband's background. At one point, according to a friend's sworn statement, the consulate's rudeness drove her off "in tears and near hysteria."

Horman's alarmed father, Edmund, flew to Santiago and met with U.S. Ambassador Nathaniel Davis, Consul Frederick Purdy and others. The embassy tried to convince the Hormans that Charles was "in hiding." Not until a month later was his bullet-riddled body produced by the junta.

The statements of the two surviving Hormans charge the embassy with "negligence, inaction and failure." Mrs. Horman declares bluntly she believes "rapid, forceful action" by the consulate and embassy "could have saved Charles' life." She claims the embassy was more interested in "possible damage to our relationship with this new Chilean government" than in whether the new government murdered American citizens.

Similar charges of neglect were made by the father of Frank Teruggi, an economics student, whose body was identified days before his family was told he had been slain.

In another case, attested to by a sworn statement, a young Puerto Rican American whose visa had expired came to the consulate seeking sanctuary. He was told, at the height of the killing, to turn himself into junta authorities.

Still other documents in the Senate Foreign Relations Committee protest rude treatment, callousness and inefficiency by the embassy toward American students, clergymen and tourists. The committee has held one secret session with Ambassador Davis about the charges.

Footnote: We spoke at length by telephone to Santiago with Consul Purdy who heatedly defended U.S. diplomats' handling of the crisis. "Frankly, I worked my tail off," he said. Asked about the calls to the consulate about Horman, Purdy snapped: "I don't remember the details. We don't have tapes like the White House."

FAMINE IN ETHIOPIA

Mr. KENNEDY. Mr. President, as chairman of the Judiciary Subcommittee on Refugees, I have followed with growing concern the tragic effects of the drought in Africa—stretching from the Sahel region in West Africa across to Ethiopia. Considerable attention and, even more important, a successfull international relief effort, has been focused on the emergency food problems in West Africa. However, little attention and even less concern has been directed to an equally serious drought-stricken area in Ethiopia.

Recent reports from the field indicate that the 3-year drought in Ethiopia is producing widespread hunger and famine in many areas, displacing millions and threatening the lives of several hundred thousand people.

One of the most disturbing of these reports has been prepared by the regional office of the United Nations Development Program—UNDP—in Addis Ababa. It reveals what our Government has apparently been unwilling to recognize to date: That the effects of the drought have been, what the U.N. report terms as "catastrophic," and that an emergency situation has developed.

The UNDP reports that the current estimates of deaths number in "the tens of thousands" and concludes:

> Over 100,000 people are living in conditions inimical to the preservation of a reasonable standard of health.

Over 6 million people have been directly affected by the drought and 1.2 million are now in need of food aid. Some 63,000 famine refugees are already located in camps in one province alone.

Mr. President, this critical UNDP report raises serious questions as to the adequacy of our Government's response to the humanitarian needs created by the long-ignored drought in Ethiopia. It is for this reason that I have written this week to Secretary of State Henry A. Kissinger requesting the Department of State's assessment of food needs in this area, and its evaluation of the UNDP report.

The growing food needs in Ethiopia illustrate once again that food conditions have deteriorated so severely in so many areas of the world, that the international community can no longer speak of foreign aid for development, but for mere survival.

Mr. President, for the benefit of my colleagues in the Senate I ask unanimous consent that the full text of the UNDP report be printed in the RECORD, along with my letter of inquiry to Secretary of State Kissinger.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A REVIEW OF IMPLICATIONS OF THE DROUGHT IN THE STRICKEN AREAS OF TIGRE AND WOLLO PROVINCES IN ETHIOPIA

(Prepared by the Office of the Regional Representative of UNDP in Addis Ababa, October 2, 1973)

I. INTRODUCTION

1. Any attempt to analyze the implications of a drought situation should, to be sound, be based on factual base-line data in the first place, and detailed information reflecting the effects of the drought in terms of comparison with the base-line or normal situation. Unfortunately, full and accurate base-line data on human and animal populations, crop production, food intake and the like are not always readily available. Data reflecting the impact of the drought on crops, human and animal populations are even more difficult to obtain at this time. The information contained herein is based on Government data, where available, supplemented by information and impressions obtained during field trips into the drought regions by the FAO Senior Agricultural Adviser, the WFP Adviser and the UNDP Regional Representative, amongst others. The opinions expressed and conclusions drawn are those of the office of the Regional Representative of UNDP (but they are believed in the main to reflect the views of the IEG).

II. BACKGROUND

2. For three years, since the beginning of 1971, the major parts of Wollo and Tigre provinces, with an estimated total population of 4.2 million (1980 CSO Estimate), have been suffering from sub-normal rainfall. The harvest at the end of 1971 was on the whole poor, which, while not generating an emergency situation, led to a depletion of food reserves maintained by subsistence farming families (constituting 90% of the population) in the region. Both harvests in 1972 were even poorer, and as a result famine conditions began to appear in early 1973. The 1973 "short rains", which normally occur from February to April, were virtually a total failure in the region and throughout Ethiopia, which greatly deepened and intensified in the famine conditions and related disease problems in these two Provinces, directly affecting two million persons. Persons who received relief aid probably total some 1.2 million (670,000 in Wollo and 500,000 in Tigre Province). On 29 September, there were 63,000 people existing in 12 relief camps in Wollo Province.

(Famine conditions of almost equal severity were observed in the northern parts of Shoa and Harar Provinces, and obviously administrative boundaries are not drought demarcation lines. For purposes of this analysis however, our consideration is focused on the two most generally and severely affected provinces, Tigre and Wollo.)

3. Recognizing that the dimensions and depth of the drought and related problems were constituting an emergency of grave proportion, the Imperial Ethiopian Government established in April 1973 a National Relief Committee, an inter-ministerial body, under the chairmanship of H. E. Ato Mulatu Debebe, Minister of Community Development and Social Affairs, and mounted a campaign to mobilize funds and material supplies from internal and external resources to provide emergency assistance to the victims of the drought. Over E$3 million in cash and in kind, has been raised by the Committee from domestic resources, and external sources have provided the assistance indicated below:

USAID.—Allocated 8,000 tons of grain, 4,000 tons of which expected at Ethiopian port in next days, and has agreed that allocation may be used to replenish borrowed stocks.

WFP.—Allocated 10,000 tons of grain (5,000 wheat, 2,500 each corn and sorghum), first shipment due Ethiopian port early November; has under study question of provision of balance of 10,000 tons requested. WFP has also made an exceptional grant of US $200,000 towards the local transportation cost.

SIDA.—Provided approximately, E$1,000,000 of seed grain.

UK/ODA/OXFAM/Christan Aid.—Toward a food for wor scheme for Afars (nomads).

ODA: £ 25,000.

OXFAM: £ 15, 000.

Christian Aid: £ 10,000.

International Red Cross.—400 tons of grain, clothing, blankets and three medical teams, plus 120 tons skim milk powder. (From the EEC).

Swiss Government.—20 tons of skim milk powder plus air transport to Ethiopia; blankets; water purification tablets.

UNICEF.—Diverted 52,000 pounds of skim milk powder and 315,300 pounds of CSM from normal programmes to drought relief in Wollo and Tigre.

International Church Groups.—Provided various forms of assistance to the value of perhaps E $300,000.

EEC.—5,000 metric tons wheat.

The Chairman of the National Relief Committee convened local representatives of donor agencies, including voluntary organizations, on 17 August and gave a very full and frank account of the emergency and of the Government efforts to respond.

4. The purpose of this paper is to review the situation as at 30 September 1973, with a view to assessing the continuing requirements for assistance to the drought victims in the provinces of Wollo and Tigre which are estimated to be over and above the resources of those provinces, i.e. the requirements for aid from sources external to the affected regions. Emphasis is given to food aid.

III. FOOD AND CROPS

5. In assessing the crop situation in Wollo Tigre provinces, it must first be reemphasized that we are viewing the accumulating results of a prolonged drought stretching over four rain seasons in many areas, which have affected the quantity of land under cultivation, the yields from crops which have been planted, the amount of water forage and grazing available for livestock, and thus the condition of the human and livestock populations of the region. The debilitation and decimation of livestock has, for farmers, directly affected their ability to plant and cultivate, because of the loss or weakness of plow-oxen. For the nomadic populations (about 125,000 people), who depend on their herds for meat and milk and for bartering for grain, the effects have been catastrophic, making the nomads almost totally dependent on food relief. The debilitation of the human population has limited their ability to plant and cultivate by hand and has lowered their resistance to the endemic diseases of the region, thus creating additional and urgent requirements for medical care.

6. For purposes of analysing the 1973 harvest prospects and 1974 food aid needs, the Provinces of Wollo and Tigre have been regarded as consisting of four agricultural zones, namely:

A. Tigre Province Cropped areas.
B. Wollo Province Highland areas.
C. Wollo Province Lowland Cropping areas.
D. Nomadic areas.

While there is considerable variation and overlapping of agricultural systems within these zones there is sufficient homogeneity within each zone to be able to permit general opinions about the situation in a zone as a whole.

A. Tigre Province Cropped areas

7. The basic pattern of agriculture is reasonably homogeneous over the whole crop-growing area of the Province. The rainfall pattern permits of one main harvest season per year (in contrast to further south in the Highlands of Wollo where there are two identifiable rainy seasons and two harvest periods). Planting takes place from May to August roughly as follows:

May: Sorghum, Millet, Maize.
June–July: Barley, Horse Beans, Peas, Noug (Niger Seed), Sesame.
July–August: Wheat, Teff.

Harvesting starts in October and continues into December. The distribution and amount of rainfall in 1973 has been inadequate to produce a full harvest, except in Shira Awraja (in the west of the Province) where harvest prospects are good. In all the other seven awrajas there has been loss of crops due to the following principal factors:

(i) The early part of the annual rains failed. The May planting was therefore poor and in some places non-existent, and planting was generally late. Secondly, the quantity of rain which eventually fell was below average over much of the eastern and central parts of the Province and in some places did not reach a seasonal total of 300 mms, as compared with an average of 600 mms. Thirdly, the final showers fell over many areas in the second week of September. This factor, combined with rather late planting, has meant that for many crops the rains did not continue long enough to achieve proper filling of the grain. By the last week of September premature harvesting was already starting of barley, and many fields had ripened early with very little weight of grain in the heads. Other crops, notably wheat, teff and sorghum will reach harvest in October–November but a light crop is forecast. Thus 1973 yields are—overall—expected to be poor.

(ii) To the above must be added the cumulative effects of the poor harvest in five of the eight awrajas of the Province in 1972, which ranged from "below average" to "total loss". All of the areas affected in 1972 are included in the area again affected in 1973, and in some of these the 1971 production was also below average. In general it is the eastern side of the province which has suffered most, while the western parts of the Province are reasonably well off.

(iii) Coupled with the disappointing *yields* of 1973, there is the question of *area* planted and the distribution of the main grain crops. The May-planted cereals, notably sorghum, are relatively sparse. Farmers therefore tried to compensate by planting greater areas of the later crops, notably wheat, teff, barley and horse beans. This alone tended to reduce production of calories since sorghum is normally the highest yielder and teff the lowest.

(iv) The two other factors which reduced area planted in 1973 were shortage of seed and loss of work oxen. The poor 1972 season left many people without seed, and it was estimated that some 7,500 tons of seed were needed to be supplied for 1973 to allow a *full* area of planting. In the event the Government could only find 500 tons of teff. Some farmers were able to buy and some to borrow a certain amount of seed, but these efforts fell far short of meeting the full need.

(v) The effect of the loss of work oxen from lack of grazing is more difficult to assess. Perhaps 20% of the total working herd was lost but it was possible to some extent for people to help each other over land preparation. More serious may have been, not the actual death of work oxen, but the fact that many of them were too weak from under-nourishment to work. Overall, the inadequacy of the work oxen force probably had less effect on the area planted than the shortage of seed.

8. In one important respect Tigre is significantly better off than neighbouring Wollo. For some years the Governor-General has been energetically improving the communications of the Province. The network of feeder roads and telecommunications is thus better than it might well have been. This has been a most important factor in the Provincial Government's ability to deal with the emergency. The collection of information on the state of affairs has been quite good, and the distribution of relief measures has been possible to points reasonably near to people's homes. As a result it has been possible for farmers to stay on their farms to a greater extent than in Wollo and loss of area planted due to sheer absence of the inhabitants has been kept down. There is less evidence of destitute people in temporary shelters in towns and villages along the main roads.

9. Tigre also has a well-organized and active famine relief committee which has locally collected and used over E$90,000 on relief measures. This has played an important role in the Provincial Government's ability to keep the emergency under some degree of control. Morale of Government officials is generally high because they believe, rightly, that under the leadership of the Governor-General they have done a good job in dealing with the situation without as much help from outside as has been sent to Wollo.

10. Nevertheless, there are serious shortages in Tigre, and the food prospects for 1974 are gloomy. The reasonably good communication network has allowed the relief committee to make what are probably quite valid projections of the 1974 food needs. In all, food shortages in 1974 are expected to occur in some degree in seven of the eight awrajas, Shire being the only exception. The number of people likely to be affected is put at 1.3 million. Within this number are people ranging from those already destitute and with no means to produce a crop in 1974 to those who will get a crop but not enough to provide food until October 1974 when the next harvest will start.

11. The following table gives an indication of the numbers of people and the length of time food aid is expected to be required:

Category	Numbers of people	Months of aid in 1974	Tonnage of grain
Totally destitute	25,000	12	3,600
With practically no crop	225,000	10	27,000
With half a crop	250,000	6	18,000
With not quite enough crop	800,000	2	19,200
Total	1,300,000		[1] 67,800

[1] Say 68,000 tons.

The table assumes a minimum rate of food intake by aided persons of 12 kilos per month (400 gr. per day) per person. It takes no account of the varying needs of adults and children, but works on a low average figure aimed at obtaining a rough order of magnitude.

12. If the requirements of the total population of the province are calculated in the same way, a total consumption figure of 290,000 tons of grain is estimated. Thus, the estimated aid requirement of 68,000 tons is about 23.5% of total estimated consumption, which is a similar percentage to that estimated for Wollo Province.

B. Wollo Province Highland Areas

13. The higher parts of Wollo—that is, above an altitude of approximately 2,300 metres, form a backbone from North to South down the Centre of the Province to the west of the Addis Ababa-Asmara main road. This is the most densely populated part of the Province and indeed one of the most densely populated areas in Ethiopia. There are in, most places, two distinct cropping seasons and two equally distinct harvest periods. The short rains (or belg) crop is planted in February and harvested in June. The main short rains crop is barley, but teff, peas, lentils and horse beans are also grown. The long rains crops are planted in June-July and are harvested in November-December. The crops grown include wheat, barley, maize, teff, noug and horse beans. The importance of the short rains crop varies from place to place but is generally put at between 25% and 40% of the total year's production. The occurrence of two cropping seasons per year does not mean that all arable land is cropped twice a year, but this is often the case.

14. In 1972, both the short and long rains crops were on the whole satisfactory, although the short rains crop was somewhat disappointing in some areas. However most people in the *highland areas* entered 1973 with reasonable stocks of food in store, and a certain amount of reserve capacity to use in case of poor short rains crop in 1973.

15. In the event, the short rains crop of 1973 was almost a total failure and many farmers harvested nothing, not even getting their seed back. At the same time the drought had a severe effect on grazing and the condition of work oxen deteriorated. Some were lost; many more were in no condition to do a day's work. It was in this situation that preparation took place for the long rains crop. There was a shortage of oxen capacity for land preparation and a shortage of seed.

16. The 1973 long rains started normally and the total rainfall has been adequate. However, distribution and intensity of precipitation has been erratic. There were some very heavy storms, causing serious erosion and damage to crops and this, combined with a shortage of area planted, is expected to result in a "below average" long rains crop, totally inadequate to compensate for the loss of the short rains crop. The food shortage situation will therefore intensify as domestic reserves left over from 1972 are depleted. The situation cannot be retrieved before the short rains crop in June 1974, and then only if emergency steps are taken to provide seed for this crop without which there is likely to be a continuing shortage of area planted. Unlike Tigre, Wollo Province is not blessed with a feeder road network, indeed feeder roads are few and far between, making access to communities and farms off the main roads extremely difficult. Moreover, when the full effects of the drought began to be felt, the Province was ill-prepared in terms of organizational infrastructure. In July, a new Governor General, Dej. Legesse Bezou was appointed, and he with a few hand-picked lieutenants, launched a tremendous effort to develop institutional arrangements for identifying problems, organizing and policing solutions, with significant and positive results.

17. Anticipated food shortages are difficult to estimate, partly because there is little factual data on domestic reserves in hand, but the worst affected families will probably start to need aid about the end of January 1974. If people are forced to leave their farms in search of food they will have difficulty in planting a 1974 short rains crop in February and this, combined with a shortage of seed, could escalate the problem later in 1974 and into 1975. However, at this stage it is not possible to make any valid forecasts of the position after June 1974, and it must be assumed that after the June harvest the situation will improve. Grazing is now adequate so the condition of work oxen should not prove a severely limiting factor.

18. A fair assumption may be that only about 30% of the people in this area will get through to June without food aid. The remaining 70% will need to be fed for periods ranging from one to five months, at an average of about three months each. As the total population of these highland areas is about 1,100,000 people, we may estimate that about 750,000 people will need aid for three months. At a rate of 12 kilos per person per month, this would require 27,000 tons of grain. Supplies will need to start arriving in January 1974 and an adequate distribution system will have to be mounted in order to minimize the exodus of people from their homes in search of food and the concommitant loss of short-rains plantings in February.

C. Wollo Province Lowland cropping areas

19. It is, perhaps, misleading to call these areas "lowland", but they lie below the 2,300 metre contour and are thus below the "highland" areas. There are two quite separate areas, which, in ecological and agricultural terms comprise one zone. To the east of the highland backbone it forms the western part of the catchment of the Awash river and extends right down to the dry nomadic plains of the Awash valley. To the west of the highland backbone it falls within the catchment areas of the Blue Nile and Tekazze rivers with a highland range from east to west dividing the two. In the West, it does not descend to such low levels as it does to the east. Nor is the picture one of a straight highland backbone to the Province with an even descent on either side. The lowland areas, particularly in the west, generally take the form of deep gorges and valleys cut into the highlands forming a picture of very broken, steep and spectacular country. The Addis Ababa-Asmara road passes through the eastern section of this area which is thus reasonably served by road communication although there are very few feeder roads. The western section is, however, extremely remote and poorly served by any form of communications. It is thus an area from which it is difficult to get factual information, and into which it is equally difficult to deliver relief in times of shortage.

20. The basic pattern of agriculture is of one harvest period per year which occurs in November-December although the first harvesting may start in October. The short rains crop, for harvest in June, is typically negligible. The main crops grown are sorghum and teff, and to a lesser extent maize, wheat, barley and a range of warmer climate pulses

including chick-pea and horse beans. Typically sorghum is planted in May for harvest towards the end of the year; teff and other crops are planted later but have shorter growing periods. Poor early rains reduce the sorghum crop and usually lead to an increase in the area under teff. Since teff yields are lower than sorghum this at once reduces the volume of the harvest.

21. Any review of the harvest prospects in 1973 must first take into account the events of 1971 and 1972. In both years, wide areas suffered from drought. This was particularly the case in the northern parts of the eastern section in Raya-Kobo, Yeju and Ambassel awrajas (Sub-Provinces) and in the southern parts of the western section in Borena, Wareilu and Worehimenu awrajas. The three north-eastern awrajas extend into the nomadic areas which are reviewed in a separate section of this paper and the picture is typically of reducing rainfall as one goes east. The south-western and central western awrajas have been the source of much of the migration out of Wollo Province during the past year as groups of people trekked westwards and southwards in search of better conditions and/or paid employment. In the northern part of the western section in Wag and Lasta awrajas both 1971 and 1972 were also poor years and left the areas in a precarious situation.

22. At the start of 1973, the position of many people was thus already bad in that they were suffering from food shortages from the 1971 and 1972 production and were being forced to dispose of reserve assets in order to raise money to buy food. In this way they became poorer and poorer.

23. A favourable short rains season, although not normally of much significance for crop growing, could have helped to tide many people over the difficult period until November when the main harvest would become available, and would certainly have done much to retrieve the position of the livestock. In the event the short rains in February and March were virtually a total failure with the result that no "stop-gap" cropping was possible. And—more serious—grazing, already at a low ebb by January, instead of improving, got steadily worse.

24. The main cropping season therefore started unfavourably. Food was short and migration out of the Province had already started. Losses among work oxen had reached a level which has been estimated at between 20% and 25% of the total, and many others were too weak to work. Many people had no seed or not enough to plant a full area of crop. The Ministry of Agriculture distributed about 240 tons of seed—mostly teff—but this was considered to be only about half the known need. In any case, nothing could be done about the state of the work oxen.

25. On this reduced area of planting the long rains then fell in a somewhat unfortunate pattern. In some areas they came a little late, but the main difficulty lay in a number of very intense storms in July which caused severe erosion and almost did more harm than good. A few weeks of very heavy rain was then followed by a dry spell before the end of the rains, the pattern of which varied from place to place. In some places, notably the north-east (Raya-Kobo), already hard hit, the rains petered out early and only poor yields can be expected. In the South-east good late rain has revived the position and there was still some rain in late September, with the result that some good crops will be harvested. In the western section of the area there is less information on how the rains have ended, but indications are of average yields being below normal. Insect damage is reported as severe in the northwest (Wag awraja). Such outbreaks are usually associated with early stoppage of the rains.

26. In order to arrive at an estimate of relief food needed for 1974 it has been assumed that over the lowland cropping areas on average there is about 80% of an adequate yield on 70% of a normal area, giving a production of about 55% of the total required for minimum needs. Since part of a "normal" production, particularly in the Raya-Kobo awraja, would be sold in Asmara and other urban centers, it can be assumed that there will be no surplus for sale and that the area may also be about 35% short of its basic subsistence needs. Since few farmers have much left in the way of reserves, it must be assumed that this deficit will need to be met from outside sources. This implies that food relief will be needed in 1974 and that the need will build up significantly from about March onwards until the next harvest due in November. While some will want more and others less, the average need may be for four months of food aid per person during the year.

27. The estimated number of people in the area is 980,000. On the basis of this number of people requiring 12 kilos of grain per person per month the amount needed is 47,000 tons.

Summary of the gross need for the Wollo Province cropped areas in 1974

	Tons
Highland areas	27,000
Lowland areas	47,000
Total	74,000

28. The total population of Wollo (excluding the nomadic areas) is estimated about 2.4 million. On the basis of 12 kilos of grain per person per month the minimum gross quantity of grain to feed the population for one year is 354,000 tons. The food aid need is therefore 21.5% of the total minimum need, a percentage fairly close to that for Tigre Province.

D. The Nomadic Areas

29. While there is no accurate figure of population, it is believed that, before the 1973 drought, there were some 125,000 people in Wollo and Tigre whose way of life was basically nomadic. Meat, milk and blood are obtained from their flocks and grain, normally obtained in exchange for their livestock and livestock products, fills out their diet. But under their traditional way of life they plant no crops themselves, and hence are vulnerable to price and supply fluctuations in the grain and livestock markets.

30. Three types of livestock normally kept are cattle, goats and camels. Herds may consist of any one of these three or a mixture of 2 or 3 of them. The extent to which communities have been hit by the drought depends on how their herds were composed. Camels have largely survived. Goats have also come through reasonably well, but it appears that between 80% and 90% of the cattle have been lost. Not all these died on the hoof. Some were got to a market and fetched a few dollars, and the hides of those that died and had value if it could be realized. But prices obtainable were very low indeed, and with grain prices correspondingly high, people were able to get far less in exchange for their stock than would normally have been the case. This is an alarming downward spiral towards destitution.

31. The prospects for recovery over the long range are in certain respects favourable assuming no major drought recurrence. The present availability of grazing and browse is good. When the rains came in July they fell upon drought-stricken land. Over wide areas the grass had gone, and will take many years to re-establish. Indeed there are places where a grass cover may never revive under natural conditions. The immediate effect of the rains in such areas has been to increase the scrub browse upon which the camels, and to some extent, the goats feed. Thus the camels which have largely survived the drought, now have abundant food and are in very good condition. There has been a move in the balance of the environment which has increased the "camel-country" at the expense of the "cattle-country". Camels are becoming a life-saver as a source of milk, and those fortunate families who had camel herds (perhaps 20% of the total) are on their way to recovery.

32. In other areas, soil moisture was not reduced to the same extent, and with the rains the grass revived. In some places, notably shallow depressions, the grass has revived fully. But there is now a very sparse livestock population to eat it, and a condition of undergrazing exists. This will allow the pasture to seed and multiply, and with luck the carrying capacity of the surviving grasslands should build up satisfactorily in the next few years. Indeed, unless cattle are injected from other areas, the carrying capacity of the pastures could be expected to build up at a faster rate than that of herd re-establishment, and thus for some years one could forsee a surplus of grazing.

33. While the camels are now thriving, the position of the goats and cattle is much less satisfactory. There is now abundant feed for both, but numbers are very severely depleted. In the case of cattle, losses from deaths has been the major contributory cause, but in the case of goats, where survival was greater, many people have been forced to sell in order to buy food to an extent where female breeding stock have been disposed of and the capacity of flocks to build up has been correspondingly damaged. The effect is much the same whether the stock has gone by death or by sale; cattle herds are depleted by 80–90%, and a great many people now have nothing left and are destitute. Further, what remains of the herds of cattle are unbalanced as between male and female and young and old stock. Remaining flocks of goats are probably less unbalanced, since it was possible to keep breeding females to be sold only after all else had gone. This factor, coupled with the shorter gestation period for goats will mean that the natural build-up of numbers can proceed faster with goats than it can with cattle. But in the best of cases, it will take many years, and those who have lost all their stock have nothing upon which to build up their resources again. Such people must be provided with the means of starting in a nomadic way of life or must be resettled into a changed way of life. A major long-term programme is evidently required to rehabilitate nomadic population.

34. The effect of all this on the structure of the human communities has been very great. Typically, as the resources of a nomadic community ran down, the able-bodied menfolk tended to leave the community and go in search of food and help. The women, children and old folk were left behind with the dwindling herds. In many cases the men have never returned. Some, no doubt, deserted, but most, even if they reached help, could not get back to their families and unquestionably many have died. Meanwhile the plight of those left behind grew steadily worse. There are cases where whole communities simply died. However, many attempted, with or without their livestock, to reach centres to get help. Stock died on the way and many of the human survivors are now to be found in the shelters and feeding centres which the Government and others have set up. These people have no functioning way of life to return to, and it is to be expected that they will have to be supported for a long time. They appear to be mostly women and children. No reliable information is available on the numbers of destitute, but there could be as many as 30,000 or 40,000 of them.

35. One aspect seems clear. If these nomadic people can resume their way of life, they will continue to be heavily dependent on grain for much of their food. As long as they

grow no crops of their own they will need to exchange their livestock products for grain and will continue to be doubly at the mercy of future droughts. It is therefore desirable that long-term plans for their future should include at least some capacity for them to grow some crops of their own. The Livestock & Meat Board food-for-work Project in the North-East rangelands assisted by UKODA/OXFAM/Christian Aid recognizes this point in that it includes a component for introducing simple waterspreading for a start of crop growing in the rangelands, which, if successful, may imply a major departure from traditional nomadic ways of life. Whatever else may be said, it seems clear that a major and long-term programme is required to rehabilitate the nomadic population. The immediate need is to feed and restore to health the destitute people. Insofar as food in 1974 is concerned a reasonable estimate appears to be that 35,000 people will need to be fed for the full 12 months of the year. At a rate of 12 kilos of grain per person, per month this will need 5,040 tons of grain—in round figures 5,000 tons. Relief supplies of powdered skim milk anticipated from Europe (from the Swiss Government and other sources) will be especially valuable to this segment of the population.

IV. MEDICAL AID

36. The principal purpose of this paper is an analysis of food shortages. But it must be recorded that the impact of the famine on the physical condition of the population has been general and severe. Estimates of deaths number in the *tens of thousands*, and, in relief camps and shelters over 100,000 people are living in conditions inimical to the preservation of a reasonable standard of health. The health condition of persons without access to camps and health facilities can only be surmised. The availability of medical care within the camps is uneven; some camps have no qualified resident medical personnel, and where such personnel are available they are inadequate in number and inadequately supplied and equipped. Transportation facilities, for personnel and materials, are totally inadequate. Clean water is not uniformly available in relief camps or in all health stations. Some of the expatriate medical personnel supplied by external aid agencies, notably through the International Red Cross will be withdrawn in November, and it appears that they must be replaced. Furthermore, urgent consideration must be given to the augmented deployment of Ethiopian medical personnel to the drought-stricken areas. UNICEF has indicated a readiness to consider requests for medical supplies and equipment, assistance in the provision of water and transportation facilities, as well as travel allowances for Ethiopian medical personnel, if this should be necessary, and it is hoped that full advantage will be taken of this offer.

V. SUMMARY AND CONCLUSIONS

37. Food aid will be required through 1974 to meet the minimum requirements of the Provinces of Wollo and Tigre in excess of their anticipated production, in an amount of about 150,000 tons of grain. A table showing a rough breakdown of the total requirement by month is attached. A portion of this requirement can and must be met from the domestic production of other areas within Ethiopia. The balance will have to come from sources external to Ethiopia. Transportation facilities, especially lorries, will be required to facilitate distribution.

38. In the opinion of this office, this Assessment makes a clear and compelling case for the World Food Programme to provide the second 10,000 tons tranche of grain of the 20,000 tons requested from WFP by the IEG in May 1973, and demonstrates that the requirement is urgent.

39. Milk, CSM, faffa and other nutrient foods and diet supplements will also be required throughout the year. Faffa can be produced locally.

40. Medical supplies and personnel will be required from external sources throughout the year, and additional Ethiopian medical personnel will be required in the drought area.

41. Paragraphs 37–40 above deal with emergency requirements to save lives, but simultaneously studies of longer term measures need to be completed regarding resettlement (specially from Wollo), re-establishment of livestock herds and plow-oxen populations, establishment of water points and feeder-road infrastructure, and other matters.

42. Of specific and immediate importance is the estimation and procurement of adequate seed supplies of suitable varieties for the planting of a full area in 1974 without which shortages are likely to continue into 1975, even given favourable climatic conditions in 1974.

43. Estimates of food aid requirements may be refined as more information becomes available concerning the results of the imminent harvest, within the affected areas and elsewhere in Ethiopia.

1974 TIMING OF DISTRIBUTION (TONS)

	January	February	March	April	May	June	July	August	September	October	November	December	Total
Tigre	4,000	6,000	7,000	10,000	10,000	7,000	4,000	8,000	8,000	4,000			68,000
Highland Wollo	5,000	6,000	6,000	6,000	4,000								27,000
Lowland Wollo	1,000	2,000	3,000	5,000	7,000	7,000	4,000	7,000	8,000	3,000			47,000
Nomadic areas	500	500	400	400	400	400	400	400	400	400	400	400	5,000
Total	10,500	14,500	16,400	21,400	21,400	14,400	8,400	15,400	16,400	7,400	400	400	147,000

Note: The above table indicates high deliveries in the first half of the year rising to a maximum in April and May. This does not mean that consumption requirements will be at a peak during this period. It reflects the need to get distribution to the remoter areas ahead of schedule before the heavy rains to be expected in July and August close many of the roads. Whatever the actual total of relief need finally decided upon, this fact will need to be taken into account.

Text of Letter to Secretary of State Henry A. Kissinger by Senator Edward M. Kennedy, Chairman of the Judiciary Subcommittee on Refugees

November 27, 1973.

Hon. Henry A. Kissinger,
Secretary of State, Department of State,
Washington, D.C.

Dear Mr. Secretary: Recent reports indicate that increasingly severe drought conditions are producing widespread hunger and famine in many areas of Ethiopia displacing millions and threatening the lives of several hundred thousand people. As in my earlier inquiry on the food crisis in West Africa, I would appreciate learning the Department's assessment of the drought and famine conditions in Ethiopia, what has been, to date, our government's response in support of efforts to meet the growing food needs in this area, and what the anticipated needs will be over the coming year.

In particular, I would appreciate receiving the Department's evaluation of the enclosed report prepared by the Regional Representative of the United Nations Development Program in Addis Ababa on October 2nd, entitled "A Review of Implications of the Drought in the Stricken Areas of Tigre and Wollo Provinces in Ethiopia." This disturbing report has been corroborated by many other reports I have received from the field, and it indicates that the effects of Ethiopia's three-year drought have been "catastrophic" in many areas, and has produced conditions not unlike those in the Sahel region of West Africa.

However, in conversations which members of my staff have had with officials in the Department and within the Agency for International Development, a more optimistic assessment has been given which runs counter, in many respects, to the UNDP report. While these officials describe the situation in Ethiopia as "serious," the American Ambassador has apparently not declared an emergency nor cabled for urgent relief supplies or funds. Yet, if the UNDP report and others are correct in their assessment of the current situation, serious questions must be raised as to the adequacy of our government's response.

In addition to an evaluation of the UNDP report, I would also appreciate the Department's response to these specific questions pertaining to drought and famine conditions in Ethiopia:

(1) What studies have American officials in the field completed on the food situation in Ethiopia, what are their findings, and can copies of these reports be made available to the Subcommittee? What are the estimated food importation requirements for Ethiopia for the coming year?

(2) What has been, to date, the response of the United States Government in food and financial assistance to the drought relief effort in Ethiopia, and what amounts are anticipated over the coming year? What agencies of the United States Government are involved, directly, or indirectly, in food relief programs?

(3) What contribution in food or financial assistance have been made by other nations, and has the United States Government agreed to participate in multilateral relief efforts? What further contributions from the international community are anticipated over the coming year?

(4) What requests for financial or food assistance are currently under review by A.I.D., either by international relief organizations or by private voluntary agencies? Have any requests been made or denied, and, if denied, for what reasons?

As in our earlier inquiry into the humanitarian needs created by the Sahelian drought, the above information will be useful in the Subcommittee's assessment of humanitarian needs in Ethiopia. Many thanks for your consideration, and I look forward to hearing from you soon.

Sincerely,

Edward M. Kennedy,
Chairman,
Subcommittee on Refugees.

UNFINISHED BUSINESS LAID ASIDE TEMPORARILY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business—S. 1868—be laid aside temporarily today and remain in a temporarily laid aside status until the disposition of the debt limit extension bill or the close of business today, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 6186. An act to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions;

H.R. 6758. An act to amend chapter 33 of title 28 of the District of Columbia Code, relating to usury, and for other purposes;

H.R. 7218. An act to improve the laws relating to regulation of insurance companies in the District of Columbia;

H.R. 10806. An act to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes; and

H.R. 11238. An act to amend the act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

H.R. 6186. An act to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions;

H.R. 6758. An act to amend chapter 33 of title 28 of the District of Columbia Code, relating to usury, and for other purposes;

H.R. 7218. An act to improve the laws relating to regulation of insurance companies in the District of Columbia;

H.R. 10806. An act to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes; and

H.R. 11238. An act to amend the Act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will proceed to the consideration of H.R. 11104, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary debt limit applies to June 30, 1974.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment on page 2, after line 3, insert a new section, as follows:

SEC. 3. No debt owed to the United States Government under any program by any foreign government may be canceled, renegotiated, rescheduled, or settled in any manner (other than by timely payment in full) unless the Congress specifically authorizes by concurrent resolution the cancellation, renegotiation, rescheduling, or other settlement of the debt.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during consideration of this measure and during the votes thereon, Roy Greenaway and Jan Mueller may be permitted on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that during Senate debate on H.R. 11104, the debt limit bill, the following staff members be permitted on the floor:

From the Finance Committee staff: Michael Stern, Bob Willan, Bill Morris, Bob Best.

From the staff of the Joint Committee on Internal Revenue Taxation: Larry Woodworth, Bob Shapiro, Al Buckberg, Mark McConaghy, Mike Bird.

I ask unanimous consent that they may be permitted on the floor during rollcalls as well.

I make the same request with respect to H.R. 3153, the social security bill, when it is called up. I ask unanimous consent that the following Finance Committee staff members be permitted on the floor at that time:

Michael Stern, Jay Constantine, Jim Mongan, Joe Humphreys, Bill Galvin, Bill Morris, Bob Willan; and from the Congressional Research Service, Fred Arner, Frank Crowley, Margaret Malone, Jennifer O'Sullivan.

Mr. KENNEDY. Mr. President, will the Senator be kind enough to include in the request that Carey Parker, during the consideration of the debt ceiling bill, may be permitted access to the floor?

Mr. LONG. I make the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the bill before the Senate, which contains the Finance Committee action on the public debt limit, H.R. 11104, provides for an increase in the present limit on outstanding Federal debt to $475.7 billion for the remainder of fiscal year 1974. The fiscal year, as you know, ends on June 30, 1974, and before that date, we will return to the Senate with another debt limit bill to meet the estimated requirements for fiscal year 1975 and to make any additional adjustments in the debt limit that may become necessary before the end of this fiscal year.

The $475.7 billion debt limit in this bill was approved by the House after a floor amendment reduced the ceiling from the $478 billion that had been approved by the Ways and Means Committee.

In the public hearings before the committee, the administration requested an increase in the combined permanent and temporary limitation on the public debt to $480 billion for all of fiscal year 1974. It had made the same request before the Ways and Means Committee last month.

Treasury projections of the outstanding debt levels during the month and at month's end for the remainder of this fiscal year show only 3 peaks, when the debt would exceed the $475.7 billion level. Two of the peaks would be at $478 billion—on April 10 and May 31—and the third would be at $480 billion on June 11. All the projections are based on the assumption that the Treasury will maintain a cash balance at a constant level of $9 billion, which includes a $3 billion margin for contingencies, and each of them appears to be manageable within the present outlooks for the economy and the money markets. Two of the peaks—April 10 and June 11—will occur just before major surges of corporate and individual income tax payments due on the 15th of each month. The April payments include individual final payments for 1973 and the first individual and corporate payments on estimated liabilities for calendar year 1974, and the June payments include the second individual and corporate payments on estimated liabilities for calendar year 1974 and final corporate payments on 1973 liabilities.

The administration's current estimates of the budget outlook which are the basis for peak debt projections indicate that we can look forward to a balance in the unified budget at $270 billion of receipts and outlays. Of course, there are uncertainties in this outlook, since congressional action has not yet been completed on all authorization and appropriations bills for this fiscal year, and the estimates of budget outlays may require revision after they have been enacted.

Estimates of receipts are dependent upon the levels of economic activity and income during 1973 and the first few months of 1974. The administration's economic estimates for 1973 are in general agreement with private economic forecasts, and the Treasury's receipts estimates are consistent with these economic forecasts.

The economic outlook for 1974 is uncertain at this time, although economists outside of the Federal Government generally are forecasting a slower rate of real economic growth than is the Treasury. But it is unlikely that even a somewhat slower rate of growth will have a serious impact upon receipts and the debt limit before the end of fiscal year 1974, ending on June 30, 1974. The same general perspective also applies to the budgetary implications of the Arab oil embargo—however severe it may turn out for this country in 1974, most of the factors that determine budget receipts in fiscal year 1974 have already taken place.

Under any circumstances, a new public debt limit bill must be passed by next June 30, and any unexpected decline in receipts, or increase in budget outlays, early in 1974 would at most require consideration of a debt limit bill 1 or 2 months sooner than would otherwise be the case.

The Finance Subcommittee on International Finance recently held public hearings on the subject of foreign government indebtedness to the United States. There now is outstanding about $55 to $60 billion in principal and interest owed to the United States on debts that go back to World War I, even though there have been many reductions from the original levels of obligations due to negotiated settlements, reschedulings and cancellations.

Debt reschedulings have occurred regularly in recent years as a result of executive negotiations, whose conduct has been supported by an opinion of the Attorney General issued on December 24, 1970. It was maintained in that opinion that the Executive has authority to renegotiate loan terms under the Economic Cooperation Act, to modify agreements made under the Surplus Property Act of 1944, and to reschedule debts incurred under the Agricultural Trade Development and Assistance Act of 1954, generally known as Public Law 480. While these debt modifications undoubtedly have provided assistance to debt burdened countries, they have resulted in understatements of the budgetary costs of the agencies that provide foreign aid because the changes in debt status were not included in proposals for new foreign assistance.

A congressional effort to restrict this practice in the form of the Dirksen amendment to the Foreign Assistance Act of 1961 was limited by the Attorney General's opinion that the amendment related only to loans made under the Foreign Assistance Act. As a result, it is held that the Executive can reschedule debt obligations made under provisions of other laws.

The Finance Committee recently took notice of the proposal to write off virtually the entire $3 billion debt owed by the Government of India to the United States. Excellent reasons may exist for this action with regard to India, but the committee believes that the Executive should not reschedule, renegotiate, or cancel debts of foreign governments without the approcal of Congress. As a result, it has amended the debt limit bill as passed by the House to provide that no debt owed to the U.S. Government under any program by any foreign government may be canceled, renegotiated, rescheduled, or settled in any manner—other than by timely payment in full—unless the Congress specifically authorizes such action by concurrent resolution.

The Secretary of the Treasury also requested the committee to give him statutory authority to raise the interest rate on savings bonds above the present 5½-percent ceiling. When Congress raised the interest rate to its present level, it also provided that the Secretary, with the approval of the President, may increase this interest by not more than one-half of 1 percent for any interest accrual period on or after June 1, 1970. The intent of this legislation was to permit the Secretary of the Treasury, with the approval of the President, to increase the savings bond interest rates by up to one-half of 1 percent above the 5½-percent limit where this was approved by the President without further congressional action.

Since the Secretary of the Treasury informed the committee that at the present time his desire was not to increase savings bond interest rates above a 6 percent level, the committee concluded that no further legislative action is needed in order to permit him to accomplish this result. The committee believes that the Secretary at the present time can provide for an interest rate of up to 6 percent because of the one-half of 1 percent leeway already in present law. Moreover, the committee did not want at this time, at least, to permit the interest rate to increase to more than 6 percent because of the effect it might have on other forms of savings.

When the committee held its public hearings with respect to the public debt limit on November 15, a group of Senators, representing the two major politcal parties, appeared to present the case for an amendment to this bill that would enlarge the scope of the provision in the Internal Revenue Code that deals with public financing of Presidential election campaigns. These Senators had taken their own separate amendments on this subject and combined them into one amendment which they requested the committee to add to this bill.

The broad scope of the amendment can be suggested by some of the proposals which would provide public financing for Presidential primaries and for general elections for the House and Senate, increase the checkoff on tax returns from $1 to $2 per return—$4 on the joint return—increase allowable tax credits for political contributions from $25 to $50—$100 on joint returns—increase the deduction for political contributions from $50 to $100—$200 on a joint return—and provide limits with respect to private financing to the extent still available under the proposal.

The members of the Finance Committee expressed a variety of viewpoints to this subject. After weighing these considerations, the committee decided not to act as a committee this session on public financing of political campaigns, but the committee hopes to hold hearings on this subject later this year or next year. In deciding not to act on this subject, the committee reserved the right of each Senator on the committee and, indeed each Senator on the floor, to follow his convictions with regard to campaign financing.

Mr. President, there are some tabulations in the committee report which I think help to illustrate some of the aspects of the problems involved in debt limit legislation. I will ask unanimous consent to have printed in the RECORD three tabulations which I have had prepared. They demonstrate that the disposable personal income in constant dollars of the American citizens has not declined, but has, in fact, increased year by year including the most recent years under the Nixon administration. There are further tabulations to demonstrate that disposable personal income in terms of constant dollars per total civilian employment has also increased.

Mr. President, in addition I have prepared a tabulation to demonstrate that the gross national product and the per capita gross national product in constant dollars have continued to increase. It seems to me that when people consider the problem of a debt-limit bill, especially when they find it necessary to increase the debt limit in terms of dollars, some of them tend to feel that the world is coming to an end. I really think that if one looks at these things in context and looks at the increasing earnings of the American people and the increasing gross national product—in effect, what we have with which to pay the debt we owe—one feels much more reassured about the problem.

Mr. President, I ask unanimous consent to have these tabulations printed at this point in the RECORD.

There being no objection, the tabulations were ordered to be printed in the RECORD, as follows:

TABLE A.—GROSS NATIONAL PRODUCT AND PER CAPITA GNP IN CONSTANT DOLLARS, 1950–73

	GNP in constant 1958 dollars (billions)	Percent change from preceding period	Per capita GNP in constant 1958 dollars (dollars)
1950	355.3	9.6	2,342
1951	383.4	7.9	2,485
1952	395.1	3.0	2,517
1953	412.8	4.5	2,587
1954	407.0	−1.4	2,506
1955	438.0	7.6	2,650
1956	446.1	1.8	2,652
1957	452.5	1.5	2,642
1958	447.3	−1.1	2,569
1959	475.9	6.4	2,688
1960	487.7	2.5	2,699
1961	497.2	1.9	2,707
1962	529.8	6.6	2,840
1963	551.0	4.0	2,912
1964	581.1	5.4	3,028
1965	617.8	6.3	3,180
1966	658.1	6.5	3,348
1967	675.2	2.6	3,398
1968	706.6	4.7	3,521
1969	725.6	2.7	3,580
1970	722.5	−.4	3,526
1971	745.4	3.2	3,600
1972	790.7	6.1	3,787
Seasonally adjusted at annual rates, 1973:[1]			
1st quarter	829.3	8.4	3,953
2d quarter	834.3	2.4	3,970
3d quarter	841.6	3.5	3,997

[1] Preliminary.

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Nov. 21, 1973.

TABLE B.—TOTAL AND PER CAPITA DISPOSABLE PERSONAL INCOME IN CONSTANT DOLLARS 1950–73

Period	Disposable personal income: Total in 1958 dollars (billions)	Disposable personal income: Per capita in 1958 dollars (dollars)	Per capita DPI, change from preceding period (percent)
1950	249.6	1,646	6.4
1951	255.7	1,657	.7
1952	263.3	1,678	1.3
1953	275.4	1,726	2.9
1954	278.3	1,714	–.7
1955	296.7	1,795	4.7
1956	309.3	1,839	2.5
1957	315.8	1,844	.3
1958	318.8	1,831	–.7
1959	333.0	1,881	2.7
1960	340.2	1,883	.1
1961	350.7	1,909	1.9
1962	367.3	1,969	3.1
1963	381.3	2,015	2.3
1964	407.9	2,126	5.5
1965	435.0	2,239	5.3
1966	458.9	2,335	4.3
1967	477.5	2,403	2.9
1968	499.0	2,486	3.5
1969	513.6	2,534	1.9
1970	534.8	2,610	2.6
1971	554.9	2,680	2.7
1972	577.9	2,767	3.3
Seasonally adjusted at annual rates, 1973:			
1st quarter	603.9	2,878	5.2
2d quarter	604.8	2,877	–.1
3d quarter	609.8	2,895	2.5

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Nov. 21, 1973.

TABLE C.—*Disposable personal income in constant dollars per total civilian employment—1950–73*

[DPI in 1958 dollars per civilian employment—dollars]

1950	4,236
1951	4,264
1952	4,370
1953	4,501
1954	4,630
1955	4,772
1956	4,848
1957	4,929
1958	5,057
1959	5,152
1960	5,172
1961	5,334
1962	5,507
1963	5,627
1964	5,886
1965	6,119
1966	6,295
1967	6,420
1968	6,573
1969	6,593
1970	6,802
1971	7,013
1972	7,073
Seasonally adjusted at annual rates, 1973:	
1st quarter	7,259
2d quarter	7,182
3d quarter	7,197

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, November 21, 1973.

Mr. LONG. Mr. President, in addition to that, there are a number of tabulations in the printed hearings, tables Nos. 1 through 10. These have come to be known as the "Long tabulations" or the "Long charts" for the debt limit bill since I have rather consistently requested that they be prepared by the Treasury and by the other responsible agencies of the Government.

I think these tables also help to acquaint a student of the debt limit with the relationship of the public debt to private debt, the relationship of the gross debt owed by the Government to the net amount of that debt, and the relationship of those factors to the gross national product. It also relates these factors to the changes in prices that have occurred for many years.

I ask unanimous consent that those charts be printed at this point in the RECORD.

There being no objection, the tabulations were ordered to be printed in the RECORD, as follows:

TABLE 1.—ESTIMATED GROSS GOVERNMENT AND PRIVATE DEBT, BY MAJOR CATEGORIES

[Dollar amounts in billions]

	December 1946		December 1960		December 1970		December 1972	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Federal debt:								
Public	$259	58	$290	29	$389	18	$449	18
Federal agency	1½	(1)	6½	1	12½	1	12	(1)
Total	260½	58	296½	30	401½	19	461	18
State and local debt	16	4	72	7	149	7	181	7
Corporate debt	109½	24	365	37	993	47	1,187	47
Individual debt	60	13	263	26	576	27	715	28
Total	446	100	996½	100	2,119½	100	2,544	100

[1] Less than ½ of 1 percent.

Note: Detail may not add to total due to rounding.

TABLE 2.—ESTIMATED GROSS GOVERNMENT AND PRIVATE DEBT, BY MAJOR CATEGORIES

[Dollar amounts in billions]

December 31—	Private: Individual	Private: Corporate[1]	Private: Total	State and local	Federal: Public	Federal: Agency	Federal: Total	Total	Percent Federal of total
1929	$72.9	$107.0	$179.9	$17.8	$16.3	$1.2	$17.5	$215.2	8
1930	71.8	107.4	179.2	18.9	16.0	1.3	17.3	215.4	8
1931	64.9	100.3	165.2	19.5	17.8	1.3	19.1	203.8	9
1932	57.1	96.1	153.2	19.7	20.8	1.2	22.0	194.9	11
1933	51.0	92.4	143.4	19.5	23.8	1.5	25.3	188.2	13
1934	49.8	90.6	140.4	19.2	28.5	4.8	33.3	192.9	17
1935	49.7	89.8	139.5	19.6	30.6	5.6	36.2	195.3	19
1936	50.6	90.9	141.5	19.6	34.4	5.9	40.3	201.4	20
1937	51.1	90.2	141.3	19.6	37.3	5.8	43.1	204.0	21
1938	50.0	86.8	136.8	19.8	39.4	6.2	45.6	202.2	22
1939	50.8	86.8	137.6	20.1	41.9	6.9	48.8	206.5	24
1940	53.0	89.0	142.0	20.2	45.0	7.2	52.2	214.4	24
1941	55.6	97.5	153.1	20.0	57.9	7.7	65.6	238.7	27
1942	49.9	106.3	156.2	19.2	108.2	5.5	113.7	289.1	39
1943	48.8	110.3	159.1	18.1	165.9	5.1	171.0	348.2	49
1944	50.7	109.0	159.7	17.1	230.6	3.0	233.6	410.4	57
1945	54.7	99.5	154.2	16.0	278.1	1.5	279.6	449.8	62
1946	59.9	109.3	169.2	16.1	259.1	1.6	260.7	446.0	58
1947	69.4	128.9	198.3	17.5	256.9	.7	257.6	473.4	54
1948	80.6	139.4	220.0	19.6	252.8	1.0	253.8	493.4	51
1949	90.4	140.3	230.7	22.2	257.1	.8	257.9	510.8	50
1950	104.3	167.7	272.0	25.3	256.7	1.1	257.8	555.1	46
1951	114.3	191.9	306.2	28.0	259.4	.8	260.2	594.4	44
1952	129.4	202.9	332.3	31.0	267.4	.9	268.3	631.6	42
1953	143.2	212.9	356.1	35.0	275.2	.8	276.0	667.1	41
1954	157.2	217.6	374.8	40.2	278.8	.7	279.5	694.5	40
1955	180.1	253.9	434.9	46.3	280.8	1.4	282.2	763.4	37
1956	195.5	277.3	472.8	50.1	276.6	1.7	278.3	801.2	35
1957	207.6	295.8	503.4	54.7	274.9	3.2	278.1	836.2	33
1958	222.9	312.0	534.9	60.4	282.9	2.4	285.3	880.6	32
1959	245.0	341.4	586.4	66.6	290.8	5.7	296.5	949.5	31
1960	263.3	365.1	628.4	72.0	290.2	6.4	296.6	997.0	30
1961	284.8	391.5	676.3	77.6	296.2	6.8	303.0	1,056.9	29

December 31—	Private			State and local	Federal			Total	Percent Federal of total
	Individual	Corporate[1]	Total		Public	Agency	Total		
1962	$311.9	$421.5	$733.4	$83.4	$303.5	$7.8	$311.3	$1,128.1	28
1963	345.8	457.1	802.2	89.5	309.3	8.1	317.4	1,209.1	26
1964	380.1	497.3	877.4	95.5	317.9	9.1	327.0	1,299.9	25
1965	415.7	551.9	967.6	103.1	320.9	9.8	330.7	1,401.4	24
1966	444.2	617.4	1,061.6	109.4	329.3	14.0	343.3	1,514.3	23
1967	476.2	672.9	1,149.1	117.9	344.7	20.1	364.9	1,631.9	22
1968	513.9	779.0	1,292.9	128.4	358.0	15.1	373.1	1,794.4	21
1969	548.4	912.7	1,461.1	137.1	368.2	13.8	382.0	1,980.2	19
1970	575.9	992.9	1,568.8	149.2	389.2	12.5	401.6	2,119.6	19
1971	631.0	1,072.8	1,703.8	167.3	424.1	11.0	435.2	2,306.3	19
1972	714.7	1,187.0	1,901.7	180.7	449.3	11.8	461.1	2,543.5	18

[1] Includes debt of federally sponsored agencies excluded from the budget which amounted to $7,000,000,000 on Dec. 31, 1947; $30,600,000,000 on Dec. 31, 1969; $38,900,000,000 on Dec. 31, 1970; and $40,700,000,000 on Dec. 31, 1971; and $43,600,000,000 on Dec. 31, 1972.

Source: Commerce and Treasury Departments.

TABLE 3.—ESTIMATED GROSS GOVERNMENT AND PRIVATE DEBT, 1929 TO PRESENT

End of calendar year	Government debt						Private debt				Total Government and private debt	
	Amounts outstanding (billions)			Per capita[2]			Amounts outstanding (billions)		Per capita[2]			
	Federal[1]	State and local	Total	Federal	State and local	Total	Corporate business[3]	Individual and noncorporate business	Corporate business	Individual and noncorporate business	Amount outstanding (billions)	Per capita
1929	$17.5	$17.8	$35.3	$143	$145	$288	$107.0	$72.9	$874	$595	$215.2	$1,757
1930	17.3	18.9	36.2	140	153	293	107.4	71.8	868	581	215.4	1,742
1931	19.1	19.5	38.6	153	157	310	100.3	64.9	805	521	203.8	1,636
1932	22.0	19.7	41.7	176	157	333	96.1	57.1	767	456	194.9	1,555
1933	25.3	19.5	44.8	201	155	355	92.4	51.0	733	404	188.2	1,493
1934	33.0	19.2	52.2	260	151	411	90.6	49.8	714	392	192.9	1,520
1935	36.2	19.6	55.8	283	153	437	89.8	49.7	703	389	195.3	1,529
1936	40.3	19.6	59.9	313	152	466	90.9	50.6	707	394	201.4	1,566
1937	43.1	19.6	62.7	333	151	484	90.2	51.1	697	395	204.0	1,576
1938	45.6	19.8	65.4	349	152	501	86.8	50.0	665	383	202.2	1,549
1939	48.8	20.1	68.9	371	153	524	86.8	50.8	660	386	206.5	1,569
1940	52.2	20.2	72.4	393	152	545	89.0	53.0	670	399	214.4	1,615
1941	65.6	20.0	85.6	489	149	638	97.5	55.6	727	414	238.7	1,779
1942	113.7	19.2	132.9	837	141	978	106.3	49.9	782	367	289.1	2,128
1943	171.0	18.1	189.1	1,242	131	1,374	110.3	48.8	801	355	348.2	2,529
1944	233.6	17.1	250.7	1,678	123	1,801	109.7	50.7	783	364	410.4	2,947
1945	279.6	16.0	295.6	1,987	114	2,101	99.5	54.7	707	389	449.8	3,197
1946	260.7	16.1	276.8	1,825	113	1,938	109.3	59.9	765	419	446.0	3,123
1947	257.6	17.5	275.1	1,771	120	1,891	128.9	69.4	886	477	473.4	3,254
1948	253.8	19.6	273.4	1,715	132	1,847	139.4	80.6	942	545	493.4	3,334
1949	257.9	22.2	280.1	1,713	147	1,860	140.3	90.4	932	600	510.8	3,393
1950	257.8	25.3	283.1	1,685	165	1,850	167.7	104.3	1,096	682	555.1	3,627
1951	260.2	28.0	288.2	1,671	180	1,851	191.9	114.3	1,232	734	594.4	3,817
1952	268.3	31.0	299.3	1,694	196	1,890	202.9	129.4	1,281	817	631.6	3,988
1953	276.0	35.0	311.0	1,714	217	1,931	212.9	143.2	1,322	889	667.1	4,142
1954	279.5	40.2	319.7	1,705	245	1,950	217.6	157.2	1,327	959	694.5	4,236
1955	282.2	46.3	328.5	1,691	275	1,961	253.9	180.1	1,522	1,079	762.5	4,552
1956	278.3	50.1	328.4	1,638	294	1,925	277.3	195.5	1,632	1,151	801.2	4,696
1957	278.1	54.7	332.8	1,609	315	1,918	295.8	207.6	1,712	1,201	836.2	4,820
1958	285.3	60.4	345.7	1,624	342	1,960	312.0	222.9	1,776	1,269	880.6	4,992
1959	296.5	66.6	363.1	1,653	371	2,024	341.4	245.0	1,903	1,366	949.5	5,293
1960	296.6	72.0	368.6	1,627	395	2,022	365.1	263.3	2,002	1,444	997.0	5,469
1961	303.0	77.6	380.6	1,635	419	2,054	391.5	284.8	2,112	1,537	1,056.9	5,704
1962	311.3	83.4	394.7	1,654	443	2,097	421.5	311.9	2,240	2,658	1,128.8	5,994
1963	317.4	89.5	406.9	1,663	469	2,131	457.1	345.8	2,395	1,812	1,209.8	6,337
1964	327.0	95.5	422.5	1,690	494	2,183	497.3	380.1	2,570	1,965	1,299.9	6,718
1965	330.7	103.1	433.8	1,688	526	2,214	551.9	415.7	2,818	2,124	1,401.8	7,156
1966	343.3	109.4	452.7	1,736	553	2,290	617.4	444.2	3,123	2,247	1,514.3	7,660
1967	364.9	117.9	482.8	1,827	590	2,417	672.9	476.2	3,370	2,385	1,631.9	8,172
1968	373.1	128.4	501.5	1,850	637	2,487	779.0	513.9	3,862	2,548	1,794.4	8,896
1969	382.0	137.1	519.1	1,875	673	2,547	912.7	548.4	4,478	2,691	1,980.2	9,716
1970	401.6	149.2	550.8	1,950	724	2,673	992.9	575.9	4,820	2,796	2,119.6	10,289
1971	435.2	167.3	602.5	2,091	804	2,895	1,072.8	631.0	5,155	3,032	2,306.3	11,083
1972	461.1	180.7	641.7	2,200	862	3,062	1,187.0	714.7	5,663	3,410	2,543.5	12,135

[1] Total Federal securities, including public debt and Budget Agency securities.

[2] Debt divided by the population of the conterminous United States and including Armed Forces overseas. Alaska is included beginning 1959 and Hawaii beginning in 1960.

[3] Includes debt of federally sponsored agencies excluded from the Budget.

Note: Details may not add to totals because of rounding.

Source: Federal debt, Treasury Department; Other data, Bureau of Economic Analysis, Commerce Department.

TABLE 4.—GROSS GOVERNMENT AND PRIVATE DEBT RELATED TO GROSS NATIONAL PRODUCT

End of calendar year	Gross national product (billions)[1]	Ratios of debt to gross national product (percent)				
		Federal	State and local	Corporate	Individual and non-corporate	Total
1929	$96.7	18.1	18.4	110.7	75.4	222.5
1930	83.1	20.8	22.7	129.2	86.4	259.2
1931	66.9	28.6	29.1	149.9	97.0	304.6
1932	56.8	38.7	34.7	169.2	100.5	343.1
1933	60.3	42.0	32.3	153.2	84.6	312.1
1934	68.6	48.1	28.0	132.1	72.6	280.8
1935	77.4	46.8	25.3	116.0	64.2	252.3
1936	86.5	46.6	22.7	105.1	58.5	232.8
1937	87.6	49.2	22.4	103.0	58.3	232.9
1938	87.6	52.1	22.6	99.1	57.1	230.8
1939	94.8	51.5	21.2	91.6	53.6	217.8
1940	107.6	48.5	18.8	82.7	49.3	199.3
1941	138.8	47.3	14.4	70.2	40.1	172.0
1942	179.0	63.5	10.7	59.4	27.9	161.5
1943	202.4	84.5	8.9	54.5	24.1	172.0
1944	217.4	107.5	7.9	50.1	23.3	188.8
1945	$196.0	142.6	8.2	50.8	27.9	229.5
1946	221.4	117.8	7.3	49.4	27.1	201.4
1947	245.0	105.1	7.1	52.6	28.3	193.2
1948	261.2	97.2	7.5	53.4	30.9	188.9
1949	260.5	9.0	8.5	53.9	34.7	196.1
1950	311.2	82.8	8.1	53.9	33.5	178.9
1951	338.2	76.9	8.3	56.7	33.8	175.8
1952	361.0	74.3	8.6	56.2	35.8	175.0
1953	360.8	76.5	9.7	59.0	39.7	184.9
1954	379.8	73.6	10.6	57.3	41.4	182.9
1955	409.7	68.9	11.3	62.0	44.0	185.9
1956	433.2	64.2	11.6	64.0	45.1	184.9
1957	438.1	63.5	12.5	67.5	47.4	190.8
1958	469.2	60.8	12.9	66.5	47.5	187.6
1959	496.8	59.7	13.4	68.7	49.3	190.8
1960	503.4	58.9	14.3	72.5	52.3	197.7

TABLE 4.—GROSS GOVERNMENT AND PRIVATE DEBT RELATED TO GROSS NATIONAL PRODUCT—Continued

End of calendar year	Gross national product (billions)[1]	Ratios of debt to gross national product (percent)				
		Federal	State and local	Corporate	Individual and noncorporate	Total
1961	$542.8	55.8	14.3	72.1	52.5	194.7
1962	574.7	54.2	14.5	73.3	54.3	196.6
1963	611.8	51.9	14.6	74.7	56.5	197.9
1964	654.0	50.0	14.6	76.0	58.1	199.1
1965	719.2	46.0	14.3	76.7	57.8	194.9
1966	772.6	44.4	14.2	79.9	57.5	196.0
1967	$825.0	44.2	14.3	81.5	57.7	197.8
1968	898.6	41.5	14.3	86.7	57.2	199.7
1969	953.7	40.1	14.4	95.7	57.5	207.7
1970	1,009.5	39.9	14.8	98.6	57.2	210.6
1971	1,098.4	39.8	15.3	98.1	57.7	210.9
1972	1,220.8	37.8	14.8	97.2	58.6	208.4

[1] Implied level end of year, calculated as the average of the 4th and 1st calendar quarters at seasonally adjusted annual rates for the years 1939 through present. Prior to 1939, averages of 2 calendar year figures are used as the best approximation of Dec. 31 levels.

Source: Office of the Secretary, Office of Debt Analysis, Oct. 9, 1973.

TABLE 5.—ESTIMATED NET GOVERNMENT AND PRIVATE DEBT OUTSTANDING, BY MAJOR CATEGORIES

[Dollar amounts in billions]

	December 1946		December 1960		December 1970		December 1972	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Federal debt	$229.5	57.9	$239.8	27.4	$301.1	16.2	$341.2	15.3
State and local debt	13.7	3.5	64.9	7.4	144.8	7.8	176.5	7.9
Corporate debt[1]	93.5	23.6	306.3	35.0	832.4	44.9	995.9	44.7
Individual and noncorporate debt	59.9	15.1	263.3	30.1	575.9	31.1	714.7	32.1
Total	396.6	100.0	874.1	100.0	1,854.2	100.0	2,228.3	100.0

[1] Includes debt of privately owned federally sponsored agencies.

Note: Detail may not add to total due to rounding.

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, June 6, 1973.

TABLE 6.—ESTIMATED NET GOVERNMENT AND PRIVATE DEBT, BY MAJOR CATEGORIES

[Dollar amounts in billions]

	Private			State and local	Federal	Total	Percent Federal of total
	Individual	Corporate[1]	Total				
Dec. 31—							
1916	$36.3	$40.2	$76.5	$4.5	$1.2	$82.2	1
1917	38.7	43.7	82.4	4.8	7.3	94.5	8
1918	44.5	47.0	91.5	5.1	20.9	117.5	18
1919	43.9	53.3	97.2	5.5	25.6	128.3	20
1920	48.1	57.7	105.8	6.2	23.7	135.7	17
1921	49.2	57.0	106.2	7.0	23.1	136.3	17
1922	50.9	58.6	109.5	7.9	22.8	140.2	16
1923	53.7	62.6	116.3	8.6	21.8	146.7	15
1924	55.8	67.2	123.0	9.4	21.0	153.4	14
1925	59.6	72.7	132.3	10.3	20.3	162.9	12
1926	62.7	76.2	138.9	11.1	19.2	169.2	11
1927	66.4	81.2	147.6	12.1	18.2	177.9	10
1928	70.0	86.1	156.1	12.7	17.5	186.3	9
1929	72.9	88.9	161.8	13.6	16.5	191.9	9
1930	71.8	89.3	161.1	14.7	16.5	192.3	9
1931	64.9	83.5	148.4	16.0	18.5	182.9	10
1932	57.1	80.0	137.1	16.6	21.3	175.0	12
1933	51.0	76.9	127.9	16.3	24.3	168.5	14
1934	49.8	75.5	125.3	15.9	30.4	171.6	18
1935	49.7	74.8	124.5	16.1	34.4	175.0	20
1936	50.6	76.1	126.7	16.2	37.7	180.6	21
1937	51.1	75.8	126.9	16.1	39.2	182.2	22
1938	50.0	73.3	123.3	16.1	40.5	179.9	23
1939	50.8	73.5	124.3	16.4	42.6	183.3	23
1940	53.0	75.6	128.6	16.4	44.8	189.8	24
1941	55.6	83.4	139.0	16.1	56.3	211.4	27
1942	49.9	91.6	141.5	15.4	101.7	258.6	39
1943	48.8	95.5	144.3	14.5	154.4	313.2	49
1944	50.7	94.1	144.8	13.9	211.9	370.6	57
1945	$54.7	$85.3	$140.0	$13.4	$252.5	$405.9	62
1946	59.9	93.5	153.4	13.7	229.5	396.6	58
1947	69.4	109.6	179.0	15.0	221.7	415.7	53
1948	80.6	118.4	199.0	17.0	215.3	431.3	50
1949	90.4	118.7	209.1	19.1	217.6	445.8	49
1950	104.3	142.8	247.1	21.7	217.4	486.2	45
1951	114.3	163.8	278.1	24.2	216.9	519.2	42
1952	129.4	172.3	301.7	27.0	221.5	550.2	40
1953	143.2	180.9	324.1	30.7	226.8	581.6	39
1954	157.2	184.1	341.3	35.5	229.1	605.9	38
1955	180.1	215.0	395.1	41.1	229.6	665.8	35
1956	195.5	234.1	429.6	44.5	224.3	698.4	32
1957	207.6	249.1	456.7	48.6	223.0	728.3	31
1958	222.9	262.0	484.9	53.7	231.0	769.6	30
1959	245.0	287.0	532.0	59.6	241.4	833.0	29
1960	263.3	306.3	569.6	64.9	239.8	874.2	27
1961	284.8	328.3	613.1	70.5	246.7	930.3	27
1962	311.9	353.5	665.4	77.0	253.6	996.0	25
1963	345.8	383.6	729.5	83.9	257.5	1,070.9	24
1964	380.1	417.1	797.2	90.4	264.0	1,151.6	23
1965	415.7	463.2	878.9	98.3	266.4	1,243.6	21
1966	444.2	517.8	962.0	104.8	271.8	1,338.6	20
1967	476.2	562.7	1,038.9	113.4	286.5	1,438.8	20
1968	513.9	652.9	1,166.8	123.9	291.9	1,582.6	18
1969	548.4	764.8	1,313.2	132.6	289.3	1,735.1	17
1970	575.9	832.4	1,408.3	144.8	301.1	1,854.2	16
1971	631.0	899.3	1,530.3	163.0	325.9	2,019.2	16
1972	714.7	995.9	1,710.6	176.5	341.2	2,228.3	15

[1] Includes debt of privately owned, federally sponsored agencies excluded from the budget which amounted to $700,000,000 on Dec. 31, 1947; $30,500,000,000 on Dec. 31, 1969; $38,900,000,000 on Dec. 31, 1970; $40,700,000,000 on Dec. 31, 1971; and $43,600,000,000 on Dec. 31, 1972.

Source: Commerce and Treasury Departments.

TABLE 7.—ESTIMATED NET GOVERNMENT AND PRIVATE DEBT 1916 TO PRESENT

End of calendar year	Government debt						Private debt				Total government and private debt (billions)	
	Amounts outstanding (billions)			Per capita[2]			Amounts outstanding (billions)		Per capita[2]			
	Federal[1]	State and local	Total	Federal	State and local	Total	Corporate business[3]	Individual and noncorporate business	Corporate business	Individual and noncorporate business	Amount outstanding	Per capita
1916	$1.2	$4.5	$5.7	$12	$44	$56	$40.2	$36.3	$391	$353	$82.2	$800
1917	7.3	4.8	12.1	70	46	116	43.7	38.7	420	372	94.5	909
1918	20.9	5.1	26.0	199	49	248	47.0	44.5	448	425	117.5	1,121
1919	25.6	5.5	31.1	242	52	294	53.3	43.9	504	415	128.3	1,213
1920	23.7	6.2	29.9	220	58	278	57.7	48.1	537	447	135.7	1,262
1921	23.1	7.0	30.1	211	64	275	57.0	49.2	522	450	136.3	1,247

End of calendar year	Government debt						Private debt				Total government and private debt (billions)	
	Amounts outstanding (billions)			Per capita [2]			Amounts outstanding (billions)		Per capita [2]			
	Federal[1]	State and local	Total	Federal	State and local	Total	Corporate business[3]	Individual and noncorporate business	Corporate business	Individual and noncorporate business	Amount outstanding	Per capita
1922	$22.8	$7.9	$30.7	$205	$71	$277	$58.6	$50.9	$528	$459	$140.2	$1,263
1923	21.8	8.6	30.4	193	76	269	62.6	53.7	554	475	146.7	1,298
1924	21.0	9.4	30.4	183	82	264	67.2	55.8	584	485	153.4	1,334
1925	20.3	10.3	30.6	174	88	262	72.7	59.6	623	511	162.9	1,397
1926	19.2	11.1	30.3	161	93	254	76.2	62.7	639	526	169.2	1,419
1927	18.2	12.1	30.2	152	101	253	81.2	66.4	678	554	177.9	1,485
1928	17.5	12.7	30.2	144	105	249	86.1	70.0	711	578	186.3	1,538
1929	16.5	13.6	30.1	135	111	246	88.9	72.9	726	595	191.9	1,567
1930	16.5	14.7	31.2	133	119	252	89.3	71.8	722	581	192.3	1,555
1931	18.5	16.0	34.5	149	128	277	83.5	64.9	670	521	182.9	1,468
1932	21.3	16.6	37.9	170	132	302	80.0	57.1	638	456	175.0	1,396
1933	24.3	16.3	40.6	193	129	322	76.9	51.0	610	404	168.5	1,336
1934	30.4	15.9	46.3	240	125	365	75.5	49.8	595	392	171.6	1,352
1935	34.4	16.1	50.5	269	126	395	74.8	49.7	585	389	175.0	1,370
1936	37.7	16.2	53.9	293	126	419	76.1	50.6	592	394	180.6	1,405
1937	39.2	16.1	55.3	303	124	427	75.8	51.1	585	395	182.2	1,407
1938	40.5	16.1	56.6	310	123	434	73.3	50.0	562	383	179.9	1,379
1939	42.6	16.4	59.0	324	125	448	73.5	50.8	559	386	183.3	1,393
1940	44.8	16.4	61.2	337	123	461	75.6	53.0	569	399	189.8	1,429
1941	56.3	16.1	72.4	420	120	540	83.4	55.6	622	414	211.4	1,576
1942	101.7	15.4	117.1	749	113	862	91.6	49.9	674	367	258.6	1,903
1943	154.4	14.5	168.9	1,122	105	1,227	95.5	48.8	694	355	313.2	2,275
1944	211.9	13.9	225.8	1,552	100	1,622	94.1	50.7	676	364	370.6	2,662
1945	252.5	13.4	265.9	1,795	95	1,890	85.3	54.7	606	389	405.9	2,885
1945	229.5	13.7	243.2	1,607	96	1,703	93.5	59.9	655	419	396.6	2,777
1947	221.7	15.0	236.7	1,524	103	1,627	109.6	69.4	753	477	415.7	2,853
1948	215.3	17.0	232.3	1,455	115	1,570	118.4	80.6	800	545	431.3	2,914
1949	217.6	19.1	236.7	1,445	127	1,572	118.7	90.4	788	600	445.8	2,961
1950	217.4	21.7	239.1	1,421	142	1,562	142.8	104.3	933	682	486.2	3,177
1951	216.9	24.2	241.1	1,393	155	1,548	163.8	114.3	1,052	734	519.2	3,334
1952	221.5	27.0	248.5	1,399	170	1,569	172.3	129.4	1,088	817	550.2	3,474
1953	226.8	30.7	257.5	1,408	191	1,599	180.9	143.2	1,123	889	581.6	3,611
1954	229.1	35.5	264.6	1,397	217	1,604	184.1	157.2	1,123	959	605.9	3,696
1955	229.6	41.1	270.7	1,376	245	1,616	215.0	180.1	1,289	1,069	665.8	2,975
1956	224.3	44.5	268.8	1,320	261	1,576	234.1	195.5	1,378	1,151	698.4	4,094
1957	223.0	48.6	271.6	1,290	280	1,565	249.1	207.6	1,441	1,201	728.3	4,198
1958	231.0	53.7	284.7	1,315	304	1,614	262.0	222.9	1,491	1,269	769.6	4,363
1959	241.4	59.6	301.0	1,346	332	1,678	287.0	245.0	1,600	1,366	833.0	4,643
1960	239.8	64.9	304.7	1,315	356	1,671	306.3	263.3	1,680	1,444	874.2	4,790
1961	246.7	70.5	317.2	1,331	380	1,712	328.3	284.8	1,771	1,537	930.3	5,021
1962	253.6	77.0	330.6	1,348	409	1,757	353.5	311.9	1,879	1,658	996.0	5,295
1963	257.5	83.9	341.4	1,349	439	1,788	383.6	345.8	2,010	1,812	1,070.9	5,611
1964	264.0	90.4	354.4	1,364	467	1,832	417.1	380.1	2,156	1,965	1,151.6	5,952
1965	266.4	98.3	364.7	1,360	502	1,862	463.2	415.7	2,365	2,123	1,243.6	6,350
1966	271.8	104.8	376.6	1,375	530	1,905	517.8	444.2	2,619	2,247	1,338.6	6,771
1967	286.5	113.4	399.9	1,435	568	2,002	562.7	476.2	2,818	2,385	1,438.8	7,205
1968	291.9	123.9	415.8	1,447	614	2,062	652.9	513.9	3,237	2,548	1,582.6	7,846
1969	289.3	132.6	421.9	1,420	651	2,070	764.8	548.4	3,753	2,691	1,735.1	8,514
1970	301.1	144.8	445.9	1,462	703	2,165	832.4	575.9	4,041	2,796	1,854.2	9,001
1971	325.9	163.0	488.9	1,566	783	2,349	899.3	631.0	4,321	3,032	2,019.2	9,703
1972	341.2	176.5	517.7	1,628	842	2,470	995.9	714.7	4,751	3,410	2,228.3	10,631

[1] Borrowing from the public.

[2] Debt divided by the population of the conterminous United States and including armed forces overseas. Alaska is included beginning 1959 and Hawaii beginning in 1960.

[3] Includes debt of federally sponsored agencies excluded from the budget.

Note: Detail may not add to totals because of rounding.

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

TABLE 8.—NET GOVERNMENT AND PRIVATE DEBT RELATED TO GROSS NATIONAL PRODUCT

End of calendar year	Gross national product (billions)[1]	Ratios of debt to gross national product (percent)				
		Federal	State and local	Corporate	Individual and noncorporate	Total
1929	$96.7	17.1	14.1	91.9	75.4	198.4
1930	83.1	19.9	17.7	107.5	86.4	234.7
1931	66.9	27.7	23.9	124.8	97.0	273.4
1932	56.8	37.5	29.2	140.8	100.5	308.1
1933	60.3	40.3	27.0	127.5	84.6	279.4
1934	68.6	44.3	23.2	110.1	72.6	250.1
1935	77.4	44.4	20.8	96.6	64.2	226.1
1936	86.5	43.6	18.7	88.0	58.5	208.8
1937	87.6	44.7	18.4	86.5	58.3	208.0
1938	87.6	46.2	18.4	83.7	57.1	205.4
1939	94.8	44.9	17.3	77.5	53.6	193.4
1940	107.6	41.6	15.2	70.3	49.3	176.4
1941	138.8	40.6	11.6	60.1	40.1	152.3
1942	179.0	56.8	8.6	51.2	27.9	144.5
1943	202.4	76.3	7.2	47.2	24.1	154.7
1944	217.4	97.5	6.4	43.3	23.3	170.5
1945	196.0	128.8	6.8	43.5	27.9	207.1
1946	221.4	103.7	6.2	42.2	27.1	179.1
1947	245.0	90.5	6.1	44.7	28.3	169.7
1948	261.2	82.4	6.5	45.3	30.9	165.1
1949	260.5	83.5	7.3	45.6	34.7	171.1
1950	311.2	69.9	7.0	45.9	33.5	156.2

End of calendar year	Gross national product (billions)[1]	Ratios of debt to gross national product (percent)				
		Federal	State and local	Corporate	Individual and noncorporate	Total
1951	$338.2	64.1	7.2	48.4	33.8	153.5
1952	361.0	61.4	7.5	47.7	35.8	152.4
1953	360.8	62.9	8.5	50.1	39.7	161.2
1954	379.8	60.3	9.3	48.5	41.4	159.5
1955	409.7	56.0	10.0	52.5	44.0	162.4
1956	433.2	51.8	10.3	54.0	45.1	161.1
1957	438.1	50.9	11.1	56.9	47.4	166.0
1958	469.2	49.2	11.4	55.8	47.5	163.8
1959	496.8	48.6	12.0	57.8	49.3	167.5
1960	503.4	47.6	12.9	60.8	52.3	173.6
1961	542.8	45.4	13.0	60.5	52.5	171.3
1962	574.7	44.1	13.4	61.5	54.3	173.3
1963	611.8	42.1	13.7	62.7	56.5	175.0
1964	654.0	40.4	13.8	63.8	58.1	176.1
1965	719.2	37.0	13.7	64.4	57.8	172.9
1966	772.6	35.2	13.6	67.0	57.5	173.3
1967	825.0	34.7	13.7	68.2	57.5	174.8
1968	898.6	32.5	13.8	72.7	57.2	176.1
1969	953.7	30.3	13.9	80.2	57.5	182.0
1970	1,009.5	29.9	14.4	82.7	57.2	184.2
1971	1,098.4	29.8	14.9	82.2	57.5	184.6
1972	1,220.8	28.0	14.5	81.6	58.5	182.5

[1] Implied level end of year, calculated, as the average of the 4th and 1st calendar quarters at seasonally adjusted annual rates for the years 1939 through present. Prior to 1939, averages of 2 calendar year figures are used as the best approximation of Dec. 31 levels.

Note: Detail may not add to totals because of rounding.

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Oct. 9, 1973.

TABLE 9.—ESTIMATED FEDERAL DEBT RELATED TO POPULATION AND PRICES, 1900–72

	Federal debt (billions)			Per capita Federal debt[4]			Real per capita Federal debt[5]		
	Gross[1]	Net[2]	Privately held net[3]	Gross[1]	Net[2]	Privately held net[3]	Gross[1]	Net[2]	Privately held net[3]
June 30:									
1900	$1.3	$1.3	$1.3	$17	$17	$17	(6)	(6)	(6)
1901	1.2	1.2	1.2	16	16	16	(6)	(6)	(6)
1902	1.2	1.2	1.2	15	15	15	(6)	(6)	(6)
1903	1.2	1.2	1.2	14	14	14	(6)	(6)	(6)
1904	1.1	1.1	1.1	14	14	14	(6)	(6)	(6)
1905	1.1	1.1	1.1	14	14	14	(6)	(6)	(6)
1906	1.1	1.1	1.1	13	13	13	(6)	(6)	(6)
1907	1.1	1.1	1.1	13	13	13	(6)	(6)	(6)
1908	1.2	1.2	1.2	13	13	13	(6)	(6)	(6)
1909	1.1	1.1	1.1	13	13	13	(6)	(6)	(6)
1910	1.1	1.1	1.1	12	12	12	(6)	(6)	(6)
1911	1.2	1.2	1.2	12	12	12	(6)	(6)	(6)
1912	1.2	1.2	1.2	13	13	13	(6)	(6)	(6)
1913	1.2	1.2	1.2	12	12	12	$51	$51	$51
1914	1.2	1.2	1.2	12	12	12	50	50	50
1915	1.2	1.2	1.2	12	12	12	49	49	49
Dec. 31:									
1916	1.2	1.2	1.1	12	12	11	44	44	40
1917	7.3	7.3	7.2	70	70	69	217	217	214
1918	21.0	20.9	20.7	200	199	198	515	513	510
1919	25.8	25.6	25.3	244	242	239	548	544	537
1920	24.0	23.7	23.4	223	220	218	489	482	478
1921	23.5	23.1	22.9	215	211	210	528	518	516
1922	23.2	22.8	22.4	209	205	202	522	512	505
1923	22.2	21.8	21.7	196	193	192	482	474	472
1924	21.5	21.0	20.5	187	183	178	461	451	438
1925	20.8	20.3	19.9	178	174	171	422	412	405
1926	19.9	19.2	18.9	167	161	159	401	387	382
1927	18.6	18.2	17.6	155	152	147	381	373	361
1928	18.4	17.5	17.3	152	144	143	377	357	355
1929	17.	16.5	16.0	143	135	131	354	334	324
1930	17.3	16.5	15.8	140	133	128	369	351	338
1931	19.1	18.5	17.7	153	149	142	446	434	414
1932	22.0	21.3	19.4	176	170	155	571	552	503
1933	25.3	24.3	21.9	201	193	174	648	623	561
1934	33.3	30.4	28.0	260	240	221	823	759	699
1935	36.2	34.4	32.0	283	269	250	871	828	769
1936	$40.5	$37.7	$35.3	$313	$293	$275	$951	$891	$836
1937	43.1	39.2	36.6	333	303	283	982	89[illegible]	835
1938	45.6	40.5	37.9	349	310	290	1,058	939	879
1939	48.8	42.6	40.1	371	324	305	1,128	988	930
1940	52.2	44.8	42.6	393	337	321	1,184	1,015	967
1941	65.6	56.3	54.0	489	420	402	1,343	1,154	1,104
1942	113.7	101.7	95.5	837	729	703	2,108	1,887	1,771
1943	171.0	154.4	142.9	1,242	1,122	1,038	3,029	2,737	2,532
1944	233.6	211.9	193.1	1,678	1,522	1,387	4,005	3,632	3,310
1945	279.6	252.5	228.2	1,987	1,795	1,622	4,643	4,194	3,790
1946	260.7	229.5	206.1	1,825	1,607	1,433	2,607	3,176	2,832
1947	257.6	221.7	199.1	1,771	1,524	1,369	3,214	2,766	2,485
1948	253.8	215.3	192.0	1,715	1,455	1,297	3,030	2,571	2,292
1949	257.9	217.6	197.7	1,713	1,445	1,313	3,081	2,599	2,362
1950	257.8	217.4	196.6	1,685	1,421	1,285	2,866	2,417	2,185
1951	260.2	216.9	193.1	1,671	1,393	1,240	2,682	2,236	1,990
1952	268.3	221.5	196.8	1,694	1,399	1,243	2,697	2,227	1,979
1953	276.0	226.8	200.9	1,714	1,408	1,247	2,712	2,228	1,973
1954	279.5	229.1	204.2	1,705	1,397	1,246	2,711	2,221	1,981
1955	282.2	229.6	204.8	1,691	1,376	1,227	2,676	2,177	1,941
1956	278.3	224.3	199.4	1,638	1,320	1,174	2,520	2,031	1,806
1957	278.1	223.0	198.8	1,609	1,290	1,150	2,405	1,928	1,719
1958	285.3	231.0	204.7	1,624	1,315	1,165	2,385	1,931	1,711
1959	296.5	241.4	214.8	1,653	1,346	1,197	2,392	1,948	1,732
1960	296.6	239.8	212.4	1,627	1,315	1,165	2,321	1,876	1,662
1961	303.0	246.7	217.8	1,635	1,331	1,175	2,316	1,885	1,664
1962	311.3	253.6	222.8	1,654	1,348	1,184	2,313	1,885	1,656
1963	317.4	257.5	223.9	1,663	1,349	1,173	2,887	1,886	1,613
1964	327.0	264.0	227.0	1,690	1,364	1,173	2,299	1,856	1,596
1965	330.7	226.4	225.6	1,688	1,360	1,152	2,254	1,816	1,538
1966	343.3	271.8	227.5	1,736	1,375	1,151	2,240	1,774	1,485
1967	364.9	286.4	237.3	1,827	1,435	1,188	2,289	1,798	1,489
1968	373.1	291.9	238.9	1,850	1,447	1,182	2,213	1,731	1,414
1969	382.0	289.3	232.1	1,874	1,420	1,140	2,108	1,597	1,282
1970	401.6	301.1	239.0	1,950	1,462	1,160	2,083	1,562	1,239
1971	435.2	325.9	255.1	2,091	1,566	1,227	2,162	1,620	1,269
1972	461.1	341.2	269.9	2,200	1,628	1,288	2,200	1,628	1,288

[1] Total Federal securities outstanding, unified budget concept.

[2] Borrowing from the public, unified budget concept. Gross Federal debt less securities held by Government accounts.

[3] Borrowing from the public less Federal Reserve holdings.

[4] Debt divided by population of the coterminous United States, and including Armed Forces overseas.

[5] Per capita debt expressed in December 1972 prices (consumer price index for all items).

[6] Not available.

TABLE 10.—PRIVATELY HELD FEDERAL DEBT RELATED TO GNP

[Dollar amounts in billions]

	Gross national product[1]	Privately held debt[2]	Ratio of debt to GNP	Year-to-year price changes[3]
Dec. 31—Continued				
1929	$96.7	$16.0	16.5	0.2
1930	83.1	15.8	19.0	−6.0
1931	66.9	17.7	26.4	−9.5
1932	56.8	19.4	34.2	−10.3
1933	60.3	21.9	36.3	.5
1934	68.6	28.0	40.8	2.0
1935	77.4	32.0	41.3	3.0
1936	66.5	35.3	40.8	1.2
1937	87.6	36.6	41.8	3.1
1938	87.6	37.9	43.3	−6.8
1939	94.8	40.1	42.3	−.5
1940	107.6	42.6	39.6	1.0
1941	138.8	54.0	38.9	9.7
1942	179.0	95.5	53.4	9.3
1943	202.4	142.9	70.6	3.2
1944	217.4	193.1	88.8	2.1
1945	196.0	228.2	116.4	2.3
1946	221.4	206.1	93.1	18.2
1947	245.0	199.1	81.3	9.0
1948	261.2	192.0	73.5	2.7
1949	260.5	197.7	75.9	−1
1950	311.2	196.6	63.2	5.8
1951	$338.2	$193.1	57.1	5.9
1952	361.0	196.8	54.5	.9
1953	360.8	200.9	55.7	.6
1954	379.8	204.2	53.8	−.5
1955	409.7	204.8	50.0	.4
1956	433.2	199.4	46.0	2.9
1957	438.1	198.8	45.4	3.3
1958	469.2	204.7	43.6	1.8
1959	496.8	214.8	43.2	1.5
1960	503.4	212.4	42.2	1.5
1961	542.8	217.8	40.1	.7
1962	574.7	222.8	38.8	1.2
1963	611.8	223.9	36.6	1.6
1964	654.0	227.0	34.7	1.2
1965	719.2	225.6	31.4	1.9
1966	772.6	227.5	29.4	3.4
1967	825.0	237.3	28.8	3.0
1968	898.6	238.9	26.6	4.7
1969	953.7	232.1	24.3	6.1
1970	1,009.5	239.0	23.7	5.5
1971	1,098.4	255.1	23.2	3.4
1972	1,220.8	269.9	22.1	3.4

[1] Implied level of gross national product, Dec. 31.

[2] Borrowing from the public less Federal Reserve holdings, unified budget concept.

[3] Measured by the all item consumer price index, December to December basis.

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Oct. 9, 1973.

Mr. BENNETT. Mr. President, as the ranking minority member of the Finance Committee, I would like to follow the chairman with a statement of my own regarding the debt limit bill.

The debt limit bill that the Senate is focusing on now is the second act of the annual drama on the perils of debt management. We rarely miss the opportunity to enact this drama. In some years, it is brief and contains only one act. In recent years, we have enjoyed the production so much that we have built up the tension through three acts and have given each act an exciting, last-second curtain.

Fiscal year 1974 began auspiciously. Two conferences were required before a bill acceptable to both Houses could be agreed on, and the President did not sign it into law until the day after the current temporary debt limit expired. Fortunately, that day came on a Sunday, and by the time the bond markets were again open for business, the first act of the fiscal year 1974 debt limit drama had come to a happy end.

Act II is on the stage now. The Secretary of the Treasury has asked both the House and Senate to increase the limit on the public debt to $480 billion through June 30, 1974. This projection of the levels of outstanding debt through this fiscal year showed that the peak debt level would be $480 billion on June 11, 1973. This estimate was prepared with assumptions that a constant operating cash balance of $6 billion could be maintained, a standard $3 billion margin for contingencies, a balanced, unified budget with outlays and receipts at $270 billion, and underlying economic forecasts through the relevant part of this fiscal year that are consistent with forecasts that had been made by private economists.

Those economic forecasts were made before the start of the present energy crisis and before any adjustments could be made. Even now it is difficult to project how the oil shortage will affect our industries, their employment, and their income and how that might be translated into lower budget receipts or higher outlays. In addition, the Senate should consider that the $6 billion operating cash balance amounts to 1 week's average outlays and receipts and that the normal range of fluctuations could easily use up the cash balance and the $3 billion margin for contingencies. Combining the consideration of a probable overestimate of our economic performance for the remainder of this fiscal year and the normal fluctuations in budget receipts and outlays leaves the distinct impression that the $480 billion debt limit request is the minimum satisfactory level for prudent debt management.

Such thoughtfulness was not to prevail, however, and the Ways and Means Committee reduced the debt limit to $478 billion in its version of the bill. The House of Representatives, in a reaction against present Federal spending levels, cut back the debt limit by another $2.3 billion to the $475.7 billion level in the bill before the Senate now. And this is the limit in the pending bill.

The Finance Committee did not necessarily agree with the debt limit approved by the House Members, but they decided to rush this bill to the floor so that it could reach the President before the current $465 billion limit expires. The committee believes that the debt limit in this bill should be satisfactory through early spring in 1974, and Congress will have plenty of time after the next session starts to return to this subject and pass a revised debt limit bill to cover the remainder of fiscal year 1974. So, we approach the end of act II and establish the plot for act III.

The bill which was passed by the House contained only the debt limit provision. The Finance Committee added a new section requiring that Congress pass a concurrent resolution which specifically carries its authorization for the U.S. Government to arrange with any foreign government to cancel, renegotiate, reschedule, or otherwise settle outstanding debt under any U.S. programs. The fundamental purpose of this amendment is to give Congress an opportunity to be made aware of the plans of the executive branch in this area and to consider whether the plans are consistent with both domestic and foreign policies in related areas.

The committee believes that it is entirely appropriate when the debts of foreign countries to this country are reduced or rescheduled that this should be a decision participated in by the Congress as well as the Executive.

The Treasury believes, however, that this amendment is undesirable and too restrictive for the following reasons:

First. It is not germane to the debt ceiling bill. The debt ceiling is a limitation on borrowing by the United States. A limitation on rescheduling of loans made under numerous statutes by various agencies has no relationship to the debt ceiling.

Second. It is unneeded because the significant statutes authorizing lending already have provisions limiting the scope of debt rescheduling authority. For example: First, the Dirksen amendment prohibits forgiveness of interest or principal on AID loans; second, Public Law 480 dollar loans can be rescheduled only in accordance with statutory limitations except where necessary to obtain some repayment in the exceptional circumstances of default or imminent default; third, Eximbank loans are rescheduled on banking terms to assure some repayment to the United States in situations of default or imminent default.

Third. Rescheduling is an essentially financial matter undertaken to put the debtor nation in a position in which it can avoid default and continue to make payments. Thus, the United States must have flexibility to reschedule in cases of default or imminent default in order to assure repayment to the United States. A congressional approval process in these situations could politicize an essentially financial matter, and could prevent U.S. cooperation with other countries in assuring fair sharing of rescheduled repayments.

Fourth. It is also too restrictive because it would:

First, prohibit agreements by foreign countries to prepay debts—prepayments since 1960 have totaled $2.4 billion, including a $175 million prepayment by Japan last April;

Second, prohibit settlement of disputed claims; and

Third, deny congressionally authorized flexibility to alter the terms of individual loans to accomplish program objectives.

Fifth. Delay in obtaining congressional approval of rescheduling agreements would mean a delay in the United States receiving payments under those agreements.

Sixth. Congress is kept informed of debt reschedulings. For example, in the Indonesian rescheduling, a special report was transmitted to the Congress by the NAC and Secretary Kennedy testified before the Foreign Relations Committee. Other hearings have been held in the Senate and semianually in the House. The AID bill now before Congress has a provision requiring Congress to be informed of all reschedulings.

Seventh. The Indian rupee debt settlement is a special matter involving local currencies and not dollar repayable loans. Moreover, as the committee noted, this proposal is based on statutory authority and it will be presented, in accordance with statute, to the Agriculture Committees of both Houses of Congress for their consideration prior to signature. It is not a precedent for other cases; statutory authority does not exist for forgiveness of dollar debt for the main debt categories—AID, Public Law 480, and Eximbank.

Two other subjects were considered by the committee. The first was the question whether the Secretary of the Treasury would need additional statutory authority to raise the current 5½ percent rate on interest that is paid on U.S. Government issued savings bonds. The committee agreed with the Ways and Means Committee that the existing statute gave the Secretary authority to raise the interest rate by one-half percentage point to 6 percent, with the approval of the President, and without further action by Congress. Since the Secretary does not plan to raise the interest rate above 6 percent at the present time, the committee did not want to take any further legislative action on this matter. Secretary Shultz stated to the Finance Committee that his present needs would be met by including in the committee report on this bill language that states the committee interprets the present statute in the same way as the Ways and Means Committee did in its report on H.R. 11104. That step has been taken.

The other matter brought before the Finance Committee was an omnibus amendment on the subject of public financing of elections. The amendment was proposed by a bipartisan group of Senators. It would extend the public financing mantle to cover presidential primaries and House and Senate elections. It would also raise the level of the check-off on income tax returns and the allowable deduction and tax credit for political campaign contributions. Many other extensive changes in present law also would be made by the amendment.

I have grave doubts about how far we ought to go in this area and about the pace at which we should extend public financing of elections beyond the Presidential election, if we want to go that far. While I understand the basis for anybody's desire to act now, I think caution and prudence must be exercised at least to the extent of observing the formalities of the legislative process. I am glad to state that my colleagues on the committee agreed with me, and next year, the committee will hold additional public hearings when alternative and opposing views may be heard. Then, the committee can take the time to deliberate over the testimony it has heard before it recommends changes in the present law about political campaigns and their financing by the public.

With that observation completed, I want to conclude with my recommendation that the Senate pass this bill in the form it was reported by the Finance Committee, except for section 3 relating to indebtedness of foreign governments to the United States. I may choose to offer an amendment to strike that section from the bill.

Mr. LONG. Mr. President, there is only one committee amendment to the bill, the one I have discussed in my statement, requiring that any cancellation or renegotiation of debts owed by foreign governments be authorized by Congress. I know of no objection to that amendment. I ask unanimous consent that the committee amendment be agreed to, and that the bill as thus amended be regarded as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask unanimous consent that Kenneth Davis of the staff of the Senator from Pennsylvania (Mr. Hugh Scott) be granted the privilege of the floor during the debate and vote on amendments to this bill relating to the subject of financing of elections, and I make the same request in behalf of Roger King of the committee minority staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 651

The PRESIDING OFFICER (Mr. Huddleston). Under the previous order, the amendment No. 651 of the Senator from Massachusetts (Mr. Kennedy) and other Senators will now become the pending question. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. Kennedy's amendment No. 651 is as follows:

PUBLIC FINANCING OF FEDERAL ELECTIONS

Sec. 2. (a) Subtitle H of the Internal Revenue Code of 1954 is amended to read as follows:

"Subtitle H—FINANCING OF FEDERAL ELECTION CAMPAIGNS

"Chapter 95. Federal Election Campaign Fund.
"Chapter 96. Federal Election Campaign Fund Advisory Board.
"Chapter 97. Presidential Primary Matching Payment Fund.

"CHAPTER 95—FEDERAL ELECTION CAMPAIGN FUND

"Sec. 9001. Short title.
"Sec. 9002. Definitions.
"Sec. 9003. Conditions for eligibility for payments.
"Sec. 9004. Entitlement of eligible candidates to payments.
"Sec. 9005. Certification by Comptroller General.
"Sec. 9006. Payments to eligible candidates.
"Sec. 9007. Contributions and expenditures by National and State committees of political parties.
"Sec. 9008. Examinations and audits; repayments.
"Sec. 9009. Information on proposed expenses.
"Sec. 9010. Reports to Congress; regulations.
"Sec. 9011. Participation by Comptroller General in judicial proceedings.
"Sec. 9012. Judicial review.
"Sec. 9013. Criminal penalties.

"Sec. 9001. Short Title.

"This chapter may be cited as the 'Federal Election Campaign Fund Act'.

"Sec. 9002. Definitions.

"For purposes of this chapter—

"(1) The term 'Federal office' means the office of President or Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"(2) The term 'Federal election' means a general or special election for Federal office.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'authorized committee' means, with respect to a candidate of a political party for Federal office, any political committee which is authorized in writing by such candidate to incur expenses to further the election of such candidate. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"(5) The term 'candidate' means, with respect to any Federal election, an individual who (A) has been nominated for election to Federal office by a major party, or (B) has qualified to have his name on the election ballot in the geographical area in which the election is to be held, or (C) in the case of a Presidential election, has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to the office of President or Vice President of the United States in 10 or more States. For purposes of this chapter, an independent candidate shall be considered a candidate of a political party. For purposes of paragraphs (8) and (9) of this section and purposes of section 9004(a)(2), the term 'candidate' means, with respect to any preceding Federal election, an individual who received popular votes for Federal office in such election.

"(6) The term 'eligible candidate' means a candidate of a political party for Federal office who has met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

"(7) The term 'fund' means the Federal Election Campaign Fund established by section 9006(a).

"(8) The term 'major party' means, with respect to any Federal election, (A) a political party whose candidate for Federal office in the preceding election for such office received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office, or (B) if only one party qualifies as a major party on such basis, the party with the next highest percent of such votes in such election.

"(9) The term, 'minor party' means, with respect to any Federal election, a political party whose candidate for Federal office in the preceding election for such office received as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

"(10) The term 'new party' means, with respect to any Federal election, a political party which is neither a majority nor a minor party.

"(11) The term 'political committee' means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal office.

"(12) The term 'qualified campaign expense' means an expense—

"(A) incurred (i) by the candidate of a political party for the office of President to further his election to such office, (ii) by the candidate of a political party for the office of Vice President to further his election to such office or to further the election of the candidate of such political party for the office of President, or both, (iii) by the candidate of a political party for other Federal office to further his election to such office, or (iv) by an authorized committee of a candidate of a political party for Federal office to further the election of one or more such candidates to such office.

"(B) incurred within the expenditure report period (as defined in paragraph (13)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

"(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of a candidate of a political party for Federal office also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidate for Federal office in such proportion as the Comptroller General prescribes by rules or regulations.

"(13) The term 'expenditure report period' with respect to any Federal election means—

"(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party nominated its candidate for election to Federal office, and ending 30 days after the date of the election; and

"(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the longest expenditure report period for such election under subparagraph (A).

"Sec. 9003. Conditions for Eligibility for Payments.

"(a) In General.—In order to be eligible to receive any payments under section 9006, a candidate of a political party in a Federal election shall, in writing—

"(1) agree to obtain and furnish to the Comptroller General such evidence as he may request of the qualified campaign expenses with respect to which payment is sought;

"(2) agree to keep and furnish to the Comptroller General such records, books, and other information as he may respect;

"(3) agree to an audit and examination by the Comptroller General under section 9007 and to pay any amounts required to be paid under such section; and

"(4) agree to furnish statements of qualified campaign expenses and proposed qualified campaign expenses required under section 9008.

"(b) Major Parties.—In order to be eligible to receive any payments under section 9006, a candidate of a major party in a Federal election shall certify to the Comptroller General, under penalty of perjury, that—

"(1) such candidate and his authorized committees will not incur qualified campaign expenses in excess of those incurred under section 9007 and the aggregate payments to which he will be entitled under section 9004; and

"(2) no contributions to defray qualified campaign expenses (other than those received under section 9007) have been or will be accepted by such candidate or any of his authorized committees except to the extent neccessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(d), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(12) have been or will be accepted by such candidate or any of his authorized committees.

Such certification shall be made within such time prior to the day of the Federal election as the Comptroller General shall prescribe by rules or regulations.

"(c) Minor and New Parties.—In order to be eligible to receive any payments under section 9006, a candidate of a minor or new party in a Federal election shall certify to the Comptroller General, under penalty of perjury, that—

"(1) such candidate and his authorized

committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidate of a major party is entitled under section 9004; and

"(2) such candidate and his authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidate and his authorized committee certified to under paragraph (1) exceed the aggregate payments received by such candidate out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the Federal election as the Comptroller General shall prescribe by rules or regulations.

"(d) Except as provided in subsections (b) (2) and (c) (2) of this section and in section 9007 of this chapter, no candidate of a major party, minor party, or new party, or any of the authorized committees of such candidate shall accept contributions to defray qualified campaign expenses.

"SEC. 9004. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS.

"(a) IN GENERAL.—Subject to the provisions of this chapter—

"(1) An eligible candidate of a major party in a Federal election shall be entitled to payments under section 9006 equal in the aggregate to the greater of—

"(A) 15 cents multiplied by the voting age population of the geographical area in which the election for such office is held, as determined by the Secretary of Commerce under the Federal Election Campaign Act of 1971;

"(B) $175,000, if the Federal office sought is that of Senator; or

"(C) $90,000, if the office sought is that of Representative.

"(2) (A) An eligible candidate of a minor party in a Federal election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by the candidate for such office of the minor party, as such candidate, in the preceding election for such office bears to the average number of popular votes received by the candidates for such office of the major parties in the preceding election for such office.

"(B) If the candidate of one or more political parties (not including a major party) for Federal office was a candidate for such office in the preceding election for such office and received 5 percent or more of the total number of popular votes received by all candidates for such office, such candidate, upon compliance with the provisions of section 9003 (a) and (c), shall be treated as an eligible candidate entitled to payments under section 9006 in an amount computed as provided in paragraph (1) or in subparagraph (A), as the case may be, by taking into account all the popular votes received by such candidate for such office in the preceding election for such office. If an eligible candidate of a minor party is entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

"(3) An eligible candidate of a minor party or a new party in a Federal election whose candidate in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for such office in such election shall be entitled to payments under section 9006 in an amount computed as provided in paragraph (1) or (2), as the case may be, on the basis of the numbers of votes cast in such election. In the case of an eligible candidate entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under this paragraph exceeds the amount of the entitlement under pragraph (2).

"(b) LIMITATIONS.—The aggregate payments to which an eligible candidate of a political party shall be entitled under subsections (a) (2) and (3) with respect to a Federal election shall not exceed an amount equal to the lower of—

"(1) the amount of qualified campaign expenses incurred by such eligible candidate and his authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidate and such committees, or

"(2) the aggregate payments to which the eligible candidate of a major party is entitled under subsection (a) (1), reduced by the amount of contributions described in paragraph (1) of this subsection.

"(c) RESTRICTIONS.—An eligible candidate of a political party shall be entitled to payments under subsection (a) only—

"(1) to defray qualified campaign expenses incurred by such eligible candidate or his authorized committees, or

"(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or such committees) used to defray such qualified campaign expenses.

"(d) COST OF LIVING ADJUSTMENT.—

"(1) For purposes of paragraph (2):

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1973.

"(2) At the beginning of each calendar year (commencing in 1975), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Federal Election Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) (1) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"SEC. 9005. CERTIFICATIONS BY COMPTROLLER GENERAL.

"(a) INITIAL CERTIFICATIONS.—On the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 9008, the Comptroller General shall certify from time to time to the Secretary for payment to such candidates under section 9006 the payments to which such candidates are entitled under section 9004.

"(b) FINALITY OF CERTIFICATIONS AND DETERMINATIONS.—Initial certifications by the Comptroller General under subsection (a), and all determinations made by him under this chapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Comptroller General under section 9008 and judicial review under section 9012.

"SEC. 9006. PAYMENTS TO ELIGIBLE CANDIDATES

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the Federal Election Campaign Fund. The Secretary shall, as provided by appropriation Acts, transfer to the fund an amount not in excess of the sum of the amounts designated to the fund by individuals under section 6096 and such additional sums as Congress may appropriate to insure that moneys in the fund will be adequate to meet the entitlements of eligible candidates under this chapter and chapter 97 of this subtitle.

"(b) TRANSFERS TO THE GENERAL FUND.—The Secretary is authorized to transfer to the general fund of the Treasury such amounts of moneys in the fund as he determines from time to time are in excess of the amounts which eligible candidates are, or will be, entitled to receive.

"(c) PAYMENTS FROM THE FUND.—Upon receipt of a certification from the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidate out of the fund the amount certified by the Comptroller General. Amounts paid to any such candidates shall be under the control of such candidates.

"(d) INSUFFICIENT AMOUNTS IN FUND.—If, at the time of a certification by the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement.

"SEC. 9007. CONTRIBUTIONS AND EXPENDITURES BY NATIONAL AND STATE COMMITTEES OF POLITICAL PARTIES.

"(a) Notwithstanding any other provisions of this chapter, the national committee of a major party may receive contributions and make expenditures in connection with a Federal election; and a State committee of a major party, including subordinate local committees of such committee, may accept contributions and make expenditures in connection with a Federal election in such State. Contributions received by such National or State committee under this section shall be subject to the limitations provided in section 9037 of chapter 97 of this subtitle and any other limitations provided by law.

"(b) Expenditures made under this section by a national committee, or by a State committee, including subordinate local committees of such committee, shall not exceed for each National or State committee a total of 2 cents multiplied by the voting age population of the geographical area in which the committee is authorized to make expenditures, as determined by the Secretary of Commerce under the Federal Election Campaign Act of 1971.

"SEC. 9008. EXAMINATIONS AND AUDITS; REPAYMENTS.

"(a) EXAMINATIONS AND AUDITS.—After each Federal election, the Comptroller General shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for Federal office.

"(b) REPAYMENTS.—

"(1) If the Comptroller General determines that any portion of the payments made to an eligible candidate of a political party under section 9006 was in excess of the aggregate payments to which the candidate was entitled under section 9004, he shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

"(2) If the Comptroller General determines that an eligible candidate of a political party and his authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party was entitled under section 9004, he shall notify such candidate of the amount of such excess and such candidate shall pay to the Secretary an amount equal to such amount.

"(3) If the Commission determines that an eligible candidate of a major party or any authorized committee of such candidate accepted contributions (other than contributions under section 9007, or contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(d)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), he shall notify such candidate of the amount of the contributions so accepted, and such candidate shall pay to the Secretary an amount equal to such amount.

"(4) If the Comptroller General determines that any amount of any payment made to an eligible candidate of a political party under section 6096 was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses,

he shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

"(5) No payment shall be required from an eligible candidate of a political party under this subsection to the extent that such payment, when added to other payments required from such candidate under this subsection, exceeds the amount of payments received by such candidate under section 9006.

"(c) Notification.—No notification shall be made by the Comptroller General under subsection (b) with respect to a Federal election more than 3 years after the day of such election.

"(d) Deposit of Repayments.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

"Sec. 9009. Information on Proposed Expenses.

"(a) Reports by Candidates.—A candidate of a political party for Federal office in a Federal election shall, from time to time, as the Comptroller General may require, furnish to the Comptroller General a detailed statement, in such form as the Comptroller General may prescribe, of—

"(1) the qualified campaign expenses incurred by him and his authorized committees prior to the date of such statement (whether or not evidence of such expenses has been furnished for purposes of section 9005), and

"(2) the qualified campaign expenses which he and his authorized committees propose to incur on or after the date of such statement.

The Comptroller General shall require a statement under this subsection from such candidates of each political party at least once each week during the second, third, and fourth weeks preceding the day of the Federal election and at least twice during the week preceding such day.

"(b) Publication.—The Comptroller General shall, as soon as possible after he receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information which he deems advisable, in the Federal Register. Such summary shall not include any information which identifies any individual who made a designation under section 6096.

"Sec. 9010. Reports to Congress; Regulations.

"(a) Reports.—The Comptroller General shall, as soon as practicable after each Federal election, submit a full report to the Senate and House of Representatives setting forth—

"(1) the qualified campaign expenses (shown in such detail as the Comptroller General determines necessary) incurred by the candidates of each political party and their authorized committees;

"(2) the amounts certified by him under section 9005 for payment to the eligible candidates of each political party; and

"(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) Regulations, Etc.—The Comptroller General is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 9008 (a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as he deems necessary to carry out the functions and duties imposed on him by this chapter.

"Sec. 9011. Participation by Comptroller General in Judicial Proceedings.

"(a) Appearance by Counsel.—The Comptroller General is authorized to appear in and defend against any action filed under section 9012, either by attorneys employed in his office or by counsel whom he may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation he may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Recovery of Certain Payments.—The Comptroller General is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of examination and audit made pursuant to section 9008.

"(c) Declaratory and Injunctive Relief.—The Comptroller General is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Comptroller General, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"(d) Appeal.—The Comptroller General is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which he appears pursuant to the authority provided in this section.

"Sec. 9012. Judicial Review.

"(a) Review of Certification, Determination, or Other Action by the Comptroller General.—Any certification, determination, or other action by the Comptroller General made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within 30 days after the certification, determination, or other action by the Comptroller General for which review is sought.

"(b) Suits To Implement Chapter.—

"(1) The Comptroller General, the national committee of any political party, and individuals eligible to vote in an election for Federal office, are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this chapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"Sec. 9013. Criminal Penalties.

"(a) Excess Campaign Expenses.—

"(1) It shall be unlawful for an eligible candidate of a political party for Federal office in a Federal election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of those incurred under section 9007 and the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than 1 year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than 1 year, or both.

"(B) Contributions.—

"(1) It shall be unlawful for an eligible candidate of a major party in a Federal election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses (other than those received under section 9007), except to the extent necessary to make up any deficiency in payments derived out of the funds on account of the application of section 9006(d), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(12).

"(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a Federal election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

"(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than 1 year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than 1 year, or both.

"(C) Unlawful Use of Payments.—

"(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d) False Statements, Etc.—

"(1) It shall be unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this subtitle; or

"(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(e) Kickbacks and Illegal Payments.—

"(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of an eligible candidate or his authorized committees.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of an eligible candidate or his authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

"(f) Unauthorized Expenditures.—

"(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to an eligible candidate of a political party for Federal office in a Federal election knowingly and willfully to incur expenditures to further the election of such candidate, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidate, in an aggregate amount exceeding $1,000.

"(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(e), which is exempt from tax under section 501(a) in communicating to its members the views of the organization.

"(3) Any political committee which violates paragraph (1) shall be fined not more than $5,000, and any officer or member of such committee who knowingly and willfully consents to such violations and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than $5,000 or imprisoned not more than 1 year, or both.

"(g) Unauthorized Disclosure of Information.—

"(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than 1 year, or both.

"CHAPTER 96—FEDERAL ELECTION CAMPAIGN FUND ADVISORY BOARD

"Sec. 9021. Establishment of Advisory Board.

"(a) Establishment of Board.—There is hereby established an advisory board to be known as the Federal Election Campaign Fund Advisory Board (hereinafter in this section referred to as the 'Board'). It shall be the duty and function of the Board to counsel and assist the Comptroller General of the United States in the performance of the duties and functions imposed on him under the Federal Election Campaign Fund Act.

"(b) Composition of Board.—The Board shall be composed of the following members:

"(1) the majority leader and minority leader of the Senate and the Speaker and minority leaders of the House of Representatives, who shall serve ex officio;

"(2) 2 members representing each political party which is a major party (as defined in section 9002(8)), which members shall be appointed by the Comptroller General from recommendations submitted by such political party; and

"(3) 3 members representing the general public, which members shall be selected by the members described in paragraphs (1) and (2).

The terms of the first members of the Board described in paragraphs (2) and (3) shall expire on the 60th day after the date of the first Presidential election following January 1, 1976, and the terms of subsequent members described in paragraphs (2) and (3) shall begin on the 61st day after the date of a Presidential election and expire on the 60th day following the date of the subsequent Presidential election. The Board shall elect a Chairman from its members.

"(c) Compensation.—Members of the Board (other than members described in subsection (b)(1)) shall receive compensation at the rate of $75 a day for each day they are engaged in performing duties and functions as such members, including traveltime, and, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

"(d) Status.—Service by an individual as a member of the Board shall not, for purposes of any other law of the United States, be considered as service as an officer or employee of the United States.

"CHAPTER 97—PRESIDENTIAL PRIMARY MATCHING PAYMENT FUND

"Sec. 9031. Short title.
"Sec. 9032. Definitions.
"Sec. 9033. Creation of fund.
"Sec. 9034. Entitlements.
"Sec. 9035. Limitations.
"Sec. 9036. Examinations and audits; repayments.
"Sec. 9037. Limitations on contributions by individuals and on expenditures by certain other persons.
"Sec. 9038. Criminal penalties.

"Sec. 9031. Short Title.

"This chapter may be cited as the 'Presidential Primary Matching Payment Fund Act'.

"Sec. 9032. Definitions.

"For purposes of this chapter—

"(1) The term 'qualified campaign expense' means an expense—

"(A) incurred by a candidate for nomination for election to the office of President to further his nomination for such office, or by an authorized committee of such candidate to further his nomination to such office,

"(B) incurred within the matching payment period (as defined in paragraph (2)), or incurred before the beginning of such period to the extent such expense is for property services, or facilities used during such period, and

"(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or the State in which such exercise is incurred or paid. An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee.

"(2) The term 'matching payment period' means the period beginning 14 months prior to the date of the general election for President and ending on the date on which the national convention of the party for whose nomination the candidate is campaigning nominates its candidate for President.

"(3) The term 'authorized committee' means, with respect to a candidate for nomination for election to the office of President, any political committee which is authorized in writing by such candidate to incur expenses to further the election of such candidate. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidate with the Comptroller General. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"Sec. 9033. Creation of Fund.

"(a) Establishment of Campaign Fund.—There is hereby established on the books of the Treasury of the United States, as part of the Federal Election Campaign Fund established by chapter 95 of this subtitle, a special account to be known as the Presidential Primary Matching Payment Fund (hereinafter referred to in this chapter as the 'fund'). The Secretary shall transfer to the fund such amounts in the Federal Election Campaign Fund as may be necessary to meet the entitlements of candidates under this chapter.

"(b) Report to Congress.—The Secretary of the Treasury shall be the trustee of the fund and shall report to the Congress not later than March 1 of each year on the operation and status of the fund and of the Federal Election Campaign Fund during the preceding year.

"Sec. 9034. Entitlements.

"(a) Matching Payment for Contributions of $100 or Less.—Any candidate for nomination for President, or his authorized committee, is entitled, upon certification by the Comptroller General, to payments from the fund for qualified campaign expenses beginning 14 months prior to the date of the general election for President in an amount equal to the amount of each contribution received by such candidate or committee (disregarding any amount of contributions from any person to the extent that such amount exceeds $100).

"(b) Voucher.—To be eligible for the entitlement established by subsection (a), such candidate shall submit to the Comptroller General, at such times and in such form and manner as the Comptroller General may require, a matching payment entitlement voucher. Snch voucher shall include the full name of any person making a contribution together with the date, the exact amount of the contribution, the complete address of the contributor and the occupation and principal place of business, if any, for contributors of more than $100.

"(c) DETERMINATION AND CERTIFICATION BY COMPTROLLER GENERAL.—The Comptroller General shall—

"(1) make a determination, according to such procedures as he may establish, as to whether each contribution enumerated on such voucher is consistent with the provisions of section 9034(a) and 9035 of this chapter; and

"(2) certify for payment by the Secretary to such candidate an amount equal to the sum of the contributions enumerated on such voucher which meet the requirements of subsection (c)(1).

"(d) PAYMENT BY SECRETARY.—Promptly upon certification, the Secretary shall make a payment from the fund to such candidate in the amount certified by the Comptroller General.

"(e) AUTHORIZED COMMITTEE.—For the purposes of this section, the authorized committee of any candidate for nomination for President may submit an entitlement voucher pursuant to subsection (b) in behalf of such candidate, listing contributions received by such commitee eligible for payment under this chapter.

"SEC. 9035. LIMITATIONS.

"(a) CERTIFICATION BY THE COMPTROLLER GENERAL.—The Comptroller General shall not certify pursuant to section 9034(c)(2) any portion of any contribution made by any person to a candidate or committee entitled to payments under this chapter—

"(1) which, when added to other contributions made by such person to such candidate or committee in connection with the nomination of such candidate for President, exceeds $100; or

"(2) if payment from the fund of an amount equal to the amount of such contribution, or portion thereof, when added to any other payment from the fund to such candidate or committee during the matching payment period, is in excess of 5 cents multiplied by the voting age population of the United States (as certified to the Comptroller General by the Secertary of Commerce pursuant to section 104(a)(5) of the Federal Election Campaign Act of 1971).

"(b) PAYMENT BY THE SECRETARY.—The Secretary shall make no payment to a candidate or committee entitled to payments from the fund—

"(1) until the Comptroller General has certified contributions submitted by such candidate or committee, pursuant to section 9034(b), in an aggregate amount of $100,000; and

"(2) earlier than 14 months prior to the date of the general election for President.

"(3) QUALIFIED CAMPAIGN EXPENSES.—A candidate shall be eligible for payments from the fund only—

"(1) to defray qualified campaign expenses incurred by such candidate or his authorized committee, or

"(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or committee) used to defray such qualified campaign expenses.

"(d) RETURN OF UNUSED FUNDS.—Amounts received by a candidate from the fund may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred during the matching payment period for a period not exceeding 6 months after the end of the matching payment period; and all obligations having been liquidated, that potrion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the funds bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the fund.

"(e) RULES AND PROCEDURES.—The Comptroller General shall make such rules and establish such procedures as may be necessary to carry out the purposes of this chapter. All such rules and procedures shall be published in the Federal Register not less than 30 days prior to their effective date, and shall be available to the general public. The Comptroller General shall publish and make available forms for the making of such reports and statements as may be required, and a manual setting forth uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter.

"SEC. 9036. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) EXAMINATION AND AUDITS.—After each matching payment period, the Comptroller General shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates receiving payments from the fund.

"(b) REPAYMENTS.—

"(1) If the Comptroller General determines that any portion of the payments made to a candidate from the fund was in excess of the aggregate payments to which such candidate was entitled under sections 9034 and 9035, he shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

"(2) If the Comptroller General determines that any amount of any payment made to a candidate from the fund was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses, he shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

"(c) NOTIFICATION.—No notification shall be made by the Comptroller General under subsection (b) with respect to a matching payment period more than 3 years after the end of such period.

"(d) DEPOSIT OF REPAYMENT.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

"SEC. 9037. LIMITATIONS ON CONTRIBUTIONS BY INDIVIDUALS AND ON EXPENDITURES BY CERTAIN OTHER PERSONS.

"(a) No individual shall make any contributions during any calendar year to or for the benefit of any candidate which is in excess of the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $3,000.

"(b) No individual shall during any calendar year make, and no person shall accept, (1) any contribution to a political committee, or (2) any contribution to or for the benefit of any candidate, which, when added to all the other contributions enumerated in (1) and (2) of this subsection which were made in that calendar year, exceeds $25,000.

"(c)(1) No person (other than an individual) shall make any expenditure, during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, would equal $3,000.

"(2) This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate, to the national committee of a political party, to the State committee of a major political party, or to the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

"(d) The limitations imposed by subsection (a)(1) and by subsection (c) shall apply separately to each primary, primary runoff, general, and special election in which a candidate participates.

"(e)(1) Any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held shall, for purposes of this section, be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(2) Contributions made to or for the benefit of a candidate nominated by a political party for election to the office of Vice President shall be held and considered, for purposes of this section, to have been made to or for the benefit of the candidate nominated by that party for election to the office of President.

"(f) For purposes of this section—

"(1) the term 'political party' means a political party which in the next preceding Presidential election, nominated candidates for elections to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 percent of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election; and

"(2) the definitions in section 591 of title 18 shall be applicable.

"(g) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

"(h) Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed years, or both.

"SEC. 9038. CRIMINAL PENALTIES.

"(a) EXCESS CAMPAIGN EXPENSES.—

"(1) It shall be unlawful for any candidate for nomination for election to the office of President or any of his authorized committees knowingly and willfully to incur any expenses in connection with such nomination in excess in the aggregate of $15,000,000.

"(2) Any person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(3) At the beginning of each calendar year (commencing in 1975), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. The limit on campaign expenses in paragraph (1) shall be increased by such percent difference. The limit so increased shall be the amount in effect for such calendar year.

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1973.

"(b) Unlawful Use of Payments.—

"(1) It shall be unlawful for any person who receives any payment from the fund, or to whom any portion of any payment received from the fund is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) False Statements, Etc.—

"(1) It shall be unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this subtitle or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this chapter; or

"(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

"(d) Kickbacks and Illegal Payments.—

"(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of a candidate receiving payment from the fund or his authorized committees.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback of illegal payment in connection with any qualified campaign expense of a candidate or his authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.".

(b) The amendments made by subsection (a) of this section shall take effect on January 1, 1974.

Sec. 3. Designation of Income Tax Payments to Federal Election Campaign Fund

(a) Effective with respect to taxable years ending on or after December 31, 1973, section 6096(a) (relating to designation of income tax payments to the Federal Election Campaign Fund) is amended to read as follows:

"Sec. 6096. Designation by Individual.

"(a) In General.—For every individual (other than a nonresident alien) whose income tax liability for the taxable year is $2 or more, the amount of $2 shall be paid over to the Federal Election Campaign Fund in accordance with the provisions of section 9006(a), unless the individual designates that $2 shall not be paid over to the fund. In the case of a joint return of husband and wife having an income tax liability of $4 or more, the amount of $4 shall be paid to the fund, unless they designate that $4 shall not be paid over to the fund.

"(b) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1972. Any designation made under section 6096 of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1973) for the account of the candidates of any specified political party shall, for purposes of section 9006(a) of such Code, as amended, be treated solely as a designation to the Federal Election Campaign Fund."

Sec. 4. Increase in Tax Credit and Tax Deduction for Political Contributions.

(a) Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to maximum credit for contributions to candidates for public office) is amended to read as follows:

"(1) Maximum Credit.—The credit allowed by subsection (a) for a taxable year shall not exceed $25 ($50 in the case of a joint return under section 6013).". (b) Section 218(b)(1) of the Internal Revenue Code of 1954 (relating to amount of deduction for contributions to candidates for public office) is amended to read as follows:

"(1) Amount.—The deduction under subsection (a) shall not exceed $100 ($200 in the case of a joint return under section 6013).".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any political contribution the payment of which is made after December 31, 1973.

The PRESIDING OFFICER. On this amendment, there will be a time limitation of 6 hours of debate, to be equally divided between the Senator from Massachusetts (Mr. Kennedy) and the Senator from Louisiana (Mr. Long).

Mr. KENNEDY. Mr. President, I yield to the Senator from California (Mr. Cranston) for a unanimous-consent request.

Mr. CRANSTON. Mr. President, I ask unanimous consent that James Verdier of the staff of the Senator from Minnesota (Mr. Mondale) may have the privilege of the floor during the consideration of this entire measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself such time as I may require to discuss amendment No. 651, which I am offering on behalf of myself and Senators Cranston, Hart, Mathias, Mondale, Schweiker, Hugh Scott, Stafford, and Stevenson.

In addition to these 9 sponsors, the amendment is also cosponsored by 27 other Members of the Senate: Senators Abourezk, Bayh, Biden, Case, Chiles, Clark, Eagleton, Fulbright, Gravel, Hartke, Hughes, Humphrey, Inouye, Jackson, Javits, Mansfield, McGee, McIntyre, Moss, Muskie, Nelson, Percy, Randolph, Ribicoff, Tunney, Williams, and Young.

The amendment builds on the dollar check-off in existing law—the Presidential Election Campaign Fund Act passed by Congress and signed into law by President Nixon in 1971—in two principal ways: It provides full Federal financing for Senate and House general elections, and it provides partial Federal financing for Presidential primaries through matching grants for small private contributions, in accord with the following basic guidelines:

For Senate general elections, the provisions of the dollar check-off in existing law are carried over essentially intact: 15 cents per voter in Federal funds will be available for major party candidates, and proportional amounts will be available for minor party candidates, based on their showing in the preceding election or the current election.

For House general elections, the sum of $90,000 is provided for major party candidates. In the case of statewide congressional elections, the figure is $175,000. These amounts are the spending limits for House elections contained in S. 372, already passed by the Senate earlier this year.

In Presidential, Senate, and House general elections, a modest role is provided for major political parties by authorizing national and State committees to solicit private contributions and to spend up to 2 cents per voter each on elections in their jurisdictions. In other respects, private contributions are prohibited in general elections.

For Presidential primaries, matching grants of public funds will be available for each private contribution up to $100. A threshold of $100,000 in private contributions is required before matching payments begin, and the first $100,000 is matchable. There are ceilings of $7 million on matching payments and $15 million on overall spending in such primaries.

To insure that the election campaign dollar checkoff on the tax form is doubled to $2 for each taxpayer or $4 on a joint return, and the current "positive" checkoff is turned into a "negative" checkoff, by reqiuring taxpayers to indicate that they do not want $2 of their taxes to be paid into the public financing fund. Congress is authorized to appropriate additional sums to make up deficits in the checkoff.

As an incentive for small contributions, the existing tax credit for such contributions is doubled to one-half of contributions up to $25—$50 on a joint return—and the existing tax deduction is doubled to $100—$200 on a joint return. The estimated revenue loss from these two provisions is $18 million.

I am convinced that most, and probably all, of the very serious problems facing this country today have their roots in the way we finance political campaigns for high Federal office. We would have a different America today if the political power of campaign contributors were measured by their votes and voices instead of by their pocketbooks.

Beyond any doubt, the year-long revelations of Watergate demonstrate the insidious influence of private money in American politics. When some of the most distinguished corporations in the Nation—familiar names like American Airlines, Goodyear Tire, Gulf Oil, and Minnesota Mining and Manufacturing—confess to crimes involving blatant violations of the existing Federal election laws, we begin to understand the irresistible pressures that are corrupting our national life. If 1972 was unique at all in campaign financing, it was unique only in the unscrupulous intensity and efficiency with which the contributions were so successfully solicited.

Today, we have the chance to change all that, to move campaign financing out of the shadows of the special interests and into the sunlight of real democracy. The only effective way to heal the system is to eliminate the corrosive power of private money in public life by establishing a comprehensive program of public financing for elections to Federal office.

In line with that goal, and as a result of many discussions over past weeks, nine Senators who have been principal sponsors of public financing legislation in this session of the Congress are proposing this joint bipartisan amendment to the Debt Ceiling Act. Our amendment draws heavily on the approach of each of the Senators, including the Mondale-Schweiker bill for Presidential primaries and general elections, the Hart bill for public financing of congressional elections and primaries; the Stevenson-Mathias bill for public financing of congressional elections, the Cranston bill for comprehensive public financing of primaries and general elections and the Kennedy-Scott bill for Senate and House general elections.

I urge the Senate to use this occasion of the Debt Ceiling Act to take this major and positive step toward restoring the integrity of our political system. The Debt Ceiling Act has frequently been a vehicle in the past for amendments of overriding public importance, and it is entirely appropriate that it should now become the vehicle for public financing of elections.

We are legislating today, not just for 1974 or 1976, but for the health of our democracy and the future of the country. The people are far ahead of the politicians on this issue. They are watching us on Watergate and we should not let this moment pass to put the Nation's house in order.

Finally, in offering the amendment, we pay tribute to Senator RUSSELL LONG. Theodore Roosevelt may be the grandfather of public financing in the American political system, but Senator LONG is the father, the guiding force. Without his continuing efforts over the past decade, especially the enactment of the dollar checkoff in 1966, public financing today would still be where Theodore Roosevelt left it in 1907, an idea ahead of its time, instead of an idea whose time has so clearly come that every person in public life ignores it at his peril.

Attached is a detailed summary of the amendment, together with a package of materials relating to the issue: A State-by-State table of spending levels for Senate races, some collected quotations, a detailed summary of the amendment, excerpts from the proposed IRS tax forms for 1973, some illustrative examples of the application of the amendment to Senate elections, a table of Senate election returns for 1968, 1970, and 1972, a recent Gallup poll, and an editorial from the Washington Star-News of November 24, 1973, urging support for the amendment.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC FINANCING FOR SENATE GENERAL ELECTIONS STATE-BY-STATE SPENDING

]15 cents per voter per $175,000 floor]

State	Voting age population (18 years and over)[1]	Amount of public funds
Alabama	2, 294, 000	$344, 100
Alaska	194, 000	175, 000
Arizona	1, 262, 000	189, 300
Arkansas	1, 326, 000	198, 900
California	13, 910, 000	2, 086, 500
Colorado	1, 560, 000	234, 000
Connecticut	2, 083, 000	312, 450
Delaware	369, 000	175, 000
District of Columbia	527, 000	175, 000
Florida	5, 087, 000	763, 050
Georgia	3, 067, 000	460, 050
Hawaii	526, 000	175, 000
Idaho	487, 000	175, 000
Illinois	7, 508, 000	1, 126, 200
Indiana	3, 477, 000	521, 550
Iowa	1, 924, 000	288, 600
Kansas	1, 538, 000	230, 700
Kentucky	2, 191, 000	328, 650
Louisiana	2, 348, 000	352, 200
Maine	683, 000	175, 000
Maryland	2, 679, 000	401, 850
Massachusetts	3, 937, 000	590, 550
Michigan	5, 876, 000	881, 400
Minnesota	2, 542, 000	381, 300
Mississippi	1, 426, 000	213, 900
Missouri	3, 223, 000	483, 450
Montana	468, 000	175, 000
Nebraska	1, 021, 000	153, 150
Nevada	347, 000	175, 000
New Hampshire	513, 000	175, 000
New Jersey	4, 986, 000	747, 900
New Mexico	657, 000	175, 000
New York	12, 626, 000	1, 893, 900
North Carolina	3, 468, 000	520, 200
North Dakota	411, 000	175, 000
Ohio	7, 130, 000	1, 069, 500
Oklahoma	1, 797, 000	269, 550
Oregon	1, 487, 000	223, 050
Pennsylvania	8, 174, 000	1, 226, 100
Rhode Island	668, 000	175, 000
South Carolina	1, 719, 000	257, 850
South Dakota	444, 000	175, 000
Tennessee	2, 710, 000	406, 500
Texas	7, 614, 000	1, 142, 100
Utah	690, 000	175, 000
Vermont	304, 000	175, 000
Virginia	3, 182, 000	477, 300
Washington	2, 310, 000	346, 500
West Virginia	1, 209, 000	181, 350
Wisconsin	2, 965, 000	444, 750
Wyoming	226, 000	175, 000
United States	139, 172, 000	20, 875, 800

[1] Department of Census estimate, voting age population, July 1, 1972, pursuant to the Federal Election Campaign Act of 1971, Public Law 92-225.

QUOTATIONS ON PUBLIC FINANCING

As a general rule, those who wish to win favor with a Prince offer him the things they most value and in which they see that he will take most pleasure; so it is often seen that rulers receive presents of horses, arms, pieces of cloth of gold, precious stones, and similar ornaments worthy of their station. Niccolo Machiavelli, The Prince, 1532.

Judges and Senates have been bought with gold. Alexander Pope, Essay on Man, 1733.

Corrupt influence is itself the principal spring of all prodigality and of all disorder; it loads us more than millions of debt; takes away vigor from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our Constitution. Edmund Burke, Speech on Economic Reform, 1780.

The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties. President Theodore Roosevelt, State of the Union Message to Congress, December 3, 1907.

I believe that our ultimate goal should be to finance the total expense for this vital function of our democracy with public funds, and to prohibit the use or acceptance of money from private sources. . . . We are ready to make a beginning. We should proceed with all prudent speed to enact those parts of such a program which appear to be feasible at this time. President Lyndon Johnson, Message to Congress on "Public Participation in the Processes of Government," May 25, 1967.

We have put a dollar sign on public service, and today many capable men who would like to run for office simply can't afford to do so. Many believe that politics in our country is already a game exclusively for the affluent. This is not strictly true; yet, the fact that we may be approaching that state of affairs is a sad reflection on our election system. President Dwight D. Eisenhower, 1968.

The talk of an "office market" and of putting high executive and diplomatic missions on the auction block—all this breeding of suspicion and cynicism—would disappear overnight if the primary cause of the evil were obliterated at its roots. If there are no bidders, there can be no auction. Henry Cabot Lodge, The Storm Has Many Eyes, 1973.

Under the existing laws, a large part of the money raised from the business community for political purposes is given in fear of what would happen if it were not given. A fair and honest law is one that would remove the need of any candidate to exert such pressures, as well as the need for any businessman to respond. . . . I urge the business community to get behind campaign financing legislation that will really work, and that will put a stop to pressures to which officers of companies are subject when solicited for campaign contributions.—George Spater, Chairman of the Board, American Airlines, July 6, 1973.

The U.S. public for two decades has favored placing a top limit on campaign spending for presidential and congressional elections. Now, following disclosures from the Senate Watergate hearings, a substantial majority of the public is prepared to have the federal government provide a fixed amount of money for campaigns, prohibiting all contributions from private sources.

In fact, a growing number of American citizens would favor such a plan, with 65 percent in the latest nationwide survey expressing support, compared to 53 percent in a survey taken in early June shortly after the Watergate hearings got underway.

The big change since June has come about among Republicans, with 64 percent in the current survey favoring federal financing of campaigns compared to 44 percent in June, a change of 20 percentage points. Republicans now hold views closely comparable to those of Democrats. George Gallup, September 29, 1973.

The time has come to establish public financing of election campaigns for Federal office on a direct, systematic and substantial basis. Such a program would impose no great drain on the treasury. . . . I am afraid that nothing short of a significant degree of public financing will get at the root of the problem. Henry Ford, II, Chairman of the Board, Ford Motor Company, October 18, 1973.

OUTLINE OF PUBLIC FINANCING AMENDMENT TO THE DEBT CEILING ACT

PRESIDENTIAL PRIMARIES; SENATE AND HOUSE GENERAL ELECTIONS

Purpose

1. The amendment builds on existing law, which provides public financing for Presidential general elections, by extending its provisions to include public financing for Presidential primaries and the Senate and House general elections.

Existing law

2. The existing law is Senator Russell Long's "Presidential Election Campaign Fund Act," known as the dollar check-off. The Act, as passed by Congress in 1971 and amended

in 1973, establishes public financing for Presidential general elections. Except as provided in this summary, the provisions of the proposed amendment are essentially identical to the provisions of the dollar check-off now applicable to Presidential general elections.*

General provisions on public financing

3. The amendment establishes a Federal Election Campaign Fund on the books of the Treasury as an expanded version of the existing Presidential Election Campaign Fund, to be funded through the dollar check-off and general appropriations acts of Congress. Payments from the Fund will be made to eligible major and minor party candidates, according to specified entitlements. Amendments to the check-off on the Debt Ceiling Act of July 1, 1973, have now eliminated the so-called "Special Accounts" in the existing Fund, and have left only a "General Account," to be allocated by formula among Presidential candidates. Under the proposed amendment, the General Account would be broadened to provide funds for Presidential primaries and for Senate and House general elections.

4. The amendment increases the amount of the dollar check-off from the existing level of $1 ($2 on a joint return) to $2 ($4 on a joint return).

5. It modifies the check-off to require taxpayers to indicate that they do *not* want their tax dollars paid into the Federal Election Campaign Fund.

6. It authorizes Congress to appropriate funds to make up deficits left in the General Account after the operation of the dollar check-off.

7. Like the dollar check-off, the program will be administered by the Comptroller General. The Comptroller General certifies a candidate's eligibility for payments, and is responsible for conducting a detailed post-election audit and obtaining repayments when necessary.

8. There are heavy criminal penalties for exceeding the spending limits, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

9. The provisions of the amendment will go into effect for the 1974 Congressional elections and the 1976 Presidential primaries.

10. The cost of the public financing provisions of the amendment is estimated at $200 million in a President election year and $100 million in the off-year Congressional elections. Thus, the total cost of the program over the four-year election cycle is $300 million, yielding an average cost of about $75 million a year.

Presidential general elections

11. Apart from increasing the amounts available to be checked off on tax returns, the principal change made by the amendment in the case of public financing for Presidential general elections is that the bill bars the option of private financing for such elections (except that limited private contributions may be made for the benefit of candidates through the major political parties—see paragraph 31, below). Under the existing dollar check-off, public financing is available as an alternative to private financing for such elections, and candidates electing public financing may not also use private financing, except in cases where the available public funds are insufficient to meet the candidate's full entitlement. Thus, the amendment will prevent a situation in which one candidate for President runs on public funds in the general election, while the other runs on private funds. Under existing law, the level of spending is 15¢ per voter, or approximately $21 million for each Presidential candidate of a major party.

Presidential primaries

12. Each candidate in the Presidential primaries is entitled to matching payments of public funds for the first $100 received from each individual contributor.

13. Payments begin 14 months prior to the date of the general election for President.

14. Any contribution made in connection with the candidate's campaign for nomination, in whatever year it occurs, is eligible for matching. However, all such contributions are aggregated, and no more than $100 from any contributor may be matched.

15. Candidates must accumulate $100,000 in matchable contributions before matching payments of public funds begin. To meet this requirement, a candidate may accumulate 1,000 contributions of $100 each, or 2,000 contributions of $50 each, etc. Once this threshold requirement is met, the first $100,000 in contributions will also be eligible for matching payments.

16. No candidate may receive total matching payments in excess of 5¢ for each person over the age of 18 in the United States (approximately $7 million). The 5¢ figure will be adjusted for future increases in the cost of living.

17. No candidate may spend more than $15 million in his campaign for the Presidential nomination.

18. Matching payments may be used only for legitimate campaign expenses during the pre-nomination period, and unspent payments must be returned to the Treasury.

Senate and House general elections

19. The amendment provides public funds for general and special elections for the Senate and the House, but not for primaries or run-off elections.

20. As in the case of Presidential general elections, the amendment makes public financing mandatory for Senate and House elections. Thus, it bars the option of private financing by major party candidates in such elections (except that limited private contributions may be made for the benefit of candidates through the major political parties—see paragraph 31, below).

21. The amendment follows the basic formula in the existing dollar check-off for allocating public funds among candidates of major, minor and new parties. An independent candidate is entitled to public funds on the same basis as a candidate of a party.

22. A "major party" is a party that received 25% or more of the total number of popular votes received by all candidates for the office in the preceding election, or the party with the next highest share of the votes in a case where only one party qualifies as a major party on the basis of the preceding election.

23. A "minor party" is a party that received more than 5% but less than 25% of the popular vote in the preceding election. A "new party" is a party that is not a major party or a minor party.

24. In Senate elections and Statewide Congressional elections, a candidate of a major party is entitled to receive public funds in the amount of 15¢ per eligible voter or $175,000, whichever is greater. The 15¢ figure, which will be adjusted for future increases in the cost of living, coincides both with the entitlement of Presidential candidates in the existing dollar check-off and with the spending ceiling in the Senate-passed version of S. 372. The $175,000 figure coincides with the spending floor in S. 372 for candidates in Senate and Statewide Congressional elections.

25. In House elections in States with more than one Representative, the entitlement of a major party candidate is $90,000. This figure coincides with the spending floor in S. 372 for such candidates.

26. A candidate of a minor party is entitled to receive public funds in proportion to his share of the vote in the preceding election. A candidate of a minor party may increase his entitlement on the basis of his performance in the current election.

27. A candidate of a new party is entitled to receive public funds in proportion to his share of the popular vote in the current election, if he receives more than 5% of the vote in the election.

28. Public funds will be available for expenditures made by a candidate of a major party during the period beginning with the date on which the party nominates its candidate and ending 30 days after the election. Public funds will be available for candidates of other parties during the longest period in which they are available to a candidate of a major party.

Other provisions

29. As an incentive to small contributions, the amendment doubles the existing tax credit and tax deduction for such contributions. The tax credit would be increased to one-half of any contribution up to $50 ($100 on a joint return), and the tax deduction would be increased to $100 ($200 on a joint return). The cost of this provision, based on figures for the 1972 Presidential election year, is $18 million.

30. Individuals or committees not authorized by a candidate may not spend more than $1,000 during the campaign on behalf of the candidate, if he is eligible for public funds.

31. In order to assure the continuity of normal functions of political parties, to provide a role for the parties in the general election, and to preserve a limited opportunity for small private contributions, the national committees of major political parties are entitled to spend a total of 2¢ per voter of their own funds collected from private contributions on behalf of Presidential, Senate, and House general election candidates, and the state committees of such parties are entitled to spend a total of 2¢ per voter of such funds on behalf of Presidential, Senate, and House general election candidates within their states.

32. As noted, the public financing provisions of the amendment prohibit direct private financing of Presidential, Senate, and House general elections, although indirect and limited private financing is permitted through the major parties. To limit the undue influence of large contributions in primaries, and to limit the size of private contributions channeled through the parties in the general election, the amendment incorporates the $3,000 and other contribution limits already approved by the Senate in S. 372—see the proposed new 18 U.S.C. 615 in Section 20 of S. 372 as passed by the Senate.

EXCERPTS FROM PROPOSED IRS TAX FORMS FOR 1973

Form 1040, U.S. Individual Income Tax Return, 1973.

Page 1, line 8: Presidential Election Campaign Fund.—Check ☐ if you wish to designate $1 of your taxes for this fund. If joint return, check ☐ if spouse wishes to designate $1. Note: *This will not increase your tax or reduce your refund.* See note below."

Page 1, bottom: "Note: 1972 Presidential Election Campaign Fund Designation.—Check ☐ if you did not designate $1 of your taxes on your 1972 return, but now wish to do so. If joint return, check ☐ if spouse did not designate on 1972 return but now wishes to do so."

A similar provision and rate are contained on the Short Form, 1040A.

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* See the "Presidential Election Campaign Fund Act," P.L. 92–178, 85 Stat. 497, 562–575 (December 10, 1971), as amended by the Debt Ceiling Act, P.L. 93–53, 87 Stat. 134, 138–139 (July 1, 1973).

ILLUSTRATIVE EXAMPLES OF PUBLIC FINANCING FOR SENATE ELECTIONS UNDER THE PROPOSED AMENDMENT TO THE DEBT CEILING ACT

(NOTE.—Some of the following 14 examples are adapted from actual Senate elections in recent years. Most of the examples are designed to illustrate the application of the dollar check-off to Senate elections involving relatively unusual situations. The dollar check-off, already applicable to Presidential general elections under existing law, was enacted in 1971 with close attention to its impact on the potential third-party presidential candidacy of Governor George Wallace. As the examples demonstrate, the formula worked out for Presidential elections can be easily applied to Senate elections.)

Typically, however, minor party candidacies have not been a significant factor in the vast majority of recent Senate elections. The official results of Senate elections in 1968, 1970, and 1972 are tabulated at the end of the examples.

In the past three Congressional election years, there have been a total of 103 Senate elections. In 14 of the 34 races in 1972, in 12 of the 35 races in 1970, and in 16 of the 34 races in 1968, only two candidates were entered—Democratic and Republican. In the other 60 races, additional candidates representing some 30 other parties were also on the ballot in those years in various states. In those 60 races, there were only seven races in which the third candidate received more than 5% of the vote—Louisiana in 1972; Connecticut and New York in 1970; and Alabama, Alaska, Maryland and New York in 1968. In those seven races—seven out of 103 races in all—the third candidate would have qualified for partial public funding as a "minor" party candidate in the following election. In none of those seven races did the third party candidate receive more than 25% of the vote; therefore, no third candidate would have qualified as a "major" party candidate entitled to full public funding in the following election.

The 14 examples follow:

1. In the 1968 Senate election, Candidate A of the Democratic Party defeated Candidate B of the Republican Party by 50% to 48%, and Candidate C of Party X received 2% of the vote.

When the Senate seat is up again in 1974, the Democratic Party and the Republican Party are "major" parties. Their candidates are each entitled to public funds in the amount of 15¢ per vote, based on the voting age population of the State. Since Candidate C failed to reach the 5% cut-off in 1968, Party X does not qualify for public funds in 1974.

2. Same as example (1) for 1968. In the 1974 election, Candidate A of the Democratic Party defeats Candidate B of the Republican Party by 46% to 44%, and Candidate C of Party X receives 10% of the vote.

Candidate C qualifies as a "minor" party candidate on the basis of his showing in the current election (1974), since he received more than 5% of the vote. He is therefore entitled to public funds on a retroactive reimbursement basis, even though he did not qualify for public funds in advance of the election because of the low showing of Party X in 1968. Candidate C would be entitled to 10/45, or 22%, of the amount of public funds given to each major party candidate, A and B. The amount is based on Candidate C's proportional share of the average vote of the two major party candidates, and is calculated as follows: $10\% \div (46\% + 44\%)/2 = 10/45 = 22\%$. Candidate C may use these public funds to make a partial reimbursement to the private contributors to his campaign in 1974.

3. In 1968, Candidate A of the Republican Party defeated Candidate B of the Democratic Party by 46% to 44%, and Candidate C of Party X won 10% of the vote.

In 1974, the candidates of the Democratic Party and the Republican Party are "major" party candidates and qualify for full public funds (15¢ per vote). The candidate of Party C is a "minor" party candidate and qualities for partial public funds in 1974, in the amount of 22% of the entitlement of each major party candidate.

4. Same as examples (1) and (2), but Party X did not run a candidate in 1968.

Candidate C of Party X qualifies retroactively for public funds in 1974 as a "new" party candidate, on the basis of his 1974 showing. He is entitled to receive 22% of the amount of public funds given to each major party candidate.

5. Same as examples (1) and (2), but Candidate C of Party X in 1968 runs as an Independent in 1974 and receives 10% of the vote.

Candidate C qualifies retroactively for public funds on the same basis as if he were the candidate of a party. He receives 22% of the amount of public funds given to each major party candidate.

6. In the 1962 election, Candidate A of the Democratic Party defeated Candidate B of the Republican Party by 53% to 37%. Independent C won 8% of the vote, and Independent Candidate D won 1% of the vote. In the 1968 election, Senator A ran as an Independent and won the election with 54% of the vote. The candidate of the Democratic Party won 31% of the vote and the candidate of the Republican Party won 15% of the vote. (Based on recent Virginia Senate elections).

If Senator A runs again as an Independent in 1974, he is entitled to full public funds (15¢ per vote), based on his 1968 showing as an Independent. The candidate of the Democratic Party in 1974 is also entitled to full public funds, because Party A qualifies as a "major" party on the basis of its 1968 showing. However, the candidate of the Republican Party in 1974 will qualify only for partial public funds, since it is a "minor" party based on its 1968 showing, even though it was a "major" party based on the 1962 election. In 1974, the Republican candidate is entitled to $15/(54+31)/2$, or 35% of the amount given to Senator A and to the Democratic candidate.

If the Republican candidate receives more than 25% of the vote in 1974, he qualifies retroactively as a "major' 'party candidate and is entitled to full public funds.

7. In 1968. Candidate A of the Republican Party defeated Independent Candidate B by 50.7% to 49.3%, and there was no candidate of the Democratic Party. (Adapted from the Virginia Governor's election in 1973.)

If Candidate B runs again as an Independent in 1974, he is entitled to full public funds. Senator A of the Republican Party will also be entitled to full public funds. If there is a candidate of the Democratic Party, he will not qualify for public funds unless he does so retroactively on the basis of his showing in the 1974 election. If Candidate B runs as the candidate of the Democratic Party in 1974, he qualifies for full public funds—not as a Democrat, but on the basis of his 1968 showing as an independent.

8. In 1968, Candidate A of the Democratic Party defeated Candidate B of the Republican Party by 78% to 22% (Based on a recent West Virginia Senate election).

In 1974, since the Democratic Party is the only "major" party on the basis of the 1968 results, the Republican Party will also qualify as a "major" party under a special provision of the amendment—it is the party with the next highest showing in the preceding election, even though its candidate in 1968 won less than 25% of the vote and would not ordinarily qualify as a "major" party.

9. In 1968, Candidate A defeated Candidate B by 60–40%. Candidate A received 45% of his vote as the candidate of the Democratic Party, and 15% of his vote as the candidate of the Liberal Party. Candidate B received 24% of his vote as the candidate of the Republican Party, and 16% of his vote as the candidate of the Conservative Party.

In 1974, the Democratic candidate qualifies as a "major" party candidate, and the Republican candidate also qualifies as a 'major" party candidate under the special provision noted in example (8). The candidates of the Liberal and Conservative Parties qualify as 'minor" party candidates. If B runs as the Conservative Party candidate, but not as the Republican Party candidate, he qualifies as a "major" party candidate, because he is entitled to accumulate his 1968 votes on an individual basis.

10. In 1968, Candidate A of the Democratic Party won the election with 55% of the vote. Candidate B of the Republican Party won 19% of the vote and Independent Candidate C won 23% of the vote. (Based on a recent Louisiana Senate election.)

In 1974, since the Democratic Party is the only "major" party on the basis of the 1968 results, the special provision of the amendment noted in example (8) allows the Republican party to qualify as a "major" party, even though it received less than 25% of the vote in 1968, and even though the Independent candidate made a better showing in 1968. If Candidate C runs again as an Independent in 1974, he qualifies for partial public funds as if he was a "minor" party candidate, the special provision does not benefit an Independent by allowing him to receive full public funding as if he were a "major" party candidate. On the other hand, as example (6) makes clear, if both an Independent candidate and the Democratic Party candidate qualify for full public funds on the basis of the preceding election, the special provision does not operate to allow the Republican candidate to qualify for full public funds. In other words, the special provision does not operate to create full public funding for a third candidate, where two candidates already qualify for full public funds on the basis of their showing in the preceding election.

11. In 1968, Candidate A of the Democratic Party run unopposed.

In 1974, Senator A qualifies for full public funds, and no other candidate qualifies for any public funds. The special provision does not operate to allow a Republican candidate to qualify for full public funds, since the Party did not run a candidate in the preceding election. Depending on his showing in 1974, however, the Republican candidate may qualify retroactively for public funds.

12. In 1962, Candidate A of the Democratic Party defeated Candidate B of the Republican Party by 54% to 43%. In 1968, the candidate of the Democratic Party received 37% of the vote; the candidate of the Republican Party received 24% of the vote; and Candidate C of the Conservative Party won the election with 39% of the vote. (Based on recent New York Senate elections.)

In 1974, the candidates of the Conservative Party and the Democratic Party each qualify for full public funding as "major" party candidates, but the candidate of the Republican Party qualifies only for partial public funding as a "minor" party candidate.

13. In 1968, Candidate A of the Republican Party defeated Candidate B of the Democratic Party by 60% to 38% and the candidate of the Conservative Party received 2% of the vote. In 1970, in the election for the other Senate seat in the State, the candidate of the Conservative Party won the election with 39% of the vote.

In 1974, when the seat of Senator A is up again, the candidates of the Democratic Party and Republican Party qualify for full public funds as "major" party candidates. If the Conservative Party runs a candidate in 1974, he does not qualify for public funds. The Party failed to qualify as a "major" or "minor" party in the preceding election for the seat in 1968, and its strong showing in the election for the State's other Senate seat in 1970 is irrelevant to the question of its entitlement to public funds in the election for the seat that is up in 1974.

14. In 1968, Candidate A of the Republican Party defeated Candidate B of the Democratic Party by 42% to 34%, and Candidate C of the Conservative Party received 26% of the vote. (Adapted from the Connecticut Senate election in 1970).

In 1974, the Republican, Democratic and Conservative Parties are each "major" parties, and their candidates are entitled to full public funding (15¢ per vote).

RECENT SENATE ELECTIONS—OFFICIAL VOTE RETURNS AS COMPILED BY CONGRESSIONAL QUARTERLY

ABBREVIATIONS FOR PARTY DESIGNATIONS

A—American.
AI—American Independent.
B—Buffalo.
C—Conservative.
CP—Consumer.
COM—Communist.
CST—Constitutional.
CVV—Concerned Voters Voice.
D—Democratic.
DFL—Democratic-Farmer-Labor.
DI—Dodd Independent.
FP—Freedom and Peace.
HR—Human Rights.
IA—Independent American.
IAL—Independent Alliance.
IG—Industrial Government.
Ind.—Independent.
LRU—La Raza Unida.
LU—Liberty Union.
N—New.
NC—National Conservative.
ND—National Democratic.
NDPA—National Democratic Party of Alabama.
P—Prohibition.
PC—People's Constitutional.
PF—Peace and Freedom.
PP—People's.
R—Republican.
RL—Right to Life.
SL—Socialist Labor.
SW—Socialist Worker.
TRT—Taxpayers Ticket.

	Votes	Percent
34 SENATE ELECTIONS IN 1972		
Alabama:		
John Sparkman (D)	654, 491	62. 3
Winton M. Blount (R)	347, 523	33. 1
Herbert W. Stone (C)	6, 838	. 6
John L. LeFlore (ND)	31, 421	3. 0
Jerome B. Couch (P)	10, 826	1. 0
Alaska:		
Gene Guess (D)	21, 791	22. 7
Ted Stevens (R)	74, 216	77. 3
Arkansas:		
John L. McClellan (D)	306, 398	60. 9
Wayne H. Babbitt (R)	248, 238	39. 1
Colorado:		
Floyd K. Haskell (D)	457, 545	49. 4
Gordon Allott (R)	447, 957	48. 4
Henry John Olshaw (IA)	7, 353	. 8
Secundo (Sal) Salazar (LRU)	13, 228	1. 4
Delaware:		
Joseph R. Biden, Jr. (D)	116, 006	50. 5
J. Caleb Boggs (R)	112, 844	49. 1
Henry M. Majka (A)	803	. 3
Herbert B. Wood (P)	175	. 1
Georgia:		
Sam Nunn (D)	635, 970	54. 0
Fletcher Thompson (R)	542, 331	46. 0
Idaho:		
William E. (Bud) Davis (D)	140, 913	45. 5
James A. McClure (R)	161, 804	52. 3
Jean Stoddard (A)	6, 885	2. 2
Illinois:		
Roman C. Pucinski (D)	1, 721, 901	37. 3
Charles H. Percy (R)	2, 867, 078	62. 2
Edward C. Gross (SL)	13, 384	. 3
Arnold F. Becchetti (COM)	6, 103	. 2
Dakin Williams (write-in)	396	0
Iowa:		
Dick Clark (D)	662, 637	55. 1
Jack Miller (R)	530, 525	44. 1
William Rocap (AI)	8, 954	. 7
Fred Richard Benton (IAL)	1, 203	. 1
Kansas:		
Arch O. Tetzlaff (D)	200, 764	23. 0
James B. Pearson (R)	622, 591	71. 4
Gene F. Miller (C)	35, 510	4. 1
Howard Hadin (P)	12, 857	1. 5
Kentucky:		
Walter (Dee) Huddleston (D)	528, 550	50. 9
Louis B. Nunn (R)	494, 337	47. 6
Helen Breeden (A)	8, 707	. 9
William E. Bartley, Jr. (PP)	6, 267	. 6
Louisiana:		
J. Bennett Johnston, Jr. (D)	598, 987	55. 2
Ben C. Toledano (R)	206, 846	19. 1
John J. McKeithen (Ind.)	250, 161	23. 0
Hall M. Lyons (A)	28, 910	2. 7
Maine:		
William D. Hathaway (D)	224, 270	53. 2
Margaret Chase Smith (R)	197, 040	46. 8
Massachusetts:		
John J Droney (D)	823, 278	34. 7
Edward W. Brooke (R)	1, 505, 932	63. 5
Donald Gurewitz (SW)	41, 369	1. 8
Michigan:		
Frank J. Kelley (D)	1, 577, 178	46. 3
Robert P. Griffin (R)	1, 781, 065	52. 3
Patrick V. Dillinger (AI)	23, 121	. 7
Thomas D. Dennis, Jr. (COM)	1, 908	0
Barbara Halpert (HR)	19, 118	. 5
James Sim (SL)	2, 127	. 1
Linda Nordquist (SW)	2, 389	. 1
Minnesota:		
Walter F. Mondale (D)	981, 310	56. 7
Philip Hansen (R)	742, 121	42. 8
Karl H. Heck (IG)	8, 192	. 5
Mississippi:		
James O. Eastland (D)	375, 102	58. 1
Gil Carmichel (R)	249, 799	38. 7
Prentiss Walker (Ind.)	14, 662	2. 3
C. L. McKinley (Ind.)	6, 203	. 9
Montana:		
Lee Metcalf (D)	163, 609	52. 0
Henry S. Hibbard (R)	151, 316	48. 0
Nebraska:		
Terry M. Carpenter (D)	265, 922	46. 8
Carl T. Curtis (R)	301, 841	53. 2
New Hampshire:		
Thomas J McIntyre (D)	184, 495	56. 9
Wesley Powell (R)	139, 852	43. 1
New Jersey:		
Paul J. Krebs (D)	963, 573	34. 4
Clifford P. Case (R)	1, 743, 854	62. 5
A. Howard Freund (A)	40, 980	1. 5
Julius Levin (SL)	10, 058	. 4
Charles W. Wiley (CVV)	33, 442	1. 2
New Mexico:		
Jack Daniels (D)	173, 815	46. 0
Pete V. Dominici (R)	204, 353	54. 0
North Carolina:		
Nick Galifianakis (D)	677, 293	46. 0
Jesse A. Helms (R)	795, 248	54. 0
Oklahoma:		
Ed Edmondson (D)	478, 212	47. 6
Dewey F. Bartlett (R)	516, 934	51. 4
William G. Roach (A)	5, 769	. 6
Joe C. Phillips (Ind.)	2, 264	. 2
Paul E. Trent (Ind.)	1, 699	. 2
Oregon:		
Wayne L. Morse (D)	425, 036	46. 2
Mark O. Hatfield (R)	494, 671	53. 7
Rhode Island:		
Claiborne Pell (D)	221, 942	53. 7
John H. Chafee (R)	188, 990	45. 7
Patrick M. DeTemple (SW)	458	. 1
John Quattrocchi (Ind.)	2, 041	. 5
South Carolina:		
Eugene N. Zeigler (D)	241, 056	36. 7
Strom Thurmond (R)	415, 806	63. 3
South Dakota:		
James Abourezk (D)	174, 773	57. 0
Robert Hirsch (R)	131, 613	43. 0
Tennessee:		
Ray Blanton (D)	440, 599	37. 8
Howard H. Baker, Jr. (R)	716, 539	61. 5
Dan East (Ind.)	7, 026	. 6
Texas:		
Barefoot Sanders (D)	1, 511, 985	44. 3
John G. Tower (R)	1, 822, 877	53. 4
Flores Amaya (LRU)	63, 543	1. 9
Tom Leonard (SW)	14, 464	. 4
Vermont (special election, Jan. 7, 1972):		
Robert T. Stafford (R)	45, 646	65. 7
Randolph T. Major (D)	23, 787	34. 3
Virginia:		
William B. Spong, Jr. (D)	643, 963	46. 1
William Lloyd Scott (R)	718, 337	51. 5
Horace E. Henderson (Ind.)	33, 912	2. 4
West Virginia:		
Jennings Randolph (D)	486, 310	66. 5
Louise Leonard (R)	245, 531	33. 5
Wyoming:		
Mike M. Vinich (D)	40, 753	28. 7
Clifford P. Hansen (R)	101, 314	71. 3
35 SENATE ELECTIONS IN 1970		
Alaska:		
Stevens, Ted (R)	47, 908	59. 6
Kay, Wendell P. (D)	32, 456	40. 4
Arizona:		
Fannin, Paul (R)	228, 284	56. 0
Grossman, Sam (D)	179, 512	44. 0
California:		
Murphy, George (R)	2, 877, 617	44. 3
Tunney, John VI (D)	3, 496, 558	53. 9
Ripley, Charles C. (AI)	61, 251	. 9
Schrer, Robert (PF)	56, 731	. 9
Connecticut:		
Weicker, Lowell P. (R)	454, 721	41. 7
Duffey, Joseph D. (D)	368, 111	33. 8
Dodd, Thomas J. (DI)	266, 497	24. 5
Delaware:		
Roth, William V. (R)	94, 979	58. 8
Zimmerman, Jacob (D)	64, 740	40. 1
Gies, Donald (A)	1, 720	1. 1
Florida:		
Cramer, William C. (R)	772, 817	46. 1
Chiles, Lawton (D)	902, 438	53. 9
Hawaii:		
Fong, Hiram L. (R)	124, 163	51. 6
Heftel, Cecil (D)	116, 597	48. 4
Illinois (special election):		
Smith, Ralph T. (R)	1, 519, 718	42. 2
Stevenson, Adlai E. III (D)	2, 065, 054	57. 4
Henderson, Lynn (SW)	8, 859	. 2
Fisher, Louis (SL)	5, 564	. 2
Indiana:		
Roudebush, Richard L. (R)	866, 707	49. 9
Hartke, Vance (D)	870, 990	50. 1
Maine:		
Bishop, Neil S. (R)	123, 906	38. 3
Muskie, Edmund S. (D)	199, 954	61. 7
Maryland:		
Beall, J. Glenn, Jr. (R)	484, 960	50. 7
Tydings, Joseph D. (D)	460, 422	48. 1
Wilder, Harvey (AI)	10, 988	1. 1
Massachusetts:		
Spaulding, Josiah A. (R)	715, 978	37. 0
Kennedy, Edward M. (D)	1, 202, 857	62. 2
Gilfedder, Lawrence (SL)	10, 378	. 5
Shaw, Mark R. (P)	5, 944	. 3
Michigan:		
Romney, Lenore (R)	858, 438	32. 9
Hart, Philip A. (D)	1, 744, 672	66. 8
Lodico, Paul (SW)	3, 861	. 1
Sim, James (SL)	3, 254	. 1
Minnesota:		
MacGregor, Clark (R)	568, 025	41. 6
Humphrey, Hubert H. (DFL)	788, 256	57. 8
Strebe, Nancy (SW)	6, 122	. 4
Braatz, William (IG)	2, 484	. 2
Mississippi:		
Stennis, John C. (D)	286, 622	88. 4
Thompson, William R. (Ind)	37, 593	11. 6
Missouri:		
Danforth, John C. (R)	617, 903	48. 1
Symington, Stuart (D)	655, 431	51. 0
Chapman, Gene (A)	10, 065	. 8
DiGirolamo, E. J. (Ind)	513	--------
Montana:		
Wallace, Harold E. (R)	97, 809	39. 5
Mansfield, Mike (D)	150, 060	60. 5
Nebraska:		
Hruska, Roman L. (R)	240, 894	52. 5
Morrison, Frank B. (D)	217, 681	47. 5
Nevada:		
Raggio, William J. (R)	60, 838	41. 2
Cannon, Howard W. (D)	85, 187	57. 6
DeSellem, Harold G. (IA)	1, 743	1. 2
New Jersey:		
Gross, Nelson G. (R)	903, 026	42. 2
Williams, Harrison A. (D)	1, 157, 074	54. 0
Job, Joseph F. (Ind)	58, 992	2. 8
O'Grady, William J. (NC)	12, 938	. 6
Mans, Joseph S. (Ind)	6, 066	. 3
Levin, Julius (SL)	4, 009	. 2
New Mexico:		
Carter, Anderson (R)	135, 004	46. 6
Montoya, Joseph M. (D)	151, 486	52. 3
Higgs, William L. (PC)	3, 382	1. 2
New York:		
Goodell, Charles (R–L)	1, 434, 472	24. 3
Ottinger, Richard L. (D)	2, 171, 232	36. 8
Buckley, James L. (C–IAL)	2, 288, 190	38. 8
Johnson, Arnold (COM)	4, 097	--------
Dawson, Kipp (SW)	3, 549	--------
Emanuel, John (SL)	3, 204	--------
North Dakota:		
Kleppe, Thomas S. (R)	82, 996	37. 8
Burdick, Quentin N. (D)	134, 519	61. 3
Kleppe, Russell (Ind)	2, 045	. 9
Ohio:		
Taft, Robert A., Jr. (R)	1, 565, 682	49. 7
Metzenbaum, Howard M. (D)	1, 495, 262	47. 4
Kay, Richard B. (AI)	61, 261	1. 9
O'Neill, John (SL)	29, 069	. 9
Pennsylvania:		
Scott, Hugh (R)	1, 874, 106	51. 4
Sesler, William G. (D)	1, 653, 774	45. 4
Gaydosh, Frank W. (CST)	85, 813	2. 4
MacFarland, W. Henry (AI)	18, 275	. 5
Johansen, Herman A. (SL)	4, 375	. 1
Maisel, Robin (SW)	3, 970	. 1
Mimms, William R. (CP)	3, 932	. 1
Rhode Island:		
McLaughlin, John J. (R)	107, 351	31. 5
Pastore, John O. (D)	230, 469	67. 5
Fenton, David N. (PF)	2, 046	. 7
Fein, Daniel B. (SW)	996	. 3

35 Senate Elections in 1970—Continued

	Votes	Percent
Tennessee:		
Brock, William E. (R)	562, 645	51. 3
Gore, Albert (D)	519, 858	47. 4
Pitard, Cecil R. (A)	8, 691	. 8
East, Dan R. (Ind)	5, 845	. 5
Texas:		
Bush, George (R)	1, 035, 794	46. 5
Bentsen, Lloyd (D)	1, 194, 069	53. 5
Utah:		
Burton, Lawrence J. (R)	159, 004	42. 5
Moss, Frank E. (D)	210, 207	56. 2
Freeman, Clyde B. (AI)	5, 092	1. 4
Vermont:		
Prouty, Winston L. (R)	91, 198	58. 9
Hoff, Philip H. (D)	62, 271	40. 2
Meyer, William H. (LU)	1, 416	. 9
Virginia:		
Garland, Ray (R)	145, 031	15. 3
Rawlings, George C. (D)	295, 057	31. 2
Byrd, Harry F., Jr. (Ind)	506, 633	53. 5
Washington:		
Elicker, Charles W. (R)	170, 790	16. 0
Jackson, Henry M. (D)	879, 385	82. 4
Massey, William (SW)	9, 255	.9
Fisk, Edison S. (B)	7, 377	.7
West Virginia:		
Dodson, Elmer H. (R)	99, 658	22. 4
Byrd, Robert C. (D)	345, 965	77. 6
Wisconsin:		
Erickson, John E. (R)	381, 297	28. 5
Proxmire, William (D)	948, 445	70. 8
Hou-Seye, Edmond E. (A)	6, 137	. 5
Boardman, Elizabeth (Ind)	2, 022	. 2
Quinn, Martha (SW)	580	0
Wiggert, Adolf (SL)	428	0
Wyoming:		
Wold, John S. (R)	53, 279	44. 2
McGee Gale, W. (D)	67, 207	55. 8

34 SENATE ELECTIONS IN 1968

	Votes	Percent
Alabama:		
Hooper, Perry (R)	201, 227	22. 0
Allen, James B. (D)	628, 774	70. 0
Schwenn, Robert P. (NDPA)	72, 669	8. 0
Alaska:		
Rasmuson, Elmer (R)	30, 286	37. 4
Gravel, Mike (D)	36. 527	45. 1
Gruening, Ernest (write-in)	14, 118	17. 4
Arizona:		
Goldwater, Barry (R)	274, 607	57. 2
Elson, Roy (D)	205, 338	42. 8
Arkansas:		
Bernard, Charles T. (R)	241, 739	40. 9
Fulbright, J. W. (D)	349, 965	59. 1
California:		
Rafferty, Max (R)	3, 329, 148	46. 9
Cranston, Alan (D)	3, 680, 352	51. 8
Jacobs, Paul (PF)	92, 965	1. 3
Colorado:		
Dominick, Peter H. (R)	459, 952	58. 6
McNichols, Stephen L. R. (D)	325, 584	41. 4
Connecticut:		
May, Edwin H., Jr. (R)	551, 455	45. 7
Ribicoff, Abraham A. (D)	655, 043	54. 3
Florida:		
Gurney, Edward J. (R)	1, 131, 499	55. 9
Collins, LeRoy (D)	892, 637	44. 1
Georgia:		
Patton, E. Earl, Jr. (R)	256, 796	22. 5
Talmadge, Herman (D)	885, 093	77. 5
Hawaii:		
Thiessen, Wayne C. (R)	34, 008	15. 0
Inouye, Daniel K. (D)	189, 248	83. 4
Lee, Oliver M. (PF)	3, 671	1. 6
Idaho:		
Hansen, George V. (R)	114, 394	39. 7
Church, Frank (D)	173, 482	60. 3
Illinois:		
Dirksen, Everett McKinley (R)	2, 358, 947	53. 0
Clark, William G. (D)	2, 073, 242	46. 6
Fisher, Louis (SL)	17, 542	. 4
Indiana:		
Ruckelshaus, William (R)	988, 571	48. 1
Bayh, Birch (D)	1, 060, 456	51. 7
Malcolm, L. Earl (P)	2, 844	. 1
Levitt, Ralph (SW)	1, 247	. 1
Iowa:		
Stanley, David M. (R)	568, 469	49. 7
Hughes, Harold E.. (D)	574, 884	50. 2
Higens, Verne M. (P)	727	.1
Kansas:		
Dole, Robert (R)	490, 911	60. 1
Robinson, William I. (D)	315, 911	38. 7
Hyskell, Joseph E. (P)	10, 262	1. 3
Kentucky:		
Cook, Marlow W. (R)	484, 260	51. 4
Peden, Katherine (D)	448, 960	47. 6
Olson, Duane F. (Ind.)	9, 645	1. 0
Louisiana: Long, Russell B. (D)	518, 586	(1)
Maryland:		
Mathias, Charles McC., Jr. (R)	541, 893	47. 8
Brewster, Daniel B. (D)	443, 367	39. 1
Mahoney, George P. (Ind.)	148, 467	13. 1
Missouri:		
Curtis, Thomas B. (R)	850, 544	48. 9
Eagleton, Thomas F. (D)	887, 414	51. 1
Nevada:		
Fike, Ed (R)	69, 068	45. 2
Bible, Alan (D)	83, 622	54. 8
New Hampshire:		
Cotton, Norris (R)	170, 163	59. 3
King, John W. (D)	116, 816	40. 7
New York:		
Javits, Jacob (R–L)	3, 269, 772	49. 7
O'Dwyer, Paul (D)	2, 150, 695	32. 7
Buckley, James L. (C)	1, 139, 402	17. 3
Ferguson, Homer (FP)	8, 775	. 1
Emanuel, John (SL)	7, 964	. 1
Garza, Hedda (SW)	4, 979	. 1
North Carolina:		
Somers, Robert V. (R)	566, 934	39. 4
Ervin, Sam J., Jr. (D)	870, 406	60. 6
North Dakota:		
Young, Milton R. (R)	154, 968	64. 8
Lashkowitz, Hershcel (D)	80, 315	33. 8
Mutch, Duane (TRT)	3, 393	1. 4
Ohio:		
Saxbe, William B. (R)	1, 928, 964	51. 5
Gilligan, John J. (D)	1, 814, 152	48. 5
Oklahoma:		
Bellmon, Henry (R)	470, 120	51. 7
Monroney, A. S. Mike (D)	419, 658	46. 2
Washington, George (A)	19, 341	2. 1
Oregon:		
Packwood, Robert W. (R)	408, 646	50. 2
Morse, Wayne (D)	405, 353	49. 8
Pennsylvania:		
Schweiker, Richard S. (R)	2, 399, 762	51. 9
Clark, Joseph S. (D)	2, 117, 662	45. 8
Gaydash, Frank W. (CST)	96, 742	2. 1
Perry, Benson (SL)	7, 198	. 2
Chertov, Pearl (SW)	2, 743	. 1
South Carolina:		
Parker, Marshall (R)	248, 708	38. 1
Hollings, Ernest F. (D)	404, 060	61. 9
South Dakota:		
Gubbrud, Archie (R)	120, 951	43. 2
McGovern, George (D)	158, 961	56. 8
Utah:		
Bennett, Wallace F. (R)	225, 075	53. 7
Weilenmann, Milton L. (D)	192, 168	45. 8
Philips, Bruce D. (PF)	2. 019	. 5
Vermont: Aiken, George D. (R–D)	157, 154	(1)
Washington:		
Metcalf, Jack (R)	435, 894	35. 3
Magnuson, Warren G. (D)	796, 183	64. 4
Hogenauer, Irwin R. (N)	2, 762	. 2
Leonard, Debbie (SW)	1, 224	. 1
Wisconsin:		
Leonard, Jerris (R)	633, 910	38. 3
Nelson, Gaylord (D)	1, 020, 931	61. 7

[1] Unopposed.

[From the New York Times, Sept. 30, 1973]

SIXTY-FIVE PERCENT IN POLL BACK U.S. CAMPAIGN AID

A substantial majority of the public favors a plan to prohibit all campaign contributions from private sources to Presidential candidates and the substitution of a system whereby the Federal Government provides a fixed sum of money for the campaigns, according to a Gallup poll.

The poll found that 65 per cent of the people think that the plan is a good idea, with a major increase in the support for Federal financing coming from Republicans.

Following disclosures at the senate Watergate committee hearings, a Gallup survey taken in June found 44 per cent of the Republicans advocating such a plan. Now 64 per cent of the Republicans think the idea is good.

AGNEW EPISODE LATER

The Gallup findings, released yesterday, were taken from a survey between Sept. 7, and 10, before the Justice Department decided, on Sept. 14, to present evidence of alleged political corruption involving Vice President Agnew to a Federal grand jury.

The poll also preceded disclosures this weekend that President Nixon's fund-raisers had collected a record $60.2-million for his re-election, $8-million more than previously acknowledged by the fund-raising committee.

A Senate Rules subcommittee concluded hearings last week on plans to finance elections from the Federal purse, which drew support from both Republicans and Democrats.

A bill to limit private contributions and spending for Federal election campaigns passed the Senate last July, but the Senate tabled a proposal calling for public financing of Presidential and congressional election campaigns.

Gallup interviewers asked 1,502 adults the following question: "It has been suggested the Federal Government provide a fixed amount of money for the election campaigns of candidates for the Presidency and for the Congress and that all private contributions from other sources should be prohibited. Do you think this is a good idea or a poor idea?"

The answers from the latest survey and those from a similar survey conducted in early June showed the following:

[In percent]

	Latest	*June*
Good idea	65	58
Poor idea	24	29
No opinion	11	13

[From the Washington Star-News, Nov. 24, 1973]

PUBLIC FINANCING RIDER

Ordinarily we are against attacking irrelevant riders to legislation moving through the Congress, but on the issue of public financing of political campaigns that may be the quickest, perhaps the only, way to get action.

Using reasoning that defies logic, common sense and the clear evidence of need as shown by Watergate, some House committee chairmen have stymied efforts to bring the matter to a vote in the House.

A bipartisan group of senators, including Maryland Republican Charles Mathias, Jr., has devised a strategy to get around the roadblock. They plan to try to tack public-financing legislation to a bill increasing the national debt ceiling. If approved by the Senate, the next step would take it to a House-Senate conference committee and, if approved there, to a vote on the conference report by both the House and Senate.

The rider would provide tax-paid matching funds for presidential primaries and total federal financing of presidential general elections. It also would provide tax money for House and Senate election campaigns.

The plan contained in the rider is not all that we would like it to be; we believe the best course is to provide full government financing of all campaigns for federal office and to outlaw private contributions entirely. But the proposal by Mathias and the others is a big first step in that direction. We hope that when it comes up in a few days, the Senate will vote favorably.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, will the distinguished floor manager of the bill yield me 15 minutes?

Mr. LONG. Is the Senator speaking for the amendment?

Mr. MONDALE. That is correct.

Mr. KENNEDY. I yield 15 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 15 minutes.

Mr. MONDALE. I thank the Senator from Massachusetts.

Mr. President, I am very much pleased to join the Senator from Massachusetts in support of the Kennedy-Scott measure, which represents the product of several different proposals to deal with the profound crisis in the way in which we fund Presidential and congressional campaigns today.

This amendment is a culmination of the joint efforts of several Senators of many divergent views on public financing who have come together in support of this amendment. Many Senators have drawn up and introduced their own bills.

The system of public financing of Presidential primaries in the amendment, for example, is taken largely from the Mondale-Schweiker Presidential Campaign Financing Act (S. 2238).

While differences of emphasis and detail remain, we are closer to a full consensus on this issue than many thought possible only a short time ago.

We have come together to work out this compromise amendment because we are convinced that there is no more important business before Congress and the Nation than this.

What is at stake here goes to the very heart of our democracy. The terrible abuses Watergate has brought to light show what can happen when government is put up for sale to the highest bidder. It is no longer government of, for, and by the people; it is government of, for, and by those who are willing and able to pay the going rate. It is more than we care to admit, a "buy America" system that we have today.

If you pay your assessment, you may get an antitrust suit killed, an airline route awarded, a tax loophole continued, a minimum wage bill vetoed, or whatever else you might need. But the average person who works every day, pays his taxes, and maybe gives 10 bucks to a candidate, cannot find anyone in Government who cares about him or about his problems.

No wonder he feels cut off from Government. No wonder he does not trust politicians. No wonder he thinks we are all crooks.

A recent Gallup poll showed that only 26 percent of the people are satisfied with the way the Nation is being governed, a drop of 11 percentage points in just 2 years. Sixty-four percent of Americans say they would not want their son to go into politics—the highest percentage in 20 years.

We cannot permit this erosion of public trust and confidence in Government to continue. Our form of government depends on the consent of the governed, and we are in deep trouble if it is withdrawn. As Lincoln once said:

> With public sentiment, nothing can fail. Without it nothing can succeed.

A great many people have lost faith in their Government, and one reason is that they have begun to see clearly how political campaigns are financed. The stench is pretty bad, and once people get a whiff of it they just want to turn away.

All of us in public life have known for years what a demeaning, compromising, and sometimes corrupting thing our present system of financing campaigns has become. The system is not getting better; it is getting worse.

And now the secret is out. The influence of money in politics is not just bad; it is rotton. And everyone knows it.

Politicians have known it all along. The public now realizes it. And those who contribute large amounts to campaigns are beginning to see it, too.

The underworld shakedown tactics disclosed by Watergate have shown many businessmen what can happen when the present system is pushed to its limits. It becomes simple extortion, the collection of protection money. American Airlines Board Chairman George Spater described it exactly when he said:

> Under existing laws, a large part of the money raised from the business community for political purposes is given in fear of what would happen if it were not given.

When businessmen feel compelled to give illegally from corporate funds, to use fake bonuses to hide contributions, and to launder their contributions in such places as Panama, Gabon, the Bahamas, Switzerland, and Mexico, it is clear that there is something terribly wrong with the existing system.

Businessmen and others who have made large contributions in the past are beginning to realize that the only solution lies in substantial public financing of political campaigns.

Henry Ford II, chairman of the board of the Ford Motor Co., said last month:

> The time has come to establish public financing of election campaigns for Federal office on a direct, systematic and substantial basis . . . I am afraid that nothing short of a significant degree of public financing will get at the root of the problem.

Board Chairman Orin E. Atkins of Ashland Oil told the Watergate Committee earlier this month that:

> The cost of these campaigns has become so exorbitant that they're going to have to be financed with public funds.

And George Spater of American Airlines earlier this year said:

> I urge the business community to get behind campaign financing legislation that will really work, and that will put a stop to pressures to which officers of companies are subject when solicited for campaign contributions.

The Labor movement in the United States is already strongly behind public financing of campaigns.

AFL–CIO Director of Legislation Andrew Biemiller said in Senate testimony earlier this year that:

> We want the Congress to put the AFL–CIO out of the business of making campaign contributions. We would be delighted if the AFL–CIO never had to raise another dime for a candidate. . . .
>
> The AFL–CIO wholeheartedly supports complete federal campaign financing for all offices and a complete bar on any private contributions to such candidates.

UAW President Leonard Woodcock has testified that:

> The alternative to sweeping, overall reform of federal elections, which must include adequate public financing, is simply to permit the rich, the super rich and the special interests to run the business of American politics. . . .
>
> The UAW International Executive Board has unanimously voted to support public financing of federal elections.

With the labor movement firmly and eloquently supporting public financing, and with the increasing disillusionment of businessmen with the present system, the time is ripe to move on this fundamental reform.

Conservative editorial writers, too, are coming to support public financing.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks an article written by Mr. James J. Kilpatrick. Mr. Kilpatrick states that he has come to the conclusion that Federal campaign financing is essential if we want to have a clean government.

The PRESIDING OFFICER. Without objection, the article will be printed at the conclusion of the Senator's remarks.

(See exhibit 1.)

Mr. MONDALE. Mr. President, the amendment now before the Senate gives us the opportunity we need. With this amendment, candidates will no longer be tempted to put the arm on businessmen, or forced to compromise their principles, in order to be elected. Their duty and their responsibility will be solely—as it should be—to their conscience and to those who elect them.

The portions of the joint amendment dealing with congressional races will be dealt with by other Senators. The portion dealing with public financing of Presidential primaries is taken largely from the bill Senator SCHWEICKER and I introduced earlier this year (S. 2238). Let me describe it briefly.

Under the amendment, a Presidential candidate in the primary or prenomination period is entitled to a matching payment from the Treasury for the first $100 or less received from each individual contributor. If more than $100 is received from a contributor, only the first $100 is matched.

To make certain that matching payments do not go to frivolous candidates, a candidate must accumulate $100,000 in matchable contributions before the first Treasury matching payments are made. A candidate would therefore have to accumulate, for example, 1,000 contributions of $100 each, 2,000 contributions of $50 each, et cetera. Only the first $100 of each contribution counts toward meeting the $100,000 requirement.

Any contributions made "in connection with" a campaign—no matter in what year they are made—are attributed to that campaign. If, for example, someone gave $100 to a Presidential candidate in 1974 for the 1976 primaries, that contribution would be eligible for matching by the Treaury and could be counted toward meeting the $100,000 qualifying requirement. However, no additional contribution from that person for the 1976 primary period would be eligible for matching.

Matching payments could begin 14 months before the Presidential general election—in September of the preceding year—for those who had accumulated $100,000 in $100 or less contributions by then.

Raising $100,000 in small contributions

is no easy matter, but it is still not beyond the capacity of a serious candidate. Preliminary GAO figures indicate, for example, that Gov. George Wallace raised over $1 million from those contributing $100 or less, while Representative SHIRLEY CHISHOLM received right around $100,000 in amounts of $100 or less.

This matching plan for Presidential primaries would be of some help with start-up costs, which are a troublesome problem in any Presidential primary public financing plan. Under our amendment, if a candidate is able to accumulate $100,000 in $100 or less contributions by the early fall of the year before the election, he or she would automatically receive another $100,000 from the Treasury, giving the campaign a substantial financial boost at a critical time.

Our amendment limits the total amount of matching payments to 5 cents per person of voting age, which now works out to about $7 million.

Candidates are also limited to spending a total of $15 million in the primary or prenomination period. This should not impose an unreasonable burden. Senator McGOVERN ran his campaign for the Democratic nomination last year for $7 million, and in 1968 Senator KENNEDY spent around $9 million, Senator McCarthy around $11 million, Governor Rockefeller around $8 million, and Richard Nixon around $11 million. The $15 million limit in our amendment would increase with cost-of-living increases, and could be divided among the States in any way the candidate thought best.

In addition to the provisions dealing with Presidential primaries, the joint amendment contains three other features which I have a special interest in.

First, there is a provision which permits a limited role for small private contributions in Presidential and congressional general elections, and at the same time permits parties to continue their traditional activities in these elections.

Under this provision, State parties are permitted to collect and spend 2 cents per eligible voter in private contributions in their States on behalf of candidates for President, House, and Senate. In addition, the major national political parties may also collect and spend 2 cents per eligible voter nationally for Presidential, House and Senate candidates. The two major national parties would therefore have a total of around $2.8 million each to spend nationwide, and the major State parties combined would have an equal amount to spend in their States.

The second feature which I believe is especially important is that incorporating the $3,000 limits on contributions adopted earlier this year by the Senate in S. 372. Under the system our amendment would set up, these limits would apply to primary elections, to private contributions to the parties in general elections, and to the contributions to minor and new parties in general elections that are permitted under the amendment. Since the primary purpose of any public financing plan is to limit the corrosive influence of large private contributions, I believe we must put a limit on these contributions in any public financing legislation we pass.

Third, the amendment adopts a provision from the earlier Mondale-Schweiker bill doubling the existing tax credit and deduction for political contributions. The tax credit would be increased to one-half of any contribution up to $50—$100 on a joint return—and the tax deduction would be increased to $100—$200 on a joint return. The Joint Committee on Internal Revenue Taxation estimates that the annual revenue loss from this provision—based on 1972 contributions—would be only $18 million. This would be in addition to the $100 million annual estimated revenue loss from the existing credit and deduction.

Mr. President, I urge the Senate to approve this amendment to the Debt Ceiling Act. It is vital that we act now, while the terrible abuses of Watergate are fresh in the minds of all of us. The opportunity for fundamental reform comes so rarely and fleetingly that we must seize it quickly before it slips through our hands.

Mr. President, in the Chamber at this moment is the distinguished manager of the bill, the Chairman of the Committee on Finance, on which committee I am privileged to serve. It was my privilege some years back to support him and to join with him the first time the Senate made a very serious effort to try to deal with the problems of private campaign funding and the inevitable compromise and occasional corruption that is involved. I cannot recall a more bitter fight than we had in some of those struggles. On one occasion we won by one vote, and lost part of the effort but kept the priciple in conference, thereby keeping a very fundamental principle alive and beginning a national debate which I hope will culminate in the adoption of a system of Federal campaign financing in this year.

I think the record is no longer arguable. It is not one that those of us in politics need to argue because we have known about it for a long time. I have never talked to one of our colleagues who did not hate the present system. It is demeaning, it takes up extraordinary amounts of time, it creates a public spectacle. In my opinion, public officials are a lot more honest than anyone has the right to expect. But the system develops an incentive that it is difficult to be under. In a democracy we should have a system that contributes to honesty or permits a person to be honest, if he wants to. It is that fundamental. We have seen it all; we have seen the compromises and corruption in essentially undenied stories where huge expenditures of money have been turned over and thereafter substantial public favors followed.

In a sense we have a system of public financing now. The American public pays and pays and pays millions and perhaps billions of dollars in extra taxes and indirect costs for a system which permits a few with enough money, and a few special interests that are so inclined, in effect to buy the government for their own purposes and at their own expense.

The record is so clear it is no longer debatable that that sort of corruption and compromise occurs in public life today as the costs of compaigns soar, and that is what costs have been doing and will continue to do.

The Presidential elections of 1972 cost nearly one-third more than 4 years before, an estimated $400 million, and, Mr. President, you do not raise $400 million by raiding children's Halloween boxes for the children's emergency fund. Too often you get it by going to people with a lot of big money and making your peace with them and getting the large money that follows; and that is usually at great expense to the American public. Now, as we have seen, as the American people look at what is happening to their democracy, it undermines respect for democracy itself.

EXHIBIT 1

[From the Washington Star-News, Aug. 3, 1973]

A WAY TO FUND CAMPAIGN

(By James J. Kilpatrick)

More than 65 years ago, President Theodore Roosevelt sent a message to the Congress. He was concerned about the high cost of the presidential campaign of 1904 and the bi-elections of 1906.

"The need for collecting large campaign funds would vanish," said the old Rough Rider, "if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties . . ."

Roosevelt's idea, in brief, was for the public financing of federal elections. It is an idea, I submit, whose time has just about come.

This represents a change of position on my part, and on the part of other conservatives who have objected to federal financing in the past. We have felt that any such program would be unwise in terms of fiscal policy, and we have argued that corollary regulations, limiting private contributions and otherwise regulating the conduct of political campaigns, would infringe upon First Amendment freedoms.

These are serious objections, and I reluctantly put them aside. What we are talking about is a complex system of appropriating public funds to be spent by private hands—by political parties and by individual candidates. Such a prospect requires, at a minimum, a network of tight controls, supervised by a massive bureaucracy. A workable plan would have to cover both primary and general elections; it would have to give account to third parties and to possibly frivolous candidates; and it might create new evils, by reviving bossism and entrenching office holders, as objectionable as the old evils it is intended to dispel.

Yet it seems to me, on balance that drastic measures are needed if we are to remove the curse of money that now corrupts our political process. If we do not learn at least this lesson from Watergate, we are doomed to repeat that wretched course of instrucion. By fixing tight limations on individual contributions, the Senate early this week moved in the right direction; yet a great deal remains to be done.

Political campaigns, of necessity, are expensive. They are especially costly, and especially difficult, for newcomers who challenge incumbents. Once we clip the wings of political angels, as the Senate proposes, some alternate plan of campaign financing will have to be provided. The present scheme of tax checkoffs and tax deductions is feeble and ineffective. Roosevelt's forthright proposal of 1907 could dispel the clouds that now shadow public confidence in public institutions.

This is the important thing. The walloping contribution from the milk producers to the Nixon campaign may have been utterly untainted by any thought of a bribe; but under the circumstances, it smacked of corruption. The $100 bills that came from Robert Vesco may have been prompted by motives of snow-white purity; but the charge is widely believed that the case bought access to high places. George Spater, chairman of the board of American Airlines, has explained why a large part of the political money given by the business community is given: "It is given in fear of what could happen if it were not given."

This pattern has to be broken. Granted, the drafting of a workable law on public financing will not be easy. This whole business of election reform, as last week's debate in the Senate made clear, is in part a choice of lesser evils as better than greater evils. The suspicious thought will not go away that some members, in the pious name of election reform, are in fact taking a leaf from the famous textbook in political science by John Wesley Dean, "Maximizing Our Incumbency, or, How to Screw Our Opponents."

Acknowledging all this, it still seems to me that a Rooseveltian experiment is worth trying. It might cost the taxpayers $100 million a year, but if the approach served to break the curse of implicit bribery, the plan would be cheap at twice that price.

Mr. ALLEN. Mr. President, will the Senator yield for a few questions?

Mr. MONDALE. I am glad to yield.

Mr. ALLEN. Is this the same amendment which was defeated by the Senate when it was offered to S. 372?

Mr. MONDALE. It is substantially different although in principle it is the same. I might ask the Senator from Massachusetts to indicate the differences.

Mr. KENNEDY. Would the Senator repeat the question?

Mr. ALLEN. I asked if the amendment under consideration is the same amendment or substantially the same amendment that the Senate defeated when it was offered as an amendment to S. 372 that was approved by the Senate.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. KENNEDY. Mr. President I yield an additional 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. KENNEDY. I would respond that part of the amendment we are considering at the present time includes matters which were debated and discussed in the amendment which the distinguished minority leader, Mr. SCOTT, and I offered earlier this year, and which was tabled on the Senate floor.

Mr. ALLEN. Did that amendment have to do with subsidizing those who seek the Presidential nominations of the major parties? I refer to the amendment that was defeated. Or is that new to this amendment?

Mr. KENNEDY. No; this aspect is new to the present amendment. The previous amendment dealt only with public financing for Senate and House general elections.

Mr. ALLEN. The amendment still would permit private contributions in the case of candidates for nomination, would it?

Mr. MONDALE. That is correct.

Mr. KENNEDY. That is correct.

Mr. ALLEN. Would it still permit contributions in the general elections?

Mr. MONDALE. It would but they would have to be through one of the State or national parties.

Mr. ALLEN. What is the advantage of this in relation to what the Senate has already done in S. 372 in limiting the overall amount that can be spent in a campaign? It looks like a subsidy added to private contributions.

Mr. MONDALE. I strongly supported S. 372 because the theory of S. 372 was this. Can we take the present system of private campaign financing and clean it up so it is honest, but limit the amount anyone can give, provide for public disclosure, and require money over $100 or $50 be in the form of a check so we do not have this cash flying around and so on? So, S. 372 is our best effort, and it is a good one, because we need to clean up the present system. But we found that when the system is made clean, no one can get enough money to get elected.

It is impossible to have a clean system of private financing which makes it remotely possible for a man running for President to ever raise enough money to get elected.

So we not only have what I think is a fundamental theory supporting public financing—namely, to try to keep government so it is responsive only to the people—but we find it practically impossible to clean up the present system and make it possible for a man to run for office and have enough money to be listened to, based on the historic amounts of money that candidates have spent in the past.

Mr. ALLEN. Do we not still have the imponderable of private contributors? They are limited in the amendment of the Senator. They are limited in S. 372. Why would that be better experienced under the Senator's amendment than in S. 372 in the matter of private contributions? Why add a public subsidy to the private contributions? That is what disturbs the junior Senator from Alabama.

Mr. MONDALE. Well, for these reasons: First of all, the one I just cited—that it is impossible to have a clean system of private funding of campaigns which will produce enough money to permit a person to run and be elected, based on all the historic costs of campaigning that have arisen in the past. That creates the incentive by which a person, recognizing the reality of that system, decides either to obey the law, and lose the election, or start cheating by taking money under the table, setting up phony committees, and the whole sordid mess which has brought government and politicians into such disrespect already.

Consequently, we think it makes sense, a great deal of sense, to use public money to keep American politics clean, so that when a person is elected he will not have accepted money from any source or in any amount which in any way compromises either his conscience or his responsibility to his constituents.

This is an old idea, as the Senator knows; it is not new. Teddy Roosevelt called for public financing of campaigns 70 years ago.

This whole sordid mess has finally gotten so sour and rotten that now American business men, who used to sort of enjoy their special privilege in American politics, realize that they are now subject to being victims, are subject to shakedowns, are subject to threatened extortions, are forced to produce under the present system vast amounts of money, are subject to being called in the middle of the night and told to produce money, almost having to have money printed, so it can be produced on the demand of the incumbent government.

We do not want that. So the way out is a system which includes public financing.

Mr. ALLEN. In other words, the Senator is saying, let the candidate or party get all the money out of the private sector he or it can, and then the Federal Government, the taxpayer, is going to pay the difference. Is that correct?

Mr. MONDALE. I do not know why the Senator from Alabama would characterize it that way.

Mr. ALLEN. How would the Senator characterize it?

Mr. MONDALE. This is designed to achieve several objectives, but, above all, honesty, responsiveness. That is the issue, I want to tell the Senator from Alabama. These are not debating points. This is not an phemeral political science concern any more. We are talking about the survival of honest democracy—nothing less than that. If the Senator from Alabama can tell me that he has a system for cleansing our present structure with private financing that will make for honesty in American politics, I would like to hear it.

Mr. ALLEN. What does the Senator now offer different with respect to contributions from the private sector?

Mr. MONDALE. What does the Senator from Alabama offer to deal with this fundamental and profound crisis in ethics in politics?

Mr. ALLEN. I was satisfied with S. 372. I notice that the distinguished Senator from Minnesota voted for it also.

Mr. MONDALE. I did, but I said at the time that the passage of a clean system for private campaign financing added another unanswerable argument for public financing; namely, that when we try to clean up private financing we so restrict the amount of money a person can raise that, in light of the cost of campaigns, the only other way we can do it and keep it clean would be through a system of public financing.

This is one of the problems of many of the Corrupt Practices Acts. They impose restrictions on spending that are unrealistic, and because they are unrealistic, because politicians could not win by obeying the law, they have the incentive of cynically violating the law, setting up phony campaign committees to get money on their own behalf, because those laws created the incentives for deceit and dishonesty in American politics. We are trying to clean that up and create a system where a person can remain honest.

Mr. ALLEN. Did I understand the Senator to say that under this measure the American taxpayer could be called on to pay up to $5 million to the various candidates who seek the nomination of the political parties for the presidency?

Mr. MONDALE. I would estimate that this bill will save the American taxpayer something like $5 billion, because he pays and pays now every time an antitrust lawsuit is fixed. That $400,000 from I.T. & T. may well have produced an antitrust suit that was fixed.

Mr. ALLEN. The Senator is not being responsive to my question.

Mr. MONDALE. Oh, yes, I am, because the present system is costing the American taxpayers billions of dollars—billions of dollars—every time the Government is compromised. For example, for years the Senator from Louisiana has fought for publication of generic drug costs, and the Senator from Louisiana can tell the Senator how cheaply one could buy drugs by the generic name if those drugs were produced in that way and sold in that way under medicare and medicaid. The reduction in the cost of drugs could save hundreds of millions of dollars and produce better care, but the drug companies do not want it, because they make hundreds of millions of dollars off that system, and the drug companies produce a lot of campaign money in order to encourage their point of view.

That is one example.

I think part of the oil crisis may be attributable to the tremendous generosity of the American oil industry.

There are many many other issues that affect our country and affect the American consumers and the taxpayers which are costing many billions of dollars.

This would be the best investment of American tax dollars ever made.

Mr. ALLEN. Would the Senator kindly answer the question which I propounded to him?

Mr. MONDALE. Yes, sir.

Mr. ALLEN. Did I understand the Senator correctly when he said that under this bill the American taxpayer could be called on to pay up to $5 million for the race of various candidates for, not the election of the President, but obtaining the nomination of the political parties for the Presidency? Is that correct?

Mr. MONDALE. What I am trying to get the Senator from Alabama to join with me in handling is this question: What are we going to do about corruption in American public life?

Mr. ALLEN. I see.

Mr. MONDALE. The Senator keeps asking me——

Mr. ALLEN. And the Senator keeps declining to answer the question. Why, I do not know. Perhaps the Senator is not proud of the provisions.

Mr. MONDALE. Perhaps the Senator can tell me why we have to keep spending $5 billion for drugs for which drug companies charge prices that are double and triple and ten times their cost? What public policy justifies that? And would it not be worth a lot of money to the drug companies to continue to have this cushy arrangement? Does not the Senator from Alabama think they contribute some money to achieve that objective?

Mr. ALLEN. I thank the Senator.

Mr. MONDALE. I thank the Senator. I yield the floor.

Mr. TAFT. Mr. President, I ask unanimous consent that James Medill, of the staff of the Elections Subcommittee of the Committee on Rules and Administration, may have the privileges of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection it is so ordered. Who yields time?

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LONG. On the time in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the time in opposition be assigned to the distinguished Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, does the distinguished Senator from Alabama want time yielded to him? I would be happy to yield him as much time as he desires.

Mr. ALLEN. Mr. President, I would like to have 15 minutes.

Mr. BENNETT. Mr. President, I yield 15 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 15 minutes.

Mr. ALLEN. Mr. President, I rise in opposition to the pending amendment which apparently would bring into the election process and the nomination for President process the matter of public financing.

I call attention to the fact, Mr. President, that on July 30 of this year, the Senate passed S. 372, the expenditures act, the Federal Election Campaign Act Amendments, by a vote of 82 yeas and 8 nays. One amendment that was offered during the deliberations of the Senate on that bill was an amendment that is substantially the same amendment as is now pending before the Senate, the so-called Kennedy-Scott-Mondale, and so forth amendment. That amendment was defeated by a large margin. The amendment is now being revived as an amendment to the debt limit bill.

Mr. President, at the proper time I plan to offer as a substitute for the pending amendment an amendment that is the identical provision that was passed by the Senate on July 30, 1973, to S. 372.

That bill, Mr. President, was hailed as an outstanding forward step in the matter of regulating campaigns, campaign receipts, and campaign expenditures. It provided for a full disclosure of campaign contributions and expenditures. It provided, I believe, for a maximum of $50 to be paid in cash. It limited to $3,000 the amount that any one person could expend.

So the Senate took that position in July of this year and sent that bill over to the House. It has not progressed very far over there.

Mr. President, if we change the course on which we have embarked—that is the reform of the election process—and greatly limit or reduce or restrict the amount of contributions and expenditures and go off after public financing and add to it private financing as well, certainly that will spell the death knell to S. 372 that is now pending in the House. The Members of the House will say, "Well, the Senate doesn't know what it wants. On July 30, it passed a bill providing for public financing. On another date in November"—if this amendment is agreed to—"the Senate went off after some hybrid plan of mixing private financing with public financing."

So, I would say that the House would not know what the Senate position is. I believe that if we stick by S. 372 and force action on those provisions, we will come up with a very fine piece of legislation.

Mr. President, I heard the distinguished senior Senator from Utah say that this amendment had about 30 minutes consideration in the Finance Committee. I do not know what committee has had hearings on it. I do not know to what extent members of the committee are familiar with its provisions.

I twice asked the distinguished Senator from Minnesota (Mr. MONDALE) if the bill did not contain provisions to the effect that there could be paid out by the American taxpayers up to approximately $5 million to other candidates for the Democratic nomination for the Presidency or for the Republican nomination for the Presidency.

It would subsidize not only general elections, but it would also subsidize many possibly here in the Senate who would receive a major subsidy under these provisions.

It would subsidize Governor Rockefeller to the extent of $5 million if he were to seek the Republican nomination. It would subsidize Governor Reagan to the same extent. It would subsidize Governor Connolly to that extent.

I do not believe the American taxpayers ought to be called on to subsidize these candidates. If I am incorrect in the conclusions I have drawn from questioning the distinguished Senator from Minnesota, I hope that I will be corrected. However, this would help to pay the campaign expenditures of the various candidates for the office of President.

That is a little bit further than I am willing to go, Mr. President. I believe that is a little bit further than the American taxpayer is going to be willing to go. It would not only subsidize general elections, but would also subsidize everyone who got the notion that he wanted to run for the presidency and gets out and gets some contributions on his own. It matches those contributions, that is, to the extent of $100 contributions.

The distinguished Senator from Minnesota did make the statement, though he was very reluctant to admit it, that there could be paid out to every major, bona fide candidate for nomination for the presidency up to an estimated $5 million.

Mr. KENNEDY. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Yes; I am glad to yield to the distinguished Senator.

Mr. KENNEDY. I am sure that the Senator would want the record to be complete in terms of his explanation of the amendment itself.

Mr. ALLEN. Yes.

Mr. KENNEDY. Of course, the Senator from Alabama understands that before any potential nominee would receive any payment of public funds under these provisions in connection with a Presidential primary, he would have to receive a substantial amount of small contributions from private individuals themselves. A candidate would have to raise $100,000 in order to get any matching funds. And then he could potentially reach the $5 million mark in public funds, on a 50-50 matching basis. Governor Rockefeller would have to do that, Governor Reagan would have to do that, and George Wallace would have to do that. And there would be no matching of any contribution that was greater than $100. That is, only the first $100 of larger contributions would qualify for matching.

Mr. ALLEN. That is correct.

Mr. KENNEDY. Candidates would have to go out and knock on doors and get those $100 contributions—not the $2 million from Clement Stone, but the $100 from the garage mechanic, and fund their campaigns that way.

The Senator is quite correct in stating that they would be able to get matching funds, if they were able to collect equal amounts of money by knocking on doors and getting that broad degree of support across America. But the Senator is quite incorrect in stating that anyone would be able to go out and milk the Federal Treasury of up to $5 million.

Mr. ALLEN. I thank the Senator, but I insist that what I have said is not at variance with what the Senator from Massachusetts has said. Of course, it is matching funds for contributions of up to $100; I recognize that and I stated that. But, as the distinguished Senator from Minnesota stated, it would authorize paying up to approximately $5 million for each man who sought the Presidential nomination, if he could obtain that much public participation.

What I cannot understand is why, under S. 372, we seek to clean up the election process—and I might say it went a long way toward doing it. Whereas the existing law was a limitation on how much can be spent for media advertising of 15 cents per person of voting age in the political jurisdiction from which the candidates seeks election, S. 372 provides 10 cents per person of voting age for all campaign expenses, and 15 cents per person of voting age for all general election expenses. So it is a great forward step.

But if we mix it up with this hybrid bill or this hybrid amendment that is now the pending question, which mixes private financing with public financing and brings in all the various candidates for the Presidency—I noted in Sunday's newspaper the results of the last Gallup poll. There were some 11 people mentioned for the Democratic nomination for the Presidency. Several of those 11 were Senators. I can think of some four right offhand. If they can get out and get private contributions of up to $5 million, then the American taxpayer is going to add, under the provisions of the pending amendment, another $5 million to go with it.

This is something that never has been proposed before, as far as I recall. Talking about public financing of Presidential elections is one thing, but it ought to be a personal effort as the candidate seeks the nomination of his party.

Mr. President, not only should the American taxpayers not finance the Presidential nomination campaigns of the various Senators and other political officeholders who seek the Presidency, but he should not finance the Presidential elections either. One of the fallacies of this amendment, the Kennedy amendment, as I see it, is that it does not eliminate private contributions. If I am wrong on that, I want to be advised. If I am wrong, I assume I will be corrected, because I was corrected a moment ago when I was not even wrong. So if I am mistaken, I daresay I will be corrected.

So, instead of substituting public financing for private financing, those who sponsor this amendment would take the benefits of private financing and then add a great big Federal subsidy in addition to that. That is what we are being called on to vote on.

Mr. KENNEDY. Mr. President, will the Senator yield

Mr. ALLEN. Yes; I am delighted to yield to the Senator.

Mr. KENNEDY. There are a number of different provisions in this amendment as to which the Senator is incorrect. He is incorrect with respect to the provisions of the amendment that apply to congressional and senatorial spending.

Mr. ALLEN. I have not got to that yet.

Mr. KENNEDY. And I would not quite accept his interpretation of the other provisions that apply to the Presidential primaries. As the Senator understands, there is virtually a complete prohibition against private contributions and expenditures in the provisions of the amendment that deal with senatorial and congressional campaigns in general elections.

Mr. ALLEN. Yes; as far as senatorial campaigns are concerned, I have not got to that.

Mr. SCHWEIKER. Mr. President, will the distinguished Senator yield further on that matter?

Mr. ALLEN. Let me finish my remarks, and then the Senator can obtain the floor.

Mr. SCHWEIKER. All right.

Mr. ALLEN. So, Mr. President, as I have stated, the amendment under consideration serves to benefit—the Senator from Massachusetts says this does not apply to senatorial and congressional races, and I had not gotten to that, but it accepts the benefits of private financing, which is already purported to have been cleaned up under S. 372 now pending in the House of Representatives—it accepts private money, and adds to it a great big Federal subsidy. There can be an estimated $5 million—

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. ALLEN. On behalf of the Senator from Utah (Mr. BENNETT), I yield myself an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, the candidates for the Democratic and Republican nominations for the Presidency can go out and get all the private money that they can get under the provisions of the bill, and then turn to the American taxpayers and say, "Put up an equal amount to what I have received in contributions from the public."

I do not believe I am quite willing to go that far, Mr. President. I think if a man seeks the Presidential nomination, it is not up to the American taxpayer to pay his way.

Who would be a prospective beneficiary under this provision of $5 million in matching funds for those seeking the nomination? Well, I would say first there are Members of the Senate who would be beneficiaries.

Governor Connally of Texas would be a beneficiary—Governor Rockefeller of New York, and Ronald Reagan of California. I would hate to see any of my tax money—I might make a private contribution to some candidate—but I would not want my money, as an American taxpayer, to be paid out to these people who are seeking the nomination of their respective parties.

Now, the Senator from Massachusetts says, "Well, it does not apply to the Senate and House." I said that I was going to get to that. This provides a subsidy, as I understand it—and if I am wrong, I am sure that I will be corrected—for every Member of the Senate and House as he runs for reelection for office in House or Senate.

I am not willing to vote for that, Mr. President.

At the proper time, I plan to offer as a substitute for the pending amendment the provisions of S. 372, which the Senate has already passed by an 82 to 8 vote.

It may be said, why pass it if we have already passed one? Well, it goes over to the House and all we need then is a conference to get it up for consideration, whereas now it might lie over there and gather dust. But this is a way to invoke the will of the Senate by adding S. 372 in lieu of the pending matter.

Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield myself 10 minutes on behalf of the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SCHWEIKER. Mr. President, it is particularly important for us to reform our system by extending public financing of general elections to the primary system. If it is important to insulate general election candidates from the dangers of undue influences of large private contributions, it is even more important to provide this similar protection to the primary itself.

Particularly in the Presidential race, candidates seeking nomination that have to rely on private interests solely to win the nomination can never be completely insulated from undue private interest demands, whether they need private money in the general election or not.

That is why, the Mondale-Schweiker bill for the first time provided Federal matching money for Presidential primaries. For primary elections, there would be a $15 million spending limit, one-half of which would be financed from a new special Treasury fund to provide matching payments for individual contributions of $100 or less to each candidate. Increases would be allowed in the amount of tax credits and tax deductions for contributions of $100 or less to help encourage small contributions by more individuals. This would enable a candidate to easily raise the difference between the spending limitations and the Treasury funds. The important fact of this system is that a candidate could conduct a significant campaign without having to become dependent on large contributors, and without becoming indebted to large contributors who might seek special influence.

I support all the provisions of today's amendment to the debt ceiling bill, and have been privileged to work actively in drafting it. I urge the full Senate to endorse this amendment, so that we can quickly provide a meaningful system of public financing of elections that can let the American people know that we intend to reform our election system in a meaningful way.

Mr. President, in addition, I wrote President Nixon last week urging his support for this campaign reform proposal. During his meeting with various Senators, Representatives, and Governors, he expressed interest in the reform of our present governmental election process. I said in my letter that few steps could better signify to the public our determination to restore faith in our Government than to enact this comprehensive system of public financing of Federal elections.

Mr. President, I ask unanimous consent to have my letter to the President printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 21, 1973.

DEAR MR. PRESIDENT: As you have indicated during the past few weeks, to the public and to members of Congress with whom you met, restoring public confidence in our electoral and governmental processes must be one of our major concerns. One of the great tragedies of the Watergate affair is the doubt about the very integrity of these processes themselevs that has arisen among the general public.

Next week, the Senate begins debate on a comprehensive amendment providing for public financing of federal election campaigns, that has been cosponsored by one-third of the Senate. Your support for this important campaign reform would be a positive step towards winning Congressional enactment, and I respectfully urge you to publicly endorse this amendment.

The amendment has been introduced to H.R. 11104, the Debt Ceiling. This, you will recall, was the means by which the existing one-dollar check-off system for Presidential General Elections was proposed by Senator Russell Long and signed into law.

The amendment, in brief, takes the following steps:

It doubles the amount of money available under the tax check-off system for Presidential general elections, and removes the option for private financing of these elections. Approximately $21 million would be available for each of the two major Presidential candidates.

It creates a new system of public financing of Presidential primary elections. Patterned after the Mondale-Schweiker bill, S. 2238, it provides for matching private contributions of $100 or less with federal money. A candidate must have received $100,000 of private contributions to be eligible for federal matching money. A spending limit of approximately $15 million for primary elections is imposed for each candidate.

It provides for public financing for Senate and House general elections, similar to the tax check-off system for Presidential races. This provision is similar to proposals for Congressional public financing offered by Senators Cranston, Hart, Kennedy, Mathias, Scott, and Stevenson.

It is clear that the campaign abuses of 1972 that have been the subject of the investigations of the Senate Watergate Committee, and the special prosecutor's office, and that have been of concern to the entire nation under the name of "Watergate" have one factor in common: excesses based on the existence of large private campaign contributions.

Therefore, there are few steps that can better signify to the public our collective determination to reform our electoral processes and to restore faith in government than to enact a comprehensive system of public financing of federal elections.

I submit this strong suggestion in response to your indication at our meeting last week that you sought ways to restore public confidence. I have enclosed a more detailed summary sheet of the Senate amendment, and hope that you will lend your voice to the growing Congressional support for its swift enactment.

Sincerely,

RICHARD S. SCHWEIKER,
U.S. Senator.

Mr. SCHWEIKER. Mr. President, today, the Senate begins debate on a comprehensive proposal for public financing of Federal elections.

I have been privileged to work with the coalition of Senators from both parties to enact this significant campaign reform.

Earlier this year, Senator MONDALE and I introduced the "Presidential Campaign Financing Act of 1973." The section of this public financing amendment today dealing with a new Federal matching payment system for Presidential primaries is taken from our bill. I am delighted that more than one-third of the Senate has endorsed this proposal.

The background for introducing a campaign reform amendment to the debt ceiling bill is clear: it is Watergate.

The scandals and allegations surrounding all of the various activities of the 1972 Presidential campaign that are under investigation have severely shaken this country. Public confidence in the integrity of our very governmental processes themselves is at an alltime low.

Two important points must remain clear to everyone:

First, it was Watergate that brought about this crisis of confidence.

Second, it was the existence of unlimited campaign money that brought about Watergate.

The seemingly endless unravelling of the Watergate affair has testified more eloquently than we ever could to the crying, overwhelming need for public financing of campaigns.

Mr. MONDALE. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCHWEIKER. I yield.

Mr. MONDALE. Earlier in this debate, the distinguished Senator from Alabama (Mr. ALLEN) asked how much money from the treasury would go toward these candidates. Of course, some would. But I made the point, and I should like to know whether the Senator from Pennsylvania agrees with me, that today the American taxpayer, the American consumer, pays many times over that amount in the direct and indirect costs of the Government which, I believe, are traceable to the disproportionate influence of big money in American politics today.

We have seen some of the sordid corruption and compromise exposed in Watergate but there is an even more pervasive influence of big money which is not properly characterized by the word "corrupt." It is the influence, the advantage, the special access that big money affords those who have it in our system of American politics.

What explains, for example, the loopholes in the American tax laws? I understand that I.T. & T., the eighth largest corporation in the world, paid only one half of a percent of its income in taxes.

The lowest paid janitor at I.T. & T. pays three, four, or five times more than that as a percentage of his income.

The influence of the drug industries has resulted in profits for many drug companies that are absolutely fantastic.

This morning the distinguished Senator from Connecticut (Mr. RIBICOFF) pointed out that last year we gave something like $1.6 billion in tax advantages to American oil companies overseas to develop oil wells, the production of which cannot be brought back to the United States.

Running all through the American Government are examples of decisions made by governmental bodies which serve the interests of the special wealthy interests in this country, which I think are in part explainable by our present system by which persons of great wealth and interests of great wealth have this special advantage and it costs Americans billions of dollars, not a few million. Would the Senator from Pennsylvania agree with that?

Mr. SCHWEIKER. Yes, I certainly agree with the distinguished Senator from Minnesota, who is my cosponsor and a principal leader of our effort in our particular bill.

I should like to elaborate at this point, because I think it goes to the very heart of the question, when the Senator asks what this measure will cost and how much of a price it is to the taxpayers.

I think we might ask ourselves what Watergate has cost us already. In going back to my State of Pennsylvania, I have talked to the young people, and I have never before seen the cynicism, the doubt, the skepticism, the disbelief that Watergate has created. At the moment, we have lost a generation of Americans who do not believe in their Government. Hopefully, it is not going to be lost forever. But we certainly have come very close to destroying the heart and the soul and the spirit of this country's political system. There is no doubt in my mind that Watergate has brought us to that point. I think that those of us in positions of responsibility have an obligation to try to restore it. I can think of no measure, no one bill, no one approach, that could so move the restoration of that confidence and renew the spirit of this country than to show that we mean business about cleaning up our political corruption.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHWEIKER. I yield myself 10 additional minutes.

Unless the present system of financing campaigns with large, special-interest, private contributions is ended, it could ruin our democracy. That is how serious I think Watergate is, and that is how serious I think our adopting an amendment of this kind is to the future of this country.

So when we talk about costs in terms of what the spirit of this country is worth, what the beliefs of the young people in our political system are worth, and what our belief is as credible Senators and Representatives in a political system that is wracked with corruption, what is that price? How can we put a dollar figure to it? I think that is really the issue here; it is that serious.

Therefore, there are few steps that can better signify to the public our collective determination to reform our electoral processes and to restore faith in government than to enact a comprehensive system of public financing of Federal elections.

It is obvious by the nature of this coalition that we have many different ideas about how to proceed. Senator MONDALE and I have a bill; Senator KENNEDY and Senator HUGH SCOTT have a bill; Senator CRANSTON, Senator MATHIAS, Senator STEVENSON, and many others have bills. We all have different ideas. That, in my opinion, is not of great import. The distinguished Senator from Alabama said that one of the reasons he was thinking of being opposed to the bill was that he never heard of this idea before, that it was never proposed before, and rightfully so. We never had a Watergate like this before, either. We never had the soul of this country challenged before. Rightfully so. Yes, it is a new idea to meet a new challenge, a new situation. He could not be more right in going to the heart of the matter. But that is not a reason to be against it; that is a reason to be for it. The whole point of this coalition is to blend together very different proposals on what to do about it, but to say in essence that we do have a common purpose, a common goal.

The Senator from California has been very helpful in getting together a signed statement of more than 50 Senators to show that while we may disagree with details, we have tried to adopt a principle and a standard of conduct that we see as essentially important to this country if the credibility of our political system is to survive. That is the issue of this amendment. That is the issue; that is the question.

It is obvious to those of us who saw what happened to the other bill that the Senator from Alabama refers to and is apparently offering as some kind of substitute that it takes some extraordinary special measures if we are going to get something like this through our legislative body.

That is why we decided to attach it to the debt ceiling bill; because we believe this is the best way to bring the issue to a head. What more important issue is there right now than the issue of whether we are going to regain the heart and soul of this political system and are going to restore faith and credibility in it? I know of no more important issue. That is why it is significant that we decided to attach it to the debt ceiling bill, because I believe it focuses the issue where it should be—at the very heart of our system.

Yes, it is a new proposal. Yes, it is unorthodox. Yes, it is what is needed in order to meet the crisis of confidence and credibility that this Government and our whole political system and those of us in it face today from our constituents, who are rightfully indignant, who are rightfully concerned, and who are rightfully questioning everyone, even those who had no part in it, who do not believe in it, and who do not approve of the kind of morality, or lack of morality, that signifies Watergate.

The only way to proceed is to show this country that we are going to strike a new standard, a new posture, a new position, a new approach, a new way of doing business; that those of us in political life can hold our heads up; that we can look other people in the eye and say that we believe in a system that is going to work, that is going to have integrity, that is going to have character, and that is going to represent what the people of this country want it to represent—a system that is going to speak as America wants it to speak today, and that is not being spoken and that is not being acted upon.

So we adopted an extraordinary procedure to meet an extraordinary situation, and I think that is our duty and obligation today as Senators and Representatives. If we miss that obligation, if we miss the principle involved, then indeed we have missed the lesson of Watergate.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I should like to ask a question of the distinguished Senator from Pennsylvania with regard to his comments.

I noted that the Senator wrote to the President of the United States, asking him if, in the light of prevailing circumstances, he would offer his support to the amendment that the Senator has joined me and many other Senators in offering. I should like to ask the Senator whether he has had a response.

Mr. SCHWEIKER. No, I have not yet heard from the President. The letter was sent last Wednesday. I have received no reply as yet.

The important item to me is going to be the nature of the reply, because I think this is a wonderful opportunity for the President to begin to restore credibility. As I mentioned a moment ago, in the meetings some of us had with the President about Watergate, this was one of the key issues. It was one of the questions I asked the President, as to just what steps were going to be taken to restore the confidence of this country in its Government and its ability to govern, and what manner of full disclosure was going to be used to do that.

Out of this discussion came a sense of urgency to do this. I can say that there is no better way, in my judgment, to demonstrate that urgency and that meaning and that import than to support an amendment such as this. Obviously, it does not have to be, as my letter suggests, this particular amendment. We all have different ideas. But I believe that an affirmative response to my letter would mean a great deal to this country at this time. So far, I have heard nothing.

Mr. CRANSTON. I agree that it would mean a great deal, and I congratulate the Senator from Pennsylvania for his initiative in asking the President for his support. I join in the wish that the President will recognize how significant his support for this measure could be and that he will give that support.

The adoption of this amendment would go a long way toward reforming the misuse of money in political campaigning in the United States. Such reform is essential in the light of all the revelations of what occurred, not only in the Presidential campaign of 1972 but also because of many other abuses of campaign financing.

Also I would like to say in the presence of the Senator from Alabama that he has noted that a similar amendment to this one was offered in July when we considered a campaign reform bill, and it was rejected. I wish to point out that I voted against that amendment, feeling that we should first seek to reform present methods of private campaign financing before seeking to achieve public campaign financing reform. I felt it important to have hearings before proceeding with public financing. I not only voted against the measure but also worked against that amendment.

I now support the amendment before the Senate, as did many others in July, because since July we have had no action other than hearings in the Senate.

The time is now to see if we can enact public financing reform.

To cover one other point, the Senator from Alabama asked why there is a mixture of public and private financing in the amendment before us. The basic reason is in part due to the Constitution. There is a feeling a prohibition would infringe on the first amendments rights of citizens to support their choices by financial contributions. If true there is a constitutional question. Therefore, we allow for private financing but we provide public financing which we hope will eliminate dependency on private financing. Once we have shown this plan will work, we can move to still lower ceilings on the amount any individual can give to a candidate. The present limit is $3,000, under the bill passed by the Senate.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. KENNEDY. I yield whatever time the Senator from Pennsylvania desires.

Mr. SCHWEIKER. Mr. President, first I ask unanimous consent that my assistant, David Fiske, may have the privilege of the floor during the debate and vote and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I wish to take a few minutes to respond to the questioning of the Senator from Alabama about private financial contributions under our coalition amendment. I would like to amplify what the Senator from California said.

It is true there is some private financing still envisaged in our proposal, but it relates to the primary elections only. We have taken several significant steps in our amendment. First, we have eliminated it in the coalition amendment in terms of the general election, the Presidential campaign, and the candidate. We also have eliminated it in terms of the general election of Senators and Representatives. So we have taken a giant step; in fact, we have taken two giant steps in terms of private contributions.

In the Presidential race, we have a combined system in the primaries of private and public money. The important thing is that we do decrease the emphasis on private contributions by combining public and private money in primaries. There is also added a $3,000 ceiling that is in the other bill the Senate approved, which is awaiting action in the House. We bring private and public money together for the Presidential primaries. The overall limit is fixed at $3,000. There would be no more $100,000 contributions in black bags or contributions of $50,000.

In House and Senate campaigns we do not have private financial contributions in general elections, and we placed a $3,000 limitation in the bill. So we have limited the contributions to $3,000.

So we have accomplished three purposes by our amendment. We have eliminated all private financing in the general elections—for Senators, Representatives, and the President. We have eliminated it to some extent in the Presidential primaries by having a combination of private and public financing. And then we have set an overall $3,000 limit that any individual can give to a candidate for a primary campaign. So I think we have it in quite proper perspective.

We have a blending of the best proposals put forth, and I think a very practical basis on which to proceed, once we have got away from the kind of campaign fund-raising basis we have just gone through.

Mr. President, I yield back the remainder of my time.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. SCHWEIKER. I yield.

Mr. ALLEN. Mr. President, I should like to find out, in view of section 9 of the amendment, which gives a candidate for office in a Federal election a subsidy of 15 cents multiplied by the voting age population for the geographical area in which he is running, whether this is just a subsidy in the amount under S. 372, which is all a candidate is allowed to spend in a Federal election for all purposes.

It would seem to me that instead of being a reform measure, the present amendment that the Senator is supporting, and of which he is a cosponsor, would permit greater expenditures which he can get out of the public till, out of the pockets of the taxpayers. He gets the full amount that a candidate is able to spend under S. 372, and it does not take into account anything he would get under the private sector.

How would the Senator explain that as a reform measure?

Mr. SCHWEIKER. I think the way to explain it is that we are going into total public financing for a general election campaign.

When we eliminate the private interest financing, the amount per se is not nearly so critical as it is in the private case, because we have eliminated the private support of a candidate. The ceiling aspect becomes somewhat secondarily important because we do not have the private interest at stake.

Mr. ALLEN. In other words, the Senator is saying that the liability or the failure to transfer it over from the private individual will go over to the taxpayer, is that correct?

Mr. SCHWEIKER. That is the whole concept of public financing, so that is correct.

Mr. ALLEN. At the time of a general election, though, private contributions are to be withdrawn in Senate and House races; is that correct?

Mr. SCHWEIKER. For the general election, yes.

Mr. ALLEN. What about the Presidential election?

Mr. SCHWEIKER. And for the Presidential election.

Mr. ALLEN. There is no private contribution for the Presidential election?

Mr. SCHWEIKER. That is correct; except what the national committees are entitled to distribute on a modest basis.

Mr. ALLEN. That comes from the taxpayers, does it not?

Mr. SCHWEIKER. No; it is private. They are allowed up to $2.8 million for contributions.

Mr. ALLEN. That is private; so there would be a mix of private and public contributions?

Mr. SCHWEIKER. That is correct.

Mr. ALLEN. So under this provision, every Senator who was up for election next year would have his campaign financed by the taxpayers; is that correct? I am talking about his campaign in a general election.

Mr. SCHWEIKER. That is correct.

Mr. ALLEN. Does the Senator think that is in the interest of good government?

Mr. SCHWEIKER. I think we just witnessed how to do it wrong the other way. If we had had an amendment like this operative during the 1972 election, we would not be seeing the horrendous torture that the Republic is going through now. I do not have any cure-all, but I do not think it would happen, and I think that is worth quite a bit of money.

Mr. ALLEN. Is the Senator speaking about senatorial elections?

Mr. SCHWEIKER. I think that is the answer.

Mr. ALLEN. What great scandals have developed in senatorial elections?

Mr. SCHWEIKER. We have had scandals develop in the past. They do not receive the prominence because they do not involve such a large total amount of money. But the principle is the same, and the question of integrity is the same.

So just because it happens on a smaller scale does not mean it is less important. There are 100 votes in this body, and if they have been brought here by special interests or if they have not been brought here by special interests is a very important part of this problem, and it is a very important principle.

Mr. ALLEN. So the Senator thinks that by moving it from private contributors over to the American taxpayers would be in the interest of good government?

Mr. SCHWEIKER. I think it would. I think the Senator will find, after Watergate, that the rank and file of this country support a significant change in the system and a better way of doing it than the way we have conjured up heretofore.

Mr. ALLEN. I notice a little interesting provision in the fact sheet put out by the sponsors of the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. BENNETT. Mr. President, I shall be glad to yield to the Senator such time as he may need.

Mr. ALLEN. Mr. President, I yield myself 10 minutes.

I ask the distinguished Senator from Pennsylvania one more question. I notice in the fact sheet put out by Senators who sponsor the amendment that they talk about a subsidy to be given to the candidates for the nomination for the Presidency. They are able to get matching money up to 5 cents per person of voting age throughout the country. That is the limit. It could run up to about $7 million, the fact sheet says. I notice that the little subsidy is being increased from time to time on a sort of cost-of-living basis.

Is that the theory of that? As the price of the cost of living goes up and the cost of politicking goes up, the candidate's subsidy automatically increases? Is that right?

Mr. SCHWEIKER. Let me say I think the Senator certainly makes a very good point, but let me also point out that a cost-of-living escalator is also in the amendment the Senator proposed. It is in S. 372, which the Senator supported. So it has the same principle in the bill the Senator is supporting.

Mr. ALLEN. I am just asking the Senator if this provides a little cost-of-living increase for the poor, neglected, taxpayer-supported candidate. Does it?

Mr. SCHWEIKER. It does, just as it does in the Senator's own amendment that he is offering.

Mr. ALLEN. I thank the Senator for his explanation.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, I yield myself such time as I may require in opposition to the measure. In the last little while we have heard a great emotional appeal to completely destroy the present political system because there has been some apparent abuse, which has not finally been established by the courts, and to replace it with a new untried, system whose sponsors cannot agree among themselves what the system should be.

They have made some kind of uneasy alliance in order to get this bill through under these circumstances, but it is clear that each of them has had a different idea as to how the problem can be solved. And again, as in July, we are asked to write this bill, completely changing our political system, on the floor of the Senate, without an opportunity to study its consequences.

When a similar proposal was offered on another bill in July, the chairman of the Committee on Rules and Administration (Mr. CANNON) agreed to hold hearings on the proposal. Hearings have been held—I understand 4 or 5 days. They have turned out a completely different bill, but we are not going to get a chance to consider the bill the hearings turned out. We are offered this combination, this agreement of convenience, and are asked to take it under circumstances which demonstrate that its sponsors have no faith in its ability to stand the scrutiny of the normal legislative process. They are trying to attach it, at the last minute, to a bill the President must sign before midnight of November 30. Otherwise, none of us will be paid, and the Federal Government will not be in a position to pay any of its bills.

This is legislation by blackmail. This is legislation with a gun at our head. If they had more faith in their proposal, they would not propose it to us under these circumstances.

Mr. President, I am not going to discuss the details of the measure; rather, I am going to discuss the philosophy behind, it, the problems that are going to be created if we move from private to public financing. I am in a very fortunate position because, since I have announced I am going to retire at the end of this term, I will not be involved again personally in the question of financing campaigns. I hope that gives me some credibility as a more or less objective observer.

I am perfectly willing to agree that there is a need for a comprehensive review and perhaps overhaul of our election campaign systems. They last too long. They are too wearing on the candidates. And they are too expensive. But, the question of how the money is going to be raised is only a small part of the problem. I think that if we chase this rabbit down the detour, we may not only postpone consideration of equally important problems, but we will create new problems which will make it more difficult to face the overall situation.

I think financing is only a small part of the problem. Let me suggest some others that ought to be looked at:

The power and effect of the media. When I ran the first time in 1950, the cost of my campaign was just one-sixth of what it cost to run the last time, in 1968, and the difference is the media.

Two, the power and effect of quasi-political movements that stand on the side of the campaign and spend money, presumably on principles and on issues, but actually and effectively on candidates. Labor unions are the oldest of these organizations. The newest is probably Common Cause, which comes to us with a great feeling of self-righteousness, but, if one follows the arguments and the advertisements and the money they spend, it is not hard to tell on which side of the political fence they come down. Nothing in this legislation will put any limit on those organizations.

Three, the problem of the function of our two-party system, our State and national parties. Nobody knows quite what would happen to the two political parties if the Federal Government were to finance the candidates. They could thumb their noses at their parties if they had enough personal charisma.

And, four, where will the individual voter fit into such a system? He is to be deprived of his freedom to support his own candidate with his money. What is he going to do? Turn off completely and assume that this is now a dueling contest between two individuals who do not care anything for him because their money is coming out of the Treasury? Or is he going to try to find some other way to use his political freedom of action?

The Senator from Pennsylvania indicated—admitted—that there are some constitutional problems in this situation. Can we deny an American citizen the right to spend his money to express his own preference for a candidate, for a party, for a bond issue, or for any kind of a political proposal from the bottom to the top.

Then, there is still another problem. If we have Federal political campaign financing, what happens to the balance between the incumbent and the challenger. I have run as a challenger. I have run as an incumbent. An incumbent has tremendous advantages that cannot really be offset if the challenger is only going to get exactly the same amount of money. One obvious advantage is the use of the frank which makes it possible for an incumbent to blanket his district with very thinly disguised political arguments. His challenging opponent has got to find the money if he is going to match this kind of advantage.

The incumbent has many other advantages. Obviously money will always be necessary in campaigns, and in the eyes of some, its substantial abuse greatly overweighs its necessary value. However, none of these effects can be neutralized simply by passing the individual's money through the tax collector's funnel and handing it out afterwards.

If it were possible to shut off all private funds and make every candidate depend solely on money coming to him from the Government, one could not under any circumstances make the effect of that money equal among the various candidates. And it is easy to sit down and list the number of factors and forces that would create the inequality.

Some campaigns are better planned than others. One may spend less money to get more effect in some campaigns. Some campaigns are better managed.

I have seen candidates with plenty of money defeated because of the comparative stupidity of the management or planning of the campaign. I have seen the effects of the absolute equality of money. The emphasis then shifts over to the nonmonetary factors. Maybe these are the ones that should become important—the moral character, the intelligence, the personality, and the physical appearance of the candidate, particularly in this day of television, the physical appearance. A good candidate with a twisted countenance or a squinted eye or something of the kind has a pretty tough time in these days of television.

I have already mentioned the candidate's position as an incumbent or challenger. The candidate, if he is an incumbent, needs to make many personal appearances.

The first time I ran for the Senate, I won because I had 9 months as a noncandidate to travel up and down my State, three times into every town.

My opponent was tied down here on the floor of the Senate. The challengers who have attempted to unseat me have had the same opportunity. However, equality in money will not balance this out.

Then, there is the candidate's relationship to special interest groups, particularly labor unions. I can speak of this with some feeling because I have been their political target from the beginning. I know something about the power of organized labor groups to benefit those candidates whom they support and to try to damage those candidates whom they oppose. To start with, they have a captive audience of something like 16 or 17 million Americans.

The candidate's standing with the media is important, too. There are many parts of this country in which the newspapers particularly, and to some extent the television stations, have different stands politically. Some candidates can only get mentioned in a derogatory fashion, while their opponents make the front pages all during the campaign.

The candidate's recognition factor and how well he is known is important. The "events and activities" are other matters beyond the candidate's control.

All of these things affect elections, and a system to balance the money in campaign funds will not wipe these things out.

I also think it is impossible to deny an individual the right to use his own money or its value equivalent in a political campaign.

Every volunteer who goes out to work for a candidate spends some of his own money. Maybe it is carfare. Maybe it is meals. Maybe it is something else. However, money is going to be spent at that level. I know and can again speak from personal experience. Organized groups such as labor unions can have their own members go out and do "volunteer work." Those activities never show up in any candidate's campaign record.

However, it is money spent by a private source for a political cause. This tactic has been used against me, although fortunately not with complete effectiveness. However, there is not any question in my mind that this can be done, because I have seen it done.

We would deny the nonunion labor candidate the right of matching that kind of support with his own money.

There are many of these groups. There is Common Cause. There is the League of Women Voters. Presumably it is a committee for education. However, practically, as I said earlier, it becomes a part of the political campaign for those candidates whom these groups support.

I cannot see that there is any essential philosophical difference between the right of a group such as that to spend its money for a candidate or the right of a corporation executive. However, we would say that he may not spend his money, that it is illegal.

The solicitation of contributions and private funds should continue as a private right. If passed through the tax funnel and then distributed by a formula, a substantial part of the funds necessarily will be used to support candidates whom some of the taxpayers personally oppose.

It is inevitable that it should be so. Let us take an example. Suppose that in a given election the Democrats have two-thirds of the votes and the Republicans have one-third. However, all of the taxpayers in that particular State are taxed equally. The money they put in is divided equally among the candidates. Then the Democrats are taxed to support the Republicans because there are more votes for the Democrats than there are for the Republicans. So, whenever we put public money into a campaign, some taxpayer is either over represented or under represented.

That is particularly true with respect to the pending bill because this bill has a gimmick in it that disturbs me very much. It says that if one does not earmark his tax return to say that he does not want to give money to the candidates, it will automatically be taken and used for these purposes. So, the unwary persons are caught, and the man who deliberately decides that he wants his money to be spent in a certain manner and does check off his tax return does not know to whom the money goes.

Of course, in a sense, this is a queer proposal, because under the bill, after they have taken all the money that is represented by marks on the tax returns, they make the difference up out of the General Treasury. So whether you mark your tax return or not, it does not matter in the end. It is just a gimmick to make you feel that maybe you have made a contribution, but if you mark it, then you do not know to whom the contributions will come.

As to all of these arguments about how campaign money buys candidates, it has been my observation as a candidate that the people who supported me with money supported me more for what I had done than for what they expected me to do, particularly after the first campaign. I made myself a record. The people who liked my record provided me with money; the people who did not like my record did not. Nobody came forward and said, "I do not like your record up to date, but if you will change it I will give you $100." That sort of thing just is not done.

Political contributions as a right are often expressions of an intensity of feeling. People get worked up, and they want to express their support or their opposition to something—usually their support.

The best example of that we can have at this point in time is the number of Americans who have bought Israeli bonds. Senators may say there is no connection between campaign financing contributions and Israeli bonds, but the spirit is the same. They feel intensely and earnestly about something; they want to express their feelings, and they are willing to express them with their money. Under this bill, there is no way to express them except to mark up the $2.

The need to get private support has a very practical value. It weeds out the candidates early who have no public support, because the ability to get support from the public as private contributions is in part a measure of a man's ability to survive the process.

But by letting the candidate know that just by filing, he becomes eligible to receive a certain amount of money, we are going to have a lot of interesting things happen. We are going to have a lot of people taking ego trips. They like to see their names in the paper, and it is not going to cost them anything. The taxpayer is going to pay for it.

This shows up in political campaigning a little bit as it is, but we will see more of it. We will see people file for political office to get their names in the paper, to get the attention that the candidate receives, when they have no intention of running for the office, but need the publicity for another purpose. If the Federal Government is going to put up the money, it is an easy way to solve that problem.

Finally, what do we do about the personal funds of the candidate? Are we going to say the candidate cannot spend any of his own money? How are we going to prevent it?

Actually, money has never been the decisive factor in Presidential elections. Between 1932 and 1952, when the Democrats controlled the White House and Congress, they spent less than the Republicans. With Roosevelt in the White House for most of that time, we Republicans, no matter how much money we spent, just could not break through.

In 1960, the money balance was as close as the election. In 1964, Goldwater outspent Johnson but could not win. In 1968, the Democrats spent more in the primaries and the Republicans spent more in the general election. The reason for that was that the Democrats spent so much in the primaries they did not have any left for the general election.

I would like to read now, as I go on through, some comments from a study prepared for the Watergate Committee. This is a committee print of November 1973:

> For all the heat generated by allegations about private campaign money, there is no body of settled scholarship to support them. No one denies that contributions sometimes play an undesirable or even corrupting role. But no system is without friction and, where the system involves money, whether it be taxation, welfare or campaign contributions, there will be abuses. Contrary to the allegations so widely heard, however, serious scholars are generally in agreement that money is only one factor influencing elections and that its impact is not, on balance, either decisive or harmful.
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> In response to the rhetorical question, "Does money win?" Dr. Herbert E. Alexander of the Citizens' Research Foundation, for example, answered that "little is known of the marginal increment per dollar or of the differential effectiveness of the various campaign techniques." Among other possibly determining factors, Alexander listed the predisposition of voters, the issues, group support, incumbency, chances for electoral victory, sympathy on the part of the mass media, and a collection of other factors (religion, divorce, and color).
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> David Adamany, who wrote a paper in 1969 entitled "Financing Politics: Recent Wisconsin Elections", reached essentially the same conclusions when argued that ". . . Even the scholarly work on campaign finance tends to concentrate on the amounts spent, the sources from which the money is raised, and the uses to which the money is put. These data are all helpful, but they do not show the relationship of campaign finance to the political environment—to the kinds of party systems, the available channels of communication, and other political and social phenomena. Not is money ordinarily viewed as a form of functional representation by groups in the community and as just one of the several ways in which groups may seek their policy objectives through the allocation of resources to the political process. . . . Yet much less attention is given to money as a form of functional representation than to the very infrequent instances in which campaign gifts are made for the purpose of procuring actions by public officials which would not have been forthcoming in the absence of contributions."
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> Alexander Heard, in his classic on campaign finance, "The Costs of Democracy," has concluded:
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> "Contrary to frequent assertions, American campaign monies are not supplied solely by a small handful of fat cats. Many millions of people now give to politics. Even those who give several hundred dollars each number in the tens of thousands.
>
> And the traditional fat cats are not all of one species, allied against common adversaries. Big givers show up importantly in both parties and on behalf of many opposing candidates."

Limiting or forbidding private campaign funding will not eliminate the power of the wealthy. In the first place, they provide basic support for the quasi-political corporations like Common Cause, which use their money to influence the campaigns indirectly. Some of them are political activists, with all the time in the world, and most importantly, they control the media.

To me, this drive for Federal control indicates a lack of faith in the ordinary citizen. If campaign financing really distorts legislative or executive behavior, candidates can raise its effect as an issue, and the voters will respond at election time.

The call for legislation thus seems based on the belief that the voters cannot be relied on to pursue their own best interests. Moreover, if one really believes the people are easily fooled, and so in need of protection, there is no end to the campaign tactics eligible for regulation, and no end to the need to increase the power of those not fooling the public.

Indeed, the most disquieting aspect of the drive to regulate campaign money is that so many of its adherents view themselves as possessing a monopoly of political truth. Thus, many of the allegations about the influence of money are based on nothing more than the fact that some pet program has not yet been approved by Congress, a fact which the supporters of those programs can explain only by corruption.

Since they alone act in the "public interest," moreover, they all too often see little need for permitting their opponents, who always pursue selfish interests, to further their vision of the truth. Consider the remarks of a representative of the National Committee for an Effective Congress—which is one of these obviously political collateral organizations, and I know that because it has opposed me ever since I ran for office—when confronted with the argument that its spending, as well as that of other groups, might be subject to legislative control. "I'm for putting us [NCEC] out of business," she said, "I think it's the only answer. The public interest groups know they can never match the amount vested interests can give. Why preserve the right to give when you know you will be at a disadvantage?"

For that matter, why preserve the right to speak when you know you will not persuade?

Mr. President, when we get to that point, we are really a long way from understanding our system.

Turning back to the report, to list some of the weaknesses of this idea of Federal financing, one allegation about providing financial subsidies to political candidates is that the temptation to engage in illegal activities would diminish. It is very interesting that in Puerto Rico they have had some experience with a program of providing government subsidies to candidates. They found there that the candidates used up the government money first and then had to go out and solicit money from private sources to carry on. In fact, activities such as the Watergate break-in are more likely to occur in campaigns where the level of normal propaganda is low than in campaigns where extensive activities of the ordinary kind take place. The argument that we can reduce the number of break-ins by limiting the amount of advertising on television and by financing campaigns with public money seems a dramatic non sequitur.

A second allegation made on behalf of subsidies is that they would increase "the opportunities for meaningful participation in * * * electoral contests without regard to the financial resources available to individual candidates." But how many would become candidates if we subsidized campaigns? Unrestricted access to such subsidies would be an incentive to everyone with a yen for publicity to become a candidate; elections would thus become an anarchic jungle with policy issues wholly obscured.

The Hart bill would provide that if a candidate got less than 10 percent of the total vote, the deposit he put up in advance would be forfeited. If he got less than 5 percent, he would have to repay whatever subsidy he had received.

If such a provision had been in effect in the last election, our former colleague from Oklahoma, Fred Harris, would have been in very serious trouble.

Third, subsidies, it is said, will "prevent the relatively few individuals who have access to a great wealth from having an excessive influence upon the presentation of competing viewpoints—and from preempting the channels of mass communication as candidates or as contributors. . . ." To be sure, subsidies combined with limits on contributions might exclude some people who are presently influential. But it does not follow that the number with effective influence would be increased. Those affluent people using free time in politics would become more powerful, as would those controlling the media. It is simply illogical to believe that taking power from one group will increase the power of those who presently lack it. Quite the contrary, power might well be concentrated in a smaller and more narrow group.

Fourth, it is alleged that public financing will help determine "the extent to which expenditure levels may be substantially higher than necessary for the conduct of a competitive, informative, and effective campaign. . . ." This statement, too, seems a non sequitur, since a subsidy tells us nothing about whether present nonsubsidized expenditures will increase or not. If we depend on the Puerto Rico experience, we can be sure that they will increase because they will add to whatever they can get from private sources through the subsidized source.

Finally, we are told that subsidies will "reduce the pressure on congressional candidates for dependence on large campaign contributions from private sources." If, however, one reduces the pressure on candidates to look to the views of contributors, to whom will the candidates look instead? They might well, in receiving campaign money from the Government, soften their views so that they do not want to get anyone excited or upset. Eliminate the need for money and we eliminate much of the motive to face up to the issues on either side. Candidates might then look more to attention-getting gimmicks than to attention-getting policy statements. A subsidy combined with spending limits might insulate incumbents both from challengers and the strongly held desires of constituents.

As I have pointed out, the use of private money is said to have weakened public confidence in the democratic process. We ought to ask, however, whether confidence is likely to be restored when taxpayers pay for campaigns they regard as frivolous, wasteful, and, in some cases, abhorrent. Would the taxpayer viewing television spots have more confidence because part of the tab came out of his paycheck? Would the voter have more confidence because he had to help pay for activities with which he disagreed? As a matter of fact, the existence of subsidies required might well decrease citizen participation and the morale of those now active in politics. That was a result in Puerto Rico where party morale declined and voter interest in party activities was reduced and the distinction between the candidate and the voter was greatly increased because the candidate had no obligation to the voter.

Public financing would also endanger the delicate balance of our party system. If the subsidy were to go largely to party organizations, they would be immensely stronger than they are now. On the other hand, if it were to go directly to candidates, party organizations would be more or less useless.

Similarly, direct subsidization of campaigns must have an enormous but uncertain impact on third parties. If a formula like that contained in the Hart bill is employed, third parties would usually have to gamble whether to take the subsidy. The "seriousness" of a party would have little to do with its decisions since early showings in the polls might look good—but all third parties always suffer later on in the campaign. They might be in a position where they would have to give the subsidies back.

Would it not still raise the serious problem as to freedom of expression?

They would be a form of compulsory political activity which limited the freedom of those who would refrain as well as of those who chose to participate. When an individual is forced, in effect, to make a contribution to a political movement to which he is indifferent or which he finds distasteful, it may fairly be said that a basic freedom is being infringed. When this forced payment is combined with limits on contributions to favored candidates, political freedom is drastically limited. Many who today propose subsidies to political parties or candidates condemn subsidies where religious organizations are concerned.

I wonder whether there is a very important constitutional difference between these two and what would happen if, in the United States, as is frequently done in Europe, we had an organization of a religious-political party. Would the Federal Government then be able to subsidize that party in spite of its religious affiliation?

Public financing of campaigns might run afoul of the Constitution in other ways. Whatever the size of the subsidy, and particularly when combined with a limit on expenditures, the precise amount would be subject to constitutional challenge on the grounds that it discriminated in one fashion or another. The charge would not be less forceful for the fact that it would be entirely up to those in power to say how large the subsidy would be.

Any formula for determining who gets what subsidy is open to constitutional challenge, for subsidies are inherently inconsistent with a "free trade in ideas."

Now I should like to summarize this particular article.

First. Private campaign money performs both desirable and undesirable functions. No one denies that some campaign contributions are made in the hope of personal gain from the exercise of executive discretion and, as such, are an objectionable, if not illegal, practice. Donors, however, also act from motives which enable contributions to perform functions indispensable to a free and stable political process. The right to give or not to give to a candidate is an aspect of political freedom. Campaign money also acts as an agent of change, permits citizens with little free time to participate in politics, is a vehicle of expression by which individuals seek to persuade others, serves as a barometer of intensity of feeling over potent political issues, and weeds out candidates with little public support. On balance, the undesirable functions of campaign money either call for narrow remedies or are outweighed by the desirable. Contrary to the conventional wisdom, the weight of disinterested scholarship strongly supports this conclusion.

Second. Regulation of the use of campaign money is an undertaking with grave implications for our political freedom. The necessary legislation would have to be passed by those in power and would by its very nature regulate political speech.

Third. Limitations on campaign spending and on individual contributions set a maximum on the political expression in which American citizens can engage and are thus unconstitutional.

Fourth. The present law requiring disclosure of campaign contributions may chill political activity by requiring that it be registered with the Government. By requiring small contributions to be reported, the law seems far broader than is justified by its ostensible purpose and is subject to constitutional challenge.

Fifth. The arguments made on behalf of public financing of campaigns seem largely unfounded. Public financing might be dangerous, in addition, because no fair formula has been devised for allocating the money and because a subsidy might encourage officials to avoid taking stands on controversial issues. Finally, it would compel taxpayers to engage in political activity against their wishes.

Sixth. If the question of how campaigns are financed is important, candidates should raise it as an issue, and the people should be allowed to show their opinions by the votes they cast in elections.

But over and above the very dangerous provisions of this amendment itself is the dangerous attempt to bypass and short-cut the legislative process. What we are facing is one step in the radical restructuring of all our traditional process for choosing our leaders in the Federal Government, the President and Congress.

As I indicated at the beginning, many other factors affect our system as much as or more than our method of financing, and I should like to run through them again quickly:

The power and effect of the media.

The power and effect of quasi-political movements—labor unions; public opinion molders, such as Common Cause, and the Committee for an Effective Congress.

The function of the two-party system and State and national parties under it.

The individual voter's place in the system, and our concern to protect his constitutional freedom of action as a voter.

The rights of the candidate, which are different for the incumbent and his challenger.

If we truly believe that the system is breaking down and needs restructuring, we should study the whole problem and be able to relate all these factors to each other. I admit that this is a monumental task. Several committees of Congress should be involved in it, or perhaps a blue-ribbon commission. But as of now, on this particular bill, the Committee on Finance has had 30 minutes of hearings, at which no one was present to represent the opposition to the program, except for the two or three members of the committee present to ask questions of the proponents. The Rules Committee has been holding hearings, but it has not yet decided to report its proposal.

I should like to read at this point a comment from the Republican Policy Committee's record vote analysis of the vote that was cast on July 26, when a similar proposal was tabled, on the motion of Senator CANNON, chairman of the Rules Committee:

> The question of public financing of congressional campaigns was too complex for legislation to be written on the Senate floor. For instance, the practicality of the administration of such a program had not been studied sufficiently to define it clearly. There should be hearings on and consideration of this principle by appropriate committees.

Finally, even if hearings had been held, this is the wrong bill. To attempt to attach it to this bill, as I said at the beginning, is an admission by its sponsors that the bill cannot stand on its own feet and face the study and checking of the normal legislative process.

We faced a similar situation on July 26, when there was an attempt to attach a similar bill to the Campaign Act of 1973, which was a more appropriate vehicle, but it was tabled by a vote of 53 to 38, on the motion of Senator CANNON, chairman of the Rules Committee.

Senator CANNON has held hearings, but my colleagues are too impatient. They will not wait to give the Senate the advantage of even that meager information.

When he introduced the bill on the floor, Senator LONG, chairman of the Committee on Finance, said that he believes this matter is worthy of further hearings and that the committee, to the extent that it had jurisdiction, would plan to hold hearings next year. I hope that this year and on this bill the Senate will act as it did in July and again reject this proposal for restructuring our election process to base it on taxpayers' funds distributed by a formula which nobody has had a chance to study or test.

Mr. President, I realize that we are under a limitation of time; and when all time has been yielded back, I intend to offer a motion to table the amendment.

Mr. CURTIS. Mr. President, I yield the distinguished Senator from New York such time as he may require.

Mr. BUCKLEY. I thank the Senator from Nebraska.

Mr. President, it is not my purpose to talk on the merits of the amendment now before us, but rather on whether or not it is appropriate——

Mr. CURTIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. BUCKLEY. I rise, Mr. President, to question whether or not a matter totally unrelated to the question of raising the debt ceiling is appropriate to be added to legislation which, in the nature of things, must be adopted because the soundness of our fiscal structure and the credit of the United States, is at stake. I question whether legislation of this far-reaching importance—I speak now of the proposal for campaign spending reform—ought to be spliced together on the Senate floor, with insufficient hearings, insufficient consideration, and insufficient debate. I question, in short, whether or not it is proper or responsible for the Senate to act on the amendment.

We are in the closing weeks of the current session. Each of us has heavy committee responsibilities in completing legislation that must be enacted before the year is out. We have, at great expense and great national anguish, created a special select committee to investigate campaign practices, the Watergate Committee. We have yet to hear the recommendations of that committee. It seems to me that action on far-reaching campaign reform is premature.

But to return to my initial point: Whatever the merits of the current proposal, it ought not to be tacked on to legislation extending the debt limit. I therefore urge my colleagues to vote against the Kennedy amendment or any like amendment, irrespective of their understanding of the merits, so that we may send to the President a clean bill, focused on our critical financial necessities.

The disclosures of the last few months have convinced many Americans that we should move as quickly as possible to reform our electoral processes in a way that will restore public faith in the integrity of governmental institutions and those of us they elect to represent them here in Washington.

I am personally convinced that we should look critically at the ways we select and finance the campaigns of those running for Federal office, but I do not believe that we can afford to rush into the business of "campaign reform" and "public financing" without weighing the consequences of the various alternatives open to us.

Thus, while I appreciate the motives of those Senators who are asking us to adopt far-reaching reform without debate or examination, I cannot in good conscience treat these proposals so lightly.

Let us not forget for a moment that the various amendments being offered to the bill before us would significantly alter the way we select our leaders and representatives, upset existing political and institutional relationships, and cost the American taxpayer millions of dollars.

These proposals are important. Some of them may be worthy of our support. But we should refuse to be stampeded into supporting them before we have had an opportunity to examine them.

Therefore, on this basis alone, I must urge that we reject them as they are presented to us today and wait until the Finance Committee can schedule the hearings on these measures proposed for next year.

I would also hope that if we do create a Christmas tree out of this bill, the President will veto it and let Congress scramble to pick up the pieces.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LONG. Mr. President, will the Senator withhold that?

Mr. BUCKLEY. Yes.

Mr. LONG. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. On whose time does the Senator speak?

Mr. BENNETT. Mr. President, I yield the Senator such time as he may require.

Mr. LONG. At such time as this amendment comes to a vote, I am going to insist on a division, because the amendment involves several rather significant legislative proposals, and in my judgment they should be considered separately.

I shall ask for a division, first, to include the language up to page 31, the end of line 15. That will include all the language of the amendment up to the title "Chapter 97—Presidential Primary Matching Payment Fund."

I ask that the amendment be so divided. I believe I have a right to ask for a division.

The PRESIDING OFFICER. The Senator has the right, and the amendment will be so divided.

Mr. LONG. Then, Mr. President, I ask that the amendment be further divided to include the language starting at page 31, line 16, through page 46, line 2.

The PRESIDING OFFICER. The amendment will be so divided.

Mr. LONG. Then I ask that the amendment be further divided at page 47, line 4, so that the last vote would occur on that portion which is entitled "Section 4, Increase in Tax Credit and Tax Deduction for Political Contributions."

The PRESIDING OFFICER. The amendment will be so divided.

It is the Chair's understanding that there will then be four votes in lieu of the one vote.

Mr. LONG. That is right.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. I yield to the Senator from Massachusetts.

Mr. KENNEDY. As I understand it, the Senator from Louisiana intends to ask for a division of this amendment along the lines he has just outlined; is that not correct?

Mr. LONG. I have asked for it. Any Senator has the right to ask for it, as the Senator knows.

Mr. KENNEDY. The point I should like to ask is that in the development of this division, have we made a decision from a parliamentary standpoint that such a division is appropriate, given the relationships of the different provisions to each other? I should like to have a ruling from the Chair on that.

The PRESIDING OFFICER (Mr. HASKELL). The Chair would read from rule XVIII which states:

> If the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, . . .

It would appear that this rule would pertain to the divisions requested by the Senator from Louisiana.

Mr. KENNEDY. The Senator was kind enough to indicate yesterday he thought, at an appropriate time, he would ask for these divisions and then, in a brief conversation, he had explained the areas of the divisions. I understand the right of any Senator to request such divisions. I would like to ask that at an appropriate time prior to the votes, there be a brief quorum call to review with the Senator from Louisiana the particular divisions, to make sure they conform to what he said he wants, and which I would hope would be a fair representation of the particular issues of the amendment.

I have had an opportunity to review briefly and follow the page numbers and the line numbers. There may be some areas which raise questions which I would hope we could work out along the lines of achieving what the Senator from Louisiana wants to achieve, and that is to present separate votes on the significant items in the amendment.

The PRESIDING OFFICER. The Chair would state to the Senator from Massachusetts that the parliamentary situation is that the Senator from Louisiana has requested the divisions and the Chair has ruled that the divisions will be made. So, if further modifications should take place, there would have to be some formal action.

Mr. KENNEDY. Could I ask the Chair to restate for the Senate what changes have been requested?

Mr. LONG. Mr. President, I would be glad to restate for the Senator what the division is.

We would vote, first, on that language which appears on the first 31 pages of the amendment, ending on page 31, at the end of line 15, which is the logical breaking point. That would take care of the proposal to finance all the congressional elections; and we would vote that either up or down.

Then, having taken a position on that issue, the Senate would then be expected to vote on what it wants to do, in its judgment, with regard to the presidential primary matching payment fund and the provisions relating to that, which would take us through page 46, line 2.

At that point, we come to line 3, section 3, on page 46, "Designation of Income Tax Payments to Federal Election Campaign Fund." The decision on the first section would probably indicate the outcome of the vote on the third section. They could have been voted on together, except that they do not appear contiguously in the bill.

Having voted on that, we would move to the next legislative proposal, beginning on page 47, line 4; in other words, the "Increase in Tax Credit and Tax Deductions for Political Contributions."

That would appear to me to be the logical way to divide these legislative proposals. One is the public financing proposal for congressional campaigns; another is the public financing matching proposal for presidential primaries; another is the proposal to increase and change somewhat the way funds go into the Federal election campaign fund, and the last is to increase the tax credit and the tax deduction for campaign contributions.

That is the logical way to divide this amendment, so that those who find more appeal in some portions of it than in others can so express themselves.

Mr. KENNEDY. As the Senator will understand, subsection 2(a), Public Financing, carries over to page 46 where subsection (b) starts. Then come sections three and four of the amendment. The parliamentary question is, given the fact that subsection 2(a) has many parts interrelated to each other, we can have a division under the parliamentary rules?

I understand completely and am in sympathy with what the Senator from Louisiana is attempting to do, to permit individual votes on individual concepts which have been included in the amendment. It is a question, given the interrelationships of subsection 2(a) all the way up to the top of page 46, whether this can be done.

Mr. LONG. I should like to point out to the Senator that if any part of this amendment prevails—and I suspect that it will—the bill will still remain subject to amendment, so that if the Senate should agree with certain portions of this amendment but not with other portions of the amendment, the bill will still be subject to amendment. If there is anything omitted that should be added back, the Senator from Massachusetts can correct what oversight the Senate might have made at that point by offering further amendments.

Mr. TAFT. Mr. President, will the Senator from Utah yield me 5 minutes?

Mr. BENNETT. I yield as much time as the Senator may need.

Mr. TAFT. Mr. President, I share the recently expressed opinions of the junior Senator from New York (Mr. BUCKLEY) with regard to the unwisdom of making the debt limit bill a Christmas tree by adding any provisions.

I suppose I know as well as anyone here in the Senate the problems of campaign financing, and I share, I think, in the general feeling that some major corrections of the whole problem of campaign financing should be undertaken by the Senate, and also by the House.

I thought we had done that in the Senate by passing S. 372 after prolonged debate. I am distressed that I see it received on the other side of the Capitol without very much attention being paid to it and very little prospect of early or favorable action. I thought it a reasonable limitation of expenditures on campaigns and that it was a major step forward. That is not to say that we should not go on and continue with the problem of public financing, but the bill we have before us has some very serious problems in it.

I should like to call at least one of these problems to the attention of the Senate. One of the principal problems with regard to the entire Watergate situation and the fund-raising situation with regard to the 1972 Presidential campaign, in the minds of many of us, relates to the fact that the entire direction and management of the campaign was not done through the National Republican Committee at all but, rather, through a completely separate and independent committee for which funds were raised separately and to which very large amounts of money went and which then determined the entire course of the campaign.

I point out that in its present form, the amendment being offered by the distinguished Senator from Massachusetts mandates the subsidy, that this be the situation because, indeed, the 15 cents per voter that will come to the candidate for his expenditure and use is then sent to a designated committee designated by him—an authorized committee—or expended by him on campaign expenditures.

On the other hand, there is a specific provision in section 9007 which says that no more than 2 cents shall be contributed or used by the national committee or by the State committees involved. This seems to me to be a fatal defect, from several points of view. It almost mandates a double campaign, to begin with, because you cannot put the two committees together, and I see no authorization for making the national or the State committee an authorized committee. This would change procedures in many States where the State committee, after the primary election, takes over and runs and manages the campaign and takes over the funds through a State finance committee, to finance these campaigns, and then makes payments on behalf of the particular candidate.

We would be reversing all this, and I think we would be dealing a more severe blow than it received in the 1972 campaign to the two-party system, and indeed the political party system, if we were to adopt a measure of this kind.

These deficiencies point out why we should take it easy here and go ahead with further study of the entire matter of public campaign financing, but certainly we should not do it in the offhand, haphazard way which seems to me to be before us today in the attempt to put this amendment on this bill.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Utah, I yield myself 5 minutes.

I wish to be associated with the remarks of the distinguished Senator from Ohio (Mr. TAFT). I share his concern about some of the provisions of the bill, and I am particularly concerned about the way this important subject is being dealt with—as a rider to the debt-ceiling bill—offered on very short notice. This amendment would make basic, fundamental changes of a very sweeping nature, with very little opportunity for the Members of this body to know what is actually involved.

As the Senator from Rhode Island (Mr. PELL) indicated yesterday, there is a subcommittee of the Committee on Rules and Administration, which he chairs, that is actively and presently considering the subject of public financing of campaigns. Under the leadership of the distinguished Senator from Rhode Island (Mr. PELL), that subcommittee has held hearings on the subject, and the subcommittee very recently has reported a bill to the full committee. As yet, the full Committee on Rules and Administration has not had an opportunity to take up the bill because, as everyone knows, that committee has been rather busy lately considering the nomination of Representative GERALD FORD to be Vice President. However, once the vote on the Ford nomination occurs at 4:30 p.m. today, the Rules Committee will be in a position to turn its attention to the subject of public financing.

Later, when the opportunity comes, I will join those who vote to table this amendment, not because I necessarily oppose any and all steps in the direction of public financing of campaigns, because I do believe there are appropriate steps that could be taken.

I shall go further and say I think that the logical first step—one which I believe the public could support—would be to provide, in general elections—at least for the President and perhaps for Congress—for public financing of a limited amount of television time for competing candidates. This is a step which would follow a practice in effect, as I understand it, in Great Britain. It would be a radical step in terms of our present system—but I believe it would be a logical first step to take in the direction of public financing of campaigns.

It is generally recognized that the greatest part of the cost of modern campaigns is for television time. It seems to me that a limited measure, which addressed itself to that particular problem, would be welcomed by the taxpayers; and it could afford an opportunity to test the concept of public financing of campaigns. Thereafter, if that proved satisfactory, the public and the Congress might be prepared to take further steps.

When the opportunity comes, I hope the Senate will have the courage—and I know it will take some courage under present circumstances—to vote for the motion to table. This amendment, presented under these circumstances, should be tabled.

Mr. HUGH SCOTT. Mr. President, as the Senate is now considering my amendment relating to the public financing of elections, I think we would all benefit by reading an editorial in today's Philadelphia Inquirer titled the "Corrosive Power of Money." I ask unanimous consent that this editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Corrosive Power of Money

We keep learning more about how, in this free society of ours, the re-election of the President in 1972 was financed, and it is not a pretty story.

We learn, by way of Inquirer investigative reporters Greg Walter and Kent Pollock, that on April 6, just a few hours before a new law requiring reporting of campaign contributions went into effect last year, the President of one of the South's largest textile corporations personally delivered more than $363,000 in secret contributions to Maurice Stans, President Nixon's finance chairman. These were in behalf of a textile industry which has cause to be grateful for favors past and hopeful of favors future.

We learn, by way of the Senate Watergate Committee, of how several of the leading U.S. oil, airline and rubber corporations "washed" contributions through Swiss banks and foreign agents in order to make illegal contributions they have admitted.

So the details pile up, but the question is whether President Nixon and powerful forces in Congress, especially the House, share the view—in Sen. Hugh Scott's words—that "this nation is now painfully aware of the corrosive power of money in politics" and are prepared to act accordingly.

The Pennsylvania Republican has joined Massachusetts Democratic Sen. Edward Kennedy in sponsoring legislation to provide Federal financing of general elections and partial funding of primaries. The measure would limit the amounts that could be spent—$7 million by a Presidential candidate in the primaries, $15 million in the general election—and put a $3,000 ceiling on the amount that any individual could give any candidate.

The sponsors plan to attach the measure to the presumably veto-proof debt ceiling bill. Administration sources threaten that President Nixon will veto the bill anyway, but the administration is obviously counting on the House to reject the public-financing plan.

We urge the Senate to approve the plan and the House to do likewise. The outlook for free elections will not be bright if, after all this "wallowing in Watergate," neither Mr. Nixon nor Congress will move to get out of the dismal swamp of money-drenched politics.

Mr. MUSKIE. Mr. President, I am pleased to join as a cosponsor of the proposal to provide public financing of Federal election campaigns, which we are now considering as an amendment to the debt ceiling extension bill. The influence of money in politics poses the greatest of dangers to our political system. The evidence and allegations about abuses in the last Presidential campaign have exposed to the Nation the gravity of those dangers. And the proposal before us, a workable system of public financing for Presidential general elections and primaries, and congressional general elections, would help guard against those dangers by removing from much of our political process the pernicious influence of money.

Money in politics undermines our system in many ways: in the appearance of corruptibility, eroding the faith of our citizens in the integrity of the electoral process; in the disproportionate representation of the wealthy and special interests, who by their contributions increase the ability of candidates they support to mount effective campaigns; and in the unfair access of contributors to government officials and candidates. Only through a system of public financing can these abuses be curbed, and the influence of private money in politics be neutralized.

The public financing system we consider today would expand existing law to achieve this end. It establishes a Federal election campaign fund, based on the existing check-off system, to be financed by allocations of $2 from the taxes of each individual—and $4 from joint tax returns—with each taxpayer retaining the option to deny this allocation. The fund could be supplemented by appropriations if taxpayer allocations proved insufficient. The fund and the system of public financing would be administered by the Comptroller General, who would certify candidates and payments, and make audits and reports. Stiff criminal penalties would be provided for violations of the funding, spending, and reporting requirements.

Payments from the Federal election campaign fund would finance the total cost of campaigns of major party candidates in general elections for the Presidency, Senate, or the House of Representatives. These candidates would be prohibited from accepting private funds. Major party Presidential candidates would receive payments of 15 cents times the number of voting age population; this currently amounts to about $21 million. Congressional candidates would also receive 15 cents times the voting age population in their constituency, with a minimum payment of $175,000 in a Senatorial race and $90,000 in a congressional race. Public financing payments would be adjusted by cost of living increases. Candidates of minor parties, or new parties, would receive a Federal payment amounting to a proportion of the major party candidate allotment, based on the percentage of their party's vote in the preceding or current election compared to the average vote for major party candidates. Minor party and new party candidates would be able to supplement this amount with private fundraising up to the total spending limit allowed to major party candidates.

For Presidential primary campaigns, the proposal would establish a mixed system of public and private financing. The Federal election campaign fund would match the first $100 donated by each private contributor, beginning with a minimum amount of $100,000 in small $100-or-less contributions. An overall limit of $15 million on Presidential primary spending would be imposed, to be increased according to cost-of-living changes.

The cost of this system of public financing would be minimal compared to the reform it would provide. Federal campaign payments would amount to $200 million in Presidential years, and $100 million in the years when only congressional elections are held, for a total 4-year cost of about $300 million and an average yearly cost of $75 million. At less than one-third of 1 percent of our Federal budget, the cost of public funding is small if it will safeguard integrity and confidence in our democratic system.

Mr. President, this system of public financing represents a balance—a workable balance between the need to limit total campaign spending, provide sufficient funds to allow incumbents and challengers alike to present their case to the electorate, and the need to neutralize the influence of money in politics.

I commend the efforts of my distinguished colleagues who have worked together to bring this proposal before the Senate, especially its authors, Senators Kennedy, Cranston, Hart, Mathias, Mondale, Schweiker, Hugh Scott, Stafford, Stevenson, and the chairman of the Subcommittee on Elections of the Rules Committee, Senator Pell, who has conducted worthwhile hearings on public financing. I join them in urging the Senate to adopt the pending public financing proposal.

Mr. CHILES. Mr. President, I am pleased to support the public financing amendment to extend the public debt limit, H.R. 11104.

I believe the conviction has in recent days grown stronger in the United States that something has gone wrong in our political process—that wealth has excessive influence on our election results and that election campaigns are too costly. We recognize that elections are the key device in democratic government for the regulation of official decisionmaking; and that when working the way they ought to, they help to assure that public officeholders remain responsive to the greatest possible number of electors. And money does undeniably play a major role in winning many elections. It does not necessarily guarantee victory, but it can and often does make a difference.

In a democracy the voters choose their major policy officials in free and relatively frequent elections. The crucial factor determining whether or not we consider a government democratic is not how much power the public officials have, but rather how public officials secure and retain their offices.

In a government whose level of citizen trust is at an alltime low, there is an obvious need to reestablish governmental accountability to the people. Poll after poll discloses that a large percentage of the American public is convinced that corruption in Washington is "serious" and the number with high respect for the Federal Government becomes smaller and smaller.

The amendment before the Senate today represents, I believe, a significant breakthrough in campaign financing. Though support for the principle of public financing of campaigns has grown more and more widespread in the light of recent events, there have been divergent views on how the goal ought to be accomplished. This amendment combines five major bills introduced earlier this year and represents a consensus on the major elements of public financing. The proposal builds on the dollar checkoff system for Presidential general elections already in force and would expand this system to include Presidential primaries and Senate and House general elections.

Today, we have the best political system that special interest money can buy. That situation must change. And if this amendment is enacted into law that situation, I believe, would change for the better. Private money has in some instances degraded professional politics. A change to public financing of elections would be, in my view, a firm step in the direction of regaining the people's confidence in the integrity of their governmental system, of establishing a base from which to rebuild the shattered trust of the people in their elected officials. It is our best insurance that future Federal elections will be free of the too-often corrupting power of private money.

There are those Americans who view public policymaking as a sordid process where the wealthy control elected officials. But while there is some corruption, I still believe money's reputation for moving the wheels of government is far greater than its performance. The fact remains however that money can twist policy in subtle ways—and any effort we can make to erect a barrier between the direct translation of money into policy decisions must be made. I believe this amendment is such an effort. I am a cosponsor and vote in support of it today.

Mr. MOSS. Mr. President, I strongly support amendment No. 651 to the Debt Ceiling Act, H.R. 11104. Public financing of Presidential and congressional general elections and Presidential primaries is necessary if confidence in the integrity of the American system of government is to be restored.

This amendment is a combination of the best features of various bills on public financing of campaigns that have been introduced by certain of my distinguished colleagues. I am happy to be a cosponsor of this amendment. Acceptance of it will indicate that Congress wants to provide assurances to the American people that the corruptions of recent political campaigns must stop. This amendment is a realistic approach toward eliminating the abuse of private money in public life.

Mr. President, public financing of campaigns has interested me for some time. On July 30, when the Federal Election Campaign Act of 1973 was before the Senate, I stated my strong support for some form of public financing of campaigns. On September 19 when hearings were held by the Senate Subcommittee on Privileges and Elections, I testified in support of public financing.

Widespread interest regarding public financing of Federal campaigns is evident. Although much of this interest is due to corruption in the last general election, the issue is not new. In 1907 President Theodore Roosevelt proposed Government subsidies for political campaigns. A Senate committee investigating campaign expenditures in the 1936 election recommended total public funding of campaigns. No less a practical politician than President Truman supported the notion of public financing. A form of public financing was enacted in 1971 with the "tax checkoff." In June of this year, the Democratic Members of the Senate unanimously accepted a resolution calling for public financing of elections. Republicans who have endorsed, in various forms, the principle of public financing are Senators HUGH SCOTT, BAKER, SCHWEIKER, MATHIAS, and STAFFORD. More than 100 Members of Congress have introduced or cosponsored legislation to provide some form of public financing of campaigns.

Public financing is not supported by a minority of the American public. A Gallup poll earlier this year indicated that "a clear majority of the American people favor the use of Federal funds to pay election campaign costs of candidates for the Presidency and Congress. At the same time, the public favors prohibiting contributions from private sources."

Public financing is desirable for several reasons. Congressional campaign fundraising methods, and the demands placed by the contributor upon the recipient, leave much to be desired. The traditional practice of revenue raising is susceptible to much abuse. Political campaign costs require a candidate to raise hundreds of thousands, and sometimes millions of dollars. Since most candidates do not possess such extensive means, they solicit money from private sources—primarily wealthy individuals.

Unfortunately, the present system too frequently has allowed special favors for the wealthy. Money has been used to purchase favors. It is time a campaign system is devised that will not succumb to the pull of money. Political candidates must be independent from large money interests. Where candidates for public office do not have to depend on private monetary contributions, there is less potential for corruption in politics or for an improper use of a Government office in behalf of a large contributor. This amendment will permit serious political candidates to avoid reliance on any large private contributions. It will rule out undue sway by special interests by virtue of the controls inherent in the disbursement of the Federal subsidy.

This amendment is in the interest of fair representation of all citizens. It will enable the fullest political participation by all American citizens. We pride ourselves in our constitutionally guaranteed freedom of political activity. However, with campaign costs shooting ever higher, most Americans cannot realistically consider running for an elective office. Many idealistic, hard-working, and capable people are turned away from elective public office simply by the knowledge that solicitation of funds is required.

The public will not be ill served to have some of its tax money reserved for the assistance of political candidates to run for public office. Such action would improve the representative process by enlarging its scope, and invigorating the workings of democracy.

This amendment includes a method to provide revenue for public financing of campaigns. In my September 19 testimony, I indicated that Congress must not neglect its responsibility of appropriating adequate funding for public financing. This amendment will double the "tax checkoff" to $2 for each taxpayer or $4 on a joint tax return. Philip M. Stern, president of the Center for Public Financing of Elections, estimates that the maximum cost of public financing of Federal elections would be $1.88 for each of the 140 million Americans of voting age. Thus, if all taxpayers participated in the "tax checkoff," adequate financing would be provided. But if sufficient revenue is not provided by the "tax checkoff," this amendment provides that "such additional sums as Congress may appropriate to insure that moneys in the funds will be adequate to meet the entitlements of eligible candidates" can be appropriated. Congress thus can bear its constitutional responsibility.

Under the current campaign financing system American citizens are footing the bill for millions of dollars in hidden campaign costs. This is evidenced in such things as higher milk prices and higher oil prices that have been passed on to the American consumer as a result of large political contributions of representatives from dairy and oil groups. This must end.

This amendment provides a means to end such purchasing of favors.

I ask my distinguished colleagues to support this amendment as a means to prevent "buying" of political office and favors. Emphasis in politics should be on people, not on money. We must insure that no contributor will essentially "own" a candidate for public office. And, whether we want to admit it or not, some contributors have at least felt they "owned" us on certain occasions. This has a demeaning effect on the image of representative government in the eyes of the American people.

Mr. President, I strongly go on record in support of this amendment. It embodies basic principles on public financing of campaigns endorsed on a nonpartisan basis by several Senators. I urge that my colleagues in the Senate support this important amendment.

Mr. CLARK. Mr. President, it is with some reluctance that I support this amendment to institute public financing of Federal election campaigns. My reluctance does not grow out of any doubts about the necessity for public financing. I am firmly convinced that public financing is the single most effective cure for our crippled political process. It is an indispensable part of any effort to repair the damage of the last 18 months.

Nor does my hesitation stem from any misconception about the mood of the American public. It does not require great insight to realize that the predominance of special interests in the political system has seriously damaged the people's confidence in their government.

According to the national opinion polls, public support for public finance has grown steadily to its current high level of 65 percent. Yet, despite all of this, my support of this amendment is less than enthusiastic.

Why? Simply stated, it is not enough—not now, not this year, not with all that has happened. Public financing must be as strong, as unequivocal, and as comprehensive as possible. We should have learned by now that every piece of campaign reform legislation brings new loopholes. We should have learned by now that private money and good government are mutually exclusive.

The amendment before us is important and worthwhile, but it is not an adequate response to the demands now being placed on our political system.

By not providing public funding for congressional primaries, we are inviting the special interests into the political process. With this "loophole," private money may be used even more effectively than before to influence the outcome of selected races of particular importance. By giving any role at all to private money, we are leaving open great possibilities for abuse and misuse in fund raising activities and campaign spending.

I know that several of my colleagues are going to vote against this amendment for many of the same reasons I have outlined. Like me, they think the measure is too weak. But I cannot join them in opposing the amendment. No matter how weak the response, something must be done by the Congress to demonstrate our concern and our ability to act decisively—to prevent the American electoral process from being once again auctioned off to the highest bidders.

For that reason, and that reason alone, this amendment must pass. Regardless of the outcome of today's vote, I will be introducing, in the near future, a bill to provide for total public financing of all Federal election campaigns. But if we cannot give an indication today, right now, that the Congress can provide the leadership which the Executive has abdicated, then neither my proposal nor any other more comprehensive plan will have any chance for success. I shall vote for the amendment, and against any attempts to dilute it.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BENNETT. I yield as much time as the Senator may require.

Mr. CURTIS. I thank the Senator.

Mr. President, I think it is important that the Senate give greater adherence to our committee system. I realize that when a measure is pending that must be signed into law there is a great urge on the part of all of us to attach an amendment, so that the amendment, if adopted, will have a free ride and assured approval, even though unwillingly, by the Executive. That is not the best way to legislate.

Most of these matters are quite complex. They are involved in many details. It is my opinion that the appropriate committees having jurisdiction of Federal elections should sponsor whatever election reform legislation is undertaken on this floor. In that way, we will have the benefit of hearings that are published, and we will have the benefit of a committee report which must comply wtih certain rules.

It is not the best course for the Senate to follow to legislate by floor amendment in the manner we are asked to do today. The bill before the Senate is referred to as the Debt Ceiling bill. That may be somewhat of a misnomer. It does not really put a ceiling on our debts. Our debts are created when we spend money and authorize the spending of money. If the various agencies of Government go on and make commitments, the bills have to be paid. If Congress votes for various programs and directs that they be put into motion, the bills have to be paid.

If the sum total of those bills to be paid exceeds the revenue coming in we add to the debt. We cannot pass a simple law and say, "This holds down the amount of the Federal debt." What this bill does is to grant authority to the Secretary of the Treasury to borrow sufficient money to pay the bills that Congress and the Executive have created. If the bill dealing with the debt limitation does not pass, it does not reduce any debts. If a contractor, or a veteran, or a government employee, or someone entitled to a tax refund has a claim against the U.S. Government, that is a debt of the Government. All that this legislation does is to authorize the Secretary of the Treasury to go out and borrow enough money to pay those bills if there is not enough tax revenue.

It is the type bill, however, that has urgency to it. The authority under the existing law expires in just a few days. If we do not enact this legislation we could be faced with a rather chaotic situation. The authority to issue and sell Government bonds would end. This would affect payroll deductions and other systematic schemes or plans for the sale and purchase of Government bonds.

The failure to pass this bill could jeopardize the workings of our Government. It could create serious financial problems. In the jittery world in which we live we would do our country no good by creating a period of days or weeks whereby Uncle Sam could not pay his bills. This would be an action of irresponsibility.

Because of the very urgency of this legislation, there is a temptation for us to support amendments because the legislation has to go through and it must be signed by the President. I submit that is not the best way to legislate. I also submit that if our legislative proposals have merit, sufficient merit to command a majority vote and to meet a public need, I believe that the method of going through the committees and having the legislation referred to the Senate as a whole, with the necessary hearings and reports, is necessary and if it is done, needed legislation can and will be passed.

It is not my purpose to go into depth as to the merits of the pending amendment. I do feel there are many problems that would still be unsolved if we go to the public financing of Federal elections. It will not be a cure-all of the problems that beset us. In and of itself it will not be an inducement to prevent unlawful, secret, and under-the-table transactions intended to influence elections.

Also I think there is a very serious constitutional problem involved. Certainly, a citizen has a right to speak out in reference to an election. If he feels very strongly about the election of a Congressman, Senator, or President, does not that citizen have a right to go up and down the street and call on his neighbors and give his reasons for voting and to urge them to follow a certain course? If one man has a right to do that, does not another man have a right to write letters and give his reasons for the position he takes and to urge other voters to follow? If we are to preserve the right of an individual to try to influence the course of good government as he sees it by calling on his neighbors, of going to the expense of writing letters, how are we going to deny the citizen the right to march into a newspaper office and say, "I want to buy some space and tell the voters why I believe a certain course of action is in the interest of good government," and urge them to vote for or against a certain candidate.

How can we prohibit a citizen from going into a broadcasting station and saying, "I feel strongly that a certain candidate for President is good for our country, and I want to express myself. I want to give my reasons. I want to urge my fellow man to vote for him."

Under our system of free speech how can we deny that right to a citizen? Furthermore, do we want to deny that right?

Is not political participation a good thing? Is it not desirable to have people interested? Is it not good to have issues discussed? Is it not good for someone who has studied the candidates and the issues to give the benefit of his thinking to his neighbors, whether he goes up and down the street calling on them, writes letters, buys an ad, or buys some time on a broadcast station?

We should not do anything that would curtail or discourage individuals from taking part in political activities. It may be we can have public financing of campaigns and still preserve these things. I do not know. I merely state that we should not think that public financing of campaigns is a cure-all for all evils. It could well result in a sizable expense on the taxpayers and at the same time every known evil that one could enumerate under our present system still would flourish under the new system.

Mr. President, I realize many other Senators may feel very strongly in favor of public financing of campaigns. We might be able to present a convincing argument that would convince all of us. I do contend that this is not the place for such action. The current proposal goes to the very heart of the financial stability of our country, the credit of the United States, its reputation not only at home but abroad, and it should not be cluttered up with nongermane amendments.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. GOLDWATER). The Senator is recognized.

Mr. KENNEDY. Mr. President, hopefully we will have an opportunity in the next few minutes for the Senate to go on record on this particular issue. There are several comments I would like to make in response to some of the statements that have been made.

Mr. President, the Senate has shown in the past year that it is prepared to add on to the debt ceiling act measures which were of particular consequence and importance. We did so in expanding social security benefits a little over a year ago, as an amendment to a debt ceiling proposal. This was endorsed by an overwhelming majority of Senators, I dare say even by those who have questioned the particular parliamentary procedure which those of us who support this amendment have undertaken this afternoon.

This past June, on the important issue of the bombing of Cambodia, there was an amendment offered to the debt ceiling act in order to stop the bombing and the war in Southeast Asia. Again that was endorsed by a substantial majority of the Members of this body.

So this has been a parliamentary technique which has been followed on major issues in the recent past.

Let me say that, in terms of the importance of the issues which are before us in this session of Congress, I can think of none which is of greater importance to the American people than the issue that we are about to vote on this afternoon.

We have heard a great deal, during the course of this debate, about how we are proposing to use millions of dollars of taxpayers' funds in the political process. We are asked if this really makes sense as far as the public interest is concerned. Yet, Congress spends about $26.8 billion a year in public funds as part of the Federal budget. What we are talking about here, Mr. President, is approximately $75 million a year over the 4-year election cycle. If all the provisions of this amendment are actually enacted, we are talking about $75 million a year, compared to the $268 billion that are appropriated by the Congress or expended through the trust funds, and here we are talking about $75 million a year to preserve the integrity of the political process. Those who are actually going to be voting billions of dollars of taxpayers' funds must be free to do so, conditioned only upon their best judgment and their best knowledge of what is really in the public interest and in the public concern, not upon the private interest of those who have made large private contributions to their campaigns.

I think all of us in this body have been asked about the lessons of this year and of "Watergate." Now, today, the Members of the Senate of the United States, and hopefully the House of Representatives, can act in an extremely constructive and positive way, to do something about the real problems of Watergate.

We will hear many speeches and statements made by Members abhorring the condition in which the body politic finds itself at the conclusion of this year. As we move into the congressional election of 1974, and on into the future, there is an opportunity now to really do something about the whole Watergate syndrome. We can shut off the extraordinary flow of private cash and contributions that have marred the recent national political scene.

So I am hopeful that, when the time comes, the Senate will vote for these measures. This is not a new idea. This is not a new concept, as I have mentioned before.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I yield myself 2 more minutes.

The Senate has debated this issue. The Senate raised the issue in 1966 and the dollar checkoff was enacted into law. There was extensive debate here in 1967. In 1971, the present version of the dollar checkoff was enacted into law. A very important part of the pending amendment was debated here earlier, in July of this year. Major hearings have been held by the Committee on Rules and Administration. Extensive hearings have been held over the years by the Committee on Finance. This is an extremely important issue, but it is also a basic question about a basic matter which may be the most important single issue facing this country today—more important than energy or any other issue, because it will determine how we handle all those other issues, whether we in Congress shall be truly responsive to all the people.

So I would remind my colleagues that this matter has been debated and it has been discussed and there have been extensive hearings dealing with it. There is an opportunity now for the Senate of the United States to really act to do something of importance and consequence on the question of restoring basic trust and confidence in the political process, and I am hopeful the Senate will do so in voting in support of this amendment.

Mr. MONDALE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. KENNEDY. Five minutes.

Mr. MONDALE. The Senator from Massachusetts well describes the progress of public awareness with respect to this issue of the need for public financing. It seems to me it has really come to a head with the disclosures in Watergate, and now a new element has been added, namely, the growing belief in the business community that they, too, are now being victimized by a system of private financing that has now led to something that is little short of extortion, if it is not extortion itself.

We have had the spectacle of several top corporate leaders testifying before the Watergate committee about how persons holding great power in the American Government, or those speaking for those who hold that power, came to them and literally ordered them to make massive contributions, often describing that it must be in cash, and specifying how much it should be, $100,000 or $150,000.

A typical example was testified to by Mr. Spater, chairman of the board of American Airlines, who, according to his testimony, was approached by Mr. Kalmbach, whom he knew as a close personal friend of the President and whom he knew to be one of the personal lawyers of the President, and who was at that time also serving, I believe, as counsel for a competing airline, who came to him at a time when there was a very serious issue at stake of fundamental importance to American Airlines, and said, "I would like $100,000. I want $100,000 right now."

That was one example. Of course, they produced it, some of which was illegal corporate money.

Following that revelation, several corporate leaders testified to essentially the same approach.

There was once a time when I suppose the issue was whether we wanted wealthy corporate interests to buy America. I suppose it is still a part of the issue, but today it is also a question of whether we want our corporate entities to be abused in this way by extortion and shakedowns and bribery and the rest of it. This has caused Mr. Ford, Mr. Spater, assorted columnists, such as Mr. Kilpatrick, and others to say they have changed their minds; they want their companies to be protected against this disgraceful system.

If I heard the Vice President of the United States clearly in his farewell address, he said we must have public financing. I think the chairman of the Finance Committee reread the speech. Mr. Agnew said we needed public financing. I think if there ever was a case made beyond dispute, it was made at that time, and now is the time to act and adopt the broad coalition bill of which the distinguished Senator from Massachusetts serves as the chief author. I am very hopeful it will be agreed to and that it will go to the President.

I noted the other night that the President stated he wanted to spend a good deal of the remainder of his career cleaning up American politics. I do not think there is anything that he could do that would help more to serve that purpose than signing the pending bill which will pass the Senate today.

Mr. KENNEDY. Mr. President, I thank the Senator from Minnesota who has made such a valuable contribution to this legislation.

In response to the Senator, I would state briefly that it has been said about our political system that we have the best system that money can buy. That is a tragic indictment. However, it is far too often true.

With regard to the money that would be expended under this legislation, I doubt if any money could be better spent in the national interest than the money that would be spent for public financing.

Let me say also, Mr. President, that this amendment represents a strong bipartisan effort on the part of those who are sponsors and those who have indicated a willingness to be cosponsors of this legislation.

There was a very substantial input from members on both sides of the aisle. It is our belief that this is not an issue that is limited to any individual party. It is one for which we have the support of members of both political parties.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. BENNETT. Mr. President, I am prepared to yield back the remainder of my time.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BENNETT. Mr. President, I had announced earlier, before the amendment was subdivided into four separate amendments, that it was my intention to move to table the amendment.

Is it necessary for me to give notice as soon as the time has been yielded back of my intention to table all four parts separately?

The PRESIDING OFFICER. No. Notice is not required. It would take four separate motions.

Mr. BENNETT. Then we will take up each one in its order in the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. Mr. President, on that basis I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, if it is the desire of the distinguished Senator from Utah to ask unanimous consent to table the whole measure as a way of confronting the issue, I would certainly not object. I understood that to be his desire.

Mr. BENNETT. Mr. President, I wonder what the wishes of the Senator from Louisiana are because he is the one who supported the amendment.

Mr. LONG. Mr. President, as far as I am concerned, if the Senators want to vote on it, they can. If the amendment is not tabled, I am going to vote for some parts and against some parts. If the Senator wants to, he can move to table the entire amendment as far as I am concerned.

Mr. BENNETT. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Massachusetts will yield back his time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

Mr. President, I move that the entire amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah. The Senator has asked for the yeas and nays on his motion. Is there a sufficient second? (Putting the question.)

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kennedy amendment. On this question the yeas and nays have been ordered. and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Missouri (Mr. SYMINGTON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Idaho (Mr. McCLURE) are absent on official business.

The Senator from Florida (Mr. GURNEY) is necessarily absent.

If present and voting, the Senator from Arizona (Mr. FANNIN) would vote "yea."

The result was announced—yeas 36, nays 59, as follows:

[No. 513 Leg.]

YEAS—36

Aiken
Allen
Baker
Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fong
Goldwater
Griffin
Hansen
Helms
Hruska
Johnston
McClellan
Nunn
Packwood
Pearson
Roth
Saxbe
Scott, William L.
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NAYS—59

Abourezk
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Tunney
Williams
Young

NOT VOTING—5

Fannin
Gurney
McClure
McGovern
Symington

So Mr. BENNETT'S motion to lay amendment No. 651 on the table was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to part 1 of the amendment.

The Senator from Alabama.

Mr. ALLEN. Mr. President, I have a substitute at the desk and ask that the clerk please state it. It is a substitute for part 1 of the amendment.

The PRESIDING OFFICER. The substitute will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment reads as follows:

In lieu of the language proposed to be inserted by part one of amendment No. 651, insert in lieu thereof the following:

That this title may be cited as the "Federal Election Campaign Act Amendments of 1973".

SEC. 2. (a) (1) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof the following: ", other than Federal elective office (including the office of Vice President)"

(2) Section 315(a) of such Act (47 U.S.C. 315(a)) is further amended by—

(A) inserting "(1)" immediately after "(a)"; and

(B) adding at the end thereof the following new paragraphs:

"(2) The obligation imposed by the first sentence of paragraph (1) upon a licensee with respect to legally qualified candidates for Federal elective office (other than the offices of President and Vice President) shall have been met by such licensee with respect to such candidates if—

"(A) the licensee makes available to such candidates not less than fifteen minutes of broadcast time without charge during the period beginning ten days after the last date, under applicable State law, on which such candidates may file with the appropriate State officer as candidates, and ending on the day before the date of the election,

"(B) the licensee notifies such candidates during the period beginning on the day after the filing date and ending ten days thereafter, and

"(C) such broadcast will cover, in whole or in part, the geographical area in which such election is held.

"(3) No candidate shall be entitled to the use of broadcast facilities pursuant to an offer made by a licensee under paragraph (2) unless such candidate notifies the licensee in writing of his acceptance of the offer within ten days after receipt of the offer.".

(b) Section 315(b) of such Act (47 U.S.C. 315(b)) is amended by striking out "by any person" and inserting "by or on behalf of any person".

(c)(1) Section 315(c) of such Act (47 U.S.C. 315(c)) is amended to read as follows:

"(c) No station licensee may make any charge for the use of any such station by or on behalf of any legally qualified candidate for nomination for election, or for election, to Federal elective office unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not exceed the limit on expenditures applicable to that candidate under section 614 of title 18, United States Code.".

(2) Section 315(d) of such Act (47 U.S.C. 315(d)) is amended to read as follows:

"(d) If a State by law imposes a limitation upon the amount which a legally qualified candidate for nomination for election, or for election, to public office (other than Federal elective office) within that State may spend in connection with his campaign for such nomination or his campaign for election, then no station licensee may make any charge for the use of such station by or on behalf of such candidate unless such candidate (or a person specifically authorized in writing by him to do so) certifies to such licensee in writing that the payment of such charge will not violate that limitation.".

(d) Section 317 of such Act (47 U.S.C. 317), is amended by—

(1) striking out in paragraph (1) of subsection (a) "person: *Provided*, That" and inserting in lieu thereof the following: "person. If such matter is a political advertisement soliciting funds for a candidate or a political committee, there shall be announced at the time of such broadcast a statement that a copy of reports filed by that person with the Federal Election Commission is available from the Federal Election Commission, Washington, D.C., and the license shall not make any charge for any part of the costs of making the announcement. The term"; and

(2) by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) Each station licensee shall maintain a record of any political advertisement broadcast, together with the identification of the person who caused it to be broadcast, for a period of two years. The record shall be available for public inspection at reasonable hours.".

Sec. 3. The Campaign Communications Reform Act is repealed.

Sec. 4. (a) Section 301 of the Federal Election Campaign Act of 1971 (relating to definitions) is amended by—

(1) striking out ", and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" in paragraph (a), and by inserting "and" before "(4)" in such paragraph;

(2) striking out paragraph (d) and inserting in lieu thereof the following:

"(d) 'political committee' means—

"(1) any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(2) any national committee, association, or organization of a political party, any State affiliate or subsidiary of a national political party, and any State central committee of a political party; and

"(3) any committee, association, or organization engaged in the administration of a separate segregated fund described in section 610 of title 18, United States Code;";

(3) inserting in paragraph (e)(1) after "subscription" the following: "(including any assessment, fee, or membership dues)";

(4) striking out in paragraph (e)(1) "or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" and inserting in lieu thereof the following: "or for the purpose of financing any operations of a political committee, or for the purpose of paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office";

(5) striking out subparagraphs (2) and (3) of paragraph (e), and redesignating subparagraphs (4) and (5) as (2) and (3), respectively;

(6) striking out paragraph (f) and inserting in lieu thereof the following:

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

"(A) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice-presidential elector;

"(B) influencing the result of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(C) financing any operations of a political committee; or

"(D) paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office; but

"(2) shall not mean or include those who volunteer to work without compensation on behalf of a candidate;";

(7) striking "and" at the end of paragraph (h);

(8) striking the period at the end of paragraph (i) and inserting in lieu thereof a semicolon; and

(9) adding at the end thereof the following new paragraphs:

"(j) 'identification' means—

"(1) in the case of an individual, his full name and the full address of his principal place of residence; and

"(2) in the case of any other person, the full name and address of that person;

"(k) 'national committee' means the duly constituted organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of that political party at the national level, as determined by the Commission; and

"(l) 'political party' means a political party which, in the next preceding presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.".

(b)(1) Section 302(b) of such Act (relating to reports of contributions in excess of $10) is amended by striking ", the name and address (occupation and principal place of business, if any)" and inserting "of the contribution and the identification".

(2) Section 302(c) of such Act (relating to detailed accounts) is amended by striking "full name and mailing address (occupation and the principal place of business, if any)" in paragraphs (2) and (4) and inserting in each such paragraph "identification".

(3) Section 302(c) of such Act is further amended by striking the semicolon at the end of paragraph (2) and inserting "and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any);".

Sec. 5. (a) Section 303 of the Federal Election Campaign Act of 1971 (relating to registration of political committees; statements) is amended by redesignating subsections (a) through (d) as (b) through (e), respectively, and by inserting after "Sec. 303." the following new subsection (a):

"(a) Each candidate shall, within ten days after the date on which he has qualified under State law as a candidate, or on which he, or any person authorized by him to do so, has received a contribution or made an expenditure in connection with his campaign or for the purpose of preparing to undertake his campaign, file with the Commission a registration statement in such form as the Commission may prescribe. The statement shall include—

"(1) the identification of the candidate, and any individual, political committee, or other person he has authorized to receive contributions or make expenditures on his behalf in connection with his campaign;

"(2) the identification of his campaign depositories, together with the title and number of each account at each such depository which is to be used in connection with his campaign, any safety deposit box to be used in connection therewith, and the identification of each individual authorized by him to make any expenditure or withdrawal from such account or box; and

"(3) such additional relevant information as the Commission may require.".

(b) The first sentence of subsection (b) of such section (as redesignated by subsection (a) of this section) is amended to read as follows: "The treasurer of each political committee shall file with the Commission a statement of organization within ten days after the date on which the committee is organized.".

(c) The second sentence of such subsection (b) is amended by striking out "this Act" and inserting in lieu thereof the following: "the Federal Election Campaign Act Amendments of 1973".

(d) Subsection (c) of such section (as redesignated by subsection (a) of this section) is amended by—

(1) inserting "be in such form as the Commission shall prescribe, and shall" after "The statement of organization shall";

(2) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the geographic area or political jurisdiction within which the committee will operate, and a general description of the committee's authority and activities;"; and

(3) striking out paragraph (9) and inserting in lieu thereof the following:

"(9) the name and address of the campaign depositories used by that committee, together with the title and number of each account and safety deposit box used by that committee at each depository, and the identification of each individual authorized to make withdrawals or payments out of such account or box;".

(e) The caption of such section 303 is amended by inserting "CANDIDATES AND" after "REGISTRATION OF".

Sec. 6. (a) Section 304 of the Federal Election Campaign Act of 1971 (relating to reports by political committees and candidates) is amended by—

(1) inserting "(1)" and "(a)" in subsection (a);

(2) striking out "for election" each place it appears in the first sentence of subsection (a) and inserting in lieu thereof in each such place "for nomination for election, or for election,";

(3) striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "Such reports shall be filed on the tenth day of April, July, and October of each year, on the tenth day preceding an election, and on the last day of January following an election. Notwithstanding the preceding sentence, the reports required by that sentence to be filed during April, July, and October by or relating to a candidate during a year in which no Federal election is held in which he is a candidate, may be filed on the twentieth day of each month.";

(4) striking out everything after "filing" in the third sentence of subsection (a) and inserting in lieu thereof a period and the following: "Any contribution of $3,000 or more which is received after the closing date of the last report required to be filed prior to any election shall be reported within twenty-four hours after its receipt. If the person making any anonymous contribution is subsequently identified, the identification of the contributor shall be reported to the Commission within the reporting period within which it is identified."; and

(5) adding at the end of subsection (a) the following new paragraph:

"(2) Upon a request made by a Presidential candidate or a political committee which operates in more than one State, or upon its own motion, the Commission may waive the reporting dates (other than January 31) set forth in paragraph (1) and require instead that such candidates or political committees file reports not less frequently than monthly. The Commission may not require a Presidential candidate or a political committee operating in more than one State to file more than eleven reports (not counting any report to be filed on January 31 and special reports of contributions of $3,000 or more as required in paragraph (1) above) during any calendar year. If the Commission acts on its own motion under this paragraph with respect to a candidate or a political committee, that candidate or committee may obtain judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.".

(b) (1) Section 304(b) of such Act (relating to reports by political committees and candidates) is amended by striking "full name and mailing address (occupation and the principal place of business, if any)" in paragraphs (9) and (10) and inserting in lieu thereof in each such paragraph: "identification".

(2) Subsection (b) (5) of such section 304 is amended by striking out "lender and endorsers" and inserting in lieu thereof "lender" endorsers, and guarantors".

(c) Subsection (b) (12) of such section is amended by inserting before the semicolon the following: ", together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor".

(d) Subsection (b) of such section is amended by—

(1) striking the "and" at the end of paragraph (12); and

(2) redesignating paragraph (13) as (14), and by inserting after paragraph (12) the following new paragraph:

"(13) such information as the Commission may require for the disclosure of the nature, amount, source, and designated recipient of any earmarked, encumbered, or restricted contribution or other special fund: and".

(e) The first sentence of subsection (c) of such section is amended to read as follows: "The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, and during such additional periods of time as the Commission may require.".

(f) (1) Such section 304 is amended by adding at the end thereof the following new subsections:

"(d) This section does not require a Member of Congress to report, as contributions received or as expenditures made, the value of photographic, matting, or recording services furnished to him before the first day of January of the year preceding the year in which his term of office expires if those services were furnished to him by the Senate Recording Studio, the House Recording Studio, or by any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if such services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

"(e) Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

"(f) (1) For purposes of this subsection—

"(A) 'Member of Congress' means Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(B) 'income' means gross income as defined in section 61 of the Internal Revenue Code of 1954;

"(C) 'security' means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

"(D) 'commodity' means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2);

"(E) 'dealings in securities or commodities' means any acquisition, holding, withholding, use, transfer, disposition, or other transaction involving any security or commodity; and

"(F) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this subsection, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

"(2) Each candidate for election to Congress (other than a candidate who is a Member of Congress) shall file with the Commission a financial disclosure report for the calendar year immediately preceding the year in which he is a candidate. Such report shall be filed not later than thirty days after the individual becomes such a candidate.

"(3) Each individual who has served at any time during any calendar year as a Member of Congress shall file with the Commission a financial disclosure report for that year. Such report shall be filed not later than May 1 of the year immediately following such calendar year.

"(4) Each financial disclosure report to be filed under this subsection shall be made upon a form which shall be prepared by the Commission and furnished by it upon request. Each such report shall contain a full and complete statement of—

"(A) the amount and source of each item of income, other than reimbursements for expenditures actually incurred, and each gift or aggregate of gifts from one source of a value of more than $100 (other than gifts received from any relative or his spouse) received by him or by him and his spouse jointly during the preceding calendar year, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication;

"(B) each asset held by him, or by him and his spouse jointly, and the amount of each liability owned by him, or by him and his spouse jointly, as of the close of the preceding calendar year;

"(C) all dealings in securities or commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year; and

"(D) all purchases and sales of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year.

"(5) The Commission may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

"(6) All reports filed under this subsection shall be maintained by the Commission as public records. Such reports shall be available, under such regulations as the Commission may prescribe, for inspection by the public.".

(2) Subsection (f) of such section 304, as added by paragraph (1) of this subsection, shall apply with respect to calendar years commencing on or after January 1, 1974.

(g) The caption of such section 304 is amended to read as follows:

"REPORTS"

SEC. 7. Section 305 of the Federal Election Campaign Act of 1971 (relating to reports by others than political committees) is amended to read as follows:

"REQUIREMENTS RELATING TO CAMPAIGN ADVERTISING

"SEC. 305. (a) No person shall cause any political advertisement to be published unless he furnishes to the publisher of the advertisement his identification in writing, together with the identification of any person authorizing him to cause such publication.

"(b) Any published political advertisement shall contain a statement, in such form as the Commission may prescribe, of the identification of the person authorizing the publication of that advertisement.

"(c) Any publisher who publishes any political advertisement shall maintain such records as the Commission may prescribe for a period of two years after the date of publication setting forth such advertisement and any material relating to identification furnished to him in connection therewith, and shall permit the public to inspect and copy those records at reasonable hours.

"(d) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

"(e) Any political committee shall include on the face or front page of all literature and advertisement soliciting contributions the following notice:

"'A copy of our report filed with the Federal Election Commission is available for purchase from the Federal Election Commission, Washington, D.C.'

"(f) As used in this section, the term—

"(1) 'political advertisement' means any matter advocating the election or defeat of any candidate or otherwise seeking to influence the outcome of any election, but does not inculde any bona fide newsstory (including interviews, commentaries, or other works prepared for and published by any newspaper, magazine, or other periodical publication the publication of which work is not paid for by any candidate, political committee, or agent thereof or by any other person); and

"(2) 'published' means a publication in a newspaper, magazine, or other periodical publication, distribution of printed leaflets, pamphlets, or other documents, or display through the use of any outdoor advertising facility, and such other use of printed media as the Commission shall prescribe.".

SEC. 8. Section 306(c) of the Federal Election Campaign Act of 1971 (relating to formal requirements respecting reports and statements) is amended to read as follows:

"(c) The Commission may, by published regulation of general applicability, relieve—

"(1) any category of candidates of the obligation to comply personally with the requirements of section 304(a)-(e), if it determines that such action will not have any adverse effect on the purposes of this title, and

"(2) any category of political committees of the obligation to comply with such section if such committees—

"(A) primarily support persons seeking State or local office, and

"(B) do not operate in more than one State or do not operate on a statewide basis.".

SEC. 9. (a) Title III of the Federal Election Campaign Act of 1971 (relating to disclosure of Federal campaign funds) is amended by redesignating section 308 as section 312, and by inserting after section 307 the following new sections:

"FEDERAL ELECTION COMMISSION

"SEC. 308. (a)(1) There is hereby established, as an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission.

"(2) The Commission shall be composed of the Comptroller General, ex officio, with the right to vote, and six other members who shall be appointed by the President by and with the advice and consent of the Senate. Of the six other members—

"(A) two shall be chosen from among individuals recommended by the President pro tempore of the Senate, upon the recommendations of the majority leader of the Senate and the minority leader of the Senate; and

"(B) two shall be chosen from among individuals recommended by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House.

The two members appointed under subparagraph (A) shall not be affiliated with the same political party; nor shall the two members appointed under subparagraph (B). The two members not appointed under such subparagraphs shall not be affiliated with the same political party.

"(3) Members of the Commission, other than the Comptroller General, shall serve for terms of seven years, except that, of the members first appointed—

"(A) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending on the April thirtieth first occurring more than six months after the date on which he is appointed;

"(B) one of the members appointed under paragraph (2)(A) shall be appointed for a term ending one year after the April thirtieth on which the term of the member referred to in subparagraph (A) of this paragraph ends;

"(C) one of the members appointed under paragraph (2)(B) shall be appointed for a term ending two years thereafter;

"(D) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending three years thereafter;

"(E) one of the members appointed under paragraph (2)(A) shall be appointed for a term ending four years thereafter;

"(F) one of the members appointed under paragraph (2)(B) shall be appointed for a term ending five years thereafter; and

"(G) the Comptroller General shall serve during his term of office as Comptroller General.

"(4) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment. A member may be reappointed to the Commission only once.

"(5) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the office of member of the Commission shall be filled in the manner in which that office was originally filled.

"(6) The Commission shall elect a Chairman and a Vice Chairman from among its members for a term of two years. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and four members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

"(e) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers in any State.

"(f) The Commission shall appoint a General Counsel and an Executive Director to serve at the pleasure of the Commission. The General Counsel shall be the chief legal officer of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. However, the Commission shall not delegate the making of regulations regarding elections to the Executive Director.

"(g) The Chairman of the Commission shall appoint and fix the compensation of such personnel as may be necessary to fulfill the duties of the Commission in accordance with the provisions of title 5, United States Code.

"(h) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(i) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(j) The provisions of section 7324 of title 5, United States Code, shall apply to members of the Commission notwithstanding the provisions of subsection (d)(3) of such section.

"(k)(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation requested by the Congress or by any Member of Congress to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"POWERS OF COMMISSION

"SEC. 309. (a) The Commission shall have the power—

"(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

"(2) to administer oaths;

"(3) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to initiate (through civil proceedings for injunctive relief and through presentations to Federal grand juries), prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of this title and of sections 602, 608, 610, 611, 612, 613, 614, 615, 616, and 617 of title 18, United States Code, through its General Counsel; and

"(7) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission.

"(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d) Notwithstanding any other provision of law, the Commission shall be the primary civil and criminal enforcement agency for violations of the provisions of this title, and of sections 602, 608, 610, 611, 612, 613, 614, 615, 616, and 617 of title 18, United States Code. Any violation of any such provision shall be prosecuted by the Attorney General or Department of Justice personnel only after consultation with, and with the consent of, the Commission.

"(e)(1) Any person who violates any provision of this title or of section 602, 608, 610, 611, 612, 613, 614, 615, 616, or 617 of title 18, United States Code, may be assessed a civil penalty by the Commission under paragraph (2) of this subsection of not more than $10,000 for each such violation. Each occurrence of a violation of this title and each day of noncompliance with a disclosure requirement of this title or an order of the Commission issued under this section shall constitute a separate offense. In determining the amount of the penalty the Commission shall consider the person's history of previous violations, the appropriateness of such penalty to the financial resources of the person charged, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

"(2) A civil penalty shall be assessed by the Commission by order only after the person charged with a violation has been given an opportunity for a hearing and the Commission has determined, by decision incorporating its findings of fact therein, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with section 554 of title 5, United States Code.

"(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Commission shall file a petition for enforcement of its order assessing the penalty in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and his attorney of record, and thereupon the Commission shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and decision of the Commission or it may remand the proceedings to the Commission for such further action as it may direct. The court may consider and determine de novo all relevant issues of law but the Commission's findings of fact shall become final thirty days after issuance of its decision order incorporating such findings of fact and shall not thereafter be subject to judicial review.

"(f) Upon application made by an individual holding Federal office, any candidate, or any political committee, the Commission, through its General Counsel, shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of title 18, United States Code, over which the Commission has primary jurisdiction under subsection (d). Notwithstanding any other provision of law, no candidate or political committee shall be held or considered to have violated any such provision by the commission or omission of any act with respect to which an advisory opinion has been issued to that candidate or political committee under this subsection.

"CENTRAL CAMPAIGN COMMITTEES

"SEC. 310. (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for nomination for election, or for election, to the office of President, may also designate one political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made in writing, and a copy of the designation, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any such committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate. The central campaign committee, and each State campaign committee, designated by a candidate nominated by a political party for election to the office of President shall be the central campaign committee and the State campaign committees of the candidate nominated by that party for election to the office of Vice President.

"(c) (1) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination or for election, which is not a central campaign committee or a State campaign committee, shall furnish each report required of it under section 304 (other than reports required under the last sentence of section 304(a) and 311(b)) to that candidate's central campaign committee at the time it would, but for this subsection, be required to furnish that report to the Commission. Any report properly furnished to a central campaign committee under this subsection shall be, for purposes of this title, held and considered to have been furnished to the Commission at the time at which it was furnished to such central campaign committee.

"(2) The Commission may, by regulation, require any political committee receiving contributions or making expenditures in a State on behalf of a candidate who, under subsection (a), has designated a State campaign committee for that State to furnish its reports to that State campaign committee instead of furnishing such reports to the central campaign committee of that candidate.

"(3) The Commission may require any political committee to furnish any report directly to the Commission.

"(d) Each political committee which is a central campaign committee or a State campaign committee shall receive all reports filed with or furnished to it by other political committees, and consolidate and furnish the reports to the Commission, together with its own reports and statements, in accordance with the provisions of this title and regulations prescribed by the Commission.

"CAMPAIGN DEPOSITORIES

"SEC. 311. (a) (1) Each candidate shall designate one or more National or State banks as his campaign depositories. The central campaign committee of that candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain a checking account at a depository so designated by the candidate and shall deposit any contributions received by that committee into that account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one or more National or State banks as campaign depositories of that committee, and shall maintain a checking account for the committee at each such depository. All contributions received by that committee shall be deposited in such an account. No expenditure may be made by that committee except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.

"(c) A candidate for nomination for election, or for election, to the office of President may establish one such depository in each State, which shall be considered by his State campaign committee for that State and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in that State, under regulations prescribed by the Commission, as his single campaign depository. The campaign depository of the candidate of a political party for election to the office of Vice President shall be the campaign depository designated by the candidate of that party for election to the office of President.".

(b) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(60) Members (other than the Comptroller General), Federal Election Commission (6)."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraphs:

"(98) General Counsel, Federal Election Commission.

"(99) Executive Director, Federal Election Commission."

(c) Until the appointment and qualification of all the members of the Federal Election Commission and its General Counsel and until the transfer provided for in this subsection, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to carry out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as such titles existed on the day before the date of enactment of this Act. Upon the appointment of all the members of the Commission and its General Counsel, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within thirty days after the date on which all such members and the General Counsel are appointed, of all records, documents, memorandums, and other papers associated with carrying out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971.

(d) Title III of the Federal Election Campaign Act of 1971 is amended by—

(1) amending section 301(g) (relating to definitions) to read as follows:

"(g) 'Commission' means the Federal Election Commission;";

(2) striking out "supervisory officer" in section 302(d) and inserting "Commission";

(3) striking out section 302(f) (relating to organization of political committees);

(4) amending section 303 (relating to registration of political committees; statements) by—

(A) striking out "supervisory officer" each time it appears therein and inserting "Commission"; and

(B) striking out "he" in the second sentence of subsection (b) of such section (as redesignated by section 5(a) of this Act) and inserting "it";

(5) amending section 304 (relating to reports by political committees and candidates) by—

(A) striking out "appropriate supervisory officer" and "him" in the first sentence thereof and inserting "Commission" and "it", respectively; and

(B) striking out "supervisory officer" where it appears in the third sentence of subsection (a) and in paragraphs (12) and (14) (as redesignated by section 6(d) (2) of this Act) of subsection (b), and inserting "Commission";

(6) striking out "supervisory officer" each place it appears in section 306 (relating to formal requirements respecting reports and statements) and inserting "Commission";

(7) striking out "Comptroller General of the United States" and "he" in section 307 (relating to reports on convention financing) and inserting "Federal Election Commission" and "it", respectively;

(8) striking out "SUPERVISORY OFFICER" in the caption of section 312 (as redesignated by subsection (a) of this section) (relating to duties of the supervisory officer) and inserting "COMMISSION";

(9) striking out "supervisory officer" in section 312(a) (as redesignated by subsection (a) of this section) the first time it appears and inserting "Commission";

(10) amending section 312(a) (as redesignated by subsection (a) of this section) by—

(A) striking out "him" in paragraph (1) and inserting "it";

(B) striking out "him" in paragraph (4) and inserting "it"; and

(C) striking out "he" each place it appears in paragraphs (7) and (9) and inserting "it".

(11) striking out "supervisory officer" in

section 312(b) (as redesignated by subsection (a) of this subsection) and inserting "Commission";

(12) amending subsection (c) of section 312 (as redesignated by subsection (a) of this section) by—

(A) striking out "Comptroller General" each place it appears therein and inserting "Commission", and striking "his" in the second sentence of such subsection and inserting "its"; and

(B) striking out the last sentence thereof; and

(13) amending subsection (d)(1) of section 312 (as redesignated by subsection (a) of this section) by—

(A) striking out "supervisory officer" each place it appears therein and inserting "Commission";

(B) striking out "he" the first place it appears in the second sentence of such section and inserting "it"; and

(C) striking out "the Attorney General on behalf of the United States" and inserting "the Commission".

Sec. 10. Section 312(a)(6) (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to duties of the supervisory officer) is amended to read as follows:

"(6) to compile and maintain a cumulative index listing all statements and reports filed with the Commission during each calendar year by political committees and candidates, which the Commission shall cause to be published in the Federal Register no less frequently than monthly during even-numbered years and quarterly in odd-numbered years and which shall be in such form and shall include such information as may be prescribed by the Commission to permit easy identification of each statement, report, candidate, and committee listed, at least as to their names, the dates of the statements and reports, and the number of pages in each, and the Commission shall make copies of statements and reports listed in the index available for sale, direct or by mail, at a price determined by the Commission to be reasonable to the purchaser;".

Sec. 11. Title III of the Federal Election Campaign Act of 1971 is amended by inserting after section 312 (as redesignated by this Act) the following new section:

"SUSPENSION OF FRANK FOR MASS MAILINGS IMMEDIATELY BEFORE ELECTIONS

"Sec. 313. No Senator, Representative, Resident Commissioner, or Delegate shall make any mass mailing of a newsletter or mailing with a simplified form of address under the frank under chapter 32 of title 39, United States Code, during the sixty days immediately preceding the date on which any election is held in which he is a candidate."

Sec. 12. Section 309 of the Federal Election Campaign Act of 1971 (relating to statements filed with State officers) is redesignated as section 314 of such Act and amended by—

(1) striking out "a supervisory officer" in subsection (a) and inserting in lieu thereof "the Commission";

(2) striking out "in which an expenditure is made by him or on his behalf" in subsection (a)(1) and inserting in lieu thereof the following: "in which he is a candidate or in which substantial expenditures are made by him or on his behalf"; and

(3) adding the following new subsection:

"(c) There is hereby authorized to be appropriated to the Commission in each fiscal year the sum of $500,000, to be made available in such amounts as the Commission deems appropriate to the States for the purpose of assisting them in complying with their duties as set forth in this section.".

Sec. 13. Section 310 of the Federal Election Campaign Act of 1971 (relating to prohibition of contributions in name of another) is redesignated as section 315 of such Act and amended by inserting after "another person", the first time it appears, the following: "or knowingly permit his name to be used to effect such a contribution".

Sec. 14. Section 311 of the Federal Election Campaign Act of 1971 (relating to penalty for violations) is amended to read as follows:

"PENALTY FOR VIOLATIONS

"Sec. 316. (a) Violation of the provisions of this title (other than section 304(f)) is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both.

"(b) Violation of the provisions of this title (other than section 304(f)) with knowledge or reason to know that the action committed or omitted is a violation of this Act is punishable by a fine of not more than $100,000, imprisonment for not more than five years, or both.

"(c) Any person who willfully fails to file a report required by section 304(f) of this Act, or who knowingly and willfully files a false report under such section, shall be fined $2,000 or imprisoned for not more than one year, or both.".

Sec. 15. Title III of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new sections:

"APPROVAL OF PRESIDENTIAL CAMPAIGN EXPENDITURES BY NATIONAL COMMITTEE

"Sec. 317. (a) No expenditure in excess of $1,000 shall be made by or on behalf of any candidate who has received the nomination of his political party for President or Vice President unless such expenditure has been specifically approved by the chairman or treasurer of that political party's national committee or the designated representative of that national committee in the State where the funds are to be expended.

"(b) Each national committee approving expenditures under subsection (a) shall register under section 303 as a political committee and report each expenditure it approves as if it had made that expenditure, together with the name and address of the person seeking approval and making the expenditure.

"(c) No political party shall have more than one national committee.

"USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

"Sec. 318. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his campaign expenses, and any other amounts contributed to an individual for the purpose of supporting his activities as a holder of Federal office, may be used by that candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, or may be contributed by him to any organization described in section 170 (c) of the Internal Revenue Code of 1954. To the extent any such contribution, amount contributed, or expenditure thereof is not otherwise required to be disclosed under the provisions of this title, such contribution, amount contributed, or expenditure shall be fully disclosed in accordance with regulations promulgated by the Commission. The Commission is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 319. There are authorized to be appropriated to the Commission, for the purpose of carrying out its functions under this title, and under chapter 29 of title 18, United States Code, not to exceed $5,000,000 for the fiscal year ending June 30, 1974, and not to exceed $5,000,000 for each fiscal year thereafter.".

Sec. 16. Section 403 of the Federal Election Campaign Act of 1971 is amended to read as follows:

"EFFECT ON STATE LAW

"Sec. 403. The provisions of this Act, and of regulations promulgated under this Act, supersede and preempt any provision of State law with respect to campaigns for nomination for election, or for election, to Federal office (as such term is defined in section 301(c)).".

Sec. 17. (a) Paragraph (a) of section 591 of title 18, United States Code, is amended by—

(1) inserting "or" before "(4)"; and

(2) striking out "and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States".

(b) Such section 591 is amended by striking out paragraph (d) and inserting in lieu thereof the following:

"(d) 'political committee' means—

"(1) any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(2) any national committee, association, or organization of a political party, any State affiliate or subsidiary of a national political party, and any State central committee of a political party; and

"(3) any committee, association, or organization engaged in the administration of a separate segregated fund described in section 610;".

(c) Such section 591 is amended by—

(1) inserting in paragraph (e)(1) after "subscription" the following: "(including any assessment, fee, or membership dues)";

(2) striking out in such paragraph "or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" and inserting in lieu thereof the following: "or for the purpose of financing any operations of a political committee, or for the purpose of paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office"; and

(3) striking out subparagraphs (2) and (3) of paragraph (e) and redesignating subparagraphs (4) (5) as (2) and (3), respectively.

(d) Such section 591 is amended by striking out paragraph (f) and inserting in lieu thereof the following:

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations, and in the ordinary course of business), advance, deposit, or gift of money or anything of value, made for the purpose of—

"(A) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice presidential elector:

"(B) influencing the result of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(C) financing any operations of a political committee; or

"(D) paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection wtlh any campaign for nomination for election, or for election, to Federal office; but

"(2) shall not mean or include those who volunteer to work without compensation on behalf of a candidate;".

Sec. 18. (a)(1) Subsection (a)(1) of section 608 of title 18, United States Code, is amended to read as follows:

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, and for election, to, Federal office in excess, in the aggregate during any calendar year, of—

"(A) $100,000, in the case of a candidate for the office of President or Vice President;

"(B) $70,000, in the case of a candidate for the office of Senator; or

"(C) $50,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress."

(2) Subsection (a) of such section is amended by adding at the end thereof the following new paragraphs:

"(3) No candidate or his immediate family may make loans or advances from their personal funds in connection with his campaign for nomination for election, or election, to Federal office unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

"(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditures only to the extent of the balance of such loan or advance outstanding and unpaid."

(b) Subsection (c) of such section is amended by striking out "$1,000" and inserting in lieu thereof "$25,000", and by striking out "one year" and inserting in lieu thereof "five years".

(c)(1) The caption of such section 608 is amended by adding at the end thereof the following: "out of candidates' personal and family funds".

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures out of candidates' personal and family funds.".

(d) Notwithstanding the provisions of section 608 of title 18, United States Code, it shall not be unlawful for any individual who, as of the date of enactment of this Act, has outstanding any debt or obligation incurred on his behalf by any political committee in connection with his campaigns prior to January 1, 1973, for nomination for election, and for election, to Federal office, to satisfy or discharge any such debt or obligation out of his own personal funds or the personal funds of his immediate family (as such term is defined in such section 608).

SEC. 19. Section 611 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"It shall not constitute a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration of, and solicitation of contributions to, such fund do not constitute a violation of section 610."

SEC. 20. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 614. Limitation on expenditures generally

"(a)(1) Except to the extent that such amounts are increased under subsection (d)(2), no candidate (other than a candidate for nomination for election to the office of President) may make expenditures in connection with his primary or primary runoff campaign for nomination for election to Federal office in excess of the greater of—

"(A) 10 cents multiplied by the voting age population (as certified under subsection (e) of the geographical area in which the election for such nomination is held, or

"(B)(i) $125,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(2) Except to the extent that such amounts are increased under subsection (d)(2), no candidate (other than a candidate for election to the office of President) may make expenditures in connection with his general or special election campaign for election to Federal office in excess of the greater of—

"(A) 15 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election is held, or

"(B)(i) $175,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative, from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(b)(1) No candidate for nomination for election to the office of President may make expenditures in any State in connection with his campaign for such nomination in excess of the amount which a candidate for nomination for election to the office of Senator from that State (or for nomination for election to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for that nomination. For purposes of this subsection, an individual is a candidate for nomination for election to the office of President if he makes (or any other person makes on his behalf) an expenditure on behalf of his candidacy for any political party's nomination for election to the office of President.

"(2) No candidate for election to the office of President may make expenditures in any State in connection with his campaign for election to such office in excess of the amount which a candidate for election to the office of Senator (or for election to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for election to the office of Senator (or Delegate).

"(c)(1) Expenditures made on behalf of any candidate shall, for the purpose of this section, be deemed to have been made by such candidate.

"(2) Expenditures made by or on behalf of any candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been made by the candidate for the office of President of the United States with whom he is running.

"(3) For purposes of this subsection, an expenditure shall be held and considered to have been made on behalf of a candidate if it was made by—

"(A) an agent of the candidate for the purposes of making any campaign expenditure, or

"(B) any person authorized or requested by the candidate to make expenditures on his behalf.

"(d)(1) For purposes of paragraph (2):

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1970.

"(2) At the beginning of each calendar year (commencing in 1974), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Federal Election Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(e) During the first week of January 1974, and every subsequent year, the Secretary of Commerce shall certify to the Federal Election Commission and publish in the Federal Register an estimate of the voting age population of each State and congressional district as of the first day of July next preceding the date of certification.

"(f)(1) No person shall render or make any charge for services or products knowingly furnished to, or for the benefit of, any candidate in connection with his campaign for nomination for election, or election, in an amount in excess of $100 unless the candidate (or a person specifically authorized by the candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitations set forth in this section.

"(2) Any person making an aggregate expenditure in excess of $1,000 to purchase services or products shall, for purposes of this subsection, be held and considered to be making such expenditure on behalf of any candidate the election of whom would be influenced favorably by the use of such products or services. No person shall render or make any charge for services or products furnished to a person described in the preceding sentence unless that candidate (or a person specifically authorized by that candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitation applicable to that candidate under this section.

"(g) The Federal Election Commission shall prescribe regulations under which any expenditure by a candidate for Presidential nomination of use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such expenditure.

"(h) Any person who knowingly or willfully violates the provisions of this section, other than subsection (c), (d), and (e), shall be punishable by a fine of $25,000, imprisonment for a period of not more than five years, or both. If any candidate is convicted of violating the provisions of this section because of any expenditure made on his behalf (as determined under subsection (c)(3)) by a political committee, the treasurer of that committee, or any other person authorizing such expenditure, shall be punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both, if such person knew, or had reason to know, that such expenditure was in excess of the limitation applicable to such candidate under this section.

"§ 615. Limitations on contributions by individuals and on expenditures by certain other persons

"(a) No individual shall make any contribution during any calendar year to or for the benefit of any candidate which is in excess of—

"(1) in the case of contributions to or for the benefit of a candidate other than a candidate for nominattion for election, or for election, to the office of President, the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $3,000; or

"(2) in the case of contributions to or for the benefit of a candidate for nomination for election, or for election, to the office of President, the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of that candidate, would equal $3,000.

"(b) No individual shall during any calendar year make, and no person shall accept, (1) any contribution to a political committee, or (2) any contribution to or for the benefit of any candidate, which, when added to all the other contributions enumerated in (1) and (2) of this subsection which were made in that calendar year, exceeds $25,000.

"(c)(1) No person (other than an individual) shall make any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, would equal—

"(A) $3,000, in the case of a candidate other than a candidate for nomination for election, or for election, to the office of President; or

"(B) $3,000, in the case of a candidate for nomination for election, or for election, to the office of President.

"(2) This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate, to the national committee of a political party, or to the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

"(d) The limitations imposed by subsection (a)(1) and by subsection (c) shall apply separately to each primary, primary runoff, general, and special election in which a candidate participates.

"(e)(1) Any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held shall, for purposes of this section, be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(2) Contributions made to or for the benefit of a candidate nominated by a political party for election to the office of Vice President shall be held and considered, for purposes of this section, to have been made to or for the benefit of the candidate nominated by that party for election to the office of President.

"(f) For purposes of this section, the term—

"(1) 'family' means an individual and his spouse and any of his children who have not attained the age of eighteen years; and

"(2) 'political party' means a political party which in the next preceding presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.

"(g) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

"(h) Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both.

§ 616. Form of contributions

"It shall be unlawful for any person to make a contribution to or for the benefit of any candidate or political committee in excess, in the aggregate during any calendar year, of $50 unless such contribution is made by a written instrument identifying the person making the contribution. Violation of the provisions of this section is punishable by a fine of not to exceed $1,000, imprisonment for not to exceed one year, or both.

"§ 617. Embezzlement or conversion of political contributions

"Whoever, being a candidate, or an officer, employee, or agent of a political candidate, or a person acting on behalf of any candidate or political committee, embezzles, knowingly converts to his own use or the use of another, or deposits in any place or in any manner except as authorized by law, any contributions or campaign funds entrusted to him or under his possession, custody, or control, or uses any campaign funds to pay or defray the costs of attorney fees for the defense of any person or persons charged with the commission of a crime; or

"Whoever receives, conceals, or retains the same with intent to convert it to his personal use or gain, knowing it to have been embezzled or converted—

"Shall be fined not more than $25,000 or imprisoned not more than ten years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both. Notwithstanding the provisions of this section, any surplus or unexpended campaign funds may be contributed to a national or State political party for political purposes, or to educational or charitable organizations, or may be preserved for use in future campaigns for elective office, or for any other lawful purpose.".

(b) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting in lieu thereof "611, 614, 615, 616, and 617".

(c) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"614. Limitation on expenditures generally.
"615. Limitation on contributions by individuals and on expenditures by certain other persons.
"616. Form of contributions.
"617. Embezzlement or conversion of political contributions.".

SEC. 21. The Federal Election Campaign Act of 1971 is amended by redesignating title IV as title V, redesignating sections 401 through 406, and all cross references thereto, as sections 501 through 506, respectively, and by inserting after title III of such Act the following new title:

"TITLE IV—ASSISTANCE FOR VOTER REGISTRATION AND ELECTION ADMINISTRATION

"SEC. 401. This title may be cited as the 'Voter Registration and Election Administration Assistance Act'.

"DEFINITIONS

"SEC. 402. As used in this title—

"(1) 'Commission' means the Federal Election Commission;

"(2) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(3) 'political subdivision' means any city, county, township, town, borough, parish, village, or other general purpose unit of local government of a State, or an Indian tribe which performs voter registration or election administration functions, as determined by the Secretary of the Interior; and

"(4) 'grant' means grant, loan, contract, or other appropriate financial arrangement.

"FUNCTIONS OF THE COMMISSION

"SEC. 403. (a) The Commission shall—

"(1) make grants, in accord with the provisions of this title, upon the request of State and local officials, to States and political subdivisions thereof to carry out programs of voter registration and election administration;

"(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning voter registration and elections in the United States;

"(3) prepare and submit to the President and the Congress on March 31 each year a report on the activities of the Commission under this title and on voter registration and election administration in the States and political subdivisions thereof, including recommendations for such additional legislation as may be appropriate; and

"(4) take such other actions as it deems necessary and proper to carry out its functions under this title.

"(b) The Commission shall not publish or disclose any information which permits the identification of individual voters.

"ADVISORY COUNCIL ON VOTER REGISTRATION AND ELECTION ADMINISTRATION

"SEC. 404. (a) There is hereby established an Advisory Council on Voter Registration and Election Administration, consisting of the Chairman of the Commission, who shall be Chairman of the Council, and sixteen members appointed by the Chairman of the Commission without regard to the civil service laws. Four of the appointed members shall be selected from the general public, and four each shall be selected from the chief election officers of State, county, and municipal governments, respectively. No more than two of the appointed members in each category shall be members of the same political party.

"(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Chairman of the Commission at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(c) The Council shall advise and assist the Commission in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this title, including matters arising with respect to the review of applications for grants under this title.

"GRANTS TO DEFRAY COSTS OF EXISTING VOTER REGISTRATION AND ELECTION ACTIVITIES

"SEC. 405. The Commission is authorized to make grants to any State or political subdivision thereof for the purpose of carrying out voter registration and election administration activities. A grant made under this section in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State or political subdivision receiving the grant, and the total amount of grants to any State and the political subdivisions thereof in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State.

"GRANTS TO IMPROVE VOTER REGISTRATION AND ELECTION ADMINISTRATION PROCEDURES

"SEC. 406. (a) The Commission is authorized to make grants to any State or political subdivision thereof to establish and carry out programs to improve voter registration and election administration. Such programs may include, but shall not be limited to:

"(1) programs to increase the number of registered voters or to improve voter registration, such as expanded registration hours and locations, employment of deputy registrars, mobile registration facilities, employment of deputy registrars, door-to-door canvass procedures, election day registration, reregistration programs, and programs to coordinate registration with other jurisdictions;

"(2) programs to improve election and election day activities, such as organization, planning, and evaluation of election and election day activities and responsibilities; improvements in ballot preparation, in use of absentee ballot procedures, and in voter identification, voting and vote-counting on election day; coordination of State and local election activities; and establishment of administrative and judicial mechanisms to deal promptly with election and election day difficulties;

"(3) education and training programs for State and local election officials;

"(4) programs for the prevention and control of fraud; and

"(5) other programs designed to improve voter registration and election administration and approved by the Commission.

"(b) A grant made under this section may be up to 50 per centum of the fair and reasonable cost, as determined by the Commission, of establishing and carrying out such a program. A grant made under this section in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State or political subdivision receiving the grant, and the total amount of grants to any State and the political subdivisions thereof in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State.

"GRANTS TO MODERNIZE VOTER REGISTRATION AND ELECTION ADMINISTRATION

"SEC. 407. (a) The Commission is authorized to make grants to any State for planning and evaluating the use of electronic data processing or other appropriate procedures to modernize voter registration or election administration on a centralized statewide basis. A grant made under this section shall not be in excess of one-half cent multiplied by the voting age population of the State receiving the grant, or $25,000, whichever is greater.

"(b) The Commission is authorized to make grants to any State for designing, programing, and implementing a centralized statewide voter registration or election administration system as described in subsection (a) of this section. A grant under this subsection shall not be in excess of 10 cents multiplied by the voting age population of the State receiving the grant.

"GRANTS FOR VOTER EDUCATION

"SEC. 408. The Commission is authorized to make grants to any State or political subdivision thereof for the purpose of carrying out nonpartisan citizen education programs in voting and voter registration. A grant made under this section in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State or political subdivision receiving the grant, and the total amount of grants to any State and the political subdivisions thereof in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State.

"TECHNICAL ASSISTANCE AND FRAUD PREVENTION

"SEC. 409. The Commission is authorized to make available technical assistance, including assistance in developing programs for the prevention and control of fraud, to any State or political subdivision thereof for improving voter registration, election administration and voter participation. Such assistance shall be made available at the request of States and political subdivisions thereof, to the extent practicable and consistent with the provisions of this title.

"APPLICATIONS FOR GRANTS

"SEC. 410. Except as otherwise specifically provided, grants authorized by section 405, 406, 407, or 408 of this title may be made to States, political subdivisions, or combinations thereof. Such grants may be made only upon application to the Commission at such time or times and containing such information as the Commission may prescribe. The Commission shall provide an explanation of the grant programs authorized by this title to State or local election officials, and shall offer to prepare, upon request, applications for such grants. No application shall be approved unless it—

"(a) demonstrates, to the satisfaction of the Commission, that the applicant has a substantial responsibility for voter registration or election administration within its jurisdiction, and that the grant will not involve duplication of effort within the jurisdiction receiving the grant or the development of incompatible voter registration or election administration systems within a Stae;

"(b) sets forth the authority for the grant under this title;

"(c) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title, and provides for making available to the Commission, books, documents, papers, and records related to any funds received under this title; and

"(d) provides for making such reports, in such form and containing such information, as the Commission may reasonably require to carry out its functions under this title, for keeping such records, and for affording such access thereto as the Commission may find necessary to assure the correctness and verification of such reports.

"REGULATIONS

"SEC. 411. The Commission is authorized to issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 412. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated, for the fiscal year ending June 30, 1974, and for the two succeeding fiscal years, the sum of $15,000,000 each year for sections 405, 406, 407, and 408.".

SEC. 22. (a) Any candidate of a political party in a general election for the office of a Member of Congress who, at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and each Member of Congress, each officer and employee of the United States (including any member of a uniformed service) who is compensated at a rate in excess of $25,000 per annum, any individual occupying the position of an officer or employee of the United States who performs duties of the type generally performed by an individual occupying grade GS-16 of the General Schedule or any higher grade or position (as determined by the Federal Election Commission regardless of the rate of compensation of such individual), the President, and the Vice President shall file annually, with the Commission a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from his spouse or any member of his immediate family) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity of each asset held by him, or by him and his spouse jointly which has a value in excess of $1,000, and the amount of each liability owed by him or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(3) any transactions in securities of any business entity by him or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $1,000 during such year;

(4) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $1,000; and

(5) any purchase or sale, other than the purchase or sale of his personal residence, of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000.

(b) Reports required by this section (other than reports so required by candidates of political parties) shall be filed not later than May 15 of each year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Commission may prescribe.

(c) Reports required by this section shall be in such form and detail as the Commission may prescribe. The Commission may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

(d) Any person who willfully fails to file a report required by this section or who knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than five years, or both.

(e) All reports filed under this section shall be maintained by the Commission as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(f) For the purposes of any report required by this section, an individual shall be considered to have been President, Vice President, a Member of Congress, an officer or employee of the United States, or a member of a uniformed service, during any calendar year if he served in any such position for more than six months during such calendar year.

(g) As used in this section—

(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Com-

modity Exchange Act, as amended (7 U.S.C. 2).

(4) The term "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(5) The term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate.

(6) The term "officer" has the same meaning as in section 2104 of title 5, United States Code.

(7) The term "employee" has the same meaning as in section 2105 of such title.

(8) The term "uniformed service" means any of the Armed Forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration.

(9) The term "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouses of such persons.

(h) Section 554 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) All written communications and memorandums stating the circumstances, source, and substance of all oral communications made to the agency, or any officer or employee thereof, with respect to any case which is subject to the provisions of this section by any person who is not an officer or employee of the agency shall be made a part of the public record of such case. This subsection shall not apply to communications to any officer, employee, or agent of the agency engaged in the performance of investigative or prosecuting functions for the agency with respect to such case."

(i) The first report required under this section shall be due on the fifteenth day of May occurring at least thirty days after the date of enactment.

(j) Effective on the day after the date of enactment of this Act—

(1) section 304(f) of the Federal Election Campaign Act of 1971 is repealed;

(2) section 6(f) of this Act is amended—

(A) by striking out the paragraph designation "(1)", and

(B) by striking out paragraph (2) of such section;

(3) section 306(c)(1) of the Federal Election Campaign Act of 1971 is amended by striking out "(a)-(e)"; and

(4) section 316 of the Federal Election Campaign Act of 1971 is amended—

(A) by striking out of subsections (a) and (b) the phrase "(other than section 304(f))" wherever it appears; and

(B) by striking out subsection (c).

Any action taken under any provision of law repealed or struck out by this subsection shall have no force or effect on or after such day.

SEC. 23. It is the sense of the Congress that the salaries of Members of Congress, members of the President's cabinet, and members of the Federal judiciary shall not be increased in excess of the annual wage guidelines so long as wage and price controls continue.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

The amendment offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) is in four parts. The first part that we have before us at this time would provide for a subsidy to any candidate for Federal office, including, of course, Members of the Senate and Members of the House. Of course, it might well be dubbed "The Federal Officeholders' Subsidy Act," because that is what it is.

It would subsidize Members of the Senate and House of Representatives in their election campaign by paying, I believe, to each candidate, 15 cents for each person of voting age in the political subdivision from which he was a candidate. It also, of course, applies to Presidential elections.

The second provision of the amendment—we will get to that in time—is of course the monstrosity of all monstrosities, because it would subsidize the various candidates not for election as President but for the party nomination whether it be Democrat or Republican. It would provide for matching contributions—up to $100 contributions—up to the total of 5 cents for each person of voting age throughout the country. That would provide some $7 million for each bona fide candidate for the Democratic nomination or the Republican nomination.

Now, if we let section 1 get by, we will have section 2 to contend with. The more steam gathered on section 1, that momentum will carry on to section 2 and we will have a monstrosity there that would provide for subsidizing Governor Rockefeller's campaign for the Republican Presidential nomination up to the tune of $7 million from the American taxpayers. Governor Connally the same way, and any of the various Members of the Senate who are running for President. They would get this same contribution up to $7 million.

I do not believe that the American taxpayer knows what is contained in this bill. As a matter of fact, I doubt that many Senators have bothered to check it to see. But if we subsidize our own campaigns—and that is what this provision before us now would do. it would subsidize a Senator's campaign and Members of the House of Representatives—I do not believe that is quite what the American taxpayer wants his representatives in the Senate and House to do. I do not believe the American taxpayers feel that is in the public interest.

While these provisions provide for Federal subsidies, they do not choke off private contributions. So they get the private contributions and after they exhaust that, then they add the Federal subsidy.

I do not feel that Members of the Senate want to provide for a tremendous subsidy, in some cases possibly millions of dollars, as it provides a minimum of $175,000; but the 15 cents per person of voting age, in some of the big States, would probably be up to $1 million, $2 million, or $3 million to be provided by the taxpayers to Senators, so that they will get the subsidy for their senatorial campaigns.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. Is there any limit on the number of persons who can run for the nomination for President?

Mr. ALLEN. No, sir.

Mr. ERVIN. Would anyone be eligible for President who is 35 years of age, an American citizen, and possessing the other qualifications for that office?

Mr. ALLEN. Yes sir, but to come under the provisions of this subsidy, they would have to get out and get $100 or $50 contributions and build up a fund of $100,000 before they could qualify for the subsidy.

Mr. ERVIN. Is there any other limitation?

Mr. ALLEN. That is the only one I know of.

So, Mr. President, as to section 2, I do not know that I shall be able to speak on that later, but I will speak on it at this time if I can.

Section 1 would subsidize Senate campaigns. All right. Section 2 provides for subsidizing Presidential nomination campaigns no matter for what political party. It would subsidize both, whether running for the Senate or running for President. That is what this bill calls for.

I do not believe that the shibboleth of "Let us have public financing" is enough to cover the evils in this amendment, and there are four parts to it.

Section 3 provides, I believe, for doubling the Long checkoff dollar, to make that $2 that could be checked off. It does not make any difference whether it is $2 or $10, because whatever it fails to provide, the American taxpayer will have to pay it, anyhow, because they supplement whatever comes in on that checkoff to pay off this tremendous subsidy.

Section 4 would double the amount that a taxpayer can claim as a political contribution.

So, all in all, the whole thing is a monstrosity.

I might say to the Senate, it judged that when it voted down this same amendment, in substance, when we were acting on S. 372, which passed the Senate on July 30, 1973.

Mr. AIKEN. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. AIKEN. Could the Senator tell us whether any other countries pay the campaign expenses of candidates for their legislative bodies, or for high office, and if so, whether those expenses are paid from public funds and by what means?

Mr. ALLEN. I am not advised of any, although it is possible that some nations might have that system.

Mr. AIKEN. It would be very interesting to look that up. I have a feeling that certain other countries have tried this with disastrous effects.

Mr. ALLEN. I have not seen that.

Mr. AIKEN. I am wondering whether we would be establishing a precedent among the larger nations if we paid the campaign expenses of our candidates out of public funds.

Mr. ALLEN. I am not advised of any such system, but it would establish a dangerous precedent in my judgment.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. PASTORE. In the bill that we recently passed, the Campaign Expenditures Act of 1971, we limited what each candidate for the Senate could spend to 10 cents per voter.

Mr. ALLEN. In the primary. Fifteen cents in the general election.

Mr. PASTORE. Fifteen cents in the

general election. I understood the Senator to say that that would be the amount of the subsidy. Is there any ceiling on what a candidate can spend, or is it wide open?

Mr. ALLEN. The subsidy is limited. In the primary, the candidate can get private subscriptions. In the general election, private subscription can be made to the State committees and they would finance it.

Mr. PASTORE. I understand that the Kennedy amendment does limit the amount that any candidate can spend. It is 10 cents for the primary and 15 cents for the general. Is that not so?

Mr. KENNEDY. The provision applies only to the general election, a 15-cent limitation. That aspect is patterned on S. 372.

Mr. PASTORE. What is the story as to the primary?

Mr. KENNEDY. There is no provision for congressional primaries. A wide variety of suggestions have been made with regard to such primaries. There has been a general disagreement on the best way to approach public funding for congressional primaries, but it was felt that at least we could take a major step in other areas. I would expect that, at some time in the future, steps would be taken to cover primaries. But we have not addressed ourselves to that particular problem in this amendment.

Mr. PASTORE. The reason why I ask the question is that under existing law, which is the Campaign Expenditures Act of 1971, a person is limited only with reference to radio and television, billboards, and newspaper advertising. The rest of it is wide open. As a result, we notice that in the last election more money was spent by candidates than ever before in the history of this Republic. And that was with a limitation.

In the case of a primary, the way it is left wide open, I am wondering whether one could spend any amount of money in order to win a nomination, and whether or not we would be defeating the very purpose we are trying to accomplish. If we are going to have a limitation, we ought to have a limitation for the primary as well as for the general.

Mr. KENNEDY. I would agree with the Senator, from a personal point of view. The one point that the sponsors of this amendment could agree to was the limitation with regard to the general election; and then, hopefully, at another time, in another Congress, we could get the limitation with regard to the primary. Of course, once S. 372 is enacted into law, there will in all likelihood be strict limits on spending in primaries.

Mr. ALLEN. Mr. President, I ask unanimous consent that this colloquy not come out of my time.

Mr. KENNEDY. I will finish this thought on my own time.

The Senator from Alabama indicated earlier in the day the possibility of offering the previously passed legislation, S. 372 as a substitute for this amendment. Although I would certainly oppose that, I supported the previous legislation, and I would not be opposed to accepting it as an addition to our amendment, not as a substitute. That would meet the objections of the Senator from Rhode Island.

So if we are able to make progress on this amendment, and if the Senator from Alabama or any other Member were to propose to add S. 372, which passed overwhelmingly, I would certainly urge the Senate to accept it. But this particular amendment does not deal with that problem.

Mr. PASTORE. I hope the Senator will see fit to modify his amendment in that respect, because I think the likelihood of its adoption would be enhanced.

Mr. ALLEN. Mr. President, there is no limitation in the primary. The Senator will find on page 10 of the amendment that the subsidy is 15 cents. That comes out of the pocket of the American taxpayer, out of his hide.

Mr. President, the amendment I have offered, the substitute, is S. 372, which was passed in the Senate on July 30 by a vote of 82 to 8. That bill was heralded as a great step in the right direction with respect to campaign expenditure reform. In truth, it was, because it limited contributions to $3,000, cash contributions to $50. It cut almost in half the overall amount that could be spent by a candidate, and it provided for full disclosure of all contributions and all expenses.

Mr. President, the reason why it would be good to add this amendment to the bill is that S. 372 languishes over in the House; and if we could add S. 372 to the debt limit bill, we would have something on which to go to conference with the House and might accomplish the well nigh impossible feat of getting some campaign reform legislation in the next few days. So it would have great possibilities, if we were to adopt this substitute. It had general support throughout the Senate.

If we provide in S. 372 for a limitation on contributions and expenditures but remaining in the private sector and the bill is over in the House, and they do not seem to want to get it out of committee, certainly it would stay in committee if the Senate reverses course completely and goes off after a public financing rabbit, starting with subsidies for our own campaigns. I do not believe Senators want to vote to subsidize their own campaigns. I certainly hope they do not.

I read from the remarks of the distinguished Senator from Minnesota (Mr. HUMPHREY) immediately before S. 372 was passed:

> Today, the Senate has taken an important step toward limiting the influence of big money in politics. The Federal Elections Campaign Act, as reported from the Committee on Commerce and the Committee on Rules and as amended on the floor effectively restructures campaign financing and the use of big money in politics.
>
> One of the foremost reforms to come out of this bill is the creation of a Federal Elections Commission. This Commission will be the central repository of campaign contribution and expenditure disclosures. It will have subpena power and primary jurisdiction to bring civil and criminal actions in court to enforce campaign spending laws. The Commission will be composed of seven members, distributed among the two major political parties, with the Comptroller General being the seventh member.
>
> The legislation also provides that each candidate will designate one central campaign committee. This committee will receive and post all reports and statements of expenditures and contributions filed or received on behalf of a candidate. It will provide a one-stop check on spending for a candidate and end the hiding of campaign contributions.
>
> The legislation also limits campaign contributions to $3,000 per individual to a candidate, places a $25,000 ceiling on the amount of money that one person can give to a variety of candidates in a single year, and limits spending for campaigns to 10 cents per eligible voter in any primary election and 15 cents per eligible voter in the general election.

Mr. President, I hope this substitute will be adopted for part 1, and that when it is adopted for part 1, we can move to table the other parts of the amendment, or accept what we want. This, that is S. 372, at least, will be before Congress.

I reserve the remainder of my time.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, I should like to ask the Senator from Alabama whether, rather than offering it as a substitute, he would be prepared to offer it as an addition. I would join him as a cosponsor, and I think many other Senators would. Let us make S. 3772 an amendment to the debt ceiling bill. What we would then have would be the many significant election reform provisions of S. 372 which had strong bipartisan support when it passed the Senate last July. In this way we will be providing a more comprehensive approach to the problem of campaign financing. I would certainly join the Senator from Alabama in proposing such an amendment.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. PASTORE. If the Senator from Alabama insists on putting it in as a substitute, I shall put it in as an amendment once that substitute is defeated.

Mr. ALLEN. Will the Senator from Massachusetts ask unanimous consent that he might modify his amendment to include the provisions of S. 372?

Mr. KENNEDY. I would indicate to my good friend my support. We are all interested in this matter.

Mr. ALLEN. May I ask unanimous consent that the substitute I have at the desk——

Mr. KENNEDY. Could I ask if the Senator is prepared to support the amendment as modified?

Mr. ALLEN. No, I do not support it. The Senator did not ask that. He asked if I would be willing to add it as an amendment.

Mr. KENNEDY. Very well. Go ahead.

Mr. ALLEN. Mr. President, I ask unanimous consent that the substitute which is at the table embodying the provisions of S. 372, which passed the Senate by a vote of 82 to 2 on July 30 of this year be added as an amendment to part 1 of the amendment of the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, do I understand the Senator withdraws S. 372 as a substitute for section 1?

Mr. PASTORE. That is right.

Mr. KENNEDY. And then adds it to section 1 of the amendment?

Mr. ALLEN. That is right.

Mr. KENNEDY. That was introduced this morning. Is that right?

Mr. ALLEN. If that is added, I will withdraw it.

Mr. KENNEDY. Is that the understanding of the Parliamentarian? That is the request?

The PRESIDING OFFICER. That is the request. Is there objection? Without objection, it is so ordered, and the Senator from Alabama withdraws his amendment as a substitute.

Mr. PASTORE. Yeas and nays.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. PERCY. The Senator from Illinois would like to commend the Senator from Alabama. I am required to vote against the amendment because I am a sponsor of the pending amendment, but this arrangement would reaffirm what the Senate already has done and assure much more expeditious handling of the matter to see if we can get it acted on this year rather than next year. I again commend the Senator from Alabama for his initiative in this regard.

Mr. ALLEN. I thank the Senator. I state to him that one reason the Senator from Alabama is willing to make that agreement is the fact that he understood the point might be raised that the substitute which the Senator from Alabama offered was not germane.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts, part 1.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. All time has expired. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, now I move to table the amendment as modified. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JAVITS. Mr. President, what is meant by: I move to table the amendment as filed?

Mr. ALLEN. As modified.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is this a motion to table part 1 as modified?

The PRESIDING OFFICER (Mr. Saxbe). The motion is to table part 1, as modified.

Mr. ROBERT C. BYRD. Mr. President, I would like to ascertain whether it is the intention of the Senate to proceed with these votes prior to the hour of 3:30, at which time under the order previously entered the Senate is supposed to resume consideration of the Ford nomination.

The PRESIDING OFFICER. There is no time.

Mr. ROBERT C. BYRD. At 3:30 p.m. the Senate resumes consideration of the Ford nomination. Is it the desire of the Senate to have these votes back to back?

Mr. KENNEDY. I hope we can vote on this part now and handle future votes as they come up.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 10-minute limitation on this rollcall vote and that the Senate resume consideration of the Ford nomination in executive session immediately upon disposition of this vote.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Would the Senator clarify the request. The vote on the Ford nomination would still occur at 4:30 p.m.?

Mr. ROBERT C. BYRD. Yes, because only 5 minutes would have been taken out of the hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), and the Senator from Idaho (Mr. McClure) are absent on official business.

The Senator from Florida (Mr. Gurney) is necessarily absent.

If present and voting the Senator from Arizona (Mr. Fannin) would vote "yea."

The result was announced—yeas 40, nays 55, as follows:

[No. 514 Leg.]

YEAS—40

Allen
Baker
Bartlett
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fong
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
Long
McClellan
Nunn
Pearson
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NAYS—55

Abourezk
Aiken
Bayh
Beall
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevenson
Tunney
Williams
Young

NOT VOTING—5

Fannin
Gurney
McClure
McGovern
Symington

So the motion to lay on the table part 1 of amendment No. 651, as modified, was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate numbered 1 through 7 to the bill (H.R. 1284) to amend title 5, United States Code, to improve the administration of the leave system for Federal employees; and that the House agreed to the amendment of the Senate numbered 8 to the bill, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Dulski, Mr. Henderson, Mr. Waldie, Mr. Gross, and Mr. Hogan were appointed managers on the part of the House at the conference.

EXECUTIVE SESSION—NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume the consideration of the nomination of Mr. Gerald R. Ford to be Vice President of the United States, with the vote thereon to occur at 4:30 p.m., the time to be equally divided between the Senator from Kentucky and the Senator from Nevada.

Who yields time?

Mr. CANNON. Mr. President, I yield 2 minutes to my distinguished colleague from Wisconsin (Mr. Nelson).

Mr. NELSON. Mr. President, I am casting my vote against confirmation of Mr. Ford because my philosophical differences with him are too fundamental to compromise, and because I do not believe he can provide the kind of inspirational leadership this Nation will need should he succeed to the Presidency. We are, after all, selecting a potential President. That is what the Vice Presidency is all about.

On the most important issues of the past decade, including human and civil rights and the war in Vietnam, our respective positions have been fundamentally and irreconcilably at odds. Our differences are of such significance that I cannot support his nomination just as in other circumstances he would not be able to support mine.

This is not an ordinary appointment. It requires confirmation by both Houses of Congress. We are not acting on a cabinet appointment which is a peculiarly personal appointment by the President of a personal adviser and consultant who serves at the pleasure of the President. On this appointment we are acting in a unique capacity as electors in behalf of 200 million American people. I regret that I cannot cast an affirmative vote. I do not believe this appointment measures up to the critical demands of the current circumstances faced by the Nation.

I intend nothing I have said to be interpreted as a reflection upon Mr. FORD's character or his leadership qualifications within the congressional environment. He is properly respected as an honest and honorable Member of Congress.

Mr. CANNON. Mr. President, I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.

Mr. HART. Mr. President, I shall vote to approve the nomination of Congressman GERALD R. FORD to be Vice President of the United States.

In reaching that decision, I am fully aware that Congressman FORD could become President of the United States and that the Members of Congress are taking the place of the millions of voters who could have been expected to participate in a Presidential election just as the able Senator from Wisconsin has reminded us.

Further, I am aware that there is little agreement between his and my voting records, and that at least some persons and organizations with whom I often agree argue that the nominee should be rejected because of his voting record.

And, finally, I understand that some persons find it objectionable that a President under threat of possible impeachment be permitted to nominate his potential successor.

Because Mr. FORD may become the President, because my vote in effect replaces those of millions of citizens, and because of the objections raised to the nomination, I should explain the basis for my decision.

There is general agreement that the spirit of the 25th amendment intends that any person becoming Vice President under its provisions be of the same party as the President.

Beyond that, the task of developing criteria against which to measure a nominee becomes more difficult.

In his testimony at a Senate Rules Committee hearing on the nomination, Senator BAYH, who led the way in writing and in securing passage of the 25th amendment, suggested these criteria:

> Honesty, integrity, no skeletons in the closet that (would) exacerbate the confidence problem as we have it right now, and an appropriate respect for and dedication to reasonable interpretation of the Constitution.

Congressman FORD, in my view, meets those qualifications. As I said at the opening of the confirmation hearings, I have never had any reason to doubt JERRY FORD's integrity and sincerity during the almost 20 years I have known him. Nothing in the hearings on his nomination has suggested that my statement was incorrect.

While few persons would argue against the criteria suggested by Senator BAYH, some contend that they do not go far enough. They ask that Congress go further by developing tests, including his voting record, and criteria, including his actions as minority leader of the House, to judge his ability to be President.

I wish I knew how to do that with some degree of certainty, now and when considering candidates under the normal nominating process. Unhappily, the truth is that no one knows how anyone would function as a President.

This Nation has had Presidents who came to office highly qualified and turned out to be disappointing Chief Executives, and we have had Chief Executives who came to office with apparently little to recommend them, who became strong and effective Presidents.

And, too, we have had Presidents who have grown quickly and positively once in office. We need look no further back in history than to Lyndon B. Johnson, who came to the Senate from a southern State, but as a national leader told the Congress, "We shall overcome."

So, in reaching my decision, I am looking at JERRY FORD's voting record, but also at the vote of confidence given him by the people of his district and at history.

I am measuring him against my views of what actions a President should take, but also against what any President will be able to do during the next 3 years because of damage done to public confidence in our political process.

I am considering the complaint that a man should be judged by the person who nominated him, but I also remember that one goal in the long struggle for equality in this Nation is to have each person judged as an individual.

So I conclude, based on personal knowledge of JERRY FORD, that should he be called to the Presidency, he would be a steady, decent, and believable Chief Executive.

And those attributes, I believe, are what this Nation needs most at this particular moment in history.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 4 minutes.

Mr. CANNON. Mr. President, may I say that my distinguished colleagues, both the Senator from Wisconsin and the Senator from Michigan, have touched on some of the problems which concerned us in considering this nomination.

I, myself, differ materially from Mr. FORD on many philosophical issues. Our voting records have been quite divergent in the time we have been Members of the Congress.

However, as chairman of the committee, I looked upon this as being our responsibility to consider the qualifications of the person who was selected by the President.

Mr. COTTON. Mr. President, would the Senator from Nevada use his microphone? I cannot hear what he is saying.

Mr. CANNON. Mr. President, the committee worked on the assumption that the President is entitled to have someone of his own political philosophy in that position, someone who would carry out the mandates of the people who elected the President to that office, and someone whose views were close to those of the President.

It was on that assumption that we conducted our investigation. It was not on the question of whether we agreed or disagreed philosophically with Mr. FORD. Had that been the case, I think it would have been up to the committee to make its own selection rather than act on the selection made and sent to us by the President of the United States.

I simply say to my colleagues that it was one of the matters we considered very thoroughly and very seriously. We conducted a very thorough investigation of Mr. FORD. It was a more thorough investigation than has ever been conducted of any candidate for political office during the course of a campaign. The President is subject to review by the press and by the general public in his travels around the country. However, the Vice President has never been subjected to that sort of scrutiny.

In this instance we not only tried to represent the positions of the people and the voters of this country in making our investigation, but we even went further and went into the matter of whether he would make a fit President.

It was after that type of a most thorough and searching investigation that we did make our recommendations and approved Mr. FORD unanimously.

Mr. President, I may say that some of us on the committee were obviously not enthusiastic about this matter because of the obvious philosophical differences we have. However, we have at least gone into his background thoroughly. We have had interviews with people who have known him for many years. We have gone into his history, have gone into his professional life and into his life in Congress.

We addressed our inquiry to matters that bear on his moral fitness and character. And after that type of searching review, the committee voted unanimously that the nominee be confirmed.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I ask unanimous consent that the vote on the confirmation of Mr. FORD occur not later than 4:30 this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's yielding this time to me.

I would like to add my voice in support of a former colleague in the House of Representatives, GERALD R. FORD.

Like many Members of the Senate, I have also had the opportunity to observe and to work with JERRY FORD for a number of years in the House. And as the distinguished chairman of the Committee on Rules and Administration has just said, the committee unanimously supported the nomination of Mr. Ford by the President. The committee recommended to the full Senate that it confirm the nomination.

This committee recommendation came only after an exhaustive investigation into Congressman Ford's financial, personal and professional background. Hundreds of pages of investigative material were provided the committee by the FBI. In the end, however, the report concluded that Jerry Ford was honest and clean and possessed the integrity that this Nation needs for the holder of its second highest office.

I commend the distinguished chairman and members of the Rules Committee for their promptness in reporting the nomination and for their diligent effort to assure this body and the Nation that the hearings and investigation of the nominee were both complete and honest.

The committee's conclusions surprised few if any Members of the Senate. Regardless of political philosophy, we who know Jerry Ford are convinced he is an honorable and honest person.

There is no question in my mind that he is among the best prepared and qualified individuals ever to be called to serve as Vice President.

A graduate of Michigan, Yale Law School, a veteran of World War II, it is not surprising that 3 years after his discharge from the Navy the people of Michigan's Fifth Congressional District elected him to serve in the House of Representatives, or that they reelected him 13 times. His Republican colleagues have had him serve as their leader in the House for the past 9 years.

As a leader in the other body, he has served under both a Democratic and a Republican President. He has been an ardent supporter of a strong defense posture while pursuing peace throughout the world. And many of President Nixon's foreign policy directives have been bolstered by Jerry Ford's leadership in the House as he worked to assure passage of those measures needing the consent of Congress.

I am glad we are acting promptly, and undoubtedly it will be favorable upon this nomination. Certainly I hope our colleagues in the other body will act with like dispatch.

In my opinion, Jerry Ford will be an excellent Vice President, a healer of wounds, and a man of wisdom, fairness, and trust.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, on behalf of the chairman of the committee, I yield 2 minutes to the Senator from Rhode Island.

Mr. PELL. Mr. President, together with the other members of the Rules Committee, I have conducted a searching inquiry into Representative Ford's public and private record. I and the other members of the committee were satisfied that he is a man of integrity, character, and probity, and one who will not abuse the powers and prerogatives of his public office.

I would add that integrity—basic honesty—is a quality in very high demand in the highest reaches of our Government these days. This is particularly so when we realize the record of the man whom Representative Ford will replace.

I have some very basic philosophical differences with Representative Ford on Government policies. But I also believe that the President of the United States, elected by the majority of the people, has a right under the 25th amendment to the Constitution, to nominate a Vice President who is in agreement with him on basic policies.

In recommending the approval of the nomination, therefore, I am supporting the nomination of a man of integrity and am respecting the wishes of the people as expressed in the 1972 national election, but in no way am I endorsing his political views.

Mr. COOK. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. BROOKE. I thank the Senator from Kentucky.

Mr. President, shortly the Senate will vote on the nomination of Representative Gerald R. Ford to be Vice President of the United States.

This is an historic occasion. For the first time a vote will be taken pursuant to the 25th amendment to the Constitution.

The purpose of the 25th amendment is to insure that our Nation would never again be without a Vice President for any substantial length of time. The drafters of the amendment envisioned the prompt nomination and consideration of a Vice-Presidential nominee.

I am proud that the Senate is performing valiantly its constitutional responsibility under the 25th amendment. The Senate Rules Committee, which just completed an exhaustive 38-day inquiry into the Vice-Presidential nominee's background, deserves considerable praise. I would particularly like to commend the splendid leadership of Senators Cannon and Cook in conducting this most thorough and expeditious investigation.

I am also pleased with the conclusion the Senate Rules Committee reached. By a unanimous vote, the committee recommended the confirmation of the nomination of Gerald R. Ford as Vice President.

I endorse that conclusion. I believe that Gerald Ford is eminently qualified to assume the responsibilities and duties of the Vice-Presidency.

A candidate for the Nation's second highest office must possess many outstanding qualifications for the job. But, most important, he must be qualified to assume the Nation's highest office at any moment. The essential measures of an individual for either post are competence and integrity.

In his legislative career, Gerald Ford has earned a reputation for competence. He has served with distinction in the House of Representatives for 25 years. In 1965, as a measure of the respect Gerald Ford had achieved, his Republican colleagues elected him House minority leader.

As minority leader, Gerald Ford has demonstrated a remarkable capacity for leadership. His knowledge of the legislative process is unsurpassed. Gerald Ford can accomplish so much because he possesses that invaluable leadership trait of being able to work with people. He has that ability to draw people together without rancor despite their differing views. Such an asset will serve our Nation well.

Before his nomination hearings, Gerald Ford was known as a man of unassailable integrity. The Senate Rules Committee inquiry has reinforced this assessment.

Gerald Ford is perhaps the most scrutinized candidate in history. The Senate Rules Committee, in close cooperation with the FBI, the General Accounting Office, the Library of Congress, and numerous other public and private organizations, conducted the most thorough investigation possible. The result of this inquiry was the committee's unanimous conclusion that the nomination of Gerald Ford to be Vice President should be confirmed.

In addition to being the initial precedent for the implementation of the 25th amendment, I hope the Ford nomination hearings will also serve as a precedent for the future selection and consideration of all Vice Presidential nominees. In recent times we have witnessed the tragic aftermath of choosing Vice-Presidential nominees without conducting a careful search into their backgrounds. Perhaps this inquiry will serve as a catalyst to badly needed reform in this important area of our election process.

Another consideration weighing heavily in favor of confirming Mr. Ford's nomination is the tremendous rapport he has with fellow Members of Congress. Both Republicans and Democrats respect Jerry Ford. And he respects them.

His style of leadership in the House of Representatives has been genuinely open and consultive. He has testified that as Vice President or President he would continue to make himself accessible to Members of Congress and the press.

Congress and the Nation would certainly welcome such an attitude. At a time when a continuous state of confrontation between the executive and legislative branches overwhelms the country, Jerry Ford will be of invaluable assistance in restoring a spirit of conciliation and cooperation.

Gerald Ford will bring to the office of Vice President not only a conciliatory attitude and a cooperative spirit, but candor and an open mind.

As Members of Congress already know, Gerald Ford is a man of independent judgment. During the Senate hearings on his nomination, he said he would have made the Watergate tapes available to the Special Prosecutor Archibald Cox and spared the Nation the agony of the resignation of Attorney General Elliot Richardson and the firings of Archibald Cox and Deputy Attorney General William Ruckelshaus. In response to a question, the Vice-President-designate said he did not believe that executive privilege should be applied in investigations of criminal acts.

I have personally known Jerry Ford for many years. I respect him for his professional competence and for his integrity. I believe that he is well qualified for the Vice Presidency and, if necessary, the Presidency.

This is not to say that I can readily accept many of his positions past and present. I have reviewed his civil rights record and find it lacking in too many instances. Yet from my personal knowledge of Jerry Ford as well as the official record, I find that his attitude stems from his conservative constituency and philosophy. I find no malice in his votes or pronouncements. But shortly I shall be voting to elevate Jerry Ford to a position wherein he will represent all the people, black and white, rich and poor, young and old. We are today voting on behalf of all these Americans.

In voting to confirm the nomination of Gerald R. Ford to be Vice President of the United States, I express not my approval of all his past actions but my faith in him and in his future conduct. I believe Jerry Ford will fully understand the breadth of his constituency and the hopes of millions of Americans that remain deferred. I am confident that the immense burdens of the office will bring out even more of the essential goodness of the man.

This is a time to look forward, not backward. Our times of anguish require men of courage and conviction. Our people seek a sign of hope and a word of encouragement.

Jerry Ford, the man, gives me hope. I am encouraged today by the prospect of prompt confirmation of his nomination. I shall vote to confirm the nomination. I am confident he will uphold my trust, our trust, and above all the Nation's trust.

Mr. COOK. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, it would be a grave mistake for the Nation to feel that the Senate takes lightly the responsibility for advising and consenting to the nomination of Gerald Ford to be Vice President of the United States or that we consider it to be such a minor matter that we allocate less than 1 hour of debate to the issue. The Nation should not overlook the fact that exhaustive hearings have been held, by the Committee on Rules and Administration in which the Senate has great confidence. In addition, the Members of the Senate are drawing on the experience and knowledge that many of them have had personally in knowing the nominee over a period of many years and on thorough FBI reports.

I am certain also that the leadership—the managers of the present confirmation proceedings—would have provided any amount of time the Senate desired for debate on this particular issue. The very fact that those who have said they intend to vote against the nomination have given their statements in a relatively few minutes, indicates that even they, in their opposition, are doing so from the standpoint of principle rather than out of any questions concerning the nominee's integrity or character or demonstrative ability as a valued leader of Congress.

Mr. President, let me simply state that many of us are under no illusion that we are advising and consenting to someone of the stature of a Founding Father. Indeed, there are few to be found in the country today. We do not think it is a name that will likely go down in the annals of history, like such great former Vice Presidents as John Adams, Thomas Jefferson, John C. Calhoun, and Theodore Roosevelt. But, I think that if we consider, for example, Harry Truman, few in the Senate at the moment their colleague, Harry Truman, was nominated to be Vice President or assumed the office, would have recognized or realized that Harry Truman was capable of the greatness that he achieved as President. I believe that Jerry Ford would be the first to say that though he probably would not yet be classified as one of the potential "great" Vice Presidents, he nonetheless will strive to achieve this stature.

Mr. President, we are substituting our combined judgment, as 535 Members of Congress, for months of campaigning, the convention process, and the votes of 70 million people.

It is an awesome responsibility that we assume. We will be casting our votes today, realizing the insight in the words of the first Vice President of the United States, John Adams, who philosophized about his job, saying:

> In this job, I am nothing, but I may become everything.

Mr. President, there is probably not a single Member of this body who will not have in his mind at the moment he casts his vote today the fact that there is a distinct possibility Jerry Ford could become, through a series of circumstances, "everything" so far as the Government of the United States of America is concerned—at least, in the executive branch of the Government. It is an awesome responsibility we have, to weigh and to search our consciences for the best judgment we can bring forth.

We are aware, also, that the Vice President is more than the oft-quoted "one heart-beat away" from the highest office in the land. We have come to see the Vice President as a molder of public opinion, an effective spokesman for our Nation around the world and certainly, a proponent of domestic policies which will be extremely important.

It is with these criteria that we evaluate Jerry Ford, his capabilities and his competence.

I feel that he will admirably fulfill these functions. Everything I have seen to date indicates it. Certainly he can be the eyes and ears of the President as he serves in the second highest office in the land. But, we all know that he can do a far better job of being the eyes and ears, the sense and the antennae, of Congress as a whole, and have a profound impact on its input into the Presidency.

The President wisely selected Jerry Ford with the thought in mind that Jerry Ford would not be silent concerning his strongly felt convictions about what is right for our country and what is the right course of action for the executive branch to follow.

Mr. President, we are living in unprecedented times. For the first time in our Nation's history, we will utilize the 25th amendment to the Constitution which calls upon the President to nominate a new Vice President in case of a vacancy in the office. For the first time in our history a Vice President was forced to resign from office. It was a confidence-shattering experience for the American people.

For these reasons, Mr. President, I want to commend President Nixon on his selection of Gerald Ford as the Vice Presidential nominee. He will be responsive to the American people's feelings and needs. He will restore integrity and confidence to the second highest office in the land.

Mr. President, when I first met Jerry Ford a quarter of a century ago, he had already been elected to Congress for his first term, and I was in my first year as president of Bell & Howell. We were gathered in Peoria, Ill., where he was to receive the junior chamber of commerce's award as "One of the 10 Outstanding Young Men in the Nation." I was impressed with Jerry Ford's gracious open manner and his straightforwardness. I have continued to be even more impressed over the years as I have seen him work.

Even as he has risen through the ranks in the House of Representatives and his scope of interest has naturally broadened, Jerry Ford has not lost sight of his first obligation—representing the people of the Fifth Congressional District of Michigan. Even as he became a national leader of the Republican Party, he never failed to put the views of his constituents before any other consideration.

Jerry Ford is a man of character and integrity. I am confident that he will take to heart the views of all Americans as easily and sincerely as he has the views of the people he represents in Michigan. I believe he will be as responsive to all Americans as he has been to the people of Michigan.

It was imperative that the Senate Rules Committee investigate Representative Ford's background closely. The American people deserved that and Jerry Ford deserved a thorough investigation so that any questions of misconduct might be dispelled before he assumed high office.

I was impressed with his performance before the committee. His candor and sincerity during the questioning only furthered my notion of what a good Vice President he will be. I believe that all Americans were reassured when, asked to define his concept of the Presidency, Congressman Ford replied:

> I think the President has to be a person of great truth, and the American people have to believe that he is truthful. I think that the President has to lead by example, displaying the standards, morally, ethically and otherwise, by which most Americans live their lives.

I expect that Jerry Ford, in his capacity as Vice President, will live up to the high standards he sets for the Presidency. He will, I expect, be all that the American people would hope their Vice President would be.

Mr. President, in summary, let me say that from the standpoint of morality, ethics, and the fine characteristics we personally know JERRY FORD possesses, we have no hesitancy whatsoever in saying that he will restore to the Office of the Vice President the integrity which recent events have severely damaged, and which I trust will be fully restored by this confirmation process.

Mr. COOK. Mr. President, I yield 5 minutes to the distinguished Senator from Nebraska (Mr. CURTIS).

Mr. CURTIS. Mr. President, this is an historic day in the U.S. Senate and for all Americans. It is the first time we have voted for a Vice-Presidential candidate appointed by the President under the new 25th amendment to the Constitution. There is a certain exhilaration attached to casting a vote in faith of a man and in faith of a system that continues to endure regardless of stress.

With the exhilaration goes an incredible responsibility to the voters who will soon have a Vice President they did not cast ballots for, to the President who deserves a Vice President loyal to his own political philosophy, and to ourselves, who will make a decision we all must live with.

I am proud to be in the Senate at this time, to cast this historic vote for GERALD R. FORD, a vote it will be easy to live with. In this time of political crisis of confidence in this country, we need a leader who does not threaten confidence and who signifies honesty, integrity, and total competence.

I agree with the Senate Rules Committee that we have found such a candidate in GERALD FORD. Mr. FORD has indeed survived a trial by fire. The FBI has completed the largest single investigation ever conducted on a candidate for public office, engaging the services of 33 field offices and over 350 special agents, who interviewed more than a thousand persons in many areas of the country. The Rules Committee reviewed the 1700-page FBI report and considered Mr. FORD's total record and found no bar or impediment which would disqualify him for the office of Vice President.

Again, I believe this is a decision we can easily live with.

The overriding question that we must answer is, of course, is Congressman GERALD FORD presidential calibre? Having known him for a quarter of a century, I can answer with unequivocal and positive enthusiasm, yes. Mr. FORD is a man of depth, experience, leadership, faith, and integrity. He can, and will, rise to whatever duty the course of events might place on his shoulders.

I am proud to support the nomination of a native son, Omaha, Nebraska, having been the birthplace of Mr. FORD. Though he is rightly claimed by the State of Michigan, the State he has represented in Congress for 25 years, today we will cast a vote that makes him belong to the whole country.

In his own testimony before the Rules Committee, Mr. FORD said he is willing to become a "ready conciliator and calm communicator between the White House and Capitol Hill."

The entire country is in need of a ready conciliator and calm communicator these days. Let's bestow the role willingly upon GERALD FORD. We are not only approving a Vice-Presidential candidate. We are establishing a solid constitutional precedent to see us through the crises that are inevitable in a world where fallible men must rule.

Mr. President, I urge the unanimous approval by the Senate of the nomination of Mr. GERALD FORD to be Vice President of the United States.

I yield back the remainder of my time.

Mr. COOK. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, having known Representative FORD for 25 years, having gone out to Grand Rapids, Mich., to campaign for him, it would be quite inappropriate for me to sit silent when I intend to vote for making him Vice President of the United States. I adopt as my reason the general statement by the committee, which I think is admirable, at page 97 of its report.

I take this time to make one very important point. We are not living in a vacuum. We have just had the terrible tragedy of the resignation of Vice President Agnew whom GERALD FORD is succeeding. We have the additional deep trauma in the country of the Watergate events, which involve the President of the United States, himself.

I think it should be inspiring to every young American that, after the most thorough scrutiny, we were able to confirm the nomination—and I think nearly unanimously—of an open-faced, honorable, and devoted American, worthy of being Vice President of the United States, who describes himself, quite accurately, as a moderate on domestic affairs, conservative on fiscal affairs, but a very dyed-in-the-wool internationalist in foreign policy—pretty much what the American people elected in 1972.

Mr. President, there are good men in this country. Not every public official is corrupt; not every public official is lacking in moral probity. The young people of our country can take heart from the fact that it is possible to find within the choice of the President and by agreement of Congress a decent, honorable, forthright American, clean as a hound's tooth, who deserves to be President of the United States, if providence so wishes.

The PRESIDING OFFICER (Mr. CURTIS). The time of the Senator has expired.

Mr. COOK. Mr. President, I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the nomination of GERALD R. FORD to be Vice President of the United States is a matter of vital importance to the Nation. It is so on its own merits, and should be considered on its own, without reference to any controversies now surrounding the Presidency.

There is a vacancy in the Nation's second highest office, and the Constitution charges Congress with responsibility in filling the vacancy. Following the procedure established by the 25th amendment, the President has submitted his nomination, and the Congress must now determine whether it shall be confirmed.

This is the first time the machinery of the 25th amendment has been put into operation since it was ratified in 1967. It was formulated in recognition of the fact that the stability and continuity of our governmental system require that the Vice Presidency not go unfilled for any extended length of time. In this fast-paced age, the death or incapacity of a President might require someone to step in at a moment's notice and lead the Nation, but reason and our political tradition demand that there be the utmost assurance that an administration's goals, philosophy, and programs will be continued with as little interruption or likelihood of reversal as possible.

When the amendment was debated and ratified, this question of continuity was largely theoretical. President Johnson and Vice President HUMPHREY, both Democrats, were followed in the line of succession by another Democrat, Speaker of the House John McCormack. In the year following President Kennedy's assassination, before the Vice Presidency was filled by the election of 1964, Speaker McCormack, as well as President pro tempore of the Senate Carl Hayden, a Democrat from Arizona, were also in line to succeed President Johnson. So there was no real question that a Democrat would have become President back then.

But much to the credit of the Democratic, as well as Republican, leadership of Congress, it was recognized that such a situation might not always exist, and some institutional safeguards should be provided to give the greatest practical assurance that only the people's vote could change the fundamental political identity of an administration. Most of those in Congress—Democrats and Republicans alike—recognized this requirement. As a Member of the House of Representatives at the time, I supported and voted for the amendment.

Its passage was an outstanding example of Democrats and Republicans working together to deal with a very fundamental issue—in the national interest. At the time none of us knew how soon—if ever—this provision of the amendment would be put into operation or under what circumstances it would have to work. But I believe, today, the American people can look at the smooth, orderly, and effective operation of this new constitutional provision with a certain amount of pride in the American political system. For it was this political system which recognized that a theoretical problem did exist in this area and took action to avoid it before it had a chance to become a real and very critical problem.

Turing to the question now before us, I must say that GERALD FORD is an outstanding choice to be Vice President.

He is a man whose honesty, integrity, and personal strength of character have never been found wanting in a quarter century of service in Congress. He is a leader. He is a man of great warmth and wisdom. And he possesses a unique understanding of human nature grown out of a basic knowledge and appreciation of the other fellow's point of view. Whether dealing with his colleagues of both parties in the Congress, his constituents in Michigan's Fifth District, or anyone else, he has always demonstrated a remarkable capacity to work with—not against—others, even when there were differences or divergent points of view.

I know JERRY FORD personally. I have known him since 1961, when I first came to Congress. He had been here for six terms then, and he was always one to whom anyone, no matter how junior or how senior in service, could and did turn for advice, leadership, and counsel. I recall being one of those who supported him in 1965 in his candidacy for the position of House Republican leader. He was, of course, elected to that post and has served with great effectiveness in the position for nearly 9 years. And as Republican leader he has given the same high quality of leadership in the House—on behalf of the Republicans and on behalf of the Nation—both under President Johnson and President Nixon.

It is with the utmost confidence and enthusiasm that I support JERRY FORD's nomination. He is a man I know. I have worked with him—as a Congressman, as a Senator and as a Republican—for almost 14 years. He is respected and trusted. His word is his bond. He is deeply committed to the principles of individual dignity, free enterprise and international leadership which America must maintain as the world grows more complex and its challenges more severe.

JERRY FORD will make an excellent Vice President who can provide the administration with a much-needed voice for compromise, conciliation and cooperation with Congress and the American people.

But, more important, JERRY FORD is fully qualified to assume the Presidency and provide the leadership and direction which America requires of that high office.

Mr. President, as one who served with JERRY FORD in the House for 8 years, I can say that nearly everything that has been said about him is certainly true. JERRY FORD is a man of great honesty and integrity. I doubt that anyone in public office could undergo the scrutiny that JERRY FORD has, including those in this Chamber, which indicates, as the Senator from New York has just said, that there are still good men and good women in public office.

I can say, as a Republican and a potential candidate in 1974, that it is certainly an encouraging sign to see the process work, to see the system work. It will be a great help to Republicans to have a Vice President of the caliber of JERRY FORD.

For all the reasons stated, plus my personal relationship with and knowledge of JERRY FORD, I share the views and join those who hope that the confirmation of the nomination will be unanimous, or nearly so.

Mr. COOK. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr President, I rise not only to express support for the nomination of Representative GERALD R. FORD of Michigan to be Vice President but also to commend and congratulate the committee for the hearings, for the record compiled, and for the report submitted. It has been thorough, comprehensive, and exhaustive.

I recall that when the Members of this body discussed the procedures that should be used in this important task, some of us entertained misgivings as to whether this nomination should be referred to the Committee on Rules and Administration. The record will show very clearly that this Senator, in expressing misgivings of that kind, based them upon the size of the committee, not on its quality and its capabilities. It is one of the smaller committees in the Senate and has less than one-fourth the members of the House Judiciary Committee to which jurisdiction was granted for comparable hearings.

I am very pleased to report that all my earlier misgivings have been dispelled. The process followed and organized by the committee, particularly due to the leadership of the chairman and the ranking member, have been exemplary. The matter has been expedited, and it has been highlighted by conduct and by decorum which is very becoming to a committee of this body. An excellent precedent has been established for the resolution of other matters of this type in the future.

Mr. President, on November 20, the Committee on Rules and Administration ended the inquiry it had earlier begun on the qualifications of GERALD FORD and unanimously voted to recommend to the Senate that his nomination be confirmed. This decision came after long hours of study and discussion following a most thorough and comprehensive investigation of the nominee and his background.

Upon announcing Mr. FORD's nomination, President Nixon pointed to three basic criteria for this important assignment. First, the nominee must be qualified to be President. Second, he must share the views of the President on critical questions of foreign policy and national defense. Finally, he must be able to work with Congress on programs affecting the national interest. JERRY FORD clearly possesses all of these qualifications.

I have known JERRY FORD for over 20 years. Our association began while I served in the House of Representatives, and at that early date, I took note of his abilities and insight with respect to both public policy and the political process. As a fellow member of the House Appropriations Committee, I had the opportunity to view him in action at close range. This served to confirm my earlier impressions.

As minority leader in the House, I believe JERRY FORD has proven his capacity for hard work and displayed a unique ability to make quick and accurate decisions under pressure.

JERRY FORD has been elected and reelected 13 times by the people of the Fifth District in Michigan. He has served 24 years in the House of Representatives, 9 years as the minority leader. During this time, we have seen him develop as an effective legislator who takes pride in the important work which the Congress undertakes. As Vice President, I am confident that he will maintain his close ties with the Congress and work to improve the relationship which exists between this and the executive branch of our Government.

One personal note: I am pleased to make known the fact that JERRY FORD was born in Nebraska. I say this not to reveal any personal bias but to point out that he thus got a good start to the development of his many fine attributes, character, and principles learned as a young person growing up in the Midwest, even though he removed at a very tender age from his native State to Michigan.

At this time in our history, I believe we are particularly fortunate to have someone with JERRY FORD's qualifications to fill the vacancy in the Office of the Vice-Presidency.

I believe JERRY FORD is superbly equipped to handle the duties of the high office for which he has been nominated, not only because of his brilliant record as a public servant, but also because of his high moral character, innate abilities, faith, integrity, and inherent decency.

Therefore, I point out that it is highly in order to approve the nomination to this high office.

Mr. COOK. Mr. President, I yield 1 minute to the Senator from Idaho.

Mr. CHURCH. Mr. President, some have argued that GERALD FORD is not the man of their choice for Vice President. Neither is he mine. But the Constitution leaves it with the President—not with Congress—to do the choosing. Our duty is either to ratify or reject the President's choice. If the hearings had revealed any basis on which to conclude that Mr. FORD were ineligible to serve as Vice President, I would, without hesitation, vote against him. The record, however, reveals nothing in Mr. FORD's background that would disqualify him from holding this office.

Furthermore, if the Senate were to reject Mr. FORD in the quest for a better man, there is no assurance that the President would send up a preferable nominee.

Meanwhile, the office of the Vice Presidency would remain vacant, at a time when the gathering cloud over the Presidency itself makes it urgent to settle promptly as possible the matter of succession, should the need arise.

For these reasons, endeavoring to place the interests of the country above any partisan consideration, I shall vote to confirm GERALD FORD as Vice President of the United States.

Mr. COOK. I yield myself 5 minutes.

Mr. President, on November 1, 1973, as the Committee on Rules and Administration began its hearings on the nomination of GERALD R. FORD to be Vice President of the United States, I called attention to the 1,700-page report filed by the Federal Bureau of Investigation and stated my conviction that the investigation was the most thorough ever undertaken of any nominee for public office. Now that these hearings have been completed I am more than ever convinced that my conviction was well founded.

During the hearings Mr. FORD impressed the committee with his candor and his willingness, and in fact, his desire to cooperate to the fullest measure to supply any additional information the committee required. He was most anxious to see that the data was made available as rapidly as possible and was determined that the committee and the public should know anything it desired about his political and private life.

The committee looked very carefully into his income tax returns, his sources of income and his net worth. It checked his campaign financing procedures and delved deeply into any financial contribution which in any way indicated that there might be some impropriety. It listened attentively to all witnesses who presented testimony in favor of or against Mr. FORD and then proceeded to check out each allegation regardless of its seeming triviality. After this thorough sifting of the facts the committee is unanimous in its support for his nomination.

The committee was not satisfied with this careful study of factual material. It also considered Mr. FORD's political philosophy, his view of the relationship which should exist between the executive office and the Congress, as well as his opinion of how the job of being Vice President should be carried out; again it is convinced that Mr. FORD is the man for the job.

In his testimony Mr. FORD stated that he was "no angel," and the committee also found this to be true. However, as one Senator, I am convinced that he is a politician who adds dignity to the very name "politician" itself. In these times all of us who are so identified take heart in the much needed honor and credit he brings to the much maligned term of "politician."

Mr. President, when this nomination was sent to the Senate by the Chief Executive, there were those among us who would have created a select committee and hired special investigators and counsels to deal with this matter and thereby again indicate to the American public that the Senate could not perform its normal function in a normal manner. Fortunately this was not done and the Senate conducted its business without any reorganization or the employment of additional personnel. It was my hope when we began our hearings that they would be conducted with thoroughness, efficiency, honesty, and with the dignity that is befitting the Congress. This was accomplished to the benefit of the public's opinion of the legislature as well as that of Mr. FORD himself. However, these fortunate circumstances would never have occurred had it not been for the fairness, thoroughness, and leadership demonstrated by our chairman, Senator CANNON. I know that he has added to the respect he already enjoys among his colleagues and I am proud to serve as the ranking minority member of the committee he chairs.

Mr. President, JERRY FORD will make an excellent Vice President and is a man whom I shall be most pleased to see preside here in the chambers of the U.S. Senate. I urge that his nomination be approved today.

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Maine.

Mr. HATHAWAY. Mr. President, I would like to address several questions to the chairman of the Committee on Rules and Administration, the distinguished Senator from Nevada.

Article I, section 6 of the Constitution provides:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

First, did the committee check to see if the emoluments for the office of Vice President were or were not increased during Mr. FORD's current term of office?

Mr. CANNON. I would say to my colleague that the committee did check and the emoluments for the office of Vice President have not been increased during this current term of office which Mr. FORD now holds.

Mr. HATHAWAY. Before continuing, I should state that this matter has just come to my attention and this is the reason for my questions at this late hour. I call the chairman's attention to Public Law 93–136 passed by Congress on October 24 of this year which increases the annuities of certain Federal employees.

My question is whether the Vice President is included in those employees who will have their annuity increased, assuming that this would be an emolument covered in article I, section 6, of the Constitution. Did the committee have an opportunity to determine if Public Law 93–136 applies to the Vice President?

Mr. CANNON. There are two answers that relate to the question. One is the question of whether or not the Vice President is a civil officer under the definition of the Constitution. We are advised by legislative counsel that the Vice President is not a civil officer within the meaning of the Constitution. Second, it appears in title V with respect to annuities, as to persons who benefit from the annuity provision, that that relates to Civil Service employees and/or Members of Congress. So it appears it would not include the Vice President in any of that, even if he were determined to be a civil officer under the definition of the Constitution.

Mr. HATHAWAY. I thank the Senator for his answer and am glad to know that the committee did examine this matter.

I trust there are no other authorizations or appropriations by this Congress which would have increased the pay or emoluments of the Vice President.

Mr. President, I ask unanimous consent to have printed in the REORD Public Law 93–136.

There being no objection, the material was ordered to be printed in the RECORD.

PUBLIC LAW 93–136

(93d Cong., H.R. 3799, Oct. 24, 1973)

An Act to liberalize eligibility for cost-of-living increases in civil service retirement annuities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8340(c) of title 5, United States Code, is amended—

(1) by renumbering paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively; and

(2) by inserting immediately above paragraph (2) (renumbered as such as paragraph (1) of this section), the following new paragraph:

"(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

"(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

"(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(n) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.".

SEC. 2. The amendments made by this Act shall apply only with respect to annuities which commence on or after July 2, 1973.

Approved October 24, 1973.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CANNON. I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CANNON. I wish to thank my distinguished colleague for his very kind remarks on behalf of myself as chairman of the committee. I have had the full cooperation of every member of the committee, including the distinguished ranking minority Member. Without the cooperation we had on the committee, we could not have completed this work in the time we had.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. CANNON. I yield 2 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator for yielding. I shall be very brief.

Mr. President, I do not wish to let this opportunity pass without highly commending what I think is an outstanding job that has been done by the Senate Committee on Rules and Administration. The committee has reflected credit on the Senate for its thoroughness, and for the solemnity and seriousness with which it has undertaken this highly constitutional duty.

I felt as if the full duty was on the Congress under the express terms of the Constitution, to do a full and an exhaustive investigation as to Mr. FORD and his qualifications.

Our committee, led by the fine Senator from Nevada (Mr. CANNON) and the ranking minority Member from Kentucky (Mr. COOK) has done an outstanding job. Credit also goes to each and every member of this very fine committee. Chairman CANNON always does a hard job exceedingly well and that is what he has done in this case. The committee may be small in number, but it is large in size and it is large in the fine job that it has done. Also, I think they have set a splendid precedent in this field, one that will serve our country well.

Congressman Ford is an excellent choice for this position. He has the integrity, the capability and the experience in government that make a person qualified for such grave responsibilities as being Vice President or President of the United States.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. CANNON. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator.

I wish to join the Senator from Mississippi in commending the Committee on Rules and Administration. I think it is well known, at least among Senators on this side that I have been for what we call a special committee, but I believe the Committee on Rules and Administration has demonstrated the basic soundness of our institutional structure here.

I wish to commend the chairman and every Member. Never has a candidate for Vice President been so thoroughly investigated, even under Lyndon Johnson not so thoroughly investigated.

I commend the committee for its report. It is my intention to vote for the nominee.

Mr. CANNON. I thank my distinguished colleague and also my dear friend from Mississippi for their overly generous remarks, not only for myself but also on behalf of the committee.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. HUGH SCOTT. Mr. President, it is my very great privilege to join in this increasing tribute to the merits, qualifications, and general fitness of Mr. Ford to be Vice President. I am delighted he has been so nominated. I am pleased at what I anticipate will happen here and in the other body. I join in high praise for the nominee who will lend distinction and honor to this high Office.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. MANSFIELD. Mr. President, I wish to aline myself with the remarks made by the distinguished Republican leader and to express the hope that very soon the agony and the ecstasy will be over.

Mr. ROBERT C. BYRD. Mr. President, the vote we will take in the Senate on this nomination will be a landmark vote. It will be the first time that either House of the Congress will consider and vote on the qualifications of a nominee to be Vice President of the United States under the 25th amendment to the Constitution.

The precedent that has been set in the case of the nomination of the minority leader of the House of Representatives, Gerald R. Ford, has been one in which the 93d Congress and the country can be proud. The nomination received thorough, careful, but prompt bipartisan study by the Senate Rules Committee before, during, and following the public hearings held by the committee. The able chairman of the Rules Committee, Senator Howard Cannon, deserves much of the credit for inspiring in his committee colleagues the motivation that the committee would move forward as promptly as would be dictated by a complete and searching investigation of the nominee.

The same can be said with respect to the ranking minority member of the committee, Senator Marlow Cook, of Kentucky.

All members of the committee followed this example in a bipartisan study that makes me proud to have been a part of it as a member of that committee.

Mr. Ford is to be commended for his willingness to make available of his own volition to the committee, all material, whether public or private, that was felt by the committee to be pertinent to his qualifications to be Vice President.

Mr. Ford was open and forthright with the committee during the many hours of questioning that he underwent under the scrutiny of the nine members of the committee and the American people via live television coverage.

Having made the motion in committee to report the nomination with the recommendation that it be confirmed, I am prepared to vote for Mr. Ford to be Vice President of the United States. I think his record in the Congress has been impressive. He has successfully undergone a far-reaching FBI field investigation and Internal Revenue Service tax audit. He successfully met charges made against him by a detractor, which perhaps received more attention than they should have—but, under the circumstances of our time in history, I think it was prudent that those charges were aired as fully and openly as they were.

I, as one Senator, may personally disagree with some of the political philosophy of Mr. Ford. That is to be expected. He is the House minority leader, and I am the Senate majority whip. But our duty here today does not go to voting our political philosophies, but, rather, to whether Mr. Ford has the qualifications necessary to be Vice President. He has a long and distinguished record of public service in the Congress. He has the necessary constitutional qualifications. He has candor and integrity. For these reasons I will vote for Mr. Ford.

I am sure that future Congresses and future historians will look back to this day in the annals of history. I doubt if one could imagine a much more critical time as it relates to the efficacy and credibility of our national leaders. Despite, at times, terrible tensions that have arisen between the executive branch controlled by one party, and the legislative branch, controlled by the other party, through this time of infamy that will be known as the Watergate crisis, the system of law still functioned properly in the nomination of a Vice President. Historians will note that following the tragic events which caused the resignation of a Vice President of the United States, leaving a member of the opposition party as next in line to the Presidency, the Congress did not act partisanly, but rather responded in a manner best suited to serve the National interest. If there are few good moments in these crisis-ridden times, this is one of them. The system has worked well in a time of intense confrontation, and this will not escape those who may look back on us at some time in the distant future when another crisis may threaten to divide and rend this Nation apart.

Mr. TAFT. Mr. President, I have listened with interest and approval to the remarks of the distinguished majority whip with regard to the action taken relating to the nomination of the Honorable Gerald Ford to be Vice President. I commend the distinguished Senator from West Virginia for his remarks, and I subscribe to the views he has expressed.

It has been my pleasure to know and work with Mr. Ford over quite a number of years in the House of Representatives. I know him as a personal friend and as a football coach many years ago, and I have treasured the personal association with him over the years. I served with him for 6 years in the House of Representatives and under his leadership of the minority, and I feel that he is indeed magnificently qualified to take on the responsibilities of the Vice Presidency and, if the occasion should arise, even of the Presidency. He has a balance and ability and depth of character that I think will stand him in good stead in this respect.

I particularly want to make mention today of the lead editorial in the New York Times yesterday, which criticized Mr. Ford personally and as to his abilities and background in a way that I thought was extremely unfair. As the distinguished majority whip has said, we may agree or disagree on particular positions that some of us take on issues that arise in Congress; but I do not think the characterization that was attempted to be given by the editorial is in any way fair as to the abilities, background, or experience of Mr. Ford.

For example, let me just cite one area in which some criticism has been leveled—the area of civil rights. It happened that as a Member of the House in 1964, when the basic civil rights legislation was passed, I worked closely with the Republican leadership in arriving at a compromise on the civil rights legislation that enabled us to pass the first civil rights bill in many years that had a meaningful impact.

Specifically, I can recall a number of meetings at which a compromise, a workable compromise, a fair compromise, resulted in the passage of the 1964 Civil Rights Act. It was worked out with Mr. Ford, in Mr. Ford's office, the principal participants being the honorable William McCulloch, then the ranking minority member of the Judiciary Committee; then Representative, now mayor of New York, John Lindsay; myself, and a number of others.

In bringing about a resolution of the difficulties relating to that particular piece of legislation, I believe Mr. Ford performed an outstanding duty at that time with respect to promoting the cause of civil rights for all citizens in this country. I do not think that should be allowed to go unnoticed.

It is perhaps typical of Mr. Ford that

he did not take any great kudos or bows or credit for that accomplishment. He is a modest man and is quite willing to have others take the limelight on many pieces of legislation in which he has participated, and participated very ably, over the years.

Perhaps he has been slow to reply in kind to the type of attack that has been made upon him, of which the editorial I mentioned is merely one example. I think someone should speak out to say that his record is a most commendable one in the field of civil rights and on many other pieces of legislation.

In the hearings which have been held, both in the House and in the Senate he has demonstrated amply his broad experience and his dedication to this Nation which should enable him to serve well when his nomination is confirmed, and I expect to support him fully on the floor of the Senate.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Ohio (Mr. TAFT) for his comments with reference to my statement.

Mr. WILLIAMS. Mr. President, it is the duty of the Senate, today, to determine whether or not to approve the nomination of GERALD FORD to be the next Vice President of the United States.

In the 38 days between the time this nomination was submitted to the Congress and the day that the Committee on Rules recommended approval of the nominee, Mr. FORD has been the subject of what is probably the most thorough and intensive investigation of any candidate for public office in our Nation's history.

This is the first proceeding of its kind under the terms of the 25th amendment to the Constitution. In 1964, when the Congress began its consideration of what procedure to use in filling a Vice-Presidential vacancy, there was a substantial and divergent body of opinion heard prior to the time that this method was finally adopted. At that time, Richard Nixon—then a private citizen and former Vice President—testified before the Senate Subcommittee on Constitutional Amendments. In his testimony he cited an article which he wrote for a national magazine in which he listed the criteria he would apply in filling a vacancy. One of those criteria was:

> He should be personally acceptable to the President, but since he may potentially hold the highest office in the land, his selection should reflect the elective rather than the appointive process.

Mr. Nixon went on to say in his testimony:

> I do not mean . . . that I would oppose or that this committee should oppose a proposal whereby the President of the United States recommends to either the Electoral College or the Congress a name for approval as Vice President, but in the final analysis whoever is to hold Executive power in this nation should be one who represents and has come from and has been approved by the electoral process rather than the appointive process.

In my view, the thrust of those Nixon statements, together with the whole of the legislative history of the 25th amendment, is very important in terms of the role that was performed by the Rules Committee and the role which will be fulfilled by the full Congress. I see this legislative history vesting two critical responsibilities in the Congress.

First, we must assure that Mr. FORD's personal and public affairs are and have been in order.

To meet this requirement, the Committee on Rules ordered a full FBI field investigation of the nominee and, in addition, utilized the services of the Internal Revenue Service, the General Accounting Office, investigators borrowed from the Senate Permanent Investigations Subcommittee, the Rules Committee staff, and a staff representative designated personally by each committee member. Every pertinent facet of this aspect of Mr. FORD's life was thoroughly examined.

His income taxes between 1965 and 1972 were carefully audited. His complete personal finances were reviewed. His campaign finances were studied and restudied. And every allegation made against Mr. FORD—ranging from the charges made by Mr. Robert Winter-Berger to stories carried in the news media to anonymous phone "tips"—was exhaustively investigated.

In summary, all sources of such information were fully explored and I have no reason to question Mr. FORD's qualifications in these respects.

The second, and perhaps more difficult, congressional responsibility under the 25th amendment is to provide ourselves and the American people a clear idea of the nominee's philosophy of American Government, how he would function should he become President, and his views on some of the very basic issues facing the Nation.

As we all know, during a general election campaign the views of the respective candidates for President and Vice President are the subject of intense scrutiny over a long period of time. However, when a Vice Presidential vacancy occurs, the time period for such scrutiny must—under the terms of the 25th amendment—be necessarily compressed. Mr. FORD has been a Member of the House from the Fifth District of Michigan for 25 years and has, as such, represented the views and interests of that district. Since 1965, he has been the minority leader in the House and, therefore, has fulfilled the responsibility of supporting the views and positions of his party and his party's President. He has filled these important positions admirably—even though he has disagreed with a majority of the Congress on many specific issues.

But now he is being called upon to serve as Vice President of the United States and would be in a position where someday he might be the President of this Nation. Thus, particularly in light of President Nixon's earlier expressed view that this vacancy should take on the character of the elective process, I felt that the Rules Committee, as representatives of the full Senate, must explore basic views of the nominee, especially since these matters would pertain to how Mr. FORD would conduct himself should he succeed to the Presidency.

Mr. President, any political figure has his share of critics and GERALD FORD is no exception. Within hours of his nomination stories appeared in the media which revived some of the critical commentary which has been made regarding Mr. FORD over his 25-year career. I, too, have disagreed with many of the positions advanced by Mr. FORD and our voting records have been diametrically opposed on a large number of national issues.

For these reasons I set out, as a member of the Rules Committee, to question the nominee on many of these important matters. And I did so precisely because I thought it necessary to assure myself on behalf of the American people that Mr. FORD holds views which are within the parameters of the most basic tenets of the Constitution and of our society generally.

When questioned about matters such as executive privilege, separation of powers, Presidential immunity, the special prosecutor, and the missing tapes, Mr. FORD demonstrated a respect for not only the letter of the law but the spirit of the law. He said, for example, that:

> I would hope that my good judgment would indicate to me that I ought to carry out the law as it was enacted. . . . I think the President ought to carry out the law. I think he has to get an administrator who will at least carry out the intent of the legislation.

And he made clear that:

> . . . in my opinion, there were serious legal and constitutional questions involved [in turning over the Watergate tapes], but if I had to weigh those two, the political public impact on the one hand, and the legal and constitutional issues on the other, I think my judgment would be to make them available . . .

As to the critical matter of cooperation between the executive and legislative branches, Mr. FORD expressed some similarly hopeful and reasoned views. He left no doubt as to his feeling that there must be an ongoing working relationship between the President and the Congress to "meld and merge" differing approaches to various important domestic problems such as education, manpower training, and vocational rehabilitation. His response to a question by one committee member underscores his apparent depth of feeling on this issue:

> Well my role . . . would be aimed at trying to work with the Members of the Congress on both sides of the Capitol and both sides of the aisle. That is a pretty major responsibility, and I am sure you know, Senator. And if I can do something constructive there that would be helpful in perhaps clearing the air to some extent, naturally.

And the same respectful and reasoned approaches were advocated by the nominee in regard to dealing with the news media, the role of the FBI, and the role of the Vice President in the formulation of administration policy.

Mr. President, I do not mean to suggest that I wholeheartedly endorse Mr. FORD's positions on all of the issues facing our Nation. I was disturbed by his view that impoundment of funds can be justified to make major changes in programs considered objectionable by the President. I strongly disagree with many of his votes in the area of civil rights. And I was profoundly concerned when he took to the floor of the House to advocate the impeachment of Supreme Court Justice William O. Douglas.

In addition, our voting records will show that Mr. FORD and I have been in disagreement on approaches to developing such programs as food stamps, legal services, child care, minimum wages, and public housing.

All of these matters are important. In no way do I wish to minimize them. Frankly, I wish Mr. FORD viewed many of these items differently than he does.

Now, some have said that Mr. FORD should be rejected because of his views regarding civil rights and programs for the disadvantaged. Those individuals have suggested that in these respects he is really no different than Judge Haynsworth or Judge Carswell or even Justice Rehnquist.

I must respectfully disagree with these critics. Their comments caused me to do both a thorough soul searching as well as a careful researching of my grounds for opposing those three Supreme Court nominees and I have concluded that their character and records of performance were substantially different from that of Mr. FORD. Judge Haynsworth was rejected on the grounds of his wholly insensitive anti-civil rights attitudes and because of his clearly improper actions which entwined his personal financial affairs with certain appellate cases in which he participated. In the case of Judge Carswell, we rejected him not only because of his total disregard for constitutional principles in the area of civil rights but, additionally, because of his mediocre and undistinguished record which disqualified him for membership on the Supreme Court. And, although he was confirmed by the Senate, I voted against Justice Rehnquist because of his record of callous indifference toward fundamental civil liberties and his refusal to admit that the Constitution required different conclusions.

Having listened carefully to all of Mr. FORD's testimony before the Rules Committee, I must conclude that there can be no comparison between him and those three Supreme Court nominees. There is no reason to conclude that GERALD FORD has conducted his personal or public affairs with impropriety. He is not a mediocre or incompetent man. Nor are his views on any issue racist, reactionary, or inflexible. Indeed, one of the most telling comments he made before the committee was:

> As I looked back over my own record, there are many things I should have done differently, or not done at all, or done to a greater degree. Yes, we have all made mistakes, and I am the first to admit them.

Mr. President, as was noted on several occasions during the hearings, there are many of us who find hope that when GERALD FORD is confirmed as the next Vice President he will be in a fresh position to grow and change or modify some of the views he has advocated in the past. And the record on Mr. FORD has demonstrated to me that there is a real basis for this to be more than a mere hope.

I was truly impressed by the testimony presented to the committee by some of his colleagues. Several of these men and women—notably Representatives BOLLING, GRIFFITHS, MCCLOSKEY, and RIEGLE—have had some deep disagreements with GERALD FORD during service together in the House. There were no political incentives for them to appear on his behalf. Yet, they came before us and had some compelling points to make in regard to his temperament and character. The words they used to describe GERALD FORD reinforce some of my own impressions of this man. He was described as "reasonable," "straightforward," "honest," "absolutely fair," a man of "calm judgment" and "humility." Mr. FORD was further characterized as possessing "integrity," "an ability to draw people together," inspiring "mutual respect and good will," and the ability to "rise above partisanship" to fulfill his view of the Presidency as a public trust.

Mr. President, there is little more that I can add to what these men and women have said about GERALD FORD. Representative GRIFFITHS said to the committee:

> Some people appear to believe that the Congress should not confirm as a Vice President a person who is not committed to the philosophy of the person writing or speaking. In my judgment, Congress cannot take such an attitude. We are not here to say that unless the choice of the President agrees with us on ecology or defense or some other popular issue, that Congress should not vote to confirm him. This is not the purpose of the 25th Amendment, and it is not within the province of this body to say, because we do not agree with him on the issues, we will not support him. We are here to check Jerry Ford's integrity, his ability, his leadership ability, and with any confirmation, to give the stamp of approval upon those items.

GERALD FORD has reasonably met those tests. And—in one overriding respect—he has gone beyond those essentials. We are today faced with an impasse in the governance of this Nation. The President and his administration have lost the confidence and trust of the American people. We are on the brink of disaster in many of the crucial problems facing us. In my view, GERALD FORD has demonstrated an independent ability to see the need for change and to respond to that need.

I believe GERALD FORD when he says he will be a "ready conciliator and calm communicator." I believe him because he has shown an appreciation for the necessity to bring divergent views together to try to develop a sound and workable concensus. And I think that he has a full understanding of how important it is to bring the Congress into that vital process.

If Mr. FORD lives up to these expectations I think we will be in a position finally to be able to cast aside a government of impasse and revitalize the concept of a government responsive to all the people of this Nation.

Mr. CLARK. Mr. President, my decision to vote in favor of the FORD nomination was one of the most difficult I have had to make in the Senate.

The Senate's investigation into his background and record was painstaking and thorough, and it left no doubt about Congressman FORD's basic integrity or character. We do have rather fundamental differences in political philosophy—on civil rights and liberties, on health care, excessive military spending, on a whole host of legislative issues. And I seriously question his decision to try to impeach Supreme Court Justice William Douglas.

Despite these differences, I reluctantly decided to vote for his confirmation. If Congress rejected Mr. FORD, there would be only more turmoil, more uncertainty, more instability, and more months without a direct successor for the Presidency. It is vital that we have a Vice President now, and given the results of the last election, it should be a member of the President's party.

I do hope that in the months ahead we can modify the provisions of the 25th amendment. When it was drafted, no one even dreamed that a President—faced with impeachment for the first time in 100 years—would be in the position of appointing a Vice President. The best alternative would be a special election—by the people, expressing their own will—but since that alternative is not now available, Mr. FORD's confirmation is in the best interests of the country.

Mr. MUSKIE. Mr. President, I will vote for the confirmation of Congressman FORD to be Vice President of the United States. It is clear that he and I would not agree philosophically. I disagree with many key positions he has taken over the years. But I have respected Mr. FORD's reputation for integrity and character, and the exhaustive investigation of his past which has taken place during the last several weeks appears to have supported this reputation. These qualities of integrity and character are sorely needed at the highest levels of our governing institutions today.

At the same time, Mr. President, I would like to commend my colleague from Maine, Senator HATHAWAY, for his proposal to provide for a special election in the event of simultaneous vacancies in the offices of President and Vice President. I understand his reasons for wanting to delay Mr. FORD's confirmation until the question of the President's own future in office is settled. In the extraordinary circumstances in which we find ourselves, Senator HATHAWAY's formula for Presidential and Vice-Presidential succession could ultimately better serve the country's interests. Its fundamental merit is that it would give the people a chance to respond to these unprecedented events and to give greater legitimacy to a possible Presidential successor. I can well understand the concerns of many people who have written to me about the propriety of a President, who is himself under serious challenge, providing for his own possible succession.

As a practical political matter, however, I do not believe that Senator HATHAWAY's formula will become an available option. Moreover, I believe there are countervailing reasons for filling the Vice-Presidential vacancy as soon as possible—at a time when our institutions are under pressure and discredited in the eyes of many people. It is true that the 25th amendment did not anticipate the extraordinary circumstances we find ourselves in today. But it does provide a constitutional means for Vice-Presidential succession. At the very time when our governing institutions are so discredited, I believe it is important to reaffirm our faith in the Constitution and to demonstrate that our institutions can work. For these reasons—in addition to his qualities of integrity and character—I will vote for Mr. FORD.

Mr. HOLLINGS. Mr. President, I deem it an honor to speak in behalf of the confirmation of Congressman GERALD FORD as Vice President of the United States.

To go directly to the point, I believe that GERALD FORD possesses all the attributes to be a successful and distinguished Vice President. He is a dedicated citizen who can be counted on to stand up for America. He has earned the support and confidence of his constituents in Michigan who have sent him to the House in elections spanning a quarter of a century. And he has the respect of his colleagues here in the Congress.

The Senate Committee on Rules and Administration has conducted a thorough and impartial hearing on this nomination. In lengthy hearings, it left no stone unturned, no question unasked. The Federal Bureau of Investigation has gone to great lengths in investigating the background of the nominee in perhaps the most thorough such inquiry ever made. And JERRY FORD himself has volunteered every piece of information requested by members of the committee. As a result, the committee has voted unanimously in favor of the nomination.

I have had the pleasure of working with GERALD FORD on many occasions. I have seen firsthand the qualities that made him a leader in Congress and which make him an outstanding choice for the Vice-Presidency. He is a man of his word, and when he makes a commitment, he means to keep it. He is his own man—a loyal Republican, of course, but dedicated first and foremost to his own convictions and to the good of the people of his country. He is a man who has the ability to listen and to learn, and he listens to all sides before he makes a decision. Republicans and Democrats, conservatives and liberals, all know JERRY FORD as a man of fairness and integrity.

In the midst of our current problems, nothing is more vital than to have men of unquestioned integrity in positions of leadership. JERRY FORD is such a man. He has learned through years of political service that cooperation and not confrontation is the way to get America moving. He knows that the best politics is no politics. And he knows that we must all work together—the people, their representatives in Congress, and the President—if we are to solve the many problems which confront us. As Vice President, GERALD FORD has much to contribute to the betterment of government and the betterment of America. Now it is up to us to give him the chance. Let us do so without delay.

Mr. BENNETT. Mr. President, together with most of my Senate colleagues, I am delighted to welcome GERALD FORD to this side of the Capitol as or new Vice President and our presiding officer. Having had the privilege of following his distinguished career on the House side for many years, I have come to have both great respect and full confidence in his character and ability. I know that through the closer association his new position will bring to all of us in the Senate, even those who today may have some reservations about his nomination will come to appreciate him and his capacity for leadership. I personally look forward to such a closer association with pleasant anticipation.

I am moved to vote for his confirmation.

Mr. HARTKE. Mr. President, today the U.S. Senate shall consider the nomination of GERALD R. FORD to be the first Vice President under the 25th amendment to the Constitution. In fact, only a limited section of the 25th amendment shall have been tested in the case before us. However, I believe that it is necessary to review the proceedings of the Senate as applied to the confirmation of the Vice President under section 2 of the 25th amendment. I note here the paucity of mail received regarding Mr. FORD's nomination as an indication there is little sentiment throughout the country regarding Mr. FORD. The country may silently view the Office of the Vice President with irrelevancy and fail to note section 1 of the 25th amendment which provides for the immediate succession of the Vice President to the Presidency.

Mr. President, I have discussed the nomination of Mr. FORD with business, labor, civic, Democratic, Republican, and Independent leaders. Though, in most cases, political opinions were held, often I heard the expression, "What has the investigation by the Congress and the Federal Bureau of Investigation revealed?" In the long history of this country there has never been such an interest in whether or not an individual's background is faultless. I believe the course of events of the hour left no alternative but a thorough investigation.

The distinguished chairman of the Committee on Rules and Administration, Mr. CANNON, accepted the responsibility of reviewing the qualifications of the nominee under rule XXV of the Standing Rules of the Senate with calm and courage. I commend him and the other members of the committee for their exacting investigation into Mr. FORD's background, leaving to the broad spectrum of constitutent-representative dialogue the political philosophy of the nominee.

When, in 1967, the 25th amendment was ratified by the 38th State, Nevada, the home of the distinguished chairman, no one envisioned its application under conditions of today's magnitude. Whether or not section 2 of the 25th amendment shall be applied again during the 20th century shall be answered by the historians of the 21st century. But while our Bicentennial is being planned, our Nation's physical energies are growing scarce, world order is being questioned, and new and innovative budgetary procedures are being examined, the Congress, with the calm and courage it was designed to maintain, thoroughly examined a man under a new procedure who potentially could assume the Highest Office of the land. That, my colleagues, citizens, critics and friends is what the fabric and system of America is about. Let no friend or foe doubt the solidarity of America as a Nation, capable, in the pass or on the plain, of marching to the call of the heartbeat of humanity.

Our Constitution is viable, our system is operative, and our traditions and heritage are secure, yet flexible enough to beckon the yearning heart and receive the longing soul seeking his liberty. Liberty and freedom in America are not dead, but very much alive. The Congress in its calm and courageous Chambers is the guardian of the freedoms of our people and the peoples of the world that seek the way of liberty.

Mr. McINTYRE. Mr. President, I will vote to confirm Congressman GERALD FORD of Michigan as Vice President of the United States.

He would not have been my choice, but the choice was not mine to make. Mr. FORD is the President's nominee, a prerogative he has exercised under the law.

That said, Mr. President, may I add that my reservations over this nomination are not sufficient to justify a vote against confirmation.

Having studied the record of the hearings on Mr. FORD's nomination, I am satisfied that the intensive investigation into his background and character leaves little room to doubt his honesty, integrity, and patriotism.

I realize that the talent and ability, sensitivity and insight qualifications for the designated office—and, more importantly, for what could turn out to be the highest office in the land—remain to be proved, but I am impressed, Mr. President with at least two credentials Mr. FORD would bring to either office.

He has demonstrated a winning awareness of his own limitations, a humility that stands in refreshing contrast to the arrogant abuse of power that led us to the brink of constitutional crisis. I am reasonably assured that Mr. FORD will listen, will counsel, will seek information and advice instead of practicing arbitrary, capricious, and solitary leadership.

And, in his many years of congressional leadership, Mr. FORD has demonstrated, too, a conciliatory attitude, a willingness to work with those of different views, that should stand us in good stead after these many months of acrimony, divisiveness, and bitter partisanship.

Beyond the first priority of restoring trust in the political process, the second great need is to restore to that process some measure of truce and harmony.

I believe Mr. FORD can make a positive contribution to those ends, so I will vote for his confirmation.

Mr. BAKER. Mr. President, I wish to commend the Committee on Rules and Administration for its timely and favorable report on the nomination of GERALD FORD to be Vice President of the United States, and to join with the committee's recommendation to the Senate that JERRY FORD's nomination be confirmed.

Although the circumstances giving rise to the current vacancy in the Office of Vice President are tragic, I think it fortunate that Congress and the States possessed the foresight to create a constitutional vehicle for selection of a new Vice President in the event of such a vacancy. Moreover, I am pleased that, in exercising the powers conferred upon him by the 25th amendment, the President chose to nominate an individual of the stature and demonstrable integrity of GERALD FORD.

Like many of my colleagues, my support for Senate confirmation of GERALD FORD to be Vice President is based on the experience of many years of private association, in addition to the record which JERRY FORD has established during 25 years of service in the House of Representatives. Thus, I was not surprised that the Rules Committee, after closely scrutinizing his public and private life, unanimously recommended confirmation of GERALD FORD to be Vice President. Furthermore, while his proven ability and demonstrable integrity, without more, qualify him to serve as Vice President, I anticipate that cooperation between Congress and the executive branch will be enhanced immensely as a direct consequence of JERRY FORD's years of service as minority leader of the House of Representatives. As illustrated by recent events, the White House often is not fully aware of congressional concerns and considerations; and, perhaps as a result of this lack of awareness, errors in political judgment have been made. As Vice President GERALD R. FORD could play a significant role in restoring communication and cooperation between Congress and the White House and thereby insure maximum governmental preparedness for dealing with the serious energy and economic problems now confronting our Nation.

Finally, Mr. President, permit me to express the hope that the House will act as expeditiously as has the Senate with respect to the Ford confirmation. GERALD FORD is an able and honorable public servant whose qualities are admirably suited for the Vice Presidency. Moreover, his long record of service in the House and his close proximity to the thoughts of the public necessitated by such service will enable JERRY FORD to significantly contribute toward restoring the confidence of the American people in the ability and willingness of the Federal Government to effectively deal with the pressing issues of the day. It is for these reasons that I support GERALD FORD's confirmation; and I respectfully urge my colleagues to do likewise.

Mr. HUDDLESTON. Mr. President, I will vote to confirm GERALD R. FORD as the 40th Vice President of the United States.

A number of factors argue for the nominee's confirmation. First, the United States should have a Vice President. The need for orderly succession in a nuclear and rapidly changing world is obvious. We cannot always foresee what the future holds, but we should be assured, to the extent possible, of continuity in the executive branch, in the event the unexpected happens, either as a result of foreign or domestic occurrences. This need was accurately recognized by the authors and supporters of the 25th amendment, who made provision for filling vacancies in the Office of Vice President.

Second, the legislative history of the 25th amendment indicates that in selecting a nominee for the office, the President is expected to choose someone whose philosophical and political views are similar to his. As the Senate Judiciary Committee report on the amendment noted:

> It is without contest that the procedure for the selection of a Vice President must contemplate the assurance of a person who is compatible with the President. The importance of this compatibility is recognized in the modern practice of both major political parties in according the presidential candidate a voice in choosing his running mate subject to convention approval. This proposal would permit the President to choose his Vice President subject to Congressional approval. In this way the country would be assured of a Vice President of the same political party as the President, someone who would presumably work in harmony with the basic policies of the President.

As we know, Congressman FORD's positions pretty well parallel those of the President.

Third, as the Senate Judiciary Committee report also suggested, the country should have a successor to the President from the same political party as the President. Only a year ago, the current President was reelected with 60.8 percent of the popular vote and 521 electoral votes. In this landslide victory, he carried 49 of the 50 States. Yet, under the current situation, should the President become disabled or unable to carry out his duties, the Presidency would fall to a member of the other major political party. Confirmation of Congressman FORD, who was reportedly the overwhelming choice of his Republican colleagues in Congress, would remove this possibility.

Fourth, and perhaps most important in light of the existing situation, the Senate Committee on Rules and Administration, after conducting what is considered an intensive investigation, recommended unanimously that Congressman FORD be confirmed. With the very grave questions which have been raised over honesty, integrity, and fairness in our Government, and with the serious concerns over our Government's capacity to function effectively and meet the demands which are being placed upon it daily both at home and abroad, the committee had a special responsibility to examine in detail the nominee's past activities. That the entire committee was satisfied with the results of their investigation speaks favorably for the nominee.

In voting today to fill the Office of Vice President, however, I want to make it clear that my vote neither represents agreement with the views of the nominee nor full-fledged support of the procedures being followed.

My votes in the Senate have differed significantly from those of Congressman FORD on both foreign and domestic policies. His stand on the very important issues of Southeast Asia and war powers was not the same as mine. His position on a variety of education, health, and antipoverty votes demonstrate, I believe, an insensitivity to the needs of many of our people, particularly those in urban areas.

It has, however, often been said that men grow in office and in meeting new responsibilties. The examples of Harry Truman and Lyndon Johnson are usually given. We must hope that Congressman FORD will fit into that mold and that he will become responsive to the new and broader constituency he will have as Vice President.

Furthermore, my vote today does not represent any sanctioning or decreased concern over the campaign abuses of 1972. The proceedings before Judge Sirica and the Select Committee on Presidential Campaign Activities have revealed efforts to disrupt the most basic aspects of our governmental system—the electoral process—and an unconcerned lawlessness among high officials of Government. There must be no cessation of efforts to bring those guilty of breaking the law to justice or of attempts to reform the system in order to preclude similar travesties in the future.

And, finally, my vote reflects no particular satisfaction with the selection process for Vice Presidents, either at the convention level or in the event of a vacancy. Three of the last five Presidents served as Vice President prior to being President and a fourth sought the second office as a step in his quest for the highest elective post in this land. The office is much too important to be treated in the haphazard manner in which it has. New attention must be given to the selection process and to insuring that those nominated for that office are fully qualified and above reproach.

Mr. YOUNG. Mr. President, this is a memorable day for the Senate of the United States. Today we vote on the confirmation of Congressman GERALD FORD to become Vice President of the United States.

JERRY FORD is one of the most qualified men that President Nixon could possibly have nominated to become Vice President of the United States. He has a long and illustrious career as a scholar, as a serviceman, a fine athlete, and a most commendable record as a Congressman representing the great State of Michigan for approximately a quarter of a century. Few if any Members of Congress are more highly respected than JERRY FORD. Because of the vast respect they have for him and the fair and honorable way in which he has always conducted himself, he has been an exceptionally effective legislator.

When President Nixon announced the nomination of GERALD FORD to become the next Vice President, I said that he was "clean as a hound's tooth." With all the charges leveled against almost every public servant, I would say that this went quite a ways. Many charges—some very vicious—have been leveled against JERRY FORD since he received the nomination for Vice President. Every single one of these charges has been proven false. This and his illustrious record undoubtedly are the major reasons why the Senate Committee on Rules and Administration voted unanimously to approve his confirmation as Vice President of the United States.

The tremendous vote he will receive today speaks more eloquently than any words of the esteem in which GERALD FORD is held by the Senate of the United States.

Mr. DOMINICK. Mr. President, during the weeks since President Nixon announced this nomination of GERALD R. FORD as Vice President, much has been written and spoken concerning the attributes of this outstanding Member of Congress. I will not review his biography or discuss in great detail his record of accomplishments in a quarter of a century in the House of Representatives. All of that has been thoroughly covered in hearings, both here and in the other body.

I would like to say that GERALD R. FORD was my choice for the Vice-Presidency as he was the choice of so many other Members of Congress and people throughout the country. I am delighted that he was so nominated, because I believe that he will bring to the office of the Vice President a depth of experience in Federal Government, a record of loyalty and service to this Nation which will serve as a model to all who aspire to public office, and a balanced temperament which will help give stability and confidence in these troubled times.

I congratulate him on his candor and complete cooperation during the hearings and his commitment to making the fullest possible disclosure of all aspects of his life in order to afford the American people the opportunity to know fully the man who will occupy the second highest office in the land. The members of the Committee on Rules and Administration are also to be complimented for their work in conducting thorough but expeditious hearings on this nomination.

On this historic occasion in which we have our first opportunity to follow the procedures established under the 25th amendment to the Constitution, it is with a great deal of pride and personal pleasure that I announce my complete support for Congressman GERALD R. FORD to be Vice President of the United States.

Mr. KENNEDY. Mr. President, today, we are in the midst of a historical debate unique in the political tradition of our Nation where the Senate of the United States is required to advise and consent on a nomination for the Vice President of the United States.

The obligation placed upon this institution by the 25th amendment to the Constitution has been fulfilled ably by the Senate Rules Committee which combined the requirements for prompt action with the requirements of thorough investigation.

On November 2, I urged prompt and vigorous action on this nomination, believing that to be the mandate of the 25th amendment. To have delayed and obstructed the nomination would have been to fly in the face of the very purpose of the 25th amendment which was to assure the Nation continuity in executive leadership.

The unfortunate events that have led to the present situation were not contemplated by the framers of the 25th amendment, and it would serve no good purpose to detail them anew. However, the underlying rationale that produced the 25th amendment remains as compelling in the current situation as it would in the case of the death of a Vice President.

On a wide range of crucial issues of national importance, on civil rights, on housing, on social concerns, and on civil liberties, I have consistently supported positions that the nominee has opposed. However, the nature of the 25th amendment is such that it intends not for the Senate to choose on its own a candidate for the Vice-Presidency who reflects the political beliefs of each Senator or of the body as a whole, but to "advise and consent" to the nomination of an individual.

Therefore, the key questions before this Senator relate not to his political ideology, but to other issues. First, does the nominee accept the basic constitutional precepts which have been threatened by recent events. Second, does the nominee have a demonstrated understanding of the processes of democratic government. Third, does the nominee have a record free of political corruption.

The record of the hearings before the Senate Rules Committee and thus far before the House Judiciary Committee shows Mr. FORD as an honest man, a man of integrity, a man who accepts the limitations on the power of the Executive written into the Constitution nearly 200 years ago. The testimony of those who have worked beside him for the past quarter century in the House of Representatives indicates that he has justified by his knowledge and competence in the legislative and electoral arenas a full understanding of the political processes of this land. Finally, what stands out from his responses to questions and from the testimony of his colleagues is a record free of the political corruption that has stained too much of our political institutions.

In this regard, I believe it is appropriate to take note of the testimony of Mr. FORD during his nomination hearings.

With regard to whether executive privilege ever could properly be employed to deny documents which may bear on the commission of crimes, Mr. FORD stated:

> Where you have allegations, serious allegations, where those documents have material impact on the guilt or innocence of an individual, it seems to me that the judgment, bearing in mind the best interests of the country, would be that they should be made available.

With regard to whether the concealment of such information would constitute an obstruction of justice, Mr. FORD replied:

> As I understand the question you have to make an honest determination as to what is actually obstructing justice. And that is not always a clearcut question or set of facts. But, in the normal context, I would say yes.

Finally, he was asked: "Can you conceive of any justification, Mr. FORD, for anyone, including the President of the United States, to disobey a court order?"

His reply is a vital assurance that Mr. FORD recognizes the limitation on Presidential power and recognizes the supremacy of the rule of law, assurances that I believe were crucial to his acceptability.

He said:

> I do not think any person in this country is above the law.

Mr. FORD was asked this same question again, and he replied:

> I would strongly say that any person, including the President, where a determination has been made by the highest court of the land, ought to obey the court order.

For those who have witnessed a disturbing tendency to see Executive privilege used to cover up political corruption and for those who have heard the President threaten to disobey court orders, these clear and forthright statements are refreshing and welcome.

At a time of national inquietude, I believe that the best interests of the Nation will be served by strict adherence to the provisions of the Constitution. Those provisions call upon this body to advise and consent to the President's nominee for the Vice-Presidency. I find that the Senate Rules Committee after thorough consideration unanimously voted to report favorably and recommend that the nomination of GERALD R. FORD of Michigan to be Vice President of the United States be confirmed. For the reasons I have stated, I shall vote in favor of that confirmation.

Mr. CANNON. Mr. President, apparently no other Senator wishes to speak on this matter The yeas and nays have not been ordered.

I request the yeas and nays.

The yeas and nays were ordered.

Mr. COOK. Mr. President, I yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time

The PRESIDING OFFICER. All time has been yielded back. The question is Will the Senate advise and consent to the nomination of GERALD R. FORD, of Michigan, to be Vice President of the United States? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. MCGOVERN) is absent or official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Missouri (Mr. SYMINGTON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

The Senator from Florida (Mr. GURNEY) is necessarily absent.

If present and voting the Senator from Arizona (Mr. FANNIN) and the Senator from Florida (Mr. GURNEY) would each vote "yea."

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber and in the galleries?

The PRESIDING OFFICER (Mr. CURTIS). Will Senators cooperate by taking their seats?

The Chair wishes to state to the people in the galleries that there are to be no demonstrations or evidence of approval or disapproval as the vote is announced.

The result was announced—yeas 92, nays 3, as follows:

[No. 515 Ex.]

YEAS—92

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fong
Fulbright
Goldwater
Gravel
Griffin
Hansen
Hart
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Eagleton
Hathaway
Nelson

NOT VOTING—5

Fannin
Gurney
McClure
McGovern
Symington

So the nomination of GERALD R. FORD to be Vice President of the United States was confirmed by the Senate.

Mr. CANNON. Mr. President, I ask unanimous consent that the President be notified of the Senate's confirmation of the nomination of Mr. GERALD R. FORD to be Vice President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, today's Senate confirmation of the nomination of GERALD R. FORD to be Vice President is historic, for it marks the first time that the Senate has acted on such a momentous nomination. It also is timely, for it comes at a crucial period when a President may have to forfeit the White House.

Mr. FORD, within the next year, may, indeed, be President. So today's action not only initiates the 25th amendment of our Constitution, but may, in fact, ordain the 38th President of our Nation.

Mr. FORD has undergone a scrupulous inquiry, and it would appear that he is honest and candid, qualities the American people earnestly want refurbished for the Presidency. I do not always share his political views, but I believe that while Congress may impeach a President, it should not repeal the platform that elected him.

Hopefully, Mr. FORD as President, would restore that comity on which our democracy depends. He would, as President, I believe, break the secretive layers of isolation that enwrap the current President.

President Nixon insists that he would not step down, maintaining he no longer gets seasick when the going gets rough. Well, the Nation does when public confidence and credibility in the President are erased as cleanly as any of his White House tapes.

I am more convinced than ever that the President, for the good of our Nation, should resign when Mr. FORD is confirmed by both the Senate and the House. And I still believe he may if the House swiftly pursues its investigation toward possible impeachment.

The President protests he is no crook, and a lot of evidence must be sifted before any judgment can be made. Nonetheless, it is quite clear that the President has forsaken the trust and confidence of the American people.

Few Americans can accept the swift succession of alibis about tapes that the White House says never were and portions of one that definitely were but are no longer.

Now as a nation, we are confronted with the dark prospect of a drastic fuel shortage that could plunge this Nation back into the dismal 1930's of depression. Bold leadership can assure equitable distribution of supplies to keep our homes warm and our factories running, and it can expedite development of solar and other new sources of energy. But such leadership relies on a strong partnership between the administration, to whom great powers have been accorded in this crisis, and the Congress, which must stand vigil against any abuse of those powers.

So far, the President has failed to dispel the clouds of doubt swirling around his stewardship of the affairs of state. He has failed to foster a working alliance with Congress based upon mutual trust and respect.

His resignation would spare the Nation the months of anguish of impeachment. Additionally, it would bring into the White House a person at home working with Congress and whose word can be accepted at face value.

In voting for Mr. FORD, I am fully aware that I am possibly voting for a new President for the next uncertain 3 years.

I have confidence in Mr. FORD. I believe he is cognizant of the great duties placed on him by our Constitution, and will do his utmost to fulfill the letter as well as the spirit of that energizing document of our democracy.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of H.R. 11104 which the clerk will report.

The second assistant legislative clerk read as follows:

A bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary debt limit applies to June 30, 1974.

PROGRAM FOR TONIGHT

Mr. GRIFFIN. Mr. President, for the benefit of those Senators who are on the floor, I would like to address an inquiry of the distinguished majority leader as to what we might expect to be the program for the rest of today and tonight.

The PRESIDING OFFICER. May we have order on the floor and in the galleries?

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting Republican leader, the Senate has returned to the pending business which was under discussion prior to the debate and vote on the nomination of the Vice-President-designate.

It is our hope that we may be able to finish the debt ceiling bill tonight.

I would urge all Senators to stay pretty close to the floor.

Mr. GRIFFIN. I thank the distinguished majority leader. I thought that all Senators ought to be on notice that that is the intention of the leadership.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

The Senate continued with the consideration of the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary debt limit applies to June 30, 1974.

The PRESIDING OFFICER. The question is on agreeing to the first part of the Kennedy amendment No. 651 as amended.

The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, in order to expedite——

The PRESIDING OFFICER. Will the Senator suspend? Will the Senate please be in order? Those Senators wishing to converse will please retire from the Chamber. Will Senators please take their seats? The Senator from Louisiana is entitled to be heard.

Mr. LONG. Mr. President, in order to expedite action on the bill, I ask unanimous consent that my request for the division of this amendment be vitiated and that the Senate simply vote on the amendment as it was before the division.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. ALLEN. Mr. President, reserving the right to object, I believe that the Senator from Louisiana requested a division. And we do have a provision, section 2, that I do not believe the Senate is going to agree to. That concerns the presidential nomination campaign subsidy section which would give up to $7 million for each man who wants to run for the presidential nomination.

The PRESIDING OFFICER. The Chair will state that debate is not in order.

Is there objection to the request of the Senator from Louisiana?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, I have an amendment to the Kennedy amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 8, line 5, strike everything following "9007" through line 7 and insert in lieu thereof the following:

"plus the greater of—

"(A) 15 cents multiplied by the voting age population of the geographical area in which the election for such office is held, as determined by the Secretary of Commerce under the Federal Election Campaign Act of 1971;

"(B) $175,000, if the Federal office sought is that of Senator; or

"(C) $90,000, if the office sought is that of Representative."

On page 8, line 12, strike everything following "any" through the end of line 18 and insert the following in lieu thereof:

"difference between the payments received out of the fund and the expenditure ceiling imposed by this subsection, and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(12) have been or will be accepted by such candidate or any of his authorized committees; and

"(3) no contribution from any person has been or will be accepted by such candidate nor any of his authorized committees if such contribution, when added to all other contributions made by that person to the candidate or any of his authorized committees, equals an amount in excess of $1,000."

On page 9, line 5, strike everything following "of" through the end of line 7 and insert the following in lieu thereof:

"the expenditure ceiling imposed by subsection (b) of this section;".

On page 9, strike everything on line 15 and insert the following in lieu thereof:

"9006; and

"(3) no contribution from any person has been or will be accepted by such candidate nor any of his authorized committees if such contribution, when added to all other contributions made by that person to the candidate or any of his authorized committees, equals an amount in excess of $1,000."

On page 9, line 19, strike "(2)".

On page 9, line 20, strike "(2)".

On page 10, line 8, strike the numeral and insert the following in lieu thereof: "7½".

On page 10, line 13, strike the numeral and insert the following in lieu thereof: "$87,500".

On page 10, line 15, strike the numeral and insert the following in lieu thereof: "$45,000".

On page 12, line 20, strike everything following "amount" through the end of line 21 and insert the following in lieu thereof:

"by which contributions described in paragraph (1) of this subsection exceed 7½ cents multiplied by the voting age population of the geographical area in which the election is held."

On page 24, line 21, strike everything following "under" through the end of line 24 and insert the following in lieu thereof:

"sections 9003 and 9007.".

On page 25, line 13, strike everything following "any" through the end of line 17 and insert the following in lieu thereof:

"difference between payments received out of the fund and the expenditure ceiling imposed by section 9003.".

On page 39, following line 25, insert the following:

"for nomination for the office of President or Vice President".

On page 40, line 3, following "candidate", insert the following:

"for nomination for the office of President or Vice President".

Mr. STEVENSON. Mr. President, there is, I believe, a conflict between the provisions of the amendment as originally offered by the Senator from Massachusetts and the modification offered by the Senator from Alabama which was accepted by the Senate.

The Allen modification appears to permit individual contributions to congressional and Presidential general election campaigns of up to $3,000.

The Kennedy amendment, except under very limited circumstances, permits no private contributions to such campaigns. It does permit private contributions to candidates to be channeled through national and State party organizations and in certain other cases. Basically, however, it is a pure public financing proposal.

My amendment provides for partial public financing in general election campaigns for the Congress and for the Presidency.

Instead of providing for 100 percent public financing, it provides for 50 percent public financing, with the balance of the financing for those campaigns to come from private sources; and it provides that private contributions would be limited to $1,000 per donor. Such contributions could provide funds up to 50 percent of the expenditure limit in campaigns for the Senate, the House of Representatives, and the Presidency, and the other 50 percent would come from the Federal Government.

Mr. President, I see nothing wrong with $5 contributions to a political campaign, or with $10, $15, $25, or $50 contributions. Such small contributions are not only innocent, they offer individual citizens a significant means of participation in the political process.

The Kennedy amendment bans nearly all such contributions and all such participation by individuals in political campaigns.

We ought, it seems to me, to be cutting the people in, not cutting them out. We ought to be sanitizing, but not sterilizing, our political process. A ban on small contributions is unreasonable. It may consequently be unconstitutional.

What we ought to ban is the big, potentially corrupting campaign contribution. That is what my amendment does. It prohibits all individual contributions in excess of $1,000, permitting the smaller, innocent contributions with no potential for corruption. It would assure, I believe, the constitutionality of the legislation, and it would also decrease its cost by one-half. If we can do the job by spending less, we ought to do so. I urge its adoption.

Several Senators addressed the Chair.

Mr. STEVENSON. I yield to the Senator from Rhode Island for a question.

Mr. PASTORE. Mr. President, I quite agree with everything the Senator has said. However, there seems to be an inconsistency between his statement and the work sheet passed around to Members of the Senate.

As I understand, the Senator's limitation is on contributions beyond $1,000. If we are looking for $5 and $10 contributions, why do we not lower that figure to $100? Then it would be in conformity with allowing the little man to be a partner in a campaign.

A thousand dollars is still a lot of money, and anyone who contributes a thousand dollars to a campaign, in my humble opinion, has an angle.

Mr. STEVENSON. Of course, Mr. President, any figure is going to be arbitrary, whether it is $100, $500, or $1,000. The reason why I settled on $1,000 is twofold: First, the Senate has already approved a $3,000 limitation. $1,000 is going a long way further. A contribution may be made with an angle, but not many candidates for Congress or the presidency will be corrupted by $1,000 contributions.

The other part of the reason is simply to reduce the cost to the public. This amendment provides for 50 percent private financing. If we bring the private financing down to include only contributions of $100 or less, we might have to offset that by increasing the proportion from the Treasury. I am trying to keep that down.

I think this amendment strikes a reasonable balance. It permits a $1,000 contribution, which is not a corrupting contribution, at the same time that it permits a reduction of approximately 50 percent in the cost of the pure public financing amendment as originally offered by the Senator from Massachusetts (Mr. KENNEDY). That would cut the cost down by about $75 million for a full cycle of congressional and Presidential elections.

Mr. PASTORE. The thing that disturbs me is this: Either we are going to have or not going to have public financing. I realize that a $5 or $10 contribution does not vitiate the objective of public financing.

When the Senator talks about $1,000 contributions, I am sure he means well. He means nothing except permitting the making of a $1,000 contribution. But here we are again with the $1,000 dinners. I think the $1,000 dinners are scandalous. President Johnson had them, President Nixon has had them, and if we go on with the $1,000 dinners, I am afraid we are corrupting the process we are trying to correct.

If we are going to have public financing, let us have public financing. I can see $5 contributions or $10 contributions not disturbing that at all, or perhaps any contribution up to $50 or $100. But when we talk about $1,000, that is quite a substantial contribution. We had better not hold our hand out to collect all the money we can, and at the same time put the same hand in the till of the U.S. Treasury. If we are going for public financing, let us go for public financing. If we are not going to have it, let us not have it. What we have here is a hermaphrodite.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. GOLDWATER. Does this amendment or any amendment the Senator is aware of preclude a citizen from going into, say, a radio station, a television station, or a newspaper, and buying time or space in excess of $1,000 to express his own personal opinion of the candidate, either for or against him?

Mr. STEVENSON. As I understand the Kennedy amendment, it permits the individual acting independently of a candidate to spend up to $1,000 for radio or television advertising. My amendment would not affect that opportunity, that right of the individual.

Mr. GOLDWATER. The reason I ask is because I think we are getting close to a constitutional question. I remember once many years ago when I served on a select committee on this question, and I put that hypothetical question to Mr. Walter Reuther. He reminded me that it was his right as a citizen—of course, the limit then was $5,000—to spend $5,000 to buy time or space to oppose me. Of course, he would never have supported me.

I believe he was right. If we make the maximum $1,000, does that preclude an individual from giving to more than one committee? Could a citizen give to a committee of XYZ, and then a committee of ABC, giving $1,000 to each committee?

Mr. STEVENSON. As I understand the Kennedy amendment, it would eliminate all committees. It would prevent an individual from making contributions to a series of paper or real committees, with one exception, and I think that exception deserves some serious consideration by the Senate. It does permit individuals to make contributions to national and State party organizations, which then can aggregate the contributions and turn around and make contributions to the individual candidates.

The Kennedy amendment permits that kind of individual campaign contribution, and otherwise, with some minor exceptions, eliminates all contributions by individuals. That raises a constitutional question, also.

The Senator from Arizona mentioned the individual's constitutional right to express his independent views one way or another, for or against a candidate. By the same token, he has the right to make a contribution directly to the candidate. At some point, it would be constitutional to restrict that right on the theory that at that point it threatens the integrity of the political system. At some point, it becomes as constitutional to outlaw the campaign contribution, as it does to outlaw the bribe.

Mr. GOLDWATER. One more question and I will be satisfied. Does the Senator from Illinois feel that the Congress could constitutionally prohibit any contribution by an individual to a candidate, or contribute to his cause, or in opposition to a candidate in opposition to his cause?

Mr. STEVENSON. It would not be constitutional to say to every individual in this country, "You cannot contribute one cent or $1, or $5." At some point it becomes constitutional. That is the cause of my quarrel with the amendment introduced by Senator KENNEDY, which prohibits all individual contributions except under limited circumstances. That is unconstitutional. It is also unreasonable because it excludes the small contributor, whom we should be trying to bring in. I, instead, take the figure of $1,000 as the cutoff.

Mr. GOLDWATER. I thank the Senator from Illinois very much.

Mr. BENNETT. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. I yield.

Mr. BENNETT. Is there anything in the Kennedy amendment, or your proposal, which prevents a man from spending his own money to an unlimited degree?

Mr. STEVENSON. On page 28——

Mr. KENNEDY. If the Senator from Illinois will allow me to interject there, I think the Senator from Utah understands there is such a limitation. It is provided for in the amendment. We have debated the particular outlines of the provisions here this afternoon. As it specifically applies to senatorial campaigns, it provides for the dollar checkoff. As was made clear by the dialog between the Senator from Arizona and the Senator from Illinois a few moments ago, it permits an individual to spend $1,000 of his own. There are first amendment issues to the power of Congress in this area, but I think that a long line of Supreme Court decisions provide a solid basis for action by Congress establishing $1,000 as an appropriate limitation.

Mr. BENNETT. That is a contribution as an individual, but is it constitutional or would it forbid me from spending my own money for my own purposes without contributing to anyone else's campaign organization?

Mr. PASTORE. If the Senator from Illinois will allow me to interject there, in the campaign expenditures bill of 1971 we did precisely that. We made a limitation. That is the existing law today. If we do not touch it in this bill, it is still the law.

Mr. CANNON. Mr. President——

Mr. LONG. Mr. President, will the Senator from Massachusetts yield me 2 minutes?

Mr. KENNEDY. I yield.

Mr. LONG. Mr. President, I regret that this amendment has been offered, because it would affect existing law and could be a backward step. We have previously voted on it, and have put it on the statute books. The law now provides that the checkoff is to be on the tax return so that the public may make the checkoff for this year and also for last year if they did not make the checkoff last year and decide to make the election this year for the prior year. Having made considerable headway toward public financing of Presidential campaigns, it would be a great disappointment to me to see this become one-half publicly and one-half privately financed, after the Senate by a 2-to-1 margin recorded itself in favor of publicly financed Presidential campaigns. In my judgment, that would be a disappointing backward step for those who believe in the principle of public financing, particularly with regard to Presidential elections where large amounts of money must be raised. Just because campaign contributions come out in $100 units does not mean they cannot be an industry drive. They can organize 40,000 people, if they want to, and say, "Send me $100." That would bring in $4 million. So if we really believe in the idea of eliminating the power of money to make the decisions in Government, it would seem to me that the Senator from Illinois' amendment is definitely a backward step.

I would hope that we would not take that step; and I believe that the Senator from Massachusetts (Mr. KENNEDY) also agrees.

Mr. PASTORE. Mr. President, will the Senator from Illinois yield?

Mr. STEVENSON. I yield.

Mr. PASTORE. As a matter of fact, in the checkoff legislation, we specifically provided that if a candidate takes advantage of public money, he cannot take private money. We said that specifically.

Mr. LONG. The whole idea of providing public financing for an election is to allow people to make their decision on the candidate of their choice on the issues and not be forced to base their decision on the candidate who was able to raise the most money. This amendment would definitely turn back the clock against a trend toward which we have been moving for the last 6 years.

Mr. KENNEDY. Mr. President, first of all, I wish to commend the Senator from Illinois for the very constructive, positive contribution he has made toward the development of public financing legislation and in the reform of financing political campaigns. He has been one of the real leaders in this body. He has spent a great deal of time and effort. He has made a valuable contribution to the amendment which he has submitted and supported, and which we are currently debating.

The question is, What is the appropriate route to encourage people to take part in the political process and also to maintain the integrity of the process?

We have seen in the proposal before us a number of different approaches to this question. We have the concept of the $100 matching grant for presidential primaries, the Mondale-Schweiker proposal. We have also included a provision enabling an individual to make contributions up to $3,000 to State and national committees, which can spend two cents per voter for general elections. In this way, individuals will be able to participate in financing the election process. They are certainly not shut out entirely. They can make contributions up to $3,000 directly to candidates in primaries.

In addition, individuals may spend up to $1,000, acting on their own, in support of candidates in general elections.

This has been the subject of extensive debate. Perhaps not all of us agree with the figures in the amendment. But they were established after extensive and exhaustive debate, including the debate on S. 372.

As the Senator from Louisiana has pointed out, what we would be doing, if the amendment were accepted, would be to change in a most dramatic way the funding in presidential elections, which is already part of existing law, and which our amendment extends to Senate and House elections. There would be a dramatic alteration in the thrust of this whole concept of public financing, and we should not accept the amendment.

Therefore, it is with regret that I shall oppose this amendment. I do want to point out that all of us working in this field know of the very substantial contribution and emphasis that the Senator from Illinois has made in trying to insure a role for the small, individual contributor in the political process.

I shall, at the appropriate time, join the Senator from Louisiana and the Senator from Pennsylvania (Mr. Hugh Scott) in moving to table the amendment.

Mr. BENNETT. Mr. President, will the Senator yield me 2 minutes?

Mr. KENNEDY. I yield.

Mr. BENNETT. I should like to call the attention of the Senator from Illinois to the fact that the language on page 3 of his amendment relates to part 2, not to part 1. I wonder if it is not going to be necessary to take that language out.

Mr. STEVENSON. Yes. If the Senator will yield, I modify my amendment to delete all the lines of the amendment on page 3.

The PRESIDING OFFICER. Is the Senator proposing to delete all of that page?

Mr. STEVENSON. Yes.

The PRESIDING OFFICER. The Senator has the right to so modify his amendment, and it is so modified.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, it is with regret that I move to table the amendment of the Senator from Illinois, on behalf of myself, the Senator from Pennsylvania, and the Senator from Louisiana.

The PRESIDING OFFICER. The motion is not in order until all the time has been used or the time has been yielded back.

Mr. STEVENSON. Mr. President, I will take about 1 minute, and then I will be glad to yield back the remainder of my time.

First, I want to commend the Senator from Massachusetts. No one has fought harder to bring this issue to the Senate, to purge our politics of large and corrupting campaign contributions. He has done an extremely able job in reconciling the differences between those of us who share his concern about money in our politics.

In response to the point he made—and it was made by the Senator from Louisiana as well—I would say that the checkoff system, as modified by the Senator from Massachusetts, is very likely unconstitutional, because it prohibits individual contributions. There is no longer a real choice open to the candidate. He would have to take 100-percent public financing, through the campaign checkoff. All contributions from individuals, however small, however innocent, right down to one nickel, would be prohibited, unless they were channeled through State and national party organizations. An exception is carved out for those political organizations. That being the case, it is very likely unconstitutional.

It is also most unreasonable and unfair to candidates who depend, as Senator McGovern, Governor Wallace, and others have depended in the past, on individuals who want to participate—and have the right, I believe, to participate—by making small contributions.

Mr. ALLEN. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. STEVENSON. I yield.

Mr. ALLEN. Mr. President, I support the amendment offered by the distinguished Senator from Illinois, because I believe that it does prompt public participation at the individual level and not through his pocket as a taxpayer. It allows him to contribute his funds individually, and I think that is part of what is lacking in politics today—the lack of public interest and public participation.

The amendment of the distinguished Senator from Illinois does permit private participation up to 50 percent, and then it gives a Federal subsidy of 7.5 cents per person of voting age in the political subdivision in which the candidate is running.

I particularly invite attention to the Kennedy amendment from the standpoint of the subsidy to Senators and Members of the House. In my State of Alabama, the amount of public funds that would be paid to the various candidates, as shown by the sheet prepared by the distinguished Senator from Massachusetts (Mr. Kennedy), would be $344,000, to each candidate of each party. That is about 10 times what probably will be spent in Alabama by each candidate for the Senate.

To force $344,000 on the various candidates for office, I think, is not in the public interest. At least, the amendment of the Senator from Illinois would cut that in half and would then permit a candidate to solicit private contributions.

I believe that I am going to be against the Kennedy amendment even if this amendment is adopted. If this amendment is adopted, the Kennedy amendment will be just half as bad as it now is. It would still be bad to vote for it.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. KENNEDY. If I am incorrect in this, I should like to be corrected. It is my understanding that the amount involved in the last Senate race in Alabama was a good deal more than the figures the Senator from Alabama has outlined here.

Mr. ALLEN. I referred to the next race.

Mr. KENNEDY. Is the Senator familiar with the figures spent by our dear colleague and distinguished friend from Alabama, Senator Sparkman?

Mr. ALLEN. No, I am not familiar with that.

Mr. KENNEDY. It is my understanding that it was somewhere between $700,000 and $800,000 by each of the two major candidates.

Mr. ALLEN. It is a great deal more than will be spent next time, I assure the distinguished Senator.

Mr. President, I ask unanimous consent to have printed in the Record the table showing public financing for Senate general elections.

There being no objection, the table was ordered to be printed in the Record, as follows:

PUBLIC FINANCING FOR SENATE GENERAL ELECTIONS—STATE-BY-STATE SPENDING

[15 cents per voter per $175,000 floor]

State	Voting age population (18 years and over)[1]	Amount of public funds
Alabama	2,294,000	$344,100
Alaska	194,000	175,000
Arizona	1,262,000	189,300
Arkansas	1,326,000	198,900
California	13,910,000	2,086,500
Colorado	1,560,000	234,000
Connecticut	2,083,000	312,450
Delaware	369,000	175,000
District of Columbia	527,000	175,000
Florida	5,087,000	763,050
Georgia	3,067,000	460,050
Hawaii	526,000	175,000
Idaho	487,000	175,000
Illinois	7,508,000	1,126,200
Indiana	3,477,000	521,550
Iowa	1,924,000	288,600
Kansas	1,538,000	230,700
Kentucky	2,191,000	328,650
Louisiana	2,348,000	352,200
Maine	683,000	175,000
Maryland	2,679,000	401,850
Massachusetts	3,937,000	590,550
Michigan	5,876,000	881,400
Minnesota	2,542,000	381,300
Mississippi	1,426,000	213,900
Missouri	3,223,000	483,450
Montana	468,000	175,000
Nebraska	1,021,000	153,150
Nevada	347,000	175,000
New Hampshire	513,000	175,000
New Jersey	4,986,000	747,900
New Mexico	657,000	175,000
New York	12,626,000	1,893,900
North Carolina	3,468,000	520,200
North Dakota	411,000	175,000
Ohio	7,130,000	1,069,500
Oklahoma	1,797,000	269,550
Oregon	1,487,000	223,050
Pennsylvania	8,174,000	1,226,100
Rhode Island	668,000	175,000
South Carolina	1,719,000	257,850
South Dakota	444,000	175,000
Tennessee	2,710,000	406,500
Texas	7,614,000	1,142,100
Utah	690,000	175,000
Vermont	304,000	175,000
Virginia	3,182,000	477,300
Washington	2,310,000	346,500
West Virginia	1,209,000	181,350
Wisconsin	2,965,000	444,750
Wyoming	226,000	175,000
United States	139,172,000	20,875,800

[1] Department of Census estimate, voting age population, July 1, 1972, pursuant to the Federal Election Campaign Act of 1971, Public Law 92-225.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. DOLE. Mr. President, I somewhat share the view expressed by the Senator from Alabama. As a candidate next year, I am wondering, do we put off the effective date of this amendment until after the next election?

Mr. STEVENSON. I think that question ought to be taken up separately. The amendment I have offered would apply partial public financing to the 1974 election.

Mr. KENNEDY. Mr. President, will the Senator yield on my time?

Mr. DOLE. I yield.

Mr. KENNEDY. I think there has been a rather clear expression by the Members of the Senate in the past vote on the question of the public financing of Congressional and Senatorial elections. A number of Members who have supported that proposal during the course of the debate and who have spoken to the sponsors of the amendment have pointed out the difficult position in which this amendment places them. In voting for funds for 1974 congressional elections when they themselves are candidates, they will have difficulty in presenting their position and having it understood in their constituencies.

At an appropriate time, when we have the opportunity to consider part II, I hope to offer an amendment which will defer the effective date from 1974 to the 1976 elections. I will do that with a great deal of reluctance, because I think the time to move ahead is now. I know that this has placed many colleagues in an extremely difficult position, but I want to give those assurances to the Senator.

Mr. STEVENSON. I might add that it would be out of order for me at this point to offer such an amendment as part of the amendment I have offered.

Mr. DOLE. I think that many of us who will be running next year have already made some effort so far as private funding is concerned. While I think the people in Kansas are ready for the general concept of public financing, I do not think they are ready to accept giving me $230,000—or, for that matter, anyone else.

I think you can sell the general concept; but when you get down to specifics, do you think XYZ, or his opponent, who is running for reelection, should be allocated so many Federal dollars, you will find a little different attitude on the part of people not only in Kansas but in any other State as well.

Being a Republican, it is possible that I may have a few other problems next year. I would not want to add a light burden what could be a heavier burden in 1974.

So I am pleased with the comment of the Senator from Massachusetts. I think that would make the bill even more acceptable, if we could delay it to 1976, and those who are running in 1976, could delay it to 1978, and those who are running in 1978, could delay it to 1980.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. STEVENSON. I yield.

Mr. HANSEN. Mr. President, I would like to see if I interpret the letter by the Senator from Illinois to mean that it is his conviction that limiting contributions to $1,000 by individuals and committees would not raise a constitutional issue that otherwise would exist.

Mr. STEVENSON. Any figure is arbitrary. I think we could probably settle on a lower figure without creating a constitutional question; but it seems to me that at $1,000, no constitutional question would arise.

Mr. HANSEN. Is there any court decision to support that conclusion, or on what basis is the judgment made?

Mr. STEVENSON. I do not know of any court opinions directly on this question.

Mr. HANSEN. But that does reflect the opinion of the Senator from Illinois?

Mr. STEVENSON. Yes, and of experts. It is a question of reasonableness. I think it would be held unconstitutional to prohibit a $5 contribution, but somewhere it becomes reasonable and, therefore, constitutional, and we, as elected public officials, know better than anyone else where that area lies. I think clearly that $1,000 is safe constitutionally.

Mr. HANSEN. Would it be the Senator's opinion that if we were to experience further rampant inflation the time could come when $2,000 would pass the constitutional test as well as the $1,000?

Mr. STEVENSON. I have no doubt that $2,000 would pass the constitutional test now. We can go up as far as we want The question is how far we can go down. Congress would have to review legislation of this kind from time to time either to increase the per individual campaign contribution limits or the amounts of public subsidy, and also the amounts that were permitted to be spent in campaigns by the candidate.

Mr. HANSEN. I thank the Senator.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, with great reluctance I find it necessary to oppose the amendment offered by my friend, the Senator from Illinois. In my opinion, there is a good case for a blended system of public and privately supported campaigns, provided that the public share is high enough to give a reasonable guarantee that we have dealt with the problem we are trying to solve here, and that is the corruption of private money.

What bothers me with this 50-percent share in the Stevenson amendment is that it raises again the possibility that candidates seeking to raise the private money they need to run an adequate campaign would accept money in amounts from sources that might again compromise and possibly corrupt the public officials. I am sure that is something that the Senator from Illinois wishes to avoid as much as I do.

The $1,000 ceiling on private contributions, I believe, is unrealistic, if 50 percent of the money has to be raised from private sources.

The $3,000 figure we set in S. 372 was based on our combined judgment that, if you have to raise that money privately, somewhere around the $3,000 level there should be a ceiling to prevent one from going beyond it and therefore able to resist the temptation of getting oneself into a compromised position.

Since I believe $1,000 is unrealistic, I think we will have politicians finding ways to get around the law, to avoid its provisions, to develop tricks which permit them to raise money they need to pay for 50 percent of the cost of a campaign. I think that has been one of the problems of the Corrupt Practice Acts from the beginning, since they are unrealistic from the point of view of ceilings. Politicians have cynically been undermining and running away from the spirit of those laws, creating further cynicism on the part of the public as to the sense of law-abidance on the part of the elected officials.

Since I believe this would cut the public share down to a dangerous level that might again expose politicians to corruption and since the $1,000 based on that theory is also unrealistic, I regret that I must oppose the amendment.

The PRESIDING OFFICER. All time of the Senator from Illinois has expired.

The Senator from Massachusetts has 22 minutes remaining.

Mr. KENNEDY. I am proud to yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Does the Senator from Massachusetts renew his motion?

Mr. KENNEDY. Mr. President, I do. I move to table the amendment of the Senator from Illinois.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

Mr. STEVENSON. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. FANNIN), and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

The Senator from Florida (Mr. GURNEY) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) would vote "nay."

The result was announced—yeas 50, nays 42, as follows:

[No. 516 Leg.]

YEAS—50

Abourezk
Bayh
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Domenici
Eagleton
Eastland
Gravel
Hart
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
McGee
McIntyre
Mondale
Montoya
Moss
Nelson
Nunn
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stevens
Talmadge
Tunney
Williams
Young

NAYS—42

Aiken
Allen
Bartlett
Beall
Bellmon
Bennett
Biden
Byrd,
 Harry F., Jr.
Church
Cook
Cotton
Curtis
Dole
Dominick
Ervin
Fong
Fulbright

Griffin
Hansen
Hartke
Helms
Hollings
Hruska
Hughes
Mansfield
Mathias
McClellan
Metcalf
Muskie
Packwood
Percy
Proxmire
Roth
Saxbe
Scott,
William L.
Sparkman
Stafford
Stevenson
Taft
Thurmond
Tower
Weicker

NOT VOTING—8

Baker
Fannin
Goldwater
Gurney
McClure
McGovern
Stennis
Symington

So the motion to lay on the table the Stevenson amendment to part 1 of the Kennedy amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to part 1 of the Kennedy amendment as modified. On this question the yeas and nays have been ordered.

Mr. KENNEDY. Mr. President, there are a number of technical amendments that I send to the desk and ask to have stated.

The PRESIDING OFFICER. The clerk will report the amendments.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Mr. President, inasmuch as the yeas and nays have been ordered, is it necessary that unanimous consent be obtained before the amendment can be modified?

The PRESIDING OFFICER. It would take unanimous consent to modify the amendment even if the yeas and nays had not been ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may modify the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

The modifications are as follows:

On page 3, line 5, after the word "shall", strike out "also be in" and insert "be filed by such candidate with the Comptroller General. Any withdrawal of any authorization shall also be in".

On page 7, line 16, after the word "may", strike out "respect;" and insert "request;".

On page 10, line 14, after the word Senator", strike out "or" and insert "Delegate, Resident Commissioner, or Representative, from a State which is entitled to only one Representative; or".

On page 10, line 15, after the word "the", insert "Federal".

On page 10, line 16, after the word "Representative", insert "from a State which is entitled to more than one Representative."

On page 13, line 21, after the word "the" where it appears the first time, strike out "Federal Election Commission" and insert "Comptroller General".

On page 18, line 7, after the word "the", strike out "Commission" and insert "Comptroller General".

On page 29, line 3, after the figure "501", strike out "(e)" and insert "(f)".

Mr. KENNEDY. Mr. President, I wish to state that there are two other matters to be considered. For the information of the Senate, one is a matter that the Senator from Maine (Mr. HATHAWAY) has spoken to me about. I hope that we can act expeditiously on that matter.

The second matter is changing the effective date of the application of the amendment to congressional and senatorial elections from 1974 to 1976. That is an amendment to part 2. So, if we could have the amendment offered by the Senator from Maine, he can explain it.

Mr. HATHAWAY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 17, line 8, add "or $30,000, whichever is larger".

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, the amendment simply adds language at the end of subsection (b). It would simply add "$30,000 or whichever is larger." This is an amendment that would benefit the smaller States which would not receive very much money under the two cents per eligible voter that the State committee could spend on behalf of all candidates in Senatorial and Congressional races.

Mr. KENNEDY. Mr. President, I urge adoption of the amendment. Under the present proposal, the provision allows 2 cents per eligible voter to be spent by a State party committee. Obviously, in the less populated States, that is a very low figure. The amendment of the Senator from Maine would put on a floor of $30,000 that would be available to the various State committees to spend on behalf of the candidates in their States.

They would still have to raise that money, which they could do from private contributions. However, they would be permitted to do so. It would affect a number of the smaller States.

In addition, the 2 cents a voter provisions are, of course, not intended to allow a national committee to pour its entire allotment into a few State or local races. With the 2 cents overall limit, a 2 cents local race limit also applies. The same sort of local limit also applies to spending by a State committee or local House races in the State.

I think the Senator from Maine has offered a useful and helpful amendment. I would urge the Senate to adopt the amendment. This is an important provision in guaranteeing a role for our political parties.

Mr. President, I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Maine to Kennedy amendment No. 651 (putting the question).

The amendment was agreed to.

Mr. BELLMON. Mr. President, I have an amendment at the desk. I call up the amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 1, strike out lines 1 through 3 and insert in lieu thereof the following:

"SEC. 4. PUBLIC FINANCING OF FEDERAL ELECTIONS.

"(a) Subtitle H of the Internal Revenue Code of 1954 is amended to read as follows:".

On page 46, strike out lines 3 and 4, and insert in lieu thereof the following:

"SEC. 5. DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND.".

On page 47, strike out lines 4 and 5, and insert in lieu thereof the following:

"SEC. 6. INCREASE IN TAX CREDIT AND TAX DEDUCTION FOR POLITICAL CONTRIBUTIONS.".

On page 47, after line 20, insert the following:

"SEC. 7. AMENDMENT OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

"(a) Section 302(b) of the Federal Election Campaign Act of 1971 is amended by striking out 'in excess of $10'.

"(b) Section 302(c)(2) of such Act is amended by striking out 'in excess of $10'.

"(c) Section 302(d) of such Act is amended by striking out 'in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100'.

"(d) Section 304(b)(2) of such Act is amended by striking out 'in an aggregate amount or value in excess of $100, together with the amount and date of such contributions'.

"(e) Section 304(b)(5) is amended by striking out 'in an aggregate amount or value in excess of $100'.

"(f) Section 304(b)(7) of such Act is amended by striking out 'in excess of $100'.

"(g) Section 304(b)(9) is amended by striking out 'in the aggregate amount or value in excess of $100'.

"(h) Section 304(b)(10) is amended by striking out 'in excess of $100'.

"(i) Section 305 is amended by striking out in an aggregate amount in excess of $100'.

"(j) Section 308(a)(7) is amended by striking out 'shown to have contributed in excess of $100'.".

Mr. BELLMON. Mr. President, I can explain the amendment in a very brief time. I believe the amendment is one that the author of the pending measure might wish to accept.

The law as it presently stands requires the reporting of contributions made in the amount of $100 or more. And it requires the reporting of campaign expenditures in the amount of $100 or more.

It is my feeling that if we are going to go into a system or using the taxpayers' dollars to help pay the cost of campaign expenditures, the taxpayers have a right to know where every dollar of their money has gone. I believe that giving a candidate the authority to spend some of this money in the amount of $100 or less without an accounting is going to open the door for a great deal of public criticism.

It seems to me that this would be no

way to help restore public confidence in our electoral process if we require candidates to account for every dime that they take in or spend, the voters will know what is going on in the campaign.

The PRESIDING OFFICER. The Senator from Oklahoma will suspend. The Chair would inform the Senator from Oklahoma that his amendment is not in order since it amends sections 2, 3, and 4 of the bill which are not presently under consideration.

Mr. BELLMON. I withdraw the amendment and will offer it at an appropriate time.

The PRESIDING OFFICER. The amendment is withdrawn. The question is on agreeing to part 1 of the Kennedy amendment as modified. On this question, the yeas and nays have been ordered.

Mr. BEALL. Mr. President, Amendment No. 651, sponsored by nine Senators, has placed again before the Senate the matter of public financing of Federal political campaigns. Certainly there is a need to act decisively and expeditiously on the reform of our campaign financing procedure. And thus I am pleased that the Senate is once more coming to grips with this pressing problem.

I believe that it is most important that the Congress move to limit campaign expenditures at the Federal level. This amendment accomplishes that goal. However, I am disappointed that its provisions prohibit private contributions to candidates for Federal office, since under the proposal contributions can only be tendered to a State or national political party. For that reason, I supported the amendment offered by the Senator from Illinois (Mr. Stevenson) which would have permitted 50 percent of campaign expenditures to be funded from private sources, while at the same time providing for sizable moneys from public funds.

This amendment would have still limited private contributions to a level of $1,000 but unfortunately the Senate tabled this positive proposal.

I believe that the proper proposal for public financing of Federal election campaign should involve a blend of public and private contributions. Such a concept would contain the virtues of a public system, while at the same time continuing to permit individuals to participate in the process. I regret that this amendment now on the floor does not contain such language and I would certainly hope its provisions would be modified in conference committee to reflect this blend of financing.

The pending amendment has been quite properly divided into four sections. I will vote to support three of those sections dealing with Presidential primaries, the income tax "checkoffs" and increased tax credit and deductions. However, I must oppose that section dealing with congressional campaign funding. I do this because of what I consider a serious oversight in the amendment; namely, that this legislation makes no provisions as to the financing of primaries for Federal office. The failure to include any provisions dealing with primaries makes this section ineffective, since in many states across the Nation, winning a major party primary is tantamount to election.

Until steps are taken to control primary spending as well as expenditures in general elections, public financing proposals fail to completely come to grips with the problems of our election processes. I urge the appropriate committees of the Congress to give this matter priority consideration, so that a comprehensive public financing bill can be enacted into law.

The PRESIDING OFFICER. The question is on agreeing to part 1 of the Kennedy amendment as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Stennis) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Fannin) and the Senator from Idaho (Mr. McClure) are absent on official business.

The Senator from Florida (Mr. Gurney) is necessarily absent.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Arizona (Mr. Fannin) would vote "nay."

The result was announced—yeas 52, nays 40, as follows:

[No. 517 Leg.]

YEAS—52

Abourezk
Bayh
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Tunney
Williams
Young

NAYS—40

Aiken
Allen
Bartlett
Beall
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Church
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fong
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
McClellan
Nunn
Packwood
Pearson
Roth
Saxbe
Scott, William L.
Sparkman
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—8

Baker
Fannin
Goldwater
Gurney
McClure
McGovern
Stennis
Symington

So part 1 of Mr. Kennedy's amendment (No. 651), as modified, was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to part 2 of the Kennedy amendment.

Mr. TUNNEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 33, following line 15, insert the following: (4) The term 'contribution' means a gift of money made by means of a written instrument which includes on its face the name and address of the person making the gift, except that this definition shall not apply to section 9037.

Mr. TUNNEY. Mr. President, the Kennedy amendment as written in section 2 would make it possible for loans to a Presidential primary to receive a maximum contribution from the Federal Government from the taxpayers to the extent of $100. It seems to me that we should allow only the matching of the gift to a Presidential primary rather than to loans which can be paid back. It does not seem to me that the Federal Government should be making a contribution because the loans will be repaid.

I have discussed the amendment with the Senator from Massachusetts and my understanding is that he is prepared to accept the amendment.

Mr. MONDALE. Yes. The Senator from California (Mr. Tunney) has identified what is a flaw in the draft. We should not be able to match a loan, which is not a contribution or a gift. That is, a loan which will be repaid.

Mr. TUNNEY. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. Gravel). The question is on agreeing to the amendment of the Senator from California (Mr. Tunney).

The amendment was agreed to.

Mr. ALLEN. Mr. President, I offer an amendment, on page 31, line 20, to strike the words "Matching Payment Fund Act" and to substitute "Political Subsidy Act."

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

Mr. ALLEN. Yes, if I may suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment of the Senator from Alabama (Mr. Allen).

The assistant legislative clerk read as follows:

> Part 2 of Kennedy amendment No. 651—on page 31, line 20, strike all on that line and substitute the words "Political Subsidy Act".

Mr. ALLEN. Mr. President, I do not plan to insist on this amendment, although I do beieve it is a good one. Inasmuch as all time has expired on part 2 of the Kennedy amendment, I offer this amendment for the purpose of using some 4 or 5 minutes of time.

Mr. President, this is the worst part of the amendment because it does subsidize, as the amendment which I have just submitted implies, the various candidates for the presidential nomination of whatever party.

In order to qualify for this subsidy, all that is necessary is for the candidate for the nomination for the Presidency of either party to raise $100,000 in contributions of not more than $100 each.

Thereafter, until the convention acts, his hand is in the public till for a matching of one-half of the amount he raises in contributions up to $100.

Mr. President, the fact sheet that the sponsors of the amendment have submitted points out that under this amendment, under the Kennedy amendment, part 2, $7 million could be paid out of the public treasury for each bona fide—or nonbona fide, for that matter—candidate of either party for the presidency. In Sunday's paper, the Gallup Poll showed that some 11 candidates were mentioned for the Democratic nomination for the presidency, and some five or six Senators were in that group.

Under this subsidy provision, part 2 of the Kennedy amendment, each of those candidates could receive up to $7 million in matching funds. The same would be true in the Republican Party. Such candidates as Governor Rockefeller of New York, who certainly would not need any Federal subsidy if he wanted to run for the presidency; Governor Connally of Texas; and Governor Reagan of California could come in for the subsidy. Any of the Senators here who are seeking the Republican nomination or the Democratic nomination would be able to collect up to $7 million from the public treasury to aid them in their campaigns.

This is stretching the concept of public financing of elections just a little far, it seems to the Senator from Alabama. I do not believe it is in the public interest.

This amendment calls for paying out tremendous sums of money. In a Senate race, according to the figures submitted to the Senators by the proponents of the Kennedy amendment, it would cost some $20 million every time one Senator from each State had to run.

In the House, I believe the subsidy is $90,000 for each member of Congress or his opponent. That would be some $180,000 for each member of Congress. That runs up to $80 million or $100 million every time they have a congressional election.

Further on, it provides for doubling the check-off, doubling the amount that can be contributed and claimed as a deduction.

I do not believe that the public wants to go to the extent of financing the candidacy of every person who wants to run for the Democratic or the Republican nomination for President. Talk about a proliferation of candidates. That is what part 2 would provide for. Many people could raise $100,000 and get their hands in the public Treasury to pay for half of the expenses. That might eliminate some tremendous deficits that some of the candidates seem to end up with, but I do not believe it is in the public interest.

I offer these comments because the time has expired for commenting on section two.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. HANSEN. Mr. President, I should like to associate myself with the remarks of the distinguished Senator from Alabama. The distinguished Senator from Arizona (Mr. FANNIN) is necessarily absent this afternoon. Were he here, I know that he, too, would be supporting the proposal of the distinguished Senator from Alabama. I merely wanted to apprise Senators of the feeling of the Senator from Arizona.

Mr. ALLEN. I thank the distinguished Senator.

Mr. DOMINICK. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. DOMINICK. I have been very much impressed with the argument the Senator from Alabama has been making. I have been voting consistently with him on this bill. What I find ironic—and I can make this into a question if I have to, but I prefer not to—is that we originally started out by increasing the public debt limit. The public debt limit has long stopped being a limit; it is merely a movable finish line. Every time the executive comes along with a debt limit, we increase the rate. While we are doing that, we are also increasing the public debt by the Kennedy amendment, whereby a particular candidate gets a subsidy of a million dollars. I intend to vote against the Kennedy amendment.

Mr. LONG. Mr. President, will the Senator yield me time in opposition?

Mr. ALLEN. I yield.

Mr. LONG. Mr. President, I shall vote for the campaign financing amendment. I would be willing to agree that there are ways in which the amendment could probably be improved, but it would seem to me that the adoption of the amendment will have the effect of making clear to all of the Congress that the Senate thinks we ought to act in this area. Really, to try to remove the Presidency from the power of large contributors to affect decisions will not achieve its objective unless there is also a way to prevent candidates for President from becoming so committed to people when trying to raise money in a primary for the Presidency that we fail to achieve our overall objective by public financing of the campaign in a general election.

The brother of the distinguished Senator from Massachusetts, the late Senator Robert Kennedy, made the point in 1967 that we will not achieve what we are trying to accomplish if all we do is a $1 check-off for general elections, because a candidate of modest means would still have to go through the trouble of trying to obtain funds to finance the cost of the primary elections. That would still leave him with hat in hand, seeking private contributions.

It is my judgment that if this amendment for public financing of campaigns is agreed to by the Senate, we will have time—I believe we will—in the years between now and the elections to think about the matter and to make some further modifications. I believe a vote by the Senate tonight for this section of the amendment will change our current practices, and I believe eventually the House will agree, as well. I hope that in this Congress we will see to it that we do find a way to finance Presidential primaries in the most equitable way that any Senator can conceive. This amendment is a beginning. It sets us on this road.

I have no doubt that if the House should accept the amendment, we will find ways in the next year or 2 years, between now and the next Presidential election, to perfect it in ways which will be more satisfactory to the Senator.

As far as I am concerned, I think it will move us toward what will be the best resolution of this issue. This amendment might not do all we hope for, but it will start us on the road toward what we would like to achieve—and that is public financing of primaries leading up to the nomination and election of the President in such a fashion that he would not be in the position of making commitments he does not want to make, in raising campaign funds for either the nomination or the election.

So while there is much merit in what the Senator is saying, I think the objections he voiced would be moderated when he sees in time how we modify this approach to make it what it should be.

Mr. ALLEN. Would it not be the better course of wisdom to arrive at that better plan before we enact it into law?

Mr. LONG. I understand the Senator's argument, and I wish that the Committee on Finance had seen fit to take the time to work on this measure and to try to perfect what was offered to us. It was the judgment of the majority of the committee, and I sensed that it was the judgment of the committee, that we should do this.

Under the circumstances, when the Senate tells us it wants us to act in this area, I believe that all of us should make our contributions with respect to how it should be worked out to the best advantage of the Nation.

Mr. ALLEN. It never has been subjected to hearings in the Senator's committee?

Mr. LONG. We did not have adversary hearings.

Mr. ALLEN. Probably testimony by some sponsors of the amendment.

Mr. LONG. That is correct.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. STEVENS. Mr. President, I have supported the Senator from Alabama and the Senator from Louisiana in the attempt to prevent this from becoming a Christmas tree, but I do not believe it is time for Congress to finance the House and the Senate election campaigns. However, I would like to mention that I do think it is time for the Presidential campaign to be taken out of the field of private financing, and I hope that the Senator from Louisiana, as we proceed down this road, would take a look at the suggestion of the Senator from Oregon (Mr. PACKWOOD) for regional financing.

I think this aspect of financing Presidential campaigns is the worst portion of the amendment, but there should be some way to eliminate the people the Senator has mentioned—the extra candidates who obviously are not going to be among the final contenders. It seems to me that with the situation we have today, with the Watergate controversy and all the financing controversies we have, we are required to show the American people that we want the Presidential race to be taken out of the normal sphere of financing.

I do not know what the fate of the measure will be in the House. I intend to support total financing of general Presidential elections. But I hope the Senator from Louisiana will see to it that there is some mechanism to see that we might get the House to release a portion of this, at least for the Presidential race, for the 1976 campaign.

Unless we do it now, I am sure people already are starting to raise money for the 1976 campaign. I understand my good friend from Washington is going to move to extend the Senate and congressional races over to 1976 because people already are raising money for 1974.

I believe the time to act with respect to the Presidency is now. With respect to congressional races, we should put those off for a couple of years to see what happens.

But I do hope that the Senator will do his best to try to hold the Presidential plan.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that if we are going to have any laws passed regulating these matters they should be considered by a committee in the regular way?

Mr. ALLEN. That has been the usual precedent.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that we are now engaged in an exercise of futility because of the House refusing because of the House rule which does not favor Senate nongermane amendments to a House-passed bill?

Mr. ALLEN. That is the case.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that we might use this time in a more profitable fashion than we are using it now?

Mr. ALLEN. I agree.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. DOMINICK. One of the things that occurred to me is that everyone wants to get his finger in the pot, and I think that is just as true of a lot of our colleagues here as anyone else in the ordinary world.

What would prevent any Senator who was running in 1976 for election or reelection to suddenly announce he is running for the Presidency and then they get the financing out of that and say, "So sorry, I cannot make it in the New Hampshire primary. I am going to use the money for my Senate campaign."

Mr. ALLEN. It seems to me that could take place.

Mr. DOMINICK. This whole thing, it seems to me, has not been thought through carefully. I am against public financing anyhow for a variety of reasons, but it seems to me that anyone contemplating running for the Presidency in 1976 probably should not vote on this matter.

Mr. HANSEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. I yield.

Mr. HANSEN. I was particularly interested in the exchange between the distinguished Senator from Alabama and the distinguished Senator from North Carolina. It is unnecessary to call attention to the fact that the Senator from North Carolina has been chairing hearings on this precise question; on a question that is certainly interwoven with the amendment now before us.

I find it inescapable to arrive at a conclusion other than that which has been arrived at by the Senator from North Carolina. It would seem to me that we are, indeed, going about this in the wrong way in saying we have a problem so let us take action now and try to perfect it later.

I have to agree with my good friend from Alabama that a much better way, it seems to me, would be to hold hearings, to let the entire matter go through the regular legislative process, and then bring it before this body after all the options and considerations that are deserving of contemplation have been examined. Having done that, we would be far better able to know what, if any, changes should be made. Without our having gone through that effort and having the benefit of hearings—and I somewhat mention we have not had hearings before the Committee on Finance because there the only testimony, as the chairman pointed out, was from those who favor the legislation in this area—I would have to agree with my good friends from North Carolina and Alabama that it seems inappropriate to add this amendment to a bill which will, indeed, exacerbate a problem we are trying to correct.

As the Senator from Colorado pointed out, we are trying to up the legal limitation on the national debt and accompanying that effort now is an amendment which would further raise the national debt.

I thank my good friend.

Mr. ALLEN. I thank the Senator from Wyoming and the Senator from North Carolina.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The question is on agreeing to part 2.

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 46, line 2, strike "1974" and insert "1975".

Mr. KENNEDY. Mr. President, I think a number of Senators have gone on record in general support for the earlier provision relating to senatorial and congressional campaigns. Although they favor reform, they are concerned with what might seem to be a self-serving act in providing public funds for their own campaigns in 1974. It would seem appropriate that we defer the effective date so that it will not apply until after the 1974 elections. The amendment is so intended.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. DOLE. The Senator has made it perfectly clear that the amendment does take care of the question raised by the Senator from Kansas, the Senator from Washington, and other Senators throughout the day. Is that correct?

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

The amendment to part 2 of amendment No. 651 was agreed to.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

Mr. SCHWEIKER. Mr. President——

Mr. ALLEN. Mr. President, I withdraw my request.

Mr. SCHWEIKER. Mr. President, I would like to answer a few of the spurious charges that have been brought against this section of the amendment in the colloquy and in the Senator from Alabama's comments. Some statements have been made that are not a matter of record as far as the amendment is concerned. This particular section of the bill relates very specifically to the original bill that the Senator from Minnesota (Mr. MONDALE) and I introduced on July 24 of this year, S. 2238, and this particular concept——

The PRESIDING OFFICER. The Chair must notify the Senator that all time on the amendment has expired.

Mr. SCHWEIKER. On which amendment?

The PRESIDING OFFICER. On part 2 of the Kennedy amendment. There is no further time.

Mr. KENNEDY. Mr. President, a parliamentary inquiry. There is 1 hour.

The PRESIDING OFFICER. The Senate already has agreed to the amendment on the date, so there is no amendment before us other than part 2 of the amendment, on which all time has been used.

Mr. KENNEDY. Is there time on the bill?

The PRESIDING OFFICER. There is no time left on the bill.

Mr. SCHWEIKER. Mr. President, may I make a parliamentary inquiry?

Mr. KENNEDY. Mr. President, may I ask unanimous consent to have 5 minutes yielded to the Senator?

The PRESIDING OFFICER. Is there objection?

Mr. AIKEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on adoption of part 2 of the amendment, as amended.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. FANNIN), and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

The Senator from Florida (Mr. GURNEY) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) would vote "nay."

The result was announced—yeas 54, nays 38, as follows:

[No. 518 Leg.]

YEAS—54

Abourezk
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Church
Clark
Cook
Cranston
Dole
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Tunney
Williams

NAYS—38

Aiken
Allen
Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cotton
Curtis
Domenici
Dominick
Eastland
Ervin
Fong
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
McClellan
Nunn
Packwood
Pearson
Roth
Saxbe
Scott,
  William L.
Sparkman
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—8

Baker
Fannin
Goldwater
Gurney
McClure
McGovern
Stennis
Symington

So part 2, of amendment No. 651, as amended, was agreed to.

The PRESIDING OFFICER. The question recurs on part 3 of the Kennedy amendment.

Mr. LONG. Mr. President, I send to the desk an amendment to part 3 of the Kennedy amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

On page 46, strike out lines 8 through 19 and insert in lieu thereof the following:

"Campaign Fund) is amended by striking out '$1' each time it occurs and inserting in lieu thereof '$2'; and by striking out '$2 or more' where it occurs and inserting in lieu thereof '$4 or more'; and by striking the word 'Presidential' and inserting in lieu thereof 'Federal'."

Mr. LONG. Mr. President, as part 3 of this amendment is written, it says that the check-off is increased from $1 to $2 and that a person in effect has agreed that he should be regarded as making the contribution or favoring the contribution unless he marks that he does not want to do so.

This is sort of a silent, give-consent type of election. I fear that it could be misunderstood and that the public might think we are trying to slip something past them. I think it is far better for those of us who favor this concept to simply make a direct appeal to the public next April that they make the check-off. It will be on the tax return. Since last year, we have amended the provision to simplify the check-off and require it to be on the front page or on the page where the taxpayer signs the return.

I can show Senators where it will now appear on the return. This is shown on the copies of the new 1973 tax returns on your desks.

I feel confident that it would be better to let the public be urged to mark it one way or the other where they can mark it affirmatively it they want to checkoff, rather than to mark it negatively. I believe this approach would appeal much more to the public.

I hope that this amendment will be accepted by the sponsors or otherwise agreed to.

I ask the distinguished Senator from Massachusetts whether he favors this amendment.

Mr. KENNEDY. Mr. President, I think that this is an extremely useful suggestion. As the Senator from Louisiana knows, the inclusion of the dollar check-off on the individual tax returns was really brought about as a result of the outstanding work of the Senator from Louisiana.

I think that the American people will have a much greater opportunity in 1973 than they had a year ago on their tax forms to indicate their support for this approach to public financing. I would hope that the Senate would accept the amendment. I think it is a useful amendment.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana to part 3 of the Kennedy amendment (putting the question).

The amendment was agreed to.

Mr. LONG. Mr. President, in order to expedite the work of the Senate this evening, I now ask unanimous consent that my request for a further division of this amendment be vacated so that we may vote on the remaining sections with one vote. I see no point in having several votes on the remainder of the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. BELLMON. Mr. President, I call up my amendment which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON's amendment is as follows:

On page 46, strike out lines 3 and 4, and insert in lieu thereof the following:

"SEC. 5. DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND.".

On page 47, strike out lines 4 and 5, and insert in lieu thereof the following:

"SEC. 6. INCREASE IN TAX CREDIT AND TAX DEDUCTION FOR POLITICAL CONTRIBUTIONS.".

On page 47, after line 20, insert the following:

"SEC. 7. AMENDMENT OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

"(a) Section 302(b) of the Federal Election Campaign Act of 1971 is amended by striking out 'in excess of $10'.

"(b) Section 302(c)(2) of such Act is amended by striking out 'in excess of $10'.

"(c) Section 302(d) of such Act is amended by striking out 'in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100'.

"(d) Section 304(b)(2) of such Act is amended by striking out 'in an aggregate amount or value in excess of $100, together with the amount and date of such contributions'.

"(e) Section 304(b)(5) is amended by striking out 'in an aggregate amount or value in excess of $100'.

"(f) Section 304(b)(7) of such Act is amended by striking out 'in excess of $100'.

"(g) Section 304(b)(9) is amended by striking out 'in an aggregate amount or value in excess of $100'.

"(h) Section 304(b)(10) is amended by striking out 'in excess of $100'.

"(i) Section 305 is amended by striking out 'in an aggregate amount in excess of $100'.

"(j) Section 308(a)(7) is amended by striking out 'shown to have contributed in excess of $100'.".

Mr. BELLMON. Mr. President, this amendment has already been discussed earlier in the day. It would simply require that all contributions of whatever size and all expenditures of whatever size be reported, for the reason that if we are to be using public funds in political campaigns, the public has a right to know how the funds are being spent, and also, to make this kind of reporting meaningful, the public needs to know the total amount of moneys from all sources being received.

The matter has been discussed with the author of the amendment. I am not sure what his position is.

Mr. KENNEDY. Mr. President, for the benefit of the Senate, similar provisions are included in S. 372, down to a limit of $100. Since the Senator from Oklahoma raised this issue, I have talked with the Senator from Nevada, who was the manager of S. 372, and he has expressed some concern that the amendment would raise certain administrative problems.

We are all interested in full disclosure of campaign contributions and expenditures. I believe the $100 limitation strikes the right balance.

This is an issue that has been considered in very great detail by the Rules Committee, which reached the $100 figure. I think that is preferable from the administrative point of view, and vastly preferable.

Mr. President, the hour is late. I would hope that perhaps we could accept the amendment, and the members of the Finance Committee, working with Senator Cannon as well as the proponents of the bill in the House of Representatives, could make this proposal conform with good, sound, practical, reporting procedures.

I am willing to accept the amendment, if the other sponsors have no objection.

Mr. BELLMON. Mr. President, this form of acceptance leaves me in some doubt as to whether we should have a record vote on this matter. I am rather in doubt as to whether the author of the amendment (Mr. Kennedy) is persuaded of the merits of my proposal, and might not be too much of a champion of it when we get to conference. For that reason, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, my amendment to the Kennedy amendment would modify the Federal Election Act of 1971 in order to mandate that in elections for Federal office all candidates must make complete and fully accurate financial disclosures of their campaign receipts and expenditures.

Present disclosure provisions of Public Law 92-225, the Federal Campaign Act, require that periodic reports be filed either with the Secretary of the Senate or the Clerk of the House of Representatives, as well as the office of secretary of state of the State in which such election is held. These reports must contain the full name, mailing address, as well as the occupation or principal place of business, if applicable, for each person who has either contributed or to whom expenditures have been made in an amount "in excess of one hundred dollars."

My amendment is easily understood. It would simply remove the "one hundred dollars or less exemption for public disclosure" as presently contained in the Federal Election Campaign Act. By removal of this exemption, we would finally achieve a complete disclosure requirement for all campaign contributions and expenditures in Federal elections.

This change in Federal law would represent a significant step in restoring public confidence in our political process and elected officials. Congress must act to reverse the trend of the past year during which events have eroded the public's faith and trust in their elected representatives to an all-time low. It has always been my conviction that disclosure represents the most effective means for countering the public outcry of undue influence and campaign abuse. Full and complete financial disclosure of all expenditures and contributions will have the additional benefit of properly identifying those interests which support a candidate for Federal office. In addition, Mr. President, the citizens of this country who make the political process function by giving of their time, effort and support by campaign contributions have a right to know how their contributions, no matter how small, are being spent.

The PRESIDING OFFICER. Is time on the amendment yielded back?

Mr. BELLMON. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time, and ask unanimous consent to have a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I must object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. Bellmon) to the amendment (No. 651) of the Senator from Massachusetts (Mr. Kennedy). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Stennis) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Fannin), and the Senator from Idaho (Mr. McClure) are absent on official business.

The Senator from Florida (Mr. Gurney) is necessarily absent.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Arizona (Mr. Fannin) would vote "yea."

The result was announced—yeas 56, nays 36, as follows:

[No. 519 Leg.]

YEAS—56

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bennett
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Ervin
Fong
Gravel
Griffin
Hansen
Hatfield
Helms
Hruska
Humphrey
Mansfield
Mathias
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Taft
Thurmond
Tower
Weicker

NAYS—36

Bentsen
Bible
Cannon
Cranston
Eagleton
Eastland
Fulbright
Hart
Hartke
Haskell
Hathaway
Hollings
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pell
Stevenson
Talmadge
Tunney
Williams
Young

NOT VOTING—8

Baker
Fannin
Goldwater
Gurney
McClure
McGovern
Stennis
Symington

So Mr. Bellmon's amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that from now on, rollcall votes not exceed 10 minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I want to make it clear that my earlier objection was registered on behalf of another Senator, and that Senator has withdrawn his objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to parts 3 and 4 of the Kennedy amendment.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, as long as we have a system of financing of elections which allows private contributions, I think we should limit large individual political contributions to political candidates, but encourage smaller contributions from more people. I think there is a step we can take to positively encourage more contributions from a larger number of people, which this section is designed to do.

This section, Mr. President, would double the allowable tax credit or tax deduction for political contributions.

The section would double the allowable tax credit for a political contribution from $12.50, as in current law, to $25 in the case of an individual and from $25 to $50 in the case of a couple.

If people chose to take a tax deduction, the allowable tax deduction would be increased from $50 to $100 in the case of an individual and from $100 to $200 in the case of a couple.

Mr. President, I originally introduced this section on June 4, 1973, as part of my campaign spending reform bill, S. 1936, cosponsored by Senator Moss and Senator Cook. As this provision related to the tax code, not within the jurisdiction of the Rules Committee, it was not incorporated in S. 372, the omnibus campaign spending bill reported from the Rules Committee.

For the same constitutional questions, I was not able to add it as a floor amendment to S. 372 which passed the Senate in late July of this year. At that time, Senator Long suggested it would be more appropriate to offer this provision on a House-passed revenue bill after the August recess. Today seems an appropriate day to take this action and I am pleased we are voting on this today.

I feel that enactment of this section would encourage a broader range of people to participate in the political process and I urge its enactment. I ask unanimous consent that a letter from the Secretary of the Treasury dated August 28, 1973, giving the cost of my bill previously offered, be incorporated following this statement.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Secretary of the Treasury,
Washington, D.C., August 28, 1973.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Chuck: This is in reply to your letter of August 3, 1973, in which you asked for my views on the effect of S. 2280, a bill you recently introduced which would increase the ceilings on both the credit and the deduction for political contributions.

At this time I cannot answer your specific questions relating to the use of these credits and deductions on 1972 tax returns because the Internal Revenue Service has not yet completed tabulations for returns filed last spring. The soonest we expect preliminary information from 1972 returns is in late November or December; and even then returns filed late or otherwise subject to processing difficulties may be excluded.

Having confessed that we lack the proper data to evaluate the effect of your bill, I believe that the cost of S. 2280 would run approximately $30 million in a presidential election year and perhaps half this amount in a congressional election year. I base this in part on some early studies used to develop the estimated impact of the campaign contributions credit and deduction provisions enacted in 1971 and in part on a relatively small sampling of returns filed for 1972.

I trust this information will be helpful.

With best regards,

Sincerely yours,

George P. Shultz.

The PRESIDING OFFICER. The question is on agreeing to parts 3 and 4 of the Kennedy amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Stennis) and the Senator from Virginia (Mr. Harry F. Byrd, Jr.) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

I also announce that the Senator from Montana (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Fannin), and the Senator from Idaho (Mr. McClure) are absent on official business.

The Senator from Florida (Mr. Gurney) is necessarily absent.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Arizona (Mr. Fannin) would vote "nay."

The result was announced—yeas 63, nays 28, as follows:

[No. 520 Leg.]

YEAS—63

Abourezk
Bayh
Beall
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Fong
Fulbright
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Bentsen
Bible
Biden
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Brock
Brooke
Burdick
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Taft
Tunney
Williams
Young

NAYS—28

Aiken
Allen
Bartlett
Bellmon
Bennett
Buckley
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Griffin
Hansen
Helms
Hollings
Hruska
McClellan
Pearson
Roth
Saxbe
Scott,
  William L.
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—9

Baker
Byrd,
  Harry F., Jr.
Fannin
Goldwater
Gurney
McClure
McGovern
Stennis
Symington

So parts 3 and 4 of Mr. Kennedy's amendment (No. 651) were agreed to.

Mr. DOMENICI. Mr. President, I have not heretofore been a stanch advocate of paying for campaigns or elections with tax funds. However, recent events have led me to consider, along with the other many rules and regulations, some system for partial or total public financing of campaigns.

Nevertheless, I honestly do not believe that a bill dealing with the limit on the national debt is the place to provide the statutory authority for public financing of campaigns. Further, I do not feel that there has been enough consideration of the procedures required to integrate and coordinate public campaign financing with the other rules and regulations which exist and which yet need to be created. Neither do I believe that enough emphasis or considerations has been given to the proper mix of private money with tax money nor have sufficient tax incentives for individual contributions been considered. Tax deductible contributions are another way to finance political campaigns, but individual efforts on the part of campaigns will be credited in one instance but perhaps penalized in other instances.

I do feel that $175,000 as a floor for a statewide general election for a U.S. Senator with a wide-open, no-limit primary would be a disaster. I frankly believe that a national experiment with Presidential general elections as the test vehicle with tax deductible contributions, maximum individual contributions of perhaps $500, and a national subsidy of one-half or more of some maximum figure of $30 to $40 million would be far preferable to the provisions contained in this bill.

I hope that I am believed when I say that I will give serious thought to innovative measuers to accomplish public financing of political campaigns, but I do not believe that taxpayers money or private citizens money automatically carry with them the qualities of fair play and morality on the part of the user. The use abuse can be cured by legislation. The overreaching and improper expectations of the giver is what we are trying to correct with this proposal and it just does not do that. Consequently, I am forced to vote against this amendment with the full expectation that if it fails to become law, legislation of this importance will have the benefit of the full legislative process it deserves rather than being simply added as an amendment to a bill to which it is not even germane.

I am confident that in that legislative process the concerns which I have expressed above will have an opportunity to be thoroughly addressed.

Mr. PELL. Mr. President, earlier this year, the Subcommittee on Privileges and Elections and its parent Committee on Rules and Administration were deeply involved with a number of election reform bills which were debated on the Senate floor before passage by the Senate.

One of those bills, S. 372, "The Federal Election Campaign Act Amendments of 1973," was brought before this body during the last week of July.

At that time, many proposed amendments were introduced by my colleagues. and among them were various public financing measures which had not been considered by the committee.

Following a period of discussion on public financing some of the proposals were withdrawn on the assurance of Senator Cannon, chairman of the Committee on Rules and Administration, and my assurance, as chairman of the Subcommittee on Privileges and Elections, that hearings would be held in September of this year.

However, the so-called Kennedy-Scott Amendment No. 406, to S. 372, was further debated and was subsequently tabled by the Senate.

Thereafter, on September 18, 19, 20, and 21, my Subcommittee on Privileges and Elections held public hearings on all public financing legislation.

Forty or more witnesses gave their views, and while a great preponderance of testimony favored public financing, there was no consensus or unanimity of opinion. Clearly there was a need to evaluate various proposals to determine a system designed to arouse interest and support in the Congress and from the electorate.

During the course of its studies the committee was given the duty of considering the qualifications of Congressman Gerald Ford to become the Vice President of the United States, and therefore public financing legislation was delayed, but only by a few days.

I introduced a bill, S. 2718, on the 16th of November 1973.

But, on the 13th of November an amendment to the Debt Ceiling Act was offered. That amendment, No. 651, incorporates many, if not all, of the proposals introduced during the consideration of S. 372 and now with the adoption of the Allen amendment incorporates all of S. 372.

I believe that the amendment offered by the senior Senator from Massachusetts (Mr. Kennedy) and by several other of my distinguished colleagues in the Senate, is a substantial and worthy contribution toward the public financing of Federal elections.

However, it varies in several points from the provisions of my Public Financing bill:

First, it does not cover all primary elections—S. 2718 does.

Second, it does not provide for matching private and public funds in all elections—S. 2718 does.

Third, it does not require all candidates to prove their public appeal by raising base amounts or "seed" money—S. 2718 does.

Fourth, it does not incorporate the provisions of the Federal Election Campaign Act of 1971 and the provisions of the Amendments of 1973 (S. 372)—S. 2718 does.

Fifth, it contains many complex formulas and administrative burdens, with advisory boards and other requirements not contained in any existing law or other Senate-passed bill.

S. 2718 was not introduced as a perfect bill. It was intended to be an initial stage in the regular Senate procedure. It was a first step along the road to public financing with the expectation that committee action would amplify and polish it until it would meet general requirements and obtain broad approval. It has been reported by the subcommittee to the full Committee on Rules and Administration.

In summary, Mr. President, I am not convinced that amendment No. 651 is the best possible public campaign financing bill. Because of my concern over this legislation, as chairman of the Subcommittee on Privileges and Elections, I had introduced by bill (S. 2718) as a substitute for the pending amendment. However, I recognize that we are now operating under unusual parliamentary circumstances, and in view of all the circumstances I will not call up my substitute amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BENNETT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> Strike lines 7 through 9 on page 2 and insert the following: (other than by timely payment in full) unless the appropriate Committees of the Congress are kept currently informed of the ongoing status of any such negotiation, and provided with the text of any agreement in a reasonable time prior to its signature on behalf of the United States—

Mr. BENNETT. Mr. President, I share with the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the author of this amendment, and other Members of the Senate, the concern that has arisen over the fact that there have been some rescheduling and renegotiations of debts that after the fact seem to be unwise. But the amendment as it was written would make it absolutely impossible for our negotiators to act in some situations where we are trying to renegotiate a debt owed the United States by a foreign government.

Under the amendment, if it were agreed to, we would have to wait until the proposal came back to Congress and was acted upon by both Houses, in which case we would lose our opportunity to participate in the most vital sections of the negotiations.

So instead of saying, as the amendment now says:

> No debt owed to the United States Government under any program by any foreign government may be canceled, renegotiated, rescheduled, or settled in any manner (other than by timely payment in full) unless the Congress specifically authorizes by concurrent resolution the cancellation, renegotiation, rescheduling, or other settlement of the debt,

I propose that we provide:

> No debt owed to the United States Government under any program by any foreign government may be canceled, renegotiated, rescheduled, or settled in any manner (other than by timely payment in full) unless the appropriate committees of the Congress are kept currently informed of the ongoing status of any such negotiation, and provided with the text of any agreement in a reasonable time prior to its signature on behalf of the United States.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. AIKEN. Would this proposal of the Senator require the committee to approve it?

Mr. BENNETT. It would not require the committee to take formal action to approve it. It requires only that the negotiators inform the committee. But I assume if members were disturbed by the potential settlement they would be in a position to make clear they would not approve it.

Mr. AIKEN. And this would be made to the appropriate committees of Congress?

Mr. BENNETT. The Senator is correct.

Mr. AIKEN. I think that takes care of the situation. But section 3, as printed in the bill, would make all kinds of trouble for the United States having obligations due from other countries, some of which would not be all of our own.

So I think the proposal of the Senator would take care of this situation. I think the Asian countries are primarily involved. I am not sure about that. But the proposal is a great improvement over the bill as it stands now.

Mr. BENNETT. Certainly nothing could proceed in the absence of knowledge by the appropriate committees, and I would think they would have the power to indicate their disapproval—very strong disapproval.

Mr. AIKEN. If there is, very few committees would make the situation known to Congress.

Mr. BENNETT. Were it more or less acceptable on its face, this would not force the whole matter to be held up for more formal action by both Houses of Congress.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. JAVITS. I have one suggestion. I think the Senator has found an ingenious way to deal with the problem. I suggest for his consideration the possibility of including the words "at least 15 days before the agreement is signed," because no time is provided in the Senator's amendment.

Mr. BENNETT. I thought about that, but I could envision some situations of 15 days delay before signatures have been started. I have no objection to putting in a time limit, but I just wonder if it will not limit the process.

Mr. JAVITS. "Reasonable time." Otherwise we might get a letter the day before saying, "We are going to sign today."

Mr. AIKEN. The way things are going in the Middle East, we might not have more than a day. Well, of course, we would have more than that—undoubtedly a few days.

Mr. JAVITS. Let us say "as reasonable a time as practical."

After the word "agreement," insert "a reasonable time prior to its signature."

Mr. BENNETT. After the word "agreement," insert "a reasonable time prior to its signature."

I am very happy to accept that.

The PRESIDING OFFICER. Does the Senator ask that his amendment be so modified?

Mr. BENNETT. I do.

The PRESIDING OFFICER. It will be so modified.

Mr. LONG. Mr. President, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) offered an amendment in committee. I believe it was unanimously, or virtually unanimously, agreed to. It provided that the administration would not forgive $3 billion owed to us by India. Recently we had this question before us. We were asked by the Executive to forgive $3 billion India owes us. We would just write off $3 billion. The Senator from Virginia offered an amendment to a Senate bill to require congressional approval of the loan settlement.

Prior to that, Everett Dirksen had offered an amendment that they would not forgive—that was the language—without the consent of Congress.

Then the administration produced an Attorney General's interpretation to say that the Dirksen amendment referred only to loans made under the Foreign Assistance Act and that loans made under the Economic Cooperation Act could be forgiven without the consent of Congress.

The Senator's amendment to the committee's amendment would say that the administration could forgive the whole $58 billion.

It may be that if we had a debt limit bill, at that point we might prevent them from forgiving a loan. But in the absence of a debt limit bill, we would be kept more or less powerless to forgive loans. If they have loan terms to be approved on a schedule, they would come in and tell us, but in the absence of a good case, I see no reason why we ought to forgive $3 billion. As a matter of fact, if the United States is going to make a gift of $3 billion to somebody, why should Congress not have the privilege of participating in the $3 billion gift to India, for example?

Mr. CASE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CASE. It seems to me the chairman of the committee makes a point that many of us have been urging in many areas of executive-congressional activities for a long time, and I do not think Congress should advocate this further authority in any way. I agree with the Senator from Virginia. I think he is right about it. I do not think this amendment should be accepted because it implies, and the whole basis for it is, that the President has this authority. He has no authority to give away American property.

Mr. LONG. I thank the Senator.

Mr. President, I see that the Senator from Virginia has arrived on the scene at this particular time.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CHILES. I just want to say that I agree with the chairman. It seems to me that every time we start up the hill and say that we are going to reassume our constitutional duties—and this is a duty of ours under the Constitution; we are the ones who tax the people and we are the ones who spend their money and give it away—somebody says it is going to be too much of a burden. "It is going to be too much of a burden on the Congress. It is going to be too much of a burden on the administration. So we will notify you in advance and if the committees do not like it, they can do something about it."

Mr. President, I am on some committees. How do we get notified? We were notified only in time to pass a bill to change the standard for the dollar and revalue it. We were notified after others had revaluated the dollar and the stock market had revaluated the dollar. They said then, after the second time the dollar was devalued, that they consulted with 13 countries. I think that was the number. But they did not consult with anybody in Congress until the day after the public announcement. The day before the announcement they called some of the leadership in. That is how we were consulted.

Then we were consulted to pass legislation, but by that time the stock market and the international market and everything else had revaluated the dollar.

Now all we have to do is pass a simple resolution. I do not know of anything that passes more quickly than a noncontroversial resolution. It zooms through here. But it is said that it would be too much of a burden, so we are getting ready to go back down the hill and not meet the constitutional responsibility that we are required to exercise, so we can pass on the question of giving away our money.

Maybe we do not want to tell the American people that we gave it away. Maybe it is easier to say the President gave it away, that we did not do it. But I think at this point, when we have decided to go up the hill, we are now about to go back down the hill again. For once, why do we not stand on where we are trying to take back some of our authority?

Mr. LONG. Mr. President, I live in the hope that one of these foreign aid programs will succeed. If it does, they will be able to pay us back. Just in the hope that it is actually going to work out that way, I would think we might hang on a while in order to see if, by some good fortune, some country might react the way we hope the foreign aid program will make it react, and in that event, it would pay back what it owes us.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HARRY F. BYRD, JR. One hundred eight different countries owe the United States money. One hundred eight different countries owe the U.S. taxpayers a total of $58 billion.

The principle involved here is very simple. That money, it seems to me, belongs to the American taxpayers. Before that money can be rescheduled or renegotiated, or after it is rescheduled or renegotiated, before it can become effective in reducing the indebtedness of other countries to the United States, this amendment says—and it was put on by the Finance Committee without opposition, as I recall—that the Congress shall approve any such settlement.

It is a very simple principle. Do we want to give to the executive branch the right to make any settlement they wish in regard to the $58 billion owed to the American taxpayers, or should the Congress give final approval? I hope the Finance Committee will be sustained in its position.

Mr. LONG. Mr. President, I hope the amendment is not agreed to.

Mr. BENNETT. Mr. President, I have something to say on the Senator's comments. I am not striking the amendment. I found I could amend it.

My amendment provides that the appropriate committees of Congress shall be notified of ongoing negotiations, in a reasonable time, and provided with the text of the negotiations before the United States signs it. So that it seems to me that there is no problem and that it can go through without any serious problem with the timetable. If there is a problem, the appropriate committee can make it perfectly clear to the administration that it disapproves the signature. I think it has ways and means of getting public opinion aroused to prevent it.

But if we force the negotiators to hang in limbo until Congress acts, in the case of a multinational negotiation or a renegotiation, they will deal with all the other countries and leave us out.

Mr. HARRY F. BYRD, JR. It is not a multinational proposition; they are debts owed to the United States.

Mr. BENNETT. But it also affects amounts owed to other countries, and the countries get together as a group to try to settle the financial problems of the backward, underdeveloped country.

Mr. HARRY F. BYRD, JR. It is a question for Congress to decide whether it wants to give away its responsibilities and its rights. I happen to think that Congress should be the only group that has the power to eliminate or appropriate or get rid of tax funds. It should be done by the Congress itself.

Mr. LONG. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. AIKEN. Mr. President, may I say a word?

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. AIKEN. Mr. President, I was asking for recognition when the tabling motion was made.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. LONG. Mr. President, I had moved to table the amendment.

Mr. COTTON. Mr. President, I ask for the yeas and nays.

Mr. AIKEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana withhold the motion to table?

Mr. AIKEN. Mr. President, I have waited all afternoon.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, how much time does the Senator from Vermont want?

Mr. AIKEN. About 2 minutes.

Mr. LONG. Mr. President, I ask unanimous consent that I may withhold my motion for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I wanted to say that the conferees of both the House and the Senate agreed that it would be unwise to keep this provision in the foreign aid authorization bill. Sure, India owes us $3 billion, but if we go through and insist on that, chances are we will get nothing, and if we make a deal we will get $65 million a year, I understand. I do not know for how many years. But it is a lot better than nothing.

If 108 countries owe us money, that includes virtually every country in Western Europe. Are we going to put the squeeze on France, Belgium, and other countries in Western Europe?

Right now we are thinking of the Middle East, where we have a substantial amount owed us by Egypt. It might be handy for us to be able to make a deal with Egypt. I do not know what it is. I have a feeling it is about $500 million. I do not know how much they owe us. It might be very handy. But the same law that applies to India should apply to all other countries.

Thank goodness we did get our account with Russia settled I believe. I hope that Russia is not the only country, along with Finland, Yugoslavia, and a few others.

I think it extremely unwise to pass this measure unless it is amended as suggested by the Senator from Utah.

Mr. HARRY F. BYRD, JR., subsequently said: Mr. President, the Committee on Finance believes that the Executive should not reschedule or cancel debt of foreign governments without the approval of Congress. This money is owed to the Government of the United States—

namely, to the taxpayers of the United States.

It is significant, I think, that in 1966, when a Democratic President was in the White House, the Republican leader of the Senate, the late Senator Dirksen, submitted an amendment to the Foreign Assistance Act of 1961. This is the amendment offered by the then Republican leader:

> No recipient of a loan under authority of this Act—

Namely, the Foreign Assistance Act—

> any part of which is outstanding on or after the date of enactment of this subsection [September 19, 1966], shall be relieved of liability for repayment of any part of the principal of or interest on such loan.

Mr. President, I favored that proposal in 1966, when a Democratic President was in the White House.

Now we come to 1973, and the Committee on Finance wrote into the pending measure this proposal:

> SEC. 3. No debt owed to the United States Government under any program by any foreign government may be canceled, renegotiated, rescheduled, or settled in any manner (other than by timely payment in full) unless the Congress specifically authorizes by concurrent resolution the cancellation, renegotiation, rescheduling, or other settlement of the debt.

Mr. President, these two proposals are quite similar; really they are almost identical. One was offered in 1966 by the then Republican leader of the Senate and the other was offered in 1973 by the Committee on Finance, the authors of that proposal in the committee being the Senator from Virginia, the Senator from Kansas (Mr. DOLE), the Senator from Wyoming (Mr. HANSEN), and the Senator from Delaware (Mr. ROTH).

So I think it is an appropriate proposal and one which Congress should adopt. I favored it in 1966 and I favor it in 1973.

Mr. LONG. Mr. President, I renew my motion to table the amendment of the Senator from Utah, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bennett amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. FANNIN) and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

The Senator from Florida (Mr. GURNEY) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) would vote "yea."

The result was announced—yeas 57, nays 34, as follows:

[No. 521 Leg.]

YEAS—57

Abourezk
Allen
Bartlett
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Dominick
Eastland
Ervin
Fulbright
Gravel
Hansen
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Hughes
Inouye
Jackson
Johnston
Long
Magnuson
Mansfield
McClellan
Mondale
Montoya
Moss
Nelson
Nunn
Packwood
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Talmadge
Tunney
Weicker
Williams

NAYS—34

Aiken
Beall
Bellmon
Bennett
Brock
Buckley
Cook
Cotton
Curtis
Domenici
Eagleton
Fong
Griffin
Hart
Hruska
Humphrey
Javits
Kennedy
Mathias
McGee
Metcalf
Muskie
Pastore
Pearson
Percy
Saxbe
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Thurmond
Tower
Young

NOT VOTING—9

Baker
Fannin
Goldwater
Gurney
McClure
McGovern
McIntyre
Stennis
Symington

So the motion to lay Mr. BENNETT'S amendment on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11104) was read the third time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, while we have some Senators present, I would like to say just about 4 minutes worth of words, and I shall not take any longer than that.

Many Senators will recall that back in 1971 the Senate and the House of Representatives individually passed a debt limit of $250 billion, which was all that the President was allowed to spend. Then the Appropriations Committee, largely because of the fact that the authorizations had come in so hard, appropriated $261 billion. So the President had a choice of either spending $261 billion or doing what Congress asked him to do.

He did what Congress asked him to do. Many of my colleagues were faced with people who protested strongly about the impoundments, and I heard some of my colleagues say this country was a monarchy or a dictatorship and everything else, simply because the President was trying to do what we told him to do to start with.

I have been here only 14 years, but I would suggest to Senators that in those 14 years we have increased the debt limit at least 23 times, either once or twice a year, and we tell the public at large we have a debt limit.

We do not have a debt limit. It is just like mercury; we change it every time it becomes uncomfortable, and raise it so that we can spend more money.

It was bad enough with just the temporary debt limit we had here to start with, but then we added on the Kennedy amendment on public financing, and not only increased the debt limit but increased the debt itself.

If you ask the American public whether they are willing to pay additional taxes in order to finance congressional and Presidential campaigns out of their tax money, I think you will find the result will be different than the Gallup poll and the Harris poll, when those who responded did not realize they were going to have to pay any more taxes.

How can we possibly ever arrive at a balanced budget, when we increase expenditures in this way? I say we are committing a hoax on the American public. The situation is ridiculous. I say if we are going to do anything about dealing with the debt limit, we ought to either stick with it or do away with it. I say do away with it totally, and I intend to vote against this bill.

Mr. TOWER. Mr. President, I associate myself with the remarks of the Senator from Colorado. I think he is right; we are perpetrating a hoax on the American people. The Senator is worthy of his seat.

Mr. BUCKLEY. Mr. President, I just want to say "Amen."

Mr. HELMS. Mr. President, I must oppose this bill to increase the so-called "temporary" limit on the public debt. As Members of this body know, the Federal debt is now approximately $462 billion. What we are proposing to do through this bill is to increase the allowable public debt through the end of this fiscal year to a level of $475.7 billion. Congress is, in effect, giving its consent to fiscal irresponsibility by increasing the public debt through the remainder of this fiscal year.

The American people realize, or certainly they should realize, that if the Government spends money it does not have, the result of that spending is increased inflation in our economy. That is precisely the cause of our economic plight today. In all candor, my friends, I think we have given this bill the wrong title. Instead of calling it the "temporary increase in the public debt limit," this bill should be titled the "Temporary Increase in Inflation in Our Economy," because that is exactly what we are doing.

This bill calls for a $10.7 billion increase in the national debt. This increase is inexcusable at a time when the administration and Congress are supposed to be doing something about controlling Federal spending and eliminating the inflationary pressures in our economy. Interest on the national debt alone is expected to rise from $22.8 billion in fiscal year 1973 to an estimated $27.7 billion during fiscal year 1974. This is an incredible jump of $5 billion—or approximately a 22 percent increase merely in interest alone on the national debt during the course of 1 year.

Mr. President, this is serious business. If the interest on the national debt continues to increase by 20 percent each year, one does not have to be a mathematician to understand that our Government's finances will quickly deteriorate. The only way to prevent against this situation is to face up to the fact that the Federal Government can no longer spend money that it does not have.

The administration is now preparing its figures for fiscal year 1975. This is the time for Congress to speak and to express its policy that the national debt should not be increased, that taxes should not be increased, and that Government spending should be limited to the amount of revenue received by the Federal Government.

If you do not prohibit this administration—or any administration—from engaging in deficit spending, there will never be any end to bills such as this calling for ever-increasing extensions of the public debt ceiling.

Ten years ago, Congress had authorized a public debt ceiling not to exceed $309 billion. Today we are considering a debt ceiling of $475.7 billion. Where will all this end?

This is the second time this year that Congress has considered legislation to extend the "temporary" limit on the public debt. If Congress would show the same enthusiasm for legislation to prohibit deficit spending that it shows for legislation such as this to make it easy to engage in deficit spending, we would not have inflation. If Congress would limit its appropriations to the level of Federal revenues, the Treasury would not be borrowing billions of dollars at 9 percent interest, as it was last August. We would not have had a prime rate over 10 percent for the best commercial borrowers and we would not have had a situation where the average working family in this country cannot afford to buy a home because the high interest rate caused, Mr. President, by Government borrowing which has driven all the money out of residential mortgage lending.

I am convinced that if the Senate is really serious about inflation, about controlling Federal spending, and about limiting the demand for increased Federal taxes, then this bill must be voted down. If the Members of this body are sincere about balancing the Federal budget, there is certainly no need to authorize the administration to enter into another $10 billion public debt.

The PRESIDING OFFICER (Mr. NUNN). The bill having been read the third time, the question is, shall it pass? on this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. FANNIN). and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

The Senator from Florida (Mr. GURNEY) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) and the Senator from Arizona (Mr. GOLDWATER) would each vote "nay."

The result was announced——yeas 58, nays 34, as follows:

[No. 522 Leg.]

YEAS—58

Abourezk
Bayh
Beall
Bennett
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Curtis
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Tunney
Williams
Young

NAYS—34

Aiken
Allen
Bartlett
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cook
Cotton
Dole
Domenici
Dominick
Eastland
Ervin
Fong
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
McClellan
Montoya
Nunn
Pearson
Roth
Saxbe
Scott, William L.
Taft
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—8

Baker
Fannin
Goldwater
Gurney
McClure
McIntyre
Stennis
Symington

So the bill (H.R. 11104) was passed.

Mr. LONG. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to H.R. 11104 and ask for a conference with the House thereon and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. LONG, Mr. HARTKE, Mr. RIBICOFF, Mr. MONDALE, Mr. BENNETT, Mr. CURTIS, and Mr. FANNIN conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that in the engrossment of the amendments of the Senate to the bill, the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth, designations, and cross references thereto. Specifically, I ask unanimous consent that the text of S. 372, which the Senate has agreed to make a part of this bill, be placed after section 4 of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTES TO SENATORS LONG, KENNEDY, CANNON, AND OTHER SENATORS ON TODAY'S SENATE ACHIEVEMENTS

Mr. MANSFIELD. Mr. President, I simply wish to commend those Senators whose effort was most prominent in obtaining the disposition of two highly important matters that arose today in the Senate.

With respect to the debt ceiling extension, the Senate is deeply indebted to the distinguished Senator from Louisiana (Mr. LONG). The able chairman of the Finance Committee deserves our highest commendation for his work on the debt ceiling measure and for his effective support of the campaign financing amendment.

To Senator KENNEDY goes equal praise for his able leadership in behalf of campaign funding. He, along with many other Senators on both sides of the aisle, is to be highly commended for this landmark proposal. This reform, if enacted, will provide a long stride in the effort to restore public trust and confidence in this Nation's electoral process.

And, of course, with the confirmation of GERALD FORD today the political process has been doubly affected. For this action, the Senate is indebted to the distinguished Senator from Nevada (Mr. CANNON). As the chairman of the Committee on Rules and Administration, he conducted a thorough, fair, and full investigation of this nominee and the Senate is most grateful.

TRIBUTES TO SENATORS

Mr. KENNEDY. Mr. President, just for a few minutes now, I want to acknowledge, after passage of the debt ceiling bill, the extraordinary and constructive work the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), has provided in this important area of campaign reform.

As I have mentioned before to his committee and on this floor, he is the father of public financing. Tonight, after we have seen successful passage of the Kennedy amendment which had the support of many Senators, to whom I will refer briefly, I think that all of us are again reminded of the very important work the Senator from Louisiana (Mr. LONG) has provided.

It is also important to mention the work of the distinguished Senator from Michigan (Mr. HART). He was really the first Member of the Senate to introduce a public financing bill in this Congress. The distinguished Senator from Minnesota (Mr. MONDALE) and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) were the real leaders in developing the proposal on Presidential primaries, so important in terms of reforming our system.

The distinguished Senator from Illinois

(Mr. STEVENSON) and the distinguished Senator from Maryland (Mr. MATHIAS) also made important contributions in their own significant legislation and in the Senate and the House general election provisions of this amendment.

The distinguished Senator from California (Mr. CRANSTON) had a far-reaching proposal of his own, and was tireless in his work here on the floor of the Senate in speaking, and in talking and counseling with Senators and responding to questions which were on their minds.

I also acknowledge the important contribution of the distinguished Senator from Vermont (Mr. STAFFORD), one of the nine principal cosponsors of our amendment. His strong support has been especially helpful in developing a proposal which we hope may be successful in the House.

And, most especially, I pay tribute to the distinguished Republican leader (Mr. HUGH SCOTT), who cosponsored the initial proposal with me and who has been one of the most effective Senators in the election reform field since I first came to the Senate. I have been proud to work with him on this, and the success we share today was made possible, in large part, because of his strong efforts from the beginning on this proposal and his constant dedication to this reform, which means so much to the health and well-being of our political system.

This truly has been a joint effort. Those who sponsored the proposal today are, of course, continuing in support of the work of the distinguished Senator from Rhode Island (Mr. PELL), the chairman of the Elections Subcommittee of the Committee on Rules and Administration. And we also recognize the very important work in this area of the distinguished Senator from Rhode Island (Mr. PASTORE) and the distinguished Senator from Nevada (Mr. CANNON) who have been leaders in the fight to pass S. 372, the election reform bill, which has really, I think, been landmark legislation.

Finally, we would not be where we are today except for the work of the distinguished majority leader, Mr. MANSFIELD, as well as that of Senators PASTORE and LONG, in leading the effort that saw the dollar checkoff cemented into law in 1971, where so many vital issues were decided by one, two, or three vote margins.

This effort to reform public financing has truly been a joint effort with the support of a broad political spectrum and broad support from Members of both parties.

Any record reviewing what the Senate has done today, should recognize what I think has been an extraordinary joint contribution in a constructive and positive way toward bringing about meaningful election reform.

Mr. LONG. Mr. President, the distinguished Senator from Massachusetts (Mr. KENNEDY) is most generous in his remarks about me and other Senators, which we appreciate; but, Mr. President, the Senator from Massachusetts has won a landmark victory here today, a significant victory which will be recognized by all scholars of government and all those interested in the fundamentals of government.

The distinguished Senator from Massachusetts is to be congratulated. He has been working in this area for quite a while. It seems to me that it has been a long time since we first started discussing this issue; but now the Senate and the Nation will be very grateful to the Senator for the great leadership he has provided the Senate in this area.

I am confident that his efforts will be productive. I am also hopeful that the House will agree to the Senator's amendment. They may consider some modifications, but I am hopeful that the House will accept the Senator's amendment as it was voted on. I assure him that, so far as the Senator from Louisiana is concerned, I will work diligently, and I am sure that those who are named conferees on this side of the aisle will exert their best efforts, to see that the House does agree in whole or in very substantial part to the Senator's amendment.

Mr. KENNEDY. I thank the Senator from Louisiana.

Mr. DOMINICK. Mr. President, will the Senator from Massachusetts yield for a question, for the record?

Mr. KENNEDY. I am glad to yield.

Mr. DOMINICK. On page 46, under subsection (b) of section 6096, am I correct in my understanding that if a person were to check off some taxes for a particular candidate, he cannot do this—in other words, that he cannot give to the candidate or the party of his choice? It just goes into a fund?

Mr. KENNEDY. The Senator is correct. The Senator will recall that we changed this aspect of the dollar checkoff last June. On the Debt Ceiling Act in June, we created a general fund, and eliminated the so-called special accounts for particular candidates. Now we have a general fund rather than a special collection of funds. As I recall the debate, the Senator from Colorado spoke on that particular issue at that time as well.

Mr. DOMINICK. I was going to ask the Senator from Massachusetts whether he has ever had any opinion on the constitutionality of the fact that someone is prevented from giving a contribution to the candidate of his choice.

Mr. KENNEDY. I think that there obviously are a number of questions dealing with constitutional issues that this Congress and other Congresses have considered in election reform. A person who wishes to contribute for the benefit of a candidate has many other avenues to do so, apart from the tax form. The courts have given rather broad latitude to Congress in making reasonable decisions in this area, especially where what is at stake is the very integrity of the election process.

I believe that in the amendment which has been considered favorably here, as part of the debt ceiling act, there is a variety of imaginative ways to encourage individuals to participate by contributions and by other means.

Mr. DOMINICK. But I am correct, am I not, that the Senator has not had an opinion on the constitutionality of the provision?

Mr. KENNEDY. The Senator is correct in that statement. I am not aware of any court decision.

ORDER FOR RECOGNITION TOMORROW OF SENATOR MANSFIELD, FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF S. 2673, COMPENSATION OF THE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the two leaders or their designees have been recognized on tomorrow, the distinguished majority leader be recognized for not to exceed 15 minutes; that there then be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate proceed to the consideration of S. 2673.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TOMORROW TO THE CONSIDERATION OF H.R. 3153, TO AMEND THE SOCIAL SECURITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 2673 tomorrow, the Senate proceed to the consideration of H.R. 3153, a bill to amend the Social Security Act to make certain technical and conforming changes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the Senate proceeds to the consideration of S. 2702, a bill to provide that daylight saving time shall be observed on a year-round basis, there be a time limitation thereon of 2 hours, to be equally divided between and controlled by Mr. MAGNUSON and Mr. COTTON; that time on an amendment to be offered, as I understand, by Mr. DOMINICK and Mr. TAFT be limited to 1½ hours; that time on any amendment to the Dominick-Taft amendment be limited to 1 hour; that time on any amendment to the bill be limited to 1 hour, with the exception of the amendment by Mr. DOMINICK; that time on any amendment to an amendment be limited to 30 minutes; that time on any debatable motion or appeal be limited to 20 minutes, and that the agreement be in the usual form.

Mr. TAFT. Mr. President, reserving the right to object, I wonder whether the majority whip would be kind enough to include in that agreement the right of the Senator from Ohio to offer an amendment not subject to the rule of germaneness. If offered, it would deal with the same subject as the amendment which has been referred to already, to be offered by the Senator from Colorado; that that be in order; and that the debate thereon be limited to 1 hour.

Mr. ROBERT C. BYRD. Mr. President, I include that in my request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Ohio (Mr. Taft), the distinguished Senator from Colorado (Mr. Dominick), the distinguished Senator from Washington (Mr. Magnuson), the distinguished Senator from New Hampshire (Mr. Cotton), the distinguished Senator from Kentucky (Mr. Cook), the distinguished Senator from Illinois (Mr. Stevenson), and other Senators for their cooperation in connection with the agreement.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VOTE ON S. 2673 NO LATER THAN 2:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I make the following unanimous-consent request without consulting anyone, inasmuch as I am probably the major obstacle to the passage for the moment, and I will not be an obstacle very long, to the passage of S. 2673, the Attorney General pay bill.

Mr. President, I ask unanimous consent that the vote on the passage of S. 2673 occur tomorrow no later than 2:30 p.m., and that paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

VACATION OF ORDER FOR CONSIDERATION OF H.R. 3153 TO FOLLOW DISPOSITION OF S. 2673

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for consideration of H.R. 3153, the social security bill, to follow immediately upon the disposition of S. 2673 be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, by way of explanation, may I say that the leadership has an understanding with the distinguished manager of the bill (Mr. Long) to the effect that the social security bill would be taken up tomorrow afternoon immediately upon the disposition of the so-called Attorney General pay bill. It has been called to my attention subsequent to securing the agreement that there are some problems on the other side of the aisle and that a distinguished Senator needs to be consulted. I feel there is a good possibility that there will be no problem at the time we reach disposition of the Attorney General pay bill and in that event the social security bill still will be taken up. But that remains to be worked out on tomorrow.

AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT ON SATURDAY TO REPORT ENERGY RESEARCH AND DEVELOPMENT BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to have until midnight Saturday to report the energy research and development bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished majority leader (Mr. Mansfield) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate will proceed to the consideration of S. 2673, the so-called Attorney General pay bill. There is a time limitation on that bill of not to exceed 5 hours.

Does the previous agreement provide for not to exceed 5 hours or is it 5 hours?

The PRESIDING OFFICER. Five hours.

Mr. ROBERT C. BYRD. I ask unanimous consent that the agreement of November 21, 1973 be changed to provide that the time on the bill not exceed 5 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There is a time limitation on any amendment of 30 minutes. Is there a time limitation on debatable motions or appeals?

The PRESIDING OFFICER. There is.

Mr. ROBERT C. BYRD. And the provision has just been entered that the vote on the passage of the bill will occur not later than 2:30 p.m. tomorrow. That will be a yea-and-nay vote.

There will be at least one amendment offered to the bill. There will probably be a yea-and-nay vote on that amendment. That is an amendment I intend to offer. There may be other amendments.

Hopefully, by that time, the Senate can proceed to take up the social security bill on which amendments will be offered and votes on those amendments would occur.

The PRESIDING OFFICER. The Chair wishes to inquire of the Senator from West Virginia whether in his previous unanimous-consent request he wishes to exclude the amendment to be offered by the Senator from West Virginia from the germaneness rule?

Mr. ROBERT C. BYRD. Mr. President, I am very grateful to the Chair for having asked that question. I am confident there will be no objection from Mr. Hruska and Mr. Scott because I have discussed my amendment with them.

I ask unanimous consent that the amendment I propose to offer to S. 2673 tomorrow be excluded from the provisions of germaneness that were included in the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair again.

It is expected that the social security bill can be disposed of tomorrow—or on Thursday, which will be more likely—and that following disposition of the social security bill the daylight savings bill could be taken up.

ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and at 8:27 p.m. the Senate adjourned until tomorrow, Wednesday, November 28, 1973, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate November 27, 1973:

Vice President of the United States

Pursuant to the provisions of section 2 of the 25th amendment to the Constitution of the United States, Gerald R. Ford, of Michigan, to be the Vice President of the United States.

EXTENSIONS OF REMARKS

FREEDOM'S VANGUARD

HON. JOHN STENNIS
OF MISSISSIPPI
IN THE SENATE OF THE UNITED STATES
Tuesday, November 27, 1973

Mr. STENNIS. Mr. President, on November 10, Dr. Karl Bennet Justus, executive director of the Military Chaplains' Association of the United States of America, addressed a VFW banquet in York County, Pa. I understand that about 400 members of the VFW heard his remarks.

I am much interested in the work of the service chaplains, and think this worthy speech should have further distribution. I ask unanimous consent that the speech of Chaplain Justus, entitled "Freedom's Vanguard," be printed in the extensions of remarks of the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

American Veterans; Freedom's Vanguard

Though I am not a politician, I wish to begin with a quotation credited to the late Carl Sandburg about politicos. His formula for a politician was: "He should have three hats. One for throwing in the ring; one for talking through; and one for pulling rabbits out if elected". Being accustomed to wearing many hats as Executive Director of The Military Chaplains Association, tonight I wear a special "hat"—one that I wear proudly—the hat of a veteran!

We are here tonight to honor American veterans, all veterans, living and dead, who, from Valley Forge to Vietnam have stood and fought with honor and unfailing courage in freedom's vanguard. And in every war in which we have engaged, our veterans have fought not only for freedom, but for peace with honor and justice.

Under the new system of Federally designated holidays, Veterans Day is now marked the fourth Monday in October—and many of us participated in that observance. But, equally for many of us, we still pay honor to our veterans—now numbering 29-million—on the original Veterans Day, known to us and observed as Armistice Day, 11 November, since it was first officially declared by President Wilson 52 years ago in 1921. On that memorable occasion, the remains of an unknown soldier from the battlefields of World War I were entombed at Arlington National Cemetery. Unfortunately, the dream that our American Expeditionary Forces would, in their fight to defend freedom, "make the world safe for democracy", did not happen as President Wilson ardently hoped. Hitler and Tojo set the world aflame just over two decades later. Rising, again, to the call to the colors, and remembering the "day of infamy" at Pearl Harbor, Americans by the millions enlisted to fight a war in two oceans and emerged the victor. Then came Korea, and the far-away, divisive and bloody conflict in Vietnam.

So, tonight, we remember and honor unknown veterans at Arlington from World War I, World War II, Korea, and when an unidentified soldier's remains are unearthed in Vietnam, he will be laid to rest with his companions at Arlington, one of America's greatest shrines.

For those of us among the multiplied millions of veterans who fought and survived, we remember our fallen comrades tonight;—we thank God that our troops have been disengaged from Vietnam—as President Nixon pledged they would be—and we look to the future with a burning desire and avid hope—that those who made the supreme sacrifice "shall not have died in vain," and pledge ourselves, insofar as humanly possible, that Americans shall not again become involved in bloody conflict far beyond our borders. Whether or not that hope can be realized; that men and nations can achieve a lasting, just and honorable peace on this earth; that men will "beat their swords into plowshares and learn war no more", only God, alone, knows. Man being what he is, such thinking may be unrealistic. The pattern of history reveals, as Will Durant once wrote, "In the last 3,400 years of recorded history, only 268 have seen no war."

Nevertheless, it is up to you and to me, as veterans, to exert our influence in this Nation to do all we can to keep disengaged from foreign wars and from "entangling alliances" that bring us to the bloody chasm. If in this day of unbelievable weapons and atomic force we cannot avoid war, then surely we will fight the battle of Armageddon—conceivably in the lifetime of some of us.

As veterans, we have a voice. We constitute what may well be the largest single bloc of American citizens. Let our voice be heard in the Halls of Congress. I read recently of an example when "silence was golden", as they say. Western Union offered to buy the ticker invented by Thomas Edison. Unable to name a price, Edison asked for time to think it over. He weighed the matter, considered a sum of $20,000, but feared that might be exorbitant. Meeting with the Western Union directors—he was still undecided when asked his price and lacked the courage to blurt out $20,000. While he sat motionless, a W.U. official waited a moment and then broke the silence by asking, "How about $100,000?"

You and I cannot afford either the luxury or the hope of such silence. It is a time to be heard—to be counted, and I mean YOU and ME. Let us not be silent soldiers. Last month I read a blurb in a church newsletter to this effect: A Commanding General stood before his battle-clad forces confronted by opposing forces ready to launch an attack. In a clear, crackling voice the General commanded "March"! None of the troops moved. In desperation the General confronted a soldier saying, "Joe, why didn't you march when I gave the order?" The private replied, "Why, General, you didn't say *me*". Let us not use such an excuse. Each of us, you and me—and in unison—must patriotically serve our Nation and help to keep our Government on the path to peace NOW, just as we have always fought in war to defend our nation, the freedom of people yearning to breathe free, and to uphold the principles of our Flag—The Stars and Stripes Forever!

Soon we will celebrate America's Bicentennial, commemorating 200 years of brave, adventurous, progressive growth of history's greatest experiment in Government "of the people, by the people, for the people." Standing on the doorstep of our third century, if we are to realize a "New Spirit of "76", and a "New America", there are things to be done—and we must help.

In recent weeks I have heard addresses, and read, that "You can't go back." I am fully aware in this day of rapid change, especially in the last twenty years—when some things in America have changed so radically we do not recognize our country—that we cannot go back. If we could, what man or woman here tonight would not do some things differently? But I strongly believe we can look back, see where we went wrong, what mistakes we have made, and count the great standards, principles and values, moral and otherwise, that we have lost. Then, noting these, we should apply the lessons learned to improving the future and regaining the values on which our forefathers founded this great nation. Change is a way of life. I believe in change, when it is needed and right, but I am strongly opposed to change for the sake of change—particularly when change in our day largely means that every man wants to "do his own thing" with no sense that he, also, bears a responsibility for his fellow citizen.

If our next century is to be what most of us would want it to be it will not be accomplished by every man "doing his own thing", or by keeping on doing what we have always done. We must renew our faith in, and dedication to, the great principles and values enunciated in the Declaration of Independence, the Constitution and the Bill of Rights. When our forebears wrote these timeless documents, it was with a great sense of belief in God and the fact that man's freedoms, and his "inalienable rights" grew out of the fact that as God's creation, the apex of that creation, he was "created equal".

In large measure, I firmly believe that the truths stated in those historic and honored documents are true today. They should be reaffirmed. When they need change for our betterment, there is the due process of law by which they may be changed. Therefore, I have always opposed, and do today, massive civil disobedience and protest marches and violence in efforts to force changes to make liberty license for every man to do as he pleases. The riots, violence and mass mania of the past decade, in which respect for law and order, authority of any kind, as well as respect for others and even self, went out the window—along with love of country, honor for the flag, and patriotism. By "patriotism" I mean something far more than marching off to war to fight our nation's battles. I mean a dedicated pride and love for our Nation that stands by her in domestic trouble, and fights for the things that will maintain domestic tranquility and improve the lot of every citizen.

On one side of our currency and coinage we say "In God We Trust", and on the other side, "E Pluribus Unum", meaning, Out of Many One. That was what our founders believed, and on that course they set America's destiny. Have we forgotten God? Do we really "trust in God"? Have we become so irreligious in our mad efforts to be "relevant" that we think we master our own destiny?

If we have, we are riding for an eventual fall, for the highway of history is strewn with the ashes of nations like Rome and Carthage, and Hitler's Third Reich. No Nation is so powerful, so prosperous, so blessed that it can forget God, from Whom comes our bounty, without courting dire consequences. I love America, second only to my love for God, and I would do anything to help her and defend her whenever and wherever that need arises, but I do not believe America is greater than God, or beyond the bounds that he has set for man. No nation on earth has been so blessed by the Almighty as has our country. There are more jobs, greater education systems, finer health and medical facilities, more equal opportunities, and more abundance of wealth in America than anywhere on earth. We are the best fed, finest clothed, greatest traveled, most prosperous and powerful people on earth. We have probed God's universe and walked on the moon. But with all this, if we are putting our trust in the dollar, more than our "Trust in God" as it says on that dollar, a day of accounting is ahead.

So, as we face today and its problems—and our Bicentennial just two years away—we are challenged by many things, including the transition from a wartime environment to a peacetime environment, and the total force concept of our Armed Services, working together as a team, in particular, faces the challenge of upholding the peace for which our veterans fought.

To that end America must remain strong; strong not only militarily, but strong morally—for America is, and has been, undergoing a moral crisis both in our homes and in our Government. Military might is necessary to help keep the peace, but alone that is not enough—it must be strengthened by the sinews of moral backbone. Among the things we must do, is a need to:

1. Re-enforce the foundations on which America was built; the "authentic American Revolution" to strengthen the moral and spiritual undergirding that made, and has kept, us a great nation.

2. Re-create our sense of values; we must regain the values of respect, patriotism, industry, integrity, dignity, justice and honor.

3. Realize more fully America's freedoms for all, with a concomitant sense of responsibility.

4. Revitalize our sense of faith in God, and undivided love and loyalty for Country.

5. Re-dedicate ourselves to a "new Spirit of '76" for a new and vibrant America.

Tonight I call you not to ease, but to industry; I issue a call not to arms, but to ardent ambition for a better America; a call not to doing your "own thing", but to doing something for your community and nation; a call not to fear but to renewed faith. We must displace innuendo, rumor and falsehood, with integrity, truth and right.

As we commemorate Veterans Day, honoring our men who have fought on land, and sea and in the air—we remember! We remember our men from Concord to Khe Sanh—from Tripoli to Tarawa—from Belleau Woods and the Battle of the Bulge to Bougainville—from the beaches of Normandy to the sky over Nagasaki—from San Juan Hill to Mt. Surabachi—from Pork Chop Hill to Vietnam.

We shall always remember that it was "Not for fame or reward, not for place or rank, not lured by ambition or goaded by necessity, but in simple obedience to necessity—as they understood it—we remember the men who suffered all, sacrificed all, dared all—and died."

As I salute you and all our veterans, I wish to conclude with the words of Navy Captain Jeremiah Denton (Now Rear Admiral), a returned Prisoner of War, when he deplaned and stepping to the microphone said: "We are honored to have had the opportunity to serve our country under difficult circumstances and we are profoundly grateful to our Commander in Chief and to our Nation for this day . . . God Bless America."

I ask you to silently join in prayer with me—"God Bless America, land that we love. . . . from sea to shining sea."

T. YANCEY MILBURN

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

T. YANCEY MILBURN

Tuesday, November 27, 1973

Mr. HELMS. Mr. President, I think that all of us, too often, are inclined to forget the remarkable achievements and contributions of our senior citizens. There are today so many concerns, and so many problems, and I suppose all of us are guilty of not paying proper respect to citizens who in earlier years struggled to make this country better and stronger.

This came to mind, Mr. President, when I read an article in the November 23 issue of the Durham Morning Herald. This article, written by George Lougee, tells the story of a dear friend of mine, Mr. T. Yancey Milburn. Mr. Milburn is 82, but he is yet energetic, and his mind is like a bear-trap. He frequently corresponds with me, and he never fails to offer stimulating and helpful thought.

I ask unanimous consent, Mr. President, that Mr. Lougee's article about Mr. Milburn be printed in the Extensions of Remarks, so that my colleagues can know of this remarkable friend of mine and his career.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POTENTIAL OF RESEARCH PARK CITED BY RETIRED ARCHITECT

(By George Lougee)

Thomas Yancey Milburn, 82, considers the Research Triangle Park one of his happier efforts in a long lifetime of accomplishments.

Milburn was executive director of Durham's Committee of 100 that helped get the park for Durham County. He calls the park "astronomical."

The third generation of architects in his family, Milburn is enjoying his third retirement now. He still bubbles with energy and enthusiasm.

He believes there is no limit to the park's potential.

"It is one of the finest things ever to happen to North Carolina," he says. "It brought three great universities together and it is located in Durham County."

Of his role in the creation of the park, Milburn says, "I found it and placed it in George Watts Hill's lap and he did the job. With such brilliant men as George Herbert directing the park's development, it had to be successful."

Milburn, who became well known as an architect, federal administrator and active citizen, was delighted when the North Carolina Historical Review devoted a section this summer to his late father, Frank Pierce Milburn, a Kentuckian.

Frank Milburn designed at least 250 major structures in the South, was known as "a creative genius," and in a few years built the largest architectural business south of the Mason-Dixon line.

Born in Bowling Green on Dec. 12, 1868, he was educated in Kentucky and Arkansas. In 1889 he joined his father, T. T. Milburn a contractor, and together they worked as architect and builder of the Clay County Courthouse in Manchester, Ky.

Yancey Milburn recalls that his father's first venture proved to be a formidable undertaking.

"They brought in native oak felled by hand, stored it in sheds and heated it by stoves during the winter. When summer came they dressed and cut the timber and made door and window frames by hand," he said.

Milburn said there was no water, no plumbing and the only heat came from fireplaces.

"They burned coal because there was a pocket of coal in every yard. This was coal country. There were outhouses and wells in the rear of the courthouse. Lighting came from kerosene oil lamps. The building was constructed of brick and the foundation was native stone."

Milburn said county officers were on the first floor of the courthouse. The courtroom and two jury rooms were on the second floor.

"People rode in for court or county business on horses which were tethered to a fence."

In 1890 Frank Milburn opened an office in West Virginia, but within three years moved to Winston-Salem where he was architect for the Forsyth County Courthouse and the Wachovia Bank Building.

About 1896, Milburn was named architect for the Mecklenburg County Courthouse at Charlotte. Also in Charlotte, he was appointed architect for the first steel-framed building erected in North Carolina.

Milburn next remodeled the South Carolina State Capitol and in 1901 published his first book on design. A year later he became architect for the Southern Railway Co. and moved to Washington. In his first 15 years in practice, Milburn designed 19 railroad stations for the Southern and allied railway systems, 15 residences, 26 county courthouses and nine college buildings, including five at the University of North Carolina. In addition he designed offices, churches, banks, schools and jails.

Milburn was a conscientious architect who felt that standards within the architectural profession should be as high as those in medicine and law.

He believed that an architect is more important than a doctor or lawyer since the architect is responsible for the supporting structure, practical planning, sanitary conditions, heating, ventilation, acoustics and the economics, in addition to the politics, in designing a building.

Durham buildings for which he drew plans included the courthouse, the train station, Hope Valley Country Club, the Bennett Memorial Monument, and the N. C. National Bank. He also was architect for the Buncombe County Courthouse in Asheville and the Wayne County Courthouse in Goldsboro.

Among his largest commissions were enlargements of state capitols, notably in Florida and South Carolina.

Frank Milburn put the first jail on top of a courthouse, at Muskogee, Okla., son Yancey recalls, "and this became a general practice."

Yancey Milburn considers the Buncombe County Courthouse, an 18-story structure with a jail on top, the firm's "best effort."

Thomas Yancey Milburn was born in Staunton, Ky., on April 10, 1891. He attended the public schools of Washington and Phillips Andover in Massachusetts. He studied engineering at UNC and architecture at the University of Pennsylvania.

After graduation he joined his father in the firm of Milburn, Heister & Co., architects and engineers of Washington, D.C.

He came to Durham in 1914 to supervise construction of the First National Bank Building, now N.C. National Bank.

He remained in Durham until World War I began. In 1917, he was commissioned a first lieutenant of engineers and served in France as a member of the American Expeditionary Forces and was promoted to captain.

After World War I, he returned to Durham and his practice of architecture. In 1920 he married Mary Joseph O'Brien, the daughter of William T. O'Brien, vice president of Liggett & Myers Tobacco Co., and Catherine O'Brien.

When his father died in 1926, he was called to Washington as president of Milburn, Heister & Co.

In addition to the NCNB building, the firm designed the First Presbyterian Church, Durham senior and junior high schools, three fire stations, apartments, hospitals and many other buildings in Durham.

In 1935, Milburn became a consultant engineer and was an officer and consultant for firms in Texas, Wisconsin and Massachusetts.

During World War II, he was chairman of the Durham Army Advisory Commission and civilian advisor to the commanding general, Third Army Corps.

In 1950 he retired from active practice and returned to Durham to live.

In 1955, Durham's Committee of 100 was formed and he became executive director. Under his leadership, the Durham Industrial Park developed.

He retired again in 1962, and was given a silver bowl by the Durham Chamber of Commerce.

When Milburn announced his retirement in 1962, praise came from many quarters.

George Watts Hill, who helped guide the development of the Research Triangle Park, said, "For years, you so highly pressured numerous key people that eventually Gov. Luther Hodges assumed statewide leadership and organized the Governors' Research Triangle Committee."

Said then Mayor E. J. Evans, "I'm thoroughly familiar with the skill you have shown (as DIDCO executive director) and the revitalization of our industrial city has greatly benefitted from your knowledge, experience and understanding. The entire state will benefit from your foresight and judgment."

In December 1969, Milburn was given the Rotary Club's Distinguished Service Award. He is its last living charter member.

He recalls with pride that he developed Durham Industrial Development Park "from acreage of small pine into its present potential. Every cent of money invested by citizens has been returned with 6 per cent interest." The park, known as DIDCO, has quarters for several businesses.

Milburn lives with his wife in an apartment in the elaborate old Stagg home at 618 Morehead Ave. Today he does "a lot of reading, fishing, corresponding with friends all over the world, attending Rotary meetings, and enjoying our seven grandchildren." The Milburns have one child, a daughter, Mrs. Henry S. Matthews of Augusta, Ga.

AN EXPERIENCED VOICE

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. DAVIS of Wisconsin. Mr. Speaker, Burton K. Wheeler, who served in the U.S. Senate for 24 years, and who still enjoys an active and fruitful retirement in the Washington area, is an experienced, thoughtful, and dedicated student of, and participant in, the public affairs of the 20th Century. In 1924, he was the running mate of Presidential candidate Robert M. LaFollette, Sr. That ticket carried the State of Wisconsin.

In the 1920's, Senator Wheeler was a leader of the Senate's investigation of the Teapot Dome scandal. His broad experience in national affairs, and his well-grounded reputation as a constitutional expert, lend weight to his opinions. In a recent article of his which appeared in the New York Times, Senator Wheeler cited a relevant and historic precedent. I commend it to the thoughtful reading of my colleagues.

A copy of the article from the New York Times, incidentally, was sent to me by Senator Wheeler's daughter, Mrs. Edwin Coleman, who resides in Chenequa, Waukesha County, Wis.

The article follows:

[From the New York Times, Oct. 12, 1973]

THE PRESIDENT'S INTEGRITY

(By Burton K. Wheeler)

WASHINGTON.—In the course of the consideration by the United States Senate in 1937 of President Roosevelt's proposal to increase the number of justices he could appoint to the United States Supreme Court (the Court-packing plan), an incident arose which may shed some light on the present efforts of Congress and the special prosecutor to obtain the tapes of private conversations held by the President in the White House.

I had been requested by a number of Democratic and Republic Senators to spearhead the opposition to the Court-packing bill. The proponents had alleged that the Supreme Court was delinquent in its consideration of cases. These charges of delinquency had to be answered.

Prior to my testimony before the Senate Judiciary Committee I went to see Justice Brandeis. I told him that an authoriative response to the charges being leveled at the Court by the Roosevelt Administration was imperative and that I wanted him and Chief Justice Hughes to testify before the Senate Judiciary Committee. The Justice responded that under no circumstances would he testify or recommend that the Chief Justice testify.

He quickly added, "Not because he would not be an outstanding witness fully capable of responding to any question, but it just would not be the right thing to do. It might establish an unfortunate precedent." Brandeis added, "In lieu of such testimony, ask the Chief Justice to give you a letter which will set the record straight."

Brandeis called Chief Justice Hughes and asked if he would see me on a vitally important matter. I went immediately to the Chief Justice's house. I told him of my conversation with Justice Brandeis and that Brandeis had finally suggested that he write a letter. Chief Justice Hughes said, "Did Brandeis say that?" I reassured him that he had. The Chief Justice then said, "I will see what I can do."

He called me on Sunday evening and suggested that I come to his house. I drove there immediately. He greeted me saying, "Well, the baby is born." He handed me a letter which was a complete answer to all of the charges. I thanked him and started to leave. He asked me to stay. In the course of a rather lengthy discussion he said the proposed legislation would destroy the Court as an institution.

The letter, which I presented during the course of my testimony before the committee was so devastating in effect that Vice President Garner told President Roosevelt that the Court-packing proposal was dead.

The Chief Justice's letter specifically avoided argument on the questions of policy raised by the proposed legislation and thereby avoided a demand that he appear for questioning before the Senate committee. Justice Brandeis and Chief Justice Hughes, in my view, rejected my plea to testify before Congress because they thought it improper for a justice of the Supreme Court to submit himself to questioning by the legislative branch, even though they believed that passage of the pending legislation would destroy the Court.

While I do not remember the precise words said to me by Justice Brandeis, implicit in our conversation was the thought that Congressional questioning of a member of the Supreme Court would be a serious invasion of the independence of the judiciary and would jeopardize the integrity of its decision-making processes.

It appears to me that the request of Congress for the White House tapes may constitute a similar threat to the integrity of the decisional processes of the President. If Congress, other than in an impeachment proceeding, can subpoena the documents revealing the deliberations of the President in the execution of his functions as Chief Executive, it could with equal justification subpoena the records of the justices of the Supreme Court to determine the manner and bases upon which the justices arrived at decisions in controversial cases. In my view also, the special prosecutor is no more entitled to the tapes than is Congress. If he argues that the grand jury, as part of the judicial system, is entitled to the tapes, then he is asserting the right of the judiciary to examine in an area which Brandeis and Hughes thought would be an improper invasion of the separation of powers doctrine, if exercised by Congress.

The Supreme Court, if it holds that Congress, in other than an impeachment proceeding, can obtain the records of Presidential conferences, will set a precedent for Congress to obtain records or other evidence of Court deliberations.

It seems highly unfortunate that a constitutional confrontation of this magnitude should arise over tapes when in all likelihood, they will shed little, if any, light on the Watergate controversy. Pursuit of the tapes may result in a precedent-setting decision by the Supreme Court which will ill serve the future of democracy and our form of government.

INDIANA BONUS FOR VIETNAM VETERANS

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 27, 1973

Mr. HARTKE. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I continue to be deeply concerned with the adequacy of our Nation's efforts to assist veterans of the Vietnam war in their readjustment to civilian life. Although the Congress has enacted major improvements in the GI bill, much remains to be done, and the committee which I am privileged to chair will act further on this matter early in 1974.

A number of the individual States have taken steps to aid their young veterans, including the provision of cash bonuses to assist readjustment and recognize in at least a small way the irreplaceable loss of the years spent in uniform during the Vietnam conflict. These funds, for example, can be utilized by veterans attending college to supplement GI bill educational assistance.

My home State of Indiana, for example, provides a $200 cash bonus to veterans who served in Vietnam; a $500 bonus to veterans with a service-connected disability rating of at least 10 percent; and a $600 bonus to the survivors of individuals killed in the service of our country. I commend the people of Indiana for recognizing the unique obligation owed the veterans of this tragic war. I believe my colleagues will be interested in the details of Indiana's Vietnam bonus program, and therefore request unanimous consent that the law and the rules and regulations concerning the bonus be printed in the RECORD.

There being no objection, the law and rules and regulations were ordered to be printed in the RECORD, as follows:

PUBLIC LAW NO. 98

An Act to amend IC 1971, 10–5 by adding a chapter providing for the payment of a bonus to certain members of the armed services who served during the Viet Nam conflict, and making an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

Section 1. IC 1971, 10–5 is amended by adding a new chapter to be numbered 16.1 and to read as follows:

Chapter 16.1 Benefits of Veterans Serving during the Viet Nam Conflict.

Sec. 1. The electorate of this state having approved the payment of a bonus to veterans of prior wars as a means of expressing to such citizens the manifest public gratitude due them, it is the purpose of this chapter to provide for the payment of a bonus to those of her citizens qualified hereunder who served in the Armed Forces of the United States in the Viet Nam conflict on or after July 1, 1958, and prior to cessation of hostilities in Viet Nam.

Sec. 2. As used in this chapter, unless otherwise provided: (a) The term "department" means the department of veterans' affairs of the State of Indiana.

(b) The term "commission" means the veterans' affairs commission of the State of Indiana.

(c) The term "member of the armed forces of the United States" means any person who served on active military or naval service in the land, air, or naval forces of the United States. Service in the merchant marine shall not be considered for the purposes of this chapter.

(d) The term "next of kin" means the widow or widower who has not remarried, children, mother, father, and persons standing in loco parentis of any member of the Armed Forces of the United States.

Sec. 3. Subject to the provisions of sections 4 and 5 of this chapter, a bonus in the amount of two hundred dollars ($200) shall be paid to every member of the armed forces of the United States who has been separated or discharged from the armed forces under honorable conditions and who was on active duty with the armed forces in Southeast Asia either:

(1) for any period between July 1, 1958 and July 3, 1965, or

(2) for any period between July 4, 1965 and a future date to be announced by the United States Government.

Provided, that if an individual has a Veterans Administration rating; Department of Defense disability retirement benefits; or appropriate branch of the military service disability rating of ten (10%) per cent or more, and meets all other requirements of this section, the bonus shall be five hundred dollars ($500.00).

Provided further, that if an individual killed while serving in the United States Armed Forces would otherwise have qualified for the bonus provided by this section, a bonus of six hundred dollars ($600) shall be paid to the next of kin of said individual, in the order indicated in Section 2(d) of this chapter.

Provided, further, that if an individual has a claim against the Veterans' Administration or appropriate branch of the armed forces for a service-connected disability rate and such rating has not been determined to be ten percent (10%) or more, or such previous ruling is under appeal, the individual may file his application and request that payment hereunder be deferred until such time as a final decision has been rendered by the Veterans' Administration or appropriate branch of the Armed forces, so that he may qualify for the higher bonus under this section.

Sec. 4. A bonus shall be allowed only if the Viet Nam veteran:

(a) had been a resident of the State of Indiana for at least six (6) months immediately prior to his enlistment, induction or call to active duty;

(b) spent at least ninety (90) days minimum duty, unless duty was terminated for medical reasons determined to be service-connected by either the military or the Veterans Administration;

(c) has served during the period of eligibility as evidenced by separation papers or discharge from the United States Armed Forces; and

(d) was entitled to either the Armed Forces Expeditionary Medal or the Viet Nam Service Medal.

Sec. 5. No payment shall be made to any member of the Armed Forces of the United States who did only civilian work at civilian pay or who has received from another state a bonus or compensation of a like nature as is provided by this chapter.

Sec. 6. The Department shall administer the provisions of this chapter and shall:

(1) receive and review all applications for compensation;

(2) allow or reject all claims for bonuses;

(3) hire all personnel required for administration;

(4) promulgate all rules and regulations needed for the effective administration of this chapter; and

(5) report annually to the governor and the General Assembly.

Sec. 7. All claims for compensation shall be filed with the Department by the member of the armed forces of the United States, or, if he is deceased, by his next of kin, in the order indicated in Section 2(d) of this chapter.

Sec. 8. The Department shall allow or reject, either in whole or in part, all claims filed under this chapter.

Sec. 9. Written notice of any rejection of a claim, either in whole or in part, shall be served on the claimant either personally or by registered mail addressed to the last known address of claimant and deposited in the United States mails. Any claimant whose claim is so rejected may apply for a review of the determination by the Veterans' Affairs Commission at any time within four (4) months after the service of the notice of rejection. If such application is timely made the determination shall be reviewed by a reviewing officer appointed by the commission or the commission itself.

Sec. 10. After an application is filed and processed by the Department on forms prescribed by the auditor of state and the state board of accounts, it shall be forwarded to the auditor of state for payment. A duplicate copy shall be retained by the commission and a third copy shall be forwarded to the applicant to serve as a record that his application has been accepted and processed.

Sec. 11. In case any compensation is payable under this chapter to a person under eighteen (18) years of age or a mental incompetent, the compensation shall be paid to the person who is legally constituted his guardian, provided, however, if there is no such guardian, payment shall be made to the chief administrative officer of any state or federal hospital or institution in which such person under eighteen (18) years of age or an incompetent is placed where such officer is authorized to accept moneys for the benefit of the person under eighteen (18) years of age or an incompetent.

Sec. 12. Whoever makes any false or fraudulent statement of a material fact in any application, certificate or document made under the provisions of this chapter or of any regulation made by the commission shall be guilty of a felony and upon conviction thereof shall be fined not more than one thousand dollars ($1,000) or imprisoned for any determinate term of not more than two (2) years, or both, at the discretion of the court.

Sec. 13. Any person who charges or collects or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting in any manner a Viet Nam veteran or next of kin in obtaining any of the benefits to which they may be entitled under the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than five hundred dollars ($500) or imprisoned for a term of not more than six (6) months, or both, at the discretion of the court.

Sec. 14. All applications for a bonus under this chapter shall be made to the Department of Veterans Affairs on or before the three-year (3) period following the cessation of hostilities in Southeast Asia or Viet Nam as declared by the President of the United States or the United States Congress, and no payments shall be made except upon applications received by the Department of Veterans Affairs on or before that date.

Section 2. All funds needed for the effective administration of this chapter are hereby appropriated from those funds not otherwise appropriated from the general fund to the Department of Veterans' Affairs.

Section 3. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

STATE OF INDIANA—DEPARTMENT OF VETERANS' AFFAIRS

GENERAL RULES AND REGULATIONS GOVERNING PAYMENT OF THE "VIET NAM VETERANS BONUS" P.L. 98 ACTS OF 1973

The following general rules have been adopted by the Indiana Department of Veterans' Affairs Commission, to determine the eligibility of the applicants for the benefit of:

"An Act to amend IC 1971, 10-5, by adding a chapter providing for the payment of a bonus to certain members of the armed services who served during the Viet Nam Conflict and making an appropriation."

The electorate of this state having approved the payment of a bonus to veterans of prior wars as a means of expressing to such citizens the manifest public gratitude due them, it is the purpose of this chapter to provide for the payment of a bonus to those of her citizens qualified hereunder who served in the Armed Forces of the United States in the Viet Nam Conflict on or after July 1, 1958, and prior to the cessation of hostilities in Viet Nam.

The Indiana Department of Veterans' Affairs therefore has these responsibilities:

(1) Shall administer the provisions of this Public Law.

(2) Receive and review all applications for compensation.

(3) Allow or reject all claims for bonuses.

(4) Hire all personnel required for administration.

(5) Report annually to the Governor and the General Assembly.

(6) Promulgate all rules and regulations needed for effective administration of this Public Law. To this end, the following rules, regulations, terms, and definitions are hereby published as approved by the Commission, Department of Veterans' Affairs, for the administration of this Public Law.

1. "Member of the Armed Forces of the United States"

A. The term "member of the armed forces of the United States" means any person who served on active military or naval service in the land, air or naval forces of the United States.

B. Service in the merchant marine shall not be considered for the purpose of this chapter.

C. No payment shall be made to any member of the Armed Forces of the United States who did only civilian work at civilian pay.

D. Service in the United States Public Health Service when assigned to units of the Armed Forces and qualified under all other provisions of this law, may be considered for payment of the bonus in the amount they would qualify for upon determination by the Commission, Department of Veterans' Affairs, only . . .

E. Service in the U.S. Coast & Geodetic Survey, when assigned to units of the Armed Forces, and qualified under all other provisions of this law, may be considered for payment of the bonus in the amount they would qualify for upon determination by the Commission, Department of Veteran Affairs, only . . .

F. The definition "Member of the Armed Forces of the United States," whether in dispute or as a matter of information shall be referred to Section 101, Title 38, United States Code, as official and binding determinations, in all matters of claims before the Bonus Division, Indiana Department of Veterans' Affairs.

2. "Residency, State of Indiana"

A. Had been a resident of the State of Indiana for at least six (6) months immediately prior to enlistment, induction, or call to active duty.

B. Providing the applicant's separation or discharge records does not reflect 'INDIANA' as their 'Home of Record,' it will be necessary to furnish the Department, three (3) separate and distinct affidavits, properly notarized, from residents of the State of Indiana that attest to the claimants actual residence in the State of Indiana at least six (6) months prior to enlistment, induction, or call to active duty.

C. Absence from the State on business or pleasure, in federal employment or service, or for reasons of education or health, is not of itself inconsistent with residence in the State if, in fact such absence is temporary and was, or is intended to be, substantially limited to the occasion therefor. Residence of a married person is generally considered to be at the place where his spouse and children reside. Residence in Indiana cannot be gained by living temporarily in the State without evidence of intention to stay in Indiana permanently. The burden of proof rests upon the applicant.

3. "Eligibility and Applications"

A. All claims for compensation shall be filed with the Department by the member of the armed forces of the United States, or, if he (she) is deceased, by his (her) next-of-kin, in the order indicated in Section 2(d) of this Public Law.

B. Spent at least 90 (ninety) days minimum duty, unless duty was terminated for medical reasons determined to be service-connected by either the military or the Veterans Administration.

C. Has served during the period of eligibility as evidenced by separation papers or discharge from the United States Armed Forces, or proper correction thereto.

D. Earned the Armed Forces Expeditionary Medal for service in Southeast Asia for the period of July 1, 1958 through July 3, 1965, as evidenced by the separation or discharge papers, or a correction thereto.

E. For any period of service in Viet Nam between July 4, 1965, and a future date to be announced by the United States Government, as the official date for cessation of hostilities, and earned the "Viet Nam Service Medal," as evidenced by separation papers or discharge, or a correction thereto.

F. All applications for a bonus under this Public Law shall be made to the Department of Veterans' Affairs on or before a three-year (3) period following the cessation of hostilities as declared by the President of the United States or the United States Congress, and no payment shall be made except upon applications furnished and received by the Department of Veterans' Affairs on or before that date.

G. When the date has been officially set for termination of hostilities as referred to in the preceding paragraph (Rule 3, F), the Indiana General Assembly with the Governor concurring, may wish to amend this Public Law to advise all concerned the official ending date for applications to be received for payment of the Bonus, however, official note from the United States Government will suffice to determine the official ending date of hostilities in Southeast Asia or Viet Nam, following which the three-year (3) period will commence, as referred to in Section 14, of this Public Law.

4. "Honorable Separation or Service"

A. A bonus payment shall be allowed to every member of the Armed Forces of the United States who has been separated or discharged from the armed forces under "honorable" conditions and who was on active duty with the armed forces in Southeast Asia, according to Rule #3, of these rules.

B. The term "Honorable," also includes the term "Under Honorable Conditions" as used by the various branches of the armed forces.

C. If an applicant received an "Honorable" or "Under Honorable Conditions" separation or discharge for service as set forth in Rule #3, these Rules, and is otherwise eligible for a bonus payment, he may receive the bonus payment even though he subsequently re-entered the armed forces and later received a separation or discharge of a "dishonorable" or less than "honorable" condition.

5. "Continuous Service"

A. All applicants who have continued service in the armed forces and who would otherwise qualify for a bonus payment, must have a certification signed by his (her) Commanding Officer (or designated person with their unit) as prescribed on the application form provided by the Department of Veterans' Affairs. The certificate states that the applicant has continued on honorable and faithful service and that the applicant was entitled to the awarding of the medals as described in Rule #3, of these Rules.

6. "Amounts of Bonus Payment"

A. All persons eligible to the preceding rules will be entitled to a bonus payment of $200.00.

B. All persons eligible in the proceeding Rule #7 shall be entitled to a bonus payment of $500.00.

C. All persons eligible in Rule #9, shall receive a bonus payment of $600.00.

7. "Disability as Result of Service in the Armed Forces"

A. The applicant must have been eligible under all other provisions of this Public Law, and met the following conditions for a bonus payment of $500.00.

(1) Provided that the applicant has a Veterans Administration Rating Department of Defense disability retirement benefits; or appropriate branch of the military service disability rating of ten (10) per cent or more.

(2) Provided further, that if an applicant has a claim against the Veterans Administration or appropriate branch of the Armed Forces for a service-connected disability and the claim has not been adjudicated by either of those agencies for determination of per centum of disability or a previous finding of less than ten per centum (10%) is under appeal, the individual claimant may request that payment of his or her bonus be delayed until a final determination has been rendered by the appropriate agency, in order that they may qualify for the higher payment, under these disability provisions.

(3) An award of a disability rating of 10% or more by the appropriate agency during the periods of eligibility as set forth in other provisions of the Public Law and these Rules, even though reduced at a later date by the agency administering the rating shall qualify the claimant for the disability-payment by providing the IDVA Bonus Division with documentation that such rating did exist and was incurred during the eligibility period set forth.

(4) The applicant must provide documentation as to the disability rating from the source under which he claims such disability.

(5) In cases of doubt as to the authenticity of such documentation, the Department of Veterans' Affairs will request verification from such source prior to authorizing any bonus payments.

B. Provided further, that if a veteran (or claimant) timely filed an application for the bonus and was paid the minimum of $200.00, and later during the remaining period of entitlement to file for the bonus, establishes a service-connected disability of the ten (10) per cent or more and meets all other requirements, shall be eligible for an additional payment of $300.00, for a maximum amount of $500.00 as allowed under the provisions of the law and the Rules and Regulations. It is further stipulated that this additional payment will only be allowed for those persons who incurred the service-connected disability prior to the official date for cessation of hostilities as announced by the U.S. Government.

8. "Beneficiary payments."

A. Payment of the bonus under Rule 6(A) and Rule 7, these Rules will be made to the Next-of-Kin, in order named in Section 2(d), of this Public Law, of any deceased person that would be entitled to the bonus under other provisions of this Public Law, if living.

B. Beneficiary payments will be made upon proper application forms provided by the Department of Veterans' Affairs, and with such documentation as provided for under other provisions of these General Rules.

9. "Service Connected Deaths"

A. Provided further, that if an individual killed while serving in the United States Armed Forces would otherwise have qualified for the bonus provided by this Public Law, a bonus of six hundred dollars ($600.00) shall be paid to the next of kin of said individual, in the order indicated in Section 2(d) of this Public Law.

B. For the purpose of this Public Law, a bonus shall be paid to the next-of-kin as determined under Section 2(d) if the veteran qualified under all provisions of these Rules and of this Public Law, and died while serving with the Armed Forces of the United States, and was determined to be service-connected, by either the appropriate branch of the military or the Veterans Administration.

C. The provisions of this Public Law and these Rules are extended to those persons who were wounded in Viet Nam and subsequently died as a result of such wounds or injuries and were determined to be service-connected by the appropriate branch of the military or the Veterans Administration. Documentation will be required to the effect that the injury was either the principal or contributory cause of death.

D. Death payments in the amount of $600.00 will not be allowed when the cause of death was held to be "of willful misconduct" on the part of the serviceman, but will not be a bar to other payments allowed under other provisions of this Public Law, and these Rules, upon proper application and documentation by the next-of-kin as heretofore or hereafter stipulated.

10. "Next-of-kin Applications and Proof of Death"

A. All beneficiary payments will be made in the following order, and none other:

(1) Widow, not remarried
(2) Widower, not remarried
(3) Children (See Item 2(d) below)
(4) Mother
(5) Father
(6) Persons standing in loco parentis (of any member of the Armed Forces of the United States)

B. The beneficiary making application for payment of the bonus shall furnish the following proof:

(1) Husband and wife making application must prove:

a. Death of person rendering military service. (Photostatic copy or certified copy of official notification of death shall be attached.)

b. Marriage of the parties, and that such marriage existed at the time of death of persons through whom claim is made.

(2) Child or children making application must prove:

a. Death of person rendering military service. (Photostatic copy or certified copy of official notification of death shall be attached.)

b. Marriage of deceased and other parent of child or children.

c. That surviving spouse is dead, or was divorced.

d. Child or children, Definition of: The term child or children shall include all legitimate children and legally adopted children. (Photostatic copies of birth records and/or adoption records must be furnished.)

(3) Mother, father, making application must prove:

a. Death of person rendering military service. (Photostatic copy or certified copy of official notification of death should be attached.)

b. That such person was unmarried, or if married that spouse of such person is dead or was divorced. (Certified photostatic copy of death certificate or divorce decree shall be furnished.)

c. That if such person is married there were no children, or if there were children, all are deceased. (Photostatic copy of death certificate shall be furnished.)

d. If father is applicant that mother is deceased. (Photostatic copy of death certificate shall be furnished.)

e. That the deceased upon whose military service claim is made was the son or daughter of the claimant. (Photostatic copy of birth certificate shall be furnished.)

(4) Person standing in loco parentis must prove:

a. That he or she stood in relation of parent toward the person rendering military service and comply with the Rules 3(a) through 3(e), above section, mother, father, and etc.

11. "Assignment of Right to Bonus Payments"

A. No rights or claims to compensation under this Public Law shall be assigned and no payment shall be made to any person other than the approved applicant as determined by the Department of Veterans' Affairs.

12. "Bonus Payments (Indiana)"

A. Applications having been found to meet the requirements of eligibility payment will be made in the amounts indicated by these Rules and the Public Law.

13. "Bonus Payments from Other States"

A. No payment will be made to persons who have received from another State, a bonus or compensation of a like nature as is provided in this Public Law.

B. Requests on other States will be made in cases of doubt as determined by the Bonus Division, Department of Veterans' Affairs.

14. "Mentally incompetent"

A. In case any compensation is payable under this Public Law to a mental incompetent, the compensation shall be paid to the person who is legally constituted his guardian, provided, however, if there is no such guardian, payment shall be made to the chief administrative officer of any State or Federal Hospital or institution in which such person (an incompetent) is placed where such officer is authorized to accept monies for the benefit of the incompetent.

B. Definition of a mentally incompetent person for the purposes of this Public Law is as follows:

(1) "A Mentally incompetent person, is a person found to be incompetent by a court of competent jurisdiction of any State or the District of Columbia, or by a proper official of the Veterans' Administration."

(2) Also, a person who voluntarily commits themselves for treatment in an institution for mentally incompetents shall cause their compensation under this Public Law to be placed with an officer of such institution for their (the veteran's) benefit.

15. "Applicants Under Age 18"

A. In case any compensation is payable under this Public Law, to a person under eighteen (18) years of age, the compensation shall be paid to the person who is legally constituted his or her guardian, provided, however, if there is no such guardian, payment shall be made to the chief administrative officer of any State or Federal Hospital or Institution in which such person under eighteen (18) years of age is placed where such officer is authorized to accept monies for the benefit of the person under eighteen (18) years of age.

B. If the person under eighteen (18) years of age is adjudged as a mental incompetent, the provisions contained in Rule 14, these General Rules and the Public Law itself, shall govern.

C. The total amount of the award by reason of the deceased veterans service will be divided by the number of children living at the time of the mailing of the order-to-pay or state warrant and each child will receive its' proportionate share thereof.

16. "Rejection of the Bonus Claims"

A. The Department of Veterans' Affairs shall allow or reject, either in whole or in part, all claims filed under the provisions of this Public Law.

B. Written notice of any rejection of a claim, either in whole or in part, shall be served on the claimant either personally or by certified mail addressed to the last known address of claimant and deposited in the United States mails.

17. "Appeal of Rejected Bonus Claims"

A. Any claimant whose claim is so rejected may apply for a review of the determination by the following procedures:

(1) Provide a written request for a review within four (4) months after the serving of the notice of rejection.

(2) If such written request for a review is timely made, the determination shall be reviewed by a reviewing officer appointed by the Commission itself.

(3) Advice from claimants that they have no further evidence to support a further consideration or review of their claim shall be cause to make permanent their rejection of a claim by the Department of Veterans' Affairs.

18. "Boards"

A. For the purposes of review and appeals, two (2) Boards are hereby created by these Rules and Regulations:

(1) All written requests by claimants for review of their rejected claim, shall be heard or reviewed by the Director, Department of Veterans' Affairs, or from time to time, such person or persons as may be appointed by the Director as disinterested parties to any claims under this Public Law, may review or publicly hear from claimants as to why their claims should be allowed.

Any or all claims reviewed by the Director, and rejected further, shall automatically be forwarded to the Appeal Board as hereinafter described, and notice shall be given to the claimant or claimants as to action taken.

B. The Commission, Department of Veterans' Affairs shall constitute an "APPEAL BOARD," with three (3) of the four (4) person Commission constituting a quorum.

(1) The Commission shall consider all rejections given it by the provision of Rule 18(A)(1), heretofore described.

(2) The Commission shall determine, on appeal those instances where disagreement has arisen on the selection of beneficiary or the distribution of beneficiary funds, as hereto provided by this Public Law or these Rules and Regulations.

(3) Decisions of the Commission are final, and no further hearings will be held unless new and material evidence is presented in writing by the claimants.

19. "False or Fraudulent Statements of Material Fact"

A. Whoever makes any false or fraudulent statement of a material fact in any application, certificate or document made under the provisions of this Public Law or of any Rules and Regulations made by the Commission, Department of Veterans' Affairs, shall be guilty of a felony and upon conviction thereof be fined not more than one thousand dollars ($1,000) or imprisoned for any determinate term of not more than two (2) years or both, at the discretion of the court.

B. The personnel of the Bonus Division, Department of Veterans' Affairs, shall advise the Director, Department of Veterans' Affairs, of any actual or attempted fraud or furnishing of false statements in connection with any claims filed with the Department. The Director, upon investigation, shall report the findings to the proper Indiana State officials for further investigation and/or prosecution.

20. "Unlawful to Charge Fees for Assisting in Filing Claims"

A. Any person who charges or collects or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting in any manner a Vietnam veteran or next of kin in obtaining any of the benefits to which they may be entitled under the provisions of this Public Law, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than five hundred ($500) or imprisoned for a term of not more than six (6) months, or both, at the discretion of the court.

21. "Validity of Separate or All Provisions"

A. If any provision of this Public Law, or of these Rules and Regulations, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Public Law or these Rules and Regulations which can be given effect without the invalid provision or application, and to this end the provisions of this Public Law and Rules and Regulations thereto, are declared severable.

PROPOSED AMENDMENT TO H.R. 11010

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. REUSS. Mr. Speaker, H.R.11010, the Comprehensive Manpower Act of 1973, will be before the House tomorrow. Mr. Hawkins and I intend to offer the following amendment to change the public service employment assistance trigger from 7 percent unemployment to 6 percent:

Page 87, line 16, strike out "7" and insert in lieu thereof "6".

The Labor Department defines 150 major labor market areas. Of these major areas, 37 now have unemployment of 6 percent or more. By setting the public service employment trigger at 7 percent rather than at 6 percent, 14 of these hard-hit major areas would receive no assistance. A list of the major labor market areas with 6 percent or more unemployment follows, with asterisks indicating those areas with more than 6 but less than 7 percent unemployment:

U.S. CITIES WITH UNEMPLOYMENT RATE OF 6 PERCENT AND HIGHER—JULY, 1973

City	*Unemployment rate*
Stockton, Calif.*	6.8
Bridgeport, Conn	8.2
New Britain, Conn	7.0
New Haven, Conn.*	6.0
Waterbury, Conn	7.1
Baton Rouge, La.*	6.5
New Orleans, La.*	6.5
Boston, Mass.*	6.8
Brockton, Mass	10.7
Fall River, Mass	9.5
Lawrence-Haverhill, Mass	10.2
Lowell, Mass	11.7
New Bedford, Mass	9.8
Springfield-Chicopee-Holyoke, Mass	7.9
Worcester, Mass.*	6.7
Battle Creek, Mich.*	6.3
Detroit, Mich	8.0
Flint, Mich	7.3
Grand Rapids, Mich.*	6.6
Muskegon-Muskegon, Mich	9.5
Duluth-Superior, Minn.*	6.0
Atlantic City, N.J.*	6.1
Jersey City, N.J	9.5
Newark, N.J	7.0
New Brunswick-Perth Amboy, N.J	7.5
Paterson-Clifton-Passaic, N.J	7.4
Nassau-Suffolk, N.Y.*	6.8
Utica-Rome, N.Y.*	6.0
Mayaguez, Puerto Rico	8.3
Ponce, Puerto Rico	20.0
San Juan, Puerto Rico	7.7
Providence-Warwick-Pawtucket, R.I.*	6.8
Seattle, Wash	7.7
Spokane, Wash.*	6.5
Tacoma, Wash	8.5
Huntington-Ashland, W. Va	7.9
Kenosha, Wis	7.3

GOVERNOR ROCKEFELLER'S TOUGH NEW ANTIDRUG LAW IS WORKING

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. KEMP. Mr. Speaker, the Nation's Governors have grappled for years with devising tough antidrug laws which would halt effectively the sale of illegal drugs.

Governor Rockefeller of New York—through the long and laborious process of initial formulation, the hammering out of intricate details, the overcoming of potential court challenges, and the enactment of its provisions by the legislature—stuck to his firm commitment to the people of New York to help make our State a better place in which to live and provide the leadership in enacting a stringent antidrug law. Some criticized the measure; others said it would not work.

Now in its third month of enforcement, it is apparent that the new law is working, and there is a growing recognition across the Nation that the Rockefeller law—attacking the problem at the level of the sale of illicit drugs—may be a model on which other States can pattern similar statutes.

At this point in the Record, I wish to insert, for the benefit of all my colleagues and their respective Governors, excerpts from a recent editorial, noting the success of this measure and commending the Governor:

[From the Houston Post, Nov. 17, 1973]

NEW YORK ANTIDRUG LAW A SUCCESS

Gov. Nelson Rockefeller's stringent antidrug legislation in New York, now in its third month, shows significant signs of success despite complaints from some law enforcement officers. . . .

Under the new law, with life sentences mandatory for dealers in some instances and with users of hard drugs facing penalties almost as harsh, narcotics arrests dropped dramatically in New York in September—down 75 per cent from the average month of last year. The question immediately arose as to whether the traffic was merely being pushed further underground or whether it was actually being curtailed. By the end of October, it appeared that the law brought about both results to limited extents. . . .

Whatever the case, the law has made drugs harder to get. The pushers, operating more covertly, are harder to find and prices are up. Street corners and parks are no longer safe places for dealers to do business. They have been forced indoors, where only their old customers know where to look for them. Prices rose proportionately with the risk and the more elaborate subterfuge required to avoid arrest. Even if there is a return to business as usual between the sellers and their established customers, the law at least is making it more difficult for the dealers to create new addicts, especially among the young. That in itself makes the law worthwhile.

The true test, however, will come in the courts. The rise in arrests in October, after the September drop, gives New York's new judges, especially chosen to deal with narcotics cases, a chance to show that the law has teeth. When some life sentences for sale of heroin and other hard drugs are meted out and the word gets around, the traffic could be forced so far underground that too few buyers would be available to make it profitable.

What happens in New York is important to the fight against the illicit drug traffic over the rest of the nation. Attempts to eliminate foreign sources of narcotics with cash and diplomacy had little effect on stemming the flow. Smuggling across our borders continues with great success.

The Governor, those who helped him through the legislative battles, those in the legislature who supported it, those now charged with the responsibility of its enforcement, and those members of the bar and bench committed to the realization of its goals are all to be commended.

CAPT. WICK R. HARLAN, JR., RECEIVES AWARD

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. CARTER. Mr. Speaker, whenever a Kentuckian distinguishes himself in the armed services of the United States, I feel it my duty to bring it to the attention of the House.

Capt. Wick R. Harlan, Jr., commanded the U.S.S. *Vulcan* (AR-5) from June 18, 1971 to June 27, 1973. During each of these 2 years, his ship was awarded the Navy "E" for excellence. Never before in the 32-year-old life of the vessel had this high award been bestowed upon it. This resulted from the leadership and command ability of Captain Harlan.

I include for the Record a copy of the citation by the President of the United States awarding the Meritorious Service Medal to Capt. Wick R. Harlan, Jr., of Tompkinsville, Ky.

The citation follows:

CITATION FOR CAPT. WICK R. HARLAN, JR.

The President of the United States takes pleasure in presenting the Meritorious Service Medal to Captain Wick R. Harlan, Jr., United States Navy, for services set forth in the following proposed Citation:

For outstanding meritorious service as Commanding Officer, U.S.S. *Vulcan* (AR-5) during the period 18 June 1971 to 27 July 1973. A superb and dynamic leader, Captain HARLAN was responsible for and directly supervised the planning and accomplishment of emergency and routine ship modification and maintenance to more than one hundred fifty ships of the Atlantic Fleet. The effectiveness and dispatch with which these important—often critical—tasks were completed distinguished Captain HARLAN and his ship by establishing new high standards of excellence in fleet maintenance and repair service, unique in the thirty-one year history of the Service Force, Atlantic Fleet. Additionally, he developed and implemented a bold and imaginative plan for operation of FMAG *Vulcan* that maximized productive work and effectiveness—and cost effectiveness—by taking maximum advantage of the existing ship's administrative and management structure. These splendid accomplishments, complemented by his maintenance of his own ship as a superlative first line unit, materially enhanced the readiness of the Atlantic Fleet. His untiring efforts to carry out the duties of his demanding tasks with unfailing good judgment, effectiveness, and total devotion to duty were in keeping with the highest traditions of the United States Naval Service.

For the President.

THE PROBLEM OF THE IMPERIAL RUSSIAN GOVERNMENT DOLLAR BOND DEBT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues the problem of the Imperial Russian Government dollar bond debt. Recovering this debt poses a serious situation which should be resolved. I would like to insert in the Record the following statements about this problem:

STATEMENTS

. . . "The czarist bonds, however, remain an outstanding issue between the U.S. and Soviet Governments. We have raised this problem with the Soviet authorities on a number of occasions, but, I regret to say, have not been successful in securing a resolution. . . . We intend to bring up the matter again as circumstances permit."—Steven Lazarus, Deputy Assistant Secretary and Director, Bureau of East-West Trade, in his Feb. 12, 1973 letter to Hon. Herman E. Talmadge.

. . . "In negotiating the lend lease settlement, we were reluctant to imperil our chances of successfully completing negotiations on claims acknowledged by the Soviets by introducing private claims they do not acknowledge.

The question of whether there are further measures which this government might take that would induce the Soviet Union to consider these private bond claims more seriously than it has in the past is currently under consideration. You may be sure the U. S. Government has no intention of abandoning claims which are valid under international law."—Deputy Under Secretary of the Treasury Jack F. Bennett, letter of March 1, 1973.

"Officials of the State Department report that the Government of the United States is of the view that the dollar bonds bearing 5½% and 6½% interest respectively, issued in 1916 by the Imperial Russian Government, which were floated in the United States by a bankers syndicate, constitute valid obligations of the USSR under international law. The Soviet Government in 1918 repudiated these and other financial obligations incurred by its predecessor governments, and has refused to recognize claims for compensation by United States nationals owning these dollar bonds. The State Department cannot predict when and in what manner such claims against the Soviet Union will be settled. They have assured my office that the Government of the United States is concerned about such matters and will endeavor to obtain an appropriate settlement of all valid claims of United States nationals at the appropriate time."—Senator William B. Saxbe, State of Ohio, letter of October 2, 1973.

"The question of whether there are further measures which this government might take that would induce the Soviet Union to consider these private bond claims more seriously than it has done in the past is currently under consideration. You may be sure the U.S. Government has no intention of abandoning claims which are valid under international law."—George P. Shultz, Secretary of the Treasury, letter of February 16, 1973 to Hon. Barber B. Conable, Jr.

". . . I would like to take this opportunity to assure you that the United States does not recognize the Soviet right to repudiate international obligations assumed by a predecessor government, any more than we recognize the exemption of any government which has nationalized American property from its obligation under internation law to pay just compensation. We have not taken, nor do we contemplate taking, any action which might be construed as a waiver of these principles, which are fundamental to the conduct of our foreign relations."—Marshall Wright, Acting Assistant Secretary for Congressional Relations, letter of February 15, 1973 to Hon. THOMAS E. MORGAN.

SKYLAB 3, THE VIEW FROM SPACE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. FUQUA. Mr. Speaker, man's adventure is space is not ending, it is just beginning.

Despite a lag in interest today, I firmly believe that we are at the point in space exploration where the Wright Brothers were in their development of the airplane. When Skylab 3 was rocketed into space, the Nation no longer reacted with excitement.

What seemed an improbable dream, in the words of John F. Kennedy, had become an accepted fact. There will come another time when America will develop a new dedication to space exploration.

The Washington Star-News of November 17, 1973, printed an editorial entitled "The View from Space." It is well worth reading, and I would like to have it reprinted here.

The article follows:

THE VIEW FROM SPACE

This latter chapter of the real-life spacemen serial gives us, more than ever, a feeling that the old science fiction and Buck Rogers comics have come true in a very solid and settled way. The three voyagers—Carr, Gibson and Pogue—will be out there at Christmastime, and maybe three months in all, spying on a comet the likes of which none of us has ever seen, scanning the earth and heavens for answers to a thousand questions. And the amazing thing, when we think of it, is that people no longer react with any great wonderment at anyone's taking up residence in space for weeks on end.

The takeoff, though, still has the power to transfix us. This last Skylab mission getaway on Friday morning, blessed with bright weather, somehow seemed faster and fierier than the ordinary, and more relieving in its perfection. Some apprehension had been felt because of the rather decrepit condition of the rocket, revealed just a few days earlier—the necessity to replace cracked portions. In fact this was symbolic of the whole space program's declining condition, as the Skylab program nears an end. No more Americans are scheduled for launching until mid-1975, when a joint U.S.-Soviet orbiting expedition will, if all goes well, something to applaud.

Watching the Skylab 3 team's ascent, a great many people no doubt had sober thoughts related to the energy crisis. How many miles could your average compact car travel on the fuel expended by that Saturn blowtorch? The real consequences, we expect, will be just the opposite of those suggested by such a question. Skylab's most appealing function is to map the earth's depleting natural resources, thereby indicating how to make the best uses of them. The last mission demonstrated incredible efficiency in this, which the Skylab 3 crew may well expand upon as it strives for a new record of time spent in space.

For the present, though, interest centers on the approaching comet Kohutek, whose fiery tail may span one-sixth or more of the night sky before year's end. By a stroke of fortunate coincidence, the astronauts will be giving us all an up-front seat for the celestial show of the century. And that alone may be worth the cost of the trip.

THOMAS HAYMAN

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. COLLINS of Texas. Mr. Speaker, this past week in Dallas, we had a special presentation by the Conference of Christians and Jews honoring Tom Hayman. Tom has long been recognized as one of our greatest Southern Baptists. Among the business community he has gained Distinction as one of America's great contractors.

Today, more than anytime in history, we need to have all faiths unite and work together in our domestic and our foreign relations. As a fellow Church member in the Park Cities Baptist Church, I will add an Amen to every nice commendation that was made during the evening of recognizing Tom.

The senior salute to Tom Hayman came from Dr. Luther Holcomb who is Vice Chairman of the Equal Opportunities Commission and came down from Washington for the occasion. Dr. Holcomb, as a Texan has done more in leading the way for better race relations in the South than any man. Dr. Holcomb is widely respected for his successful stimulation of the business and civic community toward closer religious and races associations.

You will be interested in the remarks of Dr. Luther Holcomb during the Salute by the Conference of Christians and Jews to Tom Hayman.

The remarks follow:

TRIBUTE TO THOMAS HAYMAN

The award that Tom is receiving tonight is a well-deserved tribute to a remarkable individual. The brief time we spend tonight presenting this award to him represents over a quarter of a century of his hard work, integrity, and honesty.

He is a leader, a builder, a creative man of rare insights and clear reasoning.

He is known among his peers in the construction industry . . . the architectural community . . . for his skilled workmanship and dedication to excellence. But all of Dallas also characterizes him as an able civic leader, a devoted churchman, a solid citizen, and a superb human being. A magnificently, simple and approachable man; his life fulfills the answer to the Biblical question: Micah 6:9

"... What doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God."

Allow me to read the citation—

For his lifetime devotion to the ideal of the Brotherhood of Man under the Fatherhood of God, and devoted service to his own Baptist Church and its institutions;

For leadership in educational, cultural and civic affairs that benefit his fellow man, and will benefit generations yet unborn;

For leadership in his own profession and the maintenance of high standards of competence in his own company, reflecting credit to the entire Construction Industry;

For these reasons, and many more, we make the awarding of this Brotherhood Citation of the Construction Industry Committee, Dallas Chapter, National Conference of Christians and Jews, a matter of grateful public record at the Committee's fourteenth annual dinner in Dallas, Texas on the twelfth day of November, 1973—Congratulations Tom.

EL CENTRO LEGAL

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. ROYBAL. Mr. Speaker, I would like to take this opportunity to speak about an important undertaking inspired and developed by a handful of dedicated students. Over a year ago some 18 Spanish-speaking students from the Antioch School of Law worked together to build a legal services program for the 50,000 Latino residents living in the Adams-Morgan and Mount Pleasant communities of the District of Columbia. They envisioned a center whose goals would be to reverse the serious lack of legal aid for District of Columbia Latino residents, most of them unable to find adequate legal representation and assistance. Despite financial and institutional obstacles, they have achieved their dream.

I had the honor of meeting these student lawyers and joining them at a reception held recently in the Cannon Caucus Room to announce the opening of El Centro legal, the legal for their legal services effort. I am deeply impressed by this endeavor and the importance it holds for legal education. El Centro Legal forms an essential part of the Antioch School of Laws aim to link the educational process with community service, an approach that I believe is essential to making our institutions responsive to local community needs and demands. This "clinical" approach also benefits the student who can test the knowledge he has gained in the classroom—and arrive at a deeper understanding of community problems.

The founders of El Centro Legal firmly believe that their program will accomplish these goals and provide competent legal services to residents who cannot afford to be properly represented. These residents many of them newly arrived immigrants, face serious problems of adjustment, language difficulties and substantial unfamiliarity with U.S. laws. El Centro Legal will offer free assistance to Spanish-speaking clients in various areas, including immigration, landlord-tenant relations, employment discrimination, consumer law, family law, and traffic court. The program will also work closely together with other District of Columbia legal aid groups to prevent duplication of effort.

Mr. Speaker, I cannot overemphasize the importance of this program and the vital meaning it has for our educational and legal system. I congratulate the dedication of these Latino students and wish them success in achieving their vision.

CORRECTIONS AND NEW APPROACHES

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. RAILSBACK. Mr. Speaker, we have a crisis in our corrections system. Recidivism rates mock the traditional methods of crime prevention and incarceration. As a member of the House Judiciary Committee, I have had the opportunity to visit many prisons, and two recommendations kept being mentioned as imperative by those expert in the field of corrections.

First. Reform our present parole system, and

Second. Provide rehabilitation in terms of the employability of ex-offenders.

As a result, I cosponsored legislation to overhaul our present system by establishing an independent and regionalized Federal Board of Parole and by providing for more equitable parole procedures, and legislation to authorize the employment and training of criminal offenders.

Fortunately, two developments have recently occurred which are of encouragement to those of us who have been trying to reverse the crisis in our corrections system.

First, the U.S. Parole Board has spelled out a national parole policy whereby an inmate will know the range of time he must serve. Although these will be guidelines, they will nevertheless assist in alleviating a major frustration of Federal prisoners.

Also of encouragement is a new approach taken by courts, government agencies, and State legislatures in insisting that employers disregard criminal records unless they are distinctly relevant to the position. Society does have a right to be protected from those who would violate its laws. However, it is in the best interests of society to successfully rehabilitate such individuals so that society does not continue to bear the burden of supporting them indefinitely.

Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following articles which will explain in more detail these new initiatives:

[From the Washington Post, Nov. 20, 1973]

U.S. POLICY ON PAROLES IS ISSUED

(By William Claiborne)

A national parole policy, spelling out for the first time to the inmates of 34 federal prisons when they can expect consideration for release after serving time for various offenses, was issued yesterday by the U.S. Parole Board.

The new policy, according to leaders of the prison reform movement, is a significant step toward alleviating a major frustration of federal prisoners—not knowing the range of time that must be served under the parole board's heretofore secret guidelines.

The seemingly arbitrary nature of granting parole consideration has contributed to much of the turmoil in the nation's prisons, according to some penal reformers.

The guidelines published yesterday in the Federal Register list the lengths of "customary time" to be served, include pre-sentence jail time, for offenses ranging from immigration law violations to extortion and armed robbery.

The most serious crimes—murder, kidnaping, espionage, aircraft hijacking and aggravated assault resulting in serious injury—are not listed because of the broad range of severity possible in each category, according to the parole board.

Maurice H. Sigler, chairman of the U.S. Parole Board, stressed that the ranges of recommended prison terms are "merely guidelines" and are not legally binding. They are based on good institutional behavior, and can be raised or lowered in individual cases.

Nevertheless, Sigler called the guidelines a "major development in parole that has never been done before." He said the system will help "take some of the prejudices out" of the system.

The customary time to be served under the guidelines in most offense categories is generally lower than the U.S. Bureau of Prisons' statistics for average time served for the same category. Parole board officials attributed the deviation to variables, such as multiple offenses and sentence conditions specified by the courts.

For an adult offender with good prison behavior and "very good parole prognosis," the guidelines call for parole consideration of a convicted robber after he has served 26 to 36 months. According to the Bureau of Prisons' 1972 statistics, the average time served for robbery was 53.7 months.

For burglary, the guidelines call for a parole decision between 16 and 20 months, while the average time served in 1972 was 33.7 months.

Sale of narcotics by an adult, under the Parole Board's guidelines, should result in 26 to 36 months before parole consideration. In 1972 the average time actually served was 33.3 months.

Some other "customary total times" listed by the Parole Board for adults with very good parole prognosis:

Theft (less than $1,000), six to 10 months; possession of marijuana, eight to 10 months; passing counterfeit money, 12 to 16 months; embezzlement of less than $20,000, 12 to 16 months; theft, forgery or fraud involving $20,000 to $100,000, 16 to 20 months, and extortion, 26 to 36 months.

Alvin Bronstein, director of the American Civil Liberties Union's national prison project, called the board's disclosure of the guidelines "an important development, with the caveat that there is always a difference between the written word and what actually happens."

He said the release of the guidelines appeared to stem from a ruling in U.S. District Court here last July 25, in which Judge June L. Green held that the Parole Board is a rule-making agency and could be compelled to publish its decisions in the Federal Register.

Her decision followed a suit brought by the ACLU on behalf of three federal prisoners.

However, Sigler said yesterday the board is appealing that ruling, and that publication of the guidelines was not in acquiescence to the District Court.

Sigler said the parole policy is part of a reorganization plan begun last August which, when completed, will divide the parole board into five regions, provide speedier decision on parole questions and prove more "satisfying" to prison inmates.

The guidelines were first released, on an experimental basis, in the board's northeast region, which includes institutions at Petersburg, Va., Lewisburg, Pa., Danbury, Conn., Alderson W. Va. and Morgantown, W. Va.

Sigler said inmates of those institutions had already been advised of the guidelines, and that the board planned to follow suit in other federal prisons across the country.

The guidelines also provide minimum and maximum customary-time recommendations for offenses by youths and persons convicted under the government's rehabilitation act for narcotics users.

[From the Wall Street Journal, Nov. 13, 1973]

ERASING THE PAST: EFFORT GROWS TO ASSIST JOB HUNTERS HAUNTED BY CRIMINAL RECORDS—SOME STATES BEGIN INSISTING THAT EMPLOYERS CONSIDER ONLY RELEVANT INFORMATION; WHY ONE MAN SCRUBBED POTS

(By Richard A. Shaffer)

A Vietnam veteran in his early 20s, long out of work, applied for a job a few months ago as a letter carrier with the New York post office. He scored high on the qualifying test. Nevertheless he was turned down because he had once been arrested, for possession of marijuana. He hadn't been convicted of the crime.

In Georgia last year, Unice Harbor, an experienced driver, was denied a job by Bowman Transportation Co., a Decatur trucking firm, because he had once been convicted of a felony: More than 10 years earlier he had pleaded guilty of robbery and been put on probation for a year.

Such frustrating experiences aren't news to anyone ever convicted of a crime or even charged with one. Law-enforcement records are readily available from local authorities and are widely used by employers. Millions of otherwise qualified workers find themselves last in line for decent jobs—or not in line at all.

As a result of campaigns against this sort of treatment, most states have passed laws sealing or annulling the records of some categories of criminals, such as first offenders who were granted probation. But because the records aren't actually destroyed, employers have routinely uncovered them anyway.

A NEW APPROACH

Now a new approach is emerging that promises to be more effective. A number of courts, state legislatures and government agencies are insisting that employers disregard criminal records unless they are clearly relevant to the job. While no one is advocating that banks be required to hire convicted embezzlers as tellers, plenty of people are advocating that a former drug addict, say, shouldn't be denied a job as a welder.

The new approach stems partly from a desire to improve job opportunities for members of minority groups. When Litton Systems Inc., a subsidiary of Litton Industries, refused to hire a black sheet-metal mechanic because he had a record of 14 arrests, a federal court ruled that to disqualify job applicants on the basis of arrest records was racially discriminatory because blacks were more commonly arrested than whites. This particular job applicant had never been convicted of any criminal offense.

In the wake of the Litton case—and of similar decisions by the federal Equal Employment Opportunity Commission—New York's Commission on Human Rights and the State of Illinois have recently declared it an unfair labor practice to turn down a job applicant merely because of an arrest record, unless state law makes a specific exception.

OPENING DOORS

Some observers believe that the new leniency will eventually open many doors that now are closed to the rehabilitated and the unjustly accused.

The Federal Bureau of Investigation says that at least two million of the 8.7 million Americans arrested annually for nontraffic offenses are never convicted. Legally they are presumed innocent, but most employers spurn them. The job-seeker with a mere arrest record is excluded by nearly a fifth of the several hundred state and local government agencies surveyed last year by Georgetown University's Institute of Criminal Law and Procedure. Such job-seekers are even more unwelcome in private industry, according to a 1962 study by sociologists at Yale University Law School who believe that the study is still valid.

Even bleaker are the job prospects of those actually convicted. For them, government agencies are among the worst places to go job hunting. Over half the states bar public employment to anyone with a criminal record, and while the federal government encourages others to hire former criminals, it often hesitates to do so itself. Few private companies ban such hiring, but experts believe that a widespread reluctance to hire ex-convicts has the same result as a ban.

OTHER BARRIERS

In addition to these barriers, myriad licensing requirements in various states bar ex-convicts from more than 350 different occupations ranging from fortune teller, barber and junk dealer to electrician, mortician and bartender, according to a study published this year by the American Bar Association's National Clearinghouse on Offender Employment Restrictions. (In the last two years, nine states have barred denial of such licenses solely because of a criminal record.)

These barriers undoubtedly contribute to the 15% unemployment rate among ex-convicts. It is largely because of this trouble finding jobs, penologists say, that one out of three ex-convicts soon returns to crime.

Probably few understand these frustrations better than Melvin Rivers, a director of the Fortune Society, an organization of ex-convicts. As a teen-ager, Mr. Rivers was convicted of assault and robbery. "When I got out, the one thing I want to do was go straight, get a job and settle down," he recalls. But that was far from easy to do.

Mr. Rivers found construction work closed off because, with a record, he couldn't get into the union. He could no longer sing with a group as he used to do because he couldn't get a cabaret license to sing anywhere that alcoholic beverages were sold. Most ironically, he couldn't even get a license to practice the one trade he had learned in prison, barbering.

At last, by lying about his past, he got a job scrubbing pots in a hospital. Five weeks later the truth was discovered. He was fired.

Mr. Rivers might have an easier time of it today because of the softening attitude. The softening, says E. Preston Sharp, general secretary of the American Correctional Society, is "no panacea, but it's an important step in the right direction."

BUMPER STICKER: "50 TODAY—FUEL TOMORROW!"

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. WHALEN. Mr. Speaker, following the President's remarks on the energy crisis on November 8, the Dayton Automobile Club has responded with great speed and imagination. The club has made a commitment to develop a strong and positive program to educate motorists toward more efficient fuel consumption, a commitment which I fully support.

According to Mr. Gene Satchell, general manager, the initial action of the Dayton AAA was to adopt a slogan, "50 Today—Fuel Tomorrow," which caught on immediately through its use on bumper stickers. Within the short span of 2½ days after the President's message, 5,000 of the bumper stickers were printed.

While the stickers were being produced, the Dayton AAA contacted the other major AAA offices in Ohio, and more than 200,000 stickers were sold for distribution throughout Ohio. Since then, the enthusiasm and acceptance of the idea have continued to grow, as evidenced by the fact that the Dayton AAA continues to be swamped by requests for stickers from individuals and groups throughout the Nation.

The bumper stickers have several functions. First, when a motorist accepts and applies the sticker to his car, he essentially endorses the idea of driving 50 miles an hour. Second, the appearance of the sticker publicizes the slogan to thousands of motorists. Third, it warns the driver in the rear that the car in front will be driving at reduced speeds.

All Americans have been asked to help alleviate the fuel shortage, and certainly, reducing auto speeds to 50 miles an hour will be one big step in this direction. I would like to commend Mr. Satchell and the Dayton Automobile Club for their prompt and effective actions in encouraging motorists to slow down and save on fuel consumption. It provides a good example of the effectiveness that such organizations can have in promoting this national effort. Further, they have been effective in mobilizing support from individual motorists who must voluntarily cooperate in order to minimize the impact of the fuel shortage affecting us. I fully endorse this program which the Dayton Automobile Club has begun.

CHRISTMAS WILL BE LONELY TIME FOR MIA FAMILIES

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. FUQUA. Mr. Speaker, the Christmas season is fast approaching.

For over 1,000 American families, it will be a continuation of a tragedy. Many children will not know the fate of their fathers, many wives will only know that their loved one is missing in action.

This Nation should not forget those families.

The more than 1,000 American servicemen listed as missing in action in Southeast Asia is a matter which should concern all citizens of these United States. At this season of the year, I believe our Government should redouble its efforts to determine the fate of these men who served their Nation. To spare any possible effort is to break faith with these men and their families. The lonely feeling of not knowing is perhaps the most terrible fate of all.

My friend, the very able mayor of Lake City, Fla., the Honorable James R. Tison, has just sent me a telegram expressing his concern at the plight of our missing in action. I would like to quote him as an example of the concern which is being felt by so many Americans who share the genuine concern of Mayor Tison.

He said:

> The citizens of Lake City, Florida, are deeply concerned that more than 1,200 Americans are still missing and have not been accounted for in the aftermath of the Vietnam conflict. Please use your good offices to urge President Nixon and our Representatives and Senators in Washington to take whatever steps are necessary to find a solution to this problem without delay. Any missing men who are still alive should be speedily repatriated. The bodies of missing men who have died should be speedily exhumed and returned to their families and us. Teams seeking to uncover the fate of all other missing men should be given immediate authority to search areas where the men were last known to be alive.

To that I add my sincere support.

The finest thing this Nation could do at this season of the year is to redouble its efforts to find the fate of our missing in action and bring some peace of mind to their loved ones.

So many of them gave all they had to give. It seems to me that this Nation can do this for their families.

BLACKS WERE LOSERS IN ELECTION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. STOKES. Mr. Speaker, the Cleveland Press of November 9 published a letter to the editor by Ms. Martha L. Smith. It is an eloquent analysis of the significance of the recent city elections for black people.

Ms. Smith evidently has eyes as keen as her heart. What she says about Cleveland is also true for black and other minority people throughout the cities of America. And the pity and sorrow she expresses bear an implicit warning to politicians of all political parties.

To my colleagues in the House I say: Listen—and what do you hear?

BLACKS WERE LOSERS IN ELECTION

(By Martha L. Smith)

Perk won, Pinkney won, Forbes won. Since the latter two are non-white, it is rather ironic that it can be unconditionally stated that the losers in this race are the black people of Greater Cleveland.

Perhaps I am naive. Perhaps it is too much to expect that the winner in a mayoral, councilmanic or school board election should do more than profit personally from his victory. A strong Democratic Party is nothing new to Cleveland and that a few black politicians have wielded a certain amount of power and lined their own pockets is nothing new either.

Whether the party was strong or not, whether there have been strong Democratic or Republican black candidates, one situation has remained constant. The black population of Cleveland has been unemployed or underemployed, poorly housed, undernourished and lacked proper health and welfare benefits. Black children of Cleveland have attended overcrowded schools, with inadequate facilities. Many graduates of black high schools cannot read and write well enough to complete job applications; reading scores for children in inner city schools compare unfavorably with the state averages.

George Forbes and Arnold Pinkney's reelection have not affected the fate of black people in Cleveland. A few of their personal favorites, henchmen and sycophants will probably profit, but not the black masses.

The 21st District Caucus, representing hope for the disenfranchised whatever their party affiliation, falters. Maybe one day the black voters will realize that partisan politics will benefit only a few. One day we will learn to support the party or politician that offers us the best deal.

Forbes and Pinkney, like me, are black. I wish I could feel warm and proud and joyful. But I feel cold, pity for the black children of Cleveland whose sole black representative parrots the will of Paul Briggs, who has demonstrated singular unconcern and arrogant evasion regarding their education.

I feel compassion for the dedicated parents and citizens of many wards who worked long and hard in the only way they knew to elect those they felt would represent them in the truest sense of the word. They were powerless against the machine—and humanity lost another round.

Let those who can, rejoice.

MORAL SELL-OUT TO PORTUGAL?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. RANGEL. Mr. Speaker, there are disturbing rumors afloat that the United States will more strongly back the repressive Portuguese Government in its suppression of the liberation movements in its African colonies.

Portugal has refused to grant independence to its African colonies. Instead, it bleeds the colonies economically, stifles the colonies politically and denies the right of the black majorities there to freedom. The U.S. Government already sanctions the export of deadly herbicides and pesticides to Portugal for use in the colonies. This in itself is moral complicity by our Government in the slaughter and starvation of African liberation forces and innocent farmers. The sale of these chemicals would be outlawed by legislation which I have introduced.

Now, however, the Portuguese Government is asking even more. It is asking the United States to help block the admission of Guinea-Bissau, a West African colony, into the United Nations. It is asking for military equipment to be used against the liberation forces in Africa. It is asking the United States to abandon our 12-year-old policy of prohibiting the use of arms supplied to Portugal in its capacity as a NATO ally against the guerilla movements in its African colonies.

The United States already suffers from a poor reputation in international affairs. Other nations are fully aware of our aggression in Southeast Asia and our providing economic and military aid to dictatorships around the world. The illegality of our violation of international law through the purchasing of Rhodesian chrome, in defiance of the United Nations, certainly has not gone unnoticed. If the United States now aligns itself with the Portuguese Government against the just wishes of the African colonies for independence, our stock in world opinion will plummet even further.

URBAN EDUCATION: THE FISCAL CRISIS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mrs. CHISHOLM. Mr. Speaker, during the debate on title I of the Elementary and Secondary Education Amendments by the Committee on Education and Labor, and during discussion of the treatment of the title I formula in the Labor HEW appropriations conference report, there has been much talk about the fact that the most urbanized States receive the highest proportion of title I funds, and that the large city school districts within those States get proportionately more funds than the smaller school districts in the same State. This discussion has been characterized by a great deal of grumbling and complaint about the "inequity" of this state of affairs.

These discussions have made me think about the larger picture—the desperate situation most big cities continuously face in financing public education. I would like to shed some light on this problem by explaining what the situation actually is in regard to the needs of cities for Federal aid for education.

In the largest cities of the United States exists a crisis in education finance that is unmatched in either suburb or rural area. It is true that in most communities school boards are faced with increased demands for educational services, higher costs, and higher salaries on one hand, while at the same time taxpayers are refusing additional support for their schools, Federal aid is not increasing and State governments have not come up with any financial solutions. While these problems extend across city boundaries into suburbs and rural areas as well, no areas are as threatened as are the large cities.

Urban fiscal problems are overwhelming for a number of reasons. The major effect seems to have come from a gradual shift in population that has left cities densely inhabited by a large proportion of low-income or unemployed minority group residents who are in greater need of special educational and other services than any other group of people in this country. It is as though cities have said "give me your tired, your poor, your huddled masses yearning to breathe free" and now that they have come and stayed and have borne children, the city can no longer adequately support them or educate them, and they are certainly not breathing free.

There is an additional problem that large cities face; the desertion of economic activities that, along with higher income residents, formerly provided a tax base that helped to support the public schools. As a result, the primary support for urban education has become the property tax.

However, in the excellent book, "Federal Aid to Education" by Joel Berke and Michael Kirst, Berke points out that:

> It is the property tax base that is tapped for virtually all locally raised revenue for education. The traditionally higher city property tax base has been threatened in recent decades by a very slow rate of growth. In the northeast, the most recent studies show that suburban property values climbed an average of three times as much as did those of the central cities; in the midwest, suburban property appreciation was more than six times that in the core cities. For all sections of the nation, suburban property growth rate was more than two and one-half times that of the central cities.
>
> Growth in educational expenditures has far outstripped this slow rate of growth in the urban property tax base. Professors James, Kelly, and Garms documented this phenomenon in fourteen large cities between 1930 and 1960. They found that per pupil educational expenditures rose three times as fast as property values.

Thus, the situation, as you can clearly see, is grave.

But wait, there is even more. At the same time that the tax base of support for the cities' services is being eroded, the cities' residents are in need of and demanding greater expenditures for health services, welfare, sanitation, transportation, public housing and all the other services required by a high-cost urban population. Thus, a smaller proportion of the city budget is available for public education than is available for educating the children in wealthier communities.

And, to quote Berke once again,

> Cities raise about 30 percent less per capita for education from local taxes. On the other hand, central city residents tax themselves considerably more heavily than is the case with their suburban counterparts; city per capita tax effort (taxes as a percent of income) is over 40 percent higher than in surrounding areas. In short, core cities spend less per pupil than do other parts of metropolitan areas while taxing themselves more heavily.

There are two more very important factors that contribute substantially to urban fiscal problems in providing educational services. There are, first, the higher cost of city education budget items, and second, the socio-eonomic characteristics of the urban school population. This combination results in less education per dollar in the city than in the suburb or rural area.

We all know that such high cost items as teachers salaries, for example, keep the urban education budget somewhere close to the sky. Urban teachers command high pay not only because of aggressive union tactics, but also because they tend to have more seniority than teachers in other places. Administrative and other education personnel in cities command higher salaries as well.

Urban children are more often poor,

handicapped, nonwhite, foreign-born, non-English speaking, and from families with fewer average years of schooling than children living elsewhere. Concentrated among city children are those who have traditionally been victims of poverty and prejudice. Benign neglect has become malignant disregard. Education for these children necessarily must have a higher price tag. It must include compensatory assistance in reading and math; English as a second language; special classes for the emotionally and physically handicapped; summer recreation programs; summer academic programs; vocational education programs; adult education; supplementary nutritional programs; preschool classes; and special training of all kinds for teachers.

To summarize the fiscal context of urban education Joel Berke says:

> Though raising adequate revenues for education is a serious problem in all areas of the nation, we have found that the fiscal crisis is most threatening in the larger cities of the nation. The trend in metropolitan development has left them with a less affluent population and a resource base that is failing to grow at a rate sufficient to meet increasing needs. Because large urban areas have higher public service needs, a much lower proportion of their expenditures can be devoted to education than is true in suburban areas. The result is, of course, proportionately lower educational expenditures in cities than in their environs despite higher tax efforts in the cities. Unfortunately these problems are compounded by the inherently more costly nature of urban education; expenses are higher in big cities and pupil populations there include more children in need of expensive supplementary educational techniques. State regulations and state aid rather than compensating for these urban disadvantages often act to exacerbate them.

I hope this brief description of one aspect of the plight of urban education—the fiscal aspect—will help members of the Education and Labor Committee and the Congress as a whole to understand why those of us whose districts contain urban areas like those described above are pushing for a title I formula that will not take money for education away from our children.

SUPPORT OF H.R. 11238

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. FRENZEL. Mr. Speaker, I strongly support H.R. 11238 passed yesterday. I commend the actions of Representative GUDE and the entire District Committee in bringing this bill to the floor.

The incorporation of an adoption subsidy into our District's human services programs is a very sound addition. It provides a family with limited means, but much love and human kindness, the opportunity to adopt permanently a child who may previously have been a ward of the State. It is our duty and privilege to encourage this kind of behavior whenever possible.

However, Mr. Speaker, I am hopeful that we will not stop here in our efforts to improve the adoption system. Problems of a similar nature exist in every State in the Union. I hope that the Members of this body will encourage the efforts of their own areas to deal with this problem.

I, along with other Members of this body, have long been concerned with the rights and responsibilities of the adopted child in various parts of this country. In many States it is extremely difficult and frequently illegal for the adoptee, regardless of age or legal status, to obtain access to their personal or medical histories. This situation should be improved. In instances where it would be useful if not imperative to locate that information for either physical or psychological medical purposes, a coordination system must be initiated. Research into the proper methods should be encouraged at the earliest possible point.

In short, I am urging that this body thoroughly examine and evaluate the statutes governing adoption in general and the legal relationships inherent in our system.

A DECISION FOR THE DECADE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. SYMMS. Mr. Speaker, many people are proposing that we ration gasoline in an effort to equitably distribute our short supplies of fuel. However, I wonder if the advocates of rationing really understand what they are asking for.

At least the Wall Street Journal editors seem to understand that a return to a free market is the only real solution to the energy shortage. A recent editorial pointed out the pitfalls of rationing; I would like to insert a copy of the article in the RECORD for the benefit of my colleagues in the Congress:

A DECISION FOR THE DECADE

> The most important thing for Washington policymakers to remember as they debate immediate steps to deal with the energy shortages is that the problem is not a temporary one. The course the government chooses to deal with the current "emergency" will more than likely lock the nation into that solution for at least the remainder of the decade.
>
> We wonder if Senator Mansfield, Senator Proxmire, Chase Manhattan's David Rockefeller and all the others urging rationing have fully considered that prospect. The current energy problem, as Lindley Clark notes today, is not a temporary wartime emergency. Since no energy surplus is in sight this side of the development of nuclear fusion, there will be no time at which the end of rationing will be politically logical. If politicians will not let the price of fuel go up now, why should we expect them to be braver later on?
>
> So if temporary rationing is imposed, it will be succeeded by Phase 2 rationing and Phase 3 rationing and on and on through the decade. But as we have so painfully learned with price controls, no group of bureaucrats is wise enough to take the place of market mechanisms in curbing wasteful use of resources with minimum economic disruption.
>
> Relatively mild mandatory allocation plans are already in place for fuel oil, and are already providing a taste of the economic effects of rationing. Allocations, naturally, are based on last year's usage. This means coal mines can't get the extra diesel fuel they need to boost production to help out with the energy crisis. If the government now expands this kind of economic decision to other products, and extends it through a decade, the effect will be to strangle the economy.
>
> Treasury Secretary Shultz and the President's economic advisers realize rationing would have calamitous results, but their suggestions of a federal gasoline surtax to cut into demand is only reasonable by comparison. While such a tax would not damage the economy by distorting resource allocation, it would also be more than temporary. Once supply and demand equilibrates around the surtax, removal of the tax at some future date would cause price disruptions the politicians would not want to face.
>
> While not as bad as rationing, the surtax scheme would also push the nation further away from self-sufficiency in energy. Shale oil, for example, might become economically feasible if the price of crude oil reaches $8.50 a barrel, but only if industry can capture that $8.50. If the equivalent price of crude is pushed to that level with a surtax, the government gets the revenues and shale will remain unprofitable and thus undeveloped. A 10-cent per gallon surtax would roughly mean the price of crude would have to go to $12.50 a barrel before shale oil became an economically attractive energy source.
>
> Even in the very short run, either rationing or surtax would discourage an increase in domestic crude production. There is not much excess production capacity in the nation, but there is some that could be realized through secondary recovery of oil pools. These are not being tapped because it's not profitable to do so at government-controlled crude prices. A surtax would not change this picture for the better and conceivably could force some operators out of production; if the surtax is set too high, it would force net revenues from crude production downward.
>
> The surest way to cut demand and at the same time maximize production is to free the price of oil and oil products. Both the White House and Congress know this will work, we're sure. But they are afraid that supply will meet demand at fantastically high prices, that the oil companies will reap windfall profits, and the public will be outraged.
>
> The best guesses on elasticity of demand for petroleum products suggest that a 3% increase in price will result in a 1% drop in sales. In other words, to cut gasoline consumption 15% without rationing, the price would have to increase to something like 57 cents a gallon. The increase might be more for a short period as the market adjusts, and perhaps special measures could be taken to ease the burden on the car-owning poor. (Why not make food stamps redeemable in filling stations?) But the gasoline price could go far above 57 cents without reaching the levels Europeans have tolerated for many years. Compared with rationing, it's a bargain.
>
> The rationing advocates, who also include Sen. Henry Jackson, are only deceiving themselves if they genuinely believe such a program will both minimize U.S. dependence on Arab oil and also protect poor Americans by guaranteeing them a fair share of low-price gasoline. The economic destructiveness of rationing would simply create a lot more poor people, and public opinion would form around the idea of peace at any price with the sheiks. The rationing advocates also delude themselves if they act out of hazy memories of how well the World War II experience with coupons worked. There were

roughly 32 million motor vehicles in the United States during World War II and a black market was rampant then. There are now 118 million vehicles, and they are used in ways much more central to both daily life and economic growth.

Congress at least is not mandating rationing, leaving that decision to the President. Mr. Nixon already has it within his power to decontrol prices in the petroleum industry, although Congress persists in denying him that authority over natural gas. The decision Mr. Nixon makes will be among the most important of his presidency. It will mean a free market or ration coupons into the 1980s.

AFRICA AND THE BYRD AMENDMENT

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. FRASER. Mr. Speaker, two House Foreign Affairs Committee members have recently issued their "Report of Special Study Mission to East and West Africa." The report of the gentleman from New York (Mr. BINGHAM) and the gentleman from Pennsylvania (Mr. BIESTER) deserves the attention of Members, and I commend it to them. I was especially impressed by the introductory remarks of our colleagues. They, as have others involved in Africa affairs, stress the negative effect of the Rhodesian chrome amendment, the so-called Byrd amendment.

The entire introduction to the report follows:

INTRODUCTION

Africa is an enormous continent of incredible diversity. Few generalizations about it are possible. Each country is different from every other.

Therefore the bulk of this report will consist of our comments on the situation in individual countries. In the case of Liberia, South Africa, Lesotho, and Kenya, these comments will represent a synthesis of our joint views. The sections on Tanzania and Somalia represent the individual comments of Hon. Jonathan Bingham, and the section on Nigeria those of Hon. Edward Biester.

There is one matter affecting our relations with all of Africa which deserves comment at this point. We can report most emphatically that the action of the U.S. Congress in directing the President to permit importation of chrome from Rhodesia has gravely damaged the U.S. image in most of Africa. By this action the United States is made to appear as a nation that deliberately violates its international legal obligations and even more importantly, as a nation which supports a white minority regime universally regarded as illegal against the interest of the approximately five million blacks in Rhodesia and against the profound sensibilities of black Africans throughout the continent. This conclusion was based on numerous conversations with Americans and Africans in all the countries we visited, including many South African whites.

In addition to interfering with the pursuit of U.S. objectives in Africa, the effect of the Byrd amendment has been to weaken seriously the ability of the United States to persuade other nations to live up to their international obligations.

The damage to U.S. interests from the adoption of the Byrd amendment has been accentuated by the fact that all the arguments made for the adoption of the Byrd amendment have been proven false.

Repeal of this pernicious legislative action would open new opportunities for the improvement of U.S.-African relationships with a variety of beneficial consequences.

The order of the sections of this report which follow is based upon the chronology of our visits and has no other significance.

The Congress has before it legislation to negate the Rhodesian chrome amendment. This legislation, if passed, would mean that the United States would again be in compliance with the United Nations Security Council sanctions against Southern Rhodesia.

VETERANS EDUCATION PROJECT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. KEMP. Mr. Speaker, in these post-Vietnam days, it is important to recognize the contributions being made by various groups and individuals in providing counseling, training, and special services to the Vietnam-era veteran. The American Association of Community and Junior Colleges in conjunction with the U.S. Office of Education has made significant contribution in this area with their veterans education project. Under the capable guidance of Mr. William E. Lawson, the veterans education project is well on its way toward providing a national clearinghouse and assistance program for colleges in all parts of the country who are working with veterans, as well as providing special services for educationally and economically disadvantaged veterans.

Bill Lawson and the veterans education project has tried, with much success, to make the concept of one-stop centers for veterans' services a reality for all veterans.

I include a brief synopsis of the veterans education project for the perusal of my colleagues:

VETERANS EDUCATION PROJECT OF THE AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES AND THE U.S. OFFICE OF EDUCATION

GOALS OF THE PROJECT

The Veterans Education Project (VEP) was established to provide a national clearinghouse and assistance program for colleges in all parts of the country who are working with veterans, as well as to provide special services for educationally and economically disadvantaged veterans.

The principal components of the program are:

(1) a series of regional conferences around the country held early in the project and again after six months;

(2) the establishment of an informational clearinghouse serving college personnel, and other postsecondary organizations and agencies throughout the year.

These goals are facilitated by working through the American Association of Community and Junior Colleges (AACJC) which enrolls over 1,100 2-year community and junior colleges (2,700,000 students) throughout the country. The Project also maintains a close working relationship with other national organizations in such fields as higher education, vocational education, personnel and guidance work, admissions and testing, as well as with veterans organizations, of which one is the National Association of Concerned Veterans (NACV).

The goals would be accomplished by coordinating and working as directly as possible with:

(1) the new veterans education program at colleges throughout the U.S.—complementing that program and, at the same time, serving many of the hundreds of other colleges throughout the U.S. which are working with veterans:

(2) the work of the new veterans education regional coordinators who are appointed in the ten regional offices of the United States Office of Education (USOE) whose duty will be to assist colleges, military bases and other institutions and agencies in each region to develop better programs for veterans;

(3) the work of other USOE personnel in the regional offices, including staffs of the Talent Search, Upward Bound, Special Services for the Disadvantaged and student financial aid personnel who will be working with colleges on problems of veterans education;

(4) college directors of veterans programs to provide information to bear on programs and needs of veterans in each region;

(5) other personnel who are working with veterans and servicemen providing them with veterans information.

DEVELOPMENT

Since the project originated on January 2, 1973, many of the proposed goals have been accomplished:

REGIONAL CONFERENCES

Under the directorship of Patrick McLaughlin, the initial phase of the project was completed on March 8 and 9, 1973, in Atlanta, the last of five regional conferences. The other cities hosting the conferences were New York, Chicago, Dallas, and San Francisco. The second group of conferences were held between the dates of September 20 and November 9, 1973. This second series of two-day conferences were held in Albuquerque, Atlanta, Chicago, Philadelphia and San Francisco. Both series utilized a multitude of excellent resource people assembled from throughout the country to share their expertise with the educational representatives. In addition, many Vietnam veterans, active at the local, state and national levels, played major roles in each of the regional conferences.

A total of 1,200 representatives, mainly college administrators from various offices of guidance, personnel and student affairs, from over 900 institutions of higher education and associations active in veterans' affairs attended the first series of conferences. However, after the VCOI amendment, veterans' offices were established and therefore, the attendees at the second series of conferences were mainly veterans' counselors, advisors, veterans' affairs officers and coordinators.

These conferences provided information on current problems confronting young veterans and presented models stressing particular approaches to deal with those problems. Resource specialists made presentations and conducted seminars on everything from federal legislation to the role of a campus veterans' association. Seminars also focused on the needs of disabled, educationally disadvantaged and minority veterans along with the problems of rural and statewide outreach and other than honorable discharges. As already mentioned, there were presentations by keynote speakers. Dr. James Bowman, the Director of Financial Aid Studies and Programs at Princeton, New Jersey who was delegated as the project director for the Educational Testing Service (ETS) Study, spoke on the special study done on *Educational Assistance to Vets: A Comparative*

Study of Three G.I. Bills. This was one aspect whereby a completed study mandated by special funds from Congress via the Veterans Administration, was taken to the community. Another presentation was given by Jerry Miller, Director of the Commission on Accreditation of Service Experience (CASE).

Other prominent speakers were Dr. Walter Gale, Director of the Veterans Program Unit of the USOE; M. Robert Ruffner, Secretary of the President's Committee on Employment of the Handicapped: Committee on Disabled Veterans; Mr. James Mayer, President of NACV; Mr. Guy McMichael, General Counsel, Senate Veterans Affairs Committee.

All seminars and speakers at the conferences were structured to serve both those attendees who knew absolutely nothing about the Vietnam era veterans and others who were extremely knowledgeable about most aspects. Variety and scheduling provided such adaptability for the attendees. According to the comments from conference participants, these conferences were the most extensive and productive held to date on higher education and the Vietnam era veteran.

INFORMATION CLEARINGHOUSE

The second part of the project's program was directed toward the establishment and operation of an informational clearinghouse. The most important aspect of this clearinghouse is that it provided for thousands of institutions, agencies, and individuals an accessible bureau to provide them with various publications, periodicals, and resources of information prepared by groups such as the President's Committee on Disabled Veterans, National Association of Concerned Veterans, The American Veterans Committee, Veterans Education and Training Services (of the National League of Cities/Council of Mayors), the National Council of Churches, National Jobs for Veterans Committee, USOE and others. This information is sent to those seeking knowledge of various kinds of veterans' programs and services throughout the year. The project has also developed *Operation Vet*, an action publication for higher education. The veterans staff, along with selected experts from around the nation have also authored a handbook for programs, staffing and assistance, called *Veterans on Campus*. The cost of this vital resource book was absorbed by the VEP as part of their clearinghouse concept.

HAROLD L. CRANE HONORED BY NASSAU COUNTY PRESS ASSOCIATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. LENT. Mr. Speaker, on October 26 one of my constituents, Mr. Harold L. Crane, received the "Good Neighbor" award from the Nassau County Press Association of Long Island. Mr. Crane has a record of distinguished community service, and I am pleased to include a summary of his accomplishments in the Record at this point:

Lions Club of Wantagh,
Wantagh, N.Y.

The Nassau County Press Association of Long Island—New York honored Harold L. Crane, a Certified Residential Broker, of 2950 Merrick Road, Wantagh, Long Island with a dinner October 26th, 1973 at the Lido Golf Club, Lido Beach, Long Island, New York. His Good Neighbor award took into account the towns of Merrick, Bellmore, Wantagh and Seaford, Long Island where he has been most active all of his life.

His past accomplishments include being a Past Commander of the Wantagh American Legion Post 1273 in 1951–2. Past President of South Shore Chapter of the Long Island Real Estate Board 1954–5, Past President of the Lions Clubs 20 K 2 Wantagh for 1957–8 and again 1972–3. Chairman of Cerebral Palsy Association 1969. Director of Wantagh's Chamber of Commerce, 1947–8–9 and 50. Chairman of the Bishop's Special Gifts Committee for St. William the Abbot R. C. Parish 1972 and Co-Chairman 1973. Executive of Boy Scout Troop 95 1951–5 Wantagh American Legion Sponsored. Executive of the Boy Scout Troop at St. William R. C. Church 1956–61. Realtor Crane has been Vice President of the National Association of Real Estate Brokers and a Governor of this Institute for five years 1967–72. Now a Council Member.

THE UGLY AMERICAN IN INDIA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. ROUSSELOT. Mr. Speaker, throughout its sordid history, the foreign aid program has permitted private interests, both in this country and abroad, to reap enormous profits at the expense of American taxpayers. Moreover, foreign aid has achieved little in terms of international friendship. In fact, Indiana, one of the chief recipients of our benevolence, has been notoriously ungrateful.

A recent example of the folly of foreign aid was the construction of a nuclear powerplant at Turapur, India. Although millions of American aid dollars have been spent for construction, the project was a fiasco which contributed to anti-American sentiment in India.

Mr. Robert D. Mandt, a former employee of C. F. Braun & Co., has prepared a paper which he has requested I place in the Congressional Record to describe the major problems which the powerplant project encountered. I am inserting excerpts of Mr. Mandt's paper:

Why Foreign Aid Should Be Discontinued, Especially in India

Facts concerning engineering and construction of the Tarapur Nuclear Power Plant in India:

General Electric Co., of San Jose, California, was the prime contractor for the Government of India.

Bechtel Corp., of San Francisco, California, was the subcontractor for conventional engineering and site construction under General Electric.

The power plant consisted of two reactors and two electric generators. The combined output is 400,000 kilowatts. Two dual cycle boiling water reactors. The nuclear system was designed by G.E. in San Jose, at their atomic division. Reactor vessels were built by Combustion Engineering Co., electrical generators by G.E.

Foreign aid to India so far is $10 billion.

I was on the job two weeks when I fired an American technician. About 50 per cent of his job had to be reworked, including the scrapping of 25,000 feet of stateside Foreign Aid copper tubing. Where was management here? The man was on the job over six months. Tubing racks were torn out and rebuilt. The air conditioning system was changed considerable in the design in the field. Some of the ducting was rusting. Humidity is very high here.

* * * * *

About 85% of the 4-inch and 6-inch fire water lines had to be redoped and rehung. Some fittings were only hand tight. The system extended from the ground level to top level, about 6 storeys. The lines were painted but not tested. The extra work required to make the system operable required two months and delayed the fire protective safety system. Where was management?

* * * * *

Bechtel, San Francisco, told me to complete instrument engineering in the field the best manner I could as the engineering budget had run out. Costs were then charged to field engineering. It is felt a great amount was spent on complicated instruments, whereas a selection of a more basic type would be more feasible. Bear in mind you are dealing with operational personnel in India that aren't fully trained for complicated controls.

Instruments are purchased with spare parts. When an instrument or control is deleted and replaced with another, plus spare parts, you have a warehouse of deleted spare parts.

* * * * *

The water demineralization make-up system was indeed a fiasco. It was rusting out when I left the project (December 1967). It was purchased in India to cut costs. A pile of junk. The panel board for an American made system was left to rust by atmospheric conditions or urine rust. All American Aid Dollars.

Project was a year behind schedule. One setback came when cracks were discovered in the fuel section. This required reworking. If these rewelds break out again a very serious situation would develop since the reactor is running full thermal power. G.E. found similar cracks in the fuel rods at a stateside project. Cracks were also in the vessel cladding.

Customs duty was paid out for American Aid material such as copper tubing and stainless steel tubing.

Mr. Mathew J. Harvey, Director, Office of Legislative Affairs, stated in his letter dated October 18, 1971, to Congressman John H. Rousselot as follows, in part:

"Any taxes or revenue measures which India applied to imports are paid by the private Indian importer. The U.S. Government and the U.S. exporter do not pay Indian duties."

Who paid the duty on the copper tubing mentioned above?

The Project was increased by 30 percent from the original estimates. Part of this cost was due to the Government of India *imposing import duty on nuclear fuel* plus the Indian devaluation of their rupee which occurred after signing of the agreement between U.S. and India.

American Aid also furnished 15 million dollars worth of fuel under a long term deferred payment. Under this agreement the U.S. will continue to furnish nuclear fuel. It will take India 15–20 years before they can supply their own nuclear fuel. American Aid loan was originally 75 million dollars.

* * * * *

Delays run up salaries and living expenses. On September, 1967, there were 79 expatriates on the job site. The figure went as high as 90 or more at the peak, depending upon visting stateside management or specialists.

* * * * *

I venture to state all the mentioned problems or fiascos cost the U.S. taxpayer in excess of 5 million dollars.

There was also incompetency of top management.

* * * * *

MEXICO WANTS THE UNITED STATES TO ADMIT BRACEROS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1973

Mr. FISHER. Mr. Speaker, the Congress by scrapping the Mexican bracero program several years ago must share much of the responsibility for the estimated 1,000,000 illegal aliens who work in this country.

Under the bracero program Mexican farm workers were brought in to work in those areas where there was a shortage of people to do that kind of work. They were admitted under contract with employers, at going wage levels. The program worked very well, and relatively few people came in illegally. But the Congress, yielding to labor union and Labor Department pressure, refused to allow the program to be continued.

The result was a mounting influx of "wetbacks" or illegals who crossed the border to gain employment in agriculture and in industry, and they are found throughout the country.

It is imperative that this influx be curbed. One way to achieve that objective would be to restore the contract bracero program. Certainly that would help. More border patrolmen are needed, and more cooperation from the Government of Mexico should be sought in beefing up the border controls.

Fortunately, Mexico is now anxious to resume the bracero program, as indicated by the news report which follows:

MEXICO WANTS UNITED STATES TO ADMIT BRACEROS

MEXICO CITY.—Mexico is going to ask that the United States admit 300,000 temporary farm workers, called braceros, each year, Foreign Minister Emilio Rabasa is quoted as saying.

He disclosed this in an interview carried by Mexico City newspapers.

They quoted Rabasa as telling them he is negotiating with U.S. Secretary of State Henry Kissinger in an effort to cope with the problem of more than one million Mexicans a year who cross the border illegally to hunt work in the United States.

Rabasa was quoted as saying Mexico also will ask the United States for:

—Legal treatment for Mexican workers equal to that now received by U.S. farm workers.

—Authorization to let Mexican consulates defend braceros in U.S. courts.

The newspapers gave these further details:

Rabasa is looking for social and legal security for the braceros who now lack protection under U.S. law because they cross the border illegally.

He noted there is opposition to these proposals in the United States from organized labor and Mexican-American groups which argue a bracero program would lower wages and increase unemployment.

Farmers who hire braceros argue they do work no one else wants to take.

Higher farm wages in the United States and heavy rural unemployment in Mexico are blamed for the bracero situation.

In 1943 the first official bracero program was started so Mexican laborers could fill the U.S. manpower shortage caused by World War II. In 1952 the agreement was revised to limit braceros to U.S. agricultural work and in 1964 the program was abolished.

About 300,000 illegal aliens are deported yearly from the U.S. side of the 2,000-mile border. Unofficial estimates say more than one million Mexicans continue to work illegally in the United States.

FLORIDA SAID HEALTHIEST

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. YOUNG of Florida. Mr. Speaker, the State of Florida is many things to many people, but to everyone, Florida connotes sunshine. I wish to call to the attention of my colleagues in the Congress, one more reason why fabulous Florida is known as the "Sunshine State." A study by the Metropolitan Life Insurance Co. indicates that activity in sunny Florida may prolong life. The St. Petersburg Evening Independent has printed the story of Metropolitan's survey, which I am pleased to share with the Members of Congress.

The newspaper article follows:

FLORIDA SAID HEALTHIEST

You may not know it, but you are going to live longer—by simply living here.

Of course, if you have lived in Florida a long time—you knew this all along—but, a new Metropolitan Life Insurance Co. survey makes Florida's high longevity rate official.

The survey says the smartest retirement move of all for Americans is Florida.

Of course, this probably is no secret to many of the 35 per cent of St. Petersburg's residents over 65, as reported by the 1970 census, who are of the opinion that the best place to spend their twilight years is in the sunshine the year around.

The insurance company report notes that longevity varies appreciably from region to region, but that highest life expectancy is in the Sunshine State. The company said that men 65 living in Florida can expect to live an average of 14 additional years, and women, an additional 17.9 years.

South Carolina, which receives its share of the sun, has the lowest life expectancy for males, according to the company survey. The lowest life expectancy rates for women were reported in Pennsylvania.

One reason for Florida's high standing, according to the company, conceivably could be influenced by socioeconomic factors.

"A retirement state's number of senior citizens continues to be swelled," the report said, "by the migration of upper middle class persons from other states who may enjoy higher life expectancy as a result of the economic and social advantages they have enjoyed all their lives."

And socioeconomic factors, including diet and work, were contributory factors to the low expectancy ratings for men in South Carolina and women in Pennsylvania.

The insurance company study, which based its findings upon the 1968 death rate, said that the chances of surviving from age 65 to 85 are best for men in Florida, about 250 per 1,000. And women in Arizona and Florida—with rates of 455 and 443 respectively, could more realistically look forward to eyeing 85 candles on the cake.

The company said that in each of the 37 states its statisticians reviewed, females had a distinct survival advantage over males and, in a few instances, their chances of living two decades beyond age 65 were more than twice as great.

TRIBUTE TO EUELL GIBBONS

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. REES. Mr. Speaker, we are all very much aware of our great country's need to strike an ecological balance before what is left of our natural wilderness is so depleted that there will soon be nothing left for our children to enjoy.

No one knows this better than Euell Gibbons, the naturalist who, through his best-selling books and personal appearances, has caused many of us to understand why it is imperative that we learn to live in harmony with nature.

Euell Gibbons, at the age of 12, saved his family from certain starvation when he managed to kill two rabbits and find enough wild garlic, potatoes and thistles to make a stew. Thus began the offbeat career that has since propelled Gibbons to become the Nation's No. 1 back-to-nature hero. Now in his sixties, Gibbons represents a different breed of conservationist, for he knows how to utilize nature to mutual advantage.

Gibbons believes that it is essential for us to treat plants so as to help them survive. He does not hesitate to eat of the persimmon tree, for when he is done, he scatters the seed and adds to nature's bounty.

And, for the same reason, he does not eat Indian cucumber because in order to eat it, he would have to destroy the plant.

This man, who, like Emerson, points out that weeds are plants whose virtues have not yet been discovered, believes that if we educate ourselves to understand that nature is not something to be conquered, we might not only learn to survive in the wilds, should we have to do so, but also enjoy doing so.

Gibbons has learned much about our great country through his experience as a wild food forager. He has subsisted on wild foods from Maine to Hawaii, from Seattle to Miami—in all seasons and weather. His is a truly historic craft, for he not only learned the rudiments of foraging from his mother who had learned in turn how to hunt, trap, choose and eat wild plants from her mother before her, but he learned also from the American Indian. The Navajo, the Iroquois, the Zuni, and other American Indian tribes taught Gibbons their arts of survival, so that the Indian lore which would probably have been lost over the years is now safely preserved in Gibbons' "Stalking the Wild Asparagus," "Stalking the Blue-Eyed Scallop," "Stalking the Healthful Herbs," "The Beachcomber's Handbook," "Stalking the Good Life," "Stalking the Far Away Places" and future works.

This man has given much of our great Nation's natural heritage back to us. And it is for this reason, and the fact that he presents a way by which we can utilize nature while preserving our national wilderness, that I feel it is a fitting time for this legislative body to pay him official tribute.

ON THE NEED FOR DEATH BENEFITS LEGISLATION FOR POLICE WIDOWS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. BIAGGI. Mr. Speaker, it is with a sense of deep personal outrage that I relate to my colleagues still another case of a policeman being shot while on duty.

The latest victim was Patrolman George McGuiness of Brooklyn who last week was brutally gunned down by two of three youths who were being pursued by McGuiness and his partner. I am pleased to report however, that as of this writing, Patrolman McGuiness continues to recover satisfactorily from the wounds received in this skirmish.

This latest shooting brings to life once again the dangerous daily position our brave policemen face every day in the normal execution of their duties. I cannot stress enough the need to pass legislation in the Congress to insure that the widows and dependents of these policemen are compensated in the event that their husbands and fathers are killed in the line of duty. In light of the fact that this Nation has already lost 107 policemen, I strongly urge that the Judiciary Committee report out the death benefits legislation which has been pending for too long.

As a former 23-year veteran of the New York City Police Department, I feel it is time that we as a nation begin to take steps to assure that the policemen of America are better protected from the depraved fringe of our society. Good law enforcement is the backbone of a successful democracy. Each time a policeman dies, so do we hasten our own downfall as a nation.

Mr. Speaker, at this point in the RECORD I submit the full account of this latest tragedy as reported in the New York Daily News:

[From the New York Daily News, Nov. 20, 1973]

YOUTH IS SEIZED IN SHOOTING OF COP

(By Richard Meserole and Paul Meskil)

An unemployed Brooklyn youth was charged yesterday with having attempted to murder a policeman with a shotgun.

The shooting occurred about 1:25 a.m. yesterday at Fulton St. and Verona Place in the Bedford-Stuyvesant section of Brooklyn.

The police gave this account.

Police Officers Thomas McGuiness and Henry Goodwin of the Utica Ave. station saw three suspicious youths in a car. After a brief chase, the car was halted, and the policemen ordered the youths to get out. Then two of the youths grabbed McGuiness, and the third attacked Goodwin, seizing his revolver.

As Goodwin struggled to keep his weapon, the youths fighting with McGuiness pulled a 20-gauge shotgun and a sawed-off 16-gauge shotgun.

A blast from one of the shotguns sprayed more than 70 birdshot pellets into McGuiness' back. As he fell, the gunmen grabbed his revolver.

Meanwhile, Goodwin had wrestled his revolver from his attacker, and he fired at the gunmen, spending every round. They returned his fire, but missed him.

As the three youths fled on foot, Goodwin drew his backup revolver, and fired five shots at them. He chased one of the gunmen into a lot at 944 Marcy Ave., off Fulton St., and held him there at gunpoint until police reinforcements had arrived.

The suspect, James Harrison, 20, of 80 Dwight St., Brooklyn, was charged with attempted murder, assault, robbery and possession of a dangerous weapon.

After emergency treatment at Kings County Hospital, McGuiness was transferred to Midwood Hospital in satisfactory condition.

MURDER BY HANDGUN: "THE CASE FOR GUN CONTROL"—NO. 48

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. HARRINGTON. Mr. Speaker, on November 25, Ethel P. Higonnet, Radcliffe College scholar, wife of a Harvard University professor, and stepmother of two children, was attacked and dragged off the street by a man with a gun. Mrs. Higonnet struggled, her assailant fired his gun, and 2 hours later she died.

Quite possibly, if adequate handgun control laws had been in effect, Mrs. Higonnet would be alive today. I urge my colleagues to address themselves now to the numerous firearms control bills pending in Congress. There is no excuse for another day of the senseless slaughter which lax gun control laws allow.

The following is the November 26 article in the Boston Globe.

RADCLIFFE SLAYER'S DESCRIPTION GIVEN

(By Robert Ward and Al Larkin)

Police detectives yesterday released a composite sketch of a man being sought in Saturday's murder in Cambridge of Ethel P. Higonnet, 30, a Radcliffe College scholar and the wife of a Harvard University professor.

Mrs. Higonnet, who received her doctorate in history from Harvard in June, died at 7:25 p.m. Saturday while in emergency surgery at Mount Auburn Hospital, Cambridge. She had been shot once in the head.

Police said the sketch of the suspect was drawn from a description provided by a 14-year-old witness who saw Mrs. Higonnet being attacked and dragged away on Brattle street at 5:45 p.m.

The young witness told police he saw the assailant, staggering as though he were drunk, walk up as she passed the Church of Jesus Christ of Latter Day Saints at Longfellow Park.

Both the assailant and Mrs. Higonnet fell to the ground struggling, the witness said, but the man forced her to her feet and began dragging and pushing her across the park.

Police reports said the young witness told them Mrs. Higonnet repeatedly screamed, "Let me go," and fell to the ground several times during the struggle, but each time she was forced to her feet and pushed deeper into the park.

Radcliffe officials said the attack on Mrs. Higonnet was apparently not related to the knifing of two Radcliffe students 2½ weeks ago.

A spokesman for the college said both women were recovering from wounds inflicted by an assailant who bore no resemblance to the suspect in the Higonnet slaying.

Longfellow Park is an exclusive Cambridge neighborhood occupied by many scholars and Harvard professors. It is surrounded by the church parsonage, three houses and The Society of Friends meeting house.

Police said that despite the early evening hour, no one in the neighborhood reported hearing Mrs. Higonnet's screams.

Police believe she was pushed about 500 feet across the grassy park, then down a set of 10 stairs and dragged another 100 feet to a small clump of trees and bushes less than 20 feet from the window of a house facing on Mount Auburn street.

Police said they believe the attacker planned to rape Mrs. Higonnet and fired the single shot as she struggled with him.

The sound of the shot attracted the attention of neighbors, who notified police. When found, Mrs. Higonnet was nude from the waist down, lying in a pool of blood, with her clothing scattered nearby.

Detectives were awaiting the results of an autopsy to determine if she had been sexually assaulted.

Friends described the dead woman, a highly respected member of the Cambridge academic community, as "a vibrant, generous person who was dedicated to her work and her family."

They said she had spent much of Saturday afternoon at Harvard's Widener Library before going to her office at Radcliffe Institute to drop off some books.

At the time of the attack, they said, she was on the way home to her apartment on Bradbury street for dinner with her husband, Patrice Higonnet, a professor of history at Harvard, and her stepchildren, Anne, 14, and Philip, 12. The apartment is just two blocks from where the attack occurred.

Prof. Higonnet was unaware of the attack until police contacted him at 7 p.m., but he said he became concerned about his wife's whereabouts at 6 p.m. after two Harvard students told him they had found her purse and a book belonging to her on the Brattle street sidewalk.

The professor met the students on Harvard street but, unaware of what had happened, returned home with the purse and book to await his wife's arrival.

Mrs. Higonnet was a 1965 graduate of Bryn Mawr College and was the daughter of Mr. and Mrs. Guy A. Cardwell of 984 Memorial drive, Cambridge. Her father is a well-known English scholar and professor emeritus at Washington University in St. Louis.

Private funeral services will be held tomorrow.

JAMES GERITY, JR., "A GIANT OF A MAN"

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. HARVEY. Mr. Speaker, we in political life have rare opportunities and privileges to meet and know outstanding personalities. Certainly one of the finest and perhaps most remarkable individuals that I have ever known would be James Gerity, Jr. I can best describe Jim Gerity simply as a giant of a man.

A giant not only in his business which he loved and knew so well—television—but a giant in all other aspects of life—be it higher education, cultural developments, charity endeavors, and political affairs of our Nation and, in particular, the Republican Party.

It was with extreme personal sadness that my wife, June, and I have been notified of Jim Gerity's death yesterday at St. Vincent Hospital in Toledo, Ohio. We valued his friendship over these many years. We were close to him and his lovely wife, Virginia, who unfortunately is presently hospitalized.

Jim Gerity was described as an affable, warm-hearted man by his friends, generous with his wealth and his time. This is so true. But, of even greater importance, he had great love and affection for his country's well being.

His greatness in the broadcast industry was launched nearly 30 years ago when he founded WNEM-TV, serving northeastern Michigan. He later acquired radio station WABJ-AM in Adrian, Mich., as well as WGER-FM in Bay City, Mich. In recent years, after selling WNEM-TV in 1969, he established Gerity Cable Vision serving the Bay City-Essexville area.

He truly was a pioneer in broadcasting—and he became a giant.

But he did not restrict his business effort just to radio and television. To show you the immense talents and energy of this man, his business interests also included Gerity Products of Toledo, manufacturers of silver flatware and gifts; Gerity-Schultz Die Casting of Toledo, makers of automotive hardware; and Lee's Travel Bureau in the Bay City area.

Between his great business interests, he traveled extensively and from his Adrian home to his winter residence in Miami. He and Virginia revitalized the Surf Club of Miami Beach in the 1950's. Virginia became president of the Miami Opera Guild and he served as chairman of the Surf Club in 1959. Jim Gerity loved the Committee of 100, a prominent Miami civic and cultural organization which he served as president.

But perhaps one of his greatest loves was the University of Notre Dame. He served on the advisory council of the College of Commerce and was the recipient of an honorary doctor of laws degree last May. And, he loved the football as played by the "Fighting Irish."

The other remarkable facet of Jim Gerity is that in every community in which he had an interest he became involved in community affairs. In Toledo he was a member of the Toledo Clinic Foundation; in Michigan a director of the Greater Michigan Foundation; and again in Florida a trustee of the University of Miami.

Yes, truly a remarkable man. A giant of a man whom I shall miss very much. He touched many lives and made it better for thousands who now shall never have the privilege and the benefit of knowing him personally. Jim Gerity gave far more to our country than he took. But, that was Jim Gerity—a pixie, Irish man with a big heart and a generous spirit.

I would like to include at this time a news article on the passing of Jim Gerity which appeared in today's edition of the Detroit Free Press, Detroit, Mich., which follows:

JAMES GERITY JR. DIES AT 69

James Gerity Jr., a wealthy 69-year-old industrialist and broadcaster in Michigan and Ohio and social and civic leader in Miami, died Monday in St. Vincent Hospital in Toledo.

A friend to government officials and a benefactor to a host of political, medical, religious and educational institutions, Mr. Gerity was an active leader in his business and social interests until a recent illness.

Death was attributed to complications after abdominal surgery. Funeral arrangements and burial will be handled in Toledo by the Coyle Mortuary.

Mr. Gerity was born in Toledo and raised in Adrian, Mich., where he met Virginia Bowman. She became his wife after both attended Western Reserve University in Cleveland.

In 1946, Mr. Gerity entered broadcasting when he founded WNEM Channel 5, in Bay City. He subsequently became the owner and manager of WABJ-AM, Adrian; of WGER-FM, Bay City, and of Gerity Cable Vision serving the Bay City-Essexville area. He sold WNEM in 1969.

Mr. Gerity's business interests also included Gerity Products of Toledo, manufacturers of silver flatware and gifts; Gerity-Schultz Die Casting of Toledo, makers of automotive hardware, and Lee's Travel Bureau in the Bay City area.

Mr. Gerity traveled extensively between his broadcasting stations, businesses, his 20-acre Deer Park estate in Adrian where he spent his summers, and another residence in Miami where he spent much of the winter.

Mr. Gerity was hailed on the Miami social scene when he and his wife revitalized the failing Surf Club of Miami Beach in the '50s.

Mrs. Gerity became president of the Miami Opera Guild while her husband was elected chairman of the Surf Club in 1959. Mr. Gerity also became president of the Committee of 100, a prominent Miami civic and cultural organization.

He was described as an affable, warm-hearted man by his friends, generous with his wealth and his time.

At the University of Notre Dame in South Bend, Ind., Mr Gerity served on the advisory council of the College of Commerce and was the recipient of an honorary doctor of laws degree last May.

He was a director of the Miami Heart Institute and St. Francis Hospital in Miami Beach.

He also served as a board member of the Toledo Clinic Foundation; as a director of the Detroit Press Club Foundation; as a director of the Greater Michigan Foundation, and as a trustee of the University of Miami.

He was invited several times to the White House for social affairs and was a loyal Republican fund raiser.

The Geritys had no children. He is survived by his wife and one sister.

LEGACY OF TOM PELLY

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, from 1952 to 1972, Tom Pelly served as a Member of Congress from the State of Washington. When he left, it was with a record of conservative stability on behalf of the Nation's taxpayers.

He died on November 21 far from the Capitol where he served so long and faithfully. His strong voice of concern over excessive Federal spending will be remembered, I fervently hope, in this time of national crisis.

We need to heed, Mr. Speaker, with more care than ever the legacy of Tom Pelly, a man we shall all miss, a man his State and his constituents owe a great debt of respect for his untiring leadership on their behalf, as well as on behalf of all citizens of this country.

SUPPORT FOR PRESIDENT NIXON

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. MICHEL. Mr. Speaker, yesterday I inserted into the RECORD several letters from my constituents expressing their strong support for President Nixon. Another batch of similar mail has been received and I place in the RECORD at this point several examples of that mail expressing support for the President:

RUSHVILLE, ILL., *November 19, 1973.*

DEAR MR. MICHEL: As one of the silent majority, I want you to know I am very much for our President, Richard M. Nixon.

Thanks for this movement to clear his name.

My prayers will be for you and our country which is so badly in need of help today.

Sincerely,

ORA A. DOYLE.

PEORIA, ILL., *November 20, 1973.*

Mr. ROBERT MICHEL: You are right about the new 73, emission control system. I get about five miles less per gal.

Support our President, he has done more & received less credit then any man in history.

RAYMOND HEATER.

TIMEWELL, ILL., *November 15, 1973.*

ROBERT H. MICHEL,
House of Representatives,
Washington, D.C.

DEAR SIR: It is with regret that I hear threats of impeachment for our president and some asking for his resignation. There seems to be no just reason for this and Mr. Nixon was the choice of the people.

Now I think we should stand behind him and as our president the people of our nation owe him respect and support.

I would appreciate anything you may do to help bring this about, and I thank you.

Mrs. HATTIE WALKER.

BUSHNELL, ILL., *November 18, 1973.*

Representative ROBERT MICHEL: I wish at this time to express my support of President Richard M. Nixon.

I believe we, without a doubt, need his kind of leadership in our nation and also with foreign policy issues today.

I disagree with those who would impeach or suggest resignation of our president.

These are my personal feelings.

Sincerely,

W. CAVITT HOLLIS

RUSHVILLE, ILL., *November 18, 1973.*

Congressman ROBERT H. MICHEL,
Washington, D.C.

DEAR SIR: We wish to protest this movement of impeaching our President. We want you people to get on with the business of running our country. We have always voted in the Democratic primaries, but we are for our President.

We are also in favor of the bill S. 1231. Most of the people in our town feel as we do. Our country is in danger.

Yours respectfully,

Mr. and Mrs. HOWARD BARTLOW.

Virginia, Ill., *November 15, 1973.*

Dear Congressman: For your own information I am also against any move to impeach Richard Nixon. I feel that the news media has made him pay enough for the incompetent people he appointed. Let us solve our energy crisis, and high cost of living problem.

Sincerely,

Richard Dambacher.

Maquon, Ill., *November 21, 1973.*

Congressman Robert H. Michel,
Capitol Building,
Washington, D.C.

Dear Congressman Michel: I wish to express my opinion on the impeachment of Pres. Nixon. Without a doubt the radicals who never were for the Nixon administration are the ones desiring the impeachment and writing to Washington.

Also the news media certainly is doing its part by keeping every thing stirred up regardless as of the importance. I feel much of this information should never reach them.

I *do not* feel we should impeach the President—he is an honest, sincere, strong man who will do us more good than anyone else. He is not a quitter! All of this corruption did not start in the Nixon administration. *It was there!*

Thanks.

Sincerely,

Mrs. Dale (Frances) Dredge.

Maquon, Ill., *November 21, 1973.*

Congressman Robert H. Michel,
Capitol Building,
Washington, D.C.

Dear Congressman Michel: Without a doubt "Watergate" and everything else concerning our President has gone beyond control on Capitol Hill mainly due to the unfair news media and radicals.

I certainly *do not feel we should* impeach a good man like the President, who will do all possible to bring our Nation to amiable understanding.

All this corruption did not start with "Watergate"—it has been going on in the Democratic administration—people are tired of hearing all this nonsense—lets stop the news media on some of this.

Thanks.

Sincerely,

Dale W. Dredge,
Representative Precinct Committeeman.

Rushville, Ill., *November 20, 1973.*

Hon. Robert Michel,
House Office Building,
Washington, D.C.

Dear Sir: We feel that 90% of the Watergate affair is fantasy and the court can and is taking care of the other 10%.

We note with some satisfaction that you in general have supported our president through this Watergate affair.

We are of the opinion that President Nixon is doing an excellent job in his office. With full support of Congress he could have an outstanding record.

We understand that the house is planning to spend a million dollars in an attempt to find some excuse for bringing impeachment. This we feel is a waste of money and time of representatives who apparently can not find time now to get their work done. Furthermore the senate has already wasted a million dollars on this project. The Court will finally have to rule on this matter. Leave it to them.

Mr. and Mrs. Phil Allen, Sr.

William S. Koch,
Tremont, Ill., November 21, 1973.

Hon. Robert H. Michel,
House of Representatives,
Washington, D.C.

Dear Bob: Herewith is a copy of a letter I today mailed to President Nixon. Talking to many of our people here in Tremont I find that this pretty well expresses their feelings and that they are sick and tired of hearing the word Watergate. In this matter I am sure that you feel just as we do.

Best regards,

Bill.

Tremont, Ill., *November 20, 1973.*

Hon. Richard M. Nixon,
President of the United States,
Washington, D.C.

Dear Mr. President: We live within eight miles of Pekin and our thoughts go back to the time last Summer when you and your dear wife Pat were there for the dedication of the Dirksen Library. And how, Mr. President, you and your wife, both radiant with joy and happiness greeted that huge and enthusiastic and cheering crowd.

Later as we read of this wonderful occasion in the papers, we were appalled as to how the news media in some cases described this most wonderful day. We could hardly believe our eyes at the distortions and downright untruths that were printed in describing this wonderful occasion.

I know that I am expressing the feelings of many others when I say that we are concerned about what we believe is some communistic news media, media which we believe is trying to destroy both you and our form of Government.

We know that no man is perfect, but many of us do trust you, do believe in you and do like you and want you as our President. May God Bless you.

Very sincerely,

William S. Koch.

Bushnell, Ill., *November 19, 1973.*

Dear Mr. Michel: We are 100% behind our President Nixon. Get behind him and give him the support he has every right to expect. The courtesy and respect shown the British monarchy during Princess Anne's wedding made ours seem a shoddy country indeed, the way our leader has been treated.

The credit for airing out all of one's dirty linen can go directly to the news media. It is theirs, 100%. If our country has been discredited at home and abroad, it is their doing. There's a time to speak out, & there's a time to shut up, and it takes a wise man to know when. That bit of wisdom has been far from them.

Sincerely,

Juanita Bryan,

LATVIAN INDEPENDENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. WOLFF. Mr. Speaker, the 18th of November marked the 55th Anniversary of the Independence of Latvia. This occasion should remind us that everyone is not able to enjoy the freedoms which we consider so important.

On November 18, 1918, the Latvian people declared their independence and signed a treaty saying "Russia unreservedly recognizes the independence, self-subsistency and sovereignty of the Latvian State and voluntarily and forever renounces all sovereign rights over the Latvian people and territory which formerly belonged to Russia." Latvians enjoyed self-government until 1939, when an agreement was reached between Hitler and Stalin and Latvia was annexed by the Soviet Union. With foreign domination, the strong economic and cultural growth enjoyed since independence came to an end.

The continued colonization of Latvia should make us appreciate the benefits of the freedoms we cherish and reaffirm our commitment to self-determination for all people. We all hope that someday the people of Latvia will be able to enjoy these basic human freedoms.

THE TAX ISSUE IS HERE TO STAY

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. TREEN. Mr. Speaker, I have been a long-time spokesman for fiscal responsibility and I have introduced various legislation which I believe could do much to solve the runaway Federal budgets this country faces year after year.

For too long the American public has been caught in the crosswind of inflation and taxation. Many believe that the solution to our fiscal problems lies in tax reform. And indeed, the present tax structure can stand some overhaul. However, there is a tendency by many to overlook the real source of our current financial plight. As Mr. Evans points out:

> Our tax is huge not because special interests are evading taxes, but because the spenders in Washington have been running amok. . . . In the world of the suffering taxpayer. . . . The problem is not to raise taxes on anybody but to lower them for everybody and to curtail, not enlarge, the flow of revenue to government.

Mr. Speaker, I would like to take this opportunity to recommend the following article by Mr. Stan Evans to my colleagues.

[From the Indianapolis News, Nov. 16, 1973]

The Tax Issue is Here To Stay

(By Stan Evans)

Defeat of California Gov. Ronald Reagan's proposal to limit the scope of statewide taxes was a victory for spending forces in the Golden State and elsewhere in the nation—but the smart betting has it that the win is only temporary.

Too many signs suggest the issue of taxation is here to stay. Conservatives like Reagan will of course continue to stress the theme, but it is especially instructive to note that spokesmen for the liberal-left have begun to take it up as well. Populist Democrats such as former Sen. Fred Harris are pounding the issue for all it is worth, arguing the need for "tax reform" and telling voters they are paying too much because the special interests have escaped their rightful burden.

The nature of the problem is apparent if we consult the economic record. In 1929, the total level of taxation amounted to 10 per cent of America's Gross National Product. It has risen steadily in the intervening decades, and in 1971 it stood at 32.2 per cent—with further increases on the way. Expressed as a share of personal income, the governmental take was 44 per cent.

By anybody's reckoning, this is a rather painful burden, not only for voters who pay the bills but for politicans wedded to the concept of something for nothing. Countless careers have been erected on that promise, and a dawning perception that the costs of government have begun to outweigh the benefits could be politically disastrous. It is therefore necessary for the spenders to invent some scapegoats—and "tax reform" as usually discussed is a method of accomplishing this.

The message conveyed by Harris and other asserted reformers is that little guy pay heavy taxes because big guys are getting away with murder. It is argued we must do away with "loopholes" which permit the wealthy to get off scot-free, impose different rates of taxation on capital gains, and reduce depletion allowances for oil and other extractive minerals.

All of this, however, is sheerest poppycock. The fact of the matter is the most of the so-called "loopholes" in our tax laws accrue to those of modest income, not the wealthy. Some three-quarters of the untaxed income in our country ($352 billion out of $465 billion in 1970) consists of personal exemptions, social benefits, mortgage interest and the like—with the result that 97 per cent of nontaxable returns were filed by people with annual incomes of $5,000 or less.

Conversely, the number of wealthy taxpayers who escape the IRS is microscopic. A periodic hullaballoo goes up about people with enormous incomes who manage to avoid payment of taxes, but as noted by Roger Freeman of the Hoover Institution, the argument is nonsensical: Of 15,323 individual returns filed in 1970 with adjusted gross incomes of $200,000 and up 15,211 paid taxes. On the average, these citizens paid 60 per cent of their taxable income to the Federal government—and 99.3 per cent did the paying.

Exactly the same is true respecting alleged revenue hikes from "reforms" of capital gains or depletion allowances. It is widely believed, for example, that capital gains are a plaything of the rich, and that people of modest incomes obtain no benefit from these provisions. In 1970, however, more than two-thirds of those who realized capital gains on investments had adjusted gross incomes of less than $15,000.

Put together, all these asserted "loopholes" would yield only a modest revenue—$5 to $10 billion at the outside—compared to a Federal budget that is running more than $260 billion annually, $143 billion in income and profit taxes, $46 billion in Social Security and related levies, and a Federal tax load that amounts to more than $1,000 per capita.

That burden is huge not because special interests are evading taxes, but because the spenders in Washington have been running amok.

It is this conclusion the spending politicians hope to obscure. In their world of fiscal and rhetorical legerdemain, the problem before us is one of getting revenue, the solution a further hike in taxes for this or that alleged malefactor.

In the world of the suffering taxpayer, the situation is reversed: The problem is not to raise taxes on anybody but to lower them for everybody, and to curtail, not enlarge, the flow of revenue to government.

CRIME CONTROL NO. 12

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. LANDGREBE. Mr. Speaker, in a recent extension placed in the Record by my distinguished colleague from Massachusetts, Representative Michael Harrington, it was said that opponents of strict gun control legislation "claim that privately owned firearms are not a contributing factor to the crime problem. This allegation is tragically easy to refute. In almost any newspaper you pick up these days there is a story of an accidental shooting, which often results in death." Following these statements were a newspaper article and a radio editorial about the accidental misuse of handguns.

I have called attention to the statements and insertions made by my distinguished colleague precisely because they so graphically illustrate the confusion that reigns among proponents of a government monopoly on guns. The first statement quoted above attributes to opponents of a government gun monopoly a position on privately owned guns and the "crime problem." The remainder of the argument, which is billed as a refutation of this position, speaks only of accidental, not criminal deaths. It is this verbal sleight of hand that vitiates the entire argument; for, unless the gun control lobbyists wish to maintain against all logic that accidental and intentional—criminal—killings are identical, the argument for nationalization of guns collapses.

I have pointed out before that the arguments against private ownership of guns are based upon the pathetic fallacy, which is the ascription of human characteristics to inanimate objects like guns. Might I also point out that the arguments of the gun control lobbyists rest upon another fallacy: attributing characteristics of inanimate objects to human beings. This fallacy is well-illustrated by the refusal to distinguish between accidental and intentional killings, and the consequent belief that instances of accidental death can refute a position on private gun ownership and crime. Once again the gun control lobbyists have given us a prime example of their unwillingness to think logically. It is a shame that such poorly constructed arguments can pass for logical debate on such an important issue as this.

FORCED RESIGNATION—A NATIONAL TRAGEDY

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. DAVIS of Wisconsin. Mr. Speaker, all of our offices have been flooded with messages relating to "putting the pressure" to force the President to resign. Some of these messages, I am sure, are coming from sincere people who are expressing real concerns, but I suspect more of them are coming as expressions of frustration, placing responsibility for all of our ills at the doorstep of "the man at the top."

I suspect, too, that some of the clamor is motivated and encouraged by pure partisanship.

It is time to take a calmer look at the consequences of emotional or partisan clamor. James Butler, of Elm Grove, general manager of WISN-TV, has taken this calmer look in an editorial which he published earlier this month. I commend it to the attention of my colleagues:

Forced Resignation—A National Tragedy

It seems to us that the worst tragedy this nation could face would be the resignation of President Nixon. First of all, in our democratic society a man is innocent until proven guilty. What proof? What hard, actual proof exists or has been uncovered that the President has acted illegally or that the President has not acted in accordance with what he believes to be in the best interest of the people, and in the best performance, as he sees that performance of the office of the president?

How can a man be presumed guilty, when none of the investigative committees have so far turned up actual verification of wrong doing? Should we act as a howling mob and just flatly disbelieve every statement made by the White House? Shall we allow this nation to be swept along in a frenzy that may very well be purposely designed by those factions of our society that now see a golden opportunity to destroy a man that it could not defeat at the polls a year ago? If the President is forced to resign . . . then forever more . . . no politician will dare do anything that would displease either the public or his powerful opponents . . . or even the news media. No elected official will ever be able to act forthrightly. He will be subject to actions only that please, whether he believes these actions to be in the best interest of the office he holds, or of the people he represents.

Channel 12 sincerely hopes that we reconsider long and hard the consequences of a forced resignation. When all of the facts, all of the evidence, all of the truth of the matter has not yet been exposed.

I guess what it gets down to is a simple question? Do we have justice in the American system . . . or do we not?

ABA HEAD SAYS COX ACTIONS WARRANT INVESTIGATION

HON. E. G. SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. SHUSTER. Mr. Speaker, on November 7, 1973, I wrote to Mr. Chesterfield Smith, president of the American Bar Association, enclosing a copy of my resolution calling for a House investigation of Archibald Cox in light of his confessed "indiscretions" in revealing confidential information to Senator Teddy Kennedy and others. I urged Mr. Smith to begin an immediate and thorough investigation into the potential illegal and certainly unethical activities of Cox, leading to possible disbarment, censorship, or other action deemed appropriate by the ABA. A copy of my letter appeared in the November 12, 1973, Congressional Record.

Yesterday I received a response from Mr. Smith, which I am inserting in its entirety.

I was pleased to see that Mr. Smith shares my views and my concerns. He indicated that Cox's activities have raised questions "which are serious enough to warrant further investigation."

That is exactly what I have tried to

impress upon the U.S. House of Representatives and the American public. There can be no question that an investigation is in order.

Mr. Speaker, I am transmitting a copy of Mr. Smith's letter to Frederick G. Fisher, president of the Massachusetts Bar Association, since Mr. Cox is a member of that association.

I ask permission to have Mr. Smith's letter inserted in the RECORD at this time:

AMERICAN BAR ASSOCIATION,
November 20, 1973.

Hon. E. G. SHUSTER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SHUSTER: I have your letter of November 7 which apparently was delayed in the mail as I did not receive it until the 16th of November.

Without attempting to prejudge the matter, I believe that the newspaper accounts dealing with the alleged statements of Archibald Cox to Senator Kennedy and others raise questions which are serious enough to warrant further investigation. It would, of course, be inappropriate for any authority to determine, in advance of a full and complete hearing consistent with the requirement for due process, whether Mr. Cox has violated provisions of the Federal law or the Code of Professional Responsibility. The first task of such competent authority would be to determine whether sufficient evidence exists to justify such a hearing.

As you may know, the American Bar Association is a national, voluntary professional association. It has no direct jurisdiction or authority over any lawyer with respect to professional conduct. It is without subpoena power or other means to compel testimony. Because the practice of law, admission to practice and professional discipline are matters regulated on the state level, it is the state bar association which usually exercises primary jurisdiction with ultimate authority resting in the highest court of each state. The American Bar Association has neither the right nor the tools to conduct an investigation of any lawyer or any appointed or elected official.

I was pleased to note in the *Congressional Record* that in your statement of November 12, you indicated you had written to the President of the Massachusetts Bar Association. I have every confidence that the Massachusetts Bar will proceed in an appropriate manner.

Finally, I would associate myself wholeheartedly with your observation that no man can place himself above the law. It is this basic principle which has guided the American Bar Association in taking the position it has with respect to the desirability of a totally independent Special Prosecutor.

Sincerely yours,
CHESTERFIELD SMITH.

COMMEMORATION OF LINCOLN'S GETTYSBURG ADDRESS

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. SMITH of New York. Mr. Speaker, on Monday morning, November 19, the Chaplain P. G. Cook Camp No. 223, Sons of Union Veterans of the Civil War, and Company D, 100th Eagle Regiment, New York Volunteers Infantry, presented a public reading of President Abraham Lincoln's Gettysburg Address on the 110th anniversary of its first delivery November 19, 1863, dedicating Gettysburg battlefield as a national cemetery to the Civil War soldiers slain in the Battle of Gettysburg. This occasion should spark a great renewal of the patriotism and spirit of sacrifice so prominently embodied in that historic message.

SHORTAGES

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. ZWACH. Mr. Speaker, now that we are facing the stark reality of shortages of not only fuel, but many other essentials as well, our people are wondering what happened to the vaunted American industrial leadership that allowed this condition to develop.

Dennis Baker, publisher and editor of several weekly newspapers in our Minnesota Sixth Congressional District, recently wrote of this problem in an editorial in the Lake Lillian Crier, which, with your permission, I would like to share with my colleagues by inserting it in the CONGRESSIONAL RECORD at this point:

SHORTAGES!

Our nation—the people are really becoming aware of the shortages on products which affect our life style.

Seemingly the biggest threat we hear about today is heating fuel and gasoline for our autos and farm machinery.

I, for one, still have a hard time to fathom how this can hit so fast and hard. While we were fighting a war, there seemed to be no shortage of these commodities.

Now, the war is over and bang—numerous items are unexplainably short. How much and who should we believe.

Certainly, we will all be believers in the shortages of fuel oil when we call our fuel oil distributors and he says "Sorry, I'm all out of fuel."

It was interesting to see on the front page of the Minneapolis Tribune some proposed legislation or requirements for auto manufacturers and their products.

This is really a little hind sighted. First through legislation, auto manufacturers were forced to put on pollution controls which caused our autos to consume more gas than they had in the past. Now, gasoline is in supposedly short supply and politicians will pass legislation to require some cars to run 20 miles per gallon or better on gasoline.

Seemingly, we do things a little backwards.

I'm for cutting back or turning down the thermostats in our homes and business, turning off all unnecessary lights and items which draw electrical current which are needlessly left on.

State schools have received complete details and temperature levels for all areas of our schools. Administrators are instructed to maintain these levels, as well as file a plan with the State Dept. for shutting down the school if no fuel is available.

Regardless of how short the products are, it will not harm any of us to be a little conservative in our everyday life.

Now, we have to ride the situation out—as best we can.

SINCLAIR OF CANADA SAYS THANKS U.S.A.

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. COLLINS of Texas. Mr. Speaker, when I want the facts, I read the viewpoint of Felix R. McKnight of the Dallas Times Herald. His Sunday reprint was quoting a Canadian broadcaster named Gordon Sinclair. I admire the positive side of which America needs more today. You will agree with the editorial in the November 18 issue of the Dallas Times Herald written by Felix R. McKnight.

The article follows:

FROM CANADA, WITH LOVE

Flag waving has became a timid exercise. Maybe it is the ripe time to hoist a few for the U.S.—this time from a Canadian broadcasting commentator, Gordon Sinclair.

His comments have arrived from many sources—letters, the Congressional Record, newspaper and magazine reprints. He is here this week as vacation guest columnist:

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth . . .

Germany, Japan, and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help . . . This spring, 59 American communities were flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on, let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at.

Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here. . . .

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble.

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around.

They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

CONGRESSMAN DANIELS HAILS BAYONNE CITY COUNCIL FOR ENERGY RESOLUTION; SAYS BAYONNE PEOPLE "DO NOT HAVE TO BE ASKED TO SERVE—THEY VOLUNTEER

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. DOMINICK V. DANIELS. Mr. Speaker, there is no city in America where the people are more willing to make sacrifices for their country than Bayonne, N.J. When this Nation has gone to war, the men and women of Bayonne have not needed to be asked to serve. They volunteer.

Today, Mr. Speaker, with a critical energy shortage facing the Nation, the governing body of Bayonne has called for action to conserve energy wherever possible. I salute them for their sense of concern. In a resolution adopted November 12, 1973, the Municipal Council of the city of Bayonne went on record as supporting steps to save energy. In addition, they called for the establishment of year-round daylight saving time which I also support.

For the benefit of all Members, I insert at this point in the RECORD the text of the resolution referred to above in its entirety.

The resolution follows:

Whereas, the President of the United States did on national television recently request all the citizens, employers and members of the federal, state, county and municipal governments to make every effort to conserve electricity, gas, gasoline and oil, particularly during the winter period; and

Whereas, the President suggested that if his request for the curtailment of the unnecessary use of electricity, gas, gasoline and oil by all of the people mentioned above was complied with, there would be no need for rationing said energy products; and

Whereas, President Nixon in said speech did suggest the possibility of reverting to daylight saving time in order to meet the energy and fuel crisis; now, therefore, be it

Resolved, By the Mayor and Council that all of the citizens of the City of Bayonne are urged to take every precaution in order to conserve on the unnecessary use of electricity, gas, gasoline and oil in these critical times; and be it further

Resolved, That the Mayor and Council do hereby urge and request all of the directors and department heads in municipal government to stress upon their employees to conserve on the unnecessary use of electricity and to conserve on gasoline and automobile fuel oil on vehicles owned by the City of Bayonne and those which are owned by them privately; and be it further

Resolved, That the Mayor and Council do hereby urge that the federal government take proper steps in order to initiate daylight saving time as soon as possible so that the fuel energy crisis may be alleviated; and be it further

Resolved, That a copy of this resolution be forwarded to Senator Clifford Case, Senator Harrison Williams, Representative Dominick Daniels, Governor William T. Cahill, Governor-Elect Brendan Byrne, Senator James P. Dugan, Assemblyman Joseph A. LeFante, and to the Directors of all Departments in the City of Bayonne.

OPPOSITION TO INCREASED TAX ON GASOLINE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mrs. HOLT. Mr. Speaker, President Nixon addressed the Nation on the initial restrictions to be implemented for conservation of energy. A proposal which was not mentioned last night, but which has received a great deal of publicity, is the imposition of a per gallon tax on gas. This proposed measure is of considerable concern to my constituents.

I would like to take this opportunity to express my vigorous opposition to any increased tax on gasoline. The price of this vital commodity is rising fast enough due to market forces; it hardly needs any added impetus from the Federal Government.

If we are to meet and surmount this energy crisis, we obviously will have to reduce our consumption of petroleum products. Commonsense and fairness demand that such reductions be applied across the board; that the burden be shouldered equally by every American. The imposition of a special tax will not achieve this objective; rather, it will have the net effect of creating a special class, based on income, which will be allowed to purchase gasoline while denying poorer Americans access to this necessary commodity of 20th century life.

I would hope that the regressivity and inequity of this tax approach is obvious to the Members of this body. I would also hope that we recognize the implications of establishing a precedent whereby some Americans are allowed to buy their way out of a crisis while the remainder of the population carries a double burden. A brief review of history will show that the last time this was allowed was during the Civil War when inductees could avoid serving through payment of a set fee.

Today we all recognize that patriotic obligations are not something that can be bought and sold in the open market; let us apply a similar philosophy to the energy crisis and demand that everyone share equally in the shortages which will occur in the months ahead.

I strongly urge my colleagues to join with me in opposing the imposition of a tax on gasoline.

SHOOTING FOR MOON ENRICHES U.S. WAY OF LIFE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the benefits we derive from our national space program continue to grow. Without the highly technical programs of our national space effort, our economy over the years will not grow and prosper as it needs to maintain our quality of living. A recent article in the San Gabriel Valley Tribune, Sunday, September 30, 1973, describes well the high technical contributions derived from our space program. The article follows:

SHOOTING FOR MOON ENRICHES U.S. WAY OF LIFE

"If we can go to the moon, why can't we . . .?" Perhaps no single phrase better sums up the sense of frustration felt by so many Americans in their daily lives.

It is uttered in anger by commuters who encounter frequent traffic delays on the way to and from work, in alarm by environmentalists, in hope by medical researchers, in outrage by those concerned with the pressing needs of society, and in exasperation by countless citizens in response to thousands of major and minor irritants or inconveniences.

Implicit in the statement is admiration for the technological prowess and management skill that allowed us to land men on the lunar surface and return them safely to earth.

But possibly because space-related developments have been swiftly introduced into the mainstream of modern life, few Americans appear to appreciate the extent to which space age technology has already helped to improve the quality of life on earth.

In fact, the knowledge gained in the 15 years since NASA's founding in 1958 is now being applied across the board in virtually every field of human activity: science, medicine, navigation, communications, agriculture, crime prevention and commerce.

NASA-developed ways of doing things are producing safer skyscrapers, bridges and airplanes. Americans ride to work daily on tires, roads and railbeds that have been vastly improved by space age technology.

The wood pulp that has become their morning newspapers is produced more swiftly and safely because NASA-developed technology has balanced huge "chipper wheels," reducing the hazards of pulp mill operations.

When citizens find themselves needing medical attention, space technology may lengthen or even save their lives in many ways.

So you or a friend or relative face prolonged surgery to replace a hip joint? Chances are that surgery will be performed in an ultraclean operating room where the air is "scrubbed" by a NASA laminar air-flow technique, ridding it of bacteria and dust particles.

Improved, long-lived rechargeable heart pacers. tiny swallowable radio transmitters the size of a vitamin capsule, eye and tongue-operated appliances for paralytics are only a few of the space age items used daily in medical therapy and diagnosis.

When NASA was established by Congress, the National Aeronautics and Space Act (October, 1958) gave the agency two basic instructions:

To learn how to operate vehicles, both automated and manned, in space beyond earth's atmosphere; to explore our solar system and the universe for the advancement of human knowledge.

To make certain that all NASA discoveries and technical advancements are made promptly available for bettering human lives—for peaceful use "by all mankind."

NASA has made great strides in fulfilling the first mandate in its charter during its initial decade and a half.

For Americans, they provided a new and welcome source of national pride. More pragmatic citizens usually want to hear more of the space program's short-term, practical benefits.

While space limitations preclude complete listing of even the collateral or spin-off benefits from NASA's efforts in its first 15 years, many of them deserve brief mention.

Medicine has put more NASA-developed technology to use than perhaps any other discipline—mainly because of spaceage advances in miniaturization and sophisticated electronics circuitry.

A small "temperature pill," no larger than a vitamin capsule, is actually a radio transmitter that can be swallowed. In its passage through human alimentary tracts, the tiny device can detect and transmit data on very small temperature variations, revealing the presence of infections and other disorders.

A miniaturized blood analysis system has been developed and is in clinical use. The compact, lightweight device can perform 16 different studies on human blood samples and requires only 1/10 cc of blood, compared to existing analyzers which need up to 5 cc to perform single analysis.

Other research is under way on a breathing machine capable of being sterilized against spreading infections to patients, entirely by dry heat methods. The new device can function at high temperatures, because several new, highly-heat-resistant, space-proven polymers are used in its construction.

An advanced manipulator system, operated by paralysis victims through a tongue-switch control device, was demonstrated this spring before a Congressional committee in Washington.

Electrical pulses capable of imparting motion to paralyzed human muscles may soon be transmitted successfully to muscles inside the human body through new surgically implanted connector terminals fabricated from high-purity vitreous carbon.

This substance permits growth of the patient's skin around the implant with reduced danger of rejection by the human body.

A compact, fully automatic gas analyzer is now on the commercial market. It measures the composition of air breathed in and exhaled from the lungs as an aid in monitoring pulmonary and cardiovascular activity in human patients.

It affords prompt information on human respiratory and metabolic functions, previously unavailable or too time consuming to obtain.

In hospital intensive care units, the same instrument can be used to monitor the breathing of acutely ill patients. In surgeries, the anesthesiologist can monitor the patient's progress.

Ultra-clean laminar air-flow techniques developed by NASA for assembling spacecraft and their components are helping surgeons avoid infection in hospital surgeries. Ultra-fine filters purge dust and particles from the air during surgery.

The number of these special "clean room" surgeries has risen from less than 50 two years ago to more than 200 today. In many instances, the surgical teams wear helmets resembling those worn by astronauts, plus specially treated non-woven surgical garments that bacteria cannot penetrate.

A rechargeable cardiac pacer developed recently by the Johns Hopkins Applied Physics Laboratory, when implanted in humans, can be recharged from outside the body.

It will function up to 20 years instead of the two years usual with earlier devices. Electronic components in the pacer were developed in the space program.

Law enforcement has had significant assists from NASA-developed technology, including devices for recovering indented handwriting, long-distance rapid transmission of fingerprints and several novel alarm devices.

Schools throughout the United States are installing a silent communications and alarm system (SCAN). Already in use in New York City and other major systems, SCAN summons help quickly when a teacher or other staff member presses a button on a pen-like ultrasonic transmitter.

Technology assembled by engineers at the Jet Propulsion Laboratory, Pasadena, was used in developing this equipment.

Another warning system to detect intruders entering parked aircraft was developed from a blood pressure measurement device.

NASA recently announced the development of a radar-reflective, self-inflating life raft using space technology. It is being used and tested by the U.S. Coast Guard and offered to the Merchant Marine and to private boat owners and operators.

When American automobile manufacturers market their version of cars powered by the wankel-type rotary engine, a new flouride-metal self-lubricating composite will be ready to withstand its high operating temperatures.

A rapid-scan infrared tire tester is being used daily by a major U.S. tire manufacturer. The ultra-sensitive optical device affords a non-destructive testing method for checking out new designs in aircraft and automobile tires.

NASTRAN, a computer program designed by NASA to analyze the behavior of structures under stress, is now a design tool familiar to more than 600 American engineers outside the space agency.

A hundred or more U.S. industrial firms, universities, laboratories and government agencies are using it to solve their structural engineering problems.

Components for "anything that shakes, rattles or rolls," can be designed using NASTRAN to predict their performance.

Front suspension and steering linkages in a line of American automobiles and light trucks are now being designed with NASTRAN assistance. NASTRAN analysis can also be applied in the construction of bridges, power plants, skyscrapers and airplanes.

New computer analysis techniques result in a 60 per cent improvement in predicting the behavior of components under stress and a time saving of two-thirds in achieving such calculations, industry officials report.

Items of fireproof or fire protective clothing and fire-retardant or fire-resistant building materials are beginning to appear on the commercial market, spurred by NASA research.

Fire safety, a prime concern since the agency was organized, has been advanced by a variety of NASA-sponsored research. In 1970 alone, more than 12,000 people were killed in 2.5 million preventable fires in the United States. Fire losses in the same year were estimated at more than $10 billion.

NASA has developed several fire retardant or non-flammable foams, paints, fabrics and glass fiber laminates.

Paints that emit a flame-retarding gas when heat is applied have been studied by NASA's Ames Research Center and are being evaluated by the National Association of Home Builders. Foams developed at Ames also retard fire propagation and many have excellent insulation properties.

Extensive tests are in progress at NASA's Johnson Space Center in Houston for applying these and other materials to fire resistant carpeting, seats, head rests, paneling, curtains and fire walls.

NASA has under test two basic types of improved fire-fighters' clothing. Several types of proximity suits have also been developed and are being tested for close-in fire fighting.

Two recent laser applications have gained wide attention—one as an aid to land surveyors and the other shows promise of proving a real help to commercial fishermen.

The laser land-surveying system consists of two back-packable, rugged 400-pound field type units. One unit is the vertical firing laser, the other a telescope receiver which views the laser pulse above all obstructions. Surveyors are thus able to lay out property lines over terrain obstacles.

The result is faster determination of boundary lines with considerably reduced land clearance costs. The U.S. Forest Service now has such a problem with some 270,000 miles of property lines involving more than 1,150,000 property corners.

Another laser device is being tested to measure the presence of tiny drifting plankton plant forms in Chesapeake Bay. Mounted on a helicopter, an orange light flash beamed from the laser is absorbed by the plankton in the water. The plankton then gives off a very faint infrared radiation beam which is measured and recorded through a telescope on the helicopter.

Drifting plankton is an important source of food for marine animal life. New ways of locating and measuring plankton in sea water could help fishermen and others dependent on the sea for their livelihood.

Plankton have additional ecological importance because they replenish an estimated 70 per cent of the earth's fresh oxygen supply.

New high-energy-output batteries are apappearing on the commercial market, providing sure, fast starts for portable power tools and sports equipment. The basic technology was originally developed by NASA.

Both lead-acid and nickel-cadmium batteries are now capable of being recharged 90 to 100 times faster than existing batteries. Compared with most commercial batteries requiring 14 to 16 hours for full recharge, the new batteries can be recharged in 15 to 20 minutes without damage to the cells. Some nickel-cadmium units can be recharged in as little as six minutes.

Another practical, time-saving development is flat electrical conductor cable developed by NASA, and first used in spacecraft.

Inconspicuous, low voltage switching circuits are now being marketed. The adhesive-backed flat cable and switches are applied on walls, ceilings and floor surfaces with no need for costly installation inside walls or ceilings. They are readily concealed by paint, wall paper, tile or carpeting.

Designed to control overhead room lights and appliances served by conventional 110-volt electric power, the system operates on only two volts. Builders estimate that up to $35 per room can be saved in masonry construction by using the new quickly applied circuitry.

LATVIAN INDEPENDENCE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. SARASIN. Mr. Speaker, today as we find ourselves on the threshold of lasting peace with the Soviet Union, I suggest that we take the time to consider and perhaps reassess the importance we have placed on this fragile bond of peace. While we hail moves aimed at strengthening our relations with the Soviet Union for our mutual benefit, we must not overlook the stark reality that several non-Russian republics within the Soviet Union have not willingly agreed to their particular affiliation with the Soviet Union.

Among these states is Latvia, which, like its sister states of Lithuania and Estonia, came under control of the Soviet Union over three decades ago. With the Soviet takeover, Latvians were scattered throughout northern Russia and Siberia in a deportation scheme designed to weaken nationalistic bonds. Nevertheless, that nationalistic spirit has not died in Latvia. In fact, November 18 was celebrated as the 55th anniversary of that nation's independence, which was subsequently thwarted by Soviet domination.

Here in the United States citizens of Latvian descent are anxiously awaiting the day when their relatives in Latvia will be given the freedom to choose their own system of government. I join them in urging the Soviet Union to grant that freedom before yet another decade goes by.

U.S.S.R. APPARENTLY VIOLATED AGREEMENTS DURING MIDDLE EAST CRISIS—A YAWNING CREDIBILITY GAP ENSUES

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. HUBER. Mr. Speaker, last June 22, President Nixon and General Secretary Brezhnev signed an Agreement on Prevention of Nuclear War. Article I states:

> The United States and the Soviet Union agree that an objective of their policies is to remove the danger of nuclear war and of the use of nuclear weapons.
>
> Accordingly, the Parties agree that they will act in such a manner as to prevent the development of situations capable of causing a dangerous exacerbation of their relations, as to avoid military confrontations, and as to exclude the outbreak of nuclear war between them and between either of the Parties and other countries.

It is plain to everyone at this moment that the renewed war could not have broken out without the Soviet Union's tacit, if not explicit approval. The massive amounts of advanced weapons furnished to the Arab side of the conflict adds weight to this argument. If these things were not self-evident enough, the mammoth resupply of weapons to the Arabs furnished further confirmation of Soviet aims. Certainly, the Soviets were not unaware of our interest in Israel being preserved as a nation, and that their actions could not help but cause "a dangerous exacerbation of their—United States-U.S.S.R.—relations." Again, note article II of the same agreement which says:

> The Parties agree, in accordance with Article I and to realize the objective stated in that Article, to proceed from the premise that each Party will refrain from the threat or use of force against the other Party, against the allies of the other Party and against other countries, in circumstances which may endanger international peace and security. The Parties agree that they will be guided by these considerations in the formulation of their foreign policies and in their actions in the field of international relations.

Was the rapid buildup of the Soviet fleet in the Mediterranean to some 80 to 90 ships and the placing of all their airborne divisions on alert a contribution to peace? Is this a sample of "proceeding from the premise that each party will refrain from the threat or use of force against the other party, against the allies of the other party."?

The lesson in all of this, I feel, is that the Soviet Union has changed neither its ways not its tactics. The United States needs to remain strong and alert. It also needs to be more careful of the agreements it signs with the Soviet Union. Détente is a yawning credibility gap.

LATVIAN INDEPENDENCE DAY

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mrs. GRASSO. Mr. Speaker, November 18 marked the 55th anniversary of the proclamation of independence by the people of the small yet spirited Baltic Nation of Latvia.

For Latvians and their descendants in the United States and elsewhere, the day symbolizes the devotion and dedication of all Latvians to the priceless ideals of independence, personal freedom, and self-determination.

The history of Latvia relates the achievements of men and women continually striving and struggling for that precious right of liberty. Forged from the chaos that engulfed Eastern Europe following the collapse of Czarist Russia, Latvian independence lasted only 22 years from that glorious November 18, 1918. In 1940 this small republic and its neighbors of Lithuania and Estonia were ruthlessly occupied by the armed forces of the Soviet Union and incorporated into the U.S.S.R. Since that time Latvians have known only suffering, misery, totalitarianism, and russification efforts.

Over the years, however, the industry and energy of the Latvian people has been exhibited in the resourcefulness and accomplishments of Latvian-Americans. These hardworking citizens have contributed to numerous communities throughout our country, and their belief in our democratic form of government has increased the strength of the fiber of American society.

The continued loss of Latvian freedom grieves all people who cherish the right of peoples to determine their own fate. On this 55th anniversary of Latvian independence, it is my hope that one day soon the Latvian people will be able to celebrate this important occasion free from the bonds that now shackle them.

THE PRESIDENT, CONGRESS, AND THE ENERGY CRISIS

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. LEGGETT. Mr. Speaker, yesterday's Washington Post carried an excellent editorial on the energy crisis, with which I am in complete agreement.

The thrust of the editorial is this:

First, Mr. Nixon's claim, made November 17 in the course of his question-and-answer session, that Congress had not acted on six out of seven of his major energy proposals, was more appropriate to its Disneyland location than to the gravity of the situation. That is, it was made up of five parts fantasy and one part questionable substance.

Second, the most effective initiatives in the energy field have in fact come from Congress. These include the Eagleton allocation amendment and the Jackson rationing bill.

Third, all of Mr. Nixon's proposals have tended to favor the major oil companies at the expense of the average American citizen. This is unacceptable.

Before inserting the editorial into the RECORD, I would like to add a fourth point of my own:

It is time the President and Congress stopped trying to fix the blame on each other and began fixing the problem. I do not mean to suggest, of course, that I am any the less convinced of the necessity for impeachment. But as long as Mr. Nixon occupies the White House we must do our best to deal with the energy crisis together.

Mr. Nixon's television message last night was commendably free of the name-calling which marked his presentation a week earlier. It was, in this respect, a good sign. However, I see considerable room for improvement in the substance of his plan, which I shall discuss tomorrow.

I insert the editorial entitled "The President, Congress, and Energy," from the Washington Post of November 25, 1973, in the RECORD at this point:

> THE PRESIDENT, CONGRESS, AND ENERGY
>
> To get through the coming year without excessive economic damage, the country is going to need new energy legislation of great range and strength. It is legislation that will sharply affect all of us, and public attitudes toward the rules will be crucial. That kind of legislation requires close and continuous cooperation between the White House and Congress. Since these statements are obvious to the point of being truisms, Mr. Nixon's current aggressive hostility toward Congress becomes all the more mystifying. He is now pursuing a vehement campaign to blame as much as possible of the energy shortages on Congress and its Democratic leaders, while simultaneously asking them for more help. His appearance before the Associated Press managing editors a week ago was a particularly egregious example.
>
> He sent Congress a message last April, he said. And what happened? "I asked them for seven pieces of legislation to deal with energy. One has reached my desk, the Alaska pipeline. I signed it. The other six, I hope they act before they go home for Christmas . . . The President warned in April, the

Congress did not act and now, it is time for the Congress to get away from some of these other diversions if they have time and get on to this energy crisis." This accusation suggests Mr. Nixon is not fully briefed on his own program.

One of those six pending bills of which he spoke would provide compensation for the companies that held the canceled drilling leases in the Santa Barbara Channel. It is not an energy bill at all, but rather a compensation bill. And where is it now? The administration withdrew it, four days before Mr. Nixon's appearance before the managing editors.

Another of the six April proposals was a tax credit to encourage exploratory oil drilling. But rising oil prices over the last six months have set off a tremendous exploration boom that is currently limited only by the severe shortages in drilling equipment and casing pipe. Whatever the circumstances of last April, further tax credits are hardly required now. Still another of the April proposals was to develop deep water ports to unload huge tankers bringing us crude oil from, mainly, the Arab countries. Current developments in the Mideast seem to have diminished the urgency of the superport bill. Mr. Nixon has quite rightly proclaimed independence in fuel supply to be a national goal. But if we are building toward independence of supply, do we also need superports for Arabian oil? It does not appear that anyone in the administration has seriously addressed the question. Mr. Nixon was merely scoring a polemical point reflexively and recklessly.

One of the April proposals would have simplified site selection and approval for electric generating plants. Another would have set new standards for strip miners. Both are moving slowly because they raise difficult issues of environmental protection, conservation and safety. Neither of them offers any very sudden relief of the shortages.

Of all seven of Mr. Nixon's April proposals, there was only one—the bill to deregulate natural gas—that would have helped the country this winter. It might have helped quite a lot. But it is stalemated for reasons that illustrate the central defect in the administration's whole approach to energy legislation.

The case for deregulating gas gets stronger as the price of oil rises. Of the three basic fuels—coal, oil and gas—only one is regulated. The wider the gap between the low price of gas and the high prices of competing fuels, the more the gas shortage is aggravated. But the issue of deregulation is a familiar one, and it is perfectly clear that Congress will not act until it has a bill that adequately responds to the legitimate and well-founded fears of consumers.

Any successful bill will have to contain guarantees that gas rates will not continue to favor industry by loading the whole rise on householders. It will also have to assure consumers that the continental pipelines cannot be used to destroy competition among producers. Several congressional committees are working on legislation that can answer those doubts. But they are not getting much help from the administration, which tends to view amendments as evidence of insubordination.

The most valuable energy legislation enacted this year has been the oil allocation authority, which was neither sought nor, until last week, even supported by the Nixon administration. It was originally put forward by Sen. Thomas F. Eagleton (D-Mo.) and tacked as an amendment onto the wage and price control bill last April. The administration disliked the idea at the time, but that legislation enabled them to begin fuel oil allocation last month.

Last week the Senate passed a bill to authorize gasoline rationing. President Nixon first asked for this authorization on Nov. 7. The bill that the Senate passed was introduced by Sen. Henry Jackson (D-Wash.) on Oct. 18. We are seeing, in fact, an extraordinary demonstration of congressional initiative.

Mr. Nixon's April message had, in general, one pervasive defect that explains the meager response. It is a matter of balance. All of his proposals benefited the oil and coal companies, heavily and obviously. Some of them clearly benefited the public as well. But the circumstance that they all came down in favor of the same set of interests gave the message a dismaying lopsidedness. If citizens are going to have to pay much higher prices and tolerate lower environmental standards, they would like to see some sign that the companies are going to have to give a little too. There was no hint of it in Mr. Nixon's April address, and not much in any of the subsequent addresses. That, at bottom, is why his proposals do not get rapid action in the midst of shortages that even he now acknowledges do constitute a crisis.

FEDERAL GOVERNMENT SHOULD SET BETTER EXAMPLE—POSTAL RATE COMMISSION SHOULD HOLD LINE ON MAIL RATES

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. HUDNUT. Mr. Speaker, many of us have spoken out from time to time to express alarm about the constantly spiraling rate of inflation. As stated on these occasions, the key to controlling inflation is to curtail Government spending. Another step has been to try to influence business and industry to hold down prices through voluntary means. To get this job done the Federal Government must set a better example than it has been doing.

It is my understanding that, barring action by the Cost of Living Council, postal rates will increase as of January 5, 1974, as follows: First-class mail from 8 to 10 cents; airmail from 11 to 13 cents; post cards from 6 to 8 cents; airmail post cards from 8 to 11 cents; second-class mail will rise by an average of 38 percent; third class by 25 percent; and parcel post by 6 percent.

While an additional 2 cents to mail a letter may not seem excessive for the average working person, it can mean a great deal to a retired elderly couple living on social security. Furthermore, it will mean additional costs to business and industry which will be passed on to consumers; thereby contributing to the growth of inflation.

Today we see excessive Federal spending resulting in high prices for meats and other products, increased rents and interest costs, as well as the devaluation of our dollar in foreign trade. The family budget must allow a high percentage of its expendable income for basic necessities as food, rent, clothes, and transportation. This increased spending contributes toward the inflationary spiral. Even though the Postal Service is facing increased spending, there must be an interruption to this trend. Higher postal rates is just one more additional expense that families on fixed incomes will have to deal with. If ever there was a time ripe for corrective action, surely it is now.

In discussions with my constituents, I find the vast majority are opposed to additional price rises. I believe they represent the views of most Americans who are fed up with high prices and inflation and feel that the Nation's budget should be controlled—as they must do with their own family budget.

I urge the U.S. Postal Rate Commission to hold the line on increasing postal rates and take into consideration the economic concerns of the American people.

ALLEGHENY COUNTY LABOR COUNCIL HONORS SCHOLARSHIP WINNERS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. GAYDOS. Mr. Speaker, each year high school students in Allegheny County, Pa., are offered the opportunity to compete for educational scholarships in an essay contest sponsored by the Allegheny County Labor Council, AFL–CIO.

This year the competition centered on a subject of great concern to me and many Americans: "What Is the Impact of Imports on the Labor Force in America." I am proud to announce that several winners in the competition, including the recipient of the highest award, a scholarship offered by the Lieutenant Governor of Pennsylvania, Hon. Ernest P. Kline, are residents of the 20th Congressional District, which I have the honor of representing in the House.

The winner of the Lieutenant Governor's Scholarship was Miss Judith Mary Manns, a daughter of Mr. and Mrs. Joseph R. Manns of 1704 Highland Ave., West Mifflin. An attractive, intelligent young lady, Miss Manns represented West Mifflin North High School in the contest and was sponsored by her father, a member of Local 1256, United Steelworkers of America.

Other winners from the 20th District were Miss Luanne Starr, a daughter of Mr. and Mrs. Wesley R. Starr of 410 Franklin Heights Drive, Monroeville, and Curtiss W. Jones, son of Mr. and Mrs. Moses Jones of 5–D Millvue Acres, Clairton. Miss Star was sponsored by Charles A. Maniccia of Local 1219, USWA, and represented Gateway Senior High School. She received the 44th State Senatorial District Scholarship from Pennsylvania Senator Thomas M. Nolan. Mr. Jones, sponsored by his father, a member of Local 1557, USWA, represented Clairton High School and was presented the 45th Senatorial District Scholarship by Senator Edward P. Zemprelli.

In her article, Miss Manns pointed out a certain amount of import competition is necessary to keep American products up to standard. But, she warns, if allowed to come into the country uncontrolled, imports can severely damage our labor force, resulting in high unemployment and huge trade deficits. She said:

> The experience of recent years, should teach U.S. Consumers that a certain amount of competition from foreign companies is advantageous but must never be permitted to become as damaging as it has in the past.

Miss Starr cited facts and figures to support her claim that imports have created massive unemployment in American based industries. She wrote:

> When jobs are displaced for any reason, more people begin to depend on government aid, such as unemployment compensation, and worse, welfare checks. Gradually, the general standard of living is lowered.

Mr. Jones punctured the theory that imports are the best buy for the consumer because they are cheaper. He declared:

> Imported goods cost more money because their real cost is the destruction of our economy.

He explained when American jobs go unfilled, because of imports, it means a growing number of American consumers are unable to consume. Their buying power is diminished, he observes, and that buying power is the cornerstone of our economy.

I might add the principal speaker at the scholarship award dinner was my good friend and esteemed colleague, who is an expert on the impact of imports on the American worker, the Honorable JOHN H. DENT.

I congratulate Miss Manns, Miss Starr, and Mr. Jones on their insight into one of the most serious problems facing our Nation today. I know their families, friends, and schools are proud of their achievement. I also commend the officers and members of the Allegheny County Labor Council for stimulating the interest of young adults in national affairs, recognizing their ability and assisting them in furthering their education.

Mr. Speaker, it is with pride and pleasure that I bring to the attention of my colleagues the accomplishments of these outstanding young Americans.

UNIVERSITY OF BUFFALO STUDENTS BOUND FOR WORK IN ISRAEL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. KEMP. Mr. Speaker, the recent Middle East conflict was a brief one, by historical standards, but the fierce fighting still took a very heavy toll on both sides, with Israel suffering casualties for in excess, considering the population differential, of those the United States suffered in Southeast Asia.

While we hope and pray that the present cease-fire will hold, Israel must, in lieu of a negotiated settlement, continue to remain mobilized—in spite of the strain this places on an economy dependent upon a healthy civilian work force. To help alleviate this situation, 12 students of the University of Buffalo have responded to a call for volunteers to work in hospitals or on Kibbutzim, filling position vacated by Israelis now on active duty in Israel's armed services.

Mr. Speaker, we should be very proud of these young volunteers, for they have committed themselves not to a glamourous, romantic adventure, but to long and hard hours for a cause in which they firmly believe. It is this spirit of volunteerism—a willingness to sacrifice a semester's tuition, to give up the comforts of home—that makes their journey so meaningful. One of the young men, Murray Sackman, is the son of my friends, Sam and Phyllis Sackman of Erie County's Township of Tonawanda. In a recent letter, Sam tells me that his son is among several of the volunteers in Kibbutz Yot Vatah, only two kilometers from the Jordanian border. Along with several of the other University of Buffalo students, Robert Alt, Neil Bluestein, Elizabeth Bolt, Randi Gottfried, and Perris Merlin, Murray is kept busy working on the dairy farm and picking melons. I know how proud his parents are, and I also know how very rewarding this experience will be for Murray.

Mr. Speaker, an article in the October 27, 1973 Buffalo Courier Express provides further information about this program in which these students are engaged. I insert it at this point:

UB STUDENTS BOUND FOR WORK IN ISRAEL

Twelve University of Buffalo students are bound for Israel this weekend in a special volunteer program sponsored by Kibbutz Aliya Desk and Sherut La'Am, organizations which arrange trips to Israel. They will not depart in a single group.

The students, who will be in Israel for periods ranging from three months to one year, will be working in hospitals or on kibbutzes doing mainly farming work. Robert A. Chertock, an interviewer for Sherut L'Am, said the students will be filling non-military positions.

Two days after the present Middle East conflict began, Sherut La'Am launched a special program calling for volunteers to fill positions left vacant by those involved in the war, Chertock said.

The students, who will pay their own transportation costs, will live on kibbutzes or receive stipends to support themselves while in Israel. The volunteers, not all of whom are Jewish, are losing their tuition for the fall term at U.B., because they are leaving at midsemester, Chertock said.

All the students shared at least one motivation for going—"the need to protect a very small country they feel is under attack," Chertock said.

Students who will be in Israel for three months are: Robert Alt, 486 Elmwood Ave.; Miss Perrie Merlin, 2463 Kensington Ave., Snyder; Miss Randi Gottfried, 8 Gettysburg Ave., Town of Tonawanda; Miss Elizabeth Bolt, 164 Traverse Blvd., Town of Tonawanda; Neil Bluestein, 201 Sunrise Blvd., Williamsville, and Murray Sackman, 198 Carpenter Ave., Town of Tonawanda.

Students volunteering for six months are: Miss Barbara Bolot, 116 Irving Ter., Kenmore; Miss Hanah Friedler, 34 Blantyre Rd.; brother and sister Samuel and Faith Prince, 90 Parkside Ct., and Sherwin DeMayo, 612 Woodlawn Dr., Town of Tonawanda.

Gene Robinson, 34 Carpenter Ave., Town of Tonawanda, will be in Israel for one year. Already serving a one-year volunteer stint are brothers Efrem and Aaron Back, 56 Covington Rd.

MISSOURI SOUTHERN STATE COLLEGE: CONSERVATION CAMPUS

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. TAYLOR of Missouri. Mr. Speaker, the work of the Soil Conservation Service has long been known for the effective way it has helped to preserve and enhance our environment long before the word ecology came into prominence.

A prime example of its efforts can be found on the campus of Missouri Southern State College, located in the Missouri Seventh Congressional District, which I am privileged to represent.

I would like to direct my colleagues' attention to the article, "Conservation Campus," which appears in the September 1973 issue of Soil Conservation, a publication of the U.S. Department of Agriculture.

The article follows:

CONSERVATION .CAMPUS

(By James E. Callahan)

Schools, including colleges and universities, in many places are turning their grounds and campuses into environmental learning areas with help from resource conservation and development (RC&D) projects.

RC&D projects are administered by the Soil Conservation Service for the U.S. Department of Agriculture. They are designed to help local people improve the social and economic conditions in the project area by developing and utilizing to the fullest extent the area's resources.

RC&D project leaders throughout the country are recognizing schools as important community resources.

At Missouri Southern State College, near Joplin, college administrators, RC&D officials, faculty members, and students had a part in developing a campus conservation plan to protect natural resources on the 310-acre campus and at the same time offer first-hand conservation learning opportunities for 3,200 students.

The conservation plan has brought about many improvements. For example, water run-off from roofs and parking lots that once cut gullies down a steep bluff flanking many of the campus buildings is now intercepted and diverted into a grassed waterway that safely carries it into nearby Turkey Creek. And eroding banks along the creek have been turned into wildlife management areas by planting soil-holding trees and shrubs that also serve as food and shelter for wildlife. Other critically eroding areas have been seeded to 'Emerald' crownvetch and fescue.

Because the campus occupies almost the entire land area of a small watershed, students, as well as teachers who are enrolled in environmental education summer workshops, can study watershed resource management right on their own campus.

A unique study area that includes a half-acre spring-fed, cold-water pond, which slowly overflows into a 5-acre warm-water marsh, also provides opportunities for on-campus studies of plants and animals native to the cold- and warm-water habitats of southwestern Missouri.

The pond was once a spring-fed swimming pool on the estate of Frank Carmany Wallower, an early pioneer in the lead and zinc mining industry in Missouri. By the time the college acquired the estate, undercurrents from the spring had created "blow outs" beneath the abandoned swimming pool, blocking the water flow and creating erosion problems and dangerous swampy areas. Furthermore, according to Dr. Leon Billingsly, president of MSSC, "the old pool was polluted and a blemish on our new campus."

Igneous, sedimentary, and metamorphic rocks will be placed around the pond to stabilize the banks and outlet and to provide opportunities for geological studies. A border planting of trees and shrubs around the pond and marsh will eventually help abate wind and noise. The effectiveness of these windbreaks will be determined and measured over the years by MSSC students.

The pond area alone is "invaluable," according to Dr. Gerald Elick, assistant professor of biology. "It is an ever-present teaching aid within a few hundred feet of every classroom on campus."

Technical help in developing and implementing the campus conservation plan was provided through the Southwest Missouri RC&D Project by the Soil Conservation Service, the Jasper County Soil and Water Conservation District with which the college is a cooperator, the Missouri Department of Conservation, and the Missouri Extension Service.

Helping schools and colleges tie together sound land use and educational opportunities brings RC&D project leaders closer to the goal of properly developing, utilizing, and conserving the natural resources of their area for the benefit of the people.

A VOTE AGAINST IMPEACHMENT

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. BAUMAN. Mr. Speaker, one of our most thoughtful and well-respected writers in the Maryland press is Mr. Louis Azrael of the Baltimore News American. For many years his commentary on national and State issues has been followed by many thousands of Marylanders.

While I have not always shared Mr. Azrael's views, I commend to the House a recent column in which he discusses the question of whether or not the President should be impeached. His thoughtful analysis deserves careful consideration. The column follows:

A Vote Against Impeachment

This column yesterday contained 17 short paragraphs, each expressing an opinion on a different subject, and one of them evoked more comment, pro and con, than all the others combined. The opinion it expressed was, "It would be better for the nation's long-range good if President Nixon should finish his term."

Most of the responses, by far, were in disagreement. But many persons complained, "When you come out with such an opinion you should at least give reasons."

It is a fair request.

The feeling that Nixon should not be impeached or pressured to resign isn't based on argument that Congress has no valid grounds upon which to act against him. It probably has.

"Should we punish Nixon?" however, is not the important question. The real question is, "What is best for the nation, not only immediately but in the long run?"

And that question leads inevitably to another: if Nixon is forced out, what are the likely consequences.

Americans are impatient people. They let things go badly and when the troubles reach a dramatic point they want quick, summary remedies. But this government has lived for 185 years without ousting a president or having one resign. We have had, at times, weak presidents, overstrong presidents, probably incompetent presidents. It has been a great element of stability in this highly volatile country that we have not disrupted administrations when national emotions were aroused.

Nixon has three more years to serve. Three years, in the perspective of history, is but a moment.

It is wise, therefore, to ask: can Nixon do such harm during the three years as to outweigh the effects of ousting him?

Let us assume (though many dispute it) that Nixon has permitted, perhaps been party to, many misdeeds. Let us assume, which few dispute, that he has grabbed so much executive power that Constitutional checks and balances have been distorted. Let us assume the truth of many charges leveled against his administration.

It is hardly likely these activities can continue if he remains in office for three more years. Congress is re-asserting its neglected powers. The public, startled by revelations of governmental skulduggery, is more alert, more vocal. The press and other media have learned to do more probing and are more outspoken than they have been in recent history.

And Nixon would be under their constant, suspicious watch. The degree to which his tendencies might harm the country would be enormously curtailed. And after three years he would go out of office in the normal American course to become a questionable figure in history.

Suppose, on the other hand, he is impeached.

Politics, inevitably, would play a large role in the impeachment proceedings. Many in the country, believing the ouster was for vicious reasons, would be incensed. It is not unlikely that rational discussion in the next presidential election would be submerged in angry debate about Nixon.

Perhaps more importantly, a precedent for ousting presidents would be set. It is true that some other countries, such as England and France, live under systems which permit mid-term dismissal of their heads of government. But they also call for elections of their legislative bodies when this is done. Nor is there any reason to think their systems have proved to be preferable.

Which, then, is better; to let a sharply-watched, power-curtailed Nixon finish out his moment in history? Or to heighten national dissension, disrupt great national and inetrnational policies and establish a precedent that could, from time to time, shatter the harmonious transitions of power that have served this nation well?

The answer seems clear.

LATVIAN FREEDOM—A HOPE AND AN INSPIRATION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. FISH. Mr. Speaker, November 18 was the 55th anniversary of the Latvian declaration of independence. Since Congress was not in session on that date, I want to take this opportunity to pay a personal tribute to the valiant Latvian people.

It was on November 18, 1918, that Latvia took its rightful place among the free and sovereign nations of the world. But, as we know all too well, their independence was to be short-lived. Since 1940, these gallant and courageous people have suffered under the yoke of Soviet Communist domination.

So, it is particularly important for those of us in the free world to remember and commemorate this anniversary. It is, appropriately, an occasion both for sadness and for hope. While the people in Latvia were unable to publicly celebrate their day of independence, those of Latvian origin here in the United States and throughout the world still demonstrated a spirit and determination that their country will again one day be free.

So, I call on my colleagues in the House of Representatives to join with me in honoring the Latvian nation and its people. A belief in human rights and self-determination demands that we rededicate ourselves to the cause of Latvian freedom and the freedom of the other captive nations.

A TRIBUTE TO JUDGE LOUIS B. DEMATTEIS

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. RYAN. Mr. Speaker, on December 1, Judge Louis B. Dematteis will be honored with a testimonial dinner on the occasion of his retirement from the Superior Court bench of San Mateo County.

I have known Judge Dematteis for 20 years now, and I am sorry to see our community lose a judge of such high calibre and judicial ability. His is, however, retiring from a career of over 20 distinguished years as a judge. He was known as a careful judge who brought to the bench a combination of even-handed judgment and sympathetic understanding of the community and the citizens of our county.

A native of San Mateo County, he was born in Redwood City on September 6, 1911. He was admitted to the California bar on November 15, 1932, after receiving his LLB in 1931 from Lincoln University in San Francisco. He also received from that institution his LLD after receiving his LLM from the University of San Francisco Law School.

He was in private practice from 1932 until 1935 when he was appointed deputy district attorney, a position he held from 1935 until he joined the Navy during World War II.

After the war he was again in private practice of law until he was appointed to assistant district attorney in 1948 and district attorney in 1949. On September 17, 1953, he was appointed by Gov. Earl Warren to the San Mateo Superior Court. His appointment was hailed by all who knew him either personally or by reputation.

He has distinguished himself not only on the bench but also in the service of his community. He is the former board chairman of the Sequoia District of the Red Cross; 1965 president of the United Fund of San Mateo County; from 1950 to 1957, chairman of the San Mateo Coordinating Committee on Youth; the former board chairman of the Catholic Social Services of San Mateo County; and past board member of the Boy Scouts.

His present participation in community affairs includes the Conference of California Judges; Benevolent and Protective Order of Elks; Sierra Club; American Legion; Knights of Columbus; San Mateo County Area Council, Boy Scouts of America, and Native Sons of the Golden West.

Judge Dematteis also maintains an active involvement in the Order of the Sons of Italy in America and the Italian-American Federation of California. He was honored for his participation in Italian-American activities in 1954 by the Italian-American organizations of San Mateo County at another testimonial dinner attended by over 1,000 appreciative people.

Judge Dematteis was married to Lillian M. Valente on May 29, 1938, and they have five children: Marilyn, Lillian, Dolores, Louis F., and Robert.

I join with thousands of others in this county and this State who wish him well in his retirement. It pleases us all to know that he will continue to be available for his wisdom and advice. It pleases me personally to know that I can continue to call him a friend and to look forward to many more years of a most pleasant association.

SUGGESTIONS FOR A SAUDI ARABIA ECONOMIC FUTURE

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. HANNA. Mr. Speaker, one of the most important, interesting, and challenging parallels in today's world is the juxtaposition of the world's energy needs and the bountiful supply of oil sequestered beneath the sands of Saudi Arabia. This imposing pair of facts presents an impressive question of policy for King Faisal. How does a small and relatively underdeveloped nation project a wise and safe policy for a stable and improved future? Oil can be a safer shield for an economic future than a continually reliable sword for a political present. To gain the advantages of this shield, however, would require an early adoption of a policy for the future parallel to the use of oil in the present. Unfortunately, no such alternative is now visible. We see a possibility of such a policy, however, if the Saudi government appreciates the following basic facts:

First, the complex world of supply and demand affords the threat of transition from a condition of uneasy stability toward a condition of increasing competitive conflict. It is historically true that economic conflict, when escalated sufficiently, leads to a more violent form of conflict.

We cannot foresee, for instance, that Europe would peacefully accept the grinding to a halt of its total economy. Predictably, some of such violence could threaten all who are ingredients in the competitive mix, including Saudi Arabia. The availability of an alternative future oriented to a policy of oil for economic benefit would under the existing condition seem extremely attractive.

Second, another underlying fact dictating the alternative lies in the acceptance of expert opinion that the predominance of oil in the world's energy mix is projected to extend from 1973 to 1985. This certainly suggests that other than a short-range political policy should be considered. Oil will be increasingly less important in part due to the shock the Arab producing nations themselves have visited upon the industrial nations by recent actions. The long-term good news is that Europe, Japan, and the United States are irrevocably committed to finding alternative sources of energy to the extent possible. Also, these countries will be much more restrictive and selective in their use of energy. Especially, in the United States we have received a stern and impressive warning and we can no longer be profligate in our use of energy.

If the government of King Faisal can use the present unique advantage of their possession of oil to build and assure a strong and continuing energy-oriented future, then such opportunity must surely be evaluated and exploited. To do otherwise minimizes the obvious economic benefits in favor of a very questionable political advantage.

Now to make specific some of the ingredients of a longer-term alternative economic policy. We believe that the Arab oil producing countries should use their relative short-run position in oil reserves as a base for building a lone-run position in atomic and solar energy. Also, in the interim they could financially participate in the coal-oriented technology for new energy sources. This would establish a base for Saudi Arabia's importance in energy in terms of centuries rather than in terms of years.

Unquestionably all industrialized countries will be committing substantial segments of their technology and science to evolving less dependent and depletable sources of energy. It would seem to me that with the shortage of capital in the world, the Arab oil nations have a remarkable opportunity to be partners in these new areas of energy if they contribute financially to the efforts to evolve and establish these alternatives. Particularly in solar energy does this seem intelligent for the Saudis. In no place in the world is there a wider window to the sun available over more hours of more days of the year than in that country, and to have a part in the research and development and, in fact, to encourage part of the experimentation to occur on Saudi soil seems patently the better part of wisdom.

As a part of such a move, the Saudi Government should consider expanding the resources, the faculty, and the facilities of their present Petroleum University to include solar science and engineering and, perhaps some work in nuclear fission. Such a participation in consort with the more advanced countries could insure a downstream front position in new energy potential. This would call for a trade-off from the short-term present advantage toward the longer-run posture in the years that lie in the future.

There is one other aspect of the present position of the Saudis and other Arab oil-producing countries and that is the constructive and intelligent absorption of income from present and projected production into other aspects of resources that have a longer future. I am thinking here of water and water management development, so that the agriculture potentials, particularly of the south of Saudi near the Yemen border, can be developed; the potential for partnership in industry, such as steel and others that would use the presently burned-off gas surplus to a profitable benefit; and the possibilities for some of the production and byproduct utilization associated with refining. All of these, of course, would require not only the importation of technicians, technology, and equipment from the advanced nations, but, in addition, suggest that the most needed investment is in the most important resource any country has and that is the investment in education for the human resources of the Saudis.

All of this is to suggest that with all of the negativism associated with the present political policy, however strongly justified in the eyes of Arab interests as the Arabs see them, this should not blind these countries to the positive potentials of a progressive future in which cooperation rather than competition is the keynote and where peace is more possible and conflict and tension more surely reduced.

We have that faith in the wisdom and the characteristic of long-term thinking that has been evident in the Arab race. That suggests to us that this alternative policy we have perhaps poorly described will soon emerge and we can only earnestly hope for hastening of the day of its realization.

TRIBUTE TO LES ARENDS

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. RAILSBACK. Mr. Speaker, I would like to take this opportunity to pay tribute to my colleague and good friend from Illinois, Les Arends. It has been a great privilege for me to have served with him during my last 7 years in the Congress.

It would seem unnecessary to summarize the many contributions which Les has made since he first entered the House of Representatives almost 40 years ago. His record speaks for itself. But we who have had the privilege and pleasure of working with Les can best realize his ability and devotion to his job and to his country. I know I speak for all my colleagues when I say Les will be deeply missed.

Les once said:

> No citizen, no matter what his or her calling, should ever cease to be concerned about

good government and the welfare of our Nation.

That statement perhaps best describes himself. Although he will be retiring from the Congress, I know that LES ARENDS will continue to be concerned about the welfare of our country. But he can retire with the feeling of pride and satisfaction in knowing that he served his Nation well.

I wish LES all the best of luck and happiness in the years to come.

CONGRESSMAN NIX PETITIONS THE PRESIDENT TO ACT WITH EXPEDITION ON THE RESOLUTION OF THE CITY COUNCIL OF PHILADELPHIA

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. NIX. Mr. Speaker, the City Council of Philadelphia on November 15, 1973, adopted a resolution memorializing the President to utilize his good offices to seek an accounting of the servicemen missing in action in Vietnam and other Southeast Asian countries. I will request this resolution, No. 225, be included in full in the RECORD at the conclusion of my remarks.

The importance of a resolution in support of locating and identifying those of our brave servicemen who are still missing is that official representatives of one of America's largest and most famous cities demonstrate that we shall never forget nor neglect the sacrifice of these brave men who are perhaps even now incarcerated in some foul Communist prison, but who undoubtedly hope, day by day, that we here in the States will not cease to exert every effort to free them and return them to their loved ones at home.

Though we face some minor tribulations today, they are as naught compared to what those missing in action who are still alive in Southeast Asia are facing this very day. One cannot help, too, but feeling a maximum compassion for the families of these men who apparently disappeared without a trace. We urge President Nixon to direct all possible action within this country's power to discover the identity of these lost soldiers, and to exert every possible energy and stratagem to return those men who are still living.

The resolution of the city council of Philadelphia, led by its president, George X. Schwartz, is most commendable. It is in the long and laudable tradition of this country that we do not forget our valiant sons who have gone into battle to safeguard our precious liberties.

Mr. Speaker, I wish to join my Philadelphia colleagues in petitioning the President of the United States to reinvigorate the search of those Americans still missing in action and to utilize all the powers of his office to effectuate a full accounting of those men of ever-honored memory who are missing in Southeast Asia.

Mr. Speaker, the resolution of the city council of Philadelphia is as follows:

RESOLUTION No. 225

Memorializing the President of the United States to utilize his good offices to seek an accounting of the servicemen "missing in action" in Viet Nam and other Southeast Asian countries.

Whereas, Less than six hundred servicemen of the more than 1,900 men who were lost while on active duty in Southeast Asia have been identified by the enemy as alive and captive; but some 1,326 men are still missing; thirty-one are Pennsylvanians, five from Philadelphia; and

Whereas, On November 15, 1973, the Eastern Pennsylvania Chapter of the National League of Families will participate in a "Walk for Freedom" from Independence Hall to John F. Kennedy Plaza to focus national concern on the plight of our missing men; and

Whereas, Until these missing men are accounted for, their families continue to suffer the anxiety, grief and frustration experienced by the relatives of those who disappear without a trace; therefore

Resolved, By the Council of the City of Philadelphia, That we hereby memorialize the President of the United States to utilize his good offices to seek an accounting of the servicemen "missing in action" in Viet Nam and other Southeast Asian countries, to help alleviate the grief and uncertainty of their families and loved ones.

Resolved, That certified copies of this Resolution be forwarded to the President of the United States, the Secretary of State, President Pro-Tempore of the Senate, Speaker of the House of Representatives, the Senators from Pennsylvania, and the Congressmen representing Philadelphia, as evidence of the sincere sentiments of this legislative body.

POOR, INNOCENT TRUDEAU

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. BRASCO. Mr. Speaker, recently, after a long silence in the face of significant provocation, a number of sources in this country, including some in the Congress, spoke out publicly against Canada's emerging policy of anti-Americanism. I was one of those Members who spoke out, and I see no reason for retracting any part of my statement after Prime Minister Trudeau of Canada responded in pained innocence to such comments.

What has happened is simple. Canada produces about 2 million barrels of oil daily, exporting about half of that to this country. That oil is of critical importance to the Northeastern United States, representing more than 5 percent of total American consumption.

Canada has twice raised its oil export taxes on oil being shipped to us. In October, that tax was 40 cents per barrel. Today it stands at $1.90 per barrel. This of course requires this country to pay and pay again for the privilege of obtaining this product from the nation we extend unique trade advantages to in a number of areas, particularly automobiles.

Trudeau's statement is self-serving and unacceptable, for he does not address himself to the two main points raised by my statement and those of a number of other people. No one maintains that Trudeau's policy is to keep any and all oil from Canada out of the United States. That was the straw man he set up and knocked down in his public statement of a few days ago.

The fact remains that a rise in a matter of weeks from 40 cents to $1.90 per barrel is unconscionable profiteering, inexcusable on its face. Why were these hikes instituted so swiftly and in such succession? Why was the policy of tax hikes so conveniently orchestrated with the Arab oil embargo?

Trudeau's pious blatherings about preventing windfall profits for oil companies is hypocritical on its face. He has never moved to prevent them from making such profits in the past. Why now? It seems to me his excuses are lame, late, and without logic.

Nor does he address himself to the other major accusation; slavish acquiescence to the Arab oil boycott. The policies followed and enunciated by his energy minister, Macdonald, could not serve the Arabs better if the shiekdoms had written them out for him.

What we have across the border is a national leader who is in intellectual and philosophical tune with Mrs. Ghandi of India, Boumedienne of Algeria, Pompidou of France, and others of their persuasion. He leans to the New Left as far as he dares.

We know that in the so-called Third World, there exists a dominant theme of anti-Americanism, led by so-called neutralists. These national leaders, alining themselves with Soviet international policies, are great ones for using what they like to call, "moral suasion." Such moral suasion halts at their national boundaries when it comes time to suppress internal dissent, but it offers marvelous opportunities to pose and strut before international gatherings.

Among the more developed nations there exists a second group of heads of state who, concealing their hostility in pious protestations of friendship, oppose the United States in any way possible while seeking economic advantage from us and sheltering behind American military strength. France best epitomizes these states.

In the United Nations and other forums, these groupings of states came together consistently in an anti-U.S. posture, no matter what the question might be. Their aim is to harm us at any cost. And no matter what camouflage is assumed or excuse offered by their apologists in this country, the net result of their endeavors harms the interests of the United States.

Recently, several national leaders have emerged in developed nations, such as Australia, who have joined in these efforts. Sometimes they have done so grudgingly. Occasionally, one can ascertain the outlines of a methodically developed and followed policy. In Trudeau's case, it is more than obvious.

He has done what he could up till now, not daring to reveal his true colors. However, any analysis of his activities, public positions, policies, and postures reveal a determination on his part to harm traditional Western interests. His anti-Israel policy should have given us an early clue, for in fact, Canada, under Trudeau, has followed such a policy. Like Britain, Trudeau hit Israel in a vital manner, denying her any opportunity to purchase any Canadian materiel that might conceivably be construed as adding to her warmaking potential. That policy hurt Israel as much as Kreisky's capitulation to the terrorists over Schoenau Castle and Britain's embargo during the late war on any and all weapons shipments to the Israelis. Now it is America's turn.

The net effect of Trudeau's policy is to do the Arab's work for them. By raising his oil tax and honoring the Arab's policies regarding shipment of oil to the Northeastern United States, he has added a new dimension in the United States to the Arab boycott, giving it teeth in a critical area of the Nation. So, whatever he says to the contrary, the effect of his policy speaks for itself. Trudeau is anti-American, and is using the resources at his command to harm us. We should retaliate immediately in kind, starting with auto trade preferences.

ONE CORPORATION'S ANSWER TO THE ENERGY CRISIS

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. PATTEN. Mr. Speaker, at a time when the energy consumption of this country is great, we find ourselves confronting a situation where we expect a great number of our schools to be closed for lack of fuel oil, our hospitals and medical facilities a bit colder than should be and our transit systems to be running on half-tanks.

This is a time for the American people to cooperate in the conservation of our Nation's energy supply, and to start turning the thermostat down and driving the car a bit slower. Mr. Speaker, Supermarkets General Corp. has already started to practice conservation even before the President's energy message of November 7.

The Pathmark Division of Supermarkets General Corp., Woodbridge, N.J., under the leadership of Mr. John O. Whitney, president, developed an energy conservation position paper containing measures which would be practiced in each of the division's stores. Mr. Whitney and Pathmark are to be congratulated for the positive attitude taken in the effort to conserve our energy supply. I submit the position paper for all my colleagues to read:

POSITION PAPER ON ACTIONS RELATING TO ENERGY CONSERVATION

PATHMARK DIVISION,
SUPERMARKETS GENERAL CORP.,
November 7, 1973.

SUMMARY

I. What Pathmark is doing

We, at Pathmark, in recognition of the energy crisis, have taken the following steps to drastically reduce our use of energy:

A. *Effective Immediately:*

1. We have reduced electrical consumption for lighting at our stores and offices by approximately 20%.

2. We have reduced our consumption of natural gas at all locations by approximately 10% by reducing the internal temperatures at our stores, distribution centers and offices.

3. We have adjusted the temperature in our Perishable Distribution Center by 5°, which results in a savings of 450-million watts for each month of operation.

4. We have implemented employee car pools.

5. We have imposed a maximum speed limit of 50 miles per hour on all company owned cars, and have reduced the size of our standard company car.

6. As a result of a special study conducted by our engineering staff, we have taken steps to minimize the use of fuel consumption by our Trucking Division by:

i. Reducing the horsepower of all new trucks, which our engineers estimate will result in a 10% fuel reduction.

ii. The use of radial tires on all trucks, which could result in a 3% reduction in fuel use.

iii. Maximizing trailer capacity to reduce the total number of trips per day—and wherever possible, we have eliminated empty mileage.

iv. We have installed cold weather preheating equipment at our terminals to reduce engine warm-up idling time.

II. Long range goals

1. We have revised our specifications for the construction of new stores to reduce lighting requirements from 150 foot candles to 85 foot candles by the use of new lighting techniques, fixtures and improved design.

2. We are also studying the possibility of offering premiums at our stores to customers who share the ride.

3. Other considerations under review are:

i. Multi-zone heating and cooling.

ii. The use of doors on frozen food cases located in the stores.

iii. Decentralization and alternative methods of distribution of food products to the stores.

iv. Our Trucking Division is experimenting with other fuel saving devices, such as air-shields and stabilizers.

v. Heat reclamation from refrigerator compressors located in the stores.

We believe Supermarkets General Corporation, Pathmark Division, through the operation of its Energy Conservation Task Force, has taken dramatic steps in reducing its use of energy.

We have dimmed our lights

As part of our existing and continuing program to conserve energy, Pathmark has reduced lighting at its supermarkets by eliminating an average of 250 90-watt fluorescent tubes from each store. This savings chain-wide has resulted in a reduction of 25,000 fluorescent tubes, or 2,250,000 watts for each hour of operation. Pathmark engineers estimate that this reduction, over a one month period, could provide electricity for approximately 18,000 people in approximately 5,000 homes for one month.

We have reduced heat

In addition, the temperature at all Pathmark stores, distribution centers and offices has been reduced to effect a 10% savings. This reduction results in an overall savings of 4-billion British Thermal Units of natural gas, which is estimated to be the equivalent source of energy to heat 160 single family homes at approximately 70° for one month.

Projecting these energy reductions on a National basis, if other concerned establishments followed the curtailments made by Pathmark, the overall effect would result in a meaningful national conservation of energy and greatly aid in minimizing the energy crisis which threatens the public wellbeing and safety.

We have formed employee car-pools

We are working towards the immediate implementation of employee car pools. Our personnel departments are bringing employee neighbors together through the use of postal zip codes, and we are encouraging employees to share the ride. Company parking lots have been realigned to reserve 96 premium spaces for car pool vehicles. We feel confident that our employees will share the ride not merely to gain premium parking spaces, but more importantly, because they wish to do their part to conserve energy.

As part of our long-range approach, our merchandising people are working on a special consideration for customers who share the ride to our stores. We hope to be in a position to announce this program shortly.

Pathmark's hot line

Our consumer information service (Pathmark's Hot Line), will be used by the Company during this critical period to keep the public advised of what action they can take to conserve energy. Of course, our long-range goal as a nation should be to acquire new techniques and habits of conserving energy so that we may achieve the national goal set by President Nixon of becoming self-sufficient in satisfying our energy needs as soon as possible.

We have reduced the fuel use by our trucks

Our trucking division has been studying fuel conservation measures since January 1973. As a result of this study, we have reduced the horsepower requirements of new trucks and have equipped our trucking fleet with radial tires. Our engineers estimate that these two steps could result in a 13% overall fuel reduction.

In addition, we have increased the capacity of our trailers in order to reduce the total number of trips from our distribution centers to the stores. Our engineers are studying alternative methods of distribution in order to minimize and wherever possible, eliminate empty trailer mileage.

OUR 24-HOUR PROGRAM

The movement of food from its source to various distribution centers and finally to the consumer at the stores is perhaps one of the most important factors to be considered in keeping food prices down. The only method of a food retailer has for keeping prices low is through efficiencies in buying, distributing and handling of their products. The supermarket industry is the most efficient user of physical space measured in terms of sales per square foot.

In 1972, for instance, the industry achieved over $225 in sales per selling square foot. To put this in a proper perspective, in 1972 the average general merchandise retailer achieved only $100 in sales per square foot of selling space.

Moreover, Pathmark is significantly more efficient that the supermarket industry as a whole, and has achieved approximately $396 in sales per square foot of selling space in 1972.

Certainly, over the long term, an efficient user as compared with over development in the form of new facilities.

As a matter of fact, even in the short term, Pathmark has experienced greater efficiencies of energy consumption in connection with its policy of extended hours of operation. Surprisingly enough, in recent studies of our 24-hour program in regard to energy conservation, we have found that our extended hours do not result in the improper utilization of that energy in relation to the movement of food units to the consumer.

The following discussion illustrates that when energy is used at Pathmark, it is used efficiently by maximizing the utilization of existing facilities to distrbute food products to the public. Certainly, an analogy can be drawn here from the mounting pressures to use existing school buildings more efficiently. We believe it is far more important in the national drive to conserve energy to maximize the use of existing faclities rather than to build new facilities.

Our recent studies reveal that Pathmark's average annual sales per square foot soon after the implementation of our 24-hour program was $403., compared to $370. for the same period during the preceding year. Our current average annual sales per square foot is approximately $408.

Any analysis regarding energy conservation in the food industry must take into consideration units of energy employed for each unit of food distributed. Expressed in another way, kilowatt hours employed per ton of food distributed to the consumer. Our figures reflect that during a sample period, we consumed 275 kilowatt hours for each ton of food distributed in 1973, compared to 278 killowatt hours during a comparable period in 1972 for the same stores. The figures are more dramatic when we adjust the total tonnage of food distributed in 1973 to reflect the tonnage reduction of meat and produce which resulted from consumer reaction to higher prices. With the adjustment figure in the computation, we find that we have experienced a 4% reduction in the use of kilowatt hours for each ton of food distributed since the implementation of our 24 hour program.

Moreover, the issue of large, high-volume supermarkets being open to the public 24 hours a day is moot. Our stores and those of most other high-volume supermarket chains, must remain open at night to re-stock and to perform necessary cleaning functions. It is virtually impossible for any high-volume supermarket chain, and particuarly Pathmark, having the highest volume stores in the nation, to replenish its shelves during the day. Hence, Pathmark stores are, and have always been, in operation 24 hours a day and all we did when we implemented our 24 hour program was to open our doors to the public.

As we have previously indicated, even before President Nixon's address to the public on November 7, 1973, Pathmark had taken steps to voluntarily reduce its consumption of electrical lighting power at its stores by 20% by removing over 25,000 90-watt fluorescent tubes from its supermarkets. We should point out, that approximately 50% of the electrical power used by a supermarket is not for lighting purposes, but instead to maintain freezer and refrigerator temperatures to prevent the spoilage of perishable products. Thus freezer and refrigerator temperatures must be maintained 24 hours a day, whether or not the store is open to the public.

In addition, Pathmark has voluntarily reduced the internal temperature of its stores to a thermostat setting lower than that requested by the President.

We submit that the total effect of our energy conservation effort far exceeds any savings which would have been realized had we merely curtailed our hours of operation. Indeed, the President requested that commercial establishments reduce their consumption of energy "by either lowering the thermostat or curtailing working hours".

Futhermore, Pathmark employs approximately 15,600 people in the six states in which its supermarkets are located. If, because of a mandatory reduction of hours, we were forced to curtail our hours of operation, we would have no alternative but to reduce our total number of employees by approximately 3%. We need not discuss the obvious economic effect such an immediate elimination of jobs would have in the communities and states in which our stores are located.

The nation must, therefore, seriously consider what effect a mandated restriction of hours would have on the level of energy conserved vis-a-vis the efficiencies of energy consumption in relation to the costs of food distributed and the possibility of increasing unemployment.

RATIONING IS IRRATIONAL

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. ROUSSELOT. Mr. Speaker, the Wall Street Journal, on Thursday, November 15, had an excellent commentary in an editorial on page 24 entitled "Rationing is Irrational." There has been much discussion about whether we should or should not bring the power and magnitude of the Federal Government into the rationing of fuel supplies—and there are all types of demands and Rube Goldberg schemes for rationing and fuel allocation coming from the very halls of this Congress. In my judgment, we would all perform an educational service for ourselves in this House of Representatives if we would read carefully the editorial by the Wall Street Journal because it explains in a concise and appropriate way that rationing is not the answer. In the concluding remarks of this editorial Treasury Secretary George P. Shultz is quoted as saying:

> Rationing will be a "last resort." The first resort, which we recommend begin as of last week if at all possible, is for the Government to permit energy suppliers to raise prices until demand meets supply.

My colleagues, many of us tried to warn in this House that wage and price controls would cause distortions and irreparable damage in our economy.

In my judgment, this warning message included in the Wall Street Journal editorial is one we should heed. I strongly encourage my colleagues to review this message before marching down the path of more and bigger Government bureaucracy which causes further irreparable damage to what is left of the free market in our society.

The editorial follows:

[From The Wall Street Journal, Nov. 15, 1973]

RATIONING IS IRRATIONAL

John Love, the President's energy chief, and Rogers Morton, the Interior Secretary, are already predicting that the voluntary conservation program is doomed to failure and that there's no avoiding a full-blown rationing program by early 1974, perhaps New Year's Day. Mr. Nixon insists rationing will only be a last resort, but he doesn't sound very confident.

We certainly hope it doesn't come to that. Rationing is absolutely the worst way to deal with fuel shortages. Any system that can be devised by Washington bureaucrats would have to be based on equal treatment for Americans, within broad priority pigeonholes. And while Americans may be born equal, we doubt there are any two of them with precisely the same legitimate energy requirements. Rationing would impose the grossest kinds of inequities on people and the crudest kinds of inefficiencies on the economy.

Consider: Jones earns $50,000 a year, commutes to work by train, and owns a Lincoln, a Buick station wagon and a Volkswagen. Smith earns $8,000 a year, owns a Ford and drives 12 miles to work. Brown makes $15,000 a year when you add together his earnings, his wife's and his son's, each of whom drives a separate car to work. Miller lives in Brooklyn, rides a subway to work and owns no cars.

So how do you divvy up the rationing coupons: Do you give them out per auto, meaning Jones gets three allotments while Smith gets one? Or do you divvy them up by auto-owning households, which may be fair to Jones but leaves two of the Brown family's wage-earners stranded?

And what about Miller, who after all is the most deserving of all, in terms of patriotically conserving gasoline? Should he not be given gasoline coupons, which after all are worth money? A black market in coupons will evolve slowly at first, but within a minute or two after coupons are first placed in the public's hands it will be going full blast. In fact, one of the options the government is considering is giving out the coupons on a per capita basis, regardless of need, precisely to protect Miller's interests.

If you don't want to hand out the coupons per-car, per-household or per-capita, you can try to distinguish between "essential" and "nonessential" driving. This would require an army of enforcers and also provide further national incentives to lie and cheat. And even without that, Tom, Dick and Harry, executives who live in the suburbs and drive 15 miles to the city, could form a car pool and divvy up two "essential" allotments for pleasure driving. Or sell their excess coupons to Jones, who wants to drive his Lincoln to Florida.

Insofar as industry is concerned, rationing would also have to be "fair and equitable," as the bureaucrats say. Consider American Widget, which now uses 1,000 units of gasoline, fuel oil and electricity per day. It has to make do with 900 units. The same is true for National Widget. It's all fair and square, except that in the last year American Widget has been scrupulously and patriotically paring energy consumption, turning out the lights, running cold water in the rest rooms, installing more energy-efficient machinery, and rerouting delivery schedules. National Widget, on the other hand, has been squandering British Thermal Units with abandon, as it always has. With rationing, American Widget has no choice but to cut production. National simply trots around doing those things that American already accomplished.

To avoid this and other problems, the government could not make rationing work unless it conducted a national energy audit. Each of several million enterprises would have to come before Mr. Love and his people with several volumes of documents to justify their respective hard-luck stories and win an extra dollop of fuel from the czar.

Rationing worked after a fashion during World War II, but produced no economic distortions to speak of; the economy was wholly geared to the war effort.

Peacetime rationing is quite another matter, and if we're to have it, we had best import several battalions of Soviet bureaucrats who have 56 years experience in allocating material and only foul up half the time. While rationing seems the fair and equitable thing to the cherubs in Washington who have shown their stuff on wage and price controls, in practice we foresee a monumental snafu.

Treasury Secretary Shultz, at least, says rationing will be a "last resort." The first resort, which we recommend begin as of last week if at all possible, is for the government to permit energy suppliers to raise prices until demand meets supply.

CONGRESSMAN JOSHUA EILBERG ADDRESSES THE AMERICAN IMMIGRATION AND CITIZENSHIP CONFERENCE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. RODINO. Mr. Speaker, in the 93d Congress, my good friend and colleague, Joshua Eilberg succeeded me as chairman of the Judiciary Committee's Subcommittee on Immigration, Citizenship, and International Law—formerly Subcommittee No. 1.

He has been an extremely active and hardworking chairman and since assuming this position he has successful floor-managed legislative proposals which I have introduced to combat the illegal alien problem and to provide for the orderly admission of Western Hemisphere immigrants.

In addition, the subcommittee under the leadership of Josh Eilberg has conducted extensive hearings in an effort to satisfy its oversight responsibilities.

In order to fully inform my colleagues as to the diligent activities of the subcommittee, I wish to insert in the Record at this point the eloquent remarks of Josh Eilberg before the American Immigration and Citizenship Conference at the Plaza Hotel, November 2, 1973.

The remarks follow:

New Goals of U.S. Immigration Policy

(By Hon. Joshua Eilberg)

It is an honor and a considerable pleasure to be here today and to address this distinguished group on the subject of immigration. First, I want to take this opportunity to introduce myself as the new Chairman of the Subcommittee on Immigration, Citizenship, and International Law—Formerly Subcommittee No. 1—of the U.S. House of Representatives' Committee on the Judiciary. It is a particular honor to succeed my esteemed colleague from New Jersey, the Honorable Peter W. Rodino, the present Chairman of the full Judiciary Committee, in this position. Based on my five years of experience as a member of the Immigration Subcommittee, I am well aware of the significance of Immigration policy, both in and of itself, and in relation to such areas as manpower, policy, population and foreign affairs. I am proud and pleased to assume the Chairmanship of this important Subcommittee.

It would indeed be presumptive of me to lecture to this learned group on existing immigration law, trends in immigration or present immigration procedures. Therefore, the topic I would like to discuss today is the new goals of U.S. immigration policy. Apart from concern with illegal aliens, there appears to be a pervasive feeling that we solved our immigration problems for once and for all back in 1965 with the abolition of the national origins quota system, and all that now remains is to ensure that, in the words of the President's Commission on Population Growth and the American Future, "immigration levels not be increased." As this audience is well aware, this is not the case. The 89th Congress made a new beginning when they rewrote the immigration law in 1965. However, it was just that—a beginning, and we still have a considerable amount of work before us.

The Judiciary Committee has defined the reform of the immigration law currently underway as a three-step operation, with the first step the abolition in 1965 of the national origins quota system. Berating the national origins systems falls into the category of kicking a dead horse—fortunately and finally—so I will spare you my comments on that subject. I do want to say, however, that I am acquainted with the invaluable assistance provided by the American Immigration and Citizenship Conference (AICC) under the very capable leadership of its Executive Secretary, Ruth Murphy, in rallying public support for the 1965 legislation. Not the least of my objectives in speaking to you today is to attempt to enlist your assistance again.

The second step in the present immigration reform process is embodied in H.R. 981, which passed the House on September 26, 1973, by a vote of 336 to 30, and is now pending before the Senate Judiciary Committee. The purpose of this legislation is to enable aliens from both hemispheres to immigrate to the United States based upon family ties or personal qualifications, but not upon their place of birth. After 40 years of an immigration policy toward the Eastern Hemisphere based unabashedly on prejudice and discrimination, the Congress achieved this goal in 1965, but only with respect to the Eastern Hemisphere. The 120,000 annual ceiling imposed on the Western Hemisphere was not integrated into the basic design of the Immigration and Nationality Act, with the result that we now have two immigration laws for the two hemispheres. As you know, the present treatment of the Western Hemisphere contrasts with that of the Eastern Hemisphere in that, along with an overall annual numerical ceiling of 170,000 the Eastern Hemisphere has a 20,000 per-country limitation and a seven-point preference system which provides that certain categories of immigrants—most notably close relatives of U.S. citizens and permanent resident aliens, and those possessing talents and skills in short supply in this country—are given preference over others. Immigrant visas are *immediately* available as of October 1973 for the relative preference categories for all Eastern Hemisphere countries except the Philippines. In contrast, there is a two year waiting list for all intending immigrants from the Western Hemisphere who fall under the numerical restriction.

The major purpose of H.R. 981 is to extend the preference system and pre-country limit currently in effect in the Eastern Hemisphere to the Western Hemisphere. As we note in the Committee report on the bill, it is limited in scope and objective, in part because of the urgency of the situation in the Western Hemisphere which has prompted it. The State Department reported an active waiting list under the Western Hemisphere ceiling of approximately 200,000 as of January, 1973. The lack of adequate legislation is causing intending immigrants from this hemisphere considerable hardship in being reunited with members of their family who are U.S. citizens or permanent resident aliens. In addition, the State Department reports serious concern about the adverse effect our current immigration law is having on foreign relations in this hemisphere, particularly with Canada. Total Canadian immigration has fallen from 38,327 in fiscal year 1965 to 10,776 in fiscal year 1972.

The single most controversial provision of H.R. 981 has been the application of the 20,000 per-country limit to Canada and Mexico, with Mexico being the principal area of concern. Mexican immigration last year totalled 64,040, of which 41,694 entered under the ceiling; 22,333 were exempt from numerical limitation and would be unaffected by the provisions of H.R. 981. It has been the will of the majority of the Immigration Subcommittee, the full Judiciary Committee, and the House itself that the 20,000 per-country limit be applied equally to all countries. As I said earlier, I believe our immigration law should base entry into this country on family reunification and personal qualifications, rather than on an alien's place of birth. The decision by the Committee to limit all countries to 20,000 was largely the result of the desire that this legislation mark the final end of an immigration quota system based on nationality, whether the rationale behind it be the alleged national origins of our citizenry, as it was in the past, or geographical proximity—the argument for preferential treatment of Canada and Mexico. The House-passed legislation rejects the concept of a "special relationship" between this country and certain other countries as a basis for our immigration law, in favor of a uniform treatment of all countries.

The third step and ultimate goal of the immigration reform now underway is a unified worldwide immigration system with a single worldwide ceiling and revised preference system. It is our intention to move in this direction after we have had some experience with Western Hemisphere immigration under a preference system and per-country limit. Depending on when and if—and this is a major question—the Senate acts on H.R. 981, we hope to begin this third step as soon as there is reasonable and sufficient experience with the operation of amendments.

We also intend at that time to address ourselves to a revision of the present labor certification program. The continuation of the provision basically in its present form is intended only as an interim step until more information is available. Section 6 of H.R. 981 adds new language requiring the Secretary of Labor to submit quarterly reports to the Congress "containing complete and detailed statements of facts pertinent to the labor certification procedures including, but not limited to, lists of occupations in short supply or oversupply, regionally projected manpower needs, as well as up-to-date statistics on the number of labor certifications approved or denied". This information is not presently forthcoming from the Labor Department. However, the information that has been received from independent sources indicates a considerable and disturbing lack of uniformity in the program's administration in different parts of the country.

As I have had occasion to note before, the administration of this provision by the Department of Labor has not been satisfactory. The labor certification program is a complex one—partly because of the complexity of the immigration law itself, but partly because of the failure of the Department of Labor to explain adequately the program to the public or even to the Congress, with whom it has been generally uncooperative. As a result, the program is operating with little in the way of public understanding, and the Department of Labor's efforts to implement this program have been attacked by courts and commentators alike as being arbitrary, unfair and violative of the Freedom of Information Act. I believe these criticisms are valid and I sincerely hope that the unimaginative Labor Department will reevaluate its entire approach to the labor certification program. I don't address the criticism personally to Jack Sheeran who has labored with the certification procedure within the Department of Labor.

Turning now to other new immigration goals, the revision of our refugee provisions heads the list. I want to say at this point that it is a considerable pleasure for me to share this dais with Ambassador Frank Kellogg, and to join with you in honoring him for his invaluable services as Special Assistant to the Secretary of State for Refugee and Migration Affairs. As a personal note of thanks, Ambassador Kellogg appeared before my Subcommittee on two different occasions during our hearings on H.R. 981 earlier this year, and has been most helpful to us in our development of the provisions pertaining to refugees.

If I may digress briefly, more than individual countries, the international refugee organizations in which the United States participates under the direction of the State Department's Office of Refugee and Migration Affairs play the crucial role in determining both worldwide refugee policy and the ultimate success of that policy. The International Committee for European Migration (ICEM) is a case in point. ICEM was formed in Brussels, Belgium in 1951 at U.S. initiative, to complete the task of resettling refugees and escapees remaining in the European camps in the aftermath of World War II. In the intervening years, the 31-member international organization has continued to play a vital role in assisting in the resettlement of refugees. In late 1972, ICEM was the first international organization to send counselors and medical personnel into Uganda to assist in the movement of Asians who were being expelled. At the present time, ICEM should use its good offices to explore every possibility to insure the continued movement of Soviet Jews. Such countries as Germany, Cyprus, Greece, and Italy should be contacted in an effort to develop a fall-back position for refugees for whom Austria is no longer willing or able to serve as a temporary haven. In short, there is as great a need for ICEM today as when it was founded. Member countries and non-member countries should be encouraged to take advantage of ICEM's expertise and readiness to seek their assistance in meeting recurring refugee problems.

Turning again to U.S. immigration policy, H.R. 981 significantly amends the refugee provisions of the Immigration and Nationality Act in an attempt to clarify the present law, and to allow sufficient flexibility for meeting emergency refugee situations. First, section 5 of H.R. 981 amends the definition of "refugee" to conform with the definition contained in the U.N. Protocol Relating to the Status of Refugees, to which the United States has acceded. The amended definition removes the geographical and ideological limitations contained in the present law, and creates a program which is worldwide in application.

Second, section 6 of H.R. 981 grants the Attorney General specific authority to parole certain groups of refugees into the country pursuant to a recommendation by the Secretary of State, and after consultation with the Congress. The parole authority in the present legislation is unclear and too broad, and the members of the Judiciary Committee have been particularly disturbed when the Attorney General has used this authority without consultation with Congress. As we point out in the report on H.R. 981, "The Congress is charged by the Constitution with responsibility for the regulation of immigration, and this responsibility does not cease in the presence of an emergency refugee situation." Assuming this legislation is enacted, unless there is full consultation by the Departments of State and Justice with the appropriate Congressional committees regarding use of the flexible refugee parole authority which it provides, we will necessarily have to return to a more restrictive position.

Also, on the subject of humanitarian assistance to the homeless, the House-passed bill, H.R. 7555, permits the approval of a visa petition filed by a single prospective adoptive parent. If enacted—and, again this depends on Senate action—this legislation will, I am sure, provide more homes for the homeless orphans of the war in Vietnam.

While it cannot be said to represent a new goal, the House has also passed H.R. 982, legislation making it unlawful to knowingly employ aliens who are either not lawfully admitted for permanent residence or not authorized to work while in the United States. This legislation is identical in purpose and similar in form to legislation passed by the House during the 92d Congress but not acted on by the Senate. We are hopeful that this bill, along with H.R. 981, will receive prompt Senate action.

In a move directly related to our concern about the serious illegal alien problem, the Subcommittee has held oversight hearings this year on the Justice Department's Operation Sweep. We have also held oversight hearings this year on the operations of INS as a whole, as well as the State Department's Bureau of Security and Consular Affairs, with regard to their implementation of the immigration law. The Judiciary Committee has exclusive jurisdiction in this very important oversight area, and expansion of our activities here is one of our major new goals. The oversight hearings are continuing, with further investigation of related Labor Department activities planned for the future.

I stated before we have a considerable amount of work before us—but as you can see the process has begun. Last year when former Judiciary Chairman Celler addressed this prestigious group he referred to the lack of a Western Hemisphere preference system as the "unfinished business of the 1965 Act." The Judiciary Committee and the House of Representatives has made every effort to make it the "completed business" of the 93rd Congress.

Looking into the future, we are planning for a long overdue revision of Title III, the naturalization provisions, of the Immigration and Nationality Act. Our immediate goal, however, is completion of the revision of the Title II immigration provisions which Congress began in 1965. The most serious obstacle facing us in this task is no longer the prejudice responsible for the perpetuation of the national origins quota system for four decades, but apathy. The present Administration has shown very little interest in the subject of immigration, and the Senate appears virtually unaware of its existence. House-passed immigration legislation died at the end of the 92nd Congress, and no Senate action has been taken to date during this Congress on any immigration legislation passed by the House, with the exception of private bills.

Yet, as you know, we are faced with some very serious problems. The number of illegal aliens in the country is increasing, the Western Hemisphere waiting list is lengthening, and the State Department tells us that our present immigration law is having a deleterious effect on our relationship with the Western Hemisphere, and may do lasting harm if it continues. I am aware that some of our proposed solutions to these problems are controversial, but I would welcome debate and alternative proposals from the other body, rather than silence.

In closing, I want to thank you again for this opportunity to present to you the agenda of the Subcommittee on Immigration, Citizenship, and International Law regarding immigration. Our process in moving into new areas may be somewhat slow in the immediate future because our Subcommittee continues to have temporary responsibility for some matters unrelated to immigration which fell within the purview of Subcommittee No. 1 prior to the recent reorganization of the House Judiciary Committee. For example, our Subcommittee at the present time is also considering proposals to reform or abolish the Federal grand jury; the U.N. Law of the Sea Conference; death benefits for survivors of public safety officers; and bills to compensate innocent victims of violent crime. In addition, as you know, the full Judiciary Committee is totally involved in some of the most serious issues which have ever confronted this nation: impeachment, confirmation of the Vice Presidential nominee, appointment of a special prosecutor, etc. . . .

We in the Congress are grateful to this organization for your expert advice as well as your continuing cooperation in educating the public about the desirability of an equitable immigration policy. We must work together to accomplish this goal and I am looking forward to a continuing dialogue with this organization and I personally welcome any assistance that you can provide in formulating fair and reasonable immigration laws.

AMERICAN LEGION SPEAKS OUT

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. CORMAN. Mr. Speaker, during this past October the American Legion released an excellent statement and resolution regarding the Israel-Arab conflict. While a cease-fire has since been negotiated many of the Legion's important principles must still be achieved. For this reason I would like my colleagues to have the opportunity to review this statement.

The material follows:

AMERICAN LEGION URGES RESUPPLYING ISRAEL WITH MODERN ARMS AND MATERIAL NECESSARY TO INSURE SURVIVAL AS A DEMOCRATIC NATION

INDIANAPOLIS, IND.—The American Legion's National Executive Committee today called upon the government of the United States to provide Israel with the Arms of the most advanced type and other war material necessary to insure the survival of that Middle East Nation, while supporting also U.S. moves to secure a cease fire in that volatile area.

The Legion's National Executive Committee in regular fall meeting at National Headquarters here, also called upon the Soviet Union to join with the United States in agreeing to halt the resupply of arms, in demanding an immediate cease fire, and for political negotiations without preconditions.

The American Legion action here today constituted an updating of the veterans organization's position on the Middle East from a similar resolution adopted by its 1972 Chicago National Convention. The new Legion action resulted from the resumption of warfare in the Middle East on Oct. 6, which, the resolution stated: "Endangers the very existence of Israel and constitutes a grave threat to international peace."

The Legion resolution noted the expanded conflict is creating large-scale casualties among civilian and military personnel alike and charged the extension of the conflict is "abetted by the Soviet Union's deliberate decision to resupply Arab forces with the most modern arms and other war material."

The Legion action continued to say: "It is imperative that the state of Israel survive as a free Jewish democracy in the Middle East with secure borders and . . . likewise imperative that a peaceful political solution be found in which Arab and Jew can live in peace and eventually in mutual cooperation for the progress of all peoples of the Middle East."

In related action, the Legion also adopted a resolution opposing the granting of most favored nation status to the Soviet Union until Russia gives "convincing demonstrations of its will to work for and help in enforcing peace throughout the world and to honor past treaties and conventions to which it is signatory."

RESOLUTION PASSED BY THE AMERICAN LEGION NATIONAL EXECUTIVE COMMITTEE, MEETING IN INDIANAPOLIS, IND., OCTOBER 17, 1973

Whereas, the resumption of warfare on October 7, 1973, in the Middle East endangers the very existence of Israel and constitutes a grave threat to international peace, and

Whereas, the danger of expanding and extending the armed conflict there and creating large scale casualties among military and civilian populace alike is abetted by the Soviet Union's deliberate decision to re-supply Arab forces with the most modern arms and other war material; and

Whereas, it is imperative that the state of Israel survive as a free Jewish democracy in the Middle East with secure borders; be recognized by all countries in that region as such; and

Whereas, it is likewise imperative that a peaceful political solution be found in which Arab and Jew can live in peace and eventually in mutual cooperation for the progress of all peoples of the Middle East; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 17–18, 1973, that The American Legion strongly support the United States Government in its efforts to secure an immediate ceasefire in the Middle East and to halt the flow of all arms into that region, and be it further

Resolved, that we urge the Soviet Union to join the United States in agreeing to halt the re-supply of arms, in demanding an immediate ceasefire, and for political negotiations without preconditions, and be it finally

Resolved, that, pending the re-achievement of a peaceful solution, we urge the United States to provide Israel arms of the most advanced type and other war material necessary to insure the survival of Israel as a democratic nation in the Middle East wtih secure boundaries.

RESOLUTION NO. 28, APPROVED BY THE AMERICAN LEGION NATIONAL EXECUTIVE COMMITTEE, OCTOBER 17, 1973

Whereas, certain nations in the geographical regions commonly referred to as the "Near East" have abundant surplus of oil and gas resources, the production and marketing of which are essential for the continuing progress and betterment of mankind throughout the world, and

Whereas, said aforementioned Near East nations which possess and control such petroleum resources recently have exhibited an overt intention of using these resources to coerce this nation into turning its back on aggressive acts of war threatening the existence of the democratic state of Israel, now, therefore be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana on October 17–18, 1973, that the President of the United States, by positive diplomacy, leave no doubt in the minds of those nations in the Near East which are now engaged in open and aggressive acts of war against the democratic nation of Israel, that the United States will not be coerced by any international threats or ploys related to the withholding or the unreasonable marketing of petroleum products in the international trade.

PRESIDENT NIXON—THE WE-STILL-WANT-HIM GROUP

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. TAYLOR of Missouri. Mr. Speaker, the November 26 edition of the Christian Science Monitor carries a significant article by Mr. Godfrey Sperling, Jr., who is chief of the Monitor's Washington bureau.

Mr. Sperling, reporting from Memphis, Tenn., the scene of the recent Republican Governors' Conference, describes a popularity rating, favorable to President Nixon, that has gone unnoticed to most of the news media, but not to a large number of Congressmen who give a thorough reading to their constituent mail.

For those who have not had the opportunity to read Mr. Sperling's article I offer it now for my colleagues' perusal:

PRESIDENT NIXON—THE "WE-STILL-WANT-HIM" GROUP

(By Godfrey Sperling, Jr.)

MEMPHIS.—There's a "popularity" rating of the President which shows him at his all-time low in the polls. But there is another kind of assessment of Mr. Nixon which is largely overlooked, and which will bear heavily on his potential for making a comeback—call it a "we-still-want-him" point of view. It comes from Americans everywhere, but particularly in the West, Midwest, South, and less-populated areas. And it comes from people who made up that massive 60.7 percent vote for Richard Nixon in 1972.

These Americans abound around here, the locale of the Republican Governors' 1973 Conference. Take a look at the letters to the editor in the Memphis Commercial Appeal and you find comments like this, "I want to commend the President for his attitude and his concern for this country. I am truly convinced that he is a sincere and hardworking President. I am glad that he will not consider resigning, and I feel lucky to have him in the No. 1 spot."

This letter also expresses another persistent and, apparently, growing view among many pro-Nixonites: they desperately want the media to say something good about Mr. Nixon. They really aren't arguing that the Nixon administration was not involved in a messy situation in Watergate. Nor are they insisting that Vice-President Agnew was free from sin. Not at all on Mr. Agnew. One of the interesting aspects of the letters this column is getting these days is that while many call for an end of what they see to be media persecution of the President—the letters in defense of Mr. Agnew have ceased entirely. Those who were charging the press with being too hard on Mr. Agnew are no longer coming to his defense. Instead, they are concentrating their ire on what they see as media mistreatment of Mr. Nixon. Writes another Tennessean to the Commercial Appeal: "It seems to me that the greatest threat to this country is not so much a dictatorial Supreme Court or in imperfect President as it is a vicious slanted news media on the minds of masses of Americans who are either too lazy or too indifferent to think for themselves. It makes me furious to hear news commentators spout off about the American public's loss of confidence in President Nixon, and to read in every newspaper the same kind of junk, all aimed at tearing down and keeping slander going."

But what so many of these Nixon supporters seems to be saying is this: "We're so tired of hearing these continuing attacks on Mr. Nixon. Even if some of them are true, we still don't think he, personally, has obstructed the law or taken any money. And because he has done other good things, we want him to stay on." An Arkansan puts his thesis this way: "If Congress should be called upon to impeach President Nixon, I hope I can hear each member when he or she tries to convince the thousands of fathers and mothers whose sons have been returned from Vietnam, and those whose sons have been spared this awful experience that President Nixon is not a good leader and therefore should be put out of the White House."

What many Americans now are saying seems to be this: "Nixon may be soiled by Watergate—but he still is our man." And they simply don't want to hear anything more about Watergate and related matters. In a Monitor survey Republican leaders in every region of the United States—except for the Eastern Seaboard states—were reporting this growing reluctance among their pro-Nixon GOP constituents even to listen to or read about the Watergate story. "They are sick and tired of it. They want it to disappear," one Midwestern state chairman said.

"They've had Watergate," a Western GOP leader said. These were typical comments.

But there's something else emerging in the attitude of the hard-core Nixon supporters: they are moving from what might be called an immoblized sympathy for their man to what one might call an activist fury at those who are pressing for a Nixon impeachment or resignation. They are beginning to fight for Mr. Nixon's political life. And they mean business. They have a stake in Mr. Nixon in the presidency: He represents a lot of things that they believe in. Furthermore, they voted for him. And, for the first time since Watergate exploded last spring, these hitherto relatively unassertive Americans are beginning to spring into action—in their own and in their President's behalf. It is within this vast group that Mr. Nixon's new Watergate-related initiative is bound to have the most effect.

WIDESPREAD MALICE TOWARD LEADERS OF OUR NATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. CARTER. Mr. Speaker, I deeply regret that we are witnessing today such widespread malice and hatred directed toward the leaders of our Nation. It seems to me that during this time in our country's history we should make every effort to collect our thoughts and remain cool and calm, guided by sound reason and judgment. Perhaps we should also count our blessings: an end to our role in the war in Vietnam; cessation of active conflict in the Middle East; détente with the U.S.S.R.; constructive and expanded relations with the People's Republic of China; an employment level of 85 million—less than 4½ percent unemployment, with an estimate that one-half of these could obtain employment if they so desired.

We are confronted with a crisis in our supplies of energy. We must meet this problem with courage, commonsense, and with a willingness to sacrifice for the common good. It is essential that we emphasize the positive strides we have made and work to regain our ability to creatively solve the difficulties we face.

I submit for the Record an item which provides valuable insight into our Nation's present situation:

Pyrrhic Victory

"One more such victory," said ancient King Pyrrhus, surveying his casualties, "one more such victory and we are undone."

This country of ours is letting hatreds tear us to shreds. Our loyalties, yours and mine, to any people or party is of absolutely no importance compared to our loyalty to our country. That must be supreme.

The Ship of State is listing. It will take every officer on the bridge, every sailor in the engine room and lookout, doing his utmost to get the ship safely to port. Then is the time to fix the blame for who caused the crippling fire.

Only the self-serving are clamoring for attention while the officers are straining every nerve to steer through deadly shoals—shoals that could sink the ship and everyone on it, friend and foe.

Get us all to port; then find out who was to blame. But, first, get us to port.

EMBARGO

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. SHOUP. Mr. Speaker, today I have introduced a bill calling for an embargo on the shipment of certain goods and materials to those Mideast nations which have cut off shipments of petroleum to the United States. In support of this measure, I should like to advance these observations.

First, this embargo is not intended to be retaliatory in nature, nor is it intended to forcefully effect a resumption of oil shipments to this country. In fact, I subscribe to the statements of those who have said that the curtailment of petroleum, is in the long run a good thing. It will cause us to reassess our priorities; it will force us to develop alternative sources of energy, something we should have been doing for many years now; and to the extent we begin to examine ourselves and our needs and our wants, it can help redefine our goals and values.

Second, since the work product of our highly industrialized society requires the expenditure of vast amounts of energy, it makes very little sense to continue to export finished products to those same nations which have deprived us of the raw energy needed to produce those materials. In view of the need to cut back our production, the most logical area is the shipments to the Mideast.

Third, the policy of the Arab Nations is palpably and obviously anti-American. For that reason alone it defies commonsense to continue to supply them with a wide variety of materials many of which fall into the category of critical and strategic goods.

In contemplating this proposed embargo there are those who will argue that it would serve no useful purpose since the nations subject to it will simply resupply elsewhere. Any response to this argument places one in the position of defending retaliation and/or attempts to force a resumption of shipments. Nevertheless, for those who care to engage in such arguments, I have included for entry into the Record the 1972 calendar year partial listing of American exports to one Arab nation, Kuwait. An examination of the list, which is incomplete, shows that as to type of material and quantity, replacement would be difficult if not impossible. Especially noteworthy is the high level of built-in dependence on American machinery and machine goods. For example, it is obvious that the source of supply for parts of American automobiles and American manufactured machines is somewhat limited. In passing it might be noted that if resupply is indeed easy, then our embargo will not cause any difficulty and will be accepted for what it is, an imposed reordering or priorities. Yet, a final point in this context: The bill I have introduced has a section to help mitigate attempted evasion of the embargo. Any "funneling" activity would be monitored by the Secretary of Commerce who would report to Congress with recommendations for corrective action.

Finally, it would be false and misleading to ourselves and our constituents to offer this as any solution to our present difficulties. The energies crisis is here now and it is only going to be resolved by many solutions applied together. Our efforts to find those solutions must, of course, continue unabated.

However, this bill does state a position; it is an expression of the feeling of Congress about the threat to our Nation's well-being which the Arabs have so cynicaly posed. It says unmistakably that we will not have our foreign policy dictated by Arab nations and finally, it could be an expression of congressional determination to deal firmly with a crisis that left in the hands of the administration is still floundering dangerously.

For my colleagues who received copies of the bill, I should note that the inclusion of Iran was an error which will be corrected when this measure is reintroduced.

The above-mentioned list follows:

U.S. EXPORTS OF DOMESTIC MERCHANDISE—CALENDAR YEAR 1972

TABLE 3.—CONTINENT AND COUNTRY OF DESTINATION BY SCHEDULE B COMMODITY GROUPINGS AND METHOD OF TRANSPORTATION

For coverage, security restrictions, and related matters, see General Explanation. Special category shipments, although excluded from individual Schedule B commodity totals, are combined and shown as special category* at the end of the data for countries not identified with an asterisk (*). Special category data, if any, for certain countries in Asia, identified with an asterisk (*), are combined and shown as special category not shown by CTY* at the end of the data for Asia. Vessel and air data for continents and countries exclude special category shipments although such shipments are included in the "all methods" total. X-Not applicable. Z-Less than half of the unit of measurement shown]

Schedule B code	Continent, country, and commodity	All methods, value
	Kuwait	$108, 140, 353
0	Food and live animals	4, 338, 300
1	Beverages and tobacco	8, 509, 424
2	Crude materials—inedible, except fuel	84, 000
3	Mineral fuels, lubricants, etc	774, 659
4	Oils and fats—animal and vegetable	352, 947
5	Chemicals	4, 256, 337
6	Manufactured goods by chief material	5, 665, 697
7	Machinery and transport equipment	77, 156, 309
8	Misc. manufactured articles, n.e.c	5, 603, 107
9	Items not classified by kind	1, 397, 184
00	Animals—live	1, 796
01	Meat preparations	122, 595
02	Dairy products and eggs	10, 073
03	Fish and fish preparations	5, 402
04	Cereals and prep. of cereal, flour, etc	1, 359, 050
05	Fruits and vegetables	798, 968
06	Sugar, sugar preparations, and honey	319, 972
07	Coffee, cocoa, tea, spices, and mfrs	76, 789
08	Animal feeding—stuff, excl. unml. cereal	392, 073
09	Miscellaneous food preparations	1, 251, 582
11	Beverages	6, 417
12	Tobacco and tobacco manufactures	8, 503, 607
23	Rubber—excl. chpded., semiprocd., and mfrs.	6, 535
24	Wood, lumber, and cork	23, 286
26	Raw textile fibers and their waste	8, 774
27	Fertilizers, crude and minerals excl. coal.	32, 563
29	Animal and vegetable materials, n.e.c., crude.	12, 842
33	Petroleum and petroleum products	771, 714
34	Gas—Natural and manufactured	2, 945
42	Vegetable oils and fats—fixed, exc. hydr.	323, 830
43	Fatty acids, waxes, etc., excl. pet. prod	29, 117
51	Chemical elements and compounds	228, 420
52	Min tar and oils and crude chems., etc	526
53	Dyeing, tanning, and coloring materials	342, 617
54	Medicinal and pharmaceutical products	877, 497
55	Essent. oils, perfume mtrls., soaps, etc	798, 185
56	Fertlzrs.—Mfrd. and fertlzr. mtrls., n.e.c	1, 400
57	Explosives and pyrotechnic products	13, 616
58	Synthetic resins and plastic materials	102, 111
59	Chemical products and materials, n.e.c	1, 891, 965
61	Leather, mfrs., n.e.c., and dressed furskins.	41, 480
62	Rubber mfrs.—Semifin., and fin., n.e.c	738, 792
63	Wood and cork manufactures, n.e.c	24, 746
64	Paper, paperboard, and manufactures	301, 114
65	Yarn, fabric, and articles, textile	957, 368
66	Nonmetallic mineral manufactures, n.e.c.	712, 455
67	Iron and steel	791, 633
68	Nonferrous metals	338, 740
69	Manufactures of metal, n-e.c	1, 759, 369
71	Machinery, nonelectric	23, 611, 669
72	Electrical machinery, appr., and appl	6, 612, 054
73	Transport equipment	46, 932, 586
81	Plumbing, etc., fix, fit., lamps, and pts	181, 689
82	Furniture	41, 602
83	Travel goods, handbags, etc	433, 500
84	Clthng. incl. fur., knit elas. fabric, etc	1, 770, 510
85	Footwear—New, exc. military and orthoped.	12, 473
86	Prof., photo, etc., goods, clocks, etc	1, 148, 256
89	Miscellaneous mfrd. articles, n.e.c	2, 015, 077
93	Spec. transactions not classed by kind	1, 397, 184
001	Animals—Live	1, 796

Schedule B code	Continent, country, and commodity	All methods, value
011	Meat—Fresh, chilled, or frozen	103, 992
012	Meat—Dried, salted, or smoked	7, 815
013	Meat—In airtight contain., meat preps	10, 788
022	Milk and cream	2, 557
024	Cheese and curd	7, 516
031	Fish and shellfish—or simply prep	2, 024
032	Fish—In airtight contain. fish preps	3, 378
042	Rice—Rough, brown, milled, glazed, polished.	880, 625
044	Corn or maize—Unmilled	217, 803
045	Cereals, n.e.c.—Unmilled	876
046	Wheat flour, meal, and groats	3, 591
048	Preps. of cereal, flour, starch, etc	256, 155
051	Fruits—Fresh, nuts, except oil nuts	39, 332
052	Fruits—Dried, incl. artific. dehydrated	3, 171
053	Fruits and nuts—Prep. or pres., n.e.c	442, 573
054	Veg., frsh., etc., dried legum veg., veg. prod.	82, 223
055	Veg., roots and tubers, prep. or pres., n.e.c.	235, 669
061	Sugar, sirups, molasses, and honey	148, 197
062	Sugar confectionery, no cocoa, etc	171, 775
071	Coffee	59, 417
073	Choc. and food preps cont. cocoa or choc.	6, 470
075	Spices	10, 902
081	Animal feeding-stuff, excl. unml. cereal	392, 073
091	Margarine, shortening, prep edible fat	40, 121
099	Food preparations, n.e.c	1, 201, 461
111	Beverages, n.e.c.—nonalcoholic	4, 809
112	Beverages—alcoholic	1, 608
122	Tobacco manufactures	8, 503, 007
231	Rubber, excl. Cmpded, semiprocd and mfrs.	6, 535
243	Wood—shaped or simply worked	23, 286
263	Cotton	705
266	Manmade fibr. and their waste, exc. glass.	1, 669
267	Textile fabric waste, including rags	6, 400
273	Stone, sand and gravel	2, 676
275	Nat. abrasives incl. industrial diamonds	1, 366
276	Crude minerals, n.e.c	28, 521
292	Vegetable materials, n.e.c.—crude	12, 842
332	Petroleum products	771, 714
341	Gas—natural and manufactured	2, 945
421	Vegetable oils—fixed, soft, exc. hydr	9, 631
422	Vegetable oils—fixed, nec	314, 199
431	Fatty acids, waxes, etc., excl. pet prod	29, 117
512	Organic chemicals	163, 603
513	Inorg. chem. elmnts oxds. hydroxds, etc	10, 476
514	Inorganic chemicals, n.e.c	51, 098
515	R-Active and stable isotopes and cpds. etc.	3, 243
521	Min. tar and oils and crude chemicals, etc.	526
531	Syn. org. dyes, etc., lakes and toners	3, 711
532	Dyeing and tanning extracts and art bates.	672
533	Pigments, paints, varnishes, etc	338, 234
541	Medicinal and pharmaceutical products	877, 497
553	Perfumery, cosmetics, dentifrices, etc	385, 439
554	Soaps, cleansers, polishes, etc	412, 746
561	Fertlzrs—mfrd. and fertlzr mtrls. n.e.c	1, 400
371	Explosives and pyrotechnic products	13, 616
581	Synthetic resins and plastic materials	102, 111
599	Chemical products and materials, n.e.c.	1, 891, 965
611	Leather	22, 740
612	Leather manufactures, n.e.c	18, 740
621	Rubber articles in specified forms	131, 554
629	Rubber manufactures—finished, n.e.c	607, 238
632	Wood manufactures, n.e.c	23, 416
633	Cork mfrs., and agglomerated cork and mfrs.	1, 330
641	Paper and paperboard	197, 347
642	Paper, paper pulp, and paperboard art, n.e.c.	103, 767
652	Cotton fabric, woven ex. spec. or narrow.	72, 128
653	Textile fabric woven ex. cotton, etc	254, 008
654	Tulle, lace, etc. and other small wares	7, 576
655	Special text fabric and products	98, 766
656	Made-up text articles and products	460, 357
657	Floor covering, tapestries, etc	64, 533
661	Lime, cement, and fbr. bldg. mtl. n.e.c	2, 480
662	Clay and refractory construction mtls	45, 161
663	Mineral manufactures, n.e.c	239, 323
664	Glass	317, 858
665	Glassware	103, 444
667	Diamonds and other precious stones	4, 189
673	Iron or steel bars, rods, angles, etc	22, 875
674	Iron or steel plates and sheets	57, 627
675	Iron or steel hoop and strip	5, 783
677	Iron or steel wire exc. insulated elect	10, 637
678	Iron or steel tubes, pipes, and fittings	691, 207
679	Ir. or st. castings and forgings—rough	3, 504
682	Copper and copper alloys—wr. and unwr.	71, 007
683	Nickel and Nickel alloys—wr. and unwr.	258, 930
684	Aluminum and aluminum alloys—wr and unwr	3, 652 3, 652
685	Lead and lead alloys—wr. and unwr	1, 191
689	Base metals and alloys, n.e.c.—wr and unwr.	3, 960
691	Structures and parts—ir., st., alum., zinc.	497, 680
692	Metal containers for storage and trans	27, 720
693	Wire prods. exc. insulated electric	25, 566
694	Nails, bolts, and similar arts, ir., st., copp.	28, 540
695	Tools for use in hand or in machines	515, 669
696	Table flatware and cutlery	17, 083
697	Household equipment or base metals	119, 028
698	Manufactures of base metal, n.e.c	528, 083
711	Power generating mach. exc. elect., and pts.	3, 537, 901
712	Agricultural mach. and appliances, and pts.	70, 323
714	Office machines and parts	868, 239
715	Metalworking machinery	111, 238
717	Textile and leather machinery, and parts	30, 356
718	Machines for special industries, and parts	3, 089, 053
719	Machinery and appl., and mach. parts, n.e.c	15, 904, 559
722	Electric power mach., switchgear, and parts	910, 414
723	Equipment for distributing electricity	28, 863
724	Telecommunications apparatus, and parts	914, 879
725	Electric household equip. and appl. and parts	3, 113, 966
726	Electric medical and radiological apparatus	29, 420
729	Electric mach. and apparatus, and parts, n.e.c	1, 614, 512
731	Railway vehicles and parts	3, 791
732	Road motor vehicles and parts, n.e.c	25, 175, 029
733	Vehicles, exc. road motor veh. and parts	283, 968
734	Aircraft and spacecraft, and parts	20, 710, 205
735	Ships, boats and floating structures	759, 593
812	Plumbing, etc., fix, fit, lamps and parts	181, 689
821	Furniture	41, 602
831	Travel goods, handbags, etc	433, 500
841	Clthng, ex. fur., knit elas. fab., art, etc	1, 770, 510
851	Footwear—New, exc. military and orthoped	12, 473
861	Scientific, optical, etc., apparatus	1, 023, 493
862	Photographic and motion picture supplies	29, 798
863	Movie film—Exposed and developed	92, 877
864	Watches and clocks, including parts	2, 088
891	Sound recorders, music instruments, etc	103, 775
892	Printed matter	91, 654
893	Articles of artificial plastics, n.e.c	153, 706
894	Baby carriages, toys, sports goods, etc	204, 521
895	Office and stationer supplies, n.e.c	1, 279, 325
896	Artworks, collectors pieces and antiques	5, 000
897	Jewelry and related articles	56, 938
899	Manufactured articles, n.e.c	120, 158
931	Spec. transactions not classed by kind	1, 397, 184
042.2	Rice—Milled	880, 110
044.0	Corn or maize—Unmilled	217, 803
048.8	Malt extract, prep. of flour, starch, etc	201, 916
053.5	Fruit and vegetable juices—Unfermented	254, 276
053.9	Fruits and nuts—Prepared or pres., n.e.c	179, 549
055.5	Vegetables—Prepared or preserved, n.e.c	234, 223
061.9	Sugars and sirups, n.e.c	142, 956
062.0	Sugar confectionery, no cocoa, etc	171, 775
081.3	Oilseed cake, meal, residues	126, 282
081.9	Food wastes and prepared animal feed, n.e.c	265, 791
099.0	Mustard sauces, seasonings, soups, etc	121, 012
099.1	Food preparations, n.e.c	1, 090, 449
122.2	Cigarettes	8, 402, 253
332.5	Lubricating oils and greases	534, 565
332.9	Pilch, asphalt and oth. byprod., exc. chem	236, 261
422.9	Vegetable oils—Fixed, n.e.c	314, 199
512.0	Organic chemicals	163, 603
533.3	Prepared paints, enamels, lacquers, etc	337, 409
541.7	Med. and pharm. prep., cmpnds., mixtures, etc	799, 418
553.0	Cosmetics and oth. toilet preparation, n.e.c	385, 439
554.2	Surface active agents, detergents, etc	376, 103
599.9	Chem. prod, n.e.c. incl reagents etc	1, 831, 670
621.0	Rbr. in various forms—Unvulcanized, etc	131, 554
629.1	Rbr. tires and tubes for vehicles and plane	486, 676
656.9	Made-up articles of textile mtl, n.e.c	404, 444
663.5	Mineral insulating materials, n.e.c	131, 903
664.7	Safety glass—Toughened or laminated	208, 177
678.2	Ir and st tubes and pipes—Seamless	500, 971
678.5	Iron or steel tube and pipe fittings	150, 187
683.2	Nickel and nickel alloys—Wrought	258, 930
691.1	Finshd struc pts and structures—Ir and st	454, 658
695.2	Tools, n.e.c., for hand or machine use	515, 069
698.1	Hardware of base metals, incl locks	139, 942
698.9	Articles of base metals, n.e.c	273, 010
711.3	Steam engines, turbines, and parts	134, 775
711.4	Engines and jet, gas turbines—A/C, etc	846, 838
711.5	Engines—Int com, exc aircraft and parts	2, 346, 473
714.2	Electronic computers exc pun card type	626, 049
714.9	Office machines, n.e.c., and ofc mach parts	208, 186
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719.1	Heating and cooling mach and equip, and parts	9, 508, 880
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ELOISE BERNICE JOHNSON, MARYLAND'S TEACHER OF THE YEAR

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1973

Mr. BAUMAN. Mr. Speaker, it is with a great deal of pride that I have learned that Maryland's "Teacher of the Year" is Mrs. Eloise Bernice Johnson, a resident of my congressional district. Mrs. Johnson teaches at the Chestertown Elementary School in Kent County and she is our State's first black teacher to receive this high honor annually bestowed by the State board of education.

I share with my colleagues an article from the Kent County News of November 21 regarding Mrs. Johnson.

KENT EDUCATOR NAMED MARYLAND TEACHER OF YEAR

Maryland's teacher of the year for 1974 is Mrs. Eloise Bernice Johnson, State School Superintendent James A. Sensenbaugh announced today. A first grade teacher at Chestertown Elementary School, in Kent

County, she is the state's first black teacher to be selected for that high annual award.

Mrs. Johnson says the biggest change that has taken place in her sixteen years as a first grade teacher is the institution of kindergarten. "Children come to me now ready to learn, to work together, and to share," she says. "We used to spend most of the first year bringing children up to that level."

Class size has changed too. With twenty children in her present class Mrs. Johnson says she can devote time to each child. When she started teaching, with classes running to thirty or thirty-five pupils, that just wasn't possible.

And she says, "Children are better groomed when they come to school than they used to be. Parents now a days care more and you can see it in the appearance of their children and their much greater interest in their children's progress."

But discipline is another matter. Children beginning school are much less used to discipline than they were sixteen years ago, Mrs. Johnson says. "I don't know what causes it. Maybe parents don't believe in strict discipline anymore," she reflects.

Is discipline a problem in her classroom? "No," says Mrs. Johnson. "If you understand children, you know when to step in. Children will be children. Some things I hear and some I don't, and some things I see and some I don't."

Are boys harder to teach than girls? "Not really," says Mrs. Johnson. "Sometimes boys don't plug as hard as girls, they're a little more nonchalant."

How about differences between races? "Learning abilities are about the same, but white children often come to class with a little more experience than blacks. Still, you find exceptions on both sides all the time."

"I don't look at children as boys or girls or as black or white." Mrs. Johnson adds. "I see them all as entitled to the learning their school experience can bring them."

Does she keep track of former students? "Yes, I try to," Mrs. Johnson says. "I know what has become of most of the children I taught in my first first grade class sixteen years ago. I don't know one that I wouldn't say I'm very proud of."

Do children do funny things? "Yes, often," says Mrs. Johnson, "just the other day we had an observer in the classroom and I asked one of the children a difficult question. When he answered it correctly the class broke into spontaneous applause. It was a bit of a surprise."

Mrs. Johnson's Principal, Walter G. MacDonald, is as proud of her as she is of her pupils. He grades her this way: "She's a leader, an inspiration to new teachers; she's very receptive to new ideas. She's a problem solver, she inspires confidence, and she has the affection and respect of the whole staff."

Mrs. Johnson is an active church and temple worker, a member of the county wide textbook selection committee and takes pride in her membership in the Kent Teachers Association, the Maryland State Teachers Association, and the National Educational Association. Her husband, Randolph, is superintendent of a shopping center in Wilmington, Delaware.

In naming Mrs. Johnson, Dr. Sensenbaugh said, "she symbolizes all the superior teachers in the state." "We select the teacher of the year," he said, "because all really good teachers are entitled to public recognition. Mrs. Johnson is a splendid example of the best in the teaching profession."

Maryland's teacher of the year, Mrs. Eloise Bernice Johnson, is a nominee for national teacher of the year, to be named in February.

SENATE—*Wednesday, November 28, 1973*

The Senate met at 10:30 a.m. and was called to order by Hon. Thomas F. Eagleton, a Senator from the State of Missouri.

PRAYER

The Reverend Warren Blakeman, pastor, Henning Memorial United Methodist Church, Sulphur, La., offered the following prayer:

Our God, we thank You for the precious gift of life. We recognize that life is not lost at the end of it but all along the way if we fail to live according to Your will.

In our life, let truth always be combined with love, love with courage, and courage with justice and mercy. We are awed when we think that the responsibilities placed upon us affect not only this time but all generations to come. Humbly we ask Your guidance. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., November 28, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Thomas F. Eagleton, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. **EAGLETON** thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 27, 1973, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 552, 553, and 554.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

THE AMERICAN HOSPITAL OF PARIS

The bill (S. 1836) to amend the act entitled "An act to incorporate the American Hospital of Paris," approved January 30, 1913 (37 Stat. 654), was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Act entitled "An Act to incorporate the American Hospital of Paris", approved January 30, 1913 (37 Stat. 654) is amended by deleting "nor more than twenty".

(b) Section 6 of such Act is amended by deleting "an equal number of" wherever it appears therein.

THE AMERICAN WAR MOTHERS

The bill (S. 2441) to amend the act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act entitled "An Act to incorporate the American War Mothers", approved February 24, 1925, as amended (36 U.S.C. 97), is amended by inserting after "her son or sons or daughter or daughters of her blood" the following: ", her legally adopted son or sons or legally adopted daughter or daughters, or her stepson or stepsons or stepdaughter or stepdaughters".

SOUTHEASTERN UNIVERSITY OF THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (S. 389) for the relief of Southeastern University of the Young Men's Christian Association of the District of Columbia which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 5, after "University" strike out "of the Young Men's Christian Association", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the certificate of incorporation and certificate of amendment thereto for the incorporation of the Southeastern University of the District of Columbia under subchapter 1 of chapter 18 of the Code of Laws of the District of Columbia (1929 D.C. Code, title 5, ch. 8) be and the same are hereby, approved and confirmed, except as herein specifically altered and amended.

Sec. 2. That the name of the corporation shall be Southeastern University.

Sec. 3. The management of the said corporation shall be vested in a board of trustees consisting of not less than nine nor more than thirty in number as determined from time to time by said board of trustees, one-third of whom, at all times, shall be graduates of said university, of the qualifications prescribed by said board of trustees, nominated by the alumni of said university in the manner prescribed by said board of trustees, and all of whom shall be elected by said board of trustees. Each trustee shall be elected for a term of office of three years from the date of expiration of the term for which his predecessor was elected; except that (1) in expanding or reducing the number of trustees under this Act, the board of trustees shall have the authority to fix or adjust the terms of office of such additional or remaining trustees, as the case may be, so that the term of office of not more than one-third of the trustees shall expire annually; and (2) a trustee elected to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be elected only for the unexpired term of such predecessor.

SEC. 4. That the said board of trustees is authorized to (a) make, alter, and repeal bylaws for the management of the said corporation and rules and regulations for the government of the university and the schools, faculty, and students thereof; (b) elect as officers of the said corporation and fix the salaries of a president, a treasurer, and a secretary, and such other officers as it may find necessary, for the respective terms and with the respective powers and duties as fixed by the bylaws of the said corporation; (c) appoint, from among their number, as officers of the said board of trustees and fix the salaries of a chairman, a vice chairman, and a secretary, and such other officers as it may find necessary, for the respective terms and with the respective powers and duties as fixed by the laws of the said corporation; (d) remove any trustee when, in its judgment, he shall be found incapable, by age or otherwise, of performing or discharging, or shall neglect or refuse to perform or discharge, the duties of his office; (e) determine and establish from time to time additional schools in all departments of sciences, liberal arts, and the professions, and the courses of instruction therein; (f) determine and establish, from time to time, additional professorships; (g) appoint from time to time, such deans, professors, tutors, and instructors as it may deem necessary, and fix their respective terms, duties, and salaries; and (h) grant and confer degrees, but only upon the recommendation of the appropriate school.

SEC. 5. That the said corporation may have and use a common seal and alter and change the same at pleasure, and shall have power, in its corporate name (a) to sue and be sued; (b) to plead and be impleaded; and (c) to acquire real, personal, and mixed property by grant, gift, purchase, bargain and sale, conveyance, will, devise, bequest, or otherwise to hold, use, and maintain the same solely for the purposes of education and to demise, let, mortgage, or otherwise lien, grant, sell, exchange, convey, transfer, place out at interest, or otherwise dispose of the same for its use in such manner as shall seem most beneficial thereto; subject to conforming to the express conditions of the donor of any gift, devise, or bequest with regard thereto accepted by it: *Provided*, That it shall not hold more land at any one time than necessary for the purpose of education, unless it shall have received the same by gift, grant, or devise, in which case it shall sell and dispose of so much of the same as may not be necessary for said purposes within fifteen years from the date of acquisition, otherwise the same shall revert to the donor or his heirs.

SEC. 6. The income of said corporation from all sources whatsoever shall be held in the name of the corporation and supplied to the maintenance, endowment, promotion, and advancement of the said university, subject to conforming to the express conditions of the donor of any gift, devise, or bequest accepted by said corporation, with regard to the income therefrom.

SEC. 7. That no person shall ever be required to profess any particular religious denomination, sentiment, or opinion as a condition to becoming and continuing a member of the faculty or a student, with the full benefits, privileges, and advantages thereof.

SEC. 8. That no institution of learning hereafter incorporated in the District of Columbia shall use in or as its title, in whole or in part, the words "Southeastern University".

SEC. 9. Upon dissolution of the corporation, the board of trustees shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for educational purposes as shall at the time qualify as an exempt organization or organizations under section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States internal revenue law, as the board of trustees shall determine.

SEC. 10. That nothing in this Act contained shall be construed as preventing the Congress from amending, annulling, or repealing the same or any part thereof.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "An act for the relief of Southeastern University of the District of Columbia."

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations under "New Reports."

There being no objection, the Senate proceeded to consider executive business.

DEPARTMENT OF JUSTICE

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. PATENT OFFICE

The second assistant legislative clerk proceeded to read nominations in the U.S. Patent Office.

Mr. MANSFIELD. Mr. President, I make the same request for those nominations.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF THE INTERIOR

The second assistant legislative clerk read the nomination of Morris Thompson, of Alaska, to be Commissioner of Indian Affairs.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

THE ENERGY CRISIS

Mr. MANSFIELD. Mr. President, with the airlines decreasing the number of flights and laying off hundreds of pilots, flight personnel, and ground crews; with the Defense Department, under the Emergency Defense Act of 1950, having allocated to it hundreds of millions of barrels of fuel; with the arrival last week of the last oil tanker from the Middle East, the energy crisis is being brought closer to home. The developments which I have just enumerated do not comprise the whole picture by any means, but are only indications of things to come.

There is talk of carpools to reduce the number of automobiles on the road, thereby decreasing the amount of gas used, but it is, as yet, only talk. There is the Alaska pipeline bill signed into law by the President recently, but it will take from 3 to 5 years before the oil begins to flow from the North Slope. There is the story in today's newspapers that Secretary of the Interior Morton will very shortly call for private bids on six oil bearing shale areas in Utah, Colorado, and Wyoming. There is the fact that we face no more imports of oil from the Arab nations which indicates that, at the very least, we face a winter and spring of shortages; shortages which may go into the next year and the next, as well.

The President has indicated that we can become self-sufficient in energy by the year 1980, but this is a debatable point which only time will prove or disprove.

I have advocated the rationing of gasoline because I think it would be more equitable for all our people. There has been talk of an increase in the Federal gasoline tax from the present 4 cents per gallon to anywhere from 30 to 40 cents per gallon. This would be most inequitable because those of us who could afford it would be able to pay it, but those of us in the lower- and middle-income groups would not. It would be an unconscionable tax.

It appears to me, on the basis of the crisis which confronts us and which, in my opinion, will become worse in the months ahead, that one way to ameliorate our difficulties would be to increase public transportation facilities. In that respect, the railroads of the Nation are, at the present time, being booked to capacity, and reservations in some areas, such as between New York and Washington, have, I understand, been placed up to 3 months. I would hope, therefore, that immediate attention would be given to the expansion of Amtrak in all areas of the country. Then, as airline flights are reduced in number, some of our smaller cities and towns perhaps taken off airline schedules, and as the use of automobiles decreases, the void thus created will, to a limited extent, be filled.

EXPANSION OF AMTRAK SERVICE

Mr. MANSFIELD. Mr. President, as Senators know, I have been campaigning for several years, now, to bring about the expansion of Amtrak passenger train service in my State of Montana, especially around the southern route of the old Northern Pacific which now receives 3-day-a-week service. About the only good thing that has come out of the energy crisis, in my opinion, is an opportunity for Amtrak to expand and upgrade its passenger train service not only in Montana but throughout the Nation.

I believe that since the beginning of Amtrak, the people of Montana have demonstrated that they are willing to use passenger trains if they are offered efficient service and updated and modern equipment. I continue to receive reports about passengers being discouraged by Amtrak personnel. I hope that this period is coming to a halt and that all Amtrak and railroad personnel will pursue with vigor a renewed effort to build the Nation's passenger train service. In Montana, not only would I like to see daily service on the southern route as rapidly as possible, but I think that the current energy crisis calls for a review and restoration of service to cities like Helena and Great Falls, which must be served by spur lines connected with major routes. Also, some additional attention must be given to service between Butte and Salt Lake City formerly provided by the Union Pacific Railroad.

A recent editorial in the Great Falls Tribune, one of Montana's largest daily newspapers, stated:

> One thing seems certain: With the prospect of limited gasoline supplies for 2 or 3 years, more travelers are going to consider the train again when planning a trip.

I am in complete agreement, and I hope that other Members of Congress will join me in asking that Amtrak expand its service throughout the Nation and that the committees in Congress give full support to Amtrak in any such effort.

Mr. HUGH SCOTT. Mr. President, quite recently I was in Erie, Pa., and I visited the plant of General Electric, where a number of railroad passenger cars are being built, using many American products, using, indeed, some Canadian steel, as well. These cars are being built for the New Haven Railroad, for Amtrak, and for Metroliner use; and it has been very difficult to make sure that allocations of Federal and other funds continue for the number of trains already under construction.

I very strongly support, and have really ever since I have been in the Congress, better passenger rail transportation. I have advocated it and have introduced legislation pertaining to it, for disaster legislation for relief of the railroads, for legislation to aid the rail lines and to encourage passenger traffic. I have supported Amtrak legislation, and so forth.

I join with the distinguished majority leader in urging expansion of Amtrak. It has been successful. My own experience has been on the New York-Washington line. Service is prompt, courteous, and friendly in great contrast with the old "discourage-the-passenger attitude" which was a very nasty evasion of responsibility on the part of the railroads in the past. It still continues, I am afraid, in some areas of the country.

Just 2 weeks ago I advocated expansion of Amtrak from New York to Erie, Pa., to cover the southern tier of New York counties and the northern tier of Pennsylvania counties, and on to Detroit and Chicago as a necessary aid to relieving some of the pressures on energy which would be involved in other forms of travel.

I would like to see Amtrak given much broader support. I would like to see some improvement and extension of Amtrak—for example, from Philadelphia and Harrisburg to Pittsburgh, and from Pittsburgh to Erie. My colleagues from other States have expressed the same belief. First of all, we need action on the Midwest and Northeast bill which will be coming up shortly. That will be a step in the right direction.

We need to be sure that the Interstate Commerce Commission keeps a close eye on the railroads to make sure that they do nothing to discourage passenger traffic that should be promoted. Some railroads think that the profit is in freight cars and the passenger be damned. That attitude must go.

We have a whole generation of people who have never ridden on a train. They would be very happy to do so. I believe that this would relieve the energy crisis.

Mr. MANSFIELD. Mr. President, if the Senator will yield, the train passenger service has increased remarkably in the past couple of weeks. And out in my part of the country, the service cannot begin to meet the demand.

I have felt for a long time that the railroads are in effect a part of our national defense system. They are tied most closely to our security. And as the gasoline crunch becomes worse, people are not going to be able to travel as far as they would like to do.

This would be one way in which the void could be filled as automobiles continue to decrease in numbers on the road, as I am sure they will, and as the airlines reduce their schedules, and as all of these fears which confront us at the moment come to a head.

This is the time to face up to the need for an expansion of Amtrak so that it can become a nationwide service once again as it used to be in what some of us refer to as the good old days.

Amtrak is becoming more efficient and more knowledgeable as to how a railroad should be run. I would hope that the impetus would carry forward.

Mr. HUGH SCOTT. Mr. President, I would give one illustration from the past as to how alternative modes of transportation are used in time of shortage. During World War II, people believed themselves to be progressive. They believed that they should get rid of the trolley cars. The people in Philadelphia did not get rid of the trolley cars, and we had far less trouble then in Philadelphia than in those places which did get rid of the trolley cars.

If we go back to the railroads, people will have more fun and also more energy.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I yield back my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 15 minutes with statements limited therein to 3 minutes.

INCREASE IN CONTRIBUTION OF GOVERNMENT FOR HEALTH BENEFITS FOR FEDERAL EMPLOYEES—MESSAGE FROM THE HOUSE

Mr. McGEE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9256.

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McGEE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. McGee, Mr. Randolph, Mr. Burdick, Mr. Fong, and Mr. Stevens conferees on the part of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Eagleton) laid before the Senate the following letters, which were referred as indicated:

Proposed Supplemental Appropriations for the Fiscal Year 1974 for the Department of the Interior (S. Doc. No. 93–45)

A communication from the President of the United States transmitting the details of proposed supplemental appropriations for the fiscal year 1974 in the amount of $14,106,000 for the Department of the Interior (with an accompanying paper). Referred to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Banking, Housing and Urban Affairs, with amendments:

S. 513. A bill to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes (Rept. No. 93–580).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

S. 577. A bill for the relief of Comdr. Howard A. Weltner, U.S. Naval Reserve (Rept. No. 93–581); and

S. Res. 97. A resolution to refer the bill (S. 1562) entitled "A bill for the relief of J. Clarence Ingram, Don W. Ingram, and Dick L. Ingram of Nephi, Utah" to the Chief Commissioner of the Court of Claims for a report thereon (Rept. No. 93–582).

SUBMISSION OF A REPORT

Under the authority of the order of the Senate of November 20, 1973, Mr. Ervin, from the Committee on Government Operations, today submitted a report on the bill (S. 1541) to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional office of the budget; and for other purposes, which was ordered to be printed (together with additional views) (Rept. No. 93–579).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Don S. Smith, of Arkansas, to be a member of the Federal Power Commission.

The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SPARKMAN:

S. 2749. A bill for the relief of Miss Carmen Diaz. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. Weicker) (by request):

S. 2750. A bill to amend section 403 of the Small Business Investment Act of 1958. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BENNETT:

S. 2751. A bill for the relief of John C. Bonner and Marian K. Bonner. Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. Young):

S. 2752. A bill for the relief of North Central Educational Television, Inc. Referred to the Committee on the Judiciary.

By Mr. HART (for himself and Mr. Moss):

S. 2753. A bill to protect the environment and conserve natural resources by stimulating the recovery, reuse, and recycling of waste materials and by decreasing the quantity of materials moved in commerce which must be disposed of ultimately as waste; to promote and regulate commerce by identifying and establishing standards and guidelines for the proper management of waste which poses a substantial hazard to human health or the environment, and for other purposes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself and Mr. Weicker) (by request):

S. 2750. A bill to amend section 403 of the Small Business Investment Act of 1958. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CRANSTON. Mr. President, I introduce for myself and the junior Senator from Connecticut (Mr. Weicker) by request, a bill to amend section 403 of the Small Business Investment Act of 1958, as amended, and request that it be referred to the Committee on Banking, Housing and Urban Affairs.

I ask unanimous consent that the bill be printed in the Record along with a short analysis of the bill.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 of the Small Business Investment Act of 1958 is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$35,000,000;"

(2) by adding after the second sentence the following new sentence: "Additional capital is hereby authorized to be appropriated to such fund in such an amount as may be necessary to carry out the provisions and purposes of this part and part B of this title;" and,

(3) by striking the word "initial" from the fourth sentence and from the fifth and final sentence.

Analysis of the Bill

The Small Business Administration's lease guarantee and surety bond guarantee programs are both authorized under Title IV of the Small Business Investment Act of 1958. Both programs are operated out of a single revolving fund, established by Section 403 of that Act, the statutory initial capital in which is presently set at $10 million. Such capital is derived from the fund established under Section 4(c) of the Small Business Act. The legislative history of Title IV indicates that of this $10 million, $5 million was intended as initial capital for each of the programs. The rapid growth and success of the two programs strongly suggest that the levels of capital in the revolving fund need to be significantly increased.

Under Title IV of the 1958 Act, SBA is authorized to guarantee the payment of rentals due under leases of commercial and industrial properties entered into by small business concerns, where such leases would not be available without the SBA guarantee. This lease guarantee program is required by law to be actuarially sound and to operate on a self-sustaining basis. At present, the current contingent liability under issued policies and certificates of reinsurance exceeds $240 million and commitments outstanding are $200 million. Contingent liability is increasing at a rate of $10 million per month, and that rate is accelerating. In addition, if anticipated programs for pollution control devices and major personal property are begun, growth will be even greater. For pollution control alone, the estimated contingent liability incurred is expected to be in excess of $1 billion over the next three years.

Because these are long term obligations, sound actuarial doctrine dictates that adequate capital be available to support the contingent liability. Studies indicate that, with respect to the lease guarantee program, each $1 million of capital will support not more than $100 million of contingent liability. Thus, contingent liability under this program is nearing the amount which can be supported by the initial $5 million in capital presently allocated to this fund, and continuing growth of the program through FY 1975 necessitates the availability of considerable additional capital.

SBA is also authorized by Title IV of the 1958 Act to guarantee up to 90 percent of a surety's loss on any bid, payment or performance bond issued to a small concern on any contract up to $500,000 in amount, where the bond would have been unavailable without such guarantee. This program has been extremely successful in assisting the small emerging contractor. Because of the minimal fees charged for a surety bond, and the small additional fee SBA is realistically able to charge, this program is not expected to be self-sustaining.

SBA's tightening of underwriting reviews has resulted in a reduction of our loss rate from 2.4 percent as of December 31, 1972, to 1.05 percent as of June 30, 1973 (for contractors who were previously considered unbondable for any number of reasons, including size, capacity and capital). With the current 1.05 percent loss ratio on the $450 million in contract guarantees made through FY 1973, the contingent liability under this program has almost reached the amount which can be supported by the $5 million in initial capital presently allocated to this fund. We project an additional $650 million in surety bond commitments for FY 1974 alone. With the rate of increase continuing to accelerate, total commitments under the program should reach $1.9 billion by the end of FY 1975. Based on the current loss rate, a fund of almost $20 million will be required to support the program's contingent liability.

It is clear that funds presently allocated to support the rapidly growing and patently successful lease and surety bond guarantee programs are already insufficient. Section 1 of the amendment to Section 403 is based on SBA estimates that a total of $35 million in capital will be required in order to sustain both programs through FY 1975. Of this $35 million, it is estimated that $10 million will be sufficient capital to maintain the lease guarantee program, and $25 million would be allocated for the surety bond guarantee program. These amounts take into account the projected growth of both programs through FY 1975, the amount of funds required to support the contingent liability of each, plus a 15 percent reserve to protect against having to suspend either program in the face of more rapid growth than is projected. Because both programs are not separately funded, it is imperative that a healthy reserve for each be established to prevent erosion of either program's allocated capital at the expense of the other's.

The bill also clarifies SBA's authority to seek such additional capital in the form of appropriations to the revolving fund as may be necessary for the successful continued operation of both programs (section 2). The existing prohibition against investment of initial capital and the existing requirement for the payment of interest to Treasury on net outstanding disbursements of initial capital is also broadened to apply to any additional capital appropriated to the fund under this, or any other bill. Finally, by providing initial capital thought to be sufficient to maintain the programs through FY 1975, it is hoped that SBA will be able to coordinate future requests for such capital with its bi-annual proposals involving the adjustment of business loan and investment fund ceilings established under Section 4(c) of the Small Business Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1918

At the request of Mr. BURDICK, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1918, to allow the States to designate agents to conduct audits on behalf of any designating State or group of States.

SENATE JOINT RESOLUTION 133

At the request of Mr. ABOUREZK, the Senator from Michigan (Mr. HART) was added as a cosponsor of Senate Joint Resolution 133, to provide for the establishment of the American Indian Policy Review Commission.

AMENDMENT OF THE SOCIAL SECURITY ACT—AMENDMENTS

AMENDMENT NO. 725

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT NO. 726

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (H.R. 3153) supra.

AMENDMENT NO. 727

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 3153), supra.

AMENDMENTS NOS. 728 AND 729

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted two amendments intended to be proposed by him to the bill (H.R. 3153), supra.

AMENDMENT NO. 730

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. CHURCH, Mr. CLARK, and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 3153), supra.

AMENDMENT NO. 731

(Ordered to be printed and to lie on the table.)

Mr. BIDEN. Mr. President, increasing national attention is being given to the pressing need to improve the means of treating medical cases requiring immediate care. The legislation I am introducing which would extend medicare and medicaid reimbursement to cover the special institutional costs of immediate care services provided by qualified facilities other than hospitals—which already receive reimbursement—would contribute to both an improvement in the availability and quality of care and an increase in the equity of the reimbursement provisions.

Currently, medicare and medicaid reimbursement for the institutional fee of immediate care services under titles XVIII and XIX of the Social Security Act may only be made when the services have been rendered in a provider hospital or a qualified emergency hospital. The inadequacy of the law is that it focuses upon the context in which the care is provided rather than emphasizing the principal factor—the capability of providing quality care regardless of context.

Secretary Weinberger's remarks at the meeting of the American Health Congress in Chicago on August 21, 1973, underscore the shortcomings of the medicare and medicaid legislation which encourages doctors to put patients in high-cost hospitals rather than treat them as outpatients. This generalization certainly extends to immediate care services as well. Since only hospitals are eligible for reimbursement of the special institutional costs of their immediate care services, the law discriminates against other facilities which are equally qualified to perform particular immediate care services and often better able to deliver such services.

It should also be noted that with regard to medicaid coverage of the immediate care services provided in nonhospital facilities, the administration in its 1974 budget message promised proposed legislation "requiring States under medicaid to reimburse free-standing clinics for covered outpatient services." Consistent with the specific purpose of my proposal the legislation I am introducing would only add the immediate care services provided by free-standing facilities to the required coverage of State medicaid plans.

The foregoing statements by the administration support my contention that the time has come for the legislation I am offering. Let us look, however, at the concrete circumstances which demonstrate the importance of these amendments to the medicare and medicaid law.

With the growing number of cases requiring immediate medical care and the rising expectations of our citizens to receive immediate attention, our hospital emergency rooms have become overburdened and frequently unprofitable. The Senate Labor and Public Welfare Committee's report accompanying the "Emergency Medical Services Systems Act of 1973" (S. 2410) outlines the problem:

> Increasing concern is being expressed throughout the Nation regarding the heavy demands made upon a major element of any emergency medical system—the hospital emergency room. Hospital emergency rooms are increasingly called upon to provide outpatient care for the community. The position paper prepared by the American College of Emergency Physicians in 1972 reported there has been over a 600% increase in the number of emergency visits in some hospitals in the last 25 years. Nationally the average is an increase of 10% a year. Last year there were approximately 50 million visits to emergency rooms.
>
> In the critically underserved neighborhoods of densely populated urban areas, emergency medical services should more accurately be termed primary health services. Here the distinction between emergency medical care and primary health care is very difficult to determine.
>
> This increased community reliance on the services of the emergency room has overburdened its resources and has vastly compounded the difficulties of providing effective critical care to the emergency victim.

In my State, for example, until the last few years the primary source of immediate medical care in the populous northern county was the central-city hospital's emergency room. A survey by the comprehensive health planning council, the 314b agency for the county, revealed that approximately 25 percent—90,000—of the county's population, however, is concentrated in an area which is more than 30 minutes from the central-city hospital's emergency room. Thus, a large and increasing concentration of population was isolated from a provider of immediate medical care.

Responding to these circumstances a so-called free-standing emergency medical facility developed to serve the area. This facility and another facility which recently replaced the original facility have both met stringent licensing regulations established by the State of Delaware and fulfill the guidelines of the National Blue Cross Association as specified in the requirements of the Blue Cross and Blue Shield of Delaware—intermediary of title XVIII and XIX for Delaware—for Blue Cross reimbursement of covered services rendered to plan subscribers.

Despite the encouragement and support of State and local officials, Blue Cross and Blue Shield recognition, and community interest, these facilities have been financially hampered by the exclusive provisions of the medicare and medicaid law which deny them reimbursement for the institutional fee their specialized immediate care services entail. Since the facilities cannot obtain reimbursement from the Federal Government for services which would be covered if they had been performed in a hospital, the facilities must turn to the medicare and medicaid patients themselves—the aged and the poor—for repayment to maintain solvency. Thus the patient who thought he or she had health care coverage discovers that the coverage is available only if one receives the services from a particular class of the facilities qualified to offer the services. Under circumstances requiring immediate medical care, however, the patient does not have the opportunity to "shop around" for a facility which is eligible for medicare and medicaid reimbursement for its patients. Instead, the individual is taken, as he or she should be, to the nearest facility equipped to treat the case.

The narrow limitations of the current law have generated ill will between the facility and the patients who are being asked to pay for services which if provided in a hospital emergency room would be paid by medicare and medicaid. The result is the bills go unpaid and the facility loses its solvency.

My position based on what I believe to be both sound medical advice and simple equity is that if a facility is qualified to treat cases requiring immediate medical care, it should receive reimbursement on the same terms as a hospital for the specialized services provided. A recent statement by the executive director of the local comprehensive health planning council, Mr. Clifford Foster, summarizes the case in favor of reimbursement.

> The Health Planning Council, Inc. of New Castle County, Delaware, the B agency under comprehensive health planning, has worked hard and long to establish outreach programs away from hospitals, free-standing in nature and delivering services where the action is. We are attempting to follow through on the priorities set by the Secretary of HEW in ascertaining the gaps in service and the needs of the people in the area for which we are responsible for health planning. It is impossible for any agency to set up shop today and deliver health services unless they are certified to receive reimbursement from both Title XVIII and Title XIX moneys. With the increasing caseload of the programs, it is imperative that these type facilities, if they have adequate coverage, adequate quality of care and deliver such care at a reasonable price, should be reimbursed. This lack of reimbursement for free-standing facilities in Delaware is an albatross around the necks of we planners in encouraging organizations to set up such facilities.

Mr. President, my amendment would neither expand the kinds of services medicare and medicaid cover nor lower the standards a facility would have to meet for the provision of immediate medical care—the standards for an immediate care facility in the amendment are comparable to those for a provider hospital. Although my legislation would not directly encourage the development of nonhospital immediate care facilities, it would enable such facilities to obtain equity for themselves and their patients and thus maintain a source of services which will be able to provide the lifesaving stabilization of serious emergency cases for subsequent transfer to a hospital and fully treat the less critical cases and thereby avoid unnecessary high-cost hospital emergency room treatment and free the hospitals to provide the highly specialized emergency medical services and intensive care for which they are uniquely equipped. Therefore, I foresee enactment of my proposal leading to the improved provision of immediate medical care at lower cost—the twin goals for which we should strive.

I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 731

At the end of the bill, insert the following:

SEC. 6. (a) Section 1861(e) of the Social Security Act is amended by inserting, immediately before the last sentence thereof, the following: "The term 'hospital' also includes an immediate care facility (as defined in subsection (aa)), but only with respect to immediate care facility services (as defined in subsection (bb)), and payment under this title with respect to such services provided by such a facility shall be made subject to the same terms and conditions as those applicable with respect to the payment under this title for similar services provided by an institution which meets the requirements specified in clauses (1) through (9) of the first sentence of this subsection."

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsections:

Immediate Care Facility

"(aa) The term 'immediate care facility' means a public or nonprofit private institution which—

"(1) is primarily engaged in providing, by or under the supervision of physicians, to outpatients immediate care services for the diagnosis, treatment, and care, of injured, disabled, or sick persons;

"(2) maintains clinical records on all patients;

"(3) provides 24-hour nursing service with a licensed practical nurse or a registered professional nurse on duty at all times;

"(4) has a physician in attendance at all times;

"(5) in the case of an institution in any State in which the State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing of such institutions, as meeting the standards established for such licensing;

"(6) has in effect a written transfer agreement with one or more hospitals having agreements in effect under section 1866, under which any patient of such institution who requires other than immediate care facility services will be transferred to such a hospital at the earliest practicable time (which shall not be later than 24 hours after such patient is admitted to such institution;

"(7) has in effect a policy under which any patient who is provided services by the institution will, within 24 hours after he is admitted to such institution for services, be discharged or transferred to a hospital;

"(8) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(9) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of the individuals who are furnished services in the institution.

"Immediate Care Facility Services

"(bb) The term 'immediate care facility services' means services, furnished to an individual by an immediate care facility, which—

"(1) are of a type which such facility is authorized to provide, and

"(2) are for a medical condition requiring immediate medical attention."

(c) The amendments made by subsections (a) and (b) shall be effective in the case of services furnished on and after the first day of the first calendar month which commences more than 30 days after the date of enactment of this Act.

SEC. 7. (a) Section 1905 (a) of the Social Security Act is amended by adding after clause (17) thereof the following new clause:

"(18) immediate care facility services (as defined in section 1861 (bb)) which are furnished in an immediate care facility (as defined in section 1861 (aa));".

(b) Section 1902 (a) (13) of such Act is amended—

(1) in subparagraph (B) thereof, by inserting "clause (18) and" immediately after "care and services listed in",

(2) in subparagraph (C) (i) thereof by inserting "clause (18) and" immediately after "care and services listed in", and

(3) in subparagraph (C) (ii) thereof, by inserting "clause (18) and" immediately after "care and services listed in".

(c) The amendments made by this section shall become effective January 1, 1974

AMENDMENT NO. 732

(Ordered to be printed and to lie on the table.)

Mr. HELMS. Mr. President, I have offered an amendment which would require this and every administration to operate on the principle of a balanced budget beginning with the next fiscal year.

I cannot imagine an amendment more appropriate to a bill such as this. The main feature of this bill is an increase in social security benefits by 11 percent. The justification for this increase is that those who are dependent upon social security cannot afford a decent standard of living because of the enormous inflation which has engulfed our economy over the past decade. What Congress is in effect doing is chasing inflation from behind rather than getting in front and blocking it for the future.

The only way to block inflation, Mr. President, is to take steps to control it at its source—and that source is the enormous deficit spending that the Federal Government has engaged in since the early sixties. You cannot catch inflation with cost-of-living increases for social security benefits when, at the same time, the Congress and the President will not control Federal spending and the huge national debt that is causing that inflation.

Only yesterday, the Senate passed a $10.7 billion increase in the national debt ceiling. If instead of increasing the national debt, we had made a firm commitment to control appropriations to the level of revenues that are received in the Treasury, this Nation's economy would have received a tremendous boost toward eliminating inflation.

I believe that both the people who are paying into the social security fund and those who are drawing benefits out of it want the Congress to be honest with them. Unfortunately, this cost-of-living increase does not represent an honest position on the question of social security benefits. All this does is take from those who are working and give to those generally who are retired or disabled—without correcting any of the underlying inflationary pressures which have caused existing social security benefits to become inadequate.

In the last 4 fiscal years, the administration and Congress have caused this country to increase the national debt by over $100 billion. This $100 billion to a large extent had to be raised in the private money market. When you understand that, you can see clearly why the U.S. Treasury was borrowing money at 9-percent interest just this past August. This kind of irresponsible spending, and the borrowing that it necessitates, is directly reflected in the cost of every item and every service that the average family has to buy.

While the Senate is considering an 11-percent increase in social security benefits, is it not imperative for the Senate to be considering a way in which we could reduce the cost of living by 11 percent—by 15 percent—by 20 percent? There is a way to do just that, and that way is to reduce Federal spending and balance the national budget, so that the Government is not competing with the taxpayers of this country for the goods and services which Americans need to maintain a decent standard of living.

I hope that other Senators will agree with me that it is a lot better to vote for this amendment and do something about reducing the cost of living than it is to continually add fuel to the fire of inflation.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 732

At the end of the bill add a new title as follows:

SEC. 1. Beginning with the fiscal year 1975, the non-trust fund expenditures of the Government of the United States during each fiscal year shall not exceed its revenues from all non-trust sources for such year.

SEC. 2. (a) Beginning with the fiscal year 1975, the President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which non-trust fund expenditures do not exceed non-trust fund revenues for each fiscal year.

(b) The provisions of this section may be adjusted to reflect any additional revenues of the Government received during a fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year.

AMENDMENT NO. 734

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to Amendment No. 639 intended to be proposed to the bill (H.R. 3153), supra.

AMENDMENT NO. 735

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. HELMS) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

AMENDMENTS NOS. 736 AND 737

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted two amendments intended to be proposed by him to the bill (H.R. 3153), supra.

AMENDMENT NO. 738

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, on November 9, I introduced an amendment to H.R. 3153 deleting the provision repealing the deduction for State and local gasoline tax presently allowed and in its place repeal the provisions under the present minimum tax which permits a deduction for regular income taxes and a 7-year carryover of such taxes in calculating income subject to the minimum tax.

On November 20, Senator KENNEDY also offered an amendment to H.R. 3153 repealing the provisions permitting a deduction for regular income taxes paid under the present minimum tax. While I have frequently proposed amendments strengthening the minimum tax, both in the Senate Finance Committee and on the Senate floor, Senator KENNEDY has also been an ardent champion for strengthening the minimum tax. As a matter of fact, when the amendment to the minimum tax allowing a deduction for regular income taxes paid was offered in the late hours of December 10, 1969, to the Tax Reform Act of 1969, Senator KENNEDY was one of the few Senators who expressed concern that it would not, as announced, strengthen the minimum tax but weaken it. Experience clearly demonstrates that Senator KENNEDY's suspicions were well founded and that this amendment and a subsequent amendment adopted the following year have greatly destroyed the effectiveness of the minimum tax.

To remedy this defect in the minimum tax, Senator KENNEDY and I will be offering two separate amendments; the first to be sponsored by Senator KENNEDY with myself as cosponsor, will repeal the provisions allowing a deduction for regular income taxes paid; the second, which I will sponsor and Senator KENNEDY will cosponsor, will delete the committee amendment to repeal the deduction for State and local gasoline taxes.

While there are two separate amendments, they should be considered part of the same package. We recognize the need to increase tax revenues to pay for the new and very desirable tax credit for workers with low-income families. We, therefore, propose that the revenue raised by our amendment be used for this purpose. Furthermore, whatever the arguments given for repeal of the gasoline tax; such as that it is essentially a user charge and should, therefore, be borne by highway users, not by the general taxpayer, that in the context of raising money for the tax credit our amendment to strengthen the minimum tax which applies only after an individual has $30,000 of preferred income, is a much more equitable way of raising this revenue than repealing the gasoline tax deduction which is of some value to the average American taxpayer.

AMENDMENT NO. 739

(Ordered to be printed and to lie on the table.)

Mr. TAFT. Mr. President, today I am submitting an amendment which should be noncontroversial, but it will provide needed assistance for many individuals.

This amendment would add a section to H.R. 3153, the pending social security bill, which grants medicare eligibility to totally dependent and disabled spouses of disabled medicare recipients. While it is true that the situation covered by the amendment is rather uncommon, the predicament is one of the toughest imaginable and those involved are unquestionably in need of Government assistance. The Government should certainly be willing to grant "part A medicare" eligibility to such people, who are likely to have high medical bills as a result of their disabilities and who must depend totally upon a spouse with the same problems and a limited earning capacity.

Because of the limited number of persons to which the amendment would apply, its cost would be relatively small. Yet I know of at least one constituent family in Cincinnati, which is in desperate need of the assistance on this very day. The wife will soon be forced to enter a hospital because of a very serious illness and without this amendment the family may not be able to pay for adequate medical care.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 739

At the proper place in the bill, insert the following new section:

COVERAGE UNDER MEDICARE FOR THE DISABLED SPOUSE OF AN INDIVIDUAL WHO IS COVERED UNDER MEDICARE BY REASON OF DISABILITY

SEC. —. (a) Section 226(b) of the Social Security Act is amended by adding at the end thereof the following new sentences: "If, for any month, an individual is entitled (or was entitled for the month preceding the month in which he attained age 65), by reason of the preceding provisions of this subsection, to hospital insurance benefits under part A of title XVIII, then the spouse of such individual shall also be entitled to such benefits for such month if (A) for such month such spouse is not otherwise entitled to such benefits, (B) such spouse is under a disability (as that term is employed in section 223(d) when applied in the case of a widow, surviving divorced wife, or widower), and (C) such spouse is wholly dependent upon such individual for such spouse's support. As used in the preceding sentence, the term spouse, when used in reference to any individual, means the husband or wife of such individual, as those terms are employed in title II. Any individual who, by reason of the two preceding sentences is entitled to hospital insurance benefits under part A of title XVIII, shall, for purposes of such title, be treated as an individual who is entitled to such benefits by reason of the first sentence of this subsection."

(b) The amendment made by subsection (a) shall be effective upon enactment of this Act, except that no individual shall become entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of such amendment for any month prior to the month which follows the month in which this Act is enacted.

AMENDMENT NO. 740

(Ordered to be printed and to lie on the table.)

Mr. HELMS. Mr. President, I send to the desk an amendment to H.R. 3153, and ask that it be printed and ordered to lie on the table. I also ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 740

At the end of the bill add a new title as follows:

SEC. 1. Subsections (b), (d), (f), (h), (j), and (k) of section 203 of the Social Security Act are repealed.

SEC. 2. (a) Subsection (c) of section 203 of the Social Security Act is redesignated as subsection (b); and such subsection as so redesignated is amended—

(1) by striking out "Noncovered Work Outside the United States or" in the heading;

(2) by striking out paragraph (1);

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(4) by striking out "For purposes of paragraphs (2), (3), and (4)" and inserting in lieu thereof "For purposes of paragraphs (1), (2), and (3)"; and

(5) by striking out the last sentence.

(b) Subsection (e) of such section 203 is redesignated as subsection (c); and such subsection as so redesignated is amended by striking out "subsection (c) and (d)" and inserting in lieu thereof "subsection (b)".

(c) Subsection (g) of such section 203 is redesignated as subsection (d); and such subsection as so redesignated is amended by striking out "subsection (c)" each place it appears and inserting in lieu thereof "subsection (b)".

(d) Subsection (i) of such section 203 is redesignated as subsection (e); and such subsection as so redesignated is amended by striking out "subsection (b), (c), (g), or (h)" and inserting in lieu thereof "subsection (b) or (d)".

(e) Subsection (1) of such section 203 is redesignated as subsection (f); and such subsection as so redesignated is amended by striking out "subsection (g) or (h)(1)(A)" and inserting in lieu thereof "subsection (d)".

SEC. 3. (a) Section 202(n)(1) of the Social Security Act is amended by striking out "Section 203(b), (c), and (d)" and inserting in lieu thereof "Section 203(b)".

(b)(1) Section 202(q)(5)(B) of such Act is amended by striking out "section 203(c)(2)" and inserting in lieu thereof "section 203(b)(1)".

(2) Section 202(q)(7)(A) of such Act is amended by striking out "deductions under section 203(b) (203(c)(1), 203(d)(1), 222(b)" and inserting in lieu thereof "deductions on account of work under section 203 or deductions under section 222(b)".

(c)(1) Section 202(s)(1) of such Act is amended by striking out "paragraphs (2), (3), and (4) of section 203 (c)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of section 203(b)".

(2) Section 202(s)(3) of such Act is amended by striking out "the last sentence of subsection (c) of section 203, subsection (f)(1)(C) of section 203,".

(d) Section 202(t)(7) of such Act is amended by striking out "Subsections (b), (c), and (d)" and inserting in lieu thereof "Subsection (b)".

(e) Section 208(a)(3) of such Act is amended by striking out "under section 203(f) of this title for purposes of deductions from benefits" and inserting in lieu thereof "under section 203 for purposes of deductions from benefits on account of work".

(f) Section 215(g) of such Act is amended by striking out "and deductions under section 203(b)".

(g) Section 3(e) of the Railroad Retirement Act of 1937 is amended by striking out "under subsections (g) and (h)(2) of section 203 of the Social Security Act" and inserting in lieu thereof "under subsection (d) of section 203 of the Social Security Act".

(h) Section 5(1)(1) of the Railroad Retirement Act of 1937 is amended by inserting "or" after the semicolon at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

SEC. 4. The amendments made by this Act shall be effective with respect to taxable years ending after December 31, 1973.

AMENDMENT NO. 741

(Ordered to be printed and to lie on the table.)

Mr. HELMS. Mr. President, for myself and Senator Thurmond, I send to the desk an amendment to H.R. 3153 and ask that it be printed and ordered to lie on the table. I also ask unanimous consent that, in connection with this amendment, the following remarks that I made in the RECORD on November 19, 1973, be inserted in the RECORD at this time, and that the text of the amendment be printed in the RECORD.

There being no objection, the remarks and amendment were ordered to be printed in the RECORD, as follows:

Mr. HELMS. Mr. President, I have no desire to consume unduly the time of the Senate in a lengthy discussion of my amendment. If ever this Senate was presented with a clear-cut, straightforward proposition, this is it.

Every Senator, without exception, has sincerely declared his desire to conserve our Nation's energy supply in this time of great crisis. The purpose of this amendment is, and the immediate result of its enactment will be, an enormous saving of gasoline that is now being literally wasted.

I will not repeat the detailed remarks that I made in this Chamber on last Wednesday at the time I submitted this amendment. For the purposes of emphasis, I will reiterate that during the process of drafting this amendment, I spot checked four school districts in my State. I obtained the exact statistics of gasoline consumption by public schoolbuses in these four districts for the 12-month period before compulsory school busing was ordered. Then I compared that total with the gasoline consumption by public schoolbuses—in these very same four districts—for the following year, when additional thousands of children were being hauled against their will across cities and counties.

Now, Mr. President, let me emphasize: the statistics I am about to relate cover only four of the school districts in my State. There are 151 school administrative units in North Carolina.

Prior to the imposition of forced busing, the schoolbuses of these four districts consumed 943,463 gallons of gasoline.

The year after forced busing was imposed, Mr. President, the consumption of gasoline by the public school buses in these four districts had increased by 218 percent.

Let me repeat, Mr. President: The increase was 218 percent—for a nonessential, undesirable and often destructive exercise in futility by Federal bureaucrats, or Federal judges, or a combination of the two.

The 218 percent increase, Mr. President, represents a virtual waste of 1,118,908 gallons of gasoline in 1 year—and in just four school districts of my State. Projected estimates for my entire State, Mr. President, set the total of this nonessential use of gasoline as high as 30 million gallons a year.

Senators can project this waste on a national basis to suit themselves. Any projection is bound to disclose an enormous waste of gasoline.

If we in this Senate are really serious, Mr. President, about our often proclaimed desire to relieve the energy crisis, the simple arithmetic of my amendment demonstrates that my proposal is sound, that it can have almost immediate application upon enactment, and that there will be wholesome benefits to the children of this country.

Let no Senator suppose that the farmers of America, who will be sorely needing every gallon of gasoline they can get to operate their tractors and other equipment, will not be bitterly resentful if they are deprived of badly needed gasoline in order that their children may continue to be subjected to compulsory busing to some distant school.

Yes, sir, Mr. President, the farmer is watching this Senate on this vote. The workingman is watching this Senate. The mothers of America are watching this Senate.

Now, Mr. President, a distressing report reached me over the weekend—a report which I refuse to believe until I see it happen. I have been told that a plan was agreed upon at a caucus of Senators from the other side of the aisle to kill my amendment by tabling it. I have been told that some Senators do not want my amendment to come to a vote.

I repeat, Mr. President, I cannot believe this report. I just do not believe Senators are afraid to face up to the question raised by my amendment. And I shall not believe it unless and until I see it happen. Surely, Mr. President, my amendment is not a partisan issue. Surely, Mr. President, there will not be an effort to table this question.

But in the event that it should happen, Mr. President, let the record be clear, so that everyone can understand where each Senator stood.

In the event, Mr. President, that there is indeed a motion to table, I shall call for a rollcall.

And then, let no one misunderstand what will be disclosed.

Senators who vote to table my amendment will be voting to continue to waste gasoline—enormous amounts of gasoline, millions of gallons of gasoline—on compulsory, nonessential, undesirable busing of little children.

And Senators who vote against tabling my amendment will be saying: "I'm willing to stand up and be counted."

I would reiterate, Mr. President, that I cannot believe that there will be an effort to table my amendment. But if there is such an effort, the record will be nonetheless clear.

In the interest of time, I have attempted to anticipate objections that may be raised concerning my amendment. And I have prepared a response to each such objection that came to mind. Let me quickly run down the list:

LIST OF OBJECTIONS

OBJECTION

The Helms amendment is an "extraneous amendment" that has nothing to do with solving the energy crisis.

ANSWER

On the contrary, the Helms amendment proposes exactly the same sort of energy conservation measures as S. 2589 proposes. In the very same section. Section 203, S. 2589 calls upon the President to implement transportation control plans. Now I don't know what a transportation control plan is. It sounds to me as though measures would be taken to restrict transportation. My amendment merely makes it clear that such transportation control plans would include restricting the unnecessary transportation of school children in buses. I don't see how this is extraneous at all.

A little farther down, I see the bill proposes another measure capable of reducing energy consumption. It reads as follows: "limitations on operating hours of commercial establishments and public service, such as schools." My amendment also deals with schools. If we are going to have to close schools, as the committee bill requires, whether for part of the day or for whole days at a time, I believe that it is appropriate to take less stringent measures which might allow the schools to stay open. What is more important, to bus children extravagant distances to schools that have to close early in order to save on heating fuel, or to keep the schools open and let the children walk? I think it is ridiculous to keep busing plans in effect, but to close the schools.

Moreover, as I have pointed out, the saving in gasoline by cutting back on busing is enormous. In my home town of Raleigh, they are using eight times more gasoline since compulsory busing was introduced.

OBJECTION

The Helms amendment is "not an act of responsibility."

ANSWER

I assumed that this bill was introduced only because we are in a drastic situation of emergency. Indeed, the findings of the bill say that fuel shortages "have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services." I believe that it is responsible to address the problem of the curtailment of vital public services. That is the issue which my amendment addresses.

I read in the next paragraph of the findings that these shortages "jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government." And a little bit later on, Congress determines that these disruptions "pose a serious risk to national security, economic well-being, and health and welfare of the American people."

The distinguished Senator from Washington evidently supports these findings. We are in an emergency situation. We must act wherever we can. I note that the distinguished Senator has moved with dispatch. Hearings were called on this bill with scarcely twenty-four hours' notice. The mark-up on the bill was uncommonly swift. It was brought to the Floor on Wednesday of last week at the same moment that copies of the bill and the report became generally available. I know that the chairman felt that this speed was the responsible reaction to an emergency situation.

Now this bill proposes many drastic solutions to the emergency situation we are in. It is an understatement to say that no one really knows how these solutions will work out. My amendment, however, is far less drastic. It merely suggests a return to the status quo ante. We know what the situation was before compulsory busing was introduced. We know that the neighborhood school system was an efficient and effective method of education. We also know what happened to school bus gasoline consumption when massive busing was introduced. I think that the responsible thing to do in an emergency situation is to stop waste and go back to proven methods.

OBJECTION

The Helms amendment is unconstitutional.

ANSWER

This is a topic which I touched upon in my remarks last Wednesday. First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the *Swann* v. *Charlotte/Mecklenburg County Board of Education* case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decisions were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the court's order. But widespread busing is no longer available, because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that court said, in *Swann:* The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedical measures courts of equity have traditionally employed.

My amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its non-availability has come about through circumstance.

Mr. Helms. Mr. President, I have received countless expressions of support for my amendment. These have come from all over the country. Typical of these expressions is one received from Hon. George C. Wallace, Governor of Alabama. I ask unanimous consent that the text of Governor Wallace's telegram be printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

Montgomery, Ala.,
November 15, 1973.

Hon. Jesse Helms,
U.S. Senator, Dirksen Building, Washington, D.C.

Dear Senator Helms: I would like to congratulate you on your amendment 658 to S. 2589 which would conserve fuel in this time of energy crisis by limiting the public transportation of schoolchildren to the school nearest their homes. Many school systems in Alabama are experiencing extreme difficulty in obtaining sufficient fuel to transport schoolchildren to their presently assigned schools. Unless they are allowed to attend the school nearest their home, many schoolchildren in our State and other States face the probability of being denied the continuance of a public school education solely because of a lack of fuel to transport them.

You are proposing a practical and workable approach which will be of material help in meeting the energy crisis and could render more drastic measures unnecessary.

With best wishes, I am

Sincerely yours,

George C. Wallace,
Governor of Alabama.

Mr. Helms. Also, Mr. President, I would call my colleagues' attention to a newspaper article published Friday, November 16, in the Washington Post. This article points out that the school buses in Prince Georges County, Md., are consuming an enormous amount of additional gasoline as a result of forced busing. The Federal court order affecting that county, Mr. President, is responsible for the wasting of 750,000 gallons of gasoline per year, if I understand the situation correctly. Of course, Mr. President, I cannot vouch for anything I read in the Washington Post, but based on my findings as they relate to school districts in my own State, the Washington Post's report concerning Prince Georges County appears to be in line with what I know to be the situation in North Carolina.

In any event, Mr. President. I ask unanimous consent that the aforementioned article from the Washington Post be printed in the Record for the information of my colleagues.

There being no objection, the article was ordered to be printed in the Record, as follows:

County To Request Pupil Busing Curb

Prince Georges County Executive William W. Gullett has asked federal District Judge Frank A. Kaufman not to order any further busing of school children in the county in order to conserve the fuel that would be burned by the buses.

Gullett said in a letter to Kaufman yesterday that the county must purchase 750,000 gallons of gasoline this fiscal year for the 3½ million additional miles of travel required by Kaufman's decision last year to order large-scale busing for racial balance in the county.

School public relations officer Robert Litman said that on Sept. 28, 1972, before Kaufman's order took effect, the county bused 78,364 children, or 48.5 per cent of the school population. Today, Litman said, the county buses 89,900 students, or 58.3 per cent of the total.

"We're more concerned about fuel oil to heat our buildings than we are about gas to run the buses," Litman said.

Gullett aide Jay F. Morris said the executive also asked the county attorney to determine whether the change in the oil situation constitutes a legal basis for rearguing the busing decision.

Amendment No. 741

At the end of the bill add a new title as follows:

Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide energy conservation program which shall include measures capable of reducing energy consumption by no less than ten per centum within ten days, and by no less than twenty-five per centum within four weeks after implementation, through the imposition of limitations on the transportation of students in schools operated by local or state educational agencies, as defined in section 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school in so far as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence.

AMENDMENT NO. 742

(Ordered to be printed and to lie on the table.)

Mr. HELMS. Mr. President, for myself and Senator Thurmond, I submit an amendment to H.R. 3153 and ask that it be printed and ordered to lie on the table. Also, I ask unanimous consent that the text of the amendment be printed at this point in the Record, and that remarks I made in the Record on July 31, 1973, be printed in connection with my amendment.

There being no objection, the amendment and remarks were ordered to be printed in the Record, as follows:

Amendment No. 742

At the end of the bill add a new title as follows:

The Food Stamp Act of 1964, as amended is amended by inserting in section 5 thereof the following:

(e) Notwithstanding any other provision of law, a household shall not participate in the food stamp program while its principal wage-earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: *Provided,* That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, dispute, or other similar action in which any member of such household engages: *Provided further*, That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout.

(b) Section 3 of such Act is further amended by adding at the end thereof the following new subsections:

(o) The term '"labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or condition of work.

(p) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement).

[From the Congressional Record, July 31, 1973]

Mr. Helms. This is an issue on which no Senator needs any explanation from me. I shall not consume the time of the Senate. Senators here, and the American people, understand that this is a question of whether the taxpayers' money shall be used to pay people not to work.

I ask unanimous consent that my additional views as printed in the committee report may be published in the Record at this point, so that a complete record may be available in connection with the vote that is about to occur.

There being no objection, the additional views were ordered to be printed in the Record, as follows:

Additional Views

I agree with many of the provisions of this bill relating to farm commodity programs. I view the bill as an improvement over the existing Agriculture Act. It seeks to give the nation's farmers assistance they need to continue to increase their income while providing Americans with an adequate food supply. Given proper administration, it could provide some opportunity for relief to the nation's taxpayers by providing for reduction in the cost to the government of the farm program—assuming production and price projections will be accurately made.

I will support this bill on the Floor of the Senate because I am convinced that, overall, it will be beneficial to the nation's farmers and taxpayers. I must dissent, however, from two decisions of the Committee on matters which are part of the bill, but are collateral to the farm program:

1. The bill authorizes open-end appropriations for five years for the Food Stamp Program. The Committee declined to adopt an amendment which would prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike. I supported this amendment and dissent from the Committee's decision not to include it in the Food Stamp Program authorization.

According to the United States Department of Agriculture and the General Accounting Office the current provisions of the Food Stamp Act do not permit the exclusion of strikers from the Food Stamp Program, so long as they register for employment and accept work at any plant or site not subject to a strike (See letter below). The practical effect of this is to make almost all strikers eligible to receive food stamps, since few are offered employment elsewhere during the relatively brief period of a strike. Because few such offers are received, most strikers escape the requirement of the law to accept work elsewhere when offered, and thus they do not forfeit the right to receive food stamps.

The Food Stamp Program was established in 1964 to help provide an adequate diet for those Americans whose incomes are below the poverty level due to their inability to work. It has done a great deal for needy Americans and I support its operation on behalf of the truly needy of our society—but *only* the truly needy who are unable to support themselves.

Congress included a work requirement in the Food Stamp Act which makes it plain that the congressional intent in designing the Food Stamp Program was that it should not benefit those who refuse to work.

Congress has failed, however, specifically to prohibit employed workers, who qualify for the program only because of their participation in a strike, from receiving benefits under the program. The interests of the American consumer and taxpayer, and the maintenance of our system of free collective bargaining, demand that such a prohibition be established.

Free collective bargaining has been chosen by Congress as the system of labor-management negotiation best able to promote economic stability and avoid industrial strife. This system protects the rights and interests of workers, companies, and consumers. The imperative fundamental premise of free collective bargaining is absolute governmental neutrality in the labor-management contest. While the government acts to oversee and referee the process, the results of the contest are determined by the independent bargaining strengths of the parties.

Public assistance to *either* side in a labor dispute violates the concept of free collective bargaining and violates the rights of the opposing party. Public assistance in the form of the distribution of food stamps to strikers' households has the undeniable effect of giving a distinct economic advantage to the union in the collective bargaining contest.

The duration of strikes has increased significantly since the advent of welfare payments to strikers. To continue to make these payments will only fuel this trend, thus bringing more pressures on our already troubled economy and further undermining the principles of free collective bargaining which is so vital to the American free enterprise system.

In this era of perilous inflation, constantly rising taxes, and public discontent with the state of the economy, this Committee should be particularly sensitive to the needs of the working American, who is both taxpayer and consumer. I believe this Committee should respond to any opportunity to lighten the burdens of inflation and taxes and especially when this can be done without hardship to any legitimate recipient of government services. Due to the average annual income of most union members and the strike benefits available from union funds, few strikers can plead that they are subjected to hardship through no fault of their own simply because they are denied food stamps to which they are not entitled.

The granting of welfare benefits to strikers deals a double blow to the taxpayer-consumer. Food stamp benefits allow workers to prolong strikers and drive up the costs of production, which are ultimately passed on to the consumer. Our current inflation has been made worse by subsidized, length strikes and the abnormally high settlements and decreased production of goods and services. By using tax dollars to subsidize strikers, the government is increasing the consumer's tax burden while using his money to drive up the cost of the very goods and services he must buy.

Now is the time to break this vicious circle which penalizes every America taxpayer and consumer. By prohibiting the distribution of food stamps to strikers, Congress can reduce the cost of the program to the taxpayer and reduce the rate of inflation. I respectfully dissent from this Committee's decision not to include such a prohibition in the food stamp authorization.

2. In conjunction with the proposal of the new farm bill, the Committee agreed to propose the extension of Public Law 480, the so-called Food for Peace program. The Committee acted to cure an anomalous situation in P.L. 480 which currently allows the *donation* of food under Title II to some communist countries to which the United States could not *sell* food under Title I. The Committee amended P.L. 480 to allow sales under Title I to any country which can receive donations under Title II.

I agree with the Committee that we should not be able to *give* food to communist countries under authority of P.L. 480 and not be able to *sell* it to the same countries under the program. However, Title I of P.L. 480 allows sales under long-term credit arrangements with interest rates as low as two per cent. I proposed a substitute amendment which would have *allowed* sales to these countries, but at an interest rate no lower than that being paid by the United States government on money it was borrowing at the time of the sales agreement.

There has recently been an outcry in Congress and among the public concerning the fact that the United States Treasury subsidized the huge sale of wheat to the Soviet Union in 1972 through export subsidies (this sale was under statutory authority other than P.L. 480). Many national leaders oppose the use of taxpayers' money to subsidize a sale to our sworn enemies when we face so many unmet needs at home. I agree with them. Yet, the Committee's amendment to P.L. 480 would allow just this type of subsidized sale to other communist countries.

I believe that Congress should assert its prerogative to prevent this and future administrations from subsidizing sales to communist countries. I therefore believe that the Committee should have proposed to allow sales under P.L. 480 to communist countries only at rates of interest equivalent to the cost of funds to the United States Treasury.

I therefore respectfully dissent from the Committee's decision to allow sales to communist countries under the credit terms of Title I of P.L. 480.

AMENDMENT OF THE EXPORT ADMINISTRATION ACT—AMENDMENT

AMENDMENT NO. 733

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

FEDERAL TIMBER EXPORT CONTROLS

Mr. PACKWOOD. Mr. President, on Thursday, the Committee on Banking, Housing and Urban Affairs will be considering several export control measures for possible action. One of these is a proposal which was requested last June by the administration, S. 2053. In offering this amendment to S. 2053, I want to make it clear that I am not reflecting on my own leanings as regards the desirability of approving the bill. In fact, as I have stated on a number of occasions, I have serious reservations as to either the need for the bill, or the wisdom of its being approved by the Congress.

Nevertheless, I am offering this amendment for the consideration of the committee if it should decide to act, in one form or the other, on any of the export control proposals pending before it.

My amendment will extend for 2 years the prohibition against the export of unprocessed Federal timber. The current authority is scheduled to expire next June 30. My amendment will extend that authority with some modifications through June 30, 1976.

I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 733

At the end of the bill, add the following new section:

SEC. 2. FEDERAL TIMBER EXPORT CONTROLS.

(a) Section 2 of the Act of April 12, 1926, as amended (16 U.S.C. 617), is further amended to read as follows:

"(a) Except as provided in this section, no timber from Federal lands located west of the 100th meridian in the contiguous forty-eight States shall be exported from the United States.

"(b) The restriction set forth in subsection (a) does not apply to timber cut from Federal lands that has been exempted from domestic processing under the provisions of any Federal timber sale contract awarded prior to enactment of this section.

"(c) After public hearing and a finding by the Secretary that specific quantities, grades, and species of timber are surplus to the needs of domestic users and processors, such quantities, grades, and species may be designated by the Secretary as available for export from the United States. The Secretary may issue regulations to exclude from the limitations imposed by this section timber harvested pursuant to any timber sales contract having a value of less than $2,000 or timber which does not meet the utilization specifications of the timber sale contract under which it was harvested.

"(d) Whoever bids to purchase Federal timber shall, as a condition to being allowed to bid, submit a report to the Secretary, in such form as he may require, stating the quantities of timber such bidder exported, if any, during the immediately preceding twelve-month period and the sources thereof: *Provided*, That if the Secretary has reasonable cause to believe that any bidder will not process the timber on which he proposes to bid into a product which meets or exceeds the specifications set forth in this section for processed timber, the Secretary shall cause the bidder to submit further documentation, prior to beginning operations under the contract, stating to whom he intends to sell or otherwise dispose of the timber and certifying that such secondary purchaser will not export the timber.

"(e) Whoever knowingly and willfully exports or sells for export any timber in violation of this section, or knowingly and fraudulently files a false report shall be fined not more than $10,000 or imprisoned for not more than one year or both for each such violation, and may thereafter be prohibited from bidding to purchase Federal timber for a period of not more than five years.

"(f) As used in this section, the term 'Secretary' means the Secretary of the department administering Federal lands referred to in subsection (a).

"(g) The Secretary shall issue rules and regulations to carry out the purposes of this section.

"(h) The authority granted by this section shall terminate on June 30, 1976, but such termination shall not affect any action or proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to or on such date.

"(i) If any provision of this section or the application of such provision to any person or circumstances is held invalid, the remainder of the section, and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.".

(b) The amendments made by this section shall be effective beginning July 1, 1974.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 542

At the request of Mr. RIBICOFF, the Senator from Nevada (Mr. BIBLE), the Senators from New Jersey (Mr. WILLIAMS and Mr. CASE), the Senator from Minnesota (Mr. MONDALE), the Senator from Indiana (Mr. HARTKE), the Senator from Utah (Mr. MOSS), the Senator from Michigan (Mr. HART), the Senator from North Dakota (Mr. BURDICK), the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. STEVENSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. HUGHES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Florida (Mr. GURNEY), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. DOMINICK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Iowa (Mr. CLARK), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of amendment No. 542 to H.R. 3153, an act to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT NO. 700, AS MODIFIED

At the request of Mr. KENNEDY, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of amendment No. 700, as modified, intended to be proposed to the bill (H.R. 3153), supra.

NOTICE OF HEARINGS ON ENERGY REORGANIZATION ACT OF 1973

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research and International Organizations of the Committee on Government Operations, will hold hearings on S. 2744, the Energy Reorganization Act of 1973, on December 4, 5, and 6, 1973. The hearings will begin on Tuesday, December 4, in room 1318 of the New Senate Office Building, at 10 a.m.

ADDITIONAL STATEMENTS

GAS RATIONING SHOULD BE LAST RESORT

Mr. HUGH SCOTT. Mr. President, Tuesday's Philadelphia Inquirer, in its lead editorial, wisely recommends that we not allow the energy crisis to rush us into premature acceptance of gas rationing.

As the Inquirer states, gas rationing may appear seductively simple as a one-shot "solution" to the problem. But as I have said, this should be our last resort.

I offer this editorial for the information and interest of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. NIXON'S ENERGY PLANS DESERVE A CHANCE TO WORK

By President Nixon's own description, the new moves he announced Sunday evening are inadequate to deal with what he now calls "a major energy crisis."

The oil shortage, he estimates, could run as high as 17 percent this winter. The measures he outlined Sunday "will relieve about 10 percent of that shortage. Thus, "additional actions will be necessary . . ."

It does not follow, however, that the nation should now be stampeded into what some of Mr. Nixon's critics see as the only way out—rationing. Senate Democratic Leader Mike Mansfield, for instance, calls the latest plans only "a small step forward" and says rationing should be put into effect as quickly as possible. And the head of New York City's emergency energy committee says that the President's refusal to order rationing is "an effort to avoid dealing with a crisis."

It may be as Sen. Hugh Scott said Monday, that rationing will eventually come. But if it does, it should be as a last resort, not as the first. Meanwhile, as Sen. Scott said, the program announced Sunday, plus those "additional actions" still to come, "ought to be given a fair chance to work."

Certainly the moves made thus far will cause some problems, work some hardships, produce some inequities. But does anyone think that rationing would not?

It may sound seductively simple as a one-shot "solution" to the problem. In practice, however, it more likely would be an administrative nightmare producing new armies of bureaucrats, black marketers, or counterfeiters—and contributing nothing at all to the production of new energy.

"The most important thing for Washington policy makers to remember as they debate immediate steps to deal with the energy shortages," The Wall Street Journal observes, "is that the problem is not a temporary one. The course the government chooses to deal with the current 'emergency' will more than likely lock the nation into that solution for at least the remainder of the decade."

On that basis, rationing is anything but an attractive prospect.

Since time is short, we assume that President Nixon's additional moves will be made soon. The program thus developing—as an alternative to rationing—deserves both public cooperation and a fair trial.

RETIREMENT OF CARL MARCY

Mr. McGEE. Mr. President, today the Senate Committee on Foreign Relations approved the retirement of Carl M. Marcy as chief of staff, effective December 30, 1973. I sincerely regret that Carl will no longer continue in this capacity, although I appreciate his reasons for leaving us.

Carl joined the committee staff in 1950 and become its chief in 1955. During his 18 years of service as chief of staff, he has made many significant and invalua- [illegible]ons to the committee's operations. His range of knowledge spanned the entire spectrum of international relations, which proved extremely useful during committee debate on many difficult issues confronting those of us serving on the committee. He always demonstrated exceptional skill in managing the staff and in mobilizing input to enable committee members to have a wealth of information available to them at all times.

I want to take this opportunity to pay tribute to Carl and wish him the best in his new pursuits. I am confident he will be equally successful in his new role as a private consultant.

At the same time, I want to extend my congratulations to Pat M. Holt for his appointment as Carl's successor. I believe the committee is fortunate to have an individual of Pat's qualities who could move quickly into the chief of staff position. I have had the opportunity to work with Pat over the years, particularly this year as chairman of the Western Hemisphere Affairs Subcommittee of the Foreign Relations Committee. Pat has been the professional staff member assigned to the subcommittee and I have been particularly impressed with his skill, ability, and knowledge. I know he will do an excellent job in his new position and wish him the best.

A RIDICULOUS FANTASY

Mr. HANSEN. Mr. President, as my colleagues on the Interior Committee are aware, I have made a sustained effort to convince the Veterans' Administration that a conversion of its powerplant at the Fort McKenzie Veterans' Hospital from coal fuel to gas fuel at this time of acute petroleum and natural gas shortages is foolhardy.

Such a conversion would defy the President of the United States, who has urged just the opposite—conversion from gas and oil to coal where possible; and such a conversion would defy reason. I am determined to do my best to prevent a move by the Veterans' Administration that obviously is a mistake. The Fort McKenzie Hospital is at Sheridan, Wyo., a city located near one of the largest deposits of low-sulfur coal in the world. The hospital traditionally has used coal to fuel its powerplant, and there have been no complaints in Sheridan, to my knowledge, that the hospital's present coal-fired facility has created an air pollution problem.

Maj. Gen. George O. Pearson, a retired Army officer who resides at Sheridan, wrote to me November 16, expressing his views about the VA's proposed conversion. General Pearson is a member of the national security and foreign relation committee of the Veterans' of Foreign Wars, and a member of the national military affairs committee of the American Legion. Of the proposed conversion at Fort McKenzie, he observed in his letter:

> It is inconceivable that such a move would be undertaken when the nation is faced with severe energy shortages. The fantasy of pollution and economy as justification for such a move is nothing but ridiculous.

Mr. President, I ask unanimous consent that the entire text of General Pearson's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> SHERIDAN, WYO.,
> *November 16, 1973.*
>
> Hon. CLIFFORD P. HANSEN,
> *U.S. Senate,*
> *New Senate Office Building,*
> *Washington, D.C.*
>
> DEAR SENATOR HANSEN: I am alarmed that bids have been let to convert the heating facilities at Fort McKenzie from coal to natural gas. It is inconceivable that such a move would be undertaken when the nation is faced with severe energy shortages. The fantasy of pollution and economy as justification for such a move is nothing but ridiculous. I urge your attention to and effort toward its revocation.
>
> A change from coal to natural gas is basically a change from a low-cost, dependable source of fuel to a high-cost, interruptable source of fuel. Air pollution is *not* a problem in the Sheridan area, "improvement" would not result from such a move. Furthermore, it is well established that existing heating equipment is in good order and does not need to be replaced.
>
> It is apparent that there would be significant adverse consequences as a result of the changeover. It is my understanding that a number of gas users in this area are already being cut off gas and forced to their standby fuel. This change for environment should make a new customer nervous. The fuel shortage is a serious matter and the American Public had better realize that this land of plenty is being tested. With natural gas in short supply, someone will be without adequate supply during peak demand. This means that people will be out of work, that students will be out of school, that homes will be out of heat—or, it may mean patients at the McKenzie facility will be cold. It will surely mean increased heating costs, for it is apparent that natural gas prices are on the rise. The only natural course of action is to cancel the contracts that have been made, with due compensation to the contractors adversely affected. This may be costly but it's a move to make and a substantial amount of money could yet be saved. The benefits of such action are many: dependable, low-cost heat, no interruption of supply to existing natural gas users, and one million dollars saved to be used for some purpose that could directly benefit veterans.
>
> I hope I have conveyed to you my sincere concern for the gravity of the situation. Certainly one million dollars could be better spent for the benefit of veterans who are in need of hospital facilities.
>
> Sincerely,
> GEORGE O. PEARSON.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the ratification of the Genocide Convention should follow the adoption of the United Nation's Charter as the Bill of Rights followed the adoption of our Constitution. Our Founding Fathers wrought one nation out of many States on the basis of certain inalienable rights guaranteed to every citizen.

While it is true that our American experience and the world situation today are not fully analogous, there are important similarities. While the diversities and differences are far greater today than they were at the time of the Constitutional Convention, the increasing interdependence of the world clamors for a universal recognition of the importance of liberty and justice for every citizen.

Our Founding Fathers dedicated themselves to the furtherance of human rights when they adopted the Bill of Rights. Today, the international community is seeking to do so in the adoption of several human rights conventions. The Genocide Convention is one such treaty.

Every administration since Truman's has lent its support to the ratification of this treaty. Numerous civic, business, and religious groups have advocated its adoption. It is imperative, Mr. President, that the United States joins its major allies in this endeavor. While this may seem like a small step, it will significantly aid the development of international law in this vital area of human endeavor.

I hope that my colleagues will join me in this effort.

NEW HAMPSHIRE COURT ACCREDITATION COMMISSION

Mr. McINTYRE. Mr. President, it is with great pride that I report that once again the State of New Hampshire has pioneered the way in an important field.

A commission established by the New Hampshire Legislature, and including in its membership two distinguished jurists, a legislator, an attorney, and a journalist has studied and reported on court facilities in the State. Led by former Gov. John W. King, now a judge of the superior court, the group not only studied and accredited all courthouse facilities in New Hampshire, but also issued a report which is a significant contribution to the advancement of justice throughout our Nation.

As the report states—

> In establishing the first Court Accreditation Commission in the nation, the New Hampshire Legislature served notice that in New Hampshire justice should be properly housed. While justice is not guaranteed by adequate facilities, a neglected and inadequate courthouse debases the entire judicial system.

I commend this report to my colleagues and all readers of the RECORD. I understand the American Bar Association, through its committee on court modification and criminal law, is watching the New Hampshire study as a pilot for court accreditation studies throughout the land.

I congratulate the members of the commission, Judge King, the Honorable Robert F. Griffith, associate justice of the New Hampshire Supreme Court, James E. O'Neil, Sr., speaker of the New Hampshire House of Representatives, Arnold P. Hanson, Esq., and Edward DeCourcy, for their efforts. Their sensitivity and recognition of the need for impartial justice is clearly shown in their conception of the role of a courthouse—

> It is a hall of justice for the serious deliberations of a court and jury which should be completely isolated from the legislative and executive branches of government. It must be a place where all of the members of the public may freely seek and obtain justice.

This definition may appear to be commonplace, and yet all too frequently a courthouse is also used as a police station, jail, political headquarters, or recruiting center. Hopefully, this report of the commission will begin a nationwide movement to return our courthouses to the role described in the report.

Mr. President, I ask unanimous consent that the report of the New Hampshire Court Accreditation Commission be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Report of the N.H. Court Accreditation Commission on the Accreditation of Court Facilities, September 1973

Based primarily on an article printed in Judicature, a bill was introduced in the New Hampshire Legislature creating an accreditation commission for the courts. The New Hampshire Court Accreditation Commission is composed of five persons: one representing the appellate court; one representing the trial court; one a member of the legislature representing the general court; one a practicing lawyer representing the New Hampshire Bar Association and a fifth member representing the public.[1] In establishing the first Court Accreditation Commission in the nation the New Hampshire Legislature served notice that in New Hampshire justice should be properly housed. While justice is not guaranteed by adequate facilities, a neglected and inadequate courthouse debases the entire judicial system.

Like all accreditation commissions, the power of the New Hampshire Court Accreditation Commission rests primarily in the public effect by its classifications. The newness of the concept of court accreditation has required the Commission to develop its own criteria for determining the requirements of adequate court facilities in the various courts making up the judicial system of the state. In doing this the Commission has gathered information on the functions of courts from court officials throughout the state in addition to using the knowledge of the professional members of the Commission. Since its inception, a great deal of the work of the Commission members has been concentrated in discussing proposed new courthouses, and additions and improvements to existing courthouses, with county and local officials throughout the state. In no instance has the Commission advertised or volunteered its services; and, in fact, in all cases its services have been requested. Generally, the help of the Commission has been sought by those interested in obtaining aid to do a better job.

The recommendations on courthouses by the Commission have been frank and definite. The subjects discussed have included the location of a proposed new courthouse, the type of architecture, and the interior layout of the courthouse. In these discussions, the Commission members took the position that a courthouse should not be a combination welfare recipient warehouse, or an administrative center for county or local government, or a combination courthouse-firehouse, or a combination police station and courthouse.

The emphasis has been on a courthouse being exactly that—a courthouse with courtrooms, chambers for judges, clerk's offices, offices for probation officers and court stenographers, to the exclusion of police officers, welfare administrators, elected officials and private agencies. It is easier for an architect to make plans for a courthouse than it is for that same architect to make plans for a multiple-use building including a courthouse. It is also easier and less expensive for an architect to plan for and provide security for a single-purpose courthouse than for a multiple-use facility, a factor perhaps less important in a different period of our history. It is easier for the Court to provide a judicial atmosphere and proper decorum in a single-purpose courthouse. That is just what a courthoues should provide and nothing else. In more than one instance, the Commission has been instrumental in convincing a decision-making elective body to construct a courthouse on a different site rather than to provide an extension to a run-down building or attempt to modernize a building that deserves only demolition. On at least one occasion, local authorities agreed to postpone the improvement of court facilities until they could do so properly and concentrate first on providing administrative facilities for the local government which, in that instance, they properly determined to be a priority.

It was not uncommon to find that laymen who have the decision-making power have been as understanding as lawyers in recognizing the value of a new and separate court facility. In more than one instance, courthouse improvements have been prevented or jeopardized by members of the Bar and we have found that insofar as advocating improved court facilities, lawyers are no more civic minded or no more informed than non-lawyers.

The Commission has not attempted to impose its view on the architecture of a building. It has, however, stressed and urged that the architecture blend with the character and taste of a community.

In visiting courthouses on the municipal and district court level, as well as the courts of general jurisdiction, and observing such courts in action, the Commission has been surprised that certain communities composed essentially of people of modest means and income had done more to improve what court facilities they have than has been done in those communities where a more affluent citizenry reside. In several instances, the court facilities in areas that could be classified as possessed with an abundance of cultural outlets have been found to be dirty and overcrowded and unquestionably inadequate.

The Commission has conferred with members of the judiciary and clerks of court and other groups occupying courthouses. The discussion has centered on the location of the court, the size and business of the court, the provisions for handling juveniles, the chambers for the judge, the decor and cleanliness of the courtroom, the entrance of the courthouse, the location of police quarters, the facilities for judge, counsel court personnel and the public, motor vehicle parking space, record keeping rooms, facilities for stenographers, the library for the court, the schedule of the court, the existence of cell blocks or their location, the existence of conference rooms, telephones, qualifications of the bailiffs and their duties, and the general impression given by the courthouse. Each member of the Commission has kept his own notes on these visits and compared them later in general discussion before reaching a conclusion.

It is important, first of all, to remember what a courthouse should be. It should be a hall of justice for the serious deliberations of a court and jury which should be completely isolated from the legislative and executive branches of government. It must be a place where all of the members of the public may freely seek and obtain justice.

A courthouse should not be a warehouse for welfare supplies, or a location for private banking or a convenient political headquarters or offices for county administrators or a bar association meeting place or offices for social welfare organizers, or any army, navy and marine recruitment center, or a distribution center for motor vehicle registration plates, or quarters for religious, patriotic or sectarian groups, or a place to locate offices of the Economic Opportunity programs. Many of these functions are undoubtedly important and in the public interest, but they do not belong in the courthouse.

Members of the public should not have to go through or by a sheriff office or police headquarters or cell blocks in order to attend hearings either in the superior court or district court. A criminal case should not, if there are alternatives available, be tried in a building housing law enforcement officials whose members may have either served the writ or summons or made the arrest or are witnesses for the prosecution. A citizen should not have to have his case tried in a courtroom adjoining the offices of an elective official.

A courthouse should include the courtrooms, the judges' chambers, the office of the clerk of court, quarters for a few of the probation officers, rooms for the court stenographers, the probate court and its ancillary officials, but not, if convenient, a building to house the records of the register of deeds. Today, especially, courts as has been expressed elsewhere are "faced with the challenge of shaping law to meet the needs of society in a period of rapid change. The emerging patterns of change in legal formulations are strikingly evidenced by developing concepts of public responsibilities of corporations, by dramatic changes in environmental and poverty law, by the recognition that prisoners retain a constitutional right to humane treatment, by new meanings through racial equality, equal opportunities for male and female, and by changes in virtually every branch of law."

In the last fifty years, mistakes made in the construction of courthouses in this country have resulted in tremendous waste of public money. The cause of such mistakes has been the fault of all concerned including, the architects and contractors who carried out the planning and construction, the bar associations which have evidenced no active interest, and the judges who have refrained from participating in an area which they felt was not of their concern. It is unfair to single out architects to blame for the shortcomings of courthouses since courthouses are constructed so seldom that they can have little practical knowledge of the requirements of courthouses. Architects naturally look for guidance to those who retain their services and authorize their payment. Too frequently this advice and guidance comes from unqualified persons with little or no knowledge of the operation of a court or its needs. Furthermore, the architects are often additionally handicapped in having to combine the requirements of integrating courtrooms with county administration buildings to meet the demands of welfare, law enforcement, and county administration. The practical results are often political priorities and inadequate facilities with a consequent waste of taxpayers' money.

Architects need informative suggestions with a modest range of discretion, since, it left on their own, they may commit serious mistakes. Too frequently architects present their plans and rush into commitments before their "creations" may be modified or abandoned. As there are no established legal guides to good courthouses, if an architect does not receive this guidance from those who know most about courts, the end result may be an inadequate courthouse but an architectural gem.

A courthouse does not have to present an artistic atmosphere or be a building whose occupants share lush quarters. It does not require either the imposing fronts of the Hopkins Center in Hanover or the New England Center in Durham. It should be modest in size, in good taste, dignified in appearance, functionally efficient, of simple design, and placed in an adequate setting. It should not be cramped into a business area of high real estate values nor should it be in the wilderness.

A courthouse should be located so as to serve the greatest number of people in the present and in the foreseeable future, based upon the best estimates of present population and anticipated population growth.

Some of the Superior Courthouses fail to meet minimum standards and have been permitted to run down into a complete state of disrepair. Fortunately, many of the county delegations are planning to do something about it. It is worthy of note that the Superior Courthouses in Laconia and Ossipee have many good features and are proof that a courthouse, however old, may be clean and relatively suitable to serve the needs of the public.

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[1] Members include the Hon. John W. King, Superior Court, Chairman; Hon. Robert F. Griffith, New Hampshire Supreme Court; James E. O'Neill, Sr., Speaker of the House of Representatives; Arnold P. Hanson, Esq., representing the New Hampshire Bar Association; Edward DeCourcy, Editor and Publisher, representing the public.

While we have discussed the public value in separate court facilities, there are some other practical considerations that should not be left unmentioned. Without detailing examples to support some of these opinions, we shall outline them summarily:

A foremost consideration is safety. A courthouse without multiple functions is less expensive to protect than if it is a county administration building. It is easier to cordon off and easier to plan for protection. For example, in the Jackson case held in Jackson, Mississippi, involving the violence at Jackson State College, elaborate precautions for security had been made by the government, including closed-circuit television on the elevators in the courthouse, metallic detection devices, placement of guards, and so forth, involving great expense. It seems obvious that to protect a single-use building is a lot less expensive than to protect a multiple-use building. Similar examples can be found in the Sirhan case in California and the Berrigan trial, as well as other cases tried during the last two years in California. In this day and age, one should not anticipate constructing a courthouse without considering the factor of safety. Without indulging in florid examples, we are convinced that New Hampshire is no exception.

In the light of changing judicial philosophy, it may well be ruled that the law may require that a courthouse sharing space with law enforcement officials does not provide the situs for a fair trial. The "police court" should be relegated to history and no defendant need walk through or by an array of arresting officials or by detention cells in order to present a defense to complaints made against him by the same law enforcement officers. Some of our municipal and district courts are still unfortunate examples of the "police court".

The county government presently underwrites the cost of expensive criminal trials and the operation of the courts. Legislation has been proposed in the State Legislature to remedy this burden, a heavy one if by fate or circumstances, a series of murders, has occurred in one county. If the State should assume the cost of the courts, or help to defray such expenses on a proportionate basis, it may be best to have all court expenses under one roof.

There has been some indication that federal district courts may relinquish some of their jurisdictions, which means, that the cases not heard in the federal courts would have to be heard in the state courts. If this happens, an allocation of federal grants may be made to ease the burden of the state or county. In such eventuality, the separate identification of the expenses of a courthouse would simplify such allocation of monies.

Courthouses constructed with no attention to minimum standards, which fail to meet state or national accreditation standards, may fail to receive federal grants in the field of judicial administration.

It is axiomatic that if you want to keep the courts out of politics, you keep the politicians out of the courthouse; if the courts should be free from any association with financial institutions, the courts should not be quartered with financial institutions; if the courts are to hear criminal and welfare cases, they should not be required to share working space with either law enforcement officers or welfare recipients. There is a proper place for the executive and legislative and judicial branches of government, but it is not together.

Our responsibility is to the entire community and should not be limited to those lawyers whose interest is confined to wanting the courthouse located in their own community and sometimes in their own backyard.

Our thinking has been that if a delegation is of the opinion that both a new courthouse and new administrative offices, including welfare offices, are needed, then it is better to delay all construction of a new courthouse until a courthouse can be constructed that meets minimum standards. We would add that no new Superior Courthouse should be constructed without at least two courtrooms for jury trials. With the increase in population and consequent increase in caseloads it may be desirable to assign two or more judges in any county at any time a backlog of cases exists. Experience has shown that two judges working together dispose of many more cases than two judges working separately.

We have emphasized the role of the superior court over the district court. However, the problems in the district court and the municipal court are equally as serious as those in the superior court. Too frequently in the district and municipal courts we find dirty and unkempt quarters, a lack of hearing rooms for juveniles, a police court atmosphere, and cramped and inadequate quarters. Many of the entrances to the district and municipal courts are through the police station. Many police have recognized the undesirability of this condition in the interests of justice.

Most decision-making authorities are aware of the significance of planning and standards in obtaining federal, state, and private grants. This is a constantly recurring theme arising in the discussions between members of the Commission and elected officials, for if the elected officials fail to meet the minimum requirements for accreditation, they may lose out in future financial grants. Only those few who reject any and all grants are unconcerned about this problem, forgetting that it may be that with or without such grants they may have to spend money in the future to meet minimum accreditation standards. They also forget that few office holders can weather the voice of an aroused public which wakes up to find that the expensive public buildings which these same office holders have sponsored fail to meet the needs of the community and reasonable minimum standards imposed by accreditation requirements.

Accreditation in New Hampshire has proven itself, even before financial ability of the particular community. Unlike a rigid law that becomes stratified soon after the date of its passage, accreditation can adjust itself to everything from the location of courtrooms to the adequacy of record keeping.

New Hampshire has been a pioneer state in many things, as it is again in this field of courthouse accreditation. We look forward to other states using this tool in a greater and more efficient way than we have, although we enjoy the role of acting as a judicial pilot plant.

We are pleased that the American Bar Association Section of Criminal Law Committee—the Committee on Court Modernization in the Criminal Law—has agreed that they should recommend that the American Bar Association go on record sponsoring the establishment of court accreditation commissions and providing the expertise necessary to assist each state in establishing minimum standards. The promotion of the concept of the accreditation of courthouses by the American Bar Association cannot help but be a worthwhile and major contribution to the improvement of the administration of justice in this country.

The work of the New Hampshire Court Accreditation Commission will be a continuing one. Courts that do not meet minimum accreditation standards presently may do so in the future by taking corrective procedures. Courts that presently meet minimum standards may not so qualify in the future. The present evaluations of the Commission are neither perfect nor permanent. As time and opportunity permit, the Commission and its members will continue to meet with those officials charged with the responsibility of maintaining and operating courthouses in order to cooperate in improvements and efficiencies. An essential purpose for the creation of the New Hampshire Court Accreditation Commission is to foster and promote an atmosphere of dignity and respect for all of our courts, and the Commission recognizes that in this public and civic purpose all elements of our society have an interest and a role.

INCREASED FOOD PRODUCTION—A WORD OF CAUTION

Mr. HUMPHREY. Mr. President, recently several news reports and official projections have indicated that grain production in the United States and the rest of the world has hit an alltime high. The United States alone is expected to produce 228 million short tons of wheat this year, in addition to record wheat crops from other major producing areas of the world. While this is indeed good news, and once again demonstrates the productivity potential of American agriculture, we would do well to consider a few sobering thoughts before we unduly congratulate ourselves on this achievement.

First of all, while worldwide food production has increased, so also has the world's population, affluence, and consequently, the demand for more food. Second, we must face the reality that worldwide reserves of grain are at an alltime low due to last year's poor crops and the necessity to provide food assistance for famine and drought relief in many parts of the world. As a result, the much-acclaimed increase in world food production will do nothing more than barely keep pace with the continued demand for even more food. While the ability to keep pace is, in itself, a noteworthy achievement, it allows no margin for error or failure, and it presupposes the optimum of several conditions that are at the very best highly uncertain. These include:

Continued good weather and climatic conditions favorable to maximum agricultural production. While good weather is essential to agriculture, and despite the fact that we still have much to learn about it, we do know that the climate of the Earth is changing in a direction that is not promising in terms of our ability to feed the world. In addition, the same experts who predict record grain harvests are also quick to point out that the world could not absorb a crop shortfall in any major producing area without serious economic and human consequences.

The total dependence of high agricultural production on essential inputs such as fertilizer, pesticides, and modern farm machinery. Each of these elements in turn is dependent upon adequate supplies of petroleum and fuel. For example, in the production of U.S. corn, the equivalent of over 80 gallons of gasoline is required to grow just 1 acre. Obviously, the energy crisis has a direct relationship to agriculture and future production levels.

Adequate transport for agricultural production. In the United States, the chronic shortages of boxcars and other railway freight conveyors threaten to blunt the edge of increased production. Government figures now indicate that the current shortage involves approximately 33,000 cars per day. The most critical type of freight car affected is the hoppers used for transporting grain. In addition, farm to market roads are often substandard and in need of repair.

Additional agricultural research. As we face increasing limitations on energy resources and available cultivable land, the need for further research into improved agricultural production becomes essential. In one key crop alone—soybeans—yields per acre in the United States have increased by only about 1 percent per year since 1950. Despite the need for such research, the amount of money availble to the U.S. Department of Agriculture for research activities is now $17 million less than it was last year.

And so, Mr. President, before we breathe a sigh of relief at having solved the world food problem, we must think seriously about a system of international food reserves to avoid future scarcities; we have to devote proper attention to the need for accurate and scientific weather information; we need to assure adequate fuel supplies to our farmers and processors; it is essential that we do something about agricultural transport requirements, and there has to be sufficient funds available for increased agricultural research. If we do not take action on these matters, we may no longer be able to produce enough food to feed ourselves.

There are several items of legislation currently before the Congress that deal with the problems I have discussed today. I have introduced amendments to the foreign aid program and the Export Administration Act which call upon the President to consult with the United Nations and other countries on the establishment of food reserves and equitable agricultural trade policies; several of the energy bills under consideration recognize the special needs of farmers and food processors, and I have also had the privilege of sponsoring amendments to the Northeast rail bill that will focus needed attention on agricultural transport requirements. Finally, I intend to introduce legislation that will establish a Sino-American Soy Research Institute in order to foster the research required to improve soybean yields.

Therefore, Mr. President, as we read about record harvests today, we must not forget that there is much to be done to assure adequate supplies of food tomorrow.

COMMUNITY ACTION PROGRAMS

Mr. MONDALE. Mr. President, the community action programs under the Economic Opportunity Act have become one of the most effective weapons in our ever-continuing war on poverty. Senator Gaylord Nelson, both before and since assuming the chairmanship of the Employment, Poverty, and Migratory Labor Subcommittee in 1969, has been one of the most effective and creative supporters of community action programs. Project Headstart grew out of the community action programs, as did many other antipoverty efforts. These programs have gone a long way toward alleviating some of the inevitable and debilitating consequences of being poor in a nation of affluence. They have formed an important link between our governmental institutions and the poor, by bringing local imagination and flexibility to bear on the often unpredictable variety of problems that can exist in any city, county or region. By encouraging the development of leadership from within the poverty community, these programs have provided a very special and unbureaucratic approach to problem-solving at the local level.

Among the greatest successes have been the programs in the Senator's own home State of Wisconsin. Senator Nelson recently paid tribute to the effectiveness of its community action programs and renewed his commitment to the development of local solutions. I think his speech well worth the consideration of all of us who are concerned about the uncertain future of programs designed to alleviate the plight of our Nation's poor.

I ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

West Central Wisconsin Community Action Agency

It is an honor for me to meet this evening with the people who have helped to make the Wisconsin Community Action programs some of the best in the Nation. To all of you I want to say how proud I am of the work you have done.

Just this past summer West CAP has shown again, in its handling of the delayed summer Neighborhood Youth Corps funds, how strong and effective an organization concerned Wisconsin citizens can put together. The Wisconsin State Manpower people tell me that you didn't receive funding—some $178,000—until the last week of July. Yet you were still able to organize and run a crackerjack program employing 500 youngsters, and even turn back to the Treasury some $2,000 in administrative funds.

Congratulations.

September 1973 seems a lot more than ten years later than those days of high hope in August of 1963 when Martin Luther King led the March on Washington for jobs and freedom. It seems more than nine years since the War on Poverty was launched with such great expectations in the spring of 1964.

But in the longer perspective of the history of our Nation ten years is a short time. While the Community Action effort has accomplished a number of major objectives, the problem of poverty is ever with us, making a demand on us to create new goals and new ideals for the future. For while the training inherent in existing Community Action efforts has raised the hopes of many of our Nation's poor, training by itself is not going to create jobs, just as education by itself cannot provide income, and a voice in the decision-making process cannot guarantee that those decisions will be wise—or perhaps more important, that funding will be adequate. It is no time, in short, to abandon the programs begun just ten short years ago, as some in our state and federal governments would recommend.

There have been some tentative strides in the right direction this year in the fight to contain the awful ravages of our inflation-aggravated poverty, such as the inclusion by the House of Representatives of Community Action funds as part of the fiscal 1974 budget that passed the House on June 26. That appropriation was lower than we would wish, of course, but its approval assures the continuation of the program through next June, when the Economic Opportunity Act itself expires. After June, however, it will be up to Congress to continue support for Community Action programs in the face of Administration opposition. We must respond with positive measures if the good you people have accomplished here is not to go straight down the drain.

Last March, my Subcommittee on Employment, Poverty, and Migratory Labor held five days of hearings in Wisconsin on the effect of the President's budget cuts on Community Action and other domestic social programs. I was most impressed by three things.

First of all, the programs have quite clearly been a great success and most effective here in Wisconsin.

We heard testimony, for example, about Operation Mainstream from men who had opportunity for the first time in years to work, earn money and, most importantly, contribute in a substantial way to the community.

We received testimony about excellent, low cost programs to provide hot meals to the aged poor in rural areas.

Panel after panel of young people spoke in glowing terms of what work opportunity under the Neighborhood Youth Corps meant to them.

The West CAP Impact Seven Economic Development Program and other similar programs around the State demonstrated that community based economic development is feasible if Federal dollars are available to prime the pump.

In some ways the most moving testimony came from young mothers who were able to leave the welfare rolls, finding jobs and new self-respect, knowing that their children could be well cared for and well instructed during working hours at a local head start program, and from participants in the parent child programs for expectant parents and those with children up to three years of age.

In short, the sense of accomplishment, pride and hope directly attributable to these programs was well communicated to us in the Subcommittee hearing rooms.

The second thing that impressed me is the support which these programs have received from public officials in the seven county area. It has often been alleged that Community Action programs are not popular with locally elected officials. At our hearings in Eau Claire, and throughout Wisconsin, we heard strong testimony to the contrary.

Finally, I was impressed with the fact that if the programs are to continue, especially in rural areas, they must continue to be supported with Federal funds, for the financial resources are simply not now available at the local level to absorb the cost of continuing the programs.

In recognition of these three facts—the effectiveness of Community Action programs, their support from local officials in Wisconsin, and the crucial role Federal funds must play if they are to continue, I drafted and introduced legislation last April to provide for a continuation of the program. That legislation—Title III of Job Training and Community Services Act of 1973—passed the Senate last July 24 by a vote of 88 to 5.

The Job Training and Community Services Act is primarily concerned with the reform and the decentralization of manpower training programs. It would shift responsibility for administering manpower programs from Washington to the states, and the largest cities and counties. Right now the

Department of Labor is responsible for administering more than 10,000 individual contracts for specific manpower and job creation programs.

This Act is a special revenue sharing bill.

It has always been my strong belief that local citizens could do a far more competent job of planning and running local programs than bureaucrats sitting thousands of miles away in Washington, no matter how well intentioned those bureaucrats might be.

Since the 1930's the federal government has been assuming responsibility for meeting needs that state and local government either could not or would not face. Now that state and localities are more aware of the need for (and demonstrating an ability to carry out) social programs, it is time to return responsibility to the local level where the problems are, where the problems are best understood, and where they must be solved.

Since successful Community Action agencies demonstrate that Federal funds can be wisely administered by people and government at the local level, the Job Training and Community Services Act was drafted to require that funds for Community Action activities—as defined in Section 221 of the Economic Opportunity Act—be made available to State and local prime sponsors. The legislation requires that Community Action activities receive the same share of total manpower and Community Action activities as the Congress appropriated in 1973. In 1973 the funds appropriated for Community Action activities totaled $328.9 million for the Nation as a whole.

Community Action alone, however, will by no means provide all the answers to the problems of our Nation's poor. There are other battles that still need to be fought in the never-ending war on poverty.

I find it essential, for example, that we now move to fight persistent poverty with the potent economic weapons of full employment and well planned growth.

For too long we have acted as if the causes of poverty lay in the poor themselves. We have acted as if the slow economic development of our fine rural towns and villages were largely their own responsibility.

The hard fact of the matter is—just as President Roosevelt recognized in his 1944 new economic bill of rights—that full employment at decent wages is the beginning of economic justice. If there are not enough jobs to go around then some folks are going to be unemployed. Naturally employers will hire the most promising workers they can, so the unemployed are likely to be the least well trained, and the youngest or the oldest applicants. If employers are biased, then the unemployed are apt to be Black or Chicano or women. It is worthwhile to train those who need training, just on general principles. It is only just to press for fair hiring and promotion practices. But if there are 100 people looking for 90 jobs as is the case in many rural counties—then the hard fact is that 10 percent will be unemployed, and the result can be disastrous poverty.

It is my judgment that this Nation has plenty of work for all its citizens. Look at the condition of much of our housing. Look at our need for mass transit facilities in the cities.

Look at our environment and the need to clean it up and preserve it. Look at all those lacking the material necessities for a decent life at American standards.

Look at all the young children who need adequate day care, and the elderly who need and deserve dignity and security and a useful part to play in the society to which they have contributed so much. There is so much work to be done, and so much of it can be accomplished in the public sector.

In 1971, the Congress passed the Emergency Employment Act setting up a relatively moderate scale public service employment program. The success of that effort demonstrates that expanded public employment is one dependable way to meet human service needs while providing jobs for the unemployed. It is especially promising as a way of providing decent job opportunities for able people previously excluded because of their racial background. Unfortunately the Administration seeks to end this program, despite a Senate vote of 74 to 21 to extend it.

We must return to the sound principles of the Employment Act of 1946 and the full employment commitment of President Roosevelt in 1944. We must develop policies for balanced growth and full employment.

For the Nation such policies can mean an end to degrading poverty and welfare dependency. For rural America such policies can mean new growth for old cities and towns, and new opportunities that will hold the young in their native counties and make it possible for others to return. But developing these policies, and developing support for them will take time.

Community Action agencies have already made a great contribution. As we continue the fight for progressive programs, let us take heart from recognition of the fact that we are doing our part in a long fight for economic opportunity and social justice.

After all, that is what makes America a nation of hope and not simply a land of complacent prosperity for the privileged. The people of Wisconsin Community Action programs are squarely in that great tradition, and I am proud to be able to say I come from your part of the world.

GRANITE STATERS WORK FOR PROJECT "HOPE"

Mr. McINTYRE. Mr. President, I would like to praise two New Hampshire citizens who have completed service with the SS *Hope*. The hospital ship will complete its 10-month medical teaching-treatment mission in Maceio, northeast Brazil, on November 30. When she sails into Philadelphia, Martha Hopkins of Salem, N.H., and Anne Marie Nelson of Greenland, N.H., will be aboard.

Miss Hopkins, the chief medical technologist for the floating medical center, is a graduate of the University of New Hampshire and studied at Mary Hitchcock Memorial Hospital School of Medical Technology. She served aboard the *Hope* on two previous voyages and was affiliated with Putnam Memorial Hospital in Bennington prior to joining the project.

Miss Nelson, a pediatric nurse who earned her diploma at Children's Hospital School of Nursing in Boston and her B.A. at the University of New Hampshire, served as a member of the ship's nursing staff. She was formerly the nursing supervisor at Children's Hospital in Boston.

Mr. President, I have always been a supporter of Project *Hope*, which is the principal activity of the People-to-People Health Foundation, Inc., and its worthy efforts on behalf of those in need. Along with the yearly missions of the SS *Hope* the project has established follow-up land-based programs in each of the 10 countries previously visited by the *Hope*. These programs still operate in Peru, Colombia, Ecuador, Tunisia, the West Indies, and Natal, Brazil.

Again, Mr. President, I wish to commend Miss Nelson and Miss Hopkins for their part in the ship's medical program.

PROSPECTIVE FUEL SAVINGS IN FREIGHT TRANSPORTATION

Mr. HUMPHREY. Mr. President, the question of fuel savings in transportation goes far beyond the savings obviously achievable in passenger travel through car pooling, shifts to smaller cars, public transportation, and so forth. Although these steps promise large savings, considerable economies also are possible in freight transportation.

The surface freight hauling sector—consisting of trucking, railroads and barge lines—consumes the very same fuel needed this winter to heat homes and run factories. The measures to be taken there go far beyond just limiting truck speeds. Indeed, limiting speeds will cut the hauling capacity of trucks just as if part of the fleet were idled by lack of fuel, because slower speeds mean that trucks can perform fewer ton miles in any given time. Therefore, if we are to avoid transportation bottlenecks throughout the economy, we shall have to take concurrent measures to increase efficiency in other ways, such as by allowing the motor carriers greater freedom in routing and types of cargo they can haul, especially on backhauls.

On October 10, 1973, I wrote to the Secretary of Transportation, Mr. Claude S. Brinegar, posing several important questions about prospects for fuel savings in commercial transportation and how we should proceed to achieve them. In return I have received an encouraging letter from Secretary Brinegar indicating that his Department is now conducting a major research program to identify waste and inefficiency in the regulatory restrictions on motor carriers.

It is their intention to develop legislative proposals to ease ICC certification restrictions on total miles driven, operating techniques, commodities that may be carried and others. ICC ratemaking principles also are being scrutinized.

A second aspect about which Secretary Brinegar states his concern is regulatory restriction on competition between railroads, barges, and trucks which prevent freight from traveling by the lowest cost and most fuel-efficient mode. Regrettably it is clear, however, that transfer of cargo to rail, despite the better fuel economy of railroads on long hauls, is not going to be the solution for our short-run problems we would like it to be. This is because of the dilapidated state of our railroad facilities, and the very heavy demands on our rolling stock to handle record grain shipments and increased coal shipments as well as other normal cargoes.

The fuel shortage now makes it more urgent than ever to take effective action to rehabilitate our railroads, expand their capacity, and restore them to full operating efficiency.

Although the work in progress at the Department of Transportation is not completed, preliminary analysis indicates that considerable energy conservation will be possible in the transportation sector. I urge Secretary Brinegar to give high priority to concluding these studies and to submitting appropriate legislation to the Congress early next year. Because of the interesting and comprehensive nature of the Secretary's response to my inquiry, I ask unanimous consent that the letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

October 10, 1973.

Hon. Claude S. Brinegar,
Secretary, Department of Transportation,
Washington, D.C.

Dear Mr. Secretary: As you know, in response to the fuel shortage that now threatens the Nation, President Nixon has requested government agencies to take decisive action to curb fuel consumption and urged individual citizens also to make sacrifices for this purpose. I think that we also must try to reduce the fuel waste, especially in the transportation industry, that stems from constraints imposed by Federal regulatory agencies.

For instance, Interstate Commerce Commission regulations appear to involve considerable waste of fuel. In particular, the limitation of motor carrier route authorizations to limited ranges of commodities results in wasteful "deadheading" by trucks. The requirement that many shipments pass through certain "gateways" at a cost of circuitous mileage also consumes fuel unnecessarily. Many experts believe also that the rate structure diverts long-haul traffic to trucks from railroads, which consume much less fuel per ton mile. Other wasteful effects can be found in the barge and air carrier industries.

I am extremely concerned about the consequences for America of the fuel shortages foreseen for the next several years. As Chairman of the Subcommittee on Consumer Economics of the Joint Economic Committee, I wish to obtain the information necessary to develop well considered approaches to fuel conservation and to minimize the hardship and the loss of jobs and income from shortages.

May I ask you, therefore, to consider the following questions and report your views to me:

(1) How much fuel is now consumed unnecessarily on account of regulatory constraints in the transportation industries?

(2) How should we proceed to relax these constraints and eliminate this waste?

I look forward to your early reply.

Sincerely,

Hubert H. Humphrey,
Chairman, Subcommittee on Consumer Economics.

The Secretary of Transportation,
Washington, D.C., November 13, 1973.

Hon. Hubert H. Humphrey,
Chairman, Subcommittee on Consumer Economics, Joint Economic Committee, Congress of the United States, Washington, D.C.

Dear Mr. Chairman: I share your concern that the present regulatory system is causing inefficient use of fuels as well as an inefficient use of resources generally. The Department has underway a major research program to identify and quantify waste and inefficiencies associated with existing regulatory restrictions in motor carrier operating authorities. We are particularly concerned with the effect of certificate restrictions upon total miles driven, operating costs, fuel consumption, excess capacity and quality of service. This research should enable us to identify those types of certificate restrictions which are most pernicious and provide a basis for developing legislative proposals to remedy the situation. In addition, we are examining the effects which result from the ICC ratemaking system with respect to motor carriers, and possible changes in the regulatory system to deal with the problem of empty backhauls for agricultural exempt carriers. We feel that regulatory change in these areas may also have fuel saving effects as well as being sound for other reasons.

Our work is not far enough along to provide definitive estimates of fuel savings which might result from modifying the present regulatory system. Preliminary analysis indicates that energy conservation potential exists for motor carrier freight, although we suspect the quantity of potential fuel savings is small compared to that possible in other sectors such as autos and home heating.

In addition to examining how the existing regulatory system may be modified to produce a more efficient use of existing capacity and fuel, we are moving on various fronts to encourage more competitive pricing of transportation services which also promises to reduce excess capacity. Removing operating restrictions without changing the existing pricing system may well result in even greater excess capacity.

The Department has intervened in a number of proceedings before the Interstate Commerce Commission, in which we have argued for more competitive pricing of transportation services. Several pending cases appear to offer a significant opportunity for bringing about more competitive pricing in the transportation sector. These cases include Ex Parte 270, *Investigation of Railroad Freight Rate Structure* and Ex Parte 297, *Investigation of Rate Bureaus*. In addition, the Department is considering intervention in Ex Parte 55 (Sub 8), *Motor Common Carrier of Property Routes and Services*, a proceeding in which the Commission is investigating the easing of gateway restrictions to achieve fuel savings.

Another problem associated with the present regulatory system is the restraint which it creates upon intermodal competition. In particular, we are concerned that the regulatory system has prohibited railroads from attracting traffic on which they are the low cost mode of transportation and in many cases the most energy efficient mode. The Department is readying regulatory legislation, which will provide the railroads with substantially increased flexibility in rate setting. In addition, we are considering providing loan guarantees to upgrade rail plant capacity. These actions should enable the rail industry to compete more effectively for the long-haul traffic which it can handle more efficiently and with desirable fuel conservation effects.

Finally, I should add that we are evaluating the increased use of rail piggybacking of highway trailers as a means to conserve energy. For long distance rural intercity movements, preliminary analyses indicate that the fuel required for piggyback operations amounts to about 40 percent less than that required for truck tractor operation for the line-haul portion of the movement. However, in cases where truck combinations must travel substantial distances to and from piggyback terminals and along congested streets, it may be that the through haul by truck on an Interstate highway will require less fuel. Further analysis of the facilities and characteristics of the intercity corridors is required to assure that a net improvement in fuel efficiency can be achieved by rail piggybacking.

Sincerely,

Claude S. Brinegar.

SOME SALIENT DIFFERENCES BETWEEN ISRAEL AND VIETNAM

Mr. TUNNEY. Mr. President, Radio Station KNX in Los Angeles, Calif., recently broadcast an editorial pertaining to America's foreign policy.

The editorial made some inappropriate comparisons between our foreign policy in Southeast Asia and our foreign policy in the Middle East.

My special consultant, Meldon E. Levine, was asked to respond to that editorial. His response was broadcast on November 20, 1973. Because I believe that his response to that editorial shed light on an important subject, I ask unanimous consent to print in the Record a copy of the KNX editorial and a copy of Mr. Levine's response.

There being no objection, the material was ordered to be printed in the Record, as follows:

Middle East Warning

The Middle East war is another warning to America.

We have a tendency to back into wars. That's what happened in Vietnam. The process starts with some equipment and advisors. Then, it grows and grows. Soon, we have mounted the tiger. We don't want to stay on, but we can't climb off.

The Middle East holds this same danger—as do many other places in the world. In the Middle East, we have already sent equipment and advisors. Secretary Henry Kissinger says we might send troops if the Russians did it first.

In spite of Vietnam's lesson, the war crisis mentality still infects Washington. There is the inclination to edge to the brink at every chance. Once there, it takes a lot of blood to bring us back. In Vietnam, it took 50,000 lives.

As of last year, we had over 5300 treaties or agreements with foreign countries. Some of these could put Americans into the killing-and-dying business again on short notice.

We believe America should support the countries in which it believes. However, the American people ought to know who we're committed to fight for and under what conditions.

Today, we don't know that. We believe, therefore, a public debate in Congress on our foreign commitments is called for and now.

KNX has urged this before. We do so again. All our foreign commitments should be out in the open. After all, it's the American who will pay the bill for those commitments with their lives.

I am responding to Mr. Nicholaw's editorial comment that the Mideast war, like Vietnam, should stimulate a more open foreign policy.

Yes—we should have a more open foreign policy, but *not* because of any similarity between Vietnam and Israel. The two are radically different.

In Vietnam, American involvement contributed to war. In Israel, it contributes to peace.

In Vietnam, the United States supported an unpopular, repressive, authoritarian dictatorship. Israel, on the other hand, is one of the world's most democratic governments.

In Vietnam, the United States became involved in a civil war. In the name of Vietnamese independence, we were fighting the very people we said we were supporting. Israel, on the other hand, is a tiny but united country whose existence has been guaranteed by the United States and the United Nations and who seeks merely her own survival.

Mr. Nicholaw and KNX should be cautioned against falling into the same pitfall that brought us Vietnam: over-reacting to and over-generalizing about past wars. The memory of rearmament after World War I brought appeasement in the 1930s. The memory of appeasement after World War II brought the domino theory and Vietnam. We must not allow those tragic memories to yield a sterile isolationism that will destroy our friends, please our enemies—and threaten world peace. America's national interest requires support for Israel.

Israel is and has been one of America's best friends. It would be contrary to America's own self interest to allow Arab blackmail or Soviet threats—or inaccurate comparisons to Vietnam—to diminish our commitment to the survival and the strength of that great nation and noble people.

BEEF, CORN, AND FOOD PRICES

Mr. CLARK. Mr. President, the past year has been a frustrating year for the agricultural industry. Worldwide bad weather in 1972, combined with major changes in international trade policies, the infamous Soviet grain sale, and significant alterations in the world monetary situation, all forced a serious disruption of world food supplies. As a result of the unprecedented demand, American farmers have been harvesting a record volume of crops, without experiencing the drop in prices that usually follows such harvests.

In spite of this production effort, the absence of effective leadership from the administration on farm policies may well result in a continued increase in food prices. The price explosion of the past year was only aggravated by the administration's adamant refusal to modify the setaside program in 1972 after the massive grain sale to the Soviet Union produced an obvious need for greater production. In addition, two separate policies pursued this year by the administration may well push food prices even higher next spring.

The first and most significant mistake was the beef freeze imposed 8 months ago. The price controls had the short-term effect of discouraging cattle feeding, causing serious beef shortages during the summer, increasing unemployment, and even black-marketing in some cities. It had the long-range effect of confronting cattle feeders, farmers, and ranchers with uncertainty and insecurity. A recent U.S. Department of Agriculture survey emphasized the result of that uncertainty: 34 percent fewer cattle are now being placed on Iowa farms for fattening. The farmers who held back their cattle during the freeze, reacting to normal market forces, have suffered drastic losses because those cattle—many of them in overfat condition—flooded the market after the freeze was lifted. Some local cattle feeders are now losing up to $100 per head on fat cattle, and that blunt economic reality is continuing to discourage cattle feeders. The real impact of these developments will be felt again this spring when supplies of fed beef are obviously going to be short again, and supermarket prices may go to record highs, causing another round of consumer resistance, packer hesitance, and producer uncertainty.

These developments have been complicated by another serious policy error: the price controls on domestic fertilizer products. The administration's adherence to price controls allowed foreign buyers, supported by highly subsidized agricultural economies, to outbid American farmers in the competition with devalued American dollars fertilizer. By the time the administration finally recognized the flaws in this policy several weeks ago, foreign fertilizer commitments had been made through next March, and we were assured of exporting at least 16 percent of the available nitrogen and 24 percent of the phosphate this year. Nitrogen fertilizer is particularly crucial to high production yields of corn, and a shortage is forcing many farmers to plant other crops. This in turn will result in high prices and eventually shortages of corn. Without an abundant supply of corn, cattle feeders will be even more reluctant to raise cattle because of the importance of corn as a feedmeal.

The administration's policies of the past year have served only to whipsaw the farmer and the rancher in a way that could generate severe shortages and a disruption of the market, hurting both the agricultural and consumer sectors of the economy. The first edge of that saw—the beef freeze—succeeded in slicing cattle prices to an economically unfeasible level, while the backlash—the price controls on fertilizer products—worked to discourage the production of the corn necessary to feed the cattle still being raised.

This trend is carefully traced in a recent article in the New York Times. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOOD PRICES: FARMERS SELLING CORN AFTER LEVELS FOR BEEF CATTLE DROP

(By Seth S. King)

BAGLEY, IOWA, November 24.—As hard as it may be for harried consumers to believe, the price of fattened beef cattle had dropped so low this week and the price of corn had risen so high that many Midwestern farmers have stopped feeding beef cattle.

This vacuum threatened to alter a major step in the traditional flow of fattened beef from ranch to supermarket shelf. If the number of cattle marketed next spring declines as a result, housewives will again face rising retail prices for beef.

"I figured it from the obvious angles and it still 'penciled out' a loss," said Max Naylor, one of the largest farm operators in this fertile region of central Iowa.

Normally, at this time of year, Mr. Naylor, like many other Iowa farmers, buys 100 or so calves or yearling steers from Western ranchers. Part of the corn crop just harvested in Iowa is stuffed into them and in four or six months they should be ready for market at choice grade weights.

"But if you have to pay 55 or 60 cents a pound for a feeder calf today and have the prospect of selling him for 39 or 40 cents a pound next spring, after he's gained 300 or 400 pounds on your best corn, then you'll lose money," Mr. Naylor explained.

"Instead, I can sell the corn I'd have put into those cattle for $2.13 a bushel, about twice what I got last year," he went on. "So why should I take the risks and do all that work for a loss on cattle in April when I can be sure of making more money by selling my corn right now?"

The stockyard prices for live, choice weight cattle dropped this week to an average of $39 a 100 pounds, about the same level they reached last March when President Nixon imposed price ceilings on wholesale and retail meat.

This was a sharp decline from last August's high of $56.38 and was caused, market analysts said, by two factors; large numbers of heavy cattle, held in the feedlots until the ceilings were lifted in September, have now flooded the market; at the same time, consumers, whose supermarket prices have not followed live prices down, are resisting buying beef.

A recently published survey by the Agriculture Department showed a 34 per cent decline in the number of cattle now being placed on Iowa farms for fattening.

This signaled another major disruption by next spring in the traditional patterns of beef supply. It could start live cattle prices, and eventually supermarket prices, on another upward swing next year. But how far up was still a question.

Many of the calves and yearlings that normally come into Iowa this month will go, instead, into the huge feedlots in the West or be held for another six months by those ranchers who can afford to carry them. The unknown element now is how this will affect prices by then.

There were certainly no prospects this week for shortages of anything else farmers in the Midwest produce, only for shortages of the fertilizer and perhaps the fuel they will need to plant next year's crop next spring.

Mr. Naylor was picking his last 20 acres of corn, a part of the largest crop ever grown in America. And like virtually all other farmers in the central United States, he had already harvested and stored the largest soybean crop he has ever known.

In addition, there were signs of a small increase in the number of hogs being fed for market as farmers took advantage of prices that are still the highest in memory, $41 a hundred pounds ($27 at this time last year). This should help hold consumer pork prices where they are now or even bring them down a little.

IDEAL WEATHER NOW

Unlike last year, when early snowstorms and unusually wet fall weather delayed the harvest for many farmers, Mr. Naylor and his neighbors have picked their corn and soybeans under ideal conditions, saving the expense and the fuel it took last year to dry them for storage.

"Even so, it's amazing that the corn and soybean markets are still as high as they are today." Mr. Naylor said as he stood in the center of a vast, windswept cornfield watching an assistant direct a golden stream of kernels from his combine into a hopper wagon.

World demand for wheat, corn and soybeans has almost doubled today's prices for them, holding them above what even the most optimistic planners in the Agriculture Department had expected.

"It's really surprising when you realize that we're producing record crops and any other time the market would have plunged," said Mr. Naylor, a quick-moving, assertive man who has been farming in central Iowa for 28 years.

As a result of this abundance and a high market, net income for American farmers in 1973 is expected to exceed $24-billion, nearly $5-billion more than 1972, which was itself a record income producer.

SEES RISE IN COSTS

Mr. Naylor believes these lucrative markets will hold for next year too, but he also sees another increase in his operating costs and the threat of a fertilizer shortage.

"Right now we're plowing under stubble and normally we would be putting ammonia on it, getting ready for next spring," he said. "But fertilizer is short; it's costing twice what it did last year, and it's very difficult to find. With acreage restrictions off and a good market, a lot of farmers would be happy to do what [Agriculture Secretary Earl] Butz wants and plant fence-to-fence next spring. But without ammonia and nitrogen fertilizers, corn yields will drop 40 per cent and we may decide it isn't worth it to plant all that much more."

Foreign demand for nitrogen and phosphorus pushed export prices up beyond American ceiling prices, and great quantities of the two fertilizers have already been sold abroad. Anhydrous ammonia is made from natural ags, which is already in short supply.

The question of whether to plant more corn and soybeans next spring is just as hard to answer for other Iowa farmers.

Southwest of Des Moines, near Van Meter, Robert Baur and his father grow corn and soybeans and operate a large cattle feedlot.

CATTLE OR CROPS

"We're fattening 2,000 head right now, and with an operation that big, we'll go on feeding that many this winter, though a lot of other farmers won't," Mr. Baur told a recent visitor. "But we have to decide by next spring whether we want to pasture more cattle or plant that land instead in corn or soybeans.

"What bothers us is that the housewives aren't buying beef at a time when we're losing money on fat cattle and the market stays down. But if we can't get more fertilizer next spring, can we get enough corn or soybeans out of additional land to make it worth the effort?"

Mr. Naylor said most farmers would not have to worry about a fuel shortage until they got ready for planting next spring.

"But if the energy shortages are going to slow down the economy, we'll be feeling it other ways before that," he said. "I'm already having trouble finding spare parts for my implements and I've already told you the troubles with fertilizer."

Mr. Naylor shook his head sadly and sighed.

"For a lot of the years I've been farming, I felt like I was riding in the back of the bus," he said. "Now, with all this income, I've moved up to the front. But it looks like the motor may be dying on us."

NIXON ENERGY PROGRAM NEEDS A CHARGE

Mr. HUMPHREY. Mr. President, Sunday evening, November 25, President Nixon announced to the Nation a series of steps he intends to take to alleviate the current energy shortage. While I welcome his initiative, I believe his proposals are inadequate to deal with this ever-deepening crisis. They will result in neither the oil savings that are necessary, nor provide the basis for an equitable sharing of scarcity by all Americans.

I am convinced that unless a much stronger course of action is pursued, and pursued immediately, jobs will be lost, homes will be cold, serious inflation will flare up, schools will be closed, and, in general, there will be economic and human suffering.

It is time for all public officials, the President above all, to let the American people know, just how serious a problem we will face this winter. It is time to tell it like it is.

Precious time has been fritted away while our precarious national energy situation has deteriorated from bad to worse. I do not want to appear to be an alarmist, but the time for soft talk and a business as usual approach has long since passed.

During the first 3 months of 1974 we will face the largest shortage of oil in the history of our Nation. Such a massive problem will not yield to rhetoric. It will only be alleviated by well planned and vigorous action by government, at all levels, and with the full cooperation of the American people.

Last Sunday night the President's rhetoric was strong, but his proposals were much less so.

Given the urgent need to slow consumption and build petroleum stocks for the months ahead, for example, I find it incomprehensible that the administration's announced cuts of 15 percent in heating oil for residences, 25 percent for commercial use and 10 percent for industrial use, will not be put into effect until January 1.

By delaying the effective date to January 1, rather than December 1, for instance, we have lost the opportunity to build up a reserve from these proposed conservation measures of approximately 1 billion gallons of oil. We are going to be in very serious trouble indeed, if we continue to move at such a snail's pace. All Americans are going to pay the price for this official delay and apathy.

The employment impact of the administration's decision to reduce the availability of jet fuel by 25 percent clearly shows how serious the energy crisis really is. The well-being of our people is clearly at stake.

The administration's decision to single out the airline industry for extraordinary reductions in fuel use also demonstrates the job and economic losses that result from programs that do not share scarcity on an equitable basis across all sectors of the American economy. Major reductions in a few industries will have a much greater unemployment cost than a more even absorption of fuel scarcity by all of our industries.

If the national objective in dealing with the energy crisis is to minimize the loss of jobs and income, and this is certainly my goal, then the administration must come forth with a program of allocation and equitable rationing designed to keep the economy strong and jobs plentiful.

It is very troubling to review the President's incomplete proposals against the backdrop of the testimony last week of his special energy consultant, Mr. Charles DiBona, before the Consumer Economics Subcommittee which I chair.

Mr. DiBona, and other experts who testified, painted a painfully grim picture of the Nation's energy position for the next several months and years. He said that,

> If we don't curtail the use of heating oil now . . . by February and March we will have drawn stocks down so drastically that we would have to cut heating oil use by 50% on the East Coast of the U.S.

I might add that Minnesota, and other States in the Upper Midwest, would be forced to live on very similar portions of normal requirements.

For some reason, this harsh prognosis, and that of our Nation's business leaders who see unemployment rates of up to 8 percent as a result of fuel shortages, has not been reflected in the programs that have been announced thus far by the administration.

Perhaps a few weekends in Minnesota or New England, rather than in sunny San Clemente or Key Biscayne, would remind the President of what it means to be cold. I assure you that many of my constituents would gladly exchange places for a few days—or the entire winter for that matter.

Mr. DiBona called for immediate action to conserve energy and warned that if we do not take strong measures we can "wait until spring and then fall off the cliff."

The President's message certainly did not convey this sense of urgency and impending disaster. The measures announced certainly will not prevent us from "going over the cliff" in early 1974.

President Nixon had the opportunity Sunday night to elicit from the American people their full cooperation in the kind of aggressive conservation program that we need, and to prepare them for the possibility of gasoline and fuel oil rationing. In fact he could have tied these two approaches closely together for all of our people to understand. This he failed to do.

The President, I feel, should have "leveled" with the public the way his advisers did before our subcommittee. His own experts told us that, unless the voluntary compliance system of conservation works and unless the mandatory allocation system works, they are going to put in rationing. This is the essential message that I believe the American people need to be given. It will not be easy, but this is the moment when leadership has to be exercised.

I believe that the time has come to firmly outline to the public exactly what will be done to cut back on our demand for oil to the likely level of supply. We must tell our homeowners and our businesses exactly how much oil, gas, and other fuels they will receive during the next 3 or 4 months.

With these facts in mind planning for energy use can be done, including planning on how to conserve energy. With a known level of supply over a period of several months, all kind of adjustments can be made to live within supply constraints with the minimum possible disruption. I believe we must do whatever is needed, today, to provide individuals and organizations with information with which to plan and an individual incentive to conserve.

If the only way to let people know how much heating oil, gasoline, natural gas, and other fuels they can count on this winter is through rationing—so be it.

No one likes rationing. I know it is not easy and has many drawbacks. But, sometimes these tough decisions simply must be made because the costs of failing to do so are so great. I believe we have reached that point in the current energy crisis. Unless we begin now to equitably ration fuel, as soon as possible, we will go through a winter of cold homes and schools, more joblessness than at any time since the depression, soaring scarcity induced inflation, and a variety of other calamities for the American people.

Another fact that all of us must keep clearly in mind is that the energy crisis will not fade away with the spring. Energy scarcity will be with us for years to come, with or without continuation of the Arab embargo on oil exports.

Therefore, while we must move urgently on the short-term crises with conservation measures and cutbacks in consumption this winter, we must begin now to move to solve our initial long-term energy supply problem. Our Nation must mount a massive national effort of energy research and development that will make our country self-sufficient in fuel and energy as soon as possible.

This is a task that will require the full commitment of our Nation, if its goal is to be reached. We must begin today to fire the imagination of our people to this critical goal. It will require all of the qualities of leadership that our public officials can master. It will not be easy, but it is a challenge that the American people cannot afford to ignore.

Mr. President, in conclusion, I would also like to register my strong exception to the President's implication in recent remarks that the Congress has been "dragging its feet" on the energy crisis. This is simply not true. I completely agree with a recent Washington Post editorial which concluded,

> We are seeing, in fact, an extraordinary demonstration of Congressional initiative.

If our Nation manages to survive this winter without economic chaos and substantial personal suffering, it will only be because Congress has forced a reluctant administration to "bite the bullet."

Mr. President, I ask unanimous consent that the Washington Post editorial of November 25, entitled "The President, Congress, and Energy," and the Washington Post article by Tim O'Brien on November 26, entitled "Jobless Rise Seen in Crisis," be printed in their entirety at this point in the RECORD.

I also ask unanimous consent that an article from the New York Times of November 27, entitled "Energy Men Find Nixon Plan Weak" be printed in the RECORD. Also, an article from the Minneapolis Tribune and another from the Minneapolis Star be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 25, 1973]

THE PRESIDENT, CONGRESS, AND ENERGY

To get through the coming year without excessive economic damage, the country is going to need new energy legislation of great range and strength. It is legislation that will sharply affect all of us, and public attitudes toward the rules will be crucial. That kind of legislation requires close and continuous cooperation between the White House and Congress. Since these statements are obvious to the point of being truisms, Mr. Nixon's current aggressive hostility toward Congress becomes all the more mystifying. He is now pursuing a vehement campaign to blame as much as possible of the energy shortages on Congress and its Democratic leaders, while simultaneously asking them for more help. His appearance before the Associated Press managing editors a week ago was a particularly egregious example.

He sent Congress a message last April, he said. And what happened? "I asked them for seven pieces of legislation to deal with energy. One has reached my desk, the Alaska pipeline. I signed it. The other six, I hope they act before they go home for Christmas . . . The President warned in April, the Congress did not act and now, it is time for the Congress to get away from some of these other diversions if they have time and get on to this energy crisis." This accusation suggests Mr. Nixon is not fully briefed on his own program.

One of those six pending bills of which he spoke would provide compensation for the companies that held the canceled drilling leases in the Santa Barbara Channel. It is not en energy bill at all, but rather a compensation bill. And where is it now? The administration withdrew it, four days before Mr. Nixon's appearance before the managing editors.

Another of the six April proposals was a tax credit to encourage exploratory oil drilling. But rising oil prices over the last six months have set off a tremendous exploration boom that is currently limited only by the severe shortages in drilling equipment and casing pipe. Whatever the circumstances of last April, further tax credits are hardly required now. Still another of the April proposals was to develop deep water ports to unload huge tankers bringing us crude oil from, mainly, the Arab countries. Current developments in the Mideast seem to have diminished the urgency of the superport bill. Mr. Nixon has quite rightly proclaimed independence in fuel supply to be a national goal. But if we are building toward independence of supply, do we also need superports for Arabian oil? It does not appear that anyone in the administration has seriously addressed the question. Mr. Nixon was merely scoring a polemical point reflexively and recklessly.

One of the April proposals would have simplified site selection and approval for electric generating plants. Another would have set new standards for strip miners. Both are moving slowly because they raise difficult issues of environmental protection, conservation and safety. Neither of them offers any very sudden relief of the shortages.

Of all seven of Mr. Nixon's April proposals, there was only one—the bill to deregulate natural gas—that would have helped the country this winter. It might have helped quite a lot. But it is stalemated for reasons that illustrate the central defect in the administration's whole approach to energy legislation.

The case for deregulating gas gets stronger as the price of oil rises. Of the three basic fuels—coal, oil and gas—only one is regulated. The wider the gap between the low price of gas and the high prices of competing fuels, the more the gas shortage is aggravated. But the issue of deregulation is a familiar one, and it is perfectly clear that Congress will not act until it has a bill that adequately responds to the legitimate and well-founded fears of consumers.

Any successful bill will have to contain guarantees that gas rates will not continue to favor industry by loading the whole rise on householders. It will also have to assure consumers that the continental pipelines cannot be used to destroy competition among producers. Several congressional committees are working on legislation that can answer those doubts. But they are not getting much help from the administration, which tends to view amendments as evidence of insubordination.

The most valuable energy legislation enacted this year has been the oil allocation authority, which was neither sought nor, until last week, even supported by the Nixon administration. It was originally put forward by Sen. Thomas F. Eagleton (D-Mo.) and tacked as an amendment onto the wage and price control bill last April. The administration disliked the idea at the time, but that legislation enabled them to begin fuel oil allocation last month.

Last week the Senate passed a bill to authorize gasoline rationing. President Nixon first asked for this authorization on Nov. 7. The bill that the Senate passed was introduced by Sen. Henry Jackson (D-Wash.) on Oct. 18. We are seeing, in fact, an extraordinary demonstration of congressional initiative.

Mr. Nixon's April message had, in general, one pervasive defect that explains the meager response. It is a matter of balance. All of his proposals benefited the oil and coal companies, heavily and obviously. Some of them clearly benefited the public as well. But the circumstance that they all came down in favor of the same set of interests gave the message a dismaying lopsidedness. If citizens are going to have to pay much higher prices and tolerate lower environmental standards, they would like to see some sign that the companies are going to have to give a little too. There was no hint of it in Mr. Nixon's April address, and not much in any of the subsequent addresses. That, at bottom, is why his proposals do not get rapid action in the midst of shortages that even he now acknowledges do constitute a crisis.

[From the Washington Post, Nov. 26, 1973]

JOBLESS RISE SEEN IN CRISIS

(By Tim O'Brien)

Oil company executives yesterday forecast a rise in U.S. unemployment to 8 per cent unless the Arab oil embargo is ended, and one of them said he sees a risk of war between the big powers unless a Mideast peace settlement is reached within a year.

John Swearingen, board chairman of Standard Oil Co. of Indiana, said if the Arab oil embargo persists, the nation will experience fuel shortages of about 20 per cent, leading to unemployment rates as high as 8 per cent.

Board chairmen Stewart Cort of Bethlehem Steel Corp. and John D. Harper of Alcoa aluminum company agreed that unemployment rates may reach 8 per cent if the Arab oil embargo continues and if U.S. industries have to cut back production.

The three industry leaders appeared on the television program "Issues and Answers" (ABC, WMAL).

Swearingen said he is optimistic that there will be "some sort of a political accommodation in the Middle East within 12 months."

"If there's not," he said, "the situation over there is going to be so tense and so tight we're going to be on the verge of a real conflagration which would involve the major powers as well as the minor ones that are already in the Middle East."

"I think we run this risk, and it's a very serious risk," he said.

Asked if he agreed with this assessment, Bethlehem Steel chairman Cort said, "I would agree with John that the possibility is there."

"I think you see evidence here now," Swearingen said, "of the dependence of Japan, Western Europe and the United States on Middle East oil, and whoever controls this oil and has access to it really has a knee on the Adam's apple of the industrialized West."

Charles DiBona, a special adviser to the President on energy policy, said the Nixon administration is "trying to keep people's jobs, to keep people working" despite the fuel shortages.

Swearingen said that while the bulk of the current 4.5 per cent unemployment rate is among young people, the "real brunt" of possible cutbacks in industrial employment will fall on the married working men.

Meanwhile, in response to the President's new package of emergency energy measures, Rep. Silvio O. Conte (R-Mass.) said the actions were "too little and too late."

The closing of gasoline service stations on Sundays, he said, will "probably not mean that much, because people will gas up on Saturdays." He said the gas station closings may have some impact on people planning long drives over the weekend.

J. Kay Aldous, an official with the American Automobile Association, said the service station closings "will undoubtedly have a severe adverse effect on motoring and businesses dependent on motoring."

He said businesses dependent on tourism—hotels, roadside restaurants, motels, recreation areas, tourist attractions—"may have a hard time of it."

In addition, he said, "some businesses that you don't ordinarily associate with the automobile may suffer. Ice cream parlors, movie theaters and the roadside antique shops in New England that thrive on Sunday trade will feel it."

Charles Binsted, president of the National Congress of Petroleum Retailers, said the Sunday closings will not seriously add to the problems of service station owners. "Many of the dealers are closing already because of the cutback in our product."

Binsted said his organization, which includes over 60,000 service stations nationwide, endorses the Sunday closings in preference to gasoline rationing or new gasoline taxes.

Reacting to the home heating oil allocation plan announced yesterday, Conte said New England, "with our terribly severe winters, is going to be hurt. Seventy per cent of our homes there are dependent on heating oil."

Conte urged quick steps to ration gasoline.

As the President announced his new energy measures, a Senate subcommittee was preparing for hearings to examine the economic impact of the energy crisis.

The energy subcommittee of the Senate Finance Committee will consider legislation to tax both fuel consumption and fuel imports, with the revenue going to a special energy research and development trust fund.

The hearings will begin Tuesday with the testimony of John A. Love, the President's chief energy adviser. Scheduled later in the week is Treasury Secretary George P. Shultz.

[From the New York Times, Nov. 27, 1973]

Energy Men Find Nixon Plan Weak—Businessmen, Economists Insist U.S. Needs Sterner Measures To Save Fuel

(By William D. Smith)

President Nixon is not moving fast enough or far enough to meet the nation's energy problems, according to economists, businessmen and oil industry experts.

The President's message of Sunday night was generally rated constructive, but the praise was faint and the criticism was frequent.

Indeed, several well-known economists said they had not taken the time to watch the President's message because they thought the Administration was not yet willing to face up to the realities of the situation.

Congress also was criticized in meeting the nation's energy for its role—or lack of role—problems.

"PLAYING POLITICS"

Donald Cook, chief executive of the American Electric Power Company, the nation's largest investor-owned electric utility system, said:

"Both the President and the Congress should stop playing politics with the problem. It is a very serious situation. The President should stop trying to shift the blame for the crisis to Congress, and Congress should stop trying to pin it on the White House."

Prof. M. A. Adelman of the Massachusetts Institute of Technology, who is one of the nation's leading oil economists, asserted:

"The Administration continues to fail to address itself to the problems. President Nixon is dragging his feet because he knows the necessary measures will be unpopular. He is so unpopular now that he feels he cannot afford to do anything that will alienate more people."

SEMINAR CONSENSUS

A seminar on the economic impact of the energy crisis was held yesterday at the Plaza Hotel by the Georgetown University Center for Strategic and International Studies. The seminar brought unanimous support for rationing as soon as possible and sharply higher prices for petroleum products.

The panelists were Jack H. Bridges of the Georgetown center; A. J. Meyer, professor of Middle Eastern studies at Harvard University; Edward Symonds, executive vice president of the First National City Bank; Edward B. Walker, executive vice president of the Gulf Oil Corporation, and Murray L. Weidenbaum, economics professor at Washington University and former Assistant Secretary of the Treasury. They indicated that they considered the President's actions too late and too little.

"Well, at least the Administration is beginning to admit it is a crisis," Mr. Bridges said.

TWO BIG QUESTIONS

Dr. Weidenbaum asserted:

"You do not win popularity contests by saying it, but we need a stiff increase in energy prices in the United States. Higher prices will induce larger domestic production of fuels—which is something the advocates of rationing as the panacea are just overlooking—and also bring about a needed curtailment of consumption. There are two important policy questions that arise: Who gets the benefits of the price increases and what happens to poor and middle-income people?"

Implied criticism of the President's message was seen in some of the comments by executives of major oil corporations.

Maurice F. Granville, chairman of Texaco, Inc., said:

"In fully supporting the President's program, we must recognize, as he did, that these steps, even if completely successful, will offset only about 10 per cent of the anticipated shortage of 17 per cent [in crude oil and petroleum products]. It is quite clear that the United States must be prepared to take more far-reaching steps to bring the consumption of oil products under control as rapidly as possible in a direct and positive manner."

"SEVERE MEASURES'

Robert O. Anderson, chairman of the Atlantic Richfield Company, supported the President's program but added, "Our assessment of the energy situation indicates that more severe measures will be required before the end of the year if we are to avoid a critical shortage of fuels in the latter part of the winter."

The President's omission of heavy fuel oil and natural gas from his message drew comments from some observers. John Lichtblau, head of the Petroleum Industry Research Foundation, said:

"In an energy shortage we should look at all fuels. Only 12 million of the approximately 50 million homes in the nation are heated by oil. More than twice as many are heated by natural gas. If gas heat were also cut back, the saving would be considerable. It would present technical problems, but it can and should be done.

"What many people don't seem to realize is that the whole energy problem is interrelated and is not just a question of one fuel—oil."

"WATCHFUL WAITING"

Otto Eckstein, who was a member of the Council of Economic Advisers from 1964 to 1966 and who now heads Data Resources, Inc., an economic research organization, suggested that the "interesting part" of the President's talk was that it showed the Administration is "pursuing a policy of watchful waiting."

The steps announced by the President, Mr. Eckstein said, are only a "partial solution." Whether the strategy "will get us through the winter okay depends on how long it takes to get the oil embargo undone," he said.

Tilford Gaines, chief economist of the Manufacturers Hanover Trust Company, predicted a real growth rate of near zero for the United States in 1974, partially because of the energy situation. He said that President Nixon's proposals would do little to improve this general economic outlook.

"The Government must make tough decisions and individuals must make tough decisions, Mr. Gains said. "I am sitting now at home wearing a sweater, and the thermostat in my house will not rise above 65 degrees this winter."

IMPACT UNCERTAIN

Leif H. Olsen, chief economist of the First National City Bank, warned against too much pessimism about the economy because of the energy situation. He agreed that energy cutbacks would reduce the nation's real growth in 1974, but he commented:

"I don't think that anyone knows exactly what impact the energy situation will have, and some of the figures that have been presented have not been fully thought out."

A representative of the Continental Illinois National Bank and Trust Company voiced the opinion that the energy shortages would not be severe and there would not be a recession, "given reasonable public policies and some voluntary private restraint."

John M. Huemmrich, executive director of the National Congress of Petroleum Retailers, contended that President Nixon's plan to require filling stations to close on Sundays was discriminatory and would not work even though most of the station operators would cooperate. He said the President was "trying to put the burden of the energy shortage on the service station industry."

[From the Minneapolis Star, Nov. 16, 1973]

Fuel Lack Could Cost 36,000 Jobs—State Planning Aide Tells Situation to Legislators

(By Peter Ackerberg)

The fuel shortage could cost 36,000 Minnesotans their jobs, increasing unemployment 2 percent, state legislators were told yesterday.

Edward Hunter, assistant director of the state planning agency, made the unemployment projection during an informal briefing to legislators.

He said that as chairman of the State Manpower Planning Council he has directed the staff to study which industries and communities will feel the brunt of unemployment caused by fuel shortages.

"We can expect substantially higher unemployment," Hunter said.

The State Department of Manpower Services said today that 61,600 persons were unemployed in October out of a total state work force of 1.8 million. The unemployed now make up 3.5 percent of the actual work force or 5 percent of the seasonally adjusted work force, a department spokesman said.

Earlier yesterday, spokesmen for various industries and labor unions told the House General Legislation Committee that shortages of propane and diesel fuel could mean curtailment of construction projects and loss of jobs.

Propane is used to keep cement warm while it cures and diesel fuel is used to power heavy construction equipment.

Orville Evenson, business agent for a cement masons' union, said the layoffs will result in rising welfare rolls and a drain on unemployment compensation funds "if this thing mushrooms like the ways it's going to mushroom."

Peter Price, a vice-president of North Star Steel Co., said a 40-to-60-day shutdown of his firm's plant in St. Paul seems likely because of inadequate fuel supplies.

In South St. Paul yesterday, the president of Van Hoven Co., processor of 250,000 pounds daily of wastes from meat processing plants, said his operation has enough fuel for 10 days. The plant will have to close, said Edward Van Hoven, if emergency fuel sup-

plies are not authorized by the state's civil defense office.

Van Hoven said he has asked the civil defense office for 21,000 gallons of fuel oil for the remainder of this month and 52,000 gallons for each of the next two months.

He said three South St. Paul meat processors, which employ a total of about 600 people, would have to close if his plant stops operating, because there won't be any way to dispose of the packing-house wastes.

Van Hoven said the fuel is required for cooking and sterilizing the animal wastes.

James Erchul, state Civil Defense director, told the House committee that he is having trouble convincing people there is an energy crisis.

"People don't really trust the idea there is a shortage," Erchul said.

He said some people believe it's a gimmick to raise the price of petroleum.

[From the Minneapolis Tribune, Nov. 18, 1972]

ENERGY SHORTAGE TO AFFECT STATE'S ECONOMY

(By Charles B. McFadden)

The possibility of the energy crunch curtailing industry and causing joblessness in the Upper Midwest is much greater now than before the recent cutoff of Arab oil.

Some impact on the Upper Midwest economy is inevitable unless the oil shortage can be offset by rigorous energy conservation, according to numerous specialists interviewed last week.

It is touch and go—with a lot depending on the severity of the winter—whether conservation can prevent a major impact on industry. Economists and others agree that consumers, home owners and wage earners are, for the moment, the key to successful conservation.

Although industry has generally pledged itself to conserve energy, the main push is for cutbacks in the consumer areas, especially home heating and private car driving. That hopefully will insulate industry and minimize the effect of the energy shortage on production and employment.

"At the outset, we are going to try to take it out of the consumer's hide, in a sense, to avoid, if possible, a slowdown in the industrial process," said Harvey Daniels, vice president and economist of First National Bank of Minneapolis.

"I don't know if that is going to be enough. In the Upper Midwest we have to worry more than others because of the severity of winter. If we have prolonged periods of extreme cold weather, it seems to me we would have to be very worried about the possibility of industry having to shut down and lay off people."

James Erchul, state Civil Defense director, said he has revised his estimate of the shortage of fuel oil facing Minnesota since the curtailment of Mideast oil shipments."

Previously he had estimated that supplies of fuel oil would fall at least 10 percent short of demand.

Last week he said the shortage will be closer to 25 percent.

Part of that will be caused by increased demand. The rest, about 15 percent, will result from the Mideast cutoff and its "ripple" effect—the curtailment of imports from Western Europe.

Erchul said that cutbacks in industry are "very definitely" a possibility, but he said that "a shortage of 15 to 25 percent does not have to be a real big hardship if everybody follows a good strict conservation program."

"We can save enough to get by this winter so far as anything we can foresee right now."

Erchul said he believes gas rationing would help immeasurably, but doesn't think oil rationing is desirable or necessary at present.

Economists, industry and state officials said that while the Upper Midwest may avoid the actual shutdowns of plants, it is likely that prolonged severe weather could mean shorter work days and fewer work days per week.

A survey of some 25 major industries revealed that a certain calm prevailed before the Arab embargo a month ago. Now, genuine concern is felt by at least a quarter of those interviewed and others are rethinking their situations.

Asked if they foresee employees working shorter hours or being laid off, Minnesota Mining and Manufacturing Co. and Control Data Corp. officials answered that it is "possible."

The 3M Co. has 18,000 employes in the Twin Cities area and Control Data has 5,000.

Other industries either answered "possible" or "not at this time" to the question of anticipated curtailments affecting working hours.

The survey was made among large-volume natural-gas customers with interruptible service contracts. Their alternate fuel is predominantly oil.

In the Twin Cities, industry depends about 60 percent on oil and propane, 30 percent on gas and 10 percent on coal.

Almost all of those using oil as an alternate to gas said their storage tanks are full, or nearly so, and about one-fourth reported they had increased their storage capacity.

Honeywell Inc., in Minneapolis, reported an increase of oil storage capacity of 200 percent; Pillsbury Co., 250 percent, and Minneapolis Moline, 100 percent. The Minneapolis Star and Tribune Company is adding two 30,000-gallon tanks, which will bring its fuel-oil storage capacity to 70,000 gallons.

Most of the companies surveyed said they believe they have adequate storage capacity or purchase commitments to carry them over any anticipated period of interruption of natural gas.

Northern States Power Co. last summer notified its large-volume customers on interruptible contracts that they may be without natural gas for more days this winter than last. It is doing so, it said, primarily because of an increase in residential customers.

Minneapolis Gas Co. said it has made no change from last year in contracts affecting the possible number of interruptible days. However, it has increased its new-customer requirements for standby fuel storage from 10 days maximum operations at 20 below to "30 days when the average daily temperature is zero." This standard was also recommended to existing customers.

There is no doubt that both industrial and residential users have stockpiled fuel oil during the non-heating season.

Tax records show that Minnesota distributors received 25 percent more light oil, used for both home heating and industry, from April to September than they did in the same period in 1972. Tax records do not cover receipts of heavy oil, used by industry only, but they probably follow a similar pattern.

Oil industry experts attending a seminar in Minneapolis last week warned that petroleum users should not expect fuels suddenly to be plentiful in the United States when Arab oil starts flowing to this country again.

Upheavals of world oil supplies are beginning to cloud the outlook for refinery construction, they said.

Experts agree that the shortage of petroleum will linger on—for years.

SENATOR RANDOLPH REPORTS ACTION OF PUBLIC WORKS COMMITTEE ON AUTOMOBILE EMISSION STANDARDS

Mr. RANDOLPH. Mr. President, the members of the Committee on Public Works acted today to extend for one additional year the requirements of the Clean Air Act which apply to emissions from 1975 model year automobiles. The vote was 11–3.

The committee action came after two full days of hearings and four executive sessions. The hearings were held on November 5–6 in response to requests to consider extending the standards applicable to 1974 model year cars for a period of from 1 to 3 years in order to permit additional time to develop auto pollution control technology and to evaluate studies being performed by the National Academy of Sciences.

The committee's decision was based on a determination that technology exists to meet the 1975 interim standards which will provide continued air quality improvement with no additional fuel penalties and with the potential for significant improvement in motor vehicle fuel economy.

The committee also determined that the doubts raised regarding unregulated emissions from catalyst equipped cars were not sufficiently well documented to justify a delay in the introduction of catalyst control technology. This determination was in part supported by testimony indicating that a majority of 1975–76 small cars would not require catalysts to achieve interim emission standards.—If present trends toward small cars continues, as few as 25 percent and as many as 50 percent of the 1975–76 motor vehicles sold in the 49 States other than California will not require catalyst control technology.

The committee considered a proposal to relax the statutory emission standard for oxides of nitrogen (NO_x) from 0.4 gram per mile required for 1977 motor vehicles to 2 grams per mile. This proposal was rejected pending hearings to be scheduled either in December or January to evaluate recommendations of the Environmental Protection Agency, to determine the need for additional control of oxides of nitrogen emissions to achieve health-related ambient air quality standards for oxidant and nitrogen dioxide, and to evaluate the technology available to achieve reductions in NO_x emissions.

The committee rejected a proposal to extend statutory standards for carbon monoxide, hydrocarbons, and oxides of nitrogen from 1975–76 to, at the earliest, 1977–78, and perhaps 1978–79.

Finally, the committee rejected a proposal to permit the auto industry to continue to produce automobiles which comply with 1974 emission requirements on the payment of a $75-per-vehicle penalty.

The committee agreed to report the proposed amendment to the auto emission standards section of the Clean Air Act by close of business Tuesday, December 4. Senate consideration may not be scheduled until after hearings have been held on the issue of oxides of nitrogen.

POLITICAL PRISONERS IN SOUTH VIETNAM

Mr. ABOUREZK. Mr. President, recently the Indochina Resource Center received a letter from a group of South Vietnamese political prisoners now being held at Chi Hoa Prison. They represent almost every walk of life—lawyers, farmers, government officials, businessmen, and students. Aside from their professional diversity, they all have one thing in common—they are all Vietnamese citizens who are now being imprisoned and tortured in the most barbaric and inhumane ways. The repressive regime of President Thieu continues to be bent on the only means it knows to stay in power—the continuous harassment, torture and internment of any Vietnamese citizens who even gives the impression of being an opponent of the government.

By conservative estimates there are over 100,000 political prisoners in the South, where the number of jails exceeds the combined total of schools, churches, and pagodas.

Scores of reports which I have received in the last year have vividly described the awesome living conditions in these prisons and the treatment they constantly receive. Crowded cells and daily harassment and torture is not only prevalent—it is now a matter of course.

Their food consists of a handful of rice with rotten dried fish or fish sauce mixed with sand and pebble. The rations of five are not enough for only one.

Some reports have stated that in nearly 8 months, only 14 meals with uneatable raw vegetables were served—sometimes the prisoners ask for more rice or water—instead the guards give them rice mixed with kerosene and dried fish with soap. No different diet for sick prisoners.

They also spoke of conditions in the tiger cages, which are jail cells under ground level, with iron bars at the ceiling instead of on the sides. The ceilings are constructed so low that the prisoners do not have any standing room, so many lose the ability to use their legs. The guards are able to walk on the iron frames above the heads of the prisoners.

In the tiger cages, due to lack of room, two of the five inmates lie on the cement floor and the other three on the lower part close to each other in the hot atmosphere like canned sardines. One of them has to lie close to the toilet bucket in each cage. Buckets of quick lime and sticks are always kept handy on the iron frame on top of the cell for the guards to use at will.

At night the prisoners cannot sleep due to the bitter cold, mosquitoes, bugs, and thirst.

The prisoners also have difficulty keeping themselves clean. A 5-minute bath is permitted three times a month. So the prisoners have just enough time to undress, pour a tin of water on their bodies, then to dress. Consequently, they suffer many diseases: Intestinal diseases, stomach ache, diarrhea, fever, cholera, tuberculosis, paludism, beriberi, paralysis, trachoma, vulvitis.

Political prisoners are also subject to regular beatings, called "repressions," where tear gas rockets, acid, and quick lime are employed. On these occasions even American rock music serves a useful function, as two prisoners described:

> At 10 a.m., the loudspeakers of the central tower are blaring out American music at full power. No doubt about what is going to happen: we recognize the "pop" tunes that are delivered at each repression; the music covers the cries of the prisoners who are being beaten.

In 1969, a U.S. study team of distinguished Americans, including a retired rear admiral from the U.S. Navy, a bishop from the United Methodist Church, and the dean of Boston College Law School, visited a number of prisons in South Vietnam. They described conditions in the Thu Duc Women's Prison in the suburbs of Saigon:

> There was overcrowding of the cells. This was especially hard on nursing mothers and those with small children. In the cell where babies were shown to the team, it was confirmed that 50 people lived in a room 40′ x 30′. Primitive sanitation was severely inadequate. The medical provisions of the camp, if used as it was claimed, could ameliorate the situation, but there was evidence that some prisoners had not had recent medical attention, and skin ailments among little children pointed to low standards. Of particular concern are: the length of sentences; the youth of some classified as Communists; the large numbers of unconvicted prisoners; and the looseness and generality of charges and classifications. Governor Minh told us that there were 50 children from birth to 14 years in the prison; 40 were classified as young offenders—13–17 years; presumably the remainder were in prison solely because one or both parents were there.

In 1971, after the tiger cages in Con Son prison island were discovered by two American Congressmen, the Saigon Government embarked on a plan to build new tiger cages—or isolation cells, as they are officially called—using prison labor. However, the prisoners refused to participate in this "self-help project" and AID was forced to award a $400,000 contract to RMK–BRJ, an American company, to build these tiger cages.

In response to congressional inquiry, then U.S. Ambassador William Colby—now Director of the CIA—gave a brief history of the American contribution in maintaining the regime's penal system:

> In 1963, a U.S. program of advice and assistance to the GVN prison system was initiated, which was taken over by CORDS in 1967 . . . In 1967, the problems of over-crowding because of the war and loss of prisoners to VC attacks became serious. Thus, a substantial program of fortification and expansion of prison facilities was undertaken . . . Advisory attention to these centers has been increased over the years, using both civilian and military personnel, including six members of the United States Federal Bureau of Prisons now in Vietnam.

While the program has been "taken over by CORDS," AID continues to be responsible for providing "technical advisors to help supervise relocations and to train new recruits." AID also furnishes "supplies for prison security."

Funding for Thieu's prisons comes from both AID and DOD. The following chart—provided by Ambassador Colby—lists the annual costs since 1967:

Fiscal year:	*Amount*
1967	$78,000
1968	1,199,700
1969	951,500
1970	315,300
1971	267,000
1972	627,400

Mr. President, as I have stated many times before, the American Government is as guilty of these atrocities as is the South Vietnamese Government. We continue to fund Thieu's repressive regime to an unprecedented degree. The American people, if they were fully aware of this involvement would simply not stand for it.

I ask unanimous consent that the following letter be placed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Open Letter to All Groups and Individuals Concerned About the Problem of Political Prisoners in South Vietnam

FROM STUDENTS AND INTELLECTUALS NOW BEING HELD AS POLITICAL PRISONERS IN SOUTH VIETNAM

August 8, 1973.

From inside the dark cells of the prisons of South Vietnam—Con Son, Chi Hoa, Thu Duc, Tan Hiep—we high school and university students and university graduates have searched for a way to send you this letter as a protest against injustice.

We prisoners represent a variety of people: there are northerners, people from central Vietnam, and those from the Mekong Delta in the south. There are a wide variety of ages among us: Professor Phan dinh Ly is 72, Lawyer Nguyen Long is 66, Huynh kim Dung, a medical student, is only 20. We come from a number of different social environments and social strata: those whose families are farmers, laborers, civil servants, government officials, businessmen. We have studied in many different schools, and in different countries: there are those who studied in the U.S., such as Dr. Ngo ba Thanh; in France, such as Ho thi Nhan (Camp 4, Con Son); in the universities of South Vietnam, such as medical student Huynh tan Mam (Chi Hoa Prison), and teacher Cao thi Que Huong (Thu Duc Prison); and in universities in socialist countries, such as Dr. Tran ngoc Anh (Camp 7, Con Son) and economist Tran ngoc Hien (Chi Hoa Prison), etc. In prison there are also writers such as Ton That Binh Minh (Chi Hoa) and Le si Qui (Tan Hiep), and artists such as Buu Chi, and law students. We prisoners are of different faiths: Catholics, such as Nguyen xuan Ham (Camp 8, Con Son) and Doan khac Xuan (Chi Hoa); Buddhists, such as Tran thi Bich Huyen (Thu Duc) and Van Day (Chi Hoa); followers of the Cao Dai faith, such as Professor Nguyen van Me (Tan Hiep).

Although we are from different backgrounds we have one characteristic in common: before everything and above all we are Vietnamese; we hail from every corner of Vietnam. Our beloved country has been inundated with a flood of troops sent by the U.S. government, a government of one of the largest countries in the world. The U.S. carried out a war of invasion and destruction in our country, unmatched in modern times. Every day our beloved countryside was reduced more and more to rubble while the U.S. promoted such barbaric slogans as "bomb North Vietnam back to the stone age." The Mekong Delta, which was once known as the rice bowl of Asia, became pockmarked with craters. We Vietnamese people were thought of as animals with two legs and were indiscriminately killed in "free-fire zones." The war continually destroyed more and more of the spiritual foundation of southern society, including the moral values taught by the various religions. The massive presence of the American army caused the disintegration of southern society through military destruction, money, and the introduction of American customs. Everything now is in a state of disorder—disorder on the city streets, in the family, in the political arena, disorder even in our religions. The Americans have imposed on us an unrepresentative government. The basic rights of every class of people have been suppressed; the right to live as we wish and the right to exercise our talents and learning in order to build up our country have been denied.

This government only knows how to rule by bombs and prisons. One of the cunning policies which the Americans tried to implement and which has caused our people much suffering is the policy of dividing the people, of creating bitterness and inciting Vietnamese to kill Vietnamese. This is the Nixon Doctrine at work in Asia.

The one thing that we Vietnamese have learned is the love of our compatriots, the love of our country. But the U.S. government has forced the students and intellectuals of our country up against the wall. We cannot sit quietly with our hands folded across our chests; we are forced to join the rest of the Vietnamese people in standing up to struggle for peace, independence, freedom, democracy, reconciliation and concord among our brothers and sisters, the Vietnamese people, and to regain the right to determine our own destiny. These are the aims and desires, truly and simply, of all Vietnamese people.

Because the cruel war has gone on so long and is so complex, political tendencies, manners and methods of struggle to achieve those aims and desires have taken many different forms.

There are many intellectuals and students in the South who participated directly in the various organizations of the NLF or the PRG, such as Dr. Tran ngoc Anh and Ha Sung (Con Son), such as Tran ngoc Hien (Chi Hoa), who belonged to the Hanoi government Scientific Association, such mathematics professor Le quang Vinh (Camp 7, Chi Hoa). science professor Nguyen huu Phuoc (Tan Hiep), who participated in the NLF student movement. According to the Paris Agreement's provision on the exchange of civilian prisoners, these people qualify for release and should be returned to the PRG.

At the same time there are a great many students and intellectuals in prison who participated in various independent organizations and who were not associated with either side, such as Mrs. Ngo ba Thanh, the chairman of the Women's Movement for the Right to Live; lawyer Nguyen Long, chairman of the People's Movement for Self-Determination; medical student Huynh tan Mam, chairman of the Saigon Students' Association; student Nguyen huy Diem, chairman of the Student Representative Board of the Medical Faculty, University of Saigon; student Vo nhu Lanh, chairman of the Van Hanh University Students' Association; teacher Cao thi Que Huong; students Doan Khac Xuyen and Nguyen xuan Ham, who participated in the Young Catholic Workers of Vietnam, to name a few.

There are many who struggled on their own to express their anger and indignation in the face of all the injustice and the tyrannical, barbaric actions of the U.S. government. Two such people are writers Le qui Si and Ton That Binh Minh, who used their pens to criticize the Saigon government. Others were ex-Deputy Tran ngoc Chau and ex-Member of the Binh Long Province Council, Pham Thin, and 69-year-old Vo dong Hoa, Vice-chairman of the Phu Yen Province Council and chairman of the Phu Yen Red Cross Society. All of these people are members of the "third force" and according to both the Paris Agreement and the subsequent joint declaration they should be allowed to return to their families and to the various organizations with which they are affiliated, wtih the guarantee of freedom and democratic liberties. Their only "crime" is that they struggled for the aims and desires listed above. For that they have been arrested and mistreated at Con Son, Chi Hoa, Tan Hiep, Thu Duc, and other prisons in South Vietnam.

II

As political prisoners in South Vietnam, of which students and intellectuals are but one part, we view the U.S. as responsible for our present situation (which is contrary to the Paris Agreement) and our ultimate fate. Evidence of U.S. responsibility is found in the following facts:

1. The American government (CIA or U.S. military) in Vietnam was directly involved in our arrests or in establishing programs for the Saigon government's security and intelligence agencies which arrested us. The writer Le si Qui was followed and directly kidnaped by the CIA. This also happened to the former editor of the *Saigon Daily News*, Nguyen Lan and his associates, dentist Doan Anh, doctor Pham doan De, and economist Tran ngoc Hien, when they were arrested Hien, when they were arrested by the CIA in April 1969.

2. The U.S. government (CIA directly interrogated, or provided planning, direction and training in methods of interrogation and torture, for Saigon security and intelligence personnel. Gaining information through interrogation of students and intellectuals is one important aspect of the work of American intelligence officers. Every interrogation center operated by the Saigon police has advisors called "American liaison personnel." One of the many well-known interrogation centers in Saigon is the "Joint American-Vietnamese Special Commission on Intelligence" at Number 6 Bach Dang Street. The characteristics of obtaining information following the American pattern may be outlined as follows:

a. The interrogation may drag on for many months, with questions asked over and over again, making the subject worn out and exhausted. Dr. Hai, Chairman of the Phu Yen NLF, was kept in Cell 41 at the Joint American-Vietnamese Intelligence Center for 15 months straight for interrogation and torture. Engineer Pham Duc, the younger brother of the noted Saigon musician Phan trong Cau, was kept in solitary confinement at the National Police Headquarters from March 1972 until the present (August, 1973). Mr. Duc was questioned by American advisors for many months and was injected with truth serum by the Americans. Prof. Le guang Vinh and student Le hong Tu were sent to Con Son Island from 1961 through 1967 and then were brought back to the mainland to "update their files" and were tortured some more. Student Huyng kim Dung, who was arrested at the beginning of 1973, and taken to Chi Hoa, was sent back to a police agency in July 1973, also to "update his file."

b. Various methods of torture combine medieval-type physical abuse with advanced science and technology. Medical student Le cong Giao suffered every form of brutal torture, including being hung from the ceiling and having water poured down his throat. He was beaten 25 times in two months, each time for eight hours. As a result he was paralyzed in both legs and one arm and couldn't even sit up by himself. He was taken twice to Saigon hospitals for treatment. There were many other forms of torture used, such as electricity, . . . (translation unknown). Professor H. B. (now at Con Son) was injected with a type of medicine which affected his nervous system. Professor Son Que from Khanh Hoa (now at Con Son) had a 200-watt light bulb shown directly into his face while his hands were tied behind his back. A 60-year-old Chinese scholar named Tu (Con Son), after having been tortured several times by a police investigatory agency, has undergone psychological damage and occasionally has seizures as a result of electrical torture. Medical student Nguyen cong Minh, former officer in the medical faculty student association, after having been tortured many times with electricity at the Saigon City Police Station, has also suffered loss of some mental faculties and his memory has been impaired. (Minh is presently at the Loc Ninh airport, having been taken there on July 23 for release to the other side. He declared he was not an NLF cadre and requested the Saigon government to release him to his family in Saigon.)

c. During the period of investigation, political suspects are kept in solitary confinement, separated from friends. The police use "psychological warfare" on suspects, disseminating false information, causing confusion, forging handwriting, using falsified files, finding ways to create division among the prisoners, calling some communists and terrorists, etc. . . .

3. Using the money of the American taxpayers, the U.S. government is providing large sums to the Saigon government to build up a cruel prison system, euphemistically called "Re-education system," aimed principally at the incarceration of political prisoners. American aid to the prison system covers every aspect from food and housing to the training of jailers.

Only after there is nothing more to learn from a political suspect is he or she allowed to be sent to one of the prisons. Political prisoners may be called back at any time for further questioning. The Saigon government policy of detection of political prisoners, supported by the U.S., includes the following features:

a. The practice of depriving prisoners of proper food and medical care. Political prisoners are usually in a weakened condition, following weeks or months of beatings and ill-treatment at the hands of the police, and the serious lack of medical care and nutrition in prison only compounds their medical problems. This policy is aimed at slow extermination of the political opposition. . . .

A recent example is that of Tran ngoc Phuong. Mr. Phuong was arrested in early 1970 with his wife and both were severely tortured at the Saigon City Police Station. Afterwards his wife was released, but Phuong was sent to Chi Hoa. As a result of torture combined with the poor conditions in prison, Phuong fell ill and finally died at the prison hospital last year. It is impossible to know how many other deaths have been caused by lack of medicines in prison. At Con Son, according to the doctor in charge, 30–40 percent of the 8,000 inmates have tuberculosis. Many of the rest suffer from other diseases, dysentery, mucous colitis, edema, and especially the diseases which result from malnutrition and lack of fresh foods. The number of deaths at Con Son runs about 10 percent per year. . . .

b. Solitary confinement, limited food and medicine, limited fresh air and sunshine, and repeated separation from friends plunge political prisoners—especially students and intellectuals who enjoy the companionship of one another—into a state of isolation and sorrow. After the "tiger cages" were denounced in world opinion in 1970, the Saigon government got rid of the old tiger cages, *but the "tiger cage" policy remains*. A good example is Camp 7, Con Son, which is in fact a disguised form of tiger cages; the "cattle cages" at Camp 8, the stone cellars at camps 2 and 3, etc. The Venerable Thich Hue Chon, a Buddhist monk, was completely isolated at Camp 7 until he fell ill. He was not given medical attention and eventually died. This type of treatment is a murderous way of getting rid of opposition intellectuals. Prof. Le quang Vinh and student Le hong Tu have now been kept in solitary confinement for over ten years. Tu has been deprived of fresh air and sunshine to the point where he contracted tuberculosis and heart trouble, and he often coughs up blood. Each night he is heard calling for help. He has been kept in the dark for so long that his eyes cannot stand the shock of going out into the sunlight. . . .

c. Severe limitations of communications with family increases the feeling of isolation, combined with psychological methods aimed at thought control, and insults cause prisoners distress, increased indignation, and nervous tension. Prisoners must constantly restrain themselves and try to keep from becoming provoked and incited by such treatment. Correspondence with family is limited. At Con Son there are those who do not receive a letter or package in an entire year, especially those at camps 6B, 7, and 8. Sometimes family members, with considerable effort, manage to make the trip to Con Son Island, but often the prison officials will not allow them to meet with the prisoner; not allow mother to meet son or daughter, wife to meet husband. . . .

d. Efforts are made to keep students and intellectuals from using their abilities and knowledge in the service of fellow prisoners. Pens and papers are not allowed in the cells; small groups of prisoners are not allowed to sit down together to exchange knowledge on cultural or scientific subjects. At Con Son, prisoners are, in principle, allowed to write letters, but in fact their pens and tablets are confiscated. . . .

There are no government doctors and little medicine to treat prisoners and disease runs rampant, yet at Con Son prison officials attempt to prevent prisoners who are doctors from using their expertise to help other prisoners. . . .

a. Employing the policy "use prisoners to kill prisoners;" prison officials take advantage of ordinary prisoners to make them "trusties." They watch, insult, and mistreat the political prisoners, and at the same time provoke them, looking for opportunities to terrorize and oppress them. Inciting or forcing ordinary prisoners to act against political prisoners causes much bloodshed in prison.

Because of the harsh and brutal prison system described above, political prisoners are weakened in health and often disabled. There are people who have only been in prison two or three years who have lost much weight, contracted diseases like TB or nervous disorders although before their arrest they had been strong athletes. The two sisters Nguyen thi Tan and Nguyen thi Thao (from Marie Curie French High School in Saigon) and university students Son and Tien, all at Con Son, are unable to walk without assistance. In the face of such a situation, students and intellectuals in prison must be patient and must struggle in order to survive. . . . Life in prison doesn't make us discouraged, but only makes us bitter and brave and more determined to throw ourselves more fully into the struggle for peace, independence, for "team spirit," and loyalty to the people.

III

The terrible efforts of the American government aimed at controlling the people of South Vietnam have failed miserably, and America was eventually forced to sign the Paris Agreement on Ending the War and Restoring the Peace in Vietnam, an agreement which respects the basic rights, the independence and sovereignty of the Vietnamese people. The Paris Agreement's provision on the exchange of civilian prisoners was supposed to have been implemented within 90 days, that is, by the end of last May. Later, at Paris on June 13, it was again agreed that all civilian political prisoners would be returned within 45 days, or by the end of July. At present, both deadlines have passed, yet hundreds of political prisoners have still not been released. Their life in prison is still difficult and they are being oppressed more than ever. From inside the cruel prisons of Chi Hoa, Tan Hiep, Thu Duc, Thau Phu, we political prisoners—without distinguishing our political differences—with one voice denounce to the world and the consciences of all people, especially to fellow students and intellectuals all over the world, the diabolical plot of the Saigon government which, with the aid and support of the Nixon government, is aimed at the indefinite imprisonment of hundreds of thousands of political prisoners, and the slow extermination in prison of those prisoners. When world opinion mounts against this situation, Saigon responds by releasing only the smallest number. The reasoning of the Saigon government is as follows:

a. The Saigon government fears that the harsh prison system has only increased the resentfulness of its political prisoners. If released, they will participate energetically in the future political struggle and they will publicly condemn the Saigon government.

b. If released, the political prisoners will participate in future elections. There will be many political activists, including intellectuals and students, who have the sympathy of the common people and who will run for office and defeat Saigon government candidates.

c. In order to give vent to its hatred towards the Vietnamese patriots who struggled for peace, the Saigon government wants to put them away indefinitely, prolong the period of mistreatment and revenge. If they are not killed, then deformed, paralyzed or otherwise disabled and sick and thereby rendered ineffective.

d. Dragging out the period of incarceration weakens the prisoners, and playing on their desires for peace and to be reunited with their families, forces political prisoners to give up or "chieu hoi," that is, turn to the government side.

IV

The indefinite imprisonment of political prisoners, postponement and refusal to exchange civilian cadre, the refusal to release members of the third force, the perpetuation of an unreasonably harsh prison system in which prisoners contract diseases, become disabled and slowly perish, the moving from prison to prison and concealment of political prisoners, the forcing of political prisoners to "chieu hoi," and the practice of insulting the personal dignity of political prisoners—all these things are, we believe:

a. In violation of the Paris Agreement and the June joint communique, documents which the U.S. and Saigon governments signed and promised to carry out.

b. In violation of the Declaration on Human Rights and the United Nations Charter, also in violation of the 1949 Geneva Conventions on the treatment of prisoners, an insult to world standards regarding the treatment of prisoners.

c. Contrary to the spirit of peaceful reconciliation of the people; contrary to any efforts to bind the wounds of war, and therefore inimical to any progress toward creating a basis of true and lasting peace in Vietnam and Indochina.

From inside the dark prisons of South Vietnam, we urgently appeal to all students and intellectuals in America and throughout the world, all religions, all leaders, all juridical, social, and peace-oriented organizations to raise their voices in protest to the U.S. and Saigon governments, to pressure them to respect the Paris Agreement and the Joint Communique and release all civilian cadre and political prisoners in South Vietnam.

We send our greetings and thanks,

Students and intellectuals at Chi Hoa Prison, on behalf of all the students and intellectuals in prison in South Vietnam.

South Vietnam, *8 August, 1973.*

Translator's note: The omissions, marked by . . . . are of passages which in effect repeat information and points which are adequately covered in the parts of the letter (which do constitute almost all of the letter) translated here.

DR. ARTHUR LOGAN, A SERVANT OF HUMANITY

Mr. BAYH. Mr. President, at a time when our Nation is struggling to recapture a sense of public morality and commitment to human dignity, it is appropriate to reflect on the contributions of a man whose life was dedicated to these principles.

Dr. Arthur Logan was such a man. His dedication to public service and his leadership in fighting for human and economic rights stand as a monument to his life and his ideals. It is fitting that the name of the Knickerbocker Hospital in New York City, which he served so effectively, was changed yesterday to the Arthur Logan Hospital and an Arthur Logan fund established to strengthen the service of that institution.

Arthur Logan was a personal friend and servant of humanity. His passing is not only a loss to his wife Marian, his family, friends, and associates, but a very real loss to his community and a nation hungry for the example he set for all of us.

I ask unanimous consent that the New York Times obituary on Arthur Logan's death and his many achievements be printed in the Record in remembrance of this man whose life enriched us all.

There being no objection, the obituary was ordered to be printed in the Record, as follows:

Dr. Arthur C. Logan Dies; Surgeon and Civic Leader

Dr. Arthur C. Logan, a board member of the city Health and Hospitals Corporation and a well-known physician and surgeon, fell to his death yesterday from a viaduct of the Henry Hudson Parkway in upper Manhattan.

Dr. Logan, who was 64 years old, was widely regarded in his support of and personal involvement in many national civil rights causes. He was active in the Southern Christian Leadership Conference and the National Urban League.

His dedication to public service was known throughout the country. He was the object of numerous public tributes, which he often managed to transform into fund-raising events for one of his many causes. Such was the case with a testimonial dinner given in his honor at the Plaza Hotel three years ago, the proceeds of which were donated to Knickerbocker Hospital, where he was a member of the board.

A handsome, silver-haired man with a soft smile, Dr. Logan headed the city's poverty programs—as chairman of the Council Against Poverty—during the most turbulent days of the mid-sixties. He was also chairman of Haryou-Act, an organization attempting to help disadvantaged young people get education and jobs.

AUTOPSY TODAY

The police found the body at about 8:30 A.M. on the pavement at West 134th Street and 12th Avenue, about 100 feet below the viaduct. An automobile registered in Dr. Logan's name was found parked and locked in the southbound lane of the Parkway

The police said there was no evidence to suspect foul play. Dr. Logan's papers and some money were found intact, they reported, and the car keys were in his pocket. The city's Chief Medical Examiner, Milton Helpern, said an autopsy was scheduled for today.

Detective Sgt. Frank Cilento of the Fifth Detective District homicide squad said his men had reported that the death "appeared to be a suicide," but he added that the case was still under investigation.

Identification of the body was made by the widow, Mrs. Marian Bruce Logan, who was accompanied by Percy Sutton, Manhattan Borough President.

Mr. Sutton said he had talked to Dr. Logan at length on Saturday. He told Dr. Logan that the way had finally been cleared for the relocation of a city bus depot now at Amsterdam Avenue and West 129th Street near Kickerbocker Hospital. The relocation of the terminal would allow for the expansion of the hospital—a move that Dr. Logan, a member of the hospital's board, had been seeking for several years.

Mr. Sutton said that Dr. Logan had told his wife before leaving home that he was going to the hospital, at 70 Convent Avenue, and then to look at the new bus terminal site, on 12th Avenue between 133d and 134th Streets, near where his body was later discovered.

"The last thing in the world this guy would do would be to commit suicide. He had everything going for him and nothing against him," Mr. Sutton said.

Mayor Lindsay, who like former Mayor Robert Wagner before him, had named Dr. Logan to a number of committees serving the city, issued a statement calling him "a civil leader of extraordinary intelligence and devotion who somehow found the time and energy to express the widest range of social concerns while carrying the full load of medical practice and involvement in the medical community."

DR. KING'S PHYSICIAN

One of the first black graduates of Columbia University's College of Physicians and Surgeons, Dr. Logan acted as personal physician to many noted people, including the Rev. Dr. Martin Luther King Jr., and Duke Ellington. During the Poor People's March on Washington in 1967, he mobilized a medical team to treat the demonstrators camped out in tents in "Resurrection City."

He was one of the original partners in the Upper Manhattan Medical Group, serving the community in lower Washington Heights for more than 20 years. In addition, he found time to be active in his West Side neighborhood, helping to form an organization to lobby against what the group saw as the overbuilding of low-income housing in the West Side Urban Renewal Area.

Dr. Logan was born in Tuskegee, Ala., where his father was treasurer of Tuskegee Institute. He graduated from Williams College.

Besides his wife, Dr. Logan is survived by a daughter, Mrs. Adele Logan Alexander of Washington; a 10-year-old son, Warren Arthur; two brothers, Harold K. Logan of Tuskegee, and Paul H. Logan, of Lafayette, Calif., and two sisters, Miss Louise T. Logan and Mrs. Myra Logan Alston, both of New York.

FINANCING POLITICAL CAMPAIGNS

Mr. MONDALE. Mr. President, yesterday the Senate passed the most far-reaching and significant piece of campaign reform legislation ever adopted by either House of Congress. This legislation seeks to rid our political system of the corrupting influence of big money by providing for public financing of Federal elections.

The compelling case for public financing is already well known. It has been most forcefully and effectively made by some of the fundraising practices used in the 1972 Presidential election.

Recently Frank Wright of the Minneapolis Tribune interviewed a campaign official who worked closely with Maurice Stans, President Nixon's chief fund raiser. This official outlines the way in which money was solicited from businessmen on behalf of the President's campaign; it can only be described as a shakedown and an outrage.

I commend this article to anyone who doubts the necessity of fundamentally overhauling our present compromising system of financing political campaigns through large private contributions. More persuasively than anything I have read to date, it makes an irrefutable case for public financing.

Mr. President, I ask unanimous consent that Mr. Wright's article appearing in the November 25 edition of the Minneapolis Tribune be printed in the Record.

Stans Tactics Shocked GOP Fund Raisers

(Editor's Note: Increasing attention has focused on the record $60 million raised for President Nixon's 1972 reelection campaign. Much interest has centered on Maurice Stans, the Minnesota native who resigned as Mr. Nixon's secretary of commerce and became chief fund-raiser, serving as chairman of the Finance Committee to Re-elect the President. Here is the story of how he operated, especially with big businessmen, as told to Frank Wright, Minneapolis Tribune staff correspondent, by a campaign official who worked closely with Stans in a major state.)

Washington, D.C.—Before Maury came in we decided there would be no quotas put on at all. We felt that really all we had to do is set up a little budget for our state campaign that would be fairly modest.

This was early in 1972, but it was already looking like (George) McGovern might be the Democrat's guy instead of (Edmund) Muskie, and it was just obvious that it was going to be very, very easy.

There wasn't any sell with businessmen whatsoever. We decided that we would have sort of a $1,000 club, a very innocent, modest thing. And we would have a lot of guys, a lot of small businessmen, a lot of larger businessmen, and they would get a little stick-pin or something else.

That is the usual way we always work with this stuff. My state chairman has a list, and half of them went to Princeton and half of them went to Yale, and they all sort of get together at the club and have a drink and kick in their thou, or whatever it is, and that is it. Very much the old wealth sort of thing.

But while we were waiting for Stans to become national chairman we had this guy from Minnesota, Newell Weed, who was already a vice chairman or something in Washington, running in and saying, "All this will cave in, and you will go out on your rear." That was one of the great things he said to me. "You're not doing it right. You're not doing it right," he'd say. "What you have to do is raise your sights."

Well, Maury finally did come in, and he did change it all around. He told us a number of times that our sights were too low. And then he told us that he would give us a quota to raise, and all the money would go to the national committee. And he would allocate us enough just to run the local political office.

Our first quota was $1 million. That was the figure Stans gave us. And as we raised the money, Stans would up the quota. So we never were really sure as to what the quota was. It was never really set in any kind of concrete.

By the time we were through we had raised at least $5.5 million in this state, almost 10 percent of everything, not counting stuff Stans may have raised in here on his own that we never knew about.

The thing that Stans disliked the most was the way we depended on old money. He really hated this. He came in, and he said, "This thing is terrible. Old wealth is dried out, largely. That was great in 1920. But now they are going to give you $500, and you are going to put their name on a letterhead.

"You have got to get new wealth," he'd say. "You have got to get the Paliafitos." And we asked what is a Paliafito.

Stans said that is the name of a businessman in Wisconsin who has reached new wealth, who did in a very unostentatious way, without anyone else knowing. He achieved remarkable success, but he wasn't in the social swim.

The Nixon fund-raisers in Wisconsin didn't tap him, but it so happened that the Nixon finance chairman in Nebraska had heard of him and knew that he had arrived with new money. A contact was made, and the guy gave $30,000. Just like that.

(Robert Paliafito is president of National Health Enterprises of Milwaukee, a firm that operates nursing homes and provides supporting services.)

Stans was very, very democratic about that. He just hated the idea of the social register eliminating all of this new untapped wealth that he really saw. So he was always fighting for that, and that was one of the sound things he did. I thought he was right on that.

Stans was also very much vexed with us because we didn't know how to get the money out of the old-wealth people that we did have on our lists, people who had given to campaigns all their lives and who really didn't want anything out of it.

So one day he decided he was going to show us there is a "new way," as he put it, to do this. He wanted a breakfast set up for me, our state chairman, the guy who was our professional fund-raiser, for himself and a "guinea pig, a guy who ordinarily wouldn't give a lot of money."

So I picked a guy I knew whose family owned a big company in a basic industry. He had given some to the Democrats before, but he never had given much to the Republican Party.

Well, I have never sat through anything like that before. I always thought a fund-raiser had to be somebody who would be able to sell, but Stans never tried to sell. He was cold, and he dominated the conversation. It was not a warm thing. He was intimidating.

He started by mentioning all the trouble he had had with Ruckelshaus while he was still secretary of commerce. (William Ruckelshaus at that time was head of the Environmental Protection Agency.)

He mentioned Ruckelshaus, I guess, because Muskie was still in the running for the Democrats and because this guy we had in for breakfast, his company was dumping just an awful lot of stuff into the lakes.

And so Stans talked about how he had finally gotten Ruckelshaus to loosen up on some regulations, and how he had been forced to vie for the president's ear because Ruckelshaus didn't understand the system that "we businessmen are here to preserve, including the environment, and that means that you have to be able to make some money to pay these taxes and everything. We can't let this environmental thing just take us right over the cliff."

Stans said he knew this would be of concern to "all Americans, but especially to guys like you," meaning the guy from the company.

And then he just berated the guy for ignoring his invitation to join some sort of industrial advisory commission—I believe it was headed by Bert Cross of Minnesota Mining and Manufacturing—that Stans had set up to lobby in the administration for pollution laws they could live with.

"Just as the liberals have lobbying groups to our government, we have to have lobbying groups in government, too, to keep the president on the right track on Ruckelshaus," Stans said. "And you didn't join us when there were guys there giving up days in their business, going down to Washington to work on this thing."

Then he switched to Muskie, who was, you know, big on the pollution stuff. "We have had a terrific struggle with Ruckelshaus," Maury said, "but you imagine what would happen if we had Muskie in.

"Our system has to be preserved, the kind of balanced system that has allowed you to get where you are. Now we are on the front lines, and it is mighty serious. The president isn't going to have an easy time. There are to be armies out there, and now I am asking you again to come into this thing.

"And your assessment is $10,000." That was the word and the figure he used. I can still see the business guy's face.

"Gee," he said, "I never gave the Democrats anything like that." That was the only thing I remember him saying. But the next day he gave us his check for $10,000. We only had the guy down for $500.

After that Maury gave us his three rules that he always worked by.

Number one, know your man and to what extent he can give. He would always research what problems a company had with the government, know them inside out. It is sort of terrifying when a solicitor that you're talking to knows the fact that you have problems, and it looks like he is looking at your soul.

Number two, name your amount before he can name his. That was the thing he told us often. If you allow the guy to name his own price, you have lost the game, he would say. He would rather we resigned than do it that old way.

He said, "You should say that we want you to be one of the key people, and we are presumptuous enough to ask you for X amount." Nobody, he would say, ever has gotten mad at being asked to give too much.

Sometimes he would just shame them into it. He said that is one thing about them they can't stand, the status thing. Under no circumstance should anyone feel embarrassed in asking for too much money. It is an honor, he would say. And, like, are you up to our standards? That kind of thing.

In other words, if you figure the guy could give $10,000, ask usually for $30,000 or $40,000. Otherwise the guy would get away with giving $5,000 or $6,000.

Number three, Maury said you must say what is in it for the contributor not to have the Democratic guy in as president. First it was Muskie and then it was McGovern, mostly McGovern.

He would describe a contribution as an "insurance premium against McGovern." The premium was all figured out. If a guy had $1 million net worth, he should give $10,000. On a scale of $50 million, he should give $50,000. And $100 million, $250,000.

There was a reward system, too. Some of it was the usual stuff. For $1,000 they should get a letter from Stans and a Nixon pin. For $5,000 you get a letter from Stans and a Nixon pin with a diamond in it marked "RMN 72." For $10,000 a letter from Stans, a diamond pin and a pen and pencil set with a seal and the president's signature embossed on it.

And for $25,000, in addition to all the rest, the contributor is invited to be a member of a presidential commission. Or maybe make a deal to have a potential business client, a guy you take out golfing, be on a presidential commission.

That really offended me, that he used that before the solicitors right out—do you want to be a member of a presidential commission?

Above that, there were the White House parties. He says, now you may want to take a customer to a White House party with his wife. The customer usually doesn't care; a lot of guys are sophisticated. But, he says, a lot of guys are not and their wives are not, so he says you can get them to go to the White House parties, and the president will know that you gave money. He was really using that.

We were doing our thing, raising money, but we knew that Maury was operating on his own, too. We'd get a call from the Secretary—Maury was always called Mr. Secretary, which was still another thing that he used with guys who'd never met a Cabinet member before—or one of his people to go over and see such and such a guy and get a contribution, a really big one.

And it was often a guy we hadn't heard of or a guy we didn't have down for that much; and for a while we would approach these a little bit fearfully, but it always turned out to be just a matter of going in and picking up the check. Maury had already been at the guy.

A couple of these guys, at least, gave a quarter of a million. One of them, a kind of new guy who had built up the family business and is worth about $200 million, said Stans came to him and told him that fund-raising in the state was in "terrible shape, that the old wealth wasn't giving, that it was a shame, and he had to ask the guy for a lot so that the little guys would have something to look up to."

Maury asked him for $200,000. The guy told me later he was stunned, just stunned. He'd never given more than about $5,000 before. But this time he gave it all. He was a true believer in Richard Nixon, and that helped.

Most of the guys Maury handled were not. Most of them were giving between $10,000 and $50,000, pretty big money for them, and some of them would give you the check and look up to heaven as if they were saying, "Well, I have just been visited by an angel of Christ's death." They always looked to me like they had been sort of extorted.

Most of them tended to be in fairly big businesses that were fairly heavily regulated by the federal government.

Maury was a cold, hard SOB. He lived on fear. But it got results.

A lot of those guys didn't like him, but even today there is not much guilt about maybe their money going for burglary tools and blackmail and that kind of stuff and that boatload of prostitutes at Miami Beach. They are unhappy with Maury because it turned out this way and was so inefficient and all.

But you take my guy, who was the state chairman and a big businessman and old wealth. He is not worried about whether or not there is any sin committed or any great ethical problem. He would be upset if Maury had run away with a broad and gone to Mexico with the money. But Maury never did that.

And so, consequently, they sort of regard it as—at least the people that I know—somewhat naughty, dirty work but nevertheless necessary to save the system from McGovern. There isn't any real sense of remorse yet about it, not in any sense. You don't find it here in this state or anywhere else that I know of.

There is a feeling among businessmen now, after a while, that they are starting to say maybe Nixon should resign. But it is more a feeling of resigning because you are in a way not effective any more in running the system and not because you have done something immoral.

I just don't think these guys here are all that pure. I mean a businessman in order to get a lot of money has to do an awful lot of things. He has to be an awfully sharp bidder, and I think he can get insured to this sort of stuff.

Let the issue again be made as dramatic as it was about preserving the system against McGovern—and let Maury back into the room—and they will all be back. They have to.

SPECIAL PROSECUTOR

Mr. TAFT. Mr. President, the Senate Judiciary Committee on Monday next will report two bills providing for the appointment of a Special Prosecutor, S. 2611, as amended, and S. 2642, as amended. These proposals provide two distinctly different approaches regarding appointment of a Special Prosecutor and I believe the Senate Judiciary Committee, under the leadership of our colleagues, Senators EASTLAND and HRUSKA, is to be commended on providing the Senate with alternatives to this most complex and important issue. Senator JOHN McCLELLAN's work and interest in this legislation before the committee also is to be commended as he and his staff have been most active in obtaining committee consideration of different viewpoints.

S. 2611, introduced by Senators BAYH, HART, and others, provides that the Special Prosecutor be appointed by a panel of judges from the U.S. District Court for the District of Columbia with removal only by such judges.

S. 2642, which I introduced, provides for appointment of a Special Prosecutor by the Attorney General, with removal by the Attorney General only for neglect of duty, malfeasance in office, or a violation of the act by the Special Prosecutor. Before such removal could occur the Attorney General would have to notify both Houses of Congress 30 days in advance of such removal, stating the reasons for dismissal. The districts courts would have original jurisdiction of any action brought by the Special Prosecutor with respect to removal or attempted removal and could issue an order blocking such removal, if appropriate. Further, the U.S. District Court for the District of Columbia would have the power to appoint an interim Special Prosecutor if a vacancy did occur, with the provision that the Attorney General then could appoint a successor.

I am of the opinion that S. 2642 is a far superior proposal from both a practical and constitutional viewpoint and have testified before the Senate Judiciary Committee stating my reasons for such a position. Also at that time I stated my intent to file a formal legal brief supporting my position on this issue. That memorandum has been completed and I am today filing it with the Judiciary Committee. I believe, however, due to the importance of the Special Prosecutor issue some of my colleagues may wish to have an opportunity to review it before the hearing transcript is printed; therefore, I ask unanimous consent that it be printed in the RECORD. I also ask unanimous consent that Chief Judge John Sirica's letter, dated November 15, 1973, to Chairman EASTLAND regarding this issue, exhibit II; an editorial from the Washington Post entitled "Protecting the Special Prosecutor," November 16. 1973; and the statement of Roger C. Cramton, dean, Cornell Law School, before the Senate Judiciary Committee on the Special Prosecutor issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF LAW OF U.S. SENATOR ROBERT TAFT, JR., IN SUPPORT OF S. 2642. BEFORE THE COMMITTEE ON THE JUDICIARY OF THE U.S. SENATE

On the constitutional considerations in the establishment of a special prosecution office or agency to investigate and prosecute alleged misconduct my members of the executive branch, including alleged crimes arising out of the 1972 Presidential campaign and election.

ISSUES CONSIDERED

I. Separation of powers considerations in establishing a selection process for a special prosecutor.

A. The constitution and relevant congressional enactments compel the executive appointment of the special prosecutor.

B. The appointment of a special prosecutor by the courts lacks solid constitutional support and is unwise.

II. Direction and removal of a special prosecutor under the doctrine of separation of powers.

III. Results of the unconstitutionality of suggested proposals under points I and II.

A. Convictions reversed and indictments quashed.

B. Duty of the President to veto unconstitutional legislation—constitutional conformation possibilities.

IV. Appropriate appellate review—expedited constitutional challenge procedures.

V. Conclusion.

SPECIFIC CONSTITUTIONAL PROVISIONS CONSIDERED

Article I, section 8, clause 18—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or office thereof."

Article I, section 4, clause 1—

"The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law or alter such regulations, except as to the place of choosing Senators."

Article I, section 8, clause 17—

"To exercise exclusive legislation in all cases whatsoever, or such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, . . ."

Article II, section 1, clause 8—

"Before he (the President) enters on the execution of his office, he shall take the following oath or affirmation:—'I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.' "

Article II, section 2, clause 2—

". . . He (the President) shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whole appointments are not herein otherwise provided for, and which shall be established by law; but the 'Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.' "

Article II, section 3—

". . . He (the President) shall take care that the laws be faithfully executed . . ."

REVIEW OF ISSUES TO BE CONSIDERED

Many of the proposals introduced to date in the congress regarding appointment of a special prosecutor raise complex constitutional questions and require an examination of the very basis of our system of federal government, namely the question of separation of powers among the legislative (article I), the executive (article II), and the judicial (article III). Branches under our constitutional form of government.

The constitutional considerations presented by the proposals examined in this memorandum include the constitutionality of the selection and appointment process of a special prosecutor: the constitutional scope of activity permitted such special prosecutor once such an office or agency has been established; and, the constitutionality of the direction and removal process established for such a special prosecutor.

In analyzing these issues, I have considered the following congressional proposals for establishment of a special prosecution office or agency: S. 2600, introduced on October 23, 1973 by Senator Chiles, which vests the authority to appoint a special prosecutor in the chief judge of the District of Columbia court, and does not pemit his removal; S. 2603, introduced on October 23, 1973, by Senator Stevenson, which vests in the Chief Judge of the U.S. District Court of the District of Columbia authority to appoint a special prosecutor for a term ending on June 30, 1977, with removal only by impeachment; S. 2611, introduced on October 26, 1973, by Senators Bayh, Hart, et al., which also vests in the Chief Judge of the United States District Court for the District of Columbia the power to appoint a special prosecutor and a deputy special prosecutor, with a term of, basically, two years and with removal power only in the Chief Judge of the United States District Court for the District of Columbia for extraordinary improprieties; S. 2616, 93d Congress, introduced on October 30, 1973, by Senators Percy, Baker and Cook, which authorizes and directs the President to appoint within seven days of enactment a special prosecutor and a deputy special prosecutor by and with the consent of the Senate, such prosecutors would head an independent office within the executive branch and serve for the same term as outlined in S. 2611 subject to removal by the President for neglect of duty, malfeasance in office or violation of the statute creating the office of special prosecutor and for no other cause. Removal would be prohibited if either House of Congress adopted a resolution by a simple majority vote to continue the special prosecutor and deputy special prosecutor in office; S. 2631, introduced on October 30, 1973, by Senators Baker and Brock, which authorizes and directs the President to appoint two co-equal special prosecutors, one from each of the two major political parties, with the advice and consent of the Senate. The nominee representing the democratic party would be selected from a list of individuals submitted by the Speaker of the House and the President pro tempore of the Senate after consultation with the majority leaders of the House and Senate. Removal would be permitted under the same conditions as outlined in S. 2616, with the only limitation on such removal the requirement that the President submit to the Congress notice of dismissal thirty days before such removal could become effective; S. 2642, which I introduced on November 2, 1973, authorizing and directing the attorney general to appoint a special prosecutor and a deputy special prosecutor with the advice and consent of the Senate. Such prosecutors would serve in an independent offices within the executive branch for basically a two-year term with provisions for suspension by the Attorney General under the same conditions contained in S. 2616 and by the Congress by impeachment. Suspension would become a final dismissal effective thirty days thereafter, provided notice stating the reasons for such dismissal had been transmitted to both Houses of Congress within the period.

H.R. 11401, introduced by Mr. Hungate on November 12, 1973, and reported by the House Judiciary Committee on November 13, providing for the U.S. District Court for the District of Columbia, sitting in banc, to appoint a panel of three of its members to appoint a special prosecutor. The duties and powers of the special prosecutor are essentially the same as those contained in S. 2611, with the exception that the office of special prosecutor is established for a term of three years and the added requirement that the special prosecutor report at least monthly to the chairman and ranking member of the House Judiciary Committee regarding information pertinent to the question of whether impeachable offenses have been committed by the President of the United States. A section is also contained providing expedited review procedures for any constitutional challenge to the Act;

S. 2733, introduced by Senators Percy, Baker, et al., on November 20, 1973, which parallels S. 2616, with only the chief prosecutor being subject to advice and consent of the Senate and the deletion of any provision providing for a resolution of disapproval. Two new sections are included which grant U.S. District Courts original jurisdiction over any action contesting removal by the President and permit the U.S. District Court for the District of Columbia authority to appoint, if removal occurs, a successor to serve until such time as the President appoints a new special prosecutor; S. 2611, as amended and ordered reported by the Senate Committee on December 3, which substitutes the U.S. District Court panel appointment approach contained in H.R. 11401, for appointment solely by the chief judge. A new provision is also contained regarding expedited review procedure for challenges to the constitutional validity of the Act;

And S. 2642, as amended and ordered reported on December 3, by the Senate Judiciary Committee, which provides for appointment of the chief special prosecutor by the Attorney General without formal advice and consent by the Senate. New sections are added granting U.S. District Courts original jurisdiction over any action contesting removal by the Attorney General and authority for the U.S. District Court for the District of Columbia to appoint, if removal occurs, a successor to serve until such time as the Attorney General appoints a new special prosecutor. The special prosecutor would have primary, as opposed to exclusive jurisdiction, regarding investigation and prosecution of "Watergate" and related offenses and be given access to all work to date by not only the former special prosecutor, but also all of his successors. The special prosecutor is directed to appoint a deputy and authorized to request any federal department or agency, as opposed to individuals, to assist in the work of the special prosecutor.

I. Separation of powers considerations in establishing a selection process for a special prosecutor

A. Constitutional provisions, judicial decisions and relevant congressional enactments compel establishment of an independent office of special prosecutor within the executive branch.

Article II, section 1, clause 1 and article II, section 2, clause 2 of the Constitution clearly contemplate that the President in his exercise of executive power shall appoint and nominate "the officers of the United States" which are "established by law."

The Federalist clearly established that the appointive power and the power to enforce laws were within the executive branch. James Madison in the first Congress stated:

"I conceive that if any power whatsoever is in the nature of the executive, it is the power of appointing, overseeing, and controlling those who execute the laws."[1]

The Congress has provided that the President shall nominate the attorney general and the nine assistant attorneys general. 28 USC Sec. 501, et seq.

There is no doubt that of all the functions of the executive department, the duty to

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Footnotes at end of article.

bring before the courts evidence of violation of Federal law is central to the constitutional concept of the executive. Article II, section 3, expressly provides that it is the President who shall take care that the laws be faithfully executed.

Thus it was when Congress saw fit in 1924 to require a special prosecutor to investigate allegations of misconduct within the executive branch during the so-called "Teapot Dome" scandal. Congressional joint resolution 54, passed by the Senate on January 31, 1924, subsequently adopted by the House of Representatives and approved by President Coolidge on February 8, 1924, provided that:

". . . (A)nd *the President is Further Authorized and Directed to Appoint, by and with the Advice and Consent of the Senate Special Counsel* who Shall Have Charge and Control of the Prosecution of Such Litigation Anything in the Statutes Touching the Powers of the Attorney General of the Department of Justice to the Contrary Notwithstanding." [2] (Emphasis Added)

This resolution was motivated by the serious allegations involving personal enrichment and violation of law during President Warren Harding's administration. The circumstances surrounding approval of joint resolution 54, while differing materially from "Watergate," are nevertheless applicable to the issues before us, as many high officers within the executive branch were also alleged to have committed wrongdoing.

In today's context, I favor the exercise of the appointment power by the head of the executive department charged with the general Federal prosecutory functions, namely, the Attorney General. This approach I believe is preferable to appointment by the President as allegations have been made against the President personally, and it is therefore necessary to provide maximum independence, both as to appointment and removal. Such a procedure rests squarely upon article II, section 2, clause 2, of the constitution which permits Congress to vest the "appointment of . . . inferior officers . . . in the heads of departments."

Congress has, by its actions, clearly indicated its preference that the Attorney General exercise this type of appointment power. 28 U.S.C. Sec. 515 permits the Attorney General to specially appoint counsel to "conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings . . ." Section 543 of volume 28 of the United States Code pertaining to special attorneys states:

"(a) The Attorney General May Appoint Attorneys to Assist United States Attorneys When the Public Interest Requires.

"(b) Each Attorney Appointed Under this Section is subject to Removal by the Attorney General." [3]

Even with confirmation by the Senate required, clear legislative precedent exists for such a procedure as the District of Columbia Redevelopment Act of 1945,[4] provided for creation of the District of Columbia Land Agency Commission composed of five members, two members appointed by the President and three members appointed by the District commissioners, subject to confirmation by the Senate.

The activities of such attorneys can be outlined by Congress, including conditions on removal. The authority for such procedure is discussed infra in part II.

B. The appointment of a Special Prosecutor by the courts lacks solid constitutional support and is unwise

Article II, section 2, clause 2 of the Constitution, upon superficial reading, might seem to give to Congress an open invitation to vest *all* powers of appointment in the courts. Indeed, this absolutest argument forms the basic premise of those who favor having a Special Prosecutor appointed by the judiciary. However, such a position lacks authority in law and is unwise.

The authority cited by those favoring appointment of the Special Prosecutor by the judiciary is not on point.

In the matter of Hennen, 38 U.S. (3 Pet.) 230 (1839) was one of the early cases construing article II, section 2, clause 2, and in that case the court held that under article II, section 2, courts might be authorized by the Congress to appoint their own clerks. The court stated, however, that the appointment power "was, no doubt, intended to be exercised by the department of the Government to which the officer appointed most appropriately belonged" (*Hennen* at 258).

Ex Parte Siebold 100 U.S. (10 Otto) 371 (1180), The principal authority cited for judicial appointment, dealt with an interpretation of the Enforcement Act of 1871 [5] which permitted circuit courts of the United States the authority to appoint supervisors of Federal elections to present such offenses as "stuffing the ballot boxes." City election officials in Baltimore, Maryland were indicted and convicted for interference with the functions of the supervisors so appointed by the United States circuit court. The petitioners submitted a writ of habeas corpus challenging, in the main, the authority of the Federal Government to deal with election procedures involving State offices. In addition, the petitioners argued that the Congress had imposed upon the circuit court ". . . duties not judicial" but were, rather, "entirely executive in character." The court held, on the specific issue before it, that Congress had acted properly. Nevertheless, the Supreme Court carefully noted that its decision was compelled because the appointment of the numerous election officials, widely scattered geographically, could not have been as competently or conveniently made by the President or the head of a department:

"The Cases in which the Courts have Declined to Exercise Certain Duties Imposed by Congress, Stand Upon a Different Consideration from that which Applies in the Present Case. The Law of 1972, which Required the Circuit Courts to Examine Claims to Revolutionary Pensions, and the Law of 1849, Authorizing the District Judge of Florida to Examine and Adjudicate Upon Claims for Injuries Suffered by the Inhabitants of Florida from the American Army in 1812, were Rightfully Held to Impose Upon the Courts Powers not Judicial, and were, Therefore, Void. But the Duty to Appoint Inferior Officers, When Required Thereto by Law, is a Constitutional Duty of the Courts; and *in the Present Case there is no Such Incongruity in the Duty Required as to Excuse the Courts from its Performance, or to Render their Acts Void. It cannot be Affirmed that the Appointment of the Officers in Question Could, with any Greater Propriety, and Certainly not with Equal Regard to Convenience, have been Assigned to any Other Depository of Official Power Capable of Exercising it. Neither the President, nor any Head of Department, Could have been Equally Competent to the Task.*" (Emphasis Added)

Needless to say, that is not the case in this context. A single special prosecutor can be named by the Attorney General with "Greater propriety" and with "Equal regard to convenience" of the appointment.

Further, the court in *Siebold* was dealing with an area (Regulation of Federal elections) which is clearly within the power of the legislative branch to control—Article I, section 4, clause 1. Therefore it was perfectly proper constitutionally for the legislative branch to delegate part of this election control power under article II, section 1, clause 2, to the judicial branch. It is, however, quite a different case for the Congress to delegate appointive power under article II, section 2, clause 2, to prosecute and enforce the laws to the judicial branch as the Constitution specifically provides that such power shall reside in the executive branch not the legislative—article II, section 1, clause 8 and article II, section 3. If one followed the logical extreme of those who would interpret article II, section 2, clause 2, open-endly, there would be few limits on the type of "Inferior" officers that could be appointed under this theory.

Siebold does speak of the necessity of examining the type of appointment power in terms of "incongruity". (*Siebold* at p. 398) the court, however, does not define with any precision how to apply this term and to suggest that any great legal standard in the form of an "incongruity test" is established by this case is to severely tax one's imagination. Even if one were to accept the existence of such a test it is difficult to come to the conclusion that appointment of a special prosecutor can be vested in the judiciary. Webster defines "incongruity" as the "lack of . . . appropriateness." I can conceive of nothing more inappropriate than to require the neutral branch of government, I. E. the judiciary, to take a direct interest and responsibility in the selection of the special prosecutor. It would only exacerbate the feeling that the judiciary might entertain some bias and, even more seriously, it would create the risk of having all actions taken by the special prosecutor later declared to be void. (See point III infra 1) an apt analogy is in *Ward* v. *Village of Monroeville, Ohio,* 409 U.S. 57 (1972), where the Supreme Court held the judicial interest in having a municipality collect proceeds from a Mayor's court invalid because of the "possible" temptation to be "partisan" to the efforts of the prosecution. The Court relied upon a similar case of *Tumey* v. *Ohio,* 273 U.S. 510 (1926) which at 532 states:

"The Requirement of Due Process of Law in Judicial Procedure is not Satisfied by the Argument that Men of the Highest Honor and the Greatest Self-sacrifice Could Carry it on Without Danger of Injustice. Every Procedure Which Would Offer a Possible Temptation to the Average Man as a Judge to Forget the Burden of Proof Required to Convict the Defendant, or Which Might Lead Him not to hold the Balance Once, Clear and True Between the State and the Accused, Denies the Latter Due Process of Law."

See also in *U.S.* v. *Cox,* 342 F. 2d 167(5th Cir.1965), cert. denied, 85 Sup.Ct. 1767 (1965), where the majority and concurring opinions emphasized the reasons why the courts should remain neutral in criminal prosecutions:

"The Discretionary Power of the Attorney for the United States in Determining Whether a Prosecution Shall be Commenced or Maintained May Well Depend Upon Matters of Policy Wholly Apart from any Question of Probable Cause. Although as a Member of the Bar, the Attorney for the United States is an Officer of the Court, he is Nevertheless *an Executive Official* of the Government, and it is as an Officer of the Executive Department that he Exercises a Discretion as to Whether or not there Shall be a Prosecution in a Particular Case. *It Follows, as an Incident of the Constitutional Separation of Powers, that the Courts are not to Interfere with the Free Exercise of the Discretionary Powers of the Attorneys of the United States in Their Control over Criminal Prosecutions.*" (342 F. 2d at p. 169) (Emphasis Added)

Judge Brown, elaborating further on the point, stated:

"Responsibility for Determining Whether a Prosecution is to be Commenced or Maintained Must be Clearly Fixed. The Power not to Initiate is Indeed Awesome. *But it has to Reside Somewhere And the More Clearly Pinpointed it is, the More the Public Interest is Served through the Focus of Relentless*

Footnotes at end of article.

Publicity Upon that Decision. It May not, with Safety, be Left to a Body Whose Great Virtue is the Combination of Anonymity, Transitory Authority, and Political Unresponsibility." (342 F.2d at p. 182) (Emphasis Added)

Two other cases are cited to support the position that under article II, section 2, clause 2, the Congress can delegate to the judiciary power to appoint a special prosecutor—*United States* v. *Solomon*, 216 F. Supp. 835 (D.C.S.D.N.Y. 1963) and *Hobson* v. *Hansen*, 265 F. Supp. 902 (D.C.D.C. 1967), appeal dismissed 393 U.S. 801 (1968).

In Solomon the Court considered the power of U.S. district courts to appoint temporary U.S. attorneys in districts where such offices are vacant. (28 U.S.C. sec. 546). The Court held that an indictment obtained by a court appointed U.S. attorney was valid and that the statutory procerdure did not violate the doctrine of separation of powers. It should be noted that the Court stressed, however, that the appointment of the attorney was temporary and that it did not bind the President as he had the power to displace the judicial appointee with his own nominee at any time, (Solomon at 842–43). This, of course, is not the case presented by the judicial appointment proposal, as under that bill only the judiciary could remove the special prosecutor or deputy special prosecutor.

Hobson, supra, dealt with the constitutionality of a Federal statute empowering judges of the United States District Court of the District of Columbia to appoint members to the District of Columbia Board of Education. The Court did discuss the application of article II, section 2, clause 2, to the case and stated that the "incongruity standard" referred to in *Siebold*, supra, did not prohibit the court to exercise such appointment function. The main basis for the court making such a determination, however, was the constitutional provision empowering Congress to exercise exclusive legislation in all cases whatsoever over the District of Columbia (article I, section 8, clause 17) and the dual judicial-legislative powers that the United States District Court of the District of Columbia exercises with respect to the District.[6]

The United States District Court for the District of Columbia, the court that would receive the appointment power under S. 2611, introduced by Senators Bayh and Hart, in fact, has rejected the court appointment theory as unwise in *Nader* v. *Bork*, No. 1954–73 (D.C. D.C., 1973). Judge Gerhard Gesell, in considering the legality of the Cox dismissal by Acting Attorney General Bork, stated at pages 10 and 11 of the opinion:

"The Court recognizes that this case emanates in part from congressional concern as to how best prevent future Executive interference with the Watergate investigation. Although these are times of stress, they call for caution as well as decisive action. *The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court.* As Judge Learned Hand warned in *United States v. Marzano*, 149 F.2d 923, 926 (1945):

'Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge.'" (Emphasis added)

The Chief Judge of the same court, Judge John J. Sirica, the judge designated to appoint the prosecutors under S. 2611, expressed similar sentiments in referring to Judge Gesell's opinion:

"I think Judge Gesell is right. I do not know cf any Judge who thinks it's a good idea."[7] Further, Judge Sirica sent the following letter to Senator Eastland, chairman of the Senate Judiciary Committee, regarding appointment of a special prosecutor:

Hon. JAMES O. EASTLAND,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR EASTLAND: I have received your letter dated November 15th concerning a question a quotation attributed to me in the *Washington Post newspaper*. I have read the *Post* article you referred to and find it substantially accurate insofar as it refers to my statements. Shortly after Judge Gesell of this Court released his opinion in the case of *Nader v. Bork*, I was visited in my chambers by several reporters who asked whether I agreed with the paragraph of that opinion in which Judge Gesell notes his opposition, and the reasons therefor, to a court-appointed special prosecutor. I responded that personally, I am in full agreement with Judge Gesell's statement. I also mentioned that I had been informed that several other active judges, members of this court, were of the same opinion.

I might mention that shortly before receiving your letter this afternoon, I had lunch with eight of our judges, each of whom remarked that he disapproves of a procedure that would require this court to appoint a special prosecutor.

Thank you for your letter and interest in this matter.

With kindest regards,
Sincerely yours,
JOHN J. SIRICA.[8]

Senators must question whether the United States District Court for the District of Columbia would exercise such appointment, even if S. 2611 were enacted. I think the answer may be that they would not, as judges, like Senators, take an oath to honor and uphold the Constitution.[9]

Thus, it is clear that authority[10] and logic compel the conclusion that the appropriate constitutional role for the judiciary in the Watergate context is as a neutral forum for adjudication.

II. Direction and removal of a Special Prosecutor under the doctrine of separation of powers

At the outset, it is important to recognize that the removal power cannot be isolated from the threshold Constitution considerations of appointment. A proposal which presents serious constitutional questions as to removal may be just as subject to attack in the first instance as that of a judicially appointed Special Prosecutor as the question of removal necessarily implies some type of relationship to direction and control. That is to say, if a Special Prosecutor is absolutely immune from removal by the President or a head of an executive department, there would, in reality, be no reporting or control responsibility in the executive branch and, thus, the same separation of powers conflicts as outlined in section one would have to be considered. *Myers* v. *United States*, 272 U.S. 52 (1926).

There are essentially two types of powers exercised by the President under Article II—those powers which can only be exercised by him or subject to his discretion and powers which can be shared with the Congress. Those persons falling under the first classification as a general rule can be directed by the Chief Executive to perform any lawful duties and can be removed upon the order of the President. Those persons falling under the second classification of employees can, under some circumstances, be rendered immune to a certain degree from discretionary dismissal. Four of the leading cases in this area are: *United States* v. *Perkins*, 116 U.S. 483 (1886), *Myers* v. *United States*, 272 U.S. 52 (1926); *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935); and *Wiener* v. *United States*, 357 U.S. 349 (1958).

The Supreme Court in *Perkins* considered a suit by a cadet engineer, a graduate of the Naval Academy, to recover his salary for the period after his removal by the Secretary of the Navy. Perkins based his claim on a statute[11] providing that no officer in the military or naval service should in time of peace be dismissed from service, except in pursuance of a sentence of court-martial. The government alleged such a statute infringed upon the constitutional prerogative of the executive to remove. The Court of Claims and the Supreme Court rejected this argument and stated as follows:

"We have no doubt that when Congress, by law, vests the appointment of inferior officers in the heads of Departments it may limit and restrict the power of removal as it deems best for the public interest. The constitutional authority in Congress to thus vest the appointment implies authority to limit, restrict, and regulate the removal by such laws as Congress may enact in relation to the officers so appointed.

The head of a Department has no constitutional prerogative of appointment to offices independently of the legislation of Congress, and by such legislation he must be governed, not only in making appointments but in all that is incident thereto." (*Perkins*, at page 485)

In Myers, the leading case on presidential removal, the court considered the question of removal of a postmaster who by statute[12] held office for four years, unless sooner removed or suspended by the President by and with the consent of the Senate. Myers was removed, before the expiration of his term, by an order of the Postmaster General, sanctioned by the President. The removal was not referred to the Senate and Myers' administratrix brought an action for his salary alleging wrongful removal. Chief Justice Taft, writing for the majority stated:

"The power of removal is an incident of the power to appoint and the power of the Senate to check appointments by advice and consent does not by implication extend the power of the Senate to block Presidential removal of officers."[13]

The chief justice goes on to state that the President has a very wide range of authority regarding removal within the executive branch and such removal authority cannot be circumvented by article II, section 2, clause 2, if the President appoints inferior officers by and with the consent of the Senate.[14] Thus, it is clear that S. 2616, introduced by Senators Percy et. al., providing for presidential appointment and blockage of removal by the Congress, certainly flies in the face of *Myers* and even the revision introduced by Senators Percy, et. al., S. 2733, faces serious constitutional challenge, as it provides for presidential appointment with strict limitation on reasons for removal.

S. 2611, also presents problems under *Myers* as to directon and removal as only the chief judge of the District Court of Columbia could remove the special prosecutor. *Myers* states that removal of executive officials (one may argue that a special prosecutor is not an executive official under S. 2611, but that is difficult to sustain as such an individual is investigating and prosecuting for violations of the law, i.e., the doctrine of separation of powers issue referred to in part I. (supra) from office is an executive function and such a conclusion is confirmed by the requirement that the president "take care that the laws be faithfully executed"—Article II, Section 3.[15]

The attorney general appointment approach I have suggested, however, is on sound ground as to *Perkins* and such proce-

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Footnotes at end of article.

dure is further enforced by *Myers* at 161 and 162 where the court states:

"The authority of Congress given by the excepting clause (of article II) to vest the appointment of such inferior officers in the heads of departments carries with it authority incidentally to invest the heads of department with power to remove. It has been the practice of Congress to do so and this court has recognized that power. The court also recognized in the *Perkins* case that Congress, in committing the appointment of such inferior officers to the heads of departments, may prescribe incidental regulations controlling and restricting the latter in the exercise of the power of removal.

"The Perkins case is limited to the vesting by Congress of the appointment of an inferior officer in the head of a department. The condition upon which the power of Congress to provide for the removal of inferior officers rests is that it shall vest the appointment in someone other than the President with the consent of the Senate." Id. (Emphasis added)

In Humphrey's supra, a Federal trade commissioner had been removed by the President without specification of cause as required by relevant statute. The court distinguished such an officer from one who was "merely one of the units in the executive department and hence inherently subject to the exclusive and illimitable power of removal by the chief executive, whose subordinate and aid he is." The Federal Trade Commission, on the other hand was, according to the court a body which "cannot in any proper sense be characterized as an arm or an eye of the executive. Its duties are performed without executive leave and, in the contemplation of the statute, must be free from executive control." Id. at 628. The court concluded:

". . . We think it plain under the constitution that illimitable power of removal is not possessed by the President in respect of officers of the character of those just named. The authority of Congress in creating quasi-legislative or quasi-judicial agencies, to require them to act in discharge of their duties independently of executive control cannot well be doubted: And that authority includes as an appropriate incident, power to fix the period during which they shall continue in office, and to forbid their removal except for cause in the meantime. For it is quite evident that one who holds this office only during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will."

The Humphrey case was further clarified in Wiener, supra, when the court held that Congress had conferred upon the war claims commission quasi-judicial functions, to adjudicate "according to law" certain claims and had, therefore, set outside the President's power to control through the removal power the members of that body. Justice Frankfurter in speaking for the court and commenting on Humphrey stated:

". . . It drew a sharp line of cleavage between officials who were part of the executive establishment and were thus removable by virtue of the President's constitutional powers, and those who are members of a body 'to exercise its judgment without the leave or hindrance of any department of the government,' 295 U.S. at 625–626, as to whom a power of removal exists only if Congress may fairly be said to have conferred it. This sharp differentiation derives from the difference in functions between those who are part of the executive establishment and those whose tasks require absolute freedom from executive interference." Neither Humphrey nor Wiener, however, are helpful to the proposition advanced by Senators Percy et al regarding presidential appointment with restrictions on removal. Both of these cases pertain to judicial or quasi-judicial executive agencies, and surely the office of special prosecutor cannot be considered to have judicial or quasi-judicial authority under any of the proposals advanced to date.

The most recent case to consider removal is *Nader* v. *Bork*, C.A. No 1954–73 (D.C.D.C 1973) referred to in part I. Judge Gesell in writing the opinion for the District of Columbia district stated as follows regarding selection and removal of former special prosecutor, Archibald Cox:

"It should first be noted that Mr. Cox was not nominated by the President and did not serve at the President's pleasure. As an appointee of the Attorney General, Mr. Cox served subject to congressional rather than presidential control. See *Myers* v. *United States*, 272 U.S. 52 (1926). The Attorney General derived his authority to hire Mr. Cox and to fix his term of service from various acts of Congress. Congress therefore had the power directly to limit the circumstances under which Mr. Cox could be discharged, see *United States* v. *Perkins*, 116 U.S. 483 (1886), and to delegate that power to the Attorney General, see *Service* v. *Dulles*, 354 U.S. 363 (1957). Had no such limitations been issued, the Attorney General would have had the authority to fire Mr. Cox at any time and for any reason. However, he chose to limit his own authority in this regard by promulgating the Watergate special prosecutor regulation previously described. It is settled beyond dispute that under such circumstances "an agency regulation has the force and effect of law, and is binding upon the body that issues it. *Accardi* v. *Shaughnessy*, 347 U.S. 260 (1954) (*'Accardi I'*); *Bonita* v. *Wirtz*, 369 F. 2d 208 (D.C. cir. 1966); *American Broadcasting Co.* v. *F.T.C.*, 179 F.2d 437 (D.C. cir. 1949); *United States* v. *Chapman*, 179 F. supp. 447 (E.D.N.Y. 1959). As the Ninth Circuit observed in *United States* v. *Short*, 240 F. 2d 292, 298 (9th cir. 1956):

" 'An administrative regulation promulgated within the authority granted by statute has the force of law and will be given full effect by the courts.' "

Thus congressional power over removal of an officer would seem to be most extensive when Congress has provided for appointment of such officer by means other than Presidential appointment by and with the advice and consent of the Senate. Therefore it is clear that the best approach to insure maximum constitutional independence of a special prosecutor is to vest appointment authority not with the President, but with the attorney General subject to specific standards set by Congress regarding removal.

III. Results of unconstitutionality of suggested proposals under points I and II

A. Convictions reversed and indictments quashed

As set forth in detail above, those proposals which attempt to remove from the executive branch the power to appoint and remove a special prosecutor face serious constitutional challenge.

Should such legislation be enacted and, later, be declared unconstitutional, then it is quite probable that any indictments or convictions achieved through the efforts of the special prosecutor may be quashed, reversed, or remanded for a new indictment and trial. This also raises the question of double jeopardy, and could totally bar prosecution of the very crimes the proposals of the other bills seek to punish. See *Illinois v. Sommerville*, 410 U.S. 458 (1973) (prosecutorial error can constitute double jeopardy).

Thus, an indictment or conviction arising out of the activities or influence of an unauthorized attorney is a sufficient defect in the procedure to invalidate its results.

In a very apt case from Michigan, *in re* Wyrick, 301 Mich. 273, 3N.W.2d 2727 (1942), a conviction and sentence for contempt of court was overturned and the defendant was released from custody because a special prosecutor appointed by the court was not legally authorized to participate in the proceeding which led to the conviction of the defendant in the lower court. The court concluded:

". . . The state has wisely provided that this power should lie in the discretion of the Prosecuting Attorney General in certain cases. . . . It is directly contrary to public policy to allow any general delegation of a Prosecutor's powers, and the courts cannot recognize any such arrangement. . . ."

The lower court was without jurisdiction to proceed in that case because of the defect in the legal status of the special prosecutor.

In *United States* v. *Heinze*, 177 F770 (1910), the court granted a motion to quash an indictment because of the presence in the grand jury room, during an investigation of the case which resulted in the indictment, of a person not authorized by law to be there. In that case, the attorney general had, without proper legal authority, appointed a special assistant to help him in the investigation and prosecution of the case.

In *State* v. *Heaton*, 21 Wash. 59, 56 P. 843 (1899), the court set aside an indictment because the unauthorized appointment of a special counsel who attended the grand jury sessions daily, advised them, and aided them in their deliberations, was a substantial irregularity in the proceedings resulting in the presentment of the indictment. See also *State* v. *Johnson*, 55 N.D. 437, 214 N.W. 39 (1927); *Viers* v. *State*, 10 Okla. Crim. 28, 34 P. 80 (1913); *State* v. *Maben*, 5 Okla. Crim. 581, 114 p. 1122 (1911); *State* v. *Slocum*, 111 Minn. 328, 126 N.W. 1095 (1910); *People* v. *Scannell*, 36 Misc. 40, 72N.Y.S. 449(1901).

Based upon these precedents, it can be anticipated that a constitutional challenge will be made to the validity of acts of the special prosecutor. One cannot state with any degree of certainty how and when that challenge will come, but it will clearly have one major effect, further delay. The effective functioning of the special prosecutor may be curtailed by injunction or delayed for months pending the decision.

B. Duty of the President To Veto Unconstitutional Legislation—Constitutional Confrontation Possibilities

Finally, we cannot expect the President to sign legislation which he may feel transcends the boundaries of the power of the Congress by stripping the executive branch of prosecutory functions.

There is a realistic probability of a Presidential veto of the proposed legislation which vests the power of appointment and removal in the courts. The President, like the Members of the Senate, has a duty set forth in his oath of office to preserve, protect and defend to the best of his ability, the Constitution of the United States. Article II, Section 1. The Members of the Senate take a similar oath upon assuming their official duties.

Thus, debate upon and passage of one of the above proposals could precipitate one of the most severe constitutional crises which the fabric of our system of government has ever had to withstand. It is inconceivable to me that we should, in the name of "independence," run the risk of subjecting the country to such further agony.

IV. Appropriate appellate review-expedited constitutional procedures

Article 3 of the United States Constitution vests the judicial power of the United States in one Supreme Court and in such inferior courts as Congress may from time to time establish. It is my opinion that S. 2642 presents no constitutional questions and, therefore, I have not felt the need to attempt to provide for an "expedited review procedure." However, for the reasons previously stated, I believe many of the proposals presently before the Congress do contain serious, and possibly fatal, constitutional improprieties. Therefore an expedited appellate procedure certainly may be necessary to preserve indictments and insure the continuation of the investigation by the special prosecutor.

Two proposals advanced to date contain expedited constitutional review procedures, H.R. 11401 and S. 2611. These proposals, however, present additional constitutional problems and do not realistically present any type of expedited review. Section 11 of H.R. 11401, pertaining to expedited appellate review, especially presents sreious constitutional questions. Essentially this section requires that constitutional objections of the highest nature could only be raised by a criminal defense or in connection with a civil action brought specifically to raise these issues. In a truly incredible corollary to that requirement, the proposed statute would confine the review of the constitutionality of the act to the first person who happened to raise the challenge. Section 11 provides that the expedited review procedure ". . . shall not apply" when the Supreme Court has "previously determined" *any* questions presented in that suit. On the one hand, therefore, Congress has set up an exclusive procedure and on the other hand, Congress has removed the rights of the litigants to utilize that procedure once a decision has been made on any particular point.

Thus, the effect of this statute would be to violate the separation of powers doctrine by curtailing the power of the Supreme Court to see appellate jurisdiction of any subsequent challenge. This clearly is beyond ". . . the limit which separates the legislative from the judicial power." *U.S. v. Klein,* 80 U.S. (13 Wall.) 128.

In *Klein,* the Congress had passed a statute providing, in essence, that the Supreme Court would have no jurisdiction with respect to challenges to the power of confiscation of property during the Civil War. The Supreme Court flatly held that the statute was unconstitutional because it removed the appellate jurisdiction of the United States court, which jurisdiction stemmed directly from the constitution itself.

In case after case, the courts have consistently held that Congress cannot *limit* either the appellate jurisdiction of the Supreme Court (as in *Klein*) nor can they enact laws which, in effect, predetermine the outcome of a particular case. Thus, in the *Payne v. Griffin* case, 51 Fed. Supp. 588, 591 Md. Ga. (1943), the Court noted the constitutional distinction between the Supreme Court and the "inferior courts" under Article 3, but went on to emphasize that Congress was limited in respect to its actions which could be presented to the lower courts:

"A district court can entertain only such cases as Congress gives it jurisdiction to try. Jurisdiction to try any case or classes of cases may be withheld altogether. *But once Congress confers jurisdiction to try a case, it cannot withhold power to decide the case according to the applicable law.*" (Emphasis supplied)

The Congress of the United States has not always been asked to act with such unseemly haste. In 1965, we passed P.L. 89-110, more commonly known as the Civil Rights Act of 1965. In section 5, now 42 U.S.C. 1973c, is provided a procedure whereby a State or subdivision seeking to implement a new voting qualification in the South was required to submit the proposal to the Attorney General prior to implementing it. This permitted the Attorney General to take such action as he might desire, if he felt that the new proposal was unconstitutional. I have been cited to this statute as justification for "expedited review procedure" involving the appointment of the Special Prosecutor. I do not believe that there is any relevance at all to the case at hand. The 1965 Civil Rights Act has been described by the Supreme Court as containing the seeds of an "extraordinary" effect upon Federal-State relations. *Allen v. State Board of Elections* 393 U.S. 544, 563 (1969). The Supreme Court upheld that statute, not because of the absolute discretion which some people claim it may have, but because, instead, Congress was limiting the times and places in which litigation could be brought against the Federal Government. (393 U.S. at p. 599) The Court agreed that "swift initial adjudication" was a valid goal, and upheld the provision only after carefully analyzing the bill and restricting it to the specific problem. The Court further stated the bill contained within it the possibility of other methods of resolving the constitutional conflict. That is not the case in section II of H. R. 11401. This section sets up the "sole and exclusive" method by which a constitutional challenge could be raised.

A better example of the appropriate method of providing for constitutional review is that found in P.L. 90-274, popularly known as the Jury Selection and Service Act of 1968, now codified in relevant part 28 U.S.C. Sec. 1867 (e). There the Congress provided as follows:

"The procedures prescribed by this section shall be the exclusive means by which a person accused of a Federal crime, the Attorney General of the United States, or a party in a civil case may challenge any jury on the ground that such jury was not selected in conformity with the provisions of this title. *Nothing in this section shall preclude* any person or the United States from pursuing any other remedy, civil or criminal, *which may be available for the vindication or enforcement of any law* prohibiting discrimination on account of race, color, religion, sex, national origin, or economic status, in the selection of persons for service on grand or petit juries. (Emphasis supplied.)

The legislative history clearly indicates that Congress was attempting to draw a distinction between setting up a rapid and exclusive method of asserting rights under the new statute from rights of a constitutional nature. Thus, House report 1076, set forth at 2 U.S.C., Cong. & Admin. News 1806 (90th Cong. 2d Sess., 1968) stated as follows:

'The bill . . . makes clear that the Act will not preclude any person or the United States from *asserting rights created by other statutes or of enforcing constitutional rights.*" (Emphasis supplied.)

The expedited review provision in section 13 of S. 2611 is somewhat of an improvement over H.R. 11401, but nevertheless still contains defects.

For example, subsection (6) provides "the special prosecutor and anyone acting on his behalf shall be deemed a person authorized to be present during sessions of a grand jury, notwithstanding any later judicial determination regarding his authority . . .". What about the constitutional right to a grand jury under the 5th amendment? Can individuals not raise constitutional objections at this point?

Subsection (b) (1) states any person "aggrieved by any act of the special prosecutor may bring an action or file an appropriate motion challenging his constitutional authority . . .". This section certainly does not seem to provide for expedited review, and would in fact seem to increase legal standing and litigation. In fact one must wonder if such a section is not meant to overturn Judge Gesell's opinion as to Mr. Nader's standing.[16]

Further one must ask if the time period really has been expedited in that after the initial twenty day period for objecting, two steps of appeals are to take place with the appeal period very uncertain at the Supreme Court level.[17]

Constitutional problems may also be present with regard to waiver of Constitutional objections and appellate rights in Sec. 13(a).

Therefore, the review procedures provided may in fact not practically expedite any appeals, and ultimately raise more constitutional problems in litigation challenging such sections.

V. Conclusion

Given the alternatives set forth in point III, it is difficult to justify the stress that could be placed upon the constitutional framework of our Government by enactment of many of the proposals currently pending before the Congress.

Specifically, a special prosecutor would most properly be established under the aegis of the executive branch as it is an open question at best whether the Congress can constitutionally delegate to the judicial branch the authority to appoint such a special prosecutor.

Secondly, the legislative branch does not have the authority to infringe upon the prosecutory powers of the executive branch, nor can it delegate such authority to the judiciary.

Third, under the Constitution the executive branch has the right to appoint and necessarily remove appointees within certain guidelines, and it is not possible to completely isolate a special prosecutor from such executive branch contact.

Fourth, the responsibility for the appointment and removal and supervision of the special prosecutor should be vested in the executive branch. By legislative mandate, a very high degree of independency may be achieved which is necessary for the special prosecutor to carry out a vigorous and thorough investigation and prosecution of the Watergate-related offenses. In such case, an unnecessary constitutional confrontation can be averted and the legality of indictments and convictions achieved by the prosecutor can be sustained.

FOOTNOTES

[1] *Annals of Congress,* pages 481-82 (1789).

[2] 43 U.S. Stat., Part I, p. 5, Chapter 16. Judicial consideration of certain effects of this Resolution can be found in *U.S.* v. *Pan-American Petroleum Co.,* 55 F. 2d 753 (9th Cir. 1932), Cert. Denied, 287 U.S. 612, 77 L. ed. 532.

[3] Pub. Law 89-554, Sec. 4(c), Sept. 6, 1966, 80 Stat. 618.

[4] Pub. Law 79-592, (Ch. 736) Sec. 4(a), 60 Stat. 790, Aug. 2, 1946.

[5] 16 Stat. 433, Repealed 1894, 28 Stat. 36.

[6] *O'Donoghue* v. *U.S.* 289 U.S. 516, 545-46 & Article III.

[7] *The Washington Post,* November 16, 1973, p. A-3.

[8] *Congressional Record,* November 16, 1973, p. S20630.

[9] e.g.: See *Standing Rules for Conducting Business in the Senate of the United States,* Article II, Section 2, Causes, Adopted January 11, 1884.

[10] Besides the case law already referred to in this section, see *Ponzi* v. *Fessenden,* 258 U.S. 254 (1922), *Springer* v. *Philippine Islands,* 277 U.S. 189 (1928) and *Newman* v. *United States,* 382 F.2d 479 (D.C. Cir. 1967). All of which support the rule that the Executive Branch is primarily responsible for the execution of laws of the land.

[11] Rev. Stat. § 1229.

[12] Act of July, 1876, 86, C. 179, 19 Stat. 80.

[13] *Myers,* at pp. 119, 121, 126 and 161.

[14] *Myers,* at pp. 155-161.

[15] *Myers,* at pp. 161 and 164.

[16] *Nader* v. *Bork,* C.A.W. 1954-73 (D.C.D.C. 1973).

[17] Even with Subsection 4 providing for expedited consideration at the Supreme Court level as this procedure may not be accepted by the Court as due process problems could develop in that it may be difficult to justify one consideration of one constitutional issue over another.

U.S. District Court,
for the District of Columbia,
November 15, 1973.

Hon. James O. Eastland,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

Dear Senator Eastland: I have received your letter dated November 15th concerning a quotation attributed to me in the *Washington Post* newspaper. I have read the *Post* article you referred to and find it substantially accurate insofar as it refers to my statements. Shortly after Judge Gesell of this Court released his opinion in the case of *Nader* v. *Bork*, I was visited in my chambers by several reporters who asked whether I agreed with the paragraph of that opinion in which Judge Gesell notes his opposition, and the reasons therefor, to a court-appointed special prosecutor. I responded that personally, I am in full agreement with Judge Gesell's statement. I also mentioned that I had been informed that several other active judges, members of this court, were of the same opinion.

I might mention that shortly before receiving your letter this afternoon, I had lunch with eight of our judges, each of whom remarked that he disapproves of a procedure that would require this court to appoint a special prosecutor.

Thank you for your letter and interest in this matter.

With kindest regards,
Sincerely yours,
John J. Sirica.

[From the Washington Post, Nov. 16, 1973]

Protecting the Special Prosecutor

"Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court."

The quotation comes from U.S. District Judge Gerhard A. Gesell's memorandum explaining his decision in an important Watergate-related case the other day. Judge Gesell made his observation in the course of declaring that Acting Attorney General Robert H. Bork had acted illegally in firing Special Watergate Prosecutor Archibald Cox on October 20. Taken together, Judge Gesell's admonitions concerning the proper role of the courts and his interpretation of the law as it concerns the Special Prosecutor's tenure seem to us to argue forcefully against legislation now pending that would authorize the appointment of a Special Prosecutor by the U.S. District Court. The question is whether such legislation is either necessary or desirable, and we believe the answer on each count is, no.

The purpose of the congressmen and senators who are supporting the creation of a court-appointed prosecutor is admirable: it is to guarantee an independent, impartial, pressure-free prosecutor's office, one that is not subject to the will, whim or threat of those under investigation. And, not incidentally, it is to assure that the appearance of all this will be equal to the reality, so that people will be able to have confidence in the integrity of the prosecutor's office. However, we believe that this purpose would best be satisfied by other means—specifically by the enactment of legislation requiring Senate confirmation of the administration-appointed Special Prosecutor and also giving even firmer statutory basis to the office of the Special Prosecutor.

Judge Gesell's reading of the law is relevant here. He did not find that Acting Attorney General Bork had acted illegally in firing Mr. Cox by reason of any breach of the commitments given the Senate by Elliot Richardson concerning Mr. Cox's position. Those commitments, Judge Gesell said—whatever the "moral or political" implications of abandoning them—"had no legal effect." Rather, he found the illegality to reside in Mr. Bork's violation of a Justice Department regulation authorized by statute and setting forth the conditions governing the Special Prosecutor's job. Those conditions, as Judge Gesell observed, included the following: "He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that 'The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.' "

What is particularly interesting and apt about this judgment is that the Justice Department regulation, which Judge Gesell sees as having had "the force and effect of law" and which he also sees as preventing the President himself from dismissing a Special Prosecutor, is back in effect. In other words, its terms extend to and protect Leon Jaworski, the new Special Prosecutor who has just been named to the job by Acting Attorney General Bork. It seems to us that an administration-appointed Special Prosecutor whose views and purposes had been examined by the Senate in confirmation hearings, whose subsequent confirmation made him in some appreciable degree answerable to Congress and whose job security had been enhanced by strengthening of the statutory basis of his office would be as free of administration pressure and dictation as could be guaranteed by any process—including the process of having him appointed by and answerable to the U.S. District Court.

We would argue that such a prosecutor would have another special advantage: it is the likelihood that any findings he made or charges he brought against the President of the United States would be credited by the public. Here we find ourselves taking an entirely opposite view from those who hold that a court-appointed prosecutor would enjoy more public confidence than anyone—Mr. Jaworski included—who owed his appointment to the Nixon administration. On the contrary, it seems to us that his appointment by the administration would at once oblige him to demonstrate his prosecutorial independence and give particular force to his position, especially as he pursued investigations of those intimately connected with the administration. It is important now that people believe in the integrity of the Special Prosecutor. But it is not nearly as important as it will be if and when the Prosecutor comes into direct conflict with Mr. Nixon, as Cox did, or actually implicates him in criminal activities.

These are essentially political considerations, and it seems to us that they weigh equally in the scale when you are thinking about the Special Prosecutor's freedom to pursue the work Mr. Cox began. High among those considerations we would list a new political restraint on Mr. Nixon: at what cost could he repeat his performance of the weekend of October 20? The President is only now recovering—and just barely—from the repercussions of that event and to the extent that he is recovering at all, he owes everything to a hasty retreat from his position on releasing the subpoenaed tapes and on abolishing Mr. Cox's office along with Mr. Cox's appointment.

What with the Ervin Committee, the House Judiciary Committee and the Special Prosecutor's office already in existence, it seems to us that the addition of a court-appointed prosecutor would only dissipate energy and promote confusion in the task of bringing the Watergate offenses to light and the Watergate offenders to justice. There is, in fact, too much confusion, distraction and overlap now. We think the center of action should be the Special Prosecutor's office. And we think the tools are at hand for Congress to guarantee that this is so.

Statement of Roger C. Cramton, Dean, Cornell Law School, on S. 2611 and S. 2616, Bills To Establish an Independent Special Prosecutor, Before the Committee on the Judiciary, U.S. Senate, November 7, 1973

You have asked me to state my views concerning the constitutionality and wisdom of proposed legislation which would establish a special prosecutor to investigate Watergate-related charges—a prosecutor who would be totally independent of the Executive branch of the Federal Government. I appear before you, of course, as a private citizen who represents no special interest or organization. While I sympathize with the objectives of the proposed legislation and abhor the circumstances that make its consideration necessary, I have concluded that establishment by statute of an independent special prosecutor outside of the Executive branch is unwise and probably unconstitutional.

It is true that a number of eminent lawyers have argued that legislation authorizing judicial appointment and removal of an independent special prosecutor would ultimately be sustaind by the Supreme Court of the United States; but they concede that a serious constitutional question is presented and that litigation of this question might delay and abort the criminal investigation which is now underway. In addition to these practical concerns, I believe that this legislative proposal is distracting attention from the other courses of action which are clearly within the power of Congress and which are more likely to resolve the current crisis in an expeditious manner. Finally, and most important, at a time when the President has acted with doubtful legality and little wisdom, it is of the utmost importance that Congress avoid placing similar strains on the Constitution in its search for a remedy. Our constitutional system is a durable one which has served us well in hard as well as easy times; we should not tamper with its delicate balance by adopting questionable measures which may later be regretted.

There are two basic proposals now before the Congress. One, S. 2611, which is supported by more than one-half of the members of the Senate, would create a special prosecution office with the prosecutor appointed and removable by the chief judge of the United States District Court for the District of Columbia. The second, S. 2616, introduced by Senator Percy, would also create a special prosecution office. The President, however, would have the power to appoint the prosecutor, subject to Senate confirmation. The President could also remove the prosecutor unless either house of Congress overruled him by majority vote.

The jurisdiction and powers given the special prosecutor in both bills are extremely broad. He would be vested with full authority to investigate and prosecute a wide range of matters completely free of any supervision or control by the Attorney General or the President, including authority to compel production of information sought to be withheld on national security grounds, to require use of the investigative facilities and records of the FBI, to immunize witnesses from prosecution, and to litigate in any court in the name of the United States.

The Constitution provides that "the executive power shall be vested in a President of the United States," and that the President's basic obligation is to "take care that the laws be faithfully executed." While the nature and extent of the executive power cannot be stated with precision, there is no doubt that the functions placed in the four original executive departments—conduct of foreign relations, collection of taxes, enforcement of the law, and command of the military—are at the core of the Executive's authority. Although the separation of powers envisioned by the Constitution involves a sharing and diffusing of power and not three totally watertight compartments, each branch of government has a central function and may not encroach unduly upon the functions of another. Thus the President or the Congress (apart from the special case of impeachment) may not adjudicate the guilt of individuals, a function which is reserved to the courts. Nor is the Judicial Branch free to undertake executive or legislative functions other than those incidental to the performance of judicial duties. While some mixture of functions is contemplated by the Constitution and is permissible, the basic tasks of one branch cannot be removed from it and placed either in another branch or in an independent agency.

S. 2611 is unwise and probably unconstitutional because it vests the appointment of an important executive officer in the hands of a federal judge, and because it deprives the President, as head of the Executive branch, of the control and removal of an officer engaged in a vital executive function, the enforcement of federal criminal laws.

I. APPOINTMENT OF A FEDERAL PROSECUTOR BY A UNITED STATES DISTRICT JUDGE IS CONSTITUTIONALLY SUSPECT [1]

The normal process of appointment established by the Constitution is nomination by the President with appointment following "advise and consent" of the Senate. The Framers believed that a single person could best exercise the responsibility of choosing qualified officials; and the confirmation process would provide an adequate check against misuse of the appointing power. Federal officers who exercise the most important responsibilities are appointed in this fashion and Congress has been vigilant, when a particular office assumes great importance, to ensure that appointees are subject to Senate confirmation. Recent legislative proposals that would require Senate confirmation of the director of the Office of Management and Budget exemplify congressional concern with the maintenance of the confirmation process.

The Constitution also provides, as an exception to the normal process of appointment by the President and confirmation by the Senate, that Congress may "vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments." Art. II, § 2, cl. 2. Proponents of S. 2611 rely on this provision in arguing that appointment of a special prosecutor (an "inferior" federal officer) may be placed in the hands of "a court of law."

The basic purpose of this constitutional provision is clear: to allow the appointment of subordinate officials of particular branches of the government to be placed in the heads of those branches. Thus it is clear that Congress may authorize the President to appoint any subordinate official of the executive branch, and that the head of a department may appoint subordinate officials within his department, *United States* v. *Eaton,* 169 U.S. 331 (1898) (President may appoint vice-counsuls); *United States* v. *Hartwell,* 73 U.S. 385 (1867) (Secretary of the Treasury may appoint clerks within his department); *Borak* v. *United States,* 78 F. Supp. 123 (Ct. Cl. 1948) (Attorney General may appoint examiners of the Immigration and Naturalization Service). Similarly, it is also clear that federal judges may be given authority to appoint employees of the judicial branch. *Rice* v. *Ames,* 180 U.S. 371 (1901) (court commissioner); *Ex parte Hennen,* 38 U.S. 225 (1839) (court clerks).

At the other extreme it is apparent that one branch cannot be given the sole appointive authority of important officials of another branch. A literal reading of Art. II, § 2, cl. 2 would permit Congress to vest the appointment of the law clerks and other employees of the Supreme Court of the United States solely in the President or the Attorney General. Similarly, it would support a statute authorizing the Chief Justice to appoint postmasters throughout the United States or advisers who serve in the Executive Office of the President. Since the removal power, with its effective ability to control, normally accompanies the power of appointment, the encroachment on the independence and responsibility of the other branch would be impaired intolerably by legislation of this character. It is not surprising that Congress has never attempted to legislate along these lines.

Thus the constitutional language authorizing Congress to "vest the appointment of such inferior officers, as they think proper, . . . in the courts of law" cannot be given a broad, literal interpretation that would justify the appointment of any and all executive officers by the federal courts. The Constitution envisions a rational and close relationship between the appointing branch and the nature of the function which the "inferior officer" is to perform. Moreover, because the federal courts are limited by Article III of the Constitution to the performance of judicial functions, appointive and supervisory tasks of a non-judicial character cannot be placed upon them.

The Supreme Court's initial interpretation of Art. II, § 2, cl. 2 adopted this sensible course. In upholding the authority of a federal judge to appoint and remove court clerks the Court stated:

"The appointing power . . . was no doubt intended to be exercised by the department of the government to which the officer to be appointed most appropriately belonged." *Ex parte Henen,* 38 U.S. (13 Pet.) 230, 258 (1839).

A subsequent case, *Ex parte Siebold,* 100 U.S. 371 (1879), should not be viewed as authorizing a totally unlimited delegation of appointive powers to the federal judiciary. In *Siebold* the Court departed from the strict language of *Ex parte Hennen* in upholding a statute which authorized the federal courts to appoint officers to supervise certain federal elections. While it is arguable that such officers performed "executive" functions, determinations relating to election fraud are akin to those in which courts have traditionally appointed masters. Moreover, Congress has the power to investigate the qualifications of its own members and the blending of powers involved in the functions of the appointed officials did not involve criminal law enforcement. The Court passed quickly over what was viewed as a minor objection in a case involving a major collision between the Federal Government and the States concerning the conduct of state elections in which Federal offices were on the ballot. Consequently, this case is hardly definitive authority for a dissimilar conflict between two branches of the Federal Government concerning the appointment of an officer to exercise criminal law enforcement functions.

There are a few other situations in which federal courts have upheld statutes authorizing them to appoint officers whose duties do not fall within the judicial branch. One arises under 28 U.S.C. § 546. In *United States* v. *Solomon,* 216 F.Supp. 835, 840–43 (S.D. N.Y. 1963), the temporary appointment of a United States attorney under 28 U.S.C. § 546 was upheld. However, this appointive provision is designed merely as an interim measure when a position is vacant; the President may remove the official so designated and the appointment is effective only until the President fills the vacancy.

Hobson v. *Hansen,* 265 F.Supp 902 (D.D.C. 1967), is the only case involving judicial appointment of a non-judicial officer in which the statute purports to deny the President any power of removal. In the *Hobson* case a three-judge district court, over the dissent of Judge Skelly Wright, upheld a statute authorizing the district court to appoint and remove members of the District of Columbia Board of Education. While I believe the decision is erroneous, it deals with a situation vastly different from that posed by legislation which would delegate an important part of the criminal law enforcement function to an officer in whose appointment or removal the President whould not participate in any manner.

The objection to judicial appointment of executive officers does not rest alone upon constitutional doubts emanating from the vesting of executive power in the President. Involvement of the courts in the hiring, supervising and firing of executive officials is bound to interfere with their judicial duties and to involve them in political controversy. As Judge Skelly Wright stated in his dissent in the *Hobson* case:

"[A] federal court's first duty is to guard zealously against impairment of its own integrity as an institution. Today is the first time a court has ever held that Congress may impose on this or any other federal court a duty so totally unrelated to the judicial function. . . . Attention to extra judicial activities is an unwanted diversion from what ought to be the judge's exclusive focus and commitment: deciding cases. . . . Since [nonjudicial] duties involve democratic choice, it is politically illegitimate to assign them to the federal judiciary, which is neither responsive nor responsible to the public will. . . . Most critically, public confidence in the judiciary is . . . placed in risk whenever judges step outside the courtroom into the vortex of political activity. Judges should be saved 'from the entanglements, at times the partisan suspicions, so often the result of other and conflicting duties.' " *Hobson* v. *Hansen,* 265 F.Supp. 902, 915–16 (D.D.C. 1967) (dissenting opinion, citations omitted).

These arguments have special application to legislation which would direct Chief Judge John Sirica of the United States District Court for the District of Columbia to appoint a special prosecutor to investigate and prosecute Watergate-related matters. The appointment would take place in a highly inflamed and political context in which Judge Sirica's appointee would be competing with an investigatory effort under the direction of Leon Jaworski, the new special prosecutor appointed by Acting Attorney General Robert H. Bork. Judge Sirica was the presiding judge in the trial of the convicted Watergate break-in defendants, and their pending appeal charges him with injudicious conduct during the trial. He is also supervising the federal grand jury's continuing investigation of Watergate matters. The appearance of justice, and perhaps its reality, is violated if a judge who has been so intimately involved with a controversy and who may preside over future trials, is cast in the further role of selecting and, subject to limitations contained in the legislation, removing the prosecutor. Keeping a proper distance between prosecutorial and judicial functions is an important aspect of due process wholly apart from separation-of-powers considerations. See *In re Murchison,* 349 U.S. 133 (1955) (due process was denied when a "one-man" grand jury returned charges and then presided at the trial).

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[1] Since S. 2616, the bill sponsored by Senator Percy, provides for the normal appointment process of Presidential nomination and Senate confirmation, the arguments made in this part of my statement are not applicable to it.

II. LIMITATIONS ON THE PRESIDENT'S POWER TO REMOVE EXECUTIVE OFFICERS ARE PROBABLY UNCONSTITUTIONAL

The prosecution of crime is an essential element of the executive function in the American scheme of government. Although the Constitution shares and diffuses powers among the three branches in a manner that departs from the purity urged by Montesquieu, the fundamental scheme calls for the legislature to write the laws, an executive to enforce them, and a judicial to interpret them in individual cases. Unlike civil law countries, the American executive is vested with considerable discretion in the enforcement of criminal laws. Only the executive is in a position to weigh public interest and administrative considerations along with the evidence in making decisions such as whether a basis for prosecution exists or whether a guilty plea for a lesser offense should be accepted.

Congress by legislation defines criminal offenses and doubtless could establish standards for the exercise of prosecutorial discretion. But, this done, it is difficult to imagine a function more clearly executive than the enforcement of the criminal laws. "The Constitution," as Edward S. Corwin said, "knows only one 'executive power', that of the President, whose duty to 'take care that the laws be faithfully executed' thus becomes the equivalent of the duty and power to execute them himself according to his own construction of them." The transfer of the power to conduct prosecutions from the President or his agent, the Attorney General, is violative of the framework of the Constitution and the intendment of Article II.[2]

Controlling decisions make it clear that the President's power to remove executive officers cannot be infringed by Congress. In *Myers* v. *United States*, 272 U.S. 52 (1926), the Supreme Court held that a statute attempting to limit the President's power to remove postmasters was unconstitutional. Chief Justice Taft, writing for the Court, based his decision on Article II of the Constitution:

> "[A]rticle II grants to the President the executive power of the Government, i.e., the general administrative control of those executing the laws, including the power of appointment and removal of executive officers, a conclusion confirmed by his obligation to take care that the laws be faithfully executed; . . . [T]he President's power of removal is further established as an incident to his specifically enumerated function of appointment by and with the advice of the Senate, but that such incident does not by implication extend to removals the Senate's power of checking appointments; . . . to hold otherwise would make it impossible for the President, in case of political or other differences with the Senate or Congress to take care that the laws be faithfully executed." (272 U.S. at 163–64)

Subsequent cases have limited the sweep of the *Myers* decision by holding that Congress may protect the members of independent regulatory agencies from arbitrary removal when such protection is related to the independent performance of their quasi-judicial and quasi-legislative functions. In *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935), the Court distinguished the *Myers* case in holding that a member of the Federal Trade Commission could not be arbitrarily removed from office in violation of statute. A postmaster, the Court said, is an executive officer restricted to the performance of executive functions and has no duty related to either the judicial or legislative powers. Unlike "purely executive officers," officers performing quasi-legislative or quasi-judicial functions might be protected from removal:

> "The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute, in accordance with the legislative standard therein prescribed, and to perform other specified duties as a legislative or as a judicial aid. Such a body cannot in any proper sense be characterized as an arm or an eye of the executive." (295 U.S. at 628)

The fact that the FTC did perform some incidental functions which were executive in nature did not affect the result. "To the extent that it exercises any executive function—as distinguished from executive power in the constitutional sense—it does so in the discharge and effectuation of its quasi-legislative or quasi-judicial powers, or as an agency of the legislative or judicial departments of the government." In short, the Court drew a sharp differentiation between officers who perform purely executive powers and those who perform such functions incidential to their principal functions of a quasi-legislative or quasi-judicial nature. See also *Wiener* v. *United States*, 357 U.S. 349 (1958).

The exercise of executive authority by independent regulatory agencies is also limited in scope. While the "headless fourth branch" is difficult to fit into the tripartite scheme of the Constitution, recognition of the special character of such agencies as the NLRB and ICC as relatively autonomous centers of legislative and judicial powers has always stopped short of any notion that they could apply criminal sanctions. Their ability to enforce certain of their orders in lower federal courts is confined to civil cases; and it is limited by the effective supervision exercised by the Solicitor General, a subordinate of the President, wher access to the Supreme Court of the United States is involved. Finally, it should be remembered that members of independent regulatory agencies are merely protected from arbitrary removal; their appointment is in accord with the normal process of presidential nomination and Senate confirmation, and they can be removed by the President if the statutory grounds exist.

Sound reasons of law and policy support the view that the exercise of prosecutorial authority should be subject to executive control. In *United States* v. *Cox*, 342 F. 2d 167 (5th Cir. 1965), a federal grand jury had returned an indictment for perjury against blacks who had testified in a civil rights case. But the United States attorney in charge of the case, at the direction of Attorney General Katzenbach, had refused to sign the indictment despite an order of the trial judge that he do so. A contempt citation against the U.S. attorney was reversed by the appeals court. The constitutional separation of powers, the court held, requires "that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions." 342 F. 2d at 171.

There is no precedent in our history for the unilateral legislative establishment of a special prosecutor, any more than there is for the legislative establishment of a special office outside the executive branch to conduct foreign relations or to command the military. While there have been occasional scandals involving the executive branch, Congress has generally relied on its own investigative authority to get at the truth, rather than vest enforcement in officers independent of the Department of Justice. In the Credit Mobilier affair of the Grant Administration, for example, congressional investigations ferreted out the facts, and prosecutions were then conducted by the Attorney General. In the Teapot Dome scandal Congress did pass legislation authorizing and directing the President to appoint a special prosecutor, and President Coolidge, who publicly expressed a lack of confidence in Attorney General Daugherty, acquiesced in this legislation. But it was the President who appointed the special prosecutors and they served, just as Archibald Cox formerly did and Leon Jaworski now does, as employees of the executive branch who were under the President's direction and control if he sought to exercise it.

It can be argued that narrowly drawn legislation establishing a special prosecutor for the Watergate affair alone would not infringe on the executive function to the same extent as the creation of a permanent independent prosecutor. But this overlooks the historic tendency for governmental devices that have once proved handy to be called on again and again. The cumulative effect of modest departures from the constitutional framework, as the Supreme Court constantly reminds us when dealing with civil liberties issues, may be to erode the constitutional balance on which our system depends.

Nor do extraordinary circumstances excuse legislative actions that would be unconstitutional in ordinary times. As I will indicate shortly, other remedies are available to Congress if it concludes that the President has failed in his duty to "take care that the laws be faithfully executed." The existence of an emergency does not create power where none exists, *Ex parte Milligan*, 4 Wall. 2 (1966); and our judgment concerning the constitutionality of proposed legislation should not be influenced by the exigencies of the moment. The passions of the moment, as Mr. Justice Holmes stated, should not be allowed to "exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend." *Northern Securities Co.* v. *United States*, 193 U.S. 197, 400–01 (1904) (dissenting opinion).

Practical considerations support these constitutional arguments. The Constitution envisions a unified executive branch speaking and acting with a single voice. A special prosecutor independent from the Executive is likely to be involved in conflict with the executive branch's own prosecutors that is unseemly and might interfere with the orderly conduct of criminal proceedings. The broad definition of the special prosecutor's jurisdiction under both S. 2611 and 2616 makes it likely that overlapping investigations, grand juries, and criminal trials will result. Vexing problems of immunization of witnesses, settlement of cases in return for testimony, and duplicative investigations may interfere with law enforcement and prejudice individual rights. And a final paradox: since the Constitution vests the pardoning power in the President, a person convicted by the special prosecutor could be immediately pardoned by the President. As Hamilton wrote:

> "The executive power is more easily confined when it is one. . . . It is far more safe there should be a single object for the jealousy and watchfulness of the people; and in a word, that all multiplication of the Executive is rather dangerous than friendly to liberty." *The Federalist Papers*, No. 70.

The constitutional doubtfulness of legislation establishing an independent special prosecutor also carries hazards of its own. The President might refuse to cooperate with the judicially appointed prosecutor on the grounds that his appointment or functions constituted an unconstitutional encroachment on the executive power. Since this assertion would be highly plausible, it could not serve as grounds for impeachment but would need to be resolved by litigation. Uncertainty concerning the legality of the special prosecutor's office would undermine his ability to carry on a prompt and vigilant investigation. A period of six months to two years might be required for a definitive resolution of the constitutional questions by the Supreme Court. And if such litigation was not precipitated at the outset by lack of cooperation on the part of both the executive branch and those proceeded against, convicted defendants would surely raise these questions in appeals from their convictions. If they succeeded, they might well escape any punishment for their crimes.

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[2] Since S. 2616, the bill sponsored by Senator Percy, limits the President's power to remove by subjecting it to a veto by either house of Congress, the arguments presented in this part of my statement are equally applicable to it.

CONCLUSION

These doubts concerning the wisdom and constitutionality of legislation that would remove prosecutorial functions from the executive branch may appear to be woven of lawyers' niceties which should not stand in the way of legislation that has the general approval of the American people. Locke correctly remarked that "the people are very seldom or never scrupulous or nice in the point of questioning the prerogative whilst it is any tolerable degree employed for the use it was meant—that is, the good of the people."

Yet this is a time in my view when the legislative branch of the Federal Government should take special care not to intrude upon the constitutional framework. A basic concern with Richard Nixon's stewardship as President has been his apparent unwillingness to respect certain limitations on his own authority found in constitutional provisions such as those making it the province of Congress to determine how federal funds should be spent or prohibiting invasions of private homes. Alleged lawlessness on the part of the President, however, does not excuse or justify the legislature in neglecting the separation of powers required by the Constitution, especially when current problems are being handled in due course in the courts. Indeed, the times require an exacting and punctilious concern with constitutional niceties by the legislative branch precisely because the President is charged with actions that are excessive and arbitrary. Doubts about the constitutionality of the legislative remedy should encourage Congress to explore other available remedies.

Insofar as the enforcement of criminal laws is involved, the basic remedy is to allow the usual processes and institutions to take their course. The President has now nominated Senator William B. Saxbe to be Attorney General, and Acting Attorney General Robert H. Bork has named Leon Jaworski as special prosecutor in place of Archibald Cox. Saxbe, Bork and Jaworski are lawyers of stature and integrity. They have made it clear that they will accept nothing less than a full investigation. They should be given the benefit of the doubt for the time being.

Meanwhile, Congress is not without devices of its own in ferreting out the facts even if the Executive branch proves reluctant to investigate itself. The Senate Watergate Committee is in the midst of a large-scale investigation; and investigations of related matters can be pursued by a number of other congressional committees. The authority of the Congress to inquire into the conduct of the Executive—to determine whether the President is faithfully executing the laws—is a vital protection against executive abuse. As Senator Ervin has said on several occasions, it may be more important to discover the truth concerning any wrongdoing in the executive branch and to prevent its recurrence than to send the guilty persons to jail. Congress can ferret out the truth by diligent investigation and can report the facts as it finds them in an impartial manner, leaving further action to the verdict of popular opinion.

A third course of action may be immediately desirable wholly apart from other alternatives: a joint resolution of Congress censuring the President for his breech of faith toward Congress. Public discussion has centered on the President's actions with respect to the courts in the matter of the tapes, and the ensuing question of whether he violated the court's order or merely went to the verge of doing so. There can be no question, however, that his behavior with respect to another branch of government, the Congress, has been disrespectful and dishonorable. He is guilty of a breach of faith with Congress in two respects: first, in violating the arrangements for an independent prosecutor that had been made by his Administration in connection with the confirmation of former Attorney General Richardson; and, second, in reneging on his pledge to the Senate Watergate Committee to make detailed summaries of the tapes available to it through Senator Stennis.

Congress is entitled to respect and fair dealing from the President. Is it too much to ask that the President honor solemn undertakings that he makes with a co-equal branch of the Federal Government? It should be recalled that it was a resolution of censure that expressed the public outrage at the conduct of the late Senator Joseph McCarthy; and a similar resolution in this instance may clear the air and force the President to consider whether resignation of his office may not be an honorable course under the circumstances.

The final constitutional remedy is the drastic one of impeachment. There can be no doubt that it was the device envisioned by the founding fathers for dealing with a runaway presidency. It is a respectable device, which must be pursued if all else fails and circumstances justify its use. Exploration of the grounds for impeachment may begin in the House of Representatives while these other courses of action are also being pursued. Because of the national paralysis and trauma of an impeachment trial, which would immobilize all three branches of the Federal Government, it would be highly desirable if measures that would resolve the crisis of confidence could be worked out without the necessity of such a trial.

Attempts to take away the law enforcement function from the President are of doubtful wisdom and constitutionality. Alternatives are available to Congress other than "passing the buck" to an independent special prosecutor whose authority would be immediately questioned. Congress can retain the moral authority to sit in judgment of charges of lawlessness on the part of the President only if, in the current crisis, it leans over backward to respect the constitutional limits on its own authority.

SENATOR RANDOLPH COMMENDS NATIONAL OBSERVER FOR FOCUSING ATTENTION ON CHILDREN WITH LEARNING DISABILITIES

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I am intensely aware of the limited amount of literature describing particular kinds of handicaps or disabilities. Thus, I was gratified to read on the front page of this week's National Observer an article on children who have specific learning disabilities.

The National Observer is to be commended for focusing on this critical subject of children with learning problems. The article covers the problem, describes the child, the impact on parents, and the "cure." It is of concern to all of us who are working for programs to aid children.

Mr. President, I ask unanimous consent that the story be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Learning Disability Makes Them—Kids Who Can't Learn

(By August Gribbin)

I was choosing a shirt from the drawer when Terry, our 10-year-old boy, dragged dispiritedly into the bedroom. Normally he would have been racing up the hill to school by that time. He hugged me around the waist, chafing his face against my belt, and sobbed out a tale of misery that alternately made my eyes fill and my gut contract with anger at his tormentors: his teachers, classmates, playmates, his own family—me.

Things should have been going well for Terrence then. After years of frustration we had gotten to the source of his problem and located help. We could all be hopeful.

Specialists had called Terry a "handsome," "very intelligent," "quite bright" lad, but they had told us that he, along with a conservatively estimated eight million other school children, is impeded—*handicapped*, if you must—by a bizarre physiological disorder that makes it impossible for him to learn certain things by the methods currently prescribed in our schools. Thus, though neither "retarded" nor "dumb," he was in the fifth grade but couldn't read, spell, or make much of grammar. His hearing and sight were fine, but he didn't *perceive* sounds and sights accurately. For example a "p" looks like a "q" to him.

Terry's disability and troubles may be mild contrasted with those of many other children. But his story illustrates some of the trouble caused by this little-understood and largely neglected affliction.

We had transferred Terry temporarily from parochial school to a public school. We were promised he wouldn't be asked to read publicly or be academically intimidated in any way. The faculty knew he was biding time before transfer to a county school with better facilities for teaching youngsters like him.

But, Terry wept, the teacher hadn't kept the promise. She had called on him to read. He had stood up—as he had been trained to do in his former school—and he brought down the house when he cried out that he couldn't read, flopped in his seat, and buried his head in his arms while the teacher bombarded him with questions he couldn't answer.

In a burst of sadness he told me things he had never mentioned before lest he be thought "a sissy." He said, "I've always tried, tried, tried." No matter. At his former school a teacher shouted at him, *demanding* he read a passage, and, though he was struggling to "sound out" the words, the teacher finally yelled:

"Go to the first grade and get one of the babies there to read for you. They can do better."

"Everyone laughed. That's when they started calling me 'retarded,'" Terry mumbled. He told of being "screamed at in class for nothing . . . for trying to answer questions."

The boy wasn't aware of the disorganized way his words occasionally came out. He knew only the mysterious rejection that simple speech could bring.

He added wretchedly that his brothers "made fun of him." I, his father, was always telling him "better ways" to say things. No one really tried to understand him. He shouted: "I hate school! I never want to go again!"

He did go, of course. Now, a year later, with the help of an understanding principal and a remarkable teacher, he can read.

But that day a year ago, my wife confronted the teacher who had humiliated our son. She showed her an Observer article on *dyslexia* [The National Observer, April 8, 1968]. Dyslexia means "inability to read." It's the most publicized symptom of a host of specific phenomena that learning disability comprises. Some persons use the term to refer to learning disabilities in general.

Terry's teacher replied, however, that in her "27 years of teaching" she had never heard of the word or the disorder. Neither had teachers at his former school.

That's not unusual. Psychologist Rudolph F. Wagner, a learning-disabilities expert and author of *Dyslexia and Your Child,* avers: "Most teachers are not familiar with the syndrome. Children with severe symptoms often are misdiagnosed as 'retarded' and labeled for life. Some are placed in classes for retarded youngsters, with terrible consequences."

Children like Terry, with mild, subtle signs of disability, often go undiagnosed and unhelped. They confound and vex teachers, who recognize them as "smart" and presume they are uncooperative. The children's peers, teachers, and parents, too, gradually begin to sneer, gnarling the youngsters' spirits and commencing the process that finally makes unfulfilled lives grotesqueries of what might have been.

A child who reaches adolescence with undiagnosed learning disability "usually needs psychotherapy," says Dr. Sylvia O. Richardson, a pediatrician and assistant director of the University of Cincinnati's learning-disabilities program, She explains, "The hell they've been living with is so etched in them that they need help to cope with it."

Specialists still haven't agreed on a name for the disability these youngsters and millions of adults must live with. Many educators, psychologists, and physicians now call it "specific (sometimes "special") learning disability" (SLD), or "minimal brain dysfunction" (MBD). To some, MBD equals minimal brain "disorder," or "damage." An SLD victim may be referred to as "educationally handicapped," "neurologically handicapped," or prejudicially as a "perceptual" or "intellectual" cripple.

By whatever name, it's a complicated disorder. In his new book, *Square Pegs Round Holes,* Dr. Harold B. Levy, a Shreveport, La., pediatrician and clinical associate of the American Academy of Neurology, explains it as a "chemical disturbance" at the brain stem that distorts the way the central nervous system processes information. No one fully understands what goes wrong.

Besides dyslexia, the biochemical breakdowns cause such aberrations as difficulty with mathematics, problems with writing, trouble recognizing symbols, inability to properly co-ordinate muscles, and more.

TRICKS BY THE SENSES

The classical SLD victim reads "saw" as "was." He may be unable to pick the central figure from the background of a picture. He will confuse or be unable to distinguish certain sounds. In *Something's Wrong With My Child,* Dr. Richardson and her coauthors, psychologist Milton Brutten and professional writer Charles Mangel, say the victim may perceive the sentence, "Don't fill the milk," when told, "Don't spill the milk."

Certainly Terry and others like him have more than once been stung by an expletive or, worse, by a jeer when they innocently followed perceived instructions that were totally different from the ones given. The senses of the learning-disabled trick them into maddening confusion.

SLD children frequently are hyperactive. Almost unceasingly they fidget, roam, toy with things, sniffle, hum, chew, stumble, chatter, shove, climb, run, kick, scratch, jump, fall—and agitate and irk adults. Some victims become hypoactive; they nearly withdraw, growing exceptionally quiet, calm, and passive.

THE SOLE "CURE": PROPER HELP

Clumsiness, short attention span, impulsiveness, inconsistency, disorganization, poor memory, and a tendency toward quick anger and to tantrums—any of these eccentricities also go with SLD, in varying number and intensity.

Many SLD youngsters can't sleep. Others sleepwalk or have "night terrors." A father knows what night terrors are when he has seen his trembling child, wideeyed but uncomprehending, dash from bed, cringe at the sight of him, screaming, "Dad, help me!" then, still yelling, leap away from a solacing hand. But a baffled parent cannot find out what causes or what will stop the weird occurrences.

Proper education helps; it's the sole "cure" for the SLD victim. Time helps, too, for SLD victims typically mature slowly in many ways: physically, emotionally, in human relationships, even in bowel training.

Proper diagnosis is essential. It's also hard to get. Psychologist Wagner says, "It's not unusual at all for parents to take their child to 10 or 15 specialists before identifying the problem." We took Terry to 11.

PROPER DIAGNOSIS ISN'T EASY

Some specialists told us he was hyperactive; others said he was just "all boy." Some teachers said he was "too smart to worry about"; others said we must "work more with the boy after school," that he was "deficient."

All the while Terry was unhappy. He wasn't always happy even as a tot. His mother recalls: "He drove us nuts with worry. At times he seemed to twinkle with enthusiasm and determination. But he had long periods of discontent—with *everything*. We *couldn't* please him."

Between prekindergarten registration and first grade a psychologist and two speech therapists, diagnosed a "speech problem." We obtained therapy. A pediatrician thought Terry was being "teased too much by his siblings" and told us to "rearrange his environment." We did. Terry didn't change.

Later a county health-department pediatrician correctly diagnosed a lack of "mental co-ordination." She had Terry close his eyes. With her finger she drew a circle in his palm, then on his back, and asked him to reproduce the figure on paper. He drew a straight line for the circle—and for triangles, rectangles, and squares too. It seemed significant.

She referred us to other county health-department physicians, including another pediatrician and a psychiatrist, who concluded there was little to fret about. Terry was probably hyperactive, they said, and they prescribed medication.

Terry hated the pills. So did his mother, who remembers, "They stole his enthusiasm and replaced it with melancholy." When Terry was off the medication he was charming, bubbly. Determined about most things, he doggedly pursued sports, rapidly teaching himself to swim. He began to excel in small-fry football.

He was "compensating," as SLD youngsters must learn to do. But school brought frustration. We worried about his progress. My wife worked endlessly with Terry. She sat word-recognition cards around the kitchen for him to practice on. She and our other children coached him, making songs of assigned spelling words. They sang, and spelled, and sighed. In the fourth grade Terry didn't pass a single spelling test. Yet he scored high in math.

Finally a psychiatrist friend recognized the symptoms and recommended the route most parents of SLD children must take: from neurologist (or possibly pediatrician) to psychologist to one of the few private or university-connected center that test, evaluate, and recommend individual courses of SLD educational therapy.

LONG WAITS, HIGH FEES

The university centers' waiting lists are usually discouraging long, the fees at private facilities high. A single day's testing may cost $200—and sometimes more testing is required.

The neurologist confirmed Terry's brain damage, speculating it may have resulted from the anesthetic Terry's mother received during an appendectomy in her seventh month of pregnancy. Terry was born prematurely three weeks later.

There are many unconfirmed but suspected causes of SLD: heredity, virus illnesses during pregnancy, vitamin deficiencies, lack of oxygen during birth, encephalitis, meningitis, head injuries, even pneumonia and other respiratory diseases.

The psychologist who tested Terry stressed to us the "great virtues Terry would use to minimize his problem. He's a charmer," she said, "so he's got sociability going for him, plus real determination to do things that thwart him, and an unusual ability to build on his strengths."

After more testing the Kingsbury Center in Washington, D.C., gave us the other side of the diagnosis: Terry was "handicapped by multiple learning disabilities. . . . It was difficult to find any strong and consistent channel for learning." He had sight- and sound-discrimination problems. The center recommended, among other things, a "multisensory [teaching] approach, co-ordinating seeing, hearing, and feeling."

FEW TEACHERS CAN HELP

Thus we had diagnosis and possible cure. Cruelly, that's where it ends for most SLD children and their parents. Few public schoolteachers are trained to instruct disabled learners. Tuition at private SLD schools runs $3,000 to $5,000 a year. Competent tutors from those schools charge $1 to $20 per hour.

"There are only small islands of help here and there," attests Mrs. Martha Bernard of the Association for Children with Learning Disabilities. We found such an island, but not without wading to it through red tape and around harassed placement officials. But that's typical. Our success was atypical. Fewer than 1 per cent of those known to need special learning instruction get it from the nation's public schools.

Terry has been lucky. Lucky to have been diagnosed. Lucky that we have nearby a public school with the proper facilities and staff for teaching SLD youngsters.

HOW ONE TEACHER SUCCEEDS

SLD instructors can't teach successfully using normal techniques; they need extraordinary creativity. The University of Cincinnati's Dr. Richardson says they also must be psychologically "sensitive," buoying egos and teaching beaten-down youngsters what it's like to succeed.

How do they do it? Terry's new teacher, Mrs. Frieda Lacey, begs unused but specially "voided" checkbooks from a local bank. Her students use the checks to "pay" fictional apartment rentals, grocery bills, car payments, and the like from "checking accounts" fed by make-believe "salaries" earned by going to school. Maintaining the prized checkbooks involves reading, writing, spelling, organization, math, and fun. For the youngsters tell and write about the fantasy lives their "salaries" finance. They also learn some economic realities of adult life by dealing with them vicariously.

Mrs. Lacey's students use plastic-label makers to punch out spelling words. They learn sound discrimination, spelling, and reading by listening and writing out the hard-to-hear lyrics of popular rock records.

The whole class celebrates when a child

scores 100 per cent on a spelling test. Mrs. Lacey herself pays for the ice cream—and for the treats she trades for the "points" the children earn by answering correctly.

At the end of the first day at "his" new school, Terry rejoiced: "This is the first day I ever went to school that I wasn't yelled at." A few weeks ago he announced: "It's gonna be fun, Mom. Football comin', and a good school to go to."

Mrs. Lacey insists that Terry will be one of the 80 per cent of treated SLD victims to do well academically. She says "He'll go to college, if he wants to. You'll see. He *can* do it."

Knowing Terry, he *will* do it.

SENATOR RANDOLPH REPORTS THAT LABOR DEPARTMENT FINDS 15,000 AMERICAN WORKERS WHO ARE AGE DISCRIMINATION VICTIMS

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on Employment and Retirement Incomes of the Senate Special Committee on Aging, I call attention to a report by the U.S. Department of Labor which found almost 15,000 American workers to be the victims of age discrimination in fiscal 1973.

More than 2,800 business and manufacturing establishments were determined to be in violation of one or more of the provisions of the Age Discrimination in Employment Act—ADEA.

One of the most prevalent violations was the use of discriminatory help-wanted advertising by employers, employment agencies, and unions. This indicates that much more must be done to publicize and enforce ADEA if employers are still blatantly announcing to the world that older workers are not wanted. And nothing can be more disheartening to older persons trying to secure employment than to see these discriminatory ads proclaiming "only the young need apply."

These and other unfair and illegal practices must be stopped. The Labor Department states that enforcement of ADEA has top priority and I urge the Department to step up its enforcement actions and devote additional resources to its commitment to the older worker.

In addition, the ADEA must be strengthened at the earliest date. Millions of workers are unprotected by its provisions. This serves to weaken enforcement and educational efforts.

I ask unanimous consent that the Labor Department statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Labor Department Finds 15,000 Age Discrimination Victims

Almost 15,000 American workers, aged 40 to 65, were found by the U.S. Department of Labor to be victims of illegal age discrimination during Fiscal Year 1973.

The employees were working or looking for work in more than 2,800 establishments found violating one or more provisions of the Age Discrimination in Employment Act (ADEA).

Enforced by the Department's Wage and Hour Division, the ADEA protects workers aged 40 to 65 from arbitrary age discrimination in hiring, firing, job referral, and the granting of fringe benefits or other terms and conditions of employment. It specifically prohibits placement of help-wanted advertisements containing words or phrases that imply older workers will not be considered for job vacancies.

Among the violators were 1,836 employers, employment agencies and unions known to have placed discriminatory help-wanted advertising; 957 found refusing to hire 40 to 65-year olds; 181 known to have fired them; and 149 which denied them promotions, leave pay or other job benefits—all because of age.

In addition, 1,031 workers were found to be owed $1,866,226, because of lost working time or other damages resulting from age discrimination.

Wage-Hour was able to correct many of the violations by persuading the employers, employment agencies or unions to comply voluntarily. This method resulted in agreements to restore $662,324 to 304 employees without formal legal action.

Bernard E. DeLury, Assistant Secretary of Labor for Employment Standards, said age discrimination law enforcement is among the Labor Department's highest priorities.

"Every year, many of our Nation's most capable and experienced workers are disadvantaged in employment because they have passed age 39. This is not only a violation of their basic rights, but also a waste of valuable resources," DeLury said.

He noted that most of the establishments found practicing age discrimination were in the retail, service and manufacturing industries.

"Until the incidence of age discrimination disappears in all industries, our enforcement efforts will continue to be a top priority," DeLury said.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

COMPENSATION OF THE ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2673 which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 526, S. 2673, a bill to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from West Virginia (Mr. Robert C. Byrd) the control of the time which had been allocated to me.

Mr. McGEE. Mr. President, the ranking minority member of the committee has agreed to manage the time on the bill. The bill has been reported by the Post Office and Civil Service Committee. It was designed to remove a legislative and technical obstacle that would appear to stand in the way of the confirmation of the nomination of Mr. Saxbe for the office of Attorney General.

We have sought to remove that obstacle both in regard to the precedent in the Knox case in 1909 and with regard to the filling of the office of Attorney General at the present time.

We have made it clear that our action is not one that takes final action on Senator Saxbe's impending nomination. That is the prerogative of the Judiciary Committee. We are only addressing ourselves in this legislation to a technicality.

Mr. President, on November 5, the Acting Attorney General of the United States sent a letter to the President pro tempore of the U.S. Senate requesting that legislation be enacted in the Senate clearing the way for the nomination of Senator Saxbe as Attorney General of the United States. I ask that a copy of that letter be inserted in the Record at this point in my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Attorney General,
Washington, D.C., November 5, 1973.

President Pro Tempore,
U.S. Senate,
Washington, D.C.

Dear Mr. President Pro Tempore: Enclosed for your consideration and appropriate reference is a legislative proposal to provide that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

Article I, Section 6, Clause 2 of the Constitution provides: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States shall be a Member of either House during his Continuance in Office."

When Senator William B. Saxbe of Ohio began his term of service in the United States Senate on January 3, 1969, the salary for the Office of Attorney General was established by P.L. 89–554 (80 Stat. 460, September 6, 1966) at $35,000. On January 15, 1969, the President transmitted to the Congress pursuant to P.L. 90–206 (81 Stat. 642, December 16, 1967) a recommendation increasing the annual salary for the Office of Attorney General to $60,000.

The accompanying legislation is designed to remove the question concerning the impact of Article I, Section 6, Clause 2 on the President's nomination of Senator William B. Saxbe to be Attorney General of the United States.

I urge prompt consideration and enactment of this legislation.

The Office of Management and Budget has advised that enactment of this proposal is in accord with the Program of the President.

Sincerely,

Robert H. Bork,
Acting Attorney General.

Mr. McGEE. Mr. President, the spur for the administration's request was that article I, section 6, clause 2, of the U.S. Constitution did not allow Senator Saxbe's nomination, much less appointment, for the Office of Attorney General. Article 1, section 6, clause 2, of the Constitution provides:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his continuance in Office.

They reasoned: On January 3, 1969, when Senator SAXBE began "the Time for which he was elected," the salary of the Office of Attorney General was $35,000 a year. Later in 1969 under Public Law 90–206, the salary of the Office of Attorney General was increased to $60,000 a year.

So the administration requested that legislation reducing the salary of the Attorney General to its January 3, 1969, level—$35,000 a year—be introduced as a way of removing what may be a constitutional cloud. Without presuming to settle any deeper constitutional questions of whether Senator SAXBE can become Attorney General of the United States with or without this legislation, I introduced, along with Senator FONG, the administration's bill, which became known as S. 2673.

It was our conviction that the reduction of the Attorney General's salary to the pre-1969 level answered the prohibition in article I, section 6, clause 2, of the Constitution, which in effect keeps Members of Congress from feathering their own nests by voting to increase an executive-level salary and later capturing the job for which they increased the emoluments. The members of the Committee on Post Office and Civil Service later agreed in executive session on November 13, 1973, by unanimously reporting out S. 2673.

On November 8, President Nixon wrote to me as chairman of the Senate Committee on Post Office and Civil Service announcing his intention to nominate Senator WILLIAM B. SAXBE of Ohio to be Attorney General of the United States immediately upon enactment of remedial legislation that would eliminate a constitutional impediment to Senator SAXBE's appointment.

I ask that a copy of the President's letter be inserted into the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., November 8, 1973.

Hon. GALE W. MCGEE,
Chairman, Committee on Post Office and Cvil Service, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to inform you of my intention to nominate Senator William B. Saxbe of Ohio to be Attorney General of the United States, immediately upon enactment of remedial legislation that would eliminate a Constitutional impediment to Senator Saxbe's appointment.

Without this legislation, doubt would exist concerning Senator Saxbe's eligibility because Article I, section 6, clause 2 of the Constitution provides:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; * * *."

During Senator Saxbe's term of service in the United States Senate the annual salary of the Office of Attorney General was increased from $35,000 to $60,000.

On November 5, 1973, Acting Attorney General Robert H. Bork submitted legislation which would remove the Constitutional impediment to Senator Saxbe's appointment by reducing the compensation and other emoluments attached to the Office of Attorney General to those in effect before Senator Saxbe began his Senate term.

This solution has historical support. In 1909, similar legislation was enacted at the request of President Taft to reduce the salary of the Office of the Secretary of State so that Senator Philander C. Knox would be eligible for appointment, the compensation and other emoluments of that Office having been increased during the Senate term which Knox was then serving. After enactment of remedial legislation, Senator Knox was nominated, and confirmed by the Senate.

Constitutional precedents beginning with President Washington indicate that the nomination of an individual not then eligible may be improper and that any subsequent appointment based on such nomination might be null and void.

On February 28, 1793, President Washington withdrew the nomination of William Patterson of New Jersey to be Associate Justice of the Supreme Court on the ground that Mr. Patterson "was a member of the Senate when the law creating that Office was passed, and that the time for which he was elected is not yet expired. I think it my duty therefore, to decree that I deem the nomination to have been nulled by the Constitution."

This position has been consistently followed by the Attorney General of the United States in opinions in 1883 by Attorney General Brewster and in 1895 by Acting Attorney General Conrad.

I strongly urge that corrective legislation be enacted as soon as possible. I will submit the nomination of Senator Saxbe immediately upon passage of such legislation so that the Senate may proceed with the confirmation process.

Sincerely,

RICHARD NIXON.

Mr. McGEE. Mr. President, on the morning of November 13, the Senate Committee on Post Office and Civil Service convened to hear the Acting Attorney General of the United States, Robert H. Bork, on the merits of S. 2673. Throughout the hearing, the committee was careful to limit itself to a consideration of the legislation before them and to avoid seeking resolution of complex constitutional issues. The Committee on Post Office an Civil Service cannot and ought not, as a Senate Standing Committee concerned with Post Office and Civil Service matters, make complex constitutional decisions.

Incidentally, during the hearing, the question of emoluments and its meaning was raised. The Acting Attorney General stated that he would respond to the question fully in writing before the day was out. His letter to the committee was received on the same day, and I ask that a copy of the letter be inserted at this point in my remarks.

Upon completion of the hearings, the committee adjourned and immediately went into executive session to consider S. 2673. The committee unanimously adopted S. 2673 and it was reported to the Senate floor. Once again, the committee's report made clear that—

> The committee was initially reluctant to involve itself in Senate procedures involving the appointment of an Attorney General of the United States, because, very clearly, recommendations to the Senate with regard to its advice and consent on this appointment fall within the purview of the Senate Judiciary Committee and no other.

The committee based its action on a number of precedents.

President Washington, on February 27, 1793, nominated William Patterson of New Jersey to be an Associate Justice of the Supreme Court, a post created by the Judiciary Act of 1789. Patterson had been a Senator from New Jersey in the First Congress, assigned a 4-year term expiring on March 4, 1793, but he had resigned from the Senate in 1790. The nomination thus occurred 5 days before the expiration of the Senatorial term for which Patterson originally had been elected, and also 5 days prior to the expiration of President Washington's first term. The following day President Washington withdrew the nomination on the ground that Patterson—

> Was a Member of the Senate when the law creating that office was passed, and that the time for which he was elected is not yet expired. I think it my duty, therefore, to decree that I deem the nomination to have been nulled by the Constitution.

After being inaugurated for his second term on March 4, 1793, President Washington resubmitted the nomination, and it was confirmed the same day.

Further, we have an opinion by Attorney General Benjamin Harris Brewster in 1883 in which he concluded that the nomination was a first step toward appointment and could not properly be made in the face of the constitutional cloud. I would like to have Attorney General Brewster's opinion inserted into the RECORD at this point, together with the covering letter from Mr. Bork.

There being no objection, the letter and opinion were ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., November 13, 1973.

Hon. GALE W. MCGEE,
Chairman, Post Office and Civil Service Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGEE: In the course of my testimony this morning, I promised to respond by letter to a question raised by Senator Stevens as to the meaning of the term "emolument" as used in Article I, Section 6, Clause 2, of the Constitution. Before discussing the scope of the definition of "emolument," I wish to state my agreement with the members of the Committee that the bill under consideration (S. 2673) effectively reduces the emoluments of the Office of the Attorney General, however defined.

The Constitution, of course, does not define "emolument." The debates of the Constitutional Convention suggest that the Framers were primarily concerned with increases of salaries. See I Farrand pp. 386–390. However, it is clear that in adopting Article I, Section 6, Clause 2, the Framers sought to prevent corruption in the appointment to civil office by removing any inducement which might affect the vote of a Senator or Representative. Therefore, a fair reading of Article I, Section 6, Clause 2, requires that the term "emolument" be given a broader meaning than merely an increase in salary.

There are no federal decisions defining "emolument" in the context of Article I, Section 6, Clause 2, although there are two decisions defining the term as used in federal statutes. In *Hoyt* v. *United States*, 10 How. 108 (1850), the government sought to recover amounts due from a Collector of the Port of New York under a statute which provided that if annual emoluments less expenses exceeded $5,000, the balance was to be accounted for by the Collector. The defendant argued that the term "emoluments" did not encompass certain fees received by him. The Court responded that the term "emolument" is "comprehensive . . . embracing every species of compensation or pecuniary profit derived from a discharge of the duties of the office." 10 How. at 135. To the same effect is *McClean* v. *United States,* 226 U.S. 374 (1912).

The element of pecuniary profit is central to the concept of "emolument" and "everything that makes an office more attractive" does not necessarily constitute an emolument. Several state supreme courts have so held in interpreting state constitutional provisions similar to Article I, Section 6, Clause 2. *See, e.g., State ex rel. Todd* v. *Reeves,* 196 Wash. 145, 82 P. 2d 173 (1938); *State ex rel. Lyons* v. *Guy,* 107 N.W. 2d 211 (N.D. 1961); *Bulgo* v. *County of Maui,* 50 Hawaii 51, 430 P. 2d 237 (1967).

Aside from the increase in salary to which S. 2673 is addressed, I know of no legislation enacted since January 3, 1969, which increased the emoluments of the Office of the Attorney General. Should such legislation subsequently be found to exist, any emolument so increased would be reduced to January 1, 1969, levels by S. 2673. As to Senator Steven's specific inquiry concerning increased per diem allowances, it is my view that such allowances do not constitute an emolument since they are in the nature of reimbursement for funds expended in the performance of official duties. This analysis is supported by the fact that such allowances are not included in the gross income of recipients under the Internal Revenue Code.

I wish to take this opportunity to clarify the record concerning a question asked by Senator Fong. It appears that Senator Knox, who was appointed Secretary of State by President Taft after legislation reducing the salary of the office from $12,000 to $8,000 was enacted, did receive an increased salary after the time of his Senate term expired. Senator Knox's term expired in 1911 and the 1912 Appropriation Act appropriated $12,000 (36 Stat. 1686) for the salary of the Secretary of State. The increased appropriation continued even though the salary reduction act remained in effect until 1925.

Finally, please find enclosed for inclusion in the record a copy of the opinion of Attorney General Benjamin Harris Brewster stating that nomination of a person then ineligible for appointment is void.

Very truly yours,

ROBERT H. BORK,
Acting Attorney General.

APPOINTMENT TO CIVIL OFFICE

Semble that the *nomination* and *confirmation* of a person who, at the time, is ineligible for the office by force of section 6, article 1 of the Constitution, can not be made the basis of his *appointment* to such office after his ineligibility ceases.

DEPARTMENT OF JUSTICE,
February 21, 1883.

SIR: Section 6, article 1 of the Constitution declares that "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time."

By the terms of this provision a Senator or Representative, in the case there mentioned, is made ineligible for *appointment* to the office during the time for which he was elected. Does it not impliedly render him also ineligible for *nomination* and *confirmation* thereto—these acts being necessary and incipient steps to an appointment? Can the President appoint a person to an office which, at the time of his nomination and confirmation, he was disqualified to fill? It is submitted that section 2, article 2 of the Constitution, which provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint," etc., contemplates that only such persons as are qualified to hold office shall be nominated, as well as appointed. Agreeably to this view, the nomination and confirmation of an ineligible person must be treated as *null,* and not as acts upon which an appointment of the person may be afterwards made when his disqualification ceases.

I have the honor to be, with great respect,

BENJAMIN HARRIS BREWSTER.

The PRESIDENT.

Mr. McGEE. Mr. President, in 1876, Senator Lot M. Morrill was appointed to serve as Secretary of the Treasury after having been elected to the Senate in 1871. Cabinet officers' salaries had been raised in 1873 from $8,000 to $10,000 and returned to $8,000 in 1874. And so, Senator Morrill's nomination was confirmed by the Senate.

In another case in 1909, a measure with the same purpose as the bill before us, S. 2673, was passed by the Congress in order to permit the nomination of Senator Philander Knox to be Secretary of State. Senator Knox had been elected in 1905 for a term expiring on March 3, 1911. In 1907, the compensation of the Secretary of State had been increased from $8,000 to $12,000. An unofficial opinion of Assistant Attorney General Russell commenting on the bill which reduced the compensation of the Secretary of State to $8,000 states that the purpose of the constitutional provision was "to destroy the expectation a Representative or Senator might have that he would enjoy the newly created office or newly created emoluments." After passage of the remedial legislation, Senator Knox was nominated and confirmed as Secretary of State.

The historical precedent for the committee's affirmative action on S. 2673 was well capsulized in a Washington Star-News editorial on November 27, 1973. I ask that the editorial be inserted in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE SAXBE NOMINATION

It is clear that the framers of the Constitution intended only to prevent members of Congress from deliberately cashing in on their votes when they put in a restriction against senators and representatives serving in any federal civil office after having voted to raise the salary for that office.

It would seem, therefore, that legislation rolling back the salary for the office of attorney general would be sufficient to clear the way for confirmation of Senator Saxbe of Ohio to head the Department of Justice.

During the first year of Saxbe's Senate term, he voted in 1969 for legislation that raised the salary of cabinet officers from $35,000 to $60,000. According to those who question his nomination, that makes him ineligible to serve as attorney general because of a prohibition in Article 1, Section 6 of the Constitution, which says that no member of Congress shall be appointed to any civil office for which the "emolument . . . shall have been increased" during his term in the Congress.

The Nixon administration has proposed to clear the way for Saxbe's confirmation by cutting the attorney general's salary back to $35,000. But critics claim this is not enough to overcome the Constitutional barrier.

There is a precedent for this, however. It was done in 1909 so that Senator Philander Chase Knox could be confirmed as Secretary of State. In 1876, the Senate confirmed Senator Lot M. Morill as secretary of Treasury even though cabinet salaries were increased in 1873 while he was in the Senate. And Senator Hugo L. Black was named to the Supreme Court in 1937 although he had voted to increase the retirement benefits of Supreme Court justices, which certainly seems to fall into the "emolument" category.

In the present Watergate atmosphere, it is not unusual that nitpickers have been going over the Saxbe nomination looking for flaws and threatening to challenge the nomination in the courts if he is confirmed. It has become the style these days to question every move and motive of the Nixon administration.

It should be obvious to anyone that Saxbe did not vote for the pay increase for cabinet officers because he expected some day to become one. Given his strong criticism of several Nixon policies, it was a sure bet until Watergate came along that he would never be asked to serve in the cabinet. We believe that cutting the salary back to $35,000 while Saxbe serves as attorney general sufficiently cures whatever constitutional defect the nomination may have had.

Mr. McGEE. Mr. President, in summary then, Mr. President, the Senate Committee on Post Office and Civil Service acted favorably upon the legislation before it for three reasons:

First. To make sure that the increase in the pay of the Attorney General did not accrue to Senator SAXBE because his time in office was also a time when the pay of the Attorney General was increased to $60,000, even though Senator SAXBE was not a Senator of the United States when the Senate voted on the pay increase for the Attorney General.

Second. Because of the precedents cited in the cases of President Washington in 1793, the case of Lot M. Morrill in 1876, the case of Senator Philander Knox in 1909, the opinion of Attorney General Brewster concerning the nomination confirmation, and appointment procedure for high office.

Third. The bill before us is straightforward legislation. There is nothing unconstitutional in reducing the Attorney General's pay. The matter of compensation is well within the Post Office and Civil Service Committee's jurisdiction. Broad constitutional issues concerning Senator SAXBE's confirmation must properly be considered by the Judiciary Committee and later in the heads and hearts of the Senate's 100 Senators.

Mr. President, the Senator from Hawaii (Mr. FONG) will be managing the time of the opponents.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. FONG. Mr. President, I yield myself such time as I may require.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, I ask unanimous consent that Mr. Clyde Du Pont and Mrs. Dorothy Parker be allowed to remain on the floor during the debate on the pending bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Tom Hart, a member of the Judiciary Committee staff, may be given the privilege of the floor during the debate but not during the rollcall votes on the pending bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FONG. Mr. President, I thank the Senator for his very fine remarks. His suggestions are well put.

Senator Saxbe did vote on the resolution. He disapproved the resolution along with the majority of the Senators. Even if the resolution had not come up and no resolution was required to be voted on the increase would have occurred during his Senate term.

Mr. GRIFFIN. The Senator might recall in that particular situation that the House did not vote. There was no resolution of disapproval in the House. And there was no vote in the House. Presumably, a House Member would be disqualified under this constitutional provision for a period of 2 years, whereas a Senator would be disqualified for a period of 6 years.

Mr. FONG. Mr. President, if Senator Saxbe had not voted on the disapproval resolution, there might be a very fine question as to whether he could get the raise in salary. But since the intent of the framers of the Constitution was to prevent a legislator from increasing the salary of the office to which he would be appointed, I would say that Senator Saxbe would be doubtful if Senator Saxbe would be able to take the office with the added emoluments.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Charles Bruce, a member of the staff of the Committee on the Judiciary, be allowed the privilege of the floor during the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, S. 2673 is a very simple bill. It merely sets the compensation and emoluments of the Office of Attorney General at that which existed on January 1, 1969. The proposed nomination of our colleague, Senator William Saxbe, to the office of Attorney General has raised the question of the eligibility of a Member of Congress for appointment to a high executive office when the emoluments of that office have been increased during the term of the Member.

Senator Saxbe was elected a Senator from the State of Ohio. He took his oath January 4, 1969, and commenced his term of office. Prior thereto, Public Law 90-206, effective December 16, 1967, had been enacted. That bill set up a Commission on Executive, Legislative, and Judicial Salaries. The Commission, at 4-year intervals, recommends rates of pay for such officials. The President then sets forth his recommendations in the next budget he submits to Congress. These recommendations become effective 30 days after transmittal of the budget, unless other rates are fixed by law or either House disapproves all or part of the President's recommendations.

The President transmitted to Congress on January 15, 1969, recommendations which included the increase of the salary of the Attorney General from $35,000 to $60,000 a year. On February 4, 1969, the Senate defeated Senate Resolution No. 82, which would have disapproved the Presidential recommendation. Senator Saxbe voted with the majority.

The pay raise, including that of the Attorney General, became effective shortly thereafter.

This is the increased emolument now making Senator Saxbe ineligible for appointment to the Office of Attorney General.

S. 2673 is designed to reduce the emolument of the Office of Attorney General to what it was at the time Senator Saxbe took office as Senator in 1969 and thus remove his ineligibility for appointment to that office.

CONSTITUTION—ARTICLE I, SECTION 6, CLAUSE 2

Article I, section 6, clause 2 of the Constitution, as we are all aware, states:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any office under the United States, shall be a Member of either House during his Continuance in Office.

Let us examine the instances in which this clause has come into play.

1. APPOINTMENT TO NEWLY CREATED OFFICE

First, as to newly created offices:

Senator Paterson had been elected Senator from New Jersey for a 4-year term in 1789. In November 1790, he resigned to become Governor of New Jersey. In 1793, President Washington sent up his nomination to the newly created office of Associate Justice of the Supreme Court. When this section of the Constitution was called to President Washington's attention, he withdrew the nomination on February 28, 1793. Senator, or then Governor, Paterson was not deemed eligible for this newly created office until the term for which he was elected to the Senate expired on March 4, 1793.

Second, similar in result is the case of Senator Kirkwood who had been elected a Senator from Iowa for a term expiring March 4, 1883. Senator Kirkwood had resigned from the Senate in 1881 to become Secretary of Interior. Later in 1881, Senator Kirkwood resigned as Secretary of Interior and returned to private life. In 1882 and after his second resignation, the position of Tariff Commissioner was created. It was the opinion of Attorney General A. G. Brewster, 17 Op. Atty. Gen. 365 (1882), that Senator Kirkwood was ineligible for the newly "created" office of Tariff Commissioner until the term for which he had been elected to Congress expired on March 4, 1883.

Insofar as newly created offices are concerned, the consistent practice appears to have been to hold that a person is not eligible to hold such office until after the term for which he has been elected to Congress has expired—whether or not the individual occupied the congressional office at the time of his proposed nomination to any newly created "civil office under the authority of the United States".

2. APPOINTMENT TO OFFICE WHERE EMOLUMENT INCREASED

The relevant portion of the clause where an emolument has been increased states:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States . . . the Emoluments whereof shall have been encreased during such time; . . .

What has been permissible under this portion of this clause?

First, in 1871, Senator Morrill became the Senator from the State of Maine. In 1873, all cabinet officers were given a raise in salary from $8,000 to $10,000 a year. Under the Retrenchment Act, in 1874 the salary of all cabinet officers was returned to $8,000. In 1876 and "during the time for which he was elected," Senator Morrill's nomination to be Secretary of the Treasury was confirmed by the Senate. The proceedings, I understand, took about 6 minutes and there was no challenge to Senator Morrill's eligibility to serve as Secretary of the Treasury.

It should be pointed out that although the emolument of the office to which he was appointed had been increased, then decreased and that thereafter his confirmation took place "during the time for which he was elected," the emolument of the "civil office under the authority of the United States" to which he was appointed was, at the time of his appointment, not "encreased" over what it had been at the time he was elected.

Second, Senator Ransom of North Carolina was elected for a term to begin March 4, 1889, and took his seat in the Senate. In 1891, the salary of the Ambassador to Mexico was increased. On February 23, 1895, during his term of office and at a time when the salary of the Ambassador to Mexico was at the increased rate, Senator Ransom was nominated to be Ambassador to Mexico. He was confirmed the same day. On March 4, 1895, Senator Ransom took his oath of office to be Ambassador and received his commission on March 5, 1895—after "the time for which he was elected" had expired. The State Department auditor refused to pay his salary because of the "appointment"—that is the confirmation—having taken place on February 23, 1895, during Senator Ransom's senatorial term. It was the opinion of Acting Attorney General Conrad, 21 Op. Atty. Gen. 211 (1895) that Senator Ransom's appointment having taken place on February 23, 1895, during his senatorial term, it was a nullity and was not saved by his taking the oath or being issued his commission subsequent to "the time for which he was elected."

But, let us not forget that at the time of his appointment, the emolument of the office to which he was appointed was at the increased rate and not at the emolument at "the time for which he was elected."

Third, in 1904, Senator Knox was elected Senator from the State of Pennsylvania for a term ending March 1911. In 1907 the compensation of the Secretary of State had been increased from

$8,000 to $12,000 a year. In 1909, President Taft announced that he intended to appoint Senator Knox as Secretary of State. As the situation then stood, Senator Knox was ineligible for appointment as the emolument of the office to which he was to be appointed was at a rate in excess of what it had been at the time he was elected, having "been encreased during such time" of his office.

Remedial legislation, similar to S. 2673, the bill now under consideration, which Senator McGee and I introduced on November 9, 1973, was introduced to reduce the salary in question to what it had been when Senator Knox' term commenced and before the increase in emolument was approved. The constitutionality of the 1909 action was vigorously debated.

Robert G. Dixon, Jr., Assistant Attorney General, testified on November 19, 1973, before the Senate Judiciary Committee, of which committee I am a member, in support of S. 2763. Apropos of the Justice Department's position as to the legality of the 1909 bill, Mr. Dixon stated at page 11 of his statement before the Judiciary Committee:

> An unofficial opinion of Assistant Attorney General Russell (commenting on the bill reducing the Secretary of State's compensation to $8,000) reasoned that because the sole purpose of the prohibition was to destroy the expectation a Representative or Senator might have that he would enjoy the newly increased emolument, that purpose would be fully satisfied. He argued that, "if the increase is made . . . and then unmade, he cannot get, or hope for, anything more than if there had been no such increase." 43 Cong. Rec. 2403. This reasoning prevailed.

The bill passed the Senate without debate. After heated debate in the House, the bill passed by a vote of 178–123. The law became effective on March 4, 1909, 35 Stat. 626.

Thereafter, Senator Knox was nominated to the office of Secretary of State, at the reduced salary existent at the time he was elected to the Senate; was confirmed by the Senate; and served as Secretary of State.

Fourth, there is only one other situation of which I am aware involving article I, section 6, clause 2. That involved the appointment of Senator Black of Alabama to the Supreme Court in 1937, shortly after Congress had improved the annuity benefits available to Justices retiring after the age of 70. Mr. Black had been elected to the Senate in 1932.

An attempt to test the validity of his appointment to be an Associate Justice gave rise to the case of Ex parte Albert Levitt, 302 U.S. 633 (1937), an action brought originally in the Supreme Court of the United States. The argument in support of Mr. Black's eligibility to be an Associate Justice of the Supreme Court was based on the fact that he was only 51 years old at the time. He would be ineligible for the increased emolument for 19 years. Hence, it was argued that it was not "as to him" an increased emolument. The Supreme Court rejected the petition because the petitioner lacked standing.

Mr. Justice Black served on the Supreme Court with great distinction for a period in excess of 34 years—his "retirement" came only about a week before his death in 1971 at the age of 85—after several increases in annuity benefits by laws subsequent to "the Time for which he was elected" to the Senate.

What do the Morrill, Ransom, Knox, and perhaps Black appointments to civil offices after an increase in the emoluments of the civil office during their respective terms as Senators delineate as a pattern for us?

When at the time of appointment, the emolument was at the rate to which it had been increased during the appointee's term of office, such as in the case of Senator Ransom, the appointment was deemed a nullity.

When at the time of appointment, the emolument was at the same rate at which it had been at the time the appointee began his term of office, whether returned to the original rate by general legislation as in the case of Senator Morrill, or returned to the original rate by special remedial legislation, as in the case of Senator Knox—or as proposed to be done by S. 2673 for Senator Saxbe—the appointee has been confirmed by the Senate and served at the original emolument during the time for which he had been elected to office.

In the case of Senator or Mr. Justice Black, all we can deduce is that the person who brought the case to test Mr. Justice Black's eligibility to the appointment because of the increase in retirement pay applicable at the time of his appointment to the Supreme Court lacked standing to bring the action.

3. APPOINTMENT TO OFFICE WHILE SERVING IN CONGRESS

Interesting interpretations of the balance of this portion of article I, section 6, clause 2 of the Constitution providing: ". . . no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office," also may be gleaned from legislative precedents.

1 Hinds' Precedents of the House of Representatives, § 493 (1907) and Cannon's Precedents of the House of Representatives, § 63, § 64 (1936) make it clear that visitors to academies, regents, directors and trustees of public institutions, and members of temporary commissions who receive no compensation as such are not officers within this constitutional inhibition.

Government contractors and Federal officers who resign before presenting their credentials may be seated as Members of Congress under 1 Hinds' Precedents of the House of Representatives §§ 496–499 (1907).

Apparently, where no financial benefit enures to a Member of Congress from his service de hors the Congress, that service is permissible.

CONSTITUTIONAL CONSTRUCTION AND PRECEDENT

These are our "precedents."

Concededly, under the rationale of *Powell* v. *McCormack*, 395 U.S. 486, 546–547 (1969):

> That an unconstitutional action has been taken before . . . does not render that same action any less unconditional at a later date.

The Powell case involved the right of the House to exclude Congressman Powell from taking his seat in the House even though he met the requirements of article I, section 2, clause 2 of the Constitution—that is, he was over 25 years of age, had been a citizen for over 7 years and when elected had been an inhabitant of New York, the State in which he was chosen.

Under article I, section 5, clause 2 giving each House the right to "punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member," he might have been expelled for his behavior, but the Court found that he could not be excluded for his behavior.

After reviewing various conflicting actions of Congress in excluding Members for other than the prescribed grounds, the Court stated, at p. 547:

> The relevancy of prior exclusion cases is limited largely to the insight they afford in correctly ascertaining the draftsmen's intent. Obviously, therefore, the precedential value of these cases tends to increase in proportion to their proximity to the Convention in 1787. See *Myers* v. *United States*, 272 U.S. 52, 175 (1926).

Our precedents for the bill before us, S. 2673, go back almost 100 years, to 1876 in the case of Senator Morrill and to 1909 in the case of Senator Knox.

In any event, as the Supreme Court stated in *Lake County* v. *Rollins*, 130 U.S. 662, 670 (1889) (a case involving an interpretation of a county debt ceiling limitation in a State constitution):

> The object of construction, applied to a constitution, is to give effect to the intent of its framers, and of the people in adopting it.

True, the opinion continued, at page 670:

> This intent is to be found in the instrument itself; and when the text of a constitutional provision is not ambiguous, the courts, in giving construction thereto, are not at liberty to search for its meaning beyond the instrument.

Nonetheless, we must remember that the Constitution does not have, nor should it have, the specificity of a statute.

As Chief Justice Marshall stated in *McCulloch* v. *Maryland*, 17 U.S. 316, 406 (1819):

> A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind . . . Its nature, therefore, requires, that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. . . [W]e must never forget that it is a *constitution* we are expounding.

And, Chief Justice Marshall continued, at p. 406:

> Can we adopt that construction (unless the words imperiously require it), which would impute to the framers of that instrument, when granting [these] powers for the public good, the intention of impeding their exercise, by withholding a choice of means?

INTENT OF FRAMERS OF THE CONSTITUTION AND MEANS AVAILABLE TO ACHIEVE INTENT

What was the intent of the framers of the Constitution when they drafted article 1, section 6, clause 2 and what are the means available to us in Congress to achieve this intent?

1. BACKGROUND

The evolution of this clause and the debates hereon are set forth in Farrand, "The Records of the Federal Convention of 1787," 4 vols., Yale University Press, 1966.

The Framers of the Constitution obviously sought to avoid the corruption of political life such as they had seen in the British Empire as a result of the appointment by the Crown of members of Parliament to lucrative offices.

Accordingly, they sought to provide protection from an unscrupulous executive who might use the enticement of public office to influence members of the legislature. And secondly, they sought to avoid legislators viewing their election to Congress as a stepping stone to lucrative public office and utilizing their positions in the legislature as a means of creating offices or increasing the compensation of the offices they sought.

There was opposition to total disqualification of legislators to hold any other than legislative office under the authority of the United States. It was the view of the delegates to the convention that the legislature would attract the best men in the Nation and it was unwise to make ineligible for public office the most able men in the Republic.

The original version of what became article I, section 6, clause 2 of the Constitution, made members of the Legislature of the United States ineligible for any but such office "during the term for which they are elected, and for one year thereafter." 2 Farrand 129–130.

The Committee on Detail reported out the provision and limited the 1 year thereafter disability only to Members of the Senate. 2 Farrand 180.

Final debate on the provision took place 1 month later in September, 1787. The result was the compromise, originally proposed by Madison in June of 1787—a limited disability on the eligibility of Members of Congress for executive office, et cetera "to such offices only as should be established, or the emoluments thereof, augmented by the Legislature of the United States during the time of their being Members."

Madison advocated not depriving the Government of the services of its legislators, but at the same time making the legislature "as uncorrupt as possible." Madison "supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, that if the door was shut agst. them, it might properly be left open for the appointt. of members to other offices as an encouragmt. to the Legislative service." (Notes on debates of June 22 and 23, 1787).

2. INTERPRETATION OF ARTICLE I, SECTION 6, CLAUSE 2 OF THE CONSTITUTION

With this background, we turn to how to interpret the Constitution.

As Chief Justice Burger, in *Walz* v. *Tax Commission,* 397 U.S. 664, 668 (1970), in interpreting the Establishment and Free Exercise Clauses of the First Amendment, stated:

> The sweep of the absolute prohibitions in the Religion Clauses may have been calculated; but the purpose was to state an objective, not to write a statute.

In the Walz case, the Court sustained a New York City Tax Commission grant of a property tax exemption to religious organizations for religious properties used solely for religious worship, despite what appears to be an absolute prohibition in the first amendment to the Constitution that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ."

So, at this time we are faced with the language in article I, section 6, clause 2 of the Constitution:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

This language too may seem absolute, but its "purpose was to state an objective, not to write a statute."

The purpose of this provision was to prevent Members of the Legislature from creating unnecessary offices or increasing emoluments or holding another office so that they could benefit therefrom during their term in office. The purpose of this provision was not to disqualify all Legislators from executive service during their term in office.

3. MEANS OF EFFECTUATING INTENT OF ARTICLE I, SECTION 6, CLAUSE 2 OF CONSTITUTION

William Van Alstyne, William R. Perkins, professor of law, Duke University and Assistant Attorney General Robert T. Dixon, Jr. when they testified before the Senate Judiciary Committee, in my opinion, correctly argued that enactment of S. 2673 would remove the disability presently existing to Senator SAXBE's appointment to the Office of Attorney General.

Professor Van Alstyne aptly pointed out in his testimony that when a new office is created by Congress and, prior to the appointment of anyone to fill it, Congress enacts a law discontinuing that office, no new office remains to be filled and the question of eligibility is moot. Absent the statute enacted during the appointee's term of office, there is no office to which he can be appointed. Hence, as in the Peterson and Kirkwood appointments to offices created during their respective terms, this type of appointment to a newly created office is barred by article I, section 6, clause 2.

But, turning to the situation where a statute increases the emolument of an office, a different situation exists. If the statute increasing the emolument is repealed or another statute enacted effectuating the return to the original salary of the office, the office still exists—but at the salary provided for at the time the Legislator sought to be appointed to office entered upon his legislative office. In other words, the status quo has been restored.

It is amply clear that a member of the legislature is not disqualified from an existing office—unless the office was created during his term which is inapplicable in the case of Senator SAXBE, or—unless "the emoluments—shall have been encreased—which is the present situation facing Senator SAXBE and which this bill seeks to correct.

Mr. Justice Story, in his "Commentaries on the Constitution," Vol. 1, p. 633, 5 ed. 1891, stated:

> The reason for excluding persons from offices who have been concerned in . . . increasing their emoluments (is) to take away, as far as possible, any improper bias in the vote of the representative.

Surely, a legislator cannot be deemed to have increased the emoluments of an office for his own benefit, which was the situation feared by the framers of the Constitution, if in order for him to be eligible for nomination and appointment to that office, the emolument of the office is reduced by statute to that existing at the time "the time for which he was elected" to the Senate or House commenced.

The evils of corruption feared by our Founding Fathers are clearly insured against under a provision such as in S. 2673, which reads:

> That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the salary recommendations for 1969 increases transmitted to the Congress on January 15, 1969.

Mr. Justice Goldberg in a concurring opinion in *Bell* v. *Maryland,* 378 U.S. 266, 288–289 (1964), as to constitutional construction, observed:

> Our sworn duty to construe the Constitution requires, however, that we read it to effectuate the intent and purposes of the Framers. We must, therefore, consider the history and circumstances indicating what the (provisions in question) were in fact designed to achieve.

The provision in question—that is article I, section 6, clause 2, insofar as the emolument provision is concerned, as I previously indicated, was intended mainly to prevent two evils:

First. To protect legislators from unscrupulous executives using the enticement of public office to influence the actions of the legislators, and

Second. To avoid legislators viewing their election to Congress as a stepping stone to lucrative public office and utilizing their positions in the legislature as a means of creating offices or increasing the compensation of the offices they seek.

This being so, clearly the intent was not to prevent able and qualified Members of Congress from taking civil office.

Surely, the action of this Congress in reducing the emolument of the office of Attorney General from $60,000 to $35,000 cannot be said to be corruptive of the Members of this Congress nor can it be said that Senator SAXBE used his $42,500 Senate office as a stepping stone to a $35,000 office of Attorney General.

The essence of this constitutional provision being to prevent corruption of or by our legislators, S. 2673 cannot be deemed corruptive of either this Congress or Senator SAXBE, who would be assuming a most difficult office at a particularly crucial time in our Nation's history, at considerable personal financial sacrifice, rather than benefit to himself.

4. EFFECT OF STATUTE REDUCING EMOLUMENT OF OFFICE

I now turn to what S. 2673 is intended to accomplish with regard to Public Law 90-206, the act under which increased executive, legislative, and judicial salaries became effective on December 16, 1967, and after Senator SAXBE assumed office, and what effect S. 2673 will have on the present ineligibility of Senator SAXBE to be confirmed to the office of Attorney General resulting from this increase in such salaries.

S. 2673 provides:

> That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the salary recommendations for 1969 increases transmitted to Congress on January 15, 1969. Sec. 2. This Act shall take effect upon enactment.

It is a caveat of statutory construction that the fact that an act does not contain a general or a specific repealing clause does not prevent it from repealing by implication the whole or a portion of a statute. *Heffron* v. *Bank of America National Trust & Savings Assoc.*, 113 F. 2d 239 (CA 9).

Whether S. 2673 or any other statute works as an implied repeal of an existing statute is a question of legislative intent. Our intent to repeal that portion of the January 15, 1969 recommendation for a salary increase under Public Law 90-206, insofar as the increase is applicable to the salary of the Attorney General is clear. It is the sole purpose of S. 2376.

The effect of this "repeal" can be analogized to that resulting from the repeal of a criminal statute. In the latter case, the extinction or repeal of the statute is understood to indicate that the sovereign power no longer desires the former crime to be punished or even regarded as criminal. The general rule at common law is that all proceedings pending are nullified.

Mr. President, I wish to read that paragraph again:

The effect of this "repeal" can be analogized to that resulting from the repeal of a criminal statute. In the later case, the extinction or repeal of the statute is understood to indicate that the sovereign power no longer desires the former crime to be punished or even regarded as criminal. The general rule at common law is that all proceedings pending are nullified.

When a criminal statute is repealed, 50 Am. Jur 570 indicates "it is as if it never existed except for the purpose of proceedings previously commenced, prosecuted, and concluded," citing *United States* v. *Tynen*, 11 Wall. (U.S.) 88; *Norris* v. *Crocker*, 13 How (U.S.) 429; *Yeaton* v. *United States*, 5 Cranch (U.S.) 281; and *United States* v. *Passmore* (CC) 4 Dall (U.S.) 372, among other cases.

Similarly, it can be argued that the effect of S. 2673 being to "repeal" the increase in the emolument of the Office of Attorney General, it renders that increase in emolument "as if it never existed." Therefore, upon S. 2673 taking effect, there would be no existence of an emolument which "shall have been increased during such time as Senator SAXBE was elected to be Senator."

Hence, there would be no ineligibility on the part of Senator SAXBE, after enactment of S. 2673, to be appointed to the Office of Attorney General, since the salary increase would be "as if it never existed."

5. S. 2673 WOULD REMOVE INELIGIBILITY OF SENATOR SAXBE

Since it is clear that the framers of the Constitution did not intend to disqualify members of the legislature from all civil office, it would fly in the face of the intent of article I, section 6, clause 2 to say that enactment of S. 2673 would not remove the only statutory ground disqualifying Senator SAXBE from assuming the office of Attorney General.

Knowing Senator SAXBE, I am sure we all agree that, as the framers of the Constitution foresaw, if we deprive the Nation of the services of a Member of Congress during his term, when disqualifying legislation no longer exists at the time of his appointment, we would be depriving the Nation of the services of one of the best men in the Nation for this position.

It would, indeed, now be unwise to fail to enact legislation making it possible for one of the most able men in the Republic to serve as Attorney General.

Since it is my belief that S. 2673 would be a constitutional removal of the disability presently existing to the eligibility of Senator SAXBE to the Office of Attorney General, it was my pleasure to cosponsor the bill with Senator MCGEE, at the request of the White House. This is a proper means to carry out a constitutional intent, as envisioned in 1819 in *McCulloch* v. *Maryland*, 17 U.S. 316.

CONSEQUENCES OF DE FACTO OFFICER'S ACTIONS

But assuming the most dire consequences predicted by my able colleagues who oppose this bill on the constitutional ground that the prohibition in article I, section 6, clause 2 is absolute and states:

> No Senator * * * shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States * * * the emoluments whereof shall have been increased during such time;.

What would be the consequences should S. 2673 be enacted and Senator SAXBE be appointed Attorney General?

Surely, the Office of Attorney General has de jure existence, that Office having been created by 1 Statutes at Large 73, enacted September 24, 1789. Senator SAXBE would have been eligible for appointment to that Office in accordance with existing law once S. 2673 is enacted.

Under the rationale of *Ryan* v. *Tinsley* 316 F. 2d 430, 432 (C.A. 10, 1963), at the worst, he would be a de facto holder of the Office and his "acts are as valid as the acts of de jure officers."

A de facto officer is one who is in possession of an office and discharging its functions under color of authority or title (43 Am. Jur. 230). One who enters possession of an office and exercises its functions even by reason of a defective appointment is also a de facto officer. *United States* v. *Royer* (268 U.S. 394 (1925)).

As to the validity of actions of a de facto officer (43 Am. Jur. 241-243), in pertinent part (with footnotes and case references therein omitted), reads:

> The general rule is that the acts of a de facto officer are valid as to third persons and the public until his title to office is adjudged insufficient, and such officer's authority may not be collaterally attacked or inquired into by third persons affected. The practical effect of the rule is that there is no difference between the acts of de facto and de jure officers so far as the public and third persons are concerned. The principle is placed on the high ground of public policy, and for the protection of those having official business to transact, and to prevent a failure of public justice.

In short, it appears that even if my colleagues' most dire predictions should befall us and our colleague Senator SAXBE be held ineligible by the Supreme Court to hold the Office of Attorney General despite passage of S. 2673, what have we wrought?

His actions would be "valid as to third persons and the public until his title to office is adjudged insufficient." Calamity would not befall us.

As a member of both the Senate Post Office and Civil Service Committee and the Judiciary Committee, I have stated fully my reasons for concluding that enactment of S. 2673 would validly remove the present, statute-created ineligibility of Senator SAXBE to be appointed to the Office of Attorney General. He could not be deemed to have used his Senate office to benefit from any increase in the emolument of the office to which he is to be nominated, as that emolument would be the same as it was when he assumed his Senate seat in 1969. The intent of the framers of the Constitution would be complied with—a most capable person serving in the legislature could be appointed to a civil office at the some emolument as when he took legislative office; the means we are taking to achieve this intent of the framers of the Constitution are proper. Our action, would in my opinion, be proper.

I urge my colleagues support of S. 2673.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from Hawaii yield to me briefly?

Mr. FONG. I yield.

Mr. GRIFFIN. I want to rise to commend the distinguished Senator from Hawaii for the very excellent and thorough analysis that he has provided the Senate on this important constitutional question. He is, of course, not only the ranking minority member of the Post Office and Civil Service Committee, which originally reported this particular bill, but he also serves as a member of the Judiciary Committee, which considered the constitutional question involved.

I wish to indicate my agreement with and support for the position he has taken with respect to this bill and the effect it will have.

I would like to register with the Senator from Hawaii and to others in the Senate my view that, following the passage of this special legislation for this specific situation, the Senate should attempt in an orderly way to develop general legislation which would make it unnecessary to take action such as this on a case by case basis.

Once special legislation is passed to take care of this particular appointment, it would be my suggestion that the Senate should consider the advisability and constitutionality of general legislation which would clearly declare that in any case when a Member of Congress is appointed to a civil office, his compensation and emoluments could not exceed those which attached to the civil office prior to the beginning of his term in Congress.

Such a step should be considered for several reasons. First, there is the addition of the 25th amendment which certainly was not envisaged by the framers of the Constitution as we know, under section 2 of the 25th amendment, when a vacancy occurs in the office of Vice President it is now filled by appointment.

If we had increased the salary of the Vice President in this session of Congress, I take it that the argument could have been made that no Member of the Congress would have been eligible for consideration by the President when it was necessary recently to make such an appointment.

Another complicating factor which should be recognized is the basic statute now on the books under which executive and judicial salaries are adjusted.

As I understand it, a Salary Commission is now in existence which makes recommendations periodically to the President. Thereafter, with or without change, the recommendations are submitted by the President to the Congress. If Congress does not disapprove them within a limited period of time, the recommended pay adjustments then go into effect automatically.

I can conceive of a situation in the future when, without any action on the part of Congress, the salaries of executive and judicial officers will be increased. Would all Members of Congress be disqualified at that point, even though Congress took no action whatsoever?

This is the kind of a question which should be considered, and answered, if possible, by the enactment of general, rather than special, legislation.

Mr. FONG. To be really safe, I think we should change the Constitution. Whether we would like to change the Constitution or not, I do not know. If we change the Constitution, it would be to allow the increased emoluments to remain effective. But as the Constitution is now written, I cannot see how we can allow the emoluments that have been increased to be paid to a Member of Congress in his civil office to which he is appointed. By restoring the emoluments to what they were prior to the time he took office, I think we are doing the right thing; and this would be constitutional. But to say that he should be allowed to take the increased emoluments would be unconstitutional in my opinion.

Mr. GRIFFIN. I agree with the Senator. My suggestion would be a general statute which would say that under no circumstance, when a Representative or a Senator is appointed to a civil place, should he enjoy the benefits of any increase.

Mr. FONG. Yes; I was just coming to that. I think it would be wise for us to discuss whether we want to have a general statute along this line, because every time an appointment like Senator Saxbe's came along, we would be involved in the same argument. A person would know that he would have no increased emolument. I would like to have a statute like that—but I would like to have an opportunity to study such proposal and get the benefit of committee action before floor action is taken.

Mr. GRIFFIN. That is exactly the point I was making.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I anticipate that two or three rollcall votes will be taken during the course of the debate and the final action on the pending measure. I ask unanimous consent that the time on each of those rollcall votes be limited to 10 minutes, with the warning bell in each instance, to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending business, S. 2675, the Senate proceed to the consideration of S. 3153, to amend the Social Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPENSATION OF THE ATTORNEY GENERAL

The Senate continued with the consideration of the bill (S. 2673) to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

Mr. ROBERT C. BYRD. Mr. President, I yield myself such time as I may require.

The President of the United States has indicated his intention to nominate Senator William Saxbe, our distinguished colleague from Ohio, to be Attorney General of the United States. The nomination raises a constitutional question as to whether Mr. Saxbe is eligible for appointment against the prohibition contained in article I, section 6, clause 2, of the Constitution. That prohibition states:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;

THE BACKGROUND OF DEVELOPMENTS

The nomination of Mr. Saxbe ought to be viewed against a background of developments as follows:

Under Public Law 90–206, approved December 16, 1967, Congress established the Commission on Executive, Legislative, and Judicial Salaries. The Commission is required to make recommendations to the President, at 4-year intervals, on the rates of pay for Senators, Representatives, Federal judges, Cabinet officers and other executive, legislative, and judicial officials.

The law requires that the President, in the budget next submitted by him after receipt of the Commission report, set forth his recommendations with respect to the exact rates of pay he deems advisable for those offices and positions covered by the law.

The President's recommendations become effective 30 days following transmittal of the budget, unless, in the meantime, other rates have been enacted by law or at least one House of Congress has enacted legislation which specifically disapproves all or a part of the recommendations.

Pursuant to the law, President Nixon transmitted to the Congress on January 15, 1969, recommendations which, among other things, proposed raising the salary of the Attorney General from $35,000 to $60,000 per year.

On February 4, 1969, the Senate debated Senate Resolution 82, which would have disapproved the Presidential recommendation. The resolution was defeated; the pay raises, including that of the office of Attorney General, became effective shortly thereafter. Meanwhile, Mr. Saxbe's term of office as a U.S. Senator had begun on January 3, 1969—about 6 weeks before the salary increase for the Attorney General became effective.

Hence, it seems clear beyond doubt that the proposed nomination of Mr. Saxbe, would fly squarely into the face of the prohibition contained in article 1, section 6, clause 2 of the Constitution—which says, I repeat:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; . . .

Clearly, the emoluments of the Office of Attorney General were increased from $35,000 to $60,000 during the term for which Mr. Saxbe was elected—which term will not expire until January 3, 1975.

On November 5, 1973, Acting Attorney General Robert Bork submitted legislation designed to circumvent, or remedy, the constitutional prohibition against Mr. Saxbe's appointment to the

Office of Attorney General, by reducing the compensation and other emoluments attached to the office of Attorney General to those in effect when Senator SAXBE began his Senate term.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter written by Acting Attorney General Robert Bork, addressed to Senator EASTLAND as President pro tempore of the U.S. Senate, on November 5, 1973, to which there was attached a draft of the legislation we are now considering.

There being no objection, the letter and draft of bill were ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., November 5, 1973.
PRESIDENT PRO TEMPORE,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT PRO TEMPORE: Enclosed for your consideration and appropriate reference is a legislative proposal to provide that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

Article I, Section 6, Clause 2 of the Constitution provides: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any Civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."

When Senator William B. Saxbe of Ohio began his term of service in the United States Senate on January 3, 1969, the salary for the Office of Attorney General was established by P.L. 89-554 (80 Stat. 460, September 6, 1966) at $35,000. On January 15, 1969, the President transmitted to the Congress pursuant to P.L. 90-206 (81 Stat. 642, December 16, 1967) a recommendation increasing the annual salary for the Office of Attorney General to $60,000.

The accompanying legislation is designed to remove the question concerning the impact of Article I, Section 6, Clause 2 on the President's nomination of Senator William B. Saxbe to be Attorney General of the United States.

I urge prompt consideration and enactment of this legislation.

The Office of Management and Budget has advised that enactment of this proposal is in accord with the Program of the President.

Sincerely,
ROBERT BORK,
Acting Attorney General.

S. 2673

A bill to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the Salary Recommendations for 1969 Increases transmitted to the Congress on January 15, 1969.

SEC. 2. This Act shall take effect upon enactment.

Mr. ROBERT C. BYRD. On November 8, 1973, President Nixon wrote to Senator GALE MCGEE, chairman of the Committee on Post Office and Civil Service, to inform Senator MCGEE of the President's intention to nominate Senator SAXBE to be Attorney General immediately upon enactment of "remedial legislation" to "remove the constitutional impediment to Senator SAXBE's appointment" that is presented by article I, section 6, clause 2 of the Constitution.

The President himself recognized the impediment, and I ask unanimous consent that his letter to Senator MCGEE—a copy of which was also furnished to the Senator from Hawaii (Mr. FONG), the ranking Republican member of the Committee on Post Office and Civil Service—be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., November 8, 1973.
Hon. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to inform you of my intention to nominate Senator William B. Saxbe of Ohio to be Attorney General of the United States, immediately upon enactment of remedial legislation that would eliminate a Constitutional impediment to Senator Saxbe's appointment.

Without this legislation, doubt would exist concerning Senator Saxbe's eligibility because Article I, section 6, clause 2 of the Constitution provides:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; * * *."

During Senator Saxbe's term of service in the United States Senate the annual salary of the Office of Attorney General was increased from $35,000 to $60,000.

On November 5, 1973, Acting Attorney General Robert H. Bork submitted legislation which would remove the Constitutional impediment to Senator Saxbe's appointment by reducing the compensation and other emoluments attached to the Office of Attorney General to those in effect before Senator Saxbe began his Senate term.

This solution has historical support. In 1909, similar legislation was enacted at the request of President Taft to reduce the salary of the Office of the Secretary of State so that Senator Philander C. Knox would be eligible for appointment, the compensation and other emoluments of that Office having been increased during the Senate term which Knox was then serving. After enactment of remedial legislation, Senator Knox was nominated, and confirmed by the Senate.

Constitutional precedents beginning with President Washington indicate that the nomination of an individual not then eligible may be improper and that any subsequent appointment based on such nomination might be null and void.

On February 28, 1973, President Washington withdrew the nomination of William Patterson of New Jersey to be Associate Justice of the Supreme Court on the ground that Mr. Patterson "was a member of the Senate when the law creating that Office was passed, and that the time for which he was elected is not yet expired. I think it my duty therefore, to decree that I deem the nomination to have been nulled by the Constitution."

This position has been consistently followed by the Attorney General of the United States in opinions in 1883 by Attorney General Brewster and in 1895 by Acting Attorney General Conrad.

I strongly urge that corrective legislation be enacted as soon as possible. I will submit the nomination of Senator Saxbe immediately upon passage of such legislation so that the Senate may proceed with the confirmation process.

Sincerely,
——— ———.

Mr. ROBERT C. BYRD. On November 9, 1973, Senator MCGEE introduced the legislation to "remove the impediment," at which time I asked unanimous consent to have the bill jointly referred to the Committee on the Judiciary at the same time it was being referred to the Committee on Post Office and Civil Service, to which an objection was made.

On November 13, 1973, Senator MCGEE, acting on behalf of the Committee on Post Office and Civil Service, which he chairs, reported the bill, S. 2673, back to the Senate and it was placed on the calendar. I ask unanimous consent that S. 2673 be printed in the RECORD.

There being no objection, the bill (S. 2673) was ordered to be printed in the RECORD, as follows:

S. 2673

A bill to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the salary recommendations for 1969 increases transmitted to the Congress on January 15, 1969.

SEC. 2. This Act shall take effect upon enactment.

Mr. ROBERT C. BYRD. On Wednesday, November 14, 1973, the majority leader proceeded to call up the bill, whereupon I secured unanimous consent to refer the bill to the Committee on the Judiciary with instructions that the bill be reported back to the Senate without amendment by midnight on the sixth day thereafter, on November 20.

Pursuant to those instructions, the Judiciary Committee reported the bill back to the Senate on Tuesday, November 20, without amendment, for further action and without recommendation.

Meanwhile, a hearing on the bill was conducted throughout the entire day of Monday, November 19. On the instructions of Chairman EASTLAND, I acted as chairman during the hearing.

It being generally agreed that article 1, section 6, clause 2 of the Constitution presents a bar to the appointment of Senator SAXBE to the office of Attorney General, the question then resolved itself before the committee—as it does now before the Senate and will later before the other body—as follows:

Can the constitutional disqualification of Mr. Saxbe to be Attorney General, as mandated by Article 1, Section 6, Clause 2, be removed by remedial legislation, or does the constitutional prohibition constitute an absolute bar impossible of waiver by so-called remedial legislation?

Although the Judiciary Committee labored under a severe time restriction, it was possible to secure the appearance of four constitutional authorities in addition to a Justice Department witness for the hearing.

Prof. Philip Kurland, University of Chicago Law School; Prof. William Swindler, Marshall-Wythe School of Law, College of William & Mary; and Dean Willard Lorensen, College of Law, West Virginia University, all were of the opinion that the constitutional provision constitutes an absolute bar that is beyond remedy by legislation.

Taking the opposite view was Prof. William Van Alstyne, Duke University.

The Justice Department spokesman, Robert Dixon, Assistant Attorney General, Office of Legal Counsel, supported the legislation.

So, Mr. President, we have a clear division of opinion among the constitutional experts who appeared before the committee, with three university law school professors taking the position that legislation enacted by a majority of both Houses could not remove the constitutional disqualification, and with one university professor maintaining the view that legislation in the form of S. 2673 would effectively waive the bar.

Having raised the constitutional question in the first place, I was of the opinion—and I am still—that the constitutional prohibition against the appointment of Mr. SAXBE is complete, final, absolute, and beyond remedy by legislation enacted by a majority of both Houses.

May I say now, as I have said before, that when it was first revealed that Mr. SAXBE would receive the nomination, I was of the view—and I so stated to Senator SAXBE—that the constitutional provision would not present a problem that could not be overcome by legislation. I felt this to be true because of the Knox precedent, which I shall discuss in greater detail shortly. However, after considerable study I came to the conclusion in my own mind that the constitutional barrier cannot be removed by legislation.

I, therefore, felt it my duty as a member of the Judiciary Committee to raise the question, which I consider to be a serious one, of constitutionality. I confess that I do so with apologies to our colleague, Senator SAXBE, for whom I have a genuine affection and regard. I like him. He has never done me any wrong. And I would like to support his nomination, and were he to be offered the same nomination on January 2, 1975, I know of no reason why I could not then support the nomination enthusiastically.

But my friendship for WILLIAM SAXBE cannot stand upon a level higher than that of my sworn duty as a Senator to uphold the Constitution, however painful my position may be to me personally at the present moment.

I realize that the charge of nitpicking or of partisanship is always available to those who are free to criticize. This does not negate the fact, however, that were we confronted with the nomination of a Democratic Senator under the same circumstances, I would be compelled to raise the constitutional question unless, in the meantime, the Supreme Court of the United States had disposed of the question. In some respects I would find it more difficult to do so; in other respects I would find it less difficult to do so.

In any event, I find myself in an uneasy position. I also realize that my viewpoint is not going to be shared by a majority of my colleagues today who, though they may differ with me, will nevertheless retain my deepest respect.

We, as legislators, have a responsibility to consider the constitutional aspects of the actions we take in the performance of our senatorial duties. We cannot be fully responsive to the high calling of our office by simply saying, "We will act to do thus and so; leave it to the courts to determine the constitutional rectitude of what we have done."

Ours is a higher duty. It is a duty that requires us—especially when great constitutional questions confront us in the first instance and on the first impression—to examine and to determine, according to our best lights, the constitutionality of actions we are called upon to take.

The nomination of Mr. SAXBE, under the circumstances peculiar to the nomination, fits almost squarely as a constitutional question heretofore essentially untested and unexplored.

Returning now to the matter before us: Can the constitutional bar be lifted by legislation? I say not.

Mr. President, the Constitution is a legal document. It is the organic law on which rests the foundation of this unique republic. Any law repugnant to the Constitution is void, and both courts and legislatures are bound by that instrument.

The process of constitutional interpretation is a process of determining the meaning of words. And the framers of the Constitution and the people who adopted it must be understood to have employed words in their natural, usual, and commonly understood sense, and to have intended what the words clearly say.

I submit that the words of article 1, section 6, clause 2, are clear, plain, simple, and easily understood by any citizen of this country.

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;

THE PHILADELPHIA DEBATES

Even if one should search for aid in the constitutional debates of 1787, there is almost universal agreement as to the general purpose underlying the emoluments clause, to wit, that some protection was necessary against possible corruption of members of the legislature resulting from the lure of civil office.

The framers saw two possible sources of evil: First, that legislators might view their election to Congress as a steppingstone to some lucrative public office and utilize their positions in the legislature as a means of creating or increasing the compensations of such sought-after offices; and, second, that an unscrupulous executive might use the enticement of public office to influence the votes of Members of the legislature.

On the other hand, there were those who felt that it would be unwise to totally make ineligible for public office the most able men in the Republic. The constitutional framers felt that the most able men in the Republic would be elected to the legislative branch.

Initially, the proposal took the form of a complete and total bar to appointment of a Senator or Representative to any civil office whatsoever during the duration of the term of office for which he was elected and for 1 year thereafter.

Later, that proposal was modified to strike the provision with respect to "1 year thereafter" as applicable to the other body. Because of the important role of the Senate in the nomination and confirmation process, the "1 year thereafter" provision remained applicable only to the Senate.

The leading advocate for modification was Madison, and the ultimate version of the clause was a victory for Madison. The compromise removed the total bar from appointment to any civil office whatsoever; confined the bar only to newly created offices and those whereof the emoluments had been increased during the term of service; and deleted the "1 year thereafter" prohibition.

The compromise, therefore, pinpointed certain potential major abuses for absolute prohibition, while maintaining the prospect for recruitment of talent for civil office from the legislative branch.

It seems apparent that the prohibition finally agreed upon was meant to be absolute.

Mr. President, I ask unanimous consent that, at this point in the RECORD, excerpts from the Philadelphia debates pertinent to the clause in the Constitution which we are now discussing, be printed in the RECORD. The excerpts will show that there was a concern that a complete prohibition of appointment to any civil office whatsoever during the time of serviec of any Senator or Representative would make difficult the recruitment of talented men and women from the legislative branch. These excerpts will also indicate the great concern on the part of leading delegates to that Convention with respect to the possibility of enticement by an unscrupulous executive by the offer of lucrative civil office, to influence the votes of members of the legislature.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS

May 29, 1787. Resolutions proposed by Mr. Edmund Randolph in Convention:

* * * * *

4. Resolved that the members of the first branch of the National Legislature ought . . . to be ineligible to any office established . . . under the authority of the United States, except those peculiarly belonging to the functions of the first branch, during the term of service, and for the space of ——— after its expiration; . . .

5. Resolved that the members of the second branch of the National Legislature ought . . . to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of ——— after the expiration thereof.

Friday, June 22, 1787, in Convention:

Mr. GORHAM (Mass.) moved to strike out the last member of 3 Resol: concerning ineligibility of members of the 1st branch to offices during the term of their membership

& for one year after. He considered it as unnecessary & injurious. . . .

Mr. Butler (S.C.) opposed it. This precaution against intrigue was necessary. He appealed to the example of G. B. where men got into Parliament that they might get offices for themselves or their friends. This was the source of the corruption that ruined their Government.

Mr. King (Mass.) thought we were refining too much. Such a restriction on the members would discourage merit. . . .

Col. Mason (Va.) was for shutting the door at all events against corruption. He enlarged on the venality and abuses in this particular in Great Britain; and alluded to the multiplicity of foreign Embassies by Congress. The disqualification he regarded as a corner stone in the fabric.

Notes of the Secret Debates of the Federal Convention of 1787, Taken by the Late Hon. Robert Yates, Chief Justice of the State of New York, and One of the Delegates from that State to the Said Convention.

June 22, 1787:

The clause, to be ineligible to any office, etc., came next to be considered.

Mr. Butler (S.C.) . . . Look at the history of the government of Great Britain, . . . A man takes a seat in parliament to get an office for himself or friends, or both; and this is the great source from which flows its great venality and corruption.

Mr. Wilson (Pa.) . . . Strong reasons must induce me to disqualify a good man from office. If you do, you give an opportunity to the dependent or avaricious man to fill it up, for to them offices are objects of desire. If we admit there may be cabal and intrigue between the executive and legislative bodies, the exclusion of one year will not prevent the effects of it. But we ought to hold forth every honorable inducement for men of abilities to enter the service of the public. . . . While a member of the legislature, he ought to be excluded from any other office, but no longer. . . .

Mr. Madison (Va.). . . . If you have no exclusive clause, there may be danger of creating officers or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature.

Mr. Mason (Va.) . . . . it is necessary to shut the door against corruption. If otherwise, they may make or multiply offices, in order to fill them. . . . Are we not struck at seeing the luxury and venality which has already crept in among us? If not checked, we shall have ambassadors to every petty state in Europe—the little republic of St. Marino not excepted. We must in the present system, remove the temptation. I admire many parts of the British constitution and government, but I detest their corruption. Why has the power of the crown so remarkably increased the last century? A stranger, by reading their laws, would suppose it considerably diminished; and yet, by the sole power of appointing the increased officers of government, corruption pervades every town and village in the kingdom. If such a restriction should abridge the right of election, it is still necessary, as it will prevent the people from ruining themselves; and will not the same causes here produce the same effects? I consider this clause as the corner-stone on which our liberties depend—and if we strike it out we are erecting a fabric for our destruction.

Mr. Hamilton (N.Y.) . . . . There may be in every government a few choice spirits, who may act from more worthy motives. One great error is that we suppose mankind more honest than they are. Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions, in order to make them subservient to the public good—for these ever induce us to action. . . . I am, therefore, against all exclusions and refinements, except only in the case; that when a member takes his seat, he should vacate every other office. It is difficult to put any exclusive regulation into effcct. We must, in some degree, submit to the inconvenience.

Saturday, June 23. In Convention:

Mr. Madison (Va.) . . . . renewed his motion yesterday made and waved to render the members of the 1st branch "ineligible during their term of service, and for one year after—to such offices only as should be established, or the emoluments thereof, augmented by the Legislature of the United States during the time of their being members." He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, and that if the door was shut against them; it might properly be left open for the appointment of members to other offices as an encouragement to the Legislative service.

Mr. Rutledge (S.C.) was for preserving the Legislature as pure as possible, by shutting the door against appointments of its own members to offices, which was one source of its corruption.

Mr. Mason (Va.) The motion of colleague is but a partial remedy for the evil. He appealed to him as a witness of the shameful partiality of the Legislature of Virginia to its own members. He enlarged on the abuses and corruption in the British Parliament, connected with the appointment of its members. He could not suppose that a sufficient number of Citizens could not be found who would be ready, without the inducement of eligibility to offices, to undertake the Legislative service. . . .

Mr. Wilson (Pa.) supported the motion. . . . One branch of corruption would indeed remain, that of creating unnecessary offices, or granting unnecessary salaries, and for that the amendment would be a proper remedy. . . .

Mr. Madison (Va.) had been led to this motion as a middle ground between an eligibility in all cases, and an absolute disqualification. He admitted the probable abuses of an eligibility of the members, to offices, particularly within the gift of the Legislature. He had witnessed the partiality of such bodies to their own members, as had been remarked of the Virginia assembly by his colleague (Col. Mason).

Mr. Jenifer (Md.) remarked that in Maryland, the Senators chosen for five years, could hold no other office and that this circumstance gained them the greatest confidence of the people.

Notes of the Secret Debates of the Federal Convention of 1787, Taken by the Late Hon. Robert Yates, Chief Justice of the State of New York, and One of the Delegates from that State to the Said Convention.

Saturday, June 23, 1787:

Mr. Madison (Va.) then moved, that after the word established, be added, or the emoluments whereof shall have been augmented by the legislature of the United States, during the time they were members thereof, and for one year thereafter.

Mr. Butler (S.C.) The proposed amendment does not go far enough. How easily may this be evaded. What was the conduct of George the second to support the pragmatic sanction? To some of the opposers he gave pensions—others offices, and some, to put them out of the house of commons, he made lords. . . .

Governor Rutledge (S.C.) was against the proposed amendment. No person ought to come to the legislature with an eye to his own emolument in any shape.

Mr. Mason (Va.) I differ from my colleague in his proposed amendment. . . . Nor will the check proposed by this amendment be sufficient. It will soon cease to be any check at all. It is asserted that it will be very difficult to find men sufficiently qualified as legislators without the inducement of emolument. I do believe that men of genius will be deterred unless possessed of great virtues. We may well dispense with the first characters when destitute of virtue—I should wish them never to come forward—But if we do not provide against corruption, our government will soon be at an end: nor would I wish to put a man of virtue in the way of temptation. Evasions and caballing would evade the amendment. . . .

Mr. Madison (Va.). My wish is that the national legislature be as uncorrupt as possible. I believe all public bodies are inclined, from various motives, to support its members; but it is not always done from the base motives of venality. Friendship, and a knowledge of the abilities of those with whom they associate, may produce it. If you bar the door against such attachments, you deprive the government of its greatest strength and support. Can you always rely on the patriotism of the members? If this be the only inducement, you will find a great indifferency in filling your legislative body. If we expect to call forth useful characters, we must hold out allurements; nor can any great inconveniency arise from such inducements. The legislative body must be the road to public honor; and the advantage will be greater to adopt my motion, than any possible inconvenience.

Mr. Gerry (Mass.). This amendment is of great weight, and its consequences ought to be well considered. . . . It appears to me that we have constantly endeavored to keep distinct the three great branches of government; but, if we agree to this motion, it must be destroyed by admitting the legislators to share in the executive, or to be too much influenced by the executive, in looking up to him for offices.

Mr. Jenifer (Md.). Our senators are appointed for 5 years and they can hold no other office. This circumstance gives them the greatest confidence of the people.

Mr. Rutledge (S.C.). I admit, in some cases, it may be evaded; but this is no argument against shutting the door as close as possible.

Thursday, July 26. In Convention:

The proceedings since Monday last were referred unanimously to the Committee of detail, and the Convention then unanimously adjourned till Monday, August 6, that the Committee of detail might have time to prepare and report the Constitution. . . .

III. Resolved, That the members of the first branch of the legislature ought . . . to be ineligible and incapable of holding any office under the authority of the United States (except those peculiarly belonging to the functions of the first branch) during the term of service of the first branch.

IV. Resolved, That the members of the second branch of the legislature of the United States ought to be . . . ineligible to and incapable of holding any office, under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter.

Monday, August 6. In Convention:

Mr. Rutledge (S.C.) delivered in the Report of the Committee of detail as follows: a printed copy being at the same time furnished to each member: . . .

* * * * *

VI

Sect. 9. The members of each House shall be ineligible to, and incapable of holding any office under the authority of the United States, during the time for which they shall respectively be elected: and the members of the Senate shall be ineligible to, and incapable of holding any such office for one year afterwards.

* * * * *

> Tuesday, August 14. In Convention:
>
> Mr. Pinckney (S.C.) argued that the making the members ineligible to offices was degrading to them, and the more improper as their election into the Legislature implied that they had the confidence of the people; that it was inconvenient, because the Senate might be supposed to contain the fittest men. He hoped to see that body become a School of public Ministers, a nursery of Statesmen: that it was impolitic because the Legislature would cease to be a magnet to the first talents and abilities. He moved to postpone the section in order to take up the following proposition viz—"the members of each House shall be incapable of holding any office under the U.S. for which they or any of others for their benefit receive any salary, fees, or emoluments of any kind—and the acceptance of such office shall vacate their seats respectively."
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> General Mifflin (Pa.) Seconded the motion.
>
> Col. Mason (Va.) ironically proposed to strike out the whole section, as a more effectual expedient for encouraging that exotic corruption which might not otherwise thrive so well in the American Soil—for compleating that Aristocracy which was probably in the contemplation of some among us, and for inviting into the Legislative Service, those generous and benevolent characters who will do justice to each other's merit by carving out offices and rewards for it. In the present state of American morals and manners, few friends it may be thought will be lost to the plan, by the opportunity of giving premiums to a mercenary and depraved ambition.
>
> Mr. Gerry (Mass.) read a resolution of the Legislature of Massachusetts passed before the Act of Congress recommending the Convention, in which her deputies were instructed not to depart from the rotation established in the 5th article of Confederation, nor to agree in any case to give to the members of Congress a capacity to hold offices under the Government. . . . He could not think with Mr. Pinkney that the disqualification was degrading. Confidence is the road to tyranny. As to Ministers and Ambassadors few of them were necessary. It is the opinion of a great many that they ought to be discontinued, on our part; that none may be sent among us, and that source of influence be shut up. If the Senate were to appoint Ambassadors as seemed to be intended, they will multiply embassies for their own sakes. . . . If men will not serve in the Legislature without a prospect of such offices, our situation is deplorable indeed. If our best Citizens are actuated by such mercenary views, we had better chuse a single despot at once. It will be more easy to satisfy the rapacity of one than of many. . . . We cannot be too circumspect in the formation of this System. It will be examined on all sides and with a very suspicious eye. . . . He moved to render the members of the House of Representatives as well as of the Senate ineligible not only during, but for one year after the expiration of their terms. If it should be thought that this will injure the Legislature by keeping out of it men of abilities who are willing to serve in other offices it may be required as a qualification for other offices, that the Candidate shall have served a certain time in the Legislature.
>
> Gov. Morris (Pa.) . . . He was against rendering the members of the Legislature ineligible to offices. He was for rendering them eligible again after having vacated their Seats by accepting office.
>
> Mr. Williamson (N.C.). . . . To avoid another inconveniency, we are to have a whole Legislature at liberty to cut out offices for one another. He thought a self-denying ordinance for ourselves would be more proper. He had scarcely seen a single corrupt measure in the Legislature of N. Carolina, which could not be traced up to office hunting.
>
> Mr. Sherman (Conn.) The Constitution should lay as few temptations as possible in the way of those in power. Men of abilities will increase as the country grows more populous and, as the means of education are more diffused.
>
> Mr. Elsworth (Conn.) did not think the mere postponement of the reward would be any material discouragement of merit. Ambitious minds will serve 2 years or 7 years in the Legislature for the sake of qualifying themselves for other offices. This he thought a sufficient security for obtaining the services of the ablest men in the Legislature, although whilst members they should be ineligible to Public offices. Besides, merit will be most encouraged, when most impartially rewarded. If rewards are to circulate only within the Legislature, merit out of it will be discouraged.
>
> Mr. Randolph (Va.) had been and should continue uniformly opposed to the striking out of the clause; as opening a door for influence and corruption. . . .
>
> Saturday, September 1, 1787. In Convention:
>
> Mr. Brearley (N.J.) from the Committee of eleven to which were referred yesterday, the postponed parts of the Constitution, and parts of Reports not acted upon made the following partial report.
>
> That in lieu of the 9th Section of Article 6, the words following be inserted viz "The members of each House shall be ineligible to any civil office under the authority of the U.S. during the time for which they shall respectively be elected, and no person holding an office under the U.S. shall be a member of either House during his continuance in office."
>
> Monday, September 3, 1787. In Convention:
>
> Mr. King (Mass.) moved to insert the word "created" before the word "during" in the Report of the Committee. This he said would exclude the members of the first Legislature under the Constitution, as most of the offices would then be created.
>
> Mr. Sherman (Conn.) was for entirely incapacitating members of the Legislature. He thought their eligibility to offices would give too much influence to the Executive. He said the incapacity ought at least to be extended to cases where salaries should be increased as well as created, during the term of the member. He mentioned also the expedient by which the restriction could be evaded to wit: an existing officer might be translated to an office created and a member of the Legislature be then put into the office vacated.
>
> Mr. Randolph (Va.) was inflexibly fixed against inviting men into the Legislature by the prospect of being appointed to offices.
>
> Col. Mason (Va.). Instead of excluding merit, the ineligibility will keep out corruption, by excluding office-hunters.
>
> Mr. Williamson (N.C.) moved to insert the words "created or the emoluments whereof shall have been increased" before the word "during" in the Report of the Committee.
>
> (Carried 5–4, Georgia divided.)

Mr. ROBERT C. BYRD. Mr. President, in Federalist No. 76, Alexander Hamilton defended the integrity of the Senate in the nomination and confirmation process from speculation that undue influence would be brought to bear on that body by the President—

> The Constitution has provided some important guards against the danger of executive influence upon the legislative body. It declares that: "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;. . .".

The implication, in Hamilton's statement, is that executive influence in the form of offers of a newly created civil office, or an enriched office, would not be effective during the terms of individual members.

Taking into consideration the natural reluctance of members of a legislative body to vote against confirmation of a colleague, it is difficult to believe that the framers intended article I, section 6, clause 2 to be anything other than a complete bar upon the occurrence of certain conditions; namely, a newly created office or increased emoluments. To contend that the framers intended the waiver of the bar through enactment of remedial legislation—thus opening an easy path for legislators reluctant to oppose a colleague's confirmation—is to contend that the framers of the clause intended the prohibition to be meaningless except in the abstract. Such a contention must fall of its own weight. It cannot be presumed that any clause of the Constitution is intended to be without effect. Yet, if legislation can overcome the plain meaning of the words of article I, section 6, clause 2, then the force of the clause would be, from a practical standpoint, without effect and meaningless.

Incidentally, of more than passing significance is the historical fact that President George Washington, who had presided over the Constitutional Convention, nominated Senator William Peterson, of New Jersey, to fill a vacancy on the Supreme Court on February 27, 1793. The Supreme Court had been organized by the Judiciary Act of September 24, 1789, while Senator Paterson was a Member of the Senate. Upon being advised of the prohibition under article I, section 6, clause 2, President Washington withdrew Paterson's name the following day. Fortunately for Senator Paterson he had been placed in the category of a class 2 Senator, and his term was only for 4 years, and was due to expire on March 3, 1793. At the completion of Paterson's term—which was only 3 days after Paterson's nomination had been withdrawn—Washington resubmitted Paterson's name and he was confirmed.

So, here we have the first President of the United States, the man who had presided over the constitutional debates in 1787, paying strict obedience to the constitutional prohibition. Were George Washington's example to be observed in our own time, we today would be spared of the agonizing decision that confronts many of us.

SUBSEQUENT LEGAL OPINIONS AND AUTHORITIES

No Federal court has passed upon the scope of the inhibition of article I, section 6, clause 2.

First. The question was raised in a court suit emanating from the appointment of Senator Hugo Black of Alabama to the Supreme Court. Prior to his appointment, Congress had passed legislation improving the financial position of justices retiring at age 70. The situation gave rise to the case of ex parte Albert Levitt (1937), which the Supreme Court dismissed for lack of standing on the part of the petitioner without passing on the merits.

Second. Two Attorneys General have rendered opinions considering the issue and they have found the literal language of the provision to be controlling.

The first was the Kirkwood case in 1882. It involved the attempted appointment of a former Senator to an office created after he had resigned his Senate seat but before his term of office had expired. The facts were as follows: Kirkwood was elected a Senator from Iowa for a team expiring on March 3, 1883. He resigned in March 1881. In 1882, the office of Tariff Commissioner was created by Congress and Kirkwood was proposed as the nominee. However, Kirkwood's eligibility was questioned and, at the request of the President, Attorney General Brewster rendered an opinion in which he held that Kirkwood was ineligible for the appointment.

The Attorney General said in part:

> I must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear, and in my opinion, disables him from receiving the appointment. The rule is absolute, as expressed in the terms of the Constitution, and behind that I cannot go, but must accept it as it is presented.

Third. A later opinion by Acting Attorney General Conrad in 1895, involving Senator Matthew Ransom of North Carolina, is in agreement with the Kirkwood case. Senator Ransom was elected to a term, beginning March 4, 1889, and ending March 3, 1895. During Ransom's term, Congress raised the salary of the Ambassador to Mexico. On February 23, 1895—8 days before his term as Senator expired—Ransom was nominated to the ambassadorship and was confirmed by the Senate that day.

Mr. Ransom took the oath of office on March 4, after his senatorial term had expired, and received his commission on March 5, 1895. Thereafter, the auditor for the State Department refused to pay his salary because of the apparent conflict with article I, section 6, clause 2.

Acting Attorney General Conrad found that the constitutional prohibition is directed against appointment and held that since the appointment occurred on February 23, 8 days before Ransom's senatorial term had ended, Ransom was ineligible and the appointment was a nullity.

The administration bases its case in support of the pending bill, S. 2673, on the Knox precedent, which occurred in 1909, with the announcement of the intended appointment of Senator Philander Knox to be Secretary of State. It was then discovered that Knox was constitutionally ineligible, the salary of the Secretary of State having been increased during Knox's term as Senator, which was not due to expire until March 3, 1911.

To remedy the situation, legislation was introduced in the Senate, S. 9295, reducing the salary of Secretary of State to what it had been before the increase. There was no debate in the Senate. The bill was sent to the Judiciary Committee on one day, reported by the Judiciary Committee on the next day, taken up the same day in the Senate by unanimous consent, without debate, and passed; but the constitutionality of that bill was vigorously and heatedly debated in the House, where it passed by a vote of 178 to 123—a partisan vote—the Democrats voting, for the most part, against.

Although the Knox appointment constitutes a legislative precedent, it, of course, did not resolve the constitutional question involved. And that constitutional question remains unresolved today, 64 years later, as we debate a similar bill in the form of S. 2673.

The basic argument in support of the constitutional efficacy of remedial legislation to remove the constitutional disqualification imposed by article I, section 6, clause 2, is that such an appointment does not violate the intent and spirit of the constitutional inhibition since the very evil, which the constitutional provision was meant to guard against, will have been removed because the increased emolument will have been repealed.

All sides agree, that the words of article I, section 6, clause 2 of the Constitution are eminently clear. There is no question about the clarity and meaning of the words. But the proponents of this bill resort to an appeal that the spirit and the intent of the constitutional clause are contrary to the plain meaning of the words.

Resolution of the issue, however, is not so simple. The Supreme Court has said 1889—in Lake County against Rollins:

> The object of construction, applied to a Constitution, is to give effect to the intent of its framers, and of the people in adopting it. This intent is to be found in the instrument itself, and when the text of a constitutional provision is not ambiguous, the courts are not at liberty to search for its meaning beyond the instrument.

Those who cite the action of the 60th Congress in the Knox precedent, say that it is controlling in the present instance. That this is a treacherous reed to lean on can be seen by examining the case of Powell against McCormack in 1969—4 years ago. There the Supreme Court said, with respect to congressional legislative precedents,

> We are not inclined to give its (Congress') precedents controlling weight . . .

The Court also said,

> An unconstitutional action . . . taken before does not render that same action any less unconstitutional at a later date.

I repeat: The Court said in Powell versus McCormack,

> An unconstitutional action . . . taken before does not render that same action any less unconstitutional at a later date.

In light of the Powell case, therefore, the 1909 Knox precedent is just what it is: It is a historical precedent, it is a legislative precedent—nothing more—the weight of which is not controlling with the Supreme Court.

The Lot Morrill precedent has also been cited by some. Senator Lot Morrill was nominated in 1876 to be Secretary of the Treasury. During his term the pay had been increased from $8,000 to $10,000—in 1873—and returned again to $8,000—in 1874. The Senate considered the nomination in executive session for 6 minutes—there we see the rule of senatorial courtesy operating at its best—and there was no indication that the eligibility clause was even considered. He was appointed 3 years after the increase in salary had taken effect, and 2 years after the salary was restored to its original amount.

The Morrill case is easily distinguished from the Knox and Saxbe cases, since in both those cases—the Knox and Saxbe cases—the remedial legislation was and is specifically intended to avoid the constitutional prohibition by reducing the salary increases which, otherwise, would have barred both Knox and SAXBE from office, and as such, was and is being done directly to benefit the prospective nominee. That, and that alone, leaves intact the inherent evil that the clause was meant to obviate.

PROFESSOR VAN ALSTYNE'S ARGUMENT

The one professor who appeared before the Committee on the Judiciary in support of the theory that the constitutional prohibition could be waived by remedial legislation, was Professor Van Alstyne, Duke University. He supports a purposive construction rather than a literal construction of the clause. Yet, it would appear that both his reading of the purpose of the clause, reflected in the Philadelphia debates of 1787, and his construction of the language of the clause are flawed

Professor Van Alstyne starts with the premise that the function of article I, section 6, clause 2, was to "assure the eligibility of Members of Congress for appointment to vacancies in existing offices." He said that in the minds of the framers of that immortal document the purpose of article I, section 6, clause 2, was to "assure the eligibility of Members of Congress for appointment to vacancies in existing offices."

If one accepts that premise, which I definitely do not, that the purpose of the clause was to "assure the eligibility of Members of Congress for appointment to vacancies in existing offices," one should have absolutely no difficulty in supporting S. 2673, but such a premise is, in my opinion, patently false. I say this with all due respect to Professor Van Alstyne, because this is an area in which constitutional experts, of which I am not one, can differ. But I submit that it is a faulty premise to maintain that the function of the clause is to "assure the eligibility of Members of Congress for appointment to vacancies in existing offices."

From that flawed premise, Professor Van Alstyne poses the hypothetical situation of the creation of an office and the subsequent abolishment of that office prior to any appointment. As a result, he observes, "There remains no new office to be filled and thus the question of anyone's eligibility to fill it is at once moot." While, of course, this is unquestionably correct, he then goes on to argue that the foregoing hypothetical situation is exactly equivalent to the situation of raising the emoluments during the session of Congress and then lowering the compensation back to what it had previously been to make a Member eligible.

Professor Van Alstyne's statement of the purpose of the clause, however, effectively stands the provision on its head. As is clear from the debates, the purpose of the clause is a negative one; namely, to prevent appointment of members of the legislative branch from seeking appointment to civil office and to prevent an unscrupulous executive from using the enticement of civil office as an offer to members of the legislature in return for their support on certain issues.

This provision, therefore, renders Members of Congress ineligible for civil office upon the occurrence of one of three events: creation of an office; the raise in compensation of an old office; or the holding of a civil office while still a Member. By stating the purpose of the clause in the positive, as Professor Van Alstyne has done—in other words, to render Members eligible for office—its purpose is wholly distorted. Such a reading is at variance with the sense of the debates. Indeed, it was acknowledged during the critical September 3 discussions in Philadelphia that the provision to preclude appointment to offices created during a Member's term would have the effect of disqualifying all Members of the first Congress.

This was acknowledged: That all Members in that first Congress, however talented, were automatically barred by this provision from appointment to a newly created office. There would be no existing offices except those created by the Constitution. Congress would have to create the civil offices provided for in the Constitution. So, all Members of the first Congress, some of whom voted for the clause in that form, were automatically disqualified to hold any civil office created by that first Congress.

By stating the purpose in the positive, as Professor Van Alstyne has done, clause 2 is, therefore, wholly distorted.

Moreover, such a reading as that of Professor Van Alstyne renders incongruous all the fears raised by delegates over the evils perceived. It renders all those fears moot.

It brings into question the very reason for the language adopted. That is, why should the provision be written as a prohibition if its major purpose was to insure eligibility? If this were the purpose, the provision might better read: "All Members shall be eligible to civil office unless. . . ." The fact that the provision is written in the negative is, therefore, significant.

Further, the abolition of an existing office would not appear to be the exact equivalent of lowering the compensation of an existing office. In the one, of course, the potential evil is eliminated. But in the other, the essence of the evil remains. That is, the appointment to such an office can be made with full expectancy that the salary will be restored after the expiration of the disqualifying period. This would be particularly so if it is an office that is normally compensated on a par with other offices, such as cabinet offices, or where the rollback means that the appointee will be receiving less pay—in this instance $7,500 a year—than his top subordinate. But this would appear to be the very direct evasion sought to be foreclosed by the clause.

Also, the hypothetical situation posed by Professor Van Alstyne does not take into account the last phrase of article I, section 6, clause 2: "and no person holding any office under the United States, shall be a Member of either House during his continuance in office." If abolition of an office vitiates the first contingency of the clause—creation of an office—and rollback of pay vitiates the second—raise in pay—does it not follow that legislation excepting a particular office from the dual office-holding prohibition would be equally effective in obviating that disqualification also? It would seem that the mere statement of the proposition lays bare the inherent flaw in such reasoning.

POTENTIAL PROBLEMS INVOLVED

Mr. President, we cannot avoid the prospect of serious problems that could immediately arise if Mr. Saxbe should become the next Attorney General under the circumstances that obtain here.

There is a possibility that some of the actions of the Attorney General would be subject to challenge and, if a good deal of time were to elapse before a judicial determination, serious problems could arise.

Various statutes impose requirements upon the Attorney General, the performance of which could possibly be invalidated if the appointment were successfully challenged on constitutional grounds in the courts.

Prosecutions stemming from the activities of the special prosecutor's force might conceivably be placed under a shadow resulting from the unconstitutionality of the appointment—if, indeed, it should be ruled unconstitutional—of the Justice Department's chief legal officer, the Attorney General. It is possible, of course, that the appointment would be constitutionally upheld, but there is little doubt that court actions will eventually be taken to test the constitutionality. The very prospect of such cases in the courts could cast a shadow over certain Justice Department actions until the matter is finally resolved. The Attorney General's title of office would have a cloud upon it.

Of course, in the meantime, Mr. Saxbe would have resigned from his office as U.S. Senator, and if his appointment to the office of Attorney General were not upheld, he would be neither Attorney General nor Senator.

Even though he sought to minimize them, the one professor—Professor Van Alstyne—who saw no problem ultimately with constitutional aspects of this appointment, nevertheless conceded his concern with the possible problems that could arise.

The Justice Department representative, Mr. Robert Dixon, was obviously unsure—I ask any Senator to read the hearings—when questioned regarding the problems that could confront the special prosecutor and the investigation if the constitutionality of the Attorney General's appointment were to meet an adverse decision in the courts.

THE JUSTICE DEPARTMENT'S ARGUMENT

The Justice Department's argument in support of the proposed legislation is essentially as follows. First, the emoluments clause cannot be read literally, but rather must be viewed in light of the purposes and functions intended by the framers. In this regard, Justice contends that the clause requires a manner of construction similar to that applied in construing the scope of powers granted Congress under article I, section 8, or in construing the breadth of the individual safeguards contained in the first and fifth amendments to the Constitution. Second, it is urged that "Nothing in the history of the ineligibility clause suggests that a strict literal interpretation should be adopted in cases where the action in question is totally consistent with the purpose of that clause;" and, third, it is argued that past congressional actions support the remedial action now proposed.

The principle of constitutional construction propounded by Justice is, of course, sound and indeed is a well recognized guideline of interpretation relied upon by the Supreme Court throughout history. However, the so-called "strict" or "literal" rule of construction is equally well established and supported by Court decisions. See, e.g., *Reid* v. *Covert*, 354 U.S. 1, 7–8 (1957); *Richfield Oil Corp.* v. *State Board of Equalization*, 329 U.S. 69, 77–78 (1946); *United States* v. *Sprogue*, 282 U.S. 716, 731–732 (1931); *United States* v. *Classic*, 313 U.S. 299, 316 (1941); *Fairbank* v. *United States*, 181 U.S. 283, 287–289 (1901); *Ogden* v. *Saunders*, 25 U.S. (12 Wheat.) 213, 302–303 (1827). These alternate methods of construction are clearly not mutually exclusive. Whether a literal or purposive approach is to be utilized depends on the nature of the constitutional provision being analyzed. The instances cited by Justice involve either questions of the nature and extent of powers granted Congress under article I, section 8, or the breadth of individual liberties protected by the first and fifth amendments. It may be questioned, however, whether a proper analogy may be drawn between provisions dealing with broad grants of powers or the protection of individual rights, on the one hand, and the provisions limiting in a carefully circumscribed manner the qualifications of Members of Congress to hold office, on the other.

That the enumerated powers of article I, section 8 were not intended to stand as rigid monuments is evidenced in various ways, not the least being the presence of the necessary and proper clause. Also, it seems to be a little late in the day to argue that the provisions of the first and fifth amendments are inflexible guarantees of individual conduct, without regard to the effect on such conduct in the context of a complex society where each individual's action may have effect on others. Each of these types of provisions demands a search for meaning beyond the bare words. Thus the Supreme Court has held that the powers conferred to the Federal Government are to be taken as broadly granted and should not be strictly construed. *Gibbons* v. *Ogden*, 22 U.S. 1 (1824). They should be interpreted as carrying with them the authority to exercise those powers and to pass those acts which may be reasonably necessary to carry them into full execution, and are not to be nullified by astute verbal criticisms without regard to the grand aim and object of the instrument. *Fairbank* v. *U.S.* 288 (1901). Where possible then, a practical construction is given provisions of the Constitution. Thus the clause of the Fifth Amendment which provides that no person shall be compelled in any criminal case to be a witness against himself has been construed, as it was doubtless designed, to effect a practical and beneficent purpose—not necessarily to protect witnesses against every detriment which might happen to them from their testimony, nor to unduly impede, hinder or obstruct the administration of justice. *Brown* v. *Walker*, 161 U.S. S 91 (1896).

Other provisions of the Constitution, however, make no such demands for further inquiry and set forth certain commands on subjects and areas which admit of no deviations or interpolation of exceptions. With regard to such provisions the Supreme Court had held that the exceptions from a power work its extent, and an exception of any particular case presupposes that those which are not excepted are embraced within the grant or prohibition. *Pine Grove Township v.* Talcott, 86 U.S. 666 (1877); *Rhode Island* v. *Massachusetts*, 37 U.S. (17 Peters) 722 (1838). And where no exception is explicitly made, none should be made by mere implication or construction. *Rhode Island* v. *Massachusetts*, supra; *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 378 (1821).

Examples of such clauses in the Constitution include the following:

> No person shall be a Representative who shall not have attained the age of 25 years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen. Art. I sec. 2, cl. 2.
>
> No bill of attainder or ex post facto law shall be passed. Art. I, Sec. 9, Cl. 3.
>
> One term of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the year in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin. 20th Amendment.

But where an exception was intended in such limiting or prohibitory sections, the framers were careful to specifically delineate it:

> "The privilege of the writ of habeus corpus shall not be suspended, *unless when in cases of rebellion or invasion the public safety may require it*. Art. I, Sec. 9, Cl. 2.
>
> No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, *without the consent of the Congress*, accept any present, emolument, office or title, of any kind whatever, from any King, prince or foreign State. Article I, Section 9, Clause 8.

It may be plausibly argued, that the emoluments clause is more appropriately analogous to those provisions of the Constitution which deliver plainly circumscribed limitations or directions for clearly defined circumstances rather than to those provisions dealing with the grants of amorphous powers to Congress or the protection of individual liberties. In such circumstances, the proper rule of construction to be applied would be one which is faithful to the clear and unambiguous terminology of the framers. As indicated above, where the framers intended to make exceptions to such limiting provisions, they did so explicitly.

With regard to the assertion that nothing in the history of the clause indicates an intent to adopt a "strict literal interpretation," it is respectfully submitted that just the opposite is true. Leaving aside the evidence of the certain, unambiguous language finally adopted, the evolution of the provision, from an absolute disqualification during term of office plus 1 year, to disqualification during a term of office under defined circumstances, lends no apparent support to such a proposition.

Rather, the sense of the debates seems to have been that although the compromise ultimately effected did not cover the extent of the perceived evil—office seeking and executive influence on the legislative—the instances specifically covered were meant to be absolutely closed to evasion. In the words of Rutledge:

> I admit, in some cases, it may be evaded; but this is no argument against shutting the door as close as possible.

There is no hard evidence either in the debates or post-convention commentaries that the instances of ineligibility adopted were anything but unqualified.

Finally, the three legislative precedents cited by Justice are neither persuasive nor controlling. The appointment of Lot M. Morrill as Treasury Secretary followed by 3 years a general raise in executive compensation and by 2 years its reduction.

The nomination was considered in executive session of the Senate for 6 minutes and there is no indication that the question of eligibility was even raised—20 Journal of the Executive Proceeding of the Senate 260 (June 21, 1876); CONGRESSIONAL RECORD, June 22, 1876, p. 4016. The Knox debates were marked by controversy and partisanship. And the Black debate apparently turned on the question whether the change in annuity for Supreme Court Justices was in fact an "increased emolument" as to him. In any event, *Powell* v. *McCormack*, 395 U.S. 486 (1969) makes it clear that unconstitutional action by Congress cannot be rendered constitutional simply by repetition, 395 U.S. at 546–547.

CHICOT COUNTY

Mr. President, the Justice Department referred to the case of *Chicot County Drainage District* v. *Baxter*, 308 U.S. 371 (1940) and holdings of the Court with regard to de facto officers. The Justice Department cited that case in support of the proposition that even if Senator SAXBE were found to be unconstitutionally holding the office of Attorney General, all decisions made by him prior to such determination would be valid as he would be a de facto officer until such time.

The Chicot County case, decided by a unanimous Supreme Court in 1940, was an action by several bondholders to recover on 14 bonds issued in 1924 by the petitioner, which had been in default since 1932.

The petitioner had in 1934 instituted a proceeding under the Reconstruction Finance Corporation Act, for a readjustment of its indebtedness which had resulted in acceptance of its readjustments proposal by more than two-thirds of the outstanding bondholders. The district court decree enforcing this proposal required application for bond repayment to be made within 1 year.

The district court and circuit court of appeals had ruled in favor of the respondents' claim on the ground that the decree providing for the readjustment was void because subsequent to its entry, the Supreme Court held the Reconstruction Finance Corporation Act to be unconstitutional. *Ashton* v. *Cameron County District*, 298 U.S. 513 (193). These courts had operated under the theory that once an act of Congress is found unconstitutional, it is not a law, is inoperative and conferred no rights, imposed no duties and provided no protection. Citing *Norton* v. *Shelby County*, 118 U.S. 245, 442 (1886) as authority, the lower courts had found the Reconstruction Finance Corporation Act was as inoperative as if it had never been enacted and so respondents were not precluded from bringing an action to recover fully on the bonds.

The Supreme Court, in an opinion by Chief Justice Hughes, contains dictum indicating support for the de facto doctrine:

> It is quite clear . . . that such broad statements (of the lower courts) as to the effect of a determination of unconstitutionality must be taken with qualifications. The actual existence of a statute, prior to such a determination, is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects—with respect to particular relations, individual and corporate, and particular conduct, private and official. Questions of rights claimed to have become vested, of status, of prior determinations deemed to have finality and acted upon accordingly, of public policy in the light of the nature both of the statute and of its previous application, demand examination. These questions are among the most difficult of those which have engaged the attention of courts, state and federal, and it is manifest from numerous decisions that an all-inclusive statement of a principle of absolute retroactive invalidity cannot be justified. 308 U.S. at 374.

However, the Court refused to rest its decision on the de factor doctrine and concluded this section by stating:

> Without attempting to review the different classes of cases in which the consequences of a ruling against validity have been determined in relation to the particular circumstances of past transactions, we appropriately confine our consideration to the question of *res judicata* as it now comes before us. *Id* at 374–375.

The case was decided in favor of the petitioner on the ground that the respondents as parties in the original readjustment case had not raised the constitutionality of the statute as an issue and were therefore estopped, by the principle of res judicata from raising that question of constitutionality in a subsequent action, notwithstanding the fact that the Court had subsequently declared the act unconstitutional. The Court concluded that res judicata may be pleaded as a bar, not only as respect matters actually presented to sustain or defeat the right asserted in the earlier proceedings, but also as respects any other available matter which might have been presented to that end.

RUSH HOLT CASE

Mr. President, proponents of the bill, S. 2673 state that article I, section 6, clause 2 is not to be construed literally and claim the analogy that the late former Senator Rush Holt of West Virginia was elected to the U.S. Senate without meeting the constitutional requirement for a U.S. Senator under article I, section 3, clause 3 which states:

"No Person shall be a Senator who shall not have attained to the Age of thirty years, . . ."

Holt was born June 19, 1905 and was elected to the Senate November 6, 1934, for the term beginning January 3, 1935.

Holt presented himself to the Senate on June 21, 1935, and was seated by the Senate. The Senate had appointed a committee under its article I, section 5, clause 1 power to ". . . be the judge of the . . . qualifications of its own Members," which had concluded that Holt could be constitutionally seated upon meeting the age requirement, which he did.

The point here is, this precedent is not a case against literal construction of such mechanical clauses, but, in fact, it is a case supporting such a literal reading. Article I, section 3, clause 3 says:

> No person shall be a Senator who shall not have attained to the Age of thirty year, . . . (emphasis added).

The clause does not say a Senator must be 30 years old when elected or when his term begins. It literally says, no person shall be a Senator until he is 30 years old. Thus article I, section 3, clause 3, in the case of Senator Rush Holt, is a precedent in support of literal construction of such prohibitive clauses as article I, section 3, clause 3 and article 1, section 6, clause 2.

Another literal construction precedent under article I, section 3, clause 3 was the case where Albert Gallatin was elected to the Senate from Pennsylvania on February 28, 1793, but was not allowed to be seated since he had not been ". . . 9 years a citizen of the United States,"

PENSION CHANGES DURING GERALD FORD'S TERM

Mr. President, someone has expressed the view that if Senator SAXBE's appointment is under a cloud—because of article I, section 6, clause 2 of the Constitution—the confirmation of GERALD FORD to be Vice President of the United States would be likewise under a cloud. However, Mr. FORD's present term, as a U.S. Representative, did not begin running until January of this year, 1973, whereas the salary increase for the Vice President took effect some years earlier. Pension changes were made in the office of Vice President during Mr. FORD's term, which may be considered emoluments under article I, section 6, clause 2. The bar does not apply, however, because article I, section 6, clause 2 is applicable to those persons "appointed to any civil office." Most constitutional authorities consider the Office of Vice President as a constitutional office rather than a civil office. The normal requirements for a civil office—for which the Senate has the advice and consent power—require three things: nomination, confirmation, and commissioning. Under the 25th amendment, when the President nominates a Vice President the language of section 2 states that the "Vice President . . . shall take office upon confirmation." Thus there is no requirement for a commissioning which seems to strengthen the argument that the Vice Presidency is a constitutional office under the application of the 25th amendment, as it has been perceived in the body of the Constitution.

M'CULLOCH AGAINST MARYLAND; BELL AGAINST MARYLAND; AND THE 1870 LEGAL TENDER CASES

Mr. President, reference has been made to the 1870 Legal Tender cases, and also to McCulloch against Maryland, and Bell against Maryland.

The 1870 Legal Tender cases dealt with the constitutionality of acts of Congress, known as the Legal Tender Acts which made Treasury notes legal tender for the payment of all debts. Here the court was dealing with a power given to Congress by article I, section 8, clause 5: "To coin money, regulate the value thereof . . ." and to the necessary and proper power given to Congress under article I, section 8, clause 18:

> To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers . . .

The language quoted as authority for rejecting a literal reading of a Constitution clause reads:

> . . . that when investigating the nature and extent *of the powers conferred by the Constitution upon Congress*, it is indispensable to keep in view the objects for which *those powers* were granted." 12 Wall. 457 at 531 (1871) (emphasis added)

The powers the Court were speaking of in this case were broad grants of power to Congress to regulate the value of currency and the necessary and proper clause. I do not know of anyone who disputes that broad functional rules of construction must be applied when we are dealing with broad powers granted to the Congress by the Constitution. But article I, section 6, clause 2 is not such a power—it is not a grant of power, it is a prohibitive clause.

In *McCullough v. Maryland* 17 U.S. 316 (1819) the language cited of Chief Justice John Marshall at page 408 was referring to the power of the United States to establish a national bank under the necessary and proper clause. As was the case in the Legal Tender case the concept of functional construction is being applied to another broad grant of power to Congress under article I, section 8, clause 18, the necessary and proper clause.

Bell v. Maryland, 378 U.S. 226 (1964) was a case involving an illegal trespass act in Maryland aimed at excluding blacks from places of public accomodation. Since Maryland had since abolished the act under which the people were convicted the Supreme Court remanded the case to the State court without reaching the equal protection and due process clauses of the 14th amendment. However, the language quoted by Mr. HRUSKA of Mr. Goldberg's concurring opinion at page 288 is directed to those clauses.

Mr. Goldberg was arguing that the intent of the framers had to be looked to in applying the 14th amendment to specific cases—at page 315

> Claims so important as those presented here cannot be dismissed by asserting that the Fourteenth Amendment, while clearly addressed to inns and public conveyances, did not contemplate lunch counters and soda fountains. Institutions such as these serve essentially the same needs in modern life as did the innkeeper and the carrier at common law. It was to guard against narrow conceptions that Chief Justice Marshall admonished the Court never to forget "that it is *a constitution* we are expounding . . ." *McCullough v. Maryland*, 4 Wheat. 316 at 407.

I concur with that and I believe that no constitutional lawyer in this era would deny that the equal protection and due process clauses of the 14th amendment must be given a functional reading to protect individual rights. But article I, section 6, clause 2 is not such a clause.

Mr. President, in closing, I believe that the constitutional bar in article I, section 6, clause 2, is absolute and cannot be removed by the passage of remedial legislation, namely, S. 2673. In summary, I cite the following reasons:

First, the language of the clause is clear and unambiguous; hence, the rule of statutory construction is to give effect to the intent of the Framers of the Constitution as evidenced in the positive and plain words stated by the Framers.

Second, even if one seeks aid in the constitutional debates of 1787—and I invite the attention of my colleagues to those constitutional debates—it is clear that the Framers intended the clause to avoid the danger of an unscrupulous Executive who might seek to influence the votes of a member of the legislative branch in return for appointment to executive or judicial office.

Third, to contend that passage of special legislation, lowering the salary of the Attorney General to its original level, complies with the spirit and intent of the constitutional clause, is to render the constitutional provision absolutely meaningless. The pay could be raised again by the next Congress—indeed, even during the 93d Congress.

Mr. SAXBE could be appointed Attorney General, could be confirmed, and could be commissioned, let us say, on December 1, and the Congress of the United States could restore the salary on December 2, to $60,000—thus retaining the inherent evil, disregarding the framers' intent, and making a mockery out of the plain language of the clause. It cannot be presumed that any constitutional clause was intended to be without effect.

Fourth, the clause was a compromise between those framers who wanted complete disqualification and those who wanted none. The result was disqualification for those offices which had been made more attractive—by being created or—by having their pay increased, during a Senator's, or Representative's term. Now, an office for which Congress has once voted a pay increase has been made more attractive through a pay increase even if Congress passes remedial legislation. That office has been made more attractive by a pay increase, even though the pay is decreased, by legislation such as S. 2673, to its original level. The reason is simply that, in such a case, Congress is infinitely more likely to revote the pay increase as soon as a Senator's disqualification expires than if Congress had never initially voted a pay increase for the office.

In other words, Congress is more likely to increase the Attorney General's salary to $60,000 when Senator SAXBE's term expires in January 1975—indeed, if not before—than if Congress had never voted a pay increase for the Office—especially, in view of the fact that other Cabinet officials were included also in the 1969 legislation raising their salaries to $60,000, and their salaries are not being cut back to $35,000 by this bill. This bill discriminates only against the Attorney General's salary.

Fifth, many of the clauses of the Constitution are intended to be "functional," and they are subject to continuing interpretation in the light of changing circumstances. Other clauses are "mechanical"—not subject to varying interpretation.

One of those "mechanical clauses" is the clause which states that the President must "have attained to the age of 35 years." Article I, section 6, clause 2, is a "mechanical" clause, and is, therefore, absolute.

It is not like the fifth amendment to the Constitution. It is not like article I, section 8, clause 18, the "necessary and proper" clause. It is not like all those other clauses in section 8, article I of the Constitution, which contain amorphous, shapeless, undefined powers and which must be constantly reviewed in the light of changing needs and changing times and changing circumstances. This is a "mechanical" clause like that which says that no person shall be a Senator unless he must have attained to the age of 30 years. It is a "mechanical" clause. It does not need new interpretation. So let us not confuse a "mechanical" clause with a "functional" clause—a "literal" clause with a "purposive" clause.

Sixth, no Federal court has ruled on the clause. Hence, there is no legal precedent. Proponents of the bill say that the Philander Knox case in 1909 is precedent for this legislation. It is noteworthy that the day after Knox's term in the Senate ended, Congress restored the salary of the Secretary of State to the level prior to the remedial legislation that had been enacted for Knox's benefit. The very precedent cited by the proponents of S. 2673 thus shows that, in fact, the remedial legislation enacted was, in reality, special legislation intended to benefit Senator Knox; and it ought to have been entitled "a bill for the relief of Senator Knox."

The restoring of the salary in that instance shows that the evil intended to be avoided by the framers in drafting the clause, was not avoided, but was, in fact, evaded. Although the Knox case stands as a historical and legislative precedent, it was never tested in the courts. The Supreme Court has said, in *Powell* v. *McCormack* (1969).

> An unconstitutional action . . . taken before does not render that same action any less unconstitutional at a later date." The Supreme Court has also said in that case, "We are not inclined to give its [Congress'] precedents controlling weight.

Seventh, the Constitution cannot be amended, overridden, or repealed by legislation adopted by majority vote of both Houses. The passage of S. 2673 will delude and deceive the American public by pretending that a constitutional bar has been legitimately and constitutionally removed by legislation. Public perception of this issue is important. Many of us have been saying that this is a Nation of laws, not of men, and that no man is above the law.

But by enacting this special legislation, the Congress may be perceived as attempting to place one of its own Members above the organic, basic, fundamental law of this Nation and, by so doing, we will prove to the people what many of them already feel—that we, in Government, will manipulate and trivialize the Constitution of the United States when it suits our ends, and that in reality, we conceive this to be a Government of men, not of laws.

Eighth, even if passed, this legislation will not remove the constitutional bar. The constitutionality of the appointment will be under a cloud until the courts have ruled on it. In the meantime, actions taken by the Attorney General could conceivably be under a cloud. The prospect of serious problems cannot be avoided. Various statutes impose requirements upon the Attorney General, the performance of which could possibly be invalidated if the appointment were successfully challenged on constitutional grounds in the courts. Some aspects of the Watergate investigation conceivably—I say conceivably; I do not say that they will, but conceivably—could be thrown into question.

Ninth, during the Judiciary Committee hearings on S. 2673, four constitutional scholars appeared personally before the committee and gave testimony. Three of these stated that the constitutional bar could not be waived by legislation. They were Prof. Philip Kurland, University of Chicago, College of Law; Dean William Lorensen, West Virginia University, College of Law; Prof. William Swindler, William and Mary College, School of Law.

A fourth eminent expert in constitutional law, Paul J. Mishkin, professor of law, University of California, at Berkeley, indicated, during the Judiciary Committee hearings, his concern regarding this legislation and has since supplied the committee with a statement saying that, even with the enactment of S. 2673, "the appointment would still be of dubious constitutionality and open to serious attack as to its validity."

Mr. President, I have also received a letter from Professor Stephen G. Breyer of Harvard University Law School, which indicates that although he has not researched the subject, it is his opinion that there is a serious question involved.

I ask unanimous consent that Professor Breyer's letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., November 21, 1973.
Senator ROBERT C. BYRD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BYRD: I have just read your interesting analysis of the Disqualification Clause in the November 14th *Congressional Record*. I should like to add one thought.

While the language of the Clause appears to disqualify Senator Saxbe (for it provides no exception for remedial legislation), some will argue that the Clause cannot be read to mean what it says, for such a reading would further no conceivable legislative purpose. But, this is not so! As you point out, the Clause was a compromise between those who wanted complete disqualification and those who wanted none: the result was disqualification for those offices which had been made more attractive (by being created or) by having their pay increased, during the Senator's term. Now an office for which Congress has once voted a pay increase has been made more attractive through a pay increase even if Congress passes remedial legislation. The reason is simply that in such a case Congress is infinitely more likely to revote the pay increase as soon as the Senator's disqualification expires than if Congress had never voted a pay increase for the office. In other words, Congress is more likely to increase the Attorney General's salary to $60,000 when Senator Saxbe's term expires in January 1975 than if Congress had *never* voted a pay increase for the office. And, there seems no way that the present Congress could disable the future Congress from voting the pay increase. Thus, those who voted for the compromise while wishing for a complete prohibition could argue that their objectives have been interfered with if the Senator is allowed to take office during his term; they would have a legitimate claim that the language of the Clause should be taken to mean what it says.

Whether this purpose is sufficiently important to warrant interperting ambiguous language to achieve it is not the issue. The existence of this possible purpose simply strengthens the claim of those who argue that unambiguous language should not be ignored.

I do not offer this as an expert opinion, for I have not researched the question. Nonetheless, I think you have done a great service to raise the constitutional issue. It seems a matter better raised by the Senate in advance of confirmation than by a host of defendants challenging the Department's authority in later (for example, antitrust) proceedings.

Yours faithfully,
STEPHEN G. BREYER,
Professor of Law.

Mr. ROBERT C. BYRD. Mr. President, one constitutional scholar, Prof. William Van Alstyne, Duke University, stated that the constitutional bar would be removed by S. 2673.

Mr. President, the distinguished Senator from North Carolina (Mr. ERVIN) is present on the floor. He has asked me to yield to him. I ask the Chair at this time how much time remains under my control?

The PRESIDING OFFICER. The Senator has used 51 minutes.

Mr. ROBERT C. BYRD. So, I have 64 minutes remaining.

The PRESIDING OFFICER. The Chair wishes to correct his statement; 57 minutes have been used.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

Mr. President, may I say before I yield to the able Senator from North Carolina, that I have an amendment to the bill which I shall offer. I think that there ought to be a rollcall vote on that amendment. Then I have a second amendment which I shall offer and which I shall move to table. I shall ask for a rollcall vote on that amendment.

Then, I am sure that all Senators will want a final rollcall vote on final passage. These votes will take a total of 30 minutes, 15 minutes to each side. Now, how much time will I then have remaining, something like 40 minutes?

The PRESIDING OFFICER. That would leave at least 43 minutes.

Mr. ROBERT C. BYRD. After the rollcall votes have been taken out of the time?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. The Chair would like to correct his earlier statement. We were counting two rollcall votes. It would be 33 minutes.

Mr. ROBERT C. BYRD. Very well. I ask unanimous consent that 5 minutes of my time be reserved by the Chair for the explanation of the first amendment which I shall offer, that 1 minute of my time be reserved by the Chair for the explanation of the second amendment I shall offer, and that 15 minutes of my time be reserved by the Chair for my final statement just prior to the passage of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to the distinguished senior Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask how much time that is.

The PRESIDING OFFICER. The Chair states that that would be something between 20 and 30 minutes. We will look at that more closely as we go along.

The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. Presdent, I commend the distinguished Senator from West Virginia on making one of the most persuasive and convincing arguments on a constitutional question that it has ever been my privilege to hear.

In his "Autocrat of the Breakfast Table," Dr. Oliver Wendell Holmes made this trenchant observation:

> Life and language are alike sacred. Homicide and verbicide—that is, violent treatment of a word with fatal results to its legitimate meaning, which is its life—are alike forbidden.

If there is any instrument in existence on which verbicide should not be attempted, it is the Constitution of the United States. This is so because every public officer, Federal and State, including Senators of the United States, has bound himself by oath of affirmation to support that instrument. And one does not support that instrument when he participates in verbicide upon its words.

The framers of our Constitution placed these words in article I, section 6, clause 2, of the Constitution, which read as follows:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; . . .

Those words are so plain that even he who runs may read and not err in so doing.

One of the men who helped to write these words was James Madison. James Madison placed their meaning beyond the possibility of misunderstanding in Federalist Paper No. 55.

Here is what James Madison said these words mean:

> The Members of the Congress are rendered ineligible to any civil offices that may be created, or of which the emoluments may be increased during the term of their election.

That is what these words mean. This explanation of these words was written by James Madison between the time that these words were placed in the Constitution and the time the Constitution was ratified. And his plain explanation was written by James Madison in his effort to persuade the States to ratify the Constitution. Moreover, the explanation was made by him when their purpose was as clear in his mind as the words in which such purpose is couched.

This bill pays little credit to the intelligence of the men who wrote the Constitution. Who were those men? The presiding officer of that Convention was George Washington, the Father of our Country. Among the members of that great Convention was the man who I think was the wisest of all men who have ever lived on the North American continent, Benjamin Franklin.

The Convention numbered among its members great legal and historical scholars such as James Wilson, Alexander Hamilton, and James Madison. And yet this bill and the proposed appointment of the distinguished Senator from Ohio to the Office of Attorney General, for which he is clearly ineligible under article I, section 6, clause 2 of the Constitution, in effect says, "Although George Washington, Benjamin Franklin, Alexander Hamilton, James Madison and James Wilson and the other wise and patriotic men who wrote those words knew the English language because it was their mother tongue, they did not mean what they said, but, on the contrary, meant something quite different from what they said."

The soundest interpreter of the Constitution was Chief Justice John Marshall. He made manifest, in his opinions in *Marbury* v. *Madison*, 1 Cranch 137 (175–180) and *Gibbons* v. *Ogden*, 9 Wheaton 1 (188), the landmarks of constitutional interpretation. He said in substance, in these great opinions, that there are three landmarks for the interpretation of the Constitution, which are as follows:

First, that the principles of the Constitution are designed to be permanent;

Second, that the words of the Constitution must be understood to mean what they say; and

Third, that the Constitution constitutes a rule for the Government of all public officials, including Senators of the United States, in their official capacity.

He said, in Marbury versus Madison, by way of answers to the lawyers who argued that the Court should disregard what the Constitution says about the original jurisdiction of the Supreme Court, that the Constitution is a rule for the Government of the official conduct of judges, and that if judges disregard the words of the Constitution, they make of that instrument a solemn mockery.

Yet it is proposed here, by this bill today, that we make the Constitution of the United States, insofar as the disqualification set out in plain words in article I, section 6, clause 2 is concerned, a solemn mockery.

It would be pleasant if I could support the Senator from Ohio, for the post of Attorney General. I have taken an oath, however, to support the Constitution, and I believe that Chief Justice Thomas M. Cooley of the Supreme Court of Michigan was right when he made this statement, in volume 1 at page 153 of the eighth edition of his Treatise on Constitutional Limitations:

> Whoever derives power from the constitution to perform any public function is disloyal to that instrument, and grossly derelict in duty, if he does that which he is not reasonably satisfied the constitution permits. Whether the power be legislative, executive, or judicial, there is manifest disregard of constitutional and moral obligation by one who, having taken an oath to observe that instrument, takes part in an action which he cannot say he believes to be no violation of its provisions.

Hence, I cannot reconcile the proposal that the Senator from Ohio be made Attorney General with the provisions of article I, section 6, clause 2.

One of the most profound constitutional scholars in the United States today is Philip B. Kurland of the Law School of the University of Chicago. He wrote a letter to the Committee on the Judiciary setting forth that in his opinion Senator Saxbe is ineligible to be appointed to the Office of Attorney General as long as the term for which he has been elected lasts, and that Congress cannot set aside that constitutional ineligibility by passing this bill. I ask unanimous consent that that letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The University of Chicago,
The Law School,
Chicago, Ill., November 14, 1973.

The Committee on the Judiciary,
U.S. Senate, New Senate Office Building, Washington, D.C.
Attention: Hon. Tom Hart.

Gentlemen: In response to your inquiry as to whether Senator Saxbe may constitutionally be appointed Attorney General during his present Senatorial term, my answer is that he cannot.

The Constitutional provision that controls is explicit, Article I, § 6, ¶ 2 states: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time."

There is no doubt that during Senator Saxbe's term in the Senate, the emoluments

> to be paid to the Attorney General of the United States have been increased by Congressional action. His appointment would, therefore, directly contravene the Constitutional mandate as contained in Article I, § 6, ¶ 2.
>
> The question is then raised whether, if Congress were now to reduce the emoluments of the Attorney General's office to those which were available to him before the legislation that caused Senator Saxbe's disqualification, that disqualification would be eliminated. My answer is that it would not.
>
> In terms of the letter of the constitutional language, the office to which Senator Saxbe would be appointed would still be one whose emoluments had been increased—even though subsequently reduced—during his Senatorial term. More important, however, the purpose of the provision is to prevent Congress from a special legislation for the benefit of one of its members. Clearly a statute reducing the salary of the Attorney General would have no function or purpose except to qualify a particular member of Congress for an office for which he could not otherwise qualify. It seems to me, therefore, that the proposed legislation to reduce the salary of the Attorney General would fly directly in the face of the reasons behind the promulgation of Article I, ¶ 2.
>
> I would point out, also, especially to those members of this Committee who were so concerned that the constitutional doubts about the appointment of a special prosecutor by the Chief Judge of the United States District Court for the District of Columbia would jeopardize the validity of all indictments and all convictions secured by such a prosecutor, that the dangers with which they were concerned would be multiplied manifold in the case of an Attorney General about whose appointment there was danger of constitutional invalidity. It is the Attorney General who has control over all those initiating and prosecuting all federal criminal proceedings. If, as was suggested, the invalidity of an appointment of a special prosecutor would vitiate any efforts toward indictment and conviction, it would seem to follow that the same deficiencies would exist with regard to all criminal prosecutors maintained under the Attorney Generalship of Senator Saxbe.
>
> I recognize, of course, that Article I, § 6, ¶ 2, has been violated in the past. I submit, however, that earlier constitutional violations cannot afford a predicate for further violations. The notion that a constitutional provision can be repealed by being violated is too pernicious to be persuasive.
>
> Respectfully yours,
>
> PHILIP B. KURLAND.

Mr. ERVIN. Here is what Marshall said in Gibbons against Ogden:

> As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution and the people who adopted it must be understood to have employed words in their natural sense, and to have intended what they have said.

This quotation appears on page 188 of 9 Wheaton, where this opinion is recorded.

Another great opinion on the question of constitutional interpretation is the Supreme Court decision in *Lake County* v. *Collins*, 130 U.S. 662. In that case, an ingenious argument was made by lawyers that the Supreme Court could hold that the Constitution meant something it did not say, instead of what it did say. The Supreme Court said this:

> We are unable to adopt the constructive interpolations ingeniously offered by counsel for defendant in error. Why not assume that the framers of the constitution, and the people who voted it into existence, meant exactly what it says? At the first glance, its reading produces no impression of doubt as to the meaning. It seems all sufficiently plain; and in such case there is a well-settled rule which we must observe.
>
> The object of construction, applied to a constitution, is to give effect to the intent of its framers, and of the people in adopting it. This intent is to be found in the instrument itself; and when the text of a constitutional provision is not ambiguous, the courts, in giving construction thereto, are not at liberty to search for its meaning beyond the instrument.

I could multiply manifold the decisions of the Supreme Court which lay down the proposition that when the words of a constitutional provision are plain, they must be interpreted to mean exactly what they say.

Justice Holmes said, in *United States* v. *Brown*, 206, U.S. 240, page 244:

> Whatever the consequence, we must accept the plain meaning of the words.

Justice Fuller said, in *Territory of Hawaii* v. *Mankichi*, 190 U.S. 197, 223:

> To tamper with the words is to eliminate them.

Justice Cardozo, in *Woolford Realty Co.* v. *Rose*, in 286 U.S. 319, 330, said:

> Analysis . . . shows that there is no gap between what they wrote and what in reason they must have meant.

Justice Douglas said, in *Singer* v. *United States*, 323 U.S. 338, 346:

> Whatever the reason, words mean what they say.

What Justice Jackson said in *Adams* v. *Maryland*, 347 U.S. 379, 384 is fully applicable to article I, section 6, clause 2, of the Constitution:

> As unambiguous as language can be.

Justice Holmes said, in *Boschen* v. *Ward*, 279 U.S., 337, 339:

> There is no canon against using common sense in construing laws as saying what they obviously mean.

What was said by Justice Frankfurter in *Phelps Dodge Corp.* v. *National Labor Relations Board*, 313 U.S., 172, 191, aptly describes the argument of the proponent of the bill.

> A bit of verbal logic from which the meaning of things has evaporated.

It is not pleasant to oppose the appointment of a fellow Member of the Senate, especially one for whom I have much affection and much admiration. But the reason I oppose this bill and the reason why I shall oppose confirmation of Senator SAXBE, if his nomination is sent down to the Senate during the time for which he has been elected as a Senator from Ohio, is that I have the highest respect for the Constitution and for my oath to support it.

I have this high respect and this fidelity to the Constitution because I believe the Constitution is America's greatest treasure.

This is so because it confers upon all Americans their most precious rights—their right to constitutional government and their right to constitutional liberty.

History teaches us that rights once lost are seldom regained. Hence, those of us who love the Constitution must do everything within our power to save it.

We must do this because we know that a great Senator, Daniel Webster, who also loved the Constitution, spoke tragic truth when he said these things more than a century ago:

> Other misfortunes may be borne, or their effects overcome. If disastrous wars should sweep our commerce from the ocean, another generation may renew it; if it exhausts our treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again, and ripen to future harvests.
>
> It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All of these may be rebuilt.
>
> But who shall reconstruct the fabric of demolished government?
>
> Who shall rear again the well-proportioned columns of constitutional liberty?
>
> Who shall frame together the skillful architecture which unites national sovereignty with State Rights, individual security, and public prosperity?
>
> No, if these columns fall, they will be raised not again. Like the Colisseum and the Parthenon, they will be destined to a mournful and melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art; for they will be the monuments of a more glorious edifice than Greece or Rome ever saw—the edifice of constitutional American liberty.

Unpleasant as the task may be in this particular instance, I am going to do what I can to support the edifice of constitutional government. Hence, I shall vote against the passage of this bill and the confirmation of Senator SAXBE because his ineligibility for appointment to the Office of Attorney General is expressly stated in the Constitution itself.

I thank the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) for yielding.

I should like to ask the Senator from West Virginia a question about the Powell case. The Supreme Court held in that case that the qualifications for a Member of the House of Representatives are set forth in express terms in the Constitution of the United States and in consequence the House of Representatives had no power to vary those qualifications; is that not so?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ERVIN. Since Powell possessed the qualifications, he was entitled to his seat. Does it not necessarily follow that where a disqualification is set forth in express terms in the Constitution, neither the Senate nor the House can remove that disqualification?

Mr. ROBERT C. BYRD. I agree with the Senator absolutely.

Mr. ERVIN. I thank the Senator from West Virginia very much.

AMENDMENT NO. 719

Mr. ROBERT C. BYRD. Mr. President, I send amendment No. 719 to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the Record.

The text of the amendment is as follows:

AMENDMENT NO. 719

On page 1, between lines 7 and 8, insert the following:

"Sec. 2. (a) Any person aggrieved by an action of the Attorney General may bring a civil action in the appropriate district court to contest the constitutionality of the appointment and continuance in office of the Attorney General on the ground that such appointment and continunace in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

"(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such action shall lie to the Supreme Court.

"(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.".

On page 1, line 8, strike out "Sec. 2" and insert in lieu thereof "Sec. 3.".

Mr. ROBERT C. BYRD. Mr. President, I yield myself 5 minutes.

Mr. President, there is no doubt in my mind that the legislation we are considering, S. 2673, will not remedy the constitutional prohibition which serves to bar Senator Saxbe from serving as Attorney General until the completion of his term on January 3, 1975.

I recognize that others feel that this remedial legislation would effectively remove the constitutional prohibition under article I, section 6, clause 2.

There is little doubt, however, in the event this legislation is passed and Senator Saxbe is nominated and confirmed by the Senate, that his authority will probably be judicially challenged on constitutional grounds.

Under normal circumstances, such a challenge could quickly arise upon the Attorney General's signing of a deportation order or in the delegation of one of his powers to an assistant, such as the delegation of the signing of wiretap orders. It is conceivable that a challenge could come if the new Attorney General tried to circumscribe, in any way, the guidelines once again in the Federal Register governing the jurisdiction and authority of the Special Prosecutor, who remains in the Justice Department under the authority of the Attorney General.

Under normal procedure, this litigation could take as long as a year or more in the courts. During this time, some areas of activity, and even some prosecutions of the Justice Department, would be placed under a cloud, for example, investigations and prosecutions involved in the area of organized crime, and prosecutions stemming from the activities of the special prosecutor's force. Immigration matters could also conceivably be placed under the dark shadow caused by the possible unconstitutionality of the Justice Department's chief officer, the Attorney General.

None of us wants this to happen. It is possible that in the event this remedial legislation is passed and Senator Saxbe is confirmed as Attorney General, no convictions would be lost and no investigations would be stopped.

But there is little, if any, doubt that court actions will be taken to test the constitutionality of his actions as Attorney General. The very presence of such cases in the courts would cast a shadow over some of the activities of the Justice Department until the matter is finally resolved.

For this reason, I am offering an amendment to S. 2673 and I urge its adoption. In the event the views of those who do not share my feeling on the remedial legislation prevail and S. 2673 is passed—and I do not doubt that it will pass overwhelmingly—I feel very strongly that it is the duty of the Senate to minimize the potential harm that might accrue if, in fact, it is later found by the courts that Senator Saxbe is constitutionally ineligible for the post of Attorney General.

My amendment would insure that the judicial examination would come soon and that it would be expeditiously handled by the courts, so that the possibility of damage to court cases and other actions would be held to a minimum.

The amendment provides that "any person aggrieved" by an action of the Attorney General may challenge his appointment in a three-judge Federal district court with direct appeal to the Supreme Court. The choice of "any person aggrieved" was designed to confer standing upon a broad range of individuals. The Supreme Court has said that while Congress may not confer jurisdiction on Federal courts to render advisory opinions or to entertain "friendly" suits, "where a dispute is otherwise justiciable, the question whether the litigant is a "proper party to request an adjudication of a particular issue"—is one within the power of Congress to determine." *Sierra Club* v. *Morton*, 405 U.S. 727, 732 n. 3 (1972). In view of the breadth with which the Court interpreted the same phrase in *Trafficante* v. *Metropolitan Life Ins. Co.*, 409 U.S. 205 (1972), I have no doubt that by this language we can insure that an appropriate party will almost immediately go into court with a challenge.

The U.S. District Courts would have jurisdiction over such a case without regard to the sum or value of the matter in controversy and the action would be heard in the appropriate district court by a three-judge panel in accordance with the provisions of section 2284 of title 28 of the United States Code. Any appeal from the district court would go directly to the Supreme Court. Any judge hearing such cases is directed to cause the action to be expedited in every way.

Mr. President, I recognize that the Senate has recently approved unanimously two bills, S. 271 and S. 663, which abolish general requirements for special three-judge courts in certain categories of cases. However, section 3 of S. 271 provides that a three-judge court would continue to be convened when required by a special act of Congress. I believe the situation here is of such overriding importance that a three-judge court is appropriate. It is unlikely that very many would be convened before this matter would be tested in the Supreme Court and, thus, I do not consider providing for a special three-judge court here to be inconsistent with the recent action of the Senate.

My amendment does not solve the constitutional problems that may confront Senator Saxbe if this remedial legislation is passed and he is confirmed as Attorney General.

It would, however, serve two valuable purposes. First, it would indicate that the Congress is not attempting to deceive the American people into believing that the constitutional prohibition had finally been resolved. It would not have been resolved—that is a matter for the courts and not the Congress to decide. By adding my amendment providing for a quick court test the Congress would be acknowledging this fact and would not be seen in the future as attempting to avoid the Constitution by winking at it with legislation, that in and by itself could not finally determine the issue.

Second, my amendment would avoid the harmful consequences of protracted court proceedings challenging the authority of the Attorney General on constitutional grounds.

While I feel strongly that this remedial legislation will not do what it is designed to do and I will vote against it for that reason, I hope Senators on both sides of this issue will recognize the Senate's duty to provide for a speedy resolution of this issue in the courts in the event the legislation is enacted.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. Mr. President, I yield 4 minutes to the distinguished Senator from California.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield so that I may request the yeas and nays?

Mr. CRANSTON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, the Senate owes a great debt to Senator Robert Byrd for bringing the constitutional problems of this legislation to our attention. His excellent memorandum fairly and clearly lays out the constitutional history for all of us. His efforts are making it possible for the Senate to carry out its role as an interpreter of the meaning of the Constitution.

It was only with the greatest reluctance that I came to a conclusion different from the conclusion of the Senator from West Virginia, for whom I have very great respect, and whose leadership I follow on many matters—but I did.

It is only with the greatest reluctance, too, that I follow on the floor and differ with our distinguished colleague and constitutionalist, the Senator from

North Carolina (Mr. Ervin), for whom I also have profound respect and regard, and with whom I also am most reluctant to differ—but I do.

It is ironic that if the Constitution is given a strict interpretation—as President Nixon repeatedly has insisted it should be given—we would be constitutionally compelled to vote against the pending bill and to reject the man the President has chosen to be his Attorney General.

For without a shadow of doubt, a strict, literal interpretation of article I, section 6, clause 2 of the Constitution would clearly disqualify Senator Saxbe from becoming Attorney General. And no legislation short of a constitutional amendment could change matters.

It is also ironic—sadly ironic—that an administration that has been consistently plagued by—among other things—last-minute revelations on the background and qualifications of many of its executive and judicial nominees, has once again confronted the Nation with an unnecessary issue.

Irony of all ironies—the administration has either done an inexcusably sloppy job of research on a simple, obvious point of constitutional law affecting, of all executive posts, the President's nominee for Attorney General—or it deliberately chose not to inform the Congress and the American people of the constitutional problem it created by nominating Senator Saxbe.

But now is not the time to rub the administration's nose in its folly. Now is not the time to point the finger at how incredibly inept this administration can be, but rather to save it—and the Nation—from the conservancy of its latest ineptitude.

Now more than ever—and in the office of Attorney General more than anywhere—we need to demonstrate again the strength, the breadth, the dynamism of our Constitution.

The Constitution is bigger, stronger than any narrow administrative blunder. It was designed to expand with our expanding Nation and to meet the vicissitudes of radically changing times. And it was written to allow for the frailties of man while giving him a vehicle for self-government that would enable him to realize the full potentials of his better nature.

I am not a lawyer but the intent of the pending bill, it seems to me, fundamentally fulfills the intent—if not the precise language—of the Founding Fathers in this matter.

And it fully protects us, I believe against the evil of rewarding self-serving officeholders which the Founding Fathers sought to protect us against.

No one can challenge—no one, I believe, does challenge—Senator Saxbe's honesty, integrity, or motives when he voted nearly 5 years ago for a bill that increased the salary of the Attorney General, among many others.

Who would have believed then that we would have four, going on five, Attorneys General in the interim? Who would have believed vacancies would have occurred not only with the frequency but under the circumstances that they did? Who, for a moment, believed then that Bill Saxbe would be presented to us 5 years later as President Nixon's choice for Attorney General?

Not I. And certainly not Bill Saxbe.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. LONG. I agree with the Senator. I think he has made a very fine argument.

I have heard some of the debate on the floor of the Senate, and I felt compelled to consult the Scriptures for guidance in this matter, and I found some help. It is found in Corinthians, chapter 3, verse 6. I quote the last line:

> . . . the letter killeth, but the spirit giveth life.

I wish to give thanks to Reverend Blakeman, who is our chaplain for the day, for helping me find this guidance.

I am convinced that what is involved here is a situation in which the Constitution intended that a person should not be in a position to vote a big pay raise for a job and then to enjoy the benefit of that pay raise. When the pay is put back to what it was, then he will not enjoy the benefit of any pay raise for which he might have voted. Everyone knows that when Mr. Saxbe voted on that pay raise, he had not the slightest reason to think that he might ever enjoy the benefit of it.

So it seems to me that what is being proposed here clearly follows the spirit of the Constitution, what the Founding Fathers had in mind. That is what we are doing. But to vote down and deny a good man the opportunity to serve his Nation where he may be in a position to serve best would seem particularly inappropriate by applying the strict words themselves and completely ignoring the purpose and the spirit of those words. That being the case, I think that if we look to the spirit, the intention, of the Founding Fathers, rather than to the strict letter of it, we will come up with a more correct conclusion as to the best solution of this problem.

I believe the Senator has made a very fine statement.

Mr. CRANSTON. I agree with the Senator totally. I thank him for his contribution.

I consulted and read the Constitution and the Federalist Papers, and I consulted attorneys. I did not think of reading the Bible or consulting the Senate Chaplain, and I admire the Senator from Louisiana for his thoroughness and versatility.

Mr. LONG. My father instructed me that the Bible was the source of most statute law, and I think it could serve us in good stead today.

Mr. CRANSTON. I thank the Senator.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. FONG. I yield 1 minute to the Senator.

Mr. GRIFFIN. If I may have the attention of the Senator from California, I wish to commend him for his wisdom in being on the right side of the issue so far as this bill is concerned. However, I feel that I should make an attempt to keep the record straight, in light of his very harsh criticism of the administration for selecting Senator Saxbe.

I believe the record will bear out that the administration called the attention of Congress to this problem; it was not the other way around. As I understand it, the administration has not formally nominated Senator Saxbe precisely because it was aware of the problem, and the administration asked Congress to consider and enact this legislation.

Obviously, the President thinks Senator Saxbe is well qualified and that he can be qualified for the nomination by the enactment of this bill.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, I take this opportunity to address myself briefly to the amendment to S. 2673 offered by the Senator from West Virginia (Mr. Robert C. Byrd).

I am prepared to accept the amendment; and if it is put to a vote, I will vote in favor of it. As modified it is in good form and has a laudable objective.

I am, however, of the belief that it creates no new standing in the Federal courts. Present practices and procedures are sufficient to achieve the purposes of the amendment and will in no way be adversely affected by it.

Nevertheless the obvious intent of the amendment to expedite a court test of the validity of the Saxbe nomination and confirmation, is praiseworthy.

To the extent that it might achieve an expedited procedure for such a test, the purpose of the amendment is good. If it has no bearing on purpose, no harm will be done. It would be merely surplusage if existing practice and procedures for such a court test are ample as I believe they are.

Aside from the question of the necessity of this amendment, a court test should be welcomed in my judgment. Any uncertainty as to future instances of this kind would be obviated thereby.

However, in the interim and between the confirmation of Senator Saxbe and the rendering of the court decision, should such decision be unfavorable there is very small hazard of any undesirable effects.

This is because the impact of an unfavorable decision would be visited on a very small number of cases involving only nondelegable functions of the Attorney General. Moreover, even as to that small number, no untoward result will occur since the de facto officer doctrine would be sufficient to validate any such actions performed during that interval.

This conclusion is reached because it would appear that the Attorney General has the statutory authority to delegate all the powers and functions vested in him.

This is the normal interpretation of a statute simply placing powers in the Attorney General—28 U.S.C. 510. Any limitations on that power therefore must be express; for example, a statute authorizing exercise of powers by the Attorney General and one or more named additional officers, or follow from necessary inescapable implication.

Most functions visited by statute in the Attorney General have been delegated to other officers of the Department of Justice.

With regard to civil and criminal litigation, in most instances, the function of approving complaints or indictments has been delegated to an Assistant Attorney General.

At present, complaints in civil actions in the civil rights and antitrust fields are signed by the Attorney General. However, with regard to antitrust cases, there is no statutory requirement that the Attorney General himself sign complaints. In other words, this custom could be altered by action within the Department of Justice.

There are several pertinent civil rights statues. Of these, only two appear to require the express approval of cases by the Attorney General or, in his absence, the Acting Attorney General. The two statutes are titles II and VIII of the Civil Rights Act of 1964, dealing respectively with public accommodations (42 U.S.C. 200a–5) and equal employment opportunity (42 U.S.C. 2000e–6(a)).

The other pertinent civil rights statutes are such that there is no statutory bar to the delegation of the function of approving civil actions. Examples are the statutes regarding public education, public facilities and intervention in private civil rights suits.

Regarding criminal prosecutions under the antitrust laws, there is no statutory requirement that indictments be signed by the Attorney General.

Under 18 U.S.C. 245, which deals with prosecution for interference with federally-protected rights, any prosecution must be based upon a written certification "of the Attorney General or the Deputy Attorney General" and there is an express prohibition against further delegation of that function. However, it should be noted that delegation to the Deputy Attorney General is expressly permitted.

With respect to court-authorized interceptions of wire or oral communications, 18 U.S.C. 2516(1) provides that an application must be authorized by—

> The Attorney General, or any Assistant Attorney General specifically designated by the Attorney General . . .

However, the Acting Attorney General has just recently specifically delegated this authority to the Assistant Attorney General, Criminal Division.

Thus, I want to make clear that the problem addressed by the amendment by Senator Byrd is indeed a very narrow one. Moreover, it is my view that even in these limited instances the de facto officer doctrine would validate the Attorney General's action. See *United States* v. *Royer*, 268 U.S. 394, 397 (1925); *Norton* v. *Shelby County*, 118 U.S. 425, 441–442, 444–445 (1886); see also, *Lemon* v. *Kurzman*, 411 U.S. 192, 197–198 (1973).

Mr. President, I ask unanimous consent to have printed in the Record a memorandum related to the practical difficulties to be expected regarding this appointment, and particularly the citation of cases which document the de facto officer doctrine.

There being no objection, the material was ordered to be printed in the Record, as follows:

Memorandum

Re: Why a court decision ruling Senator Saxbe's appointment as Attorney General unconstitutional would create fewer practical difficulties than a comparable court decision ruling the establishment of an Independent Special Prosecutor unconstitutional

As the attached Memorandum indicates there are relatively few nondelegable functions that must be performed by the Attorney General and thus would be open to attack if Saxbe's appointment was deemed unconstitutional. Delegations occurring prior to Saxbe's appointment could not be challenged with any likelihood of success. In the case of the Special Prosecutor, however, he or his delegates would be required to sign indictments and subpoenas in carrying out their duties and all such acts could be challenged if the establishment of the Special Prosecutor was held unconstitutional.

The case law also indicates that if Saxbe's appointment was ultimately deemed unconstitutional, none of his prior acts would be rendered null and void thereby. In *Norton* v. *Shelby County*, 118 U.S. 425 (1886), the Supreme Court ruled that the acts of local commissioners in signing local bond issues had no validity in law because the act that created their office was unconstitutional. The Court reasoned that there could be no *de facto* officers when the office they attempted to fill was a legal nullity. 118 U.S. at 441. However, the Court set forth the doctrine giving validity to the acts of officers *de facto* that seems clearly to cover the case of Saxbe if his appointment were ultimately held unconstitutional. The Supreme Court wrote (at 441–442, 444–445):

"The doctrine which gives validity to acts of officers *de facto*, whatever defects there may be in the legality of their appointment or election, is founded upon considerations of policy and necessity, for the protection of the public and individuals whose interests may be affected thereby. Offices are created for the benefit of the public, and private parties are not permitted to inquire into the title of persons clothed with the evidence of such offices and in apparent possession of their powers and functions. For the good order and peace of society their authority is to be respected and obeyed until in some regular mode prescribed by law their title is investigated and determined. It is manifest that endless confusion would result if in every proceeding before such officers their title could be called in question.

"Where an office exists under the law, it matters not how the appointment of the incumbent is made, so far as the validity of his acts are concerned. It is enough that he is clothed with the insignia of the office, and exercises its powers and functions."

See also, *United States* v. *Royer*, 268 U.S. 394, 397 (1925). Although these statements concerning *de facto* officers were dicta in *Norton*, the Supreme Court has not disapproved of them since. On the other hand, the Supreme Court has stated that *Norton* is not to be read as a requirement that all unconstitutional acts be rendered wholly nugatory. See, *Lemon* v. *Kurzman*, 411 U.S. 192, 198 (1973); *Chicot County Dist.* v. *Baxter State Bank*, 308 U.S. 371, 374 (1940). In *Chicot County*, the Supreme Court concluded that the retroactive effects to be given to a ruling that certain acts were unconstitutional are not uniform but must be considered "with respect to particular relations, individual and corporate, and particular conduct, private and official." 308 U.S. at 374. In that case, the Court concluded that one of its decisions should not be given absolute retroactive effect.

In *Lemon, supra*, the Court upheld the decision of a lower court judge permitting Pennsylvania to reimburse nonpublic sectarian schools for secular educational services performed prior to a Supreme Court decision declaring that reimbursement unconstitutional under the Establishment Clause. The Court noted that it had approved nonretroactive relief in civil litigation relating to the validity of municipal financing founded upon electoral procedures later declared unconstitutional and to the validity of elections for local officials held under possibly discriminatory voting laws. 411 U.S. at 197–198. Stating that a balancing test based upon practical realities and necessities should be used in determining retroactivity in equity suits, the Court forcefully concluded the government officials should not have to "stay their hands" until new programs were "ratified" by federal courts, or risk draconian, retrospective decrees. 411 U.S. at 207–208.

In light of the case law on the issue, it seems very unlikely that a court, weighing competing private and public interests, would hold invalid any of Saxbe's actions as Attorney General if it were later determined that his appointment were unconstitutional. On the other hand, *Norton* suggests that if the entire establishment of the Office of Special Prosecutor were unconstitutional then the Special Prosecutor could not be deemed a *de facto* officer, thus rendering all of his acts null and void.

CONCLUSION

As a practical matter, Saxbe's appointment as Attorney General, if subsequently declared unconstitutional, would create fewer problems than an unconstitutional establishment of a Special Prosecutor because the latter would of necessity perform more significant acts open to legal challenge than the former. Additionally, the case law indicates that the actions of Saxbe as Attorney General probably would not be held invalid *ab initio* if his appointment were deemed unconstitutional. In contrast, there is a greater likelihood that the Special Prosecutor's actions would be held invalid if the Act creating his position were held unconstitutional. Finally, a court is much less likely to rule Saxbe's appointment unconstitutional if S. 2673 is enacted than it is to rule that various bills establishing a Special Prosecutor that the Department of Justice opposes are unconstitutional. First, there exists statutory precedent for the Saxbe appointment pursuant to enactment of S. 2673, whereas no such precedent exists for the establishment of a Special Prosecutor free from the Executive's control. Second, the purpose of the Ineligibility Clause is clearly met if Saxbe is appointed after enactment of S. 2673, whereas establishment of an independent Special Prosecutor would violate the purpose of the constitutional separation of powers doctrine.

Mr. HRUSKA. Mr. President, I have some general comments on the bill itself. This bill will be effective to confirm the eligibility of the contemplated nomination of Senator Saxbe to be Attorney General. The present obstacle was enacted by Congress, namely, the increase in the emoluments for the office of the Attorney General, which were approved in 1969. Since Congress enacted and created that obstacle, Congress can remove that obstacle.

A review of the history of the constitutional debates reveals that the framers were concerned with guarding against possible corruption of the appointive process, by permitting a Member of Congress to receive the benefit or fruit of a new office created or an increase in emolument in an existing office which was effected during the time for which he was elected. The framers also clearly were concerned that the clause be not so broad as to prevent Members of Congress from assuming appointive office. Recognizing that such appointments could bring much experience and knowledge to appointive office, the framers also intended the clause to insure the availability of Members of Congress for other positions in Federal public service. A restrictive reading of the eligibility clause ignores this latter avowed objective of the framers.

Senator Saxbe, after enactment of S. 2673, will not receive any benefit, profit or gain from any increased emolument which was enacted during his term in office. Therefore, there will be full achievement of the purposes of that constitutional clause.

The argument is made that the words used in the Constitution in the eligibility clause are used in their natural, usual, and ordinary meaning, and that their meaning is clear. We are told that a literal reading of the words themselves preclude nomination notwithstanding the language of S. 2673. The principles of constitutional construction, however, are contrary to this narrow, literal approach. As has been the rule ever since Chief Justice John Marshall's time, we look not only at the words but we also look at the intent and the purpose of the Founding Fathers when they made their composition of the language to determine its meaning.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. I yield the Senator 4 additional minutes.

Mr. HRUSKA. There are a number of instances where the intention of the framers has been examined in addition to the words of the document that I can call to the attention of the Senate immediately. These examples are typical of only a small fraction of similar instances where the nonliteral approach to constitutional construction is utilized by the Supreme Court.

One of the most well-known examples is the fifth amendment protection against self-incrimination. The language of the Constitution states that no person shall be compelled in any "criminal case" to be a witness against himself. Yet the Supreme Court has extended that to include civil proceedings, congressional hearings, and even administrative proceedings. This is only one of many examples.

Mr. President my time is running out. I therefore ask unanimous consent to have printed in the Record a documentation of similar cases and Supreme Court discussions of constitutional construction.

There being no objection, the material was ordered to be printed in the Record, as follows:

Principles of Constitutional Construction

High relevance of the Constitutional history, especially as contained in Debates of the Federal Convention, is apparent in the following quotation from the Supreme Court Opinion in 1964 in the case of *Bell* v. *Maryland,* 378 U.S. 226, with Mr. Justice Goldberg concurring:

"Our sworn duty to construe the Constitution requires . . . that we read it to effectuate the intent and purpose of the Framers. We must, therefore, consider the history and circumstances indicating what the (provisions in question) were in fact designed to achieve."

The difficulty with a literal construction of the Ineligibility Clause is that such a reading assumes that the Constitution was written in the same manner as a detailed statute. This narrow approach is refuted by a review of a few of the many Supreme Court rulings which go beyond the literal implications of the Constitutional language in order to reach a result consistent with the intent of the framers. (For example, the Establishment Clause of the First Amendment has been held to permit church tax exemptions; the Fifth Amendment's protection against self-incrimination has been applied to civil and legislative proceedings in addition to the prescribed "criminal cases" and has also been read to uphold immunity statutes; similarly, that Amendment's prohibition against the "taking," of private property has been interpreted far beyond its literal wording.)

Chief Justice John Marshall, was well aware that many constitutional provisions do not spell out contingencies in great detail. In *McCulloch* v. *Maryland,* 17 U.S.C. 316, 406 (1819), Marshall wrote:

"A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires, that only it great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced, from the nature of the objects themselves . . . (W)e must never forget that it is a constitution we are expounding." *McCulloch* v. *Maryland,* 17 U.S. 316, 406 (1819).

The Chief Justice went on to state that a strict literal interpretation of the Constitution would lead to such pernicious results that the Supreme Court would be compelled to disregard such an approach. 17 U.S. at 415. The same thought was expresesd in the *Legal Tender Cases,* 12 Wall. 457, 531 (1871), where the Supreme Court stated:

"Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered."

EXAMPLES OF NONLITERAL INTERPRETATION OF THE CONSTITUTION: FIRST AMENDMENT—FREEDOM OF RELIGION

The Supreme Court was recently confronted in *Walz* v. *Tax Commission,* 397 U.S. 644 (1970) with an argument based on the Establishment Clause of the First Amendment ("Congress shall make no law respecting an establishment of religion . . .") It was argued that the clause, read literally, barred a municipal grant of an exemption to church property.

In rejecting this contention, and upholding the church tax exemption, the Court stressed the purpose rather than the literal meaning of the language: "The sweep of the absolute prohibitions in the Religion Clauses may have been calculated; but the *purpose was to state an objective, not to write a statute.*" 397 U.S. at 668. (Emphasis added.)

FIFTH AMENDMENT—SELF-INCRIMINATION

A good example of a nonliteral approach to a constitutional provision is the so-called self-incrimination clause of the Fifth Amendment. It reads:

"No person . . . shall be compelled in any criminal case to be a witness against himself. . . ."

Read literally the clause would apply only to a "criminal case," and not to questions of compulsory self-incrimination arising in civil cases, in administrative proceedings, in congressional investigations. And yet the Supreme Court consistently has interpreted the clause to apply to all federal official proceedings (Hoffman v. United States, 341 U.S. 479 (1951)), and to official state proceedings also via the process of incorporation into the due process of law clause of the Fourteenth Amendment. (Malloy v. Hogan, 378 U.S. 1 (1964)).

Fifth Amendment—Taking of Property

The Fifth Amendment contains several clauses which have been subject to extensive interpretation by the courts. The final clause of that Amendment provides that "private property . . . (Shall not) be taken for public use without just compensation." The literal language of this clause does not put the reader on notice of the many nuances which have been read into the language by court decisions. Thus, under existing case law the damage caused by aircraft flying at a low level directly over private property constitutes "taking" [Griggs v. Allegheny County, 369 U.S. 84 (1962); United States v. Causby, 328 U.S. 256 (1956)], but a low level flight causing similar damage to property not directly under the flight path is not a "taking" [Batten v. United States, 306 F.2d 580 (10th Cit. 1962), cert. denied, 371 U.S. 955 (1963)]. And, under the threat of imminent invasion by foreign troops, the outright destruction of an oil refinery by United States forces does not constitute a "taking" [United States v. Caltex, 344 U.S. 919 (1952).]

Fifth Amendment—Immunity Statute

Perhaps the most striking example of the non-literal approach to the Constitution is found in the Supreme Court's validation of the immunity statutes (or compulsory testimony laws) based upon an interpretation of the Fifth Amendment beginning with Brown v. Walker, 161 U.S. 591 (1896) and reiterated as recently as 1972 in Kastigar v. United States, 406 U.S. 441 (1972).

What is the function and effect of this Fifth Amendment clause, standing alone? It is to bar the government from obtaining testimony and personal documents from a witness when the witness interposes a proper plea of the Fifth Amendment. And indeed, in keeping with a functional approach to this clause, the Court has aided the witness and broadened the protection by developing the doctrine that a mere showing of a tendency to incrimination is sufficient to protect the witness from compulsion to produce the desired information. (Hoffman v. United States, 341 U.S. 479 (1951)).

How, it may be asked, can an immunity statute make it possible to compel the witness to produce the information desired by the government? This effect is made consistent with the constitutional protection by providing, in the immunity statute, that no compelled information or any derivative fruits thereof can be used against the witness in any proceeding which could subject him to a criminal penalty; it cannot furnish any basis for a conviction. It is only looking at the Fifth Amendment clause in broad, functional context that this effect of an immunity statute can be said to be consistent with the clause.

The immunity statutes upheld by the Court provide a close parallel to S. 2673 in that, while both might be said to permit action not in literal compliance with the constitutional provisions involved, it is evident that the purposes of those provisions are fully satisfied by such action. Moreover both the immunity statutes and legislative provisions in the nature of S. 2673 have a long history, further strengthening the presumption of constitutionality.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. AIKEN. In the event the Byrd amendment is adopted and the bill S. 2673 becomes law, and that as a result of a civil action provided for in the Byrd amendment Senator SAXBE is found to be ineligible to serve in that office, does the successor then get the lower salary which the bill itself provides?

Mr. HRUSKA. In my judgment, yes, because that salary would have been lowered to $35,000 by S. 2673, Congress would again have to act to restore it.

Mr. AIKEN. We would have to go through it again?

Mr. HRUSKA. Only that one aspect. There is no question about the constitutionality of Congress changing the salary.

Mr. AIKEN. Perhaps this bill should be expanded.

Mr. PASTORE. Mr. President, will the Senator yield so that I may ask a question?

The. PRESIDING OFFICER (Mr JOHNSTON). The time of the Senator has expired.

Mr. PASTORE. May we have additional time?

Mr. FONG. I yield 1 minute to the Senator from Rhode Island.

Mr. PASTORE. I am quite amenable to the arguments advanced by the Senator from Nebraska. I think it is in the power of Congress to undo anything that is done. But the fact still remains that the Attorney General of the United States must sign indictments. There is no question about it, if what is transpiring in the Senate is an example, the ambiguity still exists on the constitutionality of what we do. My question is, does not the Senator feel the first step we should take is more or less along the lines suggested by the Senator from West Virginia?

The PRESIDING OFFICER. The Senator's 1 minute has expired..

Mr. PASTORE. May we have another minute or two?

Mr. FONG. I yield another minute.

Mr. PASTORE. Does anyone else have any time?

Mr. ROBERT C. BYRD. I have 2 minutes. I am glad to yield to the Senator for 1 minute.

Mr. PASTORE. Recognizing the fact that sometimes the processes of criminal justice are rather slow, and there might be very serious indictments that might be challenged before the Supreme Court, does not the Senator think that as a first step it would be well to have precedence by statutory law, as suggested by the Senator from West Virginia, in any case where the challenge might arise, so we could have a speedy determination of that? I see no harm in that.

Mr. HRUSKA. By all means. I favor the amendment to the extent it will expedite a court test in this case, although, I do not think it is necessary. I think present statutes are sufficient to achieve this purpose quickly. But the Senator from West Virginia is a careful lawyer and he wants to be sure that results will flow from his amendment. If I were the manager of the bill, I would accept it. If it is put to a vote, I shall vote for it.

Mr. PASTORE. I feel the same way. I think what we decide here is a matter of policy, but we have to recognize the fact that the constitutionality will be challenged for various reasons and the quicker we get a decision the better.

Mr. HRUSKA. I agree.

Mr. PASTORE. I am very happy to hear the Senator say that.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, I yield myself such time as may be needed.

As to the amendment, I have no objection to the amendment. This amendment only circumvents the appellate process through the court of appeals. It permits direct appeal from the district court to the Supreme Court. So, on the basis of eliminating an appeal to the court of appeals, it may expedite a case, if one arises.

Mr. President, much has been said by the distinguished Senator from North Carolina and the distinguished Senator from West Virginia to the effect that we are making the Constitution a solemn mockery. The distinguished Senator from North Carolina has stated that the framers of the Constitution knew what they were doing, that they knew the English language and, therefore, when they wrote the provisions in the Constitution they meant what they wrote.

If we were to follow literally the words in the Constitution, many, many decisions of our courts would have gone the other way.

For instance, I should like to point to this very article which we are talking about, article I, section 6, clause 2 of the Constitution. It states that:

> No person holding any office under the United States shall be a member of either House during his continuance in office.

Yet, this section has been construed so that a Member of Congress may be a visitor to academies, a director or trustee of public institutions and members of temporary commissions, without compensation. Apparently, where the office pays the Member of Congress no compensation, that is permissible despite the "clear,"—and I put clear in quotations—language of article I, section 6, clause 2 of the Constitution.

We can see that if all we do is look at the words and try to interpret them absolutely and literally, no person in the Congress can hold any office. Yet, we do have Members of our Congress holding offices which do not pay any compensation.

The first amendment appears to make it clear that there shall be no law "abridging the freedom of speech." Yet, we know that a person cannot yell "fire" in a crowded theater. If we say we understand what the clear, simple English language says, and it says "freedom of speech shall not be abridged," when we say we cannot allow a man to yell "fire" in a crowded theater we are really interpreting what the framers of the Constitution reasonably meant by the clear simple English words.

The framers of the Constitution in essence said there shall be "freedom of speech." Yet we say a person will be libel for damages for slander if he says anything which is not true and which would defame a man's reputation.

The Constitution says there shall be "freedom of the press." Yet we have libel laws. The press cannot in the exercise of that freedom libel a man.

There is the prohibition against making any law respecting an establishment of religion. But, we legislate and make property owned by religious organizations and used solely for religious worship exempt from taxes. I could cite the Walz case as an example of such legislation.

The fifth amendment to the Constitution provides that no person shall be compelled in any criminal case to be a witness against himself. Yet, we have included by interpretation of this clause of the fifth amendment a prohibition against compelling self-incriminating testimony in civil cases, hearings before Congress, and in administrative proceedings.

So it can be seen that even where the Constitution is very specific, where its language is simple, where its words are plain, where even a first grader could read and understand it, the Supreme Court has interpreted the constitutional provision otherwise.

No. Here we are not making a mockery of the Constitution. We cannot give the language of the provision of the Constitution with which this bill deals the literal and the very strict and the absolute and simplistic interpretation which our opponents wish us to give to it. To do so would do violence to the intent of the framers of the Constitution when they used these words.

We must not forget that as Chief Justice Marshall said in *McCulloch* v. *Maryland,* 17 U.S. 316, we are interpreting a Constitution as the Chief Justice pointed out, only the great outlines are set forth in a Constitution, only the important objects re designated in a constitution.

Specificity is reserved to statutes; not by a constitution. The bill before us, S. 2673, is for the purpose of providing the specificity for which article I, section 6, clause 2, cries out. If we enact this legislation and repeal the increase in emoluments and compensation of the Office of Attorney General, we will have done away with all the objections to the appointment of Senator SAXBE to that Office.

The real reason for the prohibitions set forth in this constitutional provision is to prevent a legislator from enriching himself because of his position as a legislator, not to deny members of the legislation the right to appointment to civil office. When we pass legislation which takes away that potential enrichment we have reduced that office back to the original status in which it was before. We have restored the status existing when the Member began his term in the Legislature.

Let us not forget that, under common law, when a criminal statute is repealed, the courts hold that all pending proceedings are nullified. It is as if the statute had never existed.

Here we are doing the same thing. We enacted the statute to increase the emoluments of the Attorney General's office. Now we are decreasing the emolument of the Attorney General's office to what they were at the time when Senator SAXBE took office.

We did enact such statute; now we propose to repeal it. Like the criminal statutes that have been passed and then repealed, when we eliminate the increase in the emolument by enacting legislation which operates as an implied revocation of the statutory increase in the emolument of the Office of Attorney General, we are bringing the situation back to the condition which existed. It is as if the original law had never existed. When we do this in the case of Senator SAXBE, we will be recreating the status quo—as if the law never existed insofar as he is concerned.

We feel very strongly that what we are doing here today is constitutional. It is within our power to do it. This article I, section 6, clause 2 should be construed so that it will carry out the purpose and the intent of the framers of the Constitution. The purpose and the intent of the framers of the Constitution was not to deny offices to legislators, but to deny them the increases which go with those offices while they are in those offices and while they have a possibility of influencing those increases. This constitutional provision was primarily intended to prevent corruption of or by our legislators.

Here, Senator SAXBE is going to take a job which reduces his salary. He is now getting $42,500. His salary as Attorney General would be reduced to $35,000. The present pay of the office of Attorney General is $60,000. He will not get $60,000, nor will he get the $42,500 which he now enjoys, but he will get $35,000. I think this is a very noble act on the part of the distinguished Senator from Ohio and he should be commended for his willingness to serve the public.

The PRESIDING OFFICER. Who yields time?

The question is on agreeing to the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SAXBE (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The Senator from Arizona (Mr. FANNIN) and the Senator from Idaho (Mr. McCLURE) are absent on official business.

The Senator from Virginia (Mr. WILLIAM L. SCOTT) is detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) would vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 523 Leg.]

YEAS—88

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fong
Goldwater
Gravel
Griffin
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

ANSWERED "PRESENT"—1

Saxbe

NOT VOTING—11

Baker
Fannin
Fulbright
Gurney
Long
McClure
McGovern
Montoya
Scott,
  William L.
Stevenson
Symington

So the amendment of Mr. ROBERT C. BYRD was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. JOHNSTON). Will Senators please take their conversations outside. The Senator from West Virginia would like to be heard.

The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there may be an immediate rollcall vote. I am only going to take 1 minute on the amendment I will now send to the desk, and when the other side yields back its time, I will move to table my own amendment.

I hope that all Senators vote to table this amendment. This amendment constitutes a direct, frontal assault on article 1, section 6, clause 2 of the Constitution of the United States and attempts to change that clause of the Constitution in a direct way, as opposed to S. 2673 which would attempt to waive that clause indirectly.

Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

Strike out all after the enacting clause and insert the following:

"That any Senator or Representative may, during the time for which he was elected, be appointed to any civil office under the authority of the United States, the emoluments whereof shall have been increased during the time for which he was elected: *Provided, however,* That such Senator or Representative shall not receive the increased salary, but shall only receive such salary as was fixed by law before the said increase."

Mr. ROBERT C. BYRD. Mr. President, I am ready to vote, and I intend to move to table the amendment at the time the opposition yields back its time.

Mr. FONG. Mr. President, I have no objection. I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I take 1 minute from my remaining 15 minutes.

I want all Senators to know that if they vote not to table this amendment, the vote will then recur on an amendment which will constitute a direct, frontal attack on the Constitution of the United States so as to directly accomplish exactly what the Senate is about to try to accomplish indirectly by the passage of this bill, S. 2673.

Mr. President, I move to table my amendment.

Mr. GRIFFIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The motion to table has been made.

Mr. METCALF. Mr. President, I am against the motion to table. I am certainly not going to vote for the tabling motion with all of the implications suggested by the Senator from West Virginia.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. At this time a quorum call is not in order.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is a sufficient second.

The yeas and nays were ordered.

Mr. FONG. Mr. President, I yield such time to the Senator from Michigan as he wants.

The PRESIDING OFFICER. Does the Senator from Hawaii yield only for a quorum call?

Mr. GRIFFIN. Mr. President, does the Chair mean that I can only suggest the absence of a quorum?

The PRESIDING OFFICER. The Senator is correct. The motion to table has been made.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York will state his inquiry.

Mr. JAVITS. The inquiry is, is not a quorum call in order at any time before a vote, whether it is a rollcall or not?

The PRESIDING OFFICER. If no one is holding the floor.

Mr. ROBERT C. BYRD. Mr. President, may I say to Senators what they will be doing?

Mr. GRIFFIN. Mr. President, I call for the regular order, unless the Senator from West Virginia will let us have some time.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute out of my remaining time.

The PRESIDING OFFICER. The regular order is to vote on the motion to lay on the table.

Mr. JAVITS. Mr. President, the Chair has not ruled on the parliamentary inquiry. I think we are entitled to know whether there is a case in which Senators cannot request a quorum call before a vote.

The PRESIDING OFFICER. A quorum call immediately before a vote is in order.

Mr. GRIFFIN. Mr. President, I understand that the Senator from Hawaii is willing to yield for that purpose.

Mr. FONG. I have yielded.

Mr. MOSS. Mr. President, the Senator from Hawaii yielded back his time very clearly.

The PRESIDING OFFICER. However, he has time on the bill. The Senator from Hawaii has time on the bill as well as on the amendment.

Mr. FONG. I yield whatever time is needed.

Mr. GRIFFIN. The only thing I can do is suggest the absence of a quorum, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there time yielded for a quorum call?

Mr. ROBERT C. BYRD. Not from my time. I have none left to spare that is not committed.

The PRESIDING OFFICER. Does the Senator from Hawaii yield for a quorum call?

Mr. FONG. Yes; I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask to withdraw my motion to table.

The PRESIDING OFFICER. That requires unanimous consent, the yeas and nays having been ordered. Is there objection to the withdrawal of the motion to lay on the table? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. GRIFFIN. Mr. President, may I be recognized?

Mr. FONG. I yield 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I rise to echo the views and sentiments of the Senator from Montana, who indicated that he does not necessarily adopt the reasons which were so swiftly stated by the Senator from West Virginia as far as the reason for his voting to table, if he so votes.

I as one Senator will vote to table this amendment, not for the reasons the Senator from West Virginia has stated, but because it has been very quickly presented to the Senate. It is an amendment that would obviously involve grave constitutional questions. It is one that, however, might well have the study of the Committee on the Judiciary, and there should be hearings upon it.

Under the present circumstances, if it is to be presented in this manner, of course we should table it. But I do not think that should necessarily indicate to anyone a judgment on the merits of the amendment.

Mr. FONG. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. FONG. Is this not the particular issue we discussed in the colloquy this morning between the Senator and me, the need to have legislation on this particular point?

Mr. GRIFFIN. Yes, I think it is. As I stated to the Senator from Hawaii this morning, particularly in the light of the 25th amendment, which certainly was not envisaged by the Founding Fathers, which calls for the appointment of a Vice President in the event of a vacancy, I think that there should be general legislation considered, if it is at all possible to draft it in a constitutional manner, so that all Members of Congress would not be ineligible and disqualified from consideration when a vacancy in the office of Vice President occurs. At the present time it is arguable that that would be the situation.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

Mr. GRIFFIN. I also pointed out the complication of the pay statute on the books today, which calls for an adjustment in compensation after it has been recommended by a commission and recommended by the President, and that pay adjustment can take place without the action of Congress. It is not altogether clear whether or not, if such a pay adjustment took place, Members of Congress, during the 2 years in the case of the House Member or 6 years in the case of a Senator, would be prohibited from being considered for appointment.

I think the Committee on the Judiciary should consider that question, not in the interests of Republicans or Democrats, but in the interests of the country. If it cannot be done by general legislation, I suggest that we need a change in the Constitution itself to make clear that Members of Congress could be considered so long as they did not benefit from the increase in salary or emolument during the term for which they were elected.

That is my statement.

Mr. MANSFIELD. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MANSFIELD. Is that not the contention of the distinguished assistant majority leader as well?

Mr. ROBERT C. BYRD. Mr. President, article I, section 6, clause 2 of the Constitution states that no Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the authority of the United States the emoluments whereof shall have been increased during such time.

I am saying in my argument today that we are attempting by legislative legerdemain to waive what I consider to be—though I am no constitutional authority—a complete prohibition against the appointment of Mr. SAXBE under the circumstances which obtain.

I am saying we ought not to do that. The amendment I have just offered is an attempt to amend the Constitution by a majority vote of the Senate to provide exactly the same thing, to wit, that any Senator or Representative may be appointed to any civil office under the authority of the United States the emoluments of which have been increased during his term, provided that he cannot accept the salary increase, which went into effect in this case in mid-February 1969.

I do not believe the Senate is going to vote to amend the Constitution by a majority vote. Yet, that is precisely what we are attempting to do indirectly in the bill, S. 2673, in my judgment. I shall not fall out with anyone who disagrees with me, but I think that is exactly what the bill does.

Mr. ALLEN. Mr. President, I raise a point of order.

The PRESIDING OFFICER. A point of order cannot be made until time is yielded back. After it is yielded back the Senator from Alabama will be recognized.

Mr. ALLEN. Very well, I withdraw it.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. ROBERT C. BYRD. I yield.

Mr. MANSFIELD. As I gather, from reading article I, section 6, clause 2 of the Constitution and the amendment at the desk, what the distinguished Senator is attempting to do is accentuate the positive rather than the negative, as stated in the Constitution.

Mr. ROBERT C. BYRD. Exactly.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. The fact of the matter is that the question raised by the Senator concerns the fact that we are by statutory law changing the Constitution. The question is: Is what we are doing with reference to Senator SAXBE unconstitutional? We have not determined that yet. The only one that can determine that is the Supreme Court. We take the position that what we are doing, if we vote for a decrease in the salary of Senator SAXBE, is that we are doing an unconstitutional act. I cannot subscribe to that because I will vote for Senator SAXBE.

Mr. ROBERT C. BYRD. I thank the Senator from Rhode Island. I tried to address some of my remarks to the same point earlier. I may not have met it fully, but I respect the Senator for his position.

Does the distinguished Senator from

Alabama (Mr. ALLEN) now wish to raise his point of order?

The PRESIDING OFFICER. Has all time been yielded back?

Mr. ALLEN. All time has not been yielded back.

Mr. ROBERT C. BYRD. I yield back my time, Mr. President.

Mr. ALLEN. Mr. President——

Mr. FONG. Mr. President, I yield 2 minutes to the distinguished Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, article I, section 6, clause 2 of the Constitution states:

> No Senator . . . shall, during the time for which he was elected, be appointed to any civil office . . . which shall have been created, or the emoluments whereof shall have been increased during such time.

This provision, if properly construed, simply means that if an office is created, or if the emoluments of an office are increased, while a person is a Member of Congress, then such person is not eligible for appointment to that office.

Why? To prevent personal aggrandizement or gain.

Had the Attorney General's salary not been increased while Senator SAXBE was a Member of the Senate, without any question, he would be eligible for that office. By lowering the salary, as this bill would do, we remove the barrier created by Congress in 1969 when it increased the salary. If Congress can create the barrier Congress can remove it.

Senator SAXBE is a man of character, courage, and capacity, and I predict he will make a great Attorney General.

Mr. President, on November 27, 1973, the Washington Star-News printed an editorial entitled "The Saxbe Nomination." I ask unanimous consent that this editorial be printed in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE SAXBE NOMINATION

It is clear that the framers of the Constitution intended only to prevent members of Congress from deliberately cashing in on their votes when they put in a restriction against senators and representatives serving in any federal civil office after having voted to raise the salary for that office.

It would seem, therefore, that legislation rolling back the salary for the office of attorney general would be sufficient to clear the way for confirmation of Senator Saxbe of Ohio to head the Department of Justice.

During the first year of Saxbe's Senate term, he voted in 1969 for legislation that raised the salary of cabinet officers from $35,000 to $60,000. According to those who question his nomination, that makes him ineligible to serve as attorney general because of a prohibition in Article 1, Section 6 of the Constitution, which says that no member of Congress shall be appointed to any civil office for which the "emolument . . . shall have been increased" during his term in the Congress.

The Nixon administration has proposed to clear the way for Saxbe's confirmation by cutting the attorney general's salary back enough to overcome the Constitutional to $35,000. But critics claim this is not barrier.

There is a precedent for this, however. It was done in 1909 so that Senator Philander Chase Knox could be confirmed as Secretary of State. In 1876, the Senate confirmed Senator Lot M. Morill as secretary of Treasury even though cabinet salaries were increased in 1873 while he was in the Senate. And Senator Hugo L. Black was named to the Supreme Court in 1937 although he had voted to increase the retirement benefits of Supreme Court justices, which certainly seems to fall into the "emolument" category.

In the present Watergate atmosphere, it is not unusual that nitpickers have been going over the Saxbe nomination looking for flaws and threatening to challenge the nomination in the courts if he is confirmed. It has become the style these days to question every move and motive of the Nixon administration.

It should be obvious to anyone that Saxbe did not vote for the pay increase for cabinet officers because he expected some day to become one. Given his strong criticism of several Nixon policies, it was a sure bet until Watergate came along that he would never be asked to serve in the cabinet. We believe that cutting the salary back to $35,000 while Saxbe serves as attorney general sufficiently cures whatever constitutional defect the nomination may have had.

Mr. FONG. Mr. President, in voting to table this amendment, I am voting on the ground that we have never had any hearings on this proposition and that I may want to vote for the amendment if we had hearings on it. But, not having had any, I am voting to table.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table the——

Mr. ALLEN. Mr. President, I was going to be recognized, I thought, for a point or order after the time had been yielded back.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I raise a point of order that the amendment is not germane and, therefore, it cannot be considered.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Chair would state that the point of order is well taken and that the amendment is not germane.

Mr. ROBERT C. BYRD. Mr. President, did not the Senator from Hawaii have the floor in his own right when he said that he yielded back his time?

The PRESIDING OFFICER. He did.

Mr. ROBERT C. BYRD. I, at that time, got recognition and moved to table.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. So the point of order cannot be entered.

Mr. ALLEN. Mr. President, I called the attention of the Chair to the fact that I asked to be recognized when all time had been yielded back, and the Chair stated that he would recognize me then.

The PRESIDING OFFICER. The motion to lay on the table is not debatable. However, the Senator from Alabama was not recognized for the purpose of debate but rather as promised for the purpose of making a point of order.

The Chair sustains the point of order.

Mr. ROBERT C. BYRD. I thank the Chair.

Well, Mr. President, I will not appeal the ruling, but I think this indicates the confusion that we are all in here. The amendment was for the purpose of doing directly that which we say we cannot do directly but which we are attempting to do indirectly in the form of S. 2673.

Now, Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). Fourteen minutes remain to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair. Very well. Would the Chair secure order and preserve order during that 14 minutes?

The PRESIDING OFFICER. The Chair will attempt to do so.

Mr. ROBERT C. BYRD. Time is running on the Senator from West Virginia, I would state to the Chair. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Let me say to the Senator from West Virginia that I think the Senate is now in order. The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, I would like to have a little better order, if the Chair would get it for me.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Senator from West Virginia requests that the Senate be in order. The Chair asks that Senators take their seats and refrain from speaking with one another while they are in the Chamber. If Senators wish to speak, they should please retire to the cloakroom. The distinguished Senator from West Virginia is entitled to be heard by the Senate.

Mr. ROBERT C. BYRD. Mr. President, what are we attempting to do in enacting S. 2673? First, we are attempting to bend the Constitution by legislative enactment, by temporarily reducing the salary of the Attorney General as an avenue of escape from the constitutional inhibition. This is not simply a matter of reducing the salary, and every Senator knows it.

We cannot shield ourselves by that proposition. The merits of the proposition incorporated in the bill have absolutely nothing to do with our real purpose in enacting the bill. The bill, if enacted, will be a violation of both the letter and the spirit of the Constitution.

When blacks come here for legislation, they are told that the Constitution is in their way.

When citizens come here to tell us they do not want to see their children bused to public schools for the simple purpose of bringing about an arbitrary racial balance in the schools, they are told that the Constitution is in their way.

When citizens come here to ask that prayer be restored to the public schools, they are told that the Constitution stands in their way.

When labor representatives come here, they are told that the Constitution is in their way.

When farmers come here, they are told that the Constitution is in their way.

When small businessmen come here, they are told that the Constitution stands in their way.

Mr. President, let us, ourselves, live up to the Constitution. If it applies to them, it should apply to us. We should not attempt to perform a caesarean section on the Constitution in order to bring the Senator from Ohio, distinguished as he is, and respecting him as I do, into the President's Cabinet.

Can it possibly be true that the great Republican Party, which has been so dominant during so much of this country's history, can find only one man who is mentally qualified and fit for the high position of Attorney General?

Let no Senator deceive himself. The real purpose of this legislation is not to bring about economy in Government. It is not to permanently reduce the salary of the Attorney General. The real purpose of this legislation is to suspend the Constitution in the political stratosphere, to rend it, to annul it, and to override it.

Senators have declaimed eloquently in behalf of so construing the Constitution as to preserve its spirit. The provision that we are now considering needs no hair-brained discrimination in its construction. The inhibition is clear—so clear that it yields to but one construction—only one, and the country knows, the President knows, every Member of Congress must know, the very necessity of this legislation proclaims the fact that today Senator SAXBE is constitutionally ineligible for appointment to the cabinet office to which the President intends to appoint him. Having stood before that desk with my hand raised aloft and having solemnly sworn to support the Constitution of the United States. I, for one, will not stultify myself to gratify the desire of the President of the United States by casting a vote to enact a bill which has for its sole purpose the rending and destruction of one provision of that instrument.

My oath to support the Constitution does not permit a violation, either by direct or indirect methods. It is true that on its face the bill is a simple proposition to reduce the salary of the Attorney General from $60,000 to $35,000 per annum. But it would be an unpardonable evasion to say that nothing else is involved. A waiver of the constitutional impediment to Senator SAXBE's appointment is what is involved, but we cannot nullify, in my opinion, a patent constitutional disqualification by a trick of legal legerdemain.

The language is clear. But there are those who say that we should go behind the language to determine the spirit and the intent of the clause. I say that this bill not only violates the express language of the Constitution, but the spirit and intent as well, and I shall now attempt to demonstrate my statement by historical reference.

One may search the Philadelphia debates, and he will find nothing authorizing the construction put forth by those who are supporting this bill. There is no hint that the spirit pervading the Constitutional Convention warranted holding that where a salary had been increased and a constitutional disqualification fixed on a Senator or a Member it might then be undone and reversed by a bit of legislative juggling such as this. There is no suggestion of such a pathway out of the difficulty. The words, "shall have been increased," stand forth as clearly to reveal their meaning as does the noonday sun on a cloudless day.

Mr. President, I reiterate, with all due respect to those who disagree with me, that the letter, the spirit, and the proprieties cry out against this legislative evasion of the Constitution. Our forefathers wrote the Constitution in order that we and our posterity might be governed by the written guarantee of liberty, of justice, and of law. That ancient document is not obsolete. We have not yet outgrown it; it is not yet old-fashioned; and there is not yet a need for closing our eyes and trampling under foot its sacred provisions. If constitutional government is to survive, then only a sacred reverence for the positive terms of the Constitution will perpetuate our constitutional system. For my part, I am not willing to disregard history, I am not willing to turn my back on the clear intent of the framers of the Constitution, I am not willing to participate in a legislative juggling act to evade it, and I am not willing to disregard any constitutional guarantee for any person or political party in the Republic.

If the passing of the bill before us today will qualify Senator SAXBE for the high position of Attorney General, why could he just not be appointed to the office without such legislation? He could serve as Attorney General until someone raises the constitutional point, and, the question being raised, Congress could then reduce his salary to $35,000, he could restore to the Treasury the excess over that amount received, and all would be well. If no one raises the constitutional question, all will still be well. Senator SAXBE would not then have to replenish the Treasury; and he would be serving as Attorney General. Does anyone claim that his occupancy of that office under those circumstances and his appointment to such office would have been legal? I take it that no Senator would claim such. If not, how can today's repeal of the statute making the increase in salary render the original appointment now legal?

Behold the spectacle that will present itself to the American people by the passage of this bill. The Attorney General of the United States, a member of the President's Cabinet, the chief legal officer of this country, will be serving for $25,000 a year less than will any other member of the Cabinet. This legislative sleight of hand will not deceive anyone.

It cannot be said that there is one law for the rich and another for the poor. It ought not be said that there is one law for 535 members of the legislative branch, and another law for the remainder of our 210 million citizens. Let it not be said that Congress will attempt to change the organic law of this country for the benefit of any one man. All men are equal before the law and before the Constitution, and there should be no legislative favoritism for the benefit of even a most distinguished Member of this most distinguished legislative body in the world.

Mr. FONG. Mr. President, I yield 2 minutes to the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, I send an amendment to the desk, on behalf of myself, the distinguished Senator from Hawaii (Mr. FONG), and the distinguished Senator from Wyoming (Mr. MCGEE).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 1, line 7, immediately before the period, insert a comma and the following: "and notwithstanding any other provision of law, or provision which has the force and effect of law, which is enacted or becomes effective during the period from noon, January 3, 1969, through noon, January 2, 1975".

Mr. TALMADGE. Mr. President, I have discussed this amendment with the distinguished floor manager of the bill. The amendment makes it abundantly clear that the salary for the Office of the Attorney General cannot be increased from what it was when the Attorney General nominee came to the U.S. Senate until the term of his office expires on January 2, 1975.

I believe the floor manager of the bill is prepared to accept the amendment, and I hope the Senate will do so.

Mr. FONG. We are willing to accept the amendment, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, let me also make it clear that in my opinion this does not remove the constitutional question that is here involved. It would only provide that the salary of the Attorney General could not be increased back to $60,000 during his present term as a Senator. But it will not preclude the next Congress—nor could we preclude a future Congress—from restoring that salary to $60,000. That is the thing that makes the office attractive, and that is where the spirit of the framers and the intent of the framers is being violated.

I congratulate the Senator on his amendment. I support the amendment.

Mr. TALMADGE. I thank the Senator.

Mr. President, I yield back the remainder of my time.

Mr. FONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. FONG. Mr. President, I yield 2 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the Senator from Hawaii.

Mr. President, I did not have an opportunity, because I was not allowed any time, to explain why I made the point of order on the amendment offered by my friend, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

I certainly admire the distinguished Senator from West Virginia for his valued fight against this bill, and I was pleased to support his amendment, which will provide for an early determination by the Supreme Court of the constitutionality of the appointment.

The reason I raised the point of order on the amendment was that, in effect, the amendment was a statement of the provisions of the bill itself, in different words. If we had tabled this amendment and then passed the bill, we would have been in something of an untenable position—not that the Senate has never been in an untenable position before. But we would have been in the untenable position of rejecting the amendment, which in effect makes the same provision that the bill does, and then passing the bill itself. For that reason, I did raise the point of order.

Mr. ROBERT C. BYRD. May I say that I disagree completely with the analysis of the amendment that has just been stated by my very beloved friend, the Senator from Alabama. I will not take the time of the Senate. I did not challenge the point of order. I respect him for it.

Mr. ALLEN. I thank the Senator. That is the way the Senator from Alabama sees it.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 6 minutes.

Mr. KENNEDY. Mr. President, will the Senator yield 1 minute?

Mr. ROBERT C. BYRD. I yield 2 minutes to the Senator.

Mr. KENNEDY. Mr. President, I just want to indicate that I find the arguments that have been presented here and in the committee by the Senator from West Virginia extremely impressive, pertinent, and persuasive.

As one who did not have the opportunity to attend the hearings during the day we had the leading constitutional authorities, but who has reviewed that record and has reviewed the memoranda prepared by the Senator from West Virginia, I intend to support his position. I think it is sound and correct. I urge my colleagues to support his position.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. FONG. Mr. President, I yield 2 minutes to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I asked for these 2 minutes to propound a question to the acting majority leader, the Senator from West Virginia.

I recognize the position of the Senator. He has given this constitutional matter a good deal of study and I respect his steadfast stand for his principle.

I would like to ask him, forgetting for the moment the service that the proposed incumbent has rendered, if on January 2, 1975 instead of just moving on to a fixed salary, he resigned, his name was resubmitted and he was reconfirmed by the Senate, would the Senator consider that as at least a practical vindication of the position of the Senate in trying to adhere strictly to the Constitution?

Mr. ROBERT C. BYRD. I am sorry. I missed something about the Senator's question. Would the Senator please restate it?

Mr. COTTON. May I have an additional minute to restate the question?

Mr. FONG. I yield another minute to the Senator.

Mr. COTTON. I thank the Senator.

I recognize that the distinguished Senator from West Virginia is leaning over backwards to respect the Constitution and does not object to the appointment by the President.

Now, if on January 2, 1975, when the term of Senator Saxbe would expire, if instead of continuing in the office, he resigned the office and the President resubmitted his name and the Senate confirmed it, would that, in the opinion of the Senator from West Virginia, at least be an indication of the scrupulous regard by the Senate and an attempt to live up to the letter of the Constitution, as well as the spirit?

Mr. ROBERT C. BYRD. Mr. President, I am not sure I understand the Senator's question, but may I say this. In my opinion, based on my limited study of this matter, if the President of the United States should appoint Mr. Saxbe to the office of Attorney General at any time prior to the termination of Mr. Saxbe's term as a Senator, that would not be valid because the same situation existed when President George Washington appointed Senator Paterson of New Jersey to be Secretary of State.

Mr. COTTON. I am talking about appointing him after termination, so as to indicate if there was any question, that it is recognized there is an attempt on the part of Congress, as far as possible, to keep the spirit and letter of the Constitution in being, even though the Senator feels, as I do not feel, that there had been a violation from now until January 1975.

Mr. ROBERT C. BYRD. I understand the Senator is saying after the Senatorial term of Senator Saxbe has run its course there would then be no objection to an appointment. George Washington, who presided over the Philadelphia Convention, appointed Senator Paterson of New Jersey to be Secretary of State on the 27th day of February, 1793. When George Washington was apprised of the fact that that appointment was in conflict with article I, section 6, clause 2 of the Constitution, he withdrew the nomination the next day, the 28th of February. Fortunately for Senator Paterson, he had been designated as a Class 2 Senator and his term was only for 4 years. His term expired on March 3, just 3 days after the President had withdrawn his name. President Washington the next day—on March 4, 1793—appointed Senator Paterson to be Secretary of State and the Senate confirmed the nomination that same day. I think that falls in the same category to which the able Senator refers.

Mr. FONG. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Hawaii has 3 minutes remaining and the Senator from West Virginia has 2 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, may I say that an error in my statement has been called to my attention. Senator Paterson was appointed to the Supreme Court of the United States. He had been a Member of the Congress that had passed the Judiciary Act of 1789.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I would like to use my 1½ minutes that I have remaining for my own purposes.

Mr. BROOKE. Mr. President, are there 3 minutes remaining on the time of the Senator from Hawaii?

Mr. FONG. I will be using my time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, may I say in closing that I respect and have a very high regard and affection for Senator Saxbe.

Mr. President, may we have order in the last 60 seconds I have?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, frankly I hope that Senator Saxbe is nominated—the President has not sent his nomination up yet—and I hope he will be confirmed. But I do think a serious constitutional question is involved and I thought it my duty as a member of the Committee on the Judiciary to raise the question.

I am in an uneasy position. It might have been more difficult for me to have raised this question, and in some respects it may have been less difficult if a Democrat were involved. But someone had a duty to raise the question.

I hope that Senator Saxbe has no feeling against me in this matter. If the shoe had been on the other foot I would think he was only doing his duty. I think we do have a duty to interpret our own actions in light of the Constitution. I respect every Senator who disagrees with me.

I have no illusions about the outcome of the vote. We have done our duty in the Senate. I thank all Senators.

Mr. FONG. Mr. President, we are not flouting the Constitution of the United States. We are not making one law for one man and another law for another man. We are trying to uphold the intent of the framers of the Constitution by the means provided by the Constitution.

What did the framers intend to accomplish by this article?

First, they sought to protect legislators from an unscrupulous executive using the enticement of office to influence their actions.

Second, they sought to prevent legislators from viewing their election to Congress as a stepping stone to lucrative office. They sought to prevent legislators from using their positions to create unnecessary offices or increase the compensation of offices they hope to attain.

Clearly, the intent was not to prevent able and qualified Members of Congress from taking civil office, but to make the legislature "as uncorrupt as possible."

This Congress in reducing the emolument of the Office of Attorney General from $60,000 to $35,000 cannot be said to be seeking to corrupt the Members of this Congress, nor can it be said that Senator Saxbe used his $42,500 Senate office as a stepping stone to a $35,000 Office of Attorney General.

Mr. President, the distinguished Senator from West Virginia cited the Paterson case. The Paterson case has nothing to do with this issue. The Paterson case dealt with a newly created office, the office of Associate Justice of the Supreme Court. The President was right in withdrawing the name of Senator Paterson because he was ineligible to be appointed to a newly created office since if a statute restored the status as of the date of his assuming his Senate seat, there would be no office to which to appoint him. Here we are not dealing with a newly created office; we are dealing with the appointment of a Member of the Senate to an office which now exists. Once we restore the status of that office and its emolument to what it was on the date of his assuming his Senate seat, there would be no change in the emolument of the office. And so, there would be no existing ineligibility.

We have precedents for the type of appointment the President is contemplating—when the emolument was increased during the legislative term of the proposed appointee. Senator Morrill took office in 1871. In 1873, the Cabinet officers received a raise from $8,000 to $10,000 a year. In 1874 under the Retrenchment Act, that was reduced to $8,000 a year. In 1876 Morrill was nominated, during his legislative term, to be Secretary of the Treasury. It took 6 months to confirm him.

This was an instance where there was a man appointed to a position in which the emolument had been increased and then reduced.

Senator Knox took office in 1904. His term was to expire in 1911. In 1907 the Secretary of State's salary was increased from $8,000 to $12,000 a year. In 1909, President Taft said he intended to appoint Senator Knox to be his Secretary of State. Remedial legislation was passed to reduce the salary of the Secretary of State to $8,000 a year. This legislation became effective March 4, 1909. Senator Knox was nominated, confirmed, and served as Secretary of State.

This too was an instance in which a man was appointed to a position for which the emolument has been increased and then reduced.

Senator Black was elected to the Senate in 1932. In 1937, shortly after Congress had improved the annuity benefits accruing to Justices retiring after age 70, Senator Black was appointed an Associate Justice of the Supreme Court.

An attempt was made to test the validity of the appointment of Justice Black, but the Supreme Court, in *Ex parte Albert Levitt*, 302 U.S. 633 (1937) held that the petitioner had no standing to challenge the validity of the appointment.

We may have had no test cases involving article I, section 6, clause 2, but we have had precedents where persons who were appointed to civil offices and served our country where the emolument had been increased during their term in Congress but had then been reduced prior to their having been appointed to office.

We have had many interpretations of constitutional language which on the surface, without analysis, seems as simple and clear as article I, section 6 appears to be, only to learn these simple words are, in law, subject to differing interpretations.

Careful analysis of the language of this provision of the Constitution, the evolution of this clause and the debates at the Constitutional Convention to determine the meaning of this clause and the intent of its framers as well as the precedents both under this clause and those evolving from Constitutional construction and interpretation, lead me to believe S. 2673 would be constitutional and would accomplish the ends we seek to achieve.

I urge my colleagues to support this bill.

Mr. BURDICK. Mr. President, it is with reluctance that I am compelled to cast my vote against this legislation, which attempts to clear the way for the appointment of our esteemed colleague, William Saxbe. I feel that he possesses the necessary qualifications for the office of Attorney General. However, that is not the question. This legislation is espoused in an attempt to meet the limits placed on the appointment by the Constitution. After study and consideration, I have come to the conclusion that article I, section 6, clause 2, of the Constitution means just what it says. It is absolute in its terms, and constitutes a bar to the appointment. The prohibition cannot be removed by a legislative act, as is attempted here.

Mr. McCLELLAN. Mr. President, it is with great reluctance, and, I may add, with deep regret, that I have concluded I must vote against passage of S. 2673. I am well aware that whether this bill is passed will have a direct bearing on the possible nomination and confirmation of our distinguished and able colleague from Ohio, Senator Saxbe, as Attorney General of the United States. I wish to state publicly and without any qualification or reservation whatever that I have the greatest respect and highest personal esteem for the Senator from Ohio. I think he is a man of sterling character and one who possesses all of the requisite qualifications for an outstanding Attorney General. However, notwithstanding my personal friendship for him and my desire or wish that he could now be appointed Attorney General of the United States, I am firmly convinced that the Constitution under the attending circumstances specifically prohibits him from holding that office. The clear language of article I, section 6 compels this conclusion. And I cannot agree that this bill will change that result.

Article I, section 6 states explicitly that no Senator shall be appointed to any civil office under the authority of the United States the emoluments whereof shall have been increased during the time for which he was elected. The provision is absolute. No exceptions are provided. The article does not say that a Senator can be appointed to such an office if the emoluments which have been increased are later reduced. Such a provision would have been very easy to add if the framers of the Constitution had thought it wise. The fact is that such a provision was not added. And no one will deny that the emoluments of the office of Attorney General were increased during Senator Saxbe's term of office.

Some argue that we need not be bound by the literal wording of the Constitution but that we can look beyond the words to the intent of the framers. This is a legitimate rule of statutory construction. But it is a rule that is to be used when the meaning of a statute is unclear, ambiguous—not when the intent of the drafter is plain on its face. I believe that the plain meaning of the words of section 6 is precisely the meaning intended by the framers. Such an absolute prohibition removes any doubt that the actions of a Member of Congress might have been motivated by the hope of a future personal benefit or reward.

In my opinion, passage of this bill followed by the confirmation of Senator Saxbe would produce the unfortunate result of giving this country an unconstitutionally-appointed Attorney General. The consequences of such an appointment could be embarrassing and most regrettable. It is quite possible that any actions taken by the Attorney General would be invalidated. Certainly the validity—the constitutionality of his appointment would be challenged.

Indictments and prosecutions brought during his term of office, and convictions secured, could be ruled invalid by reason of a lack of authority. Certainly they would be challenged by defense attorneys.

There are those who argue that, of itself, this bill is clearly constitutional, that it has nothing to do with the appointment of the Attorney General but merely reduces his salary. That statement is technically accurate. But no one will deny that the purpose of the bill is intimately related to the President's proposed nomination of Senator Saxbe to the office of Attorney General. It should not be considered apart from that proposed nomination. Indeed, if it were, what justification could be made for reducing the salary of the Attorney General alone of all the members of the Cabinet. His duties are equal in importance to those of any other Cabinet official.

Mr. President, let me close by once again stating my complete respect for the Senator from Ohio and his qualifications for the office of Attorney General. I am sure that he realizes that only an issue of highest constitutional importance necessitates my voting against this bill.

Mr. President, I am most unhappy that it is my painful duty to vote against this bill. But, in the light of my information and understanding, there is no alternative course for me to pursue.

Mr. BAYH. Mr. President, today the Senate is addressing itself to a unique question which has only arisen once before in the history of the Republic; namely, can the provisions of article I, section 6, clause 2 of the Constitution which bar a Member of Congress from accepting appointment to a civil office if that office has been created or its compensation increased during the Members term, be satisfied by returning the salary to the level it was when the Member to be appointed was last elected. This is a difficult, as well as a novel problem, and I have carefully reviewed the constitutional debates as well as the expert testimony before the committee before reaching the conclusion that this ineligibility can be cured by the bill presently pending before the Senate to reduce the Attorney General's salary to $35,000.

The Philadelphia debates make it clear that the Framers were concerned about two problems in this area—first, that the members of the national legislature might view their election to the Congress as a stepping stone to some lucrative public office and utilize their positions in the legislature as a means of creating or increasing the compensation of such sought-after office. Second, that an unscrupulous Executive might use the enticement of public office to influence actions taken by members of the legislature. Apparently such abuses had been common both in England and in the colonial legislatures, and there was virtually unanimous agreement that it must be dealt with in some way—the problem was how.

The early drafts of the document contained a complete ban on members of the legislature accepting any appointment at all for the period of their term and for 1 year thereafter. This solution would, obviously, have eliminated the problem entirely, but many members of the Convention felt this absolute ban went too far and would have the effect of both discouraging the most talented citizens from seeking office in the legislature and of eliminating many of those whose experience would make them the most qualified for the major offices of the executive branch. James Madison was the leader of the group which opposed the absolute ban and it was he who offered the amendment to substantially narrow the disqualification to effect only those offices which were newly created or for which the compensation had been increased. In the debates Madison analyzed the problem in the following words:

> Some gentlemen give too much weight and others too little to this subject. If you have no exclusive clause, there may be a danger of creating offices or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of the opinion that no office ought to be open to a member which may be created or augmented while he is in the legislature.

In accepting the Madison compromise which the convention did after once having rejected it, the Framers realized that while they were dealing with one aspect of the problem—that of corrupt legislators, they were leaving open, in the interests of not limiting too severely the pool of available talent, the other aspect—that of a corrupt executive using executive office to influence votes. As Mr. Justice Story points out in his Commentaries on the Constitutional Convention:

> If influence is to be exerted by the executive for improper purposes, it will be quite easy, and in its operation less seen, and less suspected to give the stipulated patronage in another form, either of office or of profitable employment, already existing.

The essence of article I, section 6, clause 2, is thus as follows: Insofar as the clause is concerned with any civil office which is "created" during the time for which a Senator or Representative was elected to Congress, the bar is absolute since if Congress first established a new office and then were to prior to the appointment of anyone to fill it, enact a law discontinuing that office, there would remain no new office to be filled and the question of anyone's eligibility to fill it would be at once moot. Insofar as the clause is concerned with existing offices which under the Madison formula Members of Congress are as eligible as all others to fill, the problem is obviously different. Where Congress, prior to the appointment being made, eliminates the only perquisites of the office that would otherwise have made the appointment constitutionally objectionable, to continue to regard a Member of Congress as still ineligible for appointment is to exceed the very function of the clause which is not meant to disable such persons from appointment to preexisting offices. As Story noted:

> The reason for excluding persons from offices who have been concerned in increasing their emoluments is to take away, as far as possible, any improper bias in the vote of the representative.

There seems little doubt, therefore, that the whole purpose of this clause which was to avoid any question whatever that an earlier increase in compensation was in anticipation that a Member of Congress might himself benefit from it, is at once fulfilled in terminating the efficacy of that prior legislation and thereby rendering it impossible for any appointee from the Congress to personally benefit from that prior legislation.

Since passage of the legislation before us today would so clearly meet the undoubted intent of the framers, why is the question a difficult one? The problem is one of language. One might read the phrase "the Emoluments whereof shall have been increased during such time" as concerned only with whether, as a historical fact, an increase was once voted regardless of whether it was shortly discontinued and of no possible profit to a nominee whose name is subsequently submitted to the Senate. To insist on this reading, however, is in my view, at once too broad and too narrow as well. On the one hand, it would disregard the sole function of the clause to remove the temptation of voting for an increase that one might personally anticipate receiving, it ignores the impact of subsequent legislation, and it offends the deliberate purpose of the framers of the Constitution to provide for the continuing eligibility of Members of Congress for appointment to an existing office where nothing they nor their colleagues have previously done can serve to make that office more attractive than otherwise. It is, at the same time, too narrow a reading as well for the history of the clause also makes it clear that it was the framers' purpose to forbid a Member of Congress from benefiting from any subsequent increase in the emoluments of the office to which he is appointed, for the balance of the time for which he was elected. Yet this intention would be disrespected if the clause were read as being concerned solely with a single past event regardless of its continuing effectiveness. Our constitutional history has never rested such a wooden and literalist interpretation of the words themselves in disregard of their clear intent. As our first Chief Justice, John Marshall, said in McCulloch against Maryland:

> A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. We must never forget that it is a constitution we are expounding.

I would conclude, therefore, Mr. President, in acting favorably on the legislation before us today to establish the eligibility of Senator SAXBE for appointment to the office of Attorney General of the United States we are fulfilling both the letter and the spirit of the emoluments clause, and I would, therefore, urge my colleagues to support S. 2673.

Mr. HART. Mr. President, last week the Committee on the Judiciary voted to report S. 2673 without recommendation. As a result there was no report on this measure to lower the salary of the Attorney General and thereby avoid the bar which article I, section 6 of the Constitution would otherwise pose to Senator SAXBE's appointment as Attorney General.

As a member of the committee, I had the opportunity to hear the excellent testimony of several witnesses and to review this matter at some length, and I would like to indicate for the record why I shall vote for the bill.

My views on this difficult constitutional issue have evolved slowly over the past few weeks. When the proposed legislation was announced, I already had been alerted to the possibility of a constitutional bar by a communication from an attorney in Michigan who recalled the date of the salary increase. My initial reaction was that the bill would cure this problem, inasmuch as it blocked the possibility of the nominee benefiting from the raise.

Then, after perusing the history of this provision and listening to the testimony at the hearing, I had two serious concerns. First, a plausible case had been made that the article I, section 6 was sufficiently clear on its face that we could not look behind the language to any functional analysis of its purpose. Second would somehow evade or trivialize the bar intended by the framers—that it would undermine the absolute deterrent effect which was agreed upon within the limits of the compromise finally enacted at the Constitutional Convention.

However, after further reflection I have concluded this bill would not "evade" the bar intended by the framers; rather, it would implement it and maintain its effectiveness, both in the present instance and as a deterrent to log rolling or improper executive-legislative collaboration in the future.

This issue does not lend itself to certitude. Eminent constitutional scholars for whom I have the highest regard have come down on different sides. The Senator from West Virginia and the Senator from North Carolina have made their case eloquently both in committee hearings and during executive sessions on this bill. In my view the issue is not free from doubt, however one comes out. And I have felt it my duty to consider both the question of constitutionality per se, and the chance that serious disruption or damage could arise from a decision that the appointment had been unconstitutional, even if I were to disagree with the majority opinion of the Supreme Court.

For the following reasons, I believe the appointment of Senator SAXBE after this bill's enactment would comply with the provisions of article I, section 6 and would not seriously endanger the work of the Justice Department. And since I also believe a President should have the cabinet officers he feels he can best work with, absent disqualifications of incompetence or personal integrity, my view that the Attorney General should receive a higher salary, or that it might be personally unfair to Senator SAXBE to have to serve at the lower level, would not cause me to vote against the requested legislation once I have concluded the appointment is constitutional. Should he not be confirmed, or have to leave the post before his Senate term expires, I have little doubt the salary could be quickly increased to its former level so as not to deter other qualified candidates from accepting an appointment.

The constitutional issues can be approached in three parts: First, can we look behind the constitutional text? Second, is the intent and purpose of the provision thwarted or undermined by this device? and third, What about the possibility of future increases in the salary once the appointment has been made and the nominee takes office?

One maxim of construing statutes is that one does not look behind unambiguous language to the legislative history. Admittedly exegesis can be dangerous; everyone has the favorite bit of legislative history. But it is equally true that as Chief Justice Marshall reminded us, it is a constitution we are applying, not a detailed tax statute. It is important, therefore, as the Supreme Court frequently has noted, that we seek to ascertain the general purpose of the provisions and the intent of the framers. Often in the art of statutory construction, venerable Latin maxims may be juxtaposed which tend to neutralize each other. Thus, there is the ancient maxim which roughly translates:

> Where the reason for the law ceases, then the application of that law ceases as well.

In the case of our own Constitution, the Court's focus on the purpose and spirit of the provision rather than its explicit letter has been the source of constitutional safeguards we value highly. The first amendment says only that "Congress shall make no law" abridging free speech or free press. Yet the courts have read this provision to bar intrusion by the Executive and the judiciary, as well. The fifth amendment bars compulsory self-incrimination only in "any criminal case" yet this provision has been read to reach many types of noncriminal proceedings including congressional hearings. Thus there is strong argument for ascertaining the purpose of these provisions and giving them appropriate effect.

But even if we accept the maxim and would let the "letter of the text" tyrannize our reading of the Constitution, is it so clear the text is not ambiguous? Words may have plain meaning in the abstract, and not include such general terms as "due process," yet still reveal ambiguities once we propound questions about their application and reread the text in the context of such questions.

Although the fifth amendment, as noted, bars compulsory self-incrimination "in any criminal case," we have passed several immunity statutes which do compel self-incrimination. Opponents of the present bill seek to distinguish that fact on the ground that "any criminal case" means only where the witness faces criminal sanction. But that very explanation reveals my point. Once the question is posed: "Can you force testimony if you grant immunity?", the plain words of the amendment seem ambiguous and require interpretation.

The provision here, too, is not free from ambiguity, once specific questions are propounded. Article I, section 6, paragraph 2 reads, in part:

> No Senator or Representative shall, *during the Time for which he was elected,* be appointed to any civil office under the Authority of the United States, which shall have been created, *or the Emoluments whereof shall have been increased during such time;*

Does this text, on its face, bar appointment only if there is an office with an increased salary in effect at the time of the appointment? Or does it also apply even if there is a salary increase which is then rescinded years before the appointment, as long as both events take place within the Senator's term? The point, for now, is not the correct reading, but merely to illustrate that once that question is posed and one turns back to the language it is indeed ambiguous.

Similarly, suppose prior to Senator SAXBE's appointment the Congress had passed a measure to raise the salary but which postponed the raise until after his term had expired. Would that have been a salary "increase * * * during such time?" Or does the provision only cover increases which have at least become effective at some point within the Senator's term? Again, the language on its face is really not completely dispositive.

In summary, then, one is justified in looking beyond the plain words, whether or not great weight is given the maxim of construction in this particular case.

Turning to the purpose of the provision it is not necessary to review at length the legislative history, which has been well covered in the statements by my colleagues on the committee and in the expert testimony at the hearing itself. It is helpful to summarize the basic points on which there is little disagreement.

The main concern was a spoils system and the Executive influencing votes or coopting opponents; therefore the initial proposal was a complete ban on any appointment of a sitting Member of Congress, with an additional period of ineligibility after the end of the term.

James Madison led a strong element of opposition on the ground that ineligibility would deny to executive service the able leaders in Congress—and might even deter congressional candidacies by able persons who did not wish to be barred from executive service for a long period.

Both sides agreed that the most blatant and direct abuses would be to create a new post or raise a salary and then appoint a Member of Congress; the ban was cut back to this compromise.

The framers clearly were aware the bar adopted did not prevent all possibilities of log-rolling, interested voting, or Executive manipulation. The President can appoint my wife to the Cabinet. We can raise a salary with the agreement to appoint me as soon as my term ends. Or I can take an appointment, with the understanding the salary will be raised as soon as my term ends. And so on through many other possibilities.

Nonetheless, there is a consensus, that even though the provision does not cover all possible instances of the concern involved, it should be given full force as an absolute bar to the evils which the compromise was intended to cover; where the framers drew the line, we cannot by statute shrink the safeguard any further.

Having noted these points, the question still remains to determine what the bar does seek to prohibit and what it does try to deter. What are the evils aimed at? One cannot say the purpose is to render ineligible anyone appointed if the salary was raised during his term, and let it go at that. If we ask what that trigger is designed to accomplish, on the basis of the legislative history of the compromise, the answer seems clear. Immediately, it is to prevent the appointee in question from benefiting from the action raising the salary. The ultimate purpose, in turn, of preventing his benefit is to maintain complete deterrence of biased voting in the future. S. 2673 prevents the nominee from enjoying any benefit. Equally, it does not undermine the deterrent effect of the provision for the future. There is no possibility the result sought to be deterred might be realized in spite of the ban. Senator SAXBE, if he had adverted to the Knox precedent in 1969, or a future prospective nominee would face two alternatives. Either the bar operates to preclude the appointment, or he must accept a lower salary. In neither case is there any inducement of the kind the framers did seek to bar within the term of the sitting Member of Congress.

Thus, rather than saying S. 2673 permits evasion of the constitutional provision, it is more correct to say the ban has here served its purpose. It has forced a statute denying any benefit, and without the statute the ban would prevent the appointment. If the purpose can thus be accomplished, to do more would do violence to the other competing consideration in the original compromise; namely, Madison's concern that good men not be precluded from executive service for existing posts.

To say the raise automatically triggered a condition of ineligibility tells us nothing about whether the condition can be removed by undoing the triggering factor.

Professor Kurland of the University of Chicago Law School, argues that the provision is designed to prevent any special legislation for the benefit of a colleague and that S. 2673, itself is precisely that because it enables the nominee to take the post. With all respect to Professor Kurland whose views all hold in high regard, this seems an overbroad reading of the provision which dealt with the evil of raises and new post as special benefits, not with accommodating legislation generally.

Finally, there is the question of future action after the nominee is sworn in to office. Again, as I have readily admitted, the situation is not free from doubt, but I do not believe the prospective possibilities are sufficient to make the appointment under this statute unconstitutional.

If any effort is made to raise the salary before the nominee's Senate term would have expired, I would oppose that as an evasion of this provision. In fact, I would hope that the nominee would, at his confirmation hearing, agree that such an action is barred by the provision in article I. The bar is designed to preclude enjoyment of a raise within one's term if it is passed within the term as well. I do not think a court would say that the bar can be applied only at the time of the appointment. It seems clear to me the courts would look through the particular form of the sequence of events at the substance of the evasion which would thereby occur. Even if the Congress does pass such a salary raise, I doubt the courts would hold it retroactively invalidates the appointment or the nominee's actions in the post. They would merely rule him ineligible for the increase during the remainder of his term. Therefore, I do not perceive that possibility as a great threat to the integrity of the Department's business. And should the courts disagree with me and hold that such a raise is not within the intended reach of the provision, then in retrospect that will be the definitive interpretation of the clause, and the possibility that other nominees in the future might hope to win a raise during the portion of their term left after they are appointed would not, by definition, be an evil within the scope of the provision. But I should stress, I find it highly unlikely the Supreme Court would uphold such a raise before the Senator's term would have expired.

As for a raise after his term expires, it does not seem that a court would strike that down as a violation of the clause in light of the clear possibilities for such future enjoyment under arrangements noted above which no one suggests violate the provision. It is argued that where there already has been a raise rescinded, the probability of regaining it in the future is substantially increased and that greater probability is itself an improper inducement sought to be barred by the framers.

But this argument misses the point, for both the language and the history of the provision—including the possibilities for evasion which the framers consciously left open—indicate that the limited bar of the compromise only reaches increases actually passed during the term which thereby hold out the certainty of the inducement. Weighing the relative probabilities of different conjectural rewards a nominee may enjoy after his term expires simply goes beyond the scope of the compromise as the framers drew it.

And if I am wrong on this last point, and a court strikes down such a raise, it is even clearer than in the case of a raise before the term ends, that they would not claim the raise invalidated the original appointment as opposed to holding that he might not enjoy the raise itself.

For all these reasons, I will vote for S. 2673, reserving, of course, my decision on the nomination itself until the name has been submitted and the hearings on the nomination before the Senate Judiciary Committee have been completed.

Mr. HASKELL. Mr. President, I wish to state briefly today my reasons for opposing S. 2673, a bill which would reduce the salary of the Attorney General to that amount which was in effect on January 1, 1969. The legislation has been introduced at the request of the administration in order to remove constitutional obstacles to the nomination of the able Senator from Ohio (Mr. SAXBE) to the office of Attorney General.

In my opinion, the bill does not remove those obstacles. The section that applies, in article 1, section 6, reads as follows:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;

As you know, the Senator from Ohio was a Member of the Senate in 1969 when the salaries of Cabinet officers were increased from $35,000 to $60,000. Simply to return that figure to the 1969 level hardly alters the fact that Mr. SAXBE was a Member of the Congress that voted to increase the "emoluments" of the Attorney General and that he thus became, at that time, ineligible for nomination to that office himself "during the time for which he was elected."

I have nothing but respect personally for the distinguished Senator from Ohio, and have every reason to believe he would fulfill the duties required of him as Attorney General with great distinction. But I believe S. 2673 in no way overcomes the obvious constitutional obstacle represented by article 1, section 2, as cited above.

For this reason I am casting my vote against S. 2673.

The PRESIDING OFFICER. All time on the bill has expired.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SAXBE (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Illinois (Mr. STEVENSON), the Senator from South Dakota (Mr. McGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The Senator from Arizona (Mr. FANNIN) and the Senator from Idaho (Mr. McCLURE) are absent on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) would vote "yea."

The result was announced—yeas 75, nays 16, as follows:

[No. 524 Leg.]

YEAS—75

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Brooke
Buckley
Byrd,
  Harry F., Jr.
Cannon
Case
Chiles
Church
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Fong
Goldwater
Gravel
Griffin
Hansen
Hart
Hartke
Hatfield
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mathias
McGee
Metcalf
Mondale
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—16

Bible
Burdick
Byrd, Robert C.
Clark
Ervin
Fulbright
Haskell
Hathaway
Kennedy
Mansfield
McClellan
McIntyre
Muskie
Proxmire
Tunney
Williams

ANSWERED "PRESENT"—1

Saxbe

NOT VOTING—8

Baker
Fannin
Gurney
McClure
McGovern
Montoya
Stevenson
Symington

So the bill (S. 2673) was passed, as follows:

S. 2673

An act to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the salary recommendations for 1969 increases transmitted to the Congress on January 15, 1969, and notwithstanding any other provision of law, or provision which has the force and effect of law, which is enacted or becomes effective during the period from noon, January 3, 1969, through noon, January 2, 1975.

Sec. 2. (a) Any person aggrieved by an action of the Attorney General may bring a civil action in the appropriate district court to contest the constitutionality of the appointment and continuance in office of the Attorney General on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court.

(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

Sec. 3. This Act shall take effect upon enactment.

Mr. FONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HRUSKA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I think that all Senators are vitally interested in the rules and precedents of the Senate—and may I have the attention of the Chief Parliamentarian in what I am about to say. All Senators, I think, have a duty to uphold the precedents of the Senate. I have a duty to raise a question about an occurrence which developed today.

During the recent debate on S. 2673, the distinguished Senator from Hawaii (Mr. Fong) had acquired the floor in his own right. He made a statement and then he yielded back the remainder of his time, on my unprinted amendment which was then pending.

I secured the floor and I made a motion to table—I was recognized and made a motion to table. The Chair then allowed a point of order to be made by the very distinguished Senator from Alabama (Mr. Allen). I did not argue the matter then. I was not interested in appealing the ruling of the Chair because I think I had made my point with the offering of the amendment. So, I am not quarreling with the distinguished Senator from Alabama at all—or with anyone else.

I am not satisfied, however, that a point of order can be made after a motion to table has been duly made by a Senator, because there can be no debate on a motion to table.

I would therefore urge the Parliamentarian to research this question. I am not setting myself up as a parliamentarian, but I think, if this is right, then we should know; and if this is wrong, then we should know so that the Senate will be properly guided in the future.

Thus, I would urge the Parliamentarian, with all due respect to the Parliamentarian, to research this question and be prepared at a later date to state precisely what that research shows.

Mr. ALLEN. Mr. President, will the distinguished assistant majority leader yield?

Mr. ROBERT C. BYRD. I am happy to yield to the Senator from Alabama.

Mr. ALLEN. I recognize the parliamentary skill of the distinguished assistant majority leader. Certainly it is unequaled in this body. I believe that his recital of the circumstances surrounding the recognition of the Senator from Alabama up to the making of the point of order left out, unknowingly of course, an added circumstance that, before the time was yielded back, the Senator from Alabama rose and addressed the Chair and was recognized by the Chair and then stated that he wished to raise the point of order. The distinguished occupant of the Chair at that time, the junior Senator from Louisiana (Mr. Johnston), stated that the Senator from Alabama was out of order inasmuch as all time had not yet been yielded back. The Senator from Alabama at that time—and the official Record will disclose this, I am sure—asked the Chair, "Will the Chair then recognize the Senator from Alabama as soon as all time has been yielded back?"

The Chair stated that he would. So, in the first place, the Chair was merely carrying out his commitment made before the whole Senate during the proceedings of the Senate to the Senator from Alabama that he would recognize him for the purpose of raising that point of order as soon as all time had been yielded back.

Now that would certainly justify the Chair in recognizing the Senator from Alabama.

Now, on the other point, and I appreciate the Senator's asking that the Parliamentarian research this point, it would seem to the Senator from Alabama that if any amendment is improperly before the Senate, a motion to table that amendment does not put any element of germaneness into the amendment and make it properly before the Senate. So it would seem to me, even though a motion to table had been made, that it would be proper to raise the point of order that the amendment was not properly before the Senate; and that would not be a debate, it would be merely raising a parliamentary point.

So I do certainly join in the request of the distinguished assistant majority leader that the Parliamentarian research the point.

Mr. ROBERT C. BYRD. Mr. President, I am grateful for the comments that the distinguished Senator from Alabama (Mr. Allen) has made, because they round out the record.

I do not agree, however, that the Chair has any business committing itself to recognizing any Senator at a later point unless it is done by unanimous consent because, under the rules, as the Senator well knows, the Chair shall recognize the Senator who first seeks recognition. But the Chair, of course, has discretion. The Chair does not have to do that.

I do not think the fact that the Senator from Alabama asked that he be recognized at a later time to make his point of order carried with it any status. I suppose the Chair felt committed, but the Chair did not have to be committed. I got recognition after the Senator from Hawaii yielded the floor, and I made my tabling motion, which would have had the same practical effect, if it had carried, as taking down the amendment by a point of order.

Mr. ALLEN. With all due respect to the distinguished Senator from West Virginia, I wonder why he did not raise that point at the time, instead of waiting until this time.

Mr. ROBERT C. BYRD. What point?

Mr. ALLEN. The point that the Senator from Alabama should not have been recognized.

Mr. ROBERT C. BYRD. I will tell the Senator why I did not raise it at the time. Our time was short. I did not want to appeal the ruling.

Mr. ALLEN. I am not talking about the ruling.

Mr. ROBERT C. BYRD. I understand. I did raise the point, but I did not want to question the Chair further.

I am not concerned because the Senator's point of order was upheld. I wanted to see the amendment tabled.

What I am concerned about is this: I do not believe that previous precedents will uphold the Chair in what the Chair did. I may be wrong, but, if so, I ought to be shown. We ought to know what the precedents of the Senate are. If previous precedents show that my motion to table should have been voted on and that the point of order should not have come in, then that is what the precedent ought to be. If we are going to have a new precedent by which, after a motion to table has been made, a point of order can still come in, we ought to know about the precedent. I want to know what the precedents are, so that the Senate can be correctly guided in the future. That is all I am asking for.

Mr. ALLEN. The distinguished majority whip will recall that at one time, when the Senator from Alabama had a motion to table before the Senate on the postcard registration bill, the distinguished majority whip put in some six, seven, or eight quorum calls and motions to adjourn, in the face of a motion to table.

Mr. ROBERT C. BYRD. Yes. A Senator, under the Constitution, has a right to call for a quorum; and a Senator cannot be denied the constitutional right to call for a quorum before a vote.

Mr. ALLEN. I saw it happen here today, when we were not allowed to have a quorum call unless there was time.

Mr. ROBERT C. BYRD. The Senator raises a good question. The Senator was denied his constitutional right for a quorum call.

Mr. ALLEN. One more response to the Senator from West Virginia: I doubt that we are going to find a precedent in which a point of order was raised in the face of a motion to table, where the Presiding Officer had committed himself to recognize a Senator for making a point of order and did proceed to recognize him in compliance with his commitment. I doubt that we will find a precedent on all fours with that.

Mr. ROBERT C. BYRD. We may not. May I assure the Senator again that there is certainly no ill will on my part toward him for raising the point of order. That was his right. There is no ill will on my part toward the Parliamentarian. I want the precedents researched.

Mr. ALLEN. I am sure there is no feeling of that kind on the part of the distinguished Senator.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. SIKES, Mr. PATTEN, Mr. LONG of Maryland, Mr. OBEY, Mr. MCKAY, Mr. MAHON, Mr. DAVIS of Wisconsin, Mr. TALCOTT, Mr. MCEWEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House had passed the following bill and concurrent resolutions in which it requests the concurrence of the Senate:

H.R. 11324. An Act to provide for daylight saving time on a year-round basis for a two-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise;

H. Con Res. 381. A concurrent resolution authorizing the Clerk of the House to make a technical correction in the enrollment of H.R. 1284; and

H. Con. Res. 382. A concurrent resolution directing the Clerk of the House of Representatives to make a change in the enrollment of H.R. 7446.

HOUSE BILL PLACED ON CALENDAR

The bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise was read twice by its title and placed on the Calendar.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on November 26, 1973, the President approved and signed the Act (S. 2645) to amend Public Law 93-60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; and on November 27, 1973, the President approved and signed the Act (S. 1570) to authorize and require the President of the United States to allocate crude oil, residual fuel oil, and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority; and for other purposes.

PROTECTION OF WILDERNESS AREAS AND ANIMAL LIFE—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Interior and Insular Affairs. The message is as follows:

To the Congress of the United States:

At a time when our Nation is seriously concerned with conserving our energy resources, it is also important that we protect another treasured national resource—our wildnerness areas and the many varieties of plant and animal life which thrive uniquely in wilderness environments.

With this goal in mind, and pursuant to the Wilderness Act of 1964, I am today proposing twelve additions to the National Wilderness Preservation System. These additions would cover a total of over 1 million primeval acres of American terrain which still exist today in much the same condition as they existed centuries before the first European set foot in the New World.

Briefly described, they are:

(1) The Joshua Tree National Monument, California—372,700 acres located in the great California Desert. The varied desert terrain included in this tract harbors widely differing plants and animals.

(2) Point Reyes National Seashore, California—10,600 acres on a long narrow peninsula characterized by fine beaches and steep, forested slopes.

(3) Big Bend National Park, Texas—533,900 acres. Encompassing both the lofty Chisos Mountains and large tracts of desert, this area is host to several wildlife habitats and an unusual diversity of plant and animal life.

(4) Imperial National Wildlife Refuge, Arizona and California—14,470 acres along the Lower Colorado River. The desert uplands which this proposal would set aside provide a home for wild waterfowl, serving in particular as the wintering habitat of Canada geese of the Great Basin flock.

(5) Mesa Verde National Park, Colorado—8,100 acres. The two portions of the park which would be added to the wilderness system are an eastern section with wildlife including mule deer, cougar, bighorn sheep, wild turkey, and many smaller animals, and a northern area which contains the rugged brow of the Mesa Verde Plateau itself.

(6) Mingo National Wildlife Refuge, Missouri—1,700 acres in a former channel of the Mississippi River. The proposed area contains lowland forest vegetation and a natural swamp environment.

(7) Oregon Islands National Wildlife Refuge, Oregon—346 acres located on 26 islands. Nesting ground for thousands of seabirds, these islands, plus two existing wilderness areas with which they will be consolidated, lie along the beautiful Oregon coast.

(8) White River National Wildlife Refuge, Arkansas—975 acres. Located in an area known as the Scrub Grass Bayou Research Area, the recommended acreage comprises bottomland hardwood forest.

(9) Saguaro National Monument, Arizona—42,400 acres. This proposal would set aside splendid stands of the giant saguaro cactus and other desert resources, as well as rugged mountainous areas with regional vegetation and wildlife.

(10) Bandelier National Monument, New Mexico—21,110 acres. The monument was once the home of prehistoric Pueblo Indians. The proposal encompasses many archeological sites and a great deal of rugged terrain providing habitat for deer, bear, mountain lion and other large mammals.

(11) Valentine National Wildlife Refuge, Nebraska—16,317 acres characterized by the sandhill range, an unusual geological formation in need of preservation. The refuge is populated by several threatened bird species and a variety of other wildlife.

(12) Crescent Lake National Wildlife Refuge, Nebraska—24,502 acres which provide a pristine sandhill habitat for mule deer, antelope, and such rare bird species as the bald eagle and golden eagle.

After a review of roadless areas of 5,000 acres or more, the Secretary of the Interior has concluded that two areas are not suitable for preservation as part of the National Wilderness Preservation System. These are the Salt Plains National Wildlife Refuge, Oklahoma, and the Klamath Forest National Wildlife Refuge, Oregon.

In addition to this message, I am transmitting to the Congress today letters and reports from the Secretary of the Interior regarding all of these wilderness proposals. I concur with the recommendation of the Secretary in each case.

I would draw to the attention of the Congress once again the eastern wilderness legislation which we recently submitted. This proposal—which is now embodied in legislation labeled S. 2487 and H.R. 10469—would amend the Wilderness Act to designate 16 acres in eastern national forest lands as wilderness on an immediate basis and would subject 37 other areas to study for possible addition to the wilderness system. I urge the Congress to give early and favorable consideration to this proposal, as well as the wilderness proposals accompanying this message.

Richard Nixon.

The White House, *November 28, 1973.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. William L. Scott) laid before the Senate a message from the President of the United States submitting the nomination of James W. Plummer, of California, to be Under Secretary of the Air Force, which was referred to the Committee on Armed Services.

CORRECTION IN ENROLLMENT OF H.R. 7446, AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Mr. HRUSKA. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 382.

The PRESIDING OFFICER (Mr. William L. Scott) laid before the Senate a message from the House of Representatives on House Concurrent Resolution 382, a concurrent resolution directing the Clerk of the House of Representatives to make a change in the enrollment of H.R. 7446.

Mr. HRUSKA. Mr. President, I ask unanimous consent for the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, the House concurrent resolution pertains to the bill that further authorizes the American Revolution Bicentennial Commission. A conference report was adopted by the Senate last week. On yesterday, the House acted on that conference report and approved it.

A technical error was discovered within its text. The purpose of the concurrent resolution approved by the House and sent here is to make the necessary correction.

I move that the concurrent resolution be adopted.

The motion was agreed to.

SOCIAL SECURITY AMENDMENTS OF 1973

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate H.R. 3153 which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar No. 529, H.R. 3153, a bill to amend the Social Security Act to make certain technical and conforming changes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert:

That this Act, with the following table of contents, may be cited as the "Social Security Amendments of 1973."

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Part E—Child Welfare Services

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(a) In general.

"Part D—Child Support and Establishment of Paternity

"Sec. 451. Appropriations.
"Sec. 452. Duties of the Secretary.
"Sec. 453. Parent locator service.
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(b) Collection of child support obligations.
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"(a) In general.
"(b) Review of assessments and collections."
(c) Amendments to part A of title IV.
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Part G—Aid to Families With Dependent Children

Sec. 161. Pass-along of social security benefit increase to recipients of Aid to Families with Dependent Children.
Sec. 162. Disregard of income under Aid to Families with Dependent Children.
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Part H—Amendments to Medicaid and Medicare Programs

Sec. 171. Medicaid eligibility for supplemental security income recipients.
(a) Beneficiaries.
(b) Technical clarification and modification of medicaid eligibility and Federal title XIX matching under Public Law 93–66.
(c) Medicaid eligibility for individuals receiving mandatory State supplementary payments.
(d) Effective dates.

Sec. 172. Standards for payments under medicaid to health maintenance organizations.

Sec. 173. Payments to substandard facilities under medicaid.

Sec. 174. Medicaid matching for expenditures with respect to certain Indians.

Sec. 175. Certain States deemed to have plans approved under title XIX.

Sec. 176. Payment for services of physicians rendered in a teaching hospital.

Sec. 181. Use of Social Security Administration in the administration of medicare.

Sec. 182. Reimbursement under medicare for services with respect to coverage based on chronic kidney failure.

Sec. 183. Capital expenditures planning.

Sec. 184. Occupational therapy under medicare.

Sec. 185. Basis of medicare payment for services provided by agencies and providers.

Sec. 186. Outpatient speech pathology.

Sec. 187. Statewide professional standards review organizations.

Sec. 188. Priority in designation of professional standards review organizations.

Sec. 189. Statewide professional standards review councils.

Sec. 190. Postponement on effective date of certain requirements imposed with respect to payment for physical therapy services.

Sec. 191. Payment under medicare to individuals covered by Federal employees health benefits program.

Sec. 192. Study regarding coverage under part B of medicare for certain services provided by optometrists.

TITLE II—CLERICAL AND CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT

Sec. 201. In general.

(a) Inclusion of all wage level increases in automatic adjustment of earnings test.

(b) Inclusion in old-age insurance benefit in certain cases of delayed retirement.

(c) Elimination of benefits at age 72 for uninsured individuals receiving supplemental security income benefits.

(d) Limitations on eligibility determinations under resources tests of State plans.

(e) Limitations on eligibility and benefit determinations under income tests of State plans for aid to the blind.

(f) Correction of erroneous designations and cross references.

(g) Initial payments to presumptively disabled individuals unrecoverable only if individual is ineligible because not disabled.

(h) Technical correction of limitation on fiscal liability of States for optional supplementation.

(i) Modification of transitional administrative provisions.

(j) Inclusion of title VI in limitation on grants to States for social services.

(k) Clarification of coverage of hospitalization for dental services.

(l) Continuation of State agreements for coverage of certain individuals.

(m) Technical improvement of provisions governing disposition of HMO savings.

(n) Technical improvement of provisions governing allowable HMO premium charges.

(o) Applications for assistance on behalf of deceased individuals.

(p) Expansion of intermediate care facility ownership disclosure requirements.

(q) Technical modification of extended medicaid eligibility for AFDC recipients.

(r) Limitation on payments to States for expenditures in relation to disabled individuals eligible for medicare.

(s) Federal payment for cost of inspecting institutions limited to expenses incurred during covered period.

(t) Federal payment for family planning expenditures not limited to administrative costs.

(u) Exception to limitation on payments to States for expenditures in relation to individuals eligible for medicare.

(v) Utilization review by medical personnel associated with an institution.

(w) Authority to prescribe standards under title XIX for active treatment of mental illness.

(x) Correction of erroneous designations and cross references.

(y) Deletion of obsolete provisions.

(z) Determination of amount of exclusion for disapproved capital expenditures by institutions reimbursed on fixed fee or negotiated rate basis.

(z-1) Technical improvement of authority to include expenses related to capital expenditures in certain cases.

(z-2) Conforming amendments to title XI of the Social Security Act.

(z-3) Effective dates.

Sec. 202. Modification of provisions establishing supplemental security income program.

"Sec. 303. Amendment to Act of April 19, 1950".

TITLE III—REPEAL OF DEDUCTION FOR GASOLINE TAXES

Sec. 301.

TITLE I—GENERAL AMENDMENTS

PART A—SOCIAL SECURITY CASH BENEFITS

INTERIM COST-OF-LIVING INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 101. (a) Section 201 of Public Law 93–66 is amended—

(1) in subsection (a)(1), by striking out "the percentage by which the Consumer Price Index prepared by the Department of Labor for the month of June 1973 exceeds such index for the month of June 1972" and inserting in lieu thereof "7 per centum",

(2) in subsection (a)(2), by striking out "after May 1974 and prior to January 1975, and, in the case of lump-sum death payments under such title, only with respect to deaths which occur after May 1974 and prior to January 1975" and inserting in lieu thereof "with respect to which this section is effective, and, in the case of lump-sum death payments under such title, only with respect to deaths which occur in months with respect to which this section is effective",

(3) in subsection (b), by striking out "based on the increase in the Consumer Price Index described in subsection (a)" and inserting in lieu thereof "7 per centum", and

(4) in subsection (c)(2), by striking out "(except for purposes of section 203(a)(2) of such Act, as in effect after May 1974)" and inserting in lieu thereof "(except for purposes of section 203(a) of such Act, as in effect after December 1973, which section (as so in effect) shall, for purposes of the increase in social security benefits provided by this section, be deemed to be in effect for and after the first month with respect to which such increase is effective)".

(b) Section 201 of Public Law 93–66 is further amended by adding at the end thereof the following new subsection:

"(e) For purposes of subsection (a)(2), this section is effective with respect to the month in which this subsection is enacted and for each month thereafter which begins prior to June 1974.".

ELEVEN-PERCENT INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 102. (a) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I		II	III		IV	V
(Primary insurance benefits under 1939 act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
"........	$16.20	$84.50	....	$76	$93.80	$140.80
$16.21....	16.84	85.80	$77	78	95.30	143.00
$16.85....	17.60	87.80	79	80	97.50	146.30
$17.61....	18.40	89.40	81	81	99.30	149.00
$18.41....	19.24	91.00	82	83	101.10	151.70
$19.25....	20.00	92.90	84	85	103.20	154.80
$20.01....	20.64	94.60	86	87	105.10	157.70
$20.65....	21.28	96.20	88	89	106.80	160.20
$21.29....	21.88	98.10	90	90	108.90	163.40
$21.89....	22.28	99.80	91	92	110.80	166.20
$22.29....	22.68	101.40	93	94	112.60	169.00
$22.69....	23.08	103.00	95	96	114.40	171.60
$23.09....	23.44	104.90	97	97	116.50	174.80
$23.45....	23.76	106.70	98	99	118.50	177.80
$23.77....	24.20	108.80	100	101	120.80	181.20
$24.21....	24.60	110.30	102	102	122.50	183.80

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

"I		II	III		IV	V
(Primary insurance benefits under 1939 act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
$24.61	$25.00	$112.10	$103	$104	$124.50	$186.80
$25.01	25.48	114.20	105	106	126.80	190.20
$25.49	25.92	116.00	107	107	128.80	193.20
$25.93	26.40	117.90	108	109	130.90	196.40
$26.41	26.94	119.70	110	113	132.90	199.40
$26.95	27.46	121.40	114	118	134.80	202.20
$27.47	28.00	123.30	119	122	136.90	205.40
$28.01	28.68	125.10	123	127	138.90	208.40
$28.69	29.25	127.10	128	132	141.10	211.70
$29.26	29.68	128.80	133	136	143.00	214.50
$29.69	30.36	130.50	137	141	144.90	217.40
$30.37	30.92	132.50	142	146	147.10	220.70
$30.93	31.36	134.30	147	150	149.10	223.70
$31.37	32.00	136.00	151	155	151.00	226.50
$32.01	32.60	138.00	156	160	153.20	229.80
$32.61	33.20	139.70	161	164	155.10	232.70
$33.21	33.88	141.60	165	169	157.20	235.80
$33.89	34.50	143.40	170	174	159.20	238.90
$34.51	35.00	145.20	175	178	161.20	241.80
$35.01	35.80	147.20	179	183	163.40	245.10
$35.81	36.40	148.80	184	188	165.20	247.80
$36.41	37.08	150.90	189	193	167.50	251.40
$37.09	37.60	152.70	194	197	169.50	254.40
$37.61	38.20	154.40	198	202	171.40	257.10
$38.21	39.12	156.40	203	207	173.70	260.60
$39.13	39.68	158.20	208	211	175.70	263.60
$39.69	40.33	159.80	212	216	177.40	266.10
$40.34	41.12	161.80	217	221	179.60	269.40
$41.13	41.76	163.60	222	225	181.60	272.40
$41.77	42.44	165.50	226	230	183.80	275.70
$42.45	43.20	167.30	231	235	185.80	278.70
$43.21	43.76	169.40	236	239	188.10	282.20
$43.77	44.44	171.00	240	244	189.90	286.20
$44.45	44.88	172.70	245	249	191.70	292.10
$44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40
		189.50	287	291	210.40	341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40
		198.60	310	314	220.50	368.20
		200.30	315	319	222.40	374.10
		202.00	320	323	224.30	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		209.40	338	342	232.50	401.00
		211.20	343	347	234.50	406.90
		213.30	348	351	236.80	411.50
		215.00	352	356	228.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	214.70	433.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.20	380	384	251.10	450.30
		227.80	385	389	252.90	456.10
		229.60	390	393	254.90	460.80
		231.60	394	398	257.10	466.70
		233.30	399	403	259.00	472.60
		235.40	404	407	261.30	477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		240.30	418	421	266.80	493.60
		242.20	422	426	268.90	499.40
		243.80	427	431	270.70	505.30
		245.40	432	336	272.40	511.20
		247.40	437	440	274.70	513.50
		248.90	441	445	276.30	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		$266.10	$488	$492	$295.40	$544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	301.10	552.20
		272.90	507	510	303.00	554.60
		274.60	511	515	304.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.00
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.90
		300.60	578	581	333.70	596.10
		302.20	582	584	335.50	597.90
		303.60	585	588	337.00	600.30
		305.30	589	591	338.90	602.00
		306.80	592	595	340.60	604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	345.60	610.30
		312.80	606	609	347.30	612.50
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.00	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	656.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		343.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.50	681.70
		352.10	736	740	390.90	684.00
		353.30	741	745	392.20	686.40
		354.50	746	750	393.50	688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60
		358.50	766	770	398.00	696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	403.50	706.20
		364.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.50	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40

"I		II	III		IV	V
(Primary insurance benefits under 1939 act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
		$378.50	$866	$870	$420.20	$735.30
		379.50	871	875	421.30	737.30
		380.50	876	880	422.40	739.20
		381.50	881	885	423.50	741.20
		382.50	886	890	424.60	743.10
		383.50	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.50	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.30
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	980	444.60	778.00
		401.50	981	985	445.70	780.00
		$402.50	$986	$990	$446.80	$781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80."

(b) (1) Effective June 1, 1974, sections 227 and 228 of the Social Security Act are amended by striking out "$58.00" wherever it appears and inserting in lieu thereof "the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i)", and by striking out "$29.00" wherever it appears and inserting in lieu thereof "the larger of $32.20 or the amount most recently established in lieu thereof under section 215 (i)".

(2) Section 202(a)(4) of Public Law 92-336 is hereby repealed.

(c) The amendment made by subsection (a) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such Act in the case of deaths occurring after such month.

(d) Section 202(a)(3) of Public Law 92-336 is amended by striking out "January 1, 1975" in subparagraphs (A), (B), and (C) and inserting in lieu thereof in each instance "June 1, 1974".

(e) Notwithstanding any other provision of law, in determining income for purposes of pension benefits for veterans and their widows and children under chapter 15 of title 38, United States Code, and under section 9(b) of the Veterans' Pension Act of 1959, and in determining income for purposes of dependency and indemnity compensation for parents under chapter 13 of such title 38, any increase in the amount of the monthly insurance benefits payable under title II of the Social Security Act resulting from the enactment of section 201 of Public Law 93-66, the amendments made thereto by section 101 of this Act, or section 102 of this Act shall be disregarded, whether such increase is included in the regular monthly payment of such monthly insurance benefits or is paid in a lump sum retroactively for a prior period.

MODIFICATION OF COST-OF-LIVING BENEFIT INCREASE PROVISIONS

SEC. 103. (a) Clause (i) of section 215 (i)(1)(A) of the Social Security Act is amended to read as follows: "(i) the calendar quarter ending on March 31 in each year after 1974, or".

(b) Clause (ii) of section 215(i)(1)(B) of such Act is amended by striking out "in which a law" and all that follows and inserting in lieu thereof "if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year a benefit increase becomes effective; and".

(c) Section 215(i)(2)(A)(i) of such Act is amended by striking out "1974" and inserting in lieu thereof "1975", and by striking out "and to subparagraph (E) of this paragraph".

(d) Section 215(i)(2)(A)(ii) of such Act is amended—

(1) by striking out "such base quarter" and inserting in lieu thereof "the base quarter in any year";

(2) by striking out "January of the next calendar year" and inserting in lieu thereof "June of such year";

(3) by striking out "(subject to subparagraph (E))"; and

(4) by striking out "(but not including a primary insurance amount determined under subsection (a)(3) of this section)".

(e) Section 215(i)(2)(B) of such Act is amended by striking out "December" each place it appears and inserting in lieu thereof "May", and, by striking out "(subject to subparagraph (E))".

(f) Section 215(i)(2)(C)(ii) of such Act is amended by striking out "on or before August 15 of such calendar year" and inserting in lieu thereof "within 30 days after the close of such quarter".

(g) Section 215(i)(2)(D) of such Act is amended by striking out "on or before November 1 of such calendar year" and inserting in lieu thereof "within 45 days after the close of such quarter".

(h) Section 215(i)(2) of such Act is amended by striking out subparagraph (E).

(i) For purposes of section 203(f)(8) of the Social Security Act, so much of section 215(i)(1)(B) of such Act as follows the semicolon, and section 230(a) of such Act, the increase in benefits provided by section 102 of this Act shall be considered an increase under section 215(i) of the Social Security Act.

(j) (1) Section 230(a) of such Act is amended—

(A) by striking out "with the first month of the calendar year" and inserting in lieu thereof "with the June"; and

(B) by striking out "(along with the publication of such benefit increase as required by section 215(i)(2)(D))" and by striking out "(unless such increase in benefits is prevented from becoming effective by section 215(i)(2)(E))".

(2) Section 230(c) of such Act is amended by striking out "the first month" and inserting in lieu thereof "the June".

(k) (1) Section 203(f)(8)(A) of such Act is amended to read as follows:

"(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).".

(2) Section 203(f)(8)(B) of such Act is amended by striking out "no later than August 15 of such year" and inserting in lieu thereof "within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year".

(3) Section 203(f)(8)(C) is amended by striking out "or providing a general benefit increase under this title (as defined in section 215(i)(3))".

(l) (1) Section 215(a) (3) of the Social Security Act is amended by striking out "$8.50" and inserting in lieu thereof "the larger of $9.50 or the amount most recently established in lieu thereof under section 215(i)".

(2) The amendment made by paragraph (1) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such Act in the case of deaths occurring after such month.

INCREASE IN EARNINGS BASE

SEC. 104. (a) (1) Section 209(a) (8) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(2) Section 211(b) (1) (H) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(3) Sections 213(a) (2) (ii) and 213(a) (2) (iii) of such Act are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(4) Section 215(e) (1) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(b) (1) Section 1402(b) (1) (H) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(2) Effective with respect to remuneration paid after 1973, section 3121(a) (1) of such Code is amended by striking out the dollar amount each place it appears therein and inserting in lieu thereof "$13,200".

(3) Effective with respect to remuneration paid after 1973, the second sentence of section 3122 of such Code is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(4) Effective with respect to remuneration paid after 1973, section 3125 of such Code is amended by striking out the dollar amount each place it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$13,200".

(5) Section 6413(c) (1) of such Code (relating to special refunds of employment taxes) is amended by striking out "$12,600" each place it appears and inserting in lieu thereof "$13,200".

(6) Section 6413(c) (2) (A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(7) Effective with respect to taxable years beginning after 1973, section 6654(d) (2) (B) (ii) of such Code (relating to failure by individuals to pay estimated income tax) is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(c) Section 230(c) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(d) Paragraphs (2) (C), (3) (C), (4) (C), and (7) (C) of section 203(b) of Public Law 92–336 are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(e) The amendments made by this section, except subsection (a) (4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a) (4) shall apply with respect to calendar years after 1973.

(f) The amendments made by this section to provisions of the Social Security Act, the Internal Revenue Code of 1954, and Public Law 92–336 shall be deemed to be made to such provisions as amended by section 203 of Public Law 93–66.

CHANGES IN TAX SCHEDULES

SEC. 105. (a) (1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent."

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.".

(b) (1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the self-employment income for such taxable year."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.50 percent.".

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.".

(c) The amendment made by subsection (b) (1) shall apply only with respect to taxable years beginning after December 31, 1973. The remaining amendments made by this section shall apply only with respect to remuneration paid after December 31, 1973.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

SEC. 106. (a) Section 201(b) (1) of the Social Security Act is amended by striking out "(E)" and all that follows down through "which wages" and inserting in lieu thereof the following: "(E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported, which wages".

(b) Section 201(b) (2) of such Act is amended by striking out "(E)" and all that follows down through "which self-employment income" and inserting in lieu thereof the following: "(E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income".

INTERNATIONAL AGREEMENTS WITH RESPECT TO SOCIAL SECURITY BENEFITS

SEC. 107. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

'Purpose of Agreement

"SEC. 232. (a) The President is authorized to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established under this title and the social security system of such foreign country.

"Delegation of Authority to Secretary of Health, Education, and Welfare

"(b)(1) The President is authorized to delegate any of his functions under this section to the Secretary of Health, Education, and Welfare.

"(2) Pursuant to any such delegation, the Secretary of Health, Education, and Welfare shall consult with the Secretary of the Treasury and the Secretary of State prior to entering into any such agreement.

"Definitions

"(c) For the purposes of this section—

"(1) The term 'social security systems' of a foreign country means a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability.

"(2) The term 'period of coverage' means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

"Crediting Periods of Coverage; Tax Exemptions; Conditions of Payment of Benefits

"(d)(1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

"(A) that, in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security systems of such foreign country may, at the option of such individual or of the survivors of such individual, be combined with periods of coverage under this title and otherwise considered for the purpose of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

"(B)(i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title and the social security system of such foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both;

"(ii) the methods and conditions for determining under which system such employment, self-employment, or other service shall result in a period of coverage;

"(C) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which were completed under this title; and

"(D) that an individual who is entitled to cash benefits under this title pursuant to such agreement shall, notwithstanding the provisions of section 202(t), receive such benefits while he legally resides in the foreign country which is a party to such agreement.

"(2) To the extent that any such agreement provides that any period of coverage under this title shall not be such a period of coverage because it is a period of coverage under the laws of a foreign country which is a party to such agreement, no employment or self-employment taxes shall be imposed with respect to such period of coverage under the laws of the United States.

"(3) Any such agreement may provide that the benefit paid by the United States to an individual who legally resides in the United States shall be increased to an amount which, when added to the benefit paid by such foreign country, will be equal to the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a).

"(4) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

"(5) Any such agreement may contain such other provisions, not inconsistent with this section, as the President deems appropriate.

"Regulations

"(e) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"Reports to Congress; Effective Date of Agreements

"(f)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress.

"(2) Such an agreement shall become effective on any date provided in the agreement following 90 calendar days of continuous session of the Congress after the date on which the agreement is transmitted in accordance with paragraph (1). The continuity of a session is broken (for purposes of this paragraph) only by an adjournment of the Congress sine die. The days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period.".

(b)(1) Section 1401 of the Internal Revenue Code is amended by adding at the end thereof the following new subsection:

"(c) During any period in which there is in effect an agreement entered into pursuant to section 232 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(2) Sections 3101 and 3111 of such Code are each amended by adding at the end thereof the following new subsection:

"(c) During any period in which there is in effect an agreement entered into pursuant to section 232 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(3) Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in accordance with the terms of an agreement entered into pursuant to section 232 of the Social Security Act, shall not, under the laws of the United States, be deductible by, or creditable against the income tax of, any such individual.

TREATMENT OF CERTAIN FARM INCOME

SEC. 108. (a) Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"An agreement between an owner or tenant of land and another person under which such other person is to manage and supervise the production of agricultural or horticultural commodities on such land shall not be considered to be an arrangement (described in paragraph (1)(A) of the first sentence of this subsection) which provides for material participation by the owner or tenant in production or management, if under such agreement it is the responsibility and duty of such other person, as the agent of such owner or tenant, to manage and supervise such production (including the selection of the tenants or other personnel whose services will be utilized in such production) without personal participation therein by such owner or tenant, and if, in fact, there is no personal participation by such owner or tenant in such production or management.".

(b) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph:

"An agreement between an owner or tenant of land and another person under which such other person is to manage and supervise the production of agricultural or horticultural commodities on such land shall not be considered to be an arrangement (described in paragraph (1)(A) of the first sentence of this subsection) which provides for material participation by the owner or tenant in production or management, if under such arrangement it is the responsibility and duty of such other person, as the agent of such owner or tenant, to manage and supervise such production (including the selection of the tenants or other personnel whose services will be utilized in such production) without personal participation therein by such owner or tenant, and if, in fact, there is no personal participation by such owner or tenant in such production or management.".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

STUDY BY SECRETARY AS TO FEASIBILITY OF RELATING BENEFITS UNDER THE SOCIAL SECURITY ACT TO PREVAILING COST OF LIVING IN VARIOUS AREAS

SEC. 109 (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct a study of the various programs established by and pursuant to the Social Security Act with a view to determining the feasibility of relating the various dollar amounts set forth therein (whether in the form of benefits, deductibles, conditions of eligibility for benefits, or otherwise) to the prevailing cost of living in the various States (and localities within States) in which such programs are operative.

(b) In carrying out such study, the Secretary shall—

(1) develop a comprehensive cost-of-living index which reflects the average cost of living for each State as a whole (and not just the urban or other areas therein);

(2) include an evaluation of the effects which would be produced among the various States, including the advantages to recipients, if the benefits (and other dollar amount related criteria) in the Social Security Act were adjusted in accordance with differences in the average cost of living in the various States;

(3) give consideration to the feasibility of applying such a cost-of-living adjustment only in those States where the cost of living is significantly higher than the cost of living in the Nation as a whole; and

(4) analyze existing sources, within the Federal Government, from which data relat-

ing to the cost of living is available, with a view to determining the need for improved sources of such data, within the Federal Government, under which such data would be made available on a regular basis and in a more analytical, comprehensive, and suitable form.

(c) The Secretary shall complete such study and shall submit to the Congress a full and complete report thereon, together with the recommendations of the Secretary with respect to the matters included in the study, not later than January 1, 1975.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TERMINATION OF COVERAGE OF CERTAIN POLICEMEN IN LOUISIANA

SEC. 110. Notwithstanding any provision of section 218 of the Social Security Act, the agreement with the State of Louisiana entered into pursuant to such section may, at the opinion of such State, be modified, at any time during the calendar year commencing January 1, 1974, so as to exclude services performed within such State by individuals who are in positions of policemen and who are eligible for membership in the Municipal Police Employees Retirement System of Louisiana. Any modification of such agreement pursuant to this section shall be effective with respect to services performed after an effective date specified by the State in such modification, except that such date shall not be earlier than January 1, 1974.

TERMINATION OF COVERAGE FOR POLICEMEN OR FIREMEN IN CALIFORNIA

SEC. 111. (a) Notwithstanding any provision of section 218 of the Social Security Act, upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare (hereafter in this section referred to as the "Secretary"), the State of California may terminate, effective at the end of the calendar quarter specified in the notice, its agreement (entered into under such section) with the Secretary with respect to services of—

(1) all employees included under the agreement as a single coverage group within the meaning of section 218(d)(4) of such Act which is composed entirely of positions of policemen or firemen or both;

(2) all employees in positions of policemen or firemen or both which are included under such agreement as a part of a coverage group within the meaning of section 218(d)(4) of such Act; or

(3) all employees in positions of policemen or firemen or both which were included under such agreement as part of a coverage group as defined in section 218(b)(5) of such Act and which were covered by a retirement system after the date coverage was extended to such group.

but only if such agreement has been in effect with respect to employees in such positions for not less than five years prior to the receipt of such notice.

(b) If the agreement entered into (under section 218 of the Social Security Act) between the State of California and the Secretary is terminated pursuant to this section with respect to services of employees in positions of policemen or firemen as described in subsection (a), the Secretary and such State may not thereafter modify such agreement so as to again make such agreement applicable to services performed by employees in such positions.

(c) Notwithstanding any provision of section 218 of the Social Security Act, the agreement with the State of California under such section may, if the State so desires, be modified at any time prior to July 1, 1976, so as to again make the agreement applicable to services performed by employees, other than employees in policemen's or firemen's positions, in a coverage group with respect to which the agreement was terminated by the State prior to the enactment of this Act if the Governor of the State, or an official designated by him, certifies that the following conditions have been met:

(1) the majority of such employees have indicated a desire to have their coverage reinstated, and

(2) the termination of the agreement with respect to the coverage group was for the purpose of terminating coverage for those employees in policemen's or firemen's positions, or both.

Notwithstanding the provisions of section 218(f)(1) of such Act, any such modification shall be effective as of the date coverage was previously terminated for those members of the coverage group who meet the conditions prescribed in section 218(f)(2) of such Act.

Part B—Tax Credit

TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES

SEC. 112. (a) IN GENERAL.

(1) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"Sec. 42. TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES.

"(a) IN GENERAL.—

"(1) ALLOWANCE OF CREDIT.—There shall be allowed to a taxpayer who is an eligible individual as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage (as determined under paragraph (2)) of the social security taxes imposed on him and his employer with respect to wages received by the taxpayer during that year. In the case of a taxpayer who is married (as determined under section 143) and who files a joint return of tax with his spouse under section 6013 for the taxable year, the amount of the credit allowable by this subsection shall be an amount equal to the applicable percentage (as determined under paragraph (2)) of the social security taxes imposed on him and his spouse, and their employers, with respect to wages received by the taxpayer and his spouse during that year.

"(2) APPLICABLE PERCENTAGE.—The percentage under paragraph (1) applicable to the social security taxes is—

"(A) 86 percent for calendar years 1974 through 1977,

"(B) 83 percent for calendar years 1978 through 1980,

"(C) 80 percent for calendar years 1981 through 1985,

"(D) 78 percent for calendar years 1986 through 2010, and

"(E) 68 percent for calendar years beginning after December 31, 2010.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The amount of the credit allowable to a taxpayer (or to a taxpayer and his spouse in the case of a joint return of tax under section 6013) for any taxable year under subsection (a) shall not exceed an amount equal to 10 percent of so much of the wages (as defined in section 3121(a)) as does not exceed $4,000 received by that individual (or by that individual and his spouse in the case of a joint return of tax) during that year with respect to employment (as defined in section 3121(b) without regard to the exclusion set forth in paragraph (9) of that section).

"(2) REDUCTION FOR ADDITIONAL INCOME.—The amount of the credit allowable under subsection (a) for any taxable year (after the application of paragraph (1)) shall be reduced by one-fourth of the amount by which a taxpayer's income, or, if he is married (as determined under section 143), the total of his income and his spouse's income, for the taxable year exceeds $4,000. For purposes of this paragraph, the term 'income' means adjusted gross income (as defined in section 62 but without regard to paragraph (3) (relating to long-term capital gains)) plus—

"(A) any amount described in section 71(b) (relating to payments to support minor children), 71(c) (relating to alimony and separate maintenance payments paid as a principal sum paid in installments), or 74(b) (relating to certain prizes and awards),

"(B) any amount excluded from income under section 101 (relating to certain death benefits), 102 (relating to gifts and inheritances), 103 (relating to interest on certain governmental obligations), 105(d) (relating to amounts received under wage continuation accident and health plans), 107 (relating to rental value of parsonages), 112 (relating to certain combat pay of members of the Armed Forces), 113 (relating to mustering-out payments for members of the Armed Forces), 116 (relating to partial exclusion of dividends received by individuals), 117 (relating to scholarships and fellowship grants), 119 (relating to meals or lodging furnished for the convenience of the employer), 121 (relating to gain from sale or exchange of residence by individual who has attained age 65), 911 (relating to earned income from sources without the United States), or 931 (relating to income from sources within possessions of the United States),

"(C) any amount received as a payment from a public agency based upon need, age, blindness, or disability, or as a payment from a public agency for the general support of the taxpayer and his family (as determined by the Secretary or his delegate), other than any payment for the purchase of prosthetic devices or medical services, and

"(D) any amount received as an annuity, pension, retirement, or disability benefit (including veterans' compensation and pensions, workmen's compensation payments, monthly insurance payments under title II of the Social Security Act, railroad retirement annuities and pensions, and benefits under any Federal or State unemployment compensation law).

"(3) APPLICATION WITH SECTION 6428.—The amount allowable to a taxpayer, or to a taxpayer and his spouse, as a credit under subsection (a) for any taxable year (after the application of paragraphs (1) and (2)) shall be reduced by the sum of any amounts received under section 6428 during that year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of the individual and a child of that individual with respect to whom he is entitled to a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents).

"(2) SOCIAL SECURITY TAXES.—The term 'social security taxes' means the aggregate amount of taxes imposed by sections 3101 (relating to rate of tax on employees under the Federal Insurance Contributions Act) and 3111 (relating to rate of tax on employers under such Act) with respect to the wages (as defined in section 3121(a)) received by an individual and his spouse with respect to employment (as defined in section 3121(b)), or which would be imposed with respect to such wages by such sections if the definition of the term 'employment' (as defined in section 3121(b)) did not contain the exclusion set forth in paragraph (9) of such section.".

(2) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Tax credit for low income workers with families.

"Sec. 43. Overpayments of tax.".

(3) Section 6401(b) of the Internal Revenue Code of 1954 (relating to excessive credits) is amended by—

(A) inserting after "lubricating oil)" the following: ", 42 (relating to tax credit for low-income workers with families),"; and

(B) striking out "sections 31 and 39" and inserting in lieu thereof "sections 31, 39, and 42".

(4) Section 6201(a)(4) of such Code (relating to assessment authority) is amended by—

(A) inserting "OR 42" after "SECTION 39" in the caption of such section; and

(B) striking out "oil)," and inserting in lieu thereof "oil) or section 42 (relating to tax credit for low income workers with families),".

(b) ADVANCE REFUND OF CREDIT.—

(1) Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC. 6428. ADVANCE REFUND OF SECTION 42 CREDIT.

"(a) IN GENERAL.—A taxpayer may receive an advance refund of the credit allowable to him under section 42 (relating to tax credit for low-income workers with families) not more frequently than quarterly by filing an election for such refund with the Secretary or his delegate at such time and in such form as the Secretary or his delegate may prescribe. If the taxpayer elects to base his claim for refund on social security taxes imposed on him, his spouse, and their employers, the election shall be a joint election signed by the taxpayer and his spouse. An election may not be made under this subsection with respect to the last quarter of the calendar year, and any other election shall specify the quarter or quarters to which it relates and shall be made not later than the fifteenth day of the eleventh month of the taxable year to which it relates. The Secretary or his delegate shall pay any advance refund for which a proper election is made without regard to any liability, or potential liability, for tax under chapter 1 which has accrued, or may be expected to accrue, to the taxpayer for the taxable year to which the election relates.

"(b) LIMITATIONS.—

"(1) AMOUNT OF REFUND.—The amount of any refund for which a taxpayer files an election under subsection (a) shall be an amount equal to the amount of the credit allowable under section 42 with respect to social security taxes payable with respect to that taxpayer (or, in the case of a joint election, social security taxes payable with respect to that taxpayer and his spouse) for the quarter or quarters to which the election relates.

"(2) INELIGIBLE FOR CREDIT.—No advance refund may be made under this section for any quarter to a taxpayer who, on the basis of the income the taxpayer and his spouse reasonably may expect to receive during the taxable year, will not be entitled to claim any amount as a credit under section 42 for that year.

"(3) MINIMUM PAYMENT.—No payment may be made under this section in an amount less than $30.

"(c) COLLECTION OF EXCESS PAYMENTS.—In addition to any other method of collection available to him, if the Secretary or his delegate determines that any part of any amount paid to a taxpayer for any quarter under this section was in excess of the amount to which that taxpayer was entitled for that quarter, the Secretary or his delegate shall notify that taxpayer of the excess payment and may withhold, from any amounts which that taxpayer elects to receive under this section in any subsequent quarter, amounts totaling not more than the amount of that excess.".

(2) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6428. Advance refund of section 42 credit.".

(c) Section 6011(d) (relating to interest equalization returns, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) RETURNS OF TAXPAYERS RECEIVING ADVANCE REFUND OF SECTION 42 CREDIT.—Every taxpayer who elects to receive an advance refund of the credit allowed by section 42 (relating to tax credit for low-income workers with families) during the taxable year shall file a return for that year, together with such additional information as the Secretary or his delegate may require.".

(d) DEVELOPMENT OF APPLICATION FORMS; COOPERATION OF OTHER GOVERNMENT AGENCIES.—

(1) The Secretary of the Treasury shall develop simple and expedient application forms and procedures for use by taxpayers who wish to receive an advance refund under section 6428 of the Internal Revenue Code of 1954 (relating to advance refund of section 42 credit), arrange for distributing such forms and making them easily available to taxpayers, and prescribe such regulations as may be necessary to carry out the provisions of sections 42 and 6428 of such Code. Each such application form shall contain a warning that the making of a false or fraudulent statement thereon is a Federal crime.

(2) The Secretary of the Treasury is authorized to obtain from any agency or department of the United States Government or of any State or political subdivision thereof such information with respect to any taxpayer applying for or receiving benefits under section 6428 of the Internal Revenue Code of 1954 (relating to advance refund of section 42 credit), or his spouse, as may be necessary for the proper administration of section 42 of the Internal Revenue Code of 1954 (relating to tax credit for low-income workers with families) and of section 6428 of such Code (relating to advance refund of section 42 credit). Notwithstanding any other provision of law, each agency and department of the United States Government is authorized and directed to furnish to the Secretary such information upon request.

(e) AMENDMENT OF SOCIAL SECURITY ACT.—Section 402(a)(7) of the Social Security Act is amended by inserting after "other income" the following: "(including any amounts derived from application of the tax credit established by section 42 of the Internal Revenue Code of 1954)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973, but no advance refund payment under section 6428 of the Internal Revenue Code of 1954 shall be made before July 1, 1974.

PART C—AMENDMENTS RELATED TO SUPPLEMENTAL SECURITY INCOME PROGRAM

INCREASE IN SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 121. (a)(1) Section 210(c) of Public Law 93-66 is amended by striking out "June 1974" and inserting in lieu thereof "December 1973".

(2) Section 211(a)(1)(A) of Public Law 93-66 is amended by striking out "($780 in the case of any period prior to July 1974)".

(b) Effective with respect to payments for months after June 1974—

(1) section 1611(a)(1)(A) and section 1611(b)(1) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972 and amended by section 210 of Public Law 93-66) are each amended by striking out "$1,680" and inserting in lieu thereof "$1,752";

(2) section 1611(a)(2)(A) and section 1611(b)(2) of such Act (as so enacted and amended) are each amended by striking out "$2,520" and inserting in lieu thereof "$2,628"; and

(3) section 211(a)(1)(A) of Public Law 93-66 (as amended by subsection (a)(2) of this section) is amended by striking out "$840" and inserting in lieu thereof "$876".

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

SEC. 122. (a)(1) Section 3(e) of the Food Stamp Act of 1964 is amended to read as it did before amendment by Public Law 92-603 and Public Law 93-86, but with the addition of the following new sentence at the end thereof: "No individual, who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, shall be considered to be a member of a household or an elderly person for purposes of this Act for any month during the 18-month period beginning January 1, 1974, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.".

(2) Section 3(b) of Public Law 93-86 is hereby repealed.

(b)(1) Section 4(c) of Public Law 93-86 is hereby repealed.

(2) The last sentence of section 416 of the Act of October 31, 1949 (as added by section 411(g) of Public Law 92-603) is hereby repealed.

(3) No individual, who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74-320, section 416 of the Agricultural Act of 1949, or any other law, for any month during the 18-month period beginning January 1, 1974, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

(c) for purposes of the last sentence of section 3(e) of the Food Stamp Act of 1964 (as amended by subsection (a) of this section) and subsections (b)(3) and (f) of this section, the level of State supplementary payment under section 1616(a) shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 and which is such that the limitation on State fiscal liability under section 401 does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect.

(d) Section 401(b)(1) of the Social Security Amendments of 1972 is amended by striking out everything after the word "exceed" and inserting in lieu thereof: "a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plans."

(c) Section 401(b)(3) of the Social Security Amendments of 1972 is repealed.

(f) The amendments and repeals made by subsections (d) and (e) shall be effective January 1, 1974, except that such amendments and repeals shall not during the 18-month period beginning January 1, 1974, be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps.

INDIVIDUALS DEEMED TO BE DISABLED UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 123. Section 1614(a)(3) of the Social Security Act is amended—

(1) by striking out the last sentence of subparagraph (A); and

(2) by inserting at the end thereof the following new subparagraph:

"(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.".

SUPPLEMENTAL SECURITY INCOME RECIPIENT LIVING IN AID TO FAMILIES WITH DEPENDENT CHILDREN HOUSEHOLD

Sec. 124. (a) Section 212(a)(3)(A) of Public Law 93-66 is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraphs (D) and (E)".

(b) Section 212(a)(3) of Public Law 93-66 is amended by adding at the end thereof the following new subparagraph:

"(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A, of title IV of the Social Security Act, such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

"(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family unit referred to in clause (i), and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X XIV, or XVI of the Social Security Act."

DISREGARDING OF CERTAIN PAYMENTS IN DETERMINING AMOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

Sec. 125. Section 1612(b)(2) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972) is amended—

(1) by inserting "(A)" immediately after "(2)", and

(2) by adding at the end thereof the following new subparagrph:

"(B) monthly (or other periodic) payments received by an individual (or his eligible spouse) under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in excess of 24 years in such State by such individual;".

CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS

Sec. 126. (a) If any State (other than the Commonwealth of Puerto Rico, the Virgin Islands, or Guam) has any experimental, pilot, or demonstration project (referred to in section 1115 of the Social Security Act)—

(1) which (prior to October 1, 1973) has been approved by the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), for a period which ends on or after December 31, 1973, as being a project with respect to which the authority conferred upon him by subsection (a) or (b) of such section 1115 will be exercised, and

(2) with respect to the costs of which Federal financial participation would (except for the provisions of this section) be denied or reduced on account of the enactment of section 301 of the Social Security Amendments of 1972,

then, for any period (after December 31, 1973) with respect to which such project is approved by the Secretary, Federal financial participation in the costs of such project shall be continued in like manner as if—

(3) such section 301 had not been enacted, and

(4) such State (for the month of January 1974 and any month thereafter) continued to have in effect the State plan (approved under title XVI) which was in effect for the month of October 1973, or the State plans (approved under titles I, X, and XIV of the Social Security Act) which were in effect for such month, as the case may be.

(b) With respect to individuals—

(1) who are participants in any project to which the provisions of subsection (a) are applicable, and

(2) with respect to whom supplemental security income benefits are (or would, except for their participation in such project, be) payable under title XVI of the Social Security Act, or who meet the requirements for aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act of the State in which such project is conducted (as such State plan was in effect for July 1973),

the Secretary may waive such requirements of title XVI of such Act (as enacted by section 301 of the Social Security Amendments of 1972) to such extent as he determines to be necessary to the successful operation of such project.

(c) In the case of any State which has entered into an agreement with the Secretary under section 1616 of the Social Security Act (or which is deemed, under section 212 (d) of Public Law 93-66, to have entered into such an agreement), then, of the costs of any project of such State with respect to which there is (solely by reason of the provisions of subsection (a)) Federal financial participation, the non-Federal share thereof shall—

(1) be paid, from time to time, to such State by the Secretary, and

(2) shall, for purposes of section 1616(d) of the Social Security Act and section 401 of the Social Security Amendments of 1972, be treated in like manner as if such non-Federal share were supplementary payments made by the Secretary on behalf of such State pursuant to such agreement.

AUTHORITY FOR SURVIVING SPOUSE OF DECEASED SSI BENEFICIARY TO CASH JOINT CHECK

Sec. 127. Section 1631(d)(1) of the Social Security Act is amended by striking out "and (f)" and inserting in lieu thereof "(f), and (n)".

Part D—Social Services Amendments

AMENDMENTS TO PROVISION LIMITING FEDERAL FUNDS FOR SOCIAL SERVICES

Sec. 131. (a) Section 1130 of the Social Security Act is amended by redesignating subsection (c) as subsection (f), and by inserting after subsection (b) the following new subsections:

"(c) Nothing in subsection (a) or (b) of this section or in title I, IV, VI, X, XIV, or XVI shall be construed to restrict the freedom of a State (with respect to social services the cost of which is shared by the Federal Government under any such title and to which subsections (a) and (b) are applicable) to determine what services it will make available under its State plan approved under such title, the persons eligible for such services, the manner in which such services are provided, and any limitations or conditions on the receipt of such services, to the extent that such services are social services (as determined by the State) and the Federal share of their aggregate cost does not exceed the allocation to the State (for the fiscal year involved) under this section (or section 132 of the Social Security Amendments of 1973); except that nothing in this subsection shall be construed to relieve any State which has a State plan approved under part A of title IV from complying with the requirements imposed by section 402(a) with respect to the provision of social services to recipients of aid under such plan.

"(d) For purposes of subsection (c) and for purposes of part A of title IV, VI, X, XIV, and XVI, the services referred to in subsection (c) as 'social services'—

"(1) shall be such services as each State determines to be appropriate for meeting any of the following specific goals:

"(A) Self-support goal: To achieve and maintain the maximum feasible level of employment and economic self-sufficiency;

"(B) Family-care or self-care goal: To strengthen family life and to achieve and maintain maximum personal independence, self-determination, and security in the home, including, for children, the achievement of maximum potential for eventual independent living, and to prevent or remedy neglect, abuse, or exploitation of children;

"(C) Community-based care goal: To secure and maintain community-based care which approximates a home environment, when living at home is not feasible and institutional care is inappropriate; or

"(D) Institutional care goal: To secure appropriate institutional care when other forms of care are not feasible; and

"(2) include the following services:

'(A) child care services for children, to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such service is needed (i) in order to enable a member of such child's family to accept or continue in employment, or to participate in education or training to prepare such member for employment, or (ii) because of the death, continued absence from the home, incapacity or inability of the child's mother, or the inability of any member of such child's family to provide adequate care and supervision for such child;

"(B) child care services for children with special needs, including services provided when appropriate, as determined by the State, for eligible children who are mentally retarded or otherwise have special social or developmental needs;

"(C) services for children in foster care, including services provided to a child who is under or awaiting foster care and including preventive diagnostic and curative health services not furnished under the State's title XIX plan, provided to or on behalf of a child who is or has within ninety days been receiving maintenance, care, and supervision in the form of foster care in a foster family home or child care institution (as those terms are defined in the last paragraph of section 408) or who is awaiting placement in such a home or institution, or provided to a child in or by a nonresidential diagnostic or treatment facility. Such services shall be available whether they are rendered directly by the providers of foster care or by the nonresidential facility, or are otherwise provided or obtained for the child by the State when such services are needed in order for the child to return to or remain in his own home, the home of another relative, or an adoptive home, or to continue in foster care as appropriate. Such services also include services related to the relinquishment of children for adoption and the placement of children in adoptive homes, and activities to develop and recruit, study, approve, and subsequently evaluate out of home care resources for foster care;

"(D) protective services for children, including multidisciplinary (medical, legal, social, and other) services for the following purposes: identification, investigation, and response to incidents or evidence of neglect, abuse, or exploitation of a child; helping parents and others to recognize the causes thereof and strengthening the ability of families to provide acceptable care; or, if that is not possible, bringing the situation to the attention of appropriate courts or law enforcement agencies, furnishing relevant data, and providing followup services;

"(E) family planning services (including social, educational, and medical services for any female of child-bearing age and any other appropriate individual needing such services): *Provided*, That individuals must be assured choice of method, and acceptance of any such services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for any other service;

"(F) protective services for adults, including identifying and helping to correct hazardous living conditions or situations of potential or actual neglect or exploitation of an individual who is unable to protect or care for himself;

"(G) Services for adults in foster care not available under titles XVI, XVIII, and XIX, services for adults in twenty-four-hour foster homes or group care in other than medical institutions, including assessment of need for such care, finding of foster homes and institutional resources, making arrangements for placement, supervision, and periodic review while in placement, counseling services for the adult individuals and their families, and services to assist adults in leaving foster care to attain independent living;

"(H) Homemaker services for individuals in their own homes, including helping individuals to overcome specific barriers to maintaining, strengthening, and safeguarding their functioning in the home, through the services of a trained and supervised homemaker;

"(I) Chore services including the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home when he is unable to perform such tasks himself and they do not require the services of a trained homemaker or other specialist;

"(J) Home delivered or congregate meals and the preparation and delivery of hot meals to individual in his home or in a central dining facility, to assist the individual to remain in his home, and to assure sound nutrition;

"(K) Day care services for adults, including meal preparation and serving, companionship, educational and recreational activities, and rehabilitation activity when provided for less than a twenty-four-hour period in a group or family setting;

"(L) Health-related services, including helping individuals to identify health (including mental health) needs and assisting individuals to secure diagnostic, preventive, remedial, ameliorative, and other needed health services and helping to expedite return to community living from institutional care when discharge is medically recommended;

"(M) Home management and other functional educational services, including formal or informal instruction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, child rearing, and health maintenance;

"(N) Housing improvement services, including helping individuals to obtain or retain adequate housing, and minor repairs necessary for personal protection;

"(O) a full range of legal services, at the option of the State, for persons desiring assistance with legal problems, including services to establish paternity and child support and services related to adoption;

"(P) transportation services necessary to travel to and from community facilities or resources for receipt of services;

"(Q) educational and training services for adult family members and services to assist children to obtain education and training to their fullest capacities, where there are needs not met by the work incentive program; and vocational rehabilitation services as defined in the Vocational Rehabilitation Act when provided pursuant to an agreement with the State agency administering the vocational rehabilitation program;

"(R) employment services to enable individuals to secure paid employment or training leading to such employment, including vocational, educational, social, and psychological diagnostic assessment to determine potential for job training or employment and other services that will assist in the individual's plan for achieving full or partial self-support, where there are needs not met by the work incentive program;

"(S) information, referral, followup and determination of eligibility and the need for services, without regard to individual eligibility criteria;

"(T) special services for the mentally retarded, or special adaptations of generic services, directed toward alleviating a developmental handicap or toward the social, personal, or economic habitation of an individual of subaverage intellectual functioning associated with impairment of adaptive behavior as defined and determined by the State agency, with such services including but not limited to personal care, day care, training, sheltered employment, recreation, counseling of the retarded individual and his family, protective and other social and sociolegal services, information and referral, follow along services, transportation necessary to deliver such services, diagnostic and evaluation services, and similar special services for other individuals requiring such services because of developmental disability;

"(U) special services for the blind to alleviate the handicapping effects of blindness through training in mobility, personal care, home management, and communication skills; special aids and appliances; and special counseling for caretakers of blind children and adults;

"(V) services for alcoholism and drug addiction for an individual who is becoming dependent on or is addicted to alcohol or other drugs as determined by the standards set by the State agency designated by the State under the Comprehensive Alcohol Abuse and Treatment Act of 1970 and the Drug Abuse and Treatment Act of 1972, if such services are needed as part of a program for prevention or treatment of addiction or the conditions arising from misuse of alcohol or other drugs, including but not limited to social and rehabilitative services for resident patients receiving services in a supportive environment (such as a halfway house, hostel, or foster home) and including medical services (such as psychiatric services) incidental to the provision of a social service;

"(W) special services for the emotionally disturbed as defined by the State;

"(X) special services for the physically handicapped as defined by the State; and

"(Y) any other services which the State finds appropriate for meeting the goals of self-support, family care or self-care, community-based care, or institutional care.

"(e)(1) Effective July 1, 1974, Federal financial assistance which is subject to the limitation imposed by subsections (a) and (b) shall be available for a new purchase of services from a public agency (other than the single State agency) only for services beyond those represented by the expenditures for the previous fiscal year of the provider agency (or its predecessor) for the type of service and type of persons covered by the agreement.

"(2) A purchase of services in any fiscal year shall not be considered a new purchase of services to the extent that an equivalent purchase of services from the same provider agency (or its predecessor) was made in any of the three preceding fiscal years and was included in the expenditures for which Federal financial participation was provided under titles I, VI, X, XIV, or XVI, or Part A of title IV."

(b) Subsection (a) of section 1130 of such Act is amended by striking out the matter therein which begins with "to assure that—" and ends with the period at the end thereof, and inserting in lieu of the matter stricken the following: "to assure that the total amount paid to such State (under all of such sections) for such fiscal year for such services does not exceed the allotment of such State (as determined under subsection (b)).".

SPECIAL FEDERAL SOCIAL SERVICES FUNDING LIMIT FOR FISCAL YEAR 1974

SEC. 132. (a) In the administration of section 1130 of the Social Security Act, the allotment of each State (as determined under subsection (b) of such section) for the fiscal year ending June 30, 1974, shall (notwithstanding any provision of such section 1130) be adjusted so that the amount of such allotment for such year is equal to whichever of the following is the lesser: (1) the allotment of such State as determined under subsection (b) of such section, or (2) the allotment of such State as determined under subsections (b) and (d) of this section.

(b) (1) For the fiscal year ending June 30, 1974, the Secretary shall allot to each State—

(A) an amount equal to 400 per centum of the amount payable to such State with respect to the total expenditures incurred by the State for services (of the type, and under the programs to which the allotment, as determined under subsection (b) of section 1130 of the Social Security Act, is applicable) for the calendar quarter commencing July 1, 1973, plus

(B) an amount which bears the same ratio to the amount (if any) by which—

(i) $1,850,000,000 exceeds

(ii) the aggregate of the amounts allotted to all States under clause (A),

as the population of such State bears to the population of all States.

(2) If the aggregate of the allotments made pursuant to paragraph (1) is in excess of $1,900,000,000, the Secretary shall reduce the allotment of each State, on a pro rata basis until the aggregate of the allotments for all States does not exceed $1,900,000,000.

(c) (1) In addition to the amount allotted to any State under the preceding subsections of this section for the fiscal year ending June 30, 1974, the Secretary may make an additional allotment for such year to such State in accordance with this subsection.

(2) The aggregate of the allotments made pursuant to this subsection shall not exceed the lesser of (A) $50,000,000 or (B) the amount by which the aggregate of the amounts allocated under subsection (b) is less than $1,900,000,000.

(3) Allotments under this subsection shall be made, in the following order of priority, to such States and in such amounts as the Secretary deems to be appropriate—

(A) first, in order to assure that, for the fiscal year ending June 30, 1974, no State is paid less from Federal funds with respect to expenditures incurred by it for services (of the type, and under the programs to which the allotment of such State, as determined under subsection (b) of section 1130 of the Social Security Act, is applicable) than such State was paid from Federal funds with respect to such expenditures for the fiscal year ending June 30, 1973: *Provided*, That no payment under this clause shall exceed the amount by which the allotment applicable to such State for the fiscal year ending June 30, 1973, under section 1130(b) of the Social Security Act was increased by reason of the enactment of section 403 of the Social Security Amendments of 1972,

(B) second, provide additional Federal financial assistance to any State (I) the allotment of which, as determined under subsection (b), is substantially less than the allotment of such State under section 1130 of the Social Security Act (as determined without regard to this section), and (II) which can demonstrate (to the satisfaction of the Secretary) that it had, prior to November 15, 1973, planned an expansion of its social services programs during the remainder of the fiscal year ending June 30, 1974, which would require such additional Federal financial assistance, except that the amount of the allotment made to any State under this subparagraph shall not exceed an amount which, when added to its allotment as determined under subsections (b) and (d) of this section, is equal to its allotment determined under section 1130 of the Social Security Act (as determined without regard to this section), and

(C) third, to provide additional Federal financial assistance to States which can demonstrate (to the satisfaction of the Secretary) that if an allotment is made to such State under this subparagraph, the amount of such allotment will be utilized so as to produce a significant cost benefit (as determined pursuant to regulations which shall be promulgated by the Secretary).

(d) (1) If the Secretary determines that the amount of the allotment (as determined under the preceding provisions of this section) of any State is in excess of the amount needed by the State for purposes for which such allotment is made, he shall reallot the amount of such excess among other States each of which has need (for purposes for which the allotment under the preceding provisions of this section is made) of amounts in excess of the amount of its allotment (as determined under the preceding provisions of this section).

(2) Whenever amounts are reallotted among States by the Secretary pursuant to paragraph (1), the amount reallotted to each such State shall bear the same ratio to the total amount being reallotted as the population of such State bears to the population of all the States to which such reallotment is being made.

(3) Any amount reallotted to a State under this subsection shall be added to and deemed a part of such State's allotment (as determined under the provisions of this section which precede this subsection), and shall be subject to reallotment, under the preceding provisions of this subsection in like manner as such State's allotment (as so determined).

AMENDMENTS TO STATE PLAN REQUIREMENTS REGARDING SOCIAL SERVICES

SEC. 133. (a) (1) Section 3(a) (4) of the Social Security Act is amended—

(A) by striking out "whose State plan approved under section 2 meets the requirements of subsection (c) (1)" in the matter preceding subparagraph (A);

(B) by striking out clauses (i), (ii), and (iii) of subparagraph (A) and inserting in lieu thereof the following:

"(i) services which are provided to applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

"(ii) other services which (as determined by the State) are likely to prevent or reduce dependency and which are provided to such applicants or recipients, of

"(iii) any of the services described in clauses (i) and (ii) which the State determines to be appropriate for individuals who have been or are likely to become (as determined by the State) applicants for or recipients of assistance under the plan, if such services are requested by and provided to such individuals, or";

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(D) by striking out all that follows subparagraph (C).

(2) Section 3(a) (5) of such Act is repealed.

(3) Section 3(c) of such Act is repealed.

(b) Section 403(a) (3) of the Social Security Act is amended—

(1) by striking out "described in", in subparagraph (A) (i), and inserting in lieu thereof "which the State determines should be provided, including those described in";

(2) by striking out "clauses (14) and (15) of section 402(a)", in subparagraph (A) (ii), and inserting in lieu thereof "subparagraph (A) (i)";

(3) by striking out ", within such period or periods as the Secretary may prescribe," in subparagraph (A) (ii), and inserting in lieu thereof "as determined by the State"; and

(4) by striking out all that follows subparagraph (B).

(c) (1) Section 1003(a) (3) of the Social Security Act is amended—

(A) by striking out "whose State plan approved under section 1002 meets the requirements of subsection (c) (1)" in the matter preceding subparagraph (A);

(B) by striking out clauses (i), (ii), and (iii) of subparagraph (A) and inserting in lieu thereof the following:

"(i) services which are provided to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

"(ii) other services which (as determined by the State) are likely to prevent or reduce dependency and which are provided to such applicants or recipients, or

"(iii) any of the services described in clauses (i) and (ii) which the State determines to be appropriate for individuals who have been or are likely to become (as determined by the State) applicants for or recipients of aid to the blind, if such services are requested by and provided to such individuals, or";

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(D) by striking out all that follows subparagraph (C).

(2) Section 1003(a) (4) of such Act is repealed.

(3) Section 1003(c) of such Act is repealed.

(d) (1) Section 1403(a) (3) of the Social Security Act is amended—

(A) by striking out "whose State plan approved under section 1402 meets the requirements of subsection (c) (1)" in the matter preceding subparagraph (A);

(B) by striking out clauses (i), (ii), and (iii) of subparagraph (A) and inserting in lieu thereof the following:

"(i) services which are provided to applicants for or recipients of aid to the permanently and totally disabled to help them attain or retain capability for self-support or self-care, or

"(ii) other services which (as determined by the State) are likely to prevent or reduce dependency and which are provided to such applicants or recipients, or

"(iii) any of the services described in clauses (i) and (ii) which the State determines to be appropriate for individuals who have been or are likely to become (as determined by the State) applicants for or recipients of aid to the permanently and totally disabled, if such services are requested by and provided to such individuals, or";

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and (D) by striking out all that follows subparagraph (C).

(2) Section 1403(a) (4) of such Act is repealed.

(3) Section 1403(c) of such Act is repealed.

(e) (1) Section 1603(a) (4) of the Social Security Act is amended—

(A) by striking out "whose State plan approved under section 1602 meets the requirements of subsection (c) (1)" in the matter preceding subparagraph (A);

(B) by striking out clauses (i), (ii), and (iii) of subparagraph (A) and inserting in lieu thereof the following:

"(i) services which are provided to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

"(ii) other services which (as determined by the State) are likely to prevent or reduce dependency and which are provided to such applicants or recipients, or

"(iii) any of the services described in clauses (i) and (ii) which the State determines to be appropriate for individuals who have been or are more likely to become (as determined by the State) applicants for or recipients of aid or assistance under the plan, if such services are requested by and provided to such individuals, or";

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(D) by striking out all that follows subparagraph (C).

(2) Section 1603(a)(5) of such Act is repealed.

(3) Section 1603(c) of such Act is repealed.

(f)(1) Section 603(a) of the Social Security Act (as added by the Social Security Amendments of 1972) is amended to read as follows:

"(a) From the sums appropriated therefor, the Secretary shall, subject to section 1130, pay to each State which has a plan approved under this title, for each quarter, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Edcation, and Welfare for the proper and efficient administration of the State plan—

"(1) 75 per centum of so much of such expenditures as are for—

"(A) services which are provided to applicants for or recipients of supplemental security income benefits under title XVI to help them attain or retain capability for self-support or self-care, or

"(B) other services which (as determined by the State) are likely to prevent or reduce dependency and which are provided to such applicants or recipients, or

"(C) any of the services described in clause (A) or (B) which the State determines to be appropriate for individuals who have been or are likely to become (as determined by the State) applicants for or recipients of supplemental security income benefits under title XVI, if such services are requested by and provided to such individuals, or

"(D) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(2) one-half of the remainder of such expenditures."

(2) Section 603(c) of such Act is repealed.

(g) Section 1130(a) of the Social Security Act is amended by striking out "section 3(a)(4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), or 1603(a) (4) and (5)" and inserting in lieu thereof "section 3(a)(4), 403(a)(3), 1003(a)(3), 1403(a)(3), or 1603(a)(4)".

ANNUAL REPORTS BY SECRETARY ON SOCIAL SERVICES

Sec. 134. Part A of title XI of the Social Security Act is amended by inserting, immediately after section 1130 thereof, the following new section:

"ANNUAL REPORTS BY SECRETARY ON SOCIAL SERVICES

"Sec. 1131. (a) Not later than June 30, 1975, and June 30 of each year thereafter, the Secretary shall submit to Congress a report on social services programs under sections 3, 403, 603, 1003, 1403, and 1603. Such report shall include information on a State-by-State basis as to the amounts of funds expended for each type of service (classified in such categories as the Secretary may determine to be appropriate), and such other data and information as may be appropriate.

"(b) The Secretary shall require the States to make such reports concerning their use of Federal social services funds which shall be the basis of the report required by subsection (a).".

USE OF DONATED FUNDS IN PROVISION OF SOCIAL SERVICES

Sec. 135. Part A of title XI of the Social Security Act is amended by adding after section 1131 (as added by section 134 of this Act) the following new section:

"USE OF DONATED FUNDS IN PROVISION OF SOCIAL SERVICES

"Sec. 1132. For purposes of the services to which the provisions of section 1130 are applicable, donated private funds (including in-kind contributions, as defined in OMB Circular A–102, as in effect on October 1, 1973) for services shall be considered as State funds in claiming Federal reimbursement where such funds are transferred to the State or local agency and under its administrative control and are donated on an unrestricted basis (except that funds donated to support a particular kind of activity in a named community shall be acceptable).".

EFFECTIVE DATES

Sec. 136. The amendments made by sections 131, 133, and 135 shall take effect on November 1, 1973.

Part E—Child Welfare Services

NATIONAL ADOPTION INFORMATION EXCHANGE SYSTEM

Sec. 141. Title IV of the Social Security Act is amended by inserting immediately after section 426 thereof the following new section:

"NATIONAL ADOPTION INFORMATION EXCHANGE SYSTEM

"Sec. 427. (a) The Secretary of Health, Education, and Welfare is hereby authorized to provide information, utilizing computers and modern data processing methods, through a national adoption information exchange system, to assist in the placement of children awaiting adoption and in the location of children, including cooperative efforts with any similar programs operated by or within foreign countries, and such other related activities as would further or facilitate adoptions.

"(b) There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for succeeding fiscal years, to carry out this section."

CHILD ABUSE, NEGLECT, AND PROTECTIVE SERVICES

Sec. 142. (a) Section 402(a)(16) of the Social Security Act is amended to read as follows:

"(16) provide—

"(A) that the State agency will provide such services as are necessary to aid the prevention, identification, and treatment of child abuse and neglect and, wherever feasible, to make it possible for the child to remain in the home; and

"(B) that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or other agency, including law enforcement agencies, in the State providing such data with respect to the situation it may have;".

(b) Section 422(a)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (B); and

(2) by adding at the end of subparagraph (C) the following new subparagraph:

"(D) provides for the establishment and implementation of protective services for children including, but not limited to—

"(i) procedures for the discovery and reporting of instances of neglect or abuse of children, including a systematic method for receiving reports of suspected or known instances of child abuse or neglect on a twenty-four-hour a day basis,

"(ii) use of the full resources of local communities including public and nonprofit agencies and organizations which provide services and activities that would be beneficial to a child and his parents or guardians.

"(iii) provisions of services, where feasible, to make it possible for the child to remain in the home,

"(iv) cooperation with the appropriate courts and law enforcement officials in instances of child neglect and abuse, and

"(v) a central collection point for all data and information on child abuse and neglect, and".

(c) The amendments made by subsections (a) and (b) shall be effective July 1, 1975: *Provided, however,* That the Secretary may at any time after the date of enactment of this Act approve changes in State plans under sections 402 and 422 of the Social Security Act which have the effect of bringing such State plans into conformity with such amendments.

Part F—Child Support Programs

CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

In General

Sec. 151. (a) Title IV of the Social Security Act is amended by adding after part C the following new part:

"Part D—Child Support and Establishment of Paternity

"APPROPRIATION

"Sec. 451. For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

"DUTIES OF THE SECRETARY

"Sec. 452. (a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of the Assistant Secretary for Child Support, who shall report directly to the Secretary and who shall—

"(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

"(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

"(3) review and approve State plans for such programs;

"(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

"(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

"(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

"(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

"(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

"(9) operate the Parent Locator Service established by section 453;

"(10) establish or designate regional laboratories as authorized by section 461 to provide services in analyzing and classifying blood for the purpose of establishing paternity; and

"(11) not later than June 30 of each year beginning after December 31, 1974, submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

"(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

"(c)(1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

"(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"PARENT LOCATOR SERVICE

"SEC. 453. (a) The Secretary shall establish and conduct a Parent Locator Service under the direction of the Assistant Secretary for Child Support which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

"(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

"(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

"(2) is not contained in such files or records, but can be obtained by the Secretary under the authority conferred by subsection (e), from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1).

"(c) As used in subsection (a), the term 'authorized person' means—

"(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

"(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

"(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

"(d) A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

"(e)(1) Whenever the Secretary receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

"(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

"(f) The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for information with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

"STATE PLAN FOR CHILD SUPPORT

"SEC. 454. A State plan for child support must—

"(1) provide that it shall be in effect in all political subdivisions of the State;

"(2) provide for financial participation by the State;

"(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

"(4) provide that such State will undertake—

"(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child, and

"(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States, except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

"(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;

"(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

"(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

"(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

"(A) all sources of information and available records, and

"(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

"(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

"(A) in establishing paternity, if necessary,

"(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

"(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

"(D) in carrying out other functions required under a plan approved under this part;

"(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

"(11) provide that amounts collected as child support shall be distributed as provided in section 457;

"(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children; and

"(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments.

"PAYMENTS TO STATES

"SEC. 455. From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1974, an amount equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan, approved under section 454 except that no amount shall be paid to any State on account of furnishing collection services (other than parent locator services) to individuals under section 454(6) during any period beginning after June 30, 1975.

"SUPPORT OBLIGATIONS

"SEC. 456. (a) The support rights assigned to the State under section 402(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

"(1) The amount of such obligation shall be—

"(A) the amount specified in a court order which covers the assigned support rights, or

"(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

"(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1)(A) and (B).

"(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.

"DISTRIBUTION OF PROCEEDS

"SEC. 457. (a) The amounts collected as child support by a State pursuant to a plan approved under this part during the fiscal year beginning July 1, 1974, shall be distributed as follows:

"(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without any decrease in the amount paid as assistance to such family during such month;

"(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

"(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

"(b) The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after June 30, 1975, shall be distributed as follows:

"(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

"(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

"(c) Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this title, the State may—

"(1) continue to collect such support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected to the family; and

"(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

"INCENTIVE PAYMENT TO LOCALITIES

"SEC. 458. (a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 402(a)(26) (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent—

"(1) an amount equal to 25 per centum of any amount collected (and required to be distributed as provided in section 457 to reduce or repay assistance payments) which is attributable to the support obligation owed for 12 months; and

"(2) an amount equal to 10 per centum of any amount collected (and required to be distributed as provided in section 457 to reduce or repay assistance payments) which is attributable to the support obligation owed for any month after the first twelve months for which such collections are made.

"(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraphs (1) and (2) of subsection (a) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

"CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

"SEC. 459. Notwithstanding any other provision of law, effective, January 1, 1974, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual, of his legal obligations to provide child support or make alimony payments.

"CIVIL ACTIONS TO ENFORCE CHILD SUPPORT OBLIGATIONS

"SEC. 460. The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secertary of Health, Education, and Welfare under section 452(a)(8) of this Act. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides.

"REGIONAL LABORATORIES TO ESTABLISH PATERNITY THROUGH ANALYSIS AND CLASSIFICATION OF BLOOD

"SEC. 461. (a) The Secretary shall, after appropriate consultation and study of the use of blood typing as evidence in judicial proceedings to establish paternity, establish, or arrange for the establishment or designation of, in each region of the United States, a laboratory which he determines to be qualified to provide services in analyzing and classifying blood for the purpose of determining paternity, and which is prepared to provide such services to courts and public agencies in the region to be served by it.

"(b) Whenever a laboratory is established or designated for any region by the Secretary under this section, he shall take such measures as may be appropriate to notify appropriate courts and public agencies (including agencies administering any public welfare program within such region) that such laboratory has been so established or designated to provide services, in analyzing and classifying blood for the purpose of determining paternity, for courts and public agencies in such region.

"(c) The facilities of any such laboratory shall be made available without cost to courts and public agencies in the region to be served by it.

"(d) There is hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.".

Collection of Child Support Obligations

(b)(1) Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating to collection of taxes) is amended by adding at the end thereof the following new section:

"SEC. 6305. COLLECTION OF CERTAIN LIABILITY.

"(a) IN GENERAL.—Upon receiving a certification from the Secretary of Health, Education, and Welfare, under section 452(b) of the Social Security Act with respect to any individual, the Secretary or his delegate shall assess and collect the amount certified by the

Secretary of Health, Education, and Welfare, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

"(1) no interest or penalties shall be assessed or collected,

"(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply, and

"(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children.

"(b) REVIEW OF ASSESSMENTS AND COLLECTIONS.—No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary or his delegate under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary or his delegate in any proceeding. This subsection does not preclude any legal, equitable, or administrative action by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.".

(2) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6305. Collection of certain liability.".

Amendments to Part A of Title IV

(c) (1) Notwithstanding the provisions of section 402(a) of the Social Security Act, in addition to the amounts required to be disregarded under clause (8) (A) of such section, there is imposed the requirement (and the State plan shall be deemed to include the requirement) that for the fiscal year beginning July 1, 1974, in making the determination under clause (7), the State agency shall with respect to any month in such year and in addition to the amounts required to be disregarded under clause (8) (A), disregard amounts payable under section 457(a) (1).

(2) Section 402(a) (9) is amended to read as follows:

"(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only to (A) public officials who require such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children;".

(3) Section 402(a) (10) is amended by inserting immediately before "be furnished" the following: ", subject to paragraphs (25) and (26),".

(4) Section 402(a) (11) is amended to read as follows:

"(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);".

(5) Section 402(a) is further amended—

(A) by striking out "and" at the end of paragraph (23);

(B) by inserting immediately before the first word in paragraph (24) the following: "provide that"; and

(C) by striking out the period at the end of paragraph (24) and inserting in lieu thereof a semicolon and the following:

"(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;

"(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

"(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

"(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b) (2) (without regard to subparagraphs (A) through (E) of such section); and

"(27) provide, that the States have in effect a plan approved under part D and operate a child support program in conformity with such plan.".

(6) (A) Section 403 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1975, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a) (27) in any fiscal year beginning after June 30, 1975 (but, in the case of the fiscal year beginning July 1, 1975, only considering the third and fourth quarters thereof).".

(B) Section 404 of such Act is amended by adding at the end thereof the following new subsections:

"(c) No State shall be found, prior to January 1, 1976, to have failed substantially to comply with the requirements of section 402(a) (27) if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

"(d) After December 31, 1975, in the case of any State which is found to have failed substantially to comply with the requirements of section 402(a) (27), the reduction in any amount payable to such State required to be imposed under section 403(h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section."

(7) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.".

(8) Section 402(a) (17), (18), (21), and (22), and section 410 of such Act are repealed.

Conforming Amendments to Title XI

(d) Section 1106 of such Act is amended—

(1) by striking out the period at the end of the first sentence of subsection (a) and inserting in lieu thereof the following: "and except as provided in part D of title IV of this Act.";

(2) by adding at the end of subsection (b) the following new sentence: "Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of title IV of this Act for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of title IV."; and

(3) by striking out subsection (c).

Appointment of Assistant Secretary for Child Support

(e) (1) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary of Health, Education, and Welfare for Child Support who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"(98) Assistant Secretary for Child Support, Department of Health, Education, and Welfare.".

Authorization of Appropriations

(f) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to plan and prepare for the implementation of the program established by this section.

Effective Date

(g) The amendments made by this section shall become effective on July 1, 1974, except that section 459 of the Social Security Act, as added by subsection (a) of this section shall become effective on January 1, 1974, and subsections (e) and (f) of this section shall become effective upon the date of enactment of this Act.

PART G—AID TO FAMILIES WITH DEPENDENT CHILDREN

PASS-ALONG OF SOCIAL SECURITY BENEFIT INCREASE TO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 161. (a) Section 402(a) (8) (B) of the Social Security Act is amended by inserting ", and shall, before disregarding the amounts referred to in subparagraph (A) and clauses (i) and (ii) of this subparagraph, disregard an amount equal to 5 per centum of any income received in the form of monthly insurance benefits paid under title II" immediately after "$5 per month of any income".

(b) Any State plan approved under part A of title IV of the Social Security Act shall be deemed to contain a provision (relating to the disregarding of income) which complies with the requirement imposed with respect to any such plan under the amendment made by subsection (a).

(c) The amendments made by this section shall be effective in the case of monthly insurance benefits under title II of the Social Security Act for months on and after the first month for which the regular payment of such benefits includes the increase in social security benefits made by reason of the enactment of Public Law 93–66 and the amendments made thereto by section 101 of this Act.

DISREGARD OF INCOME UNDER AFDC

SEC. 162. (a) Section 402(a)(8)(A)(ii) of the Social Security Act is amended by striking out everything that follows "determination," and inserting in lieu thereof the following: "(I) the first $60 of earned income for individuals who are employed at least 40 hours per week, or at least 35 hours per week and are earning at least $64 per week, and (II) the first $30 of earned income for other individuals, plus in each case, one-third of up to $300 of additional earnings, and one-fifth of such additional earnings in excess of $300, except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individual's earned income (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b) (2) and (3); and".

(b) Section 402(a)(7) of such Act, as amended by section 111(e) of this Act, is further amended by striking out everything that follows "as well as any" and inserting in lieu thereof the following: "child care expenses reasonably attributable to the earning of any such income;".

COMMUNITY WORK AND TRAINING PROGRAMS

SEC. 163. Section 204(c)(2) of the Social Security Amendments of 1967 is repealed, effective January 1, 1974.

STATE DEMONSTRATION PROJECTS

SEC. 164. Section 1115 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 1115.";

(2) by redesignating subsections (a) and (b) as paragraphs (1) and (2), respectively; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—

"(A) provide that not more than one such project be conducted on a statewide basis;

"(B) provide that in making arrangements for public service employment—

"(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

"(ii) such project will not result in the displacement of employed workers,

"(iii) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and

"(iv) appropriate workmen's compensation protection is provided to all participants;

"(C) provide that participation in any such project by any individual receiving aid to families with dependent children be voluntary.

"(2) Any State which establishes and conducts demonstration projects under this subsection, may, with respect to any such project—

"(A) waive, subject to paragraph (3), any or all of the requirements of section 402(a)(1) (relating to Statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a)(19) (relating to the work incentive program);

"(B) subject to paragraph (4) use to cover the costs of such projects such funds as are appropriated for payment to any such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of title IV for any fiscal year in which such demonstration projects are conducted; and

"(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 (86 Stat. 919) for any fiscal year in which such demonstration projects are conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

"(3) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The demonstration project under which any such disapproved waiver was made by such State shall be terminated not later than the last day of the month following the month in which such waiver was disapproved.

"(4) Any amount payable to a State under section 403(a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

"(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to 'unemployment' as that term is used in section 407.

"(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than June 30, 1976.".

PART H—AMENDMENTS TO MEDICAID AND MEDICARE PROGRAMS

MEDICAL ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

Beneficiaries

SEC. 171. (a)(1) Section 1901 of the Social Security Act (as amended by Public Law 92–603) is amended by striking out "permanently and totally disabled" and inserting "disabled" in lieu thereof.

(2) Section 1902(a)(5) of such Act is amended by—

(A) striking out the comma after "administer the plan" and inserting a semicolon in lieu thereof; and

(B) striking out "XVI (insofar as it relates to the aged)" and inserting "XVI (insofar as it relates to the aged) if the State is eligible to participate in the State plan program established under title XVI, or by the agency or agencies administering the supplemental security income program established under title XVI or the State plan approved under part A of title IV if the State is not eligible to participate in the State plan program established under title XVI" in lieu thereof.

(3) Section 1902(a)(10) of such Act is amended to read as follows:

"(10) provide—

"(A) for making medical assistance available to all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI;

"(B) that the medical assistance made available to any individual described in clause (A)—

"(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

"(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in clause (A); and

"(C) if medical assistance is included for any group of individuals who are not described in clause (A) and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, as determined in accordance with standards prescribed by the Secretary—

"(i) for making medical assistance available to all individuals who would, except for income and resources, be eligible for aid or assistance under any such State plan or to have paid with respect to them supplemental security income benefits under title XVI, and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical and remedial care and services, and

"(ii) that the medical assistance made available to all individuals not described in clause (A) shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1905(a) to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under part B of title XVIII for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, and (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance to the same amount, duration, and scope, to any other individuals not described in clause (A);".

(4) Section 1902(a)(13)(B) of such Act is amended by striking out "the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits

are being paid under title XVI" in lieu thereof.

(5) Section 1902(a)(14)(A) of such Act is amended by striking out "a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or who meet the income and resources requirements of the one of such State plans which is appropriate" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)" in lieu thereof.

(6) Section 1902(a)(14)(B) of such Act is amended by—

(A) inserting "(other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A))" immediately after "with respect to individuals";

(B) inserting "and with respect to whom supplemental security income benefits are not being paid under title XVI" immediately after "any such State plan";

(C) striking out "the one of such State plans which is appropriate" and inserting "the appropriate State plan, or the supplemental security income program under title XVI, as the case may be," in lieu thereof; and

(D) striking out "or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to section 1902(a)(10)(B) approved under title XIX".

(7) Section 1902(a)(17) of such Act is amended by—

(A) striking out "the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" in lieu thereof;

(B) striking out "if he met the requirements as to need" and inserting "except for income and resources" in lieu thereof;

(C) striking out "a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI" in lieu thereof; and

(D) striking out "and amount of such aid or assistance under such plan" and inserting "such aid, assistance, or benefits" in lieu thereof.

(8) Sections 1902(a)(17) and 1902(a)(18) are each amended by striking out "is blind or permanently and totally disabled" and inserting "(with respect to States eligible to participate in the State program established under title XVI), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614 (with respect to States which are not eligible to participate in such program)" in lieu thereof.

(9) Section 1902(a)(20)(C) of such Act is amended by inserting ", section 603(a)(1)(A)(i) and (ii)," immediately after "section 3(a)(4)(A)(i) and (ii)".

(10) Section 1902(f) of such Act is amended by—

(A) inserting "not eligible to participate in the State plan program established under title XVI" immediately after "State" the first time it appears therein;

(B) striking out "such individual's payment under title XVI" and inserting "any supplemental security income payment and State supplementary payment made with respect to such individual" in lieu thereof;

(C) striking out "as defined in section 213 of the Internal Revenue Code of 1954" and inserting "as recognized under State law" in lieu thereof; and

(D) inserting at the end thereof the following new sentences: "In States which provide medical assistance to individuals pursuant to clause (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under clause (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under clause (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to clause (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection.".

(11) Section 1903(a)(1) of such Act is amended by striking out "individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)" in lieu thereof.

(12) Section 1903(f)(4) of such Act is amended to read as follows:

"(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual—

"(A) who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or

"(B) who is not receiving such aid or assistance and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or

"(C) with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the income of such individual (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1), at the time of the provision of the medical assistance giving rise to such expenditure."

(13) The matter before clause (i) in section 1905(a) of such Act is amended by striking out "individuals not receiving aid or assistance under the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" in lieu thereof.

(14) Section 1905(a)(iv) of such Act is amended by inserting "with respect to States eligible to participate in the State plan program established under title XVI," at the end thereof.

(15) Section 1905(a)(v) of such Act is amended by striking out "or" and inserting "with respect to State's eligible to participate in the State plan program established under title XVI," in lieu thereof.

(16) Section 1905(a)(vi) of such Act is amended by inserting "or" at the end thereof.

(17) Section 1905(a) of such Act is further amended by inserting immediately after clause (vi) the following new clause:

"(vii) blind or disabled as defined in section 1614, with respect to States not eligible to participate in the State plan program established under title XVI,".

(18) Section 1905 of such Act is amended by inserting at the end thereof the following new subsections:

"(j) The term 'State supplementary payment' means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under title XVI, or would but for his income be payable under that title.

"(k) Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93-66 shall not be considered supplemental security income benefits payable under title XVI.".

Technical Clarification and Modification of Medicaid Eligibility and Federal Title XIX Matching Under Public Law 93-66

(b)(1)(A) Clause (2)(A) of section 231 of Public Law 93-66 is amended by—

(i) inserting "received or" immediately before "would", and

(ii) striking out "or" at the end thereof and inserting "and" in lieu thereof.

(B) Clause (2)(B) of that section is amended by—

(i) striking out "was", and

(ii) striking out "need for care in such institution, considered to be eligible for aid or assistance under a State plan (referred to in subparagraph (A)) for purposes of determining his eligibility" and inserting "status as described in subparagraph (A), was included as an individual eligible" in lieu thereof.

(2) The first sentence of section 232 of Public Law 93–66 is amended by—

(A) striking out "(under the provisions of subparagraph (B) of such section)",

(B) striking out "to be a person described as being a person who 'would, if needy, be eligible for aid or assistance under any such State plan' in subparagraph (B)(i) of such section" and inserting "for purposes of title XIX to be an individual who is blind or disabled within the meaning of section 1614(a) of the Social Security Act" in lieu thereof, and

(C) inserting ", and the other conditions of eligibility contained in the plan of the State approved under title XIX (as it was in effect in December 1973)" before the period at the end thereof.

Medicaid Eligibility for Individuals Receiving Mandatory State Supplementary Payments

(c) In addition to other requirements imposed by law as conditions for the approval of any State plan under title XIX of the Social Security Act, there is hereby imposed (effective January 1, 1974) the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual—

(1) for any month for which there (A) is payable with respect to such individual a supplementary payment pursuant to an agreement entered into between the State and the Secretary of Health, Education, and Welfare under section 212(a) of Public Law 93–66, and (B) would be payable with respect to such individual such a supplementary payment, if the amount of the supplementary payments payable pursuant to such agreement were established without regard to paragraph (3)(A)(ii) of such section 212(a), and

(2) in like manner, and subject to the same terms and conditions, as medical assistance is provided under such plan to individuals with respect to whom benefits are payable for such month under the supplementary security income program established by title XVI of the Social Security Act.

Federal matching under title XIX of the Social Security Act shall be available for the medical assistance furnished to individuals who are eligible for such assistance under this subsection.

Effective Dates

(d) The amendments made by subsection (a) shall be effective with respect to payments under section 1903 of the Social Security Act for calendar quarters commencing after December 31, 1973.

STANDARDS FOR PAYMENTS UNDER MEDICAID TO HEALTH MAINTENANCE ORGANIZATIONS

SEC. 172. Section 1903 of such Act is amended by inserting at the end thereof the following new subsection:

"(l) Payment under the preceding provisions of this section shall be made with respect to any amount expended during calendar quarters commencing after June 30, 1974 by a State as payment on a per capita or similar basis for the provision of medical assistance only if—

"(1) the entity to which such payment is made meets the definition of a health maintenance organization contained in section 1876(b), other than the provisions of clauses (2), (3), and (7),

"(2) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such entity, or (B) under formal contractual arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"(3) provides either directly or through formal contractual arrangements with others all the services covered under the State plan, except to the extent that the State shall have secured from the Secretary a waiver with respect to any particular service, which waiver shall not be approved by the Secretary unless the State provides assurances satisfactory to the Secretary that an alternative arrangement will be provided for the provision of such service to individuals receiving medical assistance through such entity;

"(4) of the enrolled members of such entity not less than (A) 50 per centum of such members (in case such entity is not an entity described in clause (B)) are individuals who are neither entitled to benefits under title XVIII nor eligible for medical assistance under the State plan approved under this title, or (B) in case such entity serves a geographic area in which individuals (referred to in clause (A)) constitute less than 50 per centum of the total population, a per centum equal to whichever of the following is the larger: (i) a per centum of such members equal to the per centum of such total population which consists of such individuals, or (ii) 25 per centum of such members; and

"(5) such payment is made under a contract or other arrangement which has been approved in advance by the Secretary and which meets requirements imposed by regulations which the Secretary shall prescribe for the purpose of assuring that payments by a State on a per capita or similar basis for the provision of medical assistance are subject to substantially the same requirements as those imposed by subsections (a) and (i) of section 1876 with respect to title XVIII, except that, notwithstanding the provisions of section 1876(i)(2)(A), such regulations may authorize a risk sharing contract or arrangement with an otherwise qualified entity which has a current enrollment of at least 5,000 members on a prepaid capitation or similar basis.".

PAYMENTS TO SUBSTANDARD FACILITIES UNDER MEDICAID

SEC. 173. Section 1616 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution to such individual as an inpatient of such institution in the case of any State which has a plan approved under title XIX of this Act if such care is (or could be) provided under a State plan approved under title XIX of this Act by an institution certified under such title XIX.".

MEDICAID MATCHING FOR EXPENDITURES WITH RESPECT TO CERTAIN INDIANS

SEC. 174. (a) Section 1903 of the Social Security Act is amended by inserting immediately after subsection (d) thereof the following new subsection:

"(e) With respect to amounts expended during any quarter (commencing with the calendar quarter which begins on January 1, 1974) as medical assistance under the State plan (including amounts for premiums as described in subsection (a)(1)) in providing services to any individual who, at any time during the twelve-month period ending with the month preceding the month in which he received such services resided on or adjacent to a Federal Indian reservation, and was eligible for comprehensive health services under the Indian Health Service program conducted within the Public Health Service, the Federal medical assistance percentage shall be increased to 100 per centum.".

(b) Section 1903(a)(1) of such Act is amended by striking out "subsections (g) and (h)" and inserting in lieu thereof "subsections (g), (e), and (h)".

CERTAIN STATES DEEMED TO HAVE PLANS APPROVED UNDER TITLE XIX

SEC. 175. (a) In the case of any State (as that term is used in title XIX of the Social Security Act) which on October 1, 1973, did not have in effect a State plan approved under such title, such State shall, for any calendar quarter which commences on or after January 1, 1974, be entitled (subject to subsection (b)) to payments under section 1903 (a)(1) of such Act with respect to expenditures (made during such quarter) for premiums under part B of title XVIII of such Act (as described in such section) in like manner as if such State had, for such quarter, had in effect such a State plan and as if such expenditures were made under such State plan.

(b) Payments to any State under subsection (a) shall be conditioned upon such State's keeping (and making available to the Secretary of Health, Education, and Welfare) such records and accounts with respect to the expenditures on account of which such payments are made as the Secretary shall require in order to assure that such payments are made subject to substantially the same terms and conditions as those applicable to payments, with respect to such expenditures, which are payable under title XIX of the Social Security Act to States which have State plans approved thereunder.

PAYMENTS FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL

SEC. 176. (a)(1) Notwithstanding any other provision of law, the provisions of section 1961(b) of the Social Security Act, shall, subject to subsection (b) of this section, for the period with respect to which this paragraph is applicable, be administered as if paragraph (7) of such section read as follows:

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(2) Notwithstanding any other provision of law, the provisions of section 1832(a)(2)(B)(i) of the Social Security Act, shall, subject to subsection (b) of this section, for the period with respect to which this paragraph is applicable, be administered as if subclause II of such section read as follows:

"(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1861(b) (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), where the conditions specified in paragraph (7) of such section are met, and".

(b) The provisions of subsection (a) shall not be deemed to render improper any determination of payment under title XVII of the Social Security Act for any service provided prior to the enactment of this Act.

(c)(1) The Secretary of Health, Education, and Welfare shall submit to the Congress a report of his findings and recommendations, based on a study to be conducted as provided in paragraph (2), concerning appropriate and equitable methods of reimbursement for physicians' services under titles

XVIII and XIX of the Social Security Act in hospitals which have a teaching program approved as specified in section 1861(b)(6) of such Act not later than July 1, 1974, except that the Secretary may, in accordance with subsection (d), submit such report not later than December 31, 1974, if he finds that additional time is required to prepare such report.

(2) The Social Security Administration shall conduct the study required by paragraph (1). Such study shall be of a representative sample of hospitals to determine the extent to which individuals who are covered under titles XVIII or XIX of the Social Security Act, other Government programs, and private programs incur expenses for physicians' professional services with respect to which payment is made on the basis of charges, the patient care practices of such hospitals (including the extent of physicians' professional services involved in such care), and the extent to which payment is appropriate under titles XVIII and XIX of the Social Security Act with respect to physicians' professional services provided in such institutions.

(d) The provisions of subsection (a) shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to June 30, 1974, except that if the Secretary of Health, Education, and Welfare determines that additional time is required to prepare the report required by subsection (c), he may, by regulation, extend the applicability of the provisions of subsection (a) to cost accounting periods beginning prior to January 1, 1975.

USE OF SOCIAL SECURITY ADMINISTRATION IN THE ADMINISTRATION OF MEDICARE

SEC. 181. (a) The first sentence of section 1874(a) of the Social Security Act is amended by striking out "shall be administered by the Secretary" and inserting in lieu thereof "and section 226 shall be administered by the Secretary; and the Secretary, in administering such programs, shall assign primary policy, operating, and general administrative responsibiltiy to the Commissioner of Social Security" immediately after "Secretary".

(b) No provision of law (including any such law relating to reorganization of the departments and agencies of the Government) enacted prior to the date of enactment of this Act shall be construed as authorizing any change in the effect of the amendment made by subsection (a).

REIMBURSEMENT UNDER MEDICARE FOR SERVICES WITH RESPECT TO COVERAGE BASED ON CHRONIC KIDNEY FAILURE

SEC. 182. (a) Section 226(g) of the Social Security Act is amended—

(1) by inserting "(1)" immediately after "(g)",

(2) by striking out "the Secretary is authorized to" and inserting in lieu thereof "the Secretary shall",

(3) by striking out "as he may" and inserting in lieu thereof "as he shall",

(4) by striking out "a medical" and inserting in lieu thereof "an independent medical", and

(5) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of section 1842(a), the Secretary is authorized to designate the organizations to be used in making payments with respect to kidney dialysis services and to provide for payments for such services by applying such tests of reasonableness as he may find appropriate, including a test of relationship of charges to costs of providing such services. Notwithstanding the provisions of section 1842(b)(3), the Secretary is further authorized to provide for payments for such services on the basis of specific individual services and on services expected to be rendered over a period of time, and may apply such conditions to payment as he may find necessary to limit charges to patients in excess of those which he may find reasonable. With respect to services expected to be provided over a period of time, the Secretary may provide for payments on a retainer basis or such other basis as he may by regulation prescribe.".

CAPITAL EXPENDITURES PLANNING

SEC. 183. (a) Section 1122(c) of the Social Security Act is amended by striking out "for the reasonable cost of performing the functions specified in subsection (b)" and inserting in lieu thereof the following: "for the reasonable cost of submitting to the Secretary reports of disapproved capital expenditures together with the reasonable cost of processing and adjudicating appeals from the recommendation made by the designated agency concerning such expenditures".

(b) Section 201(g)(1) of such Act is amended by inserting immediately before the period at the end of the first sentence the following: ", except that funds made available under this subsection for fiscal years beginning after June 30, 1974, shall not be used to pay the costs of any activity undertaken pursuant to section 1122 except as provided by such section".

OCCUPATIONAL THERAPY UNDER MEDICARE

SEC. 184. (a) Section 1814(a)(2)(D) of the Social Security Act is amended by inserting ", occupational," immediately after "physical".

(b) Section 1835(a)(2)(A)(i) of such Act is amended by inserting ", occupational," immediately after "physical".

(c) Section 1835(a)(2) of such Act is amended—

(1) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and", and

(2) by adding after clause (D) the following new clause:

"(E) in the case of outpatient occupational therapy services, (i) such services are or were required because the individual needed occupational therapy services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(d) The last sentence of section 1861(p) of such Act is amended by inserting "and occupational therapy services" after "speech pathology services".

(e) The amendment made by the preceding provisions of this section shall be applicable in the case of services furnished on and after the first day of the first month which begins not less than thirty days after the date of enactment of this Act.

BASIS OF MEDICARE PAYMENT FOR SERVICES PROVIDED BY AGENCIES AND PROVIDERS

SEC. 185. In the administration of titles V, XVIII, and XIX of the Social Security Act, the amount payable under such title to any hospital, skilled nursing facility, or home health agency on account of services provided by such hospital, skilled nursing facility, or home health agency shall be determined (for any period with respect to which the amendments made by section 233 of Public Law 92-603 would, except for the provisions of this section, be applicable) in like manner as if the date contained in the first and second sentences of subsection (f) of such section 233 were December 31, 1973, rather than December 31. 1972.

OUTPATIENT SPEECH PATHOLOGY

SEC. 186. (a) Section 1861(p) of the Social Security Act is amended by inserting immediately before the period at the end thereof the following: ", except that the requirements of paragraph (2) insofar as they require a physician to establish a plan prescribing the type, amount, and duration of speech pathology services to be furnished shall not apply if such a plan is established by the speech pathologist providing such services".

(b) The provisions of this section shall apply with respect to services rendered after the month in which this Act is enacted.

STATEWIDE PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 187. Section 1152 of the Social Security Act is amended by adding at the end thereof the folowing new subsection:

"(g) In carrying out the provisions of this section, the Secretary may designate, as an appropriate area with respect to which a Professional Standards Review Organization may be designated, an area encompassing a whole State; and the Secretary shall not refuse to designate any qualified organization as the Professional Standards Review Organization with respect to such area solely because of the number of physicians in such State.".

PRIORITY IN DESIGNATION OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 188. Section 1152(c) of the Social Security Act is amended by adding after paragraph (2) the following new paragraph:

"(3) The Secretary shall give priority to designation of local areas and priority in designation as the Professional Standards Review Organization for any area to an otherwise qualified organization proposed to be established and operated at a local level.".

STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS

SEC. 189. Section 1162 of the Social Security Act is amended—

(1) by striking out in subsection (a) "three" and inserting in lieu thereof "one";

(2) by inserting in subsection (b) immediately after "for any State" the following: "in which there are located three or more Professional Standards Review Organizations";

(3) by redesignating paragraphs (1) through (3) of subsection (b) as subparagraphs (A) through (C) respectively, and by inserting "(1)" immediately after "(b)" in subsection (b); and

(4) by adding after subsection (b)(1), as redesignated, the following new paragraphs:

"(2) The membership of any such Council for any State in which there are located two Professional Standards Review Organizations shall be appointed by the Secretary and shall consist of—

"(A) two representatives from and designated by each Professional Standards Review Organization in the State;

"(B) four physicians, two of whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

"(C) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

"(3) The membership of any such Council for any State in which there is located one Professional Standards Review Organization shall be appointed by the Secretary and shall consist of—

"(A) four physicians who shall be nominated by and elected from among the general membership of the Professional Standards Review Organization annually;

"(B) two physicians who may be designated by the State hospital association of such State to serve as members on such Council; and

"(C) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State)."

POSTPONEMENT ON EFFECTIVE DATE OF CERTAIN REQUIREMENTS IMPOSED WITH RESPECT TO PAYMENT FOR PHYSICAL THERAPY SERVICES

SEC. 190. (a) In the administration of title XVIII of the Social Security Act, the amount payable thereunder with respect to physical therapy and other services referred to in section 1861(v)(5)(A) of such Act (as added by section 151(c) of the Social Security Amendments of 1972) shall be determined (for the period with respect to which the amendment made by such section 151(c) would, except for the provisicns of this section, be applicable) in like manner as if the "December 31, 1972", which appears in such subsection (d)(3) of such section 151, read "the month in which there are promulgated, by the Secretary of Health, Education, and Welfare, final regulations implementing the provisions of section 1861(v)(5) of the Social Security Act".

PAYMENT UNDER MEDICARE TO INDIVIDUALS COVERED BY FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

SEC. 191. Section 1862(c) of the Social Security Act (as added by section 210 of the Social Security Amendments of 1972) is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1976."

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 192. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than six months after the date of enactment of this section a report containing his findings and recommendations with respect to the appropriateness of reimbursement under the insurance program established by part B of title XIII of the Social Security Act, of services (but only to the extent any such services are presently not recognized for purposes of reimbursement) performed by doctors of optometry with respect to the provision of prosthetic lenses for patients with aphakia.

TITLE II—CLERICAL AND CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT

In General

Inclusion of All Wage Level Increases in Automatic Adjustment of Earnings Test

SEC. 201. (a) Section 203(f)(8)(B)(ii) of the Social Security Act is amended by—

(1) striking out "contribution and benefit base" and inserting "exempt amount" in lieu thereof; and

(2) striking out "section 230(a)" and inserting "subparagraph (A)" in lieu thereof.

Inclusion in Old-Age Insurance Benefit in Certain Cases of Delayed Retirement

(b) Section 202(w) of such Act is amended by inserting at the end thereof the following new paragraph:

"(5) If an individual's primary insurance amount is determined under paragraph (3) of section 215(a) and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 215(a) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph."

ELIMINATION OF BENEFITS AT AGE 72 FOR UNINSURED INDIVIDUALS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

(c) Section 228(d) of such Act is amended by inserting "and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93–66 for the following month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93–66 for such month, unless the Secretary determines that such benefits are not payable with respect to such individual for the month following such month" immediately before the period at the end thereof.

LIMITATIONS ON ELIGIBILITY DETERMINATIONS UNDER RESOURCES TESTS OF STATE PLANS

(d) Section 1611 of such Act (as amended by Public Law 92–603) is amended by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g) In the case of any individual or any individual and his spouse (as the case may be) who—

"(1) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI.

"(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

"(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that the resources of such individual or individual and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973."

LIMITATIONS ON ELIGIBILITY AND BENEFIT DETERMINATIONS UNDER INCOME TESTS OF STATE PLANS FOR AID TO THE BLIND

(e) Section 1611 of such Act is amended by striking out subsection (h) and inserting in lieu thereof the following new subsection:

"(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

"(1) received aid or assistance for December 1973 under a plan of a State approved under title X or XVI,

"(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

"(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

"(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which would have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1612 without application of this subsection."

Correction of Erroneous Designations and Cross-References

(f)(1) Section 226 of such Act is amended by—

(A) redesignating subsection (a)(1) as subsection (a);

(B) redesignating clauses (A) and (B) of subsection (a), as redesignated by this subsection, as clauses (1) and (2), respectively; and

(C) redesignating subsection (f) (as added by section 201(b)(5) of the Social Security Amendments of 1972 and redesignated by section 2991 of that Act) and the subsection (f) (as enacted by section 101 of the Social Security Amendments of 1965 and redesignated by section 201(b)(5) of the Social Security Amendments of 1972) as subsections (h) and (i), respectively; and by inserting such subsections (h) and (i) (as so redesignated) immediately after subsection (g) of such section.

(2) Section 226 (h)(1)(A) of such Act, as redesignated by this subsection, is amended by striking out "and 202(e)(5), and the term 'age 62' in sections" and inserting ", 202(e)(5)," in lieu thereof.

(3) Section 226(h)(1)(B) of such Act, as redesignated by this subsection, is amended by striking out "shall" and inserting "and the phrase 'before he attained age 60' in the matter following subparagraph (G) of section 202(f)(1) shall each" in lieu thereof.

(4) Paragraphs (2) and (3) of section 226 (h) of such Act, as redesignated by this subsection, are each amended by striking out "(a)(2)" and inserting "(b)" in lieu thereof.

Initial Payments to Presumptively Disabled Individuals Unrecoverable Only if Individual Is Ineligible Because Not Disabled

(g) Section 1631(a)(4)(B) of such Act is amended by inserting "solely because such individual is determined not to be disabled" immediately before the period at the end thereof.

Technical Correction of Limitation on Fiscal Liability of States for Optional Supplementation

(h)(1) Section 401(a)(1) of the Social Security Amendments of 1972 is amended by—

(A) inserting ", other than fiscal year 1974," immediately after "any fiscal year"; and

(B) inserting ", and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures" immediately before the period of the end thereof.

(2) Section 401(c)(1) of such Act is amended by inserting "excluding" immediately before "expenditures authorized under section 1119".

Modification of Transitional Administrative Provisions

(i) Section 402 of the Social Security Amendments of 1972 is amended by—

(1) striking out "XVI" the first time that it appears therein and inserting "VI" in lieu thereof;

(2) inserting "the third and fourth quarters in the fiscal year ending June 30, 1974, and" immediately after "with respect to expenditures for"; and

(3) inserting "the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of" immediately after "during such portion of".

Inclusion of Title VI in Limitation on Grants to States for Social Services

(j) Section 1130(a) of such Act is amended by inserting "603(a)(1)," immediately after "403(a)(3),".

Clarification of Coverage of Hospitalization for Dental Services

(k)(1) Section 1814(a)(2)(E) of such Act (as amended by Public Law 92–603) is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;".

(2) The last sentence of section 1814(a) is amended by striking out "or (D)" and inserting "(D), or (E)" in lieu thereof.

(3) Section 1862(a)(12) of such Act is amended by striking out "a dental procedure" and all that follows thereafter, and inserting "the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services; or" in lieu thereof.

Continuation of State Agreements for Coverage of Certain Individuals

(l)(1) Section 1843(b) of such Act is amended by adding at the end thereof the following: "Effective January 1, 1974, and subject to section 1902(e), the Secretary shall, at the request of any State not eligible to participate in the State plan program established under title XVI, continue in effect the agreement entered into under this section with such State subject to such modifications as the Secretary may by regulations provide to take account of the termination of any plans of such State approved under titles I, X, XIV, and XVI and the establishment of the supplemental security income program under title XVI.".

Technical Improvement of Provisions Governing Disposition of HMO Savings

(m) Section 1876(a)(3)(A)(ii) of such Act is amended by striking out ", with the apportionment of savings being proportional to the losses absorbed and not yet offset".

Technical Improvement of Provisions Governing Allowable HMO Premium Charges

(n) The last sentence of section 1876(g)(2) of such Act is amended by—

(1) inserting "of its premium rate or other charges" immediately after "portion";

(2) striking out "may" and inserting "shall";

(3) striking out "(i)"; and

(4) striking out "less (ii) the actuarial value of other charges made in lieu of such deductible and co-insurance".

Applications for Assistance on Behalf of Deceased Individuals

(o) Section 1902(a)(34) of the Social Security Act (as amended by Public Law 92–603) is amended by inserting "(or application was made on his behalf in the case of a deceased individual)" immediately after "he made application".

Expansion of Intermediate Care Facility Ownership Disclosure Requirements

(p) Section 1902(a)(35)(A) of such Act is amended by inserting "or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligations secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility" immediately after "intermediate care facility".

Technical Modification of Extended Medicaid Eligibility for AFDC Recipients

(q) Section 1902(e) of such Act is amended to read as follows:

"(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family was receiving aid under the plan approved under part A of title IV) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan.".

Limitation on Payments to States for Expenditures in Relation to Disabled Individuals Eligible for Medicare

(r)(1) Section 1903(a)(1) of such Act is amended by inserting "and disabled individuals entitled to hospital insurance benefits under title XVIII" immediately after "individuals sixty-five years of age or older".

(2) Section 1903(b)(2) of such Act is amended by inserting "and disabled individuals entitled to hospital insurance benefits under title XVIII" immediately after "individuals aged 65 or over".

Federal Payment for Cost of Inspecting Institutions Limited to Expenses Incurred During Covered Period

(s) Section 1903(a)(4) of such Act is amended by striking out "sums expended" and inserting "sums expended with respect to costs incurred" in lieu thereof.

Federal Payment for Family Planning Expenditures Not Limited to Administrative Costs

(t) Section 1903(a)(5) of such Act is amended by striking out "(as found necessary by the Secretary for the proper and efficient administration of the plan)".

Exception to Limitation on Payments to States for Expenditures in Relation to Individuals Eligible for Medicare

(u) Section 1903(b)(2) of such Act is amended by inserting ", other than amounts expended under provisions of the plan of such State required by section 1902(a)(34)" immediately before the period at the end thereof.

Utilization Review by Medical Personnel Associated With an Institution

(v) Section 1903(g)(1)(C) of such Act is amended by striking out "and who are not employed by" and by inserting "or, except in the case of hospitals, employed by the institution" immediately after "any such institution".

Authority To Prescribe Standards Under Title XIX for Active Treatment of Mental Illness

(w) Section 1905(h)(1)(B) of such Act is amended by—

(1) striking out ", involves active treatment (i)" and inserting "(i) involve active treatment" in lieu thereof,

(2) striking out "pursuant to title XVIII", and

(3) striking out "(ii) which" and inserting "(ii)" in lieu thereof.

Correction of Erroneous Designations and Cross References

(x)(1) Section 1902(a)(13)(C) of such Act is amended by striking out "(14)" and inserting "(16)" in lieu thereof.

(2) Section 1902(a)(33)(A) of such Act is amended by striking out "last sentence" and inserting "penultimate sentence" in lieu thereof.

(3) Section 1902(a) of such Act is amended by—

(A) striking out the period at the end of paragraph (35) and inserting "; and" in lieu thereof; and

(B) redesignating paragraph (37) as paragraph (36).

(4) Sections 1902(a) (21), (24), and (26)(B), and the last sentence of section 1902(a), of such Act are each amended by striking out "nursing home" and "nursing homes" each time that they appear therein and inserting "nursing facility" and "nursing facilities", respectively, in lieu thereof.

(5) Section 1903(a) of such Act is amended by striking out "and section 1117" in the first parenthetical phrase.

(6) Section 1903(b) of such Act is amended by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(7) Section 1905(a)(16) of such Act is amended by striking out "under 21, as defined in subsection (e);" and inserting "under age 21, as defined in subsection (h); and" in lieu thereof.

(8) Section 1905(c) of such Act is amended by striking out "skilled nursing home" each time that it appears therein and inserting "skilled nursing facility" in lieu thereof.

(9) Section 1905 of such Act is amended by redesignating subsection (h) (which was enacted by section 299L(b) of the Social Security Amendments of 1972) as subsection (i).

(10) Section 1905(h)(2) is amended by striking out "(e)(1)" and inserting "(1)" in lieu thereof.

Deletion of Obsolete Provisions

(y)(1) Section 1903 of such Act is amended by—

(A) striking out subsection (c);

(B) striking out "(a), (b), and (c)" in subsection (d) and inserting "(a) and (b)" in lieu thereof.

(2) Section 1905(b) of such Act is amended by striking out everything after "section 1110(a)(8)" and inserting a period in lieu thereof.

(3) Section 1908 of such Act is amended by striking out the last sentence of subsection (d) and subsections (e) and (f), and redesignating subsection (g) as subsection (e).

Determination of Amount of Exclusion for Disapproved Capital Expenditures by Institutions Reimbursed on Fixed Fee or Negotiated Rate Basis

(z) The last sentence of section 1122(d)(1) of such Act is amended by inserting "or a fixed fee or negotiated rate" immediately after "per capita" each time that it appears therein.

Technical Improvement of Authority To Include Expenses Related to Capital Expenditures in Certain Cases

(z–1) Section 1122(d)(2) of such Act is amended by striking out "include" the last time that it appears therein and inserting "exclude" in lieu thereof.

Conforming Amendments to Title XI of the Social Security Act

(z–2)(1) Title XI of the Social Security Act is amended—

(A) in section 1101(a)(1), by—

(i) striking out "I,", "X,", "XIV,", and "XVI,", and

(ii) by adding at the end of such section 1101(a) the following new sentence: "In the case of Puerto Rico, the Virgin Islands, and Guam, titles I, X, and XIV, and title XVI (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term 'State' when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.",

(B) in section 1115, by—

(i) inserting (in the matter preceding subsection (a)) "VI," immediately after "title I,",

(ii) inserting (in subsection (a)) "602," immediately after "402,", and

(iii) inserting (in subsection (b)) "603," immediately after "403,", and

(C) in section 1116, by—

(i) inserting (in subsection (a)(1)) "VI," immediately after "title I,".

(ii) inserting (in subsection (a)(3)) "604," immediately after "404,",

(iii) inserting (in subsection (b)) "VI," immediately after "title I,", and

(iv) inserting (in subsection (d)) "VI," immediately after "title I,".

(2) The amendments made by this subsection shall be effective on and after January 1, 1974.

Effective Dates

(z-3)(1) The amendments made by subsections (g), (h), (j), and (l) shall be effective January 1, 1974.

(2) The amendments made by subsection (k) shall be effective with respect to admissions subject to the provisions of section 1814(a)(2) of the Social Security Act which occur after December 31, 1972.

(3) The amendments made by subsections (m) and (n) shall be effective with respect to services provided after June 30, 1973.

(4) The amendments made by subsections (o) and (u) shall be effective July 1, 1973.

MODIFICATION OF PROVISIONS ESTABLISHING SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 202. (a) Section 303(c) of the Social Security Amendments of 1972 is amended to read as follows:

"AMENDMENT TO ACT OF APRIL 19, 1950

"(c) Section 9 of the Act of April 19, 1950 (64 Stat. 47) is amended to read as follows:

" 'SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under section 403(a) of the Social Security Act) an amount, in addition to the amount prescribed to be paid to such State under such section, equal to 80 per centum of the total amount of contributions by the State toward expenditures during the preceding quarter by the State, under the State plan approved under the Social Security Act for aid to dependent children to Navajo and Hopi Indians residing within the boundaries of the State of reservations or on allotted or trust lands, with respect to whom payments are made to the State by the United States under section 403(a) of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such section.'."

(b) Notwithstanding the provisions of section 301 of the Social Security Amendments of 1972 (as amended by subsection (a) of this section), the Secretary of Health, Education, and Welfare shall make payments to the 50 States and the District of Columbia after December 31, 1973, in accordance with the provisions of the Social Security Act as in effect prior to January 1, 1974, for (1) activities carried out through the close of December 31, 1973, under State plans approved under title I, X, XIV, or XVI, of such Act, and (2) administrative activities carried out after December 31, 1973, which such Secretary determines are necessary to bring to a close activities carried out under such State plans.

TITLE III—REPEAL OF DEDUCTION FOR GASOLINE TAXES

SEC. 301. (a) Section 164(a) (relating to deduction of taxes not related to a trade or business) is amended by striking out paragraph (5) (relating to taxes on gasoline and other motor fuels).

(b) Section 164(b)(5) (relating to separately stated taxes) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. NELSON. Mr. President, would the Senator yield for a unanimous-consent request?

Mr. LONG. Mr. President, I yield to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Richard Fay of my staff, be permitted the privilege of the floor during the debate on H.R. 3153.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, may I suggest that Senators who would like to have their staff permitted the privilege of the floor hand me a list of the people and I will get permission for them to be on the floor.

Mr. President, I ask unanimous consent that Mr. Jeff Peterson and Mr. John Scales be permitted the privilege of the floor during the debate on H.R. 3153.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that up until such time as I can make the request for those assistants of Senators to have the privilege of the floor, any Senator's assistant be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, H.R. 3153 as reported by the Committee on Finance is a very substantial bill making important changes affecting social security, supplemental security income, social services programs, child welfare services, programs for families, medicare, and medicaid. I will have printed at the end of my statement a complete summary of the bill, but at this time I would like to mention some of the bill's main features.

SOCIAL SECURITY BENEFIT INCREASE

Four months ago, the Congress enacted a 5.9 percent social security benefit increase, effective next June, as a down payment on the first automatic cost-of-living increase scheduled for January 1975.

In H.R. 3153, the Committee on Finance is now recommending replacing this 5.9 percent increase by 11 percent social security benefit increase in two steps. Effective with the month of enactment, benefits would be increased by 7 percent, and the full 11-percent increase would be effective starting next June.

In the past few months, the rapid rise in the cost of living has continued to eat away at the value of the payments which go to the 30 million social security beneficiaries. In view of this decline in their real income, the committee feels that it is now necessary to raise the increase which will become effective next June from 5.9 percent to 11 percent and to make a part of that higher increase effective as soon as possible.

If the bill is enacted this month, the benefit increases in the bill will mean that 30 million social security beneficiaries will receive an additional $3½ billion in calendar year 1974. The bill will raise the average payment for a retired person by $12 per month—from $161 to $173—and the average monthly benefit for a couple will go up $20—from $276 to $296; the average benefit for an aged widow will rise from $157 to $169. The bill as reported by the Committee on Finance would also change the month in which future automatic benefit increases are effective from January to June. It makes these increases more responsive to cost of living changes by narrowing from 7 to 3 months the gap between the month in which increased benefits are payable and the last month used in determining the amount of the cost-of-living increase.

The bill also includes certain changes in the financing of the social security program which are necessary partly because of the changes the bill makes in benefits but also partly because the social security system is out of actuarial balance under existing law because prices have risen more rapidly relative to wages than was anticipated. The overall social security employer-employee tax rate does not change during the next 7 years.

However, the distribution of funds between the cash benefits trust funds and the hospital insurance trust fund is changed during that period. The maximum amount of annual earnings on which taxes are paid would be increased in 1974 from $12,600 to $13,200. As under present law, this wage base would be automatically increased in future years.

Social security benefit increases have an impact on the non-service-connected pensions payable to veterans and their survivors, since these pensions are related to the amount of income the veteran or his survivor has. In the great majority of cases, the net result of an increase in social security benefits and the decrease it causes in veterans' pensions is an overall increase in the veteran's total income. However, because the reduction in pension does offset some of the benefit increase otherwise payable and because there are a few instances in which veterans or their widows might suffer an actual loss, this problem is always a matter of concern when social security benefits are raised, and it was of critical concern to many House Members earlier this year when we passed a previous social security benefit increase. The Committee on Finance has, therefore, included in its amendment to H.R. 3153 a provision suggested by Senator RIBICOFF, who was most concerned that we assure that veterans' pensions not be reduced as a result of the two-step 11 percent social security increase in the bill.

This is a matter about which the Senator from Indiana (Mr. HARTKE) has also been repeatedly concerned. We are confident that he will support us in what we are doing in this matter.

TAX CREDIT FOR LOW-INCOME FAMILIES WITH CHILDREN

The committee bill includes a tax credit for low-income families with children similiar to the work bonus proposal approved overwhelmingly by the Senate last year. I am particularly pleased with this provision because it will provide an additional $600 million in income for low-income family heads who work—and it gives them the money because they are working and because they are supporting their families.

Under the bill, low-income workers who have families would be eligible for a tax credit equal to a percentage of the social security taxes payable on account of their employment during the tax year. This percentage is equivalent to 10 percent of their wages taxed under the social security program. The maximum tax credit of $400 would apply for families where the total income of the husband and wife is $4,000. For families where the husband's and wife's total combined income exceeds $4,000, the credit would be equal to $400 minus one-quarter of the amount by which their total income exceeds $4,000; thus, no family would be eligible for the credit once total income reached $5,600.

Looked at another way, the tax credit is somewhat in the nature of a refund of most of the social security taxes generated by a low-income worker's employment. For most workers with families in the income range we are talking about, social security taxes are much more of a burden than income taxes, if indeed the family pays income taxes at all.

It seemed to the Finance Committee that it was appropriate to ease this burden to provide additional income to poor families while at the same time providing that income in a way that rewards their working.

SUPPLEMENTAL SECURITY INCOME

In January of next year, the present State welfare programs of aid to the aged, blind, and disabled will be replaced by a new federally administered supplemental security income program. Under this program, an aged, blind, or disabled individual will be assured a minimum income of at least $130 per month, and eligible couples under the program will be assured $195 a month. Under legislation enacted 4 months ago these amounts will be increased next July to $140 for an individual and $210 for a couple.

The Committee on Finance has included in H.R. 3153 a provision under which these higher amounts of $140 for an individual and $210 for a couple would be payable from the beginning of the new program in January. The bill further provides an increase effective in July to $146 for an individual and $219 for a couple. These increases are roughly equivalent to the two-step 11-percent benefit increase which is provided elsewhere in the bill to social security beneficiaries.

SOCIAL SERVICES

The Committee on Finance has also included an amendment to H.R. 3153 which is designed to clarify congressional intent with respect to social services programs. The Senator from Minnesota (Mr. Mondale) deserves the credit for his initiative on this amendment and for his fine work in this area.

The committee bill would essentially follow a social services revenue sharing approach in which the States would have virtually complete responsibility for structuring and operating their social services programs in the way in which they determine will best meet their own objectives for social services.

Since the beginning of this year the Department of Health, Education, and Welfare has been attempting to impose regulatory restrictions on State social services programs which most of the States have found objectionable and which would force many States to cut back their social services programs to levels well below the funding available under the $2.5 billion limitation enacted last year.

Last July, the Congress acted to postpone until November 1, 1973 the Department's regulations which were then scheduled to go into effect on July 1. This postponement was intended to allow the Congress additional time to give the whole issue of the basic nature of the program the thorough consideration it deserved. Utilizing the opportunity, the Committee on Finance decided that the best solution would be to place the responsibility for the social services programs directly and fully upon the States and to give them the flexibility they need to meet that responsibility.

In deciding to give the States maximum latitude in the use of the available social services funds, the committee was not unaware of the concerns which were raised last year over the uncontrolled growth of the social services program and the allegations of questionable uses of these funds. However, we felt that the problem of uncontrolled growth is no longer an issue, since the Congress has now established a statutory $2.5 billion annual limit on the Federal funding available for this program. Given the limited nature of the funding, the committee would expect that the States will feel the need to be careful that the funds are properly used. And to further assure that social services funds will be used responsibly, the bill requires each State to provide an annual report on the ways in which its funds are used.

The bill enumerates four goals toward which social services programs getting Federal matching should be directed: self-support, family care or self-care, community-based care, or institutional care. The bill includes an illustrative list of a number of different kinds of services which States can provide to meet these goals. This list is not intended to be exclusive, and States would be free to use the available social services funds for providing any other types of services which they find appropriate to meeting these goals.

Present law requires that, except for certain specified services, 90 percent of the Federal social services funds available to a State for families have to be used for services to actual welfare recipients, rather than to former or potential recipients. In keeping with the objective of giving the States the maximum possible latitude in the use of social services funds, the committee bill would repeal this provision of present law.

The bill does not change the overall $2.5 billion limitation of the amount of Federal funds which may be provided each year for social services. For the current fiscal year, however, the amount of Federal funding would be limited to $1.9 billion—the amount included in the President's budget. Under the formula in the bill, each State would be allotted an amount based on four times their expenditures for the first quarter. This would assure that no cutbacks would have to be made in ongoing programs.

After this initial allocation, most of the remainder up to the $1.9 billion limit would be allocated on a population basis.

CHILD WELFARE SERVICES

As reported by the Committee on Finance, H.R. 3153 also includes two provisions designed to improve the furnishing of child welfare services. These two provisions were also proposed in committee by Senator Mondale. One of the provisions would authorize a new Federal program designed to help find adoptive homes for hard-to-place children through the establishment of a national adoption information exchange system.

Last year the Finance Committee proposed and the Congress authorized substantially increased funds for child welfare services grants to States. Though we expected that a large part of the additional funds would be used for foster care, it was our hope that States and counties would expand preventive child welfare services with the aim of helping families stay together and avoiding the need for foster care.

The committee bill builds on last year's record by adding new provisions to the program of aid to families with dependent children and to the child welfare services program requiring the States to play a more active role in dealing with child abuse and neglect. States would be required to provide services to prevent, identify, and treat child abuse and neglect and, where feasible, to make it possible for the child to remain in his home.

CHILD SUPPORT

The committee believes that the problem of welfare in the United States is, to a considerable extent, a problem of nonsupport of children by their absent parents. In the past 5½ years, families with absent fathers have contributed about 4½ million additional recipients to the AFDC rolls. The committee believes that all children have the right to receive support from their fathers. Our bill will help children attain this right, including the right to have their fathers identified so that support can be obtained. The immediate result will not only be a lower welfare cost to the taxpayer but, more importantly, once an effective support collection system is established fathers will be deterred from deserting their families to welfare and children will be spared many of the effects of family breakup.

The committee bill is designed to build upon the basically sound provisions of existing law which require State and local enforcement of support obligations owed AFDC families. Administration of the law has been spotty, however, and the marked variation between State programs is not surprising in view of the minimal encouragement and guidance provided by the Federal Government.

The committee is determined that paper compliance will no longer suffice. It mandates more aggressive administration at the Federal, State, and local levels with various incentives for compliance and penalties for noncompliance.

At the Federal level, a central locator service is established; limited use of the Internal Revenue Service tax collection mechanism is authorized; blood typing is provided free to the courts in their determination of paternity; and responsibility for the program is centered directly in one person in HEW. The States are assigned the support obligation of recipients as a condition of welfare eligibility, given more favorable Federal matching for child support activities, and allowed to garnish the wages and other benefits of runaway parents who are Federal civilian or military personnel. Moreover, a portion of the Federal share of recovered support obligations is distributed to the local governmental entity which carries out the support collection activity. Nonwelfare mothers are allowed access to governmental support collection processes at a modest fee, or at cost. On the other side of the coin, the bill provides that States which fail to establish and carry out an effective program of enforcing child support obligations will be penalized by a loss of a portion of Federal AFDC matching.

In summary, the committee bill leaves basic responsibility for child support and establishment of paternity to the States but envisions a far more active role on the part of the Federal Government in monitoring and evaluating State programs, in providing technical assistance, and, in certain instances, in giving direct assistance to the States in locating absent parents and obtaining child support payments from them.

Mr. President, I see that the junior Senator from Georgia (Mr. Nunn) is now in the Chamber. We on the committee owe a debt of gratitude to Senator Nunn for the suggestions he made in the bill which he introduced sometime earlier in this session and which served as a basis upon which the committee proceeded to act in the area of child support. The bill was amended, particularly on the suggestion of the Senator from Connecticut (Mr. Ribicoff), to provide that the States administer the program with Federal cooperation. We believe that this will be an effective approach.

I think that what we have before us will meet with the overwhelming approval of the Senate, because it reflects the combined thinking of Senators who have approached this problem from a variety of points of view. We have what we believe is the best answer that our committee can offer to the Senate. We think we have achieved the purpose the Senator from Georgia sought to achieve, and we believe we have eliminated some of the procedural objections which might otherwise have been made.

DEMONSTRATION AUTHORITY AND AID TO FAMILIES WITH DEPENDENT CHILDREN

Over the past several years, the need for improvements in the existing welfare system for families with children has been widely recognized, but an acceptable solution to this problem has proven elusive. Quite recently, a number of States have either implemented or indicated a desire to implement demonstration projects designed to try out some innovative proposals in this area.

In order to encourage such activity on the part of the States, the Committee on Finance has included in its amendment to H.R. 3153 a provision which would broaden the demonstration authority in existing law so as to emphasize experimentation by the States in the crucial area of making employment more attractive to welfare recipients. States could have up to three demonstration projects, one of which could be Statewide. In order to carry out these projects, States could waive certain specific statutory requirements applicable to the AFDC program.

One type of project States could undertake, for example, would be to use welfare funds to pay part of the cost of public service employment. The State could then take this amount and add additional amounts in order to pay a wage substantially higher than the amount of the welfare payment. Thus, a State, for example, could have a program where welfare clients who desire to may engage in public service employment in hospitals, day care centers, or other nonprofit institutions so that they would be assured they would receive twice as much for doing useful work in the public interest as they would receive as welfare recipients. Other types of projects would also be authorized. For example, States could, within certain limits, experiment with the income disregard provision. Demonstration projects under the provision could not last more than 2 years and the provision itself expires June 30, 1976. Participation in the projects by recipients would have to be voluntary. The Federal cost would be limited to the amount of Federal matching which would be payable if participants in the projects had simply remained on welfare.

OTHER PROVISIONS

Mr. President, the committee bill includes a number of other provisions that I have not mentioned. I ask unanimous consent to have printed in the Record a summary of the provisions of the committee bill.

There being no objection, the summary was ordered to be printed in the Record, as follows:

H.R. 3153: Summary of the Committee Bill

The bill as passed by the House would make a number of minor, clerical, and conforming changes in the Social Security Act to correct errors and oversights in the Social Security Amendments of 1972. The Committee amendment incorporates a number of substantive provisions affecting social security cash benefits, the Supplemental Security Income program, social services, child welfare services, child support, Aid to Families with Dependent Children, Medicare and Medicaid. The Committee bill also establishes a new tax credit for low-income workers with children and, to pay the cost of the tax credit, deletes the income tax itemized deduction for State and local gasoline taxes. A summary of the Committee amendments follows.

SOCIAL SECURITY CASH BENEFITS

11% Benefit increase.—Under a provision enacted last year, social security benefits will rise automatically as the cost of living rises. Under last year's law, the first cost of living increase would not have become effective until January 1974. In July of this year a provision was enacted increasing social security benefits by 5.9 percent, effective for June 1974; this increase would be an early partial payment of the larger cost-of-living increase already scheduled to become effective January 1975. The Committee bill would replace this 5.9 percent increase effective June 1974 by an 11-percent cost-of-living increase in two steps. The first step would be a 7-percent increase effective with the month of enactment. This would be followed by a second increase, starting with June 1974, to bring the benefits up to 11 percent above the present level.

Automatic cost-of-living increases.—Under present law, if the consumer price index rises by at least 3 percent between the second quarter of one year and the second quarter of the next year, social security benefits will be increased by the same percentage that the cost of living has risen, beginning the January following the latter year. The Committee amendment would modify this by measuring the increase in the cost of living from the first quarter of one year to the first quarter of the following year, with the automatic cost-of-living increase effective beginning with June of the latter year. (An exception is made for the first automatic increase, effective June 1975, which would be based on the rise in the consumer price index between the second quarter of 1974 and the first quarter of 1975.)

Special minimum benefit.—Legislation enacted in 1972 established a new special minimum social security benefit to provide a more adequate payment for those who retire after working in employment covered by social security for many years and at relatively low wage levels. Unlike the regular minimum which is typically payable to persons who have had very little employment under social security, the special minimum is so designed that it benefits only those with more than 20 years of work under social security. The amount of the special minimum under present law is equal to $8.50 times the individual's years of coverage under social security (over 10 and up to 30). Thus, with 30 years or more of coverage, an individual qualifies for a special minimum of $170.

Under the Committee bill, an individual with 30 years or more of coverage would qualify for a special minimum of $182 effective with the month of enactment and $190 effective for June 1974; thereafter, the special minimum would be increased automatically as the cost of living rises.

Financing.—Under the Committee bill, wages taxable under social security would be increased from $12,600 in 1974 to $13,200; thereafter, the wage base would increase automatically as wages rise, as under present law. Total social security tax rates under the Committee bill would not be increased until 1981, although future tax income would be shifted from the hospital insurance program into the cash benefit programs. The new tax rates are shown in the table below:

SOCIAL SECURITY TAX RATES

[In percent]

Calendar years	Cash benefits		Hospital insurance		Total taxes	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
Employer-employee, each:						
1974 to 1977	4.85	4.95	1.00	0.90	5.85	5.85
1978 to 1980	4.80	4.95	1.25	1.10	6.05	6.05
1981 to 1985	4.80	4.95	1.35	1.35	6.15	6.30
1986 to 2010	4.80	4.95	1.45	1.50	6.25	6.45
2011 and after	5.85	5.95	1.45	1.50	7.30	7.45
Self-employed:						
1974 to 1977	7.00	7.00	1.00	0.90	8.00	7.90
1978 to 1980	7.00	7.00	1.25	1.10	8.25	8.10
1981 to 1985	7.00	7.00	1.35	1.35	8.35	8.35
1986 to 2010	7.00	7.00	1.45	1.50	8.45	8.50
2011 and after	7.00	7.00	1.45	1.50	8.45	8.50

Veterans.—Under a provision in the Committee bill, veterans would be protected from any loss of pension benefits related to the 7 percent and 11 percent social security benefit increases.

Social security agreements with other countries.—The Committee bill also includes a provision authorizing the President to enter into bilateral agreements with interested foreign countries to provide for limited coordination between this country's social security system and those of the other countries.

Treatment of certain farm rental income.—Another provision of the Committee bill is designed to make clear how certain farm income is to be treated for social security purposes. Under the provision, an individual land owner who enters into an agreement with a person to manage his farm shall not have his rental income under the agreement counted as income for social security purposes provided that the landowner does not participate in the management or production of the farmland.

Cost-of-living study.—The Committee bill includes a provision directing the Department of Health, Education, and Welfare (HEW) to study the various programs under the Social Security Act to determine the feasibility of relating eligibility criteria and benefit amounts to the cost-of-living differentials among the States or among different areas within a State.

Policemen in Louisiana.—The committee bill would permit policemen eligible under the newly created Municipal Police Employees Retirement System of Louisiana to withdraw from social security coverage without requiring that other State employees lose their social security coverage.

Policemen and firemen in California.—The Committee bill would permit policemen and firemen in California to withdraw from social security coverage without requiring that other State employees lose their social security coverage.

TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES

Under another provision of the Committee amendment low-income workers who have families would be eligible for a tax credit equal to a percentage of the social security taxes payable on account of their employment during the tax year (equivalent to 10 percent of their wages taxed under the social security program). The maximum tax credit would apply for families where the total income of the husband and wife is $4,000 or less. For families where the husband's and wife's total income exceeds $4,000, the credit would be equal to $400 minus one-quarter of the amount by which their total income exceeds $4,000; thus, the taxpayer would become ineligible for the credit once total income reaches $5,600 ($5,600 exceeds $4,000 by $1,600; one-quarter of $1,600 is $400, which subtracted from $400 equals zero).

SUPPLEMENTAL SECURITY INCOME

Increases in SSI benefits.—The new Federal Supplemental Security Income (SSI) program, which becomes effective in January 1974, would under present law provide Federal payments to assure the aged, blind, and disabled a monthly income of at least $130 ($195 for couples). Under a provision enacted in July of this year, these amounts would be increased effective July 1974 to $140 for an individual and $210 for a couple. The Committee bill would make these higher amounts of $140 and $210 effective from the start of the SSI program in January 1974. The Committee bill also provides for a further increase, effective July 1974, to $146 for an individual and $219 for a couple.

Food stamp eligibility for SSI recipients.—Under present law many Supplemental Security Income (SSI) recipients will be eligible for food stamps; however, an aged, blind or disabled individual will be ineligible for food stamps for a given month if his SSI benefits plus any State supplementary payment are at least equal to the welfare payment plus the bonus value of the food stamps he would be eligible to receive if the State's December 1973 State plan were still in effect. This provision of law enacted this year will be extremely difficult to administer and would present problems of unequal treatment in food stamp eligibility for SSI beneficiaries. The Committee bill, therefore, repeals the prohibition against participation by SSI recipients in the food stamp program. Due to the short time left before the SSI program becomes effective, however, the Committee bill includes a transitional provision for those States that have already acted to raise benefits to take into account the loss of food stamp eligibility.

For a transitional period until July 1975, States which have already made plans to "cash out" food stamps under the SSI program would be permitted to do so, with recipients in these States ineligible for food stamps.

Limitation on grandfather clause for disabled individuals.—In enacting the new SSI program, the Congress provided that disabled persons on the rolls in December 1973 would continue to be considered to be disabled even if they did not meet the new definition of disability. The Committee amendment would limit this grandfather provision for disability to persons who had received Aid to the Disabled before July 1973 and who are on the rolls in December 1973.

SSI recipients living with AFDC families.—In June, the Congress enacted a grandfather clause to assure that current SSI recipients will have no reduction in total income when the new SSI program goes into effect in January. The Committee amendment would permit the adjustment of the grandfather clause in such a way that it assures the same level of total family income (rather than the *individual's* total income) in those cases in which the SSI recipient resides with an AFDC family.

Disregard of certain benefits.—The Committee bill includes a provision under which certain State benefits paid to aged individuals based on their length of residence in a State would be disregarded in determining the amount of the SSI benefit.

Continuation of demonstration projects.—The committee bill would permit the continuation of on-going demonstration projects related to the aged, blind and disabled which qualify for Federal matching under the public assistance titles of the Social Security Act and which involve waivers by the Secretary of Health, Education, and Welfare of some of the requirements of those titles. The new Federal SSI program which next January will replace present programs of aid to the aged, blind and disabled does not provide for such waivers and funding of demonstration projects.

Combined checks for married couples.—In order to make it feasible for the Social Security Administration to issue joint checks to couples receiving SSI benefits who request such checks, the Committee bill includes a provision which would permit such checks to be cashed by the surviving spouse in the case of the death of the husband or wife.

SOCIAL SERVICES

On May 1, 1973, the Department of HEW issued sweeping revisions in Federal regulations relating to social services under the Social Security Act. These regulations were to have become effective on July 1. However, the Congress delayed the effective date of the new regulations until November 1 in order to allow time for more thorough legislative consideration of the issues involved. The Committee bill incorporates a provision in effect converting the present law as it affects social services to a $2.5 billion social services revenue sharing program. The bill includes a requirement that any increase in Federal social services funding in a State be used for an actual increase in services provided rather than to simply replace State funds now being spent on services. Also included is an illustrative list of the types of social services which may be funded. The States would, however, be free to provide other services not specifically included in this listing. In the fiscal year 1974, expenditures would be held to $1.9 billion, the amount in the President's budget. The Committee provision would be effective November 1, 1973.

CHILD WELFARE SERVICES

National adoption information exchange system.—The committee bill would authorize $1 million for the first fiscal year and such sums as may be necessary for suceeding fiscal years for a Federal program to help find adoptive homes for hard-to-place children. The amendment would authorize the Secretary of Health, Education, and Welfare to "provide information, utilizing computers and modern data processing methods, through a national adoption information exchange system, to assist in the placement of children awaiting adoption and in the location of children for persons who wish to adopt children, including cooperative efforts with any similar programs operated by or within foreign countries, and such other related activities as would further or facilitate adoption."

Child abuse and neglect; protective services.—Last year the Congress substantially increased funds authorized for grants to States for child welfare services. Though the Congress expected that a large part of the additional funds would go toward meeting the cost of providing foster care, a specific earmarking for that purpose was avoided so that wherever possible the States and counties could use the additional funds to expand preventive child welfare services with the aim of helping families stay together thus avoiding the need for foster care. The Committee bill builds upon last year's record by adding requirements both under the AFDC and child welfare services programs that States establish programs of protective services to aid in the prevention, identification and treatment of child abuse and neglect and, whenever feasible, to make it possible for the child to remain in the home.

CHILD SUPPORT

Present law requires that the State welfare agency establish a single, identified unit whose purpose is to secure support for children who have been deserted or abandoned by their parents, utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support. If it is necessary to establish paternity to find an obligation to support, this unit is supposed to carry out this activity. The State welfare agency is further required to enter into cooperative arrangements with the courts and with law enforcement officials to carry out this program. Access is authorized to both Social Security and (if there is a court order) to Internal Revenue Service records in locating deserting parents. The administration of the provisions of present law has varied widely among the States.

The Committee bill includes a number of features designed to assure an effective program of child support. The Committee bill leaves basic responsibility for child support and establishment of paternity to the State but it envisions a far more active role on the part of the Federal Government in monitoring and evaluating State programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them.

States would be required to have effective programs for the collection of support and the establishment of paternity; Federal matching for these efforts would be increased from the present 50 percent to 75 percent but States not complying with the requirements would face a penalty in the form of reduced Federal matching funds for Aid to Families with Dependent Children.

Access to support collection services would be available to families not on welfare as well as to those on welfare.

AID TO FAMILIES WITH DEPENDENT CHILDREN

Pass-along of social security benefit increase.—To assure that recipients of Aid to Families with Dependent Children who are also social security beneficiaries receive the benefit of at least part of the social security increase, the Committee amendment would require States, in determining need for AFDC, to disregard 5 percent of social security income. This provision would be effective starting with the month in which the beneficiaries begin receiving increased benefits.

Earnings disregard.—Under present law, payments under the AFDC program are not reduced dollar for dollar because of any earnings. Instead, all work expenses are deducted from earnings. In addition, $30 plus one-third of monthly earnings above $30 are disregarded. Under the Committee provision, child care costs would be the only work expense that could be separately deducted from earnings; the disregard would be $60 (rather than the present $30) plus one-third of the next $300 of monthly earnings plus one-fifth of earnings above this amount.

Community work and training program.—Under present law, States have been prohibited from establishing community work and training programs even though the Work Incentive Program is not in effect throughout the State. The Committee bill re-enacts the legislation as it existed prior to the Social Security Amendments of 1967 so that States wishing to have community work and training programs may do so.

Demonstration project authority.—The Committee bill includes a provision which broadens the experimentation authority in existing law with respect to welfare programs so as to emphasize and encourage experimentation by the States in the crucial area of making employment more attractive for welfare recipients. Examples of the types of projects the Committee has in mind would be those for public service employment under which the amount of the welfare payment could be combined with State funds to provide a salary considerably more attractive than welfare. Other experimentation might involve work incentives and the AFDC income disregard. All authority for such projects would expire on June 30, 1976.

MEDICARE AND MEDICAID AMENDMENTS

Medicaid eligibility.—The Committee bill contains several sections treating the matter of Medicaid eligibility for SSI recipients. The bill contains a provision which would make Federal matching available for Medicaid benefits for any new SSI recipients, although coverage of these new recipients would be optional on the part of a State.

The Committee bill would make Medical coverage mandatory for those persons who receive a mandatory State supplemental payment in accordance with the provisions of Public Law 93–66. The amendment also provides that for other persons receiving a State supplemental payment only, coverage would be optional, depending upon the State's decision, but that a State must make eligibility determinations based upon some rational classifications of recipients. Additionally, the provision places an upper limit on the monthly income (initially $420 in the case of an individual) which an institutionalized person can have and still be "deemed" in special need and, therefore, eligible for Medicaid coverage in a State without a medically-indigent program.

Medicaid and Health Maintenance Organizations (HMO's).—Another Committee amendment would apply certain quality and reimbursement standards to HMO's participating in Medicaid. The quality standards and reimbursement requirements parallel in large part, those applicable to HMO's participating under the Medicare program with modifications designed to reasonably take into account the differences between Medicare and Medicaid.

Payments to substandard facilities.—The Committee bill contains a provision which amends Title XVI to provide that the Federal SSI payment will be reduced dollar-for-dollar for any State supplemental payment which is made for care provided to institutionalized individuals if this care could be provided under the State's Medical program. This provision is intended to prevent States from using their cash grant programs to finance care in institutions which do not meet Medicaid standards.

Federal matching under Medicaid for care to Indians.—The Committee bill contains a provision which would increase Federal matching under Medicaid to 100 percent for services provided to individuals who were eligible for services under the Indian Health Services Program and resided on or adjacent to a Federal Indian Reservation during the year before they received Medicaid services.

Medicare administration.—The Committee bill includes a provision formally assigning policy and operating responsibility for the Medicare program to the Social Security Administration.

Kidney dialysis and transplantation.—The Committee bill also requires the Secretary to develop and apply minimal utilization rates for facilities reimbursed under the dialysis and transplantation provision and mandates the Secretary to require that such facilities have independent medical review boards to evaluate the appropriateness and site of therapy proposed for the patient.

Capital expenditures planning.—Last year's Social Security Amendments preclude Federal reimbursement for major capital expenditures which have been disapproved by State planning agencies. The Committee bill provides that effective July 1, 1974, authorization of reimbursement from Medicare and Medicaid for expenditures incurred in the administration of this capital planning provision shall be limited to those costs directly associated with preparing and transmitting reports and processing appeals concerning approved or disapproved capital expenditures.

Occupational therapy.—The Committee bill contains a provision expanding the outpatient physical therapy and speech pathology benefits as provided through clinics and other organized settings to include occupational therapy. Additionally, it provides that a need for occupational therapy alone can qualify the home-bound patient for home health benefits.

Reimbursement of institutions and organizations under Medicare.—The Committee amended the effective date of Section 233 of P.L. 92–603 to accounting periods beginning after December 31, 1973 instead of December 31, 1972 as in present law. This section of the law limits Medicare reimbursement to the lesser of an institution's costs or charges to the general public. The Committee provision provides additional time for such institutions to adjust their charges to more accurately reflect their costs.

Speech therapy.—The Committee bill contains a provision which makes it clear that a physician's referral for speech therapy services need not necessarily detail the amount, duration and scope of services required.

Professional Standards Review Organizations (PSRO's).—Another provision of the Committee bill affirmatively provides that the Secretary may designate a State as a PSRO area and that he may not refuse to make such designation solely on account of the number of physicians in a State. An additional provision specifies that the Secretary shall give priority to designating PSRO areas on a local (medical service area) basis and also give priority to designating qualified local organizations as PSRO's where feasible. While priority would be given to local areas and entities, the Secretary, as previously noted, could not rule out consideration of designating a Statewide PSRO area or organization solely on account of the number of doctors in a State. The Committee also approved a provision authorizing the establishment of Statewide PSRO Councils in States having less than three PSRO's. The principal function of such councils to hear appeals from the decisions made by local PSRO review organizations.

Federal employees' health plan and Medicare.—Section 210 of P.L. 92–603 requires the Civil Service Commission to assure that by January 1, 1975 Federal employees and retirees who are eligible under both the Federal employee health insurance program and Medicare be provided supplemental coverage or reduced premiums in recognition of the overlap between the two programs. To provide more time to resolve administrative difficulties which have arisen in the implementation of Section 210, the Committee approved an amendment postponing the effective date of the provision to January 1, 1976.

Reimbursement of physical therapists under Medicare.—Section 251 of P.L. 92–603, which details the approved means of reimbursing for the services of physical therapists under Medicare, has an effective date of January 1, 1973. In view of the fact that appropriate regulations implementing the provisions have not been issued as yet, the Committee approved an amendment making section 251 of Public Law 92-603 effective following publication of the final regulations.

Study of optometrists' services.—The Committee approved an amendment calling for a study by the Social Security Administration on the appropriateness of reimbursement under Medicare for services performed by optometrists with respect to the provision of corrective lenses following cataract surgery.

Supervisory physicians.—The Committee amendment directs the Secretary of Health, Education and Welfare to undertake a study covering all aspects related to payment for professional services in medical schools and teaching hospital settings. While the study is being undertaken, certain provisions of Section 227 of P.L. 92-603, limiting medicare reimbursement to medical centers for the services of teaching physicians, would be suspended. However, the suspension would not apply to those hospitals which are reimbursed on a costs basis in accordance with Section 227.

CLERICAL AND CONFORMING AMENDMENTS

The Committee bill includes a number of provisions of a clerical and conforming character designed to correct mistakes and oversights in the Social Security Amendments of 1972.

TAX PROVISION

Gasoline tax deduction.—The Committee bill also includes a provision to eliminate the itemized deduction, for Federal income tax purposes, of State and local gasoline taxes. This provision would be effective for taxable years beginning after 1973.

Mr. LONG. Mr. President, that covers a brief summary of the committee amendments. I believe it might be well, rather than asking that they be agreed to en bloc, if the Senate at this time would simply proceed in the usual fashion to consider each amendment as it comes before the Senate. I say that because the request to consider amendments en bloc has not been cleared on the other side of the aisle. There are one or two significant provisions on which I believe the Senate would very much like to go on record, rather than agreeing to an across-the-board request.

Mr. HANSEN. Mr. President, will the distinguished Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. HANSEN. May I ask the chairman of the Finance Committee a question about dental services? Does the term "physician" as used in the November 1973 committee report mean a physican as defined under the present medicare law?

Mr. LONG. Yes, it does. As that term includes doctors or dental surgeons.

Mr. HANSEN. I thank my distinguished chairman.

SOCIAL SERVICES

Mr. MONDALE. Mr. President, I am deeply pleased that the pending bill—H.R. 3153, the Welfare Technical Amendments of 1973—contains provisions that would reverse the destructive social services regulations put into effect by the Department of Health, Education, and Welfare last November 1.

The social services program—first established 17 years ago—is among our oldest human service programs. It is a Federal-State partnership, with Federal matching of State contributions on a 3-to-1 basis. By law, it is directed to past, present, and potential welfare recipients. Through provision of services by the States—such as day care for children of working mothers, help for drug addicts and alcoholics, education, and training, hot meals and other services for elderly persons at home—the social services program is designed to reduce and prevent welfare dependency, to strengthen families, and to provide alternatives to institutionalization for the aged, blind, and disabled.

Last year, as part of the Revenue Sharing Act—Public Law 92-512—the Congress, at the request of the administration, adopted a $2.5 billion ceiling and other reforms for the social services program—to prevent abuses and to require States to more carefully order their priorities.

The social services program, with its strong role for decisionmaking and ordering of priorities on the State level, closely resembles the strategy of "revenue sharing" which the administration has advocated in other areas.

It is designed to reduce welfare dependency by helping the poor, the elderly, and the disabled to lead more independent, productive lives.

Yet, last January 16 the Department of HEW issued new regulations, which would cut the heart out of the program. The Department proposed to sharply limit the range of services open to the States, and to prohibit the use of privately-contributed funds. Most important, they proposed to limit services to the poorest of the poor, well below the maximum welfare support level.

These new regulations would reverse the basic thrust of the services program. By confining services to those below the welfare level, they would create a positive incentive to get on welfare and stay there.

With great accuracy the Washington Post described these regulations as "impoundment by redtape."

Last June 30, the Congress adopted legislation prohibiting implementation of new social services regulations before November 1 without approval of the Senate Finance and House Ways and Means Committees. No regulations have been submitted to the committees for approval; but DHEW has announced its intention to put revised regulations into effect on November 1.

It is a great disappointment that despite the concern of the Nation's Governors and local officials, an outpouring of mail from concerned persons and organizations throughout the country, days of hearings by the Senate Finance Committee, and formal action by the Congress to suspend the new regulations, the basic problems remain.

The proposed regulations have been revised at least four times since last January and improvements have been made.

Additional services have been added. The redtape involved in reporting on individual cases as often as every 3 months has been reduced. And eligibility requirements have been broadened to some degree.

But important services continue to be excluded. For example, education is perhaps the single most effective means of rehabilitation. The HELP program at the University of Minnesota now serves 300 welfare mothers. These women, with success rates above their class average, go on to become productive tax-paying citizens. Yet education would be excluded from the social services program.

And the role of private charitable groups has been virtually eliminated.

The services program, as it has evolved over the years, has been a partnership of public and private agencies. Private groups involved in providing day care, services for the mentally retarded and the aged, and a host of other activities, have contributed funds to the States to be used in the services program. In turn, States have contracted with many of these groups to provide services. Yet the HEW regulations destroy this partnership by prohibiting States from contracting for services with any agency which has contributed funds.

Most disappointing of all, the November 1 regulations continue to ignore the goal of reducing and preventing welfare dependency. They limit services to past welfare recipients to 3 months, and they limit services to potential recipients to those likely to be on welfare within 1 year. And for most services, they impose an additional restrictive income test. In most States this would limit services to families below the maximum welfare level, creating a tremendous disincentive towards leaving welfare. And in many cases, this approach will prohibit any assistance to intact, two-parent families. It will prohibit any aid to elderly persons under 64 years old.

I find these regulations incredible from an administration that claims to believe in granting more discretion to the States, that claims to be in favor of work, and in favor of reducing the welfare load. I cannot understand why, after the great bipartisan expression of concern from the Congress, the Nation's Governors local officials, the administration has refused to modify this callous and counterproductive approach.

And I cannot accept Secretary Weinberger's decision to put these regulations into effect November 1, in the face of the Finance Committee's unanimous request for delay while the pending legislation moves through the Congress.

Do we want to deny day care services to low-income mothers who find work? And what sense does it make to offer an alcoholic help only after he loses his job? The lines are clearly drawn. In a Finance Committee hearing last May, Chairman LONG expressed the concerns of the Congress:

> In these hearings, the committee will want to be sure that the regulations are not penny-wise and pound foolish. We don't want to cut off low-income working persons from the day care, family planning or other services they need to stay off welfare.

On October 3 of this year I introduced legislation together with Senators BENTSEN, JAVITS, and PACKWOOD, and 36 cosponsors. Companion legislation was introduced in the House by Representative CORMAN with over a hundred cosponsors. That legislation received the support of the National Governors Conference and a broad range of concerned organizations. I ask unanimous consent that a list of the cosponsors of S. 2528, and a list of supporting organizations may appear at the conclusion of my remarks.

The provisions contained in the pending bill are not identical to those of S. 2528. In essence, the committee has decided to rest the ultimate judgment of what services shall be offered, and the standards of eligibility for those services up to the States, within the context of congressionally defined purposes and goals, and under the requirement that States report to the Congress, through the Secretary of HEW, on their uses of social services funds.

I would have preferred to see the Secretary of HEW vested with authority to disapprove funding for activities not consistent with the goals of the services program. But, in view of the incredible resistance which this administration has shown to the legitimate concerns of the Congress, State, and local government, and concerned groups and individuals, I will not challenge the committee's determination that ultimate authority should rest with the States, under requirements to report, rather than with the Secretary.

The committee reported bill does contain the fundamental objectives which we want to achieve through S. 2528.

It contains our statement of the purposes and goals of the services program.

First, self-support goal: To achieve and maintain the maximum feasible level of employment and economic self-sufficiency.

Second, family care or self-care goal: To strengthen family life and to achieve and maintain maximum personal independence, self-determination and security in the home, including, for children the achievement of maximum potential for eventual independent living, and to prevent or remedy neglect, abuse, or exploitation of children.

Third, community-based care goal: To secure and maintain community-based care which approximates a home environment, when living at home is not feasible and institutional care is inappropriate.

Fourth, institutional care goal: To secure appropriate institutional care when other forms of care are not feasible. And it contains a list of 24 services which do meet these purposes and goals, to prevent any confusion on the part of a State government and the Department of HEW that key services are included.

I ask unanimous consent that this list of services may appear at this point in the RECORD.

There being no objection, the list of services was ordered to be printed in the RECORD, as follows:

(A) child care services for children, to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such service is needed (i) in order to enable a member of such child's family to accept or continue in employment, or to participate in education or training to prepare such member for employment, or (ii) because of the death, continued absence from the home, incapacity or inability of the child's mother, or the inability of any member of such child's family to provide adequate care and supervision for such child;

(B) child care services for children with special needs, including services provided when appropriate, as determined by the State, for eligible children who are mentally retarded or otherwise have special social or developmental needs;

(C) services for children in foster care including services provided to a child who is under or awaiting foster care and including preventive diagnostic and curative health services not furnished under the State's title XIX plan, provided to or on behalf of a child who is or has within ninety days been receiving maintenance, care, and supervision in the form of foster care in a foster family home or child care institution (as those forms are defined in the last paragraph of section 408) or who is awaiting placement in such a home or institution, or provided to a child in or by a nonresidential diagnostic or treatment facility. Such services shall be available whether they are rendered directly by the providers of foster care or by the nonresidential facility, or are otherwise provided or obtained for the child by the State when such services are needed in order for the child to return to or remain in his own home, the home of another relative, or an adoptive home, or to continue in foster care as appropriate. Such services also include services related to the relinquishment of children for adoption and the placement of children in adoptive homes, and activities to develop and recruit, study, approve, and subsequently evaluate out of home care resources for foster care;

(D) protective services for children, including multidisciplinary (medical, legal, social, and other) services for the following purposes: identification, investigation, and response to incidents or evidence of neglect, abuse, or exploitation of a child; helping parents and others to recognize the causes thereof and strengthening the ability of families to provide acceptable care; or, if that is not possible, bringing the situation to the attention of appropriate courts or law enforcement agencies, furnishing relevant data, and providing followup services;

(E) family planning services (including social, educational, and medical services for any female of child bearing age and any other appropriate individual needing such service): *Provided,* That individuals must be assured choice of method, and acceptance of any such services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for any other service;

(F) protective services for adults, including identifying and helping to correct hazardous living conditions or situations of potential or actual neglect or exploitation of an individual who is unable to protect or care for himself;

(G) services for adults in foster care not available under titles XVI, XVIII, and XIX, services for adults in twenty-four-hour foster homes or group care in other than medical institutions, including assessment of need for such care, finding of foster homes and institutional resources, making arrangements for placement, supervision, and periodic review while in placement, counseling services for the adult individuals and their families, and services to assist adults in leaving foster care to attain independent living;

(H) homemaker services for individuals in their own homes, including helping individuals to overcome specific barriers to maintaining, strengthening, and safeguarding their functioning in the home, through the services of a trained and supervised homemaker;

(I) chore services including the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home when he is unable to perform such tasks himself and they do not require the services of a trained homemaker or other specialists;

(J) home delivery or congregate meals and the preparation and delivery of hot meals to an individual in his home or in a central dining facility, to assist the individual to remain in his home, and to assure sound nutrition;

(K) day care services for adults, including meal preparation and serving, companionship, educational and recreational activities, and rehabilitation activity when provided for less than a twenty-four-hour period in a group or family setting;

(L) health-related services, including helping individuals to identify health (including mental health) needs and assisting individuals to secure diagnostic, preventive, remedial, ameliorative, and other needed health services and helping to expedite return to community living from institutional care when discharge is medically recommended;

(M) home management and other functional educational services, including formal or informal instruction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, child rearing, and health maintenance;

(N) Housing improvement services, including helping individuals to obtain or retain adequate housing and minor repairs necessary for personal protection;

(O) a full range of legal services, at the option of the State, for persons desiring assistance with legal problems, including services to establish paternity and child support and services related to adoption;

(P) transportation services necessary to travel to and from community facilities or resources for receipts of services;

(Q) educational and training services for adult family members and services to assist children to obtain education and training to their fullest capacities, where there are needs not met by the work incentive program; and vocational rehabilitation services as defined in the Vocational Rehabilitation Act when provided pursuant to an agreement with the State agency administering the vocational rehabilitation program;

(R) employment services to enable individuals to secure paid employment or training leading to such employment, including vocational, educational, social, and psychological diagnostic assessments to determine potential for job training or employment and other services that will assist in the individual's plan for achieving full or partial self-support, where there are needs not met by the work incentive program;

(S) information, referral, followup and determination of eligibility and the need for services, without regard to individual eligibility criteria;

(T) special services for the mentally retarded, or special adaptations of generic services, directed toward alleviating a developmental handicap or toward the social, personal, or economic habilitation of an individual of subaverage intellectual functioning associated with impairment of adaptive behavior as defined and determined by the State agency, with such services including but not limited to personal care, day care, training, sheltered employment, recreation, counseling of the retarded individual and his family, protective and other social and sociolegal services, information and referral, follow along services, transportation necessary to deliver such services, diagnostic and evaluation services, and similar special services for other individuals requiring such services because of developmental disability;

(U) special services for the blind to alleviate the handicapping effects of blindness through training in mobility, personal care, home management, and communication skills; special aids and apppliances; and special counseling for caretakers of blind children and adults;

(V) services for alcoholism and drug addiction for an individual who is becoming dependent on or is addicted to alcohol or other drugs as determined by the standards set by the State agency designated by the State under the Comprehensive Alcohol Abuse and Treatment Act of 1970 and the Drug Abuse and Treatment Act of 1972, if such services are needed as part of a program for prevention or treatment of addiction or the conditions arising from misuse of alcohol or other drugs, including but not limited to social and rehabilitative services for resident patients receiving services in a supportive environment (such as a halfway house, hostel, or foster home) and including medical services (such as psychiatric services) incidental to the provision of a social service;

(W) special services for the emotionally disturbed as defined by the State;

(X) special services for the physically handicapped as defined by the State; and

(Y) any other services which the State finds appropriate for meeting the goals of self-support, family care or self-care, community based care, or institutional care.

Mr. MONDALE. Mr. President, second, the bill contains our provision designed to assure that in the future social services funds will be used to finance new activities, rather than simply to replace State funding of existing programs.

Third, the committee bill contains our provision protecting the right of States to use privately contributed funds as part of their matching share—so long as funds are donated on an unrestricted basis. Contributions may be earmarked for a particular service in a named community, and States will be free to contract for services with agencies which have donated funds. However, private groups cannot condition contributions on the issuance of a contract. The State must remain free to provide the service directly or to contract with another private agency.

Finally, the States would be free to define eligibility for services, to fulfill the broad Federal goals outlined above.

I believe that the committee has reached a livable compromise between those of us who wish essentially to preserve the social services program as it has developed over the years and those who wish to convert the program into unrestrictive revenue sharing, with no guidelines for provision of services, no prohibition against refinancing of existing programs, and no provision for participation of privately donated funds.

I deeply regret the need to impose a $1.9 billion ceiling on social services expenditures for the current fiscal year, as the committee bill does. This is the amount contained in the President's budget, although current spending in the face of their restrictive regulations has been reduced to the annual level of $1.2 billion.

This temporary, 1-year ceiling is designed in such a way that no State will be required to reduce the level of services which it is now provided, and the great majority of States will be allowed to expand services during the current year. And for the fiscal year beginning next July 1, the full $2.5 billion ceiling adopted by the Congress last fall will be in effect.

I ask unanimous consent that a table of State-by-State allocations under the committee bill may appear at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED DISTRIBUTION OF FEDERAL SOCIAL SERVICES FUNDS UNDER COMMITTEE BILL, BASED ON HEW ADJUSTED ESTIMATES OF STATE EXPENDITURES IN FIRST QUARTER OF FISCAL YEAR 1974

State	Estimated funding for fiscal year 1973	Fiscal year 1974 funding to continue current funding level[1]	Allocation of funds above current level (up to $1.9 billion)	Total fiscal year 1974 funding available under bill	Funding available in fiscal year 1975
Total	$1,548,219	$1,598,096	[2][3] $301,904	[3] $1,900,000	$2,500,000
Alabama	16,279	19,980	5,032	25,012	42,140
Alaska	5,895	3,637	2,258	5,895	3,901
Arizona	3,182	3,400	2,788	6,188	23,351
Arkansas	7,236	7,488	2,835	10,323	23,747
California	211,584	221,733	24,000	245,733	245,733
Colorado	21,880	25,200	3,098	28,298	28,298
Connecticut	21,067	27,795	4,418	32,213	37,002
Delaware	9,297	6,783	2,514	9,297	6,783
District of Columbia	8,320	8,976	4	8,980	8,980
Florida	42,025	62,033	10,405	72,439	87,150
Georgia	48,488	48,000	6,766	54,766	56,667
Hawaii	2,321	7,564	1,160	8,724	9,712
Idaho	4,703	6,000	1,084	7,084	9,076
Illinois	131,371	68,904	16,128	85,032	135,076
Indiana	7,230	7,283	7,584	14,867	63,522
Iowa	12,674	14,700	4,133	18,833	34,612
Kansas	6,902	7,200	3,237	10,437	27,109
Kentucky	25,772	26,032	4,729	30,761	39,607
Louisiana	20,738	25,812	5,332	31,144	44,661
Maine	8,672	7,500	1,475	8,975	12,354
Maryland	26,897	45,872	2,823	48,695	48,695
Massachusetts	16,963	21,432	8,295	29,727	69,477
Michigan	55,341	75,000	13,019	88,019	109,036
Minnesota	29,317	32,000	5,585	37,585	46,774
Mississippi	11,541	9,000	3,244	12,244	27,169
Missouri	$15,069	$18,000	$6,813	$24,813	$57,063
Montana	3,731	4,860	1,031	5,891	8,632
Nebraska	9,959	10,244	2,186	12,430	18,309
Nevada	1,751	1,980	755	2,735	6,327
New Hampshire	4,048	6,589	1,105	7,694	9,256
New Jersey	38,482	40,696	10,561	51,257	88,446
New Mexico	6,718	9,856	1,527	11,383	12,786
New York	220,497	220,497	0	220,497	220,497
North Carolina	20,317	30,293	7,423	37,716	62,598
North Dakota	3,998	4,495	906	5,401	7,588
Ohio	41,653	48,000	15,458	63,458	129,458
Oklahoma	24,806	28,216	3,407	31,623	31,623
Oregon	26,196	26,196	0	26,196	26,196
Pennsylvania	87,931	84,804	17,095	101,899	143,180
Rhode Island	9,418	9,212	1,387	10,599	11,622
South Carolina	9,752	13,520	3,820	17,340	31,995
South Dakota	2,469	2,340	974	3,314	8,152
Tennessee	24,956	20,000	5,778	25,778	48,395
Texas	99,087	90,544	16,698	107,242	139,855
Utah	5,479	5,400	1,614	7,014	13,518
Vermont	3,172	4,500	662	5,162	5,547
Virginia	20,212	24,310	6,829	31,139	57,195
Washington	49,672	35,168	13,271	48,439	41,336
West Virginia	8,171	13,520	2,553	16,073	21,382
Wisconsin	54,266	54,266	0	54,266	54,266
Wyoming	714	1,266	495	1,761	4,142

[1] 4 times the funding level attained in the July–September 1973 quarter (but not exceeding State's maximum allocation under $2,500,000,000 limit). Based on HEW adjusted estimates of State expenditures for that quarter.

[2] Allocation on population basis. Includes amounts (not exceeding amounts available for the 1st quarter of fiscal 1973 under sec. 403 of Public Law 92–603) necessary to maintain States at fiscal year 1973 funding level: Alaska, $1,994,000; Delaware, $2,514,000; and Washington, $8,336,000.

[3] Includes about $37,000,000 (not shown as allocated) available to States which have already planned an expansion of their service programs in fiscal year 1974 and for funding of high priority programs.

Source: Prepared based on material submitted by the Department of Health, Education, and Welfare.

Mr. MONDALE. Mr. President, it should not be necessary to reduce spending for this fiscal year by $600 million beneath the $2.5 billion level which Congress and the President promised last fall. But the need to reverse the administration's regulations is critical, and the $1.9 billion ceiling should remove the slightest excuse for Presidential veto.

One major difference remains. Unlike the coalition bill which I introduced, the committee amendment fails to provide standards for federally funded day care.

I have spent a tremendous amount of time in the last several years working in the area of day care and child development, as chairman of the Subcommittee on Children and Youth and as chief sponsor of the comprehensive child development and family services legislation which has passed the Senate in each of the last 2 years.

During this time I have had a chance to talk with experts, with parents, day care administrators, and a wide variety of people interested in and involved in this field. I have visited a wide variety of preschool programs including part-day Headstart programs and full-day day care programs. This work has convinced me of the positive contribution that quality day care—with parental participation, adequate staffing, and a concern for the health and education of the children involved—can make to children and their families. It has also convinced me that the children can suffer severe and sometimes permanent damage if the day care they participate in is understaffed and otherwise inadequate.

Day care, in short, can be either beneficial or destructive. Some care is not always better than no care at all. Indeed, some low quality day care is downright harmful.

The single best protection we have against substandard day care is the existence and enforcement of decent standards. It is absolutely essential that we assure that Federal funds are not used to encourage or support programs that harm children.

And therefore I am today introducing an amendment, on behalf of myself, Senator BUCKLEY, Senator JAVITS, Senator RIBICOFF, Senator CRANSTON, Senator COOK, Senator HOLLINGS, Senator STAFFORD, and Senator PACKWOOD to restore the standards under which these programs have operated for the past 5 years.

Under this amendment, in-home care would continue to be subject to State established standards which are consistent with the recommendations of national standards-setting organizations. And day-care centers would continue to be required to receive State licensing, or to meet the standards for such licensing, and to comply with the Federal Interagency Day Care Requirements of 1968.

The Congress must continue, as it has in the past, to insist that federally supported day care programs provide adequate protection for the children and families involved.

Mr. President, the social services provisions of the pending legislation—which have faced such persistent and energetic opposition from this administration—would not have been possible without the hard work and continuing commitment of the Nation's Governors and local officials, and of a broad coalition of public service organizations.

I would like to express my special appreciation for the leadership shown by Gov. Dan Evans of Washington, chairman of the National Governors Conference; Gov. Dale Bumpers of Arkansas; and Gov. Jimmy Carter of Georgia, for their work in organizing the Governors' contribution. And I wish also to express my thanks to Allen Jensen of the staff of the Governors Conference for all of his work.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of sponsors of S. 2528, the Social Services Amendments of 1973, and a list of organizations supporting it.

There being no objection, the lists were ordered to be pirnted in the RECORD, as follows:

COSPONSORS OF S. 2528, THE SOCIAL SERVICES AMENDMENTS OF 1973

Mr. Abourezk, Mr. Bayh, Mr. Burdick, Mr. Case, Mr. Chiles, Mr. Clark, Mr. Cook, Mr. Cranston, Mr. Eagleton, Mr. Hart, Mr. Hatfield, Mr. Hathaway, Mr. Huddleston, Mr. Hughes, Mr. Humphrey, Mr. Jackson, Mr. Kennedy, Mr. Mathias, Mr. McGee.

Mr. McIntyre, Mr. Metcalf, Mr. Montoya, Mr. Moss, Mr. Muskie, Mr. Nelson, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Roth, Mr. Schweiker, Mr. Hugh Scott, Mr. Stafford, Mr. Stevenson, Mr. Tunney and Mr. Williams.

ORGANIZATIONS SUPPORTING S. 2528, THE SOCIAL SERVICES AMENDMENTS OF 1973

National Governors Conference, Southern Governors, AFL–CIO, National Council of State Public Welfare Administrators, Child Welfare League of America, Council on Social Work Education, League of Women Voters, National Council of Community Mental Health Centers, National Association for Retarded Children.

National Association of Counties, National Association of Social Workers, United Auto Workers, United Methodist Church and United Methodist Church Women's Division, Washington Research Project Action Council, American Parents Committee and the Legislature of the State of Michigan.

Mr. RIBICOFF. Mr. President, I call up my amendment No. 542 as modified and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

Mr. SCHWEIKER. Mr. President, I urge the Senate to give its swift approval to H.R. 3153, the Social Security Amendments of 1973 which would provide an 11-percent increase in social security benefits, and make improvements in supplemental security income payments to the aged, blind, and disabled.

The 5.9 percent social security increase originally scheduled for July 1974, would have been too little, too late. That is why I support H.R. 3153 to raise the increase to 11 percent. This increase would occur in two steps. The first step would be a 7-percent benefit increase effective the month of enactment. This would be followed by a second increase, starting June 1974, to bring the benefits up to 11 percent above the present level. It is imperative that the Senate act soon to protect our senior citizens from the ravages of inflation.

No group of Americans has been hit harder by skyrocketing consumer prices than our senior citizens. Forced to live on fixed incomes, they do not have the benefit of timely automatic cost-of-living increases to help stem the tide. The 11-percent increase we consider today is the very least we can do to reflect the unusual economic hardships imposed upon older Americans.

While on the subject of automatic cost-of-living adjustments, I believe the Senate must soon turn its attention to making this mechanism more responsive to the needs of social security recipients. Rather than continual stopgap measures to help the aged catch up to inflation, we should accelerate the automatic cost-of-living procedure so that it helps our senior citizens keep even with or ahead of inflation.

The proposal we consider today would increase average monthly social security benefits from $166 to $186 for retired workers; from $276 to $310 for aged couples; and from $157 to $177 for elderly widows.

Although the Social Security Administration's own actuarial tables show a surplus in the trust fund sufficient to cover the proposed increase, the increase in the tax base proposed by the Finance Committee is certainly a fiscally responsible action. It would not affect nearly 80 percent of the Nation's covered employees whose income is already under the present taxable wage base.

Mr. President, I must note at this time that I was disappointed when the contents of S. 2528 were struck from H.R. 3153 by the Senate Finance Committee. For quite some time, I have been gravely concerned with the reduction or elimination entirely of many social service programs, particularly those designed to serve our senior citizens. For this reason, I cosponsored S. 2528 which would have required the Secretary of Health, Education, and Welfare to give the States maximum freedom to determine eligibility for services and the way in which the programs would be operated. I was pleased when S. 2528 was initially incorporated as an amendment to H.R. 3153 by the committee. This legislation included specific authority to permit the delegation of eligibility determinations to other agencies in the case of purchased services. Services for the blind and aged were defined in the bill as specifically allowable, and it required other services requested by a State be allowed unless HEW found them inconsistent with the purpose of the services program. Finally, this legislation authorized use of private donated funds, including "in-kind contributions," as the States share of matching funds for social services. The bill currently before the Senate is similar and generally consistent with the provisions of S. 2528. Although I would have preferred the language contained in S. 2528, I, nevertheless, support the pending bill.

The text of the amendment is as follows:

At the end of p. 153 of the bill, insert the following new section:

SEC. 193. (a) Section 226(c)(1) of the Social Security Act is amended by striking out "and post-hospital home health services" and inserting in lieu thereof "post-hospital home health services, and eligible drugs".

(b) Section 1811 of such Act is amended by inserting "and eligible drugs" after "related post-hospital services".

(c) Section 1812(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) eligible drugs.".

(d) Section 1813(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) The reasonable allowance, as defined in section 1823, for eligible drugs furnished an individual pursuant to any one prescription (or each renewal thereof) and purchased by such individual at any one time shall be reduced by an amount equal to the applicable prescription copayment obligation which shall be $1."

(e) (1) Section 1814(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and (C) by inserting after paragraph (7) the following new paragraph:

"(8) with respect to drugs or biologicals furnished pursuant to and requiring (except for insulin) a physican's prescription, such drugs or biologicals are eligible drugs as defined in section 1861(t) and the participating pharmacy (as defined in section 1861(dd)) has such prescription in its possession, or some other record (in the case of insulin) that is satisfactory to the Secretary."

(2) Section 1814(b) of such Act is amended—

(A) by inserting "(1)" after "(b)",

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B) respectively,

(C) by redesignating in suparagraph (A), as redesignated, clauses (A) and (B) as clauses (i) and (ii);

(D) by inserting "(other than a pharmacy)" immediately after "provider of services", and

(E) by adding at the end thereof the following new paragraph:

"(2) The amount paid to any participating pharmacy which is a provider of services with respect to eligible drugs for which payment may be made under this part shall, subject to the provisions of section 1813, be the reasonable allowance (as defined in section 1823) with respect to such drugs."

(f) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

"LIMITATION ON PAYMENT FOR ELIGIBLE DRUGS

"(j) Payment may be made under this part for eligible drugs only when such drugs are dispensed by a participating pharmacy; except that payment under this part may be made for eligible drugs dispensed by a physician where the Secretary determines, in accordance with regulations, that such eligible drugs were required in an emergency or that there was no participating pharmacy available in the community, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a participating pharmacy for purposes of this part with respect to the dispensing of such eligible drugs."

(g) Part A of title XVIII of such Act is further amended by adding after section 1819 the following new sections:

"MEDICARE FORMULARY COMMITTEE

"SEC. 1820. (a)(1) There is hereby established, within the Department of Health, Education, and Welfare, a Medicare Formulary Committee (hereinafter referred to as the 'Committee'), a majority of whose members shall be physicians and which shall consist of the Commissioner of Food and Drugs and of four individuals (not otherwise in the employ of the Federal Government) who do not have a direct or indirect financial interest in the composition of the Formulary established under this section and who are of recognized professional standing and distinction in the fields of medicine, pharmacology, or pharmacy, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected annually from the appointed members thereof, by majority vote of the members of the Committee.

"(2) Each appointed member of the Committee shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, one at the end of each of the first five years. A member shall not be eligible to serve continuously for more than two terms.

"(b) Appointed members of the Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary (but not in excess of the daily rate paid under GS-18 of the General Schedule under section 5332 of title 5, United States Code), including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Committee is authorized, with the approval of the Secretary, to engage or contract for such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(2) The Secretary shall furnish to the Committee such office space, materials, and equipment as may be necessary for the Formulary Committee to carry out its functions.

"MEDICARE FORMULARY

"SEC. 1821. (a)(1) The Committee shall compile, publish, and make available a Medicare Formulary (hereinafter in this title referred to as the 'Formulary').

"(2) The Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(b)(1) The Formulary shall contain an alphabetically arranged listing, by established name, of those drug entities within the following therapeutic categories:

"Adrenocorticoids
"Anti-anginals
"Anti-arrhythmics
"Anti-coagulants
"Anti-convulsants (excluding phenobarbital)
"Anti-hypertensives
"Anti-neoplastics
"Anti-Parkinsonism agents
"Anti-rheumatics
"Bronchodilators
"Cardiotonics
"Cholinesterase inhibitors
"Diuretics
"Gout suppressants
"Hypoglycemics
"Miotics
"Thyroid hormones
"Tuberculostatics

which the Committee decides are necessary for individuals using such drugs. The Committee shall exclude from the Formulary any drug entities (or dosage forms and strengths thereof) which the Committee decides are not necessary for proper patient care, taking into account other drugs entities (or dosage forms and strengths thereof) which are included in the Formulary.

"(2) Such listing shall include the specific dosage forms and strengths of each drug entity (included in the Formulary in accordance with paragraph (1)) which the Committee decides are necessary for individuals using such drugs.

"(3) Such listing shall include the prices at which the products (in the same dosage form and strength) of such drugs entities are generally sold by the suppliers thereof and the limit applicable to such prices under section 1823(b)(1) for purposes of determining the reasonable allowance.

"(4) The Committee may also include in the Formulary, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information:

"(A) A supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications of the drug entities (and dosage forms and strengths thereof) included in the listing referred to in paragraph (1).

"(B) The proprietary names under which products of a drug entity listed in the Formulary by established name (and dosage form and strength) are sold and the names of each supplier thereof.

"(C) Any other information with respect to eligible drug entities which in the judgment of the Committee would be useful in carrying out the purposes of this part.

"(c) In considering whether a particular drug entity (or strength or dosage form thereof) shall be included in or excluded from the Formulary, the Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug entity which is available to any other department, agency, or instrumentality of the Federal Government, and to request suppliers or manufacturers of drugs and other knowledgeable persons or organizations to make available to the Committee information relating too such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Committee shall respect the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of its authority.

"(d)(1) The Committee shall establish such procedures as it determines to be necessary in its evaluation of the appropriateness of the inclusion in or exclusion from the Formulary, of any drug entity (or dosage form or strength thereof). For purposes of inclusion in or exclusion from the Formulary the principal factors in the determination of the Committee shall be:

"(A) the factor of clinical equivalence in the case of the same dosage forms in the same strengths of the same drug entity, and

"(B) the factor of relative therapeutic value in the case of similar or dissimilar drug entities in the same therapeutic category.

"(2) The Committee, prior to making a final decision to remove from listing in the Formulary any drug entity (or dosage forms or strengths thereof) which is included therein, shall afford a reasonable opportunity for a formal or informal hearing on the matter to any person engaged in manufacturing, preparing, compounding, or processing such drug entity who shows reasonable ground for such a hearing.

"(3) Any person engaged in the manufacture, preparation, compounding, or processing of any drug entity (or dosage forms or strengths thereof) not included in the Formulary which such person believes to possess the requisite qualities to entitle such drug to be included in the Formulary pursuant to subsection (b), may petition for inclusion of such drug entity and, if such petition is denied by the Formulary Committee, shall upon request therefor, showing reasonable grounds for a hearing, be afforded a formal or informal hearing on the matter in accordance with rules and procedures established by such Committee.

"LIMITATIONS ON MEDICARE PAYMENT FOR CHARGES OF PROVIDERS OF SERVICES

"SEC. 1822. (a) Any provider of services as defined in section 1861(u), whose services are otherwise reimbursable, under any program under this Act in which there is Federal financial participation on the basis of 'reasonable cost', shall not be entitled to a professional fee or dispensing charge or reasonable billing allowance as determined pursuant to this part.

"(b) A fee, charge, or billing allowance shall not be payable under this section with respect to any drug entity that (as determined in accordance with regulations) is furnished as an incident to a physician's professional service, and is of a kind commonly furnished in physicians' offices and commonly either rendered without charge or included in the physicians' bills.

"REASONABLE ALLOWANCE FOR ELIGIBLE DRUGS

"SEC. 1823. (a) For purposes of this part, the term 'reasonable allowance' when used in reference to an eligible drug (as defined in subsection (h) of this section) means the following:

"(1) When used with respect to a prescription legend drug entity, in a given dosage form and strength, such term means the lesser of—

"(A) an amount equal to the customary charge at which the participating pharmacy sells or offers such drug entity, in a given dosage form and strength, to the general public, or

"(B) the price determined by the Secretary, in accordance with subsection (b) of this section, plus the professional fee or dispensing charges determined in accordance with subsection (c) of this section.

"(2) When used with respect to insulin such term means the charge not in excess of the reasonable customary price at which the participating pharmacy offers or sells the product to the general public, plus a reasonable billing allowance.

"(b)(1) For purposes of establishing the reasonable allowance in accordance with subsection (a) the price shall be (A) in the case of a drug entity (in any given dosage form and strength) available from and sold by only one supplier, the price at which such drug entity is generally sold (to establishments dispensing drugs), and (B) in any case in which a drug entity (in any given dosage form and strength) is available and sold by more than one supplier, only each of the lower prices at which the products of such drug entity are generally sold (and such lower prices shall consist of only those prices of different suppliers sufficient to assure actual and adequate availability of the drug entity, in a given dosage form and strength, at such prices in a region).

"(2) If a particular drug entity (in a given dosage form and strength) in the Formulary is available from more than one supplier, and the product of such drug entity as available from one supplier possesses demonstrated distinct therapeutic advantages over other products of such drug entity as determined by the Committee on the basis of its scientific and professional appraisal of information available to it, including information and other evidence furnished to it by the supplier of such drug entity, then the reasonable allowance for such supplier's drug product shall be based upon the price at which it is generally sold to establishments dispening drugs.

"(3) If the prescriber, in his handwritten order, has specifically designated a particular product of a drug entity (and dosage form and strength) included in the Formulary by its established name together with the name of the supplier of the final dosage form thereof, the reasonable allowance for such drug product shall be based upon the price at which it is generally sold to establishments dispensing drugs.

"(c)(1) For the purpose of establishing the reasonable allowance (in accordance with subsection (a)), a participating pharmacy shall, in the form and manner prescribed by the Secretary, file with the Secretary, at such times as he shall specify, a statement of its professional fee or other dispensing charges.

"(2) A participating pharmacy, which has agreed with the Secretary to serve as a provider of services under this part, shall, except for subsection (a)(1)(A), be reimbursed, in addition to any price provided for in subsection (b), the amount of the fee or charges filed in paragraph (1), except that no fee or charges shall exceed the highest fee or charges filed by 75 per centum of participating pharmacies (with such pharmacies classified on the basis of (A) lesser dollar volume of prescriptions and (B) all others) in a census region which were customarily charged to the general public as of June 1, 1972. Such prevailing professional fees or dispensing charges may be modified by the Secretary in accordance with criteria and types of data comparable to those applicable to recognition of increases in reasonable charges for services under section 1842.

"(3) A participating pharmacy shall agree to certify that, whenever such pharmacy is required to submit its usual professional fee or dispensing charge for a prescription, such charge does not exceed its customary charge."

(h) Section 1861(t) of such Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" and after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'eligible drug' means a drug or biological which (A) can be self-administered, (B) requires a physician's prescription (except for insulin), (C) is prescribed when the individual requiring such drug is not an inpatient in a hospital or extended care facility, during a period of covered care, (D) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, (E) is dispensed (except as provided by section 1814(j)), by a pharmacist from a participating pharmacy, and (F) is dispensed in quantities consistent with proper medical practices and reasonable professional discretion."

(i) Section 1861(u) of such Act is further amended by striking out "or home health agency" and inserting in lieu thereof "home health agency, pharmacy,".

(j) Section 1861 of such Act is further amended by adding at the end thereof the following new subsection:

"Participating Pharmacy

"(aa) The term 'participating pharmacy' means a pharmacy, or other establishment (including the outpatient department of a hospital) providing pharmaceutical services, (1) which is licensed as such under the laws of the State (where such State requires such licensure) or which is otherwise lawfully providing pharmaceutical services in which such drugs is provided or otherwise dispensed in accordance with this title, (2) which has agreed with the Secretary to act as a provider of services in accordance with the requirements of this section, and which complies with such other requirements as may be established by the Secretary in regulations to assure the proper, economical, and efficient administration of this title, (3) which has agreed to submit, at such frequency and in such form as may be prescribed in regulations, bills for amounts payable under this title for eligible drugs furnished under part A of this title, and (4) which has agreed not to charge beneficiaries under this title any amounts in excess of those allowable under this title with respect to eligible drugs except as tis provided under section 1813(a)(4), and except for so much of the charge for a prescription (in the case of a drug product prescribed by a physician, of a drug entity in a strength and dosage form included in the Formulary where the price at which such product is sold by the supplier thereof exceeds the reasonable allowance) as is in excess of the reasonable allowance established for such drug entity in accordance with section 1823."

(k)(1) The first sentence of section 1866(a)(2)(A) of such Act is amended by striking out "and (ii)" and inserting in lieu thereof the following: "(ii) the amount of any copayment obligation and excess above the reasonable allowance consistent with section 1861(aa)(4), and (iii)".

(2) The second sentence of section 1866(a)(2)(A) of such Act is amended by striking out "clause (ii)" and inserting in lieu thereof "clause (iii)".

(1) Notwithstanding any other provision of this Act, tne amendments made by this section shall apply with respect to eligible drugs furnished on and after the first day of July 1974.

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Sidney Johnson and Mr. Bert Carp of my staff have the privilege of the floor during the consideration of H.R. 3153.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, this amendment provides medicare coverage for certain life-saving drugs purchased outside the hospital.

Senators may recall that an identical proposal passed the Senate last year but, unfortunately, was dropped in conference.

One of the great gaps in the medicare program has been the coverage for out-of-hospital drugs. Medicare pays for most prescription drugs which are administered while beneficiaries are confined to a hospital or skilled nursing facility. But out-of-hospital drugs are not covered.

The costs of these medicines make up a large part of the expenses associated with an illness and can run into hundreds or even thousands of dollars.

The problem is especially acute for those with chronic illnesses. Their average drug expenditures run three times as high as those without such illnesses.

For medicare beneficiaries the problem is getting worse every year. Average drug charges per medicare beneficiaries increased 40 percent between 1967 and 1971. Total out-of-pocket drug costs for these older Americans increased from $777 million to $1.2 billion in 1971.

Our proposal would help these senior citizens to meet many of these costs.

The proposed legislation I am submitting would provide drug coverage benefits for all persons covered under part A of medicare—over 20 million senior citizens. The benefits would be available for drugs necessary in the treatment of the following chronic diseases:

Diabetes, high blood pressure, chronic cardiovascular disease, chronic respiratory disease, chronic kidney disease, arthritis and rheumatism, gout, thyroid disease, cancer, epilepsy, Parkinson's disease, myasthenia gravis, tuberculosis and glaucoma.

A patient needing prescription drugs to treat such diseases would be able to purchase them through a participating pharmacy for $1. Medicare would cover additional costs.

The proposal would exclude drugs not requiring a physician's prescription—except for insulin—drugs such as antibiotics which are generally used for a short period of time and drugs such as tranquilizers and sedatives which may be used not only by beneficiaries suffering from serious chronic illnesses, but also by many other persons as well.

Ever since the inception of the medicare program it has been recognized that providing coverage for drugs is of the utmost importance if we want to help America's senior citizens hold down their medical costs. This legislation passed the Senate last year but was deleted in conference. I hope that Congress will take fast action to bring relief to the millions of medicare participants who up to now have had to single handedly bear the burden of purchasing drugs.

Mr. President, this is a very urgently needed amendment.

I ask unanimous consent that a list of the distinguished Senators whose names are attached to the amendment be included as cosponsors of the amendment.

There being no objection, the list was ordered to be printed in the Record, as follows:

Cosponsors of amendment 542 to H.R. 3153, to provide medicare coverage for prescription drugs purchased outside the hospital.

Moss (Utah).
Hart (Michigan).
Burdick (North Dakota).
Biden (Deleware).
Stevenson (Illinois).
Montoya (New Mexico).
Abourezk (South Dakota).
Hughes (Iowa).
Hollings (South Carolina).
Gurney (Florida).
Church (Idaho).
Dominick (Colorado).
Humphrey (Minnesota).
Clark (Iowa).
McIntyre (New Hampshire).
Bible (Nevada).
Williams (New Jersey).
Case (New Jersey).
Mondale (Minnesota).

Mr. RIBICOFF. Mr. President, I ask unanimous consent that a statement by the distinguished senior Senator from New Mexico (Mr. Montoya) be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Exhibit 1

Statement by Senator Montoya

In past years I have introduced proposed legislation to afford some degree of protection to older Americans confronted with the need to purchase costly prescription drugs. At the very least, these drugs become a burden on the already tightly stretched budgets of the elderly. For some, the cost of medication is a financial catastrophe that has far-reaching effects both on the elderly person and on his family and friends.

Since last I worked on an out-patient drug insurance program, the cost of living, staple prices and inflation, have cut deeper into small, fixed incomes. Now the cost to the old to heat their homes and provide warm security for their future is spurting upward. And drugs themselves, always a financial drain on the elderly, now cost more.

Today, I am glad to join Senator Ribicoff in sponsoring legislation to provide what I believe to be a workable insurance program that would provide much needed assistance to millions of hard pressed elderly citizens with chronic illnesses. In the years since 1965, I have offered proposals substantially similar to this measure. Last year, this concept was endorsed unanimously by the Senate, but dropped in conference with the House. I sincerely feel that the time has come for a new look at the needs of the elderly who are chronically ill.

When I first introduced legislation to provide assistance for elderly persons confronted with costs of prescription drugs, I sought to have the costs of all drugs covered. During committee hearings, however, it became clear that the measure originally would have been prohibitively expensive. Costs were estimated at $2.6 billion. On the other hand, it became apparent to the committee that drug costs incurred by the elderly, especially continuing costs of chronic illness, are impossibly high.

As a result, modifications were made which reduced the expected cost of the legislation to $740 million yearly, while still providing protection for those who need it most.

I am sure every Senator is aware of the difficulties encountered by older citizens subsisting on the little income most of the elderly receive. These tiny amounts made up of pensions, social security and retirement benefits, at best are barely able to keep pace with the cost of living. While a person struck by a sudden illness may be forced to expend a great deal of his income over several months for drugs, his illness will usually be temporary and require short term expense.

But a chronic, lingering malady, such as heart disease, can require such large and continuing expenses for medication that hopelessness and loss of zest for life ahead may set in. Instead of viewing medicines as preservers of life, many chronically ill, elderly people see their lives as wearisome spirit-sapping treks from one costly prescription to the next.

We must provide those older Americans with the normal assistance they need. All but the newest members of the Senate agreed last year on the necessity for this legislation. I trust we can do so again.

We must not be careless with the finances of the United States, but we must place this proposal for the elderly high on the national list of priorities. Such action is only humane. Moreover, the measure will eventually become law and its immediate enactment will lighten the burden the elderly must face every month until we act.

Mr. RIBICOFF. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. LONG. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. LONG. We will come back to the request for the yeas and nays in a few minutes.

Mr. President, I ask unanimous consent that the following staff members be permitted the privilege of the floor during the consideration of this measure. They are in addition to the names I have already requested:

Mike Shoumaker, Pam Duffy, John Scales, John Cevette, Jon Steinberg, Owen Malone, Dave Lambert, Mr. Mahoney, and Mr. Callaway of Senator McClellan's staff, Gene Mittelman, Charles Warren, Jay Cutler, Tyler Craig, and Bill Wohlford.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President I ask unanimous consent that Sidney Johnson of the Labor and Public Welfare Committee staff and Bert Carp of my staff be granted floor privileges during the consideration of H.R. 3153.

The PRESIDING OFFICER. Without objection, the request is granted.

Mr. LONG. Mr. President, does the Senator from Connecticut desire the yeas and nays on this amendment?

Mr. RIBICOFF. Yes, I do.

Mr. LONG. Mr. President, I ask that the yeas and nays be ordered.

The yeas and nays were not ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, what is the request?

The PRESIDING OFFICER. The Senator from Louisiana has asked unanimous consent that the yeas and nays be ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senator from Louisiana will forgive me, but I shall have to object to that request. However, I shall be happy to assist in obtaining the yeas and nays, so I shall suggest the absence of a quorum.

Mr. LONG. Mr. President, permit me to say that while we are spending time trying to get a sufficient number of Senators, it does seem to me——

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. LONG. Mr. President, will the Senator from West Virginia withhold his request to permit me to make a brief statement?

Mr. ROBERT C. BYRD. Mr. President, I withhold my request. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, by way of trying to save time, the greatest waste of time that I know of that exists in this body, and the greatest waste of energy, involves scurrying around from pillar to post, trying to drag 70 or 80 Senators into the Chamber, while we try to get the yeas and nays. Every Senator knows that all that is necessary is to ring one long bell, and Senators will come to the Chamber. But if there is merely a quorum call, Senators are going to ask, "What is the quorum call for?" They will ask, "Isn't anyone there?" They want to know whether they are trying to get more Senators to the Chamber or are looking for a speaker. They want to know just what is in a Senator's mind.

This matter of hauling 10 or 15 people into the Chamber only to go back from whence they came is against my better judgment and a matter about which I have protested. I am aware of the rules of the Senate.

Mr. President, I suggest the absence of a quorum in order to cooperate with this dilatory tactic.

Mr. ROBERT C. BYRD. Mr. President, I could not agree with the Senator more. We waste a tremendous amount of time trying to secure a sufficient number of Senators from time to time to have a show of hands to sustain the demand for the yeas and nays.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MATHIAS. Seek and ye shall find, ask and it shall be given.

Mr. LONG. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I also announce that the Senator from

Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The Senator from Arizona (Mr. FANNIN) and the Senator from Idaho (Mr. MCCLURE) are absent on official business.

The Senator from Ohio (Mr. SAXBE) and the Senator from South Carolina (Mr. THURMOND) are detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 77, nays 11, as follows:

[No. 525 Leg.]

YEAS—77

Abourezk
Aiken
Allen
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Fong
Fulbright
Goldwater
Gravel
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Mondale
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Tunney
Weicker
Williams
Young

NAYS—11

Bartlett
Bellmon
Bennett
Buckley
Curtis
Domenici
Ervin
Hansen
Helms
Scott, William L.
Tower

NOT VOTING—12

Baker
Fannin
Gurney
McClure
McGee
McGovern
Montoya
Moss
Saxbe
Stevenson
Symington
Thurmond

So Mr. RIBICOFF's amendment was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND subsequently said: Mr. President, when the rollcall was held on the Ribicoff amendment, I was in the Official Reporters' Office reading the transcript and they failed to notify me in there. If I had been in the Chamber, I would have voted on the matter.

I ask unanimous consent that the clerk be authorized to record my name as having voted in favor of that amendment.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Chair is informed by the Parliamentarian that the Presiding Officer is not permitted to entertain such a request because it is contrary to the rules of the Senate.

Mr. THURMOND. I thank the Presiding Officer.

NOMINATION OF DON S. SMITH—FEDERAL POWER COMMISSION

Mr. McCLELLAN. Mr. President, as in executive session, I ask unanimous consent for immediate consideration of a nomination at the desk which was reported earlier today.

The PRESIDING OFFICER. The clerk will read the nominaton.

The legislative clerk read the nomination of Don S. Smith, of Arkansas, to be a member of the Federal Power Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be so notified.

TECHNICAL CORRECTION IN THE ENROLLMENT OF H.R. 1284

Mr. MANSFIELD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER laid before the Senate a concurrent resolution (H. Con. Res. 381), authorizing the Clerk of the House to make a technical correction in the enrollment of H.R. 1284, which was ready by title by the legislative clerk.

The PRESIDING OFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

AMENDMENT OF THE SOCIAL SECURITY ACT

The Senate continued with the consideration of the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

Mr. MONDALE obtained the floor.

Mr. TALMADGE. Mr. President, will the Senator yield briefly?

Mr. MONDALE. I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendments, as follows:

At the end of title I of the bill, insert the following new part:

PART I—AMENDMENTS RELATING TO MATERNAL AND CHILD HEALTH SERVICES

GRANTS TO REGIONAL PEDIATRIC PULMONARY CENTERS

SEC. 196. (a) Section 511 of the Social Security Act is amended—

(1) by inserting "(a)" immediately after "Sec. 511.", and

(2) by adding at the end of such section the following new subsection:

"(b) (1) From the sums available under paragraph (2), the Secretary is authorized to make grants to public or nonprofit private regional pediatric respiratory centers, which are a part of (or are affiliated with) an institution of higher learning, to assist them in carrying out a program for the training and instruction (through demonstrations and otherwise) of health care personnel in the prevention, diagnosis and treatment of respiratory diseases in children and young adults, and in providing (through such program) needed health care services to children and young adults suffering from such diseases.

"(2) For the purpose of making grants under this subsection, there is authorized to be appropriated, for the fiscal year ending June 30, 1975, and each of the next four succeeding fiscal years, such sums (not in excess of $5,000,000 for any fiscal year) as may be necessary. Sums authorized to be appropriated for any fiscal year under this subsection for making grants for the purposes referred to in paragraph (1) shall be in addition to any sums authorized to be appropriated for such fiscal year for similar purposes under other provisions of this title."

(b) Section 502(1) of such Act is amended by inserting "(a)" immediately after "511".

Make appropriate conforming changes in the table of contents to the bill.

Mr. TALMADGE. Mr. President, lung-damaging diseases in children affect over 10 million youngsters, of whom 35,000 die every year. These diseases such as cystic fibrosis, asthma, and chronic bronchitis, are responsible for 55 percent of all school days lost.

At present there are 11 pediatric pulmonary centers serving the States of Colorado, Georgia, Pennsylvania, Delaware, New York, Washington, Alaska, Louisiana, Hawaii, California, New Mexico, Wyoming, Puerto Rico, and the District of Columbia, at a cost to the taxpayers of only $2 million a year to directly serve over 5,000 children and their families. Their value has been demonstrated. There is a need for perhaps 10 to 20 more such centers to adequately cover the country on a regional basis, and to ultimately serve as a resource to 15 percent of the total U.S. juvenile population.

These worthy and vital programs will terminate June 30, 1974, unless immediate action is taken. Highly expert teams of skilled professionals will be dispersed and years of valuable training will be lost. However, continuity can be maintained by placing the pediatric pulmonary centers under the permanent administration of the maternal and child health program of the Bureau of Community Health Services in HEW. This Agency has already assumed program responsibility for these centers and is ready and prepared to assume full control.

Current childhood health disorders rapidly become chronic adult problems. Preventive steps now serve to reduce those problems by a considerable amount in years to come.

Mr. President, I ask unanimous consent that pertinent background information on pulmonary disease and care programs be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. Mr. President, the amendment I have offered would assure continued specific authorization of not more than $5 million annually for continued operation and expansion of pediatric pulmonary programs.

EXHIBIT 1

PEDIATRIC PULMONARY PROGRAM: FACT SHEET

EXISTING CENTERS AND FUNDING (RMP BUDGET)

Orange County Ped. Pulmonary Ctr., University of Calif. at Irvine, $73,979.

Ped. Chronic Pulmonary Ctr., University of Colorado Med. Ctr., Denver, Colorado, $125,839.

Pediatric Chronic Pulmonary Ctr.,* Medical College of Georgia, Augusta, Georgia, $49,300.

Phil. Reg. Chronic Ped. Pulm. Disease Ctr., Greater Delaware Valley, Philadelphia, Pennsylvania, $300,000.

Regional Pediatric Pulmonary Program, Kauikeolani Children's Hospital, Honolulu, Hawaii, $121,000.

Georgetown University, Washington, D.C., $140,651.

University of Nebraska Hospital,** Omaha, Nebraska, $N/A.

Southwestern Regional Ped. Pulmonary Ctr., Lovelace-Bataan Medical Center, Albuquerque, New Mexico, $65,000.

Tulane University School of Medicine, New Orleans, Louisiana, $259,873.

Pediatric Pulmonary Center, Babies Hospital, Columbia University, New York, New York, $255,881.

Center for Management and Treatment of Chronic Pulmonary Diseases in Children, University Hospital, Rio Piedras, Puerto Rico, $35,000.

Children's Orthopedic Hospital and Med. Ctr., Seattle, Washington, $92,350.

Total: $2,000,000.

A PEDIATRIC RESPIRATORY CENTER

A. What it is

A comprehensive and coordinated diagnostic, treatment, training, and clinical and basic research center for children and young adults with Chronic Respiratory Disease (CRD).

B. Why

The prevalance, mortality and morbidity statistics emphasize the importance of acute and chronic lung diseases as a health problem in children. The establishment of pediatric respiratory disease centers is the most practical and economical method of increasing the availability of professional personnel and improving the quality of care in this field.

C. Objectives

The primary objective of such a Center is to bring together in a teaching center personnel with special skills for a coordinated approach to the diagnosis and comprehensive management of children with acute and chronic respiratory diseases. Such a center will represent an optimal program unit.

Prevalence of chronic conditions among children in the United States of America

[15.44% of population]

Total population	67,006,000
All chronic listed conditions	15,620,000
Hayfever, asthma and other allergies	6,618,000
Other respiratory conditions	3,727,000
Orthopedic and paralytic	1,571,000
Skin diseases	1,006,000
Digestive	733,000
Speech disorders	575,000
Hearing problems	537,000
Visual disorders	406,000
Mental and nervous conditions	447,000
All chronic respiratory	10,345,000

(Data from National Health Survey, 1968.)

FUTURE PROPOSED REGIONAL PEDIATRIC RESPIRATORY CENTERS

In FY 74, it is imperative that the presently existing 11 Centers now in operation throughout the Country (including Centers in Hawaii & Puerto Rico) be funded. These highly specialized centers have effectively proven themselves.

Budgeting beyond FY 74 is difficult to consider at this time. However, to adequately cover the geographic United States, it is suggested that ultimately at least an additional ten centers should be planned for. This would mean doubling the current funding figures in the future.

Mr. TALMADGE. Mr. President, I have discussed this amendment with the distinguished floor manager of the bill. I believe that he is prepared to accept the amendment. And I urge the Senate to do so.

Mr. LONG. Mr. President, I have not had an opportunity to discuss this matter with the minority members of the Finance Committee. An effort is being made at this moment to see if they agree with our judgment on this matter.

I personally believe the amendment is meritorious. The costs of this measure would not exceed $5 million a year. In my judgment that would be a very worthwhile and useful expenditure.

Mr. President, I have now been advised that the ranking minority member of the committee, the Senator from Utah (Mr. BENNETT) agrees with our judgment on this matter that the amendment should be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (putting the question).

The amendment was agreed to.

AMENDMENT NO. 724

Mr. MONDALE. Mr. President, I call up an amendment at the desk and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . Title IV–A of the Social Security Act is amended by adding at the end thereof the following new section:

"CHILD CARE STUDIES

"SEC. . Child day care services provided under the Social Security Act shall meet the following standards: (1) in-home care shall meet standards established by the State, reasonably in accord with recommended standards of national standards-setting organizations (such as the Child Welfare League of America and the National Council Welfare League of America and the National Council of Homemaker-Home Health Aid Services), and (2) out-of-home day care facilities shall be licensed by the State or approved as meeting the standards for such licensing, and shall comply with the provisions of the Federal Interagency Day Care Requirements of 1968, and the requirements of section 422(a)(1) of the Social Security Act."

Mr. MONDALE. Mr. President, I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I ask unanimous consent that Kathryn McElroy of my staff be granted the privilege of the floor during the debate and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I offer this amendment on behalf of myself and Senators BUCKLEY, JAVITS, HOLLINGS, RIBICOFF, CRANSTON, STAFFORD, COOK, and PACKWOOD.

All the amendment seeks to do is to restore the present standards for federally assisted day care.

In my opinion, this amendment is very important for the protection of our children. It is designed to assure that children receiving federally assisted day care service will continue to be protected against dangerous, unsanitary, insensitive, and unhealthy programs.

Specifically, it would clarify and assure that day care services provided under the Social Security Act must continue to comply with the Federal Interagency Day Care Requirements of 1969 and in-home standards reasonably in accord with recommended standards of national standards-setting organizations. These are the exact same standards which have been in effect with respect to these programs in the past.

In other words, my amendment, if it is agreed to and becomes law, would make the law remain as it is today. If the committee bill is adopted without this amendment, it will be possible to commit Federal money for day care services which are unsanitary and dangerous as to adversely affect the physical and mental health of the infants and children who are in those day care centers.

Mr. President, I regard this as an essential, indispensable measure to assure justice for all children of our country.

I have spent a tremendous amount of time in the last several years working in the area of day care and child development, as chairman of the Subcommittee on Children and Youth and as chief sponsor of the comprehensive child development and family services legislation which has passed the Senate in each of the last 2 years.

During this time I have had a chance to talk with experts, with parents, day care administrators, and a wide variety of people interested in and involved in this field. I have visited a wide variety of preschool programs including part day Head Start programs and full day day care programs. This work has convinced me of the positive contribution that quality day care—with parental participation, adequate staffing and a concern for the health and education of the children involved—can make to children and their families. It has also convinced me that the children can suffer severe and sometimes permanent damage if the day care they participate in is understaffed or otherwise inadequate.

Day care, in short, can be either beneficial or destructive. Some care is not always better than no care at all. Indeed, some low quality day care is downright harmful.

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* Application withdrawn.

** Approved by Regional Medical Programs, but never funded.

Mr. President, there have been a great number of studies of the conditions and standards in day care centers in this country. Some are excellent. Some are nothing short of tragedy.

Recently there was a study based on the finding of the National Council of Jewish Women, under the leadership of a remarkable American, Mary Keyserling, entitled "Windows in Day Care." I wish that all of my colleagues had the time to read the report. It details example after example in which children are placed in homes that are unsanitary or in unsafe day care centers with unskilled staffs, overcrowded conditions, and all the rest so as to damage physically and mentally the children who stay there.

A typical first-hand observation goes as follows:

> This center is housed in a shack of poor repair. It was over-crowded, filthy and depressing. It was very small for the number of children. Two of us arrived at nap time and one tiny room was completely filled with cots which were right up against one another. There were 22 children in attendance that day. I have no idea where they would find a place to nap the extra eight children enrolled but not present. The odor was noxious and one child had gone to the bathroom in her sleep and it has not been cleaned up.
>
> The kitchen was tiny with dishes stacked up on top of one another. The bathroom had the tile off the wall and the black tar was exposed. It has only one sink, one toilet, and an old bathtub.

Mr. President, I ask unanimous consent that the distinguished Senator from Kentucky (Mr. Cook) be added as a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, a survey about a year ago by a reporter from the Washington Post revealed at that time many examples of day care centers in the Nation's Capital which were overcrowded, unsanitary, and had no facilities to stimulate or support the children during the day. There were boring and listless programs. There were surroundings in which no American would want his children to be found.

The single best protection we have against substandard day care is the existence and enforcement of decent standards. It is absolutely essential that we assure that Federal funds are not used to encourage or support programs that harm children.

Mr. President, it is the purpose of our amendment to provide that kind of protection and to provide it in a way that is consistent with the practices of the past. The standards contained in our amendment have been in existence since 1968. They have applied on all federally assisted day care programs for the last 5 years. And they were contained in the regulations covering day care under the social services program until HEW began issuing revised regulations this past spring.

These standards provide a minimal level of protection by requiring parental involvement, setting health and sanitation standards and defining minimum levels for adult-child ratios in day care centers or family day care homes.

Mr. President, unless we adopt this amendment I fear we will be inviting or endorsing the watering down of the reasonable standards with which we are all familiar. Without this amendment the bill is silent on the question of whether Federal interagency day care requirements would still apply to day care programs existing under this measure. And without that clarification it is clear from HEW's most recent regulations that the existing standards will not be retained. Indeed, HEW's November 1 regulations drop all reference to the interagency day care standards and state simply that services "must comply with such standards as may be prescribed by the Secretary."

That kind of regulation is utterly meaningless. It provides no guarantee that standards ever will be prescribed. And in the event that standards are prescribed this regulation provides no assurance that they will include the minimal protections that now exist.

Mr. President, the Senate is familiar with this issue. These standards were part of S. 2528, the social services amendments I introduced in October with 35 cosponsors and with the support of the National Governor's Conference. They have been included in the child development and family service legislation adopted overwhelmingly by the Senate in each of the past 2 years. They were added as an amendment to the so-called welfare reform bill, when that was considered in the Senate last fall.

I urge my colleagues to continue as they have in the past insisting that federally supported day care programs provide adequate protections for the children and families involved. I urge them to join as cosponsors in this amendment and support it when it comes to a vote. A wide variety of organizations concerned about children and families—including the American Academy of Pediatrics, the Child Welfare League of America, the National PTA, the UAW, the AFL–CIO, the American Association of University Women, the National Council of Jewish Women, the National Association for the Education of Young Children, the Black Child Development Institute, the National Child Day Care Association, the Citizens Committee for Children of New York, the National Council of Churches, the National Association of Social Workers, and the Washington Research Project Action Council are supporting this amendment.

For the benefit of my colleagues and the public, I ask unanimous consent that their letters and telegrams be printed at this point in my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Child Welfare League
of America, Inc.,
New York, N.Y., November 21, 1973.
Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator: We understand that the Senate Finance Committee has completed its work on the so-called Social Services Bill. According to our information, the language omits references to specific standards for in-home care and the 1968 Federal Interagency Day Care Requirements for out-of-home care.

We believe that this language should be restored and we support those who wish to do this when the bill comes to the Senate floor. We commend your leadership in the past on this issue and hope that we can count on your playing a similar role again.

For the League, specific standards language is absolutely essential. "Some care," that is any care which is not protective of children, is *not* better than "no care." If we cannot provide care for children which safeguards them and allows them to grow and develop soundly, then those children should not be in day care but be with their own parents and under their full-time supervision in the home.

Cordially.

Joseph H. Reid.

[Telegram]

Senator Walter F. Mondale,
Washington, D.C.:

National PTA strongly urges Senate to reconsider inclusion of standards and guidelines for programs for children in social security amendments. Social Security regulations that went into effect on November 1 should at a minimum be made operative in accordance with the 1968 Federal interagency standards that covered many of the programs for young children.

Grace Baisinger,
Coordinator of Legislative Activity.

National Council of the
Churches of Christ,
Washington, D.C., November 27, 1973.
Hon. Walter Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: On behalf of the National Council of Churches, I want to express support for your proposed amendment to H.R. 3153 requiring that any day care services provided through the social services program conform with the requirements of the Federal Interagency Day Care Standards of 1968. Those standards are designed to assure that Federally funded day care centers have the resources necessary to serve a child's emotional, cognitive, and physical development. Surely if we love our children, we ought to do no less.

Sincerely,

R. H. Edwin Espy,
General Secretary.

UAW,
Washington, D.C., November 20, 1973.
Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: The UAW strongly supports your amendment to assure that day care activities under the social services program continue to comply with the Federal Interagency Requirements. We believe the adoption of your amendment is absolutely essential to the protection of children enrolled in day care programs.

On behalf of the UAW, I wish to commend you for your continuing leadership in the effort to assure that day care standards are not relaxed to the detriment of the children involved.

Sincerely,

Jack Beidler,
Legislative Director.

NAEYC,
Washington, D.C., November 21, 1973.
Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: The National Association for the Education of Young Children recognizes that within programs for young children it is necessary to provide an environment which permits maximum development and growth of children.

We, therefore, urge that provisions for child care services under the Social Security Act be accompanied by minimum requirements that are at least equal to the 1968 Federal Interagency Day Care Standards, including those concerning child-teacher ratios, staffing patterns, and parent involvement.

Sincerely,

MARILYN M. SMITH,
Executive Director.

WASHINGTON RESEARCH PROJECT,
ACTION COUNCIL,
Washington, D.C., November 19, 1973.
Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: We commend you for your continued vigorous efforts to expand developmental child care programs and to assure that any such programs receiving federal funds meet high standards for quality. We understand that you will be offering an amendment to the social services provisions of H.R. 3153, when that measure comes to the floor of the Senate, to make clear that child care programs funded under Title IV–A of the Social Security Act must meet the Federal Interagency Day Care Requirements of 1968.

At a time when the pressure for publicly supported child care programs is increasing, it is critical that Congress insist on program quality to protect the children and families in need of such services. The answer to the growing demands for child care is not to lower quality so as to make limited funds go further, but rather to increase the availability of funds so that more children and families have access to developmental programs.

The 1968 Requirements are by no means extravagant. They were designed to assure minimum standards of care while providing maximum flexibility within programs. While changing circumstances may require some adjustment in those Requirements to assure program quality, Congress cannot allow the pressures for cheaper custodial care to result in changes which reduce standards. This is particularly true with regard to child-staff ratios and parent participation—the two factors which provide the best guarantee of program quality.

Again, we commend your leadership in this area and fully support your efforts on the floor of the Senate.

Sincerely,

MARIAN WRIGHT EDELMAN.
JUDITH A. ASSMUS.

[Telegram]

Washington, D.C., November 20, 1973.
Senator WALTER F. MONDALE,
Capitol Hill, D.C.:

The American Association of University Women, representing more than 175,000 members, urges your support for day care programs and new social service legislation, which comply with the 1968 Federal interagency day care standards.

Dr. DEBORAH P. WOLFE,
National Legislative Program Chairwoman.

NOVEMBER 19, 1973.
Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: We are distressed to learn that the proposed compromise bill relating to social service regulations contains no reference to the essentiality of Federal Day Care standards. We urge that the bill be amended to call for the retention of standards comparable to the 1968 Federal Interagency Day Care Requirements.

Sincerely,

MARY DUBLIN KEYSERLING,
President, National Child Day Care Association.

[Telegram]

Senator WALTER F. MONDALE,
Capitol Hill, D.C.:

The Early Childhood Education Council of Nassau County with a membership of 600 support the reinstatement of the 1968 Federal day care standards. We urge the inclusion of the standards in the compromise social service bill. Thank you for your support of the young child.

MARGARET O'CONNER,
Legislative Chairman.

BLACK CHILD DEVELOPMENT
INSTITUTE, INC.,
November 19, 1973.
Senator WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: It is a pleasure to respond to your request for us to examine and analyze, the provisions in H.R. 3153, "The Social Security Act", from a Black perspective.

We have found that the social service amendments attached to H.R. 3153, would assist the Black communities we serve in providing quality child development services.

We feel that the most important provisions of S–2528, "The Social Service Amendments of 1973", are the Federal Standards for Day Care, the appreciable changes in the eligibility of past and potential recipients, the increased freedom and latitude given to states to determine eligibility and the manner in which those services are to be rendered, and the general increase in services rendered to non-welfare recipients from 10% of the state AFDC monies to 25%.

S–2528 is more desirable than the general revenue sharing formula which has proven its ineffectiveness in the local communities BCDI serves. Therefore, we feel that the most appropriate and beneficial method for distributing funds and services to our constituents within the 50 states can be found in S–2528, not a revenue sharing approach. Moreover, we are emphatically opposed to any effort to omit Federal Standards for Day Care Services as currently being debated in the Senate Finance Committee.

We support the efforts of Senator Mondale and his colleagues to prevent the exemption of Day Care Standards from the provisions of H.R. 3153.

Sincerely,

EVELYN K. MOORE,
Executive Director.

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
November 28, 1973.
Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: The AFL–CIO strongly supports the Mondale-Buckley Amendment to H.R. 3153 providing adequate federal day care standards necessary to assure the safety and proper development of the children of working parents. Unfortunately, HEW has given no indication that it will establish adequate standards. Passage of the Mondale-Buckley Amendment is essential.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

AMERICAN ACADEMY OF PEDIATRICS,
Evanston, Ill., November 28, 1973.
Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: The American Academy of Pediatrics, the professional organization which represents 14,000 physicians providing health care to infants, children and adolescents, has been involved for over 40 years in efforts to improve the general health and welfare of children. Specifically in regard to day care, the Academy has appeared on numerous occasions before various committees of both the House and Senate. The Academy has filed statements with DHEW in response to proposed regulations. It has also labored as a standards setting organization and has recently published *Standards for Day Care for Infants and Children Under Three Years of Age and Recommendations for Day Care Centers for Infants and Children.*

One of the basic principles upon which Academy work has proceeded, which is presented in the Recommendations, is that "services offered should first be based on the health and developmental needs of the child to be served, then on the needs of his family. . . . The provision of 'parking lots' for children or of programs which do not meet the child's needs but force him into routinized group programs with little variation cannot be sanctioned."

The quality of child care programs is threatened. Recent federal regulations have omitted reference to standards. Until research further evaluates present standards and programs, the use of the 1968 Federal Interagency Day Care Standards as minimal and their modification in the direction suggested by research is the preferred approach. Consequently, the Academy would urge that action be initiated to assure that day care service supported by the Social Security Act be governed by standards no less than the 1968 Federal Interagency Day Care Standards.

Your efforts to establish a base line for quality day care services are commended.

Sincerely yours,

ROBERT G. FRAZIER, M.D.,
Executive Director.

[Telegram]

Senator WALTER F. MONDALE,
Capitol Hill, D.C.

Attention Sid Johnson, room 433, we are distressed to learn that the social service legislation under consideration in the Senate omits Federal standards for child care services. Congress has the obligation to guarantee high standards of care for children in federally supported programs urge you to continue your pressure for responsible Congressional actions.

BERTRAM BECK,
Chairman Citizens Committee for Children of New York.

NATIONAL COUNCIL OF JEWISH WOMEN,
New York, N.Y., November 20, 1973.
Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: We wish to commend you for all your efforts to modify and improve the Social Welfare regulations promulgated by the Department of Health, Education and Welfare this year, which were so detrimental to an effective administration of social service programs.

We regret that the Senate Finance Committee did not accept for inclusion among the provisions of H.R. 3153, your recommendation for federal standards for child development programs.

As you know, the National Council of Jewish Women conducted a national survey of day care and found that many of the programs in operation did not adhere to acceptable standards, or even minimum standards. In testifying before the Senate Finance Committee in 1972, we stated:

The data produced by one survey indicates that quality day care, which can help children to develop to their full potential, is not too frequently encountered, and vigorous action at the national, state and local levels on behalf of children must be undertaken . . . Legislation to provide care for children must include: Well defined standards not lower than those of the Inter-Agency requirements of 1968.

We are greatly pleased that you plan to offer a standards amendment when H.R. 3153 reaches the Senate floor and we pledge our support for your effort.

Sincerely yours,
Mrs. ELEANOR MARVIN,
National President.

NOVEMBER 19, 1973.

SENATOR MONDALE: Our organization believes that it is imperative that child day care provided under the social service titles of the Social Security Act must meet the Inter-Agency standards of 1968 and therefore we strongly support your effort to introduce a floor amendment to H.R. 3153 to make such services a mandatory provision.

LORENZO TRAYLOR,
President, NASW.

Mr. MONDALE. Mr. President, it is the policy in this country to encourage welfare mothers to take training and to find work.

It seems to me that one of the elements in that bargain ought to be that when the children are required to stay in family day care homes or day care centers while the mother is working, at the very minimum they ought to be certain that the children are kept safely from harm.

That is not only the humane thing to do. In addition to that, in the long run it will cost more if we have generations of youngsters who have been pushed aside and ignored or shoved into cold warehouses of this kind.

The day care standards that we are talking about are not radical. They are the very minimum one needs for decent day care. They provide a staff ratio that has been found by expensive experience to be the minimum necessary.

They recognize the special problems and the vulnerability of the very young. There have been many, many studies that have shown that when children are infants or ages 1, 2, and 3, the failure to assure adequate staff ratios and properly skilled assistants can damage those children physically and damage them mentally in ways that later are difficult to repair.

I ask unanimous consent that a summary of the minimum day care standards that we wish to continue be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF 1968 REQUIREMENTS

1. Staff Ratios (including volunteers)

a. Family Day Care Home (no more than 6 children total) 1 to 5 ratio for children under age 6; 1 to 6 ratio for children aged 3–14.

b. Group Day Care Home—1 to 5 ratio where preschooler involved; 1 to 6 ratio otherwise.

c. Day Care Center—1 to 5 for 3 to 4 years olds; 1 to 7 for 4 to 6 year olds; and 1 to 10 for 6 to 14 year olds.

2. Safety and Sanitation—"must meet requirements of appropriate safety and sanitation authority."

3. Education—"Educational opportunities" must be provided, with supervision of staff members trained or experienced in child growth and development.

4. Social Services must be provided including guidance and counseling to families about appropriateness of day care.

5. Health & Nutrition. Requires supervision by qualified physician; dental and medical evaluation of children; dental and medical treatment for children "using existing community resources" if available; and "nutrition needs."

6. Staff Training. In service training required.

7. Parent Involvement requires opportunities for parents to "work with" and "observe" day care programs; and whenever agency provides care for 40 children or more it must have Policy Advisory Committee composed of at least 50% parents to assist in development of programs and approval of applications, and participate in selection of program directors.

8. Waiver. "Requirements can be waived when administering agency can show that requested waiver may advance innovation and experimentation and extend services without loss of quality in the Facility."

Four states now have waiver (Michigan, Missouri, Oregon and Colorado.)

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MONDALE. I am glad to yield.

Mr. LONG. Can the Senator tell me how many States are complying with those standards?

Mr. MONDALE. There are waivers in only four States. I concede to the distinguished floor manager—we have discussed this before—that there are States which have not complied with it, and there are day care centers which fall beneath these standards. But I think that is another reason why we should continue them as they are, and try to insist that the centers be brought up to standard.

Mr. LONG. The reason I asked the question is that I have in my hand a pamphlet containing data on child care prepared for the committee as of June 16, 1971, and I do not think that the situation has changed drastically in that respect. These are the minimum staffing requirements of the States.

Take, for example, ages 3 to 4; the Federal standards would require that there be one adult for every five children between the ages of 3 and 4.

The great majority of the States in their licensing laws would require a minimum of 1 woman for every 10 children. So, assuming that the States are following their own laws, the proposed standards would mean a doubling of the staffing.

We have only $2.5 billion for social services; so if we have to double the cost in most States, that means we can pay for day care for only half the number of children we now can take care of.

Mr. MONDALE. It is my feeling that if the day care standards in a particular setting are so damaging to children that they affect their physical and mental health, it is better not to have day care; it is better to have the children with their mothers.

But if the welfare strategy is to encourage and sometimes force mothers to work, then at a minimum we ought to make certain that the children do not have to suffer in the meantime.

When I grew up, the standards for me when I was 1 year old was two adults to one child. My mother and dad were with me all the time, and I was grateful for it. But if my mother had had to work, I would have been grateful if there had been enough people around to take care of me.

We have situations in this country where there are infants 1 and 2 years old, sometimes 14 or 15 of them with only one adult. Everything we have heard indicates that that is very damaging.

Mr. LONG. How many States can meet this requirement the amendment would make with regard to education? I quote:

Educational opportunities must be provided for every child under the supervision and direction of a staff member trained or experienced in child growth and development.

How many mothers can meet that standard?

Mr. MONDALE. It says "trained or experienced." The requirements do not require graduate teachers, but what they do say is that it is not right to take a child and put it in boring environments for 8 hours a day, and do absolutely nothing to stimulate the child; the requirements indicate that there should be, in addition to decent food and decent cleanliness and health standards, some education along with it.

It is a modest, requirement which is not difficult to comply with, but something we think, should be required.

These standards were developed by the Executive. They were developed as minimum standards by the Department of Health, Education, and Welfare, and have been in the regulations since 1968.

Mr. LONG. Mr. President, the States cannot comply with the standards the way it is now. There are only two States in the Union who meet the staffing requirements for children age 3 to 4; not even the Senator's own State is complying with this requirement. The only States that require by their laws one adult person to every five children age 3 to 4 are the States of Rhode Island and New York. We have 48 States of the Union that do not comply with that requirement, and if they tried to comply with it it would mean that they would have to reduce by half the amount of day care they would have available for children of working mothers.

It would seem to me that it is rather difficult to think that the Senator's judgment or my judgment is all that much better than the judgment of the legislators of 48 out of the 50 States in the Union. Certainly those legislators who are from the grassroots of democracy, are concerned about children.

As a matter of fact, if we look at all the States of the Union, the overwhelming view seems to be that for children from ages of 3 to 4, 10 would be about the proper maximum number of children 1 staff member could keep an eye on. And when the children get to be 6 through 14, by this law that the Senator wants to impose upon the States, they could not have more than 10 children per staff attendant.

Mr. President, I was brought up in a classroom with 30 children.

Mr. MONDALE. How old was the Senator?

Mr. LONG. And I thought that was a good school.

Mr. MONDALE. How old?

Mr. LONG. I was between 6 and 14.

Mr. MONDALE. We are talking about 1- to 3-year-olds. I hope the Senator was not brought up in a classroom with 30 children when he was 2 years old.

Mr. LONG. No, I am talking about the requirement that there be not more than 10 children age 6 through 14 per staff member. A lot of people use 14-year-old children for babysitters. But if you look at the amendment as it concerns 14-year-old children, the States would have to have 1 staff member for each 10 children. One would think they could look after themselves, but, no, they have to have 1 staff member for each 10 children.

If they go to school, they usually have 1 teacher for every 25 or 30 children.

Let us see why the States do that. For those ages, most States seem to think 25 to 30 children per adult is all right.

I was not abused by the schoolteachers or the kindergarten attendants where I happened to go as a child. By requiring standards that are far beyond the capacity of anyone to pay for, including the Federal Government, the Senator would make it impossible for people to provide the opportunity for mothers to improve the situations of their families by working.

In my own office, we have a mother, one of the most competent women I have ever had the opportunity to work with in my life. She is one of the most efficient secretaries on Capitol Hill, a fine woman who knows what it is to be a mother and a widow, and to bring up children to make fine young citizens of themselves.

She was shocked to hear that the Federal standards would mean you might have to pay as much as $2,400 per child for day care. The family assistance plan proposed to pay that much for a family of four. So it would cost as much to put one child in day care as to take care of three children and the mother under the whole family assistance program.

She was shocked to hear about that. She said, "How can they possibly justify that? They propose that it would cost $2,400 a year per child. That means $200 a month." She said, "When I brought my children up, I was a widow and a working mother, and I put them in a good day care center where it did not cost but about half that much money. They provided the child with meals and everything else, and a mother has a right to expect that of them."

When good and competent working mothers find out that it will cost $100 a month for adequate and satisfactory care for their own children, why will they want to pay for something that would cost $2,400 a year a child to have 1 person for every 10 14-year-old children, or to have 1 person for every 5 small children? If we require someone who can qualify as a child care development specialist, then we have to pay her a minimum salary for a schoolteacher, and we run the cost up to $200 a month and make it look as though the cost of looking after one little child in a day care center will exceed what it would cost on the average welfare roll of this Nation to take care of a family of four.

I thought the way to help people better their condition was to provide day care operations for families to encourage mothers to take jobs, but at this rate we will not be able to afford for anyone to take a job because it would take 4 times as much money to look after one child as it would if the person did not take the job. That is why I have been dismayed when we are confronted with these standards, where now only two States can comply with them, and impose that on the other 48 States. If the States could comply—all right. If we had $10 billion to spend, we could do it, but we have only $2.5 billion for all the social services. So it means that we either have to be hypocrites, to approve these standards and then look the other way, or we will have to reduce by 50 percent the day care available for the children of mothers who would like to go to work to improve their family condition.

So while I would like to be able to support the Senator's amendment, Mr. President, if we cannot afford more than $2.5 billion for this program, the simple fact is that to insist on these standards would mean that we would drastically reduce day care available for mothers of small children who would like to go to work and improve the conditions of their families by earning money and to increase their standard of living.

I regret, Mr. President, that we do not have the money it takes to afford all this. But the fact is that we do not. So if we do not have the money, the best we can do is to provide as much as we can to the States and expect them to do what they are doing now; namely, the best they can with the money they have available to them. We cannot afford everything we would like to do.

Mr. CURTIS. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I had promised to yield to the Senator from South Carolina but I will yield to the Senator from Nebraska in a minute.

Mr. President, this is the same debate we had last year when the distinguished Senator from New York (Mr. BUCKLEY) and I insisted on day care standards and when the Senate by an almost 2-to-1 vote agreed that, as a condition of Federal aid to day care centers, we must insist that those day care centers have sufficient minimum standards to assure that the children will not be damaged while in day care. The Senator from Louisiana (Mr. LONG) says we cannot afford to do that. I say we cannot afford not to do that. I say that we can afford any program which will prevent damage to our children.

Mr. President, in the debate a year ago, the distinguished Senator from Louisiana (Mr. LONG) used the same exaggerated figures he used a moment ago, suggesting that the standards would cost $2,400 a year or $3,000 a year, when the figures show that it would cost $1,600 on the average for full-time day care, the full year around, and only $400 for part-time, after school services.

These standards are not extravagant. They are not unrealistic. They were established by the Department of Health, Education, and Welfare in consultation with the best people in this country. I think that we should ask ourselves, what do those who have concerned themselves with children in day care think about removing the day care standards? I state as a fact that almost everyone in this field, almost everyone who has learned and knows what happens in day care, are in favor of this amendment. We insist on minimum care standards so that our children will not be damaged.

Mr. CURTIS. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. CURTIS. I thank my distinguished friend from Minnesota for yielding to me.

If this amendment is not adopted, then we have a situation where the day care centers must be licensed by the States; is that not correct?

Mr. MONDALE. That is correct.

Mr. CURTIS. Is it not also true that day care centers are a part of the social services portion of the social security laws?

Mr. MONDALE. Yes, but if I may—I will get back to that question. It is true that in the absence of my amendment, it would be the first time in over 5 years that there are no such standards. If there were new standards, it would be the States that would impose them, if they wanted to. That is the catch.

According to our information, there are two States that have no standards whatsoever with respect to adult-child ratios whatsoever. There are 11 States that have no standards whatsoever for family day care. There are 9 States that have standards which would permit 10 children per single staff member for children under 2 years of age, which everyone I know of who has studied this problem says is disastrous.

So while it is true that States still can impose standards, the studies we have seen, plus these records, show at this point that without Federal standards, there will be thousands and thousands of children placed on day care standards where no child should ever be found.

Mr. CURTIS. Is it not true that the provisions for social services adopted by the committee are entirely controlled by the States under a revenue-sharing program?

Mr. MONDALE. In some respects, that is correct, except, for example, we have regulations in our bill here that prohibits supplanting of State funds for social services with Federal funds. There are some restrictions in the committee bill and this one concerning the health and well-being of children, in my opinion, is just as important as that one concerning supplanting.

Mr. CURTIS. Well, I believe the entire thrust of what the committee has done with reference to social services is that the States shall decide who shall be eligible for social services, what programs shall be included in social services, and the type and extent of program standards.

Mr. MONDALE. The Senator is basically correct. The Senator from Nebraska and I stood together in the achievement of that objective. In other words, we wanted the States to have a wide range of discretion both in determining eligibility for social services and for determining what social services the States wanted.

We did, however, impose certain restrictions and these restrictions, I might add, were imposed on the States with the unanimous support of all the Governors. One was to prohibit the supplanting, by which Federal funds would aid—simply pick up existing State expenses and, in effect, through indirection, permit the State to divert the money to other purposes, to roads or whatever they wanted. That we prohibited.

Second, we require mandatory services in three areas: foster care, child protective services, and family planning. So there are other restrictions.

Traditionally, if I may say, our social services money has carried with it the interagency day care standard since 1968, which I wish to retain at this point. So this is nothing new, but merely attempts to continue existing standards in day care.

Mr. CURTIS. If the bill remains as reported by the committee, a State does not have to have any day care centers at all; does it?

Mr. MONDALE. The Senator is correct.

Mr. CURTIS. So if we impose Federal restrictions on them, they can spend that money on protective service for children, family planning services, protective services for adults, services for adults and foster care, homemaker services, chore services, home delivery of meals, day care services for adults, health related services, home management, other functional educational services, housing improvement services, a full range of legal services, transportation services, educational and training services, employment services, information referral and follow-up services, special services for the mentally retarded, special services for the blind, services for alcoholism and drug addiction, special services for the emotionally disturbed, and special services for the physically handicapped.

Mr. MONDALE. That is correct.

Mr. CURTIS. So long as they did not use the money for some program they would carry on, anyway.

Mr. MONDALE. The Senator is correct.

The point I should like to make to the Senator from Nebraska is this: Thousands of children have been served in day care centers since the social services program began some years ago. During all this time—since 1968, at least—we have had the same day care minimum national standards that I am proposing we continue. In other words, what I am proposing to do is not to change the law but to keep the standards the way they have been for the last 5 years, almost 6 years.

Mr. CURTIS. Until when?

Mr. MONDALE. Until November 1, when as the Senator knows, the Secretary of HEW, through new regulations in effect, eliminated everything, including most of the social services.

Mr. CURTIS. Then, is it true that the standards which the Senator seeks to impose have been imposed until a few weeks ago?

Mr. MONDALE. The interagency day care requirements I want maintained have been in being since 1968, except, if the Secretary can get away with it, since November 1, when he tried to change it through regulations.

Mr. CURTIS. If they already have had what the Senator proposes now and the Senator in his opening statement decided that many day care centers were deficient, dangerous for the children, and injurious to their health and welfare, what does the Senator gain by continuing the provision of law that was in effect and resulted in all those undesirable conditions that he enumerates?

Mr. MONDALE. If we remove the standards that we have, I think it is an invitation to a wholesale disregard of the minimum standards needed for the care of children. It is true that even under the present day care standards, there have been far too many examples of day care centers that have fallen clearly beneath the minimum standards which everyone in this field considers to be minimally necessary for the physical and mental health of children. But the answer to that problem is not to delete the standards. The answer is to retain them, and enforce them so that day care programs can be brought up to a level that assures minimal protection for the children involved.

I want to say one other thing, because I think it bears on the question of the Senator from Nebraska and the statements made by the Senator from Louisiana.

The standards we are talking about have been arrived at on the basis of consultations with practically every responsible person in this field. I do not know of anyone who has studied day care seriously who does not believe that we need some kind of minimum standards.

The day care standards we are talking about were in the original amendment which was unanimously supported by the Governors of our country. These day care standards are supported by the American Academy of Pediatrics; by the National PTA; by the American Association of University Women; by the National Council of Jewish Women, which has done as much as any other organization to try to study what is really going on; by the National Association for the Education of Young Children; by the Black Child Development Institute; by the National Child Day Care Association; by the National Council of Churches; by the AFL–CIO; by the UAW; by the Washington Research Project Action Council; and by the National Association of Social Workers.

Part of the problem here is not just what happens to welfare mothers. There are thousands and thousands—indeed, ing and need to work in order to provide, along with their husbands, decent minimum income to live in these difficult, inflationary times. They, too, need available to them day care, which is not only needed for their employment but also which is good enough and sound enough in terms of minimum standards to assure that their children are not damaged during the hours they are working.

That is all these standards involve. They are not new; they are not imposing anything new. They are standards that have been in being since 1968. It is true that they have not been fully enforced in some areas. But to remove them now, in my opinion, would be to say that the Federal Government has abandoned its interest in minimum standards. To remove them would be to encourage a wholesale disregard and deterioration of day care standards in this country.

I give the Senator from New York (Mr. BUCKLEY) a good deal of credit, because he studied this problem extensively, and I think it is his opinion that all day care is damaging. But Senator BUCKLEY, who will be here shortly and who is supporting us fully in this amendment, is convinced that if you are going to have day care, it had better be day care that is good, of high quality, where children get safe surroundings, where they get decent nutrition, where they get stimulation, where they are supported emotionally as fully as possible.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I thank the Senator for yielding.

Mr. President, it seems to me that in the debate we had on the floor of the Senate in the waning hours of the last session of Congress, the distinguished Senator from New York (Mr. BUCKLEY) intimated that he had opposed these day care standards but that, after doing some research, he had found for himself that there was a great necessity in the country to establish national standards.

The Senator from Minnesota has pointed out that what we have at the present time, unfortunately, in too many instances is merely custodial care. Custodial care, I think it has been very clearly proved, is not sufficient to take care of the thousands of young children who are in day care centers. Many of them are in need of psychiatric and psychological care and treatment.

We are talking here more about money than anything else. We are not talking about the real issue, as the Senator from Minnesota has tried very valiantly to point out. We are talking about children and we are talking about people, and what we can do to salvage the lives of these young people, many of whom are let loose to run in the streets without any care at all. We call it supervisory care but there is no educational component, there is no development component, and there is very little, if anything, that they really get out of it at all. In many instances—and I have seen this as a result of my own personal research—these children are far worse off in some of these day care centers than they would be if they were not there in the first instance.

The Senator has pointed out that great research has been done, and he has given credit to the National Council of Jewish Women who did quite an exhaustive study and rendered a report. I shall not read the entire report, but I do think that parts of the report are very pertinent.

> Although all states, with the exception of two (Idaho and Mississippi) require that day care centers be licensed a number of exclusions and exemptions provide little protection for the children receiving care. Some ten states exclude from regulation centers operated or regulated by another state or local Governmental agency. About half the states exclude centers operated by the public school system; such centers usually come under regulations of the State's Department of Education. Centers operated by private or parochial schools are exempted from licensing requirements in fifteen states. Nine states exempt centers operated by religious organizations. Facilities operating primarily as an educational program, as a kindergarten or nursery school are excluded from licensing regulation in sixteen states.
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> The foregoing provides the most forceful argument for Federal standards if the children of this nation will receive the kind of care necessary for beneficial child development.

We all have sympathy with the chairman and the ranking minority member of the Committee on Finance. They have a serious money problem and we recognize they have a serious money problem. But it always seems that we are looking to cut back on programs that are so vitally needed as this program and contend they cost too much money. Does the Senator from Minnesota have any idea as to what kind of money we are talking about, because that seems to be the main objection that has been raised by the opposition to the Senator's amendment. I do not think anyone denies it would be good to have national standards for day care centers.

Mr. MONDALE. This is a report prepared by the Library of Congress which states:

> According to the Office of Child Development, Department of Health, Education and Welfare, the national average cost for providing day care under the existing standards——

Those are the ones we seek to maintain; we are not opposing anything new.

> is approximately $1,600 a year for pre-school children and $400 a year for children of school age.

My friend from Louisiana keeps saying $2,400, $3,000. It is not true. These are maximum expenditures and many times the volunteers are able to reduce the cost. Those involved in this field the longest are unanimous in favor of the minimum standards. The committee decided to eliminate all standards and let any community do as it chooses, no matter how much it damaged the children.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. MONDALE. I shall yield in just a moment.

The Senator from New York (Mr. BUCKLEY) said in the last debate, and I agree:

> I believe and agree as a result of what we have read in conference that the experience abroad and especially studies at home demonstrate that unless quality and standards of day care, especially care given to very young children, is of the highest order, the chances for serious real damage are too large to be ignored.

In this debate, all we have heard from those who face this condition in our society of $1 trillion gross is that we are trying to cut corners on physical care for children who go to day care centers.

Mr. BROOKE. Mr. President, it seems to me, further, that it is pennywise and pound-foolish—that is an old cliche—because what happens to the child is that he gets involved in crime. Then that child has to be dealt with later on in the criminal courts. The child generally will end up either in some prison in the Nation, after having committed some heinous crime, such as we read about day after day.

So it seems to me that we are not saving money. If saving money is our main purpose, it seems to me that we are defeating the purpose by not trying to give the child some education and some training, rather than merely to let him go without any standards established at all.

This research was a most exhaustive study and indicates that there are just not enough standards; and that where there are standards, they are not being lived up to.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. PACKWOOD. When I knew that this issue was coming up again I referred to a telegram received from the Director of the Children's Services Division in Oregon, Don Miller, and also contacted the Division to ask his opinion as to whether the amendment, requiring adherence to the Federal day care standards, would adversely affect Oregon. He indicated that it would not; that he preferred that the amendment to the bill be adopted, to guarantee that these standards would be met.

But he also said that Oregon feels so strongly about the importance of these day care standards that Oregon intended to comply even if it were not written in the law as a Federal requirement.

Mr. President, Oregon has had serious budget problems, like many other States, but even this being the case, my State felt that the Federal day care standards were realistic enough, and necessary enough, to require compliance on a voluntary basis. Now it seems to me that my own State of Oregon, even though but a single State, provides ample evidence that we are not here talking about unrealistic, exhorbitant costs. We are simply talking about providing safe, healthful, properly supervised care for children needing that care.

Mr. MONDALE. I thank the Senator from Oregon. I think his statement reflects the experience of one serious administrator in one State. It shows that the standards are reasonable and practical for the children involved.

Mr. CURTIS. Mr. President, what we are seeking to impose is what we have had for several years. The prime issue is not, in my opinion, whether it is fair that the Federal Government shall write the standards or leave it to the States. The Federal Government has been writing standards since 1968, until a few weeks ago, and we have the conditions described by the principal proponent of the amendment. It is a bad situation, unhealthy, unsafe, and so on.

The question is whether we are going to vest authority in the Federal Government or in the States. Who is it that licenses physicians? It is the State. Who is it that licenses lawyers? It is the State. If Senators do not think the States are tough on discipline, try starting to practice in my State.

Who is it that licenses nurses? Who sets the standard for their training? It is the State. Who is it that licenses teachers? It is the State. Who is it that licenses realtors? It is the State. Who is it that licenses certified public accountants? They do not have Federal licenses. Who is it that licenses barbers and architects? Who is it that licenses hospitals? It is the State. Nowhere in the Federal Government does one get a license to run a hospital.

We have had Federal standards, and we learn that the situation is deplorable. What do we have to gain by perpetuating them?

I happen to believe that the State officials in my State can and will do greater justice to the children of all ages than will a clumsy, far-removed, impersonal, blundering bureaucracy in Washington.

It is not a question of money; it is a question of where the authority should rest.

I do not believe that there are any day care centers in my State that are filthy and unhealthy and dangerous, and if any Senator has any evidence of any such, I wish he would present it.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. MONDALE. I would first like to respond to the comments of the Senator from Nebraska.

I think that the Federal Government does have a proper concern about the health of these children. It is Federal policy which, by and large, is encouraging and sometimes bring mothers at work under Federal welfare laws. It is social services money which is going to these programs. The Federal Government drafts people. The Federal Government pays most of the welfare costs. The Federal Government pays for penal costs. The Federal Government pays for a whole range of costs when people are damaged.

Everything that we have read, everything we have seen, everything that the experts in this field say indicates that when we fall beneath the standards required as a minimum, and which have been required since 1968, we risk the chance of damage to these children.

For example, the Child Welfare League of America, which I think most people recognize as one of the most responsible, balanced associations of experts in the field, said this:

> Some care—that is, any care—which has not protective of children is not better than no care. If we cannot provide care for children which safeguards them and allows

> them to grow and develop soundly, then those children should not be in day care but be with their own parents and under full-time supervision in the home.

I would find it very ironic, in the midst of this wealthy and powerful society, that we decided to save money at the emotional and physical expense of youngsters and infants who are unable to protect themselves.

I yield first to the Senator from Massachusetts. I will then yield to the Senator from Wyoming.

Mr. BROOKE. Mr. President, just on the point of my colleague from Nebraska, and then I will be very glad to yield to the Senator from Wyoming, at first blush the arguments that the States license doctors and lawyers and accountants and nurses might seem persuasive, but we are not talking here about licensing of professional groups or anything of that kind at all. We do not subsidize lawyers in this country. We do not subsidize doctors in this country. We do not give Federal money to many of the different groups that are, quite properly, licensed by the individual States.

We are talking about Federal money which is being spent for day care centers in day care in various States which have no standards and which are taking care of young children under the most deplorable conditions known.

What is the purpose stated? It says:

> Family-care or self-care goal: To strengthen family life and to achieve and maintain maximum personal independence, self-determination, and security in the home, including, for children, the achievement of maximum potential for eventual independent living, and to prevent or remedy neglect, abuse, or exploitation of children.

Is that rhetoric, or is that a meaningful, purposeful goal which we of the U.S. Congress have established? That is what we are talking about here.

I did not raise the question of money. That question was raised by the opponents of the proposal. They were the ones who said money was the main issue. That is why I tried to address, and did address, the question to the distinguished Senator from Minnesota about money.

If it is not money, if it is just a question of States rights versus Federal rights, how can we, by any means of imagination, try to say at this time that of all the Federal money we are putting into this program, we should not establish standards by which these day care centers should be run and operate?

Mr. MONDALE. I thank the Senator. I think that is a very valid point. I tried, particularly when I stated the purposes, to show that one of the four purposes is contained in the bill, because one of the key elements of the whole social services program is to strengthen family life and provide the full range of developmental support for children who are being served through the use of these funds. And now there is being proposed a full-scale retreat on minimum standards which have been in existence since 1968—not reducing the standards; eliminating them entirely—at a time when we have all kinds of sordid reports we have seen by the hundreds, and we have the report of women who actually went in and looked at day care centers and reported on hundreds of day centers in which we would not want a dog to be, let alone children.

Now we are told: "Forget about these standards. Let them do what they want. We will save some money by doing that."

Mr. BROOKE. Mr. President, if the Senator will yield, I am going to conclude, but let me first say that history has come full circle now. I see that the Senator from New York (Mr. BUCKLEY) has come on the floor. It seems to me we have some of the same parties who entered into this debate a year ago, including the Senator from New York (Mr. BUCKLEY) and the Senator from Wyoming (Mr. HANSEN), to whom I am going to yield the floor shortly. Certainly the author of this amendment (Mr. MONDALE) and the distinguished Chairman and I had this debate a year ago.

All I can say, in conclusion, is if that argument was valid in 1972, it is even more valid in 1973, and I think all of the reports, all of the research that has been done, will bear that out.

I commend the distinguished Senator from Minnesota and my distinguished colleague from New York, who are proponents of this amendment, and I hope that the Senate in its wisdom will accept it.

Mr. MONDALE. I thank the Senator.

In just a moment I am going to yield to the Senator from Wyoming, but first let me say it is interesting that while we hear the argument of States' rights, we have not heard it from the Governors who represent the States. When my amendment was put in for social services, it had the unanimous support of all the Governors, and they asked for these provisions and the continuance of these day care center standards.

I yield now to the Senator from Wyoming.

Mr. HANSEN. I thank my distinguished colleague from Minnesota for his courtesy.

Mr. President, let me say at the outset that none of us disagrees at all with the desire on the part of the sponsors of this amendment with respect to the objectives that they hope to achieve. I certainly do not. I know that the distinguished floor manager of the bill does not, nor does the ranking minority member of the Finance Committee disagree.

We are not really talking about whether or not we can agree upon objectives. I think we do agree. I certainly recognize, as does everyone who has studied the problem at all, that children are important. Their welfare is important. Why, precisely, do mothers work? They work in order that they can do a better job in taking care of their children than they would otherwise have an opportunity to achieve.

I am a member of the Special Committee on Aging, and much of what has been said this afternoon has been said, in a broad-brush fashion, about nursing homes. There are those who say we need far more stringent regulations imposed on nursing homes in this country.

It is not hard to document a good case because one does not have to travel very far, nor does he have to look at many homes without observing conditions that anyone would say could be made better. I stress those words "could be made better." Why do we not make them better? Why have we not imposed the same sort of regulations upon nursing homes that we are talking about here?

I sat in on some hearings that followed in the wake of the tragic fire in Ohio when a number of people were burned to death. It tore our hearts out, as it did everyone who read in detail or who heard about the tragedies in that fire.

Some of the proposals that were made to try to obviate a recurrence of that fire in a nursing home in Ohio were that nursing homes should not be built more than one story high, that there should be two exits from every room, one into an inner area where the people ate and congregated, and another into an outside backyard so that in the case of fire each person, if he were ambulatory, could go out the back door.

Mr. President, that sounds like a pretty good idea. However, it was not put into effect for a very simple reason. If we were to impose standards of that nature on nursing homes, we would automatically exclude from the services those facilities which provide for, I suspect, more than 90 percent of all people who now have to use them.

I have talked with the distinguished senior Senator from Iowa (Mr. HUGHES) about this matter, and I have talked with others. I know that the Senator from Iowa has told me that from personal experience as Governor of the State of Iowa—and from my personal experience as Governor, I know that it is not hard to impose standards on these facilities, whether one is talking about day care centers or whether he is talking about nursing homes, or whatever.

We can impose standards, and we will achieve something. We will raise the standards. However, in the process we may very well exclude most of the persons we are trying to serve.

So, despite what has been said about money, the problem does return to money. And the reason we had imposed a $2.5 billion limitation on social services that are to be provided by Federal dollars at this time is that we saw a proliferation of services provided by the State which, by State definition, were includable within the broad category of social services. And as a consequence, with the single exception of my State of Wyoming, every one of the other 49 States displayed a sharp escalation of the expenditure of Federal dollars on the basis of the expansion of social services.

I would hope that we could be realistic and that we could realize what the facts are.

I have talked with people who are knowledgeable about the HEW laws in this respect. And they recognize that mothers today have at least two alternatives if they want to work and they have children who are eligible for day care center treatment. They may either take advantage of those facilities or they will see that their children are taken care of by another mother in the neighborhood who is not actually running a day care center.

However, we come back to this proposition. Why do mothers do this? They do it because they want to be able to help their children live better. We all feel this way. I think that the distinguished chairman of the Finance Committee is not suggesting at all that we give every child a free Cadillac.

However, I would have to say that I read in the paper today that General Motors has about three-fourths of a million cars on hand now, the biggest inventory of new cars that it has ever had at this time of the year.

Jobs are in short supply. There will be more people unemployed. If one was watching television this morning, he probably saw that one of the main truck lines in northern California shut their doors because there was not enough fuel. He also probably saw that one of the major airlines furloughed thousands of people.

Anyone that has a job wants to keep that job. I would hope that we would not take action on the floor of the Senate that would make it impossible for those mothers who did want to work to continue working because we had raised the Federal standards imposed on each of the 50 States with respect to day care centers so as to make it impossible for them to work.

We can all be sympatheic, and indeed we all are sympathetic. We want to do whatever we can for people so that they can live better. However, let us not get so carried away in our enthusiasm for a particular type of service that we price it so high as to make fewer Federal dollars available for other members of society, and that is exactly what we could do.

There is just so much money. We are talking about $2.5 billion. And if we punch the bag in one place, it will come out at another place. And if we pull the bag in here, it will collapse on the other side. I wish that there were more money. If we had all the money in the world, we could do things that we cannot do now.

We will find as the winter progresses that jobs will be more at a premium than they are now. I would hope, Mr. President, that we do not take action that will result in making opportunities for employment fewer in the future than they are now.

I hope that this country will be able—as I am certain, indeed, that it intends to—to improve on all of those services and to make every program better. However, we cannot achieve that objective by imposing Federal standards that are not realistic. And when only two of the 50 States now comply with the Federal standards we are talking about, it seems pretty ill-advised to me to say that whether the States want it or not or whether any of them are now complying with it or not, we will demand that they do this.

We can do that. However, when we do, it will mean that there will be more mothers who have to forego the opportunity of working. There will be more people in America who live in poorer conditions than they now live because they cannot be as productive as they otherwise would be simply because we have priced day care centers out of the market.

Mr. President, I thank the Senator from Minnesota for yielding.

Mr. MONDALE. Mr. President, I thank the Senator from Wyoming. The main point of difference I have with the Senator is the apparent assumption that we can serve many people with substandard day care centers, no matter how poor the conditions are.

I would repeat what the Child Welfare League said:

> If we cannot provide care for children which safeguards them and allows them to grow and develop soundly, then these children should not be in day care but be with their own parents and under full-time supervision in the home.

Let us ask whether States are in here urging the elimination of these day care centers. The answer is that they are not. We are not hearing from them. We heard from the director of the State of Oregon. We know that the Governors unanimously supported the bill I introduced earlier which contains a continuation of the day care standards that we have had since 1968. That is all we are asking for here.

The organizations which most closely represent the parents and the children in day care, and the labor unions and organizations which represent them, are almost unanimous in support of the extension of the day care standards as required in the pending amendment.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MONDALE. Mr. President, I shall yield in a moment to the Senator from New York (Mr. BUCKLEY). Before doing so, I would like to express my appreciation to him for the special study he made on the damaging effects of institutionalized care of children which is of a substandard nature. It is not a delightful picture, the physical and mental damage that can occur to infants and children when they are placed away from their parents and their families in day care centers, hospitals, and foster home care situations which are substandard.

The Senator from New York has compiled an enormous amount of undeniable data which warn us of the severity of the damage that follows when we fail to properly care for these children when, under certain circumstances, day care is required.

I am pleased to yield to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from Minnesota for his very kind remarks. I believe this is the third time that the Minnesota-New York axis has mobilized itself on common ground, and I believe this is ground where our general points of view, although they may be different, unite in a common concern for the actual potential impact of a Federal program on those who are supposed to be aided by it.

Frankly, I have never been and am not now an enthusiast for day care as a general palliative for certain social ills, and I would be the last to recommend that it be adopted on a large scale. However where day care is deemed necessary, it ought to be of high quality for the sake of the children involved. This was a major point of contention in the last Congress during the debates on the child care section of H.R. 1 and of the comprehensive child development bill. The latter proposal, and I supported the President's veto. The bill represented in my opinion a classic case of Congress promising to provide that which the Federal Government could not possibly deliver.

Also, as I pointed out at the time, the mere fact that it seemed to be imposing the whole concept of day care on an undiscriminating basis could change public attitudes as to whether or not it would be truly suitable for a particular child. As the Senator from Minnesota has pointed out, experience has proven that the natural mother is the best possible institution for the care of a child.

On many points in last year's bill, I was in sharp disagreement with its sponsors. But on one point there was complete concurrence, that being the damage arising from the "warehousing" of children. The evidence on this point, Mr. President, is both substantial and uniform in its findings; namely, that day care for the very young—chiefly those 3 years of age and under—is psychologically unwise and should be resorted to only under exigent circumstances. In order to minimize such risks, it is necessary to maintain a low adult/child ratio. This, of course, involves considerable expense, a fact which proponents of last year's measure acknowledged, even while insisting that somehow the money would be found to pay for it. On a number of occasions, I pointed out to the proponents of the comprehensive bill that their attempt to expand the eligibility base and to insist at the same time that the care be of a high quality would, given the imminent budgetary crisis, lead precisely to the very "warehousing" that their proposal was ostensibly designed to prevent. And just such a consequence, I fear, will also result if the Federal Inter-Agency Day Care Standards are diluted or eliminated as a condition for the receipt of Federal funds for day care.

It is for these reasons that I have in the past urged that Government ought to concentrate its necessarily limited day care resources upon high quality care for those for whom extrafamilial care is a real necessity, and that I now urge the Senate to restore high quality day care standards to H.R. 3153. By accepting our amendment.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. BUCKLEY. I am glad to yield.

Mr. CURTIS. Is the Senator aware that the standards which would be imposed by the pending amendment have been in the regulations for several years?

Mr. BUCKLEY. I am aware of that.

Mr. CURTIS. What is the problem that makes it difficult, impossible, or improbable that the State of New York could and would adequately license, police, and supervise day care centers if the responsibility were upon the State?

Mr. BUCKLEY. I believe that in many

instances, in many areas, the State of New York would undoubtedly exercise appropriate judgment; but quite frankly there are groups and communities within New York who still have not caught up with the growing body of evidence as to the danger to the young if we do not have the very expensive adult-child ratio.

I share with the Senator from Nebraska his general confidence in the abilities of the States to look after themselves, but here we are talking about a program utilizing Federal funds that can do positive damage. This is why I am standing here today. I feel that we may become an instrumentality of harming children.

It is not a question of wasting money; it is not a question of mismanagement; it is not a question of being sloppy. But I know from my own experience and the lobbying that I have received in this area that there are groups that are uninformed. I do know that the standards are being tightened at the Federal level. I do know that there is a growing awareness of the validity of the concerns of those like Mr. Dale Meers, who has documented what happens to these children.

I say it is preferable to have no Federal day care program than to have one in which we are not assured—because we are responsible for how this money is expended—that we have the essential safeguards that we know are necessary.

Mr. CURTIS. I call my distinguished friend's attention to the fact that we rely upon the States to license their doctors, to license their nurses, and to license their hospitals. I also agree with him that the primary concern is what happens to children.

My feeling is that the children are in better hands under the jurisdiction of the State of New York than under a bureaucratic government at the Federal level if responsibility was placed there. That is the reason for my opposition to the amendment.

Mr. BUCKLEY. Mr. President, I believe there is a distinction between having the States conduct an activity financed by the Federal Government in accordance with certain guidelines and having the Federal Government administer the entire program. I agree, subject to the appropriate guidelines, that I would rather see New York State handle the problems; but, again, we get back to the point here where we are dealing with something special. We are not dealing with the question of waste, or of the selection of priorities, or other questions which are utilized as an excuse for substituting Federal administration for State administration. But I see an authorization having a significant sum of money that can be utilized to harm children unless we, here today, take full consideration of the medical facts now available to us and act accordingly.

Mr. President, I would not want to read from the remarks I made on June 20, 1972, at the time I introduced the amendment to upgrade and tighten standards on day care, but I would ask unanimous consent that my remarks on that date be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, let me quote one sample from a paper by Dr. Humberto Nagera, director of the child psycholanalytic study program at Children's Hospital, University of Michigan:

> On the basis of the information available regarding different types of child-rearing practices and their known outcomes, as well as our present day knowledge of the basic needs of the human infant to develop normally and ideally, I cannot but seriously question (for the age group I have been referring to) the advisability of moving to the establishment of day care centers in the grand scale that this country is now planning. I fear that widespread and unthoughtful use of such facilities in this country, for infants in the age range between birth and two and a half years of age, could someday result in the United States mass-producing large numbers of children with serious emotional problems and psychopathology. Furthermore, we may mass-produce large numbers of low achievement, low I.Q. youngsters, babies whose brains are understimulated and mismanaged, whose emotional development has been interfered with by inappropriate day care center's practices.

Here is another quotation from Mr. Dale Meers, child psychoanalyst, at Children's Hospital in Washington:

> The most consequential and controversial question of early day care is that of potential danger and damage to the very children for whom the centers are designed. . . . The significant causal variable appears to be the depersonalization of human relationships that are vital to the child's healthy maturation. . . . Depersonalization can readily take place in institutions. . . . It is a chronic potentiality in group care of children.

Mr. President, there are other samplings, and I do call the Senate's attention to them as to the opinions expressed therein. All I can say is that the literature of the past year has served only to corroborate the extensive evidence I quoted on that day.

Thus I urge my colleagues to vote in favor of the Mondale amendment if we are to have Federal funds going for child care purposes. If we do not adopt this amendment, then we must assume the individual responsibility for setting time bombs around the country—time bombs that can harm our children for the remainder of their lives.

EXHIBIT 1

AMENDMENT NO. 1247

Mr. BUCKLEY. Mr. President, I call up amendment No. 1247 and ask that it be stated.

The PRESIDING OFFICER (Mr. RIBICOFF). The amendment will be stated.

The assistant legislative clerk read as follows:

"On page 74, line 15, insert a new section (2) as follows and renumber succeeding sections:

"(2) In the case of parents who request full day child care services made available under this Act, the Secretary shall inform them in writing of the following: (a) that the mother-infant relationship is the cornerstone of healthy development for the vast majority of children; (b) that group day care is primarily a remedial or emergency device whose value extends mainly to children who are developmentally disadvantaged, handicapped, abused, neglected, or are otherwise receiving harmful care; and (c) that separation from the mother or mother figure on a systematic basis, or for long periods of time, combined with placement in a group care facility, can cause psychological harm to the child, and especially to those under three years of age."

Mr. BUCKLEY. Mr. President, the purpose of my amendment is not dissimilar to the purpose of those who sell medicines, who alert the patient to certain possible harmful side effects of the medicine. I am very much concerned that the potential for harm to young children under the day care programs provided for in this bill far outweighs the good contained in other parts of the bill now before us. While there is unquestionably a need for remedial services for "developmentally disadvantaged" or neglected children, no convincing demonstration has been made for the type of broad-reaching programs here authorized.

A fundamental objection to the overall tone and intent of this bill is what I would call the overselling of the concepts of child development and day care. In the first place, the assumption is conveyed that the Government and its agents know how to provide "healthful and stimulating development" of children. As Dr. Ernest Van Den Haag, psychoanalyst and sociologist at New York University, recently observed in congressional testimony:

"If the government has such knowledge it is a well kept secret of which the scientific community is quite unaware. . . . The assumption that social science has as yet produced a tested theory of child rearing is sheer fantasy. Only a few variables have been detected. And they suggest that family care should be encouraged, not replaced."

The simple fact is that the state of the art of child development is as yet primitive. Mr. Jule Sugarman, former Director of the Office of Child Development underscored this fact in testimony before Congress in December of 1969 when he said:

"As we enter the 1970's we are still seriously deficient in (a) our understanding of how children develop, (b) the causes and nature of the deficits found among disadvantaged children, (c) the techniques for appraising the state of development and (d) the design and delivery of programs and curriculum to prevent or overcome developmental deficits."

He went on to say:

"Early childhood programs are being created and operated on an inadequate base of knowledge. There is general agreement that the early years have great importance in the growth and development of the child. There is also general agreement that high proportions of children from economically disadvantaged families begin to show developmental deficits very early in life."

But, he added—and I wish to emphasize this very strongly, Mr. President:

"There is far less agreement on what constitutes effective intervention to improve the opportunities for development of such children."

I am informed that Mr. Sugarman is a supporter of the pending legislation, as indeed he was of last year's bill. But if what he said in December of 1969 is true—and I believe it is—I cannot for the life of me see how he can be so bold in his support of the current bill. Has there been some dramatic breakthrough in the art or science of child development since December of 1969 Has some hitherto undiscovered body of knowledge come to light since then? I do not believe it has, and know of no one who claims it has. While some progress has been made, the description of the state of the art offered by Mr. Sugarman in December 1969 holds true today. As Dr. Zigler indicated in testimony in 1971, and if it is true, Congress would be premature to enact such a far-reaching program as that proposed today.

There is, in short, much disagreement in the field of child development today. At present, the educational approach to child development seems to be most popular. Indeed S. 3617 reflects this preoccupation with educational preschool programs. Yet there is widespread criticism by respected child specialists of the current emphasis on academic training for young children. It is argued that attempts at programed cognitive stimulation can destroy the creative and developmental value of play and, by pressure for performance, virtually make our children old and gray before their time.

In addition, attempts to increase the cognitive level of children outside of the home have usually been relatively ineffective, or else the successes have been of short duration. On the other hand, efforts to increase the parents' knowledge of good child-rearing techniques, such as the Homestart program, have been markedly successfully in their resulting effects upon the development and well-being of the children, while at a much lower cost than preschool programs like Headstart.

My purpose in mentioning these disagreements is only to point out that a Federal program of child development will necessarily tend to impose one approach to child development on perhaps millions of children—and it could turn out to be the wrong approach.

The field of child development and preschool education is not a value-free, objective science. It is a field of controversy involving diverse value judgments about a variety of sensitive issues, from permissiveness versus discipline to the teaching of belief in God or sex education. It is an area in which Congress would be well advised to tread cautiously.

The fact is that group day care has been oversold. It has been made to appear to be a safe, indeed desirable, form of child rearing and education for virtually all children. S. 2007 is intended to make day care centers eventually available to all children, from birth to 14. The distinguished Senator from Minnesota (Mr. MONDALE) even stated last year, "I hope that we can come up with a national, pre-school developmental program. . . ." While S. 3617 is not as explicit in this regard, nonetheless, the spirit remains the same and both its wording and provisions enable and encourage future expansion on a universal basis. But such an optimistic view of the potential of day care, even the developmental kind, is erroneous on at least two counts. First, child specialists have accumulated strong evidence indicating that the institutional environment of day care centers, even the better ones, can actually be harmful to the psychological well-being and development of young children. Second, as Dale Meers, child psychoanalyst at Children's Hospital here in Washington, and an authority on international day care recently pointed out, the notion that day care offers some general educational advantage is in error:

"I do not understand where this idea originated—"

He said—

"Though I once shared it as a prejudice. The U.S.S.R. does not try to use day care as an educational vehicle, indeed, that country initiates its educational efforts a year later than we do in our public schools."

Mr. Meers explained that developmental day care has potential value as a remedial measure for those children who have been socially deprived, neglected, or handicapped in order to circumvent development decline. He further stated:

"In failing to designate that day care is remedial in its intent, the legislation infers that intact families can securely use such facilities; and . . . since day care is only remedial at best, it bypasses the basic problem of prevention."

The potential harm in day care involves the by now fairly well established fact that the early childhood years, especially 0 to 3, and to a lesser extent 3 to 5, are crucial to a child's later emotional and intellectual development. The quality of parental care and the experience, or lack thereof, during these years significantly affect how well a child will eventually develop physically, mentally, and emotionally.

In connection with this finding it was learned through years of experience and research that many children who were raised in institutions, who spent long periods of their early years away from their mothers and a normal family environment, were significantly retarded in their development and suffered from psychological disturbances of varying degrees of severity. The primary cause of these problems was determined to be "maternal deprivation," that is, the absence or the inadequacy of (1) a relationship to a mother figure who need not be the real mother, (2) the continuous loving care of such a person, as well as (3) the lack of proper emotional and sensory stimulation as a result of such absence or inadequacy.

John Bowlby, a distinguished British doctor, reviewed the extensive research on the effects of many child specialists in his famous monograph "Maternal Care and Mental Health" (1951). He concluded from the evidence that—

"It is plain that, when deprived of maternal care, the child's development is almost always retarded—physically, intellectually, and socially—and that symptoms of physical and mental illness may appear. Such evidence is disquieting, but skeptics may question whether the retardation is permanent and whether the symptoms of illness may not easily be overcome. The retrospective and follow-up studies make it clear that such optimism is not always justified and that some children are gravely damaged for life. This is a somber conclusion which must now be regarded as established."

In the succeeding years a great deal of research and investigation into these issues has shed valuable light on the processes of child development and the circumstances and effects of "maternal deprivation." Nearly all studies have tended to confirm Bowlby's basic hypotheses, with several qualifications. Maternal deprivation can mean the absence of a "mother figure," which need not be the real mother; maternal deprivation also refers to the absence of the emotional relationship and sensory involvement which the mother figure uniquely provides; the effects of institutional care are not always as severe or irreversible as he had thought.

Now, how do these findings relate to the question of a large increase in the number of day care centers which this bill encourages?

First, we must realize that day care centers are institutions and offer institutional care. Second, the essential factor of institutional care is not the nature of the facilities, but rather the institutionalization of human relationships—the impersonal, the necessarily formal and homogeneous nature of the care. Third, the time an infant spends in a center represents most of his formative, waking hours. Thus, the quality of the center experience is critical and can have a great effect on a child's development.

Because, in nine cases out of 10, care in a center is much the same as that in a full-time institution, there is widespread agreement among child specialists that center care should be avoided, if possible, for children under the age of 3.

The Federal Government's interagency day care requirements state that:

"Day care centers should not accept children under three years of age unless the care available approximates the mothering in the family home. Centers usually do not attempt to stimulate family living."

The Child Welfare League of America recommends that a family day care home or some other variation of family environment be used if a mother is unable to care for her children. The league also advises that for children over the age of 3, careful consideration ought to be given to each child's needs and condition in determining whether or not he should be placed in center. In general, the domestic atmosphere and personal scale of care in a decent family day care home is preferred as safer and more appropriate than care in a center.

The reason for this caution and concern about center care or, indeed, any form of group care, is that group day care exposes children to many of the same conditions and hazards which are found in full-time children's institutions. The hazard of the "material deprivation" syndrome exists in nearly all centers, due to the lack of trained staff, high child to staff ratios, and the necessarily lesser concern and interest felt by the staff toward the children, as opposed to the concern of the children's parents or relatives. In an article in 1970 Margaret Mead noted that—

"Paid, well trained nurses who are trustworthy, intelligent and have the character appropriate for the continuous care of an infant are almost nonexistent today. And no State-supported child care center can afford enough well trained, nurturing persons.

The Child Welfare League of America, in a 1962 policy statement, observed that "research and clinical experience have given evidence that group care of preschool children may result in emotional and intellectual damage." The multiple and intermittent mothering that is—infrequent care given by several different people—and lack of sufficient personnel in day care centers results in a situation where a young child cannot form the vital, continuous and close relationship with one particular adult. Furthermore, the child almost never receives sufficient stimulation, especially verbal, necessary for his cognitive and other developmental needs. Indeed, the common absence of socially stimulating conditions in exchanges with adults, for example, probably accounts for the backwardness in speech often found in children in day care centers.

PRIVILEGE OF THE FLOOR

Mr. President, at this time I ask unanimous consent that a member of my staff, Mr. Michael Uhlmann, be granted the privilege of the floor for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, this situation arises not only from lack of sufficient personnel, but, more fundamentally, from the depersonalizing nature of institutional child care. Psychoanalyst Meers, whom I earlier quoted, points out in a recent article on day care that:

"The most consequential and controversial question of early day care is that of potential danger and damage to the very children for whom the centers are designed. . . . The significant casual variable appears to be the depersonalization of human relationships that are vital to the child's healthy maturation. . . . Depersonalization can readily take place in institutions. . . . It is a chronic potentiality in group care of children."

In a cautionary article, "Psychiatry and Day Care Centers" in the care of children in day care centers, published by the World Health Organization in 1964, Dr. S. Lebovici, the noted French child psychiatrist, remarks that some day care centers which pride themselves on maintaining quiet and order and cleanliness, and which point proudly to rapid progress in certain areas of development may create an excellent first impression on the superficial observer. But, he says:

"It is easy, perhaps, in such cases to lose sight of the fact that the children are dull and apathetic, respond passively to the demands of their educators and demand too much of themselves. This may have serious effects upon personality formation."

A study of emotional deprivation in a nursery by M. David and G. Appel in 1962 found much evidence of depersonalization:

"The routine of day-nursery as a rule protects the nurse against establishing any link with the children by obliging her to pass quickly from one to the other. Accomplishing her tasks conscientiously and skillfully, able to obtain a smile here and a look there, the question of real contact with the children does not arise, and she feels no need of it in the tasks she performs. This attitude prevents any attachment but also any feeling of aversion to a child—which is painful—and it also avoids any painful separation at the end.

"It is easy to see from this that the nursery routine "is useful to the nursing staff, and why they oppose change—even apparently simple and obviously necessary change. Such change in fact exposes the nurse to a frustrating experience, either because she cannot give sufficient time to her favorite child—from whom, moreover, she must eventually separate—or because she finds herself faced with indifference or hostility which makes her feel guilty and risks giving her misgivings about her capacity for motherhood."

Meers points out that the greatest potential for harm to children exists—

"In the early years since babies will adapt to anything. The price of accommodation to noise, confusion and different types of handling in day care centers is that babies retreat involuntarily into passivity. They respond by apathy, they stop crying and retreat within themselves. For example, I've seen one nursery in Budapest where hungry infants under the age of six months were almost totally silent. They appear to abandon their genetic potential for crying and activity (as expressions of distress) as they retreat into passivity. If some measures of pain and distress were the only question, that is if babies would outgrow the consequences, it might be alright. But the evidence is anything but clear that this is so. 'The price of adaptation may be a severe psychiatric disability, and it seems probable that even physiological damage may ensue, as in our failure to thrive children. In East Germany, Czechoslovakia, and Hungary, it looked to me, as a clinical observer, that one could visibly discern, by age five, which children had been placed in day care centers since birth, since two or four years of age. That is, the *older* they were when they went in, the more alert and responsive they were. Conversely, the earlier they went in, the more passive, retiring and perhaps retarded.' "

Dr. Lebovici explains that even temporary separation of the child from the mother may result in frustrational pathology:

"In the opinion of many authors, frustrational pathology includes certain mental disorders in the fields of psychopathy, delinquency and even schizophrenia. In any case, the study of frustrational pathology should be extended to cover not only the limited field of sudden complete separation but also the more subtle effects of temporary and partial separations and especially of what has been called emotional or sensory deprivation.

"This, as indicated above, may represent ill-timed and delicate changes in the mother-child relationship (and may throw light on the conflict between the mother's contribution and social demands in regard to the child's needs.)"

In addition to the psychological problems associated with day care centers, there is the question of the social effects of group care. As the Auerbach Corporation's report on the work incentive program comments, in its section on child care—

"Health and education authorities are continually discussing the merits of all-day care, because children growing up in groups are different from children who do not grow up in groups. Young children who spend most of their time with a group of other children (and 'day care' covers most of a young child's waking hours) learn to function in a group environment; they do not necessarily function equally well without the group. There is a possibility that 'day care' and other full-time group facilities for children may develop too conforming a group of children—children who are more comfortable in the group setting and who will find it difficult to function alone."

Mrs. Mary Rowe, a noted child care economic consultant, commented in congressional testimony on the loss of individuality amongst children in Soviet day care centers:

"In the Soviet Union I have seen groups where women were taking care of 15 or 30 small children, ages 3, 4, and 5. Those children are decorous, well-behaved, they move in circles, in groups. The child who steps out of the circle to pick up a leaf or to run around a tree, as a child will, is quietly and gently called back to the circle. The circle moves together to eat, moves together to the bathroom."

Meers notes that in Russia and the Eastern European countries, where day care and preschool centers have long been provided by the government for preschool children, there is growing concern over the effects of such care on the children. Recent research has led to a reevaluation of the desirability of these programs. In Czechoslovakia, for example, the Government no longer allows infants under 3 to be placed in centers, and child researchers are reviewing their desirability for the 3- to 5-year-olds. In other countries child specialists would like to cut down on day care programs, which were once necessitated by a postwar shortage of manpower.

Dr. Sally Provence of the Yale Child Study Center poses some important questions concerning group care in her book, "The Care of Infants in Groups":

"Will there be significant differences in the personality structure of children reared in groups by persons not their own parents compared with children reared in families? Will children reared largely in group settings be able as adults to form families and care for their own children? How does a long period of group care, with the many parent figures inevitably involved, influence such aspects of personality as the development of internalized controls over behavior or the capacity to love? What are its effects on intellectual development and on creativity? How will our society be influenced if large numbers of its members are reared from infancy in group care settings?"

Can we as legislators authorize such a program as is here proposed without concrete answers to these vital questions?

Prof. B. Gornicki, Director of National Research at Poland's Mother and Child Institute, in an article on day care centers published by the World Health Organization in 1964, felt obliged to point out that—

"The environment of a well organized day care center does not *markedly retard* the child's psychomotor development or, in the majority of children, cause behavior disorders or particular difficulties other than those found in children of the same age brought up in their own homes."

But this very statement is an admission that the center experience causes retardation in most children and significant behavior disorders in at least some children.

Dr. Humberto Nagera, director of the child psychoanalytic study program at Childrens Hospital, University of Michigan, has recently written an impressive paper on the developmental and psychiatric problems of day care centers entitled "Day Care Centers: Red Light, Green Light, or Amber Light?" in it he speaks of the "violence that is introduced into the developmental patterns of the young baby and toddler, by a day care situation. He concludes that—

"On the basis of the information available regarding different types of child-rearing practices and their known outcomes, as well as our present day knowledge of the basic needs of the human infant to develop normally and ideally, I cannot but seriously question (for the age group I have been referring to) the advisability of moving to the establishment of day care centers in the grand scale that this country is now planning. I fear that widespread and unthoughtful use of such facilities in this country, for infants in the age range between birth and two and a half years of age, could someday result in the United States mass-producing large numbers of children with serious emotional problems and psychopathology. Furthermore, we may mass-produce large numbers of low achievement, low I.Q. youngsters, babies whose brains are understimulated and mismanaged, whose emotional development has been interfered with by inappropriate day care center's practices."

We in the United States must ask ourselves whether or not we are willing to give unqualified endorsement and support to a program, such as is authorized in this pending legislation which could have these kinds of adverse effects on significant numbers of our children:

As Meers warns:

"I think that the dangers of a comprehensive day care program for children under three years of age are so problematic that it's like asking Congress to approve a new drug for the market that will relieve headaches, though we already suspect that this drug may have a carcinogenic side effect. There are so many real and significant dangers we know of in institutional type care (and institutional care is not confined to four walls, but refers to institutionalization of human relationships) that this proposal entails a potential and very real danger. To establish day care centers across the country without having empirical, psychiatric assessments over time, is an undue and foolhearty risk. Why should we expose large percentages of our children to such risk when there are potentials for severe psychiatric danger?"

It can be argued that the dangers outlined above may in fact be present in existing day care centers, and that one of the purposes of this legislation is to eliminate them by providing quality, comprehensive day care and development centers. This may be possible, but I believe it is unlikely for the following reasons:

First. There is as yet insufficient knowledge and an uncertainty both as to what causes and how to prevent early developing psychological and emotional disorders;

Second. Quality standards of care, especially in terms of personnel will be very hard to meet and maintain for a large scale program; and

Third. The problem of impersonal, comparatively uninterested care by paid attendants will continue indefinitely.

The problem of the lack of knowledge in the field of child development has been discussed earlier in an attempt to remedy these deficits in understanding concerning proper child development and child care policies, The Department of Health, Education and Welfare is currently involved in a variety of experimental child care programs designed to evaluate the different kinds of approaches and their effects and costs. Training programs are also being devised. Final results will begin to accumulate after 1973, when the experiments are completed. The very important longitudinal study which will describe the long range effects of the different approaches is to be completed in 1976.

If, rather than mounting the large scale day care program that will report from this bill, we instead expand a systematic program of research and experimentation into various approaches to center care and environment, we may at least be able to identify the more effective techniques for cushioning the impact of the potentially traumatic conditions arising in day care centers, and perhaps develop more desirable alternatives.

In the absence of such concrete knowledge, I ask you whether the implementation of a large-scale day care program, with its attendant risks, should be permitted.

Realizing that day care centers are a reality and, in some cases, a necessity for children who are developmentally disadvantaged, handicapped, abused, neglected, or otherwise receiving harmful care, we must insure that centers have high standards, not only for facilities—which, given certain minimums, are secondary in importance—but especially for quality of staff and programs. The Child Welfare League of America sets forth the requirements for good developmentally oriented centers in its standards for day care service. Most important, of course, is the number of staff and their training and attitudes. The CWLA recommends, when there is no superior alternative available, that infants be cared for in groups of not more than four, with one adult per two children, and that they receive "individualized, consistent, and continuous care from one person with whom the child can interact . . ."

But finding qualified and appropriate staff personnel is a difficult task. Staff members are thus expected to understand the developmental processes and needs of children and to be trained in the methods of transmitting the appropriate skills and assisting children in discovering themselves and the world around them. They must be of a temperament which is willing and able to relate to and give continuous and individualized care to each of their charges.

Good care in short, should try to approximate the concern and attention of a good, average mother.

Good care, then, necessarily costs a lot of money; the operating cost of good developmental care is usually considered to run about $2,500–$3,000 per child, with staff expenses accounting for approximately 75 percent of the total. But to meet the desirable staff/child ratios, the costs of care in a center may be as much as $4,000 per child, not including any construction costs.

Before Congress passes a major program, it must consider whether the goals of the legislation can be achieved in fact, and whether there is reasonable hope that they will be achieved. Let us consider S. 3617 in this regard.

The effect of the legislation before Congress would be the establishment of federally supported and regulated child care and development facilities across the Nation. Its supporters claim that it will not only meet the existing need for such facilities, but also provide the desired high quality, developmental care. The original legislation, which was vetoed, was intended to establish centers for millions of children, eventually making them available to all children through age 14, regardless of whether or not their mothers work, but for the time being this aspect has been toned down.

Such proposals, idealistically conceived and intended, may sound good on paper. But, aside from the issue, which I have discussed above, of the desirability of launching a full scale program of public child care as opposed to family oriented approaches, there are good grounds for questioning whether the reality of such a program will correspond to its theory.

Mr. President, I submit that it will be nearly impossible to achieve and maintain the high quality care required to prevent damage to young children if the number of day care facilities is swelled significantly by a large increase in Federal funds for that purpose. The reasons for this are essentially threefold: First, the high cost of care, second, inadequate knowledge, and third, lack of trained and capable human resources. The high cost per child for good care is related in particular to the number of staff. The large increase in demand for staff which would result from a major Government program, would force up the costs of staffing significantly. Gwen Morgan, day care consultant to the State of Massachusetts, says that—

"Many day-care operators think they can pay the staff low wages, because most States only require the director of a day care center to have full credentials in the field of early childhood development. But, as the industry grows, there will be a lot of pressure for parity with the teaching profession—look at what happened in New York City."

She refers to a several-week-long strike by day-care employees in the fall of 1969, out of which the employees won a 25-percent pay increase in 1970, followed by a 13-percent hike in 1971.

Even more important than costs is the lack of the necessary knowledge. As discussed earlier, specialists are uncertain as to how a child develops and as to what specifically should be done to promote a child's optimum development. They are even more in the dark as to the prevention of childhood psychological, emotional, and behavior disorders. We simply do not know enough at present to give the right answers.

As regards to the problems of staffing, the number of trained personnel available to staff future centers is woefully inadequate, even for present needs. The Auerbach report on the work incentive program found in 1970 that—

"As the situation now stands, the number of graduates from early childhood education (child development nursery school management, or whatever name it is given), who have also had a few years experience and could therefore qualify as head teachers and directors, is too small to meet the present need, much less any expansion in the number of facilities. . . . The major barrier is still lack of training of staff."

Currently there are very few colleges or universities offering undergraduate or graduate degrees of this nature.

Dr. Humberto Nagera, director of the child psychoanalytic study program at the University of Michigan, Ann Arbor, was reported in a recent interview in the Detroit News as feeling that there are no more than 300 people in America knowledgeable and qualified enough to be directors of developmental day care centers. Yet estimates of the number of new facilities to be set up under recently proposed legislation run as high as 40,000.

His view brings to mind again the statement of Margaret Meade that the type of persons needed to make a good day-care center are "almost nonexistent today."

The shortage of good staff is perhaps the major concern, for it is at the crux of good care as Dr. Lebovici noted in regard to the Paris system.

Mr. Meers has some pertinent comments regarding personnel problems:

"We sometimes assume that recruitment, staffing and training of day care personnel should be elementary. The assumption is most questionable. The status of mothers, and their substitutes (whether babysitters or caregivers), is minimal in the hierarchy of U.S. social conventions. Since we lack the emotional nest of the kibbutzin or the ideological thrust of the Communist world, it appears singularly unlikely that U.S. recruitment of caregivers could be maintained at a level much beyond that of France or East Germany. One might expect that the principle of lesser employability would determine the caregiver's self-selection and that, in lieu of high pay or high status, mobility of caregivers would be considerable."

The mobility of staff is a serious matter because it further reduces the possibility of continuity of care and results in the breaking up of whatever close personal relationships the caregiver may have established with some children. It is an aggravation of the problem of "multiple mothering." Meers adds that it is a widespread problem in European day-care center operations, as well as our own.

Finally, Mr. President, we can expect to see a widespread substitution of these centers for the current arrangements of working mothers, mothers taking advantage of this subsidy to seek work, and a number of mothers who find it easier to let the government rear their children than to accept and fulfill this responsibility themselves—which, by the way, seems to be a perfect inducement to parental neglect. As Muriel Katz, director of New York City's day care program observed in 1970:

"Every time we open a new center, especially in a new neighborhood, it just seems to stimulate demand that much more."

Dr. Zigler, Director of the Office of Child Development, recently made a revealing observation in regard to this problem:

"If nothing else, women's liberation will see to it that we have day care. I know it is coming, but I am apprehensive. I am concerned that we may destroy family life."

Given the numbers of children potentially involved under the proposed Federal program and the lack of qualified personnel available, not to mention facilities, it seems that the quality of care given to children will necessarily have to suffer. Standards will have to be waived or lowered in order to accommodate the crush of children created by the availability of relatively free, Government subsidized and approved day care facilities. The first thing to go will undoubtedly be the very important high staff/child ratio requirements. Indeed, because of complaints from States and localities that the high staff/child ratio requirements of the existing Federal interagency day care standards are too expensive and inhibit this expansion of facilities, the Department of HEW is currently circulating a proposed revision of standards which lowers staff requirements.

In the Soviet Union, Meers found that—

"The vast extension of the programs appears to have made recruiting demands that do not permit the quality of staff selection aspired to by planners."

The Soviet experience has great relevance to our own situation. If we greatly expand day care facilities, as is proposed, not only may we have to make do with less staff than is required for good care, but we will be forced to hire people who are both inadequately trained and who lack the warmth and the concern so necessary for the successful development of children. In fact, we run the serious risk not only of putting the children of working mothers and others into depersonalized and potentially hazardous institutional settings, but also of putting them into the hands of people who may be less capable of and less interested in giving them good care than many of those who now look after them.

Mr. President, I want to say that I had marvelous cooperation with the sponsors of the bill, the Senator from Wisconsin and the Senator from Minnesota. I agreed I would not ask for the yeas and nays on this amendment but rather that I would submit it for a voice vote, which I am prepared to do at this time.

Mr. BUCKLEY. Mr. President, the first amendment is an amendment which is not printed, which I send to the desk. This amendment would make clear that nothing in this act shall be construed to authorize the creation or maintenance of child advocacy programs unless specifically authorized by statute.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

"On page 76, line 11, before "Repeal" insert the following additional paragraph (c):

"(c) Nothing in this Act shall be construed to authorize the creation or maintenance of Child Advocacy programs, nor shall any funds appropriated under the authority of this Act be used for the creation or maintenance of Child Advocacy programs unless specifically authorized by statute."

Mr. BUCKLEY. Mr. President, I believe that the amendment is self-explanatory. I have no further remarks to make on it.

Mr. President, my second amendment is a substitute for my amendment No. 1248, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

"On page 3, between lines 9 and 10 insert the following new subsection:

"(c) Congress finds that the family is the cornerstone of healthy physical and psychological development for children, that the value of day-care services extends primarily to economically disadvantaged children, with special emphasis upon those children who have special developmental needs or other hardships, and to other children for whom suitable care is not otherwise available, and that day-care services outside the child's own home must be designed to supplement and support, and never to replace, the parent-child relationship. This Act is not intended or designed to provide a framework for the universal application of outside-the-home care to children in general."

Mr. JAVITS. Mr. President, would the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JAVITS. I believe the clerk read "physiological" and I think the amendment states "psychological."

Mr. BUCKLEY. That is correct. I thank the Senator.

Mr. President, the amendment is self-explanatory. The purpose is to focus the resources under the bill to those who are mostly in need. The resources are limited and I am sure that all concerned want them to go to those who cannot get suitable care.

Mr. President, the next amendment I call up is amendment No. 1246.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

"The Senator from New York (Mr. BUCKLEY) for himself and the Senator from Texas (Mr. TOWER) propose an amendment as follows:

"On page 68, line 14, strike the period and insert the following at the end of the line: "operated or funded by the Federal Government."

Mr. BUCKLEY. Mr. President, this is purely a technical amendment. The amendment would make sure that where the Federal Government is authorized to coordinate 16 programs in the child-care field, we are talking about programs operated or funded by the Federal Government.

Mr. President, my next amendment is No. 1245.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. The sponsors and I have agreed to certain modifications which I ask be incorporated in amendment No. 1245; namely, on line 3, strike out the word "three" and insert the word "two"; on line 8, strike out the word "three" and insert the word "two"; on page 2, line 2, insert the word "suitable" after the word "other"; on line 5, strike out the word "three" and insert the word "two"; and on line 8, page 2, insert "to the extent possible" after the word "receive".

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

"Mr. BUCKLEY, for himself, and Mr. TOWER proposes an amendment:

"On page 59, line 3, after the date "1968.", insert the following: *"Provided, however,* That in the case of group care facilities, the ratio of caregivers to children under two shall not be more than one to two, such care to be provided for in groups of not more than four."

"On page 75, line 8, after the word "served—", insert the following and renumber the succeeding paragraphs:

"(1) Children under the age of two shall not be placed in group care facilities unless it is deemed necessary and unless other suitable alternatives are unavailable. In any case where group care is provided for such children, the ratio of caregivers to children under the age of two shall not be more than one to two, such care to be provided for in groups of not more than four. Such care must approximate the mothering in the family home. Each child must receive to the extent possible individualized, consistent, and continuous care from one person with whom the child can intereact."

Mr. BUCKLEY. Mr. President, the next amendment which I send to the desk is technical in nature.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

"On page 6, line 12, after "homes" and before the period (.), insert the following: ", including family day care homes."

Mr. BUCKLEY. Mr. President, again the purpose of the amendment is clear. It is to make plain that it includes not only the child's own home, but any other home where the child can receive suitable environment and care.

Mr. President, those are the lot. Again I want to express my very great appreciation for the cooperation and help which I have received from the sponsors.

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

There was not a sufficient second.

Mr. CURTIS. Mr. President, it would be my hope that we would not vote on this amendment tonight. It is unprinted and I am sure that most Senators have not had the opportunity to examine it.

This proposal was considered by the Committee on Finance and rejected. I feel very strongly that it is not a question of being for good and adequate, properly run, child care centers, or being against them. It is a question of where the responsibility should rest.

The amendment before us would perpetuate the regulation that has prevailed for the past several years. Without that amendment, the responsibility shifts to the States.

Mr. President, I believe that the concern of the States and State officials for children, for their health and safety, for their education and their nurture, is greater than that of the Federal Government.

That is true for many reasons. The State is closer to the parents. The State is closer to the children in the schools and the other problems.

Now, so long as we have Federal regulation, the objective of the States will be to do no more than is necessary to comply, in order to keep the money from being shut off.

I do not think that the great State of Massachusetts or the great State of New York, or my own State, or any other State, will be part of a program of running substandard child health care centers.

Mr. MONDALE. If the Senator will yield for a moment, he mentioned earlier that, in his judgment, he would prefer this amendment to be laid over to vote on tomorrow. If that is the Senator's intention, then I should like to ask the leadership whether, perhaps, we could agree on a time agreement to vote tomorrow. That is the reason why I interrupt the Senator at this point.

Mr. CURTIS. Very well.

Mr. MONDALE. Because I should like to make some other plans. Perhaps the Sergeant at Arms could ask Senators BYRD or LONG to come into the Chamber.

Mr. CURTIS. I think it would be helpful so that we would know what time we are expected to come in tomorrow. From all appearances, the completion of this bill will take quite a little time. There are a number of provisions adopted by the Finance Committee that many of us believe should have further attention, and there might very well be major amendments offered. It will do no particular harm to let this particular amendment go over.

Mr. President, in the absence of the presence of the distinguished chairman of the committee in the Chamber at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask unanimous consent that the vote on the pending amendment take place at 12 noon tomorrow.

Mr. JAVITS. Before that request is acted on, may I ask the Senator to include in the request the fact that a quorum call may be called for before a vote?

Mr. MONDALE. I ask unanimous consent that the vote occur following the calling of a quorum.

Mr. JAVITS. I do not think it is necessary to mandate it, but just to have it clear.

Mr. MONDALE. I would be glad to modify my request accordingly, I make the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I am pleased to join Senator MONDALE, Senator BUCKLEY, Senator RIBICOFF, Senator CRANSTON, Senator HOLLINGS, Senator PACKWOOD, and Senator STAFFORD in this amendment to H.R. 3153, the "Social Security Amendments of 1973."

The purpose of our amendment is to insure that child care programs to be conducted under the new social services title of the Social Security Act meet existing minimum established Federal standards.

As Senators know, under the committee bill, the States and localities would henceforth be given considerable flexibility in formulating and conducting child care and other social services programs in such matters as eligibility, duration of programs and other basic elements.

We believe, however, that the area of comprehensive child care programs—affecting as it does our greatest resource—is one in which an exception should be made and the flexibility of States and localities should be subject to some Federal direction.

Under our amendment, the programs would have to meet the existing Federal "Interagency day care standards" which deal with such important matters in the case of "out of the home" care as student-teacher ratios, parental involvement, educational activities, and health and nutritional standards; with respect to "in home" care standards would have to be consistent with national standard setting organizations, such as the Child Welfare League.

The committee bill essentially leaves this matter completely up to the States; the HEW regulations, which this new authority would replace, merely provide generally for the Secretary to promulgate standards as to out of the home care; with respect to "in home" care, the States would have considerable leeway.

Mr. President, these same interagency standards were part of S. 2528, the social services amendments which I sponsored, along with Senator MONDALE and 34 others and with the support of the National Governors Conference—the Governors themselves.

The committee, while adopting the basic elements of that bill in its rewrite of the social services law, chose not to take that element.

But Congress has already on numerous occasions adopted them as a matter of legislative intent.

These standards, which were promulgated originally in 1968, were actually placed in the law just last September when they were made applicable to the Head Start program although the Economic Opportunity Act Amendments of 1972, which became law on September 19, 1972.

Previously, on June 21, 1972, these standards were adopted by the Senate as a part of S. 3617, the "Comprehensive Headstart, Child Development, and Family Services Act."

The standards are already applicable to a number of other federally funded day care programs, including programs under the Manpower Development and Training Act and the Elementary and Secondary Education Act.

Generally speaking, they were applicable to social services programs prior to the regulations.

Mr. President, it is not difficult to imagine the "horror stories" that may result if the States and localities are permitted to provide child care of any variety, without Federal standards, for the stories already exist.

Already, in the case of child care programs not subject to Federal standards, there have been some very horrendous situations; for example, as indicated in a 1972 report entitled "Windows on Day Care" by Mary Dublin Keyserling, a report based on findings of the National Council of Jewish Women, the following description, from a case study was set forth:

> This is an abominable center. It was very crowded. In charge were several untrained high school girls. No adults present. No decent toys. Rat holes clearly visible. To keep discipline, the children were not allowed to talk. This mass custodial center couldn't have been much worse.
>
> This center should be closed. It was absolutely filthy . . . broken equipment . . . broken windows . . . 2 children, aged 10 and 12, in charge. The kitchen was very dirty . . .
>
> Very poor basement dark room. All ages together. Rigid control and discipline. Rundown equipment. This is a sad case of inhumane, dehumanizing of kids by an owner who makes plenty of money.

The risk of repeating these circumstances through the country in the absence of standards is increased by the fact that social services are to be under severe cost regulations as a result of the $2.5 billion ceiling generally applicable and the $1.9 billion ceiling for this fiscal year under the committee bill, compared with estimates nationwide of $4.5 billion just 2 years ago.

We cannot take the chance that States may sacrifice quantity for quality.

Mr. President, in principle one would have thought that by now there would be complete bipartisan agreement on the need for having quality child care.

President Nixon, in commenting on child care provisions contained in his Family Assistance Act in 1969, said:

> The child care I propose is more than custodial. This Administration is committed to a new emphasis on child development in the first five years of life. The day care that would be part of this plan would be of a quality that will help in the development of the child and provide for its health and safety, and would break the poverty cycle for the new generation.

The White House Conference on Children, conducted in December 1970 and attended by experts from all sections of the United States, voted that child care was the No. 1 priority for children, urged high standards for the programs, and then stated:

> The question is not whether America "should" have day care, but rather whether the day care which we do have, and will have, will be good—good for the child, good for the family, and good for the nation.

The American Parents Committee, Inc., headed by George J. Hecht, a recognized leader in matters affecting children, stated in its February 1, 1973, "Legislative Goals on Behalf of Children":

> The general principle that APC will work for is: all care provided children, whether supported totally or in part by Federal funds, shall meet the 1968 requirements, regardless of the place where such care is given or the auspices under which such care is given.

A wide variety of organizations concerned about children and families—including the American Academy of Pediatrics, the Child Welfare League of America, the National PTA, the UAW, the American Association of University Women, the National Council of Jewish Women, the National Association for the Education of Young Children, the Black Child Development Institute, and the National Child Day Care Association—are supporting this amendment.

Mr. President, it will undoubtedly be argued by some that to have these requirements will force "astronomical" costs in child care.

That argument has been made repeatedly in previous considerations of this very issue. But HEW estimates that these standards cost approximately $400 per year for after school care and $1,600 for full day care—hardly extravagant.

But what if it does raise costs? Can there be anyone here that would want the standards to be otherwise? As my colleague Senator BROOKE said so forcefully during the debate a little over a year ago on H.R. 1:

> What are we talking about? We are not talking about cars and airplanes, airfare, and all those things that have been mentioned. We are talking about children, and we are talking about children in the most formative years of their lives, the preschool years.

Even those who would put things purely in cost effective terms would agree that, over the long run, it is the best investment that can be made.

Mr. President, it might be noted that in some cases the standards might operate as a minimum as well as a maximum, thus preventing a "gold plated" approach running to the other extreme were no standards applicable at all as under the committee bill; certainly in the field of education there have been some horrendous examples of excesses in physical plants occasioned by such leeway.

Moreover, it is important that we keep these programs consistent with one another and as I mentioned all of the present programs are now subject to these very same standards.

Mr. President, the question of comprehensive child development has been debated back and forth in this body. Many of us are still concerned that we continue to establish a comprehensive child care program. But the sad fact of the matter right now is that continuing what we have now without standards could perpetuate the kind of damage to children that the greatest opponents of comprehensive child care legislation fear.

I believe it is fair to say that this concern is what has prompted my colleague, Senator BUCKLEY, to take such a constructive role in this effort joining with us, as he has before.

Dr. Edward Zigler, former head of the Office of Child Development, a selfless public servant concerned with children, and now at Yale, sized up the situation well in an appearance before Senator MONDALE'S subcommittee on Monday, September 24, 1973, in stating:

> The point of this story is that, while this may not be the time for large new initiatives, it is certainly time for decision-makers to examine extant social policies and practices important to families so that we might at least correct those policies which are, at one extreme, thoughtless and uneconomical, and at the other, involve the government as a co-conspirator in the abuse of children.

Mr. President, the situation requiring this amendment arises, in my judgment, because of our deep interest in the future of the child as a person and as a working citizen, and a very strong effort to avoid the concept of custodial care or a kind of storing bodies of small children. I wish to identify myself with that point of view.

I hope very much that by maintaining these standards, our government will really strike a blow in the way of not abusing children by the fact that circumstances require the type of care which is dealt with in the social security amendments.

Mr. LONG. Mr. President, I regret that I find myself in a difference of opinion with my good friend, the distinguished and very able senior Senator from Minnesota (Mr. MONDALE). He has worked very diligently on this bill and has made an excellent contribution in the Nation's interest. I applaud his position on everything except this item. He has been statesmanlike, considerate, understanding, and right about everything except this item.

Mr. President, for sometime we on the Committee on Finance have had a different attitude about the child care problem from those on the Committee on Labor and Public Welfare. It has always been a tradition in the Committee on Finance that when we think of recommending something, we think in terms of what it will cost, and we usually think in terms of where we will find the money to pay for it. Other committees do not have the same burden, and it has sometimes been amusing to me. I have sat on the Committee on Foreign Relations and voted on a foreign aid bill and have felt that we had been so generous that we had given our friends abroad everything except the statue on top of the Capitol dome. Then I have seen Senators from the same committee walk across the Capitol Plaza to the Committee on Finance, where that committee would be voting on matters that involved benefits to various and sundry groups, and I have seen them proceed to be as tight as Dick's hatband and not vote for anything for anybody because it was going to cost money and they had the responsibility of raising the money.

This was an innocuous bill sent to us from the House, of little moment, and it has now been amended to increase the cost by billions of dollars, a great deal of money. We on the Finance Committee are anxious to do a great deal of good for the poor of this Nation, the aged, the blind, the disabled; and we have not been niggardly in recommending a great deal for the people of this country. But here is where we reach a parting of the ways with some of our colleagues who have been more liberal on the day care issue than those of us on the Finance Committee.

We have seen those on the Committee on Labor and Public Welfare, on which the Senator from Minnesota serves, as well as others with clearly good intentions, propose day care programs far beyond the ability of this Nation to finance, in the opinion of the President, in the opinion of the Bureau of the Budget, and in the opinion of the executive branch generally. We have seen at least one measure of that sort, which would have cost many billions of dollars, go to the White House, be vetoed, and be sent back to us by the President, without our power to override the veto.

We have seen very ambitious programs of that sort proposed which cost many billions of dollars, only to see them fail. The approach of the Committee on Finance in the matter is that we recognize improvements of day care centers could cost $10 billion a year. We do not see that we have the availability of that much money for that purpose when we compare it to all the other great needs of the country. The attitude has been that we would try to provide as much additional funds as we could find to go forward to provide better day care for children. That is about the same attitude we take with regard to the poor. We are providing tens of billions of dollars to help the poor and we would like to do more, but as much as we would like to do more, we realize there is a limit on the ability of taxpayers to pay for it.

Against that background, let us look at this amendment. We had a social services program. We had regulations proposed by the administration which the States felt were difficult or impossible to comply with. So we turned the States loose to use their own judgment in using social services funds, and limiting them only with regard to the amount of Federal money the Government would pay for these services.

It was agreed by the Senator from Minnesota (Mr. MONDALE) and others on the committee that the States should have the right to decide what kinds of things they are going to do and should have the freedom to do them quite differently from the way the Department of Health, Education and Welfare might recommend. But now, as an exception, the Senator from Minnesota would like to see Federal standards imposed on just one social service—day care.

And what Federal standard do they want to apply? They want to apply a standard which exists in name only, a standard with which States have been unable to comply with today and with which States will be unable to comply in the future.

The amount of money for social sevices will be limited. The amount of money for child care can only be a part of the $2.5 billion we are making available for social services.

With whatever part the States may use of this $2.5 billion for day care, if they adopt these standards, this can only mean in State after State they will find it necessary to reduce the number of children for whom day care can be made available because the standards imposed in this amendment will be far beyond the ability of the States to provide it.

For example, I hold in my hand a table on State child care staffing requirements, which has been prepared by the staff of the Committee on Finance. This table shows the standards by State law for day care centers as effect in 1971. This is not too far out of date—there might be a few changes but not many. With regard to the number of adults that would be required for children ages 3 to 4, for example, the Mondale amendment would require about twice as many adults as State laws now require. State laws would generally require one adult for every 10 children in day care centers, while the Mondale amendment would require one adult for every five children. The amendment would require a doubling of staff, just to discuss one item.

Under the Federal standards, educational opportunities must be provided every child under the supervision and direction of a staff member trained or experienced in child growth and development.

What that requirement would mean as far as the States are concerned is that they would have to have a person in each of these day care centers that would have a right to make the same level of pay as schoolteachers in that State, and that would mean that where ordinarily they might be able to get by with a woman who had all the credentials of a very fine and thoughtful mother, they would now have to have someone to meet the standards and pay scale of a schoolteacher to care for these children.

I understand that standard, is the New York standard. As a matter of fact, Mr. Sugarman, who has been mentioned in this debate, told me he helped draft these regulations and I assume this is more or less a New York standard. He finds that it costs more than $2,400 a child to apply that standard in the State of New York.

According to this table only the States of New York and Rhode Island meet that standard of one adult per five children age 3 to 4.

We heard the discussion by the distinguished Senator from Massachusetts (Mr. BROOKE) with reference to children running in the streets and getting into a life of crime and developing bad habits. That is what happens when children run without any supervision or care and it is what happens when they are not in day care at all.

It would stand to reason that if this additional burden is to be placed on the States by being written into law and enforced on the States, rather than merely being a regulation that is not being observed, this would mean that States would be forced to reduce the number of children in day care centers because they are unable to hire the number of attendants for the day care centers. This means the children would, indeed, be running in the streets and getting into bad habits, keeping bad company, and being in a bad environment—just what all of us seek to avoid.

Why should we remove large numbers of children from the day care centers by insisting on a standard that few, if any, States can meet?

The Senator said he spoke to virtually everyone who had any credentials or background in the day care area. I do not agree. I wish to quote, for example, from the committee report last year on H.R. 1. I wish to quote from the testimony of Prof. Carl Bereiter, who has devoted his career to the education of young children. In a paper presented at Johns Hopkins he said:

> It appears that the main thing wrong with day care is that there is not enough of it and the main reason there is not enough of it is that it costs too much. At the same time, those who are professionally dedicated to advancing day care seem to be pressing continually to make it more costly by setting certification requirements for day care workers and by insisting that day care should be educational and not just high-quality institutionalized babysitting.
>
> . . . Producing a measurable educational effect in young children is far from easy; . . . it requires as serious a commitment to curriculum and teaching as does education in older children. I cannot imagine day care centers on a mass basis carrying out educational programs of the kind needed to produce measurable effect. If they cannot do so, then it will prove in the long run a tactical blunder to keep insisting that day care must be educational. Sooner or later those who pay for it will begin demanding to see evidence that educational benefits are being produced, and the evidence will not come forth.
>
> It would seem to me much wiser to seek no more from day care than the sort of high quality custodial care that a child would receive in a well-run home, and to seek ways to achieve this level of care at a cost that would make it reasonable to provide it to all those who need it. One should not have to justify day care on grounds that it will make children do better in school any more than one should have to justify a hot lunch program that way.

Mr. President, we could have some disagreement and differences of opinion about how much it would cost to comply with the Senator's standard.

It appears to me that it would cost $2,400 per child per year—as much money as the average welfare family of four may receive in the States of the Nation today.

But even if we take the word of the Senator from Minnesota (Mr. Mondale) that it would cost $1,600 a year to provide the care, it is still, for just one child, about $200 a year more than the State of Louisiana is able to provide for a family of four. That is the standard that would be imposed on Louisiana, and that standard would cost more for a single child than it would cost for a family of four in the home. Louisiana simply could not afford to put children in day care centers with that standard. Nor could many other States.

At the present time the law in Louisiana requires, for children of ages 3 to 4, 1 attendant for every 14 children. It might be suggested that perhaps we should have a standard of 10 children per day care worker. That would mean we would have to get one-third more day care workers. But the Senator wants us to provide three times as many attendants in each day care center than the law in Louisiana provides for now, if he could enforce what he wants to write into law. What he is seeking here, as far as the States are concerned, is so impractical that they have not been able to comply with it. So the matter has been the subject of deliberate avoidance or pretense that they do not know it is not being complied with, because it is a regulation with which the States are unable to comply.

The authority I have cited is not the only one who feels the same way. Here is a quotation from Gwen Morgan, child care consultant for the State of Massachusetts, a very enlightened State of the Union, explaining exactly the same type thing with regard to this problem.

I ask unanimous consent that that statement, as well as explanatory material, appear at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Problem of Writing Staff-Child Ratios Into Law

We would all agree that there should be enough people on the staff of a child care center to take care of the children. The Federal Interagency Day Care Requirements define what "enough" is in a very precise way: for 3 to 4 year-olds the ratio of children to adults must be no greater than 5 to 1, for 4 to 6 year-olds no greater than 7 to 1, and 6 to 14 year-olds no greater than 10 to 1. Presumably, Federal funds would be lost if these ratios were exceeded.

Yet very few experts if called upon would be willing to say that these ratios would be necessary in all situations. Gwen Morgan, Child Care Consultant to the State of Massachusetts, has pointed out some of the problems of using this kind of arbitrary standard. She says:

"Traditional approaches have been to use an arbitrary figure for the staff-child ratio for an age peer group. This does not take into account a number of factors which would affect the staff-child ratio upward or downward in writing requirements. For example, the needed adult-child ratio is affected by (1) the fact that children are not necessarily going to be in groups all the same age; (2) the time of day and type of activity; (3) the size of the center. It is easier to do a good job in a small center where everybody knows each other well, with fewer staff than might be needed in a center of more than 100 children; (4) the number of children in the program who have some special need; (5) the type of program; for example, drop-in centers may require more staff; (6) the involvement of parents and the community.

"In addition to all of those variables which might affect staff-child ratio, and more important than any of the others, is the abilities of the staff. The staff-child ratio needed varies with the experience and skills of the teacher. A skillful teacher can create an atmosphere in which the children themselves are encouraged to relate well to one another and contribute to one another's growth. One good teacher can create this kind of group with ten children, if the center is organized well. Superior teachers might even go beyond this. Some programs will wish to use all skilled teachers, and licensing requirements should not inhibit them from doing this."

A look at the present State licensing requirements should give some indication of the lack of consensus' that exists in this area—they presently vary a great deal in what is required for licensing of programs within the various States.

Perhaps some day the experts can agree on what the perfect adult-child ratio is, but in the meantime there should be room both for experimentation and responsiveness to local needs and situations.

Mr. LONG. Here is a statement from Dr. Edward Zigler, former Director of the Office of Child Development of the Department of Health, Education, and Welfare, dealing with the question of requiring that day care be educational.

I ask unanimous consent that it appear in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Learning is an inherent feature of being a human being. The only meaningful question, therefore, is not "*Why* do children learn?" but, "Why is it that some children do not learn?" Approached in this way, the problem is not one of getting intelligence into nonlearners but rather of determining the conditions and attitudes that interfere with the natural process of learning. We are all aware that children learned before cognitive theorists told us how and before the invention of talking typewriters. Indeed, children learned before schools of any sort existed. How could this learning have been possible without the formal programing of experiences which we have come to associate with the formal educational process? The answer, I think, is that in his natural state the child is a much more autonomous learner than adherents of the pressure-cooker approach would believe. I am convinced the child does most of his learning on his own and often the way to maximize it is simply to let him alone. He accomplishes some of the most significant learning in his every day interaction with his environment. Learning for the child is, thus, a continuous process and not one limited to the formal instruction and whizbang remedial efforts that have recently captured our attention. . . . Whatever the nature of cognitive development might be, such development has been overemphasized in our current society.

Mr. LONG. Mr. President, I ask unanimous consent to place in the Record at this point a statement of the major features of the Federal interagency day care requirements.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Major Features of Federal Inter-Agency Day Care Requirements

1. State and local licensing:

All facilities must be licensed under applicable State and local licensing laws; Federal regulations are in addition to State and local requirements.

2. Staffing requirements:

a. Child care center:

Not more than 5 children age 3 to 4 per adult; not more than 7 children age 4 to 6 per adult; not more than 10 children age 6 through 14 per adult.

b. Home child care:

Generally, not more than 6 children per adult.

3. Staff qualifications:

Must meet State requirements; all staff must receive continuous in-service training in child development; nonprofessional staff must be given career progression opportunities.

4. Safety:

Meets State and local requirements.

5. Health:

General requirements of sanitation and public health measures.

6. Education:

Educational opportunities must be provided every child under the supervision and direction of a staff member trained or experienced in child growth and development.

7. Social services:

Provision must be made for social services under the supervision of a staff member trained or experienced in the field.

8. Parent involvement:

Parents must be provided opportunities to work with the child care program and to observe their children in the facility; whenever an agency provides child care for 40 or more children, there must be a policy advisory committee (with at least 50 percent parents or parent representatives selected by the parents in a democratic fashion) which assist in the development of child care programs, participate in the selection of program directors and staff, and are otherwise involved in the administration of child care programs.

Mr. LONG. Mr. President, I ask unanimous consent to place in the RECORD a chart demonstrating that, with regard to the minimum staffing requirements of State laws, very few States in the Union have been able to comply with those standards.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

CHILD CARE CENTERS: MINIMUM STAFFING REQUIREMENTS, BY AGE OF CHILDREN, UNDER STATE LICENSING REGULATIONS

	Maximum number of children per staff member [1] if age of children is—						Minimum number of adults on premises
	under 2	2 to 3	3 to 4	4 to 5	5 to 6	School age	
Alabama	[2] 5	[2] 5	10	20	20	25	2
Alaska	5	5	10	10	10	10	2
Arizona	10	10	15	20	25	25	[3] 2
Arkansas	4	6	10	10	10	(4)	[5] 2
California	(6)	12	12	12	12	12	1
Colorado	(6)	[7] 8	10	12	15	15	2
Connecticut	4	4	7	9	9	12	2
Delaware	[8] 8	[9] 15	15	20	20	25	1
District of Columbia	[10] 10	10	10	10	10	(11)	[11] 1
Florida	5	10	10	10	10	15	1
Georgia	[12] 10	10	15	18	20	25	2
Hawaii	(6)	10	15	20	25	25	1
Idaho	(6)	[7] 10	10	10	10	10	[13] 1
Illinois	6	8	10	[14] 10	25	25	1
Indiana	(6)	(15)	10	12	15	20	2
Iowa	(6)	6	12	15	18	25	2
Kansas	(6)	(15)	12	12	16	16	[16] 1
Kentucky	6	8	10	12	15	15	[3] 2
Louisiana	[10] 14	14	14	14	14	14	[3] 2
Maine	(6)	[7] 8	10	15	18	20	2
Maryland	(4)	(4)	(4)	(4)	(4)	(4)	1
Massachusetts	(6)	(15)	10	10	15	15	2
Michigan	(6)	[7] 10	10	12	20	(4)	[3] 2
Minnesota	10	10	10	10	10	10	1
Mississippi [16]	(6)	8	10	15	20	25	2
Missouri	(6)	(14)	10	10	15	15	2
Montana	(6)	15	15	20	25	25	2
Nebraska	(6)	(15)	7	7	7	12	1
Nevada	2	10	10	10	10	15	1
New Hampshire	(6)	(15)	(4)	(4)	(4)	(4)	2
New Jersey	(6)	(4)	(4)	(4)	(4)	(4)	1
New Mexico	10	15	15	15	15	( )	1
New York	[17] 5	5	5	7	7	10	1
North Carolina [16]	[8] 8	12	15	20	25	30	[18] 1
North Dakota	3	5	10	10	12	12	2
Ohio	[19] 10	10	15	15	20	20	2
Oklahoma	[20] 6	8	12	15	15	20	[21] 1
Oregon	10	10	10	10	10	10	1
Pennsylvania	(6)	(15)	8	10	10	13	2
Rhode Island	(6)	(15)	5	8	13	(4)	2
South Carolina	6	8	10	14	15	15	2
South Dakota	8	8	8	12	18	25	[21] 1
Tennessee	(6)	10	10	15	25	30	[21] 1
Texas	4	8	12	15	18	25	1
Utah	(6)	10	15	15	20	25	2
Vermont [22]	2	6–8	6–8	6–8	6–8	(4)	2
Virginia	3	10	10	10	10	10	2
Washington	(6)	[7] 10	10	10	10	10	[3] 2
West Virginia	(6)	8	10	15	18	20	[13] 1
Wisconsin	[23] 4	[24] 8	10	12	16	16	[25] 2
Wyoming	(6)	(15)	10	15	20	(4)	1

[1] Includes only persons providing child care; when there is a mixture of ages, the ratio for the youngest child is generally applicable.

[2] Children under age 3 must be in separate facilities.

[3] When the number of children exceeds 10.

[4] Not specified under licensing requirements.

[5] When the number of children exceeds 10, during peak hours of the day.

[6] Children under 2 generally may not be accepted.

[7] Ages 2½ to 3. Children 2 to 2½ generally may not be accepted.

[8] 5, if children are under 1.

[9] 8, if children are under 2½.

[10] 6, if children are under 1½.

[11] 2, when there are at least 10 children of school age.

[12] 7, if children are under 1½.

[13] 2 if possible.

[14] If full day; 20, if half day.

[15] Children under 3 generally may not be accepted.

[16] Licensing not required; standards relate to voluntary certification by State Department of Public Welfare. For Mississippi, ratios apply to number of children enrolled.

[17] 4, if children are under 1½.

[18] 2, if more than 6 children under age 3.

[19] 8, if children are under 1½.

[20] 4, if infants in cribs.

[21] 2d adult must be available in case of emergency.

[22] Under proposed regulations.

[23] 3, if children are under 1.

[24] 6, if children are under 2½.

[25] When the number of children exceeds 9.

Source: Based on material submitted to Office of Economic Opportunity.

Mr. LONG. Mr. President, I point out that the best thing that can be said for the Senator's amendment is that at least in two categories the Senator would rely upon State laws. With regard to State and local licensing, he would follow State laws, and with regard to safety requirements, he would follow State laws. At least to that extent we are in agreement.

All I am saying is that I would be happy to agree with the Senator if he would merely say the States would have to comply with State laws. But to set a standard that, according to my best information, only two States are complying with, if that many, is really more than I think we have a right to expect.

Mr. President, what has been accomplished so far in the effort to reach the millennium in one quick jump in the day care area has been utter frustration. Those who wanted a big new program sent a bill to the President. It was vetoed. There were not enough votes to override the veto. We on the Finance Committee proposed a Federal day care corporation and to make $800 million available to do as much as could be done under proper conditions of day care, adding to that what was already available. The Senator and those who agreed with his position voted to strike from that bill the Federal child care corporation because it did not contain these kinds of standards. So the result was nothing—not one red, copper cent being added for day care. Instead of getting another $800 million for the benefit of little children, in H.R. 1, we got zero, which was a rather unfortunate result for those of us who wanted to move forward with the bettering and improving of conditions for children.

I would submit that as to the amendment that the Senator from Minnesota sponsored and that which he recommended to the committee, saying that the States should be accorded the freedom to set their own social services programs, and do as much as they could with the amount of money available, with a minimum of Federal interference of that character, he was right when he submitted it, he was right when he urged it, and he was right when he voted for it. The only point on which the Senator was in error was the matter which I know is closest to his heart, when he said that in everything except day care the State should have the privilege of spending the money as they deemed advisable. But in this area it is very obvious that the outside hand of the Federal Government will reach in and dictate a standard that cannot be followed, and with which the States have been unable to comply. It is, to me, an unfortunate thing for those of us who favor day care, and want to do as much as we can for it, to find ourselves repeatedly frustrated by the effort to insist on something that costs so much that it results in nothing happening, and in the Senate being unable to provide larger amounts of funds for the purpose, leaving to the States and to those who have the responsibility, the power, the capability, and the freedom to do just as much as they can for as many people as they are able to help with the amount of money we are able to make available.

I hope very much that when this amendment is voted on tomorrow, the Senate will not see fit to try to make an exception in the day care area which it does not make in any of the other areas of social services; that it will not try to impose a Federal standard here. I hope so particularly in view of the fact that this is one area where the Federal standard, which the States have been unable to comply with, would be one which the States would not be able to comply with using the funds available at present for that purpose.

I submit that these impossible types of standards have been passed by the Senate on other occasions. Whenever that happens, it results in suffering by day care, because no other funds are made available for the purpose.

I hope very much that the Senate will see fit to be practical and prudent, and will move as we have urged. We should move toward a higher standard that we can afford, rather than to impose a standard which cannot be met and which can only be met with frustration on the part of those opposed, who realize it is a practical problem, and that we can only do as much as we can with the money we are able to extract from the taxpayers for this purpose.

THE MINIMUM TAX

Mr. KENNEDY. Mr. President, at an appropriate time, I intend to call up, on behalf of Senator NELSON and myself, a tax reform amendment to H.R. 3153, to improve the minimum tax in the Internal Revenue Code. The minimum tax was the imaginative measure adopted by Congress in 1969 as a means of insuring that wealthy individuals and corporations did not escape their fair share of taxes through excessive use of tax loopholes. Unfortunately, however, because of certain crippling amendments adopted on the Senate floor, the minimum tax has not achieved its goal.

Over the past 4 years, both Senator NELSON and I have worked toward closing the loopholes in the minimum tax. Last year, in two major efforts on the Senate floor in 1972, Senator NELSON made outstanding efforts to reform the minimum tax. And only last June, by the narrow margin of 49 to 47, our reform proposal was defeated on the Senate floor. The amendment we plan to offer tomorrow is identical to the one we offered in June, and we hope that this time it will be successful.

At an appropriate time, as well, Senator NELSON plans to offer a tax reform amendment to delete the provision in the committee bill that eliminates the gasoline tax deduction. Previously, Senator NELSON had proposed an amendment to the bill by which the revenue effect caused by deleting the committee provision could be almost exactly offset by including the minimum tax amendment. I support Senator NELSON's position on the gasoline tax deduction, because, whatever the merits of eliminating the deduction as a tax reform concept, it would be unjustified to do so at this time of rumored astronomical increases in the gasoline tax. And so, I urge the Senate to support both of the amendments we shall offer.

Mr. NELSON. Mr. President, tomorrow the Senator from Massachusetts (Mr. KENNEDY) and I shall call up an amendment to H.R. 3153 as amended by the Senate Finance Committee which would restore the present deduction allowed for State and local gasoline taxes, proposed to be eliminated by the committee, and offer in its stead a revision of the minimum tax which would disallow deductions for regular income taxes paid before preferred income is subject to the minimum tax. Whatever the merits of the proposed elimination of the deduction for State and local gasoline taxes, this proposal was not subject to any testimony or hearings before the Senate Finance Committee this year and was proposed by the committee principally as a revenue producing measure to pay for other proposed changes contained in H.R. 3153.

The revenue effect of these two amendments is almost identical. It is estimated that the revision of the minimum tax will increase tax revenue by $580 million whereas elimination of the State and local gasoline tax deduction will increase revenues by $589 million. While their revenue effects are the same, the consequences for the ordinary American taxpayer are radically different. The minimum tax, even with the revisions we propose today, applies only to wealthy individuals who have more than $30,000 in preferred income each year, regardless of how much regular income they also have. The State and local gasoline tax deduction, on the other hand, is of benefit to low-income Americans. The gasoline tax helps workers to pay some of the cost of traveling to work.

Mr. President, I ask unanimous consent to insert in the RECORD at this time a table showing the amount of deductions taken in 1972 for State and local gasoline taxes for various income tax brackets.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Income tax deductions taken for State and local gasoline taxes

[Amount of deduction—in millions]

Income tax bracket	
$0–$3,000	1
$3,000–$5,000	7
$5,000–$7,000	27
$7,000–$10,000	83
$10,000–$15,000	165
$15,000–$20,000	136
$20,000–$50,000	147
$50,000–$100,000	19
$100,000–over	6

Mr. NELSON. Mr. President, this table shows that individuals with taxable income of $20,000 or less receive the benefit of $419 million of the $589 million deducted for State and local gasoline tax. This amounts to 71.1 percent of the total amount deducted.

The committee proposal would therefore add substantially to the tax burden of low- and average-income taxpayers. It is much more equitable to raise additional revenues by taxing income which escapes taxation entirely rather than adding to the tax burden of middle-income Americans.

Probably nothing discredits the tax system more than the knowledge that many wealthy people are paying little or no income taxes. The Secretary of the Treasury heralded a "taxpayer revolt" when he disclosed that in 1967, 155 Americans with incomes of over $200,000 paid no Federal income tax and in fact 21 of them made incomes in excess of $1 million each. In 1969, some 300 individuals with incomes of more than $200,000 paid no Federal income tax.

In an attempt to correct, to a limited extent, this inequity Congress in 1969 established a minimum tax providing for a flat 10-percent tax rate on income that had escaped entirely being subject to tax. Congress enacted the minimum tax on tax preference income because, regardless of the individual merit of the provision which established such preferences, we did not want them to be pyramided by wealthy individuals to allow them to escape liability entirely.

It is not at all inconsistent to take the position that while certain tax subsidies may be desirable, a taxpayer who takes advantage of such subsidies in an excessive amount or who reduces his tax contribution to an insignificant amount should be required to include such excess in his tax base. The purpose of this amendment is not to reduce the amount of the tax subsidies except in those cases in which taxpayers take undue advantage of such subsidies through excessive manipulation of the tax code.

It is generally agreed, however, that the minimum tax has not achieved its stated purpose that every wealthy individual and corporation should pay at least a minimum tax on his preference income.

In 1970, the first year when the minimum tax was in effect, 106 individuals with adjusted gross incomes exceeding $200,000 still paid no Federal income tax. Incredibly, three taxpayers with adjusted gross incomes of more than $1 million each paid no income tax at all. In 1971, 276 taxpayers with incomes over $100,000 paid no Federal income tax at all.

The effective tax rate in 1970 for individuals who paid the minimum tax on their preferred income was 4 percent rather than the statutory rate of 10 percent. In 1971, individuals paid $163 million in minimum tax on total preference income of $6.2 billion for an overall effective tax rate of 2.63 percent and 98,000 individuals reported tax preferences but only 24,000 of them actually paid a minimum tax on their preference income for an effective rate of 4.13 percent.

In 1970, 6,000 corporations paid $280 million in minimum tax on preference income of $4.1 billion for an effective rate of 6.7 percent; 75,000 corporations, however, paid no minimum tax on preference income of $1.6 billion for an overall effective minimum tax rate of 4.8 percent.

When the minimum tax was enacted, it was estimated that it would raise $590 million in calendar year 1970, $600 million in 1972, and $635 million in the long run. In fact, actual revenue gains are far below these estimates. In 1970, it raised only $117 million from individuals and $280 million from corporations. In 1971, it raised only $163 million from individuals.

It can be argued that the minimum tax failed to raise estimated revenues because of the volatile nature of capital gains. While unquestionably the minimum tax on individuals falls most heavily on capital gains and therefore its revenue would be affected by the volatile nature of capital gains; this does not mitigate the fact that the deduction for income taxes paid obviously reduce the effectiveness and the revenue gained from the minimum tax. For example, in 1970, for individuals the aggregate figure of total regular taxes that could have been deducted before payment of the minimum tax was $2,629,467,000.

Although there were several different minimum tax proposals submitted to Congress, the one finally adopted was that of the Senate Finance Committee which applied a flat 5-percent tax rate on all preference income in excess of $30,000. The Finance Committee bill was amended on the Senate floor by an amendment offered by Senator MILLER of Iowa to raise the rate from 5 percent to 10 percent and to allow a deduction of other Federal taxes paid. A year later, in December 1970, a further floor amendment by Senator MILLER was passed under which this minimum tax exclusion was broadened to incorporate a 7-year carryover of regular income tax liability to the extent not initially utilized to offset tax preferences. It is this deduction of other Federal taxes paid that this amendment would eliminate.

I completely support proper and orderly legislative process but it should be noted that provisions for deduction for income tax paid, which this amendment seeks to remove, were themselves not subject to the normal legislative procedure. No hearings were held, no witnesses were heard, no staff investigation made or committee report filed on these amendments. The amendments allowing for the deduction of Federal income taxes paid and for the 7-year carryover were never considered by any tax-writing committee, but were added by amendments on the Senate floor with little debate as to their merit or effect.

Senator MILLER's first amendment was offered December 10, 1969, to the Tax Reform Act of 1969.

Senator MILLER's principal arguments were that his amendment, by raising the statutory rate from 5 percent to 10 percent, would be more equitable and that it would raise more revenue. As Senator MILLER stated at that time:

> Mr. President, I think the proposition before the Senate is very simple. Are we going to be satisfied with the application of the pending bill to those taxpayers who are paying no tax, for example, by taxing them only 5 percent on their tax preferences, or do we want to do a better job, a more equitable job?
>
> My amendment will tax them to the extent of 10 percent. I would like to see this bill do more equity than it is doing now. I do not think anybody in the Senate could be proud of going before the American people and saying, "the best we could do with people not paying taxes is to nip them 5 percent."
>
> I think we could hold our heads higher if we set it at ten percent.
>
> I am very pleased to tell the Senators that, whereas, under the pending bill the minimum tax would pick up $700 million additional revenue, my amendment would pick up $740 million.
>
> My amendment does equity. It makes sure that those who are not paying any taxes at all will have to pay at least 10 percent of their tax preferences, and it will bring added revenue into the Treasury compared with what the tax bill does.

As I indicated above, in fact, the minimum tax's effective rate was really only 2.63 percent and its revenue yield was $163 million for individuals in 1971.

On December 18, 1970, Senator MILLER offered on the floor, an amendment to H.R. 17473, a bill to extend the period for filing certain manufacturers' claims for floor stock refunds under Section 209(b) of the Excise Tax Reduction Act of 1965. No questions were asked and the amendment was accepted by voice vote. The conference report on this bill was discussed on December 22, with Senator MILLER expressing his unhappiness that his amendment had been dropped.

On December 29, Senator MILLER offered the same amendment to the Excise, Estate and Gift Tax Adjustment Act of 1970 which as modified became law. Both times Senator MILLER's amendment provided for 3-year carryback and a 5-year carry forward. This approach was opposed because of its complexity and because it would require some refunds. The amendment as finally adopted provided for a simple 7-year carry forward as was discussed in the conference report on this bill on December 31, 1970.

It is, therefore, hardly defensible to argue that these amendments, adopted on the Senate floor with so little consideration, can only be repealed by the most formal and laborious legislative procedure.

The basic rationale for the minimum tax is that it is needed because certain taxpayers have amassed certain items of income which are not included in their regular tax base. The minimum tax addresses itself not to individuals who have escaped taxes, but to large sources of preference income. Even with the most rigorous enforcement of the minimum tax there will still be wealthy individuals who would escape taxes. Furthermore, concentration on the few wealthy individuals who pay no taxes at all diverts attention to a much graver problem of a scandalously low tax rate for many wealthy individuals on their preferred income. For example, in 1971, 98,000 individuals reported tax preferences totalling $6.2 billion but the effective tax on preferred income was 2.63 percent. These excluded items stand apart from, and in addition to, the items normally taxed. The reason the taxpayer is subjected to the minimum tax is that his effective tax is too low in relation to his real income due to the amount he received from tax preference items. To give him credit for the tax that he pays on his regular income defeats the purpose of the minimum tax. The tax on "regular" income is simply unrelated to the tax on excluded items of tax preference. It is illogical to establish a tax on the preferred income escaping taxation, and then allow a deduction for taxes paid on regular income.

The proposed amendment does not in any way change the structure or composition of the present minimum tax. It does not:

First, change or raise the statutory rate of 10 percent;

Second, reduce or eliminate the deduction of $30,000 presently available to every taxpayer before calculating income subject to the minimum tax;

Third, add a single new item of preference income to the base of the minimum tax, for example, intangible drilling and development cost as has been proposed from time to time.

This amendment merely tries to guarantee that the minimum tax achieve its stated goal and raise additional revenue not by taxing already overburdened average American taxpayers but by taxing forms of incomes that escape taxation entirely.

Mr. President, I ask unanimous consent to insert in the RECORD at this time three case examples of how the minimum tax presently works and how it would apply under this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THREE CASE EXAMPLES

The following are illustrations of the effect of disallowing a deduction for regular income taxes under the minimum income tax, with details of tax computations included. All examples assume a joint return, four personal exemptions and itemized deductions at 10% of total income.

Case I—An individual with a $60,000 salary and a $60,000 capital gain.

$50,000 of the capital gain would be taxed under the alternative tax of 25% for a tax liability of $12,500. One half of the remaining $10,000 capital gain would be included in regular income.

Computation of regular tax liability:

Salary	$60,000
Plus capital gain	5,000
Equals	65,000
Minus (itemized deduction)	12,000
Equals	53,000
Minus (Four personal exemptions of $750)	3,000
Equals (taxable income)	50,000
Tax liability from table	17,060
Plus alternative tax	12,500
Equals (regular tax liability)	29,560

Minimum tax computation:

Preference income	30,000
Minus (exemption)	30,000
Equals (minimum tax)	0

Minimum tax liability under amendment—none.

Case II—An individual with a salary of $200,000, other regular income of $400,000 and a capital gain of $1,000,000.

$50,000 of capital gain would be taxed under the alternative tax, for a liability of $12,500. For the remaining $950,000, $475,000 would be included in regular income.

Computation of regular tax liability:

Salary	$200,000
Plus other income	400,000
Plus capital gain	475,000
Equals (adjusted gross income)	1,075,000
Minus (itemized deductions)	160,000
Equals	915,000
Minus (4 personal exemptions of $750)	3,000
Equals (taxable income)	912,000

Tax from table	$609,000
Plus alternative tax	12,500
Equals (regular tax liability)	621,880
Computation of current minimum tax liability:	
Preference income	500,000
Minus exemptions	30,000
Equals	470,000
Minus regular tax	621,880
Equals (no minimum tax)	0
Computation of minimum tax liability under amendment:	
Preference income	500,000
Minus exemption	30,000
Equals	470,000
Times a 10 percent tax equals (minimum tax)	47,000

Case III—An individual with a salary of $300,000, other regular income of $600,000 and a capital gain of $2,000,000.

$50,000 of capital gain would be taxed under the alternative tax for a liability of $12,000. For the remaining $1,950,000 one half would be included in regular income.

Computation of regular tax liability:	
Salary	$300,000
Plus other income	600,000
Plus capital gain	975,000
Equals (adjusted gross income)	1,875,000
Minus (itemized deductions)	290,000
Equals	1,585,000
Minus (4 personal exemptions of $750)	3,000
Equals (taxable income)	1,582,000
Tax from table	1,078,380
Plus alternative tax	12,500
Equals (regular tax liability)	1,090,880
Computation of current minimum tax liability:	
Preference income	1,000,000
Minus exemption	30,000
Equals	970,000
Minus regular tax	1,190,880
Equals (no minimum tax)	0
Computation of minimum tax liability under amendment:	
Preference income	1,000,000
Minus exemption	30,000
Equals	970,000
Times a 10 percent tax equals (minimum tax liability)	97,000

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF THE MAJORITY LEADER AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, the distinguished majority leader be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that at the conclusion of routine morning business tomorow, the Senate resume consideration of the social security bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at the hour of 10:30 a.m.

After the two leaders or their designees have been recognized under the standing order, the distinguished majority leader will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business lasting not more than 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will resume the consideration of the then unfinished business, H.R. 3153, a bill to amend the Social Security Act to make certain technical and conforming changes.

A vote will occur at the hour of 12 o'clock noon on the amendment by the Senator from Minnesota (Mr. MONDALE).

Other votes will occur on amendments to the social security bill tomorrow. Whether or not the Senate will complete action on that measure tomorrow is in doubt to some extent, but following the action on the social security bill, it is anticipated that the leadership will call up the daylight saving time bill, on which there is a time limitation agreement.

There will, I repeat, be rollcall votes tomorrow.

QUORUM CALL

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10:30 a.m. tomorrow.

The motion was agreed to, and at 5:55 p.m. the Senate adjourned until tomorrow, Thursday, November 29, 1973, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 28, 1973:

DEPARTMENT OF DEFENSE

James W. Plummer, of California, to be Under Secretary of the Air Force, vice John L. McLucas, elevated.

IN THE ARMY

The following named person for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3894 and 3311:

To be captain

Schroeter, Barbara A., [redacted]

IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Beck, Donald M. [redacted]

The following-named temporary disability retired officer for reappointment to the grade of captain in the Marine Corps, subject to the qualifications therefor as provided by law:

Tucker, William M., [redacted]

The following-named (Navy enlisted scientific education program) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Dublin, Charles
Edwards, Paul S.
Fairchild, Charles R.
Glosenger, Carl M
Harrison, Stephen G.
Kupar, Michael
Miller, C. J.
Nikula, Raymond A.
Stockburger, Richard
Turley, John
Wageman, John P.
Welker, Lawrence E.
Withrow, Ronald

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Absher, Alton L.
Armstrong, Elwood M.
Austin, Robert B.
Barnette, Charles R.
Barry, Robert L.
Beck, Donald F.
Blair, John F.
Boddington, Craig T.
Bogue, Edward W.
Brannan, Charles E.
Brickell, Randy W.
Brown, Richard A.
Buechler, Mark A.
Burfield, Terrence
Burns, Ronald K.
Butcher, Donald R.
Carnahan, James C.
Carrese, Robert T.
Carthan, Mitchel
Casad, Daniel D.
Chartier, Gregory J.
Chevis, Leroy
Clagett, Robert
Clarke, Steven R.
Clarkson, Billy J.
Coddington, Steele
Conklin, William D.
Connally, Michael B.
Conway, Daniel A.
Cook, Michael W.

Crawford, Ronald D.
Cunningham, Glenn K.
Cunningham, Scott E.
Davey, Frank W.
Debragga, Donald S.
Delacour, Richard J.
Denman, Russell E.
Diltz, George D.
Dobson, Robert K.
Doucette, Bruce M.
Dusenbury, Timothy
Eberhart, George A.
Ellsworth, John M.
Embler, Stephen F.
Ericson, Carl J.
Etter, James E., Jr.
Ferguson, Fletcher
Finnerty, George M.
Fisher, Charles D.
Fraser, Leslie S.
Freed, Walter H.
Fullaway, Douglas A.
Garner, John M.
Gaskin, Walter E.
Gerichten, William
Gillette, Norman W.
Gorbell, Michael R.
Graebner, Steven E.
Gunther, Christopher
Hardy, Mark S.
Hensley, Doyle W.
Herd, Patrick W.
Herold, Craig B.
Hillery, Robert W.
Hobbs, Chris D.
Hoffman, Carl W., Jr.
Holmes, Richard D.
Hopkins, Jeffrey W.
Hunter, Paul R.
Isajewics, Edward A.
Jackman, Neal L.
Jackson, Kenneth D.
Johnson, William D.
Kemble, Roy H.
King, Frederick T.
Kist, Frederick M.
Kittle, Richard M.
Koen, Joseph C.
Krimm, James J.
Landry, Paul J.
Lauer, George S.
Laurie, Herbert
Lee, Thomas H.
Lewis, Garry W.
Linn, Eric J.
Loeffler, Henry C.
Lundy, Michael E.
Maccarone, James V.
Marke, John A.
McCarthy, Thomas G.
McDaniel, James V.
McGinnis, Robert M.
McKenzie, Richard
McMenamin, Joseph J.
McQuire, John D.
McReynolds, Timothy
Melin, Ronald R.
Meyer, Philip G.
Montgomery, Mark D.
Moore, Timothy G.
Moreton, Andrew H.
Morris, Martin T.
Muldrow, Warren F.
Murphy, Gary E.
Nicoll, Thomas E.
Nuss, Lawton R.
O'Leary, Thomas M.
Parker, Raymond D.
Paul, John T.
Pendleton, Alan C.
Perkins, William M.
Phillippe, Matthew
Pickett, John P., II
Ranville, Timothy N.
Richard, Herbert
Roos, Quentin R.
Satran, Michael E.
Sauer, Paul M.
Schwartz, Chester W.
Sealey, Reginald M.
Sharer, Kenneth A.
Shows, Richard J.
Sickinger, Daniel
Skinner, Gerald G.
Slingsby, Todd H.
Smith, Dennis J.
Smith, Floyd R., Jr.
Smith, William L.
Sowell, Hubert E., Jr.,
Spaethe, Frederick
Spragins, Samuel H.
Stacy, Richard J.
Stanley, Felma, Jr.
Stephens, Richard D.
Stoller, James R.
Strock, Frederick T.
Stubbs, Robert M.
Tafelski, Randall S.
Taxeras, John R.
Taylor, Walter E.
TenKley, Arlan D.
Terrebonne, Timmy J.
Tomisek, Steven J.
Torrence, Alexander
Trautman, George J.
Ullmann, Douglas W.
Van Dyke, Jeffrey B.
Wheeler, Kevin M.
Williams, Harry T.
Williams, Ondra L. A.
Worst, Terry J.
York, John R.
Young, Julius
Zitvogel, Mark E.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 28, 1973:

DEPARTMENT OF JUSTICE

William H. Stafford, Jr., of Florida, to be U.S. attorney for the northern district of Florida for the term of 4 years.

Lincoln C. Almond, of Rhode Island, to be U.S. attorney for the district of Rhode Island for the term of 4 years.

Gaylord L. Campbell, of California, to be U.S. Marshal for the central district of California for the term of 4 years.

James W. Traeger, of Indiana, to be U.S. marshal for the northern district of Indiana for the term of 4 years.

Elmer J. Reis, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years.

U.S. PATENT OFFICE

The following-named persons to be Examiners-in-Chief, U.S. Patent Office:

Roger L. Campbell, of Virginia.
Walter W. Burns, Jr., of Virginia.

DEPARTMENT OF THE INTERIOR

Morris Thompson, of Alaska, to be Commissioner of Indian Affairs.

FEDERAL POWER COMMISSION

Don S. Smith, of Arkansas, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1978.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Wednesday, November 28, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I have fought a good fight, I have finished my course, I have kept the faith.—II Timothy 4: 7.

Eternal God, our Father, amid the confusion of chaotic days, and troubled as we are by many things, we would be sure of Thy presence else we lose our way and fail both man and Thee. In these tumultuous times which try our souls, we pray that we may make every effort to strengthen the spiritual foundations of our beloved Republic knowing that without faith in Thee all our labor is in vain.

Unto all who work under the glowing dome of this glorious Capitol do Thou give wisdom, strength, and courage that they may fill these moving hours with mighty deeds. May they valiantly play their part in the life of our day thinking clearly, doing justly, and walking humbly with Thee.

Bless Thou our President, our Speaker, and every Member of Congress, giving to them the spirit which makes for enduring justice, lasting peace, and never-ending good will.

In the spirit of the Prince of Peace we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11459, MILITARY CONSTRUCTION APPROPRIATIONS, 1974

Mr. SIKES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 11459, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. SIKES, PATTEN, LONG of Maryland, OBEY, McKAY, DAVIS of Wisconsin, TALCOTT, McEWEN, and CEDERBERG.

STAGFLATION AND SLUMPFLATION

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, I would like to report to the American people some good news and some bad news. The good news is that "stagflation," that condition uniquely invented recently by the administration in which you find the unpredictable parallel between the presence of no growth in the gross national product and inflation, will be passé.

Now, the bad news: We are going to find as we look at the economic indicators a replacement by something called slumpflation in which you have a recession in parallel with an increase of inflation.

I think that to keep that on balance, the President also has some good news and some bad news.

The good news is that he can stop worrying so much about Watergate. The bad news is that the other utilities are going to take its place because the bad news is going to be about gas and oil and electricity.

PERMISSION TO CALL UP H.R. 11576, SUPPLEMENTAL APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order today to take up the bill, H.R. 11576, making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I shall not object, it would be my hope that the gentleman will find some means of notifying the House if he does plan to call the bill up today, so that we might have our material in connection with the bill on the floor if it is called out of order in the present schedule.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. GROSS. Yes, of course.

Mr. MAHON. Mr. Speaker, it seems doubtful that we could bring the bill up today. Under the rules it would be eligible for presentation tomorrow.

However, tomorrow we do have the big defense bill scheduled, and it is not possible to tell how long it might take.

So I thought that this request was appropriate in the event that the bill which is before us today might be completed earlier than expected.

Mr. GROSS. Mr. Speaker, all I would say in response is that I would like—and I assume other Members would—to have some advance notice, if possible, as to when the bill will be called.

Mr. MAHON. Mr. Speaker, in such event I shall make the information immediately available.

The SPEAKER. The Chair would like to clarify the gentleman's request.

Does the gentleman mean today or any day this week?

Mr. MAHON. Any day this week, yes, Mr. Speaker.

Mr. GROSS. Mr. Speaker, further reserving the right to object, does that mean Saturday?

The SPEAKER. No. It is the Chair's understanding the request does not include Saturday.

Mr. GROSS. Mr. Speaker, I wondered about that.

The SPEAKER. The Chair does not like to interfere. However, the Chair does want to maintain some control over the program. The request would include today, Thursday, or Friday of this week.

Will the gentleman amend his request to include such an amendment?

Mr. MAHON. Mr. Speaker, I will so amend the request.

Mr. Speaker, I ask unanimous consent that it may be in order today or tomorrow or Friday for the House to take up the bill, H.R. 11576, making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRADE LEGISLATION

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, the trade bill prepared by the Ways and Means Committee should be acted on before the Christmas recess. I understand the President's reluctance to jeopardize our current working relations with the Russians by risking enactment of the Jackson-Vanik amendment at this time. The Russians are sophisticated observers of our institutions, however, and can understand that this issue will ultimately be resolved next year in the other body or in conference between the Houses, whatever happens when the bill hits the House floor. Setting this issue aside, there are compelling reasons for pressing forward with balanced trade negotiating authority for the President. The climate of support for the trade bill is favorable now—while changes in the economy and complications from a continuing oil crisis could have a major political impact as we move toward elections next year. Already during the Middle East war we have seen some pulling back by our major trading partners from the kind of cooperative relationship which must characterize successful trade negotiations. Even before this complication, Sir Christopher Soames, Europe's chief negotiator, was indicating that our slow legislative timetable made slippage in already planned negotiating sessions inevitable. Our credibility as prime movers for trade reform is tarnished by delay, and without vigorous leadership on our part the chances for successful trade negotiations are much diminished. So, Mr. Speaker, let us get at it: Regardless of White House doubts resulting from the Russian problem, we should in this House provide the movement toward trade reform for which the world is watching.

REINTRODUCTION OF LEGISLATION ON PROSECUTING ATTORNEY

(Mr. DENNIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENNIS. Mr. Speaker, a few days ago I introduced a bill, H.R. 11467, on the subject of a special prosecuting attorney and through inadvertence and mistake on my part, I included the name of our colleague the gentleman from Iowa (Mr. MEZVINSKY) as one of the cosponsors.

The gentleman from Iowa (Mr. MEZVINSKY) was and is, in fact, opposed to the bill, and I have since reintroduced the bill as H.R. 11555, omitting him as a cosponsor.

Mr. Speaker, I sincerely regret the occurrence, and I tender my apologies to the gentleman from Iowa.

PLIGHT OF SOVIET JEWS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, I wish at this time to express my deep concern for the plight of Soviet Jews who are experiencing severe forms of harassment, oppression, and imprisonment for their efforts to lawfully emigrate from the Soviet Union.

One such instance is the case of Frida Kalk and her family. They live in Lithuanian SSR and applied for visas to Israel in May 1971. Frida's 65-year-old mother is living in Israel and is an invalid after having spent 18 years of exile in Siberia. Frida Kalk's petitions for emigration have fallen on cold and insensitive ears in Moscow. In February, her telephone was cut off for "conversations harmful to the interests of the U.S.S.R." Her mother's letters are not delivered. Their rights of human dignity have been denied. Frida Kalk and her family are prisoners in Russia.

As the leader of the free world, we cannot passively stand by and watch this senseless persecution. We must come to the rescue of these lawful citizens by supporting the Mills-Vanik bill as a part of the Trade Reform Act. I strongly urge every Member of the House to stand in support of this legislation.

WATERGATE PROSECUTOR: WERE AP EDITORS MISLED?

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, in a question and answer session before Associated Press editors, broadcast on nationwide on all three television networks, November 17, 1973, President Nixon told the Nation that—

> He (the Special Prosecutor) cannot be removed unless there is a consensus of the top leadership of both the House and Senate, Democrat and Republican: the Speaker and the Majority and Minority Leaders of the House and the President pro tem, the Majority and Minority Leaders of the Senate and the ranking two members of the Judiciary Committees of both the House and Senate, which, incidentally, gives you, as you can see, a very substantial majority, as far as the Democrats are concerned.

The President went on to say that the Special Prosecutor "will not be removed unless the Congress, particularly the leaders of the Congress, and particularly the Democratic leaders who have a strong majority on this group that I have named, agree that he should be removed."

However, in this morning's Federal Register, at page 32805, there are new Justice Department regulations providing that only the "majority and minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and House of Representatives" would be consulted.

It is apparent to anybody that this group named in the Federal Register is not the group described by the President, and that there is no majority of Democrats, substantial or otherwise.

I would hope that the President would be more careful in his references to the Special Prosecutor's independence, and all matters relating to the Watergate.

NAVAL PETROLEUM RESERVE AT ELK HILLS

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, I rise again as I did yesterday to urge you to exert your leadership capability and push for the opening of the Naval Petroleum Reserve at Elk Hills and the development of Naval Reserve No. 4 in Alaska. Should another serious emergency arise, there is presently no way to turn on the valves in Pet No. 4. There are none. Each day we delay the Elk Hills proposal, about 120,000 barrels per day is denied important and necessary domestic use—such as heating the homes of those in the Northeastern United States. As an example, Mr. Speaker, there is a refinery in Guam of 30,000 barrels per day capacity. Until the Arab embargo, this refinery drew all its crude from the Middle East. They must now be supplied by U.S. domestic production, giving rise to wild stories of increased petroleum exports. I might add, Mr. Speaker, most of this capacity is used by the Navy. Open Elk Hills, Mr. Speaker. Do not permit further unwarranted delay.

COMPREHENSIVE MANPOWER ACT OF 1973

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 719 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 719

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11010) to assure opportunities for employment and training to unemployed and underemployed persons. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against section 410 of said substitute for failure to comply with the provisions of clause 4, rule XXI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Indiana (Mr. MADDEN) is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, Chairman PERKINS and Congressman DANIELS who chairs the subcommittee held several weeks of hearings on this legislation; and, the members of the Education and Labor Committee are to be commended for the outstanding work they have done in reporting this bill to the floor of the House for enactment.

This legislation has the endorsement of the administration, of all labor groups and many industrial and business organizations, along with other economic groups throughout the Nation. It has been too long delayed, because the complex manpower laws have needed comprehensive reform and simplification.

This bill makes public service employment as an integral part of the comprehensive manpower program, and aids greatly in providing employment opportunities in all areas of substantial unemployment. It eliminates a great deal of the cumbersome redtape which now exists, and it decentralizes the programs and makes them more responsive to State and local control.

H.R. 11010 also eliminates a great percentage of approximately 10,000 labor contracts with the Secretary of Labor and streamlines the operation of grants to about 550 local and State prime sponsors who are more capable of operating the programs to meet local conditions.

In appearing before the Rules Committee, Chairman PERKINS, Congressman DANIELS, and Congressman ESCH testified that after approximately 40 days of hearings on this bill, the administration, labor representatives, and members of the committee ironed out and compromised on many controversial sections of the legislation so that it can now be presented to the Congress with unity and cooperation, and can prove to be a great step forward in administering our flagrant unemployment areas over the country.

There was no opposition to the rule in the Rules Committee, and the legislation passed the Education and Labor Committee by an overwhelming vote.

Mr. Speaker, further outlining the essential provisions of this legislation, stipulations are set out to give financial assistance to State and local governments for planning and operating comprehensive manpower programs. This assistance will be confined primarily to programs for public service employment in areas of substantial unemployment.

The bill gives the Department of Labor authority for manpower programs and specifically to aid groups with possible language barriers, and it gives direct responsibility for Job Corps, research, training, and technical assistance. It also expands labor market information, job bank programs, and related activities, and establishes a National Commission for Manpower Policy.

Policemen, teachers, nurses, firemen, and other public service jobs recognized as necessary and permanent are extended aid and funds, under the act. An amendment has been submitted and adopted, to this legislation, which will expand programs to persons of limited English-speaking ability. The 1970 census revealed that we have over 10 million Americans for whom Spanish is the primary language. These citizens are primarily distributed in the metropolitan and industrial areas of the Nation, and also in certain rural areas, especially in the South and Southwest. The language barrier has deprived many of our people of the right to basic education, which eventually leads to underemployment and the expansion of our relief costs.

This legislation also includes provisions to insure that training opportunities reach migrant and seasonal farmworkers.

Eighty percent of the funds prescribed are allocated among areas within States in accordance with a two-part formula which gives equal weight to the number of unemployed within an area and to the amount of manpower funds received in the previous fiscal year.

This is long delayed legislation, and I do hope Congress enacts the same by a large majority for the future benefit of the Nation's economy generally.

Mr. Speaker, H.R. 719 provides for an open rule with 2 hours of general debate on H.R. 11010, a bill to assure opportunities for employment and training to unemployed and underemployed persons.

H.R. 719 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment. The substitute shall be read for amendment by titles instead of by sections.

H.R. 719 also provides that all points of order against section 410 of the substitute for failure to comply with the provisions of clause 4, rule XXI of the Rules of the House of Representatives—prohibiting appropriations in a legislative bill—are waived.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the statements which have just been made by the distinguished gentleman from Indiana (Mr. MADDEN). I hasten to point out that there is a waiver in the resolution that provides for a waiver of points of order on section 410. This is for a transfer of funds from one agency to the other.

As for the bill itself, Mr. Speaker, I am very much opposed to it. It will mandate the expenditure of $250 million for fiscal year 1974 and $500 million for fiscal year 1975 for title II. Title II authorizes additional funds for areas with substantial unemployment for either transitional public service employment, or job training, or other work experience programs authorized by the act.

It seems to me that we ought to take a hard look at this bill, and perhaps when it gets into conference do something about the situation being brought about by the energy crisis. There are a lot of people being laid off. I think we ought to take a hard look and see whether or not we can do something in this area.

Mr. GROSS. Mr. Speaker, will my friend, the gentleman from Ohio, yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding and ask him what justification was given to the Committee on Rules for a waiver of clause 4, rule XXI? Does the gentleman think reasonable justification has been given?

Mr. LATTA. It is not only justified; it is absolutely necessary if we are going to transfer these funds.

Mr. GROSS. Does the gentleman think the transfer of these funds is justified? Or was that explained?

Mr. LATTA. No, I do not particularly want to comment on whether or not the transfer of the funds or the funds themselves are justified. I am opposed to the bill, but if we are going to have this new program, we are going to have to have the transfer. It is just that simple.

Mr. GROSS. If the gentleman will yield further, I too, am opposed to the bill, but I think we ought to know now, if it is possible to obtain the information, whether the transfer of the funds is justified.

Mr. LATTA. This is a new program, and in order to transfer the funds from the old program to the new program, we have to have a waiver; it is just that simple.

Mr. GROSS. I understand that. I am only trying to protect the rules for those of us who are opposed to this kind of manipulation.

Mr. LATTA. I do not think this is anything new to transfer funds from an old program into a new program. It is necessary to do this. It is not anything new. I, like the gentleman from Iowa, am opposed to the bill.

Mr. Speaker, I have no requests for time. I reserve the balance of my time.

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 7, not voting 40, as follows:

[Roll No. 598]

YEAS—386

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fish
Fisher
Flowers
Flynt
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Griffiths
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Mink
Minshall, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—7

Burleson, Tex.
Gross
Landgrebe
Latta
Mizell
Satterfield
Symms

NOT VOTING—40

Anderson, Ill.
Ashbrook
Ashley
Brasco
Buchanan
Burke, Calif.
Camp
Collins, Ill.
Conyers
Dellenback
Denholm
Diggs
Downing
Eckhardt
Fascell
Flood
Foley
Ford, Gerald R.
Gray
Green, Pa.
Gubser
Hansen, Wash.
Hillis
Landrum
McKay
Macdonald
Metcalfe
Mills, Ark.
Minish
Mitchell, Md.
Murphy, Ill.
Peyser
Riegle
Rooney, N.Y.
Rostenkowski
Skubitz
Staggers
Stokes
White
Wilson, Charles, Tex.

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Gerald R. Ford.

Mr. Foley with Mr. Camp.

Mr. Brasco with Mr. Downing.

Mr. McKay with Mr. Ashbrook.

Mrs. Burke of California with Mr. Flood.

Mr. Minish with Mr. Dellenback.

Mr. Charles Wilson of Texas with Mr. Landrum.

Mrs. Collins of Illinois with Mr. Riegle.

Mr. Rostenkowski with Mr. Anderson of Illinois.

Mr. Gray with Mr. Buchanan.

Mr. Green of Pennsylvania with Mr. Metcalfe.

Mr. Ashley with Mr. Skubitz.

Mrs. Hansen of Washington with Mr. Gubser.

Mr. Macdonald with Mr. Mills of Arkansas.

Mr. Staggers with Mr. Hillis.

Mr. Stokes with Mr. White.

Mr. Fascell with Mr. Peyser.

Mr. Diggs with Mr. Murphy of Illinois.

Mr. Denholm with Mr. Mitchell of Maryland.

Mr. Conyers with Mr. Eckhardt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11010), to assure opportunities for employment and training to unemployed and underemployed persons.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11010, with Mr. BROOKS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) will be recognized for 1 hour, and the gentleman from Michigan (Mr. ESCH) will be recognized for 1 hour.

The Chair at this time recognizes the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is a great need to reform national manpower legislation and to develop a comprehensive national manpower policy. Since 1961, manpower programs in the United States have grown from the modest provisions of the Area Redevelopment Act to a complex system of programs funded under different statutory authorities and aimed at diverse sections of our population. As a result, we have witnessed an extensive proliferation of separate categorical programs, extensive duplication of systems and delivery of manpower services and overcentralization of programs administered at the national level.

Calls for reform have come from members of both parties in the Congress, from the Labor Department, from academic experts in the field of manpower studies, from local manpower program managers, and national, regional, and area advisory committees.

Clearly, new comprehensive legislation is called for if we are to make sense of our manpower programs. H.R. 11010, which the committee brings before this body today is designed to meet the changed requirements of our manpower programs that this Nation will face during the seventies.

The purpose of this legislation is to provide a new and up-to-date charter for the manpower programs previously operated under the authority of the Manpower Development and Training Act, the Economic Opportunity Act and the Emergency Employment Act. This legislation eliminates the numerous categorical programs which were authorized under these separate pieces of legislation and substitutes instead a decentralized and decategorized program that can be more responsive to the diversity of local needs. The present manpower programs are operated by direct contracts between the Secretary of Labor and about 10,800 governmental and nongovernmental bodies. Instead of operating manpower programs through over 10,800 contracts with the Secretary of Labor, the bill will operate through grants to about 550 local and State prime sponsors who will plan and operate their programs to meet their local needs. In addition to programs of financial assistance to State and local prime sponsors the bill also provides a special Federal responsibility for those programs which are not appropriately run at the local level.

As a general matter, the bill emphasizes that the purpose of manpower programs is to secure economic independence through employment and makes plain that the purpose of manpower programs is to train and provide employment.

The basic structure of the Comprehensive Manpower Act is as follows:

First. Financial assistance is granted to State and local governments for planning and operating comprehensive manpower programs. Direct assistance is given to local governments of a specified size and the State is given responsibility for the balance of the State.

Second. Financial assistance is given to State and local governments for a program of public service employment in areas of substantial unemployment.

Third. The Department of Labor is given responsibility for providing financial assistance for manpower programs for specified groups and it is also given direct responsibility for the Job Corps, research, training, and technical assistance, Labor market information, job bank programs and related activities.

Fourth. The bill also establishes a National Commission for Manpower Policy.

Title I of this bill establishes a program of financial assistance to State and local prime sponsors to enable them to provide comprehensive manpower services. These manpower services include all services needed to enable individuals to secure and retain employment at their maximum capacities.

Included among these authorized services are all programs and activities authorized under existing law.

Eligible to be prime sponsors are: First, units of general local governments with a population of 100,000 or more—or the largest unit of general local government in the State; second, any combination of such units which includes at least one unit with the designated population; third, any unit or combination of units without regard to population in certain rural areas; fourth, certain concentrated employment program grantees in rural areas; and fifth, the State may qualify as a prime sponsor in all areas not covered by a local prime sponsor.

To receive financial assistance, a prime sponsor must submit a comprehensive plan setting forth the services to be provided and assuring that manpower services will be provided to those most in need. The Secretary may not disapprove a plan without first affording an opportunity for a hearing and disapproval by the Secretary is subject to judicial review in the appropriate court of appeals.

H.R. 11010 also provides for grants to State boards of vocational education to assist them in providing vocational education in areas served by area prime sponsors.

Title II provides a program of financial assistance to prime sponsors qualified under title I and to Indian tribes for programs of public service employment in areas with a rate of unemployment of 7 percent or more for 3 consecutive months. Priority in employment under this title is given to those unemployed persons who are most severely disadvantaged. Funds available under this title are available at the option of the applicant, to finance programs authorized under title I. In other respects, this title, in general, follows the provisions of the Emergency Employment Act.

The bill also provides a special Federal responsibility for those programs not appropriately run at the local level. Therefore, title III authorizes the Secretary of Labor to provide manpower services to certain segments of the population who are in particular need of them. In addition, the title provides special Federal manpower programs for Indians, migrant and seasonal farmworkers, authorized youth programs and other special programs, and provides for the continuation of the Job Corps under the Secretary of Labor. The Secretary of Labor is also authorized to conduct programs of research, training, and evaluation, labor market information and a computerized job bank.

Title IV contains general provisions and definitions applicable to all programs such as prohibitions against discrimination and political activities and other provisions regulating conditions of work and training.

H.R. 11010 provides an open ended authorization for fiscal year 1974 through fiscal year 1977. It provides that of the sums appropriated $250,000,000 are reserved for fiscal 1974 and $500,000,000 for fiscal 1975 to carry out the purpose of title II. Funds under this title are also available at the option of the prime sponsor for either training or for public service employment for residents of the area of substantial unemployment.

Eighty percent of title I funds are allocated among the States and within each State on the basis of the number of unemployed, and the amount of manpower local prime sponsors and another 5 percent of the title I funds are available to encourage voluntary combination of local prime sponsors and another five percent is available only for grants to State boards of vocational education. The remainder is distributed to prime sponsors in the Secretary's discretion taking into account the need for continued funding of programs of demonstrated effectiveness.

Eighty percent of the title II funds are allocated on the basis of the number of unemployed in the area of substantial unemployment compared to the number in all such areas. The remainder is distributed in the discretion of the Secretary taking into account the severity of unemployment.

I wish to express my thanks as chairman of the Select Subcommittee on Labor to all the members of the subcommittee for their support and cooperation in attending the many days of hearings—and there were more than 40—and the numerous conferences in connection with the development of the provisions of this truly bipartisan bill and I especially wish to commend the ranking minority member of the subcommittee, Marvin L. Esch, the ranking minority member of the full committee, Albert H. Quie, the gentleman from Wisconsin, William A. Steiger, the chairman of the full committee, the distinguished gentleman from Kentucky, Carl D. Perkins, the gentleman from Michigan, James G. O'Hara, and the gentleman from Pennsylvania, Joseph M. Gaydos, as well as the members of the majority and minority staffs.

This bill reflects the concept that reasonable men and women working together can compromise their differences and come up with a product that is generally satisfactory. Despite the controversial nature of manpower legislation, I am pleased to report that H.R. 11010 is the product of a bipartisan compromise and is supported by the administration, the National Governors' Conference, the League of Cities and Conference of Mayors, the National Association of Counties, the AFL–CIO and the Leadership Conference on Civil Rights.

There can be little argument that the need for comprehensive manpower legislation is a national problem which must be solved by new innovative Federal legislation.

I urge all my colleagues to support H.R. 11010, the Comprehensive Manpower Act of 1973.

Mr. THOMSON of Wisconsin. Mr. Chairman, will the gentleman yield for a question?

Mr. DOMINICK V. DANIELS. I will be pleased to yield to the gentleman from Wisconsin.

Mr. THOMSON of Wisconsin. Mr. Chairman, I would ask the gentleman from New Jersey what effect this new act will have on community action agencies who have been sponsoring manpower programs? Will this law eliminate them as a prime sponsor?

Mr. DOMINICK V. DANIELS. Community action agencies, as such, are not recognized as prime sponsors under this bill. However, recognition can be given to them by local prime sponsors to whom they should report their needs. I am sure the mayors or the local government officials in applying for a grant under this act will specify in their comprehensive plan the need for recognition of such local groups. However, the responsibility lies with the local government.

Mr. THOMSON of Wisconsin. With the local community government?

Mr. DOMINICK V. DANIELS. That is right, the mayors, or if it is a county, whoever is in charge of the county program, or in event the State steps in then the State will take into consideration such groups throughout the State.

Mr. THOMSON of Wisconsin. Supposing that one does not have a community of 100,000 people within 100 miles of where the community action agency is located, they are mostly rural or small towns, how will they be able to operate under this program?

Mr. DOMINICK V. DANIELS. The local community action programs can bring their needs to the attention of a recognized or eligible prime sponsor. They do not have to be contiguous but it would be preferable if they were contiguous because usually contiguous communities have a comity of interest. But where they do not have an eligible prime sponsor immediately in the neighborhood then they may come under the State comprehensive plan which covers all the areas in the State except where they do have eligible prime sponsors.

Mr. THOMSON of Wisconsin. I thank the gentleman very much for his reply.

Mr. ESCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota, the ranking member of the committee (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I rise in support of this bill (H.R. 11010), which I believe will be landmark legislation in the field of manpower training. If enacted into law—as I firmly believe it will be—this bill will be the first reform of manpower training programs since the enactment of the Manpower Development and Training Act of 1962.

Like MDTA, it is a thoroughly bipartisan bill. It was worked out over several months in the Select Subcommittee on Labor after full and detailed hearings. After the main features of a bill had been agreed upon H.R. 11010 and H.R. 11011, identical except for a single section, were introduced by Subcommittee Chairman DANIELS and cosponsored by the ranking Republican member of the subcommittee, MARV ESCH, and by Chairman PERKINS and myself. Then the subcommittee held further hearings giving the groups most directly involved—governors, mayors, county executives, organized labor, vocational educators, and the Department of Labor—a chance to comment on the new bill. After that there was full and detailed consideration by the full Committee on Education and Labor with a number of amendments. The result is a very carefully worked out bill which will accomplish essential manpower reform and provide a mechanism for meeting unforeseeable needs or conditions which may arise.

This bill was worked out in complete cooperation with the Department of Labor, and except for the provision in section 502(a) for mandated levels of spending for title II of the bill, has the full support of the Administration. At the same time, it is only fair to say that everybody had to make some compromises to bring out a bipartisan bill, including the administration. For example, under title I a State or local prime sponsor of manpower programs can use any part of the funds it sees fit for public employment programs. This represents a significant compromise on our side. Similarly, under title II—which authorizes additional funds for public employment programs in areas of substantial unemployment—a prime sponsor can use any part of the funds it sees fit for training programs and services authorized under title I. This was a major concession made by Chairman DANIELS from his side. The result, I believe, is in the best tradition of the legislative process—a better bill than either the majority or the minority might have devised working separately.

Fundamentally, this bill does three things with our present manpower programs. First, it combines essentially three separate pieces of legislation—MDTA, title I of the Economic Opportunity Act, and the expired Emergency Employment Act—into a single piece of legislation. Second, it provides a broad and flexible job training and employment opportunity authority designed to meet varied and changing needs. Finally, it decentralizes the responsibility for planning and carrying out these programs to the State and local level, while providing sufficient authority and funds for the Secretary of Labor to run national programs—such as the Job Corps—and to focus attention on problems of national importance—such as programs for Indians migrants, youth, and persons of limited English-speaking ability.

I think it is essential to recognize that these three effects of this bill reflect not only administration recommendations and those of witnesses before our committee representing Governors, mayors, and county executives—but virtually the unanimous recommendations of those in the academic community and elsewhere who have made a close study of manpower programs over the past several years.

As the committee report on H.R. 11010 begins:

> There has been a general consensus for over four years that the national manpower legislation needs comprehensive reform, but it has also taken that long to develop a consensus on the substance of the legislation to establish that reform. H.R. 11010 represents such a consensus.

The House must work its will on this bill, but I would urge Members to consider very carefully the merits of any proposed amendments. I think it is fair to say that every detail of this bill has been gone over in committee—and most of the key provisions are essential to maintaining the consensus we have reached. I think it would be a very bad mistake to alter those essential provisions. Following action by the House we face a very difficult conference with the other body which has passed a somewhat similar bill—S. 1559—with some very critical differences, and I think we need the overwhelming support of the House for the bill we have worked out.

While this bill represents a major reform of existing manpower legislation, it is of course not the final step in developing a more unified and comprehensive approach to the total problem of preparing people for gainful employment, and enabling every individual who wishes to achieve his full potential, in a technological society marked by rapid change. This is a step toward that goal, but other reforms must come in our educational system, in our employment services, and many related activities before we can come close to our goal. Yet I believe that the goal is obtainable and that its achievement is fully as vital and demanding as meeting the long-range demands of the energy shortage or of environmental protection. In fact, I see all of these things as closely related.

So I would urge Members to support the committee in retaining the key provisions of H.R. 11010. This bill has been 4 years in the making. In my judgment, it will be one of the most important enactments of this Congress.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Mr. Chairman, I think the Members of the House should know that a bill has been distributed by the document room bearing the date of October 18, 1973, but also bearing the number H.R. 11010. It is not the H.R. 11010 being considered here today. The bill being considered bears the date of November 21, 1973. I think the Members ought to be on notice that the Document Room has provided a bill which does not conform to the subject matter being considered today.

Mr. QUIE. Mr. Chairman, I received a bill which had the H.R. 11010 number, which is the October 18 print stricken out, and the November 21 bill which is then an amendment in the nature of a substitute, which will be offered by the committee, which begins on page 68 of that print.

I would say to the gentleman from Iowa that if that is not before us, that copy ought to be before us.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Michigan.

Mr. ESCH. I appreciate the gentleman's yielding. I call attention to the Members of the House that the bill is available for the Members here on the floor, and it is also Union Calendar No. 286, which is the proper bill that is before the House at this time and is being distributed to the Members at this time.

Mr. McCLORY. Will the gentleman yield, Mr. Chairman?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I want to inquire about the public employment program. I have a very successful public employment program, the so-called PEP program, in one of the counties I represent. The question of funding of that program or the continuation of it is of concern and interest to me. It has been one of the most effective employment programs, it seems to me, or training programs I have noticed nationwide. It would be important to continue this program.

Is it contemplated that precisely the same or substantially the same authority would exist under this legislation as heretofore existed?

Mr. QUIE. This legislation is better than the legislation we have had heretofore. Prior to this we have had the Manpower Development Training Act, the manpower provisions of the Economic Opportunity Act, and we have had the Emergency Employment Act, now called the public service employment or public employment program.

The agencies that administered these programs had to secure the funds from these various programs. Now under title I we have the comprehensive manpower title. The prime sponsors can use that for what we would call the traditional manpower programs or for public service employment. If they feel the continuation of public service employment the way they have had before is the best way, they can utilize it for that.

Then title II is also available in this bill. We could term it the public service employment title. However in that title, if a community feels it would be a wise use of their money to provide manpower training rather than public service employment, they can do that. It gives the option to the community to fulfill their needs.

Let me give two examples of communities. One community finds the best thing is to give some people some work in the public service employment, and they can give them the subsidized public jobs. In community two they might have had a plant go out of business creating high unemployment. They may have been able to secure another industry where the employees would have to have new skills. That community might find it wiser to use the title II money to train employees who were left out of the one plant so they can be trained to obtain jobs in the other plant. This legislation gives flexibility to the prime sponsor to enable them to have a program continued such as the gentleman has mentioned is successful in his area.

We do not prejudge here what should be done. The judgment will be left to the communities which will be able most wisely to make those decisions.

Mr. McCLORY. I take it the gentleman feels title II is not essential as far as retaining this public employment program funding?

Mr. QUIE. The gentleman is correct. That is not essential. I do not know the situation in the gentleman's community.

Mr. McCLORY. The county operates this program.

Mr. QUIE. The county operates the system. It may be for instance that their unemployment is down now so they would not qualify under title II. If that is the case, they can still use their title I money which they are qualified for, for the public service employment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield further to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I call the attention of the gentleman to pages 134 and 135 of the bill. On page 134 there is created a National Commission for Manpower Policy. On page 135 it is provided the Commission shall consist of the following:

> (1) five members, as follows, serving ex officio: the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Commerce, and the Administrator of Veterans' Affairs; and
>
> (2) ten members broadly representative of labor, industry, commerce, education (including vocational-technical education), State and local elected officials involved with manpower programs, and of the general public appointed by the President.

Let me ask the gentleman this question. Is agriculture such a nonentity in the industry of this country that it deserves no recognition in this new National Commission for Manpower Policy?

Mr. QUIE. I would say to the gentleman that agriculture is not so unimportant that it is not included. Agriculture should be included. This was put in there in this way because the gentleman from Michigan was a major proponent of it and I would like to defer to the gentleman from Michigan to answer that question, so I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman yielding.

I want to make sure the legislative history will indicate that in section 702 (a)(2) it was the intent of the authors of the bill to include agriculture and I have always considered agriculture a significant part of commerce and the agro-economy probably is as much involved in commerce today in this country and abroad as any other segment of our commerce area.

So I would say to the gentleman that certainly under 702(a)(2) that there surely should be a representative of the agricultural community.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I will yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. As far as the Garden State is concerned, there is no objection.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I will yield to the gentleman from Iowa.

Mr. GROSS. I will say it seems to me it is of such importance that we ought not to lay it aside. If no one else does, I will offer an amendment at the proper time to write Agriculture into this Commission. I thank the gentleman.

Mr. DOMINICK V. DANIELS. If the gentleman will yield, I will say that the amendment is acceptable.

Mr. QUIE. I would say on our side we accept the inclusion of the Secretary of Agriculture and the Department of Agriculture included with Labor, Commerce, and the others specified in that section.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 7 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky, the Honorable Mr. PERKINS.

Mr. PERKINS. Mr. Chairman, I rise in support of the Comprehensive Manpower Act of 1973. The fact that we are here today considering this truly important legislation is due mainly to long, hard hours of patient negotiation and compromise on the part of DOMINICK DANIELS, chairman of the subcommittee handling this bill, and its ranking minority member, MARVIN ESCH. They are to be complimented and congratulated on a remarkable achievement. I would be less than candid if I did not state that many of us, myself included, did not think it would be possible to write such a compromise bill, yet it was done. And this is truly a bipartisan bill, reported from the Education and Labor Committee with only three dissenting votes.

The chief accomplishment of this bill in my opinion, is that it continues to authorize public service employment programs providing jobs for the unemployed. It has never made any sense to train people for jobs that did not exist. Yet in many parts of the country that is exactly what manpower programs were doing until we passed the Emergency Employment Act in 1971. That act authorized $1 billion to be spent for public service jobs when the national unemployment rate was 4.5 percent or greater and an additional $250 million for jobs in areas of substantial unemployment when the local jobless rate was 6 percent or more. This program was enormously popular with everybody who came into contact with it. But the President did not request a renewal of the act and threatened to veto any effort to extend it; and he pointedly refused to request any money at all for it in his budget for fiscal year 1974. The point is this: the Emergency Employment Act expired on June 30 of this year. The only reason that there is still money being spent for public service jobs is due to the fact that the Labor Department has not yet spent all the money that was appropriated in fiscal year 1973 and obligated before that year expired. But even the money still in the pipeline will be gone by late February. So the decision of the administration to accept a continuation of public service employment programs as provided for in this bill was a major breakthrough, and a crucial concession in obtaining a compromise agreement.

This bill continues job creation in two places, under the general comprehensive manpower services title—title I—and in title II which continues the $250 million program of job creation in areas of substantial unemployment that was first set up under section 6 of the Emergency Employment Act. This program is expanded to $500 million in the fiscal year 1975.

In fiscal 1973, under section 5 of the Emergency Employment Act, $1 billion was appropriated to be spent for public service jobs so long as the unemployment rate stayed at 4.5 percent or above. There is no comparable "trigger" device in this bill. Funds available for public service employment under title I are not conditioned on the rate of national unemployment. There is no specific earmarking of funds for public service employment in title I. The decision of whether or not to have such programs and how much money to allocate to them is left entirely up to the local people who are responsible for planning and operating manpower programs. So it is not possible to say how much money, in addition to the funds appropriated for title II, will be spent to create jobs.

I cannot think of anything more important than putting people who are able and willing to work in a job. It is better for them, better for us and better for the country to convert the unemployed into productive, tax-paying citizens. But the hard reality is that there are many areas in our country where jobs simply do not exist in anywhere near the numbers needed to give everyone a job. We have discovered what happens when you try to solve this economic problem by "heating up" the economy—you get inflation. That is why we believe so strongly in the value of public service employment. So long as the jobs that are created provide services that are actually needed, then virtually all the experts are agreed that there is practically no inflationary impact at all from this type of program. This bill is a compromise and I support it; I would have to say, though, that, in my judgment, we can use far more public service employment than we have seen up to now. This is as much as we were able to persuade the President to sit still for now and so we are in the well-known position of having to take a half a loaf or no loaf at all. But I want to give notice to this House that if the energy crisis produces the kind of unemployment that is being projected by various business leaders, we may very well have to come back before this body to get more for public service jobs. I have seen several predictions of 8 percent unemployment and I just want my colleagues to know that this would mean 7,200,000 people out of a job.

The reform of manpower programs accomplished by this legislation is in the areas of decategorizing programs and overhauling the system by which manpower services are organized and delivered. At present, there are more than 10,000 individual grants administered by the Manpower Administration down in the Department of Labor. Every program that a local grantee wants to get funded has to be separately submitted to the Labor Department notwithstanding the fact that the agency submitting the proposal may have several grants from the Labor Department which, together, form a manpower services package. Still, they are required to submit the proposals separately and often at different times. The result is utter chaos. It is not uncommon to find a local grantee unable to proceed with his manpower system because one or two pieces of the system are still being processed in some regional office.

What this bill does, then, is to create a number of eligible prime sponsors, about 550 in all, who will serve as the local planner, packager, and broker of manpower services. Once a year each eligible prime sponsor will submit a comprehensive plan encompassing all of the various programs and services which will be operated in his area of jurisdiction. He will decide what emphasis to give to what activity. This plan will then be reviewed by the Labor Department to see if it conforms with the requirements and purposes of the act, and that certain conditions established in the statute are being met. Then, if the plan is approved, the prime sponsor would receive the funding for his entire package and would not have to file any more applications until next year.

Not only will this make it possible for the local sponsors of manpower programs to actually plan a comprehensive, interrelated program of services, but it will drastically reduce the number of plans and applications the Manpower Administration will be required to review—as I said earlier it will drop from roughly 10,000 down to 550. We can then expect and insist upon speedy, efficient processing of comprehensive plans without the long delays you run into today. And we will insist and expect that the Department will require its employees to use the time that would have otherwise been spent processing a mountain of paperwork to get away from their desks and into the communities they serve to monitor and evaluate these programs and to provide technical assistance where requested. The ultimate responsibility for success or failure rests with the Secretary and we will hold him strictly accountable.

Once again this bill shows that it is a compromise between those who favored the so-called revenue sharing approach and those who believe in a strong Federal role and responsibility. The compromise was to decentralize the planning and administration of manpower programs to State and local governments, but to require a careful Federal review and approval of the local plans and to place squarely with the Secretary of Labor the responsibility for seeing that the conditions and special requirements of the law, as well as its general purposes, are in fact being carried out.

Let me make one further observation about the new delivery system and in particular about the provisions of section 103 which affect those who have administered manpower programs in the past such as community action agencies. This section makes it clear that prime sponsors should make use of existing agencies and institutions which are doing a good job. The prime sponsor is really a broker who decides what programs are necessary and who shall operate them. It is our intent that where community action agencies, or others, are doing a good job the prime sponsor should recognize their experience and capability by contracting with them to run manpower programs under this act.

The final area of compromise was on the amounts of money that would be authorized for these activities. Overall, the authorization for the bill is open-ended—"such sums as may be necessary"—for this and the 3 succeeding fiscal years. We estimate that the first-year cost of the bill will be $1.8 billion. If you add up the amount of money spent in fiscal year 1973 under the Manpower Development and Training Act and the manpower portions of the Economic Opportunity Act—$1.55 billion—and the Emergency Employment Act—$1.25 billion—you get a total of $2.8 billion. So this bill represents a cut in manpower programs of $1 billion. On the other hand, at the $1.8 billion level it is significantly higher than the President's budget of $1.34 billion, and it will go up by another $250 million in estimated costs in fiscal year 1975 because we increase the mandatory funding for the title II public service employment program from $250 to $500 million. This means the bill will be at the level of $2.060 billion during the next fiscal year.

Since the overall authorization is open-ended, and the budget figure is only $1.34 billion, it may be asked how we arrive at an estimate of $1.8 billion. The answer is simple. The Appropriations Committee has in its continuing resolution, kept manpower programs—excluding the Emergency Employment Act—funded at a level of $1.55 billion. We think that is the appropriate figure and hope they will stick to it in the regular or supplemental bill. In addition, as part of the compromise, we have received a commitment from the administration to seek an additional $250 million targeted for title II. These two figures, when added, come to $1.8 billion.

At this level, $1.19 billion would be available for the purpose of carrying out title I, and 80 percent of the amount would be distributed by formula, taking into consideration unemployment and the previous year's allotment. Of the remaining 20 percent, 10 percent would be allocated at the Secretary's discretion to keep good programs going that might otherwise suffer cuts; another 5 percent could be used by him to provide incentives for groups of local governments to combine their resources and form a consortium. If this money were not fully exhausted, he could also use it as part of his discretionary funds; and the final 5 percent is set aside exclusively for the provision of vocational education services through the State boards of vocational education.

After allocating the $250 million to title II that I have already spoken about, this would leave $360 million from which the Secretary must pay for special programs for Indians—approximately $40 to $50 million—migrants—approximately $40 million—the Job Corps—$184 million—other special programs, and conduct research, demonstration, and evaluation.

This is a good bill, a sound bill and one which is urgently desired by everyone who is concerned about job training and employment. I urge its adoption.

Mr. ESCH. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. Forsythe).

Mr. FORSYTHE. Mr. Chairman, I rise in support of the bill. As a member of the Select Subcommittee on Labor which produced this bill, I am particularly proud of the broad scope and the hearings we conducted on it and the detailed consideration it received in our committee. I am convinced that the enactment of this legislation would result in a vast improvement in our overall manpower programs.

One of the most important things we can do to strengthen our country and improve our society is to help assure that every person who is unemployed, or employed at a wage below the poverty level, has a real chance to find a decent job. An effective manpower program makes good sense—both in social and economic terms. To be effective a manpower program must be flexible enough to meet different kinds of needs, whether they be those of a particular individual. This bill would provide that kind of a broad, flexible authority.

I want to call particular attention to the formula in title I used to distribute funds both between and within States, because I know there will be some discussion of it. This is a very simple two-part formula using only the relative number of unemployed and the previous years' allocation for manpower programs. The manpower allocation part is a type of "hold harmless" clause which assures no large dislocations of program funding in the first 2 or 3 years; after that it tends to fade away as the active element. This leaves the relative number of unemployed as the major factor in distributing funds. We ran numerous computer print-outs of alternative formulas—such as adding both the relative work force and the number of persons below the poverty level in income, or simply adding the poverty factor alone—but none of them proved as fair as simply using the relative number of unemployed persons.

There are some reasons for this. In this program, when you figure in the total work force you really are not measuring need. In an extreme and hypothetical example, if you had full employment in a particular area there would be no need—or very little need—for manpower programs.

The number of persons below a certain income level appears to be a better measure at first glance, because this act is also meant for the underemployed. But one of the results of using this measure is to put a disproportionate amount of funds into rural areas where neither unemployment nor job opportunities to be trained for tend to be concentrated. There is another problem, one with which we have become all too familiar in working with title I of the Elementary and Secondary Education Act—the only reliable income data we have is census data which is 3 years old the first time it is available and 13 years old the last time it is used. We can not fall into a trap like that in manpower legislation. If we did, we would end up putting funds into areas on the basis of persons who had long since moved to other areas where employment opportunities are greater.

So we settled on relative numbers of unemployed as the most equitable measure of all of the need for manpower programs. Unemployment and underemployment tend, for example, to go hand-in-hand. So in those areas where you have a relatively large number of people employed part time or at poverty-level incomes, you almost always have relatively large unemployment as well. On the other hand, you can have a situation where a large factory or a whole industry has closed down and unemployment is suddenly very high. A poverty-income factor based on census data would not reflect this need for retraining and job creation—but unemployment figures would do so immediately.

The distribution formula is just one example of the care that went into constructing this bill. I hope the House will approve the bill without the kind of changes which could undo the careful work done by the subcommittee and by the committee.

Mr. ESCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Nevada (Mr. Towell).

Mr. TOWELL of Nevada. Mr. Chairman, I would address my colleagues today to point out that the Committee on Education and Labor has worked on this bill since the beginning of this session and during past sessions of the U.S. Congress, and we have indeed reached, I believe, a very fine compromise.

One area that we have considered that has not been mentioned previously today is the fact that we have recognized the effectiveness of Jobs for Progress, known as SER. This program is for the Spanish-speaking people of this country and provides opportunities for them to develop their skills and become full partners in our society.

Of course, the larger States of California and Texas have a large Spanish-speaking population, and they do have ongoing programs. I would like to mention a program which we find very effective in the State of Nevada, one that is being handled in Clark County and in the city of Las Vegas.

This program has helped hundreds of Spanish-speaking Americans advance their skills and thus find better jobs in Las Vegas, Nev. It has indeed been an effective program, and I wholeheartedly support its continuation. I also wholeheartedly support this bill and look forward to its passage.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. TOWELL of Nevada. Yes, I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I commend the gentleman's interest in the SER program. The intent of this bill is to encourage the further development and continuation of the SER program. It is the intent of the authors of the bill that those programs continue, programs such as the one that the gentleman has been involved in, in the State of Nevada.

Mr. Chairman, I appreciate the gentleman's yielding.

Mr. ESCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Chairman, I join with the other Members who have indicated their support for this legislation. I commend especially the gentleman from New Jersey, the chairman of the subcommittee, and the gentleman from Michigan, the ranking member of the subcommittee, for the time and effort which they have put in.

There is much that is commendable in the bill before us. However, with a full appreciation of the time, effort, and sincere dedication on the part of the many Members who have worked to develop this important bill, and with a full understanding of the substantial difficulties encountered in achieving an agreement which is totally acceptable to all parties, I feel it is important at this time to put forth with some candor what I believe to be several weaknesses in the present legislation.

My objections are offered in a constructive manner, and they are designed to make a good bill even better.

I am well aware of the difficult issues which have prevented the enactment of comprehensive manpower legislation in the past. I can understand the necessity of compromise in order to move in the direction of an improved manpower planning and delivery system.

H.R. 11010 was fashioned in the spirit of compromise, and on the whole it has many good features.

The bill's endorsement of decategorization and decentralization, its recognition of the need for a program of public service employment in a comprehensive manpower system, its acceptance and acknowledgment of the special Federal responsibilities toward such groups as Indians and migrants, its support of flexibility in the selection of the deliverers of services—all these are positive features.

However, in seeking a workable compromise, one of the matters most severely compromised has been a meaningful role for the governor in the delivery of manpower services.

The legislation presently before us, with some notable exceptions, treats governors no differently than any other prime sponsor. By failing to recognize the unique role played by the governors in carrying out Statewide responsibilities in manpower programs, we have not done as well as we should have done in attempting to achieve the end result. This is not to say that the governors should be able to exercise veto power over planning and program implementation of local prime sponsors. It is to say that there should be general recognition that there are some programs best administered at the Federal level, and just as it is true that some programs are best decentralized to local prime sponsors, so, too, there is a real need for some planning and program authority to remain at the State level.

Second, Mr. Chairman, let me say that I am concerned with the conceptual basis for this bill.

As we look at how we deliver manpower services to those at the State and local level it has not been, I think, as wisely thought through as I had hoped it would be, that is to say I am concerned that our failure to take advantage of the initiatives and resources available to insure labor market areas rather than smaller jurisdiction will in the end create yet another kind of duplication and fragmentation of the kind we have today at the Federal level.

Third, I would suggest to the committee that any bill, this one or any of the other bills that have been suggested to the House and which have been considered by the Committee on Education and Labor, have two problems when you deal with manpower.

One is that we tend to mix up our manpower training programs, and this bill is no different than any other bill on this subject. I do think at some point in the future we might begin to take a little more cognizance of the differences between income maintenance programs, youth programs, job training programs, public employment programs, all of which are put together in this milieu of manpower training and job opportunities in this bill and yet which I would suggest may not always properly belong together. I am not sure the conventional wisdom with which we have always operated which said that everybody ought to be able to handle manpower programs, is really true and wonder whether or not we ought to differentiate in the kinds of manpower training programs which we talk about decentralizing and decategorizing.

Should we, for example, make available to mayors and Governors income maintenance programs in the same way that we made available job training programs?

I would argue one of our problems has been we have been so close to this problem of manpower training that we have not as yet been able to step back as fully as I think we should have in committee and look to see whether or not every manpower training program that goes under that title is in fact not appropriately decentralized and decategorized.

There is one last point that the gentlewoman from Oregon (Mrs. GREEN) would make were she to take part in this general debate, which is to suggest that this comprehensive manpower bill is not as comprehensive as it really should be. It is not the fault of the committee or the fault of DOMINICK DANIELS or MARVIN ESCH but, rather, it is the fault of the jurisdiction of the Congress which places responsibility for such things as the employment service and WIN in the hands of another committee.

Yet, if you look at the expenditures for the manpower program, those to WIN and to the employment service, they are now expending an accelerated amount of money while those programs included in this comprehensive act are spending a decreasing amount of money. Until such time as we can really provide for a cohesion and a comprehensiveness in the ability of the committees of the Congress to deal with these programs, we must understand that comprehensive manpower program is not really comprehensive at all.

The bill, nevertheless, in spite of what I perceive to be some of the weaknesses in its concepts and in its specifics, is a bill that deserves the support of this House. I urge its passage and hope that the bill which comes back from conference will be even a better bill than this one.

Mr. ESCH. Will the gentleman yield?

Mr. STEIGER of Wisconsin. Of course, I yield to the gentleman.

Mr. ESCH. I appreciate the gentleman yielding.

I want to rise to indicate the long hours and months of work on the part of the gentleman from Wisconsin in giving assistance toward bringing this bill to the floor today but, secondly, to concur with him that hopefully we can move ahead toward a real comprehensive manpower delivery system by reexamining in the future the Wagner-Peyser Act with all its implications and also the relationship between the WIN program and the Employment Service and the Labor Department manpower program.

I compliment the gentleman for pointing out the next step and next phase needed in manpower legislation. I commend him for it and concur with him and look forward to our committee working in this area in the future.

Mr. STEIGER of Wisconsin. I am grateful to the gentleman from Michigan for his comments.

May I say my hope is by the spring of 1974 the House will have a chance to act on a rationalization of our committee jurisdiction.

In offering some thoughts on the legislation before us, I would like to discuss where we in the manpower field have been in the last 10 years, where we are today and finally where I think we are going. While some trace the birth of manpower back to the origins of the Employment Service, the Employment Act of 1946 or the Area Redevelopment Act, there had been only minor efforts prior to 1962. The passage of the Manpower Development and Training Act was the first major commitment by the Federal Government to bring about the promise of full employment.

The initial intent of the MDTA was to enable workers displaced by automation to retrain themselves to meet the changing needs of the labor market. With the passage of the Economic Opportunity Act of 1964, however, the central thrust of Federal efforts in the manpower area shifted from displaced workers to the unemployed and underemployed; the so-called disadvantaged.

A central part of the war on poverty was the creation of new local institutions such as community action agencies, model cities, CEP, and the development of such centers as OIC. From relatively minor expenditures prior to 1962, manpower services grew to a level of nearly $3 billion during fiscal year 1972. In the 10 years since the passage of MDTA, a number of very hard lessons have been learned. The delivery systems for manpower services have become so complex and fragmented that they are no longer able to respond to present conditions. Looking down from the Federal perspective, one sees the Secretary of Labor alone responsible for more than 10,000 separate contracts and programs—an impossible administrative task.

Looking up from the local level, one is baffled by the incredible alphabet stew of programs, agencies and legislation. If my memory serves me correctly, in the city of Chicago alone there were recently some 98 separate manpower programs spending $135 million yearly.

Yet no effective attempts had been made to provide overall coordination and direction. Each program has its own slightly different entrance qualifications, training programs, supportive services and objectives. Some of the programs are federally funded, some State funded, some locally funded, and some privately funded. Many, like OIC, are funded from a variety of sources.

For the unemployed person with one dime in a phone booth, his chances are about one in a hundred of even finding the appropriate program, let alone actually receiving the services he needs. The only apparent common denominator is the overall responsibility of locally elected officials for the delivery of services—a job on which the public passes judgment in the even numbered years.

Several attempts were made in the late 1960's without success to rationalize this mess through comprehensive manpower reform legislation. I am proud to have offered the first such comprehensive legislation in 1969. But with the veto of the Comprehensive Manpower Act in December 1970, and the development of the Emergency Employment Act that followed, joint bipartisan commitments were extracted by the President from the congressional leadership to hold hearings and report out reform legislation during the calendar year 1971.

Yet, despite extensive hearings and a great deal of rhetoric on both sides, we find ourselves today still without a comprehensive manpower law.

So much for background and perspective—let me describe from my own point of view where I think we are right now. Despite the duplication and fragmentation; despite the waste and inefficiency, the lessons of the past 10 years have not been without value. The rapid development of new manpower programs during this period has generally reflected a healthy period of innovation and progress in the manpower field.

We have identified and to some extent explored the needs of many of the unemployed and underemployed in this country. We have developed more effective educational and training programs. We have attempted to provide a wider range of services for clients whose needs go beyond the mere matching of the person and the job. We have also made a great many mistakes.

The net result is that the need for comprehensive manpower reform has never been more clear. Unlike previous generations, disadvantaged persons in both rural and urban environments are no longer able to start at the bottom of the economic ladder and work up. The number of unskilled jobs has decreased sharply. Increased technology and automation have largely replaced the need for unskilled labor—and this trend is not only continuing but accelerating.

Given the increasing impact of international trade on our economy—such as is the case in the electronics industry—given the increasing impact of changes in Government spending patterns—such as is true in the aerospace industry—given drastic uncertainty in our resource supply—as is true of the present energy shortage—and given the continuing technology boom, it is not only possible, but probable, that a person leaving school today will not be pursuing the one magic career that guidance counselors have often promoted in the past. He or she will possibly pursue at least five or six careers in a lifetime. The changing labor market may require a person to periodically retool and retrain for fields that may not even be known at this time. The net result will be a much greater need for ease of entry and exit between the world of work and the world of education and training.

The need for flexibility in the delivery of manpower services has been dramatically underscored in recent weeks by a growing energy problem. Whereas the energy crisis may be nationwide in scope, its impact on local labor markets may vary widely. Thus dislocations in one community may necessitate a far different approach in terms of manpower programs and services than is required in another community.

For example, in one city a plastics company might cut back on its production while a producer of Ben Franklin wood stoves expands its operation thus indicating the need for an emphasis on retraining programs for the community's labor force. In another situation, however, a sizable public service employment program may be called for as an emergency measure until regular unsubsidized employment can be developed.

The increasing inter-relatedness of all facets of life these days will mean that a job will continue to grow in relative importance to the general quality of a person's life. For the unemployed individual, for example, a job represents more than just an escape from the grinding cycle of poverty. A person with a good job, not just any job, but a good job with all the benefits, financial independence, and self-esteem that entails, can solve most of his health, education and welfare problems, most of his housing and urban development problems, most of his economic opportunity problems, all by himself, without all the expensive and in many cases condescending compensatory programs of the Federal Government.

A decent job is the thing that allows people to live in good housing, to take care of their hospital and doctor bills, to see to it that the kids get a good education, and that keeps families together. For these reasons, I have come to believe that one of the best things our Nation could do for education, one of the best things our Nation could do for housing, health, and urban development, would be to actively pursue a full employment policy which would provide a good job for everyone able to work. Training and employment programs are obviously a fundamental part of this process. There should also be a comprehensive national manpower policy that integrates fiscal, monetary, and social policy to insure a truly unified approach to what I believe will be the major challenge of this decade.

As you all know, in the absence of badly needed comprehensive manpower reform legislation, the President proposed to administratively decategorize and decentralize the manpower delivery system to mayors and governors through block grants and revenue sharing funding. Reactions to these new thrusts were varied; many, if not most, were highly critical of the specific provisions accompanying the administrative revenue sharing proposal.

Reform of a complex social delivery system is by its very nature controversial. Perhaps the general reaction of the majority of people can best be summarized in the words of my good friend Mac Lovell, who observed:

> Everyone supports decategorization and decentralization as long as you decategorize all but their program and decentralize to them and no further!

While recent funding cuts and reprograming have left many people with fears and uncertainty, it is my strong belief that these tough decisions were temporarily justified and necessary. They have helped to cut down on some of the consultants, regional office staffs, and the manpower middlemen between the money and the people in the community. It is also my belief that they have ultimately helped point us in the direction of effective manpower reform. Let me explain.

Decentralization and decategorization are at the heart of recent efforts to bring about comprehensive manpower reform. One of the key tenets of the legislation before us today is a belief that maximum latitude and flexibility in program design must be made available to those units of government closest to the people in need of manpower services. This can best be accomplished through a consolidation of responsibility at the Federal level in the Secretary of Labor, and by decategorizing and decentralizing general planning responsibility to mayors, Governors, and county executives.

Decategorization if properly carried out should largely eliminate unnecessary overlapping, confusion, and inefficiency which mark present manpower programs. Decentralization of planning and administrative responsibility locally is necessary to insure that programs are properly tailored and responsive to local needs.

At present, the organizations running manpower programs range from units of government to school systems, community action agencies, private nonprofit agencies and profitmaking ones as well. In order to achieve the maximum coordination and results while maintaining a sensitivity to local needs, the job of assigning priorities and allocating resources must ultimately reside with elected officials. Their one overriding qualification is the essential fact that they must stand and run for election on the basis of the services they have provided to the people.

Now, some people in Washington feel sorry for the poor and the disadvantaged—they argue that a decentralized manpower system will not be responsive to the special needs of these groups. With these individuals, I respectfully disagree. The CAP program in my district has consistently stayed one or two steps ahead of me on most of the issues affecting it. Rather than feeling sorry for poor people, I have gained a new respect for them. Through programs like the CAP program, these people have found out how the system really operates, not on the basis of theories but on the basis of administrative experience, and hard knocks. Given that experience, I am not at all fearful that manpower money given to locally elected officials will be wasted or misspent. The people simply will not stand for it. In fact, I would expect that the moment the money arrives from Washington, mayors and governors and county executives will have to deal directly with community people, wise in the ways of social programs, who will force them to meet the pressing needs of the poor, the unemployed, and the underemployed. This is as it should be in a democracy.

If Federal policymakers ought to be flexible in allowing and indeed encouraging local initiative in program content and design, however, they must also be aggressive in assuring that procedures for developing and implementing local manpower plans are acceptable and consistent with federally established policy objectives.

The delicate balance necessary between Federal responsibility and decentralization of program authority to State and local officials has been, in my judgment, preserved in the legislation before us where programmatic flexibility and procedural rigor can coexist.

In talking about comprehensive manpower reform, we are not talking about single programs, but rather about a network of comprehensive programs—programs which must combine outreach, counseling, public service employment, on the job training, job development, job placement and followup. We are talking about building a vital link between the public schools, vocational schools, welfare programs and State Employment Services, to name a few. The State is in a unique position to provide the necessary statewide linkage of these programs and services.

Another major concern about this bill stems from the fact that in a decentralized system, the question of who can do what to whom assumes overriding importance. As presently drafted, H.R. 11010 mandates the Secretary of Labor to encourage the formation of consortia for the purpose of delivering manpower services. This is in the best interest of a coordinated delivery system and therefore has my full support.

However, for the Secretary to be given the authority to intervene directly within a State in order to influence the formation of combinations of local government, without involving the Governor in any way, is entirely inappropriate and totally inconsistent with the very essence of decentralization.

It would be far better and far more appropriate, it seems to me, for the Secretary to be authorized to delegate this function, on a program agent basis, to the Governor, in accordance with federally approved guidelines. In this way, the Governors would be accorded their proper leadership role, while at the same time the rights of independent local prime sponsors would be maintained.

Another concern deals with the planning process at the State and local levels. As program responsibility is decentralized, it becomes essential that local citizens be assured access to the decisionmaking process at all levels—government in the sunshine, if you will.

H.R. 11010 does provide for a State manpower services council to advise the Governor and review overall statewide planning objectives. However, in my judgment, a similar—if not greater—need exists at the local level to provide access to the local decisionmaking process for those whose interests are directly affected—labor and industry groups, the poverty groups, and citizen-taxpayer groups. Whereas a local council should clearly be advisory to the prime sponsor and not an independent agency, it is nevertheless vitally important that this additional opportunity be provided for citizen input into the planning process.

Despite my longtime support for a strong vocational education system, I simply cannot agree with the provision in this bill to allocate funds directly to State voc ed boards, bypassing completely the prime sponsor held ultimately accountable for the success or failure of the overall manpower program.

I am well aware of the valid concern so forcefully expressed by the State and national advisory councils on vocational education that to route funds through prime sponsors could encourage the formation of a dual voc ed delivery system. It was because of this concern that I introduced an amendment, adopted during full committee markup, which provides that in making arrangements for institutional training, priority must be given—to the extent feasible—to the use of skill centers established and operated under the authority of the MDTA of 1962.

But while I strongly hope that existing voc ed facilities will continue to be utilized in a decentralized manpower delivery system, I would nevertheless maintain that the desirability of fostering the continued use of existing facilities is superseded by the overriding need for the preservation of accountability to elected officials.

There is no question but that the preservation of an effective and viable system of vocational education is in the best interests of this country. In my judgment, however, a strong system of vocational technical education can best be served, not through this legislation, but by giving serious consideration to strengthening the primary voc ed legislation. I must admit to being more than a little disturbed by the cavalier insensitivity the Office of Education continues to display toward the proper role of voc ed in our system of secondary and postsecondary education. And I can assure you that I will personally seek to remedy this situation during the upcoming oversight hearings on voc ed.

I have outlined my concerns today not in an attempt to delay passage of this legislation—for I feel that would be a serious mistake. I have raised these concerns, rather, in the hopes that a bill can be worked out in conference which will enable all levels of government to effectively discharge their responsibilities to people in need of manpower services.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Chairman, I rise in support of the Comprehensive Manpower Act of 1973. I must commend the subcommittee chairman, Mr. DANIELS, as well as Mr. ESCH, for their long hours of work in reaching this compromise.

In particular, though, I would like to commend the gentleman from California (Mr. HAWKINS) for his foresight in offering the amendment in committee requiring the Secretary of Labor to conduct a study on the impact of the energy shortage on manpower needs.

In my own district, since the President's speech on Sunday evening, one small businessman who employs 40 handicapped persons learned that he will be forced out of business imminently. Unfortunately, he manufactures outdoor Christmas lights.

This is only the first of what I am sure will be a long list.

There are those who say that since our unemployment rate is currently only 4.5 percent, there is no need for legislation of this nature. While we are fortunate in having a relatively low rate of unemployment now, economists forecast that unemployment may rise to as much as 8 percent.

What we do here today will be increasingly important in the coming months. The shortage of oil will have ramifications in the auto industry, the airline industry, the petrochemical industry, and the clothing industry, to name but a few.

In my district, the airline industry is one of the largest employers. What is going to be the effect of the consolidation of flights on their employees? These are questions to which we must have answers so that proper planning for possible displacement can be done.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Chairman, I rise in support of this bill. I will direct my remarks to title II of the bill before us, which provides for a continuation of the transitional public service employment program established by the Emergency Employment Act of 1971, more commonly referred to as the PEP program. The present law provides Federal funds to employ unemployed and underemployed persons in transitional public services jobs when, one, the rate of national unemployment exceeds 4.5 percent for 3 consecutive months or, two, when the rate of unemployment in a qualifying area exceeds or equals 6 percent for 3 consecutive months.

The Emergency Employment Act of 1971, despite its very short existence, has demonstrated its effectiveness by helping upwards of 300,000 unemployed persons to obtain transitional, gainful employment until their return to private employment or to permanent employment in the public sector. Those who testified before the subcommittee were almost unanimous in their acceptance of public service employment programs as a highly successful method of coping with substantial unemployment and at the same time, providing much needed public services in their communities. These jobs meant more policemen, firemen, more persons employed in education, health services and other public works.

Those who question the advisability of continuing the PEP programs base their argument primarily on the fact that the serious national unemployment, which gave rise to the current law, no longer exists. But they overlook the great success of the program to date. In addition, they overlook the fact that substantial pockets of unemployment still exist even though the national percentage of unemployment has decreased in recent months.

Furthermore, we cannot disregard the possible effects the current energy crisis may have on our economy and on the percentage of unemployed. Leading national economists including Herbert Stein, Chairman of the President's Council of Economic Advisors, predict increased unemployment resulting from an expected slowdown in the national growth rate. Clearly, America does not enjoy a full employment economy, and conditions are expected to further deteriorate. Our private and public sectors are not creating enough jobs to meet our needs. It is for this reason that federally financed public service employment must be a key component in any national manpower program.

Title II of the present bill makes several changes in existing law, the most significant being a substitution of a single 7 percent unemployment rate trigger in place of the existing 4½ percent and 6 percent unemployment rate triggers. This means that in a given area if the unemployment rate exceeds 7 percent for 3 consecutive months, the trigger device goes into effect regardless of overall national unemployment rate.

The present bill provides for other changes. An employee in a PEP program must be a resident of the area and unemployed for 30 days. This prevents a municipality from temporarily laying off a regular employee and rehiring him under the PEP program. Under the present bill 90 cents of every dollar goes for employment purposes and only 10 cents for administration. This changes the existing law which provides that only 85 cents of every dollar goes to the worker in the form of wages and employment benefits.

Special considerations are provided for seriously disadvantaged workers. A prime sponsor must provide assurances that special consideration be given to the unemployed persons most seriously disadvantaged in terms of the length of their unemployment and their limited prospects of finding a job on their own.

Present jobholders are also protected in the bill. The PEP program jobs must not infringe on the promotional opportunities of persons already employed outside the PEP program. No one can be hired in other than the entry level positions unless personnel procedures and collective bargaining agreements are complied with. It is significant that the prime sponsor must assure that the jobs in the PEP program are additional jobs and could not be filled without the PEP program.

It is further provided in the pending bill that where the Secretary of Labor determines that an Indian tribe on a Federal or State reservation is unable to submit an application, he shall assist in the preparation, submission and implementation of the PEP program. The ceilings on earnings provide that no person employed in the program can earn in excess of $10,000 per year as compared to $12,000 per year under present law. This change would encourage persons employed under the program to move on to better paying jobs and to give to other seriously disadvantaged unemployed persons the opportunity to fill a PEP job. And finally, the Secretary of Labor is required to reserve and make available out of the funds appropriated under title II of this bill, the sum of $250,000,000 for fiscal year 1974 and $500,000,000 for fiscal year 1975.

I specifically directed my remarks to title II in the existing bill in the firm belief that a good, workable, comprehensive manpower bill must include a program providing meaningful jobs. I urge my colleagues to support this legislation in its present form.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Pennsylvania.

Mr. DENT. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman on a very fine statement and one that shows the work done on the bill through its course in a very difficult season. There has been a very great deal of give and take, and I compliment the two chief sponsors of the legislation who have done a very fine job under the trying situations of today.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAYDOS. I thank the gentleman from Pennsylvania.

Mr. ESCH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, first of all, want to join in congratulating our subcommittee chairman, the gentleman from New Jersey (Mr. Dominick V. Daniels) for his long and difficult work on this bill, and for his adroit handling of the issue. He never gave up on it. I think we should also thank our chairman, the gentleman from Kentucky (Mr. Perkins) and the gentleman from Minnesota (Mr. Quie) for the support they gave us in working out the bill and resolving the major problems, as well as thank the other members of the subcommittee on the Republican side, the gentleman from Wisconsin (Mr. Steiger) and the gentleman from New Jersey (Mr. Forsythe), the gentleman from New York (Mr. Peyser), and the gentleman from Connecticut (Mr. Sarasin).

As I indicated earlier, I especially wanted to thank and commend the gentleman from Wisconsin (Mr. Steiger) who, as everyone recognizes, is one of the real authorities in the House on the manpower legislation.

Mr. Chairman, I believe the real significance of the Comprehensive Manpower Act of 1973 lies in the future direction and predictability that will result from the passage of the legislation. The philosophical concept embodied in the Comprehensive Manpower Act goes far beyond the area of job training. For the first time Congress and the administration are recognizing that if we are to have an effective administration of manpower programs, we must give increased responsibility to officials in the State and local units of government, and that we must have a flexible program to meet the differing needs throughout the country.

In effect we are drafting new administrative law today providing for national oversight responsibility by the Secretary of Labor, while providing functional responsibility at the local level. Moreover, a recognition is given that there should be an effective coordination through the State government and its advisory committee. If the Members believe, as I do, that Government is best that is closest to its people, then they will subscribe to the philosophy behind the Comprehensive Manpower Act.

I think it is also important to recognize that the legislation that is before us today will go a long way toward providing a flexible and meaningful program for any unemployment problem that the country faces in the months ahead as a result of the so-called energy crisis.

For the first time it provides the flexibility needed to reach into pockets of high unemployment and to provide meaningful programs providing the flexibility of both job training and jobs themselves at the discretion of the local officials.

Another point should be made and made well. There have been several very successful job training programs in the country in recent years. Perhaps one of the most successful of these is the Opportunities Industrialization Centers, or the OIC's, which have been most successful in their efforts to place and to retain individuals in job training, counseling, placement, and retention programs. In this program which was founded in 1964, in the last 10 years they have provided skilled placement to 116,000 persons. It is the intent of this bill to provide a dual delivery system so that the OIC's can continue. The prime sponsors are encouraged to utilize the services of the OIC's in title I.

Moreover the Secretary of Labor has the responsibility for providing funding for such programs on a national level in title III, so that programs such as SER and OIC can continue on and even be expanded with their valuable work.

In order to understand the critical issues which will be discussed during the course of general debate and under the 5-minute rule, it is important to understand the basic structure of this bill and how it would operate in practice. At the outset, it should be understood that this is not a revenue-sharing bill as some have described it. True, there is a significant and long-overdue decentralization of decisionmaking power—but the final responsibility for the approval of programs rests with the Secretary of Labor, to be exercised in accordance with the requirements of the act.

Also, the Secretary retains a considerable amount of discretionary funds for expenditure within each State, as well as authority to operate programs of particular national significance.

Title I is a broad authorization to operate manpower programs—including transitional public service employment—and to provide supportive services and allowances or wages at the State and local levels.

In addition to the programs authorized under title I, any prime sponsor could initiate special programs for Indians, migrants, persons with limited English-speaking ability, or youth which are designated as special responsibilities of the Secretary under title III.

Title II authorizes funds mainly for transitional public service employment—but also for training and related services at the option of the prime sponsors when their needs indicate it—in areas of substantial unemployment.

Eighty percent of the funds appropriated under this act would be expended under title I and II at the State and local level with the Secretary retaining 20 percent of the other operative titles, III and VI. The Secretary, of course, would have to approve the plans of both State and local prime sponsors in accordance with the provisions of the act, and he would be expected to take reasonable steps to assure continued compliance with the act.

There was considerable debate about the extent of the State role in this bill and about the role of vocational education in providing institutional training. While I feel that the State role might be stronger, it was somewhat strengthened by amendments adopted in the full committee markup. I think it is adequate to assure a strong program for all sections of the State which do not fall within the area covered by local prime sponsors, and beyond that to provide needed coordination of State services. Much of the actual program coordination between State and local prime sponsors would be provided through the State manpower services council, nearly two-thirds of the members of which would be selected by the Governor.

As for vocational education, there is ample direction in the bill to prime sponsors to utilize existing facilities in order to avoid duplication of effort. Moreover, 5 percent of all the title I funds in each State would go directly to the State board of vocational education to be awarded to prime sponsors which make a good use of vocational facilities—which is a considerable financial inducement to cooperation.

There is also a provision requiring preference to be given to the use of vocational skills centers developed under MDTA. We worked cooperatively with the American Vocational Association in making improvements, from their point of view, in the bill as first introduced.

Of particular interest to me is title VII, which establishes a National Commission of Manpower Policy, consisting of representatives from Federal, State, and local agencies and interest groups. The function of this Commission will be to study, research, and evaluate the effectiveness of all our manpower activities, such as Wagner-Peyser, the work incentive program under part C of title IV of the Social Security Act, as well as those included in this bill, to determine how they can be better coordinated and more effectively combined.

Finally, I want to say a word about the one section of the bill where we agreed to disagree—section 502(a). This section mandates that $250 million in 1974 and $500 million in 1975 be expended from whatever amounts are appropriated under the act for programs authorized under title II. It should be emphasized that the administration has already agreed to request an additional $250 million for this purpose for the balance of fiscal 1974. This was one of the many concessions the administration made to help us work out this bill. However, they could not pledge a specific amount for fiscal 1975 before the total budget for that year is put together. No administration would do that, for obvious reasons.

I think there are equally obvious reasons why we should not shortcircuit the normal budgetary appropriations process by mandating a particular level of expenditure for one program under this act as opposed to all the others. We simply do not know and cannot know what the needs will be next year as the appropriations committees begin their work. We may well have increased unemployment as a result of the energy crisis, and accordingly want to put relatively more money into areas of substantial unemployment. On the other hand, there could be, as we hope, continued high employment and correspondingly fewer areas needing this kind of additional funding.

The only thing we can be certain of is that there will only be a certain total amount available for all of the programs under this act. I think it makes more sense to wait and see how we want to split up that amount, based on conditions then more fully known. Accordingly, I much prefer a separate authorization for title II rather than mandated expenditures. The language of the bill not only denies any discretion to the executive branch, but also the Congress acting through its appropriations process. I think this is unwise in terms of maintaining the integrity of our own legislative processes.

I would like to emphasize to the members of the committee that the long years of difficulty in working out this bill hopefully will come to fruition today in support by the large majority of Members of this body. It does, indeed, as someone remarked, seem unique when there can be substantial agreement on the part of both sides of the aisle in the Committee on Education and Labor, and this has come as the result of long hours of negotiation and work not only by the members of the committee, but the members of the administration and the interested persons involved. Hopefully, it will prove that we can have legislation even in an adversary relationship with the administration that will form the framework for solving the needs of the country.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I will yield to the gentleman from Kentucky.

Mr. PERKINS. I hear several complaints about the lack of prime sponsors; they feel that the 100,000 figure is too large.

I would like to ask the gentleman, when the funds reach the States, how does this legislation direct that those funds will be expended in certain localities and communities and counties where the population, for instance is 7,000 or 8,000, and which has an unemployment rate of 8 or 10 percent. How are these communities going to get their fair share of this money in those cases where they are not prime sponsors themselves? Could the gentleman answer that question?

Mr. ESCH. Mr. Chairman, I will try to answer that for the benefit of the chairman, and more importantly, the Members of the House.

In those areas of the balance of the State where there are no population jurisdictions of 100,000, the State will be the prime sponsor acting for the balance of the State.

There will be an opportunity for those local jurisdictions to work cooperatively with the State government to provide that there are separate programs within that State. In order for the Secretary to approve the plan as proposed by the State, the prime sponsor, he will have to have assurance that those localities are treated equally.

The second part, which is even more significant, under title 2 of the bill the 7 percent unemployment figure does not relate to the total prime sponsor area, but to a given area of the prime sponsor area so that, for example, a town in a rural county in the State could qualify for specific funds under title 2, and to provide funds specifically into that area where there are concentrations of high unemployment, and the funds must be used within that area; targeted into that area, whether they be in a rural county of 7,000 or whether it be in a larger prime sponsor area of a major city, such as the Watts area of Los Angeles.

The title 2 funds must be utilized by the individuals within that given area, so there are really two assurances.

Mr. PERKINS. In other words, when the manpower funds reach the State level, and the State is the prime sponsor for small communities, the law directs the prime sponsor, the State in this instance, to take in consideration the unemployment rate that exists throughout these communities and further directs that the State take in consideration the amount of funds that was expended during the previous year. So no local community with a high unemployment rate or that is in need will be overlooked, because the law directs the Secretary not to approve any plan unless this procedure is followed.

Am I correct?

Mr. ESCH. It is my understanding that the chairman is correct, but even more important than that—that is under title I—under title II, those funds are mandated to be spent within that area of high unemployment, so there is a specific mandate in title II.

Mr. PERKINS. That is correct.

If the gentleman from Michigan will yield further, if the plan does not provide for the expenditure of funds such as the gentleman and I have discussed in small communities, and the small communities have been overlooked, what recourse does the community or a small county have under this legislation?

Mr. ESCH. I would say to the chairman that there is also provision allowing the Secretary to take into account specific problem areas in the country, and take care of those specific problem areas where there is a problem relating to jurisdiction, so that those programs where there is a problem, such as migration, will be taken care of by the Secretary.

It should be reemphasized, as I did in my prepared remarks, that this differs from the manpower revenue sharing because the ultimate decision has to rest with the plan being approved by the Secretary, and then the following year the local prime sponsors may certify that they are continuing on with that plan, and it is the Secretary who makes the determination.

If that is not carried out, then there can be alternate prime sponsors designated by the Secretary, and these alternate prime sponsors would then function so there is clear protection to assure that the programs reach out where they are most needed.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, to further amplify the gentleman's reply to the distinguished chairman, I would like to point out that under section 106(b), subparagraph (2), if the Secretary receives a formal allegation from an affected unit of general local government that a prime sponsor has changed its comprehensive manpower plan so that it no longer complies with the section, the Secretary may withhold funds, and the Secretary himself may step in and take care of the local communities.

But nonetheless I would like to point out that a local community has recourse by registering a complaint with the Secretary.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman's comments.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, I rise in support of this bill, the Comprehensive Manpower Act of 1973, and I urge that we take prompt and favorable action on it.

At the same time I hope that we will not encumber the bill with amendments which will harm it.

I wish to point out that I have been a member of the subcommittee, and as a member of the subcommittee, I wish to compliment the chairman of the committee, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS), and the vice chairman, the gentleman from Michigan (Mr. ESCH), for the opportunity that they gave to all of us to introduce amendments and to work toward making this a better bill.

Mr. Chairman, I am not, of course, satisfied with all of the provisions of the bill, but I think that it has some fundamental concepts which I believe will be of great importance in the years to come if we are to develop a meaningful manpower policy and if we are to insure that everyone who seeks employment will have a meaningful opportunity to find it in this country.

Specifically, I am referring to the provision of the bill which mandates that the Secretary of Labor shall develop a comprehensive labor market information system and a computerized job bank. This is essential because for too many decades in this country we have had people going from rural areas into the urban centers and finding that the employment opportunities which they thought existed—and which did exist for earlier migrants fifty or a hundred years ago—have now ceased to exist. These new migrants to the urban centers cannot find adequate employment opportunities and have no information as to where those opportunities might be found. Consequently, they remain in the cities where they become enmeshed in the urban crisis.

I believe that if we can move toward establishing a computerized job bank and if we can move toward developing precise information as to where the labor opportunities in this country are located and what kinds of skills are required, then it will be possible to insure that those who are seeking to improve their condition will be able to go to those areas. I think that the concept of the job bank is probably the most important development in that direction that we can bring about here.

I also wish to call attention to a provision in the bill, section 301(b), which specifically mandates the Secretary of Labor to identify persons of limited English-speaking ability as one of the special manpower target groups and which specifically mandates the Secretary of Labor to establish appropriate procedures to insure that those persons are able to participate in programs which will enable them to be adequately trained for the jobs that exist.

Mr. Chairman, this provision is important, because under existing manpower programs we have found in many parts of the country that there are no facilities for those who are not able to speak the English language. Of course, it makes no sense to have an office set up for providing manpower training if the people who are staffing the office cannot communicate with those who need the jobs the most.

It is for that reason that there is a specific mandate to the Secretary of Labor that he identify those whose knowledge of the language is limited as a special target group, and that specific efforts be made to insure that part of the program include proficiency in the English language, using the tools of the particular language with which the individuals may be familiar.

I envision that programs conducted under this mandate would include, but would by no means be limited to, the development of training courses to teach skills and occupations not requiring high proficiency in English, especially courses which would use materials in languages other than English; undertaking programs aimed at increasing the technical English vocabulary necessary for a person of limited English-speaking ability to perform a specific occupation; developing programs designed to increase the number and improve the quality of bilingual training instructors and bilingual placement personnel; and, the operation of programs to increase employment and advancement opportunities for the limited English-speaking in general. The latter could include efforts to encourage persons with limited English-speaking ability to seek employment and encourage prospective employers to hire such persons; advertising the availability of job training programs and placement assistance for the non-English speaking in their primary languages; and aiding those whose native tongue is not English to capitalize on their bilingual ability for positions requiring this skill. Also, both current and prospective employers could be aided to increase the English-speaking ability of persons who grew up in Spanish-speaking, French-speaking, Oriental language-speaking and other similar environments in order to enhance their chances for advancement.

It is only by providing the additional programs set forth above that we will be able to insure that those who need the training opportunities the most, specifically those who cannot speak English well, will be able to take advantage of them.

Finally, Mr. Chairman, I want to speak about one of the things I think is unfortunate in the bill; namely, the language that public service jobs shall be transitional in nature.

I think more and more people in this country are coming to recognize private enterprise is not able to provide jobs for every person who needs a job. I think we are coming to recognize that if we are going to make sure that this in fact becomes a country of opportunity, that gap in private enterprise has to be filled by public service employment.

The Emergency Employment Act of 1971, which was passed by the same committee, proved that it was possible to establish meaningful public service jobs and the jobs established under that program were not make-work jobs such as cutting grass but, rather, were important jobs which could lend to meaningful careers.

An increasing number of economists, business leaders, and social scientists are predicting that, by this time next year, we will be experiencing a 6 percent unemployment rate. This means that within the next 12 months or so an additional 1.3 million Americans will be out of work, not to mention those millions presently unemployed, employed but earning less than a living wage or those who have despaired of locating work and are not actively seeking employment. Transitional work is simply insufficient to cope with the continuing unemployment and underemployment crisis and we must take affirmative steps to establish the goal of full employment as a national commitment and then work to actually achieve this elusive objective.

Despite this and other deficiencies, I believe that we must pass this bill. Frankly, we have little other alternative and, if this legislation is not enacted, I fear that a number of urgently needed manpower and public service employment programs will not be carried forward. Thus, I hope our colleagues will join in supporting H.R. 11010 and opposing crippling amendments.

Mr. ESCH. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STEELMAN).

Mr. STEELMAN. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, I want to congratulate the Education and Labor Committee for the emphasis it gave in the committee report to bilingual and low-income minority programs that have such an outstanding record of accomplishment such as Jobs for Progress—Operation SER—and Opportunities Industrialization Centers (OIC).

It is imperative these programs be continued, and hopefully strengthened, because they not only are a good investment from a benefit cost ratio to the Federal Government, but have offered real hope to obtain breakthrough positions for minorities. I understand from the chairman and members of the Education and Labor Committee that personal visits and letters from many other Congressmen, such as the one I sent outlining the success of SER and OIC in Dallas, led to the emphasis expressed in the committee report for the continuation of SER and OIC.

This year marked the seventh anniversary of Jobs for Progress—Operation SER. SER has done an excellent job easing the cultural and language difficulties Spanish-speaking Americans face while attempting to enter the job market. The instillment of self-reliance in the Spanish-speaking communities, which SER has accomplished, is an achievement that should be regarded with pride. The entire Nation has benefited from SER's education and training of Spanish-speaking citizens who move on to become productive and effective members of the American working force.

There is no way we can dispute the effectiveness and success of the SER program—it has been proven by the consistent growth of SER since its inception. The expansion in the number of SER projects has led to significant increases in the number of trainees and those placed in jobs.

In these days when there is increasing pressure to reduce the size of the Federal budget, we must be more selective in funding Federal programs. While unsuccessful programs should be phased out, programs such as SER, proven successful by their performance record, should be strengthened and given Federal support.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I remember that a colleague of mine on the Committee on Education and Labor said legislating is something like sausage making: you can enjoy it better if you do not see it made.

So it seems to me H.R. 11010 would be a lot more effective and I certainly would rise in greater and more enthusiastic endorsement of something of this nature if I had not seen it made.

It is certainly a compromise and is one that was dominated by the threat of a veto. I think that is a very, very poor way to legislate. After all of the philosophy is removed from this debate I think we should really address ourselves to what this bill does.

It is something more than simply trying to enumerate a series of programs most of which have already been authorized and are in existence. There is no need to commend ourselves, because this bill merely attempts to continue those things which are already in existence.

I can certainly appreciate the efforts of the subcommittee in accepting some clarifying amendments to make sure the OIC program and the SER program, which are two excellent programs, will be continued. I can certainly accept the great progress we are making in consolidating programs. These are two sections of the bill that should be commended.

We wish to commend both the ranking minority member and the chairman of the committee, Mr. DANIELS, for having done an excellent job.

The problem is this bill is not adequate and it does not do very much. It does not do as much as existing laws already do. Title II attempts to continue section 6 of the Emergency Employment Act. Under this title of the bill, if every dollar under title II were to be expended in the creation of jobs, we would have less than 70,000 jobs created. Assuming under title I a third of that amount of money is to be expended under title I to create jobs, we would have another 60,000 jobs or a total of something in the neighborhood of 130,000 adequate jobs as compared to approximately 150,000 that were created under the Emergency Employment Act which is being terminated.

So that we are losing and not gaining. And when you begin to subtract the rehires, that is, when you give to the local agency, the local cities, the opportunity of rehiring those that they discharge in 30 days, then we are simply transferring a job which was locally supported to a job which will be federally supported, and we have not added a single job.

So from the 130,000 we obviously would have to subtract a greater number of the jobs because this obviously is going to happen and it is being encouraged by the committee because in the report it spells out that this is not only permitted but it is to be encouraged.

I do not say that this is a bad thing, but I say that we are deceiving ourselves if we are saying that in this crisis through this manpower bill we are doing something to meet that crisis, then I say we are terribly at fault in giving that impression.

In the report itself on page 4, it is indicated that in the fiscal year of 1975, $1.06 billion is to be provided. This compares, as the report itself says, with a current expenditure of $1.8 billion. So we are losing almost $800 million in this particular bill over what the present programs are providing.

I say to the Members that at the same time we are cutting back on other programs, and providing fewer jobs under this proposal, that we are certainly not meeting that crisis. I think there is no doubt that we are facing that crisis and I do not think that that has been adequately addressed in this particular bill. Every economist or analyst both within or outside government who has rendered any opinion has indicated that next year there will be a reduced role and an increased unemployment so that the country is facing a serious crisis.

So I say that this bill, while it certainly is a vehicle to use for amending, it is certainly not something that will meet the crisis that we are facing.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I rise in support of H.R. 11010, the Comprehensive Manpower Act of 1973. The main purpose of the bill is to build on the present framework while alleviating the present situation of overlapping and lack of coordination.

The past 12 years have brought many new manpower training plans, most of them aimed at meeting the needs of specific groups of people. By simplifying the separate categorical programs developed over the past 12 years, H.R. 11010 provides local and State governments with the opportunity to develop manpower programs responsive to the most urgent needs of their respective areas. This will be accomplished through a system of grants to State and local prime sponsors, thereby eliminating the contract system now in effect.

The need for the immediate enactment of the Comprehensive Manpower Act of 1973 is magnified by the present energy crisis. The increased unemployment which is sure to result from the fuel shortage should receive serious consideration by Congress. We need a program that is effectively coordinated and keyed to local problems where they exist.

The pending legislation would provide this type of program.

Mr. Chairman, I am impressed by the committee's report that the Comprehensive Manpower Act of 1973 is the result of 4 years of intensive planning and enjoys strong bipartisan support. It is evident that the bill has received careful and thorough consideration in committee and represents a vast improvement over the present program. Stressing "economic independence through employment," H.R. 11010 views the role of manpower programs not only as a means for job training, but also for providing employment. It is a future-oriented proposal.

I urge its passage.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman from New Jersey for yielding me some time.

Mr. Chairman, I serve on the Democratic Policy Steering Committee of the House. Some several months ago we discussed in a meeting the awesome crisis that is confronting this nation in terms of mass unemployment. At that time I spoke, in particular, about the minorities, the blacks, the browns, the Indians, who currently experience gross unemployment and who face the very real possibility of the unemployment rate in these groups even rising higher.

I share with the gentleman from Michigan (Mr. ESCH) and the distinguished gentleman from New Jersey (Mr. DOMINICK V. DANIELS), the delight that a bill has come out which addresses itself to this critical problem. I also share the thoughts of my colleague, the distinguished gentleman from California (Mr. HAWKINS), that we ought not be lulled into assuming that this bill represents a panacea for the huge problem we are confronting in unemployment.

Mr. Chairman, I want to take this time to indicate that, in the overall, I want to support this bill because of the job emergency with which we are wrestling in our communities. I would hope, and I repeat, I would hope, that there will be additional amendments strengthening this bill so that its impact will be even greater than what its potential now suggests.

I do not know how to explain to the Members of this House the frightening specter that faces our youth in cities. In some cities, in June census facts youth unemployment ranges up to the rate of 39 and 40 percent.

The Members, you and I, and our constituents pay for that area of neglect. We pay for it in a steady staccato of crime that does not recognize race, status, or anything else. This bill, if amended, will begin to deal with that sordid and terrible problem. I would hope that we would move quickly to pass this bill. I would also hope that the amendments, which I understand will be offered by the gentleman from California (Mr. HAWKINS) and the gentleman from Wisconsin (Mr. REUSS) will be fully supported, because that is a way of showing, and I mean support of these amendments, that we truly recognize the mass dimension, the awesomeness of the problem that this Nation confronts.

I thank the gentleman for yielding to me.

I yield back the balance of my time.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. DENT) for the purpose of asking a question.

Mr. DENT. Mr. Chairman. I have received some expressions of concern from my State that this bill will result in a reduction in the State government's role in manpower programs. Could you explain what the State role would be?

Mr. DOMINICK V. DANIELS. I do not believe that the State's role will be substantially reduced for several reasons. Under H.R. 11010 local prime sponsors must have a population of 100,000 or more. The State, however, will continue to have responsibility for administering programs and providing manpower services in the balance of the State. In addition, section 104 of the bill gives the State an enhanced and broadened coordinating role involving economic development, human resource development, education, and other areas that may be relevant to manpower planning. I expect that, in fact, the State will have more, not less, work to do under this new program.

Mr. DENT. Thank you, Mr. Chairman. I also have a question concerning the matter of employee protection.

The shift in the delivery system for manpower programs could result in the possible dislocation of people administering manpower programs at the State level and providing manpower services in local offices of the State's employment service. In my own State of Pennsylvania I understand that about 1,000 people might be affected. What kind of protection does H.R. 11010 afford these people?

Mr. DOMINICK V. DANIELS. I appreciate the concerns of my colleague from Pennsylvania. As you know, section 403(7) of the bill provides that any program under this act should not, and I quote, "result in the displacement of employed workers or impair existing contracts for services". Although originally intended to prevent a person supported by a Federal program from replacing an employee paid by non-Federal funds, it also should apply to administrative personnel. Every effort should be made by State governments to keep their administrative personnel in their current jobs or offer them optional employment within State government.

In the case of local prime sponsors, which will have greater administrative responsibilities, I would expect them to seek experienced people who had administered manpower programs. Thus, where a State might not feel it could retain all its administrative employees, these people should logically be given first consideration by local prime sponsors, and suitable arrangements for transfer of their seniority rights, pension rights, etc. should be made. Finally, section 103(a)(3)(A) of this bill requires that, to the extent possible, the expertise and services available from the State employment services and other Federal, State, and local agencies should be utilized. Doing so would minimize the unemployment of professionals who provide such services as counseling, job referral, and the like.

Mr. DENT. As I understand it, then, the option is within the State to keep the persons or to let them out?

Mr. DOMINICK V. DANIELS. Correct.

I should like to yield to the gentlewoman from Texas (Ms. JORDAN) for a question.

Ms. JORDAN. Mr. Chairman, I thank the gentleman for yielding. With regard to the definition of the term "areas of substantial unemployment" in title II of the bill, I would hope that the gentleman from New Jersey would further clarify the committee's intent. Section 203 of the bill defines areas of substantial unemployment as an area of sufficient size and scope to sustain a public service employment program and which has a rate of unemploy ment of 7 percent or more for 3 consecutive months. The committee report accompanying the bill further amplifies upon this definition. It reads in part:

> It is the committee's purpose here that areas within cities (or areas within rural counties) such as Chinatown or the Mission District in San Francisco, Uptown or Lawndale in Chicago, Watts or East Los Angeles, portions of Seattle, Harlem, or Bedford-Stuyvesant in New York will be so designated by the Secretary.

I am confident that the Department of Labor will read this language in the committee report carefully before publishing regulations implementing the Act. I am wondering, however, if some additional examples of "areas" might be helpful. For instance, there is an area in the city of Houston, largely encompassed by the model city neighborhood designated by the Department of Housing and Urban Development, which has a substantially higher unemployment rate than the city of Houston as a whole. This area is not geographically large, but unemployment at the time of the 1970 census reached approximately 7 percent of the labor force. Would you believe that this area would be eligible under the definition in section 203?

Mr. DOMINICK V. DANIELS. I would think that model city neighborhoods could qualify as "areas" within the definition of section 203 provided the neighborhood has an unemployment rate of at least 7 percent for 3 consecutive months as the gentlewoman suggests.

Ms. JORDAN. There is another area within the city of Houston, sometimes referred to as the Huntington-Kashmere Gardens area which has a labor force of approximately 40,000 individuals, but does not now have substantial unemployment. This area is not adequately served by public transportation and is approximately 5 miles from two major sources of employment: The central business district and the Port of Houston. Workers must depend upon their private automobiles to get to and from work. Do you believe that the Department of Labor has sufficient flexibility under the terms of the definition of "areas of substantial unemployment" in section 203 to be able to designate new areas and redraw boundary lines if an area such as this becomes isolated from sources of employment due to fuel shortages?

Mr. DOMINICK V. DANIELS. I would hope the Department of Labor would exercise sufficient flexibility to adapt to changing conditions. I will assure the gentlewoman from Texas that there is nothing in this bill which would prevent the Department of Labor from doing so.

Ms. JORDAN. I thank the gentleman from New Jersey for clarifying these matters.

Mr. ESCH. Mr. Chairman, if the gentleman will yield I concur that the intent of the legislation is to provide flexibility on the part of the Secretary to designate specific areas, such as, for example, the gentlewoman suggested. It is to reach out to specific pockets of high unemployment, whether they be in the cities or within the rural areas.

I want to emphasize to the Members of the House that the intent clearly in the bill is that areas of concentrated unemployment are covered in this legislation and in title II specifically the funds must be utilized within that area of unemployment to provide job training and jobs for individuals within that area, so there is no question about the fact that whether it be a rural area or not, even though they do not reach 100,000, if they have an unemployment problem, a concentrated unemployment problem reaching 7 percent or more, then they will be covered under title II and the individuals within that area will be put to work or put into a training program.

Mr. DOMINICK V. DANIELS. I concur with what the gentleman said.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, in line with what the gentleman said, in that case then, will the State be the prime contractor where the population does not come up to 100,000?

Mr. ESCH. Mr. Chairman, if the gentleman will yield, it will be either a local prime sponsor if one qualifies, or if it is in the State, if it is in a rural area not covered by another prime sponsor then it will be the State which is mandated to work within that local area in carrying out that program.

Mr. KAZEN. That is regardless of the population? I have in mind a city in my district which is about 11,000 in population with about a 7-percent unemployment, but the city and the entire county will not go up to 100,000. Where will they get their help?

Mr. ESCH. If the gentleman will yield again, I would say to the gentleman it will be covered under title II and funds will go into that area for training people in that area. If they are not within an area of 100,000 the State must administer the program but the funds will be local and they will be served and the function will be local.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I would like to pose a question to my colleague on the committee. This bill authorizes the creation of a National Commission on Manpower with hopefully a major commitment to developing manpower in certain areas.

I have in the past been very active in dealing with the inmates of the Riker's Island Prison. The manpower training program in that area has been very successful. Those that have participated have been found to be very constructively affected. Four out of five of those who participated never come back to crime. We find of those that do not participate, four to five do return to prison.

I was wondering if the gentleman could tell me whether there would be a major commitment on the part of this National Commission toward dealing with rehabilitation and development of these inmates?

Mr. BIAGGI. Mr. Chairman, since 1946, we have been working toward achieving the goal of full employment in the United States. And we have been doing very badly. There has hardly been a year since the end of World War II when the unemployment rate has been less than 4 percent. It is 4.8 percent this year, and the forecasts of recession and energy crisis for the coming year promise it will go higher. We are not doing enough to make certain everyone in this country has the minimum requirement for human dignity—a job.

That is why I support the Comprehensive Manpower Act of 1973. It is a greater national effort than we have made in the past. We are going to spend $250 million in fiscal 1974 and double that the next year. We are writing an open ended authorization all the way until 1977. This is the kind of commitment this problem deserves.

The bill mandates the Federal Government to supply comprehensive manpower services on a broad basis. The vehicle of the prime sponsor is an appropriate one to insure that very few, if any, needy geographical areas, will be left out. We are targeting special funding for those groups which have historically been disadvantaged in this country—the Indians, the migrant and seasonal farmworkers. We are continuing the Job Corps with greater funding, and authorizing special moneys to create jobs for unemployed youths in the summer months. These are the kind of things we should be doing, and which this bill is going to do.

But, of course, it is not enough. Fortunately, this bill recognizes that. It authorizes the Secretary of Labor to continue his research in the manpower area, to continue job training, to continue program evaluation and to computerize labor information in a job bank. Perhaps most important of all, the bill authorizes a National Commission on Manpower Policy to focus on the problem of coordination and on the rapidly approaching needs ahead.

One of the issues I would like to see the Commission address itself to is that of a major commitment to job training in prisons. I know from my own involvement in the Rikers Island Manpower Development Training Center in my own district how well it works, and how important it is.

We train about 160 youths each year in skilled trades. The result has been extraordinary. Where the recidivism rate in the general prison population of Rikers Island is four out of five, those from the Development Training Center have a rate of only one out of five. Obviously, the program gives them a whole new outlook on life.

This is the kind of thing we need to be doing. It represents a crucial issue of coordination between our prison policies and manpower issues. The Commission should not overlook it.

I strongly support H.R. 11010 and urge its passage.

Mr. ESCH. I would answer the gentleman in two ways. No. 1, that certainly it is the intent of the Commission to develop an effective program of research to reach out to those areas.

More importantly, knowing his good work in this area and the bills sponsored both by myself and the chairman of the subcommittee last year in the manpower training program, there was a provision in title III, found on page 101, section 301, which provides that the Secretary shall use funds available under title III to serve "persons in correctional institutions."

So I would say to the gentleman, that is the intent of this author and I assume of the subcommittee chairman that under title III of this act the Secretary is encouraged, in fact, mandated to reach out to use funds not only for Federal prisons, but State and local prisons, for effective training programs such as the one the gentleman has been involved with.

I commend the gentleman for calling the attention of the committee to that effort and I assure the gentleman I stand ready to work diligently to see that this is carried out.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, H.R. 11010, the Comprehensive Manpower Act of 1973, is in many respects an admirable bill, and I commend the chairman and members of the committee. But in the area of public service employment, the bill is a disappointment. First, the unemployment rate necessary to trigger public service employment assistance is a staggering 7 percent, and second, the funds reserved for public service employment are only $500 million—enough to fund about 50,000 jobs.

We must face the fact that unemployment is expected to worsen in the months ahead, due to inflation, rising interest rates, and shortages of raw materials and energy sources. One estimate—perhaps overly pessimistic—puts probable unemployment as high as 8 percent. But whatever the exact figure, no one can doubt that before long another one or two million workers will be looking for jobs, and looking to the private sector in vain.

Meanwhile, many necessary public services go unperformed for want of manpower. Better health care, police protection, clean streets and cities, more beautiful parks and forests, safer educational facilities, more efficient public transportation, all require people to fill the jobs.

Why is an organized public service employment program desirable?

First, of course, it is the most direct way of creating jobs, of giving those willing and able to work the chance to perform useful public functions.

Second, public service employment will not add to the inflation which currently grips the economy. The chief forces driving inflation are shortages—shortages of agricultural products, raw materials, energy sources, skilled labor. Some say that the best way to create jobs is through "trickle-down," macroeconomic expansion. But we simply cannot afford—in terms of raw materials and fuel—such methods now. Public service jobs would not consume these commodities in short supply. Public service employment, typically, would involve workers clearing bicycle trails by hand or setting up day nurseries, rather than running paper mills or trucking lines.

The need to conserve energy, in particular, underlines the need to relieve unemployment by creating public service jobs. To find fuel, we will increasingly be forced to use methods harmful to the environment—strip mining, for example. We will need men and women to reconstitute the ravaged land, to replace the soil, sow grass, plant trees, replenish wildlife. A public service program could provide the manpower for these tasks.

Third, a strong public service employment program is the best way to forestall a general economic recession, which some analysts see coming. Economists estimate a 2-to-1 multiplier from a public service program. Thus for every 100,000 jobs created in the public sector, an additional 200,000 jobs would open up in the private sector to satisfy the increased economic needs of the public service employees.

For all these reasons, public service employment is an obvious and sensible step.

Some will ask why public service employment need be a concern of the Federal Government. True, an unspecified sum is available under title I of H.R. 11010 which cities and localities might, if they are so inclined, use to set up public service programs. But the Federal Government was given the responsibility by the Employment Act of 1946 to see that there are jobs for all Americans who want them. Statutorily, the Federal Government cannot wash its hands of the unemployed. Even if it could, it would be unwise to pass the responsibility on to lower levels of Government.

Let us look at the use of general revenue sharing funds by States and localities. According to Treasury reports, not one penny of this money has been identified as going for a public service employment program. Can we expect a miraculous change of behavior under the Comprehensive Manpower Act?

Under title I, public service employment would be competing for funds with manpower training programs, education programs. Certainly the latter are important tools against inflation, and cities and localities should be encouraged to set up such programs. But nothing is more important, economically and psychologically, to an unemployed worker than finding a job. Public service employment must be separately and adequately funded by the Federal Government.

The bill before us today, as it relates to public service employment, is a step backward from the Emergency Employment Act of 1971, itself disappointing in many respects.

First, the current bill provides no assistance to hard-hit areas until unemployment reaches 7 percent. This is outrageously high. Six percent or even lower is the trigger found in most other legislation. The Federal procurement preference program, the Public Works and Economic Development Act, Executive Order 10582 implementing the Buy America Act, the special assistance provision of the Emergency Employment Act, all are triggered by 6-percent unemployment. Extended unemployment compensation is triggered at 4.5-percent unemployment—provided other factors are also present.

Setting the trigger at 7 percent is not only unjustified by precedent. It is also dangerous. If we let unemployment reach 7 percent, a downward economic spiral—the opposite of the multiplier effect described earlier—will begin. As more and more people lose their jobs and their purchasing power, the economy of the area will feel the repercussions in decreased demand for goods and services. More workers will be laid off, and the spiral will continue.

The trigger should be 6, rather than 7, percent. I shall move to amend the bill in this respect at the proper time.

Second, the current bill provides a smaller sum for public employment programs than did the Emergency Employment Act. H.R. 11010 reserves only $500 million, while the earlier act provided a total of $1.25 billion—$1 billion for nationwide distribution when overall unemployment hit 4.5 percent, and $250 million for areas with 6 percent unemployment. I would hope that Congress will raise the reserved funding in the bill before us to at least $1 billion, still less than the amount authorized in 1971.

Finally, to those who are inclined to point to the present unemployment rate of 4.5 percent and say that there is no need to anticipate disaster, I reply that there is every need, and we must do precisely that. A public service employment program cannot be implemented overnight, as experience with the Emergency Employment Act has shown. Cities and local governments must be given time, and assurance of adequate funds, to plan the program. It is essential that Congress legislate an effective program now, so that the machinery will be in place when needed.

Some members of the Education and Labor Committee also deplore the mildness of the public service employment component of this bill, but were persuaded by the threat of a Presidential veto to endorse the compromise.

Mr. Nixon's opposition to such program is of long standing.

But this compromise underestimates the will of the House to do what is right and economically provident, even at the risk of some confrontation. Congress can do better than this grossly inadequate public service provision We should place on Mr. Nixon the onus of denying employment to those who seek it, and the responsibility for swelling the welfare rolls.

That is the alternative before us today: Jobs or welfare. We all know what unemployed workers would prefer. Let us give them their chance to work.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. Mazzoli).

Mr. MAZZOLI. Mr. Chairman, I would like to join my colleagues in commending the gentleman from New Jersey, the chairman of the subcommittee, and the ranking minority member on the committee, the gentleman from Michigan (Mr. Esch) in putting on the floor of the House a bill which I believe all of us can support, and support wholeheartedly and without reservation.

This is not to say, Mr. Chairman, that this is the perfect bill, and I think our chairman would agree that there are aspects of it we would like to have changed. I am sure that if each of us had an opportunity to work our will on the bill, it would be different. But, we had to struggle to get a bill that everyone could, one might say, legitimately support and find in it something of interest.

Mr. Chairman, I speak with some particular sentiment in that regard, because earlier this year, when the House had before it a rule to consider a bill to extend a particular one of the manpower programs, the gentleman in the well filed individual views opposing this kind of an approach to manpower legislation.

I felt then and I feel now that the only approach that was useful and suitable was a comprehensive approach. Therefore, I with reluctance opposed my own chairman and our committee.

As a result of that vote and as a result of the chairman's strong and undivided leadership in the preparation of a comprehensive bill, we did manage, after the expenditure of hour upon hour and week upon week of effort, to produce the bill that is before us today.

Therefore, Mr. Chairman, as one who had opposed the extension of an individual component of the manpower program spectrum, I now have the fullest confidence in this comprehensive bill. It is my intention to support it. It is my intention to support it without change, because I believe it is the only manpower program which has an opportunity to become law this year and to help us to conquer all the problems of unemployment including that of juvenile delinquency.

Mr. ESCH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Chairman, I rise in strong support of this legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. Jones).

Mr. JONES of Oklahoma. Mr. Chairman, I rise in support of the concept of this bill and congratulate the committee on their work.

My question to the chairman of the subcommittee concerns title II and the legislative intent of this bill, and I wish it to be fully and absolutely clear that this bill in no way would put the public employment in competition with private employment. Is it the clear legislative intent that the Federal Government should not be the employer of first resort, and that the bill is not intended to provide assistance to those who refuse bona fide private employment?

Is that the intent of the bill?

Mr. DOMINICK V. DANIELS. That is the intent of the bill, and in reply to the gentleman from Oklahoma (Mr. Jones) I would state that it is the intent that the State should not be the employer of first resort, nor should the State be in competition with private employers, and that those people who are unemployed or disadvantaged are the ones for whom this program is intended. It is intended to give them training, hopefully for a job.

Mr. JONES of Oklahoma. Mr. Chairman, I thank the gentleman.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, the director for the division of adult and continuing education in my State has written me a letter in which he expresses concern that the States are being bypassed in favor of direct or local sponsorship in this matter.

Let me read two paragraphs from the letter in order to give the Members some background of his concern. He says as follows:

> The fact of the matter is that cities have relatively small amounts of public funds for human resources development, and the funds Congress can reasonably give them under this bill is still small compared to the State expenditure for education, training, health, rehabilitation, etc. This legislation screens State government from getting involved, and leads cities and councils of governments to set up underfunded duplicative systems.
>
> The legislation would allow city councils to ignore the constitutional and legislative provisions for public education in Texas. There are no requirements for the utilization of public vocational education expertise, systems, facilities, or equipment.

Mr. Chairman, the letter goes on to point out that there are not enough funds available for the States in the vocational education field.

I would now like to ask the chairman of the subcommittee, how do the States best participate? How much can they participate? How much are they entitled to in the way of funds, and why do we have a limitation?

Mr. DOMINICK V. DANIELS. Let me take the first portion of the question.

Mr. PICKLE. My question is directed to the fact that the funds are being limited, and that the full amount will not be made available to the States for vocational education.

Mr. DOMINICK V. DANIELS. Well, we have two principal areas of employment in the bill under title I of the act.

No. 1, it depends upon the number of unemployed, and, second, the amount of funds for manpower programs during the preceding year. So we have a 50-50 weighting factor.

The bill further provides that of the funds appropriated under this act under title I, 80 percent will go to the States and be distributed within the State under that formula.

Mr. PICKLE. Are the States limited to a 5-percent funding amount?

Mr. DOMINICK V. DANIELS. No. Under the formula 80 percent of the money is distributed within the State.

Mr. PICKLE. Eighty percent is distributed?

Mr. DOMINICK V. DANIELS. Eighty percent goes to the State, 20 percent is withheld by the Secretary of Labor as discretionary funds. Under title I, 5 percent will go to vocational educational authorization for the purpose of being used in manpower programs, and 5 percent as an inducement for employment in the local communities.

The remaining 80 percent goes to the State to be used for funding the State and local programs, with one exception, which is as follows: One percent is taken off the top for the expenses of the State counsel.

Mr. PICKLE. Then the funds are really going into the big cities and/or the big States, but not to the vocational educational systems?

Mr. DOMINICK V. DANIELS. No, not to the local educational systems.

Mr. PICKLE. Mr. Chairman, did the gentleman state that figure is 5 percent?

Mr. DOMINICK V. DANIELS. The gentleman is correct.

Mr. PICKLE. Was this discussed with the committee, the information as to that figure?

Mr. DOMINICK V. DANIELS. Yes, it was discussed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ESCH. Mr. Chairman, I yield the gentleman 2 additional minutes.

Will the gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. ESCH. This matter was discussed fully with the American Vocational Association. They recognize that they want to be a part of any job training program developed here and agreed that a set-aside of 5 percent would be a proper leverage so that they could become involved both at the State and local level.

At the State level, in addition, there are funds for that coordinating advisory committee role which would also involve bringing together the vocational educators on the one hand and the manpower people on the other hand.

The American Vocational Association concurred with that concept.

Mr. PICKLE. Then, do I understand the national association does concur with the bill we have before us today?

Mr. ESCH. In general I think that they concur with the legislation before us.

Mr. PICKLE. I mean with respect to this particular item.

Mr. ESCH. That is correct.

Mr. DOMINICK V. DANIELS. If the gentleman will yield, I may say that one of the main principles of this bill is against decategorization. In other words, they are free to adopt those manpower programs which they think will help meet the problem in the respective area.

Mr. PICKLE. I understand it better. I think the State has a good point. We should not be duplicating these services where there is an ongoing and very effective organization. We ought to try to have further training and employment made through the States where there is a good program ongoing.

Mr. DOMINICK V. DANIELS. That is what is provided in the legislation.

Now, Mr. Chairman, I am happy to yield such time as he may use to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, first I want to commend the distinguished gentleman from New Jersey (Mr. DOMINICK V. DANIELS) and his committee for bringing this measure to the floor.

My first question relates as to whether or not this measure will be able to be of assistance in meeting the prospective increase in unemployment in the country which will probably arise as a result of the energy shortage.

The second question is in the area of crime. The two groups who mostly make up the crime population, that is, the perpetrators of crime, are the young people, the high school and junior high school dropouts, and inmates of prisons who are released to come back to society.

With respect to the first question, would the gentleman be able to say under this bill that this would help meet the rising problem of unemployment?

Mr. DOMINICK V. DANIELS. If the gentleman will yield, as chairman of the subcommittee, I was most insistent on a continuation of public service employment. There was an indication some several months ago when I appeared before this body in sponsoring legislation for an extension of the Emergency Employment Act for an additional period of 2 years providing for funding at double the 1973 level, and you will recall what happened on the floor. We met with a reverse as a result of which I had to abandon that legislation.

However, I have insisted because of the economic situation and the unemployment situation which presently prevails—and I hate to think of what might occur tomorrow or next month or next year—that public service employment be considered an integral part of any manpower program.

I am pleased to say the administration endorsed that philosophy as incorporated here in this legislation and committed itself to $250 million being spent for that purpose for the balance of fiscal year 1974.

Mr. PEPPER. I thank the gentleman.

My second question: Would there be money in this bill for the appropriate public authorities, State, country, or local body to provide training programs for school dropouts or young people who might need job training and also training for those released from prison or person while they are in prison to be given training which would enable them to make a decent living when they get out?

Mr. DOMINICK V. DANIELS. There is sufficient flexibility in this bill for the Secretary of Labor to adopt such programs not only for our youths but for prisoners and also for our senior and aged citizens and other programs that local communities or prime sponsors individually might not sponsor but which are sufficiently national in scope so that the Secretary of Labor should look into them because of their national effect.

Mr. PEPPER. I commend the gentleman on his measure. I thank the gentleman and his committee for bringing this legislation out.

Mr. ESCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, I would like to ask the gentleman from Michigan a question.

One of the programs that we from the State of Indiana have found has had a great deal of success in the past is the OIC program, and I was wondering if, for the record, the gentleman from Michigan could quickly document exactly how that program will be affected by this piece of legislation.

Mr. ESCH. Mr. Chairman, I would say to the gentleman from Indiana that it was recognized by the authors of the legislation the importance of the program such as the gentleman has referred to in the State of Indiana, the OIC program, and in effect this legislation will advance the OIC program.

First of all, in title I, it provides that the local prime sponsors can contract and work with the OIC's to carry on those programs.

More importantly, perhaps, in title III it provides a vehicle through which the Secretary using his discretionary fund, will continue on the national emphasis of the OICs. So that in effect it encourages a further advancement of working in the successful OIC programs.

Mr. Chairman, I want to thank the very able and distinguished gentleman from Indiana (Mr. Hillis) for directing our attention very early in this direction through communications with me and we wrote the legislation as the gentleman suggested.

Mr. HILLIS. Mr. Chairman, I thank the gentleman very much for his reply.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Chairman, I want to commend the distinguished gentleman from New Jersey (Mr. Dominick V. Daniels), the chairman of the subcommittee, the members of the subcommittee, and the entire committee for giving the House the opportunity to work its will on this legislation. It is good legislation, and I shall support it.

Mr. Chairman, the energy crisis makes it absolutely imperative that we launch a new public employment program, such as the one contained in H.R. 11010, the comprehensive manpower bill, which the House will debate this week.

It is becoming more and more apparent that energy shortages are going to cut severely into manufacturing and other industrial activities and into other sectors of our economy. This is going to mean employee dislocation—curtailment of hours, layoffs, abolition of jobs. Some economists are estimating that our gross national product may fall off by $100 billion a year and that our unemployment rate may shoot up to 8 percent or more.

That would be almost twice our present unemployment rate. It would be a good 2 or 3 percent higher than the peak unemployment rates we had 1 or 2 years ago when we passed the Emergency Employment Act to alleviate the problem.

That public employment program—PEP, as it was known—had outstanding results across the Nation. Much of my own congressional district is classified by the Department of Labor as having substantial and persistent unemployment. Under PEP, 1,126 jobs were established for public agencies in my district. Stanislaus County, for example, ran one of the best public employment programs in the Nation. The county used the program to take care of work that needed to be done. These were not leaf-raking jobs; people hired under PEP worked for the Stanislaus assessor, the sheriff, the fire warden, the library, the hospital, superintendent of schools, and the veterans service.

Our accomplishment was twofold: We provided useful work for those who needed it and wanted it—including some of our Vietnam veterans—and we took care of work that agencies needed to have done but which they did not have the funds to hire for.

I have mentioned consistently that we needed a transitional program to help these public service employees transfer to permanent, private jobs. Given the energy shortage, it is more important than ever that we think about expanding this PEP program to aid the private sector.

Americans are responding to the energy crisis with the spirit of determination and good will that is characteristic of our people. Everyone is willing to help conserve energy, provided that everyone shares evenly in the burden—and provided further that the weakest among us and the least able to afford it do not suffer intolerable burdens, such as the loss of job or livelihood.

Congress has recognized the energy crisis for what it is—a major challenge to our Nation for the remaining quarter of this century. We must prepare now to meet this challenge—which may well prove to be one of the most crucial in our history. We need programs of research to find alternate sources of energy, and we must find ways to make the most efficient uses of the energy we now have.

In the process, we cannot turn our backs on those who face loss of jobs or other unfair economic penalties because of forces beyond their control. Passage of H.R. 11010, with its public employment program, is important on its face. In the light of the energy crisis, its passage becomes mandatory.

Mr. YOUNG of Georgia. Mr. Chairman, I support H.R. 11010, the Comprehensive Manpower Act, because it will assure the continuation of vitally important manpower training programs, as well as provide jobs in areas of high unemployment.

In view of present economic conditions and an energy shortage which threatens massive nationwide unemployment, this is timely legislation. Indeed, it may not be long before the Congress is forced to come to grips with the issue of jobs and vote for an employment program that guarantees people the right to decent jobs and adequate incomes.

In any event, this bill is an important step toward relieving millions of families from the suffering caused by unemployment. It is sad to note, Mr. Chairman, that the administration is attempting to kill the provision of the bill which insures that the unemployed will have some chance for jobs in public services—services which people need and deserve from their State and local governments. It is disappointing to see that once again, the administration callously seeks to cut back on human services in order to be more generous to the military and the mighty. And it is disgraceful that this administration cannot grasp the fact that, once a person is trained in a skill, his problems are not over until he gets a job.

During the last few years in my home city of Atlanta, we have been fortunate in having one of the lowest unemployment rates among major cities. But that is no accident, and much of the unemployment has been eliminated by excellent training programs, followed up by vigorous attempts to get the newly trained into jobs. Organizations like the OIC and the Urban League in Atlanta have been very effective in these efforts. Programs such as the Neighborhood Youth Corps and Economic Opportunity Atlanta have greatly contributed to economic growth—providing young people, old people and heads of families with meaningful employment and providing the community with important services.

This does not mean that Atlanta has no unemployment problem. Far from it. Children in poor communities in Atlanta still go hungry because of unemployment and underemployment. This is true across the Nation, and it is one more reason why this legislation should be passed.

The bill is not perfect, but it does give the State and local governments more flexibility in operating manpower programs, while maintaining firm Federal guidelines on policy—notably the requirements that the neediest among the population, such as the younger and older people, must be given priority in the manpower programs.

The bill enables people in neighborhoods or communities with the highest unemployment levels to have public service employment. This means, for example, that despite the relatively low overall unemployment rate in Metropolitan Atlanta, people in the poorest communities where unemployment is 7 percent or more will be eligible for the public employment program.

Finally, the bill requires that appropriations for this legislation must include $250 million in fiscal 1974 and $500 million in fiscal 1975 for the public service jobs program. It is tragic that such a requirement must be written into law. One would hope that the administration would be asking for funds to hire the unemployed, instead of concocting schemes for not using such funds.

I trust that the Congress will insist to the President that a man without a job is not the cause of inflation, and that a person with a skill is no value to a society which will not provide him with decent employment.

I hope that soon after we enact this bill, we will move on to cope with further programs which will be required to provide all Americans with adequate jobs and incomes. The worst energy crisis is not the shortage of oil which the petroleum industry cries about. It is the waste of energy by idle people who want jobs so that they can contribute to the economic health of this country.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 11010, the Comprehensive Manpower Act of 1973, although I must qualify that support with serious reservations. The job training and public service employment provisions of this legislation make it hard to reject, yet the funding levels for these programs are likely to be completely inadequate to meet the employment problems this country is likely to face in the months ahead.

In New England, where recovery from the 1970 recession has been laggardly at best, the closing of the Boston Naval Shipyard and other reductions in the military budget are about to put thousands of people out of work. Local fishing, textile, and shoe industries continue to founder, and unemployment in several cities in my district exceed 10 percent and is increasing.

Now, the situation in New England and in the rest of the Nation is about to be compounded by a serious employment loss attributable to the energy shortage. The National Petroleum Council has estimated that joblessness may rise to 7.9 percent across the country by the end of 1974. Mr. John Swearingen, chairman of the board for the Standard Oil Co. of Indiana, estimated an unemployment rate of 8 percent last Sunday. Other projections are somewhat more modest, but it is generally agreed that this country cannot hope for an unemployment rate of less than 6 percent by the end of next year.

As is normally the case, the unemployment rate for my own region of New England can be expected to exceed the national rate by an additional 3 percent. Frankly, this bill will not be of much help to an area which faces the prospect of an unemployment rate of 10 percent or more.

Congress is eyeball to eyeball with this imminent, national crisis, Mr. Chairman, but is proceeding with this legislation as if the probability of a serious recession did not exist at all.

When the projected expenditures under the Comprehensive Manpower Act are compared to spending levels of previous years, the shortcomings of this bill seem even more objectionable. Recent appropriations for the various job training and public employment programs, primarily the Manpower Development and Training Act, the Economic Opportunity Act, and the Emergency Employment Act, have totaled $2.8 billion, $1 billion greater than the projected appropriations of $1.8 billion for this legislation for fiscal year 1974 and $800 million more than the $2 billion forecast for each of the 3 years thereafter.

The insufficient levels of funding are not the only weaknesses in this legislation. To a large degree, the bill embodies the administration's special revenue sharing concept, and thus sweeps away needed Federal safeguards and standards in the process of providing local discretion and control over job programs. Congress is being asked to uphold the abstract principle of decentralization, but there is not enough Federal control of these programs to insure that goals are met, and, the inadequate funding levels will cripple the chances for the success of local, regional, or State employment programs.

We are told that this bill's objectionable features resulted from a compromise with the administration, and that an alternative program structure or a higher funding level would only have provoked an Presidential veto.

I, for one, do not believe that the Congress should allow itself to be bullied into accepting such inadequate compromises. I believe that Congress should pass as effective a piece of legislation as is possible. Once this action is completed, the responsibility for acceptance of this legislation would be placed squarely in the hands of President Nixon. If the President were to veto even this bill, much less a stronger one, it would then be clear to all Americans where much of the blame for inadequate unemployment assistance lies.

Perhaps the most serious shortcoming in this bill is the inadequate funding levels for title II, that section of the bill that provides funds to certain localities for public service employment programs. For example, as presently proposed in the bill, the Department of Labor is required to certify an area's unemployment rate prior to enabling that area to receive financial assistance for public service employment programs. The certification procedures included in the bill need to be improved. The Labor Department, in measuring unemployment rates for purposes of determining eligibility, uses units that are called standard metropolitan statistical areas—SMSA's. Often the size of these SMSA's is unreasonably large, so that any accurate appreciation of the particulars of local unemployment rates within the large SMSA sample is difficult to obtain. The Boston SMSA, for example, includes 78 cities and towns, ranging in population from over 600,000 to less than 3,500. To accurately target manpower programs to those communities with the greatest need, the bill needs mechanisms by which narrower local breakdowns of unemployment statisitics can be readily obtained and verified.

While there is nothing in this bill to recitfy this situation, I hope that my colleagues will recognize this need and support future efforts to provide more efficient, logical, and responsive information-gathering and certification procedures.

There is a second serious flaw in title II. To qualify for public employment funds, a locality must have an unemployment rate in excess of 7 percent—a full percent higher than that required in any previous Federal employment assistance program. This is an excessively steep standard of eligibility, which would disqualify large numbers of communities genuinely in need of help. Congressmen HAWKINS and REUSS will offer an amendment today to lower this trigger to 6 percent, which I believe to be a far more reasonable level.

Nor does this bill address fully the assistance needs that will be caused by the broad effects of energy shortages. Section 706, for example, results from an amendment offered in committee by Congressman HAWKINS that was accepted only after a bitter struggle. It would establish a commission to study the effects of the energy crisis on the unemployment situation, and a preliminary report would be issued by the commission in March. This commission is needed, and I commend my colleague for persevering in his efforts to include it in the bill. Yet, the struggle necessary to include this commission in the bill is typical of how both the administration and the Congress have not faced up to a very serious problem. At the least a study is needed now, before the crunch, rather than 6 months from now, when the worst will be temporarily over. Despite the enormity of the challenge before our country, this meager study provision is all that could be forced through.

It seems to me that both Congress and the administration should initiate comprehensive action to deal with the serious economic repercussions of the energy crisis. To date, we have not done anywhere near enough.

Mr. Chairman, I wish to reemphasize that the authorization "set aside" in the bill for title II programs is extremely low. In fiscal year 1973, Congress appropriated $1.25 billion for public service employment under sections 5 and 6 of the Emergency Employment Assistance Act. The same programs, now subsumed under title II of the bill now before us, are assured of only $250 million for fiscal year 1974 and $500 million for fiscal year 1975.

In April of this year, Mr. Chairman, I introduced the Public Services Employment Act of 1973 which would have expanded and refined the programs authorized by the existing public service employment laws. This bill would have provided substantially greater funding than what is in the bill we are considering today, and, it seems to me, that the higher funding approach would have provided a much more effective means with which to deal with the unemployment problems we will face this winter.

The bill now being considered may be acclaimed by some as a positive step, which in the most minimal sense it is. It is, unfortunately, a minor gesture toward solving the problems of unemployment—the best, it is claimed, that can be coaxed from a President whose opposition to meaningful employment programs is all too well known. This bill has ambitious goals, but insufficient funding to achieve even a fraction of those goals. Supposedly responsive to the varying needs of localities, the procedures through which eligibility for assistance is determined will render many localities ineligible for its programs, despite actual need.

Perhaps most distressing is that this bill does not measure up to the scope of the challenge that will soon be confronting the Government when, in a few months, the full economic impact of energy shortages becomes clear. Frankly, we face increases in unemployment that will affect all sectors of the economy, as unemployment generated by energy shortages will not be isolated to narrow types of economic activity, but will "ripple" across the broad range of our economy. As production is cut back in one primary industry directly affected by energy or petroleum resource availability, thousands of other jobs related to the primary industry will be jeopardized. Yet, despite the seriousness of this situation, the Congress, and the administration have neglected to take the opportunity presented by this bill to act in a manner that is responsive to what the difficult months ahead will require. Still, despite its shortcomings this bill does lay some important groundwork for the kind of comprehensive employment programs that will be an absolute necessity all too soon.

I urge that my colleagues, and, most importantly, the administration, face up to the realities of the energy situation and how these realities will impact on the economic growth of our Nation. We all have much to do.

Mrs. BOGGS. Mr. Chairman, I am especially pleased that H.R. 11010, the Comprehensive Manpower Act contains provisions for programs such as Opportunity Industrialization Corporation—OIC.

The promising features of OIC's and other community-based organizations persuade me to support H.R. 11010.

I am gratified to know that OIC's, with a long-term experience in training the unemployed and underemployed will be supported under this bill. OIC's have a remarkable 70 percent record of maintaining their trainees in permanent and fulfilling jobs.

I hope the manpower programs fostered by the Comprehensive Manpower Act of 1973 will find an example in the self-motivation and self-pride engendered by OIC's, and will prove to be the great success story that OIC's have been.

Mr. LEGGETT. Mr. Chairman, H.R. 11010 is vital legislation.

I would like to take my time to address that part of the bill which includes the public employment program. The administration, for whatever reasons, opposes the reservation of funds to this program for 1974 and 1975. From my experience, I can say that this program has created jobs for over 1,000 people in my district alone since its inception. Without the reservation clause it will depend upon the tender mercies of OMB for its continued existence, and I do not think it takes much of a mindreader to see what its fate would be in that event.

There is a further ramification here that I would like to bring to the attention of the House. For those of you who have been following the energy crisis and see what is ahead, you know that we are facing a severe economic crisis. Even before the full extent of the crisis was known, President Rockefeller of the Chase Manhattan Bank forecast that next year our economic growth rate would be about zero as a direct result of the petroleum shortage; and now that the full extent of the shortage is known, those who predict an 8-percent national unemployment rate are not considered Cassandras. Faced with these circumstances, the Congress is asked to let the administration decide when and whether we need public employment programs. I would remind the gentlemen that this is the same administration that "foresaw" the energy crisis and planned for it so well that the administrator of the middle distillate allocation program was not appointed until the day the program went into effect. I do not think that it is necessary to reiterate the effectiveness of that bit of planning beyond the words that Mr. John Kyl, assistant Secretary of the Interior, gave to a meeting of our staff members:

> We haven't done very well.

It grows more obvious every day that we are being faced with severe economic difficulties as a result of our energy problems. Given the President's record in handling problems of the same nature. I would not feel at all comfortable in consigning this vital public employment program. The program has served us very well in the past in creating jobs that were necessary both to the individuals who held them and to the communities which they served.

Mr. DONOHUE. Mr. Chairman, I intend to support and I very earnestly urge and hope that this pending bill, H.R. 11010, the Comprehensive Manpower Act of 1973, is overwhelmingly adopted by the House this afternoon.

Over the past few years it has been authoritatively recognized that an increasingly urgent need has developed for a comprehensive reform and revision of existing legislation and programs affecting our national manpower development policy and objectives. In response to this urgent need I believe that the measure now before us is a significant forward step in a far more effective application and efficient impact, at local levels of knowledge and authority, of the various programs contained in the Economic Opportunity, Emergency Employment, and Manpower Development and Training Acts. Another very important provision of this bill recognizes and accepts the lesson of experience that transitional productive public service employment is an integral constructive part of a truly comprehensive manpower program and creates additional employment opportunities in areas afflicted with substantial unemployment.

On this score, Mr. Chairman, I fully support and most earnestly urge the adoption of a strengthening amendment to title II of this bill to authorize the initiation of transitional public service employment financial assistance to those municipalities having a rate of unemployment of 6 percent or more instead of the 7 percent or more proposal presently contained in the bill. In my own home city of Worcester, Mass., the present unemployment rate is 6.7 percent which means approximately 10,000 workers without jobs, whereas the national unemployment rate is 4.8 percent which is nearly 2 percent lower than the rate that is plaguing our willing jobseekers in Worcester.

However, this restrictive 7 percent "trigger" unemployment percentage rate problem is not just confined to the city of Worcester. The U.S. Department of Labor lists 150 other labor market areas that would be similarly affected. Of these, 37 areas now have unemployment rates of 6 percent or more. By holding the public employment assistance trigger at 7 percent rather than reducing it to 6 percent, 14 of these very high unemployment percentage communities, including my own city, would not be eligible for any Federal assistance under title II of this bill, as now written. I submit that by any standard of objective assessment the 7 percent trigger rate is obviously unreal and impractical under all the circumstances and to carry out the wholesome intent of this proposed legislation it ought to be reduced to 6 percent by this House.

In summary, Mr. Chairman, the primary purpose and goal of H.R. 11010 is to sustain and encourage our traditionally American individual and family economic independence through productive employment. The function of manpower programs is not only to train individuals to perform essential work but also to provide employment opportunities designed to utilize the gained skills to the best advantage of the individual, the family and the community. By decentralizing the existing system the various States and communities will receive Federal assistance that will enable local units, who have the most immediate and best knowledge of their area conditions, to directly provide the required services of training and job procurement for those unemployed workers most in need of assistance.

Therefore, Mr. Chairman, since the purpose and goals of H.R. 11010 are, indeed, timely and in full accord with our national interest I earnestly hope that it will be resoundingly approved by this House.

Mr. FRASER. Mr. Chairman, the Comprehensive Manpower Act is a necessary piece of legislation. It must be enacted promptly so that ongoing manpower efforts are not terminated.

In normal times, H.R. 11010 might represent an adequate response to our national manpower needs. But these are not normal times and this bill does not do what it should.

With jobless rates expected to reach 8 percent next year, title II requires expenditures of only $250 million for public service employment during fiscal 1974. In fiscal 1975, the authorization level is increased to $500 million. We are merely tossing a few pebbles at an onrushing tide of unemployment if these figures represent our total national commitment to public service employment.

I realize that prime sponsors can also use their title I grants for job creation. But title I funds used in this way must come at the expense of on-the-job training, Neighborhood Youth Corps, and other ongoing manpower programs. Public service employment must supplement job training, not replace it.

Some have claimed that EEA is nothing more than a giant boondoggle—that Federal funds are used to place jobless people in useless, dead end jobs.

At least in my State, that claim has no validity. The State of Minnesota has used its $22 million in Emergency Employment Act funds to provide job opportunities for 4,000 Minnesotans. These people have worked in the widest possible range of public jobs—from school janitors, to teachers aides, to X-ray technicians. A few have even ended up behind the counter of the local municipal liquor store.

Roughly 80 percent of the EEA jobholders have gone on to find other employment after their participation in the program has ended. Most significantly, EEA has meant money in the pockets of those who need it the most—the unemployed. Only about 2.6 percent of our State's funding allocation has been used for administration.

The only real drawback of the program has been its low-funding level. Our State director reports that his program agents could easily double the number of their job slots if adequate funds were available.

H.R. 11010 enables us to do little more than keep the emergency employment program alive. This may be better than nothing, but it is obviously not enough.

Mr. ESCH. Mr. Chairman, I have no further requests for time.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read by title the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE MANPOWER SERVICES

DESCRIPTION OF PROGRAM

SEC. 101. It is the purpose of this title to establish a program to provide comprehensive manpower services throughout the Nation. Such program shall include the development and creation of job opportunities and the training, education, and other services needed to enable individuals to secure and retain employment at their maximum capacity. Comprehensive manpower services may include, but shall not be limited to, programs and activities designed to carry out the purpose of this title, such as:

(1) outreach to make persons aware of the availability of manpower services and persuade them to use such services,

(2) assessment of the individual and his potential in the labor market and referral to appropriate employment, training, or other opportunities,

(3) orientation, counseling, education, and institutional skill training to prepare the individual to enter the labor market or to qualify for more productive job opportunities,

(4) training on the job,

(5) payments or other inducements to public or private employers to expand job opportunities, but payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and providing supportive services for low-income persons and those regularly employed,

(6) services to individuals to enable them to retain employment,

(7) payment of allowances to persons in training for which they receive no remuneration and payment of such allowances for transportation, subsistence, or other expenses incurred in participating in manpower services or employment as are necessary to enable the individual to participate therein,

(8) supportive services to enable individuals to take advantage of employment opportunities, including necessary health and medical services, child care, residential support, assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment or manpower services,

(9) development of information concerning the labor market and activities, such as job restructuring, to make it more responsive to objectives of the manpower services program,

(10) any programs authorized by part A of title III and by title VI of this act, and

(11) transitional public service employment programs.

PRIME SPONSORS

SEC. 102. (a) The Secretary may make financial assistance available to a prime sponsor to enable him to carry out all or a substantial part of a comprehensive manpower program. A prime sponsor shall be—

(1) a State; or

(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary or which does not meet such population criteria and which has the largest population of a unit of general local government in the State; or

(3) any combination of units of general local government which includes any unit of general local government qualifying under (2) above; or

(4) any unit or voluntary combination of units of general local government, without regard to population, in rural areas as determined by the Secretary which have substantial outmigration and high unemployment; or

(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have demonstrated special capabilities for carrying out programs in such areas and are designated by him for that purpose.

(b) (1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), or (5) unless such prime sponsor has not submitted an approvable comprehensive manpower plan for such area.

(2) A unit of general local government shall not qualify as a prime sponsor with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive manpower plan for such area.

(c) (1) To be eligible for prime sponsorship for any fiscal year, an otherwise eligible applicant must submit to the Secretary a notice of intention to apply for prime sponsorship by such date as the Secretary shall prescribe.

(2) The Secretary may not, prior to March 1, 1974, designate as a prime sponsor, any State or unit of general local government containing another unit of general local government meeting the requirements of subsection (a) (3) above unless such smaller unit has submitted to the Secretary written consent for such designation.

CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

SEC. 103. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor submits a comprehensive manpower plan, in such detail as the Secretary deems necessary, which—

(1) sets forth a comprehensive manpower program which meets the purpose of this title, including (A) a description of the services to be provided, (B) assurance that such services will be administered by or under the supervision of the prime sponsor, (C) a description of the geographical areas to be served under the plan, and (D) assurances that to the maximum extent feasible manpower services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(2) provides, in the case of prime sponsors who are recipients of funds under title II for the development of a public service employment program, that it is fully integrated with the services under this title in order to assure that persons employed in such a program are afforded a better opportunity to find regular employment not supported under this Act;

(3) (A) provides appropriate arrangements with community-based organizations serving the poverty community, and other special target groups for their participation in the planning of programs included in the plan; (B) provides for utilizing, to the extent deemed appropriate by the prime sponsor, those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages; (C) provides that in making arrangements for institutional training priority shall be given (to the extent feasible) to the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962; (D) provides arrangements to the extent feasible for the coordination of services for which financial assistance is provided under programs administered by the Secretary of Labor relating to manpower and manpower-related services;

(4) provides for paying the allowances and compensation provided by section 109;

(5) provides that any transitional public service employment programs meet the requirements of section 204(b) and section 207, and that persons hired to fill jobs created by such programs will be residents of the areas described under paragraph (1) (C).

(b) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor certifies that—

(1) its plan meet all the requirements of this section, and

(2) it will comply with all provisions of this Act.

SPECIAL REQUIREMENTS FOR STATE PRIME SPONSORS

SEC. 104. (a) Any State seeking assistance under this Act shall submit a State comprehensive manpower plan to the Secretary for approval in accordance with the requirements of this section.

(b) The State comprehensive manpower plan shall in addition to meeting the requirements of section 103—

(1) provide satisfactory arrangements for serving all geographical areas under its jurisdiction except areas served by an eligible applicant who has filed a notice of intent under section 102(c), except that such plan may be amended to include areas served by an eligible applicant whose plan is finally disapproved without prejudice to the remedies available to such eligible applicant under section 107;

(2) provide for the cooperation and participation of all State agencies providing manpower and manpower-related services in the implementation of comprehensive manpower services plans by prime sponsors in accordance with the provisions of this Act;

(3) set forth an overall State plan for the development and sharing of resources and facilities needed to conduct manpower programs under its direct sponsorship without unnecessary duplication and otherwise in the most efficient and economical manner;

(4) provide for the coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services to achieve their full occupational potential in accordance with the policies of this Act;

(5) make adequate provision for the coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, and that provision has been made for the establishment of a mechanism to (A) provide for the exchange of information between States and local governments on State and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services.

(c) The prime sponsor shall annually certify compliance with all the requirements for State prime sponsors.

STATE MANPOWER SERVICES COUNCIL

SEC. 105. (a)(1) Any State which desires to be designated as a prime sponsor and to enter into arrangements with the Secretary under this title shall establish a Manpower Services Council (hereinafter referred to as the "Council") which shall exercise the powers and duties set forth in this section.

(2) The Council established pursuant to paragraph (1) shall—

(A) be appointed by the Governor (who shall designate one member thereof to be Chairman), and shall be composed of—

(i) representatives of the units or combinations of units of general local government in such State, who shall comprise at least one-third of the membership of the Council, which have a comprehensive manpower plan approved under section 106 (except that the initial appointments to the Council may consist of representatives of units or combinations of units of general local government described in clauses (2), (3), (4), and (5) of section 102(a) which have indicated an intention to submit a plan for approval under section 106), and such representatives shall be designated by the chief executive officers of the units or combination of units of general local government which qualify for representation under this section in accordance with procedures agreed upon by such chief executive officers;

(ii) one representative each of the State board of vocational education and the public employment service of such State;

(iii) one representative of each such other State agency as the Governor may determine to have a direct interest in overall manpower training and utilization within the State;

(iv) representatives of organized labor;

(v) representatives of business and industry;

(vi) representatives of the client community to be served under this Act (including, where persons of limited English-speaking ability represent a substantial portion of the client population, appropriate representation of such persons); and

(vii) representatives of the general public.

(B) be appropriately staffed and serviced by the State prime sponsor;

(C) meet at such times and in such places as it deems necessary.

(b) The Council shall—

(1) review the plans of each prime sponsor and the plans of State agencies for the provision of services to such prime sponsors, and make recommendations to such prime sponsors and agencies for the more effective coordination of efforts to meet the overall manpower needs of the State;

(2) continuously monitor the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing manpower services, and to the Governor and the general public with respect to ways to improve the effectiveness of such programs or services in fulfilling the purposes of this Act;

(3) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act.

APPROVAL OF PLANS

SEC. 106. (a) The Secretary shall not approve a comprehensive manpower plan or any amendment thereto until he determines that it meets the requirements of section 103, and in the case of a State plan section 104, and that the plan was submitted to, and an opportunity to comment thereon provided, the Governor of the State and appropriate officials in units of general local government of the area to be served.

(b)(1) The Secretary shall not finally disapprove any comprehensive manpower plan submitted under this title, or any modifications thereof, without first affording the prime sponsor submitting the plan reasonable notice and opportunity for a hearing.

(2) If the Secretary receives a formal allegation from an affected unit of general local government that a prime sponsor has changed its comprehensive manpower plan so that it no longer complies with section 103 or that in the administration of the plan there is a failure to comply substantially with any such provision, with any provision of the plan, or with any requirements of section 403 or 404, he shall, and, if he receives such an allegation from any other interested person, he may, after due notice and opportunity for a hearing to the prime sponsor, determine whether the allegation is true. If he determines such an allegation to be true, the Secretary shall notify the prime sponsor that no further payments will be made to the prime sponsor under the plan (or, in his discretion, that further payments will be limited to programs under or portions of the plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments to such sponsor under the plan (or shall limit payments to programs under the plan not affected by the failure).

(c) The Secretary shall not disapprove any plan solely because of the percentage of funds devoted to a particular program or activity authorized under section 101 of this Act.

JUDICIAL REVIEW

SEC. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the approval of its comprehensive manpower plan submitted under section 103 or section 104 or with his final action under section 106, such prime sponsor may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. Thereupon the Secretary shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

AUTHORITY OF SECRETARY TO PROVIDE SERVICES

SEC. 108. In any area of a State which has not qualified as a prime sponsor and for which no other prime sponsor has qualified under paragraph (2), (3), (4), or (5) of section 102(a) or where the Secretary has taken an action under subsection (b)(2) of section 106 which results in such services not being provided in such area, the Secretary is authorized (out of the funds allotted to such State or local area under section 503(a)) to provide directly the services authorized under this Act, and he may utilize any unit (or combination of units) of general local government, and any other public and private agencies, institutions, and organizations, in providing such services.

ALLOWANCES

SEC. 109. (a) Basic weekly allowances for individuals receiving training or education under this title for which no wages are payable shall be at a rate prescribed by the Secretary which when added to amounts received by the trainee in the form of unemployment compensation payments shall equal the minimum wage for a work week of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law, and such basic allowances shall, in the case of an individual with dependents, be increased by $5 a week for each dependent over two up to a maximum of four additional dependents. The prime sponsor may waive the payment of all or part of the allowances when it determines, under regulations prescribed by the Secretary, that such waiver will promote the purposes of this Act. Trainees receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others, shall receive an incentive allowance of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing allowances, the prime sponsor shall, in accordance with regulations prescribed by the Secretary, allow additional sums for special circumstances such as exceptional expenses incurred by trainees, including but not limited to meal and travel allowances, or he may reduce such allowances by an amount reflecting the fair value of meals, lodging, or other necessaries furnished to the trainee. The prime sponsor shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. Notwithstanding the preceding provisions of this subsection, the prime sponsor shall, in accordance with such regulations as the Secretary shall prescribe, make such adjustments as he deems appropriate in allowances which would otherwise be payable under this title, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) Individuals receiving training on the job shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, and trainee proficiency, but in no event at a rate less than that specified in section 6(a) (1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law.

SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

SEC. 110. (a) The Secretary shall make grants to State vocational education boards to assist them to provide needed vocational education services in areas served by local prime sponsors as defined in section 102(a) (2), (3), **(4), or (5).**

(b) All of the sums available to carry out this section shall be allotted among the States in the manner provided for allotting funds under **section 503.**

(c) Funds available to State vocational education boards under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the local prime sponsor.

Mr. DOMINICK V. DANIELS (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment to any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer amendments and ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska that the amendments be considered en bloc?

Mr. DOMINICK V. DANIELS. Mr. Chairman, reserving the right to object, I have not been furnished with copies of the amendments. I have not seen them before. I would like to know if copies are available or not.

Mr. YOUNG of Alaska. Mr. Chairman, may I state to the gentleman from New Jersey that copies are available, and I apologize to the gentleman from New Jersey. I thought I had distributed copies to the gentleman.

Mr. DOMINICK V. DANIELS. Mr. Chairman, further reserving the right to object, I would like to have an explanation of what the amendments do.

Mr. YOUNG of Alaska. Mr. Chairman, the comprehensive manpower bill is one with which I am concerned, as it affects the State of Alaska's capabilities for training unemployed persons. We currently have 10,000 people on the unemployment rolls in Alaska and with a total population of only a little more than 300,000, it is a serious problem.

Alaska—along with 10 other States, Delaware, Idaho, Maine, Montana, New Hampshire, North Dakota, South Dakota, Vermont, West Virginia, and Wyoming—is affected by this bill in a unique way. Under the prime sponsor requirements, a State shall be prime sponsor, as well as any unit of general local government with a population of 100,000 or more persons. If there is no unit of general local government with such a population, then the largest unit shall be prime sponsor.

Alaska, as well as the other 10 States, has no city with a population of 100,000, which means the funds for manpower training would go to the county, or in the case of Alaska, the borough.

In the interest of promoting effective and efficient government, it would be clearly preferable to make the largest incorporated city a prime sponsor. In Alaska's case and I am sure in many other States, the city has demonstrated its capabilities in handling manpower programs. To give this responsibility to any other form of local government or consortiums of governments would cause duplication of effort and the creation of new administrative offices. In addition, it is the city that has the highest rate of unemployment, thus most in need of manpower moneys.

I believe that the greatest need for training the unemployed is in the urban areas, and the language of the bill should read the "largest city" rather than the largest unit of local government. I am therefore offering an amendment to change this language and to make the bill more equitable for those States with small populations but substantial need for manpower funds.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska: Page 71, after line 16, insert the following:

(3) the largest incorporated city which has a population of less than 100,000 on the basis of the most satisfactory current data available to the Secretary; or

Page 71, line 17, strike out "(3)" and insert "(4)".

Page 71, line 20, strike out "(4)" and insert "(5)".

Page 71, line 24, strike out "(5)" and insert "(6)".

Page 72, line 8, strike out "or (5)" and insert "(5), or (6)".

Page 78, line 14, strike out "and (5)" and insert "(5), and (6)".

Page 83, line 4, strike out "or (5)" and insert "(5), or (6)".

Page 85, line 20, strike out "or (5)" and insert "(5), or (6)".

Page 133, line 20, strike out "102(a)(5)" and insert "102(a)(6)".

Mr. YOUNG of Alaska. Mr. Chairman, again may I state that our biggest problem is in Alaska, with the lack of population, with yet the highest unemployment rate of 10,000 people unemployed in the State of Alaska who are concentrated in the cities. I know there are other amendments to be proposed today that might take care of some of the problem, but I prefer the unit as the most qualified unit to be the largest city. In this case the city of Anchorage would be the one who would receive the money. The State is still the prime sponsor, but the city of Anchorage in this instance would be the one to benefit the most unemployed who reside in the city of Anchorage, who really migrate there from the rural areas.

Again, I know many people have voiced a question about the bill regarding the requirement of the population. I should like to see this amendment pass. I know it would solve the problem in the State of Alaska, as well as in the other States I have mentioned.

Mr. ESCH. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I recognize the gentleman from Alaska is well intended in his amendments in that he is trying to bring about an efficient use of a city population, but I would object to the amendment.

The legislation was very carefully drawn in order to provide that in those areas in which there could not be a large enough population in order to bring about effective administration of a job training program that we would move to a larger area, a larger jurisdiction, in order to minimize the administrative costs of the program and to put the program, to put the dollars out where they would do the most good, and that is in the actual job training or into the public employment programs themselves.

For that reason we concluded that the jurisdictional size of the prime sponsor should be 100,000 or more. In the case of the gentleman from Alaska's State, the prime sponsor will be the entire State, but I am sure that recognizing the governmental structure of Alaska, they will be able to cooperate fully with the local jurisdiction to develop an effective job training and public employment program within the entire State of Alaska.

Second, I would say to the gentleman that under title II as the bill now reads without his amendment, where there are concentrated areas of high unemployment, then the funds will go directly into those areas so that, for example, where there is a city that might have 10 or 12 percent unemployment within a State, even though the prime sponsor will remain the State, the funds will be expended under title II specifically into that city for the people living in that city to be trained or to be put to work in public employment programs.

So for those reasons I would suggest to the members of the Committee that they reject the amendment offered by the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Is the gentleman telling me that if the city of Anchorage has a high unemployment rate of 10 percent the money from the State as a prime sponsor will go directly to the city and not to the boroughs?

Mr. ESCH. No. I will say to the gentleman under title II the money to be used will be directly spent in the city even though the prime sponsor will be the State. The money will be directly used in the city if it is that area, or if the borough qualifies as 10,000 the borough would use the funds as the prime sponsor but the money would be spent within the city.

Second under title I without the gentleman's amendment the funds must be distributed into those areas of greatest need for there once again even under title I the funds under title I will be spent not in a suburban area but in the city itself.

Mr. DOMINICK V. DANIELS. I would like to state that this section of the bill with reference to eligibility of prime sponsors was given very serious and careful consideration by the subcommittee as well as the full committee. We have dealt with the cities and States in a manner which we feel is fair and equitable.

At the present time the Secretary of Labor has to deal with governmental and nongovernmental organizations to the tune of about 10,800 contracts. We feel that such a number of contracts is unmanageable and leads to inefficiency. It is the intent of this bill to give the Secretary of Labor sufficient flexibility so that he will have to carefully examine each and every application for plans and expenditure of funds under the bill and also monitor the programs to see that those funds are spent correctly, so we would stay with that program.

Mr. YOUNG of Alaska. What the gentleman is saying is this will not circumvent the city. The moneys do not go to the boroughs to keep the cities from participating.

Mr. ESCH. What I am saying is that in this instance the prime sponsor may be the borough but the money must be spent within the city to take care of the individuals who are unemployed within that city.

Mr. YOUNG of Alaska. The city can apply even though it is not the unit?

Mr. ESCH. No, the prime sponsor will remain the area of 100,000, or if they do not qualify then it will be the entire State.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment. I just want to make this point to the gentleman from Alaska. The city can apply not as the prime sponsor but apply to the prime sponsor for the program to be conducted for the citizens of the city, if they qualify under title II, and the jobs have to be to the extent feasible for the benefit of the residents in that area.

So while the gentleman from Michigan answered the gentleman correctly, that the city cannot apply as the prime sponsor, it can apply for the money and can even under this program be the agent for the prime sponsor in operating this program.

Mr. YOUNG of Alaska. If the gentleman will yield, the thing I am worried about is the conflict between the city and the boroughs. Is there any way the boroughs will not have to participate in the program with the city?

Mr. QUIE. They have the option of not doing this.

Mr. YOUNG of Alaska. They have the option of not doing this. Can they create their own program and thus let the city handle it?

Mr. QUIE. I thought the gentleman questioned whether the borough was required to be the prime sponsor. If the city does not qualify because it is under 100,000, it cannot qualify as prime sponsor, but the city can request through whoever is the prime sponsor participation in the program. The prime sponsor may permit the city to handle their own program.

Mr. ESCH. I want to make absolutely clear to the Members of the House and for the legislative record that the Secretary must not approve any plan in which, first, there is not an equitable distribution of the funds and, second, that the individual citizens who are unemployed are not taken care of in an equitable manner.

So in no case could the borough develop a program which would not take into account the needs of the city.

Mr. YOUNG of Alaska. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Alaska (Mr. YOUNG).

The amendments were rejected.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—PUBLIC EMPLOYMENT PROGRAMS

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to provide unemployed persons with transitional employment in jobs providing needed public services in areas of substantial unemployment and, wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this title.

FINANCIAL ASSISTANCE

SEC. 202. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this title in order to make financial assistance available in areas of substantial unemployment for the purposes of providing transitional employment for unemployed persons in jobs providing needed public services, and training and manpower services related to such employment which are otherwise unavailable, and enabling such persons to move into employment or training not supported under this title.

(b) Of the funds appropriated pursuant to this title which are used by an eligible applicant for public employment programs, not less than 90 per centum shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title.

ELIGIBLE APPLICANTS

SEC. 203. (a) Financial assistance under this title may be provided by the Secretary only pursuant to applications submitted by eligible applicants which shall be—

(1) prime sponsors qualified under title I; or

(2) Indian tribes on Federal or State reservations and which include areas of substantial unemployment.

(b) For fiscal year 1974 only, eligible applicants shall include any entity eligible to be a prime sponsor under section 102(a).

(c) For the purpose of this Act "areas of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has a rate of unemployment equal to or in excess of 7 per centum for three consecutive months as determined by the Secretary. Determinations concerning the rate of unemployment shall be made by the Secretary at least once each fiscal year.

(d) Whenever the Secretary makes any determination required by this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

APPLICATIONS

SEC. 204. (a) Financial assistance under this title may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this title. Any such application shall set forth a public service employment program designed to provide employment, in jobs providing needed public services, for persons residing in areas of substantial unemployment who have been unemployed for at least thirty days and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this title.

(b) An application for financial assistance for a public service employment program under this title shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this title will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that only persons residing within the areas of substantial unemployment qualifying for assistance will be hired to fill jobs created under this title, and that the public services provided by such jobs shall, to the extent feasible, be designed to benefit the residents of such areas;

(4) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advance-

ment of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(5) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have been discharged under conditions other than dishonorable); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans) or carried out by other public or private organizations or agencies;

(6) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(7) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under this title, but such special consideration shall not authorize the hiring of any person when any other person is on lay-off from the same or any substantially equivalent job;

(8) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(9) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(10) a description of unmet public service needs and a statement of priorities among such needs;

(11) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(12) the wages or salaries to be paid persons employed in public service jobs under this title and a comparison with the wages paid for similar public occupations by the same employer;

(13) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(14) the planning for and training of supervisory personnel in working with participants;

(15) a description of career opportunities and job advancement potentialities for participants;

(16) assurances that procedures established pursuant to section 206 will be complied with;

(17) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this title who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(18) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed persons;

(19) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged;

(20) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13 (a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the Secretary may waive this limitation in exceptional circumstances;

(21) a description of the manpower needs of local governments and of local education agencies within the area to be served together with the comments of such governments and agencies where appropriate, and assurances that due consideration be given to allocating jobs to such governments and agencies where the evidence of need warrants it;

(22) assurances that the jobs in each job category in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under this title, and assurances that no job will be filled in other than an entry level position until applicable personnel procedures and collective bargaining agreements have been complied with;

(23) assurances that jobs funded under this title are in addition to those that would be funded by the sponsor in the absence of assistance under this Act; and

(24) such other assurances, arrangements, and conditions, consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 205. An application, or modification or amendment thereof, for financial assistance under this title may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this title;

(2) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary;

(3) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary; and

(4) where a labor organization represents employees who are engaged in similar work in the same area to that proposed in the application, an opportunity has been provided such organization to submit comments with respect to the application to the applicant and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 206. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this title to assure that in the event that any person employed in a public service job under this title and the reviewing agency find that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) Where the Secretary determines that an Indian tribe on a Federal or State reservation is unable to submit an application to carry out a public service employment program which meets the requirements of section 204, the Secretary shall assist such tribe in preparing, submitting, and implementing a public service employment program. The provisions of section 207 shall apply to programs carried out under this subsection.

SPECIAL PROVISIONS

SEC. 207. (a) The Secretary shall not provide financial assistance for any program or activity under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such title applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this title will not be used to pay persons employed in public service jobs under this title at a rate in excess of $10,000 per year;

(4) all persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) no funds under this title will be used for the acquisition of, or for the rental or leasing of supplies, equipment, materials, or real property; and

(8) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this title, the Secretary shall make financial assistance under this title available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this title among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this title, such organization shall be notified and afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

(d) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(e) The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this title and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis, and shall include such information in the report required by section 208 of this title.

(f) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(g) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(h) The Secretary shall not provide financial assistance for any program under this title unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

SPECIAL REPORT

SEC. 208. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this title, including information derived from evaluations required by this and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, (2) segments of the population of unemployed persons are provided public service opportunities in accordance with the purposes of this title.

UTILIZATION OF FUNDS

SEC. 209. Funds available under this title to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this title for programs authorized under titles I and III—A of this Act.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REUSS: Page 87, line 16, strike out "7" and insert in lieu thereof "6".

Mr. REUSS. Mr. Chairman, this is a very simple amendment. It would change the "7," which is the effective trigger for the applicability of public service employment, to 6 percent.

Unemployment is getting worse. There are now some 14 cities or 14 areas scattered all over the country where unemployment is in excess of 6 percent, but has not yet reached 7 percent. Those cities and many others would be affected by this amendment.

Public service employment makes extra good sense in the situation which now confronts us, where macroeconomic methods—turning on the fiscal spigot, turning on the monetary spigot—do not really come to grips with unemployment, because if we rely on macroeconomics, all we will get is more stress and strain on the limited resources and energy we have at our disposal.

All the previous legislation, the Emergency Act of 1971, which is about to go out of business, all the Economic Development Acts, use the figure of 6 percent, no higher figure, as the trigger for relief.

I believe it would be an unfortunate backward step for us to lower our sights on unemployment here today.

It would be a great thing for the Congress to look ahead for a few months.

The public would be quite pleased with a Congress which does not wait until an energy crisis or a fiscal crisis or an unemployment crisis blows up in our faces.

Make no mistake about it, it is a Federal responsibility to concert all our activities to see that jobs are available to people who are able and willing to take such jobs.

So I would hope that the amendment, in which I am honored to have the cosponsorship of Mr. HAWKINS of California, will be adopted.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me say to the distinguished gentleman, what he is saying certainly makes good sense. I know the gentleman realizes the difficulty that the committee has encountered in trying to work out this compromise. It would appear to me that if we have 7- or 6-percent unemployment, in view of the energy crisis that the gentleman has referred to, that somewhere along the line the administration has got to come before this Congress and ask for additional public service employment funds. That is where we can best expend the funds to take care of the unemployment situation.

The bill is flexible, so that if the prime sponsors so desired to expend all of their money for public service employment, they could do so. I am just wondering if we should not go along with this bill as is. Even though I am much sympathetic with the gentleman's argument, it may be more prudent now to make certain that we get this bill enacted into law so that we can be assured of at least some public service employment right away, and come back here and try to get more at a later date.

Mr. REUSS. Mr. Chairman, I am always in sympathy with the gentleman's position. I know that blessed are the peacemakers, and those who try to come to compromise solutions, and I honor them.

However, I honestly do not think the President of the United States would veto a bill which said that 6-percent unemployment in an area is sufficient, and that at that point public service employment should go on stream. If he did, I think the action of this body the other day on the occasion of the War Powers Act shows that we are capable of overriding a veto. Even if he does veto, and we do not override the veto, it is then an act of an afternoon's work to admit defeat and to come in with a new bill which will be acceptable. So I hope the amendment is passed.

Mr. ESCH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, although the amendment of the gentleman from Wisconsin may be well intentioned, he may not fully comprehend the nature of the act. First and foremost, it should be emphasized that for the first time I think perhaps this year, through this act, the Congress will look prospectively at the problems which have been created by the energy crisis, and it does provide a program of both public employment and public training into the areas of greatest need.

Under title I, one of the qualifications for the title I funds is the factor of unemployment, so that indeed title I funds take into account those areas of unemployment, or higher areas of unemployment. The funds are directed there, and they also can be used for public employment programs as well as title II, so it should be emphasized that indeed, where the need exists, where the jobs do not exist, then in effect all of title I could be used for job employment. It provides for that flexibility.

Second, in title II, the 7-percent figure is utilized, not to be regressive, but rather to concentrate the title II funds into the areas of greatest need. I would point out to the Members that rather than have a prime sponsor be required to have 7-percent unemployment under the present title II, the funds are targeted in, rifled in to those areas within the prime sponsor area that have concentrated unemployment, and thus it is in our larger cities where there may not be unemployment totaling even 4 or 5 percent, within title II there will be rifled in funds where there are areas or pockets within that prime sponsor area which have a need for public employment programs.

So that legislation, I would say to the gentleman from Wisconsin, has been very carefully drawn to take the funds that are available—and we recognize that we do not have unlimited funds—and put them where they will do the most good, into specific areas of greatest unemployment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Chairman, my point is very brief. It is true, is it not, that under that bill, if enacted, an area of unemployment with 6.9 percent unemployment would be allowed to dangle without one single public service employee authorized in that area, is that not so?

Mr. ESCH. No, that is not true, because under title I the prime sponsor can use funds there for public employment programs if he deems it suitable and necessary.

Mr. REUSS. Well, it is true, however, that the prime sponsors, the States, counties, and municipalities, have shown themselves completely unwilling, understandably, to assume the burden of the Federal Government to provide full employment under the general revenue sharing program, for example. That $6 billion has been spent, and not one single, solitary public service employment job has been created.

Mr. ESCH. Mr. Chairman, I will say, in contrast to the statement of the gentleman from Wisconsin, that the county governments and the city governments are on record in support of this legislation as enacted, and they do recognize the need for public employment programs.

The strength of the bill is in the flexibility that it provides for the local jurisdiction to reach out to the areas of greatest need. That is the strength of the bill, in terms of looking prospectively at the goals the bill would provide.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment.

I wish to emphasize that this definition is not applicable to an entire political jurisdiction, but should be used to concentrate funds in a particular area of a city or a county which experiences this rate of unemployment; that is, 7 percent for a period of 3 months.

Mr. Chairman, I do not think that under this concept any area which has a severe unemployment problem will be ineligible just because we raise the level from 6 percent to 7 percent.

During the past year, or if we go back to a year ago, rather, the rate of unemployment was then somewhere in the neighborhood of 6.1 percent or 6.2 percent. It has gradually receded at the present date to the rate of 4.5 percent. That is one of the reasons why we eliminated the trigger device in the public service employment provision of this bill and merely retained section 6 of the public service employment bill. That section of the public service employment bill is identically the same in this bill as it was in the former piece of legislation, except with regard to the level of unemployment, which we increased from 6 to 7 percent.

Now, I feel that in view of existing conditions, this was a reasonable compromise that we made with the administration, and that areas which experience unemployment will include not only those people who are unemployed, but those people also who are underemployed and receive wages which are too low to remove them from the welfare rolls.

So with this definition, I feel that the level of 7 percent, as set forth in this bill, is a fair and reasonable level.

Therefore, Mr. Chairman, I urge the defeat of the amendment.

Mr. HAWKINS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that this amendment indicates the different views of those of us who feel that this bill is inadequate, although it at least takes a step in the right direction.

As the original author of section 6 of the Public Service Employment Act, may I say that 6 percent was agreed to, and we have now had 2 years of experience on this. I do not see any reason to change it at this time.

Perhaps I should be the last one to support this amendment, because I believe the amendment hurts every ghetto in America. Seven percent is a rather low unemployment rate when it is related to Watts, which is in my Congressional district, and to Bedford-Stuyvesant and every other racial ghetto in America, most of which experience much higher unemployment persistently.

However, I think that this provision should be equally applicable to other areas.

Now, the sponsors of this bill have been assuring the Members on this floor that rural counties would be included under title II. The gentlewoman from Texas was assured that Houston would be included, for example. However, most of these areas do not have 7 percent unemployment, but many do have 6 percent unemployment.

The city of Boston, for example, with 99,100 unemployed persons and an unemployment rate of 6.6 percent, would be excluded entirely by the bill itself.

The city of Seattle, with 6.9 percent, would be excluded. Many of the other areas that will be hit in a few weeks and in which there will be dislocations, with a water plant perhaps closing up in your district as it has in mine, where it has thrown thousands out of work in the city of South Gate, qualified people, those areas will be able to qualify under this. I do not see why we should wait until they have 7-percent unemployment until they are able to qualify under title II.

Mr. DOMINICK V. DANIELS. Will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman.

Mr. DOMINICK V. DANIELS. I would arise to correct a misimpression given to the Members of the House. You refer to figures of unemployment prevailing in the city of Los Angeles and in other cities throughout the Nation. Is it not true, I ask the gentleman, that the level of unemployment must not necessarily spread throughout the geographical divisions of the eligible prime sponsor? It refers to areas of substantial unemployment within the area of the prime sponsor.

Mr. HAWKINS. As the author of the provision, I think I know how it operates. I quite agree it can be concentrated in a smaller area. I am trying to say that there are areas where the entire city is already under almost 7 percent and may soon be 6 percent. They are obviously contained in not one concentrated area but in a larger area. There are rural areas that can qualify, as the gentleman said.

Mr. DOMINICK V. DANIELS. Under those circumstances would it not be possible under the terms of title I of this bill for the eligible prime sponsor to make an application for funds to be used exclusively for public service employment without involving the figure of 6 or 7 percent as incorporated in this legislation?

Mr. HAWKINS. Certainly it can. Under title II, if the money is not enough, let us increase the money. They can already make an application under title I and will probably do it. Why should they not be entitled to the additional money as an area of high unemployment?

Mr. DOMINICK V. DANIELS. If the gentleman will yield further, in such a situation the eligible prime sponsor may make application for funds under title I which may be used exclusively for public service employment. That is specifically written into the bill. In addition to that, if it has areas or pockets of high unemployment equal to 7 percent or more, as exist in many cities throughout this country, including your own area, in the Watts district in Los Angeles, they may apply for funds for public service employment specifically.

Mr. HAWKINS. The gentleman well knows money can only go so far. You are saying in a sense that in the 800 poverty areas and all of those rural areas that will be included in Appalachia and areas like that and in the cities that will be receptive to dislocations with plants closing up and persons becoming unemployed—you say that they will all come in and make application under title I and the smaller amount of money available here, with a $1 billion reduction over what we have for current programs, will be adequate to reach all of those problems. I say to you that it will not do the job.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think we have to look at the amendment in this perspective. The language does provide, as the gentleman from New Jersey indicated and the gentleman from Michigan indicated, that areas can qualify that are smaller than the prime sponsor area and also smaller than the labor market area. That being the case and no matter how much is appropriated, it will be in a limited amount compared to that which can be expended for public service employment and training.

You have to provide the money for the greatest need. As far as I am concerned, 7 percent is low. We worked out a compromise and I am going along with the 7 percent, but to me it is low because there are areas that have 25-percent unemployment.

In my estimation they are worse off than the rest, that is, the 6 percent or those between 6 and 7 percent because that is what we are talking about in the amendment, the areas that are between 6 and 7 percent unemployed.

If we take that money away from these areas that have greater unemployment and less opportunity, and that is what we would be doing, we will be doing a disservice to the areas that have large unemployment. That is really what it boils down to.

When we talked about this in the committee I told the members that I would be willing to go along to 6 percent if they wanted to require that the prime sponsors had to qualify or the labor market area had to qualify, that would be all right, if they wanted to go that route. But the committee decided they wanted to permit smaller areas than the prime sponsor areas to qualify for title II. That being the case, we just took one small step to make certain that we concentrated on the areas where there is the most substantial unemployment.

For that reason I hope my colleagues will vote against the amendment and retain the language in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. REUSS).

The question was taken and the Chair announced that the noes appeared to have it.

Mr. REUSS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD: On page 87, after line 7, add a new paragraph (2) as follows:

"(2) any unit of general local government having a population of 50,000 or more persons".

And renumber the succeeding paragraph accordingly.

Mr. WILLIAM D. FORD. Mr. Chairman, it was my intention to offer this amendment to title 1 of the Comprehensive Manpower Act so that it would affect both the title I manpower programs and the title II public employment programs. However, I was called off the floor to meet with some visiting school superintendents for a few moments, and during my absence, unanimous consent was given to consider title I as read and printed in the RECORD.

I am, therefore, parliamentarily barred from offering my amendment to title I at this time. I would have asked for unanimous consent to do that since I did give notice in writing to every Member yesterday of my intention to offer this amendment to title I, but the gentlemen who is handling the bill on the floor has indicated to me that he will object. I, therefore, have no choice but to offer it only to title II, the public employment program provision.

My amendment was originally intended to do two things. First, it would have changed the minimum population requirement to become a prime sponsor from 100,000 to 50,000. Second, it would have allowed any combination of communities having at least a total aggregate population of 50,000 to become a prime sponsor, instead of requiring that a consortium formed for the purpose of becoming a prime sponsor contain at least one community with a population of 100,000.

The effect of this amendment coming at this point in the bill would merely be to permit communities of 50,000 population or more to operate emergency employment programs. We will offer a later amendment to provide for consortiums of 50,000.

The principal architects of this bill argued in the committee against any reduction of the 100,000 figure on the ground that it was not likely that there would exist in towns smaller than 100,000 the expertise to devise and administer the kind of programs that this legislation contemplates.

Mr. Chairman, the argument put forth by the proponents of the 100,000 population program is full of holes.

It is the highest kind of hypocrisy to suggest on one hand that the intention of this legislation is to decentralize manpower and public employment programs and put them down at the local level, and to suggest on the other hand that local government only means units of government with populations of 100,000 or more. For those Members who are unaware of it, there are only 156 municipalities in the entire United States that have populations of 100,000 or more, 6 of which are located in my own State of Michigan. When we drop the figure to 50,000, we still only reach 552 municipalities, 20 of which are in Michigan, and three of these are located in my own district. But they tell us that we cannot administer a program from Washington with that many potential applicants.

The facts are that the revenue-sharing program engineered by the Watergate administration is being administered now for approximately 30,000 different units of general purpose government, including more than 18,000 municipalities, 3,000 counties, and 16,000 townships. How can this same administration now turn around and tell us that they are incapable of administering a program in which our moderate-sized communities could participate directly?

I have no objection to directing these programs toward local government, but when anyone says to me, coming from the kind of district that I represent, that all wisdom in local government resides solely in communities of 100,000 or more, I find it impossible to swallow—because I know from firsthand experience that we in Michigan have some of the most capable administrators in communities having populations of much less than 100,000. I do not have a single city with more than 100,000 people in my large urban metropolitan district, yet every one of my communities administers its own police department and fire department, its own public works department, and various other departments, and they do so much more efficiently than many of our larger cities based on what I have observed.

Furthermore, Mr. Chairman, if we retain the 100,000 population requirement, we will, in effect, be discriminating against a majority of our population—because over 60 percent of America lives in communities of less than 100,000.

In addition, when we study this legislation closely, the hyprocrisy of the 100,000 population requirement becomes even more obvious—because it is actually full of loopholes, and I am certain that if there were any true significance to the 100,000 requirement there would be no loopholes.

The first major loophole is in the section which provides that any unit or voluntary combination of units of general purpose local government, in rural areas which have substantial out-migration as determined by the Secretary of Labor, can become prime sponsors without regard to population. This provision, as I read it, gives the Secretary of Labor considerable discretion to provide direct grants to an unlimited number of communities no matter what their population may be.

Second, there is another major loophole which says that, if a State does not have a city with a population of 100,000 or more, then its largest city can become a prime sponsor irrespective of its population.

This little loophole affects more than 20 percent of our States, because 11 of our 50 States have no city within them having a population of 100,000 or more.

Mr. Chairman, I could continue indefinitely with my argument against this ridiculous 100,000 population requirement which discriminates against the majority of our population, but I see that my time is about to expire.

In closing, I would simply like to remind my colleagues that almost one-half of the congressional districts in this country do not have cities of 100,000 or more within them, and I urge my colleagues from both sides of the aisle to support this amendment.

At this point I should like to extend the dissenting views of Mr. MEEDS of Washington, Mrs. MINK of Hawaii and myself, which set forth our concerns for this legislation unless it is amended:

DISSENTING VIEWS ON H.R. 11010

Reform of Federal Manpower Programs is long overdue—the Congress passed in 1970 a comprehensive manpower program which provided that reform and which we supported—but that bill differed in material respects from that which we are presently considering—presumptively those differences are why the bill was vetoed by the President.

This bill is nothing more than the President's Revenue Sharing proposal with a few cosmetic changes in the original language.

But in our efforts to compromise with the President we do not feel we should abdicate the Federal responsibility for Manpower Training by simply turning it over to States, counties, and large cities.

First, under the guise of eliminating duplicative categorical programs, administered at the Federal level, the bill substitutes several hundred individual sponsors which are able to establish multitudinous programs that bear no relationship to a Federally recognized problem. Going back as far as 1962, the Congress recognized its responsibility to provide manpower programs in areas where private industry and state and local governments failed to meet the needs of the people of the United States.

We have today substituted for that Federal determination of programs designed to meet Federally recognized needs a program that allows governors and chief administrative officers of large cities their option. This solution to the manpower needs is, in our judgment, an abdication of Federal responsibility. If this government is to be in the business of providing work and training opportunities for a portion of the citizenry that has not been adequately served in the past, then we should, in fact, be administering programs to meet these needs. We should not turn over to the governors, mayors, and county executives of a few large areas the carte blanche authority to do as they will with substantial amounts of Federal money.

But, if it is the intention of the Congress to empower states and local government with what in our judgment is a Federal responsibility, it should not be limited to areas of 100,000 or more in population. There are cities, counties and units of general local government which are quite capable of operating police departments, fire departments, public educational systems, hospitals, and a multitude of other governmental services, and are also capable of meeting the manpower needs of that locale, which have a smaller population.

In an effort to simplify administration of manpower programs we have created an equally unworkable system. As an example, to become a Prime Sponsor and administer their own manpower program, a Mayor or Commissioner or rural "organization" must submit a Comprehensive Manpower Plan to the Secretary of Labor for approval. However, before it gets there, it must be reviewed and commented upon by the Governor and by the State Manpower Services Council (which the Governor appoints). The Council also reviews the plans of State agencies for the provision of needed services and makes recommendations to both the Prime Sponsors and the State agencies for more effective coordination of efforts to meet the overall manpower needs of the State should such recommendations be necessary. Then, with this approval secured, the local Comprehensive Manpower Plan goes to the Assistant Regional Manpower Director (who has been delegated authority to approve or reject local and State plans), and, with their approval, it finally gets to Washington. Also, along the way, the labor organizations must approve the local public employment program plans and can comment if they care to do so. Briefly, that is the route a plan takes, but the contents of the plan are even more complex.

The local Comprehensive Manpower Plan must describe what services will be provided to enrollees, whether they will provide them or subcontract them (if so, to whom), describe the geographical area served, and who will be served (priority for those "most in need"). Should they want additional funds for public employment programs, they must show that enrollees under that program will receive "related manpower services" under their Title I Comprehensive Manpower Plan program.

The local Prime Sponsor must buy—from public or private establishments—the capability to provide outreach, testing, counseling, academic and occupational skill training, child care, health and medical services, bonds (where necessary), job development, referral and placement in jobs, and, if they arrange with the State Vocational Education office to use their facilities, they can secure additional financial help from the Secretary for this expense. They must provide allowances for enrollees in institutional training, they must pay employers in the private sector supplemental training costs for trainees in On the Job Training, and they must pay their own administrative costs for operating this program.

There is another portion of this bill that concerns us deeply. Section 209 authorizes the use of the limited public service employment funds under Title II for programs authorized under the other titles of this Act. This means that when an area can meet the population requirements and demonstrate that there is an unemployment rate exceeding 7%, it can then use any and all funds available under this Act for training programs. It seems to us quite evident in an area in this country where unemployment exceeds 7% that the prospects of finding a job are, on their face, quite remote, and therefore, the most reasonable use of these limited funds would be in providing needed public service jobs. One of the most counterproductive actions that can be taken is to train people for jobs which do not exist; this is more frustrating than doing nothing.

Enactment of this legislation turns back the clock to the days when unemployment was the responsibility of the State or area—and not a national responsibility as stated in the Employment Act of 1946.

When the economy of a local area—or even a State—goes into a tailspin, the only alternative is public employment or welfare . . . training is of little use, and the public employment program in this legislation provides only transitional employment with the assurance that it will develop into permanent jobs in areas of 7% or higher unemployment.

In order to use the additional public employment program money (Title II) there should be some provision in the legislation for special surveys for cities, etc., in order to get realistic figures showing the needed "7%" unemployment. As statistics are now collected the unemployment rate is based on SMSAs and not smaller areas within the SMSA, hence it will be difficult to establish the required 7% figure needed to be eligible for the funds.

For fiscal 1972 and 1973, the Congress authorized the Emergency Employment Act, pursuant to which was appropriated $1.25 billion in each of the fiscal years. That legislation expired July 1 of this year, and this bill attempts to save pieces of that legislation. Our concern, specifically with regard to public service employment, is that we have not authorized sufficient amounts of money to meet the potential needs in this area. Today we are facing what has been described as the most serious energy crisis in the history of the United States. The impending threat of a shortage of fuels will necessarily have a serious effect on many currently operating industries with the predictable result of a decrease in employment opportunities. We feel that now is not the time to severely restrict the authorization for public service employment programs, rather, we should allow the flexibility to appreciably expand this program to meet the potential needs of the unemployed or underemployed population of the United States.

Clearly, comprehensive new legislation is necessary if we are to make sense of our manpower programs, but we submit that the bill before us fails to meet many of the needs that we have specified, and should be perfected if we are to attempt to meet the challenge of the 1970s.

Actually this legislation is a hodge-podge of compromises that mean nothing, and will be so complicated to administer that the present Administration will continue on its merry way with the present Manpower Revenue Sharing (which they are now calling MRP—Manpower Reform Program) and by hook or crook fit this legislation into the present guidelines.

The extension of the Manpower Development and Training Act, and the Emergency Employment Act is a better alternative, and Congress then would have retained some control over the funds.

William D. Ford.
Lloyd Meeds.
Patsy T. Mink.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ESCH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would point out to the members of the committee in opposing the amendment that there must be some misunderstanding as to the intent of title II and a delivery system. The purpose of the gentleman's amendment is to provide that many small jurisdictions could combine together, if they total 50,000 population and have a title II program, primarily a public employment program. I would suggest that the House reject this amendment, because what it will do in effect is to place more funds into the administration of programs and less funds out into the public employment programs and into the job training programs themselves.

This section was carefully drawn in order to provide that we have local units of government that could reasonably manage and administer the program on an efficient basis.

Second, it should be recognized that in an area such as Michigan, and in some other States, we have a strong county system of government, and those counties will qualify. But, more than that, the actual services will still be provided where the services are needed.

In speaking on the amendment, the gentleman implied that those individuals who were unemployed in areas such as his jurisdiction, in areas such as Southgate, in areas such as Dearborn or related areas, would not receive the services. The act as presented by the committee clearly indicates two things: First of all, the individuals who are unemployed must be employed under title II.

So no matter who the prime sponsor is, the people, the individual citizens, the constituents from that area will have to be employed under title II.

Second, to the maximum extent possible the actual services that those individuals provide, be they in the schools or in terms of environmental programs or what have you, will have to be performed in those same areas.

So we are really saying that the individual who is unemployed, whether he is in a suburban city or rural area, even though they cannot reach 100,000 in that jurisdiction, that individual citizen must be serviced by the act that is now presented.

Second, the services that he performs must be for the benefit of that area.

But what we are saying to the Members of the House is this, that we must not put all our money back into the administration of the program. Let us put the money out where it belongs, helping people to receive jobs where there are none available. That is what the bill does as now presented and I urge the Members to reject the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. RYAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support this amendment for a very simple reason: I come from a district very much like that of the gentleman from Michigan (Mr. WILLIAM D. FORD) which is entirely suburban and which has 16 cities in it, none of which are 100,000 population but three of which are of a population of 70,000 or more. They are complete cities in themselves and have been for a good number of years.

In fact, the problem we face now is one I think more addressed to this bill than many of the larger cities. My district is contiguous with San Francisco. In the last 20 years because of building programs undertaken largely through Federal funds and supported by Federal programs there has been a great deal of building of office buildings in San Francisco. They have cleared out through redevelopment a good many units of low-income housing. Places where older people and poorer people lived. They have moved into San Mateo County in the area hard by San Francisco. Now my district has the same kinds of problems that San Francisco had but we are not large enough to qualify for many of the Federal programs under the present bill.

In the past, as the gentleman from Michigan (Mr. WILLIAM D. FORD) has said, the suburban areas did not have the kinds of problems they have now. Twenty-five years ago the San Mateo County area was largely rural and did not have the many problems which it is experiencing now. It was made up largely of white middle-class people who lived a good life. Now they have many of the same problems the large cities have, many of the same kinds of problems that are addressed in this bill.

The gentleman from Michigan (Mr. ESCH) noted earlier that the cities and counties are in support of this bill, but I do not believe that small cities would be. As it is now there are 14 cities actually that can benefit from this program in my district. Under the present bill none of those cities would qualify. I doubt very much if the League of California Cities will receive this bill with any kind of enthusiasm without the Ford amendment in it.

I would also like to point out that as far as more funds and administration, if that is an objection, I would suggest it is perhaps less an objection than would appear to be on the surface. My argument is that in many cases these larger cities do not have the problems they used to have simply because the people have moved out and relocated themselves. The assumption that only large cities have needs as developed in this bill is no longer valid. Smaller cities have a definite and specific need for inclusion in this bill.

I would strongly ask for an aye vote on this amendment.

Mr. LONG of Louisiana. Mr. Chairman, I rise in support of this amendment and move to strike the requisite number of words.

Mr. Chairman, as a Representative from a predominantly rural area and a member of the rural caucus I have seen time and again legislative proposals considered by the Congress dealing with serious national problems structured in such a way as to benefit the big cities and the urban areas at the expense of the smaller cities and rural areas.

Unfortunately, I believe this is true for this bill. I think this amendment would to some degree correct that matter. Somewhere along the line the needs of the Nation became evidently synonymous with the needs of the urban areas. Rural areas have as a result of that become more or less second-class citizens.

I find this particularly ironic when it comes to employment. Nationally, the level of unemployment fell to a new low of 4.5 percent. By way of contrast, unemployment in my district of Louisiana remains at over 6.5 percent. As we read in the papers, the situation is going to get worse. As the energy crisis continues to grow, can there be any doubt that the numbers of unemployed Americans will grow likewise? If the unemployment reaches the predicted 8 percent nationwide by next year, I shudder to think what it will be in my district.

The present bill provides, with minor exceptions, that only States or units of local government with populations of 100,000 or more will be eligible to receive direct assistance.

Units of government with populations of less than 100,000 would be eligible to receive funds only if their program were administered by a city of over 100,000 or the State government.

Not even one city or town in my district is 50,000, much less 100,000. If a small town or city wished to participate in this program, it could do so only under the supervision and control of some large urban area or the State government. In this situation, I can well imagine the final benefits a small city or town would receive. I believe that it is easy to see the same thing will happen to small towns and rural areas all over the country.

Under Congressman FORD's amendment cities of 50,000 would be able to apply directly for assistance. Most importantly, however, cities and towns of less than 50,000—and this is where over 60 percent of America lives—would be able to band together and receive support for programs they could tailor to their own special needs.

There can be no doubt that the present bill discriminates against small towns and cities—the areas of greatest need. If the problems of unemployment are to be faced squarely, the needs of rural America cannot be ignored.

I believe in and urge support of this amendment. I believe we need the amendment and we need the bill.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Texas.

Mr. KAZEN. I want to commend the gentleman and associate myself with his remarks. I wish the figure in this bill could be lowered to 15,000 or even to 10,000 because it could then better serve the people of my district. I recognize, however, that this committee will not vote for such an amendment and I therefore support the pending amendment because it is an improvement over the present provision of the bill.

Mr. LONG of Louisiana. I thank the gentleman from Texas. I believe his point is a good point. The gentleman from California supports it because he comes from an area that has grown up as a suburban area. The gentleman from Texas and I represent urban areas that also need assistance.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment that is before us rather clearly highlights one of the problems we always deal with when we are talking about a comprehensive manpower policy.

I oppose the amendment and I do so and would urge my colleagues to do so, not on the basis of this alleged discrimination between large cities and small cities, which really is not important or even appropriate under the circumstances; but rather to try and get us to step back for a minute, as all of us, I know, find it difficult to do about our own districts.

I am in the same position as the gentleman from Louisiana or the gentleman from California, perhaps. I do not have a city of 100,000. I do have a county of 100,000 in my district.

It is easy to succumb to the temptation that somehow a 50,000 limit in population will thus be better for our districts than some figure at a higher level. Yet I would urge you to consider two facts.

The first one is very simple, that is to say that the whole concept of this bill, its foundation, if you will, is some effort to put together a rational manpower program that is tied together, that does recognize the interrelation between the city and the suburb and between the small town and the large town.

The Ford amendment works in exactly an opposite direction. It is designed to untie what has been tied together in this bill by developing pockets based on artificial population criteria that have absolutely no relationship to the question of where the jobs are or how to tie together the delivery system of jobs in one kind of city with another kind of city.

I think the amendment would be seriously wrong in terms of its basic foundation. It would weaken the bill. It would weaken the ability of our constituency to gain the kind of comprehensive service that they may seek. Most importantly of all, it cuts at the very heart of how we attempt to rationalize this hodgepodge of existing manpower programs.

There is a second point I would like to make. The second point is this: There are two criteria in order to be eligible under title II. One is the level of unemployment at 7 percent. The other is that they must have an area of unemployment as a prime sponsor under title I, at 7-percent unemployment. That is the compromise that is contained in this bill. It is a level that seems to me, at least in my own judgment, to be a reasonable level to strive to achieve.

What it does is to make it possible for the Governor as a prime sponsor to service the areas of the State that are not eligible under title I to be prime sponsors.

I am one of those who believes that the governors' role is important and that the Ford amendment disrupts the governors' role. The Ford amendment will make it more difficult to service the needs of unemployed persons in the United States in rural areas.

Thus, I oppose the Ford amendment, knowing full well that from a selfish standpoint, if I only tried to look at what I thought might be best for my district, I could easily justify it, but I think in terms of the way manpower operates, of the delivery of services to those in need of manpower services, this amendment would be a serious mistake.

Mr. Chairman, there is one last point I would make. That is, some of those who have been proponents of the amendment have talked about service as if title II were a delivery system of the services, and it is not. It is a public employment program, targeted to areas of high unemployment. I really would urge the members of this committee to think more carefully about the concept of comprehensive employment, training and employment services, before adopting the subterfuge of the Ford amendment. It will, in the long run, disable the very people they are trying to help. I urge the committee to stay with the committee bill and reject this amendment.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, when I first rose today to explain this bill, I started my comments with the remarks that the reason why this bill comes to the floor of the House today is because there is an express need for reform of our national manpower legislation, and also to develop a comprehensive national manpower policy.

At the present time, the Secretary of Labor has entered into contracts with governmental and nongovernmental agencies to the tune of 10,800. Now, this is just too many contracts for the Secretary of Labor to handle in order to permit proper and efficient administration by the Secretary of the manpower program. The definition of prime sponsor in this bill was carefully worked out in order to achieve two objectives, Mr. Chairman.

First, to keep the number of prime sponsors down to a manageable number; and second, to provide an appropriate balance between the interests of the States, the counties, and the cities.

Under the terms of this bill, the number of contracts that the Secretary would have to deal with would be in the neighborhood of approximately 550 to 600 contracts. This is manageable, and it will enable the Secretary of Labor to scrutinize each program with the appropriate degree of care, and any increase in the number will make Federal scrutiny and administration that much more difficult.

In addition thereto, I would like to say that the definition that we had developed here provides an equitable distribution of the funds among the cities, the counties, and the States.

Now, if we take the moneys away from the States and the counties, that will mean less money that we will have to deal with for the other communities, and it is for that reason that I oppose this amendment.

Mr. Chairman, I ask for the defeat of the amendment.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I wish to state to the members of the committee that I had not intended to take the floor, because I felt that I had written my opinion and given my views in the supplemental views of the report, and they are there for everyone to read.

However, the inconsistency of the arguments made in opposition to this amendment today compels me to speak out.

At the outset, I want to make my position crystal clear. I oppose this legislation because I believe it constitutes a shedding by the Federal Government of its obligations in the manpower field and a parceling out of this obligation to a multiplicity of clients and prime sponsors at the local level.

Mr. Chairman, we are passing or we are considering this legislation under the guise and under the umbrella that something has to be done about manpower because there is a multiplicity of manpower programs that spreads across the entire Nation. And I agree with that view. Something does have to be done.

However, I think that in doing this, creating this multiplicity of clients and then multiplying that by the number of programs that are extant—and I do not think they are going away—if we think we have got a jumbled mess now as far as manpower programs are concerned, we should wait until 2 or 3 years from now when we multiply the multiplicity of programs times the multiplicity of sponsors, and we are really going to think that what we have now is a "Sunday school picnic" compared to what it will be in 2 or 3 years from now.

So I disagree with that principle.

But the majority, having made the decision that the local areas know best and that there should be all of these prime sponsors at the local level, then proceeds to determine that what "local area" really means is an area of Government which excludes one-half of the congressional districts in the entire United States, and in effect they say: "Local government, you know best, unless you are under 100,000. If you are under 100,000, then you do not know best. Then you can not handle one of these manpower programs; then you can not have one of these public service employment programs because you don't really know best."

Now, Mr. Chairman, I will say to the members of the committee that seems to me to be the heights of inconsistency. Either we trust the people at the local level or we do not trust the people at the local level, and to accept the premise that one-half of the congressional districts in the United States do not contain prime sponsors capable of accepting this responsibility seems to me to be tremendously inconsistent.

In fact, and indeed, today local governments of 75,000 are running these kinds of programs, this very type of program. This public service employment program or PEP, as it is presently constituted, allows prime sponsors of 75,000 people to run this same type of program about which we are here speaking.

So, although I oppose this legislation, I will say to the members of this committee that I think we must be consistent. If we trust the local people, let us trust them and let them run these programs.

Mr. CRONIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I represent a district with two cities with populations of less than 100,000—Lowell and Lawrence. Both are old mill cities, typical of the Northeast, with chronic unemployment problems. In recent years, this problem has not only displaced millworkers, but also engineers and highly skilled technicians. Cities and towns with populations of less than 100,000 do, indeed, have the qualifications and expertise necessary to establish effective public employment programs and should be eligible to be prime sponsors under this act.

The city of Lowell, Mass., for example, with a population of 94,000 has already demonstrated its ability to institute and run such programs. In 1971, the city's unemployment rate was 14 percent largely due to defense and aerospace contract cutbacks. Through funds provided under the Emergency Employment Act, Lowell has established significant public service programs and has reduced its unemployment rate to 11 percent.

An electronic data processing section was created—employing 12 technical professionals—to set up a computerized city demographic and voter analysis utilizing an available school computer. This has been a tremendous asset to managing a city this size.

Within the police department, Lowell was able to add six patrolmen, including the first Spanish-speaking policeman in the city's history. In addition, a drug program was created within the school department which hired drug counselors, many of whom were short on experience in counseling but long on experience with drugs. This program has been extremely successful because of the counselors' ability to relate to the students they help.

More than 50 percent of those employed were placed in public service jobs, with special attention given to both hiring and serving the disadvantaged. Lowell met and exceeded every requirement and goal of the labor manpower program and at one time employed a maximum of 277 persons.

So successful have these programs been that despite the phasing out of EA, a substantial number of the people are being transferred to jobs in the private sector—because they were given the opportunity to prove themselves as employees.

With rising unemployment threatening our cities as a result of the energy crisis, I believe it is imperative that a comprehensive manpower program be established in cities under 100,000 to avoid a potential crisis of employment. Lowell has already proven its need, ability, and success with these programs, and I strongly believe other cities its size, such as Lawrence, could do likewise if they were given the opportunity. I, therefore, urge my colleagues to support this amendment.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one thing I think the Members are mistaking here is that you are looking at those who qualify under title II under this amendment as being required to be prime sponsors in order to receive the benefits of this program. That is not so at all. All communities will be able to benefit under title II who qualify.

However, it would be peculiar if when they had unemployment so that they qualified to be a prime sponsor, even though there was already a prime sponsor in that area, they then lose that status because they did not qualify and then later on when they have an increased amount of unemployment they would again qualify as a prime sponsor.

In the administration of this program, if we are going to make sense out of it, you have to have prime sponsors established, which means under title I local political subdivisions of 100,000 or more or combinations of them of at least that population or else the State. Once you have established that, title II comes into play for any area where there is substantial unemployment. That is why I say it makes no sense at all to put a 50,000 population requirement now in title II.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

The question was taken, and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOMINICK V. DANIELS. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes, 248, noes 149, not voting 36, as follows:

[Roll No. 599]

AYES—248

Abdnor
Abzug
Adams
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Badillo
Bafalis
Baker
Beard
Bennett
Bergland
Bevill
Bingham
Blackburn
Blatnik
Boggs
Boland
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carney, Ohio
Casey, Tex.
Cederberg
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cohen
Conlan
Conte
Conyers
Corman
Cotter
Cronin
Daniel, Dan
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dennis
Derwinski
Dingell
Donohue
Dorn
Drinan
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Fisher
Flowers
Flynt
Ford, William D.
Fountain
Fraser
Frey
Froehlich
Fulton
Fuqua
Gettys
Gibbons
Ginn
Gonzalez
Grasso
Gray
Griffiths
Gross
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Harrington
Harsha
Harvey
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hillis
Holtzman
Horton
Huber
Hungate
Hutchinson
Ichord
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kyros
Latta
Litton
Long, La.
Long, Md.
Lott
McEwen
McFall
McSpadden
Madden
Madigan
Mahon
Mann
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Mezvinsky
Milford
Miller
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Murphy, N.Y.
Myers
Nedzi
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Pepper
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Riegle
Roberts
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Runnels
Ruth
Ryan
St Germain
Sarbanes
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shuster
Sikes
Skubitz
Slack
Smith, Iowa
Spence
Stanton, James V.
Stark
Steed
Steele
Stephens
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Treen
Udall
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitten
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wydler
Yatron
Young, Ga.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—149

Addabbo
Annunzio
Archer
Arends
Aspin
Barrett
Bauman
Bell
Biaggi
Biester
Bowen
Breckinridge
Brown, Calif.
Broyhill, Va.
Burke, Fla.
Burton
Butler
Carey, N.Y.
Carter
Chamberlain
Clancy
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Coughlin
Crane
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellums
Dent
Devine
Dickinson
Dulski
Edwards, Ala.
Eilberg
Erlenborn
Esch
Findley
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Gaydos
Giaimo
Gilman
Goodling
Green, Oreg.
Grover
Gubser
Gude
Hanrahan
Hansen, Idaho
Hastings
Hébert
Heinz
Hinshaw
Hogan
Holt
Hosmer
Howard
Hudnut
Hunt
Jarman
Johnson, Calif.
Jones, Okla.
Kastenmeier
Keating
King
Kuykendall
Landgrebe
Leggett
Lehman
Lent
Lujan
McClory
McCloskey
McCollister
McDade
McKinney
Mailliard
Mallary
Maraziti
Martin, Nebr.
Mazzoli
Michel
Minshall, Ohio
Moorhead, Pa.
Mosher
Moss
Natcher
Nelsen
Nix
Parris
Patman
Patten
Perkins
Pettis
Peyser
Podell
Price, Tex.
Quie
Quillen
Reuss
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roncallo, N.Y.
Roybal
Ruppe
Sandman
Sarasin
Satterfield
Schneebeli
Shriver
Sisk
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Sullivan
Symms
Taylor, Mo.
Towell, Nev.
Ware
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wyatt
Wylie
Wyman
Yates
Young, Alaska
Young, Fla.
Young, Ill.
Zablocki

NOT VOTING—36

Anderson, Ill.
Ashbrook
Ashley
Bolling
Brasco
Brown, Ohio
Buchanan
Burke, Calif.
Camp
Collins, Ill.
Dellenback
Denholm
Diggs
Downing
Fascell
Flood
Foley
Goldwater
Green, Pa.
Hansen, Wash.
Holifield
Landrum
McCormack
McKay
Macdonald
Metcalfe
Mills, Ark.
Minish
Murphy, Ill.
Roncalio, Wyo.
Rooney, N.Y.
Rostenkowski
Stokes
Stuckey
Ullman
Wilson, Charles, Tex.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK: On page 87, after line 7, add a new paragraph (3) as follows:

"(3) any combination of units of general local government which has an aggregate population of one hundred thousand;".

And renumber the succeeding paragraph accordingly.

Mrs. MINK. Mr. Chairman, I will not take the time of the House to go into the details of this amendment or to explain the reasons for my offering it. I believe they were fully covered in the explanation of the amendment which was previously adopted by this committee. That amendment, as you know, permits local governments of the size of 50,000 to qualify as a prime sponsor.

My amendment now will take this one step further and permit any combination of local units of government to qualify if they have an aggregate of 100,000 population in that combination.

I believe that it is only fair to permit the smaller counties, and other smaller units of local government, to come together in some sort of unified coalition to make it possible for them to also participate in this most essential program, that of providing public service employment for the unemployed segments of their community.

It is a very simple amendment. It has been used as a device for qualifying units of local government in other kinds of legislation that this House has already considered. It would permit county governments or municipalities or cities to combine together and if they had an aggregate of 100,000 persons in this aggregate total, they would be able to submit to the Secretary of Labor their applications giving the same assurances as all the other prime sponsors to run and administer their own public service program.

I believe it is imperative, especially in the light of the pledge of this administration time and again to return programs to the lowest level of control to our local communities. This has been said over and over again, whether it is when justifying revenue-sharing or other kinds of programs, or in the rhetoric of giving back the power to the people.

What more important service is there than providing employment for our constituents; and who is better qualified to determine what kind of jobs should be provided, and what kind of services should be provided in these local communities?

So I hope this House will do just as you did a moment ago by allowing cities of 50,000 to qualify and now allow smaller cities to come together and by forming a coalition meet the eligibility requirements of this act as a prime sponsor.

I ask the House to adopt my amendment.

AMENDMENT OFFERED BY MR. DE LA GARZA TO THE AMENDMENT OFFERED BY MRS. MINK

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA to the amendment offered by Mrs. MINK: Strike "one hundred thousand" and insert in lieu thereof "twenty-five thousand".

Mr. DE LA GARZA. Mr. Chairman, I reiterate all the arguments presented by the gentlewoman from Hawaii. I agree with everything that she said, except the number.

I come from an area in south Texas where the greatest unemployment is centered. This is where the bulk of my residents live, where we have unemployment as much as 12, 14 and 18 percent many times where the counties are only of 5,000, 6,000 or 7,000 population.

Therefore, if we take the amendment of the gentlewoman and we have to lump into 100,000, we are missing what we are trying to correct with this legislation.

The biggest unemployment is where we do not have the work for people, period, and this is in the area where the migrants have their homesteads. There are times of the year when we go up to 18 percent unemployment, and this legislation would be futile. I would say it was almost a crime to say that we passed a general manpower bill trying to help them. Either we help those who have unemployment situations, or we do not.

This bill does not do it when we are dealing with 100,000 or with 50,000. I have read the bill, and I saw that it said a combination of governments. I felt it might satisfy the needs of my area, but not when the gentlewoman puts it in precise language that any combination of local governments must be 100,000. That would miss most of south Texas.

Most of my counties where the bulk of the migrants are would not qualify under this bill, and I feel I have an obligation to bring this matter to the attention of the House, and hopefully the respective managers of the bill would see the plight of these people who need help from the Government and would help us if it is possible for them to help.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman yielding to me. I think the gentleman is mistaken. Under the bill, without his amendment or without the previous amendment, it does provide programs for jobs to the people of his area. It provides that the jobs and the money for the jobs must be put into those cities and those rural areas where there is unemployment. It provides that the service, perhaps working on roads or working in the schools, those services must be provided into his area.

What the bill does not do is to say that every little township or every little hamlet or every little city that exists will administer the program. We should have the program, I would say to the gentleman, administered at a level which is efficient, but the jobs themselves must go into the area to reach the needs of his constituents.

Mr. DE LA GARZA. Mr. Chairman, I agree with the gentleman but he just does not mean that. What he is telling me is that one has to be big to be efficient, and that is not true.

Mr. ESCH. Mr. Chairman, if the gentleman will yield further, I would say that if the gentleman's amendment is accepted, or the gentlewoman's amendment is accepted, there will be less money—there will be less money for him to spend for the jobs for his people in his district; that the money will be spent on administration of the program rather than for the jobs themselves.

Mr. DE LA GARZA. Mr. Chairman, I beg to differ with my good friend from Michigan, but the money we are allocating is money for 100,000 and over.

Mr. ESCH. Mr. Chairman, if the gentleman will yield further, that is not correct. Under title II——

Mr. DE LA GARZA. Yes, there is a provision that says emergency, where the unemployment is, but then there would not be any need for the gentlewoman's amendment.

Mr. ESCH. That is correct.

Mr. DE LA GARZA. There would not be any need for this. My concern was that once the gentlewoman says 100,000, then this one provision is cut out and we are left out altogether.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. Mr. Chairman, very sincerely I would rather that this be surplusage in the bill and not need it than have to tell my people that I did not take care of them or that this House did not take care of their needs, because the bureaucracy is going to go to the big complex, the centralization, the way the executive department is working nowadays, is to consolidate.

On Friday, the Secretary of Agriculture is going to make an announcement in Texas that he is consolidating all of the services in each county. Next we are going to have five counties. Well, when we take five counties, with only 5,000 people each, we will have left them out altogether.

Mr. Chairman, I hope the Members will support my amendment. If the Members are inclined to support the amendment offered by the gentlewoman from Hawaii, certainly they can complete the job by supporting my amendment.

SUBSTITUTE AMENDMENT OFFERED BY MR. DENT TO THE AMENDMENT OFFERED BY MRS. MINK

Mr. DENT. Mr. Chairman, I offer a substitute amendment to the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

The Clerk read as follows:

Substitute Amendment offered by Mr. DENT to the Amendment offered by Mrs. MINK: On page 87, after line 7, add a new paragraph (3) as follows:

"(3) any combination of units of general local government which has an aggregate population of fifty thousand;".

And renumber the succeeding paragraph accordingly.

Mr. DENT. Mr. Chairman, I will state to the Members that there never can be a magic number where we can establish a base that would satisfy everybody. However, knowing the State that I live in and knowing many of the other States rather well, I find that the figure, 100,000, completely eliminates many congressional districts such as mine unless we would take practically the entire congressional district to get to the 100,000 figure in a separate county unit.

I have no city within my district out of the 475,000 or 476,000 people that goes more than 23,000. I have a large mass, a great mass of land area, and to try to get 5 or 6 units together to make up 100,000, we would probably have to travel over some 100 miles, or 125 or more miles. However, if we get down to 50,000, we can take a community of 20,000 and we can add 10,000 and a couple of the smaller communities within the township areas and we can put 50,000 together a lot easier, if we want to do something for those pockets of unemployment where the unemployment is great.

Mr. Chairman, we will find that these coal town and mining areas will have a center in a segment that will have 20,000, 15,000, 18,000, and then it will have smaller areas around it of 3,000, 6,000, and 7,000. But to try to get 100,000 out of that just makes it ridiculous, and this is what happens:

Under the formula in the original bill and under the formula offered by the amendment offered by the gentlewoman from Hawaii (Mrs. MINK) we would practically have an entire county in many instances before I would have a qualifying area. I think that my condition is the same as that of the gentleman from Texas and other Members who have large areas, where some communities are rather large, and there are many smaller ones around them.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I would like to commend the gentleman for offering his amendment.

I think the amendment certainly helps the bill, and it means that all of us can participate in it, not just a few cities.

Mr. DENT. Mr. Chairman, in the last administration, to give the Members something to think about, the only qualifying unit in my entire district was the county government of the largest county I had. That county government, being made up of politicians in a sense, decided that they would spend all of the money, and so they spent all the money. They took care of certain employment, but in most instances the bedrock need in the coal mining areas that had 15,000 or 20,000, within an area of a mile or a mile and a half, did not get one single job.

Mr. Chairman, I ask that the substitute amendment be supported.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to all three amendments.

Mr. Chairman, I would like to say in opposition to all of the amendments that have been offered, the original one by Mrs. MINK, the amendment to the amendment by Mr. DE LA GARZA, and the substitute by Mr. DENT, that they are all mischievous. Apparently the proponents do not understand the philosophy of the bill.

The bill is not only for the purpose of reforming our manpower legislation but is also for the purpose of having an operative flexible program that can be properly administered.

If we adopt these amendments, we must realize that this amendment is offered to title II and endeavors to bring about an entirely different course of eligible prime sponsors who are different from those who would qualify under title I. I would like to point out that distinction to you.

You are giving the Secretary of Labor an almost impossible task in the administration of this program.

Furthermore, this dissipates funds. When you have to consider substantially more applications, by the hundreds, if not literally the thousands of communities, it will cost more money.

In addition to that, you have to set up an administration to deliver these programs.

All of these amendments will generate on the part of the prime sponsors thousands and thousands of applications which must be thoroughly reviewed under the language of this bill by the Secretary of Labor. Now, I do not know what kind of a force he will have to employ to assist him in properly reviewing these applications in order to see that they conform with the various provisions of the law, which are set out on pages 87, 88, 89, 90, 91, 92, and 93 of the bill before you.

In addition thereto, assuming that the applications are approved, then you need a tremendous force to monitor these programs. That will only take away from the funds which are in this bill.

I will admit I would like to see much more money going into this program to provide more jobs under title I and under title II. However, we have been continuously admonished here, even in our Democratic caucus this morning, that we had to keep within our budget guidelines. If we are going to do that and if we are going to act reasonably and responsibly, we cannot accept any of these amendments.

Therefore, I urge the defeat of all of them.

Mr. DENT. Will the gentleman yield?

Mr. DOMINICK V. DANIELS. I am glad to yield to the gentleman.

Mr. DENT. I understand all of the trials and tribulations you have to go through, but you must understand any community of 100,000 or more anywhere in the United States is made up of a lot of little independent communities. The city of Los Angeles is made up of the same kind of little independent communities that we call towns where I come from, but we call them townships if they are in a rural area. They are the same things, just pulled together. In my area, we took the city of Westmoreland and put the little coal towns in, making them into a city, but they will still be known as Kenwick and all of the same names that they were called before.

You say that if you go out 2 or 3 miles more and get more people into it in order to make up 100,000, that it will cost more. I will say it will not cost any more to administer this than the program you have today.

Mr. DOMINICK V. DANIELS. May I ask the gentleman from Pennsylvania a question?

Mr. DENT. Certainly.

Mr. DOMINICK V. DANIELS. Under the program provided for in this bill could a small community, whether it consists of 5,000 or 10,000 or 25,000 or even 50,000 population ask to be considered in the plan of the eligible prime sponsor whether it be its neighboring city of 100,000 or a county of 100,000 or a State in which it is located?

Mr. DENT. It can. And I even tried to amend the bill so that they had to give it consideration, but they did not want to give them the consideration. The county seat will take all the money.

Mr. DOMINICK V. DANIELS. I am sorry, I do not agree. The Secretary of Labor can correct that when he reviews and considers the applications.

Mr. Chairman, I ask for the defeat of all three amendments.

Mr. ESCH. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to all three amendments.

Mr. Chairman, I think it is very important that the Members of this body recognize what is embodied in these amendments because what we are really doing is in effect I believe destroying the effectiveness of the entire legislation if these amendments were to be adopted.

The bill without the amendments, without any amendments, does provide that the jobs will go to the people who need the jobs. Second, that the services those individuals do will be provided in those areas.

So let us assume, if one lives in a rural area, the bill as now constituted provides that if there is unemployment in that rural area the money must go to those people who are unemployed. Second, the services must be provided in those rural areas. That is what the bill says, as now constituted, without the amendments.

What we would really be doing with the amendments, what we really will be saying is that every little community in this country can get together, can join together and form a consortium and ask the Secretary of Labor to administer the program. So from an administrative standpoint it will be a nightmare. If you think that programs such as the OEO had problems in administration wait until you see what these amendments will do.

I ask the Members to consider carefully the effect of these amendments.

Ideally, I suppose what one might want to do is to say that every wardheeler in every political ward in the country ought to be able to submit and ask for a plan of job training but we know that is absurd. And the absurdity is equally with these amendments.

So, Mr. Chairman, I ask the Members to reject all three of the amendments.

But let me emphasize, if we reject the amendments, unemployed will still receive the money for the jobs. No Governor or no county official is going to be able to take that money away from the people who need the money for the jobs. Second, the services are going to have to be provided in that area. So the only question is are we going to have more efficient administration of this program.

I urge the rejection of the amendments.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Pennsylvania.

Mr. DENT. Is it not true, and I believe it is, that in many instances a county government of say 368,000 would be the only qualifier in the entire county for this money, so it has to take the money and divide it up in the whole county of 76 political subdivisions.

Mr. ESCH. I would say to the gentleman from Pennsylvania that I believe him to be mistaken. That may have been true under the former public employment program but under this act there are two amendments which were adopted in our committee. Those amendments state that the money under public employment must go to pay for jobs for people in the areas in which there is a high unemployment rate. Second, that the job must be performed to provide services for those areas. So I believe that the gentleman is mistaken. I recognize that the gentleman is sincere in his attempt to assume that local units of government are involved.

Mr. DENT. Let me just see how incorrect I am.

Mr. ESCH. Mr. Chairman, I refuse to yield any further time.

Mr. PEYSER. Mr. Chairman, I rise in opposition to all three amendments.

Mr. Chairman, what seems to be very surprising to me is that this bill in committee was reviewed and gone over and over, and discussions and hearings on the very issues were heard, and the committee reported out this bill. When the bill was reported out—in fact, before the bill was reported out, it is interesting to me to note that we had representatives from the National Governors Conference in support of this, the National League of Cities who support it completely, the U.S. Conference of Mayors who support it completely, the National Association of Counties who support it completely, the AFL-CIO who support it completely, the administration who supported it, and they were well aware these were the critical arguments. The very arguments we are having right now were the ones that were considered. There is no question that if we go into breaking this down, we would be building an absolute monstrosity in administration. The people who need the jobs would not be getting the money.

In the State of New York, as in many other States who are administering these programs and doing a great job, the money is reaching the people who need it. Why break up the program and reduce it down to a point where nobody is going to get the amount of money that should be going into it? We would be creating administrative costs that would be monumental and would delay all programs. We need manpower training programs and we need public service jobs.

Mr. Chairman, I urge defeat of the three amendments.

Mr. WILLIAM D. FORD. Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, I am afraid that a great deal of confusion has arisen here in the last few moments, and I am certainly sure that my colleagues on the Committee on Education and Labor, Mr. Esch, the gentleman from Michigan, and the gentleman from New York (Mr. Peyser) are not intentionally trying to mislead the Members of this body.

First of all, with respect to the remarks made by the gentleman from New York about all of the groups and organizations in support of this legislation, those Members who were on the floor here a little while ago remember that Mr. Gross, the gentleman from Iowa, pointed out that the bill he had been studying in preparation for today was so different from that which was being discussed on the floor that he had been caught a little bit off balance. When anyone can slip one by H. R. Gross, he is moving pretty fast around here.

That is exactly what we are talking about. The bill that is on this floor is not the bill that was before the committee during the hearings and supported by the Governors, by the conference of mayors and local officials. That bill went down the drain when the people from the Department of Labor sat down with their sharp pencils, a small group of members on our committee and started wheeling and dealing.

So to say here today that this bill in its present form is endorsed by those groups is wrong, because I know many Members have heard, as I have, from their mayors back home who, once they found out what was in the bill reported by the committee, discovered that they had been sold a bill of goods by its advocates, and are no longer supporting it.

I do not think that the gentleman from Michigan (Mr. Esch) meant it when he seemed to suggest that the three amendments now pending go to the question of manpower training programs. We are past that section of the bill. This amendment only goes to PEP, public employment. Now it can be argued, although I disagree with it, the principal argument coming from those who advocate only large-size programs of manpower training, that there is some scale of efficiency involved in size; but when we talk about public employment are we going to say that people in small communities do not know how to put unemployed people to work as well as people in big cities do? Let us remember there is only one way any unit of government can get title II money under this bill. It must be a community that has 7 percent or more unemployment currently, and when the unemployment rate drops below 7 percent, it is no longer eligible for these funds. If the unemployment rate in a community is 20 percent, will you say it will get no assistance to provide public employment because it is under 100,000 in population—but a community of that size will receive funds for 7 percent unemployment?

The suggestion that there is any magic in size in providing public employment jobs under title II is just completely ridiculous. If a community of 25,000, 50,000, or 60,000 has an unemployment rate of 20 percent because a plant has shut down that was a principal source of employment for that town, that is where this money should go to provide employment on the public payroll at Federal expense for local people performing local functions until such time as they can find other employment or the plant gets back to work.

That is what this public employment program is for. It is not expected to wipe out hard core unemployment forever. It is intended to be something to go into an area where a plant or an industry or part of agriculture is affected in some way so as to cause pockets of high unemployment to occur and where there are no local resources, even though there are local services that should be performed, but there are presently no local resources to provide the jobs for those whose jobs have been wiped out.

If Members think there are no jobs needed in the smaller towns, I would remind them that statistically 60 percent of the people of this country live today in municipalities of 50,000 population or less. A majority of the people of this country are affected by this legislation and a majority of those people live in population centers of 50,000 or less.

I urge the Members to vote for the substitute amendment offered by the gentleman from Pennsylvania (Mr. Dent) and be consistent with the 50,000 figure previously adopted in my amendment earlier today.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman from Michigan (Mr. Esch).

Mr. ESCH. I think it should be noted the gentleman did not mean to imply that without the amendment the money would not go for the jobs in those areas.

Mr. WILLIAM D. FORD. I did not mean to imply it. I said it.

Mr. ESCH. The gentleman meant to say under the act.

Mr. WILLIAM D. FORD. No. That is the gentleman's interpretation, not mine.

Mr. ESCH. I would like to point out to the gentleman that on page 89, in order to qualify, it says an application shall include:

> (3) assurances that only persons residing within the areas of substantial unemployment qualifying for assistance will be hired to fill jobs created under this title, and that the public services provided by such jobs shall, to the extent feasible, be designed to benefit the residents of such areas;

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask a question of the gentleman from Michigan (Mr. William D. Ford). This is purely for information. I happen to represent a county area which has 700,000 people. It is run entirely from a county government. There are no other government agencies, no incorporated towns in the county, not one. There are a great many name places but they are purely historical names—states of mind. Can the gentleman tell me how the amendment the gentleman proposes would affect Baltimore county?

Mr. WILLIAM D. FORD. In the State of Maryland the legislation does not give the gentleman a problem because you do not have really much local government if any below the county level; but in States such as the State of Michigan, my district is located in a county of 3.5 million people and is made up of 2 municipalities surrounding Detroit in that large urban county. That county, unlike the gentleman's county, does not normally perform governmental functions of the kind that would lead them to set up training programs and provide for this kind of employment. That function in the State of Michigan is generally done by local mayors and city councils. In the gentleman's county in Maryland it would be done at the county level because that is their tradition. What we are fighting for is to protect this tradition of county government in the State of Maryland and at the same time protect our tradition of the strong local municipal government in States such as Michigan.

Mr. LONG of Maryland. Would the gentleman's amendment adversely affect the type of area I represent?

Mr. WILLIAM D. FORD. No. None of the amendments presently pending would have any effect on the ability of the gentleman's county to operate under the program.

Mr. LONG of Maryland. I thank the gentleman.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time only to clarify the parliamentary situation. I have offered an amendment to make a combination of units of 25,000.

The substitute amendment by the gentleman from Pennsylvania makes it 50,000. The amendment by the gentlewoman from Hawaii makes it 100,000.

Now, I want this understood, Mr. Chairman and my colleagues. I am concerned for the small rural areas. I know it is in the bill. My dear friend from Michigan has mentioned that it is in the bill, but the context of the debate here, the legislative history by the manager, regretfully, on the Democratic side is that we will have to be a big unit, that we have to be large to have a combination of local governments applying for this program, basically the same argument by the gentleman on the minority side. So all the Secretary of Labor will have to guide himself is that the managers of the legislation advocate large programs and only some obscure Member of Congress from south Texas said small areas.

The managers of the bill are not advocating small areas. I do not care how you slice it, Mr. Chairman, the highest unemployment in this Nation, regretfully, is in my district. I do not have counties of 50,000. I only got three counties of over 50,000. My counties are 7,000, 6,000, 5,000.

What we are telling them is that in order to avail ourselves of public works of the generous attitude of the Federal Government, we have to go find some big city to tie up to. That is what we are telling the small counties.

So I urge Members to vote for my amendment at 25,000. If we cannot reasonably do that, then at least make it 50,000, so these areas of higher unemployment can be helped without having to tie this down, drag them down to coordinate with the larger areas.

Now, the question of the funds, this is not a big city bill. We do not legislate for big cities. We legislate for all the people of the United States.

Here in Washington every time we go to MacDonald's it says "Help Wanted." When I go to other places, I have not seen a store that does not have a sign, "Help Wanted" in the metropolitan area.

We do not find those signs in my area. The jobs are not there, period. That is why the people go to Michigan, to Oregon, or to Utah.

We cannot get away from the fact that these people come from the small counties that do not make up the 100,000. They cannot make up 50,000 without tying up to the big cities.

I urge my colleagues to take into consideration that fact when they vote.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Michigan.

Mr. ESCH. I want to praise the gentleman for looking out for his constituents. I know he has their interests at heart, as he always has had, with a strong measure of support in this area; but I do want to point out that his amendment is not needed, in order to be sure that the act specifically states that his constituents and his people and only persons residing in his area of highest unemployment will qualify for the job. That is specifically in the bill. It specifically states that in the bill, and although the program will be administered elsewhere, specifically the services and jobs will go to his people.

Mr. WYDLER. Mr. Chairman, I rise in opposition to the amendment. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding. I just want to respond for a minute to what the gentleman from Michigan said, that this was no longer the bill that came out of the committee. This bill has not changed when it came out of the committee a week ago and as of this morning everyone in the groups I spoke to has not said otherwise.

I have not known of any of these groups doing so. If the gentleman knows otherwise, he can say so. If he doubts this, and we agreed on that, so everyone understands that the administration supported the proposal, the National Conference of Governors, the National League of Mayors, the National Association of Counties, and the AFL–CIO; everyone supported this bill as it came out of the committee. I know of not one of these organizations that has changed their position. If the gentleman has something he may have learned this afternoon that their position has changed, I would certainly recognize that; but as of this morning, as I said before, it is perfectly in effect.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. I am afraid Mr. PEYSER misunderstood. I did not say something happened to the bill after it was reported by the committee and before it got to the floor, because there is no way to change the bill in that process.

What I said was, at the time that these organizations were testifying before the committee, the legislation upon which they were testifying bore no resemblance to the legislation that ultimately was written by the subcommittee.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I resent the aspersion which has been made about the little group. I say as chairman of the subcommittee that I have not refused the help and assistance of any member of the subcommittee. I did have some inquiries on this House bill from time to time by my colleagues as to the progress and status of the negotiations that I was conducting. None of them have offered to sit down in those negotiations to find out actually what was going on. Therefore, if they did not have the interest to participate, that is not the fault of the chairman of the subcommittee. It is the fault of their own neglect or lack of interest.

Mr. Chairman, I further want to say that I sat down with 47 representatives of the Conference of Governors; I sat down with the National Association of Mayors and also conferred with the league of municipalities, and all those organizations, while they did not get exactly what they wanted, felt that the art of good legislation, as Sam Rayburn used to say, was compromise, and we effected compromise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. DE LA GARZA) to the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 35, noes 73.

So the amendment to the amendment was rejected.

PARLIAMENTARY INQUIRY

Mr. WILLIAM D. FORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WILLIAM D. FORD. Mr. Chairman, does the vote now occur on the substitute amendment offered by the gentleman from Pennsylvania (Mr. DENT), stating 50,000 as the limit?

The CHAIRMAN. The Chair will state that the Chair was about to put that question.

Mr. WILLIAM D. FORD. I thank the Chairman.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Pennsylvania (Mr. DENT) for the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

The question was taken; and on a division (demanded by Mr. ESCH), there were—ayes 65; noes 53.

So the substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK), as amended by the substitute amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ESCH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 140, not voting 33, as follows:

[Roll No. 600]

AYES—260

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N. Dak.
Armstrong
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Bingham
Boggs
Boland
Bolling
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Broyhill, N.C.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cohen
Conlan
Conte
Conyers
Corman
Cronin
Daniel, Dan
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Dent
Derwinski
Dickinson
Dingell
Donohue
Dorn
Drinan
Duncan
Eckhardt
Edwards, Calif.
Evans, Colo.
Evins, Tenn.
Fisher
Flowers
Flynt
Ford, William D.
Fountain
Fraser
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holifield
Holt
Holtzman
Hosmer
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Ketchum
King
Kluczynski
Koch
Kyros
Latta
Leggett
Litton
Long, La.
Long, Md.
McDade
McEwen
McFall
McKinney
McSpadden
Madden
Madigan
Mahon
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Mezvinsky
Miller
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Pepper
Pickle
Pike
Poage
Price, Ill.
Price, Tex.
Randall
Rangel
Rarick
Rees
Reuss
Riegle
Rinaldo
Roberts
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sarbanes
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shuster
Sikes
Slack
Smith, Iowa
Spence
Stanton, James V.
Stark
Steed
Steele
Stephens
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thone
Thornton
Tiernan
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
White
Whitten
Widnall
Williams
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—140

Andrews, N.C.
Annunzio
Archer
Arends
Aspin
Bell
Biaggi
Biester
Blackburn
Blatnik
Bowen
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Burke, Mass.
Butler
Chamberlain
Clancy
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Cotter
Coughlin
Crane
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellenback
Dennis
Devine
Dulski
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Findley
Fish
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Giaimo
Goldwater
Goodling
Green, Oreg.
Gross
Hanrahan
Hansen, Idaho
Harvey
Hastings
Hébert
Heinz
Hillis
Horton
Huber
Hudnut
Hunt
Hutchinson
Jarman
Jones, N.C.
Jones, Okla.
Kastenmeier
Kemp
Kuykendall
Landgrebe
Lehman
Lent
Lott
Lujan
McClory
McCloskey
McCollister
Mailliard
Mallary
Martin, Nebr.
Mazzoli
Michel
Milford
Moorhead, Calif.
Mosher
Nelsen
Parris
Patman
Patten
Perkins
Pettis
Peyser
Podell
Preyer
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Rodino
Roncallo, N.Y.
Rousselot
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Shriver
Sisk
Skubitz
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Sullivan
Symms
Taylor, Mo.
Thomson, Wis.
Towell, Nev.
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Ill.

NOT VOTING—33

Anderson, Ill.
Ashbrook
Ashley
Brasco
Brown, Ohio
Buchanan
Burke, Calif.
Camp
Clawson, Del
Collins, Ill.
Denholm
Diggs
Downing
Fascell
Flood
Foley
Gray
Green, Pa.
Hansen, Wash.
Landrum
McCormack
McKay
Macdonald
Metcalfe
Mills, Ark.
Minish
Murphy, Ill.
Powell, Ohio
Reid
Rooney, N.Y.
Rostenkowski
Stokes
Wilson, Charles, Tex.

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. ANDREWS of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Committee on Education and Labor, although being a freshman, I think I have learned something of the purpose of this bill; but may I point out to the Members what I consider to be an inequity in the bill. That is the fact that my State of North Carolina and, in fact, most States in the Southeast, are treated unfairly by the formula that is in the bill.

I have with me a letter on this subject from Mr. George Autry, president of the North Carolina Manpower Development Corp., and I would like to read to you a portion of what he has written to me and extend my remarks to include his entire letter in the RECORD:

NORTH CAROLINA MANPOWER DEVELOPMENT CORP.

November 27, 1973.

The Honorable IKE ANDREWS,
House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR REPRESENTATIVE ANDREWS: H.R. 11010, as reported out by the Committee on Education and Labor, would constitute a serious and ironic blow to the interests of North Carolina and, indeed, to the entire Southeast. The irony of this bill is that it purports to seek "to assure opportunities for employment and training to unemployed and *underemployed persons.*" Yet having declared that intent, the bill then ignores the underemployed in the most damaging way—by stacking the funding allocation deck against the underemployed.

The formula of H.R. 11010 takes into account only two factors: First and foremost, the factor of "relative unemployment within the State as compared to all other states"; second, the "manpower allotment of the State in the prior fiscal year compared to the manpower allotment for all states in that year."

The second factor may be interpreted so as to minimize any possible reduction in a State's allocation from prior years. But it is not a "hold harmless" provision. And even if it were, North Carolina and the Southeast in general would still suffer under H.R. 11010's allocation approach.

For manpower allocations heretofore have regularly ignored the problems of underemployment in favor of problems reflected in unemployment indices. North Carolina and other Southern states have regularly protested this emphasis over the years. Official unemployment rates simply do not reflect the serious problems experienced by this State and this region.

Especially in areas of rural poverty, the plight of countless men and women is not expressed in terms of official unemployment rates which are distorted by the seasonality of so many job opportunities in the area (which is to say, the underemployment of rural and small town folk). Moreover, chronic underemployment and associated problems have caused many men and women to drop out of the category of active job seekers—thus further distorting official unemployment rates.

H.R. 11010 would not only ignore this longstanding problem of North Carolina and the Southeast, it could actually reduce funds for dealing with this aspect of manpower development. Initial estimates are that the formula could reduce this State's already limited manpower allocation by $2 million—10 percent of the current year's allocation. It could cut overall allocations for the Southeastern Region by an estimated $19 million.

This is, indeed, an ironic threat from a bill that claims concern with the underemployed. The damage this bill threatens can be minimized by at least including "poverty" as a third factor in the allocation formula, as does S. 1559, the Senate version. Even that inclusion would not identify and respond to the underemployment problem in the terms this problem deserves in this State and Region, but it would mean more equitable legislation.

The bill should go further. It should insist that the National Institute for Manpower Policy (proposed in Title VI) shall develop clearer working definitions for underemployment and recommend ways to respond (in fund allocations and otherwise) to a situation that has long been lamented in statements of aims and ignored in practical terms of fund allocations and programs.

One other feature of H.R. 11010 poses immediate problems for North Carolina and many other states. As reported to the full House, the bill would not only relegate the State, and probably other states as well, to a relatively minor direct role in manpower planning and programming (i.e., dealing with the geographic "leftovers" not covered by local sponsors). It would also mandate the creation of a "State Manpower Services Council" which would, in effect, nullify more positive planning and coordination efforts already initiated by states like North Carolina through the creation of their own statutory State Manpower Councils.

The thrust of H.R. 11010 in minimizing

the chance for State action adds further ironies to this "manpower reform." For while aiming at the elimination of *categorical* fragmentation of manpower planning and programming, it would promote *geographic* fragmentation. And while proposing to decentralize authority and decision making in the manpower area, it would virtually preclude the kind of decentralized arrangement that North Carolina has been trying to work out in the last two years.

From North Carolina's point of view, some provision is needed in H.R. 11010 to allow the State Manpower Council to continue its role of state-wide planner, coordinator, and sponsor.

Sincerely,

GEORGE B. AUTRY, *President*.

Without reading this further, may I tell the Members of a development here. I have discussed this bill with the chairman of the subcommittee and the chairman of the committee and Members of both sides and staff people, and they have recognized the problem that the underemployed, particularly those in agricultural and other areas of work where they work only a portion of the year, may not during the remaining portion be counted at all. Neither is property considered.

They have agreed in conference that they will either go along with a Senate provision which I understand is a hold harmless provision or some other arrangement that will help correct this situation. Relying upon their good intent and the fact that I believe they will do this, I intend to support the bill and I hope others of the Southeast will able do this, and those from other States similarly affected.

I ask that the chairman of the subcommittee and the full committee respond.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I respond gladly to the gentleman from North Carolina. I assure the gentleman that although the bill does not do to every State exactly what we would like to see, therefore when we go to conference I assure the gentleman that in the Senate bill there is an 85-percent hold-harmless formula and we will try to work out a formula which will be equitably spread amongst all of the States to see that everybody is taken care of.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Carolina. I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I want to indicate I believe the formula, although it is not perfect, is an effort to make sure that everyone is treated as equitably as possible, and I believe it is the duty of the members of the conference to support the House in large measure, as much as possible, and to support the legislation that comes from this body.

Mr. RINALDO. Mr. Chairman, I strongly support the substitute amendment offered by the gentleman from Pennsylvania (Mr. DENT) which would permit a consortium of two or more local units of general government which has a combined population of 50,000 or more to be eligible for designation of a prime sponsor under the act.

This is an extremely important amendment, Mr. Chairman. It recognizes the indisputable fact that serious unemployment is no respecter of geographical boundaries or of the size of a community. It also recognizes the fact that some smaller cities—smaller than the 100,000 population limitation provided in the committee bill—have suffered severe unemployment, have accepted the responsibility to furnish manpower services, including the establishment of local public service employment programs, and have demonstrated the administrative capacity to manage these programs effectively.

Congress, it seems to me, should encourage such efforts on the part of our smaller American cities rather than hinder them by imposing arbitrary barriers to direct participation in the manpower program and its component public service employment program. This amendment will accomplish that objective.

Mr. Chairman, our colleagues, I believe, will be interested in a concrete example of the need for this amendment. The city of Plainfield, N.J., which I am privileged to represent, has a population of approximately 48,000. Despite its size, the city serves as the center of a minimetropolitan area embracing portions of three substantially urban counties in the heavily populated northern part of New Jersey.

Since 1967, when the city suffered from severe urban disorders, the people of Plainfield have made truly heroic efforts to rebuild. A modernized city charter was adopted; the city's administrative structure was expanded and strengthened; and with the assistance of Federal and State urban programs in addition to its own backbreaking, revenue-raising effort the city has improved its municipal services and undertaken an ambitious program of physical and social redevelopment.

A key element in the city's overall redevelopment program has been its participation in several Federal manpower programs, including the emergency employment program. These have provided new hope for Plainfield's low-income families, its unemployed, and underemployed workers. New training opportunities have been provided, new jobs have been created, and through public service employment the city's services have been expanded and improved—from law enforcement to libraries, from hospitals to housing.

What this all means, Mr. Chairman, is that Plainfield, by virtue of enlightened and dedicated leadership and broad community support, is well on the way to becoming a truly model city. The Federal Government has played a constructive role and I hope that this Congress will see that such constructive efforts continue. The pending amendment will help significantly.

But Plainfield, N.J., is not alone. There are other smaller cities in America where similar local dedication is producing similar encouraging results. This amendment will help those cities, too. It will tell them all that their size is no deterrent to their struggle to improve the lives of their people.

Mr. Chairman, this amendment will not add a single cent to the cost of the Comprehensive Manpower Act of 1973. On the contrary, it will make this program a more effective instrument for combating unemployment because it will help put Federal dollars into those communities where the need is great and where the commitment is strong.

Our distinguished colleagues on the Committee on Labor and Education have done a superlative job in producing needed legislation in a spirit of productive bipartisanship. I believe this amendment will contribute importantly to their endeavors and I urge the House to accept it.

The CHAIRMAN. Are there further amendments to title II? If not, the Clerk will read.

The Clerk read as follows:

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL TARGET GROUPS

SPECIAL MANPOWER TARGET GROUPS

SEC. 301. (a) The Secretary shall use funds available under this title to provide additional manpower services as authorized under titles I and II to segments of the population that are in particular need of such services, including youth, persons in correctional institutions, persons of limited English-speaking ability, older workers, and other persons which the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(b) With respect to programs for persons of limited English-speaking ability referred to in subsection (a), the Secretary shall establish appropriate procedures to insure that participants are provided with such manpower training and related assistance and supportive services which will increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability.

INDIAN MANPOWER

SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian and Alaskan native communities; (2) there is a compelling need for the establishment of comprehensive manpower training and employment programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in those communities consistent with their goals and lifestyles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

(c) In carrying out his responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body for the provision of manpower services under this title. When the Secretary determines that such tribes, band, or group has demonstrated the capability to effectively administer a comprehensive manpower program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provisions of manpower services under this section, he shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian manpower programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible applicants under other provisions of this Act.

(g) For the purpose of carrying out this section, the Secretary shall reserve not less than that proportion of the total amounts available for carrying out titles I and III of this Act as is equivalent to that proportion which the total number of Indians and Alaska natives bears to the total number of low-income persons, as determined for the United States on the basis of the most satisfactory current data and estimates available to the Secretary.

(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

MIGRANT AND SEASONAL FARMWORKER MANPOWER PROGRAMS

SEC. 303. (a) The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural manpower problem and substantially affects the entire national economy;

(2) because of the special nature of certain farmworker manpower problems, particularly those which are interstate in nature, such programs can best be administered at the national level.

(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out by eligible applicants under other provisions of this Act.

(2) For the purpose of carrying out this section, the Secretary shall reserve not less than that proportion of the total amounts available for carrying out this Act as is equivalent to that proportion which the total number of persons in migrant farmworker families bears to the total number of low-income persons, as determined for the United States on the basis of the most satisfactory current data and estimates available to the Secretary: *Provided, however,* That not more than 5 per centum of the funds available shall be so reserved. For the purposes of this section, persons shall be deemed to continue to be members of migrant and seasonal farmworker families for such period of time, not in excess of five years, as the Secretary may determine, in accordance with regulations which he shall prescribe, that such persons generally can benefit from the special programs authorized by this part.

TRANSFER OF JOB CORPS

SEC. 304. (a) Part A of title 1 of the Economic Opportunity Act of 1964 is amended by striking out "Director" each place it appears and inserting in lieu thereof "Secretary of Labor", and section 102 thereof is amended by striking out "the Office of Economic Opportunity" and inserting in lieu thereof "the Department of Labor".

(b) Title I–A of the Economic Opportunity Act of 1964 as amended by subsection (a) is transferred to this Act and designated as title VI thereof with section numbers (and cross references) renumbered accordingly.

(c) The powers of the Director of the Office of Economic Opportunity under sections 602(h), 602(i), and 602(m)(2) of the Economic Opportunity Act of 1964 are hereby made applicable to the powers and duties of the Secretary of Labor in administering title VI of this Act.

YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

SEC. 305. (a) The Secretary may provide financial assistance in urban and rural areas, including areas having large concentrations or proportions of low-income, unemployed persons, and rural areas having substantial outmigration to urban areas, for comprehensive work and training programs, and necessary supportive and follow-up services, including the following:

(1) programs to provide part-time employment, on-the-job training, and useful work experience for students from low-income families who are in the ninth through twelfth grades of school (or are of an age equivalent to that of students in such grades) and who are in need of the earnings to permit them to resume or maintain attendance in school;

(2) programs to provide unemployed, underemployed, or low-income persons (aged sixteen and over) with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those persons to develop their maximum occupational potential and to obtain regular competitive employment;

(3) jobs for economically disadvantaged youths during the summer months;

(4) special programs which involve work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or areas served by the program;

(5) special programs which provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served.

(b) To the maximum extent feasible, programs or components of programs conducted under this section shall be linked to comprehensive work and training programs conducted by prime sponsors under title I of this Act, but the Secretary may provide financial assistance to a public agency or private organization other than a prime sponsor to carry out one or more component programs described in subsection (a) when he determines, after soliciting and considering comments of the appropriate prime sponsor, if any, that such assistance would enhance program effectiveness. In the case of programs under subsection (a)(1) of this section, financial assistance may be provided directly to local or State education agencies, after consultation with the Secretary of Health, Education, and Welfare, for the operation of such programs.

CONSULTATION WITH SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for basic education and vocational training for individuals under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of State educational agencies with respect to such education and training. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, he shall obtain the approval of the Secretary of Health, Education, and Welfare for such arrangements.

PART B—RESEARCH, TRAINING, AND EVALUATION

SEC. 307. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of manpower research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's manpower problems. This program will include, but not be limited to, studies, the findings of which may contribute to the formulation of manpower policy; development or improvement of manpower programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective manpower development, training, and utilization; improved national, regional, and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of manpower shortages; easing of the transition from school to work, from one job to another, and from work to retirement, opportunities and services for older persons who desire to enter or reenter the labor force, and for improvements of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems, however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or with wages less than those established by the Fair Labor Standards Act of 1938, as amended, for employment subject to that Act. In carrying out this subsection with respect to programs designed to provide employment and training opportunities for low-income people, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(c) The Secretary shall conduct such research and investigations as give promise of furthering the objectives of this Act either directly or through grants, contracts, or other arrangements.

LABOR MARKET INFORMATION AND COMPUTERIZED JOB BANK

SEC. 308. (a) The Secretary of Labor shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, including but not limited to information regarding—

(1) the nature and extent of impediments to the maximum development of individual employment potential including the number and characteristics of all persons requiring manpower services;

(2) job opportunities and skill requirements;

(3) labor supply in various skills;

(4) occupational outlook and employment trends in various occupations; and

(5) in cooperation and after consultation with the Secretary of Commerce, economic and business development and location trends.

(b) The Secretary may develop and establish a computerized job bank program for the purpose of—

(1) identifying sources of available manpower supply and job vacancies;

(2) providing an expeditious means of matching the qualifications of unemployed, underemployed, and disadvantaged persons with employer requirements and job opportunities on a national, State, local, or other appropriate basis;

(3) referring and placing such persons in jobs; and

(4) distributing and assuring the prompt and ready availability of information concerning manpower needs and resources to employers, employees, public and private job placement agencies, and other interested individuals and agencies.

Maximum effective use shall be made of electronic data processing and telecommunications systems in the development and administration of the program. The program established under this part shall be coordinated with the comprehensive manpower services program established under title I.

(c) For the purpose of carrying out the program established in subsection (b), the Secretary is authorized to make grants to State or local agencies for the planning and administration of the program, including the purchase or other acquisition of necessary equipment. The Secretary may conduct the program on a regional or interstate basis either directly or through grants, contracts, or other arrangements with public or private agencies and organizations. He may also conduct the program when he finds that a State or local program will not adequately serve the purposes of this part. The Secretary may require that any information concerning manpower resources or job vacancies utilized in the operation of job-bank programs financed under this part be furnished to him at his request. He may, in addition, require the integration of any information concerning job vacancies or applicants into a job-bank system assisted under this part.

(d) To assure the effectiveness of the program provided for in this section, the Secretary shall develop an early warning system and standby capability that will assure a timely and adequate response to economic dislocations arising from changing markets, rapid technological change, plant shutdowns, or business failure.

(e) Information collected under this section shall be developed and made available in a timely fashion to meet in a comprehensive manner the needs of public and private users, including the need for such information in recruitment, counseling, education, training, placement, job development, and other appropriate activities under this Act and under the Economic Opportunity Act, the Social Security Act, the Public Works and Economic Development Act of 1965, the Wagner-Peyser Act, the Vocational Education Act of 1963, the Vocational Rehabilitation Act, the Demonstration Cities and Metropolitan Development Act of 1966, and other relevant Federal statutes.

EVALUATION

SEC. 309. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost in relation to their effectiveness in achieving stated goals, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons of various ages, and the adequacy of the mechanism for the delivery of services. In conducting the evaluations called for by this subsection, the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class, of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under section 108, or under title III. He shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

(b) As a part of his activities under subsection (a), the Secretary shall measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and under title IV—C of the Social Security Act. The data so developed shall include information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis.

(c) The Secretary is authorized to conduct, either directly or by way of contract, grant, or other arrangement, a thorough evaluation of all programs and activities conducted pursuant to this Act to determine the effectiveness of such programs and activities in meeting the special needs of disadvantaged, chronically unemployed, and low-income persons for meaningful employment opportunities and supportive services to continue or resume their education and employment and to become more responsible and productive citizens.

REMOVAL OF ARTIFICIAL BARRIERS TO EMPLOYMENT AND ADVANCEMENT

SEC. 310. The Secretary, in consultation with appropriate departments and agencies of the Federal Government, shall conduct a continuing study of the extent to which artificial barriers to employment and occupation advancement, including civil service requirements and practices relating thereto, within agencies conducting programs under this Act, restrict the opportunities for employment and advancement within such agencies and shall develop and promulgate guidelines, based upon such study, setting forth recommendations for task and skill requirements for specific jobs and recommended job descriptions at all levels of employment, designed to encourage career employment and occupational advancement within such agencies.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 311. The Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, and other appropriate officials, where appropriate, shall provide directly or through grants, contracts or other arrangements, preservice and inservice training for specialized, supportive, and supervisory or other personnel and technical assistance which is needed in connection with the programs established under this Act.

Mr. DOMINICK V. DANIELS (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments to title III? If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of section 102(a)(2), the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "low-income person" and "person heading a low-income family" have the meaning given them in regulations of the Secretary, except that persons receiving benefits under a State plan approved under title IV of the Social Security Act, or food stamps or surplus commodities under the Agricultural Act of 1949 and the Food Stamp Act of 1964 shall be considered to be low-income persons or persons heading low-income families as the case may be. In developing such regulations, the Secretary shall consult with the Social Security Administrator, and shall take into consideration family size, urban-rural and farm-non farm differences, and other relevant factors.

(4) "health care" includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services.

(5) "unit of general local government" means any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(6) "Wagner-Peyser Act" means "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

(7) "manpower allotment" means sums distributed under title I of this Act and with respect to fiscal year 1973, funds available under title II of the Manpower Development and Training Act of 1962, and title I—B of the Economic Opportunity Act of 1964.

(8) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, and other fields of human betterment and community improvement.

(9) "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) except for purposes of sections 503 and 504, adults who or whose families receive supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the

Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment;

(10) "underemployed persons" means—

(A) persons who are working part-time but seeking full-time work;

(B) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(b) As used in section 207(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public agency or institution which is a subdivision of an eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction.

LEGAL AUTHORITY

SEC. 402. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act, but only in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

CONDITIONS APPLICABLE TO ALL PROGRAMS

SEC. 403. The Secretary shall not provide financial assistance for any program under this Act unless—

(1) the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs;

(2) such program does not involve political activities;

(3) he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(4) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(5) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(6) appropriate workmen's compensation protection will be provided to all participants;

(7) the program will not result in the displacement of employed workers or impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(8) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(9) no person shall be referred for training authorized under subsection (3) or (4) of section 101 unless the Secretary of the prime sponsor, as appropriate shall have determined that there is a reasonable expectation of employment for such person in the occupation for which he is being trained, in the area covered by the plan or program under which the training is being provided;

(10) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this Act and not to supplant such other funds;

(11) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this Act;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) the program has adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of inservice training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds; and

(14) the program makes appropriate provision for the manpower needs of youth in the area to be served.

SPECIAL LIMITATION

SEC. 404. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitations on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(b) Any amounts received under chapters 11, 13, 31, 34, and 35 of title 38, United States Code, by any veteran of any war, as defined by section 101 of title 38, United States Code, who served on active duty for a period of more than one hundred and eighty days or was discharged or released from active duty for a service-connected disability or any eligible person as defined in section 1701 of such title, if otherwise eligible to participate in programs under this Act shall not be considered for purposes of determining the needs or qualifications of participants in programs under this Act.

(c) Acceptance of family planning services provided to trainees shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or receipt of any benefit under the program.

(d) No non-governmental individual, institution, or organization shall evaluate any program under this Act if that individual or any member of such institution or organization is associated with that program as a consultant, technical adviser, or in any similar capacity.

ANNUAL REPORTS

SEC. 405. (a) The Secretary shall submit an annual report to the Congress on his activities under this Act.

(b) Each prime sponsor shall prepare for the Secretary, and make available, to the public, a report on its activities under the Act, including a detail comparison of program performance with approved plan.

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

ACCEPTANCE OF GIFTS

SEC. 407. The Secretary is authorized, in carrying out his functions and responsibilities under this Act, to accept in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, an unconditional gift of any money or property, real, personal or mixed, tangible or intangible. received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 408. In addition to such other authority as he may have, the Secretary is authorized, in carrying out his functions under this Act, to utilize, with their assent, the services and facilities of Federal agencies without reimbursement, and with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision with or without reimbursement.

INTERSTATE AGREEMENTS

SEC. 409. In the event that compliance with provisions of this Act requires cooperation or agreements between States, the consent of Congress is hereby given to such

States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

REPEAL OF OTHER LAW

SEC. 410. Effective with respect to fiscal years after June 30, 1973, the Manpower Development and Training Act of 1962 and title I—B and I—E of the Economic Opportunity Act of 1964 are repealed. Unexpended appropriations for carrying out such Acts may be made available to carry out this Act, as directed by the President.

HATCH ACT

SEC. 411. State or local officers or employees engaged in programs assisted under this Act shall be considered for purposes of section 1501(4) of title 5, United States Code, to be individuals whose principal employment is in connection with an activity financed by grants made by the United States.

CRIMINAL PROVISIONS

SEC. 412. (a) Chapter 31 of title 18, United States Code, is amended by adding a new section 665 to read as follows:

"THEFT OR EMBEZZLEMENT FROM MANPOWER FUNDS: IMPROPER INDUCEMENT

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Manpower Act embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this Act shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Manpower Act, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both."

(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"665. Theft or embezzlement from manpower funds; improper inducement."

NONDISCRIMINATION

SEC. 413. (a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

(b) Whenever the Secretary determines that a prime sponsor or eligible aplicant has failed to comply with subsection (a) or an applicable regulation, he shall notify the prime sponsor or eligible applicant of the noncompliance and shall request the prime sponsor or eligible applicant to secure compliance. If within a reasonable period of time, not to exceed sixty days, the prime sponsor or eligible applicant fails or refuses to secure compliance, the Secretary, in addition to exercising the powers and functions provided for the termination of financial assistance under this Act, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a prime sponsor or eligible applicant is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

RECORDS, AUDIT, AND REPORTS

SEC. 414. In order to assure that funds provided under this Act are used in accordance with its provisions, each recipient shall—

(1) use such fiscal, audit, and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it, and (B) proper disbursement of such payments;

(2) provide to the Secretary and the Comptroller General of the United States access to, and the right to examine, any books, documents, papers, or records as he requires; and

(3) make such reports to the Secretary or the Comptroller General of the United States as he requires.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK: Page 130, after line 22, insert the following new subsection:

"(d) The Secretary shall enforce the provisions of subsection (a) dealing with discrimination on the basis of sex in accordance with Section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act."

Mr. DOMINICK V. DANIELS. Mr. Chairman, I have examined this amendment. I would like to say it is satisfactory to this side of the aisle to accept the amendment.

Mrs. MINK. Mr. Chairman, I urge adoption of this amendment and I yield to the gentleman from Michigan.

I thank the chairman of the Subcommittee and my colleague from Michigan for accepting my amendment. This amendment will bring the provisions of title VI of the Civil Rights Act into the enforcement authority of this bill and permit the Secretary to terminate assistance on the grounds of sex discrimination.

Manpower programs carried out under the authority of the Economic Opportunity Act are subject to this same provision.

Section 413(a) of this bill contains the basic nondiscrimination prohibition in the Act: "No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act." In furtherance of this stated legislative purpose, section 403(1) provides that as a condition to Federal assistance any grant, contract, or agreement with respect to any program authorized by the act must specifically contain a provision that "no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs." Section 207(f) substantially duplicates this requirement as a condition to assistance specifically authorized under title II of the act. The reason behind this latter provision is not altogether clear but, in any event, would appear to be largely surplusage inasmuch as section 403(1) makes inclusion of a nondiscrimination clause a mandatory condition to program assistance under all funding agreements entered into under the Act.

The primary judicial enforcement procedures are found in section 413 of the act. Subsection (a) of that section contains the basic nondiscrimination prohibition. Subsection (b) goes on to provide that whenever the Secretary determines that a "prime sponsor"—title I—or "eligible applicant"—title II—has failed to comply with subsection (a), he is authorized, after notice and a reasonable time—not to exceed 60 days—for voluntary compliance, to take any of the following actions: First, to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; second, to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; or third, to take such other action as may be provided by law. The subsection also makes clear that these remedies are in addition to the provisions for terminating assistance authorized by section 106(b)(2).

The provisions of section 413 suggest several alternatives available to enforce compliance with the nondiscrimination prohibition of the act. First, it would appear that the Secretary might refer any case of alleged discrimination to the Attorney General who, in turn, would apparently be empowered to bring a Federal court action for specific enforcement of the nondiscrimination clause in the grant agreement required by section 403. First, also, section 413(c) authorizes the Attorney General to bring suit in cases involving a "pattern or practice" of discrimination. This latter provision is similar to that found in various civil rights enactments and would apparently be available in cases "when there is a denial of rights which is 'repeated, routine, or in a generalized nature.'" See, *United States* v. *H. K. Porter Company*, 296 F. Supp. 40, 114 (1968).

Second, section 413(b) empowers the Secretary to impose sanctions authorized by title VI of the 1964 Civil Rights Act which bans discrimination on the basis of race, color, or national origin in the administration of federally assisted programs generally. As a final resort, where attempts at voluntary compliance fail and there is a persistent denial of program benefits on such discriminatory grounds, title VI empowers grantmaking agencies to terminate assistance. It should be noted, however, that sex discrimination is not a prohibited coverage ground under title VI and, as such, the effectiveness of this remedy would apparently be limited to cases under the Manpower Act involving discrimination because of race, color, or national origin. Thus, as suggested above, there would appear to be no administrative vis-a-vis judicial remedy available under the act for redressing sex discrimination in programs receiving title II assistance as are apparently available to the Secretary under title I by virtue of the fund termination provisions of section 106(b) (2).

Mr. ESCH. Mr. Chairman, I would merely like to commend the gentlewoman from Hawaii for the insertion of this amendment. I think it strengthens this bill and it provides clearly that there should be no discrimination in regard to sex. I commend her efforts.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'HARA: Page 118, line 3, before the period, insert the following: ", to the extent any such treatment or services are necessary to enable the recipient of manpower services to obtain or retain employment".

Mr. O'HARA. Mr. Chairman, this is a clarifying amendment, and applies no new principle to the eligibility of manpower program beneficiaries to supportive health services.

Recipients of MDTA manpower program services have been eligible, since the enactment of the 1966 amendments to MDTA, to receive physical examinations, medical treatment and prostheses which such treatment or services were directly related to the ability of the program participant to benefit from his skill training. Let me quote the explanation I gave this House in 1966 when this provision was first adopted.

> The problem here has been that a number of prospective trainees have either been unable to enter training or unable to benefit from it because of minor physical defects, easily curable, but which are beyond the sometimes very limited financial resources of unemployed potential trainees. A trainee might need an inexpensive pair of glasses, a hearing aid, or simply a medical examination to determine if he was physically qualified to perform the work for which he is about to be trained.

Manpower programs are not substitutes for work. They are designed to prepare people for jobs—or to prepare jobs for people—and the supportive services to be provided with manpower funds have always been required to have this kind of justification.

I do not think anyone on the committee, or anyone in the agency administering manpower programs conceives of the provision of health services with manpower funds as a health care program. The Comprehensive Manpower Act is not intended to provide a public health program for unemployed and underemployed persons. It is intended, and all this amendment will do is clarify that intention—to provide skill training and to create public service job opportunities. The only provision of health services authorized must be clearly and directly related to the achievement of those objectives.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I have examined the amendment of the gentleman from Michigan and it is acceptable to this side of the aisle.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I would concur with the amendment and recognize that it strengthens the bill. It clarifies and indicates that services are only extended in this specific area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA).

The amendment was agreed to.

Mr. KAZEN. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I shall not take the 5 minutes. I just want to bring a matter to the attention of the committee and then ask the distinguished chairman of the subcommittee a question.

When the House passed the Emergency Employment Act last session, a rule was promulgated, I do not remember at the moment whether it was in the law, but the chairman can refresh my memory, which provided that whenever a person was hired by a municipality or a unit of government, that that municipality or that local government had to keep that man on after the Federal funds were expended. Is there any such provision in this bill?

Mr. DOMINICK V. DANIELS. Mr. Chairman, in response to the gentleman, I would like to say the statement of the gentleman is not exactly correct. What did occur was the Secretary of Labor promulgated certain rules and regulations which required that 50 percent of those who were employed should be used to fill vacancies in the public service employment.

However, there is no such thing occuring in this bill.

Mr. KAZEN. Under this bill then, if a person is placed under this program with a municipality or a unit of government, he does not have to stay on, or the city does not have to keep him on if this program should terminate and the Federal money terminates?

Mr. DOMINICK V. DANIELS. If the program terminates and if the enrollee is in a job of public service employment, the locality or State cannot afford to keep him on, they may terminate his employment.

Mr. KAZEN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. Are there further amendments to title 4? If not, the Clerk will read.

The Clerk read as follows:

TITLE V—AUTHORIZATIONS AND ALLOCATIONS

APPROPRIATIONS AUTHORIZED

SEC. 501. (a) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding years for the purposes of carrying out this Act.

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

FUNDS AVAILABLE FOR SPECIFIC PROGRAMS

SEC. 502. (a) Of the amount appropriated to carry out this Act, the Secretary shall reserve and make available $250,000,000 in fiscal year 1974 and $500,000,000 in fiscal year 1975 for the purpose of carrying out public employment programs under title II.

(b) Of the amount appropriated to carry out this Act for any fiscal year, not more than 20 per centum shall be available to carry out title III and title VI.

ALLOCATION OF FUNDS UNDER TITLE I

SEC. 503. (a) Eighty per centum of the amount available for title I in any fiscal year shall be reserved and distributed in accordance with the provisions of this subsection. From such amount available, the Secretary shall reserve such sums as he determines are necessary (but not to exceed 1 per centum of such amount) to provide reasonable reimbursement to State prime sponsors for costs incurred in fulfilling their duties and responsibilities under section 105 (a) (2) (B). The remainder of such amount available shall be allocated among the States so that equal proportions are distributed on the basis of (1) the relative number of unemployed within the State as compared to all the States; (2) the manpower allotment of the State in the prior fiscal year compared to the manpower allotment for all the States in that year: *Provided*, however, That at least $2,000,000 shall be allotted among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs. The sum available to each State shall be allocated among areas within the State on an equitable basis based upon the same factors.

(b) Not more than 5 per centum shall be available to the Secretary to encourage voluntary combinations formed under section 102(a) (3).

(c) Five per centum of the funds available under title I shall be available only for grants under section 110: *Provided*, That such grants shall not increase the funds available in any prime sponsor's area by more than 20 per centum of the amount allotted to such prime sponsors under subsection (a).

(d) The remainder of the funds shall be available in the Secretary's discretion. In exercising that discretion the Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(e) Grants made to prime sponsors designated under section 102(a)(5) shall be from funds not allocated under subsection (a).

ALLOCATION OF FUNDS UNDER TITLE II

SEC. 504. (a) Eighty per centum of funds available for any fiscal year under title II shall be allocated among eligible applicants in accordance with the number of unemployed residing in areas of substantial unemployment within the jurisdiction of the applicant compared to the number of unemployed residing in all such areas.

(b) The remainder may be distributed by the Secretary in his discretion taking into account the severity of unemployment within such areas.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I ask unanimous consent that this title be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ESCH

Mr. ESCH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ESCH: Page 132, strike out lines 2 through 6 and insert in lieu thereof:

"SEC. 502. (a) There is hereby authorized to be appropriated $250,000,000 for fiscal year 1974 and $500,000,000 for fiscal year 1975 and such sums as may be necessary for each of the two succeeding years for the purposes of carrying out programs authorized under title II."

Mr. ESCH. Mr. Chairman, I am offering this amendment not because I feel that title II should not be funded for the remainder of fiscal years 1974 and 1975, nor because I have any doubt that it will be funded. The administration has already pledged to seek the full $250 million for the remainder of 1974 which would be mandated by the present language of the bill, and the Department of Labor has said that a further request for funds would be made for 1975.

Rather, I am offering this amendment because I feel that it is right in principle and wiser policy. Very simply, my amendment would change section 502(a) so that the $250 million and $500 million sums would be authorized for fiscal years 1974 and 1975 rather than mandated to be expended off the top of any appropriation made for carrying out this Act.

Now, why do I say that this is right in principle? Because I firmly believe that the give-and-take of the budgetary appropriations process for the most part produces a sound result, and that the Congress should not tie its own hands by circumventing its own appropriations process. That is what a mandated expenditure does, and I think it is particularly unfortunate to do this with respect to some future year when we cannot know what the relative needs will be.

That is why I believe a mandated expenditure—particularly for fiscal year 1975—is unsound for any particular program authorized by this bill. We cannot assess relative needs from this distance in time. We can only guess what those needs may be. It is perfectly true that the energy crisis threatens to push up unemployment and that this may be a major factor in the choices we would make in fiscal year 1975. If it is, then the Congress under my amendment could simply appropriate the full $500 million for that year.

But suppose these predictions are not borne out. Is it not conceivable that we would want to put relatively more money into title I which goes to all areas of the country for all of the programs authorized under this act—including those for youth, Indians, migrant workers, and persons needing bilingual instruction? Under my amendment we would not have tied our own hands on title II funding and this would be possible. I think that would be the better policy.

This is not a complicated issue. On the merits, I think that the House should agree to this amendment.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish to point out that my distinguished colleague, the gentleman from Michigan, who just made his statement in the well, has stated that the administration has pledged its support or made a commitment to allocate $250 million for public service employment for the fiscal year 1974, which means that sum will be available before this bill is signed into law this year for the first 6 months of 1974.

Now, the committee in its judgment and wisdom felt that a reserve ought to be set aside of $500 million for public service employment for the fiscal year 1975. Anyone who has been reading the papers lately knows that the energy crisis is going to have a substantial effect on employment, and even conservative columnists are predicting an 8-percent unemployment rate next year. This mandatory reserve set aside for unemployment for fiscal year 1975 is designed to insure at least some jobs for those areas of the country which are most hard hit by unemployment.

Even with a national unemployment rate of 4½ percent, there are many areas, both in the cities and in rural areas, with unemployment rates of 10 percent and even 20 and 25 percent. When the national unemployment rate increases, these areas will be even harder hit.

A fund set aside means that the Congress is exercising its responsibility to decide national priorities. We do not want to leave that decision to the administration, because we as the Congress have a responsibility to deal with these important problems.

Mr. Chairman, General Motors has already announced that it will totally or partially close 16 of its 24 assembly plants for a week in mid-December, idling tens of thousands of workers.

Only last evening I read in the Washington Star-News that United Airlines proposes to lay off approximately 1,000 pilot and crew members, starting almost immediately.

Under these circumstances, it is our duty and the responsibility of Congress to see that these people who are thrown out of work or who are underemployed are taken care of with jobs, and this mandatory set-aside is the only way we are going to be sure that the people who unemployed and underemployed will be taken care of, because we would be setting aside that sum of money for that purpose.

Therefore, Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. ESCH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAWKINS: Page 132, line 4, strike out "$500,000,000" and insert in lieu thereof "$1,000,000,000".

Mr. HAWKINS. Mr. Chairman, this amendment is very clear. I think that we should clearly recognize what is happening in this particular bill.

If the Members will turn to the report, on page 4, they will see that under the six titles, for the fiscal year 1975, $2.060 million is being provided. Then this sentence follows the chart which appears on that page:

> The comparable appropriation for fiscal year 1973 was $2,800 million.

Congress appropriation for fiscal year 1973 was $2.8 billion. That indicates, I think, in unmistakable language, because it is in the report of the sponsor of this bill, that this bill constitutes a reduction of some $740 million or money to provide approximately 60,000 jobs.

This amendment of mine seeks to restore at least $500 million of that cut so that if you look at it from an economic point of view, Congress is still saving $240 million, I think unwisely, but at least those who may be economy minded may be excited about that. At least $500 million will be restored, and this bill will then be comparable to the amount that we expended in the 1973 manpower program.

What is happening here is that these programs as they were included in the Office of Economic Opportunity Act the MDTA and the Emergency Employment Act will be consolidated. But almost a billion dollars less money is provided. If you want to pay that price for consolidation, I think you should know what you are doing and should be able to explain it to your constituents.

I listened to the President a few nights ago on his energy message. As you will recall, the next day the stock market took one of its worst dips in history. It was the financial interests of this Nation reacting to the lack of an affirmative program. I hope you will not have your constituents react so unfavorably to you when you go home and tell them that in the place of providing some 10,000 or 15,000 additional jobs you voted to reduce the number of jobs by some 60,000. You may be deceiving yourself, but I hope you are not so deceiving the American people.

Mr. MITCHELL of Maryland. Will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I appreciate the gentleman yielding.

Earlier during the debate I tried to indicate the seriousness of unemployment in this Nation. During the debate, as you will recall, I indicated that this bill represents a tiny first step in the right direction, but I would hope that Members would support the amendment offered by the gentleman from California (Mr. Hawkins).

I think it makes good sense. The need is there, and I urge support for the amendment offered by my colleague from California.

Mr. HAWKINS. I thank the gentleman.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the distinguished gentleman from California is absolutely right. There is a reduction in fiscal year 1974 over fiscal year 1973 of approximately $1 billion. I anticipate somewhere along the line that the President is going to send up an additional request for more money. However, we are confronted with the issue of getting a bill signed in view of the fact that the authorization for public service employment expired last June 30.

Under the continuing resolution we are now spending about $1.55 billion for manpower training. On top of that we have reserved $250 million for public service jobs in areas of substantial unemployment effective immediately, which makes a total of about $1.8 billion for fiscal year 1974. Next year we will go up to over $2 billion.

I personally feel the amount is inadequate, but under the circumstances we should, very much to my regret—and I hate to oppose the gentleman from California because his argument is quite persuasive—vote down the amendment in order to make sure that this bill becomes law.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I urge my colleagues to vote against this amendment. What we have here is the assurance of $500 million for title II. The gentleman from California (Mr. Hawkins) the bill constitutes a cut from last year. H.R. 11010 is an open-ended authorization. If the administration comes up with a request for more money the authorization does not have to be changed to provide for it if the Committee on Appropriation in their judgment decides to appropriate more money than the administration requested the authorization provides for it. We do not have to make any change. However, what this amendment would do would be to take money away from other parts of the country. Just remember that. If you mandate to take $1 billion for title II with the economic situation as it is at the present you are taking money away from the areas that get money under title I. Therefore I do not think we ought to increase the mandated amount in title II.

The gentleman from Michigan (Mr. Esch) offered an amendment to remove the requirement of the mandating in title II, and that amendment was defeated. But I urge the Members to go along with the present language in the bill. $500 million is mandated in 1975. There is no question in 1974, anyway, because that is already agreed to. But in 1975 I think that is an adequate amount that is mandated and let us leave it to the judgment of the Congress through the appropriations method how much more for title II we appropriate.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, will the gentleman from Minnesota please explain to us how adding $500 million to the earmarked amount of $500 million now in the bill would take any money away from any other area if the $500 million already in the bill does not do this?

Mr. QUIE. The $500 million we have already agreed to.

Mr. HAWKINS. But the gentleman said that the additional $500 million would take the money away from other areas.

Mr. QUIE. It would.

Mr. HAWKINS. If that is true then why is it that the earmarked $500 million does not do that?

Mr. QUIE. It depends on how much we want to be taken away from another area. We have already agreed to $500 million.

Mr. HAWKINS. The gentleman knows that it would not take money away from any other area.

Mr. QUIE. No, the gentleman from California knows that it does take money away from other areas.

Mr. HAWKINS. The gentleman from Minnesota has not demonstrated to us how it does.

Mr. QUIE. The additional $500 million does it, if it is mandated. There is a difference. If the Congress should appropriate more than $500 million for title II in addition then it does not take it away from any other area, but by mandating which takes power away from the appropriation process, then it actually takes money away from the other areas of the country.

Mr. HARRINGTON. Mr. Chairman, I move to strike the requisite number of words and I rise in behalf of the amendment offered by the gentleman from California (Mr. Hawkins).

Mr. Chairman, I would like to raise an issue at the risk of intruding into a debate in which I frankly would prefer to defer to the specific knowledge of the members of the Education and Labor Committee. In rising in support of the amendment offered by the gentleman from California (Mr. Hawkins) I think it is important to at least note the unwillingness of the administration to face reality when it comes to energy policies. I speak from the perspective of what has been a rather sectional preoccupation in the Northeast with energy problems, with full cognizance of what that deficiency in energy policy has meant in terms of providing the kind of job protection needed for a particular area of the country, and with an appreciation for the prospect that we are going to face, I think, in the course of the next few months. In dealing with the problem of our economy being adversely affected, I think it is important that this branch not wait until belated action is taken and yield to the expectation expressed by the gentleman from Minnesota (Mr. Quie) that we will perhaps have an administrative request for more money. I say this particularly after looking at the track record in the area that has been developed in the first 5 years. But we should begin to do something which brings us to the point where we begin to answer that question asked us by the American public: What are we doing to face these things and develop a degree of responsibility at home?

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. HARRINGTON. I yield to the gentleman from Minnesota.

Mr. QUIE. I did not say wait for the administration to react that way. There will be no money until the Congress appropriates. When the Congress appropriates, they can take the economic situation into consideration. There is open-ended authorization. They can appropriate as much as they want to due to the circumstances. I say that is all we ought to do right now, rather than prejudge and set aside a greater amount of earmarked money. That is what the issue is before us.

Mr. HARRINGTON. I again would only offer the rejoinder that I think the time has passed for prejudgment and that we are at a point where we should accept reality for what it is. For instance, take our own State unemployment rate of 7.9 percent. I think this is something we should be facing now.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. HARRINGTON. I yield to the gentleman from Michigan.

Mr. ESCH. I thank the gentleman for yielding.

I will indicate to the gentleman that I concur that this legislation is retrospective, but the battle as to how many dollars will be put into any program should be a battle of the Committee on Appropriations. What this amendment would do would be to mandate one section of this bill. I would stand firmly with the gentleman, and I would be happy to go with him to the Committee on Appropriations and ask for additional funds during the coming months, but the battle is to be fought in the Committee on Appropriations rather than in the authorizing bill. That is why we left it open-ended, because, quite frankly, it is possible that $500 million or maybe $1 billion would not do the job.

Mr. HARRINGTON. Will the gentleman agree with me that this process may have a somewhat chilling effect on the enthusiasm of the Committee on Appropriations for accepting a larger amount?

Mr. ESCH. If the gentleman will yield further, I will say that no matter what is done or what is contained in this bill, if the Committee on Appropriations does not act, the total amount of funds to solve the problem of unemployment in the country will still be the same, so the battle must be fought in the Committee on Appropriations and not in this bill.

Mr. HARRINGTON. I defer to the gentleman's knowledge as to the best procedure that he thinks should be applied.

I suggest that we face what we have to face as a country. Whether we take the dramatic change in the confidence factor, or what I would suggest are rather interesting signs registered by the stock market in New York and projections of the economic recessions from other sources, this is no time to wait until that wall is crashing down before acting. Perhaps it is a rather futile gesture to refer to the appropriations process as a realistic alternative today. It would be preferable to see a mix of the two. I hope we can take action that is timely, and share the responsibility now.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HAWKINS).

The question was taken; and on a division (demanded by Mr. HAWKINS) there were—ayes 27, noes 77.

RECORDED VOTE

Mr. HAWKINS. Mr. Chairman, I demand a record vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 107, noes 292, not voting 34, as follows:

[Roll No. 601]

AYES—107

Abzug
Adams
Addabbo
Anderson, Calif.
Aspin
Badillo
Barrett
Bergland
Bingham
Blatnik
Boland
Bolling
Brademas
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clay
Cohen
Conte
Conyers
Corman
Cotter
Cronin
Culver
Danielson
Davis, S.C.
de la Garza
Dellums
Dent
Dingell
Donohue
Dorn
Drinan
Eckhardt
Edwards, Calif.
Ford, William D.
Fraser
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Hanna
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Howard
Johnson, Calif.
Jones, Ala.
Jordan
Karth
Kastenmeier
Kazen
Koch
Kyros
Leggett
Lehman
McFall
Meeds
Mezvinsky
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Moss
Murphy, N.Y.
Nedzi
Nix
Obey
Pepper
Podell
Price, Ill.
Rangel
Rees
Reuss
Riegle
Rodino
Roncalio, Wyo.
Rosenthal
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Smith, Iowa
Stanton, James V.
Stark
Steele
Studds
Thompson, N.J.
Tiernan
Van Deerlin
Vanik
Waldie
Wilson, Charles H., Calif.
Young, Ga.
Young, Tex.

NOES—292

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bevill
Biaggi
Biester
Blackburn
Boggs
Bowen
Bray
Breaux
Breckinridge
Brinkley
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Keating
Kemp
Ketchum
King
Kluczynski
Kuykendall
Landgrebe
Latta
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Melcher
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Mosher
Myers
Natcher
Nichols
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

NOT VOTING—34

Ashbrook
Ashley
Brasco
Brooks
Broomfield
Brown, Ohio
Buchanan
Burke, Calif.
Camp
Clawson, Del
Collins, Ill.
Denholm
Diggs
Downing
Fascell
Flood
Foley
Green, Pa.
Hansen, Wash.
Landrum
McCormack
McKay
Macdonald
Metcalfe
Mills, Ark.
Minish
Murphy, Ill.
Nelsen
Powell, Ohio
Reid
Rooney, N.Y.
Rostenkowski
Stokes
Wilson, Charles, Tex.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to this title? If not the Clerk will read.

The Clerk read as follows:

TITLE VII—NATIONAL COMMISSION FOR MANPOWER POLICY

FINDINGS AND DECLARATION OF PURPOSE

SEC. 701. The Congress hereby finds and declares that the responsibility for the development, administration, and coordination of programs of training and manpower development generally is so diffused and fragmented at all levels of government that it has been impossible to develop rational priorities in these fields, with the result that even good programs have proved to be far less effective than could reasonably be expected. The Congress further finds that the lack of a coherent, flexible, national manpower policy reduces our prospects of solving economic and social problems which threaten fundamental national interests and objectives. Accordingly, the purpose of this title is to establish a National Commission for Manpower Policy which will have the responsibility for examining these issues, for suggesting ways and means of dealing with them, and for advising the Secretary on national manpower issues.

SEC. 702. (a) There is hereby established a National Commission for Manpower Policy (hereinafter referred to as the "Commission") which shall consist of fifteen members selected as follows—

(1) five members, as follows, serving ex officio: the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Veterans' Affairs; and

(2) ten members broadly representative of labor, industry, commerce, education (including vocational-technical education), State and local elected officials involved with manpower programs, and of the general public appointed by the President.

(b) The Commission shall meet at the call of the Chairman, who shall be selected by the President and who shall be one of the ten appointed public members, but not fewer than three times a year.

(c) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman. The Director may appoint, with the concurrence of the Chairman and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its responsibilities under this title.

(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS-18 when engaged in the work of the Commission, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

FUNCTIONS OF THE COMMISSION

SEC. 703. The Commission may—

(1) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

(2) examine and evaluate the effectiveness of any federally assisted manpower development programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (1) of this section;

(3) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing manpower and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information and knowledge about manpower problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of manpower programs; and

(4) make such other evaluations, investigations, or inquiries as it considers appropriate for carrying out the purposes of this title and for helping to make effective the programs authorized by this Act.

COORDINATION STUDY

SEC. 704. The Commission shall conduct a study of the utilization and interrelation of programs of manpower training with closely associated programs such as those conducted under the Wagner-Peyer Act, the work incentives program under part C of title IV of the Social Security Act, and others of similar nature, with a view to determining how they could be better coordinated and more effectively combined to serve individuals, particularly at the State and local levels, and shall make a report of their findings and recommendations to the President and the Congress not later than January 31, 1975.

REPORTS

SEC. 705. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress, and the first such report shall be transmitted not later than September 1, 1974. The Commission may make such interim reports or recommendations to the Secretary of Labor or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

ENERGY STUDY

SEC. 706. The Secretary shall, immediately upon enactment of this Act, make a study of the impact of energy shortages, including fuel rationing, on manpower needs. The Secretary shall, within one year after enactment, make final a report of his finding and recommendations to the Congress and to the Commission, and shall make preliminary reports thereon beginning with March 1974. Upon receipt of the Secretary's report, the National Commission for Manpower Policy shall continue to make studies of such matters, and shall include its findings and recommendations with respect thereto in the reports required by section 705.

Mr. DOMINICK V. DANIELS (during the reading). Mr. Chairman, I ask unanimous consent that title VII of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: Page 135, line 5, strike out "fifteen" and insert in lieu thereof "sixteen"; line 7, strike out "five" and insert in lieu thereof "six"; line 9, after "Defense," insert "the Secretary of Agriculture"; and in line 13 after "industry," insert "agriculture,".

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, in view of the colloquy which took place on the floor of the House between the gentleman from Iowa and the gentleman from Wisconsin—and I believe I participated in that colloquy myself—I believe that the gentleman's amendment is a worthwhile amendment.

I think the amendment would strengthen the bill, and, therefore, the amendment is accepted on this side.

Mr. GROSS. Mr. Chairman, I thank the gentleman.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I commend the gentleman from Iowa for offering his strengthening amendment.

The amendment does clearly and implicitly state that the Department of Agriculture and the Secretary of Agriculture, as well as the agricultural community, will be represented, and I strongly support this addition, this amendment to the bill.

Mr. GROSS. I thank the gentleman from Michigan and wish to add only that if there is to be a new commission created by this legislation, agriculture, the Nation's basic industry, producer of its food and fiber and employer of millions, ought to be represented. That is the sum total of the amendment.

However, Mr. Chairman, I find it impossible to support the bill and one of the prime reasons is the fact that it authorizes the expenditure of approximately $8 billion over 4 fiscal years. No Member of the House can possibly know the true financial condition of this country at the end of this fiscal year, June 30, 1974, much less the succeeding 3 fiscal years. Yet it authorizes a commitment, a mortgage, on the taxpayers of some $8 billion.

I hold this to be more fiscal insanity and I will not be a party to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONES OF OKLAHOMA

Mr. JONES of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Oklahoma: Page 139, after line 4, insert the following:

SPECIAL STUDY

SEC. 707. The Secretary is hereby authorized and directed to conduct a full and complete study of human, economic, and societal needs for a nationwide undertaking of construction projects patterned after those built by the Works Progress Administration under section 1(1) of the Joint Resolution of June 21, 1938 (Public Resolution, No. 122, Seventy-fifth Congress; 52 Stat. 809). The Secretary shall report the findings of this study to the Congress and to the commission within six months of the date of enactment of this Act.

Mr. JONES of Oklahoma. Mr. Chairman, the purpose of this amendment is to look ahead a few months to the possible economic problems we are going to have in this country, as alluded to earlier in the debate today, and to direct the Secretary of Labor to conduct a study of the nationwide needs of this country for an undertaking of construction projects patterned after those built by the Works Progress Administration.

The energy crisis was referred to earlier, and I think it is much worse than we are being told by Administration officials. It could lead to very serious and increased unemployment in the next few months. I hope and pray that this will not be the case.

However, if it is so and if the economists' viewpoints are correct, in the next 6, 8, or 10 months we will be facing increased unemployment which will result in a rash of legislation calling for this body to increase Government assistance to those out of work.

Those who are still working and who are taxpayers I think are going to be very distressed about Government assistance to those who are not working for that assistance.

The purpose of this amendment is to direct the Secretary to conduct a study to give Congress information within 6 months so that we can have it available at such time as economic conditions may worsen and we can go to increased public employment programs and reinstitute a Works Progress Administration type of program so that those receiving this assistance can work for that assistance.

I hope we do not have to implement this legislation, but I would rather take the precaution of having the study made just in case. Congress must be prepared, in advance, to respond to any such drastic economic decline.

I recognize that this bill does call for a broad study, but I believe we should adopt this amendment for two reasons.

First, it is imperative that this study be conducted within a relatively brief time, specifically 6 months' time, and, second, such an effort needs to be directed in this area where a Works Progress Administration type of program could be instituted.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think there is ample authority under the provisions of this bill to conduct the studies that the gentleman from Oklahoma is requesting in his amendment. I respectfully direct the gentleman's attention to title III, section 307(a), which specifically provides that—

> the Secretary shall establish a comprehensive program of manpower research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's manpower problems. This program will include, but not be limited to, studies, the findings of which may contribute to the formulation of manpower policy;

Then the section goes on and on, on what should be done in these studies.

In addition to that, section 706 is an amendment added to the act proposed by the distinguished gentleman from California (Mr. Hawkins) with regard to the economic crisis.

Between both of these sections I think there is ample authority in the bill to conduct the studies that the gentleman from Oklahoma desires.

Therefore I oppose the amendment.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I would ask the gentleman from New Jersey if there is anything in the bill that mandates that this study come back to the Congress within 6 months or else the problem will be very serious.

Mr. DOMINICK V. DANIELS. I agree with the gentleman we do not have a time pattern as to when a study should be forthcoming but it is possible it may take place under the language of the bill before us.

Mr. JONES of Oklahoma. Mr. Chairman, if the gentleman will yield further, that is the very point that I wish to make about the bill that there is no indication at all that it will take place, and if it will take place, there is no indication it will take place in the amount of time the Congress will need to secure the information on which to act within the next few months.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I would like to say to the distinguished gentleman from Oklahoma that I think the colloquy taking place between us should serve to be helpful in establishing the legislative history. I would recommend that the Secretary of Labor conduct such a study.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. Jones).

The amendment was rejected.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if I could secure the attention of the chairman, the gentleman from New Jersey (Mr. Dominick V. Daniels) and the ranking Republican member of the subcommittee, the gentleman from Michigan (Mr. Esch) to section 705 of the Commission, which states:

> The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress, and the first such report shall be transmitted not later than September 1, 1974.

A number of individuals in the manpower field who have closely followed this for several years are concerned that this language could be read to preclude the President's manpower report. I wonder if I might have some clarification from both the Chairman and the mover of the Commission, the gentleman from Michigan (Mr. Esch) as to whether or not this language precludes that report.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman from Wisconsin yielding to me. As I indicated to the gentleman, and I would like to also indicate for the Record that the development of the report and the language in section 705 is in no way meant to preclude the continuation of the President's manpower report.

And it was the intent of the subcommittee and the bill that that report be continued on in its present form. We find it a very useful reporting function and, in fact, it will be even more significant, I believe, with the passage of this bill.

So I would strongly support and indicate to the gentleman from Wisconsin these facts and commend the gentleman from Wisconsin for pointing this out and again state that we wish the continuation of the President's annual manpower report.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the response of the gentleman from Michigan.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I want to commend the gentleman from Wisconsin (Mr. Steiger) for bringing this point to our attention and to say that there is nothing in the bill that would preclude the continuation of the President's manpower report. I also wish to say that I am entirely in accord with the remarks made by the distinguished gentleman from Michigan (Mr. Esch).

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the comments of the gentleman from New Jersey.

I yield back the balance of my time.

The CHAIRMAN. If there are no further amendments to be offered, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly, the committee rose; and the Speaker having resumed the chair, Mr. Brooks, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11010) to assure opportunities for employment and training to unemployed and underemployed persons, pursuant to House Resolution 719, he reported the bill back to the House with amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LANDGREBE

Mr. LANDGREBE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. LANDGREBE. I certainly am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Landgrebe moves to recommit the bill H.R. 11010 to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. ESCH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 369, nays 31, not voting 33, as follows:

[Roll No. 602]

YEAS—369

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collier
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fish
Flowers
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater

Gonzalez
Grasso
Gray
Green, Oreg.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary

Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Melcher
Mezvinsky
Michel
Milford
Miller
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Roy
Roybal
Runnels
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli

Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—31

Archer
Bafalis
Bauman
Broyhill, Va.
Burleson, Tex.
Byron
Collins, Tex.
Crane
Daniel, Dan
Fisher
Flynt

Goodling
Gross
Haley
Henderson
Johnson, Colo.
Landgrebe
Latta
Martin, Nebr.
Meeds
Mizell
Parris

Poage
Rarick
Robinson, Va.
Rousselot
Ruth
Satterfield
Symms
Teague, Tex.
Young, Fla.

NOT VOTING—33

Ashbrook
Blatnik
Boggs
Brasco
Brown, Ohio
Buchanan
Burke, Calif.
Camp
Clawson, Del
Collins, Ill.
Denholm
Diggs

Downing
Fascell
Flood
Foley
Green, Pa.
Hansen, Wash.
Landrum
McCormack
McKay
Macdonald
Metcalfe
Mills, Ark.

Minish
Murphy, Ill.
Nelsen
Powell, Ohio
Reid
Rooney, N.Y.
Rostenkowski
Stokes
Wilson, Charles, Tex.

So the bill was passed.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Denholm.

Mr. Rooney of New York with Mr. Blatnik.

Mr. Macdonald with Mr. Metcalfe.

Mr. Brasco with Mr. Camp.

Mr. Green of Pennsylvania with Mr. McCormack.

Mr. Fascell with Mrs. Burke of California.

Mr. Foley with Mr. Del Clawson.

Mr. Minish with Mr. Stokes.

Mr. Rostenkowski with Mr. Brown of Ohio.

Mr. Charles Wilson of Texas with Mr. Downing.

Mr. Murphy of Illinois with Mr. Mills of Arkansas.

Mr. Flood with Mr. McKay.

Mr. Diggs with Mr Landrum.

Mr. Reid with Mr. Powell of Ohio.

Mrs. Hansen of Washington with Mr. Buchanan.

Mrs. Collins of Illinois with Mr. Nelsen.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from the further consideration of the bill (S. 1559), to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes, a bill similar to H.R. 11010, just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1559

An act to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Job Training and Community Services Act of 1973".

TITLE I—STATE AND LOCAL SPONSORSHIP OF PROGRAMS

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act to establish a flexible and decentralized system of State and local programs providing job training opportunities and community services for economically disadvantaged, unemployed, and underemployed persons, to make funds available to States and communities to meet locally determined needs consistent with the purposes of this Act, and to assure that training and other services lead to employment and enhanced self-sufficiency.

AUTHORIZATION

SEC. 102. (a) For the purpose of carrying out this Act, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years.

(b) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(c) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year

TRANSITIONAL PROVISIONS

SEC. 103. (a) To the extent necessary to provide for the orderly transition of supporting job training programs, and to provide continued financial assistance for such programs, prior to July 1, 1974, the Secretary is authorized to provide financial assistance in the same manner and on the same conditions as provided in the Manpower Development and Training Act of 1962, as in effect prior to June 30, 1973, title I of the Economic Opportunity Act of 1964, and the Emergency Employment Act of 1971, as in effect prior to June 30, 1973, from funds appropriated pursuant to this Act.

(b) The authority contained in this section shall not be construed to postpone or impede the prompt designation of prime sponsors and the implementation of other provisions of this Act, but the Secretary shall continue to provide financial assistance, by contract or otherwise, for carrying out national programs of demonstrated effectiveness through the fiscal year ending June 30, 1974.

PRIME SPONSORS

SEC. 104. (a) For the purposes of this Act—

(1) any State:

(2) any unit of general or local government—

(A) which is a city having a population of one hundred thousand or more persons; or

(B) which is a county or comparable unit of general local government having a population of one hundred and fifty thousand or more persons (other than the number of persons therein included within the population of any city designated as a prime sponsor under clause (A) of this subparagraph):

(3) any consortium of adjoining units of general local government serving a labor market area or substantial portion thereof, including at least one unit of general local government described in clause (A) or (B) of subparagraph (2); or

(4) any unit of general local government or any consortium of such units, without regard to population, which is determined by the Secretary of Labor—

(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, and (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as the State;

shall be eligible to be a prime sponsor of programs under this Act in accordance with the provisions of this section.

(b) (1) Where the area under the jurisdiction of a unit of general local government described in clause (B) of subparagraph (2) of subsection (a) includes any common geographical area with that covered by a unit of general local government described in clause (A) of subparagraph (2) of subsection (a), the Secretary shall designate to serve such common area the unit of general local government which demonstrates the capability for more effectively carrying out the purposes of this Act with respect to such area.

(2) Before designating a unit of general local government under paragraph (1) of this subsection, the Secretary shall—

(A) request the comments of the Governor of the State concerning the manner in which the proposed prime sponsorship arrangements for the area involved will relate to statewide planning arrangements;

(B) undertake reasonable steps, where appropriate and practicable in order to carry out more effectively the purposes of this Act, to seek an agreement among the units of general local government involved to enter into consortium arrangements as described in subparagraph (3) of subsection (a) of this section; and

(C) afford an opportunity to the units of general local government involved to submit comments with respect to proposed prime sponsorship arrangements to the Secretary.

(c) Any State or unit or consortium of units of general local government which is eligible to be a prime sponsor under subsection (a) shall be so designated by the Secretary if he determines that a satisfactory prime sponsorship plan has been submitted and that—

(1) the plan describes the prime sponsorship area to be served and evidences the capability for effectively carrying out programs under this Act throughout such area;

(2) the plan provides that the prime sponsor shall be responsible for submitting program statements and for the planning and development of programs in the prime sponsorship area;

(3) the plan was submitted to the Secretary by such date as the Secretary shall prescribe by regulation in order to provide a reasonable period of time for review in accordance with the provisions of this section;

(4) a copy of such plan has been submitted for comment thereon to the Governor of the State and the Governor has been provided a reasonable period of time to review and submit comments on such plan;

(5) in the case of a plan submitted by a State, satisfactory arrangements are set forth for serving all geographical areas under its jurisdiction except for areas for which a local prime sponsor is designated under subparagraph (2), (3), or (4) of subsection (a) of this section; and

(6) the plan was made public prior to submission to the Secretary.

(d) A plan submitted in accordance with this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of reasons therefor;

(2) a reasonable period of time to submit corrective amendments to such plan; and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

TITLE II—JOB TRAINING PROGRAMS

PROGRAMS AUTHORIZED

SEC. 201. (a) Programs receiving financial assistance under this title shall include provision of training opportunities and related services needed to enable economically disadvantaged, unemployed, and underemployed individuals, and others in need of training or retraining, to secure and retain employment consistent with their full potential, including—

(1) programs to acquaint men and women with the availability of training and related services and to encourage the full utilization of such services;

(2) assessment of the individual's needs, potential, and interests, with referral to appropriate training and related services;

(3) counseling, education, orientation, and institutional and on-the-job training to prepare the individual for work or to qualify for more productive job opportunities;

(4) allowances for training, and for transportation, subsistence, or other expenses incurred while participating in job training programs;

(5) supportive services to enable individuals to take advantage of employment and training opportunities, including basic education, necessary health care services, child care, residential support assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment and training programs;

(6) development of information concerning the labor market and activities, such as job restructuring, to make such activities more responsive to objectives of employment and training programs; and

(7) such other activities as are consistent with the provisions and purposes of this title.

(b) Programs assisted under this title may include, but are not limited to—

(1) Mainstream programs providing financial assistance for the support of projects which involve work activities directed to the needs of those chronically unemployed and economically disadvantaged persons who have particularly poor employment prospects and are unable (because of age, physical condition, obsolete or inadequate skills, declining economic conditions, or otherwise) to secure appropriate employment or training and related services under other programs. Such projects, in addition to other services provided, shall enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including but not limited to activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands; the rehabilitation of housing; the improvement of public facilities; and the improvement and expansion of health care, education, child care, antipoverty, and recreation services.

(2) New careers programs providing economically disadvantaged or unemployed persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic or cultural condition of the community or areas served in fields of public service, including but not limited to health care, education, welfare, recreation, child care, antipoverty, neighborhood redevelopment, and law enforcement, which provide maximum prospects for on-the-job training, promotion, and advancement and continued employment without Federal assistance.

(3) Neighborhood youth corps programs to provide (A) part-time employment, on-the-job training, and useful work experience for economically disadvantaged students who are in the ninth through twelfth grades of school (or of an age equivalent to that of students in such grades) and who are in need of earnings to permit them to resume or maintain attendance in school; (B) useful work and training (including sufficient basic education and institutional or on-the-job training) for unemployed, underemployed or economically disadvantaged persons (aged sixteen and over) who are not in school designed to assist those persons to develop their maximum occupational potential and to obtain regular employment; and (C) job and related recreation opportunities for economically disadvantaged persons during the summer months.

(4) Opportunities industrialization centers designed to provide comprehensive employment service and job opportunities for low-income persons who are unemployed or underemployed. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that residents of the area to be served by such program are involved in the planning and operation of such center, and that business and labor in the area to be served by such programs are consulted in the development and operation thereof. Priority shall be given to programs serving residents of inner-city areas with substantial unemployment or underemployment.

(5) Jobs for progress and other programs designed to provide comprehensive employment opportunities and training and related services for economically disadvantaged persons who are unemployed or underemployed, including persons of limited English-speaking ability, migrants, and others through the establishment of skill centers. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that the residents of the area to be served by such programs are involved in the planning and operation of such centers and that business and labor in the area to be served by such programs are consulted in the development and operation thereof.

(6) Job opportunities in the business sector and other programs to encourage and to provide incentives to private employers, nonprofit organizations, and public employers to train or employ economically disadvantaged, unemployed, or underemployed persons, including arrangements by direct contract reimbursing employers for the costs of recruiting and training such employees to the extent that such costs exceed those customarily incurred by such employer in recruiting and training new hires, payment for on-the-job counseling and other supportive services, transportation, and payments for other extra costs including supervisory training required by the program.

(7) Skill centers and other programs for the development of job opportunities through institutional training programs for economically disadvantaged, unemployed, or underemployed persons, providing recruitment, counseling, remediation, vocational training, job development, job placement, and other appropriate services.

(8) Special job development programs with public or private employers, including employment centers and mobile employment service units to provide recruitment, counseling, and placement services, conveniently located in urban and rural areas and particularly accessible to economically disadvantaged persons.

(9) Special manpower training programs and related educational and other services for offenders, including pretrial or other intervention programs, programs for offenders under sentence, prerelease job furloughs, bonding assistance, job development programs with public or private employers (including incentive payments), programs in residential and nonresidential centers and halfway houses, and programs to train pro-

fessional and paraprofessional personnel to serve the training and employment needs of offenders and other activities to meet such needs.

(10) Programs and projects designed to meet the special needs of Indians for employment and training and related services.

(11) Programs and projects designed to meet the special needs of persons in migrant and seasonal farmworker families for employment and training and related services.

(12) Programs and projects designed to meet the special needs of persons of limited English-speaking ability for employment and training and related services.

(13) Employment and training programs, counseling and related supportive services for middle-aged and older workers, including on-the-job, institutional, residential, and other training designed to improve the skills and capabilities of such workers, particularly in areas of high or chronic unemployment among middle-aged and older persons.

(14) Programs and projects designed to offer job counseling, training, placement, and other vocational assistance to unemployed and underemployed engineers, scientists, and technicians.

(15) Public service employment programs providing transitional employment for unemployed and underemployed persons in jobs providing needed public services, with training and related supportive services designed to lead to public or private employment not supported under this Act.

(c) Sums made available for public service employment programs from appropriations to carry out this Act shall be used only for public service employment programs meeting the requirements set forth in the provisions of the Emergency Employment Act of 1971 to the extent that such requirements are consistent with the provisions of this Act.

ALLOCATION OF FUNDS

SEC. 202. (a) The amounts available for any fiscal year for carrying out this title shall be allocated in such a manner that of such amounts—

(1) not less than 75 per centum shall be apportioned among the States, distributed equally according to the proportions which the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such State bears to such total numbers, respectively, in all the States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $150,000 each shall be apportioned to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(2) the remainder shall be available to enable the Secretary to carry out his responsibilities under this title and title I.

(b)(1) The amount apportioned for use within each State under clause (1) of subsection (a) shall be apportioned geographically among areas served by prime sponsors and by program agents within each such State, distributed equally according to the proportions which the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such area bears to such total numbers, respectively, in the State.

(2) In apportioning the remaining funds within the State's prime sponsorship area, the State shall make apportionments among the remainder of local planning areas on an equitable basis, taking into account the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such area.

(c) In the event that appropriations for the fiscal year ending June 30, 1974, and each of the two succeeding fiscal years are not sufficient to provide to each State, and to each local area within each such State, an amount of funds for each such fiscal year at least equal to that which was made available for use within such area for the fiscal year ending June 30, 1972, in carrying out programs under the Manpower Development and Training Act of 1962 and parts B and E of title I of the Economic Opportunity Act of 1964, then the Secretary shall make necessary adjustments, in making apportionments among States under subsection (a)(1) and among areas served or to be served by prime sponsors and by program agents under subsection (b)(1), to ensure that no State and no local area, during the fiscal year ending June 30, 1974, and each of two succeeding fiscal years, receives any smaller proportion of the sums appropriated than such State and area received for such programs during such fiscal year 1972.

(d) Of the amounts geographically apportioned to each area within a State pursuant to subsections (b)(1) and (c), an amount equal to 15 per centum of each such apportionment shall be available to the State to provide services and activities to individuals of the area to which such funds are apportioned.

(e) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments made pursuant to subsections (a)(1), (b)(1), and (c) of this section. Apportionments under this section shall be based on the latest satisfactory data and estimates available. In determining the number of adults who or whose families have annual incomes below the lower living standard budget, the Secretary shall determine the number of families receiving annual incomes below the nearest income level for which satisfactory census data is available not less than the average lower living standard budget for a family of four in the United States for the year during which such census data was developed; and in making such determination for any State with respect to which the nearest such income level not less than the average lower living standard budget applicable to that State is a different level, the Secretary shall determine the number of families below the latter level in such State.

(f) The Secretary is authorized to make such reallocations under this title as he deems appropriate of the unobligated amount of any apportionment pursuant to subsections (a)(1), (b)(1), and (c) to the extent that the Secretary determines that it will not be required for the period for which such apportionment is available. Apportioned amounts may not be reallocated for any reason before the expiration of the ninth month of the fiscal year for which such funds were appropriated and thereafter may be reallocated only if the Secretary has provided thirty days' advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

EMPLOYMENT AND TRAINING COUNCILS

SEC. 203. In order to be designated as a prime sponsor of programs under this title, each eligible prime sponsor under section 104 of this Act shall include in its prime sponsorship plan adequate provisions for establishing and maintaining an employment and training council which shall—

(1) provide that the chief executive officer or officers of the unit or units of government establishing such council shall appoint the members of the council, with equitable representation on such council to be afforded to each unit of government entering into a consortium under subparagraph (3) or (4) of section 104(a) or, where (pursuant to section 104(b)(1)) the Secretary designates a unit of government described in clause (B) of section 104(a)(2), to the unit not so designated;

(2) provide that the council shall include members who are representative of community action agencies; other community-based organizations; the public employment service; education and training agencies and institutions, including vocational educational agencies and community postsecondary educational and training institutions; social service programs, including child care, environmental quality, health care, recreation, vocational rehabilitation, and welfare agencies; correctional training programs; industrial development organizations; apprenticeship programs; veterans organizations; business; and labor; and not less than one-third of the membership of such council shall be representative of the significant segments of the population to be served;

(3) provide that one member of the council shall be designated as chairman who shall, with the approval of the council, appoint a staff director who shall supervise professional, technical, and clerical staff serving the council;

(4) provide that the council will be entitled to recommend program statements, basic goals, policies, and procedures, and will be responsible for annual and ongoing evaluation of employment and training programs conducted in the prime sponsorship area, and for establishing procedures for the certification (by either panels of representatives of labor and management established for that purpose or by the council, as required by the Secretary) that training and other services to be provided in such area under this title have a reasonable prospect of leading to appropriate employment opportunities;

(5) provide assurances that staff and other administrative expenses for the council will not exceed a reasonable per centum of the total cost of programs administered by each prime sponsor, as established by regulations which the Secretary shall prescribe;

(6) set forth the council's responsibility for conducting on a continuing basis surveys and analyses of needs for employment, training, and related services in the area served by the prime sponsor to be used in the development of plans under this title;

(7) set forth appropriate arrangements for involving community action agencies, other community-based organizations, educational agencies and institutions (including vocational education and community colleges), and vocational rehabilitation agencies, in the development of program statements and in the implementation of programs assisted under this title; and

(8) set forth plans for the council to provide for objective evaluations of the effectiveness of programs for which financial assistance is provided under this title.

PROGRAM STATEMENTS

SEC. 204. (a) In order to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary a program statement, which shall include—

(1) a statement of employment and training needs and priorities in the area, descriptions of the services for which financial assistance received under this title will be used, and performance goals;

(2) the identification of any agencies or organizations designated to carry out such services under the supervision of the prime sponsor;

(3) any arrangements made for services to be performed, on a reimbursable basis or otherwise, by the public employment service or any other public or private agency, institution, or organization;

(4) a description of the areas to be as-

sisted by such programs, including data regarding potential eligible participants;

(5) provisions designed to assure that funds under this title will be made available so as to serve on an equitable basis the significant segments of the population to be served in the prime sponsorship area, including—

(A) provisions to assure that adequate bilingual and other programs and activities are included as part of job training, employment, and related services designed to meet the special needs of persons of limited English-speaking ability;

(B) provisions to assure that adequate programs and activities are provided to meet the special needs of middle-aged and older men and women;

(6) provisions to assure the utilization, to the extent feasible, of those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies, including but not limited to the State employment service, State vocational education, and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages;

(7) provisions to assure that priority will be given to employment preparation programs which provide, in connection with job training opportunities supported with funds under this title, for the making of commitments by prospective public and private employers to employ persons who satisfactorily complete their prescribed periods of training in jobs for which such persons received such training;

(8) assurances that training and related services for which funds are provided under this Act are designed to the maximum extent practicable, consistent with each individual's fullest capability, to lead to employment opportunities, to the extent available in the area to be served, for which wages will be paid at a rate not less than the higher of (A) the minimum wage would be applicable under the Fair Labor Standards Act of 1938 if section 6(a)(1) of such Act applied to such person and if he were not exempt under section 13 thereof, or (B) the State or local minimum wage for the most nearly comparable covered employment;

(9) such other information, assurances, statements, and arrangements consistent with the provisions of this Act as the Secretary shall prescribe by regulation, including provisions designed to assist the Secretary in carrying out his special responsibilities under section 205.

(b) The Secretary shall provide financial assistance to each prime sponsor under this title to carry out the program statement submitted by each such prime sponsor upon determining that—

(1) the program statement is consistent with the provisions of this title;

(2) the program statement was made public prior to submission to the Secretary;

(3) the prime sponsor has demonstrated maximum efforts (A) to implement the provisions in the prior year's program statement described in clause (7) of subsection (a) of this section, (B) to ensure that employment commitments made pursuant thereto were fulfilled by prospective employers making such commitments, and (C) in the case of the failure of such fulfillment, to place the persons receiving such training in comparable employment or to employ such person;

(4) an opportunity was provided for each appropriate area planning council established in accordance with section 206(b)(3) of this Act to review and submit comments to the prime sponsor with respect to its proposed program statement prior to submission to the Secretary;

(5) an opportunity was provided to the Governor of the State to submit comments with respect to the program statement to the prime sponsor and to the Secretary;

(6) an opportunity was provided to officials of the appropriate units of general local government in the area to be served to submit comments with respect to the program statement to the prime sponsor and to the Secretary;

(7) an opportunity was provided to the appropriate State or local agency or agencies having responsibility for vocational education, vocational rehabilitation, and the public employment service, and to community action agencies and other community-based organizations in the area to be served, to submit comments with respect to the program statement to the prime sponsor and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 205. (a) Out of the funds made available to the Secretary pursuant to section 202(a)(2) for carrying out his responsibilities under this title, the Secretary shall establish procedures to assure that—

(1) not less than that portion of the funds appropriated for carrying out this title as is equivalent to that proportion which the total number of Indians bears to the total number of low-income persons in the Nation shall be made available to Indian tribes on Federal and State reservations, and to organizations (as determined by the Secretary) serving non-reservation Indians, for programs and projects under this title designed to meet the needs of Indians for employment and training and related services;

(2) not less than the portion of funds appropriated for this title as is equivalent to that proportion which the total number of persons in migrant and seasonal farmworker families bears to the total number of low-income persons in the Nation shall be available for programs and projects under this title designed to meet the special needs of persons in migrant and seasonal farmworker families for employment and training and related services.

(b) Out of the remaining funds available to the Secretary pursuant to section 202(a)(2) for carrying out his responsibilities under this title, the Secretary is, without limitation, authorized to—

(1) provide additional financial assistance to prime sponsors and public or private nonprofit agencies in order to continue ongoing programs and activities of demonstrated effectiveness;

(2) carry out, through contract or otherwise, a comprehensive program of research and experimental, model, demonstration, and pilot programs to conduct innovative efforts and otherwise improve understanding and methods of meeting employment and training needs;

(3) provide for an ongoing program of technical assistance and of monitoring and evaluating the effectiveness of programs and projects assisted under this title in carrying out the purposes and provisions of this title;

(4) develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion;

(5) establish and carry out a nationwide computerized job bank and matching program (utilizing the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs;

(6) carry out a Job Corps program in accordance with the requirements set forth in the provisions of part A of title I of the Economic Opportunity Act of 1964, as amended, to assist economically disadvantaged persons under twenty-two years of age who need and can benefit from an intensive program of training and related services, operated in a group setting, to become more responsible, employable, and productive citizens, through the establishment of residential and nonresidential centers in which enrollees participate in intensive programs of education, vocational training, work experience, counseling, and other activities;

(7) provide special services for middle-aged and older men and women including recruitment, placement, and counseling for such persons who are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality, and provide grants to or contracts with nonprofit volunteer agencies to assist such agencies in securing part-time or temporary employment for middle-aged and older persons;

(8) provide a system of support for special programs for offenders conducted under section 201(b)(9) and provide supplementary assistance to encourage the establishment of special model programs under section 206(a)(5); and

(9) carry out a special program to demonstrate the efficacy of providing certificates or vouchers to economically disadvantaged, unemployed, and underemployed persons entitling private employers who provide employment, training, and services to each person volunteering to participate in such program to payment in amounts equal to the face value of the certificate for specified periods of time during which each such person may not be fully productive.

(c) In addition to financial assistance made available by prime sponsors to carry out programs pursuant to program statements submitted under section 204, the Secretary in carrying out his special responsibilities under subsections (a) and (b) of this section shall—

(1) give due consideration to job training programs serving individuals from population groups having special needs for such programs, including programs for middle-aged and older persons and bilingual programs for persons of limited English-speaking ability, and special services for low-income individuals who do not reside in low-income areas;

(2) assure the continuation of a system of efforts by the National Alliance of Businessmen and the private sector generally in the provision of job opportunities for economically disadvantaged, unemployed, and underemployed persons, with particular emphasis on development of jobs and training for economically disadvantaged persons and veterans, as well as in the provision of summer and year-round jobs for economically disadvantaged youth, employment for ex-offenders, and employment of public assistance recipients, while encouraging the use of resources available to the private sector for the training of such persons;

(3) assure the continuation of a system of opportunities industrialization centers, jobs

for progress, and other programs designed to provide comprehensive employment services and job opportunities for low-income persons who are unemployed or underemployed, including those with limited English-speaking ability, assuring that the residents of the areas served are involved in the planning and operation of such centers and that business and labor are consulted in their development and operation;

(4) provide support, in conjunction with the Secretary of Health, Education, and Welfare, and the Attorney General, for programs providing manpower training and related services for offenders, including research programs, the dissemination of information, bonding assistance, the conduct of model, demonstration, and pilot programs and where necessary the provision of supplementary financial assistance as authorized under paragraph (1) of subsection (b) of this section;

(5) utilize resources available under this section to carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and his other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of such title; and

(6) give special consideration to job training programs serving individuals who are unemployed as a result of a closing of a facility or the substantial reduction of activities at a facility of the United States Government located in a labor market area in which the rate of unemployment for that labor market area has increased substantially due to the unemployment of such individuals.

COMPREHENSIVE STATE PLANNING ROLE

SEC. 206. (a) Funds available to each State under 202(d)(1) shall be used for—

(1) the provision of services throughout the State by State agencies responsible for employment and training and related services;

(2) providing additional financial assistance as incentives (A) for the designation of prime sponsors involving consortium arrangements among units of general local government, especially where areawide arrangements are made to serve a labor market area or substantial portion thereof, and (B) for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(3) developing and publishing information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupational outlook and employment trends in various occupations, and economic and business development and location trends;

(4) providing, without reimbursement and upon request, to any prime sponsor serving an area without the State, such information and technical assistance as may be appropriate to assist any such prime sponsor in developing and implementing its programs under this title; and

(5) carrying out special model manpower training programs and related services for offenders and providing assistance to special programs for offenders conducted under section 201(b)(9) of this Act.

(b) Each State submitting a plan for designation as a prime sponsor of programs under this Act shall—

(1) provide for planning areas which together shall cover all of the State;

(2) provide that each planning area shall serve a geographical area covered by counties serving a total population of not more than five hundred thousand persons (other than the number of persons in such area included within the population served by any local prime sponsor designated under subparagraph (2), (3), or (4) of section 104(a) of this Act);

(3) provide, with respect to each planning area, for establishing and maintaining an area planning council consisting of members appointed or reappointed annually composed of (A)(i) one representative appointed by the governing body of each county in the area, and one representative appointed by the chief executive of each city which has a population of seventy-five thousand or more persons, and (ii) additional representatives appointed by each city or county having a population of seventy-five thousand or more persons (which is not served by a local prime sponsor designated under subparagraph (2), (3), or (4) of section 104(a) of this Act) so that each such city or county shall have a total number of such additional representatives proportionate to the relative numbers obtained when the number of persons in the population of each such city or county is divided by seventy-five thousand (excluding from the population of any such county, for purposes of this subclause (ii), the number of persons within the population of any county included within any city having a population of seventy-five thousand or more persons), and (B) such additional persons as the members appointed pursuant to clause (A) of this subparagraph shall elect in order to assure that the membership of the council shall include persons representing the general public, including community action agencies, and other groups representing the economically disadvantaged and other significant segments of the population to be served, educational and training agencies and institutions, the public employment service, social service agencies, veterans organizations, business, and labor;

(4) assure that each area planning council shall prepare and submit to the State those portions of the program statement which affect those parts of the planning area which are not served by local prime sponsors designated under subparagraph (2), (3), or (4) of section 104(a) of this Act, and shall have an opportunity to comment upon any revisions made in such portions of the program statement before the program statement is submitted by the State to the Secretary;

(5) provide for the area planning council to review and submit comments to local prime sponsors within the area with respect to their proposed program statements;

(6) set forth arrangements for delegating to any unit of general local government having a population of seventy-five thousand or more persons (excluding, in the case of counties, the number of persons within the jurisdiction of any such unit of general local government which is a city having a population of seventy-five thousand or more persons) the functions of program agent with administrative responsibilities for developing, funding, overseeing, and monitoring programs operated within the area of such jurisdiction, consistent with the program statement, but the provisions of this subparagraph shall not apply with respect to any such unit which does not desire or does not have the capability (as determined in accordance with regulations which the Secretary shall prescribe) for exercising such responsibilities;

(7) provide assurances that the establishment of planning areas and the operation of planning area councils will be coordinated, where appropriate, with other planning agencies in the State, including comprehensive health planning councils and economic development districts; and

(8) set forth arrangements for assisting the Secretary in enforcing the requirement for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service and provide special emphasis, as required in section 2012(a) of title 38, United States Code.

COORDINATION

SEC. 207. (a) The Secretary of Labor shall not issue rules, regulations, standards of performance, or guidelines with respect to assistance for services of a health, education, or welfare character under this title unless he shall have first obtained the concurrence of the Secretary of Health, Education, and Welfare. Such services include but are not limited to basic or general education; educational programs conducted in correctional institutions or for ex-offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

(b) With respect to programs for offenders, the Secretary shall enter into appropriate agreements with—

(1) the Attorney General to assure the combining of resources and maximum coordination and joint planning between such programs and programs assisted pursuant to parts C and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Delinquency Prevention and Control Act of 1968, as amended, and other related provisions of Federal law; and

(2) the Director of the ACTION agency under which volunteers otherwise authorized to be recruited by the Director are made available as otherwise authorized to serve in such programs.

SPECIAL CONDITIONS

SEC. 208. The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(2) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(3) appropriate workmen's compensation protection will be provided to all participants;

(4) the program will not result in the displacement of employed workers or impair existing contracts for services or results in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(5) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(6) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this title and not to supplant such other funds; and

(7) prime sponsors, program agents, and other recipients of financial assistance under this title will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this title.

ALLOWANCES AND COMPENSATION

SEC. 209. (a) The Secretary shall, where appropriate, provide for the payment of weekly allowances to individuals receiving services under this title. Such allowances shall be at a rate prescribed by the Secretary which, when adjusted to take into account amounts received by the trainee in the form of public assistance or unemployment compensation payments, shall not be less than the minimum wage for a workweek of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State minimum wage law, or, where the trainee is being trained for particular employment, at a rate equal to 80 per centum of the weekly wage for such employment, whichever is greater. In prescribing allowances, the Secretary may allow additional sums for special circumstances, such as exceptional expenses incurred by trainees, including but not periods during which they are failing to participate in such allowances by an amount reflecting the fair value of meals, lodging, or other necessities furnished to the trainee. The Secretary shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. The Secretary may, in accordance with such regulations as he shall prescribe, make appropriate adjustments in allowances which would otherwise be payable under this Act, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and upward adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) For purposes of subchapter I of chapter 81 of title 5, United States Code, any person receiving services under this title shall, under such circumstances and subject to such conditions and limitations as the Secretary shall by regulation prescribe, be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except that in computing compensation benefits for disability or death, the monthly pay of such a person shall be deemed to be his allowance for a month, if he is receiving one. Regulations prescribed by the Secretary under this subsection may include but are not limited to adjustments in the amount of compensation payable under this subsection to take into account entitlements to workmen's compensation under other applicable laws or arrangements.

TITLE III—COMMUNITY SERVICES FOR THE ECONOMICALLY DISADVANTAGED

FUNDS AVAILABLE

SEC. 301. Of the sums appropriated to carry out this Act for each fiscal year, an amount equal to 17.5 per centum thereof shall be made available by the Secretary to prime sponsors designated under section 104 of this Act for programs providing financial assistance in accordance with this title.

ELIGIBLE ACTIVITIES

SEC. 302. Each prime sponsor shall use funds made available to it under this title for the planning, conduct, administration, and evaluation of community services programs designed to assist economically disadvantaged persons to achieve self-sufficiency by providing financial assistance for programs and activities carried out by public or private nonprofit agencies or organizations, with due consideration for community action agencies. Such programs and activities may involve, without limitation, activities and services and supporting facilities designed to assist participants including the elderly poor—

(1) to secure and retain meaningful employment;

(2) to attain an adequate education;

(3) to make better use of available income;

(4) to provide and maintain adequate housing and a suitable living environment;

(5) to undertake voluntary family planning, consistent with personal and family goals, religious, and moral convictions;

(6) to obtain services for the prevention of narcotics addiction, alcoholism, and the rehabilitation of narcotic addicts and alcoholics;

(7) to obtain emergency assistance, through loans or grants, to meet immediate and urgent individual and family needs, including the need for health care services, nutritious food, housing, and employment-related assistance;

(8) to remove obstacles and solve personal and family problems which block the achievement of self-sufficiency;

(9) to achieve greater participation in the affairs of the community; and

(10) to make more frequent and effective use of other programs related to the purposes of this title.

ALLOCATION OF FUNDS

SEC. 303. (a) Of the sums available for purposes of this title, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. The remaining sums available for this title shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all the States, (2) the relative number of unemployed persons in each State as compared to all the States, and (3) the relative number of persons who or whose families have a total annual income below the poverty line in each State as compared to all the States. The sum available to each State shall be allocated among areas within each such State on an equitable basis, based upon the factors set forth in the preceding sentence. The Secretary shall make necessary adjustments in allocations determined in accordance with this subsection in order to assure that no area served by a community action agency during the fiscal year ending June 30, 1972, shall receive any lesser amount of funds for use within that area in any fiscal year than an amount equivalent to the proportion of the sums available for this title that such area received during such fiscal year 1972.

(b) Any portion of an allotment under subsection (a) which the Secretary determines will not be needed for any fiscal year shall be reallotted by the Secretary to other areas which the Secretary determines can effectively use such funds. Such funds may be reallotted only if the Secretary has provided thirty days advance notice to the prime sponsor for such area of the proposed reallocation, during which period of time the prime sponsor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the State and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

TITLE IV—GENERAL PROVISIONS

FAILURE TO ADMINISTER ACTIVITIES AND PROGRAMS IN ACCORDANCE WITH NATIONAL PURPOSES

SEC. 401. (a) Whenever the Secretary determines, after notice and opportunity for a public hearing, that any prime sponsor designated to serve under this Act is—

(1) maintaining a pattern or practice of discrimination in violation of section 403(d) of this Act or otherwise failing to serve equitably the significant segments of economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to regulation;

(3) failing to give due consideration to continued funding of programs of demonstrated effectiveness, including those previously conducted under the Economic Opportunity Act of 1964 or the Manpower Development and Training Act of 1962, or failing to give special consideration to the programs referred to in section 205(c);

(4) failing to assure that training and other services have a reasonable prospect for leading to appropriate employment opportunities or enhancing self-sufficiency; or

(5) otherwise materially failing to carry out the purposes and provisions of this Act;

the Secretary shall revoke the prime sponsor's designation for the area, in whole or in part, and to the extent necessary and appropriate shall not make any further payments to such prime sponsor under this Act, and he shall notify such sponsor to return to him all or part of the unexpended sums paid under this Act during that fiscal year. The Secretary is authorized and directed to provide for continuing programs by making payments directly to public and private nonprofit agencies and organizations conducting activities which he determines are not in violation of the requirements of this section. To the extent necessary to assure the delivery of services in the areas served by any prime sponsor subject to the provisions of this section, the Secretary is authorized (if no other eligible prime sponsor is designated under section 104 of this Act to serve such area) to make grants to and enter into contracts with public and private nonprofit agencies and organizations in the same manner and to the same extent as if the Secretary were the prime sponsor for that area.

(b) The Secretary shall, prior to making any payments under this Act for any fiscal year, enter into an agreement with any prime sponsor receiving payments under this Act which contains provisions adequate to assure that the provisions of this section are carried out effectively.

DEFINITIONS

SEC. 402. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor;

(2) "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "city" means an incorporated municipality having general governmental powers;

(4) "county" means a political subdivision of a State having general governmental powers;

(5) "Indian" includes any individual who (A) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (B) is an Eskimo or Aleut or other Alaska Native;

(6) "lower living standard budget" means that income level (adjusted for regional and metropolitan, urban and rural differences and family size) determined annually by the Bureau of Labor Statistics of the Department of Labor and referred to by such Department as the "lower living standard budget".

(7) "health care" includes, but is not limited to, preventive and clinical medical

treatment, voluntary family planning services, nutrition services, and psychiatric, psychological, and prosthetic services;

(8) "veteran" means a person defined as a "disabled veteran" or "veteran of the Vietnam era" in section 2011 (1) and (2) of title 38, United States Code;

(9) "offender" means any individual who is charged with or has been convicted of any criminal offense, including youthful offenders and juvenile delinquents;

(10) "youthful offender" means any person who has not attained eighteen years of age and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment and any person who has not attained twenty-five years of age and has not been previously convicted of a felony and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment.

SPECIAL LIMITATIONS AND CONDITIONS

SEC. 403. (a) The Secretary may prescribe such rules, regulations, guidelines, and other published interpretations or orders consistent with the provisions of this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders issued by the Department of Labor, or any official thereof, for the purpose of carrying out this Act shall contain, with respect to each material provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, and other interpretations and orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date and copies thereof shall be transmitted to the appropriate committees of the Congress at such time.

(b) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitation on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(c) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act. Such data shall include information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees participating employers;

(3) total dollar cost per trainee, including breakdown between salary or stipened, training and supportive services, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis.

(d) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation or beliefs.

(e) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(f) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(g) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276 (c)).

(h) With respect to public service employment programs assisted under section 201(b) (15) of this Act, the Secretary shall establish appropriate procedures to ensure that all persons newly employed under any such program from funds made available from funds appropriated for fiscal years beginning after June 30, 1973, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed persons who are from economically disadvantaged backgrounds or have been unemployed for not less than fifteen weeks immediately prior to employment under such program.

(i) With respect to programs for offenders under this Act, the Secretary shall establish appropriate procedures to ensure that the following basic criteria are met—

(1) participants are provided with such manpower training and related assistance, and, where appropriate, supportive services (including basic education, drug addiction or dependency rehabilitation, health care and other services) and certification of completion of such training sufficient to enable them to secure and retain meaningful employment;

(2) programs, whenever feasible, provide for—

(A) participation of representatives of industry, and labor, employment personnel from the private sector of the economy, educational and vocational educational personnel, and qualified correctional personnel, in the development and conduct of programs to be assisted;

(B) maximum utilization of work experience, work-release, and cooperative training and the use of training equipment comparable to that currently used in the job for which training is furnished;

(C) assurances that prior arrangements have been made with appropriate parole, probationary, or judicial authority for release of participating offenders upon satisfactory completion of training;

(D) assurances that arrangements have been made or will be made with public or private employers for subsequent employment opportunities for the major portion of offenders participating in such program, upon satisfactory completion of training;

(E) assurances that, where appropriate, the agency of or organization conducting the program will provide (itself or by contract or other arrangement) for additional manpower training and supportive services for participants for a period of no less than twelve months following release from charges or a correctional institution but in no case shall such additional training exceed twenty-four months following such release.

(j) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that—

(1) participants are provided with such manpower training and related assistance and supportive services which will increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability;

(2) programs and activities shall include, but shall not be limited to—

(A) planning for and developing training courses to teach skills and occupations that do not require a high proficiency in English, particularly courses which would use materials in languages other than English;

(B) developing and implementing programs designed to increase the technical English vocabulary necessary for the performance of specific occupations likely to provide employment opportunities for persons of limited English-speaking ability;

(C) developing programs designed to increase the number and improve the quality of bilingual training instructors and bilingual placement personnel;

(D) establishing, maintaining, and operating programs (including the acquisition of necessary teaching materials and equipment) designed to increase employment opportunities and advancement opportunities for persons of limited English-speaking ability, including programs which, whenever feasible, provide for—

(i) teaching occupational skills in the primary language of any such persons for occupations that do not require a high proficiency in English;

(ii) teaching specific technical English vocabulary necessary in the performance of certain skills in occupations which are in demand and which such persons can be reasonably expected to perform;

(iii) developing programs, in cooperation with both existing and potential employers, designed to increase the English-speaking ability of such persons in order to enhance their opportunities for promotion;

(iv) assisting any such person to further develop and to capitalize on the bilingual ability of such person for jobs that require such skills;

(v) encouraging persons with limited English-speaking ability to seek employment, and encouraging employers to hire such persons;

(vi) disseminating to persons with limited English-speaking ability information in their primary language regarding the availability of jobs, regarding the availability of job training in their primary language, and regarding the availability of placement assistance by persons capable of conversing in the primary language of such persons; and

(vii) alternative scheduling of program or project activities designed to meet the needs of those individuals who might be unable to attend such training activities either during normal working hours or on a full-time basis.

NATIONAL EMPLOYMENT OPPORTUNITIES COUNCIL

SEC. 404. (a) The President shall appoint a National Employment Opportunities Council which shall consist of at least thirteen but not more than seventeen members and shall be composed of persons representative of labor, management, agriculture, public and private education, vocational education, vocational rehabilitation, employment and training programs, veterans organizations, women's organizations, and economic opportunity programs. From the members appointed to such Council, the President shall designate a chairman. Members shall be appointed for terms of three years except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. Such Council shall meet in open session and shall hold not less than two meetings during each calendar year.

(b) The National Employment Opportunities Council shall—

(1) identify the employment goals and needs of the Nation and assess the extent to which vocational education, institutional training, vocational rehabilitation, employment and training, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) review the administration and operation of the programs referred to in clause (1) and advise the Secretary of Labor and the Secretary of Health, Education, and Welfare and other appropriate officials as to the carrying out of their duties under this Act and related Acts;

(3) conduct independent evaluations of programs carried out under this and related Acts and publish and distribute the results thereof; and

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of such programs including the programs authorized under this and related Acts.

(c) The National Employment Opportunities Council shall make an annual report, and such other reports as it deems appropriate on its findings, recommendations, and activities to the Congress and to the President. The President is requested to transmit to the Congress as a part of his report under section 405 of this Act such comments and recommendations as he may have with respect to such reports and activities of the National Employment Opportunities Council.

(d) The National Employment Opportunities Council may accept and employ or dispose of gifts or bequests, either for carrying out specific programs or for its general activities or for such responsibilities as it may be assigned in furtherance of subsection (b) of this section.

(e) Appointed members of the National Employment Opportunities Council shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS-18 when engaged in the work of the National Employment Opportunities Council, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(f) The National Employment Opportunities Council is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties, and to contract for such assistance as may be necessary.

REPORTS

SEC. 405. (a) The Secretary of Labor shall make such reports and recommendations to the President as he deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and his recommendations for the succeeding fiscal year, and the President shall transmit to the Congress within sixty days after the beginning of each regular session a report pertaining to manpower requirements, resources, utilization, and training.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which community colleges, area vocational and technical schools and other vocational educational agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part from provisions of this and related Acts, the extent to which administrative steps have been taken and are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish their objectives of providing employment and training opportunities to all persons needing occupational training.

(c) The Secretary shall transmit to the Congress at the earliest appropriate date, but not later than March 1, of each calendar year a report setting forth a description of summer work experience programs to begin in June of such year, including the number of opportunities in public and private agencies or organizations that will be provided to disadvantaged students in ninth through twelfth grades (and to youth of equivalent ages), in each of the several States and local areas within States, and a statement as to the total number of such persons who would be eligible for such programs, together with his recommendations, if any, for supplemental appropriations for such programs.

(d) The Secretary, through the Bureau of Labor Statistics, shall annually compile and maintain information on the incidence of unemployment among offenders and shall publish the results of the information obtained pursuant to this subsection in the report required under subsection (a) of this section.

(e) The Chairman of the United States Civil Service Commission, in consultation with the Secretary, shall report to the President and to the Congress no later than six months after the effective date of this Act on the extent to which and manner in which employment opportunities for offenders may be increased in the Federal service, with special reference to the criteria used in determining the suitability of offenders for Federal employment, including such recommendations for additional legislation as they seem advisable.

ADMINISTRATIVE PROVISIONS

SEC. 406. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe in accordance with section 403 of this Act), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(b) The Secretary is authorized to exercise all powers necessary for the implementation of this Act, including the power (1) to rent or renovate real property without regard to any other law or regulation governing rental or renovation of such property, provided he first advises the Administrator of General Services Administration of his intent to do so and the reasons therefor, (2) to purchase real property for training centers, (3) to accept and use gifts and voluntary services for the benefit of the program, (4) to enter into contracts or agreements, (5) to make such payments in advance or by way of reimbursement as he may deem to be necessary or appropriate to carry out the provisions of the Act, and (6) to expended, without regard to the provisions of any other law or regulation, funds made available for purposes of this Act for printing and binding.

COOPERATION AMONG AGENCIES

SEC. 407. (a) Each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such services and facilities as he may request for his assistance in the performance of his functions under this Act.

(b) The Secretary shall carry out his responsibilities under this Act through the utilization, to the extent appropriate, of all available resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies, and other appropriate public and private organizations and facilities, with their consent.

INTERSTATE AGREEMENTS

SEC. 408. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

LABOR MARKET INFORMATION

SEC. 409. (a) In addition to the monthly national unemployment statistics, the Secretary shall gather by survey and publish on a regular basis data on unemployment, underemployment, and job vacancies by States, labor market areas, rural areas, cities, and poverty neighborhoods.

(b) For purposes of this section, underemployment shall include persons who have part-time work but desire full-time work, discouraged workers not in the labor force, and persons earning less than the Federal minimum wage. Separate data shall be collected and compiled showing the total number of persons earning wages at levels lower than that sufficient to provide an annual income at the level of the lower living standard budget, as determined annually by the Bureau of Labor Statistics of the Department of Labor.

(c) Vacancy data shall include information on (1) how many unfilled jobs are available in the economy, by industry and occupation, (2) what are the capability requirements of such jobs, (3) salaries, wages, and other benefits of such jobs, (4) where jobs are located, and (5) how many and what kind of jobs remain unfilled for sixty days and for ninety days.

(d) The Secretary shall set aside, out of sums available under section 202(a)(2) of this Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section, and shall no later than thirty days after such sums are made available notify the appropriate committees of the Congress of the amount so set aside and the basis for his determination of need and appropriateness.

MOTION OFFERED BY MR. DOMINICK V. DANIELS

Mr. DOMINICK V. DANIELS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DOMINICK V. DANIELS moves to strike out all after the enacting clause of the bill S. 1559 and to insert in lieu thereof the provisions of H.R. 11010, as passed, as follows:

That this Act may be cited as the "Comprehensive Manpower Act of 1973".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to promote maximum employment opportunities by establishing a flexible and decentralized system of Federal, State, and local programs providing job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons.

TITLE I—COMPREHENSIVE MANPOWER SERVICES

DESCRIPTION OF PROGRAM

SEC. 101. It is the purpose of this title to establish a program to provide comprehensive manpower services throughout the Nation. Such program shall include the development and creation of job opportunities and the training, education, and other services needed to enable individuals to secure and retain employment at their maximum capacity. Comprehensive manpower services may include, but shall not be limited to, programs and activities designed to carry out the purpose of this title, such as:

(1) outreach to make persons aware of the availability of manpower services and persuade them to use such services,

(2) assessment of the individual and his potential in the labor market and referral to appropriate employment, training, or other opportunities,

(3) orientation, counseling, education, and institutional skill training to prepare the individual to enter the labor market or to qualify for more productive job opportunities,

(4) training on the job,

(5) payments or other inducements to public or private employers to expand job opportunities, but payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and providing supportive services for low-income persons and those regularly employed,

(6) services to individuals to enable them to retain employment,

(7) payment of allowances to persons in training for which they receive no remuneration and payment of such allowances for transportation, subsistence, or other expenses incurred in participating in manpower services or employment as are necessary to enable the individual to participate therein,

(8) supportive services to enable individuals to take advantage of employment opportunities, including necessary health and medical services, child care, residential support, assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment or manpower services,

(9) development of information concerning the labor market and activities, such as job restructuring, to make it more responsive to objectives of the manpower services program,

(10) any programs authorized by part A of title III and by title VI of this Act, and

(11) transitional public service employment programs.

PRIME SPONSORS

SEC. 102. (a) The Secretary may make financial assistance available to a prime sponsor to enable him to carry out all or a substantial part of a comprehensive manpower program. A prime sponsor shall be—

(1) a State; or

(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary or which does not meet such population criteria and which has the largest population of a unit of general local government in the State; or

(3) any combination of units of general local government which includes any unit of general local government qualifying under (2) above; or

(4) any unit or voluntary combination of units of general local government, without regard to population, in rural areas as determined by the Secretary which have substantial outmigration and high unemployment; or

(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have demonstrated special capabilities for carrying out programs in such areas and are designated by him for that purpose.

(b)(1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), or (5) unless such prime sponsor has not submitted an approvable comprehensive manpower plan for such area.

(2) A unit of general local government shall not qualify as a prime sponsor with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive manpower plan for such area.

(c)(1) To be eligible for prime sponsorship for any fiscal year, an otherwise eligible applicant must submit to the Secretary a notice of intention to apply for prime sponsorship by such date as the Secretary shall prescribe.

(2) The Secretary may not, prior to March 1, 1974, designate as a prime sponsor any State or unit of general local government containing another unit of general local government meeting the requirements of subsection (a)(3) above unless such smaller unit has submitted to the Secretary written consent for such designation.

CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

SEC. 103. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor submits a comprehensive manpower plan, in such detail as the Secretary deems necessary, which—

(1) sets forth a comprehensive manpower program which meets the purpose of this title, including (A) a description of the services to be provided, (B) assurance that such services will be administered by or under the supervision of the prime sponsor, (C) a description of the geographical areas to be served under the plan, and (D) assurances that to the maximum extent feasible manpower services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(2) provides, in the case of prime sponsors who are recipients of funds under title II for the development of a public service employment program, that it is fully integrated with the services under this title in order to assure that persons employed in such a program are afforded a better opportunity to find regular employment not supported under this Act;

(3)(A) provides appropriate arrangements with community-based organizations serving the poverty community, and other special target groups for their participation in the planning of programs included in the plan; (B) provides for utilizing, to the extent deemed appropriate by the prime sponsor, those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages; (C) provides that in making arrangements for institutional training priority shall be given (to the extent feasible) to the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962; (D) provides arrangements to the extent feasible for the coordination of services for which financial assistance is provided under programs administered by the Secretary of Labor relating to manpower and manpower-related services;

(4) provides for paying the allowances and compensation provided by section 109;

(5) provides that any transitional public service employment programs meet the requirements of section 204(b) and section 207, and that persons hired to fill jobs created by such programs will be residents of the areas described under paragraph (1)(C).

(b) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor certifies that—

(1) its plan meets all the requirements of this section, and

(2) it will comply with all provisions of this Act.

SPECIAL REQUIREMENTS FOR STATE PRIME SPONSORS

SEC. 104. (a) Any State seeking assistance under this Act shall submit a State comprehensive manpower plan to the Secretary for approval in accordance with the requirements of this section.

(b) The State comprehensive manpower plan shall in addition to meeting the requirements of section 103—

(1) provide satisfactory arrangements for serving all geographical areas under its jurisdiction except areas served by an eligible applicant who has filed a notice of intent un-

der section 102(c), except that such plan may be amended to include areas served by an eligible applicant whose plan is finally disapproved without prejudice to the remedies available to such eligible applicant under section 107;

(2) provide for the cooperation and participation of all State agencies providing manpower and manpower-related services in the implementation of comprehensive manpower services plans by prime sponsors in accordance with the provisions of this Act;

(3) set forth an overall State plan for the development and sharing of resources and facilities needed to conduct manpower programs under its direct sponsorship without unnecessary duplication and otherwise in the most efficient and economical manner;

(4) provide for the coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services to achieve their full occupational potential in accordance with the policies of this Act;

(5) make adequate provision for the coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, and that provision has been made for the establishment of a mechanism to (A) provide for the exchange of information between States and local governments on State and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services.

(c) The prime sponsor shall annually certify compliance with all the requirements for State prime sponsors.

STATE MANPOWER SERVICES COUNCIL

SEC. 105. (a)(1) Any State which desires to be designated as a prime sponsor and to enter into arrangements with the Secretary under this title shall establish a Manpower Services Council (hereinafter referred to as the "Council") which shall exercise the powers and duties set forth in this section.

(2) The Council established pursuant to paragraph (1) shall—

(A) be appointed by the Governor (who shall designate one member thereof to be Chairman), and shall be composed of—

(i) representatives of the units or combinations of units of general local government in such State, who shall comprise at least one-third of the membership of the Council, which have a comprehensive manpower plan approved under section 106 (except that the initial appointments to the Council may consist of representatives of units or combinations of units of general local government described in clauses (2), (3), (4), and (5) of section 102(a) which have indicated an intention to submit a plan for approval under section 106), and such representatives shall be designated by the chief executive officers of the units or combination of units of general local government which qualify for representation under this section in accordance with procedures agreed upon by such chief executive officers;

(ii) one representative each of the State board of vocational education and the public employment service of such State;

(iii) one representative of each such other State agency as the Governor may determine to have a direct interest in overall manpower training and utilization within the State;

(iv) representatives of organized labor;

(v) representatives of business and industry;

(vi) representatives of the client community to be served under this Act (including, where persons of limited English-speaking ability represent a substantial portion of the client population, appropriate representation of such persons); and

(vii) representatives of the general public.

(B) be appropriately staffed and serviced by the State prime sponsor;

(C) meet at such times and in such places as it deems necessary.

(b) The Council shall—

(1) review the plans of each prime sponsor and the plans of State agencies for the provision of services to such prime sponsors, and make recommendations to such prime sponsors and agencies for the more effective coordination of efforts to meet the overall manpower needs of the State;

(2) continuously monitor the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing manpower services, and to the Governor and the general public with respect to ways to improve the effectiveness of such programs or services in fulfilling the purposes of this Act;

(3) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act.

APPROVAL OF PLANS

SEC. 106. (a) The Secretary shall not approve a comprehensive manpower plan or any amendment thereto until he determines that it meets the requirements of section 103, and in the case of a State plan section 104, and that the plan was submitted to, and an opportunity to comment thereon provided, the Governor of the State and appropriate officials in units of general local government of the area to be served.

(b)(1) The Secretary shall not finally disapprove any comprehensive manpower plan submitted under this title, or any modifications thereof, without first affording the prime sponsor submitting the plan reasonable notice and opportunity for a hearing.

(2) If the Secretary receives a formal allegation from an affected unit of general local government that a prime sponsor has changed its comprehensive manpower plan so that it no longer complies with section 103 or that in the administration of the plan there is a failure to comply substantially with any such provision, with any provision of the plan, or with any requirements of section 403 or 404, he shall, and, if he receives such an allegation from any other interested person, he may, after due notice and opportunity for a hearing to the prime sponsor, determine whether the allegation is true. If he determines such an allegation to be true, the Secretary shall notify the prime sponsor that no further payments will be made to the prime sponsor under the plan (or, in his discretion, that further payments will be limited to programs under or portions of the plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments to such sponsor under the plan (or shall limit payments to programs under the plan not affected by the failure).

(c) The Secretary shall not disapprove any plan solely because of the percentage of funds devoted to a particular program or activity authorized under section 101 of this Act.

JUDICIAL REVIEW

SEC. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the approval of its comprehensive manpower plan submitted under section 103 or section 104 or with his final action under section 106, such prime sponsor may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. Thereupon the Secretary shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

AUTHORITY OF SECRETARY TO PROVIDE SERVICES

SEC. 108. In any area of a State which has not qualified as, a prime sponsor and for which no other prime sponsor has qualified under paragraph (2), (3), (4), or (5) of section 102(a) or where the Secretary has taken an action under subsection (b)(2) of section 106 which results in such services not being provided in such area, the Secretary is authorized (out of the funds allotted to such State or local area under section 503(a)) to provide directly the services authorized under this Act, and he may utilize any unit (or combination of units) of general local government, and any other public and private agencies, institutions, and organizations, in providing such services.

ALLOWANCES

SEC. 109. (a) Basic weekly allowances for individuals receiving training or education under this title for which no wages are payable shall be at a rate prescribed by the Secretary which when added to amounts received by the trainee in the form of unemployment compensation payments shall equal the minimum wage for a work week of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law, and such basic allowances shall, in the case of an individual with dependents, be increased by $5 a week for each dependent over two up to a maximum of four additional dependents. The prime sponsor may waive the payment of all or part of the allowances when it determines, under regulations prescribed by the Secretary, that such waiver will promote the purposes of this Act. Trainees receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others, shall receive an incentive allowance of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing allowances, the prime sponsor shall, in accordance with regulations prescribed by the Secretary, allow additional sums for specail circumstances such as exceptional expenses incurred by trainees, including but not limited to meal and travel allowances, or he may reduce such allowances by an amount reflecting the fair value of meals, lodging, or other necessaries furnished to the trainee. The prime sponsor shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. Notwithstanding the preceding provisions of this subsection, the prime sponsor shall, in accordance with such regulations as the Secretary shall prescribe, make such adjustments as he deems appropriate in allowances which would otherwise be payable under this title, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) Individuals receiving training on the job shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, and trainee proficiency, but in no event at a rate less than that specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law.

SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

SEC. 110. (a) The Secretary shall make grants to State vocational education boards to assist them to provide needed vocational education services in areas served by local prime sponsors as defined in section 102(a) (2), (3), (4), or (5).

(b) All of the sums available to carry out this section shall be allotted among the States in the manner provided for allotting funds under section 503.

(c) Funds available to State vocational education boards under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the local prime sponsor.

TITLE II—PUBLIC EMPLOYMENT PROGRAMS

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to provide unemployed persons with transitional employment in jobs providing needed public services in areas of substantial unemployment and, wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this title.

FINANCIAL ASSISTANCE

SEC. 202. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this title in order to make financial assistance available in areas of substantial unemployment for the purposes of providing transitional employment for unemployed persons in jobs providing needed public services, and training and manpower services related to such employment which are otherwise unavailable, and enabling such persons to move into employment or training not supported under this title.

(b) Of the funds appropriated pursuant to this title which are used by an eligible applicant for public employment programs, not less than 90 per centum shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title.

ELIGIBLE APPLICANTS

SEC. 203. (a) Financial assistance under this title may be provided by the Secretary only pursuant to applications submitted by eligible applicants which shall be—

(1) prime sponsors qualified under title I;

(2) any unit of general local government having a population of 50,000 or more persons;

(3) any combination of units of general local government which has an aggregate population of 50,000; or

(4) Indian tribes on Federal or State reservations and which include areas of substantial unemployment.

(b) For fiscal year 1974 only, eligible applicants shall include any entity eligible to be a prime sponsor under section 102(a).

(c) For the purpose of this Act "areas of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has a rate of unemployment equal to or in excess of 7 per centum for three consecutive months as determined by the Secretary. Determinations concerning the rate of unemployment shall be made by the Secretary at least once each fiscal year.

(d) Whenever the Secretary makes any determination required by this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

APPLICATIONS

SEC. 204. (a) Financial assistance under this title may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this title. Any such application shall set forth a public service employment program designed to provide employment, in jobs providing needed public services, for persons residing in areas of substantial unemployment who have been unemployed for at least thirty days and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this title.

(b) An application for financial assistance for a public service employment program under this title shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this title will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that only persons residing within the areas of substantial unemployment qualifying for assistance will be hired to fill jobs created under this title, and that the public services provided by such jobs shall, to the extent feasible, be designed to benefit the residents of such areas;

(4) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(5) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have been discharged under conditions other than dishonorable); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans) or carried out by other public or private organizations or agencies;

(6) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(7) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under this title, but such special consideration shall not authorize the hiring of any person when any other person is on lay-off from the same or any substantially equivalent job;

(8) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(9) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(10) a description of unmet public service needs and a statement of priorities among such needs;

(11) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(12) the wages or salaries to be paid persons employed in public service jobs under this title and a comparison with the wages paid for similar public occupations by the same employer;

(13) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(14) the planning for and training of supervisory personnel in working with participants;

(15) a description of career opportunities and job advancement potentialities for participants;

(16) assurances that procedures established pursuant to section 206 will be complied with;

(17) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this title who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(18) assurance that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed persons;

(19) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged;

(20) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13(a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the Secretary may waive this limitation in exceptional circumstances;

(21) a description of the manpower needs of local governments and of local education agencies within the area to be served together with the comments of such governments and agencies where appropriate, and assurances that due consideration be given to allocating jobs to such governments and agencies where the evidence of need warrants it;

(22) assurances that the jobs in each job category in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under this title, and assurances that no job will be filled in other than an entry level position until applicable personnel procedures and collective bargaining agreements have been complied with;

(23) assurances that jobs funded under this title are in addition to those that would be funded by the sponsor in the absence of assistance under this Act; and

(24) such other assurances, arrangements, and conditions, consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 205. An application, or modification or amendment thereof, for financial assistance under this title may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this title;

(2) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary;

(3) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary; and

(4) where a labor organization represents employees who are engaged in similar work in the same area to that proposed in the application, an opportunity has been provided such organization to submit comments with respect to the application to the applicant and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 206. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this title to assure that in the event that any person employed in a public service job under this title and the reviewing agency find that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) Where the Secretary determines that an Indian tribe on a Federal or State reservation is unable to submit an application to carry out a public service employment program which meets the requirements of section 204, the Secretary shall assist such tribe in preparing, submitting, and implementing a public service employment program. The provisions of section 207 shall apply to programs carried out under this subsection.

SPECIAL PROVISIONS

SEC. 207. (a) The Secretary shall not provide financial assistance for any program or activity under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such title applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this title will not be used to pay persons employed in public service jobs under this title at a rate in excess of $10,000 per year;

(4) all persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribtue to the occupational development or upward mobility of individual participants;

(7) no funds under this title will be used for the acquisition of, or for the rental or leasing of supplies, equipment, materials, or real property; and

(8) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this title, the Secretary shall make financial assistance under this title available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this title among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this title, such organization shall be notified and afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

(d) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(e) The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this title and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis, and shall include such information in the report required by section 208 of this title.

(g) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(g) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(h) The Secretary shall not provide financial assistance for any program under this title unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

SPECIAL REPORT

SEC. 208. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this title, including information derived from evaluations required by this title and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, (2) segments of the population of unemployed persons are provided public service opportunities in accordance with the purposes of this title.

UTILIZATION OF FUNDS

SEC. 209. Funds available under this title to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this title for programs authorized under titles I and III—A of this Act.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL TARGET GROUPS

SPECIAL MANPOWER TARGET GROUPS

SEC. 301. (a) The Secretary shall use funds available under this title to provide additional manpower services as authorized under titles I and II to segments of the population that are in particular need of such services, including youth, persons in correctional institutions, persons of limited English-speaking ability, older workers, and other persons which the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(b) With respect to programs for persons of limited English-speaking ability referred to in subsection (a), the Secretary shall establish appropriate procedures to insure that participants are provided with such manpower training and related assistance and supportive services which will increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability.

INDIAN MANPOWER

SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian and Alaskan native communities; (2) there is a compelling need for the establishment of comprehensive manpower training and employment programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in those communities consistent with their goals and life styles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

(c) In carrying out his responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body for the provision of manpower services under this title. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive manpower program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

(d) Whether the Secretary determines not to utilize Indian tribes, bands, or groups for the provisions of manpower services under this section, he shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian manpower programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible applicants under other provisions of this Act.

(g) For the purpose of carrying out this section, the Secretary shall reserve not less than that proportion of the total amounts available for carrying out titles I and III of this Act as is equivalent to that proportion which the total number of Indians and Alaska natives bears to the total number of low-income persons, as determined for the United States on the basis of the most satisfactory current data and estimates available to the Secretary.

(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

MIGRANT AND SEASONAL FARMWORKER MANPOWER PROGRAMS

SEC. 303. (a) The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural manpower problem and substantially affects the entire national economy;

(2) because of the special nature of certain farmworker manpower problems, particularly those which are interstate in nature, such programs can best be administered at the national level.

(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section including but not limited to programs and activities carried out by eligible applicants under other provisions of this Act.

(2) For the purpose of carrying out this section, the Secretary shall reserve not less than that proportion of the total amounts available for carrying out this Act as is equivalent to that proportion which the total number of persons in migrant farmworker families bears to the total number of low-income persons, as determined for the United States on the basis of the most satisfactory current data and estimates available to the Secretary: *Provided, however,* That not more than 5 per centum of the funds available shall be so reserved. For the purposes of this section, persons shall be deemed to continue to be members of migrant and seasonal farmworker families for such period of time, not in excess of five years, as the Secretary may determine, in accordance with regulations which he shall prescribe, that such persons generally can benefit from the special programs authorized by this part.

TRANSFER OF JOB CORPS

SEC. 304. (a) Part A of title I of the Economic Opportunity Act of 1964 is amended by striking out "Director" each place it appears and inserting in lieu thereof "Secretary of Labor", and section 102 thereof is amended by striking out "the Office of Economic Opportunity" and inserting in lieu thereof "the Department of Labor".

(b) Title I–A of the Economic Opportunity Act of 1964 as amended by subsection (a) is transferred to this Act and designated as title VI thereof with section numbers (and cross references) renumbered accordingly.

(c) The powers of the Director of the Office of Economic Opportunity under section 602 (h), 602(i), and 602(m)(2) of the Economic Opportunity Act of 1964 are hereby made applicable to the powers and duties of the Secretary of Labor in administering title VI of this Act.

YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

SEC. 305. (a) The Secretary may provide financial assistance in urban and rural areas, including areas having large concentrations or proportions of low-income, unemployed persons, and rural areas having substantial outmigration to urban areas, for comprehensive work and training programs, and necessary supportive and follow-up services, including the following:

(1) programs to provide part-time employment, on-the-job training, and useful work experience for students from low-income families who are in the ninth through twelfth grades of school (or are of an age equivalent to that of students in such grades) and who are in need of the earnings to permit them to resume or maintain attendance in school;

(2) programs to provide unemployed, underemployed, or low-income persons (aged sixteen and over) with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those persons to develop their maximum occupational potential and to obtain regular competitive employment;

(3) jobs for economically disadvantaged youths during the summer months;

(4) special programs which involve work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or areas served by the program;

(5) special programs which provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served.

(b) To the maximum extent feasible, programs or components of programs conducted under this section shall be linked to comprehensive work and training programs conducted by prime sponsors under title I of this Act, but the Secretary may provide financial assistance to a public agency or private organization other than a prime sponsor to carry out one or more component programs described in subsection (a) when he determines, after soliciting and considering comments of the appropriate prime sponsor, if any, that such assistance would enhance program effectiveness. In the case of programs under subsection (a)(1) of this section, financial assistance may be provided directly to local or State education agencies, after consultation with the Secretary of Health, Education, and Welfare, for the operation of such programs.

CONSULTATION WITH SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for basic education and vocational training for individuals under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of State educational agencies with respect to such education and training. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, he shall obtain the approval of the Secretary of Health, Education, and Welfare for such arrangements.

PART B—RESEARCH, TRAINING, AND EVALUATION

SEC. 307. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of manpower research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's manpower problems. This program will include, but not be limited to, studies, the findings of which may contribute to the formulation of manpower policy; development or improvement of manpower programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective manpower development, training, and utilization; improved national, regional, and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of manpower shortages; easing of the transition from school to work, from one job to another, and from work to retirement, opportunities and services for older persons who desire to enter or reenter the labor force, and for improvements of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems, however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or with wages less than those established by the Fair Labor Standards Act of 1938, as amended, for employment subject to that Act. In carrying out this subsection with respect to programs designed to provide employment and training opportunities for low-income people, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(c) The Secretary shall conduct such research and investigations as give promise of furthering the objectives of this Act either directly or through grants, contracts, or other arrangements.

LABOR MARKET INFORMATION AND COMPUTERIZED JOB BANK

SEC. 308. (a) The Secretary of Labor shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, including but not limited to information regarding—

(1) the nature and extent of impediments to the maximum development of individual employment potential including the number and characteristics of all persons requiring manpower services;

(2) job opportunities and skill requirements;

(3) labor supply in various skills;

(4) occupational outlook and employment trends in various occupations; and

(5) in cooperation and after consultation with the Secretary of Commerce, economic and business development and location trends.

(b) The Secretary may develop and establish a computerized job bank program for the purpose of—

(1) identifying sources of available manpower supply and job vacancies;

(2) providing an expeditious means of matching the qualifications of unemployed, underemployed, and disadvantaged persons with employer requirements and job opportunities on a national, State, local, or other appropriate basis;

(3) referring and placing such persons in jobs; and

(4) distributing and assuring the prompt and ready availability of information concerning manpower needs and resources to employers, employees, public and private job placement agencies, and other interested individuals and agencies.

Maximum effective use shall be made of electronic data processing and telecommunications systems in the development and administration of the program. The program established under this part shall be coordinated with the comprehensive manpower services program established under title I.

(c) For the purpose of carrying out the program established in subsection (b), the Secretary is authorized to make grants to State or local agencies for the planning and administration of the program, including the purchase or other acquisition of necessary equipment. The Secretary may conduct the program on a regional or interstate basis either directly or through grants, contracts, or other arrangements with public or private agencies and organizations. He may also conduct the program when he finds that a State or local program will not adequately serve the purposes of this part. The Secretary may require that any information concerning manpower resources or job vacancies utilized in the operation of job-bank programs financed under this part be furnished to him at his request. He may, in addition, require the integration of any information concerning job vacancies or applicants into a job-bank system assisted under this part.

(d) To assure the effectiveness of the program provided for in this section, the Secretary shall develop an early warning system and standby capability that will assure a timely and adequate response to economic dislocations arising from changing markets, rapid technological change, plant shutdowns, or business failure.

(e) Information collected under this section shall be developed and made available in a timely fashion to meet in a comprehensive manner the needs of public and private users, including the need for such information in recruitment, counseling, education, training, placement, job development, and other appropriate activities under this Act and under the Economic Opportunity Act, the Social Security Act, the Public Works and Economic Development Act of 1965, the Wagner-Peyser Act, the Vocational Education Act of 1963, the Vocational Rehabilitation Act, the Demonstration Cities and Metropolitan Development Act of 1966, and other relevant Federal statutes.

EVALUATION

SEC. 309. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost in relation to their effectiveness in achieving stated goods, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons of various ages, and the adequacy of the mechanism for the delivery of services. In conducting the evaluations called for by this subsection, the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class, of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under section 108, or under title III. He shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

(b) As a part of his activities under subsection (a), the Secretary shall measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and under title IV—C of the Social Security Act. The data so developed shall include information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis.

(c) The Secretary is authorized to conduct, either directly or by way of contract, grant, or other arrangement, a thorough evaluation of all programs and activities conducted pursuant to this Act to determine the effectiveness of such programs and activities in meeting the special needs of disadvantaged, chronically unemployed, and low-income persons for meaningful employment opportunities and supportive services to continue or resume their education and employment and to become more responsible and productive citizens.

REMOVAL OF ARTIFICIAL BARRIERS TO EMPLOYMENT AND ADVANCEMENT

SEC. 310. The Secretary, in consultation with appropriate departments and agencies of the Federal Government, shall conduct a continuing study of the extent to which artificial barriers to employment and occupation advancement, including civil service requirements and practices relating thereto, within agencies conducting programs under this Act, restrict the opportunities for employment and advancement within such agencies and shall develop and promulgate guidelines, based upon such study, setting forth recommendations for task and skill requirements for specific jobs and recommended job descriptions at all levels of employment, designed to encourage career employment and occupational advancement within such agencies.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 311. The Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, and other appropriate officials, where appropriate, shall provide directly or through grants, contracts, or other arrangements, preservice and inservice training for specialized, supportive, and supervisory or other personnel and technical assistance which is needed in connection with the programs established under this Act.

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of section 102(a)(2), the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "low-income person" and "person heading a low-income family" have the meaning given them in regulations of the Secretary, except that persons receiving

benefits under a State plan approved under title IV of the Social Security Act, or food stamps or surplus commodities under the Agricultural Act of 1949 and the Food Stamp Act of 1964 shall be considered to be low-income persons or persons heading low-income families as the case may be. In developing such regulations, the Secretary shall consult with the Social Security Administrator, and shall take into consideration family size, urban-rural and farm-nonfarm differences, and other relevant factors.

(4) "health care" includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of manpower services to obtain or retain employment.

(5) "unit of general local government" means any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(6) "Wagner-Peyser Act" means "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

(7) "manpower allotment" means sums distributed under title I of this Act and with respect to fiscal year 1973, funds available under title II of the Manpower Development and Training Act of 1962, and title I–B of the Economic Opportunity Act of 1964.

(8) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, and other fields of human betterment and community improvement.

(9) "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) except for purposes of sections 503 and 504, adults who or whose families receive supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment;

(10) "underemployed persons" means—

(A) persons who are working part-time but seeking full-time work;

(B) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(b) As used in section 207(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public agency or institution which is a subdivision of an eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction.

LEGAL AUTHORITY

SEC. 402. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act, but only in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

CONDITIONS APPLICABLE TO ALL PROGRAMS

SEC. 403. The Secretary shall not provide financial assistance for any program under this Act unless—

(1) the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs;

(2) such program does not involve political activities;

(3) he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(4) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(5) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(6) appropriate workmen's compensation protection will be provided to all participants;

(7) the program will not result in the displacement of employed workers or impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(8) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(9) no person shall be referred for training authorized under subsection (3) or (4) of section 101 unless the Secretary or the prime sponsor, as appropriate, shall have determined that there is a reasonable expectation of employment for such person in the occupation for which he is being trained, in the area covered by the plan or program under which the training is being provided;

(10) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this Act and not to supplant such other funds;

(11) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this Act;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) the program has adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of inservice training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds; and

(14) the program makes appropriate provision for the manpower needs of youth in the area to be served.

SPECIAL LIMITATION

SEC. 404. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitations on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(b) Any amounts received under chapters 11, 13, 31, 34, and 35 of title 38, United States Code, by any veteran of any war, as defined by section 101 of title 38, United States Code, who served on active duty for a period of more than one hundred and eighty days or was discharged or released from active duty for a service-connected disability or any eligible person as defined in section 1701 of such title, if otherwise eligible to participate in programs under this Act, shall not be considered for purposes of determining the needs or qualifications of participants in programs under this Act.

(c) Acceptance of family planning services provided to trainees shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or receipt of any benefit under the program.

(d) No non-governmental individual, institution, or organization shall evaluate any program under this Act if that individual or any member of such institution or organization is associated with that program as a consultant, technical adviser, or in any similar capacity.

ANNUAL REPORTS

SEC. 405. (a) The Secretary shall submit an annual report to the Congress on his activities under this Act.

(b) Each prime sponsor shall prepare for the Secretary, and make available, to the public, a report on its activities under the Act, including a detailed comparison of program performance with approved plan.

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

ACCEPTANCE OF GIFTS

SEC. 407. The Secretary is authorized, in carrying out his functions and responsibilities under this Act, to accept in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, an unconditional gift of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 408. In addition to such other authority as he may have, the Secretary is authorized, in carrying out his functions under this Act, to utilize, with their assent, the services and facilities of Federal agencies without reimbursement, and with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision with or without reimbursement.

INTERSTATE AGREEMENTS

SEC. 409. In the event that compliance with provisions of this Act requires cooperation or agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

REPEAL OF OTHER LAW

SEC. 410. Effective with respect to fiscal years after June 30, 1973, the Manpower Development and Training Act of 1962 and title I—B and I—E of the Economic Opportunity Act of 1964 are repealed. Unexpended appropriations for carrying out such Acts may be made available to carry out this Act, as directed by the President.

HATCH ACT

SEC. 411. State or local officers or employees engaged in programs assisted under this Act shall be considered for purposes of section 1501(4) of title 5, United States Code, to be individuals whose principal employment is in connection with an activity financed by grants made by the United States.

CRIMINAL PROVISIONS

SEC. 412. (a) Chapter 31 of title 18, United States Code, is amended by adding a new section 665 to read as follows:

"THEFT OR EMBEZZLEMENT FROM MANPOWER FUNDS; IMPROPER INDUCEMENT

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Manpower Act embezzles willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this Act shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Manpower Act, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both."

(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"665. Theft or embezzlement from manpower funds; improper inducement."

NONDISCRIMINATION

SEC. 413. (a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

(b) Whenever the Secretary determines that a prime sponsor or eligible applicant has failed to comply with subsection (a) or an applicable regulation, he shall notify the prime sponsors or eligible applicant of the noncompliance and shall request the prime sponsor or eligible applicant to secure compliance. If within a reasonable period of time, not to exceed sixty days, the prime sponsor or eligible applicant fails or refuses to secure compliance, the Secretary, in addition to exercising the powers and functions provided for the termination of financial assistance under this Act, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a prime sponsor or eligible applicant is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) The Secretary shall enforce the provisions of subsection (a) dealing with discrimination on the basis of sex in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

RECORDS, AUDIT, AND REPORTS

SEC. 414. In order to assure that funds provided under this Act are used in accordance with its provisions, each recipient shall—

(1) use such fiscal, audit, and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it, and (B) proper disbursement of such payments:

(2) provide to the Secretary and the Comptroller General of the United States access to, and the right to examine, any books, documents, papers, or records as he requires; and

(3) make such reports to the Secretary or the Comptroller General of the United States as he requires.

TITLE V—AUTHORIZATIONS AND ALLOCATIONS

APPROPRIATIONS AUTHORIZED

SEC. 501. (a) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding years for the purposes of carrying out this Act.

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

FUNDS AVAILABLE FOR SPECIFIC PROGRAMS

SEC. 502. (a) Of the amount appropriated to carry out this Act, the Secretary shall reserve and make available $250,000,000 in fiscal year 1974 and $500,000,000 in fiscal year 1975 for the purpose of carrying out public employment programs under title II.

(b) Of the amount appropriated to carry out this Act for any fiscal year, not more than 20 per centum shall be available to carry out title III and title VI.

ALLOCATION OF FUNDS UNDER TITLE I

SEC. 503. (a) Eighty per centum of the amount available for title I in any fiscal year shall be reserved and distributed in accordance with the provisions of this subsection. From such amount available, the Secretary shall reserve such sums as he determines are necessary (but not to exceed 1 per centum of such amount) to provide reasonable reimbursement to State prime sponsors for costs incurred in fulfilling their duties and responsibilities under section 105(a)(2)(B). The remainder of such amount available shall be allocated among the States so that equal proportions are distributed on the basis of (1) the relative number of unemployed within the State as compared to all the States; (2) the manpower allotment for all the States in that year: *Provided, however,* That at least $2,000,000 shall be allotted among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs. The sum available to each State shall be allocated among areas within the State on an equitable basis based upon the same factors.

(b) Not more than 5 per centum shall be available to the Secretary to encourage voluntary combinations formed under section 102(a)(3).

(c) Five per centum of the funds available under title I shall be available only for grants under section 110: *Provided,* That such grants shall not increase the funds available in any prime sponsor's area by more than 20 per centum of the amount allotted to such prime sponsors under subsection (a).

(d) The remainder of the funds shall be available in the Secretary's discretion. In exercising that discretion the Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(e) Grants made to prime sponsors designated under section 102(a)(5) shall be from funds not allocated under subsection (a).

ALLOCATION OF FUNDS UNDER TITLE II

SEC. 504. (a) Eighty per centum of funds available for any fiscal year under title II shall be allocated among eligible applicants in accordance with the number of unemployed residing in areas of substantial unemployment within the jurisdiction of the applicant compared to the number of unemployed residing in all such areas.

(b) The remainder may be distributed by the Secretary in his discretion taking into account the severity of unemployment within such areas.

TITLE VII—NATIONAL COMMISSION FOR MANPOWER POLICY

FINDINGS AND DECLARATION OF PURPOSE

SEC. 701. The Congress hereby finds and declares that the responsibility for the development, administration, and coordination of programs of training and manpower development generally is so diffused and fragmented at all levels of government that it has been impossible to develop rational priorities in these fields, with the result that even good programs have proved to be far less effective than could reasonably be expected. The Congress further finds that the lack of a coherent, flexible, national manpower policy reduces our prospects of solving economic and social problems which threaten fundamental national interests and objectives. Accordingly, the purpose of this title is to establish a National Commission for Manpower Policy which will have the responsibility for examining these issues, for suggesting ways and means of dealing with them, and for advising the Secretary on national manpower issues.

SEC. 702. (a) There is hereby established a National Commission for Manpower Policy (hereinafter referred to as the "Commission") which shall consist of sixteen members selected as follows—

(1) six members, as follows, serving ex officio: the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of the Veterans' Affairs; and

(2) ten members broadly representative of labor, industry, agriculture, commerce, education (including vocational-technical education), State and local elected officials involved with manpower programs, and of the general public appointed by the President.

(b) The Commission shall meet at the call of the Chairman, who shall be selected by the President and who shall be one of the ten appointed public members, but not fewer than three times a year.

(c) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman. The Director may appoint, with the concurrence of the Chairman and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its responsibilities under this title.

(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the Commission, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistance as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

FUNCTIONS OF THE COMMISSION

SEC. 703. The Commission may—

(1) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

(2) examine and evaluate the effectiveness of any federally assisted manpower development programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievements of objectives sought by the recommendations under clause (1) of this section;

(3) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing manpower and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information and knowledge about manpower problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of manpower programs; and

(4) make such other evaluations, investigations, or inquiries as it considers appropriate for carrying out the purposes of this title and for helping to make effective the programs authorized by this act.

COORDINATION STUDY

SEC. 704. The Commission shall conduct a study of the utilization and interrelation of programs of manpower training with closely associated programs such as those conducted under the Wagner-Peyser Act, the work incentives program under part C of title IV of the Social Security Act, and others of similar nature, with a view to determining how they could be better coordinated and more effectively combined to serve individuals, particularly at the State and local levels, and shall make a report of their findings and recommendations to the President and the Congress not later than January 31, 1975.

REPORTS

SEC. 705. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress, and the first such report shall be transmitted not later than September 1, 1974. The Commission may make such interim reports or recommendations to the Secretary of Labor or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

ENERGY STUDY

SEC. 706. The Secretary shall, immediately upon enactment of this act, make a study of the impact of energy shortages, including fuel rationing, on manpower needs. The Secretary shall, within one year after enactment, make final a report of his findings and recommendations to the Congress and to the Commission, and shall make preliminary reports thereon beginning with March 1974. Upon receipt of the Secretary's report, the National Commission for Manpower Policy shall continue to make studies of such matters, and shall include its findings and recommendations with respect thereto in the reports required by section 705.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To assure opportunities for employment and training to unemployed and underemployed persons."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11010) was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On November 16, 1973:

H.R. 9286, An act to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

On November 21, 1973:

H.R. 4771, An act to authorize the District of Columbia Council to regulate and stabilize rents in the District of Columbia; and

H.R. 5692, An act to amend title 5, United States Code, to revise the reporting requirement contained in subsection (b) of section 1308.

On November 27, 1973:

H.R. 3801, An act to extend civil service federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government;

H.R. 8219, An act to amend the International Organizations Immunities Act to authorize the President to extend certain privileges and immunities to the Organization of African Unity;

H.R. 8916, An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes; and

H.R. 9295, An act to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11104. An act to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11104) entitled "An act to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. HARTKE, Mr. RIBICOFF, Mr. MONDALE, Mr. BENNETT, Mr. CURTIS, and Mr. FAN-

Nin to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 9256) entitled "An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McGee, Mr. Randolph, Mr. Burdick, Mr. Fong, and Mr. Stevens to be the conferees on the part of the Senate.

GENERAL LEAVE

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11010, ASSURING OPPORTUNITIES FOR EMPLOYMENT AND TRAINING TO UNEMPLOYED AND UNDEREMPLOYED PERSONS

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. Perkins, Dominick V. Daniels, Gaydos, Meeds, Burton, Mrs. Grasso, Messrs. Dent, O'Hara, Badillo, Quie, Esch, Steiger of Wisconsin, Forsythe, Peyser, and Sarasin.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-193)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Interior and Insular Affairs and ordered printed:

To the Congress of the United States:

At a time when our Nation is seriously concerned with conserving our energy resources, it is also important that we protect another treasured national resource—our wilderness areas and the many varieties of plant and animal life which thrive uniquely in wilderness environments.

With this goal in mind, and pursuant to the Wilderness Act of 1964, I am today proposing twelve additions to the National Wilderness Preservation System. These additions would cover a total of over 1 million primeval acres of American terrain which still exist today in much the same condition as they existed centuries before the first European set foot in the New World.

Briefly described, they are:

(1) The Joshua Tree National Monument, California—372,700 acres located in the great California Desert. The varied desert terrain included in this tract harbors widely differing plants and animals.

(2) Point Reyes National Seashore, California—10,600 acres on a long narrow peninsula characterized by fine beaches and steep, forested slopes.

(3) Big Bend National Park, Texas—533,900 acres. Encompassing both the lofty Chisos Mountains and large tracts of desert, this area is host to several wildlife habitats and an unusual diversity of plant and animal life.

(4) Imperial National Wildlife Refuge, Arizona and California—14,470 acres along the Lower Colorado River. The desert uplands which this proposal would set aside provide a home for wild waterfowl, serving in particular as the wintering habitat of Canada geese of the Great Basin flock.

(5) Mesa Verde National Park, Colorado—8,100 acres. The two portions of the park which would be added to the wilderness system are an eastern section with wildlife including mule deer, cougar, bighorn sheep, wild turkey, and many smaller animals, and a northern area which contains the rugged brow of the Mesa Verde Plateau itself.

(6) Mingo National Wildlife Refuge, Missouri—1,700 acres in a former channel of the Mississippi River. The proposed area contains lowland forest vegetation and a natural swamp environment.

(7) Oregon Islands National Wildlife Refuge, Oregon—346 acres located on 26 islands. Nesting ground for thousands of seabirds, these islands, plus two existing wilderness areas with which they will be consolidated, lie along the beautiful Oregon coast.

(8) White River National Wildlife Refuge, Arkansas—975 acres. Located in an area known as the Scrub Grass Bayou Research Area, the recommended acreage comprises bottomland hardwood forest.

(9) Saguaro National Monument, Arizona—42,400 acres. This proposal would set aside splendid stands of the giant saguaro cactus and other desert resources, as well as rugged mountainous areas with regional vegetation and wildlife.

(10) Bandelier National Monument, New Mexico—21,110 acres. The monument was once the home of prehistoric Pueblo Indians. The proposal encompasses many archeological sites and a great deal of rugged terrain providing habitat for deer, bear, mountain lion and other large mammals.

(11) Valentine National Wildlife Refuge, Nebraska—16,317 acres characterized by the sandhill range, an unusual geological formation in need of preservation. The refuge is populated by several threatened bird species and a variety of other wildlife.

(12) Crescent Lake National Wildlife Refuge, Nebraska—24,502 acres which provide a pristine sandhill habitat for mule deer, antelope, and such rare bird species as the bald eagle and golden eagle.

After a review of roadless areas of 5,000 acres or more, the Secretary of the Interior has concluded that two areas are not suitable for preservation as part of the National Wilderness Preservation System. These are the Salt Plains National Wildlife Refuge, Oklahoma, and the Klamath Forest National Wildlife Refuge, Oregon.

In addition to this message, I am transmitting to the Congress today letters and reports from the Secretary of the Interior regarding all of these wilderness proposals. I concur with the recommendation of the Secretary in each case.

I would draw to the attention of the Congress once again the eastern wilderness legislation which we recently submitted. This proposal—which is now embodied in legislation labeled S. 2487 and H.R. 10469—would amend the Wilderness Act to designate 16 acres in eastern national forest lands as wilderness on an immediate basis and would subject 37 other areas to study for possible addition to the wilderness system. I urge the Congress to give early and favorable consideration to this proposal, as well as the wilderness proposals accompanying this message.

Richard Nixon.

The White House, *November 28, 1973.*

TAX WRITEOFF FOR MASS TRANSIT USERS

(Mr. MINSHALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MINSHALL of Ohio. Mr. Speaker, I am today introducing legislation to permit a full tax writeoff of the cost of fares paid by persons who use mass transit systems to travel to and from their places of employment.

We are speeding on a crash course toward fuel rationing and severe automobile-use restrictions unless citizens, of their own volition, literally put on the brakes.

My bill would be an important tool not only in easing the current petroleum shortage but the long-term urban problems of traffic congestion and air pollution.

I believe that incentive, not government coercion, is the way to enlist citizen cooperation to achieve any desired goal in a free society. That is what the Minshall Commuter Tax Credit Act is—a strong incentive. By providing a tax deduction, which could amount to several hundreds of dollars yearly for each working member of a household, the Minshall bill could help persuade many Americans to break their daily driving habits and, in the words of one of the bus companies, "leave the driving to us."

The Minshall Commuter Tax Credit Act would assure that the hundreds of millions of dollars the Federal Government is prepared to spend on better, safer, more efficient, mass transit systems will be a wise investment.

My work on the Department of Transportation Appropriations Subcommittee has shown me that some 81 percent of all Americans drive their cars to work. Only a small percentage of the remaining workers make use of mass transit.

In the Cleveland, Ohio, area, for example, we have a total of 767,349 employed persons according to the 1970 census. Of that number, 78 percent, or 599,052, drive their cars to work daily. A mere 14 percent, just 106,085, make use of mass transit.

Percentages, computed from the last census, show that there is not one large city in America today where commuters prefer mass transit to private transportation. Far from it. The highest mass transit consumption, 38 percent of the work force, is claimed by New York City. But the 50 percent who drive to their places of employment still clog New York streets, morning and night, in massive traffic snarls of more than 3 million passenger vehicles.

The mass transit record of some 25 other major American cities is even sorrier, as the following statistics, based on the 1970 census, shows. The missing percentile represents employed persons who either walk or cycle to their jobs, or who work at home.

[In percent]

City	Private transportation	Public transit
Birmingham, Ala	86	7
Los Angeles, Calif	87	4
San Jose, Calif	88	2
San Francisco, Calif	73	15
Denver, Colo	75	5
Hartford, Conn	76	12
Atlanta, Ga	84	10
Miami, Fla	83	9
Honolulu, Hawaii	78	9
Chicago, Ill	62	19
Indianapolis, Ind	84	7
Louisville, Ky	85	7
New Orleans, La	69	21
Baltimore, Md	74	16
Boston, Mass	66	19
Detroit, Mich	85	8
Minneapolis-St. Paul, Minn	80	9
Kansas City, Mo	83	6
St. Louis, Mo	83	9
Cincinnati, Ohio	81	9
Philadelphia, Pa	65	23
Dallas, Tex	87	7
Houston, Tex	87	6
Milwaukee, Wis	76	13
District of Columbia	73	17

THE FDA AND DMSO

(Mrs. GREEN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. GREEN of Oregon. Mr. Speaker, following are two articles by the columnist James J. Kilpatrick describing the unhappy relationship between the Food and Drug Administration and sponsors of an experimental drug called DMSO. It is true that the FDA's caution in regard to thalidomide paid off handsomely for the American public. And I also heartily endorse the congressional mandate to FDA to establish proof of both safety and effectiveness before giving its seal of approval to new drugs. My complaint is not with these goals, but rather that the equally important goal—to encourage and support the search for remedies in man's fight against suffering and disease—seems to take a poor second place in the bureaucracy's priorities.

As Mr. Kilpatrick states in his second article, the National Academy of Sciences has concluded that DMSO should not be "widely available under unregulated conditions." Of course it should not be. This is not the issue. The issue is whether or not controlled research on a promising drug is to be encouraged or discouraged by the FDA. I submit that this agency's attitude toward DMSO has been of the latter variety. For further clarification of this issue, I commend the two following articles to my colleagues' attention:

[From the Washington Star-News, Oct. 18, 1973]

The Persecuted Drug—DMSO Shot Down Before It Got Off Ground

(By James J. Kilpatrick)

Washington.—Let this much be emphasized at the outset: Dimethyl sulfoxide, the famous DMSO, is not a "miracle drug."

With that disclaimer out of the way, let me ride piggyback on the broad shoulders of Pat McGrady, Sr., and return to a story that cries out to be told. McGrady, recently retired science editor of the American Cancer Society, has pulled it all together in a book published by Doubleday last week, "The Persecuted Drug: The Story of DMSO."

I got onto this story seven or eight years ago, at the urging of several doctors who wrote to express their dismay and disbelief at what had happened. In DMSO, they believed they had found a marvelously effective substance for treating burns, sprains and certain manifestations of arthritis and skin disease. And the FDA had ordered it banned!

There never was time for me to dig out the whole story. Now McGrady has taken the time. He is a partisan, an enthusiast, a believer. He is sharply critical of the Food and Drug Administration for what he regards as its indefensible timidity and its suffocating prudence. He makes an impressive case.

To go back to the point of beginning: Dimethyl sulfoxide is a simple molecule, easily extracted from coal, oil or, most commonly, from lignin. It was isolated more than a hundred years ago in Russia. Its remarkable properties in the healing arts were first perceived in 1961 by Dr. Stanley Wallace Jacob, professor of surgery at the University of Oregon Medical School, and by Robert J. Herschler, a top chemist with Crown Zellerbach Corporation.

At the time, Jacob was looking for a means of cooling hearts and other viable organs freshly taken from dead donors. Some British literature had prompted him to believe DMSO might be useful. Herschler brought a gallon of the solution to Jacob's office, and Jacob began the experiments that in time would dominate his life and damage his professional career.

Almost immediately, Jacob discovered the phenomenon that offered a hundred thresholds for medical research. He dabbed some DMSO on his arm, watched the solution sink in, and was startled to note that he could taste the DMSO. This meant that the solvent had not merely gone deep into the skin, but actually through the skin and into the bloodstream.

Jacob's discovery raised the exciting possibility that DMSO might be able to carry other substances into the body—for example, that it might penetrate charred tissues to get at infections down below. As time went on, Jacob discovered that DMSO in itself appeared to have great value in certain cases. The word spread. Other investigators began to experiment and to report dramatic results. Except for the breath odor it produces—a kind of garlic-oyster halitosis—DMSO seemed to have no serious side effects.

The excitement grew, and the excitement was Jacob's undoing. The story of DMSO broke in the popular press before it had been professionally presented in a scientific journal. Jacob is a selfless and dedicated doctor with impeccable qualifications as physician and surgeon. But DMSO came to be identified among envious or skeptical members of the scientific community with "unprofessional behavior."

Then some animal experiments indicated that in massive doses, far beyond anything that might ever be prescribed for humans, DMSO caused refractive changes in the eye. The FDA, over-reacting to the thalidomide tragedy, leaped up and cried "Halt!" This was in November, 1965. Since then, though limited clinical investigations have continued, DMSO has been used only in veterinary medicine. Millions of patients whose suffering might have been relieved by DMSO, without serious risk of major side effects, have been denied its healing properties.

Last month a panel from the National Academy of Sciences and the National Research Council opened the door by a tiny crack. For most doctors and most patients, however, DMSO remains effectively out of reach.

FDA's Bureaucrats Let You Suffer

(By James J. Kilpatrick)

When it comes to passing upon proposed new drugs, what is the role of the U.S. Food and Drug Administration? Under the law, the FDA must withhold approval until it is satisfied that the drug is (1) safe, and (2) effective. These criteria, and especially the bureaucratic fashion in which the FDA applies them, demand renewed attention.

At first glance, the two yardsticks appear unassailable. The awful lessons of thalidomide teach us what can happen when a drug is released before its safety has been established. And an ineffective drug is worse than useless to patient and doctor alike.

Yet the standards can be applied so rigidly, with such excessive prudence and such fearful timidity, that the healing arts are not helped but hindered. That is what is happening in recent years at the FDA. By demanding the most absolute and overwhelming proof of safety and efficacy—proof according to the most costly and meticulous laboratory procedures—the FDA has stifled the development of new drugs and left sick human beings to suffer for want of the relief that new drugs might provide.

In the current Reader's Digest, Walter S. Ross sums up the general picture. In a book newly published by Doubleday, "The Persecuted Drug; The Story of DMSO," science writer Pat McGrady, Sr. provides a specific and maddening example of timidity gone berserk.

Dimethyl sulfoxide (DMSO) is a solvent, derived chiefly from lignin. Its fantastic therapeutic properties were first explored in 1961 by Dr. Stanley Wallace Jacob, professor of surgery at the University of Oregon. By 1965, as word spread, some 100,000 patients had received the drug. Upwards of 1,200 papers on DMSO have been published in the domestic and foreign literature. Investigators have submitted 193 volumes of reports to the FDA.

The overwhelming consensus of this prodigious research is that DMSO, while not a "miracle drug" is one of the safest compounds ever formulated. And though it is not effective for every patient in every instance in which it has been used, DMSO is amazingly effective in an impressive variety of cases.

McGrady's book suffers from its author's undisguised enthusiasm but there is no reason to doubt the findings he reviews. DMSO has been identified very uncertainly, as a causative factor in only a single death. Three research papers indicate that in massive dosages, DMSO can result in producing myopia in rabbits and rhesus monkeys. ings in terms of toxicity.

That is about the sum of the adverse find-

Yet DMSO remains almost wholly unavailable to American physicians and their patients. The FDA effectively banned the drug, except in veterinary use, back in November, 1965. Just this past month, a select committee from the National Research Council held the action "justified", and concluded that "in view of the inadequacies of available information, it does not seem prudent to make DMSO widely available under unregulated conditions".

The NAS-NRC committee was not altogether hostile. On the matter of safety, it agreed that eye damage in man "has not been established". Morphologic changes in the lens at the cellular level "have not been demonstrated." Indeed, a recent adequately controlled study demonstrated "no adverse effects upon the eyes of the subjects."

On that matter of effectiveness, the reviewing committee conceded that professionally satisfactory studies demonstrate DMSO's effectiveness in treating acute traumatic injury, milder forms of scleroderma, and certain fungal infections. In other areas, the evidence is "conflicting". Many reports reflect the enthusiasm of practicing physicians treating real-life patients, but these reports, alas, "simply do not qualify as scientific evidence of the caliber required for making decisions that affect the quality of medical care in this country."

Stripped of professional jargon, what this means is that DMSO is still banned, except for brief experiments with minor ailments. Big Brother, that is to say, is still watching you. At the FDA, Big Brother is indifferently watching you suffer, while reasonably safe and reasonably effective drugs are kept out of your doctor's hand.

THE 19TH DISTRICT CONVENTION OF AMERICAN LEGION CALLS FOR A STRONG NATIONAL DEFENSE PROGRAM

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, a short time ago at the American Legion convention of the 19th District of Texas, the area which I have the honor to represent, a resolution relating to communism and the security of the United States was adopted.

Bill R. Neel of Lubbock, Tex., and chairman of the American Legion Resolutions Committee has forwarded this resolution to me and asked that I inform the Congress and the President of the action taken by the convention. Certifying this resolution were Tom Wheeler, Adjutant, and Harry C. Riggs, Commander, both of Plainview, Tex.

The resolution points out the continued Communist threat to the United States. It calls for the cessation of credit and aid in any form to Communist nations and opposes providing technical knowledge to nations under Communist control. The resolution also advocates the importation of chrome from Rhodesia and opposes dependence of the United States on such importation from Russia.

The resolution sounds the clarion call for adequate and competent military manpower in the Armed Forces by raising the standards for military service and by resuming the draft in order to achieve a better balanced military force.

Mr. Speaker, I thought it appropriate to submit this statement for the RECORD at this time. Tomorrow we will have before the House the $74 billion Defense appropriation bill. As we consider that legislation, designed to keep America strong, we will want to bear in mind the concern of the American Legion in the 19th Congressional District and elsewhere, and the concern of all thoughtful Americans that we keep our Nation alert and strong.

SO-CALLED OPERATION CANDOR

(Mr. MILFORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, last night I was among a group of Democratic Congressmen invited to the White House as part of the so-called Operation Candor wherein we were to discuss the Watergate matter. Insofar as that meeting went, it should have been classified "Operation Canned."

After leaving the meeting I felt like the shapely country girl that had just been kicked out of a debonair playboy's penthouse apartment. In short, "I had been had."

Instead of candor with all Members present, the President carefully recognized only the "safe" senior Members who asked him nice questions to which they received the same canned answers that are fed to the press.

It is not my purpose to cast dispersions on any senior Member of this House nor to infer that they were willing parties to the President's little game. Like the rest of us, the senior Members also had questions to ask the President of the United States. Their questions were simply not on the subject that we went there to discuss.

"Operation Candor" was supposed to deal with the Watergate matter. Yet, during the entire evening, only one question was asked about Watergate and everyone there already knew the canned answer to it.

It appeared to be more than coincidence that the President failed to recognize a single Member that he did not know personally. He took no chances. We learned no more from this meeting than we could learn by reading the Washington Post or the Dallas Morning News.

Mr. Speaker, the purpose of this speech is to set the record straight for the benefit of my constituents and other Members of this House.

According to White House press releases, these congressional meetings with the President are supposed to be candid question and answer sessions along with discussion of national problems arising from Watergate. That simply was not the case in the meeting that I attended last night.

In fact, I feel that many of us were used. And, frankly, I resent this. A large numbers of Members in the group have voting records that have closely paralleled stands taken by the administration. The press has erroneously interpreted these votes as being "for" the President and further inferred that we were in his camp on the Watergate matters.

Let the record clearly reflect that I have never voted "for" or "against" the President except during the November general elections and I have always voted against him during those. Any vote that I cast in the House of Representatives is based strictly on the merit of the bill or issue with absolutely no consideration given to how the President might stand.

In coming to this office, I made certain pledges to my constituents. My votes on the floor of the House are based primarily on those pledges. If they happen to coincide with the President's stand on the same issue, this should—in no way—be construed to mean that I am in his camp or that I associate myself with his views in other matters.

Parenthetically, the fact that I would respond to an invitation by the President to attend a meeting at the White House, should, in no way, be interpreted to mean that I concur with the tenor and content of press releases that his office might subsequently issue.

During the meeting last night, I had no discussion with the President. Along with the vast majority of those attending, our questions were not answered because we did not have an opportunity to ask them.

Recognizing that limited time is available to the President and also recognizing that administration policy is formulated by others in conjunction with the President, I submitted a letter to him 2 weeks ago suggesting two topics that needed to be discussed during our meeting. This gave him the option of either discussing these matters during the meeting or to reply by letter. Neither was done.

During past speeches on this floor, I have taken a firm stand against making rash judgments in the Watergate matter before all the evidence had been heard. I have criticized those who would conduct a "trial by press" and convict a President without due process of law. I continue to hold those views.

However, this does not mean that I am defending the President nor does it mean that I agree with his statements on the Watergate matter. I am simply saying that my constituents want to know the real truth. The real truth can only be found through the slow but sure processes of our official investigative agencies such as the special prosecutor, the grand jury, the Justice Department, and our investigating congressional committees.

Therefore, Mr. Speaker, let it be clearly understood by all; I attended a session of "Operation Candor" and came away knowing no more about the Watergate matter than I knew when I arrived

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TEAMSTERS SUPPORT PETROLEUM CONSERVATION

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, during the congressional recess further hearings on certain aspects of the recommended legislation program for the conservation of gasoline and other petroleum products, H.R. 11031, were in abeyance. The president of the Brotherhood of Teamsters, Mr. Frank E. Fitzsimmons, wrote me of his concern over the proposed 50-mile per hour speed limit provision. I have no doubt that Mr. Fitzsimmons wrote other members of the Interstate and Foreign Commerce Committee in the same vein. For the information of Members of the House, I include his letter at this point in the RECORD:

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,
Washington, D.C., November 14, 1973.

The Honorable JOE SKUBITZ,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SKUBITZ: The International Brotherhood of Teamsters supports H.R. 11031, Congressman Staggers bill to establish a presidentially-administered program for the conservation and distribution of petroleum products. This is a farsighted and responsible approach to a problem which appears to be a virtual certainty, U.S. shortages of necessary petroleum supplies.

However, we are concerned with a particular provision of this bill, Section 202(c)(1), because it would require a reduction in maximum speed limits on all roads to 50 miles per hour or less.

This proposal would have adverse effects not only on our members, but on most citizens. In addition, we do not believe this would solve the basic purpose of the bill—to protect the public interest through the husbanding of petroleum products.

As to our members, the effect of such a proposal would be loss of wages. Teamsters who drive over the road are paid on a mileage basis. Under current contracts, this amounts to approximately 16 cents per mile. Given an existing speed limit of 60 miles per hour, an over the road driver can average approximately 500 miles, or 50 miles per hour, in a 10 hour tour of duty. As you know, the regulations of the Department of Transportation forbid an individual to operate a commercial vehicle in excess of 10 consecutive hours; and he may not drive again unless he has had at least 8 hours rest.

In sum, then, a driver's wages for a 10 hour run would be $80.00. If 50 mile per hour speed limits were imposed, a driver's average speed would, in all probability, be reduced to 40 miles per hour and his compensation for a 10 hour run would be $64.00, or 80% of his present wage. This, we believe, would constitute an unnecessary hardship and should be alleviated.

Moreover, the imposition of a 50 mile per hour speed limit would create a situation where more not less, fuel would be consumed by these vehicles. Presently, these trucks are geared to run at speeds of 60 miles per hour in their highest—and most efficient— gear. To operate at 50 miles per hour, a lower gear would have to be used and more fuel would be consumed.

At one time we were of the opinion that 50 mile limits could be imposed for automobiles and 60 mile limits for commercial vehicles.

However, after considering the issue, we believe this solution would prove unworkable. It would be very difficult to predict the adverse safety consequences of a situation where trucks would be allowed to travel at greater speeds than automobiles; nor do we believe the public would accept such a situation.

Therefore, in our opinion, the most realistic speed limit for all vehicles would be 60 miles per hour. To implement this, we would suggest that Section 202(c)(1) be amended as follows:

"Reduction in maximum speed limits to 60 miles per hour."

To reflect our position on this matter, we would ask that these views be made a part of the record in these proceedings.

Thank you very much for your consideration.

Sincerely,
FRANK E. FITZSIMMONS,
General President.

CONVENTION RESOLUTIONS—CONGRESSIONAL ANALYSIS

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentlewoman from Oregon (Mrs. GREEN) is recognized for 60 minutes.

Mrs. GREEN of Oregon. Mr. Speaker, in 1960, an Air Force manual was printed which included a vicious attack on great Protestant religious bodies and spiritual leaders within the Protestant clergy. In that Government-printed document, false charges were made; inflammatory pamphlets were quoted highly critical of the National Council of Churches. The material was accepted without accused persons and organizations being given an opportunity to respond to the charges leveled against them. The material was used to indoctrinate Air Force personnel. At that time, I spent many days trying to track down the origin of such slanderous material. On April 19, 1960, I took an hour's special order on the floor of the House to defend the National Council of Churches and several highly respected Protestant clergymen who had literally been accused of "high crimes and misdemeanors" in this Government document.

On the floor that day—CONGRESSIONAL RECORD, April 19, 1960, beginning on page 7669—I said:

> One of the great fundamentals of our free society is freedom of religion—freedom of the Nation's Churches to teach and preach as the obligations of conscience may direct them. Religious freedom, the first freedom safeguarded by the Bill of Rights, is in many ways the keystone of the arch of freedom. If religious freedom is to mean anything, it must mean the right of churches to settle their doctrinal differences without either bringing in the state as an arbiter or having the state or any agency of the state intrude itself as a judge. This is as true of questions of the degree to which the church may comment on social questions as it is of any other question of a doctrinal nature.

My views have not changed. Never would I want this country to come to the place where any clergyman would hesitate because his next sentence might offend any government official. If the time ever comes when any Clergyman or any church pauses to listen for any government official behind him, then freedom of religion may already be compromised.

One clergyman wrote:

> If you have the opportunity to record our protest publicly in the Chambers, or at hearings held in regard to the Air Force Manual, we would be grateful to you. Our churches cannot longer remain silent while such vicious and unscrupulous attacks are being made against them, bringing about divisions among the churches the Communists most desire to see.

Another clergyman wrote:

> This letter is written as a protest to the way that the National Council of Churches has been treated, not only by the manual, but by the manifest indifference of our Government to the facts in the case. . . .

Another clergyman wrote:

> I, myself, would dismiss it as of minor importance if I had not been so unhappily surprised to find many people who believe that the allegations are true. . . .

Mr. Speaker, I refer to this 1960 speech on the floor that day, because now I am chagrined to find that one of our great church denominations has made what I am sure the large majority of my colleagues will agree is an unfair and unjustified attack upon the Congress and the integrity of its Members. I cannot remain silent as a Member of this House when the general assembly of my denomination passes a resolution with such great distortion of the truth and which will probably be distributed more widely than the Air Force manual ever was. I decided to speak in the House for exactly the same reasons stated in the three letters previously quoted from clergymen in 1960—only the situation is reversed. This resolution first introduced by a single congregation, but endorsed by the general board, categorically states:

> Whereas the National Budget establishes the priorities of the nation as seen by the Congress and the Administration, and
>
> Whereas this budget assigns first priority to systems of death by allocating enormous resources for this purpose, and
>
> Whereas this same budget assigns a lower priority to life giving programs by allocating fewer funds for such things as medical research, health care, education, adequate nutrition, reclamation of polluted water and air, transportation, and recreational facilities for our citizens. . . .
>
> Therefore be it resolved that this General Assembly of the Christian Church (Disciples of Christ) meeting at Cincinnati October 26–31, 1973, declare that we want our government to give first priority to life-giving programs and develop and fund such programs instead of giving first priority to military programs and the development of systems of death and destruction, and
>
> Be it further resolved that a copy of this Resolution be mailed to the President and each Congressman and Senator.

There were some 60 or 70 resolutions passed. This was one of the most inaccurate. Of the 60 or 70, about 10 were directed to the Congress and/or the administration. Obviously, Mr. Speaker, I shall limit my comments today to only those resolutions directed to you, as Speaker, or to me or to my colleagues in this Congress. I would not be discussing any of these if—

First, the assembly itself had not directed that various ones be sent to the Congress or be sent to the appropriate committees and/or

Second, the assembly had not urged members of congregations to write letters to Members of Congress supporting views expressed in the resolutions or

Third, if the assembly had not—in the case of capital punishment resolution only—called "upon congregations and members of the Christian Church—Disciples of Christ—to support those State legislators and Members of Congress who oppose capital punishment."

For awhile, I thought resolution No. 34—quoted above—concerning our national priorities should not be given the dignity of an answer because it is so patently false; frankly I could not believe any general assembly of my church or any church group would approve a resolution making such a broadside attack upon the integrity—of all Members of Congress without at least checking the facts. No one, serving in the political arena, can be unaware of the effects of Watergate, of the erosion of confidence in Government. All "politicians"—and I wear that badge proudly—will suffer because of the events of the last 12 months. Whether the current disdain for public officeholders, the disillusionment, the cynicism will help recruit the kind of people to public service that are really committed to the "public interest" or whether it will drive them away—only history can accurately record.

But now that this resolution No. 34 on National practices is an official position of the general assembly—with some 5,000 voting delegates, though less than half were there to vote—and now that each of you is to receive a copy and in addition, copies, I presume, will be circulated to all the Christian churches—Disciples—across the land and will serve as the basis for congregation letters which will later be received in each of our offices, I decided this and other resolutions should be examined.

Paraphrasing a letter from a clergyman previously quoted—1960—I cannot remain silent while such unscrupulous attacks are being made against the Congress bringing about further divisions among the American people.

Earlier this year a constituent had read an article with very slanted, biased statements about a controversy between the environmentalists and some scientists. The statements obviously were very exaggerated and he wrote to me: "that they should be equally concerned with the pollution of national issues which unjustly contaminate the American public toward their government and the motives of the administrators." It seems to me that letter has relevance in regard to this resolution on national priorities. A total of 4 minutes, yes, 4 minutes, of debate was given to the opponents of said resolution. I shall quote letters and telegrams later from members of the general board in response to some 30 telegrams I sent requesting the information that persuaded them to reach the conclusion to endorse such a resolution.

One young man even addressed the moderator and said he had studied the Federal budget for 6 weeks and would like to present some facts. He was ruled out of order by the Chair.

A former well known clergyman here in the District said, "The world is too dangerous for anything but the truth and too small for anything but human brotherhood." I suppose if it were not for the great national crisis in which we find ourselves, the terrible political turbulence of this year I would have relaxed and found comfort in much of the prevailing attitude: "Who cares? Who ever reads the resolutions?" I would be less concerned, but any democracy is dependent on the quality of public opinion and "every violation of truth is a stab at the health of society."

Every Member of this House knows the approximate amount of the estimated Federal budget and in the various areas. There is little question but what original published budget estimates will be changed. Earlier this year in the anti-impoundment bill, the House set a ceiling of $267.1 billion and I, for one, hope we stay within it.

Just this week we approved, in the Appropriations Committee a defense appropriations bill of $74.5 billion. Earlier, there was a military construction bill of less than $3 billion. Sixty percent of the $74.5 billion will be for salaries and wages of military personnel and civilian personnel working for the military and related personnel and retirement costs. For the record, let me list the estimated budget items for fiscal year 1974, as supplied to the Congress by the administration earlier this year for budget authority. This is $288 billion. However, the administration's "cash flow" budget is $268.7 billion and that is the one most commonly used.

Budget authority by function and agency

[In billions of dollars]

	1974 estimate
Budget authority by function:	
National defense [1]	87.3
International affairs and finance	4.5
Space research and technology	3.0
Agriculture and rural development	6.7
Natural resources and environment	1.3
Commerce and transportation	12.7
Community development and housing	3.9
Education and manpower	9.9
Health	26.4
Income security	90.8
Veterans benefits and services	12.3
Interest	24.7
General government	5.8
General Revenue Sharing	6.1
Allowances	2.0
Undistributed intragovernmental transactions	—9.1
Total budget authority	288.0
Budget authority by agency:	
Legislative and judicial branches	.8
Executive Office of the President	.1
Funds appropriated to the President	5.1
Agriculture	10.4
Commerce	1.2
Defense—Military [1]	83.5
Defense—Civil	1.5
Health, Education, and Welfare	101.9
Housing and Urban Development	3.7
Interior	—.4
Justice	1.8
Labor	9.0
State	.6
Transportation	9.0
Treasury	32.6
Civil Service Commission	8.5
National Aeronautics and Space Administration	3.0
Veterans' Administration	12.2
Other agencies	10.5
Allowances	2.0
Undistributed intragovernmental transactions	—9.1
Total budget authority	288.0

As I said, the House has set a budget of $267.1 billion. In 1967 the first steps were taken to include social security in the unified budget. Since 1969, social security, collected from taxes and paid to Internal Revenue Service has been a part of that unified budget—and each year has been included in the total budget requests.

When the resolution stated Congress "assigns first priority to systems of death"—it is hard to know how "they" define "systems of death". However, if, by their definition, they mean every tank, plane, and ship and the some $8 billion on R. & D.—included in the $28.5 billion—then the most that this Congress gives to it is less than $29 billion out of a minimum fiscal year 1974 budget of $267.1 billion or whatever figure is finally determined. That is hardly first priority.

I do not have fiscal year 1974 comparisons, but according to "The Economics of Defense Spending, a Look at the Realities," national defense spending for fiscal year 1973 in dollars of constant buying power will be at the lowest level since fiscal year 1951. Manpower—military, civil service, and industry—will be at the lowest levels since 1950.

Defense in fiscal year 1973 will account for about 20 percent of all public spending, Federal, State, and local, and defense manpower—military and civil service—will be about 21 percent of all public employment—the lowest shares since well before Pearl Harbor. The defense shares of GNP, the U.S. labor force, and of the Federal budget are the lowest since fiscal year 1950.

In the defense budget, besides salaries and wages, are billions for education and manpower training, water and pollution abatement, medical services for military personnel and their dependents, housing, and subsistence.

Some believe—and I personally agree—that military supplies currently going to the Mideast and other places are for the purpose of saving lives—not producing death. I believe the vast majority of Americans would believe, at a minimum, that some of the $29 billion spent for defense hardware—ships, planes, tanks—is to prevent war and thus to save lives—not to produce death. And, in addition, at least from some of these funds, there is a spinoff in medical advancement. Personnel costs have risen sharply because of the congressional decision to move to a volunteer army. Wages and salaries have been and are being increased. Let me repeat—while now they are 56 percent—with pay raises already approved, they become 60 percent of the defense budget.

The defense of our country is, of course, entirely a matter of Federal responsibility. No State or local taxes are spent for it. This is not true of all the other categories mentioned in the resolution. Congress and the administration have supported many programs with matching funds with the sole purpose of giving very high priority to these legislative items to try to encourage States and local governments to also give them high priority. For example, on education alone, this fiscal year this country will be spending about $84 billion in Federal, State, and local funds. The Federal, State, and local expenditures for social welfare will exceed $86 billion.

Now the question arises how could the general board and assembly pass a resolution containing such a misstatement of fact to be distributed to churches throughout the land. I sent telegrams to about 30 members of the general board which recommended that the assembly approve the resolution. In the telegram, I asked:

> On Resolution No. 34 (National priorities) was there any debate by the General Board prior to the vote recommending approval? If so, please advise facts, figures and information discussed at the General Board which persuaded the Board to recommend approval to the General Assembly.

These telegrams went to four of the "officers" of the assembly, to three general board members whom I had previously known and the remainder picked at random to get broad geographical representation.

Of the telegrams sent, I received replies from four who said they did not attend the board meetings, one phone call expressing disgust with the resolutions, and 18 answers in some detail.

Not one individual responding cited any information, any information at all—any fact—any figure, which was presented at the section meeting or the general board meeting during the debate on the resolution. The following reflect most of the responses:

> Was no debate on Resolution No. 34 before it was passed by the Board.
>
> I do not recall the General Board debate on No. 34. According to my notes, it came from the section meeting with the changes already recommended and we approved it, apparently, after little or no discussion. There was certainly no discussion of the substantive material regarding facts and figures of national budgets.
>
> There was debate on Resolution No. 34 by the Board. The debate was generally along the lines of the resolution rather than the intent. Once the "military" language was softened, the resolution was passed by the Board with approval recommended to the General Assembly.
>
> On Number 34 don't remember details except some objections same as you voiced in Cincinnati.
>
> Believe there was debate on No. 34 but sorry do not recall specific points made. . . . The inference in No. 34 that the National Budget assigns first priority to "systems of death" is inaccurate and irresponsible. . . .
>
> Resolution No. 34. National Priorities do not recall extent of discussion by General Board.
>
> Resolution No. 34 was not debated but discussed briefly during the Plenary (Board) Session. However, ample time was devoted to it during the section consideration—of which I was a member . . . . In its original form it clearly stated unequivocally that the only purpose of the government was death—or systems of death. In our section we felt that much of the government spending—even within the military—did not deal only with death—therefore we attempted to maintain the intent of the original resolution and still state it more accurately.
>
> Concerning Resolution No. 34, most of the debate on this at the board meeting in St. Louis was in my section that altered the language of the original (toned it down a lot)."

The president of the board responded:

> No. 34. Concerning our National Priorities . . . These are the amendments made by the General Board. This resolution did not have as extensive debate at the General Board as the one on amnesty, but the amendments indicate the care with which it was handled."

The newly elected moderator for the next 2 years responded:

> Since Resolution No. 34 was not considered by my section, I cannot be quite as clear as to the amount of time devoted to it. I do know that it was subject to the same procedures to which all the resolutions considered by my own section were subject. You do know, of course, that it was amended substantially by the General Board.

Following is the complete text of Resolution No. 34 with all the "substantial" changes referred to in the last two replies quoted. The italic indicate deletions from the original text, recommended by the general board. Quoted type indicates additions to the original text, recommended by the general board. In order to read it as approved by the general board and the general assembly, read regular and quoted type:

NO. 34—CONCERNING OUR NATIONAL PRIORITIES

> Whereas the National Budget establishes the priorities of the nation as seen by the Congress and the Administration, and
>
> Whereas this budget assigns first priority to systems of death by allocating enormous resources to the military "for this purpose" and
>
> Whereas this same budget assigns a *very low* "lower" priority to life-giving programs by allocating *very meager* "fewer" funds for such things as medical research, health care, education, adequate nutrition, reclamation of polluted water and air, transportation, and recreational facilities for our citizens, and
>
> Whereas *much* "some" of these funds for life-giving programs *are* "have been" impounded by the Administration in a clear disregard for the wishes of Congress, and
>
> Whereas the huge sums of money allocated to the military divert the creative energies of the engineering and technical genius into designing systems of death and destruction, and
>
> Whereas these distorted priorities *help establish* "contribute" to a climate conducive to increasing violence, *and* crime, "human suffering," and
>
> Whereas Jesus proclaimed that He came that we might have life *instead of death* "and have it more abundantly" and the Church is responsible to carry that message into all avenues of life, now
>
> Therefore be it resolved that this General Assembly of the Christian Church (Disciples of Christ) meeting at Cincinnati October 26–31, 1973, declare that we want our government to give first priority to life-giving programs and develop and fund such programs instead of giving first priority to military programs and the development of systems of death and destruction, and
>
> Be it further resolved that a copy of this Resolution be mailed to the President and each Congressman and Senator.

I am at a loss to understand the "substantial changes" made by the general board.

Another letter from a board member I found most interesting—if not enlightening:

> Resolution No. 34—My section was not assigned this resolution for indepth study, so I am not in any position to give the facts and figures used. The question I would pose regarding this issue is this—do we have to be persuaded by anything but stark reality in regard to the cutbacks being suffered in our own local communities which seemingly are the result of the way our national priorities are being ordered?

I have no way of knowing how much her state and her city are doing or what she personally is doing—but the stark reality is that for community programs the Federal budget figures for 1965, 1970, and 1974 are as follows:

[In billions]

	1965	1970	1974
Human resources	35.4	72.7	125.5
Education and manpower	2.3	7.3	10.1
Health	1.7	13.0	21.7
Income security	25.7	43.8	82.0
Veterans benefits	5.7	8.7	11.7
Physical resources	14.5	21.0	25.7

With such sharp increases in community programs, I am at a loss to understand how she was persuaded to support the resolution because of "sharp cutbacks."

In regard to housing, the chairman of the Appropriations Subcommittee on Housing wrote to me on October 17, 1973, and quoted from this year's hearings:

> The cost tables we have developed and supplied to the Committee show that, even without the addition of any more subsidized units beyond those already reflected in the budget through F.Y. 1974, we will have already obligated the Government and the taxpayers to a long-term cost of between $65 and $85 billion. (Secretary Lynn)

Let me quote from a press release of just a few days ago:

> WASHINGTON.—Despite congressional vows to stay within President Nixon's original $268.7-billion budget total, it now appears the legislators may exceed that target by $5 billion by the time the session ends . . .
>
> However, the strong possibility of a final $273.7-billion spending figure for the fiscal year that ends next June is vouched for by one of the most highly placed congressional budget authorities.
>
> He is Rep. George H. Mahon, D–Tex., veteran chairman of the House Appropriations Committee . . .
>
> The biggest increases over the budget so far have been in a liberalized food stamp program for the poor, the repeal of the "bread tax" in the farm bill, a federal employee pay raise, job-training programs, additional spending for school lunches, improvements in the Medicaid program for the poor and extra unemployment benefits.

Increases still under consideration include a Social Security increase, mass transit operating subsidies, boosts in spending for federal employe health insurance, and increased veterans pensions and other benefits.

Mr. Speaker, I have taken this time to try to give a case study of one action taken—one resolution passed by a group which obviously is lobbying for a particular position. We have laws for registration of lobbyists and the amount spent to promote a particular viewpoint. We do this so that when Mr. John Smith comes into an office, a Member will know whether Mr. Smith is speaking for himself or for the oil companies or the railroads or a particular labor union and therefore have a better idea of the weight that should be attached to his views.

Mr. Speaker, I am not at all sure that it would not be in the public interest and equally important at anytime when we receive a hundred letters or a thousand which have been prompted by a resolution passed by any one of a hundred private organizations, church-related or otherwise, to know how the resolution originated, how much consideration was really given to it and how many people out of the total membership of that organization ever really saw it or voted on it. In this way—as with the registered lobbyist—we would then have a better idea of the consideration we should give to the resolution in the first place and to any letters which may follow.

I would defend the right of any organization—whether it be Common Cause or the League of Women Voters—or any church organization or the Congress of Parents and Teachers or an education association or any other group to pass any resolution they want to and to send any number of resolutions or petitions or memorials to Congress.

But Members of Congress would be in a position to make more valid judgments if they knew the way the resolutions were passed and if claims were exaggerated on how many people, in fact, they represent. Lobbyists serve a very important purpose in any legislative body, but if a lobbyist once misleads or gives false information his credentials are ruined and he no longer can provide a useful service for his organization. The most highly respected and most influential never misrepresent. If information is requested the most highly respected lobbyist will secure the accurate information—even if it may not be in his own organization's best interest. He knows there is another day and his greatest asset is in his word, in the respect in which he is held by those who must vote on legislation which may affect his industry, his business or his organization, but which also will affect all Americans.

Let me give another case study.

This also was first brought to my attention when I was a voting delegate to this assembly—convention—in October. Another voting delegate from Maryland handed me a paper including resolutions adopted by the board of the Bethany Christian Church at Camp Springs, Md. Later I discussed this at some length with my friend and colleague Congressman BENNETT of Florida. It arose because of testimony given before the Armed Services Committee. The exchange of letters and the action of the board at Bethany Christian Church speak for themselves and reinforce the first case study on resolutions passed not with opportunity for full debate as claimed in the letter of July 13, but with a limitation of 8 minutes of debate on highly controversial matters.

The letters follow:

JUNE 8, 1973.

DISCIPLES OF CHRIST CHRISTIAN CHURCH,
Indianapolis, Ind.

GENTLEMEN: I enclose herein a statement by Dr. Herbert Scoville when he appeared before the House Armed Services Committee on behalf of the Disciples of Christ Christian Church. As a member of this denomination I was extremely surprised that a lobbyist would appear before a committee of Congress purporting to speak for the Disciples of Christ on such highly technical matters having nothing to do with the major thrust of the brotherhood. I would appreciate your explaining to me in a letter how the Disciples of Christ Church is now structured. It was always my understanding that our church was a congregational church and that even in matters of theology there was a great deal of local authority retained. And that the National Church as a brotherhood would not go on record about matters far afield from the central thrust of the church. Particularly, I was surprised that the Disciples of Christ Church as a brotherhood is now on record in Congress on very highly technical pieces of legislation concerning which I would have serious doubts that adequate study and time was given in the denomination to make a determination, assuming that the expert knowledge involved in these technical matters would have been available. I am an Elder in my church and my father was an Elder before me and my grandfather as well. It is therefore, very distressing to me to see a thrust away from spiritual matters and into technical legislative matters upon which I cannot see how the church has the competence, the time nor the experience to express such categorical positions. Please outline for me how the church goes about taking positions on such matters. If the church is going to continue to take legislative stands perhaps there is a need for people who have an opposite point of view within the brotherhood to express their opportunity to be heard before decisions are reached by the Disciples of Christ brotherhood? I have never had anyone ask me to express an opinion on any of these matters at any board meeting or church meeting which I have attended.

With kindest personal regards, I am,
Sincerely,

CHARLES E. BENNETT.

JUNE 13, 1973.

Mr. CHARLES E. BENNETT,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. BENNETT: I am writing in response to your letter which was addressed to the Disciples of Christ Christian Church under the date of June 8th.

I am surprised by your statement that Dr Herbert Scoville appeared before the House Armed Services Committee on behalf of the Disciples of Christ Christian Church. I have no knowledge of his appearance. As a matter of fact, I do not know Dr. Scoville. I am certain of the fact that he has no authorization from the General Office or the General Assembly of the Christian Church (Disciples of Christ) to testify.

I am puzzled by the fact that the testimony you included clearly states that Mr. Scoville is chairman of the Strategic Weapons Panel, Federation of American Scientists. Nowhere in his testimony can I find any reference to the Christian Church (Disciples of Christ). This must have been related to statements not contained in the text of his testimony. I hope you will share with me the relevant portions of the transcript where he claimed to represent our church.

You requested an explanation of the way in which the Disciples of Christ church is now structured. I enclose a copy of the Provisional Design which clearly outlines the basis of the current structure and relationships within the Christian Church. You will note that each of the three levels of the church's life—congregational, regional and national—share certain rights and responsibilities.

You will also note that the General Assembly, which is a representative body of the general manifestation of the church, may speak on issues which arise out of the concerns of congregations and regional bodies of the church. The General Assembly does not have power to speak for regions, local congregations or individual members. It speaks only for itself. There is opportunity for full debate within the Assembly. This is also true for local congregations and regional assemblies.

The church is indeed a spiritual institution and endeavors to speak on contemporary issues in terms of moral and spiritual principles. I quite agree that the testimony which Mr. Scoville gave is highly technical. The church does not deal with the technical aspects, especially where the great issues of war and peace are involved.

I will be pleased to have any further questions you may care to raise. I do need to know more about the nature of Mr. Scoville's testimoney before I can deal with this specific matter.

With best wishes, I remain,
Cordially,

A. DALE FIERS,
General Minister and President.

JUNE 22, 1973.

HOUSE ARMED SERVICE COMMITTEE,
Rayburn House Office Building,
Washington, D.C.

"GENTLEMEN: I enclose herein a copy of a letter I wrote on June 8 and a copy of the reply of June 13. I was under the impression that the Dr. Scoville purported to be speaking for the Disciples of Christ Church. I would appreciate your looking into the transcript on this matter and see what in fact he said on this if he said anything.

With kindest personal regards, I am,
Sincerely,

CHARLES E. BENNETT.

JULY 3, 1973.

Hon. CHARLES E. BENNETT,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. BENNETT: This is in response to your recent letter concerning the testimony of Mr. Herbert Scoville, Jr., before the Armed Services Committee on June 5 during the consideration of the military procurement authorization legislation.

Mr. Scoville said that the Coalition on National Priorities and Military Policy represented 12 organizations and that the organizations approved the presentation he and Lt. Col. Edward L. Eing, USA (Ret.), were making. Among the organizations he listed was "Christian Church (Disciples of Christ)." At one point in the hearing a member of the committee questioned the basis for the Coalition, noting substantial differences in the philosophies of the various organizations represented. Mr. Scoville said: "We have varied philosophies in this group. On the other hand, I think all of the organizations mentioned agree with the points of view that we mentioned today."

The above quotation from Mr. Scoville's

testimony appears on page 1607 of the hearing transcript.

I trust this is helpful to you.

Sincerely,

F. EDW. HÉBERT,
Chairman, Armed Services Committee.

JULY 23, 1973.

HON. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, U.S. House of Representatives, Washington, D.C.

SIR: It has come to our attention that a group calling itself "The Coalition on National Priorities and Military Policy" wrote to you sometime earlier this year (probably in May or June) requesting a halt in development of new strategic weapons systems and a reduction of U.S. military manpower levels. One reported quote from the letter states that U.S. armed forces "have excessive nuclear destructive power . . . over-extended commitments around the world, a top-heavy command structure, and a wasteful and inflationary procurement system."

The Christian Church (Disciples of Christ) was listed as one of the eleven organizations making up the "coalition" and supporting the above position on U.S. military policy.

The official board of this congregation has requested that I investigate the origin of the letter described above, and the means by which our denomination came to be listed as a member of the "coalition." Apparently these actions were taken without sanction of the national convention nor a poll of the local congregations.

If you would be so kind, please forward one copy of the letter, and of any other correspondence you may have received in the name of the Christian Church (Disciples of Christ), either as a member of the "coalition" or independently.

If you wish, I will be happy to forward a copy of my report to the board.

Respectfully,

BEN H. SWETT,
Chairman, Christian Action Department, Bethany Christian Church (Disciples of Christ).

SEPTEMBER 5, 1973.

Mr. BEN H. SWETT,
Chairman, Christian Action Department, Bethany Christian Church, Washington, D.C.

DEAR MR. SWETT: This is to acknowledge your letter as chairman of the Christian Action Department of Bethany Christian Church and the requests you have made relative to the relationship of the Christian Church (Disciples of Christ) to the Coalition on National Priorities and Military Policy and the testimony of Messrs. Scoville and King before the House Committee on Military Services.

This question came to my attention for the first time last June in correspondence with Congressman Bennett who raised questions very similar to those in your communication. He also sent me the text of the testimony.

At that time I wrote Mr. BENNETT and among other things said the following:

"I am surprised by your statement that Dr. Herbert Scoville appeared before the House Armed Services Committee on behalf of the Disciples of Christ Christian Church. I have no knowledge of his appearance. As a matter of fact, I do not know Dr. Scoville. I am certain of the fact that he has no authorization for the General Office or the General Assembly of the Christian Church (Disciples of Christ) to testify.

"I am puzzled by the fact that the testimony you included clearly states that Mr. Scoville is chairman of the Strategic Weapons Panel, Federation of American Scientists. Nowhere in his testimony can I find any reference to the Christian Church (Disciples of Christ). This must have been related to statements not contained in the text of his testimony. I hope you will share with me the relevant portions of the transcript where he claimed to represent our church."

Subsequently Mr. Bennett wrote and gave me this added information:

"Mr. Scoville said that the Coalition on National Priorities and Military Policy represented 12 organizations and that the organizations approved the presentation he and Lt. Col. Edward L. King, USA (Ret.) were making. Among the organizations he listed was "Christian Church (Disciples of Christ)."

"At one point in the hearing a member of the committee questioned the basis for the Coalition, noting substantial differences in the philosophies of the various organizations represented. Mr. Scoville said: 'We have varied philosophies in the group. On the other hand, I think all of the organizations mentioned agree with the points of view we have mentioned today.'

"The above quotation from Mr. Scoville's testimony appears on page 1607 of the hearing transcript."

Even though Congressman Bennett did not ask for any further action, I proceeded to check on this matter with the Department of Church in Society of the Division of Homeland Ministries of our church and received a reply from Mr. Robert Fangmeier, Director of International Relations which included the following statement that bears directly upon your questions:

"The Department of Church in Society is a member of the Coalition on National Priorities and Military Policy. We participated in the formation of this coalition and contribute approximately $500 per year to it. The purpose of the coalition is to give a sense of responsibility to the statements of churches and other organizations when they speak on such issues as arms control and disarmament. Through the coalition we have been able to obtain specialists who can provide a sensible and rational basis for controlling and hopefully reducing military expenditures.

"Mr. Scoville is one of a number of knowledgeable people who have testified for the coalition in the above spirit. Of course, no statement that prefers Trident I over Trident II can speak for all Disciples. The sentiments expressed, however, are well within the guidelines of Assembly Resolutions on the subject of arms control and disarmament. Further, in cases of this type, it should be clear that it is the department only that is speaking. As you will see from the manner in which we are listed on the Coalition's letterhead, this is the case. Possible the "department" thrust was left out in indicating to the Committee who was supporting his statement. This happens from time to time and even with our best efforts, it is difficult to avoid.

"The nature of coalitions and the technical nature of the testimony is, I assume, at the heart of this matter. It has been the view of the department as long as I have been with it, and surely before that, for Disciples to join with other church and secular groups in order to maximize our effectiveness in achieving certain social goals. We do this in relation to social welfare, civil rights, and a wide variety of other subjects. In these instances the particular Disciple agency which is part of the coalition is simply identified with all the rest when one major expert witness makes a presentation. We could ask for separate time to testify on these issues, but it is the committees themselves that encourage coalition-type presentations. They actively discourage statements from twelve separate groups. Furthermore, the coalition approach is, in my judgment, a substantial contribution to the national dialogue on this subject. We are able to deal with the often-heard complaint "that the experts" say this or that. In a pluralistic society such as ours, there is more than one team of experts. It is in the best interest of national policy to have a variety of experts present their views. No House or Senate Committee should be the captive of an incumbent administration, of whatever party. If Mr. Scoville proves wrong in a pragmatic test on one point or another, he still comes to the House Armed Services Committee with credentials that cannot be totally ignored."

I trust this reply will be helpful to you and your committee in your study for the General board.

I regret that the basis of participation was not made clear in the testimony and the news articles (which I have not seen).

When the Christian Church (Disciples of Christ) speaks on issues through the General Assembly and the General Board, my office is of course directly involved. We have long followed the practice of the various divisions and departments being free to speak on issues when that voice is consistent with the actions of the General Assembly. Here the General Office is not necessarily directly involved unless issues are raised as in this case.

I am glad for this opportunity to set the whole matter in proper perspective.

Cordially,

A. DALE FIERS,
General Minister and President.

In regard to this lobby effort, the following paper represents the views of the official board, Bethany Christian Church, Camp Springs, Md., September 16, 1973, "Principles:"

The real issue in this matter is not the technical content of the presentation given by Dr. Scoville and Col. King. It is not even the question of national priorities and military policy, as such. It is the principle of democratic representation, both within the brotherhood and before the United States Congress.

First, a department consisting of 10 people has been allowed to speak for an entire denomination of 1.35 million members without consulting them in any way. Since they did not consult us, they do not know our views on national priorities and military policy. And therefore, both their statements and those made by Dr. Scoville and Col. King on our behalf are misrepresentations, pure and simple.

Second: Neither our delegates to the National Assembly nor any members of the General Office have been elected or instructed to represent us on matters of national policy. Simply because they may choose to call such matters "moral issues" does not confer representative authority upon the delegates to a religious convention or the members of a religious bureaucracy. When they assume such authority, they misrepresent the office to which they were elected.

Third: The principle of separation of church and state cuts both ways. It is designed to prevent the state from establishing a mandatory religion—and, hopefully, from establishing atheism as a national creed. And the same principle prevents religious organizations from assuming political power. Jesus did not establish, and our Constitution does not allow, a theocracy. Therefore, those who advocate using the Christian Church as a political pressure group violate both the purpose of the church and the state.

Fourth: No organization that functions as a political pressure group is entitled to claim tax-exempt status. And any charitable organization that becomes a political pressure group is liable to the loss of its tax-exempt status. Legally, therefore, the General Office should either pay taxes or stop pressuring the national authorities.

Fifth: Pressure groups claiming to speak for large segments of the population exert considerable influence on our elected political representatives. Since these groups wish to show widespread backing for their views, they have a natural motive to misrepresent those for whom they claim to speak. And since those misrepresented have little if any legal recourse, the lobbyists have an open invitation to say whatever they please. The continued proliferation of these groups can jeopardize our Constitutional guarantees.

In this regard, it must be needed that Congressman Bennett did not accept the testimony of lobbyists at face value. His action in checking the statement that our brotherhood endorsed the views of Dr. Scoville and Col. King is an example of democratic representation.

RECOMMENDATIONS

Recommend that copies of this report be made available to the members of this congregation, to the General Office, and to the Editor of The Christian magazine. (One copy has been requested by the Honorable F. Edward Hébert, Chairman of the House Armed Services Committee. Another will be sent to Congressman Bennett.)

Recommend the board review actions taken at the National Assembly of the brotherhood in October, as these pertain to the principle of democratic representation, and, if such violations continue, take council as to what actions may be necessary to preserve our religious and political rights."

Respectfully submitted:

BEN H. SWETT,
Chairman, Christian Action Department

NOTE.—The above recommendations were passed by the Bethany Christian Church at Camp Springs, Md., at its meeting of September 16, 1973.

Mr. Speaker, this investigation by the Camp Springs, Md., church points up another reason why I, as a voting delegate, am concerned about resolutions passed. As soon as a resolution is passed—and sometimes before—it gives paid staff the authority to send out propaganda, to use denomination funds, to travel, to appear before State and national legislative bodies to lobby for particular bills which are within the general policy framework as they may interpret that framework. Whether the majority would agree on that interpretation or whether the majority of members know their church contributions are spent in this manner, is a matter of question.

Mr. Speaker, other resolutions adopted and copies of which may be sent to all of us in the House cover such a wide range of subjects for Federal legislation as strip mining, general amnesty, shield law for newsmen, economic justice, including ideas of guaranteed annual income and revenue sharing, farmworkers, jurisdictional dispute between AFL–CIO and Chavez and the teamsters, capital punishment, trade with Cuba, Watergate and national leadership crisis, treatment of refugees in Chile, and the Middle East crisis. With the exception of the amnesty resolution, each of the others had a limitation of 8 minutes debate—4 in favor, and 4 in opposition.

Leaders at the national headquarters state that each of them had careful consideration by the board and by a smaller section of the board first. There is obviously a difference of opinion among board members who responded to my questions. I will quote more of these later.

The last three resolutions referred to above—Watergate, treatment of refugees in Chile, and the Middle East crisis—were emergency resolutions introduced at the convention and went only to the "committee on reference and counsel" in Cincinnati. I am told these received full consideration by this committee.

The second vice moderator writes:

> There was a full exchange in the debate under the rules on all these resolutions. . . . received full debate under the eight minute rule and was approved by an overwhelming vote.

I have written to our Secretary of State, the Honorable Henry Kissinger, advising him that when he receives copies of the resolutions he should bear in mind that over half of all the voting delegates had long since left for their homes and that a total of only 8 minutes discussion was given to each resolution. He can then make a better judgment as to the weight the State Department and this administration should give to the views expressed.

While certainly there are legitimate differences of opinion on each of the resolutions mentioned above, I really wonder if any thought was given—when passing the resolution on Chile—to our first involvement in Vietnam in the early 1950's. I am sure that one factor in the first policy decisions that were made came from a compassionate concern for the refugees who were trying to escape from what they consider as oppression and tyranny in North Vietnam.

There are certainly those who believe that Allende was leading his country down the path to a totalitarian government. I heard no discussion in the 8 minutes on these matters—and could only think of: First, our tragic involvement in Vietnam, how did it begin; and second, the words of John F. Kennedy:

> We must face the fact that the United States is neither omnipotent nor omniscient, that we are only 6% of the world's population and that we cannot right every wrong or reverse each adversity, and that therefore there cannot be an American solution to every world problem.

As I see it, it is our moralistic attitude which has led us as a nation into many of our international difficulties. We are not all powerful and all-knowing; we cannot make the world in our image, even if we believed we were the perfect ones—having all wisdom and all knowledge. The citizens of other nations must have the will and energy to effect change if they believe change is desirable before any assistance on our part can avail.

As I say this, I also recall listening one evening—at the denomination's general assembly—to a representative of the World Council of Churches who talked about "rich nations—poor nations." Hunger, malnutrition, disease, poverty in all parts of the world are of deep concern to all Americans and obviously it has been an item of high priority of the U.S. Government through several administrations. But as I listened that night to the criticism and how much the affluent nations ought to be doing, I thought a more balanced picture might have been presented if there had once been any mention of the fact that since 1946 the American people, through their Government, have given $159 billion plus $94 billion interest on that since 1946 to other countries of the world—only 20 percent of that in loans and the remaining 80 percent in grants. Of this, I am advised by the chairman of the Appropriations Committee, handling foreign assistance that $159 billion—not including $94 billion interest on it—about 38 percent has gone to military assistance—the remainder in food, medicine, economic and technical assistance.

This also indicates the priorities of this Government—the compassion, the concern of the American people—and not just the concern expressed by this very vocal generation—but the continuous concern of previous generations also. I personally am committed to the belief that the greatness of the United States does not rest in our ability to do research for more and more destructive weapons—to manufacture military armaments, but the greatness of the United States is in its ability to export teachers, doctors, technicians, agricultural experts who are extending a hand to help—not weapons to destroy. The export of technical know-how could be a power more potent and majestic in a hungry world than all the nuclear H-bombs ever manufactured.

My denomination—as well as other denominations—has passed resolutions in regard to our involvement in Vietnam, in regard to an end of the "cold war" and relaxation of tensions with China and Russia.

I would have felt a little bit better, if, along with resolutions on trade with Cuba, Chile and the oppressed, the Mideast, Watergate, if there had been one resolution commending our beleaguered President—whom I personally did not support in 1960 nor in 1968 nor in 1972—commending him and the Secretary of State for an end to our Vietnam involvement, for bringing our POW's home, for opening the doors to China, for a relaxation of tensions with Russia, for their efforts in bringing about peace—no matter how fragile that peace may prove to be in the months ahead. As I say, for one delegate's opinion, I would like to have seen it. A member of the general board wrote:

> Our resolutions are to be 'so phrased as not to bring into question the Christian commitment of those who do not agree'. It would help if those resolutions which are submitted by such divisions as Homeland Ministries would refrain from including anti-administration references. Republicans as well as Democrats can be Christian. We should be able to reflect the views of liberals, moderates and conservatives and recognize that each group feels they are showing Christian love—without making each other appear un-Christian. A Christian decision surely must be one that rises above party lines.

Now, let me turn, Mr. Speaker, to what I believe is the only resolution to be sent to the Congress and the President where more than 8 minutes of debate took place at the assembly before the vote. Because of congressional responsibilities, I could not be there on the day when the first hour's debate occurred on the general amnesty resolution. I was there for the other time, somewhere between 1 and 2 hours. In my remaining time, I do not intend to discuss at any length the substance—except to insert a very thoughtful editorial—because certainly every Member of Congress is keenly aware of the highly controversial and emotional aspects of this question. There are not just two sides, but many sides. And I am sure that different people can study history reading about the limited amnesty—with loyalty oaths required—which President Lincoln gave or the limited amnesty given by his successor President Andrew Johnson or the limited amnesty under President Truman, and the reading of that history will always be interpreted in line with the views of the reader. At this point I wish to insert a very thought-provoking editorial on amnesty from the Wall Street Journal:

Review and Outlook on Amnesty

To talk intelligently about amnesty for draft evaders, it seems to us, you have to start by recognizing that the issue involves two quite different questions. One is whether to forgive. The other is who was right about Vietnam. The key to progress with the first is to avoid dragging in the second.

As long as forgiveness stands by itself the problems are not insurmountable. Many Americans are offended, to be sure, at the idea of draft evaders going unpunished for whatever reason. These feelings are hard to brush aside when they come from those who did fight, or whose sons or husbands fought and even died. At the same time, very few Americans are unsympathetic to the idea of putting this whole episode behind us, of allowing everyone concerned to forget the past and go on with the future. In this spirit, in fact, a considerable amount of forgiveness is already being dispensed; over 70% of the convictions for draft evasion last year resulted in probationary sentences.

The big problem arises because the militant evaders and their most outspoken supporters are not interested in forgiveness but in vindication. Their consuming interest is not in resuming their normal lives, but in having society accept their version of history. They want an amnesty accepting that the Vietnam war was an immoral exercise by a corrupt society and that those who fled are morally superior to those who fought. This is something no self-respecting society can give them.

For one thing, their version of history is unlikely to prevail as time gives us a better perspective on events. No doubt nearly everyone will always consider the Vietnam war a tragedy plagued by grave mistakes and grossly excessive costs. But those who think about it seriously are increasingly likely to notice that somehow the strategic objective of the war has after all come to pass. Asia after the war is a far more stable place than it was before, far less likely to be a flash-point for world conflict. Clearly the war did not in and of itself bring this about, but as time goes on it will increasingly be seen as having played some part in the process. And whether or not the war was fought for some worthwhile purpose is no small part of any assessment of its morality.

Beyond that, even if the evaders' version of history were right, society has to insist on its right to impose obligations on its citizens. That is the difference between society and anarchy, even though society's judgments about particular obligations are based on its best information at the time and may ultimately prove to be mistaken.

There comes a time for civil disobedience, of course, but it is not a stance to be taken lightly. If when the heat is on one says this society is so mistaken and immoral I must reject its obligations, then when the neat is off one simply cannot say I want to be returned to the same society to enjoy its benefits without penalty. Socrates and Thoreau and Gandhi never sought to avoid the penalty; they never asked for amnesty.

The nub of it is that any kind of amnesty must be designed to make clear that draft evaders come back on society's terms, not on their own. Certainly society's terms need not be vindictive or unforgiving, but certain minimums ought to be observed. Since society has a heavy interest in maintaining military discipline, it seems to us it ought to insist on meaningful punishment of military deserters, as opposed to draft evaders. Even among the latter, we do not think any kind of blanket amnesty is warranted. That all of the runaways were stricken by conscience rather than irresponsibility is too much to believe; each case ought to be considered on its own merits.

What we are describing, it seems to us, statistics suggest we are already doing. Society is insisting that it has the right to is not too far from what the conviction judge, but most of the evaders are promptly allowed to return to more-or-less normal life. No doubt the current distribution of convictions and prison sentences is more arbitrary than it ought to be, and we would like to see a time when legislation can make the process more systematic and uniform.

But that time may still have to wait a bit, until the issue of forgiveness can be better separated from the issue of vindication, until fewer people are talking about the evaders being moral and the draftees being immoral.

Watching the democratic process work—or not work—at the assembly when this particular resolution on amnesty was being discussed was a real lesson in practical politics.

Many of us, at the 1968 Democratic Convention and again at the 1972 Democratic Convention in Miami, watched with dismay and sorrow the groups who were "working the floor," trying to control the microphones, trying to end debate when "their" speakers had been heard, engaging in activities which were and are a direct contradiction of the democratic process. As most Democrats now recognize, the 1968 and 1972 Democratic conventions brought hopeless division and disaster to our party.

We in the Congress, I suppose, have grown used to attacks which are made on the Senate and on the House. We have become accustomed to all the cries from outside for congressional reform—to restore the integrity of the committee system—to make sure that the democratic process is followed in spirit and in fact. And no one on the outside can ever fully understand nor appreciate the depth of concern, the real efforts that have been and are continuously being made by many, many within the Congress, over a period of years, to retain the full integrity, the constitutional rights and responsibilities of the legislative branch.

Over the last 10 years, all of us have seen demonstrations involving some of the activist church groups attacking the administrations, attacking the Congress. Our mail brings every week from individuals, from church groups, from other organizations, letters or resolutions attacking the integrity of elected officials.

I must admit I was surprised to see the extreme sensitivity of this assembly when I suggested that 2 or even 3 hours of debate on such a highly controversial subject as amnesty did not seem to me sufficient and that observable activities on the floor led one to question the integrity of the Democratic process during the assembly's debate on amnesty. Apparently, anyone at the assembly was free, even encouraged, to attack the integrity of Congress and the administration but to question the integrity of the democratic process observed in the assembly as it passed resolutions to send to Congress and the administration—to many of them, this was heresy. I suggest, if this be true, there may be more heretics than realized throughout the churches across the land. Before I went to the convention, four members of the general board told me there had not been any debate at the general board meeting prior to the board's vote to recommend the "general amnesty" resolution—one of three amnesty resolutions—for approval to the assembly.

Allow me to quote from letters in response to my telegrams to board members:

On the resolution on general amnesty was there any debate by the General Board (I do not refer to sections or divisions) prior to its vote recommending approval of the Resolution? If so, how much time?

From a minister:

You were right when you said on the floor of the Assembly that there was no debate by the General Board when Resolution No. 27 (Amnesty) was considered for approval or disapproval. We all assumed this would be the most hotly debated resolution to come before us . . . the resolution was voted approved by what seemed to me about a 60–40 division of the General Board. . . . .

As I see it, the only thing the vote said was that there is a difference in opinion on the matter among church members and that difference is much more closely divided than the moderator would have us believe. I wanted to get to a microphone to ask for a division but was blocked from doing so by those who were determined that the resolution would pass . . . I have been a Minister for more than thirty-five years. . . . .

There was no debate on the Resolution calling for General Amnesty by the General Board. There were negative votes in the Board. My feeling was that the Board had decided to let the issue go to the Floor of the Assembly to be settled. . . . .

No debate on Number 27 (Amnesty) before General Board; was debate on Number 34; don't remember details. . . . .

Do not agree with the observation (Moderator's) that Resolution No. 27 (Amnesty) was not discussed in plenary "because" it was discussed extensively in Section II. Same position could be taken for numerous resolutions. Actually Board Members were stunned amnesty issue passed plenary (Board) so quickly.

(Unsolicited letter; do not know if a Board Member) I was in strong agreement with many of the points you made—such as giving the resolution on amnesty 3 to 4 hours of consideration—of course the chair had to refute such a statement, but for those of us not on an executive committee, your statement was fair and just.

. . . Not considered at all; . . . or a plan of alternate service. I understand the committee (Section) on Resolution was split about half and half on this. By the time it reached Miss Woolfolk, I suppose it looked unanimous. It wasn't by any means. . . .

Concerning actions of Cincinnati General Assembly . . . Amnesty has been given extensive study by General Board as far back as June 1972 resolution.

From the new president of the assembly:

The General Board began its study of this question in June, 1972 . . . . At the General Board in 1973, hearings and debate on the subject were conducted by Section II for one-half day. The action of the plenary session of the General Board to recommend approval was taken following the report of the section chairman, Jean Woolfolk, which set forth the substantive issues discussed in the section. It is probably accurate to say that this matter received as careful and extended consideration by the General Board as circumstances and standing rules afford. In regard to consideration of General Assembly business items, the rules provide: 'In considering items of business which are to be referred with recommendation from the General Board to the General Assembly, the General Board shall be divided into sections, each of which shall consider in substantive fashion a portion of the business items and report its findings to a plenary session of the General Board for its actions on recommendations to be made to the General Assembly.

From the chairman of the section and the newly elected moderator.

". . . I allowed complete freedom of discussion . . . I think it interesting to note that with the exception of the two letters which were received no one spoke in support of Resolution No. 29 to take no action, and no one supported the position of Resolution No. 28 to oppose amnesty completely. There was discussion as to whether or not amnesty should be general amnesty or a conditional amnesty. We considered this one resolution for a full half-day session of the section at the end of which time the recommendation to approve Resolution No. 27 was adopted by the section by an overwhelming majority."

Finally in reference to letters received, Mr. Speaker, I am placing in the RECORD a letter from one of the best known and most highly respected Ministers within the entire denomination. From Dr. Lawrence W. Bash of Kansas City, Mo., I received the following:

DEAR MRS. GREEN: I hasten to reply, even if but partially, to your telegram of last evening. I was not present at Cincinnati and have only second-hand reports from returning delegates. A brief spell of illness put me out of action for a few days, including Sunday, October 21st. . . .

In 1969 the chairman of my official board went to Seattle at his own expense in order to voice an action of my board relating to the National Council of Churches and James Foreman. He found it impossible to gain access to a microphone and was never heard.

I have been much concerned over the vulnerability of churches to small but militant minorities, to the tendency to be swayed by staff enthusiasms, and to judgments expressed by both the General Board and General Assembly which seem to me to be less and less representative of the mind of the membership of the Christian Church (Disciples of Christ) at just that moment when theoretically we were achieving a more responsibly democratic and representative system of government.

However, I was present in the meeting of the General Board at St. Louis July 28–31, 1973.

Regarding Resolution No. 27 on Amnesty, there was no debate whatsoever in the plenary session of the General Board. I commented on this surprising fact at the time to a Seminary President with whom I was sitting. He told me that it was known that there had been a serious contest in the Section meeting with a vote, I believe, of 17 for and 16 against. His judgment was that it was expected there would be the same kind of divided mind in the General Board, and that since it had to go to the Assembly anyway, whether accepted or rejected, it was just let drift through. In any case, not one word was spoken, either pro or con.

In regard to Resolution No. 34 I believe there was a very brief discussion, but it was not substantive so far as "facts, figures and information" are concerned. As so often happens in such meetings, a Resolution is introduced which bristles with overstatements. The body then accepts a modification with relief. As I review my notes, the Resolution published at Cincinnatti does not exactly match the action approved in St. Louis, but my notes may be in error.

I have nothing but heresay information on the emergency resolutions. These were not considered by the General Board which is the reason they are defined as "emergency". The Chilean revolution had not taken place, of course, in July.

Resolution No. 67 "on the Crisis in Public and Private Morality" was considered and passed by the General Board.

I am sorry not to have more information. I should like very much to have a copy of your address to the House.

Very truly yours,

LAWRENCE W. BASH.

Mr. Speaker, soon after the convention I wrote to the president of the assembly to seek information, to advise him I intended to make a speech on the floor in regard to resolutions addressed to the Congress and that I would make advance copies available to two ministers in the District of Columbia area to make any additional comments they chose. Dr. George Davis, of the National City Christian Church, said he "concurred in the intent, the content, the conclusion, and the spirit of what is said." Jack Austin, of the Falls Church Christian Church, asked questions about budget figures, which I checked again, suggested some technical changes which I appreciated and I did make the changes where indicated.

Mr. Speaker, I am keenly aware that there will be some who take great pride in their membership in the Christian church, as do I, who will take exception to my taking a special order to discuss these resolutions today. I am aware that in some Christian churches, I may have pulled away the "welcome mat." For both of these, I am sorry. Yet, Mr. Speaker, I feel so strongly about what is happening to my Government and to my country in these turbulent times when it faces a crisis of monumental proportions that I made the decision to speak. As I said at the beginning I will defend any group's right to speak, to pass resolutions—yes, even to verbally attack the Congress, the Government.

That is the strength of our democracy. But Congress, also, in listening to any lobby group has a right to know—a duty, if you will, to evaluate the material for accuracy, the position that that lobby group is presenting. This, I believe, is true for lobby groups registered under our laws, or unregistered. Certainly the 10 resolutions mentioned today, with the parent body urging their Members to write expressing "these" views, represents a lobby effort.

In the 19 years I have had the privilege of serving in the House, I have probably not taken a half dozen special orders. The one in 1960 to defend the National Council of Churches and the one today seemed to me to be important. I have not finally decided, but I invite the comments from my colleagues on whether or not we need to take another look at our lobby registration requirements and whether or not a committee should be established in the House to study the way in which policy statements are reached—not in any way to interfere in the process—as we do not interfere in the internal operations of any registered lobby groups. It would be helpful to us, in making our decisions, to know the way resolutions were passed and whether in fact the lobby efforts which ensue from unregistered lobby groups represent the views of a million of our constituents or a thousand or 10.

This knowledge might as might not be a factor in votes which we cast and which in turn affect the lives of 200 million people. And as we are making such a determined effort to guarantee that the democratic process be observed in the spirit and the letter within the Congress and within our respective parties, I hope there will continue to be that same determined effort by the majority of people who in sincerity and good faith claim membership in various private organizations—both church related and nonchurch related.

I close, Mr. Speaker, with a letter signed by the ministers of my home church in Portland. They probably state more persuasively and more succinctly in two pages than what I have tried to say in an hour.

DEAR MR. TEEGARDEN: The ministerial staff of First Christian Church in Portland, Dick Spangler, Russ Myers, Delbert Daniels, Allen Byerlee and I, would like to send our congratulations to you as our new General Minister and President and pledge our love and loyalty to your administration.

So that you will feel properly initiated, along with all of the advice, requests, pressure etc. that you must already feel, we have a concern that we would like to pass on to you while it is still fresh.

Following the General Assembly in Cincinnati, there was much discussion about the nature of the resolutions on the business docket, and the methods by which they came to the Assembly and the method by which they were handled in the Assembly. We believe that Christianity, of course, has the wisest and best counsel to give in handling human dilemmas, but we think the General Board and the Brotherhood in general should be careful to keep the perspective which we believe is characteristic of the New Testament.

We are not prepared at this time to make a statement as to how the making of resolutions should be instructed, except for one important detail. That is, that we feel that any group, congregation, agency or unit of the Brotherhood making a resolution should be required to issue with that resolution corroborating evidence for the accuracy of every "whereas" in the resolution.

For example, resolution number 34, on page 121 of the last Assembly's docket "Concerning our National Priorities" which was recommended for approval by the General Board and passed by the Assembly. When Temple City Christian Church states in the second "whereas" such a premise as: "Whereas this budget assigns first priority to systems of death by allocating enormous resources to the military for this purpose . . ." we believe that Temple City Church should be required to establish evidence that the Federal Budget does in fact assign a first priority to "systems of death." The military budget is not a majority of the national budget. Does the increased salaries of volunteer service men in order to get away from military conscription assign priority to a system of death? Is the education provided for service personnel in the military budget properly called a system of death, How about the money in the military budget that is committed to medical research alone?

We are interested in seeing that the credulity of the Brotherhood's voice is respected by the Congress and by the National Administration. We have heard too many persons say that "No one pays attention to the resolutions anyhow." That is little comfort. One minister, a very liberal one by the way, calls the resolutions the "funny pages" of the Assembly. We as the ministers of this church, are not interested in asking intelligent persons to be voting delegates to an Assembly that does not speak responsibly. We further doubt that the Assembly can speak responsibly on forty to fifty resolutions dealing with social issues all the way from amnesty to lifting the embargo on Cuba. Some of these issues are studied for months by experts to find equitable solutions. By what special knowledge do we instruct the Congress after only minutes of debate on each issue?

We have found the statement made by Halford Luccock from his book "Studies in the Parables of Jesus" to be instructive. We enclose a copy. The comment is from his exegesis on the parable of the Rich Fool.

We really believe that no matter how difficult it may be for the General Board to accumulate the evidence and how hard it must work to keep a position of complete integrity, that it must be done before our impact as an Assembly is lost.

It has been told to us by a number of outstanding statesmen in the Brotherhood that since we precipitate on every issue, no one listens when we speak, and we have earned that reputation. If that is so, we think you are our best hope of doing something about our reputation.

Sincerely in Christ,

DANIEL C. KECKEL.
RICHARD M. SPANGLER.
RUSSELL E. MYERS.
DELBERT W. DANIELS.
ALLEN BYESLEE.

From book by Halford Luccock on "Studies in the Parables of Jesus":

JESUS AND THE STATE

The incident which gave rise to this parable is more than ordinarily instructive and valuable. It shows Jesus definitely and positively refusing to pronounce on a matter which belonged to the courts and the law of the land. He will not enter into the realm of making legal and economic and political regulations, though men try desperately to get him to do so. At the same time he does pronounce unsparingly and unmistakably on the spiritual issues underlying the question. He does not come among men as a new judge and divider or as the marker of a new code of criminal law. But he does come to seek and to save those who are lost in the clutches of covetousness and greed. It is just because he brought spiritual truth to men and refused to let that spiritual truth be abandoned in favor of some local and ephemeral economic and political scheme, that his words do not pass away. Had Jesus made a collection of laws which fitted the commercial and industrial life of Palestine in A.D. 30, they would have been unsuited to other countries and other centuries with far different conditions, and Christianity would have died with the kind of life to which it was adapted. But Jesus' words are "spirit and life." They give the principles, values and motives by which men can construct right government, laws, and social conditions. From the study of this action of Jesus it would seem that the church follows his example most closely when it proclaims the Christian principles which must control actions and the human and spiritual values which must be conserved in the state and in industry, rather than by identifying Christianity with any particular political or economic regime.

THE HOMEOWNER'S ENERGY CONSERVATION ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. Mr. Speaker, this past Sunday the President announced that the present fuel crisis has necessitated a 15 percent reduction in the amount of heating oil to be delivered to our homes. Since the space heating of residential buildings now constitutes between 11 and 12 percent of our national energy consumption, I can well understand the necessity for this restriction. No one, however, is looking forward to having cold homes this winter, and it is therefore particularly frustrating and discouraging to realize that the vast majority of houses in this Nation waste one-third to one-half of the energy they consume for heat because of inefficient heating systems and inadequate insulation.

As one expert has put it, "most of our homes are heat sieves." Today, a vast amount of the heat created by a home heating plant promptly disappears through the walls, windows, doors and roofs. Although the Federal Housing Administration has recently stiffened the requirements for insulating new houses, it is nonetheless true that 90 percent of the existing homes in this country are seriously deficient with regard to insulation. The average uninsulated house with 1,600 square feet of space wastes about 700 gallons of fuel oil each year; a partially insulated house wastes approximately 200. Clearly, inadequate insulation is one of the greatest causes of unnecessary energy consumption in residential buildings and represents a substantial loss to both the homeowner and the Nation.

In addition, home furnaces today are generally designed so that only 70 to 75 percent of the heat of combustion is actually used in heating the home. In operation, however, many home heating systems drop far below that efficiency level, to 35 to 50 percent. Along with better maintenance, the installation of equipment such as heat exchangers and improved ducting can do a great deal to restore or even increase the efficiency of the heating plant. Such improvements, however, can involve significant expenditures.

In an effort to meet these problems, I am today introducing two bills to provide the individual and corporate homeowner with the incentive and ability to make energy-saving improvements to his home. The first measure amends the Internal Revenue Code to permit the homeowner a tax deduction for expenditures made in the purchase and installation of insulative materials and equipment designed to improve the efficiency of his heating system. The bill would be especially pertinent for relatively minor improvements, such as installing storm windows and doors, which nevertheless can substantially reduce fuel consumption. While the major reward for the homeowner would be a savings in fuel costs, the tax deduction would be a limited additional incentive which would also recognize the Nation's interest in and support for his actions. Unfortunately, the Federal response thus far to the fuel crisis has been basically negative and restrictive. It is important, in my opinion, that we establish some positive ways of encouraging energy-saving efforts. My bill achieves that purpose at minimal expense, and the costs are more than matched by the benefits in energy conservation which accrue to the Nation as a whole.

My second measure is addressed particularly to the problem of the large-scale expenditures when are often necessary to enable efficient heating of older homes or homes that are not well-built. Fully insulating a house already built or bolstering an existing heating system can easily cost hundreds of dollars. Unfortunately, those who live in the homes most needing these improvements are usually the ones least able to afford it. Even though the improvements will result in substantial fuel savings, the budgets of these families and their access to additional funds are too limited to permit them to make the necessary changes. This second bill, therefore, establishes a low-interest loan program to provide these needed funds. The loans would be for 10 years and would carry a 5-percent annual interest rate. They would enable the homeowner to have the funds at the time of the initial expenditure and the resulting reductions in fuel costs would in most cases more than cover the loan payments. Experts agree that this kind of home improvement generally pays for itself in reduced operating costs in from 5 to 10 years.

In summary, my legislation provides homeowners, particularly those with low or moderate incomes, with both the ability and the incentive to make major energy-saving improvements to their homes. The ultimate cost to the Government would only be the difference between the subsidized and the standard interest rates. In return the Nation would receive a reduction of up to 4 percent in its national energy consumption. Viewed in these terms, the investment is a very modest one.

Mr. Speaker, with the present fuel crisis it is certain that whatever the weather, it is going to be a cold winter for Americans. We must find ways of utilizing our fuel supplies as effectively and efficiently as possible. Finding ways of conserving energy which will not damage the functioning of the economy must be a matter of highest priority. I hope my colleagues will join with me in helping the homeowner help himself and the country and will give these energy conservation measures their strong support.

THE ARAB OIL EMBARGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, the Arab nations are continuing an absolute embargo of oil to the United States and are pressuring many other countries with a partial or complete cutoff of oil shipments. While we should keep in mind that the supply of energy would be tight even without the embargo, we should also regard this action by the Arab States as what it is: economic blackmail. The Arabs are trying to tell us how to conduct our foreign affairs by holding the gun of the energy crisis to our heads.

We cannot and we must not succumb to economic extortion by the Arabs or any other foreign country. If we yield, we will learn the painful lesson that the thirst of the blackmailer is never quenched, that new demands will follow as sure as summer follows spring.

Neither should we sit idly by as the Arabs rattle their oil barrels. We should fully consider retaliatory embargoes of food, technological materials, and other exports to the Arab States.

To give retaliatory embargoes a chance of working, however, the countries of the Western world must unite rather than assuming an "every man for himself" posture. The Arabs should look across the bargaining table at a unified front. It has been correctly pointed out that unless retaliatory embargoes are supported by all oil-importing nations, the Arabs can simply shop elsewhere for goods we now export to them.

But we should not stop with the embargo of food and all other exports to the Arabs. We should consider placing the same embargo against the Soviet Union and any other country which supplies the Arabs. In short, we should give immediate consideration to returning to a modified barter system in which we demand a dollar's worth of oil for a dollar's worth of food or other goods. Without this payment in oil, we would not sell our food to anyone who supplies the Arabs. This is a serious step, but serious steps are warranted. The current Arab policy can only be described as a hostile act toward the United States, and hostile actions deserve and require a firm response.

Perhaps the most effective thing we can do is to convince the Arab nations that we will find a way around our dependence on them in the not too distant future. Hopefully, the Arabs realize that their favorable position today is not guaranteed tomorrow. The Arabs may be able to secure food from sources other than the United States now, at least in part because of a record wheat crop in the Soviet Union. But next year, or the next, the United States may well be the only dependable source for wheat and other grains. Empty oil barrels for the United States now may well mean empty bread baskets for the Arabs later.

Strong research and development programs to find new sources of energy and a dedicated conservation effort by all Americans, spurred on by the embargo-induced crisis and our repugnance for the Arab blackmail, can be the ingredient needed to convince the Arabs that hoarding their oil for the future may not be so wise.

Certainly we must continue our efforts to secure a fair and lasting peace in the Middle East. But we must make it abundantly clear that we will not knuckle under to this blackmail. We must make it clear that independence is not just a catchy phrase in the American creed, and we must do everything possible to point out to the Arabs the foolhardiness in the long run of their present course of action.

CALL FOR FEDERAL HOTLINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, several months ago I suggested to the Department of Interior that a Federal hotline be established to serve all the many people who had questions and problems because of the fuel situation.

Now that the energy crisis is fast upon us, a hotline of this nature is even more imperative. While the Office of Oil and Gas does a fine job in responding to inquiries, they, too, have been swamped these last few days. It is clear that we need a special mechanism designed solely to respond to this crisis.

I have received hundreds of letters in my own office, seeking help. The people who write want to know if farmers will be assured of fuel, whether new homes will be adequately supplied, if our Nation will resort to rationing or higher taxes, and on and on and on.

Therefore, I am today again urging that consideration be given to establishing a Federal hotline at once.

ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I want to congratulate you on your thoughtful and detailed "white paper" on the energy crisis. It is a very valuable document and does much to set the record straight for what the Congress has done and the President has not done on energy issues.

On several occasions this fall, President Nixon has used free national television time to place the blame for the energy crisis on a "do-nothing Congress." I know that you found is distasteful in this time of national concern to be forced to make an item by item defense of Congress. The record should have spoken for itself. But the distortions and viciousness of the President's attacks left you no alternative.

Given this background, I commend you further for a measured and temperate response which dealt with facts, not rhetoric.

As example of the tactics used by the President to browbeat the Congress is his repeated reference on national TV to seven "energy bills" which he sent to Congress last spring and which he claims would have saved us from our present plight but for the footdragging of Congress.

I find it very revealing that he is willing to spell out to the American people only two of these seven bills, the Alaskan Pipeline Act—which has since passed and been signed into law—and the energy research and development bill. Even while he is touting more money for energy research, his own administration has been guilty of impounding millions of dollars which Congress appropriated for such research.

He does not have the guts, however, to tell the American people that one of his bills is another Federal taxpayers bailout for the companies that polluted the Santa Barbara Channel.

Nor will he discuss publicly another bill which would give the same oil companies that have experienced astronomical profits this year further tax breaks to "encourage exploration."

Nor will he tell the American people the fact that his bill to deregulate the well-head price of natural gas is terribly controversial, could cost the American consumers an additional $18 billion and contains no real guarantees that gas and oil companies which will reap this windfall profit will drill for more gas.

Two of his other bills offer no solution to our immediate problem and raise some very serious economic and environmental problems which should be examined carefully, and not under the gun. I refer to the bill on siting of electrical power plants and the bill on standards for strip mining.

A further example of his distortion of the facts is the way he neatly avoids talking about the one piece of legislation that the Congress literally forced down his throat last spring and which is the main statutory authority for many of the emergency measures he has belatedly begun. I am referring to the oil allocation amendment to the Economic Stabilization Act. I was on the conference committee that put that bill together and I can tell you first-hand that his administration fought this provision tooth and nail.

Notwithstanding the President's assertions that Congress is to blame for the energy crisis, and wholly apart from the impact of the Arab oil embargo, the following factors developed by Senator JACKSON's Investigations Subcommittee seem to be more on target:

First, oil import restrictions promulgated by Presidential proclamation, artificially depressed the amount of then cheap foreign crude oil that could be imported into the east coast, even though domestic production alone was insufficient to meet demand.

Second, domestic refinery capacity has been consistently underutilized, thus lowering inventories of gasoline, heating oil, and other petroleum products.

Third, Federal price control policies were unevenly applied to gasoline and heating oil, discouraging production of heating oil in favor of the more profitable gasoline, further depleting inventories of heating oil.

Fourth, the administration did not heed the many warning signs and failed to take decisive action in 1972.

As to the last point I can personally attest to the unresponsiveness of the administration to repeated calls for action on heating oil made by myself and other New England Congressmen beginning in the spring of 1972. They simply ignored the problem.

Mr. Speaker, despite the administration's head-in-the-sand attitude of 1972, and its current search for scapegoats, I am willing to do whatever must be done to see us through this problem.

ECONOMIC CRISIS HITS 13TH DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 5 minutes.

Mr. LEHMAN. Mr. Speaker, 3 weeks ago the owner of a small company in my district which makes refrigerator parts from petrochemicals called me to report that he was unable to obtain the raw materials he needed to stay in business. If he could not get these materials, he would shortly be out of business.

At the time, I thought that the energy crisis was to blame. I knew there was a shortage of oil and oil byproducts at this time, and thought that his inability to obtain the products he needed was apparently part of this shortage.

That, Mr. Speaker, was 3 weeks ago.

Since that time I have received other calls and reports, roughly two or three a week, from other small businessmen in my district. These calls soon began to set a pattern which has left me with the alarming conclusion that a much larger crisis is in the making.

Based on the information I have received in these few short weeks, it is apparent that the administration has sadly miscalculated and badly planned this Nation's economic future.

Mr. Speaker, I am sure I am not the only Congressman receiving such calls. Therefore, as the Representative from the 13th Congressional District of Florida, I want to report on the economic situation that has developed in only 3 weeks in my district alone:

In Hallandale, a major supplier of chlorine for drinking water and sewage treatment, which employs 20 persons, has lost its source of liquid chlorine and has already had to lay off one quarter of its sales force.

In Hialeah Gardens, a sheet metal fabricator that employs 23 persons has had his supply of steel cut off. His present supply will last him only another 2 or 3 weeks. Then he, too, must start laying off employees.

In Miami, the small company I first mentioned is on the brink of closing its doors for the lack of styrene and other petrochemicals.

Back in Hialeah Gardens, another company employing 14 persons cannot get the polyvinyl chloride or polyethylene with which to make its custom-made plastics.

In north Dade County, a manufacturer of aluminum windows and doors that employs 400 workers is running out of aluminum and can find no supplier to replenish his supply.

In Opa-Locka, a company which employs 40 persons in the manufacture of ornamental lighting is faced with a sudden ban on the use of holiday lights. This is doubly tragic as the owner of this business hires mostly handicapped persons and the chances of them finding other work is extremely poor. But the owner of this business had no advance warning and no time to convert his business. He will receive no assistance of any kind to help him salvage his business. He is out of business overnight.

In addition to these six businesses, I have heard of additional shortages cropping up in the Greater Miami area—shortages which involve paper, cardboard boxes, silicon carbide abrasives, asbestos, and other building materials.

Where are the so-called economic advisers? Where have they been all these months as domestic raw material producers were turning to foreign markets to sell their products due to the uneven and inequitable decisions of the President's Cost of Living Council?

Why could they not realize that when a raw material producer finds it more lucrative to sell his wares abroad, he will export more and more to get his price and domestic shortages will soon result. Our balance of trade has risen sharply, but it is the small businessman in this country who has been singled out to pay the price.

It is not difficult to realize that when shortages ocur, it will be the businessman who orders in small quantities, who will get cut off first by the distributor who faces the same shortages himself.

It is nearly elementary to understand that material shortages result in plant shutdowns, and plant shutdowns result in layoffs, and layoffs result in massive unemployment, and massive unemployment results in fewer consumer product sales, and fewer consumer sales result in further layoffs.

What alarms me most is that I have yet to read or hear anything but a glowing, rosy forecast from those entrusted with overseeing our economy. As a Member of Congress, a representative of half a million people, I have yet to receive official notice of any kind that would alert me, or any of my colleagues, to the fact that this country would find itself short of basic raw materials this fall.

These things just do not happen overnight. I would hate to think that an administration—any administration—which found itself in trouble politically would ignore its grave responsibility of overseeing our economy, our stockpiles, and our very well-being in such a manner as to falsely report to the Congress the true economic picture.

Mr. Speaker, this is not only a report on the plight of the small businessman in the 13th Congressional District, but it is also a report on those people who will be thrown out of work from small business failure in my District as a result of these shortages.

As their Representative, I want to know how this happened with no warning at all. I want to know what is being planned by this administration to have the little man and his livelihood. Just how important is our national balance of payments when there is no paycheck coming on Friday?

FUEL FOR PUBLIC PRIORITIES IN OHIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 15 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, I have written to the President concerning the Emergency Petroleum Allocation Act (S. 1570), which he signed yesterday. The State and the district that I represent have certain problems which should be called to his attention before he completes the draft of the regulations which he must promulgate within 15 days of implementation of the act, as called for in the legislation. The President is given wide discretionary authority in the act, and therefore, the regulations he writes will be crucial in carrying out the intent of Congress. I submit that the regulations ought to be drawn tightly enough, and be sufficiently far-reaching, to give positive assurance that the problems of the people of my area are taken care of to the maximum extent possible in the current emergency.

Mr. Speaker, the dominant supplier of petroleum in my State is the Standard Oil Co. of Ohio. As pointed out by the company's chairman and chief executive officer, Mr. Charles E. Spahr, in congressional testimony last October 22:

> Sohio is the largest single supplier of products to government units, farmers, hospitals, schools and other priority type customers in the State of Ohio. In many recent instances, Sohio has been the only bidder to supply these types of customers.

Yet, despite its commanding position in the market, this particular company is at a disadvantage in the crisis we find ourselves in because, despite its two refineries at Lima, Ohio, and Toledo, Ohio, modern installations that are capable of processing about 300,000 barrels of oil per day, the company, unlike some of its competitors, generally speaking, does not produce its own crude oil—and, in fact, is dependent on sources of supply that are not under the company's control. And in view of the historical position of this company as a supplier of substantial quantities of petroleum products in Ohio, it is unlikely that other refiners facing similar problems can pick up any significant shortfall on the part of Sohio.

Therefore, I urged the President to cause regulations to be put into effect that will make it mandatory for those who have been supplying crude oil to my State to allocate to the State, despite whatever other considerations there may be, a large enough quantity of crude oil to assure us that there will not be an abrupt decline in our supply, and that we will be able to maintain oil consumption in Ohio at a level as high as is practicable, taking into account our own needs as well as those of other areas in the country that find themselves in a similar situation. In addition, I called to the attention of the President a section of the Senate-House conference report on S. 1570, which reads as follows:

> It may be necessary, in selective cases, to compel the allocation of product to particular endusers, such as hospitals, units of government, or persons engaged in energy production and transportation . . . It is intended that the President would have full authority under this Act to identify permissible uses of covered fuels and to restrict the amounts which may be made available to such uses.

I regard this section of the report as vital to the people of my area because, in my opinion, it gives the President a mandate to see to it that, of the amounts of fuel allocated to my area, a sufficient portion of it be set aside for priority public uses. In other words, I requested that the President require the refineries to produce more diesel fuel and less gasoline, if a choice must be made between the two, as evidently it must.

I have in mind particularly, although not exclusively, the needs of the Cleveland Transit System. Nearly one-third of the persons in Cleveland are dependent on the public transit system to get to and from work and other places important to them, such as hospitals and doctors' offices. I need not mention, I would suppose, that 1 bus carries as many persons as 35 automobiles. And, of course, the transit system subsists on diesel fuel—and is totally dependent on the Standard Oil Co. of Ohio for this fuel, since the company has been the sole bidder to supply this product to the transit system. The system currently is being forced to reduce services because the amount of fuel it has been able to buy has been cut down.

There has been testimony before my House Public Works Committee that oil companies find it more profitable to sell gasoline, as opposed to diesel fuel, and that therefore this gives them an incentive to produce more gasoline, thereby shorting their so-called public customers. The companies have denied this allegation, and I find at this point that the evidence is inconclusive, one way or the other. But because we are dealing with an emergency situation, I suggest that the President can, by regulation, see to it that a proper allocation is made to the public customers, thus dispelling all doubt that the needs of people dependent on public services will be given the highest priority.

Mr. Speaker, I would appreciate support from my colleagues here on this issue which is so important to Ohio.

WHEN THE SEC SLAPS YOUR WRIST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, an article in yesterday's Wall Street Journal by Les Gapay entitled "When the SEC Slaps Your Wrist" lucidly described the use of the SEC's favorite disciplinary tool, the consent decree. Mr. Gapay states that 90 to 95 percent of the SEC cases are settled by consent, with the rest going to litigation. While the consent decree method reduces the SEC's backlog and primarily gives the defendant only a black mark against his name, it is questionable whether the settlements have much practical significance.

Increasingly there are questions being raised as to whether the consent decrees are proper sanctions for the crimes charged and whether justice is served through them.

Why am I so interested in this Wall Street Journal article and the SEC consent decrees? Mr. Oscar S. Wyatt, Jr. and his Coastal States Gas Corp. have systematically gypped San Antonio and they agreed to one of these consent decree settlements. Mr. Gapay wrote, and I quote:

> Several settlements this year have included the resignation of corporate officers or directors, sometimes with their successors approved by a court or the SEC. Resignations have occurred in cases involving . . . Coastal States Gas Corp. . . . The SEC says such actions sometimes prevent companies from going into receivership. But even this approach has been criticized. Rep. Henry B. Gonzalez, who is credited with bringing the Coastal States case to SEC attention, strongly criticized that settlement.
>
> The SEC's view is that the case is one of its best settlements. The company consented in September to being enjoined in federal court from violations of antifraud and disclosure provisions of the securities laws, without admitting or denying the charges. In addition a number of its directors resigned, with some of the successors cleared by the SEC itself. Further the company agreed to adopt better procedures to report on its estimated gas reserves. (The inquiry had focused on the gas reserves.)
>
> Rep. Gonzalez was not impressed. He called the settlement too lenient at a Banking Committee hearing in September and labeled Oscar S. Wyatt Jr., who remains Coastal States chairman, "a 20th Century version of a robber baron who has literally gotten away with murder."

I was certainly not impressed. Whether or not the SEC considers this one of their best settlements, the facts speak for themselves. Having robbed San Antonio, no one has been prosecuted and no one has made restitution for the money and hardship Wyatt and Coastal have cost my district.

I am disgusted with the Federal Government's and the State government's lack of action in this case. I have spoken out on this case many times, I am pleased that I was able to get the SEC interested in the case, but I will continue to speak out until I see justice done.

These crooks are not really being punished, in spite of what the SEC consent decree says. To give you a flavor of what Mr. Wyatt and Coastal States said that they will not do any more, I quote from the SEC consent decree:

> Coastal . . . , Wyatt, . . . have been and are now, directly or indirectly, making untrue statements of material facts and omitting to state material facts—

In other words lying—

> Entering into transactions involving the "give up" or disposition of dedicated deliverable gas reserves; all of which had the effect of increasing short-term profitability from gas gathering activities and depleting available gas reserves necessary to fulfill long-term contractual commitments.

Now this is a long-winded sentence, but what it says is this: Coastal has long-term contracts to supply gas to San Antonio—and others. Coastal has violated these contracts and pocketed a profit in doing so. San Antonio has not received the gas it had contracted for and is having to pay millions of dollars to get gas elsewhere and to convert to other fuels. Some of you may have thought that this sort of thing is what you read about in history books. But let me tell you, the robber-barons are alive and well. San Antonio's fuel crisis cannot be blamed on the Arab countries, it cannot be blamed on the big international oil companies. The blame lies squarely at the feet of one man and one company who got too greedy and who have not yet been punished for the criminal results of their greed.

The article follows:

WHEN THE SEC SLAPS YOUR WRIST

(By Les Gapay)

WASHINGTON.—It's unfortunate that President Nixon can't ask the Securities and Exchange Commission to look into his Watergate problems. Even if he's guilty of some wrongdoing, the SEC would probably consent to an order that merely prohibited him from doing it again. In turn, the President would "neither admit nor deny" the charges against him.

Or if the SEC really wanted to get tough, it could bar Mr. Nixon from the brokerage business, even though he has never been in the brokerage business and probably never wants to be.

Although the comparison is obviously ridiculous as far as the President goes, it isn't too far from the mark when it comes to the way the SEC operates. And it points up what many believe is a serious weakness in the SEC's enforcement procedure.

That weakness lies in the agency's reliance upon its favorite disciplinary tool, the "consent decree." Usually in a consent decree the defendant individual, corporation or broker-dealer consents to SEC findings of violations while neither admitting nor denying guilt. Often there isn't any penalty except that the consent has the effect of the SEC entering a sort of black mark against the defendant's name. The advantages of consent decrees are that they reduce the SEC's backlog while saving money for defendants who don't want to fight their case to a time-consuming conclusion.

The questions are whether the settlements have much significance, whether they are proper sanctions for the crimes charged and whether justice is served through them. Increasingly the answer—from at least some SEC staffers, members of Congress and even the securities industry personnel themselves—is "No" to all of the above.

THE FABERGE CASE

Here are some recent consent cases:

In a major case earlier this year, the SEC allowed two brokerage firms and three mutual fund managers to consent to the agency's findings of misuse of inside information about Faberge Inc. stock—without, however, "admitting or denying" any violations.

The concerns agree with SEC conclusions that their conduct violated securities laws and SEC rules and was "censurable." The SEC, however, stopped short of censuring them, an act which is merely a label in any event. Nor did the agency ask for the refund of any profits made on the basis of the inside information.

A major civil suit last year against International Telephone & Telegraph Corp., two of its officers and two investment banking firms ended with the defendants agreeing to be prohibited from violating federal securities laws. They didn't concede that they violated them in the past, however. The SEC had charged ITT with failing to disclose to shareholders some settlement talks with the Justice Department on an antitrust case, and two ITT officers were accused of unloading some ITT stock because of their inside knowledge. The SEC didn't require them to give up any profits.

—A few months ago, the SEC suspended for 60 days the registration of Saunders, Stiver & Co., a Cleveland brokerage firm, after finding that it had helped manipulate the stocks of Comcorp Inc. The brokerage firm also agreed to withdraw its registration after the suspension period. But there was a catch: The firm had been out of business since 1970. In lieu of any other possible penalties, it can impose, it seems, the SEC often suspends brokerage firms which already are out of business or revokes their license. These disciplines often are accompanied by sanctions against the individuals involved.

In the same case, a former chairman of Comcorp, Bernard E. Rand, was barred from the brokerage business. The catch here is that Comcorp was a publishing company. Mr. Rand never had been in the securities business and apparently never intended to get into it. SEC officials admitted the sanction was a technicality and done since the agency hasn't any other powers to discipline officers of corporations.

The SEC can't fine anyone. It can bring criminal cases only by referring investigations to the Justice Department for prosecution. SEC lawyers often are leery of making many such referrals since most U.S. attorney offices don't have the manpower to handle many white collar cases and prefer to concentrate on other matters. Light sentences by judges for securities frauds don't encourage more cases either, some SEC staffers say. All the SEC itself can do is to bring civil court suits and internal administrative proceedings, seeking to suspend or to bar from employment persons in the securities industry; or it can seek court injunctions and relief such as disgorgement of illegal profits or resignations of corporate officials. The latter sanctions, though, are exceptions rather than the rule.

In many cases, the aim of the SEC is to get a violation on the record even though a brokerage firm may be out of business, in case its owners want to re-enter the industry with a new firm later. Often, however, such cases take so long that the brokers start new firms—and sometimes are under investigation for new frauds—before they're completed.

In a report last year, the securities subcommittee of the House Commerce Committee criticized the SEC's enforcement for "lenient treatment," saying that often "wilful violations of the securities laws (have) resulted in no more than an administrative or injunctive proceeding." Even former SEC Chairman William Casey said in a speech earlier this year that the agency needs swifter enforcement. "It doesn't do enough for the public investor when a year later somebody is slapped with an injunctive action and, perhaps, two years later indicted for criminal conduct."

Currently, the investigations subcommittee of the House Commerce Committee is examining the SEC enforcement program. Staffers are mainly looking at politically sensitive matters, such as cases involving fugitive Robert Vesco and ITT, but also at practices like the consent decrees. They say that 90% to 95% of SEC cases are settled by consent, with the rest going to litigation. Some SEC attorneys contend that because of longtime manpower problems of the agency many violators know the commission will have to settle most cases. This strengthens their negotiating position.

Even within the securities industry, there is some private criticism of the agency. Several industry officials interviewed say most disciplines are merely slaps on the wrist and that many violators are repeat offenders. The head of one large brokerage firm says being named in an SEC case is embarrassing at the most and doesn't cost most big firms any loss of clients or revenues, although it may put tiny firms out of business. Another official says adverse publicity is the biggest sanction.

SEC officials argue that manpower and budget problems prevent them from going to court more often. Many major cases are handled only by one attorney and one investigator, and some don't even have an investigator. Often it takes months or years for the SEC to bring a case for that reason, insiders say. So the agency concentrates on major cases like Equity Funding and new type frauds and takes settlements much of the rest of the time. "We operate on a shoestring," says one SEC attorney.

Finally though, Congress has begun acting to strengthen that shoestring. Congress has increased the SEC's appropriations somewhat, allowing the agency to hire 263 more staffers this fiscal year. However, the SEC has a long way to go to fulfill last year's recommendation by an advisory committee, which said the staff should be doubled by 1977, with the aim of improving the enforcement program. The agency is minute compared with most government bureaucracies, having only about 1,600 employes. It had more employes in 1941 (1,711) than it has today.

Congress also is moving on other fronts. In a pending piece of legislation the fees paid by the stock exchanges to the SEC would be increased to give the agency more revenues. In the same legislation, the SEC's enforcement power would be strengthened by giving it more authority over disciplinary actions of stock exchanges, over entry standards into the brokerage industry and over stock transfer agents.

Also, the investigations subcommittee of the Commerce Committee may hold further hearings next year on the SEC's enforcement actions and is scheduled to issue a report before spring. Officials are considering recommending more staff and more powers for the agency, perhaps the ability to fine offenders. Some Congressmen also say they would like to see the SEC move more often to have violators return lost funds to investors. And there is even talk of letting the SEC prosecute its own criminal cases without referrals to the Justice Department.

The view of SEC commissioners and their top enforcement officials, Irving Pollack and his deputy Stanley Sporkin, is that consent decrees and injunctions are meaningful because they label violators. Mr. Pollack says he tries through enforcement actions to establish self discipline in the industry and the agency selects "cases that give the best return. The emphasis is remedial, not punitive."

TIGHTENING THE RULES

And in recent months, possibly in reaction to criticism, the SEC has made a few limited efforts to toughen up enforcement. It recently proposed tightening its rules on industry entry standards for broker-dealers. Also, it has been bringing some innovative solutions to a few of its enforcement cases. Several settlements this year have included the resignation of corporate officers or directors, sometimes with their successors approved by a court or the SEC. Resignations have occurred in cases involving Clinton Oil Co., International Controls Corp., Coastal States Gas Corp. and Westgate-California Corp. The SEC says such actions sometimes prevent companies from going into receivership. But even this approach has been criticized. Rep. Henry B. Gonzalez (D., Texas), who is credited with bringing the Coastal states case to SEC attention, strongly criticized that settlement.

The SEC's view is that the case is one of its best settlements. The company consented in September to being enjoined in federal court from violations of antifraud and disclosure provisions of the securities laws, without admitting or denying the charges. In addition a number of its directors resigned, with some of the successors cleared by the SEC itself. Further, the company agreed to adopt better procedures to report on its estimated gas reserves. (The inquiry had focused on the gas reserves.)

Rep. Gonzalez was not impressed. He called the settlement too lenient at a Banking Committee hearing in September and labeled Oscar S. Wyatt Jr., who remains Coastal States chairman, "a 20th Century version of a robber baron who has literally gotten away with murder."

UNEMPLOYMENT BENEFITS FOR AGRICULTURAL WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GUNTER) is recognized for 5 minutes.

Mr. GUNTER. Mr. Speaker, there have been a number of bills introduced in the House of Representatives which have sought to extend unemployment compensation to our agricultural workers. Not one of these has become law. Not because of any antagonism toward the idea of spreading this benefit to these deserving people but rather because no bill has fully and properly covered a major problem raised by spreading these benefits to this group of working men and women.

The bill which comes closest to achieving this long-sought-after goal is H.R. 8600, which was introduced earlier this year by the Honorable WILBUR D. MILLS of Arkansas and the Honorable GERALD FORD of Michigan.

The bill did seek the extension of unemployment compensation to agricultural workers. And I am certain that a meaningful majority of my colleagues believe that this protection should be voted for these workers just as we voted it long ago for industrial workers.

It is also my observation, from talking with agri-businessmen in my own State of Florida and with their counterparts in many other major agricultural States, that the employers of farm labor are equally anxious to see the extension of these benefits.

Regardless of how anxious we may be to bring this benefit to farmworkers, we must also recognize that in addition to the very real mathematical problems involved, there is also an equally important human element.

Farmwork, such as harvesting, is seasonal. And while it is true that because of this fact, harvesting work is always available somewhere in the United States, it is also true that any person has the right to stay where he chooses.

If an agricultural worker runs out of available work when he is in Florida, he may certainly choose to remain in my State. Millions of people make the same choice, and I would even recommend it to my colleagues. And I hasten to say that this also applies to California. And to Arizona.

In fact, it is a problem pertinent to many States heavy in agricultural employment such as Ohio, for example.

This means that States such as Florida, and I am sure this applies equally to California, would be faced with increased unemployment compensation benefits and, hence, increased taxation problems due to the seasonality of farmwork. The States would also be faced with increased costs in the area of social services.

It is my deeply held opinion that the States seek no help in meeting the costs of increased social services costs and this bill does not provide for any Federal assistance in meeting these increased costs.

This bill only proposes that the States be reimbursed for the difference between what they take in, based on their maximum unemployment tax rate, and what they give out in unemployment compensation to agricultural workers. This provision answers the previously unanswered problem.

This reimbursement does not require any additional expenditure of general taxpayer funds by the Federal Government.

There exists now a Federal unemployment insurance tax of five-tenths of 1 percent which is paid by the employer in every State. It is from this ample fund that reimbursement would be made to the States in case more moneys were paid out for unemployment compensation than were taken in at the maximum State tax rate.

In effect, this is no-cost living insurance to an important sector of our people.

I believe that this is what the Congress has been working toward and I also believe that this is what agricultural employers are seeking in their effort to achieve equal benefits for agricultural workers.

With this bill, which I submit for your favorable consideration, we achieve parity for agricultural workers with industrial workers in the field of unemployment compensation and we achieve this most desirable objective without any increased burden on the taxpayers or on the resources of the Federal Government.

PEACE WITH OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 30 minutes.

Mr. PODELL. Mr. Speaker, in the few short weeks since the announcement of an Arab oil boycott, we have entered a new world. All at once, the familiar predictions of natural shortages, the warnings against waste and overconsumption have been transformed into reality. The President preaches self-sacrifice, rationing of heating oils and gasoline is imminent, gas-guzzling luxury cars, once the symbol of American extravagance are piling up on the used car lots. We are like a middleaged man who wakes up one morning to find himself dangerously overweight and with a heart condition. Our future be damned, spendthrift attitudes did not happen overnight and they are not being pointed out for the first time but we are finally realizing that there is a point at which the system simply breaks down and we are much to close to that point. Changed attitudes and self-restraint are nonetheless welcome for being overdue.

But we must not panic into irrational actions designed to create scapegoats and obscure the truth. A full awareness of our energy problems has only come in the wake of the recent Mideast war. And so there are already a few people, ignorant of the fate of those who submit to blackmail and careless of our moral responsibilities, who call upon America to desert Israel, appease the Arabs, and wait for the oil to flow in greater abundance than before. This is a false hope. The Arabs might restore production for a time to gain the destruction of Israel but we would only have succeeded in stalling the crisis for a year or two; we would once more have deluded ourselves into believing that our troubles will disappear if they are ignored.

Is the cut in oil production really related to Israel or the plight of the Palestinians? For years the wealthy Arab nations spoke loudly and did little. They not only failed to fight Israel but they refused to aid the Arab refugees who were forced to live from hand to mouth at the charity of the United States and the United Nations. What lies behind this sudden surge of interest on the part of Saudi Arabia and the Persian Gulf sheikdoms? Saudi Arabia after all is a conservative anti-Communist nation traditionally tied to the United States. Of all the countries in the region only Jordan and Saudi Arabia have received American grants-in-aid. The Saudi Arabian army is equipped with our weapons and arms shipments have continued in spite of the oil embargo. Surely Saudi Arabia is not trying to play into the hands of the Soviet Union. Why has Japan been so seriously threatened by the boycott when their ties with Israel have always been weak and the pressure they could exert minimal?

All the evidence points to the conclusion that Saudi Arabia and her neighbors have seized this opportunity as a cover for ushering in a new era of relations between the developing oil producing countries and the West.

Only the timing of the Arab decision was related to the war. The action itself was dictated by economic self-interest and was inevitable. As an affluent energy hungry world increased its demands for petroleum, the producing countries faced the prospect of being completely drained. Arab oil while forming over half the world's proven reserves could no longer be expected to last more than a few decades. If they continued revving up production to suit Western demands, they would eventually have been left with nothing. It is far wiser to husband their oil resources and diversify their economies. Meanwhile by cutting production, they have driven prices up to more than compensate for lost revenues. These countries are now in the enviable position of producing less, earning more and keeping the oil in the ground for future sales. There is almost no incentive for increased production, the Arab economies, particularly of sparsely populated Saudi Arabia, cannot absorb any further increase in revenues so new money is poured into unstable Western currencies. Oil in the ground is a sure hedge against inflation.

This is happening all over the world, developing countries are assuming greater control over their own resources, driving up prices, and nationalizing Western holdings; this is just as true of the countries traditionally friendly to the United States. We will never hold back this process of self-determination by abandoning Israel.

We have lulled ourselves into believing that the abundance of cheap oil will never end. We ignored the changes gradually forcing this new relationship with the Arab countries and so neglected our own resources, both natural and technological to which we must now turn. Our prodigal waste must finally be curtailed before we become as weak in the face of blackmail as Europe and Japan. Their economies are so dependent on Middle East oil that only Holland has had the guts to act honestly and independently.

The United States must hold firm. The more successful pressure tactics are, the quicker the Arabs will be to employ them. We must follow a new path of self-reliance at home while maintaining our independence in foreign policy. In the long run a viable peace settlement is in everyone's best interests.

THE TRADE REFORM BILL AND EMIGRATION OF SOVIET JEWS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, I want to announce at this time the conclusion of the bipartisan daily vigil by Members of Congress on behalf of Soviet Jews denied the right to emigrate. This vigil has been continuing over the last 2 months.

We began this series of 1-minute speeches on September 25. Since that time, 27 Members have delivered addresses to the House describing the plight of a particular Soviet citizen or family denied the right to emigrate for religious or political reasons.

I believe our original objective—assuring the inclusion of the Mills-Vanik amendment in any trade reform package considered by this Congress—will certainly be realized when we take up the trade reform bill. But, I want to emphasize that I believe the program has had a significant impact beyond the contours of the trade bill. I think the participation of my colleagues in the vigil and the overwhelming endorsement of the Mills-Vanik bill's insistence upon free emigration have served notice both in Washington and the Kremlin that the Congress will not turn its back on those denied religious or political freedom in the Soviet Union.

In light of the recent wave of anti-Jewish trials and official harassment of Jews in the U.S.S.R., as well as Soviet support of Arab aggression against Israel, the need for our continued vigilance in Congress is clearer than ever.

We in the Congress will continue to be an active voice on behalf of those in the Soviet Union who have been denied their right of emigration and subjected to harassment because of their political or religious views. We will not be content to rely on Soviet assurances of cooperation or a "new spirit" of détente because similar promises have proved illusory in the past.

Those members who participated deserve the deepest appreciation of the Congress and the American public for their outspoken strong concern for the plight of those denied fundamental freedoms by the Soviet Union. These Members are: Representatives Bella S. Abzug, Democrat of New York, Herman Badillo, Democrat of New York, Alphonzo Bell, Republican of California, Mario Biaggi, Democrat of New York, Jonathan B. Bingham, Democrat of New York, Jack Brinkley, Democrat of Georgia, Hugh L. Carey, Democrat of New York, Cordiss Collins, Democrat of Illinois, James M. Collins, Republican of Texas, Silvio O. Conte, Republican of Massachusetts, Lawrence Coughlin, Republican of Pennsylvania, Robert F. Drinan, Democrat of Massachusetts, Joshua Eilberg, Democrat of Pennsylvania, Dante B. Fascell, Democrat of Florida, Henry B. Gonzalez, Democrat of Texas, Lawrence J. Hogan, Republican of Maryland, William H. Hudnut, Republican of Indiana, Edward I. Koch, Democrat of New York, Clarence D. Long, Democrat of Maryland, Ogden R. Reid, Democrat of New York, Angelo D. Roncallo, Republican of New York, Benjamin S. Rosenthal, Democrat of New York, John H. Rousselot, Republican of California, Fortney H. Stark, Democrat of California, Alan Steelman, Republican of Texas, and Lester L. Wolff, Democrat of New York.

I also want to express thanks to June Silver of the National Conference on Soviet Jewry and Mrs. Pearl Franck, whose tireless efforts were an invaluable assistance to those of us who participated.

CHANGES IN ALLOWANCES FOR MEMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Thompson) is recognized for 5 minutes.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 457, 92d Congress, provided the Committee on House Administration the authority to fix and adjust from time to time various allowances of Members of the House of Representatives. Pursuant to this authority the committee has issued orders No. 10 and 11.

Committee Order No. 10

Resolved, That until otherwise provided by the Committee on House Administration, there shall be paid from the contingent fund of the House of Representatives to each Member, Resident Commissioner, or Delegate to the House of Representatives an additional allowance of $1,000 for stationery. Such payment shall be effective each session beginning with the 2d Session of the 93d Congress.

Committee Order No. 11

Resolved, That effective January 1, 1974, until otherwise provided by the Committee on House Administration, one word of a telegram, cablegram, or radiogram, shall be charged as two (2) units, except that one word of a night letter shall be charged as one (1) unit. In addition, twelve (12) units shall be charged for physical delivery of any telegram, cablegram, or radiogram, by the Telegraph Company.

HOUSE ARMED SERVICES COMMITTEE INTIMIDATES SECRETARY OF THE ARMY TO BOYCOTT 14 UNIVERSITIES THAT HAVE DROPPED ROTC PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, for several months I have been following the now successful attempts of the chairman, the members, and the staff of the House Armed Services Committee to force the Defense Department to boycott the 14 colleges and universities which have terminated ROTC programs.

These 14 universities include some of the most prestigious institutions of higher learning in the Nation. In New England alone these universities include Brown University, Boston University, Dartmouth College, Boston College, Yale University, Tufts University, and Harvard University.

In the rest of the Nation the list includes the following: Colgate University, Columbia University, Hobart College, New York University, Pratt Institute, Stanford University, and State University of New York at Buffalo.

Mr. Speaker, in the recent past I learned that the Secretary of the Army Mr. Howard H. Callaway had indeed formally capitulated, in a letter to Chairman Hébert, to the demands of the House Armed Services Committee, to boycott the 14 colleges and universities in America which have terminated ROTC programs.

In early September of this year, I received a copy of an official memorandum dispensed from the Department of the Army in Washington to all of the Army Corps of Engineer units which was entitled: "Attendance of Civilian Personnel at Colleges and Universities Which Have Unilaterally Dropped ROTC Programs."

That memorandum, in part read:

> Effective Immediately, Civilian Personnel Participation Will Cease In Programs Offered By Colleges and Universities Which Have Unilaterally Terminated ROTC Programs.

Investigation of this matter revealed that this action was taken as a result of a letter sent by the Secretary of the Army to the chairman of the House Armed Services Committee, pursuant to a request for a letter on the Army's policy in this area made at the hearings on cost escalation in defense procurement contracts before the committee on May 17, 1973.

I was unable to ascertain under what authority this memorandum affecting civilian personnel was issued.

On Monday, November 5, 1973, I spoke with a member of the staff of the House Armed Services Committee and asked to see the letter of the Secretary of the Army. This aide informed me that the letter of the Secretary on the date of July 6, 1973, to Chairman Hébert was "personal" in that it was signed by the Secretary as "Bo." This aide informed that I could read the letter but that I could not have a copy of it. I went to the office of the House Armed Services Committee and sat down and in the presence of employees of that office copied out in longhand the letter that follows from the Secretary of the Army to the chairman of the House Armed Services Committee. I enclose herewith that letter in its entirety.

> July 6, 1973.
>
> Dear Mr. Chairman: This letter is in response to your telephone call on 3 July in which you express concern with whether or not the Army is complying with the desires of Congress regarding the Army sending personnel to colleges and universities which have unilaterally terminated the ROTC program.
>
> As you know the Army agreed in 1971 to limit its use of the schools which had withdrawn from the ROTC program to those cases where there is a unique capability at a particular unit. However, in May, 1973, during the Committee hearings, members and staff of your committee expressed concern over the Army's continued use of the institutions in question. Therefore the Army will no longer approve enrollment of students at Harvard University or any of the other 13 colleges and universities which have withdrawn unilaterally from the ROTC program, except for medical officer procurement.
>
> As a onetime exception to this policy three officers will enter Harvard in the July–September period. These officers were chosen to attend Harvard under the provisions of a policy in effect prior to May, 1973 and, upon reviewing their situation, I have determined that it would be a personal injustice to these officers if they had to change their plans at this late date. All three have made financial and legal commitments for their present houses and have arranged for housing in the Harvard area. In addition one of these three

officers has arranged for his children's schooling in this area. In short, the Army's commitment to these individuals is now too far along to change without harm to them.

In addition to the officers mentioned above, I should note that for a number of years Army policy has provided for West Point graduates in the top 5 percent of each class to elect graduate schooling at an institution of the individual's choice. There is the possibility that some of the officers in that category, not yet on orders, have been accepted for graduate study at Harvard and are awaiting orders. I would anticipate that some, when they are advised that they will not be permitted to enter Harvard, will express the view that an Army commitment made to them has not been honored.

I assure you that I now have the word, not only on Harvard but on the other 13 colleges and universities which have withdrawn unilaterally from the ROTC program. In the near future I will provide to you detailed information on Army personnel who are currently enrolled at these institutions.

Sincerely,

Bo
Howard H. Callaway.

Mr. Speaker, I find it incomprehensible and indeed appalling that the Secretary of the Army, himself a former member of the House of Representatives. should submit to the demand for retaliation of a committee of this House.

I have been struggling against this vindictive policy for many months. The demand of the House Armed Services Committee that no military personnel be sent to universities that have disengaged themselves from ROTC programs has been denounced by many leading newspapers in the Nation. One of the best and most eloquent statements against this policy was written on February 17, 1972, by the majority leader, Congressman Thomas P. O'Neill, Jr. Congressman O'Neill's letter follows:

Washington, D.C., *February 17, 1972.*

Hon. F. Edward Hébert,
Chairman, House Armed Services Committee, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: It has been brought to my attention that the House Armed Services Committee has taken drastic and unprecedented action in prohibiting career officers from taking government financed graduate courses at fifteen of the nation's finest educational institutions, including several which are located in my congressional district.

The tradition of excellent education which these schools represent should be available to every American, including those who serve in the Armed Forces. It is my sincere belief that to deny access to these universities of higher learning to the officers of the Navy solely on the basis that they have phased out their Naval Reserve Officer Training Program is both unsound and punitive. The officers of the United States Navy deserve, and have a right to attend schools of their choice, just as any civilian has the right to do. If I understand the implications of the present decision correctly, the blacklisting of these colleges is tantamount to a denial of due process to the men of the Armed Forces.

Blacklisting, especially when it interferes with academic freedom, is not favorably looked upon by any freedom loving people. The workingman of this nation has battled long and hard to throw off the shackles of the blacklist, the most incipient restraint on the freedom of any individual. To place the servicemen of this nation under the burden of such a system is the consummate insult to both their commitment to their country and the integrity of the Armed Services.

Regardless of how one feels about the ROTC programs and their removal from many of the blacklisted campuses, it seems ludicrous to punish men who have nothing to do with those decisions and whose only objective is to obtain a decent education. Furthermore, the universities of this nation cannot long remain free and independent if pressure from military and government quarters is to govern their behavior.

In light of all the foregoing, I respectfully urge you to reconsider this decision.

With every good wish,

Sincerely,

Thomas P. O'Neill, Jr.,
Member of Congress.

The consequences of the demand for vindictiveness by the House Armed Services Committee can be seen in the following article reprinted from the Boston Sunday Globe on November 25, 1973:

UNIVERSITIES MAY LOSE MILLIONS IN RETALIATION FOR ENDING ROTC

(By Richard M. Weintraub)

Millions of dollars could be lost to universities in the Northeast under a policy being presssed by U.S. Rep. F. Edward Hébert (D-LA), chairman of the House Armed Services Committee, against institutions which have dropped ROTC.

The policies fostered by Rep. Hébert add a new dimension to the reconsideration of ROTC which is going on at many universities.

While it adds a financial aspect to other arguments over university relationships with the government in general and the military in particular, there also is the question of government pressure on universities.

Universities in New England which have come under the Hébert policy are Boston University, Harvard, Boston College, Brown University, Dartmouth College, Yale University and Tufts University.

The powerful chairman of the House Armed Services Committee has fostered a policy that no civilian or military students from the Dept. of Defense should attend schools which dropped ROTC. He leaves little doubt that this is in retaliation for the actions in the late 1960s which led to the removal of military units from these schools.

In addition, he has fostered a climate which will make it difficult for schools to reestablish an ROTC unit.

ROTC was and is by no means the only point of contact between the military and the nation's universities.

The military services send large numbers of career officers to universities for graduate degrees and special, short-term programs. In addition, many millions of dollars are spent yearly by the Department of Defense on research projects at universities.

For academic institutions facing a financial crunch—and there are few which are not—any loss of funds is taken seriously.

Boston University, for example, had about 100 military students in its graduate programs three years ago. At normal BU tuition rates, these students provided about $250,000 from the military services. It was cold, hard cash with no demands for scholarship assistance. Today, university officials say, BU has no students from the military services and, therefore, has no tuition money from the Dept. of Defense.

New York University's Safety Center now has a contract program with the Air Force that totals about $50,000 for the training of military personnel in safety procedures. John Grimaldi, a recent convert from industry to the NYU program, said last week that "we have been advised by the Air Force that we are on the blacklist, and unless we can clean up the ROTC matter our contract is in jeopardy."

The NYU situation represents an expansion of the initial policy which affected only individual students.

At Harvard, officials said comparison has been made of students from the military this year and prior to the blacklist, but there is a definite feeling the number is down considerably. Hebert has been harsh in his criticism of sending some students to the Harvard Business School in particular, in spite of the list.

There are similar tales at other universities on the so-called "blacklist" although none of them really know the extent to which the policy affects them since there likely are many students who would have applied to one of the schools but did not because of the list.

An indication of the scope of the cutbacks is shown in the testimony this past May by Maj. Gen. Oliver W. Lewis, Air Force director of personnel programs, before a House Armed Services subcommittee.

Gen. Lewis said that in 1969, 231 Air Force officers attended schools which eventually dropped ROTC and that the comparable figure at the time of the hearing was 21. Shifts similar in scope have taken place for other services and for civilian Defense Dept. personnel.

While Boston University has been removed from the list since it reapplied for ROTC this fall, the other non-New England schools, in addition to NYU, Colgate University, Hobart College (Geneva, N.Y.), Pratt Institute (New York City), Stanford University and State University of New York at Buffalo.

The reason the institutions which dropped ROTC have no or very few military students today is Rep. Hebert.

Hebert's power as chairman of the House Armed Services Committee is such that there are those who argue the congressman has forced his policies on the military services in spite of the wishes of fellow congresmen.

For several years, both the Dept. of Defense and the National Aeronautics and Space Administration (NASA) have been prohibited by law from spending funds at universities which ban military recruiting. Attempts to extend this ban to ROTC have been unsuccessful, although the provision was struck from the 1973 Armed Forces Procurement Act only at the final stage.

Nevertheless, Hebert, as head of the Armed Forces Committee, first required that the Defense Dept. adopt as a matter of policy that no military students be sent to graduate programs at a university which dropped ROTC, unless that program could not be duplicated elsewhere. As of this past August, that policy was extended to civilian employment of the Dept. of Defense.

So far, the policy does not extend to research and development funds, although this has been threatened implicitly and is a prospect which clearly concerns university officials.

One of the clearest explanations of Hebert's position on the question came in February, 1972, as the debate was underway on the Defense Procurement Act for fiscal 1973. Asked if military services would suffer by not being able to send students to these schools, he said:

"Well, nobody suffers by it. Who is going to suffer? I haven't received word from Heaven that Harvard has been anointed or canonized. How silly it is to say that all the intellectual people of the country are cloistered in these 14 schools that have been named. I think we have some great universities in the West, in the Southwest, and yes, in the South. Nobody is being hurt."

The Pentagon is highly conscious of Hebert's position. Col. Gerald Perselay, who handles ROTC matters in the office of Deputy Asst. Sect. for Education and Manpower Richard Rose, said in an interview last week:

"We have tried to stay in the middle-of-the-road. When it is in our best interest, we will use the schools."

Staying on the good side of Rep. Hebert is imminently in the Pentagon's best interest, however, since it is Hebert who controls a major chunk of the military's budget and as Col. Perselay said: "Politicians don't see shades of gray. You reward your friends and kick your enemies in the seat of the pants."

The universities have not been anxious to pick a public fight with Hebert, and the military services are caught somewhat in the middle. Aside from a few articles and editorials when legislation was moving through Congress in early and mid-1972, little has been said.

Yet, it has been since mid-1972 that Hebert's policies have had their major impact, and, with the exception of Princeton, it has been since mid-1972 that universities have begun to reconsider ROTC. (In Greater Boston, MIT and Northeastern are the only universities which still have ROTC units).

Boston University announced in September that it was reapplying for ROTC. President Derek Bok of Harvard broached the issue at last June's graduation and has said recently he would support a serious study of the issue if students wanted it. Dartmouth President John Kemeny announced last week that the college's trustees had authorized a thorough study of the ROTC issue.

The views presented by the college presidents who have spoken on the issue of ROTC's return have stressed the hastiness of decisions leading to its removal, the rights of those students who might want to take part in an ROTC program and the role of the university in supporting civilian control of the military.

BU President John Silber did make a brief reference to financial considerations in a letter to faculty members prior to a survey of views on the return of ROTC this past summer.

In a brief telephone interview last week, Harvard's President Bok said: "I don't think we are hurt specifically as an institution" but there possibly are people out there who might have come here who have not been able to come because of the policy.

"The real burden falls on students who might otherwise have come here," he said.

"I would hate to make any decision about academic or other programs here on the basis of Federal pressures," he said, indicating that one of the reasons he wanted to make a thorough study of the ROTC issue is to make sure all aspects are fully considered.

Bok has said he would begin a thorough review of the ROTC issue when student interest in a program is expressed. So far, he said he has not seen any indications of student interest.

While a decision to reapply for ROTC will remove a university from the "list" of institutions from which military and civilian DOD personnel are banned, it by no means guarantees that ROTC uniforms will return to the campus.

"We've had pressure put on us not to give these schools preferential treatment. They go to the end of the list," said Perselay.

ALEXANDER ADDRESSES NATIONAL CONFERENCE ON RURAL DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, yesterday, November 27, 1973, I was privileged to address the National Conference on Rural Development in Des Moines, Iowa. There is an increasing number of Members who have shown interest in this national need. I hope that they will be influenced by the following remarks:

America is a nation of urban dwellers and rural migrants. For generations, the rush to the city has been the promise of better jobs, better government service, and brighter future for millions of citizens who pulled up stakes in the country and moved to the city.

I represent 21 counties in the northeast quadrant of Arkansas situated midway between Little Rock and St. Louis—50 miles north of Memphis, Tenn., on the North-Expressway. My district is typical of those who have lost thousands to the lure of the city.

The First Congressional District is first in outmigration of population. During the past quarter-century, my district lost approximately one-third of its total number of people. They moved away from their families in Arkansas to Memphis, St. Louis, Chicago, and Detroit.

We have literally poured out our problems and they have filled the urban areas which surround us.

Our poor have moved away to the city:

They swell the welfare rolls in St. Louis;

They raise the crime rate in Memphis;

They crowd the classrooms in Chicago;

They fill hospitals in Detroit; and

They add to the number of citizens who have lost hope of the American dream.

Similar facts and situations no doubt exist in other regions like the First Congressional District of Arkansas.

When I first ran for Congress in 1968 my district—

Was the lowest in per capita income;

Was the highest in the rate of unemployment;

Had the least number of doctors per 1,000 population;

Had the most substandard housing of any district in the State; and

Had the lowest education achievement level.

The most commanding need was for comprehensive community and regional development.

I made a commitment to work to help breathe new life into the heartland; to work for programs which would help the people of Arkansas and other nonmetropolitan areas of our countryside to improve job opportunities, education, health care facilities, recreation, and transportation.

It was that commitment which found me working to have included in the Agriculture Act and the Housing and Urban Development Act national policies for revitalization of the countryside and a balanced national growth. And it was that determination which guided my efforts on behalf of the passage of the Rural Development Act in 1972.

We convinced our city cousins that the urban crisis is a transplanted rural problem, compounded by size, crowded cultural fusion, and crime.

In 1972, a balanced natural growth policy became the law of the land.

It was felt that the tide of urban migration could be slowed and stopped by providing incentives for economic development, and for viable government services in the countryside.

To further this goal the Congress established through the RDA an institutional mechanism for the development of ideas and programs. At the heart of this mechanism are the advisory councils established under title 5.

The councils have two functions: First, a continuing oversight of administrative action and, second, to generate ideas; to create proposals to be acted on by Congress, Federal agencies and interested private groups.

Title 5 councils are vital to the success of the RDA. A failure to act with courage, imagination and enthusiasm will dim the torch that Congress has passed to the college community.

The burden you carry under title 5 of RDA is a heavy one. There are thousands of us around the country and in Congress who want to help you. Your job is going to be to help show us how to use our own resources and those available from State and Federal programs in finding practical, workable ways for achieving a revitalization of America's countryside.

There are many groups around the country which have been working on their own to achieve this goal. One of the problems which we in the Congress continually run into head on is that there is little or no coordination between these efforts and there is not enough swapping of information on what works and does not work.

The image that most people have of the Cooperative Extension Service and of the State universities and land-grant colleges working with it is that you are concerned only with bushels and bales, only with production and efficiency. It is an image which became institutionalized because of the laws under which it was authorized. But, it is also an image that some of you have begun to hammer into a new shape which includes peoples problems on community development.

Congress intended for this image to change when title 5 was included. As you must know the possibilities for community development are virtually unlimited.

Inasmuch as RDA embraces the complete gamut of community development it is imperative that title 5 action involve the whole of the university community.

You must do more than review past bureaucratic action. You must reach beyond the agriculture community to prevent the sterility of inbred decision-making.

In September I had an opportunity to study the makeup of the State rural development committees. What I found was most disappointing. There are such committees in the 50 States and in two territories. These committees could serve as a powerful force in coordinating efforts through all State and Federal programs to see that America's countryside gets a fair shake on the information, assistance, and funds available for community development.

But, I found that in 28 States the only Federal agency representatives on the committees are those from the Department of Agriculture. There are four States which have only agriculture-related State agency members. In four

States the rural development committees listed no State agency members. The committees in 33 States have no members who are not employees of either Federal or State agencies. And, in three other States where there are such members those they do have are representative of only the agriculture interests.

Why is this so? Are other Federal agencies not interested in the regions of America? To a degree that is correct. They only see the problems of the big cities. But, what of the States? Are the nonagriculture agencies blind to the needs of the countryside?

I am convinced that the existing organization of the State Rural Development Committee is hopelessly crippled. As they are set up in most States they will not be able to be a viable force in bringing about the revitalization of the countryside.

It is imperative that the make-up of advisory councils is broad in scope.

What we must achieve is a cooperative network of spokesmen—from the grassroots to the Federal level—that will speak up for the countryside. These groups at every level must include representatives of: agriculture, comprehensive planning, education, the environment, economic development, health, manpower training, recreation, social services, and transportation.

We must mobilize the expertise, and energy of all areas of the college and university community as a two-way pipeline for knowledge and information on how to get the job done which must be done. We must develop programs to train countryside experts and leaders as we have for the cities.

I am somewhat familiar with the efforts that you have been making in this area. I know that at least some of you have already been working on one or more of the areas that I have mentioned.

For instance, in the area of economic development, I can cite the work of imaginative county agents in the Ozark counties of the First Congressional District of Arkansas which I represent. They were of invaluable assistance to the people they serve in efforts which led to the establishment of a handicraft guild, folk music and craft festivals and the Ozarks Folk Center at Mountain View. The result has been a revitalized economy largely based on tourism. Tens of thousands of persons come each year to enjoy the beauty, music and crafts of the mountains.

In a delta county of the first district a county extension agent has been one of the guiding forces in helping the people organize themselves to identify and work on such problems as educational and health care needs.

When I reviewed a report on what the Cooperative Extension Service did in the area of community development in the 3,150 counties where you worked during fiscal year 1973 I found some impressive statistics.

You were involved in community development activities in at least 2,900 counties. You assisted with more than 46,000 projects. You convened and conducted or assisted with more than 94,000 workshops, conferences, and meetings on community development. As I said, these are impressive statistics. They certainly testify to the fact that many of you take seriously the task which has been given you by the Congress.

But there is no way, from the statistics, for me to tell what impact you are having. I would rather see one new park in every county in America than a galaxy of new statistics.

We need good records, true, but, we need success stories just as much or more. We must be able to show our colleagues in the Congress about how the countryside was helped to develop a better plan for using its land through your efforts; how communities are improving the quality of life in America.

We must tell of how the small town is working toward better and more jobs for its people.

Finally, the most important thing that you can do is to be aggressive in your insistence that the administration support its verbal commitment to the heartland. We must break their habit of impoundment and help them keep their word.

Regardless of what Congress does, regardless of what you do, regardless of the efforts of the citizens of the Nation's heartland, the revitalization of the countryside will become another forgotten promise—at least for the near future—if the administration starves this program or continues to offer only words where we need work.

What we need is a working partnership of the Congress, the administration, the colleges and universities and the people of the countryside. I know that the Congress is committed. We have demonstrated that many times in the past 4 years. I know that the people of the countryside are ready and willing to do their share. I am convinced that many colleges and universities are beginning to display the foresight needed to do their part. But, when I review the fact that the administration has dragged its feet on implementation of the Rural Development Act for more than a year, I have to be equally convinced that it is not yet committed to meeting the needs of the Nation's countryside.

As a Representative of the people who are the backbone of America, I challenge you to exhibit a determination that is equal to your task.

THE CURRENT SITUATION IN THE MIDDLE EAST: A REPORT FROM A HOUSE SUBCOMMITTEE THAT VISITED BOTH SIDES OF THE CONFLICT

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, over the Thanksgiving recess I had the opportunity of chairing a 21-member subcommittee of the House Armed Services Committee, which visited both sides of the combat zones in the Middle East and spoke not only with Israeli Prime Minister Golda Meir but also with Egyptian President Anwar El Sadat. This was a unique and historic event for Members of Congress.

Because the situation is so important, and the need to achieve peace in the Middle East so urgent, I believe other Members may be interested in the following preliminary statement which our subcommittee issued upon our return to Washington.

The statement follows:

STATEMENT OF CONGRESSMAN SAMUEL S. STRATTON

This special subcommittee's ten-day fact-finding mission to the Middle East has been extremely interesting and helpful. In many ways it was an historic visit. This has been the first visit of an official congressional committee to Egypt in more than six years. Moreover, it was probably the first time in history that any congressional committee has been able to observe a major war from both sides while the conflict was still short of final settlement.

The subcommittee had the unique experience of visiting the West bank of the Suez Canal in the company of Israeli forces, and then shortly thereafter the East bank of the canal in the company of Egyptian forces.

Both Israel and Egypt were extremely cooperative with the subcommittee and most hospitable in the manner in which they received us. Because of the shortness of time available, however, the subcommittee was unable to visit Syria and other Arab countries.

In addition to visiting the front lines and talking with top field commanders on both sides, as well as the defense ministers of both Egypt and Israel, we met with the principal political leaders in both countries, including Prime Minister Golda Meir of Israel, President Anwar El Sadat of Egypt, and our counterparts in the parliaments of both countries. We met for almost two hours with President Sadat, although our newly appointed Ambassador in Cairo has not yet been formally received to present his credentials to the Egyptian Chief of State.

It would, of course, be premature to comment on our findings until we have reported fully to Chairman Hébert and to the full committee. In addition, it must be remembered that this was a military fact-finding assignment, and therefore some of what we learned about weapons systems and battle performance will have to be reserved for disclosure to the full committee in executive session.

However, it can be said that the subcommittee learned a great deal about the quantity and quality of weapons systems supplied to both sides, about the performance of new weapons in combat, about battlefield tactics, and about comparative capabilities of both U.S. and Soviet systems.

Much of this information, I might add, could only have been gained by the kind of direct, on-the-spot investigation which this subcommittee has just completed.

We received especially informative comments from both sides on the technical capabilities of American systems.

And we learned too that soldiers on both sides in this war had displayed high levels of courage in battle.

Since ours was primarily a military fact-finding mission, it is neither our responsibility nor intention to attempt to make specific recommendations on a political settlement. It soon became obvious to us, however, that the most urgent present business in the Middle East, for U.S. and Soviet interests as well as for the combatants themselves, is to move as rapidly as possible into full political negotiations between the parties to work out an acceptable, permanent, and stable peace arrangement for the whole area.

No one should minimize the deep roots of this long and bitter conflict. Having talked with leaders on both sides, we are profoundly aware of the intense and bitter emotions involved. We have no illusions about the extraordinary difficulty in finding a satisfactory peace formula.

Moreover, as in all such complex clashes of interest, any satisfactory solution must involve some give and take on both sides, with the result that a final settlement is unlikely to be totally satisfactory to either side.

But a solution should be possible where both sides want peace dearly enough. And a solution is certainly necessary because for both sides the alternative is an unacceptable and intolerable extension of the tensions presently gripping the Middle East, with increasing danger of a wider and even more destructive conflict in the future.

The Middle East situation permits no easy optimism. But there are some hopeful signs.

For example, the need of peace to foster the economic development of both countries is everywhere apparent to the visitor, and is fully recognized by the leaders of both Israel and Egypt. Equally evident is that the average citizens of both countries do not want war.

Even more to the point is the fact that throughout the period of our visit the representatives of Egypt and Israel continued to meet face to face, across the table, and with remarkable good humor, in the U.N. ceasefire tent at Kilometer 101 on the Cairo-Suez road (which our subcommittee also visited)—the first such face-to-face talks by top representatives of these two countries in more than twenty years.

If the good will, patience, and persistence that have thus far marked these military talks can be continued and soon carried over into the more comprehensive political framework of a full-scale peace conference, we may yet look forward to a day when peace will replace war in the troubled Middle East, and when the rest of the world can truly breathe a sigh of relief.

THE ALL-VOLUNTEER FORCE: IS IT REALLY A SUCCESS? SOME SOUND ADVICE FROM RETIRED MARINE GEN. LEWIS W. WALT

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, so much has been said already about the progress of our all-volunteer force that one may be reluctant to consider some additional views. But the fact is that much of what has been said on this subject is really propaganda, a conscious effort to put a rosy hue on a situation that is considerably less than satisfactory.

In view of the serious nature of the true state of our Armed Forces, I believe we need to look at the cold facts, however unreassuring they may be.

In that connection I believe the views of Gen. Lewis W. Walt, U.S. Marine Corps, retired, may be especially constructive. General Walt was not only a great combat commander in Vietnam, but he has also since traveled the width and breadth of this country, addressed hundreds of audiences, and probably understands the thinking of the American people better than any other professional soldier.

I am therefore bringing to the attention of my colleagues in this Congress a memo on the real impact of the zero draft concept which I have recently received from General Walt. I believe it merits the attention of every Member who is seriously concerned about the future of our Armed Forces.

The Zero Draft

Evidence builds up: The zero draft concept is not working. It is not giving our country the kind of military personnel it needs to insure the security of our nation. The short fall is in both quantity and quality. Army spokesmen say that the zero draft is an "experiment" and they don't know whether or not it will work. This should concern the American people. Can we afford to experiment with the defense forces of this nation? We are living in a world that has shrunken since WW II. Due to satellites, intercontinental missiles, nuclear weapons, instant worldwide communication, jet aircraft, nuclear ships and submarines and sea-launched intercontinental missiles, we are truly one world geographically, but not politically. Therein lies our problem.

Because our world is small geographically and because there are high international political tensions and because our potential enemies are outdoing us in military preparedness and capability, we are facing very real and frightening dangers as a free nation and as the leader of the free world. No longer can we, as a nation, depend on the expanse of the oceans to protect us or give us time to prepare. The oceans contain hostile elements and the Soviets have more capability of controlling the sea lanes than we do. They are also rapidly gaining a superiority in strategic nuclear-tipped missiles.

I mention these military advantages of the Soviet Union to point up the fact that to be "prepared" today, the defense forces of our nation must be just that, "prepared," not a year from now or even a month from now—but now.

I think it negates the idea of having a second class armed force—whether its members be too mercenary minded or just of too low a mental and physical capability to be a part of a first class military force.

We need, in our nation today, an elite armed force. One that is highly trained and motivated and superbly led. We need personnel whose mentality is commensurate with the sophisticated materiel which is in the service inventories today. In this respect, the zero draft is causing a paradoxical situation—one in which the sophistication of the materiel is increasing and the sophistication of the personnel is decreasing.

Aside from the armed forces requirements for a draft, I believe there are other reasons for the draft.

(1) It commits a cross section of our population to military service—a healthy thing for the services and for the nation.

(2) It causes a constant flow of personnel from the civilian community into the armed services and a corresponding flow from the armed services to the civilian community. Another healthy thing for our country.

(3) It keeps the civilian populous conscious of military matters, it builds up a reservoir of military experienced personnel and most important, it prevents the build up of an isolated military force which might tend to isolate itself from civilian control.

Finally, I would like to propose an alternative to the regular draft concept. I propose that we try a draft of the reserve forces only. When drafted, a man or woman would have to come on active duty for six months and then be a member of the Reserve for another five and a half years. Perhaps such a draft would be more palatable to our people and thus to the Congress. Also, such a draft could have two beneficial results. It would build a strong reserve which is deteriorating rapidly today under the zero draft. It would cause some enlistees to choose a two-year tour in the regular forces in preference to a six-year obligation in the reserve. I respectfully submit this suggestion to members of the Congress.

Lewis W. Walt,
General, USMC (Retired).

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. Hansen of Washington (at the request of Mr. O'Neill), for today, on account of illness.

Mr. Green of Pennsylvania (at the request of Mr. O'Neill), for today, to attend funeral of relative.

Mr. Brasco (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Foley (at the request of Mr. O'Neill), for today, on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Patman, to address the House for 1 hour September 29, and to revise and extend his remarks and include extraneous matter.

Mrs. Green of Oregon, for 60 minutes, today.

(The following Members (at the request of Mr. Towell of Nevada) and to revise and extend their remarks and include extraneous matter:)

Mr. Cohen, for 5 minutes, today.

Mr. Kemp, for 15 minutes, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Railsback, for 5 minutes, today.

(The following Members (at the request of Mr. Ryan) and to revise and extend their remarks and include extraneous matter:)

Mr. Cotter, for 5 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

Mr. Lehman, for 5 minutes, today.

Mr. James V. Stanton, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Gunter, for 5 minutes, today.

Mr. Podell, for 30 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mr. Thompson of New Jersey, for 5 minutes, today.

Mr. Drinan, for 15 minutes, today.

Mr. Alexander, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. Green of Oregon, and to include extraneous matter notwithstanding the fact that it exceeds five pages of the Congressional Record and is estimated by the Public Printer to cost $1,672.

Mr. Perkins, to extend his remarks and to include extraneous matter.

(The following Members (at the request of Mr. Towell of Nevada) and to include extraneous matter:)

Mr. Blackburn.
Mr. Derwinski in three instances.
Mr. Cederberg.
Mr. Erlenborn.
Mr. Robison of New York.
Mr. Veysey in three instances.
Mr. Snyder in two instances.
Mr. Walsh.
Mr. Abdnor.
Mr. Kemp in two instances.
Mr. Bray in two instances.
Mr. Ware.
Mr. McClory.
Mr. Gude in five instances.
Mr. Railsback in two instances.
Mr. Peyser in five instances.
Mr. Shriver.
Mr. Hinshaw.
Mr. Symms.
Mr. Baker.
Mr. Grover.

(The following Members (at the request of Mr. Ryan) and to include extraneous matter:)

Mr. Cotter.
Mr. Breckinridge in 10 instances.
Mr. James V. Stanton in two instances.
Mr. Roy.
Mr. Harrington in five instances.
Mr. Rarick in three instances.
Mr. Gonzalez in three instances.
Mr. de Lugo in two instances.
Mr. Patten.
Mr. Wolff.
Mr. Edwards of California.
Mr. Breaux.
Mr. Hawkins.
Mr. Brademas in six instances.
Mr. Boland in two instances.
Mr. Gibbons.
Mr. William D. Ford in two instances.
Mr. Fisher in four instances.
Mr. Anderson of California in three instances.
Mr. Ryan.
Mr. Stokes in two instances.
Mr. McCormack in three instances.
Mr. Hamilton.
Mr. Van Deerlin.
Mr. Burlison of Missouri.
Mr. Waldie.
Mr. Milford.
Mr. Studds.
Mr. Rangel in 10 instances.
Mr. Moss.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7446. An act to establish the American Revolution Bicentennial Administration, and for other purposes.

ADJOURNMENT

Mr. RYAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Thursday, November 29, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1581. A letter from the President of the United States, transmitting proposals for 12 additions to the National Wilderness Preservation System, together with the ninth annual report on the status of the National Wilderness Preservation System, covering calendar year 1972, pursuant to 16 U.S.C. 1136 (H. Doc. No. 93–194); to the Committee on Interior and Insular Affairs and ordered to be printed with illustrations.

1582. A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting a report entitled "Vocational Education: Staff Development Priorities for the 70's," pursuant to Public Law 90–35; to the Committee on Education and Labor.

1583. A letter from the Acting Secretary of State, transmitting a report on U.S. contributions to international organizations during fiscal year 1972, pursuant to section 2 of Public Law 81–806 (H. Doc. No. 93–195); to the Committee on Foreign Affairs and ordered to be printed.

1584. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 278–B, the Tlingit and Haida Indians of Alaska, in its own right and as the representatives of, or successor to, the Angoon Tribe and each of the clans and groups of the Angoon Tribe; and the Angoon Tribe, in its own right and as the representative of, or successor to, the clans and groups thereof, *Plaintiffs* v. *The United States of America, Defendant,* pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1585. A letter from the Secretary of Commerce, transmitting a report on a study of the status of North Pacific fur seals, pursuant to sections 108(b) (1) (A) and (B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361); to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLATNIK: Committee on Public Works. H.R. 10701. A bill to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain port facilities; with amendment (Rept. No. 98–668). Referred to the Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee on House Administration. House Resolution 605. Resolution to authorize markers in Statuary Hall for the location of the desks of nine former Members of Congress who became President; with amendment (Rept. No. 93–669). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 721. Resolution disagreeing to the Senate amendments to the bill H.R. 11104. A bill to provide for a temporary increase of $10,700 million in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974 (Rept. No. 93–670). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 11609. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 11610. A bill to provide public financing with respect to campaigns for election to the Office of the President and Vice President of the United States; to the Committee on House Administration.

By Mr. BOWEN:

H.R. 11611. A bill to amend the Emergency Petroleum Allocation Act of 1973 to give priority to users of petroleum engaged in transportation of fuels on inland waterways; to the Committee on Interstate and Foreign Commerce.

By Mr. BREAUX:

H.R. 11612. A bill to amend the Internal Revenue Code of 1954 to provide an individual tax credit for disaster preparation expenses; to the Committee on Ways and Means.

By Mr. BREAUX (for himself and Mr. Hanley):

H.R. 11613. A bill to amend the Duck Stamp Act with respect to the treatment of moneys received from the sale of migratory-bird hunting stamps, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BURKE of Massachusetts (for himself, Mr. Giaimo, and Mr. Steele):

H.R. 11614. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling wastepaper; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. Collins of Texas, Mr. Forsythe, Mr. Gude, Mrs. Heckler of Massachusetts, Mr. Lott, Mr. McKinney, Mr. O'Brien, Mr. Martin of North Carolina, Mr. Mitchell of New York, Mr. Rhodes, Mr. Steelman, Mr. Towell of Nevada, and Mr. Thompson of New Jersey):

H.R. 11615. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation and heating equipment; to the Committee on Banking and Currency.

By Mr. COHEN (for himself, Mr. Burke of Massachusetts, Ms. Abzug, Mr. Addabbo, Mr. Anderson of California, Mr. Anderson of Illinois, Mr. Badillo, Mr. Bell, Mr. Biester, Mr. Boland, Mr. Brown of California, Mr. Buchanan, Mr. Burgener, Mrs. Burke of California, Ms. Chisholm, Mr. Cleveland, Mrs. Collins of Illinois, Mr. Conlan, Mr. Cronin, Mr. Drinan, Mr. William D. Ford, Mr. Forsythe, Mr. Fraser, Mr. Gilman, and Mrs. Grasso):

H.R. 11616. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. Burke of Massachusetts, Mr. Harrington, Mr. Hawkins, Mr. Ketchum, Mr. Koch, Mr. Kyros, Mr. Leggett, Mr. Lehman, Mr. McClory, Mr. McCloskey, Mr. McKinney, Mr. Mazzoli, Mr. Michel, Mr. Moakley, Mr. Murphy of New York, Mr. Nix, Mr. Pepper, Mr. Peyser, Mr. Podell, Mr. Preyer, Mr. Railsback, Mr. Rangel, Mr. Riegle, and Mr. Rodino):

H.R. 11617. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. Burke of Massachusetts, Mr. Roe, Mr. Rose, Mr. Sarasin, Mr. Stark, Mr. Steele, Mr. Steelman, Mr. Steiger of Wisconsin, Mr. Thompson of New Jersey, Mr. Towell of Nevada, Mr. Treen, Mr. Ullman, Mr. Veysey, Mr. Waldie, Mr. Walsh, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Yatron, Mr. Thone, Mr. Tiernan, Mr. Pritchard, Mr. Heinz, Mr. Studds, and Mr. Brasco):

H.R. 11618. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. Collins of Texas, Mr. Gude, Mrs. Heckler of Massachusetts, Mr. Lott, Mr. McKinney, Mr. O'Brien, Mr. Martin of North Carolina, Mr. Mitchell of New York, Mr. Rhodes, Mr. Robinson of Virginia, Mr. Steelman, Mr. Towell of Nevada, and Mr. Thompson of New Jersey):

H.R. 11619. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H.R. 11620. A bill to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain port facilities; to the Committee on Public Works.

By Mr. FUQUA:

H.R. 11621. A bill to amend title XVIII of the Social Security Act to eliminate the requirement that an alien admitted for permanent residence must have lived in the United States for 5 years in order to qualify for supplementary medical insurance benefits (and hospital insurance benefits in certain cases); to the Committee on Ways and Means.

By Mr. GRAY (for himself, Mr. Blatnik, Mr. Passman, Mr. Waggonner, Mr. Rarick, Mr. Breaux, Mr. Long of Louisiana, Mr. Treen, and Mrs. Boggs):

H.R. 11622. A bill to name the Federal Office Building, south, in New Orleans, La., as the "F. Edward Hébert Federal Building"; to the Committee on Public Works.

By Mr. GUNTER:

H.R. 11623. A bill to extend unemployment insurance coverage to agricultural labor and to provide for Federal payment to the States of the amount by which State benefits for agricultural employees exceed contributions to the State made by farm employers; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 11624. A bill to protect the constitutional right of privacy of those individuals concerning whom certain records are maintained, and for other purposes; to the Committee on the Judiciary.

H.R. 11625. A bill to amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that (unless so required) no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance; to the Committee on Ways and Means.

H.R. 11626. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives to homeowners who invest in energy-saving home improvements; to the Committee on Ways and Means.

By Mr. KING:

H.R. 11627. A bill to provide for the imposition of an embargo on the shipment of goods and materials to Arab nations; to the Committee on Banking and Currency.

By Mr. McDADE:

H.R. 11628. A bill to amend chapter 29 of title 18, United States Code, to prohibit certain election campaign practices, and for other purposes; to the Committee on House Administration.

H.R. 11629. A bill to enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

By Mr. MARAZITI:

H.R. 11630. A bill to direct the President to take action to assure that essential petroleum resources of the United States are retained in the United States; to the Committee on Banking and Currency.

By Mr. MINSHALL of Ohio:

H.R. 11631. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her places of employment to his or her residence; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 11632. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 11633. A bill to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 11634. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amount paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. SYMMS:

H.R. 11635. A bill to amend title XI of the Social Security Act to repeal sections 1151–1170, inclusive, establishing Professional Standards Review Organizations to review health services; to the Committee on Ways and Means.

By Mr. VAN DEERLIN:

H.R. 11636. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction for moving expenses; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 11637. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. BIAGGI (for himself, Mr. Carey of New York, Mr. Dominick V. Daniels, Mr. Delaney, Mr. Fascell, Mr. Fuqua, Mr. Harrington, Mr. Long of Maryland, and Mr. Winn):

H.R. 11638. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. CLARK:

H.R. 11639. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit the Secretary of Transportation from imposing certain seatbelt standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11640. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. CLEVELAND (for himself and Mr. Hanrahan):

H.R. 11641. A bill to insure that certain buildings financed with Federal funds utilize the best practicable technology for the conservation and use of energy; to the Committee on Public Works.

By Mr. GONZALEZ:

H.R. 11642. A bill to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes; to the Committee on Banking and Currency.

H.R. 11643. A bill to amend certain provisions of Federal law relating to explosives; to the Committee on the Judiciary.

By Mr. HANLEY:

H.R. 11644. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

By Mr. HUNT (for himself, Mr. Walsh, Mr. Ketchum, and Mr. Hudnut):

H.R. 11645. A bill to require an investigation conducted by the Attorney General of any person designated as next in line to act as President in the case of a vacancy in the Office of Vice President, whenever such vacancy exists; to the Committee on the Judiciary.

By Mr. MINSHALL of Ohio:

H.R. 11646. A bill to reorganize and consolidate certain functions of the Federal Government in the new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions; to the Committee on Government Operations.

By Mr. MOAKLEY:

H.R. 11647. A bill to limit the medicare inpatient hospital deductible; to the Committee on Ways and Means.

By Mr. MOSS (for himself, Mr. Dingell, and Mr. Leggett):

H.R. 11648. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO (for himself and Mrs. Heckler of Massachusetts):

H.R. 11649. A bill to direct the President to halt all exports of gasoline, No. 2 fuel oil, and propane gas until he determines that no shortage of such fuels exists in the

United States; to the Committee on Banking and Currency.

By Mr. ROY:

H.R. 11650. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. STUCKEY:

H.R. 11651. A bill to temporarily suspend motor vehicle emission standards and prohibitions against modifying emission control systems; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN (for himself, Mr. Badillo, Mr. Collier, Mr. Eilberg, Mr. Green of Pennsylvania, Mr. Gude, Mr. Hosmer, Mr. Kyros, Mr. Moakley, Mr. Nix, Mr. Podell, Mr. Rangel, Mr. Reuss, Mr. Rhodes, Mr. Rosenthal, Mr. Roybal, Mr. St Germain, Mr. Sarbanes, Mrs. Schroeder, Mr. Seiberling, Mr. Stark, Mr. Thompson of New Jersey, Mr. Charles H. Wilson of California, Mr. Won Pat, and Mr. Yatron):

H.R. 11652. A bill to authorize the Secretary of Transportation to make grants and provide technical assistance to units of general local government to implement programs which are designed to increase the use of carpools by commuters; to the Committee on Interstate and Foreign Commerce.

By Mr. UDALL (for himself, Mr. Rhodes, and Mr. Steiger of Arizona):

H.R. 11653. A bill ratifying and confirming an agreement by the Secretary of the Interior providing for the issuance of a lifetime grazing permit to the Gray family now consisting of Jack Gray, Henry Gray, and Robert Louis Gray, relating to the grazing of cattle within the confines of the Organ Pipe Cactus National Monument; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

H.R. 11654. A bill to suspend motor vehicle emission and fuel standards for the duration of the energy crisis in order to conserve fuel; to the Committee on Interstate and Foreign Commerce.

By Mr. BOWEN:

H. Con. Res. 385. Concurrent resolution expressing the sense of Congress that no pardon, reprieve, or amnesty be given to deserters or draft evaders; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 11655. A bill for the relief of North Central Educational Television, Inc.; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 11656. A bill for the relief of Mrs. Elmer Andreotti; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 11657. A bill for the relief of Miss Maria Ann Sharar; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

366. The SPEAKER presented a petition of the Legislative Council of Maryland, Annapolis, Md., relative to the resignation of the resident clerk of the U.S. District Court for the Western District of Kentucky; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE PRESIDENT SHOULD NOT RESIGN AND CAN BE REMOVED AFTER IMPEACHMENT

HON. CARL T. CURTIS

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 28, 1973

Mr. CURTIS. Mr. President, on November 2, in this Chamber, our distinguished colleague, Senator Bartlett, expressed to us his deep concern over the suggestions and demands that President Nixon resign his office because of the accusations, insinuations, and innuendos of Watergate. This is, of course, a concern which each and every one of us must share in equal measure, in view of the disastrously adverse constitutional effect the establishment of such a precedent would create.

As Senator Bartlett pointed out, article II, section 4 of the Constitution provides that the President shall be removed from office only after impeachment for and the conviction of "treason, bribery, or other high crimes and misdemeanors."

Not once in the almost 200 years of our existence as a Nation has a President resigned. No provision of our Constitution even suggests, much less requires, resignation because of accusations or public clamor. Such demands cannot be justified merely because of a lowering of public support, else several of our great Presidents, including Lincoln, Wilson, and Truman, each of whom suffered a sharp drop in popular support while serving as President, might not have finished their elected terms of office.

Even aside from the massive adverse impact upon our constitutional system resignation would have, such action will prove nothing. It would, however, result in a serious and possibly fatal division among our people and thus seriously endanger the proper solution of the grave problems, domestic, and foreign, with which we are presently confronted. Such a precedent would establish that a minority could through false accusations and propaganda drive from the Presidency a strong and able President and thus rob the people through false witness and intimidation of their President whom they had duly elected. It could result in the destruction of our form of government by visiting punishment upon an individual, innocent of wrong-doing, rather than to devote attention to the root causes of evil in our political system and their orderly removal. The latter is, of course, our function as Senators.

I associate myself with what our distinguished colleague, Senator Goldwater, said concerning the present crisis on November 4:

> I'm asking in the name of reason, in the name of sanity, of justice and enlightenment, in the name of the great God above, for a moment of quiet thought and reflection.
>
> If we can have such a moment to quiet the hysteria that grips us, we may be able to proceed to the task ahead; to put in order our house of government; to eliminate the incompetent, punish the guilty, and to make sure that what has happened will not happen again—but all this in an orderly, deliberate fashion.
>
> To the Congress, to the White House, to the Administration, to the press and the news media, to the pulpits and the universities, to each and every one of us, I plead for restraint in this crisis. For us to stay on this road of unreason means stark tragedy.
>
> Finally, in the words of the street, in God's name, "Cool it!" Give us time to think, and look at the road ahead.

I wish to assure my colleagues of my deep conviction that the vast majority of our citizens—those who have not become propagandized into frenzied criers for resignation or impeachment—entertain the same thoughts. I know this to be true of those who have studied the matter, unbiased and without partisanship.

Such a group of citizens who, in 1971, associated themselves as the Committee for Constitutional Integrity, obviously after study and deliberation, sent a telegram to President Nixon and issued a release on November 7, which I ask unanimous consent to have printed in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

Committee for Constitutional Integrity: President Nixon Has a Constitutional Obligation and a Duty in the National Interest To Ignore Hysterical Demands That He Resign

The Committee for Constitutional Integrity has this date addressed to President Nixon the following telegram:

President Richard M. Nixon,
The White House,
Washington, D.C.

As a group of citizens concerned with the preservation of the Constitution, we, the Committee for Constitutional Integrity, urge you to stand firm against the hysterical demands for your resignation. It is the genius of our Constitution that it permits our Presidents to withstand the shifting winds of partisan fury, and to serve out their terms of office unless they are impeached and convicted for treason, bribery, or other high crimes and misdemeanors. This is not the first time that political partisans have first sought to discredit the authority of the President by unscrupulous propaganda and then demanded that the President step down on the ground that he has lost the confidence of the people. President Truman at one point had a Gallup Poll rating substantially lower than that which the polls assign to you. Demands were made, notably by Senator Fulbright, that President Truman resign for the supposed good of the country. President Truman refused to heed these demands and later was triumphantly reelected by the vote of the people. It is now universally agreed that President Truman served the country well, and that he did right to preserve the Constitution by resisting pressure and intimidation.

The firm adherence to the constitutional mandate that a President should serve out his term of office and not yield to the momentary winds of public opinion is what saved this nation during the Civil War. At one point President Lincoln privately despaired of reelection during the 1864 campaign. But under the shelter of a fixed term of office, he did not quit but held firm. He achieved reelection and saved the Union.

It is supreme folly to undermine the principle of serving out an elected term of office—a principle which has served us so well—by pressure for your voluntary resignation. If there be those who are genuinely and patriotically concerned over the loss of Presidential authority, it should be their duty to stop the vendetta of members of Congress and the media launched against you and your administration. Recently when you proclaimed your military alert, there were people who snickered and said that this was an artificial move designed to distract the people and divert them from their concern with Watergate. This suicidal cynicism is blamed on you and is cited as a reason why you should step down from the Presidency. But all it demonstrates is that some people have been so misled by hysterical propaganda that they cannot understand the needs of national security. It is a situation that needs to be corrected by awakening the forces of reason to counter hysterical propaganda, and not by punishing a President who has manfully sought to protect the nation.

COMMITTEE FOR CONSTITUTIONAL, INTEGRITY,
FRANCIS G. WILSON, *Chairman.*

The Committee for Constitutional Integrity was established in March, 1971. Its purpose is to participate with other organizations and individual citizens, likewise motivated, to urge governmental organizations, government officials, and individual citizens, when deemed appropriate, to maintain integrity in the preservation of our Constitution. Its officers are: Chairman, Francis G. Wilson, PhD, Emeritus professor of Political Science, University of Illinois; Vice Chairman Franz O. Willenbucher, J.D., Captain USN (Ret.), lawyer; Secretary, Benjamin Ginzburg, PhD., former Research Director U.S. Senate Subcommittee on Constitutional Rights.

A NEIGHBOR SPEAKS UP FOR AMERICA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. KEMP. Mr. Speaker, it is not too often that we get a chance to see ourselves as our neighbors see us—and be cheered by the image.

Some time ago, Gordon Sinclair, the Canadian radio and television commentator, broadcast an editorial from Toronto. Mr. Sinclair's commentary makes especially heartening reading for us right now, particiularly those who are short on perspective and long on pessimism.

Mr. Sinclair's editorial was reprinted in the November 19, 1973, edition of U.S. News & World Report, but for those who may have missed it, excerpts are presented here:

[From U.S. News & World Report,
Nov. 19, 1973]

"LET'S HEAR IT!" FOR U.S.

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth. . . .

Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities [were] flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on, let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at.

Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here. . . .

When the railways of France, Germany, and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble?

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around.

They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

ISRAEL AND OIL

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 28, 1973

Mr. TALMADGE. Mr. President, there was recently brought to my attention an excellent editorial from the Savannah Morning News regarding a study on our Nation's future energy needs that was conducted by the Anti-Defamation League of B'nai B'rith. The B'nai B'rith study and this editorial point out the importance of self-sufficiency on the part of the United States, with which I wholeheartedly concur. I feel very strongly that a long-range policy must be developed to secure alternate sources of energy for two primary reasons: First, we cannot allow ourselves to be put in a position of dependency upon other nations, nor should we ever subject ourselves to blackmail or boycott from foreign countries. Second, even if other nations would sell us all the resources we need, it is predicted that the need will be so great by 1980 that it could cost as much as $20 billion a year for imports. Of course, that would put an intolerable strain on our economy and our already suffering balance of payments situation.

Mr. President, I bring this editorial to the attention of the Senate and ask that it be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ISRAEL AND OIL

Some commentators believe the continuing conflict in the Middle East may eventually force American policy makers to choose between the two alternatives: Israel or oil. Several Arab leaders including Faisal of Saudi Arabia have said they will sharply reduce oil exports to the United States if Washington continues its pro Israel stance. Today we import only 4 per cent of our oil from the Middle East, but by 1980, if present trends continue, this figure may rise as much as tenfold.

After conducting a study of our future energy needs, the Anti-Defamation League (ADL) of B'nai B'rith has concluded that American support of Israel will have much less influence on Arab oil production than most people believe. The ADL is a staunch advocate of Israel, so its position is hardly impartial. Nevertheless, the arguments offered in its study are cogent and well worth consideration.

The study quotes one writer who asserts that, even if President Nixon "throws Israel to the wolves," the Arabs will feel little inclination to step up production to meet all our needs. The Arab oil men, the study notes, realize their valuable resource is a finite one. Over the years they have traded it for dollars that have depreciated in worth and undergone several devaluations. In addition, the Arab economics are primitive and the number of dollar investments they can absorb is limited for the time being.

Under the circumstances the Arabs have a strong economic incentive to curtail production until the value of the dollar increases and more investment opportunities arise. In the meantime, the temptation will be strong for them to raise the price of oil they do export, especially if we are highly dependent on it.

The study cites quotes from Arab officials to substantiate this claim. One high official in the Saudi government said "We have found the maximum revenue we can usefully absorb. Anything we produce over that harms our own interests by keeping prices down and by disturbing our economic balance. Another told the Christian Science Monitor, "We can absorb just so much money and no more . . . It is better to have reserves in the ground than a lot of depreciating dollars in hand."

The elimination of American support for Israel is a goal the Arabs desire but, according to the study, the Arab oil embargo stems more from economic roots than political ones.

One prevalent misconception about the energy crisis is that in the long run we will have to depend heavily on energy imports because our domestic supplies are near exhaustion. Official government troops show that the United States still possesses huge reserves of conventional fuels. It is estimated, for example, we still have oil reserves in the ground almost equal to all the oil discovered in the country up to 1971.

Development of these resources has lagged for a number of reasons which include government intrusions upon the market place, industry practices, and excessive environmental regulations. These and other stumbling blocks are being attacked and every effort made to expand production . . . This development coupled with nuclear technology and other energy sources should close the energy gap. Unfortunately, that time will not arrive for at least 10 to 15 years.

During this interval we have two choices. We can undertake public and private efforts to eliminate wasteful energy consumption or we can comply with Arab demands and hope for the best.

In either case, energy costs will rise. Excessive dependence on Arab oil, however, has additional liabilities. If we give in to what amounts to blackmail, we set the stage for similar tactics in the future. The cash export needed to pay for oil imports would weaken our balance of payments. This outflow of dollars would in turn place serious strains on the world monetary structure.

All in all, the ADL study makes a convincing case that the crucial decision we must make in regard to our energy problems is not one of Israel or oil, but of eventual self sufficiency or dependence.

BAN THE HANDGUN—V

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BINGHAM. Mr. Speaker, widespread availability of handguns inevitably leads to tragic results. We are all too familiar with the customer shooting and killing the store owner during the course of a robbery, but as one of the articles below describes, strict gun controls will also protect the customer from the shopkeeper.

The articles reprinted below which appeared in the October 28 edition of the New York Times and the November 13 edition of the Washington Post, respectively, are further evidence of the need for strict gun controls, for the safety of our shopkeepers—and their customers.

The articles follow:

[From the New York Times, Oct. 28, 1973]

GROCER KILLS A CUSTOMER IN AN ALTERCATION OVER BILL

A 29-year-old Bronx grocer was arrested yesterday in the fatal shooting of a customer during an argument over a bill and in the unintentional wounding of a passenger in a bus passing by.

The police said the grocer, Elias Galarsa of 1465 Boston Road, became involved in an argument with Miguel Negron, 38, of 1010 East 178th Street, over a $51 grocery bill. Mr. Negron reportedly struck Mr. Galarsa on the head with his fist, rupturing one of the grocer's ear drums.

Mr. Galarsa then allegedly drew a pistol and fired five shots, three of them striking Mr. Negron and two going wild, hitting a northbound No. 7 Transit Authority bus. One of the wild bullets passed through a bus window and through the hat of Thomas Montgomery, 30, of 2114 Belmont Avenue, cutting his scalp.

The grocer surrendered at the 48th Precinct station house and was charged with murder and illegal possession of a gun.

[From the Washington Post, Nov. 13, 1973]

OWNER SLAIN IN HOLDUP OF CARRYOUT

The owner of a Chinese carryout restaurant at Kenilworth and Eastern Avenues in Prince Georges County was shot to death last night during an attempted armed holdup, county police reported.

The victim, identified as Ken Lee, 39, the owner of the Continental Carry Out, 1701 Kenilworth Ave., was shot once in the face as he stood behind a counter, police said. He was pronounced dead at the scene shortly after the 9:40 p.m. shooting.

Police said early this morning they have not been able to determine exactly what precipitated the shooting since Lee's wife, Moy Yue Tei Lee, the only witness in the store at the time, speaks little English, and was being treated for shock at Prince Georges General Hospital.

Apparently, police said, one or perhaps two men armed with guns entered the store, demanded money, and in the course of the robbery shot Lee.

The gunmen fled immediately, police said, and Mrs. Lee, who was not wounded by the robbers, ran screaming to a nearby liquor store, where employees telephoned police.

No arrests had been made as of early this morning, police said. Officials, who said they were unsure whether any money was taken in the holdup, were questioning Mrs. Lee early today through an interpreter from the embassy of the Republic of China.

CHROME FROM RHODESIA—SECURITY OR IMAGE?

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 28, 1973

Mr. HARRY F. BYRD, JR. Mr. President, two leading newspapers, the Phoenix, Ariz., Republic and the Boulder, Colo., Camera had excellent editorials dealing with the question of the United Nations embargo against Rhodesia.

These editorials discuss the matter of the importation of chrome into the United States from Rhodesia and the importance of chrome as a strategic material.

Mr. President, I ask unanimous consent that the editorial from the Phoenix, Ariz., Republic of October 30, 1973, and the editorial from the Boulder, Colo., Camera of October 29, 1973, be printed in the Extensions of Remarks.

There being no objection, the editorals were ordered to be printed in the RECORD, as follows:

CHROME FROM RHODESIA

Committees devoted to foreign affairs in both the House and Senate have approved bills that would prevent the United States from importing chrome from Rhodesia.

This African country long has been the chief target of trade sanctions instituted by the United Nations. The United States went along with these sanctions until 1971 at which time our military procurement people decided it was foolish to us to be almost entirely dependent upon Russia for our chrome supply.

Much to the chagrin of the United Nations, the U.S. Congress voted to exempt Rhodesian chrome and other metals from the boycott. Attempts to repeal this exemption provision were made in 1972 and failed, thus bringing us to the third round.

Why all this fuss about chrome?

Chrome ore, from which chromium is made, is vital to this country's defense.

Existing U.S. supplies of the ore are slim, just enough to meet essential needs for three or four years at most. If that stockpile is used up, what do we do for security needs in case of a real emergency?

When Rhodesia was sanctioned out of the market place, Russia became our principal supplier of this vital defense material. For a price, that is. High-grade chrome ore rose from a pre-sanction cost of around $25 a ton to over $70. After we began buying from Rhodesia the price began to drop and now chrome costs an average of $57 a ton.

Other nations carry on large-scale trade with Rhodesia without attracting much U.N. concern. In fact, some claim that much of the chrome ore sold us by Russia came from Rhodesia for resale.

But the United States, a victim of U.N. hypocrisy through the years, is singled out for condemnation because of our limited trade with that country in order to obtain a vitally needed defense material.

Maybe we have detente with Russia at the moment. Nevertheless, it is dangerous to depend upon the Soviet Union for security materials.

Our exemption from at least this part of the U.N. trade sanction should continue.

Those who propose to keep Rhodesian chrome out of this country, no matter how good their intentions, should realize that our national security comes first.

SECURITY OR IMAGE?

The Senate Foreign Relations Committee recently approved a bill to repeal the Byrd amendment that allows the U.S. to import Rhodesian chrome, contrary to United Nations economic sanctions against Rhodesia in objection to that country's white supremacy government. A House subcommittee has approved an identical bill.

It is argued that U.S. prestige in the U.N. is damaged by the current U.S. policy of ignoring the boycott and that plenty of chrome is available from the Soviet Union.

In spite of the current detente with the Soviets, it is hardly prudent policy for the U.S. to remain dependent on them for a militarily strategic metal. Nobody knows when they will turn off the detente and return to bellicosity toward the U.S. Furthermore, the U.S. pays exorbitant prices for low-grade Russian chrome, while the Russians buy high-grade ore from Rhodesia.

Another hypocrisy is reflected in the fact that 95 percent of Rhodesia's other export trade is carried on with countries giving lip service to the U.N. sanctions.

Further hypocrisy is evident in the fact that the U.N. deplores white supremacy in Rhodesia, an admirable ideological stance, while the world organization looks the other way from equally deplorable tyranny practiced by black supremacy in other African countries.

Ideology aside, it is our view that commercial and political relations with other countries should be grounded in our national interests and not on ideology, especially when the choice is between protection of national security and protection of an image.

Existing U.S. stockpiles are sufficient for about three to four years. If they are used up now, how would we be able to meet security needs if a real emergency occurs? Can we afford to remain dependent on the vacillating Soviets? Or is it more judicious to keep access open to Rhodesian chrome reserves?

ENERGY: FUTURE ALTERNATIVES AND RISKS

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. McCORMACK. Mr. Speaker, I would like to bring to the attention of this assembly that on January 29–30, 1974, the National Academy of Sciences will convene in its auditorium the second of a series of public forums intended to illuminate controversial issues of national importance involving the uses of science.

The subject of this Academy forum is one of critical and urgent concern to all of us—"Energy: Future Alternatives and Risks." It constitutes a major effort on the part of the National Academy of Sciences to bring together the widest possible range of expertise to examine the energy problem, which is one of the most complex and far-reaching we have faced as a nation. Each day brings some new realization of the effects of the problem. As the sense of immediacy mounts into what already approaches hysteria, we are inclined to focus on stop-gap measures for the present with little thought for the future—an irrational approach which undoubtedly has brought us to our present dilemma.

I would like to commend this Academy forum to you and to members of your staff. It is a rare opportunity to explore the totality of the energy problem as it affects the physical, economic, and social welfare of the American people. Despite, or perhaps even because of, our diligence in studying specific facets of the problem, our grasp of the whole is fragmented.

The forum will convene for 2 days. The first day will address varied interpretations of energy supply and demand. Inasmuch as there is a significant range of opinion on the implications of available data, it is necessary to examine this divergence before any accurate assessment of the energy problem can be made. This confusion regarding data on production and consumption has prompted me to propose that an energy data and information center be established as soon as possible. As a result, the National Science Foundation has funded a study to determine just what computer capability would be required for an effective energy data and information center. Meanwhile, the forum offers an opportunity for us to explore in depth and in person, at one time and in one place, a diverse range of opinion on reserves and resources, the effects of conservation on supply and demand, and considerations of environmental health and safety.

After defining the dimensions of the energy problem, its magnitude and scope, the second day of the forum will appraise the institutional changes that may be needed to solve it. Attention will be given to both public and private roles as well as regulation, aspects which are of great interest to all of us.

The afternoon of the second day is provocatively titled "Choosing the Future: Energy, Research, and Human Values." There is little doubt that all actions toward solving the energy problem have profound implications for our quality of life. For this reason, the forum will consider the proposition that the greatest crisis in the energy problem—indeed, the real crisis—may come in choosing compatible technologies and lifestyles. It is, in my opinion, an important responsibility for the Members of this House to see that the American people are informed and become aware of the choices that must be made regarding energy. There is no turning back to things as they were. We can as a nation and as a people choose our future. And it will be in open meetings such as this Academy forum, in the finest American tradition of choice based on fact, that we can work together to help develop a responsible, rational systems approach to solving the problems that face this Nation, and to do so while understanding these facts upon which an integrated national energy policy must be based.

In closing, I would like to remind you that the charter of the National Academy of Sciences, which was passed by the U.S. Congress and signed by Abraham Lincoln in 1863, calls upon the Academy to serve as an official adviser to the Federal Government on any question of science or technology. It is my great pleasure to bring its forum on energy to your attention.

LATVIA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. RHODES. Mr. Speaker, on November 18, 1918, the small Baltic State of Latvia proclaimed her independence. She ceased to be a nation in 1940 by the unilateral aggression of the Soviet Union. Latvian independence has been nonexistent since that time.

The Russian rule of the people of Latvia, which is entering its 33d year, has been marked by terrorism, exploitation, and utter suppression of personal freedoms and rights. The simple but precious rights which we hold so dear in this country are denied the people of Latvia by their unwanted Soviet masters.

The United States has never recognized the Soviet Union's arbitrary action to consume Latvia and the other Baltic States. The Soviet Union, it should be noted, is a signatory of the United Nations Declaration of Human Rights. That statement guarantees the right to assembly, free elections, freedom of worship, and the like. Also provided is the right of people to cross over borders for emigration and visitation purposes.

I am one of those Members who welcomes President Nixon's continuing efforts to shape a genuine atmosphere of détente between our Nation and the Soviet Union. Certainly his success in this area has the potential to lead to a far more stable world than we have seen over the years.

But we cannot allow this recent success to blind us to the lessons of past history. The people of Latvia live in a repressed atmosphere because the Soviet Union denies them the individual rights to which they are entitled.

Mr. Speaker, let us on this 55th anniversary of the Latvian proclamation of independence applaud the courage which the people of Latvia have consistently demonstrated over the years. Let us further resolve to urge and help the President to utilize our improved communications facilities with the Soviet Union so that Latvia may be given the right to self-determination.

MURDER BY HANDGUN: THE CASE FOR GUN CONTROL—NO. 49

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HARRINGTON. Mr. Speaker, on November 25, Boston equaled a record that no one can be proud of. On that day, Melvin Cook became the 117th murder victim in the Boston area. He was shot six times.

There is little more that can be said about this disgraceful record or about this particular tragedy, except that it, like 53 percent of the murders that have taken place this year in Boston, might not have occurred if adequate handgun control laws had been in effect.

I have included below the November 26 article by John Robinson of the Boston Globe:

MAN SHOT DEAD; HUB MURDER TOLL EQUALS 1971 RECORD

(By John Robinson)

Boston recorded its 117th murder of 1973 Saturday, equaling a homicide record set in 1971.

The latest victim was 32-year-old Melvin Cook, a native of Columbia, Miss., one of six children, and father of five.

Cook's body was found in a first floor apartment at 20 Ames st., Dorchester. According to police, he was shot six times. No weapon has been found, and no arrest has been made.

Cook lived at 42 Humbolt av., Roxbury, with his mother, Mrs. Ziller Cook, who moved her family to Boston in 1952 "to find a better life." She is separated from her husband.

Cook attended local schools, including Trade School, which he did not complete.

At age 19, his mother sent him to live with her sister in Detroit, "to separate him, you know, from some of the boys he was running with," his mother said.

While in Detroit, he met and married Louise Terry, had three children by her, and moved back to Boston in 1965. The couple had two more children before separating in 1969. His wife moved back to Detroit with the children.

Cook held an assortment of jobs. He worked for a Malden sheet metal manufacturer, for Boston College as a cook and maintenance man, Boston City Hospital as an orderly, and as a painter and wall paper hanger.

His last permanent job was as a gas station attendant, which ended in August when the station went out of business.

His mother says he has been doing day labor through a local manpower agency since August.

Besides his mother and wife, he leaves his father, Norman of Boston; the five children, Deborah, Rosetta, Melvin Jr., Stephanie and Leronda; four sisters, Mrs. Mattie Jones, Mrs. Faith Harding, Mrs. Dabannee Resca, and

Miss Oketha Cook, all of Boston; and a brother, Trennell, of Mississippi.

Funeral services are incomplete.

From 1960 to 1966, the number of homicides in Boston ranged from a low of 24 to a high of 58. In 1967 there was a jump to 72 and the following year a dramatic rise to 102. Since then, there were two years of decrease, 1969 and 1972, with 91 and 104 recorded murders respectively.

So far this year, the months in which the greatest number of homicides have occurred have been June with 17, January and August with 12 each, October with 11, and July with 10.

Handguns were used in 53 percent of the murders as of Oct. 25. Knives were the second most common weapon, used in about 20 percent of the murders as of the same date.

AMERICAN LEGION SUPPORTS PROGRAMS TO COMBAT CHILD ABUSE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BRADEMAS. Mr. Speaker, I want to remind my colleagues that earlier this week the Committee on Education and Labor, by unanimous voice vote, approved S. 1191, a bill to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect.

Evidence of the broad support for this measure, Mr. Speaker, is that, without exception, public witnesses testifying before the Select Subcommittee on Education, which I have the honor to chair, endorsed this measure.

Further support for this legislation, Mr. Speaker, was recently received from the American Legion, which at its 55th National Convention in Honolulu, Hawaii, adopted American Legion Resolution No. 443.

Resolution 443 cites the need for increased assistance to fund programs to combat the national problem of child abuse and it endorses as well the National Center on Child Abuse and Neglect authorized by S. 1191.

Mr. Speaker, the resolution to which I refer follows:

RESOLUTION NO. 443

Whereas, Child abuse and neglect continues to be a major problem among this nation's young people with estimates running as high as 60,000 cases each year; and

Whereas, There is evidence that many communities do not offer any or only limited child protective services to insure the protection of the child; and

Whereas, It has been established that the level of federal appropriations under Title IV–B of the Social Security Act which provides child welfare services, including child protective services, has remained static at $46,000,000 for the past several years even though the statutory authorization for such services is much greater; and

Whereas, There is little or no information about the effectiveness of state child abuse prevention programs as to their ability to identify, prevent, and treat victims of child abuse and neglect; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Honolulu, Hawaii, August 21–23, 1973, that it urges the Congress of the United States to enact legislation to establish the National Center on Child Abuse and Neglect together with adequate financial appropriations; and, be it further

Resolved, that The American Legion supports the establishment of a Presidential Commission on Child Abuse and Neglect whose purpose would be to study the many legal and policy questions yet to be answered on this subject.

THE DÉTENTE OF PEACEFUL COEXISTENCE IN THE COLD WAR: FACT OR FICTION?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. DERWINSKI. Mr. Speaker, the recent Mideast flareup highlighted the confusion and doubts surrounding détente and "peaceful coexistence." On November 6 our Committee on Internal Security heard an extensive presentation given on this and related subjects by Dr. Lev E. Dobriansky of Georgetown University. Though the entire testimony will be published by the committee, I believe the following excerpts will considerably whet the reader's appetite to examine the forthcoming publication:

THE DÉTENTE OF PEACEFUL COEXISTENCE IN THE COLD WAR: FACT OR FICTION?

(By Dr. Lev E. Dobriansky)

One need only read our daily newspapers, especially during this period of the Mideast crisis, to appreciate the confusion, doubts and apprehensions surrounding the terms "détente," "peaceful coexistence," and "cold war"; reactions that, if they persisted, would constitute prime meat for Communist "peaceful coexistence" tacticians.

The détente of peaceful coexistence, is it fact or fiction? In this compressed analysis an attempt will be made to answer this fundamental question as rigorously and precisely as possible, with paramount, continuing focus placed on the conceptual meaning of the basic terms but developed essentially in their contextual ramifications, covering these respective spheres of application: (a) the historical (b) psycho-political (cultural) (c) economic and (d) military. The consequences of this essentialist analysis will form its conclusion. But first several prefatory and perspectival observations bearing on the nature, meaning and significance of my phrase "the détente of peaceful coexistence in the cold war."

CERTAIN SALIENT PERSPECTIVES

For our first perspective, it should be noted that, substantially, and except for differences in degree and nominal injections, such as the relative decline of the U.S. in a generation and the mesmeric nomer "détente," there is nothing new in the current situation as concerns ideological and political cleavages and the realities of cold war and peaceful coexistence phenomena. The multipolar presence of nuclear arms only serves to emphasize these realities, even to the possible extent of nuclear blackmail.

Our second perspective stresses the unshakable faith and goal of Russian Communist leaders in the ultimate world victory of Communism. Aside from the Aesopian language involved, V. I. Lenin wrote, "All nations will arrive at socialism—this is inevitable." This so-called inevitability has been underscored by Stalin, Khrushchev and Brezhnev, and nowhere on current record can be found any renunciation of this goal, which in reality would be Soviet Russian world domination. By incisive logic, if the U.S. were to succumb, the Union of Soviet Socialist Republics would be prefixed with "World." . . . The continuity of traditional Russian imperialism, whether white or red, is not sufficiently grasped in the West and, as indicated later, still less is its corollary technique of "peaceful coexistence," which is not of Bolshevik creation.

Vitally important, therefore, to the coexistence principle of non-interference and well expressed in the Brezhnev doctrine, the rape of Czecho-Slovakia, genocidal Russification in the USSR, the Hungarian Revolution and a long series of aggressions since 1917, is the third perspective on Soviet Russian imperialism. . . . From Stalin through Brezhnev at the 24th CPSU Congress in 1971 a consistent over-adulation of the prime achievements of the Russian people, most of whom are victimized by this totalitarian-imperialist system, permeates the official statements.

Logically related to the preceding perspective and also of fundamental importance to the coexistence concept is that of the USSR as an empire-state, an imperium in imperio, an empire within an empire. If as so many of our analysts nurture the misconception that the USSR is a nation-state rather than an empire-state composed of many nations, both the first historical applications of "peaceful coexistence" by the Soviet Russians and the current field of full play of the concept are lost to them.

And lastly, two more perspectives vital to our subject, namely Communist morality and the Pavlovian effect. Lenin set the criterion of relativist Communist morality—"At the root of the Communist morality lies the struggle for the strengthening and achievement of Communism"—in other words, the end justifies any means. And in the area of international treaties his foreign minister, Chicherin, set the nature of Soviet Russian diplomacy in these words, "Every treaty is merely an expression of forces operative in the realm of facts." . . . As for the manipulation of words, particularly the Aesopian language of communist ideology and such favorites as "peace," "self-determination," "liberation," "imperialism," "just and unjust wars" and "voluntary union," the influence of the great Russian scientist I. P. Pavlov remains to this day, where such manipulation engenders both conditioned stimuli and reflexes."

THE MOVING CONCEPTS

The given perspectival groundwork is indispensable to a clear understanding of the dominant, moving concepts of cold war, peaceful coexistence, and detente, their fields of application, and their import. The concepts are, of course, related, and yet they are distinguishable. The broadest of these, the cold war concept, may be defined as a twilight condition of neither genuine peace nor hot war, where all the basic elements of a hot war—predatory design, aggressive strategy, tactics and techniques—are present except for open military combat between the primary states. Given the fixed goal of world communism or, in other words, Soviet Russian dominance, the concept bears a global dimension and accommodates intra-empire domination and suppression and "wars of national liberation," which are not features of the other two concepts. Thus the methodical exploitation of the resources of the captive nations, both within and outside the USSR, proxy wars as in Korea, Southeast Asia, and the Mideast, and all sorts of indirect confrontations between the primary states to advance toward the fixed goal are evidential expressions of the cold war, which, contrary to much wishful thinking of the present, is incessant.

Closely related to the broadest concept is the more restricted one of peaceful coexistence. From Trotsky and Lenin to the very present, this vital concept has been adroitly employed as an integral part and means of the intrinsic cold war make-up of the Soviet Russian empire. On this score there are no "if's," "and's" or "but's" as to what Moscow means, and the quotes are in abundance. For examples, "The more deeply the principles of peaceful coexistence are implemented, the more confidently the people fighting for a . . . radical change of the sociopolitical conditions in the world can act";[1] "Peaceful coexistence is a specific form of class struggle between socialism and capitalism in the international arena . . . (It) does not exclude revolutions in the form of armed uprisings and just national liberation wars against imperialist oppression . . ." And on and on, the same theme in the same open way that Hitler let everyone know *Mein Kampf*, but too few believed it.

Not to belabor the concept, it should be obvious that in comparison with the cold war concept it is more restricted, more specific, more systemic, and in poignant actuality is directed at the chief "capitalist powers." The degrees of "peaceful coexistence" can vary directly or inversely with those of cold war "Peaceful coexistence" is a struggle applied by non-military means; the cold war invites military threats and blackmail against the primary enemy, such as the U.S., and entails military action in the captive nation's area as well as proxy wars against the interests of the primary enemy. Reduced to its ultimate meaning, "peaceful coexistence" is a tactical means of broader cold war strategy, designed to achieve in a low-intensity climate multiple ends and objectives of temporary, critical benefit to the permanent aggressor. It must be emphasized that both concepts sternly preclude any intra-empire changes resulting from expanded external contacts and involvements. . .

Before examining how the concept of detente fits into this framework it is worthwhile at this point to observe briefly several current expressions on the general subject. One, there are indications that Moscow is considering the extension of the "peaceful coexistence" strategem to Red China, despite the absence of systemic conflict. Second, Brezhnev, not to mention others, has openly held that "peaceful coexistence" or low-keyed cold war conditions in the West best serve the communist struggle among "the capitalist powers," and only recently he stressed the compatibility of a revolutionary outlook with "peaceful coexistence[2]. . . Third, contrary to the views of Senator Jackson and others, there are no contradictions whatsoever in the typical Russian posture of waging cold war, pursuing "peaceful coexistence," accepting "detente" and striving for overall military superiority.[3]

Finally, there can be no confusion as to the meaning of Soviet Russian cold war strategy and the tactic of peaceful coexistence, but there is much confusion in the West as to what "détente" means, a condition that Moscow has not been slow to capitalize on. The term's simple, dictionary form of a relaxation of tensions is not very helpful if this psychosomatic phenomenon is not objectively related to determinative facts. In short, relaxed tensions related to what and for what—fear of nuclear war, a self-induced euphoria, a traitorous willingness to surrender in the historic conflict, a selfish and immoral indifference toward the captivity and plight of one-third of mankind, a naivete as to Soviet Russian background, performance and pretensions, or a blissful misconception of "peaceful coexistence" as a live-and-let-live policy? All of this and more has been poured into the empty vessel of détente. . . .

By its very nature, détente can never be a substitute for any rational policy, unless a suicidal copping-out is construed as a policy. The significant aspects to note here are as follows: (a) détente is logically implicit in "peaceful coexistence" itself, especially in stimulating euphoria, loss of vigilance, and confusion; (b) as such, Moscow has most readily accepted the word and its possibilities as a convenient adjunct to "peaceful coexistence"; (c) however, in line with the matrix of "peaceful coexistence," détente cannot be permitted to take hold as either a belief or in the form of unrestricted contacts in Eastern Europe; and (d) détente could either be a disastrous response to "peaceful coexistence," sponsored by Khrushchev since the mid-50's, or, with an eye to the graded order and meaning of "peaceful coexistence" and fixed Russian cold war strategy, a real challenge to the "peaceful coexistence" tactic. So far, our détente course has not violated basic principles and alliances by which we cannot but live; however, it has produced many unstabilizing effects in Asia, the Mideast, Western Europe, among the captive nations, and in the traditional moral thoughts of our country as concern human rights, national self-determination, the odiousness of imperialist totalitarianism, and the bold visions of world freedom. To put it plainly, we all want peace, but what happened to justice and freedom?

THE CONCEPTS IN APPLICATION

With these defined understandings it is not difficult to witness the rule of these concepts in the various broad fields of application and to arrive at certain, necessary conclusions and guidelines of action:

(a) Historically, it is sufficient here to emphasize that the cold war animus and the technique of peaceful coexistence have enjoyed a long tradition in Russian empire-building, long before Lenin and Stalin appeared. In relation to "peaceful coexistence," Clausewitz is frequently quoted (e.g. "War is the continuation of politics by other means") but few realize that much of what is contained in the *Principles of War*, and which Lenin studied assiduously, was acquired by the Prussian general's studies in the Russian Empire.[4] Important to note, too, is that the first application of "peaceful coexistence" by the Soviet Russians was toward the newly independent non-Russian republics in the 1917–1920 period. These are now captive nations within the USSR.[5]

(b) Psycho-politically, the cold war and peaceful coexistence concepts are well reflected in what is essentially the traditional Russian Troika policy. This consists of (1) a steady totalitarian and imperialist consolidation within its domain of power (2) under the banner of "peaceful coexistence," a divide and subvert process directed at the West, notably the dismantling of NATO and (3) a progressive penetration and undermining of the less developed areas of the world. This race of three-abreast policy is, in part, exemplified by widespread Russification in the non-Russian republics in the USSR, forced economic regionalization, mass arrests of Russian, Ukrainian and other dissidents, and through COMECON and beyond a deepened dependency of the economies and states of Central Europe; its diplomacy, united front CP operations and extensive espionage, particularly through satellite embassies, in Western Europe and in the Americas; and its intense and deep involvements in Southeast Asia, the Mideast, the Indian Ocean, Cuba and elsewhere. The old Kazakh proverb applied to Russian politicos—"When you travel with a Russian, make sure you carry an ax"—is one deserving of our utmost heed;

(c) Economically, in our growing trade relations with the USSR, the applicability of the proverb runs high; this aside from our celebrated grain deal. A detailed elaboration of my pointed observations here is furnished in further background material submitted as parts of this testimony.[6] In other periods of "peaceful coexistence," such as the 20's and 30's, we contributed heavily to the industrial build-up of our now prime adversary so that trade was really economic aid to a permanently aggressive regime. . . . Now, once again, Moscow and its satraps are seeking the best of American technology and know-how to gain time and advance also their global objectives. The same old arguments heard 40 and 50 years ago on trade and amity and peace are being repeated today.

Second, the imperio-totalitarian nature of the USSR state has predetermined its economy as a command and cold war type since the first five year plan in 1928, and structurally no basic change has occurred in this nature to present date, nor by reason of the essential political character of this state is any such change possible. As a structural consequence, trade has been and is an institutional sieve, utilized intermittently to shore up the economy's deficiencies, which in recent years have been immense, to gain cheaply the fruits of Western innovation and research and, in relief of its persistent capital shortages, to sustain the pattern of resource allocation for the state's unremitting military build-up and global cold war operations.

In the light of all this and to sensibly meet the "peaceful coexistence" challenge with realistic détentism, the poltrade policy advocated by me years ago before the Senate Foreign Relations Committee is the only rational alternative.[7] This policy, recognizing politico-economic values in any trade with totalitarian communist powers, would constantly valuate economic advantages in relation to political benefits, just as the communists do . . . The claim of interference in "the domestic affairs of the USSR" is specious from a historical viewpoint and on grounds of the international complexion of this state and the international involvements of two of its national republics. Also, the notion that the external policies of any state can be viewed in void of its internal policies in a crass, current myth; and

(d) Militarily, this technocratic economy has been and is heavily biased toward a build-up that already in overall quantitative terms has made the USSR state the largest military power in the world, and its ongoing qualitative development may in short time enable it to enjoy prime superiority. All this achieved by an economy half the size of ours in total gross product. The "steamroller" of millions of troops under the last Czar of the imperial Russian empire is far exceeded by the developing nuclear steamroller under the present Red Czar of a more expanded Soviet Russian empire . . .

FACT OR FICTION?

In concluding, the answer to our original question is, of course, in the factual affirmative. Moreover, the conceptions given here on "cold war," "peaceful coexistence" and "détente" realistically embrace all major sectors of the world and their critical relationships to both our external and internal security. . . .

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[1] *Izvestia*, September 10, 1973

[2] "Soviets Are Sent To Mideast," *The Washington Post*, October 27, 1973, p. A6.

[3] "Mideast Warfare Poses Challenge to U.S.-Soviet Detente Aims," *The Washington Post*, October 7, 1973, p. A8.

[4] For background cases on this, the short Chapter XV "The Viennese Dance of the Cold War" in my work *The Vulnerable Russians*, New York, 1967, is submitted at this point.

[5] For background on this, the short Chapter 2, "Seeing Russia In Toto" in my work *U.S.A. and the Soviet Myth*, Old Greenwich, Conn., is also submitted here.

[6] "50 Years of the USSR Economy," *The Ukrainian Quarterly*, Spring 1973, pp. 28–42; Chapter 9, "The Russian Trade Trap," *U.S.A. and the Soviet Myth*.

[7] Testimony on East-West Trade. *East-West Trade*, Hearings, Part II, 1965, p. 94–104.

Khrushchev once said, "The best way to eliminate war is the gaining of power by Communists all over the world." This typical play on Western nuclearitis is another way of saying the World Union of Soviet Socialist Republics with its capital in Moscow. The present and subsequent regimes in Moscow will not deviate from this ultimate goal which is being and will be pursued in the acquired spirit of their forebears under Asian domination centuries ago . . . And in view of what a meager minority has wrought and achieved within the few historical seconds of 56 years, one cannot but agree with Karl Marx and his insights into traditional Russian imperialism, "The only ones in this tragicomedy who imperturbably pursue their old objectives and who play masterfully are the Russians."

RESOLUTION OF CITY COUNCIL OF PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. EILBERG. Mr. Speaker, the families of those men missing in action during active duty in Vietnam are anxiously awaiting the day when they will learn something about their sons' whereabouts.

In the State of Pennsylvania, there are still some 1,326 MIA's not yet accounted for, including 5 men from Philadelphia. In order to help relieve the grief of the families and friends of these men, the City Council of Philadelphia has adopted a resolution asking that the President account for servicemen missing in action in Southeast Asia.

At this time I enter into the RECORD the resolution adopted by the city council on November 15, 1973.

RESOLUTION

Memorializing the President of the United States to utilize his good offices to seek an accounting of the servicemen "missing in action" in Viet Nam and other Southeast Asian countries.

Whereas, Less than six hundred servicemen of the more than 1,900 men who were lost while on active duty in Southeast Asia have been identified by the enemy as alive and captive; but some 1,326 men are still missing; thirty-one are Pennsylvanians, five from Philadelphia; and

Whereas, On November 15, 1973, the Eastern Pennsylvania Chapter of the National League of Families will participate in a "Walk for Freedom" from Independence Hall to John F. Kennedy Plaza to focus national concern on the plight of our missing men; and

Whereas, Until these missing men are accounted for, their families continue to suffer the anxiety, grief and frustration experienced by the relatives of those who disappear without a trace; therefore

Resolved, By the Council of the City of Philadephia, That we hereby memorialize the President of the United States to utilize his good offices to seek an accounting of the servicemen "missing in action" in Viet Nam and other Southeast Asian countries, to help alleviate the grief and uncertainty of their families and loved ones.

Resolved, That certified copies of this Resolution be forwarded to the President of the United States, the Secretary of State, President Pro-Tempore of the Senate, Speaker of the House of Representatives, the Senators from Pennsylvania, and the Congressmen representing Philadelphia, as evidence of the sincere sentiments of this legislative body.

LEE CARLE: HE GOES FOR NEWS WHILE OTHERS SNOOZE

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. DE LUGO. Mr. Speaker, I would like to bring to the attention of my colleagues an article on Mr. Lee Carle, considered by many to be the No. 1 newsman in the Virgin Islands.

Lee and I have been close personal friends ever since he walked into my recording studio at Radio Station WSTA 18 years ago. We were associates then, during the infancy of radio news in the Virgin Islands, and I remain, today, one of his many fans.

Lee has since witnessed and influenced the development of radio broadcasting in our islands. As news director of WVWI Radio, he continues to impress Virgin Islanders with his incisive news coverage and enthusiasm for his profession. Lee's professional contributions to the general news awareness of the populace is surpassed only by his personal promotion of island culture and aid to individual Virgin Islanders.

I commend to your attention, the newspaper profile of Lee Carle from the November 8, 1973 issue of the St. Thomas Journal:

LEE CARLE AT THE SCENE—HE GOES FOR NEWS WHILE OTHERS SNOOZE

(by Joan Riehm)

It was September, 1955. A young man in his early 20s, dressed in a black woolen suit that matched his black hair, got off a plane in St. Thomas. He was driven by a calypso-speaking native to the studios of Radio Station WSTA in Frenchtown.

The New Yorker was wide-eyed at the chickens and dogs that roamed around the WSTA building, and the French women sitting on their porches weaving hats and baskets.

Inside, he was introduced to Ron deLugo, who was doing a show at the time. Ron had his shirt off and was drinking a can of beer to cool off. His bare feet were propped up on the turntable as he tracked a long-playing record.

Ron greeted the new disc jockey, and Italian from upper-state New York whose name was Leo Anthony Carlo. "You're doing the 6 o'clock news tonight," Ron told him.

"Oh? Where's the Associated Press machine?" the newcomer asked.

"What AP machine?" Ron said, amused. "We have a copy of The New York Times though."

"But it's two weeks old!" the newcomer exclaimed.

"It doesn't matter," Ron answered.

And that's the way that Lee Carle, the voice of news to thousands of WVWI radio listeners, was introduced to the Virgin Islands.

Like the islands themselves, news coverage has changed a lot since those lazy-hazy days. Now, as news director of WVWI Radio, Lee carries his microphone and tape recorder to virtually any event of public interest on St. Thomas, and often to St. Croix and St. John.

He's often been asked, he says, how he manages to sniff out news and be on the scene so quickly. "I know a lot of people on the island," he explains, "and they make sure I keep up with what's going on."

As for those fires, which Lee covers almost as thoroughly as the firemen, he has a proven formula. His efficiency apartment on Blackbeard's Hill is within earshot of the fire station. When he hears the fire siren start up, he calls the station immediately for details. "If you wait till the siren is finished to call, the line will be busy," he says knowingly.

While Lee's nose for news carries him to all points of the island, his reporting is not without its unimaginative moments. One morning recently, for example, Lee bored listeners for several minutes as he faithfully recited St. Thomas' entire November cruise ship schedule during his early morning report.

Listeners eager for news on the Mideast war and the dispute over the Watergate tapes had to patiently wait for Lee to recite the litany of ship names and dates.

Still devotion to his job and first love, radio broadcasting, has made Lee Carle a popular news figure in the Virgin Islands. It also has allowed him a first-hand look at the way islanders live, work and play that still makes him optimistic about the future of the Virgin Islands.

"I still believe in the Virgin Islands family unit," he explains, "and that's what is going to keep the islands together. When a young dude who thinks he's so bad and so heavy goes to visit grandma, with her pot of kallaloo cooking on the stove, he's going to get it from her if he pulls any of that rough stuff. She won't stand for it. The matriarchal society is still very strong."

Lee thinks that the "tough" attitude displayed by so many young islanders today is "a game they play, because they think it's the only way they can belong to the group. When I see them dressing and acting like they came from 145th Street in New York, I say 'Hey man, how come you yankin' (acting like a Yankee)?' I'd like to see the kids have pride in being Virgin Islanders, not in imitating somebody else."

Promoting island culture and islanders is a big thing with Lee. When he first came, he organized a "teenage disc jockey contest" among youths on St. Thomas and St. Croix. One 15-year-old was so good that he later became manager of WSTA—that was Addie Ottley, now Lieutenant Governor.

Lee also remembers organizing the island's first local talent show, in an effort to spark some enthusiasm among island youngsters he found were "listless and uninterested." One of those who performed was Billy Harrigan, now recording artist Jon Lucien.

Lee says he found out early what islanders like on radio, with the success of an afternoon show he emceed call "Young Sound to Soul Side." "The show combined soul music, having people hear their names on the air, and gossip—the three things Virgin Islanders really like," he says.

"Music is a way to reach kids in all walks of life," he believes firmly. "All of the kids want to be entertainers."

A LETTER TO THE PRESIDENT

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. JAMES V. STANTON. Mr. Speaker, in the November 21 issue of the

Garfield Heights Leader, a weekly newspaper in my district, William Kleinschmidt, its editor, published a letter he had written to the President.

I was very much moved by his letter, for it states the heartfelt concern that a citizen feels over the course our Nation, which expects the presidency to embody the best in American life, has taken since the revelations of the Watergate scandal.

I commend Mr. Kleinschmidt's letter to the attention of my colleagues:

A LETTER TO THE PRESIDENT

DEAR PRESIDENT NIXON: It is extremely difficult to find loyalty these days to the Administration running our government. A person should really stand behind his leader whatever the situation, but you have given us a situation which is hard to swallow . . . that being the Watergate scandal.

First it was members of your own staff who were found to be underhanded in terms of spying at the opposition's headquarters. Then we heard of plans to make certain that your opponent will be the one whom you want to oppose you in your quest for the presidency. Yes, you even exposed the Democratic Vice President nominee as one having mental problems. Maybe this was for the good, but then what you and former Vice President Agnew did wasn't too good either.

Now we come to the tapes which you said you made of talks you had with those members involved in Watergate investigation. You wish to put down our throats the facts that you were not aware of what was going on and that you wanted nothing but the sentencing of those involved. . . . you wish to be exonerated of all wrong doing, like Pontius Pilate did when he washed his hands at the trial of Christ.

We hear that those tapes were lost, were never made, and are hard to listen to due to too much noise in the background. Just how much do you wish us to swallow? Especially when all suspicion leads to you knowing about Watergate. Why did it take you so long to release these tapes, if that is what you are intending to do? Did you wish for the "Bombing of Watergate" to go away?

Yes, Watergate and the Republican administration is on the lips of nearly everyone. The people who had elected you, President Nixon, are finding disappointment when they look for someone to lead them as a Nation. No matter what you do from now on in, the scandal of Watergate will be long remembered; you have stains on your garment, the type of which can not wash out.

If there is a chance of you, President Nixon, being innocent of all that was said, and I hold this as only a very minute chance, you will still have a far way to go to untarnish your image, the image we the people wish to look to, but find it extremely difficult to do.

May God help us through the next three years as a nation, for I fear if we had to rally together due to some catastrophe, we would find it hard to rally around a leader who has proven to us to be scandalous.

Yours truly,

WILLIAM E. KLEINSCHMIDT.

THE PRISON REFORM TASK OF THE NEW YORK SOCIETY FOR ETHICAL CULTURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. RANGEL. Mr. Speaker, this past week the Prison Reform Task of the New York Society for Ethical Culture has been holding its Second Annual Art Exhibit and Sale of various works created by men and women currently incarcerated in various New York State correctional facilities as well as by other inmates incarcerated in penal institutions throughout the country and exoffenders who wish to participate. This exhibit, entitled "Art From Inside," has proven itself to be a visual means of demonstrating to the community at large the theme of the project which is, "Given truly rehabilitative programs and community support, these men and women are capable of contributing artistic and material progress to our community upon their release."

I would like to take this opportunity to commend the Society for Ethical Culture on the outstanding work being done by its organization in providing an outlet for the creative talents of men and women presently incarcerated in institutions both in New York State and throughout the country. Through their efforts, these men and women are being provided with an opportunity to develop new artistic skills as well as to improve those they already have. But more importantly, they are being given the recognition of their talents and the encouragement to continue their productive work upon their return to our communities.

PENAL REFORM AND THE LEGAL PROFESSION

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HELSTOSKI. Mr. Speaker, one of the most emotional and complex problems that we as a society have had to deal with recently is the issue of prison reform. Presently, people in many different professions are wrestling with profound questions concerning the way we deal with those who break our laws. Economists, educators, legislators, and lawyers—just to name a few—have begun to focus on the tragic environment of our prisons.

Recently, Morris Pashman, associate justice of the Supreme Court of New Jersey, delivered an address at the annual dinner of the Federal Bar Association. In his remarks he focused on the urgent need for improving conditions in our correctional institutions. Virtually everyone present agreed that Justice Pashman's remarks were extremely informative and relevant and he was asked to prepare an article, based on his remarks, for the Reporter, a publication of the Passaic County Bar Association.

The article, entitled "Penal Reform and the Legal Profession," offers penetrating insight into the problems plaguing our prison system.

"Man has attempted countless times to alter the conditions of society's "undesirables," writes Justice Pashman, "but with each effort he constructs an artificial edifice—a castle in the sand."

Mr. Speaker, today I would like to share Justice Pashman's article with my colleagues. Highly interesting, it is typical of the compassionate wisdom which has characterized Morris Pashman's dedication to the people of New Jersey. The article follows:

PENAL REFORM AND THE LEGAL PROFESSION

(By Morris Pashman, Associate Justice, Supreme Court of New Jersey)

One of the most critical and troublesome areas in our social and legal structures is that of the prison—more recently called the correctional institutions—its temporary and permanent occupants, prison conditions, and most importantly, prison reform.

A few short years ago, the issue of prison reform had all the popular appeal of the bubonic plague. Today it seems to be a bit more respectable. But the mood is not noble or generous. It is rather parochial and grudging.

There are no sure-fire remedies. There are no easy answers. I leave the panaceas to those who claim special competence in the areas of criminology, sociology, psychology and the many other penal sciences of which I do not even know the names. My inquiry will be just that—a questioning on a non-technical level which, hopefully, any reflective person will recognize as not ridicule or condemnation of our prisons but an honest appraisal of the effectiveness of our current system.

What has piqued my curiosity and amazement is the persistence of such problems throughout recorded history. Society's challenge is to satisfactorily answer the question—What shall we do with our undesirables? They are no less human than we; yet prisons do not treat them accordingly. Man has attempted countless times to alter the conditions of society's undesirables, but with each effort he constructs an artificial edifice—a castle in the sand. And in this way we have distorted the times and lives of many humans.

The world has distorted time. With machines we have learned to expect instantaneous results. Man has emphasized the result and not the means of attainment. There has been our instant politics of assassination and creedless resolution. Our youth is demanding instant ecstasy through drugs. The present administration has looked to bombing as the complete answer to communist insurgency in Southeast Asia. Our business community seeks instant abundance. And people look to imprisonment as the instant cure for all those who haunt our society. Science and technology have replaced those human institutions that once made life meaningful. We can create and we can destroy.

Time is a very important possession as well as a concept because we have just so much of it. Time is the matrix for all human existence. It is therefore imperative to order our lives in a manner faithful to our own temporal nature. Do not make a child a man, or anything into what it is not; and, in like manner, do not make a criminal an animal only living in the present with an obliterated past and a hopeless future. The world of the criminal is fact, not fancy; lawbreakers are a thorn in society's side, but they are there nevertheless.

Our country recognizes all sorts of groups of people in trouble and does much to help. Our foreign aid and relief programs are testament to that. Even if some groups in the end turn against us, we still do not cut off our foreign aid to many other countries. Yet when it comes to another group in trouble, a group much closer to us than some obscure nation, America most vividly demonstrates its split personality. No one wishes to spend any sizable amount of money in this country for prison reform and rehabilitation programs. How can America in one instance recognize the needs of so many groups around the world while it ignores one very large group staring it in the face? It is as much a conscious choice as it is an unconscious inadvertence.

America cannot afford to ignore this problem, even if it is an unintentional ignorance. We must force ourselves to think about it. Until the time mind can truly overcome matter, will society's mind have to contend with the body of its people even of the lowest sort.

The human being has shown time and time again its ability to acclimate itself to almost any type of physical situation. As the body is strong and resilient, so, conversely, the mind and spirit of man are frail. Prisons make little effort to restore a man's dignity and confidence in himself. What prison actually does is destroy the human fiber which makes man a part of the human race. Prisons, if only meant for detention, serve this primative principle well; yet what else should a prison do? The criminal is told he must pay his debt to society, but what or who or where is society?

At sentence time the judge talks a little about rehabilitation and deterrence. The judge hopes for the best, yet he has only the vaguest idea of what happens to the offender after sentence day. If prisons are meant for rehabilitation, making license plates is not the answer. It is cruel and wrong to sentence one for rehabilitation to an institution where rehabilitation facilities are completely lacking.

I am not saying empty the prisons and break down the walls. No one can defend one hundred per cent decarceration. Prisons cannot be totally abolished. We are not advocating that philosophy. The millenium has not arrived. Nor do I want to surface as a Utopian. There is a need for prisons, but not the type that generally exist in this country. Allow the criminal to play some meaningful and fulfilling role in society. Do not completely extricate him from society and think you can plug him back in when the time comes.

It is the part of every citizen to help the criminal as he would assist virtually any other group needing a helping hand. Reform is desperately needed, and through the benevolence of every individual and the collective community of individuals, we can strengthen our nation and look forward to the perhaps unattainable day when barred cubicles colored in resignation, bitterness and disgrace will no longer need to exist.

Hardly a day passes without some newspaper report of prison riots, prisoner suicides actions by prisoners against wardens, and general barbarous conditions. We read about Attica with its bloody results. The subject has enlisted the attention of men and women of many interests and professions. Among them I must mention former Governor of New Jersey, Richard J. Hughes, who has accepted the chairmanship of the American Bar Association Commission on Correctional Facilities and Services. He has been conscientious and devoted in his efforts to inspire the members of the bar and to enlist their efforts in the elimination of this tragic condition.

I am satisfied that the quality and the status of our institutions is a blight on the functioning of our laws governing the treatment of condemned criminals.

As an example of a more recent prison condition, I would cite a case which was lately submitted to the attention of the United States Supreme Court on an application for a writ of certiorari. The issue involved was the constitutional propriety of the treatment of a prisoner under a program of solitary confinement in a typical Texas correctional institution. The writ was denied in October 1972. Sellars et als., petitioners v. George Beto, Director, Texas Department of Correction, 34 L. Ed. 2d 233. Mr. Justice Douglas wrote a minority opinion against the denial of the writ. Justices Brennan and Marshall concurred. In the course of his statement, Justice Douglas reviewed the factual basis of the petition—the conditions under which solitary confinement was imposed. I commend his words to you.

"In fact, the terrible price we are paying in crime is because we have tended—once the drama of the trial is over—to regard all criminals as human rubbish . . . we lawyers and judges sometimes tend to fall in love with procedures and techniques and formalism. But as war is too important to be left to generals, justice is far too important to be left exclusively to the techniques of the law. The imbalance in our system of criminal justice must be corrected so that we give at least as much attention to the defendant after he is found guilty as before. We must examine into the causes and consequences of the protracted warfare our system of justice fosters. Whether we find it palatable or not, we must proceed, even in the face of bitter contrary experiences, in the belief that every human being has a spirit somewhere hidden in him that will make it possible for redemption and rehabilitation. If we accept the idea that each human, however bad, is a child of God, we must look for that spark."—Chief Justice Warren E. Burger.

While not so distant in space and time yet worlds apart from the Texas correctional viewpoint, our goal and commitment should be to undertake one of the finest forest reclamation projects, so to speak, taking precedence over many others, because you are not reclaiming trees, but human timber. What finer goal is there than to increase the greatest natural resource of the United States which is the reservoir of its useful citizens. Then and only then shall we be able to insure the right of the individual to live free from attack and not be required to endure the pain inevitably felt by tomorrow's victims.

There is no political capital in prison reform. You will be called a bleeding heart or a liberal do-gooder. But you are not running for office. Neither the "soft on crime" nor the "hard line" has worked. Someone must reassess these approaches. The Bar is the kind of group which recognizes the only hope for the prisoner.

In a society that has learned to tolerate dissent, there must be room for espousing unpopular causes that are as just and meaningful as human rights and civil liberties.

The State and Federal Bars and Judiciary should join in prison reform. Only a sense of justice can enlist consensus. I invite all members of the Bar to join in a pledge of interest and cooperation. For myself, I hope to be identified with those who are dedicated to eliminating the blight of our present prison system. It has serious pertinence not only to the bench and bar, but it is directly pertinent to the general welfare and well being of our country on every level.

It is said that not even a bird falls to earth unheeded. Let us not fail to recognize the acutely delicate situation inside our present day prisons. Leonard Bernstein in his Mass admonishes his audience when one of his singers bewilderedly muses, "How easily things get broken." How easily man's spirit is broken! Let us evolve out of primitive penal cruelty to the mind, body and, more importantly, to the spirit of man. We cannot allow the present situation to persist if we expect inmates to relinquish their former selves while we reawaken and instill in them a sense of moral and social value.

A Russian ex-convict named Fyodor Dostoevski wrote:

"The degree of civilization in a society can be judged by entering its prisons." Why must we wait for a serious crisis to develop before we stand up to be counted and heard?

I know that as lawyers we can add very substantial "clout" in the minds of the general community.

A lawyer's obligation to society is perpetual. He needs no motivation beyond his sense of duty and his pride. And the fact that a moral obligation may end in failure does not make it any less compelling.

BLACK-ON-BLACK CRIME

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. STOKES. Mr. Speaker, the November 1973, Ebony carries a photo-editorial on crime in the black community. It is most distressing that at a time when, for survival, all black people must work together to build our communities, some blacks try to rip-off others. They play the oppressor's game. And as Ebony says, the time has come for all black citizens to use "their ballots and marching feet" to counterattack the enemy within.

As chairman of the Congressional Black Caucus I can say that the caucus would be glad to participate in any convention dealing with the problem of black-on-black crime. Since we are not expert on the full social and economic impact of the phenomenon, our role should be supportive of the effort to draw up a master plan.

The article follows:

BLACK-ON-BLACK CRIME

On the South Side of Chicago, a middle-class black man parked his car about half a block from a busy intersection, walked to a mailbox on the corner and was halfway back to his car when he was assaulted by two young men who knocked him down, took his wallet, kicked him and tried to stab him with a knife. Cut about the arm, the man defended himself as best he could. The thugs were so engrossed in their attack that they did not notice a squad car pull up and two policemen leap out. Caught red-handed the men were arrested on the spot. This happened in the early evening of a fall day. And it happened just a block from a police station.

In a tenement stairway in Harlem, a teenager died of an overdose of drugs. He had bought them from a neighborhood pusher with money he himself had raised by stealing and selling a television set.

On an afternoon in Washington, D.C., assassins burst into the peaceful headquarters of a religious sect and brutally killed men, women and children—in the middle of an afternoon.

In a residential area of Detroit's West Side, police discovered seven bodies. Their hands had been tied behind their backs and each had been shot in the back of the head in gangland execution style. They were victims in a drug war brought on when young blacks battled for control of the distribution of marijuana, cocaine, pep pills and heroin. The drug war spread from coast-to-coast and additional young men and women died in the underworld battle.

In Chicago, a van drove up to an apartment house. The "movers" went into the building, removed the door from an apartment and carted off every piece of furniture of any value.

CRIMES OF BLACKS AGAINST BLACKS

The unifying theme of the crimes mentioned here (and they are just a sampling of the thousands committed every year) is that they are crimes by blacks against blacks, crimes committed in the ghetto by people who also live there.

They are among the crimes ranging from petty purse snatching to cold-blooded, premediated murder which make the ghetto a dangerous, more expensive and inconvenient place to live. In most major cities cab drivers refuse to carry fares into many areas after dark. Black businessmen, especially those operating small service businesses such as grocery stores, drug stores, real estate offices, taverns, laundromats, etc., find it difficult to secure proper insurance, and their losses from petty thievery to armed robbery often drive them out of business. A sign on a real estate office in a middle-class neighborhood in Chicago tells its customers, "We do not accept cash for any transactions." Signs on delivery trucks declare: "Driver has no cash." Busses and street cars accept only exact change with the money falling through the change box into a safe which even the driver cannot open. Some "public" stores have a buzzer lock on their doors and will admit only those customers the owner wishes to let in.

MISUSE OF BLACK BROTHERHOOD

During the past decade there has been a great growth of black pride among blacks in all walks of life. More and more, blacks are realizing that they must work together against a common oppressor if they are ever to gain freedom in the white-dominated United States. Unfortunately, some blacks have misused black brotherhood. The two men who attempted to rob and stab the middle-class Chicagoan later pleaded with him through their lawyers that, as a "black brother," he should drop the case. Black merchants sometimes use the "black brother" appeal in unloading shoddy merchandise on their black brothers and a few charlatans in the civil rights movement have used their groups to rip off both whites and blacks.

THE CAUSES OF CRIME AMONG BLACKS

Crime has aways been greater in areas of poverty, and the causes are legion. The poor man struggling to keep his family fed and clothed will sometimes, in desperation, rob a store. But the bulk of crimes are committed by those who are, psychologically, outside of society. Blacks today, even though they have made great strides forward in certain areas and now have "legal" equality, are still an oppressed people and, as psychiatrist Alvin F. Poussaint has said in *Why Blacks Kill Blacks*, "Violence can be a potent drug for the oppressed person. Reacting to the futility of his life, the individual derives an ultimate sense of power when he holds the fate of another human being in his hands . . . frustrated men may beat their wives and children in order to feel "manly." Expectedly, these impulses are exaggerated in men who are hungry and without work. Violent acts and crime often become an outlet for a desperate man struggling against a feeling of inferiority."

That feeling of inferiority and the desperate desire "to be somebody" cannot be satisfied with slogans. "I'm black and I'm proud" is all right as a beginner but the young black must be given more if he is to be converted to true black brotherhood. The teen-ager joining a ghetto gang is at least given a sense of belonging and a purpose in life—even if that purpose be a wrong one.

Many middle-class blacks who decry the crime statistics built up by their poorer brethren are often themselves a part of the cause of the crimes. More than one "respectable" South Side Chicago matron will tell you, "I know a man who can get you anything you want from Marshall Field's store. Just give him the size and color."

WHAT CAN BE DONE?

The problem of ridding the ghetto of crime is a difficult one and the solving of that problem must start within the ghetto itself. Within every black ghetto, the good law-abiding and hardworking people greatly outnumber those who live outside the law. The law-abiding people must, therefore, demand the right to live in peace and in safety, and that demand must be made, and enforced, by whatever means are necessary. The black criminal must be told in no uncertain terms that his assaults and his thievery and his dope-pushing and his murders will no longer be suffered in silence. He must be made to know that decent black people are going to use their ballots and their marching feet to demand that the politicians they have elected now provide them with adequate, truly effective police protection as well as amelioration of all the horrid social conditions in which criminality breeds. He must be made aware that decent black people are on the lookout for him and that he is subject to such measures as those taken by black mothers in Harlem who smashed dope-pushers' cars with baseball bats and Operation PUSH's "Black Men Moving" who confronted Chicago's vicious teen-age street gangs and announced "We've had enough of your killing and your intimidation, and from now on real black men are going to be the ones you'll have to take on." While we do not urge the vigilante approach, we certainly can understand the desperate situation which suggests that decent, law-abiding black people are fed up and will take no more.

WASHINGTON STATE HOUSE CALLS FOR USE OF DDT AGAINST TUSSOCK MOTH

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. McCORMACK. Mr. Speaker, support has been coming in from all over the country for the legislation I have introduced (H.R. 10796) directing the Administrator of the Environmental Protection Agency to accept and approve all registration applications presented to him by the Secretary of Agriculture for use on forest and agricultural lands to control insect infestations.

Thirteen of our colleagues have joined in cosponsoring this legislation, which was just recently reported out by the House Committee on Agriculture on November 12. I am particularly happy that one of the cosponsors is chairman of the Subcommittee on Forests, Congressman JOHN RARICK, who has been responsible for the expeditious treatment this bill was accorded by the committee. Our cosponsors represent both political parties, all sections of the country, and include other key members of the House Agriculture Committee.

The bill, which was considered too controversial by some, is overwhelmingly important. It is urgent that the Congress face up to the damage that has been done by insect infestations in various parts of the country, and take the necessary steps to correct it for the future.

Devastation in the West by the tussock moth this year is equal to that done by a number of major forest fires. If this much damage had been done by fire, it would have been considered a major disaster.

We now know that the loss of many millions of dollars worth of timber cannot be prevented by any other means except the discriminate use of DDT—which was banned by the EPA in 1972.

This country and this Congress can no longer afford the luxury of simply bemoaning our fate at the hands of a bureaucratic "Frankenstein's Monster" which we ourselves have created. We are in this situation because of our overreaction to a perfectly valid concern for the indiscriminate use of pesticides; but in our eagerness to solve a problem, we have created a situation in which responsible Federal agencies, such as the Forest Service and the Department of Agriculture, have been prevented, in spite of their obvious expertise in the subject, from directing the responsible use of appropriate insecticides, even in the instances where the only option was catastrophic destruction of public and private property.

It is now the responsibility of this Congress to impose rational restraints on the extreme and authoritarian manner with which well-intentioned laws have been administered, and to do so in the interests of the welfare of the people of this country, our environment and our economy. The time has come when we can no longer base our decisions upon emotionalism which allows no room for responsible consideration of the facts relative to such urgent problems.

H.R. 10796 was designed to put the authority for the management and protection of forest and agricultural lands against insect infestations back in the hands of the Department of Agriculture, to insure that future wholesale and unnecessary destruction, such as we in the Northwest have seen due to the tussock moth, will not happen again. Because of the lack of expertise and motivation in EPA, and their neglect of these critical insect infestations in the Nation, a major outpouring of taxpayers' money must now be committed for necessary accelerated reforestation.

We have turned to these legislation means to insure that this technical competence within USDA is brought to bear in all future determinations, and that administrative processes are based on thorough technical and professional findings and fact, not emotionalism and dogma.

This legislation is not designed or intended to respond to a singular event, or a unique situation. It is intended as general legislation to serve the entire country in the future. We want to make certain that the unnecessary waste of our forests—an important facet of our environment, our recreation, and our economy—and the health hazard now faced by farmers who must use dangerous pesticide substitutes for DDT, will not be sanctioned in the future.

Mr. Speaker, at this point in the RECORD, there being no objection, I would like to insert the text of a Washington State House of Representatives floor resolution, sponsored by State Representatives Johnson, Savage, Kilbury, Conner, and Hayner. It is a bipartisan resolution, expressing the sense of the people of Washington State who are concerned about our environment, our recreation potentials, and our economy.

The resolution follows:

RESOLUTION

Whereas, The Douglas fir tussock moth is defoliating Douglas and white fir trees and other vegetation on an estimated 650,000 acres in the States of Washington and Oregon, which area aggregates about 1,000 square miles, of which some 230,000 acres, or 360 square miles, are in Washington State, and in addition there are major infestations in Idaho; and

Whereas, This area of damage is fifty percent larger than the area predicted for 1973; and

Whereas, This damage is threatening the forest based economy of the area, is destroying the entire ecological balance of the area including degradation of watershed values necessary to the agricultural economy, and is ruining recreational values; and

Whereas, High soil temperatures and other problems in the denuded area make reforestation extremely difficult, and, together with inadequate nursery capacity to grow planting stock, will delay regeneration of the area for many years; and

Whereas, Application of DDT is the only known control measure for the Douglas fir tussock moth; and

Whereas, In 1963, 26,600 acres of hemlock looper infestation were sprayed with DDT in the State of Washington, and in 1965, 65,945 acres of Douglas fir tussock moth infestation were sprayed with DDT, and the report published by the concerned agencies which monitored both these projects reveals that no significant damage to the environment was detected; and

Whereas, Acting on recommendations of forest entomologists, the U.S. Forest Service, the States of Washington and Oregon, as well as the town of Walla Walla, in 1973 requested the Environmental Protection Agency to grant permission for emergency use of DDT to control the Tussock Moth disaster; and

Whereas, The Environmental Protection Agency denied these requests; and

Whereas, There is now no evidence that expansion of this damage will be contained by natural causes or approved pesticides before additional damage is created in 1974.

Now therefore, be it resolved by the House of Representatives, That the Executive and Legislative branches of the federal government be requested to take all actions necessary to assure that the appropriate agencies have the authority and means, including the authority to use DDT if necessary, to take whatever steps are necessary to prevent additional damage from the Douglas fir tussock moth in 1973.

Mr. Speaker, the problems associated with insect infestations confronted many sections of the country in 1972, and still confront us in 1973. The time of action is essential. The protection of our forests against mortality and fire, of our streams against sediment pollution from runoff, of our watersheds for lack of restraining foliage, our wildlife from lack of cover, and our recreation sites must be the first order of environmental business. I believe H.R. 10796 is the responsible action necessary at this time to insure this Nation against further bureaucratic bungling in the future.

TECHNOLOGY AND THE ENERGY CRISIS

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. CEDERBERG. Mr. Speaker, in the face of the energy crisis which has demanded so much of the Nation's attention in the past few weeks, I wish to bring to the attention of my colleagues the remarks of Dr. Earle B. Barnes, the president of Dow Chemical, U.S.A., on industry's response.

Dr. Barnes, in his reasoned and enlightening remarks, points out that all energy consumers can take action to reduce consumption and thus contribute to the alleviation of our difficulties. Further, he notes the responsibility of industry to the long-term solution of the energy crunch.

Americans have traditionally responded over the years to our national needs, so industry, which has the tools to meet this new challenge, will respond today.

I commend Dr. Barnes' remarks to my colleagues:

TACKLING THE ENERGY CRISIS WITH TECHNOLOGY

(The following article is based upon a talk of October 17, 1973 before the Instrument Society of America. The author is Dr. Earle B. Barnes, President, Dow Chemical U.S.A.)

Last spring, Johnny Cash was just starting to sing about the gasoline shortage and people were deciding to stay home over Memorial Day. About then, I succumbed to the semantics of our time by using the phrase "energy crisis". We have heard so much of this term that some people are probably getting a little tired of it. While a few parts of the USA have experienced a shortage of gasoline or a shortage of heating oil in the past year, most of the American public has not yet felt the effects of any real crisis. . . but they soon may.

Why call it an energy crisis? A crisis can be defined as a "turning point for better or worse", and we certainly are at a turning point. People with vision have seen this situation coming for a decade or two, so then perhaps the so-called energy crisis is a good thing.

For years, both individual consumers and industry used cheap energy inefficiently to save capital expenditures. If we now recognize that we are at a turning point, perhaps a more rational approach can evolve from the existing supply and demand marketplace. Increased energy cost will encourage the homeowner to insulate his house, will prompt industry to redesign processes, and will suggest to the auto owner that perhaps he doesn't need a heavy 300-hp automobile. We must now invest capital wisely to save energy.

As wage rates soared after World War II, cheap energy in part enabled the U.S. to compete in world markets. Now the U.S. manufacturer who expects to see his export market grow must respond quickly to rising energy cost—stop burning up fossile fuels at rapidly escalating rates. Analytical capability, ability to harness computers and instruments, and knowledge of process dynamics will enable the manufacturer to conserve energy. And that's what I really want to cover; various responses already have been made, but more imaginative responses can be made in the future as we come to our great turning point in man's use of energy.

Human beings make all kinds of responses to a crisis—usually emotional ones. We've already had too much of this, along with insufficient technical response. The response of man's technology to the energy crisis can take two forms:

Conserving energy with existing hardware;

Looking into the future and utilizing energy to accomplish man's tasks on a more efficient basis through emerging technology. First, let's look at how energy is consumed in our country today.

USING AND SAVING ENERGY

Industry uses about 40 per cent of our energy and conservation programs are well underway here; 35 per cent heats, cools and operates home equipment; transportation of people and of goods consumes the remaining 25 per cent.

As instrument engineers well know, precise measurements are now mandatory for the industrialist who desires maximum yield, product quality, pollution control and a sound energy conservation program. Today, industry counts the Btu's required to make a pound of product just like overweight humans count calories. In chemical plants, it has been a standard practice to keep material balance records, but a recently introduced extension of this idea is that the energy used in each process is totaled, just as are the raw materials used. Furthermore, the energy needed for pollution control or anything else in the manufacturing process must also be accounted for. A small increase in yield sometimes does not justify the energy consumed to generate the improved yield. Some big process plants run heat and material balances every 20 minutes around the clock and tune up accordingly for optimum plant operation.

Energy can't be saved until you know where you are wasting it. So the energy problem offers a field day for those involved with instrumentation—both users and manufacturers. Industry will always need instruments that offer better measurements and greater reliability, and new instruments to measure new variables continuously.

For highly instrumented plants, we no longer need ask the computer to do something and assume that it has been done. We now ask the computer, "Have you done what you were told to do?", and receive verification.

To conserve energy, neither the consumer nor manufacturer can wait to correct a malfunction until after an energy loss. In the past, we postponed cleaning a heat exchanger when it quit working. Now a computer can calculate heat exchanger efficiency continuously; cleaning is undertaken at an optimum time rather than under emergency conditions.

What does this approach to energy conservation mean to industry, and what have instrumentation people contributed? Dow started an energy-conservation crash program about five years ago. Most of the first four years were devoted to creating sophisticated monitoring systems to find what we were using or losing, where and when. Last year, Dow reduced energy consumption by 10 per cent—while increasing yield—with another 10 per cent reduction being realized this year. Certainly, Dow will reach a point of diminishing return for its efforts, but intends to set tough goals each succeeding year.

Most companies and private consumers can reduce energy requirements by at least 30 per cent, but even a conservative assumption of 15 per cent is the equivalent of 2.8 million barrels of oil per day.

APPLYING TECHNOLOGY TO THE ENERGY PROBLEM

The key to conserving energy—in a kitchen or in an industrial plant—lies in consuming only the exact amount of energy required to do the job. When a housewife makes tea, she usually heats more water than required and often lets the teakettle boil—wasting energy—while she does another task. But instrumentation can help industry save that 2.8 million barrels of oil per day (or its energy equivalent), keeping industry's kettle from boiling too long, by maintaining a precise energy level.

Both consumers and industry must invest capital to save energy by insulating, designing new processes, and measuring accurately the energy used as well as conserving energy by the obvious methods of turning off unneeded equipment (lights we don't need). Instrument manufacturers and users have a great opportunity to develop sensors to measure what we're wasting so we know what to save.

This line of attack is the best technological short-term approach, because we're already using resources faster than we can afford to. But this isn't a way to conserve our way out of present equipment and technology applications. We must keep innovating to improve living conditions and give man even greater leverage in his work with more efficient use of energy.

Many technological advances illustrate this point; for example, low energy, solid-state devices such as transistors and integrated circuits during the past 25 years have saved countless kilowatts.

A TV set built with solid-state circuits requires about half as much electricity as one containing vacuum tubes. If the electronics engineers succeed in their quest for a solid-state substitute for the big picture tube, the energy savings will multiply five-fold.

RCA recently announced the development of a pocket-size television camera with an image-sensing component that contains more than 120,000 electronic elements on a silicon chip the size of a nickel. Fairchild Camera has demonstrated a six-ounce TV camera not much larger than a cigarette package.

One big computer, completed more than 15 years ago, employed 15,000 twin-triodes and required 60,000 watts to operate. In addition, it needed a large air conditioning system to carry off the heat generated by the tubes. This 60,000-watt computer could do little more work than one of today's sophisticated pocket calculators that contains ICs and batteries. Speaking of batteries, companies recently announced the use of molten-salt electrolytes to pack as much as 10 times the energy of a standard lead-acid battery into the same size package.

Light as a form of energy is just beginning to be harnessed and is now at just about the stage of usefulness that electricity was when Edison began his inventing. Lasers, for example, can accomplish many things with only a fraction of the energy input that other devices use.

Only a generation ago, scientists first learned how to "pipe" light. Already the commercial significance of this discovery is great, making hundreds of industrial and consumer devices more efficient and less costly.

These examples illustrate how new technology can make exciting contributions to both industry and home. Our civilization has seen man grow from a one horsepower—or ox power or camel power—to being a 500-hp man (adding up all the devices which work for him). Technology should provide him with even more service for less energy.

THE WILD BLUE YONDER

I have been a science fiction fan for 40 years and the most unbelievable thing is how much of what was fiction 40 years ago is science today. Remember: the time gap from the invention of the wheel to putting man on the moon's surface is less than a single heartbeat in the history of human life. Man's recently accelerated time table of achievement will not be maintained without drawing upon imagination as we exercise inventive minds and creative hands.

Look realistically, but with rekindled imagination, at untapped energy sources, and let us always remember that man cannot create energy. The good Lord gave us energy that is fantastically abundant from the ancestral sun. It is predicted that this source will be available to us for about four billion years.

This gives us a little time.

The sun provides 1 kW/m^2 per day. If you don't think that is a lot of energy, get out your slide rule. Think for a moment about what solar energy already does. It grows all of our plants, forests and food supply, and provides rainfall. All the fossil fuels in existence could not outproduce the sun for a single day.

Solar energy is here for the taking—waiting for efficient conversion methods that can be accomplished with available capital and efficient transmission methods that depend upon the development of solid-state conductivity or superconductors. Breakthroughs will come in our lifetime. Solar energy is absolutely clean, and no one can steal it; everyone on this globe has an equal chance to acquire it; and there is no need to fight wars to possess it. At the Solar Energy Institute of the University of Delaware, available technology makes it feasible to discuss the cost of solar energy as compared to a conventional steam turbine plant.

Since the 1930s, a man in Florida has provided hot water for his home at least eight months of the year—with a box on his roof filled with coiled copper pipes and covered with a black surface. This man—not a trained scientist—is several decades ahead of most of the world's scientists in doing something about solar energy.

If the impossible just takes a little longer, there is a second way to harness solar energy. The sun does it daily through a magnificent scientific achievement called photosynthesis. The sun takes CO_2 out of the atmosphere and makes cellulose and oxygen, producing untold billions of tons of plants daily. If man can duplicate this process of nature, once again we have a limitless source of energy. The cycle could be perpetual, making cellulose which could be burned to provide energy; the burning process would regenerate CO_2 for this photosynthesis energy converter.

Far out? Most of today's technology would have seemed much farther out to our founding fathers just 200 years ago. Fantastic technological developments occur everyday. In an era when people are more interested in watching a football game than watching astronauts walk on the moon, we are bound to have trouble getting people to understand how the energy crisis will be solved by technology.

TIME FOR APPLICATION OF TECHNOLOGY

Maybe an *emergency* instead of a crisis is what was needed. Things may be tough for a while, but it would certainly shorten development time. We waste too much time and human effort building ships and hauling oil around the world—doing primitive things like hauling wood instead of working on an electrical generator.

Certainly on a short-range basis, we are forced to do primitive things such as harnessing geothermal energy wherever we can, tapping new oil reserves, speeding up the Alaskan pipeline and building nuclear plants fast. The point is that we are adequately forewarned that our response and technology to develop new sources must be greatly accelerated.

One response of technology to a real emergency is familiar to everyone. In December 1941, the Japanese cut off our natural rubber supply from the Far East. This product was needed if Western civilization was to defend itself, and the technological response by American industry was fantastic. Dire necessity brought forth the development of synthetic rubber.

Today, we look hungrily at the vast oil reserves of the Middle East and play political and economic chess to maintain its flow to our shores.

Today we are adequately forewarned, and our technological reservoir is far advanced and often unused (this was not so in 1941). At the same time, we are acutely aware of the need to reverse two trends, the waste of energy and the pollution of our planet through misuse of energy and raw material.

The technological response has begun on both counts. Let's speed it up, and approach our more serious problems as we did the conquest of space, always remembering that imagination is the first prerequisite and that the impossible is only a state of mind. Let's work to leave future generations with such an abundance of energy that all men can share it without exercising might and militancy in its pursuit.

THANKSGIVING 1973

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. DERWINSKI. Mr. Speaker, since the Members have just returned from the Thanksgiving recess, it is only appropriate that I insert into the RECORD an article on this great American holiday that places it into its proper prospective.

Rather than delve into this subject any longer, I direct to the attention of the Members an editorial in the Suburban Life—Illinois—which appeared in their Thursday, November 22 issue. The article follows:

THANKSGIVING 1973

Despite current and projected shortages in everything from fuel and newsprint to food products and some clothing materials, there is still much for which we Americans should be thankful today in observing the 352nd anniversary of the first Pilgrim feast in Massachusetts.

We remain the most prosperous, free-thinking nation on this earth. We waste more food and natural resources than most countries on this globe consume each year. And this wasteful mess is beginning to catch up with us in our current energy crisis.

President Nixon and other governmental officials have asked for a voluntary cutback in the use of fuel oils, gasoline and electrical power. Voluntary acceptance of this necessary conservation is the only way to avoid stringent federal controls.

We are proud of the efforts being made in our communities to reduce consumption of energy, but more public support is needed to make any sizeable dent in our power outlay.

We can make it if we all work together. If a single unused light were turned off in every home in this community, it would be surprising how much energy could be saved. If each motorist in our area would save a gallon or two of gasoline each week, either by driving under 50 miles per hour or walking to the corner store, it would be a big help.

Our people and the entire nation can either conserve our energy supply voluntarily or we will be compelled to do so by federal law, a step no one wants to see happen.

Let's all get with it and do our share. Our efforts may not only help our nation through a difficult energy crisis but also should result in real savings in our own pocketbooks.

As we sit down to our tables of plenty, enjoying today's Thanksgiving feasts, let us all remember that we will keep our blessings a lot longer if we demonstrate more prudence with our resources.

ELOQUENT BETRAYAL

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BREAUX. Mr. Speaker, no doubt all of us have been receiving numerous telegrams, telephone calls, and letters concerning constituent reactions to the events of the past few weeks, reactions which have varied according to the sentiment expressed.

But aside from the direct reaction to Watergate, impeachment, and related matters of immediate concern, I have noticed that people are giving deep and very personal thought to these very serious questions and issues that are plaguing our Nation.

A young housewife in my district, Mrs. Judith B. Grossman of Lafayette, La., has shared with me her feelings and beliefs on these matters and most eloquently portrayed the concerns which I believe most Americans now hold. If any lasting benefit can come from the present situation, I believe it will come in the form of an awakening realization throughout the Nation that complacency is dangerous and that active participation in our governmental and political system by everyone is vital if our system is to survive.

Permit me to share with my colleagues Mrs. Grossman's thoughts on this subject:

ELOQUENT BETRAYAL

I am a housewife in her thirties. I have never written my congressman before, I am sorry to say, but I have rarely missed voting in any election since registering in Louisiana in 1962.

Contrary to rumors about the apathy of the American people, I believe that most other citizens, as I, have silently agonized over the tragedy that Watergate has come to mean to the world. I have spent as much time searching my soul over my political thinking as over any of my other beliefs. Yet I have never had enough confidence in myself to express my political beliefs. I also felt that well-known helplessness to do anything about it anyway.

Because of the thinking begun by Watergate early on, I saw through the fallacy of the "silent majority," that a silent majority is no majority at all, but an abnegation of responsibility (however small) as citizens. Not only was my laziness irresponsible, but it was used to indicate support for thinking sometimes contrary to my own. My silence was working against me. I saw that the only way to affect change is to act, to enter into the democratic process in some way, however small. I then became a participant in a Lafayette citizens' committee.

To do that I had to gain enough confidence in myself to act. Many women my age and in my circumstances—middle class, house in the suburbs, husband in business or a profession, kids, inflation, pollution—are going through a personal crisis similar to the nation's. It is very easy to submit, without thinking, to the traditional roles. Not to act is perhaps the greatest temptation for us who have lost a personal sense of worth but can take refuge in material comfort and in fulfilling the traditional roles. The incipient promise of America that was ours as children in school sometimes emerges as we stand over the kitchen sink. We feel then the tremendous waste of our energies and intellect. It is like a pesky fly buzzing into our safe and routine consciousness. We can either obliterate him and go on as before, or we can listen to our own conscience and do something before the promise of the American dream is withdrawn forever, unrealized.

I have ended my silence. I am learning to act. If I can speak for other women, other Americans like me, I shall add, we have the strength to be all, not only to fulfill our traditional roles, but to speak up for ourselves and to act for our not-so-small bit of humanity.

Only we can realize the American dream.

THE ELIMINATION OF A TAX ON A TAX

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. ABNOR. Mr. Speaker, today I am introducing legislation which if enacted will remove the grossly unfair Federal excise tax on amounts paid for State and local taxes on communication services such as telephone bills. The problem is such that the Internal Revenue Service has ruled that the Federal excise tax must include amounts paid for State and local taxes on telephone bills. This amounts to double taxation and inequity in our tax laws.

My State of South Dakota was one of the first States the IRS ruled against. Today this double taxation effects Illinois, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Pennsylvania, South Carolina, and Tennessee. It has been projected that within the next year about 45 States will have to compute the 9 percent excise tax by including any State or local taxes for services rendered. Although we will only have an 8 percent excise tax next year in 1974 and decreasing 1 percent each year thereafter, we must act to correct this double taxation.

When this problem first came to my attention in August, I thought that it was due to the particulars of the way our tax laws were written in South Dakota, but it is now apparent that all but New York and Georgia may be affected and thus the need for our action. My colleagues might better be able to see the possible affects to their State by knowing that in South Dakota alone, this double taxation will amount to a total of about $300,000 to $400,000 in 1974. For every dollar spent on State and local taxes on communication services, an individual will have to pay 8 cents in 1974 for excise taxes. This may not appear to be very much, but pennies count up and in these days of rising costs and inflation every cent counts.

I strongly urge my colleagues to join in this effort to eliminate this double taxation.

PRESERVING THE PUBLIC UNIVERSITY AND COLLEGE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. WILLIAM D. FORD. Mr. Speaker, on November 13, my friend and distinguished colleague, the gentleman from Michigan (Mr. O'HARA) addressed the convention of the National Association of State Universities and Land-Grant Colleges in Denver, Colo.

Mr. O'HARA, serves this body as chairman of the special subcommittee on education, which has jurisdiction over higher education legislation. He has, on several occasions recently spoken out in opposition to proposals to raise tuition at public colleges and universities. His remarks in Denver, which I include at this point in the RECORD, sum up his views on this controversial subject:

ADDRESS OF HON. JAMES G. O'HARA

Let me say at the outset that I address this group in a state of substantial insecurity. I am a new boy on campus in the field of higher education. My distinguished predecessor, Representative Edith Green of Oregon, presided over the Special Subcommittee for well over a dozen years before moving on to the Appropriations Committee.

She left behind an impressive record of achievement and constructive legislation, and I have been busying myself during most of the ten months that I have had that chair in beginning to learn my way around and through the secret passages, hidden trapdoors and other gothic trappings in the Higher Education Act and its auxiliary statutes. Only time will tell whether there is any way to get anywhere from where I now am. But I am trying.

So this fall I have been speaking in front of a succession of the nation's most distinguished educators. A couple of weeks ago, I chaired a panel at the meeting of the American Council on Education. Shortly after that, I spoke to a luncheon group of the College Entrance Examination Board. Last week, I addressed a dinner meeting of the Association of Independent Colleges and Schools. And today, I am addressing you.

A reasonable question might be "O'Hara, who are you to be telling these experts what is going to happen to education? Shouldn't you content yourself with getting their advice and acting on it?"

On the whole, I have been and will continue to content myself with getting the advice of spokesmen for every sector of American education—including college and university presidents, student financial aid officers, the people at One Dupont Circle in Washington, among the most helpful of whom will always be my old friend Ralph Huitt and my new friend Jerry Roschwalb. I shall continue to solicit and give very careful and respectful attention to the ideas of economists and political scientists and students of postsecondary education itself. The men and women who man the controls and make the machine go will be among the first I shall always consult if my Subcommittee is to function in an informed and useful manner.

But in the last analysis, in the field of higher education as in every other field, it is precisely the inexpert value judgments of the public which will prevail and if we are to accept the basic idea of free government, should prevail.

The interests that education legislation must serve first are the interests of the students who use the system and the interests of the parents and the other taxpayers who provide the system with all of its lifeblood.

So I comfort myself as I look at a room filled with men whose educational credentials I cannot hope to meet. I comfort myself with the thought that, as a taxpayer, as a father of seven children, the two oldest of whom are just beginning postsecondary education, and as an imperfect reflection of the ideas and prejudices and hopes and aspirations of the people of my Congressional District, I am not wholly disqualified to have judgments on how this nation should and will direct its attention. My judgments are fallible.

And to some extent, they reflect the concerns of a constituency of middle-income Americans who pay the bills and shoulder so many of the burdens of these troublesome times.

Let me put it another way. I have one son at a great State University and another at an equally great State Land-Grant Institution, and I will use every opportunity I get to talk to you about what the future ought to hold for these two sons—and their brothers and sisters.

And it is from that point of view that I think we are going to have to address the great educational policy questions that are now being so hotly debated.

On one of those issues, as I think most of you have heard, I have recently spoken out.

I have denounced, and I will continue to denounce the proposals which have been made, and which will continue to be made, to demand that the alleged "tuition gap" between those institutions supported by tax-based *appropriations*, and those institutions supported by tax-privileged *endowments* be narrowed by raising the floor, in the apparent hope of making the ceiling look lower.

I have said about those proposals that it is time to blow the whistle on the efforts of the rich to aid the poor with the resources of the middle-class.

And I will continue to say it as long as those proposals continue to be made.

I may have missed some aspect of economic analysis, but I am finding it very confusing to be told that people who are already finding it difficult to go to the public university are going to be helped to go to the private ones by raising the tuition at the places they can barely afford to attend right now.

Call it naivete, call it a poor background in undergraduate economics, call it what you will.

I don't think playing musical chairs with financial barriers to education helps anyone.

As I understand the reasoning which brings us to these conclusions it begins with the proposition that tuition does not, for the most part, cover the total cost of instruction.

One set of figures in the recent Carnegie Commission Report suggested that families in the below $6,000 income bracket contributed in tuition about 40 percent of the total cost of their children's education, while families in the over $18,000 bracket contributed in tuition 55 percent of that cost.

But at a recent Washington meeting, a respected scholar drew from this the conclusion that "A system with real social equity would have resulted in a range from only 15 to 20 percent for the lowest group, up to perhaps 70 or 75 percent for the highest."

That a family with an income of under $6,000 ought not to be burdened with 40 percent of the cost of educating its children in college is obvious.

We do not burden such a family with that kind of cost when those children are in elementary and secondary school, and I see no reason why we should continue to do so at the postsecondary level.

But I fail to follow the chain of logic that leads from the proposition that the burden must be lifted from the very low-income consumers to the conclusion that it must then be added to the burden already borne by the consumer in the $10–20 thousand dollar income range.

And to assert that doing so would lower the financial barriers between postsecondary education and the consumer is simple nonsense.

Let me tell you from the point of view of the Detroit area auto worker who is making over $12,000 a year now and is working overtime to do it—from the point of view of the school teacher or the policeman or the accountant or the salesman who has to moonlight to make ends meet, it doesn't make sense blithely to suggest that he ought to be forced to pay more of the money he doesn't have to send his kids to college—in the name of removing financial barriers.

Dr. John Raines, assistant professor of religion at Temple University recently wrote, for Christian Century, an article called "Middle America: Up Against the Wall and Going Nowhere." I think some of Dr. Raines' observations make a great deal of sense here.

In 1949, he points out, one per cent of the American people owned 21 per cent of the total personal wealth in the nation. During the past twenty-five years while we have been comforting ourselves with the idea that more and more Americans are becoming affluent, that one per cent has raised its share of total personal wealth to 40% or more!

Says Dr. Raines, "There has been upward mobility in America—not at the middle but at the top, which in 20 years has doubled its distance from the rest of us."

He further cites income statistics—already six years old—so we can safely assume that inflation has made them substantially worse—which show that in 1967, 56% of the American families in the 7–10 thousand income bracket; 67% of those in the 10–12 thousand bracket; and 75% of those in the 12–15 thousand dollar bracket got there by having two or more wages in the family. In other words, according to Dr. Raines "Not massive middle-class affluence but massive middle-class moonlighting—that is what the figures show."

I submit, ladies and gentlemen, that middle-class Americans in families where both parents have to work—sometimes at more than one job—just to stay where they are—are not going to understand the reasoning that suggests they are among the wealthy and that they are not paying their fair share of the cost of postsecondary education.

Let's remember, while we are looking at this affluent auto worker whose wife has an office job, who probably has a small equity in a house, owns an automobile he helped build three or four years ago, and who owns a large bunch of bills he and his wife are barely able to pay at the end of each month—that he is probably also paying a higher effective rate of tax—state and federal on his income-based wealth than the higher income professional man, or businessman, whose true wealth may well rest more on property income than on wage income.

Let's look at those figures, too, if you think we are creating a straw man here.

In 1967, the same year as that from which John Raines drew the statistics quoted above, the percentage relationships between wages and property as a source of income were as follows:

Income of $5,000 to $15,000—85% from wages, 12% from property.

Income of 15,000 to 25,000—78% from wages, 21% from property.

Income of 25,000 to 50,000—47% from wages, 51% from property.

Income of over 100,000—17% from wages, 82% from property.

Remember that the tax rate on property income averages 65% of the tax rate on wage income.

Remember, too, that enormous amounts of that property tax derives from tax-free municipal bonds, and other tax shelters—and try to understand that the man whose income derives mostly from his own one or two jobs, and his wife's job, is not going to be impressed when we tell him that he is being "subsidized" because he is not charged most of what it costs to educate his kids at a university his taxes paid for.

Let me stay with Dr. Raines' article briefly because he presents us with some very disquieting evidence about the lifestyle of these supposedly affluent, supposedly upwardly mobile middle Americans.

Let's look as he does, at the 1971 Bureau of Labor Statistics "Intermediate Level of Living" budget, and see how an urban family of four with an $11,000 income really lives.

First—almost two thousand dollars of that income went to taxes.

$50 dollars a week went to food. When these figures were compiled that meant meat three times a week—mostly hamburger. I suspect that is a dimly remembered dream for many of these families today.

$219 a month went to housing expenses, including utilities, mortgage payments, furniture, repairs, etc.

$612 a year went to medical costs.

Almost a thousand dollars a year went to transportation—which is mostly the cost of getting back and forth to work and the grocery store.

A little over a thousand dollars a year went to clothing for this family of four.

$563 a year went to insurance, union dues, Christmas presents, and charitable contributions.

$684 a year went to amusements, including the payment of the TV, to books and records and newspapers, a vacation, and school supplies and toys!

That is the lifestyle of an American family which, the academic economists tell me is "above the median." That is the lifestyle that some bankers, attorneys, and industrialists think can be made a little more austere so that these "upwardly mobile" Americans can avail themselves of the privilege of an education for their kids.

That is how the people live who are accused by the academic economy of not contributing enough toward their own kids' education—and the education of other people's kids, too.

Part, of course, of the rationale for seeking higher tuition payments is the acceptance, perhaps out of pure pessimism, of the idea, fervently preached by the present Administration, that we have reached the highest level we can hope to achieve in the public support of postsecondary education, and that the only alternative is the rearrangement of those resources in more beneficial ways.

I am not suggesting any bad faith or evil motives on the part of those who accept, as graven on stone, the view of public priorities which has the blessing of Richard Nixon, and Roy Ash.

But we do not *have to* assume that we have no more resources to put into education.

It is possible to lower financial barriers at the bottom of the scale, without raising them further up on that scale.

And there is untapped wealth at the untaxed top end of the income scale which can be used to help pay the costs of public education.

But, above all, I am suggesting that the economists' assumption that education only benefits the student is wholly unproven!

I admit the validity of the argument that a college education substantially increases a student's likely income.

The figure I have seen most emphatically offered is that a college degree holder will likely earn, over the course of his lifetime, something over $400,000 more than the average high school graduate.

I am not sure that figure takes into account the effects of inflation either in terms of money or in terms of job credential requirements—nor am I sure to what degree that figure may be attributable to the personal drive and ambition that caused the degree holder to go to college in the first place.

But let's assume for the sake of argument that the degree itself produces that 400,000 dollars.

My answer is "so what?"

The highway and the subway are both financed, in large part, by non-users.

In 1971, the United States Government subsidized 13 regional airlines to the tune of 63 million dollars, and we are subsidizing shipbuilders, airports, and the sale of wheat to Russian consumers!

The tax system is filled with provisions which subsidize the home buyer, the borrower of money, the motorist, the user of installment credit, the contributor to churches and nonprofit organizations.

And not least among the beneficiaries of this latter kind of public subsidy is the benefactor of the private educational institution.

I am not singling out tax subsidies or cash subsidies for criticism or defense.

Whatever the merits of any one of them, we can all agree, at the very least, that the individuals who claim each of these tax or cash subsidies personally benefit from the activities subsidized.

And some of those who do not benefit directly and individually from such subsidies are among those whose tax payments are needed to fund the *cash* subsidies and replace the *tax* subsidies.

But a subsidy is justified—or not—in terms of the benefit to the public as a whole.

And until we are ready to abolish altogether any form of subsidy to any activity which benefits any individual personally, then I think we have a long way to go before we can begin to justify singling out the student and his family for this exercise in moral regeneration.

I submit that we do not spend money on education—we invest it, and I submit that we have done so since the origins of this Republic, and we have done so knowingly and wisely.

The Northwest Ordinance, the Morrill Act, the long list of Federal and State and local decisions to put public money to the most fundamental of public purposes—the education of children—all these bear witness to the validity of a concept that we are now being asked to discard, so that we can trim our educational aspirations to the Procrustean dimensions set by the Budget.

I think John Dale Russell made the point best in 1960, when he said:

The reason for the support of education out of the public treasury is that an important public benefit is produced . . . In these times there should be no question whatever that education beyond the high school for a great many young people is as essential to the public welfare and security as education of elementary or secondary school level. To impose barriers to continued attendance in the form of tuition fees at the time of high school graduation, is as unsound as it would be to impose such barriers at the end of the elementary school or at the end of the fourth grade."

There, I suggest, you have the argument in a nutshell.

Either the education system benefits the society as a whole, and access should be truly universal—or it only benefits the student, and he should pay the entire shot.

If education only benefits the individual then we are beggaring ourselves as taxpayers to provide an expensive system of education, from the Kindergarten through the 16th year, or beyond, which ought to be made available only to those who want to, and can pay for it.

If that premise is correct, then there is, indeed, no justification for the public educational institution, and none whatever for the money-losing private educational institution.

If that premise is right, indeed, education should be wholly a profit-making enterprise, and Harvard and Macomb County Community Colleges should both start making money, or go into the drink.

But if that premise is incorrect—if as we have always believed, and as Whitehead so eloquently said, "The race which does not value trained intelligence is doomed," then the society itself derives a benefit from its educational system far in excess of any investment that can be put into it in advance by its immediate clientele.

And if this is the case, I suggest that our job is not to try to accustom ourselves to today's small visions, but to raise our eyes to the goal of a truly universally available educational system without cost barriers.

I think we ought—indeed, I think we must try to create the opportunity for every American—whatever his background, whatever his economic class—whatever his age or the point he has reached in his career—to have access to a full range of postsecondary education opportunities—to the full extent he can benefit from them.

The kid just coming out of high school; the mature person who wants to change a career, or who finds that his career has been threatened by technology; the person approaching retirement who wants to live a richer life—to each of these the doors of postsecondary education must be opened, and kept open.

And an indispensable element of this, an element without which we cannot remain where we are, must less move forward, is a well-financed, nation-wide system of low-tuition or no-tuition state universities, and colleges and community and junior colleges.

That element is no less valuable than the indispensable system of independent institutions which must be strengthened and preserved to provide a wide variety of choice for those seeking an education.

I accept the proposition that private education should not be priced out of the educational market place.

We need our entire educational system.

There is more need for education, for competent teaching, for research, for the sparking of intellectual curiosity, and for training in job and professional skills, than we can hope to provide with the educational system we now have.

The wide-spread acceptance of the idea that the demand—indeed, the need—for our educational system is shrinking is a counsel of despair on which we cannot build our educational policies.

The American people will support, as they are already supporting, a broadly based, open educational system.

And they will support it more readily if its costs are spread across the society it serves, and not concentrated wholly on those who happen at the moment—as undergraduates or graduate students—to be "using" the system.

The American taxpayer has earned his reputation as one of the most patient and law-abiding people in the world.

He pays his taxes, even when he isn't altogether sure that he approves of what they are being used for.

He knows he is paying more taxes than his President, and suspects, rightly or wrongly, that he is paying more than his banker, his doctor, his lawyer and perhaps even more than the academic economist who is pontificating on how well subsidized that taxpayer is!

Tell that taxpayer that he has to help a little more to open up the doors to college for his own kids and everyone else's, and he will grumble, but he will help.

But you tell him that the sacrifices he is already making, and the new ones you want him to make are not to help *his* kids—that he and his children are too "affluent" to need help—and we may have a very vivid bicentennial observation of the Boston Tea Party!

But I think we can avoid that kind of confrontation between those who want to save the values of a mixed educational system, and those who will, in one form or another, have to continue to carry the load.

I think we can, without doing violence to our institutions, or stretching our legislative ingenuity out of shape, come up with educational finance systems which will enable us to reach the goal Thomas Wolfe painted for us:

"So then to every man his chance—to every man regardless of his birth, his shining, golden opportunity—to every man the right to live, to work, to be himself and to become whatever thing his manhood and his vision can combine to make him—this, seeker, is the promise of America."

HUD LOAN INSURANCE PROGRAM

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. GONZALEZ. Mr. Speaker, today I am introducing a bill that would establish a HUD loan insurance program for loans to nursing homes and intermediate care facilities to enable them to install fire safety equipment. Under this proposal loans would be limited to the Secretary's estimate of the reasonable cost of the equipment fully installed, and the loans would contain other terms and conditions prescribed by the Secretary.

A provision to provide the necessary loans to nursing homes had been included by the Housing Subcommittee in the proposed Housing and Urban Development Act of 1972, but as you know this bill never reached the House floor for a vote. As a result many nursing homes will begin to close their doors at the end of December because they have not been able to obtain loans to install the fire equipment stipulated in regulations prescribed in the 1967 Life Safety Code.

The Social Security Amendments of 1973 imposed the requirement that all nursing homes and intermediate care facilities meet the provisions of the Life Safety Code of the National Fire Protection Association in order for patients in such facilities to retain their eligibility under the medicare and medicaid programs.

I am sure that we all recognize the beneficial effect of such a requirement in increasing the security of patients against fire. However, without the loans proposed in this bill many nursing homes and intermediate care facilities—a rough estimate is 1,500 to 2,500 facilities—will have to close their doors because they cannot obtain the financing for the purchase and installation of the required safety equipment. Patients from these nursing homes will have to be absorbed by the State hospitals, and we all know that a majority of the State hospitals are terribly overcrowded without these additional patients.

I believe that you will recognize the importance of this legislation, and I sincerely hope that you will support my efforts when this bill reaches the floor for consideration.

IS THERE A POPULATION EXPLOSION?

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HOGAN. Mr. Speaker, one of the primary justifications for destroying unborn children by abortion is the so-called population explosion, despite the fact that the United States is experiencing the lowest birth rate in the history of our Nation. Even if there were a population explosion, no one could justify denying the natural God-given right to life of a single person any more than one could justify throwing persons overboard in an overcrowded ship. If we accept the idea that some human lives are expendable, why start with the youngest? Why not those over 60? Why not eliminate the cripples and the lame? As horrible as these thoughts are they are logical extensions of our current antilife attitude.

We do, in fact, have a population problem—the problem being the continued decline in the number of young persons. Each year the number of students in our schools is rapidly declining. Thousands of teachers have lost their jobs because of a lack of children. The number of children in America under 5 years of age has declined by a whopping 15.5 percent from 1960 to 1970. In other words, there are 15.5 percent fewer children under 5 years of age in the United States in 1970 than there were in 1960. This dramatic decline occurred prior to the general spread of abortion. The outlook for our country is grim indeed with the impact of abortion coupled with the already plummeting birth rate.

The following is a segment of the chapter, "Is There a Population Explosion?" and examines population growth as an excuse for scraping live babies out of their mothers' wombs:

IS THERE A POPULATION EXPLOSION?

Although it is impossible to do justice here to what is called the population explosion, we must nevertheless consider several salient points about it. "Overpopulation" is increasingly cited as one of the principal reasons why unrestricted abortion has now become "necessary." We may note in passing that the same alleged need for Lebensraum, or living space, was brought forward to justify the extermination programs of the Nazis in Germany. Just as many people acquiesced in the programs of the Nazis because of the supposed overriding needs of the German Fatherland, so today many people, frightened by the horror stories told by the population Cassandras in our midst, seem to have been persuaded that abortion is necessary as a population control measure . . . Japan, for example, has dramatically reduced its population growth rate by allowing abortions virtually on demand.

It is quite true that killing does reduce the population, if that is indeed the only consideration. In point of fact, however, we do not have to take at face value all the hysteria about the so-called population explosion.

(1) The catastrophic predictions of many scientists and demographers are based on a number of "if's" which are far from inevitable.

The first of these "if's" concerns the actual present population of the world. We are told that it is around 3.5 billion, having increased by 2.5 billion in a litle more than a century; it is calculated that it will double in about 35 years. But—one of the experts candidly admits—"the statistics are not exact, of course. There is no way of registering the daily births and deaths for much of Asia, Africa, and South America. But the experts are in close agreement about the figures." This must inevitably remind us of the "one million illegal abortions per year in the United States," for which, however, there are no reliable statistics . . .

Whatever the accuracy of the figures, it is perfectly true and demonstrable that world population has grown phenomenally. We *do* have the figures for North America, Europe, and some other parts of the world, and we know that population growth in the past century has been unprecedented. If—and this is the second big "if"—departing from our present large population base, we project indefinitely the same *rate* of growth we have witnessed in the past hundred years, we will be able to calculate a given date when the sheer weight of human bodies will equal the weight of the earth itself; or a date when there will be more than one person for every square foot of the earth's surface. In fact, such projections are regularly being made by some of the more frantic scientists. (One of the interesting things about the population alarmists is that the most extreme among them almost invariably turn out to be biologists; real demographers tend to be a good deal more cautious in their projections.)

These apocalyptic projections, however, are the purest science fiction. They depend on an indefinite or a very long-term extension of the present growth and doubling rates of the world's admittedly large present population. But the present growth and doubling rates of the population *cannot* continue indefinitely, and not merely because we will all die of starvation or disease or nuclear war long before the earth's available living space is all used up. The current growth and doubling rates cannot continue for quite another reason; the rapid rise in population growth we have seen in modern times is due, as one economist puts it, "not to rising birth rates, but to a recession of the death rate . . . And every sensible person should realize that death rates cannot go on receding indefinitely."

Since, eventually, everybody is going to die, death rates simply cannot keep going down indefinitely; they have to come into equilibrium with birth rates, as they were before modern medicine brought about dramatically increased life expectancies the world over, thereby triggering the modern "population explosion." Not only must the recession of the death rate eventually cease, there are indications that it *has* ceased. In October, 1970, the World Health Organization announced that the steady decline in death rates observed over the past 150 years (coinciding precisely with the "population explosion") appears now to be coming to a halt; mortality rates are fast approaching, or have reached, an irreducible minimum.

"The findings have important implications for the problem of the population explosion," a news story disclosing WHO's conclusions stated. "One of the causes of net population increase . . . has been medical advances reducing infant mortality and combatting once-fatal diseases in later life. If those advances have about reached their limit—and if sooner or later the same phenomenon will be duplicated in presently underdeveloped countries whose standards are rising—then at least one of the factors in the population increase will become stabilized."

As for continuing high birth rates, the economist we have just quoted above makes a further point: "All demographers know that birth rates, even in the overpopulated countries, are not up. They have been stabilized for years, and in the prosperous countries are actually down in some cases sharply. *The United States at present has the lowest birth rate in its history.*" (Italics added) The U.S. birth rate, in fact, has declined every year from a high of 25.3 per 1000 in 1957 to a low of 17.4 in 1971; a report by the Washington Center for Metropolitan Studies indicates that there were 15.5 per cent fewer children under 5 years of age in 1970 than in 1960—this decrease of children coincides with the greatest increase in the number of people of child-bearing age. This decrease of births has been accelerating over an entire decade; it would seem that the increased availability of abortions occurred too late in the decade to have substantially affected the figures.

As if to underline the hazards of trying to predict merely by projecting existing trends, the U.S. Census Bureau announced, in August, 1970, "a major downward revision in population projections for the next 30 years . . . It is possible, the Bureau said, that there will be nearly 100 million fewer Americans in the year 2000 than had been forecast in one maximum projection made just three years ago."

Subsequent studies have continued to confirm this new trend. In its issue of November 5, 1971, for example, the New York *Times* reported on three different new studies—the 1970 National Fertility Study, a survey by the U.S. Census Bureau, and a compilation by the National Center for Health Statistics. All of these studies not only confirmed marked reductions in actual births; they confirmed a sharp and rapid drop in the number of children women *intended* to have. Birth expectations are generally regarded as highly accurate overall indicators of future births, and these three reports all confirmed a "half-a-child" drop in such expectations. Informed demographers are now talking about a "birth dearth" or "baby bust" more than they are talking about a "population explosion."

Of course, the new forecasts may be just as faulty as the old. Nevertheless, an "expert" population projection which is three years later found to be off by 100 million, for example, can hardly be considered exact science. We may be pardoned for demurring when, to counter an alleged overpopulation which cannot be demonstrated, we are asked to accept policies such as abortion-on-demand which overturn the most basic legal and moral principles by which American society has always governed itself. The evidence for this future overpopulation clearly remains of the most speculative sort.

The other big "if" of the prophets of population disaster concerns the capacity of the world to feed itself—not only its present large population, but the much larger population it will certainly have when birth and death rates reach a new equilibrium. "This problem has been dealt with most capably by Birtish economist Colin Clark who enjoys international repute as an expert in the area of economc development and demography," Professor Rupert Ederer writes. "Using accepted statistical techniques and reliable data on world land resources, Clark has calculated that presently available land on this earth suitable for agriculture . . . could feed—using the best agriculture techniques presently available—47 billion people at maximum, i.e., at American standards of diet. Accepting that Americans eat more than they need to, Clark further estimates that for people living at Japanese standards of food consumption and timber requirements, the world's potential agricultural and forest land could supply the needs of 157 billion people."

Dr. Jean Mayer, Professor of Nutrition at Harvard and another renowned authority on the subject, has reached conclusions similar to Colin Clark's. "Considering the world as a whole," he writes, "there is no evidence that the food situation is worsening and there is at least a likelihood that food may at some time (20 or 30 years from now) be removed altogether as a limiting factor to population." Noting that since 1850 the increase in food production has been still more rapid than the phenomenal increase in population, and that since the early 1950's especially, the average rate of increase for world food production has been 3 per cent per year while the population has increased on the average only 1.7 per cent, Professor Mayer underlines the further spectacular increases in food production which can result from the application of what is already known about scientific agriculture, especially from the economical harnessing of photosynthesis in plants, and adds, "all this is no longer science fiction. It is as much a reality as the Federal Income Tax."

Nor does all this represent an argument, unresolvable by laymen, among experts—some experts holding that the world can support any foreseeable population, while other experts cry "overpopulation" as the contemporary version of the "yellow peril." We can attest that, whatever our future perils may be, food and other basic resources seem reasonably in balance both now and for the future.

(2) The problems of pollution, congestion and undernourishment in the world today are not necessarily, or even principally, the result of overpopulation.

By the standards of its available technology, a sparse band of Indians in a South American rain forest is surely suffering from the effects of "overpopulation." "Before the invention of agriculture," Lester R. Brown has noted, "the plants and animals supported by photosynthesis on the total land area [of the earth] could support a human population of only about 10 milion." The reason for this was that the resources of the earth had not been organized for the production of food. With every development of agricultural technology, however, the number of people who can be supported increases phenomenally. Today, the most densely populated country in the world, the Netherlands, with 375 persons per square kilometer, given today's available agricultural technology, is one of the most prosperous countries in the world.

"The Dutch [agricultural] productivity figures are the most remarkable in the world," Colin Clark writes. "Only about 70% of the country is farmed. The rest consists of urban and industrial sites, or of dunes and heaths which could only be fertilized at great expense, and which are preserved for forestry and recreation. Dutch agriculture produced 1,070 tons of grain equivalent per square kilometer of farm land . . . the requirements (at Dutch standards of consumption) for 365 persons." In other words, although it is the most densely populated country in the world, the Netherlands can produce on its own land adequate food to feed its own population at a high standard of living.

Scientists Paul Ehrlich and John P. Holdren have disputed the relevance of population density figures in general and the Dutch example in particular to the determination of what constitutes overpopulation. They speak of a "Netherlands fallacy," and point out that "the Netherlands actually requires large chunks of the earth's resources and vast areas of land not within its borders to maintain itself. For example, it is the second largest per capita importer of protein in the world . . ." What the argument fails to take into account, of course, is what the Netherlands *exports*, and from which other countries trading with the Netherlands benefit.

Both prosperity and the high Dutch rate of production result not from a small population but from its possession of advanced technology. The same applies to other countries. Hong Kong, for example, which houses 3.1 million people on 398 square miles (12,700 per square mile) has been able to double its output of goods and services in ten years.

FEDERAL BUDGET

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. DERWINSKI. Mr. Speaker, next week, it is expected that the Rules Committee will summit a legislative package to the Members on the subject of the Congress budget proceedings.

Appropriately, station WMAQ-TV—NBC, Chicago—broadcast an editorial on November 3, on this subject. While the editorial also is directed to the local budgetary problems, it very properly discusses appropriations to be considered by Members of Congress. The editorial follows:

EDITORIAL BY STATION WMAQ-TV

The federal budget—charts, graphs and almost incomprehensible statistics—is a little less exciting to read than the telephone book. Maybe that's why Congress allows the Executive Branch to make up the budget.

It might be dull, but the federal budget essentially determines how our government is going to spend $270 billion of our money. But we cannot expect the average American citizen to analyze the budget and send along appropriate suggestions to Washington. Theoretically at least, that should be a job for the 535 people we elect to represent us in Congress.

But Congress allows the budget to be the private property of the President and the non-elected people he picks to run the Office of Management and Budget. So the Office of Management and Budget operates as sort of an "invisible government" making the crucial decisions about national priorities.

Congressmen can complain that we're spending too much for this and not enough for that. But Congress has no alternative budget of its own. It has no office to provide in-depth analysis of the President's budget. So when Congress votes to spend more for a program than the President wants, the President vetoes the appropriation and criticizes Congress for overspending.

That makes Congress a less-than-equal branch of government. And it won't be equal until it establishes its own budgetary office so members of Congress can have enough information of their own to enable them to play a role in setting spending priorities.

This inequality also exists at the local level. In Chicago, Mayor Daley makes up the budget every year, not the 50 aldermen. The mayor gives each of them one copy of his budget book and then, just three weeks later, they have to vote whether to adopt it or not. At least Congress has time to evaluate appropriations requests over a period of months instead of Chicago's quick take-it-or-leave-it way of adopting a budget.

We're not criticizing President Nixon or Mayor Daley. By law, they have the duty to present their budgets. The problem is that Congress and the City Council have failed to assert themselves in this process. Unless the people we elect as legislators grab a share of their authority to set priorities at the beginning of the year, they're not in a very good position to complain the rest of the year about how the money is being spent.

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. SYMMS. Mr. Speaker, today I have introduced a bill to repeal title XI of the Social Security Act; this title is better known as the professional standards review organizations provision. I believe that it is essential that we maintain in this country a system of personalized, efficient, progressive health care.

Last year the Congress, in its desire to approve the social security amendments presented to it, enacted as a part of those amendments a little-noticed section which will, if permitted to stand, greatly jeopardize the quality of health care received by those many medicare and medicaid patients who have been led to believe they would receive, through those programs, the highest quality of care the medical profession has to offer.

Unfortunately, while the purpose of the PSRO seems innocent enough in concept, the specific provisions of the law, when applied to the medical profession's activities, will impose on the professional and its patients a system of care standardized at the level of the lowest common denominator. The law will, in addition, practically remove those guarantees of privacy which have been so important a part of the close relationship which enables doctors to provide their patients with highly personal and highly efficient care.

These are only a few of the provisions of the PSRO legislation which impose on us a necessity to reconsider our action of last year and repeal PSRO's altogether.

DEATH PENALTY SUPPORTED IN PUBLIC SURVEY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. GAYDOS. Mr. Speaker, the question of whether capital punishment actually acts as a deterrent to murder and other major crimes is one of the most perplexing ones facing our Nation today.

There are strong arguments on both sides and the debate flares anew each time the media reports a killing so violent it shocks the entire Nation. The decision of the U.S. Supreme Court, in Furman against Georgia which cast a cloud on the constitutionality of all Federal and State laws imposing the death penalty and served to further confuse the issue.

I realize there is no easy answer to this highly emotional question of whether to impose or dispose of the death penalty. In an effort to learn how the residents of the 20th Congressional District of Pennsylvania felt about the question, I sent a questionnaire throughout the District, asking the people if they felt:

> (1) The death penalty is justifiable in cases of first degree murder and other major crimes; (2) the death penalty should be imposed on second-time murderers; (3) the death penalty should be abolished in favor of life imprisonment; and (4) any other opinion the people cared to express.

The response was impressive. I received nearly 26,000 replies, many of them accompanied by letters further explaining the writer's opinion on capital punishment.

The results of the survey showed 94 percent of the people responding favored the death penalty. Of that total, 72 percent advocated it for first degree murder or other major crimes.

Similarly, of the 22 percent favoring the death penalty for "second-time" murderers many indicated this should be the last resort, imposed only after all attempts at rehabilitation had failed.

Six percent of the responses felt capital punishment should be completely abolished. However, here too, there were differences of opinion. Some felt life imprisonment was punishment enough for any crime, providing the convicted party served the full sentence. That is life, no parole, ever. Others felt our entire penal system drastically needs revision with greater emphasis on education and rehabilitation. If this is accomplished, they were willing to parole the "rehabilitated" party.

I would like to include in my remarks some excerpts taken from responses to the questionnaire. They illustrate the wide range of feeling on this issue:

> An eye for an eye, etc. . . . Only first degree murder should be punishable by death but not ALL cases of first degree murder. . . . The death penalty should be used only with great discretion and in extraordinary cases.
>
> Death is justified on repeat or multiple first degree murder convictions; life imprisonment on first time conviction with minimum of 10 years and parole; life imprisonment with NO parole for repeat convictions. Why should there be second-time murderers? Keep the death penalty. . . . Abolish the death penalty for life imprisonment with no possible parole. . . . Death versus death is a meaningless question as long as prisons are in such need of change. Prison reform first!
>
> The death penalty has its merits but I could never vote to impose it. . . . Put the question to a vote in the next national election.

Mr. Speaker, perhaps this last example best sums up the dilemma in seeking an answer to the death penalty question: "Pray for the wisdom of Solomon . . ."

CRIME CONTROL NO. 14

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. LANDGREBE. Mr. Speaker, on November 26 the distinguished Senator from Massachusetts, Senator EDWARD KENNEDY, placed in the RECORD the full report of four community health officials from Cuyahoga County, Ohio. I must say that I have not yet had the opportunity to examine this report in detail, but I have made a cursory examination and wish to point out several things about the report which the distinguished Senator did not emphasize.

First, accidental deaths cannot be used as an argument against private gun ownership unless those who so argue wish to ban private ownership of all things that cause accidental deaths. Might I suggest that in the interest of consistency the gun control lobbyists urge confiscation of private motor vehicles and private homes before confiscation of private guns. If they are genuinely concerned about accidental deaths, they must advocate abolition of private homes and vehicles because these two items cause far more deaths than firearms.

The report itself points out that vehicular deaths per 100,000 people were 10.3 during the period 1958–62, 12.3 in 1963–67, and 15.7 in 1968–72. During the same three periods accidental deaths attributable to all firearms were 0.3, 0.3, and 0.9. This means that the number of vehicular deaths was as much as 41 times as great as the number of firearm deaths. It is also significant that while firearm deaths per 100,000 people amounted to only 0.3 in the 10 years preceding enactment of the 1968 gun control law, firearm deaths have tripled in the 5 years since that landmark legislation was passed.

However, vehicular deaths, even though at one point—1963–67—41 times as frequent as accidental firearm fatalities, are surpassed in number by fatal domestic accidents, which during the same period were 54 times as frequent as firearm deaths. Deaths attributed by the report to "other" causes are also many times greater than accidental deaths attributable to firearms.

In the latest period available—1968–72—the report itself points out that deaths due to vehicular accidents were 17 times as frequent as deaths due to firearms; deaths due to home accidents are 21 times as frequent; deaths due to "other" causes are 15 times as frequent; and industrial deaths were twice as frequent. I can only conclude that the furor about the number of accidental firearm deaths is a grasping at straws by those who have exhausted their meager stock of arguments favoring a Government monopoly on guns.

Second, the report purports to provide evidence for the hypothesis of its authors that "the number of firearm incidents—nonfatal as well as fatal—is a function of the number of guns in civilian hands." Unfortunately I cannot discover within the report any data at all on the number of guns privately owned by the citizens of Cuyahoga County, and must assume that the hypothesis remains unproved since the evidence for it is not presented.

I should, however, point out that could the hypothesis be "proved," it would entail nothing about privately owned guns and crime, for "function" is a mathematical concept, and, as every good statistician knows, does not mean "cause." The two concepts are not only logically distinct, but they have absolutely nothing to do with each other.

As I pointed out some time ago, one may establish a very high correlation between any two phenomena and still not make any statement about causality. I have heard that attendance at theaters has a very high correlation with the phases of the Moon—are we therefore to conclude that moviegoers "cause" the phases of the Moon or that the phases of the Moon "cause" persons to go to movies?

Third, I would like to provide two quotations from the report itself. First:

> The city rate [of accidental firearm deaths] in the last five year interval [1968–1972] is four times greater than it was in the period 1958–1962.

Second:

> The annual number of accidental firearm deaths in Cuyahoga County tripled in 1968 as compared with the average for the previous ten years, and the increased level was sustained for four consecutive years.

In point of fact, since 1968, the year in which the landmark legislation controlling guns was enacted and went into effect, the number of accidental firearm deaths in Cuyahoga County has reached 77, while the total for the 10 years preceding enactment of the 1968 gun control law was 51. While the number of accidental deaths cannot be used as an argument against private ownership of guns, it can be used as an argument against gun control laws whose express purpose is to decrease the number of firearm deaths. Anyone who doubts the difference in the number of deaths between the years preceding 1968 and the years following 1968 may simply glance at the report on S21038.

Undoubtedly we will now be told that the 1968 law has failed because it was not tough enough. Undoubtedly we will be told this by those who urged Congress to pass the 1968 law in the first place. But why should we believe the gun control lobbyists now? Their predictions for the 1968 bill have not come true. And if they should reply that the report from Cuyahoga County is atypical and that the 1968 law has actually worked to some extent, then why has the Cuyahoga County report been inserted in the RECORD? The gun control lobbyists contradict themselves no matter which way they turn.

THE NEED FOR LEADERSHIP

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HARRINGTON. Mr. Speaker, Henry Steele Commager, the eminent historian, wrote "America's No. 1 Shortage: Leadership," which appeared in the November 11 Boston Globe. His profound comments on the present situation deserve the attention of every Member of Congress. We have been elected to provide leadership for a troubled Nation, but as a body are failing in that responsibility. We might all profit by a better understanding of Mr. Commager's analysis.

The text of Mr. Commager's article follows:

AMERICA'S NO. 1 SHORTAGE: LEADERSHIP

(By Henry Steele Commager)

Two centuries ago when the emerging United States had a population smaller than that of metropolitan Detroit today, the political landscape was thronged with the most distinguished group of statesmen any modern nation has ever produced in one generation.

Today, with a population of more than 200 million, the most conspicuous feature on the political landscape is its desolation.

A meager people, scattered over a vast area, without great cities, without a capitol, without familiar institutions of church and state and university and the learned professions, in one long generation produced Benjamin Franklin and George Washington, John Adams and Samuel Adams, Thomas Jefferson and Alexander Hamilton, James Madison and James Wilson, John Marshall and Thomas Paine, and a score of others scarcely less eminent.

Today, with every advantage of wealth and power, of science and learning, we have Mr. Nixon in the White House and Mr. Agnew in disgrace, the government in disorder, the opposition in disarray, the Congress in confusion and the courts in retreat, and not a statesman in sight who can be compared with the founding fathers without embarrassment.

PRINCIPLES—AND LIMITS

Nor is this contrast between the 18th and the 20th centuries merely a matter of individuals or personalities. If we look away from the great figures who dominate the vaunted stage of history to the principles they formulated and the institutions they established, the contrast between the revolutionary generation and our own is even more sobering.

The generation of the founding fathers created a nation (they were the first to do so) and invented the constitional convention, which is the way in which democracy works. They also imposed limits on government—limits that were really effective, such as a written constitution, bills of rights, separation of powers, judicial review and a federal system—substituted the equality of territories and states for the old world-type of colonialism, and built the political party.

What has our own generation—or the past three or four generations—contributed in the realm of political institutions, or even of political practices? Secrecy, perhaps?

How do we explain this precipitous decline in statesmanship and in political resourcefulness? Why is it that a nation statistically the best-educated in the modern world and certainly the best-experienced in self-government, fertile and talented in so many fields—science, technology, medicine, literature and the arts—is unproductive in the quintessential realm of politics?

The first explanation is a practical one. Eighteenth Century America was a simple agrarian society which provided few opportunities for the cultivation of talent and few openings for such talent as appeared.

What Henry James wrote about the America of Nathaniel Hawthorne's day was even more valid for the America of Washington's: "No state, in the European sense of the word, and indeed scarcely a national name. No sovereign, no court, no personal loyalty, no aristocracy, no church, no clergy, no army, no diplomatic service, no country houses, nor parsonages, nor thatched cottages, no great universities nor public schools . . . no literature, no novels, no museums, no pictures, no political society, no sporting class."

A LIFE OF SERVICE

Certainly the spectacle that greeted a Franklin, a Jefferson or an Adams was even more negative than that which greeted Hawthorne when he turned to the profession of literature. Added to James's list could have been no cities, no manufacturers, no newspapers or journals of importance, no libraries, no professions except those of the law and the church, no music, no opera.

In the old world, a young man of talent had a wide choice of careers open to him; he might be a bishop or an admiral, a scientist or an artist, a man of letters, an academician, a soldier of fortune, an adventurer, a social hanger-on, a great lover. In America, he was pretty much limited to farming or fishing, land speculation, the church, the law, and politics.

Nor—except in land speculation—was there any quick road to wealth to distract ambitious young men from public service. Nothing was more revealing than the simplicity of life of even the famous and the powerful; Washington borrowing $500 to go to his inauguration, Hamilton casting about for $20 to tide him over some crisis or other, John Adams pitching hay on his Braintree farm, Thomas Jefferson walking from his inaugural to his boarding house and waiting his turn at the dinner table, Tom Paine living in poverty in his little cottage on the outskirts of New York and buried in a pauper's grave.

Such talent as there was had no effective outlet except in public service of one kind or another and, what is more, that area of service was not only inviting, but compelling.

What a challenge confronted the handful of leaders of that nation-making year, and what prodigies they performed. They had to win independence, create a nation, set up state governments and then a national government, write constitutions and laws, win the west and provide it with government, develop a network of commercial relations and negotiate treaties with nations of the old world, protect far-flung frontiers against the Indian and against the aggressions of foreign nations, lay the foundations for a national culture—we could go on and on.

CONCERN FOR POSTERITY

Wherever we look, we are forced to the conclusion that there is nothing like war for bringing out fortitude, nothing like emergency for bringing out ingenuity, nothing like challenge for bringing out character. That is just what Washington meant when he wrote, in the moving circular to the states of June, 1783:

"This is the time of their political probation, this is the moment when the eyes of the world are turned upon them, this is the moment to establish or ruin their national character forever . . . for according to the system of policy which the states shall adopt at this moment, they will stand or fall, and by their confirmation or lapse, it is yet to be decided whether the Revolution must ultimately be considered as a blessing or a cause; a blessing or a curse not to the present age alone, for with our fate will the destiny of unborn millions be involved."

The founding fathers knew, with Milton, that "fame is the spur"; they were animated, most of them, by a passion for fame and, all of them, by a sense of obligation to posterity. Nowhere is the changing sense of values more ostentatious than in the attitudes toward posterity of the revolutionary generation, and our own; nowhere is it more dramatic than in the decline of the fiduciary sense which animated that earlier generation but, in Jefferson's wonderful phrase, for "our descendants to the thousandth and thousandth generation."

How this attitude shines forth, over and over, in a Washington, a Jefferson, an Adams, even a Tom Paine who had no posterity and barely even a country of his own. Remember his plea for independence—"tis not the concern of a day, a year or an age. Posterity is involved in the contest and will be affected to the end of time."

PRIVATE ENTERPRISE

For a century and a half we were a posterity-minded people, but now who thinks or speaks of posterity? We no longer seem conscious of our fiduciary obligation to later generations. We waste the soil through strip mining, we pollute the lakes and streams until all life in them is dead and some of our rivers actually catch fire, we poison the air with our noxious gases, we kill off birds and animals with our pesticides, we have destroyed more of the land and the waters, of flora and fauna, than has Europe in a thousand years.

In almost everything we seem ready to place the interests of the present above the interests of the future, and there are, alas, no national leaders to call a halt to what is systematic betrayal of the most sacred of fiduciary obligations.

What the American people admire and what the young are expected to emulate are the achievements of private enterprise. Corporation executives, not educators, sit on the boards of colleges and universities; businessmen, not artists and musicians, run museums and orchestras; captains of industry and finance dominate the hospitals, not doctors or scientists.

It is the entrepreneurs, too, who win public recognition and reap public rewards. Occasionally a Kennedy will honor a Robert Frost or a Pablo Casals, or will invite to the White House a bevy of Nobel prize winners. But these are gestures that few take seriously.

What can be done to revive the passion for public service and public enterprise that animated the generation of the founding fathers? Nothing perhaps but changes in the general climate of opinion in the country. Some changes are already under way. The misconduct of the Nixon-Agnew Administration—a misconduct grosser and more dangerous than anything in our history—has shocked the country into a realization of the truth of John Stuart Mill's aphorism that "With small men no great thing can ever be accomplished."

WHAT CAN BE DONE

There are already signs not only of an awakened conscience but of an awakened realization that conscience is not enough. We can see for ourselves that Gresham's Law, long familiar in the old world, operates in politics as well as in the economy: Base men will drive out honorable men, decency is at a disadvantage when confronted with squalor, it is easy for self-service to usurp the place of service to the commonwealth.

One method of encouraging public rather than private careers is to move resolutely towards equalizing the rewards, even the material rewards, of the two careers. This cannot be done by paying public servants the kind of salaries and endowing them with the prerequisites which businessmen now enjoy (imagine giving a senator, a doctor or a teacher a bonus twice the size of his salary for doing his job well!).

It can be done by providing for higher taxes on high incomes and by closing those loopholes which make our tax laws look like nothing so much as Swiss cheese. A brief consideration of the flourishing state of private enterprise in Sweden, Holland, West Germany, where taxes on high incomes are almost confiscatory, should dissipate the notion that our economy would be injured somehow by a reformation in our tax laws designed to achieve a more equitable system of rewards to the private and the public sector.

A second practical measure to revive interest in public enterprise is equally obvious: To take private money out of politics, to make it impossible for a candidate for any office, from that of mayor to that of President, to buy his election.

This could be achieved by the simple device of prohibiting any private or corporate contributions to elections and placing responsibility for the modest financing of elections on the government itself. That would not be a sure guarantee that all candidates would hereafter be elected on their merits, but it would at least give merit a better chance.

As for changing the climate of opinion, that is, needless to say, more difficult. It could at least be encouraged by a return to the teaching of those great wellsprings of literature—many of them in the Aegean and the Mediterranean Seas—which nourished the minds and spirits of the generation of the founding fathers.

But that, perhaps is too much to hope for.

NEED FOR COPYRIGHT REVISION

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. RAILSBACK. Mr. Speaker, this morning's Washington Post carried an article which described the recent U.S. Court of Claims' ruling concerning copyrighted materials. Briefly stated, the court ruled photocopying magazines and books by libraries and scientists does not violate the copyright laws.

The fact that the court was split on this matter and that this ruling will undoubtedly be appealed, I think points out that we need better definitions of exactly what constitutes "fair use" of an author's work.

Fortunately, revision of the 1967 copyright law is now under consideration in the Congress at the present time, and I am hopeful that we can move as expeditiously as possible on this important issue.

CONTINUED REPRESSION OF SOVIET JEWS WHO SEEK TO EMIGRATE TO ISRAEL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. WALDIE. Mr. Speaker, I would like to bring attention today to the ongoing and escalating repression of Soviet Jews who seek to emigrate to Israel.

As an illustration I would use the case of Mr. Leonid Yakovlevich Zabilizhensky, a distinguished engineer and former teacher who is scheduled to go on trial in Sverdlovsk in the near future for the alleged crime of "parasitism." In fact, it is clear that Mr. Zabilizhensky's only offense has been his stated desire to live in Israel.

In November of 1971, Mr. Zabilizhensky was a member of the faculty of the Eural Polytechnical Institute, and had been recently commended by his superiors as a "hard working and creative" teacher.

But, his filing of an application to emigrate to Israel on November 11, 1972, has brought upon Mr. Zabilizhensky and his family a 2-year period of harassment which has denied him the right to work and support his family, and has now culminated with his jailing in the Central Prison in Sverdlovsk on trumped-up charges.

After filing his emigration application, Mr. Zabilizhensky was quickly fired from his job on November 25, 1971, on the grounds of being "unsuitable for the position of an educator of students"—in direct contradiction to his earlier commendations.

Since that time he worked as a loader in a store, a milkman, and a porter, all the while being denied re-entry into his profession. Meanwhile, his reapplications at 6-month intervals for emigration have continued to be turned down without comment.

Finally, in May of this year, Mr. Zabilizhensky was fired from a factory job under false pretenses, and was charged with "parasitism" because he had violated Soviet law which requires its citizens to hold employment. In American parlance, this is obviously a "Catch-22" situation, because Soviet authorities have denied him the opportunity to work.

In short, Mr. Zabilizhensky now faces a number of years at hard labor for nothing more than wanting to live in Israel. By itself, the case cries out for justice. But what is equally disturbing is the fact that this case is but part of an emerging and concerted effort by the Soviet Union to repress emigration to Israel by jailing, on false charges, prominent and activist Soviet Jews who seek to emigrate.

For example, last Friday in Kiev in a secret trial in a factory, Alexander Feldman was given 3½ years at hard labor—his real crime was seeking to join his wife and six children in Israel. Two weeks ago in Derbent, Pitya Pinkhasov was sentenced to 5 years at hard labor on similar trumped-up charges; and in Tbilisi, the capital of Georgia, Isai and Gregory Goldstein are rumored headed for trial. Again, these individuals have done nothing except seek to emigrate to Israel.

It is all too apparent, then, Mr. Speaker, of what is exactly going on today in the Soviet Union, and it is something that the Congress cannot ignore. We must do whatever we can to stop this wave of political repression and the wave of emerging political trials.

I have, therefore, today, Mr. Speaker, sent the following telegram of protest to Anatoly F. Dobrynin, the Soviet Ambassador to the United States. I would also urge my colleagues to take action on this most important matter.

The text of the telegram follows:

ANATOLY F. DOBRYNIN,
Ambassador, Union of Soviet Socialist Republics, Office of the Embassy, Washington, D.C.

DEAR MR. AMBASSADOR: It has come to my attention that Mr. Leonid Yakovlevich Zabilizhensky is about to go on trial in Sverdlovsk for the alleged crime of "parasitism." In fact, investigation into this case has led me to the irrevocable conclusion that he is on trial for the sole reason that he is a prominent Soviet Jew who wishes to emigrate to Israel, and the Soviet Government is attempting to hold him up as an example. Indeed, Mr. Zabilizhensky's case is but one of many in recent weeks which indicate a concerted effort by your Government to use political trials as a means of repressing the right of emigration of Soviet citizens. In the interest of better relations between our two countries, I strongly urge that your Government drop charges against Mr. Zabilizhensky and allow him to emigrate to Israel.

JEROME R. WALDIE,
U.S. Congressman.

FUEL CONSERVATION: THE ELECTRIC CAR

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. DELLUMS. Mr. Speaker, I recently received some information very applicable to our present energy crisis from one of my constituents.

Bill Jacob, of Orinda, Calif., has constructed an electrically powered car which he uses daily to commute in the Berkeley-Oakland metropolitan area. The car is powered by batteries, thereby eliminating the need for gasoline, and emits virtually no pollutants into the atmosphere.

This type of vehicle appears ideal as a possible solution to our energy and pollution problems. It would be necessary for the car to be small, for a larger vehicle would require more batteries. The use of the car would have to be restricted to metropolitan use because its top speed is 40 mph. But a small nonpollutant vehicle would be ideal in our now congested and polluted urban areas. Along with its practicality, the electric car is rather inexpensive to operate. Mr. Jacob reports that his car costs him approximately three-fourths of a cent a mile and that the total construction of the car cost only $1,000.

In the past I have introduced legislation that would authorize a program of research and development for nonpolluting motor vehicles. The electric car appears to be nonpolluting as well as a means to conserve our dwindling oil supplies. I urge Congress to consider authorization of a program to study nonpolluting, energy saving vehicles such as the electric car.

DEFENSE DEPARTMENT PROMOTES UNFAIR JOB DISCRIMINATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. SEIBERLING. Mr. Speaker, I sincerely regret the necessity of reporting to the House the inescapable fact that the Defense Department is encouraging private employers to practice massive employment discrimination against veterans with other-than-honorable discharges. This conclusion is based on responses to a questionnaire I sent to the Nation's 100 largest corporations.

Of the 74 corporations responding, over 40 percent admitted discriminating against veterans with general discharges—a type the Pentagon considers to be "under honorable conditions."

Veterans with less favorable discharges face even more job discrimination. This investigation proves the utter falsity of the Pentagon's characterization of general and undesirable discharges as nonpunitive.

The problem is far more serious than has previously been suspected. The military discharge classification system invites society to punish hundreds of thousands of former servicemen who have not been convicted or even charged with any crime and even though the armed services have not seen fit to punish them.

It is particularly unfair to base a person's fitness for civilian employment on his military record. Most of these men and women with unfavorable discharges have committed no offense by civilian standards. Every Member of Congress who has served in the Armed Forces knows that military service is very different from civilian life. Yet veterans with unfavorable types of discharges are often, for no other reason, considered unfit for civilian employment.

DISCRIMINATION BY EMPLOYERS

The specific quantifiable results of this investigation are that among the responding corporations—

Forty-one percent conceded discrimination against veterans with general discharges;

Sixty-one percent admitted discrimination againt veterans with undesirable discharges;

Sixty-two percent admitted discrimination against veterans with bad conduct discharges; and

Seventy-three percent conceded discrimination against veterans with dishonorable discharges.

Mr. Speaker, I want to point out that these figures represent the lowest possible percentages of the large corporations which discriminate. Some 27 percent of the corporations responding to the questionnaire indicated that they had no policy regarding hiring veterans with unfavorable discharges or that they had a decentralized hiring practice which made them unaware of any such policy. Therefore, the figures I cite represent only the admitted discrimination. The percentage of corporations which actually discriminate may be substantially higher.

At the same time, I want to emphasize that not all the corporations admitting, this employment discrimination totally prohibit hiring veterans with unfavorable discharges. It is inescapable, however, that the standards for hiring veterans with unfavorable discharges are different than those for hiring other job applicants. One may safely conclude that the veteran with a less-than-honorable discharge probably will not be hired unless he has qualifications going beyond those normally expected from applicants for jobs.

UNFAVORABLE DISCHARGE PERCENTAGE HIGHEST EVER

For those who may think the problem is minor or inconsequential, consider the following fact: According to Pentagon figures, in the past 4 years there have been 286,000 less-than-honorable discharges. This total includes 148,000 general discharges; 121,000 undesirable discharges; 15,500 bad conduct discharges; and 1,500 dishonorable discharges.

Only 6 percent of the veterans with unfavorable discharges were court-martialed out of the Armed Forces. The other 94 percent with unfavorable discharges have administrative nonpunitive discharges, but society is treating them in the same way it reacts to convicted felons.

The Congress and the American public have been propagandized to believe that the Armed Forces are helping veterans readjust to civilian life following the national convulsions over the Indochina War. No doubt they are, in many instances.

Analysis of the Defense Department discharge figures, however, suggests that the Pentagon may be creating more readjustment problems than it is solving.

Unfavorable discharges are now being given to the highest percentage of servicemen ever, according to Defense Department statistics. One out of every ten servicemen released receives an other-than-honorable discharge. The percentage of servicemen receiving general and undesirable discharges during the first 4 fiscal years of the Nixon administration was twice the percentage of the previous 4 years. The percentage of bad conduct and dishonorable discharges remained fairly constant.

CORPORATIONS DECODE SPN'S

Another alarming finding of the investigation is that 20 percent of the responding corporations admitted that they know how to determine the specific reasons behind a serviceman's discharge by decoding numbers on his discharge certificate. These corporations are apparently not deterred or disabled by the fact that the Defense Department officially prohibits distribution to the public of lists explaining these separation program numbers—SPN's.

By having these numbers on the discharge certificate, the Defense Department makes it possible for employers to decode them. It thereby participates in an invasion of the privacy of thousands of veterans, including many who have honorable discharges but unfavorable SPN's.

We do not permit other Government departments and agencies to operate elaborate discharge systems in which every person is classified upon being released. Why should the Defense Department be allowed to act as a screening agency for private employers?

This investigation makes clear the need for remedial legislation, such as that introduced by Mr. Koch, to abolish the use of SPN's. Serious consideration of remedial legislation by the distinguished members of the Armed Services Committee and the Secretary of Defense would help make employable many thousands of veterans who have been unfairly denied access to jobs because of the unwise discharge policies of the Defense Department.

WE NEED A NEW MINIMUM WAGE BILL

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. ERLENBORN. Mr. Speaker, when John Dent's "Ode to Erlenborn" came across my desk last week, a thought occurred to me. Maybe my pleas in poem and song for action on the minimum wage bill have been misdirected.

After all, our subcommittee chairman is an experienced legislator. He knows the importance of compromise in the legislative process. He knows that, as troubled as the American people are about matters which come under the heading of Watergate, most are still concerned about their pocketbooks.

He knows, too, that men and women at the low end of the wage scales deserve the time it would take for Congress to pass a good minimum wage bill. And he knows that, as a subcommittee, we have had nothing at all on our agenda for the past 2 months.

In light of this, I am confident that our chairman would provide for early action on this bill if he were free to do so. But we all know the great influence exercised by the leaders of Organized Labor on the majority of the Education and Labor Committee. So again, resorting to simple rhyme, let me suggest:

John, John, he's our man—
If he can't do it, Georgie can!
(And, if he won't, he's a real meany!)

WEST TECH HIGH SCHOOL WINS OHIO STATE SOCCER CROWN

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. JAMES V. STANTON. Mr. Speaker, on November 8 West Tech High School, which is in my congressional district, won the State soccer championship in a closely fought match with Cincinnati Anderson.

A victory like this is the product not only of skill, but also great dedication and hard work. It speaks very highly of the players on the team, their coach, Nick Maric, and the school they represent.

To them I extend my warmest congratulations, and in tribute to their achievement I would like to insert the following article into the Record:

West Tech Wins State Soccer Crown

(By Don Fogleson)

West Tech's Cinderella soccer team finally found its glass slipper and made it a sweetheart of a finish last Thursday at Baldwin-Wallace stadium, beating Cincinnati Anderson 1–0 to win the state scholastic championship.

There was no doubt among the 2,000 fans in Berea that the two top soccer teams in Ohio were meeting for the state championship. The two clubs battled to a scoreless tie for 89 minutes of play before Tech sophomore Wolfgang Urban brought down the house with a left-footed boot from 18 yards out that split the Cincinnati net.

Urban was mobbed by teammates and fans and had to be rescued from the throng of worshippers by coach Nick Maric.

After playing scoreless ball through regulation time, the two finalists played two five-minute overtimes and two five-minute sudden death periods. It was in that final sudden death period in which Urban blasted home the championship shot.

West Tech gained a berth in the state playoffs by tying for the Western Division crown of the Ohio Scholastic Soccer League. Eight Ohio teams made it to the playoffs: four division champions, two wild card teams and two top independent schools.

In the first round of play, Hudson beat Hawken School 1–0; Brecksville whipped Rocky River 3–0; Cincinnati Anderson stopped University School 2–1 in overtime; and West Tech defeated Dayton Centerville 2–1.

The warriors drew Hudson in the semifinals and that, too, was a nail-biter all the way. Tied 2–2, sophomore sensation Mike Hubach drove for the Hudson goal and appeared to have a clear shot. A Hudson defender desperately grabbed Hubach, who instinctively passed the ball to an open teammate who made a fine boot to the net. Seeing that it would be a goal, the Hudson goalie lunged at the ball, grabbing it with his hands.

Because grabbing the ball is a soccer violation, Tech was awarded a free kick with just 18 seconds showing on the clock. Hubach lined up for the shot and put the ball squarely into the Hudson goal for a 3–2 victory and a berth in the championship game.

It set the stage for the climatic windup against Anderson, which upended Brecksville 1–0 in the semifinals.

"I'm afraid I'll wake up and find out that it was all a dream," Maric said after the championship triumph. "These are a great bunch of kids. They deserved it."

The Warriors finished the 1973 campaign with a 12–1–1 record and Maric attributes much of that success to a superstition of buying oranges from Little Tony's Open-Air Market before each game. Maric explained that everytime he bought oranges from Little Tony's, located at W. 73rd and Clark, his soccer team won.

"It became a routine thing for me to do," Maric said. "And, yes, I visited Tony's before the championship game."

A FUTURE PRESIDENT

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Ms. HOLTZMAN. Mr. Speaker, the House Committee on the Judiciary will soon vote its recommendation on the nomination of Gerald R. Ford as the next Vice President of the United States. It is very possible that the committee will indeed be voting to approve the confirmation of the next President of the United States.

The editorial of the New York Times of Monday, November 26, 1973, makes an urgent appeal to the sense of judgment of the Members of Congress and their responsibility to the American people in this crucial matter. I urge my colleagues to give this editorial which follows the highest and most serious consideration:

A Future President

After announcing that the Senate Rules Committee had unanimously approved the nomination of Rep. Gerald R. Ford as Vice President, Senator Cannon, the committee chairman, was asked by reporters whether he still thought the group was recommending the next President. "I think that's a very strong likelihood," he replied.

Judged by that demanding standard, and it is the only proper standard to apply, it is not clear that the Rules Committee has fully discharged its responsibility under the Constitution. When Congress approved the 25th Amendment in 1965, the legislative history makes clear that Congress was expected to go beyond the routine tests of character and personal fitness customarily invoked in the confirmation of a Cabinet officer or a judge. It was, in addition, acting as a surrogate for the American people.

Senator Ervin of North Carolina had initially introduced an amendment providing that Congress alone fill a vacancy in the Vice Presidency. Presidential nomination and confirmation by both Houses was a compromise between that procedure and the leaving of the appointment entirely to a President's discretion.

Essential prerequisites for the Vice Presidential nomination are: (1) that the nominee be of good character; and (2) that there be no break in political continuity should he succeed the President. Mr. Ford, as a Republican and minority leader, provides the continuity; the lengthy F.B.I. investigation apparently confirms that he is a man of good character. But the Democratic majorities of the House and Senate also have to ask themselves whether Representative Ford meets the test of competence and whether, as representatives of the people, they are justified in assenting to the selection of a candidate with what can fairly be called his unrepresentative views on such major questions as civil and human rights.

With regard to competence, Mr. Ford has no administrative experience, little experience in foreign affairs, and no record of constructive legislative draftsmanship. No important bills or proposals bear his name. He has been almost totally uncreative during his 25 years in the House of Representatives. In 1970, he displayed remarkably poor judgment and inadequate understanding of the constitutional separation of powers when he personally initiated the futile attempt to impeach Supreme Court Justice William O. Douglas.

Representative Ford's relentless efforts to undercut the open housing law, the right to vote law, and virtually every other civil rights statute of the past decade afford no comfort to the nation's Negro citizens and are clearly out of step with majority sentiment in this country with regard to racial equality. His legislative record is remarkably lacking in compassion.

In voting on this nomination, members of Congress are not obliged to rubber-stamp Mr. Nixon's choice. On the contrary, as surrogates for the people, they have a responsibility to weigh this nominee's competence, judgment, independence and philosophical outlook in terms of whether he is the man they can conscientiously endorse as potential President of the United States.

ONE HUNDRED YEARS OF SERVICE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HELSTOSKI. Mr. Speaker, the Felician Sisters are a worldwide order of nuns who have dedicated themselves to teaching, care of orphans, nursing, mission work, and social service. Last week, the Felician Sisters began a year-long celebration marking their 100th anniversary of dedication to the people of America. The centennial celebration, which began with a mass of thanksgiving in each of the group's nine North American provinces, is scheduled to continue through November of next year.

The story behind this group is rather remarkable. The community, which now numbers nearly 5,000 members, was established by five sisters who came to this country in 1874. Today, the Felician Sisters work in 31 out of 50 States, in addition to Canada, Brazil, and Europe.

The Felician Sisters have long been active in New Jersey. The Immaculate Conception province in Lodi, for example, was the fourth American province to be established.

Mr. Speaker, today I would like to take this opportunity to salute the Felician Sisters and to thank them on behalf of the many people they have helped. An interesting article focusing on the Felician Sisters appeared November 22 in the Garfield, N.J., Messenger. In view of the fact that the article offers additional information about the Felician Sisters, I would like to take this opportunity to share their story with my colleagues. The article follows:

Felician Sisters To Celebrate 100 Years of Service in United States

The Felician Sisters, a worldwide order of nuns dedicated to teaching, nursing, care of orphans, social service and mission work, will begin a year-long observance of their 100th anniversary in America this week with a Mass of thanksgiving in each of their nine North American provinces. The Centennial celebration will continue through November, 1974.

From five Sisters who came to the United States in November of 1874, the community has grown to 5,000 members who work in 31 of the Union's 50 states as well as in Canada, Brazil, Europe and general headquarters in Rome.

His Excellency Thomas A. Boland, archbishop of Newark, will open the centenary activities for the Felician Sisters of Immaculate Conception province, Lodi, with a Solemn High Mass on Nov. 21, 11 a.m. at Lourdes Motherhouse chapel. Concelebrating Mass with the archbishop will be Msgr. Theodore Bonelli, assistant chancellor; Rev. Richard Groncki of Belleville, Rev. Edward Hajduk and the Franciscan chaplains Rev. Humphrey Tobias, Rev. Camillus Janas, Rev. Amandus Piontek and Rev. Bertrand Bluma.

The community, officially known as the Congregation of the Sisters of St. Felix, was founded in Poland by Sophia Truszkowska in 1855. At the request of Rev. Joseph Dabrowski, five Sisters opened their first foundation in this country in 1874 teaching grammar school in Polonia, Wisconsin, to children of early Midwestern settlers and Indian youngsters.

The Immaculate Conception province, Lodi, was the fourth American province to be established. In 1897, the Felician Sisters staffed St. Anthony's School in Jersey City marking their entrance into New Jersey.

By 1906 there were seven more schools in New Jersey staffed by the Felician Sisters: St. Stanislaus, Newark (1897); St. Joseph, Camden (1901); St. Joseph, Passaic (1902); Holy Cross, Trenton (1902). Also Our Lady of Mount Carmel, Bayonne (1902); Sacred Heart, South Amboy (1902); and St. Stephen, Perth Amboy (1906).

Presently, the 574 Felician Sisters of the Lodi province serve in 11 dioceses, staffing 3 hospitals, 2 orphanages, 8 high schools, 47 elementary schools, 26 kindergartens, Felician College and a School for Exceptional Children.

The Sisters are also engaged in summer camp programs, catechetical instruction, retreat centers, prayer groups, free lunches for the poor, homes for the aged or retired, reading clinics, and diocesan projects. Their sphere of activity extends through New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia and Oklahoma.

Mother Mary Amadeus, provincial superior of the Lodi Felicians, has announced a program of spiritual renewal as well as a series of cultural and social events which will commemorate the Sisters' century of service in America. Since the Immaculate Conception province was founded in April of 1909, special activities will be scheduled at the Lodi motherhouse during that month.

Planned projects include days of prayer, symposium, exhibits, memorial services and Centenary concerts by elementary, high school, and college choirs conducted by the Felician Sisters. Climaxing the celebration will be a Pontifical Mass on April 27 at Sacred Heart Cathedral, Newark.

The Congregation of the Felician Sisters published a Centennial Calendar and a commemorative book, "Response", which depicts the history of the Felicians in America. Both publications are being distributed to the public.

A major project of the centenary year for the Lodi province is the renovation of the Immaculate Conception Chapel located on the motherhouse grounds.

THE WASHINGTON POST LOOKS AT MAJOR OIL

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. PICKLE. Mr. Speaker, a lengthy, but thorough, article published in the Washington Post gives a good insight into the role of the larger oil companies in the present energy situation.

I thought it most informative reading and would like to print it in the RECORD at this time:

OIL MAJORS SQUEEZED FROM BOTH ENDS

(By Ronald Koven and David B. Ottaway)

The profits of the major oil companies have never been so high; yet the pressures and uncertainties they face, both in their home countries and in the oil-producing regions, have never been so great. Each passing day brings news of fresh demands, controls or expropriations against the majors' holdings—not only in the Middle East, but even in politically "safe" areas like Europe and Canada.

Top oil experts say they are confused as to whether the future of the world's most important multinational corporations is grim or rosy.

For, even though the majors have been losing their share of the world oil pie, the pie's size is not fixed—it has, in fact, been growing in circumference at a phenomenal rate. So the majors' reduced share will probably be larger in absolute terms than it ever was, leaving plenty for the smaller oil producers, the so-called independents as the world's energy needs continue to grow.

Still, it is clear that the days when the so-called Seven Sisters—Standard Oil of New Jersey (Exxon), Royal Dutch Shell, British Petroleum, Texaco, Mobil, Standard Oil of California (Chevron) and Gulf Oil—ruled the world of petroleum as absolute monarchs are over, and that momentous changes are taking place within the industry. These changes may leave them as little more than service contractors, transporters and distributors for the oil-producing states.

A once heretical thesis, by MIT oil economist M. A. Adelman, is that the oil companies have been nothing but "tax-collecting agents" for the Arab oil producers for several years now. Soon there will be little ground for dispute of his view.

The implications of the companies' decline goes far beyond their own commercial positions: Since five of the Seven Sisters are giant American corporations, their loss of power also marks a major reduction in America's economic power in the world.

Abroad, the five U.S. Sisters are the symbols of American "economic imperialism," choice targets for all sorts of economic nationalists. To radicals, they uphold the hated status quo; to nationalistic conservatives, they threaten national independence.

In 1950, the seven oil giants—each of which is an integrated international company—controlled 99 percent of the crude oil production in the world trade. By 1971, the seven, known as the majors, had seen their control drop to 81 per cent in the 11 principal oil-exporting countries (not counting the Soviet bloc and Canada). Japan, which must import all its oil, buys about 70 per cent of it from the majors. The Common Market, which must also import the bulk of its oil, buys half of it from the majors.

The latest Middle East war has only precipitated trends that were long undermining the majors' dominant position. They already faced gradual takeover by producing countries, increased competition both from private independent companies and from emerging state oil authorities and strict regulation in the consuming countries.

But in less than two months, they have lost any say over crude oil prices or production levels and are grappling with loss of control over the world's most important oil fields.

Only last week, Saudi Arabia said it wanted immediate 51 per cent control over the Arabian-American Oil Co., instead of waiting for the scheduled date of 1982. Owned by four of the five American oil giants (75 per cent) and Saudi Arabia (25 per cent), Aramco is the world's largest petroleum production company.

It is a great paradox that profits should be soaring almost out of sight just as the comfortable world the majors created for themselves is falling apart. Royal Dutch Shell, the world's largest non-American company, has just posted a spectacular 274 per cent third quarter jump in profits over last year. Its big sister Exxon, the world's second largest company (after GM), showed a handsome 80 per cent rise and Gulf Oil 91 per cent.

These figures would not be quite so spectacular if 1972 had not been an exceedingly lean year for the companies. But even compared to 1971, a very good year, the jumps are solid in most cases. The great profits were earned outside the United States.

Many of smaller independent companies which have only relatively minor foreign concessions, had little to complain about, either. Cities Service posted a 61 per cent gain, Getty 71 per cent and Continental Oil 38 per cent.

Such extraordinary yields were possible only before Oct. 16, when Persian Gulf oil ministers more than halved the production profits of the companies—from a high of more than 75 cents a barrel (multiplied by millions of barrels a day) to about 35 cents, according to the calculations of the respected Petroleum Intelligence Weekly.

The oil ministers decreed a new pricing mechanism assuring that 88 per cent of any new price increase the companies declared would go into Arab and Iranian state coffers.

Before Oct. 16, the companies were profiting from a steady rise in oil output, ever-widening production profit margins (from 22 cents a barrel in 1970 to 44 cents in early 1973 and, finally, as high as 75 cents) and relatively compliant consumer governments that allowed much of the steady price increases to be passed on to the consumer.

The Oct. 16 decree was the result of intensive economic intelligence work by Middle East producers on the structure of company profits in Europe. Although detailed information is jealously guarded, it is generally agreed that the companies had traditionally been making more than 80 per cent of their overall profits from production. The formulas the Arabs worked out show, one top U.S. oilman says, that they have decided that overall company profits should be restricted to 10 or 15 per cent, at best.

"In the first flush of despair, at least," said Petroleum Intelligence Weekly, "some tend to feel it would be better to be nationalized than bled white through this form of price and profit-margin dictation since it won't be worth investing the necessary capital for expansion of production."

"The phenomenal earnings we have just seen are definitely an Indian summer, those last beautiful blooms before the frost," commented a leading U.S. domestic oilman. "The Seven Sisters are finishing their golden age."

An oil analyst for a respected Wall Street firm complained. "The bosses want me to make 1974 oil company earnings estimates. I'll make them. But they won't be worth the paper they're written on."

Another factor in the companies' recent high profits was that during the period of wild price rises, the giants were selling off stocks of oil bought before petroleum prices started doubling and redoubling in what was described as "embargo-induced hysteria," some North African oil that had gone for about $3.50 a barrel in mid-1971 brought $12.64 in bidding in Tunisia recently.

The Arab oil ministers also made it clear on Oct. 16 that they are prepared to ration production so as to make the most money from the least amount of oil. The production cutbacks prompted by the use of oil as a political weapon against the backers of Israel also established that the governments, not the companies, will control the level of the oil flow.

"The Arabs were volume-oriented for years," said a U.S. oilman. "Those days are over." The Arabs have decided to manipulate prices and production to maximize the incomes of national treasuries at the expense of company profits, he said.

Meanwhile, consumer governments have been moving to increase their control over the companies at the other end—a move accelerated by current Arab oil embargoes and production cutbacks.

American oil executives fear piecemeal, country-by-country nationalizations, not only at the production end, but also in the consuming countries. "Everywhere the majors go, they run into the same pressures. The word is out. It's not just the Arabs," said an oilman.

West Germany was the only important European government allowing a free market in petroleum, until the Arab cutbacks forced it to join its neighbors in regulating the companies. Several European countries now seem tempted to squeeze the majors out altogether. France is threatening to revoke their refining and marketing privileges if they do not maintain French supplies to the last barrel.

ENI, the Italian state oil combine, was saying only a few months ago that Italy "would be in serious trouble if the multinational companies should suddenly withdraw." Nevertheless, the Italian government was squeezing the companies' profits by not letting them pass on their increased costs, a situation intensified by the latest round of price increases during the Middle East war.

Even before the war, Shell, British Petroleum, Exxon and Gulf had all been acting to reduce or liquidate their Italian interests; now there is serious talk of ENI taking over crude oil imports from the majors in direct deals with the producing countries—wiping out the majors' role in Italy.

There is not much more comfort for the American majors at home. Once used to getting their way with both government and consumer, they have been living for more than a year under the constraints of the Cost of Living Council, which has let them pass on increased raw materials costs but not the costs of new investments. Now, since the Arab embargo, the companies also face government allocation and rationing programs.

"The problem," said an executive of one of the majors, to the agreeing nods of a group of colleagues, "is that government decisions respond to political and social pressures and don't take into account our business needs."

Another of the industry's major uncertainties is where to find the tremendous amounts of investment capital it needs for expansion. Italy's anxiety coincides with increased domestic political pressure to limit oil profits by turning the companies into public utilities.

The Chase Manhattan Bank had estimated even before the Arab oil cutbacks that between now and 1985 the industry would need $1 trillion for investment and current operating expenses to meet the world's rising energy needs. It considered $600 billion necessary for new investment and $400 billion needed to maintain ongoing operation. By comparison, in 1971 the industry's total investment over the years in fixed assets was calculated at $223 billion.

Chase officials calculated that to meet its investment needs the industry would need to double the rate of its profit margin, since 1955 to 16 per cent. "The expansion of net earnings over the past four years was not even one-fourth as large as the indicated need," said a Chase study. In any case, said a bank official, "We're doubtful that governments would allow such high profits."

Nevertheless, the search "will have to be conducted deeper in the earth, in more remote regions and in offshore areas. In each case, the investment required will be much greater than the amount needed for the smaller-scale efforts of the past.

It is calculated, for example, that a 9,400-foot onshore oil well costs $140,000. But drilling costs rise geometrically. A 25,000-foot exploratory hole costs about $5 million and, like as not it is dry. Atlantic Richfield (Arco) chairman Robert O. Anderson agreed that the best a petroleum geologist can generally promise, no matter how ecstatic he gets about the prospect of finding oil, is an 8-to-1 chance of actually finding it. "An 8-to-1 shot is pretty good in our business," said Anderson. Other costs are phenomenal, too. Losing an occasional $100 million drilling platform in a North Sea gale has to be counted as part of the game.

The industry has traditionally had to generate 80 per cent of its own new investment capital because of the large element of gamble in so many of its operations. But even before the present Middle East crisis, Chase estimated that the industry would have had to borrow 40 per cent of the $1 trillion from outside sources—eight times as much money as it borrowed from 1955 to 1970.

As it was, the industry's self-financing capacity was declining, and it had doubled its expenses for interest payments in four years. Now, with a severe profit squeeze expected in a year or less, the companies may have to go even more heavily into debt than expected. Yet, investors are unlikely to be attracted to an industry faced with declining profits as a result of price controls, heavy indebtedness and a substantially reduced access to its raw material.

"Nobody is going to invest that kind of big money if they think the industry is going to turn into a public utility," said a veteran stock analyst.

Even before the latest Middle East war, the main question around Wall Street—after the outcome of Watergate—was, "Whither the oil companies?" (Oil and oil-related stocks represent 20 per cent of the issues on the New York Stock Exchange, according to an analyst at the respected Wall Street firm of Schroder Naess & Thomas.)

Despite all the problems, the investment analysts point out that the turmoil the majors have endured in the recent past only goes to show that they are best at dealing with the very thing they fear most—constantly changing circumstances.

"It's hard to imagine an industry which has changed so radically in a year's time, and still they have done very well," said an executive at a leading oil-investment bank. "It shows their resiliency and ability to cope. It's the result of their having to deal with a wide variety of experiences in different countries. They are well-trained to adapt to changing circumstances. It's a high-risk business. They expect the worst. That way they're prepared. Any other industry would have been wiped out."

In addition to their flexibility and expertise, the majors have an impressive array of other strengths and assets:

The world's largest tanker fleet. The majors own, or control under long-term charter, about 1,400 of the 3,500 oil tankers in the non-Communist world—40 per cent of the bottoms and 47 per cent of the tonnage. (About 60 per cent of all merchant shipping is petroleum nowadays.)

With tanker rates having tripled and even quintupled before the Arab oil embargo, the Seven Sisters had an average cost advantage over those paying "spot" tanker rates of at least 50 cents a barrel and sometimes as much as $3.

The present replacement value of the majors' tanker fleet is about triple what it cost to build the same ships only two years ago. Everyone is scrambling to build tankers—at a cost of $50 million for a 250,000-tonner. The majors' still-substantial capital holdings give them a built-in advantage over the international independents and the newcomers to oil shipping.

Most estimates, however, are that tanker building will catch up to the needs in two years or less, bringing rates down and wiping out the majors' advantage. The reopening of the Suez Canal could create a glut within a year.

Refining. In 1971, the majors owned around half of the entire non-Communist world's refining capacity of 47 million barrels a day (including 48 per cent in the United States). The cost of entering the refining sector is almost prohibitive, except for the majors, state oil companies and the handful of primarily domestic American "mini-majors" like Standard of Indiana (Amoco). It costs $2,000 per barrel of capacity, or $400 million for a 200,000-barrel refinery.

Marketing and Distributing. Because of their worldwide outlets and transportation capacity in ships and pipelines, the majors will continue for years to have a clear edge. Even the state oil companies will need the majors to help get the right amount of oil to the right place at the right time—a function known as "balancing the barrel." The majors own more than half of the world's marketing network; Exxon alone claims about 10 per cent of all sales.

Goodwill. The intangible asset of an established worldwide reputation assures the majors of a continuing advantage with producers as well as motorists, and—just as importantly—with investors and wholesalers. Even in Arab Socialist states (not to mention conservative, non-Arab Iran), where the majors have been nationalized the new state oil companies have often turned to them for service contracts, to help them find and extract crude, build new facilities and get the oil to Western markets.

Access to Oil. Even though the oil states are gradually taking control of Western-owned fields and production, the majors still retain access to considerable amounts of oil. If Saudi Arabia takes a 51 per cent share of Aramco, it would leave the four American majors with about 4.5 million barrels daily, at the planned prewar production level of 9 million for this month. Even as service contractors in Iran, the majors are getting the bulk of that country's current 6 million barrels daily production.

There are still enough politically "safe" deposits to assure some of the majors of large fields of their own. In the North Sea, which is apparently far richer than had been imagined, British Petroleum and Shell have holdings that may eventually meet most of their future needs. BP is also well-entrenched in Alaska's North Slope oil.

These combined assets of the majors have led Robert Mertz, who has made a study of them for the Brookings Institution, to conclude that the "frequent predictions of the imminent demise of the majors are vastly exaggerated."

"Their global marketing structure," he said, "is their greatest asset for the future competitive position and share of the market and will be the most important factor in joining their interests with those of the producing countries. Besides, three quarters of the major's capital investment are downstream in transportation, refining and marketing. Shell Oil, to take one example, has about 77 per cent of its assets downstream beyond the reach of expropriators."

But the majors' very size, strengths and success make them peculiarly vulnerable to economic nationalists.

As the current crisis in the Atlantic Alliance has shown, even our European allies suspect that American companies will be forced into an America-first policy. Arco's Robert Anderson pointed out that while a company operating in 100 different countries had no problems so long as there was more than enough oil to go around, in a tight supply situation it must prove to each of those 100 governments that it is dealing equitably.

The crisis has forced the companies into the uncomfortable position of allocating the reduced quantities of available oil among competing countries. They are being accused of breaking supply contracts and expect to face an inextricable tangle of lawsuits.

At home, the majors are viewed by much of the public as the direct descendants of the turn-of-the-century "robber barons." Thus, even the relatively minor gasoline shortage last summer was immediately attributed to a "conspiracy" by Big Oil to force up prices. There were immediate demands in Congress for strict new controls and even nationalization, and the companies found little willingness to debate the merits of their case. "Our credibility is zero," said the president of one of the majors.

One of the charges against the majors was that they were trying to force the independents out of business. But some of those independents—medium-sized international operators like Occidental or Continental Oil—have been making gains at the expense of the majors in their former preserves and have suddenly found themselves the favored partners of the Middle East state oil companies.

Both radical and conservative in the Middle East have used the independents' willingness to pay fancy oil prices as wedges for general price increases. John H. Lichtblau, a top independent oil analyst, said, "National oil companies may prefer to sell to independents to keep more buyers bidding. The more buyers there are, the better off the national oil companies are . . ."

The turmoil of the past several years has demonstrated that there is plenty of room for an aggressive independent, with no stake in preserving the status quo, to make inroads on the traditional turfs of the majors. Armand Hammer of Occidental immediately accepted a Libyan demand this summer for 51 per cent control of his concession. He has been getting more Libyan oil than ever before, while the majors have been restricted to 49 per cent of their previous amounts.

The majors accuse Hammer of having started the whole unraveling process in the Middle East by eagerly accepting every successive Libyan demand since 1970 so as to expand his mini-empire. While the majors are fighting a rearguard action against being reduced to service contractors, Hammer says, "It's a natural tendency for countries to want to control their own resources. There's no sense fighting it. Our company has been a pioneer in service-type contracts, versus the old ownership contracts where private companies think they own the minerals in the ground."

Crude-short Ashland Oil of Kentucky struck a deal with the Iranian National Oil Co. for an assured supply of 60,000 barrels a day—growing to 100,000 by 1975—in exchange for a half of its interests in New York State, including a petrochemical plant and 180 service stations. This dovetails neatly with Ashland's plans to expand its 60,000-barrel a day refinery in Buffalo, N.Y. to 100,000.

Orin E. Atkins, president of Ashland, called the deal "the logical approach to securing long-term supplies."

A group of largely unknown independents signed a memorandum of intent this month with Iran to build a $1 billion jointly owned export refinery with a 500,000-barrel-a-day capacity.

Such independents are already veterans from whom the majors know what to expect. Now, however, they are being crowded by a whole flock of new buyers like Coastal States of Texas, the refiner who paid the record $12.64 a barrel in Tunisia and bought "hot oil" from Libya that the majors with U.S. government backing, claimed in court was illegally sold from their expropriated Libyan fields.

In addition to such unorthodox operators, U.S. public utilities are going straight to the producing countries for their oil. Shortly before the war, southern California and New York power companies were dickering directly for oil at then-record prices.

The prospect is somewhat different for each of the American majors, Exxon, the giant of giants, is generally agreed to be in good shape. Its worldwide interests mean that whenever there is trouble somewhere, there is news that Exxon has been hurt, but it also means that it is widely scattered enough to weather almost any storm.

Mobil is also said to be well off, because it was the least committed of all the majors to Middle East production.

Gulf is considered to be in the most trouble. More than half of its Eastern Hemisphere oil sources are in one spot—Kuwait, the first of the conservative Arab states to demand 51 per cent control. There are demands in Kuwait for a total takeover.

Gulf's Kuwait oil once represented more than 100 per cent of its profits, according to officials at one of Wall Street's top oil banks, since the company was losing money on all the rest of its operations. Gulf's 91 per cent third-quarter profit flattens out to what Petroleum Intelligence Weekly called "a barely healthy 10.8 per cent, when averaged out with the last three years' results.

The situations of Texaco and Standard of California are considered to be between the two extremes—neither good nor bad for the moment.

Some of the majors, at least, seem philosophical about being turned into closely regulated public utilities. "Other industries have managed as utilities. We would, too, if it came to that," said the president of one of the healthier companies.

If the majors are to avoid the fate of having the independents and the state oil companies feed off their carcasses—as the majors themselves fed off the petroleum from the fossilized remains of the swamp dinosaurs pictured in the old Sinclair Oil ads—they must find new strategies for survival.

Their main problem is that the center of profits in production, is driving up. A new locus of profits must be found to provide the enormous amounts of investment capital needed in the coming decade.

The companies are moving in two directions—downstream, in their traditionally low-yield petroleum shipping, refining and marketing operations; and out of conventional oil operations, both back into old-fashioned alternatives like coal and into exotic new ones like extracting oil from shale rock and coal liquefaction and gasification.

For the immediate future, however, most analysts agree, the big money must come from getting most of the profits from downstream oil operations. For the first time in a long time, marketing and refining will have to stand on their own feet," said a Wall Street analyst. "The days when they just served to realize the profits made on production are gone."

With a glut coming in the shipping business, refining and marketing are the only major sectors left for generating profits, and there are major uncertainties in both fields.

But the majors have a relative advantage in refining because, as worldwide operators, they can more easily plan on the assumption that they will somehow get the oil to keep new refineries busy. Even a medium-sized independent cannot afford to build new refinery capacity at current prices unless it is assured of long-term supplies, and most of the independents are too small to have their eggs in very many baskets.

"We are all faced," said Atkins of Ashland, "with the inability to get a long-term commitment. We're not planning to build a new refinery till we can see the crude oil supply picture. A company needs at least a 10-year contract to go ahead with a refinery. Last year, Saudi Arabia was selling its oil on three-year contracts. This year, it will be only for two years."

Even the majors are holding back on refinery expansion because of the murky supply prospects. Historically, refining has provided profits of only 2 to 3 per cent, according to a leading Wall Street oil investment broker.

As for marketing, the majors are reorganizing, reversing the accepted strategy of the 1950s and 1960s. Then, the prime consideration was not how much money a major's gas stations were making, but what share of the market they represented. As Standard & Poor's investment analysis service puts it, "The majors are tightening up on their downstream operations in the U.S., weeding out unprofitable service stations, and even selling off whole geographical chunks which were not carrying their weight."

Exxon has been selling off its stations in most of the North Central states. Gulf has been getting out of the West Coast.

"We are in a semi-liquidation position," one marketing official for a major oil company said. "We are losing market share, but making more money. If governments only allow price increases for raw materials to be charged to the consumer, then we do better if we don't make new investments, which are at vastly inflationary rates."

The majors are diversifying. Besides seeking new sources of oil—in places as nearby as the Long Island and New Jersey coastlines and as far away as Timbuktu, inland hundreds of miles into the wastes of the Sahara Desert—they have been betting on an eventual comeback of coal.

Many of the oil companies began buying up coal fields back in the mid-1960s: Exxon has estimated coal reserves of 7 billion tons, largely in Wyoming and Montana; Gulf has 2.6 billion tons. The American "mini-majors" are also hedging on coal—Continental Oil has an estimated 8 billion tons.

"Besides oil," says Standard & Poor's, "the major U.S. oil companies now are estimated to provide 20 per cent of our coal and to hold over half our known deposits of uranium." The five U.S. majors all have a stake in shale oil extraction in the Rocky Mountain states, and are branching into nuclear energy.

With crude prices up so dramatically, some of the exotic processes that were considered uneconomical until recently have suddenly become very attractive, although some still look like nonstarters when it comes to providing significant quantities of oil any time soon. Exxon calculates that synthetic crude oil from coal can now be made at a once-prohibitive $7 a barrel.

Exxon is also participating in a $1 billion project to extract 150,000 barrels of oil daily from the Athabasca tar sands in Alberta—an investment of almost $7,000 per barrel of daily production capacity. The company is also heavily committed to pilot projects in the liquefaction and gasification of coal.

"The majors will have to become full-energy companies, able to produce coal, gas, nuclear energy or what-ever," said an executive in the petroleum division of a leading Wall Street investment bank. "They know what energy is all about. They're attuned to the problems, but this is likely to get them entangled with the antitrust laws, the Federal Power Commission and the Federal Trade Commission and so forth."

Noting that a company dealing in a product in short supply is likely to do well, oil analyst Lichtblau said, "Who would you expect to make money when a commodity is scarce but the people who sell it?

"It's not as if their product is going out of style. It's not like cigarettes, you know. The majors aren't going out of existence. Exxon will be around as long as we are. They'll make money, but maybe not like in 1973."

The majors themselves talk just as confidently. "Thing are tight," said the head of one of the Seven Sisters, "and when things were tight in the past, we always managed to make money."

FEDERAL OIL AND GAS CORPORATION

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. MOSS. Mr. Speaker, I introduce for appropriate reference legislation to create a Federal Oil and Gas Corporation. The primary task of this Corporation is to explore for, develop, and produce the large deposits of oil and natural gas on lands owned by the Federal Government.

Our growth has exceeded our capacity to be self-sufficient in oil. In addition to this there is the Arab oil embargo proving we dare not become dependent upon other nations. Some other foreign countries are taking further advantage of our needs to hike their prices. Our response must take the form of energy conservation and energy self-sufficiency.

One matter is not at issue, there remains in the United States adequate domestic resources of oil and natural gas to meet our intermediate term needs, and that the United States owns most of this oil and natural gas.

The U.S. Geological Survey estimated there are almost 500 billion barrels of oil in proved, indicated additional and undiscovered reserves, and almost 2,400 trillion cubic feet of proven and undiscovered natural gas reserves yet to be found both onshore and offshore in the United States. It must be remembered that we presently consume about 6.5 billion barrels of oil and 22 trillion cubic feet of natural gas per year. Estimates of how much of these resources are under Federal lands range from 50 to 75 percent. The bulk of our vast domestic oil and gas resources are public resources and should be developed for the people.

Yet only about 2 percent of Federal lands under which oil and gas may be found have been leased for exploratory and developmental purposes to private oil and gas companies. Recent testimony before a Senate subcommittee indicates that wells on over 10 percent of leased acreage have been classified by the U.S. Geological Survey as "producing shut-in." These are wells capable of commercial production but temporarily "shut-in" and held back from production.

The Federal Oil and Gas Corporation would assure that the public which owns these resources benefits as soon as possible.

There are four essential purposes to be achieved by the establishment of a Federal Oil and Gas Corporation:

First. It would develop publicly owned resources on Federal lands to satisfy national energy needs rather than to maximize private sector profits.

Second. Corporation would stimulate competition in the petroleum business.

Third. Corporation would provide the public with knowledge of actual cost of producing oil and gas so public policy can be geared to the Nation's interest. It would give the Nation a "yardstick" against which to judge performance of private oil companies.

Fourth. Corporation would contribute additional fuel supplies which the Federal Government could effectively allocate to essential public needs.

The Corporation would have access to publicly owned gas and oil rights on Federal lands, as well as power to acquire similar rights on private lands. It could enter into the full range of activities necessary for exploration, development, refining, transportation, and marketing of petroleum and gas products. It would be able to enter into activities outside exploration, development, and production only if unable to sell crude oil and natural gas to companies which would promote competition in the industry.

The Corporation would have authority to issue bonds to cover indebtedness, and Federal appropriations in the amount of $50 million per year would be authorized for the first 10 years.

The Corporation would be required to make public disclosure of its proprietary information to assure data on actual production costs in the petroleum industry. It would make available to the public patents and inventions, and corporate profits would inure to the Federal Treasury for benefit of all citizens.

Development of public resources by a public corporation is not new. The record of the Tennessee Valley Authority speaks for itself. Countries with national oil companies today are more nearly the rule than the exception. In 1914, the British Government, at urging of Winston Churchill, bought controlling interest in British Petroleum—BP. Churchill argued that the British Navy needed a secure source of oil under British control, that if the navy had its own supply of oil it would no longer have to rely on a world market dominated by gigantic corporations, and that long-term energy requirements in war and in peace would be assured at reasonable prices. Churchill's arguments might well be made in another time and place—today in the United States.

The British Gas Council, a governmental agency, has authority to develop gas on offshore public lands, primarily in the North Sea. Its existence has increased natural gas production and reduced natural gas prices.

There are numerous other examples—the Compagnie Francaise des Petroles—CFP in France, the Ente Nazionale Idrocarburi—ENI—in Italy; Pemex in Mexico; Petrobas in Brazil, and YPF in Argentina; Oil India; in each the idea—development of vital resources in the public interest—is the same.

One recent entry into the national energy company field is the Norwegian State Oil Co. A recent study of national oil companies by the Canadian Government notes that—

> With the discovery of oil in the Norwegian sector of the North Sea the Norwegian Government took aggressive action to ensure that oil developments would be under terms and conditions which maximized the benefits to the nation.

The purpose of the Federal Oil and Gas Corporation I propose would be to take aggressive action to insure that oil and natural gas deposits—primarily under public lands—are developed and on terms and conditions which maximize the benefits to the Nation.

It is not the purpose of this legislation to provide a forerunner for nationalizing the American petroleum industry. The purpose is to develop public resources—and preserve the free enterprise system in the petroleum industry. But private oil companies need a spur, a yardstick, an incentive, and competition. This Corporation would provide that yardstick.

THE CASE FOR THE SAFE SCHOOLS ACT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BINGHAM. Mr. Speaker, in January of this year I introduced the Safe Schools Act, H.R. 2650, a bill that would amend the Elementary and Secondary Education Act of 1965 to assist school districts to carry out locally approved school security plans. The aim of the legislation is to aid school districts in their efforts to reduce crime against students, employees and facilities. Congressman PERKINS, the distinguished chairman of the House Education and Labor Committee and of the General Education Subcommittee held hearings on H.R. 2650 to develop the merits of my proposal. At that time, I listed numerous examples of serious criminal activity in various schools throughout the country.

Incidents of serious crime in public schools against students, staff and facilities have steadily increased. There is no nationally uniform system for computing the statistics on school crime, however, my most recent research, for example revealed that:

On December 21, 1972, a pipe bomb exploded in a corridor at the Glendale High School in Glendale, Calif., destroying 1 locker and damaging 10 others.

In January 1973, two different New York City teachers were raped on the same day in two different elementary schools.

In San Francisco, a 17-year-old boy was stabbed to death after he teased a classmate about losing a game of dominoes to a girl.

In 1 week in April, there were no hot meals for the students of New York City's PS 65. The entire week's supply of food for the South Bronx school, including 154 pounds of ham and 90 pounds of cheese, had been stolen the night before, only hours after delivery.

Other startling statistics involving crime in the Nation's public schools include the following:

Schools have become the third most popular target for bombers in the Nation;

Sixty percent of all school fires now originate as arson or during an act of vandalism;

School fires cost $50 million in 1973;

Even rural schools are finding it "almost impossible" to purchase insurance because of vandalism, according to the National Association of Secondary School Principals;

Cleveland Public School Security Director William Strawbridge has stated that "crime is accelerating at an alarming pace."

In the Seattle public schools:

One million forty-two thousand nine hundred and eighty-two dollars of property was destroyed in 8,662 cases of vandalism in 1972:

One thousand eight hundred and eighty-six crimes against persons were reported in 1972, including homicide, sex offenses, robbery, assault, narcotics or other drugs, and weapons possession;

Assault with intent to inflict serious injury increased more than 70 percent between the 1971 and 1973 school years;

Incidents of robbery doubled over the same period.

In the Los Angeles public schools:

Three million dollars of the school budget was spent on security;

The number of assaults on students and teachers doubled from September to December 1972 as compared to the same period in 1971;

Assaults increased from 423 in 1971 to 1,052 in 1972;

Three and seven-tenths million dollars was lost in vandalized property in 1971 as compared to $2.9 million in 1970;

In the 1971–72 school year alone, there were 885,000 reports of burglary, 201,000 reports of burglary related crimes, 650,000 of glass breakage, 580,000 of arson, 65,000 of mischievous destruction, and 280 assaults, 17 with guns.

Across the Nation during the 1972–73 school year:

A Fort Lauderdale teacher died after receiving gunshot wounds inflicted by a former student;

An 18-year-old St. Louis student was shot and killed while trying to stop a theft from his school locker;

Cleveland, Ohio, city schools reported 50 incidents of sexual molestation;

One hundred and fifty-five Chicago teachers were assaulted in 1 month in 1972;

Maintenance cost of the Houston, Tex., school security force has increased from $20,000 in 1972 to $389,000 in 1973;

The city of Dallas expects to spend as much as $1.5 million in their security programs;

Washington, D.C., public schools spent $535,692 on vandalized property;

Kansas City spent $231,801 on security guards and other security measures.

Surely these statistics warrant congressional action to assist schools to combat the incredible increase of crime, property destruction and personal injury to faculty, students, and staff. Millions of dollars are being drained from the already overtaxed school budget on security systems, and on equipment and manpower replacement. These moneys should be spent for the proper education and training of our youth. Due to lack of funds for the educational curriculum itself, and in response to the increase in crime, some school systems, such as Chicago and Washington, D.C., have introduced armed guards and policemen in an attempt to maintain order. These schools are inadvertently becoming armed camps.

Our public schools need help. The Safe Schools Act would earmark Federal funds for the purpose of studying the school crime problem, developing and testing techniques for dealing with it, and assisting the most vulnerable school districts in formulating and implementing organized programs to achieve a secure learning environment for students and a secure working environment for staff. It is supported by educators, the 75,000-member union of the United Federation of Teachers, police officials, and administrators across the country.

I cannot stress too strongly the urgent and profound need to come to the aid of our schools and enact safe school legislation.

PEAR RELISH AND THE FEDERAL GOVERNMENT

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. MILFORD. Mr. Speaker, one of my constituents, Mr. W. A. Collins, Jr., of Arlington, wrote a letter this fall pointing out the long term of big government. The letter is amusing, but unfortunately factual, and I would like to share this with my colleagues:

Pear Relish and the Federal Government

Arlington, Tex., *September 21, 1973.*

Congressman Dale Milford,
Washington, D.C.

Dear Sir: On Thursday, Septem

Dear Sir: On Thursday, September 13, 1973, my wife and I were making pear relish, something we have done for many years. (It's wonderful on black-eyed peas.) She got carried away with quartering the pears and sliced the end of her left little finger—five stitches worth. She was well taken care of at the emergency room of the Arlington Memorial Hospital.

I am sure you are wondering why I'm taking the time and trouble to inform you of the foregoing. Read on—

On Wednesday, September 19, 1973, my wife received a long distance telephone call from what she thinks was the National Electronics Surveillance System of the Federal Drug Administration asking if a product was involved. The person seemed to have considerable more interest in the product than in the state of my wife's health. My wife informed the person calling of the item involved, namely a kitchen knife. She also informed the person that she could lay no blame on the product; the operator was solely to blame.

I admire the efficiency of a system that can get word to Washington and back in less than one week about our pear relish operation. Further, quite honestly, this is much more government than I am interested in, care to have or want to pay for and recommend that this is one place you can start balancing the federal budget by cutting down on employees and their accompanying expenses.

Yours very truly,

W. A. Collins, Jr.

WAR POWERS LEGISLATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HAMILTON. Mr. Speaker, I include my Washington Report, entitled "War Powers," at this point:

War Powers

When historians take a look at the record of the Congress in 1973, my guess is that they will judge the War Powers law as the most important piece of legislation enacted because it marks a turning point in the continuing struggle within the American constitutional system to restore the Congress as a co-equal branch of government.

The War Powers law, a product of 3 years of Congressional work, aims at limiting the Presidential power to commit armed forces to hostilities abroad without Congressional approval. It contains the following provisions:

1. The President is required to consult with Congress before introducing U.S. forces into any foreign hostilities;
2. The President is required to make a full report to Congress within 48 hours after committing armed forces abroad;
3. The President must withdraw all troops within 60 days if Congress has not declared war or specifically authorized the commitment. The President can extend the period for 30 days by certifying to Congress that the additional period is necessary for the safe withdrawal of U.S. forces;
4. And it requires the President to withdraw all troops immediately if Congress at any time adopts a veto-proof concurrent resolution to end an action.

The War Powers law seeks to assure that the most important decision made by government—whether or not to go to war—is shared responsibility between the President and the Congress, as the U.S. Constitution intends and the standards of democracy require. The merit of the bill is that it compels the President to consult with Congress when committing American forces overseas and to obtain Congressional consent for any prolonged military action. The consultative process will require him to justify his actions to Congress, and it will bring the decision-making process on whether to go to war into the open. In my view, this is the law's chief virtue. A primary lesson of the Vietnam War is the peril of secrecy in the conduct of foreign policy and the necessity of open leadership. Basic foreign policy decisions must rest upon informed public support.

The War Powers law also signals a resurgence of Congressional independence after a long period of acquiescence to the President's war-making power. Beyond the vital Congressional check it contains, the law's significance is that the Congress is reclaiming some of its Constitutional power after a long period of allowing it to be eroded. The President's weakened political position because of Watergate may have been a factor, but I do not view the bill as a vote of no-confidence in President Nixon. Rather, it reflects the new attitude among Congressmen that the Congress must play an important role in the question of whether we go to war. The law is directed at all recent Presidents, and says, in effect, that future Presidents should not make war without Congressional approval. House Majority Leader Thomas O'Neill (Mass.) said, "If the President can deal with the Arabs, Israelis and the Soviet Union, he ought to be willing to deal with the Congress of the U.S."

The War Powers law had a rocky road to enactment. When it first came up for consideration, few legislators expected it to become law, and most were surprised when events converged to enable the Congress to override the President's veto. Some conservatives claimed it was unconstitutional and deprived the power of the President to act decisively in a crisis. However, the law specifically states it is not intended to alter the Constitutional authority of the President, but only to establish a procedure for its legitimate exercise. The measure does not preclude bold and effective Presidential action in a crisis, but only requires him to gain Congressional support. For example, the law would not have hindered the President in following his chosen course in the recent Mideast war, or, for that matter, in any of the recent international crises.

Some liberals objected to the law because they claim it gave to the President authority he does not now have to wage war for 60 days. This argument ignores the fact that the President already acts in this manner.

No miracles should be expected from this legislation. It does not insure the nation against future wars or make the decisions about going to war any easier. The War Powers law probably will not have any immediate practical effect since American soldiers are not in combat today anywhere in the world, or expected to be in combat anywhere. Even with this legislation, the President, on his own, can still commit the armed forces to foreign combat. And once the military power of the U.S. is committed, and with it the honor and prestige of the country, it is unlikely that any Congress will reverse the President and force an end to the fighting. But, this law will make future Presidents more cautious and deliberative in committing American forces, and more inclined to consult with Congress on their decision and to think about its impact on the American people.

THE ISSUE IS OUR FUTURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. RANGEL. Mr. Speaker, as the House Judiciary Committee begins to investigate the possibility of impeaching the President, we, as the representatives of the people, must not forget what is at stake if this constitutional crisis comes. Does the Constitution still exist or has the President become a self-appointed dictator?

An article by Ira Glasser, in a recent edition of the New York Westsider examines the possibility of President Nixon's impeachment. I place it in the CONGRESSIONAL RECORD as a reminder to my colleagues of what is facing the Congress and the Nation if we do not act on this matter.

The article follows:

THE ISSUE IS OUR FUTURE

(By Ira Glasser)

Nixon is not the only issue. He should be impeached, but impeachment is a grave procedure, not to be entered into lightly, and never to be entered into for partisan political reasons. We should not support impeachment because we have opposed Richard Nixon politically for 20 years, and we should not shrink from impeachment because we have supported him in the past.

We should impeach Richard Nixon because he has tried to make himself an elected king. He has taken unto himself powers that no person—and no government—should ever be allowed to have. He has taken the power to wiretap people who are not criminals, and without even a warrant. He has bombed a foreign nation and kept it a secret from Congress. He has set up a private secret police—the plumbers—to burglarize, spy, and intercept the mail of his political opponents. He has stolen the files of a man's psychiatrist. He has sought to use the Internal Revenue Service to harass his political opponents. He has withheld evidence in a criminal case. He has defied a court order. He has authorized a close aide to offer a federal judge the directorship of the FBI while that judge was presiding over the trial of Daniel Ellsberg. He has authorized illegal dragnet arrests of thousands of peaceful demonstrators. He has systematically harassed the press and used his federal regulatory agencies to intimidate investigative reporting. He has transformed grand juries into instruments of political inquisition. He has impounded funds appropriated by Congress and, in effect, refused to execute the laws.

He has violated a hundred times over his oath to uphold the Constitution. He has systematically taken the kingly position that the legal limits which restrain every citizen and every public official do not restrain him. He has left us no doubt: he means to function above the law. And if we let him do it, we will all be accomplices to the establishment of a monarchy in America.

Individual rights are a limit upon government power. To say that an individual has the *right* to distribute a leaflet is to say that the government is without *power* to stop him. If we have the right to vote, that means no government official has the power to stop us. If we have the right to be secure in our homes, that means the government has no power to enter, except under very limited circumstances and even then only with a warrant issued by a judge.

Every individual right can be seen as a limitation upon government power. The Bill of Rights is nothing less than a list of limitations. Our rights are guaranteed only because the Bill of Rights limits government power.

After the American Revolution, the men who wrote the Constitution decided to include a Bill of Rights because they believed strongly that unless the power of the government was explicitly and specifically limited by law, our rights would not exist. The Founding Fathers especially feared the presidency. They feared that unless the awesome powers of the president were limited, he could become an elected king. Unless we limit the president's power, wrote one early American, "we shall find that we have given [him] *enough* [power] to enable him to take all."

So in order to prevent a presidency of unlimited power, the Bill of Rights was made part of our Constitution. It placed limits upon the power of all government officials, but especially upon the president. For if the president's power was not limited, what would stop him from entering our homes, invading our privacy, punishing us for our beliefs and spying on our activities?

For nearly 200 years, the Bill of Rights has withstood the attempts of many presidents to overrule its limits. Some have succeeded occasionally, and almost all presidents have violated one or another individual right. But until now, no president has so systematically and thoroughly taken the position that his power is unlimited by law. Richard Nixon has taken that position, and he must be stopped.

We are at a crossroads today that we have not been at since the beginning of this nation. Richard Nixon is not the issue. The next three years is not the issue. The issue is our future.

For if we do not impeach Richard Nixon now, then we invite every future president to claim the same unlimited powers. If we do not restore those limits now, we abolish our rights. Individual rights are synonymous with legal limits upon power. If Richard Nixon is not impeached, then the lesson will be clear to all future presidents: they'll all do it, and the Bill of Rights will become a meaningless document.

Any United States Representative who is not for impeachment is an accomplice to the destruction of the Bill of Rights. Any citizen who does not write his or her Representative is covering up the destruction of liberty. Impeachment is not a process merely to remove Richard Nixon; it is instead a referendum on liberty.

Nixon must be brought to trial. This nation needs a public inquiry into his conduct and he deserves a fair trial on the charges against him. The only way to have that trial is to impeach him. Anything less is complicity.

REPORTED MISTREATMENT OF ISRAELI PRISONERS OF WAR

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. MOAKLEY. Mr. Speaker, just as I spoke out against inhuman treatment of political prisoners under the Thieu regime in Vietnam, I cannot be silent at the reported atrocities against Israeli prisoners in the recent war in the Middle East.

The Geneva Convention of August 12, 1949, specifically mandates standards of morality for the protection of defenseless persons, including prisoners of war, to safeguard their basic human rights. This Convention has been agreed to by most of the countries in the world including Egypt, Lebanon, Syria, and Israel. As of October 26, only Lebanon and Israel had presented apparently complete lists of prisoners of war in accordance with article 122 of the Convention prescribing a full account of all prisoners.

Recently a rally was held in Boston on behalf of the Israeli prisoners of war and to protest reported charges of cruel and abusive treatment. I am including the statements of leading members of the Massachusetts clergy as well as that of Harvard Law Prof. Philip B. Heyman as they relate to these charges of mistreatment of prisoners of war.

HARVARD UNIVERSITY,
Cambridge, Mass., November 7, 1973.

The Jewish people have often been sold for a prize by other nations and by Christians. We now witness the great threat of it happening again. This time for the comforts of private cars and well-heated homes—for oil. We must shout aloud: Let it not happen again.

As a Christian who loves Israel for Jesus' sake, I say: Let not the "energy crises" become a cover up for injustice to Israel—and now especially to the Israeli prisoners of war.

KRISTER STENDAHL,
Dean, Harvard Divinity School.

PRAYER BY REV. DAVID KILLIAN, C.S.P. AT GOVERNMENT CENTER

Lord, we come together first of all to say that we do not glory in war; we reject the concept of a "holy war"—a concept that suggests that you would countenance brother killing brother for some sacred cause; we admit that war is evil and to be avoided.

But we also affirm that even in war some principles and standards remain namely, safeguarding the rights and lives of innocent non-combatants; refraining from mass slaughter and torture; fair and humane treatment of prisoners of war.

Now that the hostilities have died down in the Middle East we implore all countries to return prisoners of war, to treat prisoners humanely, to give an accounting of those living and dead.

We deplore the news of the mis-treatment, torture and murder of Israeli prisoners of war and we urge all to recognize the Geneva Convention regarding prisoners of war.

And Lord, we pray, bring us your promised Shalom.

Amen.

STATEMENT OF REV. RONALD G. WHITNEY, ASSOCIATE EXECUTIVE DIRECTOR OF THE GREATER SPRINGFIELD COUNCIL OF CHURCHES

The cold blooded murder of Israeli military prisoners by the Syrians is an unspeakably brutal and barbaric act. This shocking and senseless slaying of helpless Israeli prisoners, bound hand and foot, is a deplorable and despicable atrocity which affronts the moral conscience of mankind. Speaking as a Christian, I call upon the Syrian government, along with all other parties to the sad and senseless conflict in the Middle East, to take all necessary measures to insure safe and humane treatment for prisoners of war as provided for by the Geneva Convention. There is simply no excuse for the murder or mistreatment of prisoners of war by anybody, anytime, anywhere.

STATEMENT OF PHILIP B. HEYMAN, PROFESSOR OF LAW, HARVARD LAW SCHOOL

I was asked to speak to you today as a law professor, but I accepted because of another role I played for some time a few years ago. From 1965 until 1967, I had a substantial responsibility with regard to American prisoners of war in North Vietnam. My position in the State Department put me directly under Governor Harriman in that area during the latter part of the period.

There isn't a great need for a law professor on an occasion when it looks like prisoners of war are in danger of being mistreated and when the Geneva Conventions are not being complied with. Law professors tell you what the law says when the law is unclear. Nothing could be clearer than the legal situation in this case. An international convention, having the force of a treaty, and agreed to by Israel, Egypt, Lebanon, and Syria speaks in words that cannot be confused:

It defines POW's in a way that plainly covers soldiers and airmen captured by any party in this war. Once a soldier has been taken under the control of his enemy, once he has surrendered, he is entitled to a whole set of protections that most of the civilized world has agreed to since 1949 and indeed in some form for decades before that.

The convention demands humane treatment of all POW's and emphasizes the point in a way that I think is very rare in international law, by making torture or killing an internationally punishable crime.

The Geneva Convention requires prompt notificaiton in two different ways of all names of prisoners of war.

It requires, unconditionally, the prompt repatriation of all seriously wounded and sick prisoners.

It guarantees these rights by providing that the ICRC can visit and interview all prisoners of war.

Finally, the Convention states that healthy POW's shall be released and repatriated without delay after the cessation of active hostilities.

I cannot personally vouch for the conditions of compliance and non-compliance that I am about to describe. What I am describing is, however, not simply a matter of Israeli reports. It includes information coming from the International Red Cross and the public press; I have checked much of it with our own State Department. What is the situation with regard to prisoners of war in the Middle East? The Israeli Ambassador to the U.N. has reported that bodies of executed Israeli prisoners have been found in areas once held by Syrian forces. Syria's past record with regard to Israeli prisoners is hardly encouraging. Torture is well established. In this context, it may well be significant and it is surely frightening that Syria is making no effort to comply with the provisions of the Geneva Convention that are designed to assure protection for prisoners of war. Syria is not providing lists or any notification of whom it holds, although Israel estimates 150 Israeli military personnel may be held there. Without lists, no one may ever know what happens to Israeli prisoners of war.

Syria is not permitting visits to prisoners by representatives of the International Committee of the Red Cross. And this is the most important protection against mistreatment. There has been no indication of a willingness to exchange sick and wounded or other prisoners both of which are required by the Geneva Conventions.

The record of Egypt, while less disturbing, is at best one of partial compliance with the Conventions. Egypt has so far furnished only a partial list of names—perhaps 100. Israel estimates that there are 300 prisoners of war in the UAR. Egypt has so far permitted inspection by the International Committee of the Red Cross of only some of those prisoners it holds. It is making an exchange of prisoners of war conditional on other political moves—the debate about the location of the cease fire line—although the obligation to exchange prisoners at the termination of active hostilities is absolute and binding by treaty.

I am told that Israel has allowed the International Committee of the Red Cross to visit Arab prisoners wherever they are held and as soon as they arrive at detention camps, that Israel has furnished complete lists numbering nearly 8,000 names to the Arab governments, and that Israel is ready to engage in full compliance with the Geneva Conventions on a reciprocal basis with either Egypt or Syria. I know of no complaints of mistreatment of Arab prisoners of war.

My position here is not, however, that of an apologist for Israel or a critic of the Arab states. I am here to speak for the Geneva Conventions and the rights of prisoners of war. I am here to speak for some consistency with American traditions on this subject. If it turns out that Israel is violating the Geneva Conventions, I would speak out as sharply against that country.

A story in the New York Times two days ago paraphrased the State Department spokesman's reaction to the question of prisoner exchanges. He said this question of prisoners must be linked with future negotiations on a final peace settlement. Other State Department officials say that our government's position is that prisoner questions must receive priority on a negotiating agenda. In either event, the question is treated as a political one. I think that position is profoundly wrong, misconceived, and short-sighted. The Geneva Convention relative to the treatment of prisoners of war was agreed to by most of the nations of the world for the express purpose of removing this subject from international politics. Until now, this has been the clear and forceful position of the United States government. When the question was the handling of the U.S. POW's in North Vietnam during the late 1960s, it was the North Vietnamese who demanded that this be dealt with only as part of a general peace settlement. A general peace settlement was years off and we insisted that international law was clear, that the rights of POW's were established by treaty and were not part of any political negotiation.

I will return to this but let me begin, more systematically, by explaining why I think the position of the United States should be firmly in favor of prompt and rigorous enforcement of international law on this issue. There are four reasons; each is strong enough to require a different policy than that suggested by the State Department spokesman. Together I believe the case is overwhelming.

First, the United States stands for humaneness and the international rules dealing with prisoners of war are fundamental requirements of common decency and humanity. Over the last 100 years the idea has steadily emerged that war is horrible enough without needless mistreatment of non-combatants. The casualty figures on both sides in this war are a recent reminder. POW's fall at the heart of the protection of non-combatants. Both sides in any war can mistreat POW's, but such mistreatment is recognized as an act of cowardice, smallness, and cruelty that gains neither side in the long run. Prohibiting mistreatment—indeed making mistreatment an international crime—and requiring protective measures such as Red Cross visits, lists, and prompt exchanges says something about an internationally shared obligation of humane treatment even on occasions when it is hardest for nations to remember this obligation. America is still a country that speaks out for rules of humanity. Power politics, like anything else, has its limits and the Geneva Conventions represent such limits.

Second, in this case at least what is required by international politics conforms to what is required by common humanity. The United States was prepared to prolong a war for months or years until the safe release of less than 1,000 POW's was assured. This is the one point on which a very wide spectrum of Americans agreed. Had clear knowledge of mistreatment come out before the war was over, peace would have been far harder to reach. The 450 or so Israeli POW's would correspond to over 30,000 Americans in enemy hands. 150 in Syrian hands would correspond to over 10,000 Americans. Surely it is clear that any mistreatment of these POW's could only lead to increased hatred and exacerbate a conflict already tragically difficult to resolve. The Israeli speak movingly of their conception of a peace that could include real friendship with the Arab states. Only this kind of peace is in the long-term interests of the U.S. too. Using POW's as pawns, threatening their indefinite detention and perhaps mistreatment, doesn't further the prospect of a long-term peace.

Third, the Geneva Conventions are a matter of international law. Perhaps above all else the United States stands for a rule of law in the international area. It is that conception on which the treaties negotiated between the United States and the Soviet Union dealing with strategic weapons rests. That is the foundation of our efforts with regard to nuclear proliferation and atomic testing. The Geneva Conventions are no less international law than any of these other treaties. Like any rules of law, they do not depend for their force on the bargaining position of the parties at any particular time. They are intended to remove certain matters from the bargaining realm and have them decided once and for all by prior agreement.

If we stand with those who would treat the Geneva Convention on prisoners of war as nothing more than an expression of widely held opinion, perhaps like a resolution of the U.N. General Assembly, then we Americans are under-cutting the force of law in international relations. The United States government could not have been clearer on this issue when what was involved were American POW's. The question is the same when prisoners of war in the Middle East are involved. The question is whether international law has any force.

There is a final point that is important to make; it involves national integrity. The United States has, as I have said, stood firmly on the proposition that the handling of prisoners of war is not a matter for political negotiation at least when it involves parties who have agreed to the Geneva Convention. During the late 1960's, we went to nations that were unsympathetic to our policy in Southeast Asia and said to them:

"Whatever you may believe about the war in Vietnam, you have an obligation to support the rule of law as it is applied to prisoners of war."

The International Committee of the Red Cross is a small group of men wholeheartedly dedicated to the application of international rules protecting non-combatants. But it is a group without political influence, a group that is even reluctant to speak out clearly and forcefully on violations because of its fear that such statements may only result in weakening its hand as it tries to aid prisoners of war. The power of the rule of law in this area of common humanity depends upon nations which are not involved in a particular conflict taking a firm and outspoken position behind the Geneva Conventions. When it was our citizens that were involved, we felt it was right to remind other nations of these facts. What credibility will we have in the future it we do not now take the position that we urged on uninvolved nations during the Vietnam war?

It is crucial that we show that we are not a country that asserts its rights under international law but is indifferent to the application of law when the rights of other people are in issue. I deeply believe that we are a country of humanity and that we are a country devoted to law and principle. If we are, our course of action in the present situation is perfectly clear. We must say to the Arab government—and, if it ever proves necessary, to Israel too—that prisoners of war are not a political pawn and that rules of law made for times of conflict do not disappear on the very occasion of conflict to which they are supposed to apply. We must speak out for the exchange of sick and wounded, for the exchange of all prisoners of war, and in the meantime for the protections against mistreatment that are represented by full lists of prisoners and complete rights of access to prisoners by the International Committee of the Red Cross. Our position on mistreatment of prisoners cannot be equivocal. What is at stake is our humanity, our principles, and our basic integrity as much as the lives and welfare of Israeli prisoners of war.

ALLENDE AND CHILE

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BLACKBURN. Mr. Speaker, recently I received a letter from a gentleman in Chile concerning the events that have been transpiring in Chile during the last few months.

I found his letter most interesting and informative and want to take this time to share it with my colleagues. It follows:

CENTRO DEDIFUSION CRISTIANA,
Santiago, Chile.

Honorable BEN B. BLACKBURN:

As a long time resident of Chile, I would like to share some insights into the events that have been transpiring in Chile during the last few months. I feel this need because of the move by Mr. Edward Kennedy and other U.S. Senators to have economic aid cut off to Chile "until the civil rights of Chileans have been restored." I believe this move is due to a false understanding of what the supposed Chilean democracy has been like during the last three years, and also to what I consider to be very distorted reporting on the part of the American press.

I ask you to take into consideration some of the things that took place during the three years of the Allende government.

1. Mr. Allende was elected by a minority, about one third of the popular vote. He never ruled as President of Chile, but rather as President of his political party.

2. Unlike traditional political parties in a democracy, Mr. Allende sought to gain total power over the Chilean Republic in the following ways:

a. Bank credits from nationalized banks determined which businesses and industries would survive or die according to their utility to the Allende regime.

b. The land reform program, instead of giving the peasant land, made him an employee of the State.

c. In the government-controlled industries party membership was a pre-requisite to employment, and learning of Marxist doctrine was important in keeping one's job. Thousands of professional people and technicians, who could not fit into the system, joined the ranks of the unemployed and thousands more were forced to leave their homeland to make a life somewhere else. Meanwhile, the government continued to create artificial conflicts in private industries, sending in government mediators which eventually recommended their becoming part of the national domain, steadily decreasing a citizen's right to be employed where he was not fitted into a Marxist mold.

3. Mr. Allende ruled a democracy of which the Executive Branch formed only one part. However, he ignored the Congress and attacked the Justice Department as a tool of the bourgeois system.

4. The so-called educational reform system that the government sought to impose on all levels of the educational system was designed to indoctrinate the student only according to Marxist philosophy.

5. No Chilean escaped suffering the government control of consumer goods. Since things such as television sets and refrigerators were no longer sold on the open market, they had to be gotten through factory organizations who charged not only in currency but in ideological faithfulness. Those who did not have access to these items through government sources were forced to buy them through the government-created black market, which sold for as much as 400% more which meant that the majority of the people were unable to buy.

The government solution to the 6, 24, and 48 hour lines for basic food products such as bread, milk, meat, and sugar was rationing. The rationing cards were given out, a card for each item, by Marxist-controlled organizations. To get these cards the person had to submit himself to the scrutiny of the organizational representative, who surveyed the number of members in the family, the number of rooms in the house, and the political beliefs of its members.

6. The chaos in the Chilean economy was not due to the boycott on the part of the Chilean businessmen or even to the incredible inefficiency of the Allende government. It was due to the communist doctrine that you must completely destroy the nation's bourgeois economy to put it back together again according to Marxist norms.

7. Mr. Allende was an intimate friend of Fidel Castro. In a plan to take over the government totally for the Marxist, Allende's party elaborated the intricate "Plan Z," which was to be carried out according to the Cuban model, assassinating those elements within the Armed Forces not favorable to the government. The amount of arms from Russia and other socialist countries would have been completely adequate to outfit any number of regiments. This plan was backed by hundreds of citizens from Marxist countries who taught the use of arms and revolutionary tactics.

The history of the Chilean Armed Forces has been loyalty to the elected government. It was no different during the Allende regime. The Armed Forces had given the government a more complete backing than any other government before, repeatedly serving in the ministries and many other government posts. They were obedient to the civil authorities even when Allende repeatedly humiliated high officers by asking for their resignations from their posts and then requiring them to resign from the military.

Finally when Chile had become completely broken economically, socially and morally with no hope for recovery, the military felt obligated to intervene. From the vantage point of another country the new government undoubtedly must seem highly restrictive. One must take into account, however, that every bone in the institutional body was broken. Someone had to put on the cast.

Mr. Allende's government was part of the international communist propaganda machine whose aim is to deface the image of the U.S. around the world. For three years on Chilean radio, press, and TV, the Allende government portrayed the U.S. as the imperialist monster who was responsible for the ills of Chile and for those of all underdeveloped nations around the world. My country has made grave errors in its foreign policy and in the way that it has allowed its businessmen to behave themselves in other countries, but I believe that the Marxist portrayal of us is untrue. The new Chilean government is a friend of the U.S. and a salvation to Chile. It deserves much more consideration than it has received.

Respectfully yours,

JEFF MYERS.

THE TUSSOCK MOTH EPIDEMIC

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. McCORMACK. Mr. Speaker, I spoke earlier today of my legislation, H.R. 10796, to transfer authority over pesticides used on agricultural and forest lands against insect infestations from the Administrator of the Environmental Protection Agency to the Secretary of Agriculture. In speaking of this legislation, I briefly discussed one of the most dramatic facets of the problem which has prompted this general legislation—the devastating infestation of the tussock moth in the Pacific Northwest States of Washington, Oregon, and Idaho.

To better acquaint the Members with the severity of the problem in the Northwest regarding this insect infestation, which can only be brought under control through the use of DDT, I would like to insert in the record the written text of an informational brochure, "The Tussock Moth Epidemic." This information was collected and published by the National Forest Products Association in an effort to show the disastrous effect that a localized insect infestation has on the economic and environmental well-being of all Americans.

There being no objection, the text is as follows:

The Tussock Moth Epidemic—Why Chemicals Are Needed To Control Forest Pests

Insects are everywhere in the forest. They are part of the natural forest environment, like the rain and the sun. As the forest grows, dies, decays and regenerates, insects play out their roles in the whole, grand, natural order of the miracle of things that live.

But when, by some quirk, the numbers of insects suddenly multiply to enormous proportions, what was once normal becomes very bad. Destruction can be awesome when insect populations surge to epidemic heights.

That is what is happening now, in forests on both coasts of the United States, the inter-mountain region and the South. Insect epidemics have struck, and at a time when pressure against man's management of nature has created public policies restricting the use of insecticides that are the only hope of checking the outbreaks. Well-intentioned caution against the use of chemicals to control forest pests, aimed at improving the quality of our life, is achieving the directly opposite effect.

Millions of trees are being destroyed by the western spruce budworm in the Northern Rockies, the mountain pine beetle in Yellowstone Park, the southern pine beetle in the South, the gypsy moth in the Northeast, and the tussock moth in the Pacific Northwest.

Interim control measures have consistently failed because no effective alternatives to DDT and other proven insecticides have been found. Most new chemical and biological control alternatives are only experimental. Consequently, premature moratoriums on the use of proven chemicals have left pest control vacuums soon filled by insect epidemics.

The tussock moth alone is destroying forests throughout a 1,400 square mile area in Oregon, Washington and Idaho. The governors involved, as well as other leaders, warn that action is urgently needed this fall to make DDT available on a standby basis in case it is needed next spring to fight this record-setting tussock moth epidemic.

The tussock moth story illustrates both the gravity and the impact of not having control methods available.

EPIDEMIC EXPLODES

The current tussock moth infestation was at a virtually undetectible level in 1971. But it exploded during 1972 to defoliate 196,000 acres in the evergreen forests of eastern Oregon and Washington. Seeing the infestation spread wildly, the governments of Oregon and Washington joined the Forest Service in asking the Environmental Protection Agency (EPA) for permission to use DDT on an "if needed" basis. DDT is at present the only effective anti-tussock moth chemical suitable for large-scale aerial application to forest land.

William Ruckelshaus, then EPA administrator, denied the requests in April 1973, saying "the benefits do not outweigh the risks." He based his refusal largely on the EPA decision that the infestation would not do significant additional damage and would collapse in 1973 due to a natural virus that attacks and eventually destroys most tussock moth flare-ups.

But the epidemic did not collapse. Instead, the area of infestation trebled during the summer and spread into Idaho. Visible defoliation now covers more than 650,000 acres in the three states—an area nearly the size of Rhode Island. Already it is the largest tussock moth epidemic ever recorded, and no end is in sight.

To most residents of the infested area, the benefit-risk balance scales tipped far over in favor of emergency use of DDT long ago. Close to a billion board feet of mature trees have been killed since the epidemic began. And this does not include the massive loss of young trees under 40 years old for which no figures are available. The forests in the area have been set back half a century, and the economy dealt a staggering blow.

VORACIOUS DEFOLIATOR

The life cycle of the tussock moth (so called because of the larva's tufts or tussocks) begins in mid-May or early June when tiny caterpillars only ⅛-inch long emerge from egg clusters deposited the previous fall. These lightweight larvae are covered with long hairs, enabling the wind to carry them long distances. The larvae begin eating immediately, and continue eating through five to seven moltings until late July or early August when they reach their full size of about 1¼ inches and enter their pupal or "resting" stage. The larvae wrap themselves in cocoons from which they emerge 10 to 18 days later as moths. The wingless female moths immediately mate with the winged males, then lay clusters of about 250 eggs, attaching them to the cocoons from which they emerged. The adult moths do not eat. They die shortly after mating.

Since the major dispersal of tussock moth populations is by windborne larvae, *chemical control measures must be taken as soon after hatching as possible to contain an infestation.*

The larvae prefer to live and eat in Douglas-fir, grand fir and white fir trees. But they will feed on many other trees and shrubs after consuming these, particularly ponderosa pine, sub-alpine fir and spruce. The new larvae begin by eating the buds and tender new needls in tree crowns and branch-tips. The older needles, lower down, are consumed either as the larvae grow, or during subsequent years of an infestation. However, during a tussock moth epidemic entire trees are often defoliated in one summer.

FOREST DEVASTATION

A single defoliation is usually all that is needed to kill an evergreen tree. A partial defoliation stunts growth and weakens the tree so that it is susceptible to killing by subsequent attacks of other insects and disease. Reduction of future regeneration is an even more insidious consequence of the epidemic. The buds from which the seed cones develop grow in the crowns or on the tips of branches where the insects attack first. Thus, cone development is severely retarded or terminated in the early stages of a tussock moth epidemic. Young trees, with new, tender needles, are also early victims. Such damage to forest regeneration may not be evident immediately, but will become all too real within a few years as new growth lags and future productivity falls far behind.

The Forest Service estimates that nearly 700 million board feet of mature timber was killed during the past summer. This is almost four times the timber loss EPA said it expected when it denied emergency use of DDT last spring. Timber loss during the past two summers now totals about 800 million board feet. And these totals do not include the vast numbers of young trees below the age of 40 killed by the larvae, since the figures were developed in planning salvage operations of the mature timber.

Salvage operations are underway as lumber companies hurry to move the moth-killed timber into sawmills before it rots. White fir, which makes up the majority of the present kill, must be salvaged within a year and a half after dying.

Mills in the area are working at full capacity to handle the salvage operations. But there is so much dead timber, with about a third of it inaccessible, that most of it may not be salvaged in time. Further, the future capacity of the damaged forests to support mills in the area has already been dealt a stunning blow.

Experts estimate that the insect epidemic has set back forest management in the region some 30 to 60 years. They say that damage thus far will require expenditures for reforestation alone of an estimated $25 million by public and private landowners over a 20-year period. The Forest Service says that $17 million will be needed just during the next six years for reforestation and fire hazard reduction.

But commercial timber losses are only part of the values threatened while the infestation expands unchecked. An insect-infested forest is an eyesore. The dead and dying trees turn reddish-brown and finally gray as they are completley defoliated. Ultimately, they give the forest a sepulchral appearance. Wildlife habitats are seriously damaged as natural cover falls victim to the insects and wildlife needing dense forest cover either declines or moves elsewhere. Recreational values are disrupted for decades.

The risks are further inflated by a dramatic increase in the danger of forest fires. The Forest Service has stationed extra fire-fighting personnel and equipment throughout the infested area. So far, they have been involved in two large wildfires that burned out of control. The Forest Service reports that "there is no question (the tussock moth) was a very significant factor" in contributing to "the size of these fires and control difficulties." As more trees die and the explosively inflammable debris builds up, the threat of uncontrolled wildfires will increase.

PUBLIC HEALTH HAZARD

The infestation also poses a public health hazard. Allergic reactions in humans to the body hairs of the larvae cause painful welts, itching rashes and breathing difficulties. The hairs, which characterize the tussock moth and provide it with protection against predators, cover its cocoons and egg masses. The hairs set loose in the five to seven moltings are often carried great distances by the wind.

The allergy problem is particularly acute for loggers when these hairs fly all about them as infested trees are felled. Logging companies have reported that 75 to 90 percent of the logging crews, road crews, truck drivers, foresters and scalers needed for salvage operations are susceptible to varying degrees of irrigation. Employees have quit rather than work in infested areas, and logging contractors have had difficulty assembling crews for salvage operations.

CONTROL ALTERNATIVES

A virus disease (nuclear polyhedrosis virus) that attacks the larvae and pupae has proven to be the most effective naturally occurring control of tussock moth epidemics. It normally appears during the third year of an infestation and causes a dramatic collapse of the insect population. However, the virus does not always follow this pattern, as illustrated by its failure to fulfill predictions of such a collapse during the past summer.

The Forest Service says that once the rate of virus incidence achieves 30 percent, the insect infestation of such a virus-infected area is on the verge of immediate collapse. The virus was on the rise this summer in many sectors, combining with starvation and natural parasites to kill large numbers of the larvae in defoliated areas where the outbreak is several years old. The epidemic may well have run its course in these areas. But hundreds of thousands of acres that were infested for the first time in 1973 have little, if any, indication of virus. Therefore, even if the infestation collapses from virus in some sectors, the epidemic could still keep spreading in other areas. The extent to which the virus has developed will not be known conclusively until next spring when the egg masses can be analyzed for virus.

Following the recommendations of EPA Administrator Ruckelshaus to "formulate an action plan based in the use of available chemical methods, other than DDT, that could be put into operation on an immediate emergency basis," the Forest Service has been testing four insecticides—Zectran, Dylox, Sevin 4-Oil and Bioethanomethrin—and two biological agents—the natural virus and a bacteria called Dipel (bacillus thuringiensis).

The Inter-Agency Tussock Moth Steering Committee, made up of representatives from the Forest Service, Bureau of Indian Affairs, Oregon State University and the forestry departments of Oregon, Washington and Idaho, reports that both the biological controls have been highly successful in killing the larvae in test plots. But neither can be made available in sufficient quantity next year to be effective. There are also difficulties with application techniques that must be solved before large-scale use.

Of the insecticides, Zectran received the most extensive testing. It has only a 48-hour effective life. It had previously proved effective against the spruce budworm, and showed some promise against the tussock moth. About 70,000 infested acres were treated with a double application of Zectran that killed large numbers of the moth—but not enough to halt the epidemic. The more limited tests of the other insecticides showed similar results. The Inter-Agency Committee recently reported: "Results of the tests in Oregon and Washington show that all the chemicals killed considerable numbers of tussock moth larvae, but none reduced the population sufficiently to prevent severe defoliation and tree mortality."

The heavier the infestation, the higher the insect kill must be in order to reduce the insect density to a safe level of approximately two larvae per square foot of foliage. In the hardhit areas, this may mean a kill of as much as 99 percent is needed. Although all the chemicals showed enough promise to warrant continued testing in 1974, none are ready for operational use next year.

DDT MAY BE NEEDED

Therefore, if the natural virus does not increase enough by next spring to halt the epidemic, the only way to control the outbreak will be with DDT.

Several tussock moth epidemics already have been successfully controlled by DDT. A chapter on the tussock moth in the Forest Service book Insect Enemies of Western Forests tells how a 1946–47 outbreak covering about 500,000 acres in Oregon, Washington and Idaho "might have destroyed nearly two billion board feet of timber had it not been brought under control with aerial spraying on a vast scale." In this case, the Forest Service used "airplane spraying with one pound of DDT in one gallon oil carrier per acre, applied to 413,469 acres.

In a 1965 outbreak, near Rattlesnake Creek in eastern Oregon, helicopters were used to spray 66,000 acres of forest with .75 pound of DDT mixed in one gallon hydrocarbon solvent and No. 2 fuel oil at an application rate of only 12 oz. per acre. The successful results were closely monitored to determine residue levels.

The Forest Service reported in the June, 1972 issue of *Pesticides Monitoring Journal:* "Surveillance operations by the Bureau of Sport Fisheries and Wildlife indicated that the DDT spraying had little effect on the waters and organisms of Malheur Lake, toward which Rattlesnake Creek flows. Levels of total DDT accumulation in the food chain of Rattlesnake Creek were very low in all components of the sampled community." More specifically, the article said, "DDT residues in the forest floor decreased steadily with time, and at the end of 3 years, more than half the DDT originally added had disappeared." It further noted that "DDT did not leach from the forest floor to underlying mineral soil," and that in the streamwater samples "the maximum total DDT concentration found over a period of 3½ years after spraying was 0.277 parts per billion," with most samples containing "concentrations of DDT near the lower limit of detection." This concentration is far below the conservative limit of five parts per million (or 5000 ppb) established by the Food and Drug Administration as a totally safe tolerance level.

With this sort of concrete evidence, the cities of Walla Walla, Washington, and Milton-Freewater, Oregon, petitioned EPA in May for the limited use of DDT to protect their watersheds from denuding by insect damage and probable wildfire. The cities judged that EPA's concern over watershed contamination, cited as a risk in EPA's refusal to permit the emergency use of DDT, was a minor consideration compared with the harsh realities of watershed damage. Supporting the cities' judgment were the findings of federal examiner Edmund Sweeny, whose conclusions in April, 1972, after seven months of hearings and 8,900 pages of testimony on DDT, included: "DDT is extremely low in acute toxicity to man. DDT is not a carcinogenic hazard (cancer) to man. DDT is not a mutagenic or teratogenic hazard (mutation) to man. DDT is not a safety hazard to man when used as directed."

ACTION NEEDED NOW

DDT may not be needed next spring to control the tussock moth. But what if the natural virus does not increase enough to stop the epidemic?

A survey of egg masses to determine the size and severity of next year's tussock moth population is now underway and should be completed by December. However, there is no way to know conclusively until next spring whether or not this population will be controlled by the virus and further damage minimized.

To make DDT ready in case it is needed, the wheels must start rolling soon. Months of extensive preparation are required to have a safe and effective spraying program. The DDT orders must be placed and the chemical produced. Then it must be delivered to the sites and prepared for mixing. The spraying logistics must be carefully developed, and equipment collected and made ready. All this must take place before the eggs hatch so that the spraying operation can move quickly during the critical application period of late May and early June of 1974.

No carte blanche permission is being sought for indiscriminate spraying. Better equipment and increasingly sophisticated techniques make the application of pesticides more effective and less hazardous than ever before. But time is a crucial factor. Permission is needed soon to start getting the DDT ready, or it will be too late again.

Requests to EPA for authorization to use DDT next spring on an "if needed" basis may soon be renewed. But there are many who fear EPA may not reverse its position, regardless of the evidence.

There is certainly precedent for EPA approval of the use of DDT. Shortly after petitions for its use against the tussock moth were denied, EPA approved a request to use DDT against the pea leaf weevil on 125,000 acres in eastern Washington and Idaho. This is the only limited use registration of DDT to be granted by EPA since it cancelled nearly all DDT uses in December, 1972. EPA permitted the spraying of 0.9 pound of DDT per acre—a heavier application than is recommended to control the tussock moth.

CONGRESSIONAL ACTIVITY

There are many who feel that the timber loss due to the tussock moth epidemic was and is far more disastrous than any possible damage caused by use of DDT. Both Secretary of Agriculture Earl Butz and Secretary of Interior Rogers C. B. Morton, following recent visits to the devastated forests, have pledged their support of efforts to get DDT released for use in case it is needed.

And there is growing sentiment that Congress may have to step in to stop the senseless, needless destruction. Legislation has been introduced in both the House and Senate to make DDT and other chemicals available if they are needed for pest control. House hearings were quickly scheduled.

Senators Mark O. Hatfield (R-Ore.) and James A. McClure (R-Idaho) voiced deep concern when they wrote Sen. Henry M. Jackson (D-Wash.), chairman of the Senate Committee on Interior and Insular Affairs, asking for hearings on the tussock moth. They charged that the infestation "has not been dealt with in an adequate manner by the federal agencies," and said: "Because of the serious and damaging impact of the EPA decision on our public and private lands, and the probability of similar future decisions, we feel that oversight hearings by our Committee would be highly appropriate."

The tussock moth epidemic is a classic example of how well-intentioned environmental concern can go awry, resulting in far more environmental, economic and social damage than would have occurred otherwise. All forest chemicals—pesticides, herbicides and fertilizers—are affected by this growing problem of premature moratoriums on chemical use.

Already millions of dead trees litter thousands of square miles throughout the United States as mute reminders of well-intentioned neglect. Until adequate alternative methods and materials are developed to combat forest epidemics of insects and disease, unwarranted restrictions against the use of chemical tools will continue to foster the same kind of needless disasters.

QUOTATIONS

"But when you balance what you know the tussock moth can do against the probable effects of DDT, you can't do anything but come out for DDT." Robert H. Torheim, deputy regional forester, U.S. Forest Service, at a press conference on the tussock moth held August 28, 1973 in Portland, Ore.

"Without control, this thing can go on indefinitely. That's what scares me."—Kessler Cannon, assistant for natural resources to Oregon Governor Tom McCall.

"The gambling with this magnificent resource must be stopped."—Tom McCall, Governor of Oregon.

"You have to see it to believe it."—Secretary of Agriculture Earl Butz.

"People around here were against stuff like DDT until the moth got their land. Now they don't care what it takes. They want this thing stopped."—John McGhehey, state forester for the La Grande, Oregon region.

TRIBUTE TO LUCIOUS SELMON, ALL-AMERICAN

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. McSPADDEN. Mr. Speaker, in the Second District of Oklahoma is a town named Eufaula. The town is named for an old Creek Indian town located on the Chattahoochie River in Alabama named Yufala, which means, we are told, in the Creek language, "They split up here and went to other places." Apparently the Creeks did not mess around with unnecessary verbage saying in six letters what it takes the white man nine words to convey.

Eufaula, in Oklahoma, was one of the earlier establishments in Indian Territory with a post office opening February 6, 1874. In the intervening 99 plus years, many people and products have come from Eufaula, but none have brought such fame, such honor, and such glory as three brothers, one-third of the children of Mr. and Mrs. Lucious Selmon, who farmed 160 acres of land near Eufaula, until his retirement about 7 years ago.

Mr. Selmon is 5-foot-4. His wife, Jessie, is 5-foot-5. The Selmon family is highly respected in the McIntosh county seat town because of their application to hard work, their diligence in raising their nine children, and their instilling into the children the desire to achieve.

December 15 will be a big day in Eufaula for it is that day when Lucious Selmon the younger will be honored. The Governor of the State of Oklahoma will be there, we are told, along with Senator BARTLETT, Lt. Gov. George Nigh, and myself if Congress has adjourned, among others.

Lucious Selmon has been described by the University of Oklahoma football Coach Barry Switzer as the finest down lineman he has ever coached. Coach Switzer says that the 5-foot-11, 240-pound Lucious should not only be a strong candidate for the Outland Trophy, but for the Heisman Trophy as well, if the Heisman is ever awarded to a lineman.

It was Lucious, the All-American, flanked to the left and right by his "little" brothers, tackles LeRoy, 6-foot-2, 250 pounds, and Dewey, 6-foot-1, 245 pounds, who spent about as much time in the backfield of OU's foe last Friday, November 23, as did the opponent's quarterback. Out of compassion to our friends and colleagues from the great State of Nebraska, I will decline to mention the fact that the final score, 27–0 was the first time that foe had been zipped since 1968, if we are to believe the news media. Incidentally, the win gave OU the Big Eight title and moved the Sooners into second place in the national standings.

For those of you who are knowledgeable about football statistics, let me cite a few about Lucious without boring you: he has broken up five passes, dumped the quarterback for losses eight times, caused two fumbles and recovered two fumbles; he has made 56 unassisted tackles and a total of 92 tackles and in addition to his other honors, he has been named All Big Eight twice. Lucious Selmon is much of a man and much of an athlete.

On December 15 in Eufaula, there will be a street named for Lucious Selmon. It will be Selmon Drive. There will be a parade, laughing and joy unbridled, feasting, and festivities, bringing honor to the brothers Selmon and their parents.

All three of the brothers were All State running backs. They are agile and fast according to Coach Switzer and as those of you who were fortunate enough to see them on television Friday can attest; the last time OU will be seen on TV for 2 years.

Lucious, a modest man, says the brothers gained much of their strength by pushing a plow behind a mule on their farm.

Recalls Lucious:

> We always had bad fences that helped—agility and speed—because the hogs and cows were always getting loose. You get pretty quick chasing those hogs and cows. If we had had good fences, we probably would not be as quick as we are now.

Mary Rule, editor of the Indian Journal, has this to say:

> Lucious Selmon Day should be great in our little town (population 2,355) on December 15th. Along with the three Selmons, Lucious, Dewey and LeRoy, many dignitaries are expected and invited to take part in the great celebration. If you have not been fortunate enough to meet and visit with Mr. Selmon, their mother, you've missed something. She's a great lady."

Of the Selmon family, Eufaula citizens say the black family had the respect of the predominantly white community before the trio's football heroics.

Says Associate District Judge Marshall Warren, a long time friend of the family:

> It's just a fine family. They have integrity, honesty, and intelligence. He characterized Lucious, the player, as a tremendous individual. He just doesn't talk about football. He talks about world problems. He has a lot of compassion for others. He's majoring in special education and he likes to work with kids.
>
> Overall, I think this town is as proud of those three boys as any one could be. Mention the name Selmon is like mentioning Eufaula now. Or maybe it's the other way around.

Lucious Selmon takes the accolades in stride. He recalls that farm life was not easy, but has nothing but kind words for Eufaula and its citizenry. Lucious said as Ron Jenkins, AP sports writer, records—

> It wasn't an easy life. Being a farm boy, there was a lot of hard work. But as far as being black, I think we were treated pretty equally by the people of Eufaula. That's really true.

Mr. Speaker, I think it only fitting that a street be named Selmon Drive because the brothers Selmon have opened up enough holes in their opponents lines, to drive several diesel rigs through, naturally at 50 miles per hour.

And, to paraphrase the Creek tongue, the Selmon's have "split them up and made them go to other places." I understand that if Lucious gets the Chevrolet scholarship one more time, they are going to make him General Motors chairman of the board.

Mr. Speaker, I offer this tribute, not only to these great and honored athletes, but to their parents, their brothers, and sisters, their teachers, their coaches, and their friends and neighbors in Eufaula. Each one that touched their lives have had a small part in making them the men they are today.

Mr. Speaker, I share that pride.

VON BRAUN LOOKS TO BRING POOREST OF POOR EDUCATION BY SATELLITE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the October 4, 1973, Sentinel Star of Orlando, Fla., carried an article about Wernher von Braun and pointed out some of the benefits we derive from our space program.

The article carries comments that von Braun made at the keynote address to the American Society of Photogrammetry's convention last month. I recommend the article to fellow Members and to the general public.

The article follows:

VON BRAUN LOOKS TO BRING POOREST OF POOR EDUCATION BY SATELLITE

(By Bill Osinski)

Wernher von Braun, the man who led America in its reach for the stars, said Wednesday he was "gratified" by his new challenge of bringing education by satellite to the "poorest of the poor."

As the former director of NASA's Marshall Space Flight Center in Huntsville, Ala., Von Braun helped develop the Saturn 5 moon rocket, but now he is trying to bring literacy to the most isolated spots on earth.

Von Braun said a global satellite network that can beam basic education to areas unserviced even by roads is the "only solution" for developing nations with high illiteracy rates.

"It's no good to give a man a bag of fertilizer, only to have him eat it because he can't read the label," Von Braun said.

In what he described as the "ultimate" in communications satellite technology, places like rural India, Eskimo villages and American Indian reservations could receive satellite programs with devices much like standard television antennas.

He depicted open-air classrooms fed by the satellite with children's and adult programming that could penetrate regions where formal training is impossible.

"We were often attacked in manned space flight for doing costly things only for the rich few," Von Braun said, "but now the space program is providing solutions for the poorest of the poor—and it is their only solution."

Von Braun's remarks were part of an overall report on space technology he gave as the keynote address to the American Society of Photogrammetry convention being held at the Walt Disney World Contemporary Resort Hotel.

Speaking at times as if he were still part of the NASA team he left in 1972 for private industry, Von Braun was optimistic on the future of an American space program currently beset by funding and manpower cutbacks.

He said he regarded the success of the first two skylab missions as a milestone in the history of manned space flight that has already exceeded NASA's expectations.

"Maybe we've all been too conservative," he said, commenting on the apparently excellent condition of the Skylab crew recently returned from 59 days in space.

Von Braun also listed several "major" innovations of America's Space Shuttle program, designed to utilize reusable, airplane-like vehicles in orbit by 1978. These included:

Cost savings—For nonrecoverable space vehicles, the pricetag is $1,000 per pound of payload, but the Space Shuttle costs are estimated at about $160 per pound, he said.

Last-Minute rejects—For prior satellites, the ability to function was not known until after it was launched, he said. Sometimes, a failure resulted in a "$10 million piece of orbiting junk," he said. However, he said, the Space Shuttle can take a satellite up and, if it malfunctions, the Shuttle pilots can then take it back and tell the contractor the thing doesn't work. Von Braun called this pricing policy of paying only for successes "F.O.B. Orbit."

Passenger capability—Extra room in the Shuttle plane will enable several non-astronauts to go along, he said. Such passengers might be "anybody who could fly on an airliner," he said. In the past, Von Braun said, such a policy was impossible, "because we couldn't have any half-astronauts."

The only drawback to the Shuttle, from the pilots' viewpoint, is the fact that the returnable plane does not have the capability to make a second pass at its landing strip, he said.

However, he said, special computer controls and a 15,000-foot runway should solve any potential problems.

Von Braun also discussed current benefits being derived from NASA's unmanned Earth Resources Technology Satellites (ERTS). Existing data is being analyzed to survey crops, locate fish concentrations and search for deposits of minerals and oil.

Pinpointing the extent of a nation's natural resources has caused some developing countries to become "uneasy about others knowing how rich they are." Since the nation that controls the satellite is the one with the knowledge, there is a question about which countries to give the data to, he said.

"At the moment, our policy is to tell nobody," Von Braun said. "But that brings up the question why did we do it in the first place?"

He said the United Nations has formed special committees for such problems.

LATVIAN INDEPENDENCE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. WALSH. Mr. Speaker, on November 18, during our Thanksgiving recess, Americans of Latvian origin and Latvians all over the world observed the 55th anniversary of the declaration of Latvian independence in 1918. In that year, the Latvian people, after several centuries of foreign domination, finally had a chance to take their rightful place among the free nations of the world. A period of economic and cultural growth followed and the Latvians were able to enjoy the happiest period of their history as masters of their own state and carvers of their own destiny. In the first two decades the nation proved its ability to govern and became a responsible member of the community of nations.

However, this period of independence was brief. It was the invasion of Poland, resulting from the Molotov-Ribbentrop pact in August of 1939 that provided the springboard from which the Russian Communists launched their attack against the sovereignty of Latvia and the other Baltic States.

On June 17, 1940, the Russians presented Latvia with an ultimatum. This was followed by invasion, breaking the existing peace treaty of 1920 and the mutual assistance pact of 1939. Since that time the Russian domination and exploitation of the Baltic countries has represented the most flagrant case of Russian imperialism and colonialism in an age in which the principles of self-determination of nations prevails throughout the free world. Expropriation, exploitation, russification, suppression of human rights and fundamental freedoms and terrorism are the marks of Soviet occupation in Latvia.

Shortly after the annexation of Latvia, the Soviets perpetrated one of history's great frauds and held "elections" under the guns of the Red army. An incorporation of Latvia into the Soviet Union followed. To change a nation's constitution, while under occupation is a severe crime under international law. A year later, thousands of Latvians were deported to various parts of the Soviet Union, mainly Siberia. Supplementing the deportations, the Soviets pursued a policy of colonization of Latvia with Russians. This served as a method of changing the ethnic composition of the country.

Despite the captivity in which the Latvians now live, the Latvian people remain dedicated to the cause of the restoration of their freedom. There is still evidence that the desire for freedom along the Baltic persists even now, more than three decades after Stalin's shameless and brutal conquest.

The Government of the United States has refused to recognize the seizure and forced "incorporation" of Latvia, Lithuania, and Estonia by the Russians. This principle must be carried through in the European Security Conference. In this conference the Russian aim is to get a broad generalized declaration that would ratify the postwar division in Europe. The Americans and the other free nations shall never agree to such a declaration.

On the 55th anniversary of Latvian Independence Day, Latvians fervently appealed to the United States and the other governments and peoples of the free world for help in restoring freedom and independence to Latvia.

A MODEST PROPOSAL CONCERNING GASOLINE RATIONING

HON. BILL D. BURLISON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BURLISON of Missouri. Mr. Speaker, Dr. Robert J. Long of Southeast Missouri State University in my district has brought to my attention some thought provoking concepts relating to our fuel shortage and resultant rationing that may ensue. Below are his comments which I wish to share with my colleagues:

A MODEST PROPOSAL CONCERNING GASOLINE RATIONING

(By Robert J. Long, Ph. D.)

There are, at the present time, various proposals for gasoline rationing in the United States in the face of an apparent gasoline shortage and, that some action be taken pursuant to this problem, appears to be almost a certainty. It is therefore appropriate to mention some ideas on such rationing.

A great majority of non-socialist economists believe, consistent with their belief in the supremacy of the price system, that the price system is the best rationing device that exists. We maintain that uncontrolled prices will limit the amount of gasoline demanded by virtue of the income restraint of the buyers. Rationing becomes essential only when maximum prices are imposed upon a commodity and, further, that such price controls should be only a temporary measure. It is incidentally noted that, in general, a "black market" will tend to develop for such price controlled and rationed commodities.

The one thing generally noted about price controls and rationing of a positive nature is that such a system will prevent the limited amounts supplied from being bought almost exclusively by high income individuals. To a great extent, therefore, a ration system is aimed at "social justice" rather than the immediate need to reduce the consumption of the rationed commodity.

The fact that certain persons by reason of geographic location, occupation, and other factors affecting the amount of gasoline essential to the individual is not ignored. The World War II rationing system with its A, B, C, etc., stickers and associated ration books was designed to compensate for these factors.

The World War II system of gasoline rationing did not work completely without abuse and no system can be expected to work perfectly. Things have naturally changed in the many years since World War II and, with respect to some of these changes, any new rationing system should and can to some extent be reckoned with.

The first outstanding characteristic differing of modern times is the large number of better highways in existence. It is generally believed that the price we pay for public highways, like many public services, is not high enough. It would be rational for the government to substantially raise the gasoline excise tax. Allowing some normal market type rise in prices, this increased tax would prevent the oil companies from becoming the exclusive benefactors of such rising prices.

A second major change since World War II is the rise in the number of automobiles and the changed character of automobile engines. Some automobiles simply require more gasoline per mile to operate than do others.

It seems that a rationing system of a more modern nature, rather than a simple return to the World War II system, is in order. On the basis of sound automotive engineers' advise, all automobiles could be classified according to technological characteristics which affect their fuel consumption per mile. Assuming that the engineers could classify automobiles into three such classes, each automobile could then be assigned accordingly with a corresponding designation such as A, B, and C. This would to some extent correspond to the quality of gasoline required for the proper performance of such autos' engines. It could then be required that automobile owners purchase the class gasoline established for them or a higher grade.

Pursuant to the above and as a temporary measure, the price control board could set price ceilings and floors on the different grades of gasoline. However, the price ceilings could be set at a very high price with a significant differential in price between the grades of gasoline (for example $0.75 for the lowest grade, $1.25 for the middle grade and $2.00 for the highest grade).* Such a system would have little if no effect on the free-enterprise system of pricing and the economy could operate within the normal market framework.

Unfortunately some cases may have to be given special consideration such as increased allocations for those who must travel extensively in their work or decreased allocations for multi-car families where only one person is gainfully employed. In general, however, such a system would provide the necessary rationing within a framework more similar to the free market rather than one of a retreat to the outdated system of World War II.

EVIDENCE OF SOVIET MISSILE SUPERIORITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. KEMP. Mr. Speaker, Joseph Alsop, one of the Nation's most highly respected and consistently accurate commentators on defense strategies, has published an analysis, carried today as an editorial through the Los Angeles Times News syndicate, showing convincing evidence that the Soviet Union possesses an unmistakable superiority in offensive nuclear missiles.

There are several things distressing about what this article brings to the attention of this House and the Nation:

First, the United States, in a decade-long shift—from missile superiority, then to parity, then to sufficiency, then to inferiority—has sacrificed the most vital ingredient of preserving peace, that ingredient being adequate military preparedness through first strike capability. The deterrents to the Soviet Union launching a nuclear attack shrink in light of their superiority.

Second, while the United States followed the spirit and the letter of the SALT agreements, the Soviet Union violated both its spirit and letter by deploying five new types of intercontinental ballistic missiles.

Third, while we are continuing to negotiate an even more stringent arms limitation treaty, in good faith not violating the spirit or letter of even the first, the Soviet Union continues on a "business as usual" buildup of arms.

Fourth, the American people really have no idea of how bad our military posture is.

Mr. Speaker, I call this to the attention of my colleagues and the people of this Nation who understand well the lessons of history—that arms inferiority is not the road to peace.

The article follows:

[From the Washington Post, Nov. 28, 1973]

THE UNITED STATES-SOVIET MISSILE GAP

(By Joseph Alsop)

Readers who dare to give themselves a fairly ugly reality test are hereby invited to do so. You are not living in the real world of 1973, if you are either shocked or surprised by any of the following propositions.

First, the talk of Soviet strategic "parity" with this country is plain garbage. In nuclear strategic weapons, the Soviets are currently acquiring an enormous lead over the United States. If drastic measures are not taken soon, they will, in fact, enjoy potentially decisive nuclear-strategic superiority by the fairly early 1980s.

Second, the Soviet strategic lead mainly results from no less than five brand new intercontinental nuclear missiles, of far greater power and better design than those they had before. Two additional, still better new missiles are further predicted for testing in only two more years.

Third, for the above reasons, there was no foundation for the major American assumptions that made the first SALT agreement seem acceptable and safe.

If you are one of those who hold that the United States can prudently allow decisive nuclear-strategic superiority to pass to the Soviets, this is rather obviously a report to skip. For those who hold the contrary view, however, the foregoing propositions are easy enough to prove from facts no longer disputed, even within the more error-prone sectors of the U.S. intelligence community.

After the SALT agreement was safely signed and sealed, to begin with, the Soviets briskly began a long series of missile tests, which then revealed the new missiles they had been keeping up their sleeves. Each new land-based missile was thoughtfully designed to fit into the existing silos of one or another type of their existing missiles—thus circumventing the SALT rule against digging additional silos.

The SSX-16 will therefore replace the solid fueled SS-13. Either the SSX-17 or the SSX-19 will replace the Soviet Minuteman-type missile, the SSX-11. The SSX-18 will replace the Soviet monster-missile, the SS-9. Finally, there is the SSN-8, built for the new Soviet D-class nuclear submarine.

It is thought by many who think of such matters at all that the new missiles merely embody minor improvements on the missiles that they will replace. This again is garbage, but it is garbage with a highly significant origin. The error arises from the existence of permanent, ongoing design teams, who were responsible for the older missiles and have now produced the replacements.

The cost to the United States of maintaining so many competing design groups, all encouraged to produce prototypes of new missiles as often as they can make major advances, would be in the neighborhood of $7 billion per annum. Even in research and development in the strategic field, in sum, the Soviets are investing at a rate that shows the grimmest seriousness of purpose.

As for the new missiles themselves, the land-based ones are uniformly much more powerful than their predecessors, and all four are provided with MIRVed warheads. In all but one case—one of the two competing replacements for the SS-11—the great gain in power results from use of a "pop-up" launching system.

This permits the main rocket to ignite outside the silo, after the pop-up, which provides an immense gain in thrust for various technical reasons. With additional power thrust behind them, the new Soviet MIRVs are also radically different from our own MIRVed warheads. Ours have power that can be counted in kilotons, whereas the Soviet MIRVed warheads are all in the megaton range. Thus they are effective counter-force weapons—which ours are not.

Overall, deployment of the new missiles with their MIRVed warheads will increase the number of individually targetable Soviet warheads by somewhere between five and six times. As for the new sea-based SSN-8, finally, its novelty is its 4,000 mile range. This will allow nuclear submarines carrying this missile to lie in protected areas like the Bering Sea, there to lob their missiles at almost any major U.S. target with happy impunity.

The SALT assumptions were: a) that the Soviets would not get a sea-based missile with anything remotely resembling this range; b) that we had succeeded with MIRVing all our missiles, whereas the Soviets had failed; and c) that greater accuracy was another huge American advantage. The first and second assumptions have now proved dead wrong. And the third assumption about our accuracy is now meaningless, since it is canceled out by the vastly greater power of the Soviet warheads.

So there you have the facts. In a more rational America, these appalling facts would spur great national efforts. Instead, several members of the Senate Armed Forces Committee were downright angry when they were told the facts. They preferred no contact with the real world.

WHY ISN'T THERE MORE BLACK TELEVISION ON PUBLIC TELEVISION?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. RANGEL. Mr. Speaker, the only two programs on public television that are directed at a black audience have had their budgets slashed. "Soul," a quality black cultural program which has for 4 years enjoyed a national audience of over 7 million, has been canceled in favor of a pilot program dealing with various national races and cultures. "Black Journal," a program presenting black news and public affairs, has had its budget cut by one-half.

In essence, then, three-fourths of the total black programing of public television has been eliminated. Of $215,000,000 authorized for public television and radio "Black Journal," now reduced to six shows a year, received approximately $350,000.

Since blacks represent 20 percent of the total American population, I think public television has a responsibility to provide programing of interest to the black communities of this Nation.

Regarding this issue, Pamela Douglas has written an article for "The Black Scholar" analyzing the obstacles placed in the way of increased black programing on public television.

The article now follows:

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*Such figures are arbitrary and real differentials would have to be on a percentage basis.

[From the Black Scholar, September 1973]

BLACK TELEVISION: AVENUES OF POWER

(By Pamela Douglas)

(NOTE.—Pamela Douglas has written on media for Muhammad Speaks, the Sengstacke newspaper chain (Chicago Defender, Pittsburgh Courier, etc.), the Black Communicator, TV Guide, and other publications. Recently she has become Program Director at KVST–TV, an experiment in viewer-sponsored television in Los Angeles, due to begin broadcasting in September. She is also at work on a book on Black Television.)

Lately articles on minority access to television have begun appearing in some white periodicals. The impression given is that black efforts in television center on pestering powerful white institutions until they give up a little piece of the crust of the pie. Methods are said to range from begging to threatening and are intended to yield nothing more than a few jobs for a few minority-group people. This is not what the struggle is about now, and it has never been what the struggle is about.

In this article, we will try to set the record straight on a few of the prominent issues in black television. We will examine: public television, commercial television, black ownership of stations, cable television, and some projections for the future. Clearly, none of these subjects will be able to be dealt with in depth in this space, but the overview should at least provide a background for further discussion. In addition to the topics listed, at least four others which are vital will not be touched because justice could not be done to them in an article of this length. The omitted areas are: evaluation of specific programs both in terms of aesthetics and contents, including reviews of shows now on the air; issues for black children in children's television; regional and geographic problems and movements; and black communications organizations.

PUBLIC TELEVISION

The more than 30 million black people in the United States have already paid for public television and have long been owed a measure of control. It is owed to blacks because the public owns the airwaves; yet the air has been abused by stations that send signals over the black community aimed at whites on the periphery, rather than serving the black public. The second reason for the debt is that blacks have bought public television with their taxes. But despite the disproportionately high share of the taxes borne by black (and other poor) people, not one of the 230 public television stations has top black management, and of the 6,750 employees, only 14 "minority group" people (blacks, Spanish-surnamed or Orientals) are categorized as "officials and managers." In fact, the total minority employment had actually decreased from 12.1% in 1970 to 9.2% in 1972. In terms of programming, public television nationally carried one hour and a half per week of black shows (Soul! and Black Journal) out of all its broadcast hours.

The full racist implications of this "crumbs" approach to black people were ignored by the administrators of public television as well as by the legislators who hold the power of the purse over public broadcasting. So in the summer of 1973 while the white liberals fought their "noble" battle to re-fund public broadcasting against the Nixon administration forces, very little was said about public broadcasting's debt to minorities and poor people. As a result, one day before the Senate committee approved the appropriation of funds. the members of the Black Congressional Caucus issued a resounding denouncement. Speaking for the Black Caucus, Rep. William Clay (D-Mo.) urged the defeat of the bill unless amendments were added to make public television stations more reflective of minority group interests in both programming and staffing.

To bring public television into a meaningful relationship to the black public, supporters of Black Journal presented "The Black Plan" at the National Association of Educational Broadcasters Convention in Las Vegas on Oct. 21, 1972. The group wants 22% of all funds to go to programming produced by blacks (11% for local programs and 11% for national programs). They also propose that 80% of the 22% of the budget allocated go to black affairs programming other than entertainment or "culture."

But the implications are broader than a request for a percent of the money. Ultimately the move could lead to mass popular control with never a purchase, opting for a pure assertion of rights. Tony Brown, Executive Producer of Black Journal, said, "I really see public television as an alternative. I do not see commercial television as a sufficient alternative for blacks because we'll never gain complete access (in view of the methods of financing commercial tv) . . . Yet, because of the traditional lack of information about public TV, blacks are losing out. Blacks could control public television stations."

What is needed is mass popular education to awaken blacks to take possession of their property. Preventing the movement are a few hard realities: In some geographic locations, public television can not be seen without an elaborate antenna. Second is a general disgust with public TV fare because of all the programming that is boring and irrelevant to blacks (like chess matches and symphony concerts). Rather than taking action to support the black shows that are on and trying to change or remove the others, the whole network is greeted with resignation. And this touches the third point, which is the apathy borne of ignorance and despair that has stood in the way of many potential revolutions before this one.

Nevertheless, a movement of larger proportions than is ever recognized by the white media has taken root. To understand this, it must be understood that Black Journal is not a TV show. It is an organizational focus for a black ideology, the visible tip of the iceberg. Without question it is watched and enjoyed as a weekly show, but below the surface are the support groups ("Friends of Black Journal") organized not only to help keep the program on the air but importantly to spread a philosophy and to become viable in their own right on communications issues and local programming.

Evolving from the riots of the late sixties and the mandates of the Kerner Commission, Black Journal became the one and only national black affairs show on either public or commercial TV in 1968. In 1973 it is still the one and only national black affairs show. The only difference is that in 1973 the danger of its being taken off the air is worse than it's ever been, though the danger was always present.

Tony Brown amplified the historical context: "With the rebellion phase, black programming was born as a response. Whites became guilty-terrified, or terrified-guilty, so they came up with the concept of black programming as a pacification instrument. Now we are at a phase of real conservatism called 'benign neglect.' Now, black programming is not viable because we aren't supposed to talk about being oppressed. I'm becoming more and more convinced that we are going to be further behind than we were when we started with rebellions."

The specific threat takes two forms: local stations not carrying the show sent to them from the Public Broadcasting Service, and the national elimination of the show by the Corporation for Public Broadcasting (CPB), which funds a large percent of public television. In a number of cases, white station management would preview a Black Journal show and decide not to put it on because it did not agree with their own white philosophies. In some areas, stations have blacked out the show altogether, and a challenge to the licenses of public TV stations in Alabama is currently pending on this basis. Commissioner Hooks warned station managers, "You can no longer because of your own racism, decide on your own that you're not going to have Black Journal because you don't like it."

The attempted national elimination of the show was more complex because it involved the projected total reorganization of public broadcasting, as mandated by the Nixon administration. In the early fall of 1972, PBS (the Public Broadcasting Service) compiled its preliminary recommendations for what shows should be funded by CPB in the 1973–4 season. A confidential list divided all programs into four groups. Group I was what were called "programs with a proven record" for immediate funding. This included the children's shows like Sesame Street, Electric Circus, Mister Rogers, and so forth. Group II and Group III were considered shows with good ideas for which money should not be committed, but which should be held in reserve. Group IV were distant hopefuls. Soul! was listed in Group IV—meaning that if this plan had gone through, the show would have been taken off the air. Black Journal didn't even make Group IV. Instead it was heaped into a "no designation" category with other so-called "public affairs" programs.

The reality is simply that the Nixon administration does not want public funds to support shows which criticize it, or which dispute America's apple-pie image. So all "public affairs" shows are potentially dangerous because they might produce critical thought. Enhancing the argument against funding these shows is the pinching off of money to public broadcasting in general—also accomplished by the Nixon administration in its veto of the public broadcasting bill earlier in the year. So by November, 1972, it seemed that serious black programming was doomed, with Black Journal worse off than Soul!

But instead of yielding, a massive campaign on the part of black people in every area of the country was launched, and the real story is not the story of one television show, but the story of how massive public organization and pressure can bring results. Into the campaign went the national Black Congressional Caucus, the Urban League, and several other national organizations, but most of all individual people who sent letters, stood on picket lines, made long distance calls to Washington, and all in all presented a united front to keep their national program on the air.

In St. Louis, a group called ACTION picketed the law offices of the Chairman of the Board of the Corporation for Public Broadcasting. In New York, a coalition of 300 grassroots organizations, called Black Citizens for Fair Media, issued a statement. "If Black Journal is in danger, all our other black programs are in danger. It's like the kingpin in bowling. When the kingpin is knocked down, the other pins will fall . . ." And this sentiment echoed in letters from blacks who had never participated in an effort like this before.

The result came in early January. The Board of the Corporation was meeting in Washington, with no intention to re-fund the show that day, and pickets appeared, chanting, outside the office. That very day, before any other renewals were announced, the Corporation refunded Black Journal. The New York Times reported "According to the CPB, Black Journal was renewed by the board on the basis of the show's popularity, mail from the viewers, and the recognition of the need for minority programming." No question remained that the power of the people was the only force that got the show renewed. (Despite this initial victory, Black

Journal's budget was subsequently reduced by more than one-half, so that its programming will be severely curtailed this Fall.)

No sooner was the Black Journal battle won, than it was discovered that Soul! was cancelled. Perhaps in faith that the high artistic quality of the show would speak for itself, the administration of the show didn't wage the massive political battle that won Black Journal its life. And thus the hard lesson was learned again: the forces in power respond only to power. Tremendous white power responded to tremendous black power in the case of Black Journal. The white power structure again showed itself unconcerned for the development of a black aesthetic or for giving black people diversity in programming.

At this writing, two token "Soul Specials" are planned for the 1973–74 season. But perhaps even by the date this is published the response of masses of black people could still help the show.

The power in public television, especially for blacks, resides truly in the pressure that masses of black people can apply. Black Journal is on the air in 1973 because of this. The question is not money. At stake is control over our public institutions. And the odds for public television in the next few years could well be all or nothing.

HON. GERALD R. FORD'S FINE SPEECH ON ISRAEL

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. GROVER. Mr. Speaker, it was my honor both to arrange for his attendance and to introduce our distinguished minority leader and Vice-President-designate at the United Jewish Appeal "Dinner for Life" at the Colonie Hill Restaurant in my district this past Monday.

The reception given GERRY FORD was one of the most cordial ever, and his words were received with warmth and enthusiasm.

I am pleased to submit for the RECORD his fine address:

ADDRESS ON ISRAEL

Ladies and gentlemen, it is a special pleasure to address you at a time when the world seems finally ready, after so many tragic years of bloodshed and senseless procrastination, to acknowledge an unavoidable reality.

That reality is the reality of Israel's existence. The United States has worked long and hard—and often alone—to uphold Israel's security. In the peace negotiations that are at long last about to begin between Israel and the Arabs, we will continue to support Israel's existence and her right to live in security.

The relationship between the United States and Israel has always been a unique one, and as I worked on these remarks I tried to come to some conclusions about why this should be so. I think I've come up with at least a partial answer, an answer involving the Bible, a poet, a statue, and the work the UJA is doing to assist Russian emigrants. The plight of Soviet Jewry, incidentally, is one that has long concerned me, and I'm sure some of you here tonight remember that I addressed this subject at a rally for Soviet Jewry in Madison Square Garden in 1971.

The passage in the Bible to which I referred comes from Isaiah. I'd like to read a few brief excerpts. According to the prophet, the mission of Israel was, and I quote, ". . . to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free . . . to deal thy bread to the hungry and . . . bring the poor that are cast out to thy house . . . Then shall this light break forth as the morning . . ."

As you are well aware, the historical parallels between our age and the age of Isaiah are striking. Then, as now, for example, the Jewish people were returning to Zion to rebuild their nation.

But there is another contemporary historic parallel that I find even more striking. Listen to the following lines, ladies and gentlemen. I am sure you know them by heart.

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, the tempest-tossed to me:
I lift up my lamp beside the golden door.

Those are, of course, the famous lines engraved on the pedestal of the greatest symbol of human freedom in the world—the Statue of Liberty. They are also the closing lines of a poem that celebrates America as the haven for the world's oppressed. The poem is entitled "The New Colossus." The author was Emma Lazarus, a Jewish woman who organized relief for Jewish refugees who had fled the oppression of 19th century Russia.

The ring of Isaiah is in those lines. I think those words on the Statue of Liberty capture the essential spirit of both America and Israel—almost uniquely among the nations of the world—havens for the persecuted, the homeless, the oppressed.

And it is because of this unique common tradition, I believe, that the bonds between America and Israel are so very close. There is no contradiction whatsoever between the support you offer to Israel and the loyalty you feel toward America.

There are many of you in this audience tonight whose parents came to these shores fleeing oppression. Some of you came under those conditions yourselves. And as you all know, the accomplishments of the UJA in assisting such immigrants have been nothing short of phenomenal. And what you and your parents found here was something you could not find in the nations you left—the promise that you could rise just as high and travel just as far as your abilities and dedication could carry you.

All of you here tonight have realized that promise, and your lives are tangible testimonials to a very simple but often overlooked truth—the American system is alive and healthy. The system does work. You have proved that it works.

Still another truth about our society is that it is diverse, a pluralistic society strengthened socially and culturally by the beliefs and customs of the various nationalities and religions that found sanctuary and opportunity here.

The melting pot theory still holds. The melting process, of course, distills different social and philosophic views down into common national goals and purposes. That melting process should not, however, attempt to boil out those unique things we bring to America as members of distinct cultural groups, qualities which help to enrich our society as a whole.

Too often, I believe, we stress the sameness, the homogeneity of American life while ignoring the healthy differences and variations that give such richness to the American fabric.

The texture of our Nation, which has contributed to its unparalleled greatness, comes from many ethnic, religious and nationality strains. America, as we know it and love it, is like a good soup. Its full flavor comes from the blending of many ingredients.

Yet from many quarters we hear a great deal of talk about assimilation—especially from the younger generation. And, of course, it is necessary that we should be alike in some ways—in our standard of justice, our concept of democratic government, our common ideal of liberty and freedom.

But, we must also recognize that we can pay too high a price for sameness. We can make our soup bland. There are differences that we cannot afford to lose.

I do not like to believe and do not concede that in this country we have Italian-Americans, Irish-Americans, Afro-Americans or Jewish-Americans because the hyphen implies that different groups should be treated differently. This is wrong.

On the other hand, it is necessary to understand that different groups have added immeasurably to American life because they *are* different. Out of their differences have grown ideas, a fuller cultural life, and a more interesting and stimulating America. Our national outlook is broader; our character stiffer.

Rather than question in any way those who feel deep emotional ties to other countries—whether it be Israel or Ireland or Italy or Africa—we should salute this as a manifestation of the genius of our Nation. This is part of what we call Americanism. It is one of the things that make both Israel and America unique in the world. The beauty of Joseph's coat was that it was of many colors.

It is perfectly possible for Americans to hold on proudly to the best elements of their different national heritages—and yet be united in common love for our country. And let me add here that no single group of Americans has been more steadfast in standing up for our country than our Jewish citizens.

Finally, ladies and gentlemen, let me mention one more basic American quality, perhaps the finest of all—the willingness to sacrifice to help your fellow man.

It's an old concept, one of the finest embodied in the Judeo-Christian tradition, the concept of charity. And perhaps no group in America has more distinguished itself for its generosity and its philanthropy than the American Jewish community. The Greek root of the term "philanthropy" means love of mankind. And I know of no people who better personify this love than those who give to the United Jewish Appeal.

You can take profound pride in your record. Since 1938, UJA funds have saved over 3 million lives and have helped make possible the transformation of Israel into a dynamic and progressive land.

As you all know, the recent fighting in the Middle East took a tragic toll. In fact, given population ratios, the number of Israelis who died each day during the recent fighting was equivalent to approximately 7,000 American deaths per day. Thus your efforts to help Israel "bind up the wounds of war" seem especially appropriate at this moment in history.

At the same time, other needs also press in Israel. For example, immigration to Israel continues and spending on immigration alone was over $1 billion before the hostilities broke out.

This is a time of testing, and the road ahead will not be an easy one. But for the first time in decades, the road does seem passable with some of the roadblocks removed. This Administration has spent five years in attempting to clear away international obstructions to peace by building bridges to those nations with whom we once had no dialogue.

And the indications are that now such bridge building may be possible between Tel

Aviv, Cairo, and Damascus. Perhaps finally the way may be clear. Richard Tucker has given us an inspirational rendition of the Israeli national anthem here tonight, and it is in the closing lines of that anthem that we find the hope of the future expressed so clearly:

"The hope of two thousand years, To be a free people in our land, In the land of Zion . . ."

Ladies and gentlemen, I believe we will make that hope a reality.

And so I salute you—salute you for your support of a worthwhile cause—and salute you, my fellow Americans, because you have unselfishly helped pave the road to self-reliance for the people of Israel. With pride you can say you have played a major role in Israel's progress. With your head high, you know you have personally shared in an enterprise of historic significance for the survival of the Jewish people and of the spirit of human freedom and dignity to which it is dedicated. Shalom.

NEPTUNE RICHARDS, A VETERAN CRICKET PLAYER RECALLS EARLY DAYS OF CENTURY

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. de LUGO. Mr. Speaker, in visiting the Virgin Islands, many of my colleagues have had the opportunity to observe and understand the culture of my island home. The greatest insight into a people, however, can be provided through the experiences and recollections of a lifelong native. One of these representative citizens, and a valued friend of mine, is "Captain" Halvor Neptune Richards.

In his youth, Captain Richards found time from his long hours of farm work to become a renowned cricket player on St. John. At 77, he remains vigorously active on the farm he has owned for 30 years. In November, Halvor and his wife, Florence, were feted by the St. John Pioneer Benevolent Society. This honor was noted with an interview published in the local newsletter. The opinions and reminiscences of this colorful gentleman reveal some of the character and spirit of the typical St. Johnian.

The article from the November 2, 1973 issue of the St. John Drum follows:

Veteran Cricket Player Recalls Early Days of Century

(By Janet Boyte)

Talking with Neptune Richards is like leafing through the pages of a picture album revealing fascinating bygone scenes of life on St. John. At 77 years of age, Halvor Neptune Richards is the oldest ace cricketer left on the island, and remembers when the captain of the St. John team "would go no place to play without me." Thus it is fitting that the Pioneer Benevolent Society should honor him and his wife, Florence, with a dinner and dance Nov. 2.

Not only is Mr. Richards the oldest surviving cricket player, but he is the last operator of a large farm. Still vigorous and sturdy, he raises livestock and grows a few crops on the Susannaberg estate of more than 100 acres which he bought some 30 years ago. Eyeing the visitor with a steady gaze, he reminisces about the St. John he knew long ago. He was born at "Big Cruz Bay", as it was then called. As a boy he worked long hours pasturing cattle for various landowners, often "making pasture" with a cutlass to provide good guinea grass for grazing. For some years he worked at Lameshur, when large herds grazed on the slopes, lime trees yielded a regular harvest, and the fields ran up Bordeaux Mountain into the bay forest which produced leaves for Ernest Marsh's Carolina distillery.

"Young people nowadays don't know what it is to work," in Mr. Richards opinion. "I worked for $6 a month in those days." St. John raised cattle, horses, mules and donkeys, which were shipped to other islands. "Travel was by sail then," he points out, recalling that St. John had its own shipbuilders. "There were shipbuilders at East End—the Roberts family, Allen Smith, and Amos Sullivan; he was the last shipbuilder on the island."

In the early 1900's, St. John was a self-sufficient place. Land transportation was by mule and donkey, and people raised their own food. Meat was preserved by salting it, and was soaked before cooking. "Plenty of tanias, yams, pumpkins and cassava grew here. There were big fields of pineapple at Cinnamon Bay." Mr. Richards is particularly fond of cassava bread, and raises a little cassava himself to be sure of a supply. "In the old days, people kept cassava bread in a barrel, and it was a pleasure for them to give some to visitors. They had a demijohn or two of guavaberry rum to offer friends who stopped by."

In those independent days people depended on "bush medicine," an art in which Mrs. Richards is highly skilled. "People had to be their own doctors, and their bush medicine was great," Mr. Richards affirms. The eight Richards children were brought up on beneficial bush teas and poultices which their mother prepared.

St. John like the British Virgins, provided charcoal for St. Thomas and St. Croix housewives to use in cooking. But making it was hard work. "You began hungry and you ended hungry." Mr. Richards says, with the charcoal selling for 30 cents a bag. During Prohibition, charcoal was particularly in demand in Puerto Rico, where farmers made rum "in the bushes" and used charcoal because it did not smoke and reveal their operations. "Charcoal burning helped out in hard times," Mr. Richards says, describing the all-but-forgotten art of cutting, cleaning and packing the wood in a "coal pit", then "bushing it over," "dirting it over," and checking it daily to determine when it was ready for use.

In the difficult Depression years, Mr. Richards was foreman in the Civilian Conservation Corps which built various roads in the Coral Bay area. Like many another young St. Johnian, he went to St. Thomas for better job opportunites at one time. There he worked as a milkman, getting up at three a.m. or earlier to milk and water the cows. Finally a four-months' bout with typhoid fever persuaded him to "come home," and he has always been glad of his decision.

The Susannaberg estate, purchased from the Christiansen family in St. Thomas, has many reminders of "slavery days," including its old windmill, stone cistern, and, beneath a venerable tamarind tree, the graves of estate owners who once lived there. In addition to some 30 pigs, 50 head of cattle, plus goats and chickens, Mr. Richards has peabirds, originally obtained from Mrs. Ethel McCulley. Currently the peahen is followed about by three husky young chicks who have survived predatory mongoose and thrushee.

One Susannaberg landmark along Centerline Road is the old orchard, where the cows graze, and soursops, sugar apples and custard apples still flourish. Soursops are a great favorite of his and if Mr. Richards wakes up during the night, he raids the refrigerator for a glass of soursop juice.

The "old sport" who is to be honored by the Pioneers has had a good life on St. John, although he says most of his friends now "have gone home". Looking with calm, knowing eyes across the long vista to Turtle Bay, he chuckles, "Sports still give me the most fun I get in life." Rarely does he miss a softball or cricket match in Cruz Bay Ball Park and when he is at home he spends his spare hours watching the games on television.

PRESERVE VISIBLE MEMORIES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BRADEMAS. Mr. Speaker, I insert in the Record an editorial, "Preserve Visible Memories," published in the November 6, 1973, issue of the La Porte, Ind., Herald-Argus.

The editorial stresses the importance that communities throughout the United States should attach to the preservation of historical landmarks

The editorial follows:.

Preserve Visible Memories

We suggest that one of the prime objectives our Bicentennial commissions might set in preparing for 1976 is the preservation of historical landmarks in every community across the country.

These are vanishing like flies at the first hint of cold weather. The National Trust for Historic Preservation, a Washington-based group dedicated to saving the nation's priceless heritage, has documented the fact that over a third of America's registered historic landmarks have been destroyed over the past 40 years.

We can be thankful that an official national body has been organized in an effort to halt the thoughtless razing of landmarks that should have been preserved for the edification of future generations.

At one time the Trust and Historic Preservation group compiled and registered 16,000 landmarks in the country and classified them as official historical sites. A third of these have disappeared.

Some had genuine architectural significance. Others represented priceless Americana. Still others marked the sites of important events in American history.

Most of those structures that no longer exist were victimized by the well-known bulldozer. There are legitimate reasons for effacing some of these landmarks, but more often than not little or no effort was made to determine if they could be converted to a useful purpose.

We fail to use our imagination. Landmarks can be moved if changes dictate better use of a given site. As a matter of fact, it is frequently necessary to relocate a memorable structure in order to make it more available to the public—or to preserve it from the ravages of elements, both natural and manmade.

Many times, historians say, there are no available organizations or individuals in a given community knowledgeable or interested enough in the community's past to identify a landmark for preservation.

Authorities are emphasizing the great importance of historical societies to the community. LaPorte owes a debt of gratitude to its local historical organization for being active and determined to preserve the several footstones that remain in this community and in LaPorte county.

Changes in the face of America's urban areas have resulted in a heavy toll for historic edifices. Many are located in run-down ghettos of the big cities. Others have fallen to the necessity of modernizing downtowns of cities large and small.

An example here would be the site of the old Fairview hospital building, Pine Lake and Weller avenues. The building has been altered, but the location once was famous as Dr. Collins' sanitorium, and holds real historical significance.

The chances are this site will fall to commercial development and the changing patterns of community growth. We respect the fact of changing commercial requirements; but urge and plead for site preservation wherever possible.

LaPorte is blessed with a fine historical museum. Many communities are not.

With the nation's Bicentennial approaching in 1976, LaPorte, and every community, should become more conscious of its history and campaign to save visible memories of the significant past.

How else are future generations to see and comprehend the glorious America that was, is, and remains yet to be.

A THANKSGIVING GIFT FROM THE CITY OF MARENGO

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. McCLORY. Mr. Speaker, one of my distinguished constituents, the Honorable Raymond S. Clemens, mayor of the city of Marengo, communicated a Thanksgiving message to President Nixon. This message set forth many reasons for offering thanks at this season, praised the President for his many years of public service, and cited some of the special contributions which he has made in behalf of our Nation.

Sent to me by Alderman Allen W. Krech of Marengo, this eloquent and heartfelt message—entitled "A Thanksgiving Gift From the Mayor of Marengo"—reads as follows:

Each of us has his or her own personal reason for giving thanks during this holiday season.

Naturally, we all conjure the mental pictures of our country's first Americans and their Thanksgiving: the Indians—the Pilgrims—the Feast.

But, it has occurred to me and I hope you don't mind, that collectively, we might give thanks to a present day American.

A man who has devoted the majority of his adult years to public service.

A self-made man who is a Quaker, yet served this country during World War II.

A man, like Lincoln, who has known defeat, who has been misunderstood, misrepresented and personally maligned, yet had the courage to face his countrymen.

A man who has snatched our soldiers and prisoners of war from Vietnam to bring peace to this country for the first time in twelve years.

A man who despised the Communist philosophy, argued with Khrushchev, and later with mature judgment made important negotiations with major Communist countries.

A man who is ridiculed for inflation in America when the rest of the free world is combating an even worse upward spiral.

A man who had confidence and trust in his subordinates and friends. When these trusts and confidences were broken, he suffered the agonies of misjudgment and has come to realize that he must assume the blame.

Richard Milhous Nixon happens to be our President on this Thanksgiving 1973. Whether we are Democrats or Republicans, Conservative or Liberals—let us be grateful that Watergate has taken place.

From this purge or catharsis better government must come forth.

Let us be thankful and forgiving.

Remember, to err is human, to forgive divine.

My personal best wishes to all of you.

RAYMOND S. CLEMENS,
Mayor, City of Marengo.

NATIONAL FARM WIFE MONTH

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. ROY. Mr. Speaker, November is "National Farm Wife Month." I cannot think of any group more deserving of such an honor.

I have had a special respect and admiration for farm wives since a delegation representing the United Farm Wives visited Washington in April. These Kansas women were concerned about an ill-conceived effort to roll back the price of red meat and raw agricultural products and came to Washington to tell their story.

I arranged for the United Farm Wives to meet with the press and other Members of Congress. They relayed the problems of the farmer-rancher, and relayed them well.

During the 2-day visit of the Kansas farm wives, I had the opportunity to speak with each of them. I was—and am—impressed by their dedication, intelligence, and concern. I look forward to working with the United Farm Wives in the future.

I would like to call to the attention of my colleagues the following proclamation: "National Farm Wife Month":

NATIONAL FARM WIFE MONTH

(A Proclamation by the Secretary of Agriculture)

Whereas the farm women of America have made outstanding contributions to the welfare of this nation through their dedication to agriculture and its productive goals, and

Whereas these farm wives are truly partners to their husbands in the industry that feeds the world, and

Whereas farm wives have continually set outstanding examples as mothers, homemakers, community leaders, and church workers,

Therefore, in an effort to direct deserved public awareness to the farm wife's vital role in the strength, health, and future of this nation,

I hereby proclaim the month of November 1973 as "National Farm Wife Month" in recognition and appreciation of her unselfish contributions to the well being of our society.

EARL L. BUTZ,
Secretary

PUBLIC OR PERISH

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. RAILSBACK. Mr. Speaker, recently I had the opportunity to review an article written by A. B. Villanueva, professor of political science at Western Illinois University in Macomb, Ill. His article describes the in-service training seminars held at WIU in the fall of 1972. While he explains how such seminars provide a sound investment in personnel development, Professor Villanueva also presents some very thought-provoking questions.

For the review of my colleagues, I insert the following article in the RECORD at this point:

REFLECTION ON IN-SERVICE TRAINING OF CITY HALL SUPERVISORS

(By A. B. Villanueva)

1. INTRODUCTION

Inspired by the Intergovernmental Personnel Act of 1970 and spurred by the enthusiasm of "moon-lighting" college professors whose philosophy is "public or perish", instead of "publish or perish", a number of local government employees have participated in in-service training seminars to upgrade their supervisory skills and to enhance their professional development. In this article, a number of issues regarding in-service training will be reflected upon including some effects of in-service training upon the job performance of both supervisors and their subordinates, some reactions of supervisors to various aspects of in-service training, and some improvements I will propose to make in-service training programs more effective, relevant, and responsive to the problems of our time.

2. TYPES OF IN-SERVICE TRAINING

In-service training programs vary in format and objective, in scope and nature, and in employee participation and teaching technique. Some programs are like college courses offered through extension divisions of universities with academic credits, taught by college professors on or off-campus at night, and lead towards a certificate or associate degree in public administration. Others are short-term institutes or workshops varying in length from one day to one week. Still others are seminars offered at night in council chambers of city halls where college professors from neighboring institutions of higher learning are hired to moderate these seminars for at least one to two hours once a week during an academic quarter or semester in order to fit into the professor's teaching schedule. The certificate program in public administration offered jointly by the Extension Division and the former Public Administration Center of the University of Minnesota is a good example of the first; the Executive Seminar Centers of the U.S. Civil Service Commission at Berkeley, California and Kingspoint, New York are excellent examples of the second; and the regional plan for in-service training program for local government supervisors in the West Central Illinois region is the leading prototype of the third. Most of what are going to be discussed in this article will be reflections on the third which, for our present purpose, will be referred to as the West Central Illinois Plan.

The so-called West Central Illinois Plan is a regional and cooperative project of three small cities situated in the former military tract in the State of Illinois. Two of these cities (Macomb, population: 19,643, and Bushnell, population: 3,703) are rural while the third is urban (Rock Island, population: 50,166) and is one of the cities that make up one of the bi-state metropolitan regions in the nation. The plan was designed by the Institute For Rural, Regional and Community studies, a special organizational unit of Western Illinois University, which helped the three cities obtain IPA grant from the U.S. Civil Service Commission. When the regional office of the Commission announced approval of the grant in the summer of 1972, the Institute played a major role in coordinating the seminars, recruiting moderators, doing all the "spade-work" and putting all the "nuts and bolts" of the seminars because the Institute was later designated as the "prime contractor" to implement the program.

The whole program consisted of two parts. The first part includes a series of ten seminars on supervision which were held in council chambers in the city halls of Macomb, Bushnell and Rock Island. Each seminar was held once a week from 7:00 P.M. to 9:00 P.M. during which various problems of supervision were discussed under the guidance of two political science professors teaching public administration at Western Illinois University. The roles which these moderators played in these seminars were those of a discussion leader and an umpire, rather than an instructor or lecturer because of the nature of the seminar participants who prefer a group discussion of practical problems of supervision related to their jobs to a lecture on organization theory or management science. In these roles, the moderators led the seminar participants in discussing, analyzing and examining various administrative practices that will help them become better supervisors. The ICMA manual on Effective Supervisory Practices, which consists of 15 small bulletins, was used as a basic text and its short case studies at the end of each bulletin serve as the basis of group discussion.

The second part of the program was a one-day workshop which dealt with the subject of equal employment opportunity and the role of the supervisor in bringing about its goals. All seminar participants drove to the campus of Western Illinois University on December 16, 1972, to see a motion picture in which a group of supervisors discussed some forms of job discrimination due to institutional practices and behavior built into the present system of merit employment which were considered culturally biased and racially discriminatory against minorities. Forty supervisors who attended this workshop were broken up into four different groups and assigned to four separate conference rooms after the show was over. To each of these groups was assigned a political science professor from Western Illinois University and served as discussion leader. The four professors who were selected and coordinated by the Institute's Director led the groups in reacting to and commenting on the film. After a two hour "rap session" the four groups got together at luncheon time to listen to a brief discussion of the salient features of the 1972 Equal Employment Opportunity Act by Congressman Tom Railsback (R., Illinois).

3. EFFECTS OF THE SEMINARS ON SUPERVISORS AND SUBORDINATES

About a month after the seminars and the workshop were completed, a structured questionnaire was mailed by the Institute to those who participated. In each questionnaire, all participants were asked to describe the extent to which they felt their supervisory abilities have changed as a result of their participation in the seminars. Of the 28 who completed and returned the survey questionnaires, it was the general feeling of the respondents that the seminars produced some positive results. As Table I shows most of the respondents felt that their supervisory skills have become better especially when it comes to providing leadership to their subordinates, practicing public relations, organizing and managing work, and improving work methods. On the other hand, some respondents indicated that evaluating worker performance, maintaining and developing discipline, and planning and organizing work are major areas in which they noticed no changes in their work performance at all.

Seminar participants were also asked if they have noticed any effect in the job performance of their subordinate employees as a result of their participation in the seminars. In Table 2, most of the respondents reported that there were two areas in which the performance behavior of their subordinates have improved: 1) their attitudes and morale, and 2) their concern for housekeeping. However, there were also areas in which the respondents found very little change in their subordinates' performance behavior such as their promptness in reporting to work, the regularity of their work attendance, and the reduction in employee turnover.

4. SEMINAR CRITIQUE

One part of the questionnaire contains an open-ended question in which respondents were asked to write a critique of the seminar including their comments and criticisms on the text that was used, the cases that were discussed, and the group discussion that was employed as a device in conducting seminars of this nature. As the saying goes, the respondents "told it like it was" by writing their reactions in varying degrees of compliments, objectivity, and condemnation. Fourteen of the respondents wrote positive reactions to the entire seminars, while five expressed marginal views and six were very critical of the whole thing.

Positive reactions

One of those who thought the seminars were worthwhile stated that "it does help in many ways of understanding the problems of other employees in their field of work, to learn other methods from people you work with and to share workload with each other." Another satisfied participant wrote, "For all practical purposes . . . it helped greatly to promote the supervisors' insight and job perspective. . . ." In more specific terms, the same respondent said, "I am more aware of and am attempting to improve my shortcomings in providing leadership to my subordinates, in handling employee complaints and grievances," and in broadening "my views on organization and management." Other respondens agreed that the whole seminars were productive because the participants gained the following benefits:

The opportunity to "learn not only from the materials presented but from the experiences of the people involved";

"An excellent refresher course and brought to the fore the numerous shortcomings we develop without realizing them as we grow older";

"Planning and organizing our work and keeping better records";

"Some inspiration on employee handling and work dispersement"; and

"How to handle my job better and still maintain working conditions with my men and the public."

Marginal reactions

Five of the respondents felt that although the seminars were instructive, productive, and informative and that they learned a great deal, they had some reservations about the outcome and value of the seminars to them. One reason cited was the fact that the problems brought out in the case studies apply to big cities like Chicago but not to small ones like Bushnell. The second reason was related to the first: "the training seminars would be of greater help to larger departments with more personnel." The third reason was attributed to "the discussion of subjects unrelated to [our] particular city set-up" such as collective bargaining and job discrimination "which we do not have and other big city operations." The fourth reason was partly due to the text which was thought to be "somewhat biased in favor of the employer." The cases at the end of each bulletin were believed to suffer from limited information and unstated assumptions which made the drawing of conclusions a bit difficult. On balance, however, those who expressed marginal views generally considered the text as good and interesting. In the words of one of these respondents, "the text did present each category reasonably well."

Critical reactions

Six respondents were critical of the seminars mostly because of the nature of the case studies described and presented in the bulletins. First of all, according to one of the critics, the case studies were suitable only to lower level supervisors "such as shop foremen or head janitors" and not to higher level supervisors such as department heads. Secondly, very little time was spent on discussions of problems relating to minority employment largely due to the fact that the case studies in the ICMA manual were written without reference to the problems of disadvantaged groups in the public service. Thirdly, some of the case studies are oversimplifications and most of the questions following each case were vague, ambiguous and sometimes overlap one another as a consequence of which "most of the time was spent discussing the meaning of the questions and not arriving at answers" or skipping two or more of these questions because they appear to be asking the same thing.

Fourthly, most of the case studies were regarded as insignificant, since they are not relevant to contemporary problems of local governments with some minority employees such as blacks, chicanos and women. Fifthly, the group discussion method of handling the seminar was not looked upon as an appropriate teaching method for some of the participants who were college graduates who are now occupying staff positions in city hall such as administrative assistants to the city manager or heads of administrative city departments. Finally, one of the cases irritated one respondent who condemned the case as an "understatement." The case in point was discussed in Bulletin 9, page 3, paragraph 1c in which a supervisor was given a piece of advice as follows: "Watch yourself! Maybe you think you don't like Jews, Negroes, or Italians, but you can never be a good supervisor if you have this kind of bias or prejudice for anyone." To which the respondent shot back: "This seemingly harmless, good intentioned bit of advice sounds fine for the first time around, but the author seems to be assuming that Jews, Negroes, or Italians won't be found in supervisory positions. Why didn't he advise the Black, the Jew, or the Italian supervisor not to fall into the trap? It can't be 'explained away' by saying the author didn't imply anything subtle; overtones are there."

5. CONCLUSION

In-service training programs such as those seminars held in Western Illinois in the fall of 1972 undoubtedly are sound investments in personnel development. They produce dividends both to supervisors and their subordinates. They have a multiplier effect for they give employees who take part in these programs the opportunity to keep abreast with developments in the political environment in which local governments operate. Furthermore, they help to develop and to sharpen the skills of the supervisor in dealing with controversial and touchy issues such as public employee militancy, affirmative action programs required by HEW under the 1972 EEO Act, and productivity in government. Moreover, participants to in-service training programs, as Tables 1 and 2 show, could improve some aspects of supervisor and subordinates' work performance.

The case approach used in the bulletins of the ICMA manual has proved to be a valuable teaching technique in stimulating group discussions, problem-solving, and decision-making. However, most of the criticisms about the cases in the manual are legitimate ones. In spite of such criticisms, it is my opinion that there is value in the case method both as a teaching and as a research tool in public administration. The case method has its own weaknesses in that it cannot formulate a theory but it can check whether a theory is empirically supportable or not. So, if the ICMA is to be updated, it should not abandon the case method. Rather, it should use the case approach to illustrate the problems most people are talking about these days: equal employment opportunity for minorities and women, affirmative action programs to achieve EEO goals, and collective bargaining in public employment.

If in-service training is going to bring about the benefits it is capable of giving the process of selecting the training participants must be used just like a fine tooth comb so as to separate the "non-coms" from the "generals". What kind of employees should participate? For what are they being trained for? How can they be encouraged to attend all seminars as regularly as a young man with romantic aspirations dates his sweetheart? What preventive measures should be used to reduce the number of "class skippers"? What incentives can a city offer in order to encourage more employee enthusiasm in personnel development, stimulate greater employee involvement, and attract more teachers from academia who, while engaged in publishing and teaching, can also share the benefits of their wisdom, experience, and research to public employees upon whose shoulders the delivery and quality of public services fall?

TABLE 1

[Based on your readings, discussions and analyses of various phases of supervision during the 10-week seminar on effective supervisory practices, please describe the extent to which you feel your job-behavior has changed since the completion of the seminar]

Supervisory performance ability	Changes in supervisor's performance behavior				
	Better	No change	Worse	Don't know	Total
1. Your ability to provide leadership to your subordinates	19	8	0	1	28
2. Your concept of organization and management	18	10	0	0	28
3. Your planning and organizing the work	13	13	0	2	28
4. Your ability to direct the work force	15	11	0	2	28
5. Your improving work methods	18	11	0	4	28
6. Your selection and orientation of employees	10	12	0	6	28
7. Your developing and maintaining discipline	10	19	0	4	28
8. Your counseling of employees with emotional problems	6	11	0	11	28
9. Your handling of employee complaints and grievances	12	10	0	6	28
10. Your evaluating worker performance	10	14	0	4	28
11. Your public relations	19	7	0	2	28

TABLE 2

[Based upon the following results, please describe the changes you have noticed in subordinate employees under your supervision since your participation in the 10-week seminar]

Subordinates' attitudes, performance and behavior	Changes in subordinates				
	Better	No change	Worse	Don't know	Total
1. Quality of employee performance	9	16	0	3	28
2. Attitude and morale	13	13	0	2	28
3. Employee concern for housekeeping	11	13	0	4	28
4. Employee promptness	5	19	0	4	28
5. Employee attendance	5	19	0	4	28
6. Employee turnover	1	23	0	4	28

SOVIET JEWRY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. PEYSER. Mr. Speaker, even as we meet here today the terrible suffering and persecution of Soviet Jews continues in Russia. These Jews are, as much as ever, subject to harassment and intimidation by Russian authorities. The latest round of semiofficial persecution occurred this month throughout Russia in a series of "trials" for purported crimes by Jews.

One such victim is Leonid Zabilishensky, an activist in the small Jewish community of Sverlovsk. He had applied for an exit visa back in November 1971; he has yet to receive it. He is now under investigation for "parasitism," due to the fact that he has not been able to find employment. Police have apparently searched his apartment and confiscated bank records.

Aleksandr Feldman, who also applied for an exit visa 2 years ago, had his apartment in Kiev searched on October 18 and shortly thereafter "disappeared." He is apparently in custody and has been charged with "hooliganism." Feldman is alleged to have beaten an unidentified old woman. A Kiev newspaper accused him of the attack and consequently judged him "guilty" before any trial. So far, no lawyer has agreed to defend Feldman against the charges.

Mr. Speaker, cases such as these point up what happens to dissident Jews or those who want to leave the Soviet Union. These Jews are denied jobs, have their homes thoroughly searched, are unable to get lawyers, and see their families suffer as well. Many more Jews would apply for exit visas were it not for the fact that those who do go through years of terrible suffering and anxiety.

Russia cannot expect to receive most-favored-nation status in trade matters if such treatment continues. We must not grant special favors to a nation that refuses to allow its citizens to emigrate and harasses them when they remain. If our détente with the Soviet Union is to continue, it cannot be at the price of the loss of basic human rights and dignity.

PROGRESS IN CANCER TREATMENT

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. SHRIVER. Mr. Speaker, those of us who have served in Congress during the last decade have seen a growth in Federal spending for cancer research from next to nothing to more than a half billion dollars annually. Many forms of cancer still plague us, but notable progress has been made in finding ways to treat these diseases. Under leave to extend my remarks, I am enclosing an informative article entitled "Progress In Cancer Treatment," which appeared in the October 1973 issue of the American Cancer Society's Kansas News. The article was written by Dr. Lee S. Fent of Newton, Kans.

The article follows:

PROGRESS IN CANCER TREATMENT

(By Lee S. Fent, M.D.)

With the use of specific antibiotics in the treatment of bacterial diseases during the past 30 years, patients have come to expect a pill or injection for the cure of almost all diseases suffered by mankind.

The development of cancer chemotherapy gives promise as a method by which many cancer types may be successfully treated. Specifically, such treatment means the treatment of cancer with drugs which will either kill or retard the growth of malignant cells. Many thousands of chemicals have been and are being evaluated for use in this field. Since cancer is not one but many different diseases it is unlikely that a single drug will be developed to treat cancer in all of its forms. At the present, several drugs are being successfully used for specific cancer types. Much research and experimentation needs to be accomplished to achieve the total success we hope for. In this frontier of cancer treatment two goals are sought—the first being the cure of specific cancer types and second, the palliation and control of those many forms of cancer which are at present not curable. By palliation, we hope to extend useful life span and prevent suffering in a manner similar to the present treatment of diabetes and heart disease.

The basic ambition in chemotherapy is to provide a drug which will kill, starve or stop reproduction of cancer cells without harm to our normal body cells. At the present time this principle is only partially attained in that the margin between that dose of medication which will stop the cancer cell is near that level which will kill or severely injure the normal body cells.

Needless to say, the use of such potent drugs should be prescribed by physicians knowledgeable in the action of such medications, and such treatment must be with close medical supervision.

At the present, cancer chemotherapy is curative in some types of neuroblastoma, choriocarcinoma, Wilm's tumor, and teratocarcinoma. These are uncommon cancer types.

As a palliative measure for other forms of cancer, especially when non-operable metastasis has occurred, life may be extended for many years by retarding, or holding in check, the growth of malignant cells.

Chemotherapeutic drugs may be divided in several classes as follows:

Hormones: The substances are normally produced by the endocrine glands in our bodies and serve to regulate the growth of certain normal body cells. When cells of this type become malignant (change to cancer cells), they may still be influenced by specific controlling hormones. Examples of such hormones are thyroid, male and female sex hormones. Treatment with hormones of these types can at times control cancer of the breast, some uterine cancer and certain cancers of the thyroid gland. Other hormones and their effect on cancer cells are being at present intensely investigated.

The Alkylating drugs are those which prevent the multiplication of cancer cells by blocking the action of D.N.A., an essential complex substance within the nucleus of the cell. The principle of successful therapy here is the fact that many cancer cells are more fragile with respect to structure than are normal cells.

The Antimetabolites are drugs which starve cancer cells by interference with food absorption of the cell. Here again the aim toward success is the fact that many cancer cells, through uncontrolled rapid growth, require nourishment in greater quantities to survive than do normal cells.

Immunity factors present perhaps the most exciting research challenge at the present time, for we have observed that in many types of cancer living cells will at times lie dormant for many years only to suddenly become activated at such time when controlling factors are removed. It is believed that hormones may play a part in such inhibition of growth to a limited extent, but more probably body immunity to the abnormal cell also plays a major part. The development of such an immunization offers an exciting and promising challenge at the present time.

The evaluation of human immune function is at present being vigorously investigated at the Kansas University School of Medicine with cooperation of many Kansas physicians. Such clinical research promises to add still another weapon in our continued conquest of cancer.

SPECIAL SCHOOL PROJECT AWARD

HON. ANDREW J. HINSHAW

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HINSHAW. Mr. Speaker, I am justly proud of the Newport-Mesa Unified School District for an award presented by Sidney P. Marland, Jr., Assistant Secretary for Education.

Project Catch-up of the Newport-Mesa Unified School District in Newport Beach and Costa Mesa, Calif., was chosen as one of 10 ESEA title I projects to be exhibited by the U.S. Office of Education at the ED Fair 1973 because it achieved to an outstanding degree its stated objectives in meeting the educational needs of children. At the fair Project Catch-up represented region IX, which includes the States of California, Nevada, Arizona, Hawaii, and Pacific Trust Territories.

The project director, Mrs. Fay Harbison, and Mrs. Jean England, a title I teacher, appeared at the fair to present two programs to invited representatives of the educational community, State superintendents of schools, and their staffs. Additionally, they hostessed an exhibit booth which displayed representative equipment and instructional materials used successfully by title I staff members.

Selection of the 10 projects chosen to represent the title I program throughout the country was made on the basis of validated standardized test scores which measured the progress made by children in reading and math skills. The certificate of merit, which was presented to Mrs. Harbison for the project at a banquet at the Kennedy Center on May 10, reads:

> Certification of Merit, Presented to, Project Catch-up, California in recognition of outstanding service in the field of Education. The Project was developed, at least in part, with funds provided by the Education Division of the Department of Health, Education, and Welfare. From among the many submitted for validation and exhibition at ED Fair '73, it was chosen as an exemplary practice, worthy of being exhibited to those attending the Fair and offered by the Education Division to other State and Local school officials for possible use or adaptation in their systems. On behalf of the Department, I am pleased to bestow this Special Recognition on the Staff of the project and on its participants. May 10, 1973. Sidney P. Marland, Jr., Assistant Secretary for Education.

Project Catch-up is designed to provide remedial instruction in reading and mathematics to disadvantaged children in schools serving a low socioeconomic suburban area of the Newport-Mesa Unified School District which serves Costa Mesa and Newport Beach, Calif., children are selected for participation on the basis of educational need, those who have scored in the lowest quartile on standardized achievement tests in reading.

The project was established, using title I funds. Now in its seventh year of operation, Project Catch-Up has served several thousand racially and ethnically heterogeneous children in grades kindergarten through 8 with noteworthy success.

Major emphasis is placed on the diagnosis of learning problems through extensive use of criterion-referenced and standardized test instruments. Learning experiences are individually prescribed and are provided by a special staff of certificated part-time teachers and instructional aides in a special "laboratory" environment.

Each project teacher is responsible for no more than 18 children, while instructional aides work with 10 and perform essentially the same roles as the teachers. Each teacher or aide works with four children at a time for approximately 20 minutes per day. The children are taken out of their regular classrooms at times when neither reading nor math is being taught.

The laboratories are large, attractive, and replete with high-interest materials which serve, along with other characteristics of the project, to elicit a positive attitude toward learning in participating children. It is clear that they enjoy the project and experience little, if any, of the stigma that is often associated with remedial programs. Developing a positive attitude toward self and project is also the objective of several special events such as a Mexican Fair put on each year by the title I children for the entire school.

The project's instructional personnel—teachers and aides—are held responsible for the achievement gains of the pupils, which are expected to equal 1.5 grade-equivalent months per month in reading and 1.0 months per month in math. They are free to use whatever teaching techniques they wish in order to achieve these objectives and are given exceptional administrative support in the form of immediate processing of requests for materials, supplies, inservice, and encouragement to advance their own professional levels.

OMB—THE SUPERAGENCY

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HANNA. Mr. Speaker, I know that I am not alone in my concern over the growing power of the Office of Management and Budget. Many members have expressed this concern with respect to specific policy matters and specific pieces of legislation. I believe that, since the power of OMB is power that may be held accountable to neither the public nor the Congress, that every available incidence of the exercise of this power should be placed in the public record. This is doubly true when we find the spokesmen for the administration denying the influence that OMB has brought to bear on them and their policies. A matter before the Housing Subcommittee at this time is a case in point:

Last January the administration, showing a callous disregard for the housing needs of low- and moderate-income families, suspended the operations of the housing subsidy programs. We were promised a thorough review of the programs and a new and better housing package. That new package was revealed last month and was, to say the least, a bitter disappointment. The cornerstone of the plan—at least, the only part of it that one could argue is innovative—is the proposal for a direct housing assistance payment to the poor. But the administration is not prepared to request its enactment. After 9 months of study, they want to study the idea for another year and then request its enactment as a plan to be put into effect in stages over a period of up to 10 years. Many of us were frankly suspicious of the sincerity of the administration. On the one hand, HUD Secretary James Lynn and his aides speak very enthusiastically about the housing allowance as the answer to a serious national program. Then, after making a good case, they say, "But we need to study it more."

Mr. Speaker, many of us suspected that we were not hearing the clear, unfettered voice of the Secretary and his staff which had just spent 9 months studying this subject. We have been confident that we were again hearing the voice of OMB speaking through a major Department. The spokesman for HUD has denied this, however. After an informal off-the-record discussion of the housing program sponsored by the Library of Congress several weeks ago, two members of my staff put the question of OMB's influence to Assistant Secretary Mike Moscow. Mr. Moscow flatly denied that OMB had any influence on the decision to study further, rather than now seek enactment of, the housing allowance plan.

Mr. Speaker, I wanted to be able to take Mr. Moscow at his word on this matter; however, the October 27, 1973, issue of the National Journal Reports makes this impossible. In its feature article on OMB, HUD and its housing recommendation is offered as a classic example of OMB calling the shots on an agency's policies. I quote directly from the article:

> The HUD staff settled on housing allowances that would let poor people shop around for their own housing. When HUD formally presented its draft of the housing study to OMB in August, it proposed that a housing-allowance program go into effect in stages beginning next year.
>
> But OMB was not persuaded by HUD's case. Sources at OMB said some of HUD's budget analysis was faulty. OMB felt that HUD did not come to grips with a basic question: Should housing allowances be used only for housing, or should they be part of a broader range of welfare reforms?
>
> OMB was unhappy that HUD's proposals were made public before OMB had time to complete work on them. Some OMB officials felt HUD was trying to rally public opinion behind its proposals and make it more difficult for OMB to change them.
>
> When HUD Secretary James T. Lynn went to Capitol Hill to discuss housing with Members of Congress. O'Neill [Associate Director at OMB] went with him. HUD sources said OMB finally recommended—and the President agreed—not to move on housing before developing a broader package of welfare reform.

This report, Mr. Speaker, makes clear to us all what many of us suspected, but which the spokesmen for HUD cannot bring themselves to admit—that, when it comes to housing policy, OMB calls the shots.

NAVY TESTS DESTROYER POWERED BY A LIQUID DERIVED FROM COAL

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. PERKINS. Mr. Speaker, on November 15, a significant and historic event took place which should be noticed by the House—especially now that we are in a severe energy crisis.

On that date, the U.S.S. *Johnston*, a Navy destroyer, sailed out of Philadelphia with its engines burning oil which had been derived from coal.

That oil came from a project that started 12 years ago, but I think the House should know that as far back as the late 1940's and early 1950's we were just pennies away from a process that would have converted coal to liquid fuel.

The Interior Department had a demonstration plant operating at Louisiana, Mo., but, unfortunately, the administration in office then refused to include an appropriation recommendation in its budget back in 1952, and the demonstration plants were phased out.

That was a shortsighted mistake—a case of being pennywise but dollar foolish, and at least part of the instigation of it was from other energy sources, who did not want to see coal getting greater use.

Now, we all are having to pay for that mistake, and I hope we are benefitting from it—at least to the extent of going all-out with the necessary research and construction of other pilot plants, in our coal areas, such as eastern Kentucky.

Billions of tons of coal are available for our energy needs for the Nation, and we should make maximum use of this resource as soon as possible.

We should also be going ahead on the training of the thousands of workers who will be needed in the coal industry, and and engineers.

Mr. Speaker, I insert in the RECORD an article from the New York Times describing the trip the Navy ship made on fuel which was converted from coal.

The article follows:

NAVY TESTS DESTROYER POWERED BY A LIQUID DERIVED FROM COAL

(By Wayne King)

PHILADELPHIA, November 15.—A World War II Navy destroyer, the U.S.S. Johnston, steamed out of port here today to become the first ship in history to use coal-derived oil to power its engines.

Beyond its historical import, the short one-day cruise of the Johnston, both military and civilian officials said, will likely have great practical significance to an increasingly fuel-starved nation.

Initial impressions indicated that the pilot test of the fuel to fire the steam generating boilers of the Johnston was a success, although a detailed analysis has yet to be completed. More important, Government officials predicted that, with Congressional approval of the large outlays needed for construction of coal-conversion plants to produce the fuel, fairly widespread use of it as a petroleum substitute may be only a few years away.

For more than a year, the Navy has been working with the Department of the Interior to develop a clean-burning, economical substitute for the petroleum-based fuels that the Navy consumes at the rate of 42 million gallons a year.

If all goes as planned, the coal-derived oil will begin replacing petroleum fuels in Navy vessels in about three years, and will ultimately—within a decade—account for about half of the fleet's total consumption.

Beyond that, the Department of the Interior's Office of Coal Research—an agency that began 12 years ago with a relatively meager $1-million budget and will spend $122-million this year—already has in operation a pilot coal liquefaction plant in Princeton, N.J., with another under construction in Tacoma, Wash. Two pilot plants to convert coal to gas are also in operation, with a third being built.

COAL-CONVERSION PLANTS

Within a decade, said Paul R. Jordan of the Office of Coal Research, the Interior Department hopes to have assisted in development of a number of privately owned and operated coal conversion plants, each capable of producing 250 million cubic feet of gas a day—enough for a city of a half a million people—and 60,000 to 100,000 barrels of synthetic fuel oil a day.

Although the Navy today became the first to make use of the new fuel, both naval and other officials said its development was keyed heavily to civilian use.

Though the coal gasification and liquidation prospect has been under way for almost 10 years, the recently developed fuel crisis has given it new and accelerated emphasis.

The Navy, according to Rear Adm. Randolph W. King, who answered questions at a news conference at the Philadelphia Naval Base prior to the sailing of the Johnston, is interested in the coal liquefaction process as a means of guaranteeing an uninterrupted fuel supply regardless of the political situation in the Middle East or other oil-producing areas.

At present, he said, coal supplies in the United States are adequate for at least another 100 years. Other estimates have ranged up to 500 years and more.

Moreover, both Admiral King and the Interior Department sources said the ultimate projected cost of production of the synthetic fuel oil would average $4.50 to $5 a barrel, compared to $5.25 a barrel for the fuel now used. This estimate, however, takes into consideration the selling of byproducts from the liquefaction process to reduce the over-all cost.

Moreover, Mr. Jordan of the Coal Research Office projected capital outlays for construction of coal conversion plants at $5 billion over the next decade or so. Present plans call for a joint effort by the Federal Government and private industry, with the process ultimately to become entirely private enterprise.

Actual plant construction beyond the pilot stage, however, would require Congressional appropriations.

Both naval and Interior Department officials were optimistic about the prospects for large-scale coal conversion in the relatively near future, however. Although officials could not come up with a specific figure, the coal derived fuel that powered the Johnston without incident today ferrying newsmen on the first leg of her pilot cruise, cost many times the $4 to $5 figure that the Government ultimately hopes to attain for coal-derived fuel oil—which can be used in almost identical form to heat homes and a somewhat more refined version to fuel jet aircraft.

The economic success of the project rests on the economies of extremely large-scale production in plants that were estimated to cost from one-third to three-quarters of a billion dollars each to construct.

It was not made clear whether the Government's per barrel cost estimates for the synthetic fuel included the initial costs of plant construction.

The coal-derived fuel itself should be acceptable to environmentalists, officials said, as it is of very low sulphur content, and will burn cleaner than the fuels used now by the Navy.

It is also possible to distill the synthetic oil in much the same manner as petroleum crude oil and thus convert it to higher grades, including gasoline.

CONVERSION PROCESS

The synthetic oil is obtained by a process called pyrolysis, in which the coal is crushed and then decomposed by use of heat, pressure and catalysts. This is followed by hydrogen treatment that alters the substance chemically to produce a synthetic oil-like fuel.

The process requires roughly a ton of coal to produce one barrel of oil. However, also produced is some 12,000 pounds of char, which can be further processed for extraction of fuels, and over 8,000 cubic feet of gas.

In general, officials at the news conference said, the coal fields of the Midwest and West produce the best type of coal for this process, a fact that is not expected to gain a warm reception in coal-rich Eastern states like Pennsylvania and West Virginia that are searching for ways to again utilize largely abandoned coal fields.

Renewed efforts to make extensive use of coal is expected to run into stiff resistance by environmentalists who oppose the ravages of strip mining, still the most economic method of mining coal in most cases.

Samples of the coal-derived fuel oil passed out to reporters appeared roughly the color and consistency of crankcase motor oil at about the time it badly needs changing. Its odor was somewhat sweetish, with the rather sharp, astringent cast of a disinfectant.

Early tests, indicated a strong coal-tar odor when the substance was burned, suggesting it might prove too offensive for boiler room personnel.

A seaman in the engine room today said, however, that the odor was acceptable and that the fuel seemed to perform in a manner indistinguishable from the usual petroleum oil, except for what appeared to be a slightly brighter flame.

The fuel is thicker than others used by the Navy, however, and cannot be poured at temperatures below 60 degrees Fahrenheit, a problem in some situations. Further processing may improve this, however, officials said.

CONTROL TOWERS

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. SNYDER. Mr. Speaker, for the convenience of the readers of the RECORD and the Members interested in general aviation, I am inserting an editorial from the November issue of the AOPA Pilot.

The editorial follows:

FEATHERBEDDING

For the year 1973 the FAA programmed 56 low-activity control towers for installation and operation at airports throughout the country. They have an arbitrary criterion for telling themselves when an airport "needs" a tower. Once it does, they then ask for the money. If Congress approves, and it invariably does, in the towers go.

Considering the breath-taking size of FAA's $2.126 billion annual budget, and the increasing concern of general aviation for its very existence, there are other points about these 56 towers that the public should know.

General aviation (unlike the way FAA treats the airlines) was never asked whether it had a requirement for any or all of them. Nor is general aviation even aware of the scope of the way FAA makes its arbitrary standards. So far as we can determine, no one in general aviation even knows how the FAA decided on its own to spend an average $250,000 per tower; the 56 come to $14,000,000. Nor were we consulted about the average staffing, which (FAA decided) averages eight people and comes to an average of $123,000 per tower per year. That's another $6,888,000, which brings the figure to $20,888,000 that first year. So the average cost for these "little" FAA towers is $373,000 each.

You've heard a lot about cost allocation studies and plans. That DOT group came up with many arbitrary figures. Taking the entire FAA cost for such facilities—again without any general aviation indication of actual need—they concocted the arbitrary figure of 30 percent, which is the figure that general aviation would be expected to pay for everything in the system, needed or not. Of course, we have disagreed both with the system, as presently constituted, and with the exorbitant expenditures—repeatedly, and for years. Nevertheless, the first part of the DOT report has just been issued, and general aviation's 30 percent stands.

Just take those 56 "little" towers. Apply that 30-percent figure. That means you and I must pay directly $6,266,400 for them. We can't help but wonder if general aviation pilots at Marysville, Calif., Bloomington, Ind., Cape Girardeau, Mo., and the 53 other locations knew of this plan. And do they realize that these towers are not being "given to them by Washington" as a gift? Are they willing to say flatly that they want and need them anyway, regardless of cost?

It's too late to go through such a democratic process, and the towers go in whether users want them or not, and at the excessive costs the FAA has contrived.

As we said in our August editorial, these 56 towers are just one small example. They represent a tiny 1.4 percent of the FAA's 1974 budget. But they are a shocking insight into the reason the FAA has gotten completely out of control with its pseudo-scientific featherbedding.

THIS IS PROGRESS?

One day recently we planned to make a 20-minute flight from Washington National Airport. The weather was CAVU. First, we called clearance delivery. Because Washington has been declared a terminal control area, everything that moves is handled as an IFR flight—including a 20-minute local flight in CAVU weather.

The frequency was so jammed it was 12 minutes before we got a clearance. Then switch to ground control; another 9 minutes. Then to local control frequency for takeoff clearance. We were finally airborne 34 minutes after setting out to make that 20-minute flight.

The FAA calls this progress. We think it's high-handed and an outrage; it's one of the many reasons general aviation just quietly tries to avoid TCAs—which is precisely what the FAA really wanted all along.

The airport itself? It wasn't busy; if we'd been operating by the old FAA standards for the same airport, where the user instead of the system came first, we'd have been off the ground within 10 minutes. There was abundant time and space available on the field itself, all going idle while the TCA "control congestion" (which is what they tell Congress this featherbedding is, when asking for more money) was taking place.

Ten years ago Washington National ranked No. 4 in the country; today it is No. 22. In those 10 years its total plane movements have increased just 11 percent, although the cost and complexity of operating all the equipment and procedures has gone sky high. The FAA, of course, waves the same tattered flag: "It's in the interest of safety!"

The safety record at National was perfect 10 years ago, as it is now. All that's changed is that the taxpayer has been fleeced, the controllers are being badgered and regimented needlessly, and general aviation is being driven out.

TRIBUTE TO FRANK TODD MEACHAM

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BAKER. Mr. Speaker, Frank Todd Meacham of Chattanooga, Tenn., was a giant of a man. His untimely passing this year robbed his community and his State of a dedicated public servant with a record of many years of distinguished service.

Frank Todd Meacham was possessed of many rare qualities. His understanding of the political process from top to bottom was better than any contemporary in Tennessee. Therefore, he was respected by friend and foe alike. His word, in connection with a commitment, was as good as his bond.

Republican politicians in particular, and a multitude of Democrats as well, from the State of Tennessee, the southland, and the Nation as a whole, will miss his counsel and his reservoir of information.

As a tribute to Frank Todd Meacham, I place the following resolution in the RECORD. It was adopted recently by the Hamilton County Womens' Republican Club and set forth many things we should remember about this unusual man. The resolution follows:

HAMILTON COUNTY WOMENS' REPUBLICAN CLUB RESOLUTION ON THE PASSING OF HON. FRANK TODD MEACHAM, REGISTER-AT-LARGE OF THE HAMILTON COUNTY ELECTION COMMISSION

Whereas, Almighty God, in His inscrutible wisdom, removed from our midst Frank Todd Meacham, on September 6, 1973, in the very same week the citizenry of our community were planning to honor him at a luncheon occasion, and

Whereas, Frank Todd Meacham, had served well in the rank-and-file of the Republican party, and yet became a candidate for the United States Senate at a time when his party was at its nadir, and

Whereas, Frank Todd Meacham, through the long lean years of his party's position seemed to be cast permanently in the minority, he remained a loyal, indefatigable laborer in the political vineyard, never despairing that in God's good time, the Republican party would rise from the ashes like a flaming Phoenix to a position of power on all levels of government, and,

Whereas, Frank Todd Meacham's personal and public callings gave honor to Webster's definition of the word "Politician," as one versed in the science of the governance of men, and

Whereas, Frank Todd Meacham, was a civic minded expert in the political arena, yet he was also a devoted husband, a proud father and an honored attorney-at-law, and withal a beloved figure of all the citizenry of his city, State and Nation, without regard to political affiliation, race or creed, and

Whereas, as befitting him sterling qualities of mind and heart, we believe that the words of the poet Arthur Hugh Clough well exemplify his spirit and his vision of our worldly fortunes to wit:

"For while the tired waves, vainly breaking,
Seem here no painful inch to gain,
Far back, through creeks and inlets making,
Comes silent, flooding in, the main.

"And not by eastern windows only,
When daylight comes, comes in the light;
In front, the sun climbs slow, how slowly,
But westward, look, the land is bright."

Therefore Be it resolved that a copy of these resolutions be spread on the minutes of this organization and a copy be sent to the family of the deceased.

JOHN F. KENNEDY: "A NEW SPIRIT AND A NEW HOPE"

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. PATTEN. Mr. Speaker, last Thursday, millions of Americans, and millions of persons throughout the world, observed the 10th anniversary of the assassination of President John F. Kennedy, who was such an inspiration to mankind.

I'm sure that hundreds of speeches were made about the brief, but promising presidency of John Fitzgerald Kennedy, because he represented "a new spirit and a new hope." It was ironic to me that the 10th anniversary of that sad and tragic day—November 22, 1963—fell on Thanksgiving Day.

Mr. Speaker, I am thankful for many blessings in this great country, and I often think of the four freedoms proclaimed by President Franklin D. Roosevelt as freedom was engendered over 32 years ago. Freedom of speech and expression. Freedom of worship. Freedom from want. And freedom from fear.

I am grateful for those blessings, but I am also thankful for another deep source of inspiration: John F. Kennedy, who will always be remembered by lovers of freedom.

One of the many speeches made on the 10th anniversary of that beloved president's assassination was by my administrative assistant, Stephen G. Callas, who was accurate in pointing out that President Kennedy gave America "a new spirit and a new hope." That is the way he will be remembered by millions of Americans—and I remember him with respect and love. Steve also concluded his speech by stating what is another fact about President Kennedy: "America was proud of him—and so was the world."

I hereby include a newspaper article covering Stephen Callas' speech from the Atom Tabloid, of Woodbridge, N.J.:

PATTEN'S AIDE REMINDS US OF JOHN F. KENNEDY

EDISON.—President John F. Kennedy gave America "a new spirit and a new hope," according to Stephen G. Callas, administrative aide to U.S. Rep. Edward J. Patten (D-15th Dist.) as the 10th anniversary of JFK's assassination neared.

Callas spoke on "John F. Kennedy in Retrospect" before the United Democrats of Edison at the Fireside Lounge there. He noted that, "Carl Sandburg reminded us that man cannot live without hope—and hope was the rich legacy that John Kennedy left us—hope that is unconquerable—hope that refuses to die."

Patten's aide cited some of the creative legislation Kennedy not only signed into law, but advocated—legislation Callas called "unheralded." Domestic gains he listed included: area redevelopment, education TV, training nurses and doctors, mental health, manpower training, the first presidential advisory council on the arts, and 34 straight months of economic growth.

Callas also lauded some of Kennedy's innovations in foreign affairs: the Peace Corps, U.S. Arms Control and Disarmament Agency, Trade Expansion Act, Nuclear Test Ban Treaty, a full-scale outer space program, Alliance for Progress agreement, and the Cuban missile crisis victory, called by English Prime Minister Harold Macmillan, "one of the great turning points in history."

The speaker said that Dana Burnet's words reminded him of Kennedy: "The dreamer dies, but never dies the dream," Said Callas, "President Kennedy's dream still lives, because it is the dream of all people and all nations—the quest for victory over what he called 'a struggle against the common enemies of man: tyranny, poverty, disease, and war itself.' Somehow, Kennedy generated the feeling that if anyone could conquer those enemies, he could be the one."

Historians, he said, will rate Kennedy as a good president with the promise of greatness. "I believe he would have prevented the Vietnam quagmire. He was a superbly balanced president whose popularity index was the highest of our last five presidents: 70 percent. Most of the Great Society legislation was conceived by JFK—from Medicare to aid to education—but President Johnson got the credit."

When Kennedy was assassinated, "never in history was the world so saddened on the death of a U.S. president, for the loss was universal in scope and impact.

"I remember Hemingway's indomitable Santiago and I think of Kennedy's spirit" said Callas, who quoted the Nobel prize-winning author: "But man is not made for defeat. A man can be destroyed, but not defeated." Callas said, "Kennedy was physically destroyed at Dallas, but his spirit was not defeated, for death only conquers bodies, not ideals. His spirit still inspires lovers of freedom.

"To those who still mourn his death, gain strength and faith in knowing that what is remembered is never lost! And there is much to remember about John Fitzgerald Kennedy. America was proud of him—and so was the world," concluded Callas in his 20 minute address with the 10th anniversary of President Kennedy's assassination about to be observed.

THE POSSIBLE USE OF SOLAR ENERGY

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HAWKINS. Mr. Speaker, I would like to call to the attention of my colleagues an article by Colman McCarthy published in the Washington Post on Tuesday, November 20 concerning the potential uses of solar energy.

In light of the present energy crisis, I concur with our former colleague the Honorable George Miller, who was one of our most distinguished and influential Members as chairman of the House Committee on Science and Astronautics, quoted in the article stating that—

> Many scientists and engineers dismiss solar energy because they think it too far out or conceptually inefficient by current engineering standards. However, we cannot afford the luxury of this easy attitude . . . the nation today depends on a host of operating technologies which were quite unknown only 25 years ago.

The article follows:

LETTING THE SUN SHINE IN

(By Colman McCarthy)

Two years ago this month, writing in The Smithsonian magazine, environmentalist Wilson Clark sounded a note that has the ring of this morning's front page:

Energy, the handmaiden of man's progress through the centuries, is in the deepest trouble. Demand in the United States for all sources of energy is rising at a steady five per cent, and demand for electricity alone is skyrocketing at nine per cent per year—it is doubling every decade. Continuation of this trend is clearly impossible, given the current means of obtaining energy. In a few decades there will be no oil for conversion to electricity or for transportation, nor will there be any natural gas, the cleanest burning fossil fuel . . . Thus the energy crisis, one that has little to do with summertime difficulties of power companies or the political considerations of importing Mideast oil. It requires recognition of the fact that our energy resources are dwindling, the bitter realization that at some not-so-distant hour the party will be over.

The significance of Clark's article was not just that it had the jump on today's headlines but that it focused on the potential uses of solar energy. Clark proposed solar energy as one of the major solutions to the energy alarm. It was possible to dismiss his view two years ago as fanciful dreaming, another one of those distant stars—like steam-powered cars, protein from petroleum—that occasionally shoots through the sky of American technology. But now, two years later, solar energy is being taken seriously. In Congress last week, the Solar Heating and Cooling Demonstration Act of 1973 had 170 co-sponsors. It offers a $50 million research program to show in three to five years that solar energy is practical and economical.

By definition, solar energy is the power of the sun. At its simplest, this can be demonstrated when sunlight streams through the window of a house, warming the room beyond the normal temperature. At its most complex, solar energy can be used in processes to generate electricity, to heat and air condition buildings, to generate furnaces that can reach 4,000 degrees. "Much of this is complex technology," says Clark, a writer ("Energy For Survival" to be published by Doubleday next year) and consultant for the Environmental Policy Center, "but much of it is basically simple. For example, to heat a house or small office building, glass collectors are built on the roof or sides to trap the heat from the sun's rays. This technology has been used for years in private houses and office buildings. The experiments proved workable and the designs were perfected. But the initial cost was high, so the idea did not spread. But the costs would not be high in the long run." The latter is a hard concept in America where we live short run: discarding cars in a couple of years, throwing away paper and meals used but once, tearing down usable office buildings. So little is built for permanence that much of the economy depends on wastefulness. But once a solar energy unit is installed, it can work for decades.

Clark recently found examples of this in Florida where solar hot water heaters built in the 1920s are still working well today. A reason the solar heaters did not spread nationally was the turn to natural gas and oil in the 1930s; the market on solar heating trailed off. But now, 40 years later, when gas and oil are trailing off, the sensible economics of solar heating still persists. The high initial cost is easily offset by the low lifetime operating costs. For example, a University of Florida survey of solar hot water heaters reported a homeowner in Ft. Lauderdale who installed a 180 gallon tank for $1,500, an unusually expensive unit. Despite this, he expects to save more than $175 per year in prevailing electricity costs. Thus, in less than 10 years he will make up the $1,500 investment, and thereafter have almost free hot water heating.

When he first began researching solar energy, Clark believed, like most people, that it meant only building the technology to trap sunlight. "It's much more than that," he now says. "Before the last few decades of large exploitation of fossil fuels, our food system was based on solar energy, not oil energy. Currently, our supply of food is precarious because the agricultural system is heavily dependent on oil. It takes, for example, about ten calories of oil to give us one calorie of food. Huge amounts of oil are used not just for the planting and harvesting machines, but oil is also used to make the synthetic fertilizers and pesticides. It need not be this way. On the farms, rather than making our synthetic chemicals from oil, we should be letting solar energy trigger the production of chemical nutrients in the agricultural system. Right now, we dismiss organic farmers as health food nuts, but we forget that their farming methods use only a fraction of the energy used in the centralized farming practices of agribusiness. I'm not pushing organic farming of itself; I'm only for maintaining our current level of productivity without excessive use of oil. There is a lot of potential solar energy in agriculture that we don't use. Solar energy, for example, makes the chemicals in plants that could reduce our dependence on synthetic chemicals now made from oil. In a solar-based agricultural cycle, animals eat the plants and produce manure for fertilizer, rather than the current system which depends on fertilizer made from dwindling fossil fuels. I'm no alarmist, but unless we begin now to change over, we will face serious food shortages soon." Clark is not alone in his assessment.

How soon could the nation begin using solar energy in a large way? Clark believes two decades, but he makes some presumptions. One is that we will begin getting leadership from the White House and business—not pep talk chatter about lowering the speed limit and thermostats. Solar energy has been mentioned in presidential messages but an urgency is lacking. We are mistaken to think that once the gas and oil run out, then we can switch over immediately to sun power. It doesn't work that way because fossil fuel must first be used to build the solar equipment. If we are short of fossil fuels and keep wasting it at the current rate of profligacy, then we will have none to build economically feasible solar systems. We will be out in the cold in more ways than one.

Rep. George P. Miller (D-Calif.), chairman of the House Committee on Science and Astronautics, said recently that many scientists and engineers dismiss solar energy "because they think it too far out or conceptually inefficient by current engineering standards. To my mind, however, we cannot afford the luxury of this easy attitude. The stakes are too high. Moreover . . . the nation today depends on a host of operating technologies which were quite unknown only 25 years ago."

KEVIN DAVEY

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. GIBBONS. Mr. Speaker, Mr. P. Kevin Davey, a member of Florida Blue Key, the Men's Leadership Honorary organization at the University of Florida, was the general chairman of homecoming this year. At the Florida Blue Key Banquet on Friday, November 16, 1973, he delivered a speech, though short in length, was long in thought.

This message, coming from one of our young leaders, I believe is thought-provoking and should be an inspiration to all of us. It follows:

TIRED OF WATERGATE

Next Thursday, November 22, 1973, marks the 10th Anniversary of the assassination of John F. Kennedy, the man who ignited the country with the words,

"Let the word go forth from this time and place . . . the torch has been passed to a new generation of Americans . . . So let us begin anew." 20th January 1961.

And so, with impregnable faith in the ideals upon which it is founded, the country survived through burning cities, assassinations, and war. In the past months, Americans have grappled with a deeper crisis, affecting the moral fabric of our government. As you are well aware, during this time we have seen unwavering patriots question the authority and ability of the present administration to govern. These doubts are more serious than burning cities or external wars for as any student of history knows, the strength and power of a nation disintegrates from within, not from outside threats.

In the past days, efforts have been made towards re-establishing the foundations of faith and credibility. To this unique assembly of political leaders, judges and prominent citizens, I ask that we not move too rapidly towards an artificial confidence, but that the questions and doubts which have arisen be answered and answered fully. Many people are "tired of Watergate" and would rather see if forgotten. But we must remember that it is like a cancer which, even when ignored, continues to fester and destroy life. The life of our country is based on the faith of its people in the democratic system. When this system falters, the strength of America is that we *can* "begin anew". Let us not let the torch dim again.

ODIE M. HOOVER PASSES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. STOKES. Mr. Speaker, on November 7, 1973, one of Cleveland's most distinguished and internationally known citizens departed this life. The Rev. Odie M. Hoover was a gifted orator, a dedicated minister, a civil rights leader, and a man who was able to influence the political spectrum of our city and the Nation. I had the privilege of personally enjoying his warm and enduring friendship. He made a significant impact upon my life and that of my brother, Carl B. Stokes, the former Mayor of Cleveland, Ohio. He was a man who walked with kings and yet never lost the common touch. Mr. Speaker, I submit his obituary so that my colleagucs can read about my friend, the late Reverend Odie M. Hoover:

OBITUARY

Hast thou not known? Hast thou not heard, that the everlasting God, the Lord, the creator of the ends of the earth, fainteth not, neither is weary? There is no searching of his understanding. He giveth power to the faint: And to them that have no might he increaseth strength. Even the youths shall faint and be weary, and young men shall utterly fall: But they that wait upon the Lord shall renew their strength: They shall mount up with wings as eagles: They shall run, and not be weary, and they shall walk, and not faint.—Isiah 40:28–31.

The Reverend Odie Millard Hoover, Jr. was born in Nashville, Tennessee, September 21, 1921. He was the son of Susie and Odie M. Hoover, Sr.

He received his early education in the public schools of Nashville, Tennessee where he graduated with honors in 1941 and was the recipient of the Cameron Award for Scholarship. He attended Tennessee A & I State University where he majored in Science. He studied music at Fisk University under the late Professor John Work. His under-graduate work which was done at the American Baptist Theological Seminary resulted in his earning a Bachelor of Theology Degree. Over the last ten years he participated in special studies and advanced theological training at Boston University, University of Chicago, Virginia Union University and Yale University.

For the last three decades he had pastorates at Mt. Olive Baptist Church in Carthage, Tennessee, Mt. Zion Baptist Church in Fayetteville, Tennessee, Beulah Baptist Church in Montgomery, Alabama and Olivet Institutional Baptist Church in Cleveland, Ohio.

When he assumed the pastorate in Olivet in 1952, the membership was far less than five hundred, it now exceeds five thousand.

In the nineteen years of pastoral services to the Olivet Institutional Baptist Church, he completed the building of a large modern

Sanctuary and the O. M. Hoover Christian Community Center which was dedicated in 1965.

He served as a member of the Board of Directors of the Southern Christian Leadership Conference, The American Baptist Theological Seminary, The American Academy of Clergymen, The Martin Luther King Foundation and People United to Save Humanity which was founded by the Reverend Jesse L. Jackson.

His other organization affiliations included the Kiwanis Club, the Cleveland Baptist Association, The Baptist Ministers Conference of Cleveland, The Urban League of Cleveland and many others.

He was an Associate National Chaplain of the Independent Benevolent Protection Order of Elks. He was a 33 Degree Mason.

His ministry included a broad spectrum of activities in and outside of the United States. He has preached and lectured throughout North and South America, Scandinavia, the Orient and the Holy Land.

In 1964, he accompanied the late Dr. Martin Luther King, Jr., recipient of the Nobel Peace Prize to Olso, Norway.

He was involved in the civil Rights Movement in the city of Cleveland and on a National level. Because of his dedication and commitment to the late Dr. Martin Luther King, Jr. and the Southern Christian Leadership Conference, he raised thousands of dollars for the Civil Rights Movement in the early and middle sixties.

He is survived by his son and daughter-in-law, Odie Millard Hoover, III and Frances Taylor Hooper, residing in Nashville, Tennessee, Eva Patricia Hoover, residing in Washington, District of Columbia and his eldest daughter Carole Frances Hoover, residing in Cleveland, Ohio.

In July, 1973, Rev. Odie Millard Hoover celebrated his 21st Anniversary in service to his congregation at the Olivet Institutional Baptist Church.

Most Respectfully,
ODIE MILLARD HOOVER, III.
FRANCES TAYLOR HOOVER.
EVA PATRICIA HOOVER.
CAROLE FRANCES HOOVER.

BAN THE HANDGUN—VI

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BINGHAM. Mr. Speaker, on November 3, Mayor John Lindsay of New York City spoke before the annual meeting of the American Society of Criminology, calling for stringent gun controls. Referring to wholesale imports of handguns into New York City from States having virtually no controls, the mayor stressed the need for registration at the Federal level.

I commend the remarks of Mayor Lindsay to my colleagues as further evidence that strict Federal gun controls are essential to make our communities safe places to live and work.

The mayor's address follows:

ADDRESS BY MAYOR JOHN V. LINDSAY

I'd like to talk this morning about 6 people who were killed in a war one day last October. They were all Americans.

The war that claimed them was not in the Middle East. It did not make any headlines and will never have any winners. It ranks with the Civil War as being the most uniquely American of all wars. It has been going on for decades and intensifying every year. And it will be raging still more furiously next year—unless we do something about it.

On October 4, 1973, Police Officer Robert Marshall interrupted a hold-up in Philadelphia. He was shot and killed with a handgun.

On October 4th, Howard Lee got into an argument with some friends in his Cleveland apartment. He was shot and killed with a handgun.

On October 4th, Richard Anderson, a Denver businessman, committed suicide by shooting himself with a rifle.

On October 4th, in Seattle, 16 year old Lloyd Smith got into an argument over a narcotic transaction. He was shot and killed with a handgun.

On October 4th, Robert Seville's store in Jackson, Mississippi was held up. He was shot and killed with a shotgun.

On October 4th, in New York City Howard Schwartz's dog got into a fight with another dog. The owners of the two dogs argued. Mr. Schwartz was shot and killed with a handgun.

Though the names of this death list have been changed, nothing about it is unreal. In fact, if October 4, 1973, was just an average day in America, 57 people were killed in accidents, murders, and suicides that involved the use of what has become an American trademark—the gun.

It doesn't have to be that way. We can save many of tomorrow's 57 victims. All we have to do is treat guns not like toys, or badges of manhood, or symbols of the great American tradition—but like guns.

There are as many firearms in the United States as there are people.

This includes as many as 40 million handguns, which are now being manufactured and pumped into the civilian population at the rate of more than 2.5 million a year.

Which means that a new handgun is sold in the United States every 13 seconds. And one is used every hour of every day to murder one of our citizens.

But the legal restrictions we impose on the distribution of these weapons are almost non-existent.

In only three states and two cities is a license or identification card needed to acquire or carry a rifle or shotgun.

And in 42 states no license is required to purchase a handgun.

The only restriction on buying handguns in these 42 states is a provision in the Federal Gun Control Act of 1968 which requires that the purchaser fill out a form giving his name and declaring that he is not a minor, and has no history of alcoholism, mental disorder, or felony conviction. But this requirement is almost worthless since it mandates no verification—such as fingerprints and a police background check—to substantiate the purchaser's identity and his declarations.

And while the Act of 1968 banned the importation of cheap handguns—known as Saturday Night Specials—it allowed for the importation of their parts and their domestic assembly and distribution. And so, one million cheap handguns that can have no conceivable sporting purpose and cannot be used for anything other than killing human beings at close range were put together and sold in the United States last year—with no real controls on their distribution.

In a country that requires prescriptions for penicilin and licenses for dogs, that kind of legislative policy on firearms is incredible.

Indeed, that kind of permissiveness is suicidal.

It means that in the next two years more Americans will die at home from firearms fatalities than were killed by the enemy in the twelve years of the Vietnam War.

And nowhere are the numbers more frightening and our disregard of them more intolerable than in the category of police killings.

In 1967, there were 57 police officers killed in the United States. By 1972, the death toll reached 112, of whom 108 were killed with firearms and 74 were killed with handguns.

From 1966 through 1972, 621 policemen were killed across the United States. Ninety-five percent were killed with firearms, and seven out of ten were killed with handguns.

Indeed it is the cop on the beat who has the most to fear in a gun-crazed society. He is trained and equipped to defend himself. But there is little he can do about the bullet that greets him as he chases a suspect down an alley, interrupts a hold-up, or comes between a husband and wife in a family dispute.

That is why police leaders—including the late J. Edgar Hoover—have long supported stringent gun control. That is also why the President's consistent opposition to strong gun control makes his election campaign promise to "strengthen the peace forces against the crime forces" hard to believe.

The United States stands alone as the only supposedly civilized country in the world that does not regulate the ownership of firearms. Our per capita gun ownership rate is between five and thirty times that of any other free country. And in 1969, our murder rate was 16 times that of Finland, 120 times that of Sweden and 360 times that of Norway.

There will be more Americans killed by handguns in the next 39 hours than were killed by handguns in all of England in 1972.

It is illegal to own a handgun in Japan. And so in Tokyo, there were 217 murders in 1972, and only three of them were committed with handguns. In Detroit, with one tenth of the population of Tokyo there were more than twice as many murders in 1973.

When I was in Japan last year the police told me they couldn't understand how we survived without gun controls. The answer is that many of us don't.

But we need not look overseas to see that gun control can work.

The fact is that even domestic comparisons between states or localities with weak versus strong firearms laws tell the same story.

The South, which has the highest rate of firearms ownership and generally the weakest gun control laws in the nation, also has the highest rate of homicides committed with firearms and the highest rate of accidental gun deaths.

New York City has the nation's most stringent state and local gun controls. And, so far in 1973, New York's murder rate ranks 9th among the ten largest cities.

In New York City, every gun is required to be registered and every owner licensed. To get a license, an applicant is first fingerprinted and his background is carefully checked by the Police Department, to weed out those with histories of alcoholism, mental disorder, or felony convictions. In addition, to get a license to carry a handgun in New York City, the applicant must not only go through this same background check, he must also prove to the Police that he has a specific, legitimate need for the handgun.

Only 24,000 New Yorkers have these handgun licenses. And we know the system works—because only a handful of these 24,000 have ever used their weapons to commit an assault, robbery or murder.

But just as New York City shows how gun control can be effective, our experience here also demonstrates how even the best state and local controls are tragically undermined by the absence of stringent federal firearms control.

Although New York ranks 19th in crime among the largest 25 cities, the number of assaults and robberies involving firearms is rising sharply. And the City's chief Medical

Examiner attributes almost the entire increase in murder in recent years to the increased availability of guns.

These were crimes that are almost always committed with illegal guns, not by our licensed owners. Crime guns almost always come from jurisdictions outside New York.

We have learned, in fact, that these guns are coming to us by the thousands through black market "gun running" networks. These operations thrive on the absence of strict federal standards which makes it possible for a gun runner to walk into a store in the South, give a false name and address on that federal form and exchange cash for several hundred handguns. In one case, for example, *one* man in South Carolina purchased 600 handguns in *one* day so that he could resell them in Northern cities.

Police Commissioner Donald F. Cawley and I have intensified efforts to put a dent in this deadly interstate traffic. We recently met with the City's District Attorneys and administrative judges to seek their cooperation in getting better information from those arrested on gun possession charges as to the origin of the gun they were carrying, and to seek stricter enforcement of New York's strong gun laws. In this way we hope to work our way back to the major profiteers in these operations.

We are also working with the Treasury Department's Alcohol, Tobacco, and Firearms Unit on a study aimed at learning more about these black market networks and quickly uncovering the most blatant of them. With AFT, we have begun tracing the approximately 3000 handguns seized by our police from persons arrested in the last six months in order to determine each handgun's last legal point of transfer.

Though the results of the survey are not yet complete, they promise to confirm our worst fears about how the absence of strict national gun control undercuts New York's tough local laws. Approximately 98% of the guns surveyed thus were either stolen or have been traced to retail sales outside of New York State. Two thirds of those traced outside the State came from just four states in the South: South Carolina, Georgia, Florida, and Virginia. Most alarmingly, South Carolina thus far accounts for almost one third of the total traceable guns seized.

Many of you may have read about the man who went berserk on 34th Street last week and killed two people before being gunned down himself. Of the two handguns he used, one has been traced to South Carolina and the other has been tentatively traced to Virginia.

A recent gun running operation uncovered by a joint Federal-City investigation tells us in broader terms what this interstate traffic means. The defendents in this case are alleged to have brought 200 handguns in just one shipment from South Carolina to New York—and the New York City Police Department has already seized 169 of them from persons arrested for attempted murder, assault and armed robbery.

That, very simply, is the case for federal gun control.

To put it another way, permissiveness in states such as Georgia, South Carolina, Florida, and Virginia is threatening the safety of police officers and citizens in New York City, and across this nation.

That is obviously a federal problem of the highest order.

Is Washington listening?

For seven years as a Congressman and eight as a Mayor I have pleaded for national gun control.

Specifically, this legislation would:

Require the registration of all firearms;

Ban the manufacture of sale of all cheap hand-guns not suitable for sporting purposes;

Require the licensing of all firearms owners; and

Require special licenses for handgun ownership, to be issued only after that the applicant proves that he has an overriding legitimate need for this dangerous weapon. Though the standard for such overriding need could vary among states and localities, it would surely not allow a civilian in South Carolina to buy 600 handguns at a time;

In addition, a strong federal law would mandate that firearm manufacturers, shippers, and retailers take strict safety measures to help prevent gun thefts, which now run into the tens of thousands every year, and which account for almost 20% of the guns traced in our survey so far.

Essentially, then, what we need is to treat guns the way we treat cars: they must be registered and those who use them must be licensed. That is hardly an extreme or unreasonable restriction on these tools of death.

And this *must* be done at the *federal* level—because we can't allow guns to slip through a hodgepodge of non-uniform state laws.

This kind of federal legislation has been supported for years by mayors and police chiefs across the country. And every public opinion poll has found that a large majority of American citizens support it as well.

But in Washington our voice is drowned out by the power of the National Rifle Association—an industry funded lobby whose tax exempt status is mystifying, and whose half-truths are designed to mislead thousands of hunters into burying Congress in postcards everytime someone says gun control.

And this is one of the most unregulated industries in the nation, with barely any Federal monitoring of production and sales. This, itself, is a national scandal. If these firms were also producing heroin, there would be Federal action and national outrage. But their outpouring of guns, which annually kills far more people than drug addiction, barely causes a stir in Washington.

The only hunting that gun control would stop would be the hunting Americans do against each other.

All of us here know that.

But *our* knowing it isn't good enough. We must shatter the myths about guns and about gun control. We must disabuse those who believe that "If guns are outlawed only outlaws will have guns." That just isn't true. Police will have guns. Licensed owners will have guns. And the odds will be much better that more criminals will not.

We must also point out one more shocking truth. Almost three fourths of all murders are actually committed not by random thugs, but by normally law abiding citizens who get into an argument with a friend or relative and reach for a gun that is all too available. Nor should we forget the thousands of suicides and accidents that are the direct consequence of too many guns in too many places.

Indeed we must lead the way in re-examining the role of guns in our society and the myth that the gun has some sacred place in the American tradition.

This country was founded on cherished ideals, not guns.

The frontier was conquered by plows and axes and hope—not gun-slinging.

The hope we have always offered ourselves and the world has been that man could be free, not that he could carry a gun.

And today, in the wake of Watergate, we know too well that freedom depends on the rule of law not the exercise of raw power.

The question of how we face our gun mania is really a question of what kind of society we want to be.

Can we expect to be a nation of peace and good will abroad and yet be a country that sells handguns like bubblegum at home?

Indeed, can we show our children the glory of guns on television and in the movies and then convince them that the law—not the gun—is the great equalizer?

No one who loves his country can hide from these questions any longer. We *must* face them.

We must teach our children to think of torn flesh and slabs in the morgue when they think of guns, not mythology and manhood. We must remind them that the gunslinger is the enemy of democracy—that here in America one Presidential election has been nullified, and two have been frustrated by firepower in just the last ten years.

And we must make Washington face these same questions.

We must stiffen up the Congress in the face of a lobby that for too long has used lies and cash from the gun industry to bully this country.

The crisis in Washington today is a crisis in confidence in the rule of law. There can be no better time to get on with the business of passing gun control legislation, for that would assert the rule of law over the rule of force.

It's time we ended the war at home. It's time we made freedom under the law—not the gun—once and for all the trademark of America.

In the last eight years, I have been to more than 20 funerals of police officers killed in the line of duty by guns. Each one has left an indelible mark on my memory.

I promise you, for as long as it takes, I intend to continue the fight to honor those slain men by passing the kind of stringent gun control law that will protect their comrades and the thousands of other Americans whose lives depend on it.

I hope you will join me.

CONGRESSMAN CULVER SPEAKS ON WORLD TRADE, DEVELOPMENT, AND INTERDEPENDENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HAMILTON. Mr. Speaker, recently I had an opportunity to read a speech delivered by our colleague, Congressman John Culver of Iowa, before the One World Conference in Des Moines. This was a large gathering of citizens and public interest organizations concerned with questions of world trade, development, and interdependence. The conference this year gave special emphasis to world interdependencies in food and energy. Not only were the themes timely and critical, but Congressman Culver brought to them an incisive understanding of the interplay of trade, foreign agricultural, and energy policies.

Mr. Culver has had a significant influence on the shape of pending trade legislation, especially in its incorporation of a more humane, workable, and versatile trade adjustment section. In his capacity as chairman of the Foreign Economic Policy Subcommittee he held searching hearings on energy almost a year and a half ago which clearly foreshadowed the domestic and international emergency which now exists.

This year he has joined with me in chairing an additional set of hearings seeking to analyze the interconnections between energy and other aspects of foreign policy, especially in the Middle

East. He has been a foremost expert on foreign agricultural policy, and he was the principal author of the recent influential House report on the Oversea Private Investment Corporation.

This speech by Mr. CULVER reflects the qualities of foresightedness, breadth of understanding, and balanced judgment which have made him so effective in this important realm of public policy.

The speech follows:

WORLD TRADE, DEVELOPMENT, AND INTERDEPENDENCE

(By JOHN C. CULVER)

No conference could be more timely than this gathering which is devoting itself to an intensive consideration of the problems of world interdependence, development, and trade. We are often told that the people of this country are fatigued by the subject of world development and aid and that this Nation's role in furthering human opportunities and economic growth in the developing world has become a marginal one. If such a mood is widespread—and this coalition gathered here surely gives one pause—there are many present facts which sharply contradict such an impression.

In Nairobi this week plans are going forward which will hopefully lead to the most sweeping reform of the international monetary system since Bretton Woods.

In Rome this past week there has been an emergency meeting to assess the international food situation and to seek concerted international remedies for both foreseeable and future food shortages across the world.

In Washington the House of Representatives is nearing its final deliberations on the Trade Reform Act, the most decisive enactment of its kind since 1962 and perhaps even World War II.

Almost every community in this country has this year had a sudden awareness of an energy crisis. Though not every one perceives it in the same way, it is also shared in many countries abroad, and it opens a whole new set of relationships between developed and some of the less developed nations.

Here in Iowa, the second largest agricultural exporter of the 50 States, there is an inescapable sense of the interconnection between trade and the health of the domestic economy—all the more at a time of world inflation and commodity shortages.

So this meeting is surely not chasing fantasies or merely trying to breathe life into a dying or slumbering set of issues. It is coming to grips with the most urgent realities and most pressing prospects facing an increasingly interdependent world. Moreover, when we speak of food or energy, we are not dealing with economic abstractions or remote speculations about world development, but with the elemental and understandable issues of human livelihood and dignity. Looked at in these terms, the "world without borders" which keynotes your meetings, is not a figure of speech, but a fact reinforced by the attention now riveted on food, energy, and the new terms of world trade.

I need hardly stress that the consideration of the trade bill by Congress and the imminence of concurrent trade and monetary negotiations can have momentous consequences in the impulses they give both to our foreign policy and to the future character of our economy. How we handle the trade bill will be a shaping force for national foreign economic policy for years to come, both among industrialized and developing nations. It could have paralyzing effects: It can be liberating. This is not an isolated or intramural domestic drama. How the trade bill and associated issues are handled is integral to the positions of our trading and economic partners and to the confidence they place in our economic good sense, stability, and staying power.

The uncertain prospects and timetable of the trade bill has been one factor, for example, in the more vulnerable position of the dollar abroad. The outcome of trade legislation will be a major index for countries in assessing the nature of United States foreign policy—whether we are realistically concerned primarily to limit untenable and debilitating security commitments or whether we are unrealistically attempting to devise some form of indiscriminate modern day political and economic isolationism with all the pitfalls that creates for the world community.

Equally the consideration of trade legislation—an event which does not occur more than once in a decade—or at even longer intervals—has large portents for our domestic economy as well. Though the United States in raw arithmetical terms is less dependent on the flow of international trade than many industrialized nations, nonetheless it is of heightening importance as it is plain to see not only in our historic relationships with the countries of western Europe, but also in our unfolding new relationships with the Soviet Union, eastern Europe, China, and of course, Japan. And if one considers so large a question as the future of our domestic energy sources—much of it from countries developing some independent financial and political leverage of their own, the pivotal importance of trade is inescapable. But a spreading awareness of the changes in world trade brings with it a greater sense of dependency, of accelerated change, and of greater competitive vulnerability here at home. That is why it is especially important to seize the opportunity to mesh a trade adjustment and manpower policy with trade negotiations and initiatives.

For the past four decades the United States has pursued a generally outward-looking foreign trade policy—a policy designed to seek expanded trade, from which all nations could benefit economically and politically. The United States did not take this course until after learning, from the hard experience of the depression and smoot-hawley tariff years, the grave disadvantages of indiscriminate trade restrictions—political isolationism and retaliatory trade barriers, which in turn forced many American businesses to lay off workers. Since 1934 and the enactment of the reciprocal trade act, and especially after World War II, the United States has encouraged cooperative and interdependent international economic policies.

On balance, the result of our outward-looking foreign economic policy coincided with unparalleled United States economic growth, stimulated increased sales abroad, strengthened economic and political relations with foreign countries, and an increased standard of living at lower costs to consumers in the developed countries, including the United States.

In recent years, however, there has been growing concern in the United States about our mounting trade and balance-of-payments deficits, combined almost uniquely with a persistent and intolerable 5 to 6 percent domestic unemployment rate and also a surging inflation suffered by many nations. We are confronted with these facts, but have generally been unable to reach a consensus as to their root cause, and more importantly, have, to date, been unable to develop truly constructive solutions.

Some concerned citizens have pointed to unfair trade practices engaged in by foreign companies and governments, which have gone unchallenged by the executive. Others have suggested that the roots of our employment and trade difficulties are to be found in our domestic economy, through the lack of economic policies effectively controlling inflation, and the failure to develop and rely on forward looking economic policies to stimulate innovation, productivity, and vigorous competition.

In spite of these various views, three facts are clear. First, millions of American workers are gripped by the fear that imports are undermining their job security, and they are joined in this fear by diverse industries which feel the pressure of foreign competition. Second, the concerns being voiced by labor and management in the adversely affected sectors of our economy are genuine concerns, and cannot be ignored or answered by resorting to the vague conceptual slogans of either "free trade" or "protectionism." Finally, the post World War II economic system and era have come to a close, and a new set of domestic and international economic policies, relationships and institutions need to be developed.

These events are clear signals that the United States must develop and pursue fresh concepts to meet the problem of economic dislocations caused by imports and further economic interdependence. This points unmistakably to the need for new trade legislation to confront the requirements of greater job security and opportunities for American workers—and in a way which is truly humane, effective economically, and consistent with the best interests of the U.S. role in the world economy.

In April and May of last year, the Subcommittee on Foreign Economic Policy, of which I am chairman, held seven days of hearings to examine workable mechanisms for economic conversion as an alternative to trade wars.

The wide consensus reached during the hearings was that trade adjustment assistance in its present form is burial assistance, but that a trade adjustment assistance program could be designed to provide prompt and effective assistance to workers, firms and communities who need it, at a lower cost to the economy, and without the foreign policy disadvantages of import restrictions.

For the purpose of providing a workable alternative to trade restrictions and trade wars.

Trade adjustment assistance should put delivery system, more substantive assistance and an early warning network to spot in advance those industries and companies which are running into trouble. Then effective government assistance can be useful before the company is beyond hope and it can enroll workers into training programs before they are unemployed and their skills become obsolete. In an age of "future shock" the Government must anticipate problems and identify industries which need assistance. But, most important, the assistance must be adequate, practical and quick. Otherwise, we will always be in a position of doing too little, too late, and there will be no viable political alternative to protectionist tariffs and quotas.

H.R. 4917, the Trade Adjustment Assistance Organization Act of 1973, provides, I believe, the proper emphasis for an effective trade adjustment assistance program, whose costs are less than those imposed by import restrictions. 300–600 million vs. 12–15 B. The Ways and Means Committee is giving the concepts contained in these proposals favorable consideration and I am hopeful that the House will adopt a strong and coherent version of this bill.

The social and human costs of economic dislocation caused by rapid technological change, changes in consumer tastes, Government procurement programs, international trade, and other factors, make the development of effective adjustment mechanisms imperative where such dislocations occur.

Moreover, as our orientation toward a military economy winds down, and as the 1970's bring a new awareness of the human and environmental problems which confront the Nation, we must develop national priorities and an economic conversion program which will serve to shift industry from less productive areas to those for which there is a need for greatly expanded services, manpower and capital investments—health, education, energy, housing, pollution control, mass transportation, and rural and urban development. Trade adjustment furnishes such a model.

What our experience has increasingly underscored is that trade and monetary negotiation and the necessary adaptations in the world system will require time, persistence, and skilled judgment, both professional and political. These problems will not evaporate with the passage of trade legislation, with the convening of formal trade negotiations, or with any automatic sequence of programed decisions. Their solution requires more than expert prescription alone; they demand also political insight, leadership, and a proper interplay between the President, Congress, and the public.

Nowhere are the tasks of such foresighted leadership and future-mindedness more demanding than in the topics to which you have given perspective here—the new fabric of realtionships required with the third world. These have their own new profile and their own independent claim on the attentions of the policymaker and citizen. They are not any longer—if they ever were—merely the byplay of great power relationships or a distracting and spasmodic object of concern for the trilateral industrialized association of North America, Japan, and Western Europe. Even if we leave aside all considerations of humanitarian assistance—which we cannot in a world in which as many as 20 million may die this year from starvation and serious malnutrition alone—the new realities are compelling:

The United States and most of the rest of the industrialized world is growingly dependent on the third world for a critical portion of its energy and basic commodity needs. To be sure, for each item the sources tend to be few in number, giving a relatively small number of countries considerable strategic market power and leverage. For example, 4 countries dominate in world copper, 2 countries in tin, 4 in coffee and 4 countries have more than half the world market in rubber and bauxite. And there are also commodities such as timber which could well develop scarcities. A few of these countries, especially those with oil, will accumulate large earnings which can seriously effect money flows and markets as well as monetary stability.

There is no longer any question that U.S. foreign investment and multinational corporations must adapt in many places to changing environments in which their political consequences, intended and unintended. In response to the changing investment environment in less developing countries, the multinational corporations must be willing to use forms of investment which they ignored in the past—such as joint ventures, fade-out arrangements and non-equity production sharing and management contracts. In addition, the investor, the host country and the investor's country must, in cooperation with multilateral organizations, develop reasonable and workable rules of conduct for all the parties involved in international investment transactions.

Overall, our foreign investment has been beneficial both to the host countries and the United States. But, if this is true in the aggregate, it is also true that some U.S. companies have shown dangerous insensitivity to the environment in which they operate and that often too little direct benefit has accrued to the countries in which they locate. In some extractive mineral industries, for example, some of the commodity boom in the past year shows up in disproportionate profits for foreign investors rather than to the developing countries themselves. Though under the best of circumstances U.S. and other foreign or multilateral enterprise in the third world cannot be completely sanitized from political flareups and differences, there are a number of practices and policies which can be undertaken to limit their number and virulence.

We are entering an era in which some third world countries—a small minority now, but perhaps a larger number in the next decade—will have the capacity for reverse investment in the United States. This is a development which we have hardly foreseen but whose wise and balanced resolution is highly important to our future relationships with all countries and particularly at the moment to our relations with energy producing countries.

We are already in a phase of foreign affairs where international collaboration in the environment, in the oceans, and seabeds vitally depends on shared understandings with the nations of the third world. Many of these countries have important rights to declare and responsibilities to assume as symbolized in the decision to hold the Law of the Sea Conference next year in Santiago. No big power arrangement will resolve these large matters which affect the lives of all of us quite as much as issues which go under the name of national security.

During the next year, for example, we must act on these realities. Again the trade bill offers an early chance if it includes the extension of tariff preferences to third world nations. So also we may hope that with world monetary reform means may be found which will permit developing countries to participate and benefit more directly from the functions of the international monetary system.

Finally, any look at the coming contours of world cooperation must include an attack on the problems of world food supply—meeting the base needs of the famished and undernourished and providing new international mechanisms for stockpiling and emergency supply. We in Iowa—with our traditions in and knowledge of farm practices and technology—should have a special awareness and contribution to make. So far we have worked on the international scene in response to situations as they occur year by year. This year events have conspired to illustrate painfully that this is no longer enough. In one year we have seen shortages, transportation bottlenecks, depletion of stocks, widespread famine in sub-Saharan Africa, Pakistan, Phillipines, and elsewhere, and also the entry of the USSR and possibly China as major food purchasers. In addition, we are now on the verge of crippling fertilizer shortages which could seriously cut back world agricultural production.

This sets a large but not hopeless task before us all—both to meet the unfulfilled needs that still exist across the world at the present time and to prevent future famines. Last year the developing countries actually had nearly a 1 percent drop in aggregate agricultural production, and for several years have not matched their population increase. Yet it is also true that a 2–3 percent voluntary reduction—less than 100 calories a day—in food consumption by people in developed countries would at least bridge the starvation gap in the world.

This is a problem, therefore, whose solution demands government foresight, international collaboration, and the assistance and counsel of private groups and educational institutions such as are represented here. The newly enacted farm legislation puts us in a better posture to attack the problem. The realization that no nation is exempt from the effects of major food deficits helps also. But the full medley of actions and initiatives necessary have not yet crystallized. We must be careful that a better year, if it occurs in world agriculture, does not lull us into a new complacency.

If there is one prospect that is certain for the decade ahead, it is that we have entered an era of economic diplomacy and restructuring throughout the world. This fact does not lessen the need for the industrialized nations to take common counsel and action. But it also means that the world in an important respect is again becoming more nearly one. It will still be a world with the stresses created by the divisions between rich and poor. But it will no longer be sufficient to speak of an undifferentiated third world or to assume that its needs or its powers are dimly submerged below the larger requirements of security and traditional diplomacy. Economics may be a dismal science. But it nonetheless contains within it much of our future destiny.

I congratulate this conference for having raised these themes and for spreading in Iowa so clear a future awareness of the tasks we have as citizens of this state and of the world community.

THE COST OF THE WAR IN SOUTHEAST ASIA

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. HARRINGTON. Mr. Speaker, now that we have ended the U.S. fighting role in Southeast Asia, I think it would be useful to reflect on what we have spent in dollars on this costly war.

Richard L. Strout has written a thoughtful article based on a study done by Tom Riddell of Bucknell University, examining the costs of the war. It seems to me that it is worth noting that Mr. Riddell estimates that these costs will continue into the middle of the next century. He also estimates the overall total cost of the war to each American family—a total greater than an average American family's income for an entire year. Given the fact that there is still no peace in Vietnam, one begins to wonder about these sacrifices.

Mr. Strout's article appears below, and I call it to the attention of my colleagues in the Congress and to the American public:

AN EXPENSIVE WAR

(By Richard L. Strout)

WASHINGTON.—Does anyone recall the Vietnam war? That was the one that we ended last July you remember—or the Cambodia part of it. Congress wrote a cutoff after it discovered that Mr. Nixon had been secretly bombing Cambodia for 14 months.

The war was the longest in American history. So much has happened in the meantime—Watergate, inflation, the astronauts' trip, the Middle East—no wonder you're a little leary about it.

Now comes a doctorate study by Tom Riddell of Bucknell University, printed in the Progressive magazine, saying that overall cost of Vietnam will be around $575 billion, of which perhaps half has been paid. He estimates costs will continue into the middle of the next century.

To refresh my memory I have looked through my files. One thing you can say, everybody in authority was optimistic about the 10-year war. "Every quantitative measurement shows we're wining the war," Secretary of Defense Robert S. McNamara said in 1962 . . . "The corner has definitely been turned to victory in South Vietnam," Arthur Sylvester, Assistant Secretary of Defense said, March 8, 1963 . . . "Victory . . . is just months away," forecast Gen. Paul Harkins, Saigon Commander, Oct. 31, 1963 . . . "We are not about to send American boys 9,000 or 10,000 miles from home to do what Asian boys ought to be doing for themselves," declared President Johnson, Oct. 21, 1964 . . . "We have certainly turned the corner in the war." Secretary of Defense Melvin Laird, (announced) July 23, 1969. "This action (the invasion of Cambodia) is a decisive move," said President Nixon, May 9, 1970. "Peace is at hand," said Dr. Henry Kissinger, Oct. 28, 1972.

Public men should be optimistic in wartime and illustrations like the above show that U.S. leaders fully fulfilled their obligation.

Just the other day President Nixon spoke at the Veterans of Foreign Wars convention at New Orleans (Aug. 20) and he rejoiced that "we finally do have peace with honor." Mr. Nixon used the phrase "peace with honor," or some variant, five times in his brief address. His audience warmly applauded.

One difficulty is, as Time noted last August in quoting an unnamed "U.S. analyst": "The North Vietnamese haven't given up any of their goals. It's just that they've given themselves a period of years without military struggle." However, some kind of a "military struggle" still seems to be going on. Every little while, when television doesn't have more exciting news to report, there are still items about the Vietnam struggle. The war isn't over. What has happened is that the U.S. has withdrawn. That makes nearly everybody rejoice.

So how much did it all cost? This is the way Mr. Riddell works it out:

	Billions
Budgetary expenditures 1950 to 1971	$168.2
Future budgetary expenditures (pensions; interest)	358.3
Costs of efforts to end the war	.2
Costs of conversion (war to peace)	6.8
Human resources costs	143.6
Total	676.1

It becomes at once evident that the Riddell figures are tentative. Some things are down-to-earth statistics: The U.S. exploded over 15 million tons of munitions; saturated South Vietnam with over 100 million tons of chemical herbicides and lost about 8,000 aircraft [2,500 planes and 4,000 helicopters]. Total casualties incurred—to "secure self-determination for the South Vietnamese and to halt the spread of international communism"—were 53,813 Americans killed and over 100,000 wounded.

Dollar cost is harder to measure. They include interest, aid to Indo-China, and veterans' payments. Veterans' payments in past wars continued for 100 years. Historian James L. Clayton says, "Most of the costs of wars in American history have come after the fighting stopped."

I am dubious about Mr. Riddell's estimate of "human resource" costs: what the boys might have been creating and earning at home if they hadn't been killing in Indo-China. Certainly there was an economic loss. At least Mr. Riddell wisely doesn't try to estimate the cost of current inflation, which is due, in large part, to the huge war deficits.

Future generations may find it hard to understand—our willingness to spend so much money for 10 years in a war 10,000 miles away in Asia. Mr. Riddell figures the total cost to each American family is $12,000. What would they otherwise have done with that $12,000, I wonder—cars, homes, education? Was it worth it?

TRIBUTE TO SKYLAB 3 ASTRONAUTS

HON. JOHN WARE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. WARE. Mr. Speaker, students in an English seminar at Henderson Senior High School in West Chester, Pa., want to share with all America tributes they have written honoring Astronauts Alan Bean, Jack Lousma, and Owen Garriott of the successful Skylab 3 mission.

As stated by their teacher, Mrs. Rosemary R. Powers, the students want to salute these three men "who through their personal ability, determination, courage, and faith brought honor not only to themselves and everyone at NASA, but also to all other Americans as well."

I commend the students for their fine efforts; and I am pleased to insert their original poems, as follows:

In Orbit

There are no trees
No horses and no gulls
There is only the Universe.

The sun beats down
On the metallic shell
Even when the day's work is done.

With cameras and telescopes
The astronaut is alone
To study the stars that do not twinkle.

He analyses the cloud's turbulence
And the silent sea
For they are there for him to understand.

With knowledge he shields himself from the sun
And determines where he is
And where humanity is going.

—Paul Garrett.

Brave and unfearing in your tiny tin can,
Are you dreaming of what lies below?
Do you long to be on Earth once more,
Or would you rather stay above, giving your only life
To science, and the Infinite quest for knowledge?
Are you prepared to die for those?
What makes you give so much
And accept so little in return?
Isolated and free from strife, are you aware
Of the struggles in the lives beneath you?
Yet, you will go on, thinking of what you can do for man,
And blind to personal gain.
God holds your fate in his hands;
He makes the decision that you shall return safely,
Or sacrifice your life for those here on Earth.
And when you return,
Will someone cast a tear for Humanity?

—Ms. Ginny Beyer.

Perilous Privilege

In this what of a world
Who,
But you,
Has experienced a place
Like space

Outside his soul
As part of the larger whole
To find
Your mind,
To risk detachment
And feast
Your heart?

—Beth Fleming.

At Least One Answer

Origin of the stars, moon, earth, universe?
Even if all questions are left unanswered, unsolved,
Men who travel the blackness of space
Make a great, perhaps the greatest discovery,
Appreciation of the earth.

—Debbie Penry.

In Appreciation

Surely men do not toy with the idea *death* for their own personal gain. Nor do they walk into a rocket that guarantees almost nothing for these men a million miles from the planet *Earth,* for the simple reason of receiving several weeks of recognition. No, these men who so willingly risk their futures risk them for mankind still sitting securely on Earth.

Life is so very finite and yet such men deal in the infinite futures of men by investigating that beautiful black and unknown space outside of our own stable hemisphere. So, my good astronauts, I thank you and appreciate the very strong and boosting support you have given humanity while living in the darkness of space and placing your trust in both God and mankind.

—Ann Ziegler.

Space, a galaxy of glittering stars,
An enormous expanse—fresh—exciting—Untarnished.
The Universe, its unique simplicity,
Both puzzling and charming man—
With its beauty.
A beauty transcending time,
Present long before us, it will always be—There to touch.
Man strives to conquer and learn,
But all that is to be found—Lies in his soul,
And in the unterminating beauty Of a life fulfilled.

—Janet DiBella.

Oh brave and valiant men of space,
  Now that you have returned,
We thank you for the knowledge gained,
  The things that we have learned.

It takes a special man to do
  All that the scientists ask.
You three were chosen specially
  To do momentous tasks.

Through all the perils, problems, risks,
  You did your very best.
You showed us strength of character.
  You stood up to the test.

Oh brave and valiant men of space
  America wants to say,
God bless you, and we're glad you're home,
  We're proud of you today.

—Kathy Fulmer.

A million miles away, a million miles away, and who cares for them?
Certainly not those computerized men to whom a job is only a responsibility which ends at five o'clock.
Certainly not the General Public to whom their accomplishment is only second-page news,
And maybe tomorrow's page six in the obituaries.
The *Soul* of the people, that underlying thrive which flows through all of humanity worries over these Disciples of the Future.
They have left their mark on the Immortal Soul in perpetrating such a mission.
They have become a bit immortal in contributing to the common cause of harnessing the Unknown.
Therefore, don't fret ye pioneers of the universe.
Take comfort in the fact that the people's collective Soul does not terminate its anxieties at five o'clock.

—Debbie Tredinnick.

COUNTDOWN

10! Such brave men!
Like Astronaut Glenn
9! Your tin foil suits shine
While rocket engines whine
8! Soon you will accelerate
Ignorant of your fate
7! Onward, upward to heaven
Just like Apollo 11
6! Your seatbelt neatly clicks
While the clock steadily ticks
5! Nerves electric and alive
No one's certain you'll survive
4! Into the empty space you'll soar
Heroic men of the Air Corps
3! Only He can foresee
What will become of thee
2! Up, up into the blue
Farewell! Adieu!
1! Your long trek has begun
It cannot be undone
0! All systems go!
To explore the long ago

—RAYMOND RORKE.

SENATE—*Thursday, November 29, 1973*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Reverend Dr. Seth R. Brooks, pastor, Universalist National Memorial Church, Washington, D.C., offered the following prayer:

Our Father, who through Thy wisdom didst permit men and women to bring forth our Nation, we offer our thanksgiving. We remember famous men and women and the unknown and unsung for the deeds and accomplishments they wrought in our Nation. We are aware of all those who would be men of present valor and would keep pure the springs of national purpose. We pray that in coming generations there may be gratitude for a goodly heritage.

We ask Thy blessing upon this body and upon the transaction of its business. We pray that each Member may be given health, strength, and courage. May the minds of those who carry grave responsibilities be held upon lofty things. May those who labor and toil find refreshment of spirit with the realization that eternal verities abide and that the arc of the universe is long and bends toward justice. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 28, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes.

The bill was subsequently signed by the President pro tempore.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not desire recognition at this point.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I have elected not to disturb the peace of this body.

The PRESIDENT pro tempore. Under the previous order, the Senator from Montana (Mr. MANSFIELD) is to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of the time allotted to the distinguished majority leader.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RULES AND PRECEDENTS

Mr. ROBERT C. BYRD. Mr. President, I wish to raise a question that deals with the rules and precedents of the Senate, and I wish to do so merely for the benefit of future guidance of the Senate.

I suppose I have two or three questions that I would like to have resolved, if it can be done.

The first question would be this: A motion to table having been made, and the Chair having duly recognized the Senator who made that motion, can a point of order be entered at that point, thus displacing the motion to table?

The PRESIDENT pro tempore. The Chair is advised that after considerable research there appears to be no decision of the Chair exactly on point; however, in 1964 there was a ruling by the Chair that is very closely related. In that instance a resolution was being considered under a unanimous-consent agreement when the Chair stated that a Senator who had the floor could not be interrupted against his consent and that he was not required to yield for a question of personal privilege or a parliamentary inquiry.

In that instance the Senator who had the floor was subsequently called to order under rule XIX for the use of alleged objectionable language. The Presiding Officer, however, ruled that in his opinion the speaking Senator had not violated the rule. The Chair then having held that an appeal from the ruling was in order and subject to debate under the rule, an appeal was taken. The time for debate of the resolution having expired, a motion to table the resolution was made and carried. Subsequently, in reply to parliamentary inquiries, the Chair informed the Senate that the motion to table which was not debatable having been made was in order, and having been agreed to, the previous appeal from the ruling of the Chair was carried with it.

It would appear to the Chair that an appeal from the decision of the Chair and a point of order have comparable standing.

The procedure for the case in point, based on the above precedent, reasonably would have been as follows: A point of order against any procedure is in order at any time until that matter has been disposed of, but that does not mean that it has a higher privilege over all other motions. In this case the pending question had moved from the amendment per se to the motion to table and a point of order could be made against that motion to table as being in order or not being in order at that point, but the Senate had then moved one step from the amendment per se to a privileged motion—a motion to table had been made, which was not debatable. If the motion to table had carried, there would be no need for a point of order. If the motion to table failed, a point of order against the amendment as not being germane would still be in order.

Mr. ROBERT C. BYRD. So, Mr. President, if I can provide my own interpretation of that precedent as I understand it this is the only precedent that the Parliamentarian has been able to find that would be anywhere near the point that I raise. It would be my own interpretation that, as the Chair has stated, a point of order has equal standing with an appeal from a ruling by the Chair.

The PRESIDENT pro tempore. In respect to this situation it would appear so.

Mr. ROBERT C. BYRD. And a motion to table having been made had precedence in that instance over an appeal from a ruling by the Chair. Am I correct?

The PRESIDENT pro tempore. It becomes a question of interpretation, because we have no exact ruling on that point.

Mr. ROBERT C. BYRD. But in that instance, the effect was to give precedence to the motion to table over the appeal. Am I correct?

The PRESIDENT pro tempore. The previous ruling had that effect.

Mr. ROBERT C. BYRD. And that is the only similar ruling that can be found?

The PRESIDENT pro tempore. Except that there have been numerous rulings on points of order which hold that they may be raised until the said question is disposed of.

Mr. ROBERT C. BYRD. I understand that. I say most respectfully to the Chair that as I heard the Chair read the precedents, the motion to table in that instance took precedence over an appeal from the ruling of the Chair. Am I correct?

The PRESIDENT pro tempore. It would appear so.

Mr. ROBERT C. BYRD. Mr. President, that being the case, then a motion to table having been made, it would have precedence over a point of order coming in thereafter, if the point of order is equivalent to an appeal from the ruling of the Chair in the same circumstances.

Mr. HUGH SCOTT. Mr. President, would the distinguished Senator from West Virginia yield before the ruling?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. Mr. President, I want to raise a question of the importance of this colloquy, because I would think that we need to be very cautious not to bind the Senate in all future proceedings. This is a colloquy for information only. And I would hope that it is not intended as binding precedent unless it happens in an actual case. I take it that we are proceeding on a theoretical basis.

Mr. ROBERT C. BYRD. We are; we are exactly. And I certainly want to substantiate what the distinguished Republican leader has said. However, I think this is important.

The PRESIDENT pro tempore. These responses to parliamentary inquiries are not binding on the Senate because an appeal from these statements cannot be taken.

Mr. ROBERT C. BYRD. Exactly; however, I think it is important, may I say to my distinguished friend, the Republican leader, that we have some clarification of this situation, because on yesterday I made a motion to table. And I do not want any misunderstanding as to my purpose today in raising the question. I am not a sore head about the point of order having been upheld yesterday by the Chair, not at all. I certainly did not offer the amendment with any intention or hope that it would be upheld by the Senate. My thought and my hope was that the amendment would be tabled. So my question is not intended because of any feeling of ill will resulting from the holding of the Chair on the point of order per se yesterday.

At that time it was my feeling that, a motion to table having been made and the Chair having recognized me and having proceeded to state that the question was on my motion, and then having let a point of order come in and displace my motion, I did not think that was proper on the part of the Chair.

I said—

> Did not the Senator from Hawaii have the floor in his own right?

The Chair answered that he did.

Then, I said—

> Thereafter, when the Senator from Hawaii yielded back his time, I was recognized and made my motion to table.

The Chair said:

> That is correct.

Then I said in effect—

> Then am I to understand that a point of order can come in after the motion to table has been made?

The RECORD today does not show the response of the Chair. But the Chair did respond. The Chair responded to the effect that a point of order could come in after the motion to table had been made.

When the Chair responded in that fashion, I did not press the point. I thought I could be wrong. We were limited in time, and we had a vote at 2:30. I did not want to go through the process of appealing the ruling of the Chair because it might require two or three votes. I thought I could be wrong. However, I would stress that the Chair answered the inquiry. But the RECORD does not show the Chair's answer.

I know the Chair's answer because I saw it in the RECORD copy last evening, and it had been penciled through. The answer was, in effect, that a point of order could come in after a ruling had been made.

The fact that the Chair's response, as recorded in the reporter's transcript, was marked through with a pencil, and does not appear in the CONGRESSIONAL RECORD, indicates to me—and I am not talking about the particular Senator who was in the chair—that there was uncertainty on the part of the Parliamentarian's office.

The fact that it was marked out indicates to me that my question was not properly answered on the floor yesterday during the debate.

So, what I want is some understanding of where we now stand, because this question will come up again someday. It is my belief that a motion to table having been made, as it was on yesterday by me, a point of order should not have been allowed to come in. And I say that because a motion to table, if it carries, accomplishes the purpose of the Senator who wants to raise the point of order. If it fails, the person raising the point of order has lost no right. He can still raise his point of order.

Mr. HUGH SCOTT. Mr. President, there is a very considerable risk in revising the rules of the Senate through a colloquy. And the Chair has already answered that by saying that the responses of the Chair on points of order are not binding on the Senate.

There is an advantage, I say to my distinguished friend, the Senator from West Virginia, of a certain ambivalence under some situations in the Senate, because we cannot anticipate them.

I have in mind a point of personal privilege. Suppose that the speaker who was about to move to table an amendment had said something which involved another Senator on a point of personal privilege. It might be—and I am not exactly certain how the ruling would go—that the Chair would rule that the point of personal privilege had to be disposed of prior to the motion to table because it had occurred earlier. Stating a hypothetical case, there might be points of order of such substantial nature and of such importance to the Senate and perhaps to the bill that the Chair might rule under those circumstances that the point of order takes precedence.

I appreciate what the distinguished assistant majority leader is trying to do. I do want to caution once more that we ought not to try to anticipate anything that can happen in this unpredictable body.

I was not present when the incident arose about which the Senator is talking. So, I have no opinion on that.

Mr. ROBERT C. BYRD. Mr. President, I appreciate what the Seantor says. Perhaps I ought to address myself to the matter of the point of order. I have no fault to find with the Senator in making the point of order. He was certainly within his rights. However, I strongly feel that the motion to table had precedence, it having been made. And as one Senator who has sat on this floor almost every day for 8 years, I am not an expert on the rules. I do not think that any Senator should be expected to know as much about the rules and precedents or to have anything near the expertise of the Parliamentarian. That is why we have a Parliamentarian.

However, I have been here long enough to have some meager understandings of some of the rules and precedents. And I have been on the floor long enough to know that we can have the same situation occur again. I feel that the question to be raised at this point to indicate that there is one Senator who would not agree that a point of order concerning germaneness should be allowed to enter after a motion to table has been made.

Fortunately, I had no strong feeling about the merits of the amendment; I did not expect the amendment to be adopted. I wanted the Senate to table it. As I say, I did not press the point. I raised it when the Chair indicated that such a point of order could come in after the motion had been made. I did not want to press the point, because I thought at the time that I could be wrong. I now think I was right.

Mr. HUGH SCOTT. Mr. President, will the Senator let me raise a different point very briefly that was raised yesterday in connection with another matter of procedure?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. We had some concern expressed on a time agreement that we shall vote, say, at 4 o'clock, and it is uncertain whether a quorum call is expected to take place or not at that time, that some Senator planning to leave immediately after the 4 o'clock vote may miss his plane because the quorum call delays the vote until 4:20, or the reverse happens; someone comes in at 4:20, there is no quorum call, and he misses a 4 o'clock vote.

I wonder if we could establish some kind of procedure for the information of Senators whereby, in time agreements, we agree that we shall vote at 4 o'clock, the vote to be preceded or not to be preceded by a quorum call, so Senators may be on some notice. Could we do that?

Mr. ROBERT C. BYRD. May I say in response to the inquiry of the distinguished Republican leader that I find no problem here. I do not know precisely what happened yesterday, because at the time all the confusion was going on, I was thinking about my motion to table.

Mr. HUGH SCOTT. I do not know precisely what happened either. That is why I am trying to find some way out of the confusion.

Mr. ROBERT C. BYRD. But let me say further to the distinguished Republican leader that any Member has a constitutional right to suggest the absence of a quorum immediately before a vote, even though the hour for voting has been agreed to by the Senate. There is no question of that.

Mr. HUGH SCOTT. That is right.

Mr. ROBERT C. BYRD. We have done that many times, and any Member has a constitutional right to raise the point of no quorum, because no business can be conducted under the Constitution unless a quorum is present. So any Member can call for a quorum just before a vote, even though a time has been set for a vote, and he will be upheld in his right.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the time I heretofore yielded back to be returned to me.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUGH SCOTT. I now yield that time to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. I thank the able minority leader. I have answered that. I want the Chair to indicate whether or not I am right, but before he does so, I want to go on to the next question.

Mr. GRIFFIN. Could we have one question at a time?

The PRESIDENT pro tempore. Under the precedents, a quorum call is always in order just before a vote.

Mr. ROBERT C. BYRD. So that disposes of that.

Mr. HUGH SCOTT. Then I would suggest that perhaps we might accommodate Senators by providing that a quorum call shall occur at 10 minutes to 4 or a quarter to 4. We cannot thereby rule out a subsequent quorum call, I am aware of that, but we could at least put everyone on notice that if there is to be a quorum call it will occur at 3:45 or at 4, so that Senators, who very often are making speeches in the evenings in other places, other cities, will be able to arrange their schedules.

Mr. GRIFFIN. Mr. President, before we leave that point, if the Senator from West Virginia will allow me——

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I think it should be noted, without commenting on whether or not an error was made with respect to the point that he is primarily concerned about, I want to focus back on my effort yesterday, at the point where a vote was to be taken on the motion to table, when I suggested the absence of a quorum and I recall that the Chair at that point indicated that such a suggestion was not in order unless time were yielded to me.

Mr. ROBERT C. BYRD. That is a different question.

Mr. GRIFFIN. Oh.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. Then I think we should——

Mr. ROBERT C. BYRD. I am coming precisely to the point.

Mr. GRIFFIN. All right.

Mr. ROBERT C. BYRD. That is a different question. If a certain amount of time is allotted to an amendment, let us say 15 minutes to a side, no Senator can put in a quorum—I hope I am correct; the Chair will sustain me if I am—no Senator can put in a quorum until that 30 minutes has elapsed, or has been yielded back, or unless time is yielded by one side or the other, or both sides, for such quorum, or unless there is a unanimous-consent agreement to the effect that a quorum call may occur without the time being charged to either side. That is quite different.

But when the time has expired or been yielded back, then nothing can keep the Senator from Michigan from getting a quorum, because he is entitled to that quorum before the transaction of business occurs. He is entitled to a showing that there is a quorum present. But as long as all time has not expired or been yielded back, he is not entitled to get his quorum call except by unanimous consent or unless time is yielded by someone for the purpose.

Am I correct?

The PRESIDENT pro tempore. The statement of the Senator from West Virginia is correct as to a quorum call being in order.

Mr. GRIFFIN. I think we might put this factor into it, though: Suppose a motion to table were made, and those in control of the time did not yield for the purpose of a quorum call. Then a Senator does not have a right to have a quorum call before the transaction of business; would that be the case?

Mr. ROBERT C. BYRD. A vote could not occur on the pending matter, and a motion to table cannot be made until all time has been yielded back. At that point, the Senator can then suggest the absence of a quorum.

Mr. GRIFFIN. I see. All right.

Mr. ROBERT C. BYRD. I had only 1 minute, by unanimous consent, and I used my minute yesterday, and the Senator from Hawaii (Mr. Fong) had 15 minutes, and he was still in control of the time. Someone asked whether we could have a quorum call, and I said, "Not on my time," because I did not have any time remaining. Until he yielded back his time, or yielded time for the purpose, a quorum could not be called. I think that was what happened.

Mr. GRIFFIN. It was my understanding that a quorum call could not be had until all time had been yielded back. Is that correct?

Mr. ROBERT C. BYRD. Or unless time is yielded for the purpose, or unanimous consent is given for the quorum, the Senator is correct.

Mr. GRIFFIN. I thank the Senator. Now I know he wants to revert to his other point.

Mr. ROBERT C. BYRD. That is the point I wished to make.

Mr. President, I am sorry for taking the time of the Senate.

The PRESIDENT pro tempore. The additional time of the Senator has expired.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the time which was allotted to the distinguished majority leader at the beginning of the session and which was not used, be given back to him.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that I might be allotted 5 minutes, in order that I might discuss this parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, so that we will not have to break our rules that are not written down, I have just gotten the time back for the majority leader that he ordinarily gets at the beginning of every day under the standing order. I did not use any of that. I am sure the majority leader will use some of it, and be glad to yield some of it to the Senator from Alabama.

Mr. MANSFIELD. Mr. President, if the Senator does not desire to be heard now, I would be glad to yield some of my time to him. If he wants to be heard, I am delighted to yield to him.

Mr. ALLEN. No; I would be delighted to be heard later. I just thought now might be a logical time.

The PRESIDENT pro tempore. The Senator from West Virginia did not have reference to the 15 minutes allotted to the majority leader under the special order, but he asked that the 5 minutes at the beginning of the session be restored to the majority leader.

Mr. GRIFFIN. Mr. President, is there any time left on this side for the minority leader?

The PRESIDENT pro tempore. No, but there is time for routine morning business.

Mr. MANSFIELD. If the Senator from Alabama will allow me, I would like to proceed now, and ask that what I have to say be printed in the Record after the remarks of the distinguished Senator from Alabama, and that his remarks follow the remarks of the distinguished Senator from West Virginia.

Mr. ALLEN. That will be entirely satisfactory.

Mr. MANSFIELD. The reason I make the request is, I am chairman of the military construction conference.

Mr. ALLEN. That will be entirely satisfactory.

(The remarks of Senator Mansfield on the subject of gasoline rationing appear later in the Record, by unanimous consent.)

(The following colloquy, which occurred later, is printed at this point, to preserve continuity.)

Mr. ALLEN. Mr. President, I feel sure that I am one of the greatest admirers, in and out of the Senate, the distinguished Senator from West Virginia (Mr. Robert C. Byrd) has. Not only do I admire his great qualities as a Senator, as a statesman, and as a great American, but I certainly admire his great parliamentary skill, his great knowledge of the rules of the Senate, and his adherence to those rules, as well as his adherence to the rules and provisions of the Constitution of the United States, I might add.

In view of the fact that I will not be able to make all the points I should like to make in this connection on the matter of the point of order that the colloquy has been on this morning, I ask unanimous consent that the colloquy appearing on pages 38348 and 38349 of the Congressional Record be printed at this point in the Record.

(Subsequently, by unanimous consent, page 38341 was also ordered to be printed at this point, to precede pages 38348 and 38349.)

There being no objection, the excerpts from the Record were ordered to be printed in the Record, as follows:

The Presiding Officer. Has all time been yielded back?

Mr. Allen. All time has not been yielded back.

Mr. Robert C. Byrd. I yield back my time, Mr. President.

Mr. Allen. Mr. President——

Mr. Fong. Mr. President, I yield 2 minutes to the distinguished Senator from South Carolina (Mr. Thurmond).

The Presiding Officer. The Senator from South Carolina is recognized for 2 minutes.

Mr. Thurmond. Mr. President, article I, section 6, clause 2 of the Constitution states:

> No Senator . . . shall, during the time for which he was elected, be appointed to any civil office . . . which shall have been created, or the emoluments whereof shall have been increased during such time.

This provision, if properly construed, simply means that if an office is created, or if the emoluments of an office are increased, while a person is a Member of Congress, then such person is not eligible for appointment to that office.

Why? To prevent personal aggrandizement or gain.

Had the Attorney General's salary not been increased while Senator Saxbe was a Member of the Senate, without any question, he would be eligible for that office. By lowering the salary, as this bill would do, we remove the barrier created by Congress in 1969 when it increased the salary. If Congress can create the barrier Congress can remove it.

Senator Saxbe is a man of character, courage, and capacity, and I predict he will make a great Attorney General.

Mr. President, on November 27, 1973, the Washington Star-News printed an editorial entitled "The Saxbe Nomination." I ask unanimous consent that this editorial be printed in the Congressional Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

THE SAXBE NOMINATION

It is clear that the framers of the Constitution intended only to prevent members of Congress from deliberately cashing in on their votes when they put in a restriction against senators and representatives serving in any federal civil office after having voted to raise the salary for that office.

It would seem, therefore, that legislation rolling back the salary, for the office of attorney general would be sufficient to clear the way for confirmation of Senator Saxbe of Ohio to head the Department of Justice.

During the first year of Saxbe's Senate term, he voted in 1969 for legislation that raised the salary of cabinet officers from $35,000 to $60,000. According to those who question his nomination, that makes him ineligible to serve as attorney general because of a prohibition in Article 1, Section 6 of the Constitution, which says that no member of Congress shall be appointed to any civil office for which the "emolument . . . shall have been increased" during his term in the Congress.

The Nixon administration has proposed to clear the way for Saxbe's confirmation by cutting the attorney general's salary back to $35,000. But critics claim this is not enough to overcome the Constitutional barrier.

"There is a precedent for this, however. It was done in 1909 so that Senator Philander Chase Knox could be confirmed as Secretary of State. In 1876, the Senate confirmed Senator Lot M. Morill as Secretary of Treasury even though cabinet salaries were increased in 1873 while he was in the Senate. And Senator Hugo L. Black was named to the Supreme Court in 1937 although he had voted to increase the retirement benefits of Supreme Court justices, which certainly seems to fall into the "emolument" category.

"In the present Watergate atmosphere, it is not unusual that nitpickers have been going over the Saxbe nomination looking for flaws and threatening to challenge the nomination in the courts if he is confirmed. It has become the style these days to question every move and motive of the Nixon administration.

"It should be obvious to anyone that Saxbe did not vote for the pay increase for cabinet officers because he expected some day to become one. Given his strong criticism of several Nixon policies, it was a sure bet until Watergate came along that he would never be asked to serve in the cabinet. We believe that cutting the salary back to $35,000 while Saxbe serves as attorney general sufficiently cures whatever constitutional defect the nomination may have had.

Mr. Fong. Mr. President, in voting to table this amendment, I am voting on the ground that we have never had any hearings on this proposition and that I may want to vote for the amendment if we had hearings on it. But, not having had any, I am voting to table.

Mr. President, I yield back the remainder of my time.

Mr. Robert C. Byrd. Mr. President, I move to table the amendment.

The Presiding Office.r The question is on the motion to table the——

Mr. Allen. Mr. President, I was going to be recognized, I thought, for a point of order after the time had been yielded back.

The Presiding Officer. The Senator from Alabama is recognized.

Mr. Allen. Mr. President, I raise a point of order that the amendment is not germane and, therefore, it cannot be considered.

Mr. Robert C. Byrd. Mr. President——

The Presiding Officer. The Chair would state that the point of order is well taken and that the amendment is not germane.

Mr. Robert C. Byrd. Mr. President, did not the Senator from Hawaii have the floor in his own right when he said that he yielded back his time?

Mr. Robert C. Byrd. I, at that time, got

The Presiding Officer. He did.

recognition and moved to table.

The Presiding Officer. That is correct.

Mr. Robert C. Byrd. So the point of order cannot be entered.

Mr. Allen. Mr. President, I called the attention of the Chair to the fact that I asked to be recognized when all time had been yielded back, and the Chair stated that he would recognize me then.

The Presiding Officer. The motion to lay on the table is not debatable. However, the Senator from Alabama was not recognized for the purpose of debate but rather as promised for the purpose of making a point of order.

The Chair sustains the point of order.

Mr. Robert C. Byrd. I thank the Chair.

Well, Mr. President, I will not appeal the ruling, but I think this indicates the confusion that we are all in here. The amendment was for the purpose of doing directly that which we say we cannot do directly but which we are attempting to do indirectly in the form of S. 2673.

Now, Mr. President, how much time do I have remaining?

The Presiding Officer (Mr. William L. Scott). Fourteen minutes remain to the Senator from West Virginia.

Mr. Robert C. Byrd. I thank the Chair. Very well. Would the Chair secure order and preserve order during that 14 minutes?

The Presiding Officer. The Chair will attempt to do so.

Mr. Robert C. Byrd. Time is running on the Senator from West Virginia, I would state to the Chair. May we have order in the Senate?

The Presiding Officer. The Senate will be in order.

Let me say to the Senator from West Virginia that I think the Senate is now in order. The Senator may proceed.

Mr. Robert C. Byrd. Mr. President, I would like to have a little better order if the Chair would get it for me.

The Presiding Officer (Mr. William L. Scott). The Senator from West Virginia requests that the Senate be in order. The Chair asks that Senators take their seats and refrain from speaking with one another while they are in the Chamber. If Senators wish to speak, they should please retire to the cloakroom. The distinguished Senator from West Virginia is entitled to be heard by the Senate.

Mr. Robert C. Byrd. Mr. President, what are we attempting to do in enacting S. 2673? First, we are attempting to bend the Constitution by legislative enactment by temporarily reducing the salary of the Attorney General as an avenue of escape from the constitutional inhibition. This is not simply a matter of reducing the salary, and every Senator knows it.

We cannot shield ourselves by that proposition. The merits of the proposition incorporated in the bill have absolutely nothing to do with our real purpose in enacting the bill. The bill, if enacted, will be a violation of both the letter and the spirit of the Constitution.

When blacks come here for legislation, they are told that the Constitution is in their way.

When citizens come here to tell us they do not want to see their children bused to public schools for the simple purpose of bringing about an arbitrary racial balance in the schools, they are told that the Constitution is in their way.

When citizens come here to ask that prayer be restored to the public schools, they are told that the Constitution stands in their way.

When labor representatives come here, they are told that the Constitution is in their way.

When farmers come here, they are told that the Constitution is in their way.

When small businessmen come here, they are told that the Constitution stands in their way.

Mr. President, I think that all Senators are vitally interested in the rules and precedents of the Senate—and may I have the attention of the Chief Parliamentarian in what I am about to say. All Senators, I think, have a duty to uphold the precedents of the Senate. I have a duty to raise a question about an occurrence which developed today.

During the recent debate on S. 2673, the distinguished Senator from Hawaii (Mr. Fong) had acquired the floor in his own right. He made a statement and then he yielded back the remainder of his time, on my unprinted amendment which was then pending.

I secured the floor and I made a motion to table—I was recognized and made a motion to table. The Chair then allowed a point of order to be made by the very distinguished Senator from Alabama (Mr. Allen). I did not argue the matter then. I was not interested in appealing the ruling of the Chair because I think I had made my point with the offering of the amendment. So, I am not quarreling with the distinguished Senator from Alabama at all—or with anyone else.

I am not satisfied, however, that a point of order can be made after a motion to table has been duly made by a Senator, because there can be no debate on a motion to table.

I would therefore urge the Parliamentarian to research this question. I am not setting myself up as a parliamentarian, but I think, if this is right, then we should know; and if this is wrong, then we should know so that the Senate will be properly guided in the future.

Thus, I would urge the Parliamentarian, with all due respect to the Parliamentarian, to research this question and be prepared at a later date to state precisely what that research shows.

Mr. ALLEN. Mr. President, will the distinguished assistant majority leader yield?

Mr. ROBERT C. BYRD. I am happy to yield to the Senator from Alabama.

Mr. ALLEN. I recognize the parliamentary skill of the distinguished assistant majority leader. Certainly it is unequaled in this body. I believe that his recital of the circumstances surrounding the recognition of the Senator from Alabama up to the making of the point of order left out, unknowingly of course, an added circumstance that, before the time was yielded back, the Senator from Alabama rose and addressed the Chair and was recognized by the Chair and then stated that he wished to raise the point of order. The distinguished occupant of the Chair at that time, the junior Senator from Louisiana (Mr. JOHNSTON), stated that the Senator from Alabama was out of order inasmuch as all time had not yet been yielded back. The Senator from Alabama at that time—and the official Record will disclose this, I am sure—asked the Chair, "Will the Chair then recognize the Senator from Alabama as soon as all time has been yielded back?"

The Chair stated that he would. So, in the first place, the Chair was merely carrying out his commitment made before the whole Senate during the proceedings of the Senate to the Senator from Alabama that he would recognize him for the purpose of raising that point of order as soon as all time had been yielded back.

Now that would certainly justify the Chair in recognizing the Senator from Alabama.

Now, on the other point, and I appreciate the Senator's asking that the Parliamentarian research this point, it would seem to the Senator from Alabama that if any amendment is improperly before the Senate, a motion to table that amendment does not put any element of germaneness into the amendment and make it properly before the Senate. So it would seem to me, even though a motion to table had been made, that it would be proper to raise the point of order that the amendment was not properly before the Senate; and that would not be a debate, it would be merely raising a parliamentary point.

So I do certainly join in the request of the distinguished assistant majority leader that the Parliamentarian research the point.

Mr. ROBERT C. BYRD. Mr. President, I am grateful for the comments that the distinguished Senator from Alabama (Mr. ALLEN) has made, because they round out the record.

I do not agree, however, that the Chair has any business committing itself to recognizing any Senator at a later point unless it is done by unanimous consent because, under the rules, as the Senator well knows, the Chair shall recognize the Senator who first seeks recognition. But the Chair, of course, has discretion. The Chair does not have to do that.

I do not think the fact that the Senator from Alabama asked that he be recognized at a later time to make his point of order carried with it any status. I suppose the Chair felt committed, but the Chair did not have to be committed. I got recognition after the Senator from Hawaii yielded the floor, and I made my tabling motion, which would have had the same practical effect, if it had carried, as taking down the amendment by a point of order.

Mr. ALLEN. With all due respect to the distinguished Senator from West Virginia, I wonder why he did not raise that point at the time, instead of waiting until this time.

Mr. ROBERT C. BYRD. What point?

Mr. ALLEN. The point that the Senator from Alabama should not have been recognized.

Mr. ROBERT C. BYRD. I will tell the Senator why I did not raise it at the time. Our time was short. I did not want to appeal the ruling.

Mr. ALLEN. I am not talking about the ruling.

Mr. ROBERT C. BYRD. I understand. I did raise the point, but I did not want the question the Chair further.

I am not concerned because the Senator's point of order was upheld. I wanted to see the amendment tabled.

What I am concerned about is this: I do not believe that previous precedents will uphold the Chair in what the Chair did. I may be wrong, but, if so, I ought to be shown. We ought to know what the precedents of the Senate are. If previous precedents show that my motion to table should have been voted on and that the point of order should not have come in, then that is what the precedent ought to be. If we are going to have a new precedent by which, after a motion to table has been made, a point of order can still come in, we ought to know about the precedent. I want to know what the precedents are, so that the Senate can be correctly guided in the future. That is all I am asking for.

Mr. ALLEN. The distinguished majority whip will recall that at one time, when the Senator from Alabama had a motion to table before the Senate on the postcard registration bill, the distinguished majority whip put in some six, seven, or eight quorum calls and motions to adjourn, in the face of a motion to table.

Mr. ROBERT C. BYRD. Yes. A Senator, under the Constitution, has a right to call for a quorum; and a Senator cannot be denied the constitutional right to call for a quorum before a vote.

Mr. ALLEN. I saw it happen here today, when we were not allowed to have a quorum call unless there was time.

Mr. ROBERT C. BYRD. The Senator raises a good question. The Senator was denied his constitutional right for a quorum call.

Mr. ALLEN. One more response to the Senator from West Virginia: I doubt that we are going to find a precedent in which a point of order was raised in the face of a motion to table, where the Presiding Officer had committed himself to recognize a Senator for making a point of order and did proceed to recognize him in compliance with his commitment. I doubt that we will find a precedent on all fours with that.

Mr. ROBERT C. BYRD. We may not, May I assure the Senator again that there is certainly no ill will on my part toward him for raising the point of order. That was his right. There is no ill will on my part toward the Parliamentarian. I want the precedents researched.

Mr. ALLEN. I am sure there is no feeling of that kind on the part of the distinguished Senator.

Mr. ALLEN. Mr. President, I care not how the Chair rules on this point. I agree with the distinguished Senator from West Virginia that the Senate ought to know what the construction by the Chair of that rule is, as to whether or not a point of order can be raised after a motion to table has been made on an amendment or a measure before the Senate. I believe it was restricted in this case to the germaneness of an amendment.

First, I will say that to rule that a point of order cannot be made under such circumstances does violence to logic; because under the time limitation agreement and a germaneness rule, it would be possible for any Senator, under such circumstances, to offer an entirely extraneous amendment and have it before the Senate; then make his motion to table, and then force a vote by the Senate on an entirely extraneous matter that should not be before the Senate. So the part of logic would be to allow the point of order to be made that the amendment is not properly before the Senate. That would be the logical procedure, and not to require a vote on an extraneous amendment.

Be that as it may, the facts presented yesterday when the point of order was made are not quite as simple as the parliamentary inquiry that the distinguished Senator from West Virginia made as to whether a point of order can be raised after a tabling motion has been made. Yesterday, before the time was yielded back on the amendment, the Senator from Alabama tried to get recognition in order to raise a point of order; and the Chair stated that he could not be recognized until all time had been yielded back. Then, before all time was yielded back, the distinguished Senator from West Virginia turned to the Senator from Alabama and said, "Do you want to make your point of order at this time?" So it was well understood that the Senator from Alabama wanted to raise the point of order at the conclusion of the time.

Then, when the motion to table was made, the Senator from Alabama insisted on his right to raise the point of order. Apparently, the Chair backed up and allowed him to make the point of order, ruling at the same time, as the Senator from West Virginia pointed out, that the point of order was in order—seemingly ruling at that point in lieu of or in addition to the fact that the Senator from Alabama had been seeking to raise that point of order before the time was yielded back.

So it is not exactly as simple as the parliamentary inquiry that had been made. Whatever the ruling is, of course, the Senate will abide by it. But I do point out that to rule that a Senator cannot make a point of order under controlled time, where germaneness is involved, could require the Senate to vote on extraneous matters not properly before the Senate. That is what happened on yesterday, and that is the logic of the position of the Senator from Alabama on the point of order.

Mr. ROBERT C. BYRD. Mr. President, I do not want to belabor this point, except for the purpose of having the RECORD also show the counter argument. I realize that this will not settle the matter, but I think the RECORD should also show the other argument, which I wish to make.

First of all, I did turn to the able Senator at some point and say, "Now is the Senator ready to make his point of order?" There is no question about that. But time passed. I decided in the meantime to press my motion to table. Every Senator has a right to change his mind.

So, having earlier put the Senate on notice that it was my intention to make a motion to table, having made the motion to table, having withdrawn it, I decided I would pursue that course. That was why, even though I had turned to the able Senator and said, "Is the Senator ready to make his point of order?" and he could not make it at that point, I later felt that I was perfectly within my right to pursue the course I had earlier outlined and move to table.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I think that in order to come under the precedent that has been cited by the Chair—that is, where the point of order was raised against an amendment and then a subsequent motion to table being made and carrying, and carrying with it the point of order—it would have been necessary for the Senator from West Virginia to renew his motion to table after the point of order had been raised by the Senator from Alabama. If the Senator from West Virginia had done that, he would have come squarely under the precedent; but not having done that, I do not believe the precedent covers the exact situation that transpired on yesterday.

Mr. ROBERT C. BYRD. Mr. President, if the Senator had made his point of order, I think it would have been perfectly proper for the Chair to rule on his point of order. But the exact situation was that I had already made a motion to table. The Chair said, "The question is on the." He was going through the ritual of saying, "The question is on the motion to table."

I had been recognized, and the motion to table was before the Senate. A motion to table cannot be debated. I did not feel that at that point a point of order was in order with respect to germaneness.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. If the Senator then had renewed his motion to table, he would have come squarely under the precedent; but not having done so, he did not do it.

Mr. ROBERT C. BYRD. I did not need to renew it because it was before the Senate. The Chair arbitrarily took it away from me. That is the thing I am concerned about—not so much because of yesterday, but it might happen again, and it might happen the next time to the distinguished Senator from Alabama.

As to the logic, Mr. President, I greatly respect the Senator from Alabama. He is a great American, a great Senator, and a Christian gentleman. I think he is the best parliamentarian now serving as a Member of the Senate. He has had very valuable experience formerly as the Lieutenant Governor of Alabama, in presiding over the Senate of Alabama. He has had a long and distinguished service before coming to the U.S. Senate. So far as I am concerned, I bow to him. But I cannot agree that the logic of this matter is as he has stated.

First of all, it seems to me that a motion to table, not being debatable, can settle a matter more quickly. If we go the route of the point of order, then there is the matter of appealing the ruling of the Chair, that can arise, which will require a vote, and it can be debated. There is the matter of tabling the appeal of the ruling of the Chair, which is in order. That could require a vote. Moreover, I do not like to see the Chair wrongly overruled. When the Senate goes that route, it opens up the possibility that the Chair will make a ruling that is the right ruling and which will be wrongly overruled by the Senate, because Senators who come in the door are often guided by the emotion or merit involved in the particular amendment or motion, or whatever is at stake, and they do not really understand perhaps that they may be overruling the Chair and breaking a vital and longstanding precedent.

So I think that anything that will best avoid that possible danger, plus the cost of additional time involved in that route, is the way the Senate ought to go; and the motion to table disposes of the matter with promptitude, without debate, and without the danger of having the Chair overruled in error. If it fails, the Senator who wants to make the point of order can still make his point of order, and he has lost no right of his.

Mr. President, I close with this comment.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. Mr. President, I ask recognition in the morning hour and I yield my time to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The distinguished Senator from Alabama has asked that certain pages of the Record be printed.

Mr. ALLEN. Yes. Page 38348, and 38349.

Mr. ROBERT C. BYRD. Yes. On page 38348 I responded to the distinguished Senator from Alabama by saying:

> I did understand. I did raise the point, but I did not want to question the Chair further.

In order that that may be clear as to the fact that I did raise the point, I ask unanimous consent that page 38341 also be printed in the Record, and I think it should appear, if the Senator has no objection, just prior to the pages which he has requested be printed because that page appears prior thereto in the Record.

Mr. ALLEN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See prior point in Record where pages 38341, 38348 and 38349 appear.)

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the limitation on statements during the period for transaction of routine morning business today be limited to 5 minutes rather than to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

GAS RATIONING WILL BE NECESSARY

Mr. MANSFIELD. Mr. President, the latest figures on unemployment are at 4.5 percent which I think is the lowest in 3 years. These figures go back a month, I believe. Since that time, there have been statements made that unemployment, in view of the energy crisis, will possibly reach 8 percent.

I note that the administration, in the person of the Chairman of the Council of Economic Advisers, Mr. Stein, said he saw no basis for projections of a possible 8 percent unemployment rate in the next year if the Arab oil embargo is not lifted. That statement is taken from the Oil Daily under date of Thursday, November 8, 1973.

However, I note that United Airlines, American Airlines, and Frontier Airlines are either laying off pilots, stewardesses and stewards, and some ground crews, or will be in the process of doing so shortly.

I note also that a private plane concern, the Cessna Manufacturing Co., I believe located in Kansas, at the present time has indicated it will be forced to lay off 25 percent of its personnel and perhaps more in the months ahead because of the prohibitions on fuel laid down so far as general aviation is concerned.

I note also that on yesterday it was announced the armed services are shipping to Vietnam and Cambodia 22,000 barrels of aviation gasoline every day.

It is known, of course, that because of the drawdown in Mideast oil, something on the order of 600,000 barrels a day, I believe, have been diverted from domestic use for the use of our armed services. That is understandable. I do not know whether they need that much, but certainly the armed services should have a priority. But I cannot understand 22,000 barrels of oil a day going to Cambodia and South Vietnam at this time; because I want to say to my associates in this Chamber that we are facing a crisis which I do not think we even yet realize is as serious as it is going to be.

Mr. President, the resumption of oil shipments from the Mideast would make no difference in the immediate future—and, I would say, up to 2 years—in the difficulties which confront this Nation in an energy sense today.

We have been profligate with our resources. We have been wasteful with our energy uses. We have, I understand, over the past several years, wasted between 40 percent to 50 percent of the energy we consume.

We are not going to be able to overcome that deficiency through lowering thermometers in our homes or offices to 68 degrees. We are not going to be able to overcome that deficiency by establishing a rate of 50 miles an hour for automobiles, a rate, incidentally, which I note in the last day or so has been raised to 55 miles an hour for trucks.

Chilly homes and reduced speeds on our highways will be among the least serious of the difficulties which confront us at the present time.

What I am worried about is not the minor sacrifices, but what the economic effects of the shutdown on imports on the one hand and the wastage on the other by this country will cause, because what we will have will be an increase in fuel prices—whether we like it or not; what we will have will be increased unemployment, and the signs are there already—whether we like it or not; and what we will have will be increased inflation, now running about 8 percent a year—whether we like it or not.

If we are not careful and do not face up to this problem as we should, I think that the danger of a recession next year is not only apparent, but very likely real.

I would point out further, Mr. President, that the petrochemical industry will be hard hit, as well as the plastics industry, the synthetic rubber industry, and the fertilizer industry. At the present time, General Motors, I think, is shutting down 16 of its plants a week or so before Christmas. Whether they will reopen after the first of the year is undetermined at this time, but that means that thousands of men will be out of work, and consumer goods and food will be affected, because, after all, if we are going to produce the surpluses we need in order to feed ourselves and hungry countries throughout the world, we are going to see that the farmers get enough gasoline.

Thus, Mr. President, with all these factors to consider; namely, unemployment, shortages, increase in prices, I would hope that the administration would give the most serious consideration not to an increase from the present 4-cent national Federal sales tax on gasoline to something on the order of 30 or 40 cents, as has been mentioned, but to rationing. That is not popular, but at least it is equitable. The poor and the middle-income groups will be treated on that basis just as fairly as the rich who can afford increased prices and who would be able to afford increased taxes.

All I want to do is to raise, once again, warning flags as to what confronts this Nation at the present time, and to point out that so far as importation of fuel from the Middle East is concerned, it will not make a bit of difference so far as the crisis which confronts us at this present time is concerned, even if it is resumed.

So it is time to face up to the facts and to do what can be done, and also to recognize that there is such a thing as equality insofar as the distribution of fuel oil supplies is concerned. That would be far better than any kind of inequitable system which seeks to raise more revenue through increased taxes on gasoline.

Mr. President, if that is ever done—and I shall oppose it all the way through—it will mean that the poor and the middle-income groups, who now bear the greatest share of the burden of taxation in this country—and they have no tax loopholes—will be the ones who will have to carry the added burdens.

Accordingly, Mr. President, I would hope that while the administration, the President, and his counselors are meeting, they will be able to come up with solutions which will allow us to confront this problem on an equitable basis.

I want to assure the President that if he does, the Senate will be prepared to support him because we, too, are aware of the emergency which exists in this country today and we are well aware of what this crisis—this potential crisis—can do to us in the years ahead.

EXTENSION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended an additional 30 minutes, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. BARTLETT. I thank the distinguished Senator from West Virginia.

STEEL AND ENERGY: MUTUAL DEPENDENTS

Mr. BARTLETT. Mr. President, the people of the United States are facing a severe energy crisis. By the end of this winter, and surely by the end of next summer, there will be few if any "nonbelievers" in the existence of an honest to goodness energy crisis of huge proportions.

It is hard to believe, but almost nothing is being done to improve our energy situation; and on the contrary, much is being done to exacerbate it. Constructive legislation is being sidetracked by previous political commitments and lack of understanding of the petroleum industry. Instead Congress seems to be satisfied with merely spreading out the shortages rather than doing something to relieve them—guaranteeing rationing and sacrifice including loss of jobs and simultaneously guaranteeing no solution to the real problem of insufficient supplies of energy.

Ironically, the dependence of the energy industry upon available steel and the corresponding dependence of the steel industry upon available energy represent probably the most important relationship within the U.S. economy. If either of these vital industries suffers, the other suffers, and then the entire economy breaks down.

Ostensibly, the answer to our Nation's energy crisis is very simple—we need to increase domestic energy supplies. In the short term we must depend upon those sources of energy that we know best—the ones that have supplied our needs for many years now. Last year petroleum and natural gas supplied 78 percent of our entire domestic energy consumption.

Petroleum exploration and development expenditures within the United States have decreased from approximately $7.3 billion in 1956 to $3.9 billion in 1971; wildcat drilling is down from 16,207 wells in 1956 to only 7,539 in 1972; and new reserve additions of oil and gas are down from 3.78 billion barrels and 24.8 trillion cubic feet respectively in 1956 to 1.8 billion barrels and 9.8 trillion cubic feet respectively in 1972.

To emulate the drilling to demand ratio of 1956 would require almost four times the current drilling rate and would require an estimated $15.2 billion in exploration and development outlays. In 1971 only $3.9 billion was invested in exploration and development.

The petroleum industry is trying to respond to recent price increases for oil and gas. But because of lack of available steel and other necessities, drilling activity is up only 13 to 14 percent over last year.

We must have an overall energy program. That program must coordinate all of those industries which must function in a flatout effort to cope with our rapidly increasing energy problems. The first goal of any energy program should be to at least double the current drilling rate.

The current drilling rate cannot be doubled unless the steel industry also gears up to supply the needed steel.

In a very short time, oil well casing, tubing, drill pipe, drill collars, valves at the wellhead, blowout preventers for drilling safety, and forgings for many other types of steel equipment necessary to operate in the oilfield are now in short supply. Drill pipe in some areas has as much as an 18-month delivery schedule—they cannot get new drill pipe delivered until 1975.

Several factors have caused this shortage of oilfield steel goods to occur in a very short period of time.

First of all, there is a worldwide shortage of steel—competition within the world market is fierce. Domestic steel prices are controlled at a low level compared to the world market by the Cost of Living Council. These low prices are counterproductive in several ways.

It is not attractive to foreign steel makers to export steel into the United States any longer when they can receive a higher price elsewhere. Historically, imported tubular steel has cost about $25 to $30 per ton less than domestic steel. Now, if you can find anyone who will import tubular steel, it costs $25 per ton more than domestic steel. The recent devaluations of the dollar and prices on domestically produced steel products and tubular goods controlled at a level significantly less than corresponding foreign prices have encouraged the exportation of American steel products. Exported steel can be delivered to other countries cheaper than foreign-made steel, so the demand from the outside is rising. Domestic mills can get 25 to 35 percent more for steel that they export. It seems reasonable to assume that with such an economic incentive export commitments will increase.

The price controls on steel have been a disincentive to U.S. steelmakers to invest in both new steel and rolling mill capacity. The return on the investment at current prices is not enough economic incentive to justify the investment.

Even after the decision is made to add new capacity, it will take from 2 to 3 years to complete significant capacity.

A second major reason that steel tubular goods are in short supply is that drilling activity is up in response to recent price increases for oil and natural gas. Some drilling prospects that would have been abandoned at lower prices, because of the unfavorable economics, are now more attractive at the higher prices.

In anticipation of expanded drilling programs many larger operators have been stocking up with pipe sufficient to meet their needs for several months.

Unfortunately, the small independent operator, who drills most of the wells in the United States—approximately 75 percent—in general, cannot afford to buy great quantities of pipe. Now he cannot spot-buy tubular goods to fill his needs. Plans to drill wells have been delayed or abandoned for lack of drilling pipe or casing.

Under the recent inequitable two-tier pricing system for crude oil, adopted by the Cost of Living Council, there was some incentive in light of the casing shortage to abandon marginal, low volume producing wells with "old" oil being sold at lower prices than "new" oil would bring. In some instances the casing was pulled from producing oil wells and used in newly drilled wells—which could receive a free market price for their oil under the Cost of Living Council's guidelines.

It makes no sense to shut in "old" production because casing is not available for "new" wells, but the steel shortage and the Cost of Living Council's regulations encouraged producers to do this.

Used casing prices have gone up 75 percent in the last 6 months because of the shortage of new steel. Now, generally, used casing is selling at nearly the same prices as new casing and in some cases exceeds the price for new casing.

The "stripper well amendment" which I proposed to the Alaskan pipeline bill has become law. Exempting these marginal wells from price controls will help to discourage these producing wells from being plugged and abandoned.

The petroleum industry is trying to respond to recent price increases for crude oil and natural gas but their effort is being hampered by lack of steel. At the same time, the steel industry is dependent upon adequate supplies of oil and gas in the manufacture of steel.

The steel industry uses approximately 300 trillion Btu's of energy annually. Although much of this energy is derived from coal, the 18 percent supplied by natural gas and the 9 percent supplied by fuel oil are critical to the reheating, annealing, heat treating, and similar specialized uses where the technology has not been developed to permit coal to be used. Now that our energy situation has degenerated to a condition requiring allocations of fuel, the steel industry faces allotments of critical fuel on the basis of previous levels of operations which are far short of the current demand.

Thus, because of the fuel shortage, the steel industry is facing restrictions on fuel usage at a time when increased steel production is a must if additional supplies of fuel are to be generated.

Truly steel and energy have a mutual dependence.

On November 1, I sent a telegram to President Nixon calling upon him to encourage the removal of price controls on steel and steel products which are associated with the exploration, development, and production of energy. This is a necessity if exports of steel are to be discouraged, and imports of foreign steel are to be made attractive and if investments are to be made by the steel companies to increase capacity. Fourteen of my colleagues signed this telegram with me.

On November 19, 1973, I wrote a letter to Secretary of the Treasury, George Shultz, again calling attention to the untenable steel situation. I will meet with Secretary Shultz, Dr. Dunlop of the Cost of Living Council, and others including several distinguished Senators, early next week on this important matter.

This Nation has used our plentiful energy supply to greatly expand our productivity—our productivity in turn has brought high employment, high standard of living, good health care, an improved environment, expensive and numerous social programs—a record not matched by any nation.

Our shortage of energy means a reduction in productivity—a reduction in jobs, standard of living, health care, environmental progress, and social reforms.

We cannot increase productivity at prices that produce shortages of oil and gas and steel.

The oil, gas, and steel industries are like grocery stores which have been selling items off the shelf at less than replacement prices.

It is about time all the necessary building blocks are put into place to help increase supplies of energy. Unfortunately, up to now we as a nation have been very shortsighted. Congress has had little insight toward proposing viable solutions to our energy problems. Instead Congress seems content to spread out shortages rather than eliminate them. Let us unite together to be positive as well as negative. This country was not built by accenting the negative. Rather it was built by vigorous courageous positive action. Let us unite to increase supplies of energy.

To increase supplies of oil, gas, and steel while reducing demand and putting each fuel to its best use, we must raise prices—the fairest way is to remove controls and to establish a free market.

BUDGET REFORM LEGISLATION

Mr. PERCY. Mr. President, I am most appreciative that the acting majority leader and the distinguished chairman of the Committee on Government Operations are in the Chamber. I wish to address my comments to the majority side because they hold the leadership in the matter of budget reform legislation.

First, I refer to Resolution No. 6 of the Democratic Caucus printed in the RECORD of February 5, 1973, in which it is stated that, "Whereas Congress must recapture its rightful constitutional place in the fiscal field," it resolves that the members of the Joint Committee on Budget Control expedite its studies for the purpose of recommending to Congress, by February 15, 1973, a comprehensive reform of the congressional budget process.

The Committee on Government Operations went to work after studying the results of the 32-member, bipartisan joint committee on budget control, which made its report in April.

In the first 6 months of 1973, Members of Congress introduced more than 250 bills and resolutions dealing with reform of the congressional budget process.

The leadership received a letter on congressional concern signed by the 13 freshman Senators. The letter stated that—

> The most crucial question facing the body today is this: what do we intend to do about the Federal budget and our constitutional responsibility over it?

The Committee on Government Operations began its work on budget reform in March. The distinguished Senator from North Carolina (Mr. ERVIN), the distinguished Senator from Montana (Mr. METCALF), and I introduced a comprehensive bill, S. 1541, on April 8. More than 30 witnesses testified during 8 days of hearings, including a wide range of budget experts. Agreement on the need for reform was unanimous.

The Budgeting Subcommittee began its markup session on S. 1541 in June and reported the bill on July 25. The full Government Operations Committee began its markups in September and ordered the bill reported on November 8.

Mr. President, I ask unanimous consent to have printed in the RECORD at the close of my comments two articles published in the Washington Post on October 7 and October 10, written by David Broder.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, the conclusion of the October 7 article is that—

> Now, as the session draws to a close, it is a fair test for the Democratic leadership—of Speaker Carl Albert and Sen. Mike Mansfield—to see to it that the opportunity for this essential reform is not lost.

There is another article, dated October 10, in which this distinguished columnist, once again said it is time for the Senate to put its own house in order and give high priority to budget reform.

This bill has been reported out in the House and the House has scheduled action for December 3 and 4. The House recognizes that if we let this legislation slip into next year, we will lose a whole year's work because among other things, it calls for a change in the fiscal year to October 1, and it is necessary to get that change underway.

I, therefore, feel it is crucial to bring this legislation to the floor and vote on it this year, before we go home for Christmas.

I think, as the distinguished chairman of the Committee on Government Operations (Mr. ERVIN) has said, it is the most important legislation facing the Congress. It is certainly the most important legislation I have worked on in 7 years in the Senate.

As James J. Kilpatrick said in his article in last night's Washington Star-News—which I ask unanimous consent to have incorporated in the Record at the conclusion of my remarks—if reform is enacted—

> A new sense of order will be imposed on the present chaos of Federal spending.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PERCY. Is there any Senator available who could give me 2 minutes?

Mr. HARRY F. BYRD, JR. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. I thank the distinguished Senator from Virginia, whose distinguished father had many times commented on this subject. When that distinguished Senator left the Senate, he left that firm resolve to be kept by his distinguished son, and I know we will be working side by side on this problem.

We have one problem which remains, I am referring to whether this legislation should be referred to the Committee on Rules and Administration. The entire Government Operations Committee has written the joint leadership asking for fast action on the budget bill.

The Rules Committee does have jurisdiction over "matters relating to parliamentary rules." The budget bill makes changes in the parliamentary rules of the Senate. These changes have been extremely carefully considered by the Budgeting Subcommittee and the full Government Operations Committee, with full advice from Senate legislative counsel.

If there is a need for refinement or technical corrections of the bill's changes in the rules, these can always be made after the bill is enacted.

The Senate minority leader and the ranking Republican on the Rules Committee, Senator Cook, agree that the Senate should act on the bill before Christmas. They have waived further consideration by the Rules Committee.

I, therefore, turn with a sense of urgency to the majority leadership now and ask the question: What can be done to put this legislation on the floor of the Senate so that we can act on it this year and get this vital work underway? There must be a way we can move, in accordance with established parliamentary procedure, and still take into account the urgency of this matter.

I simply turn to the leadership and ask respectfully for a response, because this is an issue I am not, as one Senator, going to give up on. I do not think it is necessary to pass it off until next year.

The above-mentioned articles follow:

Exhibit 1

[From the Washington Post, Oct. 7, 1973]

Budget Battle, Revisited

(By David S. Broder)

On both sides of Capitol Hill last week, men were struggling with a problem as important in its consequences as any the Congress will face this year. It is the problem of equipping the Congress with a mechanism for handling the federal budget.

Let it be said, at the outset, that it is a terribly difficult task. There is no quick, easy answer to the question of how Congress can evaluate and balance the claims of thousands of ongoing agencies and programs against the needs of the country and the requirements of sound economic policy, in a fashion that protects the rights of 535 indiviual representatives and senators, and yet permits them to make an intelligent collective judgment.

Nor is this simply a challenging intellectual problem. It is, at heart, a question of power—the power of the purse. The process of negotiating the sharing of that power by those who now enjoy disproportionate influence over money matters in Congress involves exquisitely intricate politics.

But solving the problem is important to the national interest. At present, members of Congress deal piecemeal with the appropriations bills (which control a declining fraction of federal spending) and never have an opportunity to assess the overall impact of their fiscal decisions. The result has been a history of deficits, a habit of delayed decisions which cause administrative chaos, and, of course, a transfer of real budgetary decision-making power from Congress to an already powerful President.

It was the dramatic evidence of that shift of power, symbolized by Mr. Nixon's bold use of impoundments to halt congressionally-mandated programs, that last winter spurred Congress' sudden interest in reform of the budgetary process. Since then, some 40 to 50 of the ablest members of the House and Senate in both parties have been struggling with the problem. They have not yet resolved their own differences on substantive procedural issues, but they have managed to bring the problem close to the point of decision. The House Rules Committee and the Senate Government Operations Committee are actively trying to draft legislation for floor consideration.

Yet, the leaders of the budget-reform battle talk with varying degrees of discouragement about the prospects for action this year. Estimates of its chances range from 50–50 downward.

Interestingly, many of the legislators say their cause has been damaged by Watergate. Public attention has been diverted from the Battle of the Budget, which was Topic A in Washington for the first three months of the year, to the more compelling dramas of Nixon, Agnew, Haldeman, Ehrlichman and Mitchell.

At the same time, the weakening of the President's position since March has reduced the pressure on Congress to put its own fiscal house in order. Whatever the constitutionality of those impoundments of last winter, they provided a powerful catalyst for congressional budgetary reform. Now, with many members thinking Mr. Nixon has been cut down to size, there's a natural tendency for Congress to revert to the status quo, which allows members to wangle what they want for their own districts without having to take rseponsibility for adding up the cost to the country.

Finally, Watergate has interfered with reform of the budget process by diverting the time and energy of certain key members of Congress. For example the Government Operations Committee can meet on the bill only on Mondays and Fridays this month, because it's chairman, Sen. Sam Ervin (D–N.C.), must preside at the Watergate hearings Tuesday through Thursday. Keeping enough senators on the premises to make a committee quorum on Monday and Friday is very tough.

In a real sense, then, the budget reform bills may provide the best test of the President's contention that Watergate has diverted Congress from "the people's business." As a generalization, that argument is suspect. But budget reform is an important item of the people's business, and it remains to be seen whether Congress will act on it this year.

The senators and representatives who have been grappling with the problem have given the effort their dead level best. There has been ample time for consideration of the merits and demerits of various solutions. Now, as the session draws to a close, it is a fair test of the democratic leadership—of Speaker Carl Albert and Sen. Mike Mansfield—to see to it that the opportunity for this essential reform is not lost.

Excerpt

(Note.—The excerpt is from an article entitled "Senate Fleeing Political Virus," by David S. Broder, appearing in the Washington Post of October 10, 1973.)

The official explanation is that the Senate has cleared its agenda and is waiting for the House to send it more bills. That's mostly malarkey. If the senators were eager for work, they could perfectly well spend those two weeks completing committee consideration and floor action on the bills to reform the budget-making process and campaigns—to mention only two of many items that would help them put their own house in order.

Exhibit 2

[From the Washington Star-News, Nov. 28, 1973]

Budget Reform May Be Emerging

(By James J. Kilpatrick)

More than 50 years have passed since Congress adopted the Budget and Accounting Act of 1921. Since then, so far as congressional control of the purse is concerned, it has been downhill all the way. Now the real and hopeful possibility is emerging that the trend may be reversed. If the two chambers can agree on a major pending bill, Congress may be back in the saddle again.

The matter is of towering importance to the American people, but the issue lacks political pizazz. Not many observers are much interested in the companion House and Senate bills that are scheduled for consideration in December. Yet if a workable bill can be passed, and if the two chambers thereafter abide by the spirit and the letter of this reform proposal, a new sense of order will be imposed on the present chaos of federal spending.

The chaos is of fairly recent origin. For the first hundred years of this Republic's history, federal spending was relatively modest. In 70 of those 100 years, the budget showed a surplus. By 1900 the national debt amounted to only one billion dollars. By World War II, however, spending had begun to soar, and executive agencies of the government had learned how to razzle-dazzle the Congress with end runs around the appropriations committees.

The 1921 act helped for a time, but with the Depression of the 1930s new theories of federal spending gained control. World War II made bad matters worse. For the past quarter century, the Congress has tagged along behind successive presidents, unable to gain a sense of direction.

The late Harry Byrd used to talk about it all the time. The great Virginian, for many years chairman of the Senate Finance Committee, labored unceasingly to achieve unified control of the budget. He got nowhere. In Byrd's view, it was lunacy for Congress to operate under a system by which a dozen appropriations bills—plus a raft of supplementals and deficiencies—were considered in isolation, as if no outlay were related to any other outlay or to federal revenues as a whole.

Byrd died too soon. After two years of hard labor and delicate compromise, the House and Senate now appear ready to consider a completely new system of fiscal control.

Details remain to be hammered out, but these are the main features: The President will continue to send up his budget in January, but it will cover a fiscal year beginning in October instead of in July. As soon as they are received, the White House figures will be examined by a new Congressional Office of the Budget and by newly created budget committees in each chamber.

The idea at this point is for Congress itself, by joint resolution, to agree upon a single comprehensive ceiling on total prospective spending. The two chambers would debate national priorities, and undertake to fix recommended goals within the ceiling for major areas of spending. Appropriations committees and subcommittees would then go to work, but no spending bill—and this is the key to the new structure—could become operative until all spending bills had been adjusted to a ceiling figure.

In its most desirable form, the new system would impose a deadline on wholly new authorizations for spending. The plan would provide a sensible periodic review of "permanent" authorizations. Sponsors want to put a lock on "back door" and "open-end" programs, which function like a dozen wild cards in a $300-million game of poker. Within a few years, if all goes well, Congress might regain the one constitutional power that stands above all others—the power of the purse.

It is an admirable goal, but seeing is believing. The proposed reforms demand that politicians turn into statesmen, and no alchemist yet has perfected that conversion. Even so, a new spirit seems to be working on Capitol Hill. These bills, after all, have now emerged from committee. The problem in coming weeks is to get them through the floor, and to write some sensible controls into law.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. Mr. President, normally I should yield to the distinguished Senator from West Virginia, but first I want to say I, too, feel this is a very important measure, a measure that should be considered by the Senate at the earliest possible time. I think it is important that a ceiling be put on Government spending. I think it is important that Congress reform and revise its budgetary procedure. I think the procedures we have used are outmoded and outdated and that we should move into the 20th century with our procedures.

Mr. ROBERT C. BYRD and Mr. ERVIN addressed the Chair.

Mr. HARRY F. BYRD, JR. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I will attempt to respond, but before I do, perhaps the Senator from North Carolina ought to make a statement.

The PRESIDING OFFICER. The Senator from North Carolina was seeking the floor in his own right, on his time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. ERVIN. Mr. President, I want to echo what the distinguished Senator from Illinois and the distinguished Senator from Virginia have said. In my judgment, next to the energy crisis, the most important problem confronting this country is whether or not the Congress of the United States is going to have the hardihood and the courage to take effective steps to prevent an unbridled appropriation of money by the Congress.

The Committee on Government Operations has labored very hard to bring forth a bill which would establish an effective congressional budgetary system. This bill was reported to the Senate by a virtually unanimous vote of the committee on the 8th day of November, as I recall. It is an effective bill, and it is a bill which I think is stronger to accomplish this objective than the bill which the House committee has approved and which is awaiting action by the House.

I think that virtually every remaining legislative task, except those dealing solely with the energy crisis, is of subordinate importance to the passage of this bill by the Senate.

I would urge the leadership and I would urge the Rules Committee to take effective action to permit this bill to come before the Senate during the closing days of this session, because, as I say, outside of legislation relating to the energy crisis, there is no more important piece of legislation confronting the Congress.

We are never going to have a sound fiscal system in this country until Congress adopts a plan such as that set forth in this legislative proposal, whereby Congress will know, each time it undertakes to pass an appropriation bill and each time it undertakes to pass an authorization bill, just exactly what the impact of that authorization bill and that appropriation bill is going to have upon the financial resources of the Nation as a whole.

I just think that if it is necessary, we should sidetrack other pieces of legislation to do that and permit this bill to be acted on by the Senate before our adjournment. I do not know of a finer example of the legislative process at work than this bill. It was brought forth after complete hearings, after careful consideration by the subcommittee headed by the Senator from Montana (Mr. METCALF), and after consideration of the bill at great length by the full committee. Virtually every member of the committee, and particularly the Senator from Illinois, the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the present Presiding Officer, made great contributions to this bill. I sincerely hope that there will be some way the bill can be brought up and acted upon by the Senate.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I yield.

Mr. PERCY. Would it be desirable to have the acting majority leader give us the benefit of his wisdom now as to where matters stand so we can look forward to action in this session?

Mr. ROBERT C. BYRD. Mr. President, to begin with, let me say I agree wholeheartedly with what the able Senator from Illinois and the able Senator from North Carolina have said about the necessity for this legislation and about the necessity for expediting the legislation. Having said that, however, I think I ought also to observe that we are in the last days of this session. We still have some appropriation bills. We will probably still have some problem with the extension of the debt limit. We will have the railroad legislation. We still have legislation dealing with the energy crisis.

I think personally it would be a mistake, to bring such a very important bill, to which the Senators have alluded, to the floor of the Senate at this stage of the session, because I think that we would legislate in haste and perhaps regret it later.

It seems to me that nothing is lost and perhaps something is gained, if the bill could still go to the Committee on Rules and Administration. It could these be taken up by the Senate very early next year.

It seems to me that would be the better part of wisdom. I cite the Legislative Reorganization Act, for which I think I voted, in 1970. That act did not go to the Committee on Rules and Administration. I did not ask that it go to the Committee on Rules and Administration. And I believe at that time that the late, highly respected, and highly revered Senator Richard Russell was so ill and that his failing health was such that he was not able to attend the sessions of the Senate as he formerly had attended them. He was the guardian of the Senate's rules, and was commonly acknowledged as such. I do not think that he was in a position or in any condition to give his full attention to as important a piece of legislation as the Legislative Reorganization Act.

So no effort was made to send that legislation to the Committee on Rules and Administration. I think it should have been. I think that the Committee on Rules and Administration should have given it consideration. And if additional consideration had been given at that point, we would not now look back at that action by the Senate with some misgivings.

I am not denigrating that act. A lot of excellent work went into it. However, I think that we have had cause to regret having passed that act without taking a little more time and a more careful look at it. I was at fault, as well, for not having raised the question at that time.

I need only cite one instance to back up my statement. And that is the matter with regard to germaneness in the House resulting, in part at least, from the Reorganization Act of 1970. This rule in the House not only irritates Senators but also, I think, denigrates the Senate by reason of the fact that if a Senate amendment is added to a House bill, the germaneness of that Senate amendment is interpreted by the House in accordance with the germaneness rule of the House.

The Legislative Reorganization Act of 1970 amended House Rules XX and XXVIII which placed the Senate at a disadvantage in sending bills to conference. The amendment to rule XX makes it abundantly clear that if the Senate adds nongermane amendments as defined by the House rules to a House bill, there can be no free conference between the managers on the part of the two Houses. One of the amendments included in that law provides that:

> No amendment of the Senate which would be in violation of the provisions of clause 7 of Rule XVI, if such amendment had been offered in the House, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

The Senate acquiesced in that provision of the House bill without giving it adequate consideration. And the Senate has paid a severe penalty for that oversight, as most Senators, I believe, will agree.

I think it is bad practice when a straitjacket is placed on the Senate as was done in that instance. I do not think that is good for the public. But I think we can blame ourselves for having slept on our rights. And this budget control measure, while it is vitally important, will probably have some impact on the rules of the Senate.

I think that all Senators will concede that the Rules Committee has some jurisdiction and that the Committee on Rules and Administration ought to have a chance to look at it.

I do not think that the committee should be forced to consider such an important bill, however, under the pressure of a few hours time. I think that the committee should have a reasonable amount of time to look at the bill.

I can assure the Senator that those of us on the Committee on Rules and Administration want, as much as anyone, to see a feasible, workable, effective budget control measure enacted in the Senate as soon as possible, but I do not think it should be rushed through the Senate in the closing hectic days of December.

Mr. PERCY. Mr. President, if the Senator will yield at that point, this was not a new item. Congress has worked on this for years.

Mr. ROBERT C. BYRD. The Senator is correct. However, it is new to the Committee on Rules and Administration.

Mr. PERCY. The Committee on Rules and Administration was certainly aware that it has been in the works.

I want to make it perfectly clear that a member of the Committee on Rules and Administration, the distinguished minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT), thinks that it is not necessary to send it to the Committee on Rules and Administration.

The ranking minority member of the Committee on Rules and Administration, the Senator from Kentucky (Mr. COOK), says that it is not necessary.

And certainly the Government Operations Committee feels that it is not necessary to send it to the Committee on Rules and Administration.

We were willing to report the bill on November 8 with a limited time period to look at it. However, they were bogged down at that time with the Vice Presidential situation. I would simply feel that this is a matter of such urgency, with the House being able to handle it and with the minority being able to look at it and work it out—and obviously if we find that there is an insurmountable situation involved, I would be the first to acknowledge it—that we do not want it done in haste. This is an act worked out with a great deal of give and take on both sides and with a unanimous report of the committee despite the many differences we have had.

It has gone through the whole process. I cannot, for the life of me, see why we cannot move expeditiously and put some time on it. I think the Committee on Rules ought to spend some time on it but get it back to the floor of the Senate promptly, so that we may see whether we can, at least, get a part of the work done at this session.

Mr. ROBERT C. BYRD. Mr. President, the Senate Rules Committee has not indicated that it would not accept some time limit. But I would be opposed to sending it to the Rules Committee with the idea that it would be reported back in 24 or 48 hours. I respect the views of the other members of the Rules Committee who feel that it would not need to go to that committee. I would say, however, with all due respect to the members of the Rules Committee, including those members of the committee who feel that the measure need not go to that committee, that I think we could possibly have cause to regret it if the bill were not sent to the Rules Committee, to let that committee examine and have a reasonable amount of time in which to report the bill back.

The matter is urgent, but I believe it is too late in the first session of the 93d Congress; however it could receive favorable early action in January or February next year, because this is a very important bill and should have priority status early in the second session. I would hope that we could arrive at some reasonable arrangement whereby the Rules Committee could take a look at the bill and then report it back. It may suggest no changes at all, or it may suggest some changes.

Mr. PERCY. Mr. President, it is a matter of regret to the Senator from Illinois that for 3 weeks nothing has been done. The bill has had high priority. We have "crashed" it through. We have held long sessions and have even held night sessions. We are ready to have it considered. Nothing has happened.

Mr. ROBERT C. BYRD. The bill only went on the calendar on November 20.

NEED FOR EARLY ACTION ON SPECIAL PROSECUTOR BILL

Mr. TAFT. Mr. President, I certainly share the views of the Senator from Illinois that since the budget control bill has been reported by the committee, early action should be taken.

Another remark I would like to make relates to the special prosecutor bill, which is expected to be reported by next Monday night.

In reporting the proposed special prosecutor legislation, I should like to invite attention to the fact that in the RECORD of November 28, pages 38303 through 38313, we have had printed a lengthy legal memorandum which was prepared by myself and my staff, with the assistance of other persons, on the whole subject of the special prosecutor, particularly the question of the power of removal.

I again point out to the Senate that we have given careful attention to the whole question of the power of removal. This issue arose in the Cox case. It is an issue that goes more to the question of the special prosecutor than to other factor we could consider in connection with that legislation. For that reason, we drew S. 2642, working closely with the Senator from Nebraska (Mr. HRUSKA), the ranking Republican member of the Committee on the Judiciary, in perfecting that bill in the form in which it is to be reported by the Judiciary Committee.

In connection with the report, I wish to correct any misimpression that Senators we could consider in connection with made by the distinguished junior Senator from Indiana (Mr. BAYH) on Tuesday, remarks which appear at page 38101 of the RECORD, in which the Senator from Indiana said that under the Hruska-Taft proposal the prosecutor could still be subject to removal by the President.

The Senator from Indiana is, I believe, in error in his statement to that effect. That is not my opinion and is not my interpretation of the proposed legislation known as the Hruska-Taft proposal. Rather, I would call attention to the portion of my remarks appearing on page S21255, with regard to S. 2462.

It states as follows:

> S. 2642, which I introduced, provides for appointment of a Special Prosecutor by the Attorney General, with removal by the Attorney General only for neglect of duty, malfeasance in office, or a violation of the act by the Special Prosecutor. Before such removal could occur the Attorney General would have to notify both Houses of Congress 30 days in advance of such removal, stating the reasons for dismissal. The district courts would have original jurisdiction of any action brought by the Special Prosecutor with respect to removal or attempted removal and could issue an order blocking such removal, if appropriate.

Those are the terms of the removal power in that legislation, and I think it makes it perfectly clear that the only removal power relating to a special prosecutor under the cases as they presently stand on the books under the provisions of the Hruska-Taft proposal would be, in accordance with those provisions, giving Congress 30 days to act, and giving the court 30 days in which to issue an order, if the causes for removal were other than those set out in the act.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further morning business?

Mr. MOSS and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. MOSS. Mr. President, did the Senator from West Virginia wish me to yield to him?

Mr. ROBERT C. BYRD. No, Mr. President; I can take care of the calendar later.

AMERICAN INDUSTRY HAS BEEN WEARING BLINDERS

Mr. MOSS. Mr. President, a constituent last week sent me a particularly appropriate and thought-provoking letter. Mr. Lawrence Sheppick of Salt Lake City asked why both the car manufacturers and Government seem to be ignoring available improvements to increase automobile gas mileage. I consider Mr. Sheppick's question "right on target." A Treasury Department study recently completed indicates that utilizing available technology, mileage on American automobiles could be increased an average of 75 percent.Why have not improvements been made? The answer is simply that such improvements could add hundreds of dollars to the cost of the heavier new cars. When gasoline was plentiful and cheap there appeared to be little incentive to make mileage improving changes.

The current fuel crisis has shown how unfortunate such an approach was. The fuel crisis has also made it mandatory that we quickly take advantage of available approaches to increase automobile efficiency.

For this reason, 5 months ago, I introduced S. 2036, a bill designed to increase automoble efficiency. My bill placed a levy on the sale of new cars based on mileage.

The Treasury study I previously mentioned provided added information on the amount of levy required to motivate automobile manufacturers to improve mileage on new cars. The study calculated the cost of gasoline saving improvements on various weights of automobiles to achieve a uniform mileage of 20 miles per gallon. Naturally the cost would be highest on the heaviest cars. The lightest American cars would require no improvements since they already achieve 20 miles per gallon or more.

Accordingly, I have modified the levy schedule of S. 2036 to that shown in the Treasury study.

I, together with my colleagues Senator Percy and Senator Nelson, am submitting as an amendment to H.R. 8214 an amendment to the Internal Revenue Code of 1954 to provide a levy on the sale of new automobiles with respect to their fuel consumption rates. This levy is designed to make it more logical for automobile manufacturers to achieve an automobile mileage of 20 miles per gallon than to pay the levy.

I am convinced that with the right incentives to apply our available technology we can have both the comfortable cars and the full mobility we have enjoyed in the past.

Hobart Rowen in his column for today said, "The Nation's being ill-served by half-baked measures" to cope with the energy crisis. He said:

> At the same time, American industry has shown that it, too, has been wearing blinders. In Detroit, where the chief executives haul down anywhere from $440,000 a year (Chrysler's Lynn Townsend) to $875,000 (Henry Ford II) for their efforts, the auto companies have been caught flat footed, with huge inventories of gas-guzzling monsters.
>
> As a result, auto stocks are plunging and thousands of workers are facing layoffs that needn't have come if the top men had really earned their plush salaries.

Michael Evans of Chase Econometric Associates, Inc. puts this latter point as well and as bluntly as anyone:

> The market share of standard-size cars fell 7 percent last year, which is as much as it had fallen during the previous seven years. These facts simply could not have been a secret from executives in an industry which has more daily and weekly data than any other.
>
> I personally know of several instances where middle management argued strenuously last year that production lines should be reoriented toward small cars. Yet this argument fell mostly on deaf ears at the top executive level. John de Lorean's abrupt departure from GM was based on more than long boring staff meetings.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Approval of Loan to Corn Belt Power Cooperative, Humboldt, Iowa

A letter from the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, transmitting, pursuant to information requested in Senate Report No. 497, Department of Agriculture and Related Agencies Appropriation bill, 1964, the approval of a loan to Corn Belt Power Cooperative of Humboldt, Iowa, to finance increased costs of previously-loaned generation facilities. Referred to the Committee on Appropriations.

Report of Department of State

A letter from the Acting Secretary, Department of State, transmitting, pursuant to law, a report on U.S. Contributions to international organizations for fiscal year 1972 (with an accompanying report). Referred to the Committee on Foreign Relations.

Report of National Advisory Council on Educational Professions Development

A letter from the Chairman, National Advisory Council on Educational Professions Development, transmitting, pursuant to law, a report entitled "Vocational Education: Staff Development Priorities for the 70's," (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Post Office, Courthouse, and Federal Office Building, Auburn, N.Y.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a request that the House and Senate committees rescind their approval and that the authorization be canceled for the proposed construction of a Post Office, Courthouse, and Federal Building for Auburn, N.Y. Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

H.R. 8449. An act to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes (Rept. No. 93-583), together with additional views.

By Mr. BARTLETT, from the Committee on Interior and Insular Affairs, without amendment:

S. 1976. A bill to study an Indian nations trail within the national trails system (Rept. No. 93-584).

By Mr. ERVIN (for Mr. Jackson), from the Committee on Interior and Insular Affairs, without amendment:

H.R. 3436. An act to provide for the conveyance of certain mineral rights in and under lands in Onslow County, N.C. (Rept. No. 93-585).

By Mr. BURDICK (for Mr. Bible), from the Committee on Interior and Insular Affairs, with an amendment:

S. 1468. A bill to authorize the establishment of the Knife River Indian Villages National Historic Site (Rept. No. 93-586).

By Mr. FANNIN (for Mr. Bible), from the Committee on Interior and Insular Affairs, with amendments:

S. 417. A bill to amend the act of June 28, 1948, to provide for the addition of certain property in Philadelphia, Pa., to Independence National Historical Park (Rept. No. 93-587).

By Mr. ERVIN, from the Committee on Government Operations, with amendments:

H.R. 8245. An act to amend Reorganization Plan No. 2 of 1973 (Rept. No. 93-588).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL (for himself and Mr. Jackson):

S. 2754. A bill to prohibit all military assistance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty. Referred to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 2755. A bill to require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs involving the utilization of space technology and application. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. HUGH SCOTT (for himself and Mr. Percy):

S. 2756. A bill to provide health care insurance for people of the United States and to improve the availability of health services, and for other purposes. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (for himself and Mr. Jackson):

S. 2754. A bill to prohibit all military assistance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty. Referred to the Committee on Foreign Relations.

Mr. PELL. Mr. President, hardly had the sound of firing and the rumble of tanks subsided in the wake of former President Papadopoulos' bloody suppression of the defenders of Greek freedom, when a military coup toppled him from power. Although the situation following the coup is still murky, it does seem clear that the new regime is determined to move away from rather than toward the reestablishment of democratic government and the rule of law in Greece. Continuation for the time being of a military dictatorship thus seems inevitable, dashing any American hopes for the contrary.

It is reported that one reason for Papadopoulos' downfall was the reaction of moderate elements of the Greek military against the harsh and violent measures used to quell the uprising. Hopefully these conservative, but more democratic members of the military will have a voice in the direction of the junta and exert a moderating influence.

I do not believe, however, that we can rely alone on this possible development to bring about a change for the better in Greece. Nor do I believe the United States can ignore the consequences stemming from the circumstances surrounding the crushing of the recent uprising against the junta, in which U.S. military equipment and tanks were involved. The situation calls, therefore, for a strong U.S. denunciation of the junta's policies and U.S. measures to implement words with action.

Let us examine more closely for a moment the tragic events that have been occurring in Greece. In many respects, these events are reminiscent of the uprising of the people of Hungary in 1956. There, students and workers took the lead in an open struggle to obtain freedom from the Soviet regime. In that struggle, they confronted Russian tanks.

In Greece, students and workers again took the lead in a struggle to free their country from dictatorship and return it to constitutional democracy. In that struggle, however, the Greek students and workers confronted American-made tanks, turned on the people by their own government.

There is, moreover, another important difference between these two uprisings. In Hungary, the students and workers rebelled against the imposition of a puppet government of the Soviet Union. In Greece, the wrath of the workers and students was directed toward both the Papadopoulos government and toward our own country, the United States.

The cry of the students was "Out with Papadopoulos" and "Out with the Americans."

It is more than sad—it is tragic that the United States should be viewed with such hatred by the people of Greece. But it is also understandable.

For 6 years, the people of Greece have watched the U.S. Government give moral and material support to a Greek regime that has denied democracy, destroyed freedom, and persecuted and tortured its political opponents.

For 6 years, the people of Greece have watched while American admirals and generals made highly publicized public appearances with the admirals and generals of the junta.

For 6 years, the people of Greece have watched while the flow of arms and munitions from the United States to the Greek Government continued unabated.

It is little wonder, with this background, that the people of Greece concluded that their government—a junta of colonels that did not dare face the people in a democratic election—was being supported by the United States.

Several years ago, when I proposed here in the Senate that the United States discontinue its military assistance to the Greek regime, I was told that cutting off military assistance would be an act of interference in the internal affairs of Greece. I could not agree then, and I do not agree now, that continuing military assistance to the Greek junta is an act of noninterference. The Greek people—who now face the muzzles of American-made tanks—obviously do not consider the arms supplies an act of noninterference.

The excuse given, through the years, for continuing military aid to Greece, has been that Greece is an essential element in the overall NATO strategy and a kingpin in our defense posture in the Mediterranean.

In pursuit of that policy, the administration put forward and moved ahead with a program to homeport U.S. naval forces in Greece, moving destroyers from U.S. ports, including Newport, R.I., to Greece. This policy went unchanged despite repeated reports from Navy families of rising anit-American sentiment in Greece because of apparent support of the junta.

The cries of the Greek people—"Out with the Americans"—make it clear that military assistance to Greece as a NATO partner has come at a very high price. Unfortunately, it is quite clear that the goal of strengthening NATO has not been achieved. The Greek Navy has practically been confined to home ports for fear that more Greek naval vessels will revolt against the junta, and I understand the Greek Air Force has been rationed in gasoline so that its planes cannot fly beyond the borders of Greece.

We are learning, I believe, a lesson we should have learned long ago—that a nation cannot be strong unless its government has the free and willing support of the people. It is a lesson we should have learned in South Vietnam.

Greece obviously cannot be a strong partner in NATO while government energies are devoted to suppressing its people. The tragic error of U.S. policy toward Greece is that the administration believed that lack of democracy in that country was of no concern; that the United States could maintain a strong Greek participation in NATO simply by continuing a flow of military assistance to a dictatorship.

We have talked a great deal about democracy, but in our policy toward Greece, the U.S. Government consistently has turned its back on those Greeks who have looked to this Nation for support in their courageous stand for democratic rights and freedom.

I emphasize that I am not advocating intervention in the internal affairs of Greece by the United States. I am urging that the United States end its implicit endorsement of the undemocratic Greek Government by ending the flow of military assistance.

In June of this year, I introduced with the distinguished junior Senator from Washington (Mr. JACKSON) an amendment to the Foreign Military Assistance Act, which would have made continued military assistance to Greece contingent upon the Greek Government's adherence to the principles of NATO, including respect for democratic institutions and individual freedoms.

The Senate, after full debate, adopted that amendment. I regret very much that the committees of conference on that bill struck the amendment from the bill, an action that was at least pleasing to the administration, and in fact largely the result of fierce administration opposition to the amendment.

During debate on that amendment last June, the junior Senator from Washington, an expert on NATO military affairs, said:

> It is just common horsesense that if the democratic order in Greece continues to be subverted, and the best people, the best professionals they had, in their military service are forced out, Greece's contribution to NATO will end up at zero.

He continued,

> I think it is high time that we blow the whistle on the operations of the Greek colonels.

It is now past time to blow the whistle. At this point, I can see no argument for continuing military assistance to a government that has crippled its effectiveness in NATO through unrelenting pursuit of undemocratic, dictatorial government.

In support of this conclusion, let me quote from the excellent report of the Committee of Nine on improving NATO, made to the recent session of the North Atlantic Assembly in Ankara. Commenting on alliance solidarity, the report states:

> The Committee is convinced that the common interests which brought North America and Western Europe into military alliance and intimate political and economic association remain compelling. Strong forces continue to induce the two sides of the Atlantic to remain together.
>
> These forces consist, first of a common and deep-seated attachment to the ideals of individual liberty, democratic institutions, and the rule of law. The Committee considers it the duty of the states of Western Europe and North America to do all that they can properly to aid in the establishment and maintenance of such conditions in each of the member-nations. In a period of détente, the strength of the Western position and the public respect which the Alliance itself can command will be profoundly affected by the extent to which member-nations uphold the ideals upon which the Alliance was founded. The failure on behalf of any member to live up to these ideals must inevitably weaken the political and moral position of the Alliance as a whole.

We can only sadly conclude that Greece, under a military dictatorship, is just such a member, when its government uses force of arms to suppress its people, having denied them time and again the promised opportunity to express themselves in democratic elections.

Accordingly, I am today introducing a bill which would prohibit military assistance in any form to Greece until such time as it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2754

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Congress declares that it is the policy of the United States Government to provide military assistance and military sales, credit sales, and guaranties to or for the Government of Greece only when that government fulfills its obligations under the North Atlantic Treaty, including both adherence to the political principles stated in the preamble to the Treaty and the maintenance of its capability to perform common defense functions assigned under the current North Atlantic Treaty Organization defense plans. Therefore, no military assistance and no sales, credit sales, or guaranties shall be provided to or for the Government of Greece under the law until the President (1) undertakes a comprehensive review of United States policy toward Greece, (2) has made a full report with respect to such review to Congress, and (3) finds and reports to Congress that, as a result of such review, the Government of Greece is in full compliance with its political and military obligations under the North Atlantic Treaty. The provisions of this section shall not apply to funds obligated prior to such date of enactment.

By Mr. DOMENICI:

S. 2755. A bill to require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs involving the utilization of space technology and application. Referred to the Committee on Aeronautical and Space Sciences.

Mr. DOMENICI. Mr. President, events of the last several months, especially those in the Middle East, have brought to our attention the immediate energy shortage. We have all heard many comments regarding this energy crisis but I feel it is important to note that we are not really facing an energy crisis per se but more specifically a petroleum shortage.

I think we all realize and accept the fact that the use of petroleum products will continue to be our most needed source of energy. While, as I have stated, fossil fuels are our most important source of energy, we must continually search for new supplemental forms of energy. We have known for years that our available petroleum supply has remained relatively constant while our demand has increased. Today we are just beginning to experience the effects of this petroleum shortage.

We have just recently passed legislation that will give the President the power to most effectively utilize our present resources. I feel that this was a very important initial step in meeting our present energy crisis but we must now look to the means by which to supply this Nation with its future energy needs. This will require an increased utilization of our fossil fuels, which can only be accomplished by cooperation between the Government and private enterprise. This joint effort to produce maximum quantities of energy resources must be done in a manner that will not harm our enviromental quality. I will be the first to admit that this is a difficult problem but I am confident through diligence on our part we may achieve these goals.

I believe it is important to remind ourself that the countries of Western Europe and Japan are also sharing in a petroleum shortage. These countries do not possess the capabilities to produce their needed petroleum resources and like the United States have found the possibility of an oil embargo a serious threat to their economy.

As a member of the Aeronautical and Space Sciences Committee, I have recently heard testimony as to the utilization of solar energy as a possible supplemental form of energy. We have small communities today that are heated and cooled by solar rays from the sun. The National Science Foundation and the National Aeronautics and Space Administration are investigating the possibilities of building large solar arrays in space that would beam solar energy to Earth. I feel that these and other uses of solar energy could possibly be an excellent supplemental form of energy to be used in the future.

It was during these hearings that I realized the possible benefits from an international cooperative R. & D. effort to explore the possibilities of utilizing solar energy. It would appear that all countries involved could mutually benefit from a pooling of R. & D. as to how solar energy might be used as a supplemental form of energy. I am therefore introducing a bill today that would require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs involving the utilization of space technology and application for the conversion of solar energy. This bill would call for the Administrator of the National Aeronautics and Space Administration to work in conjunction with the Secretary of State, Secretary of Defense, and the Director of the National Science Foundation to make a full and complete study of the desirability for international cooperation and cost sharing in the development of a system for the collection and conversion of solar energy.

I am introducing this bill because I feel that the Administrator of the National Aeronautics and Space Administration could advise the President and the Congress as to the possible benefits gained in an international pooling of research and development for the conversion of solar energy. It is my sincere hope that Congress take upon its own initiative to explore all possibilities of supplemental forms of energy that might help us alleviate our energy shortage.

Mr. President, I ask unanimous consent to have printed in the RECORD the bill to require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs for the conversion of solar energy. This bill would enable the Administrator of the National Areonautics and Space Administration to explore the possible benefits from an international cooperative effort of research and development.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in accordance with applicable provisions of title II of the National Aeronautics and Space Act of 1958, as amended, the Administrator of the National Aeronautics and Space Administration, in conjunction with the Secretary of State, the Secretary of Defense, and the Director of the National Science Foundation, is authorized and directed to make a full and complete study of the possibilities for international cooperation and complete study of the possibilities for international cooperation and cost sharing in the development of a system for the collection and conversion of solar energy. Such study shall include, but not be limited to, a consideration of the feasibility and desirability of—

(1) establishing an international consortium, and

(2) utilizing other existing international organizations, or establishing a new international organization, in the development of such an energy collection and transmission system.

(b) The Administrator shall invite and permit representatives of the public, of other nations, and of international organizations to submit for his consideration reports and information concerning the subject of the study required by this Act.

(c) The Administrator shall report the results of the study required by this Act to the President and the Congress no later than one year after the date of enactment of this Act.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HUGH SCOTT (for himself and Mr. PERCY):

S. 2756. A bill to provide health care insurance for people of the United States and to improve the availability of health services, and for other purposes. Referred to the Committee on Finance.

HEALTH RIGHTS ACT OF 1973

Mr. HUGH SCOTT. Mr. President, reform of the Nation's health care system is a matter of the highest urgency. The financial disaster which a prolonged illness can cause a family is often more tragic and debilitating than the disease itself. We have seen this often—a family's savings literally wiped out because of the inordinate costs of health care, particularly round-the-clock hospital care which catastrophic illness requires. The examples are numerous and the consequences calamitous.

In an effort to remedy this national health crisis, I am happy to introduce today, along with the distinguished Senator from Illinois (Mr. PERCY), the Health Rights Act of 1973. In essence, our proposal will assure all Americans solid protection against the skyrocketing costs of medical care. It will make a reality of the total comprehensive health care which our Nation deserves.

There is a growing consensus among the American people that reform of our Nation's health delivery system is essential; that improvement in the overall quality of health care is essential; and that action on a national level is essential to make good health care available to all citizens.

The Health Rights Act of 1973 will replace medicare and medicaid, and will allow all citizens, regardless of age, income or family size, to be eligible to participate. The act is a two-part plan providing both inpatient "major illness" protection for all individuals and an outpatient health maintenance insurance plan. Both the inpatient and outpatient plans will be administered by insurance carriers or other public or private agencies on a regional basis, under contract with the newly created Office of Health Care within the Department of Health, Education, and Welfare.

The inpatient "major illness" protection differs from traditional catastrophic plans by covering all costs above each family's health cost ceiling, which is determined by a formula taking into account both family income and family size. Money for the plan would be financed in part through the present health insurance portion of the social security payroll taxes and in part through general revenues.

The outpatient plan would be financed in part through family premium payments which would be supplemented in whole or part with Federal payments for low-income families. Employers could arrange to finance all or part of their employees' premiums.

The act would also establish a 2-year, Presidentially appointed Health Delivery Committee to study the current and long-range needs for medical personnel and facilities. It would make recommendations to the President and Congress.

As my colleagues know, in 1971 Senator Percy and I introduced our original Health Rights Act. In addition, just last month, we both joined as cosponsors of the Long-Ribicoff Catastrophic Health Insurance and Medical Assistance Act of 1973. In introducing our own bill today, which is a revision of our 1971 plan, our aim is to bring before the Finance Committee and the Congress all possible proposals and plans for health reform. By so doing, I believe we emphasize the critical need for such legislation and encourage prompt attention to and expeditious treatment of this need.

I believe our Health Rights Act is the most comprehensive offered to date to lift the burden of presently unmeetable financial obligations caused by the extremely high costs of health maintenance and recovery from illness. The Health Rights Act of 1973 is must legislation for this session of Congress because its goal is to serve every American at a critical time.

I ask unanimous consent that at the conclusion of the remarks of the Senator from Illinois (Mr. Percy) the complete text of the Health Rights Act of 1973 and a summary of its major provisions, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, I am delighted to join with the distinguished minority leader (Mr. Hugh Scott) in introducing the Health Rights Act of 1973. This is an improved version of the bill which we first introduced in 1971. A national health insurance program that can assure every American access to comprehensive medical care as a right is needed today more than ever. The health crisis first announced by President Nixon in 1969 has not been resolved. American families still face the ever present risk of losing their life savings, their homes, or their psychological and material well-being because of the costs of a major illness or injury. Chronic disease victims still face the tragic consequences of inability to pay for available treatment. Despite medicare and medicaid, and despite increased government subsidies for the medically indigent and the elderly, people's health is still directly linked with economic well-being. The disability days index indicates that the health of most Americans has made a modest improvement from the mid-1960's to 1970, with higher income people showing greater improvement. The health of those Americans earning less than $7,000 a year, however, has been steadily getting worse. The verdict seems to be—those who can afford adequate health care enjoy health; those who cannot, suffer sickness or, even, death.

Without the benefit of a comprehensive national health insurance program, health care will become more and more a problem for Americans. That health expenditures have been rising at a staggering rate is no longer news. In fiscal year 1972, America spent $83.4 billion, or 7.6 percent of the GNP, for health care, the highest in the world. Although in fiscal year 1972 health expenditures registered the lowest annual percentage gain in 6 years, partly as a result of the economic stabilization program, it still increased 10.3 percent over 1971. America's health bill has climbed so quickly that it has doubled in 8 years; more than tripled in 12 years; and increased sixfold in 21 years.

Despite compelling problems that urgently require solution, congressional impasse has prevented the enactment of national health insurance legislation in two Congresses. Such an impasse can be broken only through the cooperation, coordination, and support of all interested parties, including Senators, Congressmen, the Administration, health care providers and intermediaries, and consumers.

Several weeks ago Senator Hugh Scott and I joined Senators Long and Ribicoff in sponsoring the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973. At that time I stated that I believed that proposal would provide both the vehicle and catalyst needed to pass national health legislation during this Congress. The Health Rights Act, which Senator Hugh Scott and I originally introduced in 1971, is our own contribution to the national health insurance dialog—a dialog which, hopefully, will lead to the establishment of a health financing system that will assure every American his right to quality health care.

In introducing our bill, Senator Hugh Scott and I set as our goals:

The establishment of a unified health care delivery system—for the rich and the poor, the young and the old;

The assurance that comprehensive health care benefits will be made available to every citizen and that each citizen will bear the costs of such benefits only in proportion to his financial capability;

The removal of the barriers to preventive care;

The protection of every American family against the devastating costs of catastrophic illness by placing a ceiling on the maximum out-of-pocket expenses a family will have to pay for health care;

The provision of incentives to produce voluntary actions toward the development of a more efficient health care delivery system, drawing on the private enterprise system and assuring a Federal private partnership in health care.

Obviously, new programs, however worthy, cannot be allowed to run up a budget deficit at a time when economic conditions call for fiscal restraint. While the "ability to pay" concept of the Health Rights Act creates a substantially smaller drain on Federal revenues than similar national health proposals, its cost is necessarily significant. The Department of Health, Education and Welfare estimated the Federal cost of our original proposal at $22 billion per year. We estimate that improvements in the administrative and cost control provisions of the Health Rights Act of 1973 will bring this figure down to under $20 billion.

Accordingly, as soon as actuarial determinations which we have requested from the Treasury Department and the Social Security Administration are available, we will make specific proposals as to how the Health Rights Act could be financed if adopted as now drafted. In addition, we will insist that any national health plan adopted by the Congress be fully financed, as is required for unbudgeted spending proposals under S. 1541, the Congressional Budget Reform Act.

Mr. President, national health insurance will not solve all our health care problems, but it will go a long way toward providing every American the right to adequate health care. The assurance of that right, I firmly believe, is in the national interest. A country can boast no greater resource than a healthy people.

EXHIBIT 1

S. 2756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Rights Act of 1973".

TITLE I—ADMINISTRATIVE AND GENERAL PROVISIONS DEFINITIONS, ETC.

SEC. 101. For the purposes of this Act—

Inpatient Hospital Services

(a) The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use of hospital facilities, and such medical-social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients, including the use of equipment for renal dialysis;

(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them

made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

(4) medical or surgical services provided by a physician, resident, or intern;

(5) medical or surgical services provided by a doctor of dentistry or oral surgery, but only to the extent that such services would be covered services when performed by a physician under this title where the dentist is legally licensed to perform such service as provided in section 105; and

(6) the services of a private-duty nurse or other private-duty attendant, when certified by the attending physician as necessary.

Inpatient Psychiatric Hospital Services

(b) The term "inpatient psychiatric hospital services" means inpatient hospital services furnished to an inpatient of a psychiatric hospital where the patient is under an active program of diagnosis or treatment by a psychologist or psychiatrist.

Inpatient Tuberculosis Hospital Services

(c) The term "inpatient tuberculosis hospital services" means inpatient hospital services furnished to an inpatient of a tuberculosis hospital where the patient is under an active program of diagnosis or treatment by a physician.

Hospital

(d) The term "hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides twenty-four-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(6) has in effect a hospital utilization review plan which meets the requirements of section 105;

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing; and

(8) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution, except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals.

Psychiatric Hospital

(e) The term "psychiatric hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a doctor of psychology or a doctor of psychiatry, psychiatric services for the diagnosis and treatment of mentally ill persons;

(2) has a requirement that every patient be under the care of a psychologist or psychiatrist;

(3) has bylaws in effect with respect to its staff of psychologists or psychiatrists;

(4) satisfies the requirements of paragraphs (5) through (8) of subsection (d);

(5) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under title II;

(6) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(7) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Tuberculosis Hospital

(f) The term "tuberculosis hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

(2) satisfies the requirements of paragraphs (3) through (8) of subsection (d);

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals covered by the insurance program established by title II;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Secondary Care Services

(g) The term "secondary care services" means the following items and services furnished to an inpatient of a secondary care facility and (except as provided in paragraphs (3) and (6)) by such secondary care facility—

(1) skilled nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by the secondary care facility or by others under arrangements with them made by the facility;

(4) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the secondary care facility, as are ordinarily furnished by such facility for the care and treatment of inpatients;

(5) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (i)), under a teaching program of such hospital approved as provided in the last sentence of subsection (a), and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(6) such other services necessary to the health of the patients as are generally provided by secondary care facilities;

excluding, however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.

Secondary Care Facility

(h) The term "secondary care facility" means an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (i)) with one or more hospitals and which—

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(4) (A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

(5) maintains clinical records on all patients;

(6) provides twenty-four-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(8) has in effect a utilization review plan which meets the requirements of section 105;

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(10) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary;

except that such term shall not include any institution which is primarily for the care and treatment of mental diseases or tuberculosis.

Agreements for Transfer Between Secondary Care Facilities, Hospitals and Home Health Agencies

(i) A hospital, secondary care facility, and a home health agency shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

(1) transfer of patients will be effected between them whenever such transfer is medically appropriate as determined by the attending physician; and

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any secondary care facility or home health agency which does not have such an agreement in effect, but which is found by the Secretary to have attempted in good faith to enter into such an agreement where geographically feasible, shall be considered to have such an agreement in effect if and for so long as the Secretary finds that to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this title.

Home Health Services

(j) The term "home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency which has in effect a transfer agreement (meeting the requirements of subsection (i)) with one or more hospitals or secondary care facilities, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (6) provided on a visiting basis in a place of residence used as such individual's home—

(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(2) physical, occupational, or speech therapy;

(3) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(4) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

(5) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under a teaching program of such hospital approved as provided in the last sentence of subsection (a); and

(6) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or secondary care facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A), but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsecton (a) if furnished to an inpatient of a hospital.

Post-Inpatient Home Health Services

(k) The term "post-inpatient home health services" means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient or (if later) within one year after his most recent discharge from a secondary care facility of which he was an inpatient entitled to payment under title II, but only if the plan covering the home health services is established within fourteen days after his discharge from such hospital or secondary care facility.

Home Health Agency

(l) The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

(5) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization;

except that such term shall not include a private organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of title II such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

Outpatient Physical Therapy Services

(m) The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency or by an independent therapist who meets standards prescribed by the Secretary, to an individual as an outpatient—

(1) who is under the care of a physician, and

(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician;

excluding, however—

(3) any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital; and

(4) any such service—

(A) if furnished by a clinic or rehabilitation agency, unless such clinic or rehabilitation agency—

(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify.

(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides,

(iii) maintains clinical records on all patients,

(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary.

Physician

(n) The term "physician" means—

(1) a doctor of medicine or osteopathy legally authorized to practice medicine and surgery as provided in section 501; and

(2) a doctor of optometry, podiatry or chiropractry, but only to the extent that the services of such optometrist, podiatrist or chiropractor would be covered services when performed by a physician under this Act and where the optometrist, podiatrist or chiropractor is legally authorized to perform such services as provided in section 501.

Nondiagnostic Medical Examination

(o) The term "nondiagnostic medical examination" means examination of an outpatient by a physician or by other medical or paramedical personnel under a physician's direction, to determine whether an undetected diseased condition exists.

Medical and Other Health Services

(p) The term "medical and other health services" means any of the following items or services provided for the diagnosis, treatment or rehabilitation of an individual:

(1) physicians' services;

(2) (A) services and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills;

(B) hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) incident to physicians' services rendered to outpatients;

(C) diagnostic services which are—

(i) furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital, and

(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study;

(3) diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health and safety as the Secretary may find necessary), diagnostic laboratory tests, and other diagnostic tests;

(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

(5) surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations;

(6) durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home, whether furnished on a rental basis or purchased;

(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs,

(10) diagnostic tests performed in a laboratory which is independent of a physician's office or a hospital shall be included within paragraph (3) where—

(i) the patient has been referred by a physician, and only for such tests as specified by the physician; and

(ii) such laboratory meets such conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2)(C) any item or service (except services referred to in paragraph (1)) which—

(i) would not be included under subsection (b) if it were furnished to an inpatient of a hospital; or

(ii) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

None of the items and services referred to in the preceding paragraphs (other than paragraphs (1) and (2)(A)) of this subsection which are furnished to a patient of an institution which meets the definition of a hospital shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of individuals with respect to whom such items and services are furnished.

Provider of Services

(q) The term "provider of services" means a medical care institution.

Reasonable Cost

(r)(1) The reasonable cost of any services shall be determined in accordance with regulations establishing the method or methods to be used and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment determined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, may provide for separate estimates in different geographical areas, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (A) take into account both direct and indirect costs of providers of services in order that, under the methods of determining costs, the costs with respect to individuals covered by the insurance programs established by this title will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (B) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

Such regulations in the case of secondary services furnished by proprietary facilities shall include provision for specific recognition of a reasonable return on equity capital, including necessary working capital, invested in the facility and used in the furnishing of such services, in lieu of other allowances to the extent that they reflect similar items. The rate of return recognized pursuant to the preceding sentence for determining the reasonable cost of any services furnished in any fiscal period shall not exceed one and one-half times the average of the rates of interest, for each of the months any part of which is included in such fiscal period, on obligations issued for purchase by the Federal Health Care Trust Fund.

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or secondary care services is in accommodations more expensive than semiprivate accommodations, the amount taken into account for purposes of payment under this Act with respect to such services may not exceed an amount equal to the reasonable cost of such services if furnished in such semiprivate accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this Act furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or secondary care services is in accommodations and the use of such other accommodations other than, but not more expensive than, semiprivate accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this act, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hosptial or extended care facility for bed and board in semiprivate accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) For purposes of this subsection, the term "semiprivate accommodations" means two-bed, three-bed, or four-bed accommodations.

Family

(s)(1) The term "family" means—

(A) two or more individuals—

(i) who are related by blood, marriage, or adoption, and

(ii) who are living in a place of residence maintained by one or more of them as his or their home.

but excluding any adult individual who—

(iii) is not a dependent of any other of such individuals, or

(iv) does not provide more than 50 per centum of the economic support of any other of such individuals, or

(v) is not the spouse of any other of such individuals;

(B) an adult individual who is not included as a member of any family under subparagraph (A); or

(C) any individual who is not included within subparagraphs (A) and (B).

(2) For purposes of paragraph (1)(A)(ii), a child of an individual who is attending school away from home shall be considered to be living in the place of residence of his parent.

(t) The term "dependent" means one who depends upon another for more than 50 per centum of his economic support.

(u) The term "adult" means a person over eighteen years of age.

(v) The term "child" means a person under eighteen years of age.

(w) The term "family income" means the total of the adjusted gross income for all family members, as defined by section 62 of the Internal Revenue Code of 1954, and any other cash income received which is otherwise exempt from taxation, including but not limited to Federal or State public assistance and social security payments.

(x) The term "family health cost ceiling" means 15 per centum of the annual per person family income rounded to the nearest $1,000, except where the annual per person family income is $2,000 or less, then 10 per centum of the annual per person family income rounded to the nearest $500.

(y) The term "per person family income" means the quotient of the total family income divided by the family size percentage.

(z) The term "family size percentage" means—

(1) in the case of a family consisting of one adult, 1.25;

(2) in the case of a family consisting of one adult, plus spouse or one dependent, 1.75;

(3) in the case of each additional dependent, 0.50.

(aa) The term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa. The term "United States", when used in a geographical sense, includes all the States as defined in this subsection.

Medical Care Institutions

(bb) The term "medical care institutions" includes hospitals, psychiatric hospitals, tuberculosis hospitals, secondary care facilities, and other facilities rendering medical and mental health services covered by this Act.

Health Maintenance Organization

(cc) The term "health maintenance organization" means a public or private organization which—

(1) provides, either directly or through arrangements with others, health services to enrollees on a per capita prepayment basis;

(2) provides, either directly or through arrangements with others, with respect to enrollees for benefits under title IV to whom this section applies (through medical care institutions) all of the services and benefits covered under titles II and III of this Act;

(3) provides physicians, psychologists', psychiatrists', or dentists' services directly through such professionals who are either employees or partners of such organization or under arrangement with an organized group or groups of such professionals which is or are reimbursed for services on the basis of an aggregate fixed sum or on a per capita basis;

(4) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically; and

(5) has arrangements for assuring that the health services required by its members are received promptly and appropriately and that the services that are received measure up to quality standards which it establishes in accordance with regulations.

OFFICE OF HEALTH CARE

SEC. 102. (a) There is hereby established within the Department of Health, Education, and Welfare, under the general authority of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), an Office of Health Care, the functions of which shall be the administration of the provisions of this Act.

(b) The Office of Health Care shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The functions of the Secretary under this Act shall be administered through the Director of the Office of

Health Care (hereinafter referred to as the "Director").

ADMINISTRATIVE POWERS

SEC. 103. (a) In carrying out his functions under this Act, the Secretary shall—

(1) establish such geographical regional areas as he deems necessary for the efficient administration of this Act;

(2) contract with an insurance carrier or public or private administrative intermediary within each region to administer provisions of titles II and III of this Act;

(3) promulgate standards for qualification of the insurance carriers and others contracting with the Secretary under subsection (2);

(4) appoint and fix the compensation of such personnel as the Director deems necessary in accordance with title 5, United States Code;

(5) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per day for individuals;

(6) promulgate such rules, regulations, and procedures, in accordance with section 553, title 5, United States Code, as may be necessary to carry out the functions vested in him, and delegate authority for the performance of any function to any officer or employee of the United States under his direction and supervision;

(7) utilize, with their consent, the services, personnel and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(8) request such information, data, and reports, from any Federal agency as the Director may from time to time require, and as may be produced consistent with other law;

(9) with approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this Act;

(10) enter into and perform such contracts (including those entered into pursuant to paragraph (2)), leases, cooperative agreements, or other transactions, in the conduct of his functions consistent with the purposes of this Act, in accordance with section 3648 of the Revised Statutes (31 U.S.C. 529).

(b) Notwithstanding any other provision of law, the Secretary is authorized, solely for the purposes of determining or confirming eligibility for benefits under this Act, to examine the records of any Federal office which directly pertain to such eligibility. The Secretary may review the benefit eligibility of a family, not more often than bi-annually, where he has reason to believe that circumstances have changed and that those changed circumstances have resulted in a change in the health cost ceiling of a family.

(c) A family shall request a review of its benefit eligibility prior to utilizing benefits under this Act whenever there has been a change of circumstances which would result in a change in the health cost ceiling of a family.

COMPENSATION

SEC. 104. Section 5314, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(58) Director, Office of Health Care".

UTILIZATION REVIEW

SEC. 105. (a) Each medical care institution providing services or receiving payments under this Act shall develop a utilization review plan.

(b) Such review plans shall include provisions for a review of the medical necessity and professional competence—

(1) of all medical and other health services received by individuals from such medical care institutions;

(2) of hospitalization for over seven days and every seven days thereafter; and

(3) of additional medical and other health services which may be required from such medical care institution.

(c) Reviews shall be conducted by a committee of members of the organization providing such services, composed of three or more physicians, or dentists, or psychiatrists or psychologists as the case may be reflective of each profession's provision of service in the medical care institution. However, where the size of the organization is such that the establishment of an internal review committee is impractical, a similar committee established by the local medical, dental, or mental health association shall be established to carry out the purposes of subsection (b) of this section.

PROFESSIONAL STANDARDS REVIEW

SEC. 106. (a) The matter preceding paragraph (1) of section 1155(b) of the Social Security Act and paragraph (1) of section 1155(b) of such Act are amended to read as follows:

"(b) To the extent necessary or appropriate for the proper performance of its duties and functions, the Professional Standards Review Organization serving any area shall, in accordance with regulations prescribed by the Secretary—

"(1) include within its membership and utilize the services of persons who are practitioners of or specialists in the various areas of health care whose professional services are covered services under this Act and which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;".

(b) Section 1165 of the Social Security Act is amended to read as follows:

"SEC. 1165. The Secretary shall by regulations provide for such correlation of activities, such interchange of data and information, and such other cooperation consistent with economical, efficient, coordinate, and comprehensive implementation of this part (including, but not limited to, usage of existing mechanical and other data-gathering capacity) between and among agencies and organizations which are parties to agreements or contracts entered into pursuant to this Act and Professional Standards Review Organizations, as may be necessary or appropriate for the effective administration of this Act."

(c) (1) Section 1163 of the Social Security Act is amended to read as follows:

"NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

"SEC. 1163. (a) There is hereby established in the Department of Health, Education, and Welfare a National Professional Standards Review Council (hereinafter referred to as the Council), to be composed of eleven members appointed by the President, by and with the consent of the Senate, without regard to the provisions of title 5, United States Code. The members of such Council shall be appointed within one hundred and twenty days after the date of enactment of this Act. Each member so appointed shall be a person who, as a result of his training, experience, and attainments, is exceptionally qualified to appraise programs and activities under this Act. A majority of the members of the Council shall consist of physicians recommended to the President by national organizations representing practicing physicians, consumer groups and other health care interests. Other members of the Council shall be representative of the other professionals whose services are covered services under this Act and who have been recommended by their respective professional organizations, consumer groups and other health care interests.

"(b) The Committee shall select its own Chairman from among its members. Members shall be appointed for three-year terms, except that of the members first appointed, three shall be appointed for terms of one, four shall be appointed for terms of two year, four shall be appointed for terms of two of three years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities and six members thereof shall constitute a quorum. The Secretary shall be an ex officio member of the Council. During his term of office no member shall engage in any other business, vocation, or employment. A member of the Council who is an officer or employee of the Federal Government shall serve without additional compensation.

"(c) The Secretary shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

"(d) The Council shall—

"(1) review the operations of Statewide Professional Standards Review Councils and Professional Standards Review Organizations with a view to determining the effectiveness and comparative performance of such review councils and organizations in carrying out their duties and functions and provide for the development and distribution of information and data which will assist such review councils and organizations in carrying out the purposes of this part;

"(2) continually review the overall administration of this Act and advise the Secretary thereon;

"(3) develop and issue minimum national standards of training for physicians, dentists, psychologists, psychiatrists and nurses providing services covered by this Act;

"(4) develop and issue minimum standards of training for allied health personnel employed by, or to be employed by providers, including, but not limited to, medical technologists, radiologic technologists, optometric technologists, dental hygienists, dental assistants, dental laboratory technicians, dietary technicians, practical nurses, nursing aides, pharmacy aides, physical therapists, physical therapy assistants, inhalation therapy technicians, electrocardiograph technicians, electroencephalograph technicians, and surgical aides;

"(5) hold hearings and consult with appropriate professional or other organizations and publicize for public comment standards developed pursuant to paragraphs (3) and (4);

"(6) in its discretion, require the revision of a provider's staffing patterns, or its standards for the selection and retention of professional or other personnel, which fail to meet said minimum standards;

"(7) in its discretion, provide for the allied health personnel covered in paragraph (4), special programs for the training, or retraining of personnel employed by providers who fail to meet minimum standards of training;

"(8) compile a generic list of prescription drugs (i) for use by organizations supplying services under titles II and IV, and (ii) for use outside such organizations under titles III and IV when furnished by or on prescription of a physician, psychiatrist, or dentist, subject to the provisions of section 303(b);

"(9) prescribe national standards for health service organizations, corporations, and associations in the health care field; and

"(10) make an annual report, to the Congress through the Secretary, containing a review of the over-all effectiveness and administration of this Act and recommending new legislation if needed."

(2) (A) Section 5315, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(96) Chairman, National Professional Standards Review Council.".

(B) Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(132) Members, National Professional Standards Review Council (10).".

(d) Sections 1155 (g) and 1168 of the Social Security Act are repealed.

TITLE II—INPATIENT HEALTH CARE BENEFITS

PROGRAM ESTABLISHED

SEC. 201. There is hereby established an insurance program to provide insurance benefits, in accordance with the provisions of this title, financed by the Federal Government.

ELIGIBILITY

SEC. 202. (a) Except as provided in subsection (b) of this section every resident of the United States and every nonresident citizen thereof, while within the United States, who has, directly or indirectly, procured coverage under title III of this Act, is eligible to receive health care benefits under this Act.

(b) (1) The Secretary is authorized to enter into agreements with foreign governments, international organizations, or other entities to extend the benefits of this title to persons within the United States who are alien employees (as defined in regulations) of a foreign government, of an instrumentality of a foreign government exempt from the tax imposed by section 3111(b) of the Internal Revenue Code of 1954, or of an international organization (as defined in the International Organization Immunity Act). An alien admitted as a permanent resident and living in the United States, or an alien admitted for employment and employed within the United States, is for the purposes of this title a resident of the United States.

(2) Agreements entered into by the Secretary in accordance with paragraph (1) of the subsection shall be in consideration of payment to the United States of the estimated cost of furnishing benefits to such persons, or of reciprocal agreement.

(c) Every individual who is eligible for benefits under this title shall be entitled to benefits for medical and other health services rendered after July 1, 1975, which are covered by this title. An individual receiving medical and other health services at the time he becomes eligible for benefits under this title shall receive benefits only from the date that he becomes eligible for such benefits.

(d) The Secretary shall prescribe regulations providing for automatic coverage of newly born children up to the age of three months.

SCOPE OF BENEFITS

SEC. 203. (a) Every eligible individual shall be entitled to have payment made on his behalf, or in such situations as the Secretary allow, to him, for any covered service which is furnished to him within the United States by an approved hospital or medical care facility if such service is certified necessary and appropriate by the attending physician, dentist, psychologist, or psychiatrist, for the diagnosis, treatment, or rehabilitation of such individual.

(b) Every individual who is eligible for benefits under ths title shall be covered for the cost of—

(1) inpatient hospital services;

(2) inpatient tuberculosis hospital services;

(3) inpatient psychiatric hospital services, not to exceed sixty days per year, with an individual lifetime limit of one hundred eighty days;

(4) secondary care services; and

(5) post-inpatient home health services.

(c) Any service furnished otherwise than in accordance with this title or rules promulgated thereunder is not a covered service, except that, as specified in regulations prescribed by the Secretary, the services of a Christian Science sanatorium are covered services if it is operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

PAYMENT OF BENEFITS

SEC. 204. (a) As a condition precedent to any benefits paid under this title a family or individual must expend for services covered by this title an amount equal to one-half its family health cost ceiling (as defined in section 101(x)) plus an amount equal to 50 per centum of the cost of such services that are above one-half of the family health cost ceiling and the family health cost ceiling.

(b) In no case shall benefits be paid for services that are performed for cosmetic reasons unless such services are performed to restore the patient to a condition equivalent to his condition immediately prior to the injury or disease on account of which such services are performed.

PROCEDURE FOR PAYMENT

SEC. 205. Payment for services described in this title shall be made in accordance with such rules and regulations as are promulgated by the Secretary.

FINANCING

SEC. 206. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Health Care Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this section.

(b) There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1976, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equal to 100 per centum of—

(1) the taxes imposed by section 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate to subtitle F of such Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) hold the Trust Fund;

(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years;

(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next two fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) (1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(b) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages paid after June 30, 1975. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses.

(h) There are hereby transferred to the Trust Fund all assets and liabilities of the Federal Hospital Insurance Trust Fund established by section 1817, title XVIII, of the Social Security Act. This subsection shall become effective on the date that benefits under this title begin.

(i) There are hereby appropriated such funds as may be necessary to defray the expenses of the Trust Fund.

TITLE III—SUPPLEMENTARY MEDICAL INSURANCE

PROGRAM ESTABLISHED

SEC. 301. There is hereby established a voluntary insurance program to provide medical insurance benefits, in accordance with the provisions of this title to those individuals who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds by the Federal Government.

ELIGIBILITY AND ENROLLMENT

SEC. 302. (a) Every individual who is eligible for benefits under title II of this Act is eligible to enroll for benefits under this title.

(b) An individual may enroll for coverage under this title only in such manner and form as shall be prescribed by the Secretary by regulation, and only during enrollment periods prescribed in or under this Act.

(c) There shall be a general enrollment period, during which all eligible individuals may enroll, beginning on June 1, 1974 and ending on March 31, 1975. Thereafter enrollment shall be open during the months of February and March of each year for coverage to begin on July 1 of that year.

(d) Aliens shall be eligible to enroll in accordance with the provisions of the agreements reached under section 202(b) (1).

(c) The Secretary shall prescribe regulations providing for automatic coverage of newly born children up to the age of three months.

SCOPE BENEFITS

SEC. 303. (a) The benefits provided to an individual by the insurance program established by this title shall consist of—

(1) entitlement to have payment made to him or on his behalf (subject to regulations prescribed by the Secretary) for medical and other health services;

(2) entitlement to have payment made on his behalf for—

(A) home health services; and

(B) outpatient physical therapy services;

(3) entitlement to have payment to him or made on his behalf for professional services of a doctor of dentistry or oral surgery, including diagnostic and therapeutic services, provided on an outpatient basis, except that—

(A) orthodontry and services of orthodontists are excluded unless performed in relation to restoration of a prior condition; and

(B) for persons above the age of eleven years, services are covered only to the extent that they would be a covered service when performed by a physician under this title where the dentist is legally licensed to perform such service as provided in section 501;

(4) entitlement to have payment made to him or on his behalf for professional services of a psychologist or a psychiatrist provided on an outpatient basis or as incident to inpatient hospital services (subject to regulations prescribed by the Secretary), for up to twenty-six visits during the calendar year and up to one hundred four visits during his lifetime;

(5) entitlement to have payment made to him or on his behalf for nondiagnostic medical examinations (as provided by regulations prescribed by the Secretary (but including—

(A) biyearly examinations for children between birth and the age of four; and

(B) pre-natal care.

(b) The benefits provided to an individual by the insurance program established by this title shall include drugs which are—

(i) used in the treatment of long-term or chronic illnesses (as prescribed by the Secretary); and

(ii) are prescribed by a physician from the list developed in accordance with the provisions in section 107(d) (8).

PAYMENT OF BENEFITS

SEC. 304. (a) Subject to the provisions of this section, there shall be paid from the Supplementary Health Care Trust Fund, in the case of each individual who is covered under the insurance program established by this title and incurs expenses for services with respect to which benefits are payable under this title, amounts equal to—

(1) 100 per centum of the reasonable costs of the services described in section 303(a) (1), (2), (4), and (5), less (A) $50 per person per calendar year, where the per person family income exceeds $2,000 per year, or (B) $25 per person per calendar year where the per person family income is $2,000 or $1,500, or (C) $10 per person per calendar year where the per person family income is $1,000 or less.

(2) 100 per centum of the reasonable costs of the services described in section 303(a) (3) less (A) $25 per person per calendar year, where the per person family income exceeds $2,000 per year, or (B) $15 per person per calendar year where the per person family income is greater than $2,000 or $1,500, or (C) $10 per person per calendar year where the per person family income is $1,000 or less.

(b) No payment may be made under this title wth respect to any services furnished an individual to the extent that such individual is entitled to have payment made with respect to services under title II.

(c) No payment may be made under this title to any provider of services or other person under this title unless there have been furnished such information as may be necessary in order to determine the amounts due such provides or other person under this title for the period with respect to which the amounts are being paid or for any prior period.

PROCEDURE FOR PAYMENT

SEC. 305. Payment for services described in section 303(a) shall be made by the insurance carrier or other administrative intermediary who has contracted to cover the region in which the services were rendered upon the submission to such insurance carrier, a claim in such manner as prescribed by the Secretary by published regulations.

FINANCING

SEC. 306. (a) (1) The Secretary shall, during January 1975, and of each year thereafter determine and promulgate the dollar amount which shall be applicable for premiums for each region and subregion for months occurring in the twelve-month period commencing July 1 of that year. Such dollar amount shall be such amount as the Secretary estimates will be equal to the Federal share of the total of the premium costs which he estimates will be payable from the Supplementary Health Care Trust Fund for such twelve-month period.

(2) The Federal share of the premiums for Supplementary Health Care under this title shall be equal to—

(A) 100 per centum of the premium where the per person family income is $1,000 or less;

(B) 75 per centum of the premiums where the per person family income is $1,500;

(c) 50 per centum of the premiums where the per person family income is $2,000; and

(D) 25 per centum of the premiums where the per person family income is $2,500.

The balance (of the premium) not covered by the Federal share shall be paid by the family and where the per person family income exceeds $2,500 per person the Federal share shall be 0 per centum.

(b) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

PAYMENT OF PREMIUMS

SEC. 307. (a) Payment of the family share of the premium under this title shall be made, in a manner specified by regulations promulgated by the Secretary, to the designated insurance carrier or other administrative intermediary in the region in which the family resides.

(b) The Secretary shall encourage and provide regulations for the administrative intermediary of the regions to enter into agreements with employers to deduct from the salaries and wages of their employees the amount of their premiums.

(c) Nothing in this Act shall be construed as impairing or restricting any labor-management contract or employee health-benefit agreement now in effect or to become effective in the future. Employers may enter into agreements with administrative intermediaries to cover all or part of an employee's premium cost.

(d) (1) In the case of an individual who is entitled to monthly benefits under section 202 of the Social Security Act, his monthly premiums under this title (except as provided in subsection (g) of this section) shall be collected by deducting the amount of such monthly benefits. Such deductions shall be made in such manner and at such times as the Secretary shall by regulations prescribe.

(2) The Secretary of the Treasury shall from time to time, transfer from the Federal old-age and survivors insurance trust fund or the Federal disability insurance trust fund to the supplementary health care trust fund the aggregate amount deducted under paragraph (1) of this subsection, for the period to which such transfer relates from benefits under section 202 of the Social Security Act which are payable from such

trust fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(e)(1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937, his monthly premiums under this title shall (except as provided in subsection (g)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the railroad retirement account to the supplementary health care trust fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(f) In the case of an individual who is entitled both to monthly benefits under section 202 and to an annuity or pension under the Railroad Retirement Act of 1937 at the time he enrolls under this title, subsection (d) shall apply so long as he continues to be entitled both to such benefits and such annuity or pension. In the case of an individual who becomes entitled both to such benefits and such an annuity or pension after he enrolls under this part, subsection (d) shall apply if the first month for which he was entitled to such benefits was the same as or earlier than the first month for which he was entitled to such annuity or pension, and otherwise subsection (e) shall apply.

(g) If an individual to whom subsection (d) or (e) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(h)(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (d) nor subsection (c) applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (d) nor subsection (e) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Civil Service Commission shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5, United States Code, may reimburse each annuitant enrolled in such plan an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the civil service retirement and disability fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the supplementary health care trust fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(i) In the case of an individual who participates in the insurance program established by this title but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (g) applies, the premiums shall be paid to the designated insurance carrier at such times, and in such manner, as the Secretary shall by regulations prescribe.

(j) Amounts paid to the Secretary under subsection (g) or (i) shall be deposited in the Treasury to the credit of the supplementary Health Care Trust Fund.

(k) In the case of an individual who participates in the insurance program established by this title, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies, or, if earlier, in which his coverage under such program terminates.

(l) The Managing Trustee shall pay from time to time, but not less than yearly, to the insurance carriers such amounts as the Secretary certifies are necessary to pay the Federal share of the premiums under this title.

(m) Where an individual or family fails to pay his share of the premium, coverage shall continue either partially or fully, for a period not to exceed one year, subject to regulations prescribed by the Secretary.

SUPPLEMENTARY HEALTH CARE TRUST FUND

SEC. 308. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Supplementary Health Care Trust Fund" (hereinafter in this section referred to as the "Trust Fund"): The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

(b) There are hereby transferred to the Trust Fund, all assets and liabilities of the "Federal Supplementary Medical Insurance Trust Fund", established by section 1842, title XVIII of the Social Security Act. This section shall be effective on the date on which benefits under this title begin.

(c) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) hold the Trust Fund;

(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years;

(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next two fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations, issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-being obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to this Act. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to this Act.

(h) There are hereby appropriated such funds as may be necessary to defray the expenses of the Trust Fund.

(i) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this title, and the payments with respect to administrative expenses.

TITLE IV—HEALTH MAINTENANCE ORGANIZATIONS

GRANTS FOR DEVELOPMENT

SEC. 401. (a) The Secretary shall, upon the recommendations of the Health Delivery Committee (as provided in section 504) promulgate rules and regulations for the establishment and financing of public or private prepaid health maintenance organizations (as defined in section 101(cc)).

(b) (1) There is hereby authorized for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, such sums as may be necessary to carry out the provisions of this title, which shall be used by the Secretary to make grants or loans to cover the costs of planning and establishing such organizations including construction costs, to such groups or entities which meet the qualifications, for such grants or loans, as established by the Secretary.

(2) In no case shall a grant to any one health maintenance organization exceed 50 per centum of the development costs of the organization, except that organizations which locate in and serve areas that are located in physician shortage areas (as defined by the Secretary) may receive grants up to 70 per centum of the total development costs.

(3) Loans to such organizations shall be made on such terms and conditions as the Secretary may prescribe by regulation or in the agreement with the organization. Such loans shall be repayable in equal or graduated installments over a twenty-year period which begins upon the date of commencement of such organizations. Such loans shall bear interest on the unpaid balance, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum.

CONTRACTS WITH HEALTH MAINTENANCE ORGANIZATIONS

SEC. 402. (a) The Secretary may enter into contracts (without regard to section 3709 of the revised statutes or any other provision of law requiring competitive bidding) with qualified health maintenance organizations to provide the services described in titles II and III to be rendered after June 30, 1975.

(b) The total Federal and family payments for services provided under contracts authorized under subsection (a) shall not be made in any amount that is in excess of the average total cost of such services for families in that region.

FINANCING

SEC. 403. (a) The Federal share of the premium or prepayment for participants in the health maintenance organizations shall be determined in accordance with section 306 (a) (2) and section 204(a).

(b) The Secretary shall during 1975, and each year thereafter determine and promulgate the dollar amount which shall be payable to organizations within each region (under section 402) for months occurring in the twelve-month period commencing July 1 in each succeeding year. Such dollar amount shall be such amount as the Secretary estimates will be equal to the Federal share of the total of the premium or prepayment costs which he estimates will be payable from the Supplementary Health Care Trust Fund and the Federal Health Care Trust Fund for such twelve-month period.

PAYMENT OF PREMIUMS

SEC. 404. Family payment of premiums under this title shall be made in a manner similar to the payment of premiums prescribed by section 307 and any regulations prescribed by the Secretary.

ELIGIBILITY

SEC. 405. Any individual who is eligible for benefits under titles II and III shall be eligible to enroll for benefits under this title.

ENROLLMENT

SEC. 406. (a) A family may enroll for coverage under this title only in such manner and form as shall be prescribed by the Secretary by regulation, and only during enrollment periods prescribed in or under this Act.

(b) The Secretary may provide for limited membership in health maintenance organizations except that no applicant for membership may be denied membership solely because of age or health condition.

TITLE V—MISCELLANEOUS PROVISIONS

FEDERAL HEALTH CARE STANDARDS

SEC. 501. Health personnel and allied health personnel listed in section 107(d) (3) and (4) who are legally authorized by a State to practice their respective professions and who meet national standards established by the Council pursuant to section 107(d) (3), (4), and (5) are hereby authorized to practice such profession in any other State, either independently or on behalf of an organization (including hospitals).

CORPORATE PRACTICE

SEC. 502. If any proposed or existing medical care institution or health maintenance organization meets the standards prescribed by the Council is ineligible to incorporate under State law for reasons deemed incompatible by the Secretary, with the purposes of this Act, the Council shall issue a certificate of incorporation allowing such medical care institution or health maintenance organization to provide the services described in this Act in accordance with provisions of State law applicable corporations in such State.

APPEALS

SEC. 503. (a) The determination of whether an individual is entitled to benefits under titles II, III, and IV, and the determination of the amount of benefits under title II, shall be made by the Secretary in accordance with regulations prescribed by him.

(b) Any individual dissatisfied with any determination under subsection (a) as to entitlement under titles II, III, and IV, or as to amount of benefits under title II, where the matter in controversy is $100 or more, shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and in the case of determination as to entitlement or as to amount of benefits where the amount in controversy is $1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of the Social Security Act.

(c) Any individual or organization dissatisfied with any determination by the Secretary that he does not qualify under this Act, to provide services, shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of the Social Security Act.

HEALTH DELIVERY COMMITTEE

SEC. 504. (a) There is hereby established in the Department of Health, Education, and Welfare a Health Delivery Committee (hereinafter referred to as the Committee) to be composed of nine members appointed by the President, by and with the advice and consent of the Senate, for terms of two years without regard to the provisions of title 5, United States Code. Each member so appointed from the medical and allied health fields shall be a person who as the result of his training, experience and attainments is exceptionally qualified to perform his duties on this Committee. A vacancy in the Committee shall not affect its activities and six members thereof shall constitute a quorum. The members shall choose their own chairman. A member of the Committee who is an officer or employee of the Federal Government shall serve without additional compensation. During his term of office no member shall engage in any other business, vocation or employment.

(b) The Committee shall—

(1) study the current need for medical personnel and facilities in the United States;

(2) study the estimated need for such personnel and facilities in the next succeeding two decades;

(3) study the solution to meeting the needs found, with particular emphasis on the effectiveness of prepaid or health maintenance plans, operating under title IV of this Act; and

(4) publish a report, every six months, of its findings and recommendations.

(c) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities.

(d) The Committee shall be appointed within one hundred and eighty days after the date of enactment of this Act, and shall continue for two years thereafter.

(e) There is hereby appropriated such sums as may be necessary to carry out the provisions of this section.

(f) (1) Section 5315, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(97) Chairman, Health Delivery Committee."

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(133) Members, Health Delivery Committee (8)."

EFFECTIVE DATES

SEC. 505. (a) Benefits conferred by titles II and III of this Act shall commence July 1, 1976.

(b) Benefits conferred by title IV of this Act shall commence July 1, 1976.

(c) Titles I and V are effective as of the date of enactment of this Act.

FREE CHOICE BY PATIENT GUARANTEED

SEC. 506. Any individual entitled to insurance benefits under titles II and III may obtain health services from any institution, agency, or person qualified to participate under titles II and III if such institution, agency, or person undertakes to provide him such services.

OPTION TO INDIVIDUALS TO OBTAIN OTHER HEALTH INSURANCE PROTECTION

SEC. 507. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

EFFECT UPON OTHER ACTS

SEC. 508. (a) Title XVIII of the Social Security Act is repealed, effective upon the date that the health benefits of this Act become effective.

(b) Chapter 89, title 5, United States Code, is repealed effective upon the date the health benefits of this Act become effective.

(c) The Retired Federal Employees Health Benefits Act (74 Stat. 849) is repealed effective upon the date the health benefits of this Act become effective.

(d) After the effective date of health security benefits provided under this Act no

State (as defined in section 1101(a)(1) of the Social Security Act) shall be required, as a condition of approval of its State plan under title XIX of that Act, to furnish any service which constitutes a covered service under title I of this Act, and any amount expended for the furnishing of any such service to a person eligible for services under title I of this Act shall be disregarded in determining the amount of any payment to a State under such title XIX. The Secretary shall by regulation prescribe the minimum scope of services required (in lieu of the requirements of section 1902(a)(13) of the Social Security Act) as a condition of approval, after the effective date of health security benefits, of a State plan under such title XIX. Such minimum scope of services shall, to the extent the Secretary finds practicable, be designed to supplement the benefits available under title II of this Act, and with respect to the furnishing of dental services and of drugs to persons not entitled to such services or not entitled to such drugs, under title II of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated, for each fiscal year, such sums as are necessary to carry out the provisions of this Act.

SUMMARY OF THE MAJOR PROVISIONS OF THE HEALTH RIGHTS ACT

The Health Rights Act establishes a two part program to assure all Americans of protection from unmeetable financial obligations due to the costs of health maintenance and recovery from illness. It replaces both the medicare and medicaid programs now in effect.

The first part provides inpatient, "major illness' protection for all individuals. It differs from traditional catastrophic plans by covering all costs above each family's "health cost ceiling."

The second part is an outpatient health maintenance insurance plan. All families subscribing to the outpatient plan are eligible for the inpatient plan.

ADMINISTRATION

Both the inpatient and outpatient plans are administered by insurance carriers or public or private agencies on a regional basis, under contract with the newly created Office of Health Care within the Department of Health, Education, and Welfare.

FINANCING

Inpatient plan: Federal share is financed in part through present health insurance portion of Social Security payroll taxes and in part through general revenues. Individual family deductibles cover the patient's share.

Outpatient plan: is financed in part through family premium payments which will be supplemented in whole or part with Federal payments for low income families. Employers may arrange to finance all or part of their employees premiums under this plan.

BENEFITS

(See sample figures in chart below)

Inpatient plan pays all covered costs above each family's "health cost ceiling." This health cost ceiling is determined on a family by family basis, by use of a formula taking into account both family income and family size (rounded to the nearest $1,000 for those with adjusted "family incomes" of over $2,000, to the nearest $500 for those with adjusted "family incomes" $2,000 and under).

The family must spend an amount equal to one-half its cost ceiling on covered expenses before there is any Federal contribution. Covered expenses between one-half the cost ceiling and the cost ceiling will be matched on a 50%–50% coinsurance basis. Families may cover costs which fall under their health cost ceiling either with their own assets or through a personally purchased insurance policy. All covered expenses above the family's cost ceiling are covered by Federal payments. For low income families, this program completely supplements the outpatient program.

Outpatient plan pays all covered costs above an individual deductible of $50 per year, with lower individual deductibles for low income persons. There is an additional individual deductible for low income persons. The small initial payment for, and the breadth of, covered outpatient services will encourage illness prevention and discourage overutilization of inpatient services.

COVERED SERVICES

Inpatient plan covers hospital inpatient service, secondary care inpatient services (without a prior requirement of hospital care), and home health services following inpatient status in either a hospital or secondary care facility. Inpatient mental health services are also covered, with a yearly limit of sixty days and an overall lifetime limit of 180 days.

Outpatient plan covers outpatient physicians' services, including diagnostic services, limited "check-up" examinations, pre-natal and well-child care, dental care for children under the age of 12, and outpatient mental health services, with a yearly limit of 26 treatments and an overall lifetime limit of 104 treatments.

UTILIZATION REVIEW AND COORDINATION OF HEALTH SERVICES

This Act incorporates provisions of newly-enacted Professional Standards Review program, with some modifications. It requires such correlation of activities and interchange of data as is necessary to provide quality health services in the most economically possible manner. It establishes a National Professional Standards Review Council, appointed by the President, with the advice and consent of the Senate, to oversee and coordinate the activities of Professional Standards Review Councils and Professional Standards Review Organizations, and to make both executive and legislative recommendations for improvement in the program.

PLANNING FOR HEALTH MANPOWER RESOURCES TO MEET NATIONAL NEEDS

The Act establishes a two year, Presidentially appointed, Health Delivery Committee. The Committee is charged with determining the current need for medical personnel and facilities in the United States, assessing the need for such personnel and facilities in the succeeding two decades, assessing the viability of health maintenance organizations in helping to meet this need, and making recommendations to the President and to the Congress for the fulfillment of these needs.

PROGRAM TO ENCOURAGE THE DEVELOPMENT AND UTILIZATION OF HEALTH MAINTENANCE ORGANIZATIONS

The Health Rights Act authorizes Federal grants and loans for the planning and development, including construction, of prepaid health maintenance organizations. Grants for the planning and development of health maintenance organizations may cover 50% of the development costs. For health maintenance organizations which locate in and serve patients in physician shortage areas, grants may cover 70% of the development and initial operating costs. The Secretary of Health, Education, and Welfare is authorized to enter into contracts with qualified health maintenance organizations to provide the services covered by the outpatient and inpatient plans described above.

SAMPLE FIGURES FOR COST PROVISIONS UNDER HEALTH RIGHTS ACT

Family size and income	Inpatient plan, family health cost ceiling (deductible)	Outpatient insurance plan: Insurance cost (percent): Individual payment	Outpatient insurance plan: Insurance cost (percent): Federal payment	Outpatient insurance plan: Deductibles (per person): Medical	Outpatient insurance plan: Deductibles (per person): Dental
Family size—1:					
$1,000	$80	0	100	$10	$10
$1,500	120	25	75	25	15
$2,000	160	50	50	25	15
$4,000	480	100	0	50	25
$6,000	720	100	0	50	25
$10,000	1,200	100	0	50	25
$14,000	1,680	100	0	50	25
$20,000	2,400	100	0	50	25
Family size—2:					
$1,000	57	0	100	10	10
$1,500	86	0	100	10	10
$2,000	114	25	75	25	15
$4,000	342	75	25	50	25
$6,000	514	100	0	50	25
$10,000	857	100	0	50	25
$14,000	1,200	100	0	50	25
$20,000	1,714	100	0	50	25
Family size—4:					
$1,000	$36	0	$100	10	$10
$1,500	54	0	100	10	10
$2,000	73	0	100	10	10
$4,000	145	25	75	25	15
$6,000	327	75	25	50	25
$10,000	545	100	0	50	25
$14,000	763	100	0	50	25
$20,000	1,090	100	0	50	25
Family size—6:					
$1,000	27	0	100	10	10
$1,500	40	0	100	10	10
$2,000	53	0	100	10	10
$4,000	107	25	75	25	15
$6,000	161	50	50	25	15
$10,000	400	100	0	50	25
$14,000	560	100	0	50	25
$20,000	800	100	0	50	25

ADDITIONAL COSPONSORS OF BILLS

S. 513

At the request of Mr. Moss, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 513, to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes.

S. 1283

At the request of Mr. JACKSON, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Oklahoma (Mr.

Bartlett), the Senator from Maryland (Mr. Beall), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), the Senator from Maryland (Mr. Mathias), the Senator from Montana (Mr. Metcalf), the Senator from Wisconsin (Mr. Nelson), and the Senator from Pennsylvania (Mr. Schweiker) were added as cosponsors of S. 1283, the National Energy Research and Development Policy Act of 1973.

ORDER FOR STAR PRINT OF S. 2735

Mr. SPARKMAN. Mr. President, I ask unanimous consent that a star print be made on S. 2735, the Emergency Mortgage Credit Act of 1973, because of certain errors contained in the original print.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

AMENDMENT NO. 743

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (S. 2702) the Emergency Daylight Saving Time Energy Conservation Act of 1973.

PRISONER OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENTS

AMENDMENT NO. 744

(Ordered to be printed and to lie on the table.)

Mr. MOSS. Mr. President, on behalf of myself, Mr. Percy, and Mr. Nelson, I submit an amendment intended to be proposed by me to H.R. 8214, to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes, and ask unanimous consent to have the amendment printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 744

At the end thereof, insert the following:

TITLE II—AUTOMOBILE EFFICIENCY TAX

The purposes of this Title are to encourage the development and manufacture of American automobiles which efficiently consume fuel and to stimulate the conservation of energy.

Sec. 202. (a) Part I of subchapter A of chapter 36 of the Internal Revenue Code of 1954 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"Sec. 4064. Automobile Fuel Consumption Tax

"(a) Imposition of Tax.—There is hereby imposed upon every new automobile manufactured, produced, or imported a tax at whichever of the following rates is applicable with respect to the fuel consumption rate (as determined under subsection (b)) of such automobile:

"(1) for the period beginning July 1, 1976, and ending June 30, 1978:

"If the consumption rate (in miles per gallon) is:	The tax is:
Over 20	$0
Over 19 but not over 20	20
Over 18 but not over 19	45
Over 17 but not over 18	70
Over 16 but not over 17	100
Over 15 but not over 16	130
Over 14 but not over 15	170
Over 13 but not over 14	210
Over 12 but not over 13	260
Over 11 but not over 12	320
Over 10 but not over 11	390
Not over 10	480

"(2) for the period after July 1, 1978:

"If the consumption rate (in miles per gallon) is:	The tax is:
Over 20	$0
Over 19 but not over 20	60
Over 18 but not over 19	130
Over 17 but not over 18	205
Over 16 but not over 17	295
Over 15 but not over 16	390
Over 14 but not over 15	505
Over 13 but not over 14	630
Over 12 but not over 13	785
Over 11 but not over 12	960
Over 10 but not over 11	1,175
Not over 10	1,435

"(b) Determination of Fuel Consumption Rate.—The fuel consumption rate of new automobiles taxable under subsection (a) shall be determined solely on the basis of the Automobile Fuel Consumption Schedule prepared by the Administrator of the Environmental Protection Agency.

"(c) Liability for Payment.—The tax imposed by this section shall be paid by the manufacturer, producer, or importer at such time and in such manner as the Secretary of the Treasury in consultation with the Administrator shall prescribe.

"(d) Definitions.—For the purposes of this section—

"(1) the term 'new automobile' means every vehicle, equipped with an internal combustion engine, designed for use on the highway which has never been transferred to the ultimate purchaser, but shall not include any commercial vehicle, or any farm vehicle, as defined by the Administrator, and

"(2) the term 'ultimate purchaser' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale."

(b) The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 4064. Automobile fuel consumption tax.".

(c) The amendments made by this section shall take effect on July 1, 1976.

Sec. 203. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator"), shall, from time to time, study and investigate the fuel consumption rate of automobiles which are subject, or may be subject to the tax imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel consumption taxes).

(b) The studies and investigation conducted under subsection (a) shall include tests—

(1) of each automobile model subject to such tax equipped—

(A) with each available engine size (measured by horsepower), and available rear axle ratio, and

(B) with and without each, and combinations of each, type of other accessory available which is determined by the Administrator to have a significant effect on fuel consumption economy; and

(2) which shall be conducted—

(A) under driving conditions representative of an average composite of urban and nonurban driving speeds and circumstances,

(B) with the fuel used being of the quality normally recommended for use in such automobile, and

(C) with such automobile carrying the average weight load for which it was designed.

(c) Based upon the studies and investigations conducted under subsection (a), the Administrator shall determine the fuel consumption rate of each such automobile model with and without fuel consumption effective accessories and with each available engine size. The Administrator shall, not later than June 1, 1976, and each year thereafter, prepare and transmit to the Secretary of the Treasury a schedule of all such rates to be known as the Automobile Fuel Consumption Schedule (interim revisions of which are to be made by the Administrator as he deems appropriate). The Automobile Fuel Consumption Schedule shall be made available for sale as a public document.

(d) (1) Any person engaged in manufacturing, producing, or importing new automobiles shall, with respect to the fuel consumption rate of such automobiles—

(A) maintain and provide such records, make such reports, conduct such tests, and provide such information as the Administrator may by regulation require,

(B) upon request, permit the Administrator to have access to and copy any books, papers, records, or documents pertaining to such fuel consumption rates, for the purpose of verifying the accuracy of such records, reports, tests, and information, and

(C) upon request, permit the Administrator to inspect or test any such automobile.

(2) Any record, report, or information obtained under paragraph (1) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that any record, report, or information, or particular part thereof, which the Administrator has obtained under paragraph (1), if made public would divulge any methods, processes, or information entitled to protection as a trade secret of such person, the Administrator shall consider that any such record, report, or information, or any particular portion thereof, confidential in accordance with the purposes of section 1905 of title 18, United States Code. Nothing in this section shall authorize the withholding by the Administrator of any records, reports, or information from either House of Congress, or any duly authorized committee thereof.

(e) Any person who violates subsection (d)(1) shall be subject to a civil penalty of not more than $10,000.

(f) The Administrator, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall prepare a report for submission to Congress not later than July 1, 1979. This report shall contain an evaluation of the effectiveness of this Act in improving the efficiency of automobiles, and recommendations for legislation to provide for the improvement in the fuel consumption efficiency of all vehicles designed for use on the highway.

(g) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this section. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this section, except the making of regulations, as he may deem necessary or expedient.

Sec. 204. (a) Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by inserting "(a)" after "Sec. 3" and by adding at the end thereof the following:

"(b) Every label required to be affixed under subsection (a) shall include, in the case of any automobile on which a tax was imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel economy taxes)—

"(1) the fuel consumption rate determined to be applicable for such automobile, and

"(2) the tax paid under such section 4064."

(b) The amendments made by this section shall take effect on July 1, 1976.

AUTO FUEL CONSUMPTION TAX AMENDMENT

Mr. PERCY. Mr. President, today Senators Moss, NELSON, and I are submitting a new version of the auto fuel consumption tax in the form of an amendment to H.R. 8214, a House-passed tax bill which has been reported by the Senate Finance Committee. In recent months similar legislation has been proposed by several Senators and Congressmen, including S. 2428, the auto fuel consumption tax bill which I introduced on September 18. The amendment we are presenting this afternoon combines many of the features of S. 2428 and the other earlier proposals.

It includes a sliding scale tax on new automobiles based on their fuel consumption rates. This will be a one-time tax on the producers and importers of automobiles. It will go into effect in two stages beginning in 1976, with higher rates being imposed in 1978. Cars with fuel consumption rates of better than 20 miles per gallon would be completely exempt from the tax.

The Environmental Protection Agency would be directed to test new car fuel efficiency rates beginning in 1976. The tests would be conducted under normal city and highway driving conditions using ordinary auto fuel. The agency would be required to publish a fuel consumption schedule for each make, model, and engine configuration.

The amendment would also require new car labels to state the fuel consumption rate, as determined by EPA, and the amount of the tax paid on the car.

The purposes of this amendment are to encourage the development and manufacture of fuel efficient automobiles, to increase revenues which could be devoted to energy research and other vital national needs, and to stimulate energy conservation.

Mr. President, improved automobile fuel efficiency is an essential step toward ending our Nation's present energy waste crisis. Almost one half of our total oil supplies are consumed in the form of gasoline. The private automobile accounts for 13 percent of our total energy consumption. Automobile energy use constitutes one of the fastest growing segments of our total energy budget, having grown 171 percent between 1950 and 1970. In this period the fuel efficiency of the average automobile declined by about 11 percent. Decreased fuel efficiency has multiplied the effects of a larger vehicle population and more intensive use of automobiles.

It seems evident that in the present energy emergency we must limit the use of automobiles by reducing speed limits, curtailing nonessential weekend driving, and similar measures. But a fuel efficient car traveling at 70 miles per hour consumes less than a gas guzzler at 50 miles per hour. In the longer perspective, the problem of automobile fuel efficiency must be faced.

Fortunately, there is great potential for improving the fuel economy of American automobiles. The potential does not necessarily depend on making cars smaller. Tests by EPA on 1974 model cars indicate that some of the heavier cars get better gas mileage than some of the lighter ones.

Nor is it dependent on development and application of "exotic" new automotive technologies. In Septmeber of 1972 a Federal interagency research committee submitted a "Summary Technical Report of Transportation Energy R. and D. Goals." The report included:

> In the near term, within the next few years, it appears possible to demonstrate as much as a 30% reduction in fuel consumption by standard automobiles with 1976 emissions controls without substantially affecting performance or losing the gains made in controlling emissions. This reduction in fuel consumption would be accomplished by using existing technology and optimizing vehicle and engine designs for that purpose rather than for lowest first cost, as is now the industry practice.

More recently, a Department of the Treasury report reached a similar conclusion. It determined that a fuel consumption tax could encourage application of energy conservation technology sufficient to improve average fuel efficiency to 20 miles per gallon. By 1980 the gasoline savings from such a tax would total over 1 million barrels per day. This figure is slightly larger than the projected daily gasoline production from the trans-Alaska pipeline. The potential savings, therefore, are substantial.

In addition to furthering the goal of energy self-sufficiency, these savings are important to the consumer. The Energy Policy Task Force of the Consumer Federation of America has recently pointed out that the tax will save consumers millions of dollars in long-term automobile operating costs. These savings will become even larger as the price of gasoline increases. The labeling provisions of the amendment, as well as the tax itself, will serve to make consumers more conscious of the efficiency and operating costs of the cars they purchase.

In addition to its primary purpose of conserving the Nation's energy resources, the automobile fuel consumption tax would also generate revenue. At its peak, the tax would bring in approximately $2 billion per year. As automobile producers react by increasing efficiency, revenue would decline to slightly less than $600 million per year. This money would then be available for energy research and development, research on low-pollution, fuel-efficient automobiles, or for other uses.

There is an inevitable timelag before either the conservation or the revenue raising effects of this measure can be felt. The automobile industry is characterized by exceptionally long leadtime between the beginning of design and actual production. For this reason the first tax would not be assessed until July 1, 1976.

The industry would, therefore, be given a 2½-year period for redesign and retooling. Another 2 years would elapse before the stiffer final tax schedule would go into effect. Thus, the industry would be given every opportunity to avoid the tax by producing more efficient automobiles.

The effects of shifting to production of cars with lower fuel consumption will in the long run benefit the American automobile industry. A full-sized, American-made, fuel-efficient car would be an extremely competitive product for both the domestic market and for export.

Thus, the automobile fuel consumption tax would bring about vitally important conservation measures. It would save money for the consumer. And it would encourage Detroit to face the challenge of the imports. Enactment of a fuel consumption tax should be considered a high priority for the Congress.

Mr. NELSON. Mr. President, we are rapidly approaching a worldwide resource shortage involving a broad spectrum of critically important food, fiber, mineral, and energy materials. We will either make rational decisions respecting the use of these resources or time and events will surely impose a result upon us that will spell disaster for the whole world of social and economic institutions.

One of these critical resources is oil. Major economies can and must be achieved in energy use. One area of economy is the consumption of fuel by automobiles. For 15 years the automobile industry has shortsightedly persisted in producing more expensive, heavier gas consuming vehicles despite persistent public demands for lighter and more economical cars. The result has been a major invasion of the American market by foreign cars. We have been exporting jobs and importing cars. This will continue at an accelerated pace unless dramatic action is taken.

Will Rogers said that the United States is the only country in the world that will drive to the poorhouse in an automobile. While this may be an exaggeration it emphasizes our unwise waste of precious gasoline. Although the United States is the leading producer of automobiles in the world and has more accumulated automobile manufacturing experience than any other country, American automobiles on the average are less efficient at using fuel than those produced by any other country. In recent years, the efficiency of the American automobile has seriously declined. In 1950, automobiles were averaging 14.95 miles per gallon. By 1972 this has dropped to 13.57.

The declining efficiency of the American built cars threatens American jobs and encourages the rise in foreign car sales in the United States. Now, with the onset of the oil squeeze jobs in the U.S. automobile industry are threatened even more. Last week, as the popularity of big cars skidded, General Motors took an extraordinary step. It ordered 16 of its assembly plants in the United States and Canada to shut down for the week beginning December 17 to cut scheduled production by 79,000 cars, mainly large and intermediate models. It was the first time that GM has closed plants to reduce production since February 1970, when car sales were slumping badly. Normally GM turns out 120,000 to 130,000 units a week.

We simply cannot let jobs in the auto industry and our rapidly diminishing natural resources to continue to be at the mercy of unwise production decisions made in Detroit.

Last year, 1,428,447 foreign cars were sold in the United States representing 14.5 percent of the market. Less than 7 years ago in 1965 foreign car sales were only 6.1 percent of the market and in 1962 they were only 4.9 percent of the market.

It is estimated that in 1973 registration of foreign new cars will represent 15.9 percent of the total U.S. market. Not only have foreign cars gained an increasing share of the market but standard size cars, where the bulk of Americans jobs are, have been steadily losing their share of the market.

Mr. President, I ask unanimous consent to insert in the CONGRESSIONAL RECORD at this time a table showing the registration of new cars and their percentages by general market class from the years 1967 to 1973.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REGISTRATION OF NEW CARS BY GENERAL MARKET CLASS

Market class	1967 to 1973 calendar years, percentage of total registration							1973 sales (thousands)
	1967	1968	1969	1970	1971	1972	1973	
High price class (Cadillac, Lincoln, etc.)	2.9	2.6	2.9	2.3	2.7	2.7	2.4	238
Medium price class (Pontiac, Olds, Buick, etc.)	17.8	17.0	16.8	13.7	15.1	14.5	12.7	1,257
Regular size (Ford, Chevrolet, Plymouth, etc.)	28.6	27.0	25.7	22.5	20.9	19.3	16.3	1,614
Special sports type (Chevrolet Monte Carlo, Ford Mustang, Chevrolet Camaro, etc.)	12.8	11.7	11.1	10.3	8.6	8.2	9.9	980
Intermediate size (Ford Torino, Chevrolet, Olds Cutlass)	21.8	24.0	22.2	21.0	18.1	19.2	18.8	1,861
Compact size (Chevrolet Nova, Ford Maverick, Dodge Dart, Plymouth Valiant, etc.)	6.7	7.1	9.8	13.8	12.1	12.9	14.4	1,425
Subcompact size (Vega, Pinto, Gremlin)				1.6	7.4	8.2	9.6	950
Foreign cars	9.3	10.5	11.2	14.7	15.1	14.5	15.9	1,574
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	9,900

Mr. NELSON. Mr. President, this table reveals that the percentage of large cars—medium, regular size, intermediate size, and special sports cars—excluding high price cars which constitutes about 2.6 percent of the market regardless of time and price—has fallen from 81 percent in 1967 to 57.7 percent in 1973 while the percentage of compacts, subcompacts, and foreign cars has risen from 16 percent in 1968 to 39.9 percent in 1973.

High paid automobile executives just refuse to recognize the changes occuring in the market. As Michael Evans of Chase Econometric Associates, Inc., wrote:

> The market share of standard-size cars fell 7 percent last year, which is as much as it had fallen during the previous seven years. These facts simply could not have been a secret from executives in an industry which has more daily and weekly data than any other.
>
> I personally know of several instances where middle management argued strenuously last year that production lines should be reoriented toward smaller cars. Yet this argument fell mostly on deaf ears at the top executive level. John deLorean's abrupt departure from GM was based on more than long boring staff meetings.

I am offering, with Senator Moss of Utah and Senator PERCY of Illinois, an amendment that will induce American automobile manufacturers to produce more fuel efficient cars and consequently make substantial savings in the amount of gasoline used by automobiles. We propose that a fuel economy tax be levied on new automobiles beginning July 1, 1976. The tax will be based upon miles per gallon ratings developed by uniform testing procedure to be conducted by the Environmental Protection Agency. Basically the tax would establish a national automobile standard of 20 miles per gallon. Cars getting that mileage or better would pay no excise tax. Less efficient cars would pay a tax proportional to their fuel consumption.

Because of differences in construction and operation, commercial vehicles and farm vehicles are exempt from the tax. The tax would be imposed only once on the manufacturers of new automobiles at the time of the sale. It would be enacted now but would not take effect until July 1, 1976, in order to allow the automobile industry sufficient advance leadtime to design and produce a standard size car which, because of more efficient use of gasoline, would not be subjected to the tax.

A recent Department of Treasury study which recommended a fuel economy tax stated that—

> The (automobile) industry can produce large cars which yield close to 20 miles per gallon using existing technology without sacrificing comfort, styling, or exhaust emission standards.

It is mileage that counts, not size. We must pay the price of our love affair with these gas-guzzling dinosaurs. Convincing evidence exists that Americans can have full-sized automobiles which will get far better mileage. The average American vehicle converts only 25 percent of the energy supplied to it to useful work. Average American automobile mileage has been decreasing every year.

In September 1927, a Federal interagency research committee confirmed this conclusion. The summary technical report of the Transportation Energy R. & D. Goals found:

> In the near term, within the next few years, it appears possible to demonstrate as much as a 30% reduction in fuel consumption by standard automobiles with 1976 emission controls without substantially affecting performance or losing the gains made in controlling emissions. This reduction in fuel consumption would be accomplished by using existing technology and optimizing vehicle and engine designs for that purpose rather than for lowest first cost, as is now the industry practice.

The EPA study indicates clearly that lighter cars do make significant savings in gasoline. This test was made of 630 1973 vehicles. It shows that the mileage of the heaviest vehicle—5,500 pounds—averaged 8.8 miles per gallon while that of the smallest vehicle—2,000 pounds—averaged 25.5 miles per gallon.

The amendment is carefully drafted so that the American industry has sufficient warning and leadtime to allow the automobile industry to design and produce a standard size car which, because of more efficient use of gasoline would not be subject to the tax.

America is very strong technically, and with the right incentive will develop cars which not only give better mileage, but also will be safer and more comfortable. More efficient automobiles will also help our balance of payments. According to current projections, by 1985 the United States will be dependent for over one-half of its petroleum upon foreign sources. If we allow these projections to come true, it is estimated that the value of petroleum imports will have risen to the staggering sum of $17 billion a year, and some estimates are even higher.

The tax that we are proposing today will, by inducing automobile manufacturers to produce more efficient cars and reduce automobile purchase of large cars, save substantial amounts of gasoline.

Using a tax schedule similar to the one proposed, the Treasury Department has estimated that 1 million barrels of gasoline per day could be saved by 1980—that is the equivalent of over 2 million barrels per day of crude oil or roughly one-half of the projected output of the Alaska pipeline by 1980.

The revenue from the tax would be $2.78 billion in 1976. Thereafter, it would rapidly decline as cars became more efficient and motorists increase their purchases of smaller cars. By 1980, the tax would raise about $600 million per year.

The amendment that I am proposing today is sound fiscal and energy conservation policy. It allows every individual the freedom of choice and it does not have the inherent inflexibility of bureaucratic standards or regulations. The tax proposed today is consistent with sound tax policy because it is based on the ability to pay. This is a much more sound and equitable way to pay for the inevitable increases in gasoline costs than by a flat gasoline tax which has been proposed from time to time by various administration spokesmen. A flat gasoline tax is highly regressive, placing a disproportionate tax burden on the average American driving to his place of work, compared to the wealthy individual driving to his vacation home.

AMENDMENT NO. 745

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I submit an amendment intended to be proposed by me to H.R. 8214, to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes, and ask unanimous consent to have the amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 745

At the appropriate place in the bill insert the following:

SEC. . INCREASE OF TAX CREDIT AND DEDUCTION FOR POLITICAL CONTRIBUTIONS.

(a) IN GENERAL.—

(1) TAX CREDIT.—Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to contributions to candidates for public office) is amended to read as follows:

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall be limited to $25 ($50 in the case of a joint return under section 6013).".

(2) TAX DEDUCTION.—Section 218(b)(1) of such Code (relating to contributions to candidates for public office) is amended to read as follows:

"(1) AMOUNT.—The deduction under subsection (a) shall not exceed $100 ($200 in the case of joint return under section 6013).".

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1973.

AMENDMENT NO. 746

(Ordered to be printed and to lie on the table.)

Mr. TAFT. Mr. President, today, I am submitting an amendment intended to be proposed by me to the pending tax bill, H.R. 8214. This amendment would require the Federal Government to withhold city income taxes from its employees. Such a requirement would benefit directly hundreds of thousands of Federal workers.

Because local income taxes are not withheld from the wages of Federal employees, these workers are forced to pay the taxes in lump sums on a quarterly or annual basis. The obligation to pay a substantial amount in local taxes at one time presents a serious hardship to many Federal workers. As of early 1972, one-third of Cleveland's postal workers had not been able to meet this obligation, and owed the city hundred of dollars per person in back taxes.

This amendment would allow Federal workers to pay their city taxes in the same convenient manner as other workers, by making the payments in even installments throughout the year. The amendment would also provide some extra money for the cities. Because the cities' tax collection departments will no longer have to devote extra attention to Federal workers, administrative costs will decrease. In my own State of Ohio, the cities of Akron, Columbus, and Toledo expect that they could each save $20,000 to $35,000 in this manner. The major new source of income, however, would occur as a result of a reduction in tax delinquencies and an increase in the cities' ability to collect delinquent taxes. Cleveland's tax department has estimated that because of fewer losses in uncollected taxes, the city's income could be increased by $300,000 to $400,000 annually. The city of Cincinnati has estimated that the enactment of this legislation would save its taxpayers about $100,000. Similar savings would be realized by cities in other States.

My amendment would apply to cities with populations of 60,000 or more. When legislation pertaining to this subject was debated on the Senate floor during the last Congress, an amendment was added to exempt residents of States other than that in which the taxing city is located from the withholding requirement unless they consent to withholding. In the interest of making my legislation acceptable to all concerned and thus facilitating its passage, I have included this amendment in today's proposal.

The major organizations representing groups which my amendment would affect strongly support it. These organizations include the National League of Cities-U.S. Conference of Mayors, the National Postal Union and other major Federal employees' associations. The Treasury Department and the Office of Management and Budget have historically supported legislation along these lines, and I have been informed that their positions have not changed.

As I have mentioned, legislation identical to this amendment was passed by the Senate during the 92d Congress, but the House of Representatives did not have time to act on the measure. The House passed similar legislation several years ago.

I hope that this time both Houses of Congress will seize the opportunity to provide equal treatment for our Federal workers and additional assistance for our cities.

I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 746

At the proper place in the bill insert the following new section:

SEC.—.(a) Section 5517 of title 5 of the United States Code is amended—

(1) by inserting "or city" after "State" each place it appears in subsections (a) and (b), and

(2) by inserting before the period at the end of subsection (c) the following: ", and city' means only a city which is incorporated under the law of a State and which had a population (according to the last decennial census before the request under subsection (a)) one thousand or more individuals".

(b) Section 5517 of such title is further amended by adding at the end of subsection (a) the following sentence: "The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless he consents to such withholding."

(c) The heading for such section 5517 is amended to read as follows:

"§ 5517. Withholding State and city income taxes".

(d) The analysis for subchapter II of chapter 55 of title 5 of the United States Code is amended by striking out the item relating to section 5517 and inserting in lieu thereof the following:

"5517. Withholding State and city income taxes.".

(e) The amendments made by this section shall apply only in respect of agreements entered into after the date of the enactment of this Act.

AMENDMENT OF THE SOCIAL SECURITY ACT—AMENDMENTS

AMENDMENT NOS. 747 THROUGH 750

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted four amendments intended to be proposed by him to the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT NO. 751

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE submitted an amendment intended to be proposed by him to H.R. 3153, supra.

AMENDMENT NO. 752

Mr. PELL submitted an amendment intended to be proposed by him to H.R. 3153, supra.

NOTICE OF HEARING ON FEDERAL PAPERWORK BURDEN

Mr. McINTYRE. Mr. President, on December 13, 1973, at 10 a.m., in room 6202 of the Dirksen Senate Office Building, the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, which I have the honor to chair, will resume its hearings into the Federal paperwork burden.

The hearing on December 13 will examine the reporting requirements of the Bureau of the Census as they relate to small business. Representatives from the Bureau of the Census, small business associations, and the accounting profession are scheduled to appear as witnesses.

Further information may be obtained by calling the subcommittee staff on 225-5175.

NOTICE OF OVERSIGHT HEARINGS ON FEDERAL ADVISORY COMMITTEE ACT

Mr. METCALF. Mr. President, I wish to announce that the Subcommittee on Budgeting, Management and Expenditures will continue its oversight hearings on Public Law 92-463, the Federal Advisory Committee Act, next Thursday, December 6, at 10 a.m., in room 457, Russell Senate Office Building.

Questions regarding the hearing may be directed to the subcommittee staff in room 161, Russell Senate Office Building, 225-1474.

ADDITIONAL STATEMENTS

FREEDOM OF PRESS HEARINGS: THE ADMINISTRATION FINALLY TESTIFIES

Mr. ERVIN. Mr. President, late in 1971 and continuing in February 1972 the Constitutional Rights Subcommittee held a set of hearings on freedom of the press. The hearings had become necessary, in the subcommittee's opinion, because of increasing hostility between the news media and the administration. A whole series of issues had risen which badly needed exposure, discussion, and clarification. Let me quote briefly from my remarks of September 27, 1971, when the hearings opened:

> These hearings, and the subcommittee study of which they are a part, have been organized because it is apparent that in today's America, many people doubt the vitality and significance of the first amendment's guarantee of freedom of the press. There have been at least four recent examples of this:
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> First, the increased subpenaing of journalists by grand juries and congressional committees;
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> Second, the recent publication by several newspapers of classified information and the government's unsuccessful attempt to enjoin the publication;
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> Third, the widespread use of false press credentials by government investigators; and
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> Fourth, new fears about government control and regulation of the broadcast media.
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> These developments have brought into sharp relief existing concern about the relationship between government and the working press.
>
> In addition, we have heard sharp and angry attacks upon the news mdia by high government officials. These attacks have brought forth equally hostile responses from spokesmen for the press. Some government officials appear to believe that the purpose of the press is to present the Government's policies and programs to the public in the best possible light. These officials have forgotten Jefferson's words. Indeed, they appear to have lost sight of the central purpose of a free press in a free society.
>
> Likewise, some members of the press appear to have forgotten that the First Amendment's guarantee of free speech and free press was not intended as their exclusive possession. Those enlightened men who devised our constitutional system did not mean to secure freedom of the press by suppressing the right of Americans, whether private citizens or public officials, to criticize the press. Not every critical word about the press is an attack on the first amendment.
>
> These continuing controversies, and the bitterness and suspicion that accompany them, make it evident that many Americans are uncertain about both the role of a free press in a free society and the necessary conditions for its preservation.
>
> In my judgment, it is time to challenge this uncertainty by considering again the reasons underlying the Constitution's guarantee of freedom of the press.
>
> It is time to reexamine and to reemphasize First Amendment principles.
>
> And, it is time to measure developments in the law as they affect both the printed and broadcast press against these principles. Such are the objects of these series of hearings.

The hearings proceeded for 13 days spread over September and October 1971 and throughout 1972. They served as a valuable exploration of the issues that then had embittered relations between the press and the Nixon administration. And they served as that "recourse to fundamental principles," without which none of our civil liberties would long survive.

The subcommittee endeavored in those hearings to give voice to as many different viewpoints as was possible. Fully 62 witnesses appeared before us, and the hearing record runs to over 1,300 pages. Unfortunately, despite our best efforts, there was one glaring omission in our hearings. No representative from the White House appeared. We invited Fred Malek and Charles Colson to appear, as well as Herb Klein. The White House declined, per a letter from John Dean using what has now become a classic refrain:

> With respect to your request for the appearance of Mr. Malek and Mr. Colson before your Subcommittee, it has been a matter of long-established principle and precedent that members of the President's immediate staff do not appear before Congressional committees to testify in regard to the performance of their duties as members of the President's staff. This practice is, indeed, fundamental to the operation of our system of government.

Because of this White House shyness, the administration was deprived of a perfect forum from which to express its complaints about the press. I always thought it strange that an administration which apparently was so deeply concerned about its treatment by the press, and the failure of the press to present the White House viewpoint, should have forgone such an ideal opportunity to speak to the Congress and to the public. We had very broad press, TV, and radio coverage and the testimony of White House representatives would have been generously covered had they chosen to appear.

Events have come a long way since those comparatively innocent days. Some issues of 1971 and 1972 have receded in importance. New ones have arisen. Unhappily, relations between the press and the Administration are worse, if anything, than they were then. Still, the 1971-72 subcommitee hearings have a continuing importance, and there remains the need to complete the record of those proceedings.

Several days ago, Senator WEICKER released to the press several White House memoranda, some of which were written by White House aides at about the time when the Subcommittee was seeking their testimony for our hearings. While these memos are not written in the polished, formal manner of some prepared testimony, they do contain elements of candor and directness often lacking in formal statements.

These memos speak for themselves. While their authors and the functionaries of which they speak have largely passed from the White House scene, the memos have continued relevance. They bring a new, if belated, perspective to the issues debated in our hearings and, sadly, confirm some of my own worst fears. They deserve the careful attention of every member, and of the general public.

I ask unanimous consent, therefore, that the "testimony" of Mr. H. R. Haldeman, Mr. Lawrence Higby, Mr. Jeb S. Magruder, Mr. Charles W. Colson, and Mr. Alvin Snyder not presented before the Constitutional Rights Subcommittee hearings on freedom of the press, be printed in full in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD as follows:

THE WHITE HOUSE,
Washington, October 17, 1969.

MEMORANDUM

Memorandum for H. R. Haldeman.
From J. S. Magruder.
Re the Shot-gun versus the Rifle.

Yesterday you asked me to give you a talking paper on specific problems we've had in shot-gunning the media and anti-Administration spokesmen on unfair coverage.

I have enclosed from the log approximately 21 requests from the President in the last 30 days requesting specific action relating to what could be considered unfair news coverage. This enclosure only includes actual memos sent out by Ken Cole's office. In the short time that I have been here, I would gather that there have been at least double or triple this many requests made through other parties to accomplish the same objective.

It is my opinion this continual daily attempt to get to the media or to anti-Administration spokesmen because of specific things they have said is very unfruitful and wasteful of our time. This is not to say that they have not been unfair, without question many situations that have been indicated are correct, but I would question the approach we have taken. When an editor gets continual calls from Herb Klein or Pat Buchanan on a situation that is difficult to document as to unfairness, we are in a very weak area. Particularly when we are talking about interpretation of the news as against factual reporting.

The real problem that faces the Administration is to get this unfair coverage in such a way that we make major impact on a basis which the networks-newspapers and Congress will react to and begin to look at things somewhat differently. It is my opinion that we should begin concentrated efforts in a number of major areas that will have much more impact on the media and other anti-Administration spokesmen and will do more good in the long run. The following is my suggestion as to how we can achieve this goal.

1. Begin an official monitoring system through the FCC as soon as Dean Birch is officially on board as Chairman. If the monitoring system proves our point, we have then legitimate and legal rights to go to the networks, etc., and make official complaints from the FCC. This will have much more effect than a phone call from Herb Klein or Pat Buchanan.

2. Utilize the anti-trust division to investigate various media relating to anti-trust violations. Even the possible threat of anti-trust action I think would be effective in changing their views in the above matter.

3. Utilizing the Internal Revenue Service as a method to look into the various orga-

nizations that we are most concerned about. Just a threat of an IRS investigation will probably turn their approach.

4. Begin to show favorites within the media. Since they are basically not on our side let us pick the favorable ones as Kennedy did. I'm not saying we should eliminate the open Administration, but by being open we have not gotten anyone to back us on a consistent basis and many of those who were favorable toward us are now giving it to us at various times, i.e., Ted Lewis, Hugh Sidey.

5. Utilize Republican National Committee for major letter writing efforts of both a class nature and a quantity nature. We have set up a situation at the National Committee that will allow us to do this, and I think by effective letter writing and telegrams we will accomplish our objective rather than again just the shotgun approach to one specific Senator or one specific news broadcaster because of various comments.

I would liken this to the Kennedy Administration in that they had no qualms about using the power available to them to achieve their objectives. On the other hand, we seem to march on tip-toe into the political situation and are unwilling to use the power at hand to achieve our long term goals which is eight years of a Republican Administration. I clearly remember Kennedy sending out the FBI men to wake up the Steel Executives in the middle of the night. It caused an uproar in certain cases but he achieved his goal and the vast majority of the American public was with him. If we convince the President that this is the correct approach, we will find that various support groups will be much more productive and much more cooperative; and at the same time I think we will achieve the goals this Administration has set out to do on a much more meaningful planned basis.

PRESIDENT'S REQUEST

ITEM AND DATE

To P. Flanigan—President's request that you take action to counter Dan Rather's allegation that the Hershey move was decided upon because of the moratorium. (Log 1733); October 17.

To J. Ehrlichman—President's request that you talk to Ted Lewis concerning the present status of discipline within the Administration. (Log 1699); October 15.

To P. Buchanan—President's request for a report on what actions were taken to complain to NBC, *Time* and *Newsweek* concerning a recent article coverage on the Administration. (Log 1688); October 14.

To H. Klein—President's request for letters to the editor of *Newsweek* mentioning the President's tremendous reception in Miss. and last Sat. Miami Dolphin football game. (Log 1627); October 10.

To H. Klein—President's request that you take appropriate action to counter biased TV coverage of the Adm. over the summer. (Log 1644); CONFIDENTIAL; October 14.

To H. Klein—President's request that you ask Rogers Morton to take action to counter Howard K. Smith's remarks concerning the three House seats lost by the GOP this year. (Log 1558); October 8.

To P. Buchanan—President's request that appropriate columnists be informed of the extemporaneous character of Presidential press conferences. (Log 1551), October 10.

To H. Klein—President's request that you demand equal time to counter John Chancellor's commentary regarding the Haynsworth nomination. (Log 1559), October 7.

To H. Klein—President's request for a report on what action is taken concerning Sen. Muskie's appearance on the "Merv Griffin Show." October 8.

To A. Butterfield—President's request for a report what resulted from our PR efforts following up the Friday Press Conference. (Log 1496), October 3.

H. Klein—President's request that we have the Chicago Tribune hit Senator Percy hard on his ties with the peace group. (Log 1495), Confidential, October 3.

To H. Klein—President's request for letters to the editor regarding Newsweek's lead article covering the President's U.N. speech. (Log 1443), September 30.

To H. Klein—President's request that we counter Ralph Nader's remarks regarding Virginia Knauer accessability to the President. (Log 1404), September 29.

To H. Klein and Ron Ziegler—President's request that you attack *Life* Magazine's editorial accusing the Administration of creating a Coherence Gap. (Log. 1366), September 27.

To H. Klein—President's request that you contact Howard K. Smith and give him the true record on what the Administration has done. (Log 1367), September 26.

To A. Butterfield—Sen. Kennedy's Boston speech alleging that the war in Vietnam remains virtually unchanged. (Log 1292), September 23.

To P. Flanigan—Ralph Nader's charge that the President pays little attention to consumer affairs. (Log 1293), September 24.

To Dr. Kissinger—Article by Jack Anderson which alleges that some U.S. officers in Vietnam favor Thieu's hard line over the President's moderate policy and are sabotaging the truce efforts. (Log 1281), September 23.

To H. Klein—President's request that you inform Walter Trohan about our substantive programs and that you place the blame for inaction on the Democratic Congress. (Log 1246), September 20.

To J. Ehrlichman—President's request for a report on possible answers to Evans-Novak charge of an Administration retreat on tax reform. (Log 1224), September 23.

To Dr. Kissinger—President's request for a report on Walter Cronkite's comment that the South Vietnamese did not observe the truce resulting from Ho Chi Minh's death. (Log 1154), September 16.

THE WHITE HOUSE,
Washington, February 4, 1973.
(Confidential)

Memorandum for Mr. Magruder.

High Priority

A couple of points that I did not want to cover in the general meeting, but that you do need to move ahead on quickly.

First, I'm sure you have studied that TV summary done by Buchanan, which is a devastating indictment of NBC, especially of David Brinkley.

Specifically, Brinkley was completely off base factually on his budget criticism, and we need to get that one straightened out.

The need, probably, is to concentrate on NBC and give some real thought as to how to handle the problem that they have created in their almost totally negative approach to everything the Administration does. I would like to see a plan from you; don't worry about fancy form, just some specific thinking on steps that can be taken to try to change this, and I should have this by Friday. Get Klein and Ziegler both involved in the thinking on this, and I would suggest also Nofziger, who could be very helpful, and perhaps get Pat Buchanan in. In fact, I think definitely you should get Pat Buchanan in to work with you on it; but move quickly.

Another area is the mobilization of the Silent Majority, which we touched on briefly in the meeting today. We just haven't mobilized them, and we have got to move now in every effective way we can to get them working to pound the magazines and the networks in counter-action to the obvious shift of the establishment to an attack on Vietnam again. Concentrate this on the few places that count, which would be NBC, Time, Newsweek and Life, the New York Times, and the Washington Post. Don't waste your fire on other things.

Next point, and this is also highly urgent priority. The State of the Union evoked a tremendous number of very strong editorials praising the content, delivery, etc. Now we need, very quickly, a well-edited, well-packaged, compellingly-presented mailing piece that summarizes the highlights of those editorials, especially the ones from surprising sources like Reston of the Times, so that we can get out to our people especially the reaction that the country's newspapers have had to the President's address.

This is something that should have been automatically done immediately, and perhaps it is underway. The point here is that delay makes any action much less effective, since it should be an immediate response and get out while the speech is still alive. Our main failure in this whole area is dullness, and let's not let this effort fall into that category. Get it done on good paper in interesting style, rather than just a mimeographed glob of editorial excerpts.

This is the kind of thing our Outside Group should automatically pick up for us once we get them; but until we have them, we have to fill the gap ourselves, and it's terribly important to move quickly on this. Perhaps the National Committee can help you with editorial and layout facilities, but hold them to very high standards and make it come out good. Leonard over there is probably the best guy for this kind of thing and maybe would be the one to get working on it, but give him about a one-day deadline, so that we get it done instead of talked about.

H. R. HALDEMAN.*

THE WHITE HOUSE,
Washington, July 16, 1970.
(Secret)

Memorandum for Mr. Magruder.
From L. Higby.

As I indicated to you the other day, we need to get some creative thinking going on an attack on Huntley for his statements in Life. One thought that comes to mind is getting all the people to sign a petition calling for the immediate removal of Huntley right now.

The point behind this whole thing is that we don't care about Huntley—he is going to leave anyway. What we are trying to do here is to tear down the institution. Huntley will go out in a blaze of glory and we should attempt to pop his bubble.

Most people won't see Life Magazine and for that reason I am asking Buchanan to draft a statement for the Vice President [Finch**] to give.** We should try to get this statement on television. Obviously there are many other things that we can do, such as getting independent station owners to write NBC saying that they should remove Huntley now; having broadcasting people look into this due to the fact that this is proof of biased journalism, etc.

Let's put a full plan on this and get the thing moving. I'll contact Buchanan and forward copies of my correspondence with him to you so that you will know what the Vice President is doing.

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*Note: Under Haldeman's initial appeared the following in pencil: "Note: See Action Memo P 191 for copy of memo to H re this subject."

**Note: In the original copy, "the Vice President" was crossed through and "Finch" was substituted in pencil in the margin.

THE WHITE HOUSE,
Washington, August 26, 1973.

Memorandum for H. R. Haldeman.

It is obvious that the other side is really being hurt as they begin to understand the FCC decisions. The Democratic National Committee is using every procedural move (and CBS is cooperating) to stay the decisions. Also, Herblock has turned his acid to work (see attached from today's Post). I think it is time for us to generate again a PR campaign against the Democrats and CBS.

CHARLES W. COLSON.*

THE WHITE HOUSE,
Washington, July 17, 1970.

(Confidential/eyes only)

Memorandum for: Mr. Haldeman and Mr. Klein.
From: Jeb S. Magruder.

Enclosed is a tentative plan on press objectivity. Please indicate your comments.

Thank you.

(Confidential/eyes only)

TENTATIVE PLAN

PRESS OBJECTIVITY

Description: In the July 17th issue of Life Magazine a prominent television newscaster is quoted as making some extremely disparaging remarks about the President. It is understood that the newscaster intends to send a letter to the editor of the magazine claiming he was misquoted and will also send a letter of apology to the President.

Objective: To question the overall objectivity of a television newscaster who has expressed opinionated views in an influential consumer publication while still employed as a supposedly objective television newscaster and to question the motivation for such remarks and the possible breach of professional ethics by allowing such remarks to be published prior to retirement into private life. Further, to extend these questions to cover the professional objectivity and ethics of the whole media and to generate a public re-examination of the role of the media in American life.

Tactics: Since the newscaster enjoys a very favorable public image and will apologize for his remarks, claiming to be misquoted, we should not attempt to discredit him personally. Also, since his remarks were expressed as an individual, we would have difficulty attacking his network directly. The focus of our effort should be to raise the larger question of objectivity and ethics in the media as an institution. To do this, we will have to turn objectivity into an issue and a subject of public debate.

Follow-up: Release the letter of apology to the press along with a gracious reply from the President.—Ziegler

Plant a column with a syndicated columnist which raises the question of objectivity and ethics in the news media. Kevin Phillips could be a good choice.—Klein

Arrange for an article on the subject in a major consumer magazine authored by Stewart Alsop, Buckley or Kilpatrick. Also, request Hobe Lewis to run a major article.—Klein

Through an academic source, encourage the Dean of a leading graduate school of journalism to publicly acknowledge that press objectivity is a serious problem that should be discussed. Also, attempt to arrange an in-depth analysis in a prestigious journal like the Columbia Journalism Review.—Klein/Safire

Arrange a seminar on press objectivity with broadcast executives and working newsmen. Attempt to have this televised as a public service.—Klein

Make this issue a major item at the Radio-Television News Directors Convention this Fall and at the next major NAB meeting.—Klein

Ask the Vice President to speak out on this issue. He could point out that the LIFE quote has proved his point.—Buchanan

Have Rogers Morton go on the attack in a news conference. He could tie-in the quote with the free-time grants to the Democrats. Also, revive the WETA-Woestendiek affair. Have him charge that the great majority of the working press are Democrats and this colors their presentation of the news. Have him charge that their is a political conspiracy in the media to attack this Administration.—Klein/Colson.

Have Dean Burch "express concern" about press objectivity in response to a letter from a Congressman.—Nofziger

Through independent Hill sources, stimulate non-partisan Congressional questioning of the issue. Place such remarks in the *Record.*—Nofziger

Arrange for an "expose" to be written by an author such as Earl Mazo or Victor Lasky. Publish in hardcover and paperback—Klein

Produce a prime-time special, sponsored by private funds, that would examine the question of objectivity and show how TV newsmen can structure the news by innuendo. For instance, use film clips to show how a raised eyebrow or a tone of voice can convey criticism.—Klein/Magruder.

Have outside groups petition the FCC and issue public "statements of concern" over press objectivity.—Colson

Generate a massive outpouring of letters-to-the-editor.—Magruder

LIFE occasionally runs an opposition view column entitled "Guest Privilege". Position an appropriate writer, preferably a professor of journalism, to discuss this issue in that column.—Klein/Safire

Form a blue-ribbon media "watchdog" committee to report to the public on cases of biased reporting. John Cosgrove, a former president of the National Press Club, could set this up. This group could sponsor the TV special mentioned above, conduct a speaking campaign to service groups and colleges, issue press releases, etc.—Magruder

Have a Senator or Congressman write a public letter to the FCC suggesting the "licensing" of individual newsmen, i.e. the airwaves belong to the public, therefore the public should be protected from the misuse of these airwaves by individual newsmen.—Nofziger

Through contacts in the ASNE and NAB, bring up the question of a "fairness pledge" for members.—Klein. Project Manager—Magruder.

WASHINGTON, *February 24, 1971.*

Memorandum For: Mr. Magruder.
From: Alvin Snyder.*

The Cronkite News wants to do a piece on our domestic PR operation, including interviews with Ed Morgan and Chuck Colson. In addition, they would like to film any of our in-house activity in this area.

Dan Rather is being assigned to the piece, and may make direct approaches to Messrs. Morgan and Colson and perhaps others on the domestic side in an attempt to set up a filming schedule.

It appears obvious that CBS is out to do a job on us, and I am sure you will agree that it would not be in our best interest to open anything up to them. I think the only person who should see Rather is Herb Klein.

THE WHITE HOUSE,
Washington, August 28, 1970.

(Administratively confidential)

Memorandum for: Mr. Higby.
From: Jeb S. Magruder.
Re: Press Objectivity.

The issue of Chet Huntley is fairly well played out. We leaked his letter of apology to the President and it got very good coverage.

We will continue to hammer at press favoritism on a regular basis. We will ask the Vice President to make this a standard fare while he's on the stump in the Congressional campaigns.

We will keep tabs on examples of partisan press treatment and feed them into the Vice President (and Cabinet officers on the stump) on a regular basis. Now that Huntley is out, he is no longer the issue. However, the general question can be kept in the news as we find more and more examples of unfair treatment by the press. This will simply be a continuing function.

THE WHITE HOUSE,
Washington, September 25, 1970.

For Herb Klein.
From Chuck Colson.

FYI—Eyes only, please

Memorandum for H. R. Haldeman.

The following is a summary of the most pertinent conclusions from my meeting with the three network chief executives.

1. The networks are terribly nervous over the uncertain state of the law, i.e., the recent FCC decisions and the pressures to grant Congress access to TV. They are also apprehensive about us. Although they tried to disguise this, it was obvious. The harder I pressed them (CBS and NBC) th more accommodating, cordial and almost apologetic they became. Stanton for all his bluster is the most insecure of all.

2. They were startled by how thoroughly we were doing our homework—both from the standpoint of knowledge of the law, as I discussed it, but more importantly, from the way in which we have so thoroughly monitored their coverage and our analysis of it. (Allin's analysis is attached. This was my talking paper and I gave them facts and figures.)

3. There was unanimous agreement that the President's right of access to TV should in no way be restrained. Both CBS and ABC agreed with me that on most occasions the President speaks as President and that there is no obligation for presenting a contrasting point of view under the Fairness Doctrine (This, by the way, is not the law—the FCC has always ruled that the Fairness Doctrine always applies—and either they don't know that or they are willing to concede us the point.) NBC on the other hand argues that the fairness test must be applied to every Presidential speech but Goodman is also quick to agree that there are probably instances in which Presidential addresses are not "controversial" under the Fairness Doctrine and, therefore, there is no duty to balance. All agree no one has a right of "reply" and that fairness doesn't mean answering the President but rather is "issue oriented." This was the most important understanding we came to. What is important is that they know how strongly we feel about this.

4. They are terribly concerned with being able to work out their own policies with respect to balanced coverage and not to have policies imposed on them by either the Commission or the Congress. ABC and CBS said that they felt we could, however, through the FCC make any policies we wanted to. (This is worrying them all.)

5. To my surprise CBS did not deny that the news had been slanted against us. Paley merely said that every Administration has

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*Note: In the original, the following appeared in pencil in the margin: "To M[Magruder] *Absolutely* H[Haldeman]".

* Note: in the original, the initials "A S" appeared beside "Alvin Snyder"

felt the same way and that we have been slower in coming to them to complain than our predecessors. He, however, ordered Stanton in my presence to review the analysis with me and if the news has not been balanced to see that the situation is immediately corrected. (Paley is in complete control of CBS—Stanton is almost obsequious in Paley's presence.)

6. CBS does not defend the O'Brien appearance. Paley wanted to make it very clear that it would not happen again and that they would not permit partisan attacks on the President. They are doggedly determined to win their FCC case, however; as a matter of principle, even though they recognize that they made a mistake, they don't want the FCC in the business of correcting their mistakes.

7. ABC and NBC believe that the whole controversy over "answers" to the President can be handled by giving some time regularly to presentations by the Congress—either debates of the State-of-The-Congress-type presentations with both parties in the Congress represented. In this regard ABC will do anything we want. NBC proposes to provide a very limited Congressional coverage once or twice a year and additionally once a year "loyal opposition" type answers to the President's State of the Union address (which has been the practice since 1966). CBS takes quite a different position. Paley's policy is that the Congress cannot be the sole balancing mechanism and that the Democratic leadership in Congress should have time to present Democratic viewpoints on legislation. (On this point, which may become the most critical of all, we can split the networks in a way that will be very much to our advantage.)

CONCLUSION

I had to break every meeting. The networks badly want to have these kinds of discussions which they said they had had with other Administrations but never with ours. They told me anytime we had a complaint about slanted coverage for me to call them directly. Paley said that he would like to come down to Washington to spend time with me anytime that I wanted. In short, they are very much afraid of us and are trying hard to prove they are "good guys."

These meetings had a very salutary effect in letting them know that we are determined to protect the President's position, that we know precisely what is going on from the standpoint of both law and policy and that we are not going to permit them to get away with anything that interferes with the President's ability to communicate.

Paley made the point that he was amazed at how many people agree with the Vice President's criticism of the networks. He also went out of his way to say how much he supports the President, and how popular the President is. When Stanton said twice as many people had seen President Nixon on TV than any other President in a comparable period, Paley said it was because this President is more popular.

The only ornament on Goodman's desk was the Nixon Inaugural Medal. Hagerty said in Goldenson's presence that ABC is "with us." This all adds up to the fact that they are damned nervous and scared and we should continue to take a very tough line, face to face, and in other ways.

As to follow-up I believe the following is in order:

1. I will review with Stanton and Goodman the substantiation of my assertion to them that their news coverage has been slanted. We will go over it point by point. This will, perhaps, make them even more cautious.

2. There should be a mechanism (through Herb, Ron or me) every time we believe coverage is slanted whereby we point it out either to the chief executive or to whomever he designates. Each of them invited this and we should do it so they know we are not bluffing.

3. I will pursue with ABC and NBC the possibility of their issuing declarations of policy (one that we find generally favorable as to the President's use of TV). If I can get them to issue such a policy statement, CBS will be backed into an untenable position.

4. I will pursue with Dean Burch the possibility of an interpretive ruling by the FCC on the role of the President when he uses TV, as soon as we have a majority. I think that this point should be very favorably clarified and it would, of course, have an inhibiting impact on the networks and their professed concern with achieving balance.

5. I would like to continue a friendly but very firm relationship whenever they or we want to talk. I am realistic enough to realize that we probably won't see any obvious improvement in the news coverage but I think we can dampen their ardor for putting on "loyal opposition" type programs.

I have detailed notes on each meeting if you'd like a more complete report.

CHARLES W. COLSON.

THE WHITE HOUSE,
Washington.

TALKING PAPER—JEB MAGRUDER

1. Put someone on the Washington Post to needle Kay Graham. Set up calls or letters every day from the viewpoint of I hate Nixon but you're hurting our cause in being so childish, ridiculous and over-board in your constant criticism, and thus destroying your credibility.

2. Nofziger should work out with someone in the House a round robin letter to the Post that says we live in Washington, D.C., read the D.C. papers, but fortunately we also have the opportunity to read the papers from our home districts and are appalled at the biased coverage the people of Washington receive of the news, compared to that in the rest of the country, etc.

3. Follow up on the yacht story—get something in Monday, etc. so that we can get some mileage out of that. Also, see if you can think of any other things to do to follow up on it.

4. [Illegible] on his courage in pointing out the discrepancies in the case.

THE WHITE HOUSE,
Washington, March 9, 1970.
(*Confidential*)

Memorandum for Mr. Magruder.

(1) I have talked with Connie Stuart about the need to follow up on the highly inaccurate article in the NEW YORK TIMES Magazine this Sunday regarding White House social activities. There are numerous factual errors and other very erroneous implications. I suggested to Connie that she might want to give the facts to another rival columnist and let him go to town and start a battle Also, I think we ought to get some letters to the editors going, and show some indignation and activity on this front. They should not be allowed to get away with this. Perhaps you, Herb and the others can think of some other possible points of attack.

(2) Would you please give me once every two weeks a summary of the various hatchetman operations—letters to the editors, counterattack, etc., so that I can report to the President on the activity in this regard.

(3) We also need to be sure that the Pat Nixon trip story keeps going because there won't be another such trip in the near future. I have talked with Connie about this, but you should follow up too. For one thing, let's be sure the National Committee builds this up. I think Leonard ought to do a whole issue on the Pat Nixon Tour, and we ought to really push for maximum continuing coverage on the things that were accomplished from this. We could get back to the cities where she was and get some follow up stories on the aftermath results of her visit, etc. Please don't let this drop, and please let me know what you are doing on it.

H. R. HALDEMAN.

THE WHITE HOUSE,
Washington, May 6, 1970.

Memorandum for: H. R. Haldeman.
From: Jeb S. Magruder.

Here is a report on the talking paper given to me last week:

1. We have a team of letter-writers who are pestering the Washington Post from the viewpoint that was suggested.

2. I have asked Lyn Nofziger to work up the House round robin letter to the *Post*.

3. We worked, as you know, on the yacht story with Chuck Larson and the press office. Miss Nixon and the *Patricia* were pictured in MONDAY and TIME. The decommissioning has been mentioned in several newspaper stories and a number of columns. It was also featured on the TODAY show and the evening news programs. Now that it has appeared in TIME, I frankly think we have as much mileage out of it as we can get—except to cite it from time to time as an example of our attempts to save the government money.

4. We have arranged for letters to be sent to Justice Boyle, complimenting him on his courage in telling the Kennedy case the way it is.[*]

"TEMPORARY" TAXES BECOME PERMANENT

Mr. BARTLETT. Mr. President, an editorial appearing in the November 23, 1973, Mobile Register includes very important statements made by Senator HANSEN and Senator MANSFIELD concerning their opposition to combating the energy crisis by adding additional prohibitive taxes to gasoline.

The distinguished Senators made two particular points which should be repeated.

I agree with Senator HANSEN from Wyoming that it makes no sense to place an extra tax on something in short supply.

Any price increases should be reserved. to provide additional encouragement and financial means to increase our short supplies of domestic energy. Our citizens are in no mood for the imposition of another large tax. As pointed out by Senator MANSFIELD, a 30 or 40 cents tax increase on gasoline would mean an increase in the sales tax by six or eight times.

Mr. President, I ask unanimous consent that the editorial from the Mobile Register be printed in full in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TEMPORARY TAXES BECOME PERMANENT

The agitation carried on by some bureaucrats and politicians in Washington, D.C., to seize upon the energy shortage as an excuse for increasing gasoline taxes is running into outspoken opposition, as it well should.

A noteworthy example in Congress is the position taken by Sen. Clifford P. Hansen, Wyoming Republican. In a discussion of the gasoline tax issue on the floor of the Senate, he stated:

"The fact is that we do not need an extra tax on something that is in short supply."

He said he stands 'squarely with" Senate

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[*] Note: In the original, "What Happened?" appeared in pencil in the margin beside paragraph 2, and "O K" appeared in pencil in the margin beside paragrah 3. A check mark appeared beside paragraph 4.

Democratic leader Mike Mansfield of Montana "in opposing the imposition of any additional tax on gasoline, gas, fuel oil or anything else."

Senator Hansen added that he knows "there are some in the administration—not everyone down there—who think we should have a tax."

His own feeling, he emphasized, is that the Senate Democratic leader is "precisely right in railing against" a higher tax. "I agree with him 100 per cent."

Senator Mansfield commented that he hoped the "administration is getting the smoke signals which are emanating from the Senate."

The American people in general should hope so, too.

Mr. Mansfield spoke of "some of the administration people" as hinting at an "increase in the federal gasoline tax from 4 cents at present to 30 or 40 cents."

That, if done, he said, would be an "outrageous way of handling a shortage because, once again, the imposition of a 30 to 40 cents increase per gallon added on to the 4 cents present gasoline tax . . . would mean that the present national sales tax would be increased by anywhere from six to eight times."

He predicted that Congress "would not vote for such a tax." Congress would commit an outrage against the people if it did vote for "such a tax."

But citizens all over the United States who oppose higher taxes on gasoline because of the short supply should make their opposition clear to Congress.

The absence of a strong expression of public sentiment against increased taxes would encourage the bureaucrats and politicians who are agitating for increased taxes and at the same time might play right into the hands of those eager to see the stamp of congressional approval placed on an increase.

The people should not lose sight of the difficulty of getting higher gasoline taxes repealed once imposed.

The talked-of increased taxes presumably would be called a temporary measure adopted because of the gasoline shortage.

But the people should be alert to the familiar saying that there is no such thing as a temporary tax. It does not take a temporary tax long, in many cases, to become a permanent tax.

GENOCIDE

Mr. PROXMIRE. Mr. President, in the days of America's struggle for independence, our Founding Fathers were confronted with a challenge as imposing as the war itself, the formation of a new republic. Searching for the perfect form of government, these dedicated men were caught in the dilemma between the rights of individual freedom and the necessity of individual responsibility.

The American Revolution was fought to obtain the natural rights of life, liberty, and happiness. These were concepts kindled by the writings of John Locke and ignited in the British Commonwealth in the 1640's. But the goal was not so clear cut. For the American revolutionists were inescapably heirs of the Puritan tradition, the products of Winthrop and his pious brethren. The quest for freedom was tempered by this strict sense of temporal and spiritual duty. By the time the Constitution was penned, however, a unique republic had been constructed which resolved this tension through a revolutionary balance between individual freedom and responsibility.

But, of paramount concern is the fact that Washington, Franklin, Adams, and their compatriots welded together a union of 13 colonies which ultimately served the world as a model upholding human rights and dignity. The very words of Locke, which European intellectuals had debated a generation earlier, became reality for the American people. Tyranny and injustice were left behind, and a democracy predicated on the rights of man was constituted by an independent republic.

The history of the American people has been one of diligent support for human dignity at home and abroad. Enriched by the legacy of Locke we have long been in the vanguard for liberty and justice. Today, however, we have arrived at a moment of indecision. For over two decades the nations of the world have supported the Genocide Convention while we remain idle. Tragically the United States refrains from restating its true commitment to human life, liberty and happiness by not endorsing the articles of this humanitarian convention.

The time to reawaken the principles of Locke is long overdue and, therefore, I strongly urge the Senate to ratify the Genocide Convention and recommit itself to the most important of human rights: The right to live.

GASOLINE RATIONING

Mr. FANNIN. Mr. President, the more study that I do on the subject of rationing the more I am convinced that President Nixon is absolutely correct in his determination to use it only as a very last resort.

One of the main causes of our current energy shortage is the lack of incentives for petroleum producers to bring in new wells. Today we have only 10,000 independents drilling for oil as compared with 17,000 just two decades ago. Only about one-half the money is being invested in the chancy business of exploration as was invested in the mid-1950's.

If we are to have an expanded supply of fuels, there will have to be incentives. During the past two decades the actions of our Federal Government—and especially the Congress—has been to control prices and suppress profits which are essential to encourage exploration.

If we ration gasoline, we will be doing nothing to increase our gasoline supply. In fact, we may prolong the crisis through rationing.

The Arab nations already have made it clear that even if the Mideast peace is restored to their satisfaction, there will continue to be severe limitations on the amount of petroleum they will export. In other words, the crisis we face will not be shortlived; it will be chronic unless we can develop our own energy resources to meet our needs.

So the only rational solution to our problem is to allow our fuel producing industry to earn the profits which will encourage investment in exploration.

Rationing would be counterproductive and additional gas taxes likewise would not be the answer. Our free market system works pretty good if we do not allow the Government to botch it up. I think that it would respond if we would take the lid off of gasoline prices and if we would move immediately to deregulate the price of natural gas.

Aside from this, rationing presents so many problems that it is almost inconceivable that we could come up with a system that would be both equitable and effective in today's complex society. In yesterday's Washington Post there was an interesting article by J. W. Anderson delving into the many questions and inevitable inequities that rationing causes.

Mr. President, I ask unanimous consent to have this article printed in the RECORD so that those of my colleagues who are so enthusiastic in their support for immediate rationing can ponder some of the questions.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW FAIR IS RATIONING?

(By J. W. Anderson)

Rationing gasoline, the argument goes, is fairer than rising prices. A surtax on gasoline, to cut consumption, would hurt the poor. The administration is deeply divided on the issue. The economists in the Treasury and the Council of Economic Advisers favor a stiff surtax, perhaps as much as 40 cents a gallon. The politicians in the other agencies are generally horrified by the idea and lean strongly to rationing with books and coupons as in World War II. President Nixon is going to have to make up his mind soon, for even an immediate decision could hardly put a rationing system into actual operation before March.

Since the issue is fairness, a lot depends on the way a rationing system would actually work. The dilemmas are clear enough. The more closely you look at the structure of a rationing scheme, the less obvious it becomes that a rationing is necessarily and absolutely fairer than even a stiff surtax.

The first question is whether to give ration books to cars, or to drivers—or, perhaps, to everybody. Suppose that three households, side by side in the same block, have roughly the same commuting pattern. The first is a bachelor with a car. The second is a couple with three children, all over 16, with three cars. The third is also a couple with three children over 16, but they have only one car. How do you distribute the ration books?

If families get a book for each car, that gives the second family three times as much gas as the third family. That's fairness? It only encourages people to buy cars (including as in World War II, wrecked cars) to get the books. But if you give a ration book to each driver then both of the families with children have five times as much gas as the bachelor. But they don't have five times as many errands or five times as much shopping to do. That doesn't seem fair, either. And then what about the people, of whom there are thousands in every big city, who have driver's licenses but no cars? Many of them occasionally rent cars. Are they going to be cut in, or cut out?

Before you make up your mind on those choices, consider the next one, which is even worse. Should the ration coupons be transferable? In other words, should it be legal to sell them? A legal market—call it a "white market"—eliminates the otherwise inevitable black market. More important, it rescues the government from the necessity of entangling itself, as it did in World War II, in literally hundreds of categories and subcategories of users, with hair-splitting distinctions among degrees of need and hardship. With a white market, everybody would get a basic weekly ration. People who use less could sell coupons. People who need more can buy them at the going price.

But hold on a minute. If the coupons are saleable, then they are in fact money. By mailing out the ration books, the government is distributing a subsidy that can be used to buy gas or, through the white market, to buy anything else. (Let's try to avoid frivolous suggestions about using gas coupons to solve the energy shortage and reform the welfare system simultaneously.)

If the government is going to start handing out cash subsidies in the form of gasoline ration coupons, how can it possibly justify limiting them to drivers? If our purpose is fairness, then surely people who do not drive have the same right to this subsidy as the drivers. That takes us back to the first question. Perhaps we have to give ration books to all citizens over 16 years old. But the more people who get books, the less gasoline each book is going to be worth and the more coupons will have to be bought and sold on the market.

World War II rationing does not offer any very useful guide for the experience on which we may shortly have to embark. There are nearly three times as many cars in the country today as in 1940. The average American car, having grown steadily bigger and less efficient, gets 30 to 40 per cent less fuel mileage today than it did in 1940. Since the war, we have built vast suburban subdivisions miles from any shops or public transportation. We have built whole industries, from resorts to roadside restaurants, that depend on the automobile.

During the war, the basic A ration was four gallons a week. To get more, drivers had to prove need. Government officials believe that by next March we shall have to get consumption down to an average of about 10 gallons a week for each of our 90 million private cars. That would pull our national demand down by about one-fourth of our current level.

Fuel oil for home heating is also going to have to be rationed, of course, but here there is no need for ration books or coupons. Distributors will simply deliver somewhat less to each house than they did last winter. If you run out, it's your own fault.

But what about the houses heated by gas or electricity? What about the oil-heated house whose owner installs a couple of electric space heaters, or leaves the oven on? The only solution in sight is a very heavy tax on each household's utility bill for any gas or power beyond the amounts that it used last year. But that would require new legislation, and that legislation is still a long way off.

The cutbacks will assume that the householder is turning his thermostat down six degrees. If the average setting was 74 degrees, it will have to go down to 68. But what about the family that has always kept the house cool? If it was down to 68 last winter, will it have to go now to 62? Is it fair that the family that has always been economical must now suffer unusual cold, compared with its more wasteful neighbors? By the end of the winter, fairness is likely to have joined the long list of commodities in shortage.

A TRIBUTE TO SIDNEY BLACKMER

Mr. ERVIN. Mr. President, with the recent death of Sidney Blackmer, the State of North Carolina lost one of its most exemplary sons. He was a brilliant actor, a classmate and close friend of mine, and a lifelong friend of the State in which he was born.

He was a leader in the truest sense of the word. Appearing in more than 200 movies, 40 plays, and numerous television productions, he achieved a national reputation that culminated with his receipt of the Tony Award for best actor of 1950 for his performance in the Broadway play, "Come Back Little Sheba." His career spanned more than 50 years, and his versatility as an actor was seldom matched.

But his leadership extended beyond the acting profession. He was very active in a number of charities, most notably the Muscular Distrophy Association of America. In his home State, he played an important role in the development of the North Carolina School of the Performing Arts, and saw it become the fine institution that it is today. Though he was an actor of national repute, he never forgot his loyalty for the State, and he participated actively in a wide variety of statewide functions.

North Carolina is proud of its son, Sidney Blackmer, and I join my fellow citizens and the acting community in mourning the loss of a great man. I ask unanimous consent that the obituary that appeared in the New York Times be printed in the Record.

There being no objection, the obituary was ordered to be printed in the Record, as follows:

Sidney Blackmer Dies at 78; Won Tony for "Sheba"

Sidney Blackmer, the actor, died last evening at the Sloan-Kettering Institute for Cancer Research, 410 East 68h Street. He was 78 years old and lived at 100 Central Park South with his wife, the former Suzanne Kaaren.

Mr. Blackmer was a leader in his profession. He was a founder of the Actors Equity Association and took a major role in the bitter actor-manager struggle of 1919.

He was a member of the national executive board of the American Federation of Television and Radio Artists and president of Theater Authority, the clearinghouse for benefit performances.

He was a member of The Lambs and The Players, the two major clubs for actors in this city.

He also found time to serve as a national vice president of the Muscular Dystrophy Association of America, the organization that recently put on a national telethon headed by Jerry Lewis that raised millions of dollars to fight the crippling disease.

INVOLVEMENT IN PARTS

From his acting debut with Pearl White in "The Perils of Pauline" to his last major role as Ruth Gordon's husband in "Rosemary's Baby"—a span of 55 years—Mr. Blackmer always approached his parts with great seriousness.

For his first starring Broadway role, as an awkward young Virginia woodsman in the play "The Mountain Man," Mr. Blackmer prepared by living, for the summer of 1921, unannounced and uninvited, with the isolated mountain people of the northern Georgia, studying their dress, their speech, even the expressions in their eyes.

Nearly 30 years later, when he was playing Doc, Shirley Booth's alcoholic husband in the Willima Inge drama "Come Back, Little Sheba," Mr. Blackmer threw himself into the character's drunken scenes with such relish that during the run of the play he suffered two broken ribs, a sprained ankle, a bloody nose, and severe bruises on his legs and chest.

He won both the Donaldson Award and the Antoinette Perry (Tony) Award as best actor of the 1950 season for that role, the critical high point of his career.

However, Mr. Blackmer was probably better known to the general public for his characterization of Theodore Roosevelt, whom he played 10 times in plays and movies including "The Rough Rider."

With the right pair of glasses and a little makeup, Mr. Blackmer bore a startling resemblence to President Roosevelt. "It was my father," Alice Roosevelt Longworth, Mr. Roosevelt's daughter, remarked after seeing one of Mr. Blackmer's performances.

In all, Mr. Blackmer appeared in more than 40 Broadway plays, 200 movies, and numerous television dramas. He played opposite nearly every leading lady of his era, from Shirley Temple (he was her adopted father in "Heidi") to Helen Hayes, Eva LaGallienne and Tallulah Bankhead.

Mr. Blackmer was born in Salisbury, N.C. on July 13, 1895. He planned to be a lawyer, but was more attracted to football at the University of North Carolina, where he was the star of the team. He went to Europe for a year, tried in vain to enlist in the Army, returned to college and graduated in 1915. He held a B.A. and an LL.B. from North Carolina. He eventually did spend two years as a lieutenant in the field artillery in World War I.

Mr. Blackmer's debut on the New York stage was in "The Morris Dance" in February, 1917. His marriage to Lenore Ulric, an actress, created a sensation in 1928. They were divorced in 1939. Three years later he married Miss Kaaren, also an actress. They had two sons.

CONTROLLING THE BUDGET

Mr. BROCK. Mr. President, the end of the year is rapidly descending upon us, and we have remaining many important matters which should be considered before the end of the session. One of those very important issues is that of controlling the budget. I feel Congress should act as quickly as possible upon the measures which would give the Congress control over the budgetmaking process again, and the action should come immediately. While inflation continues, it is easily pointed out that the main contributing factor in creating that situation is excessive Government spending. We must quickly enact legislation to put a halt to this excess spending, and give the Congress a tool to keep tabs on spending, and also set priorities for our Nation. The Memphis Commercial Appeal, in an editorial on November 11, 1973, pointed out the need for quick action by the Congress, and I would ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Controlling The Budget

Prospects for legislation to give Congress control over the federal budget are brighter now than they have been in a long time. It looks as though both houses will get around to action on this subject before the end of this year.

It has taken a lot of study to work out an acceptable plan. Work began early this year and the first recommendations for reform came out of the joint study committee in April.

With some prodding by representatives such as Jamie Whitten (D-Miss.), the project has now been pretty well whipped into shape.

What was needed and what the new legislation proposes, is some realism in the business of putting together spending and taxing measures during each session.

Both the House and Senate bills under consideration would set up a congressional office of the budget. That in itself is something that long has been needed. It was a function which Congress never should have transferred to the executive branch.

The bills also call for the formation of budget committees in both houses. The members of those committees would be selected from the Appropriations Committee, the Ways and Means Committee, and the legislative committees. The chairmanship would be rotated between the three groups.

Bills calling for new or enlarged governmental programs would have to be passed by March 31 each year.

Then by May 1 a resolution would have to be passed establishing congressional targets on total outlays, total revenues, the level of public debt and the amount of the surplus or deficit considered necessary. Later in the summer a second resolution would be called for to fix the final spending and revenue totals.

Through a process of accumulation, the old system of voting appropriations willy-nilly would be ended and a single measure giving the grand total of appropriations would be presented. Then the taxing committees would be called upon to make any necessary reconciliations.

If Congress fails to enact a budget reconciliation bill, or enacts a bill not in conformity with the budget outlays and revenues approved in the second resolution, the budget committee would have the power of making proportionate reductions, by line item, in the spending proposals to keep the budget in proper balance.

This whole plan would give Congress considerably more power over the budget than it now is able to exercise.

But with that new power will come new responsibilities that will require greater discipline in Congress than it has sometimes displayed in the past.

The plan can work. It will work if Congress abides by what it decides needs to be done.

THE ATTORNEY GENERAL SALARY BILL

Mr. McINTYRE. Mr. President, yesterday I voted against S. 2673, the bill which lowers the salary of the Attorney General to pre-1969 levels. The purpose of this bill, of course, is to eliminate the Constitutional ineligibility of the distinguished Senator from Ohio to assume the office of Attorney General.

When and if the nomination of my friend, BILL SAXBE, comes before the Senate, I will reluctantly vote against confirmation. I feel it is important to explain the reasons for these votes.

The constitutional obstacle is clear:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased, during such time.

Mr. President, much has been said and written about the purpose and intent behind this clause of the Constitution, and I shall not repeat those arguments. The issue resolves to these basic questions: Can Congress remove a clear constitutional prohibition by in effect repealing the law which created the barrier in the first place? And, is it proper to inquire into the Founding Father's intent in writing this clause of the Constitution?

Personally, I believe that the answer to both questions is "No." I recognize the accepted principles of construction that allow an expansive view of many clauses of the Constitution. However, I do not believe that these principles apply to the so-called mechanical clauses. For example, article I, section 3, clause 3 states:

> No person shall be a Senator who shall not have attained to the Age of thirty years. . . .

Let us assume that this provision was intended to insure that all Senators possessed the degree of maturity required for their duties. I do not think any constitutional scholar could seriously argue that if it could be shown that a particular senatorial candidate who had not reached the age of 30 was as mature as a 30-year-old, he would therefore be eligible.

I view the clause which disqualifies Senator SAXBE from assuming the Attorney Generalship in the same light, and hence do not feel that S. 2673 can be used as a vehicle to overcome the disqualification.

Regardless of my personal interpretation of the Constitution, there is another compelling reason for voting against the nomination of the distinguished Senator from Ohio. The debate has shown a great deal of disagreement among experts as to the constitutionality of the appointment. Whatever the ultimate constitutional decision, the uncertainty surrounding this most important position which would be created by the appointment of BILL SAXBE would come at a time when our Nation can least afford it.

Even with expedited court challenges, the authority of the Attorney General and his office would be in doubt for several months at a minimum. We are in the midst of unprecedented inquiries and investigations into the conduct of public officials. Completion of these investigations is an essential first step in restoring a measure of public trust in their Government. Any further delays or uncertainty in the activities of the Justice Department and the Special Prosecutor will only add to this already too serious crisis of confidence.

And so I have reluctantly concluded that I must oppose the expected nomination of BILL SAXBE to be Attorney General of the United States. He has been a valued and respected colleague, and it is indeed unfortunate that this relatively obscure constitutional disqualification exists. I, for one, would welcome the presence of his independent mind, sense of fair play and willingness to speak with candor in an administration marked by secrecy and blind loyalty. However, the constitutional prohibition, and the uncertainties which would result from the appointment, will force me to vote against his confirmation.

NATIONAL SECURITY

Mr. CASE. Mr. President, all of us, I believe, are deeply concerned when we hear the claim of "the national security" raised as a justification for an illegal or a wrong action taken by a public official. Citizens have been followed about, private offices have been broken into and files and papers ransacked, telephone lines have been bugged without judicial warrant. And, more recently, the claim of national security has been asserted in the courts as a justification for not telling the truth under oath.

Several Senate committees concurrently are examining the broad issue of official lawlessness and the damage wrought by it on our political system. I am sure many Members will be interested in a brief, filed by the Special Prosecutor, Mr. Leon Jaworski, in the U.S. District Court for the District of Columbia, which discusses whether "the incantation 'national security' creates a unique immunity from criminal prosecution."

Mr. President, I ask unanimous consent that the Government's Memorandum in Opposition to Defendant's Motion To Dismiss Indictment, filed on November 12, 1973, in the case of the United States against Egil Krogh, Jr., be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Criminal No. 857–73]

UNITED STATES OF AMERICA VERSUS EGIL KROGH, JR.

GOVERNMENT'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS INDICTMENT

The United States submits this memorandum in opposition to the motion filed by defendant to dismiss the two-count indictment against him for knowingly making false material declarations in a proceeding ancillary to a grand jury in violation of 18 U.S.C. § 1623.

STATEMENT

On October 11, 1973, the grand jury returned a two-count indictment alleging that, while under oath and while testifying in a proceeding before and ancillary to a grand jury, defendant had knowingly made materially false declarations denying that he knew of certain travel by E. Howard Hunt (Count I) and G. Gordon Liddy (Count II). The relevant allegations of the indictment, together with the affidavits of John W. Dean III, Earl J. Silbert, and Donald E. Campbell annexed hereto as Exhibits A, B, and C respectively, must be taken as true for purposes of passing on defendant's motion. Taken together, these allegations and averments show that in conducting an investigation to determine whether convicted Watergate burglars Hunt and Liddy were acting under the direction or with the knowledge of other persons, in or out of government service, it was material for the grand jury to ascertain what their travel activities had been in the period shortly before the break-in. Defendant at the time was a member of the White House staff, was a former superior of Hunt and Liddy, and was one of the persons whose testimony was sought by the grand jury. Under arrangements made with then Counsel to the President John W. Dean III, defendant, (and other White House staff members) agreed to give sworn testimony before the Assistant United States Attorneys conducting the grand jury proceeding under conditions duplicating, as nearly as possible, the conditions under which a witness would physically appear in the grand jury room. The procedure was arranged in order to prevent possibly unfair publicity that might have adversely affected senior public officials. The proposed procedure was explained in advance to the grand jury and the grand jurors were told that, after the testimony was taken it would be presented to them, and that they would have an opportunity to have further questions asked, either under the proposed arrangement or in the grand jury room.

The Counsel to the President expressly advised defendant that his sworn testimony was being taken for presentation to the grand jury conducting Watergate-related matters. On August 28, 1972, defendant appeared at the Department of Justice, with counsel, to give testimony under this arrangement. In accordance with the normal conditions attending a grand jury investigation, counsel was excluded from the room, defendant took the oath, oral questions were asked by the Assistant United States Attorney, and a court reporter transcribed the proceedings. During the week of September

15, 1972, the transcript was duly read in its entirety to the grand jury.

On September 15, 1972, the grand jury indicted Hunt, Liddy, and five of their subordinates (McCord, Barker, Gonzalez, Sturgis, and Martinez) in connection with the Watergate break-in (D.D.C. Crim. No. 1827–72). No higher officials were indicted. The grand jury's investigation into this matter was only resumed in March 1973, after all seven of those defendants had been convicted, McCord had come forward to admit that higher government and campaign officials had been involved in the Watergate affair, and each of those defendants was ordered to testify before the grand jury under use immunity.

The facts relevant to defendant's alleged "retraction" defense are described in part III of this Memorandum.

I. DEFENDANT'S FALSE DECLARATIONS WERE MADE UNDER OATH IN A PROCEEDING BEFORE OR ANCILLARY TO A GRAND JURY OF THE UNITED STATES AND HENCE FALL WITHIN THE COVERAGE OF 18 U.S.C. § 1623

Defendant's first ground for urging the dismissal of the indictment is his claim that the examination in which his allegedly false declarations were made was not a proceeding covered by 18 U.S.C. § 1623. That statute by its express terms applies to false material declarations which are made "under oath in any proceeding before or ancillary to any court or grand jury of the United States . . ." 18 U.S.C. § 1623(a). As was set forth above, defendant was deposed pursuant to an arrangement arrived at between the prosecution and White House officials, whereby White House aides whose testimony was sought by the grand jury would be examined at the Department of Justice in lieu of physically appearing before the grand jury. This arrangement was not made to serve any interests of the prosecutors, but rather to accommodate the concerns of the potential witnesses that their appearance at the court house would generate unwarranted publicity. Defendant himself was told of this arrangement and of the purpose and intended use of the proposed testimony. This testimony was given under grand jury conditions, and he was placed under oath by a duly authorized court reporter. The transcript of his testimony was actually read to the grand jury. It is the government's contention that these circumstances surrounding defendant's testimony clearly establish that it was a "proceeding before or ancillary to a grand jury of the United States" within the meaning of Section 1623, and hence that his false declarations made during that proceeding constitute a violation of law. Neither the legislative history of Section 1623, nor any principles of statutory construction warrant a different conclusion.

A. The legislative history of Section 1623 provides no support for the argument that defendant's examination was not a proceeding within the meaning of the statute.

Section 1623 was enacted as Title IV of Pub. L. 91–452, the Organized Crime Control Act of 1970. The phrase "proceeding before or ancillary to any court or grand jury" appears not only in Section 1623, but also in three other provisions of that Act: 28 U.S.C. § 1826 (recalcitrant witnesses); 18 U.S.C. §§ 6001, 6002 (immunity). Nowhere in the history of the Act, however, is there any indication of Congressional attempt to define or delimit the activities that fall within the coverage of the phrase.

This exchange between Senator McClellan and Assistant Attorney General Wilson, discussed at pp. 5–6 of the Defendant's Memorandum of Points and Authorities, is somewhat illuminative, for it demonstrates that the words "ancillary to" were added to the draft of Section 1623 following Mr. Wilson's observation that the statute as originally drafted would not have covered such things as "pretrial depositions, affidavits, and certificates." *Hearings on S. 30, etc. Before the Senate Judiciary Subcommittee on Criminal Laws and Procedures*, 91st Cong., 1st Sess. 379 (1969). Both the addition of the word "ancillary," and Senator McClellan's letter to Mr. Wilson (*Senate Hearings* at 409) indicate that Congress intended that the expanded perjury provisions of Section 1623 are to be available when false testimony is given *for use* in a judicial proceeding, and not only when the declarations are physically *in* the court room. Notably, Senator McClellan's letter indicated that Congress had intended that result even prior to the addition of the "ancillary" language. No basis appears either in logic or the legislative history for imposing the interpretation that Section 1623 was not similarly intended to be available for prosecuting knowingly false statements given *for use* in a grand jury. Certainly such an interpretation is not required merely because Congress did not expressly consider proceedings such as the defendant's deposition. "]I]t is no bar to interpreting a statute as applicable that 'the question which is raised on the statute never occurred to the legislature.'" *Eastern Airlines, Inc.* v. *C.A.B.*, 354 F. 2d 507, 511 (D.C. Cir. 1965).[1]

Furthermore, the wording of the immunity statutes enacted as Title II of the Organized Crime Control Act provides some indication that Congress intended Section 1623 to apply to proceedings "ancillary" to a grand jury, as well as those ancillary to a court. The basic immunity statute, 18 U.S.C. § 6002, refers to a witness in a "proceeding before or ancillary to" (1) a court or grand jury, (2) an agency, (3) either House of Congress, or a Congressional committee. Of the succeeding specific immunity statute, however, only Section 6003, that dealing with immunity for court and grand jury proceedings refers to proceedings "before or ancillary to" those bodies; Sections 6004 and 6005 are respectively limited solely to proceedings "before" an agency, or "before" Congress or Congressional committees. This companion legislation to Section 1623 indicates that when Congress wished to restrict the applicability of a statute to proceedings "before" a body, it did so with clear language. Since no language liimts coverage under Section 1623 to proceedings "before", as distinguished from "ancillary to" a grand jury, there is no reason to impute to Congress an intention to restrict its coverage in that way. *Cf. United States* v. *Fabrizio*, 385 U.S. 263 (1966).

B. As a matter of statutory construction, defendant's examination was a "proceeding . . . ancillary to . . . a grand jury" within the meaning of 18 U.S.C. § 1623.

As the defendant has observed in his Memorandum of Points and Authorities, general principles of statutory construction require that the word "proceeding" in Section 1623(a) "must be given its plain meaning unless that meaning would lead to 'absurd or futile results.'" Defendant's Memorandum, p. 7. As he notes, the Supreme Court has stated that ". . . legislation when not expressed in technical terms is addressed to the common run of men and is therefore to be understood according to the sense of the thing, as the ordinary man has a right to rely on ordinary words addressed to him." *Addison* v. *Holly Hill Fruit Products, Inc.*, 322 U.S. 607, 618 (1944). What the defendant has disregarded, however, is precisely the ordinary non-technical meaning of the word "proceeding". The examination . . . was conducted under formal circumstances. While the defendant was under oath, his counsel was excluded from the room, and a court reporter transcribed the questions and answers for presentation to the grand jury. Certainly a man of common intelligence would understand that the deposition was a "proceeding".

In contending that the term "proceeding" applies only to those hearings for which there is explicit statutory provision, it is the defendant who is attempting to add or subtract, delete or detract from the congressional purpose as expressed in the words of Section 1623. *Cf. 62 Cases of Jam* v. *United States*, 340 U.S. 593, 596 (1951). Defendant's assertion that whenever the word appears in Title 18 of the United States Code it contemplates an action for which there is statutory authority is both extravagant and irrelevant.[2]

In interpreting "proceeding" as the term is used in Section 1623, the question is whether the phrase "proceeding before or ancillary to any . . . grand jury" requires a reference to statutorily prescribed modes of handling its business. In the case of a grand jury, it would seem that the phrase cannot have as restricted a meaning for there are no statutorily prescribed procedures applicable to grand jury proceedings. The number of grand jurors and the manner of their selection are fixed by statute. The quorum for returning an indictment is set forth in Rule 6 of the Federal Rules of Criminal Procedure. Aside from these strictures, however, Rule 6 is silent. Indeed, it has long been settled that the grand jury, convened as a body of laymen, operates "free from technical rules." *Costello* v. *United States*, 350 U.S. 359 (1956). Unlike pre-trial depositions, for which explicit statutory authority might be necessary to secure the attendance of witnesses and to preserve testimony which could be introduced as evidence in court, there is no need for a provision specifically authorizing the taking of depositions to be used as evidence before a grand jury, especially by consent of the witness. A grand jury is free to indict on hearsay evidence, of course. *Costello* v *United States, supra*. And for similar reasons the grand jury may devise and follow flexible procedures to secure the evidence it needs, subject only to the implicit *restrictions* of the Constitution, statutes and rules. That kind of flexibility was involved in two recent decisions of the Supreme Court, where the Court upheld the grand jury's power to compel a witness, under subpoena, to give evidence (voice and handwriting exemplars) *outside* of the grand jury room to a "designated agent" of the grand jury who was to receive it and transmit it to the grand jury. *United States* v. *Dionisio*, 410 U.S. 1 (1973); *United States* v. *Mara*, 410 U.S. 19 (1973).

Furthermore, the fact that there is no explicit statutory authorization for defendant's deposition does not indicate that this proceeding was an "invention of the moment," as argued by the defendant, even if that characterization would be relevant. A similar course had been followed by the government in obtaining the testimony of former Speaker of the House John McCormack for use by the grand jury in the prosecution of Martin Sweig and Nathan Volshen, and was found permissible by the Second Circuit. See *United States* v. *Sweig*, 441 F.2d 114 (1971). Nor would recognition of defendant's deposition as a "proceeding before or ancillary to a grand jury" grant a "roving commission" for United States Attorneys to take depositions at their whim, for as recognized in *Sweig* and *Costello*, it is already a permitted practice to submit a witness' deposition to a grand jury in lieu of an appearance by the witness himself. The present case in no way involves the question of the power of the prosecutor to *compel* a witness to submit to a deposition rather than appear physically before the grand jury. The only effect of a finding that depositions such as the defendant's fall within the coverage of Section 1623 is to subject the witness to the same criminal sanctions for his false declarations that he would have faced had he appeared before the grand jury instead

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Footnotes at end of article.

of participating in the arrangement worked out for his convenience.

In sum, then, the deposition testimony given by defendant was clearly given in a "proceeding before or ancillary to" the grand jury within the plain terms and natural intent of Section 1623. The motion to dismiss, based on the contrary proposition, must be denied.

II. DEFENDANT IS NOT IMMUNE FROM CRIMINAL PROSECUTION FOR KNOWINGLY MAKING FALSE DECLARATIONS

Defendant next claims that he is immune from federal criminal prosecution because, at the time of his false testimony, he was employed as a federal officer and was allegedly acting within the scope of his employment. The contention is, in defendant's words:

> It is well settled that a federal officer is immune from prosecution for acts done in his capacity as a federal officer within the scope of authority. (Memorandum in Support of Motion to Dismiss, pp. 9–10).

Nothing could be less "well settled", for defendant's proposition of law is simply wrong.

Defendant cites no cases directly on point although he does purport to find support in two different kinds of immunity: The limited immunity for federal officers from *state* criminal prosecution based on acts performed as part of their official duties, *e.g., In re Neagle*, 135 U.S. 1 (1890); and the immunity from *civil* damage suits afforded as a protection against vexatious suits brought by private individuals challenging discretionary acts performed by a federal officer within the "outer perimeter" of his authority, *e.g., Barr* v. *Mateo*, 360 U.S. 564, 575 (1959).

Certainly neither of these immunity doctrines lends support to his novel suggestion of immunity from federal criminal prosecution. The *Neagle* doctrine is a reflection of a longstanding legislative policy protecting federal supremacy and holds that states shall have no power to subject federal officers to criminal prosecution for the performance of duties imposed by federal law.[3] But in this case an important premise of *Neagle* and its extensive progency[4]—that protection of the interests of the federal government cannot be relegated to potentially hostile state authorities, *see Neagle*, 135 U.S. at 61—is missing since defendant is being prosecuted by federal authorities not for upholding federal law but for violating it.

Similarly, *Barr* v. *Mateo* affords no predicate for the absolute protection defendant seeks against the criminal consequences of his false testimony. The *civil* immunity attaches only "to *discretionary* acts at those levels of government where the concept of duty encompasses the *sound exercise of discretionary authority.*" *Barr* v. *Mateo, supra*, 360 U.S. at 575 (emphasis supplied). As the Court put it in *Spalding* v. *Vilas*, 161 U.S. 483, 498 (1896), even civil immunity is not available when an official acts in excess of his authority:

> We recognize a distinction between action taken by the head of department in reference to matters which are manifestly or palpably beyond his authority, and action having more or less connection with the general matters committed by law to his control or supervision.

In the case at bar, defendant's decision to perjure himself amounted to a determination that the evidence being sought on behalf of the grand jury should be withheld on grounds of national security—withheld in other words, as a secret of state. The courts of this circuit have only recently emphasized the traditional principle that the determination of whether evidence, even secrets of state, may lawfully be withheld from the grand jury has never been committed to the discretion of executive officials, but rests, as it always has, with the courts upon a proper and explicit claim of privilege. *Nixon* v. *Sirica*, —— F.2d —— (D.C. Cir., No. 73–1962, decided October 12, 1973) (slip op. at 20–33). See also *United States* v. *Reynolds*, 345 U.S. 1 (1953); *Committee for Nuclear Responsibility* v. *Seaborg*, 463 F.2d 788, 794 (D.C. Cir. 1971).[5]

The circumstances in which defendant found himself on August 28, 1972—called under oath to provide testimonial evidence for the grand jury's use—left no room for the exercise of any discretion. *Cf. Nixon* v. *Sirica, supra; Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Investigation*, 456 F. 2d 1339 (2d Cir. 1972) (police conduct in making an arrest). If the information defendant was asked to provide was not a secret of state or covered by some other valid governmental privilege, the defendant had no discretion but was bound to answer, and to answer truthfully. If the information was a validly privileged secret of state, as defendant claims, his duty—again leaving no room for discretion—was to assert the privilege and to decline to answer pending the court's resolution of the question of privilege. See *United States* v. *Reynolds, supra; Nixon* v. *Sirica, supra*. In the secrecy of the deposition he could have easily invoked that privilege without any real fear that the mere refusal to respond to a preliminary question, innocuous on its face, would imperil national security. But under no circumstances was defendant entitled to answer falsely and thereby simultaneously mislead the grand jury as well as determine the validity of the asserted privilege for himself.

As the Supreme Court said in *Bryson* v. *United States*, 396 U.S. 67, 72 (1969):

> Our legal system provides methods for challenging the Government's right to ask questions—lying is not one of them. A citizen may decline to answer the question, or answer it honestly, but he cannot with impunity knowingly and willfully answer with a falsehood.[6]

The central difficulty with defendant's immunity claim is that it requires him to take the position that there are situations in which an intentional violation of the federal criminal laws[7] that protect the integrity of the judicial process falls within the scope of a White House staffer's duties. Defendant seems to recognize this difficulty. As he observes, somewhat diffidently:

> It seems strange to suggest that perjury would be within the scope of authority of a federal officer acting in his official capacity.

This notion is, of course, wholly at odds with the *Neagle* and *Barr* v. *Mateo* immunity doctrines. As we pointed out supra, the *Neagle* immunity is only against state prosecution and even there is only applied when an officer is upholding, not violating, federal law.[8] Reliance on that doctrine therefore begs the crucial question of whether lying under oath can ever be within the scope of a federal official's duties.

The doctrine of *Barr* v. *Mateo* is even further off the mark. One of the fundamental premises of providing civil immunity, designed to insulate against groundless lawsuits by disgruntled private individuals, is that it will not have the effect of encouraging official lawlessness, precisely because criminal sanctions for official misconduct remain in full force. As Judge Hand wrote in his landmark opinion in *Gregoire* v. *Biddle*, 177 F. 2d 579, 581 (2d Cir. 1949), while public policy calls for civil immunity,

> There must indeed be means of punishing public officers who have been truant to their duties.

Thus, our law has never accepted the pernicious premise that official misconduct must go unpunished. Despite defendant's contrary assertions, a corrupt judge, like any other citizen, is answerable to the federal criminal law for criminal acts done in his "official" capacity. See, *e.g., United States* v. *Manton*, 107 F.2d 834 (2d Cir. 1939). Even the Speech and Debate Clause, Art. I, sec. 6, cl. 1, the only substantive privilege written into the Constitution, "does not privilege either Senator or aide to violate an otherwise valid criminal law in preparing for or implementing legislative acts." *Gravel* v. *United States*, 408 U.S. 606, 626 (1972).[9] There has never been any doubt but that high executive officials can be prosecuted for official misdeeds. *United States* v. *Fall*, 42 F.2d 506 (D.C. Cir.), cert. denied, 283 U.S. 867 (1931); *Connelly* v. *United States*, 249 F.2d 576 (8th Cir. 1957), cert. denied, 356 U.S. 921 (1958).[10]

Although we believe it is clear that there is no support in any of the cases cited by defendant for his claim to immunity or in any of the general principles he mistakenly invokes, some consideration is in order whether the incantation "national security" creates a unique immunity from criminal prosecution. In the recent past, "national security" has become a kind of talisman, invoked by officials at widely disparate levels of government service to justify a wide range of apparently illegal activities. Most frequently the claim has been made that the national security justifies warrantless wiretapping of domestic subversives, a claim that the Supreme Court has decisively rejected. *United States* v. *United States District Court*, 407 U.S. 297 (1972).[11]

Recently however the debate over what may be done in the name of "national security" has taken a more ambitious turn. It has been advanced by low level personnel to justify an illegal break-in for the installation of microphones in the offices of the Democratic National Committee.

Joint Motion of Defendants Barker, Gonzalez, Martinez and Sturgis to Vacate Judgments of Conviction and for Leave to Withdraw Pleas of Guilty, D.D.C. Crim. No. 1827–72 (denied by Order of November 7, 1973). And in fact it has been put forward as a legal umbrella for the Fielding break-in itself, where the objective was not electronic surveillance, but a simple burglary. See transcript of *Hearings before Senate Select Committee on Presidential Campaign Activities, Vol.* 28, pp. 5371–97 (testimony of John D. Ehrlichman). These claims are put forward even though it has always been clear that "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed," *United States* v. *United States District Court, supra*, 407 U.S. and has never been thought lawful even when done in connection with electronic surveillance. *E.g., Irvine* v. *California*, 347 U.S. 128 (1954). One would therefore have thought it no longer open to question that the government may not break into a doctor's office to rummage through his files. *Wolf* v. *Colorado*, 338 U.S. 25 (1949). Now it seems that defendant will claim that "national security" justifies lying under oath in a judicial proceeding.

While the claim of "national security" gives these claims of legalized burglary and perjury a deceptively compelling ring, ultimately they rest on a wholesale rejection of the rule of law and espouse a doctrine that government officials may ignore the requirements of positive criminal statutes when they feel circumstances dictate. This is a notion that has no place in our "government of laws, not of men." No government office, not even the highest office in the land, carries with it the right to ignore the law's

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command, *e.g.*, *Youngstown Sheet & Tube* v. *Sawyer*, 343 U.S. 579 (1952); *Nixon* v. *Sirica*, *supra*, any more than the orders of a superior can be used by government officers to justify illegal behavior, *United States* v. *Konovsky*, 202 F.2d 221 (7th Cir. 1953).[12] As Justice Brandeis wrote in his famous dissenting opinion in *Olmstead* v. *United States*, 227 U.S. 438 (1928):

> Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born free are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

We should not be understood to denigrate the difficulties and pressures faced by government officials whose responsibilities extend to the protection of our national security. Nor, in the abstract, do we necessarily reject defendant's implicit contention that perhaps, under certain extreme circumstances, a defense to criminal prosecution for action taken in good faith to protect the national security could be recognized in order that our highest government officials not be coerced into debilitating indecision in times of emergency.[13] The point is simply that such a defense cannot be fashioned by courts in the teeth of the clear commands of the criminal laws. The problem of reconciling protection of the national security with the ordinary requirements of the criminal laws is a legislative problem and one to which Congress has been sensitive. See 18 U.S.C. §§ 2511(3), 2518(7), 2520.

The factual setting of this case vividly illustrates why the claim of "national security" must not be enshrined as a talisman that encourages government officials to perceive wholesale exceptions to the requirements of the criminal laws. Compare *United States* v. *Brown*, 13 Crim. L. Rep. 2519 (5th Cir. 1973) (concurring opinion of Goldberg, J.). Our legal system provides a range of alternatives when disclosure of sensitive information is sought in criminal litigation, but "lying is not one of them." *United States* v. *Bryson*, *supra*. This range of alternatives was open to defendant and gives the lie to his effort to portray his freedom to decline to answer, claiming a state-secrets privilege, as a "Hobson's choice":

> To have declined to answer would have been to admit awareness of [Hunt and Liddy's] travel and to have generated the distinct possibility of unauthorized disclosure. (Memorandum in Support, p. 12).

The situation faced by defendant was this. At White House request, defendant and other staff members were not called before the grand jury but rather were permitted to testify under oath at a deposition-like proceeding which, in defendant's case, was attended only by defendant, United States Attorney Donald Campbell, and a court reporter. Defendant implies that a refusal to answer would have stimulated further investigation that might have led to discovery of the California trips and eventually to the Fielding break-in. This is a gossamer. Defendant well knew that, as an official of the Executive Branch, Campbell was subject to the applicable restrictions on disclosure of classified information. Defendant could easily have called him aside, as indeed Campbell had invited him to do before beginning the examination (Memorandum in Support, p. 2) and informed him that, in his opinion, the inquiries about Hunt's travels and Liddy's travels might involve national security information and should not be pursued. If Campbell had insisted on pursuing these matters at the examination, defendant could have refused to answer. Then the question of privilege could have been put to a court[14] or, more naturally, to the prosecutor's superiors in the Executive Branch.

These alternatives presented defendant with a complete solution to his supposed "Hobson's choice". Indeed that he did not, however briefly, pursue any of them is highly probative that political and personal self-preservation, rather than the national security, may have motivated his perjury. In any event, as we have shown, defendant's motives are legally irrelevant and nothing he has shown warrants dismissal of the indictment against him.

III. DEFENDANT'S PROSECUTION IS NOT BARRED BY 18 U.S.C. §1623(D)

Defendant's final contention is that his counsel's submission of an affidavit to Assistant United States Attorney Silbert on May 4, 1973, containing paragraphs "fully describing" the travel of Messrs. Hunt and Liddy, established a bar to his prosecution for false statements concerning their travel made during his deposition on August 28, 1972. Defendant's argument is based upon Section 1623 (d) which provides:

> Where, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially effected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

This provision presents no ground for dismissing the present indictment, since the defendant's conduct falls far short of satisfying any of its conditions.

A. *Section 1623(d) is not applicable because the Defendant did not admit the falsity of the declarations for which he is being prosecuted in the same continuous proceeding in which they were made.*

Defendant's affidavit of May 4, 1973, (annexed as Exhibit A to his Motion to Dismiss) was occasioned by the government's disclosure of the "Fielding break-in" to District Judge W. Matthew Byrne, Jr., of the Central District of California, the judge conducting the trial of Dr. Ellsberg, and by Judge Byrne's subsequent order that a full inquiry be made into the affair. Although Mr. Silbert was one of the attorneys who had been involved in the grand jury's original inquiry into the Watergate wiretap and break-in, and was assisting in the conduct of its renewed investigation, the letter which accompanied delivery of defendant's affidavit to Mr. Silbert makes no reference to either grand jury inquiry. On the contrary, the letter states that the affidavit was presented to Mr. Silbert with "the specific request that it be immediately submitted to the Honorable W. Matthew Byrne [sic], Judge of the United States District Court for the Southern [sic] District of California," and notes only that "[a]n unexecuted xerox copy of this affidavit is herewith also presented to you, for your own files." (A copy of this letter is attached to this Memorandum as Exhibit D.)

Similarly, the affidavit itself begins by noting that "this affidavit . . . is presented to the Department of Justice for submission to the United States District Court, Southern [sic] District of California, the Honorable Matthew Byrne, Jr., presiding." It makes absolutely no reference to the grand jury's inquiry in the District of Columbia, or to defendant's August 28, 1972 testimony for it, or to defendant's false declarations concerning the travel of Messrs. Hunt and Liddy. Buried among its 53 paragraphs are three (numbers 28, 31, and 32) that defendant now argues "fully describe the travel of Messrs. Hunt and Liddy." (Memorandum in Support of Motion to Dismiss, p. 13). These circumstances show that defendant did not, "in the same continuous . . . grand jury proceeding . . . admit such [earlier] declaration to be false" within the meaning of Section 1623(d). While we do not contend that defendant necessarily had to "recant" his false testimony during the original session in order to try to bring himself within the bar created by Section 1623(d), defendant's conduct falls far outside any reasonable understanding of what Congress has allowed a miscreant witness to do to escape the legal consequences of giving deliberately false testimony. It was mere happenstance that his affidavit was delivered to an attorney involved in the grand jury's earlier investigation. That delivery was explicitly made for a purpose unrelated to the grand jury's inquiry. Defendant failed to take even the most preliminary or perfunctory steps to call his affidavit to the grand jury's attention; he neither sought to appear before the grand jury, nor requested that the affidavit be submitted to the grand jury.

Furthermore, it is difficult to imagine how the false testimony and the delivery of the affidavit could be considered to have been made during the "same continuous . . . grand jury proceeding." The grand jury's inquiry into the Watergate affair was not a continuous course of action from June 1972 through May 1973, but rather two separate investigations into the same matter. The defendant's allegedly false declarations were made during the course of a grand jury inquiry which culminated on September 15, 1972 with the indictment of seven individuals; in part because of defendant's concealment of his knowledge of the travels of Hunt and Liddy, the grand jury was unable to pursue the involvement of higher officials in the Watergate break-in and cover-up. In March 1973, a new investigation began as the result of allegations made by one of the seven convicted defendants and was pursued by compelling the testimony of those defendants. The mere fact that the grand jury continued to sit and hear other matters during the period between August 1972 and May 1973 hardly merges the two investigations into one "continuous proceeding" under Section 1623(d). The manifest purpose of that limitation was to provide a premium for retraction of false testimony while the grand jury's attention was still focused on the original inquiry. Here, it was purely fortuitous that the same grand jury was able, after a lengthy hiatus, to resurrect the investigation that defendant had helped forestall many months earlier.

B. *Defendant's false statements had already substantially affected the grand jury's proceeding, and it had already become manifest that the falsity of his statements would be exposed.*

Section 1623(d) does not provide that a defendant's admission of the falsity of his declarations automatically bars prosecution, but only that prosecution is barred if the admission occurs at a time when the false declarations have not substantially affected the proceeding and their falsity has not become manifest. Neither condition is satisfied here.

That the defendant's denials of any knowledge of the California trips of Messrs. Hunt and Liddy substantially affected the grand jury's proceedings cannot be doubted. At the time of his deposition, these men were prime targets in the grand jury's investigation into the Watergate affair, and its inquiry was focusing upon the possible involvement of nature of the relationship of White House officials with the prime subjects of its in-

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other government or campaign officials in directing their activities. It was particularly important that the grand jury determine the quiry, since White House personnel were among those with a motive to direct the criminal activity under investigation. The defendant's false declarations concealed evidence of White House knowledge of an earlier forcible entry engineered by Messrs. Hunt and Liddy, evidence that would have been of extreme importance in indicating that others aside from the seven men ultimately indicted by the grand jury might have been involved in the break-in and bugging at the Democratic National Committee headquarters.

Furthermore, defendant's false declarations concealed evidence of possibly criminal activity that at that time was not suspected by the grand jury, the subsequent revelation of which has itself occasioned an extensive grand jury investigation. The effect of the defendant's false declarations upon the grand jury's proceedings is evidenced by the effect of the revelation of the "Fielding break-in" some eight months after his deposition.

Nor did the defendant's alleged recantation of his false testimony occur before it had become manifest that its falsity would be exposed. It was in mid-April 1973 that federal prosecutors were first informed of the involvement of Hunt and Liddy in the Fielding break-in, and of the activities of the "Special Investigations Unit" headed by the defendant. This information was transmitted to Assistant Attorney General Petersen on April 15th; on April 26th it was made available to Judge Byrne in the *Ellsberg* trial in California and through him, to the public on April 27.[15] Although the falsity of defendant's testimony had been successfully concealed for several months, the widely publicized disclosures during the abortive *Ellsberg* trial made it apparent that the falsity of the August 1972 testimony would no longer remain shrouded.

Thus, defendant's alleged "recantation" occurred *both* after his false declarations had substantially affected the grand jury proceeding *and* after it had become manifest that their falsity would be exposed. But this indictment must be sustained if the court makes *either* of these findings. Contrary to defendant's assertion, Section 1623(d) cannot be interpreted as permitting the prosecution to go forward only if the false testimony had *both* substantially affected the proceeding and not become manifestly false. Unquestionably some uncertainty arises because of the word "or" in the clause describing the conditions that must be satisfied "at the time the admission is made" for an admission of falsity to bar prosecution. Despite the normal rule about strict construction of criminal statutes, the terms used in the subsection creating a possible bar to prosecution need not be read with any such presumption in favor of the defendant. Since what is at stake is the scope of a legal bar to prosecution that may be raised *after* the defendant has engaged in clearly defined criminal conduct, there is no danger of unfair prosecution for conduct that a reasonable man did not have notice was criminal. Here, the court is entitled to interpret the bar in accordance with what Congress must reasonably have intended to be its scope.

Defendant's proposed interpretation would allow any defendant whose testimony was so false as to be patently incredible to avoid prosecution by recanting once it had become obvious to him that his perjury had been exposed, simply by demonstrating that his statements had never been believed, and could not have "substantially affected the proceeding." Section 1623 should not be burdened with such a debilitating construction. Indeed, the effect of such a construction would be to grant a virtual license to lie, since it would allow a witness who deliberately lied to a grand jury to immunize himself by making a *pro forma* admission even after he learned that he had not fooled the grand jury for a minute. There is no reason to suspect Congress intended to indulge such trifling with the integrity of the judicial process.

The conclusion that a Section 1623 prosecution may go forward if the defendant's "recantation" occurs *either* after his false testimony has substantially affected the proceeding *or* after it has become manifest was apparently reached by the Second Circuit in *United States* v. *Kahn*, 472 F.2d 273 (1973); no contrary decisions have been found.

C. *Defendant is not excused from his failure to satisfy the limited conditions under Section 1623(d) that would bar his prosecution.*

Defendant seems to make an independent argument that as a matter of law his prosecution must be barred because he submitted his affidavit "as soon as he was permitted to do so by the President" and that any earlier disclosure would have exposed him to prosecution under 18 U.S.C. § 798. (Memorandum in Support, p. 14).[16] He claims to have been trapped in the same sort of dilemma as the Supreme Court has held violative of the Fifth Amendment privilege against self-incrimination in such cases as *Marchetti* v. *United States*, 390 U.S. 39 (1969); *Grosso* v. *United States*, 390 U.S. 62 (1968); *Haynes* v. *United States*, 390 U.S. 85 (1968); and *Leary* v. *United States*, 395 U.S. 6 (1969).

Defendant's argument is without merit for several reasons. In each of the cases which he cites, the factual situation before the Court involved a criminal prosecution for failure to comply with a statute which required the disclosure of information that would have had the direct effect of incriminating the defendant—i.e., situations in which failure to make self-incriminating disclosures was itself made a criminal offense. Even making the virtually inconceivable assumption, *arguendo*, that the defendant would have faced prosecution under Section 798 had he corrected his false declarations prior to obtaining the President's "permission" to do so, his "dilemma" was not factually analogous to that held unconstitutional in the *Marchetti* line of decisions.[17] No statute, including Section 1623(d), required the defendant to make self-incriminating disclosures; no statute rendered it a crime for him to fail to do so. Defendant's offense consists in affirmative acts of deliberately making false declarations, not in failing to make incriminating disclosures. Section 1623(d) did not require the defendant to declare anything on pain of committing a crime, rather it provides that he would not be prosecuted for a criminal act already committed if he admitted his offense prior to the occurrence of certain events. Defendant's alleged dilemma, to the extent it existed, was a situation of his own making and not the result of any impermissible statutory scheme.

Furthermore, the argument being advanced by the defendant has already been implicitly rejected by the Supreme Court's decision in *United States* v. *Knox*, 396 U.S. 77 (1969). There, the Court sustained a defendant's prosecution under 18 U.S.C. § 1001 for making false statements on a wagering tax return. At the time the false statements were made, the defendant could have been prosecuted for failing to file the return, and truthful answers would have been self-incriminatory. The Court held that he was properly subject to prosecution for making the false statements even though the only choices open to him at the time of his false statements were made seemed to lead to other difficulties, and even though the statute requiring the information which he falsified had been held unconstitutional in *Marchetti*. The Court ruled that, while there may have been a privilege to refuse to answer the incriminating questions, there was no legal justification for answering falsely. If there is no bar to a defendant's prosecution for making false statements where either truthful statements or no statements at all could have subjected him to criminal liability, there is certainly no cause to find that the present defendant's prosecution is barred because timely recantation of his false testimony might—on defendant's flimsy hypothesis—have exposed him to liability under another statute.

Finally, it should be noted that the defendant's argument rests on the two-fold assertion that his affidavit was submitted "as soon as he was permitted to do so by the President," and that earlier recantation might have incurred prosecution for disclosing classified information. Significantly, the defendant fails to allege that at any earlier time he sought permission to recant his false declarations. Nor would that recantation have necessitated disclosures as extensive as those contained in the defendant's affidavit. The defendant's false declarations consisted in denying knowledge of travel by Messrs. Hunt and Liddy: it is frivolous to suggest that truthful statements would have necessitated disclosure of the limited types of "classified national security information" whose disclosure is proscribed by Section 798.[18]

In conclusion, Section 1623(d) sets forth limited conditions under which a defendant's admission of the falsity of his earlier statements will bar prosecution. Defendant's affidavit failed to satisfy those conditions, and there is no legal principle that otherwise bars his prosecution here.

CONCLUSION

For the foregoing reasons, the motion to dismiss the indictment should be denied.

Respectfully submitted,

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NOVEMBER 12, 1973.

FOOTNOTES

[1] Quoting Cardozo, *The Nature of Judicial Process*, 15 (1921).

[2] For example, 18 U.S.C. § 1508(a) makes it an offense to willfully record "the proceedings of any grand or petit jury in any court of the United States while such jury is deliberating or voting." Formal statutory authorization for the jury's "proceedings" is irrelevant to a construction of the activities protected; the offense seems clearly to consist in recording the material "goings on" or "course of action" of a jury during its deliberations.

Admittedly, in certain instances where "proceeding" is employed in Title 18, the reference is apparently to some form of statutorily authorized action. *See, e.g.*, 18 U.S.C. § 152 (bankruptcy proceeding); 18 U.S.C. § 1505 (proceeding pending before any department or agency of the United States). But what is normally the subject of inquiry is whether the matter was actually "pending" when no formal complaint or charges were before the agency. The inquiry is then whether the activity obstructed was

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Footnotes at end of article.

one which the agency was authorized to conduct. *See, e.g., United States* v. *Batten*, 226 F. Supp. 492 (D.C. D.C. 1964) But the precise procedural posture of the matter is not controlling, and the term is flexibly construed to cover activity that is within the scope of permissible procedure. *See, e.g., Rice* v. *United States*, 356 F.2d 709 (8th Cir. 1966), where the court observed in construing an obstruction of justice statute, 18 U.S.C. § 1505:

> Proceeding is a comprehensive term meaning the action of proceeding—a particular step or series of steps adopted for accomplishing something. This is the dictionary definition as well as the meaning of the term in common parlance. Proceedings before a governmental department or agency simply mean proceeding in the manner and form prescribed for conducting business before the department or agency, including all steps and stages in such an action from its inception to its conclusion. 356 F.2d at 712.

[3] Under 28 U.S.C. § 2241(c)(2), derived from the Act of March 2, 1833, c. 57, § 7, 4 Stat. 634, the federal courts have authority to grant habeas corpus relief, *inter alia*, to a federal officer if he is in custody for an act done or omitted pursuant to an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States.

Under 28 U.S.C. § 1442(a)(1), a criminal prosecution commenced in a state court may be removed to a federal court if the defendant is an "officer of the United States" who is being prosecuted "for any act under color of such office" but the officer remains subject to prosecution in the federal forum.

[4] Many of the cases are collected in *In re McShane's Petition*, 235 F. Supp. 262 (N.D. Miss. 1964), cited in defendant's Memorandum in Support.

[5] Defendant himself concedes (Memorandum in Support, p. 12) that the circumstances that led to his decision to commit perjury were "extraordinary" and not within the normal range of affairs committed to his discretion. Civil immunity simply is not available in such case because where an officer knows that he is acting out of the ordinary, he is on notice of the circumstances, and there is more reason for him to have to expect to be prepared to justify his conduct. *Kelly* v. *Dunne*, 344 F.2d 129, 132 (1st Cir., 1965)

[6] See also *Boehm* v. *United States*, 123 F.2d 791 (8th Cir.), cert. denied, 315 U.S. 800 (1941) (good faith belief that statute authorizing taking of testimony is unconstitutional is no defense to perjury, even though statute is later invalidated).

[7] Defendant concedes, for purposes of this motion, that his August 28, 1972, testimony was intentionally false.

[8] As the court said in *McShane's Petition*, *supra*, 235 F. Supp. at 273 (emphasis in original):

> Certainly it cannot be said that any federal official is absolutely immune merely because of his official standing and his official purpose. The act which he commits in this capacity, in order to meet the requirements of the [immunity] "must be done in pursuance of his official duty." [citations omitted] . . . [The immunity created] for the benefit of federal officers was not intended to place beyond the reach of a state's criminal law federal officials *who employ means which they cannot honestly consider reasonable in discharging their duties or who otherwise act out of malice or with some criminal intent.*

[9] *Gravel's* factual setting makes it an especially instructive rejection of the concept that an official's personal view of the requirements of duty can ever justify a violation of the criminal law.

[10] This case raises no problems as to whether an impeachable public official may be indicted before he is impeached since Mr. Krogh has long since left the federal government's employ. *Compare United States* v. *Kerner*,— F. Supp. — (N.D. Ill., 1973).

[11] *The Court has left open the question "whether the President may, consistently with the Fourth Amendment, authorize through the Attorney General, a national security electronic surveillance to gather foreign intelligence information without first obtaining a judicial warrant." See United States* v. *Lemonakis*, — F.2d — (No. 71-1745, D.C. Cir., decided June 29, 1973) (slip op. at 38).

[12] *Defendant does not allege that he was ordered by his superiors to give false testimony,* only that they stressed the general need for secrecy about the activities of the Special Investigations Unit. However, it hardly needs to be stated that *defendant would not be excused even if his false testimony had been committed on direct order* of the President. It is fundamental in our law that "loyalty to a superior does not provide a license for crime." *United States* v. *Decker*, 304 F.2d 702, (6th Cir. 1962). *Compare Land* v. *Dollar*, 190 F.2d 623 (D.C. Cir. 1951), vacated as moot, 344 U.S. 806 (1952), where the Secretary of Commerce and the Acting Attorney General were adjudicated in contempt of court for violating a court order at the direction of the President.

We do not understand defendant to contend that his "good" motive for lying—protection of the national security—should, standing alone, justify his perjury. On the contrary, few principles of criminal law are clearer than that action that contravenes the literal words of a criminal statute cannot be excused by a "good" motive. *See, e.g., United States* v. *Mitchell*, 453 F.2d 187 (8th Cir. 1972); *United States* v. *Miller*, 233 F.2d 173 (1st Cir. 1956); *Kong* v. *United States*, 216 F.2d 665 (9th Cir. 1954) ("if one commits a felonious act, it is immaterial that he had the highest motive").

[13] A situation, it should be emphasized, from which the facts of the present case could hardly be further removed.

[14] It is too late in the day to contend that judges are security risks and are not to be trusted with sensitive information sufficient to enable them to determine questions of privilege. *United States* v. *United States District Court, supra; United States* v. *Reynolds, supra.*

[15] Transcript of Proceedings, April 27, 1973, *United States* v. *Russo and Ellsberg*, C. D. Calif., No. 9373-CD-WMB, annexed hereto as Exhibit E.

[16] We note that, as with many of the assertions made in defendant's memorandum, there are no affidavits to support his factual contention on this point. He also makes no attempt to explain how or why information about the travels of Hunt and Liddy constituted "classified information" within the meaning of 18 U.S.C. § 798 or why the Assistant United States Attorney would have been an "unauthorized person" to receive such information.

[17] That line of cases deals with situations in which the Supreme Court found that disclosure of the information would have created a "real and substantial" as distinguished from a "remote and imaginary" danger of incrimination—and thus the relevance of the cases to truthful admissions by defendant in the present case is illusory.

[18] The only types of classified information whose disclosure is proscribed by Section 798 are those:

(1) concerning the nature, preparation; or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes.

JUSTICE DEPARTMENT ANNOUNCES NEW POLICY TOWARD MEDIA

Mr. ERVIN. Mr. President, I wish to call the attention of the Senate to the recent policy pronouncement of the Justice Department with respect to the subpenaing, questioning, and arrest of members of the news media. The announcement of October 16 received only scant public attention at the time and yet it has a significant bearing on the newsmen's privilege issues now before the Congress, and on freedom of the press in general.

As far as Federal subpenas to newsmen are concerned, the statement provides that such subpenas shall be issued only on the express approval of the Attorney General. Failure to obtain such approval will result in the subpena being quashed on the Department's own motion.

The Justice Department policy statement also provides that subpenas to newsmen will be sought only after evidence has been sought from other sources and only after negotiations with the newsmen have taken place. Furthermore, a request for a subpena must specify that certain conditions exist, namely, first, there is other nonmedia evidence to show that a crime has been committed; second, there is a reasonable ground to believe that the information sought by subpena is essential to a successful investigation; third, the information sought is limited to verification of already published information, except in certain exigent circumstances; and, fourth, the subpena is directed at material information regarding a limited subject matter and related to a limited amount of time. The new statement also provides that reasonable and timely notice of the demand for documents will be given.

The new policy also governs the questioning and arrest of newsmen who are engaged in the performance of their occupation. Specifically, none shall be questioned or arrested under such circumstances without the express approval of the Attorney General. This is excused only where the exigent circumstances make such prior approval impossible. And even in these cases, justification must be communicated to the Attorney General after the fact.

To my mind, the Justice Department is to be commended for this effort to restore the balance which once existed between the press and the prosecutor. Society has two great and competing interests involved here—the preservation of its right to information and its interest in the enforcement of its laws. The new Justice Department policy guidelines are steps toward accommodation of those sometimes competing interests.

To be sure, they apply only to Federal prosecutions and not to the States, and they are only guidelines without binding legal force. But they do signal a change in attitude; namely, a policy of prosecutorial restraint, that is sorely needed if these two bulwarks of our democratic government are to function harmony.

I ask unanimous consent that the text of these new guidelines be printed in the body of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENTS OF POLICY

§ 50.10 Policy with regard to the issuance of subpoenas to, and the interrogation, indictment, or arrest of, members of the news media.

Because freedom of the press can be no broader than the freedom of reporters to investigate and report the news, the prosecutorial power of the government should not be used in such a way that it impairs a reporter's responsibility to cover as broadly as possible controversial public issues. In balancing the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all members of the Department:

(a) In determining whether to request issuance of a subpoena to the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice.

(b) All reasonable attempts should be made to obtain information from nonmedia sources before there is any consideration of subpoenaing a representative of the news media.

(c) Negotiations with the media shall be pursued in all cases in which a subpoena is contemplated. These negotiations should attempt to accommodate the interests of the trial or grand jury with the interests of the media. Where the nature of the investigation permits, the government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the media.

(d) If negotiations fail, no Justice Department official shall request, or make arrangements for, a subpoena to any member of the news media without the express authorization of the Attorney General. If a subpoena is obtained without authorization, the Department will—as a matter of course—move to quash the subpoena without prejudice to its rights subsequently to request the subpoena upon the proper authorization.

(e) In requesting the Attorney General's authorization for a subpoena, the following principles will apply:

(1) There should be reasonable ground based on information obtained from nonmedia sources that a crime has occurred.

(2) There should be reasonable ground to believe that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential or speculative information.

(3) The government should have unsuccessfully attempted to obtain the information from alternative nonmedia sources.

(4) The use of subpoenas to members of the news media should, except under exigent circumstances, be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published infromation.

(5) Even subpoena authorization requests for publicly disclosed information should be treated with care to avoid claims of harassment.

(6) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of the demand for documents.

(f) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General: *Provided, however,* That where exigent circumstances preclude prior approval, the requirements of paragraph (j) of this section shall be observed.

(g) A member of the Department shall secure the express authority of the Attorney General before a warrant for an arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media.

(h) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General.

(i) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state all facts necessary for determination of the issues by the Attorney General. A copy of the request will be sent to the Director of Public Information.

(j) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Information.

(k) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action.

Dated October 16, 1973.

ELLIOT RICHARDSON,
Attorney General.

LEONARD WOODCOCK ADDRESSES THE AMERICAN ASSEMBLY ON THE "CHANGING WORLD OF WORK"

Mr. PERCY. Mr. President, I had the pleasure of addressing a meeting of the American Assembly on November 1, 1973, in New York. The American Assembly is a nonpartisan, educational institution dedicated to providing information, and stimulating discussion on matters of vital public interest. Mr. Leonard Woodcock, president of the International Union of the United Auto Workers, also addressed the assembly on the problems of the worker in modern America.

Mr. Woodcock expressed his deep concern for the working conditions which a great part of American labor endures. Labor has been fighting to improve the lives of the individual worker, long before the present concern with job enrichment. In spite of labor's decades of struggle, the conditions of work today are far from what they should be.

At the beginning of the industrial revolution the worker lost control over the nature of his work. Technology has since made the individual too often merely a cog in the production machine, and many of the original problems of industrial impersonalization still exist today. Mr. Woodcock points out that the worker still does not have a voice in his own job. Working hours are fixed by management: the worker who attempts to take unpaid time off or refuses overtime could lose his job. Basic pay is in many cases still inadequate. A worker's security is tied to a firm in which he has no right to participate. Finally, workers have little control over their own working conditions.

Mr. Woodcock calls for an interchange between the professionals of management and the ordinary worker in order to insure that production technology takes into account the "human factor" and not merely the "labor factor" of production. Mr. Woodcock points with some optimism to the new labor-management committee on improving the work environment and job enrichment provided for in the UAW's agreement with the Chrysler Corp. This committee, he believes, will improve the climate for job enrichment efforts by assuring labor participation in their design.

I commend UAW and its talented leadership for their determination to provide for the human problems of their members. I ask unanimous consent that Mr. Woodcock's speech, "Changing World of Work: A Labor Viewpoint," be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

CHANGING WORLD OF WORK: A LABOR VIEWPOINT

(Remarks of Leonard Woodcock)

Having been given the job of presenting labor's appraisal of the "changing world of work," I am happy to say that I think this is certainly one area in which there *is* a reasonably harmonious "labor point of view." If we in the labor movement sometimes appear unmoved by the "sound and fury" created in this discussion, it is because we are simultaneously amused and annoyed with the way in which this topic has now become fashionable. To us, changing the world of work is the very reason for our existence, and we feel that we have scarcely been given the credit due for the blood we have shed in its cause.

Real understanding of this subject requires an examination of the fundamental objections to industrial employment (and keypunch rooms and typing pools are included in this discussion). If we honestly want to evaluate what progress has been made, how it has been made, and what the prospects are for the future, we must go back to first principles.

To begin with, let us remember that the phrase "worker alienation" was not invented yesterday. It originated in the 19th century when it was first appreciated that workers had become merely employees and that in the process they had lost control over the conditions and nature of their work. Rapid changes in technique and in organization of production quickly made it apparent that the particular kind of technological progress encouraged by the new system would systematically downgrade the skill and initiative required of the individual worker; this would inevitably erode society's regard for workers as individuals, a fact that was patently obvious to workers at the time. Today most of us take employee status for granted but we must remember that when the factory system was first introduced, factory employment was taken up usually only as a last resort.

When the profit motive became the principal investment criterion, a special toll was exacted from workers subjected to the discipline of the "most productive techniques."

Adam Smith, describing the human and social costs of the division of labor, characterized the effect thus:

"The man whose whole life is spent in performing a few simple operations . . . has no occasion to exert his understanding, or to exercise his invention in finding out expedients for removing difficulties which never occur. He naturally loses, therefore, the habit of such exertion . . . The torpor of his mind renders him, not only incapable of relishing or bearing a part in any rational conversation, but of conceiving any generous, noble, or tender sentiment, and consequently of forming any just judgment concerning many even of the ordinary duties of private life. . . . The uniformity of his stationary life . . . corrupts even the activity of his body, and renders him incapable of exerting his strength with vigor and perseverance, in any other employment than that to which he has been bred. His dexterity at his own particular trade seems, in this manner, to be acquired at the expence of his intellectual, social, and marital virtues. . . ."

I do not repeat this here as an accurate picture of the average working man today, but the fact that workers today have more character, imagination and humanity than Adam Smith attributed to the workers of his day is more a testimony to the strength of the human spirit than to the progress we have made in changing the world of work.

Unfortunately, many of the fundamental relationships between a man and his work established at the beginning of the industrial revolution persist today; the world of work has regretfully changed much less than we would like. To mention just a few:

Working hours are fixed by management: the worker who attempts to take unpaid time off will lose his job.

Basic pay is in most cases still inadequate.

Income security for the worker, especially in the United States, is tied to the particular job. If management is incompetent and the firm folds or the plant runs down, the worker suffers through no fault of his own.

Finally, working people have little control over the physical conditions in which they work: it is the employer who builds and chooses plant design and technology and who makes the initial decision as to what proportion of the resources under his control to allocate to health and safety. These choices are still based on the calculus of private profitability—costs borne by workers, such as ill heath or reduced life expectancy, are irrelevant to these decisions.

Let us now look at what progress has been made toward ameliorating these fundamentally undesirable features and at how that progress has been accomplished.

Through collective bargaining, over the years the labor movement has proven its willingness to sacrifice additional pay for longer vacations, additional holidays, rest periods, etc. But we are not complacent: the element of sacrifice is still there and will be there as long as workers are not satisfied that their incomes are adequate.

Workers today are dissatisfied with their pay not merely because their wants have increased: even according to official statistics, the average nonsupervisory worker does not earn enough to provide an urban family of four with a standard of living equal to that set by the lowest of the so-called "adequate" budgets computed by the Bureau of Labor Statistics. In addition, when a worker's wife goes out to work (or vice versa) to compensate for this inadequacy, the family usually is being doubly burdened, since our society provides scarcely any facilities for child care.

Progress in changing the noneconomic conditions of work is no less difficult today than it has been in the past. For example, the UAW's recent agreements on voluntary overtime have made the headlines for introducing some choice as to the number of hours worked per week for hundreds of thousands of workers who previously had no such choice. But to us, this is just a beginning. We are not complacent. Under the Chrysler agreement for example workers may still be required to work 9 hours a day; they can have 2-day weekends only under restrictive conditions. We must continue to struggle for the right to a 40-hour week.

With respect to a worker's control over his or her "overall standard of living," we must bear in mind that the U.S. is unique in the inadequacy of public provisions for health, pensions, disability insurance, etc. Contrary to labor's preferences, these are now job-related: when we haven't been able to get legislation to provide public benefits we have bargained hard with employers to get them to provide such benefits for our members as a second-best solution. The result has been that more and more aspects of a worker's "true standard of living" are provided in fringe benefits. The worker's total well-being is more and more tied to his or her particular job and length of service. Thus the penalties for changing jobs or losing a job weigh more heavily: the "opportunity cost" of working part-time or trying to change jobs has increased enormously.

Finally, in our attempts to get improvements in physical working conditions, we have found that even elementary remedial steps such as putting safety guards on dangerous machinery, providing adequate protective clothing, scouring slippery floors, etc. are usually taken only when they can be shown to coincide with higher profits and productivity. Where there is a conflict between productivity and improvement, the struggle is long and bitter. The difficulties of this struggle have shown that collective bargaining is not always an adequate tool. Thus the labor movement has also had to fight for legislation: to rouse public opinion to impose legal sanctions on employers who might othewise view their labor force as mere grist for the industrial mills.

(We have found over the years that attitudes have changed little since the days of slavery: at that time the treatment of slaves alternated between working them to death or feeding them enough to maintain their health and strength. Which attitude prevailed depended on the supply of slaves and the relative cost of maintenance vis-a-vis buying new stock. We recognize an analogy with today's employers' attitudes to their workers.)

Legislation alone is not always adequate. In spite of our having worked hard to get the Occupational Safety and Health Act passed, the employers' lobby managed to limit funding for enforcement. Consequently, employers' lobby managed to limit funding for enforcement. Consequently, employers' observance of the law has been spotty. Therefore, in this round of negotiations we have successfully bargained for access to the information an employer is required to submit to OSHA inspectors and for the right to monitor an employer's compliance with the law. We have also got the employers to pay the workers responsible for this monitoring for the time they spend on health and safety work. Thus we are constantly moving back and forth between government action and independent collective bargaining to exert pressure for progress wherever we can.

Up to now our efforts have had to take place in conflict situations. Conflicts are bound to arise when management unilaterally decides what is its province. In addition there is often a fundamental conflict of interest between profits and workers' welfare. Part of this struggle over the allocation of company revenue arises from the double standard applied in the allocation decision. Workers are keenly sensitive to the fact that management has one approach to its own comfort and another when it considers what is "good enough for the workers." For example, when it comes to furnishing offices and boardrooms the expense is considered a fixed-cost overhead. When it comes to providing lockers or clean dining areas for workers, the effect on productivity must first be calculated. This double standard cannot be tolerated any longer.

Workers and their union representatives claim the right to a decent life on the job even if this has to be paid for out of profits. As long ago as 1966, the tripartite (labor, government, business) National Commission on Technology, Automation and Economic Progress appointed by an act of Congress, recognized that such a reallocation of resources was justified. The Commission advised that:

". . . if productivity in the past has been oriented to the increase in the amounts of goods, some of its savings in the future can be utilized to bring a greater satisfaction in work for the individual . . ." (p. 90)

(Only two of the business members of the Commission dissented from this statement.)

Unfortunately, employers by and large get interested in workers' well-being on the job only when it can be shown that this will raise profits, or in full-employment situations such as in Scandinavia when employers are forced to compete for workers. When the priorities of labor and management conflict, the struggle is inevitably bitter regardless of the intrinsic merits of the workers' case. To give just one example: in 1961 we had to go on strike just to assure that assembly line workers could in fact take advantage of the relief time to which they theoretically were entitled. Yet management fought us because complying with our demand meant increased costs from hiring additional relief workers. What was the reaction of those responsible for influencing public opinion? The press ridiculed us. *Time* magazine contemptuously christened it "The Toilet Strike" and described it as "an outbreak of autumnal madness." Today that same press declares its commitment to the now-fashionable cause of job enrichment. This is how cynicism and alienation in the labor movement is nurtured It is not too hard to see why the labor movement thinks that too much of what has been written about "job quality" has ignored or downgraded labor's efforts.

These struggles continue—these problems are not simply part of the "bad old days": we had considerable difficulty getting Ford to accept the limited overtime agreement won from Chrysler. International Harvester, which had had voluntary overtime in its contract for years, tried very strenuously this year to get a degree of compulsion, and this was a major factor in leading to the current strike.

To take another example, we have found that labor's interest in better product quality and design is consistently ignored and instead anathema has been heaped on workers' heads: they are accused of being the first to lose that Great American Work Ethic. Let me also take this opportunity to set the record straight.

The UAW, for example, has consistently urged U.S. auto firms to compete with foreign cars on price, design and quality both on the domestic market and overseas. John DeLorean's (former GM Vice-President and Group Executive in charge of all GM car and truck divisions in North America) recent like-minded statements on the subject are the first indication of a similar viewpoint on the management side—and he spoke up publicly only after he had left GM. As we see it, such price and quality competition would hold out not only the possibility of a positive contribution by the auto industry toward easing balance-of-payments problems but also possibilities for more jobs and more satisfying jobs for auto workers. Unfortunately the American auto industry has traditionally pursued very different policies: workers on the line have on occasion been forced to install defective parts against their will. Workers have also constantly had to resist management's attempts to increase the work pace, an attempt that if successful would, among other things, guarantee shoddy workmanship; there are physical and mental limits to how many tasks a man can perform per hour, hour after hour. Workers do like to take pride in what they produce but management policies such as these make it difficult. Why should workers allow themselves to be demoralized by management's insatiable lust for profit? Yet workers are constantly being put in the position of having to defend themselves and their work from management's corrosive influence. This is one reason why we have fought hard to maintain the right to strike even while contracts are in effect over increases in work pace or in the number of tasks a worker must perform.

The lack of recognition of labor's longstanding efforts and contributions to hard-won progress in changing the world of work is keenly felt, but we persevere nonetheless. We were concerned with these issues long before the press developed the Lordstown strike into a journalistic fad. To give just one example of the breadth of our appreciation of the problem, I would like to cite part of the resolution of our 1966 Convention:

"People at work do not check their humanity at the plant door. The cold calculus of efficiency must be mitigated by consideration for the workers as human beings. The work pace must leave them enough energy at the end of the day to enjoy their time at home with their families. The environment in which they perform their labors must be as clean, as healthy, and as pleasant as it is possible to make it. The attitudes toward workers of those having managerial responsibility must conform to the democratic concept of the worth and dignity of every individual. Jobs must be adapted to the physical and mental needs of people and not vice versa. Ingenuity must be devoted to counteracting and reversing the tendency of an advancing technology to deprive work of its creative and rewarding content. Imaginative new ways must be found to enable workers to participate democratically in decisions affecting the nature of their work."

We are still committed to these principles not only for our own members but for all working people. Although many of the benefits we have won now extend to unorganized labor as well, the historical record will show that when significant progress toward these goals has been made, it has been the organized workers who have been the initiators and fighters. Our struggles in the past mean that we know from experience what it takes to progress: the amount of suffering and bitterness the labor movement has incurred in this struggle should not be underestimated.

But putting bitterness aside for the moment, what prospects do we see for changing the world of work in the future?

Any realistic approach must give due attention to an age-old employee point of view that sees work as an unpleasant necessity: the less time spent on the job, the better. There will always be some jobs from which monotony or discomfort cannot be eliminated and in these cases we may have to respect the desire to do as little of that kind of work as possible. However we in the labor movement also have positive ideas and we seek support from other groups in our efforts to improve working conditions.

We have learned that progress requires struggle: Thus the first order of business in "changing the world of work" is establishing priorities. Although on occasion our past attempts to remedy the basics have been criticized for being too narrow-minded or petty, we hope that is now behind us. Secondly, in setting priorities, both for legislative action and for influencing public opinion (as well as in collective bargaining), due respect should be paid to what rank-and-file employees see as their best interest. We also recognize the importance of an interchange between professionals and ordinary working people and we hope the former will come to understand the sources of some of the mistrust for their proposals expressed occasionally by the latter.

At the moment, we very much hope and expect that the agreement between the UAW and Chrysler providing for a joint committee on improving the work environment and job enrichment will establish a pattern for the future. In the past, we have frequently reminded management that any unilateral attempt by them to introduce so-called job enrichment programs is bound to be met with suspicion and to be resisted by workers because of management's history of putting profits first. The recent agreement gives us equal participation in program development. It will help us in our attempts to ensure that innovations do not conflict with workers' interests. We expect that this in turn will aid successful implementation of any programs the committee selects.

Although recommended by the Automation Commission back in 1966, we still think there is an urgent need for basic research into production technology that takes account of the "human" factor and not merely the "labor" factor of production.

We would like to be able to get in on the ground floor: to encourage basic research in production technology that will have built-in pollution control, more rewarding job content, and reasonable work pace. This is not a pious hope. There are examples (e.g., Borg-Beck) of management involving workers in the early design stages of the new plant they were to work in. In such cases management almost always finds that the workers can contribute useful suggestions that improve the efficiency of the operation and make a worker's life on the job easier. But again these are the cases where there is harmony of goals rather than conflict.

Finally, we hope that those in a position to influence public opinion will now support us in our efforts to build upon the noneconomic gains won in recent collective bargaining agreements.

AIR TRANSPORTATION AND THE PROPOSED EMERGENCY CONSERVATION MEASURES

Mr. CANNON. Mr. President, after having carefully reviewed the President's emergency energy message of Sunday, I am disturbed at the disastrous impact the emergency conservation measures will have on the Nation's air transportation system.

In that regard, I am at a loss to understand why air transportation was singled out to bear a disproportionate share of the burden and the cuts, while other modes of transport, both public and private, were largely left to operate on a "business as usual" basis.

In brief, the President has ordered up to a 50-percent cutback in general aviation flying and a 20-percent reduction in airline service across the Nation.

It is incomprehensible to me that our air transport system is to be cut so deeply when corresponding cutbacks have not been ordered in automobile usage, motor carrier operations, or, indeed, in any other sector of our economy.

The cutbacks ordered by the President are going to severely limit our people's ability to move by air and could have a drastic, if not fatal, impact on the U.S. general aviation industry.

If the cutbacks are carried out more than 100,000 jobs in the light aircraft manufacturing industry and related fields will be lost, the market for new aircraft, parts, and accessories will decrease by $700 million in 1974 and the support industry serving general aviation will lose $1.2 billion in sales of aircraft, fuel, maintenance, flight training, and charter flights. Already Cessna has announced its intention to terminate 2,400 jobs at Wichita.

It must be that the President and his energy advisers are totally naive and uninformed as to the results of the action announced on Sunday. In my opinion this ill-advised proposal indicates to the Nation and to the Congress that the President really does not have an equitable energy conservation policy at all—he seems to be merely applying band-aids without any thought given to the serious impact of the policy.

General aviation shipments abroad in 1973 will be $225 million. This market will be seriously affected by a decline in our domestic market.

General aviation is an important and vital industry in the American economy and an important factor in the U.S. international trade arena. It could literally be shut down by the President's action. And yet this important industry consumes less than 1 percent of the total fuel used in the entire transportation network of the United States. What sense does it make to cut this segment of transportation up to 50 percent when the savings which would be made would be truly negligible?

General aviation is fulfilling an ever-increasing transportation role in both this country and worldwide. Thousands of communities lack adequate transportation service by any method; air, rail or road. There exists in these communities a priority need for the continual availability of the readily convenient transportation service to the rest of the Nation, which general aviation provides.

General aviation public air transportation is expanding at an unprecedented rate. Charter and air taxi flying is increasing substantially. In 1972 the number of persons using the commuter airlines increased by 12 percent, and cargo use by 18 percent. An estimated 70 million people are carried in intercity travel, and 60 percent of those carried are between airports without airline service.

The U.S. Postal Service has recognized the flexibility of general aviation in transporting the mail at convenient times and outside areas not served by the scheduled carriers. As a result, Post Office Department use of general aviation has increased 40 percent.

As part of the total air transportation network, general aviation plays an important role. Seventy percent of general aviation flying is for business and commercial purposes. This includes business flying, agricultural flying, emergency, commuter and air taxi, law enforcement and other industrial and commercial applications. A recent survey by the National Business Aircraft Association showed 20 percent of business flying connects with scheduled airlines.

Mr. President, it is grossly unfair to single out this industry for enormous sacrifice. I hope that when the President is confronted with the facts as to what his ordered-cuts will do, he will reconsider his hasty action and provide relief consistent with the sacrifices asked of other segments of transportation.

While general aviation has been singled out for the heaviest cuts, airline service in the United States has been ordered heavily cut as well. I am told that the cuts ordered by the President will approximate a 20 percent reduction in service levels of mid-1973. Again, this seems to be a disproportionate and unnecessary burden. Just this week layoffs of 1,000 personnel at United Airlines, 150 at Frontier and 200 at American Airlines have been announced. Certainly more layoffs should be anticipated unless the policy changes.

Airline travel consumes less than 4 percent of the fuel used in the national transportation system and yet the air carriers are asked to make cutbacks far exceeding those ordered on other forms of transportation.

While the airlines have been operating with excessive capacity and with wasteful operations, cuts of the magnitude of 20 percent will have a dramatic impact on the public. Load factors—that is the percentage of seats filled on each flight—will climb into the high 70's. That will mean tens of thousands of persons will not be able to get an airline reservation on short notice.

Those persons who need air transportation for emergency or mercy purposes will simply be stuck because only those who have reserved a seat several weeks in advance will be accommodated.

Cutbacks of the magnitude ordered by the President will render the air transportation network unable to provide the public the service it needs and may force the Nation into a rationing of airline seats similar to that during World War II when a priority travel system had to be established to insure that essential transportation was available.

Such a stark situation was probably not even contemplated by those in the White House or the President himself when this patchwork emergency policy was put together. But that simply indicates that little if any thought has been given to the consequences of strangling our air transport system with the level of cutbacks ordered.

Mr. President, air transportation, like every other segment of our economy, must make sacrifices in order to conserve fuel and must be forced to eliminate or curtail wasteful or unnecessary operations. But air transportation cannot be singled out to make reductions far in excess of those ordered on other forms of transportation. All forms of transportation must be treated evenly and equitably, particularly in light of the fact that all of air transportation taken as a whole only consumes about 5 percent of the total transportation energy resources.

I would now like to discuss briefly the need for flexibility in the Sunday closure of gas stations on our Interstate Highway System. As we all know, the President has signed into law S. 1570, the Emergency Petroleum Allocation Act of 1973. The bill requires the President to establish within 30 days supply management, or allocation programs for crude oil and all refinery products to make sure that the fuel shortage does not fall with unfair severity on any region or any industry.

In this regard, another bill, S. 2589, the National Energy Emergency Act of 1973, was passed by the Senate and referred to the House to which I offered an amendment which was accepted, to insure that the provisions for specific energy conservation and contingency measures are sufficiently flexible. The intent was to permit reductions in energy consumption with the minimum adverse impact on local, State and regional economies.

Sunday closures certainly are not compatible with my State's economy. As you know, the economies of many States, including my own State of Nevada, depend upon tourism. Without visitors such as the 25 million who visited last year from outside of our State, Nevada's economy would wither and eventually die.

We are a State in which our hotels and resorts are our principal industry accounting for a majority of our jobs and half of our tax base. Naturally, any special penalties directed at hotels would cause chaos in Nevada in terms of employment and necessary revenue for the operation of our cities and the State itself.

In my discussion on Friday, November 16, 1973, with Senator JACKSON, the floor manager of the national energy emergency bill, the following colloquy took place:

> Mr. CANNON. If a State draws up a plan to meet the 25-percent reduction level without adopting each and every provision outlined in the bill, and the plan is accepted by the White House, would this be acceptable in terms of fulfilling the requirements of the bill?
>
> So in other words the governor can mold the energy conservation program in accordance with the specific needs of his State as he sees them in a manner which would be in the best interest of the State.
>
> Mr. JACKSON. Yes, if the reduction level can be achieved by the State, the Federal Government would not impose its own alternative to a State's conservation program. The legislation recognizes that what may be unnecessary usage of energy in one State's economy, may be vital to another State's economy. Therefore, if the State can achieve a 25-percent reduction I would see no reason to restrict hours of operation or demand closure of sections of an industry vital to the economy of that State, such as Nevada's tourism industry.
>
> Mr. CANNON. In order to clarify this provision of the bill, I would like to introduce, on behalf of myself and Senator BIBLE, an amendment to S. 2589 which would affirm the flexibility feature of the energy conservation program, so that the desired reductions in energy consumption may be achieved with the minimum adverse impact on local, State, and regional economies and employment levels. I have discussed this with the distinguished floor manager of the bill and it is my understanding that he finds the amendment acceptable.
>
> Mr. JACKSON. Mr. President, I believe that this amendment, which the Senators from Nevada offer, helps to clarify the intent of the bill and I urge its adoption.
>
> Mr. CANNON. Mr. President, the amendment is self-explanatory. It simply writes language into the bill to make sure that the governors and the State plans have flexibility in meeting the desired reduction requirement so that it will have a minimum impact on the local industries and the local economies of a particular State and area involved.

Hence the question, why close on Sundays? Why not some other day during the week more amenable to the nature of a State's tourism industry? The methodology should be left up to the Governors of the various States who can best determine how the savings should be made. As long as the percentages of reduction are met, how it is done should not be rigid and inflexible.

I have just received the following telegram from the Governor of Nevada, calling attention to the urgency of this program:

> I have sent the following telegram to President Nixon: I urgently request clarification of your emergency measure calling for all day Sunday closure of gasoline stations nationwide. Nevadans have strongly demonstrated their willingness to make sacrifices in the face of an acute energy shortage and will continue to exert every equitable effort to drastically reduce energy consump-

tion. But the burden which would be imposed on this State by all day Sunday closure of gasoline stations could effect the heartline of Nevada's economy—tourism—and constitutes a more potentially greater economic sacrifice here than in other States. Nevadans are willing and prepared to further reduce energy consumption and are encouraged by your pledge that emergency measures will be carried out with a minimum damage to the economy, as specified in the Emergency Energy Act already approved by the Senate and now before the House. All day Sunday closure has a potential of robbing thousands of our citizens of their tourism oriented jobs. In accordance with the language of the proposed Emergency Energy Act, I therefore strongly urge that you permit retail gasoline dealers in each State to decide the day on which they will shut down their pumps.

Mike O'Callaghan,
Governor of Nevada.

I call upon the President to seriously consider the flexibility written into S. 2589 and to reassess his hasty action by restructuring his policy to reflect even-handed and proportionate cuts in all modes of transportation and in all industries.

EMBARGO ON U.S. OIL EXPORTS AND THE NETHERLANDS

Mr. PERCY. Mr. President, admittedly the United States is in the midst of an energy crisis, a crisis that is going to grow worse before it gets better.

One of the proposals often mentioned as a means of conserving energy resources here at home is to place an absolute ban on the exportation of U.S. petroleum products. That is an understandable reaction and one which I can support in general. However, we should retain some flexibility and not place an absolute mandatory ban on the export of all U.S. petroleum products.

There are friends of the United States, such as the Netherlands, who may find themselves in such desperate straits at some point this winter that we will want to be able to provide them some petroleum. Admittedly, the energy shortage here at home will be severe—a cut of 10 to 17 percent in total energy supplies. But the Netherlands, almost totally dependent on Middle East oil, may suffer an 80 percent or more cutoff in supply. While the energy crisis may mean discomfort for Americans it could mean total disaster for a country such as the Netherlands, a country facing cold and deprivation only because it refuses to condemn the right of Israel to existence.

I am sure, the American people would understand and would be willing to accept a further cutback of much less than 1 percent in our total energy supplies this winter if it meant the difference between life and death in the Netherlands.

Therefore, Mr. President, I think we should retain the ability to export petroleum products if necessary to help our friends and we should reject a total ban on petroleum products.

CHILDREN AND PRODUCT SAFETY

Mr. HARTKE. Mr. President, more than a year ago, the President signed into law the Consumer Product Safety Act. This legislation established a Consumer Product Safety Commission to establish standards which would assure the public protection against hazardous products. One of the prime beneficiaries of this law would be the thousands upon thousands of children who are killed or injured each year as a direct result of hazardous toys, household products, and poisons.

Among the foremost objectives of the Commission was expected to be development of regulations which would require the use of child-resistant containers. To date, however, the Commission has not acted.

Mr. President, I ask unanimous consent that a letter on this subject from the Sunbeam Plastics Corp. of Evansville, Ind., together with an article from Food & Drug Packaging be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Sunbeam Plastics Corp.,
Evansville, Ind., October 31, 1973

Senator Vance Hartke,
Russell Office Building,
Washington, D.C.

My Dear Senator Hartke: Our company is a manufacturer of safety closures—and, we like to think, one of the leaders in the field. With the advent of the Poison Prevention Packaging Act we mounted an extensive research and development program which has resulted in more than thirty patents in the field of child-resistant closures. We have spent several hundred thousand dollars in tools and equipment in anticipation and expectation that the law would be implemented.

We, and other manufacturers of safety packaging components, are considerably disturbed by the complete absence of implementation since the Consumer Product Safety Commission was established more than a year ago. I am enclosing copy of a letter I have written to Mr. Simpson, Chairman of the CPSC, outlining our views.

I strongly urge you to look into this situation and press for action that Congress must have believed necessary when it passed the original PPP Act, nearly three years ago.

Industry becomes greatly confused when, through lackadiasical administration, the clear intent of laws passed by the Congress are completely nullified.

Sincerely,

E. A. Carson, *President.*

P.S.—After nearly three years since passage of PPPA, only ten product categories have been thus far regulated to require safety packaging.

Considering the hundreds of products whose toxic contents have been ingested by thousands of children with resulting fatalities, injuries and illnesses, the record of implementation is pretty sad, isn't it? We hope you will lend your efforts to get this program moving.

Sunbeam Plastics Corp.,
Evansville, Ind., October 30,1973.

Mr. Richard Simpson,
Consumer Product Safety Commission,
Bethesda, Md.

Dear Mr. Simpson: Sunbeam Plastics Corporation is a manufacturer of child-resistant closures. More than 30 patents have been granted during a five-year research and development program. We believe our expertise is attested to by appointment of our Executive Vice President to the initial Technical Advisory Committee to the BPS, established by the Poison Prevention Packaging Act of 1970.

We have become greatly disturbed by the total absence of implementation of the PPPA since the Consumer Product Safety Commission Act was passed October 27, 1972 and since you were appointed Chairman May 14, 1973. Here's he record:

1. The last regulation, covering oral prescription drugs, was published April 16, 1973, one month prior to your appointment as chairman.

2. Not a single additional product has been proposed for regulation since your appointment nearly six months ago.

3. Three additional product categories proposed for regulation prior to your appointment have not been acted upon:

Category	Examples	Proposed regulation in Federal Register	Date comments due	Time since comments due date (months)
Economic poisons	Insecticides pesticides	Sept. 14, 1972	Nov. 13, 1972	12
Ethylene glycol	Antifreeze	Dec. 28, 1972	Feb. 27, 1973	8
Liquid paint solvents	Paint thinners	Feb. 9, 1973	Apr. 10, 1973	7

Presumably the FDA, through its BPS, believed there was a justifiable basis for these proposed regulations.

The inordinate administrative delay has created chaotic mass confusion in the industry. Anti-freeze is a specific case at point. Nine months have elapsed since its proposed regulation was published in the Federal Register. Seven months have passed since expiration of the date comments were due.

Marketers, contract fillers, plastic bottle manufacturers, metal container producers, closure manufacturers—all are completely in the dark as to when the CPSC is going to take action on issuing the final regulation. Plans for the 1974 filling season are left dangling in costly mid-air.

Hundreds of thousands of dollars have been spent by the industry in evaluating various child-resistant containers, closures, changes in filling line equipment, shipping containers, market tests, etc., in anticipation that a regulation would be issued by the Commission in time to permit efficient and orderly planning for the 1974 season. Repeated status inquiries of this regulation at the CPSC office have been met with noncommittal silence. This has given rise to numerous rumors rampant in the trade. Examples:

1. The CPSC has voted approval of a regulation but it has been "pocket vetoed" on your desk.

2. The largest anti-freeze marketer has convinced the Commission that there are no satisfactory safety closures available. (The fact is, there are a number of closures. Sunbeam itself has two styles that have passed Government-specified protocol.)

3. There is not sufficient closure capacity available. (The fact is that Sunbeam itself has in production now, or will have by January 1, nearly enough capacity to supply the entire anti-freeze industry.)

4. The regulation has been stalled at the request of a major marketer for "more time," hopefully until it is too late for the Commission to order safety packaging for the 1974 season.

5. The CPCS plans to issue no additional regulation of any kind and is considering present regulated categories as filling the entire product need for safety containers. This latter rumor was probably fostered by

your interview with "Food & Drug Packaging" as reported in the September 27 issue. Here is a direct quote from this article:

Q. "In addition to iron salt preparations, veterinary prescription drugs, pine oil, ammonia and camphor products, what other new PPPA categories might be proposed in the future?"

A. "I'm not sure now. I've discussed this in general with the staff and asked them if they felt that the existing and proposed categories covered the field. They've indicated that they thought so. I also asked them if they might recommend that no new categories be proposed and, again, they agreed. They're now working on a recommendation on categories."

Q. "So it's possible that there may not be any more new categories?"

A. "Yes, it's possible. There are certainly some under consideration already, but it is possible that the existing categories may already cover the most dangerous areas."

Your staff's conclusion that no new categories are needed is diametrically opposite the conclusion reached by the previous BPS staff and is not supported by statistics on fatalities, injuries and sickness caused by ingestion of toxic substance by children under five. The number of children who have died, been made ill, or been injured during the period of administrative delay is inestimable.

The lack of clear-cut, prompt, forthright action in implementing the PPP Act of 1970, now nearly three years old, has in effect nullified or "pocket vetoed" what presumably was the intent of Congress when it passed the law. Industry momentum for complying with PPPA regulations has been lost by failure of CPCS to implement pending proposed regulations. Inflated, exaggerated, and outright false claims by large corporations of the economic impact of safety packaging has misled the CPCS into taking a timid, halting approach to problems that demand forthright evaluation, decision and action.

If Congress and the Government expect to win and maintain industry cooperation for its programs, it is imperative that implementation of these laws be made in a manner that will encourage and not stifle and discourage industry efforts.

A great deal of research and development of child-resistant packaging has ground to a halt in the face of complete inaction by the CPCS.

Time required to "organize," "orient," "staff," "get direction" has expired for the CPCS. To rekindle and reestablish industry confidence in the credibility of the CPCS, action must replace indecisive stalling.

There are three product categories—Economic Poisons; Ethylene Glycol, and Liquid Paint Solvents—on which the "due for comment" date passed from 7 to 12 months ago. Certainly these categories were subjected to thorough study and evaluation before regulation was proposed. Surely 7 to 12 months is adequate time to evaluate comments and reach a decision. We feel industry is entitled to clear-cut answers to these three questions:

1. What is holding up issuance of the final regulations?
2. By what date will they be issued?
3. Does your statement stand that no further categories will come under regulation?

Nit-picking can go on forever. The basic questions in regard to any product category are pretty elementary and the answers readily available:

1. Is the product toxic?
2. Is there a record of significant injuries, illness and fatalities resulting from ingestion by children?
3. Will child-resistant packaging effectively reduce these fatalities and injuries?
4. Is child-resistant packaging meeting Government-specified protocol available, or will be available by the proposed effective date of a given regulation?

Enclosed is a Xerox of an editorial in the September 27 issue of "Food & Drug Packaging." The attitude of marketers whose products may be candidates for child-resistant packaging is clearly shown. A quote of the pertinent section is as follows:

"There's good news and there's bad news.

"First, the good news:

"The Consumer Product Safety Commission isn't likely to require additional product categories to comply with the Poison Prevention Packaging Act in the immediate future.

"Now, the bad news:

"The CPSC is going to crack down on the existing PPPA regulations."

It is obvious that marketers consider economic cost factors involved in safety packaging as "bad news." No reference is made to the saving of lives as being "good news."

The safety packaging industry is at the crossroads, Mr. Simpson. It is now in position to fill the requirements of product categories awaiting issuance of a regulation. Prompt, affirmative action will reestablish confidence of the industry that the CPSC intends to implement the provisions of the PPPA of 1970.

Further stalling, inaction and indecision by the CPSC will result in a quiet deflation and dismantling of industry programs originally designed to fill the projected safety packaging needs of the nation's marketers of toxic products. A call now for action can hardly be considered a demand for precipitate, ill-advised judgment in view of the fact the PPPA was signed into law nearly three years ago. We strongly believe the safety packaging industry is entitled to some straight answers from Government—now. I hope we may look forward to getting them.

Sincerely,

E. A. Carson, *President*.

CPSC WILL EMPHASIZE ENFORCEMENT OF PPPA REGS

The purposes of the Consumer Product Safety Act are:

"(1) to protect the public against unreasonable risks of injury associated with consumer products:

"(2) to assist consumers in evaluating the comparative safety of consumer products;

"(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

"(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries."

Washington.—Finding that approximately 20 million people are injured by products used in and around the home (of these, 110,000 are permanently disabled and 30,000 are killed), Congress last year passed the Consumer Product Safety Act which the President signed into law on October 27, 1972.

The purposes of the Act listed above are to be fulfilled under the direction of the Consumer Product Safety Commission. Activated on May 14, 1973 when four of the five commissioners (there is still one vacancy) were sworn in, the Commission has the authority to regulate over 10,000 different products.

In addition to the Poison Prevention Packaging Act, the Commission has also been handed three other acts previously administered by other agencies—the Flammable Fabrics Act, the Federal Hazardous Substances Act and the Refrigerator Door Safety Act. Under the Consumer Product Safety Act, the Commission has powers extending beyond the range of the four individual acts.

Products exempted from the act include non-consumer products; drugs, devices or cosmetics, and food (as defined in the Federal Food, Drug and Cosmetic Act); tobacco and tobacco products; motor vehicles and equipment; economic poisons (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), boats; and aircraft.

A CPSC spokesman points out that these products are exempt for all purposes other than poison prevention packaging. Under the Consumer Product Safety Act, the CPSC does not touch these products as consumer products except as they relate to the PPPA.

With the changeover to the CPSC, part 295 of the PPPA becomes part 1700 of Title 16, Chapter II of the Consumer Product Safety Act. The August 7 Federal Register notes this fact and lists the sections of the PPPA, giving current product categories. As one CPSC spokesman points out, the PPPA has not been changed at all, just the numbers of the sections are different.

One of the key figures in the implementation of the Consumer Product Safety Act is Chairman Richard Simpson, 43 year old Republican who was formerly Acting Assistant Secretary of Commerce for Science and Technology. He will serve a three-year term. Noted for his calm bipartisan manner, Mr. Simpson, an electrical engineer, plans "to rule with reason."

In his offices at the Commission's temporary headquarters in Bethesda, Maryland, Mr. Simpson discussed his plans for the Poison Prevention Packaging Act with FDA Managing Editor Martha Downing.

Mr. Simpson, how will things change for the PPPA under Consumer Product Safety Commission? As you know, Miss Downing, the CPSC has authority over quite a number of products and it is an agency that has its own dedicated field force.

Because of this, the enforcement of the law could probably be described as *tougher*. We intend to use and won't hesitate to use all of the authority granted to us by the Congress to enforce the PPPA as well as the other laws.

Under the Consumer Product Safety Act, which created this commission and transferred the authorities for the four laws to us, we have more authority to get the job of consumer protection done than the individual laws allowed. The Act directs us to use the existing authorities, such as those under the PPPA, first. Then, to the extent that there is not sufficient authority to get the job done, we can regulate under the authority of the Consumer Product Safety Act.

Specifically, the Act provides for civil penalties up to half a million dollars and criminal penalties up to $50,000 and one year in jail. This means we can penalize individuals, not just corporations. The severest penalties would be used for willful violations, those made as a calculated business risk with knowledge of the law.

We also have the authority to order repurchase, replacement, repair, and recall of a product. And we won't hesitate to use that if we find it necessary to do so.

Does the Commission have other powers which will help in the enforcement of the laws? Yes, there's an interesting portion of the Act known as section 15b. This states that any manufacturer, distributor or retailer who finds that his product may be such as to cause a "substantial product hazard,"—regardless of whether or not a regulation covering that specific product has been issued—has the obligation to notify the Commission or he is in violation of the law.

In other words, if there is a poisoning or a reason to believe that someone might be injured by a product in the marketplace, we should be notified—without having to find the hazardous product ourselves.

How will reports relating to the PPPA under section 15(b) be handled? We recently published proposed procedures for reporting noncomplying or defective consumer products in the Federal Register (see related box). This information, including the company name, the product and the nature of the problem, would be released on request.

Now that we have the Consumer Product Safety Commission, what happens to the Bureau of Product Safety? It no longer exists as such. The personnel and resources in the old Bureau were transferred into the Commission upon its activation, May 14, 1973.

What size staff does the CPSC have? We presently have around 580 people—about 300 in the field and the balance in Washington. And we're authorized—if Congress approves our budget, and I think they will—to add 200 more to the staff by the end of 1974. Some of these will be in the field, some in Washington.

Our field staff is different than it was under the Bureau of Product Safety. When the BPS was part of the FDA, the work in the field was done by the FDA field force which was also working for the Bureau of Drugs, the Bureau of Foods, the Bureau of Product Safety and others. Now the field force is entirely dedicated to consumer product safety.

This field staff will be primarily checking for compliance with the four laws mentioned.

Will the CPSC report to the Department of Health, Education and Welfare? No, the CPSC is a totally independent Federal regulatory agency. We do not report to the HEW or any other Federal agency. We report, much like the Federal Trade Commission and the Federal Communications Commission, to the Congress yearly.

In fact, we're even more independent than the others because of a new wrinkle in our act that has to do with budget and legislative items. We submit our budget to Congress and to the Office of Management and Budget simultaneously. Legislative proposals and responses go to the Congress and the White House at the same time. Budgets from other agencies go to the OMB where they are incorporated into the budget process. Congress wanted to see our budget in its original form.

What happens when a product manufacturer or retailer is found not complying with the PPPA? Our first action is to find the extent of the possible injury caused by the noncompliance. And, of course, we would deal with the products, to get them off the market. If necessary, we could seize them, or else require that the products be recalled, replaced or repurchased.

We could, of course, go the full route. If it was a flagrant violation, or a second offense, we would be inclined to apply the full weight of the law.

Do you anticipate being in court quite a bit? I would say so. We've been in court already and I think that's the nature of it. Every regulatory agency is in court a lot.

In addition to iron salt preparations, veterinary prescription drugs, pine oil, ammonia and camphor products, what other new PPPA categories might be proposed in the future? I'm not sure now. I've discussed this in general with the staff and asked them if they felt that the existing and proposed categories covered the field. They've indicated that they thought so.

I also asked them if they might recommend that no new categories be proposed and, again, they agreed. They've now working on a recommendation on categories.

So it's possible that there may not be any more new categories? Yes, it's possible. There are certainly some under consideration already, but it is possible that the existing categories may already cover the most dangerous areas.

It will be interesting to see what the staff recommends. They are currently working on those recommendations and should have them soon.

Could it be that in relation to the PPPA, the Commission will be more involved in enforcement than in creating new regulations? If the staff recommendations are valid and the existing categories have essentially covered the field, then our job may well be primarily an enforcement process.

Also, our Bureau of Biomedical Sciences is working on the area of chronic hazards in addition to the hazards associated with one-time ingestion. For example, aerosols can be considered dangerous after an extended period of time, as opposed to being dangerous the first time they're used.

Some product manufactuers claim that they cannot comply with the PPPA because there are not enough safety closures or other special packaging available. Is this true? We hear that complaint also. And we investigate. I think it's very difficult to generalize (but having said so, let me generalize).

We get complaints from closure manufacturers that they have a surplus capacity and nobody is buying them. So maybe we can help mate the two.

In one case where we've investigated, it seems that part of the problem is that a particular manufacturer wants to work with a particular closure supplier. To the extent that everybody wants closures from the same source, then that supply may be limited. However, as long as closures are available from any source, we feel that there is no need to extend the standard.

Have you noted a shortage of special packaging in any particular area, such as for oven paste cleaners? No, none that I know of. We denied the request for an extension to producers of oven cleaner pastes and I understand that they did find some closures.

If someone wants a list of producers of special packaging, where can he get it? We have it available: Consumer Product Safety Commission, Washington, D.C. 20207.

Do you have plans for evaluating the effectiveness of the PPPA in preventing child poisonings? Through the National Electronic Surveillance System (NEISS), we should be in a position to determine the effectiveness of a given action. There are some difficulties with respect to the PPPA regulations, since the law allows one non-complying size and some parents may be purchasing this package.

We do intend to try to measure the effectiveness of the law and also to forecast how much it is costing the American consumers for the actions we are taking.

Is NEISS the main source of information used in connection with the PPPA? NEISS, along with the Poison Control Centers, are our two main sources of information. While NEISS is operated by the Commission (with primary responsibility in the Bureau of Epidemiology), the Poison Control Centers are directed by the Food & Drug Administration. They in turn provide the information to us.

We also look to individual consumer contacts, state and local medical examiners and others to provide information.

NEISS is a computerized information reporting system which provides data daily from 119 hospital emergency rooms across the country. You can extrapolate this information and determine with some degree of accuracy all of the product related injuries in the nation that are treated in emergency wards.

What NEISS does not tell us about, however, are the injuries reported to physician's offices or those from death certificates. We also lose track of those that go into emergency wards and then are admitted to hospitals.

The best guess is that of all injuries, about 40 percent are treated in emergency wards. If we could verify this figure and if we could verify that the same types of injuries are treated elsewhere, then we wouldn't need to gather information for physicians' offices.

The system does provide quite a bit of information—the age of the person injured and the product involved—which we use as a beginning for indepth investigations for regulatory actions.

Do you anticipate changes in the testing protocol for child-resistant packaging? There are none planned at present.

What are the possibilities, then, for mechanical tests such as the procedures the American Society for Testing Materials (ASTM) is working on? I think these should be worked on because the protocol seems like a relatively clumsy mechanism particularly from an enforcement point of view. If you find a violation, you need to confirm that it was a violation, and I suppose you would have to go back to the protocol. If you look at some of the closures, you would think that once having passed the protocol, that you could define that particular closure in terms of some fairly simple engineering skills.

So maybe mechanical testing could be used in addition to the protocol. I'm not sure now.

Do you plan more or fewer meetings of the PPPA Technical Advisory Committee? We would intend to have as frequent meetings as possible to gain advice from the committee. But I view the Technical Advisory Committees (and there are three of them under the Consumer Product Safety Act: the PPPA, the Flammable Fabrics and the general Product Safety) as advisory and not decision making.

At one meeting of the PPPA technical advisory committee you told the group to go ahead and make recommendations, even if they might fall outside the scope of their responsibility. What effect will this have? I do not want to restrict any advisory committee on any subject of legitimate interest to product safety. It's still an open question as to how the advisory committees will work among each other, and it could be that recommendations from one will affect the others.

One of the problems discussed at the last PPPA Technical Advisory Committee meeting was the problem of communicating with industry. Has anything been done about this? This is one of the problems of the CPSC—communicating with industry and the consuming public—letting them know that we exist . . . that we're alive and well and in business. I think it would be a shame, for instance, if the first time an industry found out about us was when it was subject to regulation.

It's particularly a problem with small businesses—they don't know that we exist and we don't know about them. And yet they may be subject to regulations. We do have the authority to provide funds for some of them to attend meetings and participate on standards writing committees.

What other authority over packaging, other than safety packaging, does the Commission have? Under the Product Safety Act, we also have the authority to specify not only the requirements of the product, but also of the packaging—to the extent that the package might affect the safety. It's much broader than just safety closures.

And in packaging, the material itself—such as thin films—may provide the hazard. We also have several pending regulations that concern packaging. One of them has to do with glass bottles, particularly those that are used for soft drinks and those that might explode under heat.

In summary, then, the Commission seems to plan to use the authority of the individual laws and of the Product Safety Act to provide tougher enforcement of the Poison Prevention Packaging Act, the Flammable Fabrics Act, the Federal Hazardous Substances Act, and the Refrigerator Door Safety Act. The enforcement philosophy that we're going to take under all of the acts, is one where we will use the full authority granted to us by Congress, to provide the motivation for manufacturers to comply with the laws and to find out whether or not they're complying.

For instance, we cannot inspect all the retail establishments in the U.S. But we can provide surveillance and if we find a non-complying product, the penalty will be sufficient. If the only penalty is to seize the product or a particular batch of products, then that's not very severe. So the manufacturer may take a calculated business risk.

We don't expect to inspect the entire marketplace for compliance. We plan for the manufacturers to do that, because it will be a very severe penalty if we catch a noncomplying product.

Who To Call

For more information on the PPPA, industry representatives should contact:

Dr. Robert Hehir, Director
CPSC Bureau of Biomedical Science

Consumers can contact CPSC by writing directly:

Consumer Product Safety Commission
Washington, D.C. 20207

or through one of the 14 field offices (see chart).

With respect to "unsafe products," consumers should call the CPSC Bureau of Compliance at (301) 496–7631.

Keeping Enforcement in Perspective

(By Ben Miyares)

There's good news and there's bad news. First, the good news:

The Consumer Product Safety Commission isn't likely to require additional product categories to comply with the Poison Prevention Packaging Act in the immediate future.

Now, the bad news:

The CPSC is going to crack down on the existing PPPA regulations.

At least that's the impression you get from Richard Simpson, Commissioner of the fledgling Consumer Product Safety Commission which has taken over from the FDA's Bureau of Product Safety the administration and enforcement authority for the Poison Prevention Packaging Act.

Dick Simpson talks tough. In his recent conversation with FDP he makes it clear that in safety matters in general and in regard to the PPPA in particular, there's been a decided shift away from further rule making and more toward enforcement of the regulations on the books.

Congress, he points out, has armed the CPSC with some pretty impressive policing weapons not included in the FDA's PPPA arsenal, namely civil penalties up to half a million dollars, criminal penalties up to $50,000 and jail sentences of up to a year for individual offenders.

He hasn't used the saber yet, but he makes a point of rattling it when he talks about the CPSC's authority.

This shift in regulatory posture, while significant, would be far more serious if child-resistant packages were in short supply. Happily, the number of concepts that have passed the established testing protocol continues to grow.

Unfortunately, one thing the FDA's Bureau of Product Safety failed to fully comprehend during its reign—and something the new commissioner apparently does not yet fully appreciate—is the fact that a package that passes protocol won't necessarily pass a packager's quality control muster.

And packagers have felt the PPPA crunch most acutely in relation to the time (or lack of it) allowed for compliance once a regulation is finalized. In setting forth the CPSC's tough enforcement posture, Mr. Simpson hopefully will be guided not only by the letter of the law but by a packager's spirit of compliance and due consideration of the "real life" production problems faced by packagers.

Point of View

"It has long been recognized that no amount of human or animal testing can ever demonstrate the absolute absence of harm. All that one can ever show with certainty is the existence of harm. The marketing of any product therefore carries with it an inescapable but undeterminable risk.

"With the recent association of vaginal cancer in the female offspring of mothers with the use of diethylstilbestrol during pregnancy, moreover, this point has become a matter of immediate and serious concern to the Food and Drug Administration. We presently have no way whatever to predict this of future harm for products about to be marketed, and our ability to monitor the safety of already-marketed products is limited.

"Even centuries of use of natural substances in the diet, without noticeable adverse effects, cannot be regarded as proof of safety, since it is based only upon uncontrolled observations.

"Thus, proof of complete safety appears at this moment to be an illusory goal. Both those who challenge and those who defend the safety of any particular substance can do so with the assurance that information adequate either to support or to refute their contentions is not now available, and may never be. And today's decisions on the safety of food and drugs will therefore inevitably be made on the basis of incomplete scientific information," Peter Barton Hutt, assistant general counsel for food and drugs, Dept. of Health, Education and Welfare.

THE NEED FOR AN INDEPENDENT PROSECUTOR

Mr. BAYH. Mr. President, the lead editorial in this morning's Washington Post aptly points out still another loophole which the President and the Acting Attorney General are attempting to use to prevent the present Special Prosecutor, Mr. Jaworski, from looking into areas that the White House does not want investigated. When Mr. Jaworski's appointment was announced, the Acting Attorney General said that he would not be fired as Mr. Cox was unless there was a so-called consensus that his firing was justified among a group of eight senior Members of the House and Senate. Now, Mr. Bork has amended his guidelines to provide that Mr. Jaworski's jurisdiction may be limited upon the agreement of some uncertain number of these same individuals. As the Post editorial points out:

> The fact is that it is not a mere correction of a drafting error and it is not a measure which strengthens the prosecutor's hand. Flat and simple, it is the first move to legitimize Presidential intrusion into the jurisdiction of the Special Prosecutor.

Shenanigans such as this serve only to more clearly demonstrate the need for a truly independent prosecutor. I ask unanimous consent that the full text of the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record. as follows:

The President and the Special Prosecutor

"The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees and any other matters which he consents to have assigned to him by the Attorney General."

Thus is the authority granted to the Special Watergate Prosecutor described in the regulation re-establishing the Office of Watergate Special Prosecution Force after it had been abolished by President Nixon in the wake of his famous "Saturday night massacre." There was, until last week, *nothing* in that document about limiting the jurisdiction of the Special Prosecutor nor was there anything on that subject in the original charter, under which Archibald Cox operated.

Now, however, there is.

Acting Attorney General Robert Bork amended the charter a week ago Monday. He added wording which provides, for the first time, the manner in which the President can limit the Special Prosecutor's jurisdiction—by first consulting with certain specified leaders of Congress. Mr. Bork explained that this new proviso was merely a correction of a "drafting error," and he added that it was really a safeguard for the Special Prosecutor because any limit on his jurisdiction will now require a consensus—a consensus, by the way of a congressional leadership group that includes a majority which, based on past performance, would generally incline toward the President's point of view on most issues.

The fact is that it is *not* a mere correction of a drafting error and it is *not* a measure which strengthens the prosecutor's hand. Flat and simple, it is the first move to *legitimize* presidential intrusion into the jurisdiction of the Special Prosecutor.

There is no question that the White House is strongly inclined to intrude on that jurisdiction. Elliot Richardson has told us that he received a number of inquiries from the White House as to whether Mr. Cox was exceeding his jurisdiction. On these occasions, Mr. Richardson always consulted with Mr. Cox, but never attempted to limit the Special Prosecutor's jurisdiction. Nobody knows what Mr. Bork's reaction will be in a similar situation or what Sen. Saxbe's reaction will be if the Senate confirms him as Attorney General.

What we do know, however, is that the new Special Prosecutor, Leon Jaworski, inherited from his predecessor five separate task forces, that these task forces have remained intact, and that they are working in areas that go far beyond the Watergate break-in and subsequent cover-up. The other four areas include the activities of the so-called plumbers unit of special presidential parapolice, campaign contributions (including the milk deal), the ITT affair, and campaign "dirty tricks." So far as we know, Mr. Jaworski has given no indication that he considers any of these subjects beyond his jurisdiction, and the five original task forces have been retained intact. All the evidence suggests, what's more, that the new prosecutor accepts Mr. Cox's belief that the nine subpoenaed Watergate tapes and supporting documents represent only a fraction of the material that is needed from the White House and that would have been sought by Mr. Cox once the separation of powers question and the related issue of executive privilege had been resolved, as they largely have been, by the courts.

We do know, moreover, what the inclination of the White House is and that is what troubles us. In his meeting with Associated Press Managing Editors, Mr. Nixon told us how he would limit the Special Prosecutor's jurisdiction. "I told Mr. Petersen," "the President said, 'that the job he had—and I would have said the same thing to Mr. Cox—was to investigate the Watergate matter, that national security matters were not matters that should be investigated, because there were some highly sensitive matters involved, not only in Ellsberg, but also another matter so sensitive that even Senator Ervin and Senator Baker have decided that they should not delve further into them.

"I don't mean by that we are going to throw the cloak of national security over something because we are guilty of something. I am simply saying that where the national security would be disserved by having an investigation, the President has the responsibility to protect it, and I am going to do so."

So, we have from Mr. Nixon's own mouth his notion of the breadth of the Special Prosecutor's jurisdiction. He would have told Mr. Cox that his job was solely the Watergate matter—excluding, presumably, investigations of the plumbers, the milk case, campaign contributions and ITT—and, but for the insistence of Messrs. Kleindienst and Petersen, he would have kept the prosecutors out of the burglary of Dr. Ellsberg's psychiatrist's office. Yet, in California, that "national security" burglary has produced four criminal indictments and in the Federal District Court here, it has already produced another indictment with more, presumably, to come. Nevertheless, as of Nov. 17, Mr. Nixon did not seem to have tailored his national security cloak to any significant degree.

It is quite clear that the cloak Mr. Nixon is in fact using is much too broad. By his promiscuous use of such terms as national security, presidential papers and presidential confidentiality, Mr. Nixon has effectively disqualified himself as a competent judge of what the Special Prosecutor's responsibilities are appropriately to be. Fortunately, Leon Jaworski seems not to be unduly cowed by Mr. Nixon's invocation of such slippery phrases. Nevertheless, Mr. Bork's latest addition to Mr. Jaworski's charter is disconcerting in view of the White House's demonstrated desire to hem the investigations in at every turn. The least the public should require of this latest procedure is that there be full disclosure of each negotiation the White House has with the specified leaders of Congress on any matters involving the prosecutor's handling of his responsibilities and the breadth of the jurisdiction his office has in the investigations he is conducting.

EXECUTIVE BRANCH CONTROL OVER REGULATORY AGENCIES

Mr. HUMPHREY. Mr. President, on August 3, 1973, I introduced Senate Resolution 160, calling for the establishment of a Senate Select Committee to study and investigate the regulatory commissions of the U.S. Government.

In my remarks at that time I outlined two basic problems in this area.

First, the executive branch of our Government has assumed increased control over these agencies. And second, the commissions themselves appear too often to reflect the special interest they are supposed to regulate.

I would like at this time to discuss an important article by a recognized authority on the problems of executive branch control over these agencies.

In an article published in the winter 1969 issue of the Federal Bar Journal, entitled "The Status of Regulatory Independence," then-Federal Trade Commissioner Everette MacIntyre discusses the developments which have led to increased executive control over the regulatory agencies. Former Commissioner MacIntyre points out that the specific intent of Congress in creating each of the Federal regulatory agencies was to establish an "arm of the Congress" free from the influence, direction, or oversight of the executive branch.

This original intent, moreover, has not been changed; Congress has always sought to maintain the independence of the regulatory agencies from executive control. However, as an inadvertent byproduct of certain laws enacted by Congress, the fulfillment of this intent has been undermined, despite the fact that these laws were designed to promote orderly and efficient Government.

One of these laws was the Budget and Accounting Act of 1921. This act was designed to streamline and improve the budgetary policy by funneling budget requests of all governmental units through the Bureau of the Budget, subsequently designated the Office of Management and Budget.

The effect of this law on the regulatory agencies, however, went beyond merely the housekeeping function intended by Congress. With the power of reviewing and cutting regulatory agency appropriation requests, the Bureau of the Budget—OMB—gradually developed a high degree of control over the priorities of regulation.

The Judges Act of 1925, also designed to promote governmental efficiency, required the agencies to channel their Supreme Court cases through the Attorney General's office. However, this has given the executive branch discretion over which cases would be pressed.

The Federal Reports Act of 1942 was enacted to protect the Nation's businessmen from deluges of Federal forms and reports by requiring in most cases such forms be approved by the Bureau of the Budget.

In practice, this act has made it possible for the OMB to exercise a good deal of control over the investigative functions of the regulatory agencies.

The power of the OMB over regulatory agencies is further extended through the practice whereby regulatory agencies submit their legislative proposals to the Congress through the OMB. This central clearance of agency legislative proposals enables the executive branch, through the OMB, to determine, in effect, the priorities and policies of regulatory agencies.

The historical development of executive control over the regulatory agencies through those means I have mentioned and others is well documented by Commissioner MacIntyre in his excellent article. Those of us in the Senate who have dealt with the various agencies, and there are few of us who have not, are well aware of the significance of the problems brought out in this article. Numerous witnesses have testified before various committees and subcommittees of this body on the subject.

In my remarks in the Senate on August 3, 1973, I quoted from the testimony of then-FCC Commissioner Nicholas Johnson before the Subcommittee on Communications of the Senate Commerce Committee. Commissioner Johnson cited many of the ways in which the executive branch exercises control over the FCC and concluded:

> The facade of "independence" and Congressional scrutiny is maintained, while the Executive can exercise control without assuming responsibility for the agencies' action.

Regulatory independence was the subject of 7 days of hearings held during the 92d Congress by the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations. The findings of these hearings have been incorporated into S. 704, introduced during this Congress by my distinguished colleague and cosponsor on Senate Resolution 160, the Senator from Montana (Mr. METCALF).

A major step toward the goal of S. 704, to restore the independence of certain regulatory agencies of the Federal Government, was taken in November with the passage and signing of the Alaska pipeline bill. Upon the initiative of the distinguished Senator from Washington (Mr. JACKSON), the Alaska pipeline bill contained two sections which take an essential first step toward freeing the regulatory agencies from executive control.

The important provisions give to the FTC the right to represent itself in court actions, to seek preliminary injunctions against deceptive anticompetitive actions, and to increase civil penalties. They also give to seven agencies the right to send out questionnaires and gather information from banks and common carriers.

Hopefully, these new powers will give the FTC and other agencies affected a chance to increase their effectiveness and decrease their dependence on the executive branch.

However, further reforms are clearly required. The OMB retains its control over the FTC budget, and the executive branch retains virtually all of the rest of its powers over the remaining regulatory agencies. If the problem of Executive control over the agencies is to be dealt with effectively, it will have to be on a much broader scale than this small, but nevertheless significant start.

There is evidence that the development of Executive control over regulatory agencies during a 50-year period has accelerated in the past 5 years. As Commissioner MacIntyre points out in his article, one of the most important congressionally imposed curbs on Executive control of the agencies—the long, staggered terms of the Commissioners—breaks down when a President serves two terms. The New York Times reported on May 6 of this year that of 38 positions on the six major regulatory bodies, the present administration appointees numbered 28. Furthermore, the new appointees represent less of an ideological mix than those during the terms of previous Presidents.

Many observers feel that the executive branch is currently moving ever rapidly toward increased control over the regulatory processes. Specific areas where this movement has been most obvious include cable television policy, and broadcasting license renewal. These are two areas of great importance to the American people.

If Congress is to reverse the movement toward more and more Executive control over the regulatory agencies, the time to act is now. The creation of a Select Senate Committee, as I have proposed in Senate Resolution 160, would give the Senate a chance to evaluate for itself just how closely the congressional intent in establishing the independent "arms of Congress" is being followed. By a careful, comprehensive study, the Senate can look closely at the problem and prescribe the remedies. It is essential that this action be taken to build upon recently enacted reforms.

I ask unanimous consent that the article entitled "The Status of Regulatory Independence," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE STATUS OF REGULATORY INDEPENDENCE*

(By A. Everette MacIntyre)

INTRODUCTION

The advent and growth of the railroads, improved and expanding methods of communication, developing an ever-increasing technology after the Civil War, caused a mushrooming of commercial intercourse between the States. The regulation of this commerce the Constitution entrusted to the Congress of the United States.[1] By 1885, Congress had come to realize, however, that it would not be able to deal with all the minutiae of regulation by way of direct legislation from one detail to the next. Even assuming that Congress had the knowledge and desire to do so, such a task would be a physical impossibility; at least a part of this task would have to be delegated. Congress also realized, however, that under the theory of separation of powers it would be inappropriate to delegate, to the extent Congress desired to do so, the function of filling in legislative details to either the Judiciary or the Executive Branch. At the same time Congress was to delegate a certain amount of quasi-judicial authority, which Congress felt the Judiciary was not sufficiently expert to handle and which would have been improper to delegate to the Executive Branch of the Government.

Congress, therefore, determined upon a course of creating, as arms of the Congress, independent regulatory agents to whom would be delegated a limited amount of legislative and judicial authority. The legislative authority was designed to fill in the legislative detail within a broad framework of congressional standards and policy declarations; the judicial authority as a necessary adjunct to successful regulation. An example of such a delegation is Section 5 of the Federal Trade Commission Act,[2] which provides that "unfair methods of competition" are unlawful.[3] In such situations there was left to the independent regulatory agent, as an arm of the Congress—in this instance the Federal Trade Commission—the delegated authority to fill in and implement the various legislative details in order to establish the precise meaning of the phrase "unfair methods of competition." This task was to be accomplished by quasi-judicial action through the process of judicial inclusion and exclusion and by a quasi-legislative process, including rule making proceedings. This is not to say, of course, that Congress could not have quite properly, and within the framework of accepted constitutional theories, delegated some regulatory authority to the Executive. Under constitutional concepts of separation of powers, however, such delegation would have required a great deal more specificity than is required for "an arm of Congress." An attempt to delegate quasi-legislative and quasi-judicial authority to the Executive to the same extent as was conferred upon "an arm of Congress" would have been unconstitutional.

This was demonstrated by the Supreme Courts 1935 decision[4] dealing with the National Industrial Recovery Act of 1933. In that case the Supreme Court unanimously held the Act to be unconstitutional because it attempted to delegate to the Executive legislative powers which the Constitution granted exclusively to the Congress. Among others, the Court stated:

"The Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. [Article I of the Constitution.] We have repeatedly recognized the necessity of adapting legislation to complex conditions involving a host of details with which the national legislature cannot deal directly. We pointed out in the *Panama Company* case [293 U.S. 388] that the Constitution has never been regarded as denying Congress the necessary resources of flexibility and practicality, which will enable it to perform its functions in laying down policies and establishing standards, while leaving to *selected instrumentalities* the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply. But we said that the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate, if our constitutional system is to be maintained.' [Emphasis supplied.][5]

The National Industrial Recovery Act attempted to authorize the establishment of "codes of fair competition" by the Executive, and the Court particularly concerned about the absence of a specific definition for the concept "fair competition."[6] The specificity required to permit the delegation of regulatory authority to the Executive was missing, causing the Act to be held unconstitutional. On the other hand, the congressional action of delegating such broad regulatory authority as determining "unfair methods of competition," a term no more specific than "fair competition," to "an arm of Congress" has not been overturned. Although initially the courts were more than skeptical about the *manner* of regulation by these congressional creatures, the authority to do so was upheld. With this approach Congress chanced upon a method of regulation unique and untried at that time but upon which it was to place increasing reliance in the fulfillment of its constitutional mandate.

At this point the concept of an independent board, Commission, or agency should be briefly outlined. Basically, there are two types of independent agencies: those which are a part of the Executive Branch of the Government and under the control of the Chief Executive but not a part of any cabinet department, and those which, at least in theory, are outside of the control of any Executive department.[7] This paper is concerned with the latter type of agency, which, as an arm of Congress, is responsible to Congress and subject to the oversight of Congress. Regulatory independence thus refers to independence from Executive control, but not absolute independence.

Since the creation of the first major Federal independent regulatory agency in 1887—the Interstate Commerce Commission—and the last of the original seven[8] independent regulatory agencies—the Civil Aeronautics Board—there has been an almost endless stream of legislative and judicial expression affecting every phase of these agencies' operations. The purpose of this paper is to review and analyze some of these legislative and judicial developments which relate to the concept of the "independence" of these agencies, with particular reference to the Federal Trade Commission. At the outset it should be noted that the Federal Trade Commission differs from other independent agencies with respect to the subject matter of regulation; whereas other independent agencies have a particular industry assigned to them, the Federal Trade Commission is charged with regulating that vast array of American business not otherwise the subject of special Federal regulation. This gives additional meaning and importanec to the theory of independence as applicable to the Federal Trade Commission.[9]

HISTORY AND THEORY OF INDEPENDENCE

The legislative history of the Federal Trade Commission Act, as well as that of any of the other commissions, leaves little doubt of Congress intent insofar as it pertains to the Commission's independence from control by the Executive. More specifically, Congress expressed the desire to create a commission which in the performance of its functions would be independent from the Executive Branch of the Government. For instance, prior to the creation of the Commission, its powers of investigation resided with its predecessor—the Bureau of Corporations of the Department of Commerce. This investigatory power was taken from a department under the control of the Executive and given to an independent agency.[10] Expressions of congressional intent on this point are extremely explicit. As a matter of fact, no other single topic concerning the new commission received such extensive comment. It was, perhaps, most succinctly stated by Senator Newlands, Chairman of the Senate's Committee on Interstate Commerce, who introduced the original bill, when he explained the need for independence from the Executive Branch in the following way:

The need has long been felt for an administrative board which would act in these matters in aid of the enforcement of the Sherman antitrust law, which would have precedents and traditions and a continuous policy and would be free from the effect of such changing incumbency as has in the nature of things characterized the administration of the Attorney General's office.[11]

The desire for impartial regulation not dictated by political considerations and the recognized, as well as demonstrated, need for a continuous policy of regulation prompted the care which Congress bestowed upon this particular part of the Act. This is also demonstrated by the organic acts establishing the various agencies. Though the President has the power to appoint members of agencies, these appointments must be confirmed by the Senate. The terms of office are staggered and are scheduled on an overlapping basis in addition to extending beyond the President's own term.[12] In theory this would prevent the Chief Executive from appointing a majority of members of any Commission. This theory breaks down, of course, if the President serves for more than one term. Another requirement is the bipartisan nature of most commissions whereby each must be composed of no more than a majority from one political party. And, finally, the President may not remove a member of a commission except for the fairly customary grounds of "inefficiency, neglect of duty, or malfeasance in office."

Aside from specific congressional intent the theory of independence as it concerns the Federal Trade Commission has proven merit over and beyond that of other regulatory agencies. For example, the Commission and the Department of Justice's Antitrust Division have concurrent jurisdiction over a variety of practices. The benefits of such concurrent jurisdiction can be readily observed. The Department, as a general matter, has traditionally concerned itself almost exclusively with hard-core and clear-cut cases. The Commission, on the other hand, has been more willing to pioneer into the gray areas, as indeed was one of the purposes of its creation, *i.e.*, to fill the interstices of the Clayton Act. Thus, enforcement of Section 7 of the Clayton Act in the area of conglomerate mergers[13] by the Commission has been more innovative and imaginative. Therein the Commission is able to rely to a considerable

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Footnotes at end of article.

extent on the economic expertise available to it. Similarly, the brunt of enforcement activity under the Robinson-Patman Act has been borne by the Commission. There can be little doubt that concurrent jurisdiction by an independent regulatory agency and a department of the Executive has resulted in more effective and successful law enforcement than exclusive jurisdiction by one governmental body could have provided.[14]

DEVELOPMENTS BEARING ON INDEPENDENCE

An analysis of a number of congressional actions ultimately affecting regulatory independence shows that not infrequently there was only a very general congressional intent, with no clear recognition of the effect such legislative endeavors would have upon regulatory independence. Of the plethora of statutes enacted for various purposes, many of them subsequently proved to have considerable impact upon the substantive work of an agency. *E.g.*, what Congress may have intended to be an administrative statute, where it was deemed necessary to give the Chief Executive certain authority in the interest of economy, efficiency and the orderly conduct of government, developed into a means of Executive control over substantive programs of an agency unforeseen and inconsistent with congressional intent.

A. THE BUDGET AND ACCOUNTING ACT OF 1921

The first Act passed by Congress which adversely affected the independence of regulatory agencies was the Budget and Accounting Act of 1921.[15] The Act specified that henceforth the budgets and requests for appropriations of all government units, with the exception of the Legislative and Executive units, shall be submitted to the Bureau of the Budget, created by the Act.[16] These budgets and requests for appropriations would be included in the nation's budget the President submits to Congress each year.

Congressional debate indicates that passage of the Act reflected increasing concern over governmental economy, occasioned by the fact that 1918 was the first year since the end of the Civil War in whch the United States experienced a budgetary deficit. To remedy this situation it would ". . . be necessary to wipe out duplications in the Government service, to eliminate inefficiency, and to stop unnecessary work." [17] Congressional concern was also expressed over the lack of objectivity in annual appropriations requests. Each governmental unit presented its request in the most glowing terms, oftentimes with little or no objectivity as to intrinsic worth of the activities sought to be financed. Under these circumstances, something like the Budget and Accounting Act was needed and motives behind its passage can hardly be faulted. The question which remains is whether Congress intended to affect regulatory independence to the degree the Act subsequently would, and, if not, how this could have been avoided.

In practice, the Act resulted in a degree of control over substantive programs of the agency which were certainly not envisioned by the Congress when it passed what it considered to be a statute dealing with administrative detail. When an agency submits its budget to the Bureau of the Budget each item contained therein must be extensively justified, and agency members and personnel may be asked for further elaborations during the course of personal interviews. An agency's proposed appropriations request is reviewed by the Bureau of the Budget, which follows policies and priorities established by the President and not necessarily by Congress. To the extent they coincide congressional intent will be fulfilled; to the extent they differ congressional intent will, of necessity, take a back seat.

This review, however, is not limited to broad policy considerations but includes the actual establishment of priorities of regulation. For example, the Bureau of the Budget has the authority to tell the Federal Trade Commission how much it is to spend on merger enforcement activities and how much to spend on enforcing the Wool Products Labeling Act. Perhaps this method of administration relieves Congress of the burdensome duty of detailed oversight over independent agencies. On the other hand, it leaves the door wide open for administrative repeal of congressional action through the funding process without the benefit of legislation. In addition, the Bureau is empowered to enforce its mandate by freezing an agency's funds should the agency spend its appropriations contrary to the manner spelled out by the Bureau.

In this context it should also be mentioned that the Federal Trade Commission appropriations requests are customarily reduced by no less than 15 to 20 percent by the Bureau. What was intended as a purely housekeeping measure not infrequently has become an instrument of control over policy. Perhaps a better solution would have been to have budgets and requests for appropriations submitted to the Bureau of the Budget for review but at the same time permit independent agencies to submit copies of such requests directly to the Congress. This, however, the Act expressly prohibits.[18] Such a practice would at least enable Congress to obtain a greater knowledge of the agencies' positions.[19]

Recently some congressional concern has been expressed over the Bureau's control over substantive programs of independent agencies and three bills [20] have been introduced which would require the Bureau to include the Federal Trade Commission's appropriations request in the President's budget, without revision, and would permit the Commission to submit its budgets directly to Congress.

B. THE JUDGES ACT OF 1925

The next development affecting the independence of regulatory agencies was the passage of the Judges Act of 1925.[21] The purpose of this Act was to collect in one statute the provisions of the law relating to appellate jurisdiction of the Supreme Court and, due to the backlog of cases before the Court, the Act sought to reduce this jurisdiction.[22] This was accomplished by the simple expedient of broadening the Court's jurisdiction to issue writs of certiorari, i.e., increasing the Court's discretion as to the cases it will hear.[23]

At the same time, however, Congress (it is suspected through inadvertence rather than design) altered the practice whereunder the Federal Trade Commission prepared its own requests for writs of certiorari and argued its own cases before the Supreme Court. The practice had developed that by leave of the Attorney General (who neither had the staff nor the inclination to do otherwise), the two then-existing agencies—the ICC and the FTC—argued their own cases before the Supreme Court.[24] With respect to the Interstate Commerce Commission, the practice was codified in 1913,[25] and reaffirmed by the Judges Act of 1925. By implication, however, because of the absence of any specific reference, it was denied to the Federal Trade Commission. Now all independent agencies, with the exception of the Interstate Commerce Commission, do not ask the Supreme Court to grant a writ of certiorari directly but channel their requests through the Attorney General.

To the extent the Solicitor General substitutes his judgment, either as to the law or the facts, for that of an agency, the theory of agency expertise, one of the reasons for its establishment, is bypassed. It is equally clear, on the other hand, that with respect to Government-originated cases in which Supreme Court review is sought, there must be some sort of traffic policeman between the various governmental units and the Supreme Court. The question is, can this function be fulfilled by that office? In many instances the Solicitor General must seek the advice of the Department's operational divisions, which may have their own interests to pursue. To the extent he defers to this advice the objectivity of the impartial traffic policeman may be compromised. For example, in complex antitrust questions it would be surprising to learn that the Solicitor General does not heavily rely on the views of the Antitrust Division in the Department, as of necessity he must. In many instances the advice he receives serves to highlight one of the reasons for the creation of the Federal Trade Commission—congressional disenchantment with enforcement of the antitrust laws. In any event, it frustrates the regulatory scheme considerably if an agency's endeavors are stymied by departmental actions. It also frustrates congressional intent. Theories of priorities and enforcement of necessity differ and in some situations philosophical differences have, for all intents and purposes, administratively repealed various legislative purposes. Under these circumstances it would be more desirable to permit the independent agencies to seek certiorari before the Supreme Court directly. Control over litigation is the most important aspect of independence, which must be considered severely handicapped if it is in the hands of someone other than the agency.

The Solicitor General's control over certiorari petitions rests upon the following language:

> Except when the Attorney General in a particular case directs otherwise, the Attorney General and the Solicitor General shall conduct and argue suits and appeals in the Supreme Court and suits in the Court of Claims in which the United States is interested.[26]

Actually, the provision is silent as to who may *file* petitions for Supreme Court review but merely refers to the conduct and argument of cases for which Supreme Court review has been granted. It could be argued, therefore, that this is purely an administrative provision which does not give the Solicitor General the veto power over which cases can be appealed to the Supreme Court and that each governmental unit is at liberty to file its own petitions for writs of certiorari. Certainly, the theory of independence as applied to regulatory agencies and the history of their creation would lend considerable support for this argument. To the author's knowledge, however, no independent agency has ever filed a petition for certiorari outside the heretofore adhered to procedure.

The Federal Trade Commission's experience during the period of July 1, 1961, through March 1, 1969 has been mixed. Of the 34 requests by the Commission to the Solicitor General for petitions of certiorari, only 19 were actually filed. Of these 19 petitions 14 were granted and 5 were denied. The 14 cases in which the Court granted certiorari were decided in favor of the Commission. In one instance [27] the Solicitor General refused to file a petition for certiorari but authorized the Commission to file in its own name. In another instance [28] the Solicitor General filed the requested petition but with a notation that he would not support the Commission's position if certiorari were granted. In both instances the petition was denied. In another case the Solicitor General represented the issue to be a factual one and the petition was denied.[29]

Most important, however, is the Solicitor General's preference as to subject matter. From a review of the Commission's requests for petitions of certiorari, it becomes clear that differences of opinion most frequently occur in the area of price discrimination and other Robinson-Patman Act cases. Only in

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about one-third of the Commission's requests in this area were petitions filed[30] whereas slightly better than one-half of the Commission's total requests were filed.[31] Furthermore, in two price discrimination cases[32] in which the Commission's position had been sustained by the 7th Circuit, but wherein petitioners had filed petitions for writs of certiorari, the Solicitor General, although authorizing the Commission to file briefs in opposition to the petitions, filed a separate memorandum *opposing* the Commission's position. Under such circumstances the traffic policeman role is hardly fulfilled. It also accentuates the dichotomy of views on Robinson-Patman Act enforcement. Similarly, the Solicitor General refused to file a petition in the two cases involving the Wool Products Labeling Act.[33] On the other hand, in the three merger cases in which the Commission requested the Solicitor General to file for certiorari during this time, all three were successfully appealed.[34]

C. CENTRAL CLEARANCE OF LEGISLATIVE PROPOSALS

Sometime during the mid-1930's the practice originated of submitting legislative proposals to the Congress via the Bureau of the Budget. This policy was originated by Franklin D. Roosevelt and has been continued to this day, although there does not appear to be any statutory authority for it. As a matter of fact, with respect to the Federal Trade Commission, it appears to be directly contrary to the mandate contained in Section 6(f) of the Federal Trade Commission Act—that the Commission, together with annual and special reports, shall submit recommendations for additional legislation to Congress. Moreover, when the Commission is requested to report on specific legislative proposals, such reports must be cleared by the Bureau of the Budget before being submitted to the appropriate congressional committee. At the Bureau of the Budget such reports and legislative recommendations must receive clearance in terms of substance, i.e., they are reviewed in light of the President's policy objectives.[35] This practice could result in precisely the situation Congress desired to avoid by the establishment of independent agencies if it deprives Congress of their views.

The procedure by which comments on proposals for legislation are coordinated and cleared by the Bureau has evolved as a matter of tradition, without the benefit of specific legislation. The Bureau takes the position that all legislative proposals and comments concerning legislation, whether agency-initiated or in response to a congressional request or pursuant to statutory mandate, must go through the Bureau. Not infrequently the Bureau will effect various revisions. In addition, the practice at times places an agency in an awkward position with members of Congress. For example, congressional requests for agency comments on legislation to be proposed are transmitted to the agency directly. The reply, however, is channelled through the Bureau. Should a time lag develop, as it sometimes does, members of Congress place the responsibility with the agency and not the Bureau. As a matter of deference, the agencies have acceded to the Bureau's position on this question, although from time to time one or the other agency may have been inclined to challenge the Bureau's position. For obvious reasons, however, no agency has been too eager to pursue such a course.

D. THE FEDERAL REPORTS ACT OF 1942

Passage of the Federal Reports Act of 1942[36] accorded to the Bureau of the Budget another important right of review and control over the activities of regulatory agencies, although the Act was passed under circumstances and for reasons considerably different from those in which it would be used.

As early as 1938 concern mounted over increasing governmental activity in the collection of information. Particularly the small businessman found it more and more difficult to cope with the avalanche of Federal and State forms and reports he was required to complete, often at considerable expense. This insatiable appetite for information was the result of the staggering growth the Government experienced during the 30 years between 1912 and 1942. This period witnessed the greatest form-producing decades in the history of the United States. Six of the original 7 independent agencies were established during that time. The sixteenth Amendment to the Constitution, establishing an income tax, was passed. Social Security began, etc. In addition, many States initiated duplicative services to those of the Federal Government. The inevitable result was Federal and State forms and reports about taxes, employees, business and other aspects of daily life. Some of the information collected by different agencies overlapped and caused duplication. It was principally such duplication which led to original drives for some coordination of the Government's collection of information.[37]

The final impetus for passage of the Federal Reports Act came with the creation of the Office of Price Administration. The nation was literally engulfed in a blizzard of paperwork concerning rationing, output, prices, and any other conceivable type of information, both private and public. For the successful prosecution of the war this proved not only unnecessary but was bitterly resented by the many citizens who were required to wait their places in long lines at various post offices throughout the country for a determination whether their questionnaires were properly filled out and their requests indeed necessary.[38]

The Act provides that requests for information originating with any governmental agency[39] and directed to more than nine respondents must receive clearance by the Bureau of the Budget. Requests for such clearance must be accompanied by a detailed explanation of the questionnaire, such as technicalities of implementation, manner of selecting the respondents, whether the information is to be collected by mail or personal interview. In addition, the request must be justified in depth. This would include a statement why the information is sought and how it will be used; why the particular number of respondents and not less have been selected; how much time it will take a respondent to answer the questionnaire, etc. In ruling upon such requests the Bureau of the Budget must also be satisfied that this is the only practical method of getting the necessary information and that it is not available through some other governmental or more readily accessible private source.[40]

The power of review within the Bureau of the Budget extends so far as to permit forbidding collection of all or a part of the information sought. In case of the traditionally used questionnaire, for example, the Bureau of the Budegt may withhold clearance for its issuance altogether, or it may strike certain questions—a matter entirely within its discretion.

Congress, in its haste to pass this bill, however, did not heed the warning of those questioning its extent, although this point was the subject of considerable debate.[41] Specifically, some members of Congress felt that while the bill was ostensibly aimed at the elimination of unnecessary and presumably duplicate reports, the way it was phrased gave the Director of the Bureau of the Budget a good deal more control over the collection of information than was necessary under the circumstances and perhaps even intended by Congress had it considered all the ramifications of the bill.[42]

As it turned out, the Act permits the Bureau of the Budget to exercise a good deal of control over the investigative functions of the independent agencies. With respect to the Federal Trade Commission this represents a drastic departure from the theory of its creation. One of the Commission's most important functions arises out of the mandate to investigate and publicize business conditions harmful to the continued good health of the economy and to do so independently and otuside of the control of the Executive. Any control over its ability to investigate or a substantive review of the information it seeks will naturally adversely affect the independence of the Commission.

There is no doubt that the purpose for which the Act was conceived—to cut costs to the Government and to avoid unnecessary harassment of citizens and businesses—has considerable merit. If, however, it becomes an instrument of control over some types of investigations, specifically those of independent regulatory agencies—and this in fact has occurred—it would appear that the authority the Act vests in the Bureau of the Budget needs to be reexamined.

E. THE HOOVER COMMISSION AND THE LANDIS REPORT

In 1947 the Hoover Commission[43] was organized to study and make its report on, along with recommendations, governmental operations, with particular emphasis on efficiency in the operation of government. One recommendation included in the Hoover Commission report,[44] which was adopted later[45] and which was to have a far-reaching impact upon the independence of regulatory agencies, concerned the position of chairmen for these agencies. In the interest of efficiency and to "enable the President to obtain a sympathetic hearing of broader consideration of national policy which he feels the Commission should take into account,"[46] the Hoover Commission recommended that the chairman of an agency should be appointed by the President and should be given more administrative authority over his agency. Up to that time, with the exception of the Federal Communications Commission, whose organic statute provides for the appointment of its chairman by the President, the agencies selected their chairmen from among their members. Generally the chairman of an agency would be selected by the members of such an agency on an annual basis and he constituted little more than a *primus inter pares*. In addition, the agencies themselves would decide how to handle intra-agency administrative detail. Under the reorganization of 1950, however, the chairman had the authority (1) to appoint and supervise personnel,[47] (2) to distribute the workload among such personnel and (3) to determine the use and expenditure of funds. The reason assigned to this drastic departure from previous practice was that it would relieve the commissioners from burdensome administrative chores such as ruling upon the salaries of the char force and thereby free them to devote their energies to the substantive aspects of the commission's work.

The impact of these plans, once they were implemented, was profound.[48] Inasmuch as the chairman holds his post as chairman at the pleasure of the President, it becomes unlikely for him to pursue a policy alien or contrary to that of the Chief Executive if he is to retain his post. Since the chairman is responsible for the selection of personnel, the assignment of the workload and the use of the agency's funds, it is difficult to see how an agency, even if a majority of its members wish to do so, may pursue a course independent from the wishes and desires of the then current administration. As a practical matter there would be no conflict if the policies of the Executive are the same as those of the Congress; should those be different, however, it will become readily ap-

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parent that independence from Executive control has been materially weakened.

Those members of Congress who had the opportunity to study the proposal recognized, of course, that any gains in efficiency which might result would be at a sacrifice in independence. As a result, Senator Edwin C. Johnson from Colorado introduced a resolution for disapproval [49] of the proposals on the ground that they were contrary to the "long established congressional policy that regulatory agencies must be independent and directly responsible to Congress." [50] The resolution carried only with respect to the Interstate Commerce Commission and the Federal Communications Commission, and in those instances only because it was vigorously supported by the industries regulated by these commissions and their bars.[51]

The Landis Report of 1960 [52] covered similar ground and also voiced its concern about efficiency in government. The recommended cure for whatever bureaucratic blunders or loss of efficiency might have occurred was again greater control by the Executive. With respect to the Federal Trade Commission the report states:

> Here, as in the case of the Interstate Commerce Commission, the Civil Aeronautics Board and the Securities Exchange Commission, the powers of the Chairman should be increased and the Commission's authority to delegate decision-making implemented by Presidential action under the Reorganization Act.[53]

Quite revealing is the reason given for the necessity of these changes. As the report states, the Federal Trade Commission must, due to its limited resources, exercise a great deal of discretion as to the trade practices it will investigate and must concentrate on specific areas. This, according to Landis, "involves an issue of policy of which the Executive should not only be aware but which should be keyed to whatever overall program is then the Administration's prime concern. The responsibility for concentration on a particular area should be the responsibility of the Executive and not the Federal Trade Commission." [54] Under this theory, the Executive, alternatively, would be able *not* to concentrate on a particular area, a fact which has always been of greater congressional concern, particularly in the area of antitrust enforcement. Acceptance of this theory would inevitably lead to precisely the circumstances the establishment of the independent agencies was supposed to preclude—*Executive control* over the regulatory scheme. By the same token, however, the report, in a curiously candid comment, states that "[t]here has also been too much of the morale-shattering practice of permitting executive interference in the disposition of causes and controversies delegates to the agencies for decision." [55] No doubt there is a direct relationship between the extent of "morale-shattering executive interference" and the degree to which, over the years, we have veered from the original congressional intent concerning regulatory independence. As a matter of fact, such interference is invited for the very reasons assigned to the need for greater Executive control.

The recommendation with respect to the Federal Trade Commission, contained in the report, became the Reorganization Plan No. 4 of 1961.[56] The plan substantially broadened the Chairman's authority, particularly with respect to the assignment of workload among the Commission personnel as well as among the individual commissioners. The importance of this authority in the Chairman's office cannot be overestimated.[57]

F. FEDERAL TRADE COMMISSION V. GUIGNON

The most recent development affecting the Federal Trade Commission's independence is the Eighth Circuit's 1968 decision in *Federal Trade Commission* v. *Guignon,* [58] In that case the court, in a two-to-one decision, upheld a district court decision.[59] to the effect that the Commission does not have the authority to institute court proceedings for the purpose of enforcing its own subpoenas.[60] The issue, as phrased by the court, was "whether the Federal Trade Commission, acting under § 9 of the Federal Trade Commission Act . . . may, without the aid or consent of the Attorney General of the United States, seek enforcement of its own subpoenas in the Federal District Courts." [61] In reaching the conclusion that the Commission did not have this authority, the majority considered not only the briefs and arguments of the parties but also a brief *amicus curiae* submitted by the Department of Justice at the invitation of the court. In its *amicus* brief the Department took the position that only the Department is authorized to represent the agency in court. To the author's knowledge, this is the first time [62] in the 54-year history of the Commission that the Department has taken this position. Up to this point it had been generally accepted, both by the courts [63] and commentators,[64] that the Commission had this authority. A number of factors must be considered for a correct evaluation of the Department's and the court's position. First, there is the express language of the Federal Trade Commission Act. Section 9 states, with respect to the enforcement of subpoenas, that "the *commission* may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of witnesses." (Emphasis supplied.) With respect to compelling compliance with *substantive* F.T.C. orders to cease and desist, Section 9 states that "[u]pon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof." Thus, the Act contains two separate provisions applicable in two distinct sets of circumstances: a provision with respect to subpoena enforcement, to be undertaken by the Commission itself, and applications of writs of mandamus to compel obedience with the Commission's substantive cease and desist orders, to be undertaken by the Attorney General.

Any contradictions which could subsequently be read into the Act as the result of the difference in methodology of enforcement was the subject of extensive comment prior to its enactment.[65] That comment makes it clear that inclusion of the mandamus provision in the Act was not intended to and does not have any relation to the provisions concerning Commission subpoenas and court proceedings for their enforcement. The mandamus paragraph was intended to apply to nothing other than the substantive provisions of the Act and the Commission's orders commanding obedience to them.[66]

In addition, the legislative intent concerning independence, and particularly independence from control of the Executive for investigative purposes, buttresses this conclusion.[67]

The second aspect concerns the statutory language upon which the court and the Department rely—Sections 516 and 519 of Title 28, United States Code.

Section 516 provides that:

> Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General.

Section 519 provides that:

> Except as otherwise authorized by law, the Attorney General shall supervise all litigation to which the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant United States attorneys, and special attorneys appointed under section 543 of this title in the discharge of their respective duties.

The crucial terms are "except as otherwise authorized by law" and "an agency," which were inserted when this section was codified.

This insertion, however, was to effect a profound change in preexisting law and resulted in the interpretation that now specific legislation is required for an exemption from the application of this section; general legislation, such as contained in Section 9 of the Federal Trade Commission Act was previously considered sufficient.[68] A review of the history of this codification and the previous statutory provisions makes it clear, however, that such a result was not intended. While the insertion of these terms cannot be called inadvertent, they were nevertheless not intended to change preexisting laws.[69] The legislative history of these provisions conclusively shows that none of the predecessor statutes applied to such proceedings as the Commission's subpena enforcement cases, and that by adopting the codifications the Congress did not intend to effect any changes in preexisting law. As a matter of fact, Congress expressly disavowed such a purpose.[70] It is clear, therefore, that the legislative history of Section 9 of the Federal Trade Commission Act, long-established practice, the legislative history of the codifications of Title 28, and applicable legal precedent [71] did not intend the result achieved by the court. Now, however, the Commission must apply to the Attorney General for enforcement of subpenas, which is inconsistent with congressional intent on regulatory independence. One of the most important aspects of the Commission's functions and duties is its ability to investigate independently, and the subpena power, along with enforcement authority, is a very necessary part of its investigatory tools. Frequently its existence alone will obviate the need for its use. Under present conditions, however, the Commission's ability to investigate has been seriously curtailed. The *Guignon* decision also brings into sharp focus the problems presented by the inability of the Commission to request the Supreme Court to grant writs of certiorari. In order to seek certiorari it must obtain the support of the Solicitor General, which in this case was not achieved.

G. HUMPHREY'S EXECUTOR

The precise limits of regulatory independence have not been crystallized and judicial expressions on the point have been scant. Some guidelines, however, have been established. When Franklin Delano Roosevelt assumed the duties of his office in 1933, he desired to establish his own economic policy. Roosevelt felt that in the execution of this policy he needed control of the Federal Trade Commission. This he intended to accomplish by removing one commissioner openly opposed to Roosevelt's economic policy—Commissioner Humphrey. Roosevelt at first asked Humphrey to resign, on the ground "that the aims and purposes of the Administration with respect to the work of the Commission can be carried out most effectively with personnel of my own selection." [72] When this request was ignored, Roosevelt, on August 31, 1933, and after some intervening correspondence, wrote to Humphrey the following:

"You will, I know, realize that I do not feel that your mind and my mind go along together on either the policies or the administering of the Federal Trade Commission and, frankly, I think it is best for the people of this country that I should have a full confidence."

When Humphrey again refused to resign, Roosevelt, on October 7, 1933, wrote him that "effective as of this date you are hereby removed from the office of Commissioner of the Federal Trade Commission." In this attempt to remove a commissioner of an independ-

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ent agency solely on the basis of incompatibility of views rather than for the reasons spelled out in the statute, Roosevelt relied on the Supreme Court decision in *Myers* v. *United States*.[73] There the Court held that Congress could not constitutionally restrict the President's power to remove an executive official who had been appointed by the President either alone or with the advice and consent of the Senate. In a dictum the Court further indicated that the President had the unlimited right to remove members of quasi-legislative and quasi-judicial bodies.

After reviewing the legislative history of the Federal Trade Commission Act and the debates in both Houses, the Court stated that

"[T]he language of the act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the Congressional intent to create a body of experts who shall gain experience by length of service—a body which shall be independent of executive authority, *except in its selection,* and free to exercise its judgment without the leave or hindrance of any other official or any department of Government."[74]

The Court recognized that tenure of office at the will of the President would stultify the intent of Congress, an intent evidenced by the fact that Congress fixed commissioners' terms of office. The Court also pointed out that removal power in the President would nullify the independence of the Commission and stated that "it is quite evident that one who holds his office during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will."[75] A more succinct explanation of the necessity for the Commission's independence cannot be found.

In addition, the Court was influenced considerably by the traditional concepts of separation of powers and therefore gave particular consideration to the relationship between regulatory independence and the quasi-judicial functions of the agency:

"We are thus confronted with the serious question whether not only the members of these quasi-legislative and quasi-judicial bodies . . . continue in office only at the pleasure of the President.

"We think it plain under the Constitution that illimitable power of removal is not possessed by the President in respect of officers of the character of those just named."[76]

In a previous case,[77] the Court dealt at considerable length with the impact of the separation of powers doctrine upon actions by the Exectuive affecting the independence of officials acting in a judicial capacity. A reading of both cases suggests that the Court, after having determined the function involved, applied the separation of powers doctrine to the issue of independence from control by the Executive. In theory such a test would be ideal for its simplicity. Unfortunately, in modern practice such a separation would be extremely difficult, if not impossible, as these functions, to varying degrees, coalesce in different governmental endeavors.[78]

CONCLUSION

These are some of the outstanding developments which demonstrate that regulatory independence is rapidly becoming more fanciful than factual. Congressional intent was clear from the outset that the quasi-legislative and quasi-judicial regulatory agencies were to be independent and free from the influence, direction or oversight of the Executive Department. Moreover, the above-noted reasons for this—the quasi-legislative service as an arm of the Congress and continuity in effectuation of public policy as declared in the broad outlines of the law—are as valid today as in 1887, more than 80 years ago. I tend to believe that many of the congressional actions undertaken in the interest of orderly and efficient operation of government, which subsequently adversely affected regulatory independence, were accidental rather than a conscious and deliberate effort to limit such regulatory independence. Academic considerations aside, however, the fact remains that when Congress assigned these regulatory tasks to independent agencies it did so because it expected its mandate as evidenced by the organic acts, to be carried out by a vigorous and effective enforcement policy. This policy was intended to be continuous and irrespective of the changing political fortunes dictating White House occupancy. To the extent we have deviated from this intent the resulting diffusion of control has taken its inevitable toll in regulatory efficiency. For example, this situation has undoubtedly had a deleterious impact on antitrust enforcement activities by the Federal Trade Commission as well as the activities of other agencies. To varying degrees, therefore, erosion of independence has at the same time undermined the agencies' effectiveness. It is ironic that this loss of efficiency should be, at least in part, the result of precisely those statutes designed to foster the orderly and efficient conduct of government. Perhaps, then, the public interest has and may continue to suffer loss of efficiency instead of capturing that illusive objective if there should be continuing erosion of effective congressional oversight instead of oversight by others.

FOOTNOTES

*Reprinted from the Winter 1969 issue of the Federal Bar Journal with permission of the Federal Bar Association, Washington, D.C.

Commissioner, Federal Trade Commission. The author wishes to acknowledge the assistance of Joachim J. Volhard in the preparation of this article.

[1] Article 1, Section 8 of the Constitution empowers Congress "to regulate commerce with foreign nations, and among the several states, and with the Indian Tribes."

[2] 38 Stat. 719 (1914); 15 U.S.C. 45.

[3] The Act was amended in 1938 to include "unfair or deceptive acts or practices" within its proscription, 52 Stat. 111.

[4] Schechter Poultry Corp. v. United States, 295 U.S. 495.

[5] Id. at 529.

[6] What is meant by "fair competition" as the term is used in the Act? Does it refer to a category established in the law, and is the authority to make codes limited accordingly? Or is it used as a convenient designation for whatever set of laws the formulators of a code for a particular trade or industry may propose and the President may himself prescribe, as being wise and beneficent provision for the government of the trade or industry in order to accomplish the broad purposes of rehabilitation, correction, and expansion which are stated in the first section of Title 1? [Id. at 531.]

[7] In the Federal government the term "independent establishments" frequently refers to all agencies neither in the legislative nor the judicial branch that are outside the ten so-called executive departments. [ELEMENTS OF PUBLIC ADMINISTRATION, Fritz M. Marx ed., New York, 1946, p. 208, n. 1.]

[8] ICC in 1887; FTC in 1914; FPC in 1920; SEC in 1933; FCC in 1934 NLRB in 1935; and CAB in 1938.

[9] For example, the argument advanced—that executive control of an agency at the same time protects it from unwanted control by the industry it regulates—is not particularly relevant with respect to the Federal Trade Commission.

[10] 51 Cong. Rec. 8842. The opinion was also expressed that if the Bureau of Corporations could be converted into an independent commission, more complete knowledge about corporations engaged in commerce could be gathered.

[11] Senator Newlands, 51 Con. Rec. 10,376. In the House of Representatives Mr. Morgan expressed these views:

"And instead of giving additional power to the Attorney General we should, as the gentleman from Maryland [Mr. Covington] said this afternoon, create a great, independent, non-partisan commission, independent of the President, independent of Cabinet officers, removed so far as possible from partisan politics, that would command the respect and confidence of all parties and of all the people of the Nation. . . . What I say is not particularly applicable to the present Attorney General or the administration in power. Whatever we do in regulating business should be removed as far as possible from political influence.

"It will be far safer to place this power in the hands of a great independent commission that will go on while administrations may change. That is one reason why I believe in having all these matters placed, so far as they can be, in the hands of a commission, taking these business matters out of politics." [51 Cong. Rec. 88857].

In an article entitled "Constitutionality of Investigations by the Federal Trade Commission," 28 Col. L. Rev. 708, 728 n. 56 (1928), Milton Handler pointed out that:

"The opposition to the Covington bill came not from those who thought the bill went too far but that it did not go far enough. . . . There was singular agreement as to the wisdom of establishing an independent, nonpartisan fact-finding body, and no attempt was made to reduce the broad inquisitional powers discussed in the text" [of Handler's article].

[12] The Federal Trade Commission Act provides that the "first Commissioners shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years. . . ." 38 Stat. 717; 15 USC 41.

[13] See, for example, F.T.C. v. Procter & Gamble, 386 U.S. 568 (1967); and General Foods v. F.T.C., 386 F.2d 936 (3d Cir. 1967), cert. den., 391 U.S. 919 (1968).

[14] On the other hand, it could conceivably deteriorate in the kind of buckpassing so detrimental to effective law enforcement.

[15] 42 Stat. 20; 31 USC 1. Passage of the Act failed the previous year, interestingly enough, due to a dispute over the presidential removal power of the proposed Budget Bureau's director. 61 Cong. Rec. 980.

[16] 31 USC 16.

[17] 61 Cong. Rec. 980.

[18] Budget and appropriations requests may only be transmitted to Congress upon the specific request of either House thereof. 31 USC 15.

[19] It is interesting to note that after passage of the Act some of the independent agencies apparently took the position that it did not apply to them. This, however, was made clear in a 1939 amendment restating applicability of the Act to include "any independent regulatory commission or board." 53 Stat. 565. See also "Government Organization," H. Rept. 2033, 75th Cong., 3d Sess., p. 15 (1938).

[20] H.R. 9811, 91st Cong., 1st Sess.; H.R. 1068, 91st Cong., 1st Sess.; and S. 789, 91st Cong., 1st Sess.

[21] 43 Stat. 936.

[22] Henry Pringle, The Life and Time of William Howard Taft, New York, 1939 (two vols.), p. 992, et seq.

[23] Cong. Rec. 2752.

[24] The authority to argue cases in which the United States is interested before the Supreme Court rests with the Attorney General. 28 USC 518. For example, the first Federal Trade Commission case to reach the Supreme Court—F.T.C. v. Gratz, 253 U.S. 421 (1920)—was argued by the Commissioner whose term I am succeeding—Huston Thompson. As a

matter of fact, there was widespread belief at the time that the fact that a Commissioner argued the case may have cost the Commission the decision.

[25] Urgent Deficiencies and Appropriations Act of 1913, 38 Stat. 208.

[26] 28 USC 518. Section 516 of the same Title provide that "Except as otherwise provided by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Departmentof Justice, under the direction of the Attorney General." While the phrase "conduct of litigation" is broad enough to encompass attempts to secure Supreme Court review, the origin and history of this section make it abundantly clear that it does not refer to Supreme Court review. R.S. 359, 360, 361, and 362. This question is dealt with in further detail in subparagraph F, infra. Suffice it to say here that the present-day result is attributable to revisions prior to recodification, which were not intended to effect a substantive change in the law.

[27] Exquisite Form Brassiere, Inc. v. F.T.C., 301 F. 2d 499 (D.C. Cir. 1961), cert. den., 369 U.S. 888 (1962).

[28] American Oil Co. v. F.T.C., 325 F. 2d 101 (7th Cir. 1963), cert. den., 377 U.S. 954 (1964).

[29] Timken Roller Bearing Co. v. F.T.C., 299 F. 2d 839 (6th Cir. 1962), cert. den., 371 U.S. 861 (1962).

[30] Seven of 17. The 7 were:

Sun Oil Co. v. F.T.C. 294 F. 2d 465 (5 Cir. 1961), rev'd, 371 U.S. 505 (1963); Borden Co. v. F.T.C. 339 F. 2d 133 (5th Cir. 1964), rev'd and remanded. —— U.S. 637 (1966); Universal-Rundle Corp. v. F.T.C., 352 F. 2d 831 (7th Cir. 1965), rev'd, 387 U.S. 244; F.T.C. v. Jantzen, Inc., 356 F. 2d 253 (9th Cir. 1966), rev'd, 386 U.S. 228 (1967); Flotill Products, Inc. v. F.T.C., 358 F. 2d 224 (9th Cir. 1966) rev'd, 389 U.S. 179 (1967); Fred Meyer v. F.T.C. 359 F. 2d 351 (1966) rev'd 390 U.S. 341 (1968) American Motors Corp. v. F.T.C., 384 F. 2d 247 (7th Cir. 1967), cert. den., 390 U.S. 1012 (1968).

The 10 were:

Exquisite Form Brassiere, Inc. v. F.T.C., 301 F. 2d 499 (D.C. Cir. 1961), cert. den., 369 U.S. 888 (1962). (Solicitor General refused to file petition but authorized Federal Trade Commission to file in its own name and petition was denied.) Sunshine Biscuits, Inc. v. F.T.C., 306 F. 2d 48 (7th Cir. 1962). (The Commission at first requested but subsequently withdrew its request for the filing of a petition for certiorari.) Thomasville Chair Co. v. F.T.C., 306 F. 2d 541 (5th Cir. 1962); Central Retailer-Owned Grocers, Inc. v. F.T.C., 319 F. 2d 410 (7th Cir. 1963); American Oil Co. v. F.T.C., 325 F. 2d 101 (7th Cir. 1963), cert. den., 377 U.S. 954 (1964). (The Solicitor General filed but with notation he would not support the Commission's position if certiorari were granted. The Supreme Court denied certiorari, with Justice Douglas of the view that certiorari should be granted.) Borden Co. v. F.T.C., 339 F. 2d 953 (7th Cir. 1964); Callaway Mills Co. v. F.T.C., 362 F. 2d 435 (5th Cir. 1966); F.T.C. v. Standard Motor Products, Inc., 371 F. 2d 613 (2d Cir. 1967); Borden Co. v. F.T.C., 381 F. 2d 175 (5th Cir. 1967); Knoll Associates, Inc. v. F.T.C., 397 F. 2d 530 (7th Cir. 1968).

[31] Nineteen of 34.

[32] Monroe Auto Equipment Co. v. F.T.C., 347 F. 2d 401 (7th Cir. 1965), cert. den., 382 U.S. 1009 (1966); Purolator Products, Inc. v. F.T.C., 352 F. 2d 874 (7th Cir. 1965), cert. den., 389 U.S. 1045 (1966).

[33] Harry Carr v. F.T.C., 302 F. 2d 688 (1st Cir. 1962); Marcus v. F.T.C., 354 F. 2d 85 (2d Cir. 1965).

[34] Consolidated Foods Corp. v. F.T.C., 329 F. 2d 623 (7th Cir. 1963), rev'd, 380 U.S. 592 (1965); F.T.C. v. Dean Foods, unreported 7th Cir. 1966, rev'd, 384 U.S. 597. (In this case, the Commission sought a prelitigation injunction and the Supreme Court's decision held in favor of the Commission.) Procter & Gamble Co. v. F.T.C., 358 F. 2d 74, rev'd, 386 U.S. 568 (1967).

[35] The Organization and Procedures of the Federal Regulatory Commissions and Agencies and Their Effect on Small Business, H. Rept. 2967, 84th Cong., 2d Sess., p. 91 (1956).

[36] 56 Stat. 1078; 44 U.S.C. 421.

[37] Some of this duplication existed, and still exists, due to overdrastic restrictions upon the release of information already collected, depending upon the agency, the purpose for which it was collected and the manner in which it was collected.

[38] Speaking about OPA reports and questionnaires, Congressman Patman stated:

"If the gentleman had heard the testimony that has been presented before the Committee on Small Business of the House, he would be very anxious to have this bill passed without 1 hour's delay. The people are up in arms about these useless reports and unnecessary questionnaires. They are irritated by them and they are irritated at the Congress because the Congress will not do something about it." [88 Cong. Rec. 9121.]

[39] Some of the supervisory agencies and the Bureau of Internal Revenue are exempted. See Bowman, Results Achieved by the Federal Reports Act, 7 Bus. and Gov't. Rev. 5 (U. of Missouri, 1966).

[40] Bowman, supra note 39.

[41] 88 Cong. Rec. 9159–9166.

[42] The following is an excerpt of one of the comments during the debate of the bill:

"Mr. SMITH of Ohio. Mr. Speaker, reserving the right to object, there is a good deal more to this bill than merely the elimination of unnecessary reports. Under section 2(d) it seems to me you are vesting a lot of authority and power in the Director of the Budget.

"Upon the request of any party having a substantial interest or upon his own motion, the Director is authorized within his discretion to make a determination as to whether or not the collection of any information by any Federal agency is necessary for the proper performance of the functions of such agency or any other proper purpose.

"Certainly a considerable amount of information being collected by various governmental agencies is being so collected by direction of the Congress in response to specific legislation. Are we to infer that the Director of the Budget is to have final authority and power to set aside any legislation which the Congress has passed directing the collection of information?" [88 Cong. Rec. 9159.]

[43] The Commission on Organizaton of the Executive Branch of the Government received its name "Hoover Commission" because it was chaired by ex-President Hoover.

[44] REPORT ON THE ORGANIZATION OF THE INDEPENDENT REGULATORY COMMISSIONS, March 3, 1949.

[45] It is significant to note that the Senate Committee on Government Operations rejected recommendations made by the first Hoover Commission that certain "executive" functions of regulatory agencies be transferred to Executive Departments, with the following comment:

> . . . To the extent such recommendations were consistent with established legislative policies and in conformity with the separation of regulatory functions from administrative controls of policy-determining departments or agencies, they received favorable action. These regulatory commissions were established primarily by the Congress to act on an independent basis in the public interest, and free from direct control by the President over either their activities or their decisions. The basic statutes provided that they be primarily responsible to the Congress of the United States as the elected representatives of the people in order that they might be responsive to the general public interest and in a position to carry on their activities without improper influences from other governmental agencies. This committee, and the Senate, determined that favorable action on these proposals would seriously impair the operations of these commissions and would tend to undermine their independence of action. [Senate Committee on Government Operations, Senate Action on Hoover Commission Reports, S. Rept. 4, 83d Cong. 1st Sess. 67 (1953).]

[46] Task Force on Regulatory Commissions, Appendix N, p. 32, Jan. 1949.

Prepared for the Commission on Organization of the Executive Branch of the Government.

[47] With the exception of appointments to the major administrative units within an agency, which would require approval of a majority of commissioners.

[48] These plans were labeled in the following manner: Reorganization Plan No. 8, FTC; Reorganization Plan No. 9, FPC; Reorganization Plan No. 10, SEC; and Reorganization Plan No. 13, CAB. 5 USC 133Z–15 (1964). See also 5 USC 901–913 (1964 Supp. III).

[49] S. Res. 254, 81st Cong., 2d Sess. Under the Reorganization Act of 1945 (59 Stat. 613), the President was given the authority for a specific time period to submit reorganization plans to the Congress. To prevent such a plan from going into effect, a concurrent resolution was necessary by the two Houses, stating that the Congress does not favor the reorganization plan. This time period has since been periodically extended, and again on March 27, 1969 (P.L. 91–5), 83 Stat. 6.

[50] Hearings Before the Senate Committee on Expenditures in the Executive Departments, 81st Cong. 2d Sess. (1950), S. Res. 254, pp. 13–17.

[51] It is questionable whether it is desirable that a regulated industry become the champion and protector of the independence of its regulatory agency.

[52] Landis, Report on Regulatory Agencies to the President-Elect, Dec. 1960.

[53] Id. at 48.

[54] Id. at 52.

[55] Id. at 36.

[56] Reorganization Plans 1 (SEC), 2 (FCC), and 5 (NLRB) were disapproved by the House of Representatives. 5 U.S.C. 133z–15 (1964).

[57] The reaction of members of Congress who recognized the importance of the Landis Report on regulatory independence is best summed up by the statement of Representative Avery from Kansas:

"Mr. Speaker, I do not want to longer impose upon the time of the House, but I would just like to make the record clear that this is the boldest trespass upon the independence of the regulatory agencies that has become a matter of record since the Interstate Commerce Commission was authorized in 1887." [107 Cong. 1927.]

[58] 390 F.2d 323 (8th Cir. 1968).

[59] F.T.C. v. Guignon, 261 F. Supp. 215 (E.D. Mo. 1966).

[60] In reaching this decision the court placed heavy reliance on F.T.C. v. Claire Furnace Co., 274 U.S. 160 (1927), thereby repeating the previously committed error of confusing those provisions of the F.T.C. Act relating to mandamus, i.e., the enforcement of orders with the provision relating to the enforcement of subpoenas.

[61] 390 F.2d 324.

[62] In F.T.C. v. Smith, 34 F.2d 323 (S.D.N.Y. 1929), the Commission's first subpoena enforcement case, the United States Attorney, as well as the Commission attorneys, was shown in the official reports as having appeared for the Commission. But the first sentence of the Smith case (34 F.2d 324) states that the action was initiated by "application of the Federal Trade Commission," not by application of the Attorney General.

[63] E.g., F.T.C. v. Green, 252 F. Supp. 153 (S.D.N.Y. 1966); Adams v. F.T.C. 296 F.2d 861 (8th Cir. 1961), cert. den. 369 U.S. 864 (1962); F.T.C. v. Cooper, 1962 CCH Trade Cases ¶70,353 (SD.N.Y. 1962); F.T.C. v. Tuttle, 244 F.2d 605 (2d Cir. 1957), cert. den, 354 U.S. 925; F.T.C. v. Harrell, 313 F.2d 854, 855 (7th Cir. 1963); F.T.C. v. Reed, 243 F.2d 308 (7th Cir. 1957), cert. den., 355 U.S. 823; F.T.C. v. Hallmark, Inc., 265 F.2d 433 (7th Cir. 1959); Flotill Products, Inc. v. F.T.C., 278 F.2d 850 (9th Cir. 1960), cert. den. 364 U.S. 920; Moore Business Forms, Inc. v. F.T.C., 307 F.2d 188 (D.C. Cir. 1962); F.T.C. v. Rubin, 245 F.2d 60 (2d Cir. 1957); F.T.C. v. Hunt Foods & Industries, Inc., 178 F. Supp. 448 (S.D. Cal. 1959), aff'd, 286 F.2d 803 (9th Cir. 1960), cert. den., 365 U.S. 877 (1961); F.T.C. v. Waltham Watch Co., 169 F. Supp. 614 (S.D.N.Y. 1959); F.T.C. v. Bowman, 149 F. Supp. 624 (N.D. Ill. 1957), aff'd, 248 F.2d 456 (7th Cir. 1957); F.T.C. v. Menzies, 145 F. Supp. 164 (D. Md. 1956), aff'd, 242 F.2d 81 (4th Cir. 1957); F.T.C. v. Scientific Living, Inc., 150 F. Supp. 495, 498 (M.D. Pa. 1957), appeal dism. (3d Cir., order dated Aug. 12, 1957), cert. den., 355 U.S. 940 (1958); F.T.C. v. Clarke, 33 F.T.C. 1812 (S.D. Cal. 1941), held not subject to collateral attack, 128 F.2d 542 (9th Cir. 1942). See also cases cited in the dissenting opinion in Guignon, 390 F.2d at 336 n. 8.

[64] Withrow, Investigatory Powers of the FTC-Constitutional and Statutory Limitations, 24 Fed. Bar J. 456 (1964):

> In case of disobedience to a subpoena, the Commission may itself seek the aid of the courts but where enforcement of a demand for access or a Section 6(b) report is sought, the Commission is required to request the Attorney General to make application to the courts. [p. 485.]

[65] Mr. COVINGTON. I think the conflict is more apparent than real, and, frankly, it was an oversight in the final draft. It is a fact that there is a slight conflict there. It is one, however, the court would have no difficulty in determining, because in the section which embodies the method of dealing with processes of the commission, process for subpoena, process of enforcing ordinary orders respecting reports, process for production of documents, process for the punishment of contumacious witnesses, and all other ordinary machinery for the actual operation of the commission investigations and hearings, there is found that provision. It might very well be held to relate entirely to the proceedings under the section to which the gentlemen refer. And the exclusive jurisdiction conferred upon the circuit court of appeals is expressly related to and found in the section which deals with unfair methods of competition in business. In addition thereto, as indicated—that section 9, to which the gentleman refers, was dealing entirely with methods and processes—it provides that the jurisdiction of the district courts of the United States shall be invoked only upon the application of the Attorney General of the United States, and only at the request of the commission. Assuming all the gentleman says, it would not become a conflict of jurisdiction until the application of the Attorney General to the district court after the request of the commission had been made. The commission would never use that method to enforce its unfair competition orders. [51 Cong. Rec. 14,927]

[66] For reasons not spelled out in the decision, this was not dealt with by the majority, even though the dissenting opinion by Judge Heaney makes specific reference to the legislative history of Section 9 of the Federal Trade Commission Act, as well as the distinction between mandamus proceedings and subpoena enforcement. 390 F.2d 330, et seq.

[67] But the great value to the American people of the Interstate Commerce Commission has been largely because of its independent power and authority. The dignity of the proposed commission and the respect in which its performance of its duties will be held by the people will also be largely because of its independent power and authority. Therefore the bill removes entirely from the control of the President and the Secretary of Commerce the investigations conducted and the information acquired by the commission under the authority heretofore exercised by the Bureau of Corporation or the Commissioner of Corporations. All such investigations may hereafter be made upon the initiative of the commission, within constitutional limitations, and the information obtained may be made public entirely at the discretion of the commission. [H. Rept. 533, 63d Cong., 2d sess. 3 (on H.R. 15613, a predecessor of the Commission's organic statute).]

[68] Supra note 59.

[69] According to the historical notes, Section 516 is based on former 28 USC Judicial Code 507, which, in turn, is based in R.S. 361, which provided that:

> The officers of the Department of Justice, under the direction of the Attorney General, shall give all opinions and render all services requiring the skill of persons learned in the law necessary to enable other officers in the Departments, to discharge their respective duties; and shall, on behalf of the United States, procure the proper evidence for, and conduct, prosecute, or defend all suits and proceedings in the Supreme Court and in the Court of Claims, in which the United States, or any officer thereof, as such officer, is a party or may be interested. . . .

The phrase "except as otherwise authorized by law" was not contained in R.S. 361. Nor did it contain "or agency" because it was enacted prior to the establishment of a major permanent independent agency. Furthermore, it did not apply to litigation in the district courts and referred to Executive Departments exclusively. If the revisers of former 28 USC Judicial Code 507 had intended to make so great a change in preexisting law as to repeal the Commission's authority to go to court without the aid or consent of the Attorney General, it would seem that their notes would have so advised the enacting Congress. No hint of such intention appears either in those notes or in the committee reports, and, accordingly, an intention to amend Section 9 of the Federal Trade Commission Act in this respect cannot be inferred.

An equal lack of any such indication is shown by the history of the enactment of present 28 USC 516 and 519. As to the provisions in Section 519, the committee reports not only show no intention that the recodification should amend the Commission's authority under Section 9, but also affirmatively show a determination to make no change in the existing law. H. Rept. 901, 89th Cong., 1st Sess. on H.R. 10104, which codified and revised Title 5 and enacted it into positive law.

> Like any other recent codifications undertaken as part of the program of the Committee on the Judiciary of the House of Representatives to enact into law all 50 titles of United States Code, there are no substantive changes made by this bill enacting Title 5 into law. It is sometimes feared that mere changes in terminology and style will result in changes in substance or impair the precedent value of earlier judicial decisions and other interpretations. This fear might have some weight if this were the usual kind of amendatory legislation where it can be inferred that a change of language is intended to change substance. In a codification statute, however, the courts uphold the contrary presumption: the statute is intended to remain substantively unchanged. [p. 3.]

With respect to present 28 USC 519, the report states that it was derived from former 28 USC 507(b) and that "The words 'Except as otherwise authorized by law' are added to provide for existing and future exceptions . . ." (p. 187.)

[70] Supra note 69.

[71] Cf. F.T.C. v. Dean Foods Co., 384 U.S. 597 (1966). In that case, with respect to the issue whether the Commission had authority to seek a pendente lite injunction, the Supreme Court stated:

> There is no explicit statutory authority for the Commission to appear in judicial review proceedings, but no one has contended it cannot appear in the courts of appeals to defend its orders. Nor has it ever been asserted that the Commission could not bring contempt actions in the appropriate court of appeals when the courts enforcement orders were violated, though it has no statutory authority in this respect. Such ancillary powers have always been treated as essential to the effective discharge of the Commission's responsibilities. [p. 607.]

In a recent subpoena enforcement suit before the United States District Court for the Northern District of Georgia, Civil Actions 12,430, 12,431, 12,432, in a decision dated April 2, 1969, the court, although the issue had not been raised, went out of its way to state:

> Unlike other orders a subpoena issued by the Commission need not be enforced by first applying to the Attorney General. F.T.C. v. Continental Can Co., 267 F. Supp. 713 (S.D.N.Y. 1967). Contra, F.T.C. v. Guignon, 261 F. Supp. 215 (E.D.Mo. 1966), aff'd, 390 F.2d 323 (8th Cir. 1968).

[72] Letter by Roosevelt to Humphrey, July 25, 1933.

[73] 272 U.S. 52 (1926).

[74] Humphrey's Executor v. United States, 295 U.S. 602, 625–26 (1935).

[75] Id. at 629.

[76] Id. at 607.

[77] Williams v. United States, 289 U.S. 553 (1933). See also, Lusk v. United States, 173 Ct. Cl. 291 and cases cited therein; Wiener v. United States, 357 U.S. 349 (1958).

[78] For example, the quasi-judicial authority conferred upon the Secretary of Agriculture by the Packers and Stockyards Act.

ANNIVERSARY OF THE INDEPENDENCE OF THE ISLAMIC REPUBLIC OF MAURITANIA

Mr. HARTKE. Mr. President, on November 28, the Islamic Republic of Mauritania celebrates the 13th anniversary of its independence. I think it would be proper for us to offer our congratulations to the Mauritanian people on this day and send them the best wishes of this body and the American people.

Situated at the Atlantic Ocean edge of the drought-stricken Sahelian region of Africa, Mauritania has struggled mightily to overcome the devastating effect of the dryness that has denied it the ability to feed its population. Mauritania has coordinated very effectively the international drought-relief effort in which the United States has played a significant role. Our country has contributed over 40 percent of the grain donated to Mauritania by friendly countries and international organizations this year. The U.S. Air Force also lent a hand by air-lifting food to remote parts of the country. The Mauritanians have many times expressed their gratitude for this American assistance. We will have to be prepared to carry on this important role since the rains have failed again this fall, and the Mauritanian Government expects that it will have to provide food to a large majority of its population in the months to come.

Despite the extraordinary burden of the drought in Mauritania, the country, led by President Moktar Ould Daddah, is working hard to develop its economy and it is actively seeking U.S. private investment to help in this task. The Mauritanian Ambassador to the United States, Ahmedou Abdallah, is meeting regularly with American businessmen to tell them about the opportunities in his country.

Beyond its efforts at economic development, Mauritania is playing an active international political role which it sees natural for itself—that of link and mediator between the Arab-Berber north of Africa and black Africa south of the Sahara. President Ould Daddah's leadership in Africa was recognized when he was elected President of the Organization of African Unity in 1971. In further recognition of its active role, Mauritania was elected to membership in the United Nations Security Council starting in January 1974.

To sum up, Mr. President, Mauritania is a hard-working country, beset by tremendous problems, but determined to success. It is grateful for U.S. help in the past and looks forward to further cooperation with this country in the future. I think Americans can admire the serious-minded and dedicated attitude of Mauritania and, while congratulating it on its national day, we should sincerely extend our best wishes for the future.

NOISE POLLUTION RULE FOR THE SST

Mr. TUNNEY. Mr. President, one of the saddest stories in the long fight to reduce aircraft noise is the years of delay by the Federal Aviation Administration in promulgating a noise rule for the SST. It now appears that FAA inaction may be abetted by a "project report" prepared by some staff of the Environmental Protection Agency—but not cleared or approved by the Office of Noise Abatement and Control—which describes an aircraft noise certification rule for supersonic civil aircraft.

Today, the Environmental Defense Fund has notified the FAA of its intention to file suit unless the requirements of section 611 of the Federal Aviation Act, as amended by the Noise Control Act of 1972, are met within 60 days. That letter spells out, in detail, why such a suit may now be the only alternative.

More than 3 years ago, EDF asked the FAA to set a noise standard for SST's equal to the noise criteria of FAR part 36 for subsonic aircraft.

Nearly everyone who commented on this proposal, including the Airport Operators Council International, strongly endorsed the EDF position.

In October 1972, my distinguished colleague, Senator CRANSTON, introduced an amendment to the Noise Control Act of 1972 which would have made the FAR part 36 standard for subsonic aircraft applicable to SST's. Mr. President, that amendment carried the Senate by an overwhelming vote of 62–17.

And yet the FAA has continued to do nothing on this issue. The EDF letter of intention to file suit contends that the effect of this delay is to undermine the FAA's very ability to protect the public health and welfare from excessive noise, because of continuing investment in a design for the Anglo-French Concorde SST which is evidently incapable of meeting the standard which the FAA has determined is necessary to protect the public from excessive noise from new subsonic jets. EDF argues that unless the FAA acts now, further investment in the SST will only increase the likelihood of sacrificing the public health and welfare to economic expediency.

Mr. President, I also received this afternoon, a second document which leads me to believe that EDF is correct on this. This second document is an unofficial draft of an SST noise certification rule which has been prepared and circulated by certain personnel within the Environmental Protection Agency, but which does not carry the approval of the Director of EPA's Office of Noise Abatement and Control. This draft was sent out to about 200 persons today, including the manufacturers of the Concorde.

Mr. President, this unofficial draft is a disaster. It would allow the Concorde and the Russian TU-144 to make noise on takeoff of up to 117 EPNdB. This will be heard by airport neighbors as roughly twice as loud as the level the Concorde would be allowed to produce under its weight class were it to meet FAA part 36. This is manifestly defiant of the will of this body as expressed last year in the vote on Senator CRANSTON's amendment. This is squarely contrary to the recommendations of nearly everyone who commented on the EDF petition in 1970. It will come as a shock to all of the people who live around our major international airports, who are being asked to sacrifice their health and welfare to the unwillingness of the Concorde manufacturer to make necessary design changes.

The unlimited U.S. certification of the Concorde—perhaps the most fuel-gulping and uneconomic aircraft yet developed—in this time of energy crisis is unthinkable. Moreover, from the point of view of the protection of the environment, such certification would provide no possible benefit to the people of this country. It would merely further add to the noise pollution.

Mr. President, I ask unanimous consent to print the two documents to which I have referred in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS FROM "PROJECT REPORT: AIRCRAFT NOISE CERTIFICATION RULE FOR SUPERSONIC CIVIL AIRCRAFT"

(By William C. Sperry)

The recommended supersonic aircraft noise certification rule should contain the following elements:

1. All supersonic aircraft (except the Concorde and TU-144) applying for type certification after the publication date of the proposed rule should meet the noise criteria of FAR Part 36 for subsonic aircraft (effective date of 1 December 1969).

2. Future developments in source noise control and operational procedures should be reflected in modifications to the rule as soon as technology permits. Current indications are that the design goals for the 1980–85 time period could be as low as 5 EPNdB below the current FAR 36 limitation.

3. Aircraft having applied for type certification, or having made their first flight (Concorde and TU-144) prior to the publication date of the rule should be exempted from meeting the FAR 36 criteria noise levels for subsonic aircraft. The allowable noise levels for these aircraft should reflect the maximum use of available technology to produce as low a noise level as feasible. (Noise reduction devices and operating procedures are expected to be included with production aircraft.)

4. Concorde and TU-144 certification should be contingent upon meeting the noise levels at the FAR 36 measuring points listed in Table II.

TABLE II

FAR 36 measurement points	Concorde and TU-144 criteria levels in EPNdB	Subsonic aircraft comparison levels in EPNdB	
		707	DC-8
Sideline	115	107.5	103
Takeoff	117	114.0	117
Approach	115	119.5	117

5. The criteria levels of Table II may be exceeded at either the sideline or takeoff measuring points if the exceedance is completely offset at the other (sideline or takeoff) measuring point.

6. Appendixes A and B of FAR Part 36 should be applicable to all SST aircraft. Appendix C should be applicable for new type designs and be applicable to the Concorde and TU-144 except for the noise level criteria.

Comparing the criteria levels of Table II with Figure 10, it is seen that there is an allowance for reasonable growth. Any growth beyond the initial allowance must be accomplished on the basis of a one to one EPNdB tradeoff reduction. Also, comparing the criteria levels with the typical subsonic aircraft levels listed in Table II (from Reference 5), it is seen that the values for the SST aircraft are comparable except for the sideline point. However, for most airports, the sideline levels are not as important as those for takeoff and approach.

ENVIRONMENTAL DEFENSE FUND,
Washington, D.C.

Re SST Aircraft Noise Regulation.

Hon. ALEXANDER P. BUTTERFIELD,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR MR. BUTTERFIELD: As you know, Sec. 611 of the Federal Aviation Act, 49 U.S.C. Sec. 1431, as amended by Sec. 7(b) of the Noise Control Act of 1972 (hereinafter "Sec. 611"), provides, *inter alia*, that:

"(b)(1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA . . . shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension or revocation of any certificate authorized by this title. . . .

(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom. . . ."

The mandatory language of Sec. 611 ("the FAA . . . shall prescribe," etc.) is carried over, with various modifications, from the original version of Sec. 611 enacted in 1968, P.L. 90–411, 82 Stat. 395. Before the enactment of Sec. 611 in its original form, the House Committee on Interstate and Foreign Commerce explained that:

"... the introduced bill merely *authorized* the establishment of standards, rules and regulations and their application in the certification process. The bill reported by the committee [and enacted] *requires* their establishment and application." H. Rep. No. 1463, 90th Congress, 2d Sess. p. 5. (Emphases in original.)

Likewise, the debates on this bill make abundantly clear that Sec. 611 was meant to impose affirmative duties on the FAA, and was not intended to give the FAA discretion to abdicate those duties through the device of a protracted failure to "find" that regulation of aircraft noise is "necessary." See 114 Cong. Rec. 16384–99 (House), 20915–31 (Senate), 90th Cong. 2d Sess. (1968).

Moreover, Sec. 611 plainly states that in fulfilling these affirmative duties, the FAA is to act in such a way as "to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom."

Since enactment of Sec. 611 more than five years ago, the FAA has been less than diligent, to put it charitably, in carrying out this mandate. Nowhere is this more obvious than with respect to a noise regulation governing civilian supersonic transports ("SSTs").

On May 25, 1970, three and one-half years ago, the Environmental Defense Fund ("EDF") petitioned the FAA to propose and promulgate such a regulation. In this petition, EDF requested that the regulation be no less protective of the public health and welfare than Federal Air Regulation ("FAR") Part 36, 14 C.F.R. Part 36 (1969) which applies to new subsonic jets.

The FAA responded by issuing an Advance Notice of Proposed Rulemaking ("ANPRM"), which did not propose an SST noise regulation, but invited public comment on EDF's petition. 35 Fed Reg. 12555–56 (Aug. 4, 1970).

The comments received almost unanimously supported EDF's position that the noise regulation for SSTs should be no less stringent than that applicable to new subsonic jets under FAR Part 36. Comments to this effect were received from, among others, the American Transport Association, the Aviation Development Council, the Department of Marine and Aviation Transportation Administration of the City of New York, and the Airport Operators Council International. This last organization, which represents most of the airport operators in this country and abroad, commented that:

"Early establishment of SST certification noise levels along the lines stated before are necessary to insure that the public interest and the intent of Congress are preserved. Any delay in the rejection of a dual standard for subsonic and supersonic transport aircraft will, in our view, only exacerbate an already highly critical situation to the extent that the prototype construction is only acceptable if it is made clear that one of its primary functions is to insure acceptable noise levels for the production airplane. Equivocation on this subject, we believe, will be disastrous to the entire program."

Since the expiration of the comment period under this ANPRM, though, the FAA has done nothing. And the circumstances suggest that the reason that the FAA has done nothing is that it has made a conscious decision to delay indefinitely in proposing an airport noise regulation for SSTs. These circumstances further suggest that the FAA's purpose in so deciding may have been to minimize Congressional and public debate on the appropriate content of such a regulation, until events impair the FAA's capacity to exercise its authority, as Sec. 611 requires, "in order to afford present and future relief and protection to the public health and welfare from aircraft noise."

Specifically we are informed that on October 10, 1972, at a federal interagency meeting convened to discuss the Anglo-French Concorde SST, the FAA representative, Mr. R. P. Skully, announced that the FAA was in the final stages of preparing an SST noise regulation, and would propose it within a period of weeks. We understand that Mr. Skully noted at this meeting that there was a plain Congressional and public consensus against setting a standard any less protective of public health and welfare than FAR Part 36, but that there was also some doubt as to whether the Concorde, as currently designed, could meet that standard.

Three days later, on October 13, the Senate confirmed Mr. Skully's estimate of Congressional sentiment by voting 62–17 in favor of an amendment offered by Senator Alan Cranston of California that would have made FAR Part 36 applicable to SSTs. Debate on this amendment focused particularly on the Concorde. 118 Cong. Rec. S. 18000–02 (daily ed). The House never had an opportunity to vote on this amendment.

On November 9, 1972, your predecessor as Administrator, Mr. Shaffer, assured Senator Clifford P. Case of New Jersey that proposal of an SST noise regulation was "imminent." (See Exhibit "A," hereto.)

This "imminent" proposed regulation, however, has not been heard of since. Meanwhile, massive investment in the Concorde is taking place, which will create corresponding pressure to tailor the regulation to the present capabilities of the Concorde—instead of tailoring the Concorde to the demands of public health and welfare, as Sec. 611 requires. The result is likely to be substantial and lasting damage to the public health and welfare, and to the quality of the human environment.

Moreover, we are informed that the FAA is now in the process of type certifying the Concorde under Sec. 603(c) of the Federal Aviation Act, 49 U.S.C. Sec. 1423(a), thus encouraging the very investment which will impede meaningful exercise of the FAA's mandate under Sec. 611.

But under Sec. 611(b)(2), the FAA may not lawfully type certify the Concorde unless it has *first* promulgated an SST airport noise regulation, or made a negative determination under the same section that this class of aircraft is not one "for which substantial noise abatement can be achieved." The FAA's previous announcements that a rule would be "imminent[ly]" proposed, clearly establish that this class of aircraft does not fit the negative determination exception.

We hereby call your attention, under Sec. 12(b)(2) of the Noise Control Act of 1972, 42 U.S.C. Sec. 4911(b)(2), to the following violations of law in the course of action just described:

1. The FAA's decision to delay indefinitely in proposing an airport noise rule for SSTs, despite its previously announced readiness to do so, violates the command of Sec. 611 that the FAA "shall prescribe" regulations for the control and abatement of aircraft noise.

2. This decision, taken in the context of continuing investment in the Concorde which creates pressure for an ultimate relaxation of FAR Part 36 standards, violates the command Sec. 611 that regulations be prescribed that will "afford present and future relief and protection to the public health and welfare from aircraft noise."

3. This decision violates Sec. 102 of the National Environmental Policy Act, 42 U.S.C. Sec. 4332, which provides, *inter alia*, that:

"To the fullest extent possible . . . the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies of this chapter,"

which policies are stated, *inter alia*, in Secs. 101 and 102 of NEPA, 42 U.S.C. Secs. 4321 and 4332, and include "prevent[ion] or eliminat[ion of] damage to the environment"; fulfill[ment of] the responsibilities of each generation as trustee of the environment for succeeding generations"; "assur[ance] for all Americans [of] safe, healthful, productive and esthetically and culturally pleasing surroundings"; and "attain[ment of] the widest range of beneficial uses of the environment without degradation. . ."

4. The FAA is violating Sec. 611 in proceeding with type certification of the Concorde until an applicable noise regulation has been promulgated.

5. Notwithstanding that the FAA's decision to delay indefinitely in proposing an aircraft noise rule for SSTs is *in itself* "major federal action significantly affecting the quality of the human environment" within the meaning of Sec. 102(2)(C) of NEPA, 42 U.S.C. Sec. 4332(2)(C), so as to require the FAA to prepare and circulate an environmental impact statement under that Section, and to "study, develop and describe appropriate alternatives" under Sec. 102(2)(D) of NEPA, 42 U.S.C. Sec. 4332(2)(D), the FAA has never prepared and circulated an impact statement on this decision under Sec. 102(2)(C) or studied, developed and described appropriate alternatives thereto within the meaning of Sec. 102(2)(D).

6. This decision to delay is a violation of the President's Executive Order No. 11514 (March 5, 1970), which requires, *inter alia*, (Sec. 1) that:

"Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals . . . ,"

And (Sec. 2(b)) that:

"The heads of Federal agencies shall . . . develop procedures to ensure the fullest practicable provision of *timely* public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall . . . provide the public with relevant information, including information on alternative courses of action. . . ." (Emphasis added.)

7. This decision constitutes "agency action unlawfully withheld or unreasonably delayed" within the meaning of the Administrative Procedure Act, 5 U.S.C. Sec. 706(1).

We trust that upon receipt of this notice under Sec. 12(b)(2) of the Noise Control Act, you will take prompt steps to bring the FAA into full compliance with its statutory mandate.

We look forward to hearing from you on this matter at your earliest convenience.

Sincerely yours,

John F. Hellegers,
Washington Councel, Environmental Defense Fund, Washington, D.C.
H. Meade Alcorn, Jr.,
Attorney for the National Organization to Insure a Sound-controlled Environment ("N.O.I.S.E.")

U.S. Senate,
Washington, D.C., November 14, 1972.

Mr. John F. Hellegers,
Washington Counsel, Environmental Defense Fund, Washington, D.C.

Dear Mr. Hellegers: As promised, I did get in touch with the Federal Aviation Administration with regard to its proposed noise standard for supersonic aircraft. Administrator Shaffer replied to me in a brief letter dated November 9. He stated as follows:

"In response to your request of 2 November 1972 please find enclosed a copy of our reply to the Environmental Defense Fund's letter of 19 October 1972. Further elaboration on our proposed noise standard for supersonic aircraft is not considered necessary at this time since its publication is imminent."

Sincerely,

Clifford P. Case, *U.S. Senator.*

LET'S GIVE BUREAUCRATS CREDIT

Mr. PROXMIRE. Mr. President, those persons who man the Government agencies are an "easy target," as Elizabeth Drew recently pointed out in a WTOP editorial. I have aimed my barbs from time to time, also. But her major point—one I believe needs emphasis—is that Federal workers are dedicated. They are honest. They are, indeed, "a force for stability."

We owe Government workers—the professionals, the managers, and the clerical workers, as well—gratitude for doing their jobs under trying circumstances.

Mr. President, I ask unanimous consent that Elizabeth Drew's commentary be printed in the Record.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

Bureaucracy

We have heard so much that is disturbing about the political uses to which our government has been put, that we might overlook a very important, and more hopeful, fact. The bureaucracy, that much maligned group, serves us very well. Despite the pressures, and temptations, that are put upon it, we have a remarkably, impressively, honest government. It is time to speak up for the federal government civil servants, to honor them, for we owe them a great deal. Right now, despite great strains, they are holding our government together.

The government bureaucracy is an easy target. It is too large, too slow, too saddled with rulebooks and regulations that keep things from happening, too protective of the status quo. But so is almost every other bureaucracy—in corporations, universities, news organizations. There is something in human nature that has an instinct for bureaucratization—for over-complication of what is to be done. Washington bureaucrats are not exceptional in this respect.

But they may be exceptional in another one. The idea of a professional government service is that it is to be protected from partisan pressures. The Nixon administration appears to have misunderstood this, as it misunderstood the roles of many institutions in a free, democratic society. Many of those who tried hard to protect the independence of the civil service have left the government. Many government workers are demoralized. Many of them fear that their reputations have been tarnished by recent events. But this should not be the case. Most government workers are there for idealistic reasons—they believe in what they do. And most of them resisted great pressures. They are a force for stability. They may be as honest a government bureaucracy as there is in the world.

We should honor them.

FRANCHISES—THE WAY TO FLY—OR WALK

Mr. HARTKE. Mr. President, I would like to bring to the attention of my colleagues another area of concern under my franchise bill. My bill, S. 2467, provides for the fair disclosure of information between participants to a franchise agreement.

The train of abuses in the area of franchises has barely begun to surface. Not only are the abuses felt among the participants, but the consumers of goods are equally subjected to the risk of show or no show. The risk, generally without exact measurement, can, I submit to my colleagues, be here measured by its outside boundaries. Therein will be seen the loss of services, investments, and savings to consumers, investors, stockholders, and businessmen.

Mr. President, I ask unanimous consent that a letter and its enclosures received by me be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

American Society
of Travel Agents, Inc.,
October 17, 1973.

Hon. Vance Hartke,
U.S. Senate,
Washington, D.C.

Dear Senator Hartke: A copy of your bill, S. 2467, recently introduced in the Senate, has come to our attention and we are anxious to let you know of our interest in the subject of franchising.

Enclosed for your information is a copy of a letter to Attorney General Louis Lefkowitz of New York State describing one instance of inaccurate claims by a travel industry franchiser, International Travel Masters of Philadelphia.

Please keep us informed of the progress of your legislation and how we may be of assistance to you in this effort.

Sincerely,

Arthur Schiff,
Staff Council.

American Society
of Travel Agents, Inc.,
June 18, 1973.

Louis J. Lefkowitz,
Attorney General, State of New York, New York, N.Y.

Dear General Lefkowitz: As champion of the consumer and as a public official concerned with misleading advertising, I would like to call to your attention the enclosed article from the newspaper, Travel Weekly, dated June 8, 1973. The article reports on a recent meeting in New York in which the President of a Philadelphia travel company spoke to a group of prospective franchise purchasers about the prospect of success in the travel agent industry.

Included in the article are a series of claims regarding the industry which, if accurately reported, are extremely misleading, if not downright untrue. Among other statements the speaker is reported to have made are:

"Almost every travel agent in New York and Northern New Jersey is making $35,000 to $60,000 a year".

"The travel agency industry is a $38 billion industry".

These claims are simply not true.

Perhaps your office would deem it appropriate to investigate the circumstances of the meeting with a view toward disciplinary legal action if false and misleading claims were, in fact, made.

The American Society of Travel Agents is anxious to cooperate with your office in any and all efforts to insure that misleading and inaccurate claims about the industry do not result in business and personal disappointment and financial loss to the detriment of the individual, the travel agent industry and the general public.

Very truly yours,

Arthur Schiff, *Staff Counsel.*

Franchisor Paints Rosy Image for Prospects: Golden Life as Retailer Priced at $1,700

(By Bob Davis)

New York.—A rosy picture of one-man travel agencies selling large numbers of travel group charter tickets and an average of 15 cruises a month to walk-in customers is being painted for prospective franchisees by a Philadelphia firm, International Travelmasters.

At a recent New York meeting, William A. Nash, president of the new company, told an audience of 75 prospective purchasers that "almost every travel agent in New York and Northern New Jersey is making $35,000 to $60,000 a year."

Travelmasters offers to provide a training course to investors for $1,700 and grants exclusive rights to the name in a specified zip code area for $600. The investor can buy the rights to several zip codes at the same date.

Nash told his audience last week that the road to success as a travel agent could be found by concentrating on TGC and affinity charter sales as well as the walk-in cruise business, and by avoiding the whole matter of getting airline appointments and selling point-to-point tickets.

For those who insisted on providing such services, Nash offered a novel approach: "You can qualify for ASTA and get your travel benefits."

Another plum awaiting the Travelmasters franchisee, according to Nash, is free travel. For every 100 TGC sales including land packages, the investor gets a free TGC trip, and for every 20 passengers booked on the same sailing, a free cruise. He made no mention of who would operate the one-man agencies while the owners were traveling.

CLAIMS AFFILIATES

Travelmasters claims to have sold several franchises in the greater New York area. Nine franchisees are already said to be attending training sessions, which are under the direction of Paul Henze, a former American Airlines ticket agent and employe of O'Keefe Travel in Philadelphia and Leonhardt Travel in Jenkintown, Pa.

Henze and Loretta Lorenzon, described as a former American Airlines Flagship desk reservations agent in Washington, D.C., apparently represent the bulk of the "over 45 years combined experience in the travel industry" which Travelmasters boasts.

Nash identified himself last week as a professional salesman. He is listed in Travelmasters' promotional literature as president of the North American Land Development Corp., a firm which he described as selling "most of the land in the Poconos;" head of a company which produces banding machines for use in packaging, and chief executive of a holding company called Group 7.

Nash said that Travelmasters' entry into the travel franchise field was prompted by the creation of travel group charters last fall. He did not reveal whether he had any previous experience in the travel business.

International Travelmasters has its headquarters in Elkins Park, Pa., but was to have opened an office in New York City last weekend. The name of the firm is similar to that of other travel firms, including a Philadelphia wholesaler, but it apparently has no connection with any other company in the travel business.

In its presentation to the New York audience, Travelmasters described a potential travel agency operation which differed significantly from profiles developed in industry research, such as the recent Louis Harris study conducted for Travel Weekly.

For example, the promotional material given to the audience indicated that the Travelmasters agent would do 30% of his business in cruising. The Harris survey showed that cruises accounted for 12% of overall agency sales.

* * * * *

Travelmasters franchisees are also projected to obtain 60% of their income from either TGC or affinity charter sales together with related ground arrangements, whereas respondents to the Harris survey indicated that only 18% of their volume came from group sales.

Nash said that Travelmasters offices initially would be selling TGC programs operated by others, but that the firm intended eventually to operate its own TGC programs. He emphasized that "we have no intention of permitting travel agents to sell Travelmasters packages now or at any time in the future."

He admitted that TGCs had been a failure to date but insisted that this only "has made obvious the need for a network of people to answer questions about them."

He said that appointed travel agents were not interested in selling TGCs. "If they can get commission on a $400 trip, they don't want commission on a $179 TGC.

"Travel agents are not marketing people," he said. "They've had it good for a long time."

When asked by an audience member why appointments should not be sought, Nash responded that if anyone was interested he could direct them to a New York agency with appointments which could be purchased for $40,000, but pointed out he was offering an entry into the travel business for only $1,700.

At the end of a two-and-one-half hour presentation, about 40 of the original group of 75 were left in the room, filling out application.

He said that applicants would be investigated and a selection board would advise those who had been found acceptable to Travelmasters.

The following descriptions of the travel business are only a few of the optimistic statements made by Travelmasters spokesmen to convince prospective franchisees:

"Almost every travel agent in New York and northern New Jersey is making $35,000 to $60,000 a year."

"The travel agency industry is a $38 billion industry."

"Travel group charters for the first time have turned air travel into mass transportation."

"A CAB official said recently there would not be enough travel agents by 1980 to handle the business."

LET US BE HONEST WITH THE AMERICAN CONSUMER

Mr. HUMPHREY. Mr. President, the October statistics on consumer price increases and changes in real earnings were released just a few days ago. I want to make some comments to put these numbers in perspective so they can be understood by the average American worker and his family.

I have spoken on the subject many times this year, arguing that Nixon's economic policies are seriously injuring consumers, and pleading with the President and his advisers to alter their economic policies so as to protect consumers and to avoid a recession. But, the President and his people have not put their energies into solving the Nation's economic problems. Instead they have chosen to go about the country preaching the Nixon economic gospel to the American consumers, their message being that the average American consumer "never had it so good." Well let us take a closer look and then come to our own conclusions.

Dr. Herbert Stein, for example, has been before my Consumer Economic Subcommittee several times this year to proselytize. On August 1 he said:

> Probably the key thing to say is that the real per capita incomes of the American people, after allowing for inflation, rose substantially from the 4th quarter of 1972 to the second quarter of 1973 and were much higher than ever before. This is the fundamental measure of the performance of the economic system. We are interested in the inflation problem almost entirely in relation to the behavior of real incomes. . . . We are interested in whether the inflation threatens to bring the growth of real incomes to an end.

I fully agree, the essential question is what is happening to the real purchasing power of the average American family. Have increases in income kept up with soaring prices? The answer, Mr. President, is that they have not.

The October statistics indicate that inflation has brought the growth of real income to an end. Consumers have known this for some time—they are often ahead of the statistics and economists—and I think it is misleading to try to convince them that the current inflation has not destroyed income gains. It does no good for the President and his advisors to try to deceive the American people with the claim that the rate of inflation is slowing down.

Let me now review what the October statistics show is actually happening to our consumers.

The consumer price index rose 0.8 percent in the month of October. This added inflation boosts consumer prices about 8 percent above their level at this time last year. And there are no signs that the current inflation is easing up. Looking at the quarterly increases in the consumer price index for 1973, we see that the first quarter increased about 9 percent, the second quarter about 6 percent, and the most recent quarter ending in October about 13 percent. On a monthly basis, the CPI has increased from an annual rate of about 4 percent in January of 1973 to an annual rate of about 8 percent in October. There is no truth to the administration's claims that the rate of inflation is slowing down. The statistics clearly support what every housewife already knows, prices on necessities have risen more rapidly this year than they have in well over a decade.

As we would expect, this increasing over-all rate of inflation is based on price increases among many of the items in the consumers market basket. Looking at the food component of the CPI, for example, we see that food purchased in grocery stores declined slightly in October, but that food purchased away from home rose about 2 percent, and food overall increased about one-half a percent in October. These statistics do not mean much to the consumer, however, because they have seen food prices rise 19 percent in the last year, and 29 percent during the last 3 months. In the recent past, the average family with a $10,000 a year income spent about $2,200 on food each year. This year, however, this family food spending has jumped to $2,640 an increase of $440.

The October statistics also reveal major price increases for most other items in the consumer's market basket. The service index rose over 1 percent last month, and had risen at a seasonally adjusted annual rate of about 11 percent over the last 3 months. The index for nonfood commodities rose 9 percent, about twice the usual increase for October.

As we might expect, price increases for gasoline and fuel oil accounted for much of the nonfood price increase, with gasoline prices up 3 percent in October and fuel oil and coal jumping about 6 percent last month. In the last year, gasoline and motor oil prices have increased 10 percent and fuel oil and coal have increased about 20 percent. And unless steps are taken to hold prices down, these increases are just the tip of the fuel price iceberg. The price trend is definitely up.

Housing is still another area where the recent inflation has had a severe impact on the consumer. Housing prices jumped over 1 percent in October alone. This was largely due to the higher mortgage costs that result from excessively high interest rates. Housing costs have increased about 6 percent in the last year. For our average family with a $10,000 a year annual income, these price increases mean that it must now pay at least $200 a year more for housing.

These price increases are by themselves sources of considerable concern. But as Dr. Stein has said, the real question is, What is happening to the real purchasing power of consumers as both prices and money incomes have increased?

The latest Bureau of Labor Statistics, data on real earnings in October 1973, unfortunately, show that the real purchasing power of the American worker and his family is actually declining.

Over the last year, real average weekly earnings have declined from $110 to $108. Real gross average weekly earnings decreased six-tenths of 1 percent from September to October. A rise in average hourly earnings was offset by a decrease in the work and increases in the consumer price index.

Other measures of the real purchasing power of consumers also show that inflation has taken its toll on the consumer pocketbook. Take-home pay, for example, showed a six-tenths drop in October, as well as a significant drop since October of 1972. Real spendable earnings declined 3.3 percent during the last year.

As one can readily see, even from this brief analysis of the October statistics, the real standard of living of most Americans was eroded in 1973. It does no good to try to deceive the American people. They never swallowed the administration's line that, "they never had it so good." They knew better.

They are a lot smarter about their own welfare than Government economists realize. And it may be that pretending the consumer is well off when he is not will lead to additional economic problems. It certainly undermines the people's confidence in Government spokesmen and is no help in reducing the President's credibility problem.

It is time for the President and his spokesmen to level with the American consumer about the seriousness of the current inflation, its impact on consumer well-being, and the serious likelihood that present policies could lead to a recession in 1974.

FOREIGN RELATIONS COMMITTEE'S DRAFT RULES FOR CONSIDERATION OF AMBASSADORIAL NOMINATIONS

Mr. FULBRIGHT. Mr. President, earlier this year the attempt by the Committee on Foreign Relations to write a set of draft rules for its own guidance in the consideration of ambassadorial nominations was publicized. Immediately at issue was the question of political contributions by nominees but also involved was a growing concern over the years about the responsiveness of nominees, once confirmed, to requests by the committee for information or personal appearances, as well as their general qualifications to represent the United States abroad.

Before proceeding further with the draft rules, the committee decided to obtain the views of the Department of State and of the American Foreign Service Association on its efforts. I believe that their replies will be of interest to the Senate and ask unanimous consent that this correspondence be printed in the Record.

While the committee, for the moment, has laid aside further consideration of the draft rules, I believe that the attempt has already been fruitful and has clarified the committee's and the State Department's search for the qualities to be expected of ambassadorial nominees.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

JUNE 29, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: When you appeared before the Committee on Foreign Relations on April 30, 1973, you commented on the interest Committee Members have shown "in the question of campaign contributions and (ambassadorial) appointments." You said you thought this concern was "excellent" and that you had "talked with the President about it and he agrees . . . that this is a good time to be thinking" about this subject. This "is not just an evil that affects any particular Administration," you said. "It is a fact of life of our system," you continued, "and we ought to see what we can do to provide some proper safeguards." Your remarks were directed primarily to the problem of the relationship between political contributions and the nomination of non-career ambassadors.

In recent weeks, the committee has discussed several ground rules which is believes might provide guidance to the Committee in acting on future nominations and be suggestive to the President as to the qualities the Committee will hereafter seek in ambassadorial nominees.

Because of your expressed interest, the Committee, which has not yet acted on these Draft Rules, invites your comment thereon and the comments of the White House if that seems appropriate to you. In addition, the Committee requests that you convey a copy of this letter to the Chairman of the Board of Directors of the American Foreign Service Association for the purpose of obtaining comments of the Association.

The Draft Rules are as follows:

Rule one: The Committee, in the absence of clearly demonstrated foreign policy competence or experience, will oppose confirmation of ambassadorial nominees whose *prima facie* qualification for appointment rests on monetary political contributions (direct or indirect) in excess of [$5,000–$10,000] in the last campaign year.

Furthermore, the Committee will, after January, 1975, oppose confirmation of non-career ambassadorial nominees when the number of such nominees exceeds 15 percent of the total number of U.S. ambassadors accredited to foreign nations, or if the percentage of non-career to career ambassadors [exceeds 20 percent] in any geographic area such as Europe, Latin America, etc., is unbalanced.

Rule two: The Committee will scrutinize hereafter with special care all ambassadorial nominations, career and non-career, to ascertain the nominees'

1. commitment to respond to requests to appear and testify before duly constituted committees of the Senate;

2. recognition that in his dealings with a foreign country "a national commitment by the United States results only from affirmative action taken by the Executive and Legislative Branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment";

3. understanding that "upon . . . request . . . (he) may express (personal) views and opinions, and make recommendations he considers appropriate, if the request of the committee or a member of the committee relates to a subject which is within the jurisdiction of that committee";

4. agreement to give the Committee a confidential statement of his or her financial holdings and to make suitable disposition of such holdings as the Committee or the Legal Adviser of the Department of State may believe necessary to avoid a potential conflict of interest;

5. knowledge of the history and current economic and political problems of the country to which the nominee is to be accredited;

6. familiarity with, or ability [quickly to acquire, a workable use of the language in general diplomatic use] [and willingness to acquire a workable use of the dominant language] in the country to which the nominee is to be accredited.

Rule three: The Committee will, after January, 1974, oppose conferring the rank of Ambassador upon any individual nominated to represent the United States at any international organ, agency, or conference, unless by law the position of the U.S. representative to such organ, agency, or conference, is designated as carrying the rank of Ambassador [or unless representatives from a majority of the Permanent Members of the Security Council having similar responsibilities are accorded the title of Ambassador].

If you have any questions regarding the rationale behind these draft rules, I suggest you have your offices speak with Mr. Carl Marcy, who has discussed these rules in a most unofficial way with various officers in the Department of State.

I look forward to having your early comments.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., July 20, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of June 29, 1973 to Secretary Rogers. We are glad to have the opportunity to comment on the Committee's Draft Rules regarding the nomination of ambassadors.

Some of the points raised in the Draft Rules have extensive legal and policy implications which we will want to discuss with Secretary Rogers. Hence, I am writing to let you know that a substantive reply will be delayed until we can talk to him after he returns from East Asia.

Sincerely,

KENNETH RUSH,
Acting Secretary.

DEPARTMENT OF STATE,
Washington, D.C., September 21, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am responding to your letter of June 29, 1973, asking for comments on the question of campaign contributions and ambassadorial appointments.

The key factor in the choice of any ambassador is to find the appropriate person for the particular country at a given time. That person could be career or non-career. I believe that ambassadorial nominees normally should have knowledge of foreign affairs, and some experience in that field, whether in international business or banking in the teaching of foreign affairs, in international service, in other similar fields, or in the Foreign Service. If this experience has been limited, I believe it should be counterbalanced by marked achievement in the academic world, industry, the arts, or some other profession. Each nominee should be judged on three important points: ability, distinction, and experience. Campaign contributions should not be a positive factor in choosing a nominee. It is equally important that the fact of a campaign contribution and the size of such a contribution not be disqualifying in the case of an otherwise qualified individual.

I feel that formal percentage limitations on noncareer ambassadors are not needed, but as a matter of background information, over a period of at least the last 25 years, the percentage of non-career ambassadors has remained rather consistently near the level of 30 percent. I agree that it is preferable, if possible, to keep the ratio of career to non-career ambassadors in the various regions from becoming "unbalanced," and we will endeavor to distribute the non-career ambassadors more than has been the case in the past. However, I think we should anticipate that there will continue to be a concentration of non-career ambassadors at certain posts.

I agree that ambassadors should respond to requests to appear and testify before duly constituted committees of the Congress when asked. Sometimes they may feel it necessary to request to be heard in Executive Session. This has been our consistent policy.

This Administration firmly believes that close cooperation between the Executive and Legislative Branches is essential and desirable in the field of foreign affairs. However, as we have stated on other occasions we do feel that there are at least some kinds of actions within the scope of the definition of national commitments contained in S. Res. 85 of June 25, 1969 that the President alone has constitutional authority to enter into. Therefore, in that sense we have not accepted and cannot now accept the assertion that the President alone has no authority to undertake any national commitments. We would, of course, see no difficulty in the Committee's ascertaining the views of nominees on the question of close cooperation between the Congress and the Executive Branch in undertaking commitments for this nation.

I trust that the Committee recognizes that a request for an ambassador to express personal views and opinions, and to make recommendations which in some instances might differ from the official policy he is called on to administer, could place that individual in a very difficult position. I trust you will continue to allow each individual the right to determine the extent to which he wishes to discuss his personal views on a given subject.

I agree that ambassadors should provide confidential statements of financial holdings, and they have been doing so for some time in accordance with State Department regulations and other applicable provisions of law. I suggest that the purpose of these statements is not to avoid a "potential conflict of interest" but rather to avoid a "substantial conflict of interest or the appearance of such a conflict."

I agree that ambassadors should become acquainted with the history and current economic and political problems of countries to which they are appointed. Familiarity with the language in general diplomatic use in the country to which the ambassador is accredited is also highly desirable. The need for a workable knowledge of the dominant language, however, is questionable and may even be unnecessarily time-consuming in countries where a non-local language is widely spoken or where there may be several local languages. I think it is important to keep in mind that lack of familiarity with the local language has not hindered many ambassadors, both career and non-career, from doing exemplary jobs for their country.

As to the final point suggested by your Committee, I believe a distinction should be made between nominations to positions as representative to an international organization and as chief delegate to an international conference. As far as international organizations are concerned, it would appear unnecessary to require that each position carrying the rank of ambassador be so designated by law, since the Senate under existing arrangements has the power to give or to withhold its advice and consent to each nomination in the light of the rank to be conferred on the officer concerned.

As an example, as regards the United Nations, I believe the Congress was wise not to specify in the UN Participation Act how many persons in addition to our Permanent Representative should have the rank of ambassador. In varying situations, a greater or a lesser number may be required. Writing into law what the specific title, rank, and status of each position is to be would entail a degree of rigidity disadvantageous both to the Executive Branch and to the Congress.

Linking our ambassadorial representation to that of other governments would place foreign nations in a position to determine something that should be determined by the interests of the United States itself. In some cases, the United States may find it advantageous to follow the practice of a majority of the Permanent Members of the Security Council; in others, our interests may dictate otherwise. I believe the present system, which requires each case to be considered on its merits, is preferable to a rule that would tend to prejudge future cases.

In respect to conferences, I believe it would not be practical to rely either on legislation or on the practice of four other governments. Legislation could be impractical or unduly restrictive because participation in international conferences often has to be decided in a time frame that would not permit the passage of relevant legislation by Congress even where the justification for the use of the ambassadorial title is evident. Here, too, I would prefer that our decisions about the rank of our chief delegate not depend upon what other Security Council members may decide—particularly since we may want to make our decision before they have made theirs—but rather be dependent upon our own specific needs at the time.

I also call your attention to the fact that the President has authority under 22 USC 901 (c), as amended by Section 107 of Public Law 92-352, to confer the rank of ambassador "in connection with special missions for the President of an essentially limited and temporary nature of not exceeding six months."

We have sent a copy of your letter to the American Foreign Service Association as you requested and understand that the Association's comments will be sent directly to you.

Kindest regards.

Sincerely,

KENNETH RUSH,
Acting Secretary.

AMERICAN FOREIGN
SERVICE ASSOCIATION,
Washington, D.C., August 28, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: For half a century, the American Foreign Service Association has been dedicated to increasing the professional caliber of American diplomacy. As the official representative of the 12,000 men and women of the Foreign Service, we appreciate the opportunity to comment on your letter of June 29 to Secretary Rogers regarding ambassadorial appointments.

AFSA strongly concurs, Mr. Chairman, in the desirability of establishing ground rules for use by the Senate Foreign Relations Committee in evaluating ambassadorial nominations. We are in full agreement with the objectives and standards set forth in your letter.

The Association is particularly pleased with efforts by the Committee to preclude a long-standing abuse which has been perpetrated by both political parties—the auctioning of ambassadorships. AFSA has always maintained the principle that the United States deserves to be represented abroad by the best qualified ambassadors. The selection of any ambassador, career or noncareer, should be based primarily on competence and experience in foreign affairs. We believe the application of exacting standards to all appointments would help to ensure that both career and noncareer ambassadors are of the highest caliber.

The application of such standards would result in career officers from AID, USIA and State being found the best qualified individuals in the vast majority of cases. We recognize, however, based on our past experience, that the appointment of distinguished individuals from outside the career service in some cases would be entirely justified. Many of these individuals have made extraordinary contributions to American diplomacy. However, the experience of our membership has been that, with a very few exceptions, this country has not been well served by those ambassadors whose sole or primary qualification for that office has been their level of contributions to the party in power. This Association, therefore, strongly supports efforts by the Senate Foreign Relations Committee to preclude ambassadorial appointments based upon political contributions and contacts, personal fortunes, or other questionable criteria.

We have the following comments on the specific guidelines proposed by the Committee:

Rule one, first paragraph: As noted above, we support entirely efforts to preclude ambassadorial appointments based largely on monetary contributions, irrespective of the amount. We recognize, however, that some concrete maximum sum may be necessary and, if so, the amount should be as low as possible. We would suggest a minor modification in the proposed language along the following lines:

The Committee will approve for confirmation only those ambassadorial nominees who possess demonstrated competence or experience in foreign affairs. The Committee will oppose confirmation of any nominee whose *prima facie* qualifications for appointment rests on monetary political contributions, and shall subject to special scrutiny any nominee whose contributions (direct or indirect) to the most recent presidential campaign exceed $5,000.

Rule one, second paragraph: AFSA strongly supports the intent of this paragraph, though we note the difficulties inherent in hard and fast percentages. To our knowledge, in no other professional foreign service does the percentage of noncareer ambassadors approach even ten percent. Certainly, fifteen percent should be sufficient to permit the Executive to nominate, from time to time, distinguished noncareer officers as ambassadors. Similarly, we concur with the Committee that there is no valid reason why, in any geographic area, the percentage of noncareer ambassadors should be substantially higher than in other geographic areas. The past practice of assigning a highly disproportionate number of noncareer officers as ambassadors to Western Europe has not only distorted career opportunities in the Service, but has not been helpful to our relations with our European allies. In this regard, we wish to point out that lack of personal fortune should not be considered a factor. The United States should have the professionally best qualified ambassadors in London, Paris, Tokyo, etc., even if they do not happen to be personally wealthy.

Rule two: AFSA supports the purposes of the six points under Rule two. We recognize that the Senate has constitutional prerogatives which imply obligations to the Senate on the part of any officer of the government, including ambassadors, in addition to his or her obligations to the President. Nonetheless, ambassadors abroad are the representatives of the President. Their duty is to execute foreign policy in keeping with the decisions of duly elected officials. Any requirements which forced an ambassador to choose between his loyalty to the President and his loyalty to the will of Congress would place the individual in an untenable position. In our view, ambassadors and career officials should not be drawn into the inevitable constitutional struggles between the Executive branch and the Congress concerning their respective foreign policy roles, and, as officers of the Executive branch, they should carry out instructions in keeping with whatever decisions result from the interactions between the two (or three) branches of the government.

We have the following comments on the specific points in rule two:

Paragraph one: AFSA is confident that all career officers understand the need to appear and testify before the Committee upon request. The obligation to testify on certain sensitive security matters, however, raises constitutional issues which go beyond AFSA's competence to address.

Paragraph two: This paragraph raises similarly difficult constitutional issues.

Paragraph three: We understand that this paragraph incorporates language which is already the law of the land.

Paragraph four: We strongly concur with the provisions of this paragraph. We would suggest, however, in keeping with the purpose of rule one that the following be added:

and to provide the Committee with a list of all political contributions made by the nominee and his or her immediate family during the five years previous to his or her nomination;

Paragraph five: AFSA supports the purpose of this paragraph. While we believe relevant experience and proven aptitude in foreign affairs should be the predominant considerations, a full knowledge of the country to which an ambassador is being assigned is essential. We would suggest, however, several modifications to broaden the topics about which a nominee should be knowledgeable, and to make clear that a superficial knowledge—which could be acquired quickly—is not sufficient:

5. thorough understanding of the history, culture, international relations and current political, economic and social problems of the country to which the nominee is to be accredited;

Paragraph six: We strongly agree with the Committee on the desirability of emphasizing foreign languages in assessing the qualifications of any ambassadorial nominee, whether a career or noncareer officer. However, the issue is a bit more complex than the Committee's proposal would indicate. In the first place, the so-called "hard languages" (such as Japanese, Chinese and Arabic) are extraordinarily difficult to learn, particularly at the age of most ambassadorial nominees. The current exacting language requirements imposed on junior and middle-level officers in the Foreign Services of State and USIA, and the ambitious training programs in all three Agencies should, over time, insure that there is a sufficient pool of officers trained in these languages from which the President can make his nominations. At present, however, this is not the case, and the rule proposed by the Committee might thus preclude otherwise justifiable nominations. Moreover, in a few countries, for the ambassador to learn one of the dominant local languages, but not others, would give the impression of taking sides in ethnic conflicts within the host country. To avoid these problems, and place even greater emphasis on foreign languages as a qualification to hold the position of Ambassador, we would suggest the following modification:

6. Either:

(1) A proven working knowledge of the language of the country to which the nominee is to be accredited, *or*

(2) A proven working knowledge of the language in general diplomatic use in the country of accreditation, and the willingness and ability to acquire a workable use of the dominant language of the country to which the nominee is to be accredited, provided that the acquisition of such knowledge is practicable and desirable.

We recognize that even this modification may not cover every contingency (e.g., Mongolia, where not only the indigenous language but also the languages in diplomatic use are "hard" languages), but, as a guideline, we believe that the wording we have proposed would suffice for almost all circumstances.

Rule three: We agree with the purpose of this rule. However, the wording of the final bracketed clause appears to be unduly restrictive. We would suggest the following alternative language: or unless a majority of the principal representatives of member or participating governments bearing similar responsibilities are accorded the title of Ambassador.

In closing, let me repeat how much we, as a professional association, appreciate this effort on the Committee's part to improve the professional caliber of American ambassadors abroad and to preclude the selling of ambassadorships. I have enclosed for your information a letter which the Association has sent to Secretary Rogers on this subject.

Sincerely yours,

THOMAS D. BOYATT,
Chairman, Board of Directors.

AMERICAN FOREIGN SERVICE
ASSOCIATION,
Washington, D.C., October 24, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you on behalf of the American Foreign Service Association to express our deep concern about the testimony presented to the Committee during the confirmation hearing of Mr. Kingdon Gould to be U.S. Ambassador to The Netherlands. Your statement in the Congressional Record of October 1, 1973, that Mr. Gould appears to have been less than candid in failing to disclose to the Committee the full mount of his family's political contributions and reports of the subsequent meeting between Senator Pell and Mr. Gould are most disturbing.

This situation underlines the urgent need for the Senate Foreign Relations Committee promptly to establish and apply guidelines to be used in evaluating ambassadorial nominations. As I indicated in my response to your letter of June 29, the Association is in full agreement with the objectives and standards proposed by the Committee. We share the Committee's concern that ambassadorial appointments be made only to the most highly qualified individuals with demonstrated excellence, and not on the basis of political contribution or personal wealth. We further believe that the firm and consistent application of guidelines, such as those we have discussed, would prevent incidents of the kind you noted in your October 1 insertion into the record.

I would appreciate, Mr. Chairman, the opportunity to call upon you to discuss this important matter which is so vital to the Association's commitment to protect the career principle.

Thank you for your consideration in the above.

Sincerely yours,

THOMAS D. BOYATT,
Chairman, Board of Directors.

AMERICAN FOREIGN SERVICE
ASSOCIATION,
Washington, D.C., August 28, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Senator Fulbright, in his letter to you of June 29, 1973, requested that you provide the American Foreign Service Association with a copy of his letter in order to obtain the views of AFSA on the Committee's proposed ground rules for assessing ambassadorial nominees. We have replied directly to the Chairman and I am enclosing for your information a copy of our comments to the Committee.

As you will see from our reply, AFSA strongly supports the general objectives which the Committee seeks to achieve through its proposed guidelines. We believe application of the Committee's guidelines, appropriately modified, will improve the caliber of American representation abroad. Since the Committee's role is limited to approving or disapproving the nominees submitted by the President, however, the primary responsibility for assuring that the United States is represented abroad only by the best qualified ambassadors will still rest largely with the Executive Branch. We urge you, therefore, Mr. Secretary, to take the lead in a parallel effort to the Committee to upgrade the caliber of American ambassadors.

In that context, we suggest that the following considerations be taken into account:

(1) This country has benefited greatly from the service of distinguished Americans such as David Bruce, Henry Cabot Lodge, Averell W. Harriman, and many others as American ambassadors. But in selecting potential nominees from outside the career service, great care should be taken to assure that only those best qualified for the position are given consideration. Political connections and personal fortune are poor substitutes for professional competence.

(2) In nominating career officers, the same principle should apply. Ambassadorships should not be granted as a reward for diligent service to a particular position or function, but should be based solely on an assessment that the officer selected is the best individual available to serve in a particular post. In this regard, few officers who enter the Service laterally into the senior ranks because of political or personal connections qualify as bona fide career professionals.

(3) If the Senate's proposed guidelines are adopted, the percentage of all ambassadorships held by career officials will increase substantially. The Administration should use this opportunity to give greater consideration to the selection of ambassadors from among senior career officials of AID and USIA. The senior ranks of these two agencies contain a number of highly qualified, dedicated career professionals who would make outstanding ambassadors. Implementation of the new guidelines should provide an excellent opportunity to utilize their expertise.

(4) Finally, we urge the Administration to give careful consideration to those senior officers qualified to serve as ambassadors who are members of minority groups, or women so that our representation abroad will reflect the diversity of America's pluralistic society. We also suggest that in filling ambassadorial positions with individuals from outside the career service, special attention be given to seeking out and nominating qualified members of minority groups and women.

Sincerely,

THOMAS D. BOYATT,
Chairman.

NOVEMBER 19, 1973.

Mr. THOMAS D. BOYATT,
Chairman, Board of Directors, American Foreign Service Association, Washington, D.C.

DEAR MR. BOYATT: Thank you for your letter of October 24, 1973, written on behalf of the American Foreign Service Association concerning issues arising out of the confirmation hearing with Ambassador Kingdon Gould, and the draft guidelines on the Committee procedure for handling nominations.

The Committee has not formally adopted these guidelines, as you no doubt know. The Committee, however, as a matter of fairly consistent practice raises the questions set forth in the guidelines with each nominee at the confirmation hearings, so that a record is made of political contributions and of the nominee's commitment to the statements set forth in the proposed Rule 2.

In addition, I call your attention to Section 6 of the enclosed copy of the Department of State Appropriations Authorization Act of 1973 which I believe goes far in meeting the objectives of the American Foreign Service Association.

Regrettable as the Gould affair was, I believe that this is as far as the Committee is prepared to move at this time.

The Committee appreciates your interest in this matter.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

RETIREMENT OF CARL M. MARCY

Mr. MUSKIE. Mr. President, Carl M. Marcy, who has been chief of staff of the

Foreign Relations Committee for 18 years, has announced his retirement from that position effective December 30.

I have been a member of the committee since 1971, and I have observed over the past 3 years the qualities of effective management, leadership on policy matters, hard work, fairness, and good judgment which have characterized Carl Marcy's long tenure with the committee. His outstanding reputation in the Congress is well deserved, and it is a great disappointment to us all that we should lose him at this time. I can only wish him the best of luck as he pursues his new career as a private consultant in Washington, and express the hope of those of us who have worked with him in the Senate that we will see him again and often.

Carl will be succeeded by Pat M. Holt, who brings to this position over 20 years of experience on the committee staff as a specialist on Latin American affairs. I have worked also with Pat, and I know he will do an excellent job for the committee. I wish him the very best in his work.

REMEDIES TO THE ENERGY CRISIS

Mr. GRAVEL. Mr. President, the United States, the greatest industrial Nation in history, is facing the most serious challenge to its economic and productive stability since the depression years of the early 1930's. The energy crisis facing this country today, and which projections indicate will become more severe, will undoubtedly cause much personal discomfort and economic dislocation to the American people. And my State, Alaska, perhaps more than others, will feel the effects of the crisis because of its harsher climate.

But Alaska and the other 49 States can meet the challenge and minimize the impact of the crisis if we recognize the problem for what it is—a long-term shortage of energy resources. In the short term we must deal with the crisis by constraining demand. But this is obviously not a long-term solution. We must develop a plan now to provide for our long-term energy requirements.

Let me say that I fully support most of the administration's programs for curtailing demand as a short-term solution. The lowering of temperatures and driving speeds, the lessening of air service and display lighting, and the banning of Sunday gasoline sales can all contribute toward eliminating the shortfall in energy products we would otherwise experience. While these may not be easy steps for all to accept because they will cause some inconvenience and perhaps increase the number of unemployed, they are necessary steps to insure that home heating and other fuels are available to meet priority needs.

However, two other steps have been discussed frequently, neither of which I could support—a ban on Sunday driving and heavy taxes to reduce consumption. I believe that pleasure driving on weekends must be limited, but a total ban on driving is unthinkable in Alaska. The distances people must travel to attend church and for other necessary travel forecloses a total ban being a viable alternative. Last year the real income of wage earners declined 2 percent because of inflation. The Government should not further aggravate this problem by imposing a hefty price increase in energy products through taxation, the proceeds of which would in no way be used to increase energy supplies.

There are two other possibilities of which I am not fond, but which may become necessary—rationing and relaxing environmental restrictions. Even under a well-developed plan, rationing is inequitable to some and cumbersome to all. I sincerely hope that we do not have to resort to rationing. Relaxing environmental restrictions would be a serious setback in our efforts to improve our quality of life. But again, some of our policies may have to be reevaluated in light of our current energy dilemma.

The greatest potential for an increase in energy supplies in the short run lies in the deregulation of natural gas. Production has been severely constrained by abnormally low prices. Government interference has made it impossible for individuals to earn a profit on new investments in gas exploration and development; and as a result, expenditures in this area have been minimal and inadequate. Deregulation of prices could have an almost immediate impact on our supplies of natural gas.

But citizen sacrifices are not long-term answers. We must increase supplies so we can return to our normal level of energy consumption. If we continue at today's rates, our energy demand will grow about three times as fast as our ability to produce energy domestically. If we are to maintain our independence and self sufficiency, we must increase energy production significantly.

The President has announced a policy of self sufficiency by 1980. This is certainly a desirable goal, and one that I believe we can attain. But the President's policy stops with the announcement of the objective—he has not explained how we would get to a point of energy independence.

This is like announcing a desire to send a man to the Moon and then not funding any program to get him there. A resolve is not enough. We must also have a plan and a funded program.

I propose that we establish an independent research and development administration funded by a trust fund to finance an extensive program of investigating and developing the potential of alternative fuels, studying more efficient methods of energy collection and conversion, and financing demonstration projects to test the commercial feasibility of new technologies.

To attain self-sufficiency, we must commit much more than the $10 billion suggested by the President and the $20 billion suggested by others. Overcoming the energy gap should be worth at least as much as putting a man in space, and we should be willing to spend that much and more. While we are talking about large sums of money that must come from taxes, the rather large expenditures must be viewed within the context of the size of the problem they are combating. Even a 10-year, projected funding level of an average of $10 billion a year, for a total of $100 billion, may turn out to be less than the loss in production capacity of GNP in 1 year alone as a result of the energy shortage.

This money would then be used to finance research and demonstration projects directed toward increasing our domestic energy supply. The funds could be raised by a minimum tax on energy supplies at the source. The funds would go into a trust fund, to be used for energy research and development only. This earmarking of funds for energy research would insure that the moneys are used only to develop the technology to insure adequate domestic supplies and to insure there are adequate funds to carry out the long-term projects necessary to prove technology to the stage of commercial feasibility.

Research subjects would include both conventional and unconventional fuels. Conventional fuel technology to be studied could include coal gasification and liquification, tar sands and oil shale production, and offshore oil development. Unconventional fuel research should include solar, geothermal, tidal, and wind energy. These virtually unlimited sources of energy are particularly attractive sources of power, and their development would diminish our dependence on our nonrenewable sources whose production capacity is decreasing.

As chairman of the Finance Committee's Subcommittee on Energy, which has jurisdiction over establishing trust funds, I convened hearings to discuss this and other matters. The hearings began the day before yesterday with Governor Love testifying and continued yesterday and today. I am in the process of drafting a bill to establish a trust fund and will introduce it in December.

Thus we have both long and shortrun problems with the energy crisis. The President has responded to the shortrun problem by constraining demand, which is about all that can be done immediately. But we cannot live forever with 50 mile-per-hour speed limits, inadequate supplies of home heating oil, and high unemployment. In the long run, we must increase supplies. And unless specific action is taken, our domestic energy supplies will decrease rather than increase, and we will still be dependent on foreign suppliers.

The longrun solution is the trust fund. We can have Project Independence by 1980; we can have a stable supply of the energy required to heat our homes, run our cars, and power our factories.

NIXON ENERGY PROGRAM INADEQUATE

Mr. HUMPHREY. Mr. President, the continued "soft soaping" of the American people on the seriousness of the energy crisis by President Nixon is a real disservice to all of us.

Apparently he is not listening to his advisers who are calling for much tougher measures than the President appears willing to take. If he is listening, he is rejecting their advice.

As Hobart Rowan pointed out in his

column this morning in the Washington Post—

> The nation is being ill-served by half-baked measures which not only will not solve the problem, but doubtless will make it worse.

The administration's program to deal with the energy crisis is obviously inadequate. The President, himself, admitted in his address to the Nation on Sunday evening that the measures he proposed will, at best, reduce fuel consumption by only 10 percent, while the shortage will be about 17 percent.

Failing to immediately take the steps that are required to deal with the energy crisis will only aggravate an already serious problem. The President's energy program is characterized by one word "delay." By putting off urgently needed action, the President is playing "Russian roulette" with the American economy. This is a very dangerous game to be playing with the jobs, income, and production of America. I urge the President to begin now to provide the Nation with the aggressive leadership we need to minimize the impact of the energy crisis on our people.

I ask unanimous consent that Hobart Rowan's excellent article from today's Washington Post, entitled "Crisis of Leadership" be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 28, 1973]

CRISIS OF LEADERSHIP

(By Hobart Rowan)

A strong President would have taken strong steps to cope with the energy crisis. But Mr. Nixon is a weak President, desperately clinging to his office. As a result, the nation is being ill-served by half-baked measures which not only will not solve the problem, but doubtless will make it worse.

At the same time, American industry has shown that it, too, has been wearing blinders. In Detroit, where the chief executives haul down anywhere from $440,000 a year (Chrysler's Lynn Townsend) to $875,000 (Henry Ford II) for their efforts, the auto companies have been caught flat footed, with huge inventories of gas-guzzling monsters.

As a result, auto stocks are plunging and thousands of workers are facing layoffs that needn't have come if the top men had really earned their plush salaries.

Michael Evans of Chase Econometric Associates, Inc. puts this latter point as well and as bluntly as anyone:

"The market share of standard-size cars fell 7 per cent last year, which is as much as it had fallen during the previous seven years. These facts simply could not have been a secret from executives in an industry which has more daily and weekly data than any other.

"I personally know of several instances where middle management argued strenuously last year that production lines should be reoriented toward smaller cars. Yet this argument fell mostly on deaf ears at the top executive level. John deLorean's abrupt departure from GM was based on more than long boring staff meetings."

To come back to Mr. Nixon's poor performance: The President is doing his best to make it appear the energy crisis is temporary, one that can be handled with relatively soft measures.

He told the Seafarers' Union that the crisis would not last much more than a year, the direct opposite of what his own chief energy experts have been telling him and telling reporters.

The blunt truth is that even if the Arab oil embargo were to be lifted in a matter of months, this country will face both a shortage and shockingly high prices for what supplies are available until new resources are developed.

By his own count, the President's new program—a 50-mile speed limit, Sunday gas station closing, etc.—will reduce fuel consumption this winter by only 10 per cent, while the shortfall will be 17 per cent.

It is obvious that gasoline supplies must be reduced so that more home heating and industrial oils can be produced. And a formal rationing system is the only logical way to distribute whatever gasoline remains available. As cumbersome as it is, rationing would be better than throwing short supplies on the market and letting everyone hustle for what he can get.

But an even more serious consideration is the President's bland insistence that give it a year or so, and it will be business as usual. Lurking behind such a statement must be the desperate hope that the Arab nations can be pushed into shipping oil once again.

American policy should be based, as Treasury Secretary Shultz said the other day, on the assumption that Arab oil sales will never be resumed.

"If we don't take a lesson from this, and pay the price it takes to become self-sufficient, we're just crazy," says Shultz. He's right, but his boss hasn't got the message.

Mideast oil, it must be remembered costs less than 15 cents per barrel to produce. But ever since 1971, the cartel of oil-producing nations has been hiking the price to astronomical levels by raising the tax on oil exports. Thus, even if a real Arab-Israeli peace were somehow achieved, the oil producers' monopoly could still maintain an artificial scarcity and drive the prices up at will.

Thus, the U.S. needs a crash program to develop oil from shale and coal, to explore off-shore, to stimulate energy production from solar and nuclear sources, and to strengthen ties with the non-Arab oil-exporting nations. It needs the kind of government management that will direct the domestic oil industry, rather than let it call the shots—as it did five years ago when it successfully lobbied Nixon away from Shultz' recommendation that oil import quotas be lifted in favor of a tariff system.

The nation also needs to re-develop strong ties with the rest of the Western World and Japan so that together they can blunt the heady new economic power of the Persian Gulf nations.

But all of this takes the leadership of a respected, courageous President—which suggests that we won't cope with the major dimensions of the energy crisis until Mr. Nixon is persuaded to leave, or is pushed out of his high office.

SUPPORT FOR S. 1868

Mr. TUNNEY. Mr. President, the Senate has begun debate on one of the important pieces of foreign policy legislation this year, S. 1868. This bill will bring the United States back into conformity with its international obligations, voluntarily undertaken, to participate with the rest of the world in economic sanctions against the Government of Rhodesia.

These sanctions are our proper, moral duty. The present regime in Rhodesia is one of two in southern Africa in which majority populations of native, black people are controlled and brutalized by a minority of whites. In all the rest of the world, racial discrimination and colonialism have been eradicated; the only vestige of this horrible disease is left in southern Africa.

I have long felt that it is improper, in most cases, for nations to involve themselves in the domestic affairs of other nations, and this principle is embodied very prominently in the United Nations Charter. But there are certain issues of such transcendent importance to all the people and all the nations of the world—regardless of their political views or coloration—that the world's eyes cannot remain closed. One of these issues is racial discrimination and subjugation. We in America have made it a fundamental cornerstone of our own national life that all men have equal rights under the laws. In this point in world history, that concept is so universally accepted and understood that violation of that principle is properly a matter of world concern.

In the case of Rhodesia, specifically, the regime of white supremacy was recently imposed by the whites in that country, in direct defiance of the wishes and plans of the British Government, of which Rhodesia was at that time a colony. The world properly reacted with dismay at this usurpation of power, and its racial aftermath. The conditions in Rhodesia became a matter of concern not only to other African nations, but to every nation which cared for morality and human dignity. As a great, multiracial nation, the United States had and still has an enormous interest in the outcome of this situation.

After the British Government failed to change the white supremacy regime in Rhodesia, the matter was taken up by the United Nations. The overwhelming majority of nations decided to impose an economic embargo on Rhodesia. The United States joined fully in this decision, as it should have done.

Under the United Nations Charter, only the Security Council can make resolutions which are legally binding on all member states. The United States, and the other great powers, have the veto in the Security Council precisely to have a political check against having binding resolutions which are contrary to their vital interests. But the United States did not exercise its veto; quite to the contrary, it supported the economic sanctions against Rhodesia.

Therefore, under article 25 of the charter, we bound ourselves to obey this resolution. We now find ourselves in violation of our treaty obligations—and completely out of step with the rest of the world—and in step only with South Africa and Portugal. As a result, our relations with all the other African nations, and our stature in the United Nations, are deteriorating. There is no greater single irritant in our relations with African nations than our failure to enforce the U.N. sanctions against Rhodesia.

Our Nation should not renege on its internatonal treaty obligations, to which it has already agreed. Our Nation should not be giving aid and comfort to a government which is based upon the most hateful, abhorrent social practice known to the human race. Therefore, Mr. President, I am in full agreement with this legislation.

Now the main arguments which have been raised against this bill are economic ones. It is claimed that the present exemption from the embargo which was enacted in 1971 allows the import of needed chrome ore, and avoids making the United States dependent on the only other source, the Soviet Union. Too great reliance on one source, it is argued, will force up the price, and imperil our national security.

The facts, as I understand them, are entirely the opposite. Prices for Russian and other non-Rhodesian chrome ore will fluctuate in any event because of overall world demand. The prices of almost all raw materials have been rising in recent years; surely the Rhodesian embargo was not alone responsible. Moreover, the domestic steel industry, which uses the chrome in the manufacture of so-called specialty steels, has since 1971 been protected against foreign competition anyway by the voluntary restraint agreement made with European and Japanese steel producers.

In fact, in terms of jobs, it is alleged that the lifting of the embargo actually harmed American industry, since what has been imported since 1971 has not been very much Rhodesian chrome ore, but already-processed ferrochrome. This ferrochrome has taken up 25 percent of the domestic market already, and forced the closing of some American plants.

Indeed, as I have mentioned, the lifting of the embargo has not had anything like its intended effect on chrome ore imports. Imports from Rhodesia are now lower than they were before the embargo was begun. Rhodesia was the source of only 3 percent of our chrome ore imports in the first half of 1973, compared with 51 percent for the Soviet Union. In 1967 the figures were 22 percent and 45 percent, respectively. Clearly, we are still depending on Russia for about the same proportion of our chrome ore imports as we did during the embargo period, when Russia supplied close to 60 percent—but not higher—of our imports. The reason this was true is that there are, in fact, alternate sources to Rhodesia, primarily Turkey, which is anxious to export chrome ore. There is no reason why we should be subsidizing the economy of a racist regime when we can be helping the economy of an ally.

All these figures and facts have been set forth at other times by my colleagues, Mr. HUMPHREY and Mr. MCGEE. And they are not the only source. The United Steelworkers of America, whose jobs are directly involved, has lobbied very strongly for this bill, and I am very impressed by their position.

Lastly, the national security arguments have absolutely no weight. This is demonstrated by the figures on the relative stability of import levels from Russia. Even more importantly, for me, we have the flat assertion by the highest officials of our Government that there is no national security reason to prevent a return to the embargo. Indeed, the administration strongly supports this legislation. I can think of no better refutation of any argument that this legislation would have adverse economic or security consequences.

Therefore, Mr. President, I will vote for this bill and I will vote to cut off unlimited debate. I sincerely hope that there will be a limit on debate. This is not an issue on which there is such a lot of dispute or economic wisdom on one side that it should detain us, at this late date in the session, when we have a great many important measures which are calling for our attention and our action.

CONFERENCE REPORT ON THE FOREIGN ASSISTANCE AUTHORIZATION BILL, S. 1443

Mr. FULBRIGHT. Mr. President, in a few days the conference report on the foreign aid authorization bill will be coming before the Senate for action, if it is approved by the House.

This report is an improvident and wasteful measure for the Senate and for the American people. It should be rejected. Never have I sat in a conference where the Senate's position fared so badly. In order to familiarize the Senate with major provisions and individual member's amendments that were either dropped or seriously weakened in the conference, I ask unanimous consent that certain material be printed in the RECORD.

Thre being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARATIVE DATA ON FISCAL YEAR 1974 FOREIGN AID AUTHORIZATION LEGISLATION

[In millions of dollars]

	Executive branch authorization request	Continuing resolution	House bill	Senate bill	Conference agreement	Difference from Senate amounts
I. ECONOMIC ASSISTANCE						
Indochina postwar reconstruction for South Vietnam, Laos, and Cambodia	$632.0	$431.0	$632.0	$376.0	$504.0	+$28.0
International organizations	124.8	94.1	127.8	127.822	127.8	−.022
Indus Basin grants	15.0	9.0	15.0	14.0	14.5	+.5
Old development loan/grant categories:						
Loans (including Alliance for Progress)	351.4	310.2				
Grants (including Alliance for Progress)	251.8	210.5				
Population	(116.0)	89.8	(125.0)	(125.0)	(125.0)	
New development assistance categories:						
Food and nutrition			300 0	282.0	291.0	+9.0
Population planning and health			150.0	141.0	145.0	+4.0
Education and human resources			90.0	94.0	9.0	−4.0
Selected development problems			60.0	47.0	53.0	+6.0
Selected countries and organizations			50.0	28.0	39.0	+11.0
Miscellaneous categories:						
American schools and hospitals	10.0	9.0	20.6	19.0	19.0	
International narcotics control program	42.5		50.0	40.0	42.5	+2.5
Contingency	30.0	22.4	30.0	23.5	30.0	+6.5
Partners of the Alliance			.968	.9	.934	+.034
Administrative expenses (AID)	5.31	45.9	53.1	24.0	45.0	+21.0
Refugee relief assistance (Bangladesh)						
Arab refugees			2.0		2.0	+2.0
African famine relief			30.0		25.0	+25.0
Albert Schweitzer Hospital				1.0	1.0	
Total economic assistance	1,510.6	1,221.9	1,610,868	1,218,222	1,429.734	+211.512
II. MILITARY ASSISTANCE						
Grant military assistance	652.0	493.9	550.0	420.0	512.5	+92.5
Regional naval training						
Security supporting assistance (outside Indochina)	100.0	107.8	125.0	125.0	125.0	
Military credit sales	525.0	358.6	450.0	200.0	325.0	+125.0
Military training			30.0	25.0		−25.0
Total military assistance	1,277.0	960.3	1,155.0	770.0	962.5	+192.5
Total economic and military assistance	2,787.5	2,182.2	2,765.868	1,988.222	2,392.234	+404.012
Other items:						
Loan reflows	323.0	251.0	323.0		161.5	+161.5
Drawdown authority for military aid	300.0		300.0		250.0	+250.0
Excess defense articles	185.0	185.0	185.0		150.0	+150.0
Total	808.0	436.0	808.0		561.5	+561.5
Grand total	3,595.5	2,618.2	3,573.868	1,988.222	2,953.734	+965.512

Senate Provisions Removed or Seriously Weakened

ECONOMIC ASSISTANCE—S. 2335

1. The prohibition against "follow-on" aid projects was dropped.

2. The requirement that not more than one-third of the loan reflows available for further lending be used in any one of the new program categories was removed.

3. The requirement that not more than 50% of the appropriations for the new categories can be used as grants was dropped.

4. The provision encouraging and emphasizing a shift of bilateral aid programs to multilateral institutions was deleted.

5. The prohibition on training of foreign police forces was watered down to exempt training in the United States and all existing contracts for training abroad.

6. The Senate's repeal of the authority for use of loan reflows was delayed for two years, and, in the interim, 50% of loan repayments will be available for lending.

7. The earmarking for population programs in FY 1975 was cut from $150 million to $130 million.

8. The access to information provision was dropped.

MILITARY ASSISTANCE AND SALES—S. 1443

1. The Senate's rewrite of the statutory framework for the military aid and sales program was dropped.

2. The Senate authorized military grant on a country-by-country basis to only nine countries. These specific authorizations were stricken and the President given a lump sum of $512.5 million to use as he sees fit in giving arms aid to up to 31 countries, in addition to those given training aid only in the U.S.

3. The Senate's prohibition against lending weapons to other countries was eliminated.

4. The Senate's denial of general waiver authority to the President on military aid matters was eliminated.

5. The Senate did not give the President discretionary authority to draw on Defense Department stocks for use as military aid, as has been traditional in the past. This authority was reinstated for $250 million in this fiscal year.

6. The Senate returned funding of military aid to South Vietnam and Laos to funding out of the regular foreign aid program effective June 30, 1973. The House bill did the same but effective beginning July 1, 1974. The conference left funding for Vietnam in the Defense budget for the indefinite future.

7. The Senate bill required partial foreign currency payments for military grant aid, comparable to existing law. The conference struck this provision and repealed the current requirement.

8. The conference agreement dropped the Senate bill's requirement that sales of military equipment be handled through commercial channels wherever possible. This provision was designed to minimize the government's role as an arms salesman.

9. The Senate required that the minimum interest rate on military credit sales be set at the cost at which the government borrows money. The provision was dropped.

10. The Senate bill tightened the ceilings on military grants and governments sales to Latin America. The conference raised the effective ceiling.

11. The Senate bill's requirement that the value of excess defense articles given to foreign countries be deducted from appropriations for military aid was greatly weakened.

12. The Senate bill's requirement for strict Congressional control over loan and sale of military vessels was dropped.

13. The access to information provision was dropped.

SENATE AMENDMENTS DELETED OR WEAKENED SERIOUSLY

1. Mondale—Calling for convening of an international conference for controls of conventional arms.

2. Pell—U.S. aid policy toward Greece.

3. Pell—Support for the Vietnam cease-fire agreement.

4. Tunney/Magnuson—Vessel transfers and U.S. fishing interests.

5. Mondale—Austrian transfer center for Soviet Jews.

6. Taft—Earmarking $150 million for population in FY 1975 (agreed to $130 million).

7. Tunney—U.S. aid to Portugal.

8. Byrd of Virginia—India rupee agreement.

9. Byrd of W. Virginia—Reduction of AID administrative expenses to $24 million (agreed to $45 million).

10. Chiles—Prohibition against follow-on aid projects.

11. Stevens—Restrictions concerning transfer of vessels.

12. Hartke—International trade in narcotics.

13. Kennedy—Establish a Bureau of Humanitarian and Social Services.

14. Kennedy/Javits/Muskie—Aid for exchange of people between Pakistan and Bangladesh.

15. Kennedy—Earmarking for the Red Cross in Indochina.

16. Kennedy—Language for authorization of economic aid to Indochina.

17. Case—Emphasizing shift from bilateral to multilateral aid.

18. Case—Restore funding of military aid to Vietnam to the regular foreign assistance program.

19. Case/Proxmire—Public information on military aid matters.

20. Nelson—Establishing a system for Congressional action on certain military sales.

VIETNAM—THE MISSING IN ACTION

Mr. ROTH. Mr. President, one of the continuing tragedies of the Vietnam war is that more than 1,200 Americans are still missing and unaccounted for in Southeast Asia. We do not know what fate they have suffered, but their families and friends cannot forget those they love and we, as a Nation, cannot forget those who served their country in the most trying circumstances and were lost.

Since the January cease-fire agreement strenuous efforts have been made to find and account for these men. Searches of crash-sites have been carried out, but with only marginal results. Significant new operations cannot be made because of the continued refusal of North Vietnam and the other Communist parties in Indochina to permit inspections of crash-sites and other information gathering activities for this humanitarian purpose on the territories under their control. In addition, North Vietnam has not accounted for men we know they had captured and whom they are obligated to return or to account for under the cease-fire agreement.

There can be no improvement in our relations with North Vietnam until they have completely fulfilled their treaty obligations respecting POW's and MIA's. I cannot imagine the President of the United States, the Congress of the United States, or the people of this country seriously considering trade with, much less aid to, North Vietnam so long as our missing are still unaccounted for.

I think this message should be communicated loud and clear in the strongest possible terms to the North Vietnamese. That months have passed since the cease-fire accords makes this problem not less compelling, but more so. Our diplomatic efforts and our searches on behalf of our missing should not be reduced; they must be redoubled.

HOUNDING THE PRESIDENT OUT IS WRONG

Mr. FONG. Mr. President, a very distinguished former Member of the U.S. House of Representatives and former Ambassador to Italy, the Honorable Clare Booth Luce, has written a perceptive and informed article entitled "Hounding the President Out Is Wrong," which rightly points out that our Constitution provides the only proper means for removal of a President.

Mrs. Luce reminds her fellow countrymen that—

> Our Constitutional methods of relieving the country of an unpopular President (or any other elected official) are the electoral process, or, (when the gravamen are alleged crimes) the process of impeachment. Are these methods now to be forgone, in favor of poll-taking? If this precedent is established, are all high officials—senators, governors, even Supreme Court justices, to be expected to resign whenever Gallup, Harris, or Roper produce a one per cent sample of "public opinion" which shows that they have lost "credibility"? And exactly how low will their credibility rating have to fall before they agree to resign, in the public's interest? Will a 49.9 per cent confidence rating become the signal for them to hang their heads and quit? Or will they feel they can hold on until they reach President Truman's all-time "credibility" low of 23 per cent?

Mrs. Luce concluded:

> Until a law is passed requiring a public official to resign when a one per cent sampling of public opinion shows that he has lost a legally given percentage of the public's confidence, polls are no proper basis for demanding a political resignation. They are not even good grounds for impeachment. The grounds for impeachment are clearly set forth by the Constitution, and the process is left to the duly elected representatives of the people—their Congress.

Mr. President, I ask unanimous consent that the entire text of the article as printed in Newsday be printed in the body of the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Hounding the President Out Is Wrong

(By Clare Booth Luce)

In all political questions, the interests of the nation are best served by upholding the spirit and following the letter of the Constitution.

What does the Constitution have to say about a President—any President—who is alleged to be guilty of crimes or misdemeanors which make him unworthy of his high office?

It says that the President is not above the law. It does, however, say that consequent to the unique position he occupies, he is a unique personage. (At 'this point in time,' or at any point in time, there is only one man who is President.) So the Constitution provides a unique process of law by which this unique personage can be brought to the bar of justice, and tried for any crimes he may allegedly have committed.

The Constitution says that the people's elected representatives in Congress can impeach (i.e., accuse or indict) a President for these alleged offenses. It says that he must then be tried for them in a court of the Senate presided over by the chief justice of the U.S. Supreme Court. It says that if this constitutionally appointed court finds him guilty, he shall be removed from his high office. And it also says that if he is acquitted, he shall go about his presidential business, vindicated.

The Constitution does not say that this is a pleasant or an easy business. It does say that when a majority of the Congress deems it to be a necessary business, it is the business of Congress to proceed with it.

If the President is not above the law, neither is he below it. He has the same right as every other citizen to be considered innocent until he is hauled into court and proven guilty.

Today, much of the press (Time magazine included) is trying to deny him his right by forcing him to resign. Despite his protestation of innocence, the press has tried him and found him guilty. It now asks him to forgo his constitutional rights. It wants to get rid of a President without bothering with the legal formalities provided by the Constitution.

A few weeks ago, the owner of a large newspaper chain said, "Nixon will resign in a matter of weeks. No man can stand up to what we are pouring onto him and not crack up."

Is this way of getting rid of President Nixon in the best interests of the country? Let us ask, what if the fierce and relentless pressures of the media were, indeed, to break the President's health and spirit? And what if he were then to resign, a broken man, but a man still protesting his innocence?

The people would then never know the truth about his personal connection with that complex of scandals we call Watergate. A majority would certainly continue to assume his guilt, and cite his resignation as final proof of it, but they could never be really certain. But a minority—of some millions of people—would continue to assume his innocence, and would see him as the victim of a vengeful and partisan press. The unresolved question of the President's real guilt or innocence would fester in the body politic.

The press, in constituting itself Mr. Nixon's judge, jury and executioner, insists, of course, that it is acting as agent for the will of the majority of the people, as expressed in the polls. These polls, when one looks into the matter, are the result of one per cent or two per cent samplings—many of them telephone samplings—which are taken by privately owned firms—principally Gallup, Harris and Roper.

As everyone knows, political polls have not infrequently turned out to be very inaccurate. But assuming that the Nixon-resignation polls are accurate, to rest the case for the resignation of a chief executive on a minute sampling of public opinion raises a very serious question: Are grave constitutional questions, questions which are bound to affect the destiny of the nation and the economic fortunes of every citizen, henceforth to be resolved by a one per cent sampling of public opinion?

To repeat: Our constitutional methods of relieving the country of an unpopular President (or any other elected official) are the electoral process, or, (when the gravamen are alleged crimes) the process of impeachment. Are these methods now to be forgone, in favor of poll-taking? If this precedent is established, are all high officials—senators, governors, even Supreme Court justices, to be expected to resign whenever Gallup, Harris, or Roper produce a one per cent sample of "public opinion" which shows that they have lost "credibility"? And exactly how low will their credibility rating have to fall before they must agree to resign, in the public's interest? Will a 49.9 per cent confidence rating become the signal for them to hang their heads and quit? Or will they feel they can hold on until they reach President Truman's all-time "credibility" low of 23 per cent?

In passing, a recent Harris Poll showed that of all the institutions in American public life, the one that had lost credibility during the past few years at the fastest rate was—the press. The press printed this poll, of course. It is, perhaps, unnecessary to add that the press gave it very little editorial mention. But despite the loss of credibility which it showed, not a single editorial resignation followed its publication.

There is no question that, today, the press is sincere in its belief that the President's resignation would be best for the country. But if the press should achieve its goal by "pouring it on" in order to force his resignation, and justifying its action by the polls, a very dangerous and undemocratic precedent will have been established. For the press and pollsters will be wielding that power over the fate of politicians and officials which the Constitution has expressly reserved to the people at the ballot box.

Until a law is passed requiring a public official to resign when a one per cent sampling of public opinion shows that he has lost a legally given percentage of the public's confidence, polls are no proper basis for demanding a political resignation. They are not even good grounds for impeachment. The grounds for impeachment are clearly set forth by the Constitution, and the process is left to the duty elected representatives of the people—their Congress.

ENERGY CONSERVATION WORKS

Mr. BEALL. Mr. President, I firmly believe that voluntary fuel conservation is the best way to meet the short-run problems posed by the energy crisis which faces our Nation today.

Therefore, it is particularly gratifying to me when I read of successful efforts to curb the demand for our precious fuel resources. In the Baltimore Evening Sun of November 16, 1973, Anne S. Philbin reports on the cumulative efforts of Federal employees in region 3, which happens to include my State of Maryland. The article points out that in the first full month of the Federal effort to conserve energy, region 3 saved 7 million kilowatt-hours of electricity, as compared with the same time in 1972.

I commend Federal employees in this region, and ask unanimous consent that the article "U.S. Region Saves Power" be printed in the Record at the conclusion of my remarks.

Mr. President, it is my earnest hope that we will be reading more such articles in the near future as all of our citizens do their part to ease the demand for all forms of energy.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. Region Saves Power

(By Anne S. Philbin)

Federal employes in Region 3, which includes Maryland, saved 7 million kilowatt-hours of electricity in the first month of the government's conservation program.

This saving is the equivalent of enough electricity to take care of more than 10,000 accidental users for 30 days, according to a spokesman for the Baltimore Gas and Electric Company.

President Nixon set a goal of a 7 percent reduction in energy demands for federal government operations beginning last July 1 for the following 12 months. Since then thermostats have been adjusted in government buildings, thousands of light bulbs removed, building cleaning times changed to daylight hours, and official travel reduced.

TWO MONTHS COMPARED

General Services Administration, in a memoranadum circulating in the Federal Building here, reports the 7 million kilowatt-hour saving was determined by comparing August, 1972, power usage with August, 1973, after conservation measures were introduced.

A GSA spokesman was unable to say how much of the 7 million kilowatt-hour saving achieved last August was saved by employes occupying federally owned or leased buildings in the Baltimore area.

Region 3 covers Maryland, Virginia, West Virginia, Delaware, parts of Pennsylvania, and the District of Columbia. In the latter area, there are about 375,000 government employes; in the Baltimore area there are about 85,000.

HEATING CUTBACK

Other measures instituted by GSA include a winter cutback in room and zone heating in government owned or leased buildings to between 65 and 68 degrees. Warehouse temperatures are to be even lower.

He estimates that removing about 22 per cent of the fluorescent light tubes in government office buildings will reduce electrical load usage by 20 percent, or the equivalent of 1 billion kilowatt-hours of electricity.

"If we can save this amount," he said, "it's like saving 580,000 tons of coal or 600,000 barrels of oil."

Workers began removing light bulbs in the Federal Building here as elsewhere in late June, but there are still some offices where the work has not been completed.

GSA last week ordered federal vehicles in its motor pools to observe a 50-mile-an-hour speed limit, and recommended agencies start buying compact cars. Mr. Sampson said GSA plans to buy 4,500 compacts for its own use, which represents 83 per cent of its total car purchases.

As a conservation measure, Mr. Sampson is driving a canary yellow Maverick, and an agency spokesman said GSA will issue a regulation soon directing federal agencies to use compact cars whenever possible.

ENERGY REORGANIZATION

Mr. RIBICOFF. Mr. President, on November 27, I introduced S. 2744, the Energy Reorganization Act of 1973. It would establish the organizational framework for the energy research, development, and regulation which are needed to make our country self-sufficient in energy supply.

The staff of the Subcommittee on Reorganization, Research, and International Organization, which I chair, has prepared, in cooperation with the Office of Management and Budget, explanations of the proposed organization and operation of the Energy Research and Development Administration and the Nuclear Energy Commission. So that my colleagues and the public may be better informed about this important legislation, I ask unanimous consent that the explanations be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Energy Research and Development Agency

A massive federally sponsored R&D effort has been proposed by the President, providing for the expenditure of $10 billion over the next five years, in order to develop energy technologies to meet the Nation's energy needs. A new independent agency is needed to provide the proper organizational framework, management and technical expertise to achieve the Nation's R&D goals in the energy area. Short term energy needs will mainly be fulfilled by relying on presently developed forms of energy. Longer range energy requirements can be satisfied only through more efficient use of present energy sources, development of new energy sources, and better conservation and utilization practices. The President is therefore proposing the establishment of an Energy Research and Development Administration (ERDA).

ERDA's mission will be to develop technologies for efficiently using fossil, nuclear and advanced energy sources to meet growing needs and in a manner consistent with sound environmental and safety practices. ERDA will have a broad R&D charter covering the development of technologies for all foreseeable energy sources and utilization systems. The agency will have responsibility for policy formulation, strategy development, planning, management, conduct of the energy R&D and for working with industry to assure that promising new technologies can be developed and applied. In addition, ERDA will continue the weapons production and development programs of the AEC.

ERDA will be formed by trasnfer of AEC's energy R&D, military applications, basic research, production, biomedical and environmental programs, Interior's Office of Coal Research and Bureau of Mines energy centers, NSF solar and geothermal energy development activities and portions of EPA's stationary source emissions control technology and alternative automotive power systems (AAPS) research programs. Exhibit A contains estimates of FY 74 program resources involved in the proposed transfers.

Advantages of ERDA are:

ERDA will be built upon the substantial scientific and technical base of the present Atomic Energy Commission and will make use of the technical management capabilities of that agency.

ERDA will provide a central agency for the conduct of most Federal energy R&D programs. ERDA will have a broad charter to conduct research and development on the full spectrum of our energy resources and utilization processes covering extraction, conversion, transmission and utilization technologies.

ERDA will be so organized and managed that fossil fuel, advanced energy sources and conservation will receive full recognition and priority along with nuclear energy R&D functions.

ERDA will work closely with EPO, DENR, NEC and other agencies in carrying out its mission.

ORGANIZATION CONCEPT

The ERDA's organization will be headed by a single Administrator and a Deputy Administrator, who will be appointed by the President with the advice and consent of the Senate and be principally concerned with setting R&D policy, external agency relationships and overall direction of the agency. There will also be a General Counsel appointed by the Administrator.

The proposed agency line organization is a balanced structure of five Assistant Administrators, each being responsible for a major program area, as follows: (Refer to the attached ERDA organization chart)

Fossil Energy Development
Nuclear Energy Development
Research and Advanced Energy Systems
Environment, Safety and Conservation
National Security Affairs

The Assistant Administrators will be appointed by the President and confirmed by the Senate.

An additional pool of not more than seven management positions at Executive Level V are proposed. The ERDA Administrator will appoint career officials to these positions and assign responsibilities. Possible uses include: heads of major staff offices, a deputy assistant administrator or other assignments.

The three Assistant Administrators for fossil, nuclear and advanced energy systems will plan and execute programs designed to develop technology by energy source. The objective will be to exploit major existing sources of energy and to explore new and advanced ways of producing energy, including consideration of, and research on, closely associated environmental, economic, safety, and conservation considerations. One advantage of organizing on the basis of energy sources is that it provides within an agency a means for assuring balance and meaningful priority setting among the competing energy sources.

Significant emphasis will be placed on fossil fuels; e.g., coal gasification, liquefaction, and clean combustion systems devices, etc., since this area appears to be the most promising, based on current resource reserves and research technologies. Over $50 million of the President's FY 1974 funding increase for energy research is for coal research to devise methods to convert coal into gas or liquids and to develop control technologies to reduce its air pollution characteristics when used directly.

Continued emphasis will be placed on nuclear energy development. Present programs to develop and demonstrate the commercial feasibility of breeder reactors will be continued. The breeder generates more nuclear fuels than is consumed in the process and this improves the efficient use of a valuable energy resource. This is an advantage over present commercial reactors. A major long term program on Controlled Thermonuclear Reactors (fusion) will be continued because of its tremendous clean energy potential. A major activity will also involve operation of the extensive government owned uranium enrichment operation to provide the domestic and much of the free world's supply of nuclear fuels. The program to transfer this to the private sector will continue to be emphasized. A high level of attention will be devoted to safety considerations in all nuclear activities.

Advanced energy technologies will aim at utilizing energy source and utilization technologies such as geothermal, solar, winds, tides, advanced power cycles automotive power systems, as well as providing a framework for exploring new concepts and ideas that evolve over time. A number of these have significant potential if economical and safe technologies can be developed. This area will also conduct basic physical research in energy related areas.

Environmental protection and safety activities are integral to each of the major energy development organization functions. However, because of the overriding importance of these aspects of energy use, a separate organization element will be provided to support R&D on biomedical and environmental effects associated with various energy systems and energy waste management as well as help assure that appropriate environmental and safety R&D and related considerations are addressed more broadly and comprehensively. Conservation R&D efforts will also be carried out within this major function and will include conducting general research concerned with slowing the rate of growth in demand. Each major program area will also be charged with assuring that the energy systems developed meet requisite environmental, safety, and conservation standards.

The remaining major organization area, National Security, will have responsibility for performing the AEC's military applications and reactor materials production programs. These functions will be carried out by ERDA under the same conditions of security and in much the same manner as is now the case in the AEC.

The basic structure outlined above for the organization of ERDA is designed to meet current needs as we now perceive them. Undoubtedly, adjustments in the structure will be needed as R&D problems change and as we gain experience with the organization. The legislation should provide flexibility to permit future changes when the need for them becomes clear.

ERDA's top management will review the alternative concepts and set program priorities among alternative technologies. The line Assistant Administrators will sponsor their technologies in this process. The ERDA Administrator and Deputy Administrator will be supported by a strong and independent analytic staff to provide assessments on developing technologies. ERDA R&D decisions will form an important input to the Administration in setting priorities and developing energy strategies.

The ERDA headquarters structure is designed to tape the AEC expertise in technical areas as well as in contract management and related skills. The existing AEC field organization will not be changed significantly in structure. Six energy labs from the Bureau of Mines involving about 700 career personnel will be affiliated with the current national laboratory structure. ERDA programs in fossil fuel R&D and advanced energy systems must be able to utilize existing AEC capability for physical, biomedical and environmental R&D as well as contract and other management support functions. Some use of the present nuclear capability to work on fossil fuel, advanced energy systems and conservation will probably be necessary and desirable. To the extent practicable, existing capital plant, fixed overhead and administrative overhead will be utilized.

A great deal of flexibility will be provided to the Administrator in carrying out the programs. Existing AEC and Bureau of Mines labs, outside contractors, universities, and private research institutions can be used to carry out the elements of the programs in achieving objectives.

The ERDA approach to developing safe, efficient energy sources will involve the energy industry to the maximum extent possible and will supplement existing and planned R&D by private industry. Once technology has been developed to assess its feasibility, industry will have to take the lead in further development and in applying it on a commercial scale. Therefore, ERDA's strategy will be to encourage independent energy R&D by working closely with industry in the development of technology to facilitate a rapid, smooth transfer. In this regard, jointly funded Federal and private projects will be encouraged.

CONCERNS ABOUT AEC DOMINANCE IN THE PROPOSED ERDA

One major concern of the coal industry as well as some members of Congress is that the existing AEC personnel and resources, might dominate other important elements of ERDA. However, special consideration has been given to this concern to assure that balance is achieved in developing technologies to meet energy needs. The more significant ERDA design features that will help to assure balance are:

The proposed ERDA organization is a significant departure from the AEC structure. There is a single Administrator, as compared to a Commission-General Management arrangement.

The top tier of ERDA is carefully designed to achieve balance among major energy sources—fossil, nuclear and advanced. Environmental, safety and conservation elements are also given a significant role along with the major ongoing responsibilities for military applications.

The President has stated that a significant amount of R&D funding will be for fossil fuels, especially coal and other energy sources. This will serve to balance the present nuclear imbalance in Federal energy

R&D funding and overcome the nuclear dominance concern.

The Administrator will be directly supported by a number of key high caliber analytic staff offices which will assist in neutralizing the energy source advocacy of the major program areas in assessing the merits of the various technologies and balancing resources among competing areas.

Existing regulatory responsibilities of the AEC will remain behind and become the Nuclear Energy Commission, a renamed independent regulatory agency.

WHAT MAJOR PROGRAMS WILL ERDA UNDERTAKE OVER THE NEXT FIVE YEARS AND AT WHAT APPROXIMATE FUNDING LEVELS?

The President has proposed a Federal energy research and development effort of $10 billion over a five-year period. He has also directed that an additional $115 million in fiscal year 1974 be devoted to the acceleration of certain existing projects and the initiation of new projects. About one-half of the funding for the new initiatives for fiscal year 1974 are devoted to coal research and development, with emphasis on producing clean liquid fuels from coal, improving mining techniques to increase coal mining safety and responsibility, accelerating the coal gasification program and developing improved combustion systems. The AEC in consultation with Interior and other agencies is to make recommendations by December 1, for energy R&D which should be included in the FY 1975 budget.

NUCLEAR ENERGY COMMISSION

The separation of regulatory functions from the research, development and production activities of the present Atomic Energy Commission is another step in the evolution of the Federal Government's involvement in nuclear energy. The five member AEC Commission, including its staff offices and Licensing Boards, plus the three regulatory Directorates under the Director of Regulation will form the nucleus of the renamed Nuclear Energy Commission (NEC). NEC will be an independent regulatory commission responsible for licensing the civilian use of nuclear power and materials.

BACKGROUND

Significant Federal involvement in nuclear energy began with the formation of the Manhattan Engineer District in 1942, and AEC was established in 1946. The first commercial uses of nuclear materials were authorized by the Atomic Energy Act of 1954, at which time the AEC established a comprehensive system of licensing. As the role of the AEC expanded from research and development into regulation of the use of nuclear production and development into regulation of the use of nuclear production and utilization facilities, the need for a separate regulatory staff was evident. In 1961, a new Director of Regulation was established reporting directly to the Commission.

The nuclear power industry has matured rapidly since this organizational change and the growth is continuing with the number of licenses issued for nuclear reactors currently doubling every two or three years. By 1980, 20–30% of electrical energy will be generated by nuclear reactors.

Maturity of the nuclear power industry requires a full-fledged regulatory agency free of development responsibilities in order to handle this ever-increasing workload in an impartial manner to assure the public health and safety.

ORGANIZATIONAL CONCEPT

NEC's mission will be to insure the protection of the public and the environment from potential health and safety hazards inherent in the use of nuclear materials.

The five member Commission will continue to carry out, but on a full-time basis, the regulatory functions of the present AEC which include:

Policy setting and assessment;

Oversight of regulatory operations;

Adjudication of licensing and related cases; and

Resource allocation.

The Chairman (Executive Level II) and four commissioners (Executive Level III) will be appointed by the President and confirmed by the Senate.

Regulatory responsibilities of the NEC encompass the licensing of all nuclear utilization and production facilities for industrial or commercial purposes including the transportation, disposal, import or export of these materials. Licenses are issued for such diverse uses as nuclear power generating plants, chemical separation plants, nuclear research facilities, and radioisotopes used in medical therapy.

The Commission will be supported by NEC staff resources which will include:

A General Counsel to provide legal advice and assistance.

A Controller to manage financial program.

A Secretary and Public Affairs Officer to assist in the conduct of Commission business.

A Policy Analysis Office to conduct broad policy planning analysis and assessment and operational planning and control functions.

In addition, the Commission will continue to be assisted by the licensing and advisory boards of the AEC, which will continue to report to the Commission. These include:

Atomic Safety and Licensing Board—to conduct public hearings and issue decisions of licensing.

Atomic Safety and Licensing Appeals Board—to conduct reviews of initial decisions and perform other appellate functions.

Advisory Committee on Reactor Safeguards—to review and advise the Commission on safety standards and facility license applications.

The line organization proposed by the Administration for NEC would be comprised of four directorates reporting to an Executive Director of Operations (Executive Level V) who will be appointed by the Commission. He would have responsibilities for direction and coordination of major program elements as delegated by the Commission with each Directorate responsible for a major regulatory function as follows: (refer to the attached NEC organization chart).

Standards setting for nuclear reactors.

Licensing of nuclear facilities and materials.

Inspection of nuclear facilities and activities and enforcement of NEC's regulations.

Confirmatory assessment research on safety, safeguards, and environmental concerns.

The Directorates of Standards, Licensing, and Inspection and Enforcement (now Directorate of Regulatory Operations) currently exist under the AEC's Director of Regulation and will be left intact in NEC. The new Directorate of Confirmatory Assessment will provide NEC with an independent capability for developing and analyzing technical information related to reactor safety, safeguards, and environmental protection that is required to assure effectiveness and objectivity in its standards, licensing, inspection and enforcement activities. Under NEC direction, such technical information and analytical methods will be developed in an organizational medium free of developmental bias. These independent data would be in confirmation of, and thus in addition to, data supplied by the proponents of the systems for which licenses are sought or other regulatory action requested. In addition, this Directorate will provide the Commission the capability to identify alternative technological approaches leading to improved reactor safety, safeguards, and environmental protection.

The basic structure outlined above for the organization of NEC is designed to meet current needs as we now perceive them. It is possible that adjustments in the structure will be needed as the number and complexity of regulated activities and facilities increase and as we gain experience with the organization. The legislation provides flexibility to permit future changes when the need for them becomes clear.

In order to maintain a high level of competence of the regulatory staff and to provide the broadest possible range of technical information, NEC will have the statutory authority to provide budgetary support for related research in reactor safety, and the biomedical and environmental sciences, or it may contract for such research from independent sources.

LIGHT WATER REACTOR SAFETY CONCERNS

Critics of AEC have raised questions whether there has been adequate protection of public health and safety of the Light Water Reactor now in commercial use. The AEC has undertaken extensive safety research of the Light Water Reactor at facilities in Idaho. The $51 million capital program is principally centered around the Loss of Fluid Test Facility (LOFT) and Power Burst Facility (PBF).

To insure that this priority safety research program adequately responds to known safety problems, NEC will have overall planing, funding, and evaluation authority of the Light Water Reactor Safety Program. ERDA will continue to perform the day-to-day management of the program on a reimbursable basis.

In addition, in the areas of biomedical and environmental research and waste management and transportation, it is expected that NEC will be provided additional funding (up to $5–10 million in NEC's first budget) to initiate such research in these general areas as required to insure the necessary resources for the protection of public health and safety.

NEC and the Advisory Committee on Reactor Safeguards will continue the AEC's present regulatory practice of conducting safety reviews of ERDA nuclear activitfes and facilities at the request of the ERDA Administrator and will participate in the review required by the National Environmental Protection Act of ERDA's environmental impact statements on nuclear programs.

REGULATORY AUTHORITIES ON NEW GENERATIONS OF NUCLEAR REACTORS

In order to insure the safety of future ERDA developed nuclear reactor power generating plant technologies, NEC will license these demonstration facilities. This will include the full provisions of Sec. 103 and Sec. 182 of the AEC Act of 1954 and means that ERDA will be required to meet the same rigid licensing regulations and procedures currently established for commercial nuclear reactor power plants before construction of a demonstration plant. As an example, the Liquid Metal Fast Breeder Reactor demonstration plant, which involves an electric power system component, will be required to obtain a NEC permit prior to construction. In addition, NEC would license high level radioactive waste storage faclities.

To summarize, the Nuclear Energy Commission is designed to insure the safety of nuclear power plants and related facilities, to eliminate the potential for regulatory and developmental conflicts, to eliminate the risk of subordinating regulatory to developmental functions, to maximize regulatory objectivity and impartiality, to increase public confidence, to permit the Commissioners to concentrate exclusively on regulatory issues, and to become the fully independent regulatory agency which the rapidly maturing nuclear industry requires.

THE PRESIDENT SHOULD NOT RESIGN

Mr. FONG. Mr. President, the contemporary columnist, Mr. William Safire, has written two essays analyzing and rebutting cries that President Nixon should resign.

In his first essay, entitled "Don't Quit," Mr. Safire pointed out that "Quitting would solve nothing, and could cause great mischief. . . ."

In his second essay, entitled "The 27th Amendment," Mr. Safire noted that:

> Those who now demand that this President resign because he has "lost the ability to govern" are calling for the most fundamental change—not just in a leader, but in the traditions that make up our governmental system.
>
> They cannot escape the consequences of their demand, which would be a kind of 27th Amendment, written or unwritten, that would say: "The President shall hold office for a term of four years, or until such time as his rating in the two leading national public opinion polls falls below 30 per cent for three consecutive months, at which time it can be assumed the President has lost the ability to govern and he must then resign."
>
> Nobody has actually proposed such an amendment, of course—why, that would be downright radical—yet that would be the inescapable result of any successful hounding-into-resignation of a President.
>
> The enormous power of precedent that has helped keep Presidents from resigning under pressure through two centuries, thus stabilizing our system, would be flip-flopped by a Nixon resignation: The pressure of precedent in the future would be to force Presidents who lose popular favor to submit their necks to the pollsters' ax.
>
> When Americans come to consider the real choice that the resigners have posed, they will see that the alternative is not Nixon and controversy versus somebody else and unity—but the continuity of the present system versus its replacement by the parliamentary system.

Mr. Safire concluded:

> If Mr. Nixon's critics turn their accusation that he cannot govern into a self-fulfilling prophecy; if they make the cry of "Resign!" a part of the American political discourse, then we are likely to wind up with the kind of Constitution Lord Macauley accused Americans of having: "All sail and no anchor."

Mr. President, I commend these thoughtful essays to my colleagues and ask unanimous consent that both essays be printed in the body of the RECORD.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

DON'T QUIT

(By William Safire)

WASHINGTON, Nov. 4.—Columnists James Reston and Joseph Alsop have joined Tom Wicker and Anthony Lewis in urging President Nixon to resign.

For the long-run good of the country, I believe the President should not resign. Here is a response to some of the most frequently given reasons for demanding that he quit:

1. A President, embattled at home, invites miscalculation abroad.

That was the point made, supposedly in the President's defense, by Henry Kissinger, and seized upon by thoughtful Nixon-dumpers as evidence of the danger of having a President who does not bestride public opinion like a colossus.

However, in the last month's Mideast war, President Nixon proved that no flak, no matter how intense or prolonged, will stay him from acting firmly, cooly and decisively abroad. The most recurrent theme of his Presidency has been his firmness of purpose under fire, which has a way of resulting in honorable peace.

Much of the uproar abroad today comes from our allies, not our adversaries. The Neville Chamberlain elements of the British press, now decrying Mr. Nixon's "disheveled" and "dilapidated" leadership, are those who have shown themselves most ready to cast Hitler's escapees to the wolves, for fear of the discomfort Arab oilmen could inflict. Britain's hands-off policy might have evened the score for our 1956 Suez intervention, but this was hardly England's finest hour.

2. The country just cannot take any more Watergate revelations.

Some politicians are trying to transfer their own wrist-to-forehead public suffering to the people at large: because some Washington denizens cannot stand the gaff, they assume the country cannot.

A nation that experienced a decade featuring a rash of political assassinations, a series of race riots and city burnings that hung a pall of smoke over its capital, and more than 300 of its sons killed every week in an undeclared and unpopular war—such a nation is not about to come apart in this less violent decade at the revelation of political abuses. That is not blood, but vitriol, now running in the streets.

On the contrary, amid the worst of Watergate, the stock market has moved a hundred points up, interest rates and unemployment have come significantly down and the dollar has strengthened around the world. Perhaps a Washington too preoccupied to launch its weekly "bold new initiatives"—which used to lead to alienation, taxation, inflation and war—might turn out to be the best thing for the country. Whether or not a Federal numbness is the paradoxical cause, economic confidence is clearly on the rise.

3. As long as Mr. Nixon remains President, the investigation of his Administration will be impeded.

Of course it will. The President is the target of a grand jury and he can be expected to do what he can to defend himself. If he were to permit a Justice Department investigation to go in deep enough, and to go on long enough, to whip up unstoppable impeachment sentiment, would the President then win Brownie points for having run such a slambang inquiry?

Face it: Mr. Nixon stands accused, and he will cooperate as little as he must in the prosecution of himself, which under our system, is the right of the accused. To quit would be to confess guilt, as we have seen; no protestations of patriotic motive would wash; and it is wrong to demand that a man who considers himself innocent take action that is tantamount to confessing a crime.

If his accusers think the President has committed impeachable crimes, they should stop blaming him for not proving it for them. They should appoint their own prosecutor, arm him with the powers of judicial and legislative branches, and make their case or hold their peace.

4. Resignation would avert a horrendous confrontation.

Which is to say that the way to avert a constitutional clash is for one side to say it was wrong and to skulk off. By the same reasoning, why do not Congress and the courts "resign" the match—just forget about the whole thing? Same result—no clash—and the same feeling of resentment would ensue at justice not having been done.

A miscarriage of justice, whether the result of a witch hunt or a whitewash, is never "good for the country." In the sensible avoidance of confrontation, it is good to remember that it is not the President who is threatening to impeach the Congress.

It is possible to be furious with Mr. Nixon's encroachments on civil liberty, astounded at the blunders of his defense, worried about the erosion of public trust, fed up to here with apprehension that the worst is yet to come—and still, to resolutely oppose resignation.

Quitting would solve nothing, and could cause great mischief—about that, more in the next essay.

THE 27th AMENDMENT

(By William Safire)

WASHINGTON, Nov. 7.—Because the President's popularity has nosedived in the public opinion polls, we are told, he has lost the ability to govern: On that eminently practical ground, some of our pragmatic editorialists insist, the wise and patriotic course would be for Richard Nixon to resign.

That would be the "easy way," and nothing would be more unwise or unpatriotic because it would radically alter the nature of our system of government.

In a parliamentary system, when a government becomes unpopular and loses a vote of confidence, it "falls" and a new election is held. That system is fine for Great Britain; what it loses in stability it gains in responsiveness; but it is not the system the United States has had for two centuries.

The American system provides several restraints on the wide swings of public opinion. For example, only one-third of the Senate comes up for election every two years, so that a popular surge at any one time cannot suddently transform the ideological bent of the whole of that deliberative body.

More to the point, our "Founding Fathers"—that phrase was coined by Warren G. Harding, of all people—rejected the parliamentary system in favor of the election of a separately powerful President for a specific term, so that a President could, if he felt he must, make unpopular decisions without being thrown out of office immediately.

Those who now demand that this President resign because he has "lost the ability to govern" are calling for the most fundamental change—not just in a leader, but in the traditions that make up our governmental system.

They cannot escape the consequences of their demand, which would be a kind of 27th Amendment, written or unwritten, that would say: "The President shall hold office for a term of four years, or until such time as his rating in the two leading national public opinion polls falls below 30 per cent for three consecutive months, at which time it can be assumed the President has lost the ability to govern and he must then resign."

Nobody has actually proposed such an amendment, of course—why, that would be downright radical—yet that would be the inescapable result of any successful hounding-into-resignation of a President.

The enormous power of precedent that has helped keep Presidents from resigning under pressure through two centuries, thus stabilizing our system, would be flip-flopped by a Nixon resignation: The pressure of precedent in the future would be to force Presidents who lose popular favor to submit their necks to the pollsters' ax.

The consequences cannot be dismissed with a flip "Watergate is unique." Hard cases make bad law, and the precedents we set today will shape the system our grandchildren will be living with. The shrill keening for resignation will soon become muted for reasons disparate as the situation is desperate:

First, a coup d'etat by forced resignation, by its nature, must be quick, but Mr. Nixon will not cooperate. Second, Nixon-haters are already defecting from the quit-now ranks because they do not want to see him get off so easily—they want to nail their coonskin to the wall. And third, conservatives, no matter how angry or upset this week, will come to see the destabilizing effects of such a course, which is profoundly in opposition to conservative doctrine.

When Americans come to consider the real choice that the resigners have posed, they will see that the alternative is not Nixon and controversy versus somebody else and unity—but the continuity of the present system versus its replacement by the parliamentary system. The same people who claim our present situation to be unique, worthy of ditching 200 years of tradition, would—in all sincerity—find something uniquely disposable about next year's President. And the President in the year after that.

The legal overthrow of an elected leader is dirty work: people who demand that the President resign to avert impeachment are asking Mr. Nixon to do their dirty work for them. Is the prospect of the most extreme kind of struggle, followed by years of bitterness at what many will consider vindictive political usurpation, preferable to two years of a very careful Nixon Administration before the campaign of 1976 gets under way?

If Mr. Nixon's critics turn their accusation that he cannnot govern into a self-fulfilling prophecy; if they make the cry of "Resign!" a part of the American political discourse, then we are likely to wind up with the kind of Constitution Lord Macauley accused Americans of having: "All sail and no anchor."

FUEL FOR FISHERMEN

Mr. BEALL. Mr. President, certainly as we move toward meeting the massive challenges posed by the energy crisis, it ought to be the role of the Federal Government to insure that jobs are protected and that essential services and operations are continued. On November 27, I informed this body of my concern over the apparent inability of American farmers to receive needed fuel for their agricultural operations, due to bureaucratic delays which were holding up the flow of fuel to that sector of our Nation's economy. I was pleased, however, that the Office of Petroleum Allocation moved to cut the unnecessary redtape in the supply of diesel fuel by allowing priority uses, such as agriculture, mass transit, and energy-producing industries to directly request necessary fuel from their supplies, without formal petition or approval by Federal officials. I am very hopeful that this will end many intolerable delays, and I commend the Department of the Interior for this forward-looking step.

Mr. President, I also am pleased that the Office of Petroleum Allocation has announced allocation preferences for the marine and fisheries industry. In their order contained in the Federal Register of November 27, Administrator Eli T. Reich laid out procedures whereby commercial fishing vessels and associated seafood processing activities shall be granted preference for marine fuel.

As one who represents a State which is world-famous for its bountiful harvests of seafood products, I again commend the Office of Petroleum Allocation for its positive action. Only last year, the Chesapeake Bay seafood industry was disastrously hit by Hurricane Agnes, severely curtailing marine operations through a combination of excessive fresh water and vast amounts of sewage and other dangerous pollutants which flowed into the Bay and its tributaries. Only now is the industry beginning to recover, and thus the heavy burdens of the energy crisis could be a fatal blow for the many thousands of Marylanders who work on or near the water.

These new regulations will hopefully assist these people to remain in their important work, and allow them to continue to provide this Nation with high quality seafood products.

I ask unanimous consent that Advisory Notice No. 7 dealing with marine fuels be printed in the RECORD at the conclusion of my remarks.

There being no objection, the advisory notice was ordered to be printed in the RECORD, as follows:

[Advisory Notice No. 7]

MARINE FUELS

Preferences and Exceptions

Part A: Allocation preferences—Commercial Fishing Vessels and Associated Seafood Processing Activity. In order to relieve unintended results under the Mandatory Allocation Program for Middle Distillate Fuels, it has been determined that, pursuant to section 12 of the regulations (EPO Reg. 1, 38 FR 28660), suppliers shall give preference in the allocation of marine fuels in the middle distillate range for the following purposes for the period indicated:

1. For the operation of commercial fishing vessels of American ownership, registry, or operation engaged in the harvesting and transportation of marine food products to shore installations in the United States or its territories and in the operation of onboard equipment and gear; for a period of sixty days effective immediately, except as stated in 3 below.
2. For the operation of shoreside seafood processing installations in the United States or its territories for a period of sixty days effective immediately, where operations are construed to include the processing and storage of such marine products but not the distribution thereof.
3. For the operation of commercial fishing vessels of American ownership, registry, or operation engaged in the harvest of Yellow Fin Tuna during the Yellow Fin Tuna Season commencing on January 1, 1974, for the period of the 1974 season as determined by the Inter American Tropical Tuna Commission.

Part B: Temporary Exceptions from Mandatory Program. In order to assist petroleum suppliers in providing marine fuels to the preferred classes of end users described in Part A above, for a period of sixty days effective immediately the following classes of end users are excepted from the provisions of the Mandatory Allocation Program for Middle Distillate Fuels:

Ships and any other marine craft whose primary use is or will be of a recreational or pleasure nature, including both private and commercial yachts, cruise ships, sport fishing boats and other pleasure craft, whether owner operated, or chartered.

Suppliers of marine fuels should furnish such fuels to such end users only where such furnishing will not compromise the supply of the preferred end users described in Part A above.

Part C: General considerations. It is intended that the preference granted herein shall apply only to delivery of diesel fuels in the middle distillate range during the indicated periods and not to orders placed on a supplier for delivery beyond such period.

Purchasers requesting assistance under this notice will limit demands under these provisions to those volumes essential to the accomplishment of the basic preference function of each customer. It is necessary that customers receiving diesel fuel supplies under these preference categories furnish a written statement certifying to their supplier that volumes requested constitute essential requirements during the period covered by this notice. It is not intended that this notice be used as a device for stocking fuels against potential future needs.

ELI T. REICH,
Administrator.

NOVEMBER 23, 1973.

[FR Doc. 73-25216 Filed 11-23-73; 2:42 pm]

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE SOCIAL SECURITY ACT

The PRESIDING OFFICER (Mr. CHILES). Under the previous order, the Senate will resume the consideration of H.R. 3153, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment—No. 724—of the Senator from Minnesota (Mr. MONDALE), which, in accordance with the unanimous consent agreement, will be voted on at 12 o'clock noon.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on four amendments which I have at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays on my amendments Nos. 732, 740, 741, and 742.

Mr. ROBERT C. BYRD. Mr. President, does the Senator ask unanimous consent to have one show of seconds on all four amendments?

Mr. HELMS. Yes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask unanimous consent that Lucy Knight, of my staff, be accorded the privilege of the floor during the debate on this bill, and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the Mondale amendment be delayed for 5 minutes.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Perkins, Mr. Dominick V. Daniels, Mr. Gaydos, Mr. Meeds, Mr. Burton, Mrs. Grasso, Mr. Dent, Mr. O'Hara, Mr. Badillo, Mr. Quie, Mr. Esch, Mr. Steiger of Wisconsin, Mr. Forsythe, Mr. Peyser, and Mr. Sarasin were appointed managers on the part of the House at the conference.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that while Senators are attempting to work out some modification of the Mondale amendment, as I understand they are, the Senate proceed in the meantime to the consideration of the call of the calendar, beginning with Calendar No. 531 and going through Calendar No. 535; then proceeding with Calendar No. 537 through Calendar No. 545; and then beginning with Calendar No. 549 going through Calendar No. 551.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF BILL TO THE COURT OF CLAIMS

The resolution (S. Res. 125) to refer the bill (S. 1970) entitled "A bill for the relief of Carl Johnstone, Junior" to the chief commissioner of the United States Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 1970) entitled "A bill for the relief of Carl Johnstone, Junior", now pending in the Senate, together with all accompanying papers, is referred to the chief commissioner of the United States Court of Claims. The chief commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–571), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the resolution is to refer the bill (S. 1970) entitled "a bill for the relief of Carl Johnstone, Junior," now pending in the Senate, together with all accompanying papers, to the Chief Commissioner of the U.S. Court of Claims; the Chief Commissioner shall proceed with the same in accordance with the provisions of section 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

STATEMENT

S. 1970 would authorize the payment to Carl Johnstone, Jr., of $40,426.33 in full satisfaction of his claim against the United States for refund of overpayments of customs duties on entries of 13 airplanes imported by him during 1950, 1951, and 1952.

In the years 1950–52, the claimant purchased a number of airplanes in England. The airplanes were shipped separately to the United States. The first seven importations were ferried from England to Canada and, thence, to the United States through the port of Detroit. The next 11 entries were ferried from England to Canada and cleared through the port of Buffalo. All subsequent entries were ferried directly from England to New York. At this time the claimant became aware of the applicability of a lower valuation based upon the value of the airplanes in England, and action was instituted to recover duties paid on the first 18 importations which had been appraised at a Canadian value for the airplanes. Upon receipt of this information, Customs agreed that the lower English value was correct and, as appraisement of the last five shipments of airplanes ferried from England to Canada had not been completed, appropriate refunds were made. However, with regard to the first 13 shipments, the refunds were not, and have not been made. The claimant states that the time in which the Government could act had expired and that this was the sole reason why refunds were not made on these 13 entries.

The claimant contends that the failure to make the refund on the 13 aircraft was due to an administrative error of the Bureau of Customs.

The committee is of the opinion that it is appropriate to refer S. 1970 to the Chief Commissioner of the U.S. Court of Claims for a report thereon, because the Chief Commissioner of the Court of Claims is equipped to sift through the facts of this claim and to determine the merits thereof, and make a report to the Senate. The claimant will be required to carry the burden of proof of establishing in the proceeding before the Chief Commissioner of the Court of Claims that the failure of the Bureau of Customs to refund him the import duties on the 13 aircraft was due to an administrative error on its part.

The Department of the Treasury is opposed to the enactment of S. 1970. Attached hereto is a letter from the General Counsel of the Treasury to Chairman Eastland regarding S. 1381, 91st Congress, which was identical to S. 1970.

MARCOS ROJOS RODRIGUEZ

The Senate proceeded to consider the bill (S. 724) for the relief of Marcos Rojos Rodriguez which had been reported from the Committee on the Judiciary with an amendment on page 1, at the beginning of line 9, strike out "by him as the result of the accidental explosion of practice ammunition which United States Army Air Corps personnel negligently lost in a farm area and which was found by the said Marcos Rojos Rodriguez, in May 1925, while being employed as a farm laborer in such area: *Provided*, That no" and insert "by him as the result of the accidental explosion of a Mark I bomb fuse (Barlow type) which was found by Marcos Rojos Rodriguez, on May 28, 1925, in a potato field north of and adjacent to Kelly Field, Texas: *Provided*, That no"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Marcos Rojos Rodriguez of San Antonio, Texas, the sum of $15,000, in full satisfaction of all claims of the said Marcos Rojos Rodriguez against the United States for compensation for permanent personal injuries suffered by him as the result of the accidental explosion of a Mark I bomb fuse (Barlow type) which was found by Marcos Rojos Rodriguez, on May 28, 1925, in a potato field north of and adjacent to Kelly Field, Texas: *Provided*, That no part of the amount appropriated in this bill in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of service rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this bill shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an except from the report (No. 93–572), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF AMENDMENT

In accordance with the recommendations of the Department of the Army, the purpose of the amendment is to clarify certain aspects of the bill.

PURPOSE OF BILL AS AMENDED

The purpose of the bill as amended is to authorize and direct the Secretary of the Treasury to pay Marcos Rojos Rodriguez $15,000 in full satisfaction of his claims against the United States for injuries suffered by him as the result of the accidental explosion of a bomb fuse negligently lost in a farm area by U.S. Army Air Corps personnel, and found by Marcos Rojos Rodriguez in May 1925.

STATEMENT

The Department of the Army is not opposed to S. 724 and suggests that an award of $15,000 to Mr. Rodriguez is highly advantageous to the Government.

The facts of this case, as contained in the Department of the Army report, are as follows:

"Department of the Army records disclose that bills for the relief of Marcos Rodriguez were introduced, but not enacted, in the 69th, 70th, 71st, 72d, and 73d Congresses. These bills would have awarded Juan Rodriguez, father of Marcos Rodriguez, $900 for injuries sustained by his son and expenses incurred as a result of an explosion of a bomb on May 28, 1925 in a field at Kelly Aviation Field, San Antonio, Tex. A bill (S. 2398), identical with the present will was introduced, but not enacted, during the 90th Congress.

"Department of the Army records also disclose that a claim for $3,000 was filed by Juan Rodriguez for injuries to his son that resulted from the May 28, 1925, explosion. The incident was investigated and the facts developed were reported to the War Department. The claim file was referred to the Judge Advocate General for advice. The Judge Advocate General summarized the claim file as follows:

"'The papers in reference show that Marcos Rodriguez, 13 years old, the son of the claimant, found, on May 28, 1925, a Mark I bomb fuse (Barlow type) in a potato field immediately north of and adjacent to Kelly Field, Tex.; that the child pounded the fuse upon a wagon wheel causing it to explode in his right hand and blowing off the thumb and first and middle fingers thereof; that the commanding officer at Kelly Field on June 4, 1925, appointed a board of officers under Army regulations to consider claims for damage or loss of private property; that this Board met at Kelly Field on July 13, 1925, to consider the claim of Juan Rodriguez; that the claimant under date of July 3, 1925, presented in writing a claim in the sum of $3,000 for the injury to his son; that the testimony before the board of officers shows that the fuse found in the potato field by young Marcos Rodriguez was a Mark I bomb fuse (Barlow type) and that the condition of the same indicated that it have been lying [sic] out in the weather for some time, possibly 2 or 3 years; that no evidence was adduced to account for the presence of the bomb fuse in the potato field; that the Board found that Marcos Rodriguez, 13 years old, son of Juan Rodriguez, lost a thumb and first two fingers of his right hand by reason of the explosion of a Mark I bomb fuse (Barlow type) which he found on a potato field immediately north of and adjacent to Kelly Field, Tex.; that the claim was one the settlement of which was not provided for by any specific law and should be considered in accordance with paragraph 10, Army Regulations 35–7020; that the injuries received by Marcos Rodriguez in the opinion of the Board reasonably supported a claim for $900; that the injury was not due wholly or in part to any fault or neglect on the part of the claimant or his son, but was probably due in part to ignorance and lack of experience on the part of the child; that the injury was not due wholly or in part to any fault or negligence of officers or employees of the Government; that the Board recommended that the Secretary of War submit to the Congress a draft of proposed legislation for relief of the claimant in the sum of $900; that the proceedings of the Board were approved by the commanding officer at Kelly Field and forwarded through military channels; that on August 17, 1925, the claimant, Juan Rodriguez signed a writing in which he stated his willingness to accept $900 in full settlement of the damages.'

"It was not clear to the Secretary of War whether the claim submitted by Juan Rodriguez was for damages sustained by him or his son, Marcos Rojos Rodriguez, and the Secretary did not forward the claim to Congress as the Claims Board recommended. On January 11, 1927, Congressman Wurzback of Texas introduced H.R. 16204, 69th Congress, to award Mr. Rodriguez $900. In response to a request for the views of the War Department on H.R. 16204, the Secretary of War forwarded Congress a copy of the claim file and neither favored nor opposed the bill. A copy of the claim file has not been found in Department of the Army records, however, a copy is in the National Archives files on H.R. 16204, 69th Congress.

"The Department of the Army has no objection to the compensation of Mr. Rodriguez for his injuries. It is observed that $900 (the amount recommended by the Claims Board and the amount mentioned in all but the last of the previous bills) invested in 1925 at 6 percent compounded annually would now amount to more than $10,000. Had the $900 been invested in appreciating property producing 6 percent income reinvested annually, the present worth would exceed $15,000. A study of Texas jury verdicts for the period 1900 to 1960 indicated that, had Mr. Rodriguez been able to obtain a judgment of $15,000 for his injuries, the judgment while generous, would not have been excessive.

"Prior to 1943, Mr. Rodriguez could obtain no compensation for injuries incurred in this manner other than by congressional action and none of the private bills introduced prior to 1943 for his relief was enacted. When administrative settlement of noncombat personal injury claims was authorized in 1943 (act of July 3, 1943, 57 Stat. 372), administrative relief was limited to the reasonable medical and hospital expenses actually incurred. Although a claimant might petition Congress for additional compensation administrative settlement of claims for other than reasonable medical and hospital expenses actually incurred was not authorized until the enactment of the act of September 2, 1958 (72 Stat. 1461). Damages for noncombat personal injury claims are now determined under the laws of the place where the act or omission causing the injury occurs (10 U.S.C. 2733, para. 11, AR 27–21).

"In view of the foregoing, an award of $15,000 for the damages suffered by Mr. Rodriguez is not unreasonable and enactment of the bill would not be, under the circumstances, preferential or precedential * * *."

The committee, after carefully considering all of the facts, agrees with the Department of the Army that legislative relief, under the circumstances of this case, would not be preferential or precedential.

Accordingly, the committee recommends that the bill, as amended, be favorably considered.

ARLINE LOADER AND MAURICE LOADER

The Senate proceeded to consider the bill (S. 774) for the relief of Arline Loader and Maurice Loader which had been reported from the Committee on the Judiciary with an amendment on page 2, line 2, after the word "of", strike out "20 per centum" and add "10 per centum"; so as to make the bill read:

S. 774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $20,000 to Arline Loader and Maurice Loader of Yachats, Oregon, in full settlement of their claims against the United States based upon the deaths of their sons, Maurice G. Loader and Frederic M. Loader, on October 15, 1944, as the result of the explosion of a thirty-seven-millimeter armor-piercing shell which United States military-personnel negligently left at an abandoned firing range and which was found by such sons.

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–573), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENT

The purpose of the amendment is to limit any lawyer's fee to 10 percent of the claim.

PURPOSE

The purpose of the bill, as amended, is to pay to Arline and Maurice Loader, of Yachats, Oreg., $20,000 for the death of their sons, Maurice G. Loader and Frederic M. Loader, on October 15, 1944, as the result of the explosion of a 37-millimeter, armor-piercing shell found by the children on a firing range.

STATEMENT

A similar bill for these claimants in the 92d Congress, S. 341, was passed by the Senate and reported favorably by the Committee on the Judiciary of the House of Representatives, but no action was taken before adjournment.

A similar bill for these claimants in the 90th Congress, H.R. 1971, was passed by the House of Representatives but no action was taken in the Senate. In its favorable report on the bill, the Committee on the Judiciary of the House of Representatives said:

"The bill, H.R. 2016, was the subject of a subcommittee hearing on May 5, 1966. The testimony at that hearing and material submitted to the committee in support of the claim indicates that on the afternoon of October 15, 1944, four children, Maurice G. Loader, Jr., age 14; Frederic M. Loader, 13; Eleanor Loader, age 5; and Clifford Harp, age 14, were playing in the Loaders' garage located in Montara, Calif., a small coastal town approximately 20 miles south of San Francisco. The children were repairing a toy wagon and took from a tool box a 37-millimeter, armor-piercing shell which had apparently been found by a playmate of the oldest Loader child and brought into the Loaders' garage unknown to the parents, Maurice and Arline Loader. The shell exploded, killing Maurice G. Loader, Jr., and Frederic M. and injuring the other two children. The information available to the committee indicates that the shell had been found on the Montara firing range, which had been used by the U.S. Army for anti-invasion maneuvers during World War II. The firing range, although encircled by a three-strand wire fence, was not adequately guarded notwithstanding that, previous to the tragedy, unexploded shells and grenades had been found on the range by children residing in Montara.

"As is noted in the Army Department report, a newspaper account of the tragedy outlines with considerable detail the facts of the explosion. That report also notes that the Army recognized the responsibility of the Government by paying $711 for funeral expenses relating to the two children killed in the blast.

"The Army has referred to the fact that the Congress has on a number of occasions passed bills granting similar compassionate relief to the parents of children killed or injured in similar accidents. Notwithstanding the outline of the facts in the Army report, that Department states that it did not have the information necessary to confirm or deny the facts of the case. The committee must disagree with this conclusion. The fact that the deaths resulted from an explosion of military ordnance is not controverted in any way. The records of the Army confirm that the Army recognized the claim to the extent then possible under the law by authorizing a payment of the funeral expenses for the dead children. In this connection, it is also clear that a release secured by the Army at that time was a prerequisite to payment of the only amount available and cannot now be taken as a reason for a denial of compassionate relief by legislative action. It cannot be denied that there has been a long delay in presenting and recognizing this claim but this does not lessen the loss to the parents. Under these circumstances and in the light of the fact that Congress has granted relief previously in similar cases, the committee recommends that the bill be considered favorably."

The committee believes that the bill is meritorious and recommends it favorably.

ROBERT J. MARTIN

The Senate proceeded to consider the bill (S. 1922) for the relief of Robert J. Martin which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert:

That, on such terms as it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of Robert J. Martin, of Lake Carmel, New York, to the United States for the loss resulting from the theft of an amount of cash in his custody as a mailtruck driver, which was taken in a theft occurring on January 2, 1969.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–574), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

AMENDMENT

Strike all out after the enacting clause and insert in lieu thereof the following:

"That, on such terms as it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of Robert J. Martin, of Lake Carmel, New York, to the United States for the loss resulting from the theft of an amount of cash in his custody as a mail truck driver, which was taken in a theft occurring on January 2, 1969."

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to authorize the Postal Service to determine the amount of Mr. Martin's liability rather than specifically to relieve him of liability in the amount of $2,119.45.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to authorize the Postal Service to discharge or adjust the claim of the United States against Mr. Robert J. Martin of Lake Carmel, New York, for liability to the United States for $2,119.45 which was in his custody as a mail truck driver and was taken in a theft occurring on January 2, 1969.

STATEMENT

On January 2, 1969, postal carrier Martin was assigned to make a motor vehicle trip between Tuckahoe, Eastchester, and Centuck Stations and the Main Post Office in Yonkers, New York. Mr. Martin picked up a registered pouch containing $1,118.45 in postal funds and accountable paper at the Tuckahoe Branch, and another registered pouch at the Eastchester Branch containing $1,001.00 in postal funds. He placed both pouches on the window tray in the cab of the truck.

When Mr. Martin arrived at Centuck Station, he backed his truck to the rear platform and loaded the outgoing parcel post from Centuck Station into the cargo area of his truck. He then went inside the station to pick up another registered pouch. He was inside the station for about 10 minutes during which time the cab of his truck was left unlocked and unprotected. Except for two lights in the ceiling of the platform, the area was in total darkness. When Mr. Martin returned to his truck he noticed that the two pouches were missing.

Investigation disclosed that Mr. Martin failed to follow postal regulations, parts 345.433a, 352.81 and 361.531 of the old Postal Manual, which was in effect at that time. These regulations required that an employee lock a vehicle containing mail when it was parked, even at a mail platform, unless the opened door or doors of the vehicle were in complete sight and could be reached quickly if theft were attempted. Moreover, with the exception of working sacks, the regulations required that collection sacks or satchels be kept in the load compartment of mail trucks—not in the driver compartment—and that they be protected from accident or theft.

Mr. Martin, who had been employed at the Yonkers, New York, post office for more than two years prior to the theft, informed postal inspectors at the time of the loss that he was aware of the regulations regarding the locking of unattended vehicles. Mr. Martin resigned his position with the former Post Office Department on July 15, 1969, and the amount of $283.43, representing contributions by him to the Civil Service Retirement Fund, was withheld, leaving a liability to the United States of $1,836.02.

The Postmaster at the Yonkers Post Office filed a claim with the former 39 U.S.C. 2403 to be relieved of liability for the loss of funds occasioned by the theft. The Finance Department, however, disallowed the claim on the grounds that Mr. Martin had failed to perform his duty to protect the mail at all times in accordance with applicable postal regulations. On June 30, 1970, in response to an appeal filed by the Yonkers Postmaster in behalf of Mr. Martin, the Assistant General Counsel of the Claims Division of the Post Office Department upheld the decision of the Finance Department.

The Postal Service takes the position, however, that although Mr. Martin failed to protect postal funds and accountable paper as required by postal regulations, it might be unduly harsh to hold him liable for the full amount of the loss.

While the Postal Reorganization Act provides that the Postal Service may, on such terms as it deems just and expedient, relieve an employee of a claim such as that involved here, 39 U.S.C. § 2601, the Comptroller General has ruled (B–171785, April 15, 1971) that the new authority may not be used to reopen cases decided by the General Accounting Office prior to the commencement of operations of the new Postal Service on July 1, 1971. The rationale of the Comptroller General's decision also applies to cases that were finally determined by the Post Office Department prior to the commencement of operations of the Postal Service. Since the present case was finally determined adversely to the claimant by the Post Office Department Claims Division prior to such date, relief for Mr. Martin must initiate with Congress.

The Committee believes that legislative relief is appropriate and recommends that the bill, as amended, be favorably considered.

M. SGT. EUGENE J. MIKULENKA

The bill (H.R. 1328) for the relief of M. Sgt. Eugene J. Mikulenka, U.S. Army, retired, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–555), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the payment of retired pay to M. Sgt. Eugene J. Mikulenka, U.S. Army, retired, as authorized by otherwise applicable law despite the fact that he was paid compensation for disabling injuries to both hands while performing duties as a Federal civilian employee after he had retired from the Army.

STATEMENT

The facts of this case, as contained in House Reports No. 93–176, are as follows:

"The Army in its report to the committee on the bill stated it was not opposed to enactment of the bill.

"After serving more than 24 years of active service with the Army, Eugene J. Mikulenka retired in the grade of master sergeant on July 31, 1960. On the basis of his years of retired service, his military retired pay amounts to $305.80 a month. Shortly after his retirement on November 1, 1960, Mr. Mikulenka accepted civilian employment with the Army at Camp Stanley, San Antonio, Tex., as an ammunition inspector.

"On March 8, 1968, while working in the testing area with six other persons, Sergeant Mikulenka found a phosphorous grenade which had become 'armed' in an unexplained manner. Realizing that an explosion in that location would seriously endanger his coworkers, he picked up the grenade and ran toward a water barrel. Before he could reach it, the grenade exploded in his hands. He suffered severe burns and was hospitalized, eventually losing his right hand and incurring a permanent disability of his left hand. For this act of conspicuous bravery, Sergeant Mikulenka was awarded the Meritorious Civilian Service Award.

"Since he was a retired enlisted man at the time of the accident, Sergeant Mikulenka was entitled under the law to both his salary as a civilian employee and his military retired pay. A retired enlisted man is not subject to the provisions of the Dual Compensation Act (5 U.S.C. 5532).

"Based on the injuries and disabilities that he sustained in the explosion of the phosphorous grenade, Mr. Mikulenka was entitled to payments under the Federal Employees Compensation Act (5 U.S.C. 8101–8173) which were computed to be $33,207.67. While the provisions of that act provided that an employee could receive compensation payments in addition to payments in the form of pension for service in the Army, Navy, or Air Force, Mr. Mikulenka was held to be barred from receiving both his payments and his retired pay because 'retired pay' has been interpreted as not being the same as 'pension' as provided in the exception in the Federal Employees Compensation Act. *Steelman* v. *United States,* 318 F2d 733, 162 Ct. Cl. 81 (1963). As a result he was forced to make an election between compensation and the retired pay to which he was entitled as a retired Sergeant. In order to receive the disability payments to which he was entitled under the Federal Compensation Act for the injuries he suffered as a civilian employee, Mr. Mikulenka chose to waive his retired pay. The amended bill would allow Mr. Mikulenka to receive his military retired pay even though he had accepted the award.

"In indicating that it would have no objection to the bill, the Department of the Army concluded that this case is readily distinguishable from the general run of workmen's compensation cases. One point emphasized by the Army was that Mr. Mikulenka's injuries resulted from a deliberate effort on his part to prevent death or injury to his fellow workers despite the danger and risk to himself. The Army also pointed out that this case is distinguishable from those in which individuals seek two conflicting payments while serving in the same capacity. In this connection, the committee notes that this is an obvious point since Mr. Mikulenka earned his right to receive retirement pay because he served twenty-four years in the Army including service during World War II, and then after retirement became a Federal employee and was injured while acting in his civilian capacity. In this connection, the Army stated:

" 'Because of the extraordinary circumstances surrounding the incident and Sergeant Mikulenka's heroic conduct, the Department of the Army is of the opinion that favorable action is warranted on the bill, if it is amended so as to provide only for his entitlement to his military retired pay as well as the disability payments from the Bureau of Employees' Compensation. In arriving at this conclusion, the Department considered this case in the light of past bills involving injuries arising from industrial accidents, and finds that it is readily distinguishable from the general run of workmen's compensation type cases. In most incidents, the employee is injured by his unintentional act or that of a fellow worker and not as the result of a deliberate act taken at a great personal risk to himself to prevent death or injury to others. This case is also distinguishable from those in which a claimant seeks two conflicting payments while serving in the same capacity (e.g., the individual who is awarded disability retired pay as a member of the military service and subsequently seeks additional common law damages for the same injury); or a case in which he is receiving benefits from the military departments because of a disability and later requests additional disability benefits for service as a civilian employee. Instead, this bill involves a former soldier who, after earning an entitlement to military retired pay based on his years of service, suffers a crippling injury while employed as a civilian employee (in a capacity having no connection with his former military status) and which injury greatly impairs his ability to secure gainful employment.

" 'It is the opinion of the Department of the Army that it would be inequtiable, under these circumstances, to require the claimant to make an election particularly when his self-sacrificing effort prevented death or injury to the other employees and attendant claims by them upon the Government.'

"The committee finds that this matter is a proper subject for legislative relief."

In agreement with the views of the House of Representatives, the committee recommends that H.R. 1328 be favorably considered.

EDGAR P. FAULKNER AND RAY H. NEW

The bill (H.R. 1948) for the relief of Edgar P. Faulkner and Ray H. New was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–557), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of Edgar P. Faulkner, as postmaster, and Ray H. New, as assistant postmaster, at the Tucker, Ga. Post Office, to the United States for the loss resulting from the burglary at that post office on the night of June 19, 1969.

STATEMENT

The facts of this case as contained in House Report 93–432 are as follows:

"The U.S. Postal Service in its report on the bill stated that it favors enactment of the bill with the amendment recommended by the Committee.

"On the night of June 19, 1969, burglars forcibly entered the Tucker Post Office, used torches to open the walk-in vault of the post office, and opened a safe inside the vault without visible signs of force. The main stamp stock and savings stamps were taken from a wire cage inside the vault. Drawers located inside the safe were pried open and cash and stamps were taken from them. A burglar-resistant chest inside the safe was not attacked. While the chest protected a quantity of large denomination stamps, it was not filled to capacity and could have been used to protect a portion of the stamp stock that was taken. Losses as a result of the burglary totaled $47,860.78 in stamps and funds—$31,026.47 in postage stamps, $563.94 in postal funds, and $16,270.10 in U.S. Savings Stamps.

"On June 24, 1970, the General Accounting Office (hereinafter GAO) held Postmaster Faulkner and Assistant Postmaster Ray H. New jointly and severally liable for $18,770.00, the value of that portion of the stamp stock which could have been placed in the unutilized space in the burglar-resistant chest. GAO based its ruling on the ground that, contrary to postal regulations in effect at the time, Faulkner and New had failed to fill the burglar-resistant chests to capacity.

"The Postal Service took the position, however, that Postmaster Faulkner and Assistant Postmaster New were not negligent. In its opinion they had, in conformity with Postal Service regulations, made every reasonable effort to protect postal funds and stamps at the Tucker Post Office, since they had properly locked the modern walk-in vault, which had been equipped with a new burglar-resistant door only five years prior to the burglary. Accordingly, the Postal Service filed a request with the GAO for reconsideration of its decision. However, GAO affirmed its prior decision on October 31, 1972. The committee feels that relief as provided in this bill is consistent with the current law governing Postal Service operations.

"While the Postal Reorganization Act provides that the Postal Service may, on such terms as it deems just and expedient, relieve an employee of a claim such as that involved here, 39 U.S.C. § 2601, the Comptroller General has ruled (B–171785, April 15, 1971) that the new authority may not be used to reopen cases decided by GAO prior to the commencement of operations of the new Postal Service, July 1, 1971. Since this case was finally determined adversely to the claimants prior to such date, relief for Postmaster Faulkner and Assistant Postmaster New must initiate with Congress.

"The committee agrees that the bill should be amended to include provision for equivalent relief for the Assistant Postmaster as recommended by the Postal Service. It is recommended that the bill be considered favorably."

In agreement with the views of the House of Representatives, the committee recommends favorable consideration of H.R. 1948.

HAZEL W. LAWSON AND LLOYD C. JOHNSON

The bill (H.R. 1949) for the relief of Hazel W. Lawson and Lloyd C. Johnson was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–558), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of Hazel W. Lawson, postmaster, and Lloyd C. Johnson, assistant postmaster, of the Avondale Estates Post Office, Avondale, Ga., to the United States for the loss resulting from a burglary at that post office on July 3, 1967.

STATEMENT

The facts of this case as contained in House Report 93–433 are as follows:

"The U.S. Postal Service in its report on the bill indicated it favors enactment of the bill with the amendment recommended by the committee.

"As is outlined in the report of the Postal Service, on the night of July 3, 1967, burglars forcibly entered the post office and opened two safes by 'peeling.' One of these safes was equipped with an inner security chamber, known as a burglar-resistant chest. While it was the usual procedure to store part of the stamp stock in the inner chest, no stamps were stored therein on the night of the burglary. Assistant Postmaster Lloyd C. Johnson stated that he had not placed stamp stock in the inner chest so as to leave room for an incoming shipment of stamps. His statement was corroborated by Postmaster Lawson, who indicated that Assistant Postmaster Johnson used the inner chest as a usual procedure and was careful and conscientious employee. Losses as a result of the burglary totaled $33,290.56 in stamps—$3,755.20 in fixed credit stamp stock and $29,535.36 in main stamp stock. The main stamp stock represented $26,400.00 in postage stamps,

$3,119.35 in U.S. Savings Stamps, and $16.01 in Documentary Stamps.

"The General Accounting Office disallowed $26,400.00 of Assistant Postmaster Johnson's claim for credit. GAO based the ruling on the ground that, contrary to postal regulations in effect at the time. Johnson was negligent in failing to fill the burglar-resistant chest to capacity. GAO relieved Postmaster Lawson of financial responsibility for the loss, but held her accountable for collecting the $26,400.00 in postage stamp losses from Assistant Postmaster Johnson.

"The Postal Service stated that it took the position, however, that Lawson and Johnson were not negligent, and that they had, in conformity with Postal Service regulations, made every reasonable effort to protect postal funds and stamps at the post office, since they had properly locked all safes, fixed credit drawers, and compartments. In its opinion, the Assistant Postmaster's failure to utilize the inner chest in this instance was an error in judgment, rather than negligence.

"The committee feels it is relevant to note that while the Postal Reorganization Act provides that the Postal Service may, on such terms as it deems just and expedient, relieve an employee of a claim such as that involved here, 39 U.S.C. § 2601, the Comptroller General has ruled (B-171785, April 15, 1971) that the new authority may not be used to reopen cases decided by GAO prior to the commencement of operations of the new Postal Service, July 1, 1971. As noted by the Postal Service, since this case was finally determined adversely to the claimants prior to such date, relief for Lawson and Johnson must initiate with Congress.

"It is recommended that the bill amended to provide for a similar opportunity for relief for Assistant Postmaster Lloyd C. Johnson, be considered favorably."

In agreement with the views of the House of Representatives, the committee recommends favorable consideration of H.R. 1949.

JOSEPH C. LEEBA

The bill (H.R. 2207) for the relief of Joseph C. Leeba was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an exerpt from the report (No. 93-559), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service to compromise, release or discharge, in whole or in part, on such terms as it may deem just the liability of Joseph C. Leeba, Superintendent of the West Side Postal Station, Youngstown, Ohio, for the loss resulting from the burglary at that postal station on February 22, 1969.

STATEMENT

The fact in the case as contained in House Report 93-446 are as follows:

"In its report to the committee on the bill, the U.S. Postal Service indicated it would have no objection to enactment of the bill with the amendment recommended by the committee.

"On February 22, 1969, burglars forcibly entered the West Side Postal Station by forcing the lock on the front door and used a cutting torch to open the two station safes. Each safe was equipped with an inner security chamber, known as a burglar-resistant chest. The burglars were unsuccessful in their attempts to break into these chests, which were almost empty, and which could easily have held all of the main stamp stock of the station. This stock was stored, however, inside the main compartments of the safes, from which it was taken. Losses as a result of the burglary total $9,673.41 in stamps—$8,173.51 in postage stamps and $1,499.90 in U.S. Savings Stamps.

"The Director of the Postal Data Center at St. Louis disallowed $2,283.81 of Superintendent Leeba's claim for credit. The decision was based on the ground that, contrary to postal regulations in effect at the time, Mr. Leeba had failed to fill the burglar-resistant chests to capacity. On November 3, 1969, in response to an appeal filed by Mr. Leeba, the Acting Assistant General Counsel of the Claims Division of the Post Office Department upheld the decision of the Postal Data Center.

"The Postal Service takes the position, however, that although Superintendent Leeba failed to utilize the burglar-resistant chest for protection of stamp stock, it might be neither just nor expedient to hold him liable for the full amount disallowed.

"As is noted in the report of the Postal Service, the Postal Reorganization Act provides that the Postal Service may, on such terms as it deems just and expedient, relieve an employee of a claim such as that involved here, 30 U.S.C. § 2601, however, the Comptroller General has ruled (B-171785, April 15, 1971) that the new authority may not be used to reopen cases decided by the General Accounting Office prior to the commencement of operations of the new Postal Service on July 1, 1971. The rationale of the Comptroller General's decision also applies to cases that were finally determined by the Post Office Department prior to the commencement of operations of the Postal Service. Since the present case was finally determined adversely to the claimant by the Post Office Department Claims Division prior to such date, relief for Mr. Leeba must initiate with Congress.

"The committee agrees that the language suggested by the Postal Service will provide an appropriate and equitable way to extend relief in this situation. Accordingly, it is recommended that the bill be amended in this manner and that the amended bill be considered favorably."

In agreement with the views of the House, the committee recommends the bill favorably.

CORNELIUS S. BALL AND OTHERS

The bill (H.R. 2213) for the relief of Cornelius S. Ball, Victor F. Mann, Jr., George J. Posner, Dominick A. Sgammato, and James R. Walsh was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-560), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Postmaster General to compromise, release or discharge, in whole or in part, the liability of five named individuals, postmasters at Rye, Harrison, Mamaroneck, Mt. Vernon, and Larchmont, N.Y., of liability to the United States resulting from the sale of postage stamps on September 13, 1969, to a person purporting to represent the Allison Mailing List Corp. of New York.

STATEMENT

The facts in the case as contained in House Report 93-94 are as follows:

"The U.S. Postal Service in a report to the committee on the bill indicated that it would have no objection to the bill with the amendment now recommended by the committee.

"The losses referred to in the bill at the five post offices occurred in a similar manner. As is outlined in the report of the U.S. Postal Service in each instance a person approached the window clerk or postmaster and inquired if his postage order was ready and, at the same time, handed the postal employee a First National City Bank of Rye, N.Y. cashier's check for $5,000 payable to the postmaster, and drawn on the account of Allison Mailing List. Later investigation disclosed that the cashier's checks had been stolen and were part of an overrun printed for the First National City Bank. The checks were identical to bona fide checks acceptable under the then current instructions to postal personnel. Postal Manual, 441.221. In all instances, the person presenting the check indicated that his employer had previously telephoned the post office requesting the stamps listed on the order. When questioned by postal employees, the person furnished logical and convincing answers.

"On the basis of these facts, the Post Office Department recommended to the General Accounting Office that the postmasters not be held personally liable for the losses. The General Accounting Office denied the applications for relief on the ground that the individuals had not exercised reasonable and prudent judgment in accepting the checks. In commenting upon this situation, the Postal Service stated that it favors the granting of relief of the postmasters in this case. The person presenting each check was evidently a skilled confidence man, and we are aware of the fact that the general public, and the reasonably prudent man, are highly susceptible to the confidence games of such individuals. The Postal Service observed that the checks gave every appearance of being legitimate cashier's checks of a type looked upon by the general public, and the reasonably prudent man, as being on the same footing as cash. Given the circumstances at the time, the Postal Service concluded that the postal employees acted as reasonably prudent men and should be relieved of liability.

"The language recommended as a committee amendment embodies the recommendation of the Postal Service in its report to the committee. As observed in that report while the Postal Reorganization Act provides that the Postal Service may, on such terms as it deems just and expedient, relieve employees of claims such as those involved here, 39 U.S.C. 2601, the Comptroller General has ruled (B-171785, April 15, 1971) that this authority may not be used to reopen cases decided by GAO prior to the commencement of operations of the new Postal Service, July 1, 1971. The benefits of the new law were not available to the five individuals named in the bill because their appeals for relief were rejected prior to July 1, 1971. Their only recourse therefor is to appeal to the Congress for relief.

"The committee agrees that the most equitable manner of providing relief in that situation is to extend these individuals the same benefits that are now provided for under the law and to authorize the Postal Service to consider the application for relief. It is recommended that the amended bill be considered favorably."

In agreement with the views of the House, the Committee recommends the bill favorably.

JAMES EVANS ET AL.

The bill (H.R. 3044) for the relief of James Evans, publisher of the Colfax County Press, and Morris Odvarka was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–561), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to provide relief to the publisher of a newspaper published in Clarkson, Nebraska, and the postmaster of a situation involving a postage deficiency. Section 1 of the bill would relieve James Evans, a publisher of the Colfax County Press, published in Clarkson, Nebraska, of liability to the United States in the amount of $1,342.48; the amount of the postage deficiency assessed against him as the result of the mailing of certain supplemental publications along with a regular issue of the Colfax County Press at second class, rather than third class postage rates.

Section 2 of the amended bill would authorize the United States Postal Service, on such terms as it deems just, to compromise, release or discharge, in whole or in part, the liability of Morris Odvarka for a postage deficiency charged against his account as postmaster of Clarkson, Nebraska, by reason of the facts referred to in the first section of the bill.

STATEMENT

The United States Postal Service in its report to the committee on the bill stated that it would have no objection to the enactment of the bill as passed by the House of Representatives.

As is outlined in the report of the United States Postal Service, issues of the Colfax County Press containing an advertising supplement was mailed at second class postage rate in the period from May 15, 1968 to May 5, 1971. This was subsequently determined not to have been the proper rate chargeable for the supplement since, under these circumstances, the supplement is considered not to be germane to the publication. Under such circumstances, the proper rate chargeable for the supplement was the single piece third class rate. The pertinent regulations provide that publications which are distinct from and independent of the regular issue, such as catalogs, circulars, handbills, posters, and other special advertisements, and which are, therefore, not germane to the issue, may not be inserted as supplements to publications of the second-class. (Postal Service Manual, section 132.44c.) Because insufficient postage was paid a deficiency in the amount of $1,342.48, arose.

The Postal Service file reveals that the deficiency was discovered during a routine inspection of the Clarkson post office on April 8, 1971. The case was submitted to Headquarters for verification. Subsequently, in a letter to the postmaster dated May 13, 1971, Headquarters confirmed the legal impropriety of including the advertising supplement in mailings of the publication without payment of the appropriate third-class postage.

The Postal Service, while noting that the publication is legally liable for the deficiency referred to in the bill, concluded that in equity and good conscience, the Postal Service did not believe it should assert a claim against the publication for the deficiency. This conclusion was based on the fact that the Post Office accepted mailings of the Colfax County Press containing the advertising supplement during the period involved. The Postal Service further recommended that the bill be amended to provide the Service with authority to compromise, release or discharge in whole or in part the liability of the postmaster. This authority would be the equivalent of the authority now provided by the Post Office under section 2601 of title 39 of the United States Code in parallel cases occurring after July 1, 1971.

The Postal Service in its report to the House Judiciary Committee stated in its conclusions as follows:

"It is unquestioned that the publication is legally liable for the deficiency. However, in equity and good conscience we do not believe we should now assert a claim against the publication for the deficiency, since the post office accepted mailings of the Colfax County Press containing the advertising supplement throughout the period from May 15, 1968, to May 5, 1971.

"We also believe that the postmaster should be granted some relief, in part, because he had little experience with second-class mail requirements. This is evidenced by the fact that the Colfax County Press is the only publication entered as second-class mail at Clarkson.

"In our view the most appropriate disposition of the case would be achieved by amending H.R. 3044 to relieve the publication in the amount of the deficiency ($1,342.48); and to authorize the United States Postal Service, on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of the postmaster. Section 2601 of title 39, United States Code, now gives the Postal Service authority to determine cases involving employee liability. However, it has been determined that this new authority may not be used to reopen cases decided prior to the commencement of operations of the Postal Service on July 1, 1971."

The committee agrees that this is a proper subject for legislative relief in the form recommended by the United States Postal Service and it is recommended that the bill be considered favorably.

EUGENIA C. LYTTLE

The bill (H.R. 3530) for the relief of Eugenia C. Lyttle was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–562), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation, is to authorize the United States Postal Service to compromise, release or discharge in whole or in part the liability of Eugenia C. Lyttle, former postmaster at Manchester, Kentucky, for the loss resulting from a burglary at the Manchester Post Office on the night of May 11 and 12, 1969.

STATEMENT

The facts in the case as contained in House Report 93–436 are as follows:

"The Postal Service in a report to the committee on the bill indicated it would have no objection to the bill with the amendment recommended by the committee.

"The burglary referred to in the amended bill occurred on the night of May 11, 1969 when burglars forcibly entered the Manchester Post Office and opened two safes by "peeling." One safe was equipped with an inner security chamber, known as a burglar-resistant chest. The burglar-resistant chest was left unlocked and was used for storing blank money order forms. This safe also contained fixed credit drawers which were pried open and emptied by the burglars. The other safe, which contained no burglar-resistant chest, was used by former Postmaster Lyttle for the storage of the main stock. Losses in main stock as a result of the burglary totaled $13,208.46 in stamps and funds—$12,952.29 in postage stamps, $245.67 in postal funds, and $10.50 in U.S. Savings Stamps.

"The Postal Service report stated that on April 15, 1971, the General Accounting Office disallowed former Postmaster Lyttle's claim for credit for the losses in main stock. GAO based its ruling on the ground that the Postmaster's failure to utilize available protective equipment for maximum protection of postal funds and stamp stock constituted negligence. The Postal Service stated however that it feels that while it could not condone a failure to make maximum utilization of security facilities, it would be neither just nor expedient to hold former Postmaster Lyttle liable for the full amount of $13,208.46. Ms. Lyttle felt that she had, in conformity with Post Office Department regulations, made every reasonable effort to protect postal funds and stamps, since she had properly locked both safes, and since the postal inspectors who inspected the Manchester Post Office in October 1967 had taken no exception to the manner in which she used the safes. Accordingly, we feel that her failure to properly utilize the inner chest was an error in judgment, rather than negligence.

"The Postal Service referred to the current law on relief of liability when it stated that while the Postal Reorganization Act provides that the Postal Service may, on such terms as it deems just and expedient, relieve an employee of a claim such as that involved here, 39 U.S.C. § 2601, the Comptroller General has ruled (B–17185, April 15, 1971) that the new authority may not be used to reopen cases decided by GAO prior to the commencement of operations of the new Postal Service. July 1, 1971. Since this case was finally determined adversely to the claimant prior to such date, relief for former Postmaster Lyttle must initiate with Congress.

"In indicating it would have no objection to an amended bill the Postal Service stated:

" 'In our view the most appropriate disposition of the case would be achieved by amending H.R. 3530 to authorize the Postal Service, on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of Ms. Lyttle. The Postal Service would have no objection to the enactment of H.R. 3530, if amended as stated.'

"The committee recommends that the amended bill be considered favorably."

JAMES E. FRY, JR., AND MARGARET E. FRY

The bill (H.R. 3751) for the relief of James E. Fry, Jr., and Margaret E. Fry was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–563), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Secretary of the Army to receive, consider, settle, and pay any claim filed under section 2733(b) of title 10, United States Code, or any regulation promulgated thereunder, by James E. Fry, Jr., and Margaret E. Fry of Brighton, Colo., for damage allegedly caused to their property in 1966 as the result of the contamination of a stream, running under the land of the said James E. Fry, Jr., and Margaret E. Fry, by chemical waste disposed of by personnel at the Rocky Mountain Arsenal in Colorado.

STATEMENT

The facts of the case as contained in House Report 93–185 are as follows:

"The Department of the Army in its report stated that it is not opposed to the bill.

"The bill would merely permit the Department of the Army to receive, consider, settle, and pay any claim filed under the established procedures for the consideration of claims under the military claims procedures of section 2733 of title 10. This would be made possible by the provision in the bill waiving the limitations of section 2733(b) which requires that claims be filed within 2 years from the time the claim accrues.

PURPOSE

"The Army report goes into some detail in outlining the history of the Fry claim, and the aspects of the law which were interpreted as requiring the Army to rule that the claim filed in 1967 was barred by the limitations of section 2733(b). The Army summarized these facts as follow:

"(a) The Frys are the sole owners of a tract of land consisting of 391.56 acres situated in the northwest quarter of section 14, Township 2 South, Range 67 west, and the western half of the southwestern quarter of section 11, Township of 2 South, Range 67 West, Adams County, Colorado.

"(b) There is evidence to support the Frys' allegation of some casual relation between the property damage to their land and crops due to water pollution and the activities of the Rocky Mountain Arsenal in Denver, Colorado.

"(c) In 1954 the Frys first heard complaints from surrounding neighbors about water pollution caused by the Rocky Mountain Arsenal and at that time they were aware that claims against the United States were being filed.

"(d) On January 8, 1960, tests were conducted by local state health officials, on land surrounding the Frys' tract. Letters were sent by the Tri-County District Health Department, Aurora, Colorado, during the months of January and February 1960, which informed land owners in the area that the chloride content of their wells exceeded 200 parts per million. Two hundred fifty parts per million was the acceptable limit.

"(e) In 1964 and 1965, Mr. Fry planted corn crops and noticed early signs of retardation, but later these crops developed satisfactorily and showed no further signs of damage. During that time, he stated that he 'suspected the water.'

"(f) Sometime prior to 1965 Mr. Fry was informed by a member of the United States Geological Survey that the water contamination in the area might disappear in 20 to 30 years.

"(g) On January 20, 1967, the Frys filed a claim for property damage against the United States under the provisions of section 2733, title 10, United States Code, as follows:

"1. Contaminated wells with a total flow of 885 gallons per minute	$75,640.00
2. Abandonment of tile line	1,274.00
3. Abandonment of holding pond	967.80
4. Damage to 1966 crops and land	2,274.00
5. Claim for digging well to replace those contaminated	3,961.81
Total claim	84,090.61

"(*h*) By letter dated October 6, 1967, the U.S. Army Claims Service notified the Frys that their claim had been disapproved because, under the applicable Colorado law, they were deemed to have known that their water was contaminated, and that the Rocky Mountain Arsenal was the source of the contamination, in 1964. Thus, on January 20, 1967, the two-year limitation period for the filing of administrative claims under section 2733 of title 10, United States Code, had elapsed.

"The Frys appealed the decision denying their claim (on the grounds discussed later). Their appeal was denied by the Deputy Assistant Secretary of the Army (Financial Management) on January 23, 1968.

"As noted earlier, there is evidence that property belonging to the Frys was damaged by the Department of the Army. The only controversy is whether the Frys filed their claim in a timely manner. In denying the Fry's claim, the Department of the Army asserted that:

"(*a*) Under clause (1) of subsection (b) of section 2733 of title 10, United States Code, all claims for property damage must be presented within two years 'after it [the claim] accrues.' Determination of when a claim accrues under this provision of Federal law depends on the applicable law of Colorado which was the situs of the tort.

"(*b*) Under Colorado law, a claim of the type asserted by the Frys accrues: (1) when the land is known (or should be known) by the claimant to be damaged, and (2) the source of the damage is known (or should be known) by the claimant. *Zimmerman* v. *Hinderlander*, 97 P. 2d 443 (Colo. 1939); *Middlecamp Bessimer Irrigating Co.*, 103 P. 280 (Colo. 1909); *Rose* v. *Agricultural Ditch and Reservoir Co.*, 202 P. 112 (Colo. 1921).

"(*c*) The record discloses that, prior to January 20, 1965, the Frys knew (or should have known) that their land had been damaged by chemical contamination, and that the probable source of that contamination was the U.S. Army Rocky Mountain Arsenal.

"The Frys have consistently maintained the following position:

"(*a*) The claim first accrued on June 20, 1966, because the Tri-County District Health Department then received the results of a sample which had a content of 510 parts per million of chloride. This content was well above the acceptable limit of 250 parts per million. At about the same time, the damage to crops was also shown, for the claimants then had side by side comparisons made of crops watered by contaminated and uncontaminated wells.

"(*b*) The Frys did not have any clear notice of the contamination of wells before 1966. They substantiated this contention by a letter dated March 20, 1968, from Mr. Thomas E. Vigil of the Tri-County District Health Department to the effect that the records were reviewed and showed that the Health Department had not notified the Frys of any earlier reports that the well water pollution exceeded the standards set forth by the U.S. Public Health Service. Mr. Fry further states that he asked the Army to notify him of any contamination in the wells which he gave the Army permission to drill.

"(*c*) In the spring of 1964 the Frys only suspected the water, but since they used herbicides they could not be sure of the source of any contamination. Also, in irrigating the land after the original retardation there was no noticeable ill effects, which could conclusively be attributed to the water or herbicides, in three out of four tests. The Frys further state that this claim is supported by a statement from one Norval Daniels who was employed as a ditch rider for the Burlington Ditch Company and in his job passed claimants' field of corn daily. Mr. Daniels noted that one end of the cornfield was irrigated from the wells in question and the other was not, but at harvest time the corn appeared equally good at both ends of the tract.

"After reviewing these contentions, it is the opinion of this Department that the claimants have not exhausted their judicial remedies because they can seek a judicial determination, within six years of the date of the alleged injury, as to whether the administrative statute of limitations had run. The pursuit of this remedy, however, would be burdensome upon the claimants and upon the Department of the Army and would probably result in an affirmance of this Department's determination that the two-year administrative statute had run. No matter what the court's decision, the claim would still be unresolved. If a favorable decision to the claimant were made, the Department would still be required to hear the claim on its merits. If, on the other hand, the decision were adverse to the claimants, they could seek a private relief bill to remove the time bar.

"In indicating it had no objection to enactment of the bill, the Army recognized the equitable considerations justifying relief in this instance. The Army stated:

" 'In view of these considerations, the Department of the Army on behalf of the Department of Defense has no objection to the enactment of the bill. This conclusion is based upon the fact that the claimants have presented persuasive reasons for their failure to take timely action. Although these reasons do not provide a legal basis for tolling the statute, they do raise compelling, equitable considerations and indicate that the claimants' assigned reasons for their forbearance in filing a claim represented an honest desire to avoid filing until they were convinced that an injury had resulted and also that the United States was responsible. The good faith of the claimants is also demonstrated by the fact that the claimants continued to plant the crops in 1964 and 1965, and did not seek to recover for any damages to crops during that period.

" 'The cost of the bill, if enacted, cannot be determined at this time.' "

It is recommended that the bill be considered favorably.

Attached hereto and made a part hereof is the report of the Secretary of the Army.

MANUEL H. SILVA

The bill (H.R. 4175) for the relief of Manuel H. Silva was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–564), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to pay Manuel H. Silva $6,240 to compensate him for the loss of a group of pigs during a cholera outbreak under adverse circumstances, including a major snow storm, which delayed an inspection of the animals for 7 days, during which the 156 animals referred to in the bill died and therefore could not be the subjects of compensation.

STATEMENT

The facts of the case as contained in House Report 93–186 are as follows:

"The Department of Agriculture in its report to the committee on an identical bill in the 92d Congress stated that it favored enactment of the bill.

"In the report of the Department of Agriculture, it was explained that the Department is cooperating with several States in a program to eradicate hog cholera and the progress in this cooperative program is excellent. A most important element of the program is the prompt slaughter of swine infected and/or exposed to the disease. In recognition of the losses they suffer as part of this effort to control the spread of the disease, owners are paid an indemnity in accordance with Title 9, Code of Federal Regulations, Part 56.

"The Department stated that there are several conditions, however, which must be met in connection with these indemnity payments. One is that a State or Federal animal health official must inspect the animals and make a positive diagnosis that they are infected and/or exposed to hog cholera before the swine are ordered to be slaughtered.

"On December 22, 1970, Mr. Silva, of Ipswich, New Hampshire, reported to the New Hampshire State Veterinarian that his animals were sick. The hog cholera diagnostician for the State of New Hampshire, an employee of Department of Agriculture was not available as he was on approved annual leave. A USDA diagnostician from Vermont arrived at Concord, New Hampshire, on the night of December 23, 1970. On the morning of December 24, the Vermont diagnostician was advised by the New Hampshire State Veterinarian that the roads to Mr. Silva's premises were impassable because of a heavy snowfall, and that he should return to Vermont. It was December 29, 1970, before it was possible to inspect the animals and complete the diagnosis: by that time, a number of pigs were dead.

"The completion of the diagnosis is a condition of eligibility for indemnity payments under the Federal-State cooperative hog cholera eradication program. When the disease was diagnosed as hog cholera, the Department worked with Mr. Silva to eliminate the disease from his premises and paid indemnity for infected and/or exposed swine which had to be killed.

"In indicating that it favored legislative relief in this instance, the Department stated:

"The bill is concerned with payment for those swine owned by Mr. Silva which died but for which Mr. Silva was not eligible for indemnity payment under the cooperative program, due to a sequence of events over which Silva had no control. As a result of the leave of the Federal diagnostician, the inability to arrange for a substitute diagnostician prepared to make the very quick inspections necessary in the suppression of hog cholera, and heavy snow which prevented the substitute diagnostician from making an inspection, final diagnosis was delayed seven days from time of notification. Mr. Silva did all that could be expected of him in reporting the disease situation to proper officials.

"'Thus we believe Mr. Silva is entitled to the relief proposed by H.R. 13012, and accordingly, we favor enactment of the bill.'"

The committee agrees that this case is a proper subject for legislative relief and recommends that the bill be considered favorably.

FIRST LT. JOHN P. DUNN, U.S. ARMY

The bill (H.R. 4448) for the relief of 1st Lt. John P. Dunn, Army of the United States, retired, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-565), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation, is to authorize the payment of the amount certified by the Comptroller General as the amount of retired pay due him under applicable law for the period of November 1, 1954 to March 4, 1958. He was paid retired pay for subsequent periods but the period stated in the bill was barred by the 10-year statute of limitations. His entitlement was established after the running of the statute by a correction made by the Board for the Correction of Military Records.

STATEMENT

The facts of this case as contained in House Report 93-188 are as follows:

"The Department of the Army in its report to the Committee stated that it is not opposed to enactment of the bill. The Comptroller General did not recommend favorable consideration.

"Lieutenant Dunn served on extended active duty as an enlisted man from June 3, 1915, through July 17, 1919. He was an enlisted member of the regular Army reserve from July 18, 1919, through June 4, 1920, and held a commission in the Officers Reserve Corps from August 8, 1924, through August 7, 1939. He attained age 60 on October 28, 1954. On January 10, 1957, he filed an application for retirement benefits under the provisions of 10 U.S.C. 1331-1337. On February 4, 1957, he was informed that he was not eligible for retirement benefits because he had completed only 19 years, 11 months and 10 days of the 20 years of qualifying services required for retirement. On September 21, 1967, Lieutenant Dunn filed an application for Correction of Military Records alleging that his service had been computed incorrectly because he had completed 20 years of qualifying service for the purpose of retirement. On October 18, 1967, it was determined that an error had been made and his records were corrected to credit him with over 20 years of qualifying service for retirement purposes. On January 10, 1968, he was placed on the Army of the United States Retired List in the grade of first lieutenant with an effective date of November 1, 1954; The General Accounting Office approved payment of retired pay to Lieutenant Dunn for all payments due after March 5, 1958, but invoked the 10-year statute of limitations and disallowed all payments for retirement pay for the period between November 1, 1954, and March 4, 1958.

"In indicating that it is not opposed to the bill, the Army stated:

"'The Department is generally opposed to the payment of claims barred by the statute of limitations, but in this case the objections based upon the passage of time are not applicable. The facts necessary to support this claim are firmly established and well documented. Lieutenant Dunn made timely application for retired pay in January 1957, but due solely to an administrative error he was not retired until January 1968. It is the opinion of the Department of the Army that it is inequitable to invoke the statute of limitations as a bar to the payment of any retired pay to which he would have been entitled since November 1, 1954.

"'Lieutenant Dunn's entitlement to retirement pay for periods before the date of his application is based on the decision of the Court of Claims in the case of *Seagrove* v. *United States*, 131 Ct. Cls. 790. That decision holds that entitlement to retirement pay under 10 U.S.C. 1331-1337 begins from the date the retiree meets both the age and service requirement without regard to the date of application for such benefits, subject, of course, to the statute of limitations.'

"In view of the considerations outlined in the report of the Department of the Army, it is recommended that the bill be considered favorably."

In agreement with the views of the House of Representatives the Committee recommends favorable consideration of H.R. 4448.

WILLIAM M. STARRS

The bill (H.R. 8406) for the relief of William M. Starrs, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-569), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to pay to William M. Starrs, of Savannah, Ga., $1,332.10 in full settlement of all his claims based on special separate maintenance allowance leave erroneously granted to him in June 1969, while he was serving as a civilian employee of the Department of the Army.

STATEMENT

In a report to the House committee on the bill, the General Accounting Office indicated that it had no objection to a bill providing for a payment of $1,234.10 and made no comment concerning the balance of the claim other than to set forth the facts and computation relating to that aspect of the claim. The Army in its report on the bill deferred to the views of the General Accounting Office.

As outlined in the reports of the General Accounting Office and the Department of the Army.

"Mr. William M. Starrs was employed by the Army as a Recreation Specialist (dramatics) for one year beginning June 15, 1968, and assigned to duty in the Special Services Office in Saigon, Republic of Vietnam. When his tour neared completion he was asked if he wished to continue his employment. On March 25, 1969, he responded to the Long Binh Area Civilian Personnel Office, using a form provided by that office, and stated, "I desire to apply for the Separate Maintenance Allowance Leave and extend my tour of duty for an additional 6 months." His request was approved by the Staff Entertainment Director in Saigon and the Special Services Officer in Danang. On April 28, 1969, he wrote to the Saigon Area Civilian Personnel Office and requested leave for "the period of 17 Jun 69 to 17 Jul 69."

"On May 17, 1969, he received 'an advance payment of Special Separate Maintenance Allowance' in the amount of $1,234.10 'for air travel' to and from Savannah, Georgia, and on June 17, 1969, he departed Saigon for Savannah. On July 5, 1969, he wrote from Savannah to the Long Binh Civilian Personnel Office stating he would be hospitalized on July 6, 1969, for surgery and would be disabled until the end of August 1969. He requested sick leave and inclosed a certificate from his surgeon. A few days later, he received a letter from the Staff Entertainment Director informing him that he was not entitled to Special Separate Maintenance Allowance leave, because he had never been entitled to a Separate Maintenance Allowance and this allowance was a prerequisite to entitlement to the leave. An inclosure covers the conditions established by the State Department for this entitlement. The Army noted that this standard applies to all United States employees serving overseas.

"On September 3, 1969, Mr. Starrs wrote from Savannah to the Long Binh Civilian Personnel Office because he had received no reply to his request for sick leave. He stated in that letter that the personnel office had assured him it would notify him of his eligibility for Special Separate Maintenance Allowance but failed to do so. He asserted that if he had been notified of his ineligibility, he would not have contracted for an additional six months' duty in Vietnam. In the absence of any notification, he considered the approval of his superiors and the subsequent payment of $1,234.10 to be tantamount to notice of eligibility. He concluded the letter with alternative proposals that leave be granted, as agreed, and that he return to complete his six months of service, or that the six months' extension be considered invalid and that he return only one-half of the advanced round-trip fare on the basis that he was entitled to return transportation under the terms of his initial employment.

"The Army advised the House Judiciary Committee that the Department record include an undispatched letter of the Saigon Area Civilian Personnel Office, dated November 18, 1969, addressed to Mr. Starrs. It was in response to his September 3, 1969, letter, and stated that the granting of Special Separate Maintenance Allowance leave and payment of $1,234.10 was 'in error as you must be entitled to Separate Maintenance Allowance prior to receiving a special award. . . . It is regretted that you were not properly advised prior to taking leave.' It also stated that if Mr. Starrs wished, the Government would transfer him back to the United States and he could repay one-half of the advanced round-trip fare. Army records do not indicate why a reply was not made to Mr. Starrs' letter of September 3, 1969. or why the letter of November 18, 1969, was not sent to him.

"In the absence of any reply and on advice from the Office of the Adjutant General, Washington, D.C., Mr. Starrs went to Saigon in November 1969, in a further attempt to resolve the problem. When he arrived there, according to the allegations in his attorney's letter of December 19, 1969, to the sponsor of the bill, he was informed his return was not necessary and that "the payroll office and others * * * were terribly sorry that the mix-up had occurred, and it was the Government's fault, but that they couldn't do anything about it." Mr. Starrs resigned on December 6, 1969, and returned to the United States by transportation furnished by the Government. Mr. Starrs was paid through August 9, 1969, after the $1,234.10 advance had been deducted.

"As originally introduced, this bill provided for payment of $4,600.11. Mr. Starrs contends he is entitled to $617.05 for one-half of the round-trip fare 'plus his loss of pay when he was in Savannah not knowing whether he was supposed to go back to Vietnam.' The Army noted that a computation by the General Accounting Office discloses that the maximum possible amount claimed should be limited to $3,263.47. The sum is computed as follows: $2,646.42 in net pay (after making the following deductions: $246.67 for retirement; $44.82 for health insurance; $34.65 for life insurance; and $821.84 for Federal taxes) plus the mentioned $617.05. In a statement filed with the House Committee. Mr. Starrs claimed the following items as the basis for his claim:

"Round-trip plane ticket	$1, 234. 10
Room and lodging in Saigon	98. 00
Lost wages	3, 888. 00
Subtotal	5, 220. 10
Less back wages paid	619. 99
Total	4, 600. 11

"After a review of all of the facts of the case, the House Judiciary Committee concluded that the bill should be amended to provide for a payment of $1,332.10. This is the figure recommended by the General Accounting Office. $1,234.10, plus $98.00, the amount that Mr. Starrs stated he was required to pay for room and lodging when he travelled to Vietnam to resolve his problems relating to this employment. The House Judiciary Committee agrees with the General Accounting Office that Mr. Starrs should be repaid the $1,230.00 representing the travel allowance, in view of the confusion which existed concerning his entitlement to return to the United States for visitation purposes. It is also felt that under the circumstances, he should be reimbursed for the cost of his food and lodging on the occasion of his return to Vietnam."

The committee is in agreement with the conclusion reached by the House Judiciary Committee that this bill, H.R. 8406, should be considered favorably.

LUTHER V. WINSTEAD

The bill (H.R. 9276) for the relief of Luther V. Winstead was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–570), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just, to compromise, release, or discharge in whole or in part the joint and several liability of Luther V. Winstead, postmaster at the Clinton, Md., Post Office for a deficiency in the amount of $17,406.82 in the postal funds and accountable papers resulting from a burglary at the Clinton Post Office in Clinton, Md., on May 6, 1967.

STATEMENT

The facts of this case as contained in House Report 93–544 are, as follows:

"In its report to the committee on a similar bill in the 92d Congress, the Postal Service stated it would have no objection to a bill amended in the manner now recommended by the committee.

"The liability referred to in the bill represents the value of a portion of postal funds and accountable paper lost as a result of a burglary of the Clinton Post Office on May 6, 1967. The burglar forcibly opened two safes. The burglar-resistant chest in one of the safes appeared to be in good operating condition and bore no evidence of attack, yet it was open. In the absence of evidence of visible use of force to open the burglar-resistant chest the General Accounting Office found that a legal presumption of negligence arose that the person having custody of the safe was in some way derelict in his duties. Accordingly, on December 17, 1970, the General Accounting Office disallowed $17,406.82 of Postmaster Winstead's claim for credit, representing the value of that portion of postal funds and stamp stock that could have been stored in the chest.

"In its report to the committee, the Postal Service stated that the circumstances of the case are such that some relief should be granted to Mr. Winstead, and further that it should be noted that he is being held liable as a matter of law because of his status as postmaster. In similar private relief cases, the Postal Service has recommended that the legislation be drawn so as to authorize the Postmaster General, on such terms as he deems just, to compromise, release, or discharge in whole or in part the liability of the parties involved. This is in keeping with section 2601 of title 39, United States Code, under which the Postal Service now has authority to determine cases of this kind. This new authority may not be used to reopen cases decided by the General Accounting Office prior to the commencement of operations of the Postal Service on July 1, 1971. (Ruling of the Comptroller General, No. B–17185, April 15, 1971). In view of these facts, the committee concluded that relief as provided in the amended bill is required in the present case.

"It is recommended that the amended bill be considered favorably."

CLAUDE V. ALCORN ET AL.

The Senate proceeded to consider the bill (H.R. 1316) for the relief of Claude V. Alcorn and 21 others which had been reported from the Committee on the Judiciary with amendments on page 2, in line 18, after "computation," strike out "transportation on board the vessels at the recomputation,".

On page 3, beginning at the end of line 1, strike out "subsection (a) of this section" and insert in lieu thereof "this Act".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–575), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE AMENDMENTS

The purpose of the amendments is to correct typographical errors in the bill.

PURPOSE OF THE BILL AS AMENDED

The purpose of the proposed legislation, as amended, is to provide that 22 named employees of the National Oceanic and Atmospheric Administration are not to be deemed to have been transported to Seattle in 1967 and 1968 on board National Oceanic and Atmospheric vessels at Government expense in connection with a change of permanent duty station, so as to qualify these employees for travel expenses in accordance with the provisions of the bill.

STATEMENT

The Department of Commerce in a report to the House Judiciary Committee recommended enactment of the bill. The facts of this case, as contained in House Report No. 92–1357 on an identical bill in the 92d Congress, are as follows:

"The employees listed in the bill, whose permanent duty station was Norfolk, Va., were assigned to temporary duty on NOAA vessels which sailed to Seattle, Wash. After their arrival, they were informed that their permanent duty station was changed to Seattle. The employees were permitted to return to Norfolk to move their families and household goods to Seattle, their return trip to Seattle to be paid under the authority of an administrative memorandum which was afterward found to be in error and was rescinded. As noted in the department's report the Comptroller General ruled that the Government had already paid for the travel expenses of the employees when they were initially transported to Seattle aboard the ships to which they were assigned. Apparently the Comptroller General took the position that the return trip to Seattle was solely for their personal convenience, so that the payment had been erroneous. The committee feels this evaluation fails to take into account the equities of the case.

"By providing that the initial trips of these employees to Seattle would not be deemed transportation to new permanent duty stations at Government expense, H.R. 11814 would permit payment of the per diem and mileage expenses of the employees in moving their household from Norfolk to Seattle to be included in computing the total transportation and moving expenses to which they are entitled. In effect, the bill will make possible payments to the employees in accordance with the administrative memorandum originally issued to them prior to their move.

"The committee is impressed by the statement in the Department of Commerce report that the employees named in the bill relied in good faith on erroneous administrative advice to the effect that they could make the second trip from Norfolk to Seattle to move their household effects and that they would be reimbursed for their expenses of that trip. The Department further expressly stated that the enactment of the bill "is justified in order to avoid an inequitable situation which would otherwise exist." The Department therefore recommended that the bill be enacted with the amendment recommended by the committee that the travel expenses of each of the named persons be computed or recomputed "to provide payment of mileage traveled in privately owned vehicles at a rate not to exceed 12 cents per mile per diem at a rate not to exceed $16 per day for actual traveltime between duty stations not to exceed 8½ days."

"The Department further advised the committee that it estimated that the total costs involved in this computation would be estimated at $6,000.

"It is recommended that the bill be considered favorably."

In agreement with the views of the House of Representatives, the committee recommends that H.R. 1316, as amended, be favorably considered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE SOCIAL SECURITY ACT

The Senate resumed the consideration of the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the Mondale amendment be delayed an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum—Mr. President, I withhold that request.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Louise Ringwald be given the privileges of the floor during debate and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask unanimous consent that Rod Solomon be given the privilege of the floor during debate and consideration and the vote on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask unanimous consent that I may modify my amendment.

When that request is granted, I will describe my modifications.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered. The amendment is so modified.

Will the Senator please send his modification to the desk?

Mr. MONDALE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. DOMINICK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard and the clerk will state the amendment.

The assistant legislative clerk read as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . Title IV–A of the Social Security Act is amended by adding at the end thereof the following new section:

"CHILD CARE STANDARDS

"SEC. . Child day care services provided under the Social Security Act shall meet the following standards: (1) in-home care shall meet standards established by the State, reasonably in accord with recommended standards of national standards-setting organizations (such as the Child Welfare League of America and the National Council of Homemaker-Home Health Aid Services), and (II) out-of-home day care facilities shall be licensed by the State or approved as meeting the standards for such licensing, and shall comply with the requirements of section 422(a) (1) of the Social Security Act and the provisions of the Federal Interagency Day Care Requirements of 1968, and provided that subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and that staffing standards for children aged ten and above in day-care centers may be revised by the Secretary, provided that for children ten to fourteen such standards shall in no case require fewer than one adult to twenty children, and for school-aged children nine and less years of age shall in no case require fewer than one adult to fifteen children.

Mr. MONDALE. Mr. President——

The PRESIDING OFFICER. The Chair will state that there is no time for debate on this amendment. The time for the vote has arrived.

Mr. MONDALE. Mr. President, I ask unanimous consent for 2 minutes on the amendment, because I think this compromise now takes away all or most of the controversy.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, may I have 2 minutes?

Mr. MONDALE. I ask for 4 minutes, and I would like 2 of them.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MONDALE. Mr. President, I have talked with the distinguished floor manager, and I have made two changes in the pending amendment which I believe makes the amendment, as revised, acceptable to the chairman of the Finance Committee.

The first change would be to recommend to the States that day care programs include an educational component, but not to require that the States provide an educational component. Right now, the standards require it.

Second, we say that for school age children in after-hours day care centers, the staff ratios could be changed from what the day care standards now require. Under the modification, for children age 9 and below in day care centers, you could have 1 staff person for 15, whereas you must now have 1 staff person for 10; and for children over 9, you could have a staff ratio of 1 adult to 20, whereas the present regulations require 1 staff person for 10.

In a sense, we go a substantial way toward meeting the criticisms of our amendment by the distinguished chairman of the Finance Committee, and I hope that, as revised, it might have the support of the chairman.

Mr. CURTIS. Mr. President, I think we should have our attention called to the fact that we are running far afield in legislating. If a community wants to admit one more child to a day care center, they have to get an act of Congress to do it.

By the Senator's proposal, we do not delegate to the Secretary the authority to lay down regulations for the conduct of day care. We fix into law how many teachers or supervisors or custodians shall be required.

The time may come when some Senators will receive letters asking them to amend the law so that a day care center can take in one more child.

Mr. President, this is not a proper subject of legislation. The issue is, shall the regulations on day care be handled by the Federal Government or by the States? I happen to believe that it should be by the States. But to those who believe that it should be done by the Federal Government, I submit that the amended amendment is worse than the amendment itself. I think it should be defeated and that time should be given for it to be revised again.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

The PRESIDING OFFICER. There is no further time.

Mr. LONG. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I believe that the vote on this amendment will be close, unless there is a compromise or agreement, and it is difficult to say how the Senate decision will go. I think the Senator's proposal is a fair compromise.

The Senator's amendment, as modified, would rely upon State law in several situations. In the health area, it would provide for the general requirements for sanitation and public health which are in existing State laws. The original amendment provides that provision must be made for education services under the supervision of a staff member trained or experienced in the field. But the modification, I think, would place the staffing requirements within the limits that the State could manage.

I discussed this matter and explained yesterday that with regard to small children, the amendment as first offered could double or even triple the staffing requirements, and the Senator has agreed to change that, in a spirit of compromise. He has modified his amendment so that in the area of school-age children it would present a problem for only 16 States. I think the States can comply with the modification.

It seems to me that in view of the fact that there is a strong degree of support for the amendment, this is a good compromise. I do not think any of us could expect to have our way entirely in these matters. The Senator certainly does not expect to have his way in all respects in taking the position he is offering here. I think we would be well advised to meet him half way on it.

Mr. HOLLINGS. Mr. President, as a cosponsor of this amendment, I rise to support it and urge its adoption. I listened with interest yesterday to the debate surrounding this proposal, and I would now respond to the criticisms raised.

The opponents of this amendment say that it will cost too much. But the question of cost for social services has already been settled, by the members of the Finance Committee, including the opponents of this amendment. This committee and the Senate as a whole has set a ceiling on the amount of Federal dollars which can be expended for social services. Hence, we are not talking about a cost to the Federal Government or to the American taxpayer. What we are talking about here is how this money should be spent. Are we fashioning the program whereby children can receive the kind of care which they need in an institutional setting? Certainly that is the case.

The question is what are the minimal amounts which need to be spent in order to guarantee that the children will receive the kinds of services and the quality of care to which they are entitled? Obviously, to do something right takes more money than to do it halfway or inadequately. We have a responsibility to the parents who need these day care centers to insure that when they entrust their children to the care of a facility funded with Federal dollars it will meet certain minimum standards of care. As the proponents of the amendment have repeatedly pointed out, the standards to which we are now addressing ourselves have been in effect since 1968 and were promulgated after consultation with all groups having expertise in the area of child care. Hence, they reflect what the experts feel children need in order to receive proper care.

Opponents of the amendment also contend that the Federal Government cannot and should not set standards in this area and that rather, the States have the authority and responsibility to set the standards for child care centers. This argument ignores the obvious fact that Congress has on many occasions initiated standards directed toward assuring the safety and well-being of our children. I would cite only a few examples such as the Flammable Fabrics Act, which required the children's nightwear meet certain standards of flammability, the food and drug laws which protect the quality of food and medicines which our children consume, and the recently created Product Safety Commission which is directed to set standards for the safety of toys so that our children will not be injured and killed as a result of unsafe toys.

It is Congress which has set the goal, through the social services program, to establish and maintain, with Federal funds, day care centers in order to encourage families to break the welfare cycle. By giving their children a wholesome place to stay during the day, we hope to encourage the mothers to get off of welfare and begin to earn a living for their family or to supplement the marginal income of her husband so that the family can lift itself up. Since we have undertaken this task, we have a responsibility to these families and to their children of insuring that the task is done properly. We must see that the children receive the best possible care. We are not asking for gold-plated care; we do not want one "nanny" for each child, but any mother with three or four youngsters knows the demands that they make, and to ask, for example, that there be one adult to care for each five or six children of 1 to 2 years of age is certainly not extravagant. Understaffed centers, poor sanitation, inadequate heating or lighting, dangerous facilities are certainly not situations which we want to tolerate or perpetuate with the Federal dollar. With inadequate facilities, we can do positive harm to these young children. With adequate facilities, we can do positive good.

We have, therefore, a responsibility to insure that the program is carried out in a meaningful, responsible manner. By keeping in effect the Federal standards that were set in 1968, we are assuming that responsibility and guaranteeing the quality of care that our children deserve. If we were in fact treading on the States' toes, we would certainly hear the opposition of the Governors of the States. With respect to this amendment, Mr. President, the opposite is true, namely, the National Governors' Conference has endorsed these standards, as a part of the social services amendments introduced in October, S. 2528. In addition the standards have been thrice adopted by the Senate.

My colleague from New York (Mr. BUCKLEY) has put this amendment in its most precise perspective. He contends, and I think rightly so, that regardless of your opinion concerning day care centers, if we are in fact going to fund such centers through a Federal program, we have a responsibility to the recipients of this Federal aid, the low income children, to see that the Federal aid is distributed in a safe, healthy and proper manner. This is all the standards do. It is a commendable goal, and I urge my colleagues to again approve its adoption.

Mr. ROTH. Mr. President, I called Dr. Miklos T. Lazar, director of Social Services Division, Health and Social Services Department, State of Delaware, for his comments on the proposed amendment. Dr. Lazar advised me as follows:

> The State of Delaware favors retention of the 1968 Federal Interagency Day Care Requirements with some adaptations. The Federal Interagency Day Care Requirements provide a solid base from which each state can further develop its own Day Care Program. The removal of such requirements would give too much latitude to the individual states and would, therefore, open the stage for a weakening of the Nation's Day Care Programs.
>
> In order to realistically accommodate the needs and capabilities of Day Care providers, revisions may be needed in the area of staff-child ratios. Provided steps are taken to assess the competencies of the Day Care staff, a slight reduction of the number of adults required would have the effect of lowering the cost of Day Care significantly, without jeopardizing the quality of care. In addition, a payment ceiling scale, adjusted according to geographic areas, should be developed to ensure quality care at a reasonable cost.
>
> In conjunction with a revision of Day Care standards, specific guidelines, which currently do not exist, should be made available to the states so that they can effectively enforce these standards.

Mr. President, I intend to vote for the amendment.

Mr. DOMENICI. Mr. President, I would like to urge my colleagues' support for amendment No. 724 to H.R. 3153 which would simply maintain minimal standards to assure that federally assisted day care programs do not harm children. These standards have been in effect for 5 years.

As I understand it, the committee bill, without this amendment would drop entirely all standards for day care centers. No protections would be required for young children served by these programs.

Mr. President, I have listened to the debate among my colleagues and I have also read and been aware of many serious instances of deplorable child care conditions in some States due to the lack of proper minimal standards. In my own State of New Mexico, centers are already complying with the 1968 Federal interagency day care requirements. I do not see any reason to back away from these sensible requirements.

It seems only reasonable and honorable to insure adequate care and facilities to all our Nation's children entrusted in the care of day care centers and I would hope my colleagues agree.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Minnesota, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from Texas (Mr. Bentsen), and the Senator from Iowa (Mr. Clark) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. McGee) and the Senator from Iowa (Mr. Clark) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Virginia (Mr. William L. Scott), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from Idaho (Mr. McClure) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The Senator from Wyoming (Mr. Hansen) and the Senator from Ohio (Mr. Saxbe) are detained on official business.

The result was announced—yeas 67, nays 20, as follows:

[No. 526 Leg.]

YEAS—67

Abourezk
Aiken
Bayh
Beall
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Fulbright
Gravel
Griffin
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—20

Allen
Bartlett
Bellmon
Bennett
Byrd, Harry F., Jr.
Cotton
Curtis
Eastland
Ervin
Fannin
Goldwater
Helms
Hruska
McClellan
Nunn
Sparkman
Stennis
Talmadge
Thurmond
Tower

NOT VOTING—13

Baker
Bentsen
Clark
Hansen
McClure
McGee
McGovern
Montoya
Packwood
Saxbe
Scott, William L.
Symington
Young

So Mr. Mondale's amendment (No. 724), as modified, was agreed to.

Mr. MONDALE. Mr. President, there is an amendment at the desk which I call up and ask unanimous consent to have its reading dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, is this a printed amendment?

Mr. MONDALE. This is not a printed amendment. I understood the Senator from Nebraska was a cosponsor. It is an amendment which I understand is acceptable to the committee. It deals with the appeals procedure for nursing homes and hospitals.

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. Mondale for himself, Mr. Talmadge, Mr. Dole, and Mr. Gurney, is as follows:

On page 153, after line 23, insert the following:

JUDICIAL REVIEW OF DECISIONS OF PROVIDER REIMBURSEMENT REVIEW BOARD

Sec. 193. (a) Section 1878(f) of the Social Security Act is amended to read as follows:

"(f)(1) A decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board's decision reverses, affirms, or modifies the Board's decision. Providers shall have the right to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification by the Secretary, by a civil action commenced within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance or modification by the Secretary is received. Such action shall be brought in the district court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 7 of title 5, United States Code, notwithstanding any other provisions in section 205.

"(2) Where a provider seeks judicial review pursuant to paragraph (1), the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 180 day period as determined pursuant to subsection (a)(3) and equal to the rate of return of equity capital established by regulation pursuant to section 1861(v)(1)(B) and in effect at the time the civil action authorized under paragraph (1) is commenced, to be awarded by the reviewing court in favor of the prevailing party.

"(3) No interest awarded pursuant to paragraph (2) shall be deemed income or cost for the purposes of determining reimbursement due providers under this Act."

(b) Notwithstanding any other provision of law, section 1878 of the Social Security Act shall not be construed as affecting any right to judicial review which may otherwise be available under law to providers of services with respect to cost reports for accounting periods ending prior to June 30, 1973.

Mr. FONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. FONG. Mr. President, I ask unanimous consent that Mr. Seto, of the staff, be allowed the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, this is an amendment which I would have raised in the committee—Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will come to order. The Senator will suspend until the Chamber has come to order. Will those Senators who are conversing in the Chamber please remove themselves from the Chamber?

The Senator will suspend temporarily until we have had complete order.

The Senator will resume.

Mr. MONDALE. Mr. President, this is an amendment that I would have raised in committee, but there were some technical problems and we worked those out with the staff of the Finance Committee. I understand the amendment is now acceptable to the floor manager. As I understand it, the Department of HEW no longer objects.

It is designed to deal with what I think was an error in the social security amendments passed a few years ago.

The purpose of my amendment to H.R. 3153 is to make certain modifications in section 1878 of the Social Security Act in order to clarify the rights granted to providers of services to obtain administrative and judicial review of disputed reimbursement issues under medicare.

Last year's social security amendments, Public Law 92-603, established in section 1878 a provision for a Provider Reimbursement Review Board to hear appeals involving disputed reimbursement amounts. Under that provision, providers of services were granted judicial review only in the limited instance wherein the Secretary of HEW on his own motion, reverses or modifies a decision of the Board that was favorable to the provider. There was no provision for judicial review of Board decisions that are unfavorable to a provider.

The amendment which I am offering would correct this inequity by offering to providers the right of judicial review of any Board decision or subsequent modification or reversal by the Secretary.

This amendment would not alter in any way the administrative appeals procedures currently provided for in section 1878 of the act. Although the scope of judicial review in the medicare program would be broadened by my amendment, I do not anticipate that this would result in any significant increase in litigation. Section 1878 contains adequate safeguards against frivolous civil actions and protects the operational integrity of the program.

This amendment provides appeals for nursing homes and hospitals when they feel they have been aggrieved by certain decisions. This amendment is offered to correct that inequity and I think would be in the interest of justice. I understand the amendment will be taken by the committee.

Mr. NELSON. Mr. President, the amendment has been examined by the staff and is acceptable to the minority and majority sides. I think it serves an appropriate way of providing an appeal procedure. So, acting in behalf of the manager of the bill, I will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President,

I call up my amendment No. 728 and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 728) is as follows:

Intended to be proposed by Mr. ROBERT C. BYRD to H.R. 3153, an Act to amend the Social Security Act to make certain technical and conforming changes, viz:

At the end of part A of title I of the bill, insert the following new section:

ACTUARIALLY REDUCED BENEFITS FOR WIDOWS AT AGE 55

SEC. . (a)(1) Section 202( )(1)(B) of the Social Security Act is amended by striking out "60" wherever it appears therein and inserting in lieu thereof "55".

(2) Section 202(e)(1) of such Act is amended, in the matter following subparagraph (F), by striking out "60" and inserting in lieu thereof "55".

(3) Section 202(e)(4) of such Act is amended by striking out "60" and inserting in lieu thereof "55".

(4) Section 202(e)(5) of such Act is amended by striking out "60" and inserting in lieu thereof "55".

(b) The third sentence of section 203(d) of such Act is amended by striking out "60 (but only if she became so entitled prior to attaining age 60)" and inserting in lieu thereof "55 (but only if she became so entitled prior to attaining age 55)".

(c) Section 203(f)(1)(D) is amended by striking out "60 (but only if she became so entitled prior to attaining age 60)" and inserting in lieu thereof "55 (but only if she became so entitled prior to attaining age 55)".

(d) Section 222(b)(1) of such Act is amended by striking out "a widow, widower, or surviving divorced wife who has not attained age 60," and inserting in lieu thereof "a widow or surviving divorced wife who has not attained age 55, a widower who has not attained age 60,".

(e)(1) Section 222(d)(1)(C) of such Act is amended by striking out "60" and inserting in lieu thereof "55".

(2) Section 222(d)(1) of such Act, in the matter following subparagraph (D), by striking out "for widows and surviving divorced wives who have not attained age 60" and inserting in lieu thereof "for widows and surviving divorced wives who have not attained age 55".

(f) The first sentence of section 225 of such Act is amended by striking out "widow or surviving divorced wife who has not attained age 60" and inserting in lieu thereof "widow or surviving divorced wife who has not attained age 55".

(g) The amendments made by this section shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may temporarily lay the pending amendment aside now and that the able Senator from New Jersey may be recognized. I understand he has an amendment to be called up which will be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from New Jersey is recognized.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. FANNIN. Mr. President, I ask unanimous consent that George Pritts and Rick Lavis be given the privilege of the floor during the consideration of and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished Senator from New York (Mr. JAVITS) has an amendment which will be accepted by the managers of the bill. If I am correct, I ask unanimous consent that my amendment remain temporarily laid aside until the disposition of both the Williams amendment and the Javits amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT FOR 11-PERCENT SOCIAL SECURITY INCREASE

Mr. CHURCH. Mr. President, I strongly support the social security improvements in H.R. 3153.

Several of these provisions will be of vital importance for individuals struggling on limited, fixed incomes.

First, H.R. 3153 would provide a two-step, 11-percent cost-of-living increase in social security benefits for more than 29 million beneficiaries. The first step would be an interim 7-percent raise effective the month of enactment. The second step would make the full 11-percent increase effective in June 1974. On an individual basis, these provisions would raise average monthly benefits from: $162 for retired workers to $173 effective the month of enactment and then to $181 in June 1974; $277 for aged couples to $296 and then $310 in June; and $158 for elderly widows to $169 and then to $177 in June.

Equally important, it would help remove 800,000 Americans from the poverty rolls, including 550,000 65 and above.

Second, H.R. 3153 would provide an increase in the special minimum monthly benefit, which is now equal to $8.50 multiplied by the number of years of covered employment in excess of 10 years, but not greater than 30 years. Under the provisions in the bill, the multiple for the special minimum payment would be boosted from $8.50 to $9.10 the month of enactment, and then to $9.50 next June. Thus, a worker with 30 or more years of coverage would have his special minimum payment increased from $170 to $190 a month.

Third, the automatic cost-of-living adjustment provision would be improved by measuring the increase on the basis of the change in the Consumer Price Index from the first calendar quarter of 1 year to the first calendar quarter in the folowing year, rather than from the second quarter in 1 year to the second quarter in the following year.

An exception would be made for the first automatic increase effective for June 1975, which would be based upon the rise in the CPI between the second quarter in 1974 and the first quarter in 1975. Additionally, the effective date for the cost-of-living adjustment would be in June, instead of January. These two changes would reduce the lag between the end of the calendar quarter used to measure the rise in the cost of living and the payment of the resulting benefit increase from 7 months to 3 months. It would also mean that automatic benefit increases in the future would be payable in the month in which any revised premiums under the supplemental medical insurance program would be effective, thus providing the opportunity to make both adjustments in benefit checks in the same month.

Fourth, the monthly income standards for the new supplemental security income program would be raised in January 1974 from $130 to $140 for eligible individuals and from $195 to $210 for qualifying couples. A further increase would be provided in July 1974: to $146 for single persons and $219 for couples. The income standards would also be increased proportionately for essential persons, generally younger spouses of assistance recipients who are 65 and above. For these individuals, the income standard would be raised from $65 to $70 in January, and then to $73 in July.

All Americans have been hard hit by the wave of rising prices during the past year. But no age group has been victimized to the extent of the aged. Many have already cut back on their food consumption, even though they may have endangered their health. Others have been forced to seek out food substitutes, such as dog food. And far too many have simply done without.

The evidence is all too clear, in my judgment, that inflationary pressures will intensify in the months ahead. In August the wholesale price index leaped forward at an astounding and record-breaking pace of 6.2 percent. And, it will be just a matter of time before that surge is reflected in higher retail prices throughout the Nation.

Older Americans cannot wait any longer. Time is not on their side. For many, enactment of this two-step 11 percent social security increase is literally a life or death matter—especially those who are now rummaging through garbage cans for their next meal.

For these reasons, I again urge early adoption of the social security provisions. No other legislation is more important from the standpoint of 21 million Americans 65 and over nor more deserving of immediate congressional approval than these measures now before us.

Mr. WILLIAMS. Mr. President, I have an amendment at the desk which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read the amendment offered by Mr. WILLIAMS for himself and Mr. CASE as follows:

At the end of part A of title I of the bill, insert the following new section:

INCLUSION OF NEW JERSEY AMONG STATES PERMITTED TO DIVIDE THEIR RETIREMENT SYSTEMS

SEC. —. Section 218(d) (6) (C) of the Social Security Act is amended by inserting "New Jersey," after "Nevada,".

Mr. WILLIAMS. Mr. President, this amendment would simply add the State of New Jersey to a list of 21 States which are allowed to divide a public retirement system coverage group to obtain social security coverage. Under this provision, a State at its option may divide a public retirement coverage group and extend social security coverage to those employees who elected to obtain coverage and exclude those who voted against coverage.

Mr. President, I appreciate the fact that the manager of the bill sees merit in including New Jersey in the group of States that can be covered in this way. It represents a major amendment for the public employees in New Jersey.

Mr. NELSON. Mr. President, this is an amendment which is perfectly acceptable. It has been cleared on the minority side and with the staff. Therefore, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the Williams amendment (putting the question).

The amendment was agreed to.

AMENDMENT NO. 725

Mr. JAVITS. Mr. President, I call up amendment No. 725 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 171, line 17, add the following new title:

TITLE IV—TO AMEND TITLE IV OF THE SOCIAL SECURITY ACT TO ELIMINATE THE PRECONDITION FOR FEDERAL FINANCIAL PARTICIPATION THAT CHILDREN IN FOSTER CARE BE REMOVED FROM THEIR HOMES AS A RESULT OF JUDICIAL DETERMINATION

SEC. 401. (a) Paragraph (1) of section 408(a) of the Social Security Act is amended by deleting the "," at the end thereof and inserting in lieu thereof "or any other procedures authorized under the State law and approved by the Secretary".

(b) Paragraph (3) of such section is amended by deleting the "," immediately preceding "and" and inserting in lieu thereof "or any other procedure authorized under State law and approved by the Secretary".

Mr. JAVITS. The purpose of the amendment is to deal with a procedural question in the law respecting children in foster care. One of the provisions of existing law relates to a requirement for a court order before the child placed in foster care can qualify for support. Apparently in New York they have worked out less formal procedures than court proceedings or court orders. Therefore, in order to accommodate that kind of a procedure—and I understand that the department has no objection—this amendment provides that other procedures authorized under State law and approved by the Secretary would be just as satisfactory as the court proposition.

FOSTER CARE AMENDMENT

The amendment would modify section 408(a) of the Social Security Act which now requires that in order for a State to obtain Federal financial participation in the care of children in foster homes, placement must have been the result of a court order.

It has been the experience of social service officials in New York City that such a requirement for a judicial determination is not only unwarranted but in many cases prevents placement which would be beneficial to the child, because of a family's reluctance to participate in court proceedings.

While it is clear that the Government has a responsibility to insure that tax funds are not used to support foster care placement unless absolutely necessary for the welfare of the child. I believe that the Department of Health, Education, and Welfare should have some flexibility in making such arrangements. Thus, my amendment provides that Federal financial participation be continued in cases where there are court orders or where other appropriate procedure approved by the Secretary has been complied with. We contemplate, for example, a situation where there has been a voluntary surrender by the parent and a certification by the appropriate State official that the child would be best cared for outside the home.

It is my understanding that the chairman and the ranking member of the Finance Committee have given consideration to this amendment and I urge its prompt adoption.

Mr. CURTIS. Mr. President, will the Senator yield for a question or two?

Mr. JAVITS. Certainly.

Mr. CURTIS. To what extent will this change present procedures?

Mr. JAVITS. The present law requires—and it is very narrow in its statement—a court order.

I will read to the Senate the exact provision which concerns this matter. The present law says that the placement must have been as the result of a court order.

I wrote the chairman of the committee and the ranking minority member of the committee a letter on November 13.

I ask unanimous consent that this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 13, 1973.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you with regard to a proposed amendment to H.R. 3153, which I understand will be reported by the Finance Committee this week. It is my understanding that Jule M. Sugarman, Administrator of the New York City Human Resources Administration has been in touch with you concerning this amendment.

Under existing law, in order for a state to obtain federal financial participation in the cost of maintaining children in foster care, such children must have been placed in foster care as a result of a judicial determination that continuation in their own home would be contrary to the welfare of the child. The experience of the City of New York has been that this requirement of a court order is not only burdensome but indeed often hinders placements which would otherwise be justified because of the parents reluctance to go through court proceedings. Therefore, in spite of the loss of federal reimbursement city authorities have continued to place children in foster care with the concurrence of the parents but without a court order where this was necessary.

On September 1, 1973 the State of New York passed legislation to conform state law to the federal requirements. This means that in non-judicial placements the City loses not only the federal contribution but the State contribution as well thereby making such voluntary placements impossible for all practical purposes.

The amendment I proposed to offer would amend Section 408(a) of the Social Security Act by authorizing federal reimbursement for foster care undertaken "under court order or by any other procedures authorized under state law and approved by the Secretary of Health, Education and Welfare."

Mr. Sugarman's office advises me that you have expressed a willingness to take this amendment on the floor and I will proceed under that assumption unless I hear from you otherwise. I have advised Senator Bennett of my intentions and asked for his concurrence as well.

Thank you for your understanding and cooperation on this matter which is of great interest to the City of New York.

With best regards,
Sincerely,
JACOB K. JAVITS.

Mr. JAVITS. Mr. President, I state in the letter as follows:

Under existing law, in order for a state to obtain federal financial participation in the cost of maintaining children in foster care, such children must have been placed in foster care as a result of a judicial determination that continuation in their own home would be contrary to the welfare of the child. The experience of the City of New York has been that this requirement of a courts order is not only burdensome but indeed often hinders placements which would otherwise be justified because of the parents reluctance to go through court proceedings. Therefore, in spite of the loss of federal reimbursement city authorities have continued to place children in foster care with the concurrence of the parents but without a court order where this was necessary.

On September 1, 1973 the State of New York passed legislation to conform state law to the federal requirements. This means that in non-judicial placements the City loses not only the federal contribution but the State contribution as well thereby making such voluntary placements impossible for all practical purposes.

The situation in the city is such that it has had to continue to place children in foster homes with the concurrence of the parents, but without a court order.

The way in which I have sought to protect the United States is to require that approval be given by the Secretary if the procedure used is other than a court order. This is what this amendment provides.

Mr. CURTIS. Could the Senator give us an illustration of the handling of a case other than by court order? How is it done in the State of New York?

Mr. JAVITS. It would be done if we had a family which, for example, because of poverty or other conditions might have a mother who is in difficulty, perhaps mental difficulties or other such difficulties. There may be a number of children, maybe older children. That often happens. To bring such a person to court and have court proceedings would be so traumatic that our authorities with her consent and with that of the father and after a determination by appropriate State officials that placement is necessary for the child's welfare, would place that child in a foster home with foster parents without a court proceeding which would be so traumatic for the mother. That would be highly desirable in those cases. And under the procedure in my amendment, that would have to be approved by the Secretary of HEW.

I really substitute the approval of the Secretary of HEW for the approval of a court. And the Federal law now does not permit that. It says that it should be strictly a court order, which is very narrow under these circumstances.

Mr. CURTIS. The persons who would have to meet the income and property tests are the foster parents and not the natural parents?

Mr. JAVITS. No. As I understand it everyone has to meet whatever test the law provides. My amendment does not in any way obviate that. It obviates only the proceedings before a court. It provides that instead of having a court proceeding, it allows any such other procedure as is satisfactory to the Secretary.

Mr. CURTIS. Does the Senator have an estimate of the additional Federal costs?

Mr. JAVITS. There should be none whatever unless one considers the approval of the Secretary to be an additional cost. Indeed there would be considerable savings in terms of paper work and court costs in a jurisdiction like New York City where there are currently more than 28,000 children in foster care.

Mr. CURTIS. Would it enlarge a number of benefits?

Mr. JAVITS. It should not in any way, except that if we do not do this, we would have deprived some highly deserving children of this benefit in cases in which because of the condition of the family or the parents we cannot take them to court. However, it should not in any way affect substantively the situation.

Mr. CURTIS. Mr. President, I have no further questions.

Mr. NELSON. Mr. President, I have consulted with the staff and I have listened to the discussion. On behalf of the manager of the bill, I am perfectly willing to accept the amendment of the distinguished Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the Javits amendment putting the question.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, am I recognized under the previous unanimous-consent order?

The PRESIDING OFFICER. The Senator is correct. The Senator from West Virginia has an amendment pending at this point.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Indiana wishes to call up an amendment, he might do so at this time. I have an amendment pending.

Mr. President, it is my understanding that the distinguished Senator from Indiana has an amendment that will be accepted and that it would therefore not take much time.

I ask unanimous consent, therefore, that my pending amendment be temporarily laid aside to allow the Senator from Indiana to call up his amendment which I understand will be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

Strike out all of subsection "e" of section 102 of title I beginning on page 20, line 12 to page 21, line 2.

Mr. HARTKE. Mr. President, I move to delete in its entirety subsection (e) of section 102. This subsection would, for the purpose of veterans' pensions, disregard any social security increase which we pass here today.

Mr. President, as much as I have been long concerned about the adequacy of veterans' pensions and, further, that veterans should not be unfairly penalized by virtue of any social security increase they receive I have reluctantly concluded that this provision is the wrong provision at the wrong time.

To briefly review the circumstances surrounding the provision in question, it should be remembered that the amount of pension for which a veteran or a survivor is entitled is determined by the amount of the recipient's countable nonpension income. Thus, an increase in social security—90 percent of which is counted as income—has often meant a decrease in a veteran's pension. In past years, the decrease in pensions has sometimes been greater than the social security increase producing a net loss to a veteran or a widow. Thanks to increasing refinements in the pension system enacted by Congress, however, this is no longer true and any veteran continuing to receive pensions always receives a net increase in the Federal payments to him when social security is increased.

For example, the average social security increase—under the 1972 20 percent raise—to a pensioner was approximately $26.50 per month. The average decrease in the VA pension on the other hand was approximately $7. Nevertheless, this decrease together with a continuing inflation prompted the Veterans' Affairs Committee, which I am privileged to chair, to push for increased veterans' pensions. As my colleagues are aware, we recently passed a $239 million bill providing for a minimum 10 percent increase in veterans' pensions which now is on the President's desk awaiting signature. While the bill is not all that the Senate had wanted, it does address itself to the problems of inflation and the decreases occasioned by social security which veterans experienced this year. As you also know, both the House and the Senate are committed to the process of overall pension review for comprehensive legislation which will be reported from the Veterans' Committee in 1974.

In this connection it is important to emphasize first that whether there is any provision in this bill affecting veterans or not, no veteran's pension will be affected by this social security increase next year. The earliest then, that a veteran's pension could be affected by any social security increases enacted by Congress this year will be over a year from now in 1975. In this connection, I ask unanimous consent to place a memorandum from the general counsel of the Veterans' Administration confirming this interpretation in the RECORD at this point.

There being no objection, the memorandum was ordered printed as follows:

NOVEMBER 16, 1973.

To: Chief Benefits Director (21).
From: General Counsel (02).
Subject: Determining income in 1974 for pension and dependency and indemnity compensation.

1. In your memorandum of November 12, 1973, you request my opinion on the following question based on an assumption that the rates of pension and dependency and indemnity compensation for parents would be increased effective January 1, 1974:

"In determining the annual income of pensioners and DIC parents for 1974 and in establishing the payment rates under the formula in the new legislative increase, does the law require that the social security increases expected in 1974 be counted?"

2. As stated in our memorandum of September 17, 1973, to which you refer, "notwithstanding notice of an increase in retirement prior to the deadline for reporting anticipated income for a forthcoming year, the end-of-the-year rule of [38 U.S.C.] 3012(b) (4) would still apply." This memorandum, as does our earlier opinion of January 26, 1968, adopted by the Administrator in his report of February 5, 1968, on H.R. 12555, 90th Congress, deals solely with the computation of income and is not related to the rate of pension payable, except to the extent that once income is determined, the rate payable for such income can be ascertained.

3. We find no legal basis for adjusting the pension rate in 1974 based upon increased social security payments expected later that year. Counting the 1974 social security increases in determining income would result in reducing the pension otherwise payable under the assumed increased rates. To do so, as suggested in the third paragraph of your memorandum, would be violative of section 3012(b)(4) as interpreted in the mentioned opinions.

4. Pension payable for 1974 should be based on the actual social security income received in 1973 in line with the aforementioned opinions. As previously indicated, the rate of pension has no bearing on the method of computing income. Once income is determined, the amount of pension to be paid would, of course, be fixed according to the rates then in effect.

5. The statutory method for determining the income of parents for the purposes of receiving dependency and indemnity compensation is similar to that of computing income for pension purposes. Section 3012

(b)(4) is also applicable to reductions of such compensation. Therefore, the views expressed above with respect to pension apply equally to dependency and indemnity compensation.

6. It follows that your question, as set forth in the first paragraph, must be answered in the negative.

John J. Corcoran.

Mr. HARTKE. Second, this provision as presently written would not do what it is intended to do; that is, treat all veterans in a fair and equitable manner. By singling out social security, this bill would discriminate against veterans who receive increases in civil service annuities, railroad retirement, or private annuities. Thus, you would have the situation where two veterans with identical outside income would receive different pensions. I can assure my colleagues that they have not seen mail that can be generated until you have a situation in which veterans with identical income are paid different pensions.

Third, I am informed that the provision as drawn now would be impossible to administer by the Veterans' Administration. The Veterans' Administration has termed this provision an "administrative nightmare" as the following memorandum indicates:

Effects of the Social Security "Pass Through" Turns a Simple System Into a Highly Complex One

Pension is paid based upon countable income, self-reporting through annual income questionnaires, and therefore kept simple.

Pensioners receive income from various sources, and most have income from more than one source. When income from any one or combination of sources undergoes change, an adjustment in rates is made.

For social security and other retirement incomes, ten percent is excluded in determining the pension rate payable.

The "pass thru" proposal would create an administrative monstrosity.

For those on the pension rolls who are receiving social security, the social security portion of their income would be of three components: the "pass thru" amount which is never to be counted as income; the balance of which 10% is not counted, and 90% which is counted.

By law, social security will be adjusted each year in line with changes in the cost of living. The percentage will be applied to the total social security payable. Where there is a portion not to be counted, that amount, and the % increase would be excluded. The individual is not usually certain of the amount of his benefit increase (with medicare, etc. deductions) nor can we be sure of the amount which will be the total increase "pass thru". Automatic adjustments will not be feasible for all of these cases, for individual treatment and adjudication would mean incurring tremendous administrative costs.

The problem would also be compounded when income other than social security changes and an adjustment must be made. The various components of social security must be unraveled to properly assign the pension rate.

There would be further problems should a pensioner be taken off the rolls for a period of time due to employment or other change in income, and then again become eligible. Another complex income determination would have to be made for each case.

The "pass thru" would also create disparite classes of pensioners. For all future payments, we would have to distinguish between those receiving pension before 1/1/74 and receiving social security and those entitled on or after 1/1/74, as well as those who may have received pension before 1/1/74 but did not commence receipt of social security until after that date.

I might add that the veteran's organizations have recognized that this is not the best way to approach the problem and I ask unanimous consent that copies of letters from the American Legion addressed to my distinguished colleague, Senator Ribicoff, which explain the difficulties of this provision be inserted in the Record at this point.

There being no objection the letters were ordered printed as follows:

November 16, 1973.

Hon. Abraham Ribicoff,
U.S. Senate,
Washington, D.C.

Dear Senator Ribicoff: The American Legion is grateful to you again this year for your efforts to improve the veterans nonservice-connected pension program. With your cooperation, H.R. 9474 passed the Senate today and the VA beneficiaries will receive a minimum ten percent increase in monthly benefits commencing next January.

The merit of excluding monthly social security benefits from counting as income for VA pension purposes has been studied by The American Legion on several occasions. Each time the organization has concluded that to do so would discriminate against other veterans whose retirement type incomes are derived from other sources, and for the further reason that such might defeat the needs test for pension eligibility.

As you know, the pension program, as established in 1933, is an income maintenance and not a retirement program. It was designed to help relieve or prevent need arising from nonservice-connected disability with associated unemployability. It also provides assistance to the spouse where the veteran's death removed the principal means of support. It is the Nation's means of assuring war veterans of an honorable form of financial assistance when they lack sufficient resources to meet the cost of their reasonable needs.

Under present law, all payments of any kind or from any source (including salary, retirements, annuity payments or similar income), are counted as annual income for pension purposes. Additionally, the law excludes from these income determinations ten percent of the amount of payments to a veteran or widow or child under public or private retirement, annuity, endowment, or similar plans or programs.

From the foregoing, it is patent that the income of these beneficiaries receive equal consideration in annual income determinations. The American Legion believes that an equitable and just solution to the needs of pensioners lies not in the exclusion of income types, but by providing for adequate income limits, and monthly pension payable. We are aware that both the Senate and House Committees on Veterans' Affairs are committed to restudy all facets of the veterans pension program next year. They hope to find a just solution to the existing inequities so that the Congress will not have to reconsider this type of legislation each time social security benefits and other retirement type incomes are increased to keep pace with the rise in the cost of living. It is our understanding that as a result of the projected Congressional study of the pension program, the Veterans Administration has agreed that any increases in social security benefits presently under consideration by the Congress will not be considered as income in 1974.

Again, thank you for your splendid support and cooperation.

Sincerely yours,
Herald E. Stringer,
Director, National Legislative Commission.

The American Legion,
Washington, D.C., November 28, 1973.

Hon. Abraham Ribicoff,
U.S. Senate,
Washington, D.C.

Dear Senator Ribicoff: This has further reference to my letter of November 16 concerning your amendment to H.R. 3153, the Social Security Amendments, to exclude social security increases from counting as income for veterans pension purposes.

As you know, the Veterans Administration has agreed that any social security increases enacted this year will not count as income for veterans pension purposes for the year 1974. Also, the Senate and House Committees on Veterans Affairs are committed to make a comprehensive study of the entire veterans pension program during the second session of the 93rd Congress in an effort to find an equitable solution to this problem.

For these and other reasons The American Legion hopes you will withdraw your amendment to H.R. 3153.

Your continued cooperation with this office is greatly appreciated.

Sincerely yours,
Herald E. Stringer,
Director, National Legislative Commission.

Mr. HARTKE. Finally, I want to assure my colleagues that the Veterans' Affairs Committees of both the Senate and the House will be dealing with the whole problem of veterans' pensions next year and that we fully expect to have a thorough, comprehensive, and equitable bill for all of our veterans long before any social security increase could possibly affect their veterans pension.

Mr. President, as much as I appreciate and sympathize with the motives of the veterans' disregard provision of this bill, I urge my colleagues not to treat the problem on a piecemeal basis—and one that will not work. Let the Veterans' Affairs Committee deal with the whole problem.

I commend the Senator from Connecticut (Mr. Ribicoff) for his intention to assure that veterans should not be penalized. I agree with the spirit of the motives that prompted the original provision in this bill. Unfortunately, as I have indicated it does not accomplish the intended result.

I have discussed this matter with the Finance Committee, and I understand that they are willing to accept the amendment which I offer today.

Mr. NELSON. Mr. President, it was the intention of the Finance Committee, as the Senator from Indiana, who is Chairman of the Veterans' Affairs Committee, has said. With the assurance of the Veterans' Affairs Committee that this would be appropriately handled by the committee, we are willing to accept the amendment.

Mr. HARTKE. Let me say to the floor manager of the bill that the veterans organizations recognize this is not the proper approach. As the letter from the American Legion addressed to Senator Ribicoff indicates, they have requested that this change be made.

Mr. NELSON. On behalf of the manager of the bill, I am willing to accept the amendment.

Mr. CURTIS. Mr. President, will the Senator state again where he would begin striking out, beginning on what page?

Mr. HARTKE. It would strike the entire subsection "e" of section 102 of title I which would disregard this social security increase in determining income for purposes of the pension to which a veteran or his survivor would be entitled.

Mr. CURTIS. On what page?

Mr. HARTKE. Page 20.

Mr. CURTIS. Line what?

Mr. HARTKE. Lines 7 to 12.

Mr. CURTIS. Lines 7 to 12?

Mr. HARTKE. Yes. Beginning with line 12 on page 20, down to page 21, line 2. That entire subsection.

Mr. CURTIS. Will the Senator state again what this language would do if it were left in here?

Mr. HARTKE. Subsection E would purport for the purposes of determining the amount of a veteran's pension to be paid to disregard any social security increase passed this year. I should point out that with respect to social security increases that have adversely affected veterans' pensions that there has already passed Congress a measure which is on the President's desk, which has no substantial objection, which would correct those deficiencies.

Quite simply we have taken care of past problems with that bill and we have another program coming from the Veterans' Administration to deal with this matter in depth. The Veterans' Administration is opposed to the provision which my amendment would delete. The veterans' organizations are opposed to it, and the Veterans' Affairs Committee is opposed to it.

Mr. CURTIS. They are opposed to its being handled in the social security legislation; is that what the Senator means?

Mr. HARTKE. No. In this particular case I would be perfectly willing to waive jurisdiction if this were an equitable and workable provision of real benefit to the veterans. But it is not. The railroad employees, for example, and certain pensioners of the Government who are traditionally taken care of would not be aided by this provision. In other words, the legislative procedure does not accomplish the spirit which it was intended to accomplish.

Mr. CURTIS. And what the Senator proposes to do is strike it out entirely?

Mr. HARTKE. That is right.

Mr. CURTIS. I thank the Senator.

Mr. THURMOND. Mr. President, initially, I want to preface my remarks with a statement concerning social welfare legislation in general, and non-service-connected veterans pension legislation in particular.

First, I believe that every able-bodied man should work or train for work, and the emphasis of our legislative activity should encourage that end. While the great majority of the American people are physically and mentally capable of holding a job, there are many, who, because of infirmities of the mind or body, are not able to hold a job or even train for work, no matter how hard they try or what their desires may be.

Those in the latter group, Mr. President, deserve our best efforts to help them maintain a standard of living above the poverty level, and the full benefits of all the governmental programs which have been designed to aid them in their battle to maintain a decent standard of living for themselves and their families.

Second, many of our veterans who draw non-service-connected pensions fall in the group that I have just described. Many of these veterans, because of age and/or disability, qualify for both social security benefits and a veterans pension. The combination of these benefits affords the non-service-connected pensioner a minimum standard of living, and enables him to live in the manner befitting one who was willing to sacrifice his life and body for his country.

Mr. President, no government program is wasted when it is aimed at compensating the American veteran for the service he has rendered our country. After all, we are free to stand here today in free and open debate because of his sacrifice when our Nation needed him most.

No veteran should ever be penalized because of his status as a veteran. The benefit of every program which would accrue to him if he were not a veteran should, and must, continue to be available to him as a veteran.

Ostensibly, it is this very point which poses a problem in reconciling the social security laws with the veterans' pension laws. Since veterans' pensions are based on need, and increase in social security payments often lifts the veteran's income above the limitation which qualifies him for a non-service-connected pension. A raise in social security benefits helps the normal recipient meet increased living costs, but an anomalous situation occurs for many veterans or their widows. They are told to expect an increase in social security benefits, but a decrease in their pension because their income has increased to a point of lifting them into another increment level for pension purposes. Some even have their income level raised to a point where no pension at all is available.

Mr. President, this problem has plagued us for many years, and I have given considerable thought to a lasting solution. Unfortunately, I must admit, and I believe that other members of the Veterans' Affairs Committee and the Finance Committee will agree, we have been unable to devise a workable solution for this complex problem.

In the last session of Congress, I cosponsored a bill with the chairman of the Veterans' Affairs Committee, Senator HARTKE, which contained a provision for a $400 increase in the income limitations in computing countable income for non-service-connected pension purposes. A $400 increase would have offset recent social security increases. This bill passed the Senate unanimously on October 11, 1972, but the House did not act on it before adjournment. Consequently, we reintroduced this bill as S. 275 in the present Congress, and again it passed the Senate unanimously on August 2, 1973.

However, the House again refused to act on this provision. In discussions with the leadership of the House committee, it became evident that the House would not accept an increase in income limitations for computing the non-service-connected pensions.

First, it was pointed out that such an approach offered only a piecemeal solution. Each time a social security increase occurred, a subsequent increase in income limitations would be necessary to protect the status of the non-service-connected pensioner.

Second, each increase in income limitations would qualify additional veterans for the pension rolls, and we would be aiding the man who needed the additional benefits least, and not the one who needed help the most.

Third, the addition of more and more veterans to the pension rolls would set into motion an unending process which the present compensation and pension budget could not withstand.

So, on November 16 of this year, the Senate concurred without dissenting vote in the House amendments which struck the provision for an increase in income limitations. Basically the veterans non-service-connected pension legislation of 1973 provided authority for a 10 percent cost of living increase as temporary relief. However, at the time of passage, the colloquy on the Senate floor between Senators HARTKE, HANSEN, and myself pointed to a total commitment to reexamine the entire pension system early in the next session. It is my expectation that a full-fledged examination of the veterans pension system will be a primary effort to the Veterans' Affairs Committee early next year.

While at first glance it may seem logical to adopt the Finance Committee's proposal to disregard social security increases in computing the veteran's non-service-connected pension, close scrutiny reveals that such a proposal would not solve the problem. It, too, would provide only a piecemeal approach to a very complex problem.

Second, while seeking to alleviate an inequity, it would in fact, cause a further inequity in the pension law. Veterans with the same income would be classified differently for pension purposes. While income from social security would be disregarded in determining the pension for one veterans, another veteran with an equal income from another source would have his income counted for pension purposes.

Third, the Veterans' Administration, in consultation with the staff of the Veterans' Affairs Committee, has pointed out that a "pass-through" provision would be hard to administer. In an effort to forestall any harsh effects caused by the enactment of H.R. 3153, an opinion by the General Counsel of the VA submitted to the general counsel of the Veterans' Affairs Committee, has pointed out that any increases in social security will not be counted until January 1, 1975. Therefore, the increases encompassed in this bill will not affect our pensioners in the next year. During 1974, the Congress will have the time to seek a permanent solution to this problem.

Fourth, various veterans service organizations recommend that a "pass-through" or "disregard" clause in social security law will not serve the best interests of all veterans.

Senator HARTKE's amendment recognizes these problems and deletes the "pass-through" or "disregard" provisions in the bill. After careful study and consultation with him, I am convinced that his amendment represents the best interest of the veteran.

Mr. President, I believe that all veterans legislation must be directed toward the benefit of the veteran, and I am hopeful that logic, and not emotion, will control our thoughts as we consider the Hartke amendment.

My duty, as the senior Republican on the Veterans' Affairs Committee, is to protect the best interests of the American veteran. With that thought in mind, I urge my colleagues to support the Hartke amendment, but with the full realization that the Veterans' Affairs Committee, as well as the full Senate, is charged with the duty of examining the veterans pension system and seeking to propose a final and equitable solution to this perplexing problem which faces the non-service-connected veteran.

While we all realize the need for changes in the veterans' pension law, I am sure that views will differ on the approaches to a solution. I am looking forward to a forthright discussion of these issues, and believe that exhaustive hearings before the Veterans' Affairs Committee, with VA witnesses, service organization spokesmen, and veterans themselves, provides the best forum for an in-depth examination of this problem. I am hopeful that Senators, themselves, will feel free to come before the committee and propose fresh ideas and approaches.

Finally, let me emphasize that our veterans are not impressed with rhetoric or shallow solutions that do not strike at the heart of the problem. When their incomes are cut, they expect action and hard work on our part to find a solution.

The Finance Committee's proposal for a "disregard" is admirable in motive and intention, but I believe that a better solution can and will be worked out by waiting on the Veterans' Affairs Committee to examine thoroughly this problem. Senator HARTKE long ago committed himself to seeking a solution, and I joined him, Senator HANSEN, the ranking minority member, and other committee members in a bipartisan effort to find an answer. The committee will continue its efforts.

Therefore, Mr. President, I support the Hartke amendment and urge my colleagues to do likewise.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. I thank the distinguished assistant majority leader for permitting us to take this legislative action at this time.

The PRESIDING OFFICER. The Senator from West Virgina is recognized.

Mr. ROBERT C. BYRD. Mr. President, my amendment will amend the Social Security Act by reducing from 60 to 55, the age at which a woman may become entitled to actuarially reduced widow's insurance benefits themselves.

Throughout my entire congressional career, I have consistently supported and introduced legislation designed to provide more realistic social security benefits, and legislation designed to improve and strengthen the structure, administration, and financing of the social security system.

Last fall, I introduced this measure as an amendment to H.R. 1, and it was adopted by the Senate. Unfortunately, the House conferees would not accept this amendment and it, therefore, was not included in the conference-reported bill. I have also introduced this proposal as a separate bill. S. 2679 on November 9, 1973. While there were many improvements and liberalizations contained in H.R. 1, as finally enacted, I also hope that the need for additional improvements, such as would be effectuated by my amendment, will now be more clearly recognized by Members in both Houses of Congress so that this proposal might receive expeditious consideration and enactment into law this session.

Beyond the 28 million citizens who are already drawing social security benefits, there are many widows between the ages of 55 and 60 who, at this stage in their lives, are unable to establish a new career, or to reactivate an old one. It is this group of widows that my amendment is aimed at assisting.

Under the provision of my amendment which will permit actuarially reduced widows' insurance benefits to be received at age 55, the Social Security Administration has estimated that approximately 310,000 widows may claim benefits the first year, creating an initial cost of about $600 million. But in the long run, there would be no, or very little, increased cost because it would balance out.

In West Virginia, approximately 5,300 widows would become eligible for actuarially reduced benefits, if the age requirement were lowered 60 to 55. The increase in benefits for West Virginians would be approximately $10 million.

I would like to cite several examples, which have been computed by the actuarial experts of the Social Security Administration which show how my amendment will affect widows. These examples include the 7 percent increase.

First. Widow A is 55 years old and her husband had average monthly earnings of $500 per month. Her reduced benefits would be $175.40 per month.

Second. Widow B is 55 years old and her husband had average monthly earnings of $800 per month. Her reduced benefits total $201.50 per month.

Third. Widow C is 55 years old and her husband had average monthly earnings of $800 per month. Her reduced benefits total $222.80 per month.

This amendment, if adopted and enacted, will provide benefits for a group of persons who need it most—widows who are unable to work and who desperately need these benefits, but who have been unable to obtain them because of the social security age requirement. In the majority of cases, these widows' husbands had paid into the program for a long time, and these are people who deserve to receive some type of benefits now.

Mr. CURTIS. Mr. President, will the distinguished Senator from West Virginia yield for a question or two?

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. As I understand, what the Senator proposes relates to the benefits for women.

Mr. ROBERT C. BYRD. Yes; for widows.

Mr. CURTIS. Not all women?

Mr. ROBERT C. BYRD. No; only widows.

Mr. CURTIS. At the present time, if the husband is the primary beneficiary, and he dies, at what age do the benefits start for the widow?

Mr. ROBERT C. BYRD. At age 62 for full benefits; for actuarially reduced benefits, at age 60.

Mr. CURTIS. What the Senator proposes to do would change it to what?

Mr. ROBERT C. BYRD. The age at which widows could receive actuarially reduced benefits would be lowered from the present age of 60 years to 55 years.

Mr. CURTIS. How many widows would this proposal affect?

Mr. ROBERT C. BYRD. I understand that it would affect about 310,000 widows, who would claim benefits in the first year.

Mr. CURTIS. If the Senator's amendment were accepted, all widows falling in that age category could avail themselves of benefits?

Mr. ROBERT C. BYRD. They would have the option of availing themselves of benefits.

Mr. CURTIS. Suppose that a woman had been a widow for many years, and her deceased husband was not qualified for a primary benefit, but she was working in her own right. Would she be able to avail herself of the benefits proposed by the Senator's amendment?

Mr. ROBERT C. BYRD. Widows could receive benefits only at age 62 on their own employment record.

Mr. CURTIS. In other words, the Senator is proposing——

Mr. ROBERT C. BYRD. This amendment would not affect that category.

Mr. CURTIS. I understand; but the Senator is proposing that a widow have a preferential position over women who must work and support themselves.

Mr. ROBERT C. BYRD. That is already the law. Under present law, a widow whose husband was covered may elect, at age 60, to take actuarially reduced benefits; whereas, a widow in the other category cannot do so but must wait until age 62. The former may have no skills for the current labor market, because she has been a housewife over the years. The latter is currently employed in today's labor market and possesses the skills needed.

Mr. CURTIS. The Senator is widening the period from 2 years to 7?

Mr. ROBERT C. BYRD. My amendment makes it possible for the widow who, perhaps has long been a housewife and out of touch with the skills required for a job, and whose husband was in covered employment, to elect to receive actuarially reduced benefits 5 years earlier than she can now receive such benefits under present law.

Mr. CURTIS. The first full year's cost will be $600 million.

Mr. ROBERT C. BYRD. The first full year's cost is estimated at $600 million.

Mr. CURTIS. Is it the Senator's contention that there would not be any additional cost?

Mr. ROBERT C. BYRD. It is my contention that over the long run, the initial cost would be almost washed out, because the widows who elected to take benefits at age 55 would have to take a reduced benefit below that which they would otherwise receive if they waited until they were 60. So, in the long run, the initial cost would be made up by balancing out—they would receive 15 years' worth of benefits spread over 20 years, perhaps.

Mr. CURTIS. I am aware that, theoretically, that contention is made, but if it were literally true, everyone could then retire at 40 years of age at reduced benefits, and it will cost the system nothing.

Mr. ROBERT C. BYRD. The law does not allow everyone to retire at 40——

Mr. CURTIS. No, no; but if it does not cost anything to give the reduced benefits at a lower age and the Congress chose to make it possible for someone 40 years of age to do it, it would not cost them, if the Senator's theory is correct.

Mr. ROBERT C. BYRD. Actuarially it is supposed to balance out. I am not an actuary. I suppose at age 40, an actuarially reduced benefit would be down to nothing.

Mr. CURTIS. I know it is, theoretically. Does the Senator have an estimate of how many of these widows might cease working and, thus, would be no longer paying social security taxes into the fund?

Mr. ROBERT C. BYRD. I can only say that I am advised by the Social Security Administration there is a potential of 310,000 widows. How many of these are working at the present and would not elect to retire at age 55, I have no way of knowing.

Mr. CURTIS. Does this amendment have the support of the Department?

Mr. ROBERT C. BYRD. I cannot say that it has the support of the Department.

Mr. CURTIS. Does the Senator know whether they are objecting to it?

Mr. ROBERT C. BYRD. I do not know for a fact that they are objecting to it. I cannot answer that question.

Mr. CURTIS. I thank the Senator from West Virginia very much for his courtesy in answering these questions. I feel that amendments of this kind, materially lowering the retirement age, should not be adopted by consent or by a voice vote but that the Senate should vote on them. I am afraid we do not have sufficient Senators in the Chamber at this moment for a rollcall—to second a request for a rollcall vote, but I think we should have one.

Mr. ROBERT C. BYRD. I agree with the Senator. While I stated that I cannot say as a matter of fact that the Social Security Administration does not approve this amendment, I can only assume that it does oppose it, because I think the administration has opposed similar amendments in the past. How strong that opposition is, I have no way of knowing. But I agree there should be a rollcall vote on this. If I could get the unanimous consent of the Senate, I should like to lay this amendment temporarily aside and take up a second amendment, after which I will have no additional amendments.

Mr. HARTKE. Mr. President, will the Senator from West Virginia yield for a question or two on this amendment?

Mr. CURTIS. Could I ask unanimous consent for a rollcall vote——

Mr. ROBERT C. BYRD. I would have to object, but I hope that——

Mr. CURTIS. I would like to argue about that, but if we can pass a law by unanimous consent, why on earth can we not have a rollcall vote by unanimous consent?

Mr. ROBERT C. BYRD. I am willing to discuss that with the Senator. I will not argue with him on it. This business of securing one-fifth of the Members present to order a rollcall vote is a constitutional inhibition and not mine, but——

Mr. CURTIS. Would the Senator yield if I might make a——

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. Ask for a quorum call.

Mr. ROBERT C. BYRD. Would the Senator allow us to proceed? We will get a sufficient number of hands. If the Senator would yield, so that we could proceed with a little discussion with the Senator from Indiana, I believe, in the long run, that will save time.

Mr. CURTIS. Does the Senator have another amendment?

Mr. ROBERT C. BYRD. I was going to ask unanimous consent that I could set this amendment temporarily aside until we have a sufficient number of Senators in the Chamber to get the yeas and nays.

Mr. CURTIS. These ladies may be 60 years old by the time that happens. [Laughter.]

Mr. ROBERT C. BYRD. I am sure they will receive good encouragement from the Senator's vote on this amendment.

Mr. CURTIS. That is right.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have called off the quorum, with the understanding of the distinguished Senator from Illinois (Mr. PERCY) that we will protect the rights of the distinguished Senator from Nebraska (Mr. CURTIS) while he is talking on the telephone; but I think that in the long run this will save time because it will give the Senator from Indiana (Mr. HARTKE) an opportunity to make his statement.

I yield to the Senator from Indiana.

Mr. HARTKE. I thank the Senator from West Virginia. I wanted to ask the Senator, is not this amendment an attempt to provide an opportunity for widows to go ahead and retire at an earlier age than they have previously been able to retire, in view of the fact that they were forced to work beyond the period of time, and that many of them are not sick but are disabled, that is, in the terminology of the social security laws and who are, frankly, beyond their physical capabilities to continue to act and work.

Mr. ROBERT C. BYRD. The Senator is correct. My amendment only goes to the problem of widows. It gives them the option to retire at an earlier age than they presently can retire, with the understanding that they will receive actuarially reduced benefits if they do so choose to retire at an earlier age.

Mr. HARTKE. All right. In the discussion with the Senator from Nebraska (Mr. CURTIS), which dealt with the question, will it permit anyone to retire on reduced benefits when, theoretically, that might be true but the fact is, if one retired at 40, he would not get anything because, actuarially, it would not work out that way to a great extent. The individual retiring at 55 would find that his reduced benefits would be so substantially less than he would get if he continued to work, that he will continue to work, if he can. But under such circumstances, where the necessities would indicate that they should or could retire, this amendment provides an opportunity for them. So, really, this is an opportunity amendment and not a mandatory amendment; is that not correct?

Mr. ROBERT C. BYRD. The able Senator from Indiana has stated the case precisely, in support of the amendment.

Mr. President, now that the Senator from Nebraska has returned to the Chamber, may I say to him that I called off the quorum with the understanding of the distinguished Senator from Illinois (Mr. PERCY) that the rights of the Senator from Nebraska (Mr. CURTIS) would be fully protected and that we would carry on this colloquy in the meantime.

Mr. CURTIS. Mr. President, I am seeking recognition in my own right now.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, this amendment sounds like it would not cost anything. I do not think that is correct. I also point out that it would be inequitable to enact. Are we to say to some women who have had to work hard all their lives that they cannot elect to retire at a reduced benefit at age 55 but that widows can? Some people who are beneficiaries of social security need that benefit very badly to live on. A larger number need it. But not all beneficiaries of social security are in dire need. This amendment makes no such qualification. A widow has an optional retirement at 55, but working women have no such option.

There is a reason for permitting some reduction in age for an optional retirement, because when people get to a certain age, it is difficult for them to carry on. That is why it is in the law that they could have an option at 60. No evidence has been presented that the same facts prevail in reference to a widow at age 55.

There is still another factor that makes this expensive, and it is this: Beginning not too many months from now, our program for the aged, blind, and disabled, which has been on a matching basis, is going to be taken over by the Federal Government. So those people who have been on old age assistance and have been getting a benefit through the State, which was matched by the Federal Government, are going to receive a supplemental income payment. That supplemental income payment is to bring their income up to a certain amount. If a social security payment is low, their payment from the Federal Government for the supplemental income will be larger. So someone can elect to take a reduced social security payment and thereby qualify for a higher supplemental income payment which is borne entirely by the Federal Government. The proposition that this would all be washed out because of the actuarial considerations had some validity before the enactment of the law relating to the supplemental income program. It does not have that validity any longer.

I submit, further, that I do not believe it would be just to have more liberal provisions for women who have not worked under covered employment than women who have had to work all their lives and will have to work until they are of retirement age.

I have had an opportunity to confer with the representatives of the Department of Health, Education, and Welfare, and they are opposed to the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ROBERT C. BYRD. Mr. President, I have a question to ask the distinguished Senator.

I recognize that under the present law, there is an apparent discrimination in favor of the widow and against the working woman. That discrimination, I think, covers a period of 2 years. At present, the widow can elect to retire at age 60; whereas, the other party cannot elect to retire until age 62. So that is a built-in discrimination, I suppose, that we have had to accept all along.

Would the distinguished Senator be willing to accept a modification of my amendment which would provide that the woman in the second category, to which the Senator has been addressing himself, could elect to retire at age 60 rather than at age 62?

Mr. CURTIS. I would not say that I would oppose it, but I would certainly oppose it as a floor amendment. These matters are involved: The cost estimates need to be explored. Also, I doubt very much whether many Senators are aware of the supplemental income provision which is going to be available to all adults when they are 65—those who happen to need it. I think the picture has changed entirely since then. While I would not at all take the position that I am not in favor of some further liberalization for all women, including those who must work all the time, I think it should be done by committee action.

Mr. ROBERT C. BYRD. Mr. President, I think the Senator's argument has a great deal of merit. By unanimous consent, I would like to modify my amendment to allow men and women to retire with actuarially reduced benefits at age 60, rather than at age 62, as at present, retaining the language in the amendment I have offered, which would allow widows to retire at age 55.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. The yeas and nays have been ordered. Can such modification be made?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. CURTIS. I am constrained to object, not because I would throw a difficulty into the procedure; but I do not believe that these moves should be made without being considered by a committee and the committee bringing in a recommendation. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I can, of course, offer an amendment to my own amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. In the past, on a number of occasions, the Senate has adopted an amendment I have offered reducing the age from 62 to 60, with actuarially reduced benefits, for both men and women.

I am torn between two emotions, as to whether or not to proceed accordingly to try to amend my own amendment, which I have a right to do. I realize that if I do, the Senator may wish to talk for a while on that amendment. I do not know what his inclination would be.

I also realize that my amendment reducing the age from 62 to 60 has been offered by me at least four, five, or six times and has been adopted in the Senate, over a period of several years, and it has never gotten through the conference with the other body.

Last year, I offered the amendment to lower the age for widows to 50, and at the suggestion of the distinguished senior Senator from Kentucky at that time, Mr. COOPER, I agreed to modify my amendment to make it age 55, rather than 50. So I would assume that my amendment might have a better chance of surviving in conference if I stayed with the amendment I have offered today, rather than attempting to expand it at this point to include other groups. Half a loaf would be better than no loaf at all.

I say again that I think the Senator's suggestion has a great deal of merit, that other women should also have some option. But I will not attempt to amend my amendment on this occasion. I will let the amendment stand, and I hope that the Senate will agree to the amendment.

May I ask the Senator if he would allow me to do this? I have one other amendment. I would like to ask unanimous consent, and I will ask unanimous consent, and the Senator may object if he wishes, that the pending amendment be temporarily laid aside and that I proceed with the second amendment, discuss it, request the yeas and nays on it, have the yeas and nays ordered, and then have the two votes occur back to back.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, and I do not know that I will object, in the interest of orderly procedure I would like to be informed what the second amendment is about.

Mr. ROBERT C. BYRD. Yes, I think the Senator is entitled to know that.

I do not know how Lyndon Johnson, when he was majority leader, used to be able to carry so many papers around in all of his pockets and in both of his arms and be able to avoid losing them. Apparently I am not doing too well at it myself.

Mr. President, this is not a printed amendment. I shall state to the Senators what it would do.

Mr. President, this amendment would amend the social security law by allowing social security recipients to earn up to $3,000 a year without being penalized. The Senator is familiar with the subject matter.

If the Senator has no objection, I could offer it and then discuss it. If he would prefer to wait for a vote until after the prior amendment, that is all right with me.

Mr. CURTIS. I would have no objection to such a procedure, I think it might even be true that it would be helpful to Members of the Senate—at this point I am not willing to agree to a general limitation of time, but if the Senator wishes to suggest a time for the votes, that is all right with me, too.

Mr. ROBERT C. BYRD. Mr. President, could I get the Senator's consent to proceed with the vote on the pending amendment and immediately thereafter I then be recognized to call up this second amendment?

Mr. CURTIS. Yes, either that or discuss the second one.

Mr. ROBERT C. BYRD. Discuss it now, and then go to a vote on both amendments?

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I send the amendment to the desk and ask that the Clerk state it.

The PRESIDING OFFICER. Without objection, the pending amendment will be temporarily laid aside.

The clerk will state the second amendment.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of part A of title I of the bill, insert the following new section:

LIBERALIZATION OF EARNING TEST

SEC. 111A. (a) Paragraphs (1), (3), and (4)(B) of section 203(f), and paragraph (1)(A) of section 203(h), of the Social Security Act are each amended by striking out "$175" and inserting in lieu thereof "$250".

(b) The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1973.

(c) Section 202 of Public Law 93-66 is hereby repealed.

Mr. ROBERT C. BYRD. Mr. President, my amendment would amend the social security law by allowing social security beneficiaries to earn up to $3,000 per year without being penalized by loss of benefits. Under existing social security law, beneficiaries are allowed to earn up to $2,100 per year before being penalized with loss of earnings, and on January 1, 1974, this limitation will be increased to $2,400.

Presently, if a beneficiary earns over $2,100, he is penalized $1 for every $2 that he earns and he loses benefits in this amount—a grossy unfair procedure which inures against those who can least afford it.

This limitation penalizes the wrong persons. Commonsense would indicate that. Citizens who have been working all their lives and contributing to the system during this working period from their hard earned salaries should not, at this point in their lives, be penalized for working.

Mr. President, at the present time the maximum social security benefits are $266 per month for a man who reached age 65 in 1973 and had maximum earnings through 1972, and many persons need additional funds, above that amount, to sustain themselves. Surely, they should not be penalized for having the incentive to go out to earn the extra money needed.

Under present law, beneficiaries who reach age 72 receive their full benefits without regard to any earnings limitation. I do not understand why they should be penalized between the ages of 70 and 72.

Another glaring inequity in the earnings test application is that in determining whether the earnings limitation has been exceeded, only "wages" and "net earnings from self employment" are considered—whether or not such wages or earnings are derived from employment covered by the Social Security Act. Income which is neither wages nor net earnings from self-employment is not counted. Thus, persons who are wealthy or have private investments, and who receive income from interest, dividends and rentals from real estate or any amount of income from pensions or annuities may do so without having any reductions in OASDI benefits.

Mr. President, when this retirement test was put into law, in 1935, there might have been valid reasons for discouraging older workers from working past an arbitrary retirement age. This was during the depression years when it was necessary to increase job opportunities for younger workers. However today's high economy does not need such restrictive measures. By keeping these older persons from working, we are in effect, depriving this country of valuable skills and productivity.

Also, the Federal Government has been engaged in a campaign within the past 5 years to prohibit and to discourage the discrimination against workers because of age, and to encourage the hiring and retention of older workers.

The income limitation test discriminates against those individuals who can afford it least—those who must work to supplement their benefits. When we consider that the average social security benefit which is received at this time is approximately $2,000 per year, it is obvious that many individuals have to work. This provision causes a great deal of hardship in cases where the individual has need for more income than social security benefits can provide. That is why I propose to increase this limitation to $3,000 per year.

Mr. President, these people should not be penalized; rather they should be commended for the desire to go out and continue to work for themselves and contribute to the upbuilding of their communities and the Nation itself.

Mr. President, I think that about sums it up.

Mr. FANNIN. Mr. President, the Senator has a very meritorious amendment. Similar amendments have been considered over the years and in recent months have been discussed in the committee. But the consideration involved has been the barrier.

As I understand the amount involved would be in the neighborhood of $600 million.

Mr. ROBERT C. BYRD. About $800 million, I am told.

Mr. FANNIN. $800 million?

Mr. ROBERT C. BYRD. Yes.

Mr. FANNIN. That is the limiting factor as to whether or not we can take a jump of that magnitude, with the budget that is now certainly above what was anticipated, and creating the further problem that if we do not know exactly what it is to be, the problem could be greater.

I ask the Senator if he has any method of financing this additional amount that would be involved?

Mr. ROBERT C. BYRD. I do not provide for the financing of the additional cost in this amendment.

Mr. FANNIN. But the cost would be in the neighborhood of $800 million?

Mr. ROBERT C. BYRD. That is correct.

Mr. CURTIS. Mr. President, would the distinguished Senator advise us what the cost of the proposal would be, the yearly cost?

Mr. ROBERT C. BYRD. About $800 million, I am advised.

Mr. CURTIS. That would be recurring every year?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. CURTIS. Does the Senator provide any financing?

Mr. ROBERT C. BYRD. I do not in this amendment.

Mr. CURTIS. Is the Senator aware that the goal that the committee adhered to for many years was to have at least 1 year's reserve in the trust fund, and that is down now to 70 percent a year?

Mr. ROBERT C. BYRD. I am sure the Senator is correct in his statement.

Mr. CURTIS. Mr. President, I again remind the Senate that this is one of the dangers of these proposals on the floor. Here we are increasing benefits by almost $1 billion with no provision to pay for it. It would further deplete the reserve which is down now to less than a year.

I thank the Senator for yielding.

Mr. ROBERT C. BYRD. Mr. President, I think the record should show that it is quite traditional around here to add these social security amendments on the floor without accompanying them at the time with a self-financing provision.

Mr. CURTIS. Not so on the part of the Committee on Finance.

Mr. ROBERT C. BYRD. I agree with the Senator. I am not a member of that distinguished committee.

Mr. CURTIS. That is why I believe the Senator should take all these amendments to the committee and convince the committee. They are not hard to convince.

Mr. ROBERT C. BYRD. I agree. What I said is not true on the part of the Committee on Finance, but it is true, I think, on the part of most Senators who are not on the Committee on Finance, as I am not, and who come to the floor with what they consider meritorious amendments. Ordinarily, they are not required to crank into those amendments a self-financing provision.

I am not stepping beyond the limits today. The cost would be 0.15 of 1 percent of payroll, and although it does not sound like a great deal, it amounts in totality to a considerable amount of money. But this is something the conferees ordinarily, in regard to many amendments, work out in conference, as to the financing aspect.

Mr. CURTIS. The conferees have no authority to impose a tax that is neither in the House version nor the Senate version.

Mr. ROBERT C. BYRD. I think the Senator does not want to crucify me on that cross at this point. Senators from time to time, and I included, have offered amendments on the floor of the Senate without including self-financing provisions. I am not a member of the Committee on Finance.

Mr. CURTIS. It is not the Senator who is being crucified in this matter, but the poor kids, the poor people working, who are 20 and 30 years of age. They are having the stability of the social security system eroded.

Mr. ROBERT C. BYRD. I am certainly not in favor of undermining the social security trust fund, but when we talk about those people who are 20 and 30 years of age, I can remember a time in this country when there was no social security program, and all that the old folks could do when they could no longer work was stand at the gates of their children with their hats in their hands or go over the hill to the poorhouse. It did not only constitute a problem for the parents; it was also an additional burden on those young people 20 and 30 years of age who were trying to rear families and for whom the burden of taking care of a parent was a burden which was just economically unbearable. The social security program relieved the young people of that burden.

So there are two or three things to be said when we start talking about people in this country who are 30 or 40 years of age. The social security program has also benefited them because it has aided in the care of their parents who otherwise would be a burden on them.

I recognize that the Senator raises a valid point about the additional cost of this amendment and no provision for financing that cost, but Senators have done this before on the floor. It is a valid point to be raised, but this has been done before. Many Senators who are not on the Finance Committee who have offered amendments increasing the cost have not included in their amendments means for financing the cost.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. AIKEN. Suppose the beneficiary would receive Federal payments of $3,000 and earned $3,000 more. How much of that would be subject to income tax?

Mr. ROBERT C. BYRD. Would the Senator restate the question?

Mr. AIKEN. Suppose the beneficiary's income from Federal payments is $3,000 and he earns $3,000 more, as proposed by the Senator from West Virginia. How much of that would be liable to income tax?

Mr. ROBERT C. BYRD. I am advised that it would be very, very little.

Mr. AIKEN. It would be very little, I am sure.

Mr. ROBERT C. BYRD. Yes.

Mr. AIKEN. But suppose he is 70 years old and he gets $3,000 in Federal payments and he is a retired doctor or dentist or lawyer and earns $8,000 more, making a total income of $11,000. He would be subject to income tax on what part of that?

Mr. ROBERT C. BYRD. I am advised he would be subject to none on the $3,000 in social security benefits and the first $3,000 of earnings would not be subject to tax.

Mr. AIKEN. But if he earned——

Mr. ROBERT C. BYRD. An additional $5,000?

Mr. AIKEN. Say $9,000; that would make $12,000 in all. He would pay an income tax on how much of that?

Mr. ROBERT C. BYRD. I am advised that in the hypothetical case, he would pay it on about $6,000.

Mr. AIKEN. He would pay how much?

Mr. ROBERT C. BYRD. He would pay a tax on not more than about $6,000.

Mr. AIKEN. Not more than $6,000. So $6,000 would be deductible. I am assuming he would be single.

I was just wondering, with this additional cost that has been estimated, whether there would be any recompense from income tax receipts.

Mr. ROBERT C. BYRD. To some degree. Not a considerable degree. I am not prepared to be precise.

Mr. AIKEN. I am not, either. If I were, I would not ask the question.

Mr. CURTIS. Social security benefits are not taxable.

Mr. ROBERT C. BYRD. The social security benefit itself, as the distinguished ranking minority member of the committee has said, is not taxable; but after he has used his personal exemptions and standard deductions, there would then begin to be an income tax for him, as for anyone else.

Mr. AIKEN. I think that answers it as closely as we can get it.

Mr. ROBERT C. BYRD. I thank the Senator for his question.

Mr. President, would the Senator like to go to a vote now?

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I would like to rise in support of the amendment offered by the Senator from West Virginia. It is similar, except in one respect, to an amendment I introduced in behalf of myself, and Senators DOMINICK, COOK, EASTLAND, PASTORE, and YOUNG.

Mr. President, I ask unanimous consent that Senators BARTLETT, BUCKLEY, and DOLE be added as cosponsors of my Amendment No. 639.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, what I would like to do is make a few remarks which I think address themselves primarily to my amendment, but which I think are applicable to the amendment of the Senator from West Virginia, and at the end of that see if the Senator from West Virginia would support an amendment to his amendment.

Mr. ROBERT C. BYRD. Very well.

Mr. TOWER. Mr. President, this amendment would increase the retirement test under social security from $2,400 to $3,000 and reduce the age of applicability under the test from age 72 to 70. The issue has been debated previously in the Congress and if my memory serves me correctly, the Senate has on two occasions recently approved the $3,000 level.

Mr. President, there is not one specific issue concerning social security legislation that is considered more important by my constituents than improvements in the social security earnings ceiling or retirement test. Every day my office receives correspondence from Texans complaining about the current provisions in the law and asking what could possibly be the rationale for the continuation of this test and the policy behind it. Quite frankly I have no answer to these inquiries except to say that I intend to continue my efforts to liberalize the retirement test.

At a time when the gerontologists have made it more than clear that continued productive work by our senior citizens is directly related to continued good health, there is no rational basis for this type of provision in the law. Moreover, at the same time that we are penalizing senior citizens from continuing or regaining a position in the work force, there are Federal grant-in-aid programs that call for increased employment opportunities for senior citizens. This is an inconsistent Federal policy that requires reform.

I strongly believe that Americans who have contributed to the social security trust fund have a vested right to benefits commensurate to such contributions. This right becomes vested upon the making of contributions over a minimum eligibility period and the Government should not have the power to withhold such benefits because the individual is still engaged in gainful employment. Such criteria is totally unrelated to the contribution made.

I recognize that improvements have been made in recent years. The ceiling has been increased from $1,680 to $2,400, an automatic increase provision geared to the consumer price index has been enacted, and no longer can an individual lose a full dollar in benefits for every dollar he earns. Further liberalizations need to be made and the amendment I now offer is similar in substance to proposals the Senate has approved in the past.

Furthermore, reducing the age of applicability from 72 to 70 is not a new approach since up until 1954 the cutoff date was 75.

Mr. President, let me remind the Senate that I am not calling for the elimination of the test. If it were the practical thing to do, from both a fiscal and political standpoint, I might so move. The amendment is instead the most feasible approach available to obtain some equity for our senior citizens. We all realize that inflation hurts those the most that are living on fixed income; because millions of senior citizens live primarily on social security benefits many of them supplement these payments with part-time work, ranging from a few hours of work a week to 30 to 40 hours. This type of activity should not be discouraged.

Mr. President, at this time I ask unanimous consent to have inserted in the RECORD an editorial from the June 18 edition of the Dallas Times Herald endorsing this proposal.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ATTACK ON AN INJUSTICE

Not for the first time, we rise to the support of an effort to let Social Security recipients earn more money without forfeiting any of their benefits. The current ceiling on outside income a recipient can draw without penalty is $2,100. Sen. John Tower thinks it ought to be $3,000 and has offered a bill to that effect. Under the Tower bill, moreover, the recipient would escape altogether from that ceiling at age 70, instead of the present 72.

To us, the earnings test seems one of the really outrageous aspects of Social Security. The principle behind the thing is awry. If a man contributes for all his working life to Social Security, then he is entitled to Social Security benefits. Period.

It is for actuarial reasons that the very low earnings ceiling obtains. But that is insufficient justification, since the powers that be have seen fit to make Social Security compulsory. If we have no more choice about

> joining than a steer has about journeying to the stockyards, then we have a right to expect that as few penalties as possible should attach to membership.
>
> The $2,100 earnings ceiling—which, admittedly, is better than the pre-1973 ceiling of $1,680—is one of the tangible penalties. What it amounts to is a real disincentive to work beyond retirement age. One had thought that if an American wanted to make some extra cash it was not only his God-given right, but a boon to himself, his family, and his neighbors. We still think it is all of that, and no amount of flim-flammery about actuarial considerations can make it otherwise.
>
> Ideally, no earnings test ought to be in the Social Security law at all. As the law was originally written, in 1935, there wasn't one. Still, Congress seems to buy the argument that, to some extent at least, Social Security is a contract to quit work. Tower's present objective seems about the most that can realistically be achieved, and we heartily endorse it.

Mr. TOWER. Mr. President, I wonder if the Senator from West Virginia would consider accepting an amendment, if he has a copy of my amendment 639 there, starting at the bottom line, line 8, to attempt to provide for the reduction of age from 72 to 70?

Mr. ROBERT C. BYRD. Mr. President, I think the suggested modification is a very good one. I would accept it. I do not know what the Senate will want to do. However, I would be glad to accept the modification.

The PRESIDING OFFICER. Would the Senator please send the modification to the desk?

Mr. CURTIS. Mr. President, has the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered on this amendment.

The amendment is so modified. Would the Senator please send the modification to the desk?

The modification is as follows:

> (b)(1) Subsections (c)(1), (d)(1), (f)(1), and (j) of section 203 of the Social Security Act are each amended by striking out "*seventy-two*" and inserting in lieu thereof "*seventy*".
>
> (2) Subsection (h)(1)(A) of such section 203 is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 70".
>
> (3) The heading of subsection (j) of such section 203 is amended by striking out "Seventy-two" and inserting in lieu thereof "Seventy".
>
> (c) The amendments made by the preceding provisions of this Act shall apply only with respect to taxable years beginning after December 31, 1973.

Mr. CURTIS. Mr. President, I would like to ask the sponsor of the amendment what the cost will be to lower that from the age of 72 to the age of 70.

Mr. TOWER. The estimate is around $150 million the first year.

Mr. CURTIS. How much thereafter?

Mr. TOWER. And that approximate amount in subsequent years.

Mr. CURTIS. And what is the cost of raising the present $2,400 to $3,000?

Mr. TOWER. Approximately $600 million.

Mr. CURTIS. Is there a provision in the amendment of the distinguished Senator from West Virginia, which has now been modified, for any increased taxes?

Mr. TOWER. There is no such provision. As a matter of fact, I think this has been covered in colloquy with the Senator from Nebraska.

Mr. CURTIS. But, of course, the bid has gone up since then. At that time we were talking about a proposal for $800 million. We have now added $150 million to that and other $600 million. That totals about $1.5 billion.

Mr. TOWER. No. We calculate that the cost of the amendment of the Senator from West Virginia prior to this amendment would be about $600 million, and my amendment would add about $150 million.

Mr. CURTIS. But the Senator has two amendments. He wants a vote on them back to back. They will cost $1.5 billion with no provision to recover a dime for the social security fund.

I am not quarreling with any Senator for his feeling that the work test ought to go to $3,000. I am not quarreling with any Senator who feels that the age of 72 as being the time when they can earn all they want should go to age 70. However, I am opposed to doing it on the floor because if the committee could do it, it could call in actuaries and experts and find out the cost. We could protect the social security fund.

It used to be that the fund had a sizable amount of money in it, enough to last for several years. Then under the premise followed by the Finance Committee, we determined that we ought to have at least a year. We may come to the time when the social security taxes coming in will drop down. If that happens, more people will take retirement and the outgo will increase. We have already dipped below the 1-year reserve. We are down to 70 percent of a year. And here on the Senate floor we have two amendments calling for an expenditure of more than $1.5 billion with no provision to recover the money for the fund.

There might be a very good reason for changing the age from 72 to 73 as being the age when people could earn all they wanted. However, because I am interested in the soundness and the stability of the system, I think it ought to be done in committe and not on the floor of the Senate.

There is another question that I think should be answered. It is already written into the law that the work test goes up automatically. It is $2,400 now. By 1975, it will be $2,520. By 1976, it will be $2,640. By 1977, it will be $2,880.

I wonder if the authors of the amendment are repealing this built-in increase of earnings or if they are proposing that we start at $3,000 and that then in the years ahead the escalator clause built in the law should take effect. If that is the case, we ought at least to know what the figures are for the escalation and the cost of it.

Mr. President, I am not being fooled. I have no hope of winning on these rollcall votes. However, if I were not concerned about the financial stability of our social security fund, I would not raise these points.

I think the time has come when we should return to the principle that if we increase social security benefits, we should increase the tax.

I do not think that any other course is a responsible course for the U.S. Senate to follow.

Mr. President, there is a lot to be said about social security financing. The Finance Committee itself has not done too well on that. The last two raises or so have been financed by taxing a part of the people only. There was a time when if we increased social security benefits, we raised the rate. The rate was raised and also the wage base. They both carried part of the load.

That was not a political thing to do. If we refrain from raising the rate and raise the base from $10,000 to $12,000 or from $12,000 to $14,000, then the politicians could go home and say to everybody who makes less than $10,000: "We have raised your social security under a scheme in which there will be no increase in your social security taxes."

I do not believe that all of these added costs should be raised by increasing the rate. However, I do say that part of it should be.

If we believe in our social security system, if we believe that increases in benefits are sound and justified, let us have the courage to say so and to say that it will increase the tax rate so much.

Mr. President, I want the record clear, I voice no criticism of anyone who feels that benefits should be raised, that rates should be lowered, and that beneficiaries should be allowed to earn more. I do say that should not be done on the floor of the Senate—not to protect the pride of position of the Finance Committee, but merely so that the cost could be explored, so that we could add up all of the proposals for increases, see what they do to our system, and then try to work out a method of financing.

Mr. President, I have no hopes of winning on this rollcall. I yield the floor.

Mr. TOWER. Mr. President, I recognize the cost of this amendment and, as one who is very concerned with the increasing burden which the social security system is having on lower- and middle-income people, that there is a definite need for the Congress to act with a sense of restraint on the pending measure. Nevertheless, this is the type of argument that is more appropriately raised against some of the other amendments to the bill, such as the amendment we approved yesterday on prescription drugs. While that amendment and others we will consider have merit, they are measures to expand an already threatened actuarial system.

On the other hand, the amendment I offer is not as vulnerable to such attack. This is so because the liberalization of retirement test is not really an action to expand the system as such; the retirement test is nothing more than a penalty provision—penalizing Americans for staying in the work force—penalizing Americans who already have a vested interest in retirement benefits. This cannot be said in the case of expanding eligibility in either the cash benefits area or medicare.

Mr. President, I have talked with a number of elderly people in my State. I will not say this is true for the majority of them, but a substantial minority of the elderly people feel that increasing the allowable income under the retirement test is actually more important to them than an increase in social security benefits themselves. So I hope the Senate will look favorably on the amendment offered by the Senator from West Virginia, as amended, and will adopt it.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. TOWER. I yield to the Senator from Illinois.

Mr. PERCY. I would like to address this question either to the distinguished Senator from West Virginia, the author of the amendment, or the distinguished Senator from Texas:

Even though the cost of this amendment has been outlined as some $800 million, plus $150 million because of lowering the age of applicability as suggested by the Senator from Texas, is it not true that if people are living below the poverty line, they then are eligible to apply for public assistance, and that these costs come out of the same pocket—the taxpayer's—in the long run? And is it not true, then, that it would be much more dignified for those people who have worked all their lives, or who are widows or spouses, of men who worked all their lives, to have assistance in the form of an increase in the earnings limitation under social security, rather than being forced to go the degrading route—which many of them refuse to do—of the welfare check?

Mr. TOWER. The Senator from Illinois is certainly correct. And as an added note to that, the gerontologists tell us that elderly people who are engaged in work are more likely to maintain good health. In that my mother is one of the healthiest women of her age I have ever seen, and has never stopped working, I think I can give first-hand attestation to that. I think it is a verity, and could be considered as something that might conceivably offset the additional cost to the Government, the fact that people who are engaged in employment, working at some constructive pursuit, are more likely to be in good health than those simply sitting around and not having that opportunity.

Mr. PERCY. I thank the distinguished Senator for his comment, and would simply like to state, as the ranking Republican member of the Senate Select Committee on Nutrition and Human Needs, that we have found a great many of the elderly who are malnourished. They are eligible for Federal assistance for hospital and medical costs, but the doctors tell us that one of the best ways to keep a person healthy later in life is for him to have adequate nutrition.

Mr. TOWER. That is right.

Mr. PERCY. It is only when they do not have adequate nutrition, many times, that they become sickly and weak, and must resort to expensive medical care.

It is perfectly all right for them to get their medical costs out of one hand, but we are reluctant to give the cost of preventive medicine—of adequate nutrition—out of the other, when it all comes from the same source anyway.

We have had many people testify before the committee that they will not go the degrading route of asking for public assistance, they simply make do with less resources; but, when you have fixed incomes and a constant increase in fixed costs, there is no place to make up the difference except in the flexible items such as food costs.

I think it is well for us to recognize that one cannot live on $2,400 a year, and that to take away a part of social security after a retired person earns that much, to me, is penny wise and pound foolish. I do not believe these are real, net costs. They may be gross costs, but not net costs, and for that reason I firmly support the principle of the amendment of the Senator from West Virginia, as modified by the Senator from Texas.

Mr. TOWER. I thank my colleague from Illinois, and would simply say I believe his logic is unassailable, and that it has contributed a great deal to this debate.

Mr. THURMOND. Mr. President, on October 30 of this year, I introduced S. 2637, a bill which would completely eliminate from title II of the Social Security Act the limitation upon the amount of outside income which an individual may earn while receiving social security benefits.

As the law now stands, social security beneficiaries under the age of 72 have their benefits reduced by $1 for every $2 they earn in excess of $2,100 per year. This is the so-called retirement test or earnings test.

Mr. President, the reasons which motivated the institution of this test in 1935 are not valid today. The policy of discouraging older workers from working past the arbitrary retirement age of 65 originated during the depression when it was necessary to increase job opportunities for younger workers. Such a restrictive measure is totally unnecessary in today's high-employment economy.

There can be no doubt as to the natural impact of this limitation. Many older persons are pressured into not working for fear of losing their benefits. As a result of this, a vast pool of valuable skills acquired through years and years of hard, honest work are totally lost to our country.

Mr. President, such a limitation flies in the face of a fact widely accepted by the Federal Government, gerontologists, and others concerned with the health of the elderly. That fact is that the hiring and retention of older workers in all aspects of the economy is very "good medicine" for the elderly. It should be encouraged in every way possible, and removing this limitation is one way to do precisely that.

In my opinion, this aspect of the social security program is illogical and inequitable. Income from investments is not counted in determining whether benefits shall be reduced. Thus, a rich man who has thousands of dollars in dividends and interest coming in every year can sit back and collect his full check every month. On the other hand, the poor man who never had the time, much less the money, to enter the world of investments, and who might need to continue working as a matter of economic survival for himself and his family, cannot work without being subject to this penalty. This is simply not right.

Mr. President, I still believe that the earned income limitation should be completely removed from the social security laws. However, I also realize, as a practical matter, that the Senate is not likely to take this action today. Under the present structure of the social security laws, such action would simply be too expensive. Nevertheless, I am committed to the principle that barriers to work should be removed, and thus it is my pleasure to endorse, and to join as a cosponsor of, the Robert Byrd amendment to accomplish this purpose.

I might say, Mr. President, that I have previously joined the Senator from Texas (Mr. TOWER) on an amendment similar to this one of Senator ROBERT C. BYRD.

The amendment is a step in the right direction and I urge all my colleagues to join in this effort to bring this meaningful reform to the social security system.

Mr. BUCKLEY. Mr. President, I subscribe wholeheartdly to the reasoning both of the Senator from Texas (Mr. TOWER) and the Senator from South Carolina (Mr. THURMOND). As a matter of fact, I had drafted and was prepared to offer an amendment to the Tower amendment that would have had the effect of gradually scaling down the age limit and increasing the ceiling on earnings, to the end that by 1980 there would be no restrictions whatever on the ability of social security recipients to continue to earn what they were capable of earning.

I believe the present system is arbitrary. I believe it is unfair. I believe it is destructive of the best interests of the aged.

I am, however, very much taken by the force of the arguments advanced by the Senator from Nebraska (Mr. CURTIS). We cannot operate in a fiscal vacuum. I share his concern over the possibility that we may bankrupt the social security system. I, therefore, will not offer my amendment No. 734. Although I will vote for the Tower amendment as signaling the direction in which we should move. I would like to take this occasion, Mr. President, to urge the Finance Committee to consider how best we can phase our way out of these restrictions in a minimum amount of time and with adequate financing.

I declare now that I will introduce my amendment in the form of a bill, independently of this debate, and will ask that it be considered seriously by the committee.

Another aspect that concerns me, and is relevant to the financing of social security, has to do with how one should treat social security income and how one should treat earned income.

I believe that if we were to consider classifying social security income as taxable while providing for an exemption equal to the higher amount of the social security receipts, or the personal income tax exemption that is provided in the Internal Revenue Code; if we were to do that, then every dollar earned by the elderly over and above social security receipts would be taxable and therefore would go to the Federal Treasury.

In other words, such a system would impose no additional burden on those living wholly on social security, but it would accelerate the tradeoff between the expenses to the social security system caused by eliminating restrictions on earnings and the moneys flowing into the Treasury.

Mr. HELMS. Mr. President——

The PRESIDING OFFICER (Mr. Pearson). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I think the most interesting aspect of this discussion this afternoon has been that everyone agrees with everyone else. Certainly, the Senator from Nebraska (Mr. Curtis) is eminently correct in his warning that the social security system can easily be bankrupted.

On the other hand, the Senator from West Virginia (Mr. Robert C. Byrd) is right on target with his proposal, and the Senator from Texas (Mr. Tower) is right on target with his proposal. I think that what we are doing is admitting that social security is in a mess and needs a complete overhaul. It has reached the point that it is regarded by many citizens as a boondoggle and a bleak heritage for the young people of today who will have to pay, throughout their lives, for our failure to do our duty. It is high time that Congress took a look at the whole system.

If these two amendments are agreed to, I intend to withdraw my amendment No. 740. I confess that I did not submit it with the idea that it would be approved by this Senate; I submitted it purely for the purpose of calling attention to the fact that we are imposing upon elderly citizens a burden that they should not bear; namely, the burden of idleness, particularly in a time when their services are needed, when they could legitimately and properly earn additional revenue to offset the ravages of inflation.

I have another amendment, which I shall call up presently. It relates to the whole problem of social security as it pertains to inflation. Inflation is the reason why we are having this difficulty. It is the reason why the political football called social security is being kicked around two or three times at every session of Congress. If we can somehow, bring inflation under control, then our problems with social security will also be brought under control. The only way we are going to bring inflation under control in this country is by balancing the Federal budget. And that is the purpose of the amendment which I shall call up in a few minutes.

Mr. TOWER. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent at this point that certain Senators be added as cosponsors of the amendment. They are Senators Randolph, Allen, Aiken, Dominick, Thurmond, Helms, Biden, Percy, Stevens, Church, Tower, Bartlett, Buckley, Dole, Bayh, Gravel, Hartke, Cannon, Schweiker, Williams, Humphrey, and Ribicoff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I wish to express my support for the amendment offered by the distinguished Senator from West Virginia as amended by the Senator from Texas. The amendment would raise to $3,000 the amount of additional wages which can be gained by a social security recipient before he receives any reduction in his social security benefits. The amendment would also lower from 72 to 70 the age above which the income limitation has no impact.

I have joined as a sponsor of this amendment and feel that fairness dictates that the amendment be approved. It is unreasonable for the Social Security System to continue to penalize our older citizens merely because they wish to continue employment and maintain an earned income beyond the age of 65. If an individual has worked the required number of years to become eligible for social security benefits, he should be able to enjoy them in full even if he wishes to continue employment.

Social security payments are not gratuities made available by the Federal Government. They are simply a repayment of our own earnings which we have deposited in trust as a regular contribution from our salaries. They are payments we have contributed along with our employers.

The earnings ceiling logically makes no sense because the funds are our contribution in the first place. But even more shocking is the fact that the beneficiary most often penalized by the income limitation is the individual who has the greatest need for more income than his social security benefits can provide. Individuals who have had the good fortune of amassing some wealth prior to their retirement and who usually do not have a great need for additional income are not affected by the income limitation. As strange as it may seem, income from bonds, stocks, investments, copyrights, patents, rentals, dividends, and other pensions is not counted as income in determining whether the income limitation has been reached and social security benefits should be reduced by $1 for every $2 of additional income. It is only individuals who continue to work and earn wages who are penalized by the income limitation, and it is these individuals who unfortunately most often have the greatest need for the additional funds.

The impact of inflation on our older residents has made it necessary for them in many instances to obtain income from sources other than social security. This in itself is another reason for raising the income limitation. I am hopeful that the 11-percent social security increase authorized in this legislation will help relieve some of the financial pressures which have forced some of our older citizens back to work. But those social security eligibles who continue to be employed beyond age 65 merely because they enjoy the pleasures of their work and the additional income that they receive for it should be able to work without suffering a reduction in their social security benefits.

Therefore join in support of the amendment and am hopeful that as the Social Security Trust Fund is better able to bear the financial stress of additional payments, the income limitation can be raised even higher and eventually removed from the law.

Mr. THURMOND. Mr. President, I shall vote "present" on the amendment to lower the age from 72 to 70 for recipients of social security to begin receiving benefits, since I would be personally affected by the outcome of the vote.

For a long time I have favored allowing recipients of social security to earn up to $3,000 a year without having the social security benefits affected. No impediment should be allowed that will discourage people from working.

Mr. DOMENICI. Mr. President, I rise again today in support of Amendment No. 639, a separate bill, S. 1982, I had earlier cosponsored before it was offered as an amendment to H.R. 3153. This amendment would raise the ceiling on outside earnings to $3,000 before deductions in Social Security benefits are made and would also lower from 72 to 70 the age at which no deductions are made for outside earnings.

As the law now stands, social security beneficiaries under the age of 72 have their benefits reduced by $1 for every $2 they earn in excess of $2,100 per year.

It seems obvious to me that the reasons which motivated restrictions on outside earnings have their roots in the depression era. In fact there were the years in which this legislation was initiated. The idea was to force out older workers, leaving jobs open for younger wage earners supporting families.

The impact of this restriction in today's world has a most disadvantageous effect. Many older persons are pressured into not working for fear of losing their benefits. As a result, a vast pool of valuable skills acquired through years and years of hard work are totally lost to the country. This loss, however, is minuscule, when compared to the loss an older person feels when realizing his new status in our society is equivalent to the status of "noncontributor."

Mr. President, I have received many letters from elderly citizens in New Mexico carefully detailing the effect of the present very low outside earnings limitation. These are citizens who have worked all their lives and have contributed their share of social security taxes. They have placed a high value on the work ethic. They have been concerned with contributing rather than with taking.

Now that it is time to "take," the benefits are eliminated by unreasonably low restrictions on outside earnings.

Even beyond these obvious facts, it is obvious to me that it is the poor who suffer most from outside earnings limitations. If our senior citizens are willing and able to work, it seems to me that they should not be penalized for doing so.

I would even be willing to consider the removal of all earnings limitations. This amendment to raise the earnings limitation and to lower the age limit is certainly a step in the right direction. I urge my colleagues to support this proposal.

SENATOR RANDOLPH SUPPORTS EFFORT TO HELP ELDERLY CITIZENS

Mr. RANDOLPH. Mr. President, it is a privilege to cosponsor the amendment by my distinguished and able colleague from West Virginia (Mr. Robert C. Byrd) to raise the outside income limitation to $3,000 for America's social security beneficiaries. The cruel vice of limited income and soaring inflation has squeezed our Nation's elderly citizens beyond endurance. Too many who have worked for most of their lifetimes suddenly discover the retirement dream turned into a nightmare of sacrifice and deprivation. The shining vision of the so-called golden years is not fulfilled. Witnesses before the Senate Special Subcommittee on Aging, of which I am a member, have repeated stories of desperate struggle and near starvation.

Mr. President, the present limitation of $2,400 of income earned outside of social security benefits is totally unrealistic in these inflationary times. Rising food, shelter, and medical costs leave a major segment of our elderly population defenseless and helpless. It is our responsibility, indeed our duty, as a humane nation to work for programs to assure worthy older Americans the dignity, decency, and security of a full life. They must have sufficient income support and adequate health care. To do less would be to say to the nearly 29 million older Americans who have endured wars, depression and now runaway inflation: "We appreciate your sacrifices, your faith in the fairness of our system of government, and the promises we made, but we doubt that we can help you now."

Mr. President, I urge my fellow Senators to turn momentarily from the many problems and crises being thrust on us, and look into the puzzled and pleading eyes of this legion of needy Americans. I urge support of the amendment. In approving this proposal we will be telling our older citizens: "We do not forget."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur immediately following the vote on the amendment lowering to age 55, the term at which widows would be eligible to receive benefits.

The PRESIDING OFFICER. Is there objection, The Chair hears none, and it is so ordered.

The question now is on agreeing to Amendment No. 728. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, this is the amendment which would allow widows to elect to receive actuarially reduced benefits at age 55 rather than at age 60, as under present law.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from Texas (Mr. Bentsen), the Senator from Iowa (Mr. Hughes), and the Senator from Iowa (Mr. Clark) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington), is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. McGee) and the Senator from Iowa (Mr. Clark) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Virginia (Mr. William L. Scott), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from Idaho (Mr. McClure) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The Senator from Wyoming (Mr. Hansen) is detained on official business.

The result was announced—yeas 74, nays 13, as follows:

[No. 527 Leg.]

YEAS—74

Abourezk
Aiken
Allen
Bayh
Beall
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Church
Cook
Cotton
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Fulbright
Gravel
Griffin
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NAYS—13

Bartlett
Bellmon
Bennett
Byrd, Harry F., Jr.
Chiles
Curtis
Ervin
Fannin
Fong
Goldwater
Hruska
Roth
Tunney

NOT VOTING—13

Baker
Bentsen
Clark
Hansen
Hughes
McClure
McGee
McGovern
Montoya
Packwood
Scott, William L.
Symington
Young

So Mr. Robert C. Byrd's amendment was agreed to.

The PRESIDING OFFICER. The issue now before the Senate is the unprinted amendment of the Senator from West Virginia (Mr. Robert C. Byrd), as modified. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, this amendment raises the income-earning level from the current $2,400 a year to $3,000 a year, and carries with it a modification by the Senator from Texas (Mr. Tower) lowering the age from 72 to 70, at which there is no limit.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is this an appropriate time to add the names of cosponsors?

The PRESIDING OFFICER. It is. The Chair will advise that it is proper by unanimous consent.

Mr. BAYH. Mr. President, I ask unanimous consent that the names of the following Senators may be added as cosponsors of amendment No. 728 and the pending amendment: Senators Bayh, Hartke, Cannon, Schweiker, Ribicoff, Humphrey, and Gravel; and that the name of Senator Chiles be added as a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

On this amendment, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. THURMOND (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Iowa (Mr. Clark), the Senator from Iowa (Mr. Hughes), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. Clark), and the Senator from Wyoming (Mr. McGee) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Bennett), the Senator from Virginia (Mr. William L. Scott), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from Idaho (Mr. McClure) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The Senator from Wyoming (Mr. Hansen) and the Senator from Ohio (Mr. Saxbe) are detained on official business.

The result was announced—yeas 83, nays 1, as follows:

[No. 528 Leg.]

YEAS—83

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cotton
Cranston
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn

Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Tower
Tunney
Weicker
Williams

NAYS—1

Curtis

ANSWERED "PRESENT"—1

Thurmond

NOT VOTING—15

Baker
Bennett
Bentsen
Clark
Hansen
Hughes
McClure
McGee
McGovern
Montoya
Packwood
Saxbe
Scott, William L.
Symington
Young

So Mr. ROBERT C. BYRD's amendment, as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the previous amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974."

AMENDMENT OF THE SOCIAL SECURITY ACT

The Senate continued with the consideration of the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT NO. 732

Mr. HELMS. Mr. President, I call up my amendment No. 732 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

> At the end of the bill add a new title as follows:
>
> SECTION 1. Beginning with the fiscal year 1975, the non-trust-fund expenditures of the Government of the United States during each fiscal year shall not exceed its revenues from all nontrust sources for such year.
>
> SEC. 2. (a) Beginning with the fiscal year 1975, the President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which non-trust-fund expenditures do not exceed non-trust-fund revenues for each fiscal year.
>
> (b) The provisions of this section may be adjusted to reflect any additional revenues of the Government received during a fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year.

The PRESIDING OFFICER (Mr. DOMENICI). The Senate will be in order.

The Senator from North Carolina may proceed.

Mr. HELMS. Mr. President, I do not propose to take more than 5 minutes because the amendment is so clear that it does not need much discussion.

Mr. President, we are today considering a piece of legislation of astronomical proportions. Despite the rhetoric we might engage in on this floor and despite all the press releases we may issue to our constituents, the real nitty-gritty of the problem of social security lies in the inflation that is paralyzing the future of our young people, and frustrating the lives of senior citizens who are left helpless in trying to exist amidst constantly rising living costs.

I simply say that if we do not balance the Federal budget and thereby curb inflation, we will continue to invoke the inequities and unfairness of the Social Security System.

As matters now stand, the dog is chasing its tail, and the young people of this country in future years will have to pay the price for our failure to face up to our duty.

I point out again that the Federal debt limit was raised by the Senate by another $10.7 billion on Tuesday of this week. I am advised that the interest alone on the Federal debt already in existence will be $27.5 billion for the current year.

Mr. President, to reiterate what I have said many times before, this $27.5 billion tab that the American taxpayers pay—in interest alone on the existing Federal debt—each year amounts to $52,000 a minute. Or $878, Mr. President, every time the clock ticks, and this, mind you, is for interest alone on the existing Federal debt.

I say that a remedy such as this amendment sponsored by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), the distinguished Senator from South Carolina (Mr. THURMOND), and me is absolutely essential if we are really serious about doing something for the older people of this country. And the way to do it is not merely through adjusting the social security law, and increasing the tax burden, but by changing the way of fiscal life in the United States. Our present way of doing things, Mr. President, is simply irresponsible.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HELMS. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I compliment the Senator from North Carolina for his amendment and for his remarks. I would like to be associated with him.

I am reminded in 1973 of the year 1928 when the country of Austria was going through the welfare statism that we are going through at the present time. They were spending money that they did not have. The Austrian mark was regarded as the cornerstone of world currency.

I remember the warning that came from other countries to Austria at that time. Austria paid no heed to them. The Austrian mark went bankrupt, and the world depression started.

Mr. President, we are operating with dynamite when we spend money that we do not have. I do not care how nice it sounds to the recipient of social security, it will not do him any good if the dollar goes down the tube. The entire social security system is in danger of collapsing I do not think that it can withstand the type of abuses we are heaping on it today.

I take this opportunity to thank the Senator from North Carolina for pointing out the dangers to the American people. We will do a great disservice to the American people and to the entire world if we risk bankruptcy and spend money that we do not have.

Mr. HELMS. Mr. President, I thank the Senator from Arizona for his remarks.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I yield to my friend, the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I think that the amendment of the distinguished Senator from North Carolina, the pending amendment, would help to balance the budget if agreed to. It does not help balance the budget that we are now working on. It would become effective for the budget which will be submitted to Congress next January.

It is long past time, Mr. President, it seems to me, when the Government of the United States should get back to balancing its budget. The amendment offered by the distinguished Senator from North Carolina requires that this be done on the new budget to be submitted to the Congress in January.

I emphasize that this measure would not affect the existing budget. It does not affect the budget which Congress is now considering. It would become effective for the budget to be submitted for the new fiscal year.

Mr. President, the American people are being subjected to very severe inflation. These huge budget deficits are the major cause of the inflation.

When Mr. William McChesney Martin, the former chairman of the Federal Reserve Board—who is, I think, one of the ablest financial experts in the world—testified before the Senate Finance Committee about this question, I asked, "How can the average citizen—not the wealthy who can protect themselves one way or the other—but how can the average man or woman in this country protect himself or herself against this very severe inflation which is continuing and which, I think, will continue to accelerate?"

Mr. Martin said:

> It is very difficult to do. But I think it is important, if inflation is to be controlled that the Federal spending be controlled.

I said: "Would it be accurate to say that perhaps the best way in which the average citizens of our country can protect themselves against inflation would be to demand of the Members of the Congress, their elected representatives, that they get back to balancing the budget and eliminate these smashing deficits."

Mr. Martin replied that that was the purport of his testimony, that we eliminate these huge deficits and get back to balancing the budget.

The able Senator from North Carolina is seeking to do just that with his amendment. I am pleased to support him.

Mr. HELMS. Mr. President, let me say that I am always encouraged by the remarks of my friend, the distinguished Senator from Virginia, who has been a leader in the fight for fiscal sanity, as was his distinguished father before him.

I am proud at all times to be associated with him.

Mr. LONG. Mr. President, on a consolidated budget basis, which is the way economists, Democrats and Republicans alike, say that we ought to keep the budget, the administration projects that in this fiscal year Federal Government will take in as much money in taxes as it spends.

Admittedly we will have a deficit on a Federal funds basis, which was the old-fashioned away to keep the budget. However, if we consider the surpluses we build up in our trust funds, we will have a balanced budget. However, we would have a deficit on a Federal funds basis. The pending amendment would require a big cutback in spending, even though we really have a balanced budget overall.

It is the point of view of the overwhelming majority of the economists that we are in good shape and have a balanced budget, but under the Senator's amendment we are now required to cut back on Federal spending. From the point of view of the liberals and moderates in this body that is sort of ridiculous on the face of it: a great big cutback in spending even though we have a balanced budget.

Furthermore, Mr. President, because of the energy crisis, we are in grave danger of a recession. This amendment would mean we could not step up Government spending to keep the recession from becoming a depression. This is Herbert Hoover economics reincarnated. To cut spending if we go into a recession will guarantee the deepest depression since 1929, or one deeper than 1929. That is stone age economics.

Mr. President, quite the opposite of this proposal, I have urged that the administration get their plans ready so that, in the event that this energy crisis, with all the layoffs that are occurring in the airlines, the transportation industry, and elsewhere, becomes worse, it can be offset, if need be, by Government spending to keep this country from being in a deep depression as well as keeping people from freezing around the country. I have some hope that they might do something along that line, to be ready in case we do run into that type of emergency.

What kind of sense would it make if we say another Herbert Hoover program of 1929 must be used in the event this energy crisis puts us into a recession? This will only guarantee that the recession goes deeper than the depression of 1929.

That is what we would be asking for by voting for this amendment. If we go into a recession and Government revenues fall off, we cut spending. As we go farther down, we cut spending some more and, as we go farther down, we continue to cut spending, so that Government revenue outweighs every other consideration on the way down. That makes about as much sense as some other things I have seen in Government, Mr. President, but we ought to know better by now, having learned a hard lesson from what happened in 1929 and what happened when unwise fiscal and tax policies and unwise monetary policies put this country in deep trouble.

I would hope we had learned something about this kind of thing, and that other factors are sometimes more important than just stacking up dollars to see which pile is higher than the other. There are better ways to approach some of these problems.

This amendment does not belong on this bill. It is irrelevant to the bill. It is an entirely different matter, Mr. President. If it is to be offered at all, it would seem to me it should have been offered on the debt limit bill, or should be offered on the budget control bill that will be coming along later on, and at an appropriate time I shall move to table the amendment, but I shall withhold that motion now in the event that someone cares to discuss the matter further.

Mr. PERCY. Mr. President, I certainly would not quarrel with the attempt of the distinguished Senator from North Carolina to try to put fiscal responsibility back into the Federal budget. I think we all share that desire, and are trying to work toward that end in different ways.

The objection I would have to this amendment is that it would remove the flexibility we may need in periods of economic recession. The Federal budget is an instrument which has an impact on the economy, and I would respectfully suggest that the distinguished Senator carefully study the work of the Government Operations Committee in the budget reform bill that has now been unanimously reported out, of which I am a cosponsor together with Senator SAM ERVIN.

I think that bill, and procedures that we have established which, first of all, put backdoor spending under the control of the Appropriations Committee, where it does not now lie, and would also require that Congress establish a ceiling on its budget overall before we proceed to expend money—right now our budget ends up being the total of all of our subtotal expenditures that we appropriate through the course of the year, and that is what leaves us in this deplorable condition where, in heights of prosperity such as the past 4 years, we have run up another $100 billion in deficits—if we would start out at the other end of the spectrum, and take a look at the economy and see what fiscal impact we want on the economy, then establish a ceiling, and then work with the subceiling arrangement that has been worked out by the distinguished Senator from Maine (Mr. MUSKIE), with which we now totally concur, to give us goals where we weigh one priority against another, and then make it exceedingly difficult, once we establish that overall ceiling, to break the ceiling—it could only be done in two ways, either by a two-thirds vote to set aside the rules, or by putting in a new concurrent resolution which requires us to take an overall, entire look at the picture again—I think that would be a more flexible way, but a reasonable way to approach it.

I would hate to see us put ourselves in a straitjacket at a time of economic recession when we had large scale unemployment, when welfare costs were high, and we needed to use the fiscal policy of the Federal budget to stimulate the economy, rather than depress it, to have us in a straitjacket at that time and unable to move.

But again I say I concur with the overall objectives, and I share the frustration, of the Senator from North Carolina. I would have to, regretfully, vote against this amendment, but would do so in the hope that we will move toward adoption of the budget reform bill, which will get at the same kind of problem and stop this endless deficit spending, particularly in boom periods.

Mr. FONG. Mr. President, may I ask the distinguished Senator from North Carolina a question?

Mr. HELMS. I yield.

Mr. FONG. What is the purpose of the amendment before the Senate?

Mr. HELMS. The purpose of the amendment is to put the Senate on record one way or the other. I have accomplished an ancillary purpose here; I have got the adrenalin of my friend from Louisiana stirred up a little bit. But at least we are thinking about a balanced budget and fiscal responsibility in the United States of America.

Mr. FONG. Is the Senator referring to trust fund money?

Mr. HELMS. I am referring to nontrust fund money.

Mr. FONG. What is the Senator's position in reference to trust funds?

Mr. HELMS. We address ourselves only to nontrust fund expenditures, I would say to the Senator.

Mr. FONG. Mr. President, as I understand the present budget system, we are under a unified budget system. Prior to the administration of President Lyndon Johnson, we were on a general funds budget, but the Vietnam situation escalated expenditures so much that a tremendous deficit was created, and the administration was forced, more or less, to achieve a lower deficit. So it called upon all the money in the trust funds, and collected all this money into what we call a unified budget. By putting all this money into a fund known as a unified budget, President Johnson cut down his deficit by $4 billion to $7 billion, as I understand.

So, today, we are following a budgetary program which carries a budget deficit of, probably, another $4 to $5 billion more than the deficit that has been shown to the public. Thus, when we talk about a budget deficit of $12 billion, we are actually talking about a budget deficit of $17 billion.

Mr. HELMS. That is correct.

Mr. FONG. Because we have to add another $5 billion more, for the money that we receive from our trust funds, like money that goes into the social security program and money that goes into the highway program. By spending that money as it comes in, and saying it is part of the general fund, we are just deceiving ourselves.

Mr. President, the program which we are not trying to amend is known as the social security program. It was based on the theory that this was an insurance program and that the premiums paid in by the workingman would some day be used so that he would be able to receive benefits when he retired.

If we were running an insurance company and were running it the way we ask Members of Congress to run it, we would all be in jail [laughter] because the premiums that come into the program are now being used for the present recipients of the program, and when those people, now paying in presently, come to receive their benefits, there will be no more money in the program.

Let me explain.

If we were running a private insurance company, all of us would be paying premiums, and when we arrived at age 65, we would expect to receive a certain amount of money because of the premiums we had paid in.

What we are saying now, in the way we are working out this program, is that all the premiums that come in—say it is $1 million, and only $900,000 goes out—because our recipients are now receiving $900,000, we say we have $100,000 in surplus.

Actually, we do not have $100,000 in surplus. We do not have any money in surplus because we have used up all the money that should have been placed in the reserve fund, in a surplus fund, to take care of the anticipated costs for those arriving at that certain age at which they receive their benefits.

So, when we talk about having a surplus in the social security program, we are just fooling ourselves, because we do not have a surplus in the social security program.

If we were to stop the social security program as of today and say that everyone now in the social security program can continue to pay premiums into the social security program, but we would not admit any more new members, when we would reach the age of 65, that fund which has accumulated because of our premiums, would be broke.

As I understand it, we are now approximately $300 billion to $400 billion in the hole, if we were to carry out the Social Security program as any other insurance company would be called upon to do so by State insurance examiners.

So, Mr. President, finding ourselves in this situation, we should not be too generous here in giving all the various benefits which have been asked by the various segments of the community. We must look at the program from the standpoint that this is an insurance program, that the premiums we have been paying into the program will be called upon to be used to pay the benefits.

What we are really trying to do today is to put the load on our children and our grandchildren. They will be the ones who will be called upon to pay the benefits when we are ready to receive our benefits, when we reach the age of retirement.

Thus, I thank the distinguished Senator from North Carolina (Mr. HELMS). He has really given us something to think about. We should be looking at this from a sound fiscal standpoint. We cannot continue to eat into this money, which should be set aside as a reserve fund for future use, so that by the time we get to that age there will be no money in the program left and we will be bankrupt.

I applaud and commend the distinguished Senator from North Carolina for presenting this amendment to the Senate.

Mr. HELMS. I thank the distinguished Senator from Hawaii. I have often wondered what would be the reaction of the young people of this country if they could have an explanation such as the Senate has just heard from the Senator from Hawaii, with his lucid explanation relating to what is being done to their future.

Mr. President, I may be accused of being a mossback. I may be said to be fossilized. I may be categorized as archaic, as my good friend from Louisiana has said, but 2 and 2 still make 4. Simple arithmetic still shows that to be true. Let us not play games. A balanced budget is a balanced budget—and Senators today have an opportunity to demonstrate where they stand.

No, Mr. President, we cannot make anything of it except that this is a Government of profligacy. This Congress—this Senate—is where the fault lies. We can change our way of living—if we have the courage to do so.

This amendment may be tabled, but let the record be clear, gentlemen, that any Senator voting to table will be saying to that people of the United States, "I am not willing to stand for a balanced budget."

Now, Mr. President, table the amendment, if you will. I have become somewhat accustomed to having amendments tabled——

Mr. CHURCH. Mr. President, will the Senator from North Carolina yield——

Mr. HELMS. I will be through in a minute.

Mr. CHURCH. For a question?

Mr. HELMS. Just 1 minute.

Mr. President, I have become accustomed to having my amendment tabled but, nevertheless, the people of this country will get the message. We will be voting, whether on a tabling motion or on an up-and-down vote on the amendment, the question of whether we are willing to adopt the concept of a balanced budget.

If an emergency arises, this Senate can undo anything it has done, as there is nothing permanent here, and every Senator knows that.

But the question is: Are we willing, this day, to put ourselves on record as being in favor of a balanced budget? This Senator from North Carolina is.

Mr. CHURCH. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I am glad to yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, the distinguished Senator from North Carolina is——

Mr. HELMS. I am sorry, but I cannot hear the Senator.

Mr. CHURCH. The Senator from North Carolina has made a very persuasive argument for his amendment—can the Senator hear me now?

Mr. HELMS. Yes, and I like what I hear.

Mr. CHURCH. I am inclined to support it, but I want to make sure I understand it.

As I read the amendment, section 2 states:

> Beginning with the fiscal year 1975, the President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which non-trust-fund expenditures do not exceed non-trust-fund revenues for each fiscal year.

As I read that language, if it became law, Congress would merely be instructing the President to submit to Congress a budget in balance. Congress could then consider what parts of that budget it might want to decrease, and what parts it might want to increase. Congress cannot be bound by the President's budget. It would simply receive from the President a budget which was in balance, and then Congress could pass judgment on it. Is that not the effect of the amendment?

Mr. HELMS. The Senator from Idaho is eminently correct.

Mr. CHURCH. I think it is a good amendment. The arguments addressed against it do not seem to me to be convincing. Congress has demonstrated its incapacity to balance the budget when the President's budget calls for deficit spending. I have not seen that done yet. It will be difficult enough for Congress to vote a balanced budget, if the President were to submit one; but, for years the President has submitted budgets badly out of balance. It has been quite impossible for Congress to effect reductions of a sufficient magnitude to bring those budgets into balance.

So, I believe that, since we are pretty much all agreed that the state of the economy today calls for a balanced budget, Congress would be well advised to instruct the President to submit one at the opening of each new session.

For these reasons, I find the amendment sound and I intend to support it.

Mr. HELMS. I thank the Senator from Idaho very much. The most we are doing is to put ourselves on record. We are saying to the President, "Send us a balanced budget," and then we must overtly violate what we have said to him. I think this is a responsibility we should take.

Mr. LONG. Mr. President, let me read the Senator's amendment.

Section 1 begins:

> SECTION 1. Beginning with the fiscal year 1975, the non-trust-fund expenditures of the Government of the United States during each fiscal year shall not exceed its revenues from all nontrust sources for such year.

Mr. President, that is as clear as anything I have ever seen, that under the amendment we could not spend $1 more than we take in on a Federal funds basis. According to the current administration budget projections, in fiscal year 1974 we will have a surplus of $15 billion in trust fund items. They project a deficit of $15 billion on a Federal funds basis. This means that if this amendment were in effect at this time—as written, it goes into effect next year—the President would have to make a $15 billion cut in the budget. The amendment does not talk about just submitting a plan or going through the intellectual exercise, but about actually spending no more than is taken in—which this year would mean cutting out $15 billion of spending.

We have heard people complaining about some irresponsible cutbacks, particularly those involving expenditures in their States. But they have not seen anything yet, compared to what this amendment would mean—if it were effective this year, a $15 billion cut in addition to things that have been cut already. The amendment is not talking about an intellectual exercise. You have to cut the budget down, and you cannot spend one dollar more than you take in. The amendment does not even tell the President how or what to cut, by the way—just take that meat ax and slash away.

Those who complain about some irresponsible cutbacks in their States, such as cutbacks of certain defense installations and defense contractors, just have not seen anything, compared to what this would mean.

Section 1 reads:

> Section 1. Beginning with the fiscal year 1975, the non-trust-fund expenditures of the Government of the United States during each fiscal year shall not exeed its revenues from all nontrust sources for such year.

The President would not have to consult Congress, but just to take that meat ax and go to work on the budget. That would be a very foolish thing to do now, and it would be foolish to do next year.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BEALL. I do not quite understand the Senator. I get the same reading out of section 1 that he does, that the expenditures have to equal the revenues. But the Senator is implying that the only way to make this happen is through reduction of expenditures. You could also increase revenues, could you not, to take care of expenditures?

Mr. LONG. Yes, you could increase taxes.

Mr. BEALL. All the President has to do, then, is to submit a budget that is in balance. He does not necessarily have to cut. He could keep everything we have but show us the revenue that will pay the bill. Is that not correct? And Congress could do the same thing.

Mr. LONG. If the legislation raising the taxes is passed and the money comes in; yes. That is what you could do.

But here we have a situation in which committees set up by Presidents—Democrat and Republican—have recommended that the budget be kept on a consolidated, overall basis; and that we take the view that if we have a balanced budget on that basis, as long as we are taking in as much money as we are spending, we can safely do business in that fashion. One committee was headed by a very distinguished banker and outstanding Republican, Mr. David Kennedy, a subsequent Secretary of the Treasury.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. BROOKE. As I read the amendment, it requires that the nontrust fund expenditures of the Federal Government each fiscal year shall not exceed its revenue, beginning in fiscal 1975.

As I understand it, the information that the distinguished Senator from North Carolina gave to the distinguished Senator from Idaho was that the intent of this amendment is merely to instruct the President to submit a balanced budget. I do not get that meaning from the language of this amendment.

Could the Senator clarify whether we are merely instructing the President to submit a balanced budget or requiring, as the amendment says—and I think I am reading it correctly—that the nontrust fund expenditures of the Federal Government each fiscal year shall not exceed its revenues? Which is it?

Mr. LONG. If the Senator will read section 1, it says that you cannot spend any more than you take in on a nontrust fund basis. That is what the language clearly says.

Mr. President, I ask unanimous consent that the text of section 1 be printed at this point in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

> Section 1. Beginning with the fiscal year 1975, the non-trust-fund expenditures of the Government of the United States during each fiscal year shall not exceed its revenues from all nontrust sources for such year.

Section 2 says that the President shall submit a balanced budget on that basis.

Mr. BROOKE. Yes; but one cannot read section 2 without reading section 1. Section 1 is an essential requirement. It would appear to me it is a definite requirement.

Mr. LONG. What the amendment provides is two things. I cannot see whether it makes any difference whether the first part is first or the second part is first. What it says is that the President shall submit a balanced budget on a nontrust fund basis, and we will not spend any more than is in that balanced budget. That is on a non-trust-fund basis.

Mr. BROOKE. That is my interpretation. I thought we had a check on it until the question was asked by the Senator from Idaho (Mr. Church). When the Senator from North Carolina (Mr. Helms) responded, he seemed to be saying that the intent was merely to instruct the President to submit a balanced budget.

Is that as far as the Senator from North Carolina intends the amendment to go?

Mr. HELMS. No, indeed; it is not as far as I intend that it shall go. I intend that the Senate be on record as to a balanced budget. On any occasion that we stray from it, we do so overtly, so that the people can see what we have done.

Mr. LONG. Mr. President, I decline to yield for speeches. I will yield for one or two more questions.

Mr. BROOKE. The Senator has answered the question.

Mr. LONG. It seems to me that the point the Senator insists upon—for a balanced budget, on an old-fashioned basis, such as when I came here 25 years ago—I think I have demonstrated what that means.

I move to lay the amendment on the table.

Mr. CHURCH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

Mr. LONG. Mr. President, if the Senator wants to ask a question——

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

Mr. LONG. Mr. President, I shall withhold my motion, to allow the able Senator to ask a question. I yield for a question.

Mr. CHURCH. I think that, in a way, we have been chasing our tails in this argument. Section 1, it is true, does call for non-trust fund expenditures to be held in line with non-trust fund revenues. But the effect of the amendment would be to instruct the President, first of all, to send to Congress a budget that conformed to this standard. It is always open to Congress, then, in the exercise of its privilege, to increase the budget, if it chooses. Section 1 is not binding—and could not be—on a future Congress. But we can instruct the President to help by sending us a balanced budget, accepting full responsibility for any changes we make thereafter. So I think the essence of the amendment is as I have discussed it heretofore.

Mr. LONG. There, again, the Senator complains that he would not put us into this trap; and then he tries to find a way out. I have been in those traps before. The former Senator from Delaware, Mr. Williams, used to set such traps, and I would spend my time trying to get out of them.

I would not worry about that, because we have a Republican President, and I am a Democrat. Usually I can blame all these tricks on the Republicans. But I have found that they often spill over onto Democrats.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PASTORE. I am sure the Senator knows what would happen as a practical proposition. The President of the United States would submit a budget. He would put a lot of tidbits in it and say, "I suggest a tax increase of 50 percent. The revenue from that would be billions of dollars. Therefore, I am balancing the budget. The cat is right on your back. You go ahead and raise taxes by 50 percent. Otherwise, you will have to begin to chop out all the tidbits I have put in."

Mr. LONG. Otherwise, the ones who stand well with the President will not be cut with a meat ax, while those who do not stand well with the President, will be cut with the meat ax.

I move to table the amendment. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. Hughes), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), and the Senator from South Dakota (Mr. Abourezk) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. McGee) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Bennett), the Senator from North Dakota (Mr. Young), and the Senator from Virginia (Mr. William L. Scott) are necessarily absent.

The Senator from Idaho (Mr. McClure) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The result was announced—yeas 46, nays 42, as follows:

[No. 529 Leg.]

YEAS—46

Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Clark
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McIntyre
Mondale
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Ribicoff
Schweiker
Sparkman
Stafford
Stevenson
Taft
Tunney
Williams

NAYS—42

Allen
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
McClellan
Metcalf
Nunn
Pearson
Randolph
Roth
Saxbe
Scott, Hugh
Stennis
Stevens
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—12

Abourezk
Baker
Bennett
Hughes
McClure
McGee
McGovern
Montoya
Packwood
Scott,
William L.
Symington
Young

So Mr. Long's motion to table Mr. Helm's amendment (No. 732) was agreed to.

Mr. HELMS. Mr. President, while preserving my right to the floor, I have agreed to yield to the distinguished Senator from Oklahoma, if I may do so under unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask that it be reported.

The PRESIDING OFFICER. The Senator has two amendments. Will the Senator give the number, please?

Mr. BELLMON. Amendment No. 736, as modified.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read amendment No. 736, as modified.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 736, as modified, is as follows:

On page 122 of the bill, after line 24 insert the following new section:

Sec. 165. The Secretary of Health, Education, and Welfare shall conduct a study of and submit to the Congress not later than one year after the date of enactment of this section a report containing his findings and recommendations with respect to the appropriateness of establishing nationwide rates of ineligibility and overpayment in the Aid to Families with Dependent Children program under Part A of Title IV of the Social Security Act which may be reasonably expected to occur in the administration of such program when the eligibility determination processes and procedures are implemented in a prudent manner exercising reasonable diligence to avoid erroneous payment.

Mr. BELLMON. Mr. President, this amendment is very simple. It simply takes note of the fact that perfection in the administration of these programs is impossible and instructs the Secretary of HEW to study the programs and to recognize that we are always going to have a certain amount of ineligibility and to establish acceptable standards for programs which the States are administering.

I have discussed the amendment with the author of the bill. It was my understanding that he would accept the amendment.

Mr. LONG. Mr. President, I agree with that amendment. I think it is all right. I am willing to accept it.

Mr. BELLMON. Mr. President, I yield back the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 736 of the Senator from Oklahoma, as modified.

The amendment, as modified, was agreed to.

Mr. HELMS. Mr. President, I call up my amendment No. 741 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read amendment No. 741, offered by Mr. Helms for himself and Mr. Thurmond, as follows:

Sec. . Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide energy conservation program which shall include measures capable of reducing energy consumption by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation, through the imposition of limitations on the transportation of students in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence.

Mr. HELMS. Mr. President, this amendment was before the Senate not long ago. It was tabled, and I imagine that a motion to table this amendment will be made this afternoon.

I would simply reiterate that a vote to table this amendment is a vote to continue to waste millions of gallons of gasoline for the unnecessary, unwise and disruptive purpose of the forced busing of schoolchildren.

I have offered this amendment this afternoon because Senators have told me if they had it to do over again, they would support the amendment this afternoon. I am giving them that chance. If this amendment is rejected today, I intend to submit it again.

Mr. ALLEN. Mr. President, would the distinguished Senator from North Carolina yield to me?

Mr. HELMS. Mr. President, I yield to the distinguished and able Senator from Alabama.

Mr. ALLEN. Mr. President, I ask the Senator from North Carolina if he will agree to listing my name as a cosponsor of the amendment?

Mr. HELMS. Mr. President, I ask unanimous consent that, at the next printing of the amendment, the names of the Senator from Alabama (Mr. Allen) and the Senator from Florida (Mr. Gurney) be listed as a cosponsor. I am delighted to have them join in its sponsorship.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. ALLEN. Mr. President, may I have the floor in my own right? Did the Senator yield the floor?

Mr. HELMS. I did not yield the floor. I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. President, our people are face to face with the prospect of gasoline rationing. I am confident that the average citizen is willing to assume inconveniences and even hardships if necessity compels us to such drastic action. However, it will be a mistake to discount the commonsense of reasoning which governs their reactions to crises of this nature. They are going to insist that rationing of gasoline or other fuels must conform to standards of basic fairness and reasonableness.

Mr. President, fairness and reasonableness demand that gasoline supplies be conserved by the elimination of wasteful and unnecessary consumption. Each of us can identify separate prime targets of unnecessary consumption. However, no example of waste in the consumption of gasoline is more blatant than the artificial demand resulting from arbitrary, unreasonable, and irrational forced busing plans for racial balance which have been imposed by Federal court judges. This waste must stop.

Mr. President, in Alabama the annual consumption of gasoline for operating schoolbuses has increased tremendously in the last 5 years.

Mr. President, much of this increase is attributable to decrees of U.S. district court judges based on what I am convinced is a mistaken conception of constitutional requirements. For example, some Alabama city school systems have been ordered to bus children for the sole purpose of achieving an arbitrary racial mix in the schools, even though such city school systems had never before operated buses to transport children.

To contend that the U.S. Constitution requires school systems to purchase buses, employ and train bus drivers, establish maintenance shops, and assume the cost of operating, maintenance and obsolescence of busing equipment for no other purpose than to achieve and maintain a racial ratio in public schools is a palpable absurdity. The American people will not buy it.

At a time when the American people are called upon to tighten their belts to make sacrifices in the interest of conserving energy resources, it is incomprehensible that Federal judges should persist in pursuing a course which can lead only to massive discontent, and increased hostility to the judicial oligarchy which has assumed power over the lives of the citizens to order busing of their children in accordance with revealed truth of a bankrupt social science.

Mr. President, commonsense and reasoning must prevail over the judicial oligarchy. Nothing would be more reasonable and rational than to restore the law of the Constitution which protects the right of every school child to attend the school closest to his place of residence, without regard to race, creed, color or national origin. The American people are not going to tolerate busing plans which deny children their inherent right to attend a neighborhood school. They will not tolerate judicial edicts that require children to be forcibly and needlessly transported to a school across town at the cost of millions of gallons of gasoline.

Mr. President, I commend the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, would the Senator from Alabama yield for a question?

Mr. ALLEN. Mr. President, I yield for a question to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I would like to ask the distinguished Senator from Alabama whether he agrees with the Senator from North Carolina that busing under a judicial order for integration purposes is not only not required by the Constitution, but is also directly in conflict with the equal protection clause of the 14th amendment.

Mr. ALLEN. It certainly is. I agree with the Senator.

Mr. ERVIN. Mr. President, I would like to ask the Senator from Alabama if the equal protection clause does not clearly prohibit a State from treating in a different manner persons similarly situated.

Mr. ALLEN. That is certainly true. And that was the reasoning of the original Brown decision, from which the Supreme Court has now veered 180 degrees away.

Mr. ERVIN. Mr. President, I will ask the Senator from Alabama if it is not true that when a Federal court says to a school board, "You may permit some of the children residing in your zone or district to attend neighborhood schools. However, you must deny to other children residing in your zone or district the right to attend their neighborhood schools," that requires the school board to treat children similarly situated in a different manner, and therefore clearly violates the equal protection clause.

Mr. ALLEN. I certainly agree with the Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask the Senator from Alabama if, when a Federal court hands down a decree requiring the busing of children for the purposes of integration, it does not say to the school board, in addition to what I have already mentioned about treating children differently, "You must take these children whom you denied the privilege of exercising their constitutional rights to attend their neighborhood schools along with others similarly situated, and place them in a bus and transport them to schools located elsewhere either for the purpose of decreasing the number of children of their race in the neighborhood school or increasing the number of children of their race elsewhere." I ask the Senator from Alabama if that does not violate the equal protection clause as interpreted in the Brown case a second time in that it denies the children who are required to be bused to other schools admission to their neighborhood schools solely on account of their race.

Mr. ALLEN. It certainly does. I agree with the Senator from North Carolina.

Mr. ERVIN. We are not only confronted by decisions of courts, which are repugnant to the constitutional provision they profess to interpret, but in this time of a shortage in energy we are also engaging in wasting a scarce commodity which is absolutely essential to the welfare of the country, for a purpose which is absolutely inconsistent with any proper interpretation of the equal protection clause.

Mr. ALLEN. I agree with the Senator from North Carolina. I thank the Senator from North Carolina for his remarks.

Mr. HELMS. Mr. President, I thank the Senator from North Carolina and the Senator from Alabama for their remarks.

I yield now to the Senator from Colorado.

Mr. DOMINICK. Mr. President, for a long time I have been an opponent of the forced busing situation to overcome racial imbalance. However, there are a great number of schools in the West and also in the East which are in many cases countywide. Now, without discussing the racial situation at all, they rely on busing in order to get to their school. If we were to eliminate busing, then we would have the very difficult problem of, maybe, having an increase in the use of gasoline by parents bringing their kids to school if, as, and when they could find the time to do so.

I do not see any reference to racial imbalance in the amendment. It bothers me because in many towns in Colorado there would be no way to get to school most of the time if it were not for the busing system.

Mr. HELMS. Mr. President, I would say that the intent of the amendment rests on the words "insofar as possible." Of course, the judgment would be left to the school boards in the districts as to what is best for the children. Specifically, we are addressing ourselves to the forced busing of school children against their will.

Mr. DOMINICK. And that is the Senator's intent in the amendment?

Mr. HELMS. That is the intent of the amendment.

Mr. DOMINICK. Mr. President, I thank the Senator from North Carolina.

Mr. HELMS. I am ready to vote, Mr. President.

Mr. NELSON. Mr. President, I am a bit puzzled by the amendment, because it directs the President to design an energy conservation program which shall include measures capable of reducing energy consumption by no less than 10 percent within 10 days and no less than 25 percent within 4 weeks after implementation through the imposition of limitations on the transportation of students in schools operated by local or State educational agencies.

I do not have a chart here. I have one in my office that delineates rather carefully the energy consumption of the country by industry and occupation, and I believe it shows that if you closed every grade school in America and kept the children home, and if you closed every high school in America and kept the children home, I doubt very much whether we could save 1 percent of the total energy consumption of America, which includes all the energy from coal for running factories and power plants, all the energy from the major water resources of the country, all the energy from oil, from gasoline, and from nuclear power.

We have an amendment here that would purport to solve all the problems in the country without really accomplishing anything, because it could not save that much energy in any conceivable way.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. NELSON. I yield for a question.

Mr. HELMS. I would attempt to answer the question the Senator has raised, if the Senator desires.

Mr. NELSON. Yes, I am glad to yield for that purpose.

Mr. HELMS. The language in the first seven lines I propose refers to the entire package of various remedies contained in the energy bill which has already been passed by the Senate, and is drawn to make it consistent therewith. The discontinuance of forced busing would be only one of the many proposed remedies.

Mr. NELSON. If there is any such language in there, I do not read it. All it says, as I read it, is that the President is going to save 25 percent of the energy consumption in America by limiting the transportation of students in school buses. That is the way the plain language reads to me. I just say it cannot be done, apart from the fact that I do not agree with its purpose.

Mr. President, I am prepared to make a motion to table the amendment.

Mr. JAVITS. Mr. President, if the Senator will yield to me, this is the second time this matter has been up within a very short time. The Senator from Wisconsin has already pointed out the basic imperfection in the amendment in terms of its drafting. I would also like to point out another imperfection in terms of its drafting. It has been stated in answer to a question by the Senator from Colorado (Mr. DOMINICK) that the limitations on busing should only be insofar as possible. Again, I do not find that in the amendment. The "insofar as possible" relates to students walking to school, and then with the further qualification that even if they were conveyed they should be conveyed no farther than to the appropriate school nearest their residence.

That is the traditional neighborhood school idea, which would not answer this question either, because county central schools are not necessarily nearest the child's residence. But assuming all this would be perfected, Mr. President, and Mr. HELMS makes the differences by changing the language, the substance of the amendment is to use the energy emergency truly to pour gasoline on the flames of racial differences in the United States. The idea that they have all been dispelled and gone away we all know not to be true. Fortunately for us, at a time when we have deep troubles of many other kinds, there is some feeling of stability in the country upon this issue. Mr. President, I would say an American, let alone a Senator, should thank God for us that it is not the issue that it was but a very short time ago and may unhappily be again.

But if we want one way to create such an issue, this is it. All we have to do is undo court decrees and engage in the busing battle all over again, and we will really be pouring gasoline on that fire.

I think each Senator should vote to table this amendment without regard to the details precisely for that reason, because this is something we ought not to be dealing with right now. As long as it is not hitting us, let us not hit it.

Second, Mr. President, we did our utmost to resolve the problem by establishing criteria in the higher education bill, where this matter was wrestled with and fought over and finally written into some kind of law, which was of such a nature that although I was one of those who had a great deal to do with fashioning the final higher education bill, I, with others like Senator MONDALE, found it in conscience necessary to vote against the conference report, because we were deeply concerned about the effect of these very amendments, or amendments dealing with this very question, which were incorporated in that bill.

I say that only to indicate that though I am by no means satisfied, I think existing conditions have reduced tensions, unlike the mover of the amendment, and I think it would be unwise, in the interests of our Nation, to bring this issue to the fore by a positive act of denial of the kind which this represents.

If we want to maintain employment with respect of energy conservation, which we do, and if we want to retain egalitarianism—and that is why so many of us favor rationing as the most egalitarian way in which to meet the problem—we certainly do not wish to give new cause for profound public tension in an area which has been tension-ridden enough, and in which we need invite no more.

So I hope very much that Sentor NELSON's motion, which will imminently be made, to lay the amendment on the table will prevail.

Mr. HELMS. Mr. President, I would simply emphasize again, just before the motion to table, that Senators who vote to table will be voting to continue to waste millions of gallons of gasoline each year for an unwise, unworthy, destructive purpose.

The distinguished Senator from New York, who knows of my admiration for him. He is a gentleman. He made the same eloquent argument on the previous occasion when I submitted this amendment. He says that we should not throw gasoline on the fires of racial misunderstanding, or words to that effect.

I do not know how to square his appraisal of that situation with various polls which have been made available to me, polls showing, as I recall, that over 80 percent of the parents of black children of this country resent just as deeply as anyone else the forced busing of their children across the county for no purpose at all except to satisfy the whim of some Federal judge or Federal bureaucrat.

So I simply say, just prior to the motion to table which I understand is coming, that any Senator who votes to table the amendment will be voting to continue to waste millions of gallons of gasoline on forced busing of students.

Mr. THURMOND. Mr. President, I rise in support of this amendment.

In the first place, the amendment is so drawn that it would encourage school children to walk to school if possible without any public transportation, thereby saving fuel, where they live close enough to the school. In the next place, if they are transported, it provides through public means no further than the appropriate school nearest their residence. It simply means that a child can attend the school nearest his home.

Now the polls which have been taken all over the country show clearly that members of the white race and members of the black race oppose the busing of schoolchildren so as to bring about a racial balance.

This amendment is predicated on the theory of saving gasoline and it should save millions of gallons of gas and, at the same time would accomplish the purpose—certainly partly so—of transporting children in order to bring about a racial balance.

The Supreme Court decision of 1954 held clearly that no child could be deprived of entering any school because of his race or color. But, since that time, some Federal judges have taken different constructions and have made a 180-degree turn away from that decision, in holding that a child of one race can be transported to a school of another race simply to bring about a racial balance.

Mr. President, I understand that in the home State of my distinguished friend from North Carolina (Mr. HELMS), there is one child being transported on a schoolbus for miles and miles just because of a racial balance. That does not make any sense. It is a waste of fuel. It is an imposition on the child.

I think the time is not far off when the people of this country will realize that this asinine policy must be changed.

I realize that some of the leaders of some groups have taken another position and have gotten concrete on it, in that they hesitate to withdraw from their position.

Mr. President, this is not the kind of legislation to discriminate against anyone. This is the kind of legislation that will help children, and will help parents. It is unfair to the child, especially, to keep him on a schoolbus riding around for several hours a day just to bring about a racial balance, when he could go to school maybe within a block of his home, or nearer his home, and save his time.

Mr. President, I do not believe there is any use taking up a lot of time to discuss this issue. We are all familiar with it.

I hope that the Senate will see fit to adopt the amendment.

Mr. NELSON. Mr. President, I move to table the pending amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment (No. 741) of the Senator from North Carolina (Mr. HELMS).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. MCGEE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Idaho (Mr. Mc-

Clure) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The result was announced—yeas 48, nays 40, as follows:

[No. 530 Leg.]

YEAS—48

Aiken
Bayh
Bellmon
Biden
Brooke
Burdick
Cannon
Case
Church
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McIntyre
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—40

Allen
Bartlett
Beall
Bentsen
Bible
Brock
Buckley
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Johnston
Long
McClellan
Metcalf
Nunn
Randclph
Roth
Sparkman
Stennis
Talmadge
Thurmond
Tower

NOT VOTING—12

Abourezk
Baker
Bennett
Hughes
McClure
McGee
McGovern
Montoya
Packwood
Scott,
William L.
Symington
Young

So the motion to table Mr. Helms' amendment (No. 741) was agreed to.

Mr. MAGNUSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the appropriate place in the bill add a new section as follows:

Sec. —(a) Section 1631 (a) of the Social Security Act is amended by adding the following new subsection (G), "The Secretary may enter into arrangements with States under which such States will in emergency circumstances act as the Secretary's agent in making benefit payments under this Title. The cost of any such payments made by States under such arrangements shall be reimbursed by the Secretary."

(b) Subsection (a) of this section shall be effective January 1, 1974.

Mr. MAGNUSON. Mr. President, I can explain the amendment very briefly. The new supplemental security income program will be administered by the Federal Government and will replace the present State-administered programs of assistance to the aged, blind, and disabled. This new Federal program begins January 1. Under the old State-administered program, the States had the authority to make emergency payments to the aged, blind, and disabled when their checks were stolen or lost in the mails. My amendment will permit the States to make arrangements with HEW so that they can continue to make such emergency payments under the new Federal SSI program. Additionally, of course, it would authorize the Secretary to reimburse the States for such payments.

The need for this amendment is, I think, quite clear. For example, because of their low incomes, many of the aged, blind, and disabled live in areas characterized by high crime rates. Consequently, there is a very real problem with these persons' checks being stolen from their mailboxes.

When this occurs or when a check is delayed in the mail it is often nothing less than a catastrophe for many of these people who are completely dependent upon their Government checks to buy their groceries, pay their rent, and take care of the other basic necessities. In the past it has been possible for the States to make emergency payments to an aged, blind, or disabled person in these circumstances because the old assistance program was administered by the States.

It is important, I think, in launching this new federally administered program of assistance to the aged, blind, and disabled, that we continue to make it possible for the States in such emergency situations to immediately pay these people the money they must have to live. The bureaucracy can afford to wait while the stolen or lost checks are recovered or otherwise accounted for. But the aged, blind, or disabled recipient cannot wait.

I have been told by the Governor of my State that if this amendment becomes law he will immediately move to implement within Washington State the arrangements it authorizes for emergency payments. He also informs me that in his discussions with other Governors he has learned that the need for such a provision in the law is widely recognized and that he is confident it would be quickly implemented in other States as well.

Mr. President, in closing, I would note that this is a very simple way to make Government more responsive to the needs of its citizens and strongly urge its adoption by the Senate. I think this is an amendment that the Senator from Wisconsin and the Senator from Louisiana will accept.

Mr. NELSON. Mr. President, I think that this is a perfectly sound and needed amendment, and I am willing, therefore, to accept it.

Mr. CURTIS. Mr. President, it seems to me the amendment has merit. I have no objection to it. I would ask one question. The whole procedure is subject to the discretion of the Secretary, and he could work it out. Is that correct?

Mr. MAGNUSON. Yes.

Mr. CURTIS. In a way that will protect them.

Mr. MAGNUSON. Yes; all this does is to allow the Secretary to work this problem out with the States so that the aged, blind, or disabled recipient will not suffer if his check is lost or stolen.

Mr. CURTIS. And it has only to do with those people who are on the rolls to get a check and something happens to the check.

Mr. MAGNUSON. That is correct.

Mr. CURTIS. It does not affect the ability to place people on the rolls.

Mr. MAGNUSON. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

AMENDMENT NO. 742

Mr. HELMS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

Amendment No. 742

At the end of the bill add a new title as follows:

Sec. —. (a) The Food Stamp Act of 1964, as amended, is amended by inserting in section 5 thereof the following:

"(e) Notwithstanding any other provision of law, a household shall not participate in the food stamp program while its principal wage earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: *Provided*, That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, dispute, or other similar action in which any member of such household engages: *Provided further*, That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout.".

(b) Section 3 of such Act is further amended by adding at the end thereof the following new subsections:

"(o) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"(p) The term 'strike' includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective-bargaining agreement).".

Mr. HELMS. Mr. President, I am going to be brief in discussing this amendment. Any delay in the vote will not be the responsibility of the Senator from North Carolina.

Here again we have a matter of policy which I think the Senate should confront. It is a matter of U.S. Government participation in labor strikes. I do not think the taxpayers should subsidize either side in a labor dispute.

This amendment simply provides that food stamps should not be made available to those who walk out willingly on their jobs.

I see my distinguished friend, the junior Senator from Minnesota, across the aisle. I anticipate a motion to table. I will simply say that any Senator who votes to table this amendment will, in effect, be voting to use tax funds for the provision of food stamps to people who deliberately and willingly walk out on their jobs, thereby requiring the taxpayers to finance, in part, a strike.

Mr. THURMOND. Mr. President, three times in the past 4 years I have introduced a bill which would prohibit food stamp distribution to a household where the head of the household is engaged in a labor strike.

This bill was referred to committee, and the full Senate has not yet had an opportunity to vote on it.

Today I am pleased by the fact that Senator HELMS is offering an amendment, of which I am a cosponsor, to the social security amendments with the same objective in mind.

Mr. President, I do not believe that the majority of the people know that striking workers can receive food stamps. When our taxpayers realize this fact, they are outraged because their tax dollars are being used to help one side in a labor dispute.

To provide strikers with food stamps is to allow the Government to take sides in the dispute. This is not the purpose of the food stamp program. The purpose of the food stamp program is to assist those who are unable to work or to find employment and, therefore, cannot support their families. It should not be the purpose of the program to subsidize those who have jobs and are able to support their families.

The taxpayers bear the ultimate burden of financing this program. Tax dollars should not be spent on food stamps for those who voluntarily refuse to work, but should be used to help those who are genuinely in need.

Mr. President, the time has come to reevaluate our priorities in regard to the food stamp program. It is time that we in the Senate take a stand on this issue and I urge my colleagues to vote favorably on this long overdue measure.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. THURMOND. I yield.

Mr. AIKEN. I was just wondering whether, if 52 percent of union members had voted to go on strike, and if 48 percent voted against going on strike, would that 48 percent be entitled to food stamps?

Mr. THURMOND. A man does not have to go out on strike unless he wants to. If he goes out on strike, he has a right to do so. If he does, I do not think he is entitled to food stamps.

Mr. AIKEN. Does the Senator mean that those who are opposed to the strike should not be entitled to food stamps?

Mr. THURMOND. If they participate in the strike.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senators from Arizona (Mr. GOLDWATER and Mr. FANNIN) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, since the distinguished Senator from North Carolina has mentioned my name, I may say that I am opposed to the amendment.

Mr. LONG. Mr. President, I have a great deal of sympathy for the amendment. I have voted for it on occasion. At a point where it appears that we have a chance to do something along the line the Senator is advocating, I expect to vote for it again.

But we have before us a bill that has a very decided prospect of a Presidential veto, as the bill now stands. I hope that we can lay before the President a bill that will contain items which have been agreed to by the Senate and the House by a vote of 70 or 80 percent, including a social security increase to help the poor beyond the point where the President is willing to go. So if we have to make efforts to override a veto, we will have a bill which we will be able to pass even over that veto.

With all of the things that are in the bill now, it would not take a great deal of dilatory tactics to prevent the bill from becoming law.

When we have a chance to pass a bill on the basis where we might get a clean vote on this issue, up or down, and where we may have some prospect of getting something, I will be willing to cooperate to help the Senate provide an answer, but for now we just would not achieve it. All we would do is defeat good provisions in the bill which deserve to become law between now and January 1.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HUMPHREY. I think another point needs to be made, which the Senator from Vermont was attempting to make, and which he made very well; namely, that in some of these strike situations there are workers who are, in a sense, innocent victims. It is wrong to deny them, if want is there, of some provision for their care. After all, many times strikes take place when the vote to strike is not unanimous, but by the nature of the established labor law, those people have to go out on strike.

There are honest differences of opinion on this matter. I do not question anybody's motives. It just seems to me this question deserves special consideration and should not be attached to a bill which, as the Senator has said, is going to have as much trouble getting by as this.

Mr. LONG. If we resolve this issue, it will not be by the language of this amendment. It will be by something that will say that those who are actively engaged in a strike will be denied food stamps, but not those who are not crossing picket lines or those persons who, as the Senator suggests, have no involvement in the strike but are merely denied the opportunity to work because one union in an assembly line walks out on strike, with the result that, because one particular function is not being performed, there is no other work for anybody else.

This, in my judgment, is not the best amendment along that line. Even if it were. I would not be in a position to support it at this time. I would have to ask to keep it out of the bill, because I am satisfied that if we had the amendment in the best possible form the Senate could put it in after a great deal of consideration and modifications, we would still have an issue that would, in my judgment, make it impossible to take this bill to the President and make it law.

Knowing that we are being threatened by a veto because of some provisions in this bill which have passed the Senate by a vote of more than 90 percent from time to time, and which are likely to reach the President's desk, I do not want to see a lot of good things in this bill fail of enactment because we insist on adding to the bill an item that the President favors, but which would dictate that we could not override the President's veto.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. LONG, I yield.

Mr. AIKEN. I would think that anything affecting food stamps would go before the Committee on Agriculture and Forestry. It has, anyway, in the last generation or so.

Mr. LONG. That is another problem we would have to contend with.

Mr. AIKEN. If it got to the House, it would be held to be nongermane. If we had anything in a bill affecting the food stamp law and it went to the House, it would be held to be nongermane over there and might be disastrous to the entire bill.

Mr. LONG. I thank the Senator. I think it might lead to the Agriculture Committee members in the House objecting to the bill going to conference, and, therefor, impeding the bill.

For those reasons, Mr. President, I move to lay the amendment on the table.

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from North Carolina (No. 742). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. MCGEE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Idaho (Mr. MCCLURE) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The result was announced—yeas 56, nays 32, as follows:

[No. 531 Leg.]

YEAS—56

Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cook
Cranston
Eagleton
Fong
Fulbright
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McIntyre
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker

NAYS—32

Allen
Bartlett
Bellmon
Brock
Buckley
Byrd,
 Harry F., Jr.
Chiles
Church
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
McClellan
Metcalf
Nunn
Roth
Scott,
 William L.
Stennis
Talmadge
Thurmond
Tower

NOT VOTING—12

Abourezk
Baker
Bennett
Hughes
McClure
McGee
McGovern
Montoya
Packwood
Symington
Williams
Young

So the motion to table Mr. HELMS' amendment was agreed to.

AMENDMENT NO. 664

Mr. CHURCH. Mr. President, I call up amendment No. 664, and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I ask unanimous consent that the clerk refrain from further reading of the amendment, and I shall explain it to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD in full.

Mr. CHURCH's amendment (No. 664) is as follows:

On page 9 add the following at the end thereof:

SEC. . (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"SEC. 1880. (a) Nothing in this title shall be construed to require—

"(1) any individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

"(2) any provider of services to—

"(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

"(B) provide any personnel for the performance of assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

"(b) No provider of services which receives any payment under this title may—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

"(c) The amendments made by this section shall be effective on the first day of the month following the month in which this Act is enacted.".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SEC. 1911. (a) Nothing in this title shall be construed to require—

"(1) any individual to perform or assist in the performance of any sterilization procedure or abortion in his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

"(2) any agency, institution, or facility to—

"(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

"(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

"(b) No agency, institution, or facility which receives any payment under this title may—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

"(c) The amendments made by this section shall be effective on the first day of the month following the month in which this Act is enacted.".

Mr. CHURCH. Mr. President, earlier this month I announced my intention to offer this amendment to the pending bill. It would provide that medical personnel, who by participation in the medicare and medicaid programs are recipients of Federal funds, shall not be required, on the basis of this aid, to participate in the performance of sterilization or abortion procedures if such procedures are in violation of that individual's religious beliefs or moral convictions.

With only technical modifications, this is the same provision adopted overwhelmingly by Congress as title IV of S. 1136, the omnibus health bill, subsequently signed into law—Public Law 93-45. When I originally authored the "conscience clause," the language was such that it applied to recipients of aid under all Federal health programs. It was in this form that it originally passed the Senate last March. However, the germaneness rules in the House of Representatives dictated that this provision could only apply to those programs specifically authorized by S. 1136—the Public Health Service Act, and the Community Mental Health Centers Act—and today these are the only programs which fall within the reach of the law.

I indicated at the time of final passage of the omnibus health bill my intentions to find an appropriate vehicle for the extension of similar protection to doctors and other medical personnel who receive Federal assistance through their participation in medicare and medicaid programs. Because of its technical nature, H.R. 3153 is the most appropriate vehicle to accomplish this purpose. I think it is the general consensus of the Members of Congress that this recent enactment of law was not intended to be discriminatory, and that this protection should be extended to providers of medicare and medicaid services.

When I initially authored the "conscience clause" last spring, I cited a case, Taylor against St. Vincent's Hospital, whereby a Federal district court in Montana had issued a temporary injuction compelling a Catholic hospital, contrary to Catholic beliefs, to allow its facilities to be used for a sterilization operation. The district court based its jurisdiction upon the fact that the hospital had received Hill-Burton funds. On October 26, 1973, the Federal district court reversed their previous decision and ordered that the preliminary injunctive relief issued by the court be dissolved. In this decision, the court based ther decision on the provisions of Public Law 93-45, 87 statute 91, section 401(b)—the conscience clause provision of the Public Health Service Act.

Mr. President, I ask unanimous consent that the court opinion and order be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. I also call to the attention of my colleagues the case of Watkins against Mercy Medical Center, and ask unanimous consent that the court's memorandum in that case be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CHURCH. In this case, a U.S. district judge for the State of Idaho, ruled, partially on the provisions of Public Law 93-45, 87 statute 91, section 401(b), that a hospital did not have to reinstate the staff privileges of a doctor who refused to comply with the medical code of a Catholic hospital which had in previous years received Federal aid. It was the consensus of the court that this statute prohibits any court from finding State action on the part of a hospital which receives Hill-Burton funds and using that finding as a basis for requiring the hospital to make its facilities available for the performance of sterilization procedures or abortions.

I am pleased that Senators DOMENICI, EASTLAND, BUCKLEY, EAGLETON, BIBLE and PROXMIRE have asked to join as cosponsors of my amendment, No. 664, to the social security amendments, and I ask that the record so indicate. This amendment is necessary if we are to protect the religious beliefs of all health care personnel who receive Federal assistance, and I urge my colleagues to act favorably to extend this protection to those personnel who receive Federal assistance through their participation in medicare and medicaid programs.

Mr. President, I hope the distinguished

manager of the bill will see fit to accept the amendment. In view of the fact that it is with a few technical changes identical to the earlier amendment that was overwhelmingly passed by the Senate and is now the law, and consistent with that earlier judgment reached by the Senate, I would hope the distinguished Senator from Wisconsin would find it possible to accept the amendment.

Mr. NELSON. Mr. President, we are prepared to accept the amendment.

Mr. CHURCH. Mr. President, the distinguished senior Senator from Delaware (Mr. ROTH) has asked that his name also be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment (No. 664) of the Senator from Idaho.

The amendment was agreed to.

EXHIBIT 1

[In the U.S. District Court for the District of Montana, Civil No. 1090]

OPINION AND ORDER

(James Michael Taylor and Gloria Jeane Taylor, husband and wife, on Behalf of themselves, individually, and on behalf of others who may be members of a class of persons similarly situated, Plaintiffs, versus St. Vincent's Hospital, a Montana Corporation, Defendant)

The parties have agreed that the court may render a decision in this cause without a trial, based upon the stipulated facts which appear in the court's final pre-trial order. Those pertinent facts may be summarized as follows:

St. Vincent's Hospital is a private corporation which operates a hospital facility in Billings, Montana, known as St. Vincent's Hospital. It has done so since May 1, 1972, when it took over the operation of the hospital from the Sisters of Charity of Leavenworth, also a private corporation, whose members are all members of a religious order of that name. The physical facilities of St. Vincent's Hospital are now and at all times material in this case have been owned by the Sisters of Charity of Leavenworth, a corporation.

As a private, charitable, non-profit corporation, St. Vincent's Hospital received certain tax benefits from the State of Montana. The Sisters of Charity of Leavenworth, a corporation, when it operated St. Vincent's Hospital, also applied for and received funds under the Hill-Burton Act (42 U.S.C. §§ 291–291(c)) during the years 1956 through 1963.

Tubal ligation as a sterilization procedure had not, prior to the preliminary injunction issued by this court in this cause, been performed at St. Vincent's Hospital because of the interpretation placed upon the publication entitled "Ethical and Religious Directives for Catholic Hospitals" which is incorporated by reference in the By-laws of the medical staff of St. Vincent's Hospital. The Bishop of Eastern Montana of the Roman Catholic Church has the responsibility to interpret the directives for members of the Church of Eastern Montana, including members of the congregation of the Sisters of Charity of Leavenworth who are on the Board of Directors or are employed at St. Vincent's Hospital. The preamble in the "Ethical and Religious Directives" makes it clear that they are based upon moral convictions.

St. Vincent's Hospital and Billings Deaconess Hospital are the only hospitals in Billings, Montana. In June, 1972, the maternity departments of the two hospitals were combined in St. Vincent's Hospital, and an intensive care nursery was constructed in St. Vincent's Hospital in order to reduce infant mortality in the community and to reduce the cost to the community of duplicated maternity services. Prior to approving consolidation of maternity services at St. Vincent's Hospital, the Trustees of Sisters of Charity of Leavenworth advised local obstetricians and trustees of the Billings Deaconess Hospital that surgical sterilizations would not be allowed at St. Vincent's Hospital. The consolidations was completed and the combined maternity department with intensive care facilities opened in June, 1972.

The plaintiffs, James and Gloria Taylor, are a married couple who were expecting a second child to be delivered by Caesarian section on October 31, 1972. The couple decided that they wished Mrs. Taylor to be sterilized by tubal ligation at the time of the Caesarian section and requested permission of St. Vincent's Hospital for the procedure. Permission was denied.

Plaintiffs allege in their complaint that the defendant in refusing to permit Mrs. Taylor to undergo a tubal ligation at the time of her Caesarian delivery infringed certain rights guaranteed to the plaintiff by the United States Constitution. The plaintiffs further allege that the infringement was committed under color of state law. The prayer asked for injunctive relief, not only for the Taylors, but also for "other persons similiarly situated in the State of Montana."

The plaintiffs seek to invoke the jurisdiction of this court under the provisions of 42 U.S.C. § 1983 and 28 U.S.C. § 1343. 42 U.S.C. § 1983 reads:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

28 U.S.C. § 1343 reads in pertinent part:

"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person: * * *

"(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; * * *."

Essential to the plaintiffs' invocation of jurisdiction in this cause is that the defendant, in its alleged violation of the plaintiffs' constitutional rights, acted under color of state law. The plaintiffs' assertion that the defendant is acting under the color of state law is grounded primarily on the fact that Hill-Burton grants have been used to defray a portion of the cost of hospital remodeling and construction over the years. In fact, this court, in its order dated October 27, 1972, found jurisdiction in this cause because of the receipt of such funds by the defendant.

However, on June 18, 1973, the President signed into law the Health Programs Extension Act of 1973. Title IV, Section 401, of that Act, provides in part:

"(b) The receipt of any grant, contract, loan or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act, by any individual or entity does not authorize any court or any public official or other public authority to require— * * *

"(2) such entity to—

"(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facility is prohibited by the entity on the basis of religious beliefs or moral conviction. . . ."

Public Law 93–45, 87 Stat. 91, Section 401(b). By its plain language, this Act prohibits any court from finding that a hospital which receives Hill-Burton funds, is acting under color of state law. The above sections were specifically aimed at such a result as evidenced by the legislative history.[1]

In a recent memorandum filed in this action, the plaintiffs attack the Constitutionality of Section 401(b). Specifically, the plaintiffs launch a direct attack upon this section as being contrary to the establishment clause of the First Amendment. However, the question of the Constitutionality of that section is not before this court. Furthermore, the case law relied upon by plaintiffs relates to parochial schools and is distinguishable from the instant case.

Nor does Section 401(b) present any question of retroactive application. It simply limits the remedies the court may grant. It can only affect pending and future court proceedings and does not purport to affect cases in which judgments have become final. Moreover, there is nothing in Section 401(b) to suggest that it applies only in situations where receipt of the public fund occurred after the effective date of the Act. To apply Section 401(b) in such a way would produce the bizarre result that hospitals which have received Hill-Burton funds prior to June 18, 1973, could be forced to permit sterilizations, while those which received such funds after June 18, 1973, could not. This was not the Congressional intent.

Furthermore, there can be no doubt that

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[1] See H.R. No. 93–227; 1973 U.S.C.C. & A.N. 1553. The latter includes the following language:

"The background for subsection (b) of section 401 of the bill is an injunction issued in November 1972 by the United States District Court for the District of Montana in *Taylor* v. *St. Vincents Hospital*. The court enjoined St. Vincents Hospital, located in Billings, Montana, from prohibiting Mrs. Taylor's physician from performing in that hospital a sterilization procedure on her during the delivery of her baby by Caesarian section.

"The suit to enjoin the hospital was brought under 42 U.S.C. 1983 (which authorizes civil actions for redress of deprivation of civil rights by a person acting under color of law) and 28 U.S.C. 1343 (which grants United States district courts jurisdiction of actions (authorized by another law) to redress deprivation, under color of any State law, of a Constitutional right). In ruling on a motion to dismiss for lack of jurisdiction, the court stated that 'the fact that the defendant [St. Vincents Hospital] is the beneficiary of the receipt of Hill-Burton Act [title VI of the Public Health Service Act] funds is alone sufficient to support an assumption of jurisdiction. . . .' The court also found two other factors (state licensing and tax immunity) that established a connection between the hospital and the State sufficient to support jurisdiction.

"Subsection (b) of 401 would prohibit a court or a public official, such as the Secretary of Health, Education, and Welfare, from using receipt of assistance under the three laws amended by the bill (the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act) as a basis for requiring an individual or institution to perform or assist in the performance of sterilization procedures or abortions, if such action would be contrary to religious beliefs or moral conviction.

"In recommending the enactment of this provision, the Committee expresses no opinion as to the validity of the *Taylor* decision."

Section 401(b) which restricts the course and power of inferior federal courts is a valid exercise of Congressional power. Under Article III of the Constitution, Congress can establish such inferior courts as it chooses. Its power to create those courts includes the power to invest them with such jurisdiction as it deems appropriate for the public. *Lockerty* v. *Phillips*, 319 U.S. 182, 187 (1943). Further, Congress is free to legislate with respect to remedies the inferior Federal courts may grant. *Aetna Life Ins. Co.* v. *Haworth*, 300 U.S. 227, 240 (1937).

For the foregoing reasons, it is hereby ordered that the plaintiffs be denied all relief.

It is further ordered that the preliminary injunctive relief issued by this court on October 27, 1972, is dissolved.

The Clerk of this court is directed to enter judgment accordingly.

Done and dated this 26th day of October, 1973.

EXHIBIT 2

[In the U.S. District Court for the District of Idaho, Civil No. 1-73-17]

MEMORANDUM DECISION AND ORDER

(Wilfred E. Watkins, M.D., plaintiff, versus Mercy Medical Center, et al., defendants)

The plaintiff brought this action for injunctive and compensatory relief against the defendant hospital and its Board of Directors, contending that he had been denied medical staff privileges for failure to agree to, or abide by, the ethical or religious directives under the Code of Ethics for Catholic Hospitals as required by the application of any physician for staff privileges within the hospital, and that such a denial was a violation of his right to freedom of religion and due process of law. Recent congressional action concerning the subject matter of this suit and review of the evidence herein viewed in the light thereof convinces the Court that the plaintiff's claim is without merit.

Briefly, the facts as stipulated are that Dr. Watkins was denied reappointment to the medical staff at Mercy Hospital Center for failure to submit a proper application, reappointment to the staff coming on an annual basis. In his application of December 1, 1973, Dr. Watkins wrote an exclusion to his agreement to abide by the By-Laws of the Medical Staff of Mercy Medical Center so as to exclude the Ethical and Religious Directives for Catholic Health Care Facilities. Upon review by the Credentials Committee and the Executive Committee of the Medical Staff and the hospital Board of Directors, his application was rejected.

Dr. Watkins resubmitted an identical application which was also rejected for his refusal to comply with the Ethical and Religious Directives. His staff privileges thereafter expired on February 1, 1973. Dr. Watkins refused to comply with or agree to the Ethical and Religious Directives because they prohibit staff physicians from performing voluntary or involuntary vasectomies or other sterilization or abortion operations in a hospital setting. These procedures are prohibited solely for religious reasons as the hospital is financed and operated almost entirely by the Catholic Church.

On the record it is admitted that Dr. Watkins is in all other respects, training, experience and ethically, qualified for staff priviliges. It should be noted that there are approximately 5 hospitals within 50 miles of the Mercy Hospital which do permit all of the procedures under discussion here. Dr. Watkins, therefore, submits that his dismissal for failure to agree to or comply with the directives denies him of his own religious beliefs and his right to practice medicine without due process of law and he requests injunctive relief reinstating his staff privileges, as well as praying for general damages of $100,000.00.

The meagre evidence adduced by Dr. Watkins would not support any monetary relief against defendants.

Dr. Watkins has alleged jurisdiction in this Court to hear this matter on the basis of 28 U.S.C. § 1343(3),[1] contending defendants have deprived him of his constitutional rights in violation of 42 U.S.C. § 1983,[2] and also alleged jurisdiction under 28 U.S.C. § 1331[3] and 42 U.S.C. § 2000d.[4] For reasons more fully developed in this opinion, this Court feels Dr. Watkins is not entitled to the relief which he requests.

In order to state a claim for relief under 42 U.S.C. § 1983, it must be shown that Mercy Medical Center and its Board of Directors were acting under color of State law when they denied Dr. Watkins staff privileges. In other words, it must be determined that the enforcement of the hospital's rule requiring conformity by the medical staff to the directives which prohibit contraceptive procedures was an act done under color of State law. Since the hospital itself is otherwise a private hospital and not owned or operated by any arm of the state, the only means by which it could be said to act under color of law is if the hospital is sufficiently affected by state law and regulation and administration of federal funds by the state as to be considered acting under color of law.

Mercy Medical Center was constructed with the help of Federal Hill-Burton Act funds.[5] It has been held that hospitals which receive Hill-Burton funds are affected with state action. *Sams v. Ohio Valley General Hospital Association*, 413 F. 2d 826 (4th Cir. 1969); *Citta v. Delaware Valley Hospital*, 313 F. Supp. 301 (D.C. Penn. 1970); *Taylor v. St. Vincent's Hospital*, Civ. No. 1090, D.C. Mont., Oct. 31, 1972. However, recent congressional action has effectively revoked the ability of a court to find state action on the part of a hospital which receives Hill-Burton Act funds.

On June 18, 1973, the President signed into law the Health Programs Extension Act of 1973. Title IV, Sec. 401 of that Act, provides in part:

"(b) The receipt of any grant, contract, loan or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act by any individual or entity does not authorize any court or any public official or other public authority to require—

"(2) such entity to—

"(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions. . . ." P.L. 93-45; 87 Stat. 91, § 401(b).

By its plain language this Act prohibits any court from finding state action on the part of a hospital which receives Hill-Burton funds and using that finding as a basis for requiring the hospital to make its facilities available for the performance of sterilization procedures or abortions. The above sections were specifically aimed at such a result as evidenced by the legislative history. See H.R. No. 93-227; 1973 U.S. Code Congressional and Administrative News, 1553 and 1557.[6]

In essence, what Dr. Watkins has asked this Court to do is require Mercy Medical Center to make its facilities available for the performance of sterilization procedures by way of requiring his reinstatement to the medical staff. The above language of the Health Programs Extension Act of 1973 clearly prohibits such a course of action.

Neither does the fact that Mercy Medical Center receives tax exempt status from the state, is licensed by the state and applies for and receives state and federal monies under the Medicare and Medicaid programs, support a finding that the hospital is sufficiently clothed with state control so as to be acting under color of state law. The state has exacted no conditions upon the hospital concerning sterilization or abortion in order to receive tax benefits or state or federal money.

The state regulations which the hospital must conform to in no way relate to its policy concerning sterilization or abortions. Since hospital policy is not and has not been affected by the benefits bestowed upon it by the state, defendants were not acting under color of state law when the policy was formulated or enforced. *Doe v. Bellin*, F. 2d (9th Cir. 1973); *Ham v. Holy Rosary Hospital*, U.S.D.C., Mont. Dec. 20, 1972, No. 1103, There-

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[1] "The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;"

[2] "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[3] (a) The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States.

[4] No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

[5] Title IV of the Public Health Services Act; 42 U.S.C. § 291 et seq.

[6] The "Purpose of Proposed Legislation." p. 1553, dealing with the "conscience amendment" to the Health Programs Extension Act of 1973, speaks directly to the point:

"The background for subsection (b) of section 401 of the bill is an injunction issued in November 1972 by the United States District Court for the District of Montana in *Taylor* v. *St. Vincents Hospital*. The court enjoined St. Vincents Hospital, located in Billings, Montana, from prohibiting Mrs. Taylor's physician from performing in that hospital a sterilization procedure on her during the delivery of her baby by Caesarian section.

"The suit to enjoin the hospital was brought under 42 U.S.C. 1983 (which authorizes civil actions for redress of deprivation of civil rights by a person acting under color of law) and 28 U.S.C. 1343 (which grants United States district courts jurisdiction of actions (authorized by another law) to redress deprivation, under color of any State law, of a Constitutional right). In ruling on a motion to dismiss for lack of jurisdiction, the court stated that 'the fact that the defendant [St. Vincents Hospital] is the beneficiary of the receipt of Hill-Burton Act [title VI of the Public Health Service Act] funds is alone sufficient to support an assumption of jurisdiction. . . .' The court also found two other factors (state licensing and tax immunity) that established a connection fore, Dr. Watkins has not stated a claim for relief under 42 U.S.C. § 1983. *Chism v. Price,* 457 F. 2d 1037 (9th Cir. 1972).

However, despite supporting a finding that defendants were not acting under color of state law, the Health Programs Extension Act is not without the characteristics of a double-edged sword. Title IV of the Act further provides that:

"(c) No entity which receives a grant, contract, loan or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Services and Facilities Construction Act after the date of enactment of this Act may— . . .

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions respecting sterilization procedures or abortions." P.L. 93–45; 87 Stat. 91, § 401 (c).

Congress has taken the position that the fact a hospital receives Hill-Burton funds does not authorize a finding that the hospital acts under color of state law as a basis for requiring it to make its facilities available for the performance of sterilization procedures or abortions if the hospital declines for religious or moral reasons. But, at the same time, the hospital cannot discharge a staff member who religiously or morally believes that such services should be performed. The legislation is aimed at protecting the religious rights of both the hospital and the individual. The hospital can prohibit its staff from performing sterilization procedures or abortions in the hospital, but it cannot require its staff to adhere to the religious or moral beliefs which support the hospital's policy as a condition of employment or extension of privileges.

In this case Mercy Medical Center, by way of its application for staff privileges, was requiring Dr. Watkins to agree not to perform sterilization services in the hospital. The hospital was not trying to require Dr. Watkins to adopt their religious beliefs, for he is free to believe that sterilization services should be offered and performed, but the hospital also has the right to believe that such services should not be performed and the right to prohibit the use of its facilities for those purposes.

By similar analysis, Dr. Watkins' general constitutional claim that defendants have violated his First and Fourteenth Amendment rights is without merit. It is unquestioned that the prohibition against the establishment of, or prevention of, the free exercise of religion is wholly applicable to the states through the Fourteenth Amendment. *Cantwell v. Connecticut,* 310 U.S. 296, 84 L. Ed. 1213, 60 S. Ct. 900 (1940); *Cruz v. Beto,* 405 U.S. 319, 31 L. Ed. 2d 263, 92 S. Ct. 1079 (1972).

But in order to support a claim that Dr. Watkins has been denied the right to freely exercise his religious beliefs or that he had been denied due process of law, he must show some significant state involvement in the activity that allegedly has violated his rights. *U.S. v. Price,* 383 U.S. 787, 16 L. Ed 2d 267, 86 S. Ct. 1152 (1966); *Martin v. Pacific Northwest Bell Tel. Co.,* 441 F. 2d 1116 (9th Cir. 1971). For the reasons previously stated in this opinion, the Court is of the belief that there was not state action in this matter.

Plaintiff's claim under 42 U.S.C. § 2000d is without merit also. Assuming that Dr. Watkins was discriminated against on the basis of his religious beliefs, that section speaks only in terms of racial discrimination.

In conclusion, even assuming the requisite state action in this matter to support a claim for relief under 42 U.S.C. § 1983 or the Fourteenth Amendment, the Court feels it must emphasize that Mercy Medical Center has the right to adhere to its own religious beliefs and not be forced to make its facilities available for services which it finds repugnant to those beliefs. The hospital cannot discriminate against those who believe otherwise, but it can set up reasonable safeguards to insure that others do not use their facilities for services which the hospital does not religiously believe should be offered. Dr. Watkins is free to believe that sterilization services should be provided for the public and to perform them anywhere he is able. However, he cannot force Mercy Medical Center to allow him to perform them in its hospital. To hold otherwise would violate the religious rights of the hospital.

It is, therefore, ordered that the plaintiff's request for both preliminary and permanent injunction against defendants be, and the same is hereby, DENIED, and that the plaintiff take nothing by his complaint against the defendants. No costs are allowed.

If counsel so stipulate in writing filed with the Clerk, this Memorandum shall constitute the Findings of Fact and Conclusions of Law and defendants' counsel will submit an appropriate proposed judgment. If not so agreed, defendants' counsel will make the submissions required by Local Rule 18.

Dated this 30th day of July, 1973.

J. BLAINE ANDERSON,
U.S. District Judge.

AMENDMENT NO. 701

Mr. CHURCH. Mr. President, I call up my Amendment No. 701 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I ask unanimous consent that the clerk be permitted not to read the entire text of the amendment, and I shall explain its purpose to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH's amendment (No. 701) is as follows:

At the appropriate place in the bill, insert the following new section:

LIBERALIZATION OF MEDICARE LIFETIME RESERVE

SEC. . (A) Section 1812 of the Social Security Act is amended—

(1) by striking out "150" in subsection (a) (1) and inserting in lieu thereof "210";

(2) by striking out "150" in subsection (b) (1) and inserting in lieu thereof "210"; and

(3) by striking out "150-day" in subsection (c) and inserting in lieu thereof "210-day".

(b) The last sentence of section 1813 (a) (1) of the Social Security Act is amended to read as follows: "Such amount shall be further reduced by a coinsurance amount equal to one-fourth of the inpatient hospital deductible for each day (before the day following the last day for which such individual is entitled under section 1812(a) (1) to have payment made on his behalf for inpatient hospital services during such spell of illness) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell, except that the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for such services (and for this purpose, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed).".

(c) The changes made by this section shall become effective January 1, 1974.

Mr. CHURCH. Mr. President, in connection with this amendment, I ask unanimous consent that Mr. David Affeldt, the Chief Counsel for the Select Committee on Aging, and Mr. Glenn Markus of the Congressional Research Service, be permitted to be present on the floor to provide technical assistance during the consideration of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, this amendment is designed to accomplish two objectives. First, it would increase the medicare lifetime reserve from 60 to 120 days.

Second, it would reduce the daily rate of coinsurance now applicable to medicare lifetime reserve days to one-fourth—rather than one-half as under present law—of the inpatient hospital deductible. As things now stand, the daily coinsurance charge is $36 for individuals who must draw upon their lifetime reserve. For 1974 this amount is scheduled to increase to $42. If my amendment is adopted, the daily coinsurance rate would be reduced to $21.

My amendment is based upon the recommendations of the highly respected 1971 Advisory Council on Social Security.

Under present law, medicare pays for up to 90 days of hospitalization during each benefit period. For the first 60 days, the hospital insurance part of the program pays for all covered services, except for the initial $72 which is charged to the patient. From the 61st through the 90th day, the medicare beneficiary has a daily coinsurance charge equal to one-fourth of the inpatient hospital deducti-

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between the hospital and the State sufficient to support jurisdiction.

"Subsection (b) of 401 would prohibit a court or a public official, such as the Secretary of Health, Education, and Welfare, from using receipt of assistance under the three laws amended by the bill (the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act) as a basis for requiring an individual or institution to perform or assist in the performance of sterilization procedures or abortions, if such action would be contrary to religious beliefs or moral conviction.

"In recommending the enactment of this provision, the Committee expresses no opinion as to the validity of the *Taylor* decision."

The "Section-by-Section Analysis" under the item "Miscellaneous, p. 1557–58, succinctly states congressional purpose as follows:

"In addition, section 401 of the bill provides that receipt of financial assistance under any of the aforementioned Acts does not constitute legal basis for a judicial or administrative order requiring an individual to aid in performing a sterilization or abortion, if such activity is contrary to the individual's religious or moral beliefs. Nor does receipt of financial assistance provide legal authority for a judicial or administrative order requiring the provision of personnel or facilities by any entity for the performance of sterilization or abortion, if such activity is contrary to the religious or moral beliefs of the personnel or prohibited by the entity for religious or moral reasons."

ble. At present, this amounts to $18 per day.

In addition, there is a 60-day lifetime reserve for individuals who require more than 90 days of hospitalization in a particular benefit period. As I indicated earlier, this daily coinsurance amount is equivalent to one-half of the part A deductible.

These measures undoubtedly will provide valuable protection for the 5.5 million medicare beneficiaries who are expected to be hospitalized in 1974. But I strongly believe that further improvements are essential to guard against the ruinous cost of an illness requiring prolonged institutionalization.

To my way of thinking, the aged and disabled—as well as their families—deserve strengthened protection against these potentially catastrophic expenditures, which can in a matter of weeks or months obliterate a lifetime of savings, hard work, and diligence.

Unfortunately illness strikes with far greater frequency and severity at a time in life when those affected can least afford it.

This is especially true in the case of hospitalization. As of 1972 there were nearly 12 million medicare beneficiaries who had been hospitalized since the program began. More than 130,000 of these individuals were forced to draw upon their lifetime reserve after exhausting the 90 days of covered care regularly available during a benefit period. Of this total, 25,000—or 19 percent— exhausted their lifetime reserve.

These individuals, it should be pointed out, have typically incurred several thousand dollars in hospital bills, much of which has been paid from their own resources. The harsh reality is that the threat of bankruptcy by hospitalization is all too real for aged and disabled Americans confronted with lengthy institutionalization. And all too often, these are the individuals who can least afford it.

But my amendment would provide a constructive means for improving medicare coverage for these persons. First, it would increase from 150 to 210 days the number of covered hospital days under medicare for individuals who are determined to require this care. Second, by reducing the coinsurance charge from one-half to one-fourth of the hospital deductible, major savings could be provided for persons who must utilize their lifetime reserve. In some cases, this amount could exceed $1,000.

During the past Congress, the House and Senate approved a portion of my amendment. For example, the House-passed version of H.R. 1—which ultimately became the 1972 Social Security Amendments—would have increased the medicare lifetime reserve from 60 to 120 days. Moreover, the House bill would have established a daily coinsurance amount equal to one-eighth of the inpatient hospital deductible for persons hospitalized from 31 to 60 days.

This latter provision was later deleted by the Finance Committee. But on the other hand, the Finance Committee proposed to reduce the coinsurance amount applicable to the lifetime reserve from one-half to one-fourth of the hospitalization deductible.

In conference committee, all three provisions were eliminated.

So, in one form or another, either the Senate or the House has put its stamp of approval on the provisions of this amendment.

Today many Americans believe that medicare pays for almost all of the hospital and medical bills of the aged and disabled. But they should know better.

In fact, medicare covers only about 42 percent of their health care expenditures. Major gaps in coverage still exist, and must be closed.

Quite clearly, economic security in retirement can never be fully attained until we come to grips with some of the costly drains upon their limited incomes, such as the high and potentially ruinous cost of hospitalization for extended periods.

Mr. President, I urge adoption of my amendment.

In that connection, I ask that, in addition to the names of Senators CLARK, WILLIAMS, MCGOVERN, ABOUREZK, RIBICOFF, HART, MCGEE, HUMPHREY, MOSS, BAYH, and PELL, Senators METCALF, TUNNEY, and JAVITS be added as cosponsors of this amendment.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. NELSON. Mr. President, one-half of the proposal just made by the Senator from Idaho was passed last year. The House conference, as the Senator may recall, declined to accept it.

I think it is a meritorious proposal, although I understand it will cost about $75 million, but I am prepared to accept the amendment.

Mr. CHURCH. I thank the Senator very much. I just point out that though the cost would be approximately $75 million, it is also true that the present hospital insurance trust fund is sufficiently large to accommodate the increased costs without any addition to the tax. That is still another good reason that this amendment should be retained in the final version of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

AMENDMENT NO. 727

Mr. EAGLETON. Mr. President, I call up my amendment No. 727 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of part H of title 5 of the bill, insert the following new section:

DEFINITION OF "SPELL OF ILLNESS" UNDER MEDICARE

SEC. . (a) Section 1861(a)(2) of the Social Security Act is amended to read as follows:

"(2) ending with the close of—

"(A) the first period of sixty consecutive days thereafter on each of which he is neither (i) an inpatient of a hospital nor (ii) an inpatient of a skilled nursing facility, or

"(B) in the case such individual meets the condition imposed by subparagraph (A)(i) but does not meet the condition imposed by subparagraph (A)(ii), the first period of one hundred and eighty consecutive days thereafter on each of which—

"(i) he is an inpatient of a skilled nursing facility,

"(ii) receives neither (I) skilled nursing care and related services (as described in subsection (j)(1)(A)), nor (II) rehabilitation services (as described in subsection (j)(1)(B)), and

"(iii) such facility is not receiving payment for skilled nursing services provided to such individual under a State plan approved under title XIX.".

(b) The amendments made by this section shall be applicable in the case of determinations under title XVIII of the Social Security Act, with respect to the ending of any spell of illness, made after the date of enactment of this Act; except that no spell of illness shall, by reason of such amendments, be determined to have ended prior to the date of enactment of this Act.

Mr. EAGLETON. Mr. President, this amendment is designed to enable elderly persons residing in nursing homes to break the medicare "spell of illness" or benefit period and renew their eligibility for hospital insurance benefits.

Under the part A hospital insurance program, limited hospital, extended care, and home health benefits are available during a single "spell of illness." When those benefits are exhausted, no further benefits are available until there is a new benefit period. The "spell of illness" concept springs from the basic intent of medicare to provide protection against health care costs associated with relatively short-term acute illnesses.

Under current law, a benefit period is ended with the close of the first period of 60 consecutive days on each of which the individual "is neither an inpatient of a hospital nor an inpatient of a skilled nursing facility."

For purposes of this section of the law, a skilled nursing facility is defined as an institution which "is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons."

The result of the law is that a person who resides in a skilled nursing facility, even though he or she is receiving a level of care lower than skilled nursing, is unable to break a benefit period.

The situation was summarized very succinctly in a letter to me of April 20, 1972, from then Commissioner of Social Security Ball:

> Once a person has used up his benefit days, he cannot begin a new benefit period until he has not been an inpatient of any hospital or any institution that is primarily engaged in providing skilled nursing care for 60 consecutive days—whether or not the institution is participating in the Medicare program and regardless of the level of care he is receiving.

As we all know, many elderly people must spend their last years in a nursing home, not because they require skilled nursing care, but simply because they are no longer able to care for themselves in their own homes and a nursing home is the only available alternative. For these people the nursing home is not a medical institution but a substitute home.

Yet if the institution in which they

reside is determined to be a skilled nursing facility, they are denied the medicare benefits available to persons fortunate enough to be able to remain in their own homes.

When this matter came to the attention of the Congress in 1967, it was thought that the provision of 60 lifetime reserve hospital benefit days would solve the problem.

However, in my judgment this has not proved to be an adequate and equitable solution.

In the first place, the copayment for lifetime reserve days is now $36 per day—a considerable burden on many elderly people. If the proposal by the Senator from Maine (Mr. MUSKIE) to freeze the hospital deductible for 1 year is not enacted into law, that copayment will rise to $42 per day in 1974.

Second, even those lifetime reserve days may be exhausted. In the last year, at least two instances have come to my attention of nursing home residents who have used both the hospital care available during a single benefit period and the 60 lifetime reserve days. These people, who will be confined to nursing homes for the remainder of their days, will have no further hospital insurance benefits under medicare.

It is my understanding that the law is written as it is because there is concern that if a benefit period could be broken in the case of a nursing home resident by a 60-day period during which he or she was certified as receiving a level of care lower than skilled nursing the result would be an artificial shifting of patients back and forth between levels of care for the purpose of qualifying them for additional medicare benefits.

Whether or not this could or would happen, I do not know. But I believe the answer is not to deny all nursing home residents the opportunity to renew their eligibility for hospital insurance benefits but to devise an adequate test for determining whether a person is actually receiving long-term personal or custodial care as opposed to skilled nursing care.

Therefore, my amendment provides that a person residing in a skilled nursing facility may end a spell of illness with the close of the first period of 180 consecutive days on each of which he was receiving neither skilled nursing care nor rehabilitation services and the nursing home was not receiving payment for skilled nursing services provided him under the State's medicaid program.

My amendment, I want to make clear, is not designed to provide medicare coverage for long-term custodial care. Under current law reimbursement for such care is specifically excluded.

My amendment is designed simply to enable persons who require personal or custodial care to have the same medicare benefits that are available to others.

I urge the adoption of this amendment.

Mr. NELSON. Mr. President, I do not have any objection to the amendment. The objective is sound. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 727 of the Senator from Missouri.

The amendment was agreed to.

AMENDMENT NO. 722 AS MODIFIED

Mr. EAGLETON. Mr. President, I call up an additional amendment No. 722, and ask that it be stated.

The PRESIDING OFFICER. The amendment (No. 722) of the Senator from Missouri will be stated.

The legislative clerk read as follows:

At the end of part C of title I of the bill, insert the following new section:

DISREGARD, UNDER MANDATORY MINIMUM STATE SUPPLEMENTATION OF SOCIAL SECURITY INSURANCE BENEFITS PROGRAM OF SOCIAL SECURITY INSURANCE INCREASES AND OF OLD-AGE SURVIVORS, AND DISABILITY INSURANCE INCREASES

SEC. 128. For purposes of determining, under section 212(a)(3)(C)(iii) of Public Law 93-66, the amount of any income of any individual for any month referred to in such section, there shall be disregarded (1) in the case of any individual, so much of any supplemental security income benefit payable under title XVI of the Social Security Act to such individual for such month as is attributable to any increase in supplemental security income benefits payable under such title resulting from the enactment of section 210 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and (2) in the case of any individual who for such month receives a monthly insurance benefit to which he is entitled under title II of such Act, so much of such monthly benefit as is attributable to any increase in social security benefits resulting from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and (3) in the case of any individual who is entitled to annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, so much of the regular monthly payment to which such individual is entitled as annuity or pension thereunder by reason of the first proviso in section 3(e) of the Railroad Retirement Act of 1937 which results from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title).

Mr. EAGLETON. Mr. President, because amendment No. 722 as printed contains certain technical and printing errors, I ask unanimous consent that a copy of amendment No. 722 as modified to correct those errors may be sent to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The text of the amendment (No. 722), as modified, is as follows:

At the end of part C of title I of the bill, insert the following new section:

DISREGARD, UNDER MANDATORY MINIMUM STATE SUPPLEMENTATION OF SSI BENEFITS PROGRAM, OF SUPPLEMENTAL SECURITY INCOME INCREASES AND OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE INCREASES

SEC. 128. For purposes of determining, under section 212(a)(3)(C) of Public Law 93-66, the amount of any income of any individual for any month referred to in such section, there shall be disregarded (1) in the case of any individual so much of any supplemental security income benefit payable under title XVI of the Social Security Act of such individual for such month as is attributable to any increase in supplemental security income benefits payable under such title resulting from the enactment of section 210 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and (2) in the case of any individual who for such month receives a monthly insurance benefit to which he is entitled under title II of such Act, so much of such monthly benefit as is attributable to any increase in social security benefits resulting from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and (3) in the case of any individual who is entitled to annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, so much of the regular monthly payment to which such individual is entitled as annuity or pension thereunder by reason of the first proviso in section 3(e) of the Railroad Retirement Act of 1937 which results from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title).

Mr. EAGLETON. Mr. President, I ask unanimous consent, in addition to the original cosponsors as listed on the amendment, Senators RIBICOFF, HATHAWAY, BROOKE, STEVENS, CRANSTON, and HUMPHREY be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, the purpose of my amendment is to assure that those aged, blind, and disabled persons who will be receiving mandatory State supplementary payments under the supplemental security income program will receive the cost-of-living increases proposed in this bill without having those increases deducted from their State supplementary payments.

H.R. 3153, the bill before us, provides two increases in social security benefits and supplemental security income payment levels during 1974 to help the aged and disabled living on fixed incomes cope with the ever-increasing cost of purchasing the essentials of life.

Social security beneficiaries would, under this bill, receive a 7-percent increase in benefits for the month during which the bill is enacted. A second 4-percent increase would be effective for the month of June 1974.

Where SSI payment levels were to have been $130 for an individual and $195 for a couple beginning in January, these initial payment levels would be $140 for an individual and $210 for a couple. In July 1974 payment levels would be increased to $146 for an individual and $219 for a couple.

Under these provisions of the bill, those persons who receive only a social security benefit, those persons who will receive only an SSI payment, and those persons who will receive a combination of social security and SSI will have cost-of-living increases in 1974.

But, Mr. President, we must not overlook the fact that there is a third group of aged, blind, and disabled persons who may be denied any increase in income in 1974. I refer to those persons who will be receiving State supplementary payments under the SSI program.

This group itself is composed of two categories.

First, there are those aged, blind, and disabled persons who are now receiving assistance through State public assistance programs and who will be transferred to SSI in January.

Second, there are those persons who will be newly eligible for assistance under SSI.

For the latter group, a supplementary payment by their State is strictly optional. A State may choose whether or not to supplement the basic SSI payment and the amount of any payment to be provided. Those States providing optional supplementary payments also obviously have the option of "passing-thru" the social security/SSI increases next year or of declining to do so.

At the time the original SSI legislation was enacted in 1972, all supplementation by the States was left optional even though it was clear that approximately one-half of current recipients—or about 1.7 million people—would lose income without State supplementation. The operational theory was that the States would voluntarily do what was necessary to prevent a loss of income by any of their aged, blind, and disabled recipients.

However, by June of this year there was sufficient concern that all States would not act voluntarily that Congress enacted section 212 of Public Law 93–66.

This section requires the States—if they wish to continue receiving Federal matching funds for medicaid—to make such supplementary payments to current aged, blind, and disabled recipients as are necessary to assure that their total income in January 1974 and succeeding months is no less than their total income in December 1973.

In other words, the States are required to maintain the income of these persons at a level prior to the receipt of the cost-of-living increases proposed for 1974.

If we do not require the States to disregard the social security/SSI increases in computing the amount of their supplementary payments, many States may simply reduce their payments by the amount of these increases, thus effectively denying these people any increase in income in 1974.

Mr. President, we have the authority to assure that this does not happen; I believe we also have that responsibility.

My amendment would merely require the States to make the same supplementary payments to these people that they would have made if the social security/SSI increases had not occurred.

I ask unanimous consent that a State-by-State estimate of the numbers of persons who will be receiving mandatory State supplements be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—SUPPLEMENTAL SECURITY INCOME PROGRAM: ESTIMATED NUMBER OF RECIPIENTS RECEIVING BENEFITS UNDER MANDATORY STATE SUPPLEMENTATION, FISCAL YEAR 1974

[In thousands]

	Recipients affected by mandatory State supplementation	Affected recipients with total mandatory supplements below States' optional payment level	Recipients receiving benefits under mandatory State supplementation
United States	1,724	507	1,217
Alabama	62		52
Alaska	2		2
Arizona[1]			
Arkansas	39		39
California	462	250	212
Colorado	28		28
Connecticut	15		15
Delaware	4		4
District of Columbia	9		9
Florida	43		43
Georgia	30		30
Hawaii	4	1	3
Idaho	4		4
Illinois	58		58
Indiana	10		10
Iowa	10	1	9
Kansas	3		31
Kentucky	21		28
Louisiana	58		54
Maine	14		1
Maryland	9		9
Massachusetts	76	42	34
Michigan	63	21	42
Minnesota	15		15
Mississippi	18		18
Missouri	73		73
Montana	4		4
Nebraska	8		8
Nevada	3	1	2
New Hampshire	2		2
New Jersey	31	17	14
New Mexico	3		3
New York	216	138	78
North Carolina	16		16
North Dakota	5		5
Ohio	36		36
Oklahoma	49		49
Oregon	11		11
Pennsylvania	51	23	28
Rhode Island	7		7
South Carolina	3		3
South Dakota	2		2
Tennessee	17		17
Texas	59		59
Utah	1		1
Vermont	6		6
Virginia	13		13
Washington	25	7	18
West Virginia	6		6
Wisconsin	19	6	13
Wyoming	1		1

[1] Survey data not available.

Mr. EAGLETON. As this table indicates, some persons in every State and the District of Columbia will be receiving mandatory State supplementary payments. Naturally, this matter looms larger in some States than in others because of the proportion of aged, blind, and disabled recipients affected. I certainly make no bones about the fact that I am offering this amendment today primarily because of its import in Missouri.

The Social Security Administration estimates that 73,000 persons will receive mandatory State supplements in Missouri. Whatever the reason for the discrepancy, the Missouri Division of Welfare puts that number at 85,000—or about 70 percent of current adult assistance recipients in Missouri.

Sixty-one thousand of these people will receive a State supplement in addition to a small social security benefit and an SSI payment. An additional 24,000 people will have a social security benefit too high to qualify them for SSI, but they will still be eligible for a State supplementary payment.

If there is an increase in social security benefits and SSI payments in January, under the Missouri authorizing supplementary payments, those payments will be reduced from what they otherwise would have been by the amount of the social security and SSI increases.

The result: 85,000 aged, blind, and disabled persons in Missouri will be deprived of any increase in income in January.

I want to make it clear that this indicates no particular perversity on the part of the State of Missouri. It is simply what will happen under the State law which is in compliance with the requirements of section 212 of Public Law 93–66. And it will result in an automatic savings of several million dollars in State funds. There is every reason to believe that the same thing will occur in most, if not all, States.

The only way to guarantee that it does not happen is to include in this bill a provision requiring the States to disregard these cost-of-living increases.

Mr. President, when we consider people who will be receiving State supplementary payments we are not talking about people with lavish incomes.

Of the 85,000 in Missouri who will receive State supplements, roughly half have incomes at or below the official poverty level. They are certainly among those people who have been most devastated by the inflation of recent months. They, as much as anyone, deserve a cost-of-living increase next year.

I also want to emphasize the fact that I am not proposing something unprecedented. In the past, we have often provided for the "pass-thru" of at least some part of a social security increase to persons on State public assistance rolls.

In fact, H.R. 3153 provides for a "pass-thru" to recipients of aid to families with dependent children—AFDC—by requiring the States to disregard 5 percent of social security income effective with the month in which the social security increase is received.

My amendment simply provides, through a different mechanism, a "pass-thru" for persons currently receiving old age assistance, aid to the blind, and aid to the permanently and totally disabled.

Mr. President, we are now taking the unusual step of reconsidering our previous decision on a social security increase next year. We have been moved, by evidence of the severe impact of inflation on the elderly and the disabled, to provide a larger and an earlier increase than was authorized last summer.

We have the authority, and I believe we have the responsibility, to guarantee that 85,000 people in my State and 1.7 million people nationwide are not denied this cost-of-living increase in 1974.

I urge the adoption of this amendment.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I yield.

Mr. JAVITS. Mr. President, the Senator's amendment has not been available to me and I do not think it has been available to anybody else, because he sent it to the desk as modified. I am not trying to impede him on that score. We will get it promptly. But I believe that we understand it, and I should like to ask him this question with respect to New York and 9 other States—10 all together—of the so-called high benefit level States: Is it true that, though the passthrough would be compelled even in the high-payment States, the Eagleton amendment would not give us the Federal money with which to do it? It would just make my State pay money, even though it cannot afford it, in order to meet that benefit level.

Mr. EAGLETON. That is the case under my amendment with respect to nine States, including New York and California.

Mr. JAVITS. I ask the Senator whether it would not be fairer to let his amendment wait on the amendment of Senator CRANSTON, which will endeavor to correct that inequity, which was an inequity inflicted upon us on the floor of the House, rather than make many of us who would favor the Eagleton amendment vote against it because it is simply unfair to our States. It makes us pay money, without giving us any Federal support for it. Hence, at least in my judgment, we should have the option not to pay it if we do not feel we should, without Federal reimbursement.

Mr. EAGLETON. The Senator makes a good point.

My amendment creates no problem in 41 States. The Senator from New York has pointed out the problem it creates in nine other States.

I take it that, were my amendment to be adopted, the proposal suggested by the Senator from New York, which I am sure the Senator from California intends to pursue, would still be in order, and I would support it.

But I am hopeful that even if the Cranston amendment does not float, my amendment will.

Mr. JAVITS. I appreciate the Senator's situation. But is it not true that from a practical voting standpoint the Senator might find he might lose something he ought to win?

Mr. EAGLETON. I did not assume the Senator from New York would vote against my amendment since it does not preclude going further with the concept espoused by the Senator from California.

Mr. JAVITS. I realize that. Because it precedes the action on the Cranston amendment we have to pay out of the State treasury, no matter what happens to the Cranston amendment.

Mr. EAGLETON. If the Cranston amendment is offered as an amendment to the Eagleton amendment I will vote for it and we will see how that goes. If it goes as I hope we would not have to say anything more today.

Mr. CRANSTON. Mr. President, I would like to offer this amendment as an amendment to the Eagleton amendment.

Mr. JAVITS. That is fine.

Mr. CRANSTON. Mr. President, I offer it as a perfecting amendment. The Senator can accept it.

Mr. EAGLETON. First, let me propound a parliamentary inquiry. I think I know the answer.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAGLETON. If the perfecting amendment of the Senator from California is incorporated in my amendment and then my amendment is rejected, from a parliamentary point of view would I be permitted to reoffer my original amendment as unperfected?

The PRESIDING OFFICER. Either amendment could be offered separately.

Mr. EAGLETON. Did I state my question to the Chair in a clear way? Perhaps I did not. I wish to repeat my question.

We have before us amendment No. 722. It is the intention of the Senator from California to offer a perfecting amendment to that amendment and I am about to accept it. If that total amendment is rejected, am I free, from a parliamentary point of view, to reoffer my original amendment, without the Cranston perfecting amendment?

The PRESIDING OFFICER. The Senator can offer his amendment.

Mr. EAGLETON. The Senator offered a perfecting amendment and I am willing to accept that amendment to my amendment.

Mr. LONG. Mr. President, have the yeas and nays been ordered?

Mr. EAGLETON. No; they have not.

The PRESIDING OFFICER. The Senator from Missouri has a right to modify his amendment. Is that what the Senator is doing?

Mr. EAGLETON. Mr. President, I will send to the desk a modification of my amendment as suggested by the Senator from California (Mr. CRANSTON) and others.

The PRESIDING OFFICER. The amendment will be so modified. The modification is as follows:

LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL STATE SUPPLEMENTATION OF SSI BENEFITS

SEC. —. Section 401 (b)(1) of the Social Security Amendments of 1972 is amended—

(a) by striking out "and" at the end of clause (A);

(b) by striking out the period at the end of clause (B) and inserting in lieu thereof ", and"; and

(c) by adding immediately after clause (B) the following new clause:

"(C) in the case of any month, the amount by which supplemental security income benefits of the type involved were increased by section 210 of Public Law 93-66, as amended by section 121 of the Social Security Amendments of 1973.".

Mr. EAGLETON. Mr. President, without losing my right to the floor, I yield to the Senator from California such time as he may desire to explain the modification.

Mr. CRANSTON. Mr. President, I think all I need to say is that the original form of the Eagleton amendment federally mandated that nine States, from their already strained resources, would have to pay to all present adult recipients the cost of the federally mandated cost-of-living increase. My amendment corrects that obvious inequity. It seems eminently appropriate that the Federal Government pay for Federal generosity with Federal money. That is what my amendment would do.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. CRANSTON. I am delighted to yield.

Mr. CURTIS. What we are talking about here is the SSI benefit. Is that not true?

Mr. CRANSTON. I beg the Senator's pardon.

Mr. CURTIS. We are talking about the SSI benefit for the aged, blind, and disabled. Is that correct?

Mr. CRANSTON. That is correct.

Mr. CURTIS. That program goes in on January 1.

Mr. CRANSTON. That is correct.

Mr. CURTIS. And it is a program that heretofore has had Federal and State matching. Is that not correct?

Mr. CRANSTON. That is correct.

Mr. CURTIS. And under the new program the Federal Government pays the entire check.

Mr. CRANSTON. Yes; except for the federally mandated supplementation the States must pay to all present recipients if the present benefit levels exceed the SSI payment level—which is the case in the nine States that my amendment covers.

Mr. CURTIS. Well, they pay the entire check according to the schedule set forth in the Federal statute, but because that would mean a reduction in payment to some individuals, the Federal Government has demanded as a quid pro quo for taking over the whole load that the States make a mandatory supplemental payment so that no one gets less than they got this year. Is that correct?

Mr. CRANSTON. Yes; that is the intent.

Mr. CURTIS. Now, as a matter of fact, the nine States the Senator is talking about are still coming off better than they were before the SSI program was enacted. Is that correct?

Mr. CRANSTON. No; that is not true.

Mr. CURTIS. Well, I think it is.

Mr. CRANSTON. The responsibility of the States and the numbers of recipients under the new program will extend beyond what is now covered, and that responsibility to meet that situation—for a number of reasons—will fall upon the State rather than the Federal Government.

Mr. CURTIS. I am afraid my question was misunderstood. At the present time those States are paying certain sums to the blind, disabled, and the aged, and they are going to be relieved of that. Is that correct?

Mr. CRANSTON. In part, but not wholly.

Mr. CURTIS. The part they are relieved of they will end up spending less money for these three programs than they are spending now.

Mr. CRANSTON. The Federal Government is mandating an increase in the number of people covered, it has not extended hold harmless to cover benefit increases since 1972, and yet it has mandated that the States, in supplementing SSI, do so up to December 1973 levels—no; in many States we will not be spending less.

Mr. CURTIS. I am talking about the whole expenditure, not just the mandated part; the total expenditures made for these programs by the State of California will be less than it is now.

Mr. CRANSTON. That is not true because the Federal Government is mandating who is eligible. There is a vast expansion of adult recipient eligibility;

and that, combined with other factors, will increase the cost to the State of California and to many other States.

Mr. CURTIS. I do not believe that is a correct statement of the situation. What is happening at the present time is that every check that people in these three categories get is part State money and part Federal money; and up to the limit of the Federal new program it is all Federal money. Now, even though you do have to make a supplement, I think you are coming out ahead.

Mr. CRANSTON. Mr. President, what we have here is a federally financed cost-of-living increase for all States except nine, including California.

This amendment, cosponsored by Senators KENNEDY, JAVITS, BROOKE, and CASE, is designed to insure that certain SSI recipients are not denied the benefit of the Finance Committee provision which provides that the new supplemental security income program guaranteed income levels for the aged, blind, and disabled—originally scheduled to be $130 for an individual and $195 for a couple—be increased to $140 for an individual and $210 for a couple when the program begins in January. As Senators are aware, the committee included a further provision which, beginning July 1974, would increase the guaranteed income level to $146 for an individual and $219 for a couple.

This committee provision, which I very strongly support, is an attempt by the committee to reflect for SSI recipients the benefit increases which are contained in H.R. 3153 for social security recipients. However, as the committee bill is now constituted, in some nine States—California, New York, New Jersey, Wisconsin, Massachusetts, Nevada, Hawaii, Michigan, and possibly Rhode Island—SSI recipients will not receive the benefit of this increase because there is no provision to "pass-along" increases without creating significant extra costs to the affected States.

Very simply put, the amendment I propose would provide that these nine States be held-harmless for these SSI increases, so the States will pass these increases along to recipients in those States.

The House Ways and Means Committee did include such a provision, though only effective for 1 year, but it was deleted from the House bill during extensive and rather confusing floor debate.

As the distinguished chairman of the Finance Committee so well knows, this entire issue is very, very complicated, and I will try, for the benefit of my colleagues to put it as simply as possible.

The key issue during the debate surrounding the passage of the Social Security Amendments of 1972—H.R. 1 in the last Congress—was the conceptual and practical difficulty of reconciling the wide disparities of 50 State welfare programs into a single national program. We all felt at the time, I believe, that while solidifying 50 distinct adult welfare programs into one equitable and uniform bill was going to be almost impossible, it was time to take the first big step forward.

Nearly everyone agreed that a national "minimum income floor" was needed in lieu of the varying percentage matching arrangements already in existence. The primary question was how to establish such a floor without hurting recipients who were receiving more than that income floor—such as in the nine States I mentioned above. This then led to the related issue of Federal fiscal responsibility for such recipients once the States were "out of the picture"—that is, responsibility for setting eligibility requirements, Federal/State cost sharing, and administration of the new program.

The present hold harmless provision added by H.R. 1 then became the vehicle for reconciling all of these issues. Hold harmless was clearly a key provision of the legislation, without which there would very likely be no SSI program today.

It was never intended that the hold harmless provision would be a means of freezing payment increases by the Federal Government for those recipients in those States who, in good faith, supported H.R. 1. Rather, hold harmless was, as I understood it, designed to provide States with protection against cost increases which were expected to be incurred in the newly Federalized program because of the expanded Federal eligibility. Hold harmless also was to serve as an incentive for States to turn over their programs to the Federal Government for administration not only of the Federal floor but also the State supplementation under rules set by the Federal Government.

I should add here, parenthetically, that my own State, because of certain legal difficulties, will not be able to turn State supplementation over to the Federal Government until sometime this January after legislative action. At any rate, the incentive for this turn-over was, of course, the Federal Government's fiscal responsibility under the present "hold harmless" provision to underwrite future increased caseload costs that were incurred as the result of the new Federal program.

The bill before us today, without the House Ways and Means Committee provision, changes the rules of the game. The whole question of the Federal/State relationship is clouded with regard to the responsibility for recipients in the future.

If the nine States effected are simply to be told that they may spend State money to increase SSI payments—and if the Eagleton amendment is adopted, they will have to spend it—then the overall uniformity and equity purpose of SSI as a national program will have been subverted.

What will occur is that a federally funded cost-of-living increase for SSI recipients will be approved—in all but nine States, nine States in which something like 40 percent of the SSI population resides.

Mr. President, I do not believe that 40 percent is a parochial, "my State" issue. What we have here is a situation wherein those States which in the past have made the greatest fiscal effort on behalf of the poor, there will be no 100-percent federally financed cost-of-living increase.

I would most strongly urge my colleagues to join in supporting this amendment I am now offering as a perfecting amendment to the pending amendment No. 722. It is, I believe, absolutely essential if we are to insure that the SSI program does not work against the concepts which it was originally conceived to reflect.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. EAGLETON. Mr. President, I believe I have the floor. I yielded to the Senator from California with the right to control the floor.

Mr. LONG. Mr. President, I demand the regular order.

The PRESIDING OFFICER. The regular order is demanded.

Mr. LONG. I would like to say something about the amendment.

Mr. EAGLETON. I yield the floor.

Mr. LONG. Mr. President, here is what Mrs. GRIFFITHS said about a similar amendment on the House side:

> The provision would allow California to raise its payment amount for an aged couple from $394—about 176 percent of the poverty line—to $409 a month. It will allow Massachusetts to go from $340.30—about 152 percent of the poverty line—to $355.50; Wisconsin from $329—about 147 percent of the poverty line—to $344; and New York from $294.51—about 132 percent of the poverty line—$309.51."

Mr. President, mind you, this amendment would permit the States of New York, California, Wisconsin, New Jersey, Michigan and Massachusetts, all relatively wealthy States, to raise the amount of money their people would get far beyond what the rest of us would get, and leave all of us poor States out.

Ohio would not get anything. All it would get is the privilege of helping pay for all this. This is strictly on the principle of "The rich get richer and the poor get poorer." For years I have tried to understand the biblical injunction,

> To him who has, it shall be given, and to him who has not, it shall be taken away.

That is the logic of the amendment, inasmuch as it provides that those that have so much more ought to get still more. We others will pay for it but will not share in any of the benefits.

Anyone who wants to vote for that, go ahead, but I challenge you to explain to your constituents why you are such a complete sap or why you think these other States ought to get more than yours merely because they have more money to begin with.

I say to those Senators, if they cannot find some way to modify the amendment so that those in the poorer States can get in on the act, then obviously it has not been adequately considered. I am anxious to see how many Senators will come up here and say they cannot do anything for their people but can join in concert to help the rich get richer while they see their people in the poorer States get poorer. I will say it will be a political miracle when, with that kind of legislative proposal, there are enough votes in the Senate to get it through.

I suggest, after this proposal has been voted down, that its sponsors go back and try to find some way where they can benefit their people and where the majority of the people can be benefited, particularly those of us who are in the poorer States, who need the money as much as they do. If they can do that, maybe we will vote with them. But it absolutely insults the intelligence of people who come from 40 States to think that we would vote for something of this sort. It is fine if you can get away with it, but you ought to try to do it when there are less people around.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. JAVITS. Does the Senator include in his stringent indictment—and something which violates the Senate rules when he says a Senator who would be voting for this amendment would be a sap; but, be that as it may, we are not children; nobody is going to call the Senator for that violation—does the Senator include the House Ways and Means Committee, bearing in mind that the House Ways and Means Committee included this amendment in its report, and Mrs. GRIFFITHS, of the House, changed her position? Do I understand the Senator includes in his indictment the House Ways and Means Committee, or was it reserved exclusively for Senators?

Mr. LONG. Do not have me say something I did not say. Going down this list of States—New York, California, Michigan, Wisconsin, New Jersey, Massachusetts, and others—they have more Representatives than Senators. They may have put this in a bill in the House Ways and Means Committee, but when they voted on the House floor they still did not have a majority. That is why they voted it down.

I am not accusing anybody of being a sap. But I wonder if there is one Senator who comes from any State other than these six States who is going to vote for this amendment. If he does, I will amend my statement to call him something other than a sap.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senator include me in that category, because I am going to vote for it, and I am not in the top nine.

Mr. LONG. Well, the Senator had not heard the explanation prior to this time. I feel when one understands what this amendment does he might feel differently about it. But the Senator is accepting an amendment to an amendment offered by him. I assume the amendment he offered would be a good thing for the State of Missouri, so there should be enough of a sweetener in the Eagleton amendment to justify agreeing to accept the Cranston amendment as a modification of his amendment.

I would say to those of us who do not see anything in it for our States that we would be very ill-advised to vote for the amendment. I personally think, speaking for myself—I think I can speak for myself—I would be a sap to vote for the amendment. Maybe somebody else would find some good reason to vote for it.

Mr. President, I am led to believe that we will have the Eagleton amendment offered in its other form in the event that it is not agreed to in this form. I would hope that we can vote on it. If there is no objection, I am going to move that this amendment be laid on the table. If a Senator wants to make a speech, I am willing to wait and let him speak, but I think we will vote this amendment down.

Mr. CRANSTON. I have one comment to make. The Senator from California would consider himself a sap if he did not seek to have his amendment agreed to.

Mr. LONG. I would say that the Senator is a genius if he can put this amendment over. He would be one of the most effective statesmen we have had in this body for a long time.

Mr. President, I move to table the amendment.

Mr. JAVITS. Mr. President, will the Senator withhold that motion at this time? Any of us can move to table lots of things. Does the Senator mind?

Mr. LONG. I withhold my motion.

Mr. JAVITS. Mr. President, before we table this amendment, or try to table it, I think it ought to be understood; and with all respect, I do not think it is understood.

I support the amendment offered by the Senator from California. I support it in the interest of my own State. With 18½ million people in New York and 20 million in California, we do not have to apologize for belonging to the United States.

I must say that there rings in my ears a strange note from another day to hear the fact that because only nine States are involved means that it has got to be turned down. If we start to legislate that way in the U.S. Senate, we can kiss the United States, its form of government, and its Constitution goodbye.

I have seen lots of people passionately defended—individuals, or even one corporation, or even one big corporation, notwithstanding that that is not supposed to be very popular. I am all for it. The day we stop legislating that way, and the day we start legislating by how many States are going to be benefited, it is going to be a very sad day for the United States of America.

Let us find out what this is all about. Let us not be in such a hurry to cry, "Hey, Rube," and get rid of it. That is what this sounds like.

What is at stake here? What has happened?

A year or so ago we passed a law in which the United States took all this program over. That is not this bill. That is not really what is being objected to. That bill was passed a year ago.

We are now proposing to increase the benefits. Everybody cheers. There are many States—and they have been named—that pay benefits above what the United States supports, and for many reasons. In the industrial States, the cost of living is higher. They have higher living conditions. Everybody is going to be raised in this country. In this instance, the Federal Government is going to pay the tab. But because these States have had the humanity and the decency to support their people properly, they are going to be penalized. Their people are not going to get the increase that everybody else is going to get—everybody—but they will get it only if the State pays for it out of its own resources.

Everybody else will be funded by the United States. But those nine States, because they have had the decency and the humanity to maintain excellent income levels, what the Senator from California (Mr. CRANSTON) and I, and other Senators, are arguing is the fear that precisely because of the argument that the Senator from Louisiana (Mr. LONG) has used is exactly why we should win and not lose.

It is precisely for that reason that we ought to be fair. We have the intelligence to see that if somebody else has been wanting to adhere to a standard, which is a decent standard, as far as their people are concerned, we are not going to be unfair to them when it comes to increasing benefits all along the line. We are not going to deny it to them because their States have proceeded in a better way.

That is what it comes down to. I have very grave doubts as to whether New York State can scratch up $48 million for this. We are in lots of trouble in my State, and many other States in the list are in essentially the same position.

What will happen? Our beneficiaries will not get the increase that the Americans in the other 49 States get. And if that is the way the United States wants to operate, that is all right. These are facts and not hyperbole. I do believe that the Senate ought to understand the facts before it votes.

I appreciate very much the Senator from Louisiana (Mr. LONG) affording me the courtesy of allowing me to express my views, because the Senator could have cut us off.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. CRANSTON. Mr. President, is it not true that while we may be talking about nine States, I believe that we are talking about something like 40 percent of all of the welfare recipients, since they live in these nine States. It is a far broader thing than to say simply that nine States are involved.

Mr. JAVITS. And, while I have not toted it up, I have little doubt that the inhabitants of the nine States, between them, pay at least half of the income taxes in the United States.

I am aware that we cannot get parochial about this matter. New York is the seat of the stock exchange. California is the seat of many industries, and so forth. We are all interconnected. That is why we should do our utmost to understand the other fellow's problems, and we should not try to act any other way.

Every once in awhile on an issue a Senator will get up and say, "You can't win, because nine States are involved." Suppose we say that about every issue on the calendar. Suppose that we say, "You are only one man. You cannot win. Forget it."

We should not operate in that way. All we are trying to do is to have our States receive what they should receive.

Should that be the only criteria, how many States will get the benefit and how many will not, and that therefore, that we should vote it down?

Mr. LONG. Mr. President, in addition to favoring just six wealthy States of the Union, the amendment does not do any justice. It has no equity. And it really does not make good sense. For example, the way things would stand in these wealthy States that we are talking about, the people under present law will get $130 a month under SSI. If a State adds $50, their people would get $180. Now, when the $130 is raised to $140, all the States have to do is to continue to put up their $50, and those people would get $190.

What these States would like to do is save the money while they still give their people more than everyone else gets. They want it on both ends, a double dip that no one else gets.

It is unfair. And it only benefits six States.

Mr. President, I move that the amendment be laid on the table.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Missouri. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Iowa (Mr. HUGHES), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE) the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Idaho (Mr. MCCLURE) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The result was announced—yeas 57, nays 27, as follows:

[No. 532 Leg.]

YEAS—57

Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Brock
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Church
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Gurney
Hansen
Hatfield
Hathaway
Helms
Hollings
Hruska
Humphrey
Jackson
Johnston
Long
Magnuson
Mansfield
McClellan
McIntyre
Mondale
Moss
Muskie
Nunn
Pearson
Randolph
Roth
Saxbe
Scott,
William L.
Stafford
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NAYS—27

Biden
Brooke
Buckley
Cannon
Case
Chiles
Clark
Cranston
Eagleton
Griffin
Hart
Hartke
Huddleston
Javits
Kennedy
Mathias
Metcalf
Nelson
Pastore
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stevenson
Tunney

NOT VOTING—16

Abourezk
Baker
Bennett
Haskell
Hughes
Inouye
McClure
McGee
McGovern
Montoya
Packwood
Sparkman
Stennis
Symington
Williams
Young

So the motion to table the Eagleton amendment was agreed to.

Mr. JAVITS and Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON's amendment is as follows:

At the end of part C of title I of the bill, insert the following new section:

DISREGARD, UNDER MANDATORY MINIMUM STATE SUPPLEMENTATION OF SSI BENEFITS PROGRAM, OF SUPPLEMENTAL SECURITY INCOME INCREASES AND OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE INCREASES

SEC. 128. For purposes of determining, under section 212(a)(3)(C) of Public Law 93-66, the amount of any income of any individual for any month referred to in such section, there shall be disregarded (1) in the case of any individual, so much of any supplemental security income benefit payable under title XVI of the Social Security Act to such individual for such month as is attributable to any increase in supplemental security income benefits payable under such title resulting from the enactment of section 210 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and (2) in the case of any individual who for such month receives a monthly insurance benefit to which he is entitled under title II of such Act, so much of such monthly benefit as is attributable to any increase in social security benefits resulting from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and (3) in the case of any individual who is entitled to annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, so much of the regular monthly payment to which such individual is entitled as annuity or pension thereunder by reason of the first proviso in section 3(e) of the Railroad Retirement Act of 1937 which results from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title).

Mr. MANSFIELD. Mr. President, will the Senator yield to me?

Mr. EAGLETON. I yield to the Senator from Montana.

Mr. PASTORE. May we have order now, Mr. President?

The PRESIDING OFFICER (Mr. HART). The Senate will be in order.

Mr. MANSFIELD. Mr. President, what I would like at this time is to get an idea as to how many more amendments will be offered to the pending legislation.

First, I understand that the distinguished Senator from New York (Mr. JAVITS) will have an amendment on which I intend to suggest to the Senate that a time limitation of 1 hour, to be equally divided, be subscribed to. Then the Senator from Missouri (Mr. EAGLETON) has an amendment now pending—

Mr. EAGLETON. Fifteen minutes.

Mr. MANSFIELD. I ask unanimous consent, Mr. President, on that amendment, that there be a time limitation of 15 minutes, to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

Mr. MANSFIELD. Then there is the Senator from Connecticut—the Senator from Connecticut, the Senator from Delaware, the Senator from California——

Mr. PASTORE. The Senator from Rhode Island.

Mr. MANSFIELD. The Senator from Rhode Island. Well, anyway, there are many of them. Then the Senator from Alabama.

Mr. ALLEN. Mr. President, if the distinguished majority leader will yield briefly, the amendment of the Senator from Alabama is unique. It would take something away from the bill rather than add more to it. I should like to make that clear. [Laughter.]

Mr. MANSFIELD. Then, Mr. President, I ask unanimous consent that when the amendment of the Senator from New York (Mr. JAVITS) is called up, there be a time limitation of 1 hour with the time to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from Louisiana (Mr. LONG), the manager of the bill.

Mr. JAVITS. Mr. President, reserving the right to object—and I hope not to object—I have one or two stipulations to make in that regard. One is that I wish to understand that a motion will not be made, at least by anyone here—we cannot control others—to table the amendment. I said I would agree to a 1-hour limitation if I felt there was going to be no motion to table, so that Senators would not be buying a pig in a poke.

This is an effort to deal with the unemployment compensation trigger which has affected many States. It is the one opportunity we have to deal with a bill which originates with the Finance Committee and then goes to the Ways and Means Committee in the other body.

Mr. LONG. Mr. President, I am not planning on a motion to table, but I do not want to agree to that, as I do not want to start that kind of precedent. If we can agree to a limited time, when the time for debate is over, Senators can do whatever they want to. The Senator from New York can talk as long as he wants to on his amendment. At the moment, I am not saying that I will make a motion to table, but I do not like to start that kind of precedent on unanimous-consent agreements.

Mr. JAVITS. I can appreciate that. In view of the fact that I agreed to a unanimous-consent request on that ground, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PASTORE. Mr. President, I realize that the attempt here is to help the elderly of our country. We are talking here about an 11-percent increase. I realize the nobility of many of these amendments which are being proposed here, but I question whether, in the conference, any one of them will survive.

I am wondering whether, therefore, instead of trying to do justice, we are not doing a grave injustice here. I realize that many issues raised here today have been raised before. We have taken votes on them. I am perfectly willing to stay here until midnight, or all night, if we have to, but if we go by 8 o'clock tonight, I believe we should stay here all night and finish this bill.

I should like to inquire of the distinguished majority leader, how long are we going to stay here tonight, so that we can call up our families to turn the oven jet on or forget it.

Mr. MANSFIELD. Well, I would say—a jet?—where is the Senator going to get the fuel?

Mr. PASTORE. Well, for the time being, it is there. [Laughter.] Later on, according to Senator JACKSON, it may not be there, but the fact is, United will be there.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, first, I ask unanimous consent that, when the Senate completes its business tonight, it stand in adjournment until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later this order was changed to provide for the Senate to convene at 10 a.m.)

AMENDMENT OF THE SOCIAL SECURITY ACT

The Senate continued with the consideration of the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

Mr. MANSFIELD. Mr. President, I would suggest to the Senate that when we dispose of the Eagleton amendment we call it a night, go home, and have dinner with our families.

Mr. PASTORE. I want to thank the distinguished majority leader. [Laughter.]

Mr. EAGLETON. Mr. President, this amendment has a 15-minute time limitation on it. It is not my intention to consume the 7½ minutes allotted to me. This amendment is the Eagleton amendment once again, but this time not perfected by the Senators from California and New York.

This amendment is in its pristine, original beauty and, in the words of the Senator from Alabama a few moments ago, this amendment is also unique. It does not add 10 cents of Federal money to the bill. It does not cost the U.S. Treasury one dime.

All this amendment does is this, with respect to the aged, blind, and disabled, if these fine increases already in the bill go into effect, initially the 7 percent increase and later on the 4 percent increase, the Eagleton amendment provides that the States cannot cut back their payments so as to absorb the increases which we have decided as a matter of national policy are vitally necessary.

What this amendment prevents is a windfall profit to State treasuries so that "When the Lord giveth"—and in this case it is the U.S. Congress—the 50 State Capitols do not take it away. That is about all this amendment does. It says that the benefits we think are just and to which the aged, blind, and disabled are entitled shall go forward, and that the States shall not sabotage the benefits by a pro rata cut in benefits at the State level, so that the individual is no better off tomorrow than he is today.

Mr. President, I reserve the remainder of my time.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this amendment works in exactly the opposite direction to that in which the committee sought to move. The amendment is on the wrong basis. In the first place, it would treat those already on the rolls in December 1973 more favorably than those who are newly eligible. There is no justification why those previously on the rolls should be better off than those who later on come onto the rolls.

This amendment would also penalize the States which have been generous in their assistance level for the aged, blind, and disabled, by making them spend additional funds over and above present expenditures, while the States which have had low assistance payments are not so penalized and, in fact, would probably be relieved of most of their current costs.

Moreover, this amendment would be contrary to the basic concept of the SSI program, in which the Federal Government establishes a nationally uniform minimum income level for the aged, blind, and disabled, which is fully Federal in funding and leaves the States free to supplement this level as they see fit, and with fully State funds.

In other words, Mr. President, as the bill states, the committee fully anticipates that in January, when the SSI program goes into effect with a Federal funding program, the States will have a windfall in almost every State in the Union unless those States want to use that money to advance the income of their aged people well beyond that which their aged people have had prior to this time.

I know that in the State of Louisiana, practically all the aged people, for example, would receive a very large increase in their payments. Thus the State of Louisiana, looking at that situation could say, "We expect to save about $30 million here. That $30 million can best be spent to help the little children, because what we have provided for them is so little compared with the very generous benefits we would now be paying to our aged. We would think it would be an unfair double standard to take that $30 million and put it in the program for the aged, rather than putting it in the program for the little children, where there is more need." So Louisiana would put its money into helping the children. If it did not, its second priority would be the health program.

The Eagleton amendment would require that there be a windfall, we might say, for the aged. So even though the State did not think it was a good idea to continue to supplement to the same extent that it had supplemented before in order to raise the income of each of these people already on the rolls, it would have to do so.

In effect, it would compel us, and would compel the States, to spend the money in the way they do not think is wise, in the way that, frankly, we on the committee do not think is wise.

That being the case, we think this is not a very wise amendment. It is a windfall. It is a discriminatory windfall, because it would discriminate in favor of those who are presently on the rolls and against the great number of people—in most States, an equal number of people—who will be added to the rolls. Their needs should be considered on the same basis. But this amendment would compel you to consider those already on the rolls in a far more favorable fashion than the others.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CHILES. Does the Senator believe it would be discriminatory to the blind, to the aged, to the disabled?

Mr. LONG. What we are talking about is this: Let us say that at a level of $200, the State is paying $100 in State funds for a blind person or for an aged person. We come in with the new Federal program and say we are going to guarantee that person under the SSI, a monthly income of $130. This bill now makes it go up to $140. So we are going to guarantee $140 in Federal funds and the State will provide $60 more to keep him at his previous level of $200.

In addition to all that, this amendment would require the State to add $10 on top of that, to make it $210. But this would apply only to people already on the rolls. Under the amendment, new people coming onto the SSI rolls could be left at the $200 level or even less. The changes made by the SSI program will make many new people eligible. So in most States, including my own, which is a very generous State, it would just about double the number of people on the rolls. Their needs should be considered on the same basis as all the other people on the rolls. So as between two old people, they should be considered on the same basis.

Mr. CHILES. Has the Senator seen how a blind person lives on $210 a month?

Mr. LONG. I am talking about the point that we should not discriminate between two blind people.

Mr. CHILES. Is the Senator talking about one blind person who has outside income and plenty of funds but still, because he is blind, is getting some help, and talking about another blind person with no assets, no help, getting a little pittance from the State, a few dollars from the State, and is the Senator saying that he has to give that money back to the State? I have been in one of those State legislatures where they took the money back from them every time, and I say it is ridiculous to say that.

Mr. LONG. I do not think the Senator understands what the committee did.

Mr. CHILES. I understand how a blind person lives on $210 a month, and they cannot do it today. To say that they are being discriminated against and that something is being taken away from them is ridiculous.

Mr. LONG. We are talking about a situation in which the State is paying $200 now to a blind person. When the new SSI program goes into effect with a Federal payment of $140, the State may want to add $60 so that that blind person will continue to get $200. And the State would provide the same $200 for a man who does not become blind until after the new SSI program goes into effect. So both blind persons would get the same level of income. But this amendment would mean that the State must pay $210 to the person already on the rolls who is now getting $200 while the other man would only get the $200. The needs of the two people who are blind would not be considered on the same basis. The people who are newly made eligible would be discriminated against.

The PRESIDING OFFICER. The time available to the Senator from Louisiana has expired. Three minutes remain to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I have listened with great interest to the Senator from Louisiana, who is an expert in these matters, as well as to his exchange with the Senator from Florida; and I am mystified as to whether we are discussing the same amendment.

Let me make it crystal clear, Mr. President, that this bill will not cost the Federal Treasury 1 dime.

All this amendment treats of is that once we vote these increases—a 7 percent cost-of-living increase next January and an additional 4 percent next July—once we decide on this floor, as a matter of national policy, to provide these increases, the Eagleton amendment simply says that we mean it. We mean that the people who were to get that money will in fact get it; that Governor X, Governor Y, and Governor Z cannot say: "Uncle Sam voted those increases for the aged, the blind and the disabled. The Federal Government has given them that money, but we will take it away. We will cut the State's payment from what it was before, and then we will use that money for some other program in the State."

As the Senator from Louisiana has said, it could be used for the children, or in some other State it might be used to refurbish a State race track, or to build a new sports coliseum—all the uses for that money that Governor X, Governor Y, and Governor Z might find.

By providing the benefit increases in this bill, we indicate that a No. 1 priority in this time of inflation is some additional income for the aged, the blind, and the disabled. If Senators vote for this amendment, they are guaranteeing that the 7-percent increase, later to be increased by 4 percent, will in fact get through to the people who deserve it. If they do not vote for this amendment, then it is likely that many States—as many as 41 of them—will just reap a savings out of the increase we are voting in this body.

I yield back the remainder of my time.

Mr. LONG. Mr. President, I ask unanimous consent that 2 additional minutes be allotted to each side.

Mr. EAGLETON. Mr. President, reserving the right to object—and I shall not object—I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: Senator Ribicoff, Senator Hathaway, Senator Brooke, Senator Stevens, Senator Cranston, Senator Humphrey, Senator Chiles, and Senator Pastore.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, 2 additional minutes are available to each side.

Mr. LONG. Mr. President, what this amendment provides is that if a person is on these rolls prior to December of 1973, then there will be disregarded the additional SSI benefits of $10 a month, and there will be disregarded the social security increase; that if a person comes on the rolls at any time after that, which will about one-half of those on the rolls, that it is not disregarded, so one-half of the poor people are favored, and the other half are discriminated against. The States are denied the right to look at their problems and say which of the poor should get the most help and which of the poor should get the least help. Those States are denied any discretion on how to help the poor with money otherwise available to them.

Mr. EAGLETON. Mr. President, will the Senator yield of that point?

Mr. LONG. I yield if I have time.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. EAGLETON. I would like to ask one question. Do we have any authority, we, the Congress, to require the States to pass through these increases with respect to new recipients?

The answer is "No."

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Colorado (Mr. Haskell), the Senator from Iowa (Mr. Hughes), the Senator from Hawaii (Mr. Inouye), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from New Jersey (Mr. Williams), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from Idaho (Mr. McClure) and the Senator from Oregon (Mr. Packwood) are absent on official business.

The result was announced—yeas 49, nays 34, as follows:

[No. 533 Leg.]

YEAS—49

Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Dole
Eagleton
Fong
Gravel
Gurney
Hart
Hartke
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney

NAYS—34

Aiken
Allen
Bartlett
Brock
Buckley
Byrd, Harry F., Jr.
Church
Cotton
Curtis
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Javits
Johnston
Long
McClellan
Nunn
Randolph
Roth
Saxbe
Scott, William L.
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—17

Abourezk
Baker
Bellmon
Bennett
Haskell
Hughes
Inouye
McClure
McGee
McGovern
Montoya
Packwood
Sparkman
Stennis
Symington
Williams
Young

So Mr. Eagleton's amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I had an amendment, which I discussed with the chairman of the committee, manager of the bill, and which he is prepared to accept. It is an amendment dealing with the blind, which has passed the Senate on five previous occasions. I see no need to have a rollcall. We have had rollcalls before. It has been overwhelmingly adopted.

If there is no objection, I would like to call up my amendment, No. 636, as modified, and ask to have the clerk read it.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment (No. 636), as modified.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 636, as modified, is as follows:

At the end of title I, insert the following as "Part I".

SEC. 193. Liberalization of Social Security Eligibility for the Blind. (a) Section 214(a) of the Social Security Act is amended by adding "or" after the semicolon at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) in the case of an individual who has died and who was entitled to a benefit under section 223 for the month before the month in which he died, 6 quarters of coverage;".

(b) Section 215(b)(1) of such Act is amended by striking out "shall be the quotient" and inserting in lieu thereof "shall (except as provided in paragraph (5)) be the quotient".

(c) Section 215(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual who is blind (within the meaning of 'blindness' as defined in section 216(i)(1)), such individual's average monthly wage shall be the quotient obtained by dividing (A) the total of his wages paid in, and self-employment income credited to, all of the calendar quarters which are quarters of coverage (as defined in section 213) and which fall within the period after 1950 and prior to the year specified in clause (i) for clause (ii) of paragraph (2)(C), by (B) the number of months in such quarters; except that any such individual who is fully insured (without regard to section 214(a)(4)) shall have his average monthly wage computed under this subsection without regard to this paragraph if such computation results in a larger primary insurance amount."

(d) Section 216(i)(3) of such Act is amended to read is follows:

"(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter, and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or (ii) if such quarter ends before he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; or

"(B) he is blind (within the meaning of 'blindness' as defined in paragraph (1) of this subsection) and has not less than 6 quarters of coverage in the period which ends with such quarter.

For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage."

(e) The first sentence of section 222(b)(1) of such Act is amended by inserting "(other than such an individual whose disability is blindness as defined in section 216(i) (1))" after "an individual entitled to disability insurance benefits".

(f) Section 223(a)(1) of such Act is amended—

(1) by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof "or is blind (within the meaning of 'blindness' as defined in section 216(i)(1)),";

(2) by striking out "the month in which he attains age 65" and inserting in lieu thereof "in the case of any individual other than an individual whose disability is blindness (as defined in section 216(i)(1), the month in which he attains age 65"; and

(3) by striking out the second sentence.

(g) Section 22(c)(1) of such Act is amended to read as follows:

"(4) An individual shall be insured for disability insurance benefits in any month if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such month, and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or (ii) if such month ends before the quarter in which he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or

"(B) he is blind (within the meaning of 'blindness' as defined in section 216(i)(1)) and has not less than 6 quarters of coverage in the period which ends with the quarter in which such month occurs,

For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage."

(h) Section 223(d)(1)(B) of such Act is amended to read as follows:

"(B) blindness (as defined in section 216 (i)(1))."

(i) The second sentence of section 223(d)(4) of such Act is amended by inserting "(other than an individual whose disability is blindness, as defined in section 216(i)(1))" immediately after "individual".

SEC. 7. In the case of an insured individual who is under a disability as defined in section 223(d)(1)(B) of the Social Security Act, who is entitled to monthly insurance benefits under section 202(a) or 223 of such Act for a month after the month in which this Act is enacted, and who applies for a recomputation of his disability insurance benefit or for a disability insurance benefit (if he is entitled under such section 202(a)) in or after the month this Act is enacted, the Secretary shall, notwithstanding the provisions of section 215(f)(1) of such Act, make a recomputation of such benefit if such recomputation results in a higher primary insurance amount.

SEC. 8. The amendments made by sections 6 and 7 shall apply only with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted.

Mr. HARTKE. Mr. President, this amendment liberalizes the provisions of the Federal disability insurance law for blind persons.

On five separate occasions, the proposal has been approved by the Senate during the past dozen years. As an indication of the support which this disability for the blind measure has received in this Chamber, no less than 61 of my colleagues joined me in sponsoring the proposal as a bill (S. 2359) this year.

My amendment would make it possible for a blind person who has worked for a year and a half in social security covered work to qualify and draw disability benefits payments so long as he remains blind and regardless of his earnings. The present law requires that a blind person have worked in covered employment in 20 of the last 40 quarters. That eligibility requirement fails to take into account the fact that a blind person finds it difficult to secure work of any kind, however employable he may be on the basis of talents and training.

My amendment gives legal recognition to another hard fact confronting the blind—they must always function without sight in a society structured for sight, and they must work in an economy organized by sighted people for sighted people. As a result, the blind person will need varying degrees of sight to assist him no matter what he does or how able he may be, and the only sure way to get this help is to hire it. The blind person must thus have disability insurance payments to serve as a continuing source of funds to hire sighted assistance.

It is my hope, Mr. President, that this 93d Congress will be known as the most important of all Congresses for blind Americans. It can achieve that distinction if we enact the disability insurance for the blind amendment which I offer today so that, at long last, blind people can be liberated, and elevated to a more equal relationship with their sighted fellows.

Mr. President, I ask unanimous consent that a factsheet on this amendment, as well as an explanation of it and a list of the cosponsors of S. 2359, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Factsheet: Improved Disability Insurance for the Blind

A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder.

HISTORY

Offered in the 88th Congress by Senator Hubert Humphrey as a floor amendment to H.R. 11865 (Social Security Bill); adopted by voice vote without a dissenting vote; lost when Social Security conference ended in deadlock.

Offered in 89th Congress by Senator Vance Hartke, as S. 1787; 41 cosponsors; adopted as floor amendment to H.R. 6675 by 78 to 11 roll call votes; not approved by Social Security conference.

Offered in the 91st Congress by Senator Vance Hartke, as S. 2518; 68 co-sponsors including nine of the 17 member Committee on Finance; adopted by Committee on Finance as amendment to H.R. 17550; sponsored in the House of Representatives by Congressman James A. Burke; as H.R. 3782 (identical to S. 2518), and, slightly modified, as H.R. 14673; 160 co-sponsors to the Burke bill including eleven of the 25-member Committee on Ways and Means; offered in the Committee on Ways and Means Social Security Executive Session by Congressman Burke; Committee adopted proposal of Disability Insurance for the Blind Bill removing recency of quarters earned in Social Security-covered work requirement making 30,000 otherwise ineligible blind persons eligible for disability benefits; no further action since House-Senate Conference on Social Security matters was not held.

Offered in the 92nd Congress in the Senate by Senator Vance Hartke, as S. 1335; 71 co-sponsors including 10 of the 16-member Committee on Finance; adopted by the Committee on Finance as amendment to H.R. 1; sponsored in the House of Representatives by Congressman James A. Burke, as H.R. 1240 (identical to S. 1335); offered by Congressman Burke in Committee on Ways and Means Executive Session on H.R. 1; Committee adopted provision similar to Committee action taken in the 91st Congress; House-Senate Conference on Social Security matters approved change in Disability Insurance for the Blind as adopted by the Committee on Ways and Means.

PROVISIONS

Allows qualification for disability benefits to the person who is blind according to the generally accepted definition of blindness (20/200, etc.) and who has worked six quarters in Social Security-covered work, any time earned, rather than 20 of the last 40 quarters as required of those with other disabilities; continuation of benefits irrespective of earnings so long as blindness lasts, rather than cutting off benefits if the blind person earns as little as $140.00 in a month as provided in existing regulations.

WHAT CHANGES WOULD DO

The Disability Insurance for the Blind bill would transform the Disability Insurance Program providing only subsistence income to long-time employed but presently unemployable blind persons into a system providing short-term employed blind persons with insurance income to off-set the economic consequence of blindness—diminished earning power, greatly diminished employment opportunities, greatly increased costs of living and working, blind, in a sight-directed economy and society.

WHY CHANGES ARE NEEDED

To many blind persons, able to work, although blind, but unable to secure work because they are blind—or unable to secure work of long and steady duration, because they are blind—to these people, the requirement of employment for a year and a half in Social Security-covered work, instead of the five of the last ten years requirement in existing law, is much more realistic and reasonable under the special and adverse circumstances facing blind persons.

It is much more realistic, when considering the misinformed or uninformed attitudes, the adverse and prejudicial practices which confront blind people when they seek work, when they are qualified by talent and training for work, when they are skilled and able to operate successfully with blindness, yet, are not hired because they are believed to be incompetent and incapable.

Making disability insurance payments available when a blind person has worked six quarters in Social Security-covered work is much more reasonable than the five years' requirement, for it would make such payments more readily available to more persons when the disaster of blindness occurs, when the need for the security provided by regularly received disability insurance payments is greatest in a workman's life.

This bill recognizes that a person who tries to function, sightless, in our sight-structured world, functions at a financial disadvantage.

For whatever a blind man would do, whatever employment or activity he would pursue, he has the need for sight to assist him.

Sighted family members and friends may be helpful, when the inclination moves them to be helpful, but the blind vending stand operator, the blind lawyer or teacher, the blind piano tuner, even the blind housewife soon discovers that sight which is hired is more reliably available than sight which is given from kindness.

So the blind person who would function self-dependently, the blind person who would earn a living, who would live self-responsibly, must not only pay the usual daily living costs which his sighted fellows pay, but he must also pay the extra, the burdening expenses of blindness—the expenses incurred in hiring sight.

By allowing a blind person to draw disability insurance payments so long as he continues blind and irrespective of his earnings, this bill would provide to such blind person, a regular source of funds to pay for sight, and it would thus help to reduce the economic disadvantages and inequalities of blindness in his life.

Amendment No. 636, Liberalization of Social Security Eligibility for the Blind

1. Reduces needed quarters of covered employment to 6 from the present 20, to be eligible for disability insurance.
2. Would affect approximately 80,000 persons, presently working.
3. Would cost about $500 million.
4. Introduced as a bill (S. 2359) earlier this year, there were 61 cosponsors (see attached list).

COSPONSORS OF S. 2359

Abourezk, Allen, Baker, Bartlett, Bayh, Beall, Bentsen, Bible, Biden, Brooke, Burdick, Byrd, Robert C., Cannon, Case, Chiles, Church, Clark, Cook, Cranston, Curtis, Domenici, Dominick, Eagleton, Fulbright, Goldwater, Gravel.

Griffin, Gurney, Hansen, Hart, Hatfield, Hollings, Hruska, Hughes, Humphrey, Inouye, Jackson, Javits, Kennedy, Magnuson, Mansfield, Mathias, McGee, McGovern, McIntyre, Metcalf, Mondale, Montoya, Moss, Nelson, Pastore, Pell.

Randolph, Ribicoff, Schweiker, Stafford, Stevens, Thurmond, Tower, Weicker, Young. Total: 61.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. LONG. Mr. President, the Senate has adopted this amendment on other occasions, and I assume the Senate would want to adopt the amendment again. Therefore, I am willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

Mr. HARTKE. Mr. President, I send to the desk Amendment No. 626, as modified, and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 626, as modified, is as follows:

Strike out "Part B" of Title I beginning on page 44, line 10 through page 54, line 17, and insert in lieu thereof the following:

Part B. Payroll Tax for Low-Income Individuals

Sec. 112. (a) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) Alternate Tax on Low-Income Individuals.—"(1) In general.—In the case of a taxpayer who is married (as determined under Section 143) whose adjusted social security income for the calendar year is less than $850, there is hereby imposed on the income of such individual (in lieu of the taxes imposed by subsection (a) and (b)) a tax determined under the following table:

The tax is the following percentage of the taxes imposed by subsections (a) and (b)

[In percent]

If the adjusted social security income is:	
Less than 0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) Adjusted social security income.—For purposes of this subsection, the adjusted social security income of a taxpayer who is married (as determined under Sec. 143) for any calendar year is his adjusted gross income for his taxable year beginning in such calendar year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during such year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(2) Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) Withholding on Wages of Low Income Individuals.—

"(1) In general.—In the case of a taxpayer who is married (as determined under Sec. 143) whose adjusted wages are less than $850 (computed at an annual rate), the employer of such taxpayer shall deduct from the wages paid (in lieu of the amount required to be deducted under subsection (a)) an amount of the tax imposed by section 3101 determined under the following table:

The amount to be deducted is the following percentage of the amount required to be deducted under subsection (a)

"If the adjusted wages (computed at an annual rate) are:

[In percent]

Less than 0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) ADJUSTED WAGES.—For purposes of this subsection, the adjusted wages of a married taxpayer for any period is the amount of wages (adjusted to an annual rate), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151. In the case of a married individual whose spouse receives wages during such period, the number of exemptions to which he is entitled shall be determined as if he were not married.

"(3) CREDIT AGAINST TAX.—Amounts deducted from the wages of an employee under this subsection shall be allowed as a credit against the tax imposed on the employee under section 3101.

"(4) WITHHOLDING CERTIFICATES.—Each employee shall furnish his employer with a signed certificate setting forth such information as is necessary to enable the employer to determine whether this subsection is applicable to him, and the amount of tax to be deducted under this subsection. Such certificate shall be in such form, shall be furnished at such time or times, and shall remain in effect for such period as the Secretary or his delegate prescribes by regulations.

"(5) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 3101(c)."

(b) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS—

"(1) IN GENERAL.—In the case of a married taxpayer whose adjusted social security income for the taxable year is less than $850, there hereby is imposed on the self-employment income of such taxpayer (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

The tax is the following percentage of the taxes imposed by subsections (a) and (b)

"If the adjusted social security income is:

[In percent]

Less than 0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of a taxpayer who is married (as determined under section 1431), for any taxable year is his adjusted gross income for such year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of the personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during each year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(c) Section 31(b) of the Internal Revenue Code of 1954 (relating to credit for special refunds of social security tax) is amended by striking out the heading and paragraph (1) and inserting in lieu thereof the following:

"(b) CREDIT FOR EXCESS WITHHOLDING OF SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of amounts deducted under section 3102 from the wages paid to the taxpayer in excess of the tax imposed on such wages by section 3101, including the amount determined by the taxpayer or the Secretary or his delegate to be allowable under section 6413(c) as a special refund of such tax. The amount allowable as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402."

(d) There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Health Insurance Trust Fund amounts (as determined by the Secretary of the Treasury) equal to losses of revenues of such trust funds resulting from the application of sections 3101(c) and 1401(c) of the Internal Revenue Code of 1954. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the respective trust funds on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts which should have been transferred.

PARTIAL GENERAL FINANCING OF RETIREMENT BENEFITS

SEC. 7. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund, and in addition to any other funds authorized by other provisions of law to be appropriated to or deposited in the Federal Disability Insurance Trust Fund for any fiscal year, there are authorized to be appropriated to each of such funds the following amounts:

(1) For the fiscal year ending June 30, 1974, an amount equal to one twenty-fifth of the expenditures from such fund for such year;

(2) For the fiscal year ending June 30, 1975, an amount equal to three-fiftieths of the expenditures from such fund for such year;

(3) For the fiscal year ending June 30, 1976, an amount equal to two twenty-fifths of the expenditures from such fund for such year;

(4) For the fiscal year ending June 30, 1977, an amount equal to one-tenth of the expenditures from such fund for such year;

(5) For the fiscal year ending June 30, 1978, an amount equal to three twenty-fifths of the expenditures from such fund for such year;

(6) For the fiscal year ending June 30, 1979, an amount equal to seven-fiftieths of the expenditures from such fund for such such year;

(7) For the fiscal year ending June 30, 1980, an amount equal to four twenty-fifths of the expenditures from such fund for such year;

(8) For the fiscal year ending June 30, 1981, an amount equal to nine-fiftieths of the expenditures from such fund for such year; and

(9) For any fiscal year ending after June 30, 1981, an amount equal to one-fifth of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amounts which will be expended for such year from the trust fund to which funds are being appropriated, reduced, or increased to the extent of any overappropriation or underappropriation under this section to such fund for any preceding year with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make the estimates referred to in paragraph (1).

Mr. HARTKE. Mr. President, the social security payroll tax is the fastest growing tax in the United States. In 1971, payroll tax collections reached $44 billion—27 times the level of 1949. This increase is equal to a compound growth rate of more than 16 percent per year. In terms of total Federal revenues, the payroll tax now brings in 23 percent of all Federal revenues, whereas, in 1949, it brought in just 4 percent.

At least one-half of all workers who file tax returns pay more social security tax than they do Federal income tax. For the worker with a small family and an income hovering near the poverty line, his effective social security tax rate is about 11.4 percent. The same worker with a $24,000 income has an effective rate of 2.1 percent. Study after study has cited the regressive nature of the payroll tax. It hits the low- and moderate-income worker hardest.

While the bill now before the Senate contains no increase in payroll taxes until 1980, and only modest increases thereafter, the mail I am receiving indicates that workers are already overburdened by the payroll tax. The amendment I offer today provides some immediate payroll tax relief for low-income workers. In the long run, however, I believe that we will have to go even further than this proposal to provide tax relief to many moderate-income workers, as well.

Mr. President, the payroll tax is an involuntary tax levied without exemptions or deductions. The low-income worker I referred to earlier in my statement is paying an effective income tax rate of zero, while his social security rate is over 11 percent. The worker with $24,000 in wages is paying an effective social security rate of just over 2 percent, while his income tax rate is almost 28 percent.

Clearly, there are major inequities in this tax structure. The Finance Committee proposals provide a tax credit for low-income workers with families. There are several major deficiencies in this approach, however. First, it does nothing to make the payroll tax less regressive. Second, it applies only to married workers with families. Third, it is given at the end of the year, although low-income families need relief throughout the year.

The proposal I offer today is free from each of these deficiencies. It is a direct effort to introduce a progressive feature into the payroll tax. Second, it applies to all married workers, with or without children. Third, it provides relief with every payroll check.

Mr. President, my proposal is a simple one, yet long hours of thought and effort have gone into its preparation. What it provides is that a worker with a tax liability of less than zero pays only 10 percent of his full social security tax. A worker with an income tax liability of 0 to $49 pays 15 percent of his social security tax obligation. From that point on, every $50, the worker's social security tax obligation is increased 5 percent, until the tax liability reaches $850. At that point, the worker pays the full social security tax which is normally due.

The reduction applies only to the employee tax; the employer pays his full share of the normal tax on the worker's salary.

Mr. President, I ask unanimous consent that tables showing the operation of my proposal at various levels of income for single and married workers be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—MARRIED WORKER—SPOUSE WORKING—NO CHILDREN [1]

Gross wages	Income tax liability	Full social security tax	Percent social security [2]	Hartke social security save [3]	Finance Committee tax credit [4]
$1,000	(5)	$58.50	10	$52.65	0
$1,050	(5)	61.43	10	55.28	0
$1,100	(5)	64.35	10	57.91	0
$1,150	(5)	67.28	10	60.54	0
$1,200	(5)	70.20	10	63.18	0
$1,250	(5)	73.23	10	65.82	0
$1,300	(5)	76.05	10	68.44	0
$1,350	(5)	78.98	10	71.08	0
$1,400	(5)	81.90	10	73.71	0
$1,450	(5)	84.83	10	76.35	0
$1,500	(5)	87.75	10	78.97	0
$1,550	(5)	90.68	10	81.61	0
$1,600	(5)	93.60	10	84.24	0
$1,650	(5)	96.53	10	86.66	0
$1,700	(5)	99.45	10	90.50	0
$1,750	(5)	102.38	10	92.14	0
$1,800	(5)	105.30	10	94.57	0
$1,850	(5)	107.43	10	96.69	0
$1,900	(5)	111.15	10	100.03	0
$1,950	(5)	114.08	10	102.67	0
$2,000	(5)	117.00	10	105.30	0
$2,050	0	119.93	15	101.94	0
$2,100	$50	122.85	20	98.28	0
$2,150	100	125.78	25	94.44	0
$2,200	150	128.70	30	90.09	0
$2,250	200	131.63	35	85.56	0
$2,300	250	134.55	40	80.73	0
$2,350	300	138.48	45	76.16	0
$2,400	350	140.40	50	70.20	0
$2,450	400	143.37	55	64.52	0
$2,500	450	146.25	60	58.50	0
$2,550	500	149.22	65	52.23	0
$2,600	550	152.20	70	45.66	0
$2,650	600	$155.17	75	$38.79	0
$2,700	650	158.15	80	31.63	0
$2,750	700	161.12	85	24.17	0
$2,800	750	163.80	90	16.38	0
$2,850	800	166.77	95	8.34	0
$2,899	849	169.59	95	8.48	0
$2,900	850	169.65	100	0	0

[1] Under the Hartke proposal, a married worker whose spouse is working is treated for purposes of calculated tax liability as if he or she were single.

[2] Indicates percent of full social security tax for which employee is liable.

[3] Indicates total annual amount which employee would save under Hartke proposal.

[4] The Finance Committee tax credit applies only to married workers with at least 1 child.

[5] Less than 0.

TABLE II.—MARRIED WORKER—SPOUSE NOT WORKING—2 CHILDREN

Gross wages	Income tax liability	Full social security tax	Percent social security [1]	Hartke social security save [2]	Finance Committee tax credit [3]
$1,000	(4)	$58.50	10	$52.65	$100.00
$1,050	(4)	61.43	10	55.28	105.00
$1,100	(4)	64.35	10	57.91	110.00
$1,150	(4)	67.28	10	60.54	115.00
$1,200	(4)	70.20	10	63.18	120.00
$1,250	(4)	73.13	10	65.28	125.00
$1,300	(4)	76.05	10	68.44	130.00
$1,350	(4)	78.98	10	71.08	135.00
$1,400	(4)	81.90	10	73.71	140.00
$1,450	(4)	84.83	10	76.35	145.00
$1,500	(4)	87.75	10	78.97	150.00
$1,550	(4)	90.68	10	81.61	155.00
$1,600	(4)	93.60	10	84.24	160.00
$1,650	(4)	96.53	10	86.88	165.00
$1,700	(4)	99.45	10	90.50	170.00
$1,750	(4)	102.38	10	92.14	175.00
$1,800	(4)	105.30	10	94.57	180.00
$1,850	(4)	107.43	10	96.69	185.00
$1,900	(4)	111.15	10	100.03	190.00
$1,950	(4)	114.08	10	102.67	195.00
$2,000	(4)	117.00	10	105.30	200.00
$2,050	(4)	119.93	10	107.94	205.00
$2,100	(4)	122.85	10	110.58	210.00
$2,150	(4)	125.78	10	113.22	215.00
$2,200	(4)	128.70	10	115.86	220.00
$2,250	(4)	131.63	10	118.47	225.00
$2,300	(4)	134.55	10	121.09	230.00
$2,350	(4)	138.48	10	124.63	235.00
$2,400	(4)	140.40	10	126.36	240.00
$2,450	(4)	143.37	10	129.03	245.00
$2,500	(4)	146.25	10	131.62	250.00
$2,550	(4)	149.92	10	134.93	255.00
$2,600	(4)	152.20	10	136.98	260.00
$2,650	(4)	155.17	10	139.65	265.00
$2,700	(4)	158.15	10	142.33	270.00
$2,750	(4)	161.12	10	145.01	275.00
$2,800	(4)	163.80	10	147.42	280.00
$2,850	(4)	167.77	10	150.99	285.00
$2,900	(4)	169.65	10	152.68	290.00
$2,950	(4)	172.58	10	155.32	295.00
$3,000	(4)	175.50	10	157.94	300.00
$3,050	(4)	178.43	10	160.59	305.00
$3,100	(4)	181.35	10	163.21	310.00
$3,150	(4)	184.28	10	165.85	315.00
$3,200	(4)	187.20	10	168.48	320.00
$3,250	(4)	190.13	10	171.12	325.00
$3,300	(4)	193.05	10	173.74	330.00
$3,350	(4)	195.98	10	176.38	335.00
$3,400	(4)	198.90	10	179.01	340.00
$3,450	(4)	201.83	10	181.65	345.00
$3,500	(4)	204.75	10	184.27	350.00
$3,550	(4)	207.68	10	186.91	355.00
$3,600	(4)	209.60	10	188.64	360.00
$3,650	(4)	213.52	10	192.17	365.00
$3,700	(4)	216.45	10	194.80	370.00
$3,750	(4)	219.38	10	197.44	375.00
$3,800	(4)	222.30	10	200.07	380.00
$3,850	(4)	224.23	10	201.81	385.00
$3,900	(4)	228.15	10	205.33	390.00
$3,950	(4)	231.08	10	207.97	395.00
$4,000	(4)	234.00	10	210.60	400.00
$4,050	(4)	236.93	10	213.24	387.50
$4,100	(4)	239.85	10	215.86	375.00
$4,150	(4)	242.78	10	218.50	362.50
$4,200	(4)	245.70	10	221.13	350.00
$4,250	(4)	248.63	10	223.77	337.50
$4,300	0	251.55	15	213.82	325.00
$4,350	$50	254.48	20	203.58	312.50
$4,400	100	257.40	25	193.05	300.00
$4,450	150	260.33	30	182.23	287.50
$4,500	200	263.25	35	171.11	275.00
$4,550	250	266.17	40	159.60	262.50
$4,600	300	269.10	45	148.01	250.00
$4,650	350	272.03	50	136.02	237.50
$4,700	$400	$274.95	55	$123.73	$225.00
$4,750	450	277.88	60	111.15	212.50
$4,800	500	280.80	65	98.28	200.00
$4,850	550	283.73	70	85.12	187.50
$4,900	600	286.65	75	71.66	175.00
$4,950	650	289.58	80	57.92	162.50
$5,000	700	292.50	85	43.88	150.00
$5,050	750	295.43	90	26.59	137.50
$5,100	800	298.35	95	14.92	125.00
$5,149	849	301.22	95	15.06	112.75
$5,150	850	301.27	100	0	112.50

[1] Indicates percent of full social security tax for which employee is liable.

[2] Indicates total annual amount which employee would save under Hartke proposal.

[3] The Finance Committee tax credit applies only to married workers with at least 1 child.

[4] Less than 0.

TABLE III.—MARRIED WORKER—SPOUSE WORKING—2 CHILDREN [1]

Gross wages	Income tax liability	Full social security tax	Percent social security [2]	Hartke social security save [3]	Finance Committee tax credit [4]
$1,000	(5)	$58.50	10	$52.65	$100.00
$1,050	(5)	61.43	10	55.28	105.00
$1,100	(5)	64.35	10	57.91	110.00
$1,150	(5)	67.28	10	60.54	115.00
$1,200	(5)	70.20	10	63.18	120.00
$1,250	(5)	73.13	10	65.82	125.00
$1,300	(5)	76.05	10	68.44	130.00
$1,350	(5)	78.98	10	71.08	135.00
$1,400	(5)	81.90	10	73.71	140.00
$1,450	(5)	84.83	10	76.35	145.00
$1,500	(5)	87.75	10	78.97	150.00
$1,650	(5)	90.68	10	81.61	155.00
$1,600	(5)	93.60	10	84.24	160.00
$1,650	(5)	96.53	10	86.66	165.00
$1,700	(5)	99.45	10	90.50	170.00
$1,750	(5)	102.38	10	92.14	175.00
$1,800	(5)	105.30	10	94.57	180.00
$1,850	(5)	107.43	10	96.69	185.00
$1,900	(5)	111.15	10	100.03	190.00
$1,950	(5)	114.08	10	102.67	195.00
$2,000	(5)	117.00	10	105.30	200.00
$2,050	0	119.93	15	101.94	205.00
$2,100	$50	122.85	20	98.28	210.00
$2,150	100	125.78	25	94.44	215.00
$2,200	150	128.70	30	90.09	220.00
$2,250	200	131.63	35	85.56	225.00
$2,300	250	134.55	40	80.73	230.00
$2,350	300	138.48	45	76.16	235.00
$2,400	350	140.40	50	70.20	240.00
$2,450	400	143.37	55	64.52	245.00
$2,500	450	146.25	60	58.50	250.00
$2,550	500	149.22	65	52.23	255.00
$2,600	550	152.20	70	45.66	260.00
$2,650	600	155.17	75	38.79	265.00
$2,700	650	158.15	80	31.63	270.00
$2,750	700	161.12	85	24.17	275.00
$2,800	750	163.80	90	16.38	280.00
$2,850	800	166.77	95	8.34	285.00
$2,899	849	169.59	95	8.48	289.90
$2,900	850	169.65	100	0	290.00

[1] Under the Hartke proposal, a married worker whose spouse is working is treated for purposes of calculated tax liability as if he or she were single.

[2] Indicates percent of full social security tax for which employee is liable.

[3] Indicates total annual amount which employee would save under Hartke proposal.

[4] The Finance Committee tax credit applies only to married workers with at least 1 child.

[5] Less than 0.

TABLE IV.—MARRIED WORKER—SPOUSE NOT WORKING—NO CHILDREN

Gross wages	Income tax liability	Full social security tax	Percent social security [1]	Hartke social security save [2]	Finance Committee tax credit [3]
$1,000	(4)	$58,50	10	$52.65	0
$1,050	(4)	61.43	10	55.28	0
$1,100	(4)	64.35	10	57.91	0
$1,150	(4)	67.28	10	60.54	0
$1,200	(4)	70.20	10	63.18	0
$1,250	(4)	73.13	10	65.28	0
$1,300	(4)	76.05	10	68.44	0
$1,350	(4)	78.98	10	71.08	0

Gross wages	Income tax liability	Full social security tax	Percent social security [1]	Hartke social security save [2]	Finance Committee tax credit [3]
$1,400	(4)	$81.90	$10	73.71	0
$1,450	(4)	84.83	10	76.35	0
$1,500	(4)	87.75	10	78.97	0
$1,550	(4)	90.68	10	81.61	0
$1,600	(4)	93.60	10	84.24	0
$1,650	(4)	96.53	10	86.88	0
$1,700	(4)	99.45	10	90.50	0
$1,750	(4)	102.38	10	92.14	0
$1,800	(4)	105.30	10	94.57	0
$1,850	(4)	107.43	10	96.69	0
$1,900	(4)	111.15	10	100.03	0
$1,950	(4)	114.08	10	102.67	0
$2,000	(4)	117.00	10	105.30	0
$2,050	(4)	119.39	10	107.94	0
$2,100	(4)	122.85	10	110.58	0
$2,150	(4)	125.78	10	113.22	0
$2,200	(4)	128.70	10	115.86	0
$2,250	(4)	131.63	10	118.47	0
$2,300	(4)	134.55	10	121.09	0
$2,350	(4)	138.48	10	124.63	0
$2,400	(4)	140.40	10	126.36	0
$2,450	(4)	143.37	10	129.03	0
$2,500	(4)	146.25	10	131.62	0
$2,550	(4)	149.92	10	134.93	0
$2,600	(4)	152.20	10	136.98	0
$2,650	(4)	155.17	10	139.65	0
$2,700	(4)	158.15	10	142.33	0
$2,750	(4)	161.12	10	145.01	0
$2,800	0	163.80	15	139.23	0
$2,850	$50	167.77	20	134.22	0
$2,900	100	169.65	25	127.24	0
$2,950	150	172.58	30	120.81	0
$3,000	200	175.50	35	114.08	0
$3,050	250	178.43	40	107.06	0
$3,100	300	181.35	45	99.74	0
$3,150	350	184.28	50	92.14	0
$3,200	400	187.20	55	84.24	0
$3,250	450	190.13	60	76.05	0
$3,300	500	193.05	65	67.57	0
$3,350	550	195.98	70	58.79	0
$3,400	600	198.90	75	49.73	0
$3,450	650	201.83	80	40.37	0
$3,500	700	204.75	85	30.72	0
$3,550	750	207.68	90	20.77	0
$3,600	800	209.60	95	10.48	0
$3,649	849	213.47	95	10.67	0
$3,650	850	216.45	100	0	0

[1] Indicates percent of full social security tax for which employee is liable.

[2] Indicates total annual amount which employee would save under Hartke proposal.

[3] The Finance Committee tax credit applies only to married workers with at least 1 child.

[4] Less than 0.

Mr. HARTKE. Mr. President, let me clarify the modification of my amendment. As originally introduced, it covered all taxpayers paying the social security tax. As introduced, the cost estimate was close to $2 billion.

I have modified my amendment to cover only married workers thereby reducing the cost of my amendment to be the same as the bill on the floor. The significant difference here is the coverage. Under the Finance Committee bill, only married workers with children are covered. Under my amendment, all married workers are covered regardless of whether or not they have children.

Let me emphasize here that two significant groups of people will be covered by my amendment that are not covered by the bill as reported. Those groups are the newly married individuals who are entering the job market at a low-income level, and those married couples who have raised their children and are now unable to secure employment at a high income because of age, disablement, or lack of training. We must not forget those people who will significantly contribute to the economy of this country, nor those people who have already contributed throughout their lifetime. My amendment would bring both of these groups within the payroll tax deduction.

I have further modified my amendment, and struck all changes in medicare and hospital insurance. I have made this modification for one reason, I feel that it is absolutely necessary that the bill we approve here in the Senate provide for relief to the low-income worker. Under my amendment there would be immediate relief to those workers who need it most.

Mr. President, I have notified the manager of the bill, chairman of the Finance Committee, that this amendment deals with provisions concerning how we alleviate the present burden of the payroll tax. There has been in the bill, under the direction of the chairman, a measure whereby there is a tax credit for certain low-income people. This is in direct conflict with that approach. I feel this is a preferable one, but, under the circumstances, in view of the fact that the committee has approved the other provision, I feel we should give the chairman's approach preference, although I would want to proceed at a later date, in another year, with this approach, and I hope I can convince the chairman to agree with that approach.

Under those circumstances, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

ORDER THAT AMENDMENT NO. 723 BE PENDING BUSINESS ON TOMORROW

Mr. GRIFFIN. Mr. President, I ask unanimous consent, on behalf of the Senator from New York (Mr. JAVITS), that his amendment No. 723 be called up and made the pending question tomorrow.

The PRESIDING OFFICER. The clerk will report the amendment. The second assistant legislative clerk read as follows:

At the end of the bill insert the following new section:

SEC. —. (a) Section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the numeral '4' contained in subparagraph (B) thereof were '4.5'.".

(b) Subsection (f) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"Rate of Insured Unemployment, Covered Employment

"(f)(1) For the purpose of subsection (d), the term 'rate of insured unemployment' means the percentage arrived at by dividing—

"(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by all State agencies to the Secretary, by

"(B) the average monthly covered employment for the specified period.

"(2) For the purpose of subsection (e), the term 'rate of insured unemployment' means the percentage arrived at by dividing—

"(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by the State agency to the Secretary, by

"(B) the average monthly covered employment for the specified period, plus, if the State by law so provides, effective with respect to compensation for weeks of unemployment beginning after the date of enactment of this sentence (or, if later, the date established pursuant to State law) the thirteen-week exhaustion rate (as determined under paragraph (3)).

"(3) The 'thirteen-week exhaustion rate' is the percentage arrived at by dividing—

"(A) 25 per centum of the sum of the exhaustions, during the most recent twelve calendar months ending before the week with respect to which such rate is computed, of regular compensation under the State law, by

"(B) the average monthly covered employment as determined under paragraph (2)(B).

"(4) Determinations under subsection (d) shall be made by the Secretary in accordance with regulations prescribed by him.

"(5) Determinations under subsection (e) shall be made by the State agency in accordance with regulations prescribed by the Secretary.".

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan? The Chair hears none, and it is so ordered.

U.S. PARTICIPATION IN UNITED NATIONS ENVIRONMENT PROGRAM—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 6768, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HART). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6768) to provide for participation by the United States in the United Nations Environment Program having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 15, 1973, at page 37137.)

Mr. ROBERT C. BYRD. Mr. President, I move that the conference report be agreed to.

The motion was agreed to.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS WEICKER, PERCY, AND GRIFFIN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized tomorrow under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Senators WEICKER, PERCY, and GRIFFIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND FOR CONSIDERATION OF PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the able Senator from Michigan (Mr. GRIFFIN), the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), be recognized for not to exceed 15 minutes, after which the Senate resume the consideration of the unfinished business, H.R. 3153.

That means that there will be no period for the transaction of routine morning business early tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE S. 5 ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the bill S. 5, which was referred to the Committee on Government Operations for 60 days, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. ALLEN. Mr. President, what was the bill?

Mr. ROBERT C. BYRD. This is a bill which was introduced on January 4 by Mr. MONDALE for himself and other Senators. It was reported by Mr. MONDALE on July 18, 1973 without amendment. It was committed to the Committee on Government Operation on September 11, 1973 with instructions to report back within 60 days by order of the Senate. I understand that the 60 days ran out on November 11, and that the committee desires that this request be made since it does not care to take any action thereon.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 5) to promote the general welfare.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized each for not to exceed 15 minutes and in the order stated: Senators WEICKER, PERCY, GRIFFIN, and MANSFIELD.

At the conclusion of the aforementioned orders, the Senate will resume the consideration of the unfinished business, H.R. 3153, a bill to amend the Social Security Act and make certain technical and conforming changes.

At that time the question before the Senate will be on agreeing to amendment No. 723 by the Senator from New York (Mr. JAVITS), on which there is no time limitation.

Yea-and-nay votes will occur on tomorrow.

It is the hope of the leadership that on tomorrow the Senate can complete action on the unfinished business, the social security bill and take up the debt limit matter and can also dispose of the daylight saving time bill. That means that we will have a pretty full day.

Mr. President, I am directed by the distinguished majority leader to indicate the possibility of a Saturday session if we cannot complete our business on tomorrow. Hopefully we can complete the business that I have outlined. Senators can, therefore, expect several rollcalls.

Senators ought to be prepared to have a reasonably long session tomorrow.

Mr. GRIFFIN. Mr. President, will the distinguished majority whip yield for an inquiry on the program?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. In so far as the debt ceiling matter is concerned, that would be a privileged matter and could be brought up at any time, is that correct?

Mr. ROBERT C. BYRD. Yes, the Senator is correct. The law will expire at midnight tomorrow, and it is hoped by the leadership on both sides, after consultations that have taken place today on this side of the Capitol, and after having consulted with the leadership on the other side of the Capitol, that that matter can be resolved fairly expeditiously tomorrow in the Senate, so that it can go back to the House and perhaps be resolved there in ample time before the law expires.

Mr. GRIFFIN. But insofar as any particular time or scheduling is concerned, that is not determined at this point?

Mr. ROBERT C. BYRD. It has not been determined, the Senator is correct.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:47 p.m. the Senate adjourned until tomorrow, Friday, November 30, 1973, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, November 29, 1973*

The House met at 12 o'clock noon.

Rabbi Solomon I. Berl, Young Israel of Co-op City, Bronx, N.Y., offered the following prayer:

O Lord, in these soul-stirring times, we seek Thy guidance for our Nation's representatives, entrusted with the guardianship of our rights and liberties, who dedicate themselves to directing the affairs of our country and the strengthening of its ideals and way of life.

May Thy spirit dwell within them, as they manifest abiding courage and sincere faith in the cherished traditions of our Founding Fathers, to work for freedom, justice, and peace.

Bless all the people of our country. Above divisive difference of race, creed, and social station, may we ever feel our common humanity and our common duties of justice and truth.

Hasten the day when the millenial hope of universal peace will prevail throughout the world with justice and freedom for all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 381. Concurrent resolution authorizing the Clerk of the House to make a technical correction in the enrollment of H.R. 1284; and

H. Con. Res. 382. Concurrent resolution

directing the Clerk of the House of Representatives to make a change in the enrollment of H.R. 7446.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 389. An act for the relief of the Southeastern University of the District of Columbia;

S. 1836. An act to amend the act entitled "An act to incorporate the American Hospital of Paris", approved January 30, 1913 (37 Stat. 654);

S. 2441. An act to amend the act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization; and

S. 2673. An act to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

RABBI SOLOMON I. BERL

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, we are delighted to have with us today Rabbi Solomon I. Berl, spiritual leader of the Young Israel of Co-op City. This is the largest congregation in Co-op City, which is the largest housing cooperative in the country, situated in the northeast Bronx.

Rabbi Berl was the first clergyman of all faiths to be assigned to Co-op City and is regarded as senior rabbi by the five Jewish congregations in the Jewish Community Council of Co-op City. He received his education at Yeshiva Rabbi Jacob Joseph, Yeshiva Rabbi Israel Salanter, and Yeshiva University. He has been a member of the Youth Bureau of the City of New York, the Speakers Bureau of the National Conference of Christians and Jews, and was chairman of the Hebrew Department of Salanter Yeshiva for 10 years. He served as spiritual leader of Young Israel of Bronx Gardens for 20 years.

Rabbi Berl is a member of the faculty of Erna Michael College of Jewish Studies of Yeshiva University and serves on the faculty of the Cantorial Training Institute. He is a renowned authority on Jewish liturgy and is editor of the publication of the Cantorial Council of America.

Among Rabbi Berl's professional affiliations are the Rabbinical Alliance of America, the Rabbinical Alumni of Yeshiva University, and the Council of Young Israel Rabbis. His congregation is the largest of the 165 constituent synagogues of the Youth Israel Synagogue movement.

The people of Bronx County are proud to have such an outstanding community and spiritual leader and proud to have him deliver the prayer here in the House of Representatives.

HOUSTON CHRONICLE HONORS DEAN OF CONGRESS

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, WRIGHT PATMAN of Texarkana and Patman's Switch, Tex., has served his constituents in this body for over 44 years. Congressman PATMAN is the dean of the Texas delegation and the House of Representatives. He is also dean of the entire U.S. Congress. We are all beneficiaries of his leadership and his dedication to this body and to our country.

There appeared in the Texas magazine of November 16, of this year, an article entitled "Wright Patman, the Dean of Capitol Hill." I believe it is a fitting tribute and will include this article in today's Extensions of Remarks.

PROPOSED INTERNATIONAL CONFERENCE ON HEART DISEASE, CANCER, AND STROKE

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I am introducing today a resolution calling upon the Secretary of Health, Education, and Welfare to convene an International Conference on Heart Disease, Cancer, and Stroke.

We all know the suffering and despair these dread killers bring to millions of Americans each year.

The United States has taken the lead in seeking treatment and cures for these diseases. Many other nations have joined in the fight against these killer diseases.

It is time now for the United States to bring together the fruits of these worldwide efforts. The international conference called for in this bill to be held in the District by the end of fiscal year 1975 will bring together leading researchers from around the world who are involved in the fight against heart disease, cancer, and stroke.

From their discussions we will identify advances already made and the direction we must pursue in the future.

To insure this, I am asking that a report on this conference be made to Congress. I hope you will support this bill and the International Conference on Heart Disease, Cancer, and Stroke to move us closer to the day when Americans and people the world over need no longer fear the scourge of these terrible diseases.

OPENING OF NAVAL PETROLEUM RESERVE AT ELK HILLS

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, for the past 2 days I have risen to urge the immediate opening of the naval petroleum reserve at Elk Hills. I rise today, Mr. Speaker, to call the attention of my colleagues to House Joint Resolution 832, which will accomplish this, introduced by the distinguished chairman of the Armed Services Committee, Mr. HÉBERT, and cosponsored by the distinguished ranking minority member, Mr. BRAY. I am deeply grateful as we all should be that these two distinguished and influential Members have seen fit to move toward the opening of this important petroleum reserve to help meet the needs of our fleet and to minimize, to at least a degree, the fleet's demands on domestic oil. It is my hope that all my colleagues strongly support this resolution and push for its rapid passage. Each day of delay removes about 120,000 barrels per day of oil from domestic use. Again, Mr. Speaker, I congratulate most heartily the action of our two colleagues, Mr. HÉBERT and Mr. BRAY. They are doing our Nation and its Fleet a great and necessary service.

LIGHTS OUT

(Mr. ROBISON of New York asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. ROBISON of New York. Mr. Speaker, I should like to endorse and read into the RECORD the following editorial from last night's Star-News:

LIGHTS OUT

We were trying to figure out what it was that bothered us most about the President's plans for riding out the energy crisis—and now it comes to us. His proposed ban on outdoor Christmas lights would be a sorry surrender to the Mideast squeeze on oil.

Granting the enormity of the problem, and readily acknowledging the ability of the American people, when sorely pressed, to sacrifice creature comforts in defense of their liberties, are we going to let foreign powers think they can turn off Christmas, too?

Not as an act of defiance—however appealing in these discouraging times a thumb to the nose would be—but as a demonstration that a lovely and cherished tradition is not to be trifled with, let's light up the night this Christmas Eve and turn on the lights again at the end of Christmas Day.

Let's give ourselves just these two bright magic nights—having to do with love, not hate, and peace, not war. We can make up for it later by switching off everything and turning in early a night or two.

Peace to the Arabs, to the Israelis, to men of good will everywhere. May Congress exempt Christmas from its emergency energy bill. If it lacks the gumption to do it, let the President reconsider when it's time to make a decision on the exercise of this power.

We remember a Christmas 34 years ago when lights were going out all over the world. To express our faith in a better way of conducting human affairs, we think we can well afford to light ourselves up this Christmas, and that's what we plan to do.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, DECEMBER 1, 1973, TO FILE REPORTS

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until midnight, Saturday, December 1, 1973, to file reports on—

H.R. 8529, to implement the Shrimp Fishing Agreement with Brazil;

H.R. 6074, the lobster bill; and

House Concurrent Resolution 173, relating to the U.S. fishing industry.

The SPEAKER. Is there objection to

the request of the gentlewoman from Missouri?

There was no objection.

DISAGREEING TO SENATE AMENDMENTS TO H.R. 11104, PUBLIC DEBT LIMIT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 721 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 721

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974, together with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table, to the end that the Senate amendments be, and the same are hereby disagreed to, and the Clerk is hereby directed to message that action of the House to the Senate without any intervening motion.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, on the day before yesterday the other body passed, by a vote of 57 yeas to 34 nays, H.R. 11104, a bill increasing the present temporary ceiling on the public debt from $465 billion to $475.7 billion, and extending the period to which this temporary ceiling applies until June 30, 1974.

Mr. Speaker, as the Members of the House will recall, we recently passed the bill authorizing the increase in the debt ceiling. Our bill, however, was a clean bill and related only to the increase in the debt ceiling.

The other body, however, in the passage of the debt ceiling bill that we passed here, added nine amendments. The first of the amendments, offered by the distinguished Senator from Massachusetts (Mr. KENNEDY), put onto that bill S. 372, which passed the Senate on July 30, 1973, relating to election reform and to public financing of Presidential and congressional elections. In addition to that, Mr. Speaker, the other body added eight more amendments dealing with the matter of election reform, so that we have before us now, not the clean bill that the House passed increasing the debt ceiling, but an amended bill with nine amendments put on in the other body, some of which dealt with subjects which would be within the jurisdiction of the distinguished Committee on Ways and Means of the House of Representatives, and other amendments added would be within the jurisdiction of the distinguished Committee on House Administration of the House of Representatives.

Mr. Speaker, I am favorable to and a joint sponsor of legislation providing for election reform, and also for public financing of Presidential and congressional elections, but I do not feel that it is obligatory upon me or Members of this House to take completely a bill that originated in and was written by the other body without our own distinguished committees, two of which I have enumerated who have jurisdiction over the matters, or Members of this House having any opportunity whatsoever to add one jot or title to that measure.

I do not believe that is the only way this House will have an opportunity to consider those two vital subjects of election reform and public financing. I believe our own distinguished committees will take appropriate measures to give the House an opportunity to consider legislation of that character where we will have an opportunity to work our own will rather than having to take absolutely a measure which was originated in and written solely by the other body.

To that end if I may, Mr. Speaker, I would like to yield to the distinguished chairman of the House Committee on Administrative for any statement respecting this subject he may care to make.

Mr. HAYS. Mr. Speaker, I thank the gentleman for yielding.

I simply want to say that I agree the material the Senate has attached to the debt ceiling bill the Representatives might be mildly shocking, and I am being conservative when I say that.

Among the measures they have added is that each Member of the Congress and his opponents can get $90,000 from the public till. I happen to believe $90,000 is too much money to spend in a congressional election. I have reviewed the figures and the average is very much below that.

We just had Mr. Gardner before the committee all morning in a hearing which we hope will be the last hearing and we hope to start markup next week on the bill. Of course, that is the position of Mr. Gardner, that everybody ought to get $90,000, and he said that his organization would be in every congressional district next year to let the people know how the Members vote on this issue of $90,000.

I said, "Well, I think the people in my district will pretty well know. I am going to try to get the word around and if you can help me I will appreciate it because I am sure going to vote against this. If it becomes law the campaign in my district will be very simple. I will simply announce that I am not going to sack my people for $90,000 and I dare my opponent to do it and the election will be over fast and it will not cost anybody very much."

Mr. Speaker, the committee is working and we are having hearings. The gentleman from Pennsylvania, the chairman of the subcommittee (Mr. DENT), has been criticized by Common Cause and others about his leisurely pace, but Mr. DENT also handled the minimum wage bill and is handling the pension reform legislation.

He is the chairman of the subcommittee. He has held timely hearings. As I say, they are about over.

I made a commitment to the leadership that we would do our very best to have a bill out by sometime in February, a bill that the House can then consider paragraph by paragraph, as it does consider legislation and work its will.

I am going to try, I will say to the distinguished gentleman from the Rules Committee, to get as near a consensus from the committee that I can; but there are 435 Members of the House when every seat is filled and there are that many different opinions about what should be in the election law, because the Members of this body have all lived through it and they have all had more experience than all the theoreticians.

One witness said this morning, "Our organization is asking and insisting that you in the Congress adopt public financing for every election in the United States from President down to the coroner."

I tried to point out to him repeatedly that we did not have that power, but he just kept saying, "Well, I think you do."

Well, I cannot change what somebody thinks.

He said, "I think the Supreme Court will uphold it."

I said, "Well, you must have not looked at the list of the Members of the Supreme Court lately, if they are going to say we can take the Constitution of the United States which specifically says the States can regulate their own elections and do it and then we can do it for the President, we can do it for Senators and we can do it for Members of Congress; but beyond that we are helpless."

I said that as far as I am concerned, given the present Secretary of State in Ohio, I would be delighted to take the power away from him, because I do not like the way he administers elections; so do not get the idea I am hard to deal with, but I am considering the Congress of the United States. I am aware of its limitations and what our limitations are, so I will say in conclusion that barring the committee by a majority vote turning the bill down, we expect to have a vote in the next session and with some of the things I hope will be in there.

Believe it or not, Mr. Gardner concurs that we should preempt State laws on the subject and every Member of Congress will live under whatever law we have and not have a law in the State that says we can do some of the things this says we can and some of the things we cannot.

I consider that to be one of the essentialities and depending on when we get the bill out, I do not think we ought to be in the position we were 2 years ago in which some of the primaries came under the new law and some did not.

I would suppose if we did not get a bill passed by the first primary, we will take whatever new law comes out of the conference committee, take whatever comes into effect with the general congressional election in 1974 and all elections thereafter.

Mr. SANDMAN. Mr. Speaker, will the chairman of the committee yield for a question?

Mr. HAYS. Mr. PEPPER has the time.

Mr. PEPPER. I yield to the gentleman from New Jersey.

Mr. SANDMAN. I would hope the committee would look into the constitutional problem involved before we spend so much time on this public financing question. I wonder how many people believe that it is possible to give public funds to only two candidates when there are more than two seeking the same office? How do we get around the provisions of the 14th amendment by picking out only two candidates?

Mr. HAYS. I will say to the gentleman from New Jersey (Mr. SANDMAN) that he has just been through a campaign and is as much an expert as anybody in the House.

I will say to the gentleman from New Jersey that I do not think we can get around the 14th amendment. This is the thing that is troubling the House.

I pointed out to the representative of the United Mine Workers, who was before our committee, who advocated complete and total public financing.

I said, "You have not given us a figure; but suppose we adopt the Common Cause figure of $90,000 and we give $90,000 to every candidate that files in Ohio, which he can do for a $50 bill and 100 signatures," I said, "Mr. Nelson, coal production is going to drop sharply, because so many coal miners will run for Congress."

It is a lot less dangerous and would pay a lot more if you got $90,000. These are some of the practicalities that the theoreticians have not thought about and there is no way, in my judgment, to answer the gentleman's question directly; no way that the courts will say, "You can pick two people in the primary and give them Federal financing and exclude everybody else."

I do not care what kind of test is used.

Mr. SANDMAN. Mr. Speaker, I am 100 percent in agreement with what the gentleman says, and if they carry out the public financing of anybody's campaign, it will be impossible unless public money is given to all candidates seeking the same office and then we will have so many candidates we will not have a voting machine that can hold all the names.

Mr. HAYS. Mr. Speaker, I would say to the gentleman from New Jersey that I would be willing personally—and I am not advocating this on the House—to let the Senate try it on the Presidential election, let it be declared unconstitutional, which in my judgment it will be, and that question will be resolved. However, if we put it on congressional elections, in my judgment for the next congressional election we will be so tied up in litigation that nobody will know what he is doing or whether he is going to wind up in Congress or in Leavenworth, depending upon which way the Supreme Court decision goes. A congressional term is 2 years.

Mr. PEPPER. Mr. Speaker, I thank the able chairman of the House Administration Committee for the assurances he has given.

Mr. Speaker, I would now like to yield to the able acting chairman of the Committee on Ways and Means (Mr. ULLMAN) whose committees would have jurisdiction over the public finance part of this matter, for any statement he would like to give to the House.

Mr. ULLMAN. Mr. Speaker, I want to commend the gentleman from Florida, and the Rules Committee, for the resolution presently before the House. The fact of the matter is, the amendments that were put on the debt ceiling bill are all nongermane under our House rules. They come under other jurisdictions; possibly the Committee on Interstate and Foreign Commerce, and certainly the House Administration Committee, are involved in jurisdiction. The matters coming under the purview of the Ways and Means Committee have not had any public hearings.

These are far-reaching matters. The reason that this rule is so essential is this: It is the only procedure whereby each one of these nine amendments would not be in order for a separate vote on the floor. It is grossly unfair to ask the Members of the House to vote on a so-called election reform package of over 122 pages of complex and far-reaching provisions that has had no hearings, that has had no consideration in the committees concerned, and has no possibility of being perfected.

Should a Member vote against any of these campaign amendments, he will be charged with voting "against campaign reform," but the fact of the matter is that if he should vote for it, he would be voting for a package without knowing what is in it and thus irresponsible because no one is in a position to know the far-reaching consequences of what we would be doing, and the gentleman from Ohio has pointed out some of these problems already.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I would just like to point out that in the bill we passed in the last Congress, the so-called election reform bill, which if the gentleman remembers was a substitute which was presented on the floor and written outside the Congress and finally on late Thursday afternoon when everybody was sick of the whole idea, it was adopted, and now one section of that has already been ruled unconstitutional and there are three or four more sections in litigation.

There is a section in it that says an outside group, for example a committee, cannot go to a newspaper and take an ad unless they certify that they are living within the jurisdiction of the act. I am trying to simplify this into layman's language—and the paper has to obtain from them that certification.

The court said that is not constitutional, that it is interfering with the rights of free speech, and they tossed that out.

So, I think we have got to study the implications of this. The distinguished gentleman from Florida and the distinguished gentleman from Oregon have said that a Member who votes for this package in the dark—and not one of us in here, I believe I could say safely—not one person has read it and nobody has had time to study it, would be the height of irresponsibility.

Mr. Speaker, I am pledging again that we are going to have a chance to vote on election reform. The committee is going to do its best to get the consensus and put it down on the table. I am going to try to get a bill out of that committee unanimously, if I can—perhaps I am too optimistic—but we are going to try to get a consensus.

The Members will all have a chance to offer their amendments, and we will have a chance to debate them. But in this way we are operating in absolute total darkness.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield further?

Mr. PEPPER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, it is very difficult for me to understand how well-motivated Members of the House could be pushing so strongly for this kind of a proposal.

In the first place, I think it is a gross violation of the taxing power to publicly finance elections through the revenue function. If we are going to finance elections, it should come forthrightly out of general revenue, it should come under the purview of the committee chaired by the gentleman from Ohio, and we should do it in the honest way rather than by a check-off system that really is a meaningless thing. By this proposal, on the tax form the taxpayer, at no cost to himself and with no party designation, merely checks off a number, and this is the reason for the tax jurisdiction over this matter. It should not be there at all.

Second, it seems to me that those Members who are advocating this kind of proposal are being most inconsistent. A conference committee is not the place to write this kind of legislation. This should have thorough and complete consideration by the Legislative Committees. We have gone down this road before, and as acting chairman of the Committee on Ways and Means it is my intention to keep to a minimum the major decisions we have to make in the conferences with the other body, so that we can make them in the committee rooms where they should be made, in a responsible way, and bring them to the floor with full consideration. I would point out in this respect that even in the other body, the committee having jurisdiction, the Finance Committee, did not include these campaign financing amendments in the bill. They were put on on the Senate floor.

Mr. Speaker, this is certainly my intention—to have these matters considered in the legislative committees—and this proposal we have before us here today totally violates those concepts.

In addition, it contains provisions subject to serious constitutional questions. It provides for revenue matters in a bill that is not a revenue bill. This, in my judgment, is clearly violative of the spirit, if not the letter, of the Constitution.

Let me say to my friend, the gentleman from Florida—and I thank him for yielding—that it is the intention of the acting chairman of the Committee on Ways and Means to take up this matter at the earliest possible time, consistent with our other obligations in this coming year, so that hopefully we can develop a reasonable procedure by which to bring this before the Congress.

Mr. PEPPER. Mr. Speaker, I thank the able gentleman for his assurances.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield now to the able gentleman from Pennsylvania (Mr. DENT), who is chairman of the Subcommittee on House Administration having jurisdiction of election matters.

Mr. DENT. Mr. Speaker, I will say to the Members of Congress that I want them to know that there has been no dragging of the feet here. There has been a conscientious effort on the part of the Committee on Elections in the House to come out with some kind of an answer that may meet what are the real serious constitutional questions.

I have just finished with a hearing in which we had the eminent gentleman, Dr. Gardner, and his position was, of course, that they would like to have all of the features that have been added by the other body.

I do not know how many of the Members have read any part of that amendment which was added in the Senate dealing with campaign financing out of public funds. I can only say to the Members that anybody who would vote for that without reading it and taking 25 or 30 minutes to read the testimony given this morning by the eminent gentleman, Dr. Gardner, would be doing himself and the Nation a great disservice.

Mr. Speaker, this House cannot afford to take any part in this type of an election reform, as serious as this is, because this is a repetition of what happened in 1971. The gentleman from Ohio (Mr. HAYS), and our committee after almost 3 years' hard work, came out with a piece of legislation in this House on election reform. This House accepted a bill written and sponsored by "Common Cause," which was the same as this material that is coming before us today. And because of that, knowing that they sponsored it, they are now trying to do something to blame this House and its membership for not doing its work, and if we go along with this today, Mr. Speaker—I mean this in all sincerity—we will deserve the criticism which we will get.

This committee will come out with a bill, but it will be one we can understand and know what it is.

Mr. HAYS. Will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. HAYS. I would like to point out to you the bill the committee brought out in the last Congress had a limitation on Presidential campaign spending of $15 million. I am facing the minority side of the House to say that if the Common Cause bill had not been substituted, the executive branch, in my judgment, would not be in the situation they are in today, because there would have been no reason to raise these excessive amounts of money and therefore no temptation for some of those idiots to indulge in all sorts of harebrained schemes to get rid of it.

I just happen to think that $15 million is about as much as you can legitimately spend if both sides are limited to it. I think if you had had that limitation last year—I will not say "you," but I will say "we," because I think we as Americans would not have been in the traumatic situation we are in today; but no, they wanted no limit. They said it is wrong. They said in thier testimony this morning that nonincumbents cannot raise as much as incumbents. Well, do you know something? I took the 70 most expensive congressional races in the House and in those 70, 37 nonincumbents spent a significantly greater amount than the incumbents did.

I see the gentleman from California (Mr. MAILLIARD) nodding his head. I happen to know that his opponent spent more than $100,000 in excess of Mr. MAILLIARD's expenditures or somewhere in that area. I just happen to recall that figure.

In the case of the gentleman from New York (Mr. ROONEY) his opponent spent $300,000 to Mr. ROONEY's $100,000. So a nonincumbent was able to raise it there.

So I just say and I maintain to these people that if an incumbent is doing his job, he is very hard to beat. If he is not doing his job, he is not very difficult to defeat.

I came here in 1948 with a total expenditure of less than $3,000. I defeated an incumbent who spent a great deal more than that. I am not casting aspersions on him, but I am saying that you do not have to spend all of the money in the U.S. Treasury to get elected to Congress. If the issue is there and you are on the right side of it, you win. If the issue is not there and you are on the wrong side, you lose.

If it is any consolation to you, I might tell you Republicans that I have a judgment about the next election. I do not think it will be fought out on the issue of Watergate as far as Congress is concerned. I had three telephone calls from irate people about gas rationing. If it is in effect next October, you will come or stay home based on how you vote on that issue. Take that judgment from an old pro, because nothing is going to make the people forget Watergate like not being able to get the gasoline they want.

Mr. ANNUNZIO. Will the gentleman yield?

Mr. PEPPER. I yield to the gentleman, but I am really running out of time.

Mr. ANNUNZIO. I just wanted to associate myself with the remarks of the gentleman from Ohio and also to point out that in view of the fact that we are suffering in this country from an energy crisis that is very real, if we start passing out the taxpayers money to candidates, we will have enough hot air in this country in the next election and will not have to worry about the energy crisis.

Mr. HAYS. Will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. HAYS. I agree with everything the gentleman from Illinois said except that I think the energy crisis is about 75 percent contrived.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while a nunmber of us agree that some election reform is necessary, this resolution is neither the time nor place to add a massive publicly financed election reform to this legislation.

Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) and the able gentleman from Ohio (Mr. HAYS), chairman of the Committee on House Administration, and the able gentleman from Oregon (Mr. ULLMAN), the acting chairman of the Committee on Ways and Means, have pointed out the facts in connection with this matter. I think this House should listen to them, and then pass the resolution without the Senate amendments, and thus give the various committees time to consider campaign financing reform.

According to testimony presented before the Rules Committee, these amendments have not been considered in committee either in the House or in the other body. For example, the Rules Committee was told that one of these amendments provides $90,000 to major party candidates for the House of Representatives. Such a major change should be considered in an orderly fashion, not tacked on as a nongermane amendment.

This resolution reported by the Rules Committee provides that the public debt bill, along with the nongermane Senate amendments, be taken from the Speaker's table, the Senate amendments disagreed to, and the bill returned directly to the Senate. This resolution is the best means by which the House can protect itself against nongermane amendments tacked on by the other body. I ask for an aye vote on this resolution.

Mr. Speaker, at this time I yield 3 minutes to the distinguished ranking minority member of the Committee on Ways and Means, the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time, and I ask consent to revise and extend my remarks.

Mr. Speaker, this is almost a repeat performance of the last debt ceiling bill that came out just before the 4th of July recess of this year. At that time, if the Members will remember, we made the point that there were some nongermane amendments to the House passed bill, and we won on this issue. It was a close vote, but I think we established a good principle. We are trying to extend this principle a little further today; however we have a much stronger case than we had in July, not only going to nongermane amendments that concern one committee, but we now have many amendments that pertain to another committee's jurisdiction.

The position we are asking the House to support today has been approved unanimously by the Committee on Rules, and it has been approved unanimously by the Committee on Ways and Means, with solid votes by both the majority and minority sides. It is a very tenable and reasonable position. It is a position that while we are trying to establish a decision to try to run our own business without being dictated to by the other body.

Mr. Speaker, to extend the remarks made by the gentleman from Ohio (Mr. HAYS), I want to show how costly it might be for public financing of congressional races. If we were to take some figures, such as if there were only two candidates from each congressional district, that limited number would cost $180,000 a district, times 435 districts, which would represent a cost of over $78 million—just for congressional races, not including Senatorial races, and that is limiting each congressional district race to two candidates—$78 million from the public funds is a minimum cost. This points out further the ridiculous position of some of the nongermane amendments which we will not have the time to analyze.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I would like to point out to the gentleman from Pennsylvania that in my district I have run 13 times for Congress, and only once have I spent over $20,000. Frankly, I would not know how to usefully spend more than $30,000, if I raise that. I consider that is a maximum that I can usefully spend.

Now, if we were to give a man's opponent $90,000 to spend, then we are going to force the incumbent to spend more money, or else make him think that he is going to have to spend it. I think it is ridiculous.

I think, if we are ever going to have to go to public financing, that it ought to be on a lot smaller level than that kind of money.

Mr. SCHNEEBELI. Mr. Speaker, I agree with the gentleman from Ohio (Mr. Hays).

Mr. Speaker, we are asked to pass the debt limit by tomorrow night, and it contains legislation through amendment which is obviously obnoxious to a lot of the Members who are present.

Mr. Speaker, I would ask the question that if the House Administration Committee has promised to bring out campaign control legislation by next February, and the next Presidential election is not until 1976, what is the big rush of doing the job today? Let us do it in an orderly manner, and let us assert our rights.

Mr. Speaker, I support the resolution before the House, as it is essential to avoid chaos in the legislative process and conduct the public's business in an orderly manner.

The debt bill that passed the House provided an increase in the public debt limit through next June, 1974. It was a three-page bill related solely to this subject and contained no nongermane amendments of any kind.

The other body has added amendments, to those major areas all of which amendments are nongermane. Two of these amendments relate to financing of Presidential elections—including both the general election and Presidential primaries—and congressional general and special elections. These include changes in the Presidential Election Campaign Fund Act included in the tax law which provides a "check off" on an individual's income tax return to finance general Presidential elections, and to provisions of the income tax law providing a deduction for limited contributions made for Presidential elections.

The purposes of these income tax provisions are broadened to cover congressional general and special elections. Additionally, provisions are included to make use of this public financing mandatory and authorize appropriations to the fund when the income tax check off and deductions fail to provide sufficient funding. The amendments also provide a program of matching grants to finance Presidential primaries.

Additionally, the Senate amendments include pervasive changes in the Federal Election Campaign Act of 1971. These changes relate both to the use of communications media and to overall amounts which may be spent for election campaigns.

The amendments represent the addition of about 130 pages of nongermane amendments to the three-page bill we passed. When the Federal Election Campaign Act of 1971 was developed by the House, it was a joint effort of the Interstate and Foreign Commerce Committee and the House Administration Committee. It was a major change affecting fundamental political processes in our country that was developed after careful consideration.

The changes represented by the Senate amendments to this bill have not been considered by either of the House committees—House Administration and Interstate and Foreign Commerce—which have jurisdiction over these matters and the requisite expertise. The House has simply had no input in connection with these changes which profoundly affect both existing law and the American political process, and raise fundamental constitutional questions.

It would be irresponsible for the House to agree to amendments of this complexity and magnitude in the brief period of time remaining before the debt expires at 12 midnight tomorrow night. While we all recognize the need to address the problem of campaign spending reform, this is a most inappropriate and irresponsible manner to go about it. We simply cannot enact legislation of this kind without giving it appropriate consideration in the House merely because the other body chooses to attach it to a bill vitally needed this week in order to avert chaos in the fiscal affairs of our Nation.

For these reasons, I support House Resolution 721, and I urge my colleagues to do the same.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. Schneebeli) for his contribution.

Mr. Speaker, I now yield 3 minutes to the distinguished gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Speaker, I only rise to make two observations with respect to the so-called election reform issue that comes to us in this form from the other body. I am going to insert in the Record today the results of a poll I just conducted in my own congressional district in which 1 of the 12 questions had to do with the specific issue before us today, and that is, "Do you believe the Federal Government should finance all political campaigns for Federal office?"

With over 14,000 replies the answer comes back very loud and clear in opposition to the proposal.

As a matter of fact the vote in my district was better than 2 to 1 against it.

I would suggest that if other Members conducted similar polls in their districts, they would probably be surprised to find the same kind of results from all around the country.

The other observation I would like to make is this. I have noted the rollcall vote in the other body on this proposition. Some of those supporters of this legislation have already conducted rather extensive private fund-raising operations. If we should perchance adopt this legislation, as the Senate proposes here, and it should become law, I would be curious to know what would happen to those amounts of money already privately solicited for Members of the other body. In keeping with the spirit of what they voted for, would these same Senators return those contributions already solicited? I just do not know whether there is anyone in this body prepared to answer that question, but I would bet not one of them is going to offer to return what they already have in the till and that suggests to me that maybe there ought to be some equalizer for those of us who have not yet made any move to solicit a campaign kitty from the private sector.

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, I rise today in strong support of the rule that is now before this House. On the day before yesterday the Senate filled our Federal debt ceiling bill with about 5 pounds of election law changes. I happen to be a strong opponent of Federal financing of election campaigns, but I should like to direct my remarks to those people who support Federal financing of election campaigns.

I seriously doubt whether a dozen people in the world know what is in that Senate amendment. I followed their work very closely, and I have tried to read what they have done. But it is exceedingly difficult for me to make a reasonable interpretation of the bill because of its complexity.

In the first place we are told by the press and by some of its proponents that it is wonderful because it has public financing in it. Does it ever! It has every kind of public financing in it. If anyone thinks we ought to have partial financing, this bill has it. It has matching financing in the Presidential primary. If anyone thinks it should have none, it does have none in congressional primaries. If anyone thinks it should have full financing, it has some of that, too, in the congressional and presidential general. In short, it is a potpourri of public financing pasted together in what I think is a very whimsical manner.

In addition to the public financing,

there is a great deal more in this Senate amendment, or the series of Senate amendments. This bill, in addition to the public financing, is crowded with other material. It contains the entire matter of S. 372, the Senate election reform bill passed in July and now pending before the committee chaired by the gentleman from Ohio. That is a legislative mouthful, by itself. In addition it contains the so-called Kennedy registration bill, which is totally different from the bill which was passed by the Committee on House Administration which will be reported soon to the floor of this House.

So we have a great deal of material in the Senate amendments which nobody understands.

If we really want public financing of campaigns, if people in this House want to be recorded in favor of this wonderful idea—which I do not think is very wonderful—they will have an opportunity to do so when the House administration bill comes to the floor. This we have been assured by our distinguished chairman.

I think the Members will be perfectly justified in voting for this rule today to reject the Senate amendments. But I want to go a little farther, Mr. Speaker, because I understand from reading the papers today that some kind of a deal has been made to the effect that if we pass the rule today, we will somehow accept a less comprehensive Senate amendment which will give us Presidential financing only.

In my judgment, Mr. Speaker, this would be the same kind of sellout to the Senate as if we were to vote against the rule today. I hope we will not get our strength up today only to be weak tomorrow. I am tired of seeing this House accede to the Senate.

Why do we not let our own committees decide what the House version is going to be? Do we always have to play door mat? I do not think we do. We are not a branch office of the Senate.

I urge this House to pass the rule by an overwhelming majority and I hope the Members of the House will be no part of a deal that will bring back some kind of public financing of Presidential elections later this week.

Mr. QUILLEN. Mr. Speaker, I would like to point out to the House that the Rules Committee was unanimous in reporting this resolution. I hope the House will unanimously adopt it.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, this resolution ought to be adopted if for no other reason than to serve notice on the Senate that the House of Representatives cannot and will not accept ungermane amendments that embody important and controversial legislation that the House has never considered.

To ask Members of the House to approve on an almost sight-unseen basis sweeping legislation that would provide, among other things, thousands of dollars in Federal funds for the campaigns of individual Members of Congress, is unthinkable and outrageous. And this tied to legislation increasing the ceiling on the Federal debt.

Yes, it is time the House served notice that it will not tolerate this kind of legislative traffic with the Senate, and the action of the House in rejecting it should be overwhelming.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time and I have no further request for time.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, I just want to clarify the parliamentary situation. This legislation has been referred to as a rule, but everyone should be aware that this is a resolution that finally disposes of the Senate amendments to this bill, insofar as that can be done at this moment. This resolution in itself is the final action. This resolution we will be voting upon will take off all the Senate amendments and send the bill back in its original form to the Senate. There will not be any further voting. This will be the final vote.

Mr. PEPPER. I thank the gentleman for those remarks.

This resolution takes the bill from the Speaker's desk, rejects and disagrees to the Senate amendments, and messages the action taken by the House to the other body.

Mr. BADILLO. Mr. Speaker, I intend to vote against this resolution because I think it wrong for the House to take the position that it will consider a measure for the public financing of political campaigns only if it excludes congressional elections. In my view, we should have an opportunity to vote on the Kennedy amendment to the debt limit bill in the form in which it was adopted by the Senate and not restrict ourselves to an up or down vote on a measure limited to presidential elections.

I am well aware of the tactical situation here in the House, and I recognize the very strong resistance to efforts aimed at reforming the campaign finance laws governing congressional elections. It is very much to the credit of the Democratic leadership that the Senate amendment in any form is to be brought up for a vote, instead of being shelved indefinitely, as was the original plan.

At the same time, I think we all must realize how justifiably strong is the public demand for comprehensive reform of our campaign finance laws and procedures. Due credit for this must be accorded the Nixon administration and its financial backers, for without the flagrant abuses committed in connection with the 1972 presidential election, the chances for campaign finance reform today would be slim indeed. But the American people understand full well that abuses in campaign fund-raising and spending are not limited to presidential campaigns, but extend to virtually all levels. If we are to move effectively to restore public confidence in our political process and institutions, we must do away with a system of Government for and by those who are willing to pay the going rate. We must admit that our present system of financing political campaigns has become demeaning, compromising, and in some cases, corrupting—and the system is getting worse, not better.

We must also realize that, particularly in our central cities, which are becoming enclaves of the poor and disadvantaged, the continued influence of big money in politics too often can result in the selection of candidates not truly representative of their constituencies. In the cities, and in the rural areas, too, we must make it possible for men and women to seek public office without bearing the fatal handicap that a dearth of personal campaign funds creates.

Public reaction to the Watergate horror story has given us a unique opportunity to take the influence of big money out of politics and do away with a system of Government in which power and influence are for sale or lease to the highest bidder. I urge my colleagues not to turn their backs on that opportunity by limiting the current reform effort to Presidential elections.

Mr. SIKES. Mr. Speaker, now, I must express serious concern about language inserted in section 3 of the debt ceiling bill as an amendment by the Senate. It would establish the necessity for a congressional concurrent resolution to approve each debt renegotiation. This requirement would seriously damage executive branch flexibility in seeking to obtain full repayment of loans for debts owed to the United States. Debt renegotiations normally take place in a multilateral forum which assures equitable treatment for all creditors. U.S. participation in these negotiations is crucial to full repayment to the United States.

For example: The Government of Egypt was in default to the United States from 1967–1971; a rescheduling agreement in 1971 has ended this default and made possible the recovery of delinquent sums from the default period. In a similar case, Indonesia was incapable of meeting its external debt obligations in the years following 1970 but rescheduling has made possible full repayment of all outstanding external debts.

Debt rescheduling is not debt cancellation. The objective of rescheduling is to obtain repayment in a situation where the original contract cannot be fulfilled by the debtor. In fact the total payment to the United States on a rescheduled loan is greater than under the original schedule due to the interest charged on the deferred payments.

Congress has strictly defined Executive authority to modify loan contracts but has recognized the need for some executive branch flexibility. The authorizing legislation for each lending program has a specific provision which allows the President to collect or compromise obligations assigned to him. The opinion of the Attorney General in the Indonesian rescheduling clearly delimits this power to compromise for the objective of maximum repayment while reiterating the constitutional authority of the Congress to dispose of U.S. assets. This practice is consistent with normal financial practice whereby the board of directors sets policy guidelines and management executes that policy without reference of each transaction back to the board.

In response to a GAO recommendation, the executive branch has agreed to provide in a systematic manner information on all reschedulings completed or in progress during each year. This information will be included in the annual report of the Secretary of State on foreign policy. In addition, the relevant congressional committees are kept informed of each rescheduling.

I believe this fully explains the undesirability of the requirement which would be imposed by the Senate language.

I support the action now before the House to reject all Senate amendments.

Mr. EDWARDS of California. Mr. Speaker, I am again today voting against the public debt limit increase. As I have explained before, I oppose this indirect method of control over budgetary expenditures. I feel that it is increasingly unreasonable and undesirable for us to burden future generations with our own failure to properly balance governmental expenditures and revenues.

However, I am also opposing H.R. 11104 as it comes to us from the Rules Committee because it disagrees with the public campaign financing amendments attached by the Senate. If we have learned nothing else from the last year and from Watergate, we should have come to realize that we need a new method of financing elections in this country. Public confidence in the honesty, integrity, and fairness of elections for public office has reached an alltime low. If we are to reconstruct on a firm foundation the most basic process of a democratic system, we must outline a method of financing elections that is public. American citizens must not only have the opportunity to have full public knowledge of where a candidate's money is coming from and how it is spent, but should also be encouraged to equalize such contributions and expenditures. We must provide for public financing of campaigns so that any dedicated and interested citizen can seek public office without wealth. I therefore want to specifically state that my negative vote today is a vote in favor of the Senate amendments that provide for the public financing of elections.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken by electronic device, and there were—yeas 347, nays 54, not voting 32, as follows:

[Roll No. 603]

YEAS—347

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hays
Hébert
Heinz
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lent
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Meeds
Melcher
Michel
Milford
Miller
Mink
Minshall, Ohio
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patman
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Reuss
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—54

Abzug
Adams
Anderson, Calif.
Badillo
Biester
Brown, Calif.
Burton
Chisholm
Conyers
Culver
Dellums
Drinan
Edwards, Calif.
Evans, Colo.
Gilman
Grasso
Gude
Gunter
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Holtzman
Kastenmeier
Koch
Lehman
McCloskey
McKinney
Maraziti
Mazzoli
Mezvinsky
Mitchell, Md.
Mitchell, N.Y.
Moakley
Nix
Owens
Patten
Pike
Rees
Riegle
Rinaldo
Rodino
Roe
Rosenthal
Roy
Roybal
Sarbanes
Schroeder
Stark
Studds
Waldie
Wilson, Charles H., Calif.
Wolff

NOT VOTING—32

Baker
Buchanan
Burke, Calif.
Camp
Clawson, Del
Clay
Collins, Ill.
Diggs
Foley
Henderson
Ichord
Jones, Okla.
Landrum
Litton
Macdonald
Mayne
Metcalfe
Mills, Ark.
Minish
Moss
Murphy, Ill.
Powell, Ohio
Rangel
Reid
Rooney, N.Y.
Steele
Stokes
Sullivan
Waggonner
White
Wilson, Charles, Tex.
Young, Ga.

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Diggs against.

Mr. Waggonner for, with Mr. Rangel against.

Mr. Foley for, with Mr. Stokes against.

Mr. Jones of Oklahoma for, with Mrs. Burke of California against.

Mr. Landrum for, with Mr. Reid against.

Mr. Mills of Arkansas for, with Mr. Metcalfe against.

Mr. Ichord for, with Mr. Young of Georgia against.

Until further notice:

Mr. Baker with Mr. Charles Wilson of Texas.

Mr. Del Clawson with Mr. Macdonald.

Mr. Buchanan with Mr. Murphy of Illinois.

Mr. Mayne with Mrs. Sullivan.

Mr. Camp with Mrs. Collins of Illinois.

Mr. Powell of Ohio with Mr. White.

Mr. Steele with Mr. Moss.

Mr. Litton with Mr. Minish.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE A PRIVILEGED REPORT

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on

Rules have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE REPORTS ON S. 1901, HOUSE JOINT RESOLUTION 736, S. 1776, H.R. 11372, H.R. 11565, AND S. 2079

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight tonight to file reports on S. 1901, House Joint Resolution 736, S. 1776, H.R. 11372, H.R. 11565, and S. 2079.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. MAHON. Mr. Speaker, I ask unanimous consent that in the debate on the Defense appropriation bill all Members may have 5 legislative days in which to extend their remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1974

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that debate be limited to not more than 2½ hours, that time to be equally divided and controlled by the gentleman from Ohio (Mr. MINSHALL) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11575, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 1¼ hours and the gentleman from Ohio (Mr. MINSHALL) will be recognized for 1¼ hours.

The Chair now recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we now begin consideration of just about the largest money bill ever presented to a legislative body in the history of the world.

The hearings on this bill required months. There are many thousands of pages of hearings which have been available for a period of months. The best way for Members to know what is contained in this bill is for Members to make a study of the 239-page committee report. This report is available.

It would be utterly futile for me to presume to tell you in an hour and a quarter—and I shall not use all of the time allotted to this side—what is contained in the bill.

So I will discuss the problems of defense in a general way. I will place in the RECORD in connection with my remarks a discussion of the various pertinent matters confronting the Congress, and the country, in the area of defense.

NO AMERICANS IN COMBAT

I think it is heartening to take note of the fact that for the first time in many years, as we consider the defense appropriation bill, American fighting men are not in combat and dying in some area of the world. So at this post-Thanksgiving moment I think we have much reason to be thankful that American fighting forces are not in combat in any area of the world.

MIDDLE EAST

Of course, the most volatile and disturbing area in the world from the standpoint of peace is the Middle East, where the situation is rather precarious, and where we are involved in a diplomatic way, but not with our Armed Forces. I would say, however, that this bill does not contain any money for aid to Israel. Of course we provide funds to continue the operation of our 6th Fleet in the Mediterranean, and our forces in the NATO countries of Western Europe. And we have forces elsewhere.

DEFENSE BUDGET

I think it might be interesting as an aside to consider just what the total budget request is, or may be, for defense for the current fiscal year. It will shock many of the Members when I say that the budget request for this fiscal year could approximate $90 billion.

We have wondered why peace costs so much more than war, and there are good answers in explanation to that question.

We have wondered why in view of the vast billions of dollars which were required for Southeast Asia that we are not sharply reducing defense spending. In the course of the debate today those matters will be discussed, but I shall not pursue them at the moment.

I would now like to add up for the interest of the Members what might possibly be the budget request for the entire fiscal year in the area of defense of about $90 billion.

The budget request before the Congress which brought forth this bill totals $77,250,000,000. So we add $77 billion plus.

Pay increases, which were not included in the bill, would require an additional budget sum of some $2.5 billion. There are two pay increases which must be funded.

Then the military construction bill budget request was $2.9 billion.

Then, military assistance for grants, for military credit sales, and for reconstruction in Indochina, not including North Vietnam, this totals $1.8 billion.

Then if we add to the total figure—and that figure totals $84.4 billion, if we add to that figure the budget request of $2.4 billion for aid to Israel and Cambodia, then we have $86.8 billion.

If we take note of the fact that it has been indicated at least in the press that the administration may very well within the next few months, perhaps early next year, request an additional $3 billion, that would run the budget for overall defense to about $90 billion for this year. Of course we do not know just what may develop in regard to these matters.

REDUCTIONS RECOMMENDED

In considering the Defense request we thought certainly in a $77.5 billion request there ought to be some way, after 6 months of effort, to find out how some cuts could safely be made. So we have made reductions in the sum of about $3 billion, and these reductions are explained in the report to which I have made reference.

If one should turn to page 12 of the report, he would observe the recitation of some of the reductions that were made. For example $319 million failed of authorization for procurement, and that is a reduction which, of course, the committee took into account.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. I will be brief.

Did the gentleman say that there is no money in this bill to replace the drawdown in military inventories that were used to resupply Israel?

Mr. MAHON. The gentleman is correct.

Mr. GROSS. There is no money in this bill?

Mr. MAHON. There is no money in this bill for that purpose. We have had a meeting of the Passman-Shriver subcommittee for the purpose of determining what we would do by way of the foreign aid appropriation bill which has military implications. It is the program, as I understand it, of the House to act on the foreign aid authorization conference report from the Committee on Foreign Affairs on Monday, and, as I understand it, we may act on the aid-to-Israel authorization next Thursday. That is not assured, and I am not making an announcement for the leadership. If this happens then we will bring the foreign aid appropriation bill, and include in it certain funds for aid to Israel and Cambodia, before the House I would hope late next week.

Mr. GROSS. I believe the gentleman said that it is reported the administration may ask for between $3 and $4 billion in addition to the amounts contained in this bill, and that the $3 to $4 billion would be used in whole or in part for the replacement of the stocks, the inventories, that were pulled out for Israel?

Mr. MAHON. I am afraid I did not make myself clear. There has been no documentation that there will be a request from the administration for about $3 billion additional for the U.S. defense budget. There may be or may not be. This is in the rumor stage and in the newspaper stage. But, of course, there is a budget estimate for $2.4 billion for aid to Israel and aid to Cambodia.

Mr. GROSS. I thank the gentleman.

FEDERAL BUDGET

Mr. MAHON. I might say to my friend, the gentleman from Iowa, that despite the enormity of the bill before us and of the request for defense-related funds, it is now clear that the Congress will not exceed the President's budget, his appropriation budget, for all governmental purposes this year.

We will live within the budget but we will be over the spending budget as a result of nonappropriation bills which mandate spending by about $5 billion-plus. The President has revised his January budget as of October 18 and he has increased his overall spending budget to $270 billion plus $600 million in spending—not in authorization but in spending for Israel so we apparently could be spending about $2.4 billion over the President's revised October 18 budget.

DELAY IN THE BILL

May I continue with the problem? Some have asked in wonderment why the defense bill, the largest of the session, has been delayed so long. There are many reasons for this and I will amplify these reasons for the RECORD but I need only say this: that the authorization bill which made it possible for us to bring this appropriation bill to the floor was signed into law only on November 16.

ENERGY NEEDS OF DEFENSE

I think it might be of interest to talk about energy. At noon today along with some of my colleagues I had the opportunity to arrange a luncheon with Governor Love who is the top man in the administration in the fuel and energy business. What does this bill do about energy? The Defense Department requires 2.4 percent of the total energy supply of the Nation. In petroleum products—and I am speaking now not of all energy but of petroleum products, the Defense Department is estimated to consume about 3.7 percent.

We made some meaningful reductions in funds for fuel for the various services and we reduced the automobile inventory and we took a number of steps which I will elaborate on in the RECORD in connection with having the Defense Department do its share in wrestling with the energy crisis and making some contribution to the solution of the problem.

ALL-VOLUNTEER FORCE

I posed the question a few moments ago: Why does peace cost more than war? The principal reason for this is that this Government launched sometime ago into a program for an all-volunteer force. There was a hue and cry to eliminate the draft. The administration and the Congress I think with considerable reluctance—certainly it was with reluctance on the part of many of us in the Congress—adopted the all-volunteer force concept. This is not working very well and it is costing us terrific sums of money.

It is estimated that the Soviet Union spends 30 percent of its defense dollar on personnel. According to our estimate we will be spending about 60 percent of our defense budget for personnel. This, of course, means less modernization and more money for manpower. But even with this the services are not able to recruit a sufficient number of qualified military personnel for the services. What do Members think may be in the budget for recruitment of personnel, for pay and allowances? The number of personnel budgeted for the recruiting effort is in excess of 32,000. The cost of the all-volunteer recruitment program for the year is estimated to be $525 million.

MILITARY PERSONNEL

The authorization bill which we passed mandated a reduction of military personnel of 43,000. This bill mandates a reduction of about 11,000 more. Some way must be found to have a modern military force without giving a disproportionate part of the military dollar for personnel costs alone.

Now, as far as the budget is concerned, we went above the budget in some areas and we went below it in some areas and achieved the figures which I have stated.

NUCLEAR FRIGATES

I believe Members will not be unhappy with the action of the committee in recommending to them certain funds, I believe $79 million in advance funding for two warships called frigates, nuclear frigates. Fueling is one of the difficult problems of a mobile military force and at a time when energy is in premium demand, petroleum products especially, it did not seem to be out of order to spend the additional funds for making these frigates nuclear powered.

I shall elaborate in more detail in regard to the actions we took in procurement. I could go on at great length talking about the various actions of the committee, but I believe that I have covered as much as I need to in these off-the-cuff remarks.

I shall amplify these remarks and place additional material in the RECORD for today.

MILITARY PERSONNEL

With respect to military personnel matters in general, the bill as reported by the committee funds an end strength of about 2,180,000 or approximately 53,000 less than the original budget request of 2,233,000. The budget amendment of September 21, 1973, added $114 million to the original budget request for the pay and allowances of active duty military personnel while at the same time deleting the funds for the pay raise of January 1, 1973. According to the material provided in support of the September amendment, a strength decrease of 25,000 was reflected despite the increase of $114 million and the deletion of the pay raise request. Thus, the committee has found it extremely difficult to determine at this point in time the exact strength reduction resulting from our action. The 53,000 figure is certainly on the high side and the actual end strength reduction may be closer to the mandated authorization reduction of 43,000.

STRENGTH SHORTFALL

The military services have been unable to recruit the numbers of personnel needed to maintain budgeted strengths. The strength shortfall has grown from 36,000 at the start of the fiscal year to 66,000 at the end of October. Any funds appropriated in the bill which are not needed as a result of these shortfalls will be used to offset the pay supplemental.

The military personnel appropriation of $22.4 billion recommended in the bill is $273.8 million less than the request. This request is really not comparable with the $22.7 billion provided last year, since pay raises granted on January 1, 1973, and October 1, 1973, are not included in the bill. Normally, the first of these two pay raises would be financed in this bill. A more complete discussion of this matter appears on page 14 of the report.

ALL-VOLUNTEER RECRUITING

The American taxpayer is paying adequate wages for a quality military force and expects to receive well motivated and trainable manpower in return. There is some evidence that this is not happening. The Army had a 70-percent high school graduate recruiting objective for fiscal year 1974. When it became apparent as early as July 1973 that this objective could be met only at the expense of a sizable recruiting shortfall, the Army lowered the objective to 50-percent high school graduates. The Marine Corps had a 65-percent high school graduate objective but in recent months has been obtaining less than 50 percent. There is also an indication that the number of mental category IV personnel is increasing. In fact, one of the services was conducting very questionable pre-enlistment training which may have allowed some mental category V personnel to enter the force in category IV. Mental category V personnel are not acceptable in any military occupational skill.

MENTAL CATEGORIES

The committee has taken positive action to prevent a further deterioration of the overall quality of the Armed Forces by limiting the funding for pay and allowances of nonhigh school enlistments and mental category IV enlistments to 45 percent and 18 percent respectively. This provision which is contained in section 718 of the General Provisions of the bill will help to insure that if recruiting for the all-volunteer forces continues to run below goals further reductions in quality standards are not made in order to hold budgeted strength levels.

NONHIGH SCHOOL GRADUATES

Incidentally, nonhigh school graduates are separated from the services early for reasons of misconduct, unsuitability, and so forth at twice the rate for high school graduates. The committee recommendation also imposes a reduction in end strength of 6,500 for personnel who are described as marginal performers.

These are low-ranking personnel—E-3 and below—whose presence creates an administrative burden to the unit or whose performance has been noncontributory to unit readiness and mission accomplishment. The committee believes that many of these personnel were brought in as a direct result of the all-volunteer force in an attempt to hold strength levels. The Navy initiated a similar program last year and granted honorable but early discharges to over 5,200 personnel.

RECRUITING COSTS

The committee report points out that more than $525 million will be spent on active force and reserve force recruiting in fiscal year 1974. This figure does not include the cost of any of the special bonus and benefits provided to make the all-volunteer force work. The active Army alone will spend in excess of $227 million for direct recruiting costs or more than it costs to pay any one of its 13 combat divisions. The committee is concerned that many millions of dollars may be wasted in this area. However, in order to give maximum chance for the success of the all-volunteer force, the committee has included nearly all the funds requested. Only some relatively minor reductions in Armed Forces entrance and examination station programs, where the workload has dropped considerably since termination of the draft, and a program to decorate reenlistment NCO's offices are recommended.

The committee report on pages 29 through 35 provides considerably more detail on the recruiting situation. Briefly, it is pointed out that first, the recruiting force is probably too large in relation to the number of available personnel; second, the services are in direct competition with each other for the available manpower, and thus the addition of more dollars to one service's program does not necessarily result in more total enlistments, but only in requests for larger budgets by the other services; third, the recruit advertising budget has now grown to nearly $100 million, but there is little indication that this size program is needed or that the dollars are being spent in the most cost effective manner; fourth, recruiting recruiters has become a major problem; fifth, the reserve components are still not receiving the full support of the active recruiting force.

TRAINING AND EDUCATION

The committee reviewed the training and education programs of the military services in depth this year. Our recommendations on this subject are contained on pages 42 to 57 of the report. Briefly, the principal recommendations are to terminate project transition, impose a 20 percent reduction in full time education in civilian schools—primarily, graduate training for officers—make some consolidations in certain types of training such as chaplains schools and race relations schools and would close the U.S. Armed Forces Institute.

COUNSELORS

The committee also found that the military services employ over 15,000 military and civilian personnel who can be classified as counselors. It was impossible to define a counselor position in a manner which was agreeable to each of the services. The committee tried to identify full-time positions which involved advising military personnel as to how they should conduct their lives. Included in this category are educational counselors, career counselors, chaplains, project transition counselors, family assistance counselors, race relations counselors, correctional counselors, drug and alcohol abuse counselors and intercultural relations counselors. The committee reduced the $188 million requested for these positions by about $5.4 million. Annual savings in future years should exceed $20 million.

RESERVE FORCES

The committee has stressed its belief in the need for a strong and ready reserve force. The committee remains concerned that a considerable portion of the available dollars for these forces continues to be funneled into units which are either unnecessary or which would be of little or no value in the early phases of a conventional war. Also, the budget continues to support a high level of individual training as opposed to unit training.

In many cases, individuals are being trained and drawing pay for activities which are not needed in the early phases of a war or which are readily obtainable from the civilian economy.

The committee made a reduction of $67.8 million for Reserve Forces personnel. Most of this reduction is the direct result of the serious shortfall that is occurring in non-prior-service enlistments. This situation is discussed on pages 77–79 of the report.

OPERATION AND MAINTENANCE

The recommended reduction in operation and maintenance of $456.1 million is about 2 percent of the amended budget request of about $23 billion.

The total reduction includes several individual items in each service which are spelled out in the report beginning on page 88.

There are some major actions which, however, I believe should be brought to your attention.

DEFENSE MEDICAL PROGRAMS

First, I would like to mention the reduction of $24 million in the Civilian Health and Medical Program of the Uniform Services—CHAMPUS. As pointed out in the report, the purpose of this reduction is to force the Department of Defense to better utilize the military medical facilities provided by the Congress.

There are pages of statistics and other information in the report but what the committee found was that while total medical cost, including that for both military medical operations and the CHAMPUS, is increasing, there has been a steady decline in the overall utilization of military medical facilities.

Another interesting point is that while military hospitals are being underutilized, as shown in the schedule on page 93 of the report, over half of the persons being hospitalized under CHAMPUS are dependents of military personnel.

The $24 million reduction in CHAMPUS is very modest when compared to the $533.6 million requested. Even with the reduction, it allows an increase of $16.5 million above the amount provided for fiscal year 1973.

CIVILIAN EMPLOYEES

The committee made a modest reduction in the number of civilian employees in the Department of Defense. From the estimated end strength of about 1.1 million civilian employees, we made a reduction of about 16,000, including some National Guard and Reserve technicians. The associated dollar reduction is about $52 million.

The committee is directing the Department to take a close look at its employment levels and make further reductions, if possible this year and certainly next year. With this directive the committee believes that the 16,000 civilian man-year reduction was sufficient.

SPACE-AVAILABLE TRAVEL

The committee went into the providing of free space-available travel to military and retired military personnel and their dependents. This subject is discussed on page 99 of the report.

The committee is recommending a reduction of $25.5 million to emphasize its concern with abuses in the program. The committee had its Surveys and Investigations Staff review this program after becoming aware of what appeared to be mismanagements in the program. The staff report, which is printed beginning on page 308 of part 1 of the hearings, points out that the program has been completely misused.

As we state in the report, it seems apparent that, in addition to poor planning and management, the Military Airlift Command—MAC—has adopted practices which assure that space-available travel can be obtained as desired, rather than when available. During 1966 there were 153,529 space-available passengers moved on MAC military and commercial/chartered aircraft. In 1972 336,229 space-available passengers were moved or an increase of 119 percent. Between 1968 and 1972 there were an average of 336,570 passengers moved each year.

Besides the large number of space-available passengers being given free transportation at Government expense, the staff report points out that many luxuries have been made available to certain members of the military service and retirees.

The committee's directive regarding this "fringe benefit" is set forth in the last paragraph on page 101 of the report. Among others, it directs the Secretary of Defense to:

First. Discontinue the practice of providing military aircraft and purchasing of excess commercial airlift for the purpose of providing space-available transportation.

Second. If space is available, it should be assigned first for the transportation of military personnel and/or their dependents on emergency leave. I believe it is vital that this service not be impaired.

Third. If any other space is available, it should be for those on active duty on a first come, first served basis.

I will discuss fuel consumption later but these recommendations are energy-saving actions of the largest extent.

OVERSEAS DEPENDENTS EDUCATION

The committee made a major change in the funding for support of the Department's overseas dependents education program. Up to this time, funds in support of the program were requested by and appropriated to the military services.

The cost of the program has increased substantially in the last few years; from $112.4 million in 1969 to $196.6 million in 1974. The committee, with the assistance of the Surveys and Investigations Staff, took a hard look at the program this year to determine what accomplishments have been achieved with the increased funds provided. There have been improvements, but there are major areas of mismanagement.

For instance, the committee found that instead of one school system, there are actually three systems. That is, a separate system for each area for which a service is responsible. This causes much consternation, especially when dependent children are relocated because of reassignment of the military members. When the committee last took a hard look at this program, we were assured that there would be one school system managed by the Office of the Secretary of Defense.

To make certain that there will be one system the Committee is recommending that all funds for support of overseas dependents education be appropriated to the Office of the Secretary of Defense. This will assure that centralized funding will accompany the authority inherent in centralized management.

The committee did not recommend any reduction in the funding request of $196 million. We believe that any savings realized by the funding changes should be used to strengthen the program.

FUEL CONSUMPTION

The committee is recommending a $52.2 million reduction in the $1.6 billion request for fuel products. What the committee found was that in computing the fuel price increases requested in the budget amendment the Services did not take into consideration the directive of the Secretary of Defense that consumption should be reduced by 14 percent.

This is a very timely reduction in view of the current energy crisis facing the country. The Department of Defense currently uses about 3.7 percent of the total current national consumption of petroleum products. The military consumes about 650,000 barrels of fuel a day out of a total national consumption of about 17 million barrels per day.

Of the 650,000 barrels of fuel consumed daily by the services, the Army uses about 62,000 barrels, the Navy about 233,000 barrels, and the Air Force about 355,000 barrels. As an example, the Navy budgeted for the use of 4.5 million barrels of fuel to operate the 6th Fleet during fiscal year 1974. This allowed for 38 steaming days per quarter for about 40 ships.

In total, the budget requested $1.6 billion to purchase about 230 million barrels of fuel for the services for fiscal year 1974. The committee action will reduce this request by about 28 million barrels for the year.

The committee took further action regarding the use of fuel consumption. We are recommending a reduction of 100,000 flying hours in the Air Force flying hour program. We also reduced the pilot training program of the Navy by $10 million.

Of the total estimated energy to be consumed in the United States in 1974, it is estimated that the Department of Defense will consume about 2.4 percent.

PARTICULAR SERVICE REDUCTIONS

Other than those actions previously discussed the committee made some significant reductions in the services' requests.

ARMY

For instance in the Army the committee is recommending the reduction of $2,675,000 requested for the purchase of 85 mobile vehicles to be used to provide entertainment for units while on training exercises in the field. This is discussed on page 112 of the report.

The Congress has provided substantial funds for entertainment and recreational activities for troops while in garrison, but the request for recreational vehicles for troops while on field-training exercises appears to the committee to be a bit unreasonable.

In the Army the committee also made a $3.1 million reduction concerning the management of clubs and messes. Although we do not disagree with the Army's new management program, we believe it should be paid out of the profits realized by their clubs and messes and not with appropriated dollars.

The committee is also directing the deactivation of the active Army and the Army National Guard air defense units. There are now 48 units in operation. The committee believes there are other weapon systems available to better meet any possible air threat, and these 48 units can be deactivated.

NAVY

In the Navy we are recommending reductions in the request for Southeast Asia operations, aircraft reworks, and component aircraft reworks generally because the amounts requested were overstated.

The Navy has also established a new program called the "Fleet Maintenance Assistance Group," the purpose of which is to improve the sea/shore rotation of its personnel. The committee does not question the concept of the program but what it does is cause a duplicate work force of both civilian employees and military personnel. Since the committee agrees that the Navy needs a better sea/shore rotation basis we are recommending that the civilian workspaces be eliminated and have assigned a reduction of $4,817,000.

The committee is recommending again this year that the appropriation for the alteration, overhaul, and repair of naval vessels be allocated between Navy and private shipyards. The recommended allocation is that which has been proposed by the Navy.

AIR FORCE

In the Air Force the committee found several areas which it believes could be reduced without any significant effect upon our air capabilities. Most of the reductions relate to the request for funds which are not required in fiscal year 1974.

In the Air Force the committee has serious concern about the switching of funds for ADP software development. The committee noted the switching of funds for several programs between appropriations and has directed the Air Force not to do this in the future.

DEFENSE AGENCIES

In Defense agencies the committee is recommending a rather minor reduction, but I believe the significance of the thrust of the report is to emphasize the need to straighten out their operations. We point out that the JCS is not requesting all the funds required to support its operations in its budget request. Nor are some of the offices within the Office of the Secretary of Defense. We believe this should be stopped immediately and where funds are required they should be requested, regardless of the agency or activity involved.

GUARD AND RESERVE FORCES

We made very minor reductions in the request of the Guard and Reserves, most of which are associated with the shortfall in strength and the excessive request for technicians and supply to support operations.

PROCUREMENT

The fiscal year 1974 procurement budget is $18.3 billion. We recommend $16.5 billion in new obligational authority, a reduction of $1.8 billion. However, we also recommend $387.3 million in forward transfers of old balances to fiscal year 1974. When these transfers are considered, the reduction in the procurement program amounts to $1.4 billion. Of the recommended reduction, $320.7 million is mandated by the authorization legislation, and $111.2 million of the recommended reduction was transferred in the bill to the research, development, test, and evaluation appropriations.

ARMY

For the Army, we recommend a total of $2.3 billion and $116.5 million in forward transfers of old balances, for a total procurement program of $2.4 billion. This represents a reduction of $367.4 million in new obligational authority and $251 million in total program.

AIRCRAFT

We recommend that the $12 million appropriated in fiscal year 1973 for utility aircraft be a competitive procurement with the Air Force and that all qualified contractors be permitted to bid.

MISSILES

We recommend funds for the procurement of Dragon, Hawk, Lance, and TOW missiles, but we recommend a reduction of $7.9 million in the Dragon program based upon actual and anticipated savings in fiscal year 1974 contract negotiations.

WEAPONS AND AMMUNITION

We recommend funds for the procurement of 360 M–60A1 tanks and a quantity of M16 rifles. We recommend reductions of $61.4 million in ammunition and $89.4 million in ammunition plant modernization. The latter reduction is based upon premature funding; $124 million appropriated in previous years for ammunition plant modernization was not on contract as of June 30, 1973. However, we recommend $110.6 million for fiscal year 1974 ammunition plant modernization projects.

We recommend that the Army budget be reduced $7.7 million, denying the procurement of sedans and station wagons. This recommended reduction was made in order to reduce the overall vehicle fleet of the Department of Defense and because of the need to conserve fuel. We recommend similar action be taken to reduce the vehicle fleets of the Navy, Marine Corps, and the Air Force.

NAVY

For the Navy, we recommend a total of $8.5 billion and $156.8 million in transfers forward of old balances, for a total procurement program of $8.6 billion in fiscal year 1974. This represents a reduction of $724.2 million in new obligational authority and $567.4 million in total program.

AIRCRAFT

We recommend funds for the procurement of A-4M aircraft, A-6E aircraft, EA-6B aircraft, A-7E aircraft, AV-8A Harrier aircraft, F-14A aircraft, UN-1N helicopters, AH-1J Sea Cobra gunships, P-3C aircraft, S-3A aircraft, E-2C aircraft, and C-130 aircraft.

We recommend minor reductions to the A-6E, P-3C and E-2C aircraft programs based upon actual and anticipated savings resulting from recent contract negotiations.

MISSILES

We recommend funds for the procurement of Poseidon, Sparrow, Sidewinder, Phoenix, Shrike, Condor, and Standard missiles. We recommended a reduction of $12.6 million in the Sparrow missile request based upon program slippages and development problems. We recommend $23.7 million for the Sparrow missile program.

FLEET SATELLITE COMMUNICATIONS

We also recommend a $64.2 million reduction in the Fleet Satellite Communications System program based upon design problems and program slippage of 11 months. We do recommend $26.6 million for the program.

SHIPS

We recommend $3.5 billion for the construction of 14 new ships and the conversion of five other vessels, including the CVN-70 nuclear powered aircraft carrier, nuclear powered submarines, DD-963 destroyers, frigate conversions and $241.9 million for cost growth and escalation in prior year shipbuilding programs.

TRIDENT

We recommend a reduction of $240 million in the Trident submarine program, in order to reduce concurrency in the submarine construction program. We recommend $627.8 million for the Trident submarine program, which will fully fund the first submarine and long leadtime funding for the next three submarines. As will be recalled, the fiscal year 1973 budget amendment last year accelerated the Trident submarine construction program. Our recommendation will require that the submarine building program be rescheduled to provide a more orderly construction schedule. We did not recommend a delay in the development of the Trident I missile.

DLGN NUCLEAR FRIGATES

We recommend $79 million in long leadtime funding for two DLGN nuclear powered frigates. These frigates were not in the budget, but they were authorized in the authorization legislation. We have always advocated nuclear-powered ships whenever that is feasible, and we believe the worldwide enegy crisis mandates increased use of nuclear propulsion for our fleet in future years.

We also recommend a reduction of $50 million in munitions which was budgeted for Southeast Asia and no longer required.

We recommend $178.9 million for the Marine Corps. The Marine Corps will buy M-60A1 battle tanks this year for the first time.

We recommend a reduction of over $2 million budgeted by the Navy and Marine Corps for sedans and station wagons.

AIR FORCE

For the Air Force, we recommend a total of $5.7 billion in new obligational authority and $114 million in forward transfers of old balances, for a total procurement program of $5.8 billion. This represents a reduction of $760.4 million in new obligational authority and $646.4 million in total program.

AIRCRAFT

The funds recommended will permit the procurement of F-4 aircraft, F-111F aircraft, F-5E aircraft, F-15 aircraft, C-130 aircraft, CH-47 helicopters and UH-1H helicopters. We have also provided $30 million to initiate the structural modification of 80 B-52D aircraft. The funds recommended, together with prior year funds already available, will provide a total of $91 million for this program.

A-7D'S AND F-111'S

There were two unbudgeted aircraft programs which were authorized—twenty-four A-7 Ds and twelve F-111Fs. We recommend funding the F-111s but not the A-7s.

F-15 FIGHTER

We recommend a reduction of $41.6 million in the F-15 fighter aircraft program. The $876.9 million recommended will permit the procurement of 68 instead of the 77 aircraft budgeted. This reduction was possible because the fiscal year 1975 and fiscal year 1976 airframe production will be reduced. The recommended program will bring airframe production more in line with the engine program, which has slipped some 9 months.

ADVANCED AIRBORNE COMMAND POST

We recommend against funding another advanced airborne command post this year because it is not required. The program has been changed drastically since last year in that it will be less capable until the communications and electronics package is developed 2 or 3 years from now. Last year we provided funds for a test bed aircraft and two operational aircraft which is sufficient for this program at this time. The test bed aircraft was not under contract at the time we marked up this bill.

MISSILES

We recommend funds for the procurement of Minuteman III, Shrike, Maverick, SRAM, Sparrow, and Sidewinder missiles. We recommend a reduction of $31.5 million in the Sparrow missile request for the reasons I cited under the Navy discussion, and a reduction of $48 million in the proposed Maverick missile buy this year. The latter reduction can be made because unanticipated foreign sales of this missile permits a reduced Air Force buy.

We also recommend modest reductions in two satellite programs because the research, development, test, and evaluation effort of these programs is far from being completed.

AMMUNITION

The Air Force had budgeted $200 million in munitions for Southeast Asia. As a result of the cease-fire in that area of the world, these munitions will not be required. We recommend the munitions request be deleted by that amount.

COMMUNICATIONS

We also recommend reductions in several communications and electronics programs but we transfer much of the recommended reduction to the research, development, test, and evaluation appropriations. We did recommend funding the AN/TPN-19 mobile traffic control radar system. This radar was a controversial program last year.

In line with our recommended reductions in Army, Navy, and Marine Corps sedan and station wagon requests, we recommend that the Air Force vehicle request be reduced by $2.8 million.

DEFENSE AGENCIES

We recommend a reduction of $4.7 million in the Defense agencies' procurement budget, including a reduction of $1.2 million for sedans and station wagons. We recommend $66 million for Defense agencies this year.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The committee recommends the appropriation of $7.9 billion for research, development, test and evaluation. Reductions in the net amount of $533 million are recommended.

Almost $400 million of the reduction was mandated either by specific reductions made in the authorizing legislation or by the decision of the authorizing committees not to consider or authorize increases requested in the budget amendment.

Just over $100 million was transferred by the committee from the procurement appropriations to the R.D.T. & E. apriations when individual procurement programs were not considered to be sufficiently developed for the initiation of production or when the work to be performed was more in the nature of development than production.

SITE DEFENSE

The largest single program reduction was in the site defense anti-ballistic-missile system. The committee recommends the appropriation of $110 million less than the authorized amount. The site defense program will be kept at the component technology level rather than proceeding to prototype development.

This action deletes $110 million in this fiscal year, not an inconsiderable amount in itself, but if the site defense program were carried to full fruition, the cost to taxpayers would be at least $8 and probably $10 billion. Just to complete the development of the new ABM system would require $1.6 billion. We feel that with the Safeguard ABM system which we have finally developed and are now deploying in North Dakota, and with the technology programs in this area which we are continuing at a $100 million level, that we are not required at this point in time to initiate full scale development of a new ABM system. As I said, this is a major weapon system decision and has a major impact on Defense financing throughout the next decade.

PROJECT SANGUINE

The committee recommends termination of project Sanguine and the deletion of the $16.7 million requested for this effort. Project Sanguine involves the development of a new system for communicating with submerged submarines. We presently have several different means of communicating with submarines and have others under development. Sanguine involves a system of seismic arrays deployed over a large area and a great deal of electrical power. Heavy local resistance to deployment of the system was evident in both Wisconsin where the system was originally scheduled and in central Texas which was considered later.

MEDIUM STOL TRANSPORT

In the Air Force, the committee again recommends termination of the program to develop a new medium-sized transport aircraft. The entire amount of $67.2 million requested is denied. Funds for this program were deleted by the House last year, added by the Senate, and reluctantly agreed to in conference. We feel that while it would be nice to have a new medium transport plane, that it is not essential. We can continue to procure the C–130 aircraft which are presently being used.

RESEARCH AND EXPLORATORY DEVELOPMENT

There are a number of research and exploratory development projects which contain large numbers of small, individual programs. The projects are generally managed on a dollar level of effort basis. The budget requested increases in most of them in excess of amounts related to increased costs. In several instances, the committee recommends holding the program at the approximate dollar level of the previous fiscal year.

MAJOR PROGRAMS APPROVED

No major programs other than those mentioned were reduced to any appreciable degree. Such efforts as the B–1 bomber, the new attack helicopter, the new main battle tank, the A–10 Close Air Support aircraft, the F–15 fighter, the heavy lift helicopter, the SAM–D antiaircraft missile system, the F–14 Navy fighter and the Harpoon cruise missile are funded at the level of the authorization.

DELAY IN PRESENTATION TO THE HOUSE OF DEFENSE BILL

The hearings on the Defense appropriation bill started on April 3. We had attempted to start the hearings in early February. The staff and the Defense Comptroller had agreed on a hearing schedule beginning in early February.

Following this agreement the then Secretary of Defense Elliot Richardson declined to appear in February or permit any other Defense Department witnesses to appear until April. The new Secretary did not want Defense hearings to begin until after a Presidential foreign policy statement, referred to as the "State of the World" message, had been sent to the Congress. It appeared that a delay was sought to give time to reach a solution to the Cambodian situation.

The committee did hear and acted on a number of fiscal year 1973 reprogramming requests in February and March.

Secretary level hearings commenced on April 3 and ended May 24.

In most of May and June the Defense Subcommittee was involved in the debate on the bombing in Cambodia. This debate occurred in connection with the second supplemental appropriation bill and the continuing resolution.

Also in May, we heard all of the Service Secretaries and Chiefs of Staff. The second supplemental bill was reported on May 3, passed the House May 10 and the House agreed to the conference report on June 25. This bill was vetoed. Also, on June 25 the continuing resolution was reported, passed the House on June 26, and the House adopted the conference report on June 30.

In June some military personnel hearings were conducted; however, many other appropriation bills—Agriculture—Environmental and Consumer Protection; District of Columbia; Department of Transportation; Housing and Urban Development; Labor, HEW; State, Justice, Commerce, and Judiciary; Interior and related agencies; Public Works; continuing resolution and the second supplemental—were considered in the full committee and on the floor. Under the rules, no Defense hearings could be held at these times.

The remainder of the military personnel hearings was held in July as well as the commencing of the operation and maintenance hearings. The operation and maintenance hearings continued until recess of the Congress in August. Long recesses were taken in February—Lincoln's birthday — April — Easter — May—Memorial Day—July—Fourth of July—and of course the August recess. In addition, many Wednesday morning hearings had to be postponed due to Democratic caucus meetings. No hearings were held on Friday since the House seldom met on Fridays.

Beginning on September 5, the remainder of the hearings—procurement; research, development, test, and evaluation; operation and maintenance; Reserve Forces; and public witnesses—was concluded on October 11. This concluded all hearings. The Defense appropriation bill could not be passed until Congress had completed action on the Defense authorization bill handled by the House and Senate Armed Services Committees.

The authorization bill passed the House on October 31, passed the Senate on November 5, and was signed into law by the President on November 16.

It is obvious that the Committee on Appropriations has done about the best it could under the circumstances.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as my good friend, the chairman of the committee from Texas, has pointed out, this is one of the largest appropriation bills in terms of dollars that has ever reached any legislative body in the history of the world.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MINSHALL of Ohio. I yield to the gentleman from Texas.

Mr. MAHON. A member of my staff reminds me that while actually the bill last year was larger, this bill would be larger if we added the $2.5 billion for increased pay which will be required before the end of this fiscal year.

I appreciate the gentleman yielding to me to modify my previous remarks.

Mr. MINSHALL of Ohio. I appreciate the gentleman adding that comment. I had not finished my statement. I can justifiably say this is the largest bill in the history of the committee in terms of hours spent, in terms of questions asked, hearings which totaled some 11,500 printed pages and were included in 10 printed volumes.

Mr. MAHON. Mr. Chairman, will the gentleman yield further?

Mr. MINSHALL of Ohio. I yield to the gentleman from Texas.

Mr. MAHON. I think our colleagues probably grow weary of our saying nice things about each other; but since the gentleman has said that, I do believe that the House is appreciative of the 12 members on this committee who have given 6 months of effort to this project.

The gentleman from Ohio, the ranking minority member of the subcommittee, is an invaluable asset to the subcommittee in its efforts to make a meaningful contribution to the causes of fiscal integrity and national defense. Few men in Washington or elsewhere have the gentleman's full understanding of the complex defense budget. The gentleman is nonpartisan in his approach. He only wants to see that a good job is done. We are indeed fortunate to have a man of his caliber in his important position.

I must say, if there are any competent men in the employ of the U.S. Government, there are some of them who work for the Appropriations Committee. The staff who worked on this bill are the most knowledgeable people in the whole wide area of defense that I know of in the U.S. Government.

Mr. MINSHALL of Ohio. Mr. Chairman, I certainly appreciate the kind remarks of the chairman.

I am in accord with what the gentleman from Texas has pointed out with respect to the staff. Without the very able staff that we have, Mr. Chairman, and the hard work of this committee, we would not have been able to crank out, as it were, the final result of this bill as quickly and carefully as we did.

I think it is only fair to point out to the other members of this committee that we go down into our Defense Subcommittee room in January of every year. We finally emerge and we look, with the absence of whiskers, and we feel something like Rip Van Winkle. I have seen some of the new Members coming up and looking at members of the Defense Subcommittee and thinking, "How did you get on the floor?" They do not recognize who we are, and it is understandable.

I also would like to point out that aside from the long hours we spend in that committee room in hearings, this year again we broke a track record; we spent 4 days—4 long days in our markup, being ultra careful in coming out with a bill that was cut not with a meat ax, but carefully with a scalpel.

Mr. Chairman, I would also like to point out to the committee that in the past 6 years this subcommittee alone has cut over 20 billion—spelled with a "B"—dollars out of the administration funding requests over that period of time. This year, of course, as the chairman has pointed out, we cut $3.1 billion. It is not my purpose today to reiterate or say again the things the chairman has pointed out, but when we look at these 10 volumes of hearings, if we just even hit every other high spot, we could be here for a matter of weeks just discussing this bill in more detail. I honestly feel that we have a bill here today that all of the Members of the House can support.

As the distinguished chairman of the full Appropriations Committee and Defense Subcommittee, the gentleman from Texas (Mr. MAHON) has pointed out, the budget request for the items covered in the bill was $77.2 billion. The amount recommended by the committee for appropriation is $74.1 billion, a reduction of $3.1 billion.

Let me review for you the principal reductions recommended by the committee.

More than $600 million was deleted in the authorization action on procurement and research, development, test, and evaluation funds. The authorizing committees declined to authorize appropriations for these programs and in every instance the Appropriations Committee has deleted those funds.

Reductions totaling almost $400 million are based on the recoupment of funds appropriated in prior years which for one reason or another were not utilized. We tell the Department of Defense to utilize those funds in this fiscal year in lieu of new appropriations. These two actions account for $1 billion of the $3.1 billion reduction.

The budget proposed a total military personnel end strength of 2,233,000 personnel for all services. The authorizing bill reduced this number by 43,000 and we recommend a further reduction of some 10,000 for a total military personnel strength reduction of 53,000 personnel. The dollar reductions associated with this and other personnel actions are approximately $275 million. When you reduce personnel, particularly when the action is made late in the fiscal year, the savings in that fiscal year are relatively small. There are termination costs which must be provided. The full impact of the dollar savings related to the military personnel reductions will be felt in the next fiscal year.

We recommend reductions totaling $456 million in operation and maintenance. Operation and maintenance appropriations probably cover a greater number of individual items than do any other appropriation accounts. Operation and maintenance includes the pay of civilian personnel. It includes many items of support for military personnel. The reductions made in number of military personnel and the reductions made in civilian personnel are the reasons for part of the operation and maintenance reductions recommended. The Department of Defense, along with the rest of us, must reduce the utilization of petroleum products. A reduction in the operation and maintenance appropriation totaling $54 million is based on a reduction in the use of fuel throughout the Department of Defense.

In the procurement area the committee recommends reductions totaling $1.8 billion. Of this amount $320 million was mandated by authorizing action. Another $100 million represents transfers of programs, which were not ready to go into production, to the research, development, test, and evaluation appropriation. The utilization of prior year funds which were free assets and available account for some $400 million more. The largest single reduction is $240 million deleted from the Trident submarine program. This reduction is based on a desire for less concurrency in the program. The Department of Defense asked for funds to initiate the construction of seven Trident submarines in this fiscal year. We provided funding for the first four submarines, but denied the funds requested for long leadtime procurement items for the fifth, sixth, and seventh submarines. We believe that these funds are not required in this fiscal year and that waiting until the developing of the Trident missile and submarine have progressed further before initiating construction of these ships will result in considerable savings and better equipment. We have not changed the date for completion of the first Trident submarine.

We strongly support the Trident program as an essential element of our strategic forces. Our difference is only in management philosophy.

The research, development, test, and evaluation appropriations have been reduced $533 million. More than $300 million of this amount was mandated by the authorizing reductions. A major reduction recommended by the Appropriations Committee is the deletion of $110 million requested for the site defense antiballistic missile program. The Army has requested funds to initiate prototype development of a new antiballistic missile system. We believe that since we are still financing the development and initial deployment of the Safeguard antiballistic-missile system, we can wait before proceeding with prototype development of a new system. We provided funds for development of important components of new ABM systems but not for prototype development.

I support the bill which the Defense subcommittee has presented. The Subcommittee worked long and hard on the preparation of the bill. The markup, itself, took 4 full days. The subcommittee made its recommendations carefully and with surgical precision. We avoided any across-the-board or meat-ax reductions. I am told that, including the actions mandated by authorization action, there are approximately 600 individual line item actions reflected in the bill as reported to the committee. So, the committee and the Congress have exercised their authority with respect to the defense appropriation bill.

I believe the reductions which are recommended can be made without harming our national security, but I will oppose further reductions especially across-the-board type reductions which could harm our national security.

I do not wish to take too much of the Members' time at this point. I ask your support for the bill as recommended by the Defense Subcommittee.

Mr. TEAGUE of California. Will the gentleman yield?

Mr. MINSHALL of Ohio. I yield to my good friend from California.

Mr. TEAGUE of California. I want to compliment the committee on the language contained on page 207 of the report pertaining to the Pacific missile range in California. While the range is not in my district, the employees are. The Navy had proposed at a cost of $8.5 million to transfer the operation of the range from the Government employees to private contractors. The Navy expressed the hope that after a few years they could perhaps save $1.5 million a year. They have not convinced me that they could do so, and I am delighted to learn that they did not convince the committee of that, either.

Again I express my appreciation to the committee and my compliments to them for allowing the Navy employees to operate this range in its present form.

Mr. MINSHALL of Ohio. I thank my friend from California.

Mr. FLOOD. Mr. Chairman, I yield 20 minutes to the distinguished gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, the cost of this bill has caused concern in many quarters. Seventy-four billion dollars is a lot of money. Yet, proportionately, this defense program is smaller by comparison than any defense bill in years. The demand for programs to provide for the comforts, conveniences, health, education, happiness and prosperity of the general public long ago subordinates defense requirements to a place of secondary consideration and constantly reduced funding. If peace prevails, this situation will occasion no serious problems. If peace fails, we will be in serious trouble. We are weakening our defenses in comparison with the military strength of our opponents. If this continues, we may be inviting trouble.

But $74 billion is still a lot of money.

It should provide a lot of defense. The size of this bill is an invitation for amendments to reduce it. The amendments will have support from some who honestly feel we do not need to be so deeply concerned about defense. Before you vote to cut this bill, let me caution that you make certain you understand where the money goes and what the cuts would do. Over 60 cents of every dollar goes to pay people, military and civilian. That leaves only a third to purchase weapons and equipment. Not long ago it was the other way around. Two-thirds of the defense dollar went to buy weapons and equipment, and one-third to pay people. Weapons in those days were far less costly. A dollar went much further.

The pay of people is very high because Congress wanted military personnel and civilian employees to be paid as well as those not in the military program. If you were to vote now to reduce the defense program, you probably would not be cutting the number of people. You would be cutting the number of weapons. We cannot afford to provide fewer weapons than are included in this bill. Today's warfare requires very modern, very sophisticated weapons. They also are very costly. It is frightening to realize that more tanks were destroyed in a day of the fighting in the Middle East than we buy in a year for our forces, and that more aircraft were shot down in a day in that conflict than we buy in a year. Our forces cannot endure in conflict without modern weapons in adequate numbers.

War has entered a new, more frightening dimension. In the war in Vietnam there was very little aerial combat, although in its later stages many of our aircraft were lost from surface-to-air missiles. Nor was there tank combat, except in isolated instances.

The war in the Middle East showed what will happen in the event of war in Europe. There will be full-scale tank combat. There will be full-scale aerial combat. New weapons were unveiled in the war in the Middle East—weapons never before used in combat, weapons which proved very effective. We do not have a first-line defense against some of those weapons, nor do we have the equivalent of some of these new weapons in our own inventory.

The Pentagon must get on the ball. The nice things we are accustomed to saying about the effectiveness of our Armed Forces and our military equipment are very good for home consumption, but they are not fooling the Russians. They know what they have and they know what we have. They also know what we do not have. It is time to accept the facts of life and to do something about our shortcomings before we have to learn the hard way—in combat.

American weapons generally have a very favorable reputation throughout the world. The average nation, outside the Iron Curtain, which is shopping for weapons wants to buy from us. It is to our advantage to make weapons available to friendly nations. American manufacturers now are seeking orders and American workmen need the jobs. Yet the fact remains that the American State Department and the U.S. Congress have combined to put roadblocks in the way of sales of weapons in many instances. This seems a very shortsighted policy. Countries which want weapons and have the money to buy them are going to acquire them somewhere. If we sell the weapons, our industry benefits and there is the additional benefit which comes from sending American teams to the buying country for the purpose of training the local forces in the use and maintenance of the weapons. They can be important goodwill ambassadors. There also is the continuing business of supplying spare parts.

Not all American weapons are of the high standards that we like to associate with our defense systems. I am seriously concerned with the state of our surface-to-air missiles and our defense against them. The new SAM–D, on which we are placing great hopes is developing much too slowly. I doubt that anyone claims our Hawk is in the same league as the Russian SAM. We do not have a mobile SA–6, and this is one of the most effective antiaircraft weapons inveiled in the recent war in the Middle East. Both Israelis and Arabs made good use of cruise missiles in that war. We do not have one that is comparable, and even more critical, is the need for a defense against cruise missiles. For years these have been known to be very effective weapons. We have dragged our feet altogether too long with half-hearted measures in this field.

These are situations which cannot continue to be tolerated.

I spoke of a tight budget and careful screening of this bill in the effort to eliminate needless expenditures. Let me admit quite candidly that I am concerned about the size of the headquarters establishment of the Department of Defense, particularly in Washington. When a man like Admiral Rickover, who is forthright and who does not hesitate to call a spade a spade, says that a third of the manpower in headquarters offices is unessential, it is time to stop, look, and listen. I fully believe here is an area where economy can be worked. The statement has been made that the headquarters organization of the Department of Defense is costing $6 billion a year. I do not know how this figure can be broken out to determine the exact cost. But if the cost is anywhere near that figure, it is far too high.

I have also said many times that the Department of Defense would benefit if more of its functions were moved out of the Washington area, and for a number of years the Military Construction Subcommittee has pressed the military services to decentralize some of the military programs away from Washington. Progress has been slow and tedious and results are minimal. It should be obvious the concentration of additional military activities in and around our Nation's Capital makes it a more inviting military target. It also means that personnel are being moved to one of the highest cost areas in the land. It means further congestion in an already congested area. Yet everyone wants to be close to the throne. Everybody wants to be in a position to influence the powers that be and impress the admirals and generals.

The effort to decentralize military programs away from the Capital is one good way to achieve revenue sharing. Certainly there is no reason why more of the activities and the funding which now come to Washington should not be in various States and cities throughout the country.

There is a new and increasingly difficult problem—that of obtaining military manpower. The draft is ended. The services are attempting to obtain adequate numbers of men by voluntary enlistments. They are putting on a brave front and they are making a strong and honest effort—an effort which is costing $525 million a year and which involves 32,000 people. That is nearly two divisions in manpower and cost. But the sad fact is the program is not working. The average American simply is not military minded. He does not like regimentation. There are good jobs to be had outside the military services, and most civilian jobs do not take a man away from his family for long periods of time.

The services have leaned over backward, even to foregoing needed discipline and permitting sloppiness in the appearance and conduct of the forces. This sort of thing can lead to mobs, not disciplined armies, and a mob is worthless in combat. In the effort to gain sufficient enlistments, the services have lowered their standards and they are taking too many category IV individuals and too many who have not completed a high school education. This in itself provides an ominous portent. Today's modern, sophisticated weapons require highly skilled, able, dedicated individuals for maintenance and for operation. Your committee has written restrictions into this bill which tighten enlistment standards and which will prevent a further drop in the standards of those accepted for military duty.

The sad fact is that we very probably shall have to face up, in another year or so, to our inability to obtain peacetime forces in adequate numbers without a draft. The effect on the Reserves has been particularly serious. In most instances, units are falling far behind their quotas. The Reserves must be prepared to fill an increasingly important part in the Nation's defense. Manpower costs are now so high we shall, in the years ahead, necessarily have to reduce the regular forces and depend more on the Reserves simply because they cost much less. We cannot depend upon the Reserves if they are unable to meet their strength levels and carry out required training programs. Obviously more than a draft is going to be necessary to make the Reserves sufficiently attractive for them to accept their full responsibility in the Nation's defense. New legislation to make the Reserves more inviting is necessary.

We won the war in Europe because of numbers—numbers of men, numbers of weapons, sheer volume of supplies. That is not to say that we do not owe a great deal to brave men and able leaders. We do. But so did the enemy have brave men and able leaders. Our superiority was in numbers—sheer numbers. This time, the Russians have the weight of numbers and of manpower. Do not discount that very obvious fact. This is an austere budget. The Pentagon is making a goalline stand to keep enough weapons and equipment for essential military requirements.

This year's military program was carefully screened by the Pentagon and by the Office of Management and Budget. Your committee has inflicted additional cuts. The cuts have been carefully made after long and mature deliberation and consultation between committee members and the staff.

Before serious thought is given to further cuts in this bill, let us remember that our present war reserves of important modern equipment have been seriously depleted by resupply of the Israeli forces. During the 22-day period of the war we sent to Israel a billion dollars worth of military equipment which is highly essential to our own forces. Previously one and a half billion in military equipment had been sent to Israel in recent years. Thus far, nothing has been done to replace that equipment or to implement the procurement of additional weapons which the war in the Middle East demonstrated are necessary to a modern force. Warmed-over aircraft and tanks from previous wars are not good enough to stand up to today's first-line weapons in enemy hands.

It must not be forgotten that the war in the Middle East started with very little warning. The Israelis had to mobilize after the fighting began, and this cost them heavily. We would have even less time before a first strike by our enemies. The savagery of the fighting and the heavy losses in men and equipment suffered by both sides should give us a foretaste of what war would be like if the Russians move in Europe with or without a first strike with ICBM's against our own land.

I do not want to see American forces in Europe or our European allies slashed apart by the kind of savage onslaught, led by tanks and protected by an umbrella of surface-to-air missiles, to which the Israelis were subjected. Let us not forget the Russians also have MIRV's. We no longer have an advantage either in conventional or strategic warfare. The best way to avoid these confrontations is to stay strong. The second-best defense is no more effective than the second-best poker hand. If we have to tighten our belts and deprive ourselves of some of the comforts which we want our people to have, we must realize that this may be the alternative to becoming a second-rate country dominated by Communist doctrine.

Now let us take a few moments to acknowledge our Nation's indebtedness to the dedicated men and women who are not a problem to the uniformed services but who are the backbone of America's military strength. They are found in all levels of military service, but particular appreciation is due to the non-commissioned officers and the company grade officers who mold the fighting units and the support units into a cohesive and efficient structure and who provide the leadership which makes our forces function effectively. These and others in uniform who, regardless of rank, offer conscientious and devoted service year after year and whose families accept the problems and the difficulties of military life and who provide the nucleus on which our military security is built are indeed very important people to our Nation. It is to the credit of the Congress that we led the way in providing more adequate pay scales, better homes and living conditions, and more adequate recognition of the part these men and women play. These things are deserved by the career people in the service who master the intricacies of the maintenance and operation, subsistence and supply, and the know-how of leadership in the services under today's difficult and trying conditions.

We owe to them the tools with which to defend this Nation and to safeguard their own lives. Our lives and our Nation's security are on the line, too. Let us not cripple their chances to do the job entrusted to them. This bill carries the tools which are essential for their work.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman.

Mr. WYMAN. How long can we go on paying 60 cents out of every military dollar we appropriate for the cost of our military and civilian employees while the Russian Government only spends 30 cents?

Mr. SIKES. The gentleman's question is obvious, and the answer is also obvious to everyone listening, because we have only a third of each dollar left to buy weapons and equipment without these we can not fight. The Russians get much more equipment for each defense dollar than do our own forces.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. SIKES. Certainly I yield to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, many, many inquiries have been made from time to time concerning the cruise missile, and I would like the gentleman from Florida (Mr. SIKES) to state what a cruise missile is as distinguished from any other missile.

Mr. SIKES. A cruise missile is a surface-to-surface weapon which is employed on shipboard for use against other ships. Some versions are intended for relatively short ranges but others are effective at ranges extending over the horizon. The cruise missile has been demonstrated in combat to be extremely accurate. We have been very slow about developing an effective comparable weapon. The Russians supplied them to the Egyptians about 10 years ago. They were used effectively and that is when we learned about them. The Israelis have developed their own effective cruise missile and they used it in the recent war. It is very difficult to develop a satisfactory defense against cruise missiles, and despite all that is said about our efforts and our progress in that direction, the fact remains we do not have a tested and proven defense against cruise missiles. I repeat—this is inexcusable.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentlewoman from New Hampshire.

Mr. WYMAN. Does this cruise missile, now in existence in the possession of the Soviet Union, have an effective kill capability over the horizon?

Mr. SIKES. They have cruise missiles which have such a capability.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California.

Mr. BELL. I thank the gentleman for yielding. It is my understanding that during the Israeli-Middle East war the Israelis had particular trouble with the SA-6's. They called them SA-6's, which I understand was a surface-to-air missile.

Mr. SIKES. I believe the gentleman from California is speaking of the SA-6.

Mr. BELL. Yes, the SA-6.

Mr. SIKES. It is a mobile surface-to-air missile.

Mr. BELL. It was my understanding that there was some concern that we did not have anything comparable to that or anything very close to it. I am wondering whether anything is being done to rectify that situation.

Mr. SIKES. I commented on that weapon a few moments ago. Let me repeat. I, too, am very much concerned about things we now know about the SA-6. It was first used in warfare in the recent conflict in the Middle East. It proved to be one of the most effective antiaircraft weapons in the Arab inventory. Neither we nor the Israelis have a comparable weapon, and it is essential that we develop the capability and do it quickly. It is equally essential that we improve existing defenses against the SA-6.

Mr. FLOOD. Mr. Chairman, will the gentleman yield for another question?

Mr. SIKES. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. I thank the gentleman for yielding.

Will the gentleman state for the record, please, just what he means by "category 4" personnel?

Mr. SIKES. These are individuals who score lower in mental tests than the standards which are considered most desirable for military service. They are well below average mental capability.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I would like to ask a question of the gentleman from Florida. I noticed on page 220 of the report, in discussing the aircraft A-10, there is a statement that says:

> The recent war in the Middle East in which various Soviet-reduced anti-aircraft weapons inflicted high rates of attrition on attacking aircraft lends support to this belief.

The belief which is referred to here is spelled out a couple of sentences earlier. Basically it is the contention that "the A-10 which flies slowly and at low altitudes would be so vulnerable to ground fire in combat as to be useless."

Mr. SIKES. I do not agree with that inference. The A-10 is designed to fly low to support the ground forces and for use against tanks. It is built so that it can survive under battlefield conditions. It in itself is almost a flying tank. It is heavily armored for the protection of crew and plane. It has very long loiter capabilities, an asset not possessed by other aircraft. Many aircraft have been lost in combat because of engine failure or because of engine damage. Those are single engine aircraft. The A–10 has two engines. It can fly with one. This add to its survivability. It carries effective armament for battlefield use. The plane is expected to be a valuable asset to the combat forces.

Mr. STRATTON. I am glad to hear the gentleman make this statement. I was chairman of a subcommittee that recently visited the Middle East and saw the war from both sides. I can say categorically that our subcommittee found or heard nothing that would support such a statement, so I believe the record ought to be made clear. The committee has recommended the full amount of money for the A–10. But I am afraid the statement in the report could undermine the actions of the committee.

Mr. SIKES. For the continued development of the A–10 but not for procurement.

Mr. STRATTON. That is because the defense authorization bill conference report eliminated authorization for the procurement funds.

Mr. SIKES. Your committee did not authorize procurement. It would be well in my opinion if we could begin procurement.

Mr. STRATTON. This is a rather damaging statement that appears in your report. I personally supported funds for procurement.

Mr. SIKES. I have expressed my personal beliefs about the aircraft and my confidence in it.

Mr. STRATTON. I am glad the gentleman agrees with me. At this point I am including with my remarks a memorandum from the Air Force which outlines the unique capabilities of the A–10, which refute the blunt statement contained on page 220 of the report.

Close Air Support in SAM Environment

To be effective, close air support must be provided over time and in weather which often reduces target acquisition range. Accordingly, close air support aircraft cannot rely on high-speed, single-pass tactics for survival. As a result, surface-to-air missiles (SAM's) must be negated by a combination of suppressive attacks and countermeasures.

The A–10 has the payload and sortie generation capability required to suppress SAM defenses and still provide decisive lethality against tanks and other close air support targets. Compared to alternative close air support aircraft, the A–10 has about a 50-percent higher capability for carrying external ordnance—including standoff missiles and guided weapons—for use against SAM sites and other targets, and is the only close air support aircraft with a gun capable of killing tanks. Moreover, a force of A–10s could generate twice as many sorties as an equal number of alternative aircraft.

With regard to countermeasures, the A–10's payload capability and number of external pylon stations permit it to carry the required flares, chaff, jammers, and threat warning receivers without seriously affecting its range, maneuverability, or lethality. Countermeasures have been developed for the SA–2, SA–3, SA–4, and SA–7 SAM's, and development work is underway on threat warning receivers and improved countermeasures for the SA–6 and SA–7 SAM's. Moreover, tests are planned to determine the optimum paint—for use on the A–10—which would reduce the effect of reflected sunlight and degrade the effectiveness of infrared-guided SAM's such as the SA–7.

The A–10 is designed to be survivable while providing effective close air support in a SAM environment.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 15 minutes to the gentleman from Wisconsin.

Mr. DAVIS of Wisconsin. Mr. Chairman, this is an immense bill that is before us here today. I think it is a bill that is subject to a great many questions primarily because of its sheer size and the complexity of the many subjects that are dealt with, but I would recommend to Members reference to the detailed and what I think is a very fine report that is available to them. They will find there the rationale for the decisions that have to be made.

There is $74.1 billion in this bill. In addition to that there will be a draw-down on unobligated balances of about $2.6 million, so that this bill does contemplate, as I interpret it, an obligation of approximately $76.7 billion in this fiscal year. It provides uniformed manpower strength for our Armed Services of approximately 2,150,000. This is a reduction of something over 50,000 from the manpower levels that had been submitted by the Department of Defense. Of this about 43,000 in reductions was mandated by the authorizing committee. In addition, there are various actions taken in the personnel sections of this bill which will require another 10,000 to 15,000 reduction in personnel; so I believe just in round numbers this bill represents a reduction in overall uniformed personnel strength of about 53,000 from the figure that was contemplated in the Defense Department.

This is the first time that we are dealing with a defense appropriation bill that is based upon the volunteer Armed Forces concept. It does envision the retainment and the recruitment of men in the armed services on a purely volunteer basis.

There have been reservations expressed by members of the Armed Services Committee, by members of our committee. They were expressed here earlier this afternoon about the prospects for the success of the all-volunteer force. But, this bill does reflect the will of Congress as enacted into law that the volunteer concept shall be made to work, and so in an effort to make it work, while we could find in our hearings many bases for criticism of the recruitment programs, and I suppose that there are bases for some of the allegations that have been made in wasteful and duplicatory recruiting, but since this is the year of test on this volunteer concept, we have provided over a half billion dollars for the recruitment of men and women into the armed services.

Mr. KAZEN. Mr. Chairman, will the gentleman yield for a question?

Mr. DAVIS of Wisconsin. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, this is something all of us worry about, the quality of the people that we are getting under the all-volunteer service concept. It is a mystery to me why the services are refusing to take back some of the people that have been out of service for a period of 6 or 7 or 8 months, who have made application to reenlist.

These are people who have been well-trained, who were trained under the system when we allegedly had the highest discipline, the best training available for the services, and yet the services refuse to take them back and instead recruit people whose ability at least is questionable and for whom the standards are being lowered.

Mr. DAVIS of Wisconsin. Mr. Chairman, I am not sure I can give the gentleman anything like an authoritative answer to that question, but just let me see if I can try on it.

I think part is explained, No. 1, by the fact that our Armed Forces are becoming more technical and more specialized, so that the man who has been out for a period of time and now desires to come back in finds himself in a category which is probably not critical to the Armed Forces at this time.

Second, we have had the phenomenon we call "grade creep," in all levels, both officer and enlisted. We have been trying to deal with this problem where the average grade or the average pay of personnel has continued to go up, so I expect this man who has been out for 6 or 7 years——

Mr. KAZEN. I am talking about 6 or 7 months.

Mr. DAVIS of Wisconsin. Or 6 or 7 months, expects to come back in and at a level much higher than the average level of pay grade that we feel that can be afforded. Therefore, this perhaps is another factor which explains that.

To get to the second part of the question, we have in our report dealt with this problem of category 4, and I think we have expressed ourselves quite strongly with regard to this. I think we can agree with the concept now being developed that there is nothing too essential or too important about that piece of paper, a high school diploma, but I do think that the man's innate mental capacity, his ability to learn and to advance himself in the service is something that is important. Therefore, we have expressed ourselves quite strongly that we do not want this recruitment program to be entirely upon the basis of getting a number of bodies and grading the recruiters on that absis; that we do expect caution to enter into the recruitment programs.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Wisconsin. I now yield to the gentleman from Pennsylvania (Mr. Flood).

Mr. FLOOD. Mr. Chairman, I think what my friend really has in mind, and he is quite right, that after a few months they want to come back in at the grade they went out. He cannot understand why a good man in a short period of time who wants to come back into the service in his own grade cannot do so. There is a strong point there.

Now, there is a strong point there.

Mr. Chairman, I thank the gentleman for yielding.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for his response.

Mr. DAVIS of Wisconsin. Mr. Chairman, that is about as much as I can give as an answer, I will say to my friend, the gentleman from Texas.

Now, this volunteer concept, the cost of recruiting, the heavy amounts we pay to get them to reenlist, the high pay levels, these all account for the fact, as has been mentioned here, that now 60 cents out of every Defense dollar goes just to pay and to enlist and to keep people.

Added to these, we have the rapidly expanding cost of paying the retirement benefits for those who have been in the service. And the number of fringe and indirect costs that have been mandated by the Congress leaves us with a minority in terms of dollars in this bill on which we could exercise our judgment. That minority, unfortunately, is represented by the hardware, the "guts" of our Defense Establishment. We have made a number of conscientious efforts to deal with specific personnel cost problems, and the report details the steps which our committee has taken:

The size and proliferation of headquarters; the overloading of high-ranking officers; the problem of flight pay for those who do not fly; the number of counselors of various kinds that are on the Defense Department payroll.

This is not too big an item dollarwise, but just as a matter of principle and common sense, we dealt with the problems of the size and the cost of the numbers of bands in the Defense Department; the number of enlisted aides. The Members will find in our report that these numbers have been drastically reduced.

And there is no money in here for the training of others.

In addition, we have the change-of-station costs, and those costs are substantial. We have the number of sedans in the Armed Forces; we have the executive dining rooms.

Here again, this represents not too much in the way of dollars, but we are letting our colleagues know that we do become aware of these criticisms which are leveled at the Defense Department.

We have the overseas dependent education costs, where each service has had its own program. The committee has directed that these be consolidated.

Next, we have the space available travel, which has grown from a wartime compassionary service to the point where organizations have been formed and literature dispensed encouraging people, the dependents and the retirees, and others, to see the world at the expense of the taxpayers, without personal travel cost.

I mentioned the problem that we are having with retired pay. I think this is something that the appropriate committees in this Congress are simply going to have to deal with.

We are bombarded on every side by the issue of recomputation and increasing the amounts of benefits. I only issue this as a word of warning, because we could only make a token reduction, based on pure mathematics, but as a word of warning, with the increases which are already built into law, if recomputation were to be added to that, as some people continually demand, we can expect $43 billion to be the cost for this item alone in the year 2000.

Our committee report last year documented that matter and it continues to be a matter of concern. We have approached the $5 billion level in this year's bill.

With regard to hardware, there have been a number of deferrals and reductions, but I can recall only two programs that have been actually terminated. One of them is the site defense and the other is Project Sanguine.

We did take the initiative, along with our coworkers on the Committee on Armed Services, of continuing a program that the Defense Department suggested be terminated, and that was the procurement of the F-111F at a cost of $152 million for 12 of these planes in order to keep the line open, because I think a great many people who have talked so glibly about the B-1 have the impression that we already have a B-1 and we do not need to keep the F-111. The fact is that we are talking about a plane that will be available to us some time in the 1980's. It did appear even though the initiative did not come from the Defense Department that the better part of commonsense dictated that we continue the F-111 line in operation.

In summary, I suggest to you, my colleagues, that this bill has been considered in detail and in depth by a group of 12 men dedicated to their work with the support of an effective staff. We spent 4 full days of free discussion, in the give and take of markup sessions, in addition to the many, many days that were spent in the interrogation of witnesses.

Mr. Chairman, I urge the support of this bill as our subcommittee has presented it to you.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. ADDABBO), a member of the committee.

Mr. ADDABBO. Mr. Chairman, I rise in support of this bill which I believe represents an outstanding effort by the committee to begin to deal with waste and duplication in defense spending.

I believe this bill will serve as a model for future Congresses as the attempt continues to trim defense spending to a more rational level. Though I support this bill, I will nonetheless support several amendments which I believe should be adopted by the House, and I shall offer at least one amendment myself. I shall explain the amendment in detail when we reach those sections of the bill during amendments.

I am particularly happy that this committee shouldered its responsibilities squarely in dealing with several sensitive and controversial subjects. First, I believe that keeping the A-10 program viable was an act of courage on the part of many committee members despite well-organized and well-muscled attempts to kill it. I would hope the House later today would do the same.

The committee also dealt with the CHAMPUS program and recognized its potential inadequacies, particularly in large population centers. The decision of the committee to retain the St. Albans Naval Hospital in operation for another year was a proper step in view of the CHAMPUS program problems, I believe.

I would like to compliment the chairman and the ranking minority member of the committee for their outstanding work on this bill, and I believe particular appreciation should be extended to the committee staff which each year labors to cull fact from fancy spread before them by Defense Department specialists who outnumber our staff by 30 to 1.

But it should be noted that this bill is no cure-all for our defense problems. As I noted in my separate views in the report, that the Department of Defense and the military services are passing through a difficult time period. This is a period of transition for the Defense establishment. The active combat participation of U.S. military forces in the war in Southeast Asia has been concluded. No clear-cut victory for American arms was forthcoming from the vast expenditures of men and moneys in that conflict. There exists today in Southeast Asia at best an uneasy truce. U.S. arms were never able to deny large segments of South Vietnam to the enemy. Some have called the cease-fire agreement a victory for the United States since the Republic of South Vietnam was not, at the time we withdrew our forces, overrun by the military forces of North Vietnam. Others feel that this was the first real loss of a war in the history of the United States since we were not able to protect the Republic of South Vietnam from enemy attack from the outside nor were we able to repel all enemy forces within the borders of South Vietnam. Whatever one's view of the war might be, it would be generally agreed by those who are close to the situation that the war in South Vietnam was a traumatic experience for our military forces.

The Armed Forces of the United States are moving away from a longtime dependence on the Selective Service System for personnel to fill the ranks. We are moving into the era of the All-Volunteer Force. The success of this transition is far from assured. It may well be that considering many factors, including the long and largely unsuccessful war in Southeast Asia, that too high a percentage of those entering the military service under the All-Volunteer Force concept may be dropouts from a competitive civilian society. Already there has been difficulty in attracting the numbers of quality people desired and moves have been made to lessen the mental and educational requirements for those who would enter the service. This is a shortsighted policy which in the long term will seriously degrade the effectiveness of our fighting forces. The kind of personnel needed will not be attracted to military service if the ranks are overloaded with ineffective individuals.

We have experienced a serious erosion of civilian control of the military forces. In part, this was brought about by the failure of the administration this year to fill high level vacancies expeditiously, even at the level of the Secretary of Defense. We entered the year with Secretary Laird, who was followed for a few months by Secretary Richardson, who was replaced by Secretary Schlesinger. Many of the most important civilian jobs in the Department of Defense were not filled six months after the beginning of the New Presidential term. Most of the top civilian personnel have now been named and are on the job. It is hoped that in time their efforts can restore the proper balance of civilian and military control. Not enough time has passed to be sure that this will be the case.

There continues to be serious deficiencies in management by military personnel. The services continue to rotate such personnel with an eye primarily to spreading the good jobs around as much as possible and following prescribed routes toward promotion. Not enough thought is given to creating sufficient stability in key job areas and to having trained, experienced personnel available to make important decisions. We have many very fine managers in the military who have been frustrated in their efforts to provide good management by the personnel policies of the services.

The Defense budget continues to rise but our military strength does not. More and more of the Defense dollar is spent for things which do not directly translate into military effectiveness. There has been much discussion this year about the use of enlisted personnel as servants, about the automobiles and drivers available to military personnel, about free travel worldwide for military personnel and their families, both active and retired, for vacation purposes, and about the heavy expenditures in the training of personnel for jobs which they either never perform or perform for only a brief period of time. The taxpayers' money is spent on hiring civilians to do KP. The taxpayers' money is spent on headquarters commands with large staffs and no real function. The taxpayers' money is spent on training of individuals in jobs they want to do when they leave the military service and never use the training while in the military service. The taxpayers' money is spent on sending dependents of military personnel all over the world in areas where, if conflict occurred, the dependents would be in grave personal danger and would create a severe military liability.

It would ordinarily have been expected that the Defense budget would have been reduced this year from the amount requested in the previous fiscal year. We no longer are fighting in South Vietnam and the approximately $25 billion we were spending annually in that effort is no longer being spent for that purpose. There have been agreements with the Soviet Union limiting antiballistic missile forces and offensive strategic missiles. There have been reductions in the numbers of military personnel. But instead of being reduced, the budget for fiscal year 1974 was increased. Instead of talking about military requirements, the Department of Defense talks about a percentage of the gross national product and tries to persuade Congress that by some divine right, a certain percentage of the gross national product each year should be given to the Department of Defense for its purposes. Instead of trying to save money when we are not at war, the Department of Defense tries to spend more money and points to the declining percentage of the total Federal budget which is given to the Department of Defense as a justification. The facts are that Defense expenditures have not decreased, but only that spending in other areas has increased more rapidly.

A review in depth of the Defense budget leaves the feeling that there is no strong overall guidance. That individual organizations and parts of organizations are given great latitude in demanding and receiving the personnel and moneys they desire. The military services duplicate the weapons of one another and compete directly for the same personnel. As the effectiveness of the military establishment decreases, the demands for more money increase. It is almost as if money is poured on a difficult situation much as a poultice is applied to a wound.

Any crisis in the world is used as a reason to increase Defense spending. The holding of troops on a limited alert for a few days brings stories of the need for vast sums in addition to the almost $80 billion already in the budget. It appears as if the military establishment has been seriously hurt by the war in Southeast Asia. It seems that the pride has gone out of the military system, that love of country has been replaced as a motivation, and that the planning for the next pay raise is given higher priority than is planning for possible military campaigns.

History has taught again and again that military forces depend on many factors other than numbers of personnel and quantity of material. Morale and leadership are essential to military effectiveness. In the dangerous world in which we live today, we need a fully effective military establishment. It is hoped that we can have one as soon as possible.

Congress has a constitutional responsibility to provide for the military forces and to review the effectiveness of the military. The leadership that is needed to modernize and upgrade the military should and must come from the Department of Defense. The officials of the Department of Defense must be encouraged to reconsider the monetary requirements as well as the future direction of the Department by objectively evaluating the effectiveness of past and present programs and the scope of future projects. If this kind of reevaluation replaces the existing tendency to simply ask for as much money as possible to fund as many new projects as possible, then the entire Nation will benefit. If this new leadership is not forthcoming from the Department, Congress will have no choice but to legislate a drastically curtailed program for the Department in the years ahead.

I urge my colleagues to support this bill and the amendments to be offered by myself and my colleague, Mr. GIAIMO.

Mr. MAHON. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia (Mr. FLYNT) a member of the subcommittee, who has been very active in defense matters throughout his career here.

Mr. FLYNT. Mr. Chairman, you have heard from nearly every speaker thus far and you will hear from other speakers who are to follow that this is an appropriation bill of substantial magnitude. It is one of the largest that the Committee on Appropriations has ever brought to the floor.

It has been said with accuracy that before this fiscal year is over the total budget request and the final action on appropriation bills for the DOD may well exceed $87 billion and could go as high as $90 billion. This includes not only the contents of this bill and the supplement to this bill, but it also includes other items essential to national defense which are administered by the Department of Defense but are included in other appropriation bills.

Mr. Chairman, a great many people have asked over the past few months, as they asked before the end of the Southeast Asian war, what size peace dividend are we going to get when the war in Southeast Asia is over. How much can we reduce our military spending?

The answer is: practically none. Because, in an effort to promote and encourage the All-Volunteer Force concept it has been necessary to fund in this and related bills substantial additional amounts for military personnel, both uniformed and civilian. Part of this is, of course, due solely to inflation. It is also due, in large measure, to carrying out the mandate of the Congress in raising military pay allowances because if we are to attract suitable personnel to supply the manpower for the Army, the Navy, the Air Force, and the Marine Corps, the uniformed services must be able to compete in the labor market with all other segments of the American economy.

Therefore, this year we bring to you a bill in which more than 60 percent of the entire $74 billion appropriation is earmarked for personnel pay and allowances.

There is no way to get around that.

Quite frankly, I wish that we had been able, in addition to providing additional pay for personnel, uniformed and civilian, to provide more money than we did for research and development, which is really our insurance for the future.

I wish that we had been able to put in more money for procurement of badly needed items of equipment in each of the uniformed services.

But there are guidelines laid down for the total amount of this bill, and we have made an effort to stay reasonably within those guidelines.

We have considered the areas in personnel as well as other areas where we can reduce costs without receiving readiness and we have successfully reduced some personnel expenditures which we did not consider to be essential. We have provided in the language of the bill that none of the services can enlist more than 45 percent of non-high-school graduates. We have provided that not more than 18 percent of non-prior-service enlistments can be in the mental category IV. Many people say that many non-high-school graduates and category IV's make good soldiers, and some of them mature into outstanding leaders. I do not dispute this. It may well be true. On the other hand, figures made available to us for the first 9 months of calendar year 1973 show that in one branch of the services approximately 88,000 first-term enlistees entered that service and during that same period of time approximately 28,000 members of that same service have been given early discharges for reasons of unfitness for military service, unsuitability, conviction by court-martial, conviction by civil courts, for the good of the service, and punitive discharges.

When we have approximately one-third as many going out on early discharge as we have coming in as non-prior-service enlistees, it means we are wasting about one-third of the money for that period of time for the personnel in those particular grades, which money could be used.

We feel that it has become imperative that we incorporate into the general provisions of this bill the requirement that no more than 45 percent of nonprior service enlistments in any service can be non-high-school graduates, and not more than 18 percent can fall into mental category IV.

With regard to research, development, test and evaluation, I wish that we could have provided the full $8½ billion requested by the Department of Defense for this particular title of this bill, but we felt that it was necessary to make some reductions in order to stay within the guidelines which the committee set for itself. The money that we expend for research, development, test and evaluation is the insurance for the future for providing modern weapons and equipment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAHON. I yield 2 additional minutes to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, I should like to refer very briefly to two items in the procurement title of this bill where the committee hopefully in its wisdom and judgment has added approximately $238 million. One of those items is for a continuation of the procurement of F-111 attack aircraft. This is the best modern attack aircraft that we have at this time. I have not always been satisfied with the performance of this aircraft, but it has proven itself in combat and in training, and as long as we may have the possibility of delays due to cost and other factors in bringing the B-1 bomber into the Air Force inventory, the committee felt that it was necessary to continue procurement of the F-111.

The second major item that the subcommittee added on is for two nuclear-powered DLGN's which are referred to as nuclear-powered frigates. The primary purposes of these frigates will be to provide point protection for the nuclear-powered carriers. Without the protection which these nuclear-powered frigates can provide, the effectiveness of the nuclear-powered carriers would be substantially reduced.

In addition to that point protection for the carriers, these DLGN's are the modern-day equivalent of both the old light cruisers and heavy cruisers.

The CHAIRMAN pro tempore (Mr. Sisk). The time of the gentleman from Georgia has expired.

Mr. MAHON. I yield the gentleman additional minutes.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from California.

Mr. GUBSER. Mr. Chairman, I thank the gentleman from Georgia for yielding and I also thank the chairman of the committee for giving the gentleman more time.

I note on pages 688, 689, and 690 of part 7, entitled "Research, Development, Tests, and Evaluation" of the hearings there is a colloquy between the gentleman now occupying the well of the House and Dr. Waterman and Admiral Lyon on the "Design-to-Cost Concept" and with particular reference to the Trident program.

As I read this colloquy I interpret it to mean that the testimony given to the gentleman in response to his questions was to the effect that the development costs of the Trident missile have been met, were under the target estimates, and that there would be no additional costs to be paid for development and consequently no need to come back for an increase in appropriations for that purpose, nor are we programing for that purpose.

Is my interpretation of the gentleman's colloquy correct?

Mr. FLYNT. In answer to the gentleman, in general I think his interpretation is correct. However the Trident system is designed to performance goals, not to cost.

The gentleman from California is of course well aware that the committee has seen fit to reduce this year's procurement budget request for the Trident submarine by $240 million. This decision was made after consultation with both the Department of Defense and the Department of the Navy, and it was determined that the program would not be harmed by the deletion of these funds. The objective of the committee was to reduce the degree of concurrency in the procurement of Trident submarines, as is pointed out in detail in the committee report.

I would say further to the gentleman from California, and I recognize his interest in this particular item, that if it should become necessary to meet certain target goals in the progress of the Trident submarine system, that we would, of course, entertain a further request at that time. We feel we have complied with the requirements as they are presently known. If we find later on in this fiscal year that we have not provided an adequate amount to meet the requirements of an ongoing Trident submarine program, I am sure we will entertain the request at that time.

Mr. GUBSER. I hope the Appropriations Committee will bear in mind these representations that were made by the gentleman in the well and that they will very carefully add expanded requests for research and development and test and evaluation funds on the Trident system.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 15 minutes to the gentleman from New Hampshire (Mr. Wyman).

Mr. WYMAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

It is a privilege to serve on the Defense Appropriations Committee with as dedicated and capable a group of colleagues as I have ever had the privilege to know and with as competent a staff as it is possible to assemble.

The senior members of this subcommittee have been on this subcommittee for many more years than I have been privileged to serve in this House. They know a great deal about the defense needs of this country. It is a valuable experience to learn from them in each year's protracted executive and public sessions.

I want to make, now, a few general observations about this bill and about the general situation of our national defense posture. To me as I look at the world and what is going on in it, we face a very serious situation in relation to the security and the future defense of the United States.

In my opinion this bill is underfunded in terms of the defense needs of this Nation by on the order of $20 billion. We are in a strategically tactically and militarily impossible situation in so many parts of the world that it is almost impossible to grasp the long-range significance of this dismal truth. The 6th Fleet, long a mainstay of defense operations at sea in the Mediterranean, probably could not last 15 hours if anything all out should break out with the Soviet Union. Between the sophisticated missilery which has been referred to earlier by the gentleman from Florida and the strategic disadvantage of massive land-based aircraft in the area, the viability of this force is dubious to say the least.

We are in a situation in this country where our ships are down, our planes are down, our submarines are down in comparison with the Soviets under the SALT agreements. We are spending 60 cents out of every dollar we appropriate for personnel costs, including some of the frills to which the gentleman from Wisconsin has earlier made reference, while the Soviet Union gets 70 cents out of every dollar that they spend in rubles for their defense. We get 40 cents for each of our defense dollars, not 70 cents.

If this disadvantage is long continued, it suggests that we are going to be at ever-increasing disadvantage defensewise, in the necessary nuts and bolts of procurement and research.

Further compounding this fiscal dilemma the all-volunteer army is not working. No matter what claims are made by the more optimistic advocates of it in earlier days, we are not getting the necessary personnel in terms of qualifications, either mental or in some respects physical.

In terms of add-on defense costs of the Nation this seems as wasteful as requiring every automobile in the Nation to have emission controls even though half of them are operated in parts of this country that have no real need for emission controls whatsoever. In the face of a growing gasoline shortage people wonder why the Congress or the executive branch does not have enough sense to face up to the waste that is apparent in this sort of thing.

There has been reference to weaponry of a sophisticated type that were given by the Soviets to the Arab bloc, in the Israeli-Arab conflict. It is dismaying that the United States does not have such equipment in being, or an offsetting capability.

The answer to the volunteer Army is undoubtedly the eventual resumption of the Selective Service System. There appears to be no way to avoid this if we are to have that kind of personnel in the military we require for combat readiness.

It is imperative that the Nation provide qualified personnel in the Army, the Navy, and the Air Force. Eventually, to get costs down we look toward fewer, yet highly qualified men with better training and more sophisticated weapons. Denied funding in the current bill is a pet project of the chief of naval operations called the sea control ship. This was a miniature carrier that he felt would be at least worth experimenting with to keep the sealanes open. Yet even the funds for a test vessel have been denied although the problem of the vulnerability of our sealanes is undeniable where another major superpower has more submarines than we have; is building more submarines than we have; is building faster submarines that we have, and threatens the sealanes for the tankers that must deliver oil to us from the faraway places in the world where it is available. An antisubmarine warfare capability in this country to a much greater extent than is currently available is urgently needed. It should be funded in this bill. It is not adequately funded in this bill!

It seems a little inconsistent to note support for almost $3 billion of reductions in this bill while commenting that broad defense needs are under-funded on the order of $20 billion. It is not inconsistent because the innovative suggestions and requests for the sophisticated weaponry to meet these challenges have not been forthcoming to us from the Defense Department. If they ask and justify we will appropriate. In my opinion the sea-control ship is just such an innovative proposal and should have been funded on a trial basis.

We need new innovative, foresighted research and development proposals from the Pentagon giving this country the military capability to respond and destroy and to exceed in technology and in destruct capability the more modern weapons developed by possible opponents that have been demonstrated in the recent Middle East conflict and in test firings.

I feel it to be my obligation to say, in the course of this general debate, that in the opinion of this Member of the Defense Committee, this Nation is underarmed, underplaned, undershipped, and underresearched, and that the present national defense posture and capability of the Nation is exceedingly vulnerable. Unless we get on with spending a great deal more attention to defense needs in this Congress, and increasing some of the more meaningful capabilities of our technology in this direction, we are literally endangering the safety and lives of the future generations for which in the process of government we are responsible at this hour in the offices we occupy.

Mr. MAHON. Mr. Chairman, I yield 10 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, as the newest Member of this subcommittee, I take this opportunity to exchange with my colleagues on the floor some of the things which I have learned this year and which are of concern to me.

I want to commend my chairman and all of the Members of a very hardworking subcommittee which started hearings in January and then began hearings on the regular budget later in April, which hearings continued through the months until a week or two ago. I certainly want to pay my respects also to what I consider to be the finest staff that I have had the privilege of working with, and that is the staff of the Defense Appropriations Subcommittee. These men have a real grasp of this very complicated and difficult subject of defense, and they are to be commended. Although few in number, they have a massive job to master and to understand, and they do it well.

I would like to give just some of my observations as I see them after serving for this past year on this subcommittee, although my interests in defense go back to the days of World War II and even before that.

I would like to agree with what the gentleman from New Hampshire (Mr. WYMAN) has just completed saying. I am terribly, terribly concerned about the defense posture of the United States. We are not spending, as our chairman stated in the opening remarks, just the $74.5 billion in this bill.

The total package of defense will be in excess undoubtedly of $86 billion or $87 billion, and it could go as high as $90 billion. And yet we are not getting an adequate defense, in my opinion, and in the opinion of many Members.

If we do not begin to concern ourselves with this fact in Congress, as we must, and as we must begin to do today, nothing is going to be done to change this downward trend in America's ability to defend herself.

Sure, we could add billions and billions of dollars to the Defense budget; we could add another $10 billion, another $20 billion, another $30 billion. There is no end to what we could add, hoping that we would get better R. & D., better results in procurement, and more efficient weapons of all types.

However, in the practical and real world in which we live, we know that we are not going to add these figures or these amounts to our Defense posture, certainly not his year, nor am I suggesting that we should. Instead, I think that we must do something which is much more difficult, and that is to really try to regain congressional, civilian control over our Defense establishment so that we can get them back on what we consider to be the right track.

Mr. Chairman, I have the highest regard and the highest respect for many of the men and women who serve in our Armed Forces. I think they are dedicated people, people who are trying to do a job. But over the years and over the decades, particularly since the end of the last great World War, there has been increasingly a bureaucratic approach that has crept into our Defense system, as indeed it has crept into every other agency of the Federal Government. It has grown and grown and grown in defense until now I get the feeling that the tail is wagging the dog. I get the feeling that there is an overconcern with the extraneous and nonmilitary rights and benefits in many instances: Retirement pay, security, good jobs, and an avoidance of the tough and difficult decisions and the tough and difficult jobs.

I must say that I am seriously concerned about the Volunteer Armed Forces concept. I went to Germany this fall and visited the troops. I spent literally all of my time in Germany with them. However, I am terribly concerned about the Volunteer Army.

I do not want to make any quick, snap judgment. It has only been in existence about a year or so, but I will issue a warning and however I will say that I truly do not believe that the volunteer army is going to work.

We are in the days of highly sophisticated needs in our Armed Forces, and when we see the quality of individuals who are being attracted into our Armed Forces, we must become concerned that it is not going to work. This is my opinion, and it concerns me.

Our Army in Europe, albeit I realize it is a peacetime Army, does not strike me as having the necessary proficiency to be a first-rate Army.

We can kid ourselves in this country and the people can kid themselves, if they wish, that we can have the strongest defense in the world without making sacrifices.

But I submit that we cannot, and we must begin to take corrective measures to make our Armed Forces lean and tough. We must make it truly an armed force rather than the many faceted nonarmed forces-related things it is today. I see extreme examples of waste and wheel-spinning in our armed services. There are billions and billions of dollars sitting in funds no longer needed for the purposes for which they requested the money from Congress, but reprogramed into items for which they never orginally sought congressional authorization.

You might call it a kitty or a slush fund except that it runs into the billions of dollars, and in my opinion it is too large to be called a kitty.

We have to regain control over these funds. We really have to, as a Congress, concern ourselves with what we are going to do about our Armed Forces. We have to begin doing it today. We cannot put it off nor must we put it off.

We have made some modest approaches to it in this budget. I think we could have made more. I think we could have found more areas to reduce the budget, not for the purpose of taking away the capability of the Armed Forces to have the means of defending the United States but to compel the Armed Forces in the only way in which any governmental agency, defense or otherwise, understands and that is through the power of the purse, that they have to get back to their original and primary mission.

The original and primary mission of the Department of Defense is to have the combat capability to defend the United States; not to be an educational agency; not to be a social service agency; not to do all of those things which cost millions of dollars and which we are now forcing the Defense Department to do and which have literally nothing to do with the defense of the United States.

We have been fooling ourselves for a long time. We have to start regaining control over the funds which we give to Defense to make sure that they confine themselves to their primary mission and objective, which is the safekeeping and safeguarding of the United States.

So, if later on you will hear of some amendments that Mr. Addabbo and I have, I want to assure you it is for this purpose of regaining civilian congressional control over Defense and not to impede in any way the ability and capability of the Defense Department with regard to its real primary mission.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. Hunt).

Mr. HUNT. Mr. Chairman, I am a little bit disturbed today to find so few people in the Chamber listening to the dissertations that are accompanying this bill.

When I hear speakers at the rostrum saying that we are spending billions and billions of dollars in the armed services that are not related to defense, I wonder why these things have not been brought to our attention before by the Members who are speaking today. We have meetings periodically in a room over in the Rayburn Building known as the Armed Services Committee room where we entertain many and sundry types of witnesses who come in with documented evidence as to what they believe to be the best way to expend the taxpayers' money for the defense of our Nation. If a Member of this House of Representatives has some idea that billions and billions of dollars, as has been said, are going to waste, then he or she should come before the committee and point out the particular items they are discussing and not talk about these things in generalities.

I can stand here and demagogue this subject, too, but what I am saying to you is we need more people in this country who will think about the defense of the Nation rather than people who think about the elections coming up in the ensuing year.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. HUNT. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank the gentleman for yielding, and I thank the gentleman for the statement he is making.

Mr. Chairman, I too am disturbed about people who take the floor of the House and speak in generalities about billions of dollars which are supposedly available to the Department of Defense, and which allegedly serve no good purpose. In the first place, I do not know where those billions of dollars are. I am sure that the gentleman who preceded the gentleman from New Jersey (Mr. (Hunt) in the well, was talking about certain balances which are classed as unobligated and unexpended, but those funds certainly are not available for other purposes. They are all programed, not obligated, because the time has not come yet for the particular contracts to be let for the purposes for which they were appropriated.

The appropriations which are available to the armed services are limited in years, some are limited to 5 years, some to 3 years, some for only 1 year.

I, too, am mystified, as is the gentleman from New Jersey, as to where this great big kitty is which is apparently available for all sorts of programs. I do not think it exists.

Mr. HUNT. I thank the gentleman from Arizona for his comments.

Mr. Chairman, I serve on the Committee on Armed Services, and on that committee we have a fine chairman. We have a chairman by the name of Hébert, from the State of Louisiana, who I think does a tremendous job. The members of that committee from both sides of the aisle sit day after day and through many, many hours, scrutinizing and listening to witnesses, and going over the budgets, and in trying their very level best to solve the problems that are involved, the problem of maintaining a military system so as to continue a strong and adequate defense for our Nation. Our armed services are only organized and maintained, in reality, for the defense of our Nation. I am certain that all of the Members who serve on that committee, as I do, are vitally interested in protecting the American tax dollar insofar as these expenditures are concerned.

That is why I say, Mr. Chairman, if there are some areas that we have neglected or areas that we have not been apprised of, or if some Member of this House has that information to show that we are wasting billions and billions of dollars through the Committee on Armed Services of the House of Representatives, then I say let them come to the next meeting and make their information known. We would be most happy to examine it.

We have cut the budget, and I think that we have cut it quite severely this year. We have only tried to incorporate those systems of weapons that we believe are necessary to maintain a strong defense for this Nation.

We might talk about the fine buildings and the fine programs that we have throughout all this world, and throughout all the Nation, but in this country if you cannot defend the country, and if you cannot defend those fine institutions with an adequate defense force, and with the proper weapons systems, then you have certainly missed the mark.

It is a shame that more Members of this House do not support an adequate defense budget.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. HUNT. I yield to the gentleman from Connecticut.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Jersey (Mr. Hunt).

Mr. HUNT. Mr. Chairman, I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, the gentleman from New Jersey made some reference to the fact that he was interested in where these funds could be found that I have made reference to. Let me tell the gentleman about some of these funds.

In what I call the "kitty," over the last 4 to 5 years they reprogramed $13 billion without congressional approval. That means that they found these funds in items which I believe were $5 million or less. In addition to that $13 billion—and mind you that is money they asked for, for A, B, and C purpose, and then they decided they did not need it for A, B and C purposes, and so they used it for D, E, and F purposes.

In addition to this, there are many, many billions in addition to the $13 billion where they did come up here and get congressional approval because they needed it.

Let me give the gentleman another example—

Mr. HUNT. Will the gentleman permit me to interrupt?

It was not the last 3 or 5 years, but over a period of years, those $13 billion go back over three Presidents. This was all monitored and all gone over by the auditors, and the money was not programed for anything but military use.

Mr. GIAIMO. It goes back to 1967.

Mr. HUNT. It was reprogramed under three Presidents, and all of them knew all about the reprograming.

Mr. GIAIMO. I am not interested in who was President.

Mr. HUNT. The concerned service officers came before the committee, and outlined it.

Mr. GIAIMO. I am wrong by 1 year, it was not 5 years, it was 6 years.

Mr. HUNT. Well, once a wrong, always a wrong, that is a rule of law.

Mr. GIAIMO. Let me finish.

In addition to that, Mr. Chairman, we have over 200,000 dependents in Europe which, in addition to being an anchor around the neck of our Army over there—because, quite frankly, in many cases they are a 9-to-5 army, and they are anxious to get home to their home and family, but in addition to that, those dependents cost us billions of dollars.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAHON. Mr. Chairman, I have listened with interest to the discussion here relating to the defense funding. It would take quite a little time to really set forth in detail the funding procedures of the Department of Defense. I must say that, in my opinion, some of the statements made by my friend, the gentleman from Connecticut, are quite in error, but I will not take the time of the House now to discuss them. We understand there is always a little waste in any operation, and considerable waste in one as big as the Department of Defense, but I did not want the record to indicate that I felt that either the committee or Congress had been derelict, or that there are billions and billions of dollars floating around in a kitty over which we have no control. This is most inaccurate.

Mr. HUNT. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New Jersey.

Mr. HUNT. I thank the gentleman for yielding. I just want to answer one question or one statement my colleague from Connecticut made about the army in Europe that is not for combat purposes. I wonder what we would do with those wives and children. I wonder what these soldiers are supposed to do with their wives and children after they have gone into the services with contractual obligations, to take their families to their battle stations. What are these women supposed to do with their children—sit back home and go on relief? That is the reason why they are in Europe, because we in Congress realized the fact that these soldiers should be able to take their families over with them to Europe. If no one wants their families over there, we can decide otherwise. I defy the gentleman to ask those 200,000 dependents whether or not they would rather be with their husbands over there or back here on welfare.

Mr. MAHON. I might comment, in the event of an outbreak of war, it would be a most awkward and dangerous situation for our dependents to be in Europe, but without our dependents being there, it would not be possible to keep a force there at least of the size that the Department of Defense currently considers adequate.

Ultimately we want to greatly reduce our force in Western Europe, but we do not feel we can appropriately do it at this time when we are seeking some kind of agreement with the Soviet Union with respect to overall strength levels in Western Europe.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. I thank the gentleman for yielding.

Mr. Chairman, if I may have the attention of the distinguished gentleman from Texas, the chairman of the Appropriations Committee, it is my understanding that it was on the basis of certain mistaken facts that the language on page 67 of the committee report, No. 93–662, under the subtitle "Cost of Living Allowance" appears, and it reads:

> The Committee has decided not to fund cost of living allowances within the United States or its territories after May 31, 1974. The Committee is of the opinion that all Department of Defense employees should be treated equally and that employees who are working in two of the states or the territories should not receive a higher rate of pay than do employees who are residents of these states or territories. The Committee has deleted only one-twelfth of the request for fiscal year 1974 in order to give the affected personnel adequate notice that this pay differential will no longer be provided.

And so on.

I understand now that the chairman has discussed this matter with other members of his committee who were directly involved and is prepared to rescind or nullify the language appearing on pages 67 and 68, by means of this colloquy which will appear in the RECORD.

Mr. MAHON. Let me say to my friend, the gentleman from Hawaii, that members of the subcommittee disapproved of the cost-of-living allowance which is given to Federal employees in Hawaii and Alaska and certain other areas. We undertook to take action to improve the situation, and make it more equitable. Persons who live in other high cost areas of the Nation and work for the Federal Government do not receive extra pay. However, we are confronted with this fact that to do this for Department of Defense employees and not for all other Federal Government employees would work an inequity on them. Thus, we have determined that it would be wiser to postpone this action and to nullify this section of the report, and give the matter consideration at a later date. In short, we propose to make inoperative that recommendation in the report with respect to the reductions in cost-of-living allowances which would take place on the 31st of May, 1974.

Mr. MATSUNAGA. So that the Department of Defense would be so notified?

Mr. MAHON. The Department of Defense would be so notified.

Mr. MATSUNAGA. I thank the distinguished chairman for his kind consideration. By his action of nullifying the entire section under discussion, he has restored the various cost-of-living allowances granted to military and Federal civilian employees residing in Alaska, Hawaii, Puerto Rico, and certain U.S. possessions and territories.

As the gentleman has correctly pointed out, if the section in the committee were effective and binding on the Department of Defense, gross inequity would have resulted. While DOD employees would have suffered reduction in pay ranging from 7 percent in Puerto Rico to 15 percent in Hawaii and 25 percent in Alaska, employees of other Federal agencies would continue to receive the cost-of-living allowance. In Hawaii, about 8,700 DOD employees would have lost this allowance, in Alaska about 2,200, while about 29,000 Federal employees of other departments and agencies would retain it. Again I thank the gentleman from Texas (Mr. MAHON) for avoiding the inequity which would have resulted.

If the cost-of-living allowance is to be discontinued, it should be done through proper legislative channels, beginning with the Committee on Post Office and Civil Service and the Committee on Armed Services. Full hearings ought to beheld to justify such action.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I thank the gentleman for yielding.

Mr. Chairman, I wonder if the chairman would address the impact on inflation of this budget.

Mr. MAHON. We know inflation has over a period of years taken about 5 percent of the value of the dollar, and it is greater than 5 percent in many areas of defense. In addition devaluation of the dollar has affected Defense more than other Federal agencies. I would agree that inflation in the area of defense is probably more than 5 percent per year.

The budget is $77 billion, and 5 percent of $77 billion would be about $4 billion, that would be the very minimum impact of inflation on this budget.

Mr. DAN DANIEL. Mr. Chairman, I wonder if the gentleman would have his staff make an analysis of this and put it in the RECORD?

Mr. MAHON. I will undertake to do that, but inflation as the gentleman knows has raised the costs and salaries of the civilian workers and the salaries of the military personnel and the costs of defense operations. It would be impossible to come to an exact figure, but billions of dollars are involved and we must take account of that fact because we would have otherwise an unrealistic bill to bring to the House today.

Mr. DAN DANIEL. What I meant, Mr. Chairman, is that I do not think we are getting as much value for our dollar as we got a few years ago.

Mr. MAHON. There is no doubt about that because more and more of the costs of running the Defense Department go to pay the personnel leaving fewer dollars for military hardware which is also increasing in cost. We are not getting the same type of value for the dollar we used to get.

Mr. YOUNG of Alaska. Mr. Chairman, it has been brought to my attention that Report No. 93–662 on the Department of Defense appropriation bill for 1974 contains a section that would eliminate the cost-of-living allowance for overseas Department of Defense workers. This would be a grievous mistake. And I hope it was only that—A mistake.

If this bill were to pass without the proposed amendment, which simply adjusts the operation and maintenance figures to reinstate the cost-of-living allowance, we undoubtedly would create an inequitable situation that would cost the Department of Defense far more than the estimated $1,850,000 now spent on cost-of-living allowance.

Particularly in Alaska, where the cost of living is higher than the allowance covers, recruitment will become an extremely difficult problem to say nothing about the employees already in Alaska who will most likely ask for transfers. This will not only cost money, but it will also cause hardship on overseas employees. One cause for hardship is that many Department of Defense employees in Alaska have established permanent residence there, which I do not believe the appropriations committee fully understands. These people have bought homes with the promise of receiving the cost-of-living allowance.

I can hear the 15,458 Department of Defense employees in Alaska cry "foul" when they are told their cost-of-living allowance will be terminated in May of 1974 while all the other civil service employees in Alaska continue to receive their allowance. It is simply unfair and inequitable.

In addition to the inequities, the provision also appears to be illegal. Section 5941 of title 5, United States Code, authorizes appropriations of funds available to each executive agency for pay of employees stationed outside the continental United States, or in areas whose rates of basic pay are fixed by statute, to be available for certain allowances to each employee serving in such areas. The recommendation of the Appropriations Committee is obviously contrary to statutory authority. Should the Department of Defense decide to follow the request of the Appropriations Committee, the employee obviously could file a claim for the amount prescribed by the statute and undoubtedly would be paid. The committee is to be complimented in their action of rescinding from the committee report.

Mrs. MINK. Mr. Chairman, I wish to thank the chairman of the Appropriations Committee for agreeing to strike the section on COLA found on pages 67 and 68 of the committee report.

On page 67 of House report No. 93-662, it states that the COLA, although duly authorized by law, will not be paid starting June 1, 1974.

This arbitrary elimination of a longstanding and essential personnel item is based on an apparent mistaken assumption stated in the report that Defense employees hired locally in Hawaii and the other areas affected do not receive COLA. The report justifies elimination of COLA with the opinion that—

> Employees who are working in two of the States or the territories should not receive a higher rate of pay than do employees who are residents of these States or territories.

This of course is not correct because residents of Hawaii who are Defense employees do receive this cost-of-living allowance. In fact, all employees in the affected areas are paid COLA whether hired locally or moved in from elsewhere.

It seems the committee confused COLA with another type of compensation, called a "nonforeign differential," which is paid to a few employees in remote hardship locations such as American Samoa, Canton Island, Christmas Island, Guam, Johnston or Cornwallis Island, Sand Island, Midway Island, and Wake Island. The "nonforeign differential" is paid only to employees hired from outside the island involved. The local residents in these areas do not receive the differential. This is not COLA. These employees do not receive COLA.

Further, this differential is not paid in Hawaii, Alaska, or Puerto Rico.

The deletion of COLA just to Defense workers would create great inequity as the Chairman has indicated. All other Federal employees in Hawaii would continue to receive COLA but only Defense employees would not. I fail to see how this discrimination against military and civilian personnel in our armed services is either equitable or rational. The truth is that such a cut would be disastrous to their morale and to their ability to meet the living expenses of their families which have been based on COLA since World War II.

COLA is authorized by statutory law in 5 United States Code 5941. Under this statute, COLA is not continued permanently. An annual review is made by the administrative agencies involved to see whether it is justified by comparing actual living expenses in the area involved with those of Washington, D.C., which is one of the highest cost areas of this country. Adjustments in the COLA percentage are made based on these annual surveys of actual prices. The COLA of 15 percent in the State of Hawaii is based on an actual field survey conducted under the Civil Service Commission of 1972 prices. This survey disclosed that housing costs were almost 40 percent higher in Hawaii than in Washington, D.C., in 1972. By the end of 1973, this cost will likely be over 50 percent higher. Costs of food and all other essentials are also substantially higher in Hawaii.

Mr. MAHON. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, it is never easy to wind down and it is never easy to give to one's self a little introspection or a little self-analysis. That is what the military faces. I sincerely believe, having served on this committee since 1943 with the exception of 2 or 3 years, that our military and our people are kidding ourselves in many ways. We all know that we have an energy crisis. I do not know that we realize that an energy crisis means we are likely to have an economic crisis, a national defense crisis, and a financial crisis.

I, too, commend the members of this committee who have made a real start and particularly the individuals including the chairman who has presided over the hearings for putting in the record the evidence they have to present to show that while we provide $74 billion for military expenditure there are some real questions about whether it is being spent for the right things. We are spending 56 percent for personnel, much of it high level but we cannot beg or buy men at the lower levels, at least not enough of them.

We have, what to me is an untenable situation in that the high salaries are supported so as to be commensurate with the highly trained officers equipped to operate the sophisticated weaponry of this modern era, but on the other hand the only people they can get at the every day working soldier level, are really bought-and-paid-for members of the services, in that we are paying up to $2,000 a person to get people to sign up for the armed services, if they put up 15 weeks in basic training and promise to remain for 4 years; we are paying up to $10,000 if they have certain skills and $2,500 regardless to get them to reenlist. That is not a volunteer Army. Of course we offer no such attraction for the Guard or Reserves.

We have to go that far to get men in the services and then, as our hearings show, the services are having to let many of them out because of their low I.Q. and their inability to learn; in many cases their education is much less than a high school level. Thus our highly trained and highly intelligent military officers find themselves with insufficient qualified personnel to use modern sophisticated weaponry. My friends, something will have to give.

I say that this record raises a serious question as to our ability to defend our country.

After World War II we went around the world promising almost everybody we would look after them. We had an atomic weapon and others did not. Conditions have changed. Now many of them are rich and we are broke.

I would like to point out a few other things under this so-called all-volunteer Army. In order to try to get men into service and to try to get them to stay in service, we provide a catering service where we have restaurants and others to carry out food to them. We would not let our troops bake bread.

I do not know what will happen when they get beyond the delivery line of the local restaurant or bakery, particularly if we have gasoline rationing.

We stopped the services from pressing clothes so that local industry would get cut in on military spendings. We stopped shoe repairings in the military for the same reason.

I think it is time for us to stop and think and certainly the military needs to give to itself some self-analysis, for if the money doesn't run out it seems likely it will buy less and less.

I would like to say to my friend from New Jersey, I have the highest admiration for the patriotism and ability and the fine character of the men in the service, but lots of things have come apart from the time we were engaged in all out war. Military service has become too much a way of life.

President Eisenhower was right when he said we had built up a great industrial-military complex. What bothers me is the question can we keep it up? And further are we sufficiently mobile, do we have the weapons or even the public desire to really defend our country.

I can thoroughly understand an admiral on a ship being desirous of convenience when his ship docks in a foreign port or even at home, but to forgo an extra gun on the ship so the captain or admiral can carry his car with him is not only expensive when our money is short but could be really dangerous. Further it represents an attitude on the part of the military far beyond what I believe we can afford.

I can understand the 300,000 military men we have in Europe wanting to have the 248,000 dependents which they have with them, if they don't fear the outbreak of war. However, if under such conditions we do have a real war, what then? Would they not have to make a fight of it to get their dependents to the seashore or to a place of safety. Would they really be able to fight?

So I say to you, I did not sign the minority views, as set out by my friend on the committee, JOE ADDABBO, and concurred in by several members of the committee. I certainly believe their statement reflects the feelings of a majority of our committee and are supported by the testimony.

I say to you that I do not believe that any committee in Congress is better able to handle this matter than the subcommittee under the able chairmanship of Mr. MAHON. I do not believe there is a better staff anywhere; but I do say our military leaders owe it to the American people as well as themselves to assess this situation and provide us with their views as to the changes so necessary.

Of this $74 billion I think it is time to point our finger at it and say, "Come in and tell us what you really need to have a mobile Army, one that can move and act and defend us, and how do we get away from the service being a way of life?"

I truly believe that over the years military service has to a great degree become a way of life for those that hold high positions, trained in the use of sophisticated weapons which we are slow to provide, while general support has deteriorated to the point where we cannot get any "Indians to go with the Chiefs." Let me repeat, when we offer to give a man $2,000 to get him to agree to serve 4 years and if they will just put up with 15 weeks of basic training, and up to $10,000 to get him to sign again if he has certain skills, and we still can't get sufficient "volunteers" who have the education or the ability to do the job. These facts speak for themselves. Do you think those we have obtained would renew the contract if we were to have a war?

Some will say, "Why did not you offer amendments to the bill?"

I say these corrections must come from within. I was perhaps the chief sponsor of the last section of the bill which will help some. However, the military should tell us after we have pointed out the situation.

I have illustration after illustration in the years I have been here where we have just wasted money, money, the military could spend for weapons. I hope we will not build a thing in the world until the military decides what bases or what activities they are going to close down and what they will keep and further show that they are using existing facilities instead of building new ones. We enforced this late in World War II saving hundreds and hundreds of millions of dollars.

I was here when a contractor had a contract to build military housing on a base near me. World War II was over and the military had another contractor who had a contract to tear the housing down. The contractor who had the contract to tear them down had to wait for the first contractor to build them and get his money, before he could tear them down, and get his money.

During World War II it took all sorts of effort to get the Navy to use vacated Army facilities. We spent days finding out that because I had inadvertently used the word "abandoned" in asking about available facilities when I should have asked about "vacant" for the Army did not list them as abandoned if they had caretakers.

I am saying that when we have a shortage of energy, when we have a shortage of men, when we have a shortage of mobility in the armed services, we need the services to help us, to say what they really need so that we may act intelligently.

I say we are going to have to pull back the size of the Regular Forces to a small group which is able to move, and promote enlistment in the Reserve and the National Guard, both from an economic standpoint and a military standpoint, if we are to have a real military force in time of need. I do not believe that in the history of the world any nation can spend annually $74 billion of its money for its armed services, however necessary it might be, at the expense of the general economy, without having ruinous inflation. That is what we are up against, and the folks we have to look to for guidance are the services themselves. We need them to tell us what we ought to do, in order that they may be a fighting force, able to expand in time of need, contract at other times and have the weapons, the planes, and the ships so necessary to win.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WYATT).

Mr. WYATT. Mr. Chairman, I must leave within the next few minutes to catch a flight for the west coast, and therefore will be unable to participate in the debate on an amendment we are told will be offered during the 5-minute rule. On page 121 of the report on this bill, the committee expresses the opinion that 29.7 percent of the funds appropriated for the alteration, overhaul and repair of Naval vessels seems appropriate for assignment to the private shipyards of this country.

The private shipyard capacity of this country is a most important part of our national defense. The maintenance of the private shipyard capacity is therefore essential. The bill we are debating today describes in dollars the amount which would be allocated as between Naval shipyards and private shipyards. This amount should not be changed. All that we are doing by the inclusion of this figure is to require by statute that the U.S. Navy do what it has said it will do. I am therefor strongly opposed to the amendment which would alter the percentage of this work allocated to private shipyards.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for giving me 3 minutes to talk about the Reserve program of this country.

Mr. Chairman, I appreciate that the Appropriations Committee wants a strong and viable Reserve, and I certainly agree with my colleague from Mississippi (Mr. WHITTEN) that if we want a strong defense, we are going to have to look more toward the Reserve and the National Guard.

Mr. Chairman, what concerns me is that this committee has recommended a reduction of $69 million in the Reserve funds. Would the chairman briefly, since I only have 3 minutes to talk about this subject, tell me why in the world he cuts $68 million out of one of the really strong military arms of this Nation?

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the distinguished chairman of the Appropriations Committee.

Mr. MAHON. Mr. Chairman, we want to provide all the funds required for the National Guard and Reserve, and if there is any shortage at all we stand ready quickly to provide the necessary funds. The National Guard is in fact nearly meeting its strength requirements. It is doing this through the recruitment of personnel leaving active duty. These people do not require full time active duty training that was budgeted.

For example, officials of the Department of Defense budgeted for nearly 30,000 non-prior enlisted personnel for the Army National Guard who would be on full time active duty training, but the armed services have not been able to secure these 30,000. Less than 10,000 are on active duty for training, and therefore it is not necessary to provide all the funds requested.

Mr. MONTGOMERY. Mr. Chairman, what concerns me is that we have got incentives running out of our ears for the regulars. We give a young man $2,500 for staying in for 4 months, and if he passes his basic MOS qualification tests, he receives $2,500. We do not have one incentive for the National Guard and Reserve. As the gentleman said, the National Guard is holding up its strength by getting prior servicemen, but they are not getting non-prior servicemen because no incentives are available.

Would the gentleman address himself to the question, is there a possibility that the Guard and Reserve some day can get incentives?

Mr. MAHON. I hope that the Congress can work out some procedure whereby we can get sufficient manpower through the provision of sufficient incentives to insure that we have the strongest possible National Guard and Reserves. We must work as a Congress toward that goal. I do not take a back seat when it comes to supporting the Guard and Reserve.

Mr. MONTGOMERY. Mr. Chairman, in closing I would like to say that one of the bright spots I see under the volunteer concept is that the National Guard and the Reserves can grow stronger because we do not have the draft or Selective Service pushing these guys into the service. In the Reserves, there are a lot of Americans who like to fly planes over the weekend and who like to drive tanks, and work on naval ships. We ought to try to attract people to come into these Reserve units.

Let us look at what Israel did. In 18 hours they had Reservists in the front lines and firing their weapons in combat.

No one can question the successes of the Israeli Reserves.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I appreciate the gentleman's comments. I would like to refer to the enclosure in yesterday's CONGRESSIONAL RECORD by the gentleman from New York (Mr. STRATTON), a member of the Committee on Armed Services.

This was a statement by General Walt of the Marine Corps, and he stated that without the pressure of the draft there is no incentive to the American young man to go into the Reserves, and it was that draft pressure that created a strong Reserve and a strong National Guard.

The gentleman from Mississippi, I am sure, understands that.

Mr. Chairman, I wrote a letter to the chairman of the Committee on Armed Services, stating that the Congress is going to have to look deeply into the problem of manpower in our military services, because at the present time they are approaching a catastrophic level.

Mr. MINSHALL of Ohio. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, I rise in support of the provision in the defense appropriations bill which mandates that approximately 30 percent of naval ship repairs, alteration and overhaul work be performed by private shipyards.

Throughout our history private shipyards have shown themselves to be extremely responsive to national defense emergencies. These private yards reactivated all of the 131 Victory ships removed from the national defense reserve fleets during the Vietnamese buildup. These normally 60- to 90-day jobs were performed in as low as 3 weeks in response to the emergency request. A number of these reactivations were accomplished in my home State of Maryland at the Maryland Shipbuilding & Drydock Co., and at Bethlehem Steel Corp. The private yards did the exact same job during the Korean conflict but on an even greater scale.

In addition to their demonstrated capabilities to do the job, private shipyards have also been shown to be more economical than naval yards. Recently conducted studies by two nationally known accounting firms clearly prove that substantial cost savings can be effected by a greater utilization of private yards. I have always maintained that we must spend whatever is necessary to provide for a strong national defense but we cannot, especially in this tight budget era, afford to spend more than is necessary.

Mr. Chairman, I ask my colleagues to join with me in supporting this provision of the defense appropriations bill which will provide an equitable share of naval ship repair, alteration, and overhaul work to private shipyards.

Mr. STARK. Mr. Chairman, today we consider a subject which greatly concerns me—defense appropriations for fiscal year 1974. I am alarmed that we view a $74-plus billion Defense Department budget as reasonable in peacetime, knowing that this sum is similar to the 1968 figure at the height of the Vietnam conflict. I am further distressed by the cold war mentality of the Pentagon's top brass, who advocate continued commitment to excessively expensive and useless weapons systems.

In a recent interview, Secretary of Defense James Schlesinger acknowledged that—

> It is not easy to explain why peace must cost more than war, or to argue for a new generation of weapons when the President is proclaiming a new generation of peace.

I would contend that the Secretary's position is untenable, and thus difficult to articulate. Mr. Schlesinger argues that an "atmosphere of tension" should not govern our basic defense decisions, because tension can exist and dissipate in a day or two but it takes years to build a defense establishment. This is a sensible statement and one with which I can abide. I by no means advocate abandoning the military establishment or weaponry. But I do thing that detente can imply a lean, while effective, defense posture.

There are many ways to trim the military and at the same time to increase its effectiveness. One is to cut the rear echelons. It is estimated that up to 60 percent of the defense budget goes to secondary support, consisting of arsenals, material and training centers, medical facilities and surplus bases. What is more, it took 18,500 men to staff, train, supply and maintain an Army division 10 years ago; now it takes 26,500. Much of this is fat that must be removed.

Overseas troops can and must be reduced. More that 25 years following the conclusion of the Second World War over 300,000 military personnel remain in Western Europe. We still station some 166,000 troops in Asia, with 97,000 in Southeast Asia alone. There are American soldiers numbering 250 to 1,000 in the Bahamas, New Zealand, Norway, Saudi Arabia, Antartica, Iran, Midway Island and more. There are 20,000 Japan, 15,000 in the Philippines, 38,000 in South Korea. If it is an American presence in these places that is desired, I am certain that this can be satisfied with significantly fewer persons. If their purpose is strictly military, most experts would agree that this is being poorly fulfilled at present. One of the obvious benefits to be realized from such extensive troop commitment abroad is a favorable effect to economies of the host nations. The policies that placed men in uniform on foreign shores worldwide must be rethought.

Secretary Schlesinger seems insistent upon an arsenal which boggles the mind—both from a standpoint of cost and creativity. At the time when crying human need and rejection of cold war doctrine have made exorbitantly expensive weapons systems seem offensively anachronistic, we are told by Defense to build more and larger weapons.

I don't question the need to maintain an adequate deterrent capability. But I do question the proposed proliferation of submarines, bombers and missiles planned to replace their predecessors at several times the cost. Schlesinger believes that our nuclear edge is slipping and this detracts from our ability to deter Soviet adventures. But others argue that we are as capable of inflicting great harm on Russia as they are on us and at some point it became more dangerous to build more weapons than to not build them. I agree.

Last year the United States spent $6.2 billion in incremental war costs in Southeast Asia. Those of us who worked so strenuously toward cessation of Vietnam involvement did so for moral and humanitarian reasons. But an important side effect of our disengagement was the anticipated windfall for much neglected domestic purposes. The expected funds have not been forthcoming. Instead the defense budget inexplicably remains at last year's level, and domestic needs are greater than ever. I, therefore, cast my vote against the defense appropriations bill with the hope that future defense funding legislation will take into account today's world's realities, tomorrow's domestic needs, and some good old-fashioned penny pinching.

Mr. BADILLO. Mr. Chairman, because the defense appropriations bill perpetuates what I believe to be many ill-considered and unnecessary programs not essential to the maintenance of national security and reasonable defense, I intend to oppose it, as I have in the past. I feel this legislation represents a continuation of badly distorted national priorities and that a large percentage of the dollars squandered on one meaningless defense program after another can much more effectively be utilized in grappling with the pressing problems facing our nation in the areas of education, health care, housing, transportation, energy research and development, nutrition, the environment and similar fields.

Although I will vote against H.R. 11575 on final passage, I intend to fully support three amendments which are to be offered this afternoon and which I urge our colleagues to support.

My distinguished colleague from New York (Mr. ADDABBO) will sponsor an amendment reducing the amount approved by the Appropriations Committee by $3.5 billion. The $74.5 billion total figure represents a net reduction of only $2.8 billion from the administration's original request. This is certainly a very modest reduction in light of last year's $5 billion cut. But of greater importance is the fact that much of the money appropriated by this measure is going to be wasted on unnecessary and extremely expensive weapons systems. Further, the president threatens to veto the Labor-HEW Appropriations bill because it exceeds his budget request by $1.4 billion whereas the Nixon administration increased the military budget by some $5.6 billion this year alone. How, in good conscience, can we justify supporting a military budget higher than any military budget during the Vietnam war era while domestic programs have been reduced in the current fiscal year budget by some $10 billion below the figure which would have otherwise existed? There is no question in my mind that the reductions to be achieved by the Addabbo amendment will in no way harm our position to defend ourselves or to honor our various international agreements.

Another important area for savings will be achieved if we adopt the amendment offered by the gentleman from Connecticut (Mr. GIAIMO). I am informed that many of the 2.2 million members of the Armed Forces are performing unneeded jobs and that much of the 56 percent of the military budget devoted to manpower is wasted. How can the Pentagon brass possibly justify the continued retention of large numbers of personal servants and drivers at the taxpayers' expense? In addition, there are presently more field grade and flag officers for a military force of 2.2 million than there were in 1945 when 12.1 million persons were in the Armed Forces. I am confident that we can easily accomplish the reduction of 75,000 military personnel without in any way damaging combat effectiveness throughout the world. Also, it is important to note that the 22,000 reduction in the GIAIMO amendment, as well as the 53,000 reduction mandated by the Committee, is to be made on the basis of Defense Department determinations as to where demobilizations are to be achieved.

Although I applaud the committee for even achieving a $2.8 billion reduction, I believe it may have been rather careless in certain of its cuts. I am most disturbed for example, that this measure eliminates seven hundred equal opportunity and race relations counselors at a saving of just over $1 million. I am afraid that the problems of racism and discrimination are still very much in existence in all branches of the military. We have all heard of the incidents which have occurred aboard the USS *Constellation* and USS *Kitty Hawk* as well as occurrences of racial strife at bases in Germany, the Far East and elsewhere. Hardly a week goes by that I do not receive reports from Black, Puerto Rican, Mexican-American and other minority servicemen about one incident or another in which they are victims of what amounts to blatant racism and undisguised discrimination, particularly on the part of noncommissioned officers. The Armed Forces have made some progress in the area of race relations and expanded equal opportunities. However, a great deal more needs to be done and we simply cannot afford to approve the elimination of even one equal opportunity or race relations counselor. Therefore, I urge our colleagues to approve the amendment to be offered by my good friend from California (Mr. DELLUMS) to restore funds for these positions.

Mr. Chairman, in view of the current state of world affairs as well as the extreme difficulties being experienced by our economy, we must take affirmative action to realign the defense budget and make it more realistic in terms of our national objectives and capabilities. We have the opportunity to taking such action today and I hope we will not shirk from this responsibility.

Mr. HANLEY. Mr. Chairman, I rise to express my concern and disappointment over the Appropriations Committee decision to terminate the site defense program.

I am alarmed that the committee chose to reduce by 37 percent the Army's request for research, development, testing and demonstration of antiballistic missile systems. Nowhere in the committee report can I find adequate justification for so serious and so substantial a backward movement in antiballistic missile research and development.

At the present time, site defense is in the prototype development stage. Prior to the beginning of this fiscal year, $165 million has been expended on the program. Under the continuing resolution, the Army will expend $70 million by December of 1973, and $20 million will be needed to phase out the program. In other words, the committee's termination of the site defense program will save $20 million this fiscal year.

The committee argues that if the prototype demonstration stage proves successful, there will be pressure for additional funds to pay for engineering design. That may be true, but it is also true of every single weapons systems which comes through prototype demonstration successfully.

The committee argues that the site defense system cannot be deployed at this time because of the Strategic Arms Limitation Agreement. This also is true, but site defense is years away from being ready for deployment because it is still in the prototype demonstration stage. Moreover, the intent at this time is not to deploy site defense but to make substantial progress on it so that it will be ready if needed.

The committee argues that the Army will have sufficient funds to continue to make progress on research and development of components which might form into a new antiballistic missile system at some date in the future. The assumption seems to be that if the progress is made on components, the development and deployment of the actual system will be quickly accomplished. I do not believe that this is a prudent assumption.

I am informed that very little in the way of new technology was needed for the Apollo space project. The years and the billions were devoted to devising a system and making it work. Should the United States find itself in 1977 in a position of having to proceed with a new antiballistic missile system, as a result of political or technological developments by the Russians, the leadtime needed to deploy the system is going to be great, perhaps 7 to 10 years.

Moreover, the plan to terminate the site defense program is going to result in the destruction of the last remaining Government and contractor team devoting itself to development work on an antiballistic missile system. Starting up again will take even longer, and certainly will be more costly. In my home community, 1,000 employees of the General Electric Co. could be laid off. These men and women represent perhaps the finest radar team in the entire country, dedicated to the development of the most sophisticated radars, needed for ABM's.

Perhaps, the most important point in this discussion is the effect which termination of the site defense program will have on continuing efforts to expand and strengthen strategic arms limitation agreements with the Russians. The committee report does not address itself to this question, unfortunately.

First, U.S. superiority in ABM technology was probably the chief reason why the Russians were interested in arms limitation talks. Our continued superiority in this area is necessary to encourage the Russians to live up to the existing arms limitation agreement and to negotiate seriously for more comprehensive agreements. If agreement fails, the superiority will be needed to maintain national defense.

I believe that termination of the site defense program is going to hurt U.S. efforts to curb the arms race. When the United States signed the ABM Treaty and the interim agreement on offensive weapons, we said that our future adherence to the ABM Treaty would be dependent on a more complete strategic weapons limitation treaty within 5 years.

If the United States abandons its ABM superiority, the threat of pulling out of the agreement is meaningless.

It seems to me that the United States should continue to make progress on a new generation of antiballistic missile systems. We are ahead of the Russians in this area, and we should stay ahead. Completion of research, development, testing, and evaluation of the site defense program is a prudent measure to protect our bargaining position up to the 1977 deadline.

I hope that the Senate restores this program to the $135 million level authorized for this year, and I hope that the House will accept such restoration in conference.

Mr. DAN DANIEL. Mr. Chairman, I, too, had the opportunity to serve on the subcommittee under the leadership of the able gentleman from Washington (Mr. HICKS), dealing with the disciplinary problems on the *Kitty Hawk* and the *Constellation*.

It is the judgment of this Member that continued harping on race and sex further polarizes our forces. All of us believe in equal opportunity for all our people. They are all Americans, not black or white, male or female.

I have not visited Europe in over a year, but I understand they have what amounts to a dual organization over there; a line organization, and an organization made up of satellite groups such as we are addressing here now. It is the judgment of this Member that too many counselors and race relations experts contribute to the deterioration of discipline.

I think the experience of the Israeli Army proves to a great degree that a disciplined military force is needed when the chips are down. We can have an army of the democratic, but we cannot have a successful democratic army.

I want to place in the RECORD, Mr. Chairman, an Associated Press article out of Jerusalem:

ISRAELI ARMY SAID LACKING IN DISCIPLINE

JERUSALEM.—A top Israeli military figure has blamed a lack of discipline in the army—and nation—for the setbacks suffered in opening days of the Arab-Jewish war in October.

The easy-going relationship between officer and enlisted man in the armed forces and the casualness with which soldiers dressed has always been a sort of matter of pride among Israelis.

But Maj. Gen. (res.) Haim Herzog on Friday wrote:

"It is clear today that part of our shortcomings at the start of the war stemmed from lack of discipline—from an atmosphere of negligence and who-gives-a-damn that spread through the nation and infected the army."

Herzog, British-trained former chief of military intelligence is now the nation's favorite military commentator.

Herzog said that "when a soldier walks about untidy, unshaven, needing a haircut, there is no certainty as to the state of his weapon, the condition of his tank's engine . . . the preparedness of his unit."

He said this did not damage the soldier's fighting spirit, but raised the cost of lives and equipment in battle.

Mr. KASTENMEIER. Mr. Chairman, when the House continues reading for amendments Friday the fiscal year 1974 Department of Defense appropriations bill (H.R. 11575), I will offer an amendment that would restore full budget request funding for the U.S. Armed Forces Institute (USAFI). That amendment will read as follows:

On page 9, line 5, delete $5,757,000 and insert in lieu thereof $6,287,000, and on line 11, delete $1,650,408,000 and insert in lieu thereof $1,650,938,000.

The committee report recommends disestablishment of this valuable educational resource by May 31, 1974, and reduces funding for this fiscal year by $530,000. While House action restoring this relatively small amount of funding is important, much more important will be the expression of the House favoring continuance of the USAFI program.

USAFI was established in 1942 to provide educational programs for military personnel, and has over the years provided an immeasurable service to the Department of Defense and military personnel who used its various programs to improve their educational standing. It develops and offers through independent study—correspondence courses—and class instruction courses ranging from literary level to pre-high school to high school and college levels. Training and advisory services are also offered in occupational and technical areas, and a testing program also is offered that includes course-related standardized tests, and a series of general measurement and placement tests.

Although the educational environment of this country has changed dramatically since the Institute was first launched, it continues to provide valuable services and is making efforts to upgrade and modernize its offerings and services.

During fiscal year 1973, more than 275,000 military personnel used one or more of the educational services offered by USAFI. Based on the 1973 force level, this means that more than 1 out of every 9 military persons had occasion to seek educational assistance from the Institute. Some 98,000 servicemen took one or more courses offered by USAFI in 1973 and about 204,000 military personnel took advantage of one or more of the testing services offered by USAFI, including some 80,000 persons who earned recognition for high school equivalency. It should be stressed here that the standardized testing instruments developed by USAFI personnel are among the strongest of the Institute's programs.

Countless numbers of professional manhours have gone into the development and standardization of these educational tests, and an equally great effort was required to gain their acceptance throughout the educational systems of this Nation.

In addition, USAFI lends important support to educational training programs leading to high school diplomas, and also gives important guidance to project transition. Project transition is operated by the various military services and prepares military personnel for jobs in the civilian economy. It is especially designed to help those persons who would otherwise enter civilian life without having necessary civilian job skills.

It must be conceded that participation in USAFI programs did fall off during this country's heaviest engagement in the Southeast Asian war. But participation in 1973 was up and is expected to continue in that direction. Hundreds of thousands of young men and women in our military services who are seeking educational opportunities and self improvement will be denied those opportunities if Congress follows the committee's recommendation to kill USAFI. This action would be unwise under normal military circumstances, but is particularly so at a time when we are attempting to attract young people, many of them with marginal educational skills, into a volunteer Army.

At the same time that I make this defense of the Institute, it should be understood that I am not denying the many constructive suggestions for improvement raised by members of the Appropriations Subcommittee. The Institute needs to adjust its program to the new educational needs, and it must reevaluate particularly its new educational studies program. Criticism has also been leveled at the minimum and sometimes unacceptable standards set by the Institute for the high school equivalency exams. These are recognized problems that can be corrected, and I view as highly counterproductive any action which would destroy many worthwhile elements of the Institute's programs because we disagree with the operation of a few.

Mr. Chairman, I have every confidence that the House will act wisely in preserving the U.S. Armed Forces Institute as a valuable educational resource.

Ms. ABZUG. Mr. Chairman, section 737 of the DOD appropriation bill now authorizes $1.126 billion of military aid to South Vietnam and Laos. Peace in Vietnam will not be found by fueling the engines of war. A funding level of this magnitude will only encourage and allow Thieu to ignore the Paris agreement and continue the war as he is now doing.

The American taxpayer, in the midst of his own economic problems, cannot afford to pay forever for the hopeless quest for the absolute victory neither side can ever win. A substantial cut in the military resources of the GVN is the only way to begin to teach it political responsibility and compromise. There are significant reasons—political, legal, and moral—to reduce our aid level to around $500 million for fiscal year 1974. These are considered in detail in my testimony before the House Appropriations Committee which is reprinted hereafter.

I must add now a fourth line of argument. It is bad enough that through our foreign aid program we are supplying about $95 million this fiscal year in petroleum to keep the civilian economy going in the GVN parts of South Vietnam. But it is absolutely unsupportable that we are now exporting a further 22,000 barrels of oil a day to Indochina to fuel Thieu's military ambitions. Not only do we waste the taxpayer's money, we help to take away his heat and mobility. Who are we representing? What could we do at home in the way of research and development of energy sources with the $62 million saved by the cut I propose?

In the most serious vein, I urge my colleagues to weigh the potential waste, misery, and bloodshed the administration would perpetuate by a funding level of $1.1 billion against the avenues of peace that an allocation of $500 billion could create.

I include the following items:

[From the Congressional Record, Oct. 3, 1973]

Military Aid to South Vietnam

(Excerpts from testimony of Oct. 3, 1973)

Mr. Chairman, any aid given or withheld is a political act. It cannot help being so. The military aid proposed through the Military Assistance Service Funded (MASF) program enters highly complex legal and political situations. The Administration thinks that "peace" i.e. the present low scale of war can be perpetuated by allocating another $1.3 billion. The Administration position is wrong. It takes only a little Vietnamese history to understand this.

The current state of semi-peace in South Vietnam cannot be definitively analyzed with any great confidence. Nevertheless the visible political and economic variables do suggest that the situation there is in a period of transition far more complex, ominous, and potentially explosive than the present surface calm might indicate. The Paris Agreement of January, 1973 laid out an institutional framework and process by which the central conflicts of a 30-year civil war could begin to be resolved. However, the politics of accommodation that have gone on for years in some villages have not been emulated at the top. The GVN, thanks in large measure to American advice and largesse, has ignored the Paris Agreement and proceeded in a relatively totalitarian fashion in the area that it controls. The PRG has also not been averse to coercion in the areas it holds.

The logical conclusion is that the unresolved conflicts will precipitate another round of war in the rather near future. The war was fought to expel foreigners; the United States is still there, supplying now 85 to 90 percent of the resources to the GVN (Thieu government) and, in effect, making it an artificial economic creation. The war was fought to redistribute political and economic power; some land has been redistributed, but most of the wealth and political control thereof rests with a small urban clique of civil servants, army officers, and businessmen. The war was fought over the appropriate path to modernization—socialism or capitalism; neither side has seen fit to move very far away from ideology toward pragmatism. The war was fought to unify politically one civilization and culture; that has not happened yet. Finally the war was fought to define anew the concept of political legitimacy; the 100 to 200,000 political prisoners in GVN jails and the continued unwillingness of Vietnamese citizens to pay GVN taxes are striking indications of how little resolved the issue remains.

In such a situation any injection of further aid is going to have profound legal and political implications. I want to address today both sorts of issues.

THE LEGAL FRAMEWORK

The Military Assistance Service Funded (MASF) program is the principal framework for military support of the South Vietnamese and Laotian governments. In times past this channel provided material, training and financial support through three DOD categories: personnel support, operation and maintenance, and procurement. In section 601 of HR 9286 the House Armed Services Committee and DOD reached a compromise request of $1.3 billion for FY 1974 to continue these programs. On page 85 of the committee report on HR 9286 this figure is broken down: $47.5 million for military personnel, $691.8 million for operations and maintenance and $446.0 million for procurement.

On January 27, 1973, the United States signed the Paris Agreement which, among other things, defined in Article 7 paragraph 2 how future military assistance may be accorded to any party in South Vietnam:

"The two South Vietnamese parties shall be permitted to make periodic replacements of armaments, munitions and war material which have been destroyed, damaged, worn out or used up after the ceasefire, on the basis of piece-for-piece, of the same characteristics and properties under the supervision of the Joint Military Commission of Control and Supervision."

On February 21, 1973, the United States signed a cease-fire agreement for Laos which included a more general paragraph prescribing prior joint consultation and agreement before any outside military interference in internal affairs.

In the months that followed, none of the designated commissions have been able to agree upon a list of permissible items. DOD soon created its own list which it released in Saigon several months ago to representatives of the Congress. This list, reproduced in the Committee report to S1443 (The Foreign Military Sales and Assistance Act, passed by the Senate), contains 13 categories of "armaments", 8 categories of "munitions" and 8 categories of "war material". Commonsense definitions of these terms were included. Taken together these 29 categories correspond almost exactly to those items which appear under the larger DoD Category of procurement. In sum, the Paris Agreement, by DoD's own interpretation, restricts American aid to procurement items.

I am persuaded that no logical or legal rendering of the Paris Agreement can justify hundreds of millions of dollars to support the daily operating costs of an army of 1.1 million men. The Paris Agreement constrains the United States from interfering in the internal affairs of South Vietnam. In one form or another this restriction appears in Articles 1, 3, 4, 5, 7, 9, 13, 15, 20, 21, and 22. It is the central tenet of the Paris Agreement. Is it reasonable to expect the PRG to live up to the Paris Agreement if we have so massively violated its core element from the day it was signed?

I urge this committee to address the new legal realities brought by the ceasefire. Would it not be eminently logical to cut MASF funds from $1.3 billion to $500 million and eliminate the proscribed forms of support—personnel support and operations and maintenance? This would not lower at all the DoD request for "armaments, munitions, and war materials," the procurement figure of $446 million. In fact such a proposal allows an extra $50 million for flexibility. Keep in mind as well that the political situation in Laos now indicates that little or no military aid will be legitimate.

The Committee should know, too, that funds are continuing to flow to Vietnam for military purposes other than procurement. Funds left in the pipeline, anywhere from $200 to $1,200 million, depending upon which DoD witness one believes, remain available. Piasters generated by the Food for Peace program will provide a $140 million general subsidy to the South Vietnamese armed forces in FY 74. Piasters generated from the $275 million Commodity Import Program will provide another general subsidy. Any such subsidies are prohibited by the Paris Agreement. Thus whatever amount this committee appropriates, the actual military aid to the GVN will be measurably larger.

THE POLITICAL FRAMEWORK

The cut from $1.3 billion to $500 million must, of course, be considered in its political context as well. The figure of $500 million is persuasive from a number of angles. If peace really arrives, the GVN should exhaust only a small portion of the $500 million.

* * * * *

If the present situation of low-level fighting continues, awareness of the ultimate limit of his resources will encourage Thieu to cut down contemplated offensive (and thus illegal) operations to save ammunition for defensive operations.

* * * * *

This cut will force his commanders and troops to cut down on corruption and pure waste. It is also likely to begin the process of demobilization at a rate somewhat faster than Thieu would prefer. But if he is to stand any chance of long-term survival, he will have to get soldiers back on the land producing taxable revenue quicker than he realizes. There is little likelihood that he will start taxing his closest supporters at this late date. The GVN must start on the road to finding some other basis of revenue than the American taxpayer.

Contrast these possibilities against the present realities which will be continued if the current level of military aid is maintained. We pay now the major burden of supporting an army of 1.1 million soldiers. The GVN is thus able to keep tight social and political control over 4 to 5 million people, presuming that relatives are also vulnerable to coercion. By keeping hundreds of thousands of the most productive workers out of the labor market, not only is economic development slowed but the Vietnamese remain, as they have for years, accultured to depend upon us. Under such circumstances no government in Saigon can ever learn how to stand on its own feet.

Approving the Administration request will, however, have far more ominous political results than these. The present level of American aid makes possible not merely this mammoth army but also a police force of 122,000. The DoD admits that at least $8.8 million will go directly from MASF funds to police support, but does not acknowledge that by providing resources for all areas of GVN military and paramilitary activities, it frees other GVN resources for (and thus subsidizes indirectly) the most unconscionable political actions.

It is imperative that the Committee understand that the GVN police exist less for legal activities than for the political suppression of all opponents of the Thieu regime. I have recently returned from a visit to Saigon bringing back original documents that prove such a conclusion. It is a grotesque and enraging travesty of American ideals that the United States supports a government that can only stay in power by totalitarian harassment and the incarceration of 100 to 200,000 political prisoners.

It is sheer folly to believe that such a political situation can endure from one fiscal year to the next. By destroying the possibility of any political forum, never mind the open stage called for by the Paris Agreement in Article 11, Thieu has driven all opponents to seek solutions other than political. It is unreasonable to expect the PRG to wait patiently forever under such circumstances or to surrender quietly what they gained under the Paris Agreement.

It would be well, I think, for the Committee to contemplate that its choice will have profound political effects at home as well as in Indochina. The Vietnam War and related military spending have considerably depleted American resources, to the point where further transfers of resources overseas seriously threaten the survival of the economy and thus our national security. The speculations on agricultural commodities by some of our foreign (and domestic) creditors, which has so aggravated the rate of inflation recently is but one example of the processes let loose by past and present spending patterns. This amendment takes one small step toward healthier priorities by eliminating $800 million of potential waste.

In sum, passage of the Administration request would further imperil the American economy, encourage continued warfare and waste in Indochina, and provide an enormous and unnecessary contingency fund for the Department of Defense. It would also support a DoD request which includes funds for operations and maintenance and personnel support; this is *contradictory* to what DoD has defined to the Congress as our obligations under the Paris Agreement. Cutting MASF funds to $500 million would, on the other hand, be both fiscally responsible and politically sound. And it would begin several processes in Vietnam that would allow the GVN to begin to generate its own revenue and stand on its own feet.

In closing, I would like to share with the Committee one of the saddest statistics I have ever come across. A young economic instructor at Bucknell University is completing a doctoral dissertation on the economic effects of the Indochina War. In it he has measured with the most reasonable estimates possible all of the past, present and future costs "to the Federal Government and to the American economy occasioned by American involvement in Indochina" thus far. Among the categories he includes are the following past, present and future military aid, veterans benefits, interest on the national debt, costs in future income of dead, disabled, exiles, etc., social costs of 100,000 drug addicted Vietnam veterans, and the costs of conversion. His premises appear quite reasonable. His final total is $676 billion. With the huge figure in mind, how can we encounter enlargement of the tragedy?

[From the Washington Post, Nov. 12, 1973]

Vietcong Say Dozens Killed in Bombing of South Vietnam Village

Saigon, November 11.—The Vietcong charged today that government warplanes dropped nearly 100 bombs Saturday on a Communist-held town on the Cambodian border, killing and wounding dozens of people.

A spokesman for the Vietcong delegation to the Joint Military Commission here said a hospital for prisoners recently released by South Vietnam was among the buildings "devastated" in the 45-minute attack on Logo, 70 miles northwest of Saigon in Tayninh Province.

Lt. Col. Le Tung Hien, the chief spokesman for the Saigon command, said he had no information on the alleged bombing. The Vietcong said firebombs and high-explosive bombs were used in the raid.

Last Wednesday, the government acknowledged that its warplanes bombed within a mile of the Vietcong's de facto capital of Locninh. Hien said then the bombing was in retaliation for Tuesday's rocket attack by the Communists on the air base at Bienhoa, 14 miles northeast of Saigon. Hien also said at that time that such incidents "will be punished tenfold."

Further north along the border, the Saigon command said government infantrymen moving against North Vietnamese forces in Quangduc Province ran into a barrage of mortar, rocket grenade and small-arms fire Saturday. There were no government casualties, but six North Vietnamese soldiers were killed in the ensuing fighting, the command said.

The action was said to be four miles south of Buprang, one of three South Vietnamese outposts in the area that North Vietnamese troops seized in the past week. The outposts are in a region about 110 miles northeast of Saigon.

In Cambodia, field reporters said today that a government relief column had pushed to within 540 yards of an encircled government garrison at the Trapeang Thnot railroad station, 14 miles northwest of Phnom Penh.

The troops reportedly were facing increasing resistance from Khmer Rouge insurgents surrounding the garrison. The two government battalions inside the station have been isolated for 14 days and are reported low on food and ammunition.

The Phnom Penh command said insurgents shelled a market in the provincial town of Kompong Chnang, 57 miles north of the capital, at dawn today with 75mm recoilless rifle fire. Seven persons were reported killed and a score of others wounded.

[From the New York Times, Nov. 8, 1973]

Saigon Planes Raid Two Red-Held Towns

(By James F. Clarity)

Saigon, South Vietnam, November 8.—The South Vietnamese military command said yesterday that its planes had bombed two Communist-held areas north of Saigon in what the command described as its largest air strike since the signing of the cease-fire agreement in January.

The command spokesman, Lieut. Col. Le Trung Hien, said that South Vietnamese bombers had flown "more than 50 sorties" in the vicinity of Loc Ninh, and Bo Duc, two towns that are about 15 miles from each other and 75 to 85 miles north of Saigon, near the Cambodian border.

Colonel Hien noted that a sortie is one mission by one plane and said that in yesterday's attack a single plane could have made several sorties. He declined to give the number of planes involved in the attack.

BASE NOT IDENTIFIED

Colonel Hien also said that all of the planes had returned safely. But he declined to say from which base the attack had been launched, or how much damage the raids had caused. He did say that the attack was a "punishing action" for Communist violations of the ceasefire, particularly for the Communist attack Tuesday on the Bien Hoa air base, near Saigon, in which two persons were killed, 22 injured and three South Vietnamese fighter-bombers were destroyed on the ground.

The Vietcong declared Tuesday that they had attacked Bien Hoa in reprisal for air strikes against Communist positions originating from the air base.

Whether the South Vietnamese attack on Loc Ninh and Bo Duc was actually Saigon's largest air strike since the cease-fire could not be confirmed. In recent months, the air force has bombed several Communist-held sectors on the coast, in the Central Highlands, near the Cambodian border and in other areas around Saigon.

The Vietcong's Provisional Revolutionary Government asserts that as of last Saturday it has shot down 39 South Vietnamese planes since the cease-fire.

A Vietcong spokesman in Saigon called the air attack "grave violation" of the Paris accord. The spokesman, Capt. Phoung Nam, said that the communists would respond to "violations" with "appropriate measures."

IS THERE A CEASE-FIRE?

At the South Vietnamese military commands afternoon briefing, Colonel Hien was asked, "is there a cease-fire in Vietnam now?" He replied, "Look at our communiqué." The communiqué was filed with the usual Government reports of Communist attacks and Government defensive actions against them.

The Government's announcement of its bombing attack also seemed to raise the question whether the bombs used in the strike—no number or tonnage was disclosed—would be replaced by the United States. American officials have said that it is difficult to determine whether weapons used in military actions were used for offense or defense. Therefore, the officials have said, the United States has been honoring virtually all requests by South Vietnam for replacement of military materials.

In addition, American and South Vietnamese officials have charged repeatedly that North Vietnam has resupplied its forces and introduced new troops into South Vietnam in violation of the cease-fire agreement. A spokesman for the United States Embassy in Saigon said last night that the embassy would have no immediate comment on replacement of the bombs used in the air strikes against Loc Ninh and Bo Duc.

In any event, the cease-fire has apparently not deterred the South Vietnamese Air Force from using American-supplied bombs and planes in actions against Communist forces. The planes used in yesterday's strikes, Colonel Hien said, were A–1 Skyraiders, F–5 fighter-bombers and A–37 fighter-bombers. Such aircraft have a carrying capacity of up to 12 750-pound bombs.

In answer to a question, Colonel Hien said that the attack was not made on civilian populated areas, but in sectors outside Loc Ninh. He said that many of the civilians in the Loc Ninh area were the relatives of South Vietnamese troops, unable to flee when the Communists overran the area in their offensive last year.

Colonel Hien said Government forces would "punish violations" at a ratio of 10 punishments for each Communist violation of the case-fire. He also said "we might even launch ground operations" in retaliation for violations. He gave no specifics.

The military command here also reported that nine of its soldiers were killed in a Communist attack Sunday on the outpost of Bu Bong, 120 miles north of Saigon near the Cambodian border. Three Government soldiers were wounded in the attack, the command said, and added that two Communist soldiers were killed in an infantry skirmish in the same area, near Bu Prang. The two outposts were captured by the Communists Sunday.

Mr. MINSHALL of Ohio. Mr. Chairman, I have no further requests for time.

Mrs. MINK. Mr. Chairman, I rise in support of the amendment to H.R. 11575 offered by Congressman Wyman. The amendment would eliminate provisions of the bill imposing an arbitary 70/30 percent relationship between Navy repair work for public and private shipyards.

The interests of employees at the Pearl Harbor Naval Shipyard, Honolulu, Hawaii, are involved since it is estimated that up to 100 jobs at the shipyard could be jeopardized by the provision. This would reduce the effectiveness of one of our most vital naval shipyards.

To impose a limit as proposed by the bill would be expensive in terms of higher governmental costs. It would force the Navy into unwise management procedures such as routing ships from one coast to another to locate a private shipyard for particular work. Fleet operational schedules would have to be changed in fiscal year 1974 to reflect the bill's requirements. This is detrimental to national defense as well as to our economy.

The Wyman amendment would simply delete the arbitrary limitation and permit the Navy to have the flexibility it needs to manage efficiently the uneven flow of different types of Navy ship repair and alteration work.

I ask for the adoption of the Wyman amendment.

Mr. MAHON. Mr. Chairman, I ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere); $7,131,437,000.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. PRICE of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. PRICE of Illinois. Mr. Chairman, the bill before the House reflects adjustments made by the Appropriations Committee to a number of programs which were recently approved by the Congress in the fiscal year 1974 Defense authorization bill reported by the Armed Services Committee.

I do not intend to discuss each of those recommended adjustments, but will confine my remarks to four specific programs and why I feel these should be supported at the authorization level.

First, the F–15 air superiority fighter for the Air Force. The authorization bill recently signed into law by the President included $801.9 million for 77 aircraft plus $116.6 million for initial spares, a total of $918.5 million. Initially the House authorized only 39 aircraft because of the delay in the engine successfully passing the 150 hour endurance test, one of the contractual requirements. The Senate authorized the total number requested, 77 aircraft. The conference committee agreed to authorize the full program requested by the Defense Department in view of the anticipated success of the endurance program which was nearing completion at the time. Several days after the conference agreement the Deputy Secretary of Defense announced that the 150 hour endurance test milestone had been satisfactorily completed and that the Air Force was authorized to fully fund both the F–15 engine and airframe production programs.

The Appropriations Committee report implies that something is wrong because "only 9 of 20 test aircraft have been delivered to the Air Force." That is all the contract calls for at this time. As a matter of fact all test aircraft to date have been delivered ahead of schedule.

The outstanding maneuverability, performance, and handling qualities predicted for the F–15 have been verified in flight by contractor and U.S. Air Force pilots. The development program is better than 75 percent complete with costs to date wthin 3 percent of target and projected to be under target at completion. The engine test problems encountered earlier had no impact on the F–15 flight test program. Its flying rate has been higher than any other modern jet fighter at the same stage of development. To date, more than 1,000 flights have been conducted accumulating more than 1,000 hours of actual test flight time. No serious engine problems have been experienced to my knowledge. The F–15 has exceeded the design flight enveloped in both altitude and speed.

The action recommended by the Appropriations Committee, a reduction of nine aircraft and $41.6 million, will slow down the program and will cause an increase in program costs. The report indicates that the 1975 and 1976 production buys have been reduced to 72 and 90, respectively, instead of 144 in each year as originally scheduled. That change in the production schedule is merely a tentative proposal which has not been approved by the executive branch and could be rejected before the fiscal year 1975 budget request is submitted to Congress.

The second program is the advanced medium STOL transport (AMST) for the Air Force. The Appropriations Committee recommends deletion of the entire $65.2 million included in the fiscal year 1974 Authorization Act.

The House Armed Services Committee has continued to review our military airlift posture since 1960. As recently as June 24, 1970, the Military Airlift Subcommittee of which I was privileged to be chairman, reported:

> The Subcommittee is greatly disturbed by the projected reduction in Tactical Airlift capability for the mid-seventies. The Tactical Airlift force programed for that period reflects a reduction in aircraft of more than 35 percent (880 to less than 550).

That projection has become a reality. Our 1970 report specifically recommended the development of an aircraft to replace the C–130. We said: "This aircraft should have a greater payload and operational capability to enable intratheater airlift to interface more effectively with the C–5A." The interface problem is one of handling military cargo or vehicles that are too large in size to be loaded on a C–130. For example, the C–130 cannot airlift some 40 percent of a mechanized division's vehicles.

The AMST is the foundation for significantly upgrading the tactical airlift capability of the U.S. Air Force in the 1980's and beyond, as recommended by the Armed Services Committee. The AMST will have twice the payload capability intratheater at a 40-percent higher speed, resulting in a productivity rate almost three times that of the present C–130. This improved capability can be accomplished while operating from and into airstrips some 1,000 to 1,500 feet shorter than those required for the C–130. In addition, the life cycle costs projected for the AMST, including operation and maintenance, are about one-third less than those for an equivalent C–130 fleet. Thus it should be clear that the AMST will be a cost-effective replacement for the C–130 in the post 1980 time period.

The AMST is a competitive prototype development program with design-to-cost contracts. At least one of these contracts is on a cost-sharing basis with the contractor's share being approximately 28 percent. That particular contractor is currently running approximately 15 percent under the original cost projections and 4 to 5 months ahead of schedule.

I am advised that the AMST will meet or better the performance goals set by the Air Force with existing engines. Should greater performance be required it is expected that one of two engines being developed for commercial application will be available for use on the AMST.

The third adjustment recommended by the Appropriations Committee is the Harpoon missile for the Navy. The committee recommends deletion of the $14.1 million authorized for fiscal year 1974 for advance procurement of long leadtime items for production of this air/surface-to-surface missile.

In my opinion the Harpoon system is needed on an urgent basis to overcome significant deficiencies in the Navy's ability to attack targets at sea. Harpoon, a most versatile weapon, will provide these capabilities for ship, aircraft, and submarine launch platforms. According to testimony received by the Armed Services Committee, the program is well structured and proceeding with great success. The program has met all major milestones on time and within budget projections.

Deletion of the advance procurement funds will cause a break in continuity of missile manufacture of more than a year and major cost increases. I am told that lack of this funding will require restructuring of the program resulting in a delay of 12 to 15 months in delivery of missiles to the fleet, an increase in overall program costs of $100 million or more and greater risk in moving from engineering development to production.

The fourth adjustment of great concern to me is the site defense program. The Appropriations Committee has recommended a $135 million reduction in fiscal year 1974 site defense line item for the purpose of "termination of the prototype demonstration of the site defense system." If this recommendation stands, the site defense program will be terminated and as a consequence—

First. The United States will have lost a most valuable bargaining position for continuing the strategic arms limitation negotiations.

Second. Minuteman forces will be without adequate defense should a final United States-Soviet agreement in offensive weapons fail or the recently negotiated SALT–I agreement be abrogated by the Soviets. Site defense is the most cost effective option for maintaining U.S. strategic strength should either of these eventualities occur.

Third. The last remaining strategic missile defense technical team specifically skilled in the critical fields of systems engineering and management will be dismantled; these skills cannot be rebuilt quickly.

Although the SALT–I agreement limits United States and Soviet large scale deployment of missile defenses it does not prohibit research, development and limited deployment. The continuing growth of Soviet strategic capabilities within the SALT–I limitations argues for continuing the site defense prototype demonstration as the most cost effective approach to maintaining both a bargaining position and a hedge against Soviet growth outside the SALT–I limits.

The site defense concept, originally conceived several years ago as the Hardsite Defense system, achieves high effectiveness at low cost by defending hardened point targets such as Minuteman with an adaptation of the Sprint interceptor missile already developed for the Safeguard system, a commercial data processor, and a radar designed for low cost, dormant operation. These elements are assembled in modules; both the size and the number of modules can be varied to provide any desired level of defense effectiveness for point targets.

Site defense is a phased program. Its present phase is oriented toward demonstrating through realistic field tests that the system design as well as the underlying technology is sound. Should continuing evolution of the Soviet offensive weapons threat call for further steps, site defense could transition into full scale development, production preparations, and tests of a limited deployment—allowed by the SALT–I treaty.

Site defense is being pursued on a very austere basis, with design, engineering, procurement, and testing limited to only the essential system and technology efforts necessary to demonstrate the potential effectiveness of the concept. The importance of pursuing system as well as technology efforts is stressed. Although the technology of the system, such as is associated with the interceptor missiles, the radars, and the data processors is important, the system engineering, necessary to manage the interaction of these elements for maximum effectiveness against a broad spectrum of evolving threats, is the key to directing technological development and achieving the desired system performance at a minimum cost.

SALT–I limits deployment of missile defense systems to two sites of 100 interceptors each; one site for Minuteman ICBM defense and the other for the defense of the National Command Authority—this is the equivalent of the currently deployed Soviet defense system for Moscow. Congress has approved the installation of a Safeguard site at Grand Forks, N. Dak. to defend Minuteman installations in that vicinity but has not authorized deployment of a defense site for the National Command Authority (NCA). In view of these limitations on deploying a missile defense system, deployment of site defense by either augmenting or replacing the Safeguard site is not currently a major consideration. It is prudent, however, to continue the current demonstration program for site defense. By so doing, the United States can maintain its SALT bargaining position as well as preserve an option for deploying a defense which could be urgently required if arms limitation negotiations break down or current agreements are abrogated.

The record of SALT–I shows that Soviet concern for the U.S. development of anti-missile defense systems was a significant factor in reaching agreements the United States desired on limiting the size of offensive forces. Continuation of U.S. antimissile defense effort via the site defense program maintains the strength of this proven bargaining position.

The need for a viable defense option must be given priority in U.S. strategic planning. Other alternatives are to build and deploy greater numbers of offensive weapons. The United States initiated the SALT talks through concern that offensive arms proliferation could lead to diminished control and increasing risk of initiation of nuclear exchange—even by accidental means. Defense of offensive weapons, rather than their proliferation, is an option worth preserving.

The timing of the site defense prototype demonstration is related to the need for maintaining an effective and credible bargaining position with respect to continuing arms limitation negotiations. SALT–I is renewable at 5-year intervals, the first renewal date being May 1977. The current site defense program plan is based on a funding rate sufficient to provide credible demonstration of defense capability within the time frame of interest. The recently passed fiscal year 1974 authorization bill reduced the Army's requested funds by 20 percent from $170 million to $135 million. Timely demonstration can still be made at the reduced funding level. Further reduction can have a serious impact on timing, however. Approximately $70 million, over half of fiscal year 1974 effort, will be expended by the time the appropriation bill is approved. Any cutback can be achieved only by substantially reducing the remaining 5 months of fiscal year 1974 activities.

Termination will impact a nationwide, industrial work-force of over 3,500 people, most of whom are highly skilled engineers and system managers. Termination costs are estimated at $20 million, bringing total costs to $90 million for fiscal year 1974. Since the House Appropriation Committee has recommended a transfer of plus $25 million to technology programs in lieu of continuing site defense, the resultant fiscal year 1974 saving is only $20 million—to be balanced against the losses to the United States bargaining position, security options, and resources previously identified.

The site defense program, as it is currently planned and is being executed, does not automatically precipitate a costly engineering development phase leading to an even more costly deployment. As previously noted, large-scale deployment is specifically prohibited by SALT–I. Engineering development and limited deployment can only proceed with congressional approval. When prototype demonstration objectives are met, if engineering development to support deployment is not required, the program can either be terminated or, if circumstances dictate, be reoriented toward the examination of system improvements.

The four programs that I have discussed were authorized recently by the Congress and approved by the President. Failure to fund these programs in the amounts authorized not only fails to save the taxpayers money in three instances, but leads to increased costs in the long run. In all four cases the courses of action recommended by the Appropriations Committee weaken our defense posture. Should the other legislative body, in its wisdom, fully fund these programs, I urge the conferees from the House to support these authorized programs which I believe are justified and needed.

Mr. DELLUMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy-five Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 604]

Baker
Bolling
Buchanan
Burke, Calif.
Camp
Carey, N.Y.
Clark
Clawson, Del
Cochran
Collins, Ill.
Conyers
Dickinson
Diggs
Dulski
Eckhardt
Edwards, Calif.
Erlenborn
Foley
Fraser
Frey
Fulton
Gibbons
Gray
Gude
Hansen, Wash.
Harsha
Hébert
Holifield
Jarman
Jones, Okla.
Kastenmeier
Landrum
Lujan
Macdonald
Mailliard
Mathis, Ga.
Mayne
Metcalfe
Mills, Ark.
Minish
Moorhead, Calif.
Murphy, Ill.
Obey
Poage
Powell, Ohio
Quillen
Rangel
Reid
Rooney, N.Y.
Rosenthal
Schneebeli
Stanton, James V.
Steele
Steiger, Wis.
Stokes
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Young, Ga.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11575, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 375 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

ENERGY CRISIS

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this time to direct an inquiry to the chairman of the committee regarding the matter that is on our minds today, the fuel shortage and an order which has just gone out from the Department of the Interior. In fact the information was released yesterday, at which time this order said:

> COMPANIES DIRECTED TO SUPPLY PETROLEUM NEEDS OF DEFENSE DEPARTMENT
>
> At the request of the Department of Defense, the Interior Department has issued directives to 22 companies to supply a total of 19.7 million barrels of petroleum during the two-month period from November 1, 1973, through December 31, 1973, for use by DOD. This quantity is in addition to existing Defense contracts for fuel and anticipated allocations under the mandatory allocation program.
>
> Authority for this action stems from the Defense Production Act of 1950, and intention to use this authority was announced in a Federal Register article dated November 6.
>
> Companies may delay delivery of 30 percent of the amount requested until the end of January, if physical limitations prevent the company from making that delivery.
>
> The following list shows the quantity of fuels which Interior has directed suppliers to make available during the months of November and December.

Mr. Chairman, I would appreciate some comment from the gentleman from Texas, the chairman of the Appropriations Committee, in the light of the very serious situation so far as our domestic economy is concerned, as to why at this time, in addition to their other contracts, the Department of Defense is depending on 20 million additional barrels at this time.

Mr. MAHON. Mr. Chairman, if the gentleman will yield, earlier in my remarks today I pointed out in the pending Defense bill we had made numerous reductions in an effort to reduce the consumption of petroleum by the Armed Forces.

The Armed Forces at this time it is estimated will use 3.7 percent of the petroleum resources of the Nation during the current fiscal year. We have cut back on automobiles and we have cut back on fuel for flying hours and so on.

But the gentleman now is talking about this directive that the oil companies must furnish the Department of Defense with additional fuel. This comes about, we are told, as a result of the fact that our fleet in the Mediterranean is not able to secure the oil and petroleum products which it had been securing and which it has to have for the purpose of maintaining readiness. Therefore, the supplies that would have come from the Middle East now are not available and have to come from the U.S. sources otherwise.

This is an unfortunate situation but I do not know that we can do more about it than to ask the Defense Department and others who are dealing with the energy crisis to do their best, to do the best they possibly can do in order to preserve for the domestic economy the maximum amount of fuel.

Mr. SISK. I appreciate very much the comments of the gentleman from Texas. The point of fact is that this comes at a time when many of our people are completely out of fuel. We have many industries shut down. There are a number of questions which have arisen in the last 24 hours as to why, in this situation, there must be an additional 20 million barrels.

I understand the explanation of the gentleman, but let me conclude on this note. Some of us are very much concerned. We do have we feel an energy crisis and we are in an emergency situation as far as our fuel. I want to make the comment that being from California I am most concerned about their oil reserve at Elk Hills in California which is set aside basically for the Defense Department.

I for one am advocating serious consideration being given to opening that reserve and making that fuel available to the Department of Defense or to the domestic economy, which is necessary because of the billions of barrels of oil setting there at the present time.

I believe we are in a situation where we desperately need to make such use of that fuel as we could very ably do at this time and do it without any windfall profits to the Standard Oil Co. or any other company in line with some of the charges that have been made.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Texas.

Mr. MAHON. The chairman of the Committee on Armed Services introduced a resolution about the naval petroleum reserve at Elk Hills which ought to be of some help.

Mr. SISK. I understand he introduced some legislation and there has been progress. I am hopeful it will mean some early hearings.

AMENDMENTS OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. DELLUMS: Page 2, line 10, strike $7,131,437,000; and insert in lieu thereof $7,132,187,000

Page 2, line 18 strike $5,281,995,000; and insert in lieu thereof $5,282,245,000

Page 3, line 9, strike $6,886,411,000; and insert in lieu thereof $6,886,661,000.

The CHAIRMAN. The Chair makes the observation that the amendments go beyond the sections that have already been read. Does the gentleman from California wish these amendments to be considered en bloc?

Mr. DELLUMS. Yes; since my amendments deal with paragraphs 1, 2, and 3, I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, today I find myself in an extremely interesting—and strange—situation. I come before you with an amendment to increase the proposed military budget.

The committee bill includes a $1.25 million cut in personnel funds, thus eliminating 700 equal opportunity and race relations instructors and officers—a reduction which is strongly opposed by the Department of Defense.

And, as far as I can gather, the committee made this cut because they feel the armed services have gone completely overboard in reacting to race relations problems.

As a member of the Armed Services Committee, I find that inference both incredible and outrageous—one that is not substantiated by any facts.

Over the past few years every branch of the military has been rocked by tragic race riots—in Germany, Hawaii, South Vietnam, Korea, the Canal Zone, at Travis Air Force Base, Fort McClellan, and the Great Lakes Naval Station, on board the carriers *Kitty Hawk* and *Constellation*.

Only last month, riots erupted again, this time in Scotland and Korea.

Yet, these incidents are only the tip of an iceberg of the real, everyday, discrimination faced by minority members of the military—discrimination which these Equal Opportunity and Race Relations Officers the committee wants to eliminate are attempting to correct and remedy. We must remember that most minority members of the armed services do not riot, but that they are subjected to continuing unfair treatment and are often scarred for life with punitive discharges, jail terms and psychological damage.

Under Melvin Laird, the Defense Department instituted a series of programs calculated to achieve equal opportunity in the Armed Forces. However, neither DOD policies nor the various service equal opportunity programs have been able yet to eradicate discrimination. Nevertheless, even the most impatient of us would be hard pressed to deny that some gains have been accomplished. To stop at this point when there is potential for meaningful progress would be antithetical to meeting these ultimate goals.

The committee would cut the number of equal opportunity instructors and officers in half, thus effectively crippling the existing program. If we are to believe that this action is necessary, many issues must be raised concerning the committee's intent:

First. What does the committee mean by equal opportunity and race relations "counselors?" Since the term "counselor" for these officers and instructors is new to me, I would appreciate a clarification of who these men are, what job they presently perform, what training they have received for the job, and the number of these positions there are by service.

Mr. Chairman, I would like at this point to read from a document from the Department of Defense entitled "Department of Defense Military Personnel Race Relations and Equal Opportunity Counselors." Under the heading of "Justification," it says:

> The Department wishes to state positively at the outset that none of the personnel in the Services assigned as either equal opportunity staff officers or as race relations instructors (educational specialists in the Navy) are counselors. They are involved in the management of Command equal opportunity and race relations programs and their numbers are authorized on the basis of the peculiar needs and organization of each of the Services.
>
> Racial disharmony carries with it the potential for disruptions that adversely affect the capability of the Military Departments to carry out their missions. Accordingly race relations and equal opportunity programs in the Services are designed to assist commanders in fostering equality of opportunity and treatment, inter-racial harmony, good order and discipline.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. DELLUMS was allowed to proceed for an additional 3 minutes.)

Mr. DELLUMS. Mr. Chairman, second, while these "counselors" were eliminated from the Army, Navy, and Air Force, for some unexplained reason, none were cut from the Marine Corps. Yet on page 60 of the committee report, the Marine Corps Commandant explains that he feels these programs have gotten out of hand. Should we understand that the Marine Corps has no Equal Opportunity and Race Relations counselors, or does it mean that there are no discrimination problems for the Marines.

Third. The committee report urges elimination of race relations training schools being conducted by the various services. Yet, one of these schools at Oberammergau, West Germany, has already been closed for a year and is now derelict. I question how complete the committee's study of the situation has been, and I would suggest that more detailed analysis be made by Congress before such actions are taken to hurt these programs.

Fourth. The committee action appears to me as an attack on the entire race relations program of the Armed Forces. But, at a time when minority recruitment now approaches 25 percent, can we afford to cut out programs designed to further harmony among the races. The equal opportunity programs of the various services are totally supported by the Defense Department—and I assure you that DOD strongly backs this amendment, that the Defense Department does not and did not want this cut by the committee.

I urge support of this amendment.

Mr. SIKES. Mr. Chairman, I rise in opposition to the amendment.

(Mr. SIKES asked and was given permission to revise and extend his remarks.)

Mr. Chairman, let me attempt to clarify the actual situation on race relations counselors.

The committee took two actions with respect to race relations in the armed services. First, the committee directed the consolidation of race relations training at the Defense Relations Institute established in 1971 at Patrick Air Force Base in Florida for added efficiency and economy; and then the committee made an end strength reduction of 700—only 700—race relations counselors from the 3,255 full-time counselors requested. We felt there was full justification for this action.

Let me explain.

In addition to the 2,555 full-time counselors provided in the bill, there are thousands more officers and enlisted personnel who have part-time race relations duties. I think everyone here knows that the Department of Defense has been a leading element in our society with respect to equal opportunity and race relations. It began to come into focus back under Harry Truman. This committee has supported the program.

This is an enviable record. Most of its success was accomplished before any full-time race relations counselors were employed. The full-time race relations counselors have been added only in recent years, since 1971.

The Department of Defense is spending—I want the Members to listen to this—over $35 million annually for pay for race relations counselors, and probably over $10 million a year for the operation of special schools.

With that large volume of race relations activities, we feel that cuts can be made, very modest cuts, without harm to military readiness or to race relations.

The committee feels that some so-called race relations activities have actually weakened discipline and good order.

We believe the proposed reduction will improve discipline. The facts are that rap sessions designed to promote racial harmony have eroded military discipline. In some of these, officers are required to take part, without insignia of rank, while the crowd decides what orders they are going to obey or not obey. Is that the type of discipline the Armed Forces must have?

The committee is of the opinion that military decisions or the decision to obey or not to obey orders cannot be put in the context of the rap session or made in a town meeting atmosphere.

Mr. Chairman, our report, if the Members will study it, quotes from a message sent by the Commandant of Marines which puts a stop to unstructured rap sessions and touch-feel games and town hall type meetings.

Do the Members know what "touch-feel" games are? That is where everybody sits around during the game and feels each other's hair and skin, and whatever. This is the type of activity which is being taught at race relations schools.

The Marine Corps has refused to send students to the Race Relations Institute, believing that the course is contrary to recognized and proven leadership principles. The Marine Corps does not have any fulltime race relations counselors, but the Marine Corps has made very fine gains in reducing racial tensions. At the same time the Marine Corps has maintained the discipline essential to an effective fighting force.

Now, here is the crux: This committee feels that with 15,400 identified full-time counselors of all types who receive pay in excess of $188 million annually, some reduction is in order. The reduction we propose is very, very modest indeed.

Mr. Chairman, I urge the defeat of the amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding to me.

In the argument the gentleman just made on the floor he used the Marine Corps as a basis for his argument——

Mr. SIKES. No, I did not use the Marine Corps as a basis for my argument. I cited the Marine Corps, and the Marine Corps has done very well without the type of program that the gentleman is speaking about.

I said we are going too far in this program; that we do not need all the money and all the people called for in the program. That is why the committee has made a very modest cut.

Mr. DELLUMS. Mr. Chairman, has the gentleman yielded to me?

Mr. SIKES. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman.

First of all, if the gentleman would check the record very carefully, he would find that the Army, the Navy, and the Air Force have combined in their training and in their program and are operating out of the same approaches.

The Marine Corps is the only branch of the military that is not functioning in this program.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. DELLUMS, Mr. SIKES was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. The cuts you propose are $750,000 from the Army, $250,000 from the Navy, and $250,000 from the Air Force. You have not made any cut in the Marine Corps yet. Your entire argument is directed at the outrageous argument made by the Commandant of the Marine Corps. If we want to save money, why do it in the three branches of the military which are strongly in favor of this program?

Mr. SIKES. Is the gentleman through asking the question?

Mr. DELLUMS. The gentleman has to hear the question first, unless he has some extraordinary powers I am not aware of, before he answers it.

Mr. SIKES. Has the gentleman completed his question?

Mr. DELLUMS. I have.

Mr. SIKES. Let me repeat what I said earlier. There are 15,400 identified full- or part-time counselors in all of the services who receive in excess of $188 million a year. We feel that some reduction is in order. This is based on all of the services. The committee is cutting only 700 people from the total of 3,255 full-time counselors requested. That is such a modest request that I am amazed the gentleman would quarrel with it.

Mr. HICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had the privilege of chairing a committee of the Committee on Armed Services that investigated the problems on the *Kitty Hawk* and the *Constellation* that occurred about a year ago

I have no way of knowing whether there are too many counselors in all branches of the service and whether there should be some cuts made or not. We have to rely on the Committee on Appropriations.

I sat through the general debate and I heard that the committee worked very hard and they have a fine staff. I agree they have a fine staff. One time I appeared over there in the committee to testify while Chairman MAHON and Mr. FLYNT, were there. It may very well be they all work as hard as they say they do, but the thing that concerns me about this matter of this cut—and it is a token cut—is that if the military wanted to keep the 700 counselors, they could find that relatively small amount of money somewhere else. That does not concern me.

However, what does concern me is the question of are we giving this program a slap in the face and saying we do not need these racial counselors. We spend a billion dollars for an aircraft carrier and then we have a sitdown strike, and it does not operate. That is not a very cost effective program.

We found in our hearings that we conducted that race relations counselors should not substitute for the chain of command, and I believe they should not. Nonetheless, we found they are valuable and serve a purpose. In fact, we did not find any racial discrimination aboard the *Constellation* or the *Kitty Hawk* and our hearings are available to you. We found no institutional discrimination on those two ships, but we found plenty of impressions of discrimination. Many young men perceived discrimination.

Well, if 40 or 50 or 150 young blacks feel that they are being discriminated against and they act on that perception, what difference does it make whether there is or is not in fact discrimination? You have to have those counselors aboard ship to deal with these young servicemen. If there is not any discrimination in fact, then that is OK. As far as the race relations institutes are concerned the training schools I am talking about, I do not know whether you need them all or not, but we certainly should not be giving the impression that we do not want racial relations counselors aboard our ships. I do not know about the Army and the Air Force, but we do need counselors aboard our ships and we should encourage and support the idea of racial relations counselors and not be downgrading them.

That is the only concern I have, and that should be taken into consideration when you consider how you will vote on this amendment.

Mr. MINSHALL of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is not my purpose to talk to at any great length, but I would like to point out to the members of the committee the comments that appear in the text of our report on pages 59 and 60. I should also like to point out, in addition to the dictum that we have placed in this report, that we have 3,255, and I am speaking of race relations instructors and counselors in the three branches of the service today. This does not include all of the research and development personnel that we have in this program which includes many more hundreds of people. This is a mere 20 percent cut out of the 3,255, especially when the services say that some are not doing the job that they should be doing. So it is not a slap in the face, it is just trying to get down to the economics of the problem and have the Department of Defense handle the entire program.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Committee on Appropriations is thoroughly sold on having a good race relations program in our armed services. The Committee on Appropriations believes that race relations counselors have a unique part to play in this important area, and we are providing funds for about 2,500 race relations counselors.

The members of the Committee on Appropriations applaud the armed services for being out in front of the rest of our Nation in many respects in promoting good relations among the races, and a good job generally has been done. There is no basis to assume that there is any effort to hamper those who are trying to do the job of bettering race relations in the military services. I agree that we need counselors whose whole job is to do race relations counseling work. I am sure that on the whole they have done a good job.

Our military forces are not in combat. The war is over. We have to cut back on the cost of the operations of the various units in the Army, Navy, and Air Force.

I further say that every military officer who is worth his salt—and I believe they are—ought to be a good race relations counselor for his unit or for his division, and every one of them ought to be doing a good job, and I assume they are. But to assume that we must have over 3,200 race relations counselors to take care of the responsibilities of the officers and the noncommissioned officers of the military services of the country is not correct. The services are doing a good job in race relations, let them continue. They can do so with this modest reduction of 700 race relations counselors out of a total of 3,255. I think it is going a bit too far to employ over 15,400 counselors of all types who do nothing but counsel on a full-time basis at a cost of $188 million in 1974. So with all due charity I ask for the defeat of the amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I would ask the gentleman from Texas if these counselors are in uniform?

Mr. MAHON. Not all of them are.

Mr. GROSS. They are civilians?

Mr. MAHON. Some are civilians.

Mr. GROSS. Did I understand the gentleman from Florida (Mr. Sikes) to say there are 15,000 of them?

Mr. MAHON. At least 15,400 full-time counselors of all types.

Mr. GROSS. The only trouble with the gentleman's action is that he did not cut nearly deep enough, and get rid of more of these wet nurses.

Mr. MAHON. We have also taken action to prohibit the recruiting of personnel who would be detrimental to the service. We are trying to get as many high-school graduates as possible under the all-volunteer program in order to minimize the need for great numbers of counselors of all types.

Mr. GROSS. Under the circumstances, do we have a military force in this country or do we have a disorganized mob?

Mr. MAHON. I think, if this amendment is defeated, it will contribute toward a better military service and better race relations.

Mr. DAN DANIEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. Dellums).

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 226, not voting 29, as follows:

[Roll No. 605]

AYES—178

Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Ashley
Badillo
Barrett
Bell
Bergland
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Breckinridge
Brown, Calif.
Brown, Ohio
Burke, Mass.
Burton
Carey, N.Y.
Chisholm
Clay
Cleveland
Cohen
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
de la Garza
Dellenback
Dellums
Denholm
Dent
Derwinski
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Fish
Ford, William D.
Fraser
Frenzel
Fulton
Gibbons
Gilman
Goldwater
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gude
Gunter
Guyer
Hamilton
Hanna
Hansen, Wash.
Harrington
Harvey
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Holifield
Holtzman
Horton
Howard
Hungate
Jordan
Karth
Kastenmeier
Kazen
Koch
Kyros
Leggett
Lehman
Long, La.
McClory
McCloskey
McCormack
McFall
McKinney
Madden
Madigan
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Milford
Miller
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
Owens
Patten
Pepper
Perkins
Peyser
Pike
Podell
Price, Ill.
Pritchard
Railsback
Randall
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Sebelius
Seiberling
Shriver
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Stratton
Studds
Symington
Thompson, N.J.
Thone
Tiernan
Udall
Van Deerlin
Vanik
Waldie
Ware
Whalen
Wilson, Charles H., Calif.
Wolff
Yates
Young, Alaska
Young, Ga.
Young, Ill.

NOES—226

Abdnor
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Aspin
Bafalis
Bauman
Beard
Bennett
Bevill
Biaggi
Blackburn
Blatnik
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Collier
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dennis
Devine
Dickinson
Dorn
Downing
Dulski
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Evins, Tenn.
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Ginn
Goodling
Green, Oreg.
Gross
Grover
Gubser
Haley
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harsha
Hastings
Hays
Hébert
Henderson
Hinshaw
Hogan
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Keating
Kemp
Ketchum
King
Kluczynski
Kuykendall
Landgrebe
Latta
Lent
Litton
Long, Md.
Lott
Lujan
McCollister
McDade
McEwen
McKay
McSpadden
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Michel
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Myers
Natcher
Nelsen
Nichols
O'Brien
O'Neill
Parris
Passman
Pettis
Pickle
Preyer
Price, Tex.
Quie
Rarick
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rose
Rostenkowski
Roush
Rousselot
Runnels
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Shipley
Shoup
Shuster
Sikes
Sisk
Slack
Snyder
Spence
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—29

Baker
Buchanan
Burke, Calif.
Camp
Carney, Ohio
Clawson, Del
Cochran
Collins, Ill.
Danielson
Diggs
Foley
Holt
Jones, Okla.
Landrum
Macdonald
Mayne
Metcalfe
Mills, Ark.
Minish
Murphy, Ill.
Patman
Poage
Powell, Ohio
Quillen
Rangel
Rooney, N.Y.
Stokes
Wilson, Charles, Tex.
Wyatt

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to paragraph 1? If not, the Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, is authorized by law; as follows: for Strategic forces, $335,566,000; for General purpose forces, $2,371,731,000; for Intelligence and communications, $304,935,000; for Central supply and maintenance, $2,032,246,000; for Training operations and other general personnel activities, $423,822,000; for Medical activities, $354,666,000; for Administration and associated activities, $178,353,000; and for the Support of other nations, $21,881,000; in all: $6,023,200,000; *Provided*, That of the total amount of this appropriation, not to exceed

$4,242,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payment may be made on his certificate of necessity for confidential military purposes: *Provided further,* That not less than $138,200,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities: *Provided further,* That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $851,672,000 shall be available for the performance of such work in Navy shipyards: *Provided further,* That during fiscal year 1974 the maintenance, operation, and availability of the Saint Albans Naval Hospital at Queens, New York, to meet the requirements of the military and naval forces and the retired personnel thereof shall be continued.

AMENDMENT OFFERED BY MR. WYMAN

Mr. WYMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYMAN: On page 7, strike that portion beginning on line 5 which reads: *"Provided further,* That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $851,672,000 shall be available for the performance of such work in Navy shipyards:"

Mr. WYMAN. Mr. Chairman, this amendment strikes out the provision in the bill at page 7 that reflects an attempt by the committee to provide a division between private shipyard employment and naval shipyard employment in repair, alteration, and overhaul of naval vessels. The reason it ought to come out is that requiring a fixed figure places the Navy in a straitjacket. It operates against the best interests of the efficient conduct of the military, and I am here with this amendment with the support of the Navy.

The legislation as it stands will unquestionably make it more difficult for the Navy to perform essential maintenance on operating ships in the active fleet. Even under normal conditions this task is a formidable one, since it involves the monitoring of an uneven workload on many different types of ships and requires the employment and direction of some 60-odd skills and crafts in the shipyards, $851 million under this amendment must be spent in a certain way. The testimony on which the sponsor of the amendment originally based its case was presented 4 months ago.

We are almost at the end of the second quarter of the fiscal year, and only two quarters remain. There is a 5.5-percent pay increase coming down the road next month. This alone throws the dollar figure out of kilter. It is wrong to impose a fixed dollar amount on the Navy in this way.

The situation is further complicated by the fact that the Navy is carrying out its mission with diminishing resources, fewer ships and fewer personnel, both military and civilian.

The issue of a mandatory division of Navy shipwork between naval and private shipyards is not new. It has been tried before and experience has proven its impracticability. Highlights of this previous experience are as follows:

The Navy appropriation bill in fiscal year 1963 contained a mandatory provision requiring a split of 65 percent/35 percent of naval ship conversion, alteration and repair work between public and private yards. Note the inclusion of conversions in this category of shipwork.

The Navy strongly opposed this action on the grounds that it would severely limit operational flexibility.

Private interests strongly supported it on the claim of lower prices.

The Navy complied fully with the law when enacted and experienced many difficulties in compliance, including the expensive and morale disturbing need to transfer an entire destroyer ship division—plus dependents—from the Pacific Fleet to the Atlantic Fleet to conform to the mandatory percentage split.

In the 1964 fiscal year budget, when presented with the many problems and costs of ship repair work allocations to comply with the mandatory split of repair work, the House Appropriations Committee eliminated the mandatory language from appropriation bills subsequent to fiscal year 1965. The committee expressed the desire that the Navy annually split the ship repair work—including conversion, alteration and repair—CAR—in the approximate 65/35 percentages without the arbitrary restrictions of mandatory language.

In the ensuing 10 years and evidencing full appreciation of the intent of Congress, the annual split of CAR work has varied from a low of 31 percent to a high of 40 percent and an average of just under 35 percent.

The Navy elected to assign longer term ship conversion work primarily to private yards as the larger portion of their 35 percent allocation. Private yards are now receiving about 85 percent of ship conversion work.

For the major portion of the 65 percent allocation to naval shipyards, the Navy assigned ship repair and alteration work. Naval shipyards are organized better to handle this class of work. Work can be started more quickly, without protracted bidding and contract negotiations. Public yards can provide ships crew facilities and amenities not available in private yards. They have available specialized tooling and skills for sophisticated electronics and weapons systems and generally are able to return ships to active duty more quickly.

In 1962, the level of new ship construction in private yards was about 62 percent of the total, the balance being assigned to private yards. The private yards are now assigned 100 percent of all new ship construction.

Naval shipyard employment in 1962 was about 97,000 men. It is now about 56,000 men. Private shipyard employment was about 110,000 men in 1962 and is now approximately 134,000 men.

Naval active fleet strength, which is the source of all ship conversion, repair and alteration work, has been cut about 45 percent since 1963. New replacement ships coming into service have very sophisticated combat systems and equipment which require tooling and skills for their repair and alteration, seldom found in the small ship repair yards that are seeking larger repair allocations.

Price, as distinct from cost, generally is what the market can bear and does not necessarily reflect real costs. Costs in public yards including those standby insurance costs of supporting an ever-ready naval ship repair capability, available to the fleet on a moment's notice, without threat of strikes. Unfortunately, public yards are now performing at other than highest efficiency with work forces arbitrarily limited to below optimum levels. This situation is to be somewhat improved following workload adjustments resulting from the scheduled closing in 1974 of two naval shipyards. Congressionally set pay scales including fringe benefits are higher in public yards than in private shipyards and are a major element in naval shipyard costs.

The administrative burden imposed on the Navy would be magnified, coming as it does at the midpoint of the fiscal year, after scheduling for repairs and alterations has been virtually completed, except for unforeseen emergency situations.

It would produce serious restraints on the Navy's ability to respond to changing operational schedules in the fleet. Incidentally, the overriding purpose of our naval shipyards is to maintain the fleet in being.

It would cause major personnel dislocations in our naval shipyards at a time when the Navy is already attempting to cope with an abnormal turnover of skilled personnel. For example, Mike Causey in an article in the Washington Post, November 26, 1973, estimates end of year retirements at about double the number that would ordinarily retire at this time. This appears to be due to the fact that a large number of those who enrolled in civil service jobs directly after World War II are now reaching retirement age, plus certain financial incentives that encourage retirement now.

The Navy has estimated that in order to comply with this legislation, it will be necessary to juggle work, that is, transfer repair and alteration shipwork, already scheduled for naval shipyards to private yards, in the amounts of from $16 million to $25 million during the remainder of fiscal year 1974. It is ironic that with all of the shifting around of jobs involved, the work for the most part will not benefit the so-called needy yards in the private sector which are not qualified to do the sophisticated work required.

Any specific language to require a mandatory division of only alteration and repair work in the 1974 appropriation bill is unnecessary and undesirable. The Navy in its testimony has already indicated its plan to allocate about 29 percent of A. & R. to private yards. A mandatory requirement would provoke many of the problems occurring in fiscal year 1963 that led to the elimination of mandatory language.

If this amendment is not accepted, the eventual result will be a reduction in employment at the various naval shipyards required by compliance because the Navy now advises that it must take $40 million out of the naval shipyards requiring a reduction of 3,450 personnel before next July 1. This would cause major personnel dislocations in our naval shipyards at a time when the Navy is already attempting to cope with an abnormal turnover in skilled personnel. They will have to juggle work and transfer repair and alteration work which is already scheduled for naval shipyards to private shipyards in very substantial amounts.

I think it is very important that the Navy be given the necessary flexibility efficiently to manage the uneven flow of different types of ship repair and alteration work. Enactment of the legislation in its present form will destroy this flexibility and disrupt the operational schedules and lower the shipyard efficiency. It is something we ought not to do, and I urge adoption of the amendment.

Mr. HUNT. Will the gentleman yield?

Mr. WYMAN. I am glad to yield to the gentleman.

Mr. HUNT. I want to commend my colleague from New Hampshire on his amendment. It is vitually necessary.

The Navy has done an excellent job in programing, and they know exactly where the ships are going to go for repairs and alterations and changeovers. To change the formula now from the 1973 version would be disastrous.

For example, in the Philadelphia shipyard, in the district that my colleague BILL BARRETT represents, it would cause us to lose 900 jobs. This is a sad story.

To change the rules of the ball game here I believe would be disastrous.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. MAHON, Mr. WYMAN was allowed to proceed for 1 additional minute.)

Mr. MAHON. Will the gentleman yield?

Mr. WYMAN. I yield to the chairman of the committee.

Mr. MAHON. My point is we have already gotten permission for all Members of the House to revise and extend their remarks, and of course that applies to this Member.

Mr. WYMAN. I thank the gentleman. I have no intention of proceeding further except that I want to make the additional point with regard to the remarks of the gentleman from New Jersey which is that we went through this fixed division in years past and we decided to get rid of 65-35 formula. The Navy indicated it is planning to allocate 29 percent of the alteration and repair work to private shipyards, but a mandatory requirement would provoke the same kinds of problems which resulted in this Congress getting rid of fixed formulas. A set dollar amount is also a fixed formula.

Mr. Chairman, this amendment should be adopted.

Mr. HOSMER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment because the Appropriations Committee well knows that the Navy came in and stated they were going to spend in private shipyards approximately 30 percent of the amount of money they get for fiscal year 1974 in an effort to be fair to those yards and wisely to allocate the resources to keep a mobilization base.

What the Committee on Appropriations is coming in here and saying is, "We do not believe the Navy. We are going to put this into this law by way of a limitation on what can be spent in the public yards."

What does that mean? In addition to the Committee on Appropriations saying they do not believe what the Navy tells them, it simply means, as the gentleman from New Hampshire said, that you are putting the Navy in a straitjacket in trying to wisely manage the expenditure of this kind of money.

We are not talking about peanuts here. We are talking about a total for alterations and repair of $1,211,591,000. That means, my friends, that we have to, according to what the Committee on Appropriations is trying to mandate here, come out exactly even to the dollar in splitting this money. It is absolutely idiotic to be able to expect the management of that amount of money to come out that closely.

In addition to that, just plain logic tells us the fact that this kind of a split has to be made on some kind of an approximation basis. For the last 20 years apportionments have been—between the private shipyards and the Navy shipyards—have been made according to an approximation except in one disastrous case where the committee tried to do something arbitrary and inflexible as it seeks to do today and all kinds of trouble, grief, and dislocation resulted.

Historically, the Committee on Appropriations goes back into its records on this—it has tables that will show that this split and they will show that, because of the very nature of things—the actual split has varied about 3 to 5 percent each year differently from what the Navy in the beginning of the year said it was going to. We just cannot help those variations. Events change. Unexpected situations arise which must be met. Flexibility is requested to meet them.

Now, for example, what has changed recently? In just the last 3 months we have had a civil service pay raise, we have had a blue-collar pay raise, we have had a Mideast war, and we have had a worldwide oil embargo, and we have the biggest boom in the private shipyards in the history of this country except for World War II. That is what has had change only in the last 3 months. And yet these members on this committee want to put the Navy into a straitjacket so it cannot change a dollar in the allocation of these funds between the private shipyards and the Navy shipyards to meet whatever exigencies that arise. It just does not make any sense.

The gentleman from New Hampshire (Mr. WYMAN) is eminently right in pleading for the adoption of this amendment.

Mr. Chairman, let me add in conclusion that when you take and try to rip out the support that we give to the naval shipyards, what you are doing in that process is to stop the sailors from going home when their ships come back from overseas. You are mandating their ships to private shipyards. And if any one of the Members have ever sailed on a ship of the Navy, and had come home from overseas, and then been sent to some God-forsaken private shipyard out in the middle of nowhere in the boondocks when your family is down where the Navy is, at the home they have kept for the family while you were gone, the place you were promised you would come back to after many weeks or months away, you know why I plead to the Members, I plead to them, not to put this straitjacket on the Navy. Do not force the Navy to break its promises to reunite families when it is possible to do so. You might save a few lousy dollars on the actual repair bill that way, but you will lose many, many more dollars than that in extra personnel costs because you have stupidly driven men out of the Navy and must go to great public expense to recruit and train replacements. That is no bargain, believe me.

Let the Navy handle its funds as best it can, as it says it will, and it will spend them in the interest of the U.S. Government and in the interest of those men and women who have gone into the Navy. You will spend a lot less tax dollars in the end.

By golly, we have got to support and keep up the morale of these men and women, or else how are we going to defend this Nation?

I plead with the Members to keep faith with these men and women of America who have dedicated their lives to this purpose, the sailors of the American Navy and their wives and children. I plead for them.

And, Mr. Chairman of the Committee on Appropriations, I plead to you to reject these selfish private shipyard interests. Already they are getting by this allocation 41.6 percent of all the money that is in this bill for shipwork. That is more than they have ever gotten in their lives. They are getting almost one-third of the repairs and alterations money, and 66 percent of the conversion money.

My God, what do these people want? They are getting too much as it is. They want more, and they want it merely to line their own pocketbooks, they want it at the expense of the Navy's people and I urge you to firmly reject that selfish grab by supporting the Wyman amendment.

Mr. DAVIS of Wisconsin. Mr. Chairman, I rise in opposition to the amendment. This problem has been with us for more than a decade, and in some previous years figures were set which required a larger percentage to be done in the private shipyards on alteration, overhaul, and repair than had been contemplated or had been testified to by the Navy. So we have seen in the years prior to the one, prior to 1973 fiscal year, a constant decline in the amount of this work that was being done in the private yards.

There are two reasons for our committee's concern: No. 1, the record is clear that the work can be done more cheaply in the private yards; and No. 2, as is specifically set forth in the report of the Committee on Armed Services in their procurement bill this year, there is a need, it is the policy of our country to maintain an industrial base so that work can be done in other than in-house establishments for many of the major procurement items of the Department of Defense.

The suggestion was made here that we

are working on outdated information. As a matter of fact, the Navy was requested to put the figures into the hearings on July 26 of this year, and they were provided to the committee for insertion sometime after that date. It is also true that this work is planned months and months in advance. The Navy can tell you its schedule of alteration, overhaul, and repair a long period of time in advance, so this matter of a week or a few weeks between sometime in August until today is not going to change these figures. What we have done simply is to take the Navy's own figures and say to them: In the light of history, just do what you said you were going to do.

Why is it necessary to put it into law? It is necessary because from 1968 to 1972 inclusive, the Navy came up and gave us some figures as to how much they planned to put in the private yards every year. This was not a variation, I submit to the gentleman from California; it was a constant fixed pattern of doing less work in the private yards than they told this committee that they were going to do. That is not variation; that is a fixed underload to the private shipyards of this country.

Much was made about the amount that is going for conversion and, of course, the figures the gentleman from California used included conversion, which is not at all relevant to this provision in the bill. The fact is that this conversion of which they speak is being done in three big shipyards in this country. I speak today in behalf of the middle-sized and smaller shipyards regarding that diversion of capacity throughout the country which we need to have in order to provide the industrial base that is required.

I simply submit that when we are told something in this Committee about something that is going to be done, it ought not be considered as disrupting the whole Navy to simply say by law: Just do what you said you were going to. I think it is necessary to put it into the law on the basis of the history of the last 5 fiscal years when they told us one thing and did another thing.

I submit, Mr. Chairman, therefore, that this is reasonable. It does not tell the Navy to do one single thing other than to do what they told us that they were going to do. I think this is saving money for the taxpayers, and it is providing an essential base for alteration, overhaul, and repair of the Navy ships in this country.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. LEGGETT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HICKS. Mr. Chairman, I rise in support of the amendment.

I wonder if I might have the attention of the gentleman from Wisconsin. Does the gentleman support the idea of public yards at all?

Mr. DAVIS of Wisconsin. I certainly do or I would not have approved allowing 70.3 percent of the work being done in these public yards.

Mr. HICKS. But in the course of the gentleman's argument he pointed out it is cheaper to do the work in the private yard.

Mr. DAVIS of Wisconsin. That is the experience.

Mr. HICKS. Does the gentleman agree if this bill as we have it written now with the dollar limitation is passed, or if it remains in the bill, that there will be decrease in employment in the public yards? And, if that occurs the public yards will be even less cost effective.

Mr. DAVIS of Wisconsin. Not a decrease in employment from what the Navy said they were going to do. This simply firms up what the Navy told us they were going to do.

Mr. HICKS. Does the gentleman disagree with what the gentleman from California (Mr. HOSMER) said as to the fact that the Navy will have to put more of its allocation in private yards and less work in public yards than they planned on because of the rise in costs?

Mr. DAVIS of Wisconsin. No, I certainly do not agree with that statement.

Mr. HICKS. That there will have to to be less work in public yards than had been planned?

Mr. DAVIS of Wisconsin. The General Accounting Office shows that for several years now they have been doing less work in all of their yards in this area because of some of the rising costs and they have had to cut down the number of ships. That is in the General Accounting Office report.

Mr. HICKS. Can the gentleman tell me why the Navy has always opposed this type of provision even when there was a 65–35 provision in the law. And why the Appropriations Committee insists on putting this limitation in its bill. The Armed Services Committee provided for and the House accepted knocking out the 35–65 provision some years ago but the gentleman insists on coming back and putting it in one way or the other. This is another way of putting it in. Why is it?

Mr. DAVIS of Wisconsin. This is different. In those days it was an effort to increase the shares that went to the private yards. I was not here in those years when those provisions were put in.

Mr. HICKS. We have had two public shipyards closed already. How many more public yards does the gentleman want knocked out?

Mr. DAVIS of Wisconsin. This will not knock out one public yard. The figures I gave are revised figures based on the closing of those yards.

Mr. HICKS. So we have 100 percent of new construction in private yards. The public yards used to get some conversions, and now they get almost none. How we are niggling away at the little bit of overhaul and repair and alteration work. We have $3.5 billion new construction in this bill and the private yards are going to get all of that, and the gentleman now wants a goodly portion of the repair and alteration. All the public yards are asking is are we going to keep them going or are we going to bleed them to death?

Mr. DAVIS of Wisconsin. I thought the gentleman was asking me a question.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Mr. Chairman, I would like to make an observation. The gentleman from Wisconsin persists in the course of this debate in saying that the Navy wants 29-and-some percent done in this category in the private yards. I have tried to tell the gentleman and this House that I am here at the Navy's request to say that the Navy does not want this figure at this time in the private yards and asks the House not to put it in the straitjacket at this time. I do not think it is wise to impose this kind of straitjacket on the Navy.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I commend the gentleman for his fine persuasive argument and I would like to point out that the Acting Secretary of the Navy has, himself, calculated what changes are going to occur in the public yards. He says the limitation will cause the reassignment of $42.4 million of Navy work to private shipyards this year and will cause the following reductions in personnel levels under the current schedule. We are now 5 months into the 12 months of the fiscal year, about halfway down the line in imposing this kind of limitation. It will have this effect:

In Portsmouth, 400 people will be laid off; in Philadelphia, 900 people will be laid off; in Norfolk, 550; in Charleston, 700; in Puget Sound, 350; and at Long Beach, 550 will be laid off; which will make a total of 3,450 families whose breadwinner is going to be out of work if this thing goes through, plus tens of thousands of Navy families who are going to have a morale problem.

Mr. DAVIS of South Carolina. Mr. Chairman, I rise in support of the amendment. I would like to associate myself with the remarks of Mr. HICKS.

The limitation on funding as indicated by the 70/30 amendment to the appropriations for Naval and private shipyards undermines the effective management of such specialized alteration and repair work. In this time of great demand for such specialized and time-consuming work, the necessity to maintain a flexible posture as to scheduling and its subsequent employment levels is of the utmost importance to the entire Naval system. As we are all very much aware, our capability in such technical operations is very closely competing with highly capable fleets worldwide. The necessity to uphold such high standards is inherently dependent upon the efficient management of our shipyards.

Furthermore, we all recognize the necessity to maintain private industry's capacity and technology as a matter of national security which has developed the capacity to react to any emergency. However, highly inflexible funding governing our shipyards would negate the capability to effectively utilize our technology in not only Naval but also private shipyards.

The ramifications of such strict funding on our technological capability would be severely damaging. Millions of dollars every year are earmarked for long-range planning of overhaul and alteration schedules. Any enactment of funding limitations would cause great changes in the important fleet operational schedules. Delays would naturally be encountered by the total revision of the advance planning to accommodate the restrictive 70/30 formula. Furthermore, lengthy contract negotiations with private shipyards would also create an obstacle to any efficient scheduling of assignments. Coupled with these delays, a specified number of ships would have to finally be reassigned and overhauled out of homeport which is a measure of the utmost ineffectiveness which along with the unnecessary nature of such a delay would also adversely effect the employment level.

Employment in shipyards is characterized by its natural tendency for an uneven flow of highly specialized work. The impact of a fixed overhead would do very little to improve this inherent and reoccurring problem. The competitive market, in fact, requires that, despite such problems, there is adequate manpower to achieve any high degree of productivity. Hiring-firing cycles undermine any industry's capability in this regard as well as gravely affect the morale of the workmen. It is our responsibility to insure that the U.S. employ responsive and well trained individuals to continually work for the best technologically equipped Navy possible.

The enactment of such a 70/30 split with its fixed manpower requirement would negate any such goal.

Thus, the impact of the 70/30 split on the eight Naval shipyards and numerous private yards would be crippling. All the advantages inherent in the process of advance planning of schedules of overhaul work will be lost. The utilization of such long-range planning with any funding limitation would be virtually impossible. This is evident when one considers the necessity to provide a flexible enough schedule taking into account employment flow, any necessary changes in the repair and alteration assignments, as well as the all important effect of inflation on the system as a whole.

Our shipyards are all important in any effort to maintain a highly effective Navy. Any limitation which would impair the shipyards' capacity to adjust to the demands of the worldwide competition to achieve the maximum technological ability of the Naval system, would have a very damaging effect on the U.S. military base as a whole. We must continue to maintain the advantages of advance planning which allows for the most effective employment flow and overhaul assignments and reject any 70/30 provisions which would cripple any such effort and, in effect, produce total inefficiency with its obvious manifest restrictions.

I urge adoption of the amendment.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, had come to no resolution thereon.

FOXES IN THE CHICKEN COOP

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, I am shocked to learn today that the administration expects to recruit some 250 people out of the oil executive reserve to assume super roles in the energy crisis.

How can we presume that these are the "wise men" of America when the record clearly shows that over the past two decades, they urged and imposed on the American people and the Congress policies in taxation and oil import restraint which were geared to use up ready supplies of oil in America in the shortest possible period of time.

They have advocated and devised tax policies which glorified the exploiters with every possible kind of tax advantage. At the same time, through the oil import control policy, they insulated the American domestic market from what would have been a provident utilization of imported oils when they were abundant and cheap.

For the great part, it was the improvident and wasteful policies of the oil executives that very quickly led to the depletion of American supplies in order to provide them with quick and expedient profits. Many of the present policy problems of our Government stem from the distribution of oil industry "talent" through every layer and structure of the Federal bureaucracy.

The solutions to the American energy crisis include further oil recovery, but extend to alternative forms of energy beyond the realm and narrow provinciality of oil men.

Our advisers on energy should be recruited from Americans of a more demonstrated sense of dedication to the whole public interest.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from West Virginia.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. HECHLER of West Virginia. Mr. Speaker, I thoroughly concur in the statement just made by the gentleman from Ohio. I shall include an editorial from the Charleston, W. Va., Gazette, of November 28, 1973 on the same subject:

NIXON'S ENERGY CRISIS TEAM MUST BE BLOCKED

President Nixon's plan to draft 250 oil industry executives to help run his emergency energy programs, an Associated Press story reports, is running afoul of antitrust and conflict-of-interest laws.

One passionately trusts that's true.

Placing oil officials in command of the present fuel shortage is tantamount to putting those responsible for scuttling the ship in charge of the salvage operation.

The oil industry's devotion to self-interest cuts across geographical and ideological boundaries. So long as the industry prospers, the kind or character of government representing a given society could concern the industry less.

There's the example of the head of Ashland Oil Co. and his illegal $100,000 company contribution (since returned) to President Nixon's re-election campaign. What happened to this official, who, incidentally, is a lawyer, an officer of the court, and therefore aware, presumably, of actions deemed criminal? Nothing has happened to him. He retains his position of power, and apparently his principal crime was to have been caught dipping into the corporate till and juggling the corporate books by way of a Swiss subsidiary.

Oil tycoons don't ask what they can do for their country. Rather they hire stables of tax accountants and lawyers to advise them how they and their enterprises can escape paying taxes. Despite huge profits, some of the world's largest, richest companies manage their affairs in such a manner as to avoid payment of a single dollar of U.S. income tax.

The president of Mobil Oil Co. recently demonstrated how he intended to suffer through the energy crisis. On his Sands Point, Long Island, estate he secured permission from the county fire marshal to build a 4,000-gallon fuel oil tank and a 1,000-gallon gasoline tank. A nosy newsman learned of the scheme, and that fortuitous circumstance caused Mobil's head to abandon his happy project to drive while the rest of us walked and to heat his house while everybody else cut thermostats to the requested 68 degrees.

Then, too, we all know what the oil industry was up to last spring. In the United States a massive advertising campaign was embarked upon to make American consumers feel guilty about the paucity of gas supplies. Abroad, however, America's five biggest oil companies—Exxon, Mobil, Texaco, Gulf, and Standard of California—were selling nearly two barrels of oil to each barrel sold here.

Oilmen equate patriotism with profit. For them un-Americanism in the pursuit of profit is perfectly acceptable.

To put these pirates of privilege and plunderers of the national treasury in charge of anything associated with the public weal would be folly of a very high order.

PERSONAL ANNOUNCEMENT

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I have today introduced legislation to permit a full tax writeoff of the cost of fares paid by persons who use mass transit systems to travel to and from their places of employment.

My bill would be an important tool not only in easing the current petroleum shortage, but the long-term urban problems of traffic congestion and air pollution by encouraging the public to again acquire the habit of using available mass transit.

It is my judgment that we should use incentives, not Government coercion, as a way to enlist citizen cooperation to achieve any desired goal in a free society. This is the fundamental idea in my proposing a "Commuter Tax Credit Act" as an incentive. By providing a tax deduction, which could amount to several hundreds of dollars yearly for each working member of a household, my bill will obviously stimulate many Americans to adjust their daily transportation habits.

Mr. Speaker, as many Members are aware the House Transportation Appropriations Subcommittee has shown that some 81 percent of all Americans drive private cars to work, with only a small percentage of the remaining workers making use of mass transit.

In Chicago, statistics indicate that 62 percent of employed persons use private transportation in going to and from their places of employment. It is my strong belief that this proposal would assure that Federal funds for mass transit are a wise investment.

As many people return to using mass transit through the stimulation provided by the bill I have introduced, revenues to existing public and private transportation companies will increase substantially and the need for fare increases and subsidies will correspondingly diminish.

Naturally, Mr. Speaker, my proposal is in large part motivated by the fact that I represent a district in the Chicago metropolitan area. The Chicago area is still the railroad hub of the Nation. Commuters are served by not only the Chicago Transit Authority, but by numerous suburban railroad commuter lines. For example, in my district alone the Illinois Central Gulf, Rock Island, Norfolk & Western, Burlington & Northern, and the Chicago Northwestern Railroads, as well as three suburban bus lines, serve commuters. All would profit from the practical benefits of the proposal which I advocate.

Mr. Speaker, in addition, I would like to take a moment to make a necessary rebuttal to the remarks just made by the distinguished Member from Ohio (Mr. Vanik). While I respect his determination and ability, I must disagree with the charge he has just leveled against the administration and major American oil companies as to the basic causes of the present oil shortage.

Had the Congress not acted in a manner as to greatly reduce the tax incentives for exploration of oil and gas and the construction in the United States of oil refineries, our present problems would be much less severe.

Free enterprise is what has made our country great and emotional attacks against big business may please doctrinaire socialists, but they do not truly address themselves to the short- and long-term steps we must take to achieve energy self-sufficiency. If the expertise of American businessmen, conversant with oil and other energy sources, could be effectively used by the administration, this would be preferable to turning the Government bureaucracy loose to further complicate the present difficult situation.

PROPOSED SPECIAL PROSECUTOR

(Mr. DENNIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DENNIS. Mr. Speaker, a few days ago I introduced, with cosponsors, H.R. 11555, a bill on the subject of a special prosecuting attorney. This bill avoids the constitutional and practical difficulty encountered if the appointment of a prosecutor is placed in the judicial branch, and at the same time gives the special prosecuting attorney statutory protection against arbitrary discharge or dismissal.

When the special prosecutor bill is before the House, which will probably be next week, I will offer the text of H.R. 11555 as an amendment in the nature of a substitute, and I insert it in the Record at this point for the attention of my colleagues.

The material referred to follows:

H.R. 11555

A bill to define the powers and duties and to place restrictions upon the grounds for removal of the Special Prosecutor appointed by the Acting Attorney General of the United States on November 5, 1973, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Special Prosecutor heretofore appointed by the Acting Attorney General of the United States on the 5th day of November 1973, as successor to the former Special Prosecutor who assumed office on May 24, 1973, shall be and is hereby made subject to removal only by the Attorney General (or, if there be none, by the Acting Attorney General) for gross impropriety, gross misconduct, gross dereliction of duty, or for physical inability to discharge the powers and duties of his office, but for no other cause, or by the Congress pursuant to article II, section 4, of the Constitution. The Attorney General shall give thirty days' notice in writing to the Congress of his intention to remove the Special Prosecutor, setting forth in detail the reasons for such removal. Upon the giving of such notice the Attorney General may suspend the Special Prosecutor and his removal shall be effective thirty days thereafter.

Sec. 2. Anything in the statutes touching the powers and authority of the Attorney General to the contrary notwithstanding, said Special Prosecutor shall be, and he hereby is, charged with the duty and clothed with the full and complete authority to investigate, to prepare, to conduct, and to prosecute any criminal offense arising out of or connected with the unauthorized entry into Democratic National Committee headquarters at the Watergate in 1972, arising out of or connected with the Presidential election of 1972, allegations of offenses involving the President, members of the White House staff, or Presidential appointees, except allegations of offenses the Special Prosecutor waives to the jurisdiction of the Department of Justice by letter to the Attorney General setting forth his reasons for such waiver, any and all other matters heretofore referred—pursuant to regulations of the Attorney General—to the former Special Prosecutor who assumed office on May 24, 1973, and such new matters which the Special Prosecutor consents to have assigned to him by the Attorney General of the United States.

Sec. 3. Said Special Prosecutor shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and he may appoint and fix the salaries (at not to exceed the rate of $36,000 per annum) of such staff and may employ such part-time experts and consultants (at rates not to exceed the per diem equivalent of the rate for GS-18 of the General Schedule established by section 5332 of title 5, United States Code) as he deems necessary to assist him in performing his duties under this Act.

Sec. 4. Upon request of the Special Prosecutor the head of any Federal department or agency shall—

(1) detail, on a reimbursable basis, any of the personnel of such agency; and

(2) provide any relevant information or materials to the Special Prosecutor to assist him in carrying out his duties under this Act.

Such assistance by the Department of Justice shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction, and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation.

Sec. 5. All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties enumerated in section 2 hereof, tangible or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation by the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be delivered into the possession of the Special Prosecutor appointed under this Act.

Sec. 6. The Special Prosecutor shall hold office for a period of three years from and after his appointment and shall carry out his duties hereunder within that three-year period except as may be necessary to complete trial or appellate action in indictments then pending.

Sec. 7. The Special Prosecutor shall have and he is hereby given full authority to undertake any action he deems necessary and proper for the performance of his duties under this Act, including—

(1) issuing instructions to the Federal Bureau of Investigation and other domestic investigative agencies of the United States for the collection and delivery solely to the Office of Special Prosecutor of information and evidence bearing on matters within the jurisdiction of the Special Prosecutor, and for safeguarding the integrity and inviolability of all files, records, documents, physical evidence, and other materials obtained or prepared by the Special Prosecutor;

(2) conducting proceedings before grand juries;

(3) framing and signing indictments;

(4) signing and filing informations;

(5) contesting the assertion of executive privilege or any other testimonial or evidentiary privilege;

(6) conducting and arguing appeals in the United States Supreme Court, notwithstanding the provisions of section 518 of title 28, United States Code;

(7) instituting, defending, and conducting civil and criminal litigation in any court; and

(8) exclusively performing the functions conferred upon the Attorney General of the United States under part V of title 18, United States Code (relating to immunity of witnesses), with respect to any matter within his exclusive jurisdicion.

Sec. 8. In the event the Special Prosecutor shall resign or be removed from office pursuant to the provisions of this Act before having completed the performance of his duties under this Act, the Attorney General of the United States shall promptly appoint, subject to the advice and consent of the Senate, a new Special Prosecutor of the highest character and integrity to fulfill those duties, who shall serve subject to the provisions of this Act.

Sec. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

"SHAME OF ILLITERACY," AN EDITORIAL ON AN ADDRESS BY RENE MAHEU OF UNESCO

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, as one of the two U.S. members of the International Consultative Liaison Committee for Literacy to UNESCO, I read with considerable interest an editorial in the October 8, 1973, issue of the LaPorte, Ind., Herald-Argus, in my own congressional district, praising a recent survey by UNESCO concerning the problem of illiteracy.

The editorial notes the comment of the distinguished Director General of UNESCO, Rene Maheu, concerning the "sin and shame" of illiteracy in a speech in New Delhi.

Because of the vote that is scheduled next week in the House of Representatives on the confirmation of the Honorable GERALD R. FORD, of Michigan, as Vice President of the United States and because of other legislative business before the House, I shall not be able to participate in the meeting of the International Consultative Liaison Committee for Literacy to be held in Teheran, Iran, from December 6–9, 1973.

I am confident that this meeting will mark a significant opportunity for persons concerned with the problem of illiteracy from various countries to discuss new strategies for concerted action.

I ask unanimous consent to insert at this point in the RECORD the text of the editorial to which I have referred.

The editorial follows:

SHAME OF ILLITERACY

UNESCO (United Nations Educational, Scientific and Cultural Organization) supplies some alarming figures on the worldwide educational challenge. In this country we move merrily onward confident that as we pay our school tax bill, illiteracy will become a thing of the past in no time.

Tht is not true, even in the United States, and on the world scene, illiteracy remains a major problem.

UNESCO reports from a recent survey. One out of every three of the world's population above the age of 15 can neither read nor write.

Rene Maheu, UNESCO's director-general, referred to the "sin and shame" of illiteracy in a speech at New Delhi.

The 20-year span from 1950–70 resulted in some reduction in the percentage of illiteracy. It dropped from 44 to 34 per cent, but that tells only half of the story.

The world's population increased 50 per cent in two decades. As a result, the number of illiterate people increased from 700 million to over 780 million in two decades.

There are extremely complex problems involved in tackling the massive illiteracy problem on its many fronts. Mr. Maheu explains that in several of the ex-colonies of Africa overcoming illiteracy is complicated by the existence of numerous tribal dialects.

There are tribal languages that have never been transcribed in written form. Often the only viable solution has been to adopt the official language of the former colonial government.

School systems are often still geared to the needs of colonial days. Governments should be encouraged to restructure the school systems in developing nations and adapt education to current requirements.

UNESCO suggests that primary education should be made universal and compulsory, but just how to achieve this has not been worked out in measurable detail.

Neither will that considerable undertaking solve the extensive illiteracy problem among adults of the world.

The United Nations is the right agency to head in this great project but its resources are somewhat limited. Other international organizations, private educational foundations and even the efforts of individuals will be required to add vitally needed support.

Latin American nations have already been utilizing several of these agencies, and the percentage of illiterates in those countries has dropped slightly over the past decade.

The UNESCO director-general is determined to carry the message to all parts of the world. That is why he is on the road discussing education, particularly in the developing regions.

Messr. Maheu's mission must not be allowed to fail.

TRIBUTE TO THE GENTLEMAN FROM WASHINGTON, THOMAS M. PELLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. PRITCHARD) is recognized for 30 minutes.

Mr. PRITCHARD. Mr. Speaker, I was profoundly saddened when the telephone call came on Thanksgiving Day notifying me of the sudden passing of former Congressman Tom Pelly. Tom's untimely death brings a special loss to the people of the First District of Washington, to this House, and to me personally.

During his two decades of untiring service in the House, Tom Pelly compiled an impressive record. He took his duties seriously and always worked with the best interests of the First District uppermost in his mind. Tom loved this House deeply, and was totally devoted to it. He was a gentleman in every sense of the word. And his integrity was unimpeachable. At a time when people are talking about the honesty of public officials, Tom's record stands beyond reproach. We shall be eternally grateful for the example he set.

When Tom stepped down at the end of the 92d Congress, he said he was planning an "active retirement." He richly deserved it. Tom had quite a talent, unknown to many, as a writer. A book he was compiling on his years of public service is among the unfinished business he left. That is an unfortunate loss, because it would have added greatly to our understanding of this man and his long record of achievement.

Though Tom's retirement was cut short, we can find some consolation in the fact that he had been able to return to the Northwest for nearly a year and reexperience the pleasures of living in our Puget Sound area. His death occurred while he was enjoying a relaxing vacation with his wife, Mary, in California. He had been visiting his close friend and former colleague CHUCK TEAGUE, and doing what he delighted in—playing golf.

Tom had two long and distinctly different careers in his lifetime. Before his election to Congress in 1952, he was a highly successful businessman for many years in Seattle.

His roots in our city are deep, with his mother's father, Dr. T. T. Minor, being Mayor of Seattle in 1886. But Tom's life story does not read like one of the usual American politician. His father, Bernard Pelly, was British Consul in Seattle from 1900 to 1932. Tom, who was born in Seattle, held citizenship in both England and the United States until adulthood. Unlike most of us here who have taken our citizenship for granted through the years, Tom chose America as his country at age 21. One of his brothers elected otherwise, and worked for the British foreign office for many years before retiring recently.

Tom graduated from the University School in Victoria, British Columbia, in 1917 at age 15. From there, everything he has achieved has come with hard work. He took a job putting up signs for a Seattle firm and then joined Seattle National Bank as a messenger, all the while studying banking and law at night by correspondence courses. He worked up to assistant trust officer by 1930, but resigned to become vice president of Lowman and Hanford Co., a printing firm. After 5 years he was named president and general manager, a position he kept until he became a Congressman.

It was during his years with Lowman and Hanford that Tom Pelly and the Pritchard family came into contact. My father was also a longtime Seattle resident in the printing business, and the two men had many associations together.

During those days in Seattle, civic activity was Tom Pelly's lifeblood. He was director of the United Good Neighbors, on the board of the Seattle Art Museum, and president of the Seattle Symphony Orchestra—an interest particularly close to his heart.

In World War II he was president of the Seattle Service Men's Club, which provided food, beds and recreation for servicemen throughout the war.

Tom was elected president of the Seattle Chamber of Commerce in 1949, and fought the Air Force program to move the Boeing Co. from Seattle because of the so-called vulnerability to coastal attack. As chamber president, he helped organize the first trade conference held in Japan after World War II.

For this extraordinary record of community leadership, Tom Pelly was given the coveted Real Estate Board's "First Citizen of Seattle" award in 1950.

Tom first tried his hand at politics in 1932, when he ran for State Senator from Kitsap County. But it was Roosevelt's year, and Democratic winds prevailed.

Twenty years later, Eisenhower was on the Republican ticket. And when a group of civic and business leaders urged him to run for Congress, the time seemed right for Tom to embark on his second career.

Tom always liked to tell the story about the first time he was invited to the White House after his election to Congress. Ike came up and shook his hand and said:

> Well, Congressman, I see you part your hair the same way I do.

Tom's shiny top was one of his trademarks.

Another of his early trips to the White House was extremely fruitful for the city of Seattle. Tom went to Sherman Adams to try to pry loose funds for a badly-needed breakwater and small boat harbor in Ballard to relieve congestion in the Government Locks. He got the help of Russell Train, who at that time was minority counsel of the House Public Works Committee. They drafted legislation and were successful in getting the necessary funding for the marina, a project that had been "in the works" for nearly 30 years.

Tom always considered the Shilshole Breakwater as one of his major achievements, and we will all remember that as his great legacy to the first district. It was also the beginning of his vigorous congressional involvement in the concerns of the Port of Seattle and his support for the waterfront economy.

Tom Pelly served with distinction on the Merchant Marine and Fisheries Committee, becoming ranking minority member in January 1971. He was, of course, for many years the senior member of the Fisheries and Wildife Conservation Subcommittee where he devoted a substantial part of his legislative efforts.

Tom was an environmentalist long before that term came into use. This concern over vanishing wildlife spearheaded the drive for enactment of the first Endangered Species Act and subsequent legislation to broaden and strengthen the Federal effort to preserve species threatened with extinction. He was in the forefront of the congressional push to expand and fully fund the National Wildlife Refuge System, recognizing years ago that urbanization would inevitably shrink available wetland areas to the point of endangering the survival of our migratory waterfowl resources.

Tom was one of the architects of the National Environmental Policy Act of 1969, the most far-reaching legislation ever enacted in terms of reorienting the Federal Government toward environmental quality. This act will stand as a profound memorial to his advocacy of sound conservation of our resources. He was one of our strongest guardians of our great natural resource heritage. I am sure the spectacular beauty of our State encouraged his energetic efforts.

Representing as he did so ably the maritime and fishing interests of Seattle, Tom naturally took a keen interest in the well-being of the American merchant marine and our fishermen. He took great pride in his authorship of the Fishermen's Protection Act and his leadership in bringing the Merchant Marine Act of 1970 to reality. He worked hard to insure the future security of our country on the seas.

Tom's determined efforts have contributed to our progress toward the species approach to fisheries management. His successes include a bill which forces reduction in foreign aid to nations which seize and fine American fishing boats.

Tom Pelly, was, indeed, a champion of conservation, of the sailor, of the fisherman. In addition, he served Northwest concerns as a member of the House Committee on Science and Astronautics. He was also instrumental in helping Seattle get appropriations for the 1962 Seattle World's Fair.

Tom gained notoriety as the head of an unofficial group in the House dedicated to stopping "backdoor spending", spending outside the regular appropriation process. He fought hard to restore the integrity of the Federal budget.

Though generally conservative in his philosophy, Tom was by no means tied to conservative positions. His tireless work for the District and his custom of voting his convictions on each individual piece of legislation earned him the respect of people in all segments of the political spectrum. In 1966, he became the first Republican ever officially endorsed for Congress by the King County Central Labor Council.

A Seattle newspaper recalled this week how he was one of the area's most powerful vote-getters. When asked how the campaign against Tom was going a few years ago, the Democratic challenger replied:

> It's going well. After all, Pelly hasn't figured out how to make these elections unanimous just yet.

Tom truly loved service in the House of Representatives, and repeatedly turned down offers to run for other offices. He was a 7-day Congressman, never failing to come into the office on Saturdays and Sundays from his Georgetown townhouse. That was the home for many years of Tom and his lovely wife, Mary, a charming and gracious lady.

Tom served us ably for 20 years in the Halls of Congress, and was dean of our delegation when he retired last year. In fact, he served in the House longer than any other Representative from the State of Washington. I was very proud to succeed him as the Representative from the first district and as a member of the Merchant Marine and Fisheries Committee.

Last year, Members of this House paid tribute to him on his retirement. Deeply moved, he rose on the floor of the House and said:

> As long as I live I will not forget these dear friends, and I will remain gratified for this association and for the many friends, including the staff members who have made my service so memorable.

His friends will not forget Tom Pelly. We will remember his quiet, Mark Twain-like humor. We will remember his gentle dignity. We will remember his impeccable honesty and integrity. We can all honor his memory by upholding the high standards that characterized his service to his country and to this great body he loved so deeply.

My wife, Joan, joins me in extending our sympathy to Mrs. Pelly, to their two children, and to the 10 Pelly grandchildren. We share their sorrow.

Mr. Speaker, as part of my remarks I would like to include two newspaper articles about Tom Pelly by Seattle Post-Intelligencer reporter Wayne Jacobi and Seattle Times writer Dick Larsen. These are sensitive accounts of his life and accomplishments by men who knew and admired him.

Businessman Pelly Became Labor's Pal

(By Wayne Jacobi)

Congressman Tom Pelly was a political rarity, at least in Washington State—a successful businessman, former Seattle Chamber of Commerce president and slightly right-of-center Republican who won the respect and broad support of organized labor.

When Pelly, still naive in the ways of politics, was elected to Congress in the Eisenhower sweep of 1952 the state's 1st District included all of King and Kitsap counties.

Not only was it the largest district, by population, but in those early "cold war" days it harbored most of the state's key defense industries—Boeing, the shipyards, Pier 91 Naval Supply Depot, Sand Point Naval Air Station and Ft. Lawton in Seattle, and the Puget Sound Naval Shipyard, Keyport Torpedo Station and the Bangor Ammunition Depot in Kitsap County.

Representing those diverse and often conflicting interests called for adroitness if Pelly was to survive politically. It also brought him into almost daily contact with every major business, military and labor leader in the Puget Sound area.

By the time Pelly was facing his first test for re-election in 1954—against former U.S. Sen. Hugh B. Mitchell, the only formidable Democrat to challenge him in 20 years—the first-term congressman was as much at home in labor temples as he was in the Rainier Club.

Starting with a "Nonpartisan Labor Committee for Pelly" in that election, Pelly went on winning rank-and-file labor support until in 1966 he became the first Republican ever officially endorsed for Congress by the King County Central Labor Council.

Two of Pelly's earliest concerns were the deterioration of America's merchant marine and the worsening plight of American fishermen, beset by foreign competition.

He asked for and was granted assignment to the House Merchant Marine and Fisheries Committee and, at the time of his retirement, was the ranking Republican committeeman.

Pelly was one of the city's leading businessmen before turning to politics. He was president of Lowman & Hanford, a director of Seattle Trust & Savings Bank and the Northern Life Insurance Co.

Besides serving two terms as chamber president, he had been president of the International Trade Fair Inc. and was named "Seattle First Citizen" by the Seattle Real Estate Board.

Nevertheless, Pelly took a firm stand against Initiative 198, the first "right-to-work" measure on the state ballot in 1956, and Initiative 202 when the issue was revived in 1958.

He supported the Kennedy-Ervin labor-management reform bill in 1959 although he criticized amendments which he thought weakened the measure.

He repeatedly introduced and worked for legislation to improve merchant marine working conditions, to ban foreign fish imports which were devastating American markets, and develop homeport elements of the U.S. Navy in the Puget Sound area.

Although he opposed the 12-mile territorial sea proposed by the 1962 Geneva Law of the Sea Conference, he strongly supported a 12-mile fishing reserve or, preferably, a continental shelf fishery agreement.

Again and again, Pelly scored the U.S. State Department for trading off fishery positions in favor of defense or commerce concessions from other fishing nations.

And he and Sen. Magnuson were in the forefront of the battle to get this country to impose sanctions on South American nations who impounded U.S. fishing vessels for 'violating" their claimed 200-mile limit.

He supported the development of nuclear merchant ships and the supersonic transport program but called the first moonshot a "spectacular piece of nonsense."—a position he modified only slightly when he later became a member of the House Committee on Science and Astronuatics.

Pelly fought a constant war against "backdoor spending" in the federal establishment and pushed hard for both spending and tax cuts at the federal level.

He was not a grandstander, realizing that as a Republican in the minority he often could accomplish more by encouraging majority members to sponsor legislation which he could support than by introducing it himself.

He was affable and openhearted, gentlemanly almost to the point of being courtly, but—as anybody who ever ran against him politically or played golf with him knows—he was a fierce competitor.

Poised, Aristocratic, Pelly Looked Like Lawmaker He Was

(By Richard W. Larsen)

When the bells rang to indicate a roll-call vote was occurring on the floor of the United States House of Representatives, the congressmen trooped briskly through the ornate Speaker's lobby toward their brown leather chairs in the chamber.

As they streamed by, Tom Pelly stood out. He looked like a congressman.

His bald head and aristocratic profile seemed poised above the crowd, because he was more than 6 feet 2 inches tall. His gait was rather slow, almost bearlike. But there always was a warmth in his expression. His face reminded many of Charles deGaulle.

During a 20-year career, Pelly was a familiar figure not only in Congress, but in the politics of Washington State. He began as the rawest kind of political amateur but, by the time he retired from Congress late last year, Pelly had become a memorable man in the remarkable collection of Washington State political figures—a Republican admired by conservatives, but who always won with Democratic votes, a businessman who enjoyed the backing of labor.

Looking for a congressional candidate in 1952, local Republicans turned to Pelly, a successful businessman who had been a Chamber of Commerce leader, a cut-government-spending man with a background as executive of a stationery firm and in banking and insurance.

His first downtown campaign office happened to be near a shop which sold hairpieces. One day the merchant tried to persuade Pelly to buy a toupee, because, Pelly recalled later, that would give him more political allure.

"It just looked ridiculous," Pelly recalled. He stayed with his natural, shiny top, which became a Pelly trademark.

Through his years in Congress, Pelly was known for his battle against "backdoor spending." Constantly he criticized the growing national budget and, as he saw it, the lack of tough congressional checks on federal agencies' spending.

For those and other conservative philosophies, Pelly had the steady support of conservatives in his district. Yet, to the frustration of Democratic leaders, Pelly also carefully wooed and kept the support of many working people, too.

Pelly cared about and worked for the fisheries and merchant-marine issues which meant waterfront jobs for Seattle.

During the mid-1960s, while he was opposing a great number of the Democrats' social programs, Pelly voted with labor—and against the passionate desires of big business—on a controversial repeal of one section of the Taft-Hartley bill. Labor leaders never forgot Pelly's support on that one.

A steady frustration persisted through Pelly's long career in Congress: Although he rose in seniority, becoming the ranking Republican on the House Merchant Marine and Fisheries Committee, he never held a committee or subcommittee chairmanship because Democrats ruled the House.

That deprived Pelly of the chance to boom out a lot of political home runs. But, even as a minority Republican, he got his base hits.

For example, he managed to push a bill through the House which would force reductions in foreign aid going to countries which were seizing and fining American fishing vessels.

Pelly's attention to business, labor, the concerns of fishermen and the well-being of the Seattle waterfront paid dividends at critical times. In 1964 a Democratic landslide ended the political careers of many Republicans, including such state G.O.P. representatives as Walt Horan, Thor Tollefson and Bill Stinson. But Pelly survived with ease.

Although they differed, usually, on broad philosophical issues, Pelly developed an amiable working relationship with Senators Warren G. Magnuson and Henry M. Jackson and Democrats in the state's House delegation.

In fact, that set up for Pelly one of the most exciting phases of his career—the SST battle. Jackson and Magnuson were "working the Senate" for votes on that Boeing project, while Pelly teamed with Brock Adams and other Washington representatives to woo votes in the House.

"I've never seen Tom more turned on," said one of the Democrats later. Even though the SST eventually was lost, Pelly had used his popularity to persuade and had arm-twisted a bit, too, to deliver some critical votes from Republican colleagues who, otherwise, would have voted "no."

A few political storm clouds began to loom over Pelly in 1970, not for anything he'd done or failed to do. It was mostly a matter of age and style.

Pelly intensely disliked flying. So, while other congressmen jetted home, Pelly trips back to the state were by train. One critic mocked him as "a Pullman congressman in the jet age."

But, challenged hard by Joe Pritchard in the 1970 primary election, Pelly, then 69, campaigned briskly, showing remarkable physical endurance. He edged Pritchard that year. But there was an inevitability about it. Pelly didn't seek another term in 1972 and was succeeded by Pritchard.

In December, 1972, Pelly was honored by admirers—Republicans of all kinds, Democrats, businessmen, laboring people—at a huge appreciation banquet in the Olympic Hotel's grand ballroom. Pelly had suffered a heart attack just before that, so the event was broadcast to him in his hospital room.

Pelly recovered and spent subsequent months quietly arranging all his congressional files for presentation as a gift to the University of Washington.

During a recent interview, Pelly reflected on his two decades in Congress. "There was a lot of gratification to it," he said.

Any regrets about positions he took on any of the thousands of issues? "I suppose if I had it to do all over again. I would have thought differently about Vietnam," he mused.

Pelly was a steadfast supporter of the American policy through those years of war. "I think we saw Congress delegating too much of its power," Pelly said.

Recently, Pelly made an appearance at a waterfront dinner to speak about the importance of the Port of Seattle and the people who work there. When Boeing suffered its employment nosedive, it was the port which kept the economy alive, Pelly said.

The Alaska pipeline is needed, Pelly said. "I hope before I die, there'll be a tanker full of oil down from Alaska, too," Pelly told the audience.

Although he did live to see President Nixon finally sign the pipeline bill, Pelly's life ended just short of the reality of that final hope for Seattle's growth.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, Tom Pelly was my best friend in Congress. His death was a great personal shock to me as I had visited with him the day before he died where he was vacationing in my district.

No one will question the fact that Tom was one of the most diligent and effective Members ever to serve in the Halls of Congress. In addition, he was a perfect gentleman with a delightful sense of humor. He never had an unkind word to say about anyone. He was exceedingly well informed on a great variety of subjects and his influence on his fellow Members was very strong.

Seattle and the United States have lost a truly great man.

His wife, Mary, and other members of his family have my deep sympathy.

Mr. HICKS. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Washington (Mr. Hicks).

Mr. HICKS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to say that I am pleased to participate in this special order so that his family may know of the high regard and genuine affection I held for Mr. Pelly.

At one time, Mr. Pelly had represented a substantial portion of the district from which I was elected.

Despite the fact that I replaced a close and longtime friend of his, from the day I entered this body, Mr. Pelly counseled with me and advised me as to how I might better represent my district. This extra effort on his part was certainly not something required of him but was purely an unselfish act that I believe characterizes the man. Mr. Pelly was a big man in every sense of the word. I shall forever be grateful for my association with him.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SMITH of New York. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Speaker, I thank the gentleman for yielding.

I wish to associate myself with the remarks that have been made here today in regard to the loss, by all of us who knew him and by this body and by this country, of Tom Pelly.

I well remember when I first came to the Congress seeing Tom's tall form walk down the aisle to debate, as he did so ably, in his Committee on Merchant Marine and Fisheries. And it was always a voice that I, as one of the newer Members, could rely on as one which was a voice of reason and a voice that pointed the way and gave us the guidelines so very often on the correct and the reasonable and the intelligent way to vote.

I certainly shall miss Tom. We are sad

that his retirement was cut off as quickly as it was.

Mr. Speaker, in view of his long service to his country, certainly he deserved a few more years of happy retirement and enjoyment.

We shall miss him, and I know the country is forever in his debt.

Mr. MAILLIARD. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Speaker, I thank the gentleman from Washington.

I want to join with the gentleman and our colleagues in expressing my tribute to Tom Pelly.

We came here together in the same year. I had known him even before that, because he was president of the Seattle Chamber of Commerce at the same time my brother was president of the San Francisco Chamber of Commerce. We had a very close association for 18 of those 20 years.

We served together on the Committee on Merchant Marine and Fisheries. As a matter of fact, when I became ranking minority member of the Committee on Foreign Affairs, I stepped down from the No. 2 position, and Tom took my place as ranking minority member on that committee.

Mr. Speaker, his counsel was always very wise, very deliberate, and unemotional, and he had an enormous amount of commonsense. In many ways he was a legislator's legislator. He knew how to compromise when compromise was indicated and when to stand fast when there was a matter of principle involved.

On our committee for many years he and I kind of divided the work. I took the main responsibility for the Merchant Marine aspect, and he was the adviser and leader, certainly on our side of the aisle in the field of fisheries and wildlife. Of course, he was tremendously interested in the fisheries program, not only around his own district but throughout the country.

So as everyone else was who knew him, I was very saddened to hear of his death.

I also wish to say that my wife, I know, joins me in expressing to Mary our great sadness, and I wish her the strength to carry on without him.

Mr. GUBSER. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. GUBSER. Mr. Speaker, I thank the gentleman for yielding.

I, too, would like to join with my colleagues in expressing sadness at the departure of one who was such a good friend to all of us.

Like my friend, the gentleman from San Francisco, Calif., I had the pleasure of being a freshman with Tom Pelly in the 83d Congress. I had the pleasure of having my office in the old Cannon Building directly across from his. I was able to personally observe the manner in which he served his constituency and his country, almost on a day-and-night basis.

I do not think I have ever seen anyone who worked harder at his job of being a good Congressman than Tom Pelly.

In addition to being a fine Representative, he was also a gentleman, and I think those of us who knew him well were very proud to count him as one of our friends.

I can recall the numerous times when he took the floor of this House to talk conscientiously and sincerely against what was referred to at that time as "backdoor spending."

As we repeatedly increased the national debt in order to meet the obligations which had come about because of that type of spending, I cannot help but wish many times that the fight that Tom Pelly fought could have prevailed and the principles he stood for could have survived even his passing.

I certainly want to express my deep sympathy to his family and say that we shall miss. Even if he is no longer a Member of this body, still he was a great man and a great Congressman.

Mr. DINGELL. Will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman.

Mr. DINGELL. I thank my good friend from Washington and wish to express my appreciation to him for taking this special order in order to pay tribute to my deceased good friend, Tom Pelly.

As I came over here to join him in paying tribute to one of the most distinguished and able Members of this body I ever had the privilege of working with for these many years, I took the time to look at the special order in which a great tribute was paid to him by many of our colleagues on the occasion of his retirement.

It was with particular sadness that I recalled both the long and happy association I shared with Tom and the affection that I had for him and for his humility and dedication to the public interest and his distinguished record of legislative accomplishments in Congress.

Tom Pelly was a wise and good man and an extremely gentle, kind, and considerate individual. One of the best things I recall of him was his fondness in quoting the ancient Roman senator in which the senator said that he would much rather have people ask why there was no statue to him than why there was one. I believe it will be in that spirit that Tom Pelly will be not only remembered here but in the district and the State which he so ably and faithfully served for so many years.

His accomplishments in the field of conservation were distinguished, but he did not limit his undertakings in this body or in this Nation just to the field of conservation. The list of legislation in which he provided inspiring leadership is indeed a long and splendid list.

More importantly, Tom Pelly was also known among his colleagues and those he served with here as a man of unimpeachable integrity and great personal decency, warmth of character, great courage, sincere and abiding dedication to the public interest.

I know of no one in this Congress who ever had occasion to say a bad word about Tom Pelly or think ill of him. I know of no one who failed to hold Tom in the highest regard. Not only for his high character but also for his very gracious and warm and decent ways.

I shall miss him as a friend. I have missed him during his time of retirement, although I must confess I rejoiced that he had this little time in which to enjoy his family and do those things he wanted so much to do during the time he served in the House of Representatives.

He has accomplished much and left not only a heritage of distinguished accomplishment and rich friendships but also left a distinguished successor in the person of my friend and colleague now in the well.

I am sure all of his former colleagues and good friends here in this body and throughout the country join not only in a spirit of sadness and sorrow, recognizing that Tom Pelly will no longer visit with us and share the friendship with us that we so much enjoyed, but also we will recall the benefit of his wise counsel and his friendly assistance in times of difficulty, which is something that I so much enjoyed in my work and in my happy associations with him.

I thank my friend from Washington for yielding to me and commend him for taking this special order.

Mr. ADAMS. Will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, with the death of Tom Pelly, Seattle lost one of its finest civic leaders and the Nation lost a devoted servant of the Republic. I had known Tom since he was with Loman and Hanford in Seattle and one of my closest friends married his daughter. During our service together in Congress from 1964 until his retirement in 1972 we represented the city of Seattle, and I deeply appreciated his cooperation and strength in meeting the many problems which faced our city.

Tom Pelly was a man of great courtesy, kindness, with a great respect for the orderly processes of government, and he understood the meaning and necessity for civility in a democracy. In matters that concerned the city of Seattle, our work together was never marred by partisanship. An Englishman by birth, who chose American citizenship at the age of 21, he had a Englishman's respect for government and a sense of civic responsibility. Always active in the civic affairs of Seattle, he was a major supporter of the Seattle Symphony.

In the Congress he rose to become the ranking member of the Committee on Merchant Marine and Fisheries. On that committee he worked hard for the interests of Seattle and especially to encourage its growth to the major seaport it is today. In his work, he won the gratitude and affection of Washington's fishermen, workingmen, and businessmen.

All of us, regardless of party, will miss Tom Pelly's gentle sense of humor and his help in working on legislation of concern to Seattle. This was a city he loved, a city where he chose to spend his life, and a city which can be grateful that it was represented in Congress for

20 years by so fine a citizen as Tom Pelly.

Betty and I send our deepest sympathy to all of his family and especially to his wife, Mary, and we want them to know how much we shall miss him.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to my colleague, the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I appreciate having the opportunity to participate in this rather solemn and sad occasion, but I am sure that Tom Pelly would have appreciated the fact that the Washington delegation is here, and that the Washington delegation is as one voice raised in tribute to him.

Tom Pelly was here when the other gentlemen who have spoken and myself first came to the Congress. He was a Member of a different political philosophy than were we. We were young, and had a lot of learning to do, and Tom Pelly, despite the fact that I am sure at some times it was not to his benefit to do so, helped us immeasurably to learn the ropes of Congress so as to begin to function and to become effective. He did this because he was a decent man, and because he felt that by helping us he helped the State of Washington.

I think of all the things that can be said for him, and they are legion, the one thing that must be said of all things of Tom Pelly in his role in Congress was that he was his constituents' man. He represented in this Congress for 20 years the First District of the State of Washington with all his energy, his whole body, and all the effort he could command.

He was a Republican, and he had a lot of Democratic constituents in his congressional district, as the gentleman in the well knows.

Tom Pelly represented those Democrats every bit as well and every bit as fully and every bit as conscientiously as he did the Republicans. When it came to his position on issues, he put what he considered to be, and I am sure what was often—much more often than not—correct, the welfare of the constituents in his district above all other things—party, personal aggrandizement, gain, anything else. So it was, too, as a member of the Washington State delegation whenever there was anything on the floor of the House or if anything needed doing in the delegation where Tom could help, it was again his sole effort and goal to work for and on behalf of his constituents in the First District in the State of Washington.

He was a valued member of the Washington State delegation and a trusted and valued friend of each one of the members of that delegation, and I think of every Member of this House.

I know of no person who would speak ill of Tom Pelly. I think he gained that reputation and that respect because, as I said earlier, he was a decent man. Tom Pelly was the epitome of the old axiom that you can disagree without being disagreeable. He was a gentleman, a friend, and a decent man, and we shall miss him.

My wife, Mary, and I certainly pass on our condolences to his wife, Mary, also a good friend of ours, and wish her well.

Mr. MAZZOLI. Mr. Speaker, it is with a sense of profound loss that we pay tribute today to a former Member of this distinguished body. Thomas Pelly of the State of Washington.

I had the privilege of only a slight acquaintance with Tom Pelly, but his reputation as a hard working, dedicated legislator and a man of integrity was widely known.

The overwhelming majorities by which Tom Pelly was repeatedly returned to the Congress gave testimony to the high esteem in which he was held by his constituents in the First Congressional District.

His long years of service in this body have earned Tom Pelly a special place in the estimation of his colleagues in the House. The example which he set will inspire, for years to come, those of us who carry on the legislative task he performed so well.

Mr. MURPHY of New York. Mr. Speaker, I join my colleagues in the House and Senate, Tom Pelly's family as well as his friends in the State of Washington and here in the District of Columbia, in expressing our sorrow at Tom's passing. When the news was received that Tom was no longer with us, it was a moment of deep regret and personal loss.

The dedication and competence with which Tom served his individual constituents, his First Congressional District the State of Washington, and the country are well known. The reputation that Tom established through 20 years of dedicated public service as a legislator is an example for all of us.

We will miss him on Capitol Hill. The people of the State of Washington will miss him. Our country has sustained a loss.

Mr. UDALL. Mr. Speaker, Tom Pelly was a conscientious and respected legislator who rendered outstanding public service for the people of Washington and the Nation. I was proud to be his friend and pleased to work with him on a number of legislative matters.

Tom was above all a gentleman and a man of decency and generosity. I never heard him raise his voice in anger or impugn the motives of another person. He worked in a quiet, effective manner for the things in which he believed.

I join all his former colleagues in expressing sympathy to his family.

Mr. RHODES. Mr. Speaker, the Nation has lost a great public servant, and I have lost a true friend in the passing of Thomas M. Pelly. Tom and I entered the Congress together 20 years ago, and our long and close association led to a lasting friendship, based, on my part, from the deep respect and admiration I felt for Tom. He was a dedicated statesman, and untiring in his efforts to serve his countrymen and the Nation he loved so well. His contributions to a better way of life for all Americans are legion, a legacy which will serve as an enduring testimonial to Thomas M. Pelly for generations to come.

Mrs. Rhodes joins me in sincere sympathy to his wife Mary and to his two fine children in their bereavement.

Mr. ICHORD. Mr. Speaker, I wish to join with many other Members of this body in deeply mourning the death of Tom Pelly on November 21. With his death, the House of Representatives, the First District of Washington, and the American people lost a truly distinguished leader and citizen.

Tom Pelly was a humble man. As he oft said of himself, he "would rather have people ask why there was no statue of him rather than why there was one." In his quiet and calm manner, Tom vigorously dedicated himself to his public life. He championed a variety of measures in the maritime, fisheries, and conservation fields and served with distinction—at the time of his retirement in 1972—as ranking minority member of the Fisheries and Wildlife Conservation Subcommittee of the Merchant Marine and Fisheries Committee. His success in the area of conservation alone can be discerned from the numerous public laws that were enacted as a result of this one man's efforts to preserve America's delicate ecological balance.

Mr. Speaker, Tom Pelly's superior service in the House was paralleled by his service to his community. Tom was active in a variety of civic organizations including the Seattle Symphony Orchestra and the community fund, and presided ably over the Seattle Chamber of Commerce for a number of years. Additionally. Tom was a respected father and many times over grandfather, instilling in his progeny the values of integrity and accomplishment which characterized all his activities.

Mr. Speaker, in his works and philosophy this humble man from Washington erected his own statue, more meaningful and more lasting than any figure of concrete. Tom Pelly will be sorely missed in this country and I join with the Members of this House in extending my deepest personal regret at his death to his family and to his State of Washington.

Mr. JOHNSON of California. Mr. Speaker, it is with deep sadness that I rise today to join my colleagues in paying tribute to Thomas M. Pelly, who passed away Wednesday evening, November 21.

For 20 years this fine gentleman served the First Congressional District of the State of Washington in an efficient, dedicated manner. He was highly respected and admired by all of us who were privileged to know and work with him.

I was not privileged to serve with him on committees since he was assigned to the Merchant Marine and Fisheries Committee, where he was the ranking minority member, and on the Science and Astronautics Committee. However, he was always helpful to me in providing information pertaining to legislation before these committees.

The State of Washington and its citizens and the Nation were admirably served by Tom Pelly, and we all mourn his passing.

Mrs. Johnson joins me in extending deepest sympathy to his family. Our thoughts and prayers are with them during this time of sorrow.

Mr. MOSHER. Mr. Speaker, all of us were stunned and saddened to learn of Tom Pelly's passing. It does seem like only yesterday that he was with us in this House.

My own sense of loss is deeply personal, for Tom and I sat side-by-side for many years on two separate House committees—Science and Astronautics and Merchant Marine and Fisheries—and during that time the friendship between us grew very firm. Tom and I worked together on a number of important pieces of legislation, ranging from the depths of the oceans to the farthest reaches of outer space, and in the course of that work I came to know well his remarkable strengths of character: His diligence, his intellecual capacity, his integrity and his sound wisdom. He was a most effective, responsible, enlightened public servant.

It might interest the Members to know that a relative of Tom's—I believe it was an uncle or cousin—once owned the great old Virginia home south of Williamsburg known as Carter Hall, often referred to as the most beautiful home in America. In his youth, Tom visited there often, and felt a special attachment to it. It occurs to me that that gracious background in part represents the roots from which he developed the dignity, civility, and beauty of character we all knew in him and so greatly enjoyed and admired.

To his wife Mary, and to the members of his family, Mrs. Mosher and I join with other Members of this House in extending our heartfelt sympathy.

Mr. COUGHLIN. Mr. Speaker, it is with a great sense of loss that I join today with many other Members of Congress to pay tribute to our former colleague and friend, Tom Pelly. I had the pleasure of serving with Tom on the Science and Astronautics Committee and can safely say that he served the Congress, the people of Washington, and the people of this Nation for 20 years with leadership, integrity, and dedication that will not soon be equaled. He was an inspiration to those who knew him and will long be remembered for his straightforwardness and diligence.

It is rare that one finds the foresight which Tom Pelly embodied. Long before conservation became a popular cause, or a necessity, Tom was working for legislation to protect and preserve our natural resources and wildlife. He was instrumental in the enactment of the National Environmental Policy Act of 1969 and made many outstanding contributions to our Nation's fishing industry.

As the ranking minority member of the Fisheries and Wildlife Conservation Subcommittee of the Merchant Marine and Fisheries Committee, Tom worked hard to see that sound and effective legislation emerged from that subcommittee. His success in that endeavor is well recognized.

My intention in offering this tribute is not to reiterate Tom Pelly's 20 years of outstanding service to this country, but rather to express the hope that his strength of character and dedication can be remembered and shared by all of us.

Mr. GOODLING. Mr. Speaker, I shared the shock of my colleagues when the sad news was announced on the passing away of our former colleague and good friend, Thomas M. Pelly.

I knew Tom very well, for I served with him on the House Committee on Merchant Marine and Fisheries, and I have always had good personal relations with him. He was the type of person one could easily get along with and easily get to like.

Tom was a hard worker and a good legislator, reflecting credit on his constituency and contributing greatly to the work of the House of Representatives. He was a persistent individual, hard to turn aside when he felt he was on the right track.

Tom Pelly's passing saddens all of us in this Chamber. We can console ourselves, however, in the realization that we had the good fortune of his service in this Chamber, a service which he performed exceedingly well.

I wish to extend my deep sympathy to Tom Pelly's family in their great loss.

Mr. EDWARDS of Alabama. Mr. Speaker, it is a privilege to join my colleagues in paying tribute today to Tom Pelly. We were all deeply saddened to hear of his passing on November 21.

Tom was a very good friend of mine. When I first came to Congress in 1965, Tom Pelly was tremendously helpful to me. He was particularly gracious and patient in his assistance with my work on the Merchant Marine and Fisheries Committee, where it was my honor to serve with Tom.

There is no Member of this body who is not aware of Tom Pelly's hard work and leadership in the fields of conservation, maritime affairs, and fisheries. And every American has benefited from that hard work and leadership.

The country will miss Tom Pelly, but his accomplishments for his Seattle constituents and for the entire Nation will provide a living testimonial to his work.

Mr. SARASIN. Mr. Speaker, I join my colleagues in paying respect to the memory of Thomas Minor Pelly and extending my sympathies to Mrs. Pelly, their two children and ten grandchildren.

Someone once said that we live beyond ourselves in the hearts and minds of others. Many of us in the 93d Congress did not have the opportunity of knowing and working with Mr. Pelly who retired, after 20 years of public service to his country, before our elections. However, his reputation of hard work, good humor, and genuine concern transcended his physical presence in the halls of the Rayburn House Office Building, the Merchant Marine and Fisheries Committee, and the House Chamber. His dedication to a strong country and an honest, open Government are among his greatest legacies to his family, his constituents, and all who are in public service.

Mr. Pelly was perhaps best known for his determination to end fiscal irresponsibility. His fight against back door spending spanned well over a decade and was a forerunner to the now widespread demands for an improved fiscal position.

Also during his years of service Mr. Pelly attained the ranking minority position on the Merchant Marine and Fisheries Committee. Through his efforts, Seattle has gained its present status as as one of the greatest ports in the world. Of even greater importance was his knowledge of a need for balance in the legislative decisions he was called upon to make, a posture that enabled him to maintain the support and respect of both labor and management in the merchant marine and fisheries industry.

Mr. Pelly contributed greatly to the First District of Washington, not only through his work in the Congress but also in his participation in local activities, whether in the Seattle Chamber of Commerce, the United Service Organization, the Washington Committee on State Government, the Seattle Sympathy, or the Washington State Development Association.

Thomas Pelly will be missed by his colleagues in Congress, by the citizens of the State of Washington, and by those of us who only had the opportunity of knowing of his devotion and his work.

Mr. McCLORY. Mr. Speaker, I was deeply saddened to learn of the sudden passing last week of our former colleague from the State of Washington, Tom Pelly, who died while enjoying a California vacation with his wife.

It was just a little over a year ago that Members gathered here in the well of the House to pay tribute to Tom, who had announced that he would retire from the House of Representatives at the end of his term, after having served his constituents of the First District of Washington so well for two decades.

Mr. Speaker, I had occasion last evening to look over some of the tributes paid to Tom on that October afternoon last year. While his colleagues recounted experiences that they had shared with Tom both on the floor and in committee, and as Members reviewed major pieces of legislation Tom had a vital role in shaping, there consistently appeared references to perhaps one of the finest qualities he brought to this body: his integrity.

Our colleague from Michigan (Mr. DINGELL) summed up this quality so well when he said of Tom:

> He leaves an unblemished record on every count of good ethics as we, his friends in the House, so well know. This personal record of integrity and his 20-year record of legislative accomplishment give to his family a legacy to which they can point with pride.

Mr. Speaker, Tom Pelly was, indeed, a man of integrity. The loss which his family feels so deeply at this time is one that is shared by all of us who worked with him. Tom Pelly is no longer with us, but the mark he left on this body will remain as his monument.

Mrs. HANSEN of Washington. Mr. Speaker, I want to join with my fellow Congressmen this afternoon in expressing my sorrow at the recent death of my friend and colleague, former Congressman Thomas M. Pelly.

I knew Congressman Pelly long before I came to Congress. He was a distinguished and able member of the business community of the State of Washington, a former president of the Seattle

Chamber of Commerce, and an outstanding Washingtonian.

When I came to Congress, Tom never failed to do for me as a new Member the small kind things that were the hallmark of Tom Pelly. He served ably and well here in Congress on two prestigious House committees. The fact that today we have better fishing laws are in a major part attributed to Tom's efforts, and he was always a valiant defender of conservation and fishing so important to our State.

I shall never forget Tom Pelly as a friend as well as an able Congressman. I extend my deepest sympathy to his delightful wife, Mary, and his two children. The State of Washington has lost an outstanding and delightful human being who will never be replaced easily nor quickly.

Mr. WINN. Mr. Speaker, I want to thank our colleagues Mr. PRITCHARD and Mr. ADAMS from the great State of Washington for allowing me to participate in this tribute to Mr. Thomas M. Pelly.

Like many other Members of Congress I was shocked and saddened at the news of Tom's passing. I first became acquainted with Tom Pelly in 1967 when he was an outstanding member of the Science and Astronautics Committee of this body. His leadership and guidance was an inspiration to all of the younger members of that committee. We knew that we could ask advice of Tom Pelly at any time and he was always most cooperative and congenial. He found a great interest in the science and astronautics field and certainly played an important part in the leadership this Nation has furnished the world in that endeavor.

This 20-year veteran from the First Congressional District of Washington was not only popular in his home State, but was highly respected and well liked by his fellow Members. Many of us were surprised and disheartened when Tom Pelly decided to retire from politics, but no one earned the right to enjoy the past few years of life more than he did.

Mrs. Winn and I send Mary Pelly our deepest sympathy in her loss.

Mr. COLLINS of Texas. Mr. Speaker, those of us who served with Tom Pelly learned with deep regret of his death. Tom was a wonderful person as he was always pleasant and a delightful colleague with whom to work.

Tom loved his great State of Washington. He could always joke about most every subject, but when you talked about Washington, you could see the pride in his eyes.

We extend our sincere sympathy to the members of his family and to all of his neighbors in the State of Washington. The United States has lost one of its great citizens, but his memory and record of congressional service will always remain as a permanent memorial.

Mr. FOLEY. Mr. Speaker, it was with great sadness that I learned of the death of our distinguished former colleague, Thomas M. Pelly. The fullness of his 20 years as a Member of Congress, and the record of his legislative achievements during that time indicate that his retirement would have been an equally fruitful period, both for Tom, and for those individuals and causes to which he gave so much of himself. Because he still had so much to offer in the way of public service, I felt a deep sense of loss at the news of his death.

There is, of course, a natural tendency to remember men, particularly legislators, through their works, those monuments of legislation which would never have been without their individual effort and skill. Certainly these exist in large number for Tom, and I know that this country will long remember him for them. However, Tom left something else to those of us who knew him; the memory of a strength and gentleness of character, a sense of humanity and a deep understanding of man and the unpredictability of his ways.

His wise counsel and deep understanding will be sorely missed, but the pride will remain that for 8 years I had the honor of serving in the same Chamber with Tom Pelly of Washington.

Mr. ERLENBORN. Mr. Speaker, Tom Pelly lived a busy and useful life; and he retired only last January, at the conclusion of the 92d Congress. Before he came to Congress, he had risen to become president of Lowman & Hanford Co., printers and stationers in Seattle, his hometown, and he had served as president of the Seattle Chamber of Commerce.

In the House of Representatives, he was a true spokesman for the people of the First District of Washington, and he was an exponent of all that is good in the American business community.

He was a fine man and a good friend and colleague.

Mr. CEDERBERG. Mr. Speaker, it is with a deep sense of personal loss that I join my colleagues today in noting the loss of our former colleague from the State of Washington, Tom Pelly. As a classmate of Tom's from the 83d Congress I had the privilege of sharing in a special way the 20 years he spent in this body prior to his retirement. I was always struck by his dedication to the Congress and his personal good humor and even disposition. He was a pleasure to be with and an inspiration to work with.

Tom's distinguished record of 30 years service to the business community in his hometown of Seattle and his genuine dedication to the best interests of the people of his community certainly deserved the recognition which the people of the First District of Washington bestowed on him when they elected him to represent them in November of 1952. Tom continued this fine tradition of service during his years in the Congress. He was devoted to the people of Washington, and later, when he became the ranking member of the Merchant Marine and Fisheries Committee, he distinguished himself by his concern for the broader affairs of the country. It was a real blow to all of us when Tom announced his retirement with the conclusion of the 92d Congress.

During this past year, in his retirement, Tom was in town on a number of occasions and we had opportunities to visit. His continued interest in the affairs of government was always evident and it was a pleasure to have his wise counsel.

The news of his fatal heart attack was a real shock to all of us who had looked forward to Tom's continuing friendship and advice. It is tragic that he was taken just as he began to enjoy the fruits of his labors. We shall all miss him.

To his lovely wife, Mary, and his children, Mrs. Cederberg and I extend our deepest sympathy.

Mr. MORGAN. Mr. Speaker, I was shocked and saddened to learn of former Congressman Thomas Pelly's death last week in Ojai, Calif. As all who served with him know, he was a delightful man, whose humor and warmth eased the tension of difficult situations.

During his 20 years in the House of Representatives, Tom rose to become the ranking minority member of the Merchant Marine and Fisheries Committee and was an influential force on the Committee on Science and Astronautics. From both of these positions, he was able to effectively serve the residents of his congressional district, and we who were his colleagues shared with his constituents a profound respect for his legislative abilities.

I had the opportunity to work with Tom on various issues; we shared a common concern over the interference with our fisheries and fishing vessels around the world, and I greatly valued his suggestions with respect to various aspects of foreign aid bills. His expertise on fisheries matters was such that we in Congress often looked to him to provide the sagacious advice needed to understand and solve complicated domestic and international problems. I should point out that many fisheries problems involve possible conflict between labor and management, and Tom maintained the esteem of both of these groups.

I miss Tom as a friend, as well as a colleague. Even though we represented districts at the opposite end of the country, his vast knowledge of many important issues and his truly charming personality brought us together on many occasions. I highly value the associations and friendships I have formed in this distinguished Chamber, and the privilege of serving with Tom Pelly has been one of the highlights of my years as a Congressman.

Mrs. Morgan and I extend our sympathies to Tom's family. His loss is great, but his legislative accomplishments will stand as irrefutable evidence of his character, industriousness, and service to all Americans.

Mr. ANDERSON of California. Mr. Speaker, I rise at this time to express my sympathy and to pay my respects to our late colleague and my good friend, Tom Pelly, who served in the House of Representatives from 1952 until his retirement at the conclusion of the 92d Congress.

As a representative from Seattle, Wash., Tom knew the fishing industry and was an effective voice on their behalf in the Congress.

We served together on the Merchant Marine and Fisheries Committee and worked in concert on legislation designed to help our beleaguered fishing fleet. Specifically, Tom and I joined in actions to protect our tuna fleet from harrassment and seizure by foreign nations which claimed jurisdiction over the seas beyond the traditional 12-mile limit.

I always welcomed his support and advice as I knew the great influence and respect his well-reasoned views and articulate words carried in this body. When Tom Pelly spoke, the House of Representatives listened—for he enjoyed a well-earned reputation for integrity, honesty, and logical thinking.

In addition to our work to deter "pirate" nations from their illegal actions regarding our fishing vessels on the high seas, Tom joined with me in authoring the Marine Mammal Protection Act. This act, for the first time, established a Federal policy of protecting those marine mammals which are not officially listed as endangered.

The many contributions that he made in shaping this legislation will benefit our Nation by preserving these animals for future generations.

Mr. Speaker, Tom Pelly was an outstanding legislator, a wonderfully kind and considerate gentleman and a good friend. His service to our Nation was marked by quality, impartiality, devotion, and intelligence.

Tom Pelly was a statesman and we shall miss him.

My wife Lee joins with me in sending our personal condolences to his wife Mary Virginia and their two children.

Mr. HANLEY. Mr. Speaker, the news of Tom Pelly's death came as a great shock to me as I am sure it did to all of his former colleagues. Those of us who were fortunate enough to have served with him here in the House will always remember him as a warm friend and a skilled legislator.

During Tom's 20 years in Congress, he played a vital role in shaping our merchant marine and in developing the space technology we enjoy today. But Tom was not limited to the work covered by his committee assignments. His interests and his dedication ran the gamut of every issue confronting American society.

The State of Washington has lost a great son, America has lost a great statesman, and we here have all lost a great friend.

Mr. Speaker, my wife Rita joins me in expressing heartfelt condolences and prayers for Tom's family.

Mr. WAGGONNER. Mr. Speaker, it is with deep regret that I join today in paying tribute to and in honoring my friend and former colleague, Thomas M. Pelly.

For 20 years, Tom represented the First District of Washington. For most of those years, I was privileged to serve along with him as a Member of the House of Representatives. Colleagues on both sides of the aisle came to admire and respect Tom, and it is only fitting for those of us who were honored to know him to pause and pay tribute to his dedicated service in this body.

While serving on the Science and Astronautics Committee, I had an opportunity to work closely with Tom. I gained much from my association with him; and, as a result of that close association, I can sincerely say, from firsthand knowledge, that this Nation profited much from Tom Pelly's tenure of office here in the Congress. Not only did Tom serve on the Science and Astronautics Committee, but he was also a distinguished member contributing immensely to the workings of the Merchant Marine and Fisheries Committee.

Tom was earnest and honorable. His sage advice and counsel has been greatly missed during the 93d Congress. I know how his family must feel, and I would like to extend to them my heartfelt sympathy in this time of sorrow.

Mr. BIAGGI. Mr. Speaker, I, like many of my colleagues, was deeply shocked and saddened over the sudden and untimely death of our distinguished former colleague from Washington, Thomas M. Pelly. His death has deprived this Nation of one of its finest public servants.

Tom Pelly served the constituents of the First District of Washington with distinction and sagacity for 30 years. As the ranking minority member of the House Merchant Marine and Fisheries Committee, of which I am also a member, he was instrumental in the formulation of legislation which benefited not only his constituents, but the American Nation as well.

Tom Pelly would probably like to be remembered most for his keen scrutiny of excessive Government spending. Presidents came to realize that the foes of wasteful Government spending had an articulate and powerful ally in Tom Pelly.

Many people attributed Congressman Pelly's expertise in matters of Government spending to his background in business. Tom Pelly had an equally distinguished career in the business world prior to his election to Congress in 1952. Some of his most outstanding achievements included his receiving the prestigious Charles Garvin Award from the National Stationers for a treatise Pelly wrote on budget accounting. In addition, Tom Pelly served as the president of the Seattle Chamber of Commerce from 1949–51.

Yet more important than all these distinguished achievements, Thomas Pelly was a gentleman. I know from my own experiences working with him on the Merchant Marine Committee, Tom Pelly a warm and friendly man, always available to provide assistance or advice to any Member who sought it.

Thomas Pelly was an exemplary Congressman. He had one goal, and that was to do well the job which the residents of the First Congressional District of Washington elected him to do. The fact that he was overwhelmingly returned to the House nine times by these people indicates their agreement with his goal.

The Congress is always saddened when a Member passes on. Yet when it is a man of the caliber of Thomas Pelly, the loss is particularly acute. I extend my deepest sympathies to Mrs. Pelly and all the members of the family, and assure them that their loss will be shared by the entire American Nation.

Mr. SIKES. Mr. Speaker, I was saddened to learn of the death Wednesday of Thomas Pelly, a man with whom I served in Congress for 20 years. Although his native State of Washington is geographically far from Florida, I learned early in our friendship that Tom Pelly was the man whose interests were national in scope and a man who comprehended the problems of each of the States.

His capable and effective service on the Merchant Marine and Fisheries Committee brought him in close touch with the people of my State and his dedication to conservation earned for him the admiration of a great many people in all walks of life through the years.

His devotion to our country extended far beyond wildlife and fisheries. He was a true patriot and a defender of freedom at home and around the world.

He also was a valued member of the Science and Astronautics Committee and his work in this important area is apparent even today as Americans continue the leadership in space which he and others helped to insure. His support was of great value during the period that the future of our space program was in doubt.

Tom Pelly was one of those unselfish and hardworking individuals who contributed each day to making our country stronger and greater. It was very disappointing to me when he made his announcement that he would not return to Congress after the close of the last session. His are the type of services that are always needed in public life. Now in a few short months, he has been taken from us. I grieve with his family at the loss, but I am honored to have served with him for so many years.

Mr. MILLER. Mr. Speaker, I am deeply saddened by the news of the sudden passing of our former colleague, Tom Pelly of Washington. For 20 years, he served the people of his congressional district with personal service and concern for their problems.

He was not only well liked by the people he represented in Washington, but he was deeply respected by his colleagues in the Congress. His attention to legislative details made him a man whose opinion was sought on a variety of issues considered by the House of Representatives during his two decades in office.

He will probably be best remembered for his defense of the taxpayer and his strong opposition to excessive Federal spending.

He did not act expeditiously. He weighed the merits and shortcomings of each piece of legislation which came before the House and always considered the measure in terms of its cost to the taxpayers of this country. His conscientiousness in this regard earned him the support of all who appreciate men of integrity and principle.

We will miss his wisdom.

On this occasion, I want to extend my sympathy to his family.

Mr. HOGAN. Mr. Speaker, it is with deep sorrow that I stand here today to pay my respects to the passing of our past colleague, the Honorable Thomas H. Pelly.

Tom was first elected to the 83d Congress where he most ably represented the First Congressional District from the

State of Washington. He represented the people from the Evergreen State for a span of 20 years in the House of Representatives.

As a member of the House Committee on Merchant Marine and Fisheries, Tom played an active role in helping to preserve our wildlife. He was active in such legislation as the Marine Mammal Protection Act and the Endangered Species Conservation Act.

Before coming to Congress, Tom was a successful businessman in Seattle. From 1921 to 1930, he was employed with the Seattle National Bank and served as the assistant trust officer. He later became the director of the Seattle Trust & Savings Bank, and Northern Life Insurance Co., of Seattle.

I offer my deepest condolences to Tom's family. I know that they are proud of his long and distinguished career. They should draw some solace from the fact that so many of his friends share their loss.

Mr. HORTON. Mr. Speaker, I wish to join with my colleagues in expressing our deep regret over the death of our former colleague, Tom Pelly.

Having served in this Chamber for some 20 years, Tom made his mark here as a legislator and as a gentleman. He not only had firm convictions but he could articulate them effectively. As a result, his counsel was sought frequently and his words influenced much that took place during his career in the Congress.

Tom's decision to retire was a tremendous loss for his constituents whom he served so faithfully. That loss was shared by his colleagues and we have missed him this past year.

I prized Tom's friendship and I will best remember the enthusiasm with which he dedicated his life to public service.

Mrs. Horton joins me in extending our deepest sympathy to Mrs. Pelly and the members of Tom's family.

Mr. COLLIER. Mr. Speaker, I would like to join my colleagues in expressing my deep sorrow at the passing of our good friend and colleague, Tom Pelly.

Tom was an able legislator and a fine gentleman who served his constituents and the Nation with distinction for 20 years. His retirement at the end of the last Congress was a great loss, not only to his district, but to the Merchant Marine and Fisheries Committee on which he served during his tenure in Congress, and the entire House of Representatives.

I extend my deepest sympathy to Mrs. Pelly and to the members of Tom's family.

Mr. DE LA GARZA. Mr. Speaker, I join in expressing sorrow at the passing of Tom Pelly, an outstanding public servant and a Member of this body through 10 Congresses.

Tom Pelly had already been a Member of the House for a dozen years when I came to Congress. As all of us know, he was liked and respected by his colleagues, and rendered distinguished service to the First District of Washington. I am proud to have served with him and to have a place today on his old committee, the Committee on Merchant Marine and Fisheries, where he was known as an authority on maritime law.

I benefited greatly from my association with him—he shall be missed.

Mr. CONTE. Mr. Speaker, I share with my colleagues a deep sadness at the death of our beloved former colleague Thomas M. Pelly. I thank the gentlemen from the State of Washington, Mr. ADAMS and Mr. PRITCHARD, for arranging for this opportunity to honor the memory of an able legislator and a good man.

It is certainly tragic that Tom Pelly was stricken while enjoying the leisure to which his 20 years of dedicated service in the Congress more than entitled him.

Tom Pelly exhibited the same keen eye for fiscal affairs here in the House that he demonstrated in the business world before embarking on his career in public service. He was equally successful in both of his life's endeavors.

As a voice on behalf of his constituents of the First Congressional District of the State of Washington, he labored tirelessly. I know that the sorrow of the citizens there, who elected Tom and returned him to this Chamber eight consecutive times, matches our sorrow here today.

At this time, I would like to extend my sincere condolences to Tom's wife, Mary, and their two children.

Mr. DENT. Mr. Speaker, the Congress of the United States is a unique institution in that its Members are like fellow students at a small, close knit university. We get to know each other well and respect each other because we can understand some of the other fellow's problems whether we actually sympathize with them or not.

It is in this light that I regarded my late good friend Thomas M. Pelly.

Tom Pelly was here when I came to Congress, and though I quickly realized that we came from very different districts with very different philosophies, I developed a deep admiration and sincere liking for the man. He fought for what he believed was right and was never satisfied to sit quietly by waiting to voice his simple yea or nay.

When Tom retired from Congress last year, I felt a real personal loss, but I could always believe that we might see each other again for a long talk as fellow alumni of these "hallowed halls." When I heard of his death, it was hard for me to believe that now such a time would never come, and the loss would be a permanent one.

In the world of politics, one often encounters a certain amount of ruthlessness and coarseness which I never found in Thomas Pelly. He was a cultured man and a patron of the arts. His sensitivity to the needs of others led to the fine work he did during World War II, and I am sure that he will long be remembered by hundreds of young men who passed through Seattle during those critical years.

As a Member of Congress, he had a keen sense of propriety and practicality, but it was always levened by a sense of humor. I sincerely believe that we have all been enriched as his colleagues.

I would like to extend Mrs. Dent's and my deepest sympathy to Mrs. Pelly and her two children. I know that their loss is so much greater than ours.

Mr. RODINO. Mr. Speaker, it is with a deep sense of sadness that I join with my colleagues to pay tribute to a man whose service to his constituents and to his Nation has made an indelible imprint on our historical legacy. His ideas, his feelings, his views in the legislation this body has considered and passed judgment upon have helped to better the lives of all our citizens. And, it is my hope that the good works of our dear friend will be carried forward by all who knew and believed in him.

Mr. QUIE. Mr. Speaker, any of us are saddened when a colleague passes away, but especially so when that colleague was a close friend. This was the case between Tom Pelly and myself whose passing we all grieve. His wife, Mary, and my wife, Gretchen, were close friends, also. Especially do I recall their activities together in their International Club.

Tom Pelly is a colleague in whom I held high regard, and this respect, I noted, was felt by his colleagues from both sides of the aisle. So it is with deep sadness that I join my fellow colleagues in the House today to pay tribute to the former Member of Washington's First District for his contributions to the betterment of our country. His dedication to his constituents and our Government are characteristics of his; those of us who knew him will long remember.

GENERAL LEAVE

Mr. PRITCHARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks upon the subject of this special order.

I thank the gentlemen here who have joined in this tribute.

Mr. Speaker, I yield back the remainder of my time.

RHODE ISLAND'S MR. CREDIT UNION: ANDRE FLEUETTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 60 minutes.

Mr. PATMAN. Mr. Speaker, next to the church, the most powerful force for good in America today is the credit union movement. It is amazing but true that one out of every seven Americans is a member of a credit union. Putting it another way, 20 percent of all adult Americans are shareholders in this great movement. And remember, they have combined assets valued at an incredible $27.4 billion.

Credit unions are socially desirable because they make available an additional source of loan funds at favorable interest rates, and because they encourage saving, a virtue which is much in need in these times of parlous and continuing monetary crisis.

It is with this background very much in mind that I bring to the attention of this House the rich and stimulating life story of a giant in the history of credit unions. I refer to Mr. Andre Fleuette, chairman of the board of the Marquette Credit Union, at Woonsocket, R.I. Incidentally, the organization itself is one of the outstanding success stores of our Nation, with assets of $34.5 million. Certainly, the history of this great gentleman is worthy of note and highly inspirational to all Americans. I only wish that the record of his modest beginnings, his wholesome family surroundings, and his ultimate and remarkable success as a small businessman could be brought to the attention of those hundreds of millions of people throughout the world who are economic shut-ins because they do not live in this great land of opportunity.

Noteworthy, too, is the fact that when the chips were down and his fledgling company desperately needed money to survive, Mr. Fleuette was turned down for a loan by his bank, but the Marquette Credit Union was obviously more knowledgeable and fareseeing and certainly more attuned to the heartbeat of our free enterprise system. So he got his credit union loan, and, instead of disaster, the result was more jobs, more production, and an American success story that could easily have been written by Horatio Alger.

I present herewith the story of Andre Fleuette, known to his many friends as "Jim":

JIM—A PROFILE

There was no gavel in front of him, instead lay a plain cup and a spoon. A slight smile showed his puzzlement, but accustomed to expect almost anything the chairman hit the cup with the spoon a few times and said: "The meeting will please come to order and the Secretary will please note the time at 7:30 P.M., and call the roll of the members of the board of directors."

The date was April 23, 1973 and the place, the headquarters of Marquette Credit Union in Woonsocket, Rhode Island. The twelve members of the board of directors and the various committee members present at the meeting did not pay too much attention to the dull sound of the spoon striking against the cup replacing the sound of the gavel because they, too, were accustomed to expect almost anything.

After the roll call the President of the credit union asked the chairman for recognition. It was granted to him and he proceeded as follows: "Mr. Chairman, before going along with the business at hand, I have a presentation to make. As you have noticed the old gavel presented to you in 1966 when you were first elected President is missing tonight. We have put it to rest and have acquired a new one for you". Reaching from under his chair he produced a shiny new gavel and read the inscription: "Andre R. Fleuette—Chairman of the Board of Directors—Marquette Credit Union—1969 to —. It is with pleasure, Mr. Chairman, that I present you, on behalf of the board of directors and the various committee members this new gavel." Warm applause from the group followed this presentation.

The chairman, now with a smile of understanding accepted the new gavel, thanked the board, quickly returned to the agenda and proceeded to preside at another important meeting of the board of directors of Marquette Credit Union.

That evening Jim, as he is called, must have reflected upon his association with Marquette Credit Union. It spanned over a period of some fifteen years. He had seen it grow from less than $100,000.00 in assets when he first became a member to some $388,000.00 when he was elected as a member of the board of directors in 1962. Marquette had assets of over $2,000,000.00 when Jim became 2nd Vice President in 1963, and assets of over $6,000,000.00 when he became its President in 1966. In 1969 he was elected its first Chairman of the Board and in a short four years saw his credit union grow from a little over $8,000,000.00 to over $34,500,000.00 when the new gavel was presented to him.

As he reflected he must also have gone over the hard work, the temporary setbacks, the planning, the vision, the faith of the members, the devotion of the employees, the dedication of the members of the board and committees and the other various ingredients that contributed to the success of Marquette, the organization to which he had given so much, the organization in which he had so much pride.

To complete his reflections he also had to go over his personal life and accomplishments with a feeling of deep satisfaction.

His life had been colorful, it had been very rewarding, and he had to work hard for every bit of success that he achieved.

Things did not come easy to this man who was born of French Canadian parents on February 26, 1912 in Val-Racine, Quebec, Canada, where the family lived on a small farm much like the American colonists did.

There was a time when the father became disenchanted with the political climate of the Province of Quebec. Upon hearing from a friend, who had immigrated to Pawtucket, Rhode Island, about the favorable conditions existing there with the promise of work in the mills, the father packed up his belongings, sold his farm and made the journey to the United States with his family. At the time Jim was a baby.

After a short stay in Pawtucket, the family moved to Manville, Rhode Island where the father and several of the children worked for the Manville Jenckes Company and lived in a then typical mill housing complex. The wages were small but the family was able to enjoy a relatively comfortable living.

A few years later the call back to the soil was heard loud and clear by the Fleuette Family and it was answered by the purchase of a farm in Bellingham, Massachusetts, not too far away.

It was from this point that Jim started to receive his training for the future, a training that molded his life. As a young lad, early in the morning, he helped deliver milk from a horse drawn wagon using ten quart cans with a wooden plug and pouring the milk in individual pitchers from house to house. This was hard work for a young boy who would then attend a parochial school several miles from home and after school take a trolley car to the end of the line and walk about two miles through the woods to get back home.

From Parochial School he went back to Canada to study for the priesthood, but soon discovered that it was not his vocation. He was then enrolled at Mount Saint Charles Academy, a local high school conducted by the Brothers of Sacred Heart, as a boarder. The deep roots of farm life soon pulled him away from school, when one day he just left the Academy, walked home several miles away and hid in the nearby woods. His father soon spotted him, quickly understood and instructed him to change his clothes and take on the chores of the dairy farm.

Soon after he managed a route for his brother, Joseph. Then to better himself economically, like his father before him, at age 18 he went to work in a worsted mill as a floor man in the wool sorting room, earning $22.00 a week for 68 hours of work.

It was at the mill that he met and fell in love with his wife, Aline Guy, who was a combing machine operator. He asked her to go to a union dance with him four weeks before the date of the dance. For four weeks he would see her at work but because of the strict rules of the mill he could not speak to her.

He recalls with fondness this first date when he went to get her at her home where the family consisted of the parents and sixteen children. When he arrived at the Guy home many of the children were there waiting for him and upon seeing this six-foot young man one said to another: "Ask him how the air is up there".

In 1936 Jim and Aline were married. After the first baby was born, Jim, again like his father had done before him, left the mills to go back to the farm life and again handled a milk route for his brother, Joseph. He worked hard at it with dreams of one day owning his own business. When World War II broke out food rationing forced the sale of the milk route, and Jim had to look elsewhere for work.

This time he found employment at Walsh-Kaiser Shipyard, in Providence, Rhode Island where he was employed as a carpenter. At the same time he helped a friend of his, the then owner of Ideal Dairy, in the delivery of milk. After about two years of holding two jobs, the owner of Ideal Dairy died and Jim left the Walsh-Kaiser Shipyard and purchased Ideal Dairy. Once again he delivered milk that was processed by his brother, Joseph, but this time he owned the route. About two years later, on January 11, 1943 Jim purchased the processing business from his brother who went into another field of endeavor. He was on his way to becoming a successful business man.

The business progressed quite well for the next few years. His own children started to help him in the processing plant and on the routes. In 1956 he had five trucks on the road doing quite well economically.

The next year, when new methods of marketing were introduced he found his plant lacking in certain facilities. The business was hit hard and he was even advised to either sell out or run the risk of going into bankruptcy. It was not part of Jim's character to give up and suffer to see his creditors not paid in full. He insisted on keeping going.

It was at this time of need that he first was introduced to Marquette Credit Union and the credit union philosophy. After being refused a loan from the same bank that had loaned him money previously when he purchased the milk processing business, Jim turned to Marquette Credit Union for help to survive. A business loan of $5,000.00 was quickly approved by Marquette and the much needed new equipment to update the processing plant was purchased. With more efficiency the business was saved and again thrived. The Marquette loan was paid off right on schedule.

The growth of his business grew in momentum and in 1962 Jim went to Marquette for a second loan, this time for $15,000.00 not to save him from disaster, but to enable him to keep up with the growth of his enterprise. It is at that point that he was invited to join the Board of Directors of Marquette Credit Union. In 1964 Ideal Dairy consisted of a modern processing plant, putting out 2800 quarts of milk a day, six days a week and hiring ten employees. It owned five milk routes supplied by seven trucks.

All this success came about through hard work and a firm determination in the processing of quality milk. Jim had an obsession to supply a good quality product. He did his utmost to meet the high standards set by him and attended many seminars and conferences on the subject, a factor that contributed to his success.

In April of 1970, after much deliberation and soul searching, Jim decided to sell the business to his two sons. The sale did not mean retirement at all because he is still active in the business and is contemplating the development of several acres of land that he owns into a housing complex.

Today at the age of sixty-one he can be proud of his family, nine children and many grandchildren, and he can look upon it with the deep satisfaction of having brought them up in the same tradition of his father before him.

Jim still engages in the same sports that he has enjoyed all his life. Every Friday night he is found playing a very active game of tennis with the people from Marquette, all cherished friends. An avid outdoors man, he takes a few weeks each year for treks way up north into Canada and Labrador for caribou and moose hunting.

He is today, as always before, concerned with public service. His busy schedules have never deterred him from giving to his community the time that he deemed to belong to it. During World War II he taught first aid and was head of the local Civil Defense Medical Department. Later he served five years as Civil Defense Director of the Town of Bellingham, then continued serving as Deputy Director. He was recently elected to the Charter Revision Committee for the Town of Bellingham and served as its chairman.

What does the future hold in store for Jim? One thing certain it is activity. Another thing certain is that much of this activity will be devoted to the credit union movement in general and to Marquette Credit Union in particular. When he recalls his experiences in the credit union field he considers the celebration of the 25th anniversary of Marquette Credit Union one of the highlights of his life when he presided over a banquet where the guest speaker was the chairman of the House Banking and Currency Committee. He cherishes this friendship very highly, noting that they both share the same philosophy expounded by the credit union movement and they both wield the gavel of a chairman.

Jim loves life and work and knows how to enjoy both. He is thankful for good health and good friends and knows how to show his appreciation for the blessings he has received—by helping others. Among his peers he is loved and admired.

Long after the sound of the last rap of his gavel echoes through the meeting room he will be fondly remembered for a very long time and the imprint he will have left at Marquette Credit Union will be very much in evidence for many years to come.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO SELL U.S. INTEREST IN ALASKA LANDS TO GOSPEL MISSIONARY UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a bill to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union by Senator TED STEVENS before the Public Lands Subcommittee of the Senate Committee on Interior and Insular Affairs on October 10, 1973.

This bill would authorize and direct the Secretary of the Interior to convey all interests of the United States in approximately one-fifth—.22—of an acre of land located in Alaska to the Gospel Missionary Union upon payment of the fair market value thereof.

One-fifth of an acre may not seem like a large amount of property but it is very important to the Gospel Missionary Union and the people in Juneau. In 1954 or 1955 a children's home was established on the land adjacent to the one-fifth of an acre involved in this bill. The land referred to in this bill was patented to the Minfield Children's Home in 1958, however, the patent provides that for a period of 25 years, should the land be transferred or cease to be used "for care and training purposes," title shall revert to the United States.

The home has become uneconomical and is no longer in operation. If the Government exercises its right of termination, the Gospel Missionary Union will suffer great hardship as it has invested substantial funds in improvement to the property.

If this bill becomes law, the Union could sell the land, thus realizing the money they invested for improvements.

The Union is still involved in charitable activities and all the funds from the sale of the property would continue to be used for charitable purposes.

Last year both the Department of the Interior and the Office of Management and Budget indicated they had no objection to enactment of this legislation.

The bill follows:

H.R. —

A bill to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall, subject to the provisions of section 2 of this Act, release and convey to the Gospel Missionary Union all right, title, and interest of the United States in and to the following described property:

Lot 14 of Lena Point No. 1, Small Tract Group, in United States Survey 3053, on the southerly side of the Lena Point Highway, approximately 17½ miles northwest of Juneau, Alaska, comprising approximately .22 acre.

SEC. 2. The conveyance authorized by the first section of this Act shall be made upon payment by the Gospel Missionary Union to the Secretary of the Interior of an amount equal to the fair market value of such land (excluding any improvements), as determined by the Secretary after appraisal.

COMMUNIST CHINA'S RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, Secretary of State Kissinger's recent trip to Communist China has engendered much press speculation on future U.S. relations with that country. One newspaper, upon the conclusion of the Secretary of State's visit, had the following headline: "Kissinger Hopes for Full Peking Ties." The President has stated on numerous occasions that any moves toward the Soviet Union or Communist China will not be made at the expense of old friends and allies. It is important that our Government does not forget these assurances.

A euphoria has arisen as a result of the various moves between Red China and the United States. Before we get too involved in chasing what may prove to be no more than will-o'-the-wisps we should review at least briefly the record of the Communist Chinese. On August 6, 1949, the U.S. State Department released a white paper entitled "United States relations with China" which basically wrote off the nationalist government in preparation for a change in U.S. policy. The Chinese Communists responded by arresting the U.S. Consul-General Angus Ward in Mukden. This dashed hopes that they might want better relations with the United States. Ward was finally released and departed with his staff in December of 1949.

In 1950 the Communists on the mainland initiated the beginning of their land reform, which was to eliminate so-called landlords, rich peasants and middle class by well-coached witnesses, "tried" and then many were taken out and shot. Landlords included those who owned as little as two-thirds of an acre. At one "trial" 30 individuals were convicted. None owned more than 3 acres, but they were defined by Mao as "landlords."

Also 1950 saw the introduction of Communist Chinese forces into North Korea and their engaging American fighting men there. In the same year the Communist Chinese charged the United States with being the aggressor in the Korean conflict and they further vowed to "liberate Taiwan," a vow they have since repeated on numerous occasions.

Between 1951 and 1955 the Communist Chinese remained active. Mass arrests and liquidations continued on the mainland. Communist troops entered Tibet. They charged the United States with conducting germ warfare in Korea. They confiscated all British property on the Chinese mainland, which Britain had hoped to forestall by her early diplomatic recognition of the Communist Chinese regime. Land that had been distributed to peasants was taken away from them and they were put onto collective farms. In 1954 two out of three Communist Chinese prisoners of war in Korea chose to go to Taiwan rather than return to the mainland. The same year saw the United States for the first time take part in an international conference with Peking. The year 1955 saw Red China giving $338 million worth of aid to North Vietnam.

In 1956 the Communist Chinese Party announced its support for the Soviet action in Hungary. On February 27, 1957, Mao admitted to the liquidation of 800,000 people between 1949 and 1954. On February 6, 1958, Lo Jui-ching, Minister of Public Security, disclosed that an additional 100,000 "rightists and counter-revolutionaries" were uncovered and purged during an investigation of slightly under 2 million people from June 1955 through October 1957. The same year the Communist Chinese began artillery bombardment of Quemoy which resulted in air, naval, and ground battles. The introduction of communes was announced and by the end of the year the entire mainland had been organized into such groupings.

In 1959 the Tibetans revolted after being suppressed and persecuted by the Communist Chinese. The Communist Chinese mercilessly put down the rebellion. The Communist Chinese also clashed with Indian troops in a remote section of Kashmir.

The 1960's were much like the 1950's. There were a number of campaigns of religious persecution against both the few remaining non-Chinese clerics and also the more numerous native clerics and believers. Torrents of refugees continued to flee into Hong Kong. In the first 3 weeks of May 1962, at least 75,000 reached the border of the British colony, but 55,000 were forcibly returned to the Communist side. In October of that year the border war with India broke out. Also, encouragement was given to revolutionaries in the United States.

In 1964 the Communist Chinese newspaper Peoples' Daily declared support for the "restoration of the lawful rights of the Arab people of Palestine." The Communists also began furnishing arms, money, and training assistance to the Palestine Liberation Organization. Such aid to Palestinian terrorist groups has continued down to the present day.

The middle 1960's showed more African countries breaking relations with Communist China, charging that the Communists were involved in fomenting revolt in their various countries. The Communist Chinese also began atomic tests. Aid to North Vietnam continued. Peking's hand was seen in an attempted coup in Indonesia. A new government in Ghana offered to show journalists a "guerrilla school" which had been operated by the Communist Chinese—1966 saw the beginnings of the Cultural Revolution, which was to result in further liquidations. The Cultural Revolution brought violence and strife to all sections of the mainland. Diplomats in Peking were also harassed during this time. The Commercial Counselor of the French Embassy and his wife were forced to stand in below freezing weather for several hours. In Peking the British "Office of Charge d'Affaires" was burned. Peking continued support of guerrilla movements including giving support to a so-called Thai Peoples' Liberation Army whose purpose was to overthrow the government of Thailand.

The first 3 years of the decade of the 1970's has seen Communist China continually give economic and military support to the North Vietnamese, continually give arms and training to Palestinian guerrillas, continually give money, arms, and training to various revolutionary movements around the world and continually repress and persecute their subjects at home. From January 1, 1973, to the middle of November, more than 50,000 have fled from Red China to Hong Kong. Unpublicized reports are continually made of Red Chinese involvement in various guerrilla movements. A number of observers point to Communist Chinese involvement in the illegal international narcotics traffic.

The question must be raised: has Red China changed or have we? From this short review of the Red Chinese record, it is difficult to see much change in them.

The National Advisory Board of the Committee for a Free China, of which I am a member, recently concluded a meeting in Washington, D.C. issuing a communique. In part that communique stated:

> We call upon our national leaders to reexamine any policy which strengthens enemies of all that Americans believe in and stand for, and to stand firmly with true friends and allies against the spurious peace initiatives of communist regimes.
>
> Let us heed the earnest appeals of the great Russian scientist Sakharov that we not build up the enemies of freedom and democracy and of the great humanist Solzhenitsyn that we stand always on the side of oppressed peoples, not their oppressors.

One country that deserves our continuing support and friendship is the Republic of China on Taiwan.

I urge the President, the Secretary of State, my colleagues in the Congress and all Americans to give heed to this important message. The full text of the communique follows.

COMMUNIQUE

WASHINGTON, D.C.—The National Advisory Board of the Committee For A Free China today released the following communique resulting from discussions at the Committee's annual meeting in Washington Nov. 16–17, 1973.

"We are convinced that the quest for so-called detente with Communist China by actions which strengthen its oppressive rule over the Chinese people constitutes a quest for peace that cannot succeed, given the nature of the Peking regime. We have seen in Eastern Europe and the Soviet Union how the repression of human rights has threatened again and again the very basis of peace.

"In Communist China, a parallel policy of denial of human rights exposes the Tibetans and other racial and religious minorities to an agony of persecution. The Chinese on the mainland are managing to flee to freedom in unprecedented numbers. This year more than 50,000 have legally gained admission to Hong Kong while another 20,000 "freedom swimmers" have succeeded in reaching that British Crown Colony, while an even larger number have sacrificed their lives in the attempt.

"The Committee For A Free China regrets the U.S. policy which, without any reciprocal actions in support of human freedom, advances close economic and political ties with a government which denies all human and civil rights, stifles free expression of opinion and intellectual attainment, lives by the motto 'political power grows out of the barrel of a gun' and seeks to destroy the highest cultural and spiritual traditions of its own civilization.

"In contrast with this tyranny on mainland China, the Republic of China on Taiwan is an increasingly democratic government which seeks to preserve the richness of the ancient Chinese culture while applying with remarkable success modern science, technology and productivity in a manner which enhances the standard of living and the well-being of all the people.

"The Committee wholeheartedly endorses the pledge made so frequently by the President that U.S. commitments to the Republic of China in the past will be faithfully fulfilled in the future. This requires the maintenance of full diplomatic relations with the Republic of China and the 1954 Mutual Defense Treaty. This involves not only our honor but our national well-being in view of the way economic and cultural relations between the two countries are developing at an unprecedented rate. In trade the Republic of China on Taiwan is already the 12th-ranked partner of the United States.

"We call upon our national leaders to reexamine any policy which strengthens enemies of all that Americans believe in and stand for, and to stand firmly with true friends and allies against the spurious peace initiatives of communist regimes.

"Let us heed the earnest appeals of the great Russian scientist Sakharov that we not build up the enemies of freedom and democracy and of the great humanist Solzhenitsyn that we stand always on the side of oppressed peoples, not their oppressors."

SCRAP SHORTAGES AND PRICE SQUEEZE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 10 minutes.

Mr. DENT. Mr. Speaker, some days ago, I attended a meeting with representatives of the steel tubing manufacturers in the Commonwealth of Pennsylvania, many of whom maintain facilities in my district. I listened while they articulated their very serious situation to the members of the Pennsylvania delegation. I soon saw that their problem, centered around the inability to secure scrap at reasonable prices, was not peculiar to Pennsylvania, nor limited to my State, but did in fact affect the entire country in a very integral way. Last Wednesday, the Wall Street Journal reported that small drilling contractors and big oil companies alike are finding themselves "in the tightest pinch ever when it comes to obtaining much of the basic equipment needed to sink an oil or gas well, especially the steel tubing used to drill a well and encase the hole." The effect of the shortage and its relationship to the energy and fuel problem is, of course, self evident.

I would commend for my colleague's information, the following excerpts from a statement by George W. Kross, Jr., vice president and general manager of the Tubular Products Division of the Babcock & Wilcox Co. It is an enlightening statement, and one of the most explicit statements of the problem at hand. Additionally, I have included for the RECORD a copy of the Wall Street Journal article on tube shortages.

It may well be important to keep in mind these facts while reading the following.

First, out of a total 45 million tons of scrap available on a yearly basis in this country, only 1½ million tons are subject to price controls.

Second, exports of scrap reached an all time high of 11.3 million tons, nearly a million tons over last year's export total.

STATEMENT

Specialty tubing is separated into two broad categories: Pressure and Mechanical Tubing. Our products are used as vital components in a myriad of products, equipment, and services:

1. Electric Power Generation (Utilities & Marine)

2. Oil Production and Refining
3. Gas Processing
4. Chemical Processing
5. Food Processing
6. Textile Equipment
7. Airplanes
8. Rail Transportation
9. Automobile Transportation
10. Farm Machinery
11. Industrial Machinery
12. Construction Equipment
13. Defense Oriented Equipment (Tanks, Submarines, Mortars, Rifles) None of these industries could continue operating for very long without specialty steel tubular products. Allow me to highlight just three of these markets and their importance to the nation.

However, we submit that, as is inevitable with any system of economic controls, *serious imbalances* have developed which threaten not only the stability of our economy, but which could very well bring on a recession, or worse, because of shortages of important products. Every day we read that companies in the steel industry, the aluminum industry, and elsewhere are simply ceasing to produce certain products which are needed by the economy, but on which the controlled prices are such that the producers lose money. We also hear that certain companies are diverting their production into the export market where there is no price control. This has very sinister implications for American industry.

THE PROBLEM

My major reason for being here today is to explain to you the very difficult position that our Division is now in and to give you a clear understanding of the impending disaster that is confronting us.

We filed with I.R.S., New York Office, on August 31, 1973, a Form CLC–22, which prenotified a 3.38% price increase. We set forth in this document our cost justification in the amount of 6.63% for the steel products (S.I.C. Code 3312) of B & W's Tubular Products Division.

B & W subsequently received a letter dated September 13, 1973 from I.R.S., New York, enclosing a copy of the Cost of Living Council Special Rule No. 1. We were informed that the processing of B & W's Form CLC–22 would be suspended until December 1, 1973. The Special Rule prevents B & W from implementing any increases in B & W's prices for our tubular products, despite our demonstrated cost justification.

I would like to point out that specialty steel producers, such as B & W, sell their products primarily for incorporation into capital goods and for high performance applications. None of our products are used in consumer goods. Consequently, the prices of specialty steel have only an indirect and minimal influence upon the cost of living.

SPECIAL RULE NO. 1 SHOULD NOT APPLY

The incongruous part of this ruling is that our Division is quite different from the major multi-line steel producers. We do not produce flat-rolled products. As I stated earlier, our major product lines are Specialty Seamless and Welded Steel Tubing. Our profits on both these major product lines are being reduced by this recent Cost of Living Council ruling.

But even before these recently established controls, our costs were already rapidly escalating. The steel we use for our Division's seamless tubing is melted at Beaver Falls in electric furnaces. Scrap is our basic raw material. Without it we cannot melt our steel.

Scrap purchases have little effect on the major producers, since it is only one source of their material. Unlike the major steel producers, we do not have hot metal production. Our scrap purchases have a direct and tremendous effect on our costs.

SCRAP COSTS SKYROCKET

Steel scrap constitutes, by far, the most significant of our direct material costs. In the first six months of 1973, we purchased approximately $9 million worth of steel scrap. This expenditure represents approximately 11% of the total costs of operating the Tubular Products Division—which compares with only 7.34% in the fourth quarter of 1972. This represents an increase of almost 50%.

The cost of steel scrap—which is not subject to price controls—has skyrocketed during the last year. Because of our frozen prices—mandated by the Cost of Living Council's Special Rule No. 1—I believe you will agree that B & W is in a real "cost-price squeeze." Yet, the rapid increase in the price of purchased steel scrap in 1973 has not been used as a cost justification for any price increases put into effect in 1973. Quite frankly, this price rise was entirely unanticipated by us at the beginning of 1973.

The price of steel scrap applicable to the base period (Fourth Quarter 1972) was $44.92 per gross ton. The table set forth below indicates the dramatic increase in actual scrap prices per gross ton.

1973 purchased scrap costs

1973:	Actual
January	$52.50
February	55.16
March	54.80
April	54.10
May	58.01
June	60.85
July	61.28
August	61.87
September	64.20
October	75.00
November	85.00
December (estimated)	100.00

The estimate for December, 1973 is based on information from suppliers of scrap who are intimately acquainted with the supply-demand of that commodity. The November, 1973 price of $85 per gross ton being paid for scrap represents an increase of 89% from the base cost period. Should our estimate for December prove accurate—and we fear it will—we will be paying about 120% more for scrap at the end of this year compared to our costs at the beginning of 1973.

As you are aware, sellers of steel scrap maintain that steel scrap is a "used product" within the meaning of the Phase IV regulations. Thus, price adjustments in respect to steel scrap are not subject to price controls.

The large tonnage steel producers make most of their steel by open hearth furnaces or the basic oxygen process, using their own integrated raw materials. Thus, the large producers are not as dependent on uncontrolled ingredients, such as steel scrap, as B & W.

ACTION IS NECESSARY

The inability to pass on, at least on a dollar for dollar basis, the rapid increase in the cost of scrap is especially burdensome to firms such as B & W, who are dependent on electric furnaces and must use outside purchased scrap. For the Tubular Products Division to survive, scrap exports must be eliminated to increase domestic supply and to ultimately evolve reasonable pricing; but, in addition, B & W must have price relief now!

INABILITY TO COMPETE

If you and I fail to obtain relief in the matters I have tried to present to you today, we may well force the Company to abandon certain areas of our steel tubing business. Profit margins are already low; for example, in the carbon and SAE Alloy Steel Tubing markets. The scrap price of $85 per gross ton for November, 1973, will result in severe losses in melting and producing about 40% of our steel. We cannot absorb the increased cost of scrap and the other rising costs we foresee in the near future.

The results of B & W's retreat from these markets are predictable.

1. B & W's proposed $50 Million Ambridge Project for the expansion of our tubing facilities will not get underway, because we will be unable to support the project with our current level of profits.

2. The market will go entirely to the foreign steel companies, who do not fall under U.S. Government controls. Domestic users will be forced to pay higher prices, and the ability to buy will be at the whim of the offshore producer.

3. There is a large demand for carbon and alloy steel tubing and that demand will grow. It cannot help but further disrupt the national economy if a major producer of specialty steel products—Babcock & Wilcox—is forced to withdraw from competition.

WHAT B & W MUST HAVE TO SURVIVE

We believe that we, as a small but vital part of the American Steel Industry, should be allowed to grow and to take care of America's need for specialty steel tubing. We need government policies that will assist us in becoming competitive and profitable, instead of the opposite. We need government policies that will permit us to earn profits which will allow us to survive and expand.

We at B & W do not believe that we are requesting special consideration, nor are we demanding anything which isn't essential to continue our tubular products operations which employ over 7,000 people in four States.

I have asked for this opportunity to speak to you to try to pinpoint our problems and the enormity of these difficulties. I sincerely hope that I have achieved that goal, because the hour is late for us, and your immediate assistance is essential.

Thank you for your valuable time and your interest. I appreciate your freely giving me both. I will be happy to answer your questions. I want your advice on how we can rectify our problems before it is too late.

On behalf of the 7,000 Tubular Products Division employees whom I have attempted to represent today, I respectfully demand that action be taken quickly.

GEORGE W. KROSS, Jr.,
Vice President and General Manager.

COMMODITIES: SOARING SCRAP PRICES PINCH STEEL MILLS, WHICH POST SURCHARGES, THREATEN CUTBACKS

(By Michael K. Drapkin)

PITTSBURGH.—The nation's steel producers wish at least one of the immutable laws of economics—the one of supply and demand—wasn't quite so immutable.

Record world-wide steel output has pushed up demand for steel scrap, sharply driving up the cost of collecting and processing the crucial steelmaking material and leaving prices at unheard-of levels.

The results are varied. Among them are escalating costs for all mills and profit pinches for some, a surcharge on a few steel products, threats of production cutbacks and an aggravation of the long-term but sometimes raw relationship between the mills and their scrap suppliers.

Within the last week, one Chicago-area steel mill offered to pay a record $86 a ton for No. 1 heavy melting scrap for delivery this month, up $16 a ton from October and more than double the price of November 1972. Bushelings, or small scrap pieces essential to electric furnace operation, are at $90 a ton in some locations. Overall, there isn't any price relief in sight.

LEVEL OF $100 NEARS

"Two weeks ago, I expected a $100-a-ton scrap price in the Chicago area by the first of next year. Now I fear it may be by December," says Ruben A. Redard, vice president of purchasing at Keystone Steel & Wire division of Keystone Consolidated Industries, Inc., Peoria, Ill.

Three steelmakers, including Allegheny Ludlum Industries Inc., last week imposed temporary surcharges of up to $24 a ton on some products, citing high scrap costs. On Thursday, Vulcan Mold & Iron Co., a division of Vulcan Inc., posted a $9 surcharge on steelmaking ingot molds, again citing soaring scrap costs.

At the same time, Cyclops Corp., a big specialty steelmaker, said, "an unprecedented cost-price squeeze," chiefly relating to higher scrap quotes and the Phase 4 ceiling on product prices, was responsible for a 71% slump in third quarter profit.

Armco Steel Corp., the fifth-biggest mill, and one of the nation's largest consumers of purchased scrap, warned of "possible restrictions" on steel output "in the near future" owing to the pinch on domestic scrap supply.

Steelmakers traditionally use about 55 tons of scrap for each 100 tons of raw steel they produce. Much of the scrap is internally generated, but steelmakers must look to the open market for nearly half of their scrap needs. With steel production this year expected to reach a record 148 million tons, the domestic scrap industry is straining to supply 43 million tons of the used metal, up from 38 million in 1972.

RECORD EXPORTS PROJECTED

To make matters worse, record scrap exports of 11.4 million tons are being projected for 1973. Through September, exports totaled 9.2 million tons, exceeding the 7.4 million tons shipped abroad in all last year. The Commerce Department earlier this year imposed export licensing rules designed to alleviate the crunch and moderate prices, but as one steelman charges: "The restrictions aren't being policed very well. There are a lot of ways to get around them and they're all being used."

Export prices, of course, aren't controlled by Phase 4 limitations. And, much to the dismay of regulated steelmakers, most domestic scrap prices aren't controlled either. The reason: Most scrap dealers are small operators each employing fewer than 60 workers and generating less than $50 million in annual sales and thus are exempt from Phase 4 regulations.

One aspect of the controls program, however, is having an effect—not on prices, but in crimping supplies. A prime source of scrap traditionally has been auto stamping plants. But as all sales by auto companies are subject to Phase 4 rules, some auto makers are keeping their scrap off the market rather than sell it at fixed, artificially low prices.

One of Detroit's "Big Three" auto makers chose last month to withhold from the market its usual supply of No. 1 industrial bundles, a key scrap grade. "Why should they sell bundles at $57 a ton to a dealer who can peddle them to a steelmaker for $90," one trade source asks.

Historically, scrap dealers have performed a middle-man role important to both steel and auto makers in gathering, segregating and processing the used metal. Although this largely precludes steel companies from buying directly from their prime source of scrap, today's shortage are producing some unusual transactions. For instance, one Midwestern scrap dealer says Chrysler Corp., in selling its auto body stamping scrap in both Detroit and Cleveland, has allocated it to scrap dealers with instructions that it be sold only to the Great Lakes division of National Steel Corp. In return, the source said, National has increased Chrysler's allocation of steel. "The deal is more steel for more scrap," the source says.

"There's a fundamental change going on," says one steelman. "The head of the purchasing department is wining and dining the scrap guys now. It used to be the other way around."

At least one mill has found another way of offsetting the higher scrap cost. The mill, a specialty steel producer, says it has switched the product mix from two-thirds alloy steel and one-third carbon steel to "about 80% to 85% alloy." Alloy steel requires no more scrap per ton than carbon steel, but it carries a higher price tag.

Scrap dealers maintain that they are doing everything possible to increase supplies and are even "overpaying truckers" to scour the countryside for old car bodies and other sources of scrap.

The crux of today's problem isn't really a scrap shortage, but a transportation problem, many scrap dealers contend. Even at today's sky-high prices, they say it isn't profitable to transport scrap over long distances. "Scrap is where the people are, not necessarily where the mills are," says one scrap company executive.

Thus he says the argument against exports is oversimplified. "A lot of scrap comes out of California, which generates 2½ to three times as much as could possibly be used out there," he says, "but there's no way existing freight rates would allow us to ship that scrap eastward."

COMMODITY INDEXES

Dow Jones Futures, Friday—274.08, off 2.72; last year, 167.32.

Dow Jones Spot—296, up 0.49; last year, 172.89.

Reuter United Kingdom—1161.3, off 6.6; last year, 666.6 (1931 equals 100).

[From the Wall Street Journal, Nov. 7, 1973]

OIL-PIPE PINCH: OIL DRILLING CONTRACTORS SAY SHORTAGES OF TUBING, OTHER SUPPLIES ARE WORST EVER

(By D'Arcy O'Connor)

In Laurel, Miss., an oil-well contractor recently paid $13.10 a foot for 11,000 feet of used drill pipe. New, the same pipe would have cost him about $10 a foot. But then, his chances of finding new pipe today are probably less than his chances of striking oil.

Small drilling contractors and big oil companies alike find themselves in the tightest pinch ever when it comes to obtaining much of the basic equipment needed to sink an oil or gas well, especially the steel tubing used to drill a well and encase the hole. There's also a shortage of drilling rigs, tool joints connecting the 30-foot lengths of drill pipe, and even crews and fuel to operate the rigs.

But it's the extreme scarcity of well pipe and casing that is most alarming U.S. petroleum producers. "We've actually had some wells we've had to delay because the operator couldn't find the pipe to drill the hole," says W. E. Bullington, vice president of Parker Drilling Co., a large Tulsa, Okla., drilling contractor. "Up until recently, 30 to 90 days was the longest we'd expect to wait to get hold of pipe. Now, we're looking for up to a year on some deliveries," he adds.

And the fact that the shortages are expected to get even worse in the months ahead—at a time when a potential oil shortage is a matter of national concern—has prompted a Department of Interior study of the situation. "We didn't anticipate this equipment would go from a shelf item to a scarcity" in just the past couple of months, says a department official.

SURGING EXPLORATION

Oil-industry sources cite two major factors creating the current shortage: a surge in exploration activity in the U.S. and abroad (there are about 1,300 oil rigs operating in the U.S. today, up about 15% from a year ago), and lagging production of steel tubing by the nation's steel mills.

Some oil producers accuse the steelmakers of sacrificing tubing production for that of sheet steel because of the recent price increases cleared by the Cost of Living Council on the latter product. But steel concerns say they are maintaining their ratios of tubular product output to that of sheet.

An official of one of the largest suppliers of drill-rig tubular equipment, the Continental-Emsco division of Youngstown Sheet & Tube Co., a unit of Lykes-Youngstown Corp., asserts that "Youngstown is still allotting the same amount of capacity for oil-country steel as it did a year ago." This, he adds, is about 20% of the company's total steel output. He blames the current situation on "a basic shortage of steel all over the world," and adds, "ironically, a lot of that problem is directly tied to the energy crisis."

But oil and gas well operators say that because of domestic price restrictions steel mills often can get higher prices for tubular steel from exploration companies outside the U.S. This is one factor the Interior Department is examining in its study. "We'd certainly look to see what options are available to us to restrict such exports" if they are found to be significantly contributing to domestic shortages of oil-drilling equipment, says the agency official.

INDEPENDENTS HARDEST HIT

Meantime, a spokesman for the Dallas-based International Association of Drilling Contractors says the import of well casing from Japan and Europe has virtually dried up. He says this is due to increased foreign oil and gas exploration and "simply because they can get more money for it over there than in the U.S."

The small independent operators and contractors, who account for about three quarters of all wildcat oil and gas strikes in the U.S., are those most severely affected by the equipment supply squeeze. Some of these operators report they are scrambling against time in many instances to obtain pipe to start a well before their leases on particular acreage expire.

One such operator, Ernie Brooks of Oklahoma City, says he has "eight wells ready to drill now, but I just can't find pipe anywhere." He adds that he has "been trying to buy some old wells just so I can pull out the pipe," but even these are "almost impossible to get."

"It's getting pretty bad," says an executive of Rowan Cos., a Houston drilling contractor. "Pipe we ordered a good three months ago is now scheduled to be delivered in October 1974."

The major petroleum producers are less affected, as most of them had previously built up equipment inventories in anticipation of the increased drilling activity this winter. Also, because they are large volume customers, they are able to buy most of the new tubing available.

AN HISTORICAL BASE

Nevertheless, steel suppliers have put these producers on an allocation basis for most tubular products, with the allocation usually based on a customer's quarter-to-quarter purchasing history.

A spokesman for Mobil Oil Corp. says that despite the allocations, "we've been able to handle all our crises so far." But, he adds, "the outlook is poor," and "we're now working against our allocation for the first quarter" of next year.

The most ironic shortage that has recently cropped up in the oil fields is that of diesel fuel and propane, both commonly used to run the oil-rig engines.

"There are going to be a number of rigs shutting down because they can't get enough fuel to keep operating," warns Bill Murphy, president of Murco Drilling Co., Shreveport, La. He says Murco has received notice from its diesel fuel supplier that future deliveries will be curtailed as a result of the nationwide tight supply of that fuel. Other drilling contractors say they've had to seek fuel-provision assurances from the oil companies they're drilling for before beginning new wells.

Drill crews, too, are getting harder to find in many areas, though operators concede that a labor shortage often accompanies the onset of winter. But the current situation is "worse than ever," says Mr. Murphy. "Crews are leaving the fields in droves because with cost controls we can't pay as much as they'll get in other jobs."

Most oil-industry sources believe the shortages of drilling material will continue for at least another six months. But some expect the tubular-steel shortage to last several years.

With the resulting rise in value of used drilling equipment, a recent increase in "pipe rustling" is reported by the Texas Rangers. An officer at the force's station in Midland, in the heart of West Texas oil country, says drill-pipe sections left unguarded at well sites "often get loaded on a truck in the middle of the night and sold to dealers the next morning a couple of hundred miles away."

Consequently, he adds, "a lot of companies around here are starting to brand their equipment" with serial numbers or other identifying marks.

FATE OF MISSING SERVICEMEN IN SOUTHEAST ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, in a recent conversation I had with Secretary of State Kissinger, he painted a rather gloomy picture for a speedy determination of the fate of the some 1,300 U.S. servicemen still listed as missing in action in Southeast Asia. Dr. Kissinger told me that it was his opinion that the North Vietnamese were not holding any additional servicemen as prisoners because he felt that they would be using any such POW's as a bargaining point on other matters which has not been the case.

The Secretary was at a loss to explain why the North Vietnamese have refused to give up the remains of U.S. servicemen killed in North Vietnam. He told me quite frankly that the United States has no leverage to bargain for the return of the remains and we basically have to deal through third party nations.

Unfortunately, Dr. Kissinger had no new information to offer on the plight of servicemen listed as missing in Laos.

Mr. Speaker, I was heartened by the fact that on his recent trip to the Orient, Secretary Kissinger asked Chinese leaders about U.S. pilots thought to have been shot down over China. Even though the Chinese leaders told Dr. Kissinger that they are holding no U.S. prisoners and have found no traces of downed aircraft, they did agree to expand their search and to search more diligently.

I appreciate Secretary Kissinger for being candid with me and giving me the benefit of his personal knowledge of the MIA situation. Of course, I would have hoped for a more encouraging report, but I do commend the Secretary of State for his efforts on behalf of our servicemen missing in action. I also take this opportunity to call upon all appropriate government officials to redouble their efforts to obtain a complete and factual accounting of American servicemen still listed as missing in action in Southeast Asia. We must and should receive information on the 1,300 brave men who answered their country's call during the difficult years of fighting in Southeast Asia. They and their families deserve our assistance and support in any way we can give it.

CPA AT ICC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, we shall soon consider on the floor of this House proposals for the creation of a Consumer Protection Agency which will advocate the interests of consumers in Federal decisionmaking. When similar bills were considered in the last Congress there was much confusion concerning the powers and effects of the proposed CPA.

In order to avoid a recurrence of that confusion, I have asked those Federal agencies which would be subject to the CPA's advocacy rights to list, and to delineate by the several categories set forth in the bills, their 1972 proceedings and activities which would be subject to CPA action. And, in order to make their replies available to all the Members of the House, I have been inserting them in the RECORD as received.

A Government Operations subcommittee, on which I serve, is now considering three CPA proposals. The bills are H.R. 14 introduced by Congressman ROSENTHAL, H.R. 21 introduced by Congressmen HOLIFIELD, HORTON, and others, and H.R. 564 introduced by Congressman BROWN of Ohio and myself.

The major difference among the bills is that H.R. 14 and H.R. 21 would both authorize the CPA to appeal the final decisions, including a decision to take no action, of other agencies to the courts. The Fuqua-Brown bill, H.R. 564, would not grant this extraordinary power to a nonregulatory agency.

Today I wish to call attention to the reply of the Interstate Commerce Commission.

You will recall that the Department of Transportation proceedings in 1972 were so numerous that the DOT was unable to provide a full itemization of its activities. The ICC has been able to supply an itemization of its proceedings for fiscal 1973. The number and variety of the Commission's activities can only be characterized as staggering.

In fiscal 1973, the ICC reviewed 329,215 tariffs. That amounted to a daily average of 3,850 pages of tariffs. In addition, final administrative action was taken in 8,831 formal proceedings and in 13,953 informal activities. The ICC Chairman states that consumer interests are involved in all Commission activities.

Thus, a CPA would be authorized to take part in each of these proceedings and activities to represent consumers under all three CPA proposals. Under all of the bills except the Fuqua-Brown bill the CPA would have the power to initiate court appeals.

Mr. Speaker, I submit for the RECORD the reply of the ICC listing its proceedings which would have been subject to CPA advocacy in fiscal 1973, under the bills now pending in the Government Operations Committee. I do this to give the Members an early appreciation of the scope and importance of these bills, with the hope that we may avoid the confusion encountered in debate on this issue in the 92d Congress.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., September 28, 1973.

Hon. DON FUQUA,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FUQUA: This replies to your letter of September 7, 1973, requesting certain specific data concerning the operations of this Commission, insofar as they might affect or be affected by a proposed Consumer Protection Agency. I apologize for the delay which was necessitated by our need to categorize, in accordance with your specific questions, the many thousands of different proceedings and actions coming before this Commission each year.

A subcommittee on which you serve is conducting hearings on three bills (H.R. 14, 21, and 564), which propose the creation of an independent Consumer Protection Agency. Such an agency would advocate the interests of consumers before other administrative agencies including this Commission. Therefore, you have requested information regarding the operations of this Commission that would be within the CPA's advocacy jurisdiction.

I believe that consumer interests are involved in *all* Commission activities and that the proposed CPA may, at varying times, seek to participate at various stages, in almost any of our functions. This would, of course, represent a major undertaking especially for advocates who may lack expertise in transportation, who may not be familiar with our procedures, or who may not have sufficient budgetary or other resources to participate in so great a number of Commission activities.

To summarize the sweeping array of matters with which this Commission must annually cope, our 1973 fiscal year ended June 30, 1973, this included the following major activities:

8,831 formal cases, principally involving rates, operating rights, and finance proceedings.

13,953 informal cases, acted on under public observations but without the need for public hearing.

300 challenges in the federal court system.

329,215 tariffs requiring agency review, with an average of 3,850 pages of tariff material received each working day.

972 examinations of accounting systems of regulated carriers.

268 service orders designed to reduce shortages and buildups of railroad freight cars and attain more equitable distribution of the Nation's car fleet.

569 prosecutions of violators of the Interstate Commerce Act or Commission orders.

7 appearances before Congressional Committees.

2,221 hearing days before some 70 administrative law judges assigned to this Commission.

This list is by no means all-inclusive, but is presented to demonstrate the quantity and variety of our activities. You will note that the above statistics cover our functions for the past fiscal, rather than calendar year. Much of this Commission's available data are separated into applicable fiscal years. This breakdown is required for budgetary and Congressional reporting. The replies to the specific inquiries in your letter are attached as an appendix to this response. You will note that in certain instances we have been supplying you with data based on the past fiscal year. If you should determine that you require calendar year data instead, we will undertake the extensive and necessary time-consuming efforts necessary to develop such information.

I trust that the enclosed information satisfactorily answers your inquiries. If you require additional information, please call Sheldon Silverman, Director of this Commission's Office of Proceedings (telephone 343-6167). If I can be of further assistance to you in this or any other matter, please do not hesitate to call upon me.

Sincerely yours,

GEORGE M. STAFFORD, *Chairman.*

THE FAILURE OF THE HOUSE TO ACT ON A GENERAL ACCOUNTING OFFICE AUDIT OF THE FEDERAL RESERVE SYSTEM

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, on October 4, the Banking and Currency Committee in a 21 to 8 vote reported out H.R. 10265, a bill to require GAO audits of the Federal Reserve System.

This bill remains in the Rules Committee and I deeply regret that the House of Representatives has not had an opportunity to work its will on this legislation. The bill would simply require that the Federal Reserve submit to audits by the General Accounting Office in the same manner as other agencies and departments of the Federal Government.

This bill, if enacted, would give the Congress important new information on the operations of this massive agency which has so much to do with the day-to-day lives of all American citizens. It is pure and simple—a protection for the taxpayers.

With the repeated failures of the House to take up this measure, many newsmen and editorialists have been commenting on the audit legislation and expressing concern about our refusal to vote on an audit.

Without necessarily agreeing with all of the conclusions of these columnists, I plan to place in the RECORD a series of these articles so that the House may have the benefit of what is being said across the country about the audit legislation.

Mr. Speaker, I want to place in the RECORD a copy of a column by Louis Kohlmeier of the Chicago Tribune:

POLITICS AS USUAL FOR BANKERS

(By Louis Kohlmeier)

WASHINGTON.—When a politician, say the Vice President, takes campaign contributions from fat-cat cronies who then get fatter at taxpayers' expense, that's bribery, or, if the politician is powerful enough, merely income-tax evasion.

When a hundred politicians accept contributions and then the fat cats, politicians, and burocrats all gang up on the taxpayers, that's politics as usual.

Politics as usual goes on all the time and serves many purposes. At the moment, the nation's bankers, their political cronies, and the Federal Reserve Board, a burocracy affectionately known as the Fed, are ganging up for the purpose of preserving the burocrats' luxury living habits.

For example, the self-indulgences of the Fed at its marble headquarters here and the 12 Federal Reserve Banks across the country include:

$10,672.33 spent on decorative flowers and plants last year, not including $3,563.88 spent by the New York bank alone on Christmas decorations.

$1,478 for golf tees at the Philadelphia bank.

$155.74 for 1,152 ping pong balls at the Dallas bank, which has only 895 employes.

$2,168.46 for maintaining the New York bank's bowling alleys.

$7,236 for painting the New York bank president's portrait.

$27.15 for cigars at the Chicago bank's board of directors meetings.

$25.20 for one Rosewood gavel, with a sterling band, needed by the Boston bank. And $3 for cleaning the Boston bank chauffeur's uniform.

The Fed, established by Congress in 1913, has achieved status and independence of which other bureaucrats dream. It has its own till, with more money than it can spend. It has its own legend, which says that its work of regulating banks and the nation's money supply is too complicated for Congress or the taxpayers to comprehend.

Wright Patman is one politician who does not believe the legend.

The Texas Democrat, now 80, has been a House member for 45 years and he is one of the last of the old-time populists. Patman dug up the samples of the Fed's high living to support his bill which, for the first time, would make the Fed accountable to Congress.

Patman's modest proposal would force the Fed to open its books once every three years to the General Accounting Office. GAO is a respected arm of Congress that for years has been auditing almost every other bureaucracy in town. The other bureaucracies still flourish, of course, but GAO's audits serve as a warning that profligacy may be revealed.

Patman's bill was approved 21-to-8 by his own banking committee. Then the Fed, the bankers, and their house friends ganged up.

Patman claims that Fed chairman Arthur Burns is orchestrating the lobbying. Burns admits going to Capitol Hill to buttonhole congressmen. The American Bankers Association concedes it has been lobbying. Burns denies seeking the A.B.A.'s help, but admits he did not discourage the bankers.

Anyway, the lobbying is heavy and the congressmen are listening because of Burns' prestige and the fact that bankers last year contributed more than $85,000 to House and Senate members. Moreover, more than 100 House members have personal interests in banks and other financial institutions.

Thus, Patman's bill now is bottled up in the House Rules Committee, which refuses to let the proposal go to a House floor vote. Patman has not given up. But if it goes to the floor opponents are prepared to gut it with amendments that, Patman, concedes, will allow GAO only "to count the cans of tomato soup in the Fed's dining room."

Of course, Patman's eye is on more than 1,152 ping pong balls, it's on sky high interest rates and the Fed's monetary policies which have contributed to the inflation that is eating away at our pocketbooks.

Patman's politics are not perfect, but they're not politics as usual.

MIAMI POLICE OFFICERS RECEIVE AWARDS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on September 20, I had the honor to address the Fraternal Order of Police in Miami and to receive on that occasion an award. The most significant aspect of that occasion was the fact that two city of Miami polic officers, Gerald Green and Walter Clerke, received the eighth annual "Police Service Award" presented by Parade magazine and the International Association of Chiefs of Police. We all realize the debt we owe to the police officers of this country—all those engaged in law enforcement. They stand as a shield in the protection of our person, our property, and our life. I have long advocated that police and fire officers be given Federal income tax exemption on the first $5,000 of their income as a way of the Federal Government to contribute to the increase of their salaries. We not only pay our law enforcement officers too little, we accord them too little recognition and honor for the service they render and the risk of their own lives and persons that they run. We are all delighted, therefore, to see two police officers like Gerald Green and Walter Clerke receive this signal honor. I ask, Mr. Speaker, that the press release respecting these awards, issued by the Miami Police Department, appear in the RECORD following my remarks:

TWO MIAMI POLICE OFFICERS RECEIVE TOP "PARADE-IACP POLICE SERVICE AWARDS"

Two City of Miami police officers have been selected in national competition to receive the eighth annual "Police Service Award" presented by Parade Magazine and the International Association of Chiefs of Police. Officers Gerald Green and Walter Clerke, the first "team" of officers to win top honors, were chosen for their superior police efforts, humanitarian interests and service to the community.

The Police Service Award, established by the editors of Parade Magazine "to focus attention on the necessary and dedicated role police play," will be presented to Officers Green and Clerke at the 80th Annual Conference of the IACP in San Antonio, Texas on September 25th.

The two partners, compiling an impressive work record throughout 1972, were named the Department's "Most Outstanding Officers" in February of last year for their 63 felony arrests during five months on the Robbery Control Project. Although they attended Robbery Seminars for two weeks in February, Clerke and Green were still responsible for four armed robbery arrests and eight other felony arrests during the month. This effort, wrote their supervisor, was "typical of their desire, initiative and devotion to duty."

In April, Green was again selected "Officer of the Month" for his alert actions in apprehending a robbery suspect while off-duty. Observing an armed robbery in progress, he got out of his car and identified himself as a police officer. Green fired one shot as the armed suspect fled from the scene, striking the offender in the shoulder. The area was quickly sealed off by other units, and, as a result, two other assailants were also captured.

Named "Officer of the Year" by the American Legion Post No. 29 and the Rotary Club of Miami, Green also became the Department's first "triple award winner" in 1972 when he was selected to receive the $1,000 William D. Pawley Award as the Department's "Most Outstanding" Officer for the year. Green, although often singled out, consistently gave credit to his partner, along with sharing the financial rewards of these citations with Officer Clerke.

In June of this year, still riding together as members of a special tactical unit of the robbery squad, Clerke and Green were both injured in a downtown shooting incident. One assailant was killed in the exchange of gunfire, while Clerke was wounded in the leg and Green was hit in the hand and the chest.

Along with their impressive robbery arrest record, however, Officers Green and Clerke distinguished themselves as compassionate and understanding policemen during the past year. Their police reports and court cases reflect the time and effort they spent in thorough investigations following their arrests.

In addition, they displayed the rare insight and ability to recognize individuals who might benefit from available rehabilitation programs, additional schooling and employment possibilities. Through their humanitarian interest and concern, many of the individuals they arrested have been paroled and rehabilitated. One offender, released on probation through the efforts of Green and Clerke, still calls their office once each month to talk with them . . . despite the fact that he was released from probation more than one year ago.

Another offender—a drug user and prostitute arrested for armed robbery—is currently planning her September wedding. With the assistance of Clerke and Green, she was placed on juvenile probation and entered a drug rehabilitation program following her arrest. After apprehending another subject on charges of burglary and auto theft, the officers helped him enroll in the work release program pending his trial. His performance during this time was exemplary, and he received probation when Clerke and Green again recommended it.

As one local attorney wrote in a letter recommending the partners for the "Police Service Award," "There is no question that they are 'good cops,' but more importantly they are fine human beings." Fellow officers, offenders, victims and local citizens have all benefitted from the example of this professional, yet sympathetic, police team.

TRIBUTE TO SCHOOLTEACHER

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it is interesting to us of the older generation to know what the young people in the secondary schools of our country are thinking, to know what is their attitude toward life and toward politicians and men in public office. My sister, Mrs. Sarah Willis, who has for many long and distinguished years been a teacher in the public schools of Florida and for many years has taught in Sunrise High School of Fort Lauderdale, Fla., has sent me two statements from her pupils—one an essay by Todd Ansilmo in tribute to her as his teacher, the other a poem written by Cindy Roden, also one of my sister's pupils, expressing her opinion about life in general and particularly about public officials. It is helpful for us to know what young people like this are thinking about us and others like us who are in public service. Maybe such thoughts in young minds should give us pause and encouragement to try to find out why young people think of us in that way and what we can do to make them have a better image of us.

I, therefore, include, Mr. Speaker, an essay of Todd Ansilmo and the poem of Cindy Roden following my remarks in the RECORD:

MRS. WILLIS

(By Todd Ansilmo)

Although I have only been in Mrs. Willis' class for only a short time, I know already that I will enjoy my English class this year. Future eighth graders, you seventh graders, should hope and pray for Mrs. Willis next year. I tell you this because you will enjoy her class. My only hope is to have some of her special charm to rub off on me. You will enjoy her thoughtfulness and loving personality. She is so nice that she even puts on plays for an old folk's home, collects money for the Boy's Ranch, and does many other helpful things. I entitled my essay "Mrs. Willis" because she is a very special person. I hope this essay appears in the school paper so everyone can see how nice she is. I hope she gets the recognition she deserves.

(By Cindy Roden)

Some say God made the world
And planted the seed of man.
He wanted man to show his worth
And flourish on this land.

I wonder how He feels to know
That His creation is far from right,
That wars are destroying all of man
And man-created government is as black as night.

The men in politics are fighting each other,
And finding better ways of gaining power,
And great men in offices sit and count
Their money atop their ivory tower.

Yet people say they believe in God
And peace for man in life
When all they really believe in
Is drugs, a gun, and a knife.

So what can we do to save our world and help our precious land?
What can we do in this world today to change the hearts of man?
Until we do we'll just have to wait.
Greed and power—what will be their fate?

THE ENERGY CRISIS

(Mr. SMITH of Iowa asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, finally, there seems to be general agreement in both the administration and the Congress that we do have an energy problem. Now, we should take the actions necessary to alleviate the problem. It is not my purpose to spend a lot of time talking about how we got here; but since the President, on several occasions recently has made such a point of trying to blame Congress and change history while it is in the making, it might be well to enumerate a few facts for the record.

A Subcommittee of the Small Business Committee which I am privileged to chair started hearings on the energy problem 4 years ago. The possibility of an energy shortage was of great concern to us because energy shortages obviously would strike very hard at small businesses. In addition, there were all the unanswered questions—in an area which had never been navigated before—of who determines allocations and which businesses will be permitted to secure the energy necessary to stay in business. We soon found that the first job we had to do was to convince people that an energy crisis was in the making. Although statistics indicated that demand was fast overcoming supply and that they would probably meet in late 1972, people in the administration contended that the big oil companies had the reserves to expand rapidly. Also, citizens generally would not believe such an unprecedented situation could develop.

Following hearings in 1970 and some onsite inspections, we issued a report on December 15, 1970, and the recommendations therein included the following:

First, that a single Federal agency be designated the responsibility, authority, and jurisdiction to establish a national energy policy directed at the production and efficient use of our country's total energy resources;

Second, that action be taken to increase the production of all energy sources;

Third, that the mandatory oil import quota program be changed to provide a continuing adequate supply of fuel;

Fourth, that the President suspend the operation of the Connally Hot Oil Act under authority contained in 15 U.S.C. 715(d);

Fifth, that the Canadian crude oil and finished petroleum products import quotas be eliminated;

Sixth, the import quota on No. 2 fuel oil be suspended;

Seventh, that import quotas on residual oil be suspended;

Eighth, that the Office of Emergency Preparedness institute procedures to expedite the distribution of oil import quota tickets;

Ninth, that the Interstate Commerce Commission take whatever action is necessary to insure that transportation will be available to move coal from mines to final destination; and

Tenth, that the Department of the Interior and other agencies establish long-term projections on future coal usage and assure that adequate production facilities will be available to handle future needs.

In 1971, our committee held 10 public hearings and did a great deal more research. On December 8 of that year, we issued another report which, among other things, recommended that—

First, the President's Domestic Council take appropriate steps to coordinate the formulation and implementation of a national energy policy;

Second, the administration expedite and increase research and development efforts for desulfurization of coal;

Third, the Federal Trade Commission undertake a comprehensive investigation and analysis of the forces which shape long-term energy resources supply;

Fourth, that the Department of the Interior eliminate conflicting priorities affecting the progress of projects for research and development of the liquefaction and gasification of coal;

Fifth, that the Federal Power Commission evaluate gas reserves on a reservoir-by-reservoir basis in order to reduce the dependence upon industry-supplied natural gas reserve estimates; and,

Sixth, that there be established a central depository for receiving and compiling energy information so that there would be more reliable data concerning energy supply and demand.

It will be noted that some of the above recommendations overlap or duplicate those made in 1970 but the appropriate officials simply were not heeding the warnings given that such action was necessary.

Our hearings continued in 1972 including on-site information gatherings related to nuclear energy, coal reserves, and oil production—especially in the Gulf of Mexico. We found that an energy crisis was so imminent and that so little was being done about it by officials in charge that we issued three more reports. One report was issued August 8, 1972, another September 19, 1972, and another on October 18, 1972.

Although the President finally had sent up an "energy message," it did not address itself to the immediate solutions necessary or even indicate an awareness of the seriousness of the developing crisis. I suspect one reason he did not appreciate the seriousness of the crisis was because the person whom he had designated in the administration to be in charge of oil policy problems, General Lincoln, indicated as late as September 1972 that he was confident no fuel shortage would exist during the winter of 1972–73. General Lincoln's Deputy, Elmer Bennett, stated—

> We have enough of a refinery capacity today, but . . . problems . . . could arise 2, 3, 4, years from now.

These assumptions were made in spite of the fact that their own figures indicated that there would be a shortfall and distribution problem unless we had a warmer than normal winter with supplies by chance distributed exactly in accordance with the unknown abnormalities caused by weather conditions.

In addition to calling for various kinds of immediate action to prepare for an energy shortage situation, our committee in 1972 recommended that:

First, petroleum imports be immediately increased to the level necessary to both eliminate local shortages and build a reserve;

Second, that the Department of the Interior and the Office of Emergency Preparedness take steps to provide for the immediate construction of new refineries and the expansion of existing ones;

Third, that the Department of the Interior expedite the coal gasification program in order to accelerate the development of low BTU fuel gas technology;

Fourth, that the Department of the Interior eliminate the delay in the coal gasification program relating to high performance electric power generating systems;

Fifth, that the Department of the Interior and OEP reconsider their continuation of the Western Hemisphere restriction upon fuel oil imported by terminal operators; and,

Sixth, that the TVA expedite the TVA-Commonwealth Edison liquid metal fast breeder reactor program.

From all of the above, it should be obvious that the President is not justified in pointing his finger at the Congress and claiming it was the Congress which did not know an energy crisis was developing.

At this time, the important thing is not who is to blame but to take some actions which will alleviate the total energy problem. Most of the actions which have been proposed will either have no impact or have a very small impact on the total problem. While we need to do everything which will have some favorable effect to alleviate the problem, most of what has been proposed amounts to merely playing tiddlywinks in the midst of a crisis while hoping that it will go away without taking major aggressive steps.

The No. 1 action needed is to promote the immediate use on a large-scale basis of more coal by electric utilities and big industrial plants in place of gas and petroleum products. This could relieve for distribution through the normal channels of trade the gas and petroleum products needed by smaller users. While attention should now be directed at this and other necessary actions, I felt compelled in view of the President's statements to set forth the above just to help keep the record straight.

ALL VOLUNTEER FORCE STATUS REPORT

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, in order that my colleagues may be kept informed as to the status of the recruiting efforts to achieve an all-volunteer armed force, I am inserting in the RECORD the accession statistics provided to me by the Department of Defense for the month of September and a cumulative table showing the quality of those accessions as compared to recruits of the past 2 years.

I believe it is important for us to realize that in spite of all that has been done to make military life more attractive, both financially and in the intangibles, the Army has not met its own recruiting goals since January. It is becoming more and more apparent to me that this is going to become a major problem for the American people to face—probably by the end of this fiscal year. To date, the incentives provided have not achieved the results that were predicted. We can only hope that as we move further away from our involvement in the Vietnam war, a military career will regain the stature it once held and, indeed, deserves.

The statistical data and comment provided by the Department of Defense are as follows:

MALE ENLISTMENTS—NONPRIOR SERVICE[1]

[In thousands]

	September 1973			January–September 1973 enlistments	Fiscal year 1973 enlistments	Fiscal year 1974 objectives
	Objectives	Enlistments	Percent			
Army	17,800	14,544	82	102,600	170,000	181,000
Navy	8,300	7,775	94	54,300	92,000	75,000
Marine Corps	6,515	4,128	63	36,300	56,000	52,000
Air Force	5,586	5,663	101	57,800	87,000	65,000
DOD total	38,201	32,110	84	251,000	405,000	373,000

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[1] Both Army and Marine Corps experienced significant recruiting shortfalls during September. The September shortfall for the Army is attributed to 2 factors. 1st, the residual effect of an abnormally low nonhigh school graduate intake is still being experienced even though the restriction to 30 percent was removed in July. 2d, the Army field recruiter forces are still below authorized levels. The Army has taken action to insure recruiter strength will be at the authorized level by Dec. 1. The Marine Corps shortfall appears to be related to 2 factors: A high recruiting objective and low proportion of mental group IV enlistments. The Marine Corps objective for September was increased in late August by 1,375 or 27 percent over the original plan. The increase came too late for recruiters to adjust their recruitment activity. The Marine Corps limited intake of mental group IV's to about 7 percent of its September enlistments, well below their historical average of 20 percent.

TABLE 1.—ENLISTED ACCESSIONS BY MENTAL CATEGORY

Service	January	February	March	April	May	June	July	August	September	October	November	December
DOD												
Total accessions:												
1971	56,650	51,536	46,366	36,379	34,881	46,427	34,967	38,899	38,257	31,244	33,159	27,781
1972	33,631	26,708	26,753	27,409	26,464	50,493	49,243	58,426	55,244	48,788	35,801	28,157
1973	35,525	24,502	19,729	15,805	18,517	35,831	32,497	33,624	32,110			
Percent mental category I:												
1971	4.7	4.5	4.5	4.5	3.9	4.3	3.8	3.7	4.3	5.2	5.3	4.5
1972	4.9	4.5	4.1	3.5	3.3	3.1	3.0	3.5	3.7	4.2	3.9	3.8
1973	4.0	4.0	4.0	3.7	3.5	2.8	2.7	2.8	2.9			
Percent mental category II:												
1971	29.8	28.7	28.6	27.3	27.0	28.2	28.8	29.3	30.4	35.0	33.3	31.2
1972	33.6	32.2	28.5	27.0	26.4	27.5	27.4	29.0	29.3	30.0	30.6	28.6
1973	31.6	32.5	34.1	33.0	31.7	30.5	28.4	31.1	31.7			
Percent mental category III:												
1971	43.2	43.3	43.7	44.3	45.0	45.2	47.2	48.0	47.6	47.8	46.2	45.3
1972	45.7	46.6	48.9	51.0	52.6	50.6	50.4	48.4	48.5	49.2	50.8	52.8
1973	54.1	55.5	54.6	56.7	58.7	59.3	53.8	55.9	54.9			
Percent mental category IV:												
1971	22.3	23.5	23.2	23.9	24.1	22.3	20.2	19.0	17.7	12.0	14.2	19.0
1972	15.8	16.7	18.6	18.5	17.7	18.8	19.2	19.1	18.5	16.6	14.8	14.6
1973	10.2	8.0	7.3	6.6	6.1	7.4	15.1	10.2	10.5			
Enlistments:												
1971	35,877	31,974	32,774	26,675	22,534	38,407	34,967	38,899	38,257	30,663	25,491	25,287
1972	33,444	26,604	26,575	23,589	24,544	41,856	43,246	49,017	50,430	39,369	32,951	26,107
1973	35,417	24,419	19,639	15,733	18,461	35,742	32,497	33,624	32,110			
Percent mental category I:												
1971	4.1	4.8	4.4	4.7	4.1	3.9	3.8	3.7	4.3	5.2	4.8	4.2
1972	4.9	4.4	4.0	3.8	3.4	3.1	3.0	3.4	3.9	4.0	3.8	3.7
1973	4.0	4.0	4.0	3.7	3.5	2.8	2.7	2.8	2.9			
Percent mental category II:												
1971	25.6	30.2	29.3	28.8	28.7	28.4	28.8	29.3	30.4	35.4	34.1	31.1
1972	33.6	32.2	28.4	27.7	26.7	27.6	27.3	28.7	29.6	29.6	30.6	28.2
1973	31.6	32.5	34.1	33.1	31.7	30.5	28.4	31.1	31.7			
Percent mental category III:												
1971	46.1	44.8	45.6	46.3	47.7	47.0	47.2	48.0	47.6	47.9	50.3	46.4
1972	45.7	46.6	48.9	51.9	53.2	51.5	50.8	49.0	48.1	50.1	51.4	53.6
1973	54.1	55.5	54.6	56.7	58.8	59.4	53.8	55.9	54.9			
Percent mental category IV:												
1971	19.9	20.2	20.7	20.2	19.5	20.7	20.2	19.0	17.7	11.5	10.8	18.2
1972	15.8	16.8	18.6	16.7	16.7	17.9	18.9	18.9	18.4	16.3	14.2	14.3
1973	10.2	8.0	7.2	6.5	6.0	7.4	15.1	10.2	10.5			
Inductions:												
1971	20,773	19,562	13,592	9,704	12,347	8,020				581	7,668	2,494
1972	137	104	178	3,820	1,920	8,637	5,997	9,409	4,814	9,414	2,850	2,042
1973	108	83	90	70	56	89						
Percent mental category I:												
1971	4.6	4.0	4.6	4.0	3.5	6.1				2.4	7.0	7.9
1972	5.1	9.6	9.8	2.2	2.6	3.3	2.9	4.3	5.7	4.9	5.4	5.4
1973	5.5	4.8	5.6	4.3	3.6	4.5						
Percent mental category II:												
1971	28.5	26.3	26.8	23.1	23.9	27.2				12.8	30.7	32.3
1972	38.7	34.6	32.2	22.5	22.2	27.3	26.9	30.5	32.8	31.7	30.8	33.7
1973	20.3	24.1	33.3	17.1	28.6	31.5						
Percent mental category III:												
1971	40.5	40.8	39.2	38.9	39.9	36.6				42.6	32.7	33.6
1972	34.3	44.2	43.1	45.3	45.6	46.3	48.1	44.9	43.9	45.4	43.3	42.3
1973	48.1	48.2	37.8	52.9	44.6	44.9						
Percent mental category IV:												
1971	26.4	28.9	29.4	34.0	32.7	30.1				42.2	28.4	26.2
1972	21.9	11.5	14.9	30.0	29.6	23.1	22.1	20.2	17.6	18.0	20.5	18.5
1973	25.9	22.9	22.2	25.7	21.4	18.0						
ARMY												
Total accessions:												
1971	36,133	32,553	26,182	19,900	20,899	23,899	13,320	14,290	16,268	10,962	17,218	14,567
1972	15,588	12,088	11,063	12,985	10,529	27,114	23,492	28,981	26,145	27,511	17,232	15,773
1973	17,805	9,620	7,262	4,558	5,264	14,768	13,109	13,632	14,544			
Percent mental category I:												
1971	4 4	4.0	4.2	4.0	3.3	4.7	3.5	3.2	4.0	5.6	6.1	4.6
1972	4.5	4.0	3.7	2.9	3.1	3.1	3.0	3.4	3.7	4.0	3.2	3.5
1973	3.0	3.7	2.4	3.9	3.9	2.9	1.9	2.1	2.1			
Percent mental category II:												
1971	27.3	26.1	25.6	24.1	24.1	26.2	23.8	23.9	25.9	36.5	33.3	30.3
1972	30.9	30.7	28.4	25.4	24.9	27.2	25.8	27.8	27.9	27.9	26.4	26.1
1973	26.6	29.3	31.4	29.4	28.3	27.7	20.2	24.4	25.8			
Percent mental category III:												
1971	42.9	42.8	43.1	43.7	44.2	43.8	46.8	48.7	46.9	51.4	45.9	43.7
1972	45.7	46.1	51.0	53.6	55.7	51.9	50.2	49.0	48.9	49.5	51.3	52.0
1973	57.4	56.9	55.1	54.8	55.4	56.3	46.6	53.8	52.8			
Percent mental category IV:												
1971	25.4	27.1	27.1	28.2	28.4	25.3	25.9	24.3	23.2	6.5	14.7	21.4
1972	18.9	19.2	16.8	18.1	16.3	17.9	21.0	19.8	19.5	18.6	19.1	18.2
1973	12.8	10.1	11.1	11.9	12.4	13.2	31.3	19.7	19.3			
Enlistments:												
1971	15,361	12,991	12,590	10,198	8,553	15,865	13,320	14,290	16,268	10,381	9,560	12,088
1972	15,459	11,975	10,895	9,175	8,621	18,482	17,495	19,933	21,331	18,097	14,387	13,731
1973	17,702	9,540	7,172	4,488	5,209	14,679	13,109	13,632	14,544			
Percent mental category I:												
1971	4.1	3.9	3.8	4.0	3.1	3.9	3.5	3.2	4.0	5.8	5.3	3.9
1972	4.5	4.0	3.6	3.2	3.2	3.0	3.0	2.9	3.2	3.5	2.8	3.3
1973	3.0	3.7	2.4	3.9	3.9	2.9	1.9	2.1	2.1			
Percent mental category II:												
1971	25.6	25.9	24.3	25.1	24.4	25.7	23.8	23.9	25.9	37.8	35.4	29.8
1972	30.9	30.7	28.4	26.6	25.5	27.1	25.6	26.6	26.9	25.9	25.5	25.0
1973	26.7	29.3	31.4	29.6	28.3	27.7	20.2	24.4	25.8			
Percent mental category III:												
1971	46.1	46.0	47.3	48.3	50.4	47.4	46.8	48.7	46.9	51.9	56.6	45.9
1972	45.8	46.1	51.1	57.1	58.0	54.5	51.3	50.9	50.0	51.6	52.9	53.6
1973	57.4	56.7	55.1	54.8	55.5	56.3	46.6	53.8	52.8			
Percent mental category IV:												
1971	24.2	24.2	24.6	22.6	22.1	23.0	25.9	24.3	23.2	4.5	2.7	20.4
1972	18.9	19.3	16.9	13.1	13.3	15.4	20.1	19.6	19.9	18.9	18.8	18.2
1973	12.7	10.3	11.1	11.7	12.3	13.2	31.3	19.7	19.3			

Footnotes at end of table.

Service	January	February	March	April	May	June	July	August	September	October	November	December
Army—Continued												
Inductions:												
1971	20,772	19,562	13,592	9,702	12,346	8,018				581	7,658	2,479
1972	129	102	168	3,710	1,917	8,632	5,997	9,049	4,814	9,414	2,845	2,042
1973	103	80	90	70	55	89						
Percent mental category I:												
1971	4.6	4.0	4.6	4.0	3.5	6.1				2.4	7.0	7.9
1972	5.4	9.8	9.8	2.2	2.6	3.1	2.9	4.3	5.7	4.9	5.4	5.4
1973	5.8	5.0	5.6	4.3	3.6	4.5						
Percent mental category II:												
1971	28.5	26.3	26.8	23.1	23.9	27.2				12.8	30.7	32.3
1972	38.0	33.3	32.2	22.6	22.2	27.3	26.9	30.5	32.8	31.7	30.8	33.8
1973	20.3	22.5	33.3	17.1	29.1	31.5						
Percent mental category III:												
1971	40.5	40.8	39.2	38.9	39.9	36.6				42.6	32.7	33.4
1972	34.1	45.1	43.1	45.3	45.6	46.3	48.1	44.9	43.9	45.4	43.3	42.1
1973	47.5	48.6	37.8	52.9	43.6	44.9						
Percent mental category IV:												
1971	24.4	28.9	29.4	34.0	32.7	30.1				42.2	28.4	26.4
1972	22.5	11.8	14.9	30.0	29.6	23.1	22.1	20.2	17.6	18.0	20.5	18.6
1973	26.2	23.9	22.2	25.7	21.8	18.0						
Percent mental category I:												
1971	6.8	6.2	5.6	5.9	5.4	4.4	4.7	4.5	5.4	5.1	5.9	5.8
1972	6.9	6.4	6.6	6.3	49.	5.2	4.0	5.3	6.3	5.7	6.0	5.5
1973	5.9	5.4	5.6	5.1	4.2	3.6	4.9	5.3	5.8			
Percent mental category II:												
1971	35.4	35.3	33.2	32.3	31.6	30.4	31.7	33.1	35.3	34.6	37.8	39.0
1972	43.1	41.7	40.5	41.0	37.3	40.5	34.0	38.2	40.7	39.2	41.1	37.0
1973	41.2	38.0	40.5	38.2	36.1	35.4	38.9	41.0	41.6			
Percent mental category III:												
1971	39.7	41.9	43.9	44.6	45.8	46.8	47.7	50.6	49.7	48.3	46.1	47.1
1972	43.0	43.0	45.0	52.3	55.7	52.4	57.6	51.7	48.9	50.4	48.3	52.3
1973	48.0	51.5	49.0	51.8	56.8	59.5	55.3	53.8	52.1			
Percent mental category IV:												
1971	18.1	16.6	17.3	17.2	17.2	18.4	15.9	11.8	9.6	12.0	10.2	8.1
1972	7.0	8.9	7.9	0.4	2.1	1.9	4.4	4.8	4.1	4.7	4.6	4.9
1973	4.7	5.1	4.9	4.9	2.9	1.5	.9	.8	.6			
Percent mental category II:												
1971	24.4	22.8	21.9	20.4	20.5	24.3	24.2	24.9	26.7	24.5	21.6	21.3
1972	25.2	22.3	17.3	17.0	18.3	21.9	22.7	22.3	23.4	22.8	19.1	19.3
1973	22.4	21.9	22.9	25.2	25.4	26.3	31.3	32.6	33.7			
Percent mental category III:												
1971	54.3	54.9	52.9	54.4	56.2	55.1	52.5	51.1	49.7	50.4	52.0	53.8
1972	53.0	54.8	56.9	56.7	56.4	54.4	55.2	55.3	55.9	55.3	58.2	59.8
1973	58.4	62.0	64.4	65.7	65.9	64.1	59.5	57.6	56.7			
Percent mental category IV:												
1971	18.5	19.0	23.2	23.5	21.3	18.7	21.3	21.7	20.9	22.9	24.2	22.9
1972	19.2	20.5	24.0	24.7	23.8	21.8	20.3	20.3	18.6	19.6	21.3	19.3
1973	16.5	14.1	11.1	7.3	7.1	7.6	6.7	6.9	7.2			
Air Force enlistments:												
1971	7,407	7,194	9,831	8,498	7,327	10,519	8,574	9,313	9,172	8,526	6,315	5,464
1972	6,203	4,619	4,596	5,288	6,524	6,091	8,797	9,158	9,358	8,857	7,678	4,560
1973	8,045	6,809	5,009	4,717	6,307	7,991	6,157	6,759	5,663			
Percent mental category III:												
1971	40.9	40.0	40.7	38.8	37.9	41.3	44.2	42.9	45.0	40.6	43.8	42.1
1972	43.5	44.4	40.2	38.5	41.1	44.1	42.9	42.3	42.9	43.8	48.6	51.3
1973	48.4	53.5	55.1	58.7	60.9	61.8	61.5	59.8	59.8			
Percent mental category IV:												
1971	14.3	17.1	16.8	18.1	16.3	20.0	14.5	16.7	13.7	14.1	16.2	21.9
1972	14.4	15.1	25.6	33.3	34.0	28.8	27.1	26.3	25.8	21.2	11.7	8.8
1973	4.5	2.3	1.3	1.7	1.9	2.5	4.2	4.1	3.4			
Marine Corps enlistments:												
1971	4,997	4,244	3,760	3,436	3,074	4,657	4,972	5,187	4,935	4,155	3,490	3,205
1972	4,556	4,315	5,406	3,977	3,640	6,384	5,398	5,938	5,615	4,038	3,584	3,099
1973	4,452	3,661	3,079	2,673	2,972	5,840	5,203	4,715	4,128			
Percent mental category I:												
1971	2.8	3.3	2.0	1.7	2.0	1.9	2.0	2.3	2.7	2.2	2.2	2.0
1972	2.6	2.4	1.8	1.6	1.5	1.9	1.8	2.1	2.1	2.3	1.5	1.4
1973	2.5	2.0	1.6	1.8	1.7	2.0	2.5	2.6	2.3			
Navy enlistments:												
1971	8,113	7,545	6,593	4,545	3,581	7,368	8,101	10,109	7,877	7,601	6,136	4,545
1972	7,282	5,697	5,690	5,149	5 679	10,904	11,561	13,988	14,126	8,377	7,302	4,725
1973	5,218	4,409	4,379	3,855	3,973	8,387	8,208	8,518	7,775			
Percent mental category I:												
1971	5.5	5.9	5.4	6.2	5.8	4.4	4.7	4.4	4.9	6.2	4.5	4.6
1972	5.5	5.3	4.8	3.8	3.0	2.7	2.8	3.3	3.5	4.2	4.5	4.6
1973	5.5	4.4	3.9	3.2	3.1	2.4	2.2	2.2	2.5			
Percent category mental II:												
1971	39.3	37.0	37.1	36.9	40.0	34.3	36.6	35.9	36.4	39.1	35.5	31.4
1972	36.6	35.2	29.4	24.4	21.9	24.4	27.2	28.1	27.8	30.8	35.3	35.0
1973	41.4	39.8	39.7	36.4	34.1	33.3	32.1	33.9	34.4			

TABLE 2.—HIGH SCHOOL GRADUATES AS A PERCENT OF TOTAL MALE ENLISTMENTS AND INDUCTIONS

[In percent]

	January	February	March	April	May	June	July	August	September	October	November	December
Total DOD accessions:												
1971	69	68	67	64	66	71	68	68	69	75	72	67
1972	67	62	56	57	58	72	68	68	67	68	62	57
1973	60	68	68	66	66	81	71	68	65			
Enlistees:												
1971	63	62	62	62	61	70	68	68	69	76	69	66
1972	67	62	56	55	57	71	66	65	65	64	60	55
1973	60	68	68	66	66	81	71	68	65			
Inductees:												
1971	78	77	77	72	74	76				69	80	81
1972	68	78	70	72	73	81	87	83	83	84	81	83
1973	58	73	74	63	63	69						
Army accessions, total:												
1971	67	67	63	59	62	65	53	51	53	70	72	66
1972	61	54	47	56	55	74	64	65	62	64	51	67
1973	46	69	73	72	74	84	66	59	54			

	January	February	March	April	May	June	July	August	September	October	November	December
Enlistees:												
1971	52	51	48	47	45	59	53	51	53	70	66	64
1972	61	54	47	50	51	70	59	57	57	53	45	44
1973	46	69	73	72	74	84	66	59	54			
Inductees:												
1971	78	77	77	73	74	76				69	80	82
1972	71	81	72	72	73	81	78	83	83	84	81	83
1973	59	73	74	61	64	69						
Navy accessions:												
1971	72	69	71	71	77	79	84	83	87	87	77	76
1972	80	77	73	58	51	70	68	67	66	68	71	67
1973	76	69	74	67	67	77	74	74	72			
Marine Corps accessions:												
1971	49	46	40	39	42	64	56	56	59	52	47	44
1972	48	41	33	33	37	54	49	51	52	51	45	39
1973	47	39	39	28	30	60	50	48	53			
Air Force accessions:												
1971	89	86	83	81	80	83	84	85	86	83	80	77
1972	85	84	80	79	79	92	88	89	91	87	86	85
1973	86	82	83	80	76	95	95	95	96			

Note: Fiscal year 1972 data revised to exclude men with GED equivalent.

AN ADDRESS BY JOSEPH A. CALIFANO, JR., NOVEMBER 27, 1973

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am sure Members of the House of Representatives will read with interest the text of an address entitled "On the Impeachable Offenses of Richard Nixon," by Joseph A. Califano, Jr.

The address was delivered before the District of Columbia Chapter of the Federal Bar Association at the National Lawyers Club in Washington, D.C., on November 27, 1973.

The text of Mr. Califano's address follows:

ADDRESS BY JOSEPH A. CALIFANO, JR.

Any discussion of the impeachable offenses of Richard M. Nixon must begin with the Constitution of the United States. Article II, Section 4 provides that "The President . . . shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Under Article I, Section 2, the House of Representatives has "the sole Power of Impeachment," and must, by majority, vote Articles of Impeachment. Those Articles are then sent to the Senate which, with the Chief Justice of the Supreme Court presiding, sits as a one hundred man jury, with a vote of "two-thirds of the Members present" neecssary for conviction. But Impeachment is not necessarily the end of the road for the President: Article I, Section 3 specifically provides that "the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."

IMPEACHMENT PROCEDURES

In treatises on impeachment, the House is often analogized to a criminal grand jury with a duty to indict on the basis of "probable cause;" the Senate is compared to a petit jury, voting guilt only if convinced "beyond a reasonable doubt." Any intelligent discussion of impeachment must note the parallels between the criminal judicial process and impeachment. But any such analysis must recognize the sharp difference in forums between a court and the Congress. Just as the Founding Fathers carefully tried constitutionally to insulate criminal court proceedings from political pressures, they deliberately placed impeachment proceedings right in the middle of the political process. In a very real sense, impeachment is a political proceeding with sufficient judicial trappings to assure the basic elements of fairness, not a judicial proceeding with some political ramifications.

This is not to say that an impeachment proceeding should be a partisan romp. The constitutionally shaped politics of impeachment are essentially apartisan. They are very much founded in the deep American tradition that an informed electorate will set some minimal standards of political decency and morality as a continuing condition of maintaining the legitimacy of electoral power as Chief Executive of the United States—and prod its elected representatives to action where that condition is not met. Indeed, the Constitutionally mandated impeachment responsibilities of the House and Senate were undoubtedly designed to give the suspect President and the constituent citizens full benefit of a politically informed judgment by Representatives and Senators, who are personally familiar with and subject to the election process.

The political nature of impeachment is recognized by all parties to the present proceeding, from Richard Nixon in the White House to the lowest ranking majority and minority members of the House Judiciary Committee. The initial expression of the politics of impeachment in the House Judiciary Committee was evidenced by the party line vote to give subpena power to the Chairman. At a much more profoundly democratic (and non-partisan) level, however, the politics of impeachment began with the thousands of telegrams, letters, and phone calls from housewives and their blue collar husbands, from matrons and their professional spouses, from blacks and whites, from secretaries and socialites, in the wake of the Cox-Richardson-Ruckelshaus purge. These messages charged the latent batteries of Congressional anxiety and reflected a constituent concern more deeply shared by American citizens than most Congressmen realized and certainly more sharply expressed than the President and his White House staff anticipated. Even Richard Nixon is likely to admit today that he blew the fuse of American public opinion with the "Saturday-night massacre;" what neither he nor the Congress may have realized was that the circuit of American political tolerance was already overloaded when he pulled the switch on Cox, Richardson and Ruckelshaus. It may not have been the act of Presidential self-electrocution hoped for by the American left; but it certainly jolted the House into action.

Perhaps, more than any other factor, the bruising impact of the American constituents on their Congressmen and Senators most clearly distinguishes impeachment proceedings by the House and the Senate from criminal juries. As a nation we go to great lengths to insulate our grand and petit juries from outside pressures. By contrast, the Founding Fathers deliberately put the President's fate in impeachment proceedings in the hands of that branch of government most sensitive to constituent concerns, particularly by placing the initial "probable cause" stage in the House of Representatives, each of whose members must go to the people every two years to remain in office. Moreover, unlike Judges and juries who often recuse themselves or are excused for prejudice or conflicts of interest, there is no such disqualification in the House or Senate. The most avid Nixon hater and the most uncritical Nixon admirer have a duty to vote on the impeachment issues.

POLITICAL ASPECTS OF IMPEACHMENT

Richard Nixon appreciates the political aspect of impeachment. We do not have to accept Majority Leader Thomas P. O'Neill's pejorative characterization of the President "currying favor" with the jurors to recognize that the Nixon meetings with Congressmen and Senators are quite frankly and legitimately designed to influence the impeachment jury. Moreover, the present round of speeches and press conferences are obviously designed to defuse the constituents who so charged up the Congress three weeks ago; indeed they are shrewdly calculated to persuade southerners, in recognition of the political reality that Southern Democrats may well hold the balance of power in any impeachment vote in either the House or the Senate.

The Founding Fathers placed the impeachment process in the hands not only of a politically sensitized branch of government, but also of a politically expert one. The House and Senate are about as blue ribbon politically as juries could be. In one sense, the Congress is likely to have a better understanding of and high tolerance for political activity which may be unsavory and undesirable, but is not impeachable. This may help Mr. Nixon. In another sense, however, they will understand better than most of us how political leaders operate—and this may hurt him. The political leaders in the Congress are more likely than most citizens to conduct impeachment proceedings in the context of a realistic understanding of what it takes to succeed in politics—particularly the enormous need for attention to detail.

PRESIDENTIAL STYLES

Presidents from Washington through Nixon have had different personalities: some have been outgoing, others introverted; some ideological, others pragmatic; some interested only in broad policy, others concerned with the day-to-day operations of government. But every successful American politician, and Presidents are the most successful, like successful lawyers, businessmen and doctors, makes his own decisions and pays close attention to details. By this I mean more than a statement than "the buck stops here," that full responsibility for Bay of Pigs disasters rest at the top or that Vietnam wars, like any others, are waged by Commanders-in-Chief. Whether a President has the publicly seductive style of John Kennedy, the overbearing intensity of Lyndon Johnson or the introverted insecurity of Richard Nixon, he will personally direct every move on major issues, particularly when those moves could decisively affect the marrow of his contemporary political career and historical judgments on the long term value of that career. Thus, John Kennedy was involved minute by minute in the desegregation of the University of Mississippi and was so deeply concerned about his 1964 reelection that he went to Texas to try and heal local political scars. Lyndon Johnson followed major legislative proposals which bore his name, witness by witness through Committee hearings, and congressman by congressman during debate on the House floor. Kennedy was not misled by bad advice when there was death and violence on the campus at Oxford, Mississippi. Johnson was not misled by bad advice when he lost the D.C. Home Rule discharge petition on the House floor. Each man was deeply involved in the tactical discussions and decisions relating to the dramatic events.

And Richard Nixon is not misled by bad advice, or unaware of what his closest aides do. Reasonable men may doubt his advance involvement in the DNC Watergate bugging and burglary; they must recognize that he would have been unworthy of his political success if he were not deeply involved in everything that followed the capture of the burglars on June 17, 1972.

Every one of those presidents was intimately involved on a daily basis with his closest staff members—and those members do not act on their own authority in matters intimate to the President. The concept of a White House staff is that a President is entitled to a group of people whose loyalty runs only to him, not to the Congress and not to constituent pressure groups which often vie for the attention of cabinet and agency heads. Even granting that Lyndon Johnson was much more involved in the minutia of American government than Richard Nixon, it is inconceivable to me that Richard Nixon has not been involved in every aspect of the Watergate scandals since June 17. I do not believe that Ronald Ziegler or Gerald Warren would brief the press without clearing their statements with Richard Nixon directly. My own hunch would be that an analysis of the Presidential logs of Mr. Nixon would show that Mr. Ziegler or Mr. Warren, or whoever was doing the press briefing on a particular day, checked either that day or the night before with Richard Nixon to find out what to tell the White House press corps. A playing of each day's tapes would show the President much more aware of the details of what his press secretaries say than most citizens realize.

This is particularly true where what is at stake is the very continuation of Mr. Nixon's Presidential career. For what Watergate and its surrounding events involve is Mr. Nixon's place in history, Mr. Nixon's personal reputation, and whether he will be convicted of a crime or impeached, remembered as the man who opened the door to China or as the man who headed the most corrupt administration in the history of the free world. Even White House aides as apparently trusted as Messrs. Haldeman and Erhlichman would not be permitted by the President to deal, on their own, in areas as central to Mr. Nixon's personal and political life and reputation as those involved in the present scandals.

From my own perspective as a former White House aide, if the press is to be criticized in connection with its reporting of these scandals, it is not, as Messrs. Nixon and Agnew suggest, because it has been careless in printing unverified charges. It is, rather, because of its acceptance, with so little skepticism, of the myth that Mr. Nixon is somehow the uninformed victim of aides and cabinet officers whose political enthusiasm spilled over into criminality. Yet, this myth defies the reality of Presidential power and the personal, political and historical ambition that accompany the exercise of such power. We do not have to plow through the pages of "Six Crises" to know that Mr. Nixon is most attendant to details that intimately affect his political career. One need not work at the White House to reach that conclusion about any President who served there. One need only understand human nature, politics and fathers who are bound to be concerned about what their children think about them. Any analysis of impeachable offenses must be made against this background.

IMPEACHABLE OFFENSES

Scholars and legislators disagree about what actions constitute impeachable offenses. Proposed definitions are as limited as violations of federal criminal statutes in the course of official duties or as broad as Gerald Ford's suggestion that an impeachable offense is whatever the Congress says it is. My own reading of history and precedent leads me to conclude that there are probably three areas of impeachable offenses against which any President must be judged:

1. Violations of criminal statutes.
2. Failure to fulfill his constitutional obligation faithfully to execute the laws of the United States and "preserve, protect and defend the Constitution of the United States."
3. Egregious breach of the public trust the President owes the American people.

Criminal laws provide the narrowest standard—and the least political one—by which a potentially impeachable President may be judged. Even under this liimted definition of "impeachable offenses," it is patent nonsense to claim that there is no basis for conducting any impeachment inquiry with respect to Richard Nixon. Solely on the basis of sworn testimony and essentially uncontested news reports, there is ample justification for a healthy suspicion that Richard Nixon has violated at least thirty-eight federal criminal statutes.

The potential violations basically fall into three broad categories: personal corruption and fraud, political corruption, and obstructions of justice. The specific criminal statutes relating to each of these areas must be considered in the context of four basic criminal sections of Title 18—sections 2, 3, 4 and 371:

Section 2 defines a "principal" to a crime as anyone who "commits an offense against the United States, or aids, abets, counsels, commands, induces or procures its commission" or who "willfully causes an act to be done which if directly performed by him or another would be an offense. . . ."

Section 3 defines an "accessory after the fact" of a crime as one who "knowing that an offense . . . has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment. . . ."

Section 4 provides that anyone who, "having knowledge of the actual commission of a felony . . . conceals and does not as soon as possible make known the same to some judge . . ." himself commits the crime of misprision of felony.

Section 371 provides that "[i]f two or more persons conspire either to commit any offense against the United States, or to defraud the United States . . . and one or more of such persons do any act to effect the object of the conspiracy," then each of the conspirators is guilty of a felony.

These four basic and well-defined statutes provide the framework against which many of the actions of the President must be judged.

PERSONAL CORRUPTION

Mr. Nixon's personal financial activities give rise to strong suspicions of possible violation of at least seven additional criminal statutes. Four of these statutes relate to tax fraud and tax evasion; three relate to the conversion of government property and defrauding the United States.[1]

The acts which give rise to the suspicions are in large measure on the public record: (1) the tax benefits Mr. Nixon derived from the alleged donation of his personal papers raise questions as to the timing of the donation, the valuation of the papers, and, indeed, whether or not a gift was actually made to the government, after all, Mr. Nixon never signed a deed of gift and the General Services Administration never formally accepted any gift: (2) the possible use of campaign contributions for personal purposes (for example, the $100,000 in cash that Howard Hughes gave to Bebe Rebozo, the early cash from the dairy industry, and the millions of dollars in cash that flowed among Mr. Nixon's personal friends, attorneys and Re-election Committee aides); (3) the issues relating to whether certain improvements to his Key Biscayne and San Clemente properties were justified expenditures of public funds, should have been reported as personal income by Mr. Nixon, or constituted conversion of U.S. government property to his own use; (4) the financial transactions by which he acquired Key Biscayne and San Clemente in the first place, and whether the generous loans of Messrs. Rebozo and Abplanalp should have been reported (at least to some degree) as income by Mr. Nixon.

POLITICAL CORRUPTION

Political corruption may involve Mr. Nixon in an additional nineteen criminal statutes. In the area of election corruption alone, we have some of the more publicized Watergate revelations: the forged Muskie "Canuck" letter; the sexual misconduct letters condemning Senators Humphrey and Jackson; the illegal wiretapping of Democratic National Committee headquarters; the political slush funds which may have been created within government departments, such as the 1 million dollar fund allegedly earmarked by Commerce Secretary Maurice Stans; the solicitation of corporate campaign contributions from any number of large companies and government contractors; the participation in campaign and fund raising activities by federal government employees, most notably the dual role of Attorney General and de facto CREEP Chairman John Mitchell; and, in an apparent attempt to cover-up these activities the possible filing of false reports with the General Accounting Office and the Clerk of the House and Secretary of the Senate.

At least nine criminal statutes are involved in this election area alone. Some, like the prohibition against corporate contributions, have been on the books for most of this century; others went into effect with the new campaign contribution law.[2] Beyond these matters there is reason to believe that the illegal activities of the Nixon Administration

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Footnotes at end of article.

went far beyond corrupting the election process itself. Across the broad spectrum of politics his aides and agents, his lawyers and appointees have been accused or have admitted on the public record the commission of acts which seem on their face to constitute criminal offenses. There are, for instance, numerous instances of the apparent sale and attempted sale of ambassadorial positions to the highest bidder. So blatant has the cash market in ambassadorial posts become that the Senate Foreign Relations Committee today routinely demands complete revelation of political contributions by all Nixon nominees. Perhaps the most notable recent example is Mrs. Ruth Farkas, who was named Ambassador to Luxemburg after pledging some $300,000 to President Nixon's campaign, $200,000 of which was not even paid until after the re-election of the President, at a time when his campaign coffers groaned under a substantial surplus. More recently, there have been reports that Cornelius Witney was promised the ambassadorship in Spain in return for a $250,000 contribution; when the ambassadorship did not come through, the contribution was returned. There is enough evidence for an examination of the relationship between campaign contributors and the promise of appointment or nomination for appointment of individuals to a host of other government posts as well.

IT&T

Washington abounds with sworn testimony and newspaper stories about contributions which constitute bribes or extortion or both, by any number of companies or industries who critically depend on the federal government. The most notable and publicized relate, of course, to the cozy treatment of IT&T, particularly in the Presidential approval of its Hartford Insurance merger, just as IT&T's Sheraton Hotel subsidiary was promising $400,000 to the 1972 Republican Convention; and to the hundreds of thousands of dollars of cash and other contributions provided by the dairy industry just as Mr. Nixon was raising milk price support levels and changing foreign trade regulations to push up the price of milk and increase the revenues of the industry by hundreds of millions of dollars.

There are other questionable activities as well where the public record provides sufficient information to justify a healthy suspicion of illicit Presidential activity even though the record has not been as fully developed as it has with respect to the IT&T and milk transactions. These activities include the Presidential parole of former Teamsters Union president James Hoffa and the statements by representatives of Ashland Oil, Braniff Airlines and others that CREEP financial chairman Maurice Stans imposed $100,000 quotas in his politically avaricious quest for a $60 million campaign kitty.

At least five additional criminal statutes may have been violated in this political corruption area. For example, it is a felony to solicit or accept anything of value as a political contribution in consideration of any promise of influence in obtaining a federal job; and bribery and extortion statutes may have been violated in connection with many of the corporate contributions.[3]

CRIMINAL CIVIL RIGHTS VIOLATIONS

A wide range of criminal civil rights violations has been perpetrated by the Nixon Administration. Although this discussion is limited to specifically criminal violations, we should not forget that in many cases violations involve arrogant abridgement of the Fourth Amendment rights of every American citizen to be free from unreasonable searches and seizures. The break-in and burglaries of the offices of Daniel Ellsberg's psychiatrist and the Democratic National Committee, and the wiretapping of White House aides and reporters provide the most offensive known incidents of civil rights violations. But there is every indication that they were part of a much larger scheme; we may well not yet have closed the book on the individual liberties that were crushed under the hobnailed boots of the "plumbers."

The context, of course, is the Recommendation and Decision Memoranda of White House staffer Tom Charles Houston and Richard Nixon—the *Mein Kampf* of the Nixon government. The following excerpts from Mr. Houston's Recommendation Memorandum to President Nixon are essential to an understanding of what happened to the Watergate and in Los Angeles:

"C. Mail Coverage

"Recommendation:

"Restrictions on legal coverage should be removed. Also, present restrictions on covert coverage should be relaxed on selected targets of . . . internal security interests.

Rationale:

* * * * *

"Covert coverage is illegal and there are serious risks involved. However, the advantages to be derived from its use outweigh its risks.

"D. Surreptitious Entry

"Recommendation:

* * * * *

"Also, present restrictions should be modified to permit selective use of this technique against other urgent security targets.

"Rationale:

"Use of this technique is clearly illegal; it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed."

On July 15, 1970 Mr. Houston issued the Presidential Decision Memorandum which reflected Richard Nixon's personal response to these recommendations, a response verified by Mr. Nixon's own statement of May 22, 1973. The relevant excerpts are:

"The President has carefully studied the special report of the Interagency Committee on Intelligence (ad hoc) and made the following decisions:

* * * * *

"3. Mail Coverage

"Restrictions on legal coverage are to be removed, restrictions on covert coverage are to be relaxed to permit use of this technique on selected targets of priority foreign intelligence and internal security interests.

"4. Surreptitious Entry

"Restraints on the use of surreptitious entry are to be removed. The technique is to be used . . . against other urgent and high priority internal security targets."

Aside from the ominous nature of these papers in terms of our democratic system of government, and aside from the obvious violations of state criminal felony statutes the President's approval countenanced and potentially set in motion, there are profoundly serious violations of federal criminal laws. These include 18 U.S.C. Section 241, the criminal civil rights statute, and 18 U.S.C. Section 2511, the anti-wiretapping statute, to say nothing of the network of criminal provisions designed to prevent interference with and protect the privacy of the mails, among them: 18 U.S.C. Section 1701, which makes one a criminal who "knowingly and willfully obstructs or retards the passage of mail"; Section 1702, which makes it a felony to take any letter out of the post office "before it has been delivered to the person to whom it was directed with design to . . . pry into the . . . secrets of another."; and Section 1703, which makes it a crime for a Postal Service Officer improperly to detain, delay or open any letter.

OBSTRUCTION OF JUSTICE

The third area of specific criminal activity by the President relates to obstructions of justice. Each day brings us new facts about the actions of the President in this area. But there is already reason to suspect a variety of Presidential actions in connection with the investigation relating to the Watergate break-in: Presidential actions to limit the criminal investigations; hush money paid to defendants to plead guilty; the suborning of perjury by Mr. Magruder and the attempt with respect to Mr. Sloan; the pressure of any number of witnesses and potential prosecutors to inhibit any number of investigations relating to illegal activities; and, of course, the attempt to seduce Judge Matthew Byrne with the F.B.I. Directorship.

At least nine additional Federal criminal statutes are involved here relating to obstruction of justice, the making of false statements, the suborning of perjury and the removal and destruction of records and documents.[4]

PERJURY

It is with respect to the suborning of perjury that the most careful investigation should be made. For the record abounds with examples of Nixon aides and cabinet officials who may have committed perjury and who have certainly made statements inconsistent with either the statements or records of others. Jeb Stuart Magruder has admitted perjury. Hugh Sloan has testified that he was pressured to commit perjury. Richard Kleindienst faces possible perjury charges stemming from his testimony that there was no White House pressure on him with regard to the IT & T case. John Mitchell faces possible perjury charges stemming from his sworn testimony that he never discussed the IT & T case with the President and that he was not involved with CREEP until he left his office as Attorney General. Messrs. Mitchell and Maurice Stans have been indicted for perjury in the Vesco case in New York. John Erhlichman has been charged with perjury for his testimony before the grand jury in California. The testimony of Mr. Erhlichman and his colleague Mr. Haldeman before the Senate Watergate Committee presents sufficient conflict with the sworn testimony of others to subject them to possible perjury indictments. Secretary of Agriculture Butz has been accused of perjury in connection with his wheat deal testimony before a Senate Subcommittee. Even without unraveling the truth about the White House tapes this brief recital already includes Mr. Nixon's two closest assistants, two other high White House aides, and at least three of his cabinet officers. As for Mr. Nixon, 18 U.S.C. § 1622 provides that "whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined not more than $2,000 or imprisoned for not more than five years, or both."

SUMMARY OF CRIMINAL VIOLATIONS

Thus, there is sufficient evidence to justify suspicion of the violation of at least thirty-eight criminal statutes by the President of the United States. Many of those statutes may have been violated more than once. This alone is sufficient to provide the basis for articles of impeachment under the most narrow definition of the term "impeachable offenses," but there are other activities of the President which bear scrutiny by the House of Representatives in a broader and politically realistic definition of what constitutes an impeachable offense.

FAILURE TO EXECUTE LAWS

Richard Nixon, by his oath and by the duties imposed under the Constitution of the United States, is required faithfully to ex-

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Footnotes at end of article.

ecute the laws passed by the Congress. There are repeated judicial decisions holding that Mr. Nixon has violated that duty. The most notable and publicized involve the impoundment of funds which, in practical terms, constitutes an arrogant refusal to execute the laws passed by the Congress and signed by the Chief Executive. The most recent decision came only last week when Federal District Judge Waddy held that it was illegal and unconstitutional to withhold $380,000,000 of appropriated funds from our educational institutions. Mr. Nixon was also held to have maintained Howard Phillips, the former OEO Director, in office illegally and was accused last week by Senator Proxmire of holding Acting Attorney General Bork in office illegally beyond the thirty-day statutory period. There is no question of Mr. Nixon's involvement here. Indeed, he publicly, proudly and frequently proclaims his defiance of the Constitution and the laws with each new impoundment. Moreover, any arguments that in the early days of his impoundment orgy Mr. Nixon thought he had the legal authority to take these actions can be given little credence in the wake of (at last count) twenty-five court decisions holding his actions to be illegal and unconstitutional.

BREACH OF PUBLIC TRUST

The third area of inquiry into impeachable offenses relates to the breach of public trust by the President. There are well defined analogies in the law of trusts concerning the duties of trustees and the grounds for their removal. Thus, for example, a trustee who converts the funds of a trust to his own use may be removed. Similarly, a trustee who lies to or defrauds the beneficiaries of the trust may be removed.

It is an essential element of the public trust a President holds that he tells the truth to the American people. A citizen who lies to the state commits a felony, the felony of perjury. It is, of course, not a specifically defined crime for the state to lie to its citizens. Indeed, there are generally acceptable areas of exaggeration and political comment within which public officials are usually given wide latitude in communicating with the citizens they serve. Thus, politicians in election campaigns and Presidents in messages to the Congress to secure legislation often exaggerate the performance that can reasonably be expected in their promises of new worlds and new cures. To the extent that Mr. Nixon has engaged in this kind of political dialogue, he is, of course, not guilty of any impeachable offense.

But to the extent that he has gone far beyond the bounds of political exaggeration, the President should be subject to impeachment. Thus, the various statements about Cambodian bombing filed by Mr. Nixon's subordinates at his direction with authorized oversight committees of the Congress cleared for Top Secret Information should be examined carefully. The false statements of his Press Secretary Mr. Zeigler may also constitute grounds for impeachment and the President's own statements to the American people should be subject to careful scrutiny by the House Judiciary Committee as well. For the standard of truth required by the Head of State in dealing with the citizens he serves should be at least as high as the standards applied to the citizens in dealing with the state that serves them.

IMPEACHMENT: INVESTIGATION OF PRESIDENT

Unlike the Senate Watergate Committee and the courts, the inquiry of the House is not directed largely or primarily at individual White House aides, corporate officials or cabinet officers. The House inquiry has one investigatory subject: the President of the United States. In this connection, the performance of the constitutional duty of the House to draft articles of impeachment carries with it clear and unequivocal authority to obtain documents and materials that under other circumstances might be subject to claims of executive privilege. Thus, for example, tax returns of the President which would otherwise be confidential must be scrutinized by the House Committee to determine whether the President has committed tax fraud, certainly an impeachable offense under any definition of that term.

The very issue involved in the impeachment proceedings is the extent of the President's personal knowledge and willful activity in connection with an array of crimes that may have been committed by his aides (some of whom have already confessed to criminal activity) and his cabinet officers. The duty of the House to investigate its Presidential subject carries as a necessary corollary the authority to examine the communications between the President and his staff. No squirreling of Presidential papers for personal protection or selected release by a library curator is justified on the grounds of executive privilege during this inquiry.

IMPEACHMENT QUESTION MUST BE ADDRESSED

Impeachment proceedings are not likely to be short and they will test the singularly impatient attention span of the American people. Andrew Johnson's impeachment proceedings took over one year and involved two Congresses. But to say that the country cannot stand impeachment proceedings over an extended period is to say that we cannot seek the truth, much less face it; that we cannot pointedly ask and candidly answer the question whether the President has committed any impeachable offenses. It is, sadly, to say that we are no longer strong enough to live under the most remarkable Constitution ever devised by man. It is the stuff of a weak and tired people who are so exhausted by democracy that they prefer to end their days in politically hedonistic amorality. It is the stuff of a tired generation that seeks to avoid one more trauma of their own even if that involves betrayal of their trust to succeeding generations. And this is the most important point.

For whether Lord Acton overstated his point, history clearly teaches us that, without exception, power creates its own need and desire for more power. Every White House aide can testify that each President takes the precedents of his predecessors in the exercise of power and moves to the next step. Some of us might have trouble even conjuring what the next step after Nixon might be, but there is one person who will figure it out if Mr. Nixon leaves office without reproach—a future President of the United States.

FOOTNOTES

[1] The specific statutory provisions are:

(1) 26 U.S.C. § 7201: "Any person who willfully attempts . . . to evade . . . any tax . . . shall . . . be guilty of a felony. . . ."

(2) 26 U.S.C. § 7203: "Any person required . . . to pay any . . . tax . . . who willfully fails to pay with . . . tax . . . shall . . . be guilty of a misdemeanor. . . ."

(3) 26 U.S.C. § 7206: "Any person who (1) . . . willfully makes and subscribes, any . . . statement . . . under the penalties of perjury, and which he does not believe to be true and correct . . . shall be guilty of a felony. . . ."

(4) 26 U.S.C. § 7207: "Any person who willfully delivers . . . any statement . . . known by him to be fraudulent . . . shall be fined . . . or imprisoned. . . ."

(5) 18 U.S.C. § 286: "Whoever enters into any . . . conspiracy to defraud the United States . . . by obtaining . . . payment . . . of any . . . fraudulent claim. . . ."

(6) 18 U.S.C. § 287: "Whoever . . . presents . . . any claim upon . . . the United States . . . knowing such claim is false. . . ."

(7) 18 U.S.C. § 641:" Whoever embezzles . . . . . . or knowingly converts to his use . . . any . . . thing of value of the United States . . . shall be fined . . . or imprisoned. . . ."

[2] The specific statutory provisions are:

(1) 18 U.S.C. § 595: "Whoever, being a person employed in any administrative position by [any government], in connection with any activity which is financed in whole or in part by loans or grants made by the United States, . . . uses his official authority for the purpose of . . . affecting . . . the nomination or the election of any candidate for [any . . . federal elective office] shall be fined . . . or imprisoned. . . ."

(2) 18 U.S.C. § 600: "Whoever . . . promises any employment, contract . . . or other benefit, provided for . . . in whole or in part by any Act of Congress, or any special consideration in obtaining such benefit . . . as consideration . . . for any political activity . . . shall be fined . . . or imprisoned. . . ."

(3) 18 U.S.C. § 603: Whoever, in any . . . building occupied in the discharge of official duties by any [government employee] . . . solicits or receives any contribution . . . for any political purpose, shall be fined . . . or imprisoned. . . ."

(4) 18 U.S.C. § 610: "It is unlawful for any . . . corporation whatever . . . to make a contribution . . . in connection with any election at which [a federal elected official is] to be voted for, or in connection with any primary election or political convention . . . or for any candidate, political committee or other person to accept . . . any [such] contribution. . . ."

(5) 18 U.S.C. § 611: "Whoever . . . (a) entering into any contract with the United States . . . makes . . . or promises . . . any . . . contribution, to any political party, committee, or candidate . . . or . . . (b) knowingly solicits any such contribution from any such person . . . shall be fined . . . or imprisoned. . . ."

(6) 18 U.S.C. § 612: "Whoever willfully publishes or distributes . . . any . . . statement relating to . . . any person who has publicly declared his intention to seek [federal elective office] . . . which does not contain the names of the persons . . . responsible . . . shall be fined . . . or imprisoned. . . ."

(7) 18 U.S.C. § 653: "Whoever, being a dispensing officer of the United States . . . in any manner converts to his own use . . . any public money entrusted to him . . . is guilty of embezzlement. . . ."

(8) 18 U.S.C. § 1001: "Whoever [in any matter within the jurisdiction of the United States] . . . willfully falsifies, conceals or covers up . . . a material fact, or makes any false . . . statements, . . . or . . . uses any false . . . document knowing the same to [be false] . . . shall be fined . . . or imprisoned. . . ."

(9) 18 U.S.C. § 2511, which prohibits the interception and disclosure of wire or oral communications.

[3] The specific statutory provisions are:

(1) 18 U.S.C. § 201: "(b) Whoever . . . corruptly gives, offers or promises any thing of value to any public official . . . with intent—

(1) to influence any official act [or]

(c) Whoever, being a public official . . . corruptly . . . solicits [or] accepts . . . anything of value . . . in return for:

(1) being influenced in his performance of any official act

Shall be fined . . . or imprisoned. . . ."

(2) 18 U.S.C. § 203 "(a) Whoever. . . receives . . . or . . solicits any compensation for any services . . .

(2) at a time when he is an officer . . . of the United States . . .

in relation to any proceeding . . . for a . . . contract [or]

(b) Whoever, knowingly . . . promises any compensation for any such services . . .

Shall be fined . . . or imprisoned. . . ."

(3) 18 U.S.C. §§ 210 and 211, which deal with soliciting, offering or accepting anything of value "either as a political contribution, or for personal emolument," in consideration of any "promise" of "influence" in obtaining a federal job.

(4) 18 U.S.C. § 599: "Whoever, being a candidate, . . . promises . . . the appointment, or . . . his influence . . . for the appointment of any person to any public or private position . . . for the purpose of procuring his support . . . shall be fined . . . or imprisoned. . . ."

See also U.S.C. §§ 600 (promises of anything provided by Act of Congress), 610 (corporate campaign contributions), and 611 (government contractor contributions), cited earlier.

[4] The specific statutory provisions are:

(1) 18 U.S.C. § 1503: "Whoever corruptly, or by threats . . . endeavors to influence . . . any witness . . . or any . . . juror, or officer . . . of any court of the United States . . . in the discharge of his duty . . . or corruptly or by threats or force . . . endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined . . . or imprisoned . . ."

(2) 18 U.S.C. § 1505: "Whoever corruptly, or by threats or force . . . endeavors to influence, intimidate, or impede any witness . . . in connection with any inquiry or investigation being had by either House . . . or Whoever corruptly, or by threats or force . . . endeavors to influence, obstruct, or impede . . . the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House . . . Shall be fined . . . or imprisoned . . ."

(3) 18 U.S.C. § 1510: "(a) Whoever willfully endeavors by means of bribery, misrepresentation, intimidation, or force or threats thereof to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator;

* * * * *

Shall be fined . . . or imprisoned . . ."

(4) 18 U.S.C. § 1018: "Whoever, being a public officer . . . authorized by any law . . . to . . . give a . . . writing, knowingly makes and delivers as true such a . . . writing, containing any statement which he knows to be false, in a case where the punishment thereof is not elsewhere expressly provided by law, shall be fined . . . or imprisoned . . ."

(See also 18 U.S.C. § 1001, the basic statute on false statements, above.)

(5) 18 U.S.C. § 1621: "Whoever, having taken an oath . . . that he will testify . . . truly . . . willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, . . . be fined . . . or imprisoned . . ."

(6) 18 U.S.C. § 1622: "Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined . . . or imprisoned . . ."

(7) 18 U.S.C. § 1623: "Whoever under oath in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration . . . shall be fined . . . or imprisoned . . ."

(c) An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

(1) each declaration was material to the point in question, and

(2) each declaration was made within the period of the statute of limitations for the offense charged under this section.

In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true."

(8) 18 U.S.C. § 2071: "(a) Whoever willfully and unlawfully conceals, removes or destroys . . . any . . . thing, filed or deposited . . . in any public office, . . . shall be fined . . . or imprisoned . . ."

(b) Whoever, having the custody of any such . . . thing, willfully and unlawfully conceals, removes . . . or destroys the same, shall be fined . . . or imprisoned . . ."

(9) 18 U.S.C. § 2232: "Whoever, before, during or after seizure of any property by any person authorized to make searches and seizures, in order to prevent the seizure or securing of any goods . . . by such person, . . . destroys, or removes the same, shall be fined . . . or imprisoned . . ."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. DEL CLAWSON (at the request of Mr. GERALD R. FORD), for November 29 to December 8, on account of official business.

Mr. PETTIS (at the request of Mr. GERALD R. FORD), for November 30, 1973, on account of official business.

Mr. FOLEY (at the request of Mr. O'NEILL), for today, on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TOWELL of Nevada) to revise and extend their remarks and include extraneous matter:)

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. ASHBROOK, for 30 minutes, today.

Mr. ASHBROOK, for 60 minutes, on December 3.

(The following Member (at the request of Mr. TOWELL of Nevada) to revise and extend his remarks and to include extraneous matter:)

Mr. KEMP, today, for 30 minutes.

(The following Members (at the request of Mrs. BOGGS) to revise and extend their remarks and include extraneous material:)

Mr. DENT, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. MURPHY of New York, for 5 minutes, today.

Mr. MONTGOMERY, for 10 minutes, today.

(The following Members (at the request of Mr. HICKS), to revise and extend their remarks, and to include extraneous matter:)

Mr. FUQUA, for 5 minutes, today.

Ms. ABZUG, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROOKS, and to include extraneous matter.

Mr. BRADEMAS, to extend his remarks in the body of the RECORD, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $888.25.

(The following Members (at the request of Mr. TOWELL of Nevada) and to include extraneous matter:)

Mr. MCKINNEY.

Mr. ZWACH.

Mr. WYDLER in two instances.

Mr. RAILSBACK in two instances.

Mr. ARCHER.

Mr. HARVEY.

Mr. BUTLER.

Mr. FINDLEY.

Mr. WYMAN in two instances.

Mr. MCCLOSKEY in two instances.

Mr. GILMAN in two instances.

Mr. HUBER.

Mr. CEDERBERG.

Mr. HOGAN in two instances.

Mr. STEELMAN.

Mr. ASHBROOK in three instances.

Mr. MICHEL.

Mr. ROBISON of New York.

Mr. GOLDWATER.

Mr. DERWINSKI in two instances.

Mr. LUJAN in two instances.

Mr. ROUSSELOT in two instances.

Mr. HOSMER in two instances.

(The following Members (at the request of Mrs. BOGGS) and to include extraneous material:)

Mr. HARRINGTON in four instances.

Mr. BRINKLEY.

Mr. BOLLING.

Mr. ROGERS.

Mr. RARICK in three instances.

Mr. GONZALEZ in three instances.

Mr. MATHIS of Georgia.

Mr. MCFALL.

Mr. HAMILTON.

Mr. EDWARDS of California.

Mr. ICHORD.

Mr. DENT.

Mr. COTTER in five instances.

Mr. DANIELSON.

Mr. DIGGS.

Mr. MILFORD.

Mr. FLOWERS in five instances.

Mr. WALDIE in two instances.

(The following Member (at the request of Mr. HICKS), and to include extraneous matter:)

Mr. BINGHAM in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 389. An act for the relief of the Southeastern University of the District of Columbia; to the Committee on the District of Columbia.

S. 1836. An act to amend the Act entitled "An Act to incorporate the American Hospital of Paris", approved January 30, 1913 (37 Stat. 654); to the Committee on the Judiciary; and

S. 2441. An act to amend the Act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization; to the Committee on the Judiciary.

ADJOURNMENT

Mr. HICKS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Friday, November 30, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1586. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a listing of contract award dates for the period November 15, 1973, to February 15, 1974, pursuant to 10 U.S.C. 139; to the Committee on Armed Services.

1587. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

1588. A letter from the Chairman, Federal Power Commission, transmitting a copy of the map, "Major Natural Gas Pipelines, June 30, 1973"; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. H.R. 11441. A bill to postpone the implementation of the Head Start fee schedule. (Rept. No. 93-671). Referred to the Committee of the Whole House on the State of the Union.

Mr. CULVER: Committee on Foreign Affairs. Report on the Overseas Private Investment Corporation (Rept. No. 93-672). Referred to the Committee of the Whole House on the State of the Union.

Mr. BINGHAM: Committee on Foreign Affairs. Report of special study mission to southern, east, and west Africa (Rept. No. 93-673). Referred to the Committee of the Whole House on the State of the Union.

Mr. MORGAN: Committe on Foreign Affairs. Report on data and analysis concerning the possibility of a U.S. food embargo as a response to the present Arab oil boycott (Rept. No. 93-674). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 9492. A bill to designate the Chattooga River in the States of North Carolina, South Carolina, and Georgia as a component of the National Wild and Scenic Rivers System, and for other purposes; with amendment (Rept. No. 93-675). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11546. A bill to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes. Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 11372. A bill to conserve energy on the National System of Interstate and Defense Highways; with amendment (Rept. No. 93-677). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 11565. A bill to insure that certain buildings financed with Federal funds utilize the best practicable technology for the conservation and use of energy; with amendment (Rept. No. 93-678). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. House Joint Resolution 736. Joint resolution to provide for a feasibility study and to accept a gift from the U.S. Capitol Historical Society (Rept. No. 93-679). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. S. 1776. An act to amend the Federal Water Pollution Control Act, as amended; with amendment (Rept. No. 93-680). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. S. 1901. An act to amend the act of August 20, 1963, as amended, relating to the construction of mint buildings. (Rept. No. 93-681). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI (for himself, and Mr. ESCH):

H.R. 11658. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College and the Rayburn Library; to the Committee on Education and Labor.

By Mr. BURKE of Massachusetts:

H.R. 11659. A bill to amend title IV of the Social Security Act to require the provision of certain protective services under State plans for aid to families with dependent children and for child-welfare services; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. ANDERSON of Illinois, Mr. MARTIN of North Carolina, Mr. ROBINSON of Virginia, Mr. GUDE, Mr. O'BRIEN, Mr. MCKINNEY, Mr. THOMPSON of New Jersey, Mr. LOTT, Mr. MITCHELL of New York, Mr. STEELMAN, Mr. MOAKLEY, Mr. COLLINS of Texas, Mr. TOWELL of Nevada, and Mrs. HECKLER of Massachusetts):

H.R. 11660. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

By Mr. COLLIER:

H.R. 11661. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 11662. A bill to encourage increased use of public transit systems by amending the Internal Revenue Code of 1954 to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 11663. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Commitee on Ways and Means.

By Mr. FAUNTROY:

H.R. 11664. A bill to amend the Export Administration Act of 1969, to provide a formula to control the exports of wheat, soybeans, and corn from the United States, and for other purposes; to the Committee on Banking and Currency.

By Mr. GILMAN:

H.R. 11665. A bill to establish a temporary embargo on the exportation of domestically extracted crude oil products, or equipment used in extracting crude oil; to the Committee on Banking and Currency.

By Mr. GONZALEZ:

H.R. 11666. A bill to provide for U.S. participation in increases in the Ordinary Capital and Special Funds resources of the Asian Development Bank; to the Committee on Banking and Currency

By Mr. HUDNUT:

H.R. 11667. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. HUNT:

H.R. 11668. A bill to further the conduct of research, development, and commercial demonstrations in geothermal energy technologies, to direct the National Science Foundation to fund basic and applied research relating to geothermal energy, and to direct the National Aeronautics and Space Administration to carry out a program of demonstrations in technologies for commercial utilization of geothermal resources including hot dry rock and geopressured fields; to the Committee on Science and Astronautics.

By Mr. KUYKENDALL:

H.R. 11669. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LUJAN:

H.R. 11670. A bill to designate the Miners' Hospital in Raton, N. Mex., a Public Health Service hospital to be known as the "Miners' Rehabilitation and Medical Hospital"; to the Committee on Interstate and Foreign Commerce.

By Mr. MARAZITI:

H.R. 11671. A bill to increase the availability of urgently needed mortgage credit for the financing of housing and other purposes; to the Committee on Banking and Currency.

H.R. 11672. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. NIX:

H.R. 11673. A bill to provide for the establishment of an American Folk Life Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

H.R. 11674. A bill to amend the Internal Revenue Code of 1954 to provide an additional itemized deduction for the use of a passenger automobile in a carpool; to the Committee on Ways and Means.

H.R. 11675. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 11676. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 11677. A bill to insure that certain buildings financed with Federal funds utilize the best practicable technology for the conservation and use of energy; to the Committee on Public Works.

By Mr. ST GERMAIN:

H.R. 11678. A bill to amend the Bank Holding Company Act of 1956, to prohibit bank holding companies from owning or controlling shares of building and loan, savings and loan, and homestead associations and cooperative banks; to the Committee on Banking and Currency.

By Mr. STAGGERS:

H.R. 11679. A bill to amend the Public Health Service Act to require the Secretary of Health, Education, and Welfare to continue to admit and treat, without charge, persons at facilities of the Public Health Service for purposes of study; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of North Carolina:

H.R. 11680. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; to the Committee on Banking and Currency.

By Mr. WALSH (for himself, Mr. Danielson, Mr. Peyser, Mr. Fish, Mr. Rangel, Mr. Biaggi, Mr. Horton, Mr. Gilman, Mrs. Chisholm, and Mr. Mitchell of New York):

H.R. 11681. A bill to amend chapter 34 of title 38, United States Code, to authorize additional payments to eligible veterans to partially defray the cost of tuition; to the Committee on Veterans' Affairs.

By Mr. WINN:

H.R. 11682. A bill to authorize the Secretary of Transportation to construct the Clinton Parkway, in Douglas County, Kans.; to the Committee on Public Works.

By Mr. WYDLER:

H.R. 11683. A bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions; to the Committee on Government Operations.

By Mr. WYMAN:

H.R. 11684. A bill to amend the Export Administration Act of 1969, to prohibit the export of oil from the United States until the President determines that oil is no longer in short supply; to the Committee on Banking and Currency.

By Mr. ZWACH:

H.R. 11685. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. SKUBITZ (for himself and Mr. Eckhardt):

H.J. Res. 834. A joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. STAGGERS:

H.J. Res. 835. A joint resolution to enable the United States to organize and hold an international conference in the United States in fiscal year 1974 and authorize an appropriation therefor; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.J. Res. 836. Joint resolution to designate the period January 21, through January 27, 1974, as "National Snowmobiling Week"; to the Committee on the Judiciary.

By Mr. HÉBERT (for himself, Mr. Bray, Mr. Price of Illinois, Mr. Arends, Mr. Fisher, Mr. Bob Wilson, Mr. Bennett, Mr. Gubser, Mr. Stratton, Mr. King, Mr. Pike, Mr. Dickinson, Mr. Ichord, Mr. Hunt, Mr. Nedzi, Mr. Whitehurst, Mr. Randall, Mr. Young of Florida, Mr. Charles H. Wilson of California, Mr. Spence, Mr. Leggett, Mr. Powell of Ohio, Mr. Hicks, Mr. Price of Texas, and Mr. White:

H. Con Res. 386. Concurrent resolution expressing the concurrence of the Congress in naming the nuclear-powered aircraft carrier CVN–70 as the U.S.S. *Carl Vinson;* to the Committee on Armed Services.

By Mr. HÉBERT (for himself, Mr. Bray, Mr. Treen, Mr. Nichols, Mr. Armstrong, Mr. Brinkley, Mr. O'Brien, Mr. Mollohan, Mr. Beard, Mr. Dan Daniel, Mr. Mitchell of New York, Mr. Montgomery, Mrs. Holt, Mr. Runnels, Mr. Robert W. Daniel, Jr., Mr. Aspin, Mr. Dellums, Mr. Davis of South Carolina, Mr. Jones of Oklahoma, and Mrs. Schroeder):

H. Con. Res. 387. Concurrent resolution expressing the concurrence of the Congress in naming the nuclear-powered aircraft carrier CVN–70 as the U.S.S. *Carl Vinson;* to the Committee on Armed Services.

By Mr. TREEN (for himself, Mr. Hébert, and Mr. Bauman):

H. Con. Res. 388. Concurrent resolution relating to the U.S. fishing industry; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLFF:

H. Con. Res. 389. Concurrent resolution providing a cutoff of U.S. goods to nations engaged in oil embargo to United States; to the Committee on Foreign Affairs.

By Mr. MARAZITI:

H. Res. 722. Resolution to seek peace in the Middle East and to continue to support Israel's deterrent strength through transfer of Phantom aircraft and other military supplies; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Madigan, and Mr. Hogan):

H. Res. 723. Resolution to seek peace in the Middle East and to continue to support Israel's deterrent strength through transfer of Phantom aircraft and other military supplies; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. CHISHOLM:

H.R. 11686. A bill for the relief of Marlene Pyle; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 11687. A bill for the relief of Gerschwin W. Newman; to the Committee on the Judiciary.

By Mr. STAGGERS:

H.R. 11688. A bill for the relief of Dr. Roberto DeOcampo and his wife Sandra; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

367. The SPEAKER presented a petition of Governor Sherman W. Tribbitt and other citizens of the State of Delaware, relative to servicemen missing in action in Southeast Asia; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

DR. ROBERT D. DRIPPS: A TRIBUTE

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, November 29, 1973

Mr. HUGH SCOTT. Mr. President, on Thursday, November 1, Philadelphia newspapers carried obituaries of two of America's most distinguished physicians, Dr. Paul Dudley White and Dr. Robert D. Dripps.

Dr. White, a world famous cardiologist, needs no introduction from me. He was justly honored around the world for his research and teaching about the heart. Few medical men in history have received the well deserved recognition that he won. No doubt some of his fame was due to the fact that his field of expertise was one which affects, sooner or later, so many of us.

Dr. Dripps, on the other hand, was a pioneer in a field of much less popular interest—anesthesiology. In 1942, he was the only anesthesiologist on the staff of the Hospital of the University of Pennsylvania. By 1949, he had succeeded in establishing a separate department of anesthesiology within the medical school, and was named department chairman.

In 1967, a grant to the university from the National Institutes of Health provided for the establishment of the first research training center in anesthesiology in the country. It was established as a model for other such centers, to be funded by the Government, to help improve the quality and safety of patient care through a better understanding of the interaction of drugs and anesthetics.

Dr. Dripps was co-author of the foremost text in his field, and the author of more than 100 scientific articles. His abilities were recognized in many quarters, and he was the recipient of many awards. He was a former chairman of the National Research Council's Subcommittee on Anesthesiology and of the World Health Organization's Scientific Group on the Evaluation of New Drugs.

In 1972, Dr. Dripps accepted the post of vice president for health affairs at the Univeristy of Pennsylvania. In this capacity, he had broad responsibilities for the university's health facilities and teaching programs. In that same year, because of his interest in drugs and patient care, he became concerned about evidence that this country was losing its leadership in drug research and development. He asked 21 of his distinguished colleagues from around the country to help him bring to the attention of the Congress and the Food and Drug Administration this concern. His goal was to help our country improve its system of drug development.

His courage and initiative, I am sure, will set an example for his colleagues and will hopefully prove to be an inspiration to those who follow him in these efforts. His willingness to take action when he considered the action necessary to serve the public interest will be long remembered.

Mr. President, I ask unanimous consent to have printed in the RECORD the first and last of a series of letters which Dr. Dripps wrote to the Congress and the FDA on behalf of his distinguished committee.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 24, 1973.

Hon. ALEXANDER SCHMIDT,
Commissioner of Food and Drugs, Department of Health, Education, and Welfare, Washington, D.C.

DEAR COMMISSIONER SCHMIDT: As you know, a group of us in academic medicine have expressed concern about the future of drug development and regulation in this country. We have spoken to members of Congress and the FDA of the need for a thorough examination of the IND/NDA process. One basis for our concern can be seen in three important areas: 1) The drug lag—i.e., the extent to which important drugs are available overseas and not available here. 2) The drop-out rate of compounds which get lost in the IND/NDA process. 3) Evidence of loss of U.S. leadership in drug research.

Dr. Charles Edwards recognized, as FDA Commissioner, the need to improve regulatory assessment. In a speech last December 13, he specifically recommended certain steps be taken.

Although we realize the difficulty involved in creating the kind of advisory committees Dr. Edwards has in mind, namely, those which would literally follow a compound through the IND/NDA process, we hope that his recommendations, as well as our suggestions about them, can be put into effect soon.

We were encouraged to read on the occasion of your taking office that while you believe in the need for regulation for public safety, you will be looking at the balance between regulation and the need to avoid inhibiting R&D. This question of maximizing benefit to patients has been the central concern of our group.

We have also been encouraged to see that in the last two months FDA has cleared several important compounds which have long been available overseas. We would like to point out, however, that the timing of these FDA actions supports our belief that the U.S. has fallen behind the rest of the world. For these four compounds, the average time between NDA submission and approval in the U.S. was almost five years. Also, on the average, they were introduced into the U.S. almost eight years after being introduced in Britain. We suspect that the delays seen with these compounds are not isolated cases but confirm the existence of a real drug lag. It is also significant to note that these four compounds originated with foreign owned firms and were initially marketed in foreign countries.

While an international comparison such as this enables us to define performance of the U.S. in relative terms, there remains the more fundamental and difficult question of measuring the absolute impact of excessively conservative regulatory policies on the process of drug development at all levels. How, for example, have FDA regulatory policy and action affected the entry rate or the drop-out rate of potential new therapeutic agents in the IND/NDA stages?

No one knows how many potentially useful compounds are bogged down in the IND process or are discarded even before this phase of development. The U.S. public is clearly experiencing a delay in benefits, but it may be experiencing a total loss of potential benefits which might have come from compounds that for one reason or another are lost by the wayside. The contribution of regulatory behavior to such attrition is an important area deserving immediate study.

Admittedly, evidence of loss in leadership in drug research is fragmentary, but we see certain symptoms which give us grave concern. For example, based on the most recent figures available, the U.K. industry has been increasing its R&D expenditures at the rate of 17%, the Japanese 22%, Sweden 13.5%, and U.S. owned companies less than 10%. In all probability, the U.S. increase is taken up just by inflation and by the need for retesting old products rather than the search for totally new products. Further evidence of this static condition of drug R&D in this country is reflected in R&D manpower, which has not increased in the last four years. Comparable data is not yet available for foreign countries, with the exception of Sweden, whose R&D manpower has increased at the rate of 9% over the last five years, a rate comparable to the U.S. in the mid-1960's.

It is also no secret that a number of companies are doing more and more of their clinical development overseas. Richard Furlaud, President of Squibb, is quoted as follows in the September 6 issue of the *Congressional Record:* ". . . Squibb can reduce the cost and delay of introducing a drug in the U.S. by bringing it to foreign markets first. Prolixin Decanoate was developed in the U.S., but its usefulness in the treatment of schizophrenia was proved in Britain."

One of our largest firms is reported to have discontinued most of its Phase I studies in this country in favor of doing them abroad. And another firm, Cutter Laboratories, announced that it is stopping all drug research due to "today's research and regulatory environment."

These, then, are some of the reasons for our concern and why we went to the Congress in the first instance almost two years ago and asked for a study and review of the entire drug development and regulatory process.

We recognize that you have just assumed your new responsibilities, but we also want you to know of our continuing interest and of our willingness to help in any way we can.

Respectfully,

Robert D. Dripps, M.D., Chairman, Robert F. Bradley, M.D., Eugene Braunwald, M.D., Julius H. Comroe, Jr., M.D., Michael E. DeBakey, M.D., James E. Eckenhoff, M.D.,

Edward D. Freis, M.D., Alfred Gilman, Ph.D., Nathan S. Kline, M.D., Louis Lasagna, M.D., Sherman M. Mellinkoff, M.D., Walter Modell, M.D., John Oates, M.D.,

Irvine H. Page, M.D., E. M. Papper, M.D., Burtrum C. Shiele, M.D., Robert W. Wilkins, M.D., William R. Wilson, M.D., Robert I. Wise, M.D., Ph.D., George D. Zuidema, M.D.

Hon. PAUL G. ROGERS,
House of Representatives,
Washington, D.C.

DEAR MR. ROGERS: We, the undersigned, are or have been engaged in medical practice or medical research and are therefore deeply interested in the advancement of human therapeutics. For this reason, we are increasingly concerned with the present drug regulatory system and its effect on the practice of medicine and the development of new drug therapy.

We have concluded that the procedures by which new drugs are evaluated and approved for use in this country is causing us to fall behind in this important area of medical science.

We recognize the difficult task which confronts FDA. Many of us have worked with FDA and have deep appreciation of the efforts being made by its leaders and staff. At the same time, we have watched the research efforts of the pharmaceutical industry over the past few years grow in competence and depth. We are struck by the paradox of increasing excellent on both sides and decreasing productivity.

The system of drug regulation, which has evolved as a result of the 1962 Drug Act and Regulations, exposes the agency to a variety of pressures which make it difficult for rational decision-making to take place. In a recent speech before the National Institute of Medicine, FDA Commissioner Edwards put his finger-on the problem: "It's a particularly difficult environment for the Food and Drug Administration because, in a sense, we're in the middle. We are, on the one hand, criticized for being 'soft' on industry and, on the other called repressive, an enemy of free enterprise: on *every* major decision we are accused by some of acting too fast without sufficient evidence, and by others of acting too slowly and too timidly to prevent unnecessary harm."

The FDA has long been the subject of study and investigation. In fact, there have been at least three Executive Branch studies of FDA in the past five years. The last, ordered by Commissioner Edwards, was a review and evaluation of the total scientific effort of FDA by an outside committee headed by Dr. Ritts. These reviews and reports, while critical of many aspects of FDA, have been useful and helpful, we are sure. But they have focused primarily on the internal structure and workings of FDA. As important as it is to improve the efficiency and scientific procedures and capabilities of the agency itself, there still remains the crucial question as to the effect the agency's administration of the 1962 Drug Act has had in actual practice on drug research, innovation, and therapy.

We believe a change in the drug regulatory system is badly needed. The system too often stifles creativity and escalates costs of research; perpetuates a continuing decline in the number of new drugs entering the market in this country; and may be depriving the practicing physician of agents beneficial to patient care. The reasons for all this are not clear, are undoubtedly complex, and require thorough investigation and study. The House Interstate and Foreign Commerce Committee and its Subcommittee on Public Health and Environment, of which you are Chairman, have appropriate jurisdiction, as we understand it, over the operations of FDA. Your Subcommittee, it appears to us, would be the proper body to direct a full-scale review of the effect of the 1962 Drug Act and Regulations on the practice of medicine and the conduct of academic and industrial drug research.

We believe that this review should be undertaken as promptly as possible, since the welfare of patients may be at stake. If it would be helpful to you to confer with us on this subject, we are most willing to do so.

Respectfully,

Robert D. Dripps, M.D., chairman, Robert F. Bradley, M.D., Eugene Braunwald, M.D., Julius H. Comroe, Jr., M.D., Michael E. DeBakey, M.D., James E. Eckenhoff, M.D., Edward D. Freis, M.D., Alfred Gilman, Ph.D., Nathan S. Kline, M.D., Louis Lasagna, M.D., Sherman M. Mellinkoff, M.D., Walter Modell, M.D., John A. Oates, M.D., Irvine H. Page, M.D., E. M. Papper, M.D., Dickinson W. Richards, M.D., Burtrum C. Schiele, M.D., George W. Thorn, M.D., Robert W. Wilkins, M.D., William R. Wilson, M.D., Robert I. Wise, Ph.D., George D. Zuidema, M.D.

ST. JOSEPH'S ROMAN CATHOLIC CHURCH, FIRST FRANCO-AMERICAN PARISH IN SPRINGFIELD, MASS., OBSERVED CENTENNIAL, 1873–1973

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1973

Mr. BOLAND. Mr. Speaker, this year marks the 100th anniversary of the founding of St. Joseph's Church in Springfield, Mass., the oldest and "mother" Franco-American Roman Catholic church in western Massachusetts. It was, indeed, an honor for me to be invited by the parishioners on Sunday, October 28, to join with them and the Most Rev. Christopher J. Weldon, D.D., Bishop of Springfield, in attending the concelebrated centennial liturgy of Thanksgiving Mass, accompanied by a concert of sacred music by the Peloquin Chorale under the direction of Dr. C. Alexander Peloquin, composer in residence at Boston College, and director of music at the Cathedral of Saints Peter and Paul in Providence, R.I.

This beautiful concelebration of the Eucharist and inspiring music was followed by the centennial banquet, during which I took note of the migration of French speaking people from Canada to Springfield more than 100 years ago, and the founding of the first French language Roman Catholic Church, as follows:

In 1873, more immigrants came to the United States than in any previous year—more than 460,000 streamed in from northern Europe and Canada. And in Springfield, during the years 1865 to 1875, the French speaking community had tripled from 600 to more than 1700 people.

Historians describe the French speaking community of that time as among the poorest and most unskilled nationality group in the city—hampered by language barriers, without institutional strength or identity, hardly visible, much less assertive, in community life.

But, as so often happened with other nationalities in other years, the church and their religion moved in to fill the gap. Father Louis Gagnier put it all together when he founded St. Joseph's to become the mother parish of other churches that were to follow. And so, in 1873, St. Joseph's Church became not alone a reality but a necessity. For the French speaking community, it became the focal point for its language, its culture and its ambitions.

From that time to this—from Father Gagnier through Fathers Bissonnette, Cayer, Aubertin, Rheaume, Lafleur and their assistants, the progress of the parishoners of this great church and its satellites has been constant, continuing and enormous.

You have a right to be proud of the brilliant heritage that is yours. You have expressed your gratitude this afternoon in the finest and most glorious way possible—a Thanksgiving Mass to the Almighty. You come here tonight, from St. Joseph's to Chez Josef to revel in this magnificent milestone—the 100th anniversary of the founding of St. Joseph's.

Because of what St. Joseph's Church and its offsprings, its priests, its sisters, and its people have contributed to the goodness, yes, the greatness of this community, state and nation, I come to express the gratitude of the United States of America.

Mr. Speaker, I have inserted with my remarks in the RECORD, a copy of the invitation I received for the Mass of Thanksgiving; the liturgical program of concelebrants and officers of the Mass which included a Springfield native, the Most Rev. Thomas R. Manning, O.F.M., Bishop of Coroico, Bolivia; the concert program of sacred music; the membership of the St. Joseph Parish Council; the centennial banquet program; and the historical summary of St. Joseph's Church given by Armand Millette during the banquet.

PROGRAMS

We, the Parishioners of St. Joseph Church, invite you to join with His Excellency, Most Reverend Christopher J. Weldon, D.D., Bishop of Springfield, Massachusetts, in the Concelebration of the Eucharist commemorating Our Hundredth Anniversary, Sunday, the twenty-eighth of October, One thousand nine hundred and seventy-three at four-thirty o'clock, St. Joseph Church, Springfield, Massachusetts.

CONCELEBRATION LITURGY OF THANKSGIVING ST. JOSEPH CHURCH, 1873–1973

Principal Celebrant and Homilist: Most Reverend Christopher J. Weldon, D.D., Bishop of Springfield, Massachusetts.

Concelebrants

Most Rev. Thomas R. Manning, o.f.m., Coroico Bolivia, South America.

Rev. Romeo C. Rheaume, Pastor Emeritus.

Rev. Gerard A. Lafleur, Pastor.

Rev. Fernand Roy, Former Curate.

Rev. Adrien T. Remy, Former Curate.

Rev. Msgr. Roger Viau, Former Curate.

Rev. Camillo Santini, Pastor, O.L. of Mt. Carmel.

Rev. Leon Nadeau, Former Curate.

Rev. Sebastian Angers, O.P., Vocation from Parish.

Rev. Roland Tremblay, M.S. Vocation from Parish.

Rev. George Dupius, Vocation from Parish.

Rev. Gerald Malboeuf, Former Curate.

Rev. Donald Dube, Former Curate.

Rev. Robert Choquette, Former Curate.

Deacon of the Mass: Rev. Mr. Lester G. La Barre.

Master of Ceremonies: Rev. Daniel A. Doyle, Ecclesiastical Secretary to the Bishop.

Thurifer: Patrick Remillard.

Crucifer: Paul Berube.

Accolytes: Dean Aiscoti and Alain Richard.

Crosier Bearer: Norman Bourbeau.

Mitre Bearer: Joseph Meunier.

Lectors

Mr. Emile Asselin, Chairman, Parish Council.

Mrs. Blanche Doyle, Chairman, Liturgical Committee.

Rev. Sr. Norma Comeau, C.S.C., Principal, St. Joseph School.

Gift bearers

Mrs. Frank Croteau, Presidente, Dame de Ste-Anne.

Mr. Albert Boureau, Lique du Sacre-Coeur.

Mrs. Rita Gaudette, Presidente, Cercle Social St. Joseph.

Miss Lucille A. Chapdelaine, Enfant de Marie—Nursery.

Mr. Joseph R. Talbot, President, St. Joseph Athletic Club.

Mr. William Tourigny, Confraternity of Christian Doctrine.

Little Master Jean-Guy Ricard, 3rd Grade. St. Joseph School.

Little Miss Christina J. Rivet, 1st Grade, St. Joseph School.

Ushers

Lucien Berthiaume, Robert Berube, Romeo Hamel, Armand Millette, Ernest Morin, Raoul Ricard, and Adrien Raiche.

Usherettes

Lucie Belliveau, Denise Bergevin, Lori Berube, Theresa Brodeur, Elaine Lapan, and Tammy Menard.

Aides to the clergy

Mark Gagne, Philip Talbot, Michael Landry, and Phillippe Tessier.

CONCERT

Organist and Choir Director: Dr. C. Alexander Peloquin, Composer in Residence at Boston College, Director of Music, Cathedral SS Peter and Paul, Providence, Rhode Island.

Choir: The Peloquin Chorale.

PROGRAM

Laudate Dominum, by Charpentier.

Ave Verum, by Mozart.

Vere Languores, by Lotti.

Sanctus, by Gounod.

Jubilate Deo, by Peters.

Gordon Penman, Percussion.

CENTENNIAL LITURGY OF THANKSGIVING

Entrance Hymn: "The Old Hundredth Psalm Tune," by Vaughan Williams.

(The Congregation will sing verses one, two and five)

All people that on earth do dwell,
Sing to the Lord with cheerful voice;
Him serve with fear, His praise forth tell,
Come ye before Him and rejoice.
The Lord, ye know, is God indeed.
Without our aid He did us make;
We are His folk, He doth us feed,
And for His sheep He doth us take.

(The choir sings verses three and four.)

To Father, Son, and Holy Ghost,
The God whom heaven and earth adore,
From men and from the angel host,
Be praise and glory ever more.

(After the final fanfares the congregation sings:)

A-men.

Penitential Rite

BISHOP. In the Name of the Father, and of the Son and the Holy Spirit.

PEOPLE. Amen.

BISHOP. The grace of our Lord Jesus Christ and the love of God and the fellowship of the Holy Sprit be with you all.

PEOPLE. And also with you.

BISHOP. My brothers and sisters to prepare ourselves to celebrate the sacred mysteries, let us call to mind our sins.

During Communion:

"I believe that My Redeemer Lives," by Peloquin; and "Ave Maria" by Arcadelt.

Thanksgiving Meditation: Sr. Norman Comeau, C.S.C., Principal.

Response: "We thank you, Lord."

Recessional: "Shout for Joy (Songs of Israel)" by Peloquin.

ST. JOSEPH PARISH COUNCIL

Emile Asselin, Chairman.

Leon St. Pierre, Vice Chairman.

Marguerite Perron, Secretary.

Spiritual Life Commission

Blanche Doyle, Chairman.

Marie Alice Doyon.

Family Life Commission

Robert Berube, Chairman.

Raoul Ricard.

Roger Talbot.

Community Life Commission

Leo Roy, Chairman.

Robert Gosselin.

Richard Duquette.

Education Commission

Henri Gagnon, Chairman.
Mary Peters.
Sr. Norma Comeau, C.S.C.
Sr. Jane Daignault, C.S.C.

Communications Commission

Robert Riel, Chairman.
Michael Rivet.

Administration and Finance Commission

Albert Bourbeau, Chairman.
Lucien Berthiaume.
Ernest Morin.

Diocesan Regional Board

Dr. Marc Girard.

Spiritual Life (Liturgical) Commission

Blanche Doyle, Chairman; Sister Lucile Vadnais, Sacristan; William Tourigny, Ernest Gaudette, Yvette Riel, Corinne Riel, Blanche Roy, Eleanor Housman, and Marie Alice Doyon.

ST. JOSEPH ROMAN CATHOLIC CHURCH—CENTENNIAL BANQUET AND BALL, OCTOBER 28, 1973

PROGRAM

Invocation, Most Reverend Christopher J. Weldon.
Toast and Salutation, Emile J. Asselin.
Historian, Armand R. J. Millette.
Master of Ceremonies, Robert G. Gosselin.

GUESTS

Bishop of Springfield, Most Reverend Christopher J. Weldon.
Mayor of Springfield, William C. Sullivan.
Congressman, Edward P. Boland.

COMMITTEE

Chairman, Robert G. Gosselin.
Reservations, Leo W. Roy.
Invitations, Mrs. Leon V. St. Pierre.
Secretary, Mrs. Robert G. Gosselin.

HISTORICAL SUMMARY OF ST. JOSEPH CHURCH, SPRINGFIELD, MASS.

(Given by Mr. Armand Millette)

One-hundred years, a long time, certainly for the existence of a parish, and St. Joseph's has done it. Yes, St. Joseph's Parish has reached its one-hundreth birthday. Let us go back to the beginning and see how our predecessors overcame the trials, obstacles, the problems that confronted them, for there were many, and enabled the parish to reach the auspicious occasion we celebrate here tonight.

Return with me now, if you will, to the year 1870. We find Springfield a growing city of about 25 to 30 thousand people nearly ten percent of which are French-Canadian. Except for the occasional passing through of a French speaking missionary, the means of fulfillment of the spiritual needs of these people was practically non-existent.

The Canadian population of Springfield was determined to have its own parish. They organized a bazaar that was held in the hall of the old Springfield Hotel. It proved to be a success and earned, what was for that time the tremendous sum of $2,500. Impressed with their zeal and determination, the Bishop of Montreal assigned to Rev. Louis Gagnier the task of organizing their parish. Having already built 8 churches in the previous 4 years, he lost no time in establishing the new parish.

On March 9, 1873, Father Gagnier said his first mass in the auditorium of the city hall. In April he arranged to have regular Sunday services in the Gilmore Hall on Main Street. The following month armed with the $2,500, of the previous year's bazaar, he negotiated the purchase for $20,000, the property on which the church now stands, at the corner of Howard and what was then Water Street. June found Father Gagnier working side by side with dozens of willing and able parishioners who had volunteered their digging services for the basement of their new church. On All Saints' Day of 1873, the first Mass was said in the basement of St. Joseph's Church.

1877 saw the completion of what was then called: "The most beautiful and largest of Fr. Gagnier's churches." The "King's Handbook" of 1884 described it: "The structure is of brick and of simple but extremely imposing architecture." Total cost of the present structure and property is estimated at $60,000. The population of the parish is more than 400 families.

The now familiar figure of the "Priest with the beard" could be seen on his daily jaunts through his large parish tending the spiritual needs of his people. Wearing his stove-pipe hat and Prince Albert coat and carrying his ever present walking stick, he seemed tireless in the performance of his duties. A former housekeeper relates that he rarely slept in his bed, but preferred to sleep on the rectory sofa fully clothed. He hated to bother with financial details usually leaving that up to God and the lay people, but it was found that he kept precise records and scrupulously accounted for every penny in the disposition of parish funds. The good father always carried a pocketfull of candy for, and was always friendly to, the "little lambs of his flock", wisely recognizing that in these children's hands would someday rest the strength and well-being of his parish. He also realized that these future leaders needed guidance and counseling to be prepared to handle these responsibilities.

And so it was in the fall of 1884, that he opened the parish school in the basement of the church. The school was staffed by the Sisters of St. Joseph with an enrollment of 150 students. In 1890 the Root property, adjacent to the church was purchased. Then in 1897, Fr. Gagnier felt the parish was ready to build again. He commissioned the architectural firm of Chickering and O'Connell to draw up the plans. Dedicated on May 1898, by Bishop Beaven, the new school was considered to be one of the finest in the state, having the most modern of heating and electrical systems. Its cost was said to be $33,000. Unwilling to have the Sisters of St. Joseph establish another house in the same city with their motherhouse, Bishop Beaven arranged to have them replaced.

In August of 1898, six Sisters of the Holy Cross arrived from Canada to take charge of the parish school.

Fr. Gagnier celebrated his golden jubilee in 1905. A Thanksgiving Mass, a huge banquet and a gala concert were to make this important occasion a truly memorable one. It was only after the good Father had reached the age of 76 that help was provided for him. In 1906, Rev. Joseph Bissonette was appointed as curate. By 1908, the French speaking population of Springfield had grown considerably and was now really too large to be adequately served by one Church. And so Fr. Gagnier saw his immense parish, which was comprised of Springfield, West Springfield, Mittineague, and Longmeadow divided into two parishes. Thus, in the north end of Springfield, the section called "Brightwood" a new church was erected under the patronage of St. Thomas Aquinas.

In the summer of that same year, Father Gagnier suffered a paralytic stroke that proved fatal. He died quietly in his rectory on August 20, 1908 at the age of 78. As he had wished, his body was transported to his birthplace, St. Martine, Quebec, and there the man who had built 12 churches in 5 years and earned for himself the title of "Incomparable Builder of Churches", was laid to rest.

And so it was that Fr. Bissonnette, only two years after his appointment as St. Joseph's first curate, became its second pastor. Fr. Bissonnette continued what was to become the tradition of St. Joseph's, the building and beautifying of the church complex. In 1912, the wooden stairs and balconies were found to be unsafe and Fr. Bissonnette replaced them with the solid brick porticos that enclose the entrances to the church today. In 1912, a new organ was installed by the Casarvant Organ Co. of St. Hyacinth, Canada, at a cost of $10,000. The same instrument provides the inspiring music for today's Mass. Then in 1922, came the first of the many major disruptions that were to plague the priests and parishioners of St. Joseph's. It was announced that the entire front half of the parish school was to be eradicated for the purpose of widening Water Street which was subsequently renamed Columbus Avenue. No sooner had this difficult task been completed than disaster struck. On Feb. 1, 1923 the Springfield Gas Works, situated a short way from the Church, blew up with a tremendous roar. The Chronicles of St. Joseph gave the following account. "At about ten after one in the afternoon, just minutes before the beginning of afternoon classes, there was a deafening sound which was heard throughout the school.

"The entire building was shaken, glass flew all around and everyone wondered what could possibly be happening. The billowing smoke and rising flames made it evident that the explosion was at the Gas Company tanks. This terrible accident caused millions of dollars worth of damage throughout the center of the city. At St. Joseph's we closed our doors until Feb. 5th during which time the laborers worked from early morning till late at night to restore order in the school." In July of 1923, work began to strengthen the church structure which had been badly shaken by the explosion. Steel rods had to be installed from wall to wall. However, the year ended on a joyful note with the celebration of Fr. Bissonnette's 25th anniversary as a priest. The following year his health beginning to deteriorate, the good pastor eagerly welcomed the arrival of his new curate Rev. Arthur Cayer, in June of 1924. Despite his failing health, Fr. Bissonnette pushed ahead with his plans for the parish. Having purchased four parcels of land at a cost of $61,000, ground was broken for both convent and rectory. At this time the pastor suffered a cerebral hemorrhage and was hospitalized, and Fr. Cayer assumed the pastoral duties. A new addition was begun to replace the schoolrooms lost in the widening of Columbus Avenue. November of 1924 found the priests, with the pastor still convalescing, installed in their new home and a week later, the sisters in theirs. Another attack in December of 1925 left Fr. Bissonnette a total invalid and Fr. Cayer was named administrator. The following year the beloved pastor, as had his predecessor, died quietly in his rectory on Oct. 27, 1927. Eight months later Fr. Cayer was appointed as St. Joseph's third pastor.

The parish was now in sound physical condition so Fr. Cayer concentrated on the spiritual growth of his parish. Attendance at Masses and devotions was flourishing and the people's faith and devotion was helping them through the trying times of the depression. In 1933, the parish celebrated the silver jubilee of Fr. Cayer. The parish's prosperity was not to last forever, for in 1936 misfortune struck again. The Connecticut river, swollen by torrential rains, overflowed its banks and brought misery and financial disaster to hundreds of families. Luckily, the elevated position of the parish buildings kept them from serious damage, but the financial damage suffered by its parishioners was sorely felt. Then two months later Fr. Cayer was struck down by a heart attack and his pastoral duties were taken up by his curates. In 1937, Rev. Albert Aubertin, who had served as altar boy at Fr. Cayer's first mass, was appointed to serve him again, as curate. During his last years, Fr. Cayer authorized Fr. Aubertin to begin the work of repairing the church once again. Then another disaster.

In 1938, the already weakened walls and foundations of the church and school were battered by a hurricane. Six months later Fr. Cayer suffered a massive heart attack and on Good Friday, April 6, 1939, he died at the age of 54.

Named as administrator, to Father Aubertin now fell the task of repair and renovation that was now imperative. The institution of "Bingo" games in 1936 until 1943, when the game was outlawed, was an important source of income for the necessary repairs. Fr. Aubertin started by installing a new steel framework in the school roof and cement buttresses were poured along the outer walls to strengthen them. Then work was begun in the church.

The steel rods put in after the explosion of 1923 were removed and the roof and outer walls were strengthened anew. Then Pearl Harbor. Because of the war effort, all building materials became scarce, or non-existent, and all work came to a halt. As the war dragged on, more and more of the parish debt was being paid. When the war ended work was begun again to the interior of the school. From 1942 to 1946, the war years, a total of 840 Sons of St. Joseph served their country.

In 1947, the parish feted the 25th anniversary of the ordination of Fr. Aubertin with appropriate ceremonies. Then in 1948, in conjunction with the 75th anniversary of the parish an elaborate restoration program was begun in the church. Under the direction of the curate, the Rev. Adrian T. Remy, 200 volunteer parishioners called on every parish family to solicit pledges in an effort to realize their goal of $75,000. This was more than met, as a total of $92,000 was pledged. Needless to say, the priests and parishioners were overjoyed and their church was magnificently renovated. In December of 1948, Bishop O'Leary officiated in honor of the 75th anniversary and also the 50th anniversary of the arrival to the parish of the Sisters of Holy Cross. The next few years were relatively quiet with emphasis on the reduction of the parish debt.

Then in 1955, further honor came to St. Joseph's as their beloved pastor was elevated by Pope Pius XII to the rank of Domestic Prelate with the title of Right Rev. Monsignor. In May of that same year, the parishioners were shocked to hear that their pastor had suffered a cerebral hemorrhage. On the morning of August 14, 1955, Father Aubertin died in Mercy Hospital.

Then on Oct. 11, 1955, a new pastor was named. The Rev. Romeo Rheaume, a good friend of Fr. Aubertin was to be St. Joseph's 5th pastor. Determined to continue in the spirit of "Ever onward and upward," the revitalization program had begun by his predecessor, Fr. Rheaume, and his parishoners adopted the slogan "Brulons l'Hypoteque". And with zeal and determination, this hardworking priest and his equally hard working congregation did, in fact, burn the mortgage. A new threat to the parish developed in 1960 when the Dept. of Public Works favored taking the easterly side of Columbus Ave. for the proposed route of Highway 91. A route that would completely demolish St. Joseph's Parish. After two years of public and private debates it was finally agreed on to take the westerly side. And St. Joseph's was spared. In thanksgiving and in appreciation of his parishioners, a beautiful marble statue of their patron St. Joseph was commissioned by Fr. Rheaume and donated by him to the parish. It stands now on the lawn where the original rectory once stood.

Throughout the years, the religious organizations of the parish, such as the League of the Sacred Heart, the Ladies of St. Anne, the Children of Mary, and the Cercle Sociale de St. Joseph, provided avenues of communication amongst the people of the parish. The weekly or monthly meetings where religious celebrations were organized and social events were planned, were important in maintaining the spirit of co-operation so necessary among the people of a successful parish. 1965 saw new organizations come to being. The Catholic Scouting program was introduced when Boy Scout Troop 67 was born. Shortly thereafter, a Cub Scout pack was formed for 8 to 10 year olds.

June of 1965 marked the formation also of the St. Joseph Athletic Club, an organization dedicated to the physical and educational well being of the children of his parish. In order to raise funds, the club began the "Spelling Bee," a derivative of bingo which was used until Bingo was again legalized and which the club now operates for the benefit of the parish. The Mardi Gras Ball and French Night, sponsored by the Athletic Club, are highly popular annual events.

This resurgence of social activities in the 60's proved that St. Joseph's was still alive and active and confident of the future. Further proof was shown in 1967 when it was decided to enlarge and refurbish the convent. When it was discovered that the living quarters of our devoted Sisters were so far below today's acceptable standards, it was decided to do something about it. "Make it known to your parishioners, that each one must make realistic contributions, not only because we are helping our nuns and our children, but, that we are contributing from our hearts, for the love of our God. Promoting and motivating with that spirit, you cannot fail." This was the message Bishop Weldon gave to a committee that met with him at his residence. Then plans were made for a "kick-off" banquet for the raising of the necessary funds. Work on the addition began shortly after. Then in Nov. of 1968, Bishop Weldon blessed and dedicated the sisters' beautiful new home. An open-house afterwards proved that the new facility was wholeheartedly approved-of by both nuns and parishioners. In the next few years constant improvements were made in the school, a gymnasium was built, a library furnished, overhead projectors in the classrooms, student lockers, a copying machine, a portable science lab provided. Yes, the school became the number one concern and still is.

When the Bishop's letter, with the recommendation that a Parish Council be formed, was received, the machinery was set in motion for the first elections. It must be said that from the outset that Fr. Rheaume was completely in favor of Parish Councils and when the elections were over and the council seated, the pastor gave them his wholehearted support. In Dec. of 1971 the Bishop returned to St. Joseph's to preside at a Thanksgiving mass when the parishioners joined Fr. Rheaume in celebrating his Golden Jubilee of Ordination. It was a joyous occasion which preceded by only six months the good Father's retirement to the position of Pastor emeritus.

In June of 1972, Rev. Gerard Lafleur was appointed as the new pastor of St. Joseph.

In looking back over the last hundred years, we note that the Bishops through the years, have provided St. Joseph's with pastors of exceptionally high caliber. Men of great ability and tremendous devotion. We believe that Bishop Weldon has carried on the tradition with the appointment of Fr. Lafleur. When Fr. Lafleur came to us, plans were being made by the Social commission of the council to make the centennial year a memorable one for the parish. The new pastor might have said, this is your celebration, I'll leave it up to you to make the plans. Instead, he made it his celebration, too, and has worked long and hard to make our Centennial Celebration a success. In the relatively short time that Fr. Lafleur has been with us, he has already demonstrated his ability to carry on in the great tradition of our previous pastor.

During his short tenure we have seen further improvements in the school, the renovation of the rectory, and the church restored to its original beauty. Already Fr. Lafleur has made his new parishioners his friends, and has earned their respect and love. In its one hundred years, St. Joseph's has had but 5 pastors who have served it well.

In its last fifty years, St. Joseph's has had but 3 custodians, the unsung heroes of any parish. This is the kind of devotion and longevity of service St. Joseph's seems to inspire in its people.

While 1973 marks the 100th year in the existence of the parish, it also marks the 75th year of inspired and devoted service to the parish and its children by the Sisters of Holy Cross. Yes, for the past 75 years they have taught our great-grandparents, our grandparents, our parents, all of us and our children.

We thank God for this long and happy association and pray that it may long continue. And now as we look into the murky void that is the new century, wondering what it might bring, let us ask God to give to us those virtues possessed by our predecessors, that enabled them to successfully point the way for us, to this night. Then with the guidance of our dedicated Bishop, the leadership of our pastor, the first of the new century, and the determination of our parishioners, we may point the way forward to our successors. Let us also ask God to give us the wisdom to be able to instill in our children and our children's children those same virtues, love of God, love of fellow man and love of parish so that one evening a hundred years from now, one of our great-great grandchildren will stand before the rostrum and say to his or her fellow parishioners: "Two hundred years, a long time, certainly, for the existence of a parish, and St. Joseph has done it."

JOSEPH MILTON "MITT" LARY

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. FLOWERS. Mr. Speaker, earlier this month Tuscaloosa County and the State of Alabama lost one of their most esteemed citizens with the death of Joseph "Mitt" Lary at the age of 82.

Mitt knew and was known by almost all in his native county. He and Mrs. Lary raised seven sons, all of whom were outstanding athletes and have been good citizens of their community. It was a privilege for me to know him as I was growing up in Tuscaloosa. Mitt Larry was justifiably proud of his family and they of him.

The passing of Mitt leaves a great void with those who knew him well, and I would commend an editorial about Mitt Lary for my colleagues and others at this time:

[From the Tuscaloosa (Ala.) News, Nov. 21, 1973]

MITT LARY WAS A SPECIAL MAN

J. Mitt Lary was a very special man in many ways. He was a farmer, a fiddle maker, a good fiddler and he fathered a big family of boys who took after him.

Mitt was known and respected by old timers all over Tuscaloosa County. He was a friendly man who always had time to pass the time of day with folks he knew and loved.

A few years back they staged Lary Day in Northport and Tuscaloosa. Papa Lary was the center of the show designed to honor his sons for their athletic ability. More than one of his sons distinguished themselves as football and baseball players all the way up to the major leagues.

The Larys were a close knit family. To know them closely was to wonder how they grew up and remained so close together. It had to be they had mighty good raising.

All the Lary boys turned out to be fiddlers, guitar pickers or mandolin players. One of them served this county in public office.

Mitt himself never sought a political office in this, his native county. But there were many who figured he would have been a natural in politics.

Mitt liked to tell tall stories. To hear him tell it, he has raised the biggest sweet potatoes, the largest pumpkins and watermelons.

He was one of the few men around who bragged that he could push a wheelbarrow with a rope.

His friends throughout the county will miss Mitt Lary. He was a man who made people feel glad to be around.

A BANNER YEAR FOR AGRICULTURE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. HAMILTON. Mr. Speaker, I include my Washington Report of November 28, 1973, in the RECORD:

A BANNER YEAR FOR AGRICULTURE

Strange things are happening down on the farm.

The crops are the biggest ever, the prices are good, and for the first time in decades the American farmer is operating virtually without restrictions in acreage, producing as much as he can. One would think, then, that he would be all smiles. But he is not. He is worried about his production costs and, as he looks beyond this year's harvest, he wonders if exports will continue to be strong and wonders about a new direction in farm policy that rejects any accumulation of grain reserves in years of plenty to protect against scarcity in bad years.

Only 2 years ago the nagging farm problem was how to control the awesome productive capacity of American agriculture. Farmers were paid not to plant, surplus piled high, food prices were stable, and taxpayers paid subsidies.

Today the farm problem is how to increase production faster to keep up with demand, and the posture of American agriculture has changed from surplus to scarcity. As a result:

Farmers planted 24 million more acres in 1973 than in 1972, and will plant an additional 10 million acres in 1974, putting 343 million acres in production (the most since 1956 and a 12% increase in 2 years);

Net farm income will jump 22% this year to a record $24 billion;

Farm exports soared 60% to almost $13 billion this year and in the next few years may rise to $18 billion;

Prices for feed grains and wheat more than doubled and prices for live cattle rose over 50% during the year.

The overriding question is how long the farm boom will last. As usual, the experts split. The pessimists think the boom was caused by an unusual combination of factors—e.g., bad weather and dollar devaluations—and will fizzle. The optimists see a new era in agriculture, marked by strong exports to meet the demands of an expanding population and rising affluence. Both agree that the key to boom or bust conditions lies in world demand for U.S. agricultural exports.

The farm boom is having many effects, some good and some bad. For the farmers it means more income, an opportunity to purchase some of the nicer things of life and more equipment to expand production. It also brings him skyrocketing production costs. Not all farmers have prospered, though. The dairyman has been hard hit, with costs exploding 19% in August alone, forcing many of them out of business. U.S. agribusiness, a $140 billion network of companies and cooperatives that supplies the farmer and processes and distributes his produce, is rolling in the money, but the consumer is still staggering from the almost 20% increase in food prices from January through August.

Some government officials are cautious and not as pleased as this year's boom would warrant. Like the farmer, they worry about the export market and whether it can last. If it does not, subsidies would go out of sight. If the farmer should have a bad year, and exports remain strong, the U.S. would face food shortages. Some feel that the government is gambling with food supplies, risking high prices and shortages, as it cuts back agricultural research and refuses to accumulate grain reserves for bad years. From recent history farmers know that cycles of boom and bust, surplus and scarcity, and sharp swings in farm and consumer prices, should be expected. Since the government has virtually no stockpile of grain, they fear that a policy against accumulation of reserves could even encourage such fluctuations.

My own view has been that with the margin between food supply and demand so thin, reserves of food supplies are vital under present conditions. The danger of crop failures, and the resulting gyrations in prices, could mean real trouble. After all, for many people in the world, food reserve could mean the difference between life and death.

In the long run, the U.S. will have to increase food and fiber production, perhaps by 32% to meet demand in 1985, according to agricultural economists. To meet that target, more land will have to be brought into production, already-cultivated acres will have to be farmed more intensively, and technological breakthroughs will have to continue. Even with the awesome production record of American agriculture, these goals will not be easily achieved because the U.S. is slowly running out of land, environmentalists and farmers are clashing over the heavy use of fertilizers and chemicals, and scientific progress in agriulture has slowed. At the same time the farmer confronts fertilizer, fuel and rail car shortages, each of which compounds his production difficulties.

In the immediate future, and despite these concerns, prospects for U.S. agriculture are good. While 1974 may not match the records of 1973, the outlook for 1974 is moderately encouraging, not perhaps a boom, but maybe a banner year, and subject, of course, to the usual qualifications about the vicissitudes of farming for a market that stretches around the world.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 50

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. HARRINGTON. Mr. Speaker, most of the murders in our country are not premeditated. They result from accidents or momentary fits of rage.

Michael Tom was killed with a handgun when he tried to break up a fight in a restaurant. His murder was not premeditated; and without a handgun, the dispute in which he was involved would much less likely have resulted in death.

Strong handgun legislation would, to a large extent, avoid handgun slayings committed in anger.

Included below is the November 11 article from the New York Times:

MAN SHOT AND KILLED TRYING TO STOP FIGHT IN RESTAURANT HERE

As more than a score of frightened people watched, a teen-aged youth, firing six times, shot and killed a 23-year-old man who tried to stop a fight over a girl in a Chinese restaurant in downtown Brooklyn early yesterday.

The police identified the victim, who was pronounced dead at the scene, as Michael Tom of 1459 East 99th Street, in Brooklyn's Canarsie section. They said he was killed at about 12:30 A.M. in the Loong Wah Restaurant at 148 Lawrence Street, near Fulton Street.

According to the police, the shooting erupted during a private party given by a fraternal organization known as the Bowery Boys. Two hours before the shooting, the police said, five members of the Young Dragons, a Chinatown Youth gang, crashed the party.

There apparently was no serious trouble, the police said, until one of the members of the gang, described as a 17-year-old youth, made an insulting remark to the girlfriend of a member of the fraternal organization.

An exchange of angry remarks between the gang member and the girl's escort led to a fight, and when Mr. Tom attempted to intervene he was shot dead. His killer escaped.

VICTIMS OF CRIME—THE FORGOTTEN PARTY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. LEHMAN. Mr. Speaker, our system of criminal justice has historically been concerned primarily with the punishment of offenders. In more recent years, we have begun to give serious thought to the implications of a high recidivism rate, and to recognize the importance of rehabilitation.

In all of this, however, the victim of the crime has been forgotten.

Criminal law and tort law are derived from the same sources in our common-law history, and originally, restitution was awarded in a criminal action as well as in civil tort actions. But the two actions have since become separate, and crime is now considered a wrong against society, while the wrong against the individual is held to be a tort. Damages are not awarded in a criminal action, the victim is not even a party in the criminal proceeding, and he or she is left to seek redress in a separate and additional civil action.

Unfortunately, assuming that the offender is apprehended and convicted, few offenders are able to make restitution or pay damages, and the victim is left then to absorb the damages.

There are two reasons why victims should be compensated for their losses. First, the criminal clearly has some obligation to the victim for loss of property or personal harm. Second, the society also has an obligation to the victim since it failed in its duty to protect the victim.

A number of plans have been proposed to provide compensation for victims of crime. One calls for prisoners to set aside a portion of their wages earned in prison for their victims. The problem with this is that most American prisons can not employ more than 50 percent of their prisoners.

A second proposal is to apportion a part of the fine imposed on the offender to the victim. This, of course, presumes that the offender will be apprehended and convicted, and will not be judgment-proof.

The most workable proposal is to provide the means whereby the Government would compensate the victims of crime. This is what the bill I have introduced today would do. Statistics indicate that those who are most often the victims of crime are those who are least able to afford it. On humanitarian grounds alone, the Government should assume the responsibility to aid victims of crimes of violence just as it helps the victims of other kinds of misfortunes.

LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. EDWARDS of California. Mr. Speaker, on November 16–18, the Labor Council for Latin American Advancement held its Founding Conference in Washington, D.C. One hundred and twenty Spanish-speaking trade unionists representing over 45 AFL–CIO unions, State federations, and local central bodies from across the country gathered to elect officers and draft the constitution and bylaws of the organization.

The Labor Council for Latin American Advancement promises to be one of the most important organizations in the Spanish-speaking community. The AFL–CIO and its president, George Meany, are to be commended for their role in bringing together Spanish-speaking labor leaders to encourage greater political participation by our Nation's second largest minority.

I would like to take this opportunity to include in the RECORD remarks made at the founding conference by my distinguished colleague, Senator JOSEPH MONTOYA of New Mexico.

The remarks follow:

A FREE EDUCATION FOR LATIN AMERICANS

(By Senator JOSEPH MONTOYA)

I am proud to join this company tonight. The labor leaders who are here have been in the forefront of the American labor movement for years—and I am honored to share this platform with them.

But most important to me, and most rewarding, is the opportunity to be present with you at the founding of a Latin-American Labor Council to represent the work and the needs of the Latin-American people of this nation. The Census Bureau may not be able to count us right—but the AFL–CIO knows where we are!

The future is now a multicultural mainstream of American workers—unified and pledged to help one another. I think it is significant that the first doors to open wide for the Spanish-speaking people are doors in the labor movement. We are, most of us—working people—and the labor movement is where we belong. That is where we can accomplish the most for our people. That is where we can do the most for our country.

The American labor movement is a group which has faced tough times—and come out ahead and on top. These are tough times again. But you have learned your lessons the hard way, and your toughness reflects that. Already the Latin-Americans in the labor movement are veterans of that same kind of school—men like Cesar Chavez and those who supported him.

Tonight I want to talk about another kind of lesson, in another kind of school. It is one I know better because it is in my field, politics. But even I, after nearly thirty-seven years in government, have had to take a refresher course this year. I was not ready for the lessons of 1972 and 1973.

1973 is the year when all Americans are facing something we have never faced before. We're all in this boat together. We're all finding out that we got burned—but we're learning.

I want to say something now about the Committee to Reelect the President. We should all be grateful to those gentlemen this year. We owe them a lot. They are responsible for the free education we are getting this year. It's a tough lesson plan and a pretty tough course. A lot of us got burned—but we learned!

They taught us the real meaning in a lot of good old sayings. Like: "All that glitters is not gold." Or "united we stand, divided we fall." Or even John Mitchell's old favorite, "Watch what we do, not what we say."

You see? You learned a lot this year!

Those were pretty important things to learn. But that's just the beginning of this education. Every day we learn a new lesson, courtesy of the White House and the Committee we know as CREEP.

1973 is the year we are finding out how important the Constitution is to every one of us. That's a pretty important thing to know.

1973 is the year we are discovering how much we Americans love the law, how deeply we want decency in our government, how much we value freedom and the Bill of Rights. That makes it a pretty great year.

And 1973 is the year we are learning that the price of liberty really is—as Thomas Jefferson said it was—eternal vigilance. That's something worth learning—and relearning.

So in spite of our horrors and our headaches, I think 1973 will be remembered as the year we learned some great lessons—just as 1972 will be remembered as the year we failed the course. A lot of people did foolish things in 1972—and I'll have to admit that some of those people were Spanish-speaking Americans. Twenty-two percent of the Latin-Americans in this nation voted for Richard Nixon last year, according to an NBC poll. Now that's not a bad record of foolishness when you consider that everybody else did worse—but it's a pretty silly record for a group of people who had only given him half that much support in 1968, and who knew that the problems of Latin Americans got worse, not better, in his first four years. How did we—at least some of us—come to make that mistake? Well, that's part of the lesson plan we were all studying this year.

I want to tell you about a few specifics tonight—and about what I think we can learn from them.

At 1701 Pennsylvania Ave.—the headquarters of CREEP—image-making was their name, and fooling people was their game. Naturally they didn't tell us that—although one of Richard Nixon's speechwriters said a long time ago, "It's not what's there that counts, it's what's projected."

Well, they decided to use us—Latin-Americans—to project success for the Administration's first four years—and in the process they decided to mix in a little failure for those of us who refused to go along.

They used funny figures—statistics. They used money. They used funny facts—fiction. And they used the machinery of the United States Government. Our government.

They thought that we would be easy to fool. We shouldn't feel too bad about that—they thought the same thing about a lot of other people. They thought they could fool us, buy us, scare us. We Latin-Americans were only a small part of the whole—and they used the same techniques on a lot of other people, too.

Fooling people.
Dividing people.
Buying people.
Scaring people.

Well, a lot of people got burned—but they learned.

We learned about statistics, for instance. Someone once said that there are three kinds of lies: Plain lies, damned lies—and statistics. Well, this Administration juggled statistics by not reporting politically unpleasant facts—or carefully selecting the facts they let us hear. At the Watergate hearings last week, Mr. William Marumoto of the White House staff admitted asking the Census Bureau NOT TO REPORT—and I quote him: "That study showing Spanish-speaking not doing as well as some other minorities in comparison to the general public. . . ."

Amazing. They thought we didn't know we were poorer, had a higher unemployment rate, less education, less opportunity, less income. And they thought if they kept it out of the Census reports we wouldn't find out.

They thought we couldn't count. So even though the Cabinet Committee on Opportunities for Spanish-speaking says there are fourteen million of us, according to one published report, the Census Bureau only counted nine million. Of course, the Census Bureau figure is the one they use to figure how much federal support we get for programs we need.

Let me tell you about one of my favorite examples of how numbers can be used to fool you. In trying to convince you that the President's Sixteen Point Program was working, they published a report saying that there was an INCREASE of 1,268 Spanish-speaking federal employees in the first year of the program. And, they said, in that same period federal employment had only increased by 2,266. Sounds pretty good, doesn't it? Sounds like Spanish-speaking people got half the jobs available.

Unfortunately, they forgot to include a few numbers—the numbers of federal employees who left government jobs and were replaced—but not by the Spanish-speaking. So the real truth behind those funny figures is that the percentage of federal employees who were Spanish-speaking was exactly the same—2.9 percent—in both years, 1970 and 1971. That's not what you call real progress—but it was real image making.

A lot of people got burned—but they learned!

A lot of image making last year was done with magic mirrors and airplanes—and news releases. A few high-level Spanish-speaking people were whirled around to create the impression that this Administration had increased the number of top level opportunities for us. True? Well, no, not quite. As of November, 1972, the Spanish-speaking percentage of all those in the supergrades, the top levels of government Civil Service, was .6 percent—not even one percent! And by May of 1973, all the mirrors were gone—and we discovered that in the White House offices themselves there were only four of us—all at low levels of pay.

Hardly what you could call a breakthrough. But we learned.

But we shouldn't complain. Remember, their job was not to report what was real—it was to project an image. And they did that, didn't they?

In fact, they did more. They set up a complex system and planned how they could use the whole federal government to serve the purpose of reelecting the President. We have just finished hearing some of the details of their effort to manipulate the Latin-American voting population, at the Senate Watergate hearings.

I'd like to tell you about a few of the things we heard.

First, I think it is only fair to point out that the men who testified before us seem to have really believed that what they were doing was proper—and that the funny figures they used were right. That's the trouble with funny figures and funny facts—once they are down on paper looking official and neat, they take on a life of their own and get quoted and repeated and pretty soon—presto!—they are real!

The first witness to testify before us about the effort to capture the Spanish-speaking vote last year was probably sincere when he said under oath that—and I am quoting him—"President Nixon created the Cabinet Committee on Opportunities for the Spanish-speaking people . . . He made the Spanish-speaking people active participants in their government . . . He appointed more than 50 Spanish-speaking people to top positions in government. . . . He initiated the Sixteen Point Program to bring the Spanish-speaking into government at all levels. . . . He created special programs for Spanish-speaking children, he provided more and better homes for Spanish-speaking Americans, he approved more funds for health care programs, he worked to increase job opportunities. . . ."

Well, as a Latin-American senator who has spent the last five years trying to get legislation past the President to help the working people of this country, I was pretty astounded at that statement! I finally was able to convince this gentleman that the Cabinet Committee was an outgrowth of a program President Johnson had started—and that I was the author of the legislation which created it, not President Nixon. I had planned that its uses would be somewhat different than what they are—but its existence is the result of work by a Democratic President and a Democratic Congress, not the Nixon Administration.

The other claims of this witness—who was head of the Special White House Task Force to Help Spanish-Speaking Americans, although he was not Latin-American himself—are equally easy to refute. We've never had a proper representation in the supergrades or top positions of government and under Richard Nixon our percentage of these jobs never even got up to 1 percent. That's making us active participants? The Sixteen Point program resulted in an increase of 3/10 of one percent in federal employment for us in three years—and most of those jobs are at the bottom, not the top. Special programs for Spanish-speaking children were created alright—but by a Democratic Congress, not Mr. Nixon. In most cases Mr. Nixon either vetoed them, or impounded the money appropriated for them—or decided to phase them out." Programs like the Bilingual Education Act, or OEO, or Day Care.

Senator Kennedy, Senator Cranston, and I have just introduced new bilingual education legislation to expand and revive that program—but we face the real probability of a Presidential veto because this is one of the programs the President's 1974 budget requested us to eliminate entirely.

I don't have to tell this audience about the housing programs that were shut off, or the attempt to dismantle OEO. I don't have to tell you about the voteos of health legislation, pension programs, child care. And I know I don't have to tell you about the unemployment which is really for too many Spanish-speaking workers instead of those increased job opportunities. Our median income in 1969 was $6,039, and by 1971 it was down to $5,560.

But the witness before the committee in the Senate seemed to believe it all. He worked directly under Mr. Charles Colson and Mr. Fred Malek—and decided that the thing to do to capture your votes was to "capitalize on the incumbency." Those are his words. He suggested ways to "generate favorable publicity." And ways to "neutralize the opposition." When he was asked if his purpose had been to "use the power of the executive branch and all the departments of governments, the grant-making powers and the employment powers, in the campaign" his answer was "OK. Yes."

And he had help. There was a man in the Office of Communications at the White House and a man at the Cabinet Committee to help him. There was a man at the Finance Committee of Spanish-speaking to Reelect the President—he worked for Mr. Stans—and there was another special contact at the CREEP. They had what they called an "informal" arrangement so that everyone knew which Spanish-speaking Americans were applying for grants or contracts or jobs—and who was on their side. They were quite a team. They used the responsiveness group at the White House to insure contact with all the agencies of government. The witness testified that was one way they could—and again I quote him—"insure that federally subsidized programs which serve as havens for opposition political operatives are closely supervised." Translated, I suppose that means that if you were a Democrat and worked in a federal program and were Spanish-speaking—you were in trouble last year. Big trouble.

Their letters and memos to one another are instructive. One of them said—on April 7 last year—"Make sure the right people are being considered and receiving grants." When asked who the right people were, the witness said "Right people means those who are qualified and sympathetic or supportive of the Administration." So although the programs were supposed to help all the Spanish-speaking people, the reality was an attempt to divide us into two groups: supportive people who could get jobs or grants or contracts, and enemies who were to be supervised, fired, or cut off from support.

Listen to another memo: "This is a classic example of a firm not necessarily on our team which is making a comfortable living off us . . . Recommend stop proposals at Labor and HUD." Remember, this is a memo from the White House Task Force which was supposed to help Spanish-speaking people get ahead—and it's a memo about cutting off funding for a fully qualified, experienced and capable Spanish-speaking contractor. The witness finally conceded under questioning, that by "living off us" he had meant the Administration, but that the source of their money was really all the taxpayers, even including some Democrats.

However, our Senate investigation and his admission came too late to help the poor Hispano they were "assisting" out the door.

Or consider this memo: "Rodriquez is developing a list of all Spanish-speaking federal employees grades GS–14 and up for various uses by 1701. That is the address of the Committee to Reelect the President. In the light of the earlier memo, it's interesting to think about what 1701 was going to do with those names, isn't it?

On all grants and contracts to Spanish-speaking applicants, by the way, the man at the Committee to Reelect the President was asked to "sign off." That was their language for "approve." In other words, if an applicant did not satisfy the CREEP that he was "supportive" of the campaign his chances of getting any kind of grant or contract were pretty poor last year—even if he was the most qualified applicant in the nation.

It's a strange way to help fellow Americans, isn't it? But it served the other purpose, of course. It fooled some people. It confused some people. It divided the Latin-Americans from one another. It threatened some and rewarded others. That's part of the reason for that doubled number of Spanish-speaking votes for President Nixon in 1972.

We got burned—but we learned.

For larger groups, organizations of Spanish-speaking people who couldn't be diverted quite so easily, other methods were used. If they were not fully supportive of the Administration and the campaign, and they could not be controlled, then the teams at CREEP tried to "neutralize" them. Again I am using their word. The Southwest Council of La Raza, for instance, was one organization marked for "neutralization." They were told they were being considered for a $30,000 grant for a Planning Conference. There was no plan to ever really give them the grant—but the promise was supposed to be enough to keep them from being opponents.

At least that is the admission made by the witness last week before our committee. "We were neutralizing them," he said.

Most interesting of all is what happened to SER—the highly successful manpower group working with Latin-Americans. SER was awarded a new and much larger contract—$18 million dollars—with a special signing ceremony at San Clemente and lots of publicity. That was in 1972. It wasn't till January of this year that they discovered the funds for their program had been frozen—cut off. It must have been a shock.

They got burned. But they learned.

It was a lesson in the misuse of power by arrogant men. That is the picture the testimony before the Watergate Committee gave to all of us last week. By dividing the Latin-American population into "enemies" and "friends" they tried to make our vote count for them—or for nothing at all. By publicizing every grant, every appointment, every contract, they tried to create the image of an increased Spanish speaking participation in government so that "gaps in the President's record," as the witness put it, could seem to be filled. By threatening the loss of grants of taxpayer's money or offering awards of the same money for good behavior, they sought to increase their friends and "neutralize" the rest of us. By using public relations gimmicks they tried to fool us. By using funny figures they tried to fool us. By using our money—money that came from all Americans—they tried to buy us—or bury us!

Most revealing of all, to me, was the fact that the man who ran the Task Force for Spanish-speaking in the White House for two years *before* the election—moved to another job one day after the election. Apparently he felt no moral responsibility to follow through on the grants and promises which had been made. He just packed up and moved on to another job. A high level job—remember, he was not a Spanish-speaking American himself. One day after the election! That hardly gave him time to pack his bags after the celebration parties. And several months later the Spanish-speaking Task Force was buried in the office of Anne Armstrong—another famous non-Latin expert!

Well, some of us got burned. But we learned.

What do we do about it, now that we've had this free education? How do you use that kind of lesson?

Well, for the Latin-American people, I know what has to be done. I don't have to read any statistics to know the needs of the Spanish-speaking, and neither do you. We have five million migrant farmworker people—and they need a minimum wage law and protection under our labor laws. That is going to take Democratic votes in the Congress—enough Democratic votes to override a veto.

Spanish-American working people have the same needs all Americans have. We need jobs, schools, doctors, houses, food. That's something this Administration doesn't want to talk about—although promoting the general welfare is one of the goals of our Constitution and one of the purposes of government. Well, we're going to need Democratic votes to see that *that* part of our Constitution is upheld. A lot of Democratic votes.

I know that one of the primary goals of this group—the Latin American Labor Council—is to increase Latin-American participation in elections. *That's* the way to use our new knowledge in 1973.

Of the Spanish-speaking people who were eligible voters last year, only 44 percent registered—and only 37 percent voted. Those figures have to change.

The way to prove to ourselves and to this nation that we have learned the lessons of 1972 and 1973 well, is to change those figures. We have to make it clear to CREEP that we passed the course.

First, we have to understand that the reason CREEP spent all that time and money trying to fool us last year is because our votes *are* important—important to them, and important to us.

Second, we have to move *now* to register every eligible Latin-American voter, so that our importance to both parties will even be greater.

Third, we have to be sure that every Latin-American gets the facts and figures straight, and understands that while figures don't lie, liars can figure.

And last, we have to get to the polls in 1974 and 1976.

When we do that in the numbers we need to, then we will have earned our diploma in the school of tough politics of 1972 and 1973. We will be sure that it is not going to happen again. We will have told the world that in 1972 some Latin-Americans got burned—but in 1973 we learned!

Never again!

MEMORIAL SLOAN-KETTERING CANCER CENTER

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ROGERS. Mr. Speaker, the Sloan-Kettering Cancer Center recently dedicated a new memorial hospital facility, marking another step forward in the center's excellent work in the battle against the No. 1 health concern of the American people, cancer.

I would take this opportunity to record my personal congratulations to the center on this achievement. The dedicated work at the center in providing the best patient care presently possible and conducting research of the highest quality has been an invaluable contribution in our war against this disease.

On the occasion of the new hospital's dedication, the President extended his personal congratulations in a letter to Laurence Rockefeller, chairman of the board of trustees at the center. I would like to insert the President's letter in the RECORD at this point.

THE WHITE HOUSE,
Washington, D.C., November 13, 1973.

Mr. LAURENCE S. ROCKEFELLER,
Chairman of the Board of Trustees, Memorial Sloan-Kettering Cancer Center, New York, N.Y.

DEAR LAURENCE: The dedication of the Memorial Hospital for Cancer and Allied Diseases gives me a welcome opportunity to commend you and all of those associated with the Memorial Sloan-Kettering Cancer Center.

The efforts all of you have made over the years have placed your institution at the forefront of the struggle against cancer and have won the admiration and gratitude of millions of your fellow countrymen. I take pride in the fact that the Federal Government has supported the Center with funds for research and patient care. But I know that the most important ingredient in your success has not been money, but the dedication and professional excellence of those who have been a part of the Center.

I want to pay special tribute to two gentlemen who will be with you today. The first is Benno Schmidt, the Chairman of the Board of Memorial Hospital. He has contributed such unstinting service to our national fight against cancer that I recently reappointed him as Chairman of the National President's Cancer Panel, a group that monitors our progress and advises me on national policy. Let me also say a word about your dedication speaker, Governor Rockefeller. He has provided national leadership in so many fields that it is hard to single out one above others. It is beyond dispute, however, that without his long-standing interest in the work of the Center and his continued support for cancer research, our prospects for curing cancer would not be as bright as they are today.

I have pledged that all of the resources at the command of the Federal Government will be marshaled to carry forward this struggle against cancer. While I cannot be with you personally today. I am delighted that my daughter Tricia can be there to reaffirm that pledge on my behalf. With your continued efforts and the continued efforts and the continued support of the Government, I am confident that the new Memorial Hospital will bring us ever closer to our goal.

Sincerely,

RICHARD NIXON.

THINK ABOUT WASTE ON THURSDAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. DERWINSKI. Mr. Speaker, we are properly addressing ourselves to a great number of solutions in order to lessen the problems that have arisen as a result of the energy crisis.

I believe that the House has made the first progressive step during this period, by passing the bill to establish nationwide daylight savings time. However, much more practical thought must be done to alleviate this crisis. An especially timely, and I believe, very sensible article by Bob Seltzner, managing editor of the Calumet Index, expresses the necessity of that fact through a Thanksgiving message published on November 21. The article follows:

THINK ABOUT WASTE ON THURSDAY

(By Bob Seltzner)

This has been the damnedest manipulation of the American people we've had in years.

The American people are regularly manipulated. But the proposal of gasoline rationing has got to top it off.

Somebody in Washington has got us all pegged as fools.

It would be difficult if not impossible to identify a specific culprit. For example, President Nixon can institute coupon gas rationing or any other type of rationing he wants, probably by the authority invested in the Presidency during World War II—hundreds of emergency acts are still on the books.

But he hasn't done anything yet. Then of course, the Democrats in the U.S. Senate, grasping at any expedient to trap Nixon into unfavorable and/or embarrassing acts (which of course is the name of the game in politics) only a couple of days ago attempted to ram through a bill which would have ordered Nixon to institute coupon gas rationing.

Three dozen Republicans and a dozen Democrats shot that down Thursday.

But it isn't over yet. Not by a long sight.

That coupon gas rationing is even being considered irks me.

We don't need coupon gas rationing and we should not want it.

What we are coming face to face with—Americans particularly, but earth as well—is that we have long used everything we wanted from Mother Earth and now we're going to have to slow down.

Listen a minute. It scares me that one of our major problems on this planet, not only in America, is how to dispose of our garbage. Do you know that the once magnificent Mediterranean Sea today is one of the most polluted bodies of water in the world? Not only is it polluted industrially, but from many years of the countries on its borders pumping their raw sewage into it. Italy, Tunisia, Libya, Spain, Egypt, Greece, Turkey and France are particularly responsible—and possibly Italy most of all. These countries have virtually no land-based provision to dispose of their wastes.

It should be noted that the city of Miami in Florida dumps all of its liquid sewage into the Atlantic Ocean.

We're pigs. That's what.

Unlike the non-human animals on the earth, we so-called humans are destroying our own habitat. We're self destructive. The way we're doing it makes war sound absolutely silly. People fight for economic advantage. So are the Vietnamese. I don't care what they call it—holy war, and ideological war, or whatever. It all ends up being economics.

If we just wait a while, there won't be any need for war. We'll all be down on our hands and knees scratching to survive and too busy to fight with a neighbor.

Since the 20th Century began 73 years ago, we have used up the world's resources faster by several times than its resources were used in the last 5,000 years combined.

The Almanac tells us that by the end of 1973, a total of 70 billion people will have lived on earth since it was formed, and that includes the earth's current population of 3 billion.

Also remember, that more than one-third of the world's population live in India and China. The combined populations of those two countries is 1,334,547,926 persons. That is difficult to imagine, isn't it? The figure 1.3

billion people in only two countries of the earth boggles the mind.

Those 1.3 billion persons occupy only 4.9 million square miles of land space.

In the United States there are 219 million persons occupying 3.5 million square miles.

Think about that one for a moment. It should give us some thoughts concerning what is happening to us today.

Think about some of these statistics:

The United States produces nearly 500 millions of tons (not gallons, but metric tons) of crude petroleum per year, and that is far and away more than any other country on earth. China and India are far, far down the list.

The United States produces 41 million tons of salt per year, three times more than China, which is earth's second largest producer.

The United States produces 541 million tons of coal annually, which is 200 million tons more than China produces and nine times more than India produces.

The United States produces 55 million tons of iron ore annually, and that is twice as much as India and China combined.

The United States produces 1.6 billion tons of copper ore annualy, and that is 25 times more than India and China combined produce.

The United States produces nearly 20 million tons of meat annually, which is one and one-half times what India and China produce together.

The United States produces 55 million metric tons of milk annually, which is 6 times what India and China produce together.

Americans fly 211 billion passenger miles annually, which is 100 times the miles flown by Indian and Chinese nationals.

The United States produces nearly 45 million tons of wheat annually, which is nearly double that produced by India and China combined.

The point is, this country as with the other wealthy nations on this globe, are going to have problems ultimately. We've moved along using up everything faster than we realized.

We're going to have to conserve. To slow down. But no government controls will work. We're simply going to have to do it ourselves.

We've got to become a little harder. It can be done because it has got to be done.

We're just to fat and sassy, folks. And we waste more of the earth's goods every year than the rest of the earth combined. Remember that the next time you see a car belching a cloud of blue smoke. That is waste.

Think about it as we approach Thanksgiving 1973. That's my Thanksgiving message.

If we don't think about it and act, then we deserve being manipulated. If we don't act on our own, we should be manipulated.

If we don't realize that waste is going to destroy us, maybe by 1984 we will be totally manipulated. That is only a decade away.

Think about it this week as we prepare to give up thanks for all that we have.

THE CASE FOR THE SAFE SCHOOLS ACT—II

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. BINGHAM. Mr. Speaker, on Wednesday, I introduced a statement into the RECORD citing the urgent need for H.R. 2650, the Safe Schools Act, which I introduced in January of this year. I included therewith statistics and examples of crime in our public schools, illustrating that from Seattle to Fort Lauderdale school systems have to attempt to carry on the fight against serious violence and vandalism with their inadequate funds. According to spokesmen for the Seattle public schools:

> The problem has taken a turn for the worse because our schools are no longer safe for the majority of students and faculty. Hardly a day goes by where an incident or incidents in our schools do not occur. Teachers are afraid, students are apprehensive, and parents are concerned with the mounting security-related problems in our educational system. . . . Principals, teachers, custodians, lunchroom women, nurses and delivery men alike have all been victims.

Today, I am going to focus on one city, my own city of New York, to illustrate the disastrous proportions of school crime.

The board of education of the city of New York has spent $4 million in 1 year to replace vandal-caused damage. There are now 550 unarmed guards in the city's high schools, and 483 in the elementary and junior high schools. The total number of security guards is expected to reach 1,200 by the end of this year, and the budget to support these guards is predicted to reach $8 million.

The New York City Board of Education reports that 1,081 assaults occurred during the 1972–73 school year, 496 on teachers and 585 on students. Assaults, robberies, and narcotics offenses have increased from 306 in the first 5 months of 1971 to 942 in the first 5 months of 1973. These statistics are reflected in the following chart showing incidents of assault, robbery, narcotics offenses, trespass, loitering, and bomb threats by month for 1971, 1972, and for the first half of 1973.

FROM 1971 TO 1972, AND 1ST HALF OF 1973

	Assaults			Robbery			Narcotic			Others[1]			Total		
	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973
January	49	53	128	12	4	51	0	2	20			124	61	59	332
February	47	80	109	9	6	53	6	0	20			124	62	86	306
March	61	99	211	3	4	64	2	4	38			138	66	107	451
April	48	109	59	4	15	12	4	1	6			[2] 64	56	125	141
May	51	182	136	9	23	18	1	16	8			[3] 133	61	221	295
June	48	69		21	16		1	0	9				70	85	
July															
August															
September	10	78		2	41			4			51		12	174	
October	36	94		8	42			57			110		44	303	
November	33	140		11	54		1	33			109		45	336	
December	47	141		2	53		0	21			188		49	403	
Total	430	1,045	643	82	258	198	15	138	101		458	583	526	1,899	1,525

[1] Reporting of "Others" began September 1972; includes trespass, loitering, bomb threats, etc.

[2] This figure includes 5 sex offenses.

[3] This figure includes 4 sex offenses.

In addition, the following statistics show the complaints by school officials to police for the first 7 months of 1973 in the New York City public school system:

COMPLAINTS BY SCHOOL OFFICIALS TO POLICE FOR 1ST 7 MONTHS OF 1973 PERTAINING TO INCIDENTS INVOLVING PUPILS AND SCHOOL PERSONNEL IN THE SCHOOL SYSTEM

	Manhattan	Bronx	Brooklyn	Queens	Staten Island	Total
Murder[1]	0	1	0	0	0	1
Rape[1]	3	5	9	3	0	20
Robbery[1]	39	72	130	70	2	313
Assault 1 and 2[1]	32	48	49	22	1	152
Harassment/menacing[1]	103	140	202	189	12	646
Burglary	485	627	720	244	81	2,157
Grand larceny	116	64	74	52	10	316
Arson	11	14	23	6	5	59
Sex abuse[1]	7	7	10	13	6	43
Dangerous drugs	37	42	48	38	2	167
Dangerous weapons	5	14	12	12	1	44
Kidnap[1]	3	2	1	2	1	9
Reckless endangerment	5	2	11	2	0	20
Inciting to riot	1	0	0	0	0	1
Petit larceny	162	149	273	173	28	785
Trespass	73	59	116	33	5	286
Criminal mischief (vandalism)	82	145	136	115	33	511

[1] Attacks on pupils, teachers, and other school personnel.

Source: The New York Teacher, Sept. 30, 1973.

These figures speak for themselves, and they show that safe schools legislation is imperative if we are to restore a safe learning atmosphere to our public schools. We must alleviate the excessive burden that crime places on educational institutions, and only substantial Federal assistance will suffice.

ENERGY CONSERVATION: A CONTINUING PRIORITY

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ROBISON of New York. Mr. Speaker, I was pleased to have my attention directed to a recent editorial article by Philip H. Abelson, editor of Science magazine, titled "The Urgent Need for Energy Conservation." Events since the October 26 publication of the editorial have obviously dramatized Mr. Abelson's note of urgency that we emphasize conservation as the most immediately effective remedy to the energy crisis.

Although forebodings over the energy crisis are playing havoc with the stock market, there is a "bull market" here in Washington as competing energy-related interests in and out of Government scramble for the new Federal dollars which will be available for energy research and development. The President is to be complimented for the firm hand he has lent to planning for new energy programs and for his specific mention of the need for research on energy conservation; yet this item, which is relatively small in comparison to the large research priorities now emerging, must not be lost in the shuffle.

Energy conservation is a broad and largely untapped subject, which extends far beyond the act of doing without energy-fueled niceties. There is considerable potential for enhancing the technology of home heating and cooling, and far more could be done to recycle waste heat, steam, and fuel. In these investigations, there are exciting possibilities for new inventiveness and ingenuity, which can turn the dross of our society into the new gold of energy.

Mr. Speaker, I commend the following editorial by Philip H. Abelson to my colleagues:

[From Science magazine, Oct. 26, 1973]

THE URGENT NEED FOR ENERGY CONSERVATION

(By Philip H. Abelson)

During the last 6 months, the mass media have devoted considerable attention to the "Energy Crisis." But obvious trauma has not materialized, and from surface evidence one might conclude that we had been treated to another instance of crying wolf. The sad fact is that we are headed for substantial difficulties, even if the Arab countries refrain from boycotting us. We avoided gasoline shortages this summer, but at the cost of insufficient production of heating oil for the coming season. By such patchwork measures we may stave off the moment of truth for a short time, but the trends seem inexorable. Consumption of petroleum and its products continues to rise and currently is 10 percent above consumption last year. Domestic production of oil is decreasing slowly, while total imports are running more than 60 percent above what they were a year ago. Three years ago, imports cost $3 billion. This year they will amount to about $9 billion, but the sum does not fully reflect present realities. This spring, Libya received $2.30 per barrel for its oil. It now gets $4.90. Other countries have not yet advanced their prices so sharply, but they will increase them. If rising trends in importation and costs continue, the bill next year could exceed $15 billion.

This year we have been able to pay for imported oil, aided substantially by agricultural exports, but there were unpleasant side effects at the supermarkets. Good crops elsewhere next year could cause world food prices to drop and leave the United States with an unsustainable deficit in balance of payments. Already Libya has talked of refusing to accept dollars in payment for oil. In itself this is not important, for we obtain only a small fraction of our supplies there. However, examples set by Libya have recently been proving highly contagious.

We would help ourselves and many others if we lessened our dependence on foreign petroleum. We could do this in three ways—by increasing domestic production of oil, by substituting coal for oil, and by conservation. By far the most effective action we could take now is conservation. The other steps could be implemented only slowly, and they would create environmental problems. A determined effort at conservation could have an instantaneous effect. An obvious target is the automobile, which is the largest consumer of liquid hydrocarbons. Recently, it has been pointed out that half the consumption of gasoline in autos occurs on trips of 3 miles and less. This winter some citizens are likely to suffer acutely from lack of fuel oil. But if everyone would set his thermostat 2°C lower, 16 percent less heating oil would be burned, and there would be enough for all.

The Nixon Administration is currently engaged in planning a 5-year research and development program for energy, with costs targeted at $2 billion annually. Up to the present, the government has devoted most of its energy funds to items like the breeder reactor, which might make a small energy contribution 5 or 10 years hence. Moreover, there is a long road from nuclear energy to large amounts of hydrocarbons.

Our civilization is based on hydrocarbons, from which we derive 78 percent of energy consumed. Of this, most is burned in the form of liquid hydrocarbons. This convenient form of energy is essential to agriculture and transportation and will continue to be for at least 20 years. During that interval, we will not be able to function or even exist without petroleum.

It is to be hoped that, in formulating the new program, government planners will give adequate attention to the main chance—hydrocarbons—and to the quick fix—conservation.

USCC RESOLUTION ON THE MIDDLE EAST

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ZWACH. Mr. Speaker, the problems in the Middle East could well lead to another global war unless means toward peaceful settlement could be found.

Recently the Catholic bishops of the United States met here in Washington and reviewed and debated this problem. Subsequently, a resolution addressing the issues was passed unanimously by the bishops.

In order to bring this scholarly document to the attention of my colleagues and the thousands of other people throughout the Nation who are readers, I would like to include this resolution in the CONGRESSIONAL RECORD:

USCC RESOLUTION ON THE MIDDLE EAST

The conflict in the Middle East is a complex fusion of political, military, economic and religious factors. As bishops of the Catholic Church in the United States, we speak to the issue as pastors concerned for the parties immediately involved, seeking to offer guidance to American Catholics on the issue, and eager to do what we can, even from this distance, to contribute to a just, peaceful and lasting resolution of this painful tragedy.

Faced with a problem which has frustrated the efforts of statesmen for years, we offer our reflections with no pretensions of formulating a definitive solution. We seek instead to highlight factors which we believe point the way toward reconciliation, peace and justice in the Middle East. The problem must be viewed at a global and a regional level.

First, we are impelled to observe the grave dangers of this conflict. Because of the strategic significance of this area of the world and the relationships of major nuclear powers to the parties involved, this conflict contains the potential of wider war, even of nuclear war. Such a war must be avoided at all costs. We believe that we voice the sentiments of people everywhere when we recall Pope John's words that in such a situation, "it is hardly possible to imagine that in the atomic era war could be used as an instrument of justice." (*Peace on Earth*, n. 127)

Second, the roots of the conflict reside in the region; these causes must be removed if the Middle East is to have peace and the world to be secure from a greater war. The history of this region is one of claims and counterclaims which may never be perfectly adjudicated. We hope that the parties can transcend this troubled and complex past and move toward a new beginning for all the peoples of the Middle East. We believe all parties possess certain just claims, probably none of which can be perfectly fulfilled, all of which can be partially realized.

Rather than rehearse the past, we would point to the significance of the present moment: A convergence of international and regional forces has produced the situation in which all parties appear ready to make some concessions, to test alternatives and to take steps which offer hope for a reasonable settlement.

The road to such a settlement is still long, dangerous and complex; we have no illusions about the difficulties of the task ahead for all concerned. Yet we find in the history of the region and in previous attempts at a peaceful solution certain factors which we believe are essential to future progress. We wish to call attention to these elements in this resolution, making the following plea to the parties concerned.

We call for a comprehensive political solution involving the following:

1. Recognition of the right of Israel to exist as a sovereign state with secure boundaries;

2. Recognition of the rights of the Palestinian Arabs especially the refugees: this involves, in our view, inclusion of them as partners in any negotiations, acceptance of their right to a state and compensation for past losses to be paid not only by Israel but also by other members of the international community responsible for the 1948 partition plan;

3. Acceptance as the basis for negotiations

by all parties to the conflict of the stipulations set forth in the United Nations Security Council Resolution 242 of 22 November 1967;

4. Recognition of the need for continued restraint and continuing responsible diplomatic involvement by the Soviet Union and the United States; we believe this can be most effectively achieved if superpower actions are mutually coordinated with U.N. activities in the region;

5. Continuing reliance on the United Nations diplomatically and through its peacekeeping machinery;

6. Given recognition of the unique status of the city of Jerusalem and its religious significance which transcends the interests of any one tradition, we believe it necessary to insure access to the city through a form of international guarantee. Moreover, the character of the city as a religiously pluralist community, with equal protection of the religious and civil rights of all citizens must be guaranteed in the name of justice.

In proposing these reflections we seek to fulfill our ministry of justice and peace. We ask men and women of good will to consider them in the spirit in which they are offered, as a contribution to reconciliation in the Middle East and peace in the world. We pray that the Prince of Peace will bless our efforts and those peoples and governments who labor as peacemakers.

BROOKHOLLOW ENVIRONMENTAL PROGRAM ACCORDED NATIONAL RECOGNITION

HON. ALAN STEELMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. STEELMAN. Mr. Speaker, for the new cities of the South and Southwest, the challenge of the 1970's is to move away from preoccupation with just becoming bigger to a concern with becoming better—the quality of life. Will we go the way of some big cities of the East and Midwest—high crime, school disruptions, polluted air and water, a dwindling tax base?

It is the responsibility of our generation to profit by the mistakes of these other areas. We must reject quantity and adopt quality as our goal. We can no longer afford to measure progress solely by increased population and new industry. Rather, our objectives should be clean air, safe streets, good jobs, and quality education for all our children.

I am glad that a Dallas corporation, Texas Industries, Inc., is doing its part to enhance the quality of life on its company grounds. A subsidiary, Brookhollow Corp., has recently received an award for its creation of an atmosphere and environment that is clean and safe to work in. The award from Keep America Beautiful will be formally presented next month.

I am pleased to insert in the Record at this time a statement about Brookhollow's activities in this important area.

The statement follows:

Brookhollow Environmental Program Accorded National Recognition

Brookhollow Corporation, developer of prestigious business parks throughout the Southwest, has been announced as recipient of a 1973 special merit award for its total environment program in Brookhollow/Dallas from the Keep America Beautiful Council in New York. Formal recognition of Brookhollow's environmental efforts will be made at a special twentieth anniversary Keep America Beautiful national banquet in the Grand Ballroom of the Biltmore Hotel in New York City the evening of December 6th. Over 1,000 prominent representatives of government, industry, labor and civic organizations will attend.

Brookhollow Corporation, headquartered in Dallas, is the wholly owned real estate subsidiary of Texas Industries, Inc. Richard C. Bower, Brookhollow Executive Vice President, indicated the corporation's successful "quality of life" efforts for its business parks were begun initially to enhance the appearance of Brookhollow/Dallas. The total environment project has motivated business property owners and tenants to improve their grounds, buildings and immediate surroundings. The results should make Brookhollow/Dallas an increasingly attractive gateway to Dallas from the new regional airport.

With the unifying theme "Keep Brookhollow Green and Clean", Brookhollow Corporation has initiated a property owner's association, a master landscape plan for the park, an annual beautification awards program, and "Operation Businessmen." New street lighting, a reduction in litter and pollution, an increased maintenance of landscaped median areas, better traffic circulation, reduced crime and improved visual appearance of Brookhollow/Dallas are tangible results. The Brookhollow Corporation was presented the first Mayor's Award for Environmental Excellence ever given in the City of Dallas in March of this year.

Keep America Beautiful, Inc. was founded as a national public service organization to combat litter in 1953 by a group of concerned American businessmen. It has established itself over the past 20 years as the leader in a national movement to control litter and improve the environment in U.S. cities. Over $40 million worth of advertising time and space are contributed annually by media to carry Keep America Beautiful's "People Can Stop Pollution" message to the American public.

TOWARD CORRECTING AN INJUSTICE IN SERVICEMEN'S MOVING EXPENSES

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. VAN DEERLIN. Mr. Speaker, I was pleased yesterday to offer a bill which I hope will rectify an injustice accidentally perpetrated against the members of our Armed Forces.

I refer to the Tax Reform Act of 1969, a generally laudable attempt to tighten loopholes for the rich while easing the burden on our low- and middle-income citizens.

The inequities developed in the provisions for increasing tax revenues related to moving expenses.

The law has two major effects in this area:

First. It specifies that employer contributions for helping with a move, whether in-kind or cash, be treated as taxable income.

Second. It limits deductions for moving expenses to moves of at least 50 miles to jobs which are held for a minimum of 39 weeks.

All this may be well and good for privately employed individuals whose moves are relatively infrequent and normally voluntary.

But it is both unfair and irrational when applied to military men and women who are given little choice in the timing and extent of their transfers.

The unfairness comes in because the service people move under orders they cannot change. And there is irrationality in trying to attach a taxable value to such in-kind services as the use of military transport to ship household goods and other personal effects.

The Internal Revenue Service agrees that military personnel should not be penalized in this fashion, and the IRS has been able to push back the effective date of the applicability of these regulations. As matters stand now, the new taxes will go into force starting this January 1, so we do not have much time to remedy this wrong.

I am especially concerned about the limitations on deductible moving expenses; it is obvious these could backfire on the very taxpayers they are intended to benefit.

A service school might well be tempted to expand a 30-week course to 40 weeks simply to enable students to claim the deduction. And for the same reason long-range transfers might be ordered, even when the right man for the job might be just a few miles away. Any of these very logical eventualities could cost additional money, and for no good reason.

My bill would accomplish four major purposes:

First. Eliminate the requirement that the serviceman or woman report as income amounts paid by the Defense Department directly to carriers or warehouses as part of a permanent change of station.

Second. Exempt members of the uniformed services from the 39-week requirement and the 50-mile rule.

Third. Permit servicemen and women to deduct travel costs of dependents to new permanent duty stations while Armed Forces member is serving an unaccompanied tour outside Continental United States.

Fourth. Extend provisions of law relating to expenses for meals and lodging to cover such expenses when they are incurred prior to departure from the old duty station.

The case for this legislation was summed up well last month in an editorial published October 31 by Navy Times.

The editorial follows:

A Crisis Threatens

If Congress goes home this year without passing the long-pending Defense request to exempt service people from certain provisions of the 1969 "Tax Reform Act" the services and service people are going to be in the worst possible mess.

The issue is complicated, but every service person should read this, for reasons we'll discuss later.

The 1969 act tightened up certain tax provisions in relation to travel with respect to one's employment. The provisions were intended to cover, private civilian employee travel, which, of course, is normally voluntary. In fact, there was no consideration given at the time by Congress of the effect the provisions would have on service people.

When, however, Defense learned that the Internal Revenue Service intended to apply the provisions to service people, it filed a strong protest with IRS. Attorneys there reacted coldly until—after this newspaper and Army Times and Air Force Times publicized the situation—the then Commissioner of Internal Revenue stepped in personally.

In November 1970, he said Defense should ask Congress to change the law. Meanwhile, to give Congress time to act, he said IRS would not apply the law in the 1970 and 1971 tax years.

Defense submitted a relief bill, which was ignored throughout the 92d Congress. IRS gave an extension for the 1972 tax year. And another for the 1973 tax year.

Give IRS credit. Ever since the initial coldness of mid-1970, IRS has been more than cooperative, granting the extensions and endorsing Defense's relief bills. But, now, in the face of continued lack of interest by Congress. IRS indicates the 1973 exemption will be the last. So effective Jan. 1, 1974—unless Congress acts—this is what will happen:

First, the services will have to compute the value of in-kind aid given servicemen in making changes of station and charge it to the traveller as income.

Of course, many service people will be able to exclude travel money as taxable income—if they keep records and if they file an itemization of travel expenses when they file their '74 return early in '75. Meanwhile, they'll have to keep records—and the services will have engaged in a complicated feat of bookkeeping which will cost the government much money.

But this, bad as it is, is not the worst effect of the 1969 act on service people.

Those who are transferred to a new duty station less than 50 miles from the old and those who go to a station on temporary duty—or any duty of less than 39 weeks—will not be able to deduct their moving expenses.

Not only their cash disbursements but the in-kind government support.

Can anything more ridiculous be imagined! Why a young enlistee will have his transportation from home to recruit center (and possibly then to service school) considered as income to him, and will have to pay taxes on it if that income brings his total income to the taxable level. The senior enlisted or officer who is *ordered* to shortterm school will, in obeying those orders, find both cash reimbursement and in-kind travel and related aid added to his taxable income.

What a temptation there will be to extend courses of 30 weeks or so (or even less) to 40 weeks, with the resultant waste of tax money.

What a temptation there will be not to make the cheaper moves—say to send a code man from Washington to Fort Meade, Md., or an officer from Washington to Annapolis, but instead to send one from Florida, or San Diego, and send the Washington man across the continent!

But these are the things which will happen beginning January 1—unless you who are affected do something about it.

Defense has tried. But Congress apparently isn't interested.

You who read this can try to make it interested.

Write!

You can't cite a bill number, because no Congressman has even introduced Defense's bill, either in this 93d Congress or in the last. But clip out this editorial and add a little note of your own, asking for action.

Send it to your own Congressman. Send a copy to the Hon. Wilbur D. Mills, chairman of the House Committee on Ways and Means. Send another to the Hon. Joel T. Broyhill, who while not at the top of the committee roster, has shown a praiseworthy interest in other tax matters affecting service people. Send a copy to the Hon. F. Edward Hébert, chairman of the Committee on Armed Services.

Don't write to Senators or Senate Committees; they don't initiate tax legislation.

The remaining address of all the House members is "House Office Building, Washington, D.C. 20515."

Your letters will be doubly effective if Reps. Mills or Broyhill or these other members of the Ways and Means Committee are your own Congressman:

Al Ullman, Ore., Martha W. Griffiths, Mich., Phil M. Landrum, Ga., Richard H. Fulton, Tenn., James C. Corman, Calif., Sam Gibbons, Fla., Joe D. Waggoner Jr., La., Herman T. Schneebeli, Pa., Barber B. Conable Jr., N.Y., Jerry L. Pettis, Calif., Donald G. Brotzman, Colo., Bill Archer, Tex.

James A. Burke, Mass., Dan Rostenkowski, Ill., Charles A. Vanik, Ohio, Omar Burleson, Tex., William J. Green, Pa., Hugh L. Carey, N.Y., Joseph E. Karth, Minn., Harold R. Collier, Ill., Charles E. Chamberlain, Mich., John J. Duncan, Tenn., Donald D. Clancy, Ohio.

EFFECTS OF THE ARAB OIL EMBARGOES AND PRODUCTION CUTBACKS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. HAMILTON. Mr. Speaker, George M. Bennsky, Director of the Office of Fuels and Energy in the Department of State, testified before the Subcommittee on the Near East and South Asia of the Commitee on Foreign Affairs today and gave a concise, factual statement on the effects of the Arab oil embargoes and production curbs on the United States, Europe and Japan. His excellent statement, which follows, should be of interest to all Members:

STATEMENT BY GEORGE M. BENNSKY, DIRECTOR, OFFICE OF FUELS AND ENERGY, DEPARTMENT OF STATE, BEFORE THE HOUSE FOREIGN AFFAIRS COMMITTEE, NOVEMBER 29, 1973

Mr. Chairman: I am pleased to have this opportunity to testify about the supply and price effects of the Arab oil embargoes and production cutbacks. This is my first appearance before a Congressional committee since I assumed my present position. I trust this will be but the beginning of my opportunities to share information and views with those of you in Congress interested in the international aspects of the energy problem.

I think it might be useful to begin by briefly tracing the sequence of events which has led to the current oil supply disruption. My treatment here and further on in this statement will be basically factual. On October 17, eleven days after the third Arab-Israeli war broke out, the Organization of Arab Petroleum Exporting Countries (OAPEC), meeting in Kuwait, decreed the imposition of oil embargoes and cutbacks in support of the Arab effort to regain territory lost in the 1967 conflict. These Arab producers agreed (1) to reduce overall production by at least 10 percent, with further 5 percent cuts promised for each succeeding month, (2) to embargo all exports to the United States, and (3) to reward "friendly" nations by assuring them of continuing oil supplies at their monthly averages for the first nine months of this year. Most, if not all. Arab producers either complied with or exceeded the Kuwait guidelines and also drew up lists of friendly and non-preferred nations for supply purposes. Saudi Arabia, the predominant Arab oil exporter, took the lead, followed by Kuwait, the number two Arab supplier. Together they were accounting for about 60 percent of total daily Arab oil exports.

Later at another meeting in Kuwait on November 4 the Arab use of the oil weapon was further expanded to a 25 percent cutback in production with an additional 5 percent scheduled for December 1, and every month thereafter until Arab political demands are met. In the interim between the two meetings in Kuwait, the Netherlands and South Africa were also put on the list of these totally embargoed. Though there have been indications to this effect, it remains uncertain whether Portugal is also embargoed. As a further uncertainty, I should add that only a very few Arab countries have revealed either the identity of those "friendly" nations who will receive oil at previous average rates or those "unfriendly" or "non-preferred" nations who will have to share *pro rata* any oil remaining from reduced production after the "friendly" countries are supplied. However it is clear that Saudi Arabia and Kuwait are treating France, the U.K. and Spain as friendly and therefore preferred governments.

More recently there have been press reports of some easing of the oil pressure. First Western European countries, with the exception of the embargoed Netherlands, have reportedly been spared the 5 percent cut scheduled for December. Then, even more recently, there have been indications that Japan has been spared this same cut. The 5 percent reduction due in January presumably remains scheduled.

Before looking at our own supply losses, let me note that these latter days of November are seeing the arrival of the last of the tankers that loaded Arab crude prior to the Arab government production cuts and export embargoes. So the buffers of the 30 days or so of oil always on the high seas between the Persian Gulf and the U.S., Europe and Japan has been used up.

As a result of these cutbacks and embargoes the world's availability of oil has been reduced by over 5 million barrels per day (B/D), amounting to about 10 percent of world consumption. The next 5 percent production cut could bring the world-wide loss to over 6 million B/D, or about 12 percent of the non-communist world's winter demand.

We estimate that our imports from Arab producers in 1973, both directly from them in the form of crude and indirectly as products *via* third country refineries, have been on *the average* as follows:

Supplier—volume

[in thousand barrels per day]

Saudi Arabia	600
Abu Dhabi	150
Kuwait	150
Iraq	50
Libya	350
Algeria	150
Other Arab	150
Total	1.600

In other words about 25 percent of all American oil imports or 10 percent of our total oil consumption came from the Arab producers. I might add that the above figures are of actual pre-embargo imports and do not reflect the loss of more than 500,000 B/D of heating oil that we had hoped to import this winter from European refineries to help meet shortages which already threatened us before the Arab embargo. These statistics also do not include about 300,000 B/D in losses of overseas supplies to our military forces, which now must be made up from domestic sources. There will also be some decrease in normal shipments from Canada, as our northern neighbor seeks to divert some of its western production, perhaps up to 100,000 B/D, to its import short eastern provinces.

Thus, taken all together, the Arab oil boycott will deprive the U.S. of between 2.5 and 3 million B/D of oil this winter or up to 17 percent of our estimated winter demand of 18.5 million B/D.

Unfortunately, the possibilities for compensating for the effects of the embargo and cutback from non-Arab sources are virtually nil, as these producers are already operating at capacity production levels. We probably can expect to receive through the winter months total oil imports averaging about 4 million B/D, as against our projected required rate of 7 million B/D. Almost 70 percent of this reduced quantity would come from Latin American (predominately Venezuelan crude) and Canada, with most of the remainder arriving from Nigeria, Iran and Indonesia.

The Japanese supply situation is nearly as bad as ours at the moment. Japan is wholly dependent on imported oil and 40 percent of it comes from Arab sources. We estimate that, by mid-winter, Japan's import loss will run about 15 percent of its consumption of about 6.2 million B/D. However, this percentage will grow to about 20 percent of consumption in late winter as progressive monthly cutbacks take their toll. Japan's own shortfall estimates are more pessimistic than ours, ranging between 20 percent now to 30 percent by the end of the winter. The Japanese Government points up the fact that 70 percent of its energy consumption is oil and therefore that the negative impact on its industrial production and employment will be more severe than in other consuming countries.

It is difficult to generalize about the impact on Western Europe. As some countries, such as the United Kingdom, France, and Spain have been officially dubbed "friendly" by the Saudis and other Arab producers. Other Western Europeans, such as West Germany and Italy, are not given preference by the Saudis and have to share remaining available oil which of course means import reductions. The Dutch are, as I said earlier, totally embargoed. By mid-winter we expect the overall West European shortfall to stand at 3 million B/D or 15 percent of consumption, which has been estimated at 19.5 million B/D. Taken as a whole, Western Europe receives about 73 percent of its oil from Arab sources.

It might be more useful at this point to sketch the predicament of a few key European nations rather than continuing to generalize.

Even though the United Kingdom and France, as friendly nations will continue to receive Arab oil at the same levels prevailing earlier in 1973, there is no provision for growth in demand during the winter months. Therefore France predicts a 10 percent shortfall, with greater losses in heating oil, and the UK anticipates cuts of up to 15 percent. Both the United Kingdom and France receive 70-80 percent of their oil from Arab producers.

Under normal circumstances the Dutch, who are totally embargoed, import for reexport refining and domestic use about 2 million B/D or 65 percent are of Arab origin. Dutch domestic consumption is about 700,000 B/D, 75 percent of which usually comes from non-Arab sources. Therefore about 25 percent of Dutch domestic demand will be lost this winter and the country's substantial reexport trade will also be greatly reduced.

West Germany, Europe's largest oil consumer, will also bear the brunt of production cutbacks. Germany imports about 3.2 million B/D, of which 70 percent came from Arab producers. A further complication is that 20 percent of Germany's crude oil and a significant amount of its products are imported via Rotterdam. There remain uncertainties as to what extent the embargo of the Netherland's Rotterdam facilities will affect Germany's imports. However, the German Government figures that its losses will be 15-20 percent of consumption during the winter.

Faced with this developing shortage situation the West European Governments have chosen thus far to resort to individual emergency programs focused on reducing consumption by banning Sunday driving, reducing speed limits, cutting back on outdoor lighting, limiting supplies to customers of fuel oil and other short supply products, and preparing for rationing should that become necessary. These governments have not yet agreed that they should put into action the emergency oil sharing arrangement that they have available in the OECD (Organization of Economic Cooperation and Development). This arrangement, which was utilized during the 1956 and 1967 Arab oil disruptions, also provides for the use of international oil industry supply and transportation expertise in the form of an International Industry Advisory Body. The emergency oil sharing arrangements cover only the European members of the OECD.

The Japanese have moved to handle their oil losses by instituting a mandatory conservation campaign, including a 10 percent cut in energy use by major industries to be accomplished in December. They are also working on legislation to enable government fuel allocation and rationing.

Mr. Chairman, I will end my statement with some facts on the price effects. During the first days of last month's war, an international oil company team met in Vienna with Persian Gulf Arab oil ministers to begin renegotiation of the oil price agreements reached in Tehran in 1971. Two meetings were sufficient to indicate that the companies' price increase offer was too low for the oil ministers who felt that oil product price increases and general inflation since 1971 required a very substantial rise in the prices of their crude oil. These same ministers got together the day before the Arab decisions on supplies, which I discussed earlier, and unilaterally announced price increases that work out to a rise of 70 percent in posted prices. Other oil exporting countries have since moved to raise their prices to reflect the Persian Gulf increases.

The current politically imposed cutbacks in oil supplies have substantially worsened the already tight sellers' market, and we find long lines of buyers willing to pay ever higher prices for the limited amounts of crude available for direct sale by producer governments. For example, current bidding for a relatively small quantity of Nigeria's sought after low-sulphur crude has pushed offering prices up to over $10 a barrel.

Assuming this is an f.o.b. price, it compares with $3.65 for a representative more sulphurous Persian Gulf crude.

The companies have recently sought to convince OPEC oil ministers that the current imbalance of international oil supply and demand makes reliance on market prices, especially spot sales of limited amounts, too damaging to consuming countries. Therefore, the companies proposed negotiation of a more rational pricing system that would balance out the producers' general inflation concerns with the financial concerns of the consumers of their oil. The OPEC oil ministers continue to take the position that further crude price increases are justifiable considering the rapid rise in prices of commodities they import from the consuming countries and the high taxes imposed by the consumer governments on petroleum products, especially gasoline. These ministers have indicated that new posted prices would be established by January 1, if not before.

The effects on the U.S. and other major consumers of the October price increase alone is substantial. Although our figures are not yet complete, preliminary analysis indicates that our 1974 oil import bill could reach $12 billion, of which almost $3 billion would be caused by the October price rises. This assumes of course that the Arabs are exporting oil to us again in 1974. By means of comparison our 1972 oil imports ran $7 billion and this year we are expecting to import about $9 billion worth of oil. The cost to the Japanese is estimated at about $3 billion and to Western Europe at about $8 billion. The impact of steep rises in oil prices since 1971 on the LDCs are very substantial and very negative in terms of their development. These trade figures will be balanced out in varying degrees in the different industrial consuming countries depending on export increases and capital flows generated by increased incomes.

ESTIMATED WORLD OIL TRADE,[1] 1973

[Thousand barrels per day]

	Total consumption	Total production	Total imports	Total Arab	Saudi Arabia	Abu Dhabi	Kuwait	Iraq	Libya	Algeria	Other Arab	Iran	Venezuela	Indonesia	Canada	Nigeria	Other
United States	17,300	[2] 9,200	6,300	1,600	600	150	150	50	350	150	150	400	2,000	250	1,100	550	400
Western Europe	15,500	400	[3] 16,000	11,350	4,350	600	1,750	1,300	1,700	750	850	1,900	500	(4)	0	1,250	1,050
Japan	5,400	(4)	5,400	2,300	1,250	300	650	50	(4)	0	50	2,050	(4)	900	0	(4)	150
Canada	1,750	1,850	900	150	50	50	(4)	(4)	50	0	(4)	150	450	0	0	100	50
Subtotal	39,950	11,450	28,600	15,400	6,250	1,100	2,550	1,400	2,100	900	1,100	4,500	2,950	1,150	1,100	1,900	1,600
Communist area	9,850	9,300	500	450	(4)	(4)	0	200	100	50	50	100	0	0	0	0	0
Others	7,200	34,550	4,900	2,750	1,750	50	550	300	0	150	50	1,100	450	100	0	100	300
Total	57,000	[2] 55,300	34,000	18,600	8,000	1,150	3,100	1,900	2,200	1,100	1,150	5,700	3,400	1,250	1,100	2,000	950

[1] Table allocates imports on direct and indirect basis, i.e., refined products from export refineries are traced to source of crude. The estimates are a yearly average for 1973 and therefore differ from point in time estimates. For example, U.S. dependence on Arab oil has increased through the year and is nearly 2,000,000 bbl/d in October.

[2] Does not include U.S. production of natural gas liquids of 1,700,000 bbl/d.

[3] Western Europe's oil imports exceed consumption because it exports substantial quantities of oil to non-European sources.

[4] Negligible.

WE MUST HALT FDA'S WAR AGAINST VITAMINS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ARCHER. Mr. Speaker, the Subcommittee on Public Health and Environment of the House Interstate and Foreign Commerce Committee held hearings on H.R. 643 and similar food supplement proposals on October 29, 30, and 31. I share the scorn of many of my constituents in opposition to the regulations issued by the Food and Drug Administration concerning the sale of vitamins and mineral food supplements. In my testimony before the subcommittee, I urged action on legislation which would guarantee the freedom of the individual to supplement his or her diet with additional vitamins and nutrients by adoption of appropriate legislation to counter the action of the FDA. I would like to enter into the CONGRESSIONAL RECORD an excellent article on this problem by J. F. Baldacchino, Jr., entitled "FDA's War Against Vitamins and the Beginning of a Counterattack" which appeared in the October 1973 issue of Private Practice, the official publication of the Congress of County Medical Societies.

FDA'S WAR AGAINST VITAMINS AND THE BEGINNING OF A COUNTERATTACK

(By J. F. Baldacchino, Jr.)

Few groups in the United States, it is probably safe to say, are more familiar with the Food and Drug Administration's proclivity for issuing sweeping new regulations than the practicing physician. Although purportedly designed to bring about "consumer protection," in practice these regulations, often have the opposite effect. Yet, even practicing physicians may be startled by the sheer scope of the agency's recently proclaimed vitamin-mineral regulations.

Briefly stated, the new edicts, first published as proposals in the January 19 issue of the *Federal Register* and decreed as final regulations on August 1, 1973, will:

Limit the potencies of the permitted nutrients in a vitamin-mineral food supplement to a low, narrow range.

Redefine as "drugs" many products previously defined as "food supplements," subjecting them to the same unrealistic efficacy requirements that already plague the pharmaceutical industry.

Prohibit the food-supplement industry from making a number of promotional claims or suggestions about its products, even when scientifically accurate.

Limit the permissible combinations of ingredients in a dietary supplement.

Limit the ingredients which may be included in a dietary supplement by permitting the inclusion of only those vitamins and minerals deemed necessary by the F.D.A.

The regulations establish what the F.D.A. terms a "U.S. Recommended Daily Allowance (RDA)" for each of 19 vitamins and minerals recognized as "essential" by the agency. According to the F.D.A., these Recommended Daily Allowances which are generally higher than the old Minimum Daily Requirements that they replace, are "sufficient to meet the nutritional needs of essentially any healthy individual." In defense of this position, the F.D.A. points out that the RDAs are based upon the recommendations of the National Academy of Sciences-National Research Council.

"The single most important purpose and effect of the regulations," Alexander M. Schmidt, F.D.A. commissioner, declared, "is to require full and honest labeling and fair promotion of vitamin and mineral products, whether marketed as foods, dietary supplements or as drugs. . . . The regulations don't ban any vitamin or mineral from the market or force any manufacturer willing to provide proper formulation and full labeling out of business."

The fact remains, however, that the allowances for many of the nutrients fall extremely short of the dosages suggested by other, equally reputable nutrition experts. The RDA for Vitamin C, for example, is 60 milligrams. Yet, Dr. Linus Pauling, winner of a Nobel Prize for his research in chemistry, recommends that persons take 50 times that amount daily to prevent colds.

Despite the wide variation of opinion among nutritionists, the F.D.A. regulations arbitrarily accept the RDAs as "facts" and decree that all food supplements containing more than 150 percent of the RDA will henceforth be redesignated as drugs.

While there has been much confusion concerning the fate of these newly classified drugs, with many fearing that all food supplements exceeding the upper limits on nutrient levels would be confined to use by prescription only, the F.D.A. denies this charge, pointing out that many of the newly defined "drugs" will probably be sold, like aspirin, as over-the-counter products.

Despite the F.D.A.'s denials, critics are less than satisfied. Initially, they point out, the recent orders already subject two nutrients to prescription sale. Beyond this, the F.D.A. admits that it plans to review the remaining products to decide which others should be similarly restricted. In view of the agency's past actions, they argue, it is difficult to be optimistic.

Restricted to prescription use thus far will be any vitamin product containing in excess of 10,000 I.U. of Vitamin A or 400 I.U. of Vitamin D. The reason for this, according to the F.D.A., is that there is a danger of toxicity in the ingestion of these vitamins in amounts exceeding those levels. Such danger, the agency says, is well documented in the medical literature.

The National Nutritional Foods Association challenges the F.D.A. claim. No examination of the evidence, declares this organization, which has been presented by the F.D.A. to substantiate its claim, "demonstrates . . . a total lack of support" for its position.

The NNFA points out that of the 104 references published in the December 14, 1972 *Federal Register* to support the agency's restrictions on Vitamins A and D, 84 were published before the Food and Nutrition Board, National Research Council, and National Academy of Sciences published its "Recommended Dietary Allowances," Seventh Edition in 1968.

"At the time when the overwhelming majority of the reports in the Vitamin A bibliography were available," the NNRA study continued, "the Food and Nutrition Board stated on Page 23 of its publication that, 'If large doses of Vitamin A (20 to 30 times the RDA) or of carotene are ingested for long periods of time, manifestations of toxicity develop.' "

The RDA for Vitamin A is 5,000 I.U. per day. Thus, the NNFA continued, in referring to toxicity at levels of 20 to 30 times the RDA, the Food and Nutrition Board speaks of manifestations of Vitamin A toxicity when taken at dosages of 100,000 to 150,000 I.U. per day for long periods of time.

Similarly, the NNFA study states, in its consideration of Vitamin D toxicity, the Food and Nutrition Board's 1968 publication states that, "there is no evidence that intakes of the order of 2,000 to 3,000 I.U. per day produce hyper-calcemia beyond infancy."

"It is thus obvious," the NNFA concluded, "that notwithstanding the reports set forth in the bibliography used to support the present proposal, the Food and Nutrition Board has considered the problem of toxicity at levels far beyond the arbitrary and unreasonably low levels for which prescription requirements are now being suggested."

This is the same Food and Nutrition Board which the F.D.A. has cited so proudly as the source for its vaunted RDAs and has referred to as "the recognized authority for determining vitamin and other nutritional requirements for the human . . ."

The new F.D.A. regulations have also been challenged by the National Health Federation, which represents health food enthusiasts. "There is no question about the fact that we will go to court," said Clinton Miller the federation's vice president. He said that the suit would allege that the F.D.A. hasn't any authority to establish minimum and maximum amounts of vitamin and mineral content of supplements and that, in any event, lengthy agency hearings have not established the need for such restrictions.

Mr. Miller said that the federation also will pursue efforts to get Congress to overturn the regulations. It claims 165 House sponsors so far for a bill to prohibit F.D.A. restrictions on vitamins and minerals unless a safety threat can be demonstrated.

In New York, Morris Aarons, general counsel for the National Association of Pharmaceutical Manufacturers, which represents smaller drug and vitamin makers, called the F.D.A. action "absolutely wrong and without basis." He said that if necessary the association would take legal steps to block the regulations.

Edgar Udine, president of Hudson Pharmaceutical Corp., an 80%-owned subsidiary of Cadence Industries Corp., said that under the new regulations "people will have to pay more for vitamins if they want to continue taking the same dosages."

If public reaction to the new regulations has been laced with confusion on the prescription issue, there can be little doubt about the meaning of the other F.D.A. decrees which shed a great deal of light on the agency's attitude toward the taxpayers who support it. These, according to the new edicts are findings of fact:

"Lay persons are incapable of determining, by themselves, whether they have, or are likely to develop, vitamin or mineral deficiencies. There is no rationale for allowing the promotion of dietary supplements of vitamins and/or minerals to the general public . . . Vitamins or mineral deficiencies are unrelated to the great majority of symptoms like tiredness, nervousness, and rundown condition . . ."

That many experts disagree with these so-called "facts" means nothing to the F.D.A. Indeed, even where there is agreement that food supplements may do some good, bureaucrats at the F.D.A. worry that the average consumer, poor creature, lacking the omniscience that stems from government employment, might be confused by scientifically accurate statements and buy more than he needs.

To preclude such a catastrophe, the F.D.A. regulations forbid manufacturers from making numerous truthful statements about their products.

Prohibited, for instance, will be any true claim or even an implication that any diet of ordinary foods may not supply adequate nutrients. Also proscribed will be any suggestion, even if correct, that the vitamin content of foods is affected by the soils in which they are grown or by the manner in which they are stored or processed.

Carrying its concern to even more extreme lengths, the agency has reduced to a handful the combinations of ingredients that will be available in coming years. Outlawed will be such products, now available, as a B-complex formula or the combination of calcium and Vitamin D. Never mind that many experts recommend such combinations. Never mind that many people want to buy them. Never mind that—with few, if any, exceptions—none of these products are toxic—or are even claimed to be.

Virtually banned by the regulations will be the sale of the "P" vitamins, otherwise known as the bioflavonoids. Although these items can be sold as single-ingredients products, no claims whatsoever can be made concerning their nutritive value nor may they be included in combination with any of the "essential" vitamins or minerals.

The reason for this restriction, the agency says, is that there is no scientific evidence to prove any nutritive value in the bioflavonoids; and "it is false and misleading to combine nutrients of proven value with food factors of unproven nutritional value because of the clear implication that the latter have nutritional value similar to the former."

Despite the F.D.A.'s flat denunciation of the bioflavonoids, however, there are hundreds of studies which attest to their value in preventing bodily disorders.

Discovered in 1936 by Albert Szent-Gyorgyi—a Hungarian physician, chemist and Nobel Prize winner—the bioflavonoids were found to help patients with bleeding problems that had not responded to Vitamin C. Because the substances appeared to have a curative action on the permeability of capillaries, they were called Vitamin P for permeability.

Prevention Magazine reports that it found more than 500 studies attesting to the efficacy of the bioflavonoids in almost every known disease state. It declared that, "We found that there are more than 200 different substances under the umbrella generally known as bioflavonoids. Not all of them are biologically active. We found that they are never toxic even in massive doses."

How many studies were found that judged the bioflavonoids ineffective? Prevention Magazine discovered only two, and stated that, "... it is these two studies both published in the Journal of the American Medical Association which reverberate through a subsequent review of the literature which is quoted in the Pharmacological Basis of Therapeutics, the text of which Dr. Alfred Gilman co-authored and which Dr. Gilman quotes in the decision which, as a member of the National Academy of Sciences, he drew up for the F.D.A."

There is significant data on the other side. In a national symposium at the New York Academy of Sciences held in 1955, for example, scientists reported that bioflavonoids appear to strengthen the wall of capillaries. In many disorders, such as polio, chicken pox, coronary thrombosis, ulcers, diabetes, high blood pressure and hemorrhages the walls of the capillaries are weakened. Because of this condition, scientists have searched for ways to decrease capillary fragility. Numerous drugs have been tried, but at the symposium in New York City, scientists reported in many cases the bioflavonoids seemed to be the most effective—and with no side-effects.

The intransigence which has characterized F.D.A. pronouncements on this subject has taken its toll in public opinion. Public response to the new edicts has been the strongest in the agency's history, with more than 95 per cent of all comments opposed.

Responding to this outcry, more than 165 members of Congress have agreed to cosponsor H.R. 643, introduced by Rep. Craig Hosmer (R-Cal.), that would prevent the Food and Drug Administration from banning the sales of truthfully labeled food supplements for reasons other than safety and fraud.

"Many of us are aroused," says Hosmer, "at the thought of the F.D.A. putting unneeded restrictions and regulations on vitamins and vitamin supplements. This, in my opinion, is just another attempt by the bureaucrats to control our very lives. I am confident that the majority of the American people have the wisdom and good sense to consume these items properly and beneficially."

With Congress finally peering into the F.D.A.'s closet, perhaps a few other skeletons might be brought out for public inspection. A good place to start: The aforementioned regulations keeping proven medications off the American market.

PSRO, LEGALIZED BURGLARY OF MEDICAL RECORDS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. RARICK. Mr. Speaker, professional standards review organizations—PSRO—which was quietly tucked away in the 989-page Social Security Act during the last minutes of the 92d Congress, has generated considerable furor in professional medical circles around the country. And for good reason.

This radical concept of Government intervention into medicine would accomplish what the "plumbers unit" failed to do in the celebrated burglary of Dr. Ellsberg's psychiatrist's office. PSRO will enable the Government to "legally burglarize" the confidential medical records of every patient treated under any of the many Government-sponsored health care programs. After January 1, when HEW is scheduled to begin implementation of PSRO, formerly confidential medical and psychiatric records will become public records. This plundering of records by PSRO examiners is necessary for the Department to develop norms to cover care, diagnosis, and treatment of the ill.

The stiff penalties for failure to comply, suspension from practice and fines up to $5,000, have caused some physicians to already notify patients that after January 1, they will no longer treat patients whose fees are paid directly or indirectly by social security. Few doctors desire to practice their profession with a PSRO bureaucrat looking over their shoulder at their every medical decision. And few patients can blame the medical men who refuse to go along with this Government snooping into the private lives of its citizens.

A number of other Members have joined me in an effort to repeal the PSRO provisions of the Social Security Act. My bill, H.R. 11444 would remove this shadow of big brother government from the treatment rooms of our hospitals and our doctors' offices.

I ask that the following related articles be included at this point:

[From the National Health Federation Bulletin, November 1973]

PSRO—PROFESSIONAL STANDARDS REVIEW ORGANIZATION

(By Willadean Vance)

(An AMA-conceived plan, adopted by HEW and enacted into law, introduces a new, foreign philosophy of health care in America in which government bureaucrats will dictate standardized procedures in care, diagnosis and treatment which must be followed by providers of health care services; and which will make doctors' patient records available to government bureaucrats.)

"Rigid federal government controls on private medical records starting next January, 1974, will destroy personal doctor-patient relationships," says Dr. James R. Privitera, of Covina, California, in an interview with John Steinbacher, managing editor of *Health Gazette*, and myself.

"The thing that hurts most," moans Dr. Privitera, "is we were sold out by the American Medical Association without even a chance of being heard when they had their legal department draw up this PSRO bill that sold us out!"

The PSRO referred to by Dr. Privitera stand for Professional Standards Review Organization to be administered and controlled by the Department of Health, Education, and Welfare under the Secretary of HEW, Casper Weinberger who may become known as the first American Health Czar.

Professional Standards Review Organizations were established as legally-recognized government-related agencies by Public Law 92-603 passed by the 92nd Congress and signed by the President on October 30, 1972. The law establishing regional PSRO's as well as a national PSRO within HEW was crowded into the very complex Social Security bill which had been before Congress for at least two years. But the PSRO section, at the last minute, was pushed into the bill consisting of 989 pages and consequently, was not given proper study or hearings and was given practically no publicity. Even the senator who introduced the PSRO bill had no idea of how far-reaching it was or the influence it would have on the practice of medicine. It has been said by one responsible member of the medical profession that this single act forms a basis for greater changes in the practice of medicine than had been provided by any health legislation in the history of this country.

A Professional Standards Review Organization is, basically, a peer review committee and there is nothing new in the concept of peer review committees in the medical community. Most hospitals, for example, have long had one or more peer review committees. For instance, there may be a tissue review committee composed of a few qualified members of the hospital's medical staff, having the responsibility of examining tissues removed surgically. This serves to deter unnecessary surgeries, encourage greater surgical competence, and to protect the patient's welfare. Peer review committees whether within hospitals or within a local medical society have thus served well and have undoubtedly enhanced the quality of care available. However, these peer review committees have been voluntary and private, have come from within the profession itself, and is a demonstration of the efforts of the profession to police itself.

Now, with the enactment of the PSRO legislation, however, the Department of of Health, Education and Welfare must set up a national review panel to be known as the Professional Standards Review Organization which, in turn, will contract with regional review panels or peer review committees to become official, government-associated PSROs. Under the terms of the law, if the HEW PSRO feels that the regional PSRO is not doing an effective job in carrying out the dictates of the national organization, the contract can be terminated and the national PSRO will take over.

The basic concept of PSRO is that the government should assume authority over what has been a private function of a private professional medical society. The concept originated with the AMA legal department and was introduced into Congress as the Peer Review Organization section of the AMA-sponsored Medicredit bill (AMA's brand of national health insurance) and was done so without approval of the AMA House of Delegates.

The controls which the PSRO law imposes upon the providers of health care services are beyond belief and cannot be covered in detail in this article but will be explored in depth in future articles. The excuse given for imposing controls is that "the costs of the Medicare and Medicaid programs have skyrocketed far beyond early estimates" and thus the government must step in to reduce these costs. Politicians justify the interference on the premise that the federal government is subsidizing health care and government can properly control anything it subsidizes. Their excuse based on "too much fraud in medical charges have been uncovered" falls rather flat when the records show a total of only 16 doctors have been convicted in all fifty states in the six years since Medicare-Medicaid began under Social Security. This averages three physicians per year for the entire country—a threat?

At present, the law is applicable only to care which may be paid for in whole or in part under the Social Security Act. This is the health care presently given some 80 million aged, poor and disabled persons. In addition, if (or when) a national health insurance plan is enacted which probably will cover everybody, the PSRO rules and regulations will be applicable to every doctor in his care of every patient.

Under the PSRO take-over, doctors can be suspended from practice and fined up to $5,000 for failure to comply with the stiff rules laid down by the PSRO under which he practices or the federal PSRO in HEW. This is the reason why some physicians have already notified their patients they no longer will treat patients whose fees will be paid directly or indirectly, in part or in whole, by Social Security. They have done this not because of dissatisfaction over a fee schedule, but rather, because they feel they can no longer practice "good" medicine and give the patients the type of care the patients deserve when the government dictates the type of treatment to be rendered, the laboratory procedures which may be done, the length of hospital stay, etc.

Further these physicians violently oppose the loss of the customary confidentiality between doctor and patient since all the physicians records must be made available to the bureaucracy and ultimately ALL records relating to patients will be fed into a master computer presumably to be available only to the PSRO staff members and another doctor who may later see the patient. Under this arrangement there would be no necessity for the government to send a "Plumber's Unit" to burglarize a doctor's office to obtain medical records because the information would be readily available in the government's computer.

The PSRO law requires also that "profiles" be prepared and maintained on each health care provider as well as the patients. Though the law itself does not go into detail, this apparently is a device to computerize, for instant recall, a short, vivid biography giving the most outstanding characteristics of every act of every physician in diagnosing, prescribing, treating, discharging and charging every patient.

The PSRO law further provides for the standardization of treatment of every disease. One of the responsibilities of each regional PSRO is to prepare a schedule of "norms" covering the care, diagnosis and treatment based on typical patterns of practice in its region including typical lengths of stay for institutional care by age and diagnosis. For example, if you were suffering from a cold, you may be permitted to see the doctor only once or perhaps twice, the drugs he may use must be selected from the "approved" list, the doctor possibly will not be permitted to X-ray your chest unless he is prepared to furnish justifiable evidence of why he suspects you may be developing a complication such as bronchopneumonia, and the schedule of "norms" may limit your professional care to a period not to exceed five days.

All this began when the chairman of the powerful Ways and Means Committee asked the AMA to prepare guidelines to help control excessive health care costs and a plan whereby the profession could effectively police itself—or face the possibility the government would do the policing.

When the medical bureaucrats take over, the so-called "norms" will not permit a physician to use his experience and judgment in treatment, and waiting for the central data bank to send instructions could be uncomfortable—especially when the government seemingly can't even answer a letter in less than ten days.

Readers of the *National Health Gazette* recently read the shocking story broke by managing editor John Steinbacher from a novel he unearthed by John Spivak called, *The Medical Trust Unmasked*, a story of the gigantic AMA conspiracy. Author Spivak had written how the AMA was a dead giveaway in 1897 when he read their original Incorporation papers stating their purpose THEN, as a society, was to "Federate into one compact organization the medical profession, of safeguarding the material interests of the medical profession, of securing enactment and enforcement of medical laws . . . and of directing medical opinion in regard to state medicine" . . . enough said!

When the Sherman Anti-Trust Act came along a couple years later, the AMA quietly changed the papers to read, "To promote the science and art of medicine" to avoid embarrassment, without changing their original plans one wit. The seed planted in 1897 is to be harvested in 1974 in spite of Spivak's early warning, "The time will come, and soon, when the laymen who dare to consult a practitioner not approved by organized medical societies will be arrested and prosecuted!"

The Association of American Physicians and Surgeons which Dr. Privitera belongs, joined by three physicians, has filed suit in U.S. District Court in Chicago challenging the constitutionality of the Professional Standards Review Organization Law. This will be a significant case and one we will be watching.

Doctors all over the country are beginning to inform their patients of the evils contained in the PSRO Law. Doctors reading this article may wish to use it, and others to follow in future issues, to tell the story. The article may be reproduced without permission if credit is given its source. Also, doctors will find articles in the *National Health Gazette* (1110 South Pomona Ave., Fullerton, Calif. 92632) telling the story. The Gazette may be purchased for 25c per copy in lots for distribution to patients. John Steinbacher, the managing editor, is a fighter from way back with the largest number of Freedom Awards in both the field of news reporting and books dealing with the sell-out of American freedom in health, education, etc.

[From Internal Medicine News & Diagnosis News, Oct. 1, 1973]

Doubts Violation of Records Can Improve Care

(By John Johnstone, Jr. M.D.)

A questionnaire on the front page of Internal Medicine News for Aug. 15, asking (among other things) what I found most satisfying and what most dissatisfying about my career stirred me to serious thoughts about what is happening in the field of medicine today and prompted me to record them in the hope that they might be of help and of interest to others.

My greatest satisfactions in my work have been awareness that we have been living through a golden age—of discovery, of expanding horizons—scientifically and clinically—and that in the process of being consulted by many people of all kinds, with all kinds of problems I have had more opportunity to learn about the human condition than in any other calling that I can think of.

The most dissatisfying aspect of my career, and the most disturbing, is, ironically, a by-product of the "golden age" and its achievements—to wit, the threatened invasion and commandeering of our work.

Many hazardous and costly technologies have been developed by us in our professional lifetime, and people feel compelled to scrutinize and regulate these.

This is understandable. Nobody should be given carte blanche to use these technologies without assurance that they will be used wisely and competently. The trouble arises in that the people who want to do the scrutinizing want to do it by prying into the records that I have kept on my patients.

In the course of seeing how I purvey the technologies, they are going to be seeing the personal data that I have been keeping on my patients—in some cases for as long as 20 years.

I know that the "quality" of my "health care delivery" can always stand improving, no matter how good I may become. But there must be other ways in which I can be helped in this than by various unknown outside bureaucrats or "plumbers" reading the confidential things I have written about my patients.

Yet just such investigation is provided for, in germ, in the wording of the PSRO law (P.L. 92-603). (See for example Section 1155 (b) and (g) on pages 106–107 of that statute.) Section (b) provides that inspection of records (hospital records at first) shall be done to the "maximum extent practicable" by practitioners of medicine.

Other portions of the statute provide that if physicians are unwilling or refuse to do this, or are not available, then other people may be designated for this purpose.

Section (g) spells out the circumstances under which office records may be inspected.

Portions of the statute violate the spirit, although not the letter, of the Fourth Amendment: Although it will be me who (with my records) will be searched and seized, to see if I am being a good doctor, it will be my patient's privacy that thereby will be violated.

Several lawsuits have been brought to test the constitutionality of these things. Should the statute indeed pass the test of constitutionality, I will either drop out of medicine or make my notes brief and cryptic enough to stymie the investigator. But will this advance the quality of medical care?

A great public service remains to be done: to air and publicize these two greatly different kinds of physician activity. On the one hand, review and regulation of the use of the technologies is reasonable and prudent.

On the other hand looking over your shoulder at the hopes and fears of your patients—their private lives, recorded as they have confided them to you—violates the entire tradition upon which this country has been predicated and violates the ethics to which physicians have committed themselves for millenia.

Many physicians seldom record such intimate data on their patients. They may do much of their work ad hoc—repair a hernia or resect the lobe of a lung—and then perhaps not see the patient again. No great violence is usually done in scrutinizing their office notes.

Not so, as to my office notes, nor to those of a high percentage of internists, GP's, psychiatrists, and—to varying degrees—pediatricians and ob.gyn's.

The demand to view and review *all* records, both hospital and office, is never made by physicians who have been seeing patients hour after hour year after year, but is made by administrative people, academic people, social science or statistical people—people who sincerely hope to learn from processing data, from wresting new discoveries from knowledgeable processing of population events.

They feel sure that the individual's privacy and liberty and values will not be compromised by their dedicated surveying. They often sincerely feel that the physician's reluctance is impeding progress, either because he has something to hide or is serving some obsolete political philosophy.

Officials or office personnel surveying the office notes of the nation's physicians, even though they be of good ethics and discreteness, are from time to time going to discover unexpectedly that the lady next door had gonorrhea, or that their brother-in-law had an acute rise in his blood pressure when his boss changed or when somebody came to visit.

These are elementary examples of what facts can be revealed, perhaps with deep repercussions.

A rule in medical education is that if you are a house officer in training, you should not read the chart of someone you know—above all in psychiatric training but no less in much of internal medicine.

If such a rule applies to physicians, then should it not apply even more to nonphysicians? If office notes are Xeroxed to be carried to parts unknown, who knows who may see them?

For all I know, I may be preparing a dossier on some Tom Eagleton who may be nominated 10 years from now. The public will be intensely inquisitive about what all his medical past might reveal.

If all this information on everyone is going to be stored around here and there in public archives, I do not doubt that some of it is going to be "leaked" from time to time. This is all wrong, and I will drop out of medicine rather than be a party to it.

IMPEACHMENT: PLAYING WITH FIRE?

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. COLLIER. Mr. Speaker, a very logical rebuttal to the cries for impeachment was delivered last week at the University of Chicago by Prof. George Anastaplo. The distinguished educator told his listeners that our Nation would be better off if we spent less time talking about impeachment and devoted more of our energies to seeking workable solutions to the many domestic and foreign problems that plague us.

Professor Anastaplo is a lecturer in the liberal arts at the University of Chicago and a professor of political science and of philosophy at Rosary College, the latter institution being located in my district. His book "The Constitutionalist: Notes on the First Amendment" was published by Southern Methodist University Press in 1971. Another scholarly work, "Human Being and Citizen: Essays on Virtue, Freedom, and the Common Good," will be published by Swallow Press next year.

Much of the talk about impeachment comes from small groups that pretend to speak for tens of millions of Americans. It is my feeling that Professor Anastaplo comes much closer to speaking for the average American than President Nixon's adversaries.

Mr. Speaker, believing that Professor Anastaplo's address deserves a wider audience, I am making it available to my colleagues. I commend it to their careful consideration.

The address follows:

IMPEACHMENT: PLAYING WITH FIRE?

(By George Anastaplo)

I believe it unlikely, despite all the agitation of this subject we have had, that Mr. Nixon will ever be impeached by the present House of Representatives. I am confident, moreover, that if he should happen to be impeached by the House, he cannot readily be convicted by the Senate on the curiously flimsy (yet genuinely disquieting) evidence now available. But I am also confident that further available revelations of Executive misconduct in recent years can revive serious impeachment talk from time to time. Both partisanship and curiosity can keep the pot boiling through 1974. What, then, is the best way for us to proceed now?

Is this not the time, before civil discord shakes the country even more than it has already, for the leaders of Congress and the Executive (with the support of the responsible press) to settle the prolonged crisis which has been generated by the unseemly Watergate exposures? Should it not be kept in mind, in the interests of moderation, that the harm done to this country by the acknowledged conduct (especially with respect to foreign policy) of the last four Democratic administrations in Washington has been no less serious than the harm done by the criminal conspirators of the present Republican administration? That is, should we not restore among ourselves a sense of proportion about what the Nixon administration has and has not done and, even more important, about what it can reasonably be expected to do hereafter?

I believe there are, in our present circumstances, three prudential courses of action to choose among. That is, domestic tranquillity seems to me to require, well before the end of January, 1974, one of these three settlements of a constitutional crisis which is both nightmarish and ludicrous: (1) the removal of Mr. Nixon from office, or (2) his resignation for the good both of the country and of himself, or (3) the firm and announced determination by all our principal political leaders to close accounts on the 1972 Presidential campaign and to let bygones be bygones.

Immediate removal of the President from office requires more efficiency, self-assurance and toughness than Congress seems capable of at this time, unless much more evidence than is likely to be available should be brought forward to implicate Mr. Nixon personally in "Bribery, or other High Crimes and Misdemeanors," or unless Mr. Nixon should become so disturbed as to make his removal appear obviously necessary to everyone with whom he comes into contact.

Resignation would be, of course, the simplest of the three prudent settlements I have listed. But this action may be more self-sacrificing than Mr. Nixon is capable of—unless he should become even more depressed than he has sometimes appeared to have been in recent months. Were Mr. Nixon selfless enough to resign for the good of the country, it might be argued by his more cynical critics, there would never have developed around the White House the grasping attitudes which have spawned the present general distrust of the President. I, however, do not consider his resignation unthinkable. Certainly, he could well resign if he should happen to be impeached by the House of Representatives.

But since we cannot count on Congress acting expeditiously or on Mr. Nixon conveniently resigning, the third course I have suggested (that of "closing accounts") seems to me the most sensible for the country to rely upon. It is a course which does lie within the capacities both of Congress and of informed citizens to pursue responsibly in the present circumstances. Indeed, it is a course which utilizes those political skills of self-restraint and compromise which seasoned politicians are good at.

Thus, it seems to me prudent to propose at this time, Congress should, with all deliberate speed, terminate its public investigations of the 1972 campaign and permit the Department of Justice to return to its normal functions. Public speculation about possible impeachment should be firmly discouraged. This means that Mr. Nixon should be tacitly granted an amnesty of sorts, an amnesty which both recognizes his abilities and his foreign policy contributions and guards against his character and his domestic shortcomings. He should be allowed, that is, to finish the remainder of his term "on probation." In eighteen months we and a miserable President will already be looking ahead to the election and inauguration of a new Chief Executive.

It is salutary to remind ourselves that the immediate causes of trouble for the Nixon administration have not been its financial shenanigans and farcical burglaries but rather the subsequent ill-conceived official attempts to conceal the ramifications of such criminal misbehavior. (Does not this mean that unless an administration is in the position to proceed as effectively as President Johnson's seems to have been in covering up the ramifications of the Bobby Baker scandal, it is far safer not to try at all?)

I am reminded, by the crowd of incompetents around Mr. Nixon at the time of the Watergate burglary, of the crowd of incompetents around Mr. Kennedy at the time of the Bay of Pigs invasion. That Kennedy crowd exhibited the reckless side of Democratic crusading; this Nixon crowd exhibited the seamy side of Republican law-and-ordering.

We continue to pay a high price for the 1961 Bay of Pigs debacle. Indeed, was not the 1972 Watergate burglary team itself, with its dedicated Cuban-American participants and with its absurd campaigns against subversion, rooted in the 1961 debacle? It should be emphasized, on the other hand, that little damage would have been done to the country by the amateur efforts of the Nixon crowd if they had never been exposed. Perhaps, however, this chance exposure can be somewhat helpful if it induces us both to cut a long-exalted Presidency down to constitutional size and to reform our overly-permissive election laws. These corrections we see some signs of already, as well as the resurrection of an independent Department of Justice. That being so, we should quit while we are still ahead—before our politics become truly desperate and nasty.

Desperation may already be evident in Mr. Nixon's erratic reversals with respect to the release of the White House tapes—those mischievous tapes which (for all the fuss which has been made about them) are not likely to do much more than confirm our worst suspicions about the way Richard Nixon has always conducted his political affairs. Has not the self-righteous Nixon administration been sufficiently exposed, humiliated and even crippled? Do we dare continue to play with fire?

Responsible leaders of the country (in government and out) should, it seems to me, make some such appeal as this to American public opinion:

"We play with fire if we use, or appear to use, the courts and congressional committees to second-guess the American electorate, especially when its verdict is as massive as it was in the 1972 election. That election, we should remember, concluded with about as honest a count as any we have had in recent years, despite the misguided efforts of the overfinanced and underbrained Committee to Re-elect the President. It is likely to be suspected and hence resented, when public passions cool, that the implacable critics of Mr. Nixon eagerly exploited one last chance to 'get' him. Mr. Nixon is indeed a man who makes it easy (if not even fashionable) to dislike him. The depth of the animus against him is reflected in the fact that not even a spectacular Mideast war or the unprecedented disgrace of a Vice-President can long keep Presidential 'scandals' out of the headlines. But the temptation to settle old scores with Mr. Nixon should be resisted, lest new and even more serious grievances be created with which we will all have to live for a generation.

"We play with fire if we ever establish in this country the precedent of using a Congress dominated by one political party to undermine by plausible threats of impeachment an Administration of another party. We should be careful, that is, not to stumble into a de facto parliamentary form of government, a constitutional arrangement which requires that the executive retain the 'confidence' of the legislature. There are for us advantages in having fixed terms of office, especially as protection for those Presidents who are obliged to sacrifice popular support while pursuing the common good. (The experience of President Lincoln in disciplining his generals comes to mind, as does that of President Truman after he fired the temporarily popular but clearly insubordinate Douglas MacArthur.) That is, we don't have, nor are we likely to develop soon, the pervasive social checks on a volatile public opinion which are needed to make parliamentary government work responsibly

"We play with fire if we allow our television-heightened taste for theatrical excesses to influence our politics. We the people are on the verge of believing that nothing is significant if it is not outlandish. Are we compensating ourselves, by staged experiments in impeachment, for the boring character both of the 1972 election and of the Nixon administration? And, even more important, are we using a dramatic hounding of the President as a means of purging ourselves of the killing we should never have permitted in Vietnam? However that may be, we should moderate our fevered public discussion and thereby make less likely any recourse to foolish measures abroad or at home by a desperate President or by his indignant critics.

"In short, the fire which threatens to get out of hand should be deliberately covered up and smothered, lest unrelenting political warfare and demagogic manipulation of the Constitution become routine among use."

This is, it seems to me, the sort of public appeal that responsible leaders, with the concurrence of a repentant President, should make to the mature citizens of this country—an appeal which recognizes shortcomings and mistakes and, if need be, even corruption in high places. Impeachment, it should never be forgotten, is not intended primarily to punish past misdeeds but to prevent future misgovernment. The political health of the country always depends on sensible Congressional determinations as to which (if any) "high Crimes and Misdemeanors" should be taken seriously for impeachment purposes.

The time to have talked seriously about Presidential impeachment, I should add, was during our ruinous involvement in the Vietnam war, not after a President's Secretary of State has been awarded the Nobel Peace Prize. There is, after all, a limit to how seriously such crimes as burglary should be taken, even when they have been aggravated by an attempted obstruction of justice.

I should also add that everyone who is concerned about the sanctity of the rule of law among us should be reassured that there will be, within the five-year period provided by the statute of limitations, time enough when a new administration takes charge in January 1977 to expose and indict any unpunished criminals of the 1972 presidential campaign. In the meantime, much more than enough has already happened (without the need for actual impeachment) to impress upon Presidents, present and future, that the laws of the land are not to be trifled with. However that may be, a responsible public should be concerned both about the moral fitness of its leaders and about a measured response to revelations and moral failings.

Thus, it should be recognized that there may be, in the current demands for investigation and impeachment, a considerable amount of silliness and self-indulgence, if not even hysteria. There may be as well too much of the political paranoia which has, for a quarter of a century, corrupted the crowd around Mr. Nixon. Some of Mr. Nixon's crowd have long seen foreign subversion lurking behind every domestic dissenter. Some of his critics, on the other hand, now manage to see an incipient dictator even in a President who is very much on the run. Both camps of extremists should be counselled. along with the American people and the American press, to "take it easy"—a most salutary prescription for the perpetuation of constitutionalism in the United States.

THE ENERGY CRISIS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. WALDIE. Mr. Speaker, the most pressing problem facing the American people today is the severe shortage of energy which we will obviously face this winter and for several years to come. If the mail I have been receiving is any indication, the American people are deeply distressed and, in some cases, totally disgusted about the energy crisis and with the administration's lack of foresight, candor, and solutions to the problem.

In my view, the Nixon administration's policies with respect to energy matters have been characterized at best by poor judgment, indecision, and unworkable solutions. At worst, the administration has been negligent in failing to recognize obvious energy problems, to set needed priorities, to encourage a wide variety of research activities to develop energy resources, and to keep the American people adequately informed and up to date on energy matters.

That the administration's energy policies have been nothing short of disastrous should not be surprising. This is, after all, the same administration whose economic policies have led to skyrocketing prices, rapid inflation, and reductions in the average person's purchasing power.

But even beyond that, Mr. Speaker, beyond the fact that the administration's energy policies are clothed in confusion and chaos and have been unbelievably mismanaged, is that the administration still—today—is not coming up with workable and adequate solutions, is not being honest with the American people, and is itself setting a poor example in conserving energy by flying helicopters and jet planes all over the country to spread its gospel of half-truths and blaming everyone but itself for the many crises now facing us.

Consider what the administration has not told the American people:

That it unwisely imposed oil import quotas from 1959 to 1973, which discouraged importing of foreign oil, drove up prices for domestic oil, and discouraged building of refinery capacity and that it did so against the advice 3 years ago of a Cabinet-level task force;

That it froze the price of gasoline at seasonal highs and heating oil prices at off-season lows, thereby encouraging refineries to produce more gasoline to feed gas-guzzling cars and leading to present low fuel oil stocks;

That it has only recently prepared a visible research and development program to harness all available energy sources, but has severely undercut all public and private efforts to conduct such research by impounding congressionally appropriated funds, encouraging nuclear energy research and development to the exclusion of other possible energy resources, and ignoring pleas from educational institutions to fund needed research programs;

That its "project independence," which is scheduled to be completed by 1980, is now only a scrap of paper, will not help us in the dilemma we now face, and is not even scheduled to realistically begin until 1975;

That the President's so-called energy experts are not knowledgable about energy matters and have demonstrated a degree of poor judgment, ineffectiveness, and indecisiveness not previously demonstrated even in this administration;

That the key to our present energy shortage is simply the unbelievable annual increases in America's consumption of oil, and that annual domestic production of oil stopped increasing in 1971;

That it has encouraged, through its tax policies, the purchase of automobiles and done nothing to require that the automobile be designed to use energy efficiently or to encourage the development and use of mass transportation;

That it has permitted the major oil companies to increase their 1973 profits from 40 to 80 percent over 1972 profits while permitting the consumer price index for gas, oil, and energy related products to increase 20 percent from September 1972 to September 1973;

That all of the President's proposals to conserve energy—from driving slower to increasing the use of coal—are without doubt much too little and much too late to appreciably lessen the shortages we face this winter, much less help the energy crisis;

That it should have instituted a workable gas rationing program already and that all uses of energy must be rationed on a mandatory basis;

That its energy policies have been promulgated with the economic status of major oil companies, large automobile makers, and other big business first and foremost in mind, and the average American worker and his job, family, and health secondary; and

That what is required of Americans now, and what will be required of all of us perhaps for our lifetimes, is a drastic revision in our way of living—so as to stop using as much fuel as we have in the past and stop wasting over half of the fuel we now use.

In contrast to the administration's record in keeping the American people in the dark, various scientists, economists, congressional committees, Senators, and Congressmen have spoken out many, many times on the energy shortage and have left no stone unturned in their efforts to inform the American people of the crisis, and to persuade the President to use his statutory authority and take needed steps to enforce nationwide energy conversation measures. Perhaps the best example of this, Mr. Speaker, is the excellent document you released this past weekend which outlines the problems the Nation now faces with regard to the energy crisis, the depressing history of the administration's response to our energy problems, and the steps which now must be taken to solve them.

That document also points out the ways in which the Congress has responded to the energy crisis. It has given the President authority under the economic stabilization program to require sensible allocation of available fuel supplies. It has appropriated more than $20 million in energy research and development funds, which have been impounded by the President. It has appropriated $23 million more than the President requested for coal gasification and liquification programs.

It has also appropriated $7 million more than the President requested for geothermal research, which have also been impounded by the President. It has passed a dozen major pieces of legislation affecting energy problems and resources, ranging from establishing an emergency petroleum allocation program to appropriating funds for atomic research and public works programs. And, it soon will pass emergency energy conservation legislation, including legislation to establish daylight savings time on a nationwide basis.

I would like to suggest several important principles which I believe should be followed as both the Congress and the administration work to try and solve the energy crisis:

The administration must immediately begin to be candid and open with the American people and at the same time set an example in conserving energy in every way possible;

There must not be any appreciable retreat from our hard-won environmental standards, justified on less than the hardest and most convincing evidence as to necessity.

The maximum number of American worker's jobs must be retained;

Mandatory fuel allocation and rationing program is now necessary, and it must be applied equally to all persons and industries;

The United States must not submit to the oil blackmail scheme of the Arab States and that it stand firm in its commitments to the state of Israel;

All employers, both public and private, not be bound by long-standing methods or procedures of doing business, that are wasteful of energy and be willing to change for the good of all;

The major oil companies must absorb a fair share of the cost crunch now being experienced and not pass on all cost increases to the consumer;

Finally, Mr. Speaker, I believe that the American people can manage the energy crisis, but that we can do so only if two events occur: one, we as a people are willing and actually undergo drastic changes in the way we now live to stop the tragic waste of our energy resources; and two, we as a people receive the incisive leadership we must have if we are to survive what shortly promises to be among the most difficult years the Nation has ever known.

LEGISLATIVE REPORT BY REPRESENTATIVE JACK BRINKLEY TO HIS CONSTITUENTS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. BRINKLEY. Mr. Speaker, I submit herewith my 1973 Legislative Report, which will soon be mailed to the Third Congressional District of Georgia, which I am privileged to represent, for the information and review of our colleagues.

The report reads:

LEGISLATIVE REPORT

(From your Congressman Jack Brinkley)

DURING THANKSGIVING

As we go to press I am about to embark upon a journey to the Middle East as a member of the House Armed Services Committee special investigating subcommittee. When you receive this newsletter I will be home with thanksgiving in my heart for a return to the finest country upon which the sun has ever shone.—Jack.

ANOTHER GREAT COMMITMENT FOR THE '70s

The Right of Man to Live, in His Battle Against Cancer

". . . the ideal chemical could be developed that would be effective in killing cancer cells or a vaccine could be developed at any time that would actually prevent cancer . . . how soon depends on how badly you and I want it and how much effort we are willing to make and how much support we are willing to give!"—Dr. Arthur G. James, President of the American Cancer Society in address to the West Virginia Division of ACS on September 29, 1973.

Before you finish reading this Legislative Report at least five people somewhere in the United States will have died of cancer.

That's about one cancer death every two minutes.

On October 4th Rep. Jack Brinkley introduced in Congress the National Cancer Research Act of 1973—H.R. 10746—which has as its goal "a comprehensive, coordinated five-year research program to determine the causes of and cure for cancer, to develop cancer preventative vaccines or other preventatives."

Because of the potential magnitude of this legislation, Rep. Brinkley conducted a national news conference in Washington to announce its introduction. The following is a synopsis of the cancer bill presented at this news conference which has resulted in expressions of interest and support from all over the United States.

"If it is our wish to develop a cancer vaccine, and if that wish is more than an intellectual desire, if its importance can be translated into a willingness of the American people to sacrifice mere treasure, then a principle of 'a right to live' will have been established. To achieve this, I have structured major legislation, the National Cancer Research Administration, NCRA, after the National Aeronautics and Space Administration which conquered the moon within a time certain—within the decade of the sixties. Our goal specified for the conquest of cancer is 5 years; a 2% cancer tax is incorporated which will self-destruct after an identical 5 year term. The money is to be held in a trust fund with the absolute guarantee that it be used only in the crusade against cancer.

"The NCRA is charged to control and coordinate all cancer activities—to chart the road way, to develop the game plan and to carry it out.

"The statistics: $15 billion available over the 5 years, more than 5 times as much as has been appropriated altogether for the past 35 years—to fund a crash program to attract the top talent on the coordinated, continuous basis which has heretofore been lacking.

"The stakes: 960 lives a day—one out of every four Americans, during their lives; this year 350 thousand; this decade 3.5 million—10 million under treatment.

"There will be a thousand reasons given why this won't work; but there are more than 200 million reasons 'walking around' that say we must make it work.

"I am prepared to ask the American people to make this sacrifice. Human life is precious, and the American people have never yet failed in behalf of a noble cause. The American spirit thrives on challenge."

Note: The President has subsequently challenged the American people in another great endeavor—to find an alternative to oil. He has used similar reasoning to ours in pointing to the space program as well as to the Manhattan project as examples of our ability to achieve breakthroughs. We support him in this and have asked for Administration support for our effort.

Cancer Bill Update: On October 24th the National Cancer Research Act was re-introduced with 14 Congressional cosponsors representing 13 different states. This legislation has been referred to the House Ways and Means Committee for consideration.

SAND HILL PROJECT

The Conference Report on the Military Construction Authorization Bill states—

"One of the items included by the House but not included in the Senate bill was a project for the first increment of a barracks complex at Fort Benning, Georgia, in the amount of $9.5 million . . .

"In conference the Senate conferees were adamant in their position that this project would not be included in the final bill . . . The project is scheduled for the Army's Fiscal Year 1975 program in the total amount of approximately $21 million."

The Sand Hill barracks project was authored by me as a priority amendment in the MCA Subcommittee on which I serve, was passed there, was later passed in full Committee and finally passed in the House of Representatives. We could have held it in Conference had the Department of the Army in Washington not actively opposed it. Their justification was based upon the fact that this undertaking was still in the early design stage and could not be put under contract in Fiscal Year 1974. Although this point was very much in issue the silver lining is shown by the Conference Report language, insisted upon by Subcommittee Chairman Pike in my behalf, which solidifies our standing for full funding next year. There is tentatively scheduled for the ensuing year another comparable project.

INSPECTION OF VA HOSPITALS WILL CONTINUE THIS TERM

Congressman Jack Brinkley—a member of the House Veterans' Affairs Committee—will continue his one-man inspection tour of all the State's Veterans' Administration hospitals during the 93rd Congress.

Commenting on the Congressman's inspection tour Mr. Richard L. Roudebush, Assistant Deputy Director of the Veterans' Administration, recently wrote Rep. Brinkley, "I am pleased to note your interest in and compassion for the cause to which we are mutually dedicated—the welfare of our Nation's veterans."

In mid-August, during the Summer Congressional Recess, Rep. Brinkley announced his plans to tour the four VA hospitals in Georgia as well as the Tuskegee, Alabama, VA medical facility. On August 22 he toured the Tuskegee hospital and on August 31 he visited the Dublin VA Center.

Remaining on the schedule are hospitals in Atlanta and Augusta with a possible visit to the facility at Murfreesboro, Tennessee.

In outlining his reasons for making the VA inspection tours Rep. Brinkley said, "All Veteran patients are entitled to considerate, humane medical treatment in VA hospitals. I have received reports that this is not always the case. It should be the case 100 percent of the time.

"I intend to see for myself whether there is understaffing at these facilities and to see just what the conditions are."

ACA TO PRESENT "DISTINGUISHED SERVICE AWARD"

The Board of Trustees of Americans for Constitutional Action (ACA) has announced that Congressman Jack Brinkley will be a recipient of its Distinguished Service Award for 1973.

ACA is a national, nonpartisan organization headquartered in Washington which periodically rates all Members of Congress on issues which are of major national importance and adherence to constitutional principles.

"The biennial Distinguished Service Award is being presented to Congressman Brinkley in recognition of his voting record in Congress in support of those legislative measures which would defend and strengthen the spirit and principles of the Constitution of the United States," Mr. Charles McManus, President of ACA, said.

This marks the third consecutive time that Congressman Brinkley has been named to receive the ACA award. He was also presented the award in 1969 and 1971.

REP. BRINKLEY PRAYER BREAKFAST SPEAKER

Third District Rep. Jack Brinkley was the guest speaker at a prayer breakfast sponsored by the Georgia YMCA in Washington on October 31 for some 100 of the state's outstanding high school students. The students, Hi-Y and Tri-Hi-Y members, were in the Nation's Capital for four days to participate in a Washington Seminar sponsored for them by the Georgia YMCA.

Attending from our District was Mary Susan Tweed and Lavonia Ann Garrett of Troup County High School, and Tricia and Julia Woodson of Spencer High School of Columbus, and Cathy Smith, Patti Broadwell, Jan Vann and Constance Marshall of Jordan High School of Columbus.

THE ENVIRONMENT

Let's clean up the Chattahoochee

Millions of gallons of raw and inadequately treated sewage are flowing daily down the Chattahoochee River.

This is a known fact . . . the questions are: Where is this pollution coming from? and What's being done about it?

To find out precise answers to these questions, Congressman Jack Brinkley wrote a joint letter to the Environmental Protection Division of the State Department of Natural Resources, the U.S. Environmental Protection Agency, and the Army Corps of Engineers—the three agencies having pollution control jurisdiction over the river.

The letter stated:

. . . many of us are deeply concerned with the pollution level in the (West Point) Reservoir and its primary tributary, the Chattahoochee River, is jointly administered by the Georgia Department of Natural Resources, the U.S. Environmental Protection Agency and the Corps of Engineers. By copy of this letter I am asking (for) . . . a detailed status report as to what specific pollution abatement programs are now in effect.

In response to this letter the Director of the State Environmental Protection Division, Mr. R. S. (Rock) Howard Jr., replied to Rep. Brinkley on October 24. Mr. Howard's reply read in part:

. . . by far the major water quality considerations (for West Point Reservoir and the Chattahoochee River) are those discharges from metropolitan Atlanta. The major source is the City of Atlanta's R. M. Clayton facility which currently discharges some 80 million gallons per day of raw and inadequately treated sewage collected from a three county area.

On October 23, Atlanta reported that construction of new facilities to provide secondary treatment may not be completed until the end of February, 1974. However, a Division order places a sewer ban on the R. M. Clayton service area beginning October 28 and terminating with completion of construction.

On November 1, Atlanta city officials announced their plans to ask the State Environmental Protection Agency Division for a three month extension of a court ordered deadline to stop dumping raw sewage into the Chattahoochee.

The reason given by the City for requesting the extension—several alleged uncontrollable problems in connection with construction at the R. M. Clayton facility.

On November 2, Rep. Brinkley telegrammed the State Environmental Protection Division:

I very strenuously object to extending even for one day the deadline against dumping massive quantities of raw sewage by the city of Atlanta into the Chattahoochee River.

Subsequently, the extension request was denied by the State Environmental Division. What this means, in essence, is that the State sewer ban will remain effective until construction is complete and the Clayton facility is in full operation. While the sewer ban prohibits any increase or new additions in the number of service members now being handled by the facility, it does not affect the 80 million gallons per day of raw sewage which will continue to flow unimpeded to Atlanta's downstream neighbors. It will be a definite catalyst to complete the facility with dispatch and with no foot dragging.

According to a spokesman in the Water Quality Section of the Environmental Protection Division, when construction at the R. M. Clayton facility is completed and operational it will put an end to what is considered the major pollutant source on the Chattahoochee River.

Let's just hope it won't come too late.

Key environmental votes cited . . .

DEAR CONGRESSMAN BRINKLEY: I am writing to thank you for your support of H.R. 11896, the water quality package, designed to strengthen the Federal Water Pollution Control Act. Specifically, we appreciate your efforts to abate water pollution by voting in favor of Congressman Reuss' amendments to require industry to install the best available pollution technology by 1981 and to set a goal of zero discharge for all sources of pollution by 1983 . . . we commend your efforts and commitment to cleaning up our nation's waters.—Michael McCloskey, Executive Director of the Sierra Club, San Francisco, California.

DEAR JACK: Your support for the amendment to strike the NEPA (National Environment Policy Act) override provisions from H.R. 9130, the Alaska Pipeline bill, was most welcome and much appreciated . . . I'm sure your vote to preserve the integrity of the National Environmental Policy Act was sound and will prove to be so in the long run.—U.S. Rep. John Dellenback of Oregon, Member of the House Interior and Insular Affairs Committee, Subcommittee on the Environment.

Facts and figures

Did you know that—

$1.5 million of Georgians' taxes are spent picking up litter on our highways;

For every Georgia mile, motorists throw out 16,000 pieces of trash per year;

Some 2,000 automobile accidents resulted from cars hitting or trying to avoid litter on the roads;

Litter contaminates streams and food for wildlife and breeds disease carrying vermin and insects;

Litter starts fires—an estimated 130 persons die in these fires yearly.

These facts and figures were furnished by The Georgia Conservancy, Inc., which is cosponsoring this year with the Garden Club of Georgia a statewide anti-litter campaign. Our active participation in this campaign will help keep our state beautiful . . . as well as save our hard earned tax dollars.

LEGISLATIVE ROUNDUP

Thus far in the First Session of the 93rd Congress Rep. Jack Brinkley has sponsored and co-sponsored legislation which upon enactment would—

Stabilize the economy

H.R. 10813 (co-sponsor). Controls expenditures and upgrades federal spending priorities thereby better enabling Congress to exercise effective control over the budgetary process.

Encourage voluntary blood donations

H.J. Res. 264 (sponsor). Designates Christmas Week of each year as "Blood Donor Week."

H.R. 9911 (co-sponsor). Encourages the voluntary donation of pure and safe blood and would set up a national registry of blood donors.

H.R. 9850 (co-sponsor). Defines blood donations as charitable contributions deductible from an individual's federal income tax.

Protect and assist the mentally retarded

H.R. 5609 (co-sponsor). Establishes strict quality operation and control standards at residential facilities caring for the mentally retarded; assists state governments in planning regional and community programs for the mentally retarded.

Increase research on diabetes

H.R. 6193 (co-sponsor). Expands the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases to advance the national research attack on diabetes.

Benefit retirees

H.R. 9595 (sponsor). Completely removes the limitation on the amount of outside income which a Social Security recipient may earn.

Help policemen-firemen and their families

H.R. 5577 (co-sponsor). Provides a lump sum payment of $50,000 to the wives and children of policemen and firemen killed in the line of duty.

H.R. 8046 (co-sponsor). Creates a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government.

H.R. 6486 (sponsor). Permits a trade or business income tax deduction to firemen for meals which they eat while at their post on overnight duty.

Assist the veteran and his family

H.R. 9474 (co-sponsor). Increases by a minimum of 10 percent the monthly disability and death pension rates for veterans, their wives and survivors and dependency and indemnity compensation for dependent parents.

H.R. 9578 (co-sponsor). Improves the basic provisions of the veterans home loan programs.

H.R. 2900 (co-sponsor). Improves hospital and medical care for veterans, their dependents and survivors.

H.R. 9594 (sponsor). Provides full recomputation of military retirement pay for equal grade and years of service.

H.R. 9592 (sponsor). Provides full recomputation of military disability retirement pay.

H.R. 9593 (sponsor). Allows partial attachment of military retirement or retainer pay to satisfy judicially decreed family support contributions.

Boost vocational education

H.R. 8830 (sponsor). Treats vocational school attendance certification requirements for veterans on the same basis as college attendance certification requirements.

Benefit reservists and national guardsmen

H.R. 6574 (co-sponsor). Encourages men to join and remain in Military Reserve and National Guard units by providing them with full-time coverage under Servicemen's Group Life Insurance.

Expand statewide recreational facilities

H.R. 7561 (co-sponsor). Authorizes establishment of the Chattahoochee River National Recreation Area in Georgia.

WAR POWERS BILL

From the press

The following is an excerpt from an editorial which appeared in the Sunday, November 11, Atlanta Journal and Constitution:

"Veto overridden

". . . The war powers bill does not indicate isolationism. It does not restrict our dealings with other nations—friends or enemies.

"What it does do is insure that in any future conflict in which we expend blood and treasure that the responsibility for our involvement will be shared by both the executive and legislative branches. It is a responsibility that should be shared.

"Congressional action in sustaining the legislation by overriding a presidential veto was based on the merits of the bill itself. To interpret congressional action as a sign of presidential weakness is a disservice to President Nixon, a disservice to Congress and a disservice to reasonable legislation."

ALBANIAN INDEPENDENCE DAY, 1973

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. BIAGGI. Mr. Speaker, it is my distinct honor to pay tribute to the millions of Albanians throughout the United States and the world who yesterday celebrated the 61st annual observance of Albanian Independence Day.

Unfortunately, like so many other nations who are forced to live under Communist rule, Albania's independence day celebrations for the last 29 years have been dulled by the cruel realities of the conditions in the homeland. Since 1944, Albania has been under the iron-handed rule of Communist Premier Enver Hoxha. While the Albanian people have not suffered many of the terrors and atrocities which other Communist citizens have endured, they too have been sorely deprived of the right to live free and in dignity.

Albania has had the unique reputation of being a maverick country within the Communist bloc nations. An example of this was in 1967 after the Soviet Union and Communist China culminated years of intense ideological struggle by severing relations, Albania was one of the first and only countries to side with the Chinese, much to the shock and chagrin of the Soviet Union.

Yet the bare fact remains no matter what Communist giant Albania alines itself with, the conditions of life for her citizens continues to be deplorable.

As we observe this important day in the United States, let the conditions in Albania, as well as most of Eastern Europe serve as a vivid reminder that neither China nor the Soviet Union can be expected to enter into, or carry out, any meaningful agreements with the United States until they release their stranglehold on those nations they so ruthlessly control. Our paramount diplomatic concern should be the seeking of firm assurances from both Communist powers that self-determination among nations, and the respect for human rights and the dignity of life for all citizens, will be the foundation upon which we will build a world of peace.

Let me also pay tribute to the thousands of Albanians who reside in the United States. I am particularly fortunate to have an Albanian parish in my congressional district, the Our Lady of Good Counsel Church led by their distinguished pastor, Rev. Joseph J. Orashi. I would like to express to all these fine people my best wishes on this occasion, and offer them my fervent hopes that the flames of freedom may once again burn for their brethren in Albania.

AUDIE MURPHY VA HOSPITAL DEDICATION, SAN ANTONIO

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. FISHER. Mr. Speaker, on November 17, in my congressional district the new, $47 million, 760-bed Veterans Administration Hospital at San Antonio was formally dedicated—and named in honor of one of my State's most distinguished sons and defenders of America's brave heritage.

I would like to share with my colleagues, the significant remarks made by the VA's Administrator of Veterans Affairs, Donald E. Johnson, on that important and memorable occasion:

REMARKS BY THE HONORABLE DONALD E. JOHNSON, ADMINISTRATOR OF VETERANS AFFAIRS, NOVEMBER 17, 1973

It is a great privilege and an honor to participate in this happy occasion with so many distinguished Texans and friends of the Veterans Administration.

Our master of ceremonies, John Arledge, has already mentioned how proud we in the Veterans Administration are of this new hospital, the 170th in our nationwide system of health care facilities. Of course, we are proud of all of our hospitals but there are many reasons for our special sense of pride in the one we dedicate here today.

We are very proud that this hospital bears the name of one of Texas most distinguished sons—Audie Murphy—the most highly decorated of all of America's World War II heroes.

We are proud of the innovative design of this facility, the most advanced in our entire system—of the forward looking health delivery concepts incorporated into that design—and, of the highly sophisticated specialized medical units and equipment that are or soon will be in operation here.

We are proud that we now can provide the veterans of South Texas with the high quality health care services to which they are so richly entitled.

And we are extremely proud of our close association with the University of Texas Medical School at San Antonio, and of the fact that we are an integral part of this grand dream-come-true, the South Texas Medical Center.

As we participate in today's dedication, each of us here expresses gratitude to the American public for making it possible for the VA to build this 47 million dollar, 760-bed hospital. And, we express our appreciation to the many individuals who have played a part in making this magnificent structure a reality. I wish to acknowledge publicly, however, that a large share of our thanks is owed to one individual—Congressman Olin E. Teague—who from the beginning has been a prime mover in efforts to bring a VA hospital to the underserved veterans of South Texas. As soon as he learned of the plans for development of this health sciences center—with a new medical school as its nucleus—"Tiger" Teague launched a strenuous campaign for approval of a new veterans hospital—to be built here in close affiliation with the planned medical school. Mr. Teague was well aware of the importance of such affiliations to the care of veterans, and of the value of veterans hospitals, both to the medical schools concerned and to American medicine generally.

"Tiger"—we thank you, and I'm sure I can speak for the veterans of South Texas in that regard.

I have stressed our pride in the affiliation we now have with the University of Texas San Antonio health sciences complex. I should say, "affiliations," because it includes association with the Dental and the Nursing schools, as well as the Medical School.

I have also indicated that everyone benefits from the interdepedence that arises out of such affiliations. From our side, we know that high quality medical care for veterans is directly dependent upon relating our hospitals to America's medical teaching institutions.

I would like to take a few moments to bring these thoughts into sharper focus.

As background, let us note that—even though it is our most modern, and our best equipped veterans hospital—this new hospital does not stand alone. It is part of a system of health care facilities and arrangements that covers the entire United States. Our hospitals, clinics, nursing care and related facilities are organized into 30 medical districts, each one of which is collectively capable of providing a full range of health care services to eligible veterans. Within these districts, our patients can be readily transferred, as their special needs require. The districts are, in turn, organized—for administrative support purposes—into seven regions, and these are overseen by the VA's Department of Medicine and Surgery, in Washington. That Department is responsible for the direction and operation of what is, by far, the nation's—probably the world's—largest centrally-managed and centrally-funded health care program,.

Its main mission, or purpose, or reason-for-being, is to make available to the nation's veterans—particularly those with service-related disease or disability—the best possible medical and rehabilitative services. But, the best organizational structure and the finest of facilities and equipment are of no consequence without people. High quality health care cannot take place in the absence of highly qualified health care professionals.

And this brings us back to the importance of affiliations such as the one commencing here in San Antonio.

More than 28 years ago now, the VA—with the strong backing of the Congress—announced an extraordinary new policy of association of veterans' hospitals with medical schools. The then existing VA hospitals were the subject of much criticism, even ridicule. To the public, they were thought of as "old soldier's homes;" to professionals, they were indeed in the "backwaters of American medicine."

Under the new policy—with the cooperation of the affiliating medical schools—the veterans' medical care program would be founded upon the basis of all good medicine—the triad of *patient care, medical education*, and *medical research*—call it *treating, teaching, testing*, if you will. Furthermore, new veterans' hospitals would not be constructed unless they were to be affiliated with and in close proximity to a medical teaching institution.

Would this revolutionary idea work? Well, it has—beyond all expectations and predictions.

Today, 106 VA hospitals are affiliated with 89, or 85% of all medical schools. And, the 64 VA hospitals that remain "unaffiliated"—generally a consequence of location—still derive both direct and indirect benefits from the affiliation of the other hospitals. Such benefits will increase as we perfect our regionalization efforts.

A number of our affiliated hospitals are physically joined to medical schools, making the affiliation visable as well as functional. Here, we plan to join our hospital—by a covered causeway—to the Bexar County Hospital, which is similarly joined to the University's Medical School.

The heart of these mutually beneficial relationships are jointly-conducted education and training programs. These interactions yield many helpful effects. For the VA, the quality of patient care is improved through the advice of the University's Deans Committee, the presence of medical students and house staff, the use of medical school faculty as VA consultants, and the general upgrading of the VA's professional staff. For the medical school, affiliation with the VA provides a large clinical facility with "teaching" patients, a general expansion of their education and research resources, faculty salary-supplementation through attending and consultant fees, and the expanding of the school's effective faculty through recruitment of highly-trained physicians to VA staff positions, with simultaneous faculty appointment. Today, over 3,000 VA physicians and dentists hold active faculty appointments at affiliated medical and dental schools, while full-time university faculty teach and consult regularly in our hospitals.

I said the policy, established in 1946, went beyond anyone's expectations. Almost simultaneously with medical school affiliations, but with less fanfare and formality, practically all VA hospitals began developing teaching affiliations with other institutions. Now, every one of our 170 hospitals participate in joint education, research, or patient care activities with over 1200 non-VA institutions. This includes 57 (or all but one) of the nation's dental schools, 312 nursing schools, 45 schools of pharmacy, 88 psychology programs at the doctorate level, 80 schools of graduate social work, and 710 other academically-based programs for the allied health professions and occupations. The number of affiliations per VA hospital range upward to as many as 40, involving up to 20 different academic institutions.

In the past 10 years, more than 400,000 students preparing for health careers have received all or a portion of their training in VA hospitals. This year, VA will help train 67,000 prospective health workers, at all technical and professional levels, in over 60 different health care specialties.

Thus, while the primary mission of veterans' hospitals remains the delivery of health care to veterans, these facilities—through their collective affiliations—are now tightly interwoven into the academic and research fabric of the nation's total health care system.

Through the policy and practice of teaching affiliations, VA hospitals now serve a critical role in the development of health manpower—not only for the benefit of veterans, but for the benefit of the American public.

Quite recently, with enactment of Public Law 93-82, the Congress gave legal recognition to this secondary, and still-evolving mission of the Veterans' health care program. Previously, the VA was required to carry out a program of education and training so as "to provide a complete medical and hospital service for the medical care and treatment of veterans." To this statutory authority the Congress added another purpose with the words: *"and in order to assist in providing an adequate supply of health manpower to the Nation."*

I say this secondary mission is still evolving because (one) it has grown very rapidly in recent years, and (two) it has not yet reached its full potential. In 1960, the number of health care workers trained in VA hospitals was 16,000. Eight years later this figure had doubled to 32,000, but that figure doubled in the following four years. The current year figure of 67,000 is bound to grow, and we are adding new affiliations each year, with almost unlimited possibilities.

Our current expenditure for education and training purposes exceeds 160 million dollars. In addition, we have—under Public Law 92-541—new grant authority (up to 75 million per year) to help existing affiliated schools expand their health manpower programs, and to assist states in establishing up to eight new medical schools.

Despite our many ongoing affiliations, we are very excited about the new one here. We feel that it has potential as great or greater than any in our entire system. Extensive educational facilities have been built into this hospital, with numerous classrooms placed at convenient locations throughout. Also, nearly 31,000 square feet of space will be designated for research activities, closely associated with the education programs.

Time does not permit me to provide details of our nationwide research program, or of the impressive and important contributions VA research has made and is making toward improved health and improved health care delivery in this Nation.

But I will tell you we are deeply involved in medical research and deeply committed to this essential effort. In our hospitals, we devote about two million square feet—some 44½ acres—of space to research, and are spending about 75 million dollars this year on research alone. That's more than the annual budgets of three of the research institutes in the Department of Health, Education, and Welfare's National Institutes of Health. We have 5,700 people devoting all or much of their time to carrying out nearly 6,000 research projects and large-scale cooperative research programs. In these efforts, as in our training activities, we cooperate directly or indirectly with research groups in the medical schools and other institutions.

We will conduct research here, to add to the great contributions that this Medical Center will make to progress in health care and medical knowledge generally.

So, dear friends of the Veterans Administration, as we dedicate this fine new facility, we see it as a strong partner in helping to provide for the health care needs of its community. At the same time, we see it as one more link in the strong chain of health care facilities serving veterans, but also contributing to the common good of all Americans.

In closing I wish to say to Judge Reeves and Mayor Becker that the Veterans Administration is delighted to take a larger part in the affairs of Bexar County and the City of San Antonio.

I pledge to you and all citizens here that our hospital and its fine staff will strive to be the best of neighbors. Just as we are proud to be here, we want you to be proud of us.

BUSING RESOLUTION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. LEHMAN. Mr. Speaker, earlier this week I received in the mail a copy of the resolution recently adopted by the Dade County Council of Parent-Teacher Associations regarding the issue of busing. I found its level-headed approach a refreshing change from the emotional treatment busing has received from the administration, and I commend this resolution to the attention of my colleagues.

To Whom It May Concern

In view of the recent action taken at the State PTA Convention by the Florida Congress of PTA;

Dade County Council PTA & PTSA, representing 70,000 members, takes this opportunity to reaffirm its position regarding busing to achieve racial balance.

The following statement was adopted by an overwhelming majority of delegates to the General Meeting of the Dade County Council PTA & PTSA on October 18, 1973:

Whereas, the assurance of quality education for all children and youth has been and continues to be a crucial concern of the National PTA, its State Congresses, Councils, and Local Units; and

Whereas, the issue of busing in the context of equal educational opportunity and the reduction of racial isolation remains unsettled and subject to conflicting evaluations; and

Whereas, conditions in small and intermediate size communities are so profoundly different from those in large metropolitan

areas that they preclude uniform solutions; and

Whereas, the issue of busing is presently being reviewed by the courts of this nation and is under legislative consideration; therefore be it

Resolved, that the National PTA reaffirm its strong commitment to integrated quality education for all children and youth; and be it further

Resolved, that this convention commend the efforts of state PTA's, Councils, and Local Units as they strive for the elimination of educational inequalities and seek to meet the needs of all children and youth in their areas; and be it further

Resolved, that this convention put aside divisive and enervating debate over the busing issue and urge the members of the PTA to re-direct their efforts and energies toward the common goals that unite the membership of the Florida Congress of Parents and Teachers.

BRING YOUR GUN IF YOU WANT TO WIN HERE

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. LUJAN. Mr. Speaker, several weeks ago a constituent of mine received a telegram from someone in Pretoria, South Africa, a city I understand not far from Johannesburg.

The content of that telegram, translated from Portugese, said:

> Bring your gun if you want to win here. . .

I am told that the sender of the telegram is white. My constituent is black. He is also the world's light-heavyweight boxing champion.

On December 1, Bobby Foster will fight Pierrie Fourie—the 13th defense of his title—in Johannesburg.

This occasion is more than a title defense or a boxing match. Indeed, it is an historic occasion. One which will carry much importance for many millions of black people throughout the world.

Bobby Foster will be the first black man ever in the history of South Africa to participate in an athletic arena with a white man.

Bobby Foster's wife Pearl and about 6 of his 12-man entourage will be the first black-white mixed group ever allowed in that country for a sporting event.

I am proud to have Bobby Foster as a constituent. I am proud of his achievements in the boxing ring. I am proud of his accomplishments outside the ring—he is a sheriff's deputy in Bernalillo County, my home, assigned to working with young people combating crime, drug abuse, and juvenile delinquency.

I am even more proud because the ground work for this historic event was laid in Albuquerque last August.

At that time, Mr. Fourie was in Albuquerque seeking to take the world title from Foster.

Mr. Fourie and his entourage were so impressed with the hospitality and fine treatment given to them by both blacks and whites that they asked Bobby to come to South Africa for the rematch.

I should point out, Mr. Speaker, that Fourie is putting his future on the line in his home country by entering the ring with Foster.

I think it pertinent that I remind my colleagues that Foster defeated Fourie in that August fight. It was a superfine fight and our neighbor from across the sea gave a creditable accounting of himself.

No, Bobby Foster will not be taking his gun with him to meet Pierrie Fourie. But he is taking two cannons with him—his right and left fists.

This event is certainly more than a title boxing match. With so much racial tension among the peoples of the world what better way can two men help close the gap of racial misunderstanding than through an athletic event.

Mr. Speaker, only one man can come out of that boxing ring the world's light-heavyweight boxing champ. But neither man will be a loser. The world will have to be a better place after the fight is over.

I am proud and happy that my constituent is exactly one-half of this. I hope every American—black or white—will share these feelings.

THE LOSS OF A FRIEND

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. RANGEL. Mr. Speaker, I had to request a leave of absence today because I had to be in New York City to attend the funeral services for my friend, Dr. Arthur C. Logan.

It was with a profound sense of sorrow and personal loss that I went to New York today to say farewell to my friend. I know that this sense of loss is shared by the people of my community and by the entire city of New York. Today at Riverside Church all of those people with whom Dr. Logan worked, and this included almost all of the civic and community leadership in the city of New York, came to pay their respects to Arthur and to say goodby. This outpouring of affection was a tribute to the high esteem in which Arthur was held by those fortunate enough to have had the opportunity to know him and to work with him.

Arthur Logan loved people and he loved his community. He dedicated his time, his energy, and his resources to helping those less fortunate than he and to making our city a better place in which to live. Arthur gave of himself totally, without asking anything in return. Because of this, we all took advantage of him, calling upon him for assistance when we knew we shouldn't because he was already so busy, getting him involved in another project that needed his enormous talent. Yet he always responded and more often than not ended up working harder than other people with more time to give.

He loved the people of our community, which he served for more than 20 years as personal physician, as one of the founders of the Upper Manhattan Medical Group, as the guardian angel of Knickerbocker Hospital and as a member of the board of the New York City Health and Hospitals Corporation. He also reflected this love for the community as a community leader, serving as chairman of HARYOU-Act and of the citywide Council Against Poverty, and as a national leader through his involvement in the Southern Christian Leadership Conference and the National Urban League.

We will miss Arthur Logan in all of the public roles he so capably performed during a lifetime of service, but most of all those of us who had the privilege to call him friend will miss him for the love, understanding, and friendship that were always available from him in our times of need.

We have suffered a great loss as a people, a nation, a city, a community, and most of all, as individuals—we have lost a friend.

I include in the CONGRESSIONAL RECORD the obituary of Dr. Arthur C. Logan which appeared in the New York Times of Monday, November 26, 1973:

DR. ARTHUR C. LOGAN DIES; SURGEON AND CIVIC LEADER

Dr. Arthur C. Logan, a board member of the city Health and Hospitals Corporation and a well-known physician and surgeon, fell to his death yesterday from a viaduct of the Henry Hudson Parkway in upper Manhattan.

Dr. Logan, who was 64 years old, was widely regarded in his support of and personal involvement in many national civil rights causes. He was active in the Southern Christian Leadership Conference and the National Urban League.

His dedication to public service was known throughout the country. He was the object of numerous public tributes, which he often managed to transform into fund-raising events for one of his many causes. Such was the case with a testimonial dinner given in his honor at the Plaza Hotel three years ago, the proceeds of which were donated to Knickerbocker Hospital, where he was a member of the board.

A handsome, silver-haired man with a soft smile, Dr. Logan headed the city's poverty programs—as chairman of the Council Against Poverty—during the most turbulent days of the mid-sixties. He was also chairman of Hayou-Act, an organization attempting to help disadvantaged young people get education and jobs.

AUTOPSY TODAY

The police found the body at about 8:30 A.M. on the pavement at West 134th Street and 12th Avenue, about 100 feet below the viaduct. An automobile registered in Dr. Logan's name was found parked and locked in the southbound lane of the Parkway.

The police said there was no evidence to suspect foul play. Dr. Logan's papers and some money were found intact, they reported, and the car keys were in his pocket. The city's Chief Medical Examiner Milton Helpern, said an autopsy was scheduled for today.

Detective Sgt. Frank Cilento of the Fifth Detective District homicide squad said his men had reported that the death "appeared to be a suicide," but he added that the case was still under investigation.

Identification of the body was made by the widow, Mrs. Marian Bruce Logan, who was accompanied by Percy Sutton, Manhattan Borough President.

Mr. Sutton said he had talked to Dr. Logan at length on Saturday. He told Dr. Logan that the way had finally been cleared for the relocation of a city bus depot now at Amsterdam Avenue and West 129th Street near Nickerbocker Hospital. The relocation of the terminal would allow for expansion of the hospital—a move that Dr. Logan, a member of the hospital's board, had been seeking for several years.

Mr. Sutton said that Dr. Logan had told his wife before leaving home that he was going to the hospital, at 70 Convent Avenue, and then to look at the new bus terminal site, on 12th Avenue between 133d and 134th Streets, near where his body was later discovered.

"The last thing in the world this guy would do would be to commit suicide. He had everything going for him and nothing against him," Mr. Sutton said.

Mayor Lindsay, who like former Mayor Robert Wagner before him had named Dr. Logan to a number of committees serving the city, issued a statement calling him " a civic leader of extraordinary intelligence and devotion who somehow found the time and energy to express the widest range of social concerns while carrying the full load of medical practice and involvement in the medicial community."

DR. KING'S PHYSICIAN

One of the first black graduates of Columbia University's College of Physicians and Surgeons, Dr. Logan acted as personal physician to many noted people, including the Rev. Dr. Martin Luther King Jr., and Duke Ellington. During the Poor People's March on Washington in 1967, he mobilized a medical team to treat the demonstrators camped out in tents in "Resurrection City."

He was one of the original partners in the Upper Manhattan Medical Group, serving the community in lower Washington Heights for more than 20 years. In addition, he found time to be active in his West Side neighborhood, helping to form an organization to lobby against what the group saw as the overbuilding of low-income housing in the West Side Urban Renewal Area.

Dr. Logan was born in Tuskegee, Ala., where his father was treasurer of Tuskegee Institute. He graduated from Williams College.

Besides his wife, Dr. Logan is survived by a daughter, Mrs. Adele Logan Alexander of Washington; a 10-year-old son, Warren Arthur; two brothers, Harold K. Logan of Tuskegee, and Paul H. Logan, of Lafayette, Calif., and two sisters, Miss Louise T. Logan and Mrs. Myra Logan Alston, both of New York.

RICHARD S. ROBIE, SR., DISTINGUISHED CITIZEN 1902–73

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. WYMAN. Mr. Speaker, recently one of New Hampshire's most distinguished and well-liked citizens was called away from us. Richard S. Robie, Sr., was not only a good personal friend, but he was a beloved civic leader, outstanding citizen, and leading businessman.

His eulogy by Rev. George M. Hooten, given at Trinity Church, is such a significant, beautiful, and deserved tribute that I include it in the Record at this point:

To Rejoice and Do Good in His Life

Dr. Edgar N. Jackson, perceptive author of a number of books dealing with the meaning of death and bereavement, makes an interesting observation.

"Death is not merely an event in the function of a highly complicated biological entity," he writes. "It is also the final chapter in the private earthly history of an individual. Therefore it has its own special meaning, and it may well draw that meaning from the context of the life that has been lived."

As we today remember and celebrate the earthly life of Richard S. Robie, Sr., Dr. Jackson's observation is highly pertinent. We pay our tribute of respect and love to one whose death does draw meaning from the context of his life, for his life is stronger than death. We're going to miss him. He lived among us with enthusiasm for life and work. Vast energies were both exhausted and recharged by the diligent pursuit of ever more challenging personal and community goals.

One keynote for our memory of him is found in the passage we read from Ecclesiastes 3:1–12, which speaks of the baffling contradictions which come to persons in the course of experience. Birth and death, getting and losing, mourning and dancing, weeping and laughing, loving and hating—there are times in life when all of these are appropriate responses to our work and our circumstances.

God has given what Koheleth calls this "travail" to all of us to be "exercised" by it. Why? Well, Koheleth the preacher of Ecclesiastes doesn't know why. God has put eternity in his heart, but even so, *he* cannot find out the whole meaning of God's purposes. However, he does know one thing with conviction! All these baffling contradictions have meaning and purpose for God. Therefore they cannot destroy the goodness of life. Therefore he will rejoice and do good in his life, and leave the rest confidently to God!

This was the attitude which motivated Dick Robie to make genuine contributions to civic health, through the integrity of his business life and his vigorous participation in fraternal and political and Church life. As many of you can testify, in all these endeavors his words were matched by his deeds, his loyalty to associates created long, close friendships, and he kept himself and others rising to new challenges.

But ever more lasting than these, his life is so intertwined with creative activities in the greater community of Boston, that both directly and indirectly, we will long continue to support and pay tribute to and benefit from the healing, serving institutions he helped to bring into being. The Children's Hospital, the Jimmy Fund, the 100 Club—these are dynamic ongoing memorials, which have been and will continue to be sources of healing and comfort to countless children and men and women who never knew him, who wouldn't recognize him if they saw him. These are the major and visible things. And there are the relatively smaller things too numerous to mention which ministered to just as seriously felt human needs.

Here today we can say "Thanks"—on behalf of all these persons and community as a whole—for the insight and the persistent energy and the organizing ability he brought to important civic matters. And we too can "rejoice and do good" in our life.

But recognition of his public life—significant as that is—is not enough for us today. We remember his private person, the peculiar qualities of talent and temperament and courage and character that we lived with and worked with.

The other keynote for our memory of him is found in the passage we read from Paul's 2nd letter to the Christians in Corinthians 4:6–5:1. This passage deals with the baffling contradictions of life too, but its point of view is intensely personal. Paul, who wrote it, knew about all the inner trials and bewilderments that life can send to human beings. He had experienced them in his person. But he kept on being enabled to transcend doubts and hurts, defeats and perplexities—because he placed them within the context of God's continuing, creating, transcending love. So he did not lose heart. He did not fail in courage.

This is the Dick Robie you and I encountered. Anyone who strives with such restless determination is bound to risk failure and frustration. But he kept a remarkably realistic confidence that the purposes of his effort were somehow going to be fulfilled—even though the goals might have to be rethought, redirected, greatly altered.

He was a practical personal faith in the bed-rock faithfulness of God to all creation and especially to persons. Early this past summer we had a long and serious talk in his bedroom. He had just returned from a trip into Boston for one in a series of treatments. I pulled up a chair by his bed and our conversation ranged across the concerns of his life—his children and grandchildren, his wife, his friends, his work, his illness. At one point I asked him: "How are your spirits? It must be disturbing to know that these treatments you're getting are of limited effectiveness."

"Well", he replied, "I've had over 70 good years, and many things to be glad for, especially my family and my friends. I look at it this way—every day I get now is a bonus for us and I'm glad. But I'm not afraid of what the future will bring. It comes to all of us."

He did not lose heart! His outward humanity was in decay and he knew it. Yet day by day he was being inwardly renewed.

When I was in Seminary—a good many years ago—one of my fellow students gave me a small plaque to hang on my study wall, saying to me. "This is the way I think of you." The plaque showed a swash-buckling young man dressed in leather medieval doublet, feet wide-spread and solidly set, holding a long sword in both hands. The inscription reads:

> "May This of me be said
> When I'm at rest:
> He challenged failure, undismayed,
> And did his best!"

This is the person whose life you and I remember and celebrate today with respect and admiration and affection and gratitude and love. This is the person whom we commend into the larger life in God's eternal keeping. We'll not forget him!

Prayers of Thanksgiving

O God, to whom every human soul is forever valuable, we command the keeping of thine eternal, creating love, the living soul of our beloved Richard, and thank thee for everything in his life that has been knit into our lives for good.

We are grateful for keenness of insight and soundness of judgment in evaluating persons and circumstances;

For restless, driving energy directed toward challenging personal goals;

For realistic confidence that out-faced innumerable frustrating difficulties;

For thoroughgoing integrity of thought and word and deed;

For constancy in appreciation and respect of persons who worked for him and with him, and for the trust and loyalty he gave and received in long-lasting friendships;

For sensitivity to persons in deep need, and the loving concern large enough to effect lasting, practical help for sick children and bereaved families;

For devoted and generous service to

Christ's Church, and a bed-rock faith in the goodness of God that could accept illness and death in conquered in spirit.

For joy in music and hearty laughter;

For love and affection and happiness shared in long years of marriage with Helen;

And the wise and loving counsel that helped to mold character in child and grandchildren;

And we especially are thankful for all the intimate personal experiences shared with him, which we now remember before thee in our minds and hearts.

Bless these memories, Our Father, to our strengthening and serenity, through Jesus Christ, our Lord, Amen.

LONNIE FIELDS—18-YEAR-OLD RECEIVES RED CROSS HIGHEST AWARD: THE CERTIFICATE OF MERIT

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. DANIELSON. Mr. Speaker, in these times when human beings are constantly being accused of not caring about their fellow men, it is heartening to hear about someone who will put another's life before his own. Therefore, I would like to share with my colleagues the story of a young man who recently risked his life to save the life of a friend.

Lonnie E. Fields, of El Monte, Calif., was on the bank of the Colorado River in Blythe, Calif., on September 3 of this year, when his companion was pulled under by the current as he was swimming in the river. Lonnie entered the water, brought his drowning friend to safety, and revived him.

I am proud that Lonnie is a resident of my congressional district. Born on April 5, 1955, Lonnie is the son of Clarence and Patrica Fields, of El Monte. After graduating from high school a year ahead of time in June 1972, Lonnie joined the Navy. He is now serving aboard the U.S.S. *Okinawa* as a machinist mate fireman.

The American Red Cross is going to honor Lonnie for his courageous act with its highest award, the Certificate of Merit. Following is the letter I received from the Red Cross describing Lonnie's actions and informing me of the award:

THE AMERICAN NATIONAL RED CROSS,
Washington, D.C., November 26, 1973.

Hon. GEORGE E. DANIELSON,
Cannon House Office Building,
Washington, D.C.

DEAR MR. DANIELSON: I wish to bring to your attention a noteworthy act of mercy undertaken by one of your constituents, Mr. Lonnie E. Fields, U.S.S. *Okinawa*, Long Beach Naval Station, Long Beach, California 90801, who has been named to receive the Red Cross Certificate of Merit. This is the highest award given by the American Red Cross to a person who saves a life by using skills learned in a Red Cross first aid, small craft, or water safety course. The Certificate bears the original signatures of the President of the United States, Honorary Chairman, and Frank Stanton, Chairman of the American Red Cross. Presentation will be made by the Long Beach Chapter, Long Beach.

On September 3, 1973 Mr. Fields, trained in Red Cross first aid, was on a river bank when his companion, who was swimming in the river was caught and pulled under by a current. Immediately Mr. Fields went to the aid of the victim and brought him safely to the beach. There he began to administer artificial respiration to the unconscious man and continued until he resumed breathing. Mr. Fields administered other first aid until help arrived and the victim was taken to a hospital. He recovered completely and was released a few hours later. Without doubt Mr. Fields' skills and knowledge saved the victim's life.

This action exemplifies the highest ideal of the concern of one human being for another who is in distress.

Sincerely,

GEORGE M. ELSEY.

A BRACELET LEADS A GIRL TO HER POW

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. HELSTOSKI. Mr. Speaker, a rather unique, tender story concerning a Vietnam POW and a young girl who would not give up hope appeared November 25 in the Record, a daily newspaper serving Bergen County, N.J.

Months after our POW's had been released, sixth-grader Jodi Barnes of Saddle River continued to wear a POW bracelet because she thought the man whose name was on the bracelet, Capt. Dennis Chambers, was either dead or missing in Vietnam.

One day, a substitute teacher in Jodi's class approached her to inquire about the bracelet. "I saw the name," the woman later explained, "and I felt myself blushing and I blurted out, 'That's my husband and he's home.' " Jodi's substitute for the day, as it turned out, was Mrs. Dennis Chambers, and her husband was alive and well and living nearby.

Mr. Speaker, I found this story to be quite moving and as a result I would like to take this opportunity to share the article with my colleagues. The article follows:

A BRACELET LEADS A GIRL TO HER POW

(By Adrian Peracchio)

Sixth-grader Jodi Barnes wore a POW bracelet this year because she thought the man whose name was on her wrist was dead or lost in Vietnam.

But last week, Jodi, 11, found out that Capt. Dennis Chambers was alive and living a few miles away in Upper Saddle River.

Jodi was wearing the narrow metal band last week at the Wandall School in Saddle River when a substitute teacher took over for Jodi's art teacher for a day.

The substitute teacher was Mrs. Dennis Chambers.

Jodi had scanned many papers last spring but did not find Capt. Chambers' name on the lists of released prisoners of war. When Joanne Chambers approached her, she still didn't know.

"The teacher came over to my table, she saw I had the bracelet, and asked me, 'Did he ever come home?' and I said I didn't know," Jodi recalls. "Then, she asked me what his name was and I showed it to her. She went a little red and she sort of just smiled."

"I still can't get over it," Mrs. Chambers said. "I saw the name, and I felt myself blushing and I blurted out, 'That's my husband, and he's home.' "

This weekend, Jodi met Chambers at the home of her parents, Raymond and Barbara Barnes, at 19 Elden Drive.

A DIFFERENT PICTURE

After she met Chambers, 32, a tall, well-built Eastern Airlines pilot with a sprinkling of premature grey in his hair, Judi said he didn't fit the mental image she had of him for all the months she lived with his name.

"I always pictured him sort of short, you know, and well, kind of skinny," said Jodi, shrugging, "but he looks much better than I thought." The pilot had spent five and a half years in North Vietnamese prisons.

The former Air Force-pilot, who flew jet fighter sorties from Cam Rahn Bay, was shot down by anti-aircraft fire some 30 miles north of the demilitarized zone on Aug. 7, 1967, on his 101st mission, seven months before he was scheduled to return home.

Chambers now again finds himself a casualty, this time of the burgeoning energy crisis. The pilot, who flies shuttle flights for Eastern, said the airline has announced he will be laid off Jan. 31, along with another 360 pilots.

The Chambers live in Upper Saddle River at 60 Eagle River Road, where they moved recently because of his airline job. The layoff will force them to return to California, their birthplace.

"Then I will probably have the time to answer the 4,000 letters I have received from people who have written to me since my release," Chambers said. "I have them stored away in Texas, where I was last stationed."

To complete that task, he has had a message of thanks printed in large quantities. On the printed handbill are photos showing Chambers at the moment of his release, still gaunt from the thin prison diet.

"I was down to 170 pounds from 225 when I was captured," Chambers said.

INCREDIBLE BOREDOM

"I spent some time in a prison camp near Son Tay, the compound that was raided Nov. 21, 1970; then they moved us to the Hanoi Hilton and I stayed there for the rest of the time," he said.

"The boredom was incredible," he remembers. "They committed intellectual murder on us. There was absolutely nothing to occupy the mind."

CARDINAL MOONEY OF YOUNGSTOWN AND WESTERN RESERVE OF WARREN FINISH 1-2 IN OHIO HIGH SCHOOL FOOTBALL

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. CARNEY of Ohio. Mr. Speaker, my home State of Ohio has long been known for producing the best football players in the United States. A quick check of the college football rosters will show more players from Ohio than from any other State in the Union.

Ohio is always well-represented on the All-America teams at the end of each college football season. In addition, the Ohio State University Buckeyes are perennially among the top 10 college football teams in the country. Last, but not least, Miami University of Ohio is the cradle of football coaches, including Woody Hayes, Bo Schembechler, Ara Parseghian, Paul Brown, Weeb Ewbank, Paul Dietzel, Johnny Pont, and Alex Agase, to name a few.

A year ago, all Ohio high school football teams were computerized and divided into four regions. I am proud and happy to report that the top two high school football teams in the State of Ohio this year are located in the 19th Congressional District, which I have the privilege to represent. Western Reserve High School of Warren routed previously undefeated Bowling Green High School by a score of 30–0, and Cardinal Mooney High School of Youngstown defeated previously unbeaten Moeller High School of Cincinnati by a score of 34–7 to reach the finals of the Class AAA State Championship.

On Friday evening, November 23, Youngstown Cardinal Mooney and Warren Western Reserve played for the Class AAA title before 30,000 fans in the Akron Rubber Bowl. Western Reserve had beaten Cardinal Mooney during the regular season by a score of 6–0. This time, Cardinal Mooney won the game and the championship by the score of 14–3. For Western Reserve, the defending champions, it was their first loss in 28 games. Both teams finished the season with identical records of eleven wins and one loss.

The Cardinal Mooney High School championship team was led by senior halfback Ted Bell, who may be the best high school football player in the country this year. Ted Bell scored 31 touchdowns and gained 2,145 yards rushing this season, and a total of 4,428 yards rushing in three seasons of varsity football.

For the first 2 years that the computerized high school football championships have been in effect in Ohio, the class AAA title has been won by a team from the Mahoning-Trumbull County area. But, just as important as winning the championship is the way the game was played. In that report, both Youngstown Cardinal Mooney and Warren Western Reserve are true champions. With their good sportsmanship and sense of fair play, the teams, coaches, students, and fans of both schools exemplified all that is best in amateur athletics. The spirit, pride, and dedication of Coach Don Bucci and his Cardinal Mooney Cardinals and Coach Joe Novak and his Western Reserve Raiders are deserving of the highest praise. Both of these fine teams are a credit to their families and their communities.

Mr. Speaker, I would like to mention the names of the Youngstown Cardinal Mooney and the Warren Western Reserve football teams at this time. The members of the Cardinal Mooney football team are: Bob Sammartino, Rich Marsico, Tim Fyda, Bill Thornton, Mike Lodyn, Brian Cicuto, Rich Yash, Dave Handel, Dave Lockshaw, Ron Pasquale, Ted Bell, Bob Carney, Mike Lokey, Kevin Tomasko, Jody McCulloh, Mark Malie, Jeff Johnson, Tom Fabiny, Charles Peace, Andy D'Apolito, Bill McClure, George Horney, Faiola, Loncar, Casanta, Nichols, Bertrando, Pakalnis, Barnhart, and Head Coach Don Bucci. The members of the Warren Western Raiders football team are: Marty Murray, Phil Linton, Bill Pumphrey, George Powell, Neal Hall, Willard Browner, Bill Williams, Rick Huston, Ed Manusakis, Greg Patterson, Don Henderson, Steve Ellis, Willie Lewis, Larry Rihel, Ponce Henderson, Aaron Brown, Bob Kascsak, Larry Mallory, Brian DeCree, Jim Browner, Chuck Aldridge, Joe Smith, Dan Anderson, Jeff Foltz, John Fauvie, Sheldon Beaver, Harrah, Rile, Tackett, Baker, Albani, Hampton, Schock, Bell, Alden, and Head Coach Joe Novak. I wish to extend my sincere congratulations to each and every one of these individuals for a most successful football season.

GILMAN CALLS FOR EMBARGO ON OIL EXPORTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. GILMAN. Mr. Speaker, I am introducing legislation today calling for a 6-month embargo on the exportation of crude oil and crude oil products as well as on equipment used in extracting crude oil.

The energy crisis that is now upon us presents the United States with one of its greatest challenges since the Second World War. Increased demand as the result of a rapidly expanding economy coupled with a shrinking supply of conventional natural resources has produced a shortage threatening to disrupt the life of all Americans.

Now, because of this and because we have not developed backup sources of energy supply, we are confronted with drastic cutbacks and colder homes.

While Americans are tightening their belts, I have been informed by officials in the Commerce Department that we are still exporting our oil to customers overseas. At the same time, I understand that we are continuing to supply the Arab nations that have cut off oil to us with equipment and drills necessary to extract oil from their fields.

Administration officials have pointed out that the total exports of oil in 1973 will amount to approximately 53 million barrels. In these critical times, however, if we export one barrel, this is one barrel too much. As the President has stated, every little bit of oil that can be saved will help.

At a time when we are calling upon our citizens to make untold personal sacrifices to help meet this crisis and to carry us through it, it is essential that Government do all it can to insure the maximum availability of oil for our use.

Accordingly, I invite my colleagues to join with me in sponsoring this measure to cut off our oil exports and I request that the full text of this bill be printed in the RECORD:

H.R. 11665

A bill to establish a temporary embargo on domestically extracted crude oil, crude oil products, or equipment used in extracting crude oil

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That during the one hundred and eighty-day period, beginning on the tenth day after the enactment of this Act, no person may export from the United States (1) any crude oil extracted from any of the fifty States, (2) any unfinished oils or finished products which are manufactured, in whole or in part, from any crude oil extracted from any of the fifty States, or (3) any equipment used in extracting crude oil. For the purposes of this section, the term "unfinished oils" and "finished products" shall have the same meaning as are given terms in Proclamation Numbered 3279, dated March 10, 1959, as amended.

SEC. 2. Whoever violates this Act shall be subject to a fine of not more than $1,000,000.

PRESSURE FOR IMPEACHMENT COMING FROM OLD FOES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. CRANE. Mr. Speaker, when former special prosecutor Archibald Cox was relieved of his duties and former Attorney General Elliot Richardson resigned, the news media in our country paid a great deal of attention to the mail directed not only to the White House, but also to Members of Congress, supporting the impeachment of the President of the United States.

I recall numerous stories indicating that Western Union was doing a record business and had fallen behind in delivering the telegrams to President Nixon and to Members of Congress urging that Mr. Nixon be impeached immediately for his actions.

I am sure that many of my colleagues will agree that the volume of telegrams, post cards, telephone messages, and letters was overwhelming and certainly taxed our staffs in the days immediately following the dismissal of Professor Cox.

What the news media has not done, unfortunately, is to follow up this initial "big story" with the necessary facts which would put it in perspective.

For example, one of our colleagues has admitted that an office FTS telephone was used by an associate of Mr. Ralph Nader to help generate impeachment mail.

As further evidence that much of the mail and pressure demanding President Nixon's impeachment was the result of organized campaigns or came from persons who did not want President Nixon to be in the White House in the first place were the various surveys conducted by Members of both the Senate and House of Representatives which indicated that the vast majority of their "for impeachment" mail came from registered Democrats or persons who freely admitted they were active in Senator GEORGE MCGOVERN's campaign last year. I have personally done some research in my district, concentrating on an area that is very evenly divided politically, and have learned that 5 of every 6 demands for impeachment which came from registered voters came from registered Democrats.

Since the initial outburst of mail, my office has received over 4,000 letters, telegrams, and phone calls on the question of impeachment. As of today, they were running roughly 52 or 53 percent in support of the President and against impeachment. Not one of the reporters who questioned my staff 3 days after Professor Cox's dismissal has followed up to determine how the mail is running today.

To be sure, much of the mail on both sides of this issue has been the result of organized campaigns and most certainly is not indicative of the wishes of the general public.

A radio station in Chicago, WNUS, recently conducted an editorial campaign to determine the views of its listeners on the question of impeachment. From October 24 through November 6, WNUS solicited the views of its listeners and indicated that all mail would be forwarded to the various Members of Congress representing the Chicago area.

In a letter from Mr. Harry King, program director of WNUS, I was informed that of 686 pieces of mail, 529 listeners opposed the impeachment of the President and only 157 favored the impeachment of the President. I think it is important to point out that WNUS has listeners throughout the Chicago area, including the predominantly Democratic city of Chicago, and the predominantly Republican suburban area. Although the results of this survey, just as the results of our mail, are not necessarily indicative of public response, I believe this spontaneous demonstration of listeners of WNUS certainly is a much more valid indicator than the organized campaigns demanding the President's impeachment.

Mr. Speaker, I would like to commend WNUS for its efforts to shed a little bit of light on the views of Chicago area residents on this important question and I would like to include their editorial for the benefit of my colleagues:

SILENT MAJORITY NO. 1

Like our listeners, WNUS too, is greatly concerned about the controversy over impeachment in our nation's capitol. WNUS is providing it's listeners, the silent majority, with the opportunity to express their opinions regarding impeachment of the President of the United States to their elected representatives. Simply send a postcard, stating whether you favor or oppose impeachment of the President, to "Silent Majority", WNUS, 24 West Erie Street, Chicago, Illinois, 60610. Include your return address and zip code. All mail will be forwarded by this station to your Congressmen. Tell your friends about this opportunity to let their views be known, too. Write today, to "Silent Majority", WNUS, 24 West Erie Street, Chicago, Illinois, 60610.

IS JUDGE SIRICA IMPARTIAL?

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. SNYDER. Mr. Speaker, I ran across the following article in the November 8, 1973, issue of the publication of Christian Heritage Center of Louisville, Ky.

If it is true that Judge Sirica has admitted that excessive sentences were given any defendant in any case as a form of pressure, then it is obvious that his qualifications need to be examined in light of the fact that he, too, has sworn to uphold the Constitution.

The article follows:

IS JUDGE SIRICA IMPARTIAL?

Some facts have come to light concerning the career of Federal Judge John J. Sirica which should be taken into account—especially since his Court has jurisdiction in the cases involving President Nixon and the Watergate tapes. This is a report from The Washington Observer, September 15, 1973:

"In 1957, when John Sirica had mustered enough political support from his native Connecticut for judicial appointment, he was seeking to fill a vacancy on the U.S. Court of Appeals. But he was blocked from this appointment by the then Vice-President Nixon, so that he had to settle for an appointment to the U.S. District Court of D.C. He has never forgiven Nixon."

There is also considerable evidence that the civil rights of both Watergate defendants, G. Gordon Liddy and E. Howard Hunt, Jr., have been grossly violated. Both were put under long prison sentences and incarcerated under "cruel and inhumane" conditions in the jail of Washington, D.C. This was done for the sole purpose of breaking them down into further confessions acceptable to the Court. This is not American justice—it is the principle of a totalitarian court. (Judge Sirica later admitted in court that the sentences were a form of pressure on the defendants).

Mr. Speaker, I believe the readers of the RECORD will find of interest also the column of William F. Buckley, Jr., entitled "Sirica: A Cruel, Badgering Judge" which appeared in the Washington Star-News on November 27, 1973, in corroboration of the above charge. I insert Mr. Buckley's article at this point:

SIRICA: A CRUEL, BADGERING JUDGE

(By William F. Buckley, Jr.)

Now that Judge Sirica has handed down his final sentences on the Watergate Seven, it is appropriate to remark the singular cruelty of this judge. It is curious that our culture asks us to dull our minds to the deficiencies of individual justices. Yet one must suppose that no one resents this categorical sycophancy more than the judges themselves, who must be particularly appalled at the slovenly work of some of their delinquent brothers.

Doctors resent quacks more bitterly than other men do, and for the same reason that judges who struggle to be fair and patient and even-handed must resent the unfair, impatient and volatile behavior of those few members of their fraternity who nevertheless dispose of the great powers and prestige of the judiciary. Thus even President Nixon was constrained, in referring to Judge Sirica in one of the Watergate broadcasts, to compliment the judge.

During the Watergate trial, Judge Sirica snapped, "I couldn't care less about what happens to this case on appeal . . . I couldn't care less what the Court of Appeals does, if this case ever gets up there."

Obviously he doesn't care. On Nov. 17, one more time, the Court of Appeals reversed a ruling of Judge Sirica, commenting that he had "exceeded his discretion," which is rather like issuing a bulletin to the effect that Leo Durocher had exceeded his knowledge of English.

A court-watcher was quoted by the Washington Post as noting that Sirica's rate of reversal in the appeals court "is among the highest of the District Court judges." His recent lionization is purely ideological, and has brought reproof from such as the ACLU's Joseph L. Rauh Jr., who said "it seems ironic that those most opposed to Mr. Nixon's lifetime espousal of ends justifying means should now make a hero of a judge who practiced this formula to the detriment of a fair trial for the Watergate Seven."

That to be sure is the view of a liberal doctrinaine. The *Washingtonian*, a magazine of similar leaning, recently listed judges who should be removed from the bench, and prominently included Judge Sirica. But the analysis stressed that the case against Sirica is hardly philosophical. Rather, it is based on "Sirica's careless legal errors, his short temper, his inattentiveness to court proceedings, his misguided view of the purpose of judicial power, his lack of compassion for his fellow human beings, and strange as it now seems, his lack of interest in the truth."

In the Watergate case, Sirica "badgered, accused, and castigated witnesses, prosecutors, and defense lawyers. He read transcripts of confidential bench conferences to the jury. He used the threat of lengthy sentences to force defendants into abandoning their constitutional rights. He turned the trial into an inquisition, and justice into a charade."

So now the judge has turned the key tighter on the Watergate jailhouse. His most conspicuous victim, my friend Howard Hunt, is to be put away for 2½ to 8 years. Never mind that his family of four children is left utterly adrift, that his wife was killed, that he did a lifetime's honorable service for the United States Government, that he never before was guilty of double parking. One tragic error in judgment, unrelated to any selfish purpose; and indeed conceived by him, however wrongly, as in the interest of his country.

Before another judge, under such circumstances, it would have been three months, suspended sentence. One wonders why Judge Sirica doesn't just keep a big noose in his courtroom, saving himself, and the Court of Appeals, no end of time.

THE DECLINE AND FALL OF THE NEW MATH

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. HUBER. Mr. Speaker, any parent who has tried to cope with the "new math" in recent years in working with their school age child, knew that something was wrong. It was cumbersome and the kids just did not seem to learn the basics involved. You can now spot these "new math" graduates at the checkout counters puzzling over the simplest computations that in earlier days everyone was taught to do in their heads. It is, therefore, heartening to learn that the educators have realized the error of this approach as shown in the article that follows from the Detroit Free Press of November 26, 1973. I commend it to the attention of my colleagues who are interested in basic education for our children.

PARENTS, TAKE HEART—NEW MATH IS KAPUT

CHICAGO.—The new math has flunked out.

To the joy of frustrated parents across the country, math editors for two of the nation's major textbook publishing houses have dumped the numbo-jumbo of modern math and are going back to plain old 2 plus 2 equals 4.

The biggest problem with new math—which became popular in the early 60s—was its forbidding vocabulary, said John Jenkin, editor of elementary math books for Silver-Burdette Publishers.

"Throughout that whole decade we moved from emphasizing math by memorization to emphasizing an understanding of why numbers work the way they do," he said. "We thought if children could understand the 'why,' they could figure out the 'hows' more easily. But it turned out to be too much theory and too little problem solving."

Students just didn't get enough drilling and practing, according to Jenkin.

"Students could say that 9 times 8 equals 8 times 9, all right, but they didn't have the foggiest idea that 9 times 8 equals 72."

Many of the new math textbooks were riddled with difficult words, like "commutative and associative properties," incomprehensible to elementary students. Parents and teachers were upset, Jenkins said, and often couldn't figure out what the books meant themselves. Of course, the books were especially hard on poor readers.

"By 1968, we (at Silver-Burdette) knew things about the new math were really going awry," Jenkin said. "The problems were coming through too clearly, and, even though we had been pretty conservative in our books, we knew we had to get started on some new ones. Test scores were coming back showing that kids couldn't even add a grocery bill, and parents were nearing the end of their strings."

So in its new math texts Silver-Burdette has let splashy colors and cartoon characters replace all those heavy words in math textbooks.

"I suppose we've been influenced by Sesame Street a great deal," Jenkin said.

"We haven't swung back to the old system entirely, but we are doubling back so the kids will get an emphasis on the basic skills. Drill is not a dirty word any more. During the heydey of new math you could hardly find a teacher who would even say the word drill; it was really taboo."

Dick Monnard, math editor for Addison-Wesley, echoed most of Jenkin's observations, adding that his company, too, is junking the complicated vocabulary of new math.

"It's the old accountability game," Monnard said. "In 1963, we had eighth-graders testing at 8.8 on math problems; 10 years later new math had eighth-graders testing at 7.8. Something had to change, so we're zeroing back in on basic skills. Of course, we'll still teach for understanding like we did in new math, but we won't go overboard this time."

Houghton-Mifflin's school editor, Richard Smith, was not so critical of the new math. His company, he said, has continually maintained a careful balance between the old and new math programs and therefore is not radically changing its elementary texts.

"I don't think we ever made any serious mistakes about new math," Smith said. "We've never neglected the drilling and have always had just the right balance between computational skills and sound pedagogy."

ASININE SQUABBLE BETWEEN CONGRESS AND THE UNITED STATES IS DANGEROUS TO THE NATION

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. MILFORD. Mr. Speaker, since coming to this Congress, only a few short months ago, I have addressed this body several times in an effort to point out the dangers to the Nation of the asinine squabble that is going on between the administration and the Congress.

Once again I would like to address myself to this problem, while at the same time, displaying visible evidence to prove my point.

Mr. Speaker, I insert a letter from Mr. Pat Moran, fuel allocation officer for the State of Arkansas; that was addressed to the Honorable Rogers C. B. Morton, Secretary of Interior, in the RECORD after my remarks.

This letter speaks for itself. It also very eloquently speaks to every Member of Congress and to every officer in the administration. I strongly urge everyone to stop and consider what you are doing to this Nation.

ARKANSAS PUBLIC SERVICE COMMISSION,
Little Rock, Ark., November 19, 1973.

Hon. ROGERS C. B. MORTON,
Secretary of Interior, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: During the past month I have attended approximately three briefings at the invitation of your agency, or the Energy Policy Office, which were supposedly designed to bring appropriate state officials up to date on the workings of the newly formed "middle distillate fuels allocation program" formulated and announced by the Energy Policy Office for implementation by the Department of Interior, effective November 1, 1973.

My knowledge of the "middle distillate allocation program" was, and still is, what I have gleaned from a careful reading and re-reading of the program as it was printed in the federal register when it was first announced. Much of the publicity surrounding the initiation of this program emphasized that the individual state governments were expected to play an important role in carrying out its day to day operation. In an effort to learn in more detail how the State of Arkansas could do its part during the current energy shortage, I have attended these briefing sessions of your department, all to no avail; the speakers are not sure of anything when questioned by the various state officials in attendance.

However, the particular briefing which takes the cake, so to speak, was the one in Dallas, Texas last Friday morning, November 16. This meeting, to which each Governor in this region was asked to send a representative, was addressed by Under Secretary Whitaker in your absence. Secretary Whitaker delivered an absolutely ridiculous speech (although it was mercifully short) in which he sought to convince the audience that President Nixon had seen the present fuel shortage coming for years and that it was the Congress who was at fault for failure to act.

Secretary Morton, most of the people in the Dallas audience last Friday came in an effort to get some answers about the day to day workings and administration of the fuel allocation program being sponsored by your department. What they received was a thinly disguised political speech which no one appreciated. In the current stage of the energy shortage we are surely past playing the asinine game wherein one branch of our government blames another for our troubles (a point very aptly made by Congressman Milford of Texas at the Dallas meeting.)

Whether it be termed "New Federalism" or otherwise, the states are ready to assume any responsibility given them in the present energy situation. In Arkansas, Governor Bumpers created a State Energy Office one week before the middle distillate program was announced. We have since doubled the force in that office and we will increase personnel again if this is needed in order to insure that no Arkansan has to bear more than his or her share of the energy shortage. Our State Energy Office has printed its own forms because we have yet to receive any forms from the Federal Government. These self-generated forms have been sent to the appropriate people throughout the fuel distribution chain in Arkansas and the completed versions thereof have been filed with your office in Washington. In connection with these make-shift forms our Attorney General recently filed a petition seeking State wide relief from our agricultural diesel fuel shortage and at this writing it appears that our prayer for relief has, in part, been granted.

The point I make, however, is that what relief we have thus far received has been almost wholly a result of a herculean joint effort by our entire Congressional delegation, the Governor's Office, and the State Attorney General. We would have been completely out of diesel fuel to harvest crops 10 days ago if we were depending upon a citizens request to make its way through local, regional, and national levels for review. So, please spare us any more Under Secretary's speeches about how much the present administration is on top of our energy problems. I don't believe we can stand it (literally).

Sincerely yours,

PAT MORAN,
Fuel Allocation Officer, State of Arkansas.

HARRIS SURVEY FINDS CONSUMERISM RISING

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ROSENTHAL. Mr. Speaker, the true test of any economic system lies not merely in determining whether it is efficient in creating jobs and profits; but in establishing whether it is fair to those it serves—the consumer.

Judging by the latest Harris Survey, our system is rapidly losing the faith and trust of consumers. Over 1,500 families were querried about the quality of products on the market today and fewer than 20 percent said they have noticed improvement compared to 10 years ago.

This is a shocking vote of no confidence in American business and industry.

Harris predicts that "a large number of industries will be in the consumer's doghouse until product and service quality appreciably improve."

Consumerism has few boundaries. It encompasses product safety and effectiveness, fair pricing, honest advertising, the availability of meaningful consumer information and the search for a truly liveable environment. The message is clear—the consumer viewpoint must be an integral part of governmental and business decisionmaking, and consumer needs and interests must be advanced.

And so we see housewives protesting the price and quality of food; consumers demanding representation on corporation boards of directors; lawsuits against Federal regulatory agencies suing for protection against dangerous children's toys and the release of Government product test information; the growth of local and private consumer protection offices, and a steady flow of letters to Congressmen from aggrieved consumers.

Consumer activity is everywhere. And although the consumer is flexing his muscles, it is still a fact that he is a second-class citizen in the marketplace. In the marketplace, the health and economic well-being of consumers continue unprotected.

Why is this? Why is it that with the steady flow of news items about consumer injustices, with the unending flow of mail to Government officials, and with the increasing self-awareness by business of the need to deal with marketplace abuses, that more has not been accomplished? Why is it that producers and retailers cannot regulate themselves? That our judicial system cannot effectively handle violations of consumers' legal rights and that government is so ineffective at legislating and administering solutions to consumer wrongs?

Let me offer some possible answers. Corporations have largely failed at self-regulation because the consumer interest and the corporate interest are often in conflict, and the public interest too often gives way to the shareholders' interest. The courts provide an imperfect mechanism for redress of consumer grievances because consumer injustices generally results in dollar losses that are too small to litigate. And, finally, Congress and the executive branch have failed to properly protect consumers because the governmental decisionmaking process is too often closed to the voice of the consumer.

There are bills now pending in Congress which would, if enacted, effectively deal with these problems.

The first—class action legislation—provides a mechanism whereby the courts would be able to resolve the dollar claims of consumers against the manufacturers of imperfect products. It would open up the courts to suits by classes of consumers who have been similarly defrauded or injured, without each individual having to hire an attorney.

Perhaps the most important consumer bill pending before the Congress—Ralph Nader called it the most important ever—is H.R. 14, my legislation to establish an independent Consumer Protection Agency at the Federal level.

This Agency will represent the American consumer in all proceedings before the departments and agencies of Government. It would, for the first time, give consumers equal clout with business when Federal decisions are made affecting the health and economic well-being of the public.

The Lou Harris survey report follows:

CONSUMERISM IN AMERICA: RISING

(By Louis Harris)

Consumerism—doubts about the quality of products people buy—is growing rapidly in the country. Compared to two years ago, the number of Americans who think the quality of most things they buy has "grown worse," has jumped from 35 to 53 per cent.

Recently, a cross section of 1,536 households was asked by the Harris Survey: "Compared to 10 years ago, would you say the quality of most products you buy has improved, grown worse, or stayed about the same?"

CONSUMER OPINION OF PRODUCT QUALITY

[In percent]

	1973	1971
Improved	19	37
Grown worse	53	35
Stayed same	24	25
Not sure	4	3

The deterioration of quality is viewed as taking place across a wide band of products. The public believes that as the quality of what it buys has grown worse, the quality of life in the country has also gone down. Coupled with worries about the energy shortage and doubts about the integrity of government, the American people feel that they have a full plate of woes these days.

To pinpoint where specific slippage in product quality has taken place since 1971, the Harris Survey asked: "Specifically, compared to 10 years ago, do you feel the quality of (READ LIST) has improved, grown worse, or stayed the same?"

SPECIFIC PRODUCT ASSESSMENT

[In percent]

	Improved	Grown worse	Stayed same	Not sure
Television sets:				
1973	61	15	17	7
1971	67	11	14	9
Drugs and medicine:				
1973	52	9	27	12
1971	66	7	15	12
Automobile tires:				
1973	49	18	20	13
1971	50	13	20	17
Packaged foods:				
1973	44	18	31	7
1971	55	12	26	7
Soap and detergents:				
1973	39	12	40	9
1971	47	15	29	9
Major household appliances:				
1973	39	28	25	6
1971	54	17	23	6
Small appliances:				
1973	35	28	29	8
1971	45	16	31	8
Automobiles:				
1973	30	46	17	7
1971	39	40	15	6
Fresh vegetables and meats:				
1973	26	27	43	4
1971	38	16	41	5
New house construction:				
1973	14	60	15	11
1971	22	47	14	17

Here are the major shifts on a product-by-product basis:

Television sets, still benefiting from consumers who are buying color TV for the first time, finished on top in the "improved" category, a view held by 61 per cent of the public. However, even more saw TV sets as improving in quality a few years back.

Packaged foods have slipped below the 50 per cent mark on "improvement," with a falloff of 11 points. Fresh vegetables and meats have also dropped 12 points in the "better" column and are up 11 in the "worse" column.

Automobiles are down 9 points in the "better" category and are up 6 in the "worse" column.

Major and small household appliances have both lost ground heavily in product quality reputation.

The biggest slippage of all was found in the case of new home construction, where the number who felt home-building quality had "grown worse" jumped from 47 to 60%. This failure of confidence in quality comes in conjunction with an expected 1974 slowdown in new housing starts in the country.

These results show that not only is consumerism very much alive among the people in 1973, but that a large number of industries will be in the consumer's doghouse, until product and service quality appreciably improve. Adding to the problem is widespread consumer unhappiness over prices. Although people are optimistic that the worst of inflation might be over next year, the fact that they have paid record prices for products they feel are growing worse in quality just compounds the national frustration.

HEARINGS ON BEEF PRICING

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. FINDLEY. Mr. Speaker, I have today urged the Committee on Agriculture to schedule hearings as soon as possible on the pricing of beef.

The price of choice live cattle has dropped in 3 months nearly 30 percent, but retail prices are down less than 10 percent.

The American consumer deserves an explanation and so does the farmer.

In mid-August, prices for choice live cattle at the Joliet, Ill., stockyards were between 56 and 57 cents per pound. On Monday of this week, choice live cattle were bringing 40 to 41 cents at Joliet, a reduction of 28 percent, according to an agricultural economist at the University of Illinois.

During August the farmer received some of the highest prices ever for cattle. Wholesale choice beef in Chicago was 70 cents. By Monday it had fallen to 63 cents, a decline of slightly less than 10 percent. The high August prices also made their way to the supermarket meat counter, but the recent price decline experienced by the farmers has not been passed on to consumers.

A Champaign, Ill., newspaper has been compiling monthly market basket totals for 5 months, including prices for six retail meat selections. Five of these reached their peak during August and September. While farm cattle receipts have recorded a decline of over 30 percent, only four of the selections declined in price, and by an average of only 9.5 percent.

Before the price ceiling was removed from beef on September 10, farmers started withholding cattle from market in anticipation of a price jump. As a result, less beef than usual came to market and demanded a premium price.

When the ceiling was lifted, the anticipated price rise did not occur, however. Instead, farmers flooded the market with over-finished cattle some weighing more than 1,300 pounds. Prices declined. Since that time, live cattle prices have continued down, but retail prices have yet to fully reflect this fact.

In August, housewives put the full blame for high prices on the farmer. They have had little relief now, and unless they follow the USDA Livestock Market News, most undoubtedly believe that the farmer is still making a "killing."

Beef prices have declined sharply on the hoof, but at the counter, little evidence of this fact exists. On a newscast last night, one supermarket owner said that he had not reduced his meat prices yet because he had to make up profits lost when he paid black market prices to get beef during the meat shortage. Such statements raise legal questions which the committee should investigate. Clearly there is a need to investigate the pricing of beef.

FEDERAL FOOD, DRUG, AND COSMETIC ACT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. TEAGUE of Texas. Mr. Speaker, in late October, the Public Health and Environment Subcommittee of the Committee on Interstate and Foreign Commerce held hearings on the many identical and similar bills pending which concern vitamins and food supplements. The bills would insert in the Federal Food, Drug and Cosmetic Act a definition of "food supplement" as "food for special dietary uses." The definition of the term "drug," which now includes "articles—other than food—intended to affect the structure or any function of the body," would be amended to specifically exclude "food supplements." The bill would also insert in the act a new section providing that the Secretary shall not, in administering the act, "limit the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, susbtance, or ingredient of any food supplement unless such article is intrinsically injurious to health in the recommended dosage." The proposed legislation further provides that the Secretary "shall not require a warning label on any food supplement unless it is intrinsically injurious to health in the recommended dosage."

My statement submitted to the committee follows:

TESTIMONY OF THE HONORABLE OLIN E. TEAGUE, M.C., BEFORE THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, U.S. HOUSE OF REPRESENTATIVES OCTOBER 29, 1973

Mr. Chairman and members of the committee: I want to thank you for permitting me to present to this committee some of my thoughts concerning the bill H.R. 643 and all similar bills on food supplements.

Firstly, however, I wish to identify myself. My name is Olin E. Teague, and I represent the Sixth Congressional District of Texas. I have served in the Congress for some 27 years, and my interest in this legislation stems from a vast amount of communication I have had with my constituents who believe they are benefiting from vitamin and mineral supplements in various potencies. I have heard from small businessmen who sell these products and, in fact, from women who wonder if the FDA is trying to bar the use of carrot juice. Mr. Clinton Miller of the National Health Federation has been in touch with me on this matter and has presented the viewpoint of his federation membership.

Government has the heavy burden of justification when it acts to limit the rights of individuals to make personal choices that do not affect or injure others. The Food and Drug Administration has spent a culmination of over ten years of work by many of the most respected scientists and professional organizations in the country on the regulations which have elicited this controversy. I certainly am not a chemist, a physician, or a scientist. I do not believe the FDA regulations should be permitted to take effect until a great many of the fundamental questions are answered. I am grateful to the members of this committee for assuming responsibility to fully explore the facts and ramifications of H.R. 643. This action will essentially cause an examination of other policies as well.

We must look at our concepts of adequate nutrition, at how the Congress has responded to these concepts, and the role at this particular time that availability of vitamins and minerals in certain potencies play in the nutrition of American citizens.

There is much confusion in the marketplace over nutrition. There is also much confusion in the scientific community and the government. I believe that this is the result of a lack of scientific knowledge and must be solved by continued extensive research and information rather than action at this time in a matter which could potentially do more harm than the good it is intended to do.

Science has determined that the human body makes some vitamins itself but often in amounts too small to meet its needs. Man is dependent on obtaining some vitamins from food, and, when circumstances prevent maintenance of a balanced diet, vitamin deficiencies result and can lead to diseases or debilities. So many factors have their effects on nutrition that not only the poor and aged but even the affluent American is radically in need of a diet change. With the increasing concern that faulty nutrition lies at the root of most major disease syndromes to one degree or another there is also concern for a new standard of optimum nutrition. Each person's metabolic machinery is as individual to him as his fingerprints. Each of us requires somewhat different amounts of the same nutrients in order to enjoy the best possible state of health for the longest possible period of time. Since most vitamins and other micronutrients are both harmless and absolutely necessary to life, it seems that regular supplementation of the diet is an act of simple prudence which an informed government and an informed medical establishment would encourage.

In summary, I believe that we can conclude that vitamins are important to health. Surveys and studies by various private and government authorities have shown varying conclusions to support this; however, no one is challenging this point. I believe that we are challenging the prudence of FDA regulations at this time to curb the potencies of certain vitamins and minerals when, perhaps, this issue should deserve more in-depth attention. We have so many things to consider aside from the scientific aspects of this issue. For example, what about this nation's elderly people? At least 20 million Americans are over 65, and scientists report that vast numbers of them are suffering from mental and physical sicknesses that simple nutritional solutions might cure. It is for people such as these that force us to use careful judgment before imposing regulations on nutritional supplements. As we all know, the cost of properly feeding our families is rising by leaps and bounds. Vitamins and other such items could provide us with a more inexpensive way of obtaining needed nutrients.

Mr. Chairman, I want to thank you for permitting me to express my views on this subject, and I urge your serious consideration of the legislation before you.

FAO NEWS

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. DIGGS. Mr. Speaker, I would like to insert for the information of my colleagues the recent release of "FAO News," by the liaison office for North America of the Food and Agriculture Organization of the United Nations. It should be noted that this release is for the use of the information media and is not an official record.

An international mission—composed of representatives from the United States, France, and European Economic Community, Canada, the World Bank, the world food program, FAO, and members of the Permanent Interstate Committee of the Six Sahelian Countries—has recently returned from an on-the-scene survey in the six affected countries. The international mission estimated that food needs in the drought area are up to 662,000 tons through September 1974. Further, the international mission found that nutritional levels of substantial portions of the population were "poor and often bad." It is urgent that we realize that although about one-third of the 662,000 tons of food needed is "in the pipeline" that the deficit which is left is about 400,000 tons. The text of the release follows:

SAHELIAN ZONE FOOD AID NEEDS AT 662,000 TONS THROUGH SEPTEMBER 1974

WASHINGTON, November 5.—An international mission that recently returned from the Sahelian Zone of West Africa found nutritional levels of substantial portions of the population "poor and often bad" and estimated food aid needs of the drought-hit region at up to 662,000 tons through September 1974. Undernourishment among nomads was described as "sometimes alarming."

The mission, composed of representatives of donor countries and organizations, made on-the-scene surveys in Upper Volta, Mali, Mauritania, Niger, Senegal and Chad from September 24 to October 15. Highlights of the mission's report were released by the Food and Agriculture Organization of the United Nations (FAO). The entire report will be on the agenda of the biennial FAO Conference which meets in Rome November 10–29.

About one-third of the 662,000 tons of food needed is "in the pipeline", leaving a deficit that could range from a minimum of 360,000 tons or go as high as 426,000 tons. In addition to the food aid grants deemed necessary, the mission estimated that another 144,000 tons should be made available on special terms for sale to people in urban areas, affected only indirectly by the drought but unable to afford to buy food at current record-high prices. Donors should make allocations for the October 1973–September 1974 period on an urgent basis, the report stated, and aid should include food products, animal feed, seeds, means of transport and storage, medicine and financial assistance.

While rainfall during the summer growing season gave hope of a slight improvement in crops as compared to the meager harvests of the recent past, the mission reported, "local production will not cover food needs," although the magnitude of requirements varies from country to country. In addition to conventional food aid, the mission recommended establishment of a supplementary allocation of 50,000 tons of food for "floating populations" which cross borders when driven from their homelands by famine conditions.

Most of the countries visited by the mission asked for an allocation of grains to constitute "security stocks", which could also be used to stabilize prices of grains. The mission felt that the 662,000 ton aid figure would cover these needs provided supplies reach their destinations on time and sound local distribution arrangements are made. But in the event of new deficits in the 1974 harvest, the mission saw a need for 242,500 tons in security stocks "to assure continuation of aid after October 1974."

The desire of the six countries for financial and technical aid for a seeds program was supported by the mission—to avoid a last minute appeal for importation of seeds at high cost and sometimes in varieties not adaptable to local conditions. FAO, with financial assistance from Oxfam of Canada, has set up a course in acquisition and management of grain seed supplies, to be given in Dakar from November 4–17 for agricultural officials of the six countries.

The mission recommended the establishment of a revolving stock of seed supplies totalling more than 36,000 tons, chiefly of sorghum, rice and groundnuts (peanuts). The report deals extensively with the region's logistics problems, which are termed "complex and difficult." Only two of the countries, Senegal and Mauritania, have sea ports. The other four are landlocked.

Food stocks should be set up in remote areas before the rains set in next year, making many roads impassable, the mission stated. Of the 662,000 tons for total food aid, 165,200 tons should be earmarked for stockpiling at points of difficult access.

The mission recognized "the essential role played by the FAO office for the Sahelian relief operations, OSRO, and attaches great importance to the logistic support which it furnished to emergency operations during last summer's disaster period. The mission stressed "the necessity of continuing this logistic coordination" during the 1973–74 emergency period covered by its report.

Among measures designed to increase food production, the mission advocated financial incentives for grain farmers: "The mission recommends that the governments consider the possibility of adopting for cereal grains the same conditions covering industrial crops, guaranteeing a minimum price and assuring an outlet for salable surpluses."

This was seen by the mission as a first step toward lifting the rural economy out of the bare subsistence level, resulting in a better distribution of revenues between the urban areas and the rural areas.

The mission was composed of members of the Permanent Interstate Committee of the six Sahelian countries plus representatives of the United States, France, the European Economic Community, Canada, the International Bank for Reconstruction and Development, the World Food Programme and FAO.

WRIGHT PATMAN, THE DEAN OF CAPITOL HILL

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. BROOKS. Mr. Speaker, under leave to extend my remarks in the Record, I include the following:

Wright Patman, the Dean of Capitol Hill

(By Craig Hines)

Washington.—Dawn's early light breaks into a brilliant fall day in the Federal City. Wright Patman steps smartly into a brisk gait that in two and one-half miles and an hour will deliver him to his office to begin his 15,934th day as a Representative in Congress from the First District of Texas. It's a walk that mixes past and present for Patman, 80, the senior member of the U.S. House of Representatives; the dean of the House, as they say on Capitol Hill; the dean of the Congress, as Patman corrects the phrase. The senior senator is Republican George D. Aiken of Vermont. He came to Washington in 1941. Patman had already served 12 years in the House by then. Patman lives in the popular and more fashionable-by-the-day section known as Foggy Bottom, a one-time Tenderloin district that now houses the State Department, Kennedy Center for the Performing Arts and, of course, Watergate. (Patman almost bought a condominium apartment in the Watergate complex but detected "bad construction" and settled for a top-floor suite in nearby Columbia Plaza.) Patman takes off down Virginia Ave. Flags of many nations are being hoisted as he passes the curving modernistic headquarters of the World Health Organization.

A car passes. Honks. The driver waves. It's Mrs. Patman headed for a meeting.

Cordons of dump trucks, bound for one of the hundreds of nearby construction sites, rumble past Patman's morning route.

He passes the State Department and steps onto the sidewalk by the new offices being built for the Federal Reserve Board.

Facing the symbol of an institution he has fought for years, Patman points out what he suspects is to be a tennis court for Fed biggies.

"Ever see such big steel beams in a building this size?" he asks. Cost? "Too durn much."

Patman has fought for years to have a congressional audit of the Fed—as the board is known—and to have its operating fund appropriated by Congress. His efforts have always failed.

"Members of Congress are told when they come here by lobbyists for the banks—(his voice drops to a confidential-style whisper)—'Don't be fighting the banks. Don't be fighting high interest. Don't be fighting monetary affairs. See, that's up to the Federal Reserve.'

"Most of the members have been brainwashed to believe that."

Patman has been chairman of the House Banking and Currency Committee for 10 years and has always faced trouble from some of his committee members when he tried to push his ideas on low interest and easy credit.

"Bankers are generously represented on the committee," Patman says with a touch of understatement.

Dodging bicycles at 19th St. Patman pushes on as the sun begins to pour across the Washington Monument grounds.

It's about 50 degrees. Patman wears a grey beaver hat and a medium-weight overcoat atop a blue pin-striped suit, blue patterned shirt and blue tie.

He reaches the southeast corner of Seventh and Constitution, site of the National Gallery of Art. Old-timers call it the Mellon Gallery after the multimillionaire Andrew W. Mellon—archest of the several foes Patman has taken on in his 44 years in Washington.

On Jan. 6, 1932, at the opening of House business, Patman rose, was recognized by the speaker, and said:

"Mr. Speaker, I rise to a question of constitutional privilege. On my own responsibility as a member of this House, I impeach Andrew William Mellon, secretary of the Treasury of the United States, for high crimes and misdemeanors."

Patman launched into a bill of particulars he had drafted against the fabulously wealthy Pittsburgh financier who had been at Treasury since the administration of President Warren G. Harding.

"Republicans began to scream to high heaven," Patman recalls, but the speaker permitted him to continue for the prescribed hour of debate, then the impeachment resolution was referred to the Judiciary Committee.

Patman held the floor of the committee hearings for two weeks, sitting alone on his side of the table facing a dozen Mellon attorneys.

Overhead planes roar toward a landing at National Airport across the Potomac River in Virginia. Patman had returned there by private jet from a speech in Florida the day before. It took one hour and 49 minutes. The first time Patman came to Washington in 1929 it took four days in a Buick from Texarkana.

"Most of it was detours," Patman recalls.

When Patman finished his case, the chairman called a recess—and before the day was out Mellon quit Treasury and President Herbert Hoover appointed him ambassador to England.

"I got telegrams from London, saying if you're going to send us a Mellon, don't send us a rotten Mellon," Patman says, "They were just giving him hell. They knew who he was."

Mellon wasn't Patman's first fight on Capitol Hill or his longest. The first day he entered the House he introduced a bill to pay off immediately the adjusted pay certificates the government had given men serving in World War I—like Patman who served 18 months in the Army, part of the time as a machine gunner.

The legislation involved more than $3 billion to 3.5 million veterans. Many in government argued it was inflationary, including President Franklin D. Roosevelt—over whose veto the bill was finally passed seven years after it was introduced.

"My enemies named it the bonus bill for the purpose of making an argument that it was free or a gift or something, when it wasn't," Patman says.

Patman vividly recalls the exact details of the payment plan and remembers one of the little tricks used to gain its adoption.

He published a book containing the number of veterans in every county in the country and how much money they would be paid.

"Of course, that was enough to excite the United States," Patman says. They thought, "We need that money. Let's get that bill passed."

After Patman passes the National Gallery he comes in full view of the Capitol, his professional home for almost a half century.

Patman began in a small office on the top floor of the Cannon House Office Bldg., oldest of the three now housing members on the south side of Capitol Hill. He had about three or four staff members. Today more than 80 are at his disposal because of his committee chairmanships.

Patman's seniority entitles him now to a Capitol view suite in the newest office building which was named in memory of House Speaker Sam Rayburn, whose north Texas district was next to Patman's. The Congressman speaks almost reverently of the late speaker.

"He's missed more here now than any other former members of Congress," Patman says, longing for leadership "like Mr. Rayburn provided. When he banged that gavel it meant something and they'd respect him."

Patman is an admitted loner, and Rayburn was one of his few close friends.

That wasn't true of Patman's relationship with another speaker from Texas, John Nance Garner of Uvalde, who was Roosevelt's vice-president for the first two terms.

Garner was "crabbed and overbearing," Patman says and he blames Garner for keeping him off the Banking Committee for his first four terms in the House.

"I would have been chairman at least 20 years before if I'd been put on it in the beginning" says Patman, who is also chairman every other term of the House-Senate Joint Economic Committee.

Another measure of Patman's tenure is the presidents under whom he has served—seven of them.

He was elected at the same time as Herbert Hoover, with whom he had no personal relationship. Patman's first term was one of the only two since he has been in the House when the Democrats were not in control. The other was the first two years under Dwight D. Eisenhower.

Patman met Franklin D. Roosevelt, when he was still governor of New York, by going to Hyde Park to see him about the bonus bill—which FDR would never support.

But after the bonus bill was enacted over presidential veto, "It was all sweetness and light. They couldn't do enough for the Roosevelts. Everything was forgiven, and it was happiness from then on.

His relationship with Harry S. Truman was "very pleasant."

"He was more of a populist-minded fellow like I was."

Patman has special admiration for Truman because "he was the only President that went to the mat with the Federal Reserve"—convincing Fed's open market committee to keep the lid on loan interest rates.

"That shows one President had a confrontation with the Federal Reserve and came out the winner," he allows.

Eisenhower was "a nice fellow," Patman recalls. "Nobody ever claimed he was too knowledgeable on governmental affairs or economic questions. But he was a good man."

Patman campaigned for John F. Kennedy and is reputed to be one of the men who convinced Rayburn to back down from his opposition to Lyndon B. Johnson joining Kennedy's ticket.

Kennedy made a 1960 campaign stop in Texarkana, a town that straddles the Texas-Arkansas line. Police estimated the crowd at more than 100,000.

Patman even campaigned last year for Democratic nominee George S. McGovern, whose candidacy was spurned by many old-time Democrats.

After Kennedy's assassination, Patman found an old friend in the White House. During Patman's four years (1921–25) as a state representative, his seatmate in Austin was Sam Ealy Johnson, father of the late President.

"When Lyndon was elected to Congress," Patman says—quoting a story LBJ often told himself—"his father took him down to put him on the train to Washington.

"And he told him this: When in doubt how to vote, vote with Wright." It was advice Johnson took only sporadically.

Patman remembers Sam Ealy Johnson as "a cowboy-type fellow . . . who could ride anything on the ranch that had hair on its back."

The elder Johnson also joined Patman in opposing the resurgence of the Ku Klux Klan.

Sam Ealy Johnson, Patman also recalls, "was a fellow with the people—like some of us who are accused of being populists are.

"You don't ever see any populists in the penitentiary. Lots of Democrats and Republicans. But you don't see any populists."

Patman says when the term "populist" is hurled his way with something less than kindness, he just says, "Thanks for the compliment." He disdains, however, the term "liberal," preferring "progressive."

Patman has always deferred to presidents on foreign policy, and he supported Richard M. Nixon's war policy to the end.

"Here a while back, he (Nixon) had what he called a Peace With Honor Day down at the White House, and I said, 'Dick, why in the devil did you invite me down here. See all these Republicans down here?' He said, 'Well, the truth is, you are one of the ones who voted (with the President) on seven of the most important issues that enabled us to have peace with honor.' "

There's a world of difference, however, in Patman's and Nixon's monetary policies. And Patman tried to launch what would have been the first Watergate investigation.

His attempt was blocked when his committee in a fiery and confused session refused to subpoena witnesses who would not appear voluntarily.

Nixon's father owned a grocery in Whittier, Calif., and Patman says the President has said the Robinson-Patman Act, a small business protection law which Patman sponsored in the House, was often discussed by the Nixon family.

The populism that spawned the Robinson-Patman Act lapses over in the Patmans' social life.

"I don't mix up much in the social life," Patman says. "There are too many parties and receptions. If you go to them, you don't have time to do your work."

He is usually in bed by 10 and up about 5:30 to read the papers and listen to the early news before starting to work—walking on the pleasant days of spring and fall, driving on the colder days of winter and in the summer heat.

In the afternoon Mrs. Patman usually picks him up at the office. He married his present wife, Pauline, in 1968 after his first wife, Merle, died in 1967. Patman and the present Mrs. Patman dated in the pre-World War I days. Then, when both their spouses died, they married.

Of the Patman's three surviving sons, only the youngest, William, is in politics. He is a state senator from Ganado, and his wife, Carrin, is active in national Democratic politics.

The oldest Patman son, Connor, is a lawyer, as is William, practicing in Texarkana. Patman says neither of his lawyer-sons takes a case involving the federal government because of a possible conflict of interest.

The middle son, Harold, is a geologist in Austin.

The heaviest socializing Patman will admit to was mixed with business in the legendary "Board of Education" meetings held almost at the end of every day Rayburn was speaker. It's where Rayburn brought hand-picked young men like Lyndon Johnson and Carl Albert, the current speaker, and taught them the ways of the House. His teaching boiled down to: "To get along, go along." It's on that advice that Patman strayed most from Rayburn's precepts.

Patman's career has not always concerned such weighty matters as were discussed at the "Board." Between his state house tenure and Congress, he was a district attorney for the area around Texarkana. He fought prostitution and praised Prohibition.

"Seems like everybody we'd catch—one of those highwaymen or one of the post office robbers or bank robbers—would wind up under some whore's bed," in the section of Texarkana known as the Swamp Poodle.

The district judge agreed with Patman's request to close down the sin strip and approved Patman packing a .38 Smith & Wesson.

"I was prepared to use it," Patman says. But the need never arose.

Patman's policies, whether about prostitution or populism, apparently have pleased his constituents.

Since the first campaign for the state house, Patman has been in 27 elections and has won them all—and has never even been forced into a runoff. Republicans usually bypass the opportunity to be humiliated by Patman.

Patman's style of personal campaigning has changed little over the years. To reach all parts of his district by television ads would be a costly proposition involving stations in Dallas and Shreveport as well as Texarkana. But Patman has not overlooked a gimmick or two. The first Congressional race was made in one of the first Ford Model A's in the area.

"Everybody was looking for the new Ford and I got more people to come see the Ford than to see me." he recalls.

His campaign strategy was simple: "If I saw two or more people I thought were voters, I'd stop my car and talk to them."

Once near Weaver in Hopkins County, he saw three men sitting around a fire beside the road. They were unimpressed.

"My name's Wright Patman, and I'm running for Congress," he told them. "Haven't you heard about it around here?"

"One of them spit on the fire and looked up," he remembers, "and said, 'Yeah, I've heard 'em laughing about it.' "

They must not have laughed very hard. In his first Democratic primary race for Congress Patman carried eight of the 11 counties in the district and defeated an incumbent of 14 years.

Will Patman, even though he's 80 keep running? Probably, he says, if his health is all right.

"I feel as good as I did when I was 45," he says. "I'm certainly more knowledgeable and I believe more intelligent and I certainly know more about the running of the government than I ever did."

Political observers in northeast Texas and beyond find it hard to imagine the circumstances under which Patman could not be reelected.

Part of Patman's political formula is one of the most thorough programs of constituent service on Capitol Hill.

About three years after coming to Congress, Patman started a weekly newsletter which has been published ever since and is carried regularly in many of the more than 50 newspapers in his district.

In the newsletter he gives his views an national issues and offers many free or low-cost government publications.

Some people get things they don't write for. Annually Patman buys (partly from honorariums which all go for the purpose) and mails out about 11,000 copies of Dale Carnegie's "How to Win Friends and Influence People." They go to high school and college graduates and other students in the district.

He also sends hundreds of baby books to new parents and household books to newlyweds. And he tries to keep track of golden anniversaries and other personally important events among his constituents.

All of this done, Patman says, so "at least they can't say they haven't heard of me."

Well, lots of people have heard of Wright Patman for a long time. From the Piney Woods of east Texas to the board rooms of Wall Street.

At the financial pulse points of the nation and world, his reception has sometimes been less than cordial.

But back home, where it counts with a politician, they apparently have liked what they heard.

ECONOMISTS SEE TEMPORARY CRUNCH, LONG-RANGE AFFLUENCE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. PICKLE. Mr. Speaker, an article in this morning's Wall Street Journal offers a note of long range optimism for the American economy. It notes that economists generally see a future of continued affluence, although spending habits may change direction a bit.

The major reason for their optimism is that they expect the economy to continue growing faster than the population. The economists also note a growing participation in the labor force by women. By last year, families with more than one worker accounted for almost 55 percent of the families headed by married men in the labor force, compared with 45 percent 10 years ago.

Economists do not expect this percentage to stay on a dramatic climb—but they do not expect large numbers of women to leave the labor force either.

I would like to include the article in the RECORD at this time:

Living With Inflation—Economists See Change in Future Spending, No End to Affluence

Consumers Cope With Spiral In Food; Buy Small Cars, Load Them With Extras; Sharing the Swimming Pool

(By Lindley H. Clark, Jr.)

As Americans struggle with inflation and energy shortages, many are finding themselves living less well. Since prices seem likely to continue climbing rapidly and the end of the energy crisis isn't in sight, are consumers facing an age of austerity?

Most economists doubt it. "I think we have a temporary aberration," says Frank P. Murphy, manager of the economic-forecasting operation for General Electric. "We still believe that affluence is going to be the theme of the consumer sector in the years ahead."

By any sort of relative standard, Americans even now aren't doing badly. The per-capita gross national product has pushed close to $6,200, still far and away the highest in the world. Japan and West Germany, especially, have been narrowing the living standard gap in recent years, but both still have a long way to go.

Inflation, moreover, isn't a purely U.S. phenomenon. Over the past half-dozen years, no major nation has a much better price record than the U.S., and several—notably, Japan—have been doing much worse.

THE PUSH FOR RESEARCH

Companies such as GE obviously are deeply interested in how much money Americans have and will have and particularly in how they spend it. To keep tabs on the consumer, they have been leaning harder on economic and marketing research.

Roy E. Moor, economist for A. G. Becker & Co. and immediate past president of the National Association of Business Economists, figures that there now are about 3,400 professional economists working for banks, consulting firms and directly for businesses. Since 1964 the average salary of association members has risen from $18,000 to $30,000, an indication of the increasing value business puts on their guidance.

The economists who focus on the consumer know that he is a hard man to keep up with. As prices of food have soared this year, for instance, it would be easy to assume that consumers would spend more on it; food, after all, is a necessity.

Actually, however, consumers in the first nine months of 1973 did 20% of their spending on food, almost exactly the same percentage as in 1972. "There was, of course, something of a buyers' strike," says Jay Schmiedeskamp, who directs the consumer-attitude survey for the University of Michigan's Survey Research Center and has many business clients. "But when people stop buying beef and eggs, they buy something cheaper." Food is a necessity but, at least in 1973, T-bone steak is something of a luxury.

SWEAR WORDS FROM CONSUMERS

Although consumers can and do adjust to changing economic situations, they don't always do so happily. Michigan's latest survey, released in mid-October, showed a deepening resentment against inflation. "I've never read interviews with so many swear words in them," Mr. Schmiedeskamp says.

The Michigan survey indicates that most consumers are looking for slower business in 1974. Most economists also are looking for a significant slowdown next year, and a growing number think that the energy shortage could mean a recession. That is usually defined as two consecutive quarters of declining gross national product, measured in terms of 1958 dollars. Analysts also look for inflation to persist with a shove from the energy crisis; a majority, in fact, think that prices will rise at an annual rate of 4% to 5% for at least the next five years.

Nonetheless, the business economists think that consumers will find ways to cope—spending less on new houses, cars and some other items next year but expanding total outlays in 1974 and on into the future. "Consumers may have some trouble in the short run in adjusting to inflation," says Paul J. Markowski, chief economist for Laidlaw-Coggeshall Inc., "but inflation will push up their incomes right along with prices."

SMALLER AUTOS

One way that consumers may already have been adjusting is by purchasing smaller cars; General Motors as a result, is closing 16 plants for a week in December to cut big-car output. The trend reflects a desire for economy not only in initial prices but also in fuel consumption. Auto makers already had been altering production schedules to meet demand, but they are having some trouble keeping up.

At the same time, though, auto men are convinced that consumers aren't going all the way for austerity. M. W. Worden, vice president-marketing staff of GM, recently commented that customers aren't really forsaking comfort and convenience. "In the model year just ended," he said "61% of all GM intermediate or smaller cars were equipped with air conditioning, 38% had vinyl roofs and countless numbers had the plushest interiors, the fanciest trim packages we offer and stereo radios."

A. A. Groppelli, director of economics and investment strategy for Cowen & Co., notes that consumers also swung to smaller cars around 1960 but that the swing didn't last long. By the mid-1960s purchasers were choosing size and power once again. This time he figures the swing to the smaller models will be longer-lasting.

Economists generally expect consumers to buy fewer cars of any kind in 1974. Mr. Worden of GM thinks that total passenger-car sales, including imports, "could approach 11 million units" in the 1974 model year, down from 11.8 million in 1973.

Higher prices aren't the only reason. Consumers stocked up heavily on cars, appliances and houses in 1972 and 1973, and needs aren't so great any longer. With consumers growing increasingly worried about their personal economic future, purchases that can be postponed often will be.

"The current pattern of change in attitudes suggests that a downturn in consumer spending for discretionary items will occur in the first half of 1974," the University of Michigan's Survey Research Center says. "The magnitude of the decline in sentiment suggests that the downturn could be substantial."

Robert J. Eggert, staff vice president of RCA, thinks that spending on consumer durables—autos, TV sets, appliances and other home furnishings—will rise by about 5% in 1974, compared with a 15% jump in 1973. He thinks that automobiles will more than account for the slowdown in growth, with auto spending falling by 4% while other durables show a respectable 11% rise.

He doubts that the decline in housing will do much to dent appliance and TV sales. "There is no good correlation between housing and appliances," he says. "Even if starts drop to 1.6 million (compared with about 2.1 million this year), some people who aren't building homes will be buying TV sets, dishwashers and other items to upgrade their present environment."

MORE MONEY TO SPEND

Economists such as Mr. Eggert have to look much more than a year ahead. RCA itself nursed along color television for years before it finally took off. At the moment, the company regards cartridge TV, which will allow a set owner to rent or buy his own taped programs, as a comparable development for the future.

The major reason that economists see a future of consumer affluence is that they expect the economy to continue growing faster than the population. Population growth appears to be slowing; Mr. Eggert figures that the annual rate of increase in the next five years will be about 0.9%, compared with 1% in the past five years.

The economy can grow faster than population, producing more to distribute to each American, because of increasing productivity and a growing rate of participation in the labor force.

In recent years, inflation, women's liberation and other factors brought growing numbers of married women into the labor force. As a result, by last year, families with more than one worker accounted for almost 55% of all the families headed by married men in the labor force, compared with only 45% ten years earlier.

Economists don't expect the percentage of working wives to grow so rapidly in the future, but neither do they expect large numbers of women to leave the labor force. The slower population rise, assuming it continues, will mean smaller families units. And the combination of the two, Paul Markowski says, will mean that "families will have more funds for discretionary spending."

A whole lot more, if the Conference Board is right in a forecast it prepared for last year's White House Conference on the Industrial World Ahead. The board predicted that the average American's spending—in terms of current dollars—will nearly double between now and 1990.

What will Americans spend their money on? GE's Mr. Murphy thinks that they will be buying cars that are compact but comfortable and well-equipped. The cars, he figures, will be designed for fuel economy and convenient handling on short trips. Ten years from now, he expects the public to be relying much more on mass transit.

Both environmental pressures and the energy problems make such a future likely, and economists doubt that either the pressures or the problems will disappear very soon. Michael Evans, president of Chase Econometric Associates, does think that the worst of the energy shortage will be over by 1977 because of "widespread exploration and development, spurred by higher oil prices."

ENERGY SHORTAGES

MacKay-Shields Economics, which did an intensive study of the housing outlook through 1980, thinks that energy shortages will be a factor there, too: "Both the shortages and consequent cost increases will force more attention to general building design and will increase the use of insulation."

"The general building design" may shock some present-day Americans: According to MacKay-Shields, rising costs will dictate a much greater use of mobile homes. Yards will be smaller, and there will be more row houses and more shared facilities, such as swimming pools and play areas.

As with cars, though, comfort and convenience won't be neglected. MacKay-Shields says: "Consumers' strong desire for more convenience and less maintenance, both inside and outside the home, will significantly increase the demand for more and more sophisticated household operating equipment and products and materials requiring minimum care."

"As a family moves up the earnings scale," the Conference Board says, "each dollar of additional income is spent differently—relatively less goes for necessities, more becomes available for other things." Among those things perhaps will be RCA's cartridge television. And that will be nothing new. The Census Bureau now is conducting a study of what Americans currently are spending their money on, with an eye to revising the "market basket" that is used to compute the Consumer Price Index.

The last time the basket was revised, in 1964, 100 items were added, including between-meal snacks, room air conditioners, moving expenses and golf fees. Thrown out of the basket were such items as men's pajamas and sewing machines.

QUOTAS HAVE NO PLACE IN BROADCAST LICENSE RENEWAL LEGISLATION

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. GOLDWATER. Mr. Speaker, there has been a great deal of discussion about requiring broadcasters to meet certain national standards, or quotas, as a condition to the relicensing process before the Federal Communications Commission.

I am convinced that this is wrong and, therefore, I offer to my colleagues the following rationale for opposing a national standard:

DEAR COLLEAGUE: In considering criteria to be used for relicensing, quotas and national standards should not be set. Therefore, I call your attention to the following argument supporting this view together with an attached memorandum.

There may be a number of television broadcasters who would welcome the short-range beneficial effects of having clear and certain percentage quotas to meet in order to have some assurance that substantial program performance will lead to license renewal is essential to the stability of the broadcast industry. But acquiescence in a government -initiated and enforced program quota system is too high a price to pay for such stability.

In the long run, the certainty afforded by program quotas will prove to be illusory. All broadcasters will meet the quotas set by the FCC, in order to gain protection from license renewal challenges. But the challenges are bound to continue, and the FCC will be forced to increase continuously the percentage quotas. It will be drawn inevitably into making value judgments on the content of programing making up the quota categories. Ultimately, adoption of program quotas will lead to the insulation of the television broadcaster from the local viewers he is licensed to serve. He will be primarily responsibe to the government agency that sets the program guidelines necessary to achieve renewal rather than being responsive to local needs and interests.

I feel that an amendment is needed to make certain that the FCC does not consider national criteria. Such an amendment would benefit the public and the television broadcasting industry. It would help maintain the separation between government and the broadcast media, which is necessary if the electronic press is to have the same constitutional protection as the printed press.

Sincerely,

BARRY M. GOLDWATER, JR.,
Member of Congress.

MEMORANDUM EXPLAINING WHY A QUOTA SYSTEM SHOULD NOT BE INCLUDED IN BROADCAST LICENSE RENEWAL LEGISLATION

At present, the FCC may lawfully pass judgment on the programing proposals and performance of broadcast license renewal applicants to ensure that the "public interest, convenience and necessity" will be served by a grant of a license. The issue that is of prime concern is the criteria the FCC properly may use to evaluate a broadcaster's program performance—the aspect of the renewal process which has led to the expansion of government power over TV programing.

TELECASTERS' VULNERABILITY TO GOVERNMENT INFLUENCE

Television broadcasting showed near record profitability for 1972, *e.g.*, net revenues were $3.18 billion, up 15.6% from the prior year, while before tax profits of $552.2 million represented a 41.9% increase over 1971. The mere prospect of losing the valuable broadcast privilege, coupled with the lesser, but more realistic sanction of having to go through a tedious and expensive renewal hearing, makes the broadcaster vulnerable to FCC power to influence program content by means of the license renewal criteria. In recent years, the risk of renewal challenges has become much more real, especially against commercial television stations operating on VHF channels (*i.e.*, channels 2–13), since groups seeking to oust the incumbent and take over a station's license usually file applications against the most profitable stations. Therefore, these stations are often the most vulnerable to government influence on their programing. To make their applications "challenge-proof" and to ensure license renewal, broadcasters tend to present programing that the FCC has indicated will serve the public interest.

Ironically, the increase in the number of competing applications has served to make the broadcasters more responsive to the government than to the local audience or individual citizen. This has been encouraged even more since the FCC proposed quantitative programing guidelines to define the level of "substantial" service which would give the incumbent a plus of major significance in gaining renewal.

PROGRAM QUOTAS

The Chairman of the FCC has stated before the Commerce Subcommittee on Communications and Power that he could perceive no real alternative to "the adoption of gross percentages of broadcast time in certain programing categories that, when met or exceeded, will measure a level of performance giving reasonable assurance of license renewal."

These "gross percentages," already proposed by the FCC, which would apply only to the most profitable TV stations (i.e., VHF and UHF network affiliates and VHF non-affiliated or independent stations), are as follows:

(i) With respect to local programing, a range of 10–15% of the broadcast effort (including 10–15% of the prime time period, 6–11 p.m., when the largest audience is available to watch).

(ii) The proposed figure for news is 8–10% for the network affiliate, 5% for the independent VHF station (including a figure of 8–10% and 5%, respectively in the prime time period).

(iii) In the public affairs area, the tentative figure is 3–5% with, as stated, a 3% figure for the 6–11 p.m. time period.

The "ranges" mentioned in these categories refer to the fact that the FCC would vary the percentage expected of each station according to a complex combination of such factors as market size and annual revenues. Thus, one quota would apply to a station in the top 50 markets with annual revenues of $5 million, another would apply to a station in the same market with $1 million in revenues, and still another would apply to a station in the second 50 markets with $3 million in revenues, and, of course, the quotas would shift as revenues and market sizes increased or decreased.

Even if there were no other problems with this quota system, there is reason enough in opposing its adoption simply to prevent the FCC from creating yet another confusing set of regulations. But there are much more serious problems with program quotas, regardless of whether they are purely quantitative tests to assure license renewal or whether they will invite the FCC to pass judgment on the qualitative aspects of TV program content.

QUOTAS INSULATE STATIONS FROM LOCAL VIEWERS

If the percentage quotas are purely quantitative, then the FCC could not consider whether the broadcaster's programming was adequate in terms of local needs and interests, as long as the quotas were filled. This would create the risk that renewal applicants will render the type of program performance that is necessary to assure renewal rather than what the local viewers may want. Numerical quotas will not benefit either the licensee or the public in the long run. The licensee will be forced to engage in a numbers game with the FCC. He will not jeopardize his broadcasting privilege by falling below the net number, and will be discouraged from making attempts at truly diverse programming. The percentage quotas thus become the minimums that all broadcasters will achieve. Future Commissions continuously will have to increase the percentages in order to upgrade the broadcasters' performance. If the licensee is assured renewal by meeting such minimum quantitative requirements, the public has lost its ability to have a meaningful impact on the broadcaster's performance in terms of their local needs and interests. This would be regulatory protectionism of the most profitable TV stations and, even worse, a complete insulation of broadcasters from the local viewers that the stations are licensed to serve.

QUOTAS INCREASE GOVERNMENT CONTROL OF TV PROGRAM CONTENT

But the FCC is not likely to treat the quotas as purely quantitative. The agency has given every indication that it will be making value judgments on TV program content, regardless of whether the broadcaster fulfilled the approved quota. For example, the Commission has stated that:

"[T]he fact that a renewal applicant did meet these general guidelines would not preclude the contention at renewal or at a comparative hearing that his service was not substantial in these . . . areas. An applicant could devote a most substantial percentage of his time to public affairs, for example, but with coverage solely of issues like canoe safety, rather than the issues that are truly of 'great public concern' in the area. . . ."

(Notice of Inquiry in Docket No. 19154, 2 Current Service, Pike and Fisher Radio Reg., p. 53:432)

Chairman Burch echoed this view in his testimony before the Subcommittee.

It is bad enough to have the electronic press licensed every three years by the government; it would be even worse to encourage the FCC to set quotas and specifications for that press and be drawn inevitably into making qualitative judgments on journalistic performance.

PROPOSED AMENDMENT

I favor an amendment to assure that the FCC could not consider any national criteria with respect to the extent, nature, and content of broadcast programming. The local community would be the point of reference for evaluating the broadcaster's performance. The responsibility for superior performance would be placed in the hands of the local licensee and the public he undertakes to serve.

This amendment would stress the Government's role as the arbiter in the programming dialogue between the broadcaster and the public, without injecting its own programming judgments in this dialogue. This is not to say, however, that the FCC could employ no standards in judging the broadcaster's performance in the public interest. The Commission could use clear and objective standards, as long as they do not relate to the extent, nature or content of broadcast programs.

Accordingly, under such an amendment, the Commission's review of program performance could, for example, be based upon such considerations as: (1) the mechanics, quantity, and quality of the broadcaster's ascertainment efforts; (2) an evaluation of the applicant's past, present, and proposed programming in light of the ascertained needs, interests, problems and issues (*i.e.*, using the community's standards of program performance and not the FCC's program standards); (3) the promise versus performance aspects of the broadcaster's programming showing; (4) and various "content-neutral" aspects of the applicant's programming, such as programming expenditures, equipment and facilities devoted to programming, policies regarding preemption of time for special programs, and the like.

This amendment would not change the current procedures for Commission considerations of petitions to deny license renewal applications or for dealing with mutually exclusive applications for the same broadcast service. It would remove the convenient crutch of Government specifications regarding the kind of program performance that will satisfy the statutory public interest standard, thereby reinforcing the broadcaster's duty to the interest of his community, including minority or special-interest groups.

WHY SOME PRICES SHOULD RISE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ROUSSELOT. Mr. Speaker, earlier this week I submitted an article from the Wall Street Journal for the members' attention entitled "Rationing is Irrational." Today I am continuing my efforts to convince my colleagues that the only solution to encouraging the production of the vital commodities that are in short supply in our domestic economy is to repeal the so-called Economic Stabilization Act, and allow the free enterprise system to work.

No doubt one of the most critical shortages we have encountered is in our supply of fuel. In an article which appeared in the November 19, 1973, issue of Newsweek, Dr. Milton Friedman, a leading monetarist, supports the only rational approach to the fuel crisis.

The most effective way to cut consumption and encourage production is simply to let the prices of oil products rise to whatever level it takes to clear the market. The higher prices would give each of the 210 million residents of the U.S. a direct incentive to economize on oil, to find substitutes for oil, to increase the supply of oil.

Mr. Speaker, today I met with local officials from three suburban Los Angeles cities, Burbank, Glendale, and Pasadena. These officials have been advised by their current suppliers that they will no longer be furnished with low sulfur fuel oil after this year. The residual fuel is used to operate the powerplants for these cities. It is clear to me that the controls have not encouraged the production of fuel, and allocations will not result in increased production. Production incentive is rooted in a free market economy.

I urge my colleagues to carefully study Dr. Friedman's following article with the hope that we can unite now to repeal ESA, and allow the free market forces to bring us back to being a land of plenty.

WHY SOME PRICES SHOULD RISE

(By Milton Friedman)

"When the price of a thing goes up," wrote the British economist Edwin Cannan in 1915. "a good many people . . . abuse, not the buyers nor the persons who might produce it and do not do so, but the person who are producing and selling it, and thereby keeping down its price . . . It certainly would appear to be an extraordinary example of the proverbial ingratitude of man when he abuses the farmer who does grow wheat because other farmers do not . . . But have we not all heard the preacher abuse his congregation because it is so small?"

This ancient article, from which I have taken my title, has been brought to mind by the oil crisis.

Time and again, I have castigated the oil companies for their hypocrisy, for loudly proclaiming their allegiance to free enterprise yet simultaneously undermining free enterprise by seeking and getting special governmental privilege (percentage depletion, prorationing of oil, import quotas, etc.). Yet we shall only hurt ourselves if we let resentment at their past misdeeds interfere with our adopting the most effective way to meet the present problem.

VOLUNTARY COOPERATION

The current oil crisis has not been produced by the oil companies. It is a result of governmental mismanagement exacerbated by the Mideast war. The price of natural gas at the wellhead has been held down for years by government edict. Since Aug. 15, 1971, the price of retail gasoline and of fuel oil has been held down by the successive phases. The result has been to encourage consumption and discourage both current production and the expansion of capacity. It took the Mideast war to bring these evil effects of price-fixing to a boil.

If all Mideast oil is shut off, we shall have to do without some 10 percent of our present oil supplies. That is no tragedy. It means going back to the rate of consumption of 1970 or 1971—when no one thought we had a catastrophic shortage of fuel.

The most effective way to cut consumption and encourage production is simply to let the prices of oil products rise to whatever level it takes to clear the market. The higher prices would give each of the 210 million residents of the U.S. a direct incentive to economize on oil, to find substitutes for oil, to increase the supply of oil.

How much will the price have to rise? No one can tell. But if consumption must be cut by 10 per cent, it is hard to believe the price would have to rise by more than, say, double that percentage. A 20 per cent rise in oil and gasoline prices would not be nice—but consider the alternative.

CHANCE, FAVORITISM, BRIBERY?

The only alternative is exhortation backed by compulsion: artificially low prices accompanied by governmental rationing. This method induces each of us to oppose the general interest rather than to further it. Our separate incentive is to wangle as much as we can from the rationing authorities. And they can have only the crudest criteria to know how to distribute the limited supplies. They have no way to know whose "need" is genuine and whose is artificial—even if we put to one side, as experience warns us we cannot, special influence, corruption and bribery.

Two hundred and ten million persons each with a separate incentive to economize; or 210 million persons dragooned by men with guns to cut down their use of oil—can there be any doubt which is the better system?

But, you will say, rationing by price hurts the poor relative to the rich. What of the poor man with his old jalopy as the only way to get to work. The answer is straightforward. If high oil prices impose special problems on some, let us provide funds to mitigate their problem. Let us not impose compulsion and waste on 95 per cent to avoid special measures for 5 per cent.

Note that what is called for is higher prices for oil products *relative* to other products—*not general inflation*. Only some prices should rise.

The oil problem offers a particularly clear illustration of how the price system promotes both freedom and efficiency, how it enables millions of us to cooperate voluntarily with one another in our common interest. It brings out equally why the only alternative to the price system is compulsion and the use of force.

It is a mark of how far we have gone on the road to serfdom that governmental allocation and rationing of oil is the automatic response to the oil crisis. This will not prevent higher prices, which will in fact do the job—but you may be sure that the rationing authorities will take the credit.

FRENZEL ON PUBLIC FINANCING

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. BUTLER. Mr. Speaker, I have read in the newspapers this morning that the majority leadership has endorsed efforts to have the House adopt public financing of Presidential campaigns. This action has been taken in spite of the fact that no hearings have been held in the House on this legislation, and that the Senate provisions were adopted in a somewhat haphazardly fashion on the floor of that body.

The House Republican Task Force on Election Reform, of which I am a member, has drafted a set of recommendations which we believe will quite adequately deal with the existng problems of financing elections without opening the door to the new problems that will be caused by public financing. My disappointment in the actions of the leadership is caused in large part by the fact that this will prevent our proposals from even being heard prior to the vote. I am confident that had the public financing legislation been treated in the normal fashion and not brought to the floor without hearings, we would have received every opportunity to present our case to the House Administration Committee. As matters stand, we are faced with an all-or-nothing situation on what is likely to be the only vote on election reform this year. As I understand matters, there will be little if any opportunity to even amend the Senate provisions. This is an incredibly poor way to handle such an important issue.

Mr. Speaker, before we are entirely carried way by the pressures for precipitous action on public financing, I think we would do well to listen to our colleague BILL FRENZEL. He testified on public financing during the Senate hearings, and I believe, presented the case against public financing extremely well. I have a summary of his statement which I would like to insert in the RECORD for the benefit of those of us who have not had an opportunity to examine it. Although it deals in great part with the effects public financing would have on congressional elections, I believe the principles he advances are sound, and are equally applicable to Presidential races. I hope every Member will examine this before the vote.

SUMMARY OF STATEMENT OF HON. BILL FRENZEL

The crisis of nonconfidence in Government, specifically the Watergate mess, has given great thrust to proposals for public financing of Federal elections. The popular image of such plans is that they will magically purify elections and relieve elected officials of any and all pressures and taints of "dirty money."

I—and everybody else—warmly embrace the purification of elections, but public financing is neither a magic nor an exclusive means to move us toward better elections.

The same goals we all seek—open, honest, and clean elections—can be achieved more easily and effectively by writing responsible rules into a system of private financing.

Before I start spending the taxpayers' money, I want to be assured: First, the plan will give us the desired result; second, there is no easier way to get the same result; and third, it does no harm. I am persuaded that public financing brings no benefits that cannot be otherwise achieved, and, to the contrary, carries serious risks, some known and some as yet unforeseen.

Some of the known risks are:

First. Under publicly financed systems, challengers will be at the mercy of incumbents. No wonder Members of Congress like public financing. It is a self-protection scheme.

Guess who controls the election appropriations? That is right—the incumbents do! Appropriations can always be set low enough to inhibit any strong political contest. Public financing would guarantee equal expenses when studies show that nonincumbents must spend more merely to establish their identity against incumbents. The identity of an incumbent is already strongly established by the advantages of the frank, access to media and general public visibility.

Second. Federal financing schemes prohibit, or restrict, private contributions. This unconstitutionally denies a long-enjoyed right of free speech. To let one person contribute his time and labor to a campaign and not let another person, perhaps handicapped, make his contribution financially, is the rankest kind of discrimination.

Third. Private financing has been one of the traditional ways of determining the popularity and attractiveness of any candidate. In a country where we finance the arts, our charities, and much of our education privately, we have naturally supported elections in the same way. Other nations with a history and tradition of publicly financed elections are simply not comparable.

Many people want to support candidates and parties. Their enthusiasm helps enliven campaigns and increases voter participation.

Fourth. Public financing would inevitably result in unexciting elections which would cause lower voter turnouts. Candidates would no longer need to have very broad support to get campaign money. We would have scads of candidates. The more candidates per race, the more drab the election and the more the incumbents' chances for victory. Amateur nights are fun, but when minor candidates depress the public interest, the only winner is the incumbent.

Fifth. All of these disadvantages are achieved at the taxpayers' expense. The beleaguered taxpayer will see his money supporting candidates in whom he had no positive interest or to whom he may object most violently. The taxpayer will stand helpless while dozens of candidates, who would not have enough support to enter a privately financed election, happily use up his hard-earned money. Meanwhile, the incumbents would be inevitably returned to office.

Sixth. The taxpayers' money will be actually handled by an elections commission appointed by the President. No matter how high-minded and impartial it is, one wonders how easily it could deny money to a particular candidate for a "violation" of the law. Giving control of financing to the bureaucracy is giving control of elections to the bureaucracy. Control of elections may never get back into the hands of the people.

Seventh. Party responsibility would disappear. Candidates could thumb their noses at parties which could no longer raise money either for themselves or for their candidates. Our history of political regionalism and relatively weak parties points to collapse of parties under public financing.

Eighth. More money would be spent on elections. All the action now is in 50 House races. Over 80 percent of Congress' campaigns are contested feebly, if at all. But Federal money is "free money." Every candidate would use it whether he or she needs it or not.

Ninth. Public financing would dry up individual contributions for local candidates. They already have the hardest time raising money. Pious supporters of public financing probably do not realize that none of the schemes apply to State and local races.

Tenth. Taxpayer-financed elections do not fit our Federal pluralistic elections systems. States vary; districts vary; parties vary; people vary.

Minor party candidates and independents run under different laws and different patterns of tradition in each jurisdiction. They will be encouraged by "free money" to run, but will never be given quite enough to beat the incumbent.

Eleventh. All money is the same color—even political money. It only becomes dirty when it is misused. Stated another way, lawbreakers can violate a public finance law as well as a private finance law.

Minnesota history reveals millions of dollars of clean political money, from donors large and small, used honorably and proudly by our politicians.

For instance, the Minnesota Republican Party in 1972 raised its $1 million budget from two fundraising efforts. In a door-to-door campaign, 2,000 solicitors collected 52,000 separate contributions averaging $7. Sixteen thousand contributors averaged $40 each for the annual dinner. That is real, individual participation by people who believe in something.

Twelfth. Many proponents of public financing are those who seldom give a dime to candidates they claim to support. The law should not be written by those who always tell us "they gave at the office."

The arguments in favor of Federal financing are not without merit. They do, however, have a good deal less merit than the intentions. The proponents always forget to say that the same goals can be achieved by writing responsible rules into a system permitting private financing. The idea that we are spending too much money on our election is one that needs to be analyzed. In 1972 we spent less than $2 per person in this country to elect the President of this country for 4 years, and most of its Congress for 2 or 6 years. If our leadership is bad, that is too much. But, if it is good, the price is certainly reasonable. And, compared to the other democracies of the world, our costs are near the bottom on a per capita basis.

We can achieve our goals of clean, open elections, with a reasonable chance for challengers, through improving our election laws. We need a Federal Elections Commission, better enforcement and reasonable spending and individual contribution limits. We can do all this with private financing.

Public financing gives us no extra cleanliness. What it gives are: Abdication of individual political responsibility; incumbent protection; drab elections; and worst of all, transfer of election control from the people to the bureaucrats.

UNITED JEWISH APPEAL

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. WYDLER. Mr. Speaker, on November 26 the Vice-President-designate of the United States of America, GERALD R. FORD, spoke at a precedent-shattering dinner on Long Island. The dinner was put together by a group of public-minded Long Island citizens who undertook to pay the expenses of the dinner and turned the entire proceeds of almost three-quarters of a million dollars over to the United Jewish Appeal. At a time when Israel is under attack and desperately in need of funds, the dinner was a most successful outpouring of public sentiment. I was pleased to participate, and particularly pleased that my good friend, the designated Vice President of the United States, GERALD FORD, was the speaker. His speech was outstanding, and I am setting it forth here for the benefit of my colleagues in the Congress and the people of the Nation:

REMARKS BY VICE-PRESIDENT-DESIGNATE GERALD R. FORD

Ladies and gentlemen, it is a special pleasure to address you at a time when the world seems finally ready, after so many tragic years of bloodshed and senseless procrastination, to acknowledge an unavoidable reality.

That reality is the reality of Israel's existence. The United States has worked long and hard—and often alone—to uphold Israel security. In the peace negotiations that are at long last about to begin between Israel and the Arabs, we will continue to support Israel's existence and her right to live in security.

The relationship between the United States and Israel has always been a unique one, and as I worked on these remarks I tried to come to some conclusions about why this should be so. I think I've come up with at least a partial answer, an answer involving the Bible, a poet, a statue, and the work the UJA is doing to assist Russian emigrants. The plight of Soviet Jewry, incidentally, is one that has long concerned me, and I'm sure some of you here tonight remember that I addressed this subject at a rally for Soviet Jewry in Madison Square Garden in 1971.

The passage in the Bible to which I referred comes from Isaiah. I'd like to read a few brief excerpts. According to the prophet, the mission of Israel was, and I quote, "... to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free . . . to deal thy bread to the hungry and . . . bring the poor that are cast out to thy house . . . Then shall this light break forth as the morning . . ."

As you are well aware, the historical parallels between our age and the age of Isaiah are striking. Then, as now, for example, the Jewish people were returning to Zion to rebuild their nation.

But there is another contemporary historic parallel that I find even more striking. Listen to the following lines, ladies and gentlemen. I am sure you know them by heart.

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, the tempest-tossed to me:
I lift up my lamp beside the golden door.

Those are, of course, the famous lines engraved on the pedestal of the greatest symbol of human freedom in the world—the Statue of Liberty. They are also the closing lines of a poem that celebrates America as the haven for the world's oppressed. The poem is entitled "The New Colossus." The author was Emma Lazarus, a Jewish woman who organized relief for Jewish refugees who had fled the oppression of 19th century Russia.

The ring of Isaiah in those lines. I think those words on the Statue of Liberty capture the essential spirit of both America and Israel—almost uniquely among the nations of the world—havens for the persecuted, the homeless, the oppressed.

And it is because of this unique common tradition, I believe, that the bonds between America and Israel are so very close. There is no contradiction whatsoever between the support you offer to Israel and the loyalty you feel toward America.

There are many of you in this audience tonight whose parents came to these shores fleeing oppression. Some of you came under those conditions yourselves. And as you all know, the accomplishments of the UJA in assisting such immigrants have been nothing short of phenomenal. And what you and your parents found here was something you could not find in the nations you left—the promise that you could rise just as high and travel just as far as your abilities and dedication could carry you.

All of you here tonight have realized that promise, and your lives are tangible testimonials to a very simple but often overlooked truth—the American system is alive and healthy. The system *does* work. You have proved that it works.

Still another truth about our society is that it is diverse, a pluralistic society strengthened socially and culturally by the beliefs and customs of the various nationalities and religions that found sanctuary and opportunity here.

The melting pot theory still holds. The melting process, of course, distills different social and philosophic views down into common national goals and purposes. That melting process should not, however, attempt to boil out those unique things we bring to America as members of distinct cultural groups, qualities which help to enrich our society as a whole.

To often, I believe, we stress the sameness, the homogeneity of American life while ignoring the healthy differences and variations that give such richness to the American fabric.

The texture of our Nation, which has contributed to its unparalleled greatness, comes from many ethnic, religious and nationality strains. America, as we know it and love it is like a good soup. Its full flavor comes from the blending of many ingredients.

Yet from many quarters we hear a great deal of talk about assimilation—especially from the younger generation. And, of course, it is necessary that we should be alike in some ways—in our standard of justice, our concept of democratic government, our common ideal of liberty and freedom.

But, we must also recognize that we can pay too high a price for sameness. We can make our soup bland. There are differences that we cannot afford to lose.

I do not like to believe and do not concede that in this country we have Italian-Americans, Irish-Americans, Afro-Americans or Jewish-Americans because the hyphen implies that different groups should be treated differently. This is wrong.

On the other hand, it is necessary to understand that different groups have added immeasurably to American life because they *are* different. Out of their differences have grown ideas, a fuller cultural life, and a more interesting and stimulating America. Our national outlook is broader; our character stiffer.

Rather than question in any way those who feel deep emotional ties to other countries—whether it be Israel or Ireland or Italy or Africa—we should salute this as a manifestation of the genius of our Nation. This is part of what we call Americanism. It is one of the things that make both Israel and America unique in the world. The beauty of Joseph's coat was that it was of many colors.

It is perfectly possible for Americans to hold on proudly to the best elements of their different national heritages—and yet be united in common love for our country. And let me add here that no single group of Americans has been more steadfast in standing up for our country than our Jewish citizens.

Finally, ladies and gentlemen, let me mention one more basic American quality, perhaps the finest of all—the willingness to sacrifice to help your fellow man.

It's an old concept, one of the finest embodied in the Judeo-Christian tradition, the concept of charity. And perhaps no group in America has more distinguished itself for its generosity and its philanthropy than the American Jewish community. The Greek root of the term "philanthropy" means love of mankind. And I know of no people who better personify this love than those who give to the United Jewish Appeal.

You can take profound pride in your record. Since 1938, UJA funds have saved over 3 million lives and have helped make possible the transformation of Israel into a dynamic and progressive land.

As you all know, the recent fighting in the Middle East took a tragic toll. In fact, given population ratios, the number of Israelis who died each day during the recent fighting was equivalent to approximately 7,000 American deaths per day. Thus your efforts to help Israel "bind up the wounds of war" seem especially appropriate at this moment in history.

At the same time, other needs also press in Israel. For example, immigration to Israel continues and spending on immigration alone was over $1 billion before the hostilities broke out.

This is a time of testing, and the road ahead will not be an easy one. But for the first time in decades, the road does seem passable with some of the roadblocks removed. This Administration has spent five years in attempting to clear away international obstructions to peace by building bridges to those nations with whom we once had no dialogue.

And the indications are that now such bridge building may be possible between Tel Aviv, Cairo, and Damascus. Perhaps finally the way may be clear. Richard Tucker has given us an inspirational rendition of the Israeli national anthem here tonight, and it is in the closing lines of that anthem that we find the hope of the future expressed so clearly:

> "The hope of two thousand years,
> To be a free people in our land,
> In the land of Zion . . ."

Ladies and gentlemen, I believe we will make that hope a reality.

And so I salute you—salute you for your support of a worthwhile cause—and salute you, my fellow Americans, because you have unselfishly helped pave the road to self-reliance for the people of Israel. With pride you can say you have played a major role in Israel's progress. With your head high, you know you have personally shared in an enterprise of historic significance for the survival of the Jewish people and of the spirit of human freedom and dignity to which it is dedicated. Shalom.

GILMAN SUPPORTS CLEAN ELECTIONS ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. GILMAN. Mr. Speaker, House Resolution 721, defeated today by a vote of 347 to 54, deleted an amendment calling for the public financing of Federal elections which was attached to the public debt limit bill in the Senate. I voted in opposition to this resolution.

While I understand the reluctance of many of my colleagues to support the consideration of this measure since the public financing amendment which was tacked on was most certainly a nongermane amendment and reflective of the kind of legislating all of us find objectionable, in this instance the passage of a vitally important public financing measure causes me to cast a vote in favor of considering the nongermane amendment that the Senate has seen fit to attach to the public debt limit bill.

For some time now I have been urging adoption of public financing for Federal campaigns. I have joined in sponsoring the Clean Elections Act, H.R. 10536, a bipartisan attempt at election law revision calling for the partial public funding of Federal elections. The events of the past few months have clearly emphasized the critical need for public financing.

Since a great majority of my colleagues have not seen fit to adopt a comprehensive campaign reform measure which has not had full consideration by our House committee, my vote may very well be futile. However, I hope that by voting in favor of keeping the election law revision amendment in the public debt limit measure, I will be adding impetus to the on-going consideration of campaign financing now under study in the House Administration Committee. It is long overdue.

THE QUOTA MENTALITY

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. McCLOSKEY. Mr. Speaker, since the issue of quotas and discrimination has been very much a political issue in recent months, I thought the House would be interested in a distinguished educator's response to questions on discrimination of academics and alternatives to the quota mentality

The material follows:

THE QUOTA MENTALITY

(By John H. Bunzel)

Questions that inspired Pres. Bunzel's response.

TO THE EDITOR: Your journal has devoted much copy this past year to the question of quotas, but has neglected discussing the very real problem of discrimination against minorities and women at universities to which the establishment of quotas is—I hope—only one of many solutions.

I would like to see your contributors answer these questions:

1. Is it true that some blacks and women have been and still are denied opportunities to perform in academic positions for which they are fully able?

2. If not, how do we reconcile the statistics which show qualified Blacks and women to exist with the fact that these groups are not hired, promoted or paid at the levels one would expect in terms of their availability?

3. If we can agree that minorities and women have been treated discriminatorily by universities, what can and should be done to rectify this situation?

Universities are in serious trouble because of their apparently discriminatory record. They need *constructive* criticism and *positive* alternatives. Can your contributors help to define and resolve the problem of discrimination in higher education?

LINDA MACLACHLAN,
Southern Illinois University.

I am grateful for the editor's invitation to allow me to use Ms. MacLachlan's letter as a catalyst for some remarks on the problems of discrimination—both real and alleged—universities at the present time. Certainly her concerns (though not necessarily her formulation of the issues) are genuinely important and deserve serious consideration. I shall attempt to react to the issues she raises in what seems to me to be their most generic form. In this way I hope to deal more parsimoniously and productively with basic matters at a higher level of generality.

Stated in their broadest form, I take these issues to be three in all: 1) Can quotas solve, or at any rate help to solve, the existing underrepresentation of women and some minorities on the faculties and administration of many institutions of higher education? 2) Is statistical underrepresentation on the faculty and in the administration of numerous universities and colleges prima facie evidence of discrimination against women and some minorities? 3) Since virtually everyone would agree that the existing situation is less than perfect, what recommendations can be made that will improve the present state of affairs?

I. CAN QUOTAS SOLVE OR HELP SOLVE THE PROBLEM OF DISCRIMINATION?

Perhaps the most dramatic and far reaching proposal that is central to Ms. MacLachlan's position deals with her affirmation of the need to establish employment quotas as one of a number of ways of overcoming discrimination in university employment. I shall set aside for later consideration an analysis of the arguments she uses to show that discrimination actually exists. Suffice it to say here that I think her position rests on some shaky assumptions. I want to turn instead to the question of whether quotas are defensible in a good cause. I will assume, at least for the purposes of this statement, that all of us can take for granted the desirability of eliminating discrimination. What we need to examine is the claim that employment quotas are a good means—among others—to cope with forms of racial and sexual discrimination which are violations of the law and of the Constitution's guarantee of equal protection.

It is surely one of the mordant signs of the times that it has once again become fashionable in some quarters openly and even aggressively to advocate the use of quotas for one purpose or another. Not so long ago civil libertarians and equalitarians unversally regarded quotas as expressive of racist, undemocratic, and authoritarian desires to preserve the sanctity of aristocratic privilege. Today there are not only an increasing number of calls (like Ms. MacLachlan's) for the explicit use of quotas, but in many quarters—even including, according to some interpretations, powerful arms of the federal government like HEW and EEOC—there is influential and determined advocacy in favor of a mandatory statement of employment goals and timetables which are almost invariably thinly disguised functional equivalents of quotas. It is rare that one sees a reasoned defense of such a position beyond the rather simple declaration that the statistical evidence of underrepresentation of certain minorities and women requires the setting of numerical goals or percentages to bring en end to past injustice.

I do not mean to suggest that there cannot be or that there have not been reasoned defenses of the need to eliminate discrimination or to assure greater equality. Such arguments exist in abundance and I am proud to count myself among those who over the years have tried to express them. Nor do we lack for defenders of the democratic faith who (out of a variety of motives) attack contemporary practice in the interest of making it conform more closely to our democratic theories. But at the moment we do seem to be rather short on those whose democratic convictions are sufficiently thoughtful to be able to escape sloganeering and counterproductive solutions to grave problems. Those who advocate quotas have the obligation to state the rationale for their position—and to state it as something more than the anguished expression of their desperate concern for the immediate righting of injustice. Those who shout the loudest or most self-righteously about their passionate belief in justice should not be allowed to bully the opposition. Even those who whisper can be advocates of justice. In short, the advocates of quotas should be expected to define them with reference to their internal consistency, their consequences and their morality and as a social policy consistent with democratic theory and practice.

I suspect that the antipathy of believers in democracy to quotas has always rested on the clear-cut apprehension that they could not be defended in these terms and that they were inherently inconsistent with the Constitution. In my judgment the recent attempts to transform or redeem the principle of quotas by declarative fiat—attempts engendered by our revolution of rising expectations and our relentless self-examination of our shortcomings—have thus far been a dismal failure. The following objections to the use of quotas, while in no sense a definitive answer, muster at least some of the basic reasons for rejecting the attempt to utilize quotas as a social policy designed to reduce or to overcome discrimination.

1. Quotas are self-contradictory when they are instituted as a means to end discrimination. The advocates of quotas who call themselves believers in equality seem to have forgotten the long struggle to resist and overcome quota systems which once kept people from advancement by virtue of their race or religion. Apparently we need to be reminded that quotas are by definition a form of discrimination. When they are invoked in a good cause—that is, when they are used allegedly to overcome discrimination—they require us to believe that we should overcome discrimination against some by discriminating against others. This means that "equality" for group Y must be assured by practicing inequality against group not-Y. In short, we are asked to accept a principle that can be asserted with equal force *in the form of its contrary*.

2. If we assume that quotas can be invoked in a good cause, we fail to see that bad means cannot assure us of good ends. The use of quotas or fixed ratios in university faculty hiring will result in harmful incremental additions to the life and values of our universities. The principle of equality and of reward according to our merits as individuals which presumably inspired the use of quotas—a principle which, properly defined, is central to the integrity of university life and to the democratic culture of which it is a part—will have been abandoned and the character of what remains is likely to be fundamentally transformed and compromised.

There are at least two complex and interactive principles at issue here: means and ends are inextricably intertwined; and bad means exercised in a good cause inevitably and continuously transform the character of institutions since they negatively alter the base line of acceptable practice. We should note that temporary arrangements have a way of persisting beyond their time. In the case of quotas, the projected time tables have been (and presumably must be) so vaguely drawn that it is not illogical to suppose they will become a fixed element of our recruiting process.

3. It is likely that quotas may reduce the incentive for genuine reform. The inequalities that quotas are presumed to diminish originate in widely dispersed aspects of our social and political life. Quotas may to readily provide a disincentive to transform these areas of our national life since they will encourage many to believe that discrimination can be and is being dealt with by relatively mechanical means. Some may argue that quotas are in fact not only the means by which discrimination may be abolished but that the ends of quotas, *i.e.*, the outputs, will in themselves constitute evidence that discrimination is being contained or defeated. After all, such an argument might run, if quotas are successfully enforced, won't the employment statistics reveal that discrimination has ceased to exist? In the presence of such arguments we are perilously close to the never-never land of the murderer who has just killed his parents and now asks for the compassion of the court because he is an orphan.

4. Quotas violate the merit principle *despite their dependence on it as a basis of support*. The injustice of discrimination is by definition an injustice suffered because someone has not been treated according to a universal standard. Some arbitrary or incidental aspect of their identity—their accent, their height, their color—has become the basis of judgments about them *rather than judging them by reference to a standard of merit that applies equally to all*. The most important aspect of this distinction is that it is only in terms of a universal standard of merit that one can conclude that dis-

crimination or injustice has taken place. If such a merit standard had never been articulated, the entire attempt to discover the existence of injustice could never be made. That being the case, we are confronted by the advocates of quotas with the contradictory injunction that we should abandon the merit principle despite the fact that the very discovery of the existence of discrimination rests on the principle of merit.

5. Quotas may—indeed are likely to—make a selfish appeal to group or individual advantage that is fundamentally destructive of the common set of rules which alone binds us together as a people and as a nation. I said earlier that quotas are discriminatory by definition and constituted an authoritatively imposed assault on the right of persons to be treated as the equal of all other citizens. That is a predictable view of quotas from the vantage point of someone who is *disadvantaged* by a quota.

But let us look at quotas for a moment from the standpoint of a person who presumably stands to gain an *advantage*. Let us suppose such a person is advantaged by a quota because the group to which he belongs is provided with some special priority in order to assure that group more adequate representation. Is it an exaggeration to say that a person so advantaged is being treated unequally? Isn't he or she being given an advantage by restricting someone else's access to equal opportunity? Such an advantage, especially when purposely imposed from above to prearrange certain outcomes, seems to me to constitute an injustice.

But I would like to go further. I would contend that from a higher contextual point of view not only the victim but also the perpetrator or the recipient of this kind of quota advantaged is harmed—without, I might add, needing to be a conscious advocate of discrimination. Indeed we may readily assume that such a person would be horrified by the notion that his or her conduct constitutes an injustice. Nonetheless, that momentary advantage rests on discrimination and has been bought at the expense of compromising the common-sense notion of justice which Aristotle and others have argued makes the very existence of the polis possible. To the extent that quotas encourage any of us, knowingly or not, to legitimate our personal advantage in the name of social justice, every one is victimized. Justice is not served. In fact, justice is given such bewildering meaning (*e.g.* it becomes the basis for the justification of discrimination) that the cause of justice can only suffer once the consequences of such policies become clear and their principle is mistakenly applied to other aspects of our lives.

6. Quotas are counterproductive in that they are designed to end discrimination (though they require its perpetuation) and presumably are also regarded as a contribution to the establishment of a society where race and religion are not factors in our success or failure as social beings. But as numbers of groups and individuals begin to react to overly zealous interpretations of the meaning of "employment goals" it is increasingly clear that quotas are much more likely to make consciousness of racial and sexual differences more morbid and pathological. In short, quotas are counterproductive because they inflame rather than heal.

One can and should support affirmative action programs designed to increase the employment of minorities and women provided they do not give preferential treatment to a person or group over another on the basis of race or creed. In the words of Milton A. Senn, director of the Anti-Defamation League's Pacific Southwest Office, such behavior is "destructive of equal opportunity and violative of the Constitution and Federal and State laws and can only result in *exacerbating tensions and bias*." [my italics] How could it be otherwise? After all, quotas are a form of discrimination which, in the interest of setting things right, create new classes of victims. By virtue of this contradictory character, they make worse precisely the situation they hope to improve.

7. Quotas will help to make us into a society in which what matters profoundly to many people personally—their race, their religion, their ethnic origins and associations—is authoritatively made the business of everyone. There is, of course, a sense in which what matters to each of us *should* matter to all of us. I do not wish to deny that "no man is an island unto himself," or that it is essential for each of us to respect one another's views within the bounds of agreed upon definitions of the nature of freedom. But the authority of the state should not be used to force everyone to accept aspects of our being which are individually private but in some contexts ought to be socially neutral or at any rate marginal in their meaning and relevance. Why should it matter to a Department of English whether a Chaucer specialist is a Mexican-American or a Black-American? It matters very much to each of these people, and it should matter to all of us, that each should be safeguarded in the preservation of his or her right to be a Mexican-American or a Black-American. But from the point of view of a university's commitment to the pursuit of excellence and to the neutrality of scholarship, such aspects of our being are irrelevant. Is there a German-American form of physical education or a Russian-American form of biology? Haven't we been through enough in recent decades to know the answer to such questions? Should there be quotas set to assure that .05 percent of all elevator operators are American-Indians and that three percent of all university faculty are Jewish because those are the proportions that exist in the general population? Who will be empowered to set these figures and for which occupations? Which groups are to be identified as deserving of quota benefits? Can employment quotas be monitored in such a way that we can still preserve our beliefs in the inviolability of the individual and in the free choice of our citizens?

It is not merely a rhetorical device to raise such questions without providing the answers. They bring into focus the far-ranging incursions on our freedom which quotas will inevitably encourage. We need to raise such questions in order to see that they cannot be answered—or, perhaps more exactly, that they cannot be answered in a way consistent with a belief in a free society committed to the preservation of individual rights.

These matters are so complex that they undoubtedly suffer from being treated in such brief compass. In the interest of avoiding confusion or being misunderstood, let me restate my belief that pride in one's color, ethnic origins, and religion are all aspects of a healthy pluralistic American democracy. My point has been that these ways of establishing and sustaining our personal identity and individual characteristics through our ties with groups ought not to be the basis of employment either in the university or elsewhere.

It is clear that for many Americans group affiliations are an important or sometimes an indispensable part of their very being. But if these aspects of our personal identity are made legally relevant to the political arena or to the economic market place, we will have subverted freedom in the naive interests of pseudo-freedom. And we will have taken a step backwards away from community to reliance on primordial sentiments in the war of all against all. That, at any rate, is how I interpret a view which argues that some insignificant aspect of someone's right to be a Greek Orthodox-American must be granted at the expense of someone else's right to be a non-Greek Orthodox-American.

After all, there is no obscuring the intransigent fact that establishing a minimum quota for the employment of Ukrainian-Americans inexorably means that we have also established a maximum quota for the employment of all non-Ukrainian Americans.

11. IS STATISTICAL UNDERREPRESENTATION ON THE FACULTY OF A UNIVERSITY PRIMA FACIE EVIDENCE OF DISCRIMINATION?

Ms. MacLachlan asks whether some women and black people (she is silent about the status of other minorities, perhaps because the case is more complicated than she is prepared to admit) are still denied employment opportunities or advancement in universities despite their impeccable qualifications. Let me be brief and to the point: the answer is that such discrimination exists and will continue to exist for a very long time, partly because we are dealing with the affairs of human beings and not of gods. But this manifest discrimination is not in every instance, or even in the main, synonymous with underutilization or underrepresentation. When I say that discrimination exists, I have in mind those feelings of irrational projudice and even hatred which are an omnipresent aspect of the darker side of man's nature, whether man is identified as the victim of racism or as one of its perpetrators.

But that is the brief answer to the wrong question. We must, to be sure, find out why sexual and racial discrimination exists—and doing so is a suitable subject of empirical inquiry for social psychologists, moralists, political theorists, and others. However, I am concerned with the question of what we are entitled to conclude from the evidence of statistical underrepresentation. Ms. MacLachlan's conclusions are in the main *non sequiturs*, in part because she seems automatically to equate discrimination with underrepresentation. This is clear when she proceeds to answer her first question with another question which, by implication, seems to assert that it is impossible to explain the underutilization of women and blacks unless we assume that this underutilization means they are the victims of discrimination. It is this conclusion that I want to examine by addressing myself to the most generic form of this issue; is statistical underrepresentation on the faculty of a university prima facie evidence of discrimination? This, it seems to me, is the *right* question.

Surely all of us have encountered the seemingly powerful argument that statistical underrepresentation provides the irrefutable evidence of discrimination and inequality. Such a view is complicated by the fact that there is rarely any general agreement, either by the advocates of such a view or by their opponents, about the appropriate base point against which to measure this alleged discrimination. Sometimes the base point is presumed to be the nation, the state, the region, the city, or some other official or unofficial geographical entity. Obviously, it is likely to make a considerable difference whether a state like North Dakota, where black people are a tiny percent of the population, is required to construct its public institutions so that black civil servants are proportionate to the number of black people in North Dakota or whether they should construct their institutions to reflect the fact that black people are fourteen percent of the population of the United States.

We could readily parallel this problem with an exemplary university analogue. Should a department of micro-biology at Yale University, contain minorities proportionate to the number of minorities in New Haven, Connecticut, the Connecticut Valley, New England, or the United States in order to provide statistical evidence of non-discrimination? Should such a calculation include all the minorities in the country or should it include only those minorities that reside in

New Haven or Connecticut? Or perhaps the proportion of minorities employed by the department of micro-biology should be proportionate only to the number of minorities with Ph. D.'s in micro-biology that presently reside within the limits of the continental United States? Or we might well consider the possibility that only those Ph. D.'s who are actively in the job market ought to be counted as part of the manpower pool since, for example, a black woman with a Ph. D. in micro-biology might have deliberately chosen to spend an indeterminate number of years rearing her children, writing novels or doing something else.

Still another version of this problem is evidenced in trying to determine what sort of statistical information is required for a university to demonstrate that it is not engaged in discrimination or the wilful perpetuation of inequality. (Such a formulation of the problem raises a very serious difficulty: are universities being required to demonstrate their innocence as if they are already guilty rather than being required to defend themselves against charges of guilt arrived at according to a known public standard of justice? Have they, in short, lost the right to be considered innocent until proven guilty because the gross evidence of statistical underrepresentation is presumed to provide prima facie evidence of their guilt?) Shall we require that each department or cluster of departments demonstrate statistical evidence of the employment of a proportionate number of minorities or shall we require that the employment figures for the entire university reveal the retention of a requisite number of women and minorities? And how are these numbers to be established?

These are all complications attendant to monitoring or assessing the existence of what is often called discrimination, disproportionality, or underutilization. Such complications are likely to have come into existence because we may already have concluded that statistical underrepresentation of minorities and women is, in fact, prima facie evidence of unequal treatment or discrimination.

But is that the case? In order to appreciate why it is not, we will have to unravel multiple confusions, some having to do with careless attempts to make words like, "discrimination" and "unequal" synonymous with terms like "disproportionate" and "underutilized." For example, do we really mean to argue that because Jews constitute three percent of the total population of the country that they should be represented in that proportion in the police force of Oshkosh or Chicago? If less than three percent of the oil-right workers in the southwest are Jewish, does that provide us with unmistakeable evidence that their underrepresentation demonstrates the existence of unequal treatment? (Note that I am not arguing that underrepresentation never provides evidence relevant to the discovery of discrimination. Of course it might. But does it constitute prima facie evidence of discrimination?) The absurdity of such a notion is self-evident and becomes additionally implausible if we continue to ask such questions about the proportions of Samoans who are insurance salesmen, Eskimos who are mechanics, and so on.

The most general difficulty with the argument that underutilization/disproportionality equals discrimination is that it conveniently overlooks the fact that there have always been—and, presumably, always will be, unless we submit to some sort of totalitarian homogenization of our pluralist culture—differences of values, orientation, taste, expectation and the like among the varied groups that compose this or any other nation. Many cruel perversions of our political life as a nation have exacerbated these differences, sometimes making them into heavy burdens or vicious stereotypes which have barred the way of some minorities to advancement. We need to continue and indeed to deepen our moral resistance and our legal opposition to such betrayals of the principle that all men are created equal. But to do this effectively we must have a clear mind about what is to be concluded from our observations of the real world. The fact is that many of the differences of group outlook to which I have referred—differences that have influenced a disproportionate number of Italians to become opera singers, a disproportionate number of Armenians to become truck farmers, and a disproportionate number of Jews to become doctors, college professors, and novelists (and, if C. P. Snow is correct, to constitute almost half of those ever awarded the Nobel prize for excellence in science)—these differences express prima facie evidence *not* of discrimination but rather of the vitality of democracy. These specialized choices are derived from deep allegiances to group loyalties, to religious ties, to sentimental attachments, to cherished traditions and ethnic identification. It is not necessary to believe that every aspect of these choices has been free of constraint in every respect in order to defend them as expressions of democracy. Such a view would be perfectionistic and unrealistic. It is only important to understand that the alternative to such choices—quota arrangements that would assure proportionality—is an infinitely greater source of constraints on our freedom and provides absolutely no assurance—either with reference to logic or the record of social practice—of possible success. It is also important to understand that many of these choices that have resulted in disproportionality were made in an environment that offered alternative possibilities.

III. WHAT RECOMMENDATIONS CAN BE MADE THAT WILL IMPROVE THE PRESENT STATE OF AFFAIRS?

In addition to a strict prohibition against job discrimination, higher education should support two basic propositions:

1. A serious search must be made for qualified women and minorities when faculty appointments are being made. At the departmental level, where academic recruitment is initiated, procedures should be established to include a current and realistic estimate of the pool of qualified individuals from which candidates will be drawn. Carefully balancing professional interests and priorities as it sets its own programmatic needs, the department must constantly strive to attract the best faculty possible. To this end it should also demonstrate that it has reached out in its search for women and minorities. All too often a departmental canvass is woefully incomplete, confined only to familiar channels which fail to inform women and minority persons of the existence of jobs. Departments should be put under the obligation—monitored by the administration—of conducting a determined search for women and minority group candidates.

2. Expanded opportunities must be provided for academic training at the graduate level for women and minority group members. The federal government, state legislatures, and private foundations, as well as business and industry, should make available the necessary resources for further confirmation that as a society we must be more than passive if increased employment opportunities for women and minorities in higher education are to be achieved in fact as well as in legal theory.

All of us need to be encouraged to think about a real Affirmative Action program. We also need to be clear about what it means to propose such a program. A quick numbers game will not solve the real problem of the minority imbalance that exists in virtually every field or discipline. It is an easy but deceptive and ultimately expensive solution. Nor is a straight racial line for making faculty appointments supportable. To move to the concept of race (or sex) as an exclusive or predominant criterion for faculty hiring is a major qualitative change which undermines the principle of academic competence so essential to an institution of higher learning.

I believe the most promising hope lies in a combination of longer-term efforts that range from introducing minority high school students at the earliest age possible to the opportunities available to them in medicine, law, teaching, etc., to motivating those with potential as college undergraduates to pursue careers at the professional level, so that the ranks of the truly qualified will be legitimately expanded.

The kind of Affirmative Action program I have in mind would be substantial and significant. With the help of the federal government there would be fellowship programs for people *before* they become incapacitated students. We need to rescue good minds at the high school level before they become too dulled and ill-equipped to go to college. This country would be willing to pay for an educational program that would benefit the handicapped, by which I mean giving people, on a non-discriminatory basis, a chance to overcome poverty, a bad family situation, and the like.

I believe that to attack our colleges and universities today is really to attack the wrong stage of the development. As I have suggested, we need to mass our remedial efforts in the form of state and national search programs at the high school level where talented young people—blacks, Chicanos, poor whites, which is to say all of the disadvantaged who otherwise get locked into a lifetime of inequality—can be found and helped. It seems to me that much of the current emphasis being put into enforcement could wisely and profitably be put into discovery and assistance.

LATVIA

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1973

Mr. VANIK. Mr. Speaker, November 18 marked the 55th anniversary of the Declaration of Independence of the Republic of Latvia. Latvia, along with its neighboring Baltic States of Lithuania and Estonia, had been held in subjugation by czarist Russia. But, in the break-up of the old feudal empires of Europe at the end of World War I, these three small States, in accord with Wilsonian principles, were able to declare and gain their independence. For 22 years, all went well. Then, in June of 1940, after the fall of Poland and while the West was reeling under the invasion of France, the Soviet Union invaded the three small Republics. The horrors of World War II then swept across these lands. The Nazi armies conquered the area and then the Red army returned. Ever since, these countries have been held under the rule of the Soviet Union.

Immigrants and refugees from Latvia and the other Baltic States have contributed immeasureably to the diversity and growth, to the interest and beauty of our own land. It is right that we all should join with them in this remembrance and anniversary.

But Latvia must also be remembered for its lesson, for its meaning to the cause of freedom and liberty for all men, everywhere. The history of Latvia must stand as a warning to all of us of the dangers which confront those who seek freedom and independence in a world of hostile and totalitarian forces. We must ever stand on our guard; we must ever be watchful in the cause of liberty and human rights.

We must not disappoint the hopes and dreams of the Latvian people. Currently pending in the Congress is a freedom of emigration amendment. It has been cosponsored by some 289 Members of the House and 77 Members of the Senate. I am hopeful that this amendment will be accepted as a precondition for extending most-favored-nation trading status and export credit financing to the Soviet Union. We must call the attention of the Soviets to the concern which the American people feel for the minorities caught within the Soviet Union.

DO WE DESERVE THIS GREAT COUNTRY?

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ALEXANDER. Mr. Speaker, all too often we hear criticisms of the young people of this country. We hear that they are apathetic, tuned out, and unconcerned. My daily mail indicates differently. I wish to share with my colleagues a letter I received from Rex Davis, a member of a Boy Scout troop in Colt, Ark. Rex, very sincerely and eloquently, points out the privilege we have living in a country as beautiful as ours and pleads for legislative assistance in keeping it that way.

The letter follows:

COLT, ARK., *November 3, 1973.*

DEAR MR. ALEXANDER: My name is Rex Davis. I am thirteen years old and a member of Boy Scout Troop 136. I am working toward becoming an Eagle Scout and only lack three merit badges.

I am now working on "Citizenship in the Nation," and as one of the requirements in earning this badge I must write to my Congressman, expressing my views on some local or national issue. I would like to express my views on pollution.

I have visited several national parks and see how well kept they are. I know that it takes a lot of work to keep our parks and streams clean. Last year in the Order of the Arrows, which is an honor group of campers, we had to clean up the park in Forrest City, where people had thrown their paper cans and bottles down without thinking about those who would come along later. This was part of the ordeal you go through before being accepted in the Order.

I would appreciate your doing what you can to keep our streams and parks clean so the young people of my age will have a place to fish, and view wildlife in the parks when we become adults. I would also like to see more parks established and those we now have preserved. We have done nothing to deserve this great country. God doesn't love us any more than people in India. The least we could do is take care of it. I think the Great Smoky Mountains are a good example of what Americans can do if they will.

You may remember my father, Berlon Davis. He used to be County Clerk in Cross County until he quit and became a minister.

Thank you for your time and efforts.

Yours truly,

REX A. DAVIS.

LOSS OF PANAMA CANAL COULD BE DETRIMENTAL TO U.S. SHIPPING

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. RARICK. Mr. Speaker, with the organized public attention being focused on the energy crunch and the Middle East situation, little attention is being paid to the announcement that our Government has renewed negotiations in Panama City on the future control of Panama Canal. Strangely, the news analysts are not telling the American people that the Panama Canal crisis is far more important to the security of our country than is the Middle East situation and that the Panama Canal negotiations could have great effect on the much publicized energy crisis.

Loss of the Panama Canal, or giving its control to an unstable foreign power, could have the effect of barring any east-west coastal shipping by water, thus forcing transportation around Cape Horn. The result would mean not only additional shipping delays but would consume additional precious fuel.

It must be considered most ironic that at a stage in history where the people are being told to laud praise on their leaders for "the great détente" our country has developed with the Soviets and the Red Chinese, our diplomatic relations with our fellow Americans to the South have deteriorated to the point where 24 Latin American countries, excluding Cuba, meeting in Bogota, Colombia, on November 15 unanimously announced support for the Republic of Panama gaining full sovereignty over the Panama Canal Zone.

Our people would do well to consider the effect of U.S. loss of the Panama Canal on our domestic problems as well as on the international scene. Our leaders must start adopting foreign policies for the benefit of the American people.

I insert the related news clippings, as follows:

[From the Washington Post, Nov. 28, 1973]

UNITED STATES AND PANAMA RESUME CANAL TALKS

(By Marlise Simons)

PANAMA CITY, November 27.—In an atmosphere of surprising optimism, the United States and Panama have resumed their negotiations on a new canal treaty after a break of almost one year.

U.S. sources here seem particularly hopeful that the new U.S. negotiator, Ambassador-at-large Ellsworth Bunker, will be able to break the deadlock in the nine-year-old talks.

Bunker arrived here yesterday for a week-long visit during which he will confer with Panama's political leaders and the official negotiating team, as well as with American civilian and military authorities in the U.S. controlled Canal Zone.

Since the last negotiations last December, Panama has mobilized considerable Latin American and even worldwide support for its campaign to recover sovereignty over the 500-square-mile Canal Zone.

As a result, U.S.-Panama relations deteriorated sharply. Much bad feeling was stirred up by the special meeting of the U.N. Security Council here in March, when the United States was forced to use a rare veto to block a strongly pro-Panama resolution.

Since then, however, bitterness appears to have subsided and both sides have made efforts to resume substantive negotiations. There have been several exchanges of notes and documents.

Panama feels it made a major concession last May when Panamanian Foreign Minister Juan A. Tack agreed to discuss the question of a new sea-level canal concurrently with the renegotiation of the 1903 canal treaty.

Then, in October Tack conferred in New York with Secretary of State Henry Kissinger, who reportedly expressed confidence that the two governments could reach a quick agreement.

Since the appointments of Kissinger and Bunker, Panamanian circles have also begun to reflect a new confidence. A source close to Panama's negotiating team explained "it is quite clear that, as a result of the U.N. meeting here, Washington is giving the canal issue higher priority."

On his arrival, Bunker told reporters: "It is my hope that Foreign Minister Tack and I can initiate a new dialogue that will result in the promptest possible negotiation of a new and modern treaty arrangement."

This week's sessions are regarded as an orientation for Bunker, and no agreement is expected to be announced.

The two bargaining positions are still far apart. The main disagreement seems to be the time-period over which Panama should assume effective jurisdiction over the Canal Zone, and responsibility for the administration and defense of the canal itself. Under the 1903 treaty, the United States can occupy the Canal Zone as if it were U.S. territory "in perpetuity."

The main substantive issues are:

Panama demands early jurisdiction over the Canal Zone. This means that Panamanian laws should apply in all civilian areas and that Panama would take over police, postal and commercial activities in the zone. Panama demands that the gradual assumption of these responsibilities must take place within five years. Washington has accepted the principle of the handover but proposes a 15-year period.

Panama requests the progressive elimination of the U.S. military presence in the zone—some 12,000 troops of the U.S. southern command are stationed here—and immediate Panamanian participation in the defense of the waterway.

Panama also wants a drastic reduction in the area used by the military, particularly in such valuable urbanized areas as Balboa. Panama would like that as an area where its own fast-growing capital can expand.

It also wants U.S. payment for the privilege of maintaining troops in Panamanian territory. So far, the Pentagon has discouraged the State Department's negotiators from detailed discussion of military questions.

On the question of a new sea level canal, Panama wants a part in deciding where and how it should be built and prior agreement on how long the United States should administer such a new canal.

Panama wants U.S. rental raised sharply from the current $1.9 million per year, although Panamanian government sources say that political and juridical questions must be resolved first.

Ironically, despite Panama's often fiery rhetoric, the military government is in no apparent hurry to conclude a new treaty. Panamanian officials feel that, as Washington cannot long delay decisions on a new sea-level canal and on renovations on the existing canal, Panama's negotiating position can only improve with time.

The canal question also plays an important role in domestic politics. The military strongman, Gen. Omar Torrijos, has used the issue skillfully to earn popularity. Torrijos is not anxious, observers here feel, to lose the one political issue on which all Panamanians are united.

In recent weeks, the government has faced its first serious challenge in five years from the powerful private sector. The immediate issue is a government decree freezing all rents and obliging the construction industry to build more low-cost rather than luxury housing. The private sector has interpreted the measure as the latest in a series of "steps toward socialism" and has decided to take a stand.

A "bosses' strike" was threatened and was only called off when the government promised to reform the housing decree. Subsequently the government decided that the decree should not be modified and a new strike reportedly is being planned. More than $100 million worth of construction has been paralyzed, and there has been a significant outflow of Panamanian capital.

Torrijos is reportedly unconcerned by this right-wing challenge, but several of his close aides are known to fear the political consequences of an economic recession provoked by a sudden drop of business confidence.

Panama is a commercial center, which depends more than most countries on international confidence for survival. In recent years, it has enjoyed a boom in off-shore banking, which has brought in hundreds of millions of dollars.

This money would quickly leave if political stability were threatened, observers here point out.

Despite the near panic among Panamanian businessmen, the United States seems undisturbed by Torrijos' leftist rhetoric, apparently believing that, if anything, the presence of a strong government increases the likelihood of an early agreement on the sensitive canal issue.

[From the Panama (CR.P.) American, Nov. 16, 1973]

REPUBLIC OF PANAMA'S OBJECTIVE—A PANAMANIAN CANAL

BOGOTA.—Panama today expressed conviction that the United States will listen to the united voices of Latin America clamoring for "a just solution to its petition for return of sovereignty over the the Canal Zone".

Panama Foreign Minister Juan Antonio Tack said that the objective of his country is to have a "Panamanian Canal", and that the treaty signed with the United States in 1903 be "annulled, eliminated and buried."

At a press conference which followed the morning session on the second day of closed-door deliberations of the Latin American Foreign Ministers Conference, Tack said that Panama "Does not seek a revision of that treaty, but its complete elimination for signing of an entirely new treaty in which Panamanian jurisdiction over the canal will be plainly recognized and in which the perpetuity clause * * *.

Panama will agree to North American administration of the Canal but not beyond the end of the present century, he said. He indicated that clear jurisdiction by Panama over the waterway should be recognized much before expiration of the new treaty.

Tack said that upon expiration of the treaty now being negotiated with the United States, Panama will regain not only clear sovereignty and jurisdiction over the canal, but also the rights to administration of the canal. "And so," he added, "we will have a Panamanian canal."

On the other hand Tack accused Washington of "having violated many clauses of the 1903 treaty", giving as an example the fact that "the United States has established 14 military bases on the Canal Zone, among these being some for anti-guerrilla training."

Asked if there were any nuclear arms at the bases, he said: "Sincerely and with all frankness I must admit that we have never been able to determine that."

The question of the Panama Canal is one of the points on the agenda which has served as base for the deliberations of the Latin American Prime Ministers whose three-day meeting ends tomorrow with signing of a joint deliberation which will mention matters to be discussed in the "New Dialogue" with the United States, scheduled for a new Hemisphere Foreign Minister Conference to which U.S. Secretary of State Henry A. Kissinger will be invited and which has been proposed to be held in Mexico before next April.

In the press conference Tack also referred to the case of Cuba and expressed the position of his country that the Latin American countries should be left free to either establish relations or not establish relations with the regime of Prime Minister Fidel Castro.

Finally, he said that in his concept the case of Cuba "has gone out of the margins of the Organization of American States (OAS) and that in such a situation "each country should be left at liberty to choose its friends or enemies with whom to have relations."

[From the (Panama) Star & Herald, Nov. 16, 1973]

PANAMA GETS UNANIMOUS SUPPORT OF LATIN AMERICA

BOGOTA, November 15.—Twenty-four Latin American countries today gave unanimous support to Panama in its dispute with the United States over sovereignty over the Panama Canal Zone.

Panamanian Foreign Minister Juan Antonio Tack said Latin America's support ". . . helps to make the United States understand that it should heed the just Panamanian aspirations."

The expression of support is contained in the "Declaration of Bogota" which will be signed tomorrow by foreign ministers and delegates of the Latin American countries. The Declaration includes eight basic points which will be discussed early next year in Mexico with U.S. Secretary of State, Henry A. Kissinger.

At a press conference soon after the Latin American support was announced, Tack said:

"The government and the people of Panama are grateful for Latin America's unanimous support. The fact that the conference has declared the matter of the Canal as one of common and priority interest for Latin America does honor to all the peoples of this Continent."

Under the 1903 Panama Canal treaty, the United States administers the Canal in perpetuity.

Panama and the United States are scheduled to resume negotiations late this month. Foreign Minister Tack said "Latin America's support has come at a timely moment when we are preparing to continue the negotiations . . ."

"This support from Latin America," Tack added, "will help to make the United States understand that it must heed Panama's just aspirations."

Asked about Panama's position on Cuba, Tack said that although the Conference has not made a pronouncement on Cuba, Panama feels that every country is free to choose its friends and foes, so that each country may decide freely when it should reestablish relations with Cuba.

He said Panama has "adequate communications" with the Cuban government, but he did not indicate when Panama might establish relations with Fidel Castro's government. Tack discounted any possibility that Cuba might return to the Organization of American States, recalling that the Cuban government itself has rejected the idea.

The foreign ministers dropped the Cuban issue and a sophisticated proposal for compensating nationalized corporations.

Mexico's Foreign Minister Emilio O. Rabasa has been commissioned to work with Secretary Kissinger for scheduling the hemisphere talks, which are expected to be held next March in Mexico.

The draft supporting the Panamanian claims had been opposed by several foreign ministers, particularly Brazil's, but when Tack threatened to leave the meeting if an initial accord was not honored, his reticent colleagues bowed.

A final statement in this respect said that in view of the upcoming renewal of bilateral talks over the Canal Zone, "the Latin American countries reaffirm their solidarity with Panama, believe that the solving of that problem is of common and priority interest for Latin America and wish that the already prolonged negotiations end in a way satisfying the just aspirations of Panama".

Other points in the draft statement include U.S. cooperation in development of the region, changes in the inter-American system, a full voice for Latin America in international monetary negotiations, technological assistance and rules for the operation of the so-called multinational corporations.

There have been many complaints by Latin American governments of misconduct and intervention in their internal affairs by ITT, the American oil companies and other American-dominated international corporations.

"In view of the deep preoccupation over the multinational corporations' attitude, the cooperation of the United States is needed in order to prevent difficulties or frictions," the draft document said.

Cuba was not invited to the meeting. Colombia's Foreign Minister, Alfredo Vasquez Carrizosa, explained: "This being a gathering mainly aimed at discussing the region's ties with the United States, Cuba was not invited because it has no relations with the United States."

The conference is working on a draft prepared by Colombia, Mexico, Peru, Venezuela and the Dominican Republic, diplomatic sources said.

The meeting was called outside the Organization of American States frame, and countries that are not members of the OAS such as Guyana, were invited to underline a more complete regional picture.

THE TORRANCE ROSE FLOAT ASSOCIATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ANDERSON of California. Mr. Speaker, on New Year's Day 1974, millions of people from almost every free country of the world will watch the colorful Pasadena Tournament of Roses Parade via satellite television.

This time-honored annual event brings natural beauty to the viewer through the display of creative floral art depicting scenes which carry the 1974 parade theme, "Happiness Is."

As the parade progresses, its pageantry and precise scheduling is a thing of wonder which is seemingly accomplished with grace and ease.

To the many participants in the parade, successful execution of their segment culminates many months of preparation through dedicated service.

Private, public, and commercial groups have joined together to delight the peoples of the world.

Mr. Speaker, I rise today to honor one such group, the "Torrance, Calif., Rose Float Association."

The Torrance Rose Float Association is a group of energetic volunteers who work hand-in-hand with the community to sponsor the entry of a float in the Pasadena Tournament of Roses Parade January 1 of each year.

Torrance has had an entry in the parade almost consecutively since 1914. In the years prior to 1971, the Torrance area chamber of commerce successfully coordinated the entry. Then the Torrance Rose Float Association was founded and took over the responsibility. Also in 1971, the Torrance City Council, in dealing with necessary budget cuts, decided not to cut float funds entirely, but rather, to definitely limit expenses and at the same time find out if the community itself desired and could benefit from continued participation in the Rose Parade.

The Torrance Rose Float Association was formed and is headed by a volunteer 11-member executive board, supported by over 150 active year-round members and over 650 volunteers, ranging from teenagers through senior citizens. Dedicated executive board members are: President, Edward Enrietta; vice president, Richard Spaan; secretary, Doreen Sale; treasurer, Sandra Thayer; directors: Ceceila Laxton, Charles Dishon, Judy Dishon; Ann Adam, Mary Smith, Jean Spaan, Ruthy Enrietta, Al Roberts, Sally Roberts, Larry Wright, and John Hall.

City of Torrance staff liaison is provided by Deanna Manning, under the direction of Harry B. Van Bellehem, park and recreation director.

Every organization has accomplishments in which they take pride. The Torrance Rose Float Association is proud of their float with a message, but is particularly proud of the cooperation between all of its members in the last burst of hard work before parade day. Senior citizens, parents, and a number of community organizations have consistently provided and served food for the Torrance float work crews, the majority of whom are teenagers. This cooperation between different age groups, community groups, and income levels is felt by many in the association to be its greatest accomplishment.

Even some of the Tournament of Roses officials have pointed to the Torrance Rose Float Association as a model for other volunteer organizations wishing to enter a float in the Rose Parade. The association is flattered to be used as a model, but realizes that being a successful volunteer organization means the active interest and participation of association members.

Hundreds of others donate a dollar, $5, and $10 toward the float's construction, with patron members donating $25 or more.

The construction of the float is sponsored by the joint efforts of the city of Torrance, the U.S. Forest Service, and the Torrance Rose Float Association.

Woodsy Owl, the Forest Service ecology symbol, made his Torrance debut on the 1973 natural gas-driven float, "Call of the Wild."

Woodsy rides again with Torrance in 1974 on the beautiful "Nature's Balance" depicting the parade theme, "Happiness Is."

Mr. Speaker, I would like to commend the Torrance, Calif., Rose Float Association for its outstanding service, not only to the citizens of Torrance and Californa, but to the Nation as well.

CRIME CONTROL—NO. 15

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. LANDGREBE. Mr. Speaker, I recently received a letter from a resident of a State far removed from mine, which courteously expressed disagreement with my position on gun control. It is the only such letter I have received since I began this series on crime control. For that reason I would like to criticize several of its arguments, for they are more or less standard arguments voiced by those who advocate a government monopoly on guns. My correspondent writes:

> You said that the proper use of guns would be prohibited by gun control legislation. Most people who would apply for a license would be eligible and would qualify as owners. Licensing would disqualify mental incompetents, addicts, alcoholics, etc.

I would like to point out first that in the context to which the gentleman refers, it was gun confiscation that was being discussed, not licensing; but I will reply on his terms.

The inconvenience, expense, and humiliation of applying for a license will discourage many law-abiding people from doing so. Thus one effect of licensing will be to increase the number of guns in the hands of convicted, paroled, and unapprehended criminals and recidivists while decreasing the number of guns in the hands of good citizens. This shift in gun ownership can only contribute to an increase in the improper, criminal use of guns, and a decrease in the defensive use of guns.

Furthermore, my correspondent lists three categories which will be denied gun licenses: "mental incompetents, addicts, alcoholics, etc." Not only do I not understand what he means by "etc.", but I also cannot understand what he means by "mental incompetents," "addicts," and "alcoholics." He has neglected to furnish a definition of any of those terms, for a very good reason, I suspect: they are indefinable. Someone is called an addict or an alcoholic because he is ingesting something the speaker does not wish him to ingest. And I suspect that the first persons to be classified as mental incompetents will be those who oppose gun control laws. Any person in the country could be denied a license under the terms my correspondent suggests.

My correspondent writes:

> The only proper use denied to a proper owner would be in the case of the cheap, non-sporting handgun, which is only a crime weapon and which is regarded as an unessential by all responsible people.

I have already pointed out that "proper owner" is an undefined phrase. It should also be pointed out that "cheap, non-sporting handgun" is also an undefined phrase. What is cheap? Twenty dollars? Fifty dollars? Forty-nine ninety-five? What is "non-sporting"? A gun used for protection? A gun not used at all? In my correspondent's mind it appears to be a gun used only for crime: "a crime weapon." Unfortunately the proopsal is to ban such weapons before they are used for criminal purposes—so the label "crime weapon" is unwarranted and arbitrary, a label which may be affixed to any weapon which the gun control lobbyists may wish to ban.

The last two undefined terms may be similarly dealt with: such guns are "unessential" to whom? To those who cannot afford to buy an expensive handgun and pay the license fees, too? Finally, one suspects that the group "responsible people," excludes those favoring private ownership guns.

Thus we see that the strictures which a moderate gun controller would place upon gun ownership may be so interpreted as to prevent any law-abiding citizen from owning guns, and thus prohibiting the proper use of guns and guaranteeing their criminal use.

SHOULD HAVE SEEN FUEL SHORTAGE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Ms. HOLTZMAN. Mr. Speaker, while we are all busy turning down thermostats, slowing down cars, and buying cold-water detergents, we might pause to ask ourselves, "what has happened"?

It is difficult to believe that our energy crisis, with even the recalcitrant White House now calling it a crisis, could have sprung full-grown from events of these past months, or even of this past year. When we start talking about schools altering schedules, mass transit halted, gas rationing, and people without fuel, we are talking about pretty grave matters, and someone should have seen the situation developing.

But the people in a position to get the early-warning signals ignored them, and a recent report by the Senate's permanent Subcommittee on Investigations blames today's fuel shortage on the White House for eliminating oil import quotas too late and on the oil industry for refusing to recognize for the last 3 years that a fuel shortage existed.

The administration has refused to put substantial funding into research and development of other sources of energy: solar energy, fusion, thermal energy from the Earth, and the like. It is incredible that the administration never bothered to advance technology so that our nuclear power plants can function at more than 50 per cent of capacity.

It is now clear that there has been a characteristic abdication of leadership on this crucial issue and unfortunately it is now the country that must bear the burden of the lack of planning from our Executive. Even in this 11th hour, Mr. Nixon's "game plan" seems to be something along the lines of self-sufficiency, toughing this thing out together. It is outrageous and unconscionable for this administration to shift the problem to the people of the Nation.

No amount of Presidential rhetoric is going to convince us now that this is a passing phenonmenon or that there is a short-cut to solving the energy problem. We have to have some leadership, some firm, far-sighted planning—planning that should have been done years ago by the White House. Even the average citizen has been aware enough for some time to question the myth of our resources being limitless.

President Nixon, at the very least, can overcome his urge to veto Congress' mass transit legislation. He might also take note of the fact that his proposed legislation to let the Penn Central and other bankrupt Northeastern railroads abandon half their trackage would have meant switching to trucks, requiring 420 million more gallons of fuel per year. That is the kind of planning that has gotten us into this mess.

Concrete steps must be taken now. An Office of Emergency Planning must be set up to deal with getting fuel to hospitals or schools that have run out and cannot obtain additional fuel. The President's finger-in-the dike solutions, such as daylight savings time and changing speed limits, are not going to hold back the flood of problems ahead of us. I hope the President stops being aloof and starts being alert before its too late.

LEADERSHIP CRISIS IN U.S. GOVERNMENT

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. COTTER. Mr. Speaker, an article by Hobart Rowen in today's Washington Post again underscores a point that I have stressed during the last year. The lack of Presidential leadership on the energy crisis has increased the possibility that this Nation will not escape severe economic loss in 1974.

I commend this article to the readers of this Record:

Crisis of Leadership

(By Hobart Rowen)

A strong President would have taken strong steps to cope with the energy crisis. But Mr. Nixon is a weak President, desperately clinging to his office. As a result, the nation is being ill-served by half-baked measures which not only will not solve the problem, but doubtless will make it worse.

At the same time, American industry has shown that it, too, has been wearing blinders. In Detroit, where the chief executives haul down anywhere from $440,000 a year (Chrysler's Lynn Townsend) to $875,000 (Henry Ford II) for their efforts, the auto companies have been caught flat footed, with huge inventories of gas-guzzling monsters.

As a result, auto stocks are plunging and thousands of workers are facing layoffs that needn't have come if the top men had really earned their plush salaries.

Michael Evans of Chase Econometric Associates, Inc. puts this latter point as well and as bluntly as anyone:

"The market share of standard-size cars fell 7 per cent last year, which is as much as it had fallen during the previous seven years. These facts simply could not have been a secret from executives in an industry which has more daily and weekly data than any other.

"I personally know of several instances where middle management argued strenuously last year that production lines should be reoriented toward smaller cars. Yet this argument fell mostly on deaf ears at the top executive level. John deLorean's abrupt departure from GM was based on more than long boring staff meetings."

To come back to Mr. Nixon's poor performance: The President is doing his best to make it appear the energy crisis is temporary, one that can be handled with relatively soft measures.

He told the Seafarers' Union that the crisis would not last much more than a year, the direct opposite of what his own chief energy experts have been telling him and telling reporters.

The blunt truth is that even if the Arab oil embargo were to be lifted in a matter of months, this country will face both a shortage and shockingly high prices for what supplies are available until new resources are developed.

By his own count, the President's new program—a 50-mile speed limit, Sunday gas station closings, etc.—will reduce fuel consumption this winter by only 10 percent, while the shortfall will be 17 per cent.

It is obvious that gasoline supplies must be reduced so that more home heating and industrial oils can be produced. And a formal rationing system is the only logical way to distribute whatever gasoline remains available. As cumbersome as it is, rationing would be better than throwing short supplies on the market and letting everyone hustle for what he can get.

But an even more serious consideration is the President's bland insistence that give it a year or so, and it will be business as usual. Lurking behind such a statement must be the desperate hope that the Arab nations can be pushed into shipping oil once again.

American policy should be based, as Treasury Secretary Shultz said the other day, on the assumption that Arab oil sales will never be resumed.

"If we don't take a lesson from this, and pay the price it takes to become self-sufficient, we're just crazy," says Shultz. He's right, but his boss hasn't got the message.

Mideast oil, it must be remembered, costs less than 15 cents per barrel to produce. But ever since 1971, the cartel of oil-producing nations has been hiking the price to astronomical levels by raising the tax on oil exports. Thus, even if a real Arab-Israeli peace were somehow achieved, the oil producers' monopoly could still maintain an artificial scarcity and drive the prices up at will.

Thus, the U.S. needs a crash program to develop oil from shale and coal, to explore off-shore, to stimulate energy production from solar and nuclear sources, and to strengthen ties with the non-Arab oil-exporting nations. It needs the kind of government management that will direct the domestic oil industry, rather than let it call the shots—as it did five years ago when it successfully lobbied Nixon away from Shultz' recommendation that oil import quotas be lifted in favor of a tariff system.

The nation also needs to re-develop strong ties with the rest of the Western World and Japan so that together they can blunt the heady new economic power of the Persian Gulf nations.

But all of this takes the leadership of a respected, courageous President—which suggests that we won't cope with the major dimensions of the energy crisis until Mr. Nixon is persuaded to leave, or is pushed out of his high office.

THE AMERICAN BANKERS ASSOCIATION RESTUDIES MINORITY LENDING PROGRAMS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. RANGEL. Mr. Speaker, on Tuesday, November 20, 1973, I had the opportunity to address the first national conference sponsored by the American Bankers Association on minority lending. This conference, which was held in New York City, was an important first step toward improving communication between those who operate minority lending programs in commercial banks and between the lending officers and public officials, community leaders, and businessmen from the minority communities served by the lending programs.

Delegates to the conference were unanimous in their feeling that the conference was valuable and in their desire for further communication of this type. I personally benefitted from being there, and for the benefit of my colleagues I include an article on the conference from the American Banker in the Congessional Record:

Bankers Spurred, Frustrated by Challenges at ABA Meeting To Restudy Minority Lending

(By William Zimmerman)

New York.—Bank officers who attended the American Bankers Association's first national minority lending conference this week returned home to their institutions both braced and frustratd by the challenges that were continually thrown at them to reevaluate what they and their industry are doing in the arena of minority economic development.

The most dramatic challenge, causing perhaps the greatest amount of frustration, was tendered by minority rights activist Jesse Jackson, the conference's keynote speaker.

He told the 175 delegates that the industry's highly touted $1 billion commitment to make minority business loans over a five-year period is a good beginning, but in no way comes close to matching the urgency of the economic problems the nation's minorities confront or tapping the mammoth resources that banks could bring to bear on these needs.

He urged banking to play a leading role with other industries and the government in structuring a national aid program, similar to concept to the Marshall Plan, to attack the economic problems of minorities.

This proposal drew considerable support from many of the attending bankers, but their frustration—as reflected in their public statements and private conversations—focused on how to move the industry through its trade association, the ABA, to take a position on this concept.

At the heart of their frustration, they said, was the fact that as middle managers, or the "nuts-and-bolts" minority loan officers, they themselves do not have the power to make the ABA act, and thus the urgency of Mr. Jackson's remarks, while convincing to them, was falling on the wrong ears.

The problem, both they and Mr. Jackson said, was that there were few chief executives of senior officers attending the meeting—perhaps 15 at most, including some of the speakers. "Reading the Jackson speech is certainly not as effective as hearing it," said one southeastern banker, who observed that the civil rights leader was "talking to people who can't do anything."

One northern banker, asserting that "someone's got to take a catalytic role" in examining the possibility of a national economic development program, said he hopes to speak to his own chief executive, an influential banker, brief him on the Jackson idea and see if his own institution's social responsibility committee can come up with some policy statement to encourage the ABA in this area.

He further acknowledged that it might be more effective in winning banking industry support if Mr. Jackson were invited to speak to a forum of bank chief executives, such as the Association of Reserve City Bankers.

Some attempt by the ABA to deal with the Jackson idea will be made by the association's minority lending committee. Its chairman, Bruce M. Rockwell, president and chief executive officer of the $421.9 million-deposit Colorado National Bank, Denver, asserting he personally finds the idea intriguing, said his own committee will be studying it to see if there is some specific way the banking industry can respond to the idea, and that representatives of Mr. Jackson already have asked to meet with him in Denver to discuss it further.

But, said Mr. Rockwell, stating a point raised by other bankers and not answered adequately by Mr. Jackson, "we need meat on this thing." Precisely what, some asked, is Mr. Jackson talking about?

Earl G. Graves, publisher of Black Enterprise magazine, who also discussed a domestic Marshall Plan concept with Mr. Jackson, acknowledged that it is difficult to respond effectively to the Jackson idea because there is no plan now written, and he said he hopes to play a part in developing one.

Broadly, such a program, he said, would take 10 different types of Office of Minority Business Enterprise Programs, 25 times the amount of appropriations the Small Business Administration now has, massive rebuilding of cities, more educational dollars and a major commitment of government that is lacking today. The development and implementation of such a program, he added, is not the obligation of the private sector alone, and cannot be sustained by one bank or the banking industry alone.

The banking industry, while not necessarily taking the lead in such a program, could play a significant role in terms of loans, Mr. Graves said. He told the bankers to ask themselves if what they are doing is part of a "sideshow or main attraction" at their banks, and said that if they decide they are part of the sideshow, they must orchestrate their efforts to correct this situation. Similarly, he counseled bankers, when thinking of black businessmen, "you as lending officers have got to perceive us as other than a sideshow, walking on our heels."

Moreover, the black publisher said, bankers, if they are committed sincerely to the minority business development movement, must stop deceiving themselves in believing they are doing their jobs by expending a $50,000 SBA loan. A loan of that size, he said, "guarantees only that the guy stays in business another year," not that he grows.

"Forget about those $100,000 loans," he told the bankers, observing that financial institutions must be prepared to lend substantially more, and to do so in a creative way. "Which one of you," Mr. Graves asked, "is willing to loan $100 million or bring a consortium of banks together to do so?"

Morgan Guaranty Trust Co., New York, he said, in effect tells the business public that unless it has a package of more than $500,000, "don't come to talk to us."

"I hope in three years that that will be the most modest" size of minority loans presented to banks, Mr. Graves said.

"Your departments," he told the bankers, "must be part of the mainstream of banking, not be one-man operation."

A number of bankers nodded their heads in assent to this latter statement.

Reflecting the sense of isolation some of the bankers involved minority lending feel, one midwestern banker observed that his own senior management, which has set up a special division for this purpose, regards this area as a "festering sore." It knows something has to be done about minority economic problems, has assigned two officers to do something about them, and does not want to be bothered further about this now, the banker said.

One banker observed from the floor of the conference, in fact, that the social commitments made by most banks go back to the '60s. It is time, he suggested, for senior management to redefine its commitment and actively communicate to middle management what the bank's role is today is promoting economic development and in using such supportive tools as purchasing from black suppliers or advertising in minority publications.

It also is necessary, he said, that managements begin utilizing "management-by-objectives" approach to insure the success of its minority programs.

H. Floyd Britton, president of Mark V Associates, Inc., New York, a management consulting firm, who moderated a panel of black business people told the bankers that the minority community's prevalent view of bank minority loan programs is that they are set up for public relations purposes and have little substance. Middle management bankers, he suggested, are caught in a squeeze. They are taught to follow the rule books, having spent too much time learning their business and climbing the corporate ladders, so it is "absolutely impossible" for them to look at minority businessmen with the same commitment that comes down from the board rooms, Mr. Britton said.

Another black businessman, Fred W. Eversley, president of F.W. Eversley & Co., New York, a construction firm, suggested to the bankers that in their search for blacks with good business skills, they look inhouse.

There is a lot of expertise locked up in banks' own minority loan officers who may be "chomping on the bit" looking for new entrepreneurial opportunities and who should be spun out, Mr. Eversley suggested.

The bankers also were challenged by Rep. Charles B. Rangel, D., New York, both to open up communications with members of the Black Caucus and channel some of their lobbying efforts toward legislation designed to improve the lives of minority people, as well as toward their own special bank related interests.

Bankers, he suggested, are the "strongest lobbyists in the world," and need to speak out on such issues as the survival of the Office of Economic Opportunity, the impoundment of social security funds, the need for day-care legislation and the need for placing accountability on the school system for turning out educated children.

"I think it's terrible," Mr. Rangel stated, that "banks are looked at as the bastards of communities, rather than the builders." He added: "I ask you to think about investments in the country as you think about investments from abroad."

At a wrapup session, Mr. Rockwell, summarizing the sense of excitement and frustration that marked this event, observed that those who attended represent the "real energy" of the minority economic development movement of the country.

But with not many chief executives attending, and with delegates from "only 27 states of the 50 represented," Mr. Rockwell said, "we've got a job to do in a good many areas of this country where there appears to be no real energy or commitment."

REMOTELY PILOTED VEHICLES—RPV

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. FISHER. Mr. Speaker, the remotely piloted vehicles—the drone—has become increasingly important in the art of warfare. Its development is far too important to be neglected as a vital and necessary addition to our weapons inventory. Much research in this area has been done, and more is in order.

An interesting and authoritative discussion of this subject is contained in the October 8, 1973, issue of Newsweek, which follows:

[From Newsweek, Oct. 8, 1973]

DRONE PATROL

Remotely piloted robot aircraft are hardly a new idea. The first radio-controlled bomber was flown in 1928. Since then, aircraft designers have produced the German V-1s and V-2s of World War II, the drones used for many years for target practice and sophisticated craft sent in for reconnaissance and radar-jamming in North Vietnam. But now, the Air Force and the aerospace industry are working on a number of new remotely piloted vehicles (RPV's) that may eventually form the basis of the Air Force of the future. "RPV's are the coming thing, all right," says one Air Force colonel, "even though for the moment, RPV designers are about where the Wright brothers were 50 years ago."

The basic reason for the interest in RPV's is simple economy. According to a study by the Rand Corporation, the costs of manned combat aircraft are soaring at such a rate that, in the unlikely event the Air Force were held to its present budget, it would be able to afford no more than ten manned aircraft by the year 2000; by the year 2020 that figure would be reduced to precisely one.* At the going rate of $150,000 to $200,000 apiece, remotely piloted vehicles cost less than one-tenth the purchase price of a manned fighter-bomber. They do require hefty capital outlays for support systems such as ground stations and electronic communications, but these costs are unlikely to be higher than support costs for the manned airplanes of today's electronic Air Force.

The reason for the low price of RPV's, of course, is the fact that they don't have to be man-rated. Although RPV's are designed to return from their missions, they do not require the heavy armor plating that protects piloted craft; nor do they have to be equipped with such vital life-support systems as oxygen equipment and ejector seats. Indeed, the drones can be so skimpily constructed that plans are already on the drawing board for RPV's that incorporate aluminum-covered foam, glass fibers, plastic and even cardboard in their construction.

Robots: Now all RPV's are carried aboard a carrier aircraft to a site close to their target, and then released under the control of an RPV pilot—otherwise known as a "rated non-pilot" in the mother craft. The job of the non-pilot is to keep the RPV on course electronically, and in many cases that task is more complex than that of a conventional military pilot. "In the old days when we talked of remote control," explains one veteran drone pilot, "we talked of a command button which you could turn to go right, go left, dive or climb and a throttle switch to control speed. But now we have full control of the drone with full instantaneous feedback."

Typical of the complexities of nonpiloting is the control system of the Teledyne-Ryan BGM-34B, a weapon-bearing craft that is the most advanced RPV now in operation. Sitting in a C130A, the operator tracks the path of the drone on a television monitor screen that responds to a wide-angle television camera mounted in the nose of the RPV. Using the screen, the operator locates the drone's target and locks it into the craft's controls. Then the screen goes blank, and the RPV is left on its own to deliver the missile and return to a pre-programed area for recovery.

Of course, the current series of RVP's do operate under a number of restrictions. For one thing, the non-pilot, relying on a single television camera, has no peripheral vision to assist him in steering the drone. For another, both sighting the drone's target and recovering the craft after its mission are largely at the mercy of the weather. However, the industry is working on solutions to these difficulties. Another problem is the sheer complexity of communicating with RPV's, which puts the possibility of dogfights involving large squadrons of drones many years into the future. And politically, RPV's suffer a poor image among older pilots who see in them a challenge to their individuality. "How can you be a tiger sitting behing a console?" asks one veteran.

Obviously, pilot-manned units will remain the essential tactical arm of all air forces for many years to come. But if the enthusiasm of the aerospace industry and the non-pilots is any guide, there is no question that RPV's have a glittering future. "The RPV's are demonstrating that many roles that had been performed by manned airplanes don't have to be," declares Air Force Capt. Art Ritter. "It's now going to be a whole lot cheaper to fight a war."

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* This situation could finally force the Air Force to answer the question posed by President Calvin Coolidge back in the simpler times of 1927, when faced with a request from the War Department for three more military aircraft. "Why," asked Silent Cal, "can't the Army buy just one aeroplane and let the aviators take turns flying it?"

TRIBUTE TO HOMER CLARK WADSWORTH

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. BOLLING. Mr. Speaker, the following editorial from the Kansas City Star of November 21 is a richly deserved tribute to Homer Wadsworth, one of the finest public servants I have ever known. Kansas City will miss a leader and a benefactor. I will miss a kind friend and a wise advisor.

The Wadsworth Years Produce a Remarkable Record

The impact of Homer Clark Wadsworth on Mid-America has been substantial over the last quarter century. Also it is of a continuing nature.

Long after he departs for Cleveland and a new career next February, the community and the region will be benefiting directly from the programs he had such a large role in initiating.

Wadsworth's influence has spanned a broad spectrum of public life. Health, hospitals, education and welfare are the obvious examples. There are others. His record, and it is genuinely impressive, reflects the nature of the man and his unique local role as president of the Kansas City Association of Trusts and Foundations.

In his initial months here in 1949 it became apparent that he did not regard foundation money as a resource to enrich established programs. Or, as he put it, "mother, home and the Boy Scouts." Rather he regarded it as venture capital that could be used in experimenting with bold and unorthodox ideas that could lead to solutions to old and vexing problems.

As Wadsworth has often said, if public funds are used to support an experiment, and it fails, "someone always catches hell." When community foundations, using private resources, back a losing concept, the director has only to answer to his trustees, who earlier has approved the expenditure. This provides a freedom of action and an opportunity to take risks that are unavailable to elected officials.

Wadsworth's record here is all the more noteworthy because he has never had large sums of money to work with. Trusts and Foundations is one of the smaller community funds in the nation. But the available money has been used carefully and cleverly to achieve results far out of proportion to the resources involved.

One Wadsworth technique has been to use foundation financing to get an idea launched. Once it was established and thriving, responsibility was turned over to the appropriate public agency. This prompted one official at City Hall to brand him the "most dangerous" man in town. "I'll tell you why," he said. "He gets those things started, creates a demand for them and then forces somebody else, usually the city, to carry on."

Another Wadsworth technique has been to use foundation funds as seed money to attract support from federal, state and city budgets, other foundations and private individuals. In 1961 the Ford Foundation was so impressed with Wadsworth's record in Kansas City it gave Trusts and Foundations a 5-year grant with no strings attached. The program was renewed in 1966 for another five years. As a result $2.5 million came to Kansas City because of the Ford Foundation's confidence in a single individual. It was believed to be the first time in the history of philanthropy that one foundation allocated money directly to another.

Since 1949 Wadsworth has served as the catalyst for ideas or the direct innovator of programs that have produced profound changes in Kansas City. The Greater Kansas City Mental Health Foundation led to the Psychiatric Receiving Center and a pioneer effort in treating the mentally ill. The General Hospital Corporation has produced a miracle on Hospital Hill. When he began talking of the need for a Metropolitan Junior College, few saw merit in the plan.

He was a leader in the drive to bring the old University of Kansas City into the Missouri system and afterward to expand its usefulness. The list is long and varied, touching on many aspects of community life.

Wadsworth accomplished none of these things alone. But he did motivate others to achieve goals that at first seemed impossible. A major characteristic was never to panic when one resolution to a problem failed to get results. Instead he regarded a rebuff as a challenge to find another way to reach the same objective.

In most instances Wadsworth's role was known only to a few immediate associates. He felt more comfortable working behind the scenes and encouraging others to take the lead and the headlines. An exception was his 14 years as a member of the Board of Education. It was a critical period of transition in which he became well-known to the public and in some periods a controversial figure. Wadsworth brought to the board the same common sense and vision he applied to his other activities.

His decision to leave Kansas City after 25 years caught the community by surprise. It had been assumed he would finish out his professional years here. Instead he goes to Cleveland and a similar foundation role. Kansas City was fortunate to have the leadership of this remarkable man in the postwar years. It can be hoped the new career in Cleveland will be as challenging and as productive.

FACTFINDING MISSION

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. MATHIS of Georgia. Mr. Speaker, I rise to address the House for the purpose of commending my colleagues who traveled to the Middle East over the Thanksgiving recess on a firsthand fact-finding mission of the conditions existing in that troubled area.

Mr. Speaker, each year congressional delegations travel to various parts of this country and to numerous foreign countries for the purpose of gathering information that will be of assistance to the delegations and the Members of Congress in carrying out their legislative responsibilities. Most, if not all, of these trips have some value and many of them have resulted in the passage or nonpassage of legislation of great importance to our Nation.

I believe that this Mideast "fact-finding mission" was of great importance in view of the stakes involved in the Arab-Israeli dispute. On the one hand, the sensitive and explosive nature of this long standing conflict in the Middle East presents a possible threat to world peace. On the other hand, we are now confronted with a request from the administration for an additional $2.2 billion of military equipment for Israel on top of the billions that we have already furnished them. There is no doubt in my mind that overriding considerations in all of these matters make it necessary for those of us who are required to vote of legislation appropriating such large sums of money to have firsthand information from our colleagues. The time has passed when we can simply except such information as the executive branch chooses to give us at face value.

Mr. Speaker, it was difficult for me to believe that some newspaper reporters complained about this trip on the grounds that it used up fuel at a time when we are confronting an energy shortage. As all of the Members of this body are well aware this was not a vacation trip to San Clemente but a working trip to gain valuable information with a certain amount of risk to personal safety involved. If this trip by our colleagues had the slightest effect—which only time will tell—on speeding the resumption of the importation of Arab oil to our shores the small amount of fuel used up will be repaid many times over.

In conclusion, I would like to point out that these 21 House Armed Services Committee members gave up their Thanksgiving recess to travel to the Mideast. I believe that their willingness to do so speaks very highly of their intentions in the matter.

TWENTIETH ANNIVERSARY SOUTH SHORE RECORD

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. WYDLER. Mr. Speaker, one of the outstanding weekly newspapers in my area is the South Shore Record. It serves the fabulous five-towns area of my fabulous Fifth Congressional District. The editor, a good friend of mine, Florence Schwartzberg, bought the paper in 1969. Under her direction, the paper has achieved outstanding excellence. On its 20th anniversary it is a credit to the community it serves. On this occasion, Florrie, as she is familiarly known, wrote a special message to the people who read the newspaper regularly, "With love." I wish to set it forth for my colleagues in the Congress:

[From the South Shore (N.Y.) Record, Nov. 15, 1973]

With Love

(By Florrie Schwartzberg)

"We" will not do today. The editorial pronoun does not apply. It is I—me, with my over-brimming cup—who must speak thanks.

What's twenty years? A time-tick, a moment, even in the slender history of the Five Towns. The friends of the South Shore Record have honored it on its anniversary, not for its age, but for its meaning in their lives.

Why does a merchant, with wares to sell, choose instead, to advertise only congratulations to the South Shore Record? Why have the institutions and organizations of the community underwritten good wishes? For me, the answer is an overwhelming expression of support for a newspaper which serves the community it believes in.

I believe in the Five Towns. I believe, too, in the English language and in good journalism and in people. If it has all come together to build a better newspaper, it is not what I have done alone.

I have been blessed—with a staff which shares my respect for our craft, which has pride in our masthead and which, I hope, reciprocates my affection. I have been fortunate in the caliber of the columnists we have attracted, in the dedication of the people at our printing plant, and in a dynamic relationship with readers who react.

So, after all, "we" is the indispensable word. I will not deny that I am proud of the South Shore Record and of what I have put into it in an intensely personal way. But you—we—make it happen, every week, twelve months a year. And I thank you. With love.

MESSAGE TO THE CONGRESS FROM A CUBAN JOURNALIST

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. LUJAN. Mr. Speaker, I have before me an open letter to the U.S. Congress which was printed in a Spanish newspaper here in this country. The author of this letter, Ernesto Montaner, is a Cuban refugee. He has lost his native country and has adopted America as his country.

Mr. Montaner's letter to the Congress, and ultimately to all the people of this country, is a warning. A warning I believe every red-blooded American should study and give serious consideration to.

Mr. Speaker, I submit a translation of Mr. Montaner's letter for the Record. I trust that every member of this Congress and every American who has the opportunity to read it will take it in the spirit in which it is intended.

Message to the U.S. Congress From a Cuban Journalist

(By Ernesto Montaner)

Distinguished Congressman:

A Cuban is addressing himself to you today. A Cuban who is the editor of the smallest and most humble newspaper published in the United States. A Cuban journalist who shudders to think that what happened in Cuba could possibly happen in America.

A Cuban whose life's greatest ambition has always been to see the whole world abiding by the words of Abraham Lincoln in his Gettysburg Address ". . . and that government of the people, by the people, and for the people shall not perish from the earth . . ."

Indeed, gentlemen, it is most frightening for me, a Cuban journalist, to watch this nation's capital become a shelter for a people's militia, international criminals and malcontents.

This very thing happened in my own country. The very steps taken there are happening here. It is as if a compulsive, devilish force—acting with chronometric precision—were at work to make our freedom vanish.

The picture today cannot be more terrifying.

Internally there is a catastrophic institutional crisis. Abroad there is the imminent danger of a third world war. Whole societies are in complete disarray. Societies with a youth more concerned with his hair style rather than with what he has under his hair. With a youth being destroyed by drugs, pacificism and atheism. A youth being ruined by apathy and complete disregard of its national heroes.

I see a nation with an indifferent people, watching while its nation's war secrets are stolen to be made public and given to the enemy.

No gentlemen, the United States could hardly be victorious from the debris of a third world war.

To follow the cries of those wanting to take the President to trial would be more folly than recklessness. Any act the President of this country may have done would not cause the damage created by a political trial of a President. The Presidency should be respected and honored.

During fifty-six years of a republic in Cuba the president was never honored and respected. The people fought them all. It was common for the people in the public square to shout for the president's head. Every president was showered by insults and all had armed rebellions organized against them.

Fighting against the President became a national habit—with or without cause—and some of them were ousted. It became national habit to "finish the president."

And, distinguished Congressmen, one day we found ourselves without a president and then we learned how much we needed a president.

Whether a president is good or bad, whether he committed a crime or not, whether he erred or behaved, is not good reason to endanger the institutional balance of a nation.

If a president were compared with the ethical values of a nation he would appear as small as a flea but it is your duty to defend him as if he were as huge as an elephant.

I carry the grief caused by the experience of having lost Cuba.

I beg of you not to let "finish the president" happen here.

Because when you do finish the president the Capitol becomes an empty, useless building housing the worse cross-section of the Nation.

And, of course, there will then be no more congressmen.

"THERE'S A FORD IN OUR FUTURE"

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. WYMAN. Mr. Speaker, in a recent column appearing in the Washington Star-News, Vic Gold suggests that Vice-Presidential-designate Gerald Ford will be forlorn, lonely, frustrated, and largely sidelined in the Vice Presidency as others have been in the past. I have news for Mr. Gold. This is that fortunately for Americans "There's a Ford in our future."

One of the best qualified, most practically experienced, capable, yet humble as well as likeable men in all this great land is about to take over as Vice President in a time when credibility of the top leadership of the Nation is under continuing challenge. As Vice President it is safe to predict that President Nixon will give Gerald Ford a massive and important role in restoring the confidence of our people in his administration.

Far from being sidelined, Vice President Ford will be the most active and unquestionably the most influential Vice President in American history. His selection by the President at this critical juncture in domestic affairs was an outstanding choice of a person in whom the President has explicit trust and confidence and of whom he is not in the remotest sense either jealous or envious. This bodes well for the country.

The Star-News article follows:

Dear Gerry—Brace Yourself, Pal

(By Vic Gold)

Hon. Gerald R. Ford,
Vice President-Designate,
U.S. Capitol

Dear Gerry: Well, it appears that you're going to make it. Not only is your confirmation whipping through Congress, but even the New York Times thinks it's a good idea.

So, barring a last-minute veto by Joe Alsop or some unexpected Ralph Nader revelation that you threw an illegal downfield block during your sophomore year at Ann Arbor, odds are you will become the next vice president of the United States.

In which auspicious event, let me be the first to warn you about the job. Nothing by way of firsthand information. Simply bits and pieces of information concerning the pratfalls that accompany what we like to call the second-highest ranking office in our land.

Believe me, old pal, I'm not writing merely to retell stale old horror stories or bad jokes about the futility of the vice presidency. No, what I want to warn you about is the decompression you're likely to suffer as you pass the power barrier between House minority leader and White House yoyo. It will be quite a comedown, Gerry. And don't think your fellow countrymen don't appreciate the sacrifice you are making.

Of course, in recent years, with the ingenious help of presidential P.R. counsel, we've been able to soften the fall for our No. 2 men. Beginning with the Eisenhower administration, our public officials about to be submerged into the vice presidency have been pumped with ego pills to the effect that the job would be upgraded, that the man "one heartbeat away" would be made an "integral part of the decision-making process" to prepare him for "the awesome responsibilities" which might one day come his way.

Sounds real good, Gerry. And you keep believing it, you hear? It'll ease the pain as the decompression begins to take effect. Like when your best friends on Capitol Hill suddenly turn cold after you take the oath. As if to say: "You're no longer a member of the club, baby. Move out of the neighborhood."

Do it, old pal, and quickly. Because if you think you'll be able to carry any weight on the Hill after you join the executive branch, disabuse yourself. Have a long talk with Hubert Humphrey about that one.

And after you move into your impressive new office next to the White House, savor that first meeting with the President: the one with the cameramen and little jokes he passes your way. Because, Gerry, excluding official functions and what you may catch on the evening news, you may not see the man again for several months.

Which isn't to say you won't hear from the White House. That you will. It will help some when Gen. Haig calls to say that the President feels you need foreign travel, the better to prepare for those awesome responsibilities if the day should ever come, by act of God— or God forbid, Congress—that you have to assume them.

So off you will go. And take it from me, Gen. Haig knows all the right places a vice president should travel to in order to prepare himself for awesome responsibilities. Tanzania, Luxembourg, Iceland. You'll see them all. All the geopolitical hot spots Henry the Cat trusts you to visit.

And you'll hear from the White House on the domestic front, too. Yes, you'll have a contribution to make there, all right. Dozens of directives and requests will pour into your office, as a matter of fact, each opening with the heavy line: "The President would like . . ." Your assignment, Mr. V.P.: figure out which are the President's ideas and which are only the ideas of his staff members.

However, there'll be those directives you know just had to come straight from the Oval Office, of course. Such as: Go forth into the political thickets and smite mine enemies. The White House might even provide a text. And like the good soldier you are, you'll go out and deliver it, word for word.

But if the speech doesn't play well, Gerry, don't be upset if the White House disowns it. The operative Ziegler line in that case, be forewarned, is: "The Vice President was speaking only for himself."

Which you will be, sorry to say, because that's the nature of your new job. Upgraded, integrated and awesome, perhaps. But you know that old political symbol—the wet finger held up to test the direction of the wind? As far as the White House is concerned, you're it, old pal. And remember who was the first to warn you.

THE GREAT PROTEIN ROBBERY:
NO. 13

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. STUDDS. Mr. Speaker, the New England lobster, homarus americanus, is one of the most valuable and well known marine resources found in our coastal waters. This morning the House Committee on Merchant Marine and Fisheries reported favorably the bill H.R. 6074 to declare the lobster a creature of the Continental Shelf, thus establishing U.S. ownership of this valuable resource in accordance with international law. This measure, if passed into law, would allow us to prevent foreign exploitation of the lobster and thus preserve this marine resource of our Continental Shelf for all Americans. I strongly urge my colleagues to vote favorably on this bill when it reaches the floor of the House.

At this point, I would like to insert into the Record an excellent article on the New England lobster written by Elisabeth Keiffer which appeared in the New York Times Magazine on November 18, 1973. Particularly gratifying to me is the recognition in the article of the outstanding work done for years by John Hughes, director of the Massachusetts State Lobster Hatchery and Research Station at Oak Bluffs, and one of the country's foremost authorities on the New England lobster.

The article follows:

Where Have All the Lobster Gone?

(By Elisabeth Keiffer)

Point Judith, R.I.—Was it really only 15 years ago that a small boy, appearing on my Rhode Island neighbor's veranda at cocktail time, demanded, "What am I having for supper, Ma?"

And she, passing the peanut-butter-on-Ritz *hors d'oeuvres* to her guests, absent-mindedly replied, "Lobster, darling."

"Oh, no, not lobster again!" the small boy wailed. No one raised an eyebrow.

Unless he's made it big in the interim it may be a long time before that young man chokes down another lobster. Last summer, the price at our local dockside market was $2.65 a pound for "selects," those weighing one and a half to three pounds apiece. The prediction is that this winter the retail customer on the East Coast will have to pay $4.50 a pound and up to enjoy a "select" at home, and God only knows how much if he orders it in a restaurant.

It is true that in the memories of most of us, lobster, like porterhouse, has been considered a luxury food, unless you happened to live on the New England coast and knew a friendly lobsterman. But now, in addition to being so insanely expensive, lobster is scarce.

In 1889, the U.S. catch was 30,449,603 pounds, taken by men in small boats, working close to shore and using only hand equipment. Its value, incidentally, was $883,736. Last year, a far more efficient fleet, using the most sophisticated equipment and tapping the recently discovered and supposedly abundant stocks about 100 miles offshore, brought in over a million pounds less—29,278,000 pounds, with a value of $36,052,000. Everyone agrees that the size of the lobsters has been declining steadily since the colonists' times, when the animals are said often to have weighed as much as 25 pounds apiece.

Is the supply of *Homarus americanus*, which inhabits only a relatively narrow strip of the eastern coast of North America, really close to depletion? Will our children have to settle for shore dinners that include only steamers, chowder and corn on the cob?

The answer is that, barring some unforeseen ecological disaster that kills off the immature, sublegal stock, lobster will probably continue to be available to some of the people who are willing to pay the price—but not to all, by a long shot. A Canadian biologist estimates that as soon as 1980 there will be a demand for 20 million more pounds a year than can be landed. And scientists, lobstermen and marketers do not expect the price to do anything but rise in the immediate future.

The American lobster fishery as a separate industry began around the end of the 18th century, principally off the coast of Massachusetts. By 1812, the residents of Provincetown were sufficiently alarmed at the decline in the stock to pass a not particularly effective restrictive law. Till then, the lobster stock had been shown no mercy, the eggs being especially prized as "a capital article of food." According to a 1909 Bureau of Fisheries Bulletin, by 1880 "the period of prosperity had long passed and few lobsters were taken from the Cape. Only eight decrepit men were then engaged in the business and were earning about $60 apiece."

Attributing the scarcity to lack of conservation practices, coastal states in the lobster's range—Labrador to the Carolinas—began enacting protective laws. As early as 1900, biologists believed that the only way to keep the lobster population going was to establish hatcheries in which the eggs could be reared through the perilous larval stages and then released into the ocean. Hatcheries were set up in a number of states, though no one could possibly tell how many of their graduates survived in the wild. Today, Massachusetts is the only state operating a hatchery. Its longtime director, John T. Hughes, considers the research that has gone on there more important to the future of Homarus than the laboratory's supposed raison d'etre—raising and releasing the young.

Meanwhile, it has been established that the lobster's growth rate is closely tied to water temperature—it grows, and therefore reproduces, faster in warm water than in cold—so fluctuations in the catch can be partly explained by warming or cooling trends in the Atlantic. But the steady decline since the days of abundance in the nineteen-sixties that followed the first exploitation of the offshore population can't be explained all that simply.

Pollution may be responsible in some measure for the decline. The lobster is extremely sensitive to water quality, and it has been demonstrated in the laboratory that only a few drops of oil or kerosene in a lobster's tank will make it stop eating for a week. Similarly it is known that oil or pesticides on the surface of the ocean can be lethal to the tiny lobster larvae, but to date there simply hasn't been enough documented evidence or enough research done to determine the immediate impact or possible subtle long-term effects of low-level pollution on the population.

Are foreign fishing fleets spiriting away vast quantities of American lobster as "incidental" to their fishing catch? A high State Department official says that most nations fishing off our East Coast have indicated they would respect our wishes and not fish for lobster. But, according to National Fisherman, it's been estimated that foreign vessels have taken between 16 million and 22 million pounds of the offshore stock. So far, the most publicized complaints of the New England lobstermen have been over the pots they have lost when foreign trawlers, presumably inadvertently, cut their lines. This may be because these complaints can be substantiated. It is harder to document the contention in the trade that substantial landings of undersize and egg-bearing American lobsters have been showing up at ports in other parts of the world.

But while the lobstermen blame the present scarcity on the foreigners, on the Federal Government and, to some extent, on the marine biologists for not having come up with more answers through research, many biologists point the finger at state regulations and the lobstermen themselves. John Hughes, director of the Massachusetts State Lobster Hatchery and Research Station at Oak Bluffs, who has probably spent more years studying lobsters than anyone in the world, firmly believes that the future of the natural supply depends most importantly on (1) an increase in the legal size to 3½ inches, and (2) a Federal law to replace the present crazy quilt of state regulations.

Lobsters are measured from eye socket to end of carapace, rather than by overall length, because of the difficulty of straightening out the tail for accurate measurement. The size at which they may be taken legally varies from 3 1/16 inches in Rhode Island, to 3 3/16 inches in Maine, New York and Massachusetts. Ninety per cent of the lobsters caught today fall within this size range. However, biologists claim, at this size they have only just reached sexual maturity and in all probability have not spawned even once, so a high proportion of the potential breeding stock is taken out of circulation every year. Five-sixteenths of an inch seems a very small fraction to fight over, but most lobstermen are prepared to fight, since if the legal size were raised to 3½ inches they would, for a few years at least, be forced to forgo 90 per cent of their present catch.

Given the magnitude of the scarcity, it is not surprising that some unprincipled characters swell their catches via dirty tricks. Instead of throwing back "berried" lobsters—females with eggs—as the law requires, they "brush" them to remove the eggs and make the matrons look like legal maidens. "Shorts," those under minimum size, can also be doctored to look legal. With the carapace removed to prevent enforcement officials from making embarrassing measurements, they can be sold profitably to wholesalers as lobster tails. It is impossible to tell how widespread these practices are, but one spokesman for the fishery recently commented angrily that if government agencies would spend more time enforcing existing laws instead of planning new restrictions they would be making a greater contribution to the management of the stock.

Another claim by conservationists, pooh-poohed by many lobstermen, is that "ghost" traps are helping to deplete the stock. Even after the bait is gone, lost pots on the bottom of the ocean can continue to allure and trap lobsters who venture into them simply for shelter. There was a suspicion a few years ago that the decline in the Alaska king crab fishery was attributable to lost metal pots which never deteriorated. Many conservationists and a few lobstermen would like to see traps manufactured with a "self-destruct" section through which lobsters could escape after a period of time.

So, there are probably many answers to the where-have-all-the-lobsters-gone question. An always heavily fished resource has been exposed to new pressures, and no one knows how many others may be added or how devastating their effects may be. But everyone, from scientist to consumer is worried.

When you become acquainted with the lobster's life history, John Hughes once commented, it seems amazing that so many of them make it to our dinner tables at all. They are able to mate only when the female is newly molted and soft, usually within 48 hours of casting her shell, and this magic moment comes at best only once a year and usually much less frequently. Even then there are complications. It has been observed in the laboratory that though a small male can mate successfully with a much larger female, a big male who falls for a small female is plain out of luck: Anatomically, it just won't work.

Although the female may produce up to 60,000 eggs, it normally takes her from 15 to 18 months after copulation to release them as baby lobsters. These tiny creatures, a third of an inch long and looking more like mosquito larvae than lobsters, pass their first three larval stages drifting on the surface of the ocean, where they are helpless prey for birds, fish and tides that may carry them out to sea to perish. Only an estimated 0.1 per cent, or 10 out of 10,000, survive the first three weeks to reach the fourth larval stage. And maturity is a long way off. In the ocean it takes a lobster between five and eight years, depending on water temperature, to weigh one pound and become sexually mature.

Even the lobster's method of growth is perilous. Getting bigger and stronger is indeed, as an early writer described it, a "dangerous and expensive operation." Since the lobster's chitinous shell is inelastic, to increase its size the crustacean must cast off the shell periodically, perhaps 10 times during its first year and with decreasing frequency after that. While the lobster is performing this critical and occasionally fatal feat, and until its new shell begins the hardening process, it is, of course, absolutely without defenses.

When the struggle of molting is all over, within 5 to 20 minutes, every part of the old shell, down to a microscopic hair, has been reproduced in the new one, and unless one picks up the weightless empty shell it could be mistaken for an intact live lobster. Even the stomach, gills, mouth parts and eye stalks have been discarded. The newly molted creature, which feels as limp as wet paper in the hand, almost immediately gains about 15 per cent in length and 50 per cent in weight. Unlike crabs, which are prized in this state, soft lobsters are not considered good to eat by people. However, fish—their principal predators after man—and, sometimes, other lobsters, find them delicious. So it is not surprising that the lobster chooses to lead most of its life alone. In this it differs from its relative, the clawless spiny lobster, which likes to congregate in clubby groups.

It is true that scientists have learned a great deal about lobsters in the 80-odd years they have been studied intensively, but not anywhere near as much as they would like to. Even now, no one knows for certain the greatest age or size a lobster can achieve. It is believed the largest ever captured weighed 40-odd pounds and was perhaps 50 years old, but this is just a guess. Once a lobster has reached the fourth larval stage and sunk to the bottom of the ocean, never willingly to come to the surface again, its life-style becomes pretty much of a mystery to humans. A night animal, it hides in a burrow or shelter by day, waiting till dark to venture forth in search of food—walking, as a 19th-century biologist described it, "nimbly upon the tips of its slender legs." Scientists really can't do much more than speculate on the daily details of the lobster's early years in the ocean deep. And when they study the lobster's behavior in the laboratory, they are never entirely sure how much it is being altered by captivity.

One thing a reporter can learn about the scientists who study lobsters is that, inevitably, they come to regard the crustaceans with a mixture of wonder and affection. "They're so damn pretty," John Hughes commented fondly, leading the way past tanks of jewel-bright little creatures, some of which were brilliant blue and red mutants. Stanley Cobb, an assistant professor of zoology at the University of Rhode Island, became so attached to his research subjects as a graduate student that he hasn't eaten one since. These scientists are considerably annoyed by the popular misconceptions about lobsters, held by people who only see them pegged and thrashing in fish-market tanks.

Jelle Atema, a young Dutch biologist at the Woods Hole Oceanographic Research Institute, says impatiently, "Judging the lobster's personality by the ones you see in the market is like judging all human beings by the unfortunates penned up in a concentration camp." He resents the popular picture of them as the bullies of the deep, lurching about on the ocean floor, smashing and tearing everything that comes within reach of their claws. He pointed out indignantly a photograph in a magazine captioned, "Undersea gladiators duel to the death." No one has even seen one lobster attack another from the defenseless rear, which would be the logical approach if death were the aim of the encounter. When lobsters do fight, to establish dominance in situations involving food, shelter and mating, their encounters have an almost stately quality. Standing on the tips of their walking legs, they lock crusher claws and pull and push each other back and forth in the sand until one is exhausted. Cobb describes it as looking more like a tango than a fight. When it is over, the dominant one chases the subordinate one from the contested prize and the loser, Atema reports, "flees and assumes submissive postures."

Although lobsters do eat each other when they are closely confined in tanks—those in the larval and juvenile stages being particularly voracious—most researchers believe this is determined by the artificial conditions, and may often be partly accidental. If a lobster in a crowded tank is injured, or newly molted, he will certainly be eaten—just because he is there, and eatable. "Not the same thing at all as the deliberate cannibalism humans know," Atema claims. Cobb says, too, that lobsters in his laboratory tanks at U.R.I. will co-exist peacefully at certain stages if they are not crowded together too closely, or frequently disturbed.

Another canard about lobsters is that they are scavengers, feeders on carrion and refuse. Not so, John Hughes says emphatically. Although he admits wistfully that we don't now know and perhaps never will know all the components of the lobsters' natural diet, they have never been observed eating rotted food. They relish small crustaceans, little fish and the tiny mollusks that they dig out of the sand, and their stomachs are often found to be packed with eelgrass, an indication perhaps that they also feed on the minute organisms that inhabit it. In the laboratory they have been observed devouring their newly cast shells, probably filling a need for the lime contained in them.

How lobsters should be eaten, or what is the most humane way to cook them, has been debated for many years. Hughes says that Julia Child telephoned him not long ago to ask that question. When she repeated his instructions (place them in a pot with boiling water to cover them, and clap on the lid) on her TV program, she was deluged with protests from tender-hearted viewers. Later, though, she and Hughes were vindicated by an international humane organization which, after investigating the matter, wrote that death-by-boiling was almost instantaneous and certainly preferable to the alternative of slow suffocation, which is the fate of a lobster placed in cool fresh water that is then brought to a boil.

The more that is learned about lobsters, the more fascinating they seem. At Woods Hole, Jelle Atema and his colleagues were able to demonstrate that the female, just after molting, releases a sex pheromone, a chemical messenger, that subdues aggression and triggers amorous behavior in the male. Here is what Atema wrote in a paper published in Nature magazine about lobster courtship:

"[The male] seems to be immediately aware of the presence of a sexually ready female. His claws are lowered and closed and he brings himself up on the tips of his walking legs. He approaches the soft-shelled female very slowly and gently, walking around her and stroking her continuously with his antennae. . . . After about 15 minutes of this courtship dance, the male slowly mounts the female from behind and turns her over with his walking legs. Copulation takes about 8 seconds, after which the two animals separate and find a corner position in the tank. The male is still not aggressive to the vulnerable female." The gentleness required to avoid injuring the tender female at this time is remarkable.

Although the male transfers his sperm into the seminal receptacle of the female at this moment, the eggs are not fertilized until as much as nine months later. Then, the female arranges her body so that, while releasing the eggs, they spill over the receptacle containing the sperm, which has been waiting all this time. Once fertilized, the eggs are cemented to the underside of her tail to remain for perhaps another nine months before they hatch as tiny larvae. One way to distinguish a male from a female lobster is to compare the width of their tails: The female's is always wider.

One of the more sinister possibilities suggested by research into lobsters' chemical communication, says Atema, is the long-term effect of such substances as oil or chemicals introduced into the ocean environment. Even at levels low enough not to be immediately toxic, it is quite possible that these pollutants could disrupt the communication that is essential to life not only for lobsters but probably for all marine animals.

Even before the lobster became as scarce as it is this year, the enormous increase in world-wide demand had led to the thought that perhaps it could be raised commercially like cattle or poultry. The mass-production of chickens is, after all, a relatively recent and enormously profitable enterprise. John Hughes was the pioneer in this research. In 1968, he published an article in Ocean Industry magazine called "Grow Your Own Lobsters Commercially" in which he described the work he and his associate, the late John Sullivan, had been carrying out at the Massachusetts hatchery since 1951. Because the lobster's first weeks are so hazardous and its growth in nature so slow, Hughes felt that man might well be able to improve on it.

And indeed he did. By raising the larvae on a rich diet in tanks of his own design—conditions calculated to cut down on cannibalism—he succeeded in increasing their survival rate from one-tenth of 1 per cent to over 40 per cent some years ago. He was also the first to demonstrate that living in a year-round temperature of 70 degrees F., rather than in the fluctuating ocean temperatures, would bring the young to legal, one-pound size in less than three years, roughly half the time it takes in nature. Like all cold-blooded creatures, the lobster's metabolism depends on the temperature of its environment, and when the ocean water chills in winter it stops feeding almost entirely and becomes semidormant.

Although the state of Massachusetts showed little interest in the hatchery's research beyond its legislated purpose of raising and releasing the young, Hughes, after working on a miniscule budget for many years, made a happy alliance with scientists at the University of California at Davis, who received a $140,000 Federal Sea Grant in 1971 to work on the problems of raising lobsters successfully, quickly and profitably in captivity. With continuing Federal support, and a recent $1-million appropriation by the California Legislature for a new aquaculture laboratory at Bodega Bay, Calif., Dr. Robert Shleser, director of the research there, is confident they can develop the complicated technology required. Already his team has raised the survival rate of the larvae to 90 per cent on a brine shrimp diet and are sure they can produce a lobster that will reach market size in just over a year. And Hughes imaginatively suggests that, since there need be no legal restriction on the market size of hatchery-bred animals, a profitable consumer demand might be built for lobster tails the size of jumbo shrimp.

Shleser, a geneticist himself, says that genetic selection and breeding—again a field in which Hughes did pioneering work—will play an important part in their program. The commercial ideal might be described as a superdocile lobster (to cut down on cannibalism in captivity) that grows exceptionally fast, has consistently high-quality meat and larger than usual claws and tail. Whether the retail price of this paragon, if they succeed in creating it, will ever be comparable with that of chicken, is anyone's guess at the moment.

However, the number of obstacles to be overcome before commercial farming can become a reality seems staggering. Dr. Akella N. Sastry, who is directing related research at the University of Rhode Island's Graduate School of Oceanography, feels that space is among the foremost. It's been found that lobsters grow faster in a larger space, though no one knows why. His team is trying to find the answers, since space will be a vital cost factor. They're also trying to formulate a diet that will most profitably produce plump, meaty lobsters.

There is more behind the intense, countrywide research efforts in lobster culture than the simple aims of satisfying the demand for a luxury or turning a quick profit. Aquaculture, whose development in this country was one of the stated purposes of the 1966 Sea Grant Act, has never really gotten its feet wet here, in spite of the likelihood that eventually we will have to depend on cultivating certain marine animals to replace or supplement the wild stocks. Although Sea Grant and other public funding agencies will finance preliminary aquaculture efforts, only industry is likely to put up the kind of money needed to support the technology that large-scale aquaculture calls for. To many, lobster, the most valuable American seafood, is the logical choice with which to attempt the commercial breakthrough. If industry is to be interested in so vast an investment, it has to be sure it has a hot property. That, lobster will undoubtedly continue to be.

But in the mind of this finicky consumer, one dismal thought arises, prompted by distant memories of that admirable creature, the farmyard chicken. What will the meat of a "farmed" lobster—raised on artificial foods, possibly in artificial sea water and forced to grow at a gallop—taste like? Will one still be able to say, as the early writer R. Brookes did: "Their flesh is sweet and restorative and very innocent"? The scientists say they honestly don't know.

TAX POLICY AND THE ENERGY CRISIS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. VANIK. Mr. Speaker, it was my privilege today to appear before the Energy Subcommittee of the Senate Finance Committee chaired by the distinguished senior Senator from Alaska (Mr. GRAVEL).

This committee is to be commended for its foresight and leadership in dealing with the pressing issues of the energy crisis.

Conservation is important, but the energy problems cannot be solved by palliatives or Band-Aids. Our solutions must be found in the development of more energy—and this can only result from improved technology and incentives for energy production.

Following is my testimony before the Energy Subcommittee on Tax Policy and the Energy Crisis:

TESTIMONY OF REPRESENTATIVE CHARLES A. VANIK

Mr. Chairman and Members of the Committee, I appreciate this opportunity to present testimony on the vital matter of our energy shortages. I commend the Committee's leadership establishing this new subcommittee on energy to investigate the role our tax policies can play in finding workable solutions for our energy future.

It is my feeling, Mr. Chairman, that some of our past tax policies have made a significant contribution to our energy crisis, and must be corrected. But in addition, we can only find the necessary solutions to our crisis through an imaginative and dynamic approach to tax policy. I would like to suggest to the Committee several proposals I have worked on in the area of energy legislation. I hope the Committee in subsequent hearings, will be able to investigate some of these matters in depth.

ENERGY RESEARCH AND DEVELOPMENT TRUST FUND

The first idea I would like to propose to the Committee is the concept of an energy research and development trust fund. Our energy crisis is not a short term disruption. Its impact will last for a decade or more—until we are willing to invest enough money in the search for alternative sources of clean, safe, dependable fuel. We must establish a "Manhattan Project" for energy research. But this project is going to cost a great deal of money. President Nixon has suggested $10 billion over a five year period. Senator Jackson proposes $20 billion over ten years. These are only ballpark estimates. The total budget cost could be a great deal higher.

Where is the money going to come from? Nobody at this stage seems to know. A federal commitment of this magnitude will certainly place a tremendous burden on general revenues. If there is an economic slowdown due to the energy crunch, tax receipts will fall off, and fall off drastically. At the same time, the demand for Federal funds will go up—more money for food supplies, for welfare, for emergency employment would be required—where would the new funds for energy research come from? And if the research and development is funded out of the regular budget, it will be subject to the usual budget delays and perhaps even an occasional impoundment.

The only responsible alternative for the regular flow of necessary funds is the establishment of a trust fund. The trust fund approach has many advantages. It establishes an independent source of funding for a vitally needed national project. It would isolate energy research from the pressures of budgetary politics. It would provide insurance against arbitrary decisions by the executive to withhold funding. In short, a trust fund would guarantee a sustained, massive, serious commitment to the search for alternative energy sources.

We have taken this step before. In the past when our national goals have demanded a large commitment of funds over a long period of time, we have turned to the idea of a trust fund. Social Security and the Highway Trust Fund are the most notable examples. Our effort in energy research and development fits closely in this well established pattern.

A small tax on energy consumption—gasoline, natural gas, electricity, and petroleum products—would raise a tremendous amount of revenue. For example, a 4¢ per gallon tax on gasoline could raise $4 billion in additional revenue. In addition to the small tax on gasoline, I would propose three other sources of Trust Fund revenue. In each case I believe that a tax exemption or refund should be provided to the person who uses relatively little energy—the small homeowner and retailer. The financing of the Trust Fund should be as progressive as possible and be drawn from the larger and usually more inefficient energy users.

First, a tax on natural gas of 10¢ per thousand cubic feet would raise some $1.4 billion. Second, a tax on electricity of 1/10th cent per kilowatt could be directed to the Trust Fund and would raise some $1 billion. Finally, a tax on the various types of fuel oil of half a penny per gallon would raise as much as half a billion dollars.

A total trust fund of about $6 billion would probably be adequate, certainly at this time. The money would be used not only for research but for the *development*, the actual bringing into production or use of new energy supplies. Among the types of energy that could be developed by such a fund are:

Solar energy for electricity and heating and cooling;

Oil Shale:

Coal gasification and liquefaction;

Geothermal energy;

Fusion research;

Wind power and the utilization of tidal currents;

Improved transmission of electrical energy;

Improved generation of electricity—MHD;

New forms of conservation devices;

Alternatives to petroleum as a fuel, such as hydrogen; and,

Utilization of ocean thermal gradients.

To avoid a regressive impact, I would hope that the tax could be geared to the largest and most inefficient users of energy, as I have done in my own legislation, H.R. 6194.

AUTO EFFICIENCY THROUGH EXCISE TAXES

Mr. Chairman, there are other areas where tax policy can provide answers to our energy problems. For example, I have proposed establishment of a graduated excise tax on inefficient automobiles, beginning in model year 1977. Our nation can no longer afford to allow Detroit to produce automobiles which guzzle gasoline at a rate of only 5 or 6 miles per gallon. The auto makers can produce cars which are safe, comfortable and efficient. An excise tax will ensure that they increase their efforts to improve American automobile efficiency.

OIL RECYCLING

In another area, taxes can be adjusted to encourage the recycling of used lubricating oil. Each year we waste over one billion gallons of this valuable resource and the number of refineries have declined from 150 to 48 over the past decade. Used oil can be refined—purified—to produce a useable lube oil or burner fuel. Today, largely because of our misguided tax policies, this oil is dumped on the ground or into our waterways.

SOLAR ENERGY

Mr. Chairman, I know a special area of interest for you is solar energy. To insure widespread application of existing solar energy heating and cooling technology, we should consider granting some limited tax incentives to the homeowner and to the infant solar equipment industry. I have introduced two measures to accomplish this task. The first allows the homeowner a tax credit for improving the energy efficiency of his residence. This would include the installation of solar equipment. I note that the Senate has just passed a similar proposal as part of the S. 2589, the National Emergency Energy Act.

The second place of legislation I am sponsoring in this area is a special five-year amortization schedule for manufacturers of solar equipment. This would be a limited incentive—for five years. The legislation is patterned after the pollution control amortization provision we included in the 1969 Tax Reform Act.

Mr. Chairman, I thank the Committee for the opportunity to discuss these proposals. I thank the Committee for the opportunity to explore these approaches in greater detail.

I believe that our two Committees—House Ways and Means and Senate Finance—could play a leading role in solving the energy crisis and leading the way to better, cleaner, safer energy supplies.

This kind of a comprehensive energy package has the potential of indeed making America self-sustaining. This Nation can no more be half sufficient than half-free.

THE FORD NOMINATION AS A WAY OUT

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. McCLOSKEY. Mr. Speaker, the New York Times editorial page today carries perhaps the most accurate and remarkable tribute to the distinguished minority leader that I have yet seen.

The commentary, offered by our colleague from Michigan (Mr. RIEGLE) discusses the benefit to the Nation which could occur upon the Vice-Presidential nominee's possible ascension to the Presidency. I was particularly struck by Mr. RIEGLE's words about GERRY FORD:

> After 25 years in the House, he loves and cares about the Congress and the federal system.

I am not sure that a more accurate compliment could be made, nor that greater qualifications could be asked for in the White House at this particular time in our history.

The editorial follows:

THE FORD NOMINATION AS A WAY OUT

(By DONALD W. RIEGLE, JR.)

WASHINGTON.—The choice of Gerald Ford to be Vice President is, of all Mr. Nixon's personal political decisions, both the worst and the best he has ever made. Worst because Ford as Vice President will prove fatal to Mr. Nixon's efforts to retain the Presidency; best in that the country in the weeks and months ahead will see the end of the nightmare of the Nixon Presidency and a transition of power into a Ford Presidency that is both honest and competent.

This view continues to gain weight here in Washington as political observers watch with grim satisfaction as the Nixon tragedy plays itself out. While it is impossible to foresee the ending—resignation, impeachment or physical disability—the President's portion of the chessboard has been swept clean of defenders, with the exposed king scrambling frantically, and vainly, to save himself. President Nixon cannot survive in office much longer, and Michigan's Gerald Ford will be America's next President.

While he was Vice President, Spiro Agnew's greatest value to Richard Nixon was as an insurance policy. It was impossible to seriously consider removing Mr. Nixon with Mr. Agnew the alternative President. Thus, Mr. Agnew's sudden resignation from the Vice-Presidency placed Mr. Nixon in jeopardy though I doubt this was realized in the White House. By stepping down, Mr. Agnew suddenly made Mr. Nixon's removal from office possible.

As long as the Vice-Presidency remained vacant, however, President Nixon was secure. Congressional Democrats had no desire to maneuver any Democrat into the Presidency and give the impression of "stealing" the 1972 election, and Carl Albert, Speaker of the House, gave every sign of dreading the prospect that the job might fall to him. What Congressional Democrats feared most was a new Vice President who would become an unbeatable Republican Presidential nominee in 1976. Jerry Ford would be an ideal caretaker President—an adequate, politically nonthreatening choice. Despite a conservative voting record, he is considered a decent, competent and thoroughly likable member of the club.

Jerry Ford, then, is clearly not a Spiro Agnew, and as Vice President, he is a viable and attractive alternative to Mr. Nixon. For most of the Republicans, the nomination of Gerald Ford produced genuine elation. For Jerry Ford is their friend and popularly chosen leader—not a flashy, charismatic figure, not a prima donna from the Senate or a state house, not a strident ideologue, but a good Republican soldier who had worked hard in the ranks, expecting and getting small reward for his efforts. For House Republicans, the Ford nomination is a rare moment in the sun.

It's probable that President Nixon thought at the time of the Ford announcement that he had greatly strengthend his own base of Republican support in the Congress.

But that was before the Saturday Night Massacre, the missing and garbled tapes and the disclosure of $100,000 in cash from Howard Hughes. Several turbulent weeks later, the Ford designation as Vice President has taken on a profoundly different meaning for Republicans. For it is dawning on Congressional Republicans that they now have a choice. And the choice is Richard Nixon or Gerald Ford. If they continue to back Mr. Nixon, they position themselves—and the party—in the tight and shrinking corner Mr. Nixon now occupies. If the G.O.P. gambles and defends Mr. Nixon to the end—and if he finally exits—(disgraced in the pattern of Spiro Agnew) then the damage to the Republican party and Republican officeholders may well be irreparable.

If he becomes President, Gerald Ford takes the Nixon/Agnew albatross from the neck of every incumbent Republican seeking re-election. Few could ask a bigger favor with the 1974 elections fast approaching. Republicans could count on being heard in a Ford White House and on a generous flow of traditional Administration favors to party members in Congress. Members of Congress prize Presidential contact, however slight, to drop his name, be photographed with him and talk to him occasionally. Jerry Ford is open and honest, a man they can respect and trust. After 25 years in the House, he loves and cares about the Congress and its role in the Federal system. They know Jerry would work for more coequal relationship between the legislative and executive branches. His Presidency would mean an end to veto battles, arbitrary impoundments, and deliberate and unnecessary provocations of Congress.

There is a new and different national tide running now and the Congress is being moved by it. The country wants and needs a breather in an end to the Nixon nightmare of recent months and a fresh start with a new President who is honest and plays it straight.

WORLD CONGRESS OF PEACE FORCES FOR INTERNATIONAL SECURITY

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. ICHORD. Mr. Speaker, on November 14, I addressed the House concerning a meeting of the World Congress of Peace Forces for International Security and Disarmament which was held from October 28 to 31, 1973 in Moscow, U.S.S.R., under the sponsorship of the World Peace Council, an international Communist front organization. For the benefit of those who might not have knowledge concerning this Moscow meeting, my remarks may be found in the Congressional Record of November 14 at page 37008.

Recently, my attention has been called to a "Dear Friend" letter written by Maris Cakars, a staff member of Win magazine, a publication of the War Resisters League, a pacifist organization. Cakars, in an appeal for funds for the magazine, points out in the last four paragraphs of his letter that he was a delegate at the above-mentioned Moscow meeting and gives his impression of the "rigidity and oppressiveness of Soviet society." Cakars' letter, the last four paragraphs of which are quoted below, is further evidence of the fact that there can be no genuine détente with the Soviet Union as long as it continues its complete disregard of human rights:

> I would like to close on a personal note. Last week I was in Moscow as one of the more than 3,000 delegates to the World Congress of Peace. It was a tremendous gathering at which serious discussions were held and invaluable personal contact was made between individuals from countries and movements all over the world.
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> But as we deliberated at the magnificent Palace of Congresses inside the Kremlin itself and caucused and met in various places around Moscow, we began to experience first hand the rigidity and oppressiveness of Soviet society: the lack of real information in the press, the ever-present plainclothes police and the all-pervasive military (after midnight we were able to catch glimpses of rehearsals for the annual November 7 military parade). This is not to imply that we do not have our own problems in the U.S. but to try to convey to you some of the feelings that I had in coming into contact with Soviet society.
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> My own response to these problems was to go down to GUM which is the biggest and busiest store in the Soviet Union—a lot like Macy's in New York—and distribute an appeal on behalf of some of the 10,000 political prisoners in Soviet jails and "psychiatric hospitals". Not surprisingly, I was arrested and detained. What was surprising was that—probably in deference to the Peace Congress and the widespread attention that it was receiving—I was released a mere three and a half hours later!
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> The next day as I was flying home I thought about what a marvelous thing it is that scattered about there are folks who in one sense or another are part of the WIN family and that these people are working very, very hard and often taking great risks—far greater risks than what I faced in Moscow—to bring about a world of peace and justice. It seemed to me that despite all of the forces arrayed against us and all of the problems yet ahead, that the "beloved community" that A. J. Muste used to speak of was something achieveable and real.

J.F.K.'S "BEST GIFTS WERE HIS PRESENCE, SPIRIT"

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. McFALL. Mr. Speaker, in the decade that has passed since the death of President John Kennedy, memories of his leadership have been the subject of numerous exceptional pieces of writing.

Powerful and sensitive are the remembrances which were shared with readers of the McClatchy Newspapers in California by my friend and colleague, B. F. Sisk, who represents the 16th Congressional District. I commend to you his thoughts and tribute as they appeared in the Modesto Bee, the Fresno Bee, and the Sacramento Bee on November 18. The article follows:

J.F.K.'s "Best Gifts Were His Presence, Spirit"

(By U. S. Representative B. F. Sisk)

A decade of seasons has slipped by since the young man from Massachusetts died. The winters and summers, the springs and autumns since have all graced us with more time than was allowed the 35th Presidency of John Fitzgerald Kennedy.

Time, of course, has soothed the wounds of those chilly November days and dulled the memory of the small son saluting, the procession to Arlington and the eternal flame flickering in the night. But, luckily, the years also have a way of providing perspective of what those thousand days meant; of what was lost on the streets of Dallas.

The rise and fall of succeeding administrations unknowingly also give us a better insight of the spirit that once gripped the country, but, somehow, was lost. Perhaps because they were always fighting the memory and myth of Kennedy, the successors to the Oval Office failed to achieve the same confidence even after landslide victories. After a historic start, Lyndon Johnson divided the nation over a war people grew to hate and left office a beaten man. Nixon's administration is torn by unequaled scandal and misuse of power, and a once hopeful people now wonder whether politics is merely a web of fraud and sham.

Perhaps as never before the fiber of democracy is torn and the country cries for moral leadership. The divisive years have taken their toll and the nation needs to be reunited with itself. So 10 years after the assassination, we look back and ask when again will there be a man to give the country back to its best self. I recall the Kennedy Years with special interest and fondness because I was one of a countless number won over by the man with the Boston accent and jabbing forefinger after initially opposing him.

As a Southern born New Dealer, my alliance had always been with that politically strange but successful consortium of labor-Southern-ethnic-liberal Democrats that Franklin Roosevelt had molded in the 1930s to change the face of American politics. And in 1960, there seemed many candidates who better fit that mold than John Kennedy; the old warrior Humphrey, Symington, Stevenson and, of course, my personal choice Senate Majority Leader Johnson from my native state of Texas.

There had always been a southern candidate at Democratic conventions, from the days of Joseph T. Robinson and John Nance Garner down through Richard Russell. But Johnson's candidacy was more than the usual window dressing. He was the shrewd master of men, so powerful he was dubbed by some the "Second Vice President." The one-time protege of FDR, he had the open support as early as 1959 of House Speaker Sam Rayburn and it was natural to believe there was destiny in the familiar campaign chant, "All The Way With LBJ."

Kennedy was different, and soon the entire field closed ranks against him. He had risen to the national scene so fast that few people knew this man with the shock of hair and winner of a Pulitzer Prize. He was young but looked younger; he was a rich Harvard intellectual who spent considerable time at Hyannisport, the center of the most fashionable area of Cape Cod's summer season, with The Boss, his father Joseph P. And he was Catholic—at the time a political sin for one seeking the presidency.

Once elected, however, even the most passionate conservative found it difficult not to be captured by the zest and steady purpose which the Kennedy administration symbolized. As soon as I began working with him I was won over immediately and wondered how so many people could have mistaken this man.

Ironically, I even owe my seat on the powerful House Rules Committee to John Kennedy. Before he was even inaugurated he realized that the Rules Committee was the bottleneck for most progressive legislation; more good bills lay dead on the floor of that committee than did on the floor of the full House.

So in a major political move in 1961, the President and House Speaker Rayburn opened a drive to increase membership on the committee from 12 to 15— a move that had some conservatives charging Kennedy of trying to pack the committee as FDR had attempted with the Supreme Court years before. Of course the conservatives were correct, but they lost the battle and the Democratic leadership was careful to name two administration friends to the committee (the Republican leadership named one) to help steer legislation past the tombstones. I was one of those members and now rank fourth on the committee which never fully regained its conservative posture.

I worked on so many issues with the President after the major political victory that it is difficult to recall them all. But two matters we successfully fought for come to mind of which I am especially proud.

The first close association between us came shortly after Kennedy became President and we joined in a major effort to obtain appropriations for the multi-million dollar San Luis Dam and Canal project, one of the most ambitious undertakings to provide supplemental irrigation.

I was amazed at the President's ability to fully grasp the needs of farmers and growers although he did not have even the slightest agrarian background. Although the legislation approving the San Luis project had been passed in the closing days of the Eisenhower administration, it was Kennedy who helped push through appropriations and worked to help solve the many and complex administrative problems connected with such a project.

Kennedy, of course, attended the dedication of the canal; an event attended by thousands of Valley residents and one which they still warmly remember.

The second really significant battle John Kennedy and I joined in was for passage of the 1962 Civil Rights Act, one which few initially thought stood any chance of adoption by the Congress.

I still recall the long hours of strategy sessions, the cashing in of political debts and the secret rides upon the Potomac on the presidential boat where JFK's brother, Attorney General Robert Kennedy, I and other proponents twisted arms and answered questions of dissenting Congressmen to win the necessary votes.

The boat rides and other strategy were conducted at the approval and direction of the President, and were later considered essential to the victory.

Those issues were important, I think, because they indicated the President had a spectrum of goals and a legislative program that he would fight for; a program primarily for the little guy. It was something the country had not seen since the early FDR days.

Contrary to what many believe, Kennedy's administration was one of triumph. A new chapter in foreign affairs and conciliation that continues today was opened; it was the beginning of the race for space, new domestic policies and the civil rights movement, and as in no other time, the fine arts became respectable even among the most common of man.

The best gifts of John Kennedy, however, were his presence and spirit. He exuded confidence, and confidence is contagious. He made it seem possible that we could do those things he told us we could do, solve those problems he told us we could solve if we really tried. He gave us dreams and hopes—and he set the tone for an entire generation of Americans.

The people saw his pride—in himself, his family, his job and his country. And in time they all came to share it. Kennedy expected others to have pride, too. He spoke to that pride, and used it.

He loved life and considered it a precious impermanent gift, not to be wasted. He didn't want the country to wait to take, as he so often said, the first step in solving the nation's ills. In Houston the day before his death and as he had in the past, Kennedy spoke of "an America that is both powerful and peaceful, with a people that are both prosperous and just." It was the theme of his term in office.

People believed him when he said poverty could be stamped out and that discrimination and injustice could be overcome. People listened when he said the young must have a voice in government and that the elderly are being forgotten and miscared for. People gained respect for him when he took the blame for the Bay of Pigs fiasco and closed behind him when he asked us to walk to the brink during the missile crisis.

Jack Kennedy was a man for all seasons. He ordered protection for the blacks in the South and fought to protect the small farmer from large corporations. He fought to stimulate business but stood firm against unreasonable price hikes. He told the nation it must grow and produce more for all the world, but was a friend of conservationists who wanted to preserve land. He stood up to Khrushchev but was not embarrassed to have Caroline's Raggedy Ann doll keep popping up in the Oval Office or to have his daughter walk onto stage during a press conference in her mother's shoes.

It was a time for great hope and expectation. It was a time when, for a moment, man had Kennedy, Pope John, and Martin Luther King.

Kennedy's special assistant, Arthur M. Schlesinger Jr., wrote, those years were filled by life-affirming, life-enhancing zeal, brilliance, wit and cool commitment. He made the art of politics a respectable profession and the young dreamed of their own campaign battles one day.

For nearly three years, the nation was one. It had direction and purpose. Kennedy often quoted from the Scriptures, and one passage I recall him reciting, and which I think went to the heart of the President, is "where there is no vision, the people perish." For 1,000 days the nation had a vision but the odyssey of John Kennedy was not to be finished.

Kennedy, of course, would not have solved all, or probably even many, of the nation's complex problems. Part of the unfortunate myth about him today is that he was, somehow, a Superman. He was not, and that was the beauty of his administration; a mixture of Camelot and diapers hanging in the White House.

But there was not talk about generation gaps, or God is dead writing, or a feeling of complete helplessness that seems to grip so many today. Kennedy knew that the White House could be the springboard for a new attitude; what emerged from the offices on Pennsylvania Avenue would influence people from the swankiest Virginia estate to the most remote Indian reservation.

Kennedy knew if those in the administration demonstrated trust, confidence and honesty, then so would the nation.

Few men have the ability or opportunity to bring out the best of a nation's people. John Kennedy had both. And it is no more apparent than today of what his administration did for America's lifeblood.

Norman Mailer wrote after Kennedy's death, "For a time we felt the country was ours. Now it's theirs again." I hate to think that is all that is left of the Kennedy administration—a feeling of hopelessness; that all is lost.

Even in the most difficult of moments, I think back to those days of a decade ago and remember not only what America was, but that we again can achieve those wonderful days of touch football, 50-mile hikes, confidence and, most importantly, respect for civil liberties and caring for one another.

Perhaps his best friend and closest aide, Theodore Sorensen, said it best when he wrote:

"He stood for excellence in an era of indifference—for hope in an era of doubt—for placing public service ahead of private interests—for reconciliation between East and West, black and white. He had confidence in man and gave men confidence in the future."

I think 10 years after Dallas, people now can remember John Kennedy not only for what he did, but what he stood for.

A VALUABLE INSIGHT

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1973

Mr. HARVEY. Mr. Speaker, I would like to bring to the attention of all my colleagues a very candid and a very timely statement by Henry Ford II, chairman of the Ford Motor Co., which was published in yesterday's New York Times.

At a time in our country's history when gasoline and air pollution is of paramount importance, I believe Mr. Ford very honestly and openly touches on "America's Motorocracy."

There is no question, as Mr. Ford concludes, that, and I quote him:

> What we need and are now beginning to see, in addition to cars and mass transit, are new kinds of vehicles and systems designed to carry people quickly, conveniently and efficiently where neither cars nor conventional transit can do the job as well.

Personally, along with private enterprise, I believe the Federal Government has not only a responsibility but an obligation to participate in developing these new kinds of vehicles and systems.

The entire article from the Times read as follows:

AMERICA'S MOTOROCRACY

(By Henry Ford II)

DETROIT.—The trouble with cars, to adapt the old saying, is that you can't live with them or without them. We in Detroit are told that we produce an extravagant luxury that can no longer be tolerated. We are admonished, on the other hand, not to push up the price of one of life's necessities.

Even before the Arab oil embargo, policy makers and editorial writers were concluding that one part of the solution to the energy crisis, the environmental crisis and the urban crisis is to build mass transit with highway funds and to persuade drivers to walk, ride bicycles or take a train. If it persists, the oil embargo will force a sharp cut in car driving and it has already added to the pressure to change national policies in favor of other ways of traveling.

New car sales in the U.S., on the other hand, have increased by more than a million a year during the past two model years. Nearly one-third of all American families now own at least two cars, and 95 per cent of all urban traveling is done by car. All of this leads to several conclusions:

The first conclusion is that cars are here to stay. The idea that cars are a sex symbol or status symbol foisted on the public by the magic of advertising is a myth. It would be hard to find much sex or status in the

Model T—the car that started it all. Cars are here to stay for the same reasons that made the Model T successful—because people enjoy and benefit enormously from the ability to move freely when and where they please.

The second conclusion is that cars cause problems. They contribute to air pollution. They use a lot of scarce petroleum. They are involved in accidents that kill or injure. They congest the roads and get in each other's way to an extent that often makes life miserable.

The third conclusion follows from the first two. Cars are going to change. Indeed, they are already changing in ways that preserve personal mobility but help solve the problems they cause.

Cars are getting cleaner. On the average, for example, three 1974 cars produce less total emissions per mile than were produced by one new car in 1967. If present Government requirements are maintained, it will take six 1975 cars, twenty 1976 cars and twenty-eight 1977 cars to produce that same amount of total emissions.

Cars are getting smaller and hopefully will use less gasoline. Some say there ought to be a law that would force people to switch to smaller, more efficient cars. I say, who needs a law when people are already doing just that. Consumers know that gasoline will never again be as cheap and abundant as it used to be. They are buying small cars as fast as we can build them and all the manufacturers are expanding small car capacity and developing new small cars.

Cars are getting safer as well as cleaner and smaller. So far, the Government's automotive safety program has concentrated on vehicle standards intended to improve the chances of surviving an accident. A lot of progress has been made, but I think we're approaching the end of that road.

None of these changes will do much to relieve traffic congestion or make it easier to get around in cities. Obviously these problems can't be solved just by building more highways and parking places for more cars. But neither can they be solved just by forcing all those drivers to take trains and buses.

Cars and mass transit are both here to stay, but neither one is the best possible answer to some of the important travel needs of today's cities. For all its flexibility, the car is not the best possible way to get to or move around in very busy places. For all its efficiency in carrying large numbers of people along busy corridors, mass transit is not flexible enough.

This leads to my final conclusion. What we need and are now beginning to see, in addition to cars and mass transit, are new kinds of vehicles and systems designed to carry people quickly, conveniently and efficiently where neither cars nor conventional transit can do the job as well. As these new systems are developed and built, cars will become more useful than ever because they will be used where they work best.